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United States
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Congressional Record

PROCEEDINGS AND DEBATES OF THE 98th CONGRESS, FIRST SESSION

SENATE—*Monday, January 3, 1983*

The third day of January being the day prescribed by the Constitution of the United States for the annual meeting of the Congress, the first session of the 98th Congress commenced this day at 12 noon.

The Senate assembled in its Chamber at the Capitol.

The Senate was called to order by the Vice President.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

In the words of the psalmist: *Promotion cometh neither from the East, nor from the West, nor from the South. But God is the judge: He putteth down one, and setteth up another.*—Psalm 75: 6, 7.

Almighty God, Sovereign of history and Lord of the nations, may the swearing-in ceremony be done in the light of Thy truth, that public servants hold office by divine appointment; and in the awareness that Senators, therefore, are accountable to Thee as well as to the people. May they enter into their responsibilities mindful of Thy word, that "* * * there is no authority but of God, the authorities that be are ordained of God * * *", and that they are "servants of God for good." Romans 13: 1, 4.

Gracious Sovereign, consecrate Thy servants to the solemn duty of which Thou hast appointed them in this 98th Congress. May they do their work, remembering what they said to the people to justify their election. May performance coincide with promises. Consecrate them to the pursuit of truth and justice with integrity and honor. Protect them from the arrogance of power, and brace them against the seductive, corruptive forces which surround the powerful. Keep them humble. Grant them an enlightened conscience and the courage to heed it. Remind them daily that they are here to serve, not to be served. We pray this in the name of Him who is the greatest of all and the servant of all. Amen.

CREDENTIALS—RESIGNATIONS AND APPOINTMENTS

The VICE PRESIDENT. The Chair lays before the Senate the certificate of appointment of Senator LAUTENBERG, to fill the vacancy caused by the resignation of Senator BRADY.

The Chair lays before the Senate the credentials of 33 Senators elected for 6-year terms beginning on January 3, 1983, which, without objection, will be printed in the RECORD without being read.

Without objection, the credentials for the Senator from West Virginia (Mr. ROBERT C. BYRD) will be accepted on the basis of a copy provided by the Governor.

The documents ordered to be printed in the RECORD are as follows:

STATE OF TEXAS,
OFFICE OF THE GOVERNOR.

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the Second day of November, nineteen hundred eighty-two, Lloyd Bentsen was duly chosen by the qualified electors of the State of Texas, a Senator from said State in the Senate of the United States for the term of six years, beginning on the third day of January, nineteen hundred eighty-three.

Witness: His Excellency our Governor of Texas, and our Seal hereto affixed at Austin, Texas, this 23rd day of November 1982.

WILLIAM P. CLEMENTS, Jr.,
Governor of Texas.

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the 2nd day of November, 1982, Jeff Bingaman was duly chosen by the qualified electors of the State of New Mexico a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1983.

Witness: His Excellency our Governor Bruce King, and our seal hereto affixed at the Executive Offices in Santa Fe, New Mexico, the Capital, this 23rd day of November, in the year of our Lord 1982.

By the Governor:

BRUCE KING,
Governor.

STATE OF NORTH DAKOTA,

CERTIFICATE OF ELECTION FOR 6-YEAR TERM

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is certify that on the 2nd day of November, 1982, Quentin N. Burdick was duly chosen by the qualified electors of the State of North Dakota a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1983.

Witness: His excellency our Governor Allen I. Olson, and our seal hereto affixed at Bismarck, North Dakota, this 24th day of November, in the year of our Lord 1982.

By the Governor:

ALLEN I. OLSON,
Governor.

STATE OF WEST VIRGINIA,

A PROCLAMATION

Whereas, From the certificates of the Board of Canvassers of the several counties of West Virginia, it appears that, at the General Election held on November 2, 1982, the vote for United States Senator was as follows:

Counties	Robert C. Byrd	Cleveland Benedict	Other
Barbour	3,755	1,949	30
Berkeley	8,439	5,122	45
Boone	7,648	1,780	44
Braxton	4,006	1,300	44
Brooke	7,203	2,296	107
Cabell	17,606	10,108	333
Calhoun	1,883	870	37
Clay	2,564	818	9
Doddridge	1,278	1,170	19
Fayette	12,756	2,881	80
Gilmer	1,912	875	26
Grant	1,301	1,825	61
Greenbrier	7,026	3,693	67
Hampshire	2,935	1,575	18
Hancock	9,679	3,205	164
Hardy	2,389	1,108	19
Harrison	20,055	7,286	184
Jackson	4,625	3,766	63
Jefferson	4,971	2,262	44
Kanawha	45,233	22,056	547
Lewis	4,143	2,226	80
Lincoln	5,524	1,836	29
Logan	9,685	2,302	82
Marion	15,595	5,740	140
Marshall	8,984	4,258	102
Mason	6,375	3,629	80
McDowell	8,716	1,626	40
Mercer	11,070	5,781	87

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Counties	Robert C. Byrd	Cleveland Benedict	Other
Mineral	5,729	3,249	66
Mingo	6,867	1,123	22
Monongalia	14,607	5,247	272
Monroe	2,996	1,816	11
Morgan	1,961	1,431	6
Nicholas	5,775	1,978	47
Ohio	11,967	6,006	177
Pendleton	1,892	938	8
Pleasants	1,660	978	15
Pocahontas	2,405	1,123	18
Preston	5,357	2,899	70
Putnam	6,853	3,971	90
Raleigh	16,920	4,741	128
Randolph	6,105	2,361	59
Ritchie	1,740	1,733	22
Roane	2,943	1,957	41
Summers	3,323	1,109	28
Taylor	3,708	1,426	19
Tucker	2,008	1,015	0
Tyler	1,920	1,703	23
Upshur	3,772	3,278	66
Wayne	8,424	3,324	47
Webster	2,524	697	14
Wetzel	4,421	2,017	56
Wirt	1,238	678	24
Wood	16,465	11,939	286
Wyoming	6,234	1,830	50
Total	387,170	173,910	4,246

Now, therefore, I, John D. Rockefeller, IV, Governor of the State of West Virginia, by virtue of authority vested in me by Chapter 3, Article 6, Section 11, of the Code of West Virginia, do hereby proclaim that Robert C. Byrd was elected a member of the United States Senate for the term beginning the third day of January, 1983, and ending the third day of January, 1989.

In witness whereof, I have hereunto set my hand and caused the Great Seal of the State of West Virginia to be affixed.

Done at the Capitol, in the City of Charleston, State of West Virginia, this the 22nd day of December, in the year of our Lord, One Thousand Nine Hundred Eighty-two, in the One Hundred Twentieth Year of the State.

By the Governor:

JOHN D. ROCKEFELLER,
Governor.

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS.

CERTIFICATE OF ELECTION FOR 6-YEAR TERM

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the 2nd day of November, 1982, John H. Chafee was duly chosen by the qualified electors of the State of Rhode Island a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3d day of January, 1983.

Witness: His excellency our governor J. Joseph Garrahy, and our seal hereto affixed at Providence this 30th day of November in the year of our Lord 1982.

By the governor:

J. JOSEPH GARRAHY,
Governor.

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the second day of November A.D., 1982, Lawton Chiles was duly chosen by the qualified electors of the State of Florida a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the third of January, A.D., 1983.

Witness: His excellency our Governor, Bob Graham, and our seal hereto affixed at Tallahassee, this fifteenth day of November, in the year of our Lord, 1982.

By the Governor:

BOB GRAHAM,
Governor.

CERTIFICATE OF ELECTION FOR U.S. SENATOR 6-YEAR TERM

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the 2nd day of November, 1982, John C. Danforth was duly chosen by the qualified electors of the State of Missouri a Senator to represent Missouri in the United States Senate for a term of six years, beginning on the 3rd day of January, 1983.

In testimony whereof, I hereunto set my hand and cause to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, this 6th day of December, 1982.

CHRISTOPHER S. BOND
Governor.

"TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

"This is to certify that on the 2nd day of November, 1982, Dennis DeConcini was duly chosen by the qualified electors of the State of Arizona a Senator from said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1983.

"Witness: His excellency our Governor Bruce Babbitt, and our seal hereto affixed at Phoenix this 24th day of November, in the year of our Lord 1982.

"By the Governor:

BRUCE BABBITT,
Governor.

STATE OF MINNESOTA.

CERTIFICATE OF ELECTION

Joan Anderson Growe, Secretary of the State of Minnesota certify that Dave Durenberger has been declared by the State Canvassing Board elected to the office of U.S. Senator in Congress at the election for that office on November 2, 1982.

Witness my hand and the Great Seal of the State of Minnesota at St. Paul this 16th day of November, 1982.

ALBERT H. QUIE,
Governor.

STATE OF UTAH.

CERTIFICATE OF ELECTION FOR 6-YEAR TERM

"TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

"This is to certify that on the 2nd day of November, 1982, Orrin G. Hatch was duly chosen by the qualified electors of the State of Utah a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1983.

"Witness: His excellency our Governor Scott M. Matheson, and our seal hereto affixed at Salt Lake City, Utah, this 23rd day of November, in the year of our Lord 1982.

SCOTT M. MATHESON,
Governor.

IN THE NAME AND BY THE COMMONWEALTH OF PENNSYLVANIA.

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the 2nd day of November, 1982, John Heinz was duly chosen by the qualified electors of the State of Pennsylvania a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1983.

Witness: His excellency our Governor Dick Thornburgh, and our seal hereto affixed at Harrisburg this ninth day of December, in the year of our Lord 1982.

DICK THORNBURGH,
Governor.

STATE OF WASHINGTON.

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the 2nd day of November, nineteen hundred and eighty-two, Henry M. Jackson was duly chosen by the qualified electors of the State of Washington a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the third day of January, nineteen hundred and eighty-three.

In witness whereof, I have hereunto set my hand and caused the Seal of the State of Washington to be affixed at Olympia this Second day of December, A.D., nineteen hundred and eighty-two.

JOHN SPELLMAN,
Governor of Washington.

THE COMMONWEALTH OF MASSACHUSETTS.

CERTIFICATE OF ELECTION

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the second day of November, 1982, Edward M. Kennedy was duly chosen by the eligible voters of the Commonwealth of Massachusetts a Senator from said Commonwealth to represent said Commonwealth in the Senate of the United States for the term of six years, beginning on the third day of January, 1983.

Witness: His Excellency our Governor, Edward J. King, and our seal hereto affixed at Boston this first day of December, in the year of our Lord 1982.

EDWARD J. KING,
Governor.

U.S. SENATE,
Washington, D.C. December 22, 1982.

Hon. Thomas H. Kean,
Governor, the State of New Jersey, State House, Trenton, N.J.

DEAR TOM: It appears the Senate will adjourn sine die either Thursday, December 23rd or Friday, December 24th.

As discussed it has been my intention to resign before the opening of the 98th Congress to assist the incoming Senator as much as possible. Therefore, I resign effective Monday, December 27, 1982.

It has been my great honor to serve New Jersey as U.S. Senator and I am grateful to you for giving me the opportunity to do so.

Very sincerely, your friend,

NICHOLAS F. BRADY.

STATE OF NEVADA.

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that at a general election held in the State of Nevada on Tuesday, the second day of November, nineteen hundred and eighty-two, Chic Hecht was duly elected by the qualified electors of the State of Nevada a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the third day of January, nineteen hundred and eighty-three, having received the highest number of votes cast for said office at said election, as appears by the certificate of the duly constituted and qualified Board of Canvassers now on file in the office of

the Secretary of State at Carson City, Nevada.

In testimony whereof, I have hereunto set my hand and caused the Great Seal of the State of Nevada to be affixed at the State Capitol at Carson City, this first day of December, in the year of our Lord one thousand nine hundred and eighty-two.

ROBERT LIST,
Governor.

STATE OF NEW JERSEY,
OFFICE OF THE GOVERNOR,
Trenton, N.J., December 15, 1982.

TO: PRESIDENT OF THE SENATE OF THE UNITED STATES,

This is to certify that pursuant to the powers vested in me by the Constitution of the United States and the laws of the State of New Jersey, I, Thomas H. Kean, the Governor of said State, do hereby appoint Frank Lautenberg, effective as the date of the resignation of Nicholas F. Brady, a Senator from said State to represent said State in the Senate of the United States to succeed Nicholas F. Brady, for the expired term ending at noon on the 3rd day of January, 1983.

THOMAS H. KEAN,
Governor.

STATE OF NEW JERSEY.

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the 2nd day of November, 1982, Frank R. Lautenberg was duly chosen by the qualified electors of the State of New Jersey a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1983.

Witness: His excellency our Governor Thomas H. Kean and our Seal hereto affixed at Trenton, this Thirtieth day of November, in the year of our Lord, 1982.

THOMAS H. KEAN,
Governor.

STATE OF INDIANA.

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the Second day of November, nineteen hundred and eighty-two, Richard G. Lugar was duly chosen by the qualified electors of the State of Indiana a Senator from said State to represent said in the Senate of the United States for the term of six years, beginning on the third day of January, nineteen hundred eighty-three.

Witness: His excellency our Governor Robert D. Orr and our seal hereto affixed at Indianapolis, Indiana, this 22nd day of November in the year of our Lord nineteen hundred and eighty-two.

ROBERT D. ORR,
Governor.

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the second day of November, 1982, Spark M. Matsunaga was duly chosen by the qualified electors of the State of Hawaii a Senator from said State to represent said State in the Senate of the United States for the term of six years beginning on the 3rd day of January, 1983.

Witness: His excellency our governor George R. Ariyoshi, and our seal hereto affixed at Honolulu this 23rd day of November, in the year of our Lord 1982.

GEORGE R. ARIYOSHI,
Governor.

STATE OF MONTANA,
OFFICE OF THE GOVERNOR,
Helena, Mont.

CERTIFICATE OF ELECTION FOR 6-YEAR TERM

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the second day of November, 1982, John Melcher was duly chosen by the qualified electors of the State of Montana a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1983.

In witness whereof, I have hereunto set my hand and caused the Great Seal of the State of Montana to be affixed. Done at the City of Helena, the Capital, this 7th day of December, in the year of our Lord 1982.

TED SCHWINDEN,
Governor.

THE STATE OF OHIO.

CERTIFICATE OF ELECTION

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the second day of November, 1982, Howard M. Metzenbaum was duly chosen by the qualified electors of the State of Ohio a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1983.

Witness: His Excellency our Governor James A. Rhodes, and our Seal hereto affixed at Columbus, Ohio, this seventh day of December, in the year of Our Lord nineteen hundred eighty-two.

JAMES A. RHODES,
Governor.

CERTIFICATE OF ELECTION FOR 6-YEAR TERM

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the second day of November, 1982, George J. Mitchell was duly chosen by the qualified electors of the State of Maine a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3d day of January, 1983.

Witness: His excellency our governor Joseph E. Brennan, and our seal hereto affixed at Augusta this twenty-second day of November, in the year of our lord 1982.

JOSEPH E. BRENNAN,
Governor.

STATE OF NEW YORK.

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the second day of November, 1982, Daniel P. Moynihan was duly chosen by the qualified electors of the State of New York a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the third day of January, 1983.

Witness: His excellency our governor Hugh L. Carey, and our seal hereto affixed at Albany this twentieth day of December, in the year one thousand nine hundred eighty-two.

HUGH L. CAREY,
Governor.

THE STATE OF WISCONSIN.

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

I, Lee Sherman Dreyfus, Governor of the State of Wisconsin, do hereby certify that on the Second day of November, A.D., 1982, William Proxmire, was duly chosen by the qualified electors of the State of Wisconsin a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the Third day of January, A.D., 1983.

In testimony whereof, I have hereunto set my hand and caused the Great Seal of the State of Wisconsin to be affixed. Done at the Capitol, in the City of Madison, this 1st day of December, in the year of Our Lord, One Thousand, Nine Hundred and Eighty-Two.

LEE SHERMAN DREYFUS,
Governor.

STATE OF MICHIGAN.

CERTIFICATE OF ELECTION FOR 6-YEAR TERM

TO THE PRESIDENT OF THE UNITED STATES SENATE:

This is to certify that on the second day of November, 1982, Donald W. Riegle, Jr., was duly chosen by the qualified electors of the State of Michigan a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the third day of January 1983.

Given under my hand and the Great Seal of the State of Michigan this first day of December in the Year of our Lord One Thousand Nine Hundred Eighty-Two and of the Commonwealth One Hundred Forty-Six.

WILLIAM G. MILLIKEN,
Governor.

BY AUTHORITY OF THE STATE OF DELAWARE.

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

Be it known, An election was held in the State of Delaware, on Tuesday, the second day of November, in the year of our Lord one thousand nine hundred and eighty-two that being the Tuesday next after the first Monday in said month, in pursuance of the Constitution of the United States and the Laws of the State of Delaware, in that behalf, for the election of a Senator for the people of the said State, in the Senate of the United States.

Whereas, The official certificates or returns of the said elections, held in the several counties of the said State, in due manner made out, signed and executed, have been delivered to me according to the laws of the said State, by the Superior Court of the said counties; and having examined said returns, and enumerated and ascertained the number of votes for each and every candidate or person voted for, for such Senator, I have found William V. Roth, Jr., to be the person highest in vote, and therefore duly elected Senator of and for the said State in the Senate of the United States for the Constitutional term to commence at noon on the third day of January in the year of our Lord one thousand nine hundred and eighty-three.

I, Pierre S. duPont, IV Governor, do therefore, according to the form of the Act of the General Assembly of the said State and of the Act of Congress of the United States, in such case made and provided, declare the said William V. Roth, Jr., the person highest in vote at the election afore-

said, and therefore duty and legally elected Senator of and for the said State of Delaware in the Senate of the United States, for the Constitutional term to commence at noon on the third day of January in the year of our Lord one thousand nine hundred and eighty-three.

Given under my hand and the Great Seal of the said State, in obedience to the said Act of the General Assembly and of the said Act of Congress, at Dover, the 29th day of November, in the year of our Lord one thousand nine hundred and eighty-two and in the year of the Independence of the United States of America the one hundred and seventh.

PIERRE S. DUPONT, IV,
Governor.

ANNAPOLIS, MD.

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the 2nd day of November, 1982, Paul S. Sarbanes was duly chosen by the qualified electors of the State of Maryland a Senator from said State to represent said State in the Senate of the United States for a term of six years, beginning on the 3rd day of January, 1983.

Witness: His Excellency our Governor, Harry Hughes, and our seal hereto affixed at the City of Annapolis, this 30th day of November, in the Year of Our Lord, One Thousand, Nine Hundred and Eighty-two.

HARRY HUGHES, JR.,
Governor.

CERTIFICATE OF ELECTION FOR 6-YEAR TERM

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the second day of November, 1982, Jim Sasser was duly chosen by the qualified voters of the State of Tennessee a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1983.

Witness: His excellency our governor, Lamar Alexander, and our seal hereto affixed at Nashville this 29th day of November, in the year of our Lord 1982.

LAMAR ALEXANDER,
Governor.

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the 2nd day of November, 1982, Robert T. Stafford was duly chosen by the qualified electors of the State of Vermont a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1983.

Witness: His excellency our governor Richard A. Snelling, and our seal hereto affixed at Montpelier this 23rd day of November, in the year of our Lord 1982.

RICHARD A. SNELLING,
Governor.

MISSISSIPPI.

CERTIFICATE OF ELECTION FOR 6-YEAR TERM

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the 2nd day of November, A.D., 1982, John C. Stennis was duly chosen by the qualified electors of the State of Mississippi a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1983.

Witness: His Excellency, our Governor, William F. Winter, and the Great Seal of the State of Mississippi hereto affixed at Jackson, Mississippi this 4th day of November, A.D., 1982.

WILLIAM F. WINTER,
Governor.

COMMONWEALTH OF VIRGINIA.

CERTIFICATE OF ELECTION FOR 6-YEAR TERM

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the 2nd day of November, 1982, Paul S. Trible, Jr., was duly chosen by the qualified electors of the Commonwealth of Virginia a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1983.

Witness: His excellency our governor, Charles S. Robb, and our seal hereto affixed at Richmond this 22nd day of November, in the year of our Lord 1982.

CHARLES S. ROBB,
Governor.

WYOMING.

CERTIFICATE OF ELECTION FOR 6-YEAR TERM

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the 2nd day of November, 1982, Malcolm Wallop was duly chosen by the qualified electors of the State of Wyoming a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1983.

Witness: His excellency our Governor, Ed Herschler, and our seal hereto affixed at Cheyenne, Wyoming, this 30th day of November, in the year of our Lord, 1982.

ED HERSCHLER,
Governor.

STATE OF CONNECTICUT.

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the second day of November, nineteen hundred and eighty-two Lowell P. Weicker, Jr., was duly chosen by the qualified electors of the State of Connecticut Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the third day of January nineteen hundred and eighty-three.

Witness: His Excellency our Governor. William A. O'Neill and our seal hereto affixed at Hartford, this twenty-fourth day of November, in the year of our Lord nineteen hundred and eighty-two.

WILLIAM A. O'NEILL,
Governor.

STATE OF CALIFORNIA.

CERTIFICATE OF ELECTION FOR 6-YEAR TERM

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the 2nd day of November, 1982, Pete Wilson was duly chosen by the qualified electors of the State of California a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1983.

In witness whereof I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 13th day of December, 1982.

EDMUND G. BROWN, JR.,
Governor of California.

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the second day of November, 1982, Edward Zorinsky was duly chosen by the qualified electors of the State of Nebraska a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the third day of January, 1983.

Witness: His excellency our Governor, Charles Thone, and our seal hereto affixed at Lincoln, Nebraska this twenty-ninth day of November, in the year of our Lord, 1982.

CHARLES THONE,
Governor.

The VICE PRESIDENT. The 33 Senators-elect will now present themselves at the desk in groups of four as their names are called by the clerk in alphabetical order to be sworn.

The Senators are asked to assemble at the rear of the Chamber with their escorts. The clerk will now report.

The legislative clerk called the names of Mr. BENTSEN, Mr. BINGAMAN, Mr. BURDICK, and Mr. BYRD.

The Senators, escorted by Mr. TOWER, Mr. DOMENICI, Mr. ANDREWS, and Mr. RANDOLPH, respectively, advanced to the desk of the Vice President; the oath prescribed by law was administered to them by the Vice President; and they severally subscribed to the oath in the "Official Oath Book."

[Applause, Senators rising.]

The legislative clerk called the names of Mr. CHAFEE, Mr. CHILES, Mr. DANFORTH, and Mr. DECONCINI.

These Senators, escorted by Mr. BAKER, Mrs. HAWKINS, Mr. EAGLETON, and Mr. GOLDWATER, respectively, advanced to the desk of the Vice President; the oath prescribed by law was administered to them by the Vice President; and they severally subscribed to the oath in the "Official Oath Book."

[Applause, Senators rising.]

The legislative clerk called the names of Mr. DURENBERGER, Mr. HATCH, Mr. HECHT, and Mr. HEINZ.

These Senators, escorted by Mr. BAKER, Mr. GARN, Mr. LAXALT, and Mr. SPECTER, respectively, advanced to the desk of the Vice President; the oath prescribed by law was administered to them by the Vice President; and they severally subscribed to the oath in the "Official Oath Book."

[Applause, Senators rising.]

The legislative clerk called the names of Mr. JACKSON, Mr. KENNEDY, Mr. LAUTENBERG, and Mr. LUGAR.

These Senators, escorted by Mr. GORTON, Mr. HOLLINGS, Mr. BYRD, and Mr. QUAYLE, respectively, advanced to the desk of the Vice President; the oath prescribed by law was administered to them by the Vice President;

and they severally subscribed to the oath in the "Official Oath Book."

[Applause, Senators rising.]

The legislative clerk called the names of Mr. MATSUNAGA, Mr. MELCHER, Mr. METZENBAUM, and Mr. MITCHELL.

These Senators, escorted by Mr. INOUYE, Mr. BAUCUS, Mr. GLENN, and Mr. COHEN, respectively, advanced to the desk of the Vice President; the oath prescribed by law was administered to them by the Vice President; and they severally subscribed to the oath in the "Official Oath Book."

[Applause, Senators rising.]

The legislative clerk called the names of Mr. MOYNIHAN, Mr. PROXMIRE, Mr. RIEGLE, and Mr. ROTH.

These Senators, escorted by Mr. D'AMATO, Mr. KASTEN, Mr. LEVIN, and Mr. BIDEN, respectively, advanced to the desk of the Vice President; the oath prescribed by law was administered to them by the Vice President; and they severally subscribed to the oath in the "Official Oath Book."

[Applause, Senators rising.]

The legislative clerk called the names of Mr. SARBANES, Mr. SASSER, Mr. STAFFORD, and Mr. STENNIS.

These Senators, escorted by Mr. MATHIAS, Mr. BAKER, Mr. LEAHY, and Mr. COCHRAN, respectively, advanced to the desk of the Vice President; the oath prescribed by law was administered to them by the Vice President; and they severally subscribed to the oath in the "Official Oath Book."

[Applause, Senators rising.]

The legislative clerk called the names of Mr. TRIBLE, Mr. WALLOP, Mr. WEICKER, Mr. WILSON, and Mr. ZORINSKY.

These Senators, escorted by Mr. WARNER, Mr. HATFIELD, Mr. DODD, Mr. CRANSTON, and Mr. EXON, respectively, advanced to the desk of the Vice President; the oath prescribed by law was administered to them by the Vice President; and they severally subscribed to the oath in the "Official Oath Book."

[Applause, Senators rising.]

CALL OF THE ROLL

The VICE PRESIDENT. The majority leader.

Mr. BAKER. Mr. President, in preparation for the continuation of the opening ceremonies, including notification to the President and the other body that this body is in session, I now suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll and the following Senators answered to their names:

[Quorum No. 1 Leg.]

Andrews	Biden	Chafee
Baker	Bingaman	Chiles
Baucus	Burdick	Cochran
Bentsen	Byrd	Cohen
Cranston	Hollings	Proxmire
D'Amato	Humphrey	Pryor
Danforth	Inouye	Quayle
DeConcini	Jackson	Randolph
Dodd	Kasten	Riegle
Dole	Kennedy	Roth
Domenici	Lautenberg	Rudman
Durenberger	Laxalt	Sarbanes
Eagleton	Leahy	Sasser
Exon	Levin	Specter
Ford	Lugar	Stafford
Garn	Mathias	Stennis
Glenn	Matsunaga	Stevens
Goldwater	Mattingly	Symms
Gorton	Melcher	Thurmond
Hart	Metzenbaum	Tower
Hatch	Mitchell	Trible
Hatfield	Moynihan	Wallop
Hawkins	Nickles	Warner
Hecht	Nunn	Weicker
Heflin	Packwood	Wilson
Heinz	Percy	Zorinsky
Helms	Pressler	

Mr. STEVENS. I announce that the Senator from South Dakota (Mr. ABDNOR), the Senator from Minnesota (Mr. BOSCHWITZ), the Senator from Alabama (Mr. DENTON), the Senator from North Carolina (Mr. EAST), the Senator from Iowa (Mr. GRASSLEY), the Senator from Iowa (Mr. JEPSEN), the Senator from Kansas (Mrs. KASSEBAUM), the Senator from Idaho (Mr. MCCLURE), the Senator from Alaska (Mr. MURKOWSKI), the Senator from Wyoming (Mr. SIMPSON), and the Senator from Colorado (Mr. ARMSTRONG), are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Oklahoma (Mr. BOREN), the Senator from New Jersey (Mr. BRADLEY), the Senator from Arkansas (Mr. BUMPERS), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Louisiana (Mr. LONG), the Senator from Massachusetts (Mr. TSONGAS), and the Senator from Rhode Island (Mr. PELL) are necessarily absent.

The VICE PRESIDENT. A quorum is present.

LIST OF SENATORS BY STATES

Alabama.—Howell Heflin and Jeremiah Denton.

Alaska.—Ted Stevens and Frank H. Murkowski.

Arizona.—Barry Goldwater and Dennis DeConcini.

Arkansas.—Dale Bumpers and David H. Pryor.

California.—Alan Cranston and Pete Wilson.

Colorado.—Gary W. Hart and William L. Armstrong.

Connecticut.—Lowell P. Weicker, Jr., and Christopher J. Dodd.

Delaware.—William V. Roth, Jr., and Joseph R. Biden, Jr.

Florida.—Lawton Chiles and Paula Hawkins.

Georgia.—Sam Nunn and Mack Mattingly.

Hawaii.—Daniel K. Inouye and Spark M. Matsunaga.

Idaho.—James A. McClure and Steven D. Symms.

Illinois.—Charles H. Percy and Alan J. Dixon.

Indiana.—Richard G. Lugar and Dan Quayle.

Iowa.—Roger W. Jepsen and Charles E. Grassley.

Kansas.—Robert Dole and Nancy Landon Kassebaum.

Kentucky.—Walter D. Huddleston and Wendell H. Ford.

Louisiana.—Russell B. Long and J. Bennett Johnston.

Maine.—William S. Cohen and George J. Mitchell.

Maryland.—Charles McC. Mathias, Jr., and Paul S. Sarbanes.

Massachusetts.—Edward M. Kennedy and Paul E. Tsongas.

Michigan.—Donald W. Riegle, Jr., and Carl Levin.

Minnesota.—Dave Durenberger and Rudy Boschwitz.

Mississippi.—John C. Stennis and Thad Cochran.

Missouri.—Thomas F. Eagleton and John C. Danforth.

Montana.—John Melcher and Max Baucus.

Nebraska.—Edward Zorinsky and J. James Exon.

Nevada.—Paul Laxalt and Chic Hecht.

New Hampshire.—Gordon J. Humphrey and Warren B. Rudman.

New Jersey.—Bill Bradley and Frank R. Lautenberg.

New Mexico.—Pete V. Domenici and Jeff Bingaman.

New York.—Daniel Patrick Moynihan and Alfonse M. D'Amato.

North Carolina.—Jesse Helms and John P. East.

North Dakota.—Quentin N. Burdick and Mark Andrews.

Ohio.—John Glenn and Howard M. Metzenbaum.

Oklahoma.—David L. Boren and Don Nickles.

Oregon.—Mark O. Hatfield and Bob Packwood.

Pennsylvania.—John Heinz and Arlen Specter.

Rhode Island.—Claiborne Pell and John H. Chafee.

South Carolina.—Strom Thurmond and Ernest F. Hollings.

South Dakota.—Larry Pressler and James Abdnor.

Tennessee.—Howard H. Baker, Jr., and Jim Sasser.

Texas.—John Tower and Lloyd Bentsen.

Utah.—Jake Garn and Orrin G. Hatch.

Vermont.—Robert T. Stafford and Patrick J. Leahy.

Virginia.—John W. Warner and Paul S. Trible, Jr.

Washington.—Henry M. Jackson and Slade Gorton.

West Virginia.—Jennings Randolph and Robert C. Byrd.

Wisconsin.—William Proxmire and Robert W. Kasten, Jr.

Wyoming.—Malcolm Wallop and Alan K. Simpson.

NOTIFICATION TO THE PRESIDENT

Mr. BAKER. Mr. President, I send to the desk a resolution informing the President of the United States that a quorum of each House is assembled, and I ask for its immediate consideration.

The VICE PRESIDENT. Is there objection to the present consideration of the resolution?

There being no objection, the resolution (S. Res. 1) was considered and agreed to, as follows:

S. RES. 1

Resolved, That a committee consisting of two Senators be appointed by the Vice President to join such committee as may be appointed by the House of Representatives to wait upon the President of the United States and inform him that a quorum of each House is assembled and that the Congress is ready to receive any communication he may be pleased to make.

The VICE PRESIDENT. Pursuant to Senate Resolution 1, the Chair appoints the Senator from Tennessee (Mr. BAKER) and the Senator from West Virginia (Mr. BYRD) as members of a committee to join the committee of the House of Representatives to wait upon the President of United States and inform him that a quorum is assembled and the Congress is ready to receive any communication he may be pleased to make.

(Subsequently the following occurred:)

Mr. BAKER. Mr. President, I wish to report on behalf of myself and the distinguished minority leader that we have talked to the President of the United States and told him that the Senate was in session, a quorum was present and prepared to transact business.

The President had no request to make of us at this time. I indicated that it was the intention of the Senate to adjourn until January 25, in accordance with the provisions of the resolution previously adopted. The President understood that and had no objection.

NOTIFICATION TO THE HOUSE

Mr. BYRD. Mr. President, I send to the desk a resolution, I ask that it be stated by the clerk and I also ask for its immediate consideration.

The VICE PRESIDENT. Is there objection to the present consideration of the resolution?

There being no objection, the resolution (S. Res. 2) was considered and agreed to, as follows:

S. RES. 2

Resolved, That the Secretary inform the House of Representatives that a quorum of the Senate is assembled and that the Senate is ready to proceed to business.

HOUR OF DAILY MEETING

The VICE PRESIDENT. The majority leader is recognized.

Mr. BAKER. I thank the Vice President. I now send to the desk a resolution fixing the hour of daily meeting of the Senate. I ask for its immediate consideration.

The VICE PRESIDENT. The clerk will state the resolution.

The legislative clerk read as follows:

A resolution (S. Res. 3) fixing the hour of daily meeting of the Senate.

Resolved, That the hour of daily meeting of the Senate be 12 o'clock meridian unless otherwise ordered.

The VICE PRESIDENT. Is there objection to the present consideration of the resolution?

There being no objection, the resolution was considered and agreed to.

ELECTION OF SECRETARY FOR THE MINORITY OF THE SENATE

The VICE PRESIDENT. The minority leader is recognized.

Mr. BYRD. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The VICE PRESIDENT. Is there objection? Without objection, the clerk will state the resolution.

The legislative clerk read as follows:

A resolution (S. Res. 4) electing Patrick J. Griffin as secretary for the minority of the Senate.

Resolved, That Patrick J. Griffin be and he is hereby elected secretary for the minority of the Senate, effective January 3, 1983.

The VICE PRESIDENT. Is there objection to the present consideration of the resolution?

There being no objection, the resolution (S. Res. 4) was considered and agreed to.

COMMENDATION OF TERRENCE E. SAUVAIN FOR HIS SERVICE AS SECRETARY FOR THE MINORITY OF THE SENATE

The VICE PRESIDENT. The minority leader is recognized.

Mr. BYRD. Mr. President, I send a resolution to the desk and ask that it be stated by the clerk. I also ask for its immediate consideration.

The VICE PRESIDENT. The resolution will be stated.

The legislative clerk read as follows:

A resolution (S. Res. 5) commending Terrence E. Sauvain for his service as Secretary for the Minority of the Senate.

Mr. BYRD. I ask unanimous consent that further reading of the resolution be dispensed with.

The VICE PRESIDENT. Without objection, it is so ordered.

Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. BYRD. Mr. President, as most of my colleagues are aware, our former secretary for the minority, Terry Sauvain, is leaving that position to accept the position of minority deputy chief clerk of the Senate Committee on Appropriations. In his new position, Terry will continue to work closely with the leadership and the other Members on appropriations matters.

As secretary for the minority, Terry's duties included supervision of the Democratic Cloakroom; briefing Senators on votes; polling Senators at the request of the leadership; staffing of the Democratic Steering Committee and the Democratic Caucus during arrangement of minority party committees; maintenance of Senate appointments to boards, conferences, and international conferences; monitoring of nominations on the Executive Calendar; and other duties as directed by the leadership.

In addition to his regular duties, Terry has accompanied Members of the Senate on several senatorial delegations which have traveled to Europe and China.

Mr. President, Terry Sauvain has always performed his duties here in the Senate with courtesy, dedication, efficiency, sincere loyalty, and I have no doubt that he will continue to serve the Senate with those same qualities in his new position.

The resolution (S. Res. 5) was agreed to.

The preamble was agreed to.

The resolution (S. Res. 5), with its preamble, is as follows:

Whereas, Terrence E. Sauvain has faithfully served the Senate as the Secretary for the Minority, the Senate wishes to express its appreciation for his dedicated service as an officer of the Senate; and

Whereas, the said Terrence E. Sauvain at all times has discharged the important duties and responsibilities of his Office with great efficiency and diligence; and

Whereas, prior to his service as Secretary for the Minority, he served the United States Senate in other important capacities for a period of ten years; and

Whereas, his sincere loyalty, his exceptional service and his continuing dedication to duty have earned for him our esteem and our affection: So, therefore, be it

Resolved, That Terrence E. Sauvain is hereby commended for his competent, faithful, and outstanding service to the Senate.

SEC. 2. The Secretary of the Senate is directed to transmit a copy of this resolution to Terrence E. Sauvain.

RESOLUTION TO AMEND PARAGRAPHS 2 AND 3 OF RULE XXV OF THE STANDING RULES OF THE SENATE

The VICE PRESIDENT. The majority leader is recognized.

Mr. BAKER. Mr. President, I send to the desk a resolution on behalf of myself and the minority leader, and I ask that it be stated.

The VICE PRESIDENT. The clerk will state the resolution.

The legislative clerk read as follows:

A resolution (S. Res. 6) to amend paragraphs 2 and 3 of rule XXV of the Standing Rules of the Senate.

Mr. BAKER. Mr. President, I ask unanimous consent that further reading of the resolution be dispensed with.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I might say the resolution is necessary in order to adjust the size of the committees, pursuant to agreement on both sides of the aisle.

The VICE PRESIDENT. Is there objection to the present consideration of the resolution?

There being no objection, the resolution (S. Res. 6) was considered and agreed to, as follows:

Resolved, That (a) paragraph 2 of rule XXV of the Standing Rules of the Senate is amended by striking out:

"Banking, Housing, and Urban Affairs ..... 15"

and inserting in lieu thereof:

"Banking, Housing, and Urban Affairs ..... 18".

(b) Paragraph 3 of rule XXV of the Standing Rules of the Senate is amended by striking out:

"Small Business ..... 17"

and inserting in lieu thereof:

"Small Business ..... 19".

RESOLUTION TO AMEND PARAGRAPH 4 OF RULE XXV OF THE STANDING RULES OF THE SENATE

Mr. BAKER. Madam President, I send to the desk a resolution on behalf of myself and Mr. BYRD and ask for its immediate consideration.

The Presiding Officer (Mrs. HAWKINS). Is there objection? Without objection, the resolution will be stated.

The legislative clerk read as follows:

A resolution (S. Res. 7) to amend paragraph 4 of rule XXV of the Standing Rules of the Senate.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution (S. Res. 7) was considered and agreed to, as follows:

Resolved, That paragraph 4 of Rule XXV of the Standing Rules of the Senate is amended—

(a) in subdivision (h)(4), by inserting "and the Ninety-eighth" immediately after "Ninety-seventh";

(b) in clauses (1), (2), and (3) of subdivision (i), by striking out ", during the term he is serving on the first day of the Ninety-sixth Congress,";

(c) in clauses (4), (5), (6), (7), (8), (9), (10), and (12) of subdivision (i), by inserting "and the Ninety-eighth" after "Ninety-sixth" each place it appears therein;

(d) by striking out clause (11) of subdivision (i);

(e) in subdivision (j), (1) by inserting "or the Committee on Intelligence" immediately after "Committee on the Budget"; and (2) by inserting "and the Ninety-eighth" after "Ninety-sixth"; and

(f) by adding after subdivision (k) the following new subdivisions:

"(l) A Senator who was appointed pursuant to Senate Resolution 366, 97th Congress, to serve on the Committee on Labor and Human Resources, the Committee on Banking, Housing, and Urban Affairs, or the Committee on Rules and Administration may, during the Ninety-eighth Congress, serve on such committee while continuing to serve on each other committee to which he was assigned to service as of the date such resolution was agreed to.

"(m) A Senator who was appointed pursuant to Senate Resolution 380, 97th Congress, to serve on the Committee on Agriculture, Nutrition, and Forestry may, during the Ninety-eighth Congress, serve on such committee while continuing to serve on each other committee to which he was assigned to service as of the date such resolution was agreed to.

"(n)(1) A Senator who on the last day of the Nintey-seventh Congress was serving as a member of the Committee on Energy and Natural Resources and the Committee on Environment and Public Works may, during the Ninety-eighth Congress, also serve as a member of the Committee on Appropriations so long as his service as a member of each such Committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three Committees listed in paragraph (2).

"(2) A Senator who on the last day of the Ninety-seventh Congress was serving as a member of the Committee on the Judiciary and the Committee on Labor and Human Resources may, during the Ninety-eighth Congress, also serve as a member of the Committee on Armed Services so long as his service as a member of each such Committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three Committees listed in paragraph (2).

"(3) A Senator who on the last day of the Ninety-seventh Congress was serving as a member of the Committee on Finance and the Committee on Governmental Affairs may, during the Ninety-eighth Congress, also serve as a member of the Committee on Environment and Public Works so long as his service as a member of each such Committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three Committees listed in paragraph (2).

"(4) A Senator who on the last day of the Ninety-seventh Congress was serving as a member of the Committee on Agriculture, Nutrition and Forestry and the Committee on Appropriations may, during the Ninety-eighth Congress, also serve as a member of the Committee on Governmental Affairs so long as his service as a member of each such Committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three Committees listed in paragraph (2).

"(5) A Senator who on the last day of the Ninety-seventh Congress was serving as a member of the Committee on Banking, Housing and Urban Affairs and the Committee on Finance may, during the Ninety-eighth Congress, also serve as a member of the Committee on Governmental Affairs so long as his service as a member of each such Committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three Committees listed in paragraph (2).

"(6) A Senator who on the last day of the Ninety-seventh Congress was serving as a member of the Committee on Appropriations and the Committee on Banking, Housing and Urban Affairs may, during the Ninety-eighth Congress, also serve as a member of the Committee on Labor and Human Resources so long as his service as a member of each such Committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three Committees listed in paragraph (2).

"(7) A Senator who on the last day of the Ninety-seventh Congress was serving as a member of the Committee on Finance and the Committee on the judiciary may, during the Ninety-eighth Congress, also serve as a member of the Committee on Labor and Human Resources so long as his service as a member of each such Committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three Committees listed in paragraph (2).

"(8) A Senator who on the last day of the Ninety-seventh Congress was serving as a member of the Committee on Veterans Affairs may, during the Ninety-eighth Congress, also serve as a member of the Committee on Rules and Administration so long as his service as a member of each such Committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than two Committees listed in paragraph (3) (a) or (b).

"(9) A Senator who on the last day of the Ninety-seventh Congress was serving as a member of the Committee on Aging may, during the Ninety-eighth Congress, also serve as a member of the Committee on Intelligence so long as his service as a member of each such Committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than two Committees listed in paragraph (3) (a) or (b).

"(10) A Senator who on the last day of the Ninety-seventh Congress was serving as a member of the Committee on Aging may, during the Ninety-eighth Congress, also serve as a member of the Committee on Small Business so long as his service as a member of each such Committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than two Committees listed in paragraph (3) (a) or (b).".

SEC. 2. The amendments made by the first section of this resolution shall take effect on the first day of the Ninety-eighth Congress.

MAJORITY PARTY APPOINTMENTS TO SENATE COMMITTEES

Mr. BAKER. Madam President, I send to the desk a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated.

The legislative clerk read as follows:

A resolution (S. Res. 8) making majority party appointments to Senate committees for the 98th Congress, and electing chairmen of such committees.

Mr. BAKER. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there objection to the present consideration of the resolution?

There being no objection, the resolution (S. Res. 8) was considered and agreed to as follows:

RESOLVED, That the following shall constitute the majority party's membership on the standing committees, the Select Committee on Small Business, and the Special Committee on Aging of the Senate for the Ninety-eighth Congress:

Committee on Agriculture, Nutrition, and Forestry: Mr. Helms (chairman), Mr. Dole, Mr. Lugar, Mr. Cochran, Mr. Boschwitz, Mr. Jepsen, Mrs. Hawkins, Mr. Andrews, Mr. Wilson, and Mr. Hatch.

Committee on Appropriations: Mr. Hatfield (chairman), Mr. Stevens, Mr. Weicker, Mr. McClure, Mr. Laxalt, Mr. Garn, Mr. Cochran, Mr. Andrews, Mr. Abdnor, Mr. Kasten, Mr. D'Amato, Mr. Mattingly, Mr. Rudman, Mr. Specter, and Mr. Domenici.

Committee on Armed Services: Mr. Tower (chairman), Mr. Thurmond, Mr. Goldwater, Mr. Warner, Mr. Humphrey, Mr. Cohen, Mr. Jepsen, Mr. Quayle, Mr. East, and Mr. Wilson.

Committee on Banking, Housing, and Urban Affairs: Mr. Garn (chairman), Mr. Tower, Mr. Heinz, Mr. Armstrong, Mr. D'Amato, Mr. Gorton, Mrs. Hawkins, Mr. Mattingly, Mr. Hecht, and Mr. Trible.

Committee on Commerce, Science, and Transportation: Mr. Packwood (chairman), Mr. Goldwater, Mr. Danforth, Mrs. Kassebaum, Mr. Pressler, Mr. Gorton, Mr. Stevens, Mr. Kasten, and Mr. Trible.

Committee on Energy and Natural Resources: Mr. McClure (chairman), Mr. Hatfield, Mr. Weicker, Mr. Domenici, Mr. Wallop, Mr. Warner, Mr. Murkowski, Mr. Nickles, Mr. Hecht, Mr. Chafee, and Mr. Heinz.

Committee on Environment and Public Works: Mr. Stafford (chairman), Mr. Baker, Mr. Chafee, Mr. Simpson, Mr. Abdnor, Mr. Symms, Mr. Domenici, Mr. Durenberger, and Mr. Humphrey.

Committee on Finance: Mr. Dole (chairman), Mr. Packwood, Mr. Roth, Mr. Danforth, Mr. Chafee, Mr. Heinz, Mr. Wallop, Mr. Durenberger, Mr. Armstrong, Mr. Symms, and Mr. Grassley.

Committee on Foreign Relations: Mr. Percy (chairman), Mr. Baker, Mr. Helms, Mr. Lugar, Mr. Mathias, Mrs. Kassebaum, Mr. Boschwitz, Mr. Pressler, and Mr. Murkowski.

Committee on Governmental Affairs: Mr. Roth (chairman), Mr. Percy, Mr. Stevens, Mr. Mathias, Mr. Cohen, Mr. Durenberger, Mr. Rudman, Mr. Danforth, Mr. Cochran, and Mr. Armstrong.

Committee on the Judiciary: Mr. Thurmond (chairman), Mr. Mathias, Mr. Laxalt, Mr. Hatch, Mr. Dole, Mr. Simpson, Mr. East, Mr. Grassley, Mr. Denton, and Mr. Specter.

Committee on Labor and Human Resources: Mr. Hatch (chairman), Mr. Stafford, Mr. Quayle, Mr. Nickles, Mr. Humphrey, Mr. Denton, Mr. Weicker, Mr. Grassley, and Mr. D'Amato.

Committee on the Budget: Mr. Domenici (chairman), Mr. Armstrong, Mrs. Kassebaum, Mr. Boschwitz, Mr. Hatch, Mr. Tower, Mr. Andrews, Mr. Symms, Mr. Grassley, Mr. Kasten, Mr. Quayle, and Mr. Gorton.

Committee on Rules and Administration: Mr. Mathias (chairman), Mr. Hatfield, Mr. Baker, Mr. McClure, Mr. Helms, Mr. Warner, and Mr. Dole.

Committee on Veterans' Affairs: Mr. Simpson (chairman), Mr. Thurmond, Mr. Stafford, Mr. Murkowski, and Mr. Specter.

Committee on Small Business: Mr. Weicker (chairman), Mr. Packwood, Mr. Hatch, Mr. Boschwitz, Mr. Gorton, Mr. Nickles, Mr. Rudman, Mr. D'Amato, Mr. Kasten, and Mr. Pressler.

Special Committee on Aging: Mr. Heinz (chairman), Mr. Domenici, Mr. Percy, Mrs. Kassebaum, Mr. Cohen, Mr. Pressler, Mr. Grassley, and Mr. Wilson.

MINORITY PARTY APPOINTMENTS TO SENATE COMMITTEES

Mr. BYRD. Madam President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated.

The legislative clerk read as follows:

A resolution (S. Res. 9) making minority party appointments to Senate committees for the ninety-eighth Congress.

Mr. BYRD. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there objection to the present consideration of the resolution?

There being no objection, the resolution (S. Res. 9) was considered and agreed to as follows:

S. RES. 9

Resolved, That the following shall constitute the minority party's membership on the standing committees, the Committee on Small Business, and the Special Committee on Aging of the Senate for the Ninety-Eighth Congress:

Committee on Agriculture, Nutrition, and Forestry: Mr. Huddleston, Mr. Leahy, Mr. Zorinsky, Mr. Melcher, Mr. Pryor, Mr. Boren, Mr. Dixon, and Mr. Heflin.

Committee on Appropriations: Mr. Stennis, Mr. Byrd, Mr. Proxmire, Mr. Inouye, Mr. Hollings, Mr. Eagleton, Mr. Chiles, Mr. Johnston, Mr. Huddleston, Mr. Burdick, Mr. Leahy, Mr. Sasser, Mr. DeConcini, and Mr. Bumpers.

Committee on Armed Services: Mr. Jackson, Mr. Stennis, Mr. Nunn, Mr. Hart, Mr. Exon, Mr. Levin, Mr. Kennedy, and Mr. Bingaman.

Committee on Banking, Housing, and Urban Affairs: Mr. Proxmire, Mr. Cranston, Mr. Riegle, Mr. Sarbanes, Mr. Dodd, Mr. Dixon, Mr. Sasser, and Mr. Lautenberg.

Committee on Commerce, Science, and Transportation: Mr. Hollings, Mr. Long, Mr. Inouye, Mr. Ford, Mr. Riegle, Mr. Exon, Mr. Heflin, and Mr. Lautenberg.

Committee on Energy and Natural Resources: Mr. Johnston, Mr. Jackson, Mr. Bumpers, Mr. Ford, Mr. Metzenbaum, Mr. Matsunaga, Mr. Melcher, Mr. Tsongas, and Mr. Bradley.

Committee on Environment and Public Works: Mr. Randolph, Mr. Bentsen, Mr. Burdick, Mr. Hart, Mr. Moynihan, Mr. Mitchell, and Mr. Baucus.

Committee on Finance: Mr. Long, Mr. Bentsen, Mr. Matsunaga, Mr. Moynihan, Mr. Baucus, Mr. Boren, Mr. Bradley, Mr. Mitchell, and Mr. Pryor.

Committee on Foreign Relations: Mr. Pell, Mr. Biden, Mr. Glenn, Mr. Sarbanes, Mr. Zorinsky, Mr. Tsongas, Mr. Cranston, and Mr. Dodd.

Committee on Governmental Affairs: Mr. Eagleton, Mr. Jackson, Mr. Chiles, Mr. Nunn, Mr. Glenn, Mr. Sasser, Mr. Levin, and Mr. Bingaman.

Committee on the Judiciary: Mr. Biden, Mr. Kennedy, Mr. Byrd, Mr. Metzenbaum, Mr. DeConcini, Mr. Leahy, Mr. Baucus, and Mr. Heflin.

Committee on Labor and Human Resources: Mr. Kennedy, Mr. Randolph, Mr. Pell, Mr. Eagleton, Mr. Riegle, Mr. Metzenbaum, and Mr. Matsunaga.

Committee on Rules and Administration: Mr. Ford, Mr. Pell, Mr. Byrd, Mr. Inouye, and Mr. DeConcini.

Committee on the Budget: Mr. Chiles, Mr. Hollings, Mr. Biden, Mr. Johnston, Mr. Sasser, Mr. Hart, Mr. Metzenbaum, Mr. Riegle, Mr. Moynihan, and Mr. Exon.

Committee on Veterans' Affairs: Mr. Cranston, Mr. Randolph, Mr. Matsunaga, Mr. DeConcini, and Mr. Mitchell.

Committee on Small Business: Mr. Nunn, Mr. Huddleston, Mr. Bumpers, Mr. Sasser, Mr. Baucus, Mr. Levin, Mr. Tsongas, Mr. Dixon, and Mr. Boren.

Special Committee on Aging: Mr. Glenn, Mr. Chiles, Mr. Melcher, Mr. Pryor, Mr. Bradley, Mr. Burdick, and Mr. Dodd.

APPOINTMENT OF MAJORITY PARTY MEMBERSHIP ON SELECT COMMITTEE ON ETHICS

Mr. BAKER. Madam President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 10) making majority party appointments to the Senate Committee on Ethics.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution (S. Res. 10) was considered and agreed to as follows:

S. RES. 10

Resolved, That the following shall constitute the majority party's membership on the Select Committee on Ethics: Mr. Stevens, Mr. Helms, and Mr. Durenberger.

APPOINTMENT OF MINORITY PARTY MEMBERSHIP ON THE SELECT COMMITTEE ON ETHICS

Mr. BYRD. Madam President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection? The clerk will state the resolution.

The legislative clerk read as follows:

A resolution (S. Res. 11) appointing minority party's membership on the Select Committee on Ethics for the 98th Congress.

Mr. BYRD. I ask unanimous consent that further reading of the resolution be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there objection to the present consideration of the resolution?

There being no objection, the resolution was agreed to, as follows:

S. RES. 11

Resolved, That the following shall constitute the minority party's membership on the Select Committee on Ethics for the 98th Congress: Mr. Heflin, Mr. Pryor, and Mr. Eagleton.

APPPOINTMENT OF SENATORS TO SELECT COMMITTEE ON INTELLIGENCE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Senate Resolution 400, 94th Congress, and Senate Resolution 4, 95th Congress, appoints the following Senators to the Select Committee on Intelligence: the Senator from Maine (Mr. COHEN) to fill a vacancy; the Senator from New York (Mr. MOYNIHAN), for a term expiring at the end of the 98th Congress; the Senator from Kentucky (Mr. HUDDLESTON), for a term expiring at the end of the 98th Congress, 1st session; the Senator from Delaware (Mr. BIDEN), for a term expiring at the end of the 98th Congress, 1st session; the Senator from Hawaii (Mr. INOUYE), for a term expiring at the end of the 98th Congress; the Senator from Washington (Mr. JACKSON), for a term expiring at the end of the 99th Congress; the Senator from Vermont (Mr. LEAHY), for a term expiring at the end of the 99th Congress; and the Senator from Texas (Mr. BENTSEN), for a term expiring at the end of the 98th Congress.

APPOINTMENT OF SENATORS TO SELECT COMMITTEE ON INDIAN AFFAIRS

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Senate Resolution 4, 95th Congress, and Senate Resolution 448, 96th Congress, as amended, appoints the following Senators to the Select Committee on Indian Affairs for the 98th Congress: Mr. ANDREWS, Chairman; Mr. GOLDWATER, Mr. GORTON, Mr. MURKOWSKI, Mr. MELCHER, Mr. INOUYE, and Mr. DECONCINI.

APPOINTMENT OF SENATORS TO JOINT ECONOMIC COMMITTEE

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to section 1024 of title 15, United States Code, appoints the following Senators to the Joint Economic Committee for the 98th Congress: Mr. BENTSEN, Mr. PROXMIRE, Mr. KENNEDY, and Mr. SARBANES.

APPOINTMENT OF SENATOR GOLDWATER TO MOTOR CARRIER RATEMAKING STUDY COMMISSION

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to the provisions of Public Law 96-296, appoints the Senator from Arizona (Mr. GOLDWATER) to the Motor Carrier Ratemaking Study Commission.

APPOINTMENT OF SENATE LEGAL COUNSEL

Mr. BAKER. Madam President, I send a resolution to the desk in respect to the reappointment of the legal counsel to the Senate, for myself and the distinguished minority leader. I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the clerk will state the resolution.

The legislative clerk read as follows:

A resolution (S. Res. 12) reappointing Michael Davidson as Senate Legal Counsel.

Resolved, That the reappointment of Michael Davidson to be Senate Legal Counsel made by the President pro tempore of the Senate this day is effective as of January 3, 1983, and the term of service of the appointee shall expire at the end of the 99th Congress.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution (S. Res. 12) was considered and agreed to.

PROVISION FOR ADJOURNMENT OF THE SENATE AND THE HOUSE OF REPRESENTATIVES FOR MORE THAN 3 DAYS

Mr. BAKER. Madam President, before I send a concurrent resolution to the desk and ask for its immediate consideration, may I say for the benefit of Senators that I am about to ask for consideration of a resolution providing for adjournment of the House and Senate for more than 3 days as required by the Constitution. I advise my colleagues that I have today talked to the distinguished Speaker of the House of Representatives, who has indicated that it is not the intention of the leadership of the House to transact any business other than that of organizing the House of Representatives. I have been assured that no legislative business will be undertaken and no other business will be transacted beyond the scope of that required by the organization and opening requirements of that body. In view of that, the concurrent resolution provides for the adjournment today of the Senate until January 25, 1983, and for the adjournment of the House of Representatives from Thursday, January 6, until the same date.

Madam President, I now send the concurrent resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Without objection, the clerk will state the resolution.

The legislative clerk proceeded to read as follows:

A concurrent resolution (S. Con. Res. 1) providing for adjournment of the Senate and the House of Representatives for more than 3 days.

Mr. BAKER. Madam President, I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Before the Chair puts the question on the resolution, I wish to confer with the minority leader.

Madam President, may I inquire if the Chair will restate the concurrent resolution.

The PRESIDING OFFICER. The clerk will read the resolution.

The legislative clerk read as follows:

S. CON. RES. 1

Resolved by the Senate (the House of Representatives concurring), That when the Senate adjourns on Monday, January 3, 1983, pursuant to a motion made by the Majority Leader in accordance with this resolution, it stand adjourned until 12:00 noon on Tuesday, January 25, 1983.

SEC. 2. That the consent of the Senate is hereby given to an adjournment of more than three days to a day certain by the House of Representatives to begin on Thursday, January 6, 1983, or Friday, January 7, 1983, and terminating on January 25, 1983, pursuant to a motion by the Majority Leader, or his designee.

The concurrent resolution (S. Con. Res. 1) was considered and agreed to.

Mr. BAKER. Madam President, that completes the list of resolutions.

I ask unanimous consent that it be in order to move en bloc to reconsider the resolutions previously agreed to.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

Mr. BAKER. I now so move, Madam President.

Mr. BYRD. Madam President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. I thank the Chair.

ORDER OF PROCEDURE

Mr. BAKER. Madam President, I have a series of unanimous-consent requests that I will submit in writing so that they may be stated by the clerk.

AUTHORIZATION FOR COMMITTEE ON ETHICS TO MEET DURING SENATE SESSION

The PRESIDING OFFICER. The clerk will report the first request.

The legislative clerk read as follows:

I ask unanimous consent that for the duration of the 98th Congress the Ethics Committee be authorized to meet at any time during the session of the Senate. This would put the Ethics Committee in the same category as the Appropriations Committee and the Budget Committee now enjoy.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

AUTHORIZATION FOR RECEIPT OF BILLS, JOINT, CONCURRENT, AND SIMPLE RESOLUTIONS

Mr. BAKER. Madam President, another request.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

I ask unanimous consent that, during the 98th Congress, Senators may be allowed to bring to the desk bills, joint resolutions, concurrent and simple resolutions for referral to the appropriate committees.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

AUTHORIZATION TO REFER TREATIES AND NOMINATIONS ON THE DAY WHEN THEY ARE RECEIVED FROM THE PRESIDENT

Mr. BAKER. Madam President, I send another request to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

I ask unanimous consent that, for the duration of the 98th Congress, it be in order to refer treaties and nominations on the day when they are received from the President, even when the Senate has no executive session that day.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

ORDER FOR TIME LIMITATION ON ROLLCALL VOTES

Mr. BAKER. Another request, Madam President.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

I ask unanimous consent that, for the duration of the 98th Congress, there be a limitation of 15 minutes each on any rollcall vote with warning signal to be sounded at the midway point, beginning at the last 7½ minutes, and when rollcall votes are of 10-minutes duration, the warning signal be sounded at the beginning of the last 7½ minutes.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

AUTHORIZATION FOR MEMBERS OF THE STAFF TO RECEIVE REPORTS AT THE DESK WHEN PRESENTED BY A SENATOR

Mr. BAKER. Now, Madam President, another request.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

I ask unanimous consent that during the 98th Congress it be in order for the proper members of the staff to receive reports at the desk when presented by a Senator at any time during the day of the session of the Senate.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

ORDER DESIGNATING DAILY ASSIGNMENT OF LEADERSHIP TIME

Mr. BAKER. Madam President, I will state this request.

I ask unanimous consent that the majority and minority leaders may daily, as in the past Congress, have up to 10 minutes each on each calendar day following the prayer and the disposition of the reading or the approval of the Journal, if such action is taken in respect to the Journal.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

Mr. BAKER. Madam President, it may be quicker just to go through it this way, and my thanks to the clerk for his assistance.

ORDER GRANTING PRIVILEGE OF THE FLOOR TO THE PARLIAMENTARIAN OF THE HOUSE OF REPRESENTATIVES

Mr. BAKER. I ask unanimous consent that the Parliamentarian of the House of Representatives and his three assistants be given the privilege of the floor for the duration of the 98th Congress.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROCEDURES FOR PRIVILEGE OF THE FLOOR DURING THE 98TH CONGRESS

Mr. BAKER. Madam President, I ask unanimous consent that for the duration of the 98th Congress Senators be allowed to leave at the desk with the Journal Clerk a list of no more than two staff members who will be granted the privilege of the floor during the consideration of the specific matter noted on the list, and that the Sergeant at Arms be instructed to rotate such staff members as space allows.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Madam President, may I say that in that connection I have received a number of communications from Senators on this side about the number of staff who are on the floor who do not appear to comply with this request. I have discussed this matter in a preliminary way with the minority leader, and I expect to discuss it further with Members on this side and subsequently with the minority leader to find out some way to thin out staff.

I urge Senators who have views on this subject to convey them to me on this side and, if they choose to do so, to the leadership on the other side so that the suggestions may be taken into account.

PRINTING OF CONFERENCE REPORTS

Mr. BAKER. Madam President, I ask unanimous consent that, notwithstanding the provisions of the Legislative Reorganization Act, conference reports and statements accompanying them not be printed as Senate reports when such conference reports and statements have been printed as a House report, unless specific request is made in the Senate in each instance to have such a report printed.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR THE COMMITTEE ON APPROPRIATIONS TO TAKE CERTAIN ACTION

Mr. BAKER. Madam President, I ask unanimous consent that the Committee on Appropriations be authorized during the 98th Congress to file reports during adjournments or recesses of the Senate on appropriation bills, including joint resolutions, together with any accompanying notices of motions to suspend rule XVI, pursuant to rule V, for the purpose of offering certain amendments to such bills or joint resolutions, which proposed amendment shall be printed.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR THE SECRETARY OF THE SENATE TO TAKE CERTAIN ACTIONS

Mr. BAKER. Madam President, I ask unanimous consent that for the duration of the 98th Congress the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossments of all Senate-passed bills and resolutions, Senate amendments to House bills and resolutions, Senate amendments to House amendments to Senate bills and resolutions, and Senate amendments to House amendments to Senate amendments to House bills and resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER THAT NO BILLS OR RESOLUTIONS BE IN ORDER UNTIL AFTER THE DELIVERY OF THE PRESIDENT'S ADDRESS ON THE STATE OF THE UNION

Mr. BAKER. Madam President, I ask unanimous consent that no bills or resolutions be in order until after the delivery of the President's address on the state of the Union.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Madam President, let me withhold for a moment.

Madam President, in order to provide an opportunity for the distinguished minority leader and me to wait on the President of the United States and to advise him that Congress is in session, I am prepared to suggest the absence of a quorum. But before I do so, I yield to the senior Senator from West Virginia.

DECORUM IN THE SENATE

Mr. RANDOLPH. Madam President, I address all Members of the Senate, even though, understandably, they are not at their desks. I am speaking, and I hope in a very proper way, to the able majority and minority leaders, Senator BAKER and Senator BYRD.

I would not add the slightest negative note to the swearing in ceremony, the appropriateness, and the necessary matters that must be handled today. But on this first day of the 98th Congress, I express the hope that the discipline, the decorum, and the dignity of this body, as we carry on the business of the Nation, representing our 50 States' constituencies, is done in a way that, frankly, does not resemble what has happened in the immediate weeks and months past.

I am in gratitude to our two helpful leaders, for all the courtesies extended to me and for the companionship with which we work on historic Capitol Hill. I say to the majority leader, I hope not too deep into the session we will come to grips with this problem. At the proper time I will reintroduce a Senate rules change to require Senators to vote from their desks.

Our desks are intended to be used as we transact our duties in this Chamber.

If television comes to this body, as the able majority leader has advocated, the Members, I am sure, will be speaking from their desks as they discuss issues, not in the aisles or in the well.

I call attention to this subject at the beginning because I look on this as not just another day. I look on it as a new day, as we convene this important legislative body for the 98th time during the history of our Republic.

For that reason, I hope that, in the proper way, under the rules of the Senate, of course, this will not be relegated to the back burner. It is hoped that we may reverse the five-vote loss in the past Congress and be successful, not for myself but for the Senate, in the 98th Congress.

Mr. BAKER. Madam President, I thank my friend from West Virginia, the distinguished senior Senator, who has often insisted in the past that the Senate comport itself appropriate to the importance of its undertaking. His remarks are well stated and are entirely appropriate, and I thank him for this.

COMMENDATION TO THE PRESIDENT PRO TEMPORE

Mr. BAKER. Madam President, before I suggest the absence of a quorum, I should like to take this opportunity to do a few things.

First, I point out, as my colleagues surely know, that some things happen automatically in the Senate.

For example, the President pro tempore continues as the President pro tempore without subsequent election, except in the case of a vacancy. It would be remiss of me to permit this occasion to pass without noting that the Senator from South Carolina (Mr. THURMOND) is the President pro tempore of the Senate and will continue to serve in that position, I am sure, with the same grace, dignity, and effectiveness with which he has served so well in the last 2 years.

I cannot recall any other time during my service here when a Senator has worked so hard and has been so diligent in the discharge of his duties as has Senator THURMOND. I express, I am sure, the appreciation of the Senate for his service and extend congratulations to him on the continuation of that service in the future.

Mr. BYRD. Madam President, will the Senator yield?

Mr. BAKER. I yield.

Mr. BYRD. Madam President, I wish to express my personal appreciation to the President pro tempore for the courtesy he extends to the minority and which he has personally extended to me in a very personal way during the past year.

He is gentleman, and he treats his colleagues always with understanding and consideration. I personally thank him on this new day of this new Congress for the kindnesses he has extended.

Mr. THURMOND. Madam President, will the Senator yield?

Mr. BAKER. I yield.

Mr. THURMOND. Madam President, I express my appreciation to the able majority leader and the able minority leader for their kind words.

It has been a pleasure working with these fine gentlemen in the past, and I look forward to working with them in the future. They are both competent, they are both dedicated, and they are both able leaders of whom we are all proud.

Mr. BAKER. Madam President, I am very grateful to the distinguished Senator, who is historic in his contribution to the Senate and to the Nation.

COMMENDATION TO OFFICERS OF THE SENATE

Mr. BAKER. Madam President, there are certain other officers of the Senate who also continue in office, such as the secretary of the Senate, Mr. William F. Hildenbrand, who continues to serve in that role, and the Senate is in his debt.

The same is true with respect to the Sergeant at Arms, Mr. Howard S. Liebengood, who will continue as Sergeant at Arms.

The secretary to the majority will remain unchanged. Mr. Howard O. Greene will remain in that office. The same is true as to the deputy legal counsel and our Chaplain.

The Chaplain has really created a reputation for himself in a very short period of time. I note with pleasure that often his opening prayers are remarked upon in the daily press, as they should be. They are almost always inspirational and certainly relevant to the special undertakings and particular stresses and strains that beset the Senate from time to time.

Mr. BYRD. Madam President, will the Senator yield?

Mr. BAKER. I yield.

Mr. BYRD. Madam President, I would be remiss if I did not comment on the services of the Chaplain.

He has been of service to all Senators and their families. He has been ready, in the hour of great need and trial and trouble, to come to the assistance of and to provide succor and comfort to the Members and to their families.

Personally, I owe the Chaplain a great debt on behalf of my family and myself, and his services to us will never be forgotten.

(Mr. WARNER assumed the chair.)

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I indicated earlier that I would suggest the absence of a quorum. Instead, I believe it might be appropriate to have a brief period for the transaction of routine morning business, in which Senators may make statements only. An order has been entered that no bills or resolutions may be introduced.

With that in mind, I ask unanimous consent that there now be a period for the transaction of routine morning business, to extend not past 1:15 p.m., in which Senators may speak, and solely for the purpose of statements.

The PRESIDING OFFICER. Without objection, it is so ordered.

EPA POLICY FOR AREAS THAT DO NOT ATTAIN THE NATIONAL AMBIENT AIR QUALITY STANDARDS UNDER THE CLEAN AIR ACT

Mr. BAKER. Mr. President, now that the December 31, 1982, deadline for attainment of the national ambient air quality standards has passed, EPA must begin to address the difficult question of nonattainment of standards. I call to the attention of my colleagues EPA's response to the chairman of the Committee on Environment and Public Works regarding the issue of nonattainment. A part of this response describes how the Agency will proceed to seek attainment in areas which did not attain standards by the dates mandated in the Clean Air Act.

I ask that EPA's response to the chairman of the Committee on Environment and Public Works and the policy on nonattainment be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C., December 29, 1982.

Hon. ROBERT T. STAFFORD,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your December 10 letter regarding the deadline of December 31, 1982 for attaining most of the air quality standards established under the Clean Air Act. I welcome the opportunity to set out this Agency's views on the legal meaning of this deadline, and the actions it requires of us, particularly, since you appear to have been misinformed about our position.

You have asked whether the Clean Air Act requires the Agency to cut off certain grant funds, and to prohibit the construction of major new sources of air pollution, in areas that do not attain the standards on schedule. You have also asked what procedures are required to impose these measures in the event they are legally required.

I. PROCEDURES

As you correctly indicated, the Clean Air Act does not require the immediate imposition either of funding cut-offs or a construction moratorium on January 1, 1983. Where an area appears not to have met the standards on schedule, EPA will publish a notice in the Federal Register proposing to disapprove the state implementation plan for that area. Only after full opportunity for public comment will EPA proceed to further steps. EPA will make its decision as to the likelihood of nonattainment upon full analysis of the public record and will proceed with sanctions accordingly.

My staff has prepared, for the Agency's Regional Administrators, a memorandum which sets out this policy; a copy is enclosed.

II. FUNDING CUT-OFFS

Section 176(a) of the Clean Air Act requires EPA to withhold certain grant funds from States that have failed to "submit" revisions to their implementation plans that are required by the Clean Air Act. Section 176(b) requires similar actions where a State has failed to "implement" its plan.

Our determination as to how widely these provisions must be applied to States that do not meet the 1982 deadline will be made subsequent to the comment period on individual cases of potential nonattainment.

III. CONSTRUCTION MORATORIUM

Section 110(a)(2)(I) of the Clean Air Act requires that State implementation plans provide "that after June 30, 1979, no major stationary source shall be constructed or modified in any nonattainment area . . . if the emissions from such facility will cause or contribute to concentrations of any pollutant for which a national ambient air quality standard is exceeded in such area, unless, as of the time of application for a permit for such construction or modification, such plan meets the requirements of Part D (relating to nonattainment areas)."

One of the "requirements of Part D" that a plan must meet is to "provide for attainment of each . . . national ambient air quality standard . . . as expeditiously as practicable, but, in the case of national primary ambient air quality standards, not later than December 31, 1982." Clean Air Act, sec. 172(a)(1).

If an area covered by a plan did not attain the standards by the end of 1982, it would strain the meaning of the language to say the plan had "provided for" attainment by the statutory deadline. To "provide for" something—whether it is national defense, retirement savings, or attaining standards by a deadline—means to really provide for it, not simply to say on paper that you will.

Your letter suggests that the "construction moratorium" was meant to apply only until satisfactory implementation plans were submitted and approved under the 1977 amendments to the statute. You argue that, since those approved plans had to contain provisions for assuring that construction of new sources would not result in emission increases, a construction moratorium in addition to that would serve no useful purpose.

However, even before those plans were submitted, new source construction was subject to EPA's 1976 Offset Ruling, which also assured that new source construction would not result in any net increase in emissions. Yet the Act required the construction ban in states that failed to submit those plans on schedule, even though a new source review program adequate to prevent emission increases had already been established. Accordingly, I cannot see a real difference in this respect between those circumstances and the current situation. In both cases a new source review program designed to prevent emission increases from new sources was available. In both cases, however, further emission reductions beyond that baseline will be required to attain the standards.

In the notice imposing that ban, Acting Administrator Barbara Blum explained the Agency's view that "The underlying purpose of the restriction on new sources is not to punish a state for failure to control pollution, but rather to prevent the pollution problem from getting worse. The restriction postpones construction that would worsen a violation of national standard until after an acceptable state plan is in effect that assures timely attainment of the standard [by the end of 1982]." 44 Fed. Reg. 38472 (July 2, 1979).

Certainly, plans that actually fail to attain the air quality standards on schedule are at least as inadequate under the Clean Air Act as those that fail to contain measures for future attainment. Indeed, to adopt a different view would mean that areas that have received extensions of the statutory deadline until 1987, and are now in the process of planning to meet that future deadline, might be put under a construction moratorium for failing to plan satisfactorily, while areas that had actually failed to achieve the standards on time would not. Surely Congress did not intend this paradoxical result.

For more than a decade, the question of attainment deadlines has been at the center of the debate on the Clean Air Act. Those who argued various sides of the issue must have believed that they were discussing a real deadline with real consequences. Yet under the approach you suggest, the passage of the attainment deadline would only result in an EPA call for a State to revise its plan—the kind of action that can happen as a routine matter in response to a wide variety of circumstances. I cannot believe that such a reading accurately reflects what Congress had in mind in establishing and repeatedly emphasizing these statutory provisions.

I believe this discussion adequately responds both to the analysis in your letter and to the staff memorandum that has been shared with us.

IV. CONCLUSION

I share the belief you expressed in your letter, and have repeatedly testified, that rigid deadlines have a real chance of being environmentally, as well as economically, counter-productive. However, I am not entitled to read the law in a way that contradicts its language, its past construction, and its broad purpose.

As you well know, this Administration has consistently urged your Committee to deal with the many problems inherent in the Clean Air Act. It is vitally important that the Clean Air Act be updated to address the environmental and economic realities of the 1980's. Failure to do so must inevitably lead to increasing disruption, uncertainty, risk, and economic hardships and, ironically, decreased environmental progress. Though S. 3041 in our view does not address these problems in a satisfactory manner, we hope that we can agree on mutually acceptable revisions to it in the month ahead.

Sincerely yours,

KATHLEEN M. BENNETT,
Assistant Administrator for Air, Noise and Radiation.

Enclosure.

ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C., December 29, 1982.

MEMORANDUM

Subject: Policy For Areas That Do Not Attain the Primary National Ambient Air Quality Standards by December 31, 1982.

From: Kathleen M. Bennett, Assistant Administrator for Air, Noise, and Radiation (ANR-443).

To: Regional Administrator, Regions I-X.

I. THE 1982 ATTAINMENT DATE

The Clean Air Act requires that the primary ambient air quality standards for particulate matter, sulfur dioxide, and nitrogen dioxide be attained no later than December 31, 1982. The primary standards for ozone and carbon monoxide were also to be attained by that date, except where extensions of the attainment date beyond 1982

were granted under strictly prescribed statutory circumstances.*

This memorandum delineates the Agency's policy for all areas subject to the 1982 deadline for attainment of the primary ambient air quality standards.

II. CONSEQUENCES OF FAILURE TO ATTAIN BY DECEMBER 31, 1982

In general, if an area fails to attain the primary ambient air quality standards, the Clean Air Act imposes certain statutory consequences:

A. The area is subject to a ban on the construction or modification of major stationary sources emitting the pollutant for which the area is nonattainment, and

B. The area may be subject to a suspension of certain Federal grant funds for failing to "submit" a satisfactory plan (Section 176(a)) or failing to "implement" the plan the State submitted (Section 176(b)).

III. PROCEDURES FOR DETERMINING NONATTAINMENT

A. The initial indicator of whether an area is "attainment" or "nonattainment" under the Clean Air Act is the area's designation under Section 107. If a State believes that an area designated as nonattainment has attained the national standards, and can make a demonstration to that effect in accordance with current EPA policy, the State should promptly apply for redesignation. The agency will consider exceptions to existing requirements for redesignation on a case-by-case basis in order to facilitate redesignation, where appropriate.

B. There will be cases where data will demonstrate that the area has attained the standards by the end of 1982 even though the area retains a nonattainment designation. To give States which have areas having a high probability of attainment an opportunity to make such a showing, all areas currently designated as nonattainment under Section 107 will be divided into two classes—those areas the Agency believes will be able to demonstrate attainment and those areas which the Agency believes will not be able to make such a demonstration.

C. To provide adequate notice and ensure broad public participation, the Agency will propose a formal finding that the State plan is inadequate to attain the standards before the sanctions will be imposed. Therefore, the Agency will propose, in the Federal Register, to find the implementation plan deficient for those areas designated as nonattainment where the Agency believes the standards have not been attained by the statutory date or where the plan does not meet the requirements of Part D of the Act.

D. The Agency will also propose for comment the extent of the area to be found nonattainment and the nature and scope of the consequences which the Agency believes should apply. After public comment, EPA will proceed to take final action and impose the sanctions, unless information obtained from those comments indicates that the area has attained the standards, and that the plan also meets other Part D requirements.

While attainment of the national standards by December 31, 1982, is one general requirement of Part D of the Act, there are other provisions of the Act with which some States have not yet complied. Some States have not submitted an adequate implementation plan as required by the Act. In other cases, States have not fulfilled conditions (such as requirements for additional regulations or information) on which Federal approval of the State plan had been contingent. Where either of these two circumstances exist, the Agency intends to find that the State plan is inadequate following the public comment period, unless information to the contrary is presented, and to impose the applicable sanctions.

Action to implement this post-1982 policy will be initiated by issuing proposals of implementation plan deficiency in the Federal Register by January 31, 1983. The analysis needed to support the identification of those areas we believe will not attain the national standards has begun. We will appreciate your continuing efforts with the Office of Air Quality Planning and Standards to develop a Federal Register notice consistent with this policy.

IV. OTHER

A. The deadline for attainment of the national primary standards described above applies to all nonextension areas irrespective of when the area is determined to be nonattainment. Existing regulations will be revised, where necessary, to reflect this interpretation.

B. A plan for an area that is still experiencing violations after 1982 may nevertheless meet the Part D requirements, if interstate transport is the sole cause of the violations and the plan is adequate to assure that intrastate sources would not cause the violations.

*Areas that received this extension should have submitted to the Agency by July 1, 1982, a revised State Implementation Plan to provide for attainment of these standards no later than December 31, 1987.

NUCLEAR WAR AND HUMAN FALLIBILITY

Mr. PROXMIRE. Mr. President, according to Tom Wicker of the New York Times, as many as 100,000 American military personnel "have some form of access to or responsibility for nuclear weapons."

And routinely, of that 100,000, about 3 percent annually are removed from such contact as a result of mental disorders, alcoholism, or drug abuse.

The risks posed by these individuals are simply incalculable. We know about the failures of our computer equipment. Over an 18-month period, the North American Defense Command had 151 computer false alarms with one that actually put U.S. forces on alert for 6 minutes.

But the risk flowing simply from human nature and that relatively widespread contact thousands of individuals have in the United States and U.S.S.R. with nuclear weapons may be the most significant element of all in the nuclear equation.

We so often overlook the obvious when it comes to discussing nuclear strategy or nuclear proliferation. While it is true that proliferation is the most important issue facing the world, it may be equally true that human fallibility represents an equal threat to survival.

Terrorists and madmen capture our imagination. We can clearly envison the use of nuclear weapons in the Middle East or North Africa. We know the potential for warfare that exists between nations in conflict in Latin America or South Asia.

But how about the everyday reality of some individual in a rearranged state either here or abroad being the catalyst for a nuclear incident.

With some 3,000 individuals in the United States alone presenting a security risk while working around nuclear weapons, the number worldwide must be over 10,000 annually. And this represents the success rate—those removed from contact from nuclear weapons. How about those who are not discovered?

Mr. President, with our concentration on exotic weaponry, it is critically important that we not overlook the importance of tightening up the screening and reviewing process for those with access to nuclear weaponry. It would be the supreme irony if the United States and U.S.S.R. reached some arms control agreement only to have a nuclear war started for some reason totally unrelated to national interests.

Mr. President, I ask unanimous consent that the article in the New York Times by Tom Wicker, titled "War by Accident," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Nov. 21, 1982]

WAR BY ACCIDENT

(By Tom Wicker)

More than 100,000 American military personnel have some form of access to or responsibility for nuclear weapons. A House subcommittee has reported that in 1977—a typical year—1,219 of them had to be removed from such duty because of mental disorders, 256 for alcoholism and 1,365 for drug abuse.

There's every reason to suppose that the Soviet Union, with more or less equal nuclear forces, has at least as severe a problem. Because their technology is not as advanced as that of the U.S., the Soviets may have a *worse* record of malfunctioning by the computers that control missile firings.

That's a scary thought, since on our side the North American Defense Command reported 151 computer false alarms in an 18-month period. One had American forces on alert for a full six minutes before the error was discovered.

Such human and electronic fallibility is one good reason why the International Physicians for the Prevention of Nuclear War, after intensive study, concluded that "the risk of accidental nuclear war is not only unacceptably high but is rapidly increasing."

President Reagan, too, has expressed concern at the possibility of an unintended spark setting off nuclear conflagration. Several published reports have suggested that his Administration has been reviewing the problem and he's expected to address it in his forthcoming arms control speech.

But it's unlikely that he'll speak to the primary threat, which is not personnel or computer failures, frightening as they are. The real problem is the proliferation of numbers and kinds of nuclear weapons and

delivery vehicles, and of the nations that possess these weapons or soon might.

Both superpowers have literally thousands of nuclear weapons. Missiles, now the main reliance for delivery, can't be recalled if mistakenly launched. Communication with submarines is still far from perfect. Limited warning time after a real or falsely reported launch makes an erroneous command calculation, perhaps aided by computer malfunction, all too likely.

Thus, a weapons buildup on either side, matched as it always is on the other, increases the chances of a fatal error, whether by judgment or performance. And a paper by the International Physicians group points out the obvious—that "the single most powerful force increasing the risk of accidental nuclear war" is the trend on both sides toward first-strike weapons.

Bigger, more powerful and more accurate missiles targeted on the other side's missiles means that whoever shoots first may well destroy the other's nuclear forces. So either may be led by suspicion and fear to miscalculate the other's intentions and fire its own missiles in a pre-emptive strike.

If Mr. Reagan should decide to protect the MX missile with a ballistic missile defense, the Soviets would certainly respond with their own missile defense system. Both sides then would have a new reason, in a crisis that could lead to war, to shoot first—and perhaps mistakenly.

Fearing being beaten to the punch, either side might calculate that firing first would force the other to activate his defense missiles; then, while the defender was preoccupied with the first attack, a second could be launched, and the attacker would still have his own missile defense system ready to fend off counterattack.

The NATO policy of responding with nuclear weapons if a conventional attack on Western Europe could not be halted by conventional means also risks accidental war. The Soviets could misinterpret NATO intentions and fire nuclear weapons of their own. And while NATO battlefield commanders are not supposed to have authority to use nuclear weapons, who knows what might happen in the turmoil of battle?

The spread of nuclear weapons to nations beyond the five that already have them poses other obvious threats of accidental war, since that would mean more such weapons in more hands, perhaps with less sophisticated human and technological controls.

The Reagan Administration, unfortunately, has shown a distinct lack of interest in the problems of proliferation to other nations. And while Mr. Reagan has recognized the necessity to improve American command and control facilities, and his Administration has been studying some sort of joint operations with the Soviets to guard against mishap and misunderstanding, his planned nuclear buildup, including the huge new MX missile, actually increases the risk of accidental war.

The best immediate safeguards against such a disaster would be the ratification of SALT II, which Mr. Reagan says he's observing anyway; completion of the Comprehensive Test Ban Treaty that's been largely worked out with the Soviet Union; and, if obtainable, a verifiable Soviet-American freeze on the production and deployment of more nuclear weapons on either side. And all these would be long steps toward the surest safeguard of all—the reductions in nuclear forces that are Mr. Reagan's stated goals.

START THE NEW YEAR RIGHT

Mr. PROXMIRE. Mr. President, a new year has begun—a time for reflection and resolution, a time to reexamine the value of human life. It is a good time to remember that millions of people have been murdered in the world, and the United States has not yet done its part to help insure that mass murder does not continue to occur.

The year 1983 is a good year for the Senate to do what it should have done years ago—ratify the International Convention on the Prevention and Punishment of the Crime of Genocide.

Since 1967, I have urged, virtually every day the Senate was in session, for the United States to agree to the terms of this treaty. I will continue to urge it until the convention is ratified. At the beginning of this new year, I will refresh the memory of my colleagues as to the origins and purpose of the genocide treaty.

Genocide was not new to mankind when Hitler put to death millions of Jews and other minorities during World War II. But that appalling breach of human decency gave impetus to the Genocide Convention. The General Assembly of the United Nations adopted the convention on December 9, 1948, by a 55-to-0 vote. Since that time, more than 80 nations have signed the treaty.

Several hearings have been held in Congress on the convention and it has had the endorsement of the majority of Presidents since World War II. But the treaty languishes, a victim of misunderstanding and neglect.

The intent of the treaty is simple: It makes genocide an international crime, whether committed during peace or war. Genocide means any of the following acts committed with intent to destroy, in whole or part, a national, ethical, racial, or religious group, such as:

First. Killing members of the group.

Second. Causing serious bodily or mental harm to members of the group.

Third. Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or part.

Fourth. Imposing measures intended to prevent births within the group.

Fifth. Forcibly transfering children of the group to another group.

Mr. President, I urge in this new year that each Senator think about the Genocide Convention in a personal way. Each time you see a picture of children who have been beaten and starved or pictures of the vacant eyes of the concentration camp victims, think of you own children, your own friends. Think of the way in the new year that you could help to insure that your children or your friends will never be a part of the large, devastating picture of genocide.

Let us ratify the Genocide Convention in 1983.

SCIENCE AND MATHEMATICS EDUCATION

Mr. DOMENICI. Mr. President, I have for some time been concerned about what I see as a growing problem in this country today. Hardly a week goes by that I do not see something in the newspaper or on television news about this problem. It has to do, in a very real way, with the education of our children and the future of this country. Simply put, we do not have enough teachers in our schools to teach either math or science classes. Of course there are other aspects and variations of this issue, but as I see it, the core of the problem is the overall lack of qualified teachers in these two very important areas.

In testimony delivered last April before the Senate Commerce, Science and Transportation's Science and Technology Subcommittee, Sarah Klein, president of the National Science Teachers Association made this statement:

> Our Nation faces unprecedented problems in science and engineering education. Most severe of these problems are at the secondary school level where there is a critical shortage of qualified science and math teachers. The paucity of supplies, resources, appropriate materials and support have reduced the quality of science and mathematics education at the secondary school level to a point that U.S. national security and the Nation's efforts toward improved productivity are dangerously threatened.

Ms. Klein's statement is representative of a growing consensus as to the crisis state we are reaching in science and mathematics education. A recent Congressional Research Service report on this issue indicates:

> The U.S. scientific strength and technological capability depend directly on the quality of the scientific education received by its students and on the numbers of students who enter scientific fields. There are indications at the present time that pre-college student competence in science and mathematics may be declining.

The Bureau of Labor Statistics projects that the demand for scientists and engineers to fill science and engineering occupations will increase by 40 percent between 1978 and 1990. Projections indicate that 180,000 new jobs will be available in the mathematical, physical and life sciences while about 480,000 will be created in the computer professions and 250,000 in engineering—with the computer profession expected to experience the most rapid growth in demand.

Who is going to fill these jobs? How can we possibly expect to meet this demand if we do not do something to improve the math and science competency of our high school graduates? How are we going to do that without the teachers qualified to teach them?

There is a growing body of evidence to support the inescapable conclusion that there is an ever-declining student achievement in mathematics and science. Let me list just some of the disturbing findings in this regard:

Every standardized test used to measure science and math capabilities has shown a steadily declining level of achievement over the last 10 years.

Between 1975 and 1980 remedial mathematics enrollments at 4-year institutions of higher education increased 72 percent while total student enrollment increased by only 7 percent. At public 4-year colleges, 25 percent of the mathematics courses are remedial, and at community colleges, 74 percent.

Since the 1970's high school and college admission requirements for math and science have been significantly lowered from prior years.

Only one-sixth of all high school students have taken junior or senior math courses. Two-thirds of the country's high schools require just 1-year of math to graduate.

Only one-third of the 21,000 U.S. high schools teach calculus and fewer than one-third offer physics courses taught by qualified physics teachers.

Today, 13 percent of all high school graduates are prepared for the engineering curriculum in college compared with 28 percent in 1972.

A commission established by the National Science Board to examine this issue concluded in a recently released report:

Therefore, the documented shortage of superior teachers must be considered a prime contributing cause of decreasing student participation in mathematics, science, and technology.

This conclusion seems to represent a consensus among both the education community as well as the scientific and engineering community.

Ernest Boyer, a former U.S. Commissioner of Education was quoted in the New York Times as saying:

Between 1958, when Sputnik occurred, and 1975, half a million secondary school teachers in math, science and languages had gone through summer workshops to raise their skills * * * Maybe what we need is another Sputnik * * * Maybe what we should do is get the Japanese to put a Toyota into orbit.

I think Mr. Boyer hit the nail on the head. We have gotten to a point where we take it for granted that American technology is now, has always been and will always be first. I will tell you, if the examples I just gave you are correct, and I believe they are, that is simply not going to be the case.

What exactly seems to be the situation with respect to our math and science teachers in the schools? Let us look at a few more findings which have emerged from investigations into this issue.

A 1981 survey conducted by the National Science Teachers Association indicated a 77-percent decline in the number of math teachers and a 65 percent decline in the number since 1971.

Another study conducted by the association indicated that among newly employed science and math teachers, 50 percent were unqualified to teach science or math, but were employed on an emergency basis because no legitimately qualified teachers could be found. When examined by census region, the results indicated that the situation is particularly severe in States where high technology industries are present.

In a study done by the National Governors Association, 43 of 45 States reported a shortage or critical shortage of math teachers; 42 reported a shortage of physics teachers; and 38 reported a shortage of chemistry teachers.

According to the National Science Board, in 1980 and 1981, experienced math and science teachers left their jobs at the rate of 4 percent. Another 25 percent expressed the intention to leave in the near future. A continuation of this trend willl result in a net loss of 35 percent of the country's math and science teachers by 1992.

The average age of science teachers responding to the Science Board's survey was 41—indicating the insufficient number of new and young teachers entering the profession in these areas.

Among newly employed science and math teachers, 50 percent were judged by their principals as being unqualified to teach their subject.

Surveys indicate that among present math and science teachers, 79 percent have not completed a 10-hour workshop or course in their subject in over 10 years, 69 percent have never attended a computer course of any kind, and 40 percent have not attended a continuing education course since they began teaching.

There seems to be a number of explanations for why this situation exists. Several are mentioned repeatedly. Among them:

George Tressel of the National Science Foundation, in a recent NOVA broadcast on the Westinghouse Science Talent Search summed up the situation. He said:

Well, it's not at all surprising that the number of science and math teachers is declining and that approximately half of those who train for it never go into the field. Why would somebody want to be a science teacher in the first place? It's a generally demeaning occupation. It doesn't have a high income. It doesn't have a high status. One can make twice the salary by going into even the most beginning occupation.

Let us look at a few more findings from recent surveys on the subject.

The average salary of a new graduating teacher is between $9,000 and $10,000 annually, whereas those entering scientific or technically oriented professions draw $18,000 to $30,000. As a result, teachers with good qualifications in math or science are being enticed into accepting jobs in industry where the salary is considerably better.

By leaving the teaching profession for jobs in the private sector, burdens such as the need to seek summer employment, mandatory participation in extracurricular activities and the need to contend with parents, administrators, and so forth, are eliminated.

So, we do not have enough students pursuing teacher certification in two critical areas: mathematics and science. Those teachers that are already there are leaving in droves. What are the implications for our country and our future?

In testimony before the House Science and Technology Committee, Dr. Sheldon L. Glashow, winner of the 1979 Nobel Prize for physics said:

Americans win the lion's share of Nobel prizes in physics, chemistry, and medicine. This is frequently, but wrongly, quoted as evidence for the health of American science. In fact, it is interest earned by past achievements in science education and research. Prize-winning research was done 10 to 25 years ago when research was more generously supported than it is today. Prize-winning scientists received their crucial precollege education in the first half of the 20th century. Since then, European investment in science education and research has been much larger, per capita, than in the United States. This will become apparent with the Nobel prizes of the next two generations.

Frankly, I find that prediction very disturbing. How can we stand by and do nothing while our country's human resource foundation falls apart in this increasingly demanding technological world we live in? Apparently, George Tressel of the Science Foundation agrees. On the NOVA broadcast referred to earlier he said:

I have a very deep concern that ultimately, neglect of science education is going to affect the United States' standard of living and its competitive position in the world. We already see that we are beginning to lose our steel industry. Other countries are able to compete with us in steel. We are beginning to see the time when other countries provide airplanes instead of us. We are buying our high speed trains from Japan. Our electronics industry is gradually disappearing from this country. We could very well find ourselves losing a generation of scientists and technologist and decisionmakers.

The issue of our current and future international standing comes up again and again. During hearings on engineering and science manpower in the House Committee on Science and Technology last year, witness testified that Japan is engaged in mounting a serious threat to the United States as the world's preeminent technological power. In the United States, the typical school year consists of 180 days as compared to 240 days in Japan. The typical school day in this country is 5 hours long, whereas in other countries it is typically 6 or 8 hours.

The Senate Budget Committee held hearings on industrial growth and productivity in 1981. One witness, Lewis Branscomb, chief scientist of IBM and Chairman of the National Science Board, responded to the question, "What is the cause of the extraordinary rate of progress in Japan?" with, "Japan focuses its priorities on sources of economic strength not weakness (as our Government often seems to do). There is a national consensus in Japan that the information industry is to be one of the strategic industries on which the Japanese base their future. Every Japanese worker, government employee, and citizen understands that. They act accordingly. By no means, least important in this list is the quality and dedication of Japanese workers and management, the quality of their educational system, and its production of engineers—twice ours."

This country has a problem. We are living in a world which demands individuals who can deal with a sophisticated level of technology and problems we could never have dreamed of 10 to 20 years ago. How can we presume a future of growth and prosperity, let alone just surviving without making the investment necessary to insure that future? Without the commitment to make that investment, we will become the authors of our own fate—a fate which threatens not just our entire economic future, but our national security as well. I do not think that any of us want to do that.

I am aware that there is some disagreement as to what should be the Federal role in precollege science and mathematics education. I am also aware that the National Science Board's Commission on this issue was formed to answer this very question. However, Mr. President, I must agree with the position of the National Science Teachers Association. They believe that 18 months, the period of time allotted to the commission, is too long to wait to begin. I believe that we should do something now. When the commission concludes, and its recommendations have been made, there is nothing to stop us from acting further at that time.

When we return at the end of this month, I will introduce a bill which I hope will directly address those aspects of the science and mathematics education problem which are already well documented: First, the availability of meaningful, quality stimulation of science and mathematics opportunities in the schools; second, the existing shortage of individuals willing to go into teaching careers in these subjects; and third, the growing number of qualified math and science teachers leaving their profession to pursue other careers. The bill I am developing will include a merit-based scholarship program administered by the National Science Foundation and a science and mathematics education block grant administered by the Department of Education.

I look forward to the next few months when the appropriate committees will examine this issue further and to the meaningful debate which will occur. I hope, for all of our sakes, that we will act on this measure with some sense of urgency. I believe the implications of what could happen if we do not are totally unacceptable.

CONGRATULATING REV. WILSON FALLIN, JR., AS NEW PRESIDENT OF SELMA UNIVERSITY

Mr. HEFLIN. Mr. President, I rise today to congratulate the Reverend Wilson Fallin, Jr., of Birmingham, Ala., as the new president of Selma University, Selma, Ala., one of the oldest predominantly black Baptist colleges in America. Although his election to this post was confirmed on November 18, 1982, at the Alabama Baptist State Convention held at Jerusalem Baptist Church, Bessemer, Ala., the Reverend Wilson Fallin, Jr., officially assumed his new duties and responsibilities as president of Selma University on January 1, 1983.

Mr. President, no one that I know is more eminently qualified to serve in this capacity than the Reverend Wilson Fallin, Jr. He received the bachelor of arts degree from Morehouse College, Atlanta, Ga., and the master of divinity degree from Colgate Rochester Divinity School, Rochester, N.Y. He did further study at Emory University, Atlanta, Ga., and Vanderbilt University, Nashville, Tenn. He received the doctor of divinity degree from Selma University and the Birmingham Baptist Bible College.

His previous work experience includes: Chaplain of migrant workers for Rochester, N.Y., area Council of Churches, 1963–64; instructor of religion, Miles College, Birmingham, Ala., 1968–71; pastor, New Zion Baptist Church, Bessemer, Ala., 1967–82; president, Birmingham Baptist Bible College, Birmingham, Ala., 1971–82.

Mr. President, when Reverend Fallin became the sixth president of the Birmingham Baptist Bible College in 1971, it was shortly after the old administration building was destroyed by fire, December 1, 1970. Under Reverend Fallin's guidance and leadership, the Birmingham Baptist Bible College entered into a building program in 1972. Today, four modern buildings occupy this 9-acre college.

Under Reverend Fallin's leadership, student enrollment at the Birmingham Baptist Bible College has grown from approximately 50 to 287 students on the main campus, plus approximately 225 students at six extensions of the college at Pensacola, Fla., and five cities in Alabama: Demopolis, Gadsden, Huntsville, Mobile, and Opelika. Its budget has also grown tenfold. Mr. President, these statistics are demonstrative of successful, religious leadership.

As Reverend Fallin assumes office as the 18th president of Selma University—a private, black, junior college with an enrollment of approximately 300 students and a private black religious institution with an approximate enrollment of 50 students—many challenges await him. This 105-year-old, private black two-prong institution is in substantial financial arrears to the U.S. Government. It is miraculous that such a private educational and religious institution of very meager means has survived all kinds of imaginable economic hardships. Reverend Fallin's mission will be to save the institution and help it to thrive and flourish during these severe recessionary times.

Selma University today offers 2 years of standard, collegiate work, leading to an associate degree in arts and science, patterned after the general education curriculum. Its theological school offers a 4-year course leading to the degree of bachelor of theology.

Mr. President, I ask that a list of Reverend Fallin's honors, awards, affiliations, travels, and preaching missions be printed in the RECORD at this time.

There being no objection, the information was ordered to be printed in the RECORD, as follows:

HONORS AND AWARDS

Distinguished Graduate of Southern Normal School Award;

Father Bryan Award by Committee of 100 for outstanding Religious Leadership in Birmingham;

Awarded Plaque by Emancipation Committee of Birmingham for outstanding Educational and Religious Leadership;

Listed among outstanding Young Men of America;

Danforth Fellowship;

Rockefeller Theological Fellowship;

Cited by Southern Beauty Congress for outstanding Religious Leadership in Alabama.

AFFILIATIONS

Chairman, Board of Directors of Alabama Ministries;

Co-Chairman, R. T. Pollard Retreat of Alabama Baptist State Convention;

Chairman, Historical Commission, Alabama Baptist State Convention;

Lecturer, Mt. Pilgrim District Association;

Lecturer, Northwest District State Convention;

Trustee, Southern Normal School;

Treasurer, Inter-Baptist Ministries of Birmingham;

Instructor, National Baptist Congress of Christian Education.

TRAVELS AND PREACHING/MISSIONS

Preaching Mission, Ten Countries in Africa—1976;

Preaching Mission, South America and Caribbean—1977;

Preaching Mission, Nicaragua—1979;

Delegate, World Baptist Youth Conference in Manila, Philippines.

RECORD TO REMAIN OPEN UNTIL 3 P.M. TODAY

Mr. BAKER. Mr. President, I ask unanimous consent that the RECORD for today remain open until 3 p.m. today for the purpose of statements only.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE RISE OF YURI ANDROPOV

Mr. HELMS. Mr. President, the rise of Yuri Andropov—former Chief of the KGB—to the post of General Secretary of the Central Committee of the Communist Party in the Soviet Union is an event of the utmost significance to the future of the United States and the future of freedom.

There are some who apparently believe that the rise of Andropov signifies a shift in Soviet policies toward closer understanding with the United States. They seem to believe that his experience of having been in charge for 15 years of the huge Soviet intelligence network gave him unique knowledge of the West in general, and the United States in particular—more than any other Soviet leader. They point out that he prefers whiskey over vodka, and speaks some English. They seem to think that these are the proverbial straws in the wind, harbingers of a closer relationship with the United States.

I would like to be able to join these optimists who hope for so much based on so little evidence. For the evidence, indeed, is overwhelming in the other direction. The KGB, under Andropov, took on a worldwide scope and efficiency that is completely unprecedented. Moreover, this efficiency was directed against the West in a campaign which included not only outright subversion and spying, but direction of international terror and psychological warfare.

Andropov, during his 15 years as Chairman of the KGB, developed an organization which compares in size and funding with some entire governments in Western Europe. He put this organization on the one hand at the disposal of Chairman Brezhnev, and on the other at the furtherance of his own intrigues within the party, the Government, and the army. Many Western experts apparently were surprised when Andropov consolidated his influence over the central committee to such an extent that the expected struggle for power among anticipated factions never materialized. In point of fact, Andropov had stood so stolidly behind Brezhnev, that he became the dominant power long before Brezhnev died. The worldwide "peace" campaign to disarm the West psychologically and literally was Andropov's creation; the overtures to China began almost a year ago. Nor is there any evidence that Andropov dissented from the Afghanistan operation. The theme for Andropov's quiet coup on November 12, therefore, is "continuity."

The rise of Andropov represents the final consolidation of the KGB mentality over the Soviet system. Andropov expanded and improved considerably its operations during his tenure as chief. Today the KGB could be compared in the United States with the CIA, FBI, and at least a dozen other agencies combined—NSA, National Guard, Secret Service, and so forth. It employes over half a million people including a professional armed force of about 400,000 border guards and security forces that are highly skilled and trained units used in direct protection of the Soviet borders and as a supplement for special services to regular army units.

Moreover, for better coordination of intelligence operations, the huge Soviet military intelligence network (GRU) was placed under the command of a KGB general, Gen. I. Ivashutin, and the military command structure has been fully "integrated" by the stronger than ever system of political officers and counterintelligence units. It is a system which guarantees the conformity of the military units to party control. Indeed, the position of Chief of the Political Administration of the Armed Forces, Army Gen. A. A. Yepishev, who served as Ambassador to Rumania while Andropov was Ambassador to Hungary, has been strengthened to the extent that Defense Minister Marshal D. F. Ustinov shares with Yepishev his responsibility over the Soviet Army to a much greater degree than his predecessors. Ustinov attends all important military meetings jointly with Yepishev.

Mr. President, what we have here is a brilliant record of the consolidation of power internally and an impressive record of international operations against the free world. It would be folly to misread Andropov's intentions. Indeed, there were far-sighted observers who commented on Andropov's probable course even at the time when he took over the KGB in 1967. At that time, supposedly sophisticated critics were discounting the importance of Andropov and his future role. Some even said that his change to the KGB was a demotion.

But some critics were far more astute. The distinguished President pro tempore of the Senate, Mr. THURMOND, for example, made one of the most penetrating comments on Andropov right here on the Senate floor on May 23, 1967. Our distinguished colleague called Andropov "one of the top half-dozen most powerful men in the Soviet Union," and said that his shift to the KGB was "of the utmost importance."

Indeed, the distinguished senior Senator from South Carolina went even further. He said, with a note of prophecy:

> The prospect is that the KGB will assume a more important role in the Soviet strategy to dominate the world. The current head of the KGB, Vladimir Semichastny, is a career bureaucrat. He is an executive, not a policymaker. The KGB functions both as a secret policy for domestic affairs, and as an action arm for subversive policies throughout the world. Andropov is one of the most important policymakers in the Soviet Union.

Mr. President, this prediction has turned out to be true in every detail. Senator THURMOND correctly described the course that Andropov has followed. Then he went on to comment on the wishful thinking of some analysts at that time:

> Although it may appear at first glance that Andropov may have been demoted by being given a lesser job, a moment's reflection will show that such a thesis will not hold up. To demote a man is to make an enemy. You do not put your enemy in charge of the secret police.
>
> Rather, it appears that Soviet worldwide subversion is now in the direct control of one of the Communist's most skillful policy planners. It appears that the operations of planning and execution are being combined. Such a combination would be effected for one of two reason: to put a firmer hand on the tiller, or to speed up the process of subversion by putting everything under one roof.

Mr. President, I remind you that the distinguished Senator from South Carolina made this statement in 1967. He correctly identified an important watershed in Soviet operations.

Mr. President, I ask unanimous consent that the entire statement of Mr. THURMOND be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HELMS. This same unity of policymaking and operations, which Senator THURMOND pointed out in 1967, remains as Andropov's trademark today. It is particularly evident in what has happened in the Politburo and other high political slots.

In the beginning of 1982, the Politburo consisted of 14 full members. But both Suslov and Brezhnev died, and Andropov seems to have taken over both their functions—Suslov the theoretician, and Brezhnev the operator. So the number of the Politburo is now 12. In addition, another member of the Politburo, Kirilenko, a close confidant of Brezhnev, has resigned, but Andropov has kept in office the former principal aide to Brezhnev, A. M. Aleksandrov-Argentov.

It is noteworthy that Kirilenko has been replaced on the Politburo by another career KGB man well known for his expertise at repression. This is

Gaydar A. Alyev, who, at the same time, became First Deputy Prime Minister in the Government. Thus he becomes Andropov's right-hand man. Alyev was born in 1923 as Gaydar Ali in Nakhichevan, close to the Iranian border. He joined the KGB services in his native Azerbaijan Republic at the age of 19 and changed his name to Alyev; he became chief of the KGB in the republic in 1967, several months after Andropov's succession as the KGB Chairman for the U.S.S.R. In 1969, Alyev conducted a huge clean-up—a purge—in Azerbaijan, removing about 1,800 party officials from their offices, arresting many of them for corruption and thefts and, in the process, considerably "sanitizing" the administration and economy of the republic.

At the November 22 plenary session of the central committee—the first one over which Andropov presided—similar "anticorruption" methods were approved for the entire country.

THE MEANING OF THE CHEKA

Mr. President, the true meaning of Andropov's succession to the role of General Secretary of the U.S.S.R. can only be understood by examining the history of the KGB, and its original precessor, the CHEKA. For the first time since the Bolshevik coup d'etat in Russia, the head of the KGB has been able to seize the highest political office in the Soviet Union. The KGB is the control agency which the Communist Party uses to impose its tyranny upon the peoples of the Soviet Union. Now the control and the tyranny are one.

In Reader's Digest in October of this year, Mr. John Barron, the senior editor wrote an important article entitled, "The KGB's Magical War for 'Peace.'" In this article, Mr. Barron analyzes one key aspect of KGB global activities, that of active measures. In this case, Mr. Barron focussed on the KGB role behind the so-called Nuclear Freeze movement.

I was particularly struck by the first several lines of the article which are as follows:

In the old Lubyanka Prison on Dzerzhinsky Square in Moscow, the screams of the tortured and the pleas of the doomed are heard no more. Drunken executioners no longer ram pistols into backs of heads and blow out the faces of "enemies of the people." No longer must cleaning crews come every few hours to wash blood from the stone walls, swab gore off the oak floors and cart away former comrades' remains.

Today the Communist Party torturers and executioners perform their duties elsewhere, and Lubyanka, whose name still kindles fear in Russians, has undergone a reincarnation. Unknown to the general public, its cells, torture chambers and execution cellars have been remodeled into offices and made part of the 'Center'—the headquarters of the Committee for State Security, or KGB.

Many Americans, I am sure, when reading these foreign sounding addresses and names are not aware of the historical background of the location of the KGB headquarters in Moscow. A few details are significant to describe the nature of the beast. On Bolshaya Lubyanka Street in the days before the Communist takeover were located the biggest insurance companies' offices. It is a section of old Moscow. The huge building that became the headquarters for the CHEKA; that is, the Extraordinary Commission for the Struggle against Counterrevolution and Sabotage, was owned by the insurance company named "Russia." The word CHEKA is merely an abbreviation of the Russian letters of Extraordinary Commission. The CHEKA was the first name for what is today the KGB.

In the days following the Communist takeover, as darkness approached, the only lights in Moscow that burned were those on Lubyanka Street owning to lack of fuel. The CHEKA was at work. Connected to the main building was an annex facing the backyard where the "death ship" was located. The death ship, as it was called, was the part of the prison where those who were sentenced to die were confined.

To the right of the entrance there was a large room with a balustrade extending along the four walls. In the center there was an open space with a spiral staircase leading down to the cellar in which those condemned to die were kept. In one of the stone walls of the "hold" small cells were cut out. These were called the chambers of departing souls. It was there that the victims of Communist terror were left to live their last hours. In the evenings the death numbers were called out after sunset and the cells, when vacated, were immediately reoccupied by those who were next on the CHEKA execution list.

The first head of the dreaded CHEKA was Felix Dzerzhinsky who was of Polish origin. The CHEKA had the main responsibility for unleashing the Red Terror in which millions of innocent men, women, and children were executed. Mrs. Philip Snowden, a member of the British Labor Party, described the climate of terror in their book, "Through Bolshevist Russia" which was published in London in 1920. She said:

The people are afraid of the police and spies, spies are afraid of one another. All dwell in an atmosphere of suspicion and the Red Terror is a dreadful reality.

Comrade Peters, a CHEKA official described his organization in the following way in an article in the weekly of the Extraordinary Commission published in 1918 (No. 27). He stated:

The All-Russian Cheka with its local branches must be the organ of the proletarian dictatorship, of the merciless dictatorship of one party.

The CHEKA, as the KGB today, was the main instrument of the oppression of the Russian people. It was and is the main instrument which maintains the Communist dictatorship in power in Soviet Russia. Comrade Latzis, a CHEKA official of Latvian origin, stated the following in a Soviet publication, "Red Terror," on October 1, 1918:

We do not conduct war against individuals. We exterminate the bourgeoisie as a class. When investigating, do not take the trouble to gather material and evidence to the effect that the defendant by word or deed opposed the Soviets. The first questions which you must ask him are: To what class does he belong? How was he brought up? What is his education, and to what profession does he belong? What is his birth? These questions shall determine the fate of the defendent. Therein lies the meaning and the substance of Red Terror.

Latzis wrote a small book entitled, "Two Years Struggle on the Internal Front." Another CHEKA official, Comrade Morozov, wrote a work entitled, "The All-Russian CHEKA and the October Revolution." Comrade Trotsky, who organized the Red army, wrote a work entitled, "The Defense of Terrorism." These classic works of Soviet Terrorist literature cannot have escaped the eye of Andropov, the current head of the Soviet dictatorship.

Mr. President, the Western press is bending every effort to indicate that Andropov has some level of culture because he supposedly listens to Western music or reads a Western novel and that this means that he is somehow more moderate than other Communist officials. History offers little reassurance. I would only note Felix Dzerzhinsky established at No. 13 Lubyanka Street a club for CHEKA employees where once a week Moscow artists were summoned to deliver lectures and to entertain the audience with various performances.

ANDROPOV'S BACKGROUND

Mr. President, it is critical that the American people have an understanding not only of the bloody history of the KGB but also of the background of the former KGB boss who now leads the Soviet empire, Andropov. The American press has done little so far to present a picture of Andropov's career. I have therefore attempted to piece together some information to obtain a clearer picture of Andropov. While this information is not exhaustive, I think that my colleagues would benefit from some of the data that I have been able to collect so far.

Yuri Vladimirovich Andropov was born in the town of Nagutskoye near Stavropol in the northern Caucusus region of Russia on June 15, 1914, the year in which World War I broke out. His father was a railroad employee—a fact which perhaps explains Andropov's later interest in the transportation field. Russia is a vast land and

transportation is a key problem. At 16, Andropov worked as a telegraph operator and then worked with movie projection equipment in the northern reaches of Russia between 1930 and 1932. This work developed a basic interest in technical skills in the young man's mind.

At the age of 20, 1934, Andropov entered the official Soviet Communist Party youth organization called the Komsomol. His work in this organization recommended him for study at the Inland Waterways Technical School located at Rybinsk. River transport played a major role in the development of Russia since the earliest times and it is an important factor today.

After obtaining his technical degree in 1936, Andropov went on to study at the state university at Petrozavodsk. From this university, he matriculated at the prestigious Higher Party School of the Soviet Communist Party, which was under the authority of the central committee of the CPSU. He was granted a diploma in 1939.

During these years, 1936-39, Andropov came under the watchful eye of Nicholas Mikhailov, who was Stalin's trusted head of the Komsomol. Mikhailov was one of the young guards surrounding Stalin, as was Brezhnev. Andropov's abilities and zealous but not ostentatious manner led to his promotion in the ranks of the Komsomol. He became a secretary and then the first secretary of the Yaroslavl Oblast Komsomol. His organizational and administrative talent as well as his zealous service to the Communist Party did not go unnoticed nor unrewarded.

THE WINTER WAR WITH FINLAND

In September and October of 1939, Stalin forced the signing of mutual assistance pacts with the Baltic nations of Estonia, Latvia, and Lithuania. These were a prelude to his outright annexation of these independent nations in May 1940. Stalin turned his attention to Finland in the late fall of 1939. The war against the Finns provided an important step in Andropov's education. The Soviets attempted to impose outright a Communist dictatorship on Finland by launching the Red army against that proud and ancient nation. Moscow established a puppet government, the "Provisional Peoples' Government," on December 1, 1939, at Terikoji, a city on Finnish soil but behind the Soviet military front which entered Finland on November 30, 1939.

A high ranking Communist Party member and official of the Comintern, the Communist international organization based in Moscow, Otto Kuusinen, was placed at the head of the Communist puppet government in Finland. Andropov was appointed the first secretary of the Komsomol for the Karelo-Finnish area in 1940 and held the post until 1944. During this period, Andropov was engaged in assisting with the secret preparations for the Communist takeover in Finland.

Owing to the valiant and brave fighting of the Finnish nation, the Soviets were forced to abandon their project for an outright takeover but they did annex important areas of Finland in the Karelian isthmus and around Lake Lagoda north of Leningrad, formerly St. Petersburg. Here Andropov had the opportunity to gain valuable experience in the making of a coup and in working in a war zone.

By some reports, Andropov, after 1941, worked with special clandestine partisan units which were linked to special NKVD, another name for the KGB, units organized by the head of the NKVD (KGB) Lavrenti Beria. The KGB has for decades had a role in protecting the borders of the Soviet Union.

Andropov served well enough to be promoted in 1944 to the position of first secretary of the Petrozavodsk City Committee of the Communist Party. Since he had studied at the state university in that city, he was on familiar ground. Andropov held his position there until 1947 when he was promoted to the second secretary position of the Communist Party in the Karelo-Finnish Republic of the Soviet Union. He held this post until 1951, a post in which he was No. 2 to Otto Kuusinen.

As Kuusinen's duputy, Andropov was in a good position to learn from the master about the background of the farflung efforts of the Comintern to forment world revolution. Indeed, they could have first met as early as 1939 when Andropov was studying at the Higher Party School in Moscow. Their association during the Finnish war and its aftermath as well as Andropov's deputy position to Kuusinen from 1947 to 1951 served to secure Andropov another patron.

It is noteworthy that second secretaries in Soviet Republics are generally responsible for matters relating to ideological purity and to police and internal security functions. In short, this means they are responsible for the suppression of Communist Party members who deviate from the line and the suppression of national ethnic groups who struggle against the iron rule of the Communist dictatorship.

TRANSFER TO MOSCOW

Mr. President, Andropov's record in Finland was good enough to be transfered to Moscow in 1951, becoming an official working in the appartus of the central committee of the Soviet Communist Party. From 1951 to 1953 he was first an inspector and then a section chief of a political section of the central committee apparatus.

In 1952, Stalin was preparing for the 19th congress of the Communist Party of the Soviet Union which took place in October. During the party congress, Andropov gained many important contacts and potential allies for his future rise within the party hierarchy. Mikhailov, Andropov's former Komsomol chief and parton, was then 46 years old and in a strong position to provide useful introductions for Andropov to the younger generation of Soviet leaders. The older Communist Party stalwart and patron of Andropov, Otto Kuusinen, then 71, was another important patron of Andropov at the congress. Boris Ponomarev, an old Comintern hand, could also have been helpful to Andropov at this time. By some reports, Andropov had come into contact with Ponomarev during the Finnish war period. Ponomarev himself was closely connected to the NKVD (KGB) and GRU (military intelligence service).

CRUSHES REBELLION IN HUNGARY

After the congress, Andropov was sent to Hungary in 1953 as a Counselor to the Soviet Embassy. His abilities and his experience in matters relating to the suppression of ethnic nationalism recommended him to play a role in crushing the Hungarian bid for freedom. As Hungary became more restive and as rebellion threatened, Andropov was promoted to the rank of Ambassador in Hungary in 1954. From this position, he proceeded to crush and liquidate the nationalist rising for freedom. He had to suppress both a national uprising and dissidence from within the Communist Party ranks. From his key position he played a role in coordinating the activities of the KGB and the activities of the central committee in Moscow during the rebellion. It was Andropov who imposed Janos Kadar as dictator in Hungary. Indeed, Hungary could be regarded as Andropov's personal fief even today.

KADAR—ANDROPOV'S PROTEGE

While a number of Western journalists have extolled Kadar as being a "moderate" Communist who has installed "goulash communism" in Hungary, it gives us an insight into Andropov's methods to digress for a moment into the career of his protege in Hungary. The following details about Kadar's background hardly confirm him as a moderate. According to these reports, he was born in the city of Fiume on the Adriatic Sea in 1912. The sovereignty of the city has been contested between Italy and Yugoslavia for many years. His father was an offical of the Austo-Hungarian empire and his name was Janos Kressinger. His mother was a Slovak whose maiden name was Borbala Czermanik. The father abandoned the family and the mother moved to Budapest, Hungary, with the son. The son, Janos, had a primary education and had technical training as an apprentice mechanic. He entered the Hungarian Young Communist organization in

1931, a clandestine group, and took the party name of Janos Barna.

In 1939, the NKVD (KGB) branch in Hungary recruited him to work for them. His assignment was to work on the files of Communist Party members who would not follow the orders to cooperate with the Nazi Germans after the signing of the Ribbentrop-Molotov Pact of 1939. He also worked on the files of Polish resistance fighters who passed through Hungary to establish contact with French military intelligence and British agents.

Between July and October 1941, the Hungarian Communists were ordered to penetrate the resistance movement. The head of this action was Lazlo Rajk—orignially Reich—and his deputy was Janos Barna who was operating under the name of Janos Liptak. Rajk apparently resisted toeing Moscow's line about collaboration and Janos Barna reported this along with other details on other officials not wholly loyal to the Kremlin. In 1948, Rajk was displaced as Minister of the Interior. His place was filled by Janos Barna/Liptak who had again taken a new party name, Janos Kadar. It is thought that Kadar himself pushed Imre Nagy to be supportive of the Hungarian rebellion in order to entrap him and seize total power for himself with the assistance of Andropov, then Soviet Ambassador in Hungary. This ruthless man was Andropov's choice.

PROMOTED TO A KEY POST IN MOSCOW

Andropov proved his deadly efficiency in crushing the Hungarian bid for freedom and was duly promoted in the ranks of the Communist Party hierarchy in Moscow. Returning to Moscow in 1957, Andropov was put in charge of one of the most important posts in the Central Committee of the Communist Party of the Soviet Union. He was made head of the Central Committee's Department for Liaison with Communist and Workers Parties of Socialist Countries. In short, Andropov was in charge of coordinating Moscow's relations with ruling Communist parties throughout the world and maintaining Moscow's supremacy.

In this position, Andropov came to know all of the leaders of the Communist countries, their deputies, and their proteges. Andropov would know the inner party struggles and intrigue within each party and the personal strengths and weaknesses of the key party officials in the hierarchies.

Furthermore, Andropov traveled a good deal during these years. As a key member of Soviet Communist Party delegations he visited Mongolia (1957), Yugoslavia and Bulgaria (1958), Poland and Red China (1959), Romania (1960), Albania and Mongolia (1961) and North Vietnam (1962 and 1963). In 1963, Andropov was a key member of a Soviet delegation which conducted negotiations about ideological matters with the Red Chinese Communists. In 1964, Andropov was a member of a Communist Party delegation which traveled to East Germany and to Poland. In 1965, Andropov traveled once again to North Vietnam, twice to Poland, and once to North Korea, Red China, Romania, and Mongolia.

Mr. President, I would also draw the attention of my colleagues to Andropov's three trips to North Vietnam: 1962, 1963, and 1965. As a senior Communist Party official in the Soviet Union in charge of relations with ruling Communist parties, Andropov played a major role in coordinating relations between the Soviet Communist Party and the North Vietnamese Communist Party during the onset and development of the war in Vietnam and Indochina. Andropov played a major role in coordinating the assistance from other ruling Communist parties to the Communist Party of North Vietnam during these years.

Andropov's colleague in the Central Committee, Boris Ponomarev has been for years the head of the Central Committee's Department for Liaison with nonruling Communist parties and movements throughout the world. Andropov worked hand in hand with Ponomarev to coordinate international support for the North Vietnamese Communists during those war years. Moreover, Andropov would already have been working with the KGB as well, particularly in the area of "Active Measures"—psychological warfare to promote an anti-Vietnam war sentiment in the West and to paralyze the will of the United States to pursue the war to victory. In short, it was Andropov who played a major role in forging the political will and action of the entire Communist world behind the Vietnam war.

RISES IN THE PARTY RANKS

Andropov was promoted to full membership in the Central Committee of the Communist Party of the Soviet Union in 1961. In 1962, he was promoted to the position of a Secretary of the Central Committee. With the accession of Brezhnev to leadership of the Communist Party, Andropov had to pursue his ambitions under the shadow of the Brezhnev mafia but his rise was steady.

In January 1967, when the Yugoslavian dictator Tito was received in Moscow, Andropov's name appeared in Pravda just after the names of five Politburo members who greeted Tito officially at the airport. Three weeks later, the Hungarian dictator Kadar arrived in Moscow and Andropov's name appeared just after Brezhnev's and Kosygin's—who was then President of the Council of Ministers—and before Andrei Gromyko's, then the Foreign Minister.

BECOMES HEAD OF THE KGB

On May 18, 1967, Andropov was promoted to the post of the head of the KGB. On December 20, 1967, the KGB celebrated its 50th anniversary. Andropov delivered the keynote address which appeared in Pravda on December 21. Some passages are worthy of note, particularly by those who seek to spread the misconception that somehow Andropov is a "moderate." For example:

On 20 December 1917, at the initiative of Vladimir Ilich Lenin, the All-Russian Extraordinary Commission to Combat Counter revolution and Sabotage was set up. By the will of the party and the people the Chekists were put on guard over the gains of October (the Communist takeover). This is how the militant work of the Cheka began, which in the full sense of the word became the shield and the sword of the October Revolution. Since then the state security organs have been carrying out their difficult and honorable duty.

Our socialist revolution needed an organ of the dictatorship of the proletariat which would expose the schemes of conspirators and could, in Lenin's words, "by merciless and immediate repression, backed by the support of the workers and peasants," put a halt to all the intrigues of the counter-revolution. The Cheka became precisely such an organ.

Its first chairman was Feliks Edmundovich Dzerzhinsky, a prominent party leader, a true Leninist who had passed through the stern school of the underground, tsarist prisons, and penal servitude—a man wholly dedicated to the Revolution and merciless to its enemies.

Andropov then went on to call attention to serveral important Chekists among whom were Comrade Peters and Comrade Latzis whom I quoted earlier.

As head of the KGB, Andropov would claim many successes over his 15-year command. On the "Active Measures" front, Andropov's KGB played a major role in various psychological offensives aganist the West. For example: the orchestration of the anti-Vietnam war movement in Europe and in the West, the orchestration of the antineutron weapon movement in the West, the orchestration of the nuclear freeze movement in the West.

Mr. President, consider the number of countries in the Far East, in Africa, in the Caribbean Basin that have fallen under Communist influence during the last 15 years: South Vietnam, Laos, Cambodia, Mozambique, Angola, Ethiopia, South Yemen, Afghanistan, Nicaragua, Grenada. Andropov played a major role in achieving the Kremlin's objectives.

Mr. President, consider the vast flow of scientific and technological secrets obtained by the Kremlin through the means of espionage over the last 15 years. The impact on the massive Soviet military buildup of these intelligence coups has been significant. Andropov and his KGB played a major role.

Mr. President, consider what was once called detente. Andropov as head of the KGB was in the best position to promote this concept through "Active Measures" and other measures as an exercise in strategic deception of the West.

Finally, Mr. President, consider the emergence of the Terrorist International over the last 15 years and its devastating impact on civilization throughout the world. Andropov as head of the KGB was in the best position to promote this new scourge of mankind. In our own hemisphere, in Central America, the Cuban Intelligence has and is playing a major role in facilitating the KGB's game plan for subversion and Communist expansion in our own front yard.

SUPPRESSION OF THE UKRAINE

The story of the suppression of the Ukraine during the last 10 years and the Communist Party intrigues that were involved is significant in terms of today's line-up in the Kremlin. The Ukraine has for centuries had nationalistic aspirations for independence from the rule of Moscow. With the coming of communism to Russia, these aspirations naturally increased. The Ukraine is, however, vital to the Soviet empire from the standpoint of geographic position as well as the fact that the Ukraine is the Soviet's grain producing region.

Brezhnev had problems with the Communist boss of the Ukraine and fellow Politburo member Peter Shelest who was allied with another Politburo member Nicholas Podgorny and who therefore threatened Brezhnev's complete command. Andropov moved in rapidly and efficiently to assist Brezhnev in ridding himself of these potentially disruptive elements.

Andropov placed his KGB henchman Vitaly Fedorchuk as head of the KGB for the Ukraine in 1970 replacing V. F. Nikichenko who was considered "too liberal." Fedorchuk was born in the Ukraine in 1918 and joined the Komsomol at age 18. According to reports reaching my office, he entered military school in 1936 and in 1937 he joined the KNVD (KGB). He became a full member of the Communist Party in 1940 and from 1943-46 played a key role in crushing the anti-Communist Ukranian resistance movement. He served in East Germany from 1947-49 heading the KGB department in charge of secret operations. He was transfered to Austria and in 1952-53 returned to Moscow. Following this he returned to the Ukraine and became part of the Communist Party Central Committee there. In the months following Fedorchuk's appointment to head the Ukranian KGB, the regional KGB officials were purged and replaced with men loyal to Andropov. Shelest was removed from the Politburo in Moscow in 1971 and in the following year was stripped of all of his duties in the Ukraine. Andropov effectively neutralized a potential rival of Brezhnev. In 1977, Podgorny fell from power as well.

With the support of Fedorchuk and naturally Andropov, V. V. Shcherbitsky was promoted from First Secretary of the Communist Party in the Ukraine to full membership in the Politburo on April 9, 1971, Andropov rewarded Fedorchuk for his loyal service by insuring that he became the head of the KGB when Andropov left that office this year.

RISE OF KGB INFLUENCE UNDER ANDROPOV

During Andropov's tenure as head of the KGB, the organization made important gains in expanding its political influence. The KGB gained important posts for its own within the Soviet Communist Party hierarchy and apparatus. Andropov himself was a member of the Politburo while heading the KGB. From 1967-73, he was a candidate member—nonvoting—and on April 27, 1973, he was promoted to a full member.

Andropov insured that increasing numbers of KGB men became members of the Central Committee of the Communist Party of the Soviet Union. KGB men gained leading positions within the Communist party hierarchy including the posts of First Secretary in a number of Soviet republics. The transformation of the KGB into a more directly active party role has been felt particularly in the Soviet republics of Azerbayjan, Armenia, and Turkmenistan. All are key strategic areas on the Soviet Union's southern border with Turkey, Iran, and Afghanistan.

Mr. President, as I noted earlier, just recently, Andropov facilitated the promotion of Gaydar Alyev to a full member of the Politburo. Alyev became a candidate member of the Politburo on March 5, 1976, and with his promotion to full member of the Politburo he was also promoted to the rank of First Vice Minister in the government. According to reports reaching my office, Alyev, 59, served in the NKVD/KGB from 1941-67. He then served in the MGB—counterintelligence service—and then became the head of the KGB in the Azerbayjan Republic of the Soviet Union. Alyev moved up in the Communist Party ranks to become First Secretary of the party in Azerbayjan in 1969 and was then promoted to membership in the Central Committee of the Communist Party of the Soviet Union in 1971. Alyev is an expert on the Moslem world and has played an active role in directing KGB activities in Turkey, Iraq, Syria, Lebanon, and Egypt. KGB activities in Iran are directed through the Tadzhikstan. With Alyev's promotion to full membership in the Politburo and with the KGB asserting itself within the Communist Party hierarchy in Moscow and in important Republics, Andropov will have a strong base of support for his internal leadership as well as external policies of expansion and subversion.

Mr. President, as I said at the outset, I am deeply concerned about the ominous changes in Soviet Russia and about the consequences these developments will have for the future of liberty in these United States and for the future of civilization throughout the world.

I sincerely hope that my colleagues will carefully consider the threat that the Soviet empire poses to all the nations on this Earth. The implications of Andropov's rise to the top of the Soviet dictatorship are indeed a cause for grave concern.

EXHIBIT 1

SIGNIFICANT SHIFT WITHIN THE TOP ECHELONS OF THE SOVIET RULERS

Mr. THURMOND. Mr. President, reports from Moscow indicate that a very significant shift may have taken place within the top echelons of the Soviet rulers. The reports say that Yuri Andropov, presently the Secretary to the Central Committee of the Communist Party, will be assigned to a new position as Chief of the KGB. Since Andropov is one of the top half-dozen most powerful men in the Soviet Union, this change is of the utmost importance.

The prospect is that the KGB will assume a more important role in the Soviet strategy to dominate the world. The current head of the KGB, Vladimir Semichastny, is a career bureaucrat. He is an executive, not a policymaker. The KGB functions both as a secret police for domestic affairs, and as an action arm for subversive policies throughout the world. Andropov is one of the most important policymakers in the Soviet Union.

Andropov was attached to the Soviet Embassy in Budapest from 1953 to 1957, first as a counselor without specified duties, and then as Ambassador. Andropov was present during the events which led up to the Hungarian revolution, and he was in charge of the purges which followed. Some experts credit him with encouraging the revolution in order to weed out weak Communists in the regime.

Andropov did such a good job in Hungary that he was brought back to Moscow and put in charge of the Central Committee's planning committee for satellite nations, a post which he has held until the present. Andropov is the architect of the mellowing strategy, which gives the satellites the appearance of greater freedom, even while Communist Party control and Soviet economic ties are tightened. He is a very sophisticated strategist.

It is not clear, but it is quite possible, that Andropov will retain his high policy job while he directs the KGB. In fact, it is a good guess that tighter control will be exercised over the satellites through the underground channels of the KGB.

Although it may appear at first glance that Andropov may have been demoted by being given a lesser job, a moment's reflection will show that such a thesis will not hold up. To demote a man is to make an enemy. You do not put your enemy in charge of the secret police.

Rather, it appears that Soviet worldwide subversion is now in the direct control of one of the Communists' most skillful policy

planners. It appears that the operations of planning and execution are being combined. Such a combination would be effected for one of two reasons: to put a firmer hand on the tiller, or to speed up the process of subversion by putting everything under one roof.

Those who are building bridges to the East had better take care. When they get to the other side, they may be stepping into the hands of Yuri Andropov.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-1. A resolution adopted by the City Council of Lockport, N.Y., opposing any attempt, legislative or otherwise, to limit the regulatory and contractual powers currently exercised by local governments with respect to cable television franchises; to the Committee on Commerce, Science, and Transportation.

POM-2. A resolution adopted by the General Assembly of the International Good Neighbor Council supporting efforts to solve the current economic crisis in Mexico and to restore the prevailing good faith and friendship between the two nations; to the Committee on Foreign Relations.

POM-3. A resolution adopted by the Senate of the State of Illinois; to the Committee on Foreign Relations:

"SENATE RESOLUTION No. 674

"Whereas, the National League of Families of Prisoners of War and Missing-in-Action Servicemen has requested that AMVETS, the American Veterans of World War II, Korea, and Viet Nam, assist in seeking the endorsement of state legislatures in sending a resolution to Congress to involve our government in active negotiations to seek accountability for the prisoners of war and those who are still missing in action; and

"Whereas, approximately 2,500 American servicemen and civilians are missing or otherwise not accounted for as a result of the Viet Nam conflict; and

"Whereas, AMVETS has traditionally addressed itself to the needs and aspirations of Veterans and their families; and

"Whereas, relatives and families of those missing are faced with continued uncertainty and anxiety; and

"Whereas, private agencies have been unable to resolve these uncertainties; and

"Whereas, the uncertainties are in themselves a prohibition to fuller normalization of relations beteween ourselves and the countries of Southeast Asia; therefore, be it

"Resolved, by the Senate of the Eighty-Second General Assembly of the State of Illinois, That we urge Congress to seek an accounting of all missing military and civilian personnel, and the repatriation of the remains of any of our servicemen uncovered through these initiatives; and be it further

"Resolved, That copies of this resolution be presented to the Speaker of the United States House of Representatives, the President of the United States Senate and all members of the Illinois Congressional Delegation."

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BAKER:

S. Con. Res. 1. Concurrent resolution providing for an adjournment of the Senate and the House of Representatives for more than three days; considered and agreed to.

By Mr. BAKER:

S. Res. 1. A resolution informing the President of the United States that a quorum of each House is assembled; considered and agreed to.

By Mr. BYRD:

S. Res. 2. A resolution informing the House of Representatives that a quorum of the Senate is assembled; considered and agreed to.

By Mr. BAKER:

S. Res. 3. A resolution fixing the hour of daily meeting of the Senate; considered and agreed to.

By Mr. BYRD:

S. Res. 4. A resolution electing Patrick J. Griffin as Secretary of the Minority of the Senate; considered and agreed to.

S. Res. 5. A resolution commending Terrence E. Sauvain for his service as Secretary for the Minority of the Senate; considered and agreed to.

By Mr. BAKER:

S. Res. 6. A resolution to amend paragraphs 2 and 3 of rule XXV of the Standing Rules of the Senate; considered and agreed to.

S. Res. 7. A resolution to amend paragraph 4 of Rule XXV of the Standing Rules of the Senate; considered and agreed to.

S. Res. 8. A resolution making majority party appointments to Senate Committees for the Ninety-eighth Congress, and electing chairmen of such committees; considered and agreed to.

By Mr. BYRD:

S. Res. 9. A resolution making minority party appointments to Senate committees for the Ninety-eighth Congress; considered and agreed to.

By Mr. BAKER:

S. Res. 10. A resolution appointing majority party's membership on the Select Committee on Ethics; considered and agreed to.

By Mr. BYRD:

S. Res. 11. A resolution appointing minority party's membership on the Select Committee on Ethics; considered and agreed to.

By Mr. BAKER (for himself and Mr. BYRD):

S. Res. 12. A resolution reappointing Michael Davidson as Senate Legal Counsel; considered and agreed to.

NOTICES OF HEARINGS

SUBCOMMITTEE ON INTERNATIONAL ECONOMIC POLICY

Mr. MATHIAS. Mr. President, the United States is, at present, engaged in negotiations with respect to increasing the resources of the International Monetary Fund. It is likely that early this year the Congress will be asked to consider authorizing a substantial additional U.S. contribution to the IMF.

These negotiations are set against a very bleak international economic situation. The external debt of the lesser developed countries (LDC's) now stands at over $500 billion. World commodity prices are at a 30-year low, making it difficult and, in some cases impossible, for the LDC's to service their debt obligations. A recession is gripping the industrial West bringing record rates of unemployment and business failure.

Congress will shortly be asked to determine whether or not providing additional resources to the IMF will contribute to reversing the downward international economic spiral in which we find ourselves.

In anticipation of an administration request, the International Economic Policy Subcommittee of the Senate Foreign Relations Committee will hold a series of five hearings on the "International Financial System" in January and February. The following four hearings have been scheduled:

MONDAY, JANUARY 10, 1983, AT 10 A.M., "GLOBAL ECONOMIC OUTLOOK"

The Honorable Henry H., Fowler (Former Secretary of the Treasury), Chairman, Goldman Sachs International Corporation.

The Honorable W. Michael Blumenthal (Former Secretary of the Treasury), Chairman and Chief Executive Officer, Burroughs Corporation.

The Honorable Charles Shultze (Former Chairman, Council of Economic Advisors), Visiting Professor of Research, Stanford University.

MONDAY, JANUARY 10, 1983, 2 P.M. "LDC NEEDS AND PROSPECTS"

Mr. Larry Krause, Senior Fellow, Brookings Institution.

Mr. John Sewell, President, Overseas Development Council.

Mr. John Mellor, Executive Director, International Food Policy Research Institute.

WEDNESDAY, JANUARY 19, 1983, 10 A.M. "GLOBAL DEBT"

Mr. Felix G. Rothatyn, Senior partner, Lazard Freres and Company.

Mr. Robert Solomon, Guest Scholar, Brookings Institution.

Mr. William Cline, Senior Fellow, Institute for International Economics.

Mr. Rimmer De Vries, Senior Vice President and Chief International Economist, Morgan Guaranty.

The Honorable John G. Heimann (Former Comptroller of the Currency), Co-Chairman, Warburg, Paribas, Becker, Inc.

TUESDAY, FEBRUARY 1, 1983, 10 A.M. "RECOMMENDATIONS FOR THE FUTURE"

The Honorable G. William Miller (Former Secretary of the Treasury also Former Chairman, Federal Reserve Board), President, G. William Miller and Company.

The Honorable Robert Hormats (Former Assistant Secretary of State for Economic and Business Affairs), Goldman Sachs.

The Honorable William E. Simon (Former Secretary of the Treasury), Chairman of the Board, Wesray Corporation.

Mr. William S. Ogden, Vice Chairman and Chief Financial Officer, Chase Manhattan Bank.

ADDITIONAL STATEMENTS

USE OF STRESS TESTS URGED

● Mr. GOLDWATER. Mr. President, on this, the first day of our new session, I want to take this opportunity to thank all of my colleagues, members of their staffs, and the members of the committees whom I have not already thanked for having been so gracious and kind in their many wishes to me for a speedy recovery. Now, I would like to use this short space, hoping my colleagues will read it, because in it, I hope there is a message:

When I went home, along with the rest of you at the end of the regular session, I returned in what I considered to be perfect health. I not only felt good, but was out campaigning every day and doing normal daily chores. In no way did I experience any trouble with myself at all.

After election day, and for no reason at all, because I never had any symptoms which might indicate that I was having some problems with my heart, I called Dr. Ted Dietrich at the Arizona Heart Institute and asked him if he could give me an examination. Realizing that it had been about 10 years since the last examination, he said to come down the next morning. That day, I went through every phase of the stress test, including the arduous treadmill, with what I thought were flying colors: No pain and no shortness of breath—and that was important. But the doctor, after examining the test, told me that at high stress, my heart test indicated at least one artery was not serving enough blood for the heart muscles. The next day, I went on with a little more thorough examination and, as it turned out, there were three major arteries with 90 percent or more blockage. I was given the choice of having by-pass surgery, or going on as I had been, and running a good chance of dying long before my time.

At this point, I would like to digress a little and describe, briefly, my earlier years, inasmuch as it parallels practically everybody else's in this body. I do this, not as a matter of conceit, but as a way to point out that all of us are pretty strong individuals. As a normal youth, I played football, basketball, track, tennis, golf, and enjoyed hunting and camping in the Arizona outdoors. I have taken my children camping and have taken my grandchildren camping. In short, I just enjoyed every little thing that the typical young man in America enjoys. In addition, I have climbed mountains, gone through many, many river canyons by boat, including the Grand Canyon some six different times, and I have walked or ridden a horse or mule over just about every square mile of Arizona. In addition to these physical things, I have followed the pursuit of being an airplane, helicopter, and glider pilot for about 55 years. Never once, in all of those years did I fail to pass a flight physical examination. The truth is, I had passed my annual flight physical just about 6 months before. And now, here I was with a heart condition that I knew nothing of, because the electrocardiogram given in the flight test showed nothing wrong. I point this out because I was a potential risk as a pilot and no one knew about it.

Because of my experience, I have made inquiries as to the use of stress tests by the FAA for airline pilots and commercial pilots, and I have made an inquiry of each of the military services. I really think that the stress test should be standard. I also urge my colleagues, who certainly serve under stress every day they are on the floor of this Senate or in the committee work connected with it, to have this done just to make sure.

I can assure my colleagues also that if the stress test would indicate the need, it is not an extremely painful operation. I can tell my colleagues that, after about 2 months of recuperation, I have never felt better in my life.●

DEATH OF ROBERT E. SHORT

● Mr. KENNEDY. Mr. President, all of us who knew Bob Short were saddened by his death in Minneapolis last November. Bob was a unique combination of brilliant entrepreneur, devoted husband and father, and outstanding civic leader and public statesman. His talent and hard work brought him to the top of the transportation industry. He gave equally of his genius and energy to a broad range of civic activities, including membership on the board of trustees of St. Mary's Hospital in Minneapolis and service as treasurer of the Democratic National Committee. These and many other pursuits made Bob a dynamic and respected public figure. But he was also a loyal and dedicated friend who will be greatly missed by everyone who knew him.

And so I want to take this opportunity at the beginning of this new session of the Congress to praise Bob Short. He was a man of extraordinary achievement who was devoted to his country, his family, and his friends, and I extend my sympathy to his wife Marion, his seven children, and all the other members of his family.

I would also like to share with my colleagues the eloquent homily delivered by Msgr. Terrence J. Murphy at Bob's funeral service, and I ask that it may be printed in the RECORD.

The homily follows:

HOMILY DELIVERED BY THE REVEREND MONSIGNOR TERRENCE J. MURPHY AT THE FUNERAL OF MR. ROBERT E. SHORT ON NOVEMBER 24, 1982, AT THE CHURCH OF ST. OLAF, MINNEAPOLIS, MINN.

Robert Earl Short has left an indelible and proud mark on his family, friends, community, state, and nation. His career was characterized by great ability, a sense of moral responsibility, and a sense of service to the public welfare, as well as by an energetic and intelligent approach to the challenges of contemporary life.

As an undergraduate at the college of St. Thomas, he excelled in debate, won championships, and honed the oratorical skills which led ultimately to his career in the law and his appointment as assistant United States district attorney, first in Washington, D.C. and later in Minneapolis.

His entrepreneurial spirit surfaced in 1950 when he resigned his position as United States district attorney to enter private business. His election as president of the Mueller Transportation Company signaled the beginning of ventures in the trucking industry which over the years brought him to national prominence in the motor carrier industry.

While most men would be fully occupied with the managing of such a major enterprise, he reached out vigorously to try his hand in various pursuits. He acquired several hotels and other real estate in both Minneapolis and St. Paul. He engaged actively in the political life of Minnesota. Most of our state's recent political leaders, particularly those of liberal persuasion, have benefited from his work on their behalf and from his generous support of their campaigns. Recognition of his leadership position in his party took many forms, among them election as delegate to State and national Democratic conventions and as treasurer of the National Democratic Committee. He served the President of the United States as an advisor in the areas of manpower development and training and also in small business management.

While public service always had a high priority, he also devoted much of his time and talent to the governance and well-being of private institutions as well. He served on the board of trustees of the college of St. Thomas for the past eighteen years. He served also as a trustee of St. Mary's Hospital in this city and was a member of the law school advisory committee at the University of Notre Dame. He was a life member of the National Association for the Advancement of Colored People.

Surely, one of the most colorful aspects of his busy and varied life and career was his long association with professional sports. As owner of the Los Angeles professional basketball team and as president of the Texas Rangers baseball club of the American League, he brought sparkle, enthusiasm, and integrity to these sports.

This is the briefest recital of some of the areas of his public life. However, to know only these aspects of his life is to see only the tip of the iceberg. He was much more. There was depth of emotions which he often tried to hide. There was deep commitment to certain basic principles. There was abounding love and faith. Let me speak about two of these which, perhaps because his feelings ran so deep, he shielded somewhat from public view, namely, his love for his wife and family and his personal religious belief.

There was first of all his family—his wife, Marion, and their seven children. How he loved them and what a comfort they were to him! He wanted to be with them and made great sacrifices to do so. Night after night when a night baseball game was finished in Washington, D.C., whether it was 11:00 or 12:00, he would fly home to be with them, sometimes arriving in the early hours of the

morning. But he wanted to be with them as they started their day.

He was enormously proud of them, so proud that it was evident even when he tried, as he so often did, to conceal his pride. Marion was truly the center of his life. Her support and steadying influence were a source of so much of his success. He was proud of his children and the fine men and women they have become. His influence on them was as enormous as his pride in them. Yet he would often deny that he was so influential in their lives. For example, he loved to speak of their educational achievements and of the fact that five of them have chosen law as careers. But he would immediately deny that he had any influence by adding: "Of course I told them all to be doctors because that's a better career."

His home was truly his citadel. There he would retire at the end of the day, tired from an endless round of activities, competition, tensions, and pressures of every kind. His greatest comfort was his wife whose strength, love, and commitment provided him with healing, rest, courage, and strength. His pride in her, in his open and yet guarded way, was always evident. It was as though he wanted all others to know of her marvelous qualities and yet to shield her and protect her privacy. He spoke of her strength and her insistence upon close adherence to the Christian life and her influence on him and their children.

The Scripture texts that we heard read at today's mass were selected by his family. They selected well because the texts struck the notes by which Bob Short lived and died. He was a man of deep religious faith, of a faith that quickly got to the core of Christian belief. We heard today Paul proclaim to the Thessalonians: "For if we believe, that Jesus died and rose, God will bring forth with him from the dead those also who have fallen asleep believing in him." This Epistle and that to the Corinthians (Ch. 15) are among the most important because they are among the earliest written statements on the resurrection of our Lord and Savior, Jesus Christ. St. Paul in his testimony to the resurrection states: "I delivered to you what I also received." What was delivered or handed on? Christ died for our sins. He was buried. He was raised up. The key words are "died" and "was raised." The burial is cited as evidence of His death. The appearances to Peter, the twelve apostles, the five hundred brethren, and to Paul himself establish the fact of the resurrection. Moreover, both of these took place "in accordance with the resurrection."

Quite clearly St. Paul employed a commonly used statement of belief, sort of an early form of the prayer we call the Apostles Creed. He did so because he knew his readers would readily recognize the authoritative statement of their fundamental belief. For he concludes his statement by asserting: "This is what we preach and this you believed." Moreover, this credal statement can be checked by talking to the witnesses of the risen Christ, many of whom are still alive and giving witness to the truth of the resurrection. These witnesses are no less than Peter, the head or the whole Christian community, James, the leader of the Christian community in Jerusalem, all of the apostles and many disciples.

All four of the gospels as well as the acts of the apostles recount the fact of the resurrection, of the many appearances of Christ after the resurrection. I cite St. Paul's teaching because it is the earliest statement. It is so clearly the faith and teaching of the original followers of Christ and the first generation of believers.

The resurrection of Christ is our assurance of a future life and of our bodily resurrection. For Paul further reminds the Corinthians: "If our hopes in Christ are limited to this life only, we are the most pitiable of men. But as it is, Christ is now raised from the dead, the first fruits of those who have fallen asleep. . . . just as in Adam all died, so in Christ all will come to life again. . . . Christ, the first fruits and then, at His coming, all those who belong to Him."

Pious jews offered to God the first and best of their harvest and flock. The gifts symbolized all of their possessions and even life itself, which was the dearest of possessions. By sacrificing the first of the harvest, they indicated that all the harvest that was to follow belonged to God. So, likewise, the risen Christ is the first to rise and all others who have been redeemed by Him, who are His harvest, His flocks, will rise to be presented by Him to the Heavenly Father.

To the Romans Paul wrote: "If we have been united with Him and in death like His, we shall certainly be united with Him in a resurrection like His" (Rom. 6: 5). "We believe that we shall live with Him" (Rom. 6: 8).

The apostle is merely restating what was read in today's Gospel. Our Lord said to Martha on the occasion of the death of her brother, Lazarus: "I am the resurrection and the life. He who believes in Me, even if he die, shall live; and whoever lives and believes in Me shall never die" (Jn. 11: 25).

This, then, is the rock bottom of our faith. On it is built a superstructure of religious life, faith, and devotion, but nothing is more fundamental, nothing earlier in Christian writing than the doctrine that Jesus Christ, the eternal Son of God made man, lived, died for our sins, and rose from the dead that we might live eternally with Him.

It is the faith of our fathers, the faith of the first believers, the faith of the apostles. No religious truth is more certain nor more fundamental. None gives greater assurance of eternal salvation. It was this faith that our dear brother, Robert, perceived so clearly, believed so profoundly, and loved so dearly. His faith, because it was so genuine, was also realistic. It told him that the risen Christ lives on in the Holy Eucharist and that there is a special bond between belief in the resurrection and belief in, and love of, the Holy Eucharist. It was "in the breaking of the bread" that the two Disciples at Emmaus had their eyes opened, their faith quickened, and recognized the Risen Lord (LK. 24). Certainly the Eucharist in Mass and Holy Communion was the central sustaining love of Bob Short.

On the Sunday before he died I brought Bob Holy Communion. It was a beautiful day, fresh snow covered the ground and filled the trees and bushes in his yard. The sun was bright. He, Marion, and I sat in his living room and visited for a while. He spoke of his death and burial. He had faced his death calmly in the light of his Christian Faith. He grasped clearly the centrality of belief in the Resurrection of Christ and the special connection between that truth and the Holy Eucharist for he said: "I want to so fill my body with the Body of Christ that the Devil will have no claim on it." In his own way and in his own words he applied to himself the profound truth and promise of our Lord made in the Sixth Chapter of St. John's Gospel when he foretold he would give his Body and Blood as a pledge of future life: "He who eats my Flesh and drinks my Blood has everlasting life and I will raise him up on the last day" (Jn.6: 55).

In every human relationship of love, the two lovers must leave their individuality to some extent, in order to enter into each other and live as one. So, too, when faced with God's invitation of love, man is forced to leave his self-centered world, his illusion of self-sufficiency, and come to God. He must enbrace God in his life. This is precisely what Faith does for a person. St. John beautifully describes Faith as a coming of God. This is the experience that Bob had. Throughout his life, but especially in recent months, he experienced in Faith a leaving behind the possessions of this world and a coming to Christ. And now he has gone to Him.

If we believe that Jesus died and rose that we might live with Him eternally, then we must believe that Bob, who believed in and loved the Risen Lord and whose Faith readily translated into worship and service, is now joined to Him in a beatific vision, in a union of person that flows with ecstatic joy forever. In the passage from sacred Scripture read today by Mr. Brian Short, we heard: "He shall wipe away every tear from their eyes, and there shall be no more death or mourning, crying out in pain, for the former world has passed away" (RV.21).

And now it is ended. But it is also beginning. The marvelous thing about human life is that it has no end. It goes on forever, And the truly astounding good news is that life with the Risen Christ is offered, and even promised, to each of us, a life of happiness so great that "eye hath not seen, nor ear heard, nor has it even entered into the heart of man," How great this happiness is which God calls to us. We pray that Robert Short has gone to God in his infinite happiness. May he live with Him forevermore.●

SECRETARY WATT'S SECOND ANNUAL REPORT TO THE PRESIDENT

● Mr. LAXALT. Mr. President, as the Congress and the American people are well aware, the Department of the Interior has seen a significant change of policy direction during the Reagan administration. Secretary Watt has reported on this change in his second annual report to the President. The 31-page report is too lengthy to reproduce in the RECORD, but I should like to have printed in the RECORD a statement issued by the Department that summarizes the report and reflects the Secretary's views. Copies of the report will be available for personal review and I urge every interested Senator to read about the progress that has been made in natural resource management.

The statement follows:

STATEMENT OF SECRETARY OF THE INTERIOR JAMES WATT

Secretary of the Interior James Watt reported today that the Reagan Administration's natural resource policies are heightening the quality of America's environment and freeing the energy resources necessary to America's present and future growth. "The natural resources under Federal care—the national parks, the national wildlife refuges, the coastal barriers, the wetlands, the national forest, and other public lands—are

managed better today than they were two years ago," Watt said.

"Our emphasis on managing wisely what we already have has enhanced the quality of our public lands and unlocked for orderly development many of the mineral resources crucial to our Nation's economic and military security. We can both protect our environment and develop the energy resources needed for a strong America."

The report ("1982, A Year of Progress: Preparing for the 21st Century") Watt said examines the Reagan Administration's changes in Federal natural resource management: those to satisfy the immediate demand for jobs and services, and those to confront the enormous challenges America will face as it enters the 21st century.

"The theme of 1981 was change; of 1982, progress," Watt said. "We have provided the stewardship to protect and conserve America's natural resource heritage. At the same time, we have laid the groundwork for rebuilding the infrastructure and economic strength that will enhance America's national security, improve the quality of our environment and create jobs in the private sector."

Watt cited numerous examples of progress in restoring balance to Federal resource management.

"With the support of Congress and the States, we have brought common sense and balanced management to the Interior Department," Watt said. "We manage America's natural resources for the benefit of all Americans, for today's generation and those to come."

"Our improvements are many. We have pursued aggressively programs to protect our coastal barriers. We have solicited the advice and assistance of the private sector in procuring wetland habitats for migratory birds. We have implemented programs to manage our public lands more efficiently," Watt said. "We have instituted a strong program to provide Western States with the water resources they'll need for the years ahead. These and other initiatives have enhanced the economic and aesthetic values of our varied national resources and served the taxpayers and consumers who benefit from the recreation, agriculture, energy, mineral, and related uses derived from the land."

PARKS, WILDERNESSES, REFUGES

When he assumed office, Watt said, National Park, Wilderness and Wildlife Refuge Systems were suffering from neglect. "Poor stewardship of the past focused on acquiring more land, rather than caring for what we already had," he said. "The new policy has reversed that. We've made great progress in preserving, improving and restoring those resources already owned by the people for the enjoyment of this generation and those to come. We've discontinued the practice of blindly reaching out for more and more land only to neglect that we already have."

The annual report section on National Park, Wilderness and Wildlife Refuge Systems notes these further accomplishments:

Creation of the Park Restoration and Improvement Program, a 5-year, $1 billion effort to protect the natural resource base and improve the physical facilities of existing national parks.

The proposal to Congress in August 1982 that 188 areas along the Atlantic and Gulf coasts be designated undeveloped coastal barriers.

Implementation and administration of the portion of the 1981 Economic Recovery Tax Act providing a 25% tax credit for private sector restoration of historic structures. Certification of restoration projects has climbed from 1,375 in 1981 to 1,802 in 1982, and the sum of private investment from $738.3 million in 1981 to some $1.1 billion in 1982.

Initiation of a $230 million project to restore and preserve the Statue of Liberty and Ellis Island, entailing one of the largest private fundraising efforts in history.

Establishment of a special task force (Protect Our Wetland and Duck Resources, or POWDR), comprised of State, private organizations and corporate officials, to encourage donations of wetlands and wetland development rights to private groups or State or Federal agencies that will conserve the wetlands as permanent wildlife habitats.

Completion of wilderness studies in 29% of the 928 Bureau of Land Management wilderness study areas.

Recommendations for additions to the National Wildlife Preservation System in Colorado, Arizona, and Missouri.

ENERGY AND MINERAL DEVELOPMENT

Secretary Watt said that Interior Department policies have improved American energy and mineral resources production and "restored America's ability to master its own destiny." Resources on the Federal lands are crucial to America's future, Watt said, because:

"Eighty-five percent of the crude oil still to be discovered in America is likely to come from public lands, and 67% of that from offshore drilling. Similarly, 40% of the natural gas, 35% of the coal, 80% of the oil shale, nearly all the tar sands, and substantial portions of uranium and geothermal energy will come from public lands. Our domestic resource wealth also includes untapped deposits of strategic minerals we presently must import, including chromium, platinum, and cobalt."

The Secretary outlined actions Interior has implemented to improve management and production of energy resources:

A new 5-year Outer Continental Shelf (OCS) oil and gas leasing program was launched asking industry to recommend which of more than one billion acres of OCS are most likely to contain extractable energy resources. In contrast, the previous 30 years had seen only 4% of the OCS—some 40 million acres—offered for energy exploration.

In the past two years, offered some 13.5 million OCS acres for lease, leasing 781 tracts totaling 4.1 million acres and generating revenues of more than $17.5 billion.

In 1982 alone, leased more onshore acreage for oil and gas exploration than the previous Administration had in its entire four years.

Issued onshore oil and gas leases on Federal lands in Alaska for the first time in 15 years, and held the largest Federal competitive oil and gas offerings in history in the National Petroleum Reserve in Alaska.

Issued 55 coal leases on 118,663 acres in 1981-82 compared to 26 leases on 19,938 acres in 1979-80, during the previous Administration; increased the tonnage of coal leased in 1981-82 800% over the 1979-80 period; and conducted the largest coal lease sale in history (Powder River Coal Region, Montana-Wyoming) on April 28, 1982.

Issued 692 geothermal leases on 1.3 million acres in 1981-82 compared to 1,708 leases on 3 million acres in all prior years.

Developed the most powerful Presidential statement on national minerals policy in nearly three decades.

WATER PROJECTS AND PROGRAMS

"When we took office, change was needed in the management of our Nation's water resources, particularly in the West," the Secretary said. "Since water in the West so dramatically impacts our ability to feed our people and produce our domestic energy requirements, we need an aggressive program to provide the water resources that will be critical to the Nation.

"In 1981, we brought change to the Federal role in water resource development, making the Federal Government a partner with the Western States to help avert a water crisis in the next decade. In 1982, we have made great progress in ensuring proper investment in and management of the West's water resources."

Progress noted by the Secretary included:

Announcement of ten new Western water projects.

Successful work with the Congress to reform the 1902 Reclamation Act to increase the previously unrealistic acreage limitation and to update other provisions.

Revision of cumbersome Principles and Standards for Water Resource Projects, and halved the time previously required to complete planning prior to construction of Federal water projects.

Creation and start of operations of a new Office of Water Policy.

Revitalization of the Bureau of Reclamation to emphasize greater cost accountability through cost sharing and creative financing, decentralization of decisionmaking, and joint project ventures and improved consultation with the States.

"As the States rely on the Federal Government, so too does the Federal Government rely on the States," Secretary Watt said. "At Interior, we recognize and respect this great interdependency. Our policy of working with rather than against the States has enabled the Interior Department to vastly improve its own and the States' ability to meet the water needs of the coming century."

As an example, Watt noted that though the ten million federally irrigated acres in the West comprise but one one-hundredth of America's agricultural lands, they produce more than ten percent of America's crop value. "Clearly," he said, "both now and in the future, the States and the Federal Government must develop effectively and use wisely the West's water resources to enable us to move with strength and confidence into the 21st century."

GOOD NEIGHBOR LAND MANAGEMENT

Central to the Interior Department's approach to land management is its "Good Neighbor" policy of consulting and cooperating with the States on use of Federal lands within their borders. "The war on the West is over, and America has won," he writes in the annual report's section on land management and the West. "Western States are now full partners with us in making the critical resource management decisions that impact so completely the lives and livelihoods of their people."

In the past two years, the Department has:

Conveyed more land to Alaska and Native corporations than the previous Administration did in its entire four years.

Expedited the conveyance of Federal lands owned to other Western States, transferring 158,680 acres to four states and preparing to transfer 212,320 more. This would complete entitlements due Colorado, Mon-

tana, and South Dakota while reducing those due Arizona, Idaho, and Utah.

Made record payments of $735 million in FY 1982 to State and local governments in the form of shared revenues from energy production, sales of public land resources, and in lieu of tax payments. Previous record: $539 million in 1981.

Identified 2.7 million acres of excess Federal lands to be dispersed to States, localities and private parties under the Asset Management Program. None of this acreage is in national parks, wildlife refuges, conservation areas, wildernesses or other areas of national environmental significance.

Returned to the States primary authority to allocate water resources, reversing the policy of the previous Administration which claimed "non-reserved Federal water rights."

INDIAN AFFAIRS AND TERRITORIES

The Secretary said he was proud of the progress made in helping American Indians and people living in island territories achieve economic self-reliance and government self-determination.

The Department has:

Proposed to Congress a new $10 million Indian Economic Development initiative to help Indian tribes achieve better economic health.

Worked to settle more than 50 Indian water rights claims. The Papago Tribe's claim was the first to be settled successfully.

Supported legislation to permit Indian tribes to develop energy and other mineral resources through joint venture agreements, joint production agreements and other nonlease approaches.

DEPARTMENTAL EFFICIENCY AND EFFECTIVENESS

The Secretary also devoted a section of the report to the many steps taken to make Interior more efficient and effective in its operations.

He said net budget authority (budget authority less offsetting receipts) have been reduced by about 25 percent from Fiscal Year 1981 to Fiscal Year 1983. During this time, permanent full-time personnel have been reduced about 8 percent.

Watt noted that the Department had participated in 275 separate Congressional hearings, averaging one every 1.25 legislative days and ranking third in the Federal Government in such action. Watt personally testified on the average of once every eight legislative days, he said.

The Secretary said the Department also had:

Completed action on 34 of the 55 rules targeted for revocation or revision in response to public comments received in January 1981.

Experienced a 6-percent reduction in the number of lawsuits filed against Interior in 1981–82 as compared to 1979–1980.

Initiated a continuing audit of mineral royalty collections, which has identified more than $65 million and collected $55 million in unpaid royalties owed the Federal Government.

By raising the fee, increased revenues from simultaneous oil and gas filing fees from $43.8 million in Fiscal Year 1981 to $99.8 million in fiscal year 1982.●

WANTED: AN "AMERICA FIRST" COMMITTEE

● Mr. EAST. Mr. President, I ask that there be printed in the RECORD an article by Patrick Buchanan entitled "Wanted: An 'America First' Committee" and several related articles.

The subjects covered should be of interest to the Senate and to the public during the course of the 98th Congress.

The material follows:

[From the Washington Times, Dec. 10, 1982]

WANTED: AN "AMERICA FIRST" COMMITTEE

(By Patrick Buchanan)

With Third-World debt mounting weekly, with protectionism on the rise in the West, with nationalism resurgent in the States, it seems evident the old world order cannot long survive. Collapse seems, if not imminent, at least certain.

America's friends of the United Nations are silent now, or on the defensive. Foreign aid has no popular constituency. The World Bank and the International Monetary Fund suddenly have become controversial institutions, unmasked for what they are—safety nets for the big banks.

President Reagan, who was among the prime movers of the New Nationalism and, indeed, remains its major political legatee, thus faces some serious decisions.

Will he place the prestige of his administration behind every institution of the old order? Will he become attorney-of-record for the Rockefeller-Kissinger-Richardson wing of his party? Will he put his hand into the fire to retrieve the blazing chestnuts of the Trilateral Commission, and Walter Wriston's bank?

Or will he side with the populist conservatives and attempt to reconstitute his bipartisan coalition with a battle cry of "America First."

Perhaps this states the impending issue too starkly. But there is utility in framing it thus.

With that $1.2 billion "bridge loan" to Brazil, on the first stop of his Latin tour, Reagan signaled an intent to lead the bailout of the banks. The money, dished out from the American Treasury, will be spent to make good the questionable loans of Citibank and Chase-Manhattan. It represents, when all is said and done, a transfer of dollars from taxpayers to bankers, a transfer of bad Brazilian paper from bankers to taxpayers.

And, so, the Great Bailout of '83 has begun. Before it is concluded, it will make the bailouts of Chrysler and the Big Apple look like Small Business Administration loans.

The IMF—with Treasury's opposition folding up—now wants a 50 percent increase in its general fund, to $100 billion; a 200 percent increase in its special bailout fund, to $20 billion. We will be asked, this year, for one-quarter of that, and one-quarter also of the $18 billion in soft-loan money the World Bank will request for projects such as this, that appeared in Monday's press:

"A $199.4 million loan to the People's Republic of China to modernize and expand facilities in the major port cities of Huangpu, Shanghai and Tianjin."

With the United States facing deficits of $200 billion "as far as the eye can see," with Reagan asking a $5.5 billion-per-year gasoline tax on working people, how the president will justify supporting billions for such World Bank projects escapes me.

But there are other indications the final course may not be irrevocably set.

Among the more startling and heartening decisions of the White House (credited by many to Ed Meese) was the president's decison to walk away from the concessions Messrs. Henry Kissinger and Elliott Richardson had made to the U.N. Law of the Sea Conference, and to repudiate the final treaty.

At one stroke, Reagan blocked the transfer of vast U.S. wealth and vital technology to an anti-American, supra-national U.N. body that was to claim, and assume, sovereignty over three-fourths of the globe.

Predictably, the liberal wing of the Republican Party was shocked. "A shameful blot in this country's diplomatic history," thundered Republican representative and Ripon Society president Jim Leach of Iowa. Reagan's men have made of us an "international pariah," he cried. And if we do indeed defy the U.N. and go mining the ocean floor for minerals, the World Court may declare us a "pirate country."

So what? Who cares what UNESCO, the U.N., the World Bank, the International Court of Justice at the Hague or the Organization of African Unity say about us? They should hear what some of us say about them.

This is not a call to xenophobia, to that malevolent nationalism that detests everyone's country but one's own, to that false patriotism Dr. Johnson called the "last refuge" of the scoundrel. It is a call for that healthy patriotism Reagan himself manifests, to an American that recognizes that we—not the boodlers of Turtle Bay—are heirs to the last, best hope of mankind.

Institutions should be valued, or discarded, as they advance or injure the interests of the United States of America. That is, or should be, our standard. By that yardstick, the U.N. UNESCO and their ilk fall dismally short. They long since have ceased to serve the cause in which we believe, the advance of freedom and dignity: they long since have ceased to respect the values we hold dear.

[From the Dunn (N.C.) Daily Record, Dec. 14, 1982]

THE PRICE THEY PAID

Signing your name to a piece of paper may seem an easy task. But if the paper perchance is the Declaration of Independence it is not only a matter of revolt against the powerful mother country; it is a matter of life and death.

Five signers of the Declaration were captured by the British as traitors and tortured before they died.

Twelve had their homes ransacked and burned.

Two lost their sons in the Revolutionary Army; another had two sons captured.

Nine of the 56 signers fought and died from wounds or the hardships of the Revolutionary War.

What kind of men are they?

Twenty-four were lawyers and jurists,

Eleven were merchants,

Nine were farmers and large plantation owners;

Men of means,

Well educated.

But they signed the Declaration of Independence knowing full well that the penalty would be death if they were captured. They signed and pledged

Their lives, their fortunes, and their sacred honor.

Carter Braxton of Virginia, a wealthy planter and trader saw his ships swept from the seas by the British navy. He sold his home and properties to pay his debts and died in rags.

Thomas McKean was so hounded by the British that he was forced to move his family almost constantly. He served in the Congress without pay, and his family was kept in hiding. His possessions were taken from him and poverty was his reward.

Vandals or soldiers or both looted the properties of Ellery, Clymer, Hall, Walton, Gwinnett, Heyard, Ruttledge, and Middleton.

At the Battle of Yorktown, Thomas Nelson, Jr. noted that the British General Cornwallis had taken over the Nelson home for his headquarters. The owners quietly urged George Washington to open fire, which was done. The home was destroyed and Nelson died bankrupt.

Francis Lewis had his home and properties destroyed. The enemy jailed his wife, and she died within a few months.

John Hart was driven from his wife's bedside as she lay dying. Their 13 children fled for their lives. His fields and grist mill were laid waste. For more than a year he lived in forests and caves, returning home after the war to find his wife dead, his children vanished. A few weeks later he died from exhaustion and a broken heart. Norris and Livingston suffered similar fates.

Such were the stories and sacrifices of the American Revolution.

These were not wild-eyed, rabble-raising ruffians,

They were soft-spoken men of means and education.

They had security, but they valued liberty more.

Standing tall

Straight and unwavering.

They pledged "For the support of this declaration, with a firm reliance on the protection of the Divine Providence,

We mutually pledge to each other, our lives, our fortunes and our sacred honor."

(This article was taken from a dramatic reading written by Dr. Nicky Chavers, president and director of the Academy of Arts, Greenville, S.C. and reprinted in Straightway, local publication of Christian Purities Fellowship of Foundations Bible College.)

[From the Dunn (N.C.) Daily Record, Dec. 16, 1982]

PUBLIC WORKS PROGRAMS DON'T CREATE JOBS

As Congress reconvenes for a lameduck session, congressional leaders seem united on the need for a new public works jobs program to combat unemployment, financed by an increase in the gasoline tax. President Reagan has said he supports the proposal primarily because of the deteriorating state of the nation's highways. Unfortunately, it is highly unlikely that such a program will have any significant impact on reducing the unemployment rate. Indeed, it may even increase joblessness.

The principal problem is that business cycles can seldom—if ever—be identified until they have substantially run their course. Consequently, federal jobs programs invariably aren't enacted or implemented until the recession is virtually, or even entirely, over. This is particularly so because politicians are inclined to react to the unemployment rate, which lags behind the business cycle, rather than to changes in real GNP growth.

For example, the 1954 Economic Report of the President, submitted to Congress in January, asserted that the economic state of the nation was "marvelously prosperous," although a downturn had begun the previous July. Similarly, it was not until late in 1960 that it was recognized that a recession had begun in April. And the relatively brief 1969-70 recession was over almost before anyone realized it was taking place.

Consequently, counter-cyclical jobs programs could not even be enacted until well after a recession had begun. Although the 1960-61 recession ended in February 1961, anti-recessionary actions were still being taken in September 1962, when Congress adopted a $900 million accelerated public works program to combat the recession that ended 19 months earlier. The Public Works Impact Program was approved in 1972 to fight the recession that ended in 1970. And two public works programs were enacted in response to the 1973-75 recession: one in 1976 and another in 1977.

JOBS WON'T BE CREATED IN TIME

In addition, a public works program—even if enacted in a timely fashion—will require a significant period before coming on stream. According to a study of the Office of Management and Budget in 1979, less than 8 percent of public works projects can be completed in nine months or less, whereas 30 percent require two years or more. Hence, even if a public works program could be enacted at the beginning of a recession and construction begun within 90 days, the vast bulk of employment wouldn't be created until long after the average recession—which lasts about 12 months—had ended.

Another problem is the relatively low labor intensity of public works projects and the considerable mismatch between the job skills required for construction work and those of the unemployed.

According to OMB, the typical public works project expends only 22 percent of its cost on direct employment. The other 78 percent of expenditures have only indirect employment effects no different from a general increase in government expenditures. In addition, OMB found that very few workers employed in public works projects were unemployed prior to being hired—as few as 12 percent in one program studied and no more than 27 percent in another. And because 50 percent to 75 percent of jobs on public works projects are skilled, the chances of such a project helping unskilled, hard-core unemployed are almost nil.

Finally, OMB found that public works were a relatively high-cost method of creating employment—from $69,320 for each direct job created, assuming no substitution for existing employment, to as much as $198,059 per job with 65 percent substitution. The problem is twofold. First, federal public works projects must comply with Davis-Bacon regulations, which effectively force the payment of high, union wage rates on all projects.

Second, experience has shown that federal public

* * * * *

interest-rate-sensitive industries, not to mention the negative impact of higher interest rates throughout the country.

The human cost of 10.4 percent unemployment is unacceptable. But at some point we must admit to ourselves that quick-fix public works programs aren't the answer. Instead of reacting to the last recession we ought to be working to make sure that the recovery can be sustained.

(By Bruce Barlett, deputy director of the Joint Economic Committee of Congress.)

[From the Henderson (N.C.) Dispatch, Dec. 6, 1982]

GASOLINE TAX BOOST IS NOT SOLUTION

Now that the nations' vehicle owners and operators have begun to get a little relief from scandalously-high gasoline prices of recent years, the politicians are poised to push prices back up again by more than doubling the Federal tax on gasoline.

The wheels are rolling in Washington to raise the Federal tax from four cents a gallon to nine cents per gallon. All indications are that the proposal for higher taxes will zip through the present lame-duck session of Congress before the scheduled adjournment on Dec. 17, unfortunately.

President Ronald Reagan has been persuaded, although it's out of character for him, to support the tax boost on the grounds that it would finance $5.5 billion in badly-needed highway and bridge repairs and maintenance and also would help ease the nation's unemployment predicament by creating some 320,000 jobs.

Both are admirable goals and worthy purposes. However, we strongly suspect that the results would be insignificant on both counts. Administrative costs would take a sizable bite out of the funds and already it is indicated that 20 per cent of the money would be earmarked for mass transit development in several metropolitan areas. That means all taxpayers would be helping finance transit for the big cities, while the cities, instead of financing their own projects, would divert their funds to other purposes.

What is needed to help solve the problems of deteriorating highways and deplorable unemployment is a restored strong economy. The tax hike would be counterproductive and regressive. Excessive government taxation is a fundamental cause of the economic mess in which the nation now finds itself.

Supporters of the tax boost say it will cost the average driver only about $30 per year. Perhaps so, but they avoid mentioning the fact that the added cost of fuel for business and commercial enterprizes simply will be passed right along to the consumer, the taxpayers, in the form of higher prices. The ripple effect will send a little more steam back into the inflation problem, which only now has been brought down out of the clouds.

North Carolina's Senators Jesse Helms and John East say the proposal is another "dumping on the consumer" and they are exactly right. Both usually are supporters of President Reagan but say they will have to disagree on this issue. Both indicate they will oppose the bill in Congress.

We hope they will stick to their guns and also convince other Tar Heel members of Congress to do the same.

We thought Washington had received the message that most concerned Americans are fed up with more taxing and more spending as a bandaid for every problem that pops up. However, it appears taxpayers still have some persuading to do.

[From the Washington Times, Jan. 3, 1982]

JOHN LOFTON'S JOURNAL: GOP ABANDONS U.S. SUPERIORITY

Republicans . . . will build toward a sustained defense expenditure sufficient to close the gap with the Soviets, and ultimately reach the position of military superiority that the American people demand.—1980 Republican Party platform.

In any conservative assessment of the Reagan administration at midterm, one of the greatest disappointments has to be the unceremonious abandoment of the goal of achieving military superiority over the Soviet Union.

The time was late November of last year, the day after President Reagan had gone on national TV to defend the MX missile specifically and his overall military policy in general. The place was the NBC Today show. The interviewer was NBC White House correspondent Judy Woodruff. The interviewee was Robert McFarlane, deputy assistant to the president for national security affairs.

Question: Does the United States want superiority over the Soviets?

McFarlane: "No, we don't. We're trying for basically an effective deterrent; and that is a balance. In fact, that's what the president proposed in his arms control propositions, that we reduce to lower levels but equal levels."

Now, this repudiation of the goal of regaining U.S. military superiority over the Soviets is especially interesting because McFarlane is one of the individuals who actually helped write the 1980 GOP platform. In fact, in a briefing last May—when I asked him what role the '80 platform played in the formulation of the administration's policy on arms control—McFarlane replied that it "was surely very, very much on our minds." And, he added proudly: "I wrote it."

Robert McFarlane is not the only senior administration official who has, without explanation, scrapped the military superiority section of the Republican platform. So has Defense Secretary Caspar Weinberger, who is supposedly a hardliner on national defense. In late February of last year, in prepared testimony before the House Defense Appropriations Subcommittee, Weinberger declared:

"And while we do not seek nuclear 'superiority' for the United States, by the same token, we will make every necessary effort to prevent the Soviet Union from acquiring a superiority that would mistakenly and tragically lead them to believe a first strike by them could ever succeed."

At the time, when I asked Defense Department spokesman Henry Catto why his boss was turning away from the GOP platform, he said this was because the secretary was "a total realist" and understood that "if we started talking about superiority we would be viewed as reaching for the moon and we'd probably damage ourselves if we were so perceived."

In repudiating the military superiority pledge in the GOP platform, McFarlane and Weinberger also have cast aside the promises made by Ronald Reagan. As a candidate, Reagan said: "I call for whatever it takes to be strong enough that no other nation on earth will violate the peace. Now this is what we mean by superiority; nothing more, nothing less."

In his first news conference as president, when invited to disavow the 1980 Republican platform, Reagan forcefully declined, observing: "I ran on the platform. The people voted for me on the platform; I do believe in that platform, and I think it would be very cynical and callous of me now to suggest that I'm going to turn away from it."

Well, I agree. On July 13, 1934, Winston Churchill—warning about the German military buildup—told the British House of Commons: "There is no greater danger than equal forces. If you wish to bring about war, you bring about such an equipoise that both sides think they have a chance of winning. If you want to stop war, you gather such an aggregation of force on the side of peace that the aggressor, whoever he may be, will not dare to challenge."

So it is in 1983 regarding the massive Soviet military buildup and the U.S. response. Indeed, the Reagan administration's abandonment of a policy of military superiority is cynical and callous. And it may well prove to be very dangerous to the peace of the world. Once again, the question seems relevant, concerning the president and those who ostensibly work for him: who's in charge here?●

ADJOURNMENT UNTIL TUESDAY, JANUARY 25, 1983

Mr. BAKER. Mr. President, I move, in accordance with the provisions of Senate Concurrent Resolution 1, that the Senate stand in adjournment until 12 noon on January 25, 1983.

The motion was agreed to; and the Senate, at 1:19 p.m., adjourned until Tuesday, January 25, 1983, at 12 noon.

HOUSE OF REPRESENTATIVES—*Monday, January 3, 1983*

This being the day fixed by the 20th amendment of the Constitution of the United States for the annual meeting of the Congress of the United States, the Members-elect of the 98th Congress met in their Hall, and, at 12 o'clock noon, were called to order by the Sergeant at Arms of the House of Representatives, Hon. Benjamin J. Guthrie.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Gracious God, we implore Your blessing upon this assembly and upon all for whom the authority of government is given. We pray that Your spirit of reconciliation and peace, of good will and understanding will prevail in our hearts and in our lives. Encourage us, O God, to use our abilities and talents in ways that bring righteousness to this Nation and to all the people. Ever remind us of the needs of the poor, the homeless or forgotten, those who live without freedom or liberty, that we will be instruments of justice for all citizens and ease the hurt of every person. May Your spirit live with us each day and may Your grace surround us and those we love that in all things we may be the people You would have us be and serve this Nation as we ought to serve. In Your name, we pray. Amen.

The SERGEANT AT ARMS. Representatives-elect to the 98th Congress, this being the day fixed by the 20th amendment of the Constitution for the meeting of the 98th Congress, the Clerk of the 97th Congress has prepared the official roll of the Representatives-elect. Pursuant to 2 U.S.C. 26, the Sergeant at Arms of the 97th Congress will make the following announcement:

Certificates of election covering the 435 seats in the 98th Congress have been received by the Clerk of the House of Representatives, and the names of those persons whose credentials show that they were regularly elected as Representatives in accordance with the laws of their respective States and of the United States will be called.

Without objection, the Representatives-elect will record their presence by electronic device, and their names will be reported in alphabetical order by States, beginning with the State of Alabama, to determine whether a quorum is present.

There was no objection.

The SERGEANT AT ARMS. The Chair would like to state that any Member-elect who has not received his or her voting card may do so now in the Speaker's lobby.

The call was taken by electronic device, and the following Representatives-elect responded to their names:

[Roll No. 1]

ALABAMA

Bevill	Nichols	Edwards
Erdreich	Shelby	
Flippo	Dickinson	

ALASKA

Young

ARIZONA

McNulty	McCain	Stump
Udall	Rudd	

ARKANSAS

Alexander	Bethune	
Anthony	Hammerschmidt	

CALIFORNIA

Anderson	Lantos	Dannemeyer
Bates	Lehman	Dreier
Beilenson	Levine	Fiedler
Berman	Martinez	Hunter
Bosco	Matsui	Lagomarsino
Boxer	Miller	Lewis
Brown	Mineta	Lowery
Burton	Panetta	Lungren
Coelho	Patterson	McCandless
Dellums	Roybal	Moorhead
Dixon	Stark	Packard
Dymally	Torres	Pashayan
Edwards	Waxman	Shumway
Fazio	Badham	Thomas
Hawkins	Chappie	Zschau

COLORADO

Kogovsek	Wirth	Kramer
Schroeder	Brown	

CONNECTICUT

Gejdenson	Morrison	Johnson
Kennelly	Ratchford	McKinney

DELAWARE

Carper

FLORIDA

Bennett	Lehman	Lewis
Chappell	MacKay	Mack
Fascell	Mica	McCollum
Fuqua	Nelson	Shaw
Gibbons	Pepper	Young
Hutto	Smith	
Ireland	Bilirakis	

GEORGIA

Barnard	Levitas	Thomas
Fowler	McDonald	Gingrich
Hatcher	Ray	
Jenkins	Rowland	

HAWAII

Akaka	Heftel	

IDAHO

Craig	Hansen	

ILLINOIS

Annunzio	Savage	Hyde
Collins	Simon	Madigan
Durbin	Washington	Martin
Evans	Yates	Michel
Lipinski	Corcoran	O'Brien
Price	Crane, Daniel	Porter
Rostenkowski	Crane, Philip	
Russo	Erlenborn	

INDIANA

Hall	Sharp	Hillis
Hamilton	Burton	Myers
Jacobs	Coats	
McCloskey	Hiler	

IOWA

Bedell	Smith	Leach
Harkin	Evans	Tauke

KANSAS

Glickman	Roberts	Winn
Slattery	Whittaker	

KENTUCKY

Hubbard	Perkins	Snyder
Mazzoli	Hopkins	
Natcher	Rogers	

LOUISIANA

Boggs	Long	Livingston
Breaux	Roemer	Moore
Huckaby	Tauzin	

MAINE

McKernan	Snowe	

MARYLAND

Barnes	Hoyer	Mitchell
Byron	Long	Holt
Dyson	Mikulski	

MASSACHUSETTS

Boland	Markey	Shannon
Donnelly	Mavroules	Studds
Early	Moakley	Conte
Frank	O'Neill	

MICHIGAN

Albosta	Ford	Broomfield
Bonior	Hertel	Davis
Carr	Kildee	Pursell
Conyers	Levin	Sawyer
Crockett	Traxler	Siljander
Dingell	Wolpe	Vander Jagt

MINNESOTA

Oberstar	Sikorski	Stangeland
Penny	Vento	Weber
Sabo	Frenzel	

MISSISSIPPI

Dowdy	Whitten	Lott
Montgomery	Franklin	

MISSOURI

Clay	Volkmer	Coleman
Gephardt	Wheat	Emerson
Skelton	Young	Taylor

MONTANA

Williams	Marlenee	

NEBRASKA

Bereuter	Daub	Smith

NEVADA

Reid	Vucanovich	

NEW HAMPSHIRE

D'Amours	Gregg	

NEW JERSEY

Dwyer	Minish	Forsythe
Florio	Rodino	Rinaldo
Guarini	Roe	Roukema
Howard	Torricelli	Smith
Hughes	Courter	

NEW MEXICO

Richardson	Lujan	Skeen

NEW YORK

Addabbo	Rangel	Gillman
Biaggi	Rosenthal	Green
Downey	Scheuer	Horton
Ferraro	Schumer	Kemp
Garcia	Solarz	Lent
LaFalce	Stratton	Martin
Lundine	Towns	McGrath
McHugh	Weiss	Molinari
Mrazek	Boehlert	Solomon
Nowak	Carney	Wortley
Ottinger	Conable	
Owens	Fish	

NORTH CAROLINA

Andrews	Jones	Whitley
Britt	Neal	Broyhill
Clarke	Rose	Martin
Hefner	Valentine	

NORTH DAKOTA

Dorgan

OHIO

Applegate	Pease	Latta
Eckart	Seiberling	McEwen
Feighan	Stokes	Miller
Hall	DeWine	Oxley
Kaptur	Gradison	Regula
Luken	Kasich	Williams
Oakar	Kindness	Wylie

OKLAHOMA

English	McCurdy	Watkins
Jones	Synar	Edwards

OREGON

AuCoin	Wyden	Smith, Robert
Weaver	Smith, Denny	

PENNSYLVANIA

Borski	Kostmayer	Goodling
Coyne	Murphy	McDade
Edgar	Murtha	Ridge
Foglietta	Walgren	Ritter
Gaydos	Yatron	Schulze
Gray	Clinger	Shuster
Harrison	Coughlin	Walker
Kolter	Gekas	

RHODE ISLAND

St Germain Schneider

SOUTH CAROLINA

Derrick	Tallon	Barnett
Spratt	Campbell	Spence

SOUTH DAKOTA

Daschle

TENNESSEE

Boner	Ford	Duncan
Bouquard	Gore	Quillen
Cooper	Jones	Sundquist

TEXAS

Andrews	Hall, Sam	Stenholm
Brooks	Hance	Wandergriff
Bryant	Hightower	Wilson
Coleman	Kazen	Wright
de la Garza	Leath	Archer
Frost	Leland	Bartlett
Gonzalez	Ortiz	Fields
Gramm	Patman	Loeffler
Hall, Ralph	Pickle	Paul

UTAH

Hansen Marriott Nielson

VERMONT

Jeffords

VIRGINIA

Boucher	Bateman	Whitehurst
Daniel	Billey	Wolf
Olin	Parris	
Sisisky	Robinson	

WASHINGTON

Bonker	Lowry	Morrison
Dicks	Swift	Pritchard
Foley	Chandler	

WEST VIRGINIA

Mollohan	Staggers	
Rahall	Wise	

WISCONSIN

Aspin	Obey	Petri
Kastenmeier	Zablocki	Roth
Moody	Gunderson	Sensenbrenner

WYOMING

Cheney

□ 1215

The SERGEANT AT ARMS. The quorum call discloses that 416 Representatives-elect have answered to their names. A quorum is present.

ANNOUNCEMENTS BY THE SERGEANT AT ARMS

The SERGEANT AT ARMS. The Sergeant at Arms will state that the credentials are on file showing the election of the Honorable BALTASAR CORRADA as Resident Commissioner from the Commonwealth of Puerto Rico for a term of 4 years beginning January 3, 1981;; the election of the Honorable WALTER E. FAUNTROY as Delegate from the District of Columbia; the election of the Honorable ANTONIO BORJA WON PAT as Delegate from Guam; the election of the Honorable RON DE LUGO as Delegate from the Virgin Islands; and the election of the Honorable FOFO I. F. SUNIA as Delegate from American Samoa.

The Sergeant at Arms regrets to announce the death of the Honorable JACK SWIGERT on December 27,, 1982,, a Member-elect from the 6th District of Colorado.

ELECTION OF SPEAKER

The SERGEANT AT ARMS. The next order of business is the election of the Speaker of the House of Representatives for the 98th Congress.

Nominations are now in order..

The Sergeant at Arms recognizes the gentleman from Louisiana (Mr.. LONG).

Mr. LONG of Louisiana. Mr. Sergeant at Arms, as Chairman of the Democratic Caucus, I am directed by the unanimous vote of that caucus to present for election to the office of the Speaker of the House of Representatives of the 98th Congress the name of the Honorable THOMAS P. O'NEILL, JR., a Representative-elect from the Commonwealth of Massachusetts.

The SERGEANT AT ARMS. The Sergeant at Arms now recognizes the gentleman from New York (Mr. KEMP)..

Mr. KEMP. Mr. Sergeant at Arms, as chairman of the Republican Conference and by the authority and direction and unanimous vote of the Republican Conference, I am pleased to nominate for speaker of the House of Representatives the Honorable ROBERT H. MICHEL, a Representative-elect from the State of Illinois to the 98th Congress.

□ 1230

The SERGEANT AT ARMS. The Honorable THOMAS P. O'NEILL, JR., a Representative-elect from the Commonwealth of Massachusetts, and the Honorable ROBERT H. MICHEL, a Representative-elect from the State of Illinois, have been placed in nomination.

Are there any further nominations?

There being no further nominations, the Sergeant at Arms will appoint tellers.

The Sergeant at Arms appoints the gentleman from California (Mr.. HAWKINS), the gentleman from Minnesota (Mr.. FRENZEL), the gentlewoman from Colorado (Mrs. SCHROEDER), and the gentlewoman from Maryland (Mrs. HOLT).

The tellers will come forward and take their seats at the desk in front of the Speaker's rostrum.

The roll will now be called, and those responding to their names will indicate by surname the nominee of their choice.

The reading clerk will now call the roll.

The tellers having taken their places, the House proceeded to vote for the Office of the Speaker..

□ 1300

The following is the result of the vote:

[Roll No. 2]

O'NEILL—259

Addabbo	Cooper	Gramm
Akaka	Coyne	Gray
Albosta	Crockett	Guarini
Alexander	Daniel	Hall (IN)
Anderson	Daschle	Hall (OH)
Andrews (NC)	de la Garza	Hall, Ralph
Andrews (TX)	Dellums	Hall, Sam
Annunzio	Derrick	Hamilton
Anthony	Dicks	Hance
Applegate	Dingell	Hankin
Aspin	Dixon	Harrison
AuCoin	Donnelly	Hatcher
Barnard	Dorgan	Hawkins
Barnes	Dowdy	Hefner
Bates	Downey	Heftel
Bedell	Durbin	Hightower
Bellenson	Dwyer	Howard
Bennett	Dymally	Hoyer
Berman	Dyson	Huffman
Bevill	Early	Huckaby
Biaggi	Eckart	Hughes
Boggs	Edgar	Hutto
Boland	Edwards (CA)	Ireland
Boner	English	Jacobs
Bonior	Erdreich	Jenkins
Bonker	Evans (IL)	Jones (NC)
Borski	Fascell	Jones (OK)
Bosco	Feighan	Jones (TN)
Boucher	Ferraro	Kaptur
Bouquard	Flippo	Kastenmeier
Bowen	Florio	Kazen
Breaux	Foglietta	Kennelly
Britt	Foley	Kildee
Brooks	Ford (MI)	Kogovsek
Brown (CA)	Ford (TN)	Kolter
Bryant	Fowler	Kostmayer
Burton (CA)	Frank	LaFalce
Byron	Frost	Lantos
Carper	Fuqua	Leath
Carr	Garcia	Lehman (CA)
Chappell	Gaydos	Lehman (FL)
Clarke	Gejdenson	Leland
Clay	Gephardt	Levin
Coelho	Gibbons	Levine
Coleman (TX)	Glickman	Levitas
Collins	Gonzalez	Lipinski
Conyers	Gore	Long (LA)

Long (MD)	Patterson	Stark
Lowry (WA)	Pease	Stenholm
Luken	Penny	Stokes
Lundine	Pepper	Stratton
MacKay	Perkins	Studds
Markey	Pickle	Synar
Martinez	Price	Tallon
Matsui	Rahall	Tauzin
Mavroules	Rangel	Thomas (GA)
Mazzoli	Ratchford	Torres
McCloskey	Ray	Torricelli
McCurdy	Reid	Towns
McHugh	Richardson	Traxler
McNulty	Rodino	Udall
Mica	Roe	Valentine
Mikulski	Roemer	Vandergriff
Miller (CA)	Rose	Vento
Mineta	Rostenkowski	Volkmer
Minish	Rowland	Walgren
Mitchell	Roybal	Washington
Moakley	Sabo	Watkins
Mollohan	Savage	Waxman
Montgomery	Scheuer	Weaver
Moody	Schroeder	Weiss
Morrison (CT)	Schumer	Wheat
Mrazek	Seiberling	Whitley
Murphy	Shannon	Whitten
Murtha	Sharp	Williams (MT)
Natcher	Shelby	Wilson
Neal	Sikorski	Wirth
Nelson	Simon	Wise
Nichols	Sisisky	Wolpe
Nowak	Skelton	Wright
Oakar	Slattery	Wyden
Oberstar	Smith (FL)	Yates
Obey	Smith (IA)	Yatron
Olin	Solarz	Young (MO)
Ortiz	Spratt	Zablocki
Owens	St Germain	
Patman	Staggers	

MICHEL—155

Bartlett	Hansen (UT)	Petri
Bateman	Hartnett	Porter
Bereuter	Hiler	Pritchard
Bethune	Holt	Pursell
Bilirakis	Hopkins	Quillen
Bliley	Horton	Regula
Boehlert	Hunter	Ridge
Broomfield	Hyde	Rinaldo
Brown (CO)	Jeffords	Ritter
Broyhill	Johnson	Roberts
Burton (IN)	Kasich	Robinson
Campbell	Kemp	Rogers
Carney	Kindness	Roth
Chandler	Kramer	Roukema
Chappie	Lagomarsino	Rudd
Cheney	Latta	Sawyer
Coleman (MO)	Lent	Schneider
Conable	Lewis (CA)	Schulze
Conte	Lewis (FL)	Sensenbrenner
Corcoran	Livingston	Shaw
Coughlin	Loeffler	Shumway
Courter	Lott	Shuster
Craig	Lowery (CA)	Siljander
Crane, Daniel	Lujan	Skeen
Crane, Philip	Lungren	Smith (NE)
Dannemeyer	Mack	Smith (NJ)
Daub	Madigan	Smith, Denny
Davis	Marlenee	Smith, Robert
DeWine	Marriott	Snowe
Dickinson	Martin (IL)	Snyder
Dreier	Martin (NY)	Solomon
Duncan	McCain	Spence
Edwards (AL)	McCandless	Stangeland
Emerson	McCollum	Stump
Erlenborn	McDade	Sundquist
Evans (IA)	McEwen	Tauke
Fiedler	McGrath	Taylor
Fields	McKernan	Vander Jagt
Fish	McKinney	Vucanovich
Forsythe	Miller (OH)	Walker
Franklin	Molinari	Weber
Frenzel	Moore	Whitehurst
Gekas	Moorhead	Whittaker
Gilman	Morrison (WA)	Williams (OH)
Gingrich	Myers	Winn
Goodling	Nielson	Wolf
Gradison	O'Brien	Wortley
Green	Oxley	Wylie
Gregg	Packard	Young (AK)
Gunderson	Parris	Young (FL)
Hammerschmidt	Pashayan	Zschau
Hansen (ID)	Paul	

ANSWERED "PRESENT"—2

Michel O'Neill

NOT VOTING—2

McDonald Swift

The SERGEANT AT ARMS. The tellers agree in their tallies that the total number of votes cast is 417, of which the Honorable THOMAS P. O'NEILL, JR., of Massachusetts, has received 260, and the Honorable ROBERT H. MICHEL, of Illinois, has received 155, with 2 voting "present."

Therefore, the Honorable THOMAS P. O'NEILL JR., of Massachusetts, is duly elected Speaker of the House of Representatives for the 98th Congress, having received a majority of the votes cast.

The Sergeant at Arms appoints the following committee to escort the Speaker-elect to the chair: The gentleman from Illinois (Mr. MICHEL), the gentleman from Texas (Mr. WRIGHT), the gentleman from Mississippi (Mr. LOTT), the gentleman from Louisiana (Mr. LONG), the gentleman from Massachusetts (Mr. BOLAND), and the gentleman from Massachusetts (Mr. CONTE).

The committee will retire from the Chamber to escort the Speaker-elect to the chair.

□ 1310

The Doorkeeper announced the Speaker-elect of the House of Representatives of the 98th Congress, who was escorted to the chair by the committee of escort.

Mr. MICHEL. Mr. Speaker and my colleagues and guests of the House, it has been customary since the turn of the century for the Speaker-elect to be formally presented to the House by his adversary in the contest. I was just watching the proceedings on the monitor with the Speaker, and would you believe it, in our friendly conversation we actually lost track of the count.

Before exercising the privilege, that is mine Mr. Speaker, I should like to proceed for only a few moments to make several brief acknowledgments and observations. First, I should like to thank my constituents for reelecting me to this House, even if it was by the narrowest of margins.

Second, I should like to profess my profound appreciation to my Republican colleagues for according me this privilege to lead them once again in the 98th Congress.

Two years ago, Mr. Speaker, I stood here and looked out over this House, quite differently constituted, and said that I particularly liked the sight of 52 new Republican freshmen. Let me assure our 24 new Republican Members that, though you are fewer in number than the class of 1980, you have the same wonderful effect on me. Needless to say, if there were 100 of you I would love you all that much more.

Let me also add my welcome to the 57 new Democratic Members. I hope you will come to appreciate what it is to be members of the majority party. Would you believe it, I am one of the two most senior Republican Members on our side of the aisle now, and after 26 years I am still a member of the minority party. [Applause.]

That is always one way of getting an applause from the Democratic side of the aisle.

Well, my colleagues, we have a full-time agenda before us the next 2 years. We are here with many new colleagues and fresh directions from the people who elected us. What we do over the course of the next 2 years will surely be the focus of national and international attention; what we have ahead of us will test our will, our courage, and our abilities, but of equal importance to what we do is how we do it.

We can conduct the Nation's business as statesmen, looking to the future of our country, or we can conduct our business as partisan politicians looking to our own future survival in an election 2 years hence. There is a place for partisanship in this House. It is fundamental to our system of Government. Make no mistake about it, when it comes to the basic principles in which each of our respective parties believe, there will be partisan words and partisan actions, just as there was from both sides in the last Congress.

But, there is a greater place and a greater need for bipartisan cooperation and compromise. We cannot overcome the national problems we face or meet the needs we have without working together and compromising from time to time.

We Republican Members in that spirit of compromise extend to you, Mr. Speaker, this olive branch in the fervent hope that it will be accepted, nurtured, and allowed to symbolize this new Congress.

We have entrusted to us great responsibilities. We have much to do. The people expect much from us; maybe far more than we could ever deliver under ideal circumstances. But, we on our side are ready to roll up our sleeves and go to work. We are ready to work together with you, Mr. Speaker, and those whom you lead.

It is my hope and prayer for this Congress that we have the courage to seek the truth and the humility to realize that we do not have all the answers. Let us use the rules of the House to do the will of the people, and not thwart that will. I might add here that an important part of the will of the people is expressed in protection of the rights of the minority party, no matter which great party happens to bear that title in any particular time in our history.

Finally, Mr. Speaker, although I do not own a computer, I can add well enough to know that I was going to be short again this time, but I am hoping to make it up on the first tee of the very first golf game that we have this year.

I am happy to congratulate you, then Mr. Speaker, and deem it a very high privilege and honor for this Member from Illinois to present to the House the Speaker-elect of the 98th Congress, from the great State of Massachusetts, the Honorable THOMAS P. O'NEILL, JR.

□ 1320

Mr. O'NEILL. My colleagues, let me say that during my years as Speaker I truly have worked with two beautiful and great individuals, outstanding Americans both of them—John Rhodes, who left the Congress this year; and BOB MICHEL, who has been the Republican leader for the past 2 years and is the Republican leader again.

Upon being elected Speaker, I am able to repeat almost in full the speech that the gentleman before me just made. BOB has been here for 26 years, I have been here for 30. In my first 2 years as a Member of Congress I was in the minority, and BOB, I agree with you, it is hell, there is no question about it. Never again would I want to be in the minority.

Fellow Members, their families, friends, and guests, I am deeply honored to be elected for the fourth time as Speaker of this House. I especially want to thank my wife, Millie, and my family. Millie, these 42 years have been years that have gone by awfully quick, and I want you to know you are looking more beautiful to me today than ever. [Applause, the Members rising.]

A fellow in public life is lucky to have a family that trusts and believes in him and goes along with him.

Last November my constituents in the Eighth District of Massachusetts chose me to represent them in Congress for the 16th time. For this latest choice and all the previous choices, I say to the people back home that I am grateful.

Being elected Speaker of the U.S. House of Representatives is a high honor that carries with it solemn responsibilities because this is the greatest legislative body in the greatest democracy in the world. Today I pledge to you that I will wield this gavel fairly, firmly, faithfully, and responsibly.

I am ever mindful that the role of the Speaker is to expedite the business of this House. In doing so, I shall respect and follow the established principles, procedures, and precedents. This is my duty under the Constitution and the rules of this body.

The two Houses of the 98th Congress are controlled by rival parties. This is the fourth Congress in the 20th century where this has occurred. In the past this partisan division has set the stage for legislative and political stalemate, but it did not occur in the 97th Congress. The new President's program was given swift and fair consideration. I will do everything I can to prevent a stalemate from happening to this, the 98th Congress. The American people want action, not partisan bickering. Therefore, I am confident that the Members of this House will get to work putting America back to work.

As this Congress convenes, there are 4 million more Americans out of work than there were 2 years ago when the last Congress convened. There are more people out of work in the United States than there are at work in all of Canada. The time for waiting for jobs has passed. The time for action is now at hand. The Federal Government must not bide its time waiting for an economic recovery. It must take those steps necessary to insure a strong recovery. Any recovery that fails to significantly reduce unemployment is unacceptable. The only recovery is one that puts millions of unemployed Americans back to work.

Franklin Roosevelt noted that "economic laws are not made by nature, they are made by human beings." Well, it is about time that we in this House began making some laws to get this country out of the terrible recession we are in. It is time to bring the interest rates down for the average American and to keep them down. It is time to stop waiting for an economic theory to work and, instead, do what we have done before, stimulate the economy.

Naturally, any measure we pass will have to pass the Senate and will have to be signed by the President. Of course, we have our differences, but we have in the past cooperated in the best interests of this Nation. Most recently we cooperated on the highway bill. Before that we worked together to pass the 1982 Tax Equity Act. I hope this cooperation will be repeated during the consideration of the vital social security legislation that will be reported without delay, I trust, by the Committee on Ways and Means. This will be difficult legislation, but no legislation in 1983 is more necessary than that social security bill.

Twenty years ago President Kennedy observed that an unbalanced economy does not produce balanced budgets. Well, that was never more true than today. The projections for a balanced budget in 1984 have turned into a projection of staggering deficits. As unemployment has soared, so have deficits. For the month of October last year, the deficit for that month nearly equaled the deficit for the entire year of 1979. These huge deficits not only threaten to choke off a recovery but also threaten to tie this Congress up in knots. We cannot afford to let this happen.

We will have to make some tough decisions. We need to make these decisions with the help of realistic economic assumptions. Hard decisions will follow hard numbers. Whatever those budget decisions may be, we need to make them and move on to the business of Congress and the business of the Nation.

Barring a national emergency, last month's postelection session is the last one that I will ever agree to. During the Constitutional Convention the Founding Fathers referred to the House of Representatives as "the First Branch." They did so because it was the branch closest to the people. Elections were scheduled every 2 years, and every seat was up. Unlike the President or the Vice President of the Senate, the only way in which one can serve in this body, in this great House, is to be elected by the people, running every 2 years. Certainly that is a burden, but it is a burden of democracy.

Despite the fact that the Speaker is the same, the House is different than the last one was. Twenty percent of the Members are freshmen. As for the rest of us, the election has brought us closer to our constituents, and that is what the Founding Fathers had intended.

The new Members will find out as they go along that the Speaker has a few prerogatives. He has the power of scheduling and of recognition, he has the power of naming Members to special and select committees, and he has the right to put the numbers on the resolutions. House Joint Resolution 1 this year will be ERA, the equal rights amendment.

□ 1330

As Members of Congress, we may belong to different political parties but there is one thing that we do have in common. That is a love for this Nation, this great Republic and its people.

I hope that what we accomplish here over the next 2 years will result in the Nation developing a greater sense of respect and appreciation for this House and the Government it is a part of. This is certainly a worthy standard to set for this Congress.

To all of my colleagues on my side of the aisle who have given me their trust for the past 6 years, again I say thank you from the bottom of my grateful heart.

Thank you.

[Applause, the Members rising.]

Mr. O'NEILL. I ask that the dean of the House, the Honorable JAMIE L.

WHITTEN of Mississippi, administer the oath of office.

Mr. WHITTEN then administered the oath of office to Mr. O'NEILL, of Massachusetts.

[Applause, the Members rising.]

SWEARING IN OF MEMBERS

The SPEAKER. According to the precedent, the Chair will swear in all Members of the House at this time.

If the Members will rise, the Chair will now administer the oath of office.

The Members-elect and Delegates-elect and the Resident Commissioner-elect rose, and the Speaker administered the oath of office to them.

The SPEAKER. The gentlemen and gentlewomen are now Members of the Congress of the United States.

[Applause, the Members rising.]

The SPEAKER. The Chair recognizes the gentleman from Louisiana (Mr. LONG).

MAJORITY LEADER

Mr. LONG of Louisiana. Mr. Speaker, as chairman of the Democratic Caucus, I have been directed to report, and of course it is my distinct pleasure to report to the House that the Democratic Members have selected as majority leader the gentleman from Texas, the Honorable JIM WRIGHT.

The SPEAKER. The Chair now recognizes the gentleman from New York (Mr. KEMP).

MINORITY LEADER

Mr. KEMP. Mr. Speaker, as chairman of the Republican Conference, I am directed by that conference to officially notify the House that the gentleman from Illinois, the Honorable ROBERT H. MICHEL, has been selected by the Republican Members of the House as the minority leader of the House of Representatives.

MAJORITY WHIP

Mr. WRIGHT. Mr. Speaker, I have the honor and the distinct pleasure to advise the Members of the House that the gentleman from Washington, Mr. FOLEY, will act as whip of the Democratic Party for the 98th Congress.

MINORITY WHIP

Mr. KEMP. Mr. Speaker, as chairman of the Republican Conference, I am directed by the conference to notify the House officially that the Republican Members have selected as our minority whip the gentleman from Mississippi, the Honorable TRENT LOTT.

ELECTION OF CLERK OF THE HOUSE, SERGEANT AT ARMS, DOORKEEPER, POSTMASTER, AND CHAPLAIN

Mr. LONG of Louisiana. Mr. Speaker, I offer a privileged resolution (H. Res. 1) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1

Resolved, That Benjamin J. Guthrie, of the Commonwealth of Virginia, be, and he is hereby, chosen Clerk of the House of Representatives;

That Jack Russ, of the State of Maryland, be, and he is hereby, chosen Sergeant at Arms of the House of Representatives;

That James T. Molloy, of the State of New York, be, and he is hereby, chosen Doorkeeper of the House of Representatives;

That Robert V. Rota, of the Commonwealth of Pennsylvania, be, and he is hereby, chosen Postmaster of the House of Representatives; and

That Reverend James David Ford, of the Commonwealth of Virginia, be, and he is hereby, chosen Chaplain of the House of Representatives.

Mr. KEMP. Mr. Speaker, I offer a substitute for the resolution just offered by the gentleman from Louisiana (Mr. LONG), but before offering that substitute, I request that there be a division of the question on the resolution so that we may have a separate vote on the Office of the Chaplain.

The SPEAKER. The question is on agreeing to the portion of the resolution providing for the election of the Chaplain.

That portion of the resolution was agreed to.

SUBSTITUTE AMENDMENT OFFERED BY MR. KEMP

Mr. KEMP. Mr. Speaker, I offer a substitute amendment for the remainder of the resolution.

The Clerk read the substitute amendment, as follows:

Resolved, That Hyde H. Murray of the State of Maryland, be, and he is hereby, chosen Clerk of the House of Representatives;

That Walter P. Kennedy, of the State of New Jersey, be, and he is hereby, chosen Sergeant at Arms of the House of Representatives;

That Tommy Lee Winebrenner, of the State of Indiana, be, and he is hereby, chosen Doorkeeper of the House of Representatives;

That Ronald W. Lasch, of the State of New Jersey, be, and he is hereby, chosen Postmaster of the House of Representatives.

The SPEAKER. The question is on the substitute amendment offered by the gentleman from New York (Mr. KEMP).

The substitute amendment was rejected.

The SPEAKER. The question is on the resolution offered by the gentleman from Louisiana (Mr. LONG).

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER. Will the officers elected present themselves in the well of the House.

The officers-elect presented themselves at the bar of the House and took the oath of office.

The SPEAKER. Congratulations.

NOTIFICATION TO SENATE OF ORGANIZATION OF THE HOUSE

Mr. WRIGHT. Mr. Speaker, I offer a privileged resolution (H. Res. 2) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 2

Resolved, That the Senate be informed that a quorum of the House of Representatives has assembled; that THOMAS P. O'NEILL, JR., a Representative from the Commonwealth of Massachusetts, has been elected Speaker; and Benjamin J. Guthrie, a citizen of the Commonwealth of Virginia, has been elected Clerk of the House of Representatives of the Ninety-eighth Congress.

The resolution was agreed to.

A motion to reconsider was laid on the table.

COMMITTEE TO NOTIFY THE PRESIDENT OF THE UNITED STATES OF THE ASSEMBLY OF THE CONGRESS

Mr. WRIGHT. Mr. Speaker, I offer a privileged resolution (H. Res. 3) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 3

Resolved, That a committee of three Members be appointed by the Speaker on the part of the House of Representatives to join with a committee on the part of the Senate to notify the President of the United States that a quorum of each House has been assembled, and that Congress is ready to receive any communication that he may be pleased to make.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER. The Chair appoints as members of the committee on the part of the House to join the committee on the part of the Senate to notify the President of the United States that a quorum of each House has been assembled, and that Congress is ready to receive any communication that he may be pleased to make, the gentleman from Texas (Mr. WRIGHT), the gentleman from Illinois (Mr. MICHEL), and the gentleman from Washington (Mr. FOLEY).

AUTHORIZING THE CLERK TO INFORM THE PRESIDENT OF THE UNITED STATES OF THE ELECTION OF THE SPEAKER AND THE CLERK OF THE HOUSE OF REPRESENTATIVES

Mr. WHITTEN. Mr. Speaker, I offer a privileged resolution (H. Res. 4) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 4

Resolved, That the Clerk be instructed to inform the President of the United States that the House of Representatives has elected THOMAS P. O'NEILL, JR., a Representative from the Commonwealth of Massachusetts, Speaker; and Benjamin J. Guthrie, a citizen of the Commonwealth of Virginia, Clerk of the House of Representatives of the Ninety-eighth Congress.

The resolution was agreed to.

A motion to reconsider was laid on the table.

RULES OF THE HOUSE

Mr. WRIGHT. Mr. Speaker, I offer a privileged resolution (H. Res. 5) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 5

Resolved, That the Rules of the House of Representatives of the Ninety-seventh Congress, including all applicable provisions of law and concurrent resolutions adopted pursuant thereto which constituted the Rules of the House at the end of the Ninety-seventh Congress, be, and they are hereby, adopted as the Rules of the House of Representatives of the Ninety-eighth Congress, with the following amendments included therein as part thereof, to wit:

(1) In rule I, clause 5(b)(1) is amended to read as follows:

"(b)(1) On any legislative day whenever a recorded vote is ordered or the yeas and nays are ordered, or a vote is objected to under clause 4 of rule XV on any of the following questions, the Speaker may, in his discretion, postpone further proceedings on each such question to a designated time or place in the legislative schedule on that legislative day, in the case of the question of agreeing to the Speaker's approval of the Journal, or within two legislative days, in the case of the other questions listed herein:

"(A) the question of passing bills;

"(B) the question of adopting resolutions;

"(C) the question of ordering the previous question on privileged resolutions reported from the Committee on Rules;

"(D) the question of agreeing to conference reports; and

"(E) the question of agreeing to motions to suspend the Rules.".

(2) In rule III, insert after clause 5 the following new clause:

"6. He shall supervise the staff and manage any office of a Member who is deceased, has resigned, or been expelled until a successor is elected and shall perform similar duties in the event that a vacancy is declared by the House in any congressional district because of the incapacity of the Member representing such district or other reason. Whenever the Clerk is acting as a supervisory authority over such staff, he shall have authority to terminate employees; and he may appoint, with the approval of the Committee on House Administration, such staff as is required to operate the office until a successor is elected. He shall maintain on the House payroll and supervise in the same manner staff appointed pursuant to section 800 of Public Law 91-655 (2 U.S.C. 31b-5) for sixty days following the death of a former Speaker.".

(3) In rule X, clause 6, insert after paragraph (a) the following new paragraph (b) and redesignate the succeeding paragraphs (b), (c), (d), (e), (f), and (g) as (c), (d), (e), (f), (h), and (i) respectively:

"(b) Membership on standing committees during the course of a Congress shall be contingent on continuing membership in the party caucus or conference that nominated Members for election to such committees. Should a Member cease to be a member of a particular party caucus or conference, said Member shall automatically cease to be a member of a standing committee to which he was elected on the basis of nomination by that caucus or conference. The chairman of the relevant party caucus or conference shall notify the Speaker whenever a Member ceases to be a member of a party caucus or conference and the Speaker shall notify the chairman of each standing committee on which said Member serves, that accord with this rule, the Member's election to such committee is automatically vacated.".

In rule X, clause 6(e) as so redesignated, insert before the period at the end thereof the following: "from nominations, submitted by the respective party caucus or conference".

In rule X, clause 6, insert after paragraph (f) as so redesigned the following new paragraph:

"(g) Membership on select and joint committees during the course of a Congress shall be contingent on continuing membership in the party caucus or conference the Member was a member of at the time of his appointment to a select or joint committee. Should a Member cease to be a member of that caucus or conference, said Member shall automatically cease to be a member of any select or joint committee to which he is assigned. The chairman of the relevant party caucus or conference shall notify the Speaker whenever a Member ceases to be a member of a party caucus or conference and the Speaker shall notify the chairman of each select or joint committee on which said Member serves, that in accord with this rule, the Member's appointment to such committee is automatically vacated.".

(4) In rule XI, clause 2(g)(2), insert before the period at the end thereof the following: "except that the Committee on Appropriations, the Committee on Armed Services, and the Permanent Select Committee on Intelligence and the subcommittees therein may, by the same procedure, vote to close up to five additional consecutive days of hearings".

(5) In rule XXI, clause 2 is amended to read as follows:

"2. (a) No appropriation shall be reported in any general appropriation bill or shall be in order as an amendment thereto, for any expenditure not previously authorized by law, except to continue appropriations for public works and objects which are already in progress.

"(b) No provision changing existing law shall be reported in any general appropriation bill except germane provisions which retrench expenditures by the reduction of amounts of money covered by the bill, which may include those recommended to the Committee on Appropriations by direction of any legislative committee having jurisdiction over the subject matter thereof.

"(c) No amendment to a general appropriation bill shall be in order if changing existing law. Except as provided in pargraph (d), no amendment shall be in order during consideration of a general appropriation bill proposing a limitation not specifically contained or authorized in existing law for the period of the limitation.

"(d) After a general appropriation bill has been read for amendment and amendments not precluded by paragraphs (a) or (c) of this clause have been considered, motions that the Committee of the Whole rise and report the bill to the House with such amendments as may have been adopted shall have precedence over motions to further amend the bill. If any such motion is rejected, amendments proposing limitations not specifically contained or authorized in existing law for the period of the limitation or proposing germane amendments which retrench expenditures by reduction of amounts of money covered by the bill may be considered; but after the vote on any such amendment, the privileged motion made in order under this paragraph may be renewed.".

(6) In rule XXI, clause 5, insert "(a)" after "5." and insert at the end thereof the following new paragraph:

"(b) No bill or joint resolution carrying a tax or tariff measure shall be reported by any committee not having jurisdiction to report tax and tariff measures, nor shall an amendment in the House or proposed by the Senate carrying a tax or tariff measure be in order during the consideration of a bill or joint resolution reported by a committee not having that jurisdiction. A question of order on a tax or tariff measure in any such bill, joint resolution, or amendment thereto may be raised at any time.".

(7) In rule XXII, clause 5 is amended to read as follows:

"5. All resolutions of inquiry addressed to the heads of executive departments shall be reported to the House within fourteen legislative days after presentation.".

(8) In rule XXIII, clause 1, insert "(a)" after "1." and insert at the end thereof the following new paragraph:

"(b) After the House has adopted a special order of business resolution reported by the Committee on Rules providing for the consideration of a measure in the Committee of the Whole House on the State of the Union, the Speaker may at any time within his discretion, when no question is pending before the House, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of that measure without intervening motion, unless the resolution in question provides otherwise.".

(9) In rule XXIV, clause 1, insert after the word "Journal" the phrase ", unless postponed pursuant to the provisions of clause 5(b)(1) of rule I".

Mr. WRIGHT (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. FOLEY). Is there objection to the request of the gentleman from Texas?

Mr. MICHEL. Mr. Speaker, reserving the right to object, and I will not object other than to inquire of the dis-

tinguished majority leader if it is his plan to discuss the proposed changes in the rules from the preceding Congress in some detail, and if by practice that amount of discussion time will be limited to the usual hour with a half hour for the minority, in which case I certainly would want to rise in opposition to some of the rules changes and in opposition to the previous question on adoption of those rules.

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Texas.

Mr. WRIGHT. The answer to the gentleman's question is yes; it would be my expectation briefly to describe each of the proposed rules changes under the 1-hour limitation after first having yielded for purposes of debate to the gentleman from Illinois (Mr. MICHEL) 30 minutes of that hour.

Mr. MICHEL. Mr. Speaker, I thank the gentleman and withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas (Mr. WRIGHT) is recognized for 1 hour.

Mr. WRIGHT. Mr. Speaker, I yield for purposes of debate only 30 minutes to the gentleman from Illinois, the distinguished minority leader, Mr. MICHEL, and pending that I yield myself such time as I may consume.

Mr. Speaker, the proposed changes in the rules which are brought to you at the direction of the Democratic Caucus are nine in number. Eight of the nine are relatively inconsequential insofar as any major change is concerned. One of those nine is somewhat more consequential.

I should announce at the outset for the benefit of any of those who are unfamiliar with the fact that a 10th change was considered by the Democratic Caucus but on this morning, due to the somewhat controversial nature of the proposed change and the controversy that attended the proposal, the caucus authorized the Democratic leadership to omit that 10th proposal from the package of changes which we bring to the House today. That 10th proposal which was omitted was the one which would have required that two-thirds of the Members should have the requisite signatures on a discharge petition in order to discharge a constitutional amendment from the committee of jurisdiction.

Mr. Speaker, let me just very briefly enumerate the changes that would be made from the existing rules and then I shall yield to the gentleman from Illinois (Mr. MICHEL) for such debate as he might wish to direct to any or all of them.

□ 1340

The first change that we propose would simply enable the Speaker to postpone a rollcall vote on approving the Journal to a later time on the same legislative day.

The purpose of this, obviously, would be to facilitate the beginning of legislative business without undue delay.

The second proposed change would direct the Clerk of the House to manage the office of a Member when that office becomes vacant due to death, resignation, expulsion, or other declaration of a vacancy by the House, or to appoint and terminate staff to operate the office until his successor is elected.

It also directs the Clerk to continue the staff functions in the event of the death of a former Speaker for 60 days.

The third change we propose merely clarifies the fact which exists today in practice that membership on a committee of the House is contingent on membership in a party caucus or the party conference. In other words, so long as a Member seeks or expects to hold one of those positions reserved for a Democratic majority, that Member should fully expect to be a member in good standing of the Democratic Caucus; so long as a Member expects to hold a seat reserved for the Republican minority, then that Member should indeed expect to be a member in good standing of the Republican conference.

A fourth change would apply only to the Committees on Appropriations, Armed Services, and the Permanent Select Committee on Intelligence.

Present House rules allow all committees, when voting in open session with a quorum present, to close a hearing for purposes of security on that particular day and on 1 additional day only. This fourth proposed change in the rules would extend that time for the Committees on Appropriations and Armed Services and the Permanent Select Committee on Intelligence and their subcommittees to 5 additional days, for a total of not to exceed 6 days, when voting with a quorum present in open session.

Now, we propose a fifth change to the rules, which I expect will attract some debate and some serious consideration. This applies to amendments offered to general appropriations bills.

Very briefly, what we would propose is simply this: that before any amendment in the nature of a limitation to an appropriation bill, other than those provisions reported by the Appropriations Committee, might be considered under the 5-minute rule, the committee first would continue from the beginning to the end of the reading of the bill and the offering of all amendments which relate to sums of money, either to raise or to lower or to add or to delete sums of money to be appropriated, that being primarily the fundamental business of an appropriations bill.

□ 1350

Under the proposed rule, after all such amendments have been considered, those relating to dollar amounts, it would be in order for the manager of the bill to move that the committee do now rise and report the bill back to the whole House with such amendments already adopted.

Now, the manager of the bill is not mandated to do so. If in his or her judgment it seems likely that Members of the House will want to consider legislative language in the nature of limitations, then it would be perfectly discretionary on his or her part to not offer the preferential motion in order to permit the continuance of the debate and the offering of amendments of that type; however, it it appeared likely to the manager of the bill or to such other Member as might be appropriately recognized that the Members did not wish interminably to be harassed or further bothered by the necessity for voting on legislative language coming under the guise of a limitation, then he or she might move that the committee do now rise and report. This would allow the majority of the Members of both sides of the aisle voting to determine whether or not they desired to consider any further limitation amendments to the appropriations bill. If they voted down the motion that the committee should now rise and report the bill back to the whole House, amendments might be offered. After the offering and voting upon of each such amendment, it would be in order again at the option of the manager of the bill or another Member to offer the motion that the committee do now rise and report. Once again, the manager of the bill would be under no obligation to offer any such motion, but might do so as a means of concluding action upon the bill and saving Members from the time-consuming consideration of repetitious amendments.

Now, that is what it does. I suspect that it will be debated at some considerable length and so I will not belabor it further at this point.

Mr. CONABLE. Mr. Speaker, will the gentleman yield on that particular point?

Mr. WRIGHT. Yes, indeed; I do yield to my friend, the gentleman from New York.

Mr. CONABLE. As I understand it then, we are not eliminating the longstanding rule which permits limitations on appropriations bills, but are simply setting up a procedure whereby they can be terminated if they do not originate in the committee.

Now, there is no reason why this has not given, therefore, substantial power

to the committee to control what limitations are put in appropriations bills, irrespective of authorization. In other words, that power is now likely in all probability to be concentrated almost entirely in the Appropriations Committee itself, is it not?

Mr. WRIGHT. Only if a majority of the Members present and voting at the time decide that they want it to be. The gentleman is quite right in declaring that the Appropriations Committee is not inhibited by this rule from doing what it has been able to do in the past and that is to include in the bill at its option limitations of this kind.

Mr. CONABLE. But in the view of the majority leader, does not this substantially then disenfranchise the Members of the House——

Mr. WRIGHT. No; not at all.

Mr. CONABLE. In relation to the powers which are concentrated now in all probability and in all practical effect totally in the Appropriations Committee?

Mr. WRIGHT. No. It does not concentrate them in the Appropriations Committee any more than they now are concentrated and it does not disenfranchise Members of the House except if Members of the House want to drag a majority through an exercise which the majority does not want to be dragged through. Only in those circumstances would it act in the way to disenfranchise a Member.

If the gentleman will permit me, I would like to continue the other rules changes very briefly, because I think most Members will find them relatively noncontroversial.

The sixth change that we propose in the rules would allow a new point of order to be raised at any time against a provision in any bill or Senate amendment which contains a tax or tariff measure, unless that measure was reported by the Committee on Ways and Means, the committee which has proper jurisdiction over those matters.

The seventh proposed rules change would extend from the present period of 7 days to a period of 14 days the time in which a committee would be required to report a proper resolution of inquiry once that resolution had been referred to the committee. It simply gives the committee an additional 7 days.

The eighth proposed change would give to the Speaker the discretionary authority to declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of a particular piece of legislation without a specific vote in the House so to do, but under only limited circumstances. This discretionary power on the part of the Speaker would apply only after the House had adopted a rule under which such a matter would be properly brought under consideration of the Committee of the Whole. It would simply obviate the need at each juncture for the Whole House to vote, which now is largely a perfunctory matter in any event, to resolve itself into the Committee of the Whole House.

Then finally, the ninth and last proposed change would be simply a conforming amendment to accompany the first of the rules changes which I enumerated relating to the postponement of a rollcall vote on approval of the Journal. The proposal would amend the order of business stated in rule XXIV to incorporate the Speaker's power of postponement to a later time in the legislative day.

So there you have it. These are the nine proposed changes which the majority party caucus recommends to the House for incorporation in the rules for the 98th Congress. Aside from these rather modest changes and the one change of some consequence relating to appropriations bills, we would recommend that the rules of the 97th Congress shall be verbatim to the rules of the 98th Congress.

Mr. WYLIE. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. Yes, of course, I yield to my friend, the gentleman from Ohio.

Mr. WYLIE. This is a matter of some consequence, the rider on appropriation bill. So that I may understand it, we now have a rule which permits an amendment which would, simply stated, say that none of the funds appropriated herein may be used for such and such a purpose. As I understand the change which is being proposed here, for example, if say the Appropriations Committee recommended $10,000, just for an example, for the CIA, an amendment could not be offered which would say that none of the funds appropriated herein can be used for the CIA; but an amendment could be offered which would say that the amount appropriated hereunder can be reduced or shall be reduced from $10,000 to say $10.

□ 1400

Mr. WRIGHT. The gentleman is correct. Or an amendment would be in order simply to strike out the total appropriation. That amendment would be in order because an amendment reducing, raising, substituting, or introducing a new authorized appropriation would be in order as a dollar amount amendment.

Mr. WYLIE. If the gentleman will yield further, I think that is important, Mr. Speaker, to have that explanation with reference to a dollar amount amendment. In other words, what if the amendment offered said, "None of the funds appropriated herein may be used for this same purpose" then, as I understand it, at that point the committee would rise?

Mr. WRIGHT. Well, no, that would be a limitation. If legislative language is employed so as to limit the purposes for which moneys appropriated might be used, so long as those purposes were duly authorized and lawful purposes, then I think that would be regarded as a limitation upon an appropriations bill.

There is nothing, however, in this rule which would prohibit the gentleman from Ohio, let us say, or any other Member, from simply striking the whole amount that is appropriated for the CIA or for any other agency listed in that particular appropriations bill.

Mr. WYLIE. So, the limiting amendment would apply only if the subject is mentioned. Mr. Speaker, I thank the gentleman for that explanation.

Mr. DANNEMEYER. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. I, of course, yield to the gentleman from California.

Mr. DANNEMEYER. I thank my colleague from Texas for yielding.

Mr. Speaker, the question I would like to ask is: Does the majority party contemplate that in order to present an amendment to an appropriations bill during the 98th Congress in the regular proceeding on the bill, that in order to lay the foundation for doing that, the Committee on Rules, as a part of the rule, for instance, would grant a waiver to this proposed specific change in our rules which requires in effect the presentation of an amendment only at the end of the reading of the bill so that the matter could be deflected by the Committee rising?

Mr. WRIGHT. There is nothing in this rule, if adopted, as I trust and expect that it will be, which would prohibit the Committee on Rules——

Mr. DANNEMEYER. And the majority party?

Mr. WRIGHT. Which would prohibit the Committee on Rules from adopting or from offering to the House, or prohibit the House from adopting a rule which, for example, would enumerate a certain amendment which expressly would be made in order at a given point in the consideration of the bill.

This is done with some frequency by the Committee on Rules and, therefore, occasions, as I am sure the gentleman is fully aware, amendments which otherwise under the rules would not be germane or would not be in order or expressly made in order by the rule which is presented to the House and adopted by the House.

Mr. DANNEMEYER. Then, if I may ask the gentleman to yield further, if this rule is adopted we are in the position in the House where the majority party then could, by controlling the

Committee on Rules, put out a rule that could waive this provision to make in order some amendment to an appropriation bill desired by the majority but since we in the minority do not have the votes to modify a rule from the Committee on Rules, the minority would be precluded from making that kind of request, would it not?

Mr. WRIGHT. There would be nothing, there would be no change that I could discern from the present situation or the situation that has existed from time immemorial. When you have the votes, obviously you have a better chance to get your proposition favorably considered. I mean, this is axiomatic.

Now, that is the case presently. If the gentleman has the votes in the Committee on Rules to make in order a certain proposition, then he can do so, and if he does not, he would have to try to do so on the House floor. There would be nothing to prohibit the gentleman from offering an amendment to the rule on the House if, first, he were successful in defeating the previous question on the rule. That does not change, and nothing changes except the presumption that Members must, perforce, be required to vote on and to hear debate upon every limitation which might be dreamed up in the fertile mind of any Member, and offered, the change which we propose to still allow that Member to scheme up whatever limitation he might desire and under the 5-minute rule to move to strike the last word, thus gaining 5 minutes in which to describe what he proposes to do and thus appealing, under that description, to his colleagues to vote down any motion that the Committee should now rise until such time as his preferred amendment might have been considered.

I suspect that that will occur. I think Members on both sides will do that. I would say to the gentleman that there really is not anything partisan about this. I made a study of the number of so-called limitation riders offered by minority and majority Members over the years, and I should think that one party is just about as culpable as the other.

During the 1960's, for example, from 1963 up until 1968 in the administration of Mr. Johnson, 80 percent of the legislative riders were offered by Members of the minority party. However, from 1969 until 1976, during the administration of Presidents Nixon and Ford, 60 percent were offered by Members of the majority party. Then they have varied from the years since that time.

Mr. DANNEMEYER. Would my colleague yield further?

The SPEAKER pro tempore. The Chair interrupts to advise the gentleman from Texas that he has consumed 22 minutes.

Mr. WRIGHT. In that case, Mr. Speaker, with thanks for that timely reminder, I want to withold the balance of my time until after the minority has consumed such time as it may desire.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, first may I congratulate the majority on their proposed rules changes, at least the deletion of the one proposed rule requiring two-thirds of the membership to sign a discharge petition for a constitutional amendment. That is at least some progress, and I think that the kind of opposition that the minority has raised over the last several weeks is responsible for your withdrawing that rules change.

Mr. Speaker, I want to read to you the first rule adopted by the First Congress of the United States, M1789.

It said:

> The Speaker shall take the chair on every legislative day precisely at the hour to which the House shall have adjourned at the last sitting and immediately call the members to order. *On the appearance of a quorum*, the Speaker, having examined the Journal of the proceedings . . . shall announce to the House his approval.

Since the adoption of that rule in 1789, until just a few years ago, this House started its legislative day with a quorum present, with the membership on the floor as a body of legislators ready to do business or to do battle.

All of this has changed. Today, we not only do not call the Members to the floor to do what they were sent here to do, we actually discourage them from being here.

Instead, Members are encouraged to stay away, to turn their attention elsewhere while, you, Mr. Speaker, conduct the business of this institution, performing those tasks that were once the hallmark of the legislative process and the responsibility of all of the Members.

This exercise in expediency is being disguised as administrative or managerial reform. It is not that. The rules changes before us, from the approval of the Journal to the riders on appropriations are all aimed at relieving the Members, on both sides of the aisle, of their basic responsibilities as legislators, so that you will have to endure less dissent, less debate, less deliberation, and less legislating.

Mr. Speaker, you are converting this body of Represenatives into robots, in a glass-covered dome, who come only when they are called, speak only when they are told, and cast their votes only when it is unavoidable.

It is more than tradition we are discarding. It is the fabric, character, and personality of an institution that for almost 200 years has stood as a symbol of freedom, open deliberation, and true representative democracy worldwide.

This was once the House of the body politic. It is becoming a House of political bodies who have no purpose other than the service of the master.

The public does not understand the symbolic and practical importance of approving the Journal, no more so than they understand why the messenger from the Senate has to tramp down the center aisle to deliver a message from the other body in this day of modern communication. They probably do not fully comprehend the serious and profound ramifications of prohibiting riders on appropriations. But we do. We know what it means to us, to this institution, and to this Nation.

The new Members among us will soon learn what it all means, when a piece of legislation important to them is enacted without their hearing a word of debate or having the opportunity to debate. They will know when the one chance they have to oversee the spending of public funds or redirect or limit an appropriation is denied to them. They will know when they go back home and try to explain why a U.S. Representative can do nothing about the flow of events in a body that is supposed to represent everyone.

This further concentration of power in the hands of the few is a travesty, and I doubt that it will stop here.

It will continue until all of our rights, all of our responsibilities, all of our prerogatives are gone, wiped away by the hand of authoritarian government.

Unless, of course, the majority in this House works its will here and now. We will find out now what the history, the tradition, the purpose and the politics of this institution mean to the Members. I hope we live up to the dreams and aspirations of our Founding Fathers and all those who served so courageously in this body. I hope we do not disappoint them. But I fear that with what you have started here, we will.

I will include at this point the proposed language of our substitute and a summary of the proposals as well as other pertinent material:

H. RES. 5—AN AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MICHEL

Strike all after the resolving clause and insert in lieu thereof the following:

"That the Rules of the House of Representatives of the Ninety-seventh Congress, including all applicable provisions of law and concurrent resolutions adopted pursuant thereto which constituted the Rules of the House at the end of the Ninety-seventh Congress, be, and they are hereby, adopted as the Rules of the House of Representatives of the Ninety-eighth Congress, with the following amendments included therein as part thereof, to wit:

(1) In Rule I, clause 9(b)(1) is amended to read as follows:

"(b)(1) He shall devise and implement a system subject to his direction and control for complete and unedited audio and visual broadcasting and recording of the proceedings of the House of Representatives. Such broadcasting and recording of the proceedings shall include the audio and visual coverage of the Chamber of the House while Members are voting together with such visual presentation of the running vote tally as the Speaker may deem most appropriate and informative. He shall provide for the distribution of such broadcasts and recordings thereof to news media and the storage of audio and video recordings of the proceedings.".

(2) In rule III, insert after clause 5 the following new clause:

"6. He shall supervise the staff and manage any office of a Member who is deceased, has resigned, or been expelled until a successor is elected and shall perform similar duties in the event that a vacancy is declared by the House in any congressional district because of the incapacity of the Member representing such district or other reason. Whenever the Clerk is acting as a supervisory authority over such staff, he shall have authority to terminate employees; and he may appoint, with the approval of the Committee on House Administration, such staff as is required to operate the office until a successor is elected. He shall maintain on the House payroll and supervise in the same manner staff appointed pursuant to section 800 of Public Law 91-655 (2 U.S.C. 31b-5) for sixty days following the death of a former Speaker.".

(3)(a) In Rule X, clause 2(c) is amended to read as follows:

"(c)(1) Not later than March 1 in the first session of a Congress each standing committee of the House shall, in a meeting which is open to the public and with a quorum present, adopt and submit to the Committee on Government Operations its oversight plans for that Congress. In developing such plans each committee shall, to the maximum extent feasible—

"(A) consult with other committees of the House which have jurisdiction over the same or related laws, programs, or agencies within its jurisdiction with the objective of assuring that such laws, programs, or agencies are reviewed in the same Congress and that there is maximum coordination and cooperation between such committees in the conduct of such reviews; and such plans shall incude an explanation of what steps have been and will be taken to assure such coordination and cooperation;

"(B) give priority consideration to including in its plans the review of those laws, programs, or agencies operating under permanent budget authority or permanent statutory authority; and

"(C) have a view toward insuring that all significant laws, programs, or agencies within its jurisdiction are subject to review at least once every ten years.

"(2) Not later than March 15 in the first session of a Congress, after consultation with the Speaker, the majority leader, and the minority leader, the Committee on Government Operations shall report to the House the oversight plans submitted by each committee together with any recommendations which it, or the House leadership group referred to above, may make to assure the most effective coordination of such plans and otherwise achieve the objectives of this clause.".

(b) In Rule X, clause 2 is amended by adding the following new paragraph:

"(e) The Speaker, with the approval of the House, may appoint special ad hoc oversight committees for the purpose of reviewing specific matters with the jurisdiction of two or more standing committees of the House and from the membership of such committees.".

(c) In Rule XI, clause 1(d) is amended to read as follows:

"(d)(1) Each committee shall submit to the House, not later than January 2 of each odd-numbered year, a report on the activities of that committee under this rule and Rule X during the Congress ending at noon on January 3 of such year.

"(2) Such report shall include separate sections summarizing the legislative and oversight activities of that committee during that Congress.

"(3) The oversight section of such report shall include a summary of the oversight plans submitted by that committee pursuant to clause 2(c) of Rule X, a summary of the actions taken and recommendations made with respect to each such plan, and a summary of any additional oversight activities undertaken by that committee, and any recommendations made or actions taken thereon.".

(4) In Rule X, clause 5(c) is amended to read as follows:

"(c) In carrying out paragraphs (a) and (b) with respect to any matter, the Speaker shall initially refer the matter to one committee which he shall designate as the committee of principal jurisdiction; but he may also refer the matter to one or more additional committees, for consideration in sequence (subject to appropriate time limitations), either on its initial referral or after the matter has been reported by the committee of principal jurisdiction; or refer portions of the matter to one or more additional committees (reflecting different subjects and jurisdictions) for the exclusive consideration of such portion or portions; or refer the matter to a special or ad hoc committee appointed by the Speaker, with the approval of the House, from the members of the committees having legislative jurisdiction, for the specific purpose of considering that matter and reporting to the House thereon; or make such other provision as may be considered appropriate.".

(5)(a) In Rule X, clause 6(a)(1) is amended to read as follows:

"(a)(1) The standing committees specified in clause 1 shall be elected by the House at the commencement of each Congress, from nominations submitted by the respective party caucuses, not later than five legislative days after the convening of such Congress.".

(b) In Rule XI, clause 1(a) is amended by adding the following new subparagraph:

"(3) Each committee shall hold its organizational meeting not later than eight legislative days after the commencement of a Congress.".

(6)(a) In Rule X, clause 6(a) is amended by adding the following new subparagraph:

"(3) The membership of each committee (and of each subcommittee, task force or subunit thereof), shall reflect the ratio of majority to minority party members of the House at the beginning of the Congress. This subparagraph shall not apply to the Committee on Standards of Official Conduct, which shall be constituted as provided for in subparagraph (2).".

(b) In Rule X, clause 6(e) is amended by adding at the end thereof the following:

"The membership of each such select committee (and of each subcommittee, task force, or subunit thereof), and of each conference committee, shall reflect the ratio of majority to minority party Members of the House at the time of its appointment.".

(7) In Rule X, clause 6(c) is amended to read as follows:

"(c)(1) Each standing committee of the House of Representatives (except the Committee on the Budget) that has more than twenty members, shall establish at least four subcommittees; but in no event shall any standing committee (except the Committee on Appropriations) establish more than six subcommittees.

"(2) No Member may serve at any one time as a member of more than four subcommittees of committees of the House of Representatives.

"(3) For the purposes of this paragraph the term 'subcommittee' includes any panel, task force, special subcommittee, or any subunit of a standing committee which is established for a period of longer than six months.".

(8) In Rule XI, clause 2(f) is amended to read as follows:

"(f) No vote by any member of any committee or subcommittee with respect to any measure or matter may be cast by proxy.".

(9) In Rule XI, clause 2(g)(2), insert before the period at the end thereof the following: "except that the Committee on Appropriations, the Committee on Armed Services, and the Permanent Select Committee on Intelligence and the subcommittees therein may, by the same procedure, vote to close up to five additional consecutive days of hearings.".

(10) In Rule XI, clause 2(h)(2) is amended to read as follows:

"(2) A majority of the members of each committee or subcommittee shall constitute a quorum for the transaction of any business, including the markup of legislation.".

(11) In Rule XI, clause 5 is amended by inserting the following new paragraph (a) and redesignating existing paragraphs accordingly:

"(a)(1) It shall not be in order in the House to consider any primary expense resolution until the Committee on House Administration has reported and the House has adopted a resolution establishing an overall ceiling for committee staff personnel for that year.

"(2) In developing any primary expense resolution for House committees, the Committee on House Administration shall specify in the resolution the number of staff positions authorized by the resolution. The committee shall indicate in the report on any such primary expense resolution that the number of staff positions authorized by such resolution is in conformity with the overall ceiling on such positions established by the House.

"(3) In no event shall the total number of additional staff positions authorized by all such primary expense resolutions, taken together with the number of staff positions authorized by clause 6 of this rule (providing for professional and clerical staff), exceed the ceiling established by the House for that year.

"(4) In allocating staff positions pursuant to the overall ceiling established by the House, the committee shall take into account the past and anticipated legislative and oversight activities of each committee, and the extent to which the allocation of majority to minority staff positions reflects

the ratio of majority to minority party members in the House."

"(5) In any supplement expense resolution, the committee shall specify the number of additional staff positions, if any, authorized by such resolution, and shall indicate in the report on any such resolution whether the additional staff positions are in conformity with or exceed the overall ceiling established by the House.

"(6) It shall not be in order in the House to consider any supplemental expense resolution authorizing additional staff positions in excess of the overall ceiling established by the House except by a vote of two-thirds of the Members voting, a quorum being present.".

(12) In Rule XXI, clause 5, insert "(a)" after "5." and insert at the end thereof the following new paragraph:

"(b) No bill or joint resolution carrying a tax or tariff measure shall be reported by any committee not having jurisdiction to report tax and tariff measures, nor shall an amendment in the House or proposed by the Senate carrying a tax or tariff measure be in order during the consideration of a bill or joint resolution reported by a committee not having that jurisdiction. A question of order on a tax or tariff measure in any such bill, joint resolution, or amendment thereto may be raised at any time.".

(13) In Rule XXII, clause 5 is amended to read as follows:

"5. All resolutions of inquiry addressed to the heads of executive departments shall be reported to the House within fourteen legislative days after presentation.".

BRIEF SUMMARY OF THE REPUBLICAN SUBSTITUTE FOR H. RES. 5

(Assuming the constitutional amendment discharge rule has already been dropped from the resolution)

The Republican substitute would delete the following four rules changes proposed by the Democratic Caucus:

(1) Permitting postponement of the vote on the Journal;

(2) Permitting removal of member from committee when no longer a member of the caucus or conference, without House action;

(3) Requiring rejection of motion to rise to permit limitation amendments to be offered to appropriations bills;

(4) Permitting Speaker to declare House is in Committee of Whole on a bill without House action.

The Republican substitute would retain the following four rules changes proposed by the Democratic Caucus:

(1) Permitting Clerk to supervise offices of Members deceased, retired, or expelled;

(2) Permitting extended days of closed hearings for Committees on Appropriations, Armed Services, and Intelligence;

(3) Prohibiting consideration of tax and tariff bills reported from non-tax committees;

(4) Permitting committees 7 additional days for committees to consider resolutions of inquiry.

In addition the Republican substitute would add the following nine amendments to the rules:

(1) Require TV coverage of House Chamber while Members are voting;

(2) Require committee approval of oversight plans, appointment of ad hoc oversight committees, and reference in final oversight reports to original plans;

(3) Abolish joint referral of bills, while retaining sequential and split referrals to committees;

(4) Require early election and organization of committees in a new Congress;

(5) Require party ratios on committees to reflect that of House (with Committee on Standards of Official Conduct, now bipartisan, only exception);

(6) Limit all committees, except Appropriations, to no more than six subcommittees, and all Members to no more than four subcommittee assignments;

(7) Ban all proxy voting in committees;

(8) Require majority quorums in committees for transacting all business;

(9) Require House to adopt overall committee staff ceiling each year before considering funding resolutions for individual committees.

OFFICE OF THE REPUBLICAN LEADER,
U.S. HOUSE OF REPRESENTATIVES,
Washington, D.C., December 16, 1982.

DEAR REPUBLICAN COLLEAGUE: This morning the House Republican Conference adopted a resolution concerning the proposed changes in rules proposed by the Democratic Caucus.

In addition, I informed the Conference that the Leadership is exploring the formation of a task force to deal with the rules changes, develop a strategy for combatting them and producing alternative proposals for presentation next month.

I am enclosing a copy of the resolution we adopted today, along with a summary of the Democratic Caucus rules amendments and those amendments we would like to see embodied in a Republican alternative package.

We intend to make a fight of the rules changes between now and the time they are on the Floor of the House. This is not a matter of internal conflict, but an issue that has far-reaching implications, not the least of which is the public's access to the legislation process and their ability to influence it through their elected representatives.

I urge you to call attention to the rules issue when you are home over the holidays and be prepared to wage an all out effort to defeat the Democratic leadership proposals in January.

Sincerely,

ROBERT H. MICHEL,
Republican Leader.

REPUBLICAN CONFERENCE RESOLUTION ON PROPOSED RULES CHANGES IN THE HOUSE OF REPRESENTATIVES, DECEMBER 16, 1982

Whereas, the Rules of the House of Representatives are intended to provide the framework for open and free debate in the House and the mechanism for a truly democratic lawmaking process; and

Whereas, those rules are intended to protect the rights of duly elected representatives to affect the legislative process and mold national policy; and

Whereas, the Democratic Caucus has proposed restrictive, undemocratic and repressive rules changes for the 98th Congress which encroach upon the rights of the individual Members to work their will in the House of Representatives; and

Whereas, the proposed rules threaten the ability of the Members to exercise oversight of the expenditure of public funds through the appropriation process, deny a majority of the membership the opportunity to debate and vote on proposed amendments to the Constitution, and repudiate the constitutional requirement that Members be present during House proceedings for the conduct of public business; and

Whereas, the proposed rules further concentrate power in the hands of the Speaker and a select few in the House to the extent that legislative decisions can be made arbitrarily and autocratically by a select few; Therefore be it

Resolved, That the House Republican Conference does hereby oppose the amendments to the House Rules as proposed by the Democratic Caucus and considers them a form of political expediency at the expense of our democratic system; and be it further

Resolved, That the House Republican Conference pledges itself to an unending struggle in the House and the country to uphold the rights of individual Members to fully debate and vote on limiting spending through appropriations amendments, and to fully debate and vote on constitutional issues facing the nation, and to retain the two-centuries-old tradition of ensuring that a quorum is present when the business of the House is conducted; and be it further

Resolved, That the House Republican Conference does hereby call upon the full House to reject the rules changes and enact reforms that will address the seriously debilitating procedures and structural deficiencies in the House which have done so much damage to the efficient and effective operation of our national legislature.

BRIEF SUMMARY OF SUGGESTED REPUBLICAN AMENDMENTS TO HOUSE RULES—98TH CONGRESS

(1) Multiple Referral of Legislation—The joint referral of bills would be abolished in favor of designating a principal committee of jurisdiction for each bill introduced, but the Speaker would retain discretionary authority for sequential and split referral of bills.

(2) Subcommittee Limits—Rule X, clause 6(c) would be amended to limit each committee (except Appropriations) to no more than six subcommittees, and to limit Members to no more than four subcommittee assignments in the House.

(3) Staff Ceiling—Rule XI, clause 5 would be amended by inserting a new paragraph (a) to prohibit the consideration of any primary expense resolution for a committee until the House had adopted a resolution to be reported from the House Administration Committee establishing an overall committee staff ceiling for that year. Primary expense resolutions would include an allocation for staff consistent with the overall ceiling established, and the total number of statutory and investigative staff shall not exceed the overall ceiling. The House Administration Committee would take into account a committee's past and anticipated legislative and oversight activities in allocating investigative staff positions to each committee. Any supplemental expense resolutions must indicate whether additional staff positions are being authorized, and, if such positions exceed the overall ceiling established, a two-thirds vote of the House would be required to consider any such resolution.

(4) House Broadcasting—Rule I, clause 9(b)(1) would be amended to clarify the intent of the present broadcast rule that the "complete and unedited" broadcast coverage of House proceedings be provided to the media by requiring that the audio and visual coverage of the House Chamber be presented while Members are voting, including a visual presentation of the running vote tally.

(5) Party Ratios on Committees—Rule X, clause 6(a) would be amended to require that the party ratios on committees reflect

that of the House except for the Committee on Standards of Official Conduct (bipartisan) and Rules (two-thirds majority).

(6) Committee Elections and Organizations—Rule X, clause 6(a)(1) would be amended to require that the House elect its committees not later than five legislative days after the convening of a Congress. And Rule XI, clause 1(a) would be amended to require committees to hold their organizational meetings not later than eight legislative days after the convening of the Congress.

(7) Proxy Voting Ban—Rule XI, clause 2(f) would be amended to abolish all proxy voting on committees and subcommittees.

(8) Majority Quorum—Rule XI, clause 2(h)(2) would be amended require a majority quorum on committees and subcommittees for the transaction of any business (presently a one-third quorum may transact any business except for the reporting of a measure which requires a majority present).

(9) Oversight—Rule X, clause 2(c) would be amended to require committees to formally adopt and submit to the Government Operations Committee by March 1 of the first session their oversight plans for that session, giving priority consideration to reviewing those laws, programs or agencies operating under permanent budget or statutory authority, and with a view to reviewing all significant laws, programs or agencies within their jurisdiction at least once every ten years. The Government Operations Committee, after consultation with the Speaker and majority and minority leaders, would report these plans to the House not later than March 15 together with any recommendations for coordination. The Speaker would be authorized to appoint ad hoc oversight committees to review matters within the jurisdiction of two or more committees. And, Rule XI, clause 1(d) would be amended to insure that each committee's final activity report at the end of a Congress include a separate section on its oversight accomplishments with reference to its original oversight plans.

SUMMARY OF DEMOCRATIC CAUCUS HOUSE RULES CHANGE PROPOSALS: 98TH CONGRESS

(1) Appropriations Riders Restrictions—Clause 2, Rule XXI would be amended to prevent the offering of limitation amendments on the Floor unless already authorized by law for the period covered by the bill or if the House votes down a motion that the Committee rise after other amendments have been disposed of. Limitation amendments could still be reported by the Appropriations Committee. The amendment also confines "retrenchment" amendments (e.g., those reducing salaries and personnel) to reductions in amounts of money covered by a bill, and to those recommended by the Appropriations Committee, thus precluding authorizing committees from offering retrenchment amendments on the Floor.

(2) Resolutions of Inquiry—Clause 5, Rule XXII would be amended to permit committees 14 legislative days to report back to the House after referral of such a resolution requesting information from the heads of executive departments. The current rule permits only 7 legislative days for reporting back to the House, after which a motion to discharge committee is in order.

(3) Closed Hearings—Clause 2(g)(2)(B), Rule XI, would be amended to permit the Committees on Appropriations, Armed Services and the Select Committee on Intelligence to vote in open session to close hearings for up to seven consecutive days. Current House Rules permit all committees to vote to close hearings for two consecutive days.

(4) Resolving into the Committee of the Whole House—Clause 1, Rule XXIII would be amended to permit the Speaker to declare that the House is resolved into the Committee of the Whole House on the State of the Union at any time after the House had adopted a resolution from the Rules Committee providing for the consideration of a measure. Under present rules, the motion is subject to a vote by the House.

(5) Approval of the Journal—Clause 5(b)(1), Rule I would be amended to permit the Speaker to postpone a vote on the approval of the Journal until later in the same legislative day. Under present rules, approval of the journal is the second order of business in a legislative day and a vote may be demanded immediately.

(6) Committee Membership—Clause 6, Rule X would be amended to make removal from committee membership automatic once a Member ceases to be a member of his party caucus or conference. Members would still be elected to committees by vote of the House on nominations from the party caucuses. Under the interpretation of present rules, it would take a vote of the House to remove a Member from a committee.

(7) Tax Legislation—Clause 5, Rule XXI would be amended to prohibit non-tax committees from reporting any measure containing tax or tariff matters and the House from considering any amendment in the House or proposed by the Senate on a bill reported by a committee not having jurisdiction over tax matters.

(8) Constitutional Amendments—Clause 4, Rule XXVII would be amended to require that a discharge motion for an amendment to the Constitution, or a resolution referred to the Commmittee on Rules providing for the consideration of a constitutional amendment, must contain the signatures of two-thirds of the membership of the House in order to be called up in the House.

SURVEY

The attached survey of past appropriations limitation riders is by no means complete, but it is intended to provide a good sample of the diverse types of issues that have been brought to the House Floor by limitation riders over the past few years. If the Speaker succeeds in destroying this Floor procedure, the ability to bring these subjects and many others up for general debate and voting by the Members will be lost.

The riders on the attached list were drawn from a variety of sources. All the entries show the date of Floor action, and, where possible, the author of the rider has been included to indicate that many of them were sponsored by members of the majority party. Whether the rider passed or failed is irrelevant to our point that without the rider procedure, these issues would probably never have reached the Floor for debate.

A SURVEY OF APPROPRIATIONS LIMITATION RIDERS

The following limitation riders sought to prohibit the use of funds:

Vietnam war

To implement any plan to invade North Vietnam (3/16/67).

For the maintenance of more than 525,000 troops in Vietnam or for an invasion of North Vietnam (6/11/68).

To support combat activities in or over Cambodia or Laos (6/29/73; Flynt (D-Ga.)).

By the Department of Defense to finance combat activities in Cambodia (5/10/73; Long (D-Md.)).

Foreign affairs

From being used to supply military assistance, including military sales and credits, to Turkey until the President certified to Congress that "substantial progress toward agreement has been made regarding military forces in Cyprus." (9/24/74; Rosenthal (D-NY)—duPont (R-Del.)).

By the Central Intelligence Agency to undermine or destabilize the governments of foreign countries (9/24/74; Holtzman (D-NY)).

For financing direct aid to Mozambique or Angola (8/3/78).

For indirect aid to Chile, Argentina, Uruguay, Korea, Nicaragua, Indonesia, and the Philippines (8/3/78).

By the Commerce Department to promote or conduct trade relations with Cuba (6/14/79).

By the International Development Association to finance any assistance or reparations to the Socialist Republic of Vietnam (7/18/79).

For assistance to any government that grants sanctuary to any persons who have committed, or are being sought by any other government for prosecution for, a war crime (9/5/79).

For assassination plots against foreign officials and activities designed to influence foreign elections or political activities during peacetime (3/4/76; J. Burton (D-Ca.)).

For foreign aid to nations that were delinquent for more than one year in repaying principal or interest on debts owed the United States (3/4/76; Alexander (D-Ark.)).

Military

By the Coast Guard to reduce civilian employment below the fiscal 1981 level (9/10/81; Garry Studds (D-Mass.)).

For closure of any military installations designated in the amendment (10/2/75; Green (D-Pa.)).

To prohibit production of enhanced radiation weapons (6/16/78).

Civil rights

By the Civil War Centennial Commission for spending on activities held in facilities in which individuals are segregated or discriminated against because of race, religion or color (4/18/61).

For construction of hospitals having separate facilities on the basis of race, creed, or color (3/27/62).

Environment

For commercial flights of the supersonic transport jets to land at U.S. airports until the aircraft could meet federal noise standards (6/28/76; Yates (D-Ill.)).

For obtaining or issuing a license to operate the waste isolation pilot plant, Delaware Basin, southeast New Mexico, or for storage or radioactive waste at the plant not resulting from national defense activities of the Department of Energy (6/16/78).

For the Clinch River Breeder Reactor except funds for termination costs (12/14/82; Coughlin (R-NY)).

For the Bureau of Reclamation's O'Neill Irrigation Unit in Nebraska (12/14/82; Bonior (D-Mich.)).

For the Garrison Diversion water project in North Dakota (12/14/82; Conte (D-Mass.)).

Jobs and Buy America

For procurement of tactical support, or tracked or nontracked vehicles not manufactured in the United Sates, or its possessions, except for test and evaluation purposes (8/8/78).

For international institutions making loans establishing or expanding production of sugar, palm oil or citrus crops if the United States was a producer of the same or similar commodities (6/23/77; Moore (R-La.)).

For international institutions to establish or expand the production for export of steel, grains, sugar, palm oil, citrus crops, tobacco, or tires (8/14/78).

For a requirement that at least 10 percent of the workers on a public works project funded under the bill must reside in the area in which the project was located (8/25/76; Wright (D-Tx.)).

Oversight and deregulation

For CETA to pay prisoners for work performed prior to the presumptive release date of such prisoner (6/27/79).

By the Federal Buildings Fund to enter into, renew or extend any lease where the lessor has failed to fulfill the requirements of a contract involving funds derived from the Slum Clearance and Urban Renewal Program (7/16/79).

For collection of underpayment of any IRS-imposed tax unless the IRS employees comply with certain provisions of the Fair Debt Collection Practice Act (7/13/79).

By the Occupational Safety and Health Administration to issue penalties for first violations of federal safety and health rules by firms employing 25 or fewer persons (6/25/74; Findley (R-Ill.)).

For fines against farmers who employed five or fewer employees for violation of Occupational Safety and Health Administration regulations, unless the violations were willful, repeated or serious (6/24/176; Ford (D-Mich.)).

For first instance citations for OSHA violations against businesses that employed 10 or fewer persons (6/24/76; Findley (R-Ill.)).

By the Labor Department to aid illegal aliens (6/27/79).

Abortion and busing and other social issues

By HEW to issue regulations or withhold funds from school districts in order to force them to integrate physical education classes, fraternities and youth service organizations by sex (4/16/75; Casey (D-Tx.)).

For federal employee health insurance policies that provide abortions (5/13/81; Ashbrook (R-Oh.)).

For federal funding of abortions except where the life of the mother would be in danger if the fetus is carried to term (8/9/78).

By the Justice Department to bring action to require the busing of students, except those requiring special education resulting from physical or mental handicaps (7/21/79).

For the formulation or carrying out of any rule or policy which would cause the loss of tax-exempt status to private, religious or church-oriented schools unless in effect prior to August 22, 1978 (7/13/79).

□ 1410

It will be my intention at the conclusion of the debate, Mr. Speaker, to offer a motion to vote down the previous question. Assuming that will fail, then we will offer a motion to commit the legislation, to strike the rider on appropriation bills, and hope that our package of substitute rules will prevail on final passage.

Mr. Speaker, I yield 3 minutes to the gentleman from Mississippi (Mr. LOTT).

Mr. LOTT. Mr. Speaker, shortly after last November's election results were in, several prominent Democrats were quoted as saying, "We now have a working majority; we now have policy control in the House."

Well, you sure would not know it by looking at this package of House rules proposals out of the Democratic Caucus. Instead they seem to be the paranoidal palpitations of an imperiled party.

Not only do these rules changes trample on the rights of the minority in the House, but they betray a cynical disregard for majority rule as well. They seem to be saying, "The House cannot be trusted to govern itself or the country." Instead, let us surrender to the paternalism of King Caucus and Czar Speaker.

The proponents of these changes seem to be saying: "Save us from ourselves; save us from having to vote on the issues; make our decisions for us."

Mr. Speaker, this is not the people's democracy at work; it is political cultism and wimpism at their worst.

I would ask my colleagues on the Democratic side of the aisle: What is it that you are afraid of? If you have this new policy control in the House, why are you afraid to confront policy issues head-on? Why all this hiding behind these new no-votes, no-quorums, no-amendments rules?

I guess we should be thankful that this new profile in cowardice has led to the dumping of the new discharge rule for constitutional amendments that would have prevented a House majority from bringing such matters to the floor. At least we can claim some victory on this side for raising the public consciousness enough to force that change.

But that still leaves us with a poor excuse for congressional reform. Four of the eight remaining rules changes would virtually, first, eliminate the constitutionally required quorum for doing business in the House, second, deprive the House of a vote on taking up a bill, third, strip the House of a vote on removing Members from committees, and fourth, severely restrict if not eliminate the right of Members to offer limitation amendments on appropriations bills.

Let us take a look at that last one because it goes to the heart and soul of the power of the Congress—the power of the purse. James Madison, writing in Federalist Number 58 put it this way:

> This power over the purse may, in fact, be regarded as the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people for obtaining a redress of every grievance, and for carrying into effect every just and salutary measure.

And yet, this new restriction on appropriations amendments would severely undermine the congressional power over the purse. And ironically this rule is being proposed by many of the same people who not too many years ago were inveighing against the imperial presidency and for a resurgent Congress. Now they want to lessen control of the Congress over the executive branch by denying us the right to offer limitation amendments to appropriations bills.

I would caution my colleagues that if you adopt this change you will be cutting the purse strings you now have on the executive branch and will once again be tying yourselves to its apron strings.

Whatever happened to my friends on the other side of the aisle who were once genuinely interested and concerned about making this institution work, rather than simply finding new ways to duck the issues? Why does not your rules package address some of the real problems we have around here, first, the problems of jumbled committee jurisdictions and joint bill referral; second, the problems of too many subcommittees and too much staff; the problems of low quality and unrepresentative legislation due to committee, and fourth, proxy voting, miniquorums, and skewered party ratios?

We have a positive and constructive rules package on this side to address these problems if the previous question is voted down. I would urge my colleagues to turn back the cowardly caucus package and for the Republican alternative that is designed to make this a more responsible, workable and accountable Congress.

Mr. MICHEL. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. KEMP).

Mr. KEMP. Mr. Speaker, I rise in the hope that this body will vote down the previous question. I thank the gentleman from Illinois and also my friend from Mississippi for their very articulate discussion of how important the rules are to this body.

Mr. Speaker, Representative O'NEILL in assuming the speakership of this body said that the Founding Fathers considered the House of Representatives to be the first—the very, very first—body of Government. Here was the place in which the people every 2 years could register their concerns by voting for or against the Members of the House of Representatives as the First Branch of Government. The gentleman from Mississippi clearly put us on record as recognizing that, going back to the Founding Fathers, to the Federalist Papers, to the Constitution of the United States, the

power of the purse made this branch of Government the First Branch of Government.

It is the power of the purse as articulated by James Madison in Federalist Paper No. 58 that gives the people's representatives the ability to shape legislation according to their demands. Indeed, it goes back not just to the Constitutional Convention, it goes to the Magna Carta. In our democratic tradition it was the Magna Carta that separated the king from the legislative body and gave the people control over the purse strings through their elected representatives.

APPROPRIATIONS AS LAW

In the years I have served in this House, we have been increasingly hamstrung in attempts to pass legislation of substantive law, the so-called authorizing legislation. In its place we have come to rely on the passage of appropriations bills, often themselves only in the form of continuing resolutions, to set the law of the land as well as to provide for public expenditure.

But now, at the beginning of the 98th Congress, the Democratic Party Caucus rules recommends that we give up the greatest constitutional power of the House of Representatives, the power of the purse; they recommend that the people's representatives give up a major portion of our power to restrict the manner in which the resources entrusted to us are used.

Before you pass judgment on these restrictions, whether you are liberal or conservative, reflect on a few of the measures which this House has passed by means of restricting appropriations:

Specific limitations on the Vietnam War.

The invasion of North Vietnam;

Limitation of foreign aid to hostile nations;

Prohibition of the promotion of trade with Cuba;

Enforcement of civil rights legislation;

Restrictions of abortions financed with Federal funds;

Restrictions on forced busing of school children;

Prohibition of rules or policies effecting the tax status of private schools;

Requirements that local labor be used on federally funded public works projects.

These may be small examples to some, and they may be large to others, but this body has had an opportunity to shape legislation by the use of the people's purse strings. As the gentleman from Mississippi so eloquently pointed out, it would be a horrible mistake. It is not just partisan. It is giving up the constitutional responsibility, something that the Founding Fathers fought for, if we should subject this body to a rule that is so inimical to the future of our constitutional responsibilities.

These examples cross all party and ideological lines. They provide the very best examples of the demand of the people that the public purse be used in a manner reflecting the public will.

This is not a partisan view, yet it is being used partisan. The distinguished majority leader has long advocated the use of such restrictions and has defended them as a fundamental right of the Congress. Indeed, he has availed himself of their use. Consider his words:

> Surely the right of the Congress to enact a specific limitation on the use of tax monies for any such purpose is a right long established . . . a right without which Congress could not perform its duty to the American taxpayer . . . a right indespensible to the legislative branch in carrying out its constitutional responsibility.

The majority leader is eloquent in his defense of the rights of the people's branch. I agree with him. I only wonder how his caucus, ably led by him and the distinguished Speaker, could suggest to the House that we bind our hands in the use of such fundamental rights. How is it that the majority side, which can have any bill or any amendment offered virtually at its will can feel threatened by the exercise by Members of a fundamental right of the legislative branch?

CONSIDERATION OF AUTHORIZING LEGISLATION

Perhaps the Speaker and the majority leader are frustrated, as many are, with the inability of the House to move authorizing legislation through the committees to the floor for consideration by all Members. I join them in this frustration as I know my distinguished chairman, the gentleman from Mississippi, does.

Many times on this floor and in the Appropriations Committee we have heard the chairman decry the use of his bills as a means of enacting authorizations. He has made incisive and valuable points, many times gaining my complete agreement.

But, I remind my colleagues that there are remedies for this frustration which do not restrict the rights and privileges of the people's Representatives. If we are unable to move legislation in an orderly manner, the answer lies elsewhere than in the restriction of our constitutional responsibilities.

In the rules changes proposed by the minority, we have recommended that the committee system be tightened to assure that there is a single committee responsible for each piece of legislation which is offered in this House. Further, we have recommended that the number of subcommittees with responsibility for legislation be reduced and that the staff be restricted to a manageable size, that is, to a size at which the Members control the staff.

Reforms of this type will establish clear lines of accountability for legislation. They complement the open committee rules which have provided additional public scrutiny of our deliberations. Their adoption will prevent us from continuing a system which has rapidly evolved from one of secret action to one of total inaction. If legislation is stalled, there will be a single committee which bears the responsibility.

I do not suggest that these reforms will eliminate the practice of limiting restrictive riders on appropriations bills or that they should eliminate that practice. I suggest, rather, that the legitimate concerns of Members over the practice of legislating on appropriations bills are better handled by improving the legislative process than by tampering with constitutional prerogatives.

CONSTITUTIONAL QUORUM

Mr. Speaker, the Democratic Caucus brings before us two further rules changes which I believe constitute a fundamental attack on the Constitution. These rules, one restricting votes on the previous day's Journal and one allowing the Speaker, rather than the Members, to determine when to resolve into the Committee of the Whole, would allow the House of Representatives to conduct the vast majority of its business without the presence of a quorum.

In our Constitution, article I, section 5, clause 1 clearly states that "A majority of each House shall constitute a quorum to do business." Under the proposed rules, the Speaker, the Members and, most importantly, the people, would have no notion of the presence or absence of a quorum. Indeed, there would be no assurance of the presence in Washington of more Members than might be present on the floor at a given moment.

While seeming to facilitate the orderly conduct of business, these new rules would virtually eliminate the ability of a Member to assure that the constitutional mandate is followed. We do not serve the Nation by setting rules so as to thwart the Constitution and deceive the electorate.

COMMITTEE ASSIGNMENTS

The Democratic Caucus, in its proposed changes, would further remove constitutional powers from the House by establishing the party caucus as arbitor of committee assignments. It would alter the status of Members based solely on the actions of not only their caucus, but, in some cases, on the actions of the caucus chairman. The rule would stipulate that a Member's committee assignment is null and void at any time when the caucus chairman notifies the Speaker that the Member has ceased to be a member of that caucus.

This rule, Mr. Speaker, would remove power not just from the House, but from the electorate of the Member in question. Stripped of com-

mittee assignments, the Member effectively would be removed from the daily operation of the Congress; he would be unable to represent his district in a viable manner. I suggest that placing such power outside the full consideration of the House jeopardizes the very substance of representative democracy.

CONCLUSION

Before we vote today on these rules, I again ask each of you to reflect on your action, on its meaning for the coming session and, more importantly, for the preservation of representative democracy.

We should take no action which restricts the open and orderly debate of public issues. Equally, we should never cast a vote which restricts the access of an honorable and constructive minority of our peers to debate on this floor.

I urge you to vote down these changes.

□ 1420

Mr. MICHEL. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. FIEDLER).

Ms. FIEDLER. Mr. Speaker, in a debate heard on this floor in July of 1970, one of our most distinguished colleagues made a number of statements, and I would like to share them with the House at this time. It was a discussion about issues related to amendments, and it is as follows:

Often the most important parts of a bill and usually the most controversial sections are decided on in amendment form and there is no record of how Members vote. This is not a good system. It is not fair, and it subverts the integrity and reputation of the House and its Members. There should be no one among us who is not willing to go on record on the vital issues of the day.

Votes on final passage, on previous questions, and on recommittal are only part of the record. The whole truth means that we must have a record on amendment votes. I believe it is fair, it is necessary, and it is in keeping with democratic principles of representative government. In this day and age I believe the people are entitled to know how we vote on legislation, not just on the entire bill but on the all-important amendments.

Mr. Chairman, let me say this to you: That the trivial things of today are the important things of tomorrow.

That was quoting the Honorable TIP O'NEILL.

It seems to me that we have come a long way to have reached the point where the majority party which enjoys a substantial majority, is unwilling to permit those of us who are the Representatives elected by the people of this country to engage in a debate and also vote on important issues. It seems to me that what we are doing in this process is providing the Appropriations Committee by majority to act in abstentia for the majority of the Members of the House of Representatives. I believe that is inappropriate.

Mr. Speaker, if I might again quote the Speaker, today he said, "The American people want action, not partisan bickering," give us an opportunity to take action on the important issues we will face in the next 2 years.

Mr. MICHEL. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. COUGHLIN).

Mr. COUGHLIN. Mr. Speaker, let us be very clear on what we are doing here today.

The proposed rule changes that we are talking about are not just aimed at the minority in this House, they are targeted very directly at permitting a select few to thwart the will of the majority of this great body.

I hope my colleagues will think carefully about that because these rules will be with us at least for 2 years. I particularly address myself to our new colleagues on both sides of the aisle who believe that they are coming here to vote on the great issues they talked about during their election campaigns, only to find they will be foreclosed from doing so by these very rules.

Authorizing legislation on sensitive issues often does not come to the floor in timely fashion. The only opportunity we had last year, for example, to vote on the Clinch River breeder reactor was through a limiting amendment on an appropriations bill, and regardless of one's position on the issue, the House deserved to have a vote on that. That kind of vote to be able to limit the use of funds would be made much more difficult under these rules.

Over the sweep of history, major issues—funds for the Vietnam war, the antiballistic missile system, supersonic transport, abortion, segregation, and civil rights—issues that cut in different directions have all been handled through appropriation riders. It has always been the prerogative of this body to limit the way we spend our money—to limit the use of funds we appropriate.

It is a question of the quality of our institution. In the years of the seventies many of us fought successfully to open up the legislative process. Now we are going to erode those gains of those years and go back to having major legislative decisions made behind closed doors in smoke-filled rooms by a handful of people.

Mr. Speaker, if we have pride in our institution, if we have pride in the historic function of this House as a deliberative body, if we have pride in our own ability to face major issues, we must not permit this retreat into ignominy. I hope that my colleagues will vote down the previous question.

Mr. MICHEL. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. DANNEMEYER).

Mr. DANNEMEYER. Mr. Speaker, we have, by one historian's count, 55 democratically elected representative bodies in the Western World. In every single one of these democratically elected representative bodies except one committee slots are apportioned consistent with the division of parties in the whole House. The one exception is the House of Representatives.

I happen to believe that this disparity should not exist. It is unfair, in my humble opinion. It denies equal protection of the law to members of the minority, and I believe it to be unconstitutional.

The issue came up, for instance, in the 96th Congress when Republicans, the minority members, were shorted 15 slots on major committees and 58 slots on subcommittees. In the 97th Congress we Republicans, the minority members, were shorted 30 slots on major committees and 37 slots on subcommittees. The proposed division of slots in the 98th Congress, beginning today, so far indicates that we members of the minority will be shorted 12 slots. The subcommittees have not yet been organized.

Just to give some idea to the Members of what this meant during the 97th Congress, we members of the minority were shorted four on the Appropriations Committee, two on the Budget Committee, three on the Rules Committee, and six on the Ways and Means Committee.

Mr. Speaker, we know that it is on the Ways and Means Committee that the tax policy of the country is fixed, and it is regrettable that we were not able to have our proper allocation on that very important committee.

It has often been said, perhaps more as a matter of political rhetoric than of practical necessity, that the first two or three votes a Member casts during a Congress are the most important. Today, rhetoric notwithstanding, that adage has more than the usual meaning. For today we are not only selecting the person who will lead this body but we are considering a package of proposals that will drastically change the process of deliberation within this body. Or perhaps I should say curtail the process of deliberation.

Mr. Speaker, the Constitution, the Federalist Papers, and numerous other works have given intellectual life to the idea that the House of Representatives is that body which exists to reflect the will of the majority while the role of the other body is to defend the rights of the minority. However, it has been a long time since the rights of the minority in the House have been completely ignored and, even more importantly, the idea that a majority within the House on a given issue or issues can be denied its rights if their view does not happen to coincide with the views of the leadership, or of certain committee or subcommittee chairman has never received much acceptance. Indeed, if I recall my history correctly, the House has fought several

major battles over the extent to which control will be exercised—Speaker Reed was not called Czar for nothing—and ultimately it was decided the majority did have rights and, to a certain extent, so too did the minority within the House. However, if we adopt the rules changes being proposed today those rights will be seriously eroded.

Perhaps the greatest irony of all this is that many of those supporting these rules changes have benefited from the very procedures that these proposed rules seek to change. The new rules on riders would have made it difficult, had they been in effect earlier, to restrict funding for various aspects of the Vietnam war, for federally funded abortions, and for a variety of other things various Members of both parties have been concerned about. Does the majority party want to deny the right to limit offshore drilling off our northwest coast if that is what a majority of this House, if not the committee of jurisdiction, would prefer? Does the majority party want to remove the option of eliminating funding for military aid to El Salvador in the event a continuation of that funding is approved in committee? Does the majority want to stop efforts on the floor to restrict funding for Corps of Engineers projects or projects like the Clinch River breeder reactor even though most of its own Members would just as soon terminate these projects. Yes or no. If yes, then let me suggest that the Members of that party may come to rue the day such changes were approved regardless of whatever short-term considerations may exist at present. If no, then I would suggest that Members of the majority party join with Members of the minority party to adopt some rules changes that will not only protect the rights of individual Members but will bring greater fairness to House proceedings.

Other Members are going to be discussing the procedural aspects of these proposals in some detail, so let me focus on the fairness aspect. Fairness, as well as the constitutional principle of "one man-one vote", clearly suggests that committes of the House—all the committees—be organized on the same basis as the House itself. That is to say, their membership should have the same ratio of Democrats to Republicans as exists in the House as a whole. However, that is not the case today and, what is more disturbing, in the last two Congresses—three of the minority rules package is not adopted today—the trend has been away from, rather than in the direction of, that objective. The result has been that bills that might have been reported had a truly proportional ratio of majority to minority members existed on the committee in question have not been reported. Conversely, there have been instances when bills have been defeated in committee that might not have been had a proper ratio existed. The Ways and Means Committee in the past Congress is an excellent example; no less than eight committee votes would likely have been different had a truly proportional system of party representation on the committee existed.

This inequity does not stop with the membership on committees either. Unfortunately, it is even more pronounced at the staff level, further exaggerating the advantage of the majority party and further distorting the eventual work product of the committees themselves. In the 96th Congress, for instance, the minority party had just over 36 percent of the seats in the entire House but only 15 percent on average of the investigative staff slots on the committees. This is hardly fair. For instance, how can the minority on an Oversight and Investigations Subcommittee do the job expected when they only have one-eighth or one-ninth of the resources of the majority. Or how can the minority members on a full committee be as fully prepared as majority members when they have 20 percent or less of the staff slots. Is it any wonder then that delaying tactics in committee sometimes have to be resorted to.

The minority rules package before this body today would address both of these problems by simply providing that the membership and staffs of committees be based on the same ratio of majority to minority members that exists in the House of Representatives itself. If the other body can operate on such a basis, and every other parliamentary democracy in the Western World can operate on that basis, then so can this body. I urge my colleagues to adopt the minority rules proposals so that fair committee ratios can become a fact of life.

Mr. MICHEL. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana (Mr. BREAUX).

Mr. BREAUX. Mr. Speaker, I take this opportunity to make some comments on what I think to be a bad recommendation on the part of our Democratic Caucus to the full House.

What this rule really will mean is that if you would like to eliminate funds for busing on one hand or if you would like to eliminate any funds for the B-1 bomber, or if you would like to eliminate any funds for the MX missile, or if you would have liked to eliminate any funds for our involvement in the Vietnam war, or if you would have liked to eliminate any funds for the CIA's subversive activities, for instance, in Latin America, you would just about be precluded from doing so under this new rule.

Those who argue in favor of the rule say, "Well, we need to eliminate all these frivolous amendments."

I had the Library of Congress do some research, and I found that last year there were offered only 21 amendments that were limitation amendments on appropriations bills. That is throughout 1982. It happened only 21 times. Last year we voted 859 times, and only 21 times were those votes on limitations on appropriation riders.

What we are doing today by this recommendation is to create a situation whereby we will be protected from voting on issues that are not comfortable to vote on. But, after all, that is why we were sent here. How are we going to be able to justify to our people back home by saying, "I didn't vote your way because I didn't have the chance to offer an amendment because we changed our rules.

I fought this rule in our Democratic Caucus. It was a fair fight. I made my points, and I lost the argument in the Democratic Caucus. I believe in the majority rule, and I think the rules that were established in the caucus were fair and I accept that verdict. But what I will be trying to do is to do whatever I can to try to get my Democratic Caucus to see the error of their ways in recommending this rule and get that rule changed.

But I do accept the ruling of the Democratic Caucus. I think it is a mistake, and I think we do great violence to the system by adopting this rule. However, I do support the rules, knowing full well that I will have my opportunities to make my arguments in the caucus.

Mr. MICHEL. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. LUNGREN).

□ 1430

Mr. LUNGREN. Mr. Speaker, the problem with what is going on today is that it very much is going to be voted, most probably, on partisan lines. There will be the claims that this is merely a partisan issue, Democrats versus Republicans, that the Democrats have made their decision in their caucus and so be it.

But, Mr. Speaker, that makes today very much a bittersweet day. "Bittersweet," as defined in the dictionary, is pleasant but including or marked by elements of suffering or regret.

This is a joyous occasion because most of us have been sworn in, many of us for the first time, with our families present. It is not the day that we want to do battle but, nonetheless, this is the only day that we have.

The fact of the matter is that what we are doing by adopting these rules is allowing a procedural bottleneck to be imposed before we can even debate, much less vote on some of the most important substantial issues that have confronted us in the past.

Let us just bring it out on the table and talk about one of those issues, usually embodied in something called

the Hyde amendment. The Hyde amendment has been adopted so overwhelmingly in this House recently that we barely even debate its details. We vote it through. But under this rule we may not even have the opportunity to debate or vote on the question.

Why? Because we will have a procedural vote. The same arguments being used against majority Members today will be used against majority Members when those votes take place. They will be told: "Vote with the leadership. It is a procedural vote. It is not a substantive vote. If you cannot vote with the leadership, then you are not being a regular member of the party."

You can do it on the rule and then you are going to do it as we bring up issues on the environment, as we bring up issues of busing, as we bring up issues on voluntary prayer, as we bring up votes on abortion.

If we accept this rules change, we are not serving our constitutents well. We cannot hide very long by going home and saying, "I am sorry, that vote never came up. I did not vote on it. I voted on a question of whether we should rise as a committee. It is a procedural matter. If I explained it to you, you would not understand it anyway, so just understand that I did not get the opportunity."

We are doing a disservice to our constitutents. I can understand how many individuals would not want to deal with those issues because they are so controversial. But we have been elected by the people to face these issues and if we fail to do that we fail our constitutional requirements.

Mr. MICHEL. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin (Mr. ROTH).

Mr. ROTH. I thank the gentleman from Illinois for yielding me this time.

I would like to associate myself with the remarks of the previous speakers who I think made some very cogent and well-reasoned arguments.

On this, the first day of the 98th Congress, we should approve rules that will allow opportunity to offer amendments. It would be a sad omen if we were to start the 98th Congress by swallowing hook, line, and sinker the dictates of the Democratic Caucus. We must allow the Members of this House, in all fairness, to have alternative viewpoints, at least, considered.

The old aphorism that we are all familiar with is that, "a dictatorship is more efficient than a democracy, but who wants to live under a dictatorship." That is as I see these rule changes. Not that this House will turn into a dictatorship, but rather, that under the guise of efficiency the new rules will hamstring the minority. No one would openly advocate gag rules for this body, but basically that is what we are doing with the changes in these rules.

Since the early seventies, Congress has dealt with the most important, the most controversial parts of a bill, by the amending process. These changes would make it nearly impossible for the House, acting as the Committee of the Whole, to take these important initiatives. Action by amendment was successful in restricting funding of pork barrel projects, escalating and experimental defense expenditures, precluding excursions into countries counter to our foreign policy, and protecting the rights of those concerned for social legislation.

Certainly, the work of Congress is largely done in committee, but certain issues, important yet controversial, require the fresh air and sunlight assured by debate in the Committee of the Whole. To rescind this rule, this right for the peoples' voice, our constituents' concerns to be heard, can only be viewed as an attempt to seize excessive control, to gag Members, by an elite few of the majority party leadership.

Defeating these proposed rule changes is the goal of both liberals and conservatives, Democrats and Republicans. They should be defeated in the interest of fairness, orderly conduct of House business, and serving the constituencies that elected the newly sworn Members of the 98th Congress, House of Representatives.

Mr. MICHEL. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. PASHAYAN).

Mr. PASHAYAN. Mr. Speaker, in a parliamentary sense there is only one minority in this House and that is the minority belonged to by members of my party. This minority has its rights, rights that go back not only as my leader and our whip has referred to earlier in this debate, in the history of this country, but far back into the parliamentary history of England, the parliamentary history that formed the foundation for our Constitution.

Mr. Speaker, the office you hold is an office that was created in the 14th century. Throughout, in the long time from then until now, the Speaker and the office of the Speaker has developed into the role internally of representing the whole institution.

The rights of the minority have always been one of the leading rights in the history of any parliamentary institution in Western democracy. The Speaker is as much the guardian of the whole House and of all of the Members as he is in any other single role that he plays.

I listened carefully to the words of the Speaker today when he described this body as being the greatest legislative body in the greatest democracy in the history of the world. There can be no great democracy without a free parliamentary institution and there cannot be a free parliamentary institution without free debate and action within that body.

Yet the majority party in this House would bind the Members on this side of the aisle, would lock us in an iron mask of silence.

I ask all Members to consider the tradition of freedom that has long endured, first in the Parliament and then in this House, formed on the basis of the parliamentary foundation, and to reject this rule of closure, so untraditional and unconstitutional in our long and august history.

Mr. MICHEL. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. WYLIE).

Mr. WYLIE. Mr. Speaker, I oppose the previous question. The rules changes are plainly designed to reduce the role of the minority.

That this was the intent was clearly evidenced by the suggested change in the rule which would have required 290 signatures on a discharge petition. Now that proposed change has been dropped. But it was so plainly, blatantly political as to be outrageous.

The suggested rule change entitled "appropriation riders restriction" is really a very mischievous amendment. The present rule is a tool for the minority which has been used effectively to thwart the intransigence of committee chairmen and allow Members to debate such volatile issues of national concern as school prayer, abortion, school busing, the Concorde SST, and aid to Cuba. As the very courageous gentleman from Louisiana (Mr. BREAUX) mentioned, for this reason we should vote against this change in the rules.

An amendment can be offered, as I read the rule, which would reduce the amount or delete it, but if a specific subject is not mentioned in the appropriation bill there is nothing the minority can do to get at that subject even though money might be spent for an otherwise objectionable purpose.

So, Mr. Speaker, I think, as Mr. MICHEL has suggested, this is not a good rule. We should vote down the previous question and change it.

Mr. MICHEL. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DREIER).

Mr. DREIER. Mr. Speaker, I rise in opposition to the rule change proposed by the House Democratic Caucus. These changes fly in the face of representative government and, if adopted by this body, will fundamentally—and irrevocably—change our legislative process.

The Democratic Caucus' rules threaten the public's access to the lawmaking process; they threaten the public's ability to influence that process through their elected Representatives; and they threaten the ability of individual Members of this body to

affect the legislative process and mold national policy.

By prohibiting riders on appropriations bills, we lose one effective instrument in controlling, or at least curbing, the wasteful spending habits of this body. The people of this Nation must know how and why we vote to spend their hard-earned tax dollars. To cloud our votes in secrecy is to deny to our constituents the representation guaranteed by the Constitution. We must not allow this to happen.

Second, the proposed procedural rules regarding the adoption of the Journal and on resolving into a Committee of the Whole will unquestionably reduce the time we spend in this Chamber. In our absence, it will be all but impossible to prevent bad legislation from slipping onto the floor without either legislative or public scrutiny.

Together these changes add up to the one thing: A reduction in the legislative restraint and scrutiny that the Constitution and our constituents demand. I urge my colleagues to reject the proposed rule.

Mr. MICHEL. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Speaker, I find it ironic that a party which calls itself "Democratic" would propose rules changes so obviously designed to stifle debate and limit open discussion in our Nation's greatest legislative body, the House of Representatives.

And I find it equally disturbing that the press, which is usually so vigilant in safeguarding the public's right to know and its own access to the deliberations of this body, has not blown the whistle on the leadership. Perhaps it was the numbing effect of the final week's debate at the end of the lame-duck session, or perhaps it was simply overlooked in the clutter of moving from one session of Congress to another.

However, as those final days made abundantly clear, there is nothing so basic to the operations of this body than the rules of the House, and the opportunity those rules present for influencing the outcome of our deliberations is clear.

Equally clear, at least to me, is that the changes being proposed by the Democratic leadership have only one purpose—to run roughshod over the rights of individual Members of this body, on both sides of the aisle, whenever they disagree with the views of the leadership. In so doing, they also trample the intentions of the Founding Fathers and the Constitution itself into the dust.

Article I, section 5 of the Constitution specifically provides that Congress must have a quorum present to conduct business. Postponement of votes on the Journal and eliminating votes on consideration of bills, as proposed in these rules, would allow the leadership to conduct legislative business and debate bills without the constitutionally required majority quorum. The result will be "phantom" legislating, and denial of representation to people who have elected us to be here when laws are made.

The American Revolution was fought over the issue of taxation without representation, and delegates to the Constitutional Convention considered this such an important issue that it was put into the very first article of the Constitution. Yet these proposed rules casually dispense with this essential safeguard, in the interest of "efficiency."

Equally disturbing is the proposal to vastly expand the powers of certain committees to close their doors to the public and the press. Under these rules, the Committee on Appropriations, for example, could decide to close its doors for up to 7 consecutive days, effectively excluding the public and other Members from deliberations on some of the most important bills dealt with in the House. Yet, where is the outcry from the press or from members of the majority, the Democratic Party?

Other rules changes are equally damaging to the principle of representative democracy. How can you square rules which, in this case, prevent the offering of amendments to appropriations bills on the House floor, or automatically remove a member from a committee for adhering to his conscience—how can you square such rules with principles of democracy and equal representation? You cannot, Mr. Speaker, and I think all of us here know that.

Instead of trying to stifle debate and block the open consideration of bills, we should be trying to open up the rules of this body, along with its processes. Is not the image of Congress bad enough? Do we have to add insult to injury by enacting these restrictive and repressive rules changes—after just voting ourselves a big pay raise?

I urge the Members of this House, on both sides of the aisle, to consider the damage they are doing to the institution of Congress, to constitutional principles of fairness and equal representation, to the underlying bedrock of public confidence in Government, by these cynical attempts to establish a tyranny in the leadership of what should be the most representative body on Earth.

We should reject these illegitimate seizures of power out of hand. Instead, we should move to make this a body we can be proud of, by adopting the alternative rules in the motion to be offered by Mr. MICHEL. These changes would require, for example, full TV coverage of floor activity, abolish proxy voting in committees, require majority quorums in committee to conduct business, and require that party ratios on committees reflect the true composition of the House.

These, Mr. Speaker, are changes which are long overdue, which will bring merit upon the Members of the House, and which will make this body more accessable to the public whom we represent. I urge all Members who care about the integrity, reputation, and future of this body, to vote against the previous question and reject the rules proposed by the leadership.

□ 1440

Mr. MICHEL. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, for the seventh consecutive time, I shall vote against the rules. I get neither enjoyment nor consolation from voting "no." I simply feel compelled to vote against the whole package because the majority in this House does not let us vote on the separate, controversial elements.

Two of the rules changes are controversial, and should be given separate consideration, and a separate vote. They are the elimination of limiting amendments to appropriations bills and the elimination of a vote to determine whether a necessary quorum is present in the House.

I oppose each of those changes, particularly the one that prevents limiting amendments to appropriations. They simply lighten up the rules so the whole House is denied some of its few opportunities to discuss and vote on issues the majority leadership would rather avoid.

When I first came to Congress, the reformers, including myself were pressing for recorded votes in the Committee of the Whole. The rationale was that the leadership and the Committee Chairmen were not allowing important issues to be openly discussed and noted for the record.

Those reforms were achieved, but the reformers, now in the leadership, have slipped backward into the position of suppressing debate. Those ex-reformers, now the defenders of the status quo, seem to have forgotten that this is the people's House.

The people who sent us here expect important issues to be debated and voted here. They do not expect the leadership of the House to stifle discussion of matters that it may find unpleasant.

Since these rules will suppress debate of critical and unpleasant issues, I must vote against them.

In addition, the rules presented do not contain real reforms on which the House has worked without success for years. There is no rule to prevent proxy voting, or to require a full quorum for committee business. There

is no rule to prevent joint referral. There is no rule to insure honest party ratios on every committee. There is no rule to reduce the number of subcommittees and their staffs. There is no rule to improve oversight functions of committees. There are no rules to improve the budget process. There are no rules to speed up the operations of the Houses.

In general, the rules presented are what might be expected from a king caucus majority, without confidence in itself, unsure of its program, and afraid of the problems it faces.

There is, however, one splendid improvement hidden among the noxious weeds of the new rules. It is the change in rule XXI, clause 5, which will allow points of order against tax revenue measures which are attached to nonrevenue bills either in the Senate or in the House. This change provides a more orderly process under which the Congress can consider tax matters.

The House will no longer be forced to accept tax provisions from the Senate attached to nontax bills. This rules change gives the House new strength in dealing with the other body, and will improve House procedures, too.

Mr. MICHEL. Mr. Speaker, I yield the balance of my time to the distinguished gentleman from Illinois (Mr. MADIGAN) who headed up the task force for taking a look at the proposed rules proposed by the Democratic Caucus.

Mr. MADIGAN. Mr. Speaker, I think it is clear to everybody in the House that what we really have here is an attempt being made by the majority party to eliminate the possibility of the conservative Members of the House being able to offer amendments to appropriations bills. So we have done some research, just to see who the people really are who offered these amendments and what these amendments really have been in the past.

For example, on May 10, 1973, Mr. LONG of Maryland offered the amendment to prohibit the Department of Defense from financing combat activities in Cambodia. Mr. ROSENTHAL from New York offered the amendment to prohibit Federal funds from being used to supply military assistance to Turkey. Ms. Holtzman from New York offered the amendment to prohibit the Central Intelligence Agency from undermining or destabilizing the governments of foreign countries. Mr. BURTON, from California, to prohibit Federal funds from being used to finance assassination plots against foreign officials. Mr. ALEXANDER, from Arkansas, to prohibit Federal funds for foreign aid to nations that are delinquent in repaying their debts to us. To prohibit the production of enhanced radiation weapons, by Mr. BURTON of California. To prohibit Federal funds from being used for construction of hospitals having separate facilities, segregated on the basis of race, an amendment to an appropriation bill, an issue that otherwise would have never gotten to the floor of the House of Representatives.

That is hardly a list of conservative issues. That is a list of the kinds of issues that will be prohibited from being debated on the floor of this House in a robust manner or any manner whatsoever if the rules being promulgated by the gentleman from Texas are adopted.

It is not a comprehensive list that I have just read to the Members, but I think it is a very instructive list because it shows that what you are going to stop is not conservative action alone. What you are going to stop is the very thing that the Democratic Party says that it wants to do. And you are not going to stop the conservative amendments from being offered to appropriations bills.

The two gentlemen from North Carolina who nearly shut the Senate down in the lameduck session are still going to be there. These rules that we adopt here do not obtain in the Senate of the United States. The other body is still going to be able to do whatever they want to do.

What we are really doing here, and the only thing that we are really doing here, is preventing the things that you say that historically you have done and that you want to do. And in the process of doing that, what you are really accomplishing is to make the House of Representatives of the U.S. Congress an inferior body not able to legislate in the same manner as the Senate of the United States, not able to do the same kinds of things that our Senate colleagues can do.

That, in total, is the sum of what you will accomplish.

I think the question that we have to ask ourselves is: Is that the kind of thing that intelligent legislators would want to do to the body of which they are a Member? And I think the answer to that question clearly ought to be no.

The SPEAKER pro tempore. All time of the gentleman from Illinois (Mr. MICHEL) has been consumed.

The Chair recognizes the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Speaker, there is not anything sinister in this proposed change. The purpose, rather, is to reclaim for the House the historic process of authorizing legislation through authorization bills.

Several things in recent years have conspired to disrupt and undermine the normal authorizing process of the Congress. One of those things has been the budget and reconciliation process which has consumed more and more time and has included in its reconciliation bill more and more matters which normally had been reserved to the authorizing committees of the Congress.

A second thing which has conspired to undermine the authorizing process is this growing temptation to legislate under the guise of limitations on appropriations bills rather than doing it at the time that the authorizing bill is before the House.

The third thing which has conspired to disrupt and undermine our normal authorizing process of legislation has been the growing tendency to lump together at the end of a session a great many authorizations into a continuing resolution.

Now, all this proposal does is to try to reclaim a bit of the historic prerogatives of the authorizing committees of the Congress and a bit of the orderly process which once attended the Congress.

In order that you may understand the way in which this device of offering riders in the guise of limitations has grown, let me offer you these figures: In 1970 there was only one limitation rider adopted to an appropriation bill, only one in all of 1970. In 1980, there were 50. The number of such riders offered as amendments grew from 13 in the entire year 1970 to 67 in 1980. Those adopted grew from 1 to 50.

It got to the point where we were consuming approximately 3 weeks, if you add up all of the debate time that was used, sometimes repetitiously—11 different votes, for example, on abortion amendments, and each of them consuming several hours—if you add up all of the time that was consumed in these temptatious flights of legislation in the nature of limitations, you came to about 3 weeks of the normal legislative year. Now, when you add that into the time that automatically must be consumed if we are to meet our scheduled appropriations bills, then you have further exacerbated the problem which leads to time running out on a session before the regular bills have been considered.

That is the reason we bring this proposed change. It does not gag anybody. It permits the Members, any time they want to debate and vote upon a limitation, to have that opportunity. It gives to any Member who wishes to offer such a limitation which otherwise would be in order full and ample opportunity to strike the last word and advise the Members of his intention so to do. It gives the majority, any time it desires, the right to vote down any motion to rise in order that they may have the privilege of discussing and voting upon any such limitation. If Members want to debate and vote 11 different times on abortion riders for example, they may. If they might perhaps feel it was suffi-

cient to vote on the very same language only four times, they may let it go at that.

So it does not do violence to the majority. All it does is to protect the majority of the Members against the enthronement of some minority, some willful group who otherwise would inflict upon the majority their willful desire to spend the majority's time debating ad infinitum those things which may have been debated over and over again.

So we suggest to you there is nothing profound, there is nothing which wrenches away from any Member rights that he or she otherwise would possess.

We want to suggest one other thing, and this is that, according to the best advice I can gain, ours is the only legislative body in the world in which on appropriations bills it is not otherwise in order to move the previous question on the bill.

□ 1450

So this simply gives to the Congress of the United States what amounts to that power, if the Members desire at the conclusion of the offering of all amendments either to raise money or to lower, to delete or to add money, not further to consider limitations, they may have that option.

● Mr. SMITH of New Jersey. Mr. Speaker, I rise today in opposition to the proposed rules which would undermine the ability of Members of the people's body—the House of Representatives—to determine national priorities and policies.

While I am pleased that the original Democratic Caucus proposal to raise the required number of signatures on discharge petitions from 218 to 290 has been dropped, I am still very disturbed by the undemocratic proposal to severely limit the ability of Members to offer limitation amendments to appropriation bills on the House floor. This provision threatens the capacity of Members to exercise oversight of the expenditure of public funds. Perhaps more importantly, this proposed system would shield Members from public scrutiny by allowing them to duck votes on controversial issues. At a time when the public is crying out for greater accountability on the part of public officials, this proposed change is unconscionable.

Mr. Speaker, it is important to remember that appropriations riders have been a valuable legislative tool of both liberals and conservatives. The first anti-Vietnam war measures were appropriations riders. Just last month, a rider on the defense appropriations bill limited the administration's spending for the so-called secret war against Nicaragua's leftist government. In recent years, such amendments have also dealt with controversial issues like abortion, school prayer, and busing.

Mr. Speaker, during debate on the Legislative Reform Act of 1970, you made some very eloquent remarks in favor of an open, honest, and accountable legislative process. I recommend that my colleagues give serious consideration to the following statements as we ponder these drastic changes in our democratic system:

Often the most important parts of a bill—and usually the most controversial sections—are decided upon in amendment form.

In this day and age I believe the people are entitled to know how we vote on legislation, not just on the entire bill, but on the all-important amendments.

Votes on final passage, on previous questions, on recommital, are only part of the record . . . The whole truth means that we must have a record on amendment votes.

There should be no one among us who is not willing to go on record on the vital issues of the day.

Mr. Chairman, let me say this to you: That the trivial things of today are the important things of tomorrow. I do not think it is right that we should not have an opportunity to record votes on amendments . . .

We are primarily and most importantly legislators. And if the work of legislation can be done shrouded in secrecy and hidden from the public, then we are eroding the confidence of the public in ourselves and in our institutions.

I believe the public is entitled to know how I vote on the issues and I constantly report to them and tell them how I vote.

How many times in history has the statement of Wilson been repeated that the Congress in committee is the Congress at work. The work is done in committee, where it is done under committee rule, and under those rules the public doesn't know where we stand. It is not fair to the people of America.—the Honorable THOMAS P. O'NEILL, JR., CONGRESSIONAL RECORD, July 27, 1970, pp. 25796, 25797, and 25805.

In a Democratic study group special report on "The Appropriation Rider Controversy," February 14, 1978, special note is made about the impact of your important legislation. The DSG report stated:

The increase in the number of limitations offered and agreed to is a reflection of the record teller vote reform which took effect in 1971 and of congressional assertiveness in exercising control over Federal expenditures.

Mr. Speaker, it would indeed be ironic if the positive reforms that you played such a vital role in passing, back in 1970, were wiped out by the membership of the House today.

Another interesting point that was made in the 1978 Democratic study group special report was that the sponsorship of limitation amendments seemed to relate to which party controlled the White House. During the Nixon-Ford years, Democrats offered nearly 60 percent of limitations amendments, the report pointed out. On the other hand, Republicans offered nearly 80 percent of limitation amendments during the Kennedy-Johnson years.

Obviously, a virtual ban on appropriations riders would increase the power of the executive branch vis-a-vis the Congress, as the power to keep the executive branch from spending authorized funds in a manner that Congress deemed to be inappropriate would be limited.

We should also consider that a House ban on limitation riders would increase the power of the Senate vis-a-vis the House, as the Senate would retain its power to impose limitations on appropriations. The House would have to acquiesce in or reject the Senate's decision; it could not initiate one of its own.

Mr. Speaker, the 1978 DSG report also pointed out that the right of the House not to appropriate for a purpose, even if that purpose is authorized in law, has been considered a fundamental part of the appropriation power of the House. The report cited the following rulings of the Chair to illustrate this point:

1896—The House in Committee of the Whole has the right to refuse to appropriate for any object it may deem improper, although that object may be authorized by law. . . . That principle of limitation has been sustained so repeatedly that it may be regarded as part of the parliamentary law of the Committee of the Whole.

1904—A mere limitation of the appropriation is in order. There is no obligation on the House to appropriate at all, and therefore it may provide that the money appropriated by it shall not be used in any except such manner as may be specified in the bill. No law is changed because there is no obligation to expend the money at all.

1923—Since Congress has the right to appropriate, Congress has the right to refuse to appropriate, even though the appropriation is authorized.

1925—It is a well-recognized rule that an appropriation may be made or refused for any authorized purpose. In other words, an appropriation may be made for any, all, or none of the purposes authorized by law, but the appropriation or the refusal to appropriate may not be used as a means of changing existing law.

Mr. Speaker, I understand that some Members of the House leadership are concerned about the fact that certain controversial riders are attached to appropriations bills on a regular basis. But I would suggest that the way to resolve this situation is by bringing legislation to the House floor that would resolve these funding controversies on a permanent basis.

Mr. Speaker, the comments you made on July 27, 1970, in favor of an open, honest, and accountable legislative process were as vital then as they are today. I hope my colleagues will maintain the spirit that prompted your 1970 reforms, and give the American people—through their elected Members of the House of Representatives—some rules they can live with.●

Mr. WRIGHT. Mr. Speaker, I move the previous question on the resolution.

CALL OF THE HOUSE

Mr. WRIGHT. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 3]

ANSWERED "PRESENT"—390

Addabbo	Dreier	Ireland
Akaka	Duncan	Jacobs
Albosta	Durbin	Jeffords
Alexander	Dymally	Jenkins
Anderson	Dyson	Johnson
Annunzio	Early	Jones (NC)
Anthony	Eckart	Jones (OK)
Applegate	Edgar	Jones (TN)
Aspin	Edwards (AL)	Kaptur
AuCoin	Edwards (CA)	Kasich
Barnard	Emerson	Kastenmeier
Barnes	English	Kazen
Bartlett	Erdreich	Kemp
Bateman	Erlenborn	Kennelly
Bates	Evans (IA)	Kildee
Bedell	Evans (IL)	Kindness
Beilenson	Fascell	Kogovsek
Bennett	Feighan	Kolter
Bereuter	Ferraro	Kostmayer
Berman	Fiedler	Kramer
Bethune	Fields	LaFalce
Bevill	Fish	Lagomarsino
Biaggi	Flippo	Lantos
Bilirakis	Florio	Latta
Bliley	Foglietta	Leath
Boehlert	Foley	Lehman (CA)
Boggs	Ford (MI)	Lehman (FL)
Boland	Ford (TN)	Leland
Boner	Forsythe	Lent
Bonior	Fowler	Levin
Bonker	Frank	Levine
Borski	Franklin	Levitas
Boucher	Frenzel	Lewis (CA)
Bouquard	Frost	Lewis (FL)
Boxer	Fuqua	Lipinski
Breaux	Garcia	Livingston
Brooks	Gaydos	Loeffler
Broomfield	Gejdenson	Long (LA)
Brown (CA)	Gekas	Lott
Brown (CO)	Gephardt	Lowery (CA)
Broyhill	Gibbons	Lowry (WA)
Bryant	Gilman	Lujan
Burton (CA)	Gingrich	Luken
Burton (IN)	Glickman	Lundine
Campbell	Gonzalez	Lungren
Carney	Goodling	Mack
Carr	Gore	MacKay
Chappell	Gradison	Madigan
Chappie	Gramm	Markey
Cheney	Gray	Marlenee
Clarke	Green	Martin (IL)
Clay	Gregg	Martin (NY)
Coelho	Guarini	Martinez
Coleman (MO)	Gunderson	Matsui
Coleman (TX)	Hall (IN)	Mavroules
Collins	Hall (OH)	Mazzoli
Conable	Hall, Ralph	McCain
Conte	Hall, Sam	McCandless
Cooper	Hamilton	McCloskey
Corcoran	Hammerschmidt	McCollum
Coughlin	Hance	McCurdy
Courter	Hansen (ID)	McDade
Coyne	Hansen (UT)	McEwen
Craig	Harkin	McGrath
Crane, Daniel	Harrison	McHugh
Crane, Philip	Hartnett	McKernan
Crockett	Hatcher	McKinney
Daniel	Hawkins	Mica
Dannemeyer	Hefner	Michel
Daschle	Hertel	Mikulski
Daub	Hightower	Miller (CA)
Davis	Hiler	Miller (OH)
de la Garza	Holt	Mineta
Dellums	Hopkins	Minish
Derrick	Horton	Moakley
DeWine	Howard	Molinari
Dickinson	Hoyer	Mollohan
Dicks	Hubbard	Montgomery
Dingell	Huckaby	Moody
Donnelly	Hughes	Moore
Dorgan	Hunter	Moorhead
Dowdy	Hutto	Morrison (CT)
Downey	Hyde	Morrison (WA)
Mrazek	Rogers	Sundquist
Murphy	Rostenkowski	Synar
Murtha	Roth	Tallon
Myers	Rowland	Tauke
Natcher	Roybal	Tauzin
Neal	Rudd	Taylor
Nelson	Sabo	Thomas (GA)
Nichols	Savage	Towns
Nielson	Sawyer	Traxler
Nowak	Scheuer	Udall
O'Brien	Schneider	Valentine
Oakar	Schroeder	Vander Jagt
Oberstar	Schulze	Vandergriff
Obey	Schumer	Vento
Olin	Seiberling	Volkmer
Ortiz	Sensenbrenner	Vucanovich
Oxley	Shannon	Walker
Packard	Sharp	Washington
Parris	Shaw	Watkins
Pashayan	Shelby	Waxman
Patman	Shumway	Weaver
Patterson	Sikorski	Weber
Paul	Siljander	Weiss
Pease	Simon	Wheat
Penny	Sisisky	Whitehurst
Pepper	Skeen	Whitley
Perkins	Skelton	Whittaker
Petri	Slattery	Whitten
Pickle	Smith (FL)	Williams (MT)
Porter	Smith (IA)	Williams (OH)
Price	Smith (NE)	Wilson
Pritchard	Smith (NJ)	Winn
Quillen	Smith, Denny	Wirth
Rahall	Smith, Robert	Wise
Rangel	Snowe	Wolf
Ratchford	Snyder	Wolpe
Ray	Solomon	Wortley
Regula	Spence	Wright
Reid	Spratt	Wyden
Richardson	St Germain	Wylie
Rinaldo	Staggers	Yates
Ritter	Stangeland	Yatron
Roberts	Stenholm	Young (AK)
Robinson	Stokes	Young (FL)
Rodino	Stratton	Young (MO)
Roe	Studds	Zablocki
Roemer	Stump	Zschau

□ 1510

The SPEAKER. On this rollcall 390 Members have recorded their presence by electronic device, a quorum.

Without objections further proceedings under the call are dispensed with.

SWEARING IN OF MEMBERS

The SPEAKER. Members who have not taken the oath of office will kindly step to the well.

The Speaker administered the oath of office to the following Members-elect: The Honorable JIM LEACH of Iowa, the Honorable JAMES M. JEFFORDS of Vermont, and the Honorable BILL GREEN of New York.

RULES OF THE HOUSE

The SPEAKER. The question is on ordering the previous question.

PARLIAMENTARY INQUIRY

Mr. MICHEL. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MICHEL. Mr. Speaker, is it not correct that the question before the House is on ordering the previous question, and that if the previous question is voted down, the minority would have an opportunity for offering a substitute to the resolution?

The SPEAKER. The Chair would recognize the minority for that purpose.

Mr. MICHEL. I thank the Speaker.

The SPEAKER. The question is on ordering the previous question.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. MICHEL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 249, nays 156, answered "present" 1, not voting 12, as follows:

[Roll No. 4]

YEAS—249

Addabbo	Flippo	McCloskey
Akaka	Florio	McCurdy
Albosta	Foglietta	McHugh
Alexander	Foley	McNulty
Anderson	Ford (MI)	Mica
Andrews (NC)	Ford (TN)	Mikulski
Andrews (TX)	Fowler	Miller (CA)
Annunzio	Frank	Mineta
Anthony	Frost	Minish
Applegate	Fuqua	Moakley
Aspin	Garcia	Mollohan
AuCoin	Gaydos	Montgomery
Barnard	Gejdenson	Moody
Barnes	Gephardt	Morrison (CT)
Bates	Gibbons	Mrazek
Bedell	Glickman	Murphy
Beilenson	Gonzalez	Murtha
Bennett	Gore	Natcher
Berman	Gray	Neal
Bevill	Guarini	Nelson
Biaggi	Hall (IN)	Nichols
Boggs	Hall (OH)	Nowak
Boland	Hall, Ralph	Oakar
Boner	Hall, Sam	Oberstar
Bonior	Hamilton	Obey
Bonker	Hance	Olin
Borski	Harkin	Ortiz
Bosco	Harrison	Patman
Boucher	Hatcher	Patterson
Bouquard	Hawkins	Pease
Boxer	Hefner	Penny
Breaux	Hertel	Pepper
Brooks	Hightower	Perkins
Brown (CA)	Howard	Pickle
Bryant	Hoyer	Price
Burton (CA)	Hubbard	Rahall
Byron	Huckaby	Rangel
Carper	Hughes	Ratchford
Carr	Hutto	Ray
Chappell	Ireland	Reid
Clarke	Jenkins	Richardson
Clay	Jones (NC)	Rodino
Coelho	Jones (OK)	Roe
Coleman (TX)	Jones (TN)	Roemer
Collins	Kaptur	Rose
Coyne	Kastenmeier	Rostenkowski
Crockett	Kazen	Rowland
Daniel	Kennelly	Roybal
Daschle	Kildee	Sabo
de la Garza	Kogovsek	Savage
Dellums	Kolter	Scheuer
Derrick	Kostmayer	Schroeder
Dicks	LaFalce	Schumer
Dingell	Lantos	Seiberling
Donnelly	Leath	Shannon
Dorgan	Lehman (CA)	Sharp
Dowdy	Lehman (FL)	Shelby
Downey	Leland	Sikorski
Durbin	Levin	Simon
Dwyer	Levine	Sisisky
Dymally	Levitas	Skelton
Dyson	Long (LA)	Slattery
Early	Long (MD)	Smith (FL)
Eckart	Lowry (WA)	Smith (IA)
Edgar	Luken	Solarz
Edwards (CA)	Lundine	Spratt
English	MacKay	St Germain
Erdreich	Markey	Staggers
Evans (IL)	Martinez	Stark
Fascell	Matsui	Stenholm
Feighan	Mavroules	Stokes
Ferraro	Mazzoli	Stratton

Studds	Vento	Williams (MT)
Synar	Volkmer	Wilson
Tallon	Walgren	Wirth
Tauzin	Washington	Wise
Thomas (GA)	Watkins	Wolpe
Torres	Waxman	Wright
Towns	Weaver	Wyden
Traxler	Weiss	Yates
Udall	Wheat	Yatron
Valentine	Whitley	Young (MO)
Vandergriff	Whitten	Zablocki

NAYS—156

Bartlett	Hansen (UT)	Pashayan
Bateman	Hartnett	Paul
Bereuter	Hiler	Petri
Bethune	Holt	Porter
Bilirakis	Hopkins	Pritchard
Bliley	Horton	Quillen
Boehlert	Hunter	Regula
Broomfield	Hyde	Ridge
Brown (CO)	Jeffords	Rinaldo
Broyhill	Johnson	Ritter
Burton (IN)	Kasich	Roberts
Campbell	Kemp	Robinson
Carney	Kindness	Rogers
Chandler	Kramer	Roth
Chappie	Lagomarsino	Roukema
Cheney	Latta	Rudd
Coleman (MO)	Leach	Sawyer
Conable	Lent	Schneider
Conte	Lewis (CA)	Schulze
Corcoran	Lewis (FL)	Sensenbrenner
Coughlin	Livingston	Shaw
Courter	Loeffler	Shumway
Craig	Lott	Shuster
Crane, Daniel	Lowery (CA)	Siljander
Crane, Philip	Lujan	Skeen
Dannemeyer	Lungren	Smith (NE)
Daub	Mack	Smith (NJ)
Davis	Madigan	Smith, Denny
DeWine	Marlenee	Smith, Robert
Dickinson	Martin (IL)	Snowe
Dreier	Martin (NY)	Snyder
Duncan	McCain	Solomon
Emerson	McCandless	Spence
Erlenborn	McCollum	Stangeland
Evans (IA)	McDade	Stump
Fiedler	McDonald	Sundquist
Fields	McEwen	Tauke
Fish	McGrath	Taylor
Forsythe	McKernan	Vander Jagt
Franklin	McKinney	Vucanovich
Frenzel	Michel	Walker
Gekas	Miller (OH)	Weber
Gilman	Molinari	Whitehurst
Gingrich	Moore	Whittaker
Goodling	Moorhead	Williams (OH)
Gradison	Morrison (WA)	Winn
Gramm	Myers	Wolf
Green	Nielson	Wortley
Gregg	O'Brien	Wylie
Gunderson	Oxley	Young (AK)
Hammerschmidt	Packard	Young (FL)
Hansen (ID)	Parris	Zschau

ANSWERED "PRESENT"—1

Jacobs

NOT VOTING—12

Britt	Edwards (AL)	Owens
Conyers	Lipinski	Pursell
Cooper	Marriott	Swift
Dixon	Mitchell	Torricelli

□ 1530

So the previous question was ordered.

The result of the vote was announced as above recorded.

MOTION TO COMMIT OFFERED MY MR. MICHEL

Mr. MICHEL. Mr. Speaker, I offer a motion to commit.

The SPEAKER. The Clerk will report the motion to commit.

The Clerk read as follows:

Mr. MICHEL moves to commit the resolution, House Resolution 5, to a select committee to be appointed by the Speaker and to be composed of ten members, not more than six of whom shall be from the same political party, with instructions to report the same back to the House within two legislative days with only the following amendment: Strike clause "(5)" relating to restrictions on the offering of certain amendments to appropriations bills, and redesignate succeeding clauses accordingly.

Mr. MICHEL (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

Mr. LOTT. Mr. Speaker, I reserve the right to object just to give the membership an opportunity to hear an explanation by the gentleman from Illinois (Mr. MICHEL) as to exactly what his motion to commit does.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Illinois.

Mr. MICHEL. Let me say to the gentleman what I would propose to do is to commit this resolution and substitute, in a sense, for our own resolution which would incorporate all of the rules changes proposed by the majority save resolution change No. 5 that would prohibit riders on appropriation bills.

Having earlier, during the discussion and debate on the subject of the rules, discussed very briefly what we would have proposed as a minority party for a package of rules, I would say we are not proposing that package here for your consideration but simply what you have proposed to the House minus that one change on riders on appropriation bills.

So that really in essence is what the motion to commit is all about.

Mr. LOTT. Further reserving the right to object, the gentleman would strictly have a motion to commit the resolution with instructions that it be reported back from a special committee in 2 days, deleting that one provision on appropriations riders. Is that correct?

Mr. MICHEL. The gentleman is correct.

Mr. LOTT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Illinois to dispense with reading of the motion?

There was no objection.

The SPEAKER. Without objection, the previous question is ordered on the motion to commit.

There was no objection.

The SPEAKER. The question is on the motion to commit.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. MICHEL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device and there were—yeas 156, nays 250, not voting 12, as follows:

[Roll No. 5]

YEAS—156

Bartlett	Hansen (UT)	Pashayan
Bateman	Hartnett	Paul
Bereuter	Hiler	Petri
Bethune	Holt	Porter
Bilirakis	Hopkins	Pritchard
Bliley	Horton	Quillen
Boehlert	Hunter	Regula
Broomfield	Hyde	Ridge
Brown (CO)	Jeffords	Rinaldo
Broyhill	Johnson	Ritter
Burton (IN)	Kasich	Roberts
Campbell	Kemp	Robinson
Carney	Kindness	Rogers
Chandler	Kramer	Roth
Chappie	Lagomarsino	Roukema
Cheney	Latta	Rudd
Coleman (MO)	Leach	Sawyer
Conable	Lent	Schneider
Conte	Lewis (CA)	Schulze
Corcoran	Lewis (FL)	Sensenbrenner
Coughlin	Livingston	Shaw
Courter	Loeffler	Shumway
Craig	Lott	Shuster
Crane, Daniel	Lowery (CA)	Siljander
Crane, Philip	Lujan	Skeen
Dannemeyer	Lungren	Smith (NE)
Daub	Mack	Smith (NJ)
Davis	Madigan	Smith, Denny
DeWine	Marlenee	Smith, Robert
Dickinson	Martin (IL)	Snowe
Dreier	Martin (NY)	Snyder
Duncan	McCain	Solomon
Emerson	McCandless	Spence
Erlenborn	McCollum	Stangeland
Evans (IA)	McDade	Stump
Fiedler	McDonald	Sundquist
Fields	McEwen	Tauke
Fish	McGrath	Taylor
Forsythe	McKernan	Vander Jagt
Franklin	McKinney	Vucanovich
Frenzel	Michel	Walker
Gekas	Miller (OH)	Weber
Gilman	Molinari	Whitehurst
Gingrich	Moore	Whittaker
Goodling	Moorhead	Williams (OH)
Gradison	Morrison (WA)	Winn
Gramm	Myers	Wolf
Green	Nielson	Wortley
Gregg	O'Brien	Wylie
Gunderson	Oxley	Young (AK)
Hammerschmidt	Packard	Young (FL)
Hansen (ID)	Parris	Zschau

NAYS—250

Addabbo	Bryant	English
Akaka	Burton (CA)	Evans (IL)
Albosta	Byron	Fascell
Alexander	Carper	Feighan
Anderson	Carr	Ferraro
Andrews (NC)	Chappell	Flippo
Andrews (TX)	Clarke	Florio
Annunzio	Clay	Foglietta
Anthony	Coelho	Foley
Applegate	Coleman (TX)	Ford (MI)
Aspin	Collins	Ford (TN)
AuCoin	Conyers	Fowler
Barnard	Coyne	Frank
Barnes	Crockett	Frost
Bates	Daniel	Fuqua
Bedell	Daschle	Garcia
Beilenson	de la Garza	Gaydos
Bennett	Dellums	Gejdenson
Berman	Derrick	Gephardt
Bevill	Dicks	Gibbons
Biaggi	Dingell	Glickman
Boggs	Dixon	Gonzalez
Boland	Donnelly	Gore
Boner	Dorgan	Gray
Bonior	Dowdy	Guarini
Bonker	Downey	Hall (IN)
Borski	Durbin	Hall (OH)
Bosco	Dwyer	Hall, Ralph
Boucher	Dymally	Hall, Sam
Bouquard	Dyson	Hamilton
Boxer	Early	Hance
Breaux	Eckart	Harkin
Brooks	Edgar	Harrison
Brown (CA)	Edwards (CA)	Hatcher

Hawkins	Mikulski	Sikorski
Hefner	Miller (CA)	Simon
Hertel	Mineta	Sisisky
Hightower	Minish	Skelton
Howard	Moakley	Slattery
Hoyer	Mollohan	Smith (FL)
Hubbard	Montgomery	Smith (IA)
Huckaby	Morrison (CT)	Solarz
Hughes	Mrazek	Spratt
Hutto	Murphy	St Germain
Ireland	Murtha	Staggers
Jacobs	Natcher	Stark
Jenkins	Neal	Stenholm
Jones (NC)	Nelson	Stokes
Jones (OK)	Nichols	Stratton
Jones (TN)	Nowak	Studds
Kaptur	Oakar	Synar
Kastenmeier	Oberstar	Tallon
Kazen	Obey	Tauzin
Kennelly	Olin	Thomas (GA)
Kildee	Ortiz	Torres
Kogovsek	Patman	Towns
Kolter	Patterson	Traxler
Kostmayer	Pease	Udall
LaFalce	Penny	Valentine
Lantos	Pepper	Vandergriff
Leath	Perkins	Vento
Lehman (CA)	Pickle	Volkmer
Lehman (FL)	Price	Walgren
Leland	Rahall	Washington
Levin	Rangel	Watkins
Levine	Ratchford	Waxman
Levitas	Ray	Weaver
Lipinski	Reid	Weiss
Long (LA)	Rodino	Wheat
Long (MD)	Roe	Whitley
Lowry (WA)	Roemer	Whitten
Luken	Rose	Williams (MT)
Lundine	Rostenkowski	Wilson
MacKay	Rowland	Wirth
Markey	Roybal	Wise
Martinez	Sabo	Wolpe
Matsui	Savage	Wright
Mavroules	Scheuer	Wyden
Mazzoli	Schroeder	Yates
McCloskey	Schumer	Yatron
McCurdy	Seiberling	Young (MO)
McHugh	Shannon	Zablocki
McNulty	Sharp	
Mica	Shelby	

NOT VOTING—12

Britt	Marriott	Pursell
Cooper	Mitchell	Richardson
Edwards (AL)	Moody	Swift
Erdreich	Owens	Torricelli

□ 1550

So the motion to commit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 1. Concurrent Resolution providing for an adjournment of the Senate and the House of Representatives for more than 3 days.

The message also announced that the Senate agreed to the following resolutions:

S. RES. 1

Resolved, That a committee consisting of two Senators be appointed by the Vice President to join such committee as may be appointed by the House of Representatives to wait upon the President of the United States and inform him that a quorum of each House is assembled and that the Congress is ready to receive any communication he may be pleased to make.

S. RES. 2

Resolved, That the Secretary inform the House of Representatives that a quorum of the Senate is assembled and that the Senate is ready to proceed to business.

EQUALIZING PAY FOR FOUR ELECTED OFFICERS

Mr. WRIGHT. Mr. Speaker, I offer a resolution (H. Res. 6) and ask unanimous consent for its immediate consideration.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 6

Resolved, Until otherwise provided by law, the compensation of the Postmaster of the House of Representatives shall be at a gross per annum rate which is equal to the gross per annum rate of compensation of the Clerk, of the Sergeant at Arms, and of the Doorkeeper, of the House of Representatives.

The resolution was agreed to.

A motion to reconsider was laid on the table.

COMPENSATION OF CERTAIN MINORITY EMPLOYEES

Mr. MICHEL. Mr. Speaker, I offer a resolution (H. Res. 7) and ask unanimous consent for its immediate consideration.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 7

Resolved, That pursuant to the Legislative Pay Act of 1929, as amended, the six minority employees authorized therein shall be the following named persons, effective January 3, 1983, until otherwise ordered by the House, to-wit: Hyde H. Murray, Walter P. Kennedy, Tommy Lee Winebrenner, Ronald W. Lasch, William R. Pitts, Jr., and Timothy J. Wyngaard, each to receive gross compensation pursuant to the provisions of House Resolution 119, Ninety-fifth Congress, as enacted into permanent law by section 115 of Public Law 95-94.

The resolution was agreed to.

A motion to reconsider was laid on the table.

HOUR OF MEETING OF HOUSE OF REPRESENTATIVES

Mr. WRIGHT. Mr. Speaker, I offer a privileged resolution (H. Res. 8) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 8

Resolved, That until otherwise ordered, the hour of meeting of the House shall be 12 o'clock meridian on Mondays and Tuesdays; 3 o'clock post meridian on Wednesdays; 11 o'clock ante meridian on all other days of the week up to and including May 14, 1983; and that from May 15, 1983, until the end of the first session, the hour of daily meeting of the House shall be 12 o'clock meridian on Mondays and Tuesdays and 10 o'clock ante meridian on all other days of the week.

The resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING SPEAKER OR DEPUTY TO ADMINISTER OATH OF OFFICE TO THE HONORABLE BENJAMIN S. ROSENTHAL AT WASHINGTON, D.C.

Mr. WRIGHT. Mr. Speaker, I offer a resolution (H. Res. 9) and ask unanimous consent for its immediate consideration.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 9

Whereas Benjamin S. Rosenthal, a Representative-elect from the State of New York, from the Seventh District thereof, has been unable from sickness to appear in person to be sworn as a Member of the House, and there being no contest or question as to his election: Therefore be it

Resolved, That the Speaker, or deputy named by him, be, and he is hereby, authorized to administer the oath of office to the Honorable Benjamin S. Rosenthal at Washington, District of Columbia, and that the said oath be accepted and received by the House as the oath of office of the said Benjamin S. Rosenthal.

The resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING SPEAKER OR DEPUTY TO ADMINISTER OATH OF OFFICE TO THE HON. MARTY RUSSO AT MINNEAPOLIS, MINNESOTA

Mr. WRIGHT. Mr. Speaker, I offer a resolution (H. Res. 10) and ask unanimous consent for its immediate consideration.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 10

Whereas Marty Russo, a Representative-elect from the State of Illinois, from the Third District thereof, has been unable from illness in the family to appear in person to be sworn as a Member of the

House, and there being no contest or question as to his election: Therefore be it

Resolved, That the Speaker, or deputy named by him, be, and he is hereby, authorized to administer the oath of office to the Honorable Marty Russo at Minneapolis, Minnesota, and that said oath be accepted and received by the House as the oath of office of the said Marty Russo.

The resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING SPEAKER OR DEPUTY TO ADMINISTER OATH OF OFFICE TO HON. MICKEY EDWARDS AT LOS ANGELES, CALIF.

Mr. WRIGHT. Mr. Speaker, I offer a resolution (H. Res. 11) and ask for its immediate consideration.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 11

Whereas Mickey Edwards, a Representative-elect from the State of Oklahoma, from the Fifth District thereof, has been unable from illness in the family to appear in person to be sworn as a Member of the House, and there being no contest or question as to his election: Therefore be it

Resolved, That the Speaker, or deputy named by him, be, and he is hereby, authorized to administer the oath of office to the Honorable Mickey Edwards at Los Angeles, California, and that said oath be accepted and received by the House as the oath of office of the said Mickey Edwards.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. NATCHER). The Chair announces the Speaker's designation of the gentleman from Wisconsin (Mr. KASTENMEIER) to administer the oath of office to the gentleman from New York (Mr. ROSENTHAL).

Pursuant to the authority of House Resolution 10, 98th Congress, the Chair announces the Speaker's appointment of the Honorable HARRY H. MACLAUGHLIN, U.S. district judge, District of Minnesota, Minneapolis, Minn., to administer the oath of office to Hon. MARTY RUSSO.

Pursuant to the authority of House Resolution 11, 98th Congress, the Chair announces the Speaker's appointment of the Honorable MACLAUGHLIN E. WATERS, U.S. district judge, Central District, Los Angeles, Calif., to administer the oath of office to Hon. MICKEY EDWARDS.

□ 1600

AUTHORIZING CONTINUATION OF INVESTIGATION BY COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

Mr. WRIGHT. Mr. Speaker, I offer a resolution (H. Res. 12) authorizing continuation of an investigation by the Committee on Standards of Official Conduct, and ask unanimous consent for its immediate consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 12

Resolved, That the Committee on Standards of Official Conduct shall continue the inquiry and investigation and related activities authorized by House Resolution 518, Ninety-seventh Congress, agreed to July 13, 1982, in the manner prescribed in such resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ADJOURNMENT TO THURSDAY, JANUARY 6, 1983

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourns to meet at 2 o'clock p.m. on Thursday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

AUTHORIZING FUNDS FOR THE STANDING AND SELECT COMMITTEES OF THE HOUSE OF REPRESENTATIVES

Mr. HAWKINS. Mr. Speaker, I offer a resolution (H. Res. 13) and ask unanimous consent for its immediate consideration.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 13

Resolved, That (a) for continuance of necessary investigations and studies by—

(1) each standing and select committee established by the Rules of the House; and

(2) each select committee of the House—

(A) which was established by resolution during the Ninety-seventh Congress; and

(B) for which a reestablishing resolution is introduced in the Ninety-eighth Congress;

there shall be paid out of the contingent fund of the House such sums as may be necessary for the period beginning at noon on January 3, 1983 and ending at midnight on March 31, 1983.

(b) Except as provided in subsection (c), each committee referred to in subsection (a) shall be entitled for each month in the period specified in subsection (a) to nine percent of the total amount made available under expense resolutions for such committee for the second session of the Ninety-seventh Congress.

(c) In order to carry out House Resolution 12, Ninety-eighth Congress, agreed to January 3, 1983, in addition to amounts made available under subsection (b), the Committee on Standards of Official Conduct shall be entitled, for each month in the period specified in subsection (a), to $50,000 for procurement of consultant services under section 202(i) of the Legislative Reorganization Act of 1946.

SEC. 2. (a) Except as provided in subsection (b), payments under this resolution shall be made on vouchers authorized by the committee involved, signed by the chairman of such committee, and approved by the Committee on House Administration.

(b) Notwithstanding any provision of law, Rule of the House, or other authority, from noon on January 3, 1983, until the election by the House of the committee involved in the Ninety-eighth Congress, payments under this resolution shall be made on vouchers signed by—

(1) the chairman of such committee as constituted at the close of the Ninety-seventh Congress; or

(2) if such chairman is not a Member of the House in the Ninety-eighth Congress, the ranking majority party member of such committee as constituted at the close of the Ninety-seventh Congress who is a Member of the House in the Ninety-eighth Congress.

SEC. 3. The authority of a committee to incur expenses under this resolution shall expire upon agreement by the House to the primary expense resolution for such committee.

SEC. 4. Amounts made available under this resolution shall be expended in accordance with regulations prescribed by the Committee on House Administration.

Mr. FRENZEL (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The SPEAKER pro tempore. The gentleman from California (Mr. HAWKINS) is recognized for 1 hour.

Mr. HAWKINS. Mr. Speaker, subsection (a)(1) of the first section of the resolution will authorize each standing committee of the House, and the two permanent select committees established in the rules of the House, to expend necessary moneys from the contingent fund until the House is able to adopt primary expense resolutions covering such committees, or until March 31, 1983.

Subsection (a)(2) of the first section of the resolution provides the basis for authorizing the former Select Committee on Narcotics Abuse and Control of the 97th Congress to expend moneys from the contingent fund until the committee is reconstituted and funded by resolution, or until March 31, 1983. The Select Committee has indicated its intention to seek reconstitution, and would qualify under

subsection (a)(2) upon the introduction of a reconstitution resolution.

Subsection (b) of the first section will provide committees, during each of the first 3 months of 1983, with 9 percent of the total authorized during the second session of the 97th Congress. Nine percent per month is equal to the one-twelfth figure we have used in previous funding resolutions, plus the Federal comparability adjustment that the President sent up last October.

Subsection (c) of the first section will provide additional funds to continue the ongoing investigation by the Committee on Standards of Official Conduct authorized earlier today.

Section 2 is an administrative provision which governs approval and processing of vouchers. The section provides that a returning Member who served as chairman, or if there is no returning Member who served as chairman, then the next ranking majority party member, be authorized to sign the vouchers and certifications necessary to make payments under the continuing resolution, until such time as a chairman is duly elected for the 98th Congress. This provision is essential to insure the timely payment of routine and continuing expenditures, including January committee payrolls.

Under section 3, the authority under this resolution will expire with the adoption of the primary expense resolution. Any expenditures under the resolution will be debited against the primary expense resolution.

Section 4 requires compliance with the regulations of the Committee on House Administration, and any rules necessary to administer the continuing resolution.

This resolution will maintain the overall status quo with respect to the expenditure of funds by standing and select committees, with the exception of the provision for the Standards Committee investigation.

The resolution clearly served its purpose in the last Congress, and everyone is familiar with the meaning and application of the language.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. HAWKINS. I yield to the ranking minority member of the Committee on House Administration.

Mr. FRENZEL. I thank the chairman of the committee.

Mr. Speaker, this is the same resolution we pass every 2 years at this time to keep our committees going. The only unusual item is for consultant services for the Committee on Standards of Official Conduct, to fund the resolution which was passed just a few minutes ago. It is standard and should be promptly passed.

Mr. Speaker, I thank the gentleman for yielding.

Mr. HAWKINS. I thank the gentleman for his comments.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

REPORT OF COMMITTEE TO NOTIFY THE PRESIDENT OF THE UNITED STATES OF THE ASSEMBLY OF THE CONGRESS

Mr. FOLEY. Mr. Speaker, your committee appointed on the part of the House to join a like committee on the part of the Senate to notify the President of the United States that a quorum of each House has been assembled and is ready to receive any communication that he may be pleased to make has performed that duty. The President asked us to report that he will be pleased to deliver his message at 9 p.m. Tuesday, January 25, 1983, to a joint session of the two Houses.

Mr. MICHEL. Mr. Speaker, the President also wishes the Members a very happy new year.

The SPEAKER pro tempore. The Chair thanks the committee for reporting on its notification of the President.

JOINT SESSION OF THE CONGRESS—STATE OF THE UNION MESSAGE

Mr. FOLEY. Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 1) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 1

Resolved by the House of Representatives (the Senate concurring), That the two Houses of Congress assemble in the Hall of the House of Representatives on Tuesday, January 25, 1983, at 9 o'clock post meridian for the purpose of receiving such communications as the President of the United States shall be pleased to make to them.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING THE SPEAKER TO DECLARE RECESS ON TUESDAY, JANUARY 25, 1983

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that on Tuesday, January 25, 1983, it may be in order for the Speaker to declare a recess at any time subject to the call of the chair.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

□ 1610

THE LATE HONORABLE JACK SWIGERT

(Mr. KRAMER asked and was given permission to address the House for 1 minute.)

Mr. KRAMER. Mr. Speaker, JACK SWIGERT was elected last November to represent Colorado's new Sixth Congressional District, and was to have been sworn in today, along with other Members of the 98th Congress. However, last week JACK lost an heroic battle with bone marrow cancer. It is a tragic loss not only for the House, but also for the Nation. Throughout his life, JACK was an inspiration to those who knew him, as an outstanding college athlete, as a jet test pilot, as the astronaut who successfully piloted the Apollo 13 flight back to Earth after an oxygen tank explosion threatened to scuttle the mission, as staff director for the House Science and Technology Committee and as a successful business executive. I personally believe his greatest achievements were yet to be realized. While his vision will be deeply missed by this body, his courage and pursuit of excellence will serve as a model to us all. This Thursday morning, we have taken out a special order to pay tribute to this outstanding American. Tomorrow, a special plane will take Members to the funeral in Denver and return in the evening. If you would like more information about either the special order or the funeral, please contact my office. Meanwhile, we have put together a resolution which expresses the sorrow of the House regarding JACK'S death.

Mr. WIRTH. Mr. Speaker, will the gentleman yield?

Mr. KRAMER. I yield to my colleague from Colorado.

Mr. WIRTH. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, JACK SWIGERT'S passing deprives Colorado and the House of Representatives of a man who would have been a truly fine Representative and an able advocate for our State. His experience in national policymaking, particularly his distinguished tenure on the staff of the House Committee on Science and Technology, would have been a credit to this Congress as a whole. JACK'S commitment to the people of Colorado was evident throughout the past year, which involved extraordinary personal hardship for him.

In the face of his illness, JACK'S courage was an inspiring example to us all. His service in the House certainly would have reflected his outstanding character. Before and since the time JACK piloted a crippled spacecraft and its crew to safety, his life was one of tremendous accomplishment.

I am sure that we all extend our deepest sympathy to JACK's mother and family. We will miss him, and I would hope that all of our Members would join in supporting the resolution offered by the gentleman from Colorado (Mr. KRAMER).

THE LATE HONORABLE JACK SWIGERT

Mr. KRAMER. Mr. Speaker, I offer a resolution (H. Res. 14) on the death of the Honorable JACK SWIGERT, and ask unanimous consent for its immediate consideration.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 14

Resolved, That the House has heard with profound sorrow of the death of the Honorable Jack Swigert, a Representative-elect from the State of Colorado.

Resolved, That a committee of five Members of the House, with such Members of the Senate as may be joined, be appointed to attend the funeral.

Resolved, That the Sergeant at Arms of the House be authorized and directed to take such steps as may be necessary for carrying out the provisions of these resolutions and that the necessary expenses in connection therewith be paid out of the contingent fund of the House.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

Resolved, That when the House adjourns today, it adjourn as a further mark of respect to the memory of the deceased.

The resolution was agreed to.

A motion to reconsider was laid on the table.

APPOINTMENT AS MEMBERS OF FUNERAL COMMITTEE OF THE LATE HONORABLE JACK SWIGERT

The SPEAKER. The Chair appoints as members of the funeral committee of the late JACK SWIGERT, the following Members on the part of the House:

Mrs. SCHROEDER of Colorado; Mr. WIRTH of Colorado; Mr. KOGOVSEK of Colorado; Mr. KRAMER of Colorado; and Mr. BROWN of Colorado.

CONSENT OF SENATE TO ADJOURNMENT OF MORE THAN 3 DAYS TO A DAY CERTAIN BY THE HOUSE OF REPRESENTATIVES

The SPEAKER laid before the House the following Senate concurrent resolution (S. Con. Res. 1) giving the consent of the Senate to an adjournment of more than 3 days to a day certain by the House of Representatives.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 1

Resolved by the Senate (the House of Representatives concurring), That when the Senate adjourns on Monday, January 3, 1983, pursuant to a motion made by the majority leader in accordance with this resolution, it stand adjourned until 12 noon on Tuesday, January 25, 1983.

SEC. 2. That the consent of the Senate is hereby given to an adjournment of more than three days to a day certain by the House of Representatives to begin on Thursday, January 6, 1983 or Friday, January 7, 1983, and terminating on January 25, 1983 at 12:00 noon, pursuant to a motion by the Majority Leader, or his designee.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

APPOINTMENT AS MEMBERS OF HOUSE OFFICE BUILDING COMMISSION

The SPEAKER. Pursuant to the provisions of title 40, United States Code, sections 175 and 176, the Chair appoints the gentleman from Texas, Mr. WRIGHT, and the gentleman from Illinois, Mr. MICHEL, as members of the House Office Building Commission to serve with himself.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair would like to make a statement concerning the introduction and reference of bills and resolutions.

As Members are aware, they have the privilege today of introducing bills. Heretofore on the opening day of a new Congress, several hundred bills have been introduced. It will be readily apparent to all Members that it may be a physical impossibility for the Speaker to examine each bill for reference today. The Chair will do his best to refer as many bills as possible, but he will ask the indulgence of Members if he is unable to refer all the bills that may be introduced. Those bills which are not referred and do not appear in the RECORD as of today will be included in the next day's RECORD and printed with a date as of today.

The Chair has advised all officers and employees of the House that are involved in the processing of bills that every bill, resolution, memorial, petition, or other material that is placed in the hopper must bear the signature of a Member. Where a bill or resolution is jointly sponsored, the signature must be that of the Member first named thereon. The bill clerk is instructed to return to the Member any bill which appears in the hopper without an original signature. This procedure was inaugurated in the 92d Congress. It has worked well, and the Chair thinks that it is essential to continue this practice to insure the integrity of the process by which legislation is introduced in the House.

The Chair also desires to announce that pursuant to the authority granted him in rule X, clause 5, he will continue the practice of basing sequential referral of bills and resolutions on the subject matter contained in any amendment recommended by the committee or committees first reporting, as well as upon the matter in the original text of the bill or resolution.

The Chair will also exercise his authority in particular situations to designate a primary committee among those to whom a bill may be jointly referred and may impose time limits on committees having a secondary interest following the report of the primary committee.

The Chair intends to use his referral authority in a manner which will maintain the flow of legislation to the floor and thus enhance the ability of the House to complete its legislative schedule within the time limits fixed by law and the rules of this body.

With respect to Senate amendments, the Chair will continue judiciously to exercise his authority including his referral authority under rule XXIV to insure that major new proposals contained in Senate amendments, which are not germane to the original House measure, receive consideration by the committee with subject-matter jurisdiction in the House.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
January 3, 1983.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Under Rule III, Clause 4 (Section 647) of the Rules of the House of Representatives, I herewith designate Mr. W. Raymond Colley, Deputy Clerk, to sign any and all papers and do all other acts for me under the name of the Clerk of the House which he would be authorized to do by virtue of this designation, except such as are provided by statute, in cases of my temporary absence or disability.

If Mr. Colley should not be able to act in my behalf for any reason, then Mr. Thomas E. Ladd, Assistant to the Clerk, should similarly perform such duties under the same conditions as are authorized by this designation.

These designations shall remain in effect for the 98th Congress or until revoked by me.

Sincerely,

BENJAMIN J. GUTHRIE,
Clerk, House of Representatives.

□ 1620

DEATH BENEFITS FOR FEDERAL LAW ENFORCEMENT OFFICERS AND FIREFIGHTERS KILLED IN THE LINE OF DUTY

(Mr. ANNUNZIO asked and was given permission to address the House for 1 minute.)

Mr. ANNUNZIO. Mr. Speaker, today I am introducing legislation to amend the United States Code to provide a lump sum death benefit of $50,000 for Federal law enforcement officers and firefighters who are killed in the line of duty. The Congress has already provided identical Federal benefits for State and local law enforcement officers and firefighters through the Public Safety Officers Benefits Act of 1976, and my bill simply puts their Federal counterparts under this same coverage.

I can think of no group more deserving of this survivor protection than our Federal law enforcement officers and firefighters. These dedicated men and women risk their lives daily to protect the property, the physical well-being, and the lives of their fellow Americans. When these public servants report to their duty assignments each day, they have no idea what dangers they will face, and whether they will live to see their families. The least we can do is to provide them with the peace of mind of knowing that if they do not survive, our Nation will not turn its back on them, and their dependents will have some financial assistance to carry on alone.

Just a few weeks ago, four FBI agents from my home State of Illinois were killed in a plane crash while they were on official duty trying to recover money from a bank embezzler. Sadly, not only did the Federal Bureau of Investigation lose four outstanding, dedicated agents, more than it has ever lost in a single operation, but also, and more importantly, these agents were all married and left behind a total of 13 young children. It is only right and fair that we extend benefits to the families of these heroic officers, and to all other Federal lawmen and firefighters killed in the line of duty in recent years.

Although Federal men and women have been excluded from the 1976 act because they were eligible for other benefits, these benefits have been eroded by inflation, and have become woefully inadequate for officers with large families to protect. It is time to correct this situation, and this legislation is a small price to pay to the survivors of those who sacrificed their lives so that the property and lives of others might be preserved.

Mr. Speaker, I strongly urge favorable action on this legislation, which would provide more security and peace of mind for the families of all Federal public safety officers and firemen who must take risks in the pursuit of a safer society. We must not and cannot, in good conscience, turn our backs on the anguish and poverty suffered by the families of law officers slain while protecting our rights and liberties, and of firemen who die while protecting our lives and our property.

MATH AND SCIENCE EDUCATION: HIGH PRIORITY FOR THE 98TH CONGRESS

(Mr. McCURDY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCURDY. Mr. Speaker, legislation to combat the national crisis in science and math education should be a high priority of the 98th Congress. With America's future hinging on high technology, this issue affects every sector of society and threatens to erode our economic, scientific, and military leadership.

We do not have the science and math teachers to prepare our young people for their roles in a technological world. Fifty percent of the math and science teachers in our classrooms are unqualified. Since 1971, there has been a 77-percent decline in the number of qualified secondary school math teachers and a 65-percent drop in the number of qualified science teachers. We must do something to attract and retain qualified science and math teachers to reverse this dangerous trend toward scientific illiteracy.

During the last Congress, Senator JOHN GLENN and I introduced two bills to increase the present supply of qualified science and math teachers and to insure an adequate supply for the future. This legislation would grant tax credits to high tech firms that hire precollege math and science teachers during the summer or allow their certified employees to teach part-time in the local schools and provide forgivable loans to college students who plan to pursue careers in science and math teaching. These bills directly attack the teacher shortage and I believe they are an integral part of any comprehensive solution to the math and science education crisis. I will be reintroducing these two bills shortly and I urge my colleagues to join me in this initiative which is so vital to our Nation's future.

CONGRESSIONAL SUPPORT FOR ARMS REDUCTION TALKS IN GENEVA

(Mr. BROOMFIELD asked and was given permission to address the House for 1 minute.)

Mr. BROOMFIELD. Mr. Speaker, today I am introducing along with SAM STRATTON, BILL CARNEY, and Chairman MEL PRICE, a joint resolution which expresses the support of Congress for the objectives of the ongoing arms reduction talks in Geneva.

Our negotiators at the START talks are now seriously considering proposals which would reduce nuclear weaponry in both the United States and Soviet arsenals below both current and SALT II levels.

Just recently, Soviet leader Yuri Andropov announced that the Soviets are prepared to reduce their strategic arms by 25 percent.

We stand on the threshold of real progress in Geneva.

Now is the time for Congress and the American people to demonstrate to the Soviets that our negotiators have the solid support of Congress and the American people in their effort to move the world closer to lasting peace.

DISAPPOINTMENT EXPRESSED OVER DEBATE ON FIRST DAY OF SESSION

The SPEAKER pro tempore. Under the previous order of the House, the gentleman from Pennsylvania (Mr. GEKAS) is recognized for 15 minutes.

Mr. GEKAS. Mr. Speaker, I thank the Chair very much for the privilege of addressing the House of Representatives.

I heard with great interest the opening remarks of the Speaker of the House, as well as those of the Republican leader, the gentleman from Illinois (Mr. MICHEL). Both of them made appropriate remarks having to do with the rationale for our being here, namely, the wish and the consent of our constituents. Those appropriate remarks extend to all of us who are Members of the House of Representatives, and I wish to extend those remarks to say that I was most gratified here today to witness that a full one-tenth of 1 percent of my constituency came to Washington to support me, to uphold me as I was taking the oath of office, and to cheer me on as I undertook these responsibilities to which I look forward. They came and participated in almost every kind of event that can be handled for 1 day, including participation in these proceedings, not to mention the social functions which they attended.

But I, in my elation over being here and welcoming them to Washington, as it were, am also gravely disappointed that on their visit to this Chamber they saw a debate and a vote which was just the opposite of what I had been saying throughout the entire campaign. I had touted the House of Representatives and the Congress of the United States as the greatest deliberative body that the world has ever known, and I told my future constituents during that campaign that I would act as vigorously as I could to embellish that debate and to bring it to every household in the 17th District

of Pennsylvania through whatever means might be at my disposal, to espouse their proposals, and to indicate to this Congress what they want to see as changes or to stop certain changes sought to be made by the U.S. Congress. And the first day they come to Congress, the first day I take my seat, my constituents hear a debate which was in the ultimate calculated to cut off and succeeded in cutting off debate in putting through a legislative proposition that will go a long way toward squelching my desire to bring forth legislative proposals truly reflecting the wishes of my constituents who are with me here today in the House of Representatives.

With but that one regret, I ask them to return to their homes and to say to everyone who would hear that their Congressman will do his utmost to best represent their interests.

□ 1630

INTRODUCTION OF THE SOLE SOURCE AQUIFER PROTECTION ACT OF 1983

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. CARNEY) is recognized for 10 minutes.

Mr. CARNEY. Mr. Speaker, I rise on the first day of this 98th Congress to introduce legislation which deserves the highest priority not only of me, but of every Member of this body. I wish the record to show that one of my initial acts in my third term as a U.S. Representative for the people of the First District of New York is introduction of the Sole Source Aquifer Protection Act of 1983. The Sole Source Aquifer Protection Act calls for a cooperative Federal, State, and local government approach to preparing and carrying out plans to protect this Nation's ground water.

On Long Island, 2.3 million persons are totally dependent on an underground supply for their drinking water. Nationwide, 90 percent of our rural citizens, and millions in our urban and suburban areas, also depend on aquifers, rather than surface water. The U.S. Environmental Protection Agency has estimated that the amount of our ground water is 50 times that of our annual flow of surface water. Clearly, protection of such a vast and critical resource is in the best interest of our citizens. But for areas such as Long Island which are without any other source of water, protection of that underground supply takes an even greater importance and urgency.

This bill I present today is offered as an amendment to the Safe Drinking Water Act of 1974. That law was due for reauthorization in the last Congress. Instead, this Congress will have to take up its reauthorization and I look forward to the Sole Source Aquifer Protection Act being incorporated into any rewrite of the safe drinking water law which may emerge from this session.

Development of this measure dates back two Congresses, to December 1980. At that time, I first circulated a draft bill aimed specifically at protecting the Pine Barrens area in the First District which overlies the purest portions of Long Island's aquifer.

In May 1981, the Committee on Science and Technology's Subcommittee on Natural Resources, Agricultural Research and the Environment held hearings on that draft in Southampton, N.Y. The purpose of that legislative hearing was to further seek comments from the public and various experts and agencies on what would be the best legislative approach to protecting that aquifer. As ranking minority member of that subcommittee, I want to again thank our chairman, Mr. SCHEUER, for his help and cooperation with that Southampton hearing.

The bill I submit today grew from those first efforts.

On February 23, 1982, Senator DANIEL PATRICK MOYNIHAN and I introduced this Sole Source Aquifer Protection Act as companion measures in the Senate and House. We were joined by the junior Senator from New York, Mr. D'AMATO, four other members of the Long Island delegation.

Senator MOYNIHAN had been most gracious and cooperative about accepting changes I suggested to the innovative measure he had developed—changes aimed at better protecting the rights and accountability of local government.

I was pleased at the overwhelming support of our bill received at hearings held by the Senate Committee on Environment and Public Works in June 1982.

The bill I present today is the same as the companion measure Senator MOYNIHAN and I introduced last year with minor technical changes.

Unfortunately, due to the heavy workload of the House Committee on Energy and Commerce, and because of the priority placed on reauthorizing the Clean Air Act by the chairman of the Health and Environment Subcommittee, my measure was unable to get a formal hearing in this body during 1982.

I am optimistic that in this Congress the Energy and Commerce Committee will take up reauthorization of the Safe Drinking Water Act and consider my bill as an amendment in that larger measure. It is my hope as well that we may see action soon rather than later on this important legislation, and I look forward to working with the committee to assist in any way that I can.

Central to the proposal I am introducing today is a recognition that protection of this great and valuable national resource requires a joint commitment of Federal, State, and local government resources. This proposal, moreover, recognizes the prime role our local governmental units must play in carrying out that protection.

In allowing for cooperative problem solving, and because it assigns an appropriate role to each level of government instead of mandating a federally imposed and enforced solution, I believe this bill is in tune with the philosophy of limited, yet responsible government which the people of this country have increasingly indicated they desire.

Protection of single underground sources of drinking water is clearly a national concern. In addition to the aquifer under Suffolk and Nassau Counties on Long Island, the Environmental Protection Agency has officially designated seven other aquifers as sole sources.

These are: the Edwards Aquifer, Tex.; northern Guam; Fresno County, Calif.; Ten Mile Creek, Md.; Spokane-Rathdrum Valley, Wash.; Biscayne Aquifer, Fla.; and Buried Valley, N.J.

Petitions are pending for 17 other sole-source aquifers. Those are: Cape Cod, Mass.; Kings and Queens Counties (or Brooklyn and the Bronx), N.Y.; Coastal Plain Aquifer, N.J.; Ridgewood, N.J.; Upper Rockaway, N.J.; Erie County, N.Y.; Vestal, N.J.; New Castle County, N.J.; Niagran Aquifer, Wis.; Delaware Basin in New Mexico and Texas; Baton Rouge, La.; Karst Geological Region, Mont.; Helena, Mont.; Santa Cruz Valley, Calif.; Santa Cruz-Avera Alter Aquifer, Ariz.; Whidbey Island and Camano Island, Wash.; and York County-Piedmont Region, Pa.

The Sole Source Aquifer Act of 1983 can provide the necessary framework on which we can build a national policy for these important areas.

At this time, I should like to include for the RECORD a section-by-section analysis of the bill.

SOLE SOURCE AQUIFER PROTECTION ACT—DESCRIPTION OF THE BILL

(A) POLICY

The Federal government shall cooperate with states and municipalities in the preparation and implementation of regional plans for the protection of critical groundwater recharge areas.

(B) FINDINGS

(C) PURPOSES

The purposes of the Act are to: establish procedures for the designation of special protection areas within sole source aquifer regions; develop and implement site-specific comprehensive management plans to protect such critical recharge areas; and establish guidelines for Federal-state cooperation in planning, funding and implementing such management plans.

(D) PETITION FOR DESIGNATION OF SPECIAL PROTECTION AREA

Any one or several municipalities may petition a Governor to apply to EPA for the designation of a "special protection area"

within an area already designated by EPA as a sole source aquifer, pursuant to Sec. 1424(e) of the Safe Drinking Water Act.

The petition must include proposed boundaries and an evaluation of the necessity of such a special designation.

(E) APPROVAL OF PETITION BY THE GOVERNOR

The Governor must approve or disapprove the petition within 180 days.

If the Governor approves the petition, he then proposes his own boundaries for the special protection area and designates a planning entity to develop a comprehensive management plan.

(F) EPA APPROVAL OF PRELIMINARY PETITION

After the Governor submits to the EPA Administrator both the proposed boundaries of the special protection area and the designated planning entity, the Adminstrator has 60 days in which to approve or disapprove the boundaries and the planning entity based on specific critieria.

Approval by the Administrator qualifies the State for a matching grant (50-50) for the development of the comprehensive management plan.

(G) COMPREHENSIVE MANAGEMENT PLAN

The planning entity shall prepare a comprehensive management plan which is designed to maintain the quality of the groundwater recharged through the special protection area.

The Plan shall include: the evaluation of existing groundwater quality, sources of contamination, recommendations of water quality standards, a detailed map of the area, land use assessment, proposed limits on future private and public development, consideration of land use techniques necessary to protect groundwater quality, proposed areas suitable for public acquisition if necessary, and a program for state and local implementation.

The planning entity shall develop the Plan with as much public participation as possible.

(H) APPROVAL OF THE PLAN BY THE GOVERNOR

The Governor may approve or disapprove the Plan submitted by the planning entity, based on his evaluation of specific criteria.

If necessary, the Governor may designate or establish a separate management entity to implement the Plan.

(I) APPROVAL OF PLAN BY EPA

The EPA Administrator must approve or disapprove the Plan submitted by the Governor within 120 days, based on specific criteria and national defense requirements.

Approval by the Administrator qualifies the State for a matching grant (50-50) for the implementation of certain features of the comprehensive plan but not more than $20,000,000.

(J) AUTHORIZATION

For planning, $10,000,000 for fiscal year 1984, fiscal year 1985, and fiscal year 1986.

For implementation, $50,000,000 for fiscal year 1985, fiscal year 1986 and fiscal year 1987.

(K) DEFINITIONS

SOLE SOURCE AQUIFER PROTECTION ACT—SUMMARY OF THE BILL

The bill sets forth the following procedures for developing and implementing a plan to protect the recharge area of a sole source aquifer:

(1) Petition. A local government submits a petition to the Governor setting forth the proposed boundaries of a "Special Protection Area" and the rationale for designating such an area in terms of water supply potential.

(2) Governor's approval. The Governor must decide whether or not to pursue the petition. If so, state officials would work with local governments to propose new boundaries, justify the designation, and name a planning authority to be responsible for developing the comprehensive management plan. Then, the Governor submits the petition to the EPA Administrator.

(3) Preliminary EPA approval. If the EPA Administrator determines that the petition meets certain minimum technical requirements and that the planning authority is technically qualified, then the Administrator may approve the petititon. An approved petition qualifies the state for matching funds for planning assistance.

(4) Comprehensive plan. The planning authority designated by the Governor has two years to develop a comprehensive management plan. It is required to work closely with all units of government which may be responsible for implementing various parts of the plan.

(5) State approval. The Governor must be able to demonstrate how the State and local governments intend to implement the plan. Thus, agreements must be reached at the local level before the Federal government even considers involvement. Once the Governor approves the comprehensive management plan developed by the planning authority, he submits the Plan to EPA.

(6) EPA approval. The Administrator, will judge the merits of the proposal based on how effectively the Plan would protect the groundwater and how the state proposes to implement the Plan. If the EPA Administrator approves the Plan, then the state is eligible for a matching grant up to $20 million to implement certain features of the Plan including but not limited to land acquisition.

The Federal government is not responsible for local land use decisions but rather provides technical guidance and consistency in the formulation of regional groundwater protection plans.

A total of $180 million is authorized over a four-year period.

The "Sole Source Aquifer Protection Act" is an amendment to the Safe Drinking Water Act of 1974, as amended.

INTRODUCTION OF THE ERA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. CONTE) is recognized for 5 minutes.

Mr. CONTE. Mr. Speaker, today, as the Congress convenes for the 98th time, over 200 Members of this House will cosponsor House Resolution 1, the equal rights amendment.

The ERA has been around for a long time, but the need for this amendment has not diminished. Economic inequalities still exist. The fact remains that women earn 59 cents for every dollar men earn. Civil rights violations on the basis of sex are still occurring. Equality in education as mandated by title IX is not uniformly enforced.

Sure, there have been advances over the past 10 years, but this piecemeal approach—using the legislative process to enact special equal rights laws—is slow and not comprehensive. An equal rights amendment is needed to correct flaws in State laws and to prevent discrimination at the Federal level.

There should be no misconceptions about the ERA. This amendment does not affect individual lifestyles, but the ERA is simply an economic issue. It relates directly to women's jobs, wages, education, pensions, and social security.

We must, therefore, insure once and for all that "equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex."

This time, let us take the ERA all the way.

INTRODUCTION OF A BILL TO MAKE THE HECTOR LAND USE AREA A PART OF THE GREEN MOUNTAIN NATIONAL FOREST

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. HORTON) is recognized for 15 minutes.

● Mr. HORTON. Mr. Speaker, the administration is engaged in an effort to identify and sell to private parties Federal land which is surplus to Government use.

I applaud the objective of turning over to the private sector property which can be put to better use by individuals than by the Government. At the same time, however, I believe that Federal land which has substantial value to our citizens because of its Government ownership should not be considered for sale.

One of the parcels of land that falls in this category is the Hector land use area, which is located in Seneca and Schuyler Counties in New York State. As the only U.S. Forest Service presence in New York, Hector offers economic and recreational value to the State's citizens in many times the $180,000 estimated maintenance cost of the land. Hector is used for grazing and timber. In addition, it is a favorite camping and hiking area for thousands of New York and out-of-State residents each year. The economic values could be altered and the others eliminated if the Federal Government were to sell the land for private use.

As I read the relevant statutes, land like Hector which is part of the national forest system cannot be sold to private persons. However, Agriculture Secretary Block has informed me that he disagrees with my understanding of the law. He states that the Department intends "to study disposal options (for Hector) during fiscal year 1983. * * * a number of options, including * * * sale to the private market, will be considered."

Fortunately, there is one point of law where the Department and I do

agree. We agree on the fact that the Department cannot sell large tracts of land, which are within national forest boundaries, without authorization from Congress.

Hector can therefore be preserved as Federal land without any legal argument if it is simply designated as national forest land. I am today introducing legislation to achieve that objective.

I want to stress that enactment of this measure would result in no cost to the Federal Government. No land purchases are involved. The Hector land use area is now administered by the Forest Service as if it were a unit of the Green Mountain National Forest. My bill simply makes the arrangement formal.

If there is to be any change at all as a result of this legislation, it is altering the name on the signs at the entrances to the Hector area. This is a short bill, basically technical in nature. Its enactment will allow citizens of New York State to continue to enjoy the benefits of this important land use area.●

THE NATURAL GAS MARKETING IMPROVEMENTS ACT OF 1983

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. MICHEL) is recognized for 5 minutes.

● Mr. MICHEL. Mr. Speaker, today I am introducing for the 98th Congress the Natural Gas Marketing Improvements Act of 1983. This bill, first introduced by our now-retired colleague from Ohio, Clarence J. "Bud" Brown, will go a long way toward enabling the interstate natural gas pipelines of this country to reduce the high cost of gas on their systems. It also adds an important dosage of competition to this industry. For the natural gas pipeline industry is like no other: It has been sheltered from the market for so long by pervasive Federal regulation that it has forgotten how to act in harmony with the market. Our natural gas consumers, Mr. Speaker, have suffered as a direct result. This legislation will be of significant help in making sure what is happening today does not have to happen once the legislation is enacted. Once enacted, the cost of natural gas can come down in times of falling demand, just as the market would dictate.

Last Thursday, December 30, 1982, an administrative law judge at the Federal Energy Regulatory Commission, Judge Levant, issued a most remarkable decision in the Columbia Gas Transmission case. I applaud this decision. When it comes up for review before the full Commission, I ask that its basic holding be affirmed, even if the Commission does make some changes in its text.

In this case, Judge Levant ruled that Columbia pipeline committed a serious abuse when, in reaction to falling demand on its system for gas, it shut in much of its cheapest supplies but continued to take many of its most expensive supplies. Judge Levant has refused to allow the passthrough of the costs to consumers. Columbia must now make refunds. It will not be easy or quick.

What the judge is saying is that Columbia was engaging in very bad business judgment and, adding insult to injury, using the regulatory provisions of Federal law to pass the high cost of this practice on to consumers, thereby overriding the natural resistance of our consumers, who were switching to other fuels and conserving gas. In other words, Columbia was seeking to use regulation as its industry has come to know it: As a shelter from the market, as a hiding place from its own consumers.

Judge Levant's decision is a firm "no" to this practice. I quote from the decision:

> Columbia shall, as of the date of this order, desist from cutting back any less costly supply source before cutting back any more costly supply source to the take-or-pay level and shall establish cutback practices which are consistent with the lowest reasonable rate standard of the Natural Gas Act.

The bill I am introducing today, Mr. Speaker, will provide all interstate pipelines with the very design of "cutback procedures" that Judge Levant has in mind.

What the bill does is to enable pipelines to reduce an oversupply of gas in a way that reduces consumer prices as well. Under present law, a lot of gas contracts have what is called a "take or pay" feature. Take or pay means that a pipeline will pay for a certain volume of gas whether it can sell it or not. My bill would enable pipelines to reduce take-or-pay provisions down to a 50-percent level in times of surplus, starting with their most expensive source and working downward.

It also provides that the gas not taken can be purchased by anyone—another pipeline, an industrial user, or a local distributor. The first pipeline will have to carry the gas to the new buyer but will receive an equitable fee for transporting the gas.

Mr. Speaker, the way the bill is designed can actually increase the pressures on pipelines to become sensitive to the marketability of the price of natural gas. Because the bill requires them to start with their highest price source of gas and work down, this mechanism encourages producers to renegotiate their contracts downward in order to maintain sales.

If, however, a pipeline "shuts in" a producer under this bill, the producer is not left without any recourse. The bill enables the producer to find a second buyer and obligates the first pipeline to transport the gas on his behalf. This is an important quid pro quo. In addition, the bill was the very first natural gas legislation to propose what has become known as contract carriage compensation. I do not want to go into too much detail but this new idea of allowing pipelines to earn a fair rate of return for simply transporting natural gas without necessarily first having to purchase it and then to resell it offers great promise for the future of this industry.

This bill is important to us, Mr. Speaker, because it gives our local distribution companies the ability, or just the threat, to "vote with their feet." It gives our consumers a competitive edge against irrational pipeline purchasing practices. And, as a market mechanism, it is immediate. It does not depend upon the services of administrative law judges, good as they are, or the FERC. It is competition. And it works.

In an important point, Mr. Speaker, this bill applies to all gas, including imported supplies. So pipelines which have come to rely too heavily upon imported gas priced too highly will be able to reduce their take-or-pay obligations under this proposal. I am, as you know, one Representative very upset at Panhandle's purchase of $7 plus Algerian gas at at time when the average American producer receives only $2.50 for the same volume, 1,000 cubic feet. Under this bill, Panhandle can get a handle on that contract. Or, like Columbia under Judge Levant's ruling, it can face the music.

Mr. Speaker, in the many months since my good friend Bud Brown first introduced this bill, many interested parties have suggested certain changes to this text. I do not want anyone to think that I have forgotten this because the original text is being reintroduced verbatim. These suggestions have been duly noted and are on file. But it was important to me to reintroduce the bill today, the very first day of the new Congress. For this reason, I employed the original text.

Thank you, Mr. Speaker.●

CONSTITUTIONAL AMENDMENT FOR A 6-YEAR PRESIDENTIAL TERM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. BROOKS) is recognized for 5 minutes.

● Mr. BROOKS. Mr. Speaker, nearly 200 years ago, at the Constitutional Convention in Philadelphia, our Founding Fathers debated the idea of providing for a chief executive who would serve one single 6-year term. As we know, this proposal was set aside in favor of 4-year terms, with a limit of two such terms placed on our Presidents under the 22d amendment to the Constitution. Events of our recent history have shown that it is time to give

additional consideration to single 6-year Presidential terms.

The stresses and complexities of the office of President of the United States have grown to almost unimaginable proportions in recent times. It is vital that we do everything that we can to make this office as effective as possible and to relieve those pressures that we can. We would all benefit if the occupant of the Oval Office were free to concentrate on running the country instead of running for a second 4-year term.

Mr. Speaker, too often we have seen how distracting and damaging to effective governance the pressures of reelection can be. Our Presidents have been forced to spend the entire year before an election undergoing grueling primary and general election contests, while at the same time attempting to carry out their constitutional responsibilities. I think it is clear that these dual demands have been one source of our failed Presidencies, and may in part account for the fact that no President since Dwight Eisenhower has completed two terms in office.

Mr. Speaker, we must not add to the burdens of the Presidency. The job will call upon the full range of talent and capability of whoever holds the office. A 6-year term will give our Presidents the time they need to carry out their programs. Limiting them to a single 6-year term will allow them to focus on the job they were elected to do—leading the Nation—rather than on the next election.

I hope that the 98th Congress will give serious attention to this proposal.●

FURTHER INFORMATION ON CONTEMPT CITATION OF ADMINISTRATION OF EPA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. LEVITAS) is recognized for 10 minutes.

● Mr. LEVITAS. Mr. Speaker, in an effort to keep the Members of this House informed about the proceedings of the contempt citation of the Administrator of the Environmental Protection Agency, I am inserting for the RECORD a copy of a letter with enclosures, that I sent on December 29, 1982, to the Honorable PETER W. RODINO, JR., chairman of the House Judiciary Committee:

HOUSE OF REPRESENTATIVES,
Washington, D.C., December 29, 1982.

Hon. PETER W. RODINO, Jr.,
Chairman, House Committee on the Judiciary, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: In furtherance of our conversations about the contempt citation of the Administrator of the Environmental Protection Agency (H. Res. 632) and the response of the Attorney General, I am enclosing a copy of a statement I made on the floor of the House on December 20.

Subsequently, I received a copy of the enclosed letter, dated December 27, 1982 from the United States Attorney for the District of Columbia addressed to The Speaker concerning the same matter.

In addition to the matter of possible impeachable offenses by the Attorney General and the U.S. Attorney, the question also arises whether a Special Prosecutor should be appointed to handle this case.

The U.S. Attorney's letter clearly spells out his conflict of interest. Furthermore, his conclusion that there is no requirement as to any time (e.g. timely manner) when he is required to present the case to the grand jury under Section 194 of Title 2 USC is obviously an abandonment of his statutory duties since under his interpretation he could take 5 or 10 or 20 years or more to get around to doing his duty. His statement that he recognizes "the likelihood" that he is in disagreement with the House "over the underlying merits of the controversy" further raises questions about his ability or willingness to discharge his statutory responsibilities.

The civil action to which the U.S. Attorney refers is frivilous to begin with, but beyond that, the suit has no preliminary injunctive relief prohibiting the U.S. Attorney or the House from proceeding under 2 USC 194. His startling decision that it would not be "appropriate" to bring the matter before the grand jury while the civil action is pending is simply joining in with the Attorney General's flaunting of the law and reflects a determination by both individuals not to take care that the law is faithfully executed.

Finally, I enclose for your consideration copy of a portion of the transcript of the hearing at which our Subcommittee cited the Administrator for contempt. The pertinent, sworn testimony is that of Assistant Attorney General Ted Olson, who stated, under oath, that the role of the Justice Department in advising the EPA Administrator would not inhibit the Justice Department from carrying out its responsibilities in prosecuting under the Congressional Contempt Statute . . . which is exactly what they have failed and refused to do.

Under the circumstances, I renew my request that your staff consider whether impeachable offenses may have been committed and also whether a Special Prosecutor should be appointed.

Very truly yours,

ELLIOTT H. LEVITAS,
Member of Congress.

[From the Congressional Record, Dec. 20, 1982]

RECENT OFFENSIVE LAWSUIT FILED AS U.S. GOVERNMENT VERSUS HOUSE OF REPRESENTATIVES OF THE UNITED STATES

Mr. LEVITAS. Mr. Speaker, I take this time to update the Members on the Gorsuch contempt of Congress matter that is now in process.

Subsequent to the action of the House last week in citing for contempt the Administrator of the Environmental Protection Agency, the Department of Justice filed lawsuit unprecedented in the history of this Nation entitled the United States of America versus the House of Representatives of the United States et al. which in and of itself is not only unprecedented, it is obviously offensive by its very name.

This Justice Department suit has been described by Lawrence Tribe, a professor of law at Harvard University, as totally without basis or merit. He accused the Justice Department officials who filed the case with "either abject ignorance of the Constitution or contemptible cynicism about constitutional separation of powers."

By instructing the U.S. attorney of the District of Columbia not to fulfill his duties to prosecute the contempt as required by the law, the Attorney General of the United States has failed to faithfully execute the law and is engaging, in my judgment, in an obstruction of justice.

I would hope that the Judiciary Committee will take action as promptly as possible to inquire into whether the actions of the U.S. attorney and the Attorney General of the United States constitute inpeachable offenses for failing to carry out and faithfully execute the law.

This is a very serious and grave matter raising the most fundamental constitutional questions, Mr. Speaker, and I think that when the highest law officer of this land fails to obey the law, it brings the entire system into discredit and into disrepute.

Accordingly, I would hope that the Judiciary Committee would promptly look into this matter to determine what further action might be taken.

The truth is that what we really want is the information from EPA to proceed with our oversight investigation of the Superfund program to clean up the hundreds of dangerous abandoned hazardous waste dumps. This investigation is our constitutional duty. It affects the health of the American people.

We do not want subpenas. We do not want contempt citations. We do not want impeachment proceedings. We do not want confrontation. We only want the facts so that we can do our job.

However, the administration seems to want a fight. They have failed to cooperate; failed to respond to a subpena; and now are failing to faithfully execute the law. That is our only way to get the facts. we must go forward.

U.S. DEPARTMENT OF JUSTICE, U.S. ATTORNEY, DISTRICT OF COLUMBIA,
Washington, D.C., December 27, 1982.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker, U.S. House of Representatives, Washington, D.C.

DEAR MR. SPEAKER. This is in response to your communication of December 17, 1982, certifying to me House Resolution 632 regarding the production of documents by The Honorable Anne M. Gorsuch, Administrator of the United States Environmental Protection Agency.

On December 16, 1982, Civil Action Number 82-3583 was filed by the Department of Justice in the United States District Court for the District of Columbia. In that case, the Department seeks to have the District Court declare that the compelled production of the documents sought by the House of Representatives unconstitutionally would contravene important separation of powers principles, and that the subpoena issued for those documents is constitutionally defective. Pursuant to Section 547 of Title 28, United States Code, I am responsible within this district for prosecuting, for the Government, all civil actions, suits, or proceedings in which the United States is concerned. Accordingly, although the principal work in the pending case is being done by the Civil Division of the Department of Justice, I nonetheless am in the posture of being legally responsible for the prosecution of that civil action for the Government.

Under the same statutory section, I also am responsible for prosecuting, within this

district, all offenses against the United States. As part of the discreation which I must exercise as the chief prosecuting officer of this district, a determination must be made as to when a matter should be submitted to a grand jury.

I am keenly aware of the provisions of Section 194 of Title 2, United States Code. It should be noted that that section of the Code quite properly does not include a mandate as to the timing of submitting a matter to a grand jury.

I recognize the degree of interest which you and your colleagues have in this proceeding. Accordingly, as a matter of courtesy I wish to advise you that I have concluded that it would not be appropriate for me to consider bringing this matter before a grand jury until the civil action has been resolved. While I recognize the likelihood that we are in disagreement over the underlying merits of the controversy, we do have a common interest—namely, achieving a resolution of the disputed questions as expeditiously as possible and with a minimum of adverse consequences to good government and to the country as a whole. Accordingly, I urge that you pursue with us the use of the pending civil suit as the most effective medium in which to advance the judicial resolution of the controversy.

You may be assured of my continuing and careful attention to this matter.

Respectfully,

STANLEY S. HARRIS,
U.S. Attorney,
District of Columbia.

Mr. LEVITAS. Also, I want to direct this to the representative from the Justice Department, Mr. Olson.

Mr. OLSON. Yes, Mr. Chairman.

Mr. LEVITAS. Since I am going to ask you a question, I am required that I administer the oath to you for your response, if you would.

[Witness sworn.]

Mr. LEVITAS. Thank you, Mr. Olson.

Let me just ask you this question again. It is preliminary in nature. I don't want to get down the line and see if there is any problem. As you are aware, these proceedings may, as a matter of law, hopefully not but may lead to prosecution under the congressional intent statute. I am trying to inquire whether it is the Department of Justice's position that you may furnish information to Mrs. Gorsuch notwithstanding the fact that later prosecution for contempt may result from these proceedings and that furnishing such representation will neither inhibit nor prevent the department from carrying out its statutory responsibilities.

Mr. OLSON. This is not the appropriate time for the Attorney General or Department of Justice to make a determination as to who might represent an individual in a particular case or what particular case may be prosecuted under circumstances that have not yet developed, Mr. Chairman.

Mr. LEVITAS. Therefore, it is your position, as I understand it, that the fact that you have advised Mrs. Gorsuch, as I understand it, concerning this matter and the Attorney General has, and your participation in these proceedings today, would not prevent the Justice Department from discharging its statutory responsibilities under the congressional contempt statute if that should, which we hope it will not, eventuate?

Mr. OLSON. We do not believe that anything we have done to date or intend to do at this hearing would jeopardize the ability of the Attorney General to discharge his responsibilities under the Constitution and laws of the United States.●

BANKRUPTCY COURT ACT OF 1983

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. RODINO) is recognized for 5 minutes.

● Mr. RODINO. Mr. Speaker, today, I am introducing a bill to resolve the constitutional crisis created in the bankruptcy courts by the inaction of the 97th Congress and the denial by the Supreme Court of the application of the Solicitor General of the United States for an extension of the stay granted by the Court in the Northern Pipeline Construction Co. against Marathon Pipe Line Co.

Congress inaction undermines respect for the law by blatantly ignoring a constitutional mandate handed down by the highest court in the land.

I believe resolution of the constitutional problem in the bankruptcy court system needs to be the first legislative item on the agenda of the Judiciary Committee in the 98th Congress and, for that reason, I am introducing legislation which solves the problem with the least cost and with the least change and displacement in the present system. This bill simply provides that U.S. bankruptcy judges be appointed by the President during good behavior, rather than for 14 year terms as is the case under the existing law.

This bill does not create a new court, does not authorize additional numbers of judges or personnel, and does not in any way alter the jurisdiction of the bankruptcy courts, which encompasses only bankruptcy and bankruptcy-related cases as under present law.

Article III bankruptcy judges would receive an annual salary of $65,000. The current salary of a bankruptcy judge is $58,500. It is important that the level of salary be raised slightly in order to attract article III bankruptcy judges of the highest caliber and qualifications, particularly experienced, midcareer practitioners from the private sector.

Somewhat improved retirement benefits are provided under the bill to former bankruptcy judges who are not appointed to the article III court provided that they meet certain service qualifications and provided that they remain on the bench during the transition to the article III bankruptcy court. It is important that there be a smooth and orderly transition to the article III court system and that can only occur, particularly under the current workload, if experienced judges remain on the bench for the transition period. These retirement provisions provide an incentive for bankruptcy judges—particularly many who may not be appointed solely for political reasons—to continue to serve during the transition period.

The retirement provisions of the bill are less generous than those contained in H.R. 6978 as it was reported by the committee last year. Qualifying transition judges would receive retirement pay at a rate equal to 2½ percent of average pay times years of service, never to exceed 80 percent of salary.

There are several other amendments to the bill as it is being introduced today from the version that was reported by the Judiciary Committee last year. The bill provides that bankruptcy judges cannot be even temporarily assigned to the district or circuit court. Article III bankruptcy judges are not authorized to hear any nonbankruptcy related case.

One of the major reasons for the separate bankruptcy court, which has long been in existence, is the need for expedition in bankruptcy cases. While all litigation should be expeditiously terminated, by the nature of bankruptcy, assets are deteriorating in value. In a liquidation case, the faster a case is terminated the more creditors will receive. In a reorganization case, speed is absolutely essential if there is to be any chance for a successful reorganization. If bankruptcy judges are authorized to sit on nonbankruptcy cases, there is a real danger that they will be assigned to criminal cases because of Speedy Trial Act considerations or used to clear up the large civil case backlog in the district courts. If these matters took precedence over bankruptcy cases there would not be any effective bankruptcy law—since speed is critical.

This bill also provides that the appointment of the 227 article III bankruptcy judges authorized under the bill be staggered over a 3-year period—from 1983 to 1985—to provide sufficient time to search for and confirm qualified candidates. It would be very difficult to process this number of judges in a shorter time period.

I cannot overemphasize the importance of passage of this bill to the continued efficient functioning of the Nation's bankruptcy system. I think we can all agree that a major disruption of this system in the present difficult economic period is highly undesirable.

The Judiciary Committee has spent many hours over many years examining this problem, consulting consitutional scholars, and bankruptcy experts and reviewing possible alternatives. In light of the reasoning and holding of the Northern Pipeline decision, the importance of expedition in bankruptcy cases, and the present workload of the Federal district courts, we have always concluded that an article III bankruptcy court is the simplest, least expensive, and most workable solution to the constitutional problem.●

● Mr. FISH. Mr. Speaker, I am pleased to be joining with Mr. RODINO today in sponsoring legislation which will lift our bankruptcy court system from its present state of disruption and distress and place it on the firm constitutional basis required by the Supreme Court in the Marathon Pipe Line decision handed down on June 28, 1982. This bill is the first legislation I have sponsored in this Congress and it assuredly will be among my highest priorities until enacted into law. It should be among the highest priorities of every Member of this body.

In its closing hours, the 97th Congress failed to act on a similar bill, although we all knew then that the Supreme Court's stay of its judgment in the Marathon case would expire on Christmas Eve, and we were repeatedly warned of the consequences of our failure to act. Now those consequences are upon us. With the withdrawal of jurisdiction from the bankruptcy courts, over 700,000 pending cases have gone into the district courts, cases which the district courts are manifestly incapable of handling themselves.

I recognize that the judicial conference has prepared a model rule under which the bankruptcy courts would be assigned the district courts' jurisdiction over cases arising under title II or related thereto. There would be de novo review by the district court of any proposed judgment in a title 11-related case or when constitutionally required, which is left undefined. But in the words of Assistant Attorney General Jonathan Rose of the Department of Justice, with which I am in agreement, "the Judicial Conference cannot do by rule what the Supreme Court said Congress can't do by statute."

Mr. Speaker, since December 24 our system of bankruptcy adjudication has been clouded with uncertainty. The clouds will become quite visible now that the holiday season is over. It will be especially difficult to proceed with any large commercial bankruptcies or reorganizations where debtors, creditors, and purchasers of assets must be able to rely on the validity of the bankruptcy court's orders. Such disruption of our bankruptcy courts must ultimately result in the loss of millions of dollars and thousands of jobs, as reorganizations of our Nation's productive resources are delayed by legal uncertainties. Every Member of this body is deeply concerned about unemployment and the state of our economy. It should be each Member's responsibility, therefore, to support legislation which places the bankruptcy courts on a sound article III basis, so their work can go forward efficiently and expeditiously.

The bill I am cosponsoring today is substantially that which the Judiciary Committee reported just 7 weeks after the Marathon decision was handed down. It establishes the bankruptcy court as an independent court where judges will be guaranteed life tenure and protection against salary diminution, the constitutional infirmities found in the Marathon case. A total of 227 bankruptcy judges would be appointed, one-third in each of the next 3 years. This will give both the present incumbent in the White House and whoever is elected in 1984 a fair number of appointments. Such judges would not be "fungible" or assignable to hear cases other than those in bankruptcy. They would hear only cases arising under title 11 of the United States Code or related thereto. This is identical with their jurisdiction under the Bankruptcy Reform Act of 1978. Presently serving judges who are not reappointed and who meet other qualifications would receive retirement benefits calculated in conformity with the congressional retirement program—and no more than that.

Mr. Speaker, as I am certain many Members have already heard and will be hearing from their constituents and other business interests in the days and the weeks ahead, that this is essential legislation. Although there are other bankruptcy matters which need to be addressed, I firmly believe that it is our collective responsibility to concentrate on the constitutional issue until it is fully and finally resolved.●

GENERAL LEAVE

Mr. BATES. Mr. Speaker, I ask unanimous consent that all Members may be permitted to extend their remarks, and to include therein extraneous matter, on the subject of the special order speech today by the gentleman from New Jersey (Mr. RODINO).

The SPEAKER pro tempore. (Mr. NATCHER). Is there objection to the request of the gentleman from California?

There was no objection.

INTRODUCTION OF NATIONAL DEVELOPMENT INVESTMENT ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. OBERSTAR) is recognized for 5 minutes.

● Mr. OBERSTAR. Mr. Speaker, today I have reintroduced the National Development Investment Act, and finish-up program for the Appalachian Regional Commission. The bill is identical to H.R. 6100, which was cosponsored by 84 Members during the 97th Congress, and which passed the House last August by a vote of 281 to 95. Unfortunately, the Senate did not act on the bill in the last Congress, but we hope they will agree to give the bill their fair attention early this year, as a priority issue.

I introduce it today to emphasize the concern of the Public Works and Transportation Subcommittee on Economic Development for the disastrous economic situation we face, and for the overwhelming number of unemployed Americans who face a future of little hope.

This is not a make-work "jobs" bill. It is not a short term or miracle cure for the nationwide recession. It is a program for stable, long term, sustained economic growth, and permanent, private sector job creation.

It will lay the groundwork for economic recovery at the local level. This Nation's economic strength has always been measured by the soundness of the sum of its parts. This bill addresses the most distressed of those parts, our hardest-pressed communities. It is a "percolate-up" approach to economic recovery rather than the discredited "trickle down" from the national economy approach. If we care about this Nation as a whole, we must care about its communities and its people.

Title I of this bill, the National Development Investment Act, would establish a successor agency to the Economic Development Administration (EDA). The programs are grants for public capital facilities, loans to small businesses, and technical assistance and planning; they are similar to those existing under EDA. The recipients will be the States, economic development districts, units of local government, and Indian tribes would remain eligible for assistance under the new act. In addition, the new bill also would reach, for the first time, pockets of distress in otherwise prosperous areas.

But we made changes in the program to meet the challenges of the 1980's, and to institute improvements in the present program based on our 20 years of experience writing economic development legislation.

First, we tightened the eligibility requirements. By limiting eligibility to areas with 1 percent above the national unemployment level over the past 2 years, and to areas with a per capita income of 80 percent or less of the national average, we were able to reduce eligibility to truly distressed areas. Under this bill, 41 percent of the Nation's population would be eligible, as opposed to the current 80 percent.

Of course, areas whose major employer has, or is about to close its doors, or which are stricken with other sudden and severe economic dislocations, would remain eligible.

We also changed eligibility procedures. Previously, once an area was designated as distressed, it remained eligible. Under the new legislation, an area must demonstrate distress with every application.

Third, we adopted the application procedures to reflect the real process

of economic development. Applicants must, prior to receiving a grant, draw up a comprehensive development investment strategy into which the applied-for project must fit. Gone is the projects-for-projects-sake approach of the past. Each project would, under our legislation, have to be integrally linked to the area's overall economic problems, and contribute to a comprehensive solution to those problems.

Under the new bill, the Federal matching share would be limited to 50 percent of the project cost, and there would have to be major involvement by the private sector.

The bill includes grants for revolving loan funds, to be administered locally, to make loans to small businesses.

It authorizes $425 million a year for development facilities grants, and $75 million a year for planning. It is a 3-year bill.

Title II of our bill would put into legislative language the finish-up program proposed by the Appalachian Governors for the Appalachian Regional Commission. ARC Chairman Gov. John Y. Brown of Kentucky testified to the need for this finish-up program at our hearings in Huntington, W. Va. This is a modest and pragmatic plan of action to sustain economic recovery and continue the already well-begun ascension of the Appalachian region toward national economic standards.

The bill provides a 3- to 5-year finish-up for the nonhighway programs of ARC with declining authorizations; $83 million annually for 1984 through 1986, and $75 million for 1987 and 1988. It reduces the maximum nonhighway grant from 80 to 50 percent.

Under the highway program, the bill directs funding of the priority highway routes and accelerates construction of the Appalachian highway system to be completed by 1991. We authorize $215 million for the first year of the highway program.

Mr. Speaker, this legislation focuses on the needs of the 1980's: On private sector jobs, on small business, which studies have shown to be the major source of jobs; and on repair and rehabilitation of the Nation's deteriorating infrastructure, as well as on construction of new buildings, facilities, and other public capital, that may be required.

It is a good bill, a sound bill, and a needed bill. While we do not pretend it will solve the National economy's problems, it does address the economic problems of communities, where it can make a real change for the better.

The Subcommittee on Economic Development plans hearings in the near future and will report the bill to the House by May. We hope to send it to the Senate as soon as possible thereafter and hope even more urgently that this year the other body will act favorably on it.

Mr. Speaker, I would like to add, here, a brief summary of the bill:

THE NATIONAL DEVELOPMENT INVESTMENT ACT—HOW THE PROGRAM WILL WORK

ELIGIBILITY CRITERIA

Three distress criteria to determine eligibility:

(1) Unemployment: 1 percent above nat'l average, previous 24 months.

(2) Per capita income: 80 percent of nat'l average, using latest available statistics.

(3) Anticipated sudden rise in unemployment: imminent plant closing, military base loss, etc.

Only one of the above required to qualify.

Eligibility and grandfathering in current EDA law repealed.

DEVELOPMENT INVESTMENT STRATEGY

Cities and counties under 50,000: work with Economic Development District or state economic development agency to devise investment strategy.

Cities and counties over 50,000 or pockets of distress within city: do their own planning.

Strategy, in 20 pages or less, includes: Inventory of community's resources, industries, businesses, infrastructure available and needed, workforce: skills available, land availability, a showing that nonfederal 50 percent matching funds are available, a showing that private sector is willing to invest, and description of industry/business to be created or expanded.

Description of specific ventures to be funded; e.g.: Revolving loan fund, Employee Stock Ownership Plan, and grant for infrastructure.

FUNDING

Strategy implementation: authorizes $425 million annually for 3 fiscal years.

Planning and strategy development: authorizes $75 million annually for 3 fiscal years.

These are grant, not loan, funds.

APPLICATION PROCEDURE

Submitted to Secretary of Commerce.

Secretary reviews application to determine that: It meets distress criteria; the strategy has a good chance of working.

Secretary approves/rejects project.

Best strategies are to be approved—those with best chance for success.

LIMITATIONS

$2 million limit on federal funds per strategy. Revolving Loan Fund limited to $1 million.

Subsequent applications must requalify on new showing of distress.●

THE NONDISCRIMINATION IN INSURANCE ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. DINGELL) is recognized for 5 minutes.

● Mr. DINGELL. Mr. Speaker, I invite all Members of the House to cosponsor the bill—H.R. 100, the Nondiscrimination in Insurance Act—which I have introduced on this first day of the 98th Congress. It is similar to the bills—H.R. 100 and S. 2204—sponsored in the previous 97th Congress by well over 100 Members of the House and by almost one-fourth of the Senators, and reported favorably by the Senate Commerce Committee just before the 97th Congress ended.

This bill has one single, simple, narrow, objective—to eliminate discrimination, on the basis of race, color, religion, sex, or national origin, in insurance and annuities. It prohibits such discrimination in all phases of insurance and annuities—in access and availability of coverage and underwriting; in the terms, conditions, rates, benefits, and requirements of the insurance and annuity contracts; and in the methods for determining them. It would not do anything else. It would not in any other way interfere with any State's power to regulate the insurance industry. It would not affect any other type of action by any insurance company.

This bill is patterned after three major laws which are now in the United States Code, namely:

Title VII of the Civil Rights Act of 1964, which prohibits such discrimination in employment;

Title VIII of the Civil Rights Act of 1968, which prohibits such discrimination in housing; and

The Equal Credit Opportunity Act, which prohibits such discrimination in consumer credit and finance.

Like the employment and housing antidiscrimination laws, this bill will place primary jurisdiction in the States to deal with such discrimination in insurance and annuities. Thus, the bill specifically provides that any complaint that an insurer has committed an unlawful discriminatory act—that is, based on race, color, religion, sex, or national origin—must first be filed with the appropriate State agency, if the State has a law prohibiting such discrimination and an agency to administer and enforce that State law. Only if the State has no such law or agency, or fails to resolve it to the complainant's satisfaction, will this bill allow the complainant to seek the next remedy; namely, to file a judicial action in a State or Federal court. The availability of that judicial remedy of course, will encourage the enactment of State laws prohibiting such discrimination. It will also help make the administration of the State law more effective, because the State can then proceed to eliminate discrimination based on race, color, religion, sex, or national origin, without any fear that such action may result in insurance companies or their contracts moving to another State which allows such discrimination.

REASONS FOR ENACTING THIS BILL

The principle of prohibiting discrimination based on race, color, religion, sex, or national origin is now part of our fundamental law and doctrine. We have made great strides toward making that principle into living reality—in employment, public accommo-

dations, housing, credit, government regulation and government benefits, transportation, recreation, voting, education, athletics, and many other areas of life.

But one of the greatest remaining gaps is in insurance and annuities. Blacks are heavily discriminated against in property, accident, casualty, and health insurance, and more subtly in other forms of insurance. Sex discrimination is blatant and widespread. These discriminations have widespread impact on millions of people. Our national policy of ending discrimination on the basis of race, color, religion, sex, or national origin demands that such discrimination in insurance and annuities also be ended.

This bill will not harm the insurance industry. It will help to protect consumers, business, poor people, widows, widowers, orphans, elderly people and retirees, and others. It will not intrude on the ability or powers of any State, which complies with the nondiscrimination principle, to regulate the insurance industry. Most defined-benefit pension and annuity plans, and much of the group forms of insurance, already operate without such discrimination. Several Federal courts, including the Supreme Court of the United States, have already ruled that sex discrimination in pension plans violates title VII of the Civil Rights Act of 1964. But many insurance companies still engage in such discrimination in their annuity plans. This bill will eliminate that disparity between the requirements of title VII as now applied by the courts in employment-related plans, and the industry's discriminatory practices, and will thus prevent possible frustration of title VII's nondiscrimination mandate. It is a bill whose enactment is long overdue.

This legislation is supported by a wide-ranging multitude of representative groups, organizations and individuals of the American public. For example, the report issued by the Senate Commerce Committee last month listed the following organizations as having specifically endorsed the bill:

A.F.L.-C.I.O., American Association of Retired Persons, American Association of University Professors, American Association of University Women, American Civil Liberties Union, American Home Economics Association, American Nurses Association, American Veterans Committee, Inc., Anti-Defamation League of B'nai Brith, Center for National Policy Review, Coal Employment Project, Displaced Homemakers Network, Inc., Jewish War Veterans of the U.S.A., Leadership Conference on Civil Rights.

Mexican-American Legal Defense Fund, N.A.A.C.P., National Association of Farmworkers Organizations, National Association of Social Workers, National Catholic Conference for Interracial Justice, National Community Action Agency Directors Association, National Conference of Black Mayors, Inc., National Consumers League, National Council of Jewish Women, National Council of Negro Women, National Council of Senior Citizens, National Federation of Business and Professional Womens Clubs, National Ladies Auxiliary of the Jewish War Veterans of the U.S.A., National Insurance Consumer Organization, National Organization for Women (N.O.W.).

National Urban League, National Women's Party, National Women's Health Network, National Women's Political Caucus, Office of Legislative Affairs, Women's Div., General Board of Global Ministries, United Methodist Church, Older Women's League, Organization of Chinese Americans, Rural American Women, United Automobile, Aerospace and Agricultural Implement Workers of America (U.A.W.), U.S. Commission on Civil Rights, Washington Office, Episcopal Church, Women's Equity Action League (W.E.A.L.), Women's Law Project, Women's Legal Defense Fund, Women, U.S.A.

Several of the trade associations representing much of the insurance industry have opposed this legislation because it would ban the industry's widespread practices of sex discrimination in insurance and annuities. Yet the representatives of these trade associations acknowledge that discrimination based on race, color, religion, or national origin is improper and unjust and should not be countenanced. Furthermore, their arguments for the continuation of sex discrimination do not reflect a uniform view. Indeed, the vast majority—over 95 percent—of employees, both in government and in private industry, are covered in connection with their employment, by defined-benefit annuity pension plans which provide periodic benefits in single life annuities and/or by group life insurance plans which provide equal insurance benefits, without sex differentiation either as to the benefits or as to the employees' contributions to the plans. Also, the National Association of Insurance Commissioners has urged the adoption of legislation and regulations to eliminate some forms of sex discrimination in insurance. Some States are attacking sex discrimination in an entire category of insurance. Thus, Hawaii, Massachusetts, Michigan, and North Carolina have adopted State laws forbidding sex discrimination in auto insurance, and in four other States—Florida, Louisiana, New Jersey, and Pennsylvania—the State insurance departments adopted regulations or orders to do the same, but were frustrated by the filing of court suits challenging their power to adopt such regulations unless specifically authorized by the State legislature. In addition, there have been many court decisions in suits brought by employee beneficiaries holding that sex discrimination in insurance and annuities, as to benefits as well as to employee contributions, violates title VII of the 1964 Civil Rights Act and/or the Constitution.

The insurance industry's present widespread discrimination practices adversely affect millions of people in our country. I believe that as more and more Members of Congress and the public study the issues and the effects of those practices, there will be increased recognition that there is urgent need to enact this legislation. This bill simply applies to insurance and annuities the same national nondiscrimination policy that the Congress has applied to virtually every other area of life. It leaves enforcement of that policy primarily to the States and only secondarily to the State and Federal courts, and it will not set up a Federal agency to administer the law. Its enactment will make unnecessary the extensive litigation which, under other statutes such as title VII and the Equal Pay Act, is now facing the insurance industry.

In short, H.R. 100 is a bill whose enactment will benefit millions of people, will not harm the insurance industry, and should be enacted.

I invite all Members to cosponsor this bill. I intend, after a reasonable time for responses, to ask that the bill be reprinted to list all cosponsors.●

THE NATION AND THE PACIFIC NORTHWEST BOTH NEED A NEW LOCK AT BONNEVILLE DAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. WYDEN) is recognized for 5 minutes.

● Mr. WYDEN. Mr. Speaker, today I, along with my colleagues Mr. AUCOIN, Mr. FOLEY, Mr. ROBERT F. SMITH of Oregon, Mr. MORRISON, Mr. DICKS, Mr. BONKER, Mr. CRAIG, and Mr. DENNY SMITH of Oregon, am introducing legislation to authorize construction of a new navigation lock at Bonneville Dam on the Columbia River. The lock is estimated to cost $167 million and will remove a bottleneck on the 465-mile Columbia-Snake waterway system that is frustrating increased barge traffic.

The project is necessary if the Columbia-Snake River system is to mature and realize its potential as one of the world's great waterway systems. When fully developed, the Columbia-Snake River system will be a tremendous national asset, aiding in the movement of cargo from the resource-rich Northwest and adding to our national security by providing a northern transportation route not dependent on passage through the Panama Canal.

As such, this is not a regional issue, but an issue of national importance.

The Columbia-Snake River system now moves 3.2 billion tons of waterborne commerce annually, valued at $25 billion in revenue. Most of the tonnage is in bulk commodities, including grain, petroleum, sand and gravel, fertilizer and forest products. The Columbia-Snake River system feeds, among

others, the Port of Portland, the west coast's leading port in export tonnage. With an improved modern lock at Bonneville, the system can do even more duty.

These are the economic reasons for a new lock at the Bonneville Dam:

It will eliminate a costly and time-consuming bottleneck now occurring at the present lock at Bonneville Dam. This lock is at the end of a seven-lock river system. The Bonneville lock is the oldest and smallest of the seven locks on the Columbia-Snake River waterway system forcing barge traffic to break up into smaller tows to lock through the Bonneville Dam. This delay causes congestion and costs shippers $2 million annually.

The lock was built in 1938 and has not had any rehabilitation work since 1963, even though it handles 25 percent of all U.S. wheat exports. Wheat exports favorably impact our balance of payments. Wheat exports are in increasing demand in Asian Pacific rim countries, who now account for 55 percent of all U.S. grain exports.

Cargo moving through the existing lock at Bonneville tripled between 1970 and 1980. A total of 9.1 million tons of cargo passed through Bonneville in 1981. The value of exports shipped from the Oregon Customs District in 1981 totaled $3.882 billion. Forty percent of this figure—or $1.6 billion—passed through the Bonneville lock.

Construction of a new lock must begin soon. The Corps of Engineers has pegged the capacity of the existing lock at 13 million tons per year and projects that that saturation level of traffic will be reached between 1988 and 1990.

Projections on increases in shipments of the Columbia-Snake system have consistently fallen short of the mark. When full-scale commercial navigation was extended to Lewiston, Idaho, in 1976, the Corps of Engineers estimated that 5.7 million tons of grain would move from Lewiston to the Pacific Ocean by the year 2000. That figure was surpassed in the first year of operation and, in 1981, 6.25 million tons of grain were shipped from Lewiston.

The completion of the new lock will save shippers $2.50 per ton, favorably influencing the cost of commodities and other products consumed in this country and exported abroad.

The new lock will aid the movement of America's coal exports from the West.

The new lock will aid expanding containerized cargo movements through the Columbia-Snake River system which totaled 187,000 tons in 1980. The Columbia-Snake system was one of the first to ship containers on barges. These shipments will double by 1990.

The new lock will enhance the development of a multimodal transportation network and increase opportunities for Midwest and other overland shipments that use rail-barge and motor carrier-barge shipments on the Columbia-Snake River system. These overland-waterway multimodal shipments will give shippers alternative western route systems easing the flow of traffic on the Mississippi River system and traffic which now must travel through the Panama Canal.

Construction of the new lock will have a positive environmental impact on the Columbia River by reducing turbulance, high oxygen levels and other negative marine pollution caused by congestion of barges and tows waiting to lock through the dam.

Construction of a new lock will help in protecting the natural scenic beauty of the Columbia River Gorge by balancing the use of the various transportation alternatives.

The new lock will aid in the shipment of waterborne transit which uses half the energy necessary to do the same job by rail and is nine times more energy efficient than motor carriers doing the same job. This energy savings becomes more significant when one considers that 49 percent of the regional commodity traffic uses the Columbia River system.

Finally, this project has a positive cost-benefit ratio, one of the key criteria being used by this administration to assess public expenditures. This project will return a minimum of $5 for every Federal dollar invested. This Federal investment will leverage an estimated $500 million private investment, creating desperately needed new employment opportunities along the Columbia-Snake River waterway system.

H.R. —

A bill to modify the Bonneville lock and dam project to provide that the Secretary of the Army, acting through the Chief of Engineers, is authorized to construct a new lock

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Bonneville lock and dam project, Oregon and Washington, authorized by the first section of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors, and for other purposes", approved August 30, 1935 (49 Stat. 1028), is hereby modified to provide that the Secretary of the Army, acting through the Chief of Engineers, is authorized to construct a new lock in accordance with the report of the Chief of Engineers, dated February 10, 1981, at an estimated cost of $167,000,000.●

WALTER POLOVCHAK RIGHT TO REMAIN IN THE UNITED STATES MUST BE PROTECTED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, Today I am introducing legislation to amend the Immigration and Nationality Act in order to provide that once a person has been granted asylum under the laws of the United States, he may not be involuntarily removed from this country by contrary laws or judicial decrees of any state.

Specifically, this important bill would clarify the status of Walter Polovchak, the 15-year old Ukrainian boy, who lives in the 11th Congressional District of Illinois which I am honored to represent, and who wishes to remain in the United States rather than return to the Soviet Union.

As my colleagues know, the Polovchaks had emigrated to our country from the Soviet Union with their three children in January 1980, but after 6 months in the United States, Walter's parents became dissatisfied with American life, and decided to return to the Soviet Union. Wanting to remain in this country, Walter, age 12 at the time, fled from his parents on July 19, 1980, and later was granted political asylum by the U.S. Immigration and Naturalization Service. His older sister, age 17, was traveling on her own visa, and was legally old enough to decide to remain in this country without any problem. Therefore, Walter and his sister remained in the United States when their parents returned to the Soviet Union with their younger brother, and Walter, a minor, was subsequently placed by an Illinois lower court in the custody of Ukrainian friends in this country.

At present, although Walter has been granted asylum, he is in the center of a legal battle in the State courts of Illinois to determine the question of parental custody. An Illinois State appellate court reversed the lower court's holding and awarded custody to Walter's parents who are now in the Soviet Union. This court held that since there was no evidence of gross neglect or abuse, there were no grounds for withdrawing the parents' custody, and the Federal grant of asylum constituted an unprecedented intrusion into the sanctity of the family. His case is now pending before the Illinois Supreme Court, and should this court uphold the appellate court's decision, presumably Walter's parents would be free to compel Walter's return to the Soviet Union.

Freedom-loving people throughout the world have expressed their support for Walter's right to remain in the United States, and it is our duty as Americans to do all in our power to see that Walter's rights are upheld. The legislation which I am introducing simply insures that Walter's right to remain in this country is protected, and I urge my colleagues to give their bipartisan support to this bill so that Walter will never again be forced to

live under the tyranny and oppression of the Communists.

Mr. Speaker, at this point in the RECORD I would like to include an article entitled, "Solzhenitsyn Family Pleads for Walter," written by Roger Simon, which appeared in the Chicago Sun-Times on December 9, 1982. It describes the horrors Walter will face if he is forced to return to the Soviet Union, and the joy he has experienced living in our country in freedom and human dignity.

The article follows:

[From the Chicago Sun-Times, Dec. 9, 1982]

SOLZHENITSYN FAMILY PLEADS FOR WALTER

(By Roger Simon)

The family of Nobel Prize winner Alexander Solzhenitsyn has written a letter saying Walter Polovchak will face "horror" if he is forced to return to the Soviet Union.

"We have four sons," the letter, obtained by the Sun-Times, states. "I can imagine what is going on in the soul of an adolescent who knows what awaits him on that side and who does not have the strength to prevent that horror.

"He will have a choice: be placed behind bars or 'repent' publicly and degrade himself—which is the equivalent of not physical but spiritual suicide."

Walter Polovchak, 15, came to America in 1980 and is now a permanent resident of this country. The American Civil Liberties Union, however, is suing to return him to his parents in the Soviet Union.

Solzhenitsyn was imprisoned in his native country for unnamed political crimes and then was banished to the labor camps of central Asia. He survived and was exiled from the Soviet Union in 1974. He now lives with his wife and children in Vermont.

He has firsthand knowledge of the fate of children in the Soviet prison system. In The Gulag Archipelago, the book for which he was arrested for treason in 1974, he wrote:

"In the semidarkness [of the prison camp], with a wordless rustling, from all sides juveniles crept up on us on all fours like big rats.

"They were still boys, some twelve-year-olds even, but the Criminal Code accepted them too. They jumped us from all sides and six pairs of hands stripped from us [our food].

"And all of this took place in total silence, with only the sound of sinister sniffing."

The letter regarding Walter Polovchak is dated Dec. 3 and is signed by Solzhenitsyn's wife, Natalia. It was sent to Henry Mark Holzer, one of Walter's attorneys. It says:

"I never would have believed that adults living on our planet in the 20th century might seriously consider the possibility of returning the boy to the U.S.S.R. against his will.

"After all, this is not a puppy, not a kitten, this is a being possessing a soul—and it is precisely on his soul, on his free will, and not on his hands and feet that the enslaving government of the U.S.S.R. is laying claim."

Natalia goes on to say that she understands the position taken by the ACLU: ". . . it is easy to object that, in principle, a rational society should not support the rebellion of children against their parents."

And, she states, she considers "the family might well be the most important structure of society" and that "in our own family my husband and I try to bring up our children with complete respect toward their elders."

"But," she says, "all these considerations make sense only for those societies where the family is at least partially independent from the state.

"In the U.S.S.R., for many decades already the family is deprived of its rights just as much, if not more, as any individual citizen."

She argues, as Walter's lawyers have argued, that if Walter is forced to return to the Soviet Union, he will face punishment, possibly prison.

"He himself saw American life," she writes, "he himself preferred it to Soviet life—that is to say, if Walter were deported to the U.S.S.R., the authorities there would never allow him to mingle uncontrolled with other people and tell them of his experience—for he is a 'bearer of the enemy's ideology.'

"He will have a choice: be placed behind bars or 'repent' publicly and degrade himself—which is the equivalent of not physical but spiritual suicide.

"Is it really possible that judges can be found in America who will send a child away to make such a choice?

"I am convinced that America herself no less than the young Polovchak boy needs to make the correct decision."

The legal cases involving Walter are still pending. One is before the Illinois Supreme Court and another is before the U.S. District Court.

Like everyone else, Walter is waiting to find out his fate.

I spoke to him by phone Wednesday at his foster home, where his foster family was preparing for Christmas.

"We'll be having a party," he said, "There will be a tree and I'll be hanging a stocking. Then we'll be going to church."

Though upon first meeting, Walter appears to be like any boy, there is a deep, underlying seriousness to him.

He seems to savor each moment, to treasure it.

"In the Soviet Union it was dangerous to go to church on Christmas," he said. "The police were always there and they marked down who went in. Here, we can go and not be afraid."

This will be Walter's third Christmas in America. His third in freedom. His third in which he is allowed to observe a religious holiday without fear.

And he will celebrate this Christmas as if it were his last.

For he knows it may be.●

CONGRESS CANNOT TAKE PASSIVE ROLE CONCERNING NUCLEAR ARMS CONTROL ISSUES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. ZABLOCKI) is recognized for 5 minutes.

● Mr. ZABLOCKI. Mr. Speaker, on August 5, 1982, the House of Representatives undertook a historic debate on nuclear arms control and the direction of U.S. national security policy. The focus of that debate was House Joint Resolution 521, which I had the honor of sponsoring with 182 cosponsors.

House Joint Resolution 521 called for the negotiation of a mutual and verifiable freeze on and reduction in nuclear weapons. As my colleagues will recall, the resolution failed House passage by only two votes.

Since that occasion, the American people have strongly reinforced the basic premise embodied in House Joint Resolution 521 that the nuclear arms race must stop and the threat of nuclear annihilation must be reduced. Millions of American voters expressed their views on the issue of a mutual and verifiable freeze. Eight out of nine States and the District of Columbia expressed strong support for such a concept in recent referendums.

With this clear mandate established, I am today introducing a joint resolution essentially the same as House Joint Resolution 521. Consistent with Congress essential oversight responsibilities, the resolution outlines six objectives which U.S. negotiators should pursue at the START negotiations in Geneva.

To review, these objectives include: Pursuing a complete halt to the nuclear arms race; deciding when and how to achieve a mutual and verifiable freeze on nuclear warheads, missiles, and delivery systems; giving special attention to destablizing weapons whose deployment would make such a freeze more difficult to achieve; pursuing substantial, equitable, and verifiable reductions after a freeze has been negotiated; preserving present limitations and controls on current nuclear weapons and their delivery systems; and incorporating ongoing negotiations on land-based intermediate-range nuclear missiles into the START negotiations.

This package of objectives represents the most comprehensive and effective means of enhancing U.S. national security through mutual and verifiable arms controls. The objectives in this resolution are clearcut and complementary.

The pursuit of a mutual and verifiable freeze represents an effort to prevent the further development of nuclear weapons on both sides. Because essential equivalence between the United States and Soviet nuclear arsenals exists, and its existence has been acknowledged by the Reagan administration, the freeze enhances strategic stability.

Above all, let it be unmistakably clear that my resolution does not provide for a unilateral freeze. Nor will it preclude any defense program proposed by the administration. There will be no freeze if it is not mutual and verifiable. On the other hand, if immediately implemented, Soviet efforts to gain a unilateral advantage during the START process would be blocked and near-term Soviet advantages in some nuclear weapons programs would be blunted.

Another important objective of the resolution is its emphasis on limiting the development of destabilizing weap-

ons. These weapons which have the capability to destroy the other sides' strategic nuclear weapons are most dangerous since they are likely to be the main element of a first strike and encourage a "use it or lose it" attitude on both sides toward nuclear weapons. Efforts to prohibit or limit these systems is a high arms control priority.

A mutual and verifiable freeze is not an end in itself. Therefore, once a freeze has stopped the momentum of the arms race, substantial equitable, and verifiable reductions become possible and are in fact the logical next step. Nonetheless, the linkage between freeze and reductions is a crucial one. The contention of the Reagan administration that the United States must arm to disarm and build in order to reduce stands reason on its head.

Until a mutual and verifiable freeze and reductions in nuclear weapons can be achieved, it is essential that arms control accomplishments already established be maintained. Therefore, my resolution calls for preserving present limitations and controls on current nuclear weapons and nuclear delivery systems.

The final objective of the resolution calls for the incorporation of ongoing negotiations in Geneva on land-based intermediate-range nuclear forces (INF) into the START negotiations. There are several reasons why this approach is advisable.

First, the decision to begin INF negotiations was originally to have taken place in the SALT framework, which has now been reconstituted as START. Second, intermediate-range missiles are inextricably linked to strategic nuclear forces on both sides and incorporation of INF with START strengthens this linkage and in the process the political cohesiveness and unity of the NATO alliance. Third, since any progress at the INF discussions is generally acknowledged to be dependent on progress at START, incorporation promotes such progress.

Mr. Speaker, I anticipate that this comprehensive package of proposals and other similar congressional initiatives in the nuclear arms control field will be the subject of debate and discussion in coming weeks. As chairman of the Committee on Foreign Affairs, I intend to hold hearings on the administration's arms control policy and on various congressional arms control resolutions leading to a committee markup and consideration of these crucial issues on the House floor in the near future.

I hope that all Members will participate in this process. Congress cannot take a passive role concerning nuclear arms control issues. Since Congress will be asked to approve the eventual final product of START, we have a responsibility, in a bipartisan fashion, to contribute to the formulation and development of that final product. To simply let the President do what he wishes on this issue is clearly an abdication of that responsibility.●

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. CONTE) to revise and extend his remarks and include extraneous material:)

Mr. CONTE, for 5 minutes, today.

(The following Members (at the request of Mr. CARNEY) to revise and extend their remarks and include extraneous material:)

Mr. KRAMER, for 60 minutes, on January 6.

Mr. BROWN of Colorado, for 30 minutes, on January 6.

Mr. GEKAS, for 15 minutes, today.

Mr. CARNEY, for 10 minutes, today.

Mr. HORTON, for 15 minutes, today.

Mr. MILLER of Ohio, for 15 minutes, today.

Mr. JEFFORDS, for 15 minutes, today.

Mr. MICHEL, for 5 minutes, today.

(The following Members (at the request of Mr. BATES) to revise and extend their remarks and include extraneous material:)

Mr. BROOKS, for 5 minutes, today.

Mr. LEVITAS, for 10 minutes, today.

Mr. RODINO, for 5 minutes, today.

Mr. OBERSTAR, for 5 minutes, today.

Mr. DINGELL, for 5 minutes, today.

Mr. WYDEN, for 5 minutes, today.

Mr. GONZALEZ, for 30 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. ZABLOCKI, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. CARNEY) and to include extraneous matter:)

Mr. PURSELL in three instances.

Mr. SHUSTER.

Mr. CONABLE.

Mr. CARNEY.

Mr. MARLENEE.

Mr. KEMP.

Mr. BARTLETT.

Mr. MILLER of Ohio in three instances.

Mr. CORCORAN in two instances.

Mr. BROYHILL.

Mr. FORSYTHE.

(The following Members (at the request of Mr. BATES) and to include extraneous matter:)

Mr. BROOKS in two instances.

Mr. CORRADA.

Mr. MAZZOLI.

Mr. WEISS in 25 instances.

Mr. HUBBARD.

Mr. PRICE in six instances.

Mr. DINGELL in two instances.

Mr. BARNES.

Mr. DANIEL.

Mr. DONNELLY.

Mr. GUARINI.

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. ROSENTHAL in 10 instances.

Mrs. BOUQUARD in five instances.

Mr. HAMILTON in 10 instances.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. JONES of Tennessee in 10 instances.

Mr. BONER of Tennessee in five instances.

Mr. STARK in four instances.

Mr. DOWNEY.

Mr. LONG of Louisiana.

Mrs. KENNELLY.

Mr. BOLAND.

Mr. SEIBERLING in 10 instances.

ADJOURNMENT TO THURSDAY, JANUARY 6, 1982

Mr. BATES. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore. Pursuant to the provisions of House Resolution 14, the House stands adjourned until 2 p.m. on Thursday, January 6, 1983, in memory of the late Honorable JACK SWIGERT of Colorado.

Thereupon (at 4 o'clock and 35 minutes p.m.), pursuant to House Resolution 14, the House adjourned until Thursday, January 6, 1983, at 2 p.m.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. GONZALEZ:

H.R. 1. A bill to amend and extend certain Federal laws that establish housing and community and neighborhood development and preservation programs, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. MINETA (for himself and Mr. GEPHARDT):

H.R. 2. A bill to require reauthorizations of budget authority for Government programs at least every 10 years, to provide for review of Government programs at least every 10 years, and for other purposes; jointly, to the Committees on Rules and Government Operations.

By Mr. RODINO (for himself and Mr. FISH:

H.R. 3. A bill to provide for the appointment of U.S. bankruptcy judges under article III of the Constitution, and for other purposes; to the Committee on the Judiciary.

By Mr. MICHEL:

H.R. 4. A bill to amend the Natural Gas Policy Act of 1978 to restrain natural gas price increases by facilitating price responsiveness during periods when supplies exceed demand, and for other purposes; to the Committee on Energy and Commerce.

By Mr. JONES of North Carolina:

H.R. 5. A bill to establish an ocean and coastal resources management and development fund from which coastal States shall receive block grants; to the Committee on Merchant Marine and Fisheries.

By Mr. LOTT:

H.R. 6. A bill to repeal the withholding of tax from interest and dividends; to the Committee on Ways and Means.

By Mr. PERKINS:

H.R. 7. A bill to make permanent certain of the authorizations of appropriations under the National School Lunch Act and the Child Nutrition Act of 1963; to the Committee on Education and Labor.

BY Mr. BROOKS:

H.R. 8. A bill to recognize the Cabinet status of the Director of the Office of Management and Budget, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. FUQUA (for himself and Mr. CHAPPELL):

H.R. 9. A bill to designate components of the National Wilderness Preservation System in the State of Florida; to the Committee on Interior and Insular Affairs.

By Mr. OBERSTAR:

H.R. 10. A bill to amend the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act of 1965; jointly, to the Committees on Public Works and Transportation and Banking, Finance and Urban Affairs, and Education and Labor.

By Mr. PERKINS:

H.R. 11. A bill to extend through fiscal year 1989 the authorization of appropriations for certain education programs, and for other purposes; to the Committee on Education and Labor.

By Mr. LAFALCE:

H.R. 12. A bill to extend by 7 months the expiration date of the Defense Production Act of 1950; to the Committee on Banking, Finance and Urban Affairs.

By Mr. McKINNEY:

H.R. 13. A bill to amend the Defense Production Act of 1950 to revitalize the defense industrial base of the United States; to the Committee on Banking, Finance and Urban Affairs, and Education and Labor.

By Mr. PERKINS (for himself and Mr. GOODLING):

H.R. 14. A bill to extend the authorization of appropriations under the Vocational Educational Act of 1963; to the Committee on Education and Labor.

By Mr. DINGELL:

H.R. 15. A bill to amend the Tax Equity and Fiscal Responsibility Act of 1982 to repeal the provisions requiring withholding on dividends and interest; to the Committee on Ways and Means.

H.R. 16. A bill to provide a program of national health insurance, and for other purposes; to the Committee on Energy and Commerce.

By Mr. SMITH of Iowa (for himself, Mr. GORE, Mr. BEILENSON, Mr. FOGLIETTA, Mr. FORD of Michigan, Mr. HOYER, Mr. LANTOS, Mr. LEHMAN of Florida, Mr. MITCHELL, Mr. QUILLEN, Mr. RODINO, Mr. NELSON of Florida, Mr. SOLARZ, and Mr. CROCKETT):

H.R. 17. A bill to amend the Federal Food, Drug, and Cosmetic Act to require that certain foods intended for human consumption be labeled to show the amount of sodium and potassium they contain; to the Committee on Energy and Commerce.

By Mr. SMITH of Iowa:

H.R. 18. A bill to direct the Secretary of the Army, acting through the Chief of Engineers, to carry out a waters resources development project on, and along, a certain segment of the Des Moines River, Iowa; to the Committee on Public Works and Transportation.

By Mr. SMITH of Iowa (for himself and Mr. UDALL):

H.R. 19. A bill to require the Secretary of the Interior to establish a program to insure the stockpiling and replacement of topsoil on public lands and other lands which are moved or covered by surface mining projects, reclamation projects, and other Federal and federally assisted projects, and for other purposes; jointly, to the Committees on Agriculture and Interior and Insular Affairs.

By Mr. KASTENMEIER:

H.R. 20. A bill to establish a Federal Oil and Gas Corporation; jointly, to the Committees on Energy and Commerce, Interior and Insular Affairs, and Science and Technology.

H.R. 21. A bill to promote competition in the production of coal, uranium, and geothermal power; to the Committee on the Judiciary.

By Mr. JEFFORDS:

H.R. 22. A bill to assure the production of an adequate supply of pure and wholesome milk to meet the needs of markets in the United States, to assure a reasonable level of return to dairy farmers and stable prices for dairy products for consumers, to stabilize a temporary imbalance in the supply of and demand for dairy products, enable milk producers to establish, finance, and carry out a coordinated program of dairy product promotion to improve, maintain, and develop markets for dairy products, and for other purposes; to the Committee on Agriculture.

H.R. 23. A bill to assure the production of an adequate supply of pure and wholesome milk to meet the needs of markets in the United States, to assure a reasonable level of return to dairy farmers and stable prices for dairy products for consumers, to stabilize a temporary imbalance in the supply of and demand for dairy products, enable milk producers to establish, finance, and carry out a coordinated program of dairy product promotion to improve, maintain, and develop markets for dairy products, and for other purposes; to the Committee on Agriculture.

By Mr. HORTON (for himself and Mr. LUNDINE).

H.R. 24. A bill to make certain land owned by the United States in the State of New York part of the Green Mountain National Forest; to the Committee on Agriculture.

By Mr. ANNUNZIO:

H.R. 25. A bill to amend the Immigration and Nationality Act to clarify the status of individuals who have been granted asylum; to the Committee on the Judiciary.

H.R. 26. A bill to amend title 5 of the United States Code to provide death benefits to survivors of Federal law enforcement officers and firefighters, and for other purposes; to the Committee on Education and Labor.

H.R. 27. A bill to amend the Gun Control Act of 1968 to provide for separate offense and consecutive sentencing in felonies involving the use of a firearm; to the Committee on the Judiciary.

H.R. 28. A bill to amend the Omnibus Crime and Safe Streets Act of 1968 to require as a condition of assistance under such act that law enforcement agencies have in effect a binding law enforcement officers' bill of rights; to the Committee on the Judiciary.

H.R. 29. A bill to recognize the organization known as the Polish Legion of American Veterans, U.S.A.; to the Committee on the Judiciary.

By Mr. PERKINS (for himself, Mr. SIMON, Mr. GOODLING, Mr. FORD of Michigan, Mr. BIAGGI, Mr. WILLIAMS of Montana, Mr. WEISS, Mr. LEHMAN of Florida, Mr. OBERSTAR, Mr. SMITH of Iowa, Mr. RAHALL, Mr. BEVILL, and Mr. BOUCHER):

H.R. 30. A bill to provide assistance to improve elementary, secondary, and postsecondary education in mathematics and science, and for other purposes; to the Committee on Education and Labor.

By Mr. ASPIN (for himself, Mr. DASCHLE, Mr. LUKEN, Mr. SAM B. HALL, JR., Mr. ROE, Mr. MARLENEE, Mr. LATTA, Mr. FROST, Mr. BIAGGI, Mr. BONIOR of Michigan, Mr. FRENZEL, Mr. VENTO, Mr. ZABLOCKI, Mr. DONNELLY, Mr. HUGHES, Mr. WILLIAMS of Montana, Mr. D'AMOURS, Mr. TAUZIN, Mr. WILLIAMS of Ohio, Mr. LOEFFLER, Mr. HEFNER, Mr. HALL of Ohio, Mr. FLORIO, Mr. WYLIE, Mr. FISH, Mr. SIMON, Mr. RINALDO, Mr. STOKES, Mr. WYDEN, Mr. RATCHFORD, Ms. OAKAR, Mr. WEAVER, and Mr. ROEMER):

H.R. 31. A bill to amend title 10, United States Code, to include chiropractic care in the health care that may be provided to members and certain former members of the uniformed services and their dependents and to authorize chiropractors to be appointed as commissioned officers in the Armed Forces to provide such chiropractic care; to the Committee on Armed Services.

By Mr. BENNETT:

H.R. 32. A bill to amend title 10, United States Code, to regulate the discharge of members of the Armed Forces, and for other purposes; to the Committee on Armed Services.

H.R. 33. A bill to transfer management of the national defense stockpile to the Secretary of Defense; to the Committee on Armed Services.

H.R. 34. A bill to protect the constitutional rights of persons subject to the military justice system, to revise the Uniform Code of Military Justice, and for other purposes; to the Committee on Armed Services.

H.R. 35. A bill to amend title 10, United States Code, to establish a new procurement system for the Armed Forces; to the Committee on Armed Services.

H.R. 36. A bill to make eligible for annuities payable under section 4 of Public Law 92-425 (relating to the Armed Forces survivor benefit plan) persons who became widows during the 18-month period following the effective date of such law; to the Committee on Armed Services.

H.R. 37. A bill to amend title 37, United States Code, to provide that a reenlistment bonus paid to an enlisted member of the Armed Forces shall be paid in the highest applicable amount in effect during the 1-year period preceding the end of the member's current enlistment; to the Committee on Armed Services.

H.R. 38. A bill to make multipurpose senior centers available to handicapped or disabled individuals who have not attained 60 years of age; to the Committee on Education and Labor.

H.R. 39. A bill to provide for payment of certain insurance benefits to certain protected employees of the Consolidated Rail Corporation to insure that such employees were not disadvantaged between April 1 and September 30, 1976; to the Committee on Energy and Commerce.

H.R. 40. A bill to amend the Arms Export Control Act (formerly Foreign Military Sales Act) to authorize the President to prescribe regulations for protecting arms information from the risk of indiscriminate export; to the Committee on Foreign Affairs.

H.R. 41. A bill to insure that a country receiving foreign assistance cooperate with the Government of the United States in its efforts to reduce the flow of illicit drugs from such country; to the Committee on Foreign Affairs.

H.R. 42. A bill to establish a Commission on More Effective Government, with the declared objective of improving the quality of Government in the United States and of restoring public confidence in Government at all levels; to the Committee on Government Operations.

H.R. 43. A bill to establish a series of six regional Presidential primaries at which the public may express its preference for the nomination of an individual for election to the office of President of the United States; to the Committee on House Administration.

H.R. 44. A bill to provide for disclosures by lobbyists, and for other purposes; to the Committee on the Judiciary.

H.R. 45. A bill to subject certain nationals or citizens of the United States to the jurisdiction of the U.S. district courts for their crimes committed outside the United States and to provide for the apprehension, restraint, removal, and delivery of such persons; to the Committee on the Judiciary.

H.R. 46. A bill to amend title 28 of the United States Code to limit the jurisdiction of courts established by Congress under articles III of the Constitution of the United States over State cases; to the Committee on the Judiciary.

H.R. 47. A bill to modify the insanity defense in the Federal courts; to the Committee on the Judiciary.

H.R. 48. A bill to improve the administration of criminal justice with respect to organized crime and the use of violence; to the Committee on the Judiciary.

H.R. 49. A bill to prohibit any act or threat of violence in a labor dispute and any conspiracy to accomplish such act or threat and to impose criminal and civil penalties therefor; to the Committee on the Judiciary.

H.R. 50. A bill to amend title 28 of the United States Code to change the types of hearings which a magistrate may conduct, and to change the jurisdiction for the consideration of, and the standards for the granting of, writs of habeas corpus by Federal courts upon the application of persons in custody pursuant to judgments of State courts; to the Committee on the Judiciary.

H.R. 51. A bill to amend chapter 313 of title 18 of the United States Code to improve the system dealing with mental defectives charged with offenses against the United States; to the Committee on the Judiciary.

H.R. 52. A bill to amend title 13, United States Code, to require that the most currently produced population data obtained by the Census Bureau be used in determining benefits received by State and local governments under Federal programs; to the Committee on Post Office and Civil Service.

H.R. 53. A bill to amend the Federal Aviation Act of 1958 to establish additional criminal penalties applicable to persons who pilot aircraft in connection with drug smuggling operations, and for other purposes; to the Committee on Public Works and Transportation.

H.R. 54. A bill to amend the Federal Aviation Act of 1958 to require regulations prohibiting air carriers from dispensing alcoholic beverages and tobacco without charge to passengers aboard air carrier aircraft; to the Committee on Public Works and Transportation.

H.R. 55. A bill to insure equal consideration of nonstructural water resources projects and plans, and for other purposes; to the Committee on Public Works and Transportation.

H.R. 56. A bill to direct the Secretary of the Army to set aside an appropriate area within the Arlington National Cemetery for the burial of cremated remains; to the Committee on Veterans' Affairs.

H.R. 57. A bill to provide for a Veterans' Administration general medical and surgical hospital at Jacksonville, Fla., and to achieve cooperation with the University of Florida College of Medicine in its activities in Jacksonville; to the Committee on Veterans' Affairs.

By Mr. LONG of Louisiana (for himself and Mr. DERRICK):

H.R. 58. A bill to establish as a part of the Rules of the House of Representatives and the Senate a procedure for the periodic congressional review of Federal programs and tax expenditures, and to improve legislative oversight of Federal activities and regulatory programs; to the Committee on Rules.

By Mr. BENNETT:

H.R. 59. A bill to amend the Internal Revenue Code of 1954 to provide that the unified credit against the estate tax shall not be reduced by certain gifts made during 1976 which are includible in the gross estate of the decedent; to the Committee on Ways and Means.

H.R. 60. A bill to amend the Internal Revenue Code of 1954 to impose a minimum tax on corporations; to the Committee on Ways and Means.

H.R. 61. A bill to amend the Internal Revenue Code of 1954 to deny the benefits of the accelerated cost recovery system to any business which does not expand its employment; to the Committee on Ways and Means.

H.R. 62. A bill to amend the Internal Revenue Code of 1954 to provide that no individual shall pay an income tax of less than 10 percent of his net income which exceeds $30,000 for any taxable year; to the Committee on Ways and Means.

By Mr. SCHULZE:

H.R. 63. A bill to amend the Internal Revenue Code of 1954 to encourage individuals to invest in the stock of domestic corporations by allowing a 10-percent income tax credit for such investments; to the Committee on Ways and Means.

By Mr. BENNETT:

H.R. 64. A bill to amend title 38, United States Code, to provide a new educational assistance program for persons who enlist, reenlist, or otherwise enter into the Armed Forces after December 31, 1980, and to provide a career serviceperson's educational assistance program for members of the Armed Forces, and to amend title 10, United States Code, to authorize an educational leave of absence for members of the Armed Forces; jointly, to the Committees on Armed Services and Veterans' Affairs.

H.R. 65. A bill to abolish the National Security Council, and for other purposes; jointly, to the Committee on Armed Services and Permanent Select Committee on Intelligence.

H.R. 66. A bill to amend the National Security Act of 1947 to establish by law procedures for the classification and protection of sensitive information relating to the national security, to provide criminal penalties for unauthorized disclosure of such information, to limit matters that may be classified and impose penalties for unauthorized classification, to provide for declassification, and for other purposes; jointly, to the Committees on Armed Services and Permanent Select Committee on Intelligence.

H.R. 67. A bill to amend the Defense Production Act of 1950, as amended; jointly, to the Committees on Armed Services, Banking, Finance and Urban Affairs, Government Operations, and Post Office and Civil Service.

H.R. 68. A bill to amend titles 10 and 37, United States Code, to authorize the Secretary of Defense and the Secretary of Transportation to increase the term of service in the armed forces under their jurisdiction and to pay bonuses for enlistment and reenlistment in the Reserve components; jointly, to the Committees on Armed Services and Merchant Marine and Fisheries.

H.R. 69. A bill to provide that any abandoned historic shipwreck located, in whole or in part, on the Outer Continental Shelf or on lands beneath navigable waters within the boundaries of a State shall be the property of the United States (subject to transfer to that State after adoption of an adequate State plan), and for other purposes; jointly, to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries.

H.R. 70. A bill to tighten the conditions of release on bail for drug offenders; jointly, to the Committees on the Judiciary and Energy and Commerce.

By Mr. BEREUTER (for himself, Mr. KAZEN, Mr. LUJAN, Mr. BROWN of Colorado, and Mr. KOGOVSEK):

H.R. 71. A bill to authorize and direct the Secretary of the Interior to engage in a special study of the potential for ground water recharge in the High Plains States, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. BIAGGI:

H.R. 72. A bill to amend the Higher Education Act of 1965 to promote the matching of lists of defaulting borrowers of student loans with lists of public employees; to the Committee on Education and Labor.

H.R. 73. A bill to provide for Federal support and encouragement of State, local, and community activities to prevent domestic violence and assist victims of domestic violence, to provide for coordination of Federal programs and activities relating to domestic violence, and for other purposes; to the Committee on Education and Labor.

By Mr. BIAGGI (for himself and Mr. FISH):

H.R. 74. A bill to amend the Foreign Assistance Act of 1961 to authorize economic relief and rehabilitation assistance for Ireland; to the Committee on Foreign Affairs.

By Mr. BIAGGI:

H.R. 75. A bill to amend the Omnibus Budget Reconciliation Act of 1982 to allow Federal law enforcement officers and firefighters who retired because of mandatory separation because of age to have cost-of-living adjustments in their retirement annuities; to the Committee on Post Office and Civil Service.

H.R. 76. A bill to amend the Internal Revenue Code of 1954 to allow a credit against income tax to individuals for maintaining a household a member of which is a dependent of the taxpayer who has attained age 65; to the Committee on Ways and Means.

H.R. 77. A bill to amend the Internal Revenue Code of 1954 to permit an exemption of the first $5,000 of retirement income received by a taxpayer under a public retirement system or any other system if the taxpayer is at least 65 years of age; to the Committee on Ways and Means.

H.R. 78. A bill to amend the Internal Revenue Code of 1954 to permit certain cooperative housing corporations to replace conventional financing with tax-exempt financing; to the Committee on Ways and Means.

By Mr. CARNEY (for himself and Mr. LENT):

H.R. 79. A bill to amend the Safe Drinking Water Act to provide for the protection of certain recharge areas overlying sole source underground water supplies; to the Committee on Energy and Commerce.

By Mr. CLAY:

H.R. 80. A bill to amend title 39 of the United States Code to require that at least 10 per centum of expenditures by the Postal Service under certain contracts entered into by the Postal Service are expended for minority business enterprises, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 81. A bill to amend title 39, United States Code, to restore to Postal Service employees their rights to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 82. A bill to amend title 5, United States Code, to restore to Federal civilian employees their rights to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes; to the Committee on Post Office and Civil Service.

By Mrs. COLLINS:

H.R. 83. A bill to amend title 18 of the United States Code to make unlawful the adulteration of food, drugs, and cosmetics carried out for the purpose of causing death or injury; to the Committee on the Judiciary.

By Mr. BIAGGI:

H.R. 84. A bill to establish temporary provision governing the day and times for the elections of Senators, Members of the House of Representatives, and electors of the President and Vice President; to the Committee on House Administration.

By Mrs. COLLINS:

H.R. 85. A bill to provide for the establishment and operation of a national lottery to assist in financing the old-age, survivors, and disability insurance program; jointly, to the Committees on Ways and Means, Post Office and Civil Service, and the Judiciary.

By Mr. CORCORAN:

H.R. 86. A bill to amend title 39 of the United States Code to terminate the Board of Governors of the United States Postal Service, to provide that the exercise of the power of the Postal Service shall be directed by the Postmaster General, to revise the authority of the Postal Rate Commission, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 87. A bill to amend title 39 of the United States Code to provide for congressional review of proposed changes in postal services; to the Committee on Post Office and Civil Service.

By Mr. CORRADA:

H.R. 88. A bill to amend the Agricultural Act of 1949 to limit the authority of the Secretary of Agriculture to make deductions from proceeds of sale of milk marketed commercially by producers in certain insular areas; to the Committee on Agriculture.

H.R. 89. A bill to permit the transportation of passengers between Puerto Rico and other U.S. ports on foreign-flag vessels when U.S.-flag service for such transportation is not available; to the Committee on Merchant Marine and Fisheries.

By Mr. DICKINSON:

H.R. 90. A bill to amend title 5, United States Code, concerning salary and pay of civilian air traffic controllers employed by the Department of Defense; to the Committee on Post Office and Civil Service.

By Mr. DONNELLY:

H.R. 91. A bill to amend the Internal Revenue Code of 1954 to encourage contributions of computer equipment to elementary and secondary schools; to the Committee on Ways and Means.

By Mr. DUNCAN:

H.R. 92. A bill to amend chapter 67 of title 10, United States Code, to grant eligibility for retired pay to certain reservists who did not perform active duty before August 16, 1945, and for other purposes; to the Committee on Armed Services.

H.R. 93. A bill to provide that social security benefit increases occurring after May 1981 shall not be considered as income or resources for the purposes of determining the eligibility for or amount of assistance which any individual or family is provided under certain Federal housing laws; to the Committee on Banking, Finance and Urban Affairs.

H.R. 94. A bill to amend the Railroad Unemployment Insurance Act to increase the maximum daily benefit from $25 to $40; to the Committee on Energy and Commerce.

H.R. 95. A bill to amend the Railroad Retirement Act of 1974 to provide spouses' and widows' benefits to certain divorced persons; to the Committee on Energy and Commerce.

H.R. 96. A bill to amend the Tennessee Valley Authority Act of 1933 relating to the sale of electricity to industrial users by the Tennessee Valley Authority through States, counties, municipalities, and cooperative organizations; to the Committee on Public Works and Transportation.

H.R. 97. A bill to amend title II of the Social Security Act to limit benefits in the case of individuals who are not citizens or nationals of the United States or who are residing abroad; to the Committee on Ways and Means.

H.R. 98. A bill to require the Internal Revenue Service to follow Frederick against the United States in the administration of the Internal Revenue Code of 1954 with respect to transportation expenses; to the Committee on Ways and Means.

H.R. 99. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for contributions for the construction or maintenance of buildings housing fraternal organizations; to the Committee on Ways and Means.

By Mr. DINGELL:

H.R. 100. A bill to prohibit discrimination in insurance on the basis of race, color, religion, sex, or national origin; to the Committee on Energy and Commerce.

By Mr. DUNCAN:

H.R. 101. A bill to strengthen the assignment program for durable medical equipment under title XVIII of the Social Security Act, and for other purposes; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. EDGAR (by request):

H.R. 102. A bill to amend title 38 of the United States Code to promote the care and treatment of veterans in State veterans' homes; to the Committee on Veterans' Affairs.

H.R. 103. A bill to amend title 38, United States Code, to increase the per diem rate payable by the Veterans' Administration to States providing domiciliary, nursing home, and hospital care to veterans in State homes; to the Committee on Veterans' Affairs.

H.R. 104. A bill to amend title 38, United States Code, to reduce from 50 percent to 30 percent the degree of service-connected disability a veteran must have in order to be eligible for non-service-connected outpatient care from the Veterans' Administration; to the Committee on Veterans' Affairs.

H.R. 105. A bill to amend title 38, United States Code, to increase the travel allowance paid by the Veterans' Administration for travel by a veteran in connection with a service-connected disability; to the Committee on Veterans' Affairs.

H.R. 106. A bill to amend title 38, United States Code to authorize the Veterans' Administration to administer a community residential care program; to the Committee on Veterans' Affairs.

H.R. 107. A bill to amend title 38, United States Code to reduce from 100 percent to 50 percent the degree of service-connected dental care from the Veterans' Administration; to the Committee on Veterans' Affairs.

By Mr. EDWARDS of California (for himself, Mr. HYDE, and Mr. MINETA):

H.R. 108. A bill to authorize the Attorney General to issue certificates of review applicable under the antitrust laws with respect to joint research and development programs; to the Committee on the Judiciary.

By Mr. FUQUA:

H.R. 109. A bill to amend title 10 of the United States Code in order to establish Optometry Corps in the Army and the Navy and to provide a separate optometric service within the Air Force; to the Committee on Armed Services.

H.R. 110. A bill to authorize recomputation at age 60 of the retired pay of members and former members of the uniformed services whose retired pay is computed on the basis of pay scales in effect prior to January 1, 1972, and for other purposes; to the Committee on Armed Services.

H.R. 111. A bill to amend the Occupational Safety and Health Act of 1970 to provide that where violations are corrected within the prescribed abatement period no penalty shall be assessed; to the Committee on Education and Labor.

H.R. 112. A bill to amend the Federal Mine Safety and Health Amendments Act of 1977 to provide that the provisions of such act shall not apply to stone mining operations or to sand and gravel mining operations; to the Committee on Education and Labor.

H.R. 113. A bill to amend the Controlled Substances Act to provide penalties for persons who obtain or attempt to obtain narcotics or other controlled substances from a retail pharmacy by force and violence, and for other purposes; to the Committee on Energy and Commerce.

H.R. 114. A bill to amend the Federal Property and Administrative Services Act of 1949 to permit State and county extension services to obtain excess property from the United States; to the Committee on Government Operations.

H.R. 115. A bill to repeal the Gun Control Act of 1968, to reenact the Federal Firearms Act, to make the use of a firearm to commit certain felonies a Federal crime where that use violates State law, and for other purposes; to the Committee on the Judiciary.

By Mrs. MARTIN of Illinois:

H.R. 116. A bill to establish a program to provide funds to States for the purpose of job opportunities and business stimulation, and for other purposes; to the Committee on Education and Labor.

By Mr. FUQUA:

H.R. 117. A bill to amend the Miller Act to authorize the payment of attorney fees and litigation cost to a prevailing plaintiff from performance bonds furnished by Federal contractors; to the Committee on the Judiciary.

H.R. 118. A bill to amend title 39, United States Code, to require the U.S. Postal Service to make certain considerations prior to closing of third- and fourth-class post offices; to the Committee on Post Office and Civil Service.

H.R. 119. A bill to amend title 38 of the United States Code to make certain that recipients of veterans' pension and compensation will not have the amount of such pension or compensation reduced because of increases in monthly social security benefits; to the Committee on Veterans' Affairs.

H.R. 120. A bill to repeal the withholding of tax from interest and dividends; to the Committee on Ways and Means.

H.R. 121. A bill to provide coverage under the Federal old-age, survivors, and disability insurance system for all officers and employees of the United States and its instrumentalities; to the Committee on Ways and Means.

H.R. 122. A bill to amend title XVI of the Social Security Act to provide that supplemental security income benefits which are due an individual who dies without leaving an eligible spouse shall be paid to the person or persons who paid the expenses of such individual's last illness and burial; to the Committee on Ways and Means.

By Mr. MICHEL:

H.R. 123. A bill to amend the Congressional Budget Act of 1974 to make basic modifications in the congressional budget process to improve its effectiveness so that it will better reflect the economic realities facing the Nation; to the Committee on Rules.

By Mr. FUQUA:

H.R. 124. A bill to amend the Internal Revenue Code of 1954 to exempt nonprofit volunteer firefighting or rescue organizations from the Federal excise taxes on gasoline, diesel fuel, and certain other articles and services; to the Committee on Ways and Means.

H.R. 125. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

H.R. 126. A bill to permit either House of Congress to disapprove certain rules proposed by executive agencies; jointly, to the Committees on the Judiciary and Rules.

H.R. 127. A bill to amend titles 14 and 38, United States Code, to provide veterans' benefits to temporary members of the U.S. Coast Guard Reserve, and for other purposes; jointly, to the Committees on Merchant Marine and Fisheries and Veterans' Affairs.

H.R. 128. A bill to amend title XVIII of the Social Security Act to authorize payment under the supplementary medical insurance program for optometric and medical vision care; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. FUQUA (for himself and Mr. HUTTO):

H.R. 129. A bill to permit extended dredging of bendways and interconnecting waterways; to the Committee on Public Works and Transporation.

H.R. 130. A bill to permit the Corps of Engineers to acquire land for water-related public use; to the Committee on Public Works and Transportation.

By Mr. GRAMM:

H.R. 131. A bill to remove artificial impediments on the use of natural gas and to provide incentives for increased natural gas production; to the Committee on Energy and Commerce.

By Mr. GREGG (for himself, Mr. SHANNON, Mr. FRANK, Mr. MINISH, Mr. OBERSTAR, Mr. LAFALCE, Mr. LONG of Maryland, Mr. KASTENMEIER, Mr. MAVROULES, Mr. BEILENSON, Mr. FISH, Mr. LOWRY of Washington, Mr. MINETA, and Mr. WEBER):

H.R. 132. A bill to amend the Clean Air Act to better protect against interstate transport of pollutants, to control existing and new sources of acid deposition, and for other purposes; to the Committee on Energy and Commerce.

By Mr. GREEN:

H.R. 133. A bill to amend title 18 of the United States Code to enhance personal safety and reduce crime by providing for the registration of handguns, the licensing of handgun users, and a ban on the sale, manufacture, and importation of certain handguns, and for other purposes; to the Committee on the Judiciary.

By Mr. GUARINI (for himself, Mr. RODINO, Mr. FORD of Michigan, and Mr. GARCIA):

H.R. 134. A bill to reestablish the Reconstruction Finance Corporation, to authorize such Corporation to perform its traditional lending functions, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. GUNDERSON (for himself, Mr. SOLOMON, Mr. HORTON, Mr. KEMP, Mr. MCDADE, Mr. MCHUGH, Mr. MARTIN of New York, Mr. PETRI, Mr. ROTH, Mr. SENSENBRENNER, and Mrs. SNOWE):

H.R. 135. A bill to amend the Agricultural Act of 1949 to modify the dairy price support program for fiscal years 1983 through 1985; to the Committee on Agriculture.

By Mr. SAM B. HALL, JR.:

H.R. 136. A bill to require the Secretary of Agriculture, under certain conditions to permit borrowers who are farmers to transfer, encumber, or lease property securing certain loans made under provisions of law administered by the Farmers Home Administration; to the Committee on Agriculture.

H.R. 137. A bill to abolish the Legal Services Corporation; to the Committee on the Judiciary.

By Mr. HANSEN of Idaho:

H.R. 138. A bill to authorize and direct the Secretary of the Treasury to mint and issue gold coins to be known as Jeffersons, Hamiltons, Madisons, and Franklins; to the Committee on Banking, Finance and Urban Affairs.

H.R. 139. A bill to amend the Occupational Safety and Health Act of 1970 to provide that the Secretary of Labor may conduct inspections at the workplace of an employer only after the issuance of a search warrant; to the Committee on Education and Labor.

H.R. 140. A bill to repeal the Occupational Safety and Health Act; to the Committee on Education and Labor.

H.R. 141. A bill to repeal the Davis-Bacon Act, and for other purposes; to the Committee on Education and Labor.

H.R. 142. A bill to amend the Occupational Safety and Health Act of 1970 to concentrate enforcement activities on hazardous workplaces, to exempt family farms from the act, to encourage self-initiative in improving occupational safety and health, to provide the procedures by which the Secretary of Labor may procure a search warrant for the purpose of conducting inspections at the workplace of an employer pursuant to the act, and for other purposes; to the Committee on Education and Labor.

H.R. 143. A bill to amend the Contract Work Hours Standards Act to require overtime compensation only for hours of employment in excess of 40 hours in a workweek; to the Committee on Education and Labor.

H.R. 144. A bill to amend the Federal Mine Safety and Health Act of 1977 to provide that the provisions of such act shall not apply to surface sand or gravel mining operations, stone mining operations, clay mining operations, or certain surface construction projects; to the Committee on Education and Labor.

H.R. 145. A bill to amend the Occupational Safety and Health Act of 1970 to prohibit restrictions on work rules in locations in which there is hunting, fishing, or shooting sports, and for other purposes; to the Committee on Education and Labor.

H.R. 146. A bill to exempt nonhazardous business from the Occupational Safety and Health Act of 1970, and for other purposes; to the Committee on Education and Labor.

H.R. 147. A bill to amend the Occupational Safety and Health Act of 1970 to exempt small businesses having no more than 10 full-time employees or the equivalent thereof, and does not have an occupational injury incidence rate exceeding 7 per 100 full-time employees based upon the annual Bureau of Labor Statistics survey or 3- and 4-digit Standard Industrial Classification Code industries; to the Committee on Education and Labor.

H.R. 148. A bill to amend the Davis-Bacon Act, and for other purposes; to the Committee on Education and Labor.

H.R. 149. A bill entitled the "State Legislative and Administrative Procedure Protection Act of 1983"; to the Committee on Energy and Commerce.

H.R. 150. A bill to amend the Clean Air Act to make certain modifications in provisions relating to automobile emissions control devices and fuel additives, and for other purposes; to the Committee on Energy and Commerce.

H.R. 151. A bill to amend the Clear Air Act to repeal the requirement that State implementation plans provide for periodic inspection and testing of motor vehicles; to the Committee on Energy and Commerce.

H.R. 152. A bill to provide that a Federal agency may not require that any person maintain records for a period in excess of 4 years, and a Federal agency may not commence an action for enforcement of a law or regulation or for collection of a civil fine after 4 years from the date of the act which is the subject of the enforcement action or fine, and for other purposes; to the Committee on Government Operations.

H.R. 153. A bill to establish a Commission and Task Force to review all Federal Government programs, determine what econo-

mies and efficiencies can be achieved through program consolidation, review the functions carried out by each level of government, and make recommendations for more clearly defining the respective responsibilities of such levels, and for other purposes; to the Committee on Government Operations.

H.R. 154. A bill to require the Environmental Protection Agency and all other Federal regulatory agencies to evaluate, prior to the issurance of a regulation, the potential economic effect and environmental impact of such regulations; to the Committee on Government Operations.

H.R. 155. A bill to provide for the cession and conveyance to the States of federally owned, unreserved, unappropriated lands, and to establish policy, methods, procedures, schedules, and criteria for such transfers; to the Committee on Interior and Insular Affairs.

H.R. 156. A bill to amend Public Law 94-400 to require that the Secretary of the Interior maintain the confidentiality of information gathered from victims of the Teton Dam disaster, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 157. A bill to remove statutory limitations upon the application of the Sherman Act to labor organizations and their activities, and for other purposes; to the Committee on the Judiciary.

H.R. 158. A bill to extinguish Federal court jurisdiction to require attendance at a particular school of any student because of race, color, creed, or sex; to the Committee on the Judiciary.

H.R. 159. A bill to repeal the Gun Control Act of 1968; to the Committee on the Judiciary.

H.R. 160. A bill to amend certain provisions of title 28, United States Code, relating to venue in the district courts and the courts of appeals; to the Committee on the Judiciary.

H.R. 161. A bill to provide that in civil actions where the United States is a plaintiff, a prevailing defendant may recover a reasonable attorney's fee and other reasonable litigation costs; to the Committee on the Judiciary.

H.R. 162. A bill to amend title 28 of the United States Code to provide for special venue provisions in cases relating to the environment; to the Committee on the Judiciary.

H.R. 163. A bill to require that Federal agencies publish certain statements during the rulemaking process, and for other purposes; to the Committee on the Judiciary.

H.R. 164. A bill providing that any State legislature which rescinds its ratification of a proposed amendment to the Constitution shall not be considered to have ratified the amendment; to the Committee on the Judiciary.

H.R. 165. A bill to amend title II of the Social Security Act to increase to $24,000 in 1983 (with automatic adjustments thereafter) the amount of outside earnings which a beneficiary age 65 or over may have in any taxable year without suffering reductions in the amount of his benefits; to the Committee on Ways and Means.

H.R. 166. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

H.R. 167. A bill to amend title II of the Social Security Act to eliminate the earnings test for individuals age 65 and over; to the Committee on Ways and Means.

H.R. 168. A bill to amend the Internal Revenue Code of 1954 to exempt dividends from Federal taxation, to allocate corporate income tax revenues for payments to qualified registered voters, and for other purposes; to the Committee on Ways and Means.

H.R. 169. A bill to repeal sections 301 through 308 of the Tax Equity and Fiscal Responsibility Act of 1982, which impose withholding on interest and dividends; to the Committee on Ways and Means.

H.R. 170. A bill to amend the Internal Revenue Code of 1954 to provide taxpayer relief and simplification of the individual income tax, and for other purposes; to the Committee on Ways and Means.

H.R. 171. A bill to amend the Internal Revenue Code of 1954 to regulate and limit collection procedures of the Internal Revenue Service in order to provide protection of taxpayer civil rights, and for other purposes; to the Committee on Ways and Means.

H.R. 172. A bill to amend title 5 of the United States Code to establish a uniform procedure for congressional review of agency rules which may be contrary to law or inconsistent with congressional intent, to expand opportunities for public participation in agency rulemaking, and for other purposes; jointly, to the Committees on the Judiciary and Rules.

By Mr. HANSEN of Idaho (for himself, Mr. MARLENEE, and Mr. PASHAYAN):

H.R. 173. A bill to establish fees for recreation residence on national forest system lands; jointly, to the Committees on Agriculture and Interior and Insular Affairs.

By Mr. HOYER:

H.R. 174. A bill entitled: the "Gladys Noon Spellman Parkway"; to the Committee on Interior and Insular Affairs.

By Mr. FOLEY (for himself and Mr. PARRIS):

H.R. 175. A bill to amend title 17 of the United States Code to exempt the private noncommercial recording of copyrighted works on video recorders from copyright infringement; to the Committee on the Judiciary.

By Mrs. HOLT:

H.R. 176. A bill to authorize recomputation at age 60 of the retired pay of members and former members of the uniformed services whose retired pay is computed on the basis of pay scales in effect prior to January 1, 1972, and for other purposes; to the Committee on Armed Services.

H.R. 177. A bill to amend title 10, United States Code, to reduce the cost-sharing required of participants in the civilian health and medical program of the uniformed services (CHAMPUS) for inpatient medical care provided on an emergency basis; to the Committee on Armed Services.

H.R. 178. A bill to repeal the Davis-Bacon Act, and for other purposes; to the Committee on Education and Labor.

H.R. 179. A bill to amend the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 to provide emphasis within the National Institute on Alcohol Abuse and Alcoholism for families of alcohol abusers and alcoholics; to the Committee on Energy and Commerce.

H.R. 180. A bill to provide a remedy for sex discrimination by the insurance business with respect to the availability and scope of insurance coverage for women; to the Committee on Energy and Commerce.

H.R. 181. A bill to provide for the inclusion of certain Federal entities in the budget totals, effective with the 1987 budget; to the Committee on Government Operations.

H.R. 182. A bill to provide for payments in lieu of real property taxes with respect to certain real property owned by the Federal Government; to the Committee on Government Operations.

H.R. 183. A bill to limit the jurisdiction of the Supreme Court of the United States and of the district courts to enter any judgment, decree, or order, denying or restricting, as unconstitutional, voluntary prayer in any public school; to the Committee on the Judiciary.

H.R. 184. A bill to change from level IV to level III of the executive schedule the position of Special Representative for Arms Control and Disarmament Negotiations of the Arms Control and Disarmament Agency; to the Committee on Post Office and Civil Service.

H.R. 185. A bill to amend title 5, United States Code, to allow certain employees of the National Transportation Safety Board to receive civil service retirement credit for their service under the Federal railroad retirement program; to the Committee on Post Office and Civil Service.

H.R. 186. A bill to improve the congressional budget process by the establishment in the House of Representatives of a two-step budget procedure for the consideration of a first required concurrent resolution on the budget; to the Committee on Rules.

H.R. 187. A bill to amend the Congressional Budget Act of 1974 to establish in the Congress a zero-base budgeting process, with full congressional review of each Federal program at least once every 6 years; to the Committee on Rules.

H.R. 188. A bill to amend the Internal Revenue Code of 1954 to allow a taxpayer a deduction from gross income for expenses paid by him for the education of any of his dependents at an institution of higher learning; to the Committee on Ways and Means.

H.R. 189. A bill to amend the Internal Revenue Code of 1954 to allow a deduction to individuals who rent their principal residences for a portion of the real property taxes paid or accrued by their landlords; to the Committee on Ways and Means.

H.R. 190. A bill to amend the Internal Revenue Code of 1954 to allow an exemption for certain professional liability insurance organizations; to the Committee on Ways and Means.

H.R. 191. A bill to exempt certain charterboats in the U.S. Virgin Islands from the entry requirements of the customs laws; to the Committee on Ways and Means.

H.R. 192. A bill to amend title II of the Social Security Act to eliminate the benefit reductions which are presently required in the case of spouses and surviving spouses who are also receiving certain Government pensions; to the Committee on Ways and Means.

H.R. 193. A bill to repeal section 3402(q) of the Internal Revenue Code of 1954 which requires for income tax purposes, amounts to be withheld from certain gambling winnings; to the Committee on Ways and Means.

By Mr. HUGHES:

H.R. 194. A bill to repeal the withholding on interest, dividends, and patronage dividends enacted by the Tax Equity and Fiscal Responsibility Act of 1982; to the Committee on Ways and Means.

By Mr. KILDEE:

H.R. 195. A bill to amend the Internal Revenue Code of 1954 to provide for the exclusion from gross income of a certain portion of amounts received as annuities, pensions, or other retirement benefits by individuals who have attained age 65; to the Committee on Ways and Means.

By Mr. KOGOVSEK (for himself, Mr. FOGLIETTA, Mr. HOWARD, Mr. ROE, Mr. TRAXLER, Mr. BEVILL, Mr. HUTTO, Mr. KINDNESS, Mr. WILLIAMS of Montana, Mr. APPLEGATE, and Mr. MAVROULES):

H.R. 196. A bill to repeal the withholding of tax from interest and dividends; to the Committee on Ways and Means.

By Mr. LENT:

H.R. 197. A bill to amend chapter 44 of title 18 of the United States Code (respecting firearms) to penalize the use of firearms in the commission of any felony and to increase the penalties in certain related existing provisions; to the Committee on the Judiciary.

H.R. 198. A bill to amend title II of the Social Security Act to provide generally that benefits thereunder may be paid to aliens only after they have been lawfully admitted to the United States for permanent residence, and to impose further restrictions on the right of any alien in a foreign country to receive such benefits; to the Committee on Ways and Means.

H.R. 199. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

H.R. 200. A bill to amend the Internal Revenue Code of 1954 to provide a Federal income tax credit for tuition; to the Committee on Ways and Means.

H.R. 201. A bill to amend the Internal Revenue Code of 1954 to allow certain low- and middle-income individuals a refundable tax credit for a certain portion of the property taxes paid by them on their principal residences or of the rent they pay for their principal residences; to the Committee on Ways and Means.

H.R. 202. A bill to amend the Internal Revenue Code of 1954 to provide individuals a limited exclusion from gross income for interest on deposits in certain savings institutions; to the Committee on Ways and Means.

H.R. 203. A bill to amend title II of the Social Security Act to improve the treatment of women through the establishment and payment of working spouse's benefits; to the Committee on Ways and Means.

H.R. 204. A bill to amend the Internal Revenue Code of 1954 to provide a basic $10,000 exemption from income tax, in the case of an individual or married couple, for amounts received as annuities, pensions, or other retirement benefits; to the Committee on Ways and Means.

H.R. 205. A bill to amend title II of the Social Security Act to provide penalties for the misuse of social security numbers; to the Committee on Ways and Means.

H.R. 206. A bill to amend title II of the Social Security Act to provide for a program to systematically compare information on State death certificates with information maintained under the social security program in order to insure that inappropriate benefits are not paid with respect to individuals who have died; to the Committee on Ways and Means.

H.R. 207. A bill to amend the Internal Revenue Code of 1954 to provide that the medical expenses of handicapped individuals and individuals who have attained age 65 shall be deductible without regard to the requirement that only medical expenses in excess of certain percentages of adjusted gross income are deductible; to the Committee on Ways and Means.

H.R. 208. A bill to establish a task force to study and evaluate the taxation of real property by State and local governments, the effects of such taxation on certain taxpayers, and the feasibility of Federal taxation and other policies designed to reduce the dependence of State and local governments on such taxation; jointly to the Committees on Government Operations and Ways and Means.

By Mr. LONG of Maryland:

H.R. 209. A bill to require the Secretary of Health and Human Services to arrange for an independent epidemiological study of persons exposed to the chemical dioxin, used in the herbicide known as agent orange; to the Committee on Energy and Commerce.

H.R. 210. A bill to amend the Communications Act of 1934 to provide that telephone receivers may not be sold in interstate commerce unless they are manufactured in a manner which permits their use by persons with hearing impairments; to the Committee on Energy and Commerce.

H.R. 211. A bill to amend title 38, United States Code, to restore certain social security benefits repealed by Public Law 97-35 in the case of survivors of veterans dying of service-connected disabilities incurred before September 1, 1981; to the Committee on Veterans' Affairs.

H.R. 212. A bill to amend title 38, United States Code, to waive the 1-year limitation on claims for compensation from the Veterans' Administration for disabilities and diseases incurred in or aggravated by military service in the case of claims by veterans who served in Southeast Asia during the Vietnam era for compensation for disabilities resulting from exposure to the phenoxy herbicide known as agent orange or other phenoxy herbicides; to the Committee on Veterans' Affairs.

H.R. 213. A bill to amend chapter 34 of title 38, United States Code, to modify the termination date for veterans eligible for educational assistance provided under such chapter; to the Committee on Veterans' Affairs.

H.R. 214. A bill to amend title II of the Social Security Act to reaffirm the fact that benefits payable thereunder are exempt from all taxation; to the Committee on Ways and Means.

H.R. 215. A bill to amend the Internal Revenue Code of 1954 to provide individuals a limited exclusion from gross income for interest on deposits in certain savings institutions; to the Committee on Ways and Means.

H.R. 216. A bill to amend part D of title IV of the Social Security Act to provide that the procedures which are presently available to AFDC families for the collection of past-due child and spousal support from Federal tax refunds shall also be available to non-AFDC families; to the Committee on Ways and Means.

By Mr. McCOLLUM:

H.R. 217. A bill to amend title 11 of the United States Code with respect to interests in time-share premises; to the Committee on the Judiciary.

By Ms. MIKULSKI:

H.R. 218. A bill to amend the Solid Waste Disposal Act to provide certain rules with respect to the treatment of used oil as hazardous waste unless the used oil is recycled under appropriate standards, and for other purposes; to the Committee on Energy and Commerce.

By Mr. MOORHEAD:

H.R. 219. A bill to amend the Internal Revenue Code of 1954 to double the investment tax credit for American-made automobiles and certain light-duty trucks and to provide that the investment tax credit shall not be recaptured with respect to such vehicles by reason of any disposition, et cetera, after the second year of use; to the Committee on Ways and Means.

By Mr. LEVITAS (for himself, and Mr. SAM B. HALL, JR., and Mr. KINDNESS):

H.R. 220. A bill to amend title 5, United States Code, to make regulations more cost effective, to insure review of rules, to improve regulatory planning and management, to enhance public participation in the regulatory process, and for other purposes; jointly, to the Committees on the Judiciary and Rules.

By Mr. MARLENEE (for himself, Mr. FORSYTHE, Mr. LAGOMARSINO, Mr. RINALDO, Mr. FRANK, Mr. ASPIN, Mr. CHAPPELL, Mr. CONTE, Mr. DENNY, Mr. SMITH, Mr. LEACH of Iowa, Mr. PETRI, Mr. HUTTO, Mr. EDWARDS of Oklahoma, Mr. McCURDY, Mrs. HALL of Indiana, Mr. HANSEN of Idaho, Mr. SENSENBRENNER, and Mr. MORRISON, of Washington):

H.R. 221. A bill to repeal the withholding of tax from interest and dividends; to the Committee on Ways and Means.

By Mrs. MARTIN of Illinois:

H.R. 222. A bill to require the Secretary of Agriculture to establish a program to offset agricultural export subsidies imposed by foreign countries by subsidizing the exportation of agricultural commodities produced in the United States and products of such commodities; jointly, to the Committees on Agriculture and Foreign Affairs.

By Mr. MILLER of Ohio:

H.R. 223. A bill to eliminate the recent pay increase provided for Members of Congress under Public Law 97-377, and to impose a limitation on outside earnings for Senators and Representatives; to the Committee on Post Office and Civil Service.

By Mr. RODINO (for himself, Mr. FISH, Mrs. SCHROEDER, Mr. EDWARDS of California, Mr. UDALL, Mr. McNULTY, Mr. ALEXANDER, Mr. ANTHONY, Mr. BOSCO, Mr. MATSUI, Mrs. BOXER, Mr. BURTON of California, Mr. MARTINEZ, Mr. MILLER of California, Mr. DELLUMS, Mr. STARK, Mr. LANTOS, Mr. MINETA, Mr. COELHO, Mr. LEHMAN of California, Mr. BERMAN, Ms. FIEDLER, Mr. BEILENSON, Mr. WAXMAN, Mr. ROYBAL, Mr. LEVINE of California, Mr. TORRES, Mr. DIXON, Mr. HAWKINS, Mr. DYMALLY, Mr. ANDERSON, Mr. BROWN of California, Mr. PATTERSON, Mr. BATES, Mr. WIRTH, Mr. KOGOVSEK, Mr. BROWN of Colorado, Mrs. KENNELLY, Mr. GEJDENSON, Mr. MORRISON of Connecticut, Mr. McKINNEY, Mr. RATCHFORD, Mr. CARPER, Mr. MACKAY, Mr. LEHMAN of Florida, Mr. PEPPER, Mr. FASCELL, Mr. SMITH of Florida, Mr. FOWLER, Mr. AKAKA, Mr. WASHINGTON, Mr. SAVAGE, Mr. EVANS of Illinois, Mrs. COLLINS, Mr. YATES, Mr. DURBIN, Mrs. MARTIN of Illinois, Mr. SIMON, Mrs. HALL of Indiana, Mr. McCLOSKEY, Mr. SHARP, Mr. HAMILTON, Mr. JACOBS, Mr. EVANS of

Iowa, Mr. SMITH of Iowa, Mr. HARKIN, Mr. GLICKMAN, Mr. MAZZOLI, Mrs. BOGGS, Mr. LONG of Louisiana, Mr. LONG of Maryland, Ms. MIKULSKI, Mr. HOYER, Mr. MITCHELL, Mr. BARNES, Mr. CONTE, Mr. EARLY, Mr. FRANK, Mr. SHANNON, Mr. MAVROULES, Mr. MARKEY, Mr. MOAKLEY, Mr. DONNELLY, Mr. STUDDS, Mr. CONYERS, Mr. PURSELL, Mr. WOLPE, Mr. CARR, Mr. KILDEE, Mr. TRAXLER, Mr. ALBOSTA, Mr. DAVIS, Mr. CROCKETT, Mr. FORD of Michigan, Mr. LEVIN of Michigan, Mr. PENNY, Mr. SIKORSKI, Mr. FRENZEL, Mr. VENTO, Mr. SABO, Mr. OBERSTAR, Mr. GEPHARDT, Mr. WHEAT, Mr. WILLIAMS of Montana, Mr. GREGG, Mr. FLORIO, Mr. HOWARD, Mr. TORRICELLI, Mr. FORSYTHE, Mrs. ROUKEMA, Mr. ROE, Mr. MINISH, Mr. GUARINI, Mr. RICHARDSON, Mr. DOWNEY of New York, Mr. MRAZEK, Mr. TOWNS, Mr. ADDABBO, Ms. FERRARO, Mr. BIAGGI, Mr. SCHEUER, Mr. OWENS, Mr. SOLARZ, Mr. SCHUMER, Mr. GREEN, Mr. RANGEL, Mr. WEISS, Mr. GARCIA, Mr. GILMAN, Mr. MCHUGH, Mr. STRATTON, Mr. HORTON, Mr. CONABLE, Mr. LAFALCE, Mr. NOWAK, Mr. LUNDINE, Mr. CLARKE, Mr. GRADISON, Mr. HALL of Ohio, Ms. KAPTUR, Mr. FEIGHAN, Mr. PEASE, Mr. SEIBERLING, Mr. REGULA, Ms. OAKAR, Mr. STOKES, Mr. ECKART, Mr. SYNAR, Mr. MCCURDY, Mr. WYDEN, Mr. FOGLIETTA, Mr. GRAY, Mr. BORSKI, Mr. KOLTER, Mr. EDGAR, Mr. KOSTMAYER, Mr. HARRISON, Mr. COYNE, Mr. WALGREN, Mrs. SCHNEIDER, Mr. DERRICK, Mr. DASCHLE, Mr. BRYANT, Mr. BROOKS, Mr. PICKLE, Mr. COLEMAN of Texas, Mr. LELAND, Mr. ANDREWS of Texas, Mr. VANDERGRIFF, Mr. OLIN, Mr. BOUCHER, Mr. PRITCHARD, Mr. BONKER, Mr. MORRISON of Washington, Mr. DICKS, Mr. LOWRY of Washington, Mr. STAGGERS, Mr. RAHALL, Mr. WISE, Mr. ASPIN, Mr. KASTENMEIER, Mr. GUNDERSON, Mr. MOODY, Mr. FAUNTROY, Mr. WON PAT, Mr. CORRADA, Mr. DE LUGO, Mr. LEACH of Iowa, Mr. WEAVER, Mr. CLAY, Mr. YATRON, Mr. HUGHES, Mr. DORGAN, Mr. BEDELL, Mrs. SNOWE, Mr. DWYER of New Jersey, Mr. DYSON, Mr. ZABLOCKI, Mr. WRIGHT, Mr. FROST, Mr. GONZALEZ, Mr. LUKEN, Mr. HOPKINS, Mr. COURTER, Mr. BOLAND, Mr. OBEY, Mr. HERTEL of Michigan, Mr. FOLEY, Mr. TAUKE, Mr. BONIOR of Michigan, Mr. AUCOIN, Mr. VOLKMER, Mr. ROSENTHAL, and Mr. SLATTERY):

H.J. Res. 1. Joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for men and women; to the Committee on the Judiciary.

By Mr. MARKEY (for himself, Mr. CONTE, Mr. HAMILTON, Mr. LEACH of Iowa, Mr. FASCELL, Mr. ROSENTHAL, Mr. SOLARZ, Mr. BONKER, Mr. STUDDS, Mr. BARNES, Mr. WOLPE, Mr. CROCKETT, Mr. GEJDENSON, Mr. DYMALLY, Mr. ECKART, Mr. LANTOS, Mr. KOGOVSEK, Mr. FOGLIETTA, Mrs. BOXER, Mr. DOWNEY of New York, Mr. EDGAR, Ms. MIKULSKI, Mrs. SCHROEDER, Mr. UDALL, Mr. MATSUI, Mr. YATES, Mr. FOWLER, Mr. LEHMAN of Florida, Mr. MAVROULES, Mr. KASTENMEIER, Mr. EVANS of Iowa, Mr. MCKINNEY, Mr. MOAKLEY, Mr. DORGAN, Mr. MAZZOLI, Mr. FLORIO, Mr. WEAVER, Mr. BROWN of California, Mr. LOWRY of Washington, Mr. LAFALCE, Mr. LELAND, Mr. SCHUMER, Mr. WASHINGTON, Mr. GLICKMAN, Mr. DIXON, Mr. ADDABBO, Mr. BIAGGI, Mr. GRAY, Mr. RANGEL, Mr. SHANNON, Mr. ANTHONY, Mr. SIMON, Mr. VENTO, Mr. WILLIAMS of Montana, Mr. HOWARD, Mr. GUARINI, Mr. SABO, Mr. CLAY, Mr. HAWKINS, Mr. AUCOIN, Mr. DASCHLE, Mr. RODINO, Mr. WEISS, Mr. STARK, Ms. OAKAR, Mr. BOLAND, Mr. SMITH of Iowa, Mr. SEIBERLING, Mr. DELLUMS, Mrs. SCHNEIDER, Mr. TAUKE, Mr. RATCHFORD, Mr. COELHO, Mr. RAHALL, Mr. GARCIA, Mr. SCHEUER, Mr. GREEN, Mr. BURTON of California, Mr. FORD of Michigan, Mr. EDWARDS of California, Mr. ROYBAL, Mr. WIRTH, Mr. FRANK, Mr. DWYER of New Jersey, Mr. HARKIN, Mr. MINETA, Mr. MITCHELL, Mr. SCHUMER, Mr. HOYER, Mr. SAVAGE, Mr. PATTERSON, Mr. EARLY, Mr. KILDEE, Mr. MCHUGH, Mr. WAXMAN, Mrs. KENNELLY, Mr. FAUNTROY, Mr. BEDELL, Mr. BEILENSON, Mr. WYDEN, Mr. PEPPER, Mrs. MARTIN of Illinois, Mr. ANNUNZIO, Mr. CONYERS, Mr. TRAXLER, Mr. JEFFORDS, Mr. HALL of Ohio, Mr. BONIOR of Michigan, Mr. OBERSTAR, Mr. ST GERMAIN, Mr. MARTINEZ, Mr. FORD of Tennessee, Mr. PEASE, Mr. HUGHES, Mr. DICKS, Mrs. COLLINS, Mr. ALBOSTA, Ms. FERRARO, Mrs. HALL of Indiana, Mr. MORRISON of Connecticut, Mr. EVANS of Illinois, Mr. MCCLOSKEY, Mr. SMITH of Florida, Mr. FEIGHAN, Mr. LEVIN of Michigan, Mr. SIKORSKI, Mr. LEHMAN of California, Mr. BERMAN, Mr. HARRISON, Mr. TORRES, Mr. WISE, Mr. MOODY, Mr. MRAZEK, Mr. BORSKI, Mr. WHEAT, Mr. TOWNS, Mr. CARR, Mr. BATES, Mr. KOLTER, Mr. RICHARDSON, Mr. JONES of Oklahoma, Mr. COYNE, Mr. WALGREN, Mr. MINISH, Mr. MURPHY, Mr. LUNDINE, Mr. DONNELLY, and Mr. JACOBS):

H.J. Res. 2. Joint resolution calling for a mutual and verifiable freeze on and reductions in nuclear weapons; to the Committee on Foreign Affairs.

By Mr. BEDELL (for himself, Mr. MARKEY, Mr. LEACH of Iowa, Mr. SIMON, Mr. BEILENSON, Mr. MOAKLEY, Mr. EDWARDS of California, Mr. JEFFORDS, Mr. HALL of Ohio, Mr. EDGAR, Mr. RANGEL, Mr. BROWN of California, Mr. GRAY, Mr. SEIBERLING, Mr. WIRTH, Mr. CONYERS, Mr. WYDEN, Mr. DWYER of New Jersey, Mr. DELLUMS, Mr. WEISS, Mr. LOWRY of Washington, Mr. MINETA, Mr. WEAVER, Mr. OBERSTAR, Mr. GORE, Mr. WOLPE, Mr. MITCHELL, Ms. FERRARO, Mr. DASCHLE, Mr. GREEN, Mr. KILDEE, Mr. VENTO, Mr. MAZZOLI, Mr. HARKIN, Mr. FRANK, Mr. LEHMAN of Florida, Mr. DOWNEY of New York, Mr. STOKES, Mrs. SCHROEDER, Mr. DORGAN, Mr. RODINO, Mr. BONIOR of Michigan, Mr. BARNES, Mr. KASTENMEIER, Mr. LELAND, Mr. DYMALLY, Mr. MATSUI, Mr. SABO, Mr. CROCKETT, Mr. MAVROULES, Mr. SCHUMER, Mr. DIXON, Mrs. COLLINS, Mr. FOGLIETTA, Mr. RATCHFORD, Mr. WAXMAN, Mr. FAUNTROY, Mr. TRAXLER, Mr. ROSENTHAL, Mr. FORSYTHE, and Mr. HAMILTON):

H.J. Res. 3. Joint resolution to prevent nuclear testing; to the Committee on Foreign Affairs.

By Mr. BROOMFIELD (for himself, Mr. CARNEY, Mr. STRATTON, and Mr. PRICE):

H.J. Res. 4. Joint resolution calling for mutual and verifiable reductions in nuclear arsenals and expressing the full support of the Congress for the two on-going arms reduction negotiations in Geneva between the United States and the U.S.S.R. These negotiations are directed toward achieving substantial, verifiable, equitable and militarily significant reductions in the nuclear arsenals of the world's two superpowers, thereby reducing the dangers of nuclear war; to the Committee on Foreign Affairs.

By Mr. BROOKS:

H.J. Res. 5. Joint resolution proposing an amendment to the Constitution to provide for the direct popular election of the President and Vice President of the United States; to the Committee on the Judiciary.

H.J. Res. 6. Joint resolution proposing an amendment to the Constitution of the United States to provide for single 6-year terms for the President and Vice President, and to repeal the 22d article of amendment to the Constitution; to the Committee on the Judiciary.

By Mr. BIAGGI:

H.J. Res. 7. Joint resolution proposing an amendment to the Constitution of the United States to provide that equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex; to the Committee on the Judiciary.

By Mr. BENNETT:

H.J. Res. 8. Joint resolution proposing an amendment to the Constitution to provide that, except in time of war or economic emergency declared by the Congress, expenditures of the Government may not exceed the revenues of the Government during any fiscal year; to the Committee on the Judiciary.

H.J. Res. 9. Joint resolution proposing an amendment to the Constitution of the United States to prohibit compelling attendance in schools other than the one nearest the residence and to insure equal educational opportunities for all students wherever located; to the Committee on the Judiciary.

H.J. Res. 10. Joint resolution proposing an amendment to the Constitution of the United States allowing an item veto in appropriations; to the Committee on the Judiciary.

H.J. Res. 11. Joint resolution proposing an amendment to the Constitution to provide for the direct election of the President and the Vice President and to authorize Congress to establish procedures relating to the nomination of Presidential and Vice-Presidential candidates; to the Committee on the Judiciary.

By Mr. LENT:

H.J. Res. 12. Joint resolution proposing an amendment to the Constitution of the United States to provide that appropriations made by the United States shall not exceed its revenues, except in time of war or national emergency; and to provide for the systematic paying back of the national debt; to the Committee on the Judiciary.

By Mr. ZABLOCKI:

H.J. Res. 13. Joint resolution calling for a mutual and verifiable freeze on and reductions in nuclear weapons; to the Committee on Foreign Affairs.

By Mr. EMERSON:

H.J. Res. 14. Joint resolution proposing an amendment to the Constitution of the United States to prohibit compelling the attendance of a student in a public school

other than the public school nearest the residence of such student; to the Committee on the Judiciary.

H.J. Res. 15. Joint resolution proposing an amendment to the Constitution of the United States with respect to the right of life; to the Committee on the Judiciary.

By Mr. FUQUA:

H.J. Res. 16. Joint resolution proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary

H.J. Res. 17. Joint resolution proposing an amendment to the Constitution of the United States providing for a procedure for removal from office, in every 10th year of service of the judges of the Supreme Court and inferior Federal courts; to the Committee on the Judiciary.

H.J. Res. 18. Joint resolution proposing an amendment to the Constitution of the United States to establish a new procedure for the election of the President and Vice President; to the Committee on the Judiciary.

H.J. Res. 19. Joint resolution proposing an amendment to the Constitution of the United States to provide that appropriations made by the United States shall not exceed its revenues, except in time of war or national emergency; and to provide for the systematic paying back of the national debt; to the Committee on the Judiciary.

H.J. Res. 20. Joint resolution designating November 13, 1983, as "National Retired Teachers Day"; to the Committee on Post Office and Civil Service.

By Mr. HILER:

H.J. Res. 21. Joint resolution to provide for the designation of the week beginning on June 19, 1983, as "A Rose for Friendship Week" and to provide for the designation of June 22, 1983, as "A Rose for Friendship Day"; to the Committee on Post Office and Civil Service.

H.J. Res. 22. Joint resolution to provide for the designation of the month of April 1983, as "National Child Abuse Prevention Month"; to the Committee on Post Office and Civil Service.

By Mr. PAUL (for himself and Mr. MCDONALD):

H.J. Res. 23. Joint resolution proposing an amendment to the Constitution of the United States relative to abolishing personal income, estate, and gift taxes and prohibiting the U.S. Government from engaging in business in competition with its citizens; to the Committee on the Judiciary.

By HANSEN of Idaho:

H.J. Res. 24. Joint resolution proposing an amendment to the Constitution of the United States to provide that appropriations made by the United States shall not exceed its revenues, except in time of war or national emergency; and to provide for the systematic paying back of the national debt; to the Committee on the Judiciary.

H.J. Res. 25. Joint resolution proposing an amendment to the Constitution of the United States allowing the District of Columbia and the territories and possessions of the United States to have Representatives in the House of Representatives; to the Committee on the Judiciary.

H.J. Res. 26. Joint resolution proposing an amendment to the Constitution of the United States afor the protection of unborn children and other persons; to the Committee on the Judiciary.

H.J. Res. 27. Joint resolution proposing an amendment to the Constitution of the United States to provide that the level of total outlays of the United States for any fiscal year shall not exceed the level of total receipts of the United States for such fiscal year and for the disposition of unanticipated deficits; to the Committee on the Judiciary.

H.J. Res. 28. Joint resolution proposing an amendment to the Constitution of the United States under which the courts of the United States may not assign any person to any school on the basis of race, religion, or national origin; to the Committee on the Judiciary.

H.J. Res. 29. Joint resolution to designate the week of June 26, 1983, through July 2, 1983, as "National Safety in the Workplace Week"; to the Committee on Post Office and Civil Service.

By Mr. LONG of Maryland:

H.J. Res. 30. Joint resolution authorizing and directing the President to provide for the playing of taps at the Vietnam Veterans Memorial, Washington, District of Columbia; to the Committee on Armed Services.

H.J. Res. 31. Joint resolution designating September 14 of each year as "Francis Scott Key Day"; to the Committee on Post Office and Civil Service.

By Mr. MCCOLLUM (for himself, Mr. DAUB, Mr. WALKER, Mr. DENNY SMITH, Mr. GUNDERSON, Mr. NELSON of Florida, Mr. DANIEL B. CRANE, Mr. PHILIP M. CRANE, Mr. LAGOMARSINO, Mr. BROWN of Colorado, Mr. EVANS of Iowa, Mr. HARTNETT, Mr. MCEWEN, Mr. MORRISON of Washington, Mr. GREGG, Mr. WOLF, Mr. PAUL, Mr. LEATH of Texas, Mr. HANSEN of Utah, Mr. HILER, Mr. LEWIS of Florida, and Mr. BILIRAKIS):

H.J. Res. 32. Joint resolution proposing an amendment to the Constitution of the United States with respect to the number of terms of office of Members of the Senate and the House of Representatives; to the Committee on the Judiciary.

By Mr. MCCOLLUM (for himself, Mr. LEACH of Iowa, Mr. GOODLING, Mr. EVANS of Iowa, Mr. HANSEN of Utah, Mr. HARTNETT, Mr. BEDELL, Mr. MCEWEN, Mr. MICA, Mr. BROWN of Colorado, Mr. GLICKMAN, Mr. LEATH of Texas, Mr. WINN, Mr. SHUMWAY, Mr. LEWIS of Florida, and Mr. BILIRAKIS):

H.J. Res. 33. Joint resolution proposing an amendment to the Constitution of the United States to provide for 4-year terms for Representatives and to limit the number of terms Senators and Representatives may serve; to the Committee on the Judiciary.

By Mr. NEAL:

H.J. Res. 34. Joint resolution calling for a mutual and verifiable freeze on and reductions in nuclear weapons; to the Committee on Foreign Affairs.

H.J. Res. 35. Joint resolution proposing an amendment to the Constitution of the United States providing that, except in cases of national emergency, expenditures of the U.S. Government in any fiscal year shall not exceed its revenues for the fiscal year; to the Committee on the Judiciary.

H.J. Res. 36. Joint resolution proposing an amendment to the Constitution of the United States to provide that, except in cases of war of other grave national emergency as determined by the Congress, expenditures of the United States in each fiscal year shall not exceed 20 per centum of the gross national product for the preceding calendar year, and expenditures of the United States in each fiscal year shall not exceed revenues of the United States for that fiscal year; to the Committee on the Judiciary.

H.J. Res. 37. Joint resolution proposing an amendment to the Constitution relating to equal rights for men and women; to the Committee on the Judiciary.

H.J. Res. 38. Joint resolution proposing an amendment to the Constitution relating to equal rights for men and women; to the Committee on the Judiciary.

By Mr. QUILLEN:

H.J. Res. 39. Joint resolution proposing an amendment to the Constitution of the United States to provide that appropriations made by the United States shall not exceed its revenues, except in time of war or threat of war as determined by the Congress; and to provide for the systematic paying back of the national debt; to the Committee on the Judiciary.

By Mr. ROBINSON:

H.J. Res. 40. Joint resolution proposing an amendment to the Constitution of the United States to provide that appropriations made by the United States shall not exceed its revenues, except in time of war or national emergency; and to provide for the systematic paying back of the national debt; to the Committee on the Judiciary.

By Mr. ROE:

H.J. Res. 41. Joint resolution to provide for the designation of the 42d anniversary of the renewal of Ukrainian independence, June 30, 1983, as "Ukrainian Independence Day"; to the Committee on Post Office and Civil Service.

H.J. Res. 42. Joint resolution to designate April 24, 1983, as "National Day of Remembrance of Man's Inhumanity to Man"; to the Committee on Post Office and Civil Service.

H.J. Res. 43. Joint resolution to provide for the issuance of a commemorative postage stamp in honor of Patience Lovell Wright; to the Committee on Post Office and Civil Service.

H.J. Res. 44. Joint resolution designating May 1 through May 7, 1983, as "Days of Remembrance of Victims of the Holocaust"; to the Committee on Post Office and Civil Service.

By Mr. ROTH:

H.J. Res. 45. Joint resolution proposing an amendment to the Constitution of the United States to provide for staggered 4-year terms for the Representatives; to the Committee on the Judiciary.

By Mr. SHUMWAY:

H.J. Res. 46. Joint resolution proposing an amendment to the Constitution of the United States providing for staggered 4-year terms for Representatives, for a limitation on the number of terms a person may serve in the House of Representatives or the Senate, and for other purposes; to the Committee on the Judiciary.

H.J. Res. 47. Joint resolution proposing an amendment to the Constitution of the United States to provide that appropriations made by the United States shall not exceed its revenues, except in time of war or national emergency; and to provide for the systematic paying back of the national debt; to the Committee on the Judiciary.

By Mr. SMITH of Iowa:

H.J. Res. 48. Joint resolution proposing an amendment to the Constitution of the United States relating to the nomination of individuals for election to the offices of the President and Vice President of the United States; to the Committee on the Judiciary.

By Mr. VANDER JAGT:

H.J. Res. 49. Joint resolution designating the week of November 7 through November 13, 1983, as "National Reye's Syndrome

Week"; to the Committee on Post Office and Civil Service.

By Mr. WEISS:

H.J. Res. 50. Joint resolution to renounce the first use of all nuclear weapons and to conclude treaties with all nations renouncing the first use of all nuclear weapons; to the Committee on Foreign Affairs.

By Mr. WHITEHURST:

H.J. Res. 51. Joint resolution to designate December 11, 1983, as "National Military Families Day"; to the Committee on Post Office and Civil Service.

By Mr. FOLEY:

H. Con. Res. 1. Concurrent resolution providing for a joint session of Congress to receive a message from the President on the state of the Union; considered and agreed to.

By Mr. ANNUNZIO:

H. Con. Res. 2. Concurrent resolution expressing the sense of the Congress relating to films and broadcasts which defame, stereotype, ridicule, demean, or degrade ethnic, racial, and religious groups; to the Committee on Energy and Commerce.

By Mr. FUQUA:

H. Con. Res. 3. Concurrent resolution to collect overdue debts; to the Committee on Foreign Affairs.

By Mr. HANSEN of Idaho:

H. Con. Res. 4. Concurrent resolution expressing the sense of the Congress that the U.S. Postal Service should not reduce the frequency of mail delivery service; to the Committee on Post Office and Civil Service.

By Mrs. HOLT:

H. Con. Res. 5. Concurrent resolution declaring the sense of Congress regarding periods of silence in the public schools; Jointly to the Committees on the Judiciary and Education and Labor.

By Mr. LONG of Maryland:

H. Con. Res. 6. Concurrent resolution expressing the sense of the Congress that the States should enact statutes encouraging the courts to consider joint custody of minor children in marital divorce settlements before all other alternatives; to the Committee on the Judiciary.

H. Con. Res. 7. Concurrent resolution expressing the sense of the Congress that the Secretary of the Army should place a plaque in Arlington National Cemetery honoring members of the U.S. Armed Forces who died during an attempt to rescue American hostages held in Iran; to the Committee on Veterans' Affairs.

H. Con. Res. 8. Concurrent resolution urging the President to provide as expeditiously as possible for the burial of an unknown soldier from the Vietnam era at Arlington National Cemetery as directed by the National Cemeteries Act of 1973; to the Committee on Veterans' Affairs.

H. Con. Res. 9. Concurrent resolution directing the Commissioner of Social Security and the Secretary of Health and Human Services to immediately develop and present to the Congress a plan to correct the social security benefit disparity which has become known as the notch problem; to the Committee on Ways and Means.

H. Con. Res. 10. Concurrent resolution expressing the sense of Congress that the age of retirement under the social security program should remain at 65, and that the Congress will not enact legislation to raise such age; to the Committee on Ways and Means.

H. Con. Res. 11. Concurrent resolution stating the intent of the Congress that social security benefits payable to prison inmates be surrendered to defray the current costs to the taxpayer of supporting prisoners in penal institutions as well as supporting their dependents on public assistance; to the Committee on Ways and Means.

By Mr. NEAL:

H. Con. Res. 12. Concurrent Resolution expressing the sense of the Congress that the President of the United States should seek to negotiate an agreement with the Government of Japan, whereby that nation would pay an annual security tax to the U.S. Government equal to 2 percent of Japan's annual gross national product, to more equitable compensate the United States for expenditures related to carrying out the provisions of the United States/Japanese Treaty of Mutual Cooperation and Security, and for the security of the free world; to the Committee on Foreign Affairs.

H. Con. Res. 13. Concurrent resolution declaring the sense of Congress regarding periods of silence in the public schools; jointly, to the Committees on Education and Labor and the Judiciary.

H. Con Res. 14. Concurrent resolution declaring the sense of Congress regarding periods of silence in the public schools; jointly, to the Committees on the Judiciary and Education and Labor.

By Mr. ROE:

H. Con. Res. 15. Concurrent resolution urging a moratorium on the commercial killing of whales; to the Committee on Foreign Affairs.

H. Con. Res. 16. Concurrent resolution expressing the sense of the Congress that the United States should recognize Jerusalem as the capital of Israel, and that the U.S. Embassy in Israel should be relocated to Jerusalem; to the Committee on Foreign Affairs.

H. Con. Res. 17. Concurrent resolution concerning the rights of the people of Ireland; to the Committee on Foreign Affairs.

H. Con. Res. 18. Concurrent resolution expressing the sense of the Congress with respect to the strategic importance of Israel to the United States; to the Committee on Foreign Affairs.

By Mr. WEISS:

H. Con. Res. 19. Concurrent resolution expressing the sense of the Congress that the Secretary of Health and Human Services should withdraw a proposed reduction in public notice and comment opportunities; to the Committee on the Judiciary.

By Mr. WRIGHT:

H. Res. 1. Resolution electing officers of the House of Representatives; considered and agreed to.

H. Res. 2. Resolution informing the Senate that a quorum of the House has assembled and has elected Thomas P. O'Neill, Jr., a Representative from the Commonwealth of Massachusetts, Speaker; and Benjamin J. Guthrie, a citizen of the Commonwealth of Virginia, Clerk; considered and agreed to.

H. Res. 3. Resolution authorizing the Speaker to appoint a committee of three Members on the part of the House to join with a like committee of the Senate to notify the President that a quorum of each House has been assembled and that Congress is ready to receive any communication that he may be pleased to make; considered and agreed to.

By Mr. WHITTEN:

H. Res. 4. Resolution authorizing the Clerk of the House to inform the President that the House of Representatives has elected Thomas P. O'Neill, Jr., a Representative from the Commonwealth of Massachusetts, Speaker; and Benjamin J. Guthrie, a citizen of the Commonwealth of Virginia, Clerk; considered and agreed to.

By Mr. WRIGHT:

H. Res. 5. Resolution adopting the Rules of the House of Representatives for the 98th Congress; considered and agreed to.

H. Res. 6. Resolution relating to the compensation of the Postmaster of the House of Representatives shall be at a gross per annum rate which is equal to the gross per annum rate of compensation as the other officers of the House; considered and agreed to.

By Mr. MICHEL:

H. Res. 7. Resolution relating to the compensation of certain minority employees; considered and agreed to.

By Mr. WRIGHT:

H. Res. 8. Resolution fixing the daily hour of meeting of the House; considered and agreed to.

H. Res. 9. Resolution authorizing the Speaker to administer the oath of office to the Honorable Benjamin S. Rosenthal in Washington, D.C.; considered and agreed to.

H. Res. 10. Resolution authorizing the Speaker to adminster the oath of office to the Honorable Marty Russo in Minneapolis, Minn.; considered and agreed to.

H. Res. 11. Resolution authorizing the Speaker to administer the oath of office to the Honorable Mickey Edwards at Los Angeles, Calif.; considered and agreed to.

H. Res. 12. Resolution authorizing continuation of an investigation by the Committee on Standards of Official Conduct; considered and agreed to.

By Mr. HAWKINS:

H. Res. 13. Resolution providing amounts from the contingent fund of the House for continuance of necessary investigations and studies by standing and select committees of the House through March 31, 1983; considered and agreed to.

By Mr. KRAMER:

H. Res. 14. Resolution that the House adjourn as a mark of respect to the memory of the Honorable Jack Swigert, Representative-elect from the State of Colorado; considered and agreed to.

By Mr. GILMAN (for himself and Mr. LELAND):

H. Res. 15. Resolution to establish the Select Committee on Hunger; to the Committee on Rules.

By Mr. MILLER of California:

H. Res. 16. Resolution to establish the Select Committee on Children, Youth, and Families; to the Committee on Rules.

By Mr. DIXON (for himself, Mr. FOWLER, Mr. SIMON, Mr. BARNARD, Mr. CLAY, Mr. CROCKETT, Mr. GINGRICH, Mr. GRAY, Mr. HATCHER, Mr. MITCHELL, Mr. RANGEL, Mr. SAVAGE, and Mr. STOKES):

H. Res. 17. Resolution expressing the sense of the House of Representatives that the President should award Benjamin Elijah Mays the Presidential Medal of Freedom in honor of his distinguished career as an educator, civil rights leader, and theologian; to the Committee on Post Office and Civil Service.

By Mr. HANSEN of Idaho:

H. Res. 18. Resolution to amend the Rules of the House of Representatives to establish the Committee on Internal Security, and for other purposes; to the Committee on Rules.

By Mr. ROE:

H. Res. 19. Resolution designating May 3 as "Polish Constitution Day"; to the Committee on Post Office and Civil Service.

By Mr. WEISS:

H. Res. 20. Resolution expressing the sense of the House of Representatives that negotiations pursuant to the 1979 NATO de-

cision concerning the deployment of nuclear weapons in Europe should be vigorously pursued by the United States and that the United States should commit itself to a clearly defined timetable for completion of such negotiations, and for other purposes; to the Committee on Foreign Affairs.

H. Res. 21. Resolution expressing the sense of the House of Representatives that extended voluntary departure status should be granted to El Salvadorans in the United States whose safety would be endangered if they were required to return to El Salvador; to the Committee on the Judiciary.

H. Res. 22. Resolution to amend the Rules of the House of Representatives to require that all bills and resolutions have titles which accurately reflect their contents and all subject matters contained therein; to the Committee on Rules.

EXTENSION OF REMARKS

NUCLEAR DISARMAMENT AND ARMS CONTROL

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, January 3, 1983

● Mr. WEISS. Mr. Speaker, never before in the nearly 40 years of the atomic age has the threat of nuclear weapons confrontation been greater. The Reagan administration has embarked on a massive buildup of nuclear warfighting capability, and has taken the world yet closer to the brink of annihilation with an offensive-minded, rather than a defense, nuclear strategy.

More than three-quarters of a million Americans marched last June in New York City to protest this direction. The saber-rattling policies and reckless nuclear planning of President Reagan have been soundly rejected by these people and millions of other Americans who fear nuclear war. The nuclear freeze movement has resulted in hundreds of towns, cities, and communities passing referendums calling for an immediate, bilateral freeze on the production of all nuclear weapons. And in this body, a similar measure failed by the narrowest of margins in the 97th Congress.

To counter the dangerous policies of the Reagan administration, I am today introducing two pieces of legislation. The first is a joint resolution calling for the United States to adopt a policy of "no first use" of nuclear weapons and to conclude treaties with all nations similarly renouncing first use.

This simple measure may seem little more than an affirmation of current U.S. policy. However, renunciation of the first use of nuclear weapons is not the policy of the current administration, and the continued support of such first strike-capable weapons as the MX missile, the cruise and Pershing II missiles scheduled for deployment in Europe, and others by recent administrations refutes this belief.

The Reagan administration indisputably has broken with our Nation's historical commitment to a defensive nuclear force. Secretary of Defense Caspar Weinberger directed his staff to prepare a strategy for fighting and winning a nuclear confrontation, a self-deluding notion that assumes the possibility that the United States would be the first to use a nuclear device. The President has signed off on this.

The resolution I am introducing today seeks to recognize the delicate balance of peace and survival that is threatened by these policies. What I am proposing is not itself a solution to the urgent need to disarm all nations possessing nuclear weapons, but it is an important first step. We must assure that so long as nuclear weapons exist, their use will be solely to deter aggression, not to precipitate destruction.

The second resolution I am introducing specifically is intended to help resolve the conflict that surrounds the plan to place 572 new U.S.-provided nuclear missiles in Europe. This plan, approved by NATO in December 1979, has been opposed by several of our allies and has led to widespread civil discontent in still other allied nations. In fact, the European disarmament movement that grew out of protests over this plan has become a major force in European politics.

In the United States, this body deleted funding for production of the Pershing II missiles recently. Severe technical problems with this missile have made this component of the Euromissiles plan highly questionable, and thus calls attention to the fact that the U.S.-supported effort for a nuclear standoff in Europe with the Soviet Union is largely a rhetorical facade.

This resolution would emphasize that it is the sense of the House that:

(1) The Geneva negotiations currently underway on the Euromissiles conflict should be pursued vigorously to completion by the United States. Thus far, those meetings have produced little but gamesmanship, and a lasting resolution to this nuclear threat has become just one more political football for the President.

(2) Both development and deployment of the U.S.-provided missiles should be put off until the negotiations are concluded and a treaty on Euromissiles is ratified.

(3) These negotiations should be planned and carried out as part of a comprehensive international effort to limit and halt the development and deployment of nuclear weapons. Resolution of this conflict is integral to a lasting approach to disarmament and arms control.

Continued development and deployment of nuclear weapons increases the likelihood that such weapons will be used, heightens the risks involved in all future conflicts no matter how small, and increases the possibility of a military confrontation between the United States and the Soviet Union. A halt to the Euromissiles buildup would be an opportunity to effect real arms control simply by restraint, and this is an opportunity that should not be wasted.

Swelling arsenals of nuclear weapons and antagonistic relations between superpowers lead us down a path to destruction. The measures I am introducing today are only a start toward what is necessary if we are to protect the world from nuclear annihilation.

H.J. RES. 50

Joint resolution to renounce the first use of all nuclear weapons and to conclude treaties with all nations renouncing the first use of all nuclear weapons

Whereas the United States and the Soviet Union both have developed nuclear weaponry to retaliate to a nuclear attack with equal or even greater force; and

Whereas this capability for retaliation has created a condition of mutual deterrence; and

Whereas the delicate balance of mutual deterrence has provided a disincentive to actual nuclear warfare; and

Whereas the United States and the Soviet Union both are moving toward development in both the strategic and tactical nuclear realms of first use capabilities; and

Whereas the increasing feasibility of the first use option heightens tensions on both sides and undermines mutual deterence; and

Whereas continued pursuit and refinement of the first-use option will encourage preemptive nuclear attack; and

Whereas exercise of the first use option will result in a full-scale nuclear exchange and the subsequent destruction of much of civilization; and

Whereas the United States and all nations face no more solemn duty than preventing an atomic cataclysm; and

Whereas this duty can best be fulfilled by maintaining mutual deterrence and by working toward the elimination of all nuclear weapons; and

Whereas renouncing the first use of all atomic weapons is consonant with these obligations and aims: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be the policy of the United States to renounce the first use of all nuclear weapons and to conclude treaties with all nations renouncing the first use of all nuclear weapons.

H. RES. 20

Resolution expressing the sense of the House of Representatives that negotiations pursuant to the 1979 NATO decision concerning the deployment of nuclear weapons in Europe should be vigorously pursued by the United States and that the United States should commit itself to a clearly defined timetable for completing such negotiations, and for other purposes

Whereas the decision to deploy tactical nuclear weapons provided by the United

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● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

States in Europe, which was made in 1979 by the North Atlantic Treaty Organization (hereinafter referred to as "NATO") in response to the presence of Soviet nuclear weapons in Europe, was linked to the initiation of negotiations for limitations on such deployments;

Whereas such negotiations have been initiated;

Whereas the deployment of nuclear weapons provided by the United States in Europe may strain international relations within the NATO alliance and actually weaken the security of all the countries which are members of NATO;

Whereas the deployment of nuclear weapons in Europe will increase significantly the possibly of a so-called limited nuclear war with potentially devastating impact on the people and economies of Europe, if not the whole world;

Whereas the unrestrained development and deployment of nuclear weapons greatly increased the likelihood that such weapons will be used, greatly increases the risks involved in all future conflicts no matter how small, and greatly increases the possibility of a military confrontation between the United States and the Soviet Union; and

Whereas arms limitation and disarmament agreements and negotiations historically have both slowed and limited the expansion of the nuclear weapons capability of both the Soviet Union and the United States and have helped maintain a strategic balance between the two nations; Now therefore, be it

Resolved, That it is the sense of the House of Representatives—

(1) that negotiations currently underway pursuant to the 1979 NATO decision should be pursued vigoriously to completion by the United States;

(2) that both the development of the nuclear weapons intended for deployment in Europe and the actual deployment of such weapons should be deferred until these negotiations are concluded and ratified; and

(3) that these negotiations should be planned and carried out as a part of a comprehensive international effort to limit and halt the development and deployment of nuclear weapons.●

TRIBUTE TO THE HONORABLE JOSEPH F. SMITH

HON. MELVIN PRICE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, January 3, 1983

● Mr. PRICE. Mr. Speaker, I want to take this opportunity to express my best wishes to one of my former Armed Services Committee colleagues who left the Congress at the last session.

I want to convey my appreciation to Joseph E. Smith of Pennsylvania, for his work on the committee. While he was only with us a short time, having been elected to the Congress in 1981, Congressman Smith served on the Military Personnel and Compensation and Readiness Subcommittees. He proved to be a valuable member and lost no time in seeking to make solid contributions to the work product of both subcommittees.

Actually, Representative Smith, despite his brief tenure, was no stranger to either the committee or the House. Before being elected as a Member in his own right, he had served as administrative assistant to a former committee colleague, the Honorable James A. Byrnes of Pennsylvania. Also, Congressman Smith served in the Pennsylvania State Senate where he chaired the Senate Appropriations Committee.

This background and experience enabled Congressman Smith to accept and meet his responsibilities as a Member of the House of Representatives. His presence, however brief, will be missed.

Congressman Smith and his family have my sincere good wishes for the future.●

DR. BENJAMIN E. MAYS

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 3, 1983

● Mr. DIXON. Mr. Speaker, today my distinguished colleague, Mr. FOWLER and I are pleased to introduce a resolution expressing the sense of the House encouraging the President to award Benjamin Elijah Mays the Presidential Medal of Freedom in honor of his distinguished career as an educator, civil rights leader, and theologian.

Throughout his meritorious career of more than half a century, Dr. Mays has inspired people of all races throughout the world by his persistent commitment to excellence.

In 1940, when Dr. Mays left his post at Howard University after 6 years, the school of religion little resembled the program he originally inherited. Despite frustrations, Dr. Mays persevered to create quality education for all Americans, especially black Americans not privy to the educational opportunities available. Before his departure, he had increased enrollment in the school, improved the facility, sought accreditation by the American Association of Theological Schools, and enlarged and improved the library.

Having accomplished a lifetime of work, Dr. Mays moved South to Morehouse College in Atlanta, Ga., where he served as its president for 27 years. At the commencement of World War II, when most colleges suffered from a lack of available students and the demise of the college appeared imminent, Dr. Mays prevented closure by vigorously recruiting potential students and thereby aiding in the development of future generations of black leaders.

One of these future black leaders, was the late Dr. Martin Luther King who, during his own historic career, credited Dr. Mays as his spiritual mentor.

Additionally, Dr. Mays was instrumental in the elimination of segregated public facilities in Atlanta and promoted the cause of nonviolence through peaceful student protests during a time in this Nation that was often marred by racial violence.

Given his dedication to education, Benjamin Mays did not retire from his life's work when he retired from Morehouse College in 1967. Instead, he won election to the board of education in Atlanta where he was immediately elected as its first black president. And his presence on the board for the next dozen years provided stability to the city school system at a time when desegregation caused disunity.

Dr. Mays has received numerous accolades throughout his career. At a time when our traditional educational institutions are being challenged by the need for increased technical training and when public support for public education appears uncertain, it is certainly appropriate that we pay tribute to this individual who has unselfishly dedicated his life to imparting skills on future generations. Thus, I believe it is only appropriate that this great American be honored with the Presidential Medal of Freedom for his especially meritorious contributions in the field of education, civil rights, and theology.●

PRESIDENTIAL MEDAL OF FREEDOM FOR BENJAMIN ELIJAH MAYS

HON. WYCHE FOWLER, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 3, 1983

● Mr. FOWLER. Mr. Speaker, today I have the privilege of joining my distinguished colleague from California, Mr. DIXON, in introducing a resolution to pay tribute to an outstanding individual and a long-time personal friend.

Today Congressman DIXON and I are introducing House Resolution 17 expressing the sense of the House that the President award Dr. Benjamin Elijah Mays the Presidential Medal of Freedom in honor of his distinguished career as an educator, civil rights leader, and theologian. Dr. Mays devoted 27 years of his life to the education of future black leaders, one of them the great civil rights leader Dr. Martin Luther King, Jr., during his tenure as President of Morehouse College in Atlanta. Dr. Mays also served as the chairman of the Atlanta Board of Education for 12 years, and pursued the goal of providing a quality education to elementary and secondary student with the same vigor—and success—which he demonstrated at Morehouse.

A recognized leader of the civil rights movement, Dr. Mays was instru-

mental in the elimination of segregated public facilities in Atlanta and has done much to bring the people of our city together to improve life for all Atlantans.

I hope that all my colleagues will join me in paying tribute to this outstanding American and will cosponsor and support House Resolution 17.●

DR. BENJAMIN E. MAYS

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, January 3, 1983

● Mr. SIMON. Mr. Speaker, I want to join my colleagues, the gentleman from California, (Mr. DIXON) and the gentleman from Georgia (Mr. FOWLER), in sponsoring this resolution to honor a great American, Benjamin E. Mays. Dr. Mays' long and distinguished career is certainly worthy of recognition. He would be an especially deserving recipient of the Presidential Medal of Freedom.

Dr. Mays' contributions to education, especially higher education, are significant. He served as president of one of the Nation's most prestigious historically black institutions from 1940-67. During his 27-year tenure as president of Morehouse College in Atlanta, he expanded enrollments despite World War II's drain on Morehouse's all-male student body. Most importantly, he enhanced the curriculum and the overall quality of education at the college. Among the many familiar names that Ben Mays attracted to Morehouse, influenced, and graduated to a life of achievement was the late Dr. Martin Luther King, Jr. A recent chronicler of Dr. King's noted the impression Dr. Mays had on the teen-aged King:

At Morehouse chapel, this tall and erudite man (Mays), with his iron gray hair and hypnotic voice, mesmerized his young disciples by preaching stewardship, responsibility, and engagement. "Do whatever you do so well, that no man yet unborn could do it better." Here at Morehouse, he was not turning out doctors or lawyers or preachers, Mays said. He was turning out men.

Even after he retired as president in 1967, he continued his career in education as a member and president of Atlanta's Board of Education for 13 years.

One of Dr. Mays' favorite quotes aptly describes his personal contribution to the Nation and his commitment to excellence:

It is not a disgrace not to reach the stars, but it is a disgrace to have no stars to reach for. Not failure, but low aim is sin.●

THE GOOD SAMARITAN ACT

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, January 3, 1983

● Mr. PURSELL. Mr. Speaker, I am today introducing legislation, which I have called the Good Samaritan Act, to improve the climate in which emergency health care might be administered aboard airliners. This legislation has far-reaching benefits for the health and safety of air travelers in the event they require emergency medical treatment during flight.

Unlike the Biblical story of the Good Samaritan, modern-day samaritans face obstacles, both legal and professional, which actually discourage the administration of medical care. This situation is clearly demonstrated by a statement in the American Jurisprudence volume on negligence:

Those duties which are dictated merely by good morals, or by humane considerations are not within the domain of the law. Feelings of kindliness and sympathy may move the good Samaritan to minister to the needs of the sick and wounded at the roadside, but the law imposes no such obligation and suffering humanity has no legal complaint against those who "pass on the other side," . . . but a duty voluntarily assumed cannot be carelessly abandoned without incurring liability for injury resulting from the abandonment . . . *A person who voluntarily assumes the care of an injured person is charged with the duty of common or ordinary humanity to provide proper care and attention and may be held liable for a breach of that duty.*" (underscoring added)

While such a doctrine provides a degree of caution, it has hampered those in a position to administer emergency medical care. Accordingly, in 1959, the State of California passed the first so-called "Good Samaritan" law to encourage the voluntary administration of aid in emergency circumstances by limited liability for civil damages. Since then, every other State has adopted similar provisions. However, these State statutes have limited applicability when it comes to incidents involving interstate air travel. In my opinion, a uniform national standard is highly desirable and appropriate.

In brief, this legislation would simply exempt from civil liability licensed medical personnel and airline carrier employees who, in good faith, render emergency care to an injured or ill person aboard an aircarft. This exemption would not apply if it were determined that the "Good Samaritan" intended to cause damage or acted "recklessly and with knowledge that damage would probably result." This legislation has been introduced in previous Congresses and merits our support.●

GRANDPARENTS RIGHTS TO VISITATION AFTER MARITAL DISSOLUTION—SUBJECT OF 1982 HEARING AND A 1983 NEW YORK TIMES EDITORIAL

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, January 3, 1983

● Mr. BIAGGI. Mr. Speaker, on this first day of the 98th Congress I wish to insert into the RECORD an editorial from this morning's New York Times entitled "What Rights Do Grandparents Have?"

The subject of this editorial is the same as that of a hearing which I conducted on December 16, 1982, in my capacity as chairman of the Subcommittee on Human Services House Select Committee on Aging—namely the rights of grandparents to visit grandchildren following the dissolution of a marriage.

This issue presents a complex array of legal, social, and other issues worthy of further discussion by our committee and the full House and Senate.

I urge my colleagues to read this editorial and join with me in examining this issue.

[From the New York Times, Jan. 3, 1983]

WHAT RIGHTS DO GRANDPARENTS HAVE?

Parents are encouraged to be serious: often they keep big albums in which they inscribe birth weights, tooth counts and immunization records. Grandparents are allowed to be giddy: often they carry little albums stamped with acronyms like S.O.G.W.P.I.P.—Silly Old Grandmother With Pictures in Purse.

Parents have been known to spank: grandparents are presumed to spoil. Discipline is a parent's duty; doting is a grandparent's privilege. If parenthood is a responsibility, grandparenthood is its reward. At least it is to the grandfather who spoke before a House subcommittee, which met recently to discuss "Grandparents—the Other Victims of Divorce and Marital Dissolution." His voice cracking, he said, "This is what your life is all about. This is what you work for."

"This" is the right to enjoy the companionship of one's grandchild—a right he and his wife had spent eight years of "heartache and aggravation" and $18,000 in legal fees to get. Another set of grandparents had not seen their late daughter's children in three years, after their father, defying a New York court order, fled with them to Colorado. Their appeal that their New York visitation rights be honored went through the Colorado courts to the Supreme Court. The Court refused the case.

Being denied visitation rights, Representative Mario Biaggi said, must be "like dying a little." He was close to tears, as were several members of Congress. "We are dealing with an issue of monumental importance," Representative Tom Lantos of California said, adding that he meant to make it his "top legislative project."

That so emotional a hearing would provoke so emotional a response is predictable. To see a tribe, a clan, a family shattered is

to be reminded of the continuing dilution of blood ties. But whether the law can reverse that process is doubtful indeed.

The grandparents who testified spoke of the inconsistency or absence of state laws allowing them to petition for visitation rights. They complained of unsympathetic judges and asked for Federal laws to cover parents who flee across state lines with their children.

What they cannot hope for, however, is a law that will pacify those parents who see such pressure as an intolerable interference in their already very hard job of child-raising. Some grandparents may be perceived, quite rationally, as harmfully intrusive. Others, whose only flaw may be similarity to a deeply disliked ex-spouse, may trigger irrational anger. In either case, their presence is apt to exacerbate both a difficult task, and the children's insecurities.

What love, being absent, cannot do, legislation cannot make up for. Grandparents who gain the right, through the courts, to see their grandchildren are, strictly speaking, winners. But not really. In domestic battles like these, no victories are possible.●

BUDGET AMENDMENTS ACT OF 1983

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, January 3, 1983

● Mr. WEISS. Mr. Speaker, I am today reintroducing legislation to require distinctions in the Federal budget between capital outlays and financing on one hand and current operational expenditures and revenues on the other.

When a business, a city, a State, or practically any other enterprise computes its profit or loss or its surplus or deficit for a given year, it does so by deducting expenses from revenues. Separate and distinct consideration is given to any long-term expeniture for capital needs it may have as compared with current operating expenses. Such a two-part budget is a much more accurate, rational, and useful portrayal of actual financial status than is the combined budget currently employed by the Federal Government. By balancing current operating income with expenses and by comparing long-term capital outlays with long-term financing, a much clearer and concise budgetary picture emerges.

It is, for example, most instructive to note that more than one-fifth of the fiscal 1982 Federal budget—$161.5 billion—represents capital investments. The remaining $576 billion in the fiscal 1982 budget represents operating expenditures and should, under standard and universally accepted accounting methods, be measured against the $711.8 billion in revenues for fiscal 1982. A $135 billion operating budget surplus results when this computation is used.

Were the Federal Government to employ the budget methodology used by almost every other financial entity, it would be clear to the public that there is, in fact, no operational budget deficit whatsoever.

The $27.5 billion deficit shown in the fiscal 1982 Federal budget is in reality the difference between capital outlays and the operational surplus. The Federal budget deficit, which we have all heard so much about, actually finances capital items exclusively. And these capital commitments in turn represent sound investments in America's future—investments that will yield benefits in the years to come.

Borrowing to finance capital outlays—which is what, in effect the deficit represents—is universally considered sound business practice. Borrowing to meet operational needs is not.

In proposing a capital-operational breakdown in the Federal budget, I am not suggesting that the Government need not exercise sound fiscal planning, nor am I arguing that this kind of budgeting be used as an excuse to ignore waste and cost overruns. Indeed, I believe that the type of budgeting I am urging would facilitate identification or poor fiscal management and increase accountability.

As it exists today, the Federal budget is grossly misleading. The legislation I am offering would bring needed and helpful clarity to the budgetmaking process and would also encourage more informed participation by both Congress and the public in this process.

I urge my colleagues to support this effort to regularize and simplify the Federal budget.

A copy of the bill is printed below:

H.R. 423

A bill to amend the Budget and Accounting Act, 1921, and the Congressional Budget Act of 1974 to require the inclusion of certain figures on capital and operational expenditures in the budgets transmitted to the Congress by the President and in the first concurrent resolutions on the budget

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Budget Amendments Act of 1983".

SEC. 2. Section 201(a) of the Budget and Accounting Act, 1921 (31 U.S.C. 11(a)), is amended—

(1) by striking out "estimated expenditures" in paragraph (5) before "and proposed appropriations necessary" and inserting in lieu thereof "estimated capital expenditures and estimated operational expenditures";

(2) by striking out "expenditures" in paragraph (7) and inserting in lieu thereof "capital expenditures, operational expenditures"; and

(3) by striking out "estimated expenditures and receipts" in paragraph (8) and inserting in lieu thereof "estimated capital expenditures, estimated operational expenditures, estimated receipts".

SEC. 3. Section 301(a)(2) of the Congressional Budget Act of 1974 (31 U.S.C. 1322(a)(2)) is amended by inserting "for capital expenses and for operational expenses" after "an estimate of budget outlays".

SEC. 4. (a) Section 2 shall take effect with respect to all budgets transmitted pursuant to section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11), more than thirty days after the date of the enactment of this Act.

(b) Section 3 shall take effect with respect to all first concurrent resolutions on the budget reported to both the House of Representatives and the Senate pursuant to section 301(d) of the Congressional Budget Act of 1974 (31 U.S.C. 1322(d)) more than thirty days after the date of the enactment of this Act.●

TRIBUTE TO THE HONORABLE ROBERT W. DANIEL, JR.

HON. MELVIN PRICE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, January 3, 1983

● Mr. PRICE. Mr. Speaker, the 98th Congress will indeed miss Bob Daniel, our distinguished colleague and good friend from Virginia.

I am hopeful that Bob will choose to stay in the Washington area and remain active in the political arena because he is a talented, dedicated, honest, sincere, and patriotic American.

Bob Daniel came to the Congress a little more than 10 years ago. His experience as a military officer in the Army as a former businessman, teacher, financial analyst, and member of the Central Intelligence Agency made him a most effective legislator.

Bob was in the category of soft spoken quiet legislators—a man of few words. When Bob Daniel spoke, however, you could be assured that his message was meaningful and his advice sound.

As a member of the Committee on Armed Services, Bob Daniel never walked away from a controversial subject or task. He was most willing to do his part in building the national security of our great country. He was most thorough in his review of the annual defense budget and his faithful attendance at committee and subcommittee meetings made him most knowledgeable about the most complex technological and military issues.

Mr. Chairman, Bob Daniel served his district, the Congress and the United States in a most commendable way. All of us will miss him on the committee and in the 98th Congress.

On behalf of the committee on Armed Services, I want to take this opportunity to wish Bob and his family the very best and in closing sincerely hope that Bob will continue to serve his country in his future endeavors. Thank you.●

RESOLUTION FOR 1983—ENACT THE EQUAL RIGHTS AMENDMENT

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, January 3, 1983

● Mr. BIAGGI. Mr. Speaker, today I am reintroduciung a joint resolution to propose a constitutional amendment providing that equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

I introduce this resolution on the very first day of the first session of the 98th Congress as a visible demonstration on my part that I consider ratification of the ERA by Congress and the several States to be one of our most important domestic policy goals of 1983.

The date of June 30, 1982, will go down in history as one of the most regrettable dates in our Nation's history. That was the date that the ratification process for the ERA expired. On June 24 of last year, anticipating this unfortunate situation I introduced House Joint Resolution 529—reintroducing the ERA and restarting the ratification process. This is precisely what I am doing today.

I continue to find it inconceivable that in a nation which prides itself on its advocacy for equal rights for all, that a constitutional amendment securing these rights for women could not be ratified by three-fourths of the States of this Nation.

I was proud to vote for the original ratification of the ERA and also voted to extend the original ratification period. It is in that spirit that I offer my legislation today—I do not want the date of June 30, 1982, to be viewed as the end of this Nation's commitment to equal rights for women.

In concept and in practice equal rights for women should not be viewed as something alien to our Constitution or way of life. In fact, the failure of us to provide this as the law of the land puts us in a regressive light in the eyes of those who hold this Nation up as an example of the leader of freedom and rights.

As we evaluate the future strategies for gaining ratification of the ERA, let us not dwell too long on past mistakes of direction. If the merits of ERA are stressed by responsible and respected spokespersons, then I have greater confidence in the ability for us someday to hail the successful completion of the ratification process and the end to this longstanding inequity and inconsistency in our Nation.●

TEMPORARY SHELTER FOR REFUGEES FROM EL SALVADOR

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, January 3, 1983

● Mr. WEISS. Mr. Speaker, the continued fighting in El Salvador is the result of more than 50 years of injustice and repression, yet life in El Salvador now is more dangerous for hundreds of thousands of Salvadorans than ever before. Many innocent citizens face daily, life-threatening risks in virtually everything they do—almost no one is safe.

Thousands of these Salvadorans flee their homeland every month as a defense of last resort. Some settle in other Latin American nations, but many come to the United States, most often illegally. And despite the dangers of living in El Salvador it is the policy of the Reagan administration to return those refugees it is able to identify and detain, to the lives they fled in El Salvador.

In El Salvador many returned refugees face yet greater dangers, since their names are given to the military government upon their return. Several times over the past 2 years reports have come back to the United States of coldblooded massacres of planeloads of returning refugees. These deaths are senseless and avoidable. It is time we recognize the peril we are forcing upon thousands of innocent Salvadorans.

I am today reintroducing legislation that calls on the United States to grant Salvadoran refugees temporary shelter in our country. This shelter is in no way a type of amnesty, nor does it replace applications for political asylum. It simply permits refugees from El Salvador to remain temporarily in the United States until the situation in their home country improves sufficiently to allow them to return and reside there safely.

Increasingly the American public is seeking ways to help these unfortunate refugees. In the Southwest United States, along the Mexican border, hundreds of Americans have formed a kind of "underground railroad" to help protect these Salvadorans. In cities across the Nation communities of Salvadoran refugees have formed, often with the help of religious and social groups.

Yet the Government has filled Immigration and Naturalization Service detention camps in El Centro, Calif., and elsewhere with Salvadoran refugees to be sent back to El Salvador. Several suits have been filed on behalf of refugees against INS claiming that INS officials regularly fail to inform refugees of their rights to apply for political asylum and to receive legal representation and counsel. The processing of political asylum applications has been tedious and only a handful have been approved by INS out of tens of thousands of applications.

The United States historically has upheld our commitment to providing refuge for those in need in many similar cases. Refugees who fled from Vietnam, Laos, Iran, and Nicaragua after the 1979 revolution all were granted this temporary shelter, known as extended voluntary departure. The Reagan administration has politically abused this provision, denying it apparently in part because the President actively supports the ruling military government of El Salvador.

The resolution I am introducing today would affirm the support of the House for the basic human rights of refugees from El Salvador. This is an issue of basic protection for thousands of innocent people, and I am hopeful that this Congress will act favorably on this legislation.

H. Res. 21

Whereas ongoing fighting between the military forces of the Government of El Salvador and opposition forces is creating potentially life-threatening situations for innocent nationals of El Salvador;

Whereas the Immigration and Naturalization Service estimates that as many as one hundred fifty thousand nationals of El Salvador have fled from El Salvador and entered the United States since 1979;

Whereas such Service detains such nationals for the purpose of returning to El Salvador such nationals;

Whereas deportation of such nationals could be temporarily suspended, until it became safe to return to El Salvador, if the Attorney General, upon the recommendation of the Secretaty of State, provides such nationals with extended voluntary departure status; and

Whereas such extended voluntary departure status has been granted in recent history in cases of nationals who fled from Vietnam, Laos, Iran, and Nicaragua: Now, therefore, be it

Resolved, That it is the sense of the House that the Secretary of State should recommend to the Attorney General that extended voluntary departure status be granted to aliens who are nationals of El Salvador and that the Attorney General should exercise his discretion and grant such status to such aliens until the situation in El Salvador has changed sufficiently to permit their safely residing in that country.●

ACCOMPLISHMENTS OF THE 97TH CONGRESS—REPORT TO THE PEOPLE OF THE FOURTH DISTRICT OF WISCONSIN

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, January 3, 1983

● Mr. ZABLOCKI. Mr. Speaker, at the end of every session of Congress, I submit for the RECORD a "Report to the People of the Fourth District of Wisconsin," whom I have the honor of

representing. The late adjournment of the 97th Congress required the submission of the report somewhat later than usual but I hope my colleagues and constituents nevertheless will benefit from it. This report summarizes major activities of the 97th Congress as follows:

In various ways, this has been a historic Congress. It was launched with the 1980 election which put an ideologically conservative President in the White House and Republicans in control of the Senate, while the House retained its Democratic majority. The President and the Senate, particularly during the first session of the Congress, succeeded in manipulating congressional procedures so that substantial portions of legislative business were wrapped into a few omnibus or emergency-type money bills, instead of depending on the regular authorization-appropriations process. One of the results was the unfortunate requirement for a special lameduck session requested by the President at the end of this year in order to pass a catch-all continuing resolution to keep the Government running.

The administration was able, through such unorthodox means, to win passage of much of what the President was proposing for higher defense spending, cuts in domestic services to the people, and tax reductions. Unfortunately, Reaganomics has failed to meet the Nation's economic needs and, indeed, has made matters worse.

Unemployment has hit record highs unsurpassed since the Great Depression of the 1930's. The Federal deficit has skyrocketed far beyond any other time in U.S. history. The Nation's foreign trade deficit is heading for new records. A deep recession which should have been replaced by a strong recovery by now, has been prolonged with resulting distress to millions of Americans, including many people in my district.

During the second session of the 97th Congress just ended, we, in the House, were able to make some positive responses to the wishes of the people although progress was made more difficult by threats of Presidential vetoes and Senatorial filibustering. The House passed a $5.4 billion bill targeted to create 447,600 jobs, though this program had to be dropped from the final "Continuing Resolution" because of Presidential opposition. We passed a major highway repair bill with a 5-cent gas tax hike which was estimated to put 320,000 people to work on fixing up our deteriorating roads, and while the measure encountered difficulties in the Republican Senate, it ultimately cleared. Like you, Mr. Speaker, I pledge strong efforts in the new Congress convening in January to push needed measures left unenacted by the 97th Congress and to search for other programs which will be helpful.

The concerns of the people of the Fourth District were uppermost in my mind as the 97th Congress faced issues ranging from social security to immigration reform. Citizens of the district made known their views through talking to me personally, through letters, through referendums, including overwhelming votes in favor of a nuclear freeze and reducing defense spending, to encourage jobs, and by the elections in November. I led the effort in the House for a mutual and verifiable nuclear freeze resolution and was active in successful moves to hold defense budget increases to what can be usefully spent at this time, including holding up nearly $1 billion on MX production until Congress receives a reasonable basing plan.

The Fourth District also wants a fair return on its tax contributions to the Federal Government. In Wisconsin, people are becoming increasingly tired of excessive amounts of tax dollars going to rich Sun Belt States while northern industrial areas receive little back from the Government. The Wisconsin delegation in the House, which I head, demanded an amendment to the highway bill so that all States will get at least an 85-cent return for their contributions to the highway trust fund. Under the original bill, Wisconsin's share would have dropped to an unacceptable 68 cents.

My actions in the upcoming Congress will continue to be guided by the concerns of our people. I am grateful for the confidence shown in me in the November elections. I hope for substantial congressional contributions to the Nation's recovery in the months ahead.

THE ECONOMY

The House was deeply concerned about the necessity of restoring economic health to our country, eliminating unemployment, lowering interest rates, and halting inflation. In budget resolution and reconciliation bills for fiscal 1982 and 1983, Congress cut almost $50 billion from the Federal budget. The Reagan-endorsed cuts touched virtually every nondefense program in the budget, including medicare, student aid, food stamps, child nutrition, AFDC, Federal employees, and many others. Also reflecting the President's request, the Congress passed a major tax reduction law which included breaks for large corporations and persons earning over $50,000.

When it became evident that the administration-backed program that was enacted early on was not producing positive results, the Congress insisted on a change. It passed a bill to close tax loopholes for large corporations and the rich. The bill also provided additional unemployment compensation benefits for the millions of unemployed workers whose unemployment compensation had run out.

The House passed a $5.4 billion bill to create 447,600 jobs primarily in repair and rehabilitation projects that are sound investments in the Nation's economic future. The Senate also passed a scaled down version of the jobs bill, but in the face of a Presidential veto, the measure had to be abandoned.

DEFENSE

The Congress raised the defense budget substantially in response to the President's request, but at the same time engaged in some trimming where necessary. The President received record level authorizations, $130.76 billion in fiscal year 1982 and $177.9 billion in fiscal year 1983. However, on the MX missile, both Houses voted to restrict production money until the President proposes, and Congress approves, a mode of basing it. The Congress voted also to raise the pay of our men and women in the Armed Forces. I supported that bill because we need to attract and keep good quality personnel in our military services.

EDUCATION, SOCIAL SERVICES, CONSUMERS

Because education is one of the most important parts of the Federal budget, I was disappointed with Reagan budget reductions affecting elementary, secondary, and postsecondary education. Congress was able to limit the damage to some degree. For example, it refused to support lumping 44 education programs into two block grants but chose to modify the proposal instead. It insisted on retaining the separate status of programs for the disadvantaged and handicapped, while establishing one block grant out of a variety of small programs.

While reductions were made in student aid, they did not nearly reach the magnitude of the cuts requested by the Reagan administration. For instance Pell grants were cut by $325 million in fiscal 1982, which cut off at least 200,000 students; but after our strong efforts in Congress, the following year, a law was passed to force the Education Department to continue the current level of maximum Pell grants.

The area of social services suffered probably more than any other program from the early Reagan budget cuts. There were reductions in school lunch, child nutrition, aid to families with dependent children (AFDC), and the elimination of "work incentive" provisions of the welfare law.

While I have always been one to support the elimination of welfare fraud and abuse, my position has also been that we must assist the truly needy while providing jobs to those who can work. While the Reagan administration pledged early on to protect the truly needy, the President's program included major cuts in medicare, medicaid, child care, AFDC, and programs

targeted to help the disadvantaged. The result was the present increase in the percentage of Americans living below the poverty line. However, the Congress did succeed in authorizing $950 million for Head Start in fiscal year 1982, and continuation of the section 235 housing aid program for low-income families.

With respect to consumers, the Congress did pass a resolution, which I opposed, to limit the FTC's authority over the disclosure of used car information. Congress did, however, refuse to go along with efforts to exempt medical and other professions from FTC regulation. While it was expected early on that the President would request accelerated deregulation of natural gas, the Congress made its opposition known, and the President backed off.

HEALTH AND THE ENVIRONMENT

One of the little noted but important provisions of the comprehensive tax law was a section to allow medicare coverage for hospice services. This was an initiative helpful to the families of terminally ill patients, patients themselves, and those concerned with health cost containment.

Unfortunately, medicare and medicaid supporters in the House were unable to defeat substantial reductions proposed by the President. The result was spending cuts of about $1 billion a year in these initial "safety net" programs.

With respect to the environment, I was pleased to have supported enactment of a bill of substantial benefit to the Milwaukee area. The municipal wastewater treatment construction grant amendments were enacted into law to authorize $2.4 billion in fiscal 1982 and $2.6 billion each in fiscal 1983, 1984, and 1985. Funds under the law assist in sewer construction and help provide relief to Milwaukee County taxpayers.

The Congress also passed the Toxic Substances Control Act and heard testimony on a variety of land, water, noise, and conservation efforts. Despite the intentions of the Reagan administration's Secretary of the Interior, the Congress remains committed to parks and national lands. The Nicolet Forest must be preserved and I intend to work hard to safeguard the lands and forests in Wisconsin.

SMALL BUSINESS

The 97th Congress recognized the severe pressures facing small businesses as a result of the recession. Measures were taken to provide some relief. For example, the Congress cleared the Small Business Innovation Development Act to require Federal agencies with research and development budgets to set aside a portion of those funds for small companies. We also passed, but the President has vetoed, a major emergency housing bill which could have helped thousands of small contractors and subcontractors and provided 7,000 man years of employment in the State of Wisconsin.

Because many of us in Congress believed that U.S. small businesses ought to be provided with assistance in breaking into markets abroad, we passed the Export Trading Companies Act to help small businesses develop knowledge and experience in exporting. This law, for which I was a floor manager in the House, can prove helpful to some 2,400 small and medium-size firms in the Milwaukee-Waukesha area.

SENIOR CITIZENS AND VETERANS

Top among my concerns for senior citizens during this Congress was social security. Despite repeated threats by the President, benefits have not been reduced, and while reform for the system is needed, the Congress is not likely to cut out 7 million older Americans from their primary source of income.

While the President claimed that he would not tamper with social security, he did ask for the repeal of the $122 minimum benefit. Fortunately, this was restored by the Congress. The Congress also refused to go along with a number of administration-backed proposals including one to reduce basic retirement benefits 10 percent by 1987; and to cut early retirement benefits to 55 percent immediately. But medicare coverage did suffer budget reductions totaling $2.9 billion in fiscal 1983 and $13.3 billion over the next 3 years.

For veterans, the 97th Congress enacted major legislation extending health care treatment, jobs training, and small business loans. It increased veterans' compensation and passed a former prisoner-of-war benefits act. Vietnam veterans are now entitled to benefits provided veterans of earlier wars, including health care, compensation, pension, home loans, education and training assistance, and veterans' preference in Federal employment. Also, in recognition of the special needs and problems associated with service during the Vietnam era, the Congress passed legislation for treatment for ailments attributed to Agent Orange and for "storefront" readjustment counseling centers.

FOREIGN AFFAIRS

As Chairman of the House Foreign Affairs Committee, I am particularly interested in the Congress' involvement in the international realm. The 97th Congress enacted major legislation including bills to enhance U.S. exports, to provide security assistance to our allies, to help poor countries help themselves, and to authorize funds for the Department of State and other Federal agencies.

The Committee on Foreign Affairs played a major and integral role in drafting language that was in the interests of U.S. foreign policy objectives while keeping spending within reason. Foreign aid outlays were cut below the President's budget. In overseeing existing programs and in assessing future needs, the committee and subcommittees held more than 500 hearings, markups, and briefings with well over 1,000 witnesses testifying.

Legislation providing humanitarian assistance to Lebanon was enacted as well as resolutions establishing a multinational peacekeeping force in the Sinai, addressing certification requirements in El Salvador, and expressing concern for the basic human freedom of the people of Poland, the Soviet Union, and the Baltic States.

The Subcommittee on International Security and Scientific Affairs, which I head, conducted hearings on major national security and defense issues having an impact on the continued preservation of world peace.

Toward these ends, my subcommittee conducted hearings on the need to make nuclear arms control a more integral and active part of U.S. national security strategy. These hearings proved to be the basis upon which the House considered legislation calling for a mutual and verifiable freeze on, and reductions in, nuclear weapons by the two superpowers. Unfortunately, this resolution was narrowly defeated by a vote 204-202.

Congressional concern regarding nuclear arms control was in many respects stimulated by the extensive grassroots interest in this most important issue. Wisconsinites' interest was graphically demonstrated by the voters in our September 14, 1982, election with an overwhelming 3-to-1 vote for a mutual and verifiable freeze to be implemented by both superpowers. As chairman of the House Foreign Affairs Committee, I pledge to continue my efforts toward fulfillment of these objectives.

In another important area, my subcommittee held hearings on the foreign policy and arms control impact of chemical weapons. These hearings became the foundation for the successful adoption of my amendment to preclude another arms race in chemical weapons by prohibiting the production of new binary chemical weapons—a savings to the taxpayer of $34 million. In the next Congress, I will continue to seek a ban on the production and usage of lethal chemical weapons.

Mr. Speaker, in closing, I would like to thank you for your leadership in this historic but difficult 97th Congress, and express my sincere appreciation to my colleagues for their contributions and cooperation. While we have a long way to go toward our ultimate goal of economic recovery, the 97th Congress has confirmed that we listen to the voices of our constituents and that we have the intention and ca-

pability of putting our people back to work. When many of us return in the 98th Congress, we will have our tasks cut out for us and I am confident that we will succeed.●

TRIBUTE TO THE HONORABLE DAVID EMERY

HON. MELVIN PRICE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, January 3, 1983

● Mr. PRICE. Mr. Speaker, those of us on the Armed Services Committee who came to know and work with our former colleague, David Emery, will miss him in this new Congress.

As one of the few engineers serving in the House of Representatives, he provided us with a valuable knowledge for analyzing the very technical legislation handled by our committee.

During his service on the Armed Services Committee, Dave distinguished himself as a member of the Subcommittee on Seapower and Strategic and Critical Materials and the Subcommittee on Research and Development with his penetrating questions on complex weapon systems and their viability in our defense structure. As a Representative of a shipbuilding State, he became a vocal advocate for maintaining the strength and quality of America's naval forces.

Dave came to our committee at the start of his second term. I understand his appointment made him the first member from Maine in 28 years to serve on the Armed Services Committee. The people of Maine can be proud of him, for Dave served his State and country with great distinction on the committee during the past 6 years. His contributions to our national defense have not gone unnoticed. We thank him, and we wish him well.●

STANDBY AUTHORITY FOR WAGE AND PRICE CONTROLS

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, January 3, 1983

● Mr. WEISS. Mr. Speaker, I am today reintroducing legislation to provide the President with standby authority to institute wage and price controls, including restraints on interest rates, dividends, profits, and similar transfers.

Only recently did we emerge from a prolonged period of ravaging inflation, but even that sense of recovery was illusory because it came at the cost of record, depression-level unemployment. Had President Reagan had the authority to institute wage and price controls, if he wanted to do so, inflation might have been controlled without placing this tremendous burden on the American labor force.

We are all too familiar with the devastating impact of high inflation rates. Every sector of the economy is damaged. Food and health costs soar, and prices for other goods and services spiral as well. And those who suffer most when the purchasing power of the dollar sags are low-, moderate-, and fixed-income earners.

A voluntary wage and price standard program that, although commendable, is usually inadequate. Wage and price controls must have "teeth," some way of enforcing the guidelines set forth, which voluntary programs lack. A President's ability to bring about voluntary or mandatory fiscal restraints will be enhanced measurably if Congress grants this standby wage and price control authority. We all hope that the President will never need to impose the controls created by this legislation, but it is essential that they be at his disposal should the need arise.

I urge my colleagues to join me in supporting this legislation which would signal our willingness to attack inflation head on if it should reoccur.

A copy of the bill follows:

H.R. 414

A bill to provide authority for the President to stabilize prices, wages, interest rates, and corporate dividends

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Economic Stabilization Act of 1983".

PRESIDENTIAL AUTHORITY

SEC. 2. The President is authorized to issue such orders and regulations as he may deem appropriate to stabilize prices, rents, wages, salaries, and profits at levels not less than those prevailing on January 1, 1983, except that prices may be stabilized at levels below those prevailing on such date if it is necessary to eliminate windfall profits or if it is otherwise necessary to carry out the purpose of this title, and to stabilize interest rates and corporate dividends and similar transfers at levels consistent with orderly economic growth. Such orders and regulations may provide for the making of such adjustments as may be necessary to prevent gross inequities.

DELEGATION

SEC. 3. The President may delegate the performance of any function under this Act to such officers, departments, and agencies of the United States as he may deem appropriate.

PENALTY

SEC. 4. Whoever willfully violates any order or regulation under this Act shall be fined not more than $25,000.

INJUNCTIONS

SEC. 5. Whenever it appears to any agency of the United States, authorized by the President to exercise the authority contained in this section to enforce orders and regulations issued under this Act, that any person has engaged, is engaged, or is about to engage in any acts or practices constituting a violation of any regulation or order under this Act, it may in its discretion bring an action, in the proper district court of the United States or the proper United States court of any territory or other place subject to the jurisdiction of the United States, to enjoin such acts or practices, and upon a proper showing a permanent or temporary injunction or restraining order shall be granted without bond. Upon application of the agency, any such court may also issue mandatory injunctions commanding any person to comply with any regulation or order under this Act.

EXPIRATION

SEC. 6. The authority to issue and enforce orders and regulations under this Act expires at midnight September 30, 1987, but such expiration shall not affect any proceeding under section 4 for violation of any such order or regulation, or for the punishment for contempt committed in the violation of any injunction issued under section 5, committed prior to October 1, 1987.●

LONG ADVOCATES STREAMLINING GOVERNMENT THROUGH SUNSET REVIEW

HON. GILLIS W. LONG

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 3, 1983

● Mr. LONG of Louisiana. Mr. Speaker, at the opening of the 98th Congress, I take the floor to emphasize what I consider the most important responsibility of the Congress: scrutiny of Federal programs. This fundamental responsibility of the Congress is all the more crucial at this time of horrifying budget deficits which are crippling Government. Until we bring down the Federal deficit, we cannot hope to get control of runaway Government spending.

The budgetary constraints of the eighties require that Federal spending priorities be carefully considered and constantly reevaluated in order to make our tax dollars go as far as possible. All of us are tired of big Government and overregulation. Many programs which were conceived as specific and carefully targeted have outlived their need or have overshot their mark and must be pruned back. We cannot tolerate Government excesses. It is incumbent upon Congress to assure that Federal programs are achieving maximum impact for every dollar invested.

To do this we must take a hard look at so-called backdoor spending, which accounts for an estimated 75 percent of Federal outlays. We must also scrutinize our Federal tax policies and eliminate loopholes which unfairly benefit special interests.

I am today reintroducing, on behalf of my colleague BUTLER DERRICK and myself, legislation providing tools to strengthen congressional oversight and make our Congress more effective.

The Long-Derrick bill is H.R. 58, the Sunset Review Act of 1983. The legislation calls for the creation of a congressional oversight agenda and gives each Member accountability in the oversight process. The bill has been carefully designed to encourage thoughtful oversight of Federal program activity without mandating large-scale, irrational, sudden-death terminations of programs.

An important feature of the bill is that it extends review beyond direct-spending programs. The bill would emphasize review of uncontrollable spending and of tax expenditures, in conjunction with review of direct spending programs. It is vital that Congress assess the growth of tax expenditures, which have become the fastest increasing element of Federal budgetary policy. While direct outlays grew 250 percent between 1968 and 1982, tax expenditures increased by approximately 600 percent.

The provisions of H.R. 58 are arranged to complement current congressional procedures, working through the traditional authorization process and in tandem with the requirements of the Congressional Budget Act. Unlike sunset legislation as it is known in State government, H.R. 58 focuses on review of program activity rather than on the organizational structure of Government entities. This approach gives maximum opportunity for spending economies to be imposed by the review process.

Our 98th Congress brings us scores of new Members on both sides of the aisle who have diverse experience in business and government. I encourage new Members to participate actively in the review of Federal programs in their congressional committee work. We returning Members need their assistance in pruning Federal programs as necessary to make Federal spending economies. They should bring their experience to bear immediately in the congressional oversight process. The Nation will benefit from fresh and objective perspective of newly elected Representatives.

I invite my colleagues, as well as returning Members, to join with Congressman DERRICK and me in cosponsoring this important legislation. An explanation of H.R. 58, the Sunset Review Act of 1983, follows.

The sunset review process works on a Congress-by-Congress basis. It begins with the development and adoption of "committee review agendas" by legislative committees. These agendas, which must be prepared by March 1 of the first session of each Congress, will include those programs and tax expenditures within a committee's jurisdiction that the committee intends to review during that Congress. A committee's primary funding resolution will not be in order until the committee has reported its agenda. The committee agendas are then assembled into a "consolidated review agenda," to be acted on by Congress by March 31 of the first session.

Special floor procedures expedite the consideration of the consolidated agenda as a concurrent resolution. This resolution directs committees to conduct reviews on the items included and to report, by May 15 of the second session, legislation modifying, continuing, or terminating said items. After the expiration of a two-Congress learning period, the agenda will be subject to amendment on the floor. Congress will then be able to add or delete items from a committee's review agenda, provided that the item had not been reviewed during the last three Congresses.

This process effectively links the review priorities of committees to the reporting of legislation during the same Congress. By allowing committees to focus on priority items, the reviews are more likely to be of greater depth and detail. Tying review to legislative action provides a major incentive for committees to conduct serious review. In addition, the performance of committees in conducting review will be subject to judgment by the full Congress. This occurs twice in a Congress—when committees submit their agenda for approval in the first session, and when they report legislation based on their review in the second session.

Most important, no program or tax expenditure will terminate automatically. Committees will have the opportunity to conduct a thorough review, and the Congress will have the opportunity to vote on committee recommendations. This feature allows us to include all programs and tax expenditures without exemption.

An essential tool for the review process will be the compilation of the first complete inventory of Federal programs and tax expenditures. The inventory will arrange programs and tax expenditures by committee jurisdiction. It will provide the "common language" for House and Senate committees by assigning each program and tax expenditure an official name and unique identification number. Cross-references will be provided for committees sharing jurisdiction, and between programs and related tax expenditures. The inventory will not change or assign committee jurisdictions. Each committee will review the draft inventory to insure that it correctly reflects its jurisdiction.

The approach is simple in design, building on currrent congressional procedures and the committee system. The legislation gives committees the major role in governing the review process, for that is where the work has to be done. H.R. 58 gives Congress the major role in determining the status of programs and tax expenditures, in keeping with the role of Congress in enacting and revising the laws of the land.●

POSTAL RATES LEGISLATION

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, January 3, 1983

● Mr. PURSELL. Mr. Speaker, for many years Congress has provided special reduced postal rates for second- and third-class mailings of certain types of nonprofit organizations. These rate charges for mailings are as little as one-half of the regular rates and they seem to be working for the general benefit of the American public. A sampling of the organizations eligible for these reduced rates includes religious, educational, scientific, philanthropic, agricultural, fraternal, and political committees, as well as others. One notable exclusion is civic service clubs.

I have introduced legislation which will extend to American civic service clubs the same reduced postal rates as apply to other nonprofit organizations. Service clubs are nonprofit organizations exempt from Federal income tax and are operated solely for the purpose of the promotion of social welfare. Civic clubs like the Lions, Rotary, Civitan, and others are primarily engaged in promoting the common good and general welfare of the people of the community. However, they remain excluded from the same postal rate treatment their fellow clubs enjoy. This unfair exclusion not only costs the civic service clubs money, but it limits unfairly the conduct of their activities.

My legislation is simple. It amends the United States Code relating to nonprofit services clubs by adding language to extend the reduced rate structure if the civic service club is not organized for profit and none of the net income is of benefit to any private stockholder or individual. It also requires that before the reduced rates are extended to civic service clubs, the clubs shall furnish proof of its qualifications to the Postmaster General.

I believe this unequal treatment of nonprofit, service-oriented organizations deserves correction. I urge the adoption of my legislation during this session of Congress.●

AMERICAN PEOPLE'S RIGHT TO BE INVOLVED IN GOVERNMENT POLICY DECISIONS

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, January 3, 1983

● Mr. WEISS. Mr. Speaker, today I am reintroducing a resolution which expresses congressional opposition to Health and Human Services Secretary Schweiker's proposal to radically change the Department's policy of giving notice and soliciting comments on proposed regulations.

The Secretary's proposal, published in the Federal Register on June 22, 1982, has been the target of widespread public criticism. The Department has received over 1,300 comments, most of which are against this effort to silence public opinion. Program beneficiaries, health and human service providers, State and local governments and businesses and organizations are alarmed at the prospect of an insulated bureaucracy promulgating regulations that are not subject to public or judicial review. Yet, despite this strong opposition, the Department has not seen fit to withdraw this ill-advised proposal.

My opposition to the Department's proposal to exempt itself from any legal obligation to follow notice and comment procedures stems from a strong conviction that public input is essential to the development of just and sound policy. Experience has taught us that open rulemaking strengthens participatory democracy and thereby mitigates the possibility of arbitrary, harmful, and irresponsible regulations.

Notice and comment procedures are essential because they afford Government agencies the opportunity to receive important data, diverse perspectives, and suggestions for alternative approaches before promulgating regulations. Such an exchange of information between the public and decisionmakers has led to improved regulations and increased Government responsiveness and accountability to those affected by its actions. It is quite clear that the public benefit from citizen involvement far outweighs any administrative delay or burden that may result from open rulemaking procedures.

The Administrative Procedure Act requires that Government agencies publish notice of proposed rulemaking, provide the public with an opportunity to comment on such proposals, and consider the comments before promulgating final rules. These procedures were carefully constructed to provide flexibility for Government agencies and guarantee protection for the public. The act permits Government agencies to waive notice and comment procedures for "good cause," but this discretion is subject to public and judicial review. If the Secretary's proposal were to be implemented, the courts would be stripped of their right to review the validity of the Department's decision to forego these procedures.

Unfortunately, there is an exemption in the Administrative Procedure Act for rules relating to loans, grants, benefits, or contracts. Most of the Department's major programs, including social security, medicare, medicaid, AFDC, and SSI fall within this loophole. However, 12 years ago, former HEW Secretary Elliott Richardson waived this exemption because he recognized the importance of public access to information and participation in the Department's policy development.

Moreover, the Administrative Conference of the United States has recommended elimination of the so-called proprietary exemption in the APA because, and I quote, "the potential damage to sound policy formulation and private rights is great in any case where public participation is not assured." Last Congress, both the full Senate and the House Judiciary Committee heeded this recommendation by adopting legislation to eliminate this technicality in the APA. In contrast to the Department of Health and Human Services, the Congress intends to increase public involvement in the regulatory process.

I am particularly disturbed by the Department's exclusionary stance because of the broad scope of grant and benefit programs that fall within its jurisdiction. Many of these programs affect the health and security of millions of Americans. The Schweiker proposal would not only negatively affect program beneficiaries, but it would also exclude hospitals, human service providers, doctors, unions, State and local governments, businesses, and nursing homes from the rulemaking process. Without their important contribution, program administration and service delivery would likely deteriorate, causing needless hardships among those dependent on these programs.

Apparently many people serving in this administration prefer to ignore the fact that our Government belongs to the people. Despite its rhetoric, the administration continues to sabotage established practices of open government and to suppress public participation. In doing so, they have furthered the perception of the Federal bureaucracy as closed, exlusive and indifferent to the concerns of the people it is supposed to be serving.

Mr. Speaker, I invite my colleagues to join with me in urging the withdrawal of this HHS proposal and reaffirming the American people's right to be involved in their Government's policy decisions.

The text of the resolution follows:

H. CON. RES. 19

Concurrent resolution expressing the sense of the Congress that the Secretary of Health and Human Services should withdraw a proposed reduction in public notice and comment opportunities

Whereas public participation in the regulatory process is essential to the formulation of fair and sound policy;

Whereas open rulemaking mitigates the possibility of arbitrary, harmful, and ill-advised rulemaking;

Whereas the Department of Health and Human Services has successfully adhered to Administrative Procedure Act notice and comment period procedures for twelve years;

Whereas the daily lives of millions of Americans are profoundly affected by the regulations that are issued by the Department of Health and Human Services; and

Whereas it is critical that program beneficiaries, State and local governments, human services providers, and organizations continue to be afforded the opportunity for input whenever Health and Human Services regulatory changes are proposed: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the Secretary of Health and Human Services should withdraw proposed rules published in the Federal Register on June 22, 1982 (pp. 26860-61) that would reduce public notice and comment opportunities, and affirm current practices which involve the public in rulemaking procedures.●

TRIBUTE TO THE HONORABLE JAMES L. NELLIGAN

HON. MELVIN PRICE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, January 3, 1983

● Mr. PRICE. Mr. Speaker, I rise today in tribute to a departing Member of the House, Jim Nelligan of the 11th District of Pennsylvania.

Jim capped a distinguished career in Government with his service on the Committee on Armed Services. He was almost unique among us, in that virtually everything in his background had prepared him singularly well for effective contribution to our committee. Jim followed his service in the U.S. Army with 16 years' investigative experience in the General Accounting Office. Following that he served variously as a professional staff member of the Government Operations Committee; as the Director, Office of Property Management, General Services Administration; and Operations Director, Oversight and Investigations Subcommittee, Committee on Interstate and Foreign Commerce.

If ever there were a Member with the depth and width of experience applicable to the work of our committee, Jim was it. And his actions as a

member of the committee verified that reservoir of experience, making him invaluable in his analytical and investigative contributions to both the Investigations and Readiness Subcommittees. We are going to miss his incisive grasp of the issues and the sheer hard work that he brought to the discharge of his committee duties.

Jim can be described as the single Member whose personal political fortunes most directly hinged on an early and clear-cut demonstration of success for the administration's economic policies. The 11th District is a microcosm of America in economic transition. Its major industry, mining of anthracite coal, has been largely supplanted by the adoption of other fuel sources. Those industries which had begun to replace coal mining, primarily apparel and textiles, have in turn been besieged by foreign import competition and are particularly sensitive to an economic downturn.

As a result of continuing economic difficulties critically affecting the district, its congressional representation has reverted to the traditional pattern in Wilkes-Barre and the Susquehanna Valley. And so we have lost Jim's services, and his unique ability and capabilities which we found to be of such value to our committee.

We will miss those skills, and his hard work. We will miss Jim Nelligan. And we wish him well.●

LET US MOVE ELECTIONS TO SUNDAY

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, January 3, 1983

● Mr. BIAGGI. Mr. Speaker, today I am introducing a bill to change election day to Sunday in an effort to bolster voter turnout.

Under this legislation, which I first authored prior to the 1980 Presidential election, all Federal general elections would be held on Sunday, and all polling places across the country would open and close at the same time—12 to 9 p.m. (eastern standard time) during Presidential elections. These changes would apply for a 6-year experimental period beginning with the 1984 Presidential election.

I authored this bill because I am deeply concerned about our Nation's dismal voter turnout rate. For example:

Voter turnout in the United States has declined in every Presidential election since 1960—1960, 62.8 percent; 1964, 61.9 percent; 1968, 60.9 percent; 1972, 55.5 percent; 1976, 54.4 percent; and 1980, 53.95 percent;

The 1980 voter turnout was the lowest for a Presidential election in 32 years, a dismal 53.95 percent;

Ten States and the District of Columbia all had voter turnout rates under 50 percent in 1980;

The 1980 voter turnout declined from 1976 in every Pacific time zone State, where polls were still open when a Ronald Reagan victory was projected by the media; and

In non-Presidential election years, the figures are far worse, with only 40.3 percent of the voting age population participating in the 1982 elections.

Admittedly, there are a number of uncontrollable variables responsible for this disturbing trend. However, my proposal addresses two voting obstacles that can be alleviated—voter inconvenience, and early election night projections by the media.

Ten years ago, a U.S. Census Bureau survey revealed that over 48 percent of all registered nonvoters did not vote because of factors related to convenience. Specific reasons mentioned included such things as "no transportation was available; could not take time off from work; or discouraged from voting by long lines." Since that time very little, if anything, has been done to overcome these voting obstacles.

Further, in European countries where national elections are held on Sundays, a nonworkday, voter participation is significantly higher than our own. For example, Sweden, Austria, West Germany, Italy, and France, all held their most recent elections on Sunday and voter turnout was between 86 and 90 percent.

What impact did the early election night projections by the media have on voter turnout in 1980? The most comprehensive study on the subject, released in October 1981, by the University of Michigan and funded in part by ABC News, concluded that overall voter turnout declined by 6 to 11 percent as a result of the early projections.

In addition, it should be noted that the president of CBS, Inc., Thomas H. Wyman, and the senior vice president for ABC News, Richard Wald, have both expressed support for the same-time/Sunday voting concept.

In a letter I received from Mr. Wald, he stated that ABC supports "both uniform poll closing and weekend voting, both of which are features of your bill."

Mr. Wyman sent me a similar letter saying,

> The influence of early reports of Eastern election returns on Western contests could be minimized by setting a uniform time before which no polls could be closed. Such an approach would be most effective if coupled with the rescheduling of election day on a national holiday or, as you propose, on a Sunday. CBS believes that enactment of this proposal would represent a significant improvement in our political processes by increasing voter turnout and encouraging active citizen involvement in such election day activities as precinct work.

Especially significant is that my bill would in no way restrict the media's constitutional right to report the news.

Simply put, our current election process is failing us miserably. Due to an increasing lack of voter participation, our democratic society is growing weaker while well-organized extremist and special interest groups are growing in power and influence.

We must act promptly and responsibly to counteract this serious threat to our democratic system. I believe my same-time/Sunday election proposal, with its experimental approach, offers the best possible solution, and I intend to work long and hard for its favorable consideration.●

A BILL TO AMEND TITLE XVIII OF THE SOCIAL SECURITY ACT

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, January 3, 1983

● Mr. WEISS. Mr. Speaker, in recent years, skyrocketing health care costs have exacted painful sacrifices from elderly and disabled Americans. Today, I am reintroducing legislation which would help ease the devastating impact that rising medical costs have on this vulnerable group of citizens. This legislation would roll back the increases in the medicare part A hospitalization deductible that were implemented as part of the President's 1981 Budget Reconciliation Act.

One of the major casualties of Reaganomics is medicare, a program which provides valuable protection for about 28 million older and disabled Americans. The $15 billion that has been cut out of medicare's budget over the next 3 years will exact cruel and inhumane sacrifices from those who have nothing left to sacrifice, except possibly their health.

One of the most severe reductions for older Americans is the change in the formula for the part A hospitalization deductible—the front-end charge that the patient must meet from his or her own resources, private health insurance, or otherwise. The effect of this change has been to increase the deductible from $204 in 1981, to $260 in 1982, to $304 in 1983, to a projected $344 in 1984. This staggering 70-percent boost in the part A deductible over 4 years will affect an estimated 7 million aged and disabled persons. It is likely to hit hardest those who can least afford this spiraling cost.

This change will have other spillover effects because hospital charges for long-term stays and skilled nursing payments are pegged to the hospital deductible.

For example, the daily charge for qualifying skilled nursing care will in-

crease from $25.50 in 1981 to $38 in 1983 for patients who are in nursing homes from 21 to 100 days.

In 1981, patients were subject for a $51 daily coinsurance charge if they were hospitalized from 61 to 90 days. Under the new formula, the charge in 1983 will be $76 a day. In addition, the President's budget boosts the daily coinsurance charge for medicare beneficiaries who must draw upon their 60-day lifetime reserve from $102 a day in 1981 to $152 in 1983.

The sharp increase in the Part A deductible may force many needy older and disabled Americans to play a dangerous game of Russian roulette with their health. Many may postpone essential hospital care until their illness reaches a critical or crisis stage. And then, the treatment may be ineffective or too late.

These individuals need and deserve all the help they can receive. My bill would help by reinstating the formula used under prior law to calculate increases in the Part A deductible. The outcome—much lower increases in deductibles and copayments—would provide welcome relief for aged and disabled Americans whose purchasing power has been eroded by rising prices and other cuts in health and welfare programs.

Over the years, the gap between actual medical costs and medicare reimbursements has been increasing at a shocking rate. Consequently, the elderly and disabled find themselves caught in an unrelenting trap of paying higher and higher costs as a result of deficiencies in medicare coverage. Because medicare only covers 44 percent of health expenditures for its patients, the elderly find themselves spending 19 percent of their income on medical care. In 1980, this amounted to a per capita bill of $1,436 senior citizens, 20 percent of whom have incomes below the poverty line.

Mr. Speaker, the time has come to draw the line on shifting health care costs to the aged and disabled. These individuals often have limited resources to absorb these added expenditures. When they are piled on top of other cutbacks, the effect can be devastating. While it is clear that Congress must find a comprehensive way of containing skyrocketing hospital and medical costs, our solutions must not sever the lifeline of the elderly, the poor, and the disabled.

I urge my colleagues to join me in support of this measure to soften the blow from spiraling health care costs by providing relief to millions of already beleaguered Americans.

H.R. 426

A bill to amend title XVIII of the Social Security Act to eliminate increases in the medicare part A deductible and coinsurance amounts and the increase in the medicare part B deductible amount effected by the Omnibus Budget Reconciliation Act of 1981

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Medicare Deductible Rollback Act".

ROLLBACK OF INCREASE IN MEDICARE PART A DEDUCTIBLE AND COINSURANCE

SEC. 2. (a) Section 1813(b)(2) of the Social Security Act (42 U.S.C. 1395e(b)(2)), as amended by section 2132(a) of the Omnibus Budget Reconciliation Act of 1981, is amended by striking out "$45" and inserting in lieu thereof "$40".

(b) The amendment made by subsection (a) shall apply to inpatient hospital services and posthospital extended care services furnished in calendar years beginning with calendar year 1983.●

THE TAX AVERAGING EQUITY ACT

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, January 3, 1983

● Mr. PURSELL. Mr. Speaker, today I am introducing legislation to amend the IRS code on income averaging laws. This legislation has been prepared to remove current restrictions on income averaging regulations for persons who have experienced a change in marital status. While it equally addresses the needs of men and women, it is introduced for the benefit of many women who encounter an unfair tax burden following the death or the separation of their spouse.

Simply put, the bill would allow qualified individuals to disregard the income of a former spouse in the computation of base period income for income averaging purposes. Under current IRS regulations, if a joint income tax return was filed by a married couple during what are considered the base-period years by the IRS, termination of the marriage, either by death or divorce, will not relieve the tax liability on earnings for the remaining person. It is possible that a person may have to pay taxes at a later date on income not actually earned if this person chooses to income average.

Current IRS regulations place certain persons in a dilemma. For example, a career homemaker with little or no actual earned income must include, for purposes of income averaging, the earnings of her deceased or divorced spouse. An increasing number of these persons, displaced every year from their family role and left without financial security because of divorce or death of spouse, usually must join the labor force. For many this is the first real exposure to the ultimate responsibility of earning a living. This employment experience often constitutes an increase in income and offers an opportunity to use income averaging. However, if a joint income tax return has been filed in previous years, current IRS regulations require that taxes be paid on both present income and the income from the former marriage.

A former husband, on the other hand, who was the chief wage earner and according to IRS meets other criteria for filing an income averaged return within 4 years of the termination of the marriage is allowed to pay taxes on the lower married filing joint rate for the base years in which a joint return was filed. Furthermore, all deductions and exemptions are awarded.

Even more disturbing is the fact that current IRS regulations allow a taxpayer with income increases which qualify them for income averaging, but who were dependent on a taxpayer other than a spouse, to disregard this income in order to benefit more fully from income averaging.

My legislation would address this inequity by simply allowing the income of the former spouse to be disregarded for the purposes of income averaging. Such a change in the Tax Code would only affect a small percentage of America's population. However, its benefits would be of enormous benefit to those faced with this unfair tax treatment.

Past review by the Joint Committee on Taxation reveals that passage of this legislation would result in minute revenue losses. Also, this review shows that income averaging is of primary benefit to middle and lower income persons. Since this legislation has been introduced in preceding Congresses, it has attracted support from a variety of groups including the Business and Professional Women's Clubs, Inc., the Center for Women Policy Studies, the National Association for Female Executives, the National Organization for Women, and others.

Mr. Speaker, the Tax Averaging Equity Act is a simple, straightforward attempt to relive an unfair tax burden most often experienced by displaced homemakers. It deserves the attention of my colleagues and passage during this session of Congress.●

IN TRIBUTE TO HON. ROBIN BEARD

HON. MELVIN PRICE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, January 3, 1983

● Mr. PRICE. Mr. Speaker, Robin Beard was an outstanding Member of

the House of Representatives and the Armed Services Committee for 10 years, and I want to take this opportunity to express appreciation for his valuable public service to the Congress and the Nation. Robin's insight on military affairs was tutored by his continuing service with the Marine Corps. While serving his country on active duty, he was the officer in charge of the Gemini IV Offshore Recovery Mission. Robin remained a member of the Marine Corps Reserve after entering public life. He was the only Member of Congress who continued to return to active duty for reserve training every year. Most recently, his unique appreciation of the needs of his service made him an effective and persuasive proponent of the AV8B Harrier and the Light Armored Vehicle.

Robin Beard's focus and contributions in the area of military affairs, however, ranged much broader than the concerns of one service. His military experience, combined with long tenure on the Armed Services Committee, honed his judgment on a broad spectrum of military issues. Thus, his views were accorded special weight, and he was successful in shaping the outcome of a number of important issues.

As ranking minority member of the Investigations Subcommittee, and as a member of the Research and Development Subcommittee, he was in the forefront of some of the most important work of the Armed Services Committee over the last decade. He was one of the first to oppose withdrawal of U.S. troops from Korea. Calling attention to the fact that the North Korean buildup continued unabated, Robin eventually won his point. As a result, our troop strength in Korea remains undiminished. Robin also consistently emphasized the need to procure weapons systems and modernize our forces rather than allow advanced weapons projects to continue to languish in the research and development phase. Moreover, he played an important role in investigations concerning the "leak" on the development of the Stealth bomber, the high cost of military construction projects, and payment of veterans' benefits to deserters and military dropouts.

Robin was also an outspoken and effective leader on arms control issues. He helped to expose the dangers to our national security of accepting a total ban on nuclear testing at a time when it appeared such a provision might be included in a comprehensive test ban treaty. Robin's knowledge and concern about strategic arms limitations negotiations led to his appointment by the Speaker of the House as a congressional adviser to the strategic arms limitation talks (SALT) in Geneva and the U.N. General Assembly special session on disarmament in New York. He was also a leading member of the House Armed Services Committee Ad Hoc Panel on Arms Control which examined the proposed SALT II treaty. The issues that panel raised in its analysis were never successfully resolved by the treaty proponents and the Senate subsequently failed to ratify the treaty.

Robin will also be remembered for his concern about military personnel matters. He independently sponsored a 5-month study that focused national attention on problems in the All-Volunteer Force. He actively participated in investigations of the shortage of military physicians and the inadequacy of military health care. He was in the forefront of those who insisted on improving the quality of military forces by improving the pay and other benefits of military personnel. Eventually, his advocacy in this area bore fruit in the Reagan administration pay raises.

Robin's influence on the shape of national security policy will remain significant even though he has left the Congress. He was one of the leading proponents of a new strategy for the defense of the North Atlantic Treaty Organization which is receiving attention on both sides of the Atlantic and appears increasingly likely to be accepted. Taking advantage of Western conventional weapons technology, the new strategy would give allied forces the capability to destroy Warsaw Pact forces behind the frontlines on their own territory as they massed to attack. Crippling the second echelon forces would have the effect of slowing down the rate with which NATO frontline units have to contend with reinforcements, and allow the allies to blunt the Soviet attack. Robin was instrumental in persuading House and Senate conferees this year to include the NATO conventional force initiative, based on the new strategic concept, in the fiscal year 1983 Defense Department authorization bill. Thus, his foresight will continue to shape the framework of United States and allied defense policy for many years after he leaves Congress.

Robin Beard once wrote that, as a nation, we seek to provide the freedom, security, and well-being of our people and of our friends and allies. Over the long run, he noted, the limits to our capacity to achieve these objectives "are set only by the resources, effort, and wisdom which we invest in our capacities of defense—or, in reverse, by the improvidence with which we permit them to deteriorate." His efforts and wisdom have contributed significantly to the cause of maintaining national security in an increasingly hostile world. We wish him well while noting that he will be sorely missed.●

REINTRODUCING LEGISLATION TO REMOVE THE EXISTING LIMITATION ON LIABILITY FOR NUCLEAR POWERPLANT ACCIDENTS

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, January 3, 1983

● Mr. WEISS. Mr. Speaker, more than 3 years after the worst commercial nuclear accident in history no one is certain about the extent of damage done. Clean up at Three Mile Island is expected to continue for another 7 or 8 years and cost more than $1 billion. Yet in spite of the potential for environmental and social devastation that could result from a nuclear powerplant accident, we continue to rely on an antiquated provision, the Price-Anderson Act, to make compensation available to those who might suffer in the event of such an accident.

I am today reintroducing legislation to amend the Price-Anderson Act, the 1957 law which limits liability for utilities in the possible occurrence of a major nuclear accident. My bill would remove the act's $560 million compensation ceiling and would require all nuclear powerplant licensees to arrange a combination of individual private policies and an industry-financed insurance pool to cover the balance of claims resulting from a nuclear accident.

There are two primary reasons for these changes. Those people whose businesses, homes, and lives would be unalterably damaged by a nuclear accident currently could receive a combined total of no more than the $560 million limit as compensation; but, the Nuclear Regulatory Commission has estimated that a serious accident could do more than $14 billion damage. Therefore, the Price-Anderson Act, in its current form, prevents fair compensation for damages done.

Also Price-Anderson results in an unjustified competitive economic advantage for nuclear utilities by protecting them from full financial responsibility for operation of their plants. Under the legislation I am introducing, the true costs of nuclear energy generation would no longer be artificially deflated through an arbitary and inequitable cutoff of claim payments.

The current $560 million figure consists of: First, the amount of private coverage available to a particular plant—about $160 million; second, a formula based on the number of plants operating, which provides approximately $355 million; and third, $45 million in Federal payments. The liability limit was set in 1957 and has never been adjusted subsequently for inflation.

My legislation would amend Price-Anderson in the following ways:

Stipulate that each licensee must obtain the maximum coverage available from private insurers;

Provide that in the event of an accident at a particular plant, insurance on that facility would be the first source of payment;

State that if the judgment against a given facility exceeds available private insurance coverage, the plant would then be liable up to the total of its assets;

Require that if a court determines that the plant's assets are insufficient to meet the full judgment, the industry pool shall cover the balance of outstanding claims;

Mandate that industry pool participants shall contribute to the cost of the judgment according to a formula based on each licensee's generating capacity, its degree of risk, its total assets, and other factors;

Provide that should a court determine that a given utility cannot meet its proportional share to the pool, it would then become eligible for long-term Federal loans to be secured against the plant's assets;

Make explicit that each licensee shall be liable for any incident at its facility resulting in injury to persons and/or damage to property; and,

Waive the 20-year statutory limitation on claims resulting from a nuclear accident.

Unlike the current Price-Anderson Act, which mandates a Federal subsidy for nuclear powerplant insurance, my bill would entail use of Federal funds only in the event of a major catastrophe where victims' claims exceed a plant's private insurance coverage, the plant's total assets, and the proportional contribution toward an industrywide pool. Even then, Federal money would be used only to provide interest-bearing loans.

Price-Anderson was enacted as a means of encouraging private industry to accelerate nuclear power development. Since its enactment more than 24 years ago, about 70 new nuclear plants have come on line in our country. During that time, serious doubts have been raised about the safety and efficiency of nuclear power. Meanwhile, no other energy source has enjoyed the type of liability limitation provided by Price-Anderson, and it is Congress duty to halt this unfair underwriting of the nuclear power industry.

The time is long overdue for nuclear power to stand or fall on its own merits. Proponents of nuclear power generation insist that it is safe and efficient. Based on that position, the nuclear industry should be able to obtain policy coverage far in excess of the current $160 million. The industry should also be forced to back its claim by financing a pool to cover the costs of potential accidents they claim will never occur.

I urge my colleagues to join me on this important effort to make the nuclear power industry accountable for its risks by cosponsoring my legislation.

The text of the bill follows:

H.R. 421

A bill to amend the Atomic Energy Act of 1954 to modify certain statutory limitations on the amount of financial protection required with respect to nuclear incidents, to remove the statutory limitations in the aggregate liability for a single nuclear incident, to limit the financial obligations of the United States with respect to such incidents, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Nuclear Incident Liability Reform Act of 1981".

SEC. 2. (a) Section 170 a. of the Atomic Energy Act of 1954 is amended by striking out the second sentence thereof.

(b)(1) The first sentence of section 170 b. of such Act is amended to read as follows: "The amount of financial protection required shall be the maximum amount of liability insurance available from private sources. Such amount shall be redetermined periodically by the Commission on the basis of the cost of living (including the cost of health care).

(2) The third sentence of such section 170 b. is amended to read as follows: "All licensees required to maintain financial protection under this section shall also be required, without regard to the manner in which they obtained other types or amounts of financial protection, to participate in an industry retrospective rating plan. Such plan shall provide for premium charges deferred in whole or in major part until public liability from a nuclear incident exceeds or appears likely to exceed the sum of—

"(1) the level of primary financial protection required of the licensee involved in the nuclear incident, and

"(2) the amount otherwise available from such licensee for the satisfaction of such liability (including all real and personal property of the licensee and any amounts available pursuant to applicable bankruptcy proceedings).

The deferred premium which shall be charged following any nuclear incident under such a plan shall be such amount as is required under rules promulgated by the Commission not later than sixty days after the date of the enactment of the Nuclear Incident Liability Reform Act of 1981. Such amount required under such rules shall be determined according to a formula based on—

"(A) the licensee's generating capacity,

"(B) the degree of risk of nuclear incident associated with the licensee,

"(C) the licensee's total assets, and

"(D) such other factors as the Commission deems appropriate.".

(3) Such 170 b. is further amended by striking out the fifth sentence and all that follows and substituting: "If any licensee is unable to meet any assessment of deferred premiums within a reasonable time following any nuclear incident without impairing the provision of electric utility service by such licensee, the Commission may loan such licensee the amount by which such assessment exceeds the amount which the licensee is able to pay without such impairment. The loan shall be made upon such terms and conditions as may be established by the Commission except that such loan shall be secured by the liens on assets of such licensee and on the revenues derived therefrom and shall bear interest at a rate determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the making of such loan.".

(c) Subsection c. of section 170 of such Act is hereby repealed.

(d) Subsection d. of such section 170 is amended by striking out ", in the amount of $500,000,000" and all that follows down to the period at the end thereof.

(e) Subsections e., f., g., and h. of such section 170 are hereby repealed.

(f) Subsection i. of such section 170 is amended by striking out "which will probably require" and all that follows down through "$560,000,000".

(g) Subsections k. through m. of such section 170 are hereby repealed.

(h) Paragraph (1) of subsection n. of such section 170 is amended to read as follows:

"(1) With respect to any nuclear incident with respect to which financial protection is required under this section and which—

"(a) arises out of, or results from, or occurs in the course, of the construction, possession, or operation of a production or utilization facility, or

"(b) arises out of, or results from, or occurs in the course of transportation of, source material, byproduct material, or special nuclear material to or from a production or utilization facility, or

"(c) during the course of the contract activity arises out of, or results from, the possession, operation, or use by a Commission contractor or subcontractor of a device utilizing special nuclear material or byproduct material,

the Commission shall require provisions to be incorporated in insurance policies or contracts furnished as proof of financial protection, which waive (i) any issue or defense as to conduct of the claimant or fault of persons required to obtain financial protection, (ii) any issue or defense as to charitable or governmental immunity, and (iii) any issue or defense based on any statute of limitations if suit is instituted within three years from the date on which the claimant first knew, or reasonably could have known, of his injury or damage and the cause thereof. The waiver of any such issue or defense shall be effective regardless of whether such issue or defense may otherwise be deemed jurisdictional or relating to an element in the cause of action. When so incorporated, such waivers shall be judicially enforcible in accordance with their terms by the claimant. Such waivers shall not preclude a defense based upon a failure to take reasonable steps to mitigate damages, nor shall such waivers apply to injury or damage to a claimant or to a claimant's property which is intentionally sustained by the claimant or which results from a nuclear incident intentionally and wrongfully caused by the claimant.".

(i) Paragraph (2) of subsection n. of such section 170 is amended by striking out "extraordinary nuclear occurrence" each place it appears and substituting "nuclear incident".

(j)(1) The section heading for section 170 is amended to read as follows:

"SEC. 170. LIABILITY FOR NUCLEAR INCIDENTS.—".

(2) The item relating to section 170 in the table of contents is amended to read as follows:

"Sec. 170. Liability for nuclear incidents.".

SEC. 3. Section 53 e. of the Atomic Energy Act of 1954 is amended by striking out paragraph (8), by striking out "; and" in paragraph (7) and substituting a period, and by inserting "and" at the end of paragraph (6).

SEC. 4. Section 2 i. of the Atomic Energy Act of 1954 is amended by striking out ", and may limit the liability of those persons liable for such losses".

SEC. 5. (a) Section 11 t. of the Atomic Energy Act of 1954 is hereby repealed.

(b) Section 11 m. of such Act is amended by striking out "; and (3)" and all that follows down to the period at the end thereof and by inserting "and" before "(2)".

(c) Section 11 w. of such Act is amended by striking out "indemnified" and substituting "required to obtain financial protection under section 170".

(d) Section 11 p. of such Act is amended by striking out "as the term is used in subsection 170 l., it shall include any such occurrence outside the United States: *And provided further,*".

SEC. 6. The amendments made by this Act shall take effect on the date sixty days after the date of the enactment of this Act and shall apply with respect to all contracts referred to in section 170 d. of the Atomic Energy Act of 1954 and to all licenses referred to in section 170 a. of such Act without regard to whether such contracts were entered into, or such licenses were issued, before, on, or after the date of the enactment of this Act.●

CONGRESSMAN BUD BROWN REACTS TO THE COLUMBIA GAS DECISION BY JUDGE LEVANT

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, January 3, 1983

● Mr. CORCORAN. Mr. Speaker, the 98th Congress begins today, and for the first time in 17 years Clarence J. "Bud" Brown is not among us. So it is a sad day in this regard.

During his service in Congress, Bud Brown became known as Mr. Republican on important energy issues. His expertise in these issues will be sorely missed in the 98th Congress.

Bud's departure from Congress, however, does not signal any lack of interest in the energy area. Recently I learned of Bud's reaction to the Columbia Gas case decided on December 30, 1982, by Judge Levant, an administrative law judge at the Federal Energy Regulatory Commission.

In view of the importance of this decision, I thought I would share his reaction with you, with my colleagues and with the public.

[The material follows:]

"THE CHECK ISN'T IN THE MAIL"

An administrative law judge has decided to force Columbia Gas Pipeline to pay back its consumers money that the judge found it overcharged them when the pipeline continued to pay for much of its highest priced gas but refused to accept deliveries of some of its cheapest supplies. I have a three-part reaction: (1) "I'm delighted as a consumer!"; (2) "It's about time!"; and (3) "Don't hold your breath waiting for a check from Columbia, because the decision is likely to be tied up at the Commission and in court for a year or more!"

As I testified back in March of 1982 in this very case, Columbia acted in blind ignorance and negligent disregard of the interests of its consumers. Columbia's consumers were complaining of excessive prices, major industrial firms were switching to oil and even shutting down, and natural gas producers in Ohio were willing and able to lower the prices they charged in order to increase their sales. And how did Columbia respond? By shutting-in the cheap and not the high-priced! That's a stupid business practice, the very reverse of how any ordinary business would act.

And I'm glad that the FERC (Federal Energy Regulatory Commission) judge has found this unlawful. But I must add, that after two full years of litigation, with more to come, even a good decision comes too late. It is proof positive that even when regulatory process is "on your side" it is a lame substitute for the swift and correct judgment of the market.

If anyone thinks they'll soon get a rebate on their gas bill, they're more likely to be disappointed than rewarded. I'm happy with this decision too. But, we all need to recognize that it is, by definition, a regulatory change come two years late with administrative proceedings of historic proportions yet to come.

If we had a crystal ball on FERC in the near future, we could see them spending months just trying to comply with the judge's order, recreating and reviewing each and every decision made by Columbia during this period. On top of that, there are 28 interstate pipelines and each one has two of these filings (purchased gas agreements) per year.

I approve of the judge's decision that Columbia did not correctly cutback on its most expensive sources of gas but further regulation will not cure Columbia's insensitivity to market pressures. But subjecting pipelines to the unregulated force of the market will.

Clearly the challenge for Congress is to find the right mix of competition to interject to reduce the current overload of regulation which has sheltered this industry for too long. I think this answer is entitled "contract carriage" in which pipelines may act strictly as carriers and be paid accordingly. This concept was the heart of a bill, H.R. 7122, which I introduced in September of 1982 and which was reintroduced by the Republican leader on the very first day of the 98th Congress.

This bill would allow the pipeline industry—for the very first time—to actually earn and retain money for transporting gas owned by producers and ready to be sold to willing buyers. The heart of the 1968 Natural Gas Act is the idea of preventing a pipeline from making money by transporting gas without first having to buy it and then resell it even though it cannot earn money on the resale. And my proposal to pay pipelines 5 cents to move shut-in gas to a willing buyer at, in all likely cases, a reduced price, is inconsistent with current industry practices. It is, in short, a new idea.

The bill is the first step toward a policy of what might be called "contract carriage compensation" and it is designed to fit into the needs of interstate pipelines to reduce their cost of inventory. The bill, in fact, contains the very mechanism Judge Levant must have had in mind in this Columbia gas case. The bill enables pipelines to reduce takes of high-cost gas in times of reduced system demand so that the pipeline's average cost of gas can remain within a marketable level. It would relieve pipelines from up to 50% of their obligations under the excessive take-or-pay provisions they willingly took on in their overwhelming desire to tie up gas reserves, no matter what the cost. But, in return, the pipeline would incur an obligation to transport the gas it doesn't take to another buyer. The pipeline earns a return (5 cents) just for the transportation. Both producers and pipelines are benefited; both are obligated to act in the best interest of the consumer.

If Columbia had employed this mechanism, the decision of the FERC judge would never have been necessary.

Unless we want each and every business decision in the natural gas industry to be made first by FERC's judges and then by the full Commission, we have to expose pipelines to market pressure so that competition can control the market. As I have always said, the forces of competition are immediate and do not await the affirmation of any court or commission. This decision is a good one that a competitive market would have made two years ago, not two years hence.

So to all of Columbia's consumers, don't wait by the mailbox! The Commission must still review this decision and it's likely to change it at least somewhat. Then comes the hard and highly expensive task of compliance. Remember that Federal regulations will allow Columbia to bill you for all its expenses. You see, regulation may do a lousy job of protecting consumers, but it always finds a way to protect the pipeline, even while it occasionally disciplines them.

It will not be simple to undo the results of 45 years of regulation, but unless Congress begins, natural gas consumers will continue to suffer. The difference between what is happening in the petroleum market and what is happening in the natural gas market is not lost on consumers even if Members of Congress do not yet seem to appreciate the significance and the causes of falling oil prices and rising natural gas prices.

The culprit, simply put, is Federal regulation. You can do away with it as was done for petroleum or, you can make do with it, even expand it. To me, the choice has always been clear.●

IN SUPPORT OF THE EQUAL RIGHTS AMENDMENT

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, January 3, 1983

● Mr. DOWNEY of New York. Mr. Speaker, it is a great honor to speak in support of the equal rights amendment, which will be reintroduced today. And I was delighted to hear that it will be granted the number "1," since that number is a fitting symbol of the importance the ERA holds for the 98th Congress.

No one expected ratification of the ERA to be easy. And regrettably, it has not been. Sixty years have passed since it was first introduced in Congress, and 9 years have swept by since it first passed Congress.

But the delay has had some good results, too. It has succeeded in raising the consciousness and sensitivity of Americans to the need for equal treatment of women. The importance of the female sex has been demonstrated in the polling place, the family, the work force, and the Government. When this battle is won, we will have a meaningful victory.

In 1919, President Wilson made the following statement in support of granting suffrage to women. He said, "* * * democracy means that women shall play their part in affairs alongside men and upon an equal footing with them." His statement is as applicable to the ERA as it was to the 19th amendment.

I am fully confident that the 98th Congress will recognize the enduring truth of Wilson's words, and quickly approve the ERA. The United States will not turn its back on democracy.●

WIRETAP WARRANT LEGISLATION

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, January 3, 1983

● Mr. WEISS. Mr. Speaker, the right to privacy in one's own home is one of the most fundamental human rights. Until 1979 this right was generally protected under the fourth amendment. In an unprecedented decision, the Supreme Court ruled in Dalia against United States that the Government no longer must justify every invasion of privacy. Specifically, the Court held that the Government did not have to obtain express permission to break and enter a premise in order to implant eavesdropping equipment if the wiretap was previously authorized. Their rationale was that the right to enter a premise is implicit in the original wiretap order.

This ruling runs directly counter to the original intent of the fourth amendment. As Justice Brennan said in his dissent in Dalia:

> Breaking and entering into private premises for the purpose of planting a bug cannot be characterized as a mere mode of warrant execution to be left to the discretion of the executing officer. The practice entails an invasion of privacy of constitutional significance distinct from that which attends nontrespassory surveillance; indeed it is tantamount to an independent search and seizure. First, rooms may be bugged without the need for surreptitious entry and physical invasion of private premises. Second, covert entry, a practice condemned long before we condemned unwarranted eavesdropping, breaches physical as well as conversational privacy. . . . Third, the practice is particularly intrusive and susceptible to abuse since it leaves naked to the hands and eyes of government agents items beyond the reach of simple eavesdropping.

It is vital to the survival of freedom in this country that each encroachment on a citizen's privacy be carefully scrutinized to insure that it constitutes the last intrusion possible under the circumstances. It should not be sufficient for the Government to prove that it needs to eavesdrop; it should also be required to prove that the only way in which it can do so is by entering the home. Without the need for this further justification, entering a private home without permission will soon appear to be an insignificant act.

In response to the need to protect our citizenry from unwarranted Government surveillance, I am today reintroducing legislation to amend the Omnibus Crime Control Act of 1968 to specifically require a separate warrant for breaking and entering a premise in order to implant electronic eavesdropping equipment. We must protect the fundamental rights upon which this country was built, and if this cannot be done through the courts, then it will have to be done through the Congress.

The text of the bill follows:

H.R. 422

A bill to amend title 18, United States Code, to require a specific judicial order for entry of premises to intercept a wire or oral communication under chapter 119 of such title.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2518 of title 18, United States Code, is amended by adding at the end thereof the following new matter:

"(11) Any entry of premises for the purpose of intercepting a wire or oral communication under this chapter shall be authorized by a separate order entered in the manner prescribed in this section if a search warrant would be required for such an entry made for a purpose other than such an interception. In addition to any information otherwise required for an application for an order under this section, an application under this subsection shall contain a description of the premises to be entered and a statement of the reasons for the entry.".●

THE NEED FOR A RECONSTRUCTION FINANCE CORPORATION

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, January 3, 1983

● Mr. GUARINI. Mr. Speaker, I am reintroducing today legislation which I believe is vital for America's economic future. My measure provides for the reestablishment of a Reconstruction Finance Corporation. This Corporation, much like its Depression-era counterpart, would play a stimulative role in putting Americans back to work and arresting the decline in our economy's faltering industrial sector.

It is imperative that the 98th Congress move quickly to end the blight on our economic landscape. While we are very familiar with the fact that there is an unemployment rate of 10.8 percent and over 12 million people out of work, how many of us are aware that our trade deficit will be over $42 billion, the largest in our history, and that our plants are currently utilizing only 68 percent of their capacity.

Our economic problems are very severe. They defy quick-fix solutions. This is why we need to approve the time-tested approach by establishing a Reconstruction Finance Corporation as the central feature of our economic development plans in the 98th Congress. The original RFC, created in the Depression, helped boost American productivity and employment for nearly two decades, It also returned a profit to the Government.

Many of the reasons for creating the original Reconstruction Finance Corporation exist today. We face the need to reduce unemployment, stabilize prices, and encourage economic growth. Also, in the face of the growing threat of imports to American products, our firms must become competitive with those abroad.

My legislation creates a Reconstruction Finance Corporation with a first-year appropriation of $5 billion. Its work would be geared toward creating a stable economy, with an emphasis on private sector employment. Basic U.S. industries would be bolstered by an industrial policy committed to making the United States competitive in both home and world markets.

The RFC would be an independent entity with powers to make investments in industries and in areas that the RFC deems to be in the national interest. The Corporation would be administered by a seven-member Board consisting of the Secretary of Commerce, the Secretary of Labor, the Secretary of the Treasury, two representatives from business, and two representatives from labor organizations.

Besides the first-year appropriation of $5 billion, the Board can issue obligations in an amount not to exceed five times the paid-in capital of the Corporation. The RFC would use these funds for loans, loan guarantees, and interest rate subsidies for firms meeting its criteria. These businesses would include older firms that have difficulty obtaining financing, high-risk industries with growth potential, firms competing with subsidized foreign firms, and industries vital to the United States on national security grounds.

In each case where a firm seeks financing, the RFC staff would have to assess its chances to survive. RFC in-

volvement would not be extended if the industry was found to be in terminal condition. In other cases, RFC involvement would not be extended unless the financial assistance applied for is not otherwise available from private lenders or other Federal agencies. The RFC would also try to target benefits to firms in areas that are economically distressed, based on criteria such as unemployment, poverty, or pending economic instability due to plant closings.

This Congress must realize the economic realities facing the United States in the 1980's. By supporting a Reconstruction Finance Corporation, we can offer the businesses of America a flexible tool to foster a fair and efficient growth predicated on our national interests. The AFL-CIO stands firmly behind this legislation as part of a comprehensive economic recovery program. I am asking you to join with me as a cosponsor of this much-needed measure to reestablish a Reconstruction Finance Corporation.●

THINKING THE UNTHINKABLE: A TAX ON SOCIAL SECURITY

HON. BARBER B. CONABLE, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, January 3, 1983

● Mr. CONABLE. Mr. Speaker, I do not like the idea of taxing social security benefits, primarily because it moves the system toward a need-related or welfare system and puts an additional burden on the savings which we urge people to set aside for their retirement so that they will not be totally dependent on social security. Nevertheless, on December 26, 1982, the Washington Post had a thoughtful piece by Sylvester J. Schieber on possible justification for the taxation of social security benefits, which contributes to the dialog about options now facing us and about which we must soon make up our minds, collectively, if the social security system is to survive.

This column follows:

[From the Washington Post, Dec. 26, 1982]

THINKING THE UNTHINKABLE: A TAX ON SOCIAL SECURITY

(By Sylvester J. Schieber)

The partisan flame of a Social Security debate has continued unquenched by the recent elections. This flame has yielded a great deal of smoke, but little illumination. Part of the problem is that all the substantive discussion by the National Commission on Social Security Reform and the other major political players is being carried on behind closed doors. The result is that the public is being denied a clear, focused debate on the broad range of options that can be considered.

One option that does not appear to be receiving serious political consideration is the possibility of changing the tax treatment of Social Security benefits. This option is receiving little attention because every time the possibility of taxing benefits is raised, the hinges are nearly ripped off every door on Capitol Hill. That political problem notwithstanding, Congress should discuss the issue openly. There are several options to consider.

The most extreme would treat all Social Security benefits as regular income. An argument against this approach is that employee payroll taxes are not themselves deductible for purposes of computing income taxes. Thus, while the employer contribution is not taxed, treating all benefits as regular income would amount to double taxation of employee contributions.

This criticism has led to consideration of a second option that would treat only benefits in excess of employee contributions as regular income. This would bring the tax treatment of Social Security benefits into line with tax policy on other retirement programs. Employer pension benefits, for example, are taxed when the benefits exceed employee contributions that were taxed in the year they were earned. This option would mean that somewhere between 80 and 90 percent of all benefits would be treated as regular income.

A third variant would treat only 50 percent of cash benefits as regular income for tax purposes. The argument for this approach is that the employee has already paid taxes on half the contributions that result in the benefit entitlement. This option would still provide a highly favored tax treatment to Social Security benefits, but would have little or no effect on those beneficiaries who rely solely on Social Security for ths retirement income. Essentially the same thing would be accomplished by a set of options that would not consider Social Security benefits as regular income until some threshold of total income was reached by the retiree.

There are basically two reasons why the Congress should seriously consider changing the tax status of Social Security benefits:

First, treating benefits as taxable income would be as effective and would have fewer adverse effects on the low-income elderly than the cost-of-living adjustment options now being considered. Taxing 50 percent of benefits would net $56 billion for the trust funds between 1984 and 1989. By comparison, delaying the 1983 COLA by three months would save $23 billion. Completely eliminating it would save $94 billion over the 1984-to-1989 period. Taxing half of benefits then would be almost equivalent to delaying the 1983 COLA by six months, which is rumored to be a considered option. Completely eliminating the COLA increment in 1983 or moving it back three or six months would definitely raise official poverty rates among the elderly primarily dependent on Social Security benefits. Taxing half of benefits, on the other hand, would have no effect on those at or near the poverty line.

Second, significant segments of the elderly population are in a much better economic position than young workers to share the burden of balancing Social Security financing. By examining the March 1980 Current Population Survey conducted by the Bureau of the Census, the potential effects of various Social Security adjustments on the young and older segments of society can be compared.

The young group includes all families with earnings in 1979 where no family member had yet reached age 65. The old group includes all families with one or more persons 65 or over. For purposes of illustration, each group was split into quintiles by per capita family income. While the elderly are known to underreport income to a greater extent than younger individuals on these types of interviews, the results are still instructive: the highest two quintile groupings among the older households had higher per capita incomes than the lowest three groups in the working-family category.

Taxing half of benefits would effect primarily the top 40 percent of the elderly in the income distribution. Raising the payroll tax, on the other hand, would have the most impact on the bottom two-thirds of the work force on the basis of earnings. For many of these workers the payroll tax is already their greatest tax burden. Raising the payroll tax will not only increase that burden on low and moderate income earners even further, but also may threaten their jobs in many instances.

The question that Congress should consider in its deliberations of various options is who can most reasonably bear the burden of the alternative adjustments? This question suggests that Congress should consider taxing benefits as part of the ultimate Social Security financing solution.●

CIVIL RIGHTS ACT AMENDMENTS OF 1983

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, January 3, 1983

● Mr. WEISS. Mr. Speaker, I am today reintroducing legislation to prohibit discrimination on the basis of sexual orientation in housing, employment, education, and public accommodations.

A person's sexual orientation should not be considered as legitimate grounds for bias, any more than skin color or religious expression. Moreover, as these fundamental rights are undermined whenever an individual's sexual orientation is used as the basis for discrimination, this legislation will reinforce the constitutional guarantee of the right to privacy.

Homosexual men and women are in every occupation and institution in our Nation. They are doctors, lawyers, professors, writers, government workers, and streetsweepers. They are rich and poor, black and white, city dwellers and rural residents. There are an estimated 20 million homosexual men and women in the United States, and like most Americans, they obey the law and work hard.

But unlike other minority groups, homosexuals do not have legal recourse when they encounter discrimination. A man or women may meet every possible criterion for housing or employment and yet if he or she is a homosexual, an apartment or job can be denied him or her simply on the basis of personal, private sexual orientation.

I believe that the majority of Americans oppose this form of bias just as strongly as they reject discrimination

directed against racial and religious minorities. There is no less compelling a need to protect the ability of homosexuals to enjoy basic opportunities. Like all Americans, they deserve the full and equal protection of the law.

I want to urge my colleagues to join me and the original cosponsors of this legislation, Mr. BURTON, Mr. WAXMAN, and Mr. LOWRY, in supporting this effort to insure equal rights under the law.

A copy of the legislation follows:

H.R. 427

A bill to prohibit discrimination on the basis of affectional or sexual orientation, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Civil Rights Amendments Act of 1983".

PUBLIC FACILITIES

SEC. 2. Section 301(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000b(a)) is amended by inserting after "religion," the following: "affectional or sexual orientation,".

FEDERALLY ASSISTED OPPORTUNITIES

SEC. 3. Section 601 of the Civil Rights Act of 1964 (42 U.S.C. 2000d) is amended by inserting after "color," the following: "affectional or sexual orientation,".

EQUAL EMPLOYMENT OPPORTUNITIES

SEC. 4. (a) Sections 703(a), 703(b), 703(c), 703(d), 703(e), 703(j), 704(b), 706(g), and 717(a) of the Civil Rights Act of 1964 (42 U.S.C 2000e-2, 2000e-3, 2000e-5, 2000e-16) are amended by inserting after "sex," each place it appears the following: "affectional or sexual orientation,".

(b) Section 717(c) of such Act (42 U.S.C. 2000e-16) is amended by inserting ", affectional or sexual orientation," after "sex".

(c)(1) Section 703(h) of such Act (42 U.S.C. 2000e-2) is amended by inserting after "sex," the first place it appears the following: "affectional or sexual orientation,".

(2) Such section 703(h) is further amended by inserting ", affectional or sexual orientation," after "sex" the second place it appears.

INTERVENTION AND PROCEDURE

SEC. 5. Section 902 of the Civil Rights Act of 1964 (42 U.S.C. 2000h-2) is amended by inserting after "sex" the following: ", affectional or sexual orientation,".

HOUSING SALE, RENTAL, FINANCING AND BROKERAGE SERVICES

SEC. 6. (a) Section 804 of the Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation and for other purposes" (42 U.S.C. 3604), is amended by inserting after "religion," each place it appears the following: "affectional or sexual orientation,".

(b) Section 805 of such Act (42 U.S.C. 3605) is amended by inserting after "religion," the following: "affectional or sexual orientation,".

(c) Section 806 of such Act (42 U.S.C. 3606) is amended by inserting after "religion," the following: "affectional or sexual orientation,".

PREVENTION OF INTIMIDATION

SEC. 7. Section 901 of the Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes" (42 U.S.C. 3631), is amended by inserting after "religion," each place it appears the following: "affectional or sexual orientation,".

DEFINITION

SEC. 8. As used in the amendments made by this Act, the term "affectional or sexual orientation" means male or female homosexuality, heterosexuality, and bisexuality by orientation or practice, by and between consenting adults.

RULE OF INTERPRETATION

SEC. 9. No amendment made by this Act shall be construed to permit or require—

(1) the determination that discrimination exists to be based on any statistical differences in the incidence of persons of a particular affectional or sexual orientation in the general population as opposed to in the activity wherein such discrimination is alleged; or

(2) the fashioning of any remedy requiring any sort of quota for the activity wherein such discrimination is alleged for persons of any particular affectional or sexual orientation.●

FEDERAL CHILD SUPPORT ENFORCEMENT PROGRAMS NEED EXTENSIVE REVIEW

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, January 3, 1983

● Mr. BIAGGI. Mr. Speaker, I wish to bring to the attention of my colleagues a growing national problem which is in need of closer scrutiny—the issue of child support enforcement and the increasing number of delinquent parents who are abandoning their financial responsibilities to their children.

The question must be asked, why is this neglect allowed to continue? The answer is at once simple—and complex. It is simple because we can point to a laxness on the part of States to address this problem due to both the complexity of the family court system which administers these programs as well as lack of financial incentives in some enforcement areas. It is complex because the family court system which oversees child support also is responsible for a number of related areas which are not always viewed—or administered in a collective and complementary fashion. To quote from a 1982 New York State Commission report which analyzed all family court issues, it noted:

A common factor in all these issues (foster care placement, child protective proceedings, status offenses, custody, termination of parental rights, adoption and court jurisdiction over services to handicapped children), is that the court's role is shaped by the determinations and actions of public and private social services agencies . . . These problems are not of the court's making, but the law nonetheless requires the court to confront them, while failing, in the view of many observers, to give the court an effective means for constructive action.

The major Federal program dealing with child support enforcement is provided under title IV-D of the Social Security Act, funded at $408.3 million in fiscal year 1983. The long-term goal of this program is to reduce Federal and State welfare costs, however, recent evaluations—including the 1982 New York State report—suggest that this is not occurring. It is clear that a full and fair review of the IV-D is necessary if we are to insure that we are operating a program which is both cost-efficient as well as effective.

It is my intention to begin a serious examination of the entire child support issue in my capacity as a member of the House Education and Labor Committee, which is responsible for a number of child welfare programs. Undoubtedly, child support is an issue which will cut across a number of legislative, judicial, and governmental jurisdictions and the challenge is left to Congress to work to focus attention on this national problem so that equity and uniformity can be provided to children and families who rely on this assistance for their very survival.

Over the next few weeks, I will be placing portions of the New York State Commission to Recodify the Family Court Act report in the CONGRESSIONAL RECORD to further illustrate, for the benefit of my colleagues, the magnitude of the problem we are facing.●

A NEW BEGINNING: ECONOMIC POLICY AND THE 98TH CONGRESS

HON. STEVE BARTLETT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, January 3, 1983

● Mr. BARTLETT. Mr. Speaker, today is the opening day of the 98th Congress. We convene at a time when fundamental decisions must be made about the role of the Federal Government in American life through the remainder of this century. The single most important issue for this Congress to resolve is quite simple: The appropriate size and reach of the Federal Government in people's lives. We must not continue our steady drift toward an ever larger Federal Government, but instead make conscious choices to limit its claim on resources that would be more efficiently employed in private savings and investment.

In these, my first remarks as a Member of this body, I want to share with my colleagues why I believe this Congress must chart a new beginning in economic policy—one that envisions a smaller Federal Government whose spending and borrowing consumes far less of our national wealth than is the case today. The Government's expenditure this year of an amount equal to

nearly one-fourth of our gross national product is seriously hurting people. Excessive public spending and borrowing contribute to stagnant economic growth, low savings and investment rates, lagging productivity, and long-term unemployment.

This Congress must prove itself capable of changing the direction of Government growth. The hungry and dispossessed are watching to see if economic recovery will bring them jobs with a future. Financial markets and businessmen are watching to see if the size of the Federal Government can be controlled. The "new poor" are anxious about whether Congress will create temporary "make work" jobs or allow economic growth to create real jobs, jobs with a future. Consumers are skeptical about our ability to keep inflation down while easing interest rates. And all of us concerned about the Nation's future wonder about our commitment to educational excellence.

As Congress moves to deal with the economic challenges of the 1980's, caution is essential. But today's caution must be combined with courage and an appreciation that the fiscal well-being of the Nation is at stake. Although there are no easy answers to lead us out of economic morass, our general direction should be clear: we must thoughtfully and equitably reduce the magnitude and reach of the Federal Government.

A NEW BEGINNING: THE FEDERAL GOVERNMENT IN THE 1980'S

Conservatives and liberals can today find common ground in the proposition that the Federal Government is excessive in its size and reach into people's lives. The time has come to reduce Government's burden carried by American society.

The magnitude of Federal spending, taxing, and borrowing must be reduced because it obstructs the realization of our most important national goal: economic growth and a vigorous private sector. I want to be clear that mine is not simply another plea to "cut the budget." Rather, it is a plea to allow the American people to save or spend their own resources rather than the Federal Government redistribution those resources.

THE FEDERAL DEFICIT

In 1983, we must face the enormity of the Federal deficit and recognize its danger. It is not enough to argue simply that the Federal Government is too big. More preciseley, we must argue that its excess is a barrier to the achievement of critical public goals: economic growth, secure jobs with a future, reasonable interest rates, and consistently low inflation. The Federal Government will draw some $770 billion out of the American economy this fiscal year. This drain on our fiscal health is but the latest installment of governmental consumption of a larger and larger share of the national wealth and its channeling resources away from investment.

Examine the facts behind the argument that public consumption of wealth is too great. The Federal budget has run a deficit for 13 consecutive years, and 21 of the last 22 years. The Congressional Budget Office (CBO) projects that Federal deficits during the next 3 years could be as high as $170 billion per year. Commerce Secretary Malcolm Baldrige predicted last week that the fiscal year 1983 deficit could hit $200 billion. More significantly, CBO also projects that the Federal budget deficit alone will account for 4.7 percent of our gross national product in 1983. Although deficits can cushion an economic downturn under certain circumstances, an out of control trend toward larger deficits makes it almost impossible in the long term to bring down interest rates and encourage economic growth. Most importantly, service on the national debt engulfs an increasingly larger share of the budget. Net interest on the national debt is up from 6.4 percent of budget outlays in fiscal year 1962 to about 10.5 percent in 1981. This net interest could reach 13 percent by fiscal year 1985, according to CBO. This enormous drain on the capital market means that because too many dollars are pulled out of the economy by Government, young couples cannot afford to finance their first homes, businessmen cannot build new plants that create jobs, managers cannot invest in more efficient equipment that would boost productivity, cities cannot rebuild their infrastructures, and colleges hit by inflation cannot educate as well as we need them to.

In the face of these arguments, a business-as-usual attitude by this Congress that condones a directionless drift in fiscal policy will not serve the American people well. As lawmakers, we must never forget that real people are behind our economic statistics and real people are hurting under the pressure of Washington's fiscal irresponsibility.

EXPECTATIONS OF GOVERNMENT

One of the central problems we face in charting our new beginning is that Congress has overpromised over the past 15 years, and many Americans have come to expect too much from government. There are simply too few public dollars to fulfill all the political promises Government has made.

More importantly, the reliance upon the public sector created by these expectations threatens our Nation's philosophical commitment to a reliance upon the private, rather than the public sector, as the primary source of economic security.

The failed Federal programs of the 1960's and 1970's, programs that had more money than plan or purpose, demonstrate beyond doubt that America's problems are too complex to be solved by simply creating a new agency with a high sounding name and indiscriminately funding it with Federal dollars. Real innovative solutions to difficult public policy problems are possible when markets are allowed to function and a constructive cooperation develops between the private sector and government. In its most serious implications, individual economic freedom is endangered by this trend of an economy driven by government programs. As James Fallows wrote in the November 1982 Atlantic Monthly, "if everyone receives Federal assistance, where will the money for private investment and economic growth come from?"

BUILDING A NEW BEGINNING

There are four major approaches to carefully scaling down the size of the Federal Government.

Congressional attitude: The conviction in Congress that government must not try to be all things to all people by taxing, spending, and borrowing its way to economic ruin is the most important change needed to correct our economic course.

Unentitle entitlements: Almost half of all Federal spending during fiscal year 1983 was never specifically approved by Congress—it is nondiscretionary entitlement spending fixed by law and escalated automatically for inflation or a legislatively defined "need." If we are to ever control our own fiscal future, we must unentitle the entitlements and control the "uncontrollables" in the Federal budget. It is virtually impossible to chart sound economic policy by having access to only half the necessary tools—that half of the budget that Congress has dealt with directly.

Economic growth: Economic growth is inconsistent with a public sector that consumes so large a portion of the Nation's capital resources as is now the case. Herschel Grossman, professor of economics at Brown University, recently wrote in a paper that discussed the role of the American fiscal deficit, that "fiscal deficits choke-off investment to the extent they stimulate consumption demand." This is the traditional "crowding-out" theory: the Federal Government soaks up so much private capital that an insufficient amount is left for private investment. In 1983, "crowding-out" is no theory—it is stark reality.

Further domestic spending reductions: The myth of the impossibility of further cuts in domestic spending must be demythed. Further reductions may well be more politically sensitive; but waste, excess, and inefficiency and nonproductive programs must be ferreted out through the congressional oversight and appropriations process, and spending reduced accordingly.

Scrutiny of industrial regulation: Methods must be found to reduce Federal regulation of industry such that the public interest will not be alarmed and industrial production will be made more efficient. Progress has already been made in reducing excessive regulatory burden by the President's Commission on Regulatory Reform headed by Vice President Bush. The 98th Congress must become involved in this deregulation process.

A NEW BEGINNING

Government is essential in a complex society that must deal with rapid technological change as well as care for its dispossessed, elderly, and sick. But that government can exist and function superbly without overburdening its citizens and smothering economic development.

Mr. Speaker, I belong to the freshman class of the 98th Congress and do not pretend to offer easy answers to longstanding problems. I regard myself as a student who sincerely wants to deal seriously with critical public policy problems and work with my colleagues to squarely face them.

As we chart our new beginning, I look forward to participating in the deliberations of this body on the 1984 budget and other critical legislation that will bear on the outcome of the questions of the role and direction of Government in the coming years.●

NAZI WAR VICTIMS—CLAIMS AGAINST EAST GERMANY

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, January 3, 1983

● Mr. WEISS. Mr. Speaker, during the 94th Congress, under the leadership of our former colleague, Jonathan Bingham, we enacted legislation, Public Law 94-542, to provide for the settlement of claims against East Germany for the wrongful taking of property due to the racial and religious persecution by the Nazi regime before and during World War II.

Unfortunately, it subsequently became apparent that a large number of persons were unable to successfully make claims against the East German Government under Public Law 94-542 because of a decision which had been made by the East German Government in 1951.

Under Public Law 94-542, claims could be presented to the Commission by persons who were U.S. nationals at the time of the loss of the property. The German Government decreed the "time of loss" to be September 6, 1951, and the Foreign Claims Settlement Commission followed this 1951 date in its determinations. The problem arises, however, because many of the Nazi war victims living in the United States were not yet U.S. citizens as of September 6, 1951, although most did become citizens by the time Public Law 94-542 was enacted, or by the time when the United States recognized the German Democratic Republic, 1974. Thus, the rights of these permanent, taxpaying U.S. residents who had fled the Nazi horrors were cut off because their citizenship had not yet been finalized.

All legal remedies for these people were also cut off by the East German Government because they were no longer residents of East Germany as of 1951. Thus, because of action by the East German Government, and language used in the enactment of Public Law 94-542, many of these claims have been either not submitted, or denied by the Commission.

To remedy this situation, I am proposing legislation which would allow the filing and consideration of claims against the East German Government by any person who was: First, a permanent U.S. resident as of September 6, 1951, the time of loss, who was waiting to become a U.S. citizen; and second, who, as of the date of the enactment of Public Law 94-542, had become a U.S. citizen. It would, of course, be necessary for the Commission, based upon this changed definition, to reopen the filing period for claims against the East German Government, for a short period. This is also provided for in the proposed legislation.

It should be emphasized that the U.S. Government does not pay these claims itself, and thus, this legislation would not burden the Federal Treasury.

Those of us now in Government can do little to restore the lives or well being of those millions of people who suffered the outrages and inhumanities of the Nazi regime. We should, however, do what we can, in any small way, to remove the roadblocks to the compensation that may be due some of the victims. It is for these reasons that I urge you to join me in cosponsoring this legislation. A copy of the bill follows:

H.R 419

A bill to amend title VI of the International Claims Settlement Act of 1949 (relating to claims of nationals of the United States against the German Democratic Republic) to permit the determination of claims of persons who were aliens lawfully admitted for permanent residence in the United States as of the date of loss and by September 4, 1974, citizens of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "International Claims Settlement Act Amendments of 1983".

SEC. 2. Section 601(1) of the International Claims Settlement Act of 1949 (22 U.S.C. 1644a(1)) is amended—

(1) in subparagraph (a) after "United States" by inserting "or who is an alien lawfully admitted for permanent residence in the United States and by September 4, 1974, a citizen of the United States";

(2) in subparagraph (b) by striking out "natural persons who are citizens of the United States" and inserting in lieu thereof "persons described in subparagraph (a)"; and

(3) by striking out the last sentence.

SEC. 3. Section 602 of the International Claims Settlement Act of 1949 (22 U.S.C. 1644(b) is amended—

(1) in the first sentence after "claims by nationals of the United States" by inserting "who were ineligible to have their claims considered by the Commission prior to the enactment of the International Claims Settlement Act Amendments of 1983"; and

(2) in the second sentence by striking out "this title" and inserting in lieu thereof "the International Claims Settlement Act Amendments of 1983".

SEC. 4. Section 609 of the International Claims Settlement Act of 1949 (22 U.S.C. 1644i) is amended after "date for filing of" by inserting "those".●

CHARLES F. DOUGHERTY

HON. MELVIN PRICE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, January 3, 1983

● Mr. PRICE. Mr. Speaker, it gives me pleasure to join my colleagues in recognition of the contributions made to the Congress and the American people by my friend Charlie Dougherty while serving as a Congressman from Pennsylvania.

Charlie Dougherty was elected to the Congress in 1978 from the Fourth District of Pennsylvania, in the northeast section of the city of Philadelphia where Republicans were outregistered by Democrats by over 100,000 votes. You may not know that he was the first Republican elected to Congress from that district in more than 20 years. He won by 57 percent of the votes in 1978 and increased that margin to 63 percent in 1980.

Charlie Dougherty compiled an equally impressive vote-getting record when he ran for a seat in the Pennsylvania State Senate. In 1972, he was elected as the senator from the Fifth Senatorial District in Philadelphia, defeating an incumbent Democrat in a district where Republicans were outregistered by about 16,000 votes. In 1976, he was reelected to the senate, becoming the first Republican in over 30 years to be elected from the fifth district even though Democrats outregistered Republicans by about 46,000 votes.

Charlie Dougherty has a reputation as a fighter for causes in which he believes. His success as an independent thinker and doer was well recognized in the Congress. Uppermost in the causes he championed were those of a strong national defense and prosperity

for his beloved city of Philadelphia, where he was born on June 26, 1937.

On coming to the Congress he gained assignment to the House Committee on Armed Services, where he served on the Subcommittee on Seapower and Strategic and Critical Materials and the Subcommittee on Military Installations and Facilities. He also sat on the House Committee on Merchant Marine and Fisheries and its Subcommittee on Merchant Marine, Subcommittee on Coast Guard and Navigation, and Subcommittee on Fisheries and Wildlife Conservation and the Environment.

Early in his first year on the Armed Services Committee his questions at congressional hearings set the tone for what the committee could expect from his participation on defense issues. Keep in mind that for several Congresses past, real growth in Defense budgets was low to nonexistent in the fiscal climate of high inflation and competing costs of Government services.

In reply to a witness' statement that with growing Russian naval strength, the marginal superiority of the U.S. fleet would be questionable, he said with obvious incredulity:

I am a freshman and looking at all this stuff, I am bewildered. I am bewildered at the lack of emotion that witnesses have who appear before this committee as to the status of national defense. I hear all these great dialogues about how the Russians have a fleet now. I am a reasonable person. Logically speaking, the Russians are on the move. [Our fleet] is seriously deteriorating and, in my opinion, we do not have a two-ocean Navy.

That observation could be called the starting gate for Charlie Dougherty's ambitious drive to strengthen U.S. naval forces and the U.S. shipbuilding base. What more likely place to start than in his hometown of Philadelphia.

In February 1979, he became the point man on the Armed Services Committee in the fight to get the half-billion-dollar service life extension program for the aircraft carrier U.S.S. *Saratoga* placed in the Philadelphia Naval Shipyard. Many of you may remember that this important decision involved a large coalition of Members from a number of States. The final outcome of this hotly contested work package involved the participation of the President of the United States and the Secretary of Defense and resulted in the Philadelphia Naval Yard being chosen to do the work. The overall package included substantial increases in the work force and capability of the Philadelphia yard as well as the potential of billions of dollars flowing through the Philadelphia area for many years to come as the *Saratoga's* eight sister ships approach their service-life-extension periods. Charlie Dougherty deserves special recognition by Philadelphians for his unique role in this important achievement.

Most of you know that Charlie Dougherty is proud of his 3-year service on active duty in the U.S. Marine Corps. Currently a lieutenant colonel is in the Marine Corps Reserve, he persistently sought to strengthen the corps, particularly in its amphibious operations role. At the same time he took on the *Saratoga's* fight, he also took on the U.S. Navy for its perceived lack of attention to amphibious warfare requirements. He recognized that a sizable portion of the Marine Corps' amphibious ships were approaching absolescence, and he set out to speed up construction of a new class of amphibious ships, called the LSD-41's. Largely through his personal effort he was able to persuade the members of the Seapower Subcommittee to join his cause and place earlier emphasis on revitalizing the Navy/Marine Corps amphibious capability than had at that time been incorporated in Department of Defense long-range shipbuilding plans. He was also the leading congressional proponent for introduction of high-speed, air-cushioned assault landing craft into Marine Corps amphibious doctrine. Today the Navy's LSD-41 and amphibious assault craft program are still alive and well, thanks to Charlie Dougherty's influence.

In March of 1979, he also cosponsored efforts to bolster U.S. aircraft carrier resources by supporting the procurement of versatile, large-deck aircraft carriers over the more limited capabilities of small carriers.

Looking back on all this, one has to admire the way a young freshman Congressman was able to make so many substantial contributions to Congress and the national defense so early in his career.

As a member of the House Armed Services Committee Subcommittee on Military Installations and Facilities, he was in a good position to promote his advocacy for shipyard modernization. Largely through his efforts, improvements to the Philadelphia Naval Shipyard have included a new $18 million engineering management building and a $14 million electronic communications maintenance shop.

Among his many other congressional activities, Charlie Dougherty was most proud of his leadership roles as a member of the executive committee, National Republican Congressional Committee; cochairman of the Congressional Pro-Life Caucus; member of the Friends of Ireland; member of the Coalition of Peace Through Strength; and cochairman of the Ad Hoc Congressional Committee on the Baltic States and Ukraine.

With respect to the latter, Charlie Dougherty succeeded in placing into public law a provision that none of the funds authorized in the fiscal year 1983 Defense Authorization Act could be used to prepare, produce, or purchase any map showing the Soviet Union which does not include clear geographic boundaries for the occupied Baltic States of Estonia, Lavtia, and Lithuania, and to designate that they are Soviet occupied, and to also include a notation that the United States does not recognize the incorporation of Estonia, Latvia, and Lithuania into the Soviet Union.

Charlie Dougherty's congressional record will reveal that the State of Pennsylvania, and particularly the citizens of Philadelphia, have been well-served by his service in the Congress.

We in this body recognize and appreciate the kind of tireless effort that a person like Charlie Dougherty gives to his work to provide meaningful and productive representation for his constituents. Charlie Dougherty has given a full measure of his time toward helping as many people as he could among the myriad of competing interests in his district.

We will miss him in the U.S. Congress. All of us wish him well and Godspeed.●

GOV. MARIO CUOMO'S ADDRESS TO THE STATE OF NEW YORK

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, January 3, 1983

● Mr. BIAGGI. Mr. Speaker, on Saturday, January 1, 1983, the Honorable Mario M. Cuomo was sworn in as the 52d Governor of the State of New York. Mario Cuomo assumes the position after serving with great distinction as the Lieutenant Governor for the past 8 years.

Governor Cuomo's address focused on the key problems which confront him in the years ahead. The State of New York is not immune from the economic woes which afflict the rest of the Nation and Governor Cuomo sees the solution of these problems, especially unemployment, as a top priority of his administration.

The Governor made a number of important statements as part of his address but none more important than the following:

I believe government's purpose basically is to allow those blessed with talent to go as far as they can on their own.

But I believe that government also has an obligation to assist those who for whatever inscrutable reason have been left out by fate: the homeless, the infirm, the destitute. To help provide those necessary things which through no fault of their own they cannot provide for themselves.

It is that sense of compassion and concern which has captivated New Yorkers and which caused them to elect Mario Cuomo as their Governor. He will use his intellectual talents and

apply them to, as he called it, a sense of "progressive pragmatism" when governing the State of New York over the next 4 years.

I am honored to insert the complete text of Governor Cuomo's speech into the RECORD and extend to him my congratulations and best wishes for a successful tenure as Governor of the Empire State.

TRANSCRIPT OF GOVERNOR CUOMO'S INAUGURATION ADDRESS

Thank you Chief Justice Desmond. This is a beautiful, beautiful celebration of our state, of our superb system of government and our extraordinary good fortune.

I'm very grateful that we've been allowed to share it. Permit me a special word of gratitude to three people:

First to the one most effective instrument of our success this year, Matilda

Then to the man who has led this state courageously, honestly and well for eight years, to whom we owe—all of us—a debt and, I, a very special one because he gave me the opportunity, the first opportunity I had to serve the people of the State of New York in 1975 when he gave me an opportunity I did not win on my own; he asked me to be Secretary of State. To Hugh L. Carey, Governor of the State.

And to an institution among public officials; the man cannot be with us physically today, but who was then with me from the beginning of what was then universally regarded as an implausible pursuit; a man of strength and stature and splendid style; the Mayor of the City of Albany, Erastus Corning.

I would be much less than honest if I didn't confess to some small personal satisfaction at having won two elections. Especially since I know the other feeling so well. But I'd be less than intelligent if I didn't recognize that the outcome was not so much a personal vindication as it was the judgment of the people of New York on the policies and principles and programs which will advance as the reason and justification for my candidacy.

WHAT GOVERNMENT MUST DO

Throughout the campaign I spoke insistently on what we believe our government must do over the next four years. I hope the next four years will show that I did not speak idly or cynically.

We'll go forward with the program of jobs and justice that I prescribed in the campaign and that I believe the people of this state generally regard as a fair appraisal of our needs. A criminal-justice system that is firmer, surer, more effective; a vehicle of deterrence. A new emphasis on high technology and agribusiness and domestic manufacturing. A responsible approach, a continuing responsible approach, to our fiscal difficulties.

An infrastructure program that will rebuild our state's physical strength even while we put to work unemployed New Yorkers. A continuing emphasis on educational excellence, reformation of our system of regulating utilities, reorganization of the operating agency for mass transit in the 12 counties of our metropolitan New York region.

We'll go forward with these and all the other elements of our program for New York State that I've talked about for all of this year. Part of that program will be our message to Washington. We will say to our President, and the present Administration, that we have no intention of using Washington as a scapegoat for all of our failures and difficulties.

Nor will we use Washington as an excuse for not doing for ourselves as a state everything we can do for ourselves. On the other hand, we will not allow the national Administration to escape responsibility for its policies.

We will continue to point out what we believe, respectfully, is a massive inequity of the new redistribution of national wealth. A redistribution that moves our nation's resources from the vulnerable Northeast and Midwest to the affluent or at least less-troubled parts of the nation.

We will point out what we believe is the cruelty and economic recklessness of the unemployment that these policies produce, and the mistakes.

ARMS RACE DEPRIVES NATION

And we will point out what we believe is the mistake of an excessive multiplication of nuclear weapons that denies us the resources we need. Because we meant what we said in the campaign.

All of these positions will be part of the flesh and blood, the policies and programs, of our new administration. You will see them described in detail a few days from now, in the State of the State message, and in even greater detail in the budget to follow; the budget, which will be presented to the Legislature and to the entire state.

But now, however, please allow me to speak just a few words about what I hope will be, not the flesh and blood, but the soul of this administration.

The philosophy of a government is the pattern revealed by the lines that connect hundreds of decisions that government makes on a day-to-day basis. Over the course of our history, these lines have often meandered and formed unclear images. The last few years however, have raised sharp, indeed profound, questions about government's purpose and government's role.

These questions are being discussed at all levels and are operating to affect the principles that touch the lives of our people. In that debate, the Empire State's view of government's ultimate rationale will have very special significance.

"PROGRESSIVE PRAGMATISM"

This is the way I see it. This state has always led the way in demonstrating government's best uses. Overall, it has pursued a course of progressive pragmatism. For more than 50 years without dramatic deviation, whatever party happened to be in power. New York has proven that government can be a positive source for good and it still can be.

I believe government's purpose, basically, is to allow those blessed with talent to go as far as they can on their own.

But I believe that government also has an obligation to assist those who for whatever inscrutable reason have been left out by fate: the homeless, the infirm, the destitute. To help provide those necessary things which, through no fault of their own, they cannot provide for themselves.

Of course, we should have only the government we need. But we must have, and we will insist on, all the government we need. So a technically balanced budget that fails to meet the reasonable needs of the middle class and the poor would be to us the emblem of hypocrisy.

It has become popular in some quarters to argue that the principal function of government is to make instruments of war and to clear obstacles from the way of the strong. It is said that the rest will happen automatically. The cream will rise to the top, whether the cream be well-endowed individuals or fortunate regions of the nation. Survival of the fittest may be a good working description of the process of evolution, but a government of humans should elevate itself to a higher order, one which tries to fill the cruel gaps left by chance and by a wisdom that we don't fully understand.

I would rather have laws written by Rabbi Hillel or by Pope John Paul than by Darwin. I would rather live in a state that has chipped into the marble face of its Capitol these memorable words of the great rabbi: "If I am not for myself, who is for me. But if I am for myself alone, then what am I?" Or the words of our great Pope: "Freedom and riches and strength bring responsibility. We cannot leave to the poor and disadvantaged only the crumbs from the feast. Rather we must treat the less fortunate as guests."

A society as blessed as ours should be able to find room at the table, shelter for the homeless, work for the idle, care for the elderly and infirmed and hope for the destitute.

To demand less of our government or of ourselves, would be to evade our proper responsibility. At the very least, the government of this generation should be able to do for those who follow at least what has been done for us. And if my election proves anything, it proves how very much this system has been able to do for us.

My parents came some 60 years ago from another part of this world, driven by deprivation, without funds, without education, without skills.

When my mother arrived at Ellis Island, she was alone and afraid. She carried little more than a suitcase and a piece of paper with the address of a laborer husband who had preceded her here looking for work. She passed through all the small indignities visited on immigrants everywhere always. She was subjected to the hurried condescension of those who decide if others are good enough to enter, or at least not bad enough to be kept out.

Like millions of others, my mother and father came here with very little more than a willingness to spend all their effort in honest toil. They asked only for the opportunity to work and for some protection in those moments when they would not be able to protect themselves.

OUR COMMON HISTORY

Thanks to a government that was wise enough to help them without stifling them, and strong enough to provide with opportunities to earn their own bread, they survived. They remained a people of modest means. But that they were able to build a family, and live in dignity, and see one of their children go from behind their little grocery store in South Jamaica where he was born to the highest seat in the greatest state, in the greatest nation.

That by itself is an almost ineffably beautiful commentary on this magnificant system of American democracy. But this is not a personal story. This is the story of all of us.

What our imperfect but peerless system of government has done for those two frightened immigrants from Europe, it has done for millions of others in different ways. That experience is a source of pride and gratitude, but it has to be much more. It must serve as a challenge to all of us, as we face the future. The achievements of our

past impose upon us the obligation to do at least as much for those who come after us.

It would be a terrible desecration of our history to allow the difficulties of the moment, which pale when, compared to those faced by our ancestors, to excuse our obligation to produce government that excels at doing what government is supposed to do. We need not fear the challenge. Underlying everything I believe about our government is an unshakable conviction that it is good enough to do what must be done and more.

Through all of our present travail and I know it well, the deficits, the hordes of homeless, unemployed and victimized, the loss of spirit and belief. For all of this, I believe that we are wise enough to address our deficits without taxing ourselves into bankruptcy, strong enough to reconcile order with justice, brave enough to bring opportunity and hope to those who have neither. We can, and we will, refuse to settle for just survival and certainly not just survival of the fittest.

BALANCING SOCIETY'S NEEDS

I believe we can balance our lives and our society even as we balance our books. We can. To those who today stand on platforms built by their forebears' pain and are warmed by applause earned by their forebears' courage, remember who we are, and where we came from and what we have been taught.

Those who made our history leave us above all things the idea of family mutuality, the sharing of benefits and burdens fairly for the good of all. There's an ideal essential to our success and no family that favored its strong children or that in the name of evenhandedness failed to help its vulnerable ones would be worthy of the name. And no state or nation that chooses to ignore its troubled regions and people, while watching others thrive, can call itself justified.

We must be the family of New York. Feeling one another's pain, sharing one another's blessings, equitably, honestly, fairly, without respect to geography or race or political affiliation. Those who made our history taught us more. By a willingness to sweat for a lifetime just to give their children something better, they taught us the virtue of hard work. These things, then, I pledge as I begin my term.

But I have learned what they had to teach. That if we do not succeed, it will not be because we have divided one part of this state from another, or dealt unfairly with any region, or any group of people or forgotten that we are a family.

FULL EFFORT IS PLEDGED

Nor will it be because we have failed to expend the strength and effort that we might have. This will be a government as hard working and realistic as the thousands of families and businesses struggling to survive a national economy that is more distressed at this moment than at any time since the 1930's.

I have no illusions about how difficult this will be. It will require that we pass a fierce test of our resolve. But if the risks we face are greater, the resources we command are greater still.

A rich good earth; water that ties us together, replenishes us, feeds our capacity to grow; an education system matched by few other states, indeed even nations, anywhere in the world; an irreplaceable weave of roads and rails; the world's largest banks and financial institutions, communications systems and markets.

And more than all of this, our marvelous people, the offspring of native Americans, Africans, Europeans, Asians, people from the North and people from the South, the children of those who refused to stop reaching, stop building, stop believing, the children of those who refused to believe it could not be done. We are the sons and daughters of giants, and we have been born to their greatness.

We begin to meet our obligation today, all of us together. So good people of the Empire State, I ask all of you, whatever your political beliefs, whatever your region, whatever you think of me as an individual, to help me keep the moving and awesome oath that I just swore before you and before God.

Pray that we all see New York for the family that it is. That all of us sworn into office today give New York the leadership it deserves. That I might be the state's good servant and God's too. And Pop, wherever you are, and I think I know, for all the ceremony and the big house and the pomp and circumstance, please don't let me forget.

Thank you and God bless you.●

PERMITTING CITIZEN SUITS TO RECOVER WRONGFULLY REMOVED GOVERNMENT DOCUMENTS

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, January 3, 1983

● Mr. WEISS. Mr. Speaker, the right of citizen access to unclassified Government records is a fundamental principle of a free society, as Watergate reminded us. Yet we still face major obstacles to real openness.

Henry Kissinger's removal of telephone transcripts from his office shortly before he stepped down as Secretary of State illustrates one such obstacle. Mr. Kissinger removed these documents without the official review required by the Records Disposal Act (44 U.S.C. 3301) et seq. The Solicitor General conceded that at least some of the transcripts qualify as official records. Nonetheless, the Supreme Court has ruled that private citizens have no right under existing law to recover the papers for the public's view. Although Mr. Kissinger did finally reach a compromise agreement with the State Department for the return of most of the documents, recovery of unlawfully removed records should not be made dependent upon the vagaries of private agreements.

I am today reintroducing legislation to create a private right of recovery and to deter Government officials from such improper removal of documents.

Mr. Kissinger deeded the transcripts, which recorded his notes of telephone conversations while Secretary of State, to the Library of Congress after having them removed from the State Department. Neither the State Department's records official nor the Administrator of General Services reviewed them.

But in the court case that followed, *Kissinger* v. *Reporters Committee for Freedom of the Press*, 445 U.S. 136 (1980), the Supreme Court ruled that the State Department cannot be required to recover documents no longer in its possession to satisfy a Freedom of Information Act (FOIA) request for them—even if they were unlawfully removed.

According to the Court, both the Records Disposal Act and the Federal Records Act of 1950, 44 U.S.C. 2901 et seq., allow only an agency head, with the assistance of the Administrator of General Services, to initiate an action through the Attorney General to recover records in such cases. The Court could find no evidence in the two applicable statutes that Congress had contemplated a private right of action. Therefore, any individual's request, including that of the Reporters Committee, could be refused. The telephone transcripts were thus shielded from public scrutiny for at least 25 years, under the terms of Kissinger's bequest.

The former Secretary had clearly circumvented the Freedom of Information Act. The New York Times declared that the decision created "a loophole in the Freedom of Information Act big enough for high officials to walk through." And Justice Stevens, in a dissenting opinion, viewed the outcome in ominous terms, saying that—

> It thus creates an incentive for outgoing agency officials to remove potentially embarrassing documents from their files in order to frustrate future FOIA requests.

Citizens must be granted the power to compel return of public records. This flaw in the Federal Records Management Act must be corrected. Unless a private right of action is established, guarantees of open government are meaningless. To insure that the FOIA, in the words of Justice Brennan, "is to be more than a dead letter, we must necessarily incorporate some restraint upon the agency's powers to move documents beyond the reach of the FOIA requester."

Under my proposed legislation, an individual would have the right to bring suit in Federal district court to recover records unlawfully removed from any person or agency with custody of them. Prior to initiating any action, notice of the alleged violation must be given to the Administrator of GSA, the appropriate agency head, the Attorney General, and the person or agency which has custody of the documents. This notice provision permits the Government to comply with the procedures established in title 44 on its own initiative. If no action is taken within 60 days, the individual can commence proceedings. In the

event the Attorney General starts an action to recover the records, the interested party can intervene in the Attorney General's suit, as a matter of right, to guarantee diligent prosecution of the litigation. The legislation also permits the awarding of court costs, plus reasonable attorney's fees, to any party in an action.

My proposal is consistent with the Federal Government's interest in record control. It would enable the agency executive to have the information available when he needs it, in accordance with the statute's legislative intent. Citizen suits will supplement the Federal records management system by further insuring retention of important documents.

I believe this legislation offers the strongest useful deterrent to the unlawful removal of records at all levels of government. I might note that last session, I cosponsored legislation which would give the Archivist of the United States authority to begin proceedings to recover documents. I feel this additional measure introduced today is necessary, however, to avoid undue restraint that may be placed upon a Government official, such as the Archivist, in this type of situation.

In Kissinger, Justice Brennan noted that—

> It is Congress which has the resources and responsibility to fashion a rule about document retention that comports with the objectives of the Freedom of Information Act.

I urge my colleagues to accept this charge and join me in supporting this legislation.

The text of the bill follows:

H.R. 420

A bill to amend title 44, United States Code, to permit citizen suits to recover records wrongfully removed from agency files

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 2905 of title 44, United States Code, is amended by designating the existing paragraph as subsection (a) and by adding at the end thereof the following new subsection:

"(b)(1) Except as provided in paragraphs (2) and (3), any person may commence a civil action on his own behalf against any person (including the United States and any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in possession of any records removed from an agency in violation of the provisions of this chapter or of standards, procedures, or guidelines promulgated pursuant to such provisions. The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to order the return of any such records or to issue any other orders necessary to obtain compliance with such provisions, standards, procedures or guidelines.

"(2) No action may be commenced under paragraph (1) prior to sixty days after the plaintiff has given notice of the alleged violation (A) to the Administrator of General Services, (B) to the head of the agency from which such records are alleged to have been removed, (C) to the Attorney General, and (D) to the person who is alleged to have custody of such records.

"(3) No action may be commenced under paragraph (1) if, within sixty days after receipt of the notice required by paragraph (2), the Attorney General commences and is diligently prosecuting an action for the recovery of the records to which such notice pertains, but if such an action is instituted the person giving such notice may intervene as a matter of right in such action.

"(4) In any action under this subsection, the Administrator, if not a party, may intervene as a matter of right.

"(5) The court, in issuing any final order in any action brought pursuant to paragraph (1) of this subsection, may award costs of litigation (including reasonable attorney fees) to any part, whenever the court determines such award is appropriate.".

SEC. 2. Section 3106 of title 44, United States Code, is amended by designating the existing paragraph as subsection (a) and by adding at the end thereof the following new subsection:

"(b)(1) Except as provided in paragraphs (2) and (3), any person may commence a civil action on his own behalf against any person (including the United States and any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in possession of any records removed from an agency in violation of the provisions of this chapter or of standards, proceduress, or guidelines promulgated pursuant to such provisions. The district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to order the return of any such records or to issue any other orders necessary to obtain compliance with such provision, standards, procedures, or guidelines.

"(2) No action may be commenced under paragraph (1) prior to sixty days after the plaintiff has given notice of the alleged violation (A) to the Administrator of General Services, (B) to the head of the agency from which such records are alleged to have been removed, (C) to the Attorney General, and (D) to the person who is alleged to have custody of such records.

"(3) No action may be commenced under paragraph (1) if, within sixty days after receipt of the notice required by paragraph (2), the Attorney General commences and is diligently prosecuting an action for the recovery of the records to which such notice pertains, but if such an action is instituted the person giving such notice may intervene as a matter of right in such action.

"(4) In any action under this subsection, the Administrator, if not a party, may intervene as a matter of right.

"(5) The court, in issuing any final order in any action brought pursuant to paragraph (1) of this subsection may award costs of litigation (including reasonable attorney fees) to any party, whenever the court determines such award is appropriate."●

COMPUTER DONATION TAX LEGISLATION

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, January 3, 1983

● Mr. DONNELLY. Mr. Speaker, in order to meet the growing demand for information technology in education, the House approved and the Senate considered legislation in the 97th Congress that would have provided special tax deductions for corporations that donate computers and information systems to schools.

That legislative initative died in the lameduck congressional session and today I am reintroducing legislation to increase and improve the use of information technology in primary and secondary schools. My bill would also provide a special deduction rule for charitable contributions made by corporations, of certain newly manufactured computers to primary and secondary schools for use directly in the education of students. However, unlike previously introduced legislation, my bill would require corporations to contribute 75 percent in value of computer equipment to school districts where the income of the parents is below the national median family income at the time of enactment of legislation.

I am sponsoring this bill because if individuals are to thrive economically and socially in a world that will be shaped, to a large degree, by technological development, they must learn to adapt through education and training. All youth will need access to the new information technologies in order to survive in today's society. I have designed my bill in a manner that would assure all individuals of equal access to corporate donations regardless of their social, economic, or geographic status.

Providing corporations with twice the normal tax credit will no doubt cause losses in revenue. There is however nothing more important to the future and security of the United States than the best possible education for its citizens. The Federal Government's interest in education technology has been sporadic—rising as some promising new technology appeared and falling as that technology failed to achieve its promise. If we continue to neglect this crucial area of concern, we can be sure our Nation will fall behind in technological advancement in education.

My major objective in sponsoring this legislation is to insure that all young people of this Nation continue to obtain their constitutional right to equal opportunity no matter what their social, economic, or geographic origin may be; and the foundation of all equal opportunity is in the schools.

I urge you to please join me in this legislative effort to provide schools with the educational tools necessary to compete in the future technological marketplace.●

VOTING RECORD OF HON. CLEMENT J. ZABLOCKI

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, January 3, 1983

● Mr. ZABLOCKI. Mr. Speaker, the following is a summary of my attendance record, position, and voting record on the major issues considered during the 97th Congress:

VOTING RECORD OF CONGRESSMAN CLEMENT J. ZABLOCKI

Position	Issue	Status
	NATIONAL ECONOMY AND LABOR	
Voted for	Legislation to lower national unemployment by creating 447,600 jobs in meaningful areas.	Passed House.
Do	Tax equity act to close tax loopholes for large corporations and the rich.	Became law.
Do	Content bill to require use of U.S. made automobile parts.	Passed House.
Voted against	Budget reconciliation to eliminate or reduce programs for middle and lower income taxpayers.	Became law.
Voted for	Amendment to balance the Federal budget and target tax break to those making under $50,000 annually.	Defeated.
Voted against	Reductions of $2.6 billion in trade adjustment assistance for fiscal year 1982–84.	Became law.
Do	Unemployment compensation cuts of $3.1 billion and elimination of extended benefits program.	Do.
Do	Legislation to strengthen home mortgage lending institutions to make available home mortgage loans.	Do.
	ENERGY AND ENVIRONMENT	
Do	Bill to mandate filling U.S. Strategic Petroleum Reserve at 300,000 barrels a day.	Do.
Cosponsored	Resolution in opposition to accelerated decontrol of natural gas.	Pending.
Do	Resolution urging continuation of tax incentives for energy conservation and renewable energy sources.	Do.
Do	Legislation to restrict excessive State severance taxes on coal to provide for treatment to energy-consuming States, including Wisconsin.	Do.
Voted for	Legislation to extend daylight savings time for 2 months to conserve electricity.	Passed House.
Voted against	Amendment to expedite costly Garrison diversion water project without proper congressional consideration.	Defeated.
Voted for	Legislation authorizing funds for municipal wastewater treatment grants for areas like Milwaukee.	Became law.
Do	Toxic substances control act	Do.
	CONSUMERS, SOCIAL SERVICES, EDUCATION	
Cosponsored	Resolution allowing State efficiency standards for home appliances.	Pending.
Do	Legislation to repeal withholding on interest and dividends.	Do.
Voted against	Amendment to weaken content legislation that requires automobile parts to be manufactured at home.	Passed House.
Do	Bill that would result in increased cost of sugar and peanuts.	Became law.
Cosponsored	Resolution to allow period of silent prayer in public schools.	Pending.
Voted for	Rule to allow separate consideration of budget cuts in social services and education by program.	Defeated.
Voted against	Reductions in elementary and secondary aid.	Became law.
Do	Measure to adversely impact student financial aid.	Do.
Do	Legislation to eliminate "work incentive" provisions in welfare law.	Do.
	SENIOR CITIZENS AND HEALTH	
Cosponsored	Hospice coverage by medicare and medicaid.	Do.
Voted for	Restoration of social security mininum benefit.	Do.

VOTING RECORD OF CONGRESSMAN CLEMENT J. ZABLOCKI—Continued

Position	Issue	Status
Do	Legislation to shore up the social security system.	Do.
Cosponsored	Legislation to provide nursing care in private homes.	Pending.
Voted against	Major reductions in medicare and medicaid.	Became law.
Voted for	Measure to provide individual consideration of health programs based on merit.	Defeated.
Do	Authorizations for alcoholism, drug abuse and mental health programs.	Passed House.
Do	Orphan Drug Act	Cleared.
	NATIONAL DEFENSE AND VETERANS	
Voted against	Amendments to weaken U.S. national security.	Defeated.
Do	Resolution to disapprove sale of AWACS to Saudi Arabia.	Passed House.
Voted for	Bill to attract high-quality military personnel.	Became law.
Do	Funds to enable United States to establish and retain strong national defense.	Do.
Cosponsored	POW–MIA Recognition Day	Do.
Voted for	Major health care bill for veterans	Do.
Do	Medical treatment for ailments attributed to agent orange.	Do.
Do	Language to prevent "contracting out" services at VA hospitals.	Do.
Cosponsored	Pensions for World War I veterans	Pending.
	TRANSPORTATION AND GENERAL GOVERNMENT	
Voted for	Amendment to highway bill to guarantee Federal return of 85 cents to Wisconsin instead of 68 cents.	House adopted.
Do	Major highway and road repair	Became law.
Do	Bus deregulation to allow companies freedom in eliminating unprofitable lines.	Passed House.
Voted against	Agriculture bill that would have jeopardized Wisconsin dairy farmers.	Became law.
Voted for	Legislation to promote fair elections and voting rights.	Do.
Do	Legislation to provide adequate legal representation for the poor.	Passed House.
Introduced	Right-to-life resolution to protect the rights of the unborn.	Pending.
Cosponsored	Legislation to make Governemnt regulations more cost-effective.	Do.
Voted for	Small business research funds	Became law.
Do	Bill to establish export trading companies to assist small businesses in finding markets abroad for their products.	Do.
	FOREIGN AFFAIRS	
Voted against	Substitute amendment to weaken nuclear freeze resolution.	Passed House.
Introduced	Resolution calling for mutual and verifiable freeze on nuclear weapons.	Defeated.
Do	Amendment to delete funds for chemical weapons production, saving taxpayers $54 million.	Passed House.
Do	Legislation providing food and economic assistance to help poor countries help themselves.	Became law.
Do	Legislation to make the Peace Corps an independent agency.	Do.
Cosponsored	Major export control bill	Do.
Do	Resolution to commend the negotiators for securing the release of the American hostages in Iran.	Passed House.
Introduced	Resolution to promote safe health standards for use of infant formula overseas.	Do.
Do	Resolution reaffirming support of the Congress for the people of Poland.	Do.

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CONFERENCE OF PRESIDENTS OF MAJOR AMERICAN JEWISH ORGANIZATIONS

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, January 3, 1983

● Mr. FRANK. Mr. Speaker, the Conference of Presidents of Major American Jewish Organizations recently issued a thoughtful and persuasive appeal to King Hussein of Jordan, urging him to emulate the statesmanship of Anwar Sadat and agree to enter peace negotiations with Israel. As long as King Hussein persists in his refusal to negotiate peace with Israel, peace will be absent from the Middle East. None of the problems that beset that region can be peaceably resolved until other Arab leaders follow the example that Anwar Sadat set 5 years ago.

King Hussein has an opportunity to be a great force for peace in the most troubled area of the world. Our Government should be doing everything within our power to urge him to take advantage of it.

The statement of the Conference of Presidents makes the case forcefully:

CONFERENCE OF PRESIDENTS OF MAJOR AMERICAN JEWISH ORGANIZATIONS, MIDDLE EAST MEMO TO KING HUSSEIN: CHOOSE LIFE, CHOOSE PEACE!

Jordan's King Hussein has left Washington after completing what could turn out to be one of the most crucial visits any Arab monarch ever paid to the United States. Now the world awaits Hussein's decision:

Will he agree to come to the peace table and negotiate with Israel, as called for in the Camp David accords? Or will he refuse to talk peace until he gets permission do do so from PLO chieftain Yasir Arafat? On Hussein's answer will depend not only the possibilities of peace in the Middle East but the fate of his own citizens and of the Palestinian Arabs who make up the majority of his subjects.

If the King can bring himself to follow the courageous example of Anwar Sadat and acknowledge Israel's rightful place in the Middle East, if the Jordanian ruler will enter without preconditions the give-and-take of negotiations leading to a treaty with Israel, if Hussein is willing to disavow the veto over his actions that he has given to the terrorist PLO, millions will bless him for widening the circle of peace that began when Prime Minister Begin, President Carter and President Sadat signed the first Arab-Israel peace pact on the White House lawn nearly four years ago.

The Jordanian ruler reportedly told the White House that conditions were not ripe for Jordan to turn toward peace. But what better time has there been? The PLO terrorists have been scattered, their huge arms hoard captured, their headquarters as a center for international terrorism emptied. Israel stands ready—as it has since its founding in 1948—to talk face-to-face with its Arab neighbors. Our own country is prepared to lend its good offices to help the parties reach agreement.

Will the King of Jordan seize the moment for peace—or will he miss amother opportunity?

In 1948 Hussein's grandfather, King Abdullah of Jordan, made the wrong decision when he joined with Egypt, Iraq, Lebanon and Syria in seeking to destroy the newborn State of Israel, thereby aborting the 1947 UN Partition Plan.

In 1967 Hussein made the wrong decision when he joined President Nasser's ill-starred attempt to drive Israel into the sea. The result was that East Jeruselem and the West Bank territories of Judea and Samaria, which Jordan had captured in the war against Israel in 1948 and occupied since then, were lost to Jordan.

In 1973 Hussein made the wrong decision when he joined the Yom Kippur War by

sending two battalions to fight alongside Syrian forces on the Golan Heights—and lost again.

Each time Jordan's ruler has chosen the path of war against Israel, he and the Arab cause have suffered. It is time at last for Hussein to choose peace—to choose life—for his people and all the people, Arab and Jew alike, who yearn for the day when every man will sit under his fig tree, and none shall make them afraid.●

LEGISLATION REQUIRING NEW LABELING FOR CONTRACEPTIVE PRODUCTS

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, January 3, 1983

● Mr. WEISS. Mr. Speaker, I am today reintroducing legislation requiring the manufacturers of contraceptive drugs and devices to label their products and to include in their advertising an indication of the effectiveness of these products in preventing pregnancy.

Research into the relative merits and the validity of various claims of effectiveness is incomplete at present, and there is an urgent need for studies of this sort to move forward expeditiously. My legislation in fact stipulates that the Secretary of Health and Human Services shall develop a reliable standard for determining the effectiveness of contraceptive drugs and devices.

In addition to the effectiveness notice, the bill would mandate that contraceptive labeling include directions for use and a recommendation that professional advice be sought to determine the most appropriate form of contraception.

While available data are not yet fully conclusive, there are strong indications that many forms of contraception fail to fulfill the claims of their manufacturers. The consequences are often tragic for many families and couples.

One finding in this area comes from a preliminary panel report of the Food and Drug Administration dealing with contraceptives. In this 1978 study, the panel notes it has reviewed the claims made by the manufacturers of the various products under their purview. The panel tentatively concludes that "certain claims for effectiveness have been made in the past without adequate valid supporting data." The FDA is also aware that there is a strong consumer interest in knowing the actual percentage effectiveness of each contraceptive product and is now in the process of reviewing public comments on labeling practices.

I believe that consumers of these drugs and devices have the right to be informed adequately as to the reliability of their chosen method of contraception. Failure rates should be truthfully presented to prospective purchasers so that they can make a crucial decision of this sort based on the most informed judgment possible. The results of unanticipated failure of one of these drugs or devices is frequently irreversible and always undesired.

A fully informed consumer's proper usage of contraceptives can significantly reduce the incidence of unwanted pregnancy and thereby decrease the need to make a choice about abortion. Unplanned pregnancies are not only a burden for many women and couples, they can also become a social and governmental burden as well. Reliable and safe contraception is an essential component of a high-quality health care system in our Nation. My bill would do much to meet the glaring need for consumer information and contraceptive research. I am very pleased that my colleagues Mr. MITCHELL, MR. ROSENTHAL, and MS. COLLINS are joining me in this effort. I invite other Members to join us in cosponsoring this bill.

A copy of the bill follows:

H.R. 428

A bill to amend the Federal Food, Drug, and Cosmetic Act to require that the label and advertising for contraceptive drugs and devices state the effectiveness of the drugs and devices in preventing conception in humans, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Contraceptive Labeling and advertising Act".

SEC. 2. (a) Section 502 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352) is amended by adding at the end the following new paragraph:

"(u)(1) If it is a drug or device to prevent conception in humans, unless—

"(A) its label states (i) in acordance with subparagraph (2), the effectiveness of the drug or device in preventing conception in humans, (ii) directions for use, and (iii) that professional advice should be sought to determine the most appropriate form of contraception; and

"(B) unles the manufacturer, packer, or distributor thereof includes in advertisements and other printed descriptive matter issued or caused to be issued by the manufacturer, packer, or distributor with respect to the drug or device such information respecting the efectiveness of the drug or device in preventing conception in humans as may be required under subparagraph (2).

(2) The Secretary shall by regulation establish for drugs and devices subject to subparagraph (1) standards for determining the effectiveness of such drugs and devices in preventing conception in humans and the form and manner in which such effectiveness shall be stated in the labels of such drugs and devices and in advertisements and other printed descriptive matter for such drugs and devices.".

(b) The Secretary of Health and Human Services shall first promulgate the regulation referred to in section 502(u)(2) of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a) of this section) not later than one hundred and eighty days after the date of the enactment of this Act. Such regulation shall take effect upon its promulgation.●

A CONSTITUTIONAL AMENDMENT TO PROVIDE FOR DIRECT ELECTION OF THE PRESIDENT

HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, January 3, 1983

● Mr. BROOKS. Mr. Speaker, I am introducing a resolution today that would abolish the electoral college and provide for the direct election of the President by the voters. Direct election is the method by which we choose all of our other elected public officials. It is the only process that is completely consistent with the ideals of democracy that we as a Nation believe in and have upheld for nearly 200 years.

One of the geniuses of our Constitution is the fact that it has provided a structure of Government that could be adapted to the changes of history. Possibly the electoral college system was an appropriate means of choosing the President and Vice President in the final decades of the 18th century, but clearly the electoral college is an anachronism in the latter decades of the 20th century. Such factors as the rise of political parties and the expansion of the franchise to encompass nearly all of our populace have changed the political environment in which our Chief Executive is chosen. It is time to remove this undemocratic, cumbersome, and potentially dangerous vestige of our infancy as a Nation.

My amendment would provide that the candidate receiving at least 40 percent of the popular vote would be elected. If no candidate got 40 percent, there would be a runoff election between the top two finishers.

Mr. Speaker, I hope that this Congress will give serious attention to the dangers posed by the electoral college and that it will examine the amendment that I offer today as one solution to the problem.●

THIRD WORLD COLONIALISM

HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, January 3, 1983

● Mr. FORSYTHE. Mr. Speaker, Prof. Albert P. Blaustein of the School of Law at Rutgers State University of Camden, N.J., recently forwarded to me a copy of an article he wrote which appeared in the Richmond Times Dispatch last April. In his article, Professor Blaustein makes the case that the colonialism which is perpetrated on Third World countries by one another is rarely denounced by developing countries. Those countries generally reserve their criticism for the devel-

oped Western World. I think Professor Blaustein's point is well taken and commend to my colleagues' attention the article entitled "The Third World's Colonialism." The article follows:

THE THIRD WORLD'S COLONIALISM

(By Albert P. Blaustein)

When Third World countries decry "colonialism" (as they so often do), they are inevitably referring to some form of domination allegedly imposed by Western countries. Seldom, if ever, do we hear about the colonialism perpetrated by Third World peoples upon one another. Yet the Third World is filled with examples of national majorities that are brutally suppressing their own minorities. One of the most flagrant and saddest—and also least mentioned—cases is that of the South Moluccas, which for nearly 32 years has suffered under the colonial domination of the Javanese majority of Indonesia.

The South Moluccas (the fabled Spice Islands), located in the southeastern part of the Indonesian archipelago, contains 2 million people. Another million South Moluccans inhabit other Indonesian islands, which 50,000 others live in exile in The Netherlands. By race, language, culture and religion, these people differ from the majority of Indonesians, who are Mongoloid-Malayan Moslems. The South Moluccans are Melanesian, Amboinese-speaking Christians who have always maintained a separate identity and who were administered separately by the former Netherlands colonial government.

Dutch colonialism ended with the end of World War II. The Netherlands East Indies then became a federation of "autonomous states" within the Dutch Commonwealth in 1947. The principal states in the federation were Java and Sumatra, while the South Moluccas were included in the State of East Indonesia, which also included Celebes and the predominantly Moslem North Moluccas.

In 1948, representatives of The Netherlands and the autonomous states gathered at the Round Table Conference at The Hague to form the "United States of Indonesia." The parties agreed (1) that the new federation would be composed of self-governing states; (2) that the people of each state would have the opportunity to agree or disagree with the "definitive" constitution, (3) that if one state refused to agree to conditions, it would have the right to negotiate a special relationship to both The Netherlands and the United States of Indonesia; and (4) that pending completion of a constitution, each state would possess equal rights.

But as soon as the Javanese organized their government in Jakarta, they violated the Round Table agreement by demanding a unified nation under Javanese control. After fruitless attempts at negotiation with President Sukarno, the South Moluccas realized that compromise was impossible. Their democratically elected *Daereh* (assembly) declared its independence as a republic on April 25, 1950—three months before Indonesia itself became an independent entity. What followed was a Javanese invasion and conquest—and a war of resistance that is still being fought. The people of the South Moluccas, both in their home islands and in The Netherlands, have not given up their independence struggle.

On July 25, 1950, following the preliminary invasion, the South Moluccas petitioned the United Nations to intercede and mediate with Indonesia. Their efforts were spurned. In the following year, the Amsterdam Appeals Court held (1) that the people of the South Moluccas are a people of a territory that, according to the past pre-independence agreements, could qualify for the exercise of the right to self-determination; (2) that the possibility of realizing this right was taken from them by the creation of the Republic of Indonesia as a unitary state (rather than the United States of Indonesia), which violated the pre-independence agreements; and (3) that the independence proclamation of the Republic of the South Moluccas must be regarded as a method of realizing their right to self-determination.

In 1952, another Dutch tribunal expressed similar views. Yet neither these appeals to international law nor the appeals to conscience raised repeatedly by the exile Homeland Mission of the South Moluccas have succeeded in moving the United Nations to take any steps against Indonesia.

As the South Moluccans continue to fight their lonely war of liberation, their once-beautiful islands have been devasted and terrorized. Indonesian troops (some would call them Javanese occuping forces) comb the country for dissidents. Imprisonment without trial and torture have become commonplace. The U.S. State Department 1981 Report on Human Rights, in fact, has cited the Indonesian government for numerous violations.

In the rural areas, timber from the rain forests is indiscriminately felled without regard for the consequences. Japanese fishing companies are permitted to fish in Moluccan waters, while being denied such rights in Javanese seas. This has resulted in a severe shortage of fish for the South Moluccan people, for whom it is—or was—the main source of protein.

In the cities and villages, South Moluccan people are unemployed, destitute and exploited. The black market, corruption and street crime thrive. Parents of young girls are said to be afraid to report incidents of rape for fear of losing their jobs. Sanitation and medical care have deteriorated to the point where doctors must treat poor patients without medicine or anesthetics. Yet, from the capital, Amboina, an underground network of teachers, writers and other professionals keeps the cause of liberation alive while the Homelands Mission, based in Amsterdam, tries to alert the world to their struggle.

The Third World has remained deaf to their pleas, refusing still to discipline one of its own. Even fellow Melanesian nations, such as Fiji, have refused to raise the South Moluccan issue in the United Nations for fear of antagonizing their trading partner, Indonesia. If the Third World will not denounce Indonesian colonialism, it then becomes the responsibility of the Free World.●

PRESIDENT WILBERT E. LOCKLIN OF SPRINGFIELD COLLEGE ANNOUNCES TUITION, FEES FREEZE FOR NEXT 21 MONTHS

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, January 3, 1983

● Mr. BOLAND. Mr. Speaker, contrary to the national trend of inflation and spiraling education costs, it is pleasing to note that Springfield College in my congressional district has frozen tuition and room and board fees at their present levels for the next 21 months.

Springfield College President Wilbert E. Locklin announced also that the college will expand its scholarship aid to compensate for cutbacks in Federal education programs, and the faculty and staff have agreed to limit salary increases to 5 percent for the 1983–84 fiscal year.

Mr. Speaker, I thought my colleagues would be interested in this good news from Springfield College, and ask permission to have printed with my remarks an editorial from the Springfield, Mass., Daily News of December 16, 1982, and the accompanying news story on this action.

The material follows:

SC HOLDS THE LINE

The news story reads like something from another era:

Springfield College freezes tuition, room and board at the present rates for at least 21 months.

Students and their parents may blink with disbelief at the announcement, but SC President Wilbert E. Locklin offers assurances that everyone can bank on this, literally.

Springfield College, founded as the School for Christian Workers and known for decades as the International YMCA College, seeks to prepare young men and women for leadership positions in the YMCA , YWCA, Boy Scouts, Girl Scouts, Boys Clubs, Girls Clubs, and similar organizations.

Also, for teaching, coaching and training positions in physical education, and for community leadership posts.

It is not surprising that few of their candidates for admission come from well-to-do families.

So, the college has always kept the cost of its education well below the national average for private institutions. It has relied on benefactors not only to erect its buildings, but also to give assistance to its students.

Although few of its graduates enter high-salaried positions which would permit them to make major gifts, the number of graduates who contribute something every year to their alma mater ranks among the highest in the country.

Increased alumni support is one of the sources of new funds which will permit the price freeze.

Faculty, administrators, and other employees of the college have agreed to limit their pay increases next year to 5 per cent. And the college's physical plant additions, including the new Physical Educational Complex, will allow the college to accommodate an additional 90 students, thus increasing total tuition income without increasing tuition rates.

The college is also relying on the evidence which indicates that the inflation rate is under control at last.

By a team effort, Springfield College has won a singular victory over rising costs, and we join in the cheers.

SPRINGFIELD COLLEGE FREEZES TUITION, FEES FOR 21 MONTHS

Springfield College has frozen tuition and room and board fees at their present levels

until September, 1984, President Wilbert E. Locklin announced today.

The freeze will keep the tuition rate at $4,500 and the charge for room and board at $2,380 until then, Locklin said. The college will also expand its scholarship aid to compensate for cutbacks in federal programs.

"This program marks the first time in a decade that we have been able to place a cap on all charges to our students," Locklin said. "This accomplishment is also attributable in no small measure to the support of our faculty and staff, who have willingly limited salary increases for the coming fiscal year."

INCREASE ENROLLMENT

Faculty and staff have agreed to limit salary increases to 5 percent for the 1983-84 fiscal year. The college will cover these raises as well as rises in operating costs by increasing enrollment from 2,200 to 2,290 students in 1983-84, Locklin said.

He said income from the college's scholarship fund will increase 40 percent, including $120,000 in new funds from private sources and contributions, in the coming fiscal year.

A 30 percent rise in receipts from the alumni fund will allow the college to set aside $1.2 million for direct student assistance to offset declines in federal assistance, Locklin said.

90 STUDENTS LEFT

More than 70 percent of the students at the college receive some form of financial aid. Ninety students cited financial reasons last year when they withdrew from the college.

"It has become apparent that Springfield College students cannot expect new or increased financial aid from the federal government," Locklin said. "Therefore the college is taking the initiative to provide not only more scholarship funds but an assurance to our students and their parents that they can formulate family budgets secure in the knowledge that our charges will remain fixed for at least the next 21 months."

Locklin said the college would be able to increase enrollments to cover rising operating costs because it has established new programs and developed existing ones. In recent years the college has added majors in physical therapy, health fitness, sports medicine, business management and cardiac rehabilitation.●

NORMALIZATION OF RELATIONS WITH CUBA

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, January 3, 1983

● Mr. WEISS. Mr. Speaker, I am introducing legislation today to end the U.S. trade embargo against Cuba and to establish full diplomatic relations between our two nations.

It is quite clear that the U.S. policy of ignoring Cuba's existence and of prohibiting any commerce between our countries has long since outlived whatever usefulness it may once have had. For nearly two decades the United States has tried, without discernible success, to use trade as a weapon against the Castro government. The embargo has not destabilized the Castro regime. It has not caused any slackening of the ties between Moscow and Havana. And it has not produced any apparent modifications in Cuban foreign policy.

The embargo has, however, inflicted severe economic hardships on the Cuban people, hardening resentment against the United States. It has also encouraged a heavy dependence by Cuba on a nation thousands of miles from its shores while precluding mutually beneficial commerce between Cuba and one of its closest neighbors.

Maintaining the embargo is now clearly contrary to the best interests of the United States. We have far more to gain—economically and politically—by restoring trade and diplomatic relations with Cuba than by clinging to an anachronistic, discredited, and counterproductive policy.

To its credit, the Carter administration initiated efforts to lessen the hostility between the United States and Cuba. This process has, however, lost some of its momentum in recent months, and I am hopeful that my legislation will renew productive discussions and that its provisions will soon be adopted.

The influx of Cuban refugees to the United States clouded the issue surrounding the action I am proposing today. Still, these refugees will be assimilated into our society as refugees historically have been received by our Nation.

For its part, Cuba has in recent years repeatedly and consistently demonstrated its desire to enter into a normal relationship with the United States.

In 1973 the United States and Cuba signed an antihijacking agreement that has been respected by both parties and which has discouraged acts of air piracy.

A pact on maritime boundaries and fishing rights was concluded between our two nations in April 1977.

In August 1977, President Castro agreed to permit all single-source Americans to return to the United States and to bring with them family members, whether or not they are Cuban citizens.

In December of that same year, the Cuban Government agreed to release some 500 dual nationals and permit their emigration to the United States.

Most encouraging of all, Castro announced on November 21, 1978, that he would release 3,600 political prisoners in Cuba and permit their emigration to the United States. Now largely accomplished this release accounts for about 90 percent of all persons held in Cuban prisons on political charges.

And as a result of a dialog between Cuban Americans residing in the United States and the Cuban Government, it was announced in December 1978 that families separated in the United States and on the island would be reunited. Permission for visits to the island by Cubans living abroad was also granted in the course of that historic dialog. Some 50,000 Cubans living in this country have visited their homeland since that agreement was reached.

The Cubans also released from imprisonment 27 U.S. citizens being held on assorted charges. This humane expression of goodwill further exhibits the possibility of revitalized relations between Cuba and our Nation.

It would seem, Mr. Speaker, that through these actions Cuba has fulfilled many of the human rights requirements which have been raised as prerequisites to normalization. More progress can and should be made in this area, but I believe that Cuba has now amply demonstrated its willingness to make concessions in its domestic policies in return for full ties with the United States.

We should not now turn our backs on this display of good faith and this commitment to compromise. Instead, we should move ahead expeditiously toward a normal relationship with Cuba which will facilitate further improvements in the human rights situation.

Continuing the embargo will lead increasingly to political isolation for the United States and will cause damage to our prestige throughout the Third World. Eleven nations in the Western Hemisphere now have full ties with Cuba. In addition, Canada, Japan, and many Western European nations enjoy a steady trade with the island. Japanese exports alone now total more than $500 million a year.

American companies would have a distinct competitive advantage in Cuban trade were the embargo lifted. Cuba is very anxious to purchase agricultural machinery and other types of technology from the United States. Exports would greatly outstrip imports of Cuban sugar and other products, thereby helping to lessen our balance-of-payments deficit.

The process of normalization between the United States and China also offers good reason to believe that the issue of expropriations and restitutions can be readily resolved between our governments. A formula for settling claims resulting from the seizure of American property in China was devised after Washington and Peking restored full relations. A similar agreement can, I am sure, be reached with Cuba following normalization.

Cuban and the United States will continue to have serious and far-reaching political differences for the foreseeable future. But differing economic systems and world views have not prevented the United States from exchanging envoys and establishing trade links with the Soviet Union, China, and many Eastern European nations. Indeed, it has been shown

that normal relations are almost always more conducive to U.S. interests throughout the world than is the policy of hostile noncommunication.

Ultimately, the United States and Cuba will normalize their relationship and develop trade links. This is certainly the direction in which U.S. foreign policy has been moving over the past 5 years. I urge my colleagues to hasten the day when political realism is formally substituted for an outmoded policy of animosity. I urge them to join me in cosponsoring this legislation and in working for an end to the embargo against Cuba.

A copy of the legislation follows:

H.R. —

A bill to remove certain trade restrictions with respect to Cuba

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 301(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2221(b)) is amended by striking out the second sentence.

(b) Section 620(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a)) is hereby repealed.

(c) Public Law 87-733 (76 Stat. 697), approved October 3, 1962, is hereby repealed.

(d) Presidential Proclamation 3447 of February 3, 1962, shall cease to be effective on the date of the enactment of this Act.

SEC. 2. Any regulations issued by the President or any Federal department or agency to carry out those provisions of law stricken or repealed by the first section of this Act, or to carry out the Presidential proclamation made ineffective by such section, shall cease to be effective on the date of the enactment of this Act.●

CLASSIFY USED OIL AS HAZARDOUS WASTE TO ENCOURAGE RECYCLING

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, January 3, 1983

● Ms. MIKULSKI. Mr. Speaker, I am today introducing a bill to remedy an environmental hazard resulting from the dumping of used oil. Every year millions of gallons of used oil are dumped on the ground, in our streams, or burned. This oil is a valuable resource that can be used over and over again.

My bill would encourage recycling by classifying used oil as a hazardous waste without regard for the volume produced. It requires that generators and collectors of used oil, mostly gas stations, have a contract in effect or be an approved and licensed oil recycler.

My bill removes the burden of recordkeeping from the collectors. Rerefiners who pick up and process the used oil would be required to keep the records—accounting for all products, byproducts and waste products.

The advantage of this legislation is that it relieves the small generators of complicated paperwork if they sell their used oil to recyclers. It also provides an efficient method for disposing a waste which is often carelessly disposed. Moreover, it provides for the more economical use of a scarce resource.

I urge my colleagues to give thorough consideration to this measure.●

LEGISLATION TO ADJUST OMB PAY LEVELS

HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, January 3, 1983

● Mr. BROOKS. Mr. Speaker, today I am introducing legislation to raise the level of the Director of the Office of Management and Budget to that of the members of the President's Cabinet. We have seen over the past 2 years that the Director of OMB plays a central and vital role in shaping the direction and policy of the executive branch. Congress has recognized that the position of OMB Director is as important as that of Cabinet officers by requiring that nominations for the position be subject to confirmation by the Senate. One important step remains in placing the position of OMB Director correctly in the institutional framework: We should compensate the Director at the level of Cabinet Secretaries and his Deputy at the level of Deputy Cabinet officers.

I have suggested this legislation for several Congresses, and its merits are as strong now as they have been in previous years. First, it is only fair that we compensate officials who have similar levels of responsibility at similar rates of pay. In addition, the OMB Director should be able to conduct his dealings with Cabinet Secretaries concerning essential administrative and budget issues on the same management level as those officials. Similarly, the Deputy OMB Director should deal as an equal with lower level Cabinet officials.

Mr. Speaker, I want to stress I am proposing this legislation as an improvement to the institutional structure of the executive branch rather than on any personal basis. It was a good idea when Jim McIntyre was Director of OMB in the Carter administration, it is a good idea with David Stockman as OMB Director under President Reagan, and it will be a good idea for whoever succeeds Mr. Stockman in that position. I hope this bill will be approved promptly by Congress.●

THE PROBLEM WITH THE IMPORTATION OF ALGERIAN LIQUEFIED NATURAL GAS

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, January 3, 1983

● Mr. CORCORAN. Mr. Speaker, the 97th Congress has now ended and it has failed to act in any substantial way to address the many problems that exist in the natural gas industry. Misguided Government intervention in the marketplace has created a situation where natural gas consumers are confronted with tremendous price increases this winter. These increases are unwarranted. They occur at a time when prices should be decreasing, because natural gas supplies are up and demand is down.

An article appeared in the January 3, 1983, Forbes magazine which, I believe, accurately depicts one aspect of the natural gas problem: the importation of liquefied natural gas from Algeria. The 98th Congress, which convenes today, has a fresh opportunity to act in a meaningful way on the natural gas issue. I include this article in the RECORD for the benefit of my colleagues with the hope it will help shape the future debate in a positive and significant manner:

[From Forbes, Jan. 3, 1983]

NATURAL GAS

(By William Baldwin)

Back in the early Seventies, it seemed to make sense. In retrospect, it was one of the worst ideas ever: Buy up trillions of cubic feet of liquefied natural gas in Algeria and ship it to the U.S. in special refrigerated tankers.

In September, Panhandle Eastern, a Houston-based pipeline company, began taking deliveries of Algerian LNG under a contract that runs for another 20 years. If the contract holds up, the company will be spending $1.1 billion a year for energy that is worth only $750 million a year to the U.S. But there's a fair chance that, under orders from the Federal Energy Regulatory Commission, the project will meet the same fate as an earlier one by El Paso Co. and be scrapped. That would leave only one working LNG import deal: a small project run near Boston by Cabot Corp. and supplying only winter peak-load gas.

How did Panhandle get into this mess? It was only responding to the tortured economics of federal gas regulation. First there were three decades of price ceilings, which so discouraged exploration that by the mid-Seventies the U.S. had a bad natural gas shortage. That was followed by a partial deregulation in 1978, which tempted the pipelines to overpay for new supplies because the cost could be rolled into a base of old gas maintained at artificially low prices. Now there's a gas glut.

If Panhandle honors the contract, it will be paying just under $4 per thousand cubic feet (mcf) for LNG in Algeria, having it hauled to the U.S. and converting it back into gas to be injected into one of its pipeline systems in Lake Charles, La. All in all,

transportation and regasification would add about $3 per mcf to the price, for a total price tag of just over $7, on a contract volume of 165 billion cubic feet a year.

Panhandle doesn't like to talk about that $7 cost. Why? Because the gas is worth only about $4.50 at the burner to the many industrial users who can burn low-grade fuel oil instead. Panhandle focuses on its average selling price which would range from $3.79 to $4.38 if FERC permitted recovery of the LNG outlays. Even with a distributor's markup, those prices are competitive with fuel oil in many areas.

But economists argue that average costs are the wrong way to look at an energy supply. What matters is marginal costs; what the last drop of energy costs to get, what the last customer in line is willing to pay. The fact remains, says Henry Jacoby of MIT, that the LNG deal displaces $4.50 fuel oil with $7 imports. It's irrelevant that Panhandle has some cheap supplies, too or that Panhandle gas is used by some homeowners to whom it may be worth $10. The only possible rationale for taking the LNG, Jacoby says, is the expectation that if the Algerians are overpaid now, they will gratefully furnish bargain gas in five or ten years, when the U.S. may be desperate for additional supplies.

That doesn't seem likely. In the earlier, and since scuttled, LNG deal, the Algerians stung El Paso Co. with an attempted 200% price increase after El Paso and its three pipeline customers had spent over $1 billion on LNG tankers and port facilities. And only last summer—even as the U.S. was drowning in a gas glut—the Algerians forced Panhandle to agree to a 70% acceleration in the rate at which the $4 base price escalates with future crude-oil prices.

If the energy is worth $4.50 per mcf in the U.S. and costs $3 to get here, it is, logically, worth only $1.50 FOB Algeria. But it's unlikely the Algerians would agree to a drastic price cut, since they are probably spending at least $2 an mcf just to liquefy the gas. "With few exceptions, LNG projects don't make any sense," says Bijan Mossavar-Rahmani, a former Iranian delegate to OPEC who is now at Harvard. Utilities and industrial users on the Panhandle system agree: They are asking FERC to invalidate the Algerian contract.

But getting rid of the albatross will mean big writeoffs on both sides of the Atlantic. On this side, there is the $150 million annual cost of mothballing and amortizing Panhandle's Lake Charles terminal, plus the near-total loss of $375 million sunk in two U.S.-owned LNG tankers. The company could make a strong case that it shouldn't pay the entire tab since, after the gas shortages of the past decade, government regulators and utilities egged the pipelines on in a pay-anything hunt for supplies: deep-well gas, gas from coal and imported LNG. In fact, some of the same users complaining about the high-price gas now are also involved in $2 billion worth of lawsuits against various pipelines for the gas curtailments in the Seventies. Damned if you do, damned if you don't

Panhandle's problem looks like a disaster for almost all involved—but not quite all. There are 80 parties and intervenors in the federal proceedings, and plenty to fight over. It means, says one FERC attorney, "megadollars for the lawyers."●

AGE DISCRIMINATION IN EMPLOYMENT ACT AMENDMENTS

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, January 3, 1983

● Mr. WEISS. Mr. Speaker, I am today reintroducing legislation that would amend the Age Discrimination in Employment Act in two areas. I believe that this bill is necessary to clarify ambiguities left by the 1978 amendments to that act (Public Law 95-256) and a Supreme Court interpretation that runs contrary to congressional intent.

The first amendment, to section 15 of the act, would insure that Federal employees who are covered by the act have the same right to a jury trial as non-Federal employees. While it was never Congress' intent in the 1978 amendments to preclude such action, Federal defendents have argued that Congress intentionally withheld this right. I believe that the intent of the act must be clarified to preclude the possibility that a case would arise whereby a Federal employee would in fact be denied a jury trial.

The second amendment permits individual complainants to bypass State remedies and file directly in Federal court. The Supreme Court ruled 4 years ago in Oscar Mayer & Co. against Evans that in States where such remedies are available, resort to them is mandatory and not optional. Now after an individual files charges with a State agency, a 60-day waiting period must be observed before Federal action can be commenced.

At the very least, complainants will be delayed 60 days. And there is of course the possibility that plaintiffs who are unfamiliar with this requirement could jeopardize their entire suit. I believe that complaints should not have to defer their Federal action in favor of State procedures unless they voluntarily choose to do so. Such a process is contrary to the purpose of the act which provides that disputes be rapidly adjudicated. By restating congressional intent more clearly we can insure that older workers will at least have their complaints heard on the merits quickly and not sidetracked or dismissed on procedural technicality.

I believe that these amendments will successfully address any ambiguities in the 1978 amendments which are the result of drafting language rather than congressional intent. I hope that my collegues will join me in support of this legislation.

A copy of the bill is printed below.

H.R. 415

A bill to amend the Age Discrimination in Employment Act of 1967 to permit persons to bring suits under the Act in Federal district courts without regard to whether any proceedings have been commenced by or on behalf of such persons under State law, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of section 14(b) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633(b)) is amended by striking out "no suit may be" and all that follows through "*Provided,* That such" and inserting in lieu thereof the following: "any person who desires to bring a suit under section 7 of this Act may bring such suit without regard to whether any proceedings have been commenced by or on behalf of such person under the State law. If such person commences any proceeding under the State law before bringing a suit under section 7 of this Act, then such person may not bring any such suit under section 7 of this Act before the end of the period of sixty days following the commencement of proceedings under the State law, unless such proceedings have been earlier terminated such".

SEC. 2. Section 15(c) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a(c)) is amended by adding at the end thereof the following new sentence: "The provisions of section 7(c)(2) of this Act shall apply in the case of any action brought under this subsection.".●

REDUCING THE RISK OF WAR

HON. WILLIAM CARNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, January 3, 1983

● Mr. CARNEY. Mr. Speaker, today I took the oath of office for the third time as U.S. Representative for the First District of New York. Once again, I experienced the sobering awareness of the seriousness and awesomeness of being the duly elected representative of the people in the greatest democracy on Earth.

Of the many duties we have as Members of Congress, none is more significant than to insure the preservation of the liberties we enjoy in this democracy. All that we have as Americans ultimately is dependent on that liberty.

As defender of the Free World against those who would destroy or deny those liberties, the United States has played a unique role in the world since the end of World War II. Today the potential use of weapons we have taken up in the defense of freedom increasingly is seen as a threat to all that we hold dear. Across the Nation, the threat of nuclear war has stirred the consciousness of Americans from all walks of life. That concern is legitimate and, I submit, perfectly understandable.

That full-scale nuclear war would wreck unimaginable havoc on the world is undeniable. That there are

too many nuclear weapons in the arsenals of both the United States and the Soviet Union is undeniable. But it is also undeniable that the possession of those nuclear weapons, and of the credible means for delivering them to their targets by the Free World has prevented the very nuclear war we all want to avoid.

Last November, millions of Americans had the opportunity to express their opinion directly on the ballot about the nuclear war threat. I regret that, at least to my knowledge, in no instance were people given the chance to indicate a choice between several legitimate options for reducing the threat of nuclear war. But despite this serious flaw in the referendums on an immediate freeze in nuclear weapons, the passage of those measures reflected legitimate concerns.

From what I understand, in virtually every instance the resolutions on ballots called for negotiations to achieve a freeze at current levels of forces. But what Americans must understand is that there is hope for a safer, saner, more stable world. And that hope lies in existing nuclear arms negotiations, not potential negotiations as the so-called freeze referendums proposed.

To support future negotiations for a freeze at existing force levels is simply unacceptable. We must instead reduce those levels—not agree to keep them so obscenely high.

It was my extreme pleasure to join today with my esteemed colleagues, Mr. BROOMFIELD and Mr. STRATTON, in the introduction of what is the better way to insure lasting peace.

Our resolution calls for mutual and verifiable reductions in the nuclear arsenals of the superpowers. Most important, our resolution expresses the full support of the Congress for the two ongoing arms reduction negotiations in Geneva seeking substantial, verifiable, equitable, and militarily significant reductions in those arsenals.

The resolution also specifically attempts to reduce the risk of war not only by urging both superpowers to negotiate confidence-building measures, but also to focus special attention on reducing weapons which, because of their unique capabilities, are judged to be particularly destabilizing.

At this very moment, both sides in the Geneva negotiations are seriously considering proposals which would reduce the amount of ballistic missile warheads, the number of intercontinental ballistic missiles, and the aggregate number of strategic nuclear delivery vehicles well below both current and SALT II levels.

Our resolution puts the Congress firmly in favor of real and substantial nuclear arms reductions and thus works toward the preservation of our liberties that we are sworn to uphold.

In the coming weeks we will be seeking the support of our colleagues for this true alternative. I am proud to be an original cosponsor of the resolution introduced today, and I urge my colleagues to join in our effort.●

SECOND ANNUAL LOWENSTEIN CONGRESSIONAL SYMPOSIUM

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 3, 1983

● Mr. WALGREN. Mr. Speaker, last March, on the second anniversary of the tragic death of Allard Lowenstein, a remarkable symposium took place at the Capitol to commemorate his life and to address the pressing challenges and opportunities facing the Nation. Over 200 people of diverse backgrounds and involvement participated. The list of speakers and panelists included several Members of this body of both parties as well as other distinguished figures like Paul Warnke, Ronnie Dugger, Senator ALAN CRANSTON, and Arthur Schlesinger, Jr. The response to the symposium was enthusiastic, and all felt that meetings of this kind could help in creating thoughtful dialog directed toward action and to fill a portion of the void left in the Nation's life by Al Lowenstein's death.

A second annual Lowenstein symposium is being planned this spring for March 18–20, 1983. The heart of the event, as last time, will be a series of Saturday panels, to be held on March 19, at which a variety of the central issues of the eighties will be addressed. As was shown at last year's conference, and as Al Lowenstein always demonstrated, intensity of commitment need not be accompanied by closed-mindedness, and realism and pragmatism focus literally requires thoughtful concern about our present dilemmas.

Five years ago, in an address at this season, Al Lowenstein spoke of the imperatives of what he called a race heading at full speed toward our own extermination. He said:

> I am struck by the incapacity of people functioning as diplomats to remember that they are people first and diplomats second, so that they can reach to each other and figure out ways that they can resolve dilemmas to the mutual advantage of the whole human race. . . Much more than that has to happen, or we will continue plummeting towards this extraordinary conclusion, at the very moment we should be rising toward the fulfillment of our greatest hopes.

That is the kind of test, Mr. Speaker, which should impel not only diplomats but all who care about the future of this planet and its children, and particularly those of us charged with a special public trust. Only by continued rededication to courage, compassion, intelligence and hope can we meet it, and thus help build from the magnificent legacy left to us by Al Lowenstein.

I am including at this point an account from the Washington Post from March of last year, describing the first Lowenstein symposium:

[From the Washington Post, Mar. 15, 1982]

LOWENSTEIN LEGACY

(By Carla Hall)

"Can you imagine," Rep. Tom Harkin (D-Iowa) asked the audience in the Cannon Caucus room, "what Al Lowenstein would have done when he had found out that Ernest Lefever was the administration's nominee for assistant secretary of state for human rights?"

The audience chuckled at the image of the late Allard Lowenstein: antiwar activist, civil rights activist, originator, in 1967, of the Dump Johnson movement, one-term congressman, tireless, electric, charismatic. They could predict what he would have thought of the controversial Lefever, the bane of human rights activities. But wait . . .

"First," said Harkin, "we would have found out Al Lowenstein and Ernest Lefever washed dishes together in college." Laughter surged through the room.

The stories were like that on Saturday—memories of Lowenstein, the man who mobilized students with his oratory and his "we-can-do-it" spirit, the man who somehow managed to catalyze people at all points on the political spectrum. "Never did anybody have so many friends on the other side of the issue," said Rep. Barney Frank (D-Mass.). And when he was felled by seven bullets from the gun of a mentally troubled former protégé, both Sen. Edward Kennedy (D-Mass.) and conservative William Buckley spoke at the memorial service.

So those who gathered at the first Allard Lowenstein Congressional Symposium this weekend could only be classified as "Al people," the term his brother Larry used. They were students grown older, politicians, human rights activists and friends, and all told stories, which inevitably highlighted feverish conversations with Lowenstein, late into the night. Ellison C. Wynn, a retired Army major who was Lowenstein's commander in the Army, heard about the symposium and was there. Mike Farrell, B. J. Humicutt of M*A*S*H, who is producing a documentary on Lowenstein, sat in the audience.

The symposium ranged from panel discussions on domestic political priorities to human rights and American foreign policy. There was angry talk about what Reagan is doing and there was impatient response from the audience along the lines of "Okay, just what will we do as an alternative?"

"I remember the night of the New Hampshire primary in 1980," said Susan McLane, former Republican state senator from New Hampshire. "My daughter had spent all day driving Al around New Hampshire. He was campaigning for Kennedy. My daughter voted for Anderson. My husband and I were heading the Bush campaign in New Hampshire. . . I don't think there was a person there who had voted for Ronald Reagan. Every one of us was a loser. So here we are again, a bunch of losers, and we're going to talk about what Al would have done."

So they talked:

"Allard—who expended so much of his heart and mind toward getting Americans out of a war in Southeast Asia—would have been an invaluable ally for those of us who

are trying to keep Americans from getting into a war in Central America," said Sen. Alan Cranston (D-Calif.).

"He'd be very concerned about El Salvador," said the Rev. William Wipfler from the National Council of Churches. "I think he'd be fighting terribly the cutting away of four decades of programs that helped the poor, and he'd be fighting the military budget tooth and mail. No question."

"Al Lowenstein would have regarded what's happening today with horror," boomed Father Robert Drinan, former Democratic congressman from Massachusetts and now president of Americans for Democratic Action. "We're looking at the total counterrevolution of all the things that Al Lowenstein fought for . . . ."

And from a man in the audience: "I really wonder if Al would praticipate in an all-day seminar where we're all saying the same things. . . . I think he would have demanded action. . . ."

"It's not presumptuous to compare Al Lowenstein with Mahatma Gandhi and Martin Luther King," said Rep. Andrew Jacobs (D-Ind.).

How did a one-term congressman move people like this? It had less to do with his time in Congress and more to do with his work outside Congress—his antiwar activism, his founding of an organization (the Coalition for a Democratic Alternative) dedicated to blocking Lyndon Johnson's renomination for the presidency. He was only a congressman—from the 5th Congressional District in Long Island—from 1968 to 1970. He was defeated for reelection in 1970. But he was active in other issues (like voter-registration of 18-year-olds) and organizations (he was chairman of Americans for Democratic Action). In 1977, he was named U.S. ambassador to the United Nations for special political affairs.

"In 1967, I was organizing students against the war," said Steve Cohen, professor of law at the Georgetown University Law Center, who was on Lowenstein's 1968 congressional campaign staff. "Allard would go into a hostile audience who were pro-war and in five minutes, he would convert them into doves. Well, maybe not five. Maybe 10."

"I don't know if any of you are familiar with the Lowenstein domino theory," said Greg Craig during the human rights panel discussion. "You know how you change the regime in South Africa? By changing the regime in Spain." (Chuckles around the room.) "By changing the regime in Spain, the regime in Portugal would fall. Now if the Portuguese regime fell, Angola and Mozambique would fall and that would open the doors to South Africa."

After the panel discussion, documentary filmmaker Barbara Miller walked away, brooding over El Salvador. "Just because a middle-ground solution hasn't been found in El Salvador doesn't mean it can't be found," she said. "Al would find one that would satisfy the ultimate solution."

Miller met Lowenstein in 1968 when she was doing research for a film on the Democratic convention that was never made. She kept running into him after that. "In following the Kennedys or whatever, you always came back to him," she said. "You couldn't avoid him. I was so impressed with Al. You couldn't predict what he would say. He would attract the most intelligent liberals and conservatives. He thought about each issue independently."

Now she's trying to do the same. "What do you do if you're a liberal and you can't stand what you see in Poland? That means you support Reagan," she said. "If you look at what the Russians are doing in Afghanistan, in Poland, they are really on the move. You can't take all the isolationist views we used to take. Lord knows, I've marched enough for peace. But I think we have to be like Al and look at each situation."

Allard Lowenstein's ex-wife Jenny Littlefield and his two children were there. Tom Lowenstein is 12, has dark curly hair, and was dressed in a jacket and tie, with white tennis shoes. "Lots of people come up and say, 'I've known you since you were this high,' and other people come up and say, 'I'll bet everyone's saying to you, "I've known you since you were this high."' " He smiled and shrugged. "I don't mind it. It's kind of fun."

At the end of a day filled with praise for Lowenstein and concern for the much-battered liberal cause, some perspective was offered. Said Rep. Frank: "You hear the charge that liberals have no new ideas. In the first place, very few people in politics have new ideas. This is not high-energy physics. What you get are different combinations of ideas. The ideas that Reagan proposed in 1980 are the things that got him laughed at in 1976." With those words, the "Al people" went out into the warm, late afternoon sunshine in search of such new combinations.●

TRIBUTE TO TRANSPORTATION SECRETARY DREW LEWIS

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, January 3, 1983

● Mr. CONTE. Mr. Speaker, last week the Secretary of Transportation, Drew Lewis, announced his resignation from the Cabinet to return to the private sector. I would like to take this opportunity to pay tribute to Secretary Lewis, and to wish him well in all of his future endeavors.

Without detracting from any of the other Cabinet members, it would be fair to say that Drew Lewis has been one of the real stars of this administration. He brought to the Department of Transportation a solid background of achievement in business and management positions, and this experience rapidly paid off as he took firm control of the Department from his first day in office. The combination of managerial skill and political savvy exhibited by drew Lewis would prove to serve him well in dealing with the difficult issues of 1981 and 1982.

As the ranking Republican on the House Appropriations Committee, and as a member of the Transportation Appropriations Subcommittee, I have had the privilege of working closely with Drew Lewis, not only on budget and appropriations matters, but also on some of the major policy initiatives undertaken under his leadership.

Any list of Secretary Lewis' accomplishments over the past 2 years would have to include the development of a new plan for a modernized air traffic control system, along with the passage of related aviation user fee and airport development legislation. In addition, his handling of the air traffic controllers' strike, while controversial, insured the continued safety, integrity, and operation of the national air traffic control system.

The recent enactment of new legislation that provides for increased funding of our many unmet highway and mass transit needs was due in no small part to Secretary Lewis' persistent advocacy, both within the administration and here on Capitol Hill.

Mr. Speaker, I could go on and on about the many other accomplishments of Drew Lewis during his 2 years at the helm of the Department of Transportation. Such a list could include his handling of the national railroad strike, the development of a sound metropolitan Washington airports policy, his efforts to negotiate voluntary restraints of Japanese auto imports, and his promotion of programs to reduce the incidence of drunk driving.

Mr. Speaker, I am sure that my colleagues will join me in thanking Drew Lewis for his dedicated public service, and in wishing him well in his new endeavors.●

TRIBUTE TO DICK WHITE

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, January 3, 1983

● Mr. MAZZOLI. Mr. Speaker, it is appropriate that I pay tribute to a good friend and colleague of the House, Richard C. White, of the 16th Congressional District of Texas.

In the years I have known him, I have always respected Dick as a careful, thorough, and thoughtful legislator. Dick has given effective leadership to the House and is a good man. We will miss him and I wish him well in his new pursuits.●

UNICEF SAYS WE CAN HELP THE WORLD'S CHILDREN SURVIVE

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, January 3, 1983

● Mr. BARNES. Mr. Speaker, UNICEF was the subject of an excellent, informative op-ed piece that appeared in the Washington Post on December 31, 1982. I hope that my colleagues will take the time to read this brief commentary of UNICEF's programs and the current technology that allows us to forge ahead with the children's "survival revolution."

[From the Washington Post, Dec. 31, 1982]

(By Stephen S. Rosenfeld)

BILLION-DOLLAR BARGAIN

It gives a nice glow to send or receive a UNICEF holiday greeting card: you are doing your bit for the world's children. Just how much you are doing, and how little, you can discover from "The State of the World's Children, 1982-1983," the annual report of the United Nations Children's Fund put out by its executive director, James P. Grant.

Grant, well known in Washington for his work at AID and the Overseas Development Council, is a great packager and promoter of the do-able. In his new report, he offers something eye-popping: how to cut in half, from 40,000 to 20,000, by the year 2000 the number of children who die from malnutrition and infection everyday, and how to do this for a mere $1 billion a year, with existing technology and infrastructure, and without further political changes or risks for the Third World nations where the kids now die.

UNICEF's four aces:

(1) Oral rehydration therapy (ORT), a new technique developed in Bangladesh using cheap, easy-to-use materials to stop the diarrhea-caused dehydration that is the single biggest killer of children in the world.

(2) Universal child immunization, made feasible by scientific advances (more heat-stable vaccines) and by the delivery system of community organizations and paraprofessionals now increasingly in place in the Third World.

(3) Promotion of breast feeding, which has declined steeply in recent decades in poor countries, to reduce "the most unnecessary malnutrition of all."

(4) Mass use of home child-growth charts to make mothers the more knowing and participatory helpers of their children's health.

These four "low-cost, low-risk, low-resistance people's health actions," as Grant describes them, "do not depend on the economic and political changes which are necessary in the longer term if poverty itself is to be eradicated. They are available now"—given, as always, the political will.

Nor will such a children's "survival revolution" merely run up population growth rates, Grant argues. As parents become more confident that their childrem will survive, they tend historically to have fewer births.

I heard a roomful of development professionals dissect the UNICEF program for an evening. Basically, no one could lay a finger on it.

But so much for the hopeful side. The sobering side starts from an awareness that economic distress has halted the postwar improvement in global child health. The numbers of children living and growing in ill health are set to increase.

UNICEF's new program centers on improving the use of available food. But as many as a third of the families in need lack the requisite land, job or income. For them, UNICEF supports, with the rhetoric that is its sole recourse in this realm, "political and economic change to allow the poor to both participate in and benefit from, the increases in production which can most certainly be achieved."

Meanwhile, UNICEF isolates the world's poorest families, finding them caught in a cycle of ill health, low energy and poverty—from which they still could be released by consumer food subsidies targeted on undernourished pregnant women and young children.

Is this getting a little too radical-sounding for you? Is there a bit too much of the proclivity for broad-scale social justice and social engineering that often seems to be mixed with the water up there at the United Nations?

If so, then perhaps you will accept an obligation to spell out your alternative. The unfortunate fact is that the simplest way to remain a moderate and to be regarded as "sound" in the face of great deprivation is to avert your gaze from the conditions that incline many of those who observe them closely to more far-reaching solutions.

In any event, UNICEF finesses that choice in the short run by offering a program within the ideological reach of just about everybody. Think of it: for a lousy billion dollars a year and no revolution, millions of kids can live.●

LEGISLATION TO PROTECT THE PUBLIC FROM THE DANGERS OF IONIZATION-TYPE SMOKE DETECTORS

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, January 3, 1983

● Mr. WEISS. Mr. Speaker, I am reintroducing today two pieces of legislation designed to protect the public from the dangers of ionization-type smoke detectors. One bill would provide that all ionization smoke detectors bear a warning label specifying that they contain radioactive materials. The other would ban the sale of ionization smoke detectors completely.

Ionization smoke detectors, which currently account for about 75 percent of all marketed smoke detectors, contain a highly radioactive substance, usually americium-241.

Many highly respected scientists and radiologists have noted that americium-241, a byproduct of the nuclear cycle, represents a serious threat to human health and to the environment. Americium-241 is 53 times more radioactive by weight than plutonium-239 and has a half-life of 458 years. Experts claim that ingestion of even a minute amount of americium-241 can cause cancer.

Many manufacturers of ionization smoke detectors fail to inform the consuming public of the presence of this radioactive material, nor do they properly stress the need to dispose of ionization smoke detectors in a safe, carefully regulated manner. On the contrary, Government regulations mandating installation of unspecified types of smoke detectors in homes built with FHA or VA assistance have promulgated the careless proliferation of these potentially dangerous devices.

The Federal regulation, coupled with State and local laws requiring smoke detectors in all homes, means that as many as 20 million ionization smoke detectors may now be in operation.

Since purchasers of ionization smoke detectors are not being notified properly about potential radiation dangers or disposal procedures, it seems inevitable that some of the americium-241 from smoke detectors will enter the environment eventually and, ultimately, enter the human food chain.

Ironically, a safe and reliable alternative to the ionization-type detector is available currently. In fact, there is some evidence that the modest publicity given the dangers of ionization detectors has spurred sales of its alternative, the photoelectric variety. Photoelectric smoke detectors contain no radioactive substances and have been proven to be equally effective in providing fast smoke alerts.

There is really no justification, therefore, to continue to sanction the sale and distribution of devices which increase radiological health hazards significantly. I hope that my colleagues will recognize the danger posed by this product and join me by cosponsoring my legislation to ban its sale and require warning labels on each detector sold.

The text of the legislation follows:

H.R. 417

A bill to provide that ionization smoke detectors shall bear a label specifying that they can contain radioactive materials

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be unlawful for any person engaged in the packaging or labeling of any ionization smoke detection device for distribution in commerce, or for any person (other than a common carrier for hire, a contract carrier for hire, or a freight forwarder for hire) engaged in the distribution in commerce of any packaged or labeled ionization smoke detection device, to distribute or to cause to be distributed in commerce any such device if such device is not labeled in a manner which complies with the requirement of section 2.

SEC. 2. (a) Any ionization smoke detection device distributed in commerce shall bear a label which—

(1) includes a recognized symbol indicating the presence of radioactive material; and

(2) bears the following statement: "This device contains radioactive material which may be hazardous to your health if ingested or improperly disposed.".

(b) The label required in subsection (a) shall be affixed to the outside back panel or portion of any ionization smoke detection device, and to any package containing such a device.

SEC. 3. Any violation of the first section of this Act shall constitute an unfair or deceptive act or practice in commerce in violation of section 5(a) of the Federal Trade Commission Act and shall be subject to enforcement under section 5(b) of the Federal Trade Commission act.

SEC. 4. For purposes of this Act—

(1) the term "commerce" means—

(A) commerce between any state, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States, and any place outside thereof; and

(B) commerce within the District of Columbia or within any territory or possession of the United States not organized with a legislative body;

but such term does not include exports to foreign countries; and

(2) the term "ionization smoke detection device" means any device which—

(A) is designed to detect the presence of smoke in the atmosphere; and

(B) contains any radioactive isotope.

SEC. 5. The provisions of this Act shall apply to any ionization smoke detection device which is available for retail sale in commerce after the date of the enactment of this Act.

A bill to provide that ionization smoke detectors containing any radioactive isotope shall be considered banned hazardous substances subject to the prohibitions of the Federal Hazardous Substances Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any ionization device which—

(1) is designed to detect the presence of smoke in the atmosphere, and

(2) contains any radioactive isotope;

shall be considered to be a banned hazardous substance for purposes of the Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.), and shall be subject to the prohibitions established in section 4 of such Act (15 U.S.C. 1263) and to the other provisions of such Act.

SEC. 2. Any person who violates the provisions of section 4 of the Federal Hazardous Substances Act (15 U.S.C. 1263), in connection with the manufacture of the device specified in the first section of this Act, or in connection with the introduction or delivery for introduction of such device into interstate commerce, shall be subject to the penalties established in section 5 of such Act (15 U.S.C. 1264).

SEC. 3. The device specified in the first section of this Act shall be liable to seizure in accordance with the provisions of section 6 of the Federal Hazardous Substances Act (15 U.S.C. 1265).●

LEGISLATION TO REESTABLISH SELECT COMMITTEE ON CHILDREN, YOUTH AND FAMILIES

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 3, 1983

● Mr. MILLER of California. Mr. Speaker, today I am joined by my colleagues LINDY BOGGS, JAMES JEFFORDS, HENRY HYDE, HENRY WAXMAN, and TED WEISS in introducing legislation to reestablish the Select Committee on Children, Youth and Families. Last September, the House of Representatives unanimously passed a resolution to create this new committee. Our bipartisan resolution garnered enormous support from nearly 150 national and State organizations, and scores of local groups representing medical and health, education, labor, child welfare, law enforcement, business, nutrition, and religious constituencies. In addition, 229 Members of Congress—liberal and conservative, Republican and Democrat—cosponsored the resolution to create the select committee.

The provisions of the resolution we are introducing today are identical to those of the resolution which created the select committee in the 97th Congress. It will be the responsibility of the Select Committee on Children, Youth and Families: First, to conduct a continuing comprehensive study and review of the problems of children, youth and families; second, to study ways to encourage the development of public and private programs and policies which will assist children and youth to become productive citizens; and third, to develop policies to encourage coordination of both governmental and private programs to address the problems of childhood and adolescence.

The Select Committee on Children, Youth and Families will be a temporary oversight committee with no more than 30 members. It will be empowered to hold hearings and conduct investigations, but will have no legislative jurisdiction. A key element of the select committee's mandate is to present a report to the Congress and the Nation on the status of children and families, and the success and failure of our efforts to assist and support them.

During the past few years, the relationship between the Government and children, youth and families in need has changed substantially. The effects of this change have been profound, and require our most basic concern and evaluation if we are to assure that the American family will emerge stronger, and all levels of Government and the nonprofit and profit-making sectors will become better able to provide their traditional services to our children and families.

It is our belief that we can only make this comprehensive review by crossing committee lines and jurisdictions. You are all aware that in our elaborate committee and subcommittee system, currently 13 standing committees and more subcommittees, have jurisdiction over issues, programs and policies affecting children, youth and families. The Select Committee on Children, Youth and Families seeks to overcome this fragmentation and to present a clear profile of this constituency. On this basis, the select committee will then bring its findings to standing committees and to this body for consideration.

The proposed Select Committee on Children, Youth and Families would enable Congress to make its best determination about how to provide a secure and productive future for America's children, youth and families. We urge you to join us in supporting our resolution to reconstitute the Select Committee on Children, Youth and Families.●

EDITOR ROBERT W. BOYER LOOKED FOR THE GOOD NEWS

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 3, 1983

● Mr. SHUSTER. Mr. Speaker, on April 22, 1982, with Altoona reeling from the possibility of Conrail being broken up and the Altoona shops closed, I received a telephone call from Robert W. Boyer, executive editor of the Altoona Mirror.

"I'm looking for some good news," he stated, as he told me how shaken the community was over the possibility of losing its largest employer.

We discussed the upcoming battle that would be waged to save Conrail, the probability of success, and the assurance that railroad retirement would be protected.

I was so impressed by this positive, yet factual, approach on the part of a distinguished, highly respected, professional newspaperman, that I made a note of it, and decided to save the story for a special time.

That time is now, Mr. Speaker, for Bob Boyer retired on December 31, 1982, after a 55-year newspaper career.

Bob Boyer worked as a reporter and editor for the Altoona Tribune and Altoona Mirror during a period that carried America through depression, war, and change. Through it all, he was the voice of reason and optimism rooted in reality. Through it all he contributed mightily, not only to journalism, but to his community as well.

Not content with managing a large newspaper, and winning numerous journalism awards, including seven Freedom Foundation Awards and seven awards for his work as the Altoona Mirror Farm Editor, he made enormous contributions to his community. Serving as a charter member of the Altoona Redevelopment Authority and as a member and president of the Altoona Chamber of Commerce, he helped guide the redevelopment and industrial diversification of the city and Blair County.

The good news is that he will continue to serve as a member of the Altoona Mirror's board of directors and be active in community affairs.

He is a distinguished American who exemplifies the qualities that helped make our country great—qualities which he has spent a lifetime instilling in those he touched through his pen and his example, so that America's future might be as illustrious as her past.●

GENERATING REVENUES FOR SOCIAL SECURITY

HON. CARROLL HUBBARD JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, January 3, 1983

● Mr. HUBBARD. Mr. Speaker, I received an excellent letter from a fellow Kentuckian, James C. Malcomb, of Worthville, Ky. Mr. Malcomb has written to me about his views concerning the need to restore social security's financial solvency. However, he is opposed to raising taxes as a method to raise revenues for the system. Rather, he believes that putting a "tax on all sports tickets that are sold which would cover every sport of any kind" would get social security "out of the grave state that it is in." I believe my colleagues will be interested in Mr. Malcomb's timely comments, and his letter follows:

WORTHVILLE, KY., *November 15, 1982.*

DEAR REPRESENTATIVE HUBBARD: I am a concerned citizen of Kentucky who has been reading and listening to all media concerning our "failing" Social Security Program. Within the last year, a Commission has been appointed by President Reagan to make recommendations for the purpose of upgrading our Social Security Program. Up until this time, several recommendations have been made as follows: (1) levy taxes on income up to $35,700 in 1983 (2) possibly raising the age limit to 68 before drawing benefits (3) adding tax on gasoline and liquor. These are a few of the recommendations upon the list that has been published.

I must say that the younger generation (those becoming of age at eighteen and older) are entirely over-taxed as it is for benefits that they may never see. With the burden of the price of gasoline that these people must pay for commuting to and from work, the rapidly-rising cost of interest for personal property, and rising utility rates, once can hardly exist with higher taxes on the way.

I have a daughter and son-in-law in this particular position and I personally understand what a real crisis it is to try to pay for the necessities of life, plus all necessary taxes and try to pay for a home so that they might have something that they can call their own. I just don't see how people in this same situation can expect to bear any more Social Security taxes in addition to existing, and accelerating living expenses.

I have been giving much thought to finding a way that the tax might be raised without putting anymore burden on these people, and to regain a sound Social Security Program.

All professional and minor sports of all kinds are becoming or are a "money-making business" in this country. Persons in all social scales are sports' fans of one type or another. The following of sports has become one of the most high-stakes money organizations in the country that makes gambling in Las Vegas and Atlantic City look like "peanuts".

Why not put a tax on all sports' tickets that are sold which would cover every sport of any kind, including horse racing, baseball, basketball, football, tennis, dog racing, tractor pulling, etc. These activities are considered a luxury and not a necessity, and the ones that support sports would not mind, nor do I think would complain on paying a 5 or 10 percent tax on each ticket sold to be given to the Social Security Program each year. I firmly believe that this proposal would pull the Social Security Program out of the grave state that it is in at this time.

I would deeply appreciate your consideration of this proposal, and am looking forward to a reply as to your feelings and views as to a possible solution to the problems of the Social Security Program.

Sincerely,

JAMES C. MALCOMB.●

OUR NATION'S SCHOOLS NEED COMPUTERS

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 3, 1983

● Mr. STARK. Mr. Speaker, one of the disappointments of the 97th Congress was the failure of the Senate to go along with House-passed legislation encouraging all computer firms to donate equipment to our Nation's elementary and secondary schools.

My colleagues and I will be making a major new effort in the 98th Congress to enact this computer donation legislation.

The following article from the Washington Post of December 28, 1982, describes the hunger of area schools for help in moving into the computer age and computer jobs of the future. This is a national hunger by students, parents, teachers, and schools all across the country. I hope that the 98th Congress will respond by enacting the Computer Equipment Contribution Act of 1983.

The article follows:

[From the Washington Post, Dec. 28, 1982]

COMPUTERS ARE THE RAGE—SCHOOLS GOING ELECTRONIC

(By Leah Y. Latimer)

Two years ago, it was a jungle gym. This year, the annual gift donated to Arlington's Barcroft Elementary School by the PTA is an Atari 400 computer.

The Barcroft Parent-Teacher Association's effort to equip the public school with a computer is part of sudden efforts to push Washington area schools into the computer age. Parents, students and community groups—alerted by the popularity of video games and personal and business computers—are increasingly convinced that computer terminals soon will become as common as the telephone and as useful an educational tool as the typewriter.

And now, they say, is the time to start educating youngsters about them. "Computer literacy," it is dubbed.

"Suddenly it's a hot issue," says Marvin Koontz, director of Instructional technology for Fairfax County Schools. Jerry Berry, the country's coordinator for computer programs, explains why: "People are aware that students don't have to be engineers or systems analysts to use computers. They know if students have certain computer skills they have advantages over other people who don't."

The result has been that in just the past two years parent and citizen groups in Arlington, Fairfax, Montgomery, Prince George's counties and the District have pressured school officials through detailed reports and public meetings to put more computers in schools and make them available to even the youngest students.

Student enthusiasm parallels that of their parents. Since 1980, career-oriented courses offered at Prince George's County's Bowie and Eleanor Roosevelt high schools have jumped from two to about 24 due to student demand, said assistant superintendent Daniel Chase. "The demand is far greater than what we can do, he says.

Indeed, training teachers equipping schools with enough computers to give all students regular practice time—as many parents want—and purchasing software is an expensive proposition. Budget-conscious school officials are approaching computer training differently—some aggressively, others with caution.

Once a week, Erol Labosky, Deborah Skelley and Cindy Harmon—11-year-olds in Mrs. Janie Baer's sixth grade class at Patrick Henry Elementary School in Alexandria—each sit at a TRS-80 Radio Shack Microcomputer, punch out names and numbers on black keyboards and watch them flash across a silver screen.

This year, all of Alexandria's kindergarten-through-eighth grade pupils are learning about everyday role of computers and how to use them in courses once available only in high schools. About $400,000 has been spent to equip classrooms and libraries throughout the Alexandria system.

Montgomery, Fairfax and Prince George's counties and District schools also run programs that officials say will be expanded next school year. The District in this school year is spending $1.1 million; Fairfax $700,000; Montgomery $300,000; Prince George's $250,000. Arlington's expenditures for computer training trails behind at $47,000. In Montgomery and Fairfax counties, all eighth and ninth graders are expected to have completed computer literacy courses by next year.

"Take a look at the classified ads," says Alexandria Schools Superintendent Robert W. Peebles. "To ignore what's happening in technology is to go backwards."

In Arlington, a public task force is trying to persuade school officials to approve similar computer programs for the next school year. Despite paring down its budget requests from $400,000 to $240,000 the group has had no assurances from officals who say they are moving cautiously.

"We definitely must address it," says Arlington Schools Superintendent Charles Nunley, "but we're not going to throw a quarter of a million dollars at it." In Arlington and other school systems, computers have typically been used in high school science, math and business courses.

But many parents believe computers should be used in other courses too. Before the current school year is out, the Barcroft PTA in Arlington will have furnished that school with three computers, organized a series of six-week, afterschool sessions and paid for a computer training course for teachers and staff.

"We're doing it because the county has not yet gotten itself together," says PTA president John Tuccillo. "This is one train our kids can't afford to miss."

A recent study by the Federal Office of Technology assessment found that educational systems nationwide are dragging their

feet into the computer age, primarily because of the high costs. OTA proposes using federal funds to defray costs. Meanwhile, congressional committees have approved a bill giving tax credits to firms that donate computer equipment to schools. Moreover, a Scholastic Aptitude Achievement Test in computer science will be offered to high school students nationwide within the next two years.

Despite the recent push, computers are not new to schools. By the early 1970's most used computer terminals linked to a central computer for administrative tasks and teaching data processing. But the development of microcomputers, self-contained units priced as low as $400, has brought on a revolution.

Arlington students recently programmed a computer to project inflation's impact on the price of a cup of coffee through the year 2200. "You could go in a 7-Eleven with a trillion dollars and come out with no change," teacher Michael Johnson says. And educators are expecting a day when computers are used to drill students in everything from spelling to French, though school officials say widespread use is at least five years away.

They also counsel caution: "I think we're going to have a look at children and the individual ways they can learn," says Alexandria assistant superintendent Donald Dearborn, coordinator of that system's computer program.

But some argue that advanced uses are nearly here and that students used to playing computer games at the corner arcade or at home are bored by introductory courses. "We're finding more and more kids are coming into the schools with strong backgrounds," says Berry. "We're going to need more advanced classes."●

WITHHOLDING OF INTEREST AND DIVIDENDS

HON. RON MARLENEE

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 3, 1983

● Mr. MARLENEE. Mr. Speaker, today, along with 16 of my colleagues, I am reintroducing legislation to put a stop to withholding on interest and dividends. I introduced this bill last year, immediately after the tax bill passed the House, because I felt this withholding provision was wrong. It is still wrong today and I want to see it repealed.

It is wrong because withholding will cut the amount of cash people have during the year. It is wrong because the amount withheld may be incorrect for a person's tax bracket, thus requiring a new tax filing for a refund. It is wrong because elderly and low-income people will have to file an exemption certificate for each and every account they have in order to avoid withholding. And, if the exemption is not filed in time, a tax return must be filed the next year, or you lose the money. It is wrong because of the costs involved and because of the enormous paperwork burden on both the consumer and the banking industry, especially the small rural banks.

Many of you are now receiving mail from your constituents who are just finding out about the impacts of this tax. I urge you to join with me in cosponsoring this legislation to once and for all repeal this withholding provision.●

THE REVEREND ARTHUR MARTIN

HON. JAMES T. BROYHILL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 3, 1983

● Mr. BROYHILL. Mr. Speaker, it is with a great deal of sadness that I bring to your attention the death of the father of my fellow Congressman from North Carolina, the Honorable JIM MARTIN.

Congressman MARTIN's father, the Reverend Arthur Martin, died on Saturday in Columbia, S.C. The funeral service is being conducted in Savannah, Ga., today.

I am sure that my colleagues join with me in expressing our deepest and most sincere sympathy to Congressman MARTIN and the members of his family during this difficult time in their lives.●

INTRODUCTION OF LEGISLATION TO PERMIT THE TRANSPORTATION OF PASSENGERS BETWEEN PUERTO RICO AND OTHER U.S. PORTS ON FOREIGN-FLAG VESSELS WHEN U.S.-FLAG SERVICE OF SUCH TRANSPORTATION IS NOT AVAILABLE

HON. BALTASAR CORRADA

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Monday, January 3, 1983

● Mr. CORRADA. Mr. Speaker, I am today reintroducing a bill of great importance and interest to my constitutents in Puerto Rico. This legislation will enable the movement of passengers between ports in the mainland United States and ports in Puerto Rico on foreign-flag until such time as there is service available on U.S.-flag vessels.

The 97th Congress approved identical legislation, H.R. 1489, on August 17, 1982, by a vote of 387 to 0. The bill was the subject of 2 days of hearings in San Juan and here in Washington, D.C., and is supported by the Department of Transportation and the administration.

Approval of this bill will restore freedom of movement and the right to travel of thousands of persons in Puerto Rico and the U.S. mainland who cannot travel by air, the only mode of transportation currently available between the mainland and the island.

There is widespread support for this legislation in Puerto Rico as evidenced by the number of witnesses and organizations that endorsed it. The need for this bill stems from the fact that since 1953 there has been no U.S.-flag passenger service between the mainland United States and Puerto Rico and none is contemplated at this time. There are safeguards in the legislation to insure that U.S.-flag service will displace foreign-flag service once it becomes available.

I again would like to stress that this bill only addresses passenger transportation. It is not my intention, at this time or at any time in the future, to request an exemption for Puerto Rico from the provisions of the Jones Act relating to cargo. This is very simple and straightforward bill on which a strong record has been compiled to show it need.

I look forward to prompt action by the Congress on my legislation and will appreciate the support of my colleagues.●

ARTHUR RUBINSTEIN

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, January 3, 1983

● Mr. DOWNEY of New York. Mr. Speaker, during the hectic final days of the 97th Congress, the cultural world sustained a great loss. The world will truly miss the remarkable talents of classical pianist Arthur Rubinstein, who passed away December 20, at the age of 95. Through his interpretations of music by many renowned composers, Rubinstein radiated to his audiences the brilliance and joy that were his expression of life.

During his extraordinary 77-year career as a performing artist, Arthur Rubinstein justly earned his reputation as one of the grandest pianists of the 20th century. His boundless energy permitted Rubinstein to share his gift with millions through a vigorous concert schedule and huge album sales until failing eyesight forced him to retire. Although his performing career ceased, his love affair with life did not. He continued his contributions by teaching young pianists and completing his autobiography.

Born in Poland, Rubinstein chose to become an American citizen in 1946. In 1976, he was awarded the Medal of Freedom, the highest civilian honor in the United States. The countless other awards and honorary degrees cannot, however, equal in stature Arthur Rubinstein's cultural contributions to this Nation and the world.

Arthur Rubinstein's timeless style will be appreciated for generations to come. He will truly be missed, but never forgotten. His exceptional musical contributions are preserved on scores of recordings, his spirit and exuberance are preserved in the memories of musicians and music lovers everywhere.●

HOUSE OF JOINT RESOLUTION 1

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, January 3, 1983

● Mrs. KENNELLY. Mr. Speaker, it is with hope and confidence that I join with over 220 of my colleagues to introduce the equal rights amendment, which has the honor of being designated House Joint Resolution 1.

We have not forgotten the disappointment of last June 30 when the 10-year drive for the ERA's ratification was blocked. We have neither forgotten nor have we given up the struggle. Last year opponents of the measure proclaimed it dead—"not only dead now but forever in this century." We resume our efforts to prove them wrong, and while today is a day for new beginnings, the measure we introduce is the same 24 simple words which for so long have represented the promise of equality for women:

Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

By refusing to allow the ERA to die, we look forward to full equality secured by the Constitution, the fundamental law of the land. But there should be no mistake. While the ERA is our first priority, and its designation as House Joint Resolution 1 an entirely appropriate honor, we will also seize each and every opportunity to enact equal protection under the law, statute by statute, until ratification.

The obstacles to ratification are very clear but through renewed efforts the amendment will become part of our Constitution. As before, confident that right is on our side, that justice is on our side, that the vast weight of American opinion is on our side, we rededicate our efforts to attain the goal of full equality.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, January 4, 1983, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JANUARY 10

10:00 a.m.
Foreign Relations
International Economic Policy Subcommittee
To hold hearings on the effects of current economic problems on international affairs.
4221 Dirksen Building

2:00 p.m.
Foreign Relations
International Economic Policy Subcommittee
To continue hearings on the effects of current economic problems on international affairs.
4221 Dirksen Building

JANUARY 12

9:30 a.m.
Labor and Human Resources
Employment and Productivity Subcommittee
To hold hearings to review Federal programs which create certain job opportunities.
4232 Dirksen Building

JANUARY 19

10:00 a.m.
Foreign Relations
International Economic Policy Subcommittee
To hold hearings on the current international debt situation.
4221 Dirksen Building

JANUARY 25

9:30 a.m.
Finance
To hold hearings on the administration's assessment of the meeting of ministers to the General Agreement on Tariffs and Trade (GATT).
2221 Dirksen Building

Rules and Administration
To hold an organizational meeting, to consider its rules of procedure for the 98th Congress, membership assignments for the Joint Committee on Printing and Joint Committee on the Library, an original resolution requesting funds for operating expenses of the committee for 1983, to authorize tests of computer equipment in Senator's offices, and to consider other pending business.
301 Russell Building

JANUARY 26

9:30 a.m.
Rules and Administration
To hold hearings on Presidential and congressional campaign finance laws.
301 Russell Building

JANUARY 27

9:30 a.m.
Rules and Administration
To continue hearings on Presidential and congressional campaign finance laws.
301 Russell Building

FEBRUARY 1

10:00 a.m.
Foreign Relations
International Economic Policy Subcommittee
To hold hearings on proposed solutions to global economic problems.
4221 Dirksen Building

FEBRUARY 2

9:30 a.m.
Rules and Administration
To hold hearings on mass mailings and the use of postal patron mail.
301 Russell Building

FEBRUARY 3

9:30 a.m.
Small Business
To hold oversight hearings on the Small business investment company program of the Small Business Administration.
424 Russell Building

FEBRUARY 15

9:30 a.m.
Rules and Administration
To hold hearings on committee resolutions requesting funds for operating expenses for 1983.
301 Russell Building

FEBRUARY 16

9:30 a.m.
Rules and Administration
To continue hearings on committee resolutions requesting funds for operating expenses for 1983.
301 Russell Building

FEBRUARY 17

9:30 a.m.
Rules and Administration
To continue hearings on committee resolutions requesting funds for operating expenses for 1983.
301 Russell Building

FEBRUARY 22

9:30 a.m.
Rules and Administration
Business meeting, to consider committee resolutions requesting funds for operating expenses for 1983, and proposed legislation relating to Senate mass mailing.
301 Russell Building

FEBRUARY 27

10:00 a.m.
Foreign Relations
To hold hearings on the prospective nomination of Edward J. Derwinski, of Illinois, to be Counselor, Department of State.
4221 Dirksen Building

HOUSE OF REPRESENTATIVES—*Thursday, January 6, 1983*

The House met at 2 p.m. and was called to order by the Speaker pro tempore (Mr. WRIGHT).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, D.C.,
January 5, 1983.

I hereby designate the Honorable JIM WRIGHT to act as Speaker pro tempore on Thursday, January 6, 1983.

THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

PRAYER

Rev. Dr. Ronald F. Christian, Lord of Life Lutheran Church, Fairfax, Va., offered the following prayer:

Heavenly Father and God of us all, for those of us who in Your grace are privileged to enter this year, the year of our Lord, 1983, we pray that we will be faithful servants, not only of our country, but of our higher calling and duty; namely, to earnestly seek peace and good will among all people, to insure that justice shall be guaranteed for everyone, and to give hope through what we say and what we do for those who among us are most hopeless.

We are conscious today of the death of a Member of this assembly, BENJAMIN S. ROSENTHAL. We are thankful, O God, for his service in this Congress and to the people of his district, and aware of his commitment to the cause of justice. May the high ideals that motivated his life be for all a beacon of hope that others will be encouraged to use their talents in service to all people. May Your spirit of understanding and peace be with his family and give them strength in the days ahead.

Hear our prayer, O God, for it is in You that we place our trust. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

RESIGNATION AS MEMBER OF THE 98TH CONGRESS

The SPEAKER pro tempore laid before the House the following resignation as a Member of the 98th Congress:

HOUSE OF REPRESENTATIVES,
Washington, D.C., January 5, 1983.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker, House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: I herewith tender my resignation as a Member of the 98th Congress, to take effect at the close of business today, the 5th of January, 1983.

I have this day, by separate letter, officially notified the Governor of Texas of my resignation.

Yours most respectfully,

WILLIAM PHILIP GRAMM,
Member of Congress,
Sixth District, Texas.

COMMUNICATION FROM THE HONORABLE ROBERT W. KASTENMEIER, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable ROBERT W. KASTENMEIER, a Member of Congress:

HOUSE OF REPRESENTATIVES,
Washington, D.C., January 4, 1983.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives,
H-209, the Capitol, Washington, D.C.

DEAR MR. SPEAKER: In accordance with your designation of me, pursuant to House Resolution 9, Ninety-eighth Congress, adopted by the House of Representatives, to administer the oath of office to Representative-elect Benjamin S. Rosenthal, of the seventh district of New York, I have the honor to report that on the 3rd day of January, 1983, at Washington, District of Columbia, I administered the oath of office to Mr. Rosenthal, form prescribed by section 1757 of the Revised Statutes of the United States, being the form of oath administered to Members of the House of Representatives, to which Mr. Rosenthal subscribed.

Sincerely,

ROBERT W. KASTENMEIER.

COMMUNICATION FROM THE HONORABLE HARRY H. MACLAUGHLIN, JUDGE OF THE U.S. DISTRICT COURT FOR THE DISTRICT OF MINNESOTA

The SPEAKER pro tempore laid before the House the following communication from the Honorable Harry H. MacLaughlin, judge of the U.S. District Court for the District of Minnesota:

U.S. DISTRICT COURT FOR THE
DISTRICT OF MINNESOTA,
Minneapolis, Minn., January 4, 1983.

Hon. THOMAS P. O'NEILL, JR.,
Speaker, House of Representatives,
H-209, the Capitol, Washington, D.C.

DEAR MR. SPEAKER: In accordance with your designation of me, pursuant to House Resolution 10, Ninety-eighth Congress, adopted by the House of Representatives, to administer the oath of office to Representative-elect Marty Russo, of the third district of Illinois, I have the honor to report that on the 4th day of January, 1983, at the City of Minneapolis, State of Minnesota, I administered the oath of office to Mr. Russo, form prescribed by section 1757 of the Revised Statutes of the United States, being the form of oath administered to Members of the House of Representatives, to which Mr. Russo subscribed.

Sincerely,

HARRY H. MACLAUGHLIN.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE OF APPOINTMENT OF MEMBERS TO ATTEND THE FUNERAL OF THE LATE HONORABLE BENJAMIN S. ROSENTHAL

The SPEAKER pro tempore. The Chair desires to announce that the Speaker appointed on January 5, 1983, the following Members to attend the Funeral of the late BENJAMIN S. ROSENTHAL:

Mr. STRATTON of New York;
Mr. O'NEILL of Massachusetts;
Mr. FOLEY of Washington;
Mr. ADDABBO of New York;
Mr. HORTON of New York;
Mr. CONABLE of New York;
Mr. BIAGGI of New York;
Mr. FISH of New York;
Mr. KEMP of New York;
Mr. LENT of New York;
Mr. RANGEL of New York;
Mr. GILMAN of New York;
Mr. SCHEUER of New York;
Mr. OTTINGER of New York;
Mr. DOWNEY of New York;
Mr. LAFALCE of New York;
Mr. MCHUGH of New York;
Mr. NOWAK of New York;
Mr. SOLARZ of New York;
Mr. LUNDINE of New York;
Mr. WEISS of New York;
Mr. GARCIA of New York;
Mr. GREEN of New York;
Mr. CARNEY of New York;
Ms. FERRARO of New York;
Mr. SOLOMON of New York;
Mr. MARTIN of New York;
Mr. MCGRATH of New York;
Mr. MOLINARI of New York;
Mr. SCHUMER of New York;
Mr. WORTLEY of New York;
Mr. BOEHLERT of New York;
Mr. MRAZEK of New York;
Mr. OWENS of New York;
Mr. TOWNS of New York;
Mr. ZABLOCKI of Wisconsin;
Mr. BROOKS of Texas;
Mr. FASCELL of Florida;
Mr. KASTENMEIER of Wisconsin;

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Mr. EDWARDS of California;
Mr. ROYBAL of California;
Mr. BURTON of California;
Mr. MONTGOMERY of Mississippi;
Mr. ALEXANDER of Arkansas;
Mr. YATRON of Pennsylvania;
Mr. OBEY of Wisconsin;
Mrs. COLLINS of Illinois;
Mr. LEVITAS of Georgia;
Mr. MILLER of California;
Mr. MINETA of California;
Mr. WAXMAN of California;
Mr. JENKINS of Georgia;
Mr. PANETTA of California;
Mr. MICA of Florida;
Mr. WILLIAMS of Ohio;
Mr. CROCKETT of Michigan;
Mr. ECKART of Ohio;
Mr. FRANK of Massachusetts
Mr. GEJDENSON of Connecticut;
Mr. ROEMER of Louisiana; and
Mr. KOSTMAYER of Pennsylvania.

The SPEAKER pro tempore. Without objection, the Speaker's appointment is ratified.

There was no objection.

AUTHORIZING THE SPEAKER TO DECLARE A RECESS AT ANY TIME TODAY

Mr. KOGOVSEK. Mr. Speaker, I ask unanimous consent that it shall be in order for the Speaker to declare a recess at any time today subject to the call of the Chair.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

RAISING THE DRINKING AGE

(Mr. GOODLING asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. GOODLING. Mr. Speaker, during the lameduck session of the 97th Congress, I am especially proud of having introduced a concurrent resolution urging the States to unify the drinking age. House Concurrent Resolution 429, sponsored in the Senate by Senator ARLEN SPECTER, states that it is the sense of the Congress that the age for drinking and purchasing all alcoholic beverages should be raised to 21 in those States and the District of Columbia where the drinking age is now less than 21.

The response to my resolution has been overwhelmingly favorable. Within only a matter of weeks it received the support of many Members of Congress and key Senators, as well as personal endorsements from Transportation Secretary Drew Lewis and Health and Human Services Secretary Richard Schweiker. The National Transportation Safety Board, the National Safety Council, Mothers Against Drunk Driving (MADD), the Alliance of American Insurers, the Professional Insurance Agents, and the Pennsylvania AAA all have enthusiastically endorsed this measure.

During "National Drunk and Drugged Driving Awareness Week," the Presidential Commission on Drunk Driving issued its interim report recommending that each State adopt 21 as the legal age for drinking all alcoholic beverages. And most recently, New Jersey raised its drinking age to 21, joining a national trend to make it harder for our youth to buy alcohol.

Today, I am reintroducing my resolution, because I feel that Congress needs to make its voice heard on this issue. We are talking about America's teenagers: Of the 25,000 persons who die each year in drunk driving accidents, 5,000 of those victims are teenagers. Fourteen teenagers die each day in drunk driving accidents.

We need to do something about the leading, single cause of death among our 15- to 24-year-olds. Please join me in supporting and urging passage of my "21" resolution. Let us stop these senseless tragedies. Let us save these young lives.

I include my resolution, and the names of the original cosponsors, for printing in the RECORD, as follows:

H. CON. RES. 23

Concurrent Resolution To Express the Sense of the Congress Concerning the Legal Minimum Age for Drinking and Purchasing Alcohol

Whereas of the twenty-five thousand persons who die each year in drunk driving accidents, five thousand are teenagers and almost thirty-five per centum are between the ages of sixteen and twenty-four;

Whereas almost sixty per centum of fatally injured teenage drivers had alcohol in their blood;

Whereas life expectancy in America has improved over the past seventy-five years for every age group except one—fifteen to twenty-four year olds—and whereas the leading single cause of death for this age group is drunk driving;

Whereas available data shows a direct correlation between minimum drinking age and alcohol-related accidents in the eighteen to twenty-one year old age group;

Whereas numerous empirical investigations have shown significant increases in motor vehicle crash involvement among young drivers after reductions in the drinking age;

Whereas as the result of this emerging research, a number of States raised the drinking age in the late 1970's and early 1980's; and

Whereas the National Transportation Safety Board has urged that the legal minimum age for drinking and purchasing alcohol be raised to twenty-one nationwide in an effort to cut the highway death toll from drunken driving: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the age for drinking and purchasing all alcoholic beverages should be raised to twenty-one in those thirty-four States and the District of Columbia where the drinking age is now less than twenty-one.

SPONSORS

Mr. Goodling submitted the concurrent resolution for himself and Mr. Barnes, Mr. James V. Hansen, Mr. Nelson, Mr. Whitehurst, Mr. Beilenson, Mr. Broomfield, Mr. Clinger, Mrs. Cardiss Collins, Mr. Dannemeyer, Mr. Erlenborn, Mr. Forsythe, Mr. Hartnett, Mr. Lantos, Mr. Lehman, Mr. Marriott, Mr. Porter, Mr. Pritchard, Mrs. Roukema, Mr. Seiberling, Mr. Sensenbrenner, Mr. Walker, and Mr. Dan Burton.

REPUBLICANS AND DEMOCRATS ARE NOT "ENEMIES"

(Mr. SAWYER asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. SAWYER. Mr. Speaker, not very often do I take the well on 1-minute speeches, and I really never have on a critical or partisan type thing. I, however, recently observed the Speaker in a national network program explaining why the punitive action was taken against the gentleman from Texas, Mr. GRAMM, for which I have no brief one way or the other. But, he said, the reason was that he voted with the "enemy." I think that was a most unfortunate term to be used. I disagree with Members of the other side of the aisle; very often I agree with them; very often I disagee with Members of my own side of the aisle, and we have about as a wide spectrum of philosophy, I think, as does the other. But I do not think the American people expect us to view each other here as enemies.

Goodness knows, we have horrible problems to face in this Congress. I hope we can face them as colleagues in working unitedly for the people of this country and certainly not indulging in animosity or referring to each other as "enemies."

Some of my best friends are Democrats, and I can say wholeheartedly that I do not mind one living next door to me or even marrying my sister.

I would hope that we might have an apology or a correction from the Speaker for that very, very unfortunate term.

THE EQUAL RIGHTS AMENDMENT

(Mr. KINDNESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINDNESS. Mr. Speaker, while the time for ratification of the equal rights amendment has lapsed, the need has not.

Nearly everyone supports equal opportunity under law, but after 10 years of deliberation, the equal rights amendment was never ratified. We have got to ask ourselves why.

One of the biggest problems had to do with the question of who would en-

force the amendment. State legislatures were reluctant to support an amendment which would allow the Congress to legislate in every area of possible sex discrimination and take over State jurisdiction.

Today I am again introducing an equal rights amendment which offers the same assurances as the unsuccessful amendment, but without presenting the problems of jurisdiction. Under this version, the States and the Federal Government would each have responsibility for assuring equality of rights under the laws of their own jurisdictions.

It makes good sense and makes good law. Let us stop beating a dead horse and get on with the job of assuring equal opportunity to all Americans.

THE YAKIMA STUDY AMENDMENT

(Mr. MORRISON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MORRISON. Mr. Speaker, during the 96th Congress, the U.S. Department of the Interior, Bureau of Reclamation, was given the authority to conduct a major feasibility study of water resources enhancement in the Yakima River Basin in my Fourth District of Washington State. The purpose of the study was to determine if there was a solution for meeting the competing claims for water from the Yakima River that has historically plagued the area and was highlighted during the droughts experienced in the Yakima Basin in 1977 and 1979.

The feasibility study for the Yakima River Basin water enhancement project is divided into two phases. Phase 1, which was completed in August of 1982, was aimed at documenting the need for a detailed study and identifying possible elements of a final plan for solving the problem. The focus of phase 2 is to conduct indepth studies of those elements that emerged from phase 1 and to formulate a development plan to present to Congress and Washington State for implementation.

Among the recommendations for early implementation in the phase 1 report was the construction of the East Selah Reregulation Dam as well as the construction or rehabilitation of fish passages and protective facilities on the Yakima River. The Washington State Department of Ecology has decided to request appropriations from the State legislature to cover the cost of constructing the reregulation reservoir at an estimated cost of $12 to $15 million. This is intended as a front-end investment in the Yakima project as a sign of the State's willingness to share in the costs associated with the project and as a first step toward solving the problem on the Yakima River.

Today I, along with my colleagues from Washington State, Mr. FOLEY, Mr. PRITCHARD, Mr. DICKS, Mr. BONKER, Mr. LOWRY, Mr. SWIFT, and Mr. CHANDLER, am introducing a bill that will insure that any State and/or local investments that are made now in connection with the Yakima enhancement project will be credited toward any future matching requirement of the Federal Government for works constructed uner the project which Congress may authorize.

The language of Public Law 96-192 already requires that State financial contributions toward the feasibility study be credited toward meeting any future requirements for construction authorized by Congress, and the State has thus far provided $500,000 for study purposes. The intent of this bill is to extend this authorization to assure credit for investments made for the construction of facilities, such as the reregulation reservoir.

This bill is a noncontroversial measure that will help to begin the long process of eliminating the conflicting claims for water from the Yakima Basin, and I am hopeful that it will be considered early in this 98th Congress.

RECTIFYING AN OLD INJUSTICE—THE KOREAN WAR VETERANS MEMORIAL

(Mr. HAMMERSCHMIDT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAMMERSCHMIDT. Mr. Speaker, as the original sponsor of legislation to authorize the erection of a memorial on public grounds in the District of Columbia, or its environs, in honor and commemoration of members of the Armed Forces of the United States who served in Korea, I would like to take this opportunity to thank those 63 Members who cosponsored my resolution late in the 97th Congress and request that they again join me in sponsoring this long overdue and worthwhile resolution which I have reintroduced today.

Last October, I received a letter from the Department of the Interior advising me that Secretary Watt's National Capitol Memorial Advisory Committee, which was established to review all proposals for memorials in Washington, D.C., and its environs, had favorably recommended the concept of the proposed Korean memorial. Thus, I am hopeful that the chairman and ranking member of the House Administration Committee, Mr. HAWKINS, and Mr. FRENZEL respectively, as well as the other Members of this distinguished panel who had cosponsored my identical proposal late last Congress, will press for early hearings and consideration this session.

The United States sent 1.6 million men and women into Korea with over 40,000 killed and 103,000 wounded. Yet, Korea is the only major conflict in the history of the United States which has no national monument to commemorate its battles and recognize those who were called upon to serve their Nation. Many of those who served in the Korean war have since died. Many of the sons and daughters of those who gave their lives in Korea have grown up without benefit of a parent. We must not let another generation end without recognizing those courageous men and women who answered their Nation's call to serve.

I am sure my colleagues will recall the many rewards of the installation of the Vietnam Memorial in Washington, which I also originally sponsored, as a lasting symbol of a grateful Nation. This is a debt owed to the Korean veteran as well.

WE NEED TO ENABLE AGRICULTURAL PRODUCERS TO REGAIN SOLVENCY, TO PROTECT THE JOBS OF THOSE ENGAGED IN PROVIDING AGRICULTURAL EQUIPMENT, CHEMICALS, SEEDS, AND SUPPLIES, AND TO PREVENT FURTHER IMPOSITION ON THE AGRICULTURAL INDUSTRY OF THE COST OF U.S. FOREIGN POLICY

(Mr. WHITTEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WHITTEN. Mr. Speaker, once again, I must call attention to the fact that the basis for all our prosperity, the basis for our economy, goes back to the wonderful job that those engaged in agriculture do for the rest of us. I do not believe there is any nation in history other than the United States where 4 percent of the people provide food, clothing, and shelter for the other 96 percent of the people so that they can do something else. That 4 percent of our people also supply food to people abroad.

Yet, the American farmer has faced embargoes and threats of embargo. The result of embargoes is to merely turn the markets over to our foreign competitors, when our own economy is dependent on exporting the production from 2 out of every 5 acres. In a hungry world, this country should not hold back on food for people. When embargoes on agricultural products have been imposed, the cost of such foreign policy decisions was borne exclusively by those Americans engaged in farming or other agricultural activities. The cost of the foreign policy of the United States should not be borne by the 4 percent of the population engaged in farming which policy is destroying not only the farmers but endangers our Nation's economy.

Mr. Speaker, in addition to embargoes and notwithstanding its obligation to protect its capital stock, the Commodity Credit Corporation refuses to sell agricultural products surplus to domestic needs in world trade at competitive prices. This failure to sell deprives the Government-owned Corporation of billions of dollars of needed income from sales, makes it unnecessary for processors of agricultural products to maintain any substantial inventory, gives markets away to our competitors and, in the long run, will cause a reduction in U.S. agricultural production with a resulting drop in the U.S. balance of trade. This failure to offer our surplus products at competitive prices clearly is in violation of both the Commodity Credit Corporation Charter Act and the obligation of the officers and directors of the Government-owned Commodity Credit Corporation to protect the assets of the Corporation.

Mr. Speaker, an increase in export sales is essential if we are to avoid farm bankruptcies on a tremendous scale. And we must remember that if the farmer goes down, the rest of us, whatever our business, go down, too.

With the United States pleading for world support, we need to supply food to a hungry world for what it can pay—instead of paying our farmers not to produce. If we produce beyond domestic needs, we must not hold such production off world markets.

We need again to use the Commodity Credit Corporation like it was intended. We need to offer what we have in surplus and not keep it from the rest of the world. We need to make some friends again.

Mr. Speaker, today I am introducing a bill, H.R. 455, to enable agricultural producers to regain solvency, to protect the jobs of those engaged in providing agricultural equipment, chemicals, seeds, and supplies, and to prevent further imposition on the agricultural industry of the cost of U.S. foreign policy since heretofore the burden of embargoes or the failure to export has been borne solely by those engaged in agriculture.

Mr. Speaker, our country needs this bill, the American farmer needs this bill, and the hungry people of the world need this bill.

□ 1415

GM RECALL OF X CARS

(Mr. WIRTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. WIRTH. Mr. Speaker, today we have gotten a great number of telephone calls and letters from Members about the very disturbing story which appeared in yesterday's New York Times by David Burnham relating to the recall of General Motors' X cars, 1980 model, and the brake problems and potential for those automobiles spinning out when the brakes were applied.

There is some question about the prescient with which the National Highway Transportation Safety Administration has reviewed the matter and we have asked the General Accounting Office to undertake a study of that. We will be holding oversight hearings.

At this point in the RECORD I will insert a copy of the New York Times story and my letter to the General Accounting Office:

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, D.C., January 5, 1983.

Hon. CHARLES A. BOWSHER,
Comptroller General,
General Accounting Office,
Washington, D.C.

DEAR GENERAL BOWSHER: I am writing to request that the General Accounting Office investigate the National Highway Traffic Safety Administration's defect and investigatory proceedings in connection with possible brake defects in the 1980 General Motors X-body cars. As Chairman of the House Subcommittee with jurisdiction over automobile safety, I am deeply concerned that NHTSA's delay in determining whether there is a defect or ordering a recall of these vehicles may have grave and serious repercussions for the driving public.

I am aware that the GAO released a report last August which recommends that changes in NHTSA's motor vehicle recall program could reduce potential safety hazards. I have already planned for my Subcommittee to hold oversight hearings on the efficiency of the agency's defect and recall programs and, specifically, on the implementation of your recommendations. New revelations, about the potential danger of the X-car defects, highlighted in today's New York Times, gives these plans new urgency, and a study of this case will greatly help us in preparing for the hearing.

I have recently received reports that NHTSA is unnecessarily delaying resolution of the various issues pertaining to possible brake defects in the X-car, and, most importantly, may be covering up the existence of very serious defects. More than a month ago I therefore requested all relevent documents concerning potential X-car defects from the agency. I have not yet received them. Given your familiarity with the agency's recall program, I hope that you will be able to provide the Congress with answers to the following serious questions:

If NHTSA has known about the possibility of a defect since 1979, why has the agency taken so long to order a recall of the X-car or, alternatively, to close the defect investigation?

What further information is needed in order to reach a conclusion regarding the presence of a safety defect, or lack thereof?

Why did NHTSA allow General Motors to recall only a small number of X-cars—those with manual transmissions produced before July, 1979—and not recall other 1980 X-cars with both manual and automatic transmissions?

In those cars that were recalled, is the remedy chosen adequate or does NHTSA have information which indicates that more should be done to ensure public safety?

Given the potential ramifications of any additional delay in determining the presence of a defect in these cars, I would like to request that the GAO investigate NHTSA's conduct in this defect proceeding and report to Congress as soon as possible, but no later than 30 days. I will be happy to cooperate with you in every way possible.

I appreciate your attention to this matter and look forward to hearing from you soon.

With best wishes,

Sincerely yours,

TIMOTHY E. WIRTH,
Chairman.

[From the New York Times, January 5, 1983]

BRAKE TESTS ON G.M.'S '80 X-CARS SUGGEST A WIDER RECALL IS NEEDED

(By David Burnham)

WASHINGTON, JANUARY 4.—Tens of thousands of 1980 General Motors X-cars now on the road have a hazardous tendency to lock their rear brakes, two Government tests indicate.

Hundreds of car owners have complained, and General Motors and Federal safety officials have known about the hazardous condition for more than three years. However, only a fraction of the cars have been recalled to be repaired at company expense.

Company and Government officials say that the modest recall was all that was necessary. Spokesmen for General Motors and the National Highway Traffic Safety Administration would not comment specifically on the brake matter because aspects of that problem are now in court and under investigation. But Raymond A. Peck Jr., the director of the safety administration, did defend the agency's performance.

However, Government test results and other documents suggest that a far more extensive recall may have been needed.

Moreover, the test results show that the adjustment made to the cars that were recalled may not have been an effective solution to the problem of locking brakes, which can throw a vehicle into a dangerous spin. X-car models after 1980 show considerable improvement, one Government test indicates.

Scores of the complaints about X-car brakes involve accidents. Two brake-related crashes, in which a man was killed and a woman was paralyzed, have led to damage suits against General Motors.

In July 1981 the company recalled a limited number of the 1980 X-cars, which are marketed as the Chevrolet Citation, Pontiac Phoenix, Oldsmobile Omega and Buick Skylark. But a consumer group has filed a petition asking the Government to order a recall of all of them, an expensive proposition for General Motors, and has charged the National Highway Traffic Safety Administration with being more concerned with G.M.'s profits than with public safety.

The developing awareness of a problem with X-cars brakes, and the actions and reactions of the agency and the company, are told in a series of Government documents and consumer complaints that illustrate the complex process of regulating a giant industry.

QUESTIONS AROSE QUICKLY

G.M. introduced the mid-size, front-wheel-drive X-cars with great fanfare in April 1979 and made 1,146,642 of them for the 1980 model year.

Questions about a brake problem were soon raised. In October 1979, for example, a

columnist for the magazine Car and Driver wrote that the X-model brakes "locked prematurely."

Consumers, too, began complaining about the brakes and, in response, the traffic safety administration, which is the part of the Transportation Department responsible for automobile recalls, announced in November 1979 that it had begun a formal "engineering analysis" of the problem.

According to two agency officials who requested that they not be quoted by name, the N.H.T.S.A. testing facility at East Liberty, Ohio, checked the brakes of the 1980 Citation in mid-1981. The test showed a serious braking problem, the officials said. Mr. Peck, the head of the agency, said the findings could not be disclosed because the investigation was still open.

On Oct. 28, 1980, William Haskell, a 47-year-old stockbroker from Garrison, N.Y., died when his 1980 Citation hit a tree. His wife and children, who have since filed suit against General Motors asking $10 million in damages, say the brakes had locked, causing a skid.

That fatal accident was among 58 accidents cited by the Federal safety agency when it filed notice on July 2, 1981, that is engineering analysis was being upgraded to a "defect investigation." The agency informed General Motors that it was aware of 212 complaints about X-model braking problems that had involved 15 injuries and the one fatality.

MANUAL-SHIFT CARS CITED

Four days later, on July 6, 1981, George P. Anikas, director of the agency's Office of Defects Investigation, wrote to Ralph C. Morrison, director of product engineering at General Motors, about the problem.

"We believe that the rear brake system of the X-body vehicles (utilizing the 41 percent valve and aggressive brake linings) contain an engineering defect with safety-related implications," Mr. Anikas wrote. For complicated technical reasons, this definition indicated that the Government was primarily interested in X-cars with manual transmissions. The defect investigation notice, however, indicated that all X-models, manual and automatic, were to be studied.

The company responded immediately. While objecting to the Government's assertion that there was a safety defect, Mr. Morrison said, on the same day that Mr. Anikas wrote his letter, that General /otors would "initiate a recall modification to the involved vehicles" to avoid prolonged litigation.

The auto maker then recalled the 1980 model X-cars with manual transmissions that were manufactured before July 1979. That covered about 47,000 automobiles; more than 200,000 X-cars with manual transmissions were built for the entire 1980 model year, and about a million 1980 X-cars had automatic shifts.

NO PRESS RELEASE

When the Government initiates a defect investigation, it usually alerts the public at large about its concern. In this instance, it did not. Mr. Peck acknowledges that such decisions are usually announced with a press release. But he says that in this situation "we properly did exactly what we should have and no press release was called for."

"Based on the circumstances of July 1981," the safety administration director went on, "I think it would have been irresponsible for us to have put out a press release because, based on what we knew at the time, there was no reasonable reason to be concerned over the difference between the G.M. recall and the scope of our defect investigation."

For the 47,000 cars General Motors did recall, a "proportioner valve" that allowed 41 percent of the master cylinder pressure to work on the rear brakes was replaced with a 27 percent proportioner. That "Design Two" valve put more of the braking effort on the front wheels, which in an X-car are the powered wheels that pull the car down the road as well as steer it and bear the weight of the engine and transmission.

There appeared to be doubts, however, even at General Motors, that the valve replacement would solve the braking problem.

In August 1981, the month after the recall was begun, a Pontiac official named B. Strausser sent a memorandum to the company's zone representatives, the management level that serves the dealers.

"It is possible that you may receive a complaint of rear brake lockup on a vehicle with manual transmission that has the Design Two proportioner valve if the owner is a very aggressive driver," Mr. Strausser told the zone representatives. In cases where there were complaints, he wrote, the dealers were to replace the rear brake lining.

The Government became aware of that internal memorandum: A safety administration official sent a copy of it to a California Skylark driver. But neither the Government nor the company made a public announcement of the General Motors official's recommendation of further steps to relieve the brake problem, and the recall was not extended beyond the manual-shift X-cars made before July 1979.

According to a spokesman, Harold Jackson, General Motors does not discuss the cost of a recall. "We're only interested in customer satisfaction," he said.

COULD COST $150 MILLION

Changing the proportioner valves on 47,000 cars, however, is clearly less costly than changing the valve and the rear brake linings on all manual-shift X-cars manufactured for 1980 and much less costly than changing both on all the company's 1980 X-cars.

According to Clarence M. Ditlow, an engineer who is director of the Center for Auto Safety, a consumer group in Washington, an examination of G.M. manuals indicates that labor and parts for changing the proportioners might come to about $70 a car, or $3.5 million to $4 million for the 47,000 cars recalled. But the repair manuals indicate that the cost of replacing the entire brake assembly, including the brake drums as well as the shoes, would be about $150 a car, more than $170 million for the entire 1980 model year.

After the limited recall, consumers continued to complain about braking problems with X-cars, some of them with automatic transmissions and some manufactured after the July 1979 cutoff.

Kenneth E. Neidig of Morristown, Tennessee, for example, wrote the Transportation Department that he and two friends had been talking about their cars, a 1980 Omega, a 1980 Phoenix and a 1980 Citation.

ONE HAD ALL ADJUSTMENTS

"All of us have lost control of the cars on wet roads," Mr. Neidig wrote. "I'm not sure of Jim's car but Jerry had all the updates put in his car that General Motors says should fix the car. My car was made in April 1980 and did not require any updates."

Vivian Sprynczynatyk of Bismarck, N.D., had an accident July 16, 1980, that she contends was caused by faulty brakes on her 1980 X-model car. Her lawyer says the accident left her confined to a wheelchair and barely able to move her arms and hands. Mrs. Sprynczynatyk filed a lawsuit against General Motors last June 23, seeking $5 million in damages.

The Center for Auto Safety said that in a recent six-week period it received six complaints about the X-car problem, which raised to 63 the number of such complaints if received over all. Of the six recent complaints, five were 1980 Citations that had been equipped with the new proportioner valve that G.M. said would solve the problem. The sixth was a 1981 Citation.

BROADER RECALL SOUGHT

Under the law, the Government may order an automobile manufacturer to recall its products when the Government determines there have been a "substantial number of failures in use." The Center for Auto Safety, citing the complaints it had received about the X-car braking problem, filed a petition with the Government to force such a recall of all the 1980 X-model cars.

Mr. Ditlow charges the National Highway Traffic Safety Administration with neglecting its duty.

"In an effort to save General Motors over $100 million in repair costs, N.H.T.S.A. has concealed a deadly brake system defect in all 1980 G.M. X-cars that causes rear wheel lockup in dangerous driving conditions," he said. "In flagrant disregard of his statutory duty to protect the public from accidents and injuries by recalling defective cars, N.H.T.S.A. Administrator Peck chose to defend G.M.'s pocketbook instead of public safety."

Mr. Peck, though he would not comment on the specific case because it was under investigation, strongly defended his general performance since he joined the Reagan Administration.

"When we are talking about the life-and-death issues presented by these kinds of cases, we are not talking about Administration policy," Mr. Peck said recently. "There is no such things as a partisan recall, there is no such thing as a partisan highway fatality."

BRAKE TESTS CONTINUED

Since the Center for Auto Safety filed its petition, the Federal agency has continued its study of the X-car brakes.

In November and early December, the East Liberty facility conducted another set of tests, first on a Buick Skylark with a 1980 braking system, then on a Skylark equipped with the braking system used in the current model.

According to three engineers who examined the results of these tests at the request of The New York Times, the findings again showed that the braking system used on the 1980 cars was faulty because it tended to produce rear wheel lockup when the car was not heavily loaded. The test on the current Skylark brakes, however, found the response had been considerably improved.

Harold Jackson, the General Motors spokesman, said it was not company policy "to comment on matters that are under litigation." And he said the company was not aware of the Government's latest tests on the X-cars.

NEED FOR UNDERSTANDING BETWEEN UNITED STATES AND SOVIET UNION

(Mr. SIMON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SIMON. Mr. Speaker, under special orders I am going to take about 15 minutes to do something that I think is appropriate on this day when we honor our former colleague, BEN ROSENTHAL, who was concerned about world peace.

I returned Sunday night from a visit to the Soviet Union. Never in the history of humanity has it been so important that two nations understand each other and not miscalculate.

Yet relations between our two countries are worsening.

I believe there are practical steps that can be taken by both sides, without compromising their beliefs, that can move us in the proper direction, and I intend to outline that briefly this afternoon.

THE LATE HONORABLE JACK SWIGERT

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, JACK SWIGERT, the Congressman-elect from Colorado's new Sixth District, died last week after a struggle with cancer. He was 51.

Many Members of the current House knew Mr. SWIGERT when he was executive director of the Committee on Science and Technology during the mid-1970's.

Mr. SWIGERT excelled in several trades. He was a fighter pilot, civilian test pilot, astronaut, House committee executive director, business executive, and politician.

He had two distinctly American traits, derring-do and drive. They took him around the Moon, to the Korean war and, had cancer not intervened, to a seat in this House.

There was, in JACK SWIGERT, something of Hemingway's courage, "grace under pressure," and Maugham's genius, "an infinite capacity for taking pains." He was not cowed by danger, defeat, or disease. We will miss him.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore. (Mr. MOAKLEY) laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
January 5, 1983.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the permission granted in the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope from The White House, received in the Clerk's Office at 3:00 p.m. on Wednesday, January 5, 1983 and said to contain a message from the President wherein he transmits the fourth Special Message for FY 1983 under the Impoundment and Control Act of 1974.

With kind regards, I am,

Sincerely,

BENJAMIN J. GUTHRIE,
Clerk, House of Representatives.

FOUR DEFERRALS IN ACCORDANCE WITH IMPOUNDMENT CONTROL ACT OF 1974—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report four deferrals totaling $38,897,952 and a revision to a previous deferral, increasing the amount deferred by $10,000,000.

The deferrals affect programs in the Departments of Agriculture, Commerce, Housing and Urban Development, and Interior.

The details of the deferrals are contained in the attached reports.

RONALD REAGAN.

THE WHITE HOUSE, *January 5, 1983.*

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will announce that he will at this time call for special orders previously ordered.

TRIBUTE TO THE LATE HONORABLE JACK SWIGERT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado (Mr. KRAMER) is recognized for 60 minutes.

Mr. KRAMER. Mr. Speaker, I am taking this special order to pay tribute to the late Honorable JACK SWIGERT.

GENERAL LEAVE

Mr. KRAMER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of this special order, the life, character, and public service of the late Honorable JACK SWIGERT.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. KRAMER. Mr. Speaker, Tuesday, I had the honor of being one of those chosen to represent our colleagues at the funeral of JACK SWIGERT and to be one of his honorary pallbearers. More than 1,000 people—including family, friends, elected officials, 16 of JACK's fellow astronauts, and church and community leaders—turned out to pay their last respects to this truly great individual.

Last November, JACK received 63 percent of the vote in Colorado's new Sixth Congressional District. Accordingly, he was to have been sworn in this past Monday along with other Members of the 98th Congress. However, as we all know, last week JACK lost an heroic battle with bone marrow cancer, and died before he could realize his dream of being a Member of this institution. Throughout his life, he felt—and continually demonstrated—that one man can make a difference, and in that spirit looked forward to using his talents, background, and commitment to solving our Nation's problems, starting with the need to put the economy back on a healthy footing.

I feel particularly close to this tragic event for several reasons. In addition to having been a member of the same political party as JACK, much of the new Sixth District had been part of my constituency since coming to Congress. But much more important than that, I valued JACK's friendship. We shared several of the same interests, including the use of space to promote world peace and a recognition of the growing role that high technology is playing in our society. If ever a man was fit to serve in this body, it was JACK SWIGERT. His death is not merely a loss for his party, his district, and his State, but a loss for our great Nation, which he so dearly loved.

JACK's formative years in the rugged Colorado mountain country left their stamp on his own rugged character, where no peak was too high for him to climb. The eldest of three children, JACK was born in Denver. He was graduated from Denver's East High School in 1949 and the University of Colorado in 1953, where he earned a bachelor's degree in mechanical engineering while at the same time proving himself a first-rate athlete. JACK later went on to earn a master's degree in aerospace science from Rensselaer Polytechnical Institute in 1965 and an MBA from the University of Hartford in 1967.

Before joining NASA, JACK served his country as an Air Force fighter pilot during the Korean conflict and spent 8 years as a jet test pilot.

In 1966, he was selected as an astronaut. Although he served as a member of the support crew for the Apollo 7 mission, JACK is best remembered for his heroic role as commander of the Apollo 13 Moon flight. After an oxygen tank explosion put the mission in jeopardy, JACK's ingenuity enabled

the crew to make the necessary repairs, as the world waited breathlessly, and return safely to Earth. For their courage, members of the Apollo 13 crew were awarded the Presidential Medal of Freedom in 1970.

After leaving the space program, JACK spent 4 years as executive director of the House Science and Technology Committee, where his expertise earned the respect of Members on both sides of the aisle. I know JACK looked forward to renewing many of the acquaintences and friendships that he had made during his tenure as the committee's staff director. In recent years, JACK turned his talents to private industry, becoming a successful executive for two major corporations.

Last April, doctors discovered and removed a small malignant tumor from JACK's nasal passage. A detailed yearly physical in August disclosed no trace of cancer. However, the doctors' optimism was short lived as subsequent tests after the September primary revealed that JACK was suffering from bone marrow cancer.

In characteristic fashion, he vowed to fight the odds, telling one reporter that "with technology and commitment we can overcome any challenge." Although the chemotherapy treatments left him tired and weak, he continued to campaign 8 to 9 hours a day, so anxious was he to win election and get about the job of finding ways to rekindle the economy and get the country moving again.

Unfortunately for all of us, this was a battle he lost. I know my colleagues join me in extending our deepest sympathy to his mother and two sisters.

In every sense of the word, JACK was a true patriot at a time when this country needs the quality of leadership that he had to offer. In Sunday's Washington Post, columnist George Will had an excellent article which said it all which I would like to insert into the RECORD at this point.

JACK SWIGERT'S EXAMPLE

(By George F. Will)

Newspapers exist primarily to inform. But the first and finest columnist (Samuel Johnson) rightly insisted that men more frequently require to be reminded than informed. So let us now be reminded of Jack Swigert's gifts to his country. He gave examples of bravery when he did not die, and when he did.

Some public persons take too much to heart Longfellow's announcement that life is real, life is earnest. They are oppressively somber, their backs bent, figuratively speaking, beneath the weight of Responsibility. Swigert was not like that. He had life in perspective, perhaps because he had felt the breath of death.

The first time was with the world watching. To be precise, the world was listening to the laconic space-speak between Houston and Apollo 13. It was April 13, 1970—a great day for the superstitious.

Suddenly, crackling across 206,000 miles came words more memorable to those who heard them than "the Eagle has landed." The words, spoken in a tone of tenseness not hitherto heard from space, were: "We've got a problem." Suddenly, the space program stopped being automatic and antiseptic and became a matter of desperate improvisation to save three men outbound at 2,200 mph.

An oxygen tank had exploded, damaging the command capsule's electricity, computer, water and fuel cells. Instead of heading for a moon landing, astronauts Swigert, James Lovell and Fred Haise were in danger of dying as no one ever had, hurtling into deep space. But with superb help from Houston, they launched themselves into a maneuver that whirled them around the moon and homeward.

Last summer, when Swigert was running for Congress, a small malignancy was removed from his nasal passage. When a physical examination in August left him with mysterious back pains, he underwent extensive tests, which revealed cancer in his bone marrow. By then it was too late for Colorado Republicans to field another candidate so, like a spacecraft locked in orbit, he continued, adding chemotherapy, with its debilitating effects, to the wear-and-tear of compaigning. He lost some hair and frequently looked ravaged, but he gave an imperishable example to a national constituency—the 3 million Americans who have cancer and are summoning the physical and emotional stamina to carry on.

There was reason to hope, if not to expect, that the therapy would arrest the disease. In 1982, as in 1970, Swigert acted on the principle that however long the odds, you are not beaten until you concede. But shortly before Christmas, pain drove him into a Washington hospital.

There, to the end, he was what he had been all his life: in control. Surrounded by and attached to the paraphernalia of high-technology medicine, he monitored his condition. He had a mind disciplined by close encounters with danger (he survived a plane crash while an Air Force fighter pilot in Korea) and eyes trained to extrapolate reality from electronic impulses on gauges and screens.

At one point he told a doctor that he thought one lung was filling and that he should have an X-ray. The doctor disagreed, so Swigert bet him a steak dinner. Before 24 hours had passed, Swigert had died at age 51, a week before he was to have been sworn in as a congressman.

Heroism is not as promiscuously distributed as President Reagan said in his inaugural address, when he baptized us all heroes. But there are humble, hidden forms of heroism. A gifted professional basketball player (Spencer Haywood), asked how it felt to be a hero, responded that if you want to see heroism, watch a welfare mother raising a large family.

But public acts of heroism, although not morally grander than private bravery, have special power as models of virtue. The communication of patterns of excellence once was a function of literature. However, the tutelary task once performed by, say, the Bible, Bunyan and Shakespeare is no longer performed by any corpus of great books that shape the community's moral imagination.

Walker Percy writes novels of moral seriousness, but his characters do not make virtue vivid. John Updike is a gifted writer, but his Harry "Rabbit" Angstrom and other residents of Brewer, Pa., are not intended to do for us what Homer's and Dante's cretions did for Greece and Italy—supply unifying patterns of excellence. Contemporary literature is doing some serious things, but not that serious thing.

Nations always, but especially in an era of nonheroic or antiheroic literature, need conspicuous real heroes. This nation just lost one.

In closing, let me reiterate the deep loss we feel with the passing of JACK SWIGERT. We can only guess at what further contributions he would have made to the betterment of mankind, but during his lifetime he demonstrated a degree of courage and resolve that will continue to serve as an example for us all.

Mr. FUQUA. Mr. Speaker, will the gentleman yield?

Mr. KRAMER. I am happy to yield to the gentleman from Florida.

Mr. FUQUA. Mr. Speaker, at the time of JACK SWIGERT's death Mr. Jim Beggs, the present Administrator of NASA, released a statement I would like to share with my colleagues. He said, in part:

Jack Swigert was a brave man. His courageous performance along with his crewmates in Apollo 13 drew the attention and admiration of people around the world. Likewise, his successful campaign for congress, while he was battling cancer last fall, earned the respect and admiration of us all . . . . His contributions to his country and to the advancement of technology and science were many and he will be missed by us all.

I share these sentiments, and, as I look back at JACK's career covering his years at NASA, his tenure as executive director of the House Committee on Science and Technology, which I have the privilege and honor to chair, and subsequent years, I remember his total dedication to whatever task he undertook. His courage and integrity surfaced during these endeavors in many ways and were never so clearly exhibited as in his final battle ending on the 27th of December, 1982.

JACK SWIGERT had a philosophy—he never counted the years:

I believe God measures your life. He puts you on Earth, gives you talents and certain opportunities and, I think, you are going to be called to account for these opportunities. Did you use them to good advantage? Bad advantage? I don't know how I'll be measured . . . but, no, I can't think of any opportunities I haven't taken.

I think JACK will be measured well and this very personable and intense individual will be remembered mostly as a serious, hard-working patriotic American trying to take—and give the full measure of life.

JACK SWIGERT, an astronaut, scientist, and public servant was remembered at his funeral mass for extraordinary courage and personal integrity. His colleague during the Apollo 13 mission, Jim Lovell, gave a stirring eulogy to his friend during which he said:

Jack had those qualities a man would like to see in his son, troops would like to see in a general, the public would like to see in a politician.

Mr. Speaker, knowing JACK as I have over these many years, he would have served his constituency with distinction. I am pleased to have worked with him and observed him grow in the new arena of politics. This House has been deprived of his incisive intellect and candor.

You have heard from others about JACK's educational background, his exploits, his honors and awards; but, I think George Will captured JACK SWIGERT's legacy to this country in his column dated January 2, 1983, where he wrote:

So let us now be reminded of Jack Swigert's gifts to his country. He gave examples of bravery when he did not die, and when he did.

My wife, Nancy, and I send our deepest sympathy to JACK's mother, Virginia, and to his two sisters, Elizabeth and Virginia, on this tragic loss.

Mr. KRAMER. Mr. Speaker, I appreciate the very kind remarks of the distinguished chairman of the Committee on Science and Technology.

Mr. WIRTH. Mr. Speaker, will the gentleman yield?

Mr. KRAMER. I am happy to yield to the gentleman from Colorado (Mr. WIRTH).

Mr. WIRTH. Mr. Speaker, I join the gentleman from Colorado (Mr. KRAMER) and my other colleagues in fond remembrance of JACK SWIGERT. His untimely passing is a terrible misfortune for his family, our State and the Congress.

The entire Colorado delegation was delighted that JACK would be joining us in the House, and we looked forward to the great contributions he would make to this body. We knew that JACK would be a fine Representative and a skillful advocate for our State.

Although JACK's death has deprived us of a man who would have been an able colleague, we have all nevertheless gained from the example JACK set throughout his life. We have been inspired by his bravery as a military test pilot, his lifesaving resourcefulness as pilot of the crippled Apollo 13 spacecraft, and finally, his courage in the face of his illness.

JACK was an individual with a rare faith in the creativity and genius that is man's greatest gift. He realized that science is the cornerstone of our progress, and recognized the importance of sustaining and spreading that knowledge. JACK's career as an astronaut and as staff director of the House Science and Technology Committee were valuable contributions to this effort.

JACK was convinced until the end of the ability of science to conquer his disease. His determination carried him through a year of campaigning that took an extraordinary physical toll. The citizens of Colorado are fortunate to have had such a man, who endured great personal sacrifice in an effort to serve them in Washington.

JACK SWIGERT never gave up hope for the future of our Nation, any more than he gave up hope for himself. He was a true believer in the vast potential of our country, and in a people that are as heroic as JACK himself has been a hero. JACK may never have become a Member of this body, but his memory should instruct us as we govern.

Mr. Speaker, I insert a very fine column about JACK SWIGERT by Leonard Larsen of the Denver Post in the RECORD at this point:

JACK SWIGERT: SHARING HIS LIFE'S GIFTS

(By Leonard Larsen)

In many ways, Jack Swigert had lived the dreams of boyhood—high school and college football player, scholar, military jet pilot, astronaut and then elected to be a member of the nation's Congress.

His life was abruptly ended by cancer as he was about to start a new career in public service, and there is sadness in the waste of that, the achiever stopped short of his goal.

But at age 51, Swigert had achieved much, had put such substance into those boyhood dreams, had contributed significantly to the public service and the public knowledge, and there is satisfaction that he was here and shared the gifts of his life.

Swigert was projected into national fame in 1970 as the command module pilot of Apollo 13, the stricken moon mission spacecraft whose power loss threatened to leave Swigert and two other astronauts drifting forever in a space relic.

"Ah . . . Houston, we've got a problem," was the first message of the emergency radioed from Swigert and his companions in the spacecraft. Then they methodically applied their training and courage to the safe return of Apollo 13.

Short of the goal of a moon landing, but a waste? Of course not. There were valuable lessons learned from the emergency in space and the successful salvage of the mission, and later Swigert only half jokingly said he personally found it all "a good learning experience," one that "really helped focus your attention."

There was that about Swigert, that he wanted to learn to consume and contribute to the information in his field of flight and high technology, to explore its potential.

As he was driven to compete and to test himself, Swigert was also driven to share, maybe even to force-feed those with less concentration and knowledge of what he knew were new frontiers and opportunities in technology.

He saw the logical extension of his efforts as in the Congress, a place Swigert found to his surprise and dismay as filled with lawyers and business executives turned politicians and shockingly uninformed and complacent—in Swigert's view—about the needed national efforts to push open new doors.

He later became somewhat polished in the strange business, but early on, shortly after the return of Apollo 13, Swigert wasn't much of a politician.

As early as 1973, Swigert thought seriously of becoming a candidate for Congress, and he was urged by a group of Denverites to oppose then-freshman Rep. Pat Schroeder, Denver Democrat.

He backed away in a characteristic fashion, not, as he later told friends because he feared the risk of defeat, but because some of the backers "wanted to tie too many strings on me."

For several years, as director of the House Science and Technology Committee, Swigert was close enough to prod some members of Congress, but the urge for a stronger participation was still on him, and in 1978 he ran as a Republican primary candidate for the Senate, opposing Bill Armstrong, then a member of the House.

It was a political and personal financial disaster for Swigert but another learning experience, cleanly fought and lost. The contest helped forge a friendship between the two, and Armstrong was there Monday night when Swigert died in Georgetown University Hospital in Washington.

For all his accomplishments, his adventures, his contributions, his moment of fame, his final political success, Swigert remained a modest and shy man, almost naive, and pushed on by the ambition to be useful, to serve and do some good. There was no boast or bombast about him, but an urgency to get on with what his experience and knowledge told him was necessary.

It is tragic that he died only a few days before he was to be sworn in as a member of Congress, but there was already great fulfillment in Jack Swigert's life.

He took his own physical and intellectual gifts and explored with them, from the football field to the classroom to the darkness of space and, finally, to reach for the highest gift of the American people, election to high office.

He brought credit to all of it, and his life should inspire us all to live ours to such limits.

□ 1430

Mr. WINN. Mr. Speaker, will the gentleman yield?

Mr. KRAMER. I yield to the gentleman from Kansas.

Mr. WINN. I thank the gentleman for yielding.

Mr. Speaker, I greatly appreciate my colleague from Colorado arranging for this special order so that we may pay tribute to the memory of a fine American, JACK SWIGERT.

I was fortunate to have known JACK SWIGERT quite well. As a member of the Committee on Science and Technology and the former ranking minority member of its Space Science and Applications Subcommittee, I have been privileged during my time in the Congress to have participated in the effort to make America's space program a continuing success story. It was during the early part of these efforts that I first met JACK SWIGERT and came to respect him so highly both as a competent professional and a warm human being. Of course, JACK's professionalism as one of our finest astronauts was amply demonstrated to the world in April of 1970. Who can forget those terrifying days of that month when an explosion aboard the Apollo 13 spacecraft, tens of thousands of

miles from Earth, aborted the planned lunar mission and endangered the lives of the three astronauts aboard? As captain of the mission, JACK SWIGERT calmly and cooly piloted the crippled ship around the Moon and safely back to Earth to the cheers of the entire world.

I came to know JACK even better when he left the astronaut program and became our executive director of the Committee on Science and Technology. JACK performed ably in this new job, meeting all challenges head-on, as was his trademark. He earned the admiration and respect of all the members of the committee for his integrity and his bipartisan approach to solving difficult problems. His interest in science went beyond the space program and he never lost his zest for pushing to new frontiers.

It thus came as no surprise to any of us who knew JACK that he was eager to take on the challenge of winning election to the House of Representatives. JACK worked long and hard on his campaign in Colorado's new Sixth District and won an impressive victory in November with over 60 percent of the vote. JACK, of course, had a keen interest in serving on the Committee on Science and Technology. His enthusiasm and contributions to not only the committee but the entire 98th Congress would have been invaluable. His tragic and untimely death has deprived this Congress and the Nation of a true leader.

Mr. Speaker, I want to extend my deepest sympathies to JACK's mother and sisters. We all share in their great loss.

Mr. KRAMER. Mr. Speaker, I especially thank the gentleman for his remarks since he knew JACK so well.

Mr. KOGOVSEK. Mr. Speaker, will the gentleman yield?

Mr. KRAMER. I yield to the gentleman from Colorado.

Mr. KOGOVSEK. Mr. Speaker, I commend my colleague, the gentleman from Colorado, for reserving this time for the House to honor Congressman-elect JACK SWIGERT.

I join the Colorado congressional delegation and others today in saluting JACK SWIGERT, and I believe JACK's contributions were most appropriately summed up by George Will: "He gave examples of bravery when he did not die, and when he did." JACK's courage, as an astronaut, as a candidate, as a Congressman-elect, as a leader, exemplify the kind of hero Americans have been talking about during their recent search for honor and moxie. JACK was recognized as a leader, but never bragged of it. He was assertive, but sympathetic to the needs of others, the needs of his State, the needs of his Nation. He was determined in his public service as a space pioneer and as a politician. This determination led him to victory in November, despite the odds of the illness which kept him from serving in Congress. All of these characteristics—known best by those who worked with him in Washington, at NASA and in Colorado—were also clear to those of us who did not know him as well. I looked forward to knowing him better, to watching him fulfill his goals as a Colorado Congressman and as a national figure. I know that each of us in the Colorado delegation will assume those goals and as a tribute to JACK, try and fulfill them as best we can without him.

Mr. BROWN of Colorado. Mr. Speaker, will the gentleman yield?

Mr. KRAMER. I yield to the gentleman from Colorado, who also was privileged to be a pallbearer at JACK's funeral and was a close friend of JACK.

Mr. BROWN of Colorado. I thank the gentleman for yielding.

Mr. Speaker, at a time when his country needs the quality of leadership that JACK SWIGERT had to offer, we have suffered a great loss. JACK died last week at the age of 51, just a few short days short of fulfilling a lifelong goal: being a Member of the U.S. House of Representatives. His death is our loss, for this House will be a poorer place without his service here.

JOHN LEONARD SWIGERT, Jr. was born on August 30, 1931, in Denver, Colo. He personified the rugged individualism that is so common in his native State, attending both high school and college there, graduating from the University of Colorado in 1953 with a bachelor's degree in mechanical engineering. An outstanding athlete, he had obtained his pilot's license at age 16 and went on to become a U.S. Air Force fighter pilot during the Korean war. After 8 years as an Air Force test pilot, JACK applied for the newly formed astronaut corps, but was originally rejected. Not being a person to ever give up, JACK persevered. He earned a master's degree in aerospace science in 1965 and an MBA in 1967, often attending classes at night.

In 1966, JACK did become an astronaut. Although he was not one of the original seven astronauts featured in Tom Wolfe's recent book on the space program, JACK epitomized what Wolfe meant when he titled the book "The Right Stuff." The book details the courage of these men and their dedication to service. Let no one doubt the fact that in every way, JACK SWIGERT had the "right stuff."

He flew as a crew member on the Apollo VII space flight and was selected to serve as commander of the ill-fated Apollo XIII mission to the Moon. On April 13, 1970, an oxygen tank exploded, threatening to leave Apollo XIII and its crew marooned in the void of space. JACK faced that situation, as he did other challenges, with calm courage, announcing simply, "Houston, we've got a problem." He never panicked, even though he knew he might never bring his crippled spaceship back to Earth. As the world waited, JACK's persistence paid off again, and Apollo XIII limped back home safely. For their courage, the Apollo XIII crew were awarded the Presidential Award of Freedom.

JACK left the astronaut program and served 4 years here in Washington as staff director of the House Science and Technology Committee, gaining respect and admiration from both sides of the aisle. Later, JACK served as an executive with two major corporations and made an unsuccessful bid for the U.S. Senate in 1978.

Last year, JACK announced he would make a run for Colorado's new Sixth Congressional District, which includes the southern part of the Denver metropolitan area. In the midst of that campaign last summer, a small malignant tumor was discovered and removed from his nasal passage. Despite radiation and other grueling therapy, JACK pushed forward with determination to fulfill his dream of serving Colorado in Congress. By August, his doctors optimistically said he was free of cancer, but this hope was short-lived. Subsequent tests taken after JACK won the GOP primary in September indicated he had bone marrow cancer. JACK took the news bravely, determined to persevere again as he had in the past. As his doctors said, he had a better chance to beat cancer than he did in making it back to Earth in a broken spaceship.

JACK captured 63 percent of the vote in the general election in November, but the cancer had spread. JACK died on December 27, 1982, 7 days before he would have been sworn in. At his funeral, which I had the honor of attending in Denver as an honorary pallbearer, it was pointed out that JACK's name was called as a Member of the House when the 98th Congress convened January 3d, and that he will always be listed as a Member of this Congress.

As a modest man, JACK might have been embarrased by the pomp and circumstance of his funeral. Throughout his illness, JACK never complained. He never felt sorry for himself, and he fought the last fight with all the courage and resolve that he possessed. What more can we ask of any man? I think he would want us to remember him not as a hero, but as a normal man faced with abnormal challenges, a man who always faced those challenges bravely, but most of all, a man who taught us all something about living with courage and human dignity.

President and Mrs. Reagan said of JACK, "His courage throughout his life has been an inspiration to others. His memory will always live on as young Americans follow in his footsteps in service to our Nation."

In the end, JACK SWIGERT demonstrated that our lives are measured by whether we have the "right stuff." JACK did, and I will miss him greatly.

Mr. KRAMER. Mr. Speaker, I appreciate the remarks of the gentleman.

Mr. ROE. Mr. Speaker, will the gentleman yield?

Mr. KRAMER. I yield to the gentleman from New Jersey.

Mr. ROE. Mr. Speaker, I commend my distinguished colleague, the gentleman from Colorado, for the privilege of this eulogy.

Mr. Speaker, I had the good fortune of knowing JACK SWIGERT. Countless words have already been spoken and written about JACK SWIGERT and his courage and heroism both in life and death. In fact, the outpouring we are witnessing on behalf of JACK SWIGERT is, perhaps, the greatest tribute of all to a man who fearlessly confronted the most arduous challenges any individual could face, and who would most certainly have confronted the problems of this Nation in the same manner had providence granted him the opportunity to serve in the House of Representatives. Our mere and humble attempts to honor JACK SWIGERT pale in the face of that which he acco*** BAD MAG TAPE ***mplished and that which he endured. But our tributes will not be in vain if we keep ever fresh in our minds the lessons that JACK SWIGERT taught us, and use those lessons to remind ourselves of how vitally important it is that we have faith in God, in our fellow man and in ourselves as we attempt to tackle the many difficult obstacles life places before us

It is clear that JACK SWIGERT had such faith throughout his life, and most notably during those times of greatest crisis; when he saw Apollo 13 through its troubled mission; when he ran for Congress and won despite the devastating disease that inflicted his body and, ultimately, when he lost the final battle of a war he had fought with such tenacity and perseverance. As much as reminding us of the exemplary manner in which someone has lived, tributes and eulogies should also tell us all how we can better our lives and the lives of those around us. And we can do that simply by following the lofty example that someone like JACK SWIGERT has set for us.

We will sorely miss the dedication, leadership, and expertise that JACK SWIGERT would have brought to this House. In his absence, we can all strive to remember the way he lived his life and, in so doing, find within ourselves the capacity for greater achievement than we may have ever dreamed possible. This would do justice to the memory of JACK SWIGERT.

Mr. KRAMER. Mr. Speaker, I thank the gentleman from New Jersey for his remarks.

Mr. RUDD. Mr. Speaker, will the gentleman yield?

Mr. KRAMER. I yield to the gentleman from Arizona.

Mr. RUDD. I thank the gentleman for yielding and I commend the gentleman for taking out a special order to eulogize this great gentleman.

Mr. Speaker, it is fitting that we should take this time during the first week of the 98th Congress to remember JACK SWIGERT, for if any one of us fought a tough battle to get here it was JACK, who campaigned for and won his congressional race with the added burden of fighting off cancer. Taking on tough challenges was nothing new for this man, however.

JACK SWIGERT proved the stuff of which he was made for the first time in front of the Nation almost 13 years ago when he piloted a crippled spaceship back from the Moon. From 100,000 miles away we listened as JACK radioed the news of the explosion on the ship, the damage it had caused, and the plan to return to Earth in a controlled and commanding voice. The whole country breathed a sigh of relief when JACK and his two fellow astronauts emerged from their capsule smiling and waving to a proud and thankful Nation.

In the same way, when JACK was confronted with the fact that he had cancer during his campaign for Congress, he steeled himself for the task ahead and went on fighting valiantly, never conceding. Though he did not make it here to begin this job with us, he certainly accomplished with his life the goal of exemplifying leadership and dedication to a cause he deemed worthy of everything he had to give.

He leaves us, his countrymen, with a more profound understanding of strength, stamina, and courage in the face of adversity, and those of us who would be his colleagues with an example of the kind of dedication which we all strive for in performing the duties of this body.

Mr. KRAMER. Mr. Speaker, I yield to the gentleman from New York (Mr. KEMP).

Mr. KEMP. Mr. Speaker, I thank my colleague for yielding. I particularly appreciate his taking this time to focus national attention on the wonderful life and career and role model for all of us that JACK SWIGERT presented. There are a number of my colleagues on the floor who would like to speak, many of those who were elected with JACK as freshmen Members of Congress, for whom I have high respect. I want to thank them for taking their time to help the gentleman from Colorado (Mr. KRAMER) and the previous speakers in focusing on the life and the tremendous career of JACK SWIGERT.

One of my idols is President Teddy Roosevelt, and many years ago he said that in life the credit goes not to the critic who stands on the sidelines and points out where the strong stumble. The real credit, he said, goes to the man who is actually in the arena, whose face may get marred by sweat and dust, who knows great enthusiasm and great devotion, and learns to spend himself in a worthy cause; who at best if he wins knows the thrill of high achievement, and if he fails at least fails while daring greatly; so that in life his place will never be with those cold and timid souls who know neither victory nor defeat.

Mr. Speaker, JACK SWIGERT represents all that is best about that wonderful Teddy Roosevelt quotation. He was not timid, he was not content to stand on the sidelines. He was competitive in everything he did from education to astronautics, to economics, to politics, through his own personal, social, and professional life. He knew great enthusiasm and great devotion to a worthy cause and he spent his life in a worthy cause. His cause was America. His cause was bettering the condition of human beings on this Earth. His life and career were devoted to the restoration of the American dream. He won, he lost, but above all JACK was a participant, an activist, a winner.

I cannot tell my colleagues in the House how much respect I have for JACK SWIGERT and his career. I was with the gentleman from Colorado at the funeral on Tuesday. I do not*** BAD MAG TAPE *** know how to characterize it other than to say what I have in my heart, that it was a beautiful service. It was a testimony to a courageous, dedicated, compassionate, caring human being who loved his family, loved his country, and loved this Congress. I am sure there are few among us who loved the Congress more than JACK SWIGERT. There are few among us who wanted to serve as badly.

I know how badly I wanted to serve in this body, how excited I was when I walked through those doors and took my first step into this Chamber. I know what is in the hearts and in the minds of my colleagues who were just recently elected, but you could bunch it all up together, put it in one heart or one mind, and it would not match the excitement, the dedication, the thrill of being a Congressman that belonged to JACK SWIGERT.

I can bring tears to my own eyes just by recalling the fact that all JACK wanted to be was to be sworn in as a Congressman and do his duty for America. He called me to ask about his committee assignment. He called me and the gentleman from Colorado and talked about other committee assignments, about getting this country moving again. He really epitomized everything that is good about the Congress, and as Bo Calloway, his friend

and State chairman of the Colorado Republican Party said at the funeral, we are all better off because of the life and example of JACK SWIGERT.

I just hope those Members who are either here or watching on their screens, or maybe the folks who may be watching on TV or reading the RECORD, may recognize that here at the center of gravity, was where JACK SWIGERT wanted to be and always meant to be.

He won and he lost, but he is the ultimate winner, as are we for having JACK SWIGERT with us as briefly as he was. His courage, tenacity and leadership will never be forgotten.

I just personally want to thank my friend, Mr. KRAMER, from Colorado, and Senator BILL ARMSTRONG and the whole delegation for helping put together the most beautiful tribute to one of the most wonderful men I have ever had the pleasure of knowing. The Bishop of Denver led the service, and all the church and civic leaders of Denver, the great astronauts—I think every single astronaut except maybe two or three was in that audience last Tuesday—and a huge audience including his dear mother, Virginia, and his wonderful family were moved by this wonderful tribute.

George Will was right. JACK SWIGERT was a genuine American hero—we will miss him, but America benefits from his wonderful life and career.

Mr. KRAMER. Mr. Speaker, I appreciate the eloquent remarks of the gentleman from New York, and I know the family appreciates his taking his time to go to the funeral.

Mr. Speaker, I yield such time as he may require to the gentleman from Iowa (Mr. HARKIN).

Mr. HARKIN. Mr. Speaker, I thank the gentleman for yielding to me. I too want to commend the gentleman for taking this special order to honor the memory of a very prominent, very important, very courageous American.

I have always been a space nut, I guess you might say. I have been flying all my life, and I have watched I think every space shot that has ever come off. I can remember following the progress of Apollo XIII, the incident that happened to those astronauts and their safe return to Earth. Later on, when it was my privilege to run for this office and to be elected by my constituents and come to the Congress, come to the House, one of my first requests was that I get placed on the Science and Technology Committee. I was rewarded with that appointment, and the first individual I met was JACK SWIGERT.

He was staff director then, in January of 1975, and of course for me to meet JACK SWIGERT at that time for me was one of the high points of my life, because I had followed his career. So, I came to that committee with an extremely high esteem for JACK SWIGERT, and I can tell you that my high esteem for him that I held because of my following his career as an astronaut was amply justified by my later getting to know him as staff director for the Science and Technology Committee.

He was perhaps one of the most competent individuals I have ever known. He was eminently fair, extremely knowledgeable about all of the areas that went on in our committee, and many times I sought his advice and consultation as a freshman member of that committee to ask him about procedure, ask him about certain subcommittees, and what subcommittees I had to seek out. As I said, he was always just, not only eminently knowledgeable, but eminently fair.

After JACK decided to leave the staff directorship of the committee—I believe it was in late 1977—I remember having a conversation with him, and he said he was returning to Colorado to run for the U.S. Senate. I can remember saying at the time, "Well, I hope you make it, and if you do, get on the Space Committee in the Senate and we can keep the Space Program going."

We parted on that note. It was my misfortune to never see him again alive, and I had no contact with him after that. I followed his race in 1978 and 1980, and then in 1982. I did not know of his illness, did not know he was sick at all. I remember reading the newspapers the day after election and finding out that he had indeed been elected to Congress, and I can remember thinking to myself and talking to my wife and saying that JACK SWIGERT did get elected, and that I have every confidence that he will come back on the Science and Technology Committee. I thought how unique that would be for a former staff director to come back on as a very eminent member of the Science and Technology Committee, and I really looked forward to serving with him on the Science and Technology Committee.

JACK SWIGERT would have been an outstanding member of that committee, as he would have been an outstanding Member of the House of Representatives. Certainly, this House is diminished, greatly diminished by the fact that JACK SWIGERT was taken before his time, and that by Divine Providence he was not allowed to serve in this body.

My condolences go out to his family. Again, I want to thank the gentleman from Colorado for taking this time to honor the memory of a truly great American.

Mr. KRAMER. I appreciate the very kind remarks of the gentleman from Iowa. I think it is a great tribute to JACK's memory that the nature of this special order is such that it is truly bipartisan, truly nonpartisan. I thank the gentleman.

Mr. Speaker, it is my pleasure now to yield to the new president of the freshman class on my side of the aisle, the gentleman from Arizona. (Mr. MCCAIN).

Mr. MCCAIN. Mr. Speaker, I appreciate the opportunity to be here with other Members of my class to pay tribute to JACK SWIGERT. I think it is important that the attributes and achievements of JACK SWIGERT were recently enumerated in full. JACK SWIGERT was what makes this Nation unique in all the world in that we have a Nation composed of heroes, heroes who arise in times of crises when called upon to serve their fellow man—men like Audie Murphy, Sergeant York, Ira Hayes; men like General Dozier most recently, whose behavior in the hands of Italian terrorists was so commendable; and men like the man not too far from here, the man in the frozen Potomac River who pushed away a lifeline, a man whose name will never be known to us, so that his fellow Americans might live.

JACK SWIGERT epitomizes the great strength of America is that he is a hero.

With your indulgence, Mr. Speaker, I would like to read a short passage from the book, "The Right Stuff," by Tom Wolf, which I think describes JACK SWIGERT as well as anything:

> A young man might go into military flight training believing that he was entering some sort of technical school in which he was simply going to acquire a certain set of skills. Instead, he found himself all at once enclosed in a fraternity. And in this fraternity, even though it was military, men were not rated by their outward rank as ensigns, lieutenants, commanders, or whatever. No, herein the world was divided into those who had it and those who did not. This quality, this it, was never named, however, nor was it talked about in any way.
>
> As to just what this ineffable quality was . . . well, it obviously involved bravery. But it was not bravery in the simple sense of being willing to risk your life. The idea seemed to be that any fool could do that, if that was all that was required, just as any fool could throw away his life in the process. No, the idea here (in the all-enclosing fraternity) seemed to be that a man should have the ability to go up in a hurtling piece of machinery and put his hide on the line and then have the moxie, the reflexes, the experience, the coolness, to pull it back in the last yawning moment—then to go up again the next day, and the next day, and every next day, even if the series should prove infinite—and, ultimately, in its best expression, do so in a cause that means something to thousands, to a people, a nation, to humanity, to God.
>
> Nor was there a test to show whether or not a pilot had this righteous quality. There was, instead, a seemingly infinite series of tests. A career in flying was like climbing one of those ancient Babylonian pyramids made up of a dizzy progression of steps and ledges, a ziggurat, a pyramid extraordinarily high and steep; and the idea was to prove at every foot of the way up that pyramid that you were one of the elected and anointed ones who had the right stuff and could

move higher and higher and even—ultimately, God willing, one day—that you might be able to join that special few at the very top, that elite who had the capacity to bring tears to men's eyes, the very Brotherhood of the Right Stuff itself.

□ 1500

Mr. Speaker, I believe that JACK SWIGERT represents to all the people of this Nation the "right stuff." I hope that we will not sorrow at his passing, and I hope that his family and his mother will take comfort in the knowledge that this Nation and our lives have been enriched by his presence.

Mr. KRAMER. Mr. Speaker, I appreciate the remarks of the gentleman from Arizona (Mr. MCCAIN) and I appreciate also the presence of so many of the other Members of the freshman class. It is a real tribute to JACK and one that I know his family will truly appreciate.

Mr. OXLEY. Mr. Speaker, will the gentleman yield?

Mr. KRAMER. I yield to the gentleman from Ohio.

Mr. OXLEY. Mr. Speaker, I thank the gentleman from Colorado (Mr. KRAMER) for yielding to me.

I first came to know JACK SWIGERT last summer at a charity golf outing in Dayton, Ohio, known as the Bogey Busters, where I happened to be paired with JACK for the first day of the tournament. I had not known him before. I had not even known as a matter of fact that that was the JACK SWIGERT who had been on Apollo 13, nor did I know at that time that he was a candidate for Congress.

We had a very enjoyable 18 holes, both, I might add, playing in a rather mediocre fashion at the time.

I remember talking with JACK afterward when I first became aware of who he was, and I wished him well. I, of course, followed his efforts at election in Colorado's new district with a great deal of interest.

At that time I think JACK was quite well aware that he was not a well man, although there was no indication to me whatsoever that he was feeling ill at all. I think at that point he had started to undergo chemotherapy treatment.

When I got back to Washington and had an opportunity to talk with our colleague, the gentleman from Colorado, Mr. HANK BROWN, that was the first time I knew that JACK was quite ill. I look back on that weekend with JACK SWIGERT with a great deal of fond memories of a person for whom I had a great deal of respect and with whom I had certainly been looking forward to serving in the 98th Congress.

He was an inspiration, I am sure, to all of us, even to those, I am sure, who were not especially interested in the space program or even in politics. From his background and what he did during his life, all can take great satisfaction in knowing that we knew JACK SWIGERT even for a brief time.

I appreciate the kindness of the gentleman from Colorado (Mr. KRAMER) in providing this time so that all of us can remember JACK, and I want to send my best wishes and concern to his family and former colleagues, as well as people all over who had a great deal of understanding about what JACK went through. We will miss him dearly. I only wish that he could have been here with us to serve in this great 98th Congress.●

SWEARING IN OF MEMBERS

The SPEAKER. The Chair understands there are some Members present who desire to take the oath at this time. Will those Members who have not taken the oath of office kindly step to the well.

The Speaker administered the oath of office to the following Members-elect:

The Honorable RICHARD L. OTTINGER of New York, the Honorable VIC FAZIO of California, the Honorable LEON E. PANETTA of California, the Honorable JAMES G. MARTIN of North Carolina, the Honorable WILLIAM M. THOMAS of California, the Honorable WILLIAM F. CLINGER, JR., of Pennsylvania, the Honorable ROBERT E. BADHAM of California, and the Honorable BILL ARCHER of Texas.

A TRIBUTE TO THE LATE HONORABLE JACK SWIGERT

The SPEAKER pro tempore (Mr. HOYER). The Chair recognizes the gentleman from Colorado (Mr. KRAMER).

Mr. KRAMER. Mr. Speaker, the short but beautiful ceremony we just saw is one that I am sure that all of us wish that JACK SWIGERT could have participated in. Certainly that was his fondest wish.

Mr. OTTINGER. Mr. Speaker, will the gentleman yield?

Mr. KRAMER. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Speaker, I also would like to express my appreciation to the gentleman from Colorado for taking this special order. I am not sure that I can add much to what has been said here already about JACK SWIGERT's heroism as an astronaut, his excellence as a staff director of the Committee on Science and Technology, on which I have the privilege of serving; his courage in the face of the ravages of cancer.

I think all of us who served with him on the Science and Technology Committee had the greatest respect for his dedication. Even those of us who, like myself, often disagreed with him on matters of substance, had enormous respect for his integrity and dedication.

We express our condolences to his family.

Mr. KRAMER. At this time, Mr. Speaker, I yield to the gentleman from New York (Mr. BOEHLERT).

Mr. BOEHLERT. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, while I did not have the pleasure of JACK SWIGERT's longstanding friendship, I did, for an all-too-brief period, have the privilege of being his colleague.

And even as a rookie of just a few days in this great and historic body, I know already there exists an intangible something—I cannot see it, I cannot touch it, I cannot really describe it, but I know it is there—an intangible something which prompts pride upon the accomplishment of another and evokes sadness when the opportunity for accomplishment is no more.

There is sadness now in the heart of the House of Representatives because the opportunity for further accomplishment by a colleague who accomplished so much, who was a source of such great pride in so many, is no more.

JACK SWIGERT was a hero when we need all the heroes we can get. Teddy Roosevelt would have loved him for, as the Associated Press reported, "his life had been a series of magnificent successes against the odds."

JACK SWIGERT was never a cold and timid soul sitting on the sidelines, rather he was the man in the arena who at the end must have known the triumph of high achievement.

Mr. ZSCHAU. Mr. Speaker, will the gentleman yield?

Mr. KRAMER. I yield to the gentleman from California, another Member of our freshman class.

Mr. ZSCHAU. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, late one evening last month, I called JACK SWIGERT in Houston to discuss the committee assignments he was seeking. He had not been able to attend our freshman orientation because he was receiving treatment at a Houston hospital. That night, JACK told me he would like to serve on the Energy and Commerce Committee. With his strong technical and business background, he said he felt he could contribute best to our country and his State of Colorado by service on that committee. I agreed.

Knowing that the work of Energy and Commerce is demanding, I asked him about the effect his illness might have on his ability to serve. He said that he had assembled a team in Washington for treating his cancer and that he would receive treatments on weekends so that it would not interfere with his work.

He told me that he could no longer get around very fast, but assured me that his mind was alert and he would

be a hardworking Member of Congress. He added that he missed not being with us at the freshman orientation, but he was looking forward to meeting his classmates in January.

As I slowly hung up the receiver, I paused and thought about the incredible human being I had just spoken with. His cheerfulness, his positive attitude, his desire to serve his country once again and the way he faced squarely the challenge that later took his life made a lasting impression on me.

Although JACK could not be with us during orientation and although he was taken from us before the swearing-in, he will always be a Member of this freshman class of the 98th Congress.

As we face the challenge ahead, we will be inspired by his courage and calm determination. We pledge to serve in this body in a manner that would make him proud, just as he has given us great pride by being part of our class.

Thank God for JACK SWIGERT.

Mr. KRAMER. Mr. Speaker, I thank the gentleman from California (Mr. ZSCHAU) very much for his very beautiful remarks.

Mr. BARTLETT. Mr. Speaker, will the gentleman yield?

Mr. KRAMER. I yield to the gentleman from Texas.

Mr. BARTLETT. Mr. Speaker, it is with a sense of sadness and respect that I stand with my colleagues in the House of Representatives to help pay tribute to a courageous American who was to have entered this body on January the 3d, to represent the Sixth Congressional District of Colorado, JACK SWIGERT. An athlete, an astronaut, a scholar, a hero, and a public servant, JACK SWIGERT was a patriot.

During his life, JACK SWIGERT accepted challenge after challenge. No challenge could be greater for any man than to rescue himself, his fellow crewmembers and perhaps the future of the U.S. space program from the brink of disaster in space. It was said that "adversity brings out the character of a man." That adversity and that character was the life of JACK SWIGERT.

Of the challenge of life and space, JACK SWIGERT told us "Apollo 13 taught me that challenges are to be met and overcome." Candidate SWIGERT continued his campaign for the House, and he told the people of the Sixth District of his illness. He said,

> In the last few days, I've learned that I have a new challenge. Like 3 million other Americans, I have cancer, and I believe that you need to know that.

JACK continued to be an optimist as he said:

> I'm fortunate to have viewed the Earth from the Moon, and that vision has convinced me that technology and commitment will conquer any challenge.

JACK SWIGERT displayed a sense of courage, the meaning of which was defined by another great hero and statesman 20 years earlier, John F. Kennedy:

> To be courageous requires no exceptional qualification, no magic formula, no special combination of time, place, and circumstance. It is an opportunity that sooner or later is presented to us all. Politics merely furnishes one arena which imposes special tests of courage. In whatever arena of life one may meet the challenge of courage, each man must decide for himself the course he will follow. The stories of past courage can define that ingredient—they can teach, they can offer hope, they can provide inspiration, but they cannot supply courage itself. . . . For each man must look into his own soul.

JACK SWIGERT looked deep into his own soul and found courage in abundance.

Mr. KRAMER. Mr. Speaker, I thank the gentleman from Texas (Mr. BARTLETT) so much.

Mr. BATEMAN. Mr. Speaker, will the gentleman yield?

Mr. KRAMER. I yield to the gentleman from Virginia.

Mr. BATEMAN. Mr. Speaker, I, too, commend the gentleman from Colorado (Mr. KRAMER) for making it possible for us to pay our respects and tribute to the memory of JACK SWIGERT.

Mr. Speaker, I would like to join with my colleagues in expressing our sorrow over the death of JACK SWIGERT as he prepared to join us in this Chamber. It is unfortunate that the first time I rise to speak on this floor is on such a sad occasion; however, it is somehow fitting because we now pay tribute to a man who was denied the opportunity to speak before us when I know that he would have inspired us with his words, because of the strength of his character and the depth of his perception.

I feel a bond with JACK SWIGERT because the very space program in which he played such a vital role had its genesis at the Langley Research Center in my district in Virginia. Today, two NASA facilities continue to provide leadership in aeronautics and space technology, the work that was so greatly enhanced by JACK's contribution.

JACK SWIGERT was a man of history, from his pioneering test flights in the military and the aerospace industry, to his work in the space program, culminating in his brilliant and courageous piloting of the crippled Apollo 13 spacecraft back to Earth and safety for his crew. Furthermore, JACK was a man of history as a leading proponent in Washington and Colorado of the importance of developing our Nation's technology. I am certain that he would have earned an even greater place in history through his work in Congress as he would have served here with the same sense of dedication, perseverance, and commitment that he demonstrated in all aspects of his life.

I am disappointed that I will not be able to work with this man and will not benefit from his leadership and inspiration in the Congress.

On behalf of the NASA employees, military personnel, and all the people of the First Congressional District of Virginia who share so many of his concerns, I express my deepest condolences to JACK SWIGERT's mother, his family, and his friends.

I pray all of us in the Congress will perform our duties and responsibilities with the same courage and forthrightness that graced JACK SWIGERT during his too-brief life, and that we will meet the challenges that lie ahead of us as he met his challenges.

□ 1515

Mr. KRAMER. I thank the gentleman for his very fine remarks. My compliments and applause to our freshman class who for the most part on their first statements on the floor of this body have served themselves well and their class well, and I think in doing so have served the memory of JACK SWIGERT very well. I thank them.

Perhaps in closing we can think for just a moment about the measures we use to evaluate an individual's presence on this planet. Certainly one's deeds, which have been talked about so well today, and certainly what people say about a person who has gone, has got to be a measure of that individual's contribution to society and the diversity and the depth of those remarks today I think speak so well of the memory of JACK SWIGERT.

But in standing up here and listening to these eloquent remarks I heard I thought of one third thing, and that is perhaps one that is not usually used. That is what people do not say about another individual. I can say that in all of the time that I have known JACK and have heard people talk about JACK, and this can be said of so few individuals that have lived, that never have I heard a bad word, not one single bad word about JACK SWIGERT. Perhaps that also should be a measure by which we evaluate this most decent of human beings.

● Mr. McGRATH. Mr. Speaker, it is with great sadness that I rise to join in this special order to honor JACK SWIGERT, Member of Congress-elect from Colorado.

Since his election, I had looked forward to serving with JACK and I know that he will be missed by our colleagues. His experience in national policymaking, particularly his distinguished tenure on the staff of the House Committee on Science and Technology, would have been a credit to the Congress.

Although he did not serve with us, we should view JACK's life as an inspi-

ration to us all. From his successful piloting of the ill-fated Apollo 13 mission, to the tremendous courage and perserverance he showed in the face of his illness, JACK offered endless examples of bravery and heroism. The principle by which he lived, that however long the odds, you are not beaten until you concede, should serve to guide us and give us added determination in pursuing the challenges we as individuals must meet.

I am sure that we all extend our deepest sympathy to JACK's mother and his family, and his vision will be deeply missed by the Members of this body.●

● Mr. HORTON. Mr. Speaker, I wish to join my colleagues in paying tribute to JACK SWIGERT—a former astronaut, a Congressman-elect, and an American whose fortitude and determination was an inspiration to all the citizens of this Nation.

It was not my privilege to come to know JACK personally, but I well recall the character and confidence he showed in the troubled 1970 Apollo 13 flight. His courage and spirit were major factors in the successful return of that flight to Earth. That same courage and spirit would have contributed greatly to the operation of this House. It is truly a loss that he will not be able to serve in this body.

I extend my sympathies to his mother and two sisters. JACK was an outstanding individual and a tribute to all that this country stands for.●

● Mr. MONTGOMERY. Mr. Speaker, the death of JACK SWIGERT was a shock to me and I will miss him. I knew JACK when he worked on Capitol Hill and we became good friends.

He made a great contribution to this Nation in the area of science and technology. As you know, he served as staff director of the House Science and Technology Committee and he did a fine job.

JACK SWIGERT will always best be remembered as a courageous astronaut. When Apollo 13 developed trouble on its flight to the Moon, it was the heroic actions of JACK SWIGERT that helped save the lives of the crew and the mission.

Even after learning he had bone cancer, JACK continued to be a fighter. His determination and courage during this time were truly an inspiration to all of us.

He would have been a great Congressman. I am sorry we will not have the chance to serve with him. JACK will not be forgotten. His leadership and heroism until the very end will always remain in my memory of this great American.●

● Mr. SENSENBRENNER. Mr. Speaker, on December 27, 1982, I was deeply saddened to learn of the death of JACK SWIGERT. JACK's death came a week before he was to join us as a colleague in the 98th session of Congress.

While my colleagues have noted JACK's many accomplishments, I would like to pause and reflect upon what JACK's absence will mean for the Congress and our country. As the pilot of the ill-fated Apollo 13 Moon flight, JACK demonstrated the ability to face difficult crises and respond in a calm and rational manner. These qualities would have served this body well. At a time when this country is confronted with serious economic crises, requiring this body to respond with many difficult and potentially unpopular solutions, JACK's perserverance and guidance will be missed. This country and this body, I believe, will be the lesser for his death.●

A TRIBUTE TO THE LATE HONORABLE BENJAMIN S. ROSENTHAL

(Mr. OTTINGER asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. OTTINGER. Mr. Speaker, I take this time to say a few words in memory of our colleague from New York, the late BENJAMIN S. ROSENTHAL.

I was at his funeral this morning. It was a very beautiful, simple affair, at which his friends spoke of his great accomplishments in this House and of his great standing as a human being.

That 75 Members of the House made the trip to New York for services attests the degree of respect and affection we felt for him. Over 1,000 people attended those services. BEN'S close friend, the gentleman from California, DON EDWARDS, spoke at the funeral. He was joined by, among others, our former colleague Mayor Ed Koch and New York Gov. Mario Cuomo.

BEN ROSENTHAL was probably one of the best loved Members of this body. He was known as a champion of the consumer, a champion of human rights, which he pursued vigorously as a member of the Committee on Foreign Affairs, and a champion of civil rights and the rights of all our people here at home.

Mr. Speaker, we will miss him very dearly.

GENERAL LEAVE

Mr. OTTINGER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the life, character, and public service of the late Honorable BEN ROSENTHAL, our colleague who is lost to this body.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

UNITED STATES-SOVIET RELATIONS

Mr. SIMON. Mr. Speaker, I ask unanimous consent that I may be recognized for the purpose of speaking on my special order for today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. SIMON) is recognized for 30 minutes.

Mr. SIMON. Mr. Speaker, never in the history of humanity has it been so important that two nations understand each other than is the case today between the Soviet Union and the United States. We dare not miscalculate what the other plans and thinks.

But I returned 4 days ago from another trip to the Soviet Union aware that relations are continuing to worsen between our two countries.

I take the floor of the House today to suggest two things: First, that the dangers of continuing the present tensions are greater than the obvious; and second, there are practical steps both superpowers can and should take which would improve the climate.

On the first point, there are the obvious security and economic dangers of continuing the arms race in which we find ourselves. But the security issues are slightly more complicated than the obvious. The obvious is not likely to happen. Though our fears are real, the Soviets are not likely to suddenly send tanks into central Europe. And though their fears of us are real, we are not likely to unleash our missiles onto Soviet soil. The danger is rather in the escalation of a crisis in the Middle East or Asia or Africa or Latin America where the two spheres of influence come into competition. To prevent a crisis in another area from developing into nuclear war we must have two things:

First, a generally good level of understanding and communication between the Soviets and the United States; and second, constant efforts to reduce tensions in any area of the world before they become too inflamed.

The second of those two priorities the United States, other nations, and the United Nations have been working at with more success than failure, though there have been failures.

The first of the safeguards—a good working relationship between the United States and the Soviet Union—is now almost absent. And a nuclear world is not one in which we can afford the gamble of not having either of these two safeguards.

What can be done to improve the climate? Let me suggest these steps for

the United States, followed by suggestions for the Soviet Union:

First, the United States should immediately enter into negotiations for a cultural exchange agreement. The Soviets are ready for it. Failing to encourage cultural exchanges means failing to give each nation the chance to understand the other a little better. Refusal to negotiate this is not being tough; it is being stupid.

Second, we must make much clearer our willingness and eagerness to enter serious arms negotiation. The Soviets have the impression that the United States wants no arms limitation agreement, and the Soviets are not alone. A seasoned American reporter asked me, "Why doesn't the Reagan administration want arms control?" My impression is that they do want it, but not very badly. It is a little like apple pie after a big dinner. Yes; you want it, but maybe you would be more comfortable without it. If this administration is really serious about wanting arms control, it has yet to convince the Soviets of this intention, and it has yet to convince many of us in Congress. A nation that is not eager to control nuclear weapons is going to lose a public relations fight, if not it hide. There must be much more of a sense of urgency on arms control than the administration now evidences.

Third. The administration should indicate more of a willingness to have a summit conference between President Reagan and Party Secretary Andropov. I was pleased with the President's statement on this last night. Former President Richard Nixon is urging such a meeting and he is right. In some ways Ronald Reagan is a "babe in the woods" on international matters. And the more he educates himself, the better off we all are. Even preparing himself for such a summit will improve the President's understanding and the changes for a more sensible foreign policy. A summit meeting should not be expected to produce miracles, but it can produce greater understanding on both sides, and right now that is miracle enough.

Fourth. Where the defense budget can be prudently cut, it should be, and the President should lead the way, not be dragged by Congress. That strengthens the President's posture in his discussions with the Soviets.

Fifth. All programs which expand Soviet studies and exchanges should be encouraged. We now spend more money on building one-fourth of 1 mile of Interstate Highway then we do on all of our exchange programs with the Warsaw Pact countries, hardly a sensible ordering of priorities.

Sixth. All trade, except of the most technical and military variety, should be encouraged between our two countries.

Seventh. When Soviet leaders make proposals, if they must be rejected, wait a week or two before the rejection. Instant rejections smack of thoughtlessness and arrogrance. The identical response 3 weeks later leaves less of knee-jerk reaction impression. And sometimes, when we are a bit more reflective, we will find some substance to proposals.

Eighth. Come up with new, practical suggestions for reducing the arms race. Any steps, no matter how small, on which we can agree create a better atmosphere in which more substantial steps can be taken.

The Soviets, on their part, should:

First. Let a small number of people, who are neither spies nor holders of great state secrets, emigrate from their country. This includes examples such as Soviets married to Americans; a few celebrated international cases like Anatol Shchransky; the Pentecostals in the American Embassy with whom I visited and who certainly pose no threat to the Soviets if they are permitted to leave; and a marvelous Jewish couple with whom I visited, Prof. and Mrs. Naum Meiman. They want to emigrate to Israel. He is 71 years old, a retired professor. He has had the courage to speak out in Moscow in behalf of freedom. Thirty years ago he helped the Soviets develop nuclear weapons, and that is the Soviet excuse for keeping him and his wife. This, however, is obviously an excuse and nothing more, for the scientific value he had has long ago disappeared. They are being harassed and not permitted to leave for no reason—and this type of case irritates United States-Soviet relationships.

Second. The Soviets must encourage exchanges, including those of a nonscientific nature, much more. Some of the mistakes the U.S.S.R. makes are simply because they do not understand the American system of government sufficiently. More Soviet people should visit our country, just as more of us should visit the Soviet Union. Understanding can then grow.

Third. We are a people who understand gestures of friendship. There have been too few such gestures. Create them.

Fourth. The Soviets must understand that our fears are real. From the Soviet viewpoint they are not understandable, just as U.S.S.R. real fears of us are not understandable to most Americans. Any moves the Soviet leadership makes to diminish those fears—such as a negotiated settlement of the Afghanistan problem—will help create a better climate.

Fifth. Recognizing that new Soviet leadership gives them an opportunity to create a better relationship, just as the appointment of a new and able U.S. Secretary of State makes for greater possibilities of moderation on our side.

Sixth. Seize whatever opportunities there are to work together with the United States, whether in the Middle East or trade or wherever it might be. The more we work together, the more we will understand each other.

If these steps are taken by both sides, no instant paradise or utopia will be created. We will still not want to adopt their system of government, and they will not want to adopt ours.

But we can create a much saner, much safer world. And both the Soviet Union and the United States should be working at that much harder than we now are.

RECESS

The SPEAKER pro tempore (Mrs. HALL of Indiana). Pursuant to the order of the House today, the Chair declares that the House will be in recess until approximately 5 p.m. The bells will ring 15 minutes before we reconvene.

Accordingly at 3 o'clock and 28 minutes p.m. the House stood in recess subject to the call of the Chair.

□ 1715

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 5 o'clock and 16 minutes p.m.

□ 1715

SWEARING IN OF A MEMBER

The SPEAKER. The Chair understands that the gentleman from New Hampshire (Mr. D'AMOURS) desires to be sworn in. Will the gentleman please step into the well of the House.

The SPEAKER administered the oath of office to the Honorable NORMAN E. D'AMOURS of New Hampshire.

THE LATE BENJAMIN S. ROSENTHAL

(Mr. ADDABBO asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ADDABBO. Mr. Speaker, although I know that the membership is generally aware of the news, I announce for the record the sorrowful and untimely death from cancer of our colleague from New York, the Honorable BENJAMIN S. ROSENTHAL, a dear and close friend of mine for over 30 years and as close as a brother. On behalf of BEN's family, I would like to thank many of our colleagues and former colleagues led by Speaker O'NEILL, who attended funeral services in New York City this morning.

Because of the abbreviated session planned for today, I believe there is not sufficient time for the Members to

prepare their comments so I will put off a special order memorializing BEN until some future to be announced day. However, I do ask unanimous consent at this time to insert into the RECORD a newspaper article from the January 5, 1983, New York Times and an editorial from today's Washington Post. Both pieces deal with the life of BEN ROSENTHAL and his effect on issues during the years he served in this body. And that I and all Members may have 5 legislative days to revise and extend our remarks and include extraneous matter.

Mr. Speaker, those of us who knew BEN ROSENTHAL over the years grew to love and respect him as a person who cared deeply for this body and for the people of this country that we serve. He was, at heart, an introverted man in an extrovert's line of work, a man who enjoyed the intellectual aspects of our work and tolerated—sometimes with gritted teeth—the ceremonial part of it. In the 2 years since the cancer was detected, BEN ROSENTHAL displayed a personal courage and a refusal to bow to the debilitation of his illness that is unmatched. I am thankful that God has now given him rest.

I am sure that the Members join with me in extending our deepest condolances to his wife, Lila, their daughter Debra Mandel, their son, Edward, and his mother Ceil and sister Lola Ostricher.

[From the New York Times Jan. 5, 1983]

BENJAMIN ROSENTHAL, CONGRESSMAN FROM QUEENS FOR TWO DECADES, DIES

WASHINGTON, January 4.—Representative Benjamin S. Rosenthal of Queens, a leading liberal Democrat who was elected to his 11th term in November, died today of cancer at Georgetown University Hospital.

Mr. Rosenthal, who was 59 years old and had been ill for two years, had been sworn in at his bedside in the hospital on Monday.

He won re-election in the newly drawn Seventh District in Queens, which shifted south from his old Eighth District in north central Queens to include Forest Hills, Kew Gardens, Richmond Hill, Rego Park and Bellerose on the Nassau County border.

INTERIM SUCCESSOR TO BE NAMED

Patrick F. X. Mulhearn, counsel to Mayor Koch, said yesterday that an interim successor to Mr. Rosenthal would be selected by the Queens County Democratic Committee.

According to state election law, he said, a special election would then be called by the Governor. That election must be held not sooner than 30 days and not more than 40 days after the date that the Governor signs the proclamation for the special election. The law does not specify when the Governor must act.

Except for extraordinary circumstances, the Democratic candidate would be the interim successor chosen by the county committee, Mr. Mulhearn said. There would be no primary.

A general election for the seat would be held on Election Day in November, Mr. Mulhearn said.

Mayor Koch, in a statement, said: "Ben Rosenthal was a great Congressman, a wonderful husband and father and a close friend. His compassion and effectiveness have earned him an honored place among New York's great legislators."

Mr. Koch ordered the city's flags to be lowered to half-staff in tribute.

ADVOCATE FOR THE CONSUMER

(By Maurice Carroll)

Mr. Rosenthal was first elected to Congress in 1962 as the choice of "regular" Democrats in a complicated special election.

He went on to become an outspoken leader of consumer causes and, as his seniority grew, an increasingly effective advocate for the city.

When still new in the House, he began, much earlier than most, to speak out against the Vietnam War. "It was a very lonely road," he said when, after opposition to the war became more general, a number of members of Congress arranged for an all-night vigil in the House to coincide with antiwar demonstrations by students.

TEN PERCENT AGREED WITH ME

As he helped organize the vigil, he recalled the earlier, lonelier days. When he first took his antiwar stand in 1965, he said, "maybe 10 percent of my district agreed with me."

For the most part, though, Mr. Rosenthal was in tune with his constituents and he did not forget the political truism that politics is a local trade. "He never 'went Washington.'" said one Capitol Hill friend. "He was totally oriented to New York."

But he lived close to his job. Early in his Congressional tenure, he broke with the air-commutation pattern practiced by any New Yorkers in Congress—Tuesday to Thursday in Washington, with weekends politicking at home. Although he kept a voting address in Elmhurst, Queens, Mr. Rosenthal, his wife, the former Lila Moskowitz, and their two children made their permanent home in Bethesda, Md.

A DEFENDER OF ISRAEL

In international affairs, Mr. Rosenthal was a vigorous defender of Israel. At home, he supported the compromise that turned an unpopular low-income housing project in Forest Hills into a cooperative instead.

On Capitol Hill, Mr. Rosenthal was regarded as a perceptive analyst of motivation and of what could be accomplished. He wanted to win, not just make points.

He berated one fellow New Yorker who had, in his view, sabotaged an effort to win a House leadership post for the city delegation with a maneuver aimed at a mayoral election. That, Mr. Rosenthal said scornfully, was "playing a local game."

Nevertheless, his own involvement in New York City's increasingly intertwined relationships with Washington was considerable.

He started with the watchfulness over district projects that are a Congressional standard. He came to play an important role in the drive to win Federal support to help the city out of its fiscal problems in the mid-1970's.

As a member of the Government Operations Committee, he issued a report in 1976 that criticized the administration of President Gerald R. Ford for "preoccupation with fiscal brinkmanship" during New York's fiscal troubles.

SHAPED POLICY AND PRACTICE

In Congress, he wielded power through investigations and an ability to call attention to issues more than through writing legislation. In this way he helped shape Administration policy and agency practice.

Benjamin Stanley Rosenthal, who was born on June 8, 1923, in the Bronx, was brought up in Queens and attended City College. In 1949, after wartime service as a military policeman in Iceland, he graduated from Brooklyn Law School. And like many other young lawyers, he began to dabble in politics.

COMPLEX MANEUVERING

In 1962, the incumbent in the Eighth Congressional District became a judge, and after complex maneuvering involving numerous candidates Mr. Rosenthal emerged as the choice of Mayor Robert F. Wagner. He went on to win in a special election.

He is survived by his wife, the former Lila Moskowitz; a son, Edward, of Bethesda; a daughter, Debra Mandel of Philadelphia; his mother, Ceil, of Queens, and a sister, Lola Ostreicher, of New Hyde Park, L.I.

His chief legislative assistant, Steven Cohen, said funeral arrangements were incomplete.

[From the Washington Post, Jan. 6, 1983]

BENJAMIN S. ROSENTHAL

Benjamin S. Rosenthal of Queens was an able, issue-minded legislator and among the most conscientious of the breed. Arriving in the House in 1962, he established himself as a harddriving advocate of a full range of liberal Democratic causes, domestic and foreign. In an affectionate tribute, his constituents voted him another term last November although they knew he was a cancer patient. He died Tuesday, at age 59.

Ben Rosenthal was no shrinking violet, no TV smoothie, no seeker of consensus. he believed in fighting hard for the things he cared about, and he did so with a vigor—often witty, but sometimes, as he acknowledged, abrasive—that left few people with equivocal feelings about him. Even if he had had to worry about being reelected, which he did not, there is little reason to think he would have altered his style.

It says something about Mr. Rosenthal that he struggled for more than a decade to establish a federal agency to represent consumers in court, becoming nationally known as a consumer champion, but ended up not with a new agency but with a marathon educational campaign. The hearings he conducted in his Government Operations subcommittee on commerce, consumer and monetary affairs sharpened his reputation for being that rare legislator on the front line of the public interest.

With many other members of his congressional class, Representative Rosenthal moved easily to the large causes of the 1960s—the Great Society and, early on, the movement against American involvement in the Vietnam War. A member of the Foreign Affairs Committee, he promoted a stronger congressional role in foreign policy-making while that issue was popular on the Hill, and while it was not. He qualified as a leader of the "Israeli lobby" in the House and, in one disastrous episode involving Cyprus, he threw his weight to the "Greek lobby" as well. Then as always, he fought hard and fairly and without consideration of personal risk or gain.

● Mr. MRAZEK. Mr. Speaker, it is with a profound sense of sorrow that I join my colleagues in rising to pay tribute to our late colleague, BENJAMIN ROSENTHAL. I did not have the honor to serve with BEN but as a fellow New Yorker I had the utmost respect for

his service to our country and the House of Representatives.

While he will no longer serve with us in the 98th Congress, his past work as a senior member of both the Foreign Affairs and Government Operations Committees will continue to benefit our own Nation as well as our allies abroad.

His dedication and commitment lasted right up to the last weekend of his life. His remarkable courage in the face of great pain is a wonderful example for us all. I extend my heartfelt sympathy to his family and offer them my sincere condolences.●

● Mr. KOSTMAYER. Mr. Speaker, 6 years ago, when I first came to Washington as a freshman House Member, I sought a seat on the Committee on Government Operations. On the tier of seats behind and above me in the committee room sat BEN ROSENTHAL of New York. As long as I smelled the smoke of BEN's long cigar while he was perched above me, I was reassured that the consumers in his district and mine, as well as everywhere in the country, were being well represented.

BEN ROSENTHAL's constituency was wherever people sought to be treated fairly and honestly. Millions of Americans, who never knew his name, lead safer, cleaner, healthier and more economical lives because of him and his work.

BEN's tough, wisecracking facade could not mask his sense of humor and kindness. I will miss him as a colleague and as a friend.●

● Mr. STOKES. Mr. Speaker, I take this opportunity to join with my distinguished colleagues from New York (Mr. ADDABBO) and other Members of the House in mourning the death of one of the great legislators of this body—Congressman BENJAMIN ROSENTHAL. Mr. Speaker, for two decades, BEN ROSENTHAL represented the Eighth Congressional District of New York. He truly made an indelible mark on the work of this body and the Nation.

Mr. Speaker, we all know that BEN was a champion of the people and particularly of consumers. As a ranking member of the House Government Operations Committee. BEN worked tirelessly to protect the rights of consumers. His major goal was the creation of an independent Federal consumer protection agency. Even though this agency was never created, in his own unique style, BEN almost singlehandedly educated this body and this Nation about the problems of the consumer.

Mr. Speaker, in addition to being the primary advocate for the consumer, BEN was a man of great vision and the conscience of this Congress. Long before the antiwar movement gained prominence in the House, BEN ROSENTHAL arranged for all-night vigil in the House to coincide with anti-Vietnam war demonstrations by students. I joined BEN in that vigil. All of us that participated in that historic moment found a strong sense of encouragement from BEN's courage and convictions about the insanity of this country's involvement in the Vietnam war.

As a result of that vigil, BEN gained a reputation for being a man of great spirit and drive not only in the Congress but throughout the Nation.

We shall all miss BEN, Mr. Speaker, he was truly a statesman and an exceptional legislator. In his every waking moment, he kept his primary purpose of being in Washington in focus—to serve the people. BEN achieved that purpose in a grand and memorable style. As we begin the work of the 98th Congress, we shall truly miss the conscience and leadership of our colleague—Congressman BENJAMIN ROSENTHAL.●

● Mr. ANNUNZIO. Mr. Speaker, Congressman BEN ROSENTHAL of New York served the House of Representatives and the Nation with dedication and distinction, and his death is a sad loss.

During the 20 years that he served as Congressman for the Eighth District of New York, he compiled a legislative record on behalf of the consumer that will be remembered with respect and gratitude.

BEN ROSENTHAL was a consistent champion of civil rights and civil liberties, and he was among the first in the House of Representatives to publicly oppose the Vietnam war. He fought with compassion for the powerless who could not help themselves.

BEN served in the Army from March of 1943 to January of 1946, and began his career of public service with his election to the 87th Congress in a special election on February 20, 1962. He was reelected to each Congress since that time. During the 88th and 89th Congresses, he served as a member of the National Commission on Food Marketing, and as a member of the House Foreign Affairs Committee. His outstanding dedication to high standards was an inspiration to his friends and fellow citizens.

As the Chairman of the Subcommittee on Commerce, Consumer, and Monetary Affairs of the House Government Operations Committee, Congressman ROSENTHAL was in the forefront of consumer justice and protection for those who could not help themselves, and indeed, these successful efforts have made our land a stronger and better country.

BEN was a dedicated and devoted American, and a Congressman of outstanding ability, deep compassion, and courage in total dedication to high standards. He will be sorely missed in the House of Representatives.

Mrs. Annunzio and I extend our deepest sympathy to his wife, Lila, and to his children, Debra and Edward, his mother, Ceil, and his sister, Lola.●

● Mr. PERKINS. Mr. Speaker, I join my colleagues in sorrow at the death of our colleague, Representative BENJAMIN S. ROSENTHAL, yesterday at Georgetown University Hospital.

I had known him since he came to the House in a special election some 20 years ago, and I was pleased to call him my friend.

For a time, we occupied offices across the hall from each other in the Rayburn Building, and I frequently walked back and forth to the Capitol with him as we went to cast our votes. I knew him as a good man, an impeccably honest man, and a fighter for the things in which he believed.

I like to think of BEN ROSENTHAL as a warrior for the people. He will be sorely missed in this Congress, and it is doubly tragic that his death has come so early in the session.

I join my colleagues in expressing our sorrow to his family.●

● Mr. BIAGGI. Mr. Speaker, I had the honor to attend this morning's funeral services for our dear friend and departed colleague BENJAMIN S. ROSENTHAL. I take this occasion today to pay a brief tribute to this great man and announce my intention to participate in the special order later this month.

I had the pleasure to work with BEN throughout my 14 years in this House. BEN preceeded me by some 5 years so by the time I arrived in 1968 BEN was one of the more experienced and wiser Members whose counsel was ofttimes invaluable.

BEN and I represented neighboring districts in the Borough of Queens for some 10 years. I knew many of BEN's constituents and know how revered and respected he was. If there was any doubt—all one had to do was see the thousands of people who lined the funeral route this morning—these were people in genuine mourning and loss.

BEN had a legislative career with many milestones. He may be best remembered for his work on behalf of the consumers of this Nation. He was a pioneer in the consumer movement and left as a champion of this important cause.

BEN was a passionate advocate of the sovereign State of Israel and a powerful champion for the right of the Greek Cypriot population. He was a man of incredible integrity and intelligence—of commitment and capacity. He had a dry sense of humor—but regaled in stories that either he told or those which were told to him. We shared many hours and experiences together—and today I feel a powerful sense of loss. BEN leaves behind a legacy which will endure for years to come. My most sincere expressions of sympathy go to his widow, Lola, and his surviving children, Debra and Edward. May he rest in the peace he deserves.●

● Mr. RODINO. Mr. Speaker, all of us feel the deep loss at the passing of our friend and colleague BEN ROSENTHAL. In the two decades that we served together, I grew to greatly admire this man of compassion, courage, and high principle.

As a member of the Government Operations Committee, BEN ROSENTHAL fought hard for the health and safety of American consumers. He paid particularly close attention to the needs of our most vulnerable citizens, especially the aged, the minorities, and the disadvantaged. A thoughtful and hard-working legislator, BEN helped to move our country toward greater social justice for all citizens in the 1960's and 1970's. I was fortunate to collaborate with BEN on legislation to assist the cities of our country, and to benefit from his friendship.

He was a man who enjoyed the overwhelming support of his constituents who appreciated his honesty, sincerity, and conscientious concern for their welfare.

Even during the illness that finally took his life, BEN inspired many of us with his indomitable spirit and sharp wit. I mourn his loss as a friend and statesman, and I offer my sympathies to his wife, Lila, and his family.●

● Mr. FUQUA. Mr. Speaker, it was with a great personal sadness that I learned of the death of our colleague, BEN ROSENTHAL. He was a good man and he will be missed.

Although I first met BEN when I came to Congress in 1961, I cannot say that we were immediate friends. I did not know him well when I was assigned to the Government Operations Committee in 1967 but I quickly came to like and trust him.

BEN and I worked closely together on a wide range of subjects over the years and I valued his opinions and advice. We worked in the early days on the Consumer Protection Agency and we worked side-by-side to establish the Department of Energy. BEN—looking out for his constituents served by multistate utilities—and I, concerned with my rural constituents served by small electric co-ops, reached compromises that allowed us to pass the legislation through committee and to the House floor.

The hard work and dedication BEN brought to every assignment was a trademark of his. If you did battle with BEN you had best come prepared because he always did his homework.

One facet of his character may not be generally known. I can remember numerous times during committee hearings and markup when there would be a lull. You could count on BEN to lean over and tell a joke and make a wisecrack that would bring chuckles from everyone within earshot. He had a marvelous sense of humor and often told jokes at his own expense.

I extend my condolences to his wife and family. Their loss is deep. The country, too, suffers the loss of a leader. I shall miss BEN very much. He was a colleague and, more, he was a friend.●

GENERAL LEAVE

Mr. ADDABBO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the subject of my 1-minute speech on the late Honorable BENJAMIN S. ROSENTHAL.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

FOREIGN INVESTMENT REORGANIZATION ACT OF 1983

(Mr. KASTENMEIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. KASTENMEIER. Mr. Speaker, that which I am about to comment on relates to the very sad news just given the House of Representatives by the gentleman from New York (Mr. ADDABBO). I am today introducing a bill I did not author and will introduce a statement that I did not author.

The bill was prepared for introduction by the gentleman from New York (Mr. ROSENTHAL). On Monday he might have been able otherwise to have introduced this bill, but today, for reasons we now know, he is not able to do so.

Also, Mr. Speaker, this bill relating to something in which the gentleman from New York (Mr. ROSENTHAL) was vitally interested, relating to the analysis and reporting with respect to foreign acquisition of U.S. businesses and assets, I trust that this bill and the explanation of it made by the gentleman from New York will be given prompt attention by the appropriate committee in furtherance of his very good work.

Mr. Speaker, it is a privilege for me to so act in behalf of our colleague, a man who was a very, very close friend of mine.

Mr. Speaker, since July 1978, the Commerce, Consumer, and Monetary Affairs Subcommittee, which I chair, has held 20 days of hearings into the nature and extent of foreign investment in the United States, its impact on U.S. national interests, and the U.S. Government's response to such investment. In August 1980, the subcommittee issued an extensive report, approved by the Committee on Government Operations, entitled, "The Adequacy of the Federal Response to Foreign Investment in the United States." That report concluded and subsequent investigations have confirmed that:

The United States is now the world's largest host recipient to foreign investment. Foreign direct and portfolio investment in the United States, including the value of assets under foreign control, now totals between $600 and $800 billion and is increasing rapidly.

Foreign investment is becoming increasingly focused in energy, high technology, banking, and other sensitive areas of our economy. Some foreign investment includes the ownership or control of U.S. firms performing classified contracts for the Defense Department and the Department of Energy. Existing Federal statutory and executive order restrictions on foreign acquisitions in many vital and strategic national interest sectors of our economy are piecemeal and haphazard and fail to adequately protect the United States.

Eighteen separate Federal agencies and entities are responsible for monitoring, analyzing, or regulating foreign investment in the United States. The activities of these agencies lack coordination, consistency, and commitment.

Federal efforts to monitor, analyze, and report on foreign investment in the United States and its impact on U.S. national interests are seriously deficient.

When compared to restrictions imposed by other industrialized nations on foreign acquisitions which run counter to their national interests, the present U.S. Government policy is dangerously obsolete and does not distinguish between beneficial and harmful foreign acquisitions.

Because of the pressing need for major organizational and policy changes in the way the U.S. Government monitors and responds to foreign investment, I am today introducing the Foreign Investment Reorganization Act of 1983.

This legislation would: First, reorganize, consolidate, and transfer to an independent Foreign Investment Commission essential responsibilities concerning inward foreign investment now performed by 18 separate Federal agencies and entities; second, prohibit foreign acquisitions in narrowly specified vital national interest sectors of the U.S. economy, specifically, defense, weapons, nuclear energy, and telecommunications; third, require the Commission's review and prior approval of foreign acquisitions in sensitive national interest sectors, such as banking, energy, minerals, transportation, and high technology; fourth, encourage, in nonvital sectors, beneficial investments that would rescue failing U.S. companies, create new jobs, infuse capital, or otherwise benefit the American economy; and fifth, end the secrecy surrounding foreign invest-

ment by strengthening the 1976 International Investment Survey Act to require effective reporting of inward direct investment on a country-by-country and industry subsector basis.

Mr. Speaker, I want to emphasize several points:

First, this legislation does not impact international trade in any way. It does not raise barriers against or establish quotas for the import of foreign goods and services; nor does it prescribe local content requirements.

Second, it does not prevent or limit foreign investment in most sectors of the U.S. economy.

Third, it does not prohibit the establishment, by foreign owners, of new plants or enterprises in any but vital sectors of the U.S. economy. For example, Japanese auto firms would still be able to build factories and manufacture automobiles in the United States and foreign owners would still be able to open U.S. branches of overseas banks or apply for new bank charters here, without prior approval by the new agency.

Fourth, this bill actually encourages beneficial foreign investment—that is, which rescues a failing company, infuses needed capital, or creates more jobs for U.S. workers—even when that investment falls in the sensitive national interest sectors.

The Federal Government's 200-year-old policy of encouraging all foreign investment fails to reflect important recent changes in the nature and consequences of such investment. These changes, which have the potential for jeopardizing U.S. economic self-sufficiency and even national security, include a huge transfer of the world's wealth to a small number of Middle East oil exporting nations; a growth of foreign governmental investment resulting in greater political influence over U.S. decisionmaking; and an increasing concentration of foreign acquisitions of high technology firms, mineral and energy resources, and U.S. financial institutions.

Under existing U.S. policies and governmental structures, the American people are accorded far less protection from undesirable foreign investment than are the citizens of most other industralized nations. Even countries with liberal foreign investment polices, such as the United Kingdom and West Germany, review and formally approve foreign takeovers and new investments. Even if such approval is often pro forma, those nations' governments have both the authority and mechanisms to block undesirable investment. We do not.

While responsibility within the Federal Government for monitoring, analyzing, and regulating foreign investment is scattered among many agencies, the lead agency is the interagency Committee on Foreign Investment in the United States (CFIUS), which is authorized to examine foreign investments having major implications for the U.S. national interests. But, that committee has no real power to compel information to review an investment, to prevent an undesirable investment, or even to delay a potentially harmful investment. It has reacted infrequently and unevenly to potentially harmful investment and usually only in response to congressional prodding. In sum, CFIUS is a "paper tiger" which lacks the necessary power, capability, and will to protect U.S. national interests.

Mr. Speaker, U.S. national interests are becoming dangerously vulnerable to foreign political and economic influence as a result of rapidly increasing and unchecked foreign acquisitions of U.S. enterprises, assets, and resources. Consequently, more and more decisions about the U.S. economy are being made outside the United States. But little has been done to correct our increasing vulnerability.

This legislation is the first comprehensive response to these very real problems and concerns. During Congress consideration of this measure, I look forward to hearing the views of all interested parties.

Attached is a brief summary of the bill:

SUMMARY OF "FOREIGN INVESTMENT REORGANIZATION ACT OF 1983"

This legislation would (1) reorganize, centralize, and transfer Federal responsibilities concerning inward foreign investments—now performed by 18 Federal agencies and entities—to a newly created Foreign Investment Commission (FIC); (2) prohibit foreign acquisitions in "vital" national interest sectors of the U.S. economy, such as defense, nuclear energy, and telecommunications; (3) require Commission review and prior approval of foreign acquisitions in "sensitive" national interest sectors such as banking and energy; and (4) improve the 1976 International Investment Survey Act to require (a) registration of inward direct investment above $5 million; and, (b) more public reporting of direct investment on a country-by-country and industry subsector basis.

Under section 104 of the bill, all foreign acquisitions of U.S. firms in vital national interest sectors could be prohibited, unless that part of the firm involved with a vital interest sector would be "spun off". The "vital" interest sectors are defense nuclear energy, nuclear weapons facilities and production and telecommunications (including broadcasting).

Under section 105 of the bill, all foreign acquisitions of U.S. firms and assets in sensitive national interest sectors would require prior notification to and affirmative approval by, the Foreign Investment Commission within 150 days. The "sensitive" national interest sectors are banking, transportation, power generation, petroleum and natural gas exploration/develoment/refining, mining and minerals, chemicals, pharmaceuticals, advanced technology, (referencing the Commerce Dept.'s Commodity Control list of sensitive technologies), and forestry operations.

Existing foreign investments in national interest sectors would be grandfathered in, however, the act would apply to foreign takeovers occurring after the date of introduction of the bill, and the Commission could force divestiture if it retroactively disapproved such an investment.

The Commission would be independent of the Executive Branch and would report its proposed budget directly to Congress. The FIC would have the power to compel necessary information from the foreign investor, the U.S. company, and other Federal agencies. The act requires the agency to issue a decision statement for each investment reviewed, giving the reasons for and the facts underlying that decision.

The new agency would assume all inward foreign investment monitoring, and regulatory policy responsibilities from other Federal agencies. The Interagency Committee on Foreign Investment in the United States, created by a 1975 Executive order and chaired by the Treasury Department, would be abolished.

STATEMENT BY THE SPEAKER

The SPEAKER. The Chair at this time would like to thank the gentleman from Wisconsin, (Mr. KASTENMEIER) for performing the duties that were assigned to him by the Chair of giving the oath of office to our late and departed brother whom all of us so admired and respected and loved. So on behalf of the House I want to say thank you to the gentleman.

ELECTION OF MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. LONG of Louisiana. Mr. Speaker, as Chairman of the Democratic Caucus and on the authority and by direction of the Democratic Caucus, I send to the desk a privileged resolution (H. Res. 26) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 26

Resolved, That the following named Members, Members-elect, Delegates and Resident Commissioner be, and they are hereby, elected (Members-elect effective when sworn) to the following standing committees of the House of Representatives:

Committee on Agriculture: E de la Garza, Texas (chairman); Thomas S. Foley, Washington; Walter B. Jones, North Carolina; Ed Jones, Tennessee; George E. Brown, Jr., California; Charles Rose, North Carolina; James Weaver, Oregon; Tom Harkin, Iowa; Berkley Bedell, Iowa; Glenn English, Oklahoma; Leon E. Panetta, California; Jerry Huckaby, Louisiana; Dan Glickman, Kansas; Charles Whitley, North Carolina; Tony Coelho, California; Thomas A. Daschle, South Dakota; Charles W. Stenholm, Texas; Harold L. Volkmer, Missouri; Charles Hatcher, Georgia; Robin Tallon, South Carolina; Harley O. Staggers, Jr., West Virginia; Richard J. Durbin, Illinois; Lane Evans, Illinois; Robert Lindsay Thomas, Georgia; James R. "Jim" Olin, Virginia; and Timothy J. Penny, Minnesota.

Committee on Appropriations: Jamie L. Whitten, Mississippi (chairman); Edward P. Boland, Massachusetts; William H. Natcher, Kentucky; Neal Smith, Iowa; Joseph P. Ad-

dabbo, New York; Clarence D. Long, Maryland; Sidney R. Yates, Illinois; David R. Obey, Wisconsin; Edward R. Roybal, California; Louis Stokes, Ohio; Tom Bevill, Alabama; Bill Chappell, Jr., Florida; Bill Alexander, Arkansas; John P. Murtha, Pennsylvania; Bob Traxler, Michigan; Joseph D. Early, Massachusetts; Charles Wilson, Texas; Lindy (Mrs. Hale) Boggs, Louisiana; Norman D. Dicks, Washington; Matthew F. McHugh, New York; William Lehman, Florida; Jack Hightower, Texas; Martin Olav Sabo, Minnesota; Julian C. Dixon, California; Vic Fazio, California; W. G. (Bill) Hefner, North Carolina; Les AuCoin, Oregon; Daniel K. Akaka, Hawaii; Wes Watkins, Oklahoma; William H. Gray III, Pennsylvania; Bernard J. Dwyer, New Jersey; William R. Ratchford, Connecticut; William Hill Boner, Tennessee; Steny H. Hoyer, Maryland; Bob Carr, Michigan; and Robert J. Mrazek, New York.

Committee on Armed Services: Melvin Price, Illinois (chairman); Charles E. Bennett, Florida; Samuel S. Stratton, New York; Bill Nichols, Alabama; Dan Daniel, Virginia; G.V. (Sonny) Montgomery, Mississippi; Les Aspin, Wisconsin; Ronald V. Dellums, California; Patricia Schroeder, Colorado; Abraham Kazen, Jr., Texas; Antonio Borja Won Pat, Guam; Larry McDonald, Georgia; Beverly B. Byron, Maryland; Nicholas Mavroules, Massachusetts; Earl Hutto, Florida; Ike Skelton, Missouri; Marvin Leath, Texas; Dave McCurdy, Oklahoma; Thomas M. Foglietta, Pennsylvania; Roy Dyson, Maryland; Dennis M. Hertel, Michigan; Marilyn Lloyd Bouquard, Tennessee; Norman Sisisky, Virginia; Richard Ray, Georgia; John M. Spratt, Jr., South Carolina; Frank McCloskey, Indiana; C. Robin Britt, North Carolina; Solomon P. Ortiz, Texas,; and Ronald D. Coleman, Texas.

Committee on Banking, Finance and Urban Affairs: Fernand J. St Germain, Rhode Island (chairman); Henry B. Gonzalez, Texas; Joseph G. Minish, New Jersey; Frank Annunzio, Illinois; Parren J. Mitchell, Maryland; Walter E. Fauntroy, District of Columbia; Stephen L. Neal, North Carolina; Jerry M. Patterson, California; Carroll Hubbard, Jr., Kentucky; John J. LaFalce, New York; Norman E. D'Amours, New Hampshire; Stan Lundine, New York; Mary Rose Oakar, Ohio; Bruce F. Vento, Minnesota; Doug Barnard, Jr., Georgia; Robert Garcia, New York; Mike Lowry, Washington; Charles E. Schumer, New York; Barney Frank, Massachusetts; Bill Patman, Texas; William J. Coyne, Pennsylvania; Buddy Roemer, Louisiana; Richard H. Lehman, California; Bruce A. Morrison, Connecticut; Jim Cooper, Tennessee; Marcy Kaptur, Ohio; Ben Erdreich, Alabama; Sander M. Levin, Michigan; Thomas R. Carper, Delaware; and Esteban Edward Torres, California.

Committee on Budget: James R. Jones, Oklahoma (chairman); Jim Wright, Texas; Stephen J. Solarz, New York; Timothy E. Wirth, Colorado; Leon E. Panetta, California; Richard A. Gephardt, Missouri; Bill Nelson, Florida; Les Aspin, Wisconsin; W. G. (Bill) Hefner, North Carolina; Thomas J. Downey, New York; Brian J. Donnelly, Massachusetts; Mike Lowry, Washington; Butler Derrick, South Carolina; George Miller, California; William H. Gray III, Pennsylvania; Pat Williams, Montana; Geraldine A. Ferraro, New York; Howard Wolpe, Michigan; Martin Frost, Texas; and Vic Fazio, California.

Committee on the District of Columbia: Ronald V. Dellums, California (chairman); Walter E. Fauntroy, District of Columbia; Romano L. Mazzoli, Kentucky; Fortney H. (Pete) Stark, California; Mickey Leland, Texas; William H. Gray III, Pennsylvania; Michael D. Barnes, Maryland; and Mervyn M. Dymally, California.

Committee on Education and Labor: Carl D. Perkins, Kentucky (chairman); Augustus F. Hawkins, California; William D. Ford, Michigan; Phillip Burton, California; Joseph M. Gaydos, Pennsylvania; William (Bill) Clay, Missouri; Mario Biaggi, New York; Ike Andrews, North Carolina; Paul Simon, Illinois; George Miller, California; Austin J. Murphy, Pennsylvania; Ted Weiss, New York; Baltasar Corrada, Puerto Rico; Dale E. Kildee, Michigan; Pat Williams, Montana; Ray Kogovsek, Colorado; Harold Washington, Illinois; Matthew G. Martinez, California; Major R. Owens, New York; Frank Harrison, Pennsylvania; and Rick Boucher, Virginia.

Committee on Energy and Commerce: John D. Dingell, Michigan (chairman); James H. Scheuer, New York; Richard L. Ottinger, New York; Henry A. Waxman, California; Timothy E. Wirth, Colorado; Philip R. Sharp, Indiana; James J. Florio, New Jersey; Edward J. Markey, Massachusetts; Thomas A. Luken, Ohio; Doug Walgren, Pennsylvania; Albert Gore, Jr., Tennessee; Barbara A. Mikulski, Maryland; Al Swift, Washington; Mickey Leland, Texas; Richard C. Shelby, Alabama; Cardiss Collins, Illinois; Mike Synar, Oklahoma; W. J. (Billy) Tauzin, Louisiana; Ron Wyden, Oregon; Ralph M. Hall, Texas; Dennis Eckart, Ohio; Wayne Dowdy, Mississippi; Bill Richardson, New Mexico; Jim Slattery, Kansas; Gerry Sikorski, Minnesota; John Bryant, Texas; and Jim Bates, California.

Committee on Foreign Affairs: Clement J. Zablocki, Wisconsin (chairman); Dante B. Fascell, Florida; Lee H. Hamilton, Indiana; Gus Yatron, Pennsylvania; Stephen J. Solarz, New York; Don Bonker, Washington; Gerry E. Studds, Massachusetts; Andy Ireland, Florida; Dan Mica, Florida; Michael D. Barnes, Maryland; Howard Wolpe, Michigan; Geo. W. Crockett, Jr., Michigan; Sam Gejdenson, Connecticut; Mervyn M. Dymally, California; Tom Lantos, California; Peter H. Kostmayer, Pennsylvania; Robert G. Torricelli, New Jersey; Lawrencé J. Smith, Florida; Howard L. Berman, California; Harry M. Reid, Nevada; Mel Levine, California; Edward F. Feighan, Ohio; and Robert Garcia, New York (effective only for the First Session of the 98th Congress).

Committee on Government Operations: Jack Brooks, Texas (chairman); Dante B. Fascell, Florida; Don Fuqua, Florida; John Conyers, Jr., Michigan; Cardiss Collins, Illinois; Glenn English, Oklahoma; Elliott H. Levitas, Georgia; Henry A. Waxman, California; Ted Weiss, New York; Mike Synar, Oklahoma; Stephen L. Neal, North Carolina, Doug Barnard, Jr., Georgia; Barney Frank, Massachusetts; Tom Lantos, California; Ronald D. Coleman, Texas; Robert E. Wise, Jr., West Virginia; Barbara Boxer, California; Sander M. Levin, Michigan; Buddy MacKay, Florida; Mel Levine, California; Major R. Owens, New York; Edolphus Towns, New York; John M. Spratt, Jr., South Carolina; Joe Kolter, Pennsylvania; and Ben Erdreich, Alabama.

Committee on House Administration: Augustus F. Hawkins, California (chairman); Frank Annunzio, Illinois; Joseph M. Gaydos, Pennsylvania; Ed Jones, Tennessee; Joseph G. Minish, New Jersey; Charles Rose, North Carolina; Al Swift, Washington; William J. Coyne, Pennsylvania; Thomas S. Foley, Washington; Mary Rose Oakar, Ohio; Tony Coelho, California; and Jim Bates, California.

Committee on Interior and Insular Affairs: Morris K. Udall, Arizona (chairman); Phillip Burton, California; Abraham Kazen, Jr., Texas; John F. Seiberling, Ohio; Antonio Borja Won Pat, Guam; James Weaver, Oregon; George Miller, California; James J. Florio, New Jersey; Philip R. Sharp, Indiana; Edward J. Markey, Massachusetts; Baltasar Corrada, Puerto Rico; Austin J. Murphy, Pennsylvania; Nick Joe Rahall II, West Virginia; Bruce F. Vento, Minnesota; Jerry Huckaby, Louisiana; Jerry M. Patterson, California; Ray Kogovsek, Colorado; Dale E. Kildee, Michigan; Tony Coelho, California; Beverly B. Byron, Maryland; Ron de Lugo, Virgin Islands; Sam Gejdenson, Connecticut; Bill Patman, Texas; Peter H. Kostmayer, Pennsylvania; Jim Moody, Wisconsin; Alan B. Mollohan, West Virginia; James McClure Clarke, North Carolina; James F. McNulty, Jr., Arizona; and Richard H. Lehman, California.

Committee on Judiciary: Peter W. Rodino, Jr., New Jersey (chairman); Jack Brooks, Texas; Robert W. Kastenmeier, Wisconsin; Don Edwards, California; John Conyers, Jr., Michigan; John F. Seiberling, Ohio; Romano L. Mazzoli, Kentucky; William J. Hughes, New Jersey; Sam B. Hall, Jr., Texas; Mike Synar, Oklahoma; Patricia Schroeder, Colorado; Dan Glickman, Kansas; Harold Washington, Illinois; Barney Frank, Massachusetts; Geo. W. Crockett, Jr., Michigan; Charles E. Schumer, New York; Bruce A. Morrison, Connecticut; Edward F. Feighan, Ohio; Lawrence J. Smith, Florida; and Howard L. Berman, California.

Committee on Merchant Marine and Fisheries: Walter B. Jones, North Carolina (chairman); Mario Biaggi, New York; Glenn M. Anderson, California; John B. Breaux, Louisiana; Gerry E. Studds, Massachusetts; Carroll Hubbard, Jr., Kentucky; Don Bonker, Washington; Norman E. D'Amours, New Hamsphire; James L. Oberstar, Minnesota; William J. Hughes, New Jersey; Barbara A. Mikulski, Maryland, Earl Hutto, Florida; Brian J. Donnelly, Massachusetts; W. J. (Billy) Tauzin, Louisiana; Thomas M. Foglietta, Pennsylvania; Fofo I. F. Sunia, American Samoa; Dennis M. Hertel, Michigan; Roy Dyson, Maryland; William O. Lipinski, Illinois; Robert A. Borski, Pennsylvania; Thomas R. Carper, Delaware; Douglas H. Bosco, California; Robin Tallon, South Carolina; Robert Lindsay Thomas, Georgia; Barbara Boxer, California; and Solomon P. Ortiz, Texas.

Committee on Post Office and Civil Service: William D. Ford, Michigan (chairman); Morris K. Udall, Arizona; William (Bill) Clay, Missouri; Patricia Schroeder, Colorado; Robert Garcia, New York; Mickey Leland, Texas; Donald Joseph Albosta, Michigan; Gus Yatron, Pennsylvania; Mary Rose Oakar, Ohio; Katie Hall, Indiana; Gerry Sikorski, Minnesota; Ronald V. Dellums, California (effective only for the First Session of the 98th Congress); Thomas A. Daschle, South Dakota (effective only for the First Session of the 98th Congress); Ron de Lugo, Virgin Islands (effective only for the First Session of the 98th Congress); Charles E. Schumer, New York (effective only for the First Session of the 98th Congress); and Douglas H. Bosco, California (effective only for the First Session of the 98th Congress).

Committee on Public Works and Transportation: James J. Howard, New Jersey

(chairman); Glenn M. Anderson, California; Robert A. Roe, New Jersey; John B. Breaux, Louisiana; Norman Y. Mineta, California; Elliott H. Levitas, Georgia; James L. Oberstar, Minnesota; Henry J. Nowak, New York; Bob Edgar, Pennsylvania; Robert A. Young, Missouri; Nick Joe Rahall II, West Virginia; Douglas Applegate, Ohio; Geraldine A. Ferraro, New York; Donald Joseph Albosta, Michigan; Ron de Lugo, Virgin Islands; Gus Savage, Illinois; Fofo I. F. Sunia, American Samoa; Katie Hall, Indiana; Douglas H. Bosco, California; James F. McNulty, Jr., Arizona; Jim Moody, Wisconsin; Robert A. Borski, Pennsylvania; Joe Kolter, Pennsylvania; Tim Valentine, North Carolina; Edolphus Towns, New York; William O. Lipinski, Illinois; Michael A. Andrews, Texas; Tom J. Vandergriff, Texas; J. Roy Rowland, Georgia; James McClure Clarke, North Carolina; and Robert F. Wise, Jr., West Virginia.

Committee on Science and Technology: Don Fuqua, Florida (chairman); Robert A. Roe, New Jersey; George E. Brown, Jr., California; James H. Scheuer, New York; Richard L. Ottinger, New York; Tom Harkin, Iowa; Marilyn Lloyd Bouquard, Tennessee; Doug Walgren, Pennsylvania; Dan Glickman, Kansas; Albert Gore, Jr., Tennessee; Robert A. Young, Missouri; Harold L. Volkmer, Missouri; Bill Nelson, Florida; Stan Lundine, New York; Ralph M. Hall, Texas; Dave McCurdy, Oklahoma; Mervyn M. Dymally, California; Paul Simon, Illinois; Norman Y. Mineta, California; Richard J. Durbin, Illinois; Michael A. Andrews, Texas; Buddy MacKay, Florida; Tim Valentine, North Carolina; Harry M. Reid, Nevada; Robert G. Torricelli, New Jersey; and Frederick C. (Rick) Boucher, Virginia.

Committee on Rules: Claude Pepper, Florida (chairman); Gillis W. Long, Louisiana; Joe Moakley, Massachusetts; Butler Derrick, South Carolina; Anthony C. Beilenson, California; Martin Frost, Texas; David E. Bonior, Michigan; Tony P. Hall, Ohio; and Alan Wheat, Missouri.

Committee on Small Business: Parren J. Mitchell, Maryland (chairman); Neal Smith, Iowa; Joseph P. Addabbo, New York; Henry B. Gonzalez, Texas; John J. LaFalce, New York; Berkley Bedell, Iowa; Henry J. Nowak, New York; Thomas A. Luken, Ohio; Andy Ireland, Florida; Ike Skelton, Missouri; Charles W. Stenholm, Texas; Romano L. Mazzoli, Kentucky; Nicholas Mavroules, Massachusetts; Charles Hatcher, Georgia; Ron Wyden, Oregon; Dennis E. Eckart, Ohio; Gus Savage, Illinois; Buddy Roemer, Louisiana; Norman Sisisky, Virginia; Frank McCloskey, Indiana; Esteban Edward Torres, California; Tom J. Vandergriff, Texas; Jim Cooper, Tennessee; James R. "Jim" Olin, Virginia; C. Robin Britt, North Carolina; and Richard Ray, Georgia.

Committee on Standards of Official Conduct: Louis Stokes, Ohio (chairman); Nick Joe Rahall, II, West Virginia; Ed Jenkins, Georgia; Julian C. Dixon, California; Vic Fazio, California; and William J. Coyne, Pennsylvania.

Committee on Veterans' Affairs: G. V. (Sonny) Montgomery, Mississippi (chairman); Don Edwards, California; Bob Edgar, Pennsylvania; Sam B. Hall, Jr., Texas; Douglas Applegate, Ohio; Marvin Leath, Texas; Richard C. Shelby, Alabama; Dan Mica, Florida; Thomas A. Daschle, South Dakota; Wayne Dowdy, Mississippi; Matthew G. Martinez, California; Lane Evans, Illinois; Marcy Kaptur, Ohio; Frank Harrison, Pennsylvania; Alan B. Mollohan, West Virginia; Timothy J. Penny, Minnesota; Harley O. Staggers, Jr., West Virginia; J. Roy Rowland, Georgia; Jim Slattery, Kansas; John Bryant, Texas; and Bill Richardson, New Mexico.

Committee on Ways and Means: Dan Rostenkowski, Illinois (chairman); Sam Gibbons, Florida; J. J. Pickle, Texas; Charles B. Rangel, New York; Fortney H. (Pete) Stark, California; James R. Jones, Oklahoma; Andrew Jacobs, Jr., Indiana; Harold E. Ford, Tennessee; Ed Jenkins, Georgia; Richard A. Gephardt, Missouri; Thomas J. Downey, New York; Cecil (Cec) Heftel, Hawaii (effective when sworn); Wyche Fowler, Jr., Georgia; Frank J. Guarini, New Jersey; James M. Shannon, Massachusetts; Marty Russo, Illinois; Donald J. Pease. Ohio; Kent Hance, Texas; Robert T. Matsui, California; Beryl Anthony, Jr., Arkansas; Ronnie G. Flippo, Alabama; Byron L. Dorgan, North Dakota; and Barbara B. Kennelly, Connecticut.

Mr. LONG of Louisiana (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The SPEAKER. Does the gentleman from Louisiana desire recognition?

Mr. LONG of Louisiana. Mr. Speaker, this is the usual resolution at the beginning of each Congress designating members of the standing committees of the House. Committee assignments contained in the resolution have been approved by the Democratic Caucus.

I have no requests for time and I move the previous question on the resolution.

The SPEAKER. Without objection, the previous question is ordered on the resolution.

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ELECTION OF MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. KEMP. Mr. Speaker, by direction of the Republican Conference, I send to the desk a privileged resolution (H. Res. 27) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 27

Resolved, That the following named Members and Members-elect be, and they are hereby, elected (Members-elect effective when sworn) to the following standing committees of the House of Representatives:

Committee on Agriculture: Edward R. Madigan, Illinois; James J. Jeffords, Vermont; E. Thomas Coleman, Missouri; Ron Marlenee, Montana; Larry J. Hopkins, Kentucky; George Hansen, Idaho; Arlan Stangeland, Minnesota; Pat Roberts, Kansas; Bill Emerson, Missouri; Joe Skeen, New Mexico; Sid Morrison, Washington; Steve Gunderson, Wisconsin; Cooper Evans, Iowa; Gene Chappie, California; and Webb Franklin, Mississippi.

Committee on Appropriations: Silvio O. Conte, Massachusetts; Joseph M. McDade, Pennsylvania; Jack Edwards, Alabama; John T. Myers, Indiana; J. Kenneth Robinson, Virginia; Clarence E. Miller, Ohio; Lawrence Coughlin, Pennsylvania; C. W. Bill Young, Florida; Jack F. Kemp, New York; Ralph Regula, Ohio; George M. O'Brien, Illinois; Virginia Smith, Nebraska; Eldon Rudd, Arizona; Carl D. Pursell, Michigan; Mickey Edwards, Oklahoma (effective when sworn); Bob Livingston, Louisiana; Bill Green, New York; Tom Loeffler, Texas; Jerry Lewis, California; John Edward Porter, Illinois; and Harold Rogers, Kentucky.

Committee on Armed Services: William L. Dickinson, Alabama; G. William Whitehurst, Virginia; Floyd Spence, South Carolina; Marjorie S. Holt, Maryland; Elwood Hillis, Indiana (effective when sworn); Robert E. Badham, California; Bob Stump, Arizona; James A. Courter, New Jersey; Larry J. Hopkins, Kentucky; Robert W. Davis, Michigan; Ken Kramer, Colorado; Duncan Hunter, California; Thomas F. Hartnett, South Carolina; Daniel B. Crane, Illinois; David O'B. Martin, New York; and John R. Kasich, Ohio.

Committee on Banking, Finance and Urban Affairs: Chalmers P. Wylie, Ohio; Stewart B. McKinney, Connecticut; George Hansen, Idaho; Jim Leach, Iowa; Ron Paul, Texas; Ed Bethune, Arkansas; Norman D. Shumway, California; Stan Parris, Virginia; Bill McCollum, Florida; George C. Wortley, New York; Marge Roukema, New Jersey; Bill Lowery, California; Douglas K. Bereuter, Nebraska; David Dreier, California; John Hiler, Indiana; Thomas G. Ridge, Pennsylvania; and Steve Bartlett, Texas.

Committee on the Budget: Delbert L. Latta, Ohio; Bud Shuster, Pennsylvania; Bill Frenzel, Minnesota; Jack Kemp, New York; Ed Bethune, Arkansas; Lynn M. Martin, Illinois; Bobbi Fiedler, California; Tom Loeffler, Texas; Willis D. Gradison, Jr., Ohio; and Connie Mack, Florida.

Committee on the District of Columbia: Stewart B. McKinney, Connecticut; Stan Parris, Virginia; Thomas J. Bliley, Jr., Virginia; and Marjorie S. Holt, Maryland.

Committee on Education and Labor: John N. Erlenborn, Illinois; James M. Jeffords, Vermont; William F. Goodling, Pennsylvania; E. Thomas Coleman, Missouri; Thomas E. Petri, Wisconsin; Marge Roukema, New Jersey; Larry E. Craig, Idaho; Steve Gunderson, Wisconsin; Steve Bartlett, Texas; and Ronald C. Packard, California.

Committee on Energy and Commerce: James T. Broyhill, North Carolina; Norman F. Lent, New York; Edward R. Madigan, Illinois; Carlos J. Moorhead, California; Matthew J. Rinaldo, New Jersey; Tom Corcoran, Illinois; William E. Dannemeyer, California; Bob Whittaker, Kansas; Thomas J. Tauke, Iowa; Don Ritter, Pennsylvania; Dan Coats, Indiana (effective when sworn); Thomas J. Bliley, Jr., Virginia; Jack Fields, Texas; Michael G. Oxley, Ohio; and Howard Nielson, Utah.

Committee on Foreign Affairs: William S. Broomfield, Michigan; Larry Winn, Jr., Kansas; Benjamin A. Gilman, New York; Robert J. Lagomarsino, California; Joel Pritchard, Washington; Jim Leach, Iowa; Toby A. Roth, Wisconsin; Olympia Snowe, Maine; Henry J. Hyde, Illinois; Gerald B. H. Solomon, New York; Douglas K. Bereuter, Nebraska; Mark D. Siljander, Michigan; and Ed Zschau, California.

Committee on Government Operations: Frank Horton, New York; John N. Erlenborn, Illinois; Thomas N. Kindness, Ohio;

Robert S. Walker, Pennsylvania; Lyle Williams, Ohio; William F. Clinger, Jr., Pennsylvania; Raymond McGrath, New York; Judd Gregg, New Hampshire; Dan Burton, Indiana; John R. McKernan, Jr., Maine; Tom Lewis, Florida; and Alfred A. (Al) McCandless, California.

Committee on House Administration: Bill Frenzel, Minnesota; William L. Dickinson, Alabama; Robert E. Badham, California; Newt Gingrich, Georgia; William M. Thomas, California; Lynn Martin, Illinois; and Rod Chandler, Washington.

Committee on Interior and Insular Affairs: Manuel Lujan, Jr., New Mexico; Don Young, Alaska; Robert J. Lagomarsino, California; Dan Marriott, Utah; Ron Marlenee, Montana; Dick Cheney, Wyoming; Charles Pashayan, Jr., California; Larry Craig, Idaho; Hank Brown, Colorado; Denny Smith, Oregon; James V. Hansen, Utah; Bill Emerson, Missouri; John McCain, Arizona; and Barbara Vucanovich, Nevada.

Committee on the Judiciary: Hamilton Fish, Jr., New York; Carlos J. Moorhead, California; Henry J. Hyde, Illinois; Thomas N. Kindness, Ohio; Harold S. Sawyer, Michigan; Dan Lungren, California; F. James Sensenbrenner, Jr., Wisconsin; Bill McCollum, Florida; E. Clay Shaw, Jr., Florida; George W. Gekas, Pennsylvania; and Michael DeWine, Ohio.

Committee on Merchant Marine and Fisheries: Edwin B. Forsythe, New Jersey; Gene Snyder, Kentucky; Joel Pritchard, Washington; Don Young, Alaska; Norman F. Lent, New York; Robert W. Davis, Michigan; William Carney, New York; Norman D. Shumway, California; Jack Fields, Texas; Claudine Schneider, Rhode Island; Hal Sawyer, Michigan; Herbert H. Bateman, Virginia; John R. McKernan, Jr., Maine; and Webb Franklin, Mississippi.

Committee on Post Office and Civil Service: Gene Taylor, Missouri; Benjamin A. Gilman, New York; Tom Corcoran, Illinois; James A. Courter, New Jersey; Charles Pashayan, Jr., California; William E. Danneymeyer, California; Daniel B. Crane, Illinois; Frank Wolf, Virginia; and Connie Mack, Florida.

Committee on Public Works and Transportation: Gene Snyder, Kentucky; John Paul Hammerschmidt, Arkansas; Bud Shuster, Pennsylvania; Arlan Stangeland, Minnesota; Newt Gingrich, Georgia; William F. Clinger, Jr., Pennsylvania; Guy Molinari, New York; E. Clay Shaw, Jr., Florida; Bob McEwen, Ohio; Frank Wolf, Virginia; Thomas E. Petri, Wisconsin; Hal Daub, Nebraska; Vin Weber, Minnesota; Robert F. (Bob) Smith, Oregon; Don Sundquist, Tennessee; Nancy L. Johnson, Connecticut; and Rod Packard, California.

Committee on Rules: James H. (Jimmy) Quillen, Tennessee; Delbert L. Latta, Ohio; Trent Lott, Mississippi; and Gene Taylor, Missouri.

Committee on Science and Technology: Larry Winn, Jr., Kansas; Manuel Lujan, Jr., New Mexico; Robert S. Walker, Pennsylvania; William Carney, New York; F. James Sensenbrenner, Jr., Wisconsin; Judd Gregg, New Hampshire; Raymond J. McGrath, New York; Joe Skeen, New Mexico; Claudine Schneider, Rhode Island; Bill Lowery, California; Rod Chandler, Washington; Herbert H. Bateman, Virginia; Sherwood L. Boehlert, New York; Alfred A. (Al) McCandless, California; and Tom Lewis, Florida.

Committee on Small Business: Joseph M. McDade, Pennsylvania; Silvio O. Conte, Massachusetts; William S. Broomfield, Michigan; Dan Marriott, Utah; Lyle Williams, Ohio; John Hiler, Indiana; Vin Weber, Minnesota; Hal Daub, Nebraska; Christopher H. Smith, New Jersey; David Dreier, California; Guy V. Molinari, New York; Toby Roth, Wisconsin; Gene Chappie, California; Sherwood L. Boehlert, New York; and Michael Bilirakis, Florida.

Committee on Standards of Official Conduct: Floyd Spence, South Carolina; Barber B. Conable, Jr., New York; John T. Myers, Indiana; Edwin B. Forsythe, New Jersey; Hank Brown, Colorado; and James V. Hansen, Utah.

Committee on Veterans' Affairs: John Paul Hammerschmidt, Arkansas; Chalmers P. Wylie, Ohio; Elwood Hillis, Indiana (effective when sworn); Gerald B. H. Solomon, New York; Bob McEwen, Ohio; Christopher H. Smith, New Jersey; Denny Smith, Oregon; Dan Burton, Indiana; Don Sunquist, Tennessee; Michael Bilirakis, Florida; and Nancy L. Johnson, Connecticut.

Committee on Ways and Means: Barber B. Conable, New York; John J. Duncan, Tennessee; Bill Archer, Texas; Guy Vander Jagt, Michigan; Philip M. Crane, Illinois; Bill Frenzel, Minnesota; James G. Martin, North Carolina; Richard T. Schulze, Pennsylvania; Willis D. Gradison, Jr., Ohio; W. Henson Moore, Louisiana; Carroll A. Campbell, Jr., South Carolina; and William M. Thomas, California.

Mr. KEMP (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER. The gentleman from New York (Mr. KEMP) is recognized for 1 hour.

Mr. KEMP. Mr. Speaker, I have no requests for time. This is a pro forma resolution, and I move the previous question on the resolution.

The previous question was ordered.

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

APPOINTMENT AS MEMBERS OF BOARD OF REGENTS OF SMITHSONIAN INSTITUTION

The SPEAKER. Pursuant to the provisions of 20 U.S.C. 42 and 43, the Chair appoints as members of the Board of Regents of the Smithsonian Institution the following Members on the part of the House:

Mr. MINETA of California;
Mr. BOLAND of Massachusetts; and
Mr. CONTE of Massachusetts.

APPOINTMENT AS MEMBERS OF JOINT ECONOMIC COMMITTEE

The SPEAKER. Pursuant to the provisions of 15 U.S.C. 1024(a), the Chair appoints as members of the Joint Economic Committee the following Members on the part of the House:

Mr. HAMILTON of Indiana;
Mr. LONG of Louisiana;
Mr. MITCHELL of Maryland;
Mr. HAWKINS of California;
Mr. OBEY of Wisconsin; and
Mr. SCHEUER of New York.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, JANUARY 26, 1983

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule may be dispensed with on Wednesday, January 26, 1983.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

AUTHORIZING THE SPEAKER TO ACCEPT RESIGNATIONS AND APPOINT COMMISSIONS, BOARDS, AND COMMITTEES, NOTWITHSTANDING ADJOURNMENT

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that, notwithstanding any adjournment of the House until Tuesday, January 25, 1983, the Speaker be authorized to accept resignations, and to appoint commissions, boards, and committees authorized by law or by the House.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

THE LATE HONORABLE BENJAMIN S. ROSENTHAL

Mr. STRATTON. Mr. Speaker, I offer a privileged resolution (H. Res. 28) on the death of the Honorable BENJAMIN S. ROSENTHAL, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 28

Resolved, That the House has heard with profound sorrow of the death of the Honorable Benjamin S. Rosenthal, a Representative from the State of New York.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

Resolved, That when the House adjourns today, it adjourn as a further mark of respect to the memory of the deceased.

The SPEAKER pro tempore. The Chair recognizes the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the gentleman from New York, and Mr. ADDABBO, has already advised the House, our beloved colleague, BEN ROSENTHAL, passed away during the recess of the House. This morning in the city of New York the funeral services for BEN were conducted.

Mr. ROSENTHAL was one of the most capable Members of the House, one of

the most dedicated, one of the most witty, and when he chose to be he could also, as he indicated himself, be a little bit sarcastic and perhaps even abrasive. But he was an extremely effective Member of the House, as many who have served with him can attest, not only from his long fight for the consumers of the country, but also his support of Israel and in particular the support that he gave to his colleagues of Greek origin during the time of the Cyprus crisis.

I think those of us who had the privilege of attending the funeral services today were impressed indeed with the solemnity of those services. Some 75 Members of the House and some former colleagues were also in attendance.

The eulogy was spoken by our colleague, the gentleman from California (Mr. EDWARDS) very eloquently indeed. Then our former colleague, now the mayor of New York City, Ed Koch, also made a very moving and eloquent eulogy of our departed colleague.

The rabbi, whose name I do not have at the moment, also performed a very moving memorial service in a crowded temple.

I think all of us were impressed by the fact that the people from BEN's district lined the streets in great numbers. I think he would have been appreciative of the fact that the media from New York City were out in full force to record that event.

The two tributes which were contained in the New York Times and in the Washington Post I think adequately indicate the scope of BEN ROSENTHAL's effectiveness. He is going to be an extremely difficult Member to replace but we do appreciate his service. We are grateful for the opportunity of having served with him and, as the gentleman from New York (Mr. ADDABBO) has indicated, when we reconvene after the recess we will be in a position to pay more complete tribute to the service of the gentleman from New York (Mr. ROSENTHAL).

Mr. Speaker, I ask for adoption of the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

□ 1730

COMMUNICATION FROM THOMAS P. O'NEILL, JR., SPEAKER, HOUSE OF REPRESENTATIVES

The SPEAKER pro tempore (Mr. NATCHER) laid before the House the following communication from the Speaker of the House of Representatives:

U.S. HOUSE OF REPRESENTATIVES,
Washington, D.C., January 4, 1983.

Mr. STANLEY S. HARRIS,
U.S. Attorney, U.S. Department of Justice, U.S. Courthouse, Washington, D.C.

DEAR MR. HARRIS: This responds to your December 27, 1982 letter concerning the congressional contempt citation of Anne M. Gorsuch, Administrator of the Environmental Protection Agency.

While concluding "that it would not be appropriate . . . to consider bringing the matter before a grand jury until the civil action has been resolved" you stated that you are also "keenly aware of the provisions of Section 194 of Title 2 United States Code."

You are therefore aware that Section 194 provides that the Speaker shall certify the statements of facts "to the appropriate United States attorney, whose duty it shall be to bring the matter before the grand jury for its action." As more fully set forth in the memorandum of points and authorities filed with the House Motion To Dismiss the Complaint, a copy of which was provided to you, it is the position of the House of Representatives that there is no legal basis for the civil suit and it neither precludes your office from discharging your responsibilities under law, nor affects in any way the validity of the statute.

Sincerely,

THOMAS P. O'NEILL, Jr.,
Speaker.

The SPEAKER pro tempore. Without objection, the December 27, 1982, letter from the U.S. attorney will be included in the RECORD at this point.

There was no objection.

The letter is as follows:

U.S. DEPARTMENT OF JUSTICE,
Washington, D.C., December 27, 1982.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: This is in response to your communication of December 17, 1982, certifying to me House Resolution 632 regarding the production of documents by the Honorable Anne M. Gorsuch, Administrator of the United States Environmental Protection Agency.

On December 16, 1982, Civil Action Number 82-3583 was filed by the Department of Justice in the United States District Court for the District of Columbia. In that case, the Department seeks to have the District Court declare that the compelled production of the documents sought by the House of Representatives unconstitutionally would contravene important separation of powers principles, and that the subpoena issued for those documents is constitutionally defective. Pursuant to Section 547 of Title 28, United States Code, I am responsible within this district for prosecuting, for the Government, all civil actions, suits, or proceedings in which the United States is concerned. Accordingly, although the principal work in the pending case is being done by the Civil Division of the Department of Justice, I nonetheless am in the posture of being legally responsible for the prosecution of that civil action for the Government.

Under the same statutory section, I also am responsible for prosecuting, within this district, all offenses against the United States. As part of the discretion which I must exercise as the chief prosecuting officer of this district, a determination must be made as to when a matter should be submitted to a grand jury.

I am keenly aware of the provisions of Section 194 of Title 2, United States Code. It should be noted that that section of the Code quite properly does not include a mandate as to the timing of submitting a matter to a grand jury.

I recognize the degree of interest which you and your colleagues have in this proceeding. Accordingly, as a matter of courtesy I wish to advise you that I have concluded that it would not be appropriate for me to consider bringing this matter before a grand jury until the civil action has been resolved. While I recognize the likelihood that we are in disagreement over the underlying merits of the controversy, we do have a common interest—namely, achieving a resolution of the disputed questions as expeditiously as possible and with a minimum of adverse consequences to good government and to the country as a whole. Accordingly, I urge that you pursue with us the use of the pending civil suit as the most effective medium in which to advance the judicial resolution of the controversy.

You may be assured of my continuing and careful attention to this matter.

Respectfully,

STANLEY S. HARRIS,
U.S. Attorney, District of Columbia.

CHILD CAR SEAT LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. GEKAS) is recognized for 10 minutes.

Mr. GEKAS. Mr. Speaker, I would like to bring to the attention of this 98th Congress a matter of great gravity, that being the death and destruction visited upon our children on our highways. Each year, automobile crashes kill and injure more of our young children than any other illness or disease. The young child between the ages of 1 and 4 is 50 times more likely to die in a car accident, if unprotected by a car seat or seatbelt, than from some illness or disease.

These appalling facts are made more obscene by the knowledge that child safety seat usage could be up to 90 percent effective in preventing fatalities and injuries, but that less than 1 out of every 12 children who are passengers in automobiles are given the protection of a restraint system. It is hard for me to comprehend the idea that in the last decade 10,000 children under 5 lost their hives as passengers in cars, yet more than 90 percent of our children today ride without using safety restraints. In what direction are we, as adults and as our country's legislators, looking for guidance? Are we looking to our children to tell us what to do, when to wear a seatbelt, when to place them in a safety seat or seatbelt? Possibly we are, for even though we know that safety restraint systems clearly work and that nearly 18,000 lives could be saved each year if all passengers in motor vehicles wore safety restraints, still, only a paltry 12 percent of the motorists in the United

States today use their safety restraints.

What are we to do if there exists the means for reducing the loss of life on our highways but that system is ignored? Shall the Congress enact Federal legislation mandating the use of safety restraint systems for our young auto passengers? I think not, for as the Members of this body undoubtedly know, Americans are opposed to mandatory Federal seatbelt legislation by a ratio of 4 to 1. Without question, a Federal initiative on that issue would suffer certain and swift defeat. The surest path for legislative success in lowering our highway mortality figures must be through action by the States. Our State legislatures must enact laws which would, in the least, help to educate the public about child safety seat usage.

In the last several years, a nationwise effort to encourage the use of child safety seats and seatbelts has been gaining momentum. Sparked by the efforts and drive of the American Academy of Pediatrics, this movement has succeeded in obtaining the enactment of some form of child safety seat legislation in 21 States. Most recently, as the State senator from Dauphin County in Pennsylvania, I was able to lead the legislative efforts in the General Assembly of Pennsylvania to acquire a child safety seat law. Now, as the Congressman from Pennsylvania's 17th District, I pledge my support to get all 50 States to enact child car seat legislation.

I will soon be introducing into this Congress legislation which will speak to the needs of this issue. If there is a way to save more lives, then it is our responsibility to act on it.

A TRIBUTE TO THE LATE GEORGE PAUL MILLER, FORMER CHAIRMAN OF THE HOUSE COMMITTEE ON SCIENCE AND ASTRONAUTICS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. STARK) is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, it is my sad duty to inform the House of the death December 29 of a respected and beloved former Member, George Paul Miller of Alameda, Calif. While January 15 would have been George's 92d birthday anniversary, the years since he left this House in 1972 have been active ones for him and it has been my privilege to know and work with George during his retirement.

George Miller was first elected to Congress in 1944 and he served continuously until the end of the 92d Congress in 1972. His contributions to the development of the U.S. space program and scientific development generally are well known to those who served with him. He was chairman of what we now call the Science and Technology Committee from 1961 until he left Congress. In 1967 he received the Robert H. Goddard Memorial Trophy, an honor he shares with Werner von Braun, John Glenn and Lyndon Johnson, among others. In his 80th year he visited Antarctica and there is a high plateau there named for him—the Miller Bluffs.

Mr. Speaker, the gentleman from Florida (Mr. PEPPER) said when George left this body, "We shall remember George Miller for what he has done here in those 28 meaningful years, but the fact that will linger longest in the hearts and minds of many of us is the man, George Miller, the modest man, the gracious, gallant gentleman, the kindly human being, the man who looked upon the world with kindness, the man who looked upon his fellow men with affection, who looked toward the future with confidence, respecting always the great past, because he had made such a large contribution."

Mr. Speaker, I can not improve on that moving tribute; I can only endorse it with all my heart.

On January 27 I will sponsor a special order in George Miller's honor, and I will invite his colleagues participation to commemorate George Miller's career.

EXTENDING GENERAL REVENUE SHARING PROGRAM FOR 3 ADDITIONAL YEARS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. HORTON) is recognized for 15 minutes.

● Mr. HORTON. Mr. Speaker, today I am introducing legislation that would extend the general revenue sharing program for an additional 3 years. Revenue sharing is presently set to expire on September 30 of this year and its quick reauthorization is critical to the fiscal well-being of local governments.

Since the program was created in 1972, revenue sharing has distributed nearly $66 billion to State and local governments, $7.3 billion of this money has gone to jurisdictions in my home State of New York. These funds are of tremendous value to the governments receiving them because they are not bound up with unneeded Federal conditions and strings.

Revenue sharing is a program that permits local officials to determine what their community's needs are and to use Federal aid dollars to help them meet them. Revenue sharing also has very low administrative costs associated with it. What other multibillion-dollar Federal program is operated by less than 140 Federal bureaucrats?

The bill I am introducing is a simple 3-year extension of the program as it presently operates. The local government share of the program, which remains an entitlement to aid in prudent local government budgeting, is funded at $4.6 billion annually. This is the same amount of money the local government share has been since 1976. The State government share, which is authorized for $2.3 billion each of the 3 years, would require an appropriation to be enacted for that portion of the program to become active.

The recession and cutbacks in other Federal assistance programs have greatly increased the burden of reponsibility on local governments. This makes reauthorization this year of general revenue sharing even more essential. Failure to do so could result in services cutbacks and tax increases at the local level.

Revenue sharing has proven its effectiveness and should be continued. I will be contacting Members in the near future to seek their cosponsorship of my bill. I hope they will join me in expressing their confidence in American State and local government and support the extension of this program.●

COOPERATIVE STATE FORESTRY RESEARCH AND EXTENSION AMENDMENTS OF 1983

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri (Mr. EMERSON) is recognized for 10 minutes.

● Mr. EMERSON. Mr. Speaker, the legislation I am introducing today is needed to end the neglect by our Government of hundreds of millions of acres of our Nation's most valuable forest lands owned by over 7 million landowners, mostly in relatively small forested areas. I am pleased that Mr. ROSE and Mr. ROBINSON have joined me as original cosponsors.

This legislation, entitled the "Cooperative State Forestry Research and Extension Amendments of 1983," is a modification of and an improvement over a similar bill, H.R. 7051, authored by William C. Wampler, former Congressman and distinguished ranking minority member of the House Committee on Agriculture, which I had the privilege of cosponsoring and working on in the 97th Congress. This revised bill still retains the basis objectives of H.R. 7051, requiring a modest shift from current forestry research and extension education programs and funding policy, which currently benefits mostly the large Federal and private industrial forests, to the hundreds of millions of acres of nonindustrial forest lands owned by over 7 million landowners, mostly in relatively small holdings.

Although we currently have an abundance of timber to meet our immediate demands, both the General Accounting Office and the U.S. Forest

Service are predicting serious shortages of timber as early as 10 years from now and increasing shortages as we move into the next century. Inasmuch as trees in a forest take years to reach a size when they can be harvested for the use of mankind, it stands to reason that the sooner we take action to correct this pressing problem, the sooner we will have a chance to prevent serious wood shortages and halt price escalations of wood products. (For additional information on this statement see remarks of former ranking minority member of the House Agriculture Committee, Congressman William C. Wampler, at page 22749 CONGRESSIONAL RECORD, August 20, 1982.)

During the last decade the Federal Government spent over $900 million in intensive research to solve national problems critical to maintaining and improving the 135 million acres of commercial forest lands owned by the public and administered by the Department of Agriculture's Forest Service. By and large this has been a most successful program. Much of this Federal research program has also directly benefited the 68 million acres of industrial forest lands owned by the forest products industry, as well as other public lands not considered as commercial timberlands and also some of our larger privately held nonindustrial forests.

In sharp contrast, Federal support for forestry research to States, under the McIntire-Stennis Act to directly aid the 7 million owners of nonindustrial forests, who own 58 percent of our Nation's total commercial forest lands, has only amounted to $87 million during the same period; a ratio basis of less than 1 to 10, comparing State research to Federal research.

In even sharper contrast, Mr. Speaker, it was not until last year that our Government thought it necessary to transfer the technology of forest science to the relatively small forest landholders. This new program put $2 million in appropriations for the first time in the forestry extension budget for fiscal year 1982. This amount was repeated in the fiscal year 1983 appropriations, but the important point to note here is that this amount, this $2 million, is to inform some 7 million relatively small forest landowners of the best and most effective technology they should use to reforest, manage, and harvest the over 277 million acres of forest lands they own. This program must be expanded if we are to meet the challenges of the future.

The need for this Nation to increase the productive capability of our Nation's forest is all too clear. To accomplish this, we must first assure ourselves we have the timber replacement and utilization technology available in time to meet these known expanding demands of the future. Second, if we are to have the necessary quantity and quality of wood to meet these known future demands, we must begin today to plant the types of trees we will need to replace the trees we will cut tomorrow; this means better management of our existing forest. Third, we must put our research effort and our technology transfer effort into that area which has the greatest potential for expansion and at the least possible cost; that area clearly is that owned by the nonindustrial forest landowners.

Moreover, it is vital during these austere economic times that we utilize any existing Federal/State cooperative research and technology transfer capabilities and funding systems available, to improve the productive potential of these vast private forest lands. This can best be accomplished by utilizing the existing capabilities of our State land grant colleges and universities, and our State extension system that have proven so successful in this century, to make our country foremost in the world in food and fiber agriculture. The need to begin this process now is even more important when we consider the life cycle of a tree in relation to that of any other agricultural plant.

The main purpose of this bill is to more than double our current effort at the State level where research and technology transfer need is the greatest. This increase in funding cooperative State forestry research and extension in this bill is accomplished without an increase in outlay of Federal research and extension funds. The increase is accomplished by utilizing funds from a modest funding priority shift from existing nationally oriented Federal forestry programs to expand Federal formula aid to cooperative State forestry research and extension programs. I shall expand on the details of the explanation of the legislation in a few moments.

I have recently joined with others in discussing this bill with the forestry community. I particularly want to commend our former colleague, Mr. Wampler, for the effort he personally undertook to obtain the opinions of the forestry community, at the Federal, State, private and public levels. As a result of this effort, forestry and agricultural deans, State extension service directors, State experiment station directors, State foresters, and the forest products industry have had several months to review the earlier bill and have made their recommended revisions. By and large, this bill introduced today incorporates their recommendations.

Following is an explanation of this bill:

EXPLANATION OF THE LEGISLATION

Short Title: "The Cooperative State Forestry Research and Extension Amendments of 1983."

1. The bill amends the McIntire-Stennis Act, the principal Act that authorizes funds for cooperative state forestry research at state designated forestry schools, by:

a. Limiting the state forestry institutions eligible for this funding to forestry schools currently receiving these funds.

b. Increasing the level of funding for the McIntire-Stennis Act (from $12,500,000 annually to approximately $30,000,000) by requiring that McIntire-Stennis funds for cooperative state forestry research be appropriated at an amount equal to 15 percentum of all funds appropriated by the federal government for forestry research at the U.S. Forest Service, cooperative state forestry research, of any other major funding for forestry research under the Appropriations headings for the Department of Agriculture or the Department of the Interior, beginning in the fiscal year commencing October 1, 1984. This level is increased to 20 percentum beginning October 1, 1985; and to 25 percentum beginning October 1, 1986. The apportionment of funds among eligible institutions within the states is continued as prescribed in current law.

c. The membership and duties of the council are expanded and the council is required to recommend high priority research areas to improve forestry resources in the United States to the Secretary of Agriculture.

2. The McIntire-Stennis Act is further amended to allow the Secretary of Agriculture to establish a new competitive grants program for high-priority forestry research for all colleges meeting the requirements of the McIntire-Stennis Act and for other institutions, organizations and persons having a capacity to carry out high priority forestry research. The Secretary is required to establish a peer review system for evaluating competing proposals, and $10 million is authorized annually to support this new program.

3. The bill establishes a special grant provisions for forestry research of national problems of vital interest to the United States to forestry schools which have had a long history of forestry research excellence (of 25 years minimum) and which offer degrees in forestry at the doctorate degree level.

4. The bill also amends the Smith-Lever Act, which authorizes the Extension Service, and the Renewable Resources Extension Act. This program expands the current Renewable Resources Extension Act, funded at a $2 million level, to approximately $12 million annually. This is accomplished in the same manner as the provision in Section 1 above to upgrade the McIntire-Stennis Act, except that the percentages of appropriations under this provision are different. Instead of the 15, 20, and 25 percentum funding arrangement under the McIntire-Stennis provision, this section sets a formula of 2 percentum, beginning October 1, 1984 (approximately $6 million for that fiscal year); 3 percentum, beginning October 1, 1985 (approximately $9 million for that fiscal year); and 4 percentum, beginning and continuing after October 1, 1986 (approximately $12 million beginning and continuing after that fiscal year). The current apportionment scheme for funding this program in the Renewable Resources Extension Act is maintained.

5. The bill also amends the Smith-Lever Act to allow the Secretary of Agriculture to establish an Extension Competitive Grants program for renewable resources extension projects in states which would be of special

national benefit to this program. $5 million are authorized annually to support this new program.

6. This bill is effective October 1, 1984.

Mr. Speaker, I shall forward a letter to each Member of the House shortly urging the cosponsorship of this important legislation.●

NEED FOR CONGRESSIONAL REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. TAUKE) is recognized for 5 minutes.

● Mr. TAUKE. Mr. Speaker, recent congressional action boosting the salaries of U.S. Representatives and permitting U.S. Senators to earn an unlimited amount of money from outside sources has reinforced the need for enactment of the Congressional Pay Reform Act. Today I am reintroducing that legislation with a number of the original sponsors and several of my colleagues from Iowa.

This bill will make Members of Congress more accountable to their constituents by refining the chaotic and complicated method used in dealing with congressional pay increases. It would attack the pay problem on three levels by:

First, deferring congressional pay adjustments until the start of the next Congress, thus preventing House Members from voting for a pay raise which would go into effect during their current term of offices;

Second, requiring a recorded vote in both the House and Senate on any salary issue so that the public would know how each elected official stood on that issue; and

Third, mandating that congressional pay questions be considered independently of other appropriations bills, thus ending the current practice of combining congressional salary increases with pay adjustments for Federal employees and agency appropriations.

The congressional pay question conjures up in the eyes of the American public an impression that Congress is unable and unwilling to deal with salary adjustments in an aboveboard and fair manner. I urge my other colleagues to join us in cosponsoring the Congressional Pay Reform Act.●

THE FARM DEBT DILEMMA: IN SEARCH OF A NEW APPROACH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 30 minutes.

● Mr. ALEXANDER. Mr. Speaker, in the last year or two we have heard the term "safety net" used to describe what some see as only a minimal duty on the Government's part to stop the spread of misfortune. As hard times have continued, the term has become the butt of jokes, but in no aspect of American life has it become more ironic than in agriculture, where its use ceases to be absurd and becomes, in fact, tragic.

One thing is certain: No safety net ever invented could stop a landslide, and the drastic decline in farm income in recent years, the enormous upsurge in bankruptcies and foreclosures, and the virtual termination of credit for increasing numbers of farm families, all of this amounts to a landslide. And this landslide, if unchecked, could go far toward the destruction of the American economy at large and the creation of social misery undreamed of since the Great Depression.

Surely we do not need to be reminded that the depression which began in 1929 had been preceded by years of a similar decline in agricultural income or that a number of economists—perhaps a consensus, in fact—trace a cause-and-effect relationship between the farm crisis of that time and the general economic catastrophe which followed. It is my privilege to represent a proportionately large number of constituents involved in agriculture, and I would urge all Americans to see the farmer as I have learned to see the farmer—not only as the principal agent in our food chain but as a vital element also in the social and economic and moral structure of the Nation.

I am stating here today a concern not only for the American farmer but for the whole Nation, whose economic health rests upon the state of agriculture in the same way that our homes and offices rest upon the Earth. And, speaking both for myself and for the growing number of others who share this concern, I am stating here a conviction that we must change both our attitude and our procedures in the sphere of farm financing.

There are a number of fresh solutions we should consider, but let me first indicate some of the specifics of the problem. Agriculture is a capital-intensive pursuit, dependent on the purchase each year of real equipment and seed and fertilizer to produce real crops annually. There is no sham to it at all, and no way to doctor the books or to create phantom assets or to shuffle the facts of economic life so that an actual loss becomes an apparent profit. It is either there or it is not, and the process of buying and selling has to go on each year with real money.

The cost of production year by year is higher, and the price of farm goods is lower. This is the trend, and it has produced such facts as this: According to the Department of Agriculture, an incredible 72 percent of all farm units with sales under $40,000 annually experience what is called negative income. In layman's terms, this means that they lose money and a lot of it. And it is not only the smaller family farms which face this prospect, for larger operators with sales over $100,000 per year face the current crisis holding more than 50 percent of the $200 billion farm debt. Net farm income has been at depressed levels since 1980, and, in fact, farm income over the last 3 years has been about half what it was in 1979.

What complicates chances for recovery is the fact that agriculture is historically based upon annual extensions of credit to farmers. The farmer's annual debt is in the nature of things, but it is now being compounded by the kind of indebtedness which comes from farm income falling below farm costs. To put it this way, normal debt is being swamped by abnormal debt.

The Farmers Home Administration is the traditional lender of last resort, but increasingly the FmHA has shown a disposition to foreclose upon the indebted farmer and to refuse the new loans which would enable him to continue. And delinquencies in FmHA loans rose from 13 percent in 1976 to 25 percent in 1982. It is becoming ever more apparent that the FmHA's resources as a lender and administering agency are overtaxed and that new approaches to extending farm credit—the normal kind—are needed.

A traditional source of loans to farmers, of course, is the nexus of production credit associations. But the PCA's themselves have shown an increasingly cautious response to the debt crunch, and their reluctance without firm guarantees of ultimate solvency to see the farmer through has brought the debt problem to the edge of real crisis. I am in the process just now of soliciting informed opinion in my district as to how we might achieve a fresh outlook and more effective means of financing for the beleaguered farmer, victim of an ever more vicious cycle. I have an idea myself which I will suggest here in broad outline.

What we might do is create a separate, specific authority for USDA guarantees for up to 90 percent of principal and interest on loans already made by private lenders for farm operating purposes. In return for these guarantees, lenders would agree to forgo foreclosure and payments of principle and interest through September 30, 1984, and to reschedule the loans thereafter on a reasonable basis.

The aim of this program, of course, would be to tide over farmers with records of competence until the long-promised recovery should permit them to meet their obligations in full. The program would ultimately be at no cost to the taxpayer. Any costs which might otherwise be incurred would be handled through revolving funds available to the Secretary of Agriculture.

As a departure from past practice, we might have the Secretary arrange for the guarantee program to be administered at the local level, on a fee or cost basis by institutions of the farm credit system—the Federal intermediate credit banks and the PCA's. We could then provide a temporary and unique linkage of the efficient farmer-owned cooperatives with the Government's authority and capacity for guarantee. It would be, in effect, a new partnership of private and public sector.

In such a way, we could forge an instrument for farm financing that would not only enable the distressed American farmer to weather the present crisis but would suggest new possibilities for less troubled times to come.

One thing is certain: if we intend to see our way through to those less troubled times, we cannot wait upon them. In old-fashioned American frontier fashion, we will have to meet them halfway, with responsible and original initiatives of our own. Increasingly, I shall have more to say on the subject of farm debt and hopefully will soon be making specific recommendations for legislation. No problem that we have in this country is more needful of attention.●

INAUGURAL ADDRESS OF GOV. TONEY ANAYA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Mexico (Mr. RICHARDSON) is recognized for 10 minutes.

● Mr. RICHARDSON. Mr. Speaker, on January 1, 1983, the State of New Mexico inaugurated its new Governor, Toney Anaya.

Energetic, bold, innovative and dynamic are words used to describe Toney Anaya. Those same words will be used to describe his new administration.

Born in 1941 in Moriarty, N. Mex., Anaya began a career of public service in the summer of 1959 when, as a teenager, he became a clerical assistant to the late U.S. Senator Dennis Chavez. While earning a law degree from the American University, Washington College of Law, Anaya was also working as legislative counsel to U.S. Senator Joseph M. Montoya. His first taste of State government came in 1971 when he became the chief administrative assistant to Gov. Bruce King. Elected in 1974 as the State's attorney general, he proceeded to establish himself as a man of the people with 4 years of a nationally recognized and active, people-oriented administration with emphasis on cleaning up corruption in government, fighting and protecting consumer interests.

COMPUTER CRIME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. NELSON) is recognized for 5 minutes.

● Mr. NELSON. Mr. Speaker, with the Federal Government's ever-increasing reliance on the valuable services offered by computers, I believe we must take specific actions to protect these systems from intrusion. As the author of the "Federal Computer Systems Protection Act," which I intend to reintroduce to the 98th Congress, I feel it is appropriate to submit to the attention of the House two recent newspaper articles further illustrating the need for Federal computer protection measures in the form of Federal legislation. As reported in the Washington Post and the Wall Street Journal, this particular incident involves fraudulent access to the confidential files in the Federal Reserve Board computer, and to me, suggests the seriousness of the potential problems associated with Federal computer usage. The significance of this event prompts me to request the enclosure of these articles in the RECORD at this point:

[From the Washington Post]

FRAUD CHARGED IN FED COMPUTER CASE

(By Al Kamen)

Federal prosecutors filed fraud charges yesterday against a former Federal Reserve Board aide who gained access to the board's computer files of sensitive financial data using another computer in a major brokerage firm, according to sources close to the investigation.

The employee, Theode C. Langevin, 34, of Laurel, was accused of one count of wire fraud for attempting to penetrate the files on Nov. 22, the day he went to work for E. F. Hutton & Co., a Wall Street securities firm, according to information filed in U.S. District Court yesterday.

Authorized employees are able to tie into the Fed's computer files using a numerical code that is transmitted by telephone. When employees leave the Fed, their code numbers are canceled. Sources familiar with the investigation say that Langevin, using another Fed employee's name and access code, got into the Fed computer system on at least one occasion.

Prosecutors file an information in lieu of an indictment when they expect defendants to plead guilty. Reached by phone at his home, Langevin said he intends to plead guilty to the charge, but said he did not know if a court hearing date had been set for the plea. He faces up to five years in prison and a $1,000 fine on the one charge.

Thomas Rae, general counsel at E. F. Hutton, said yesterday that Langevin, who began work there on Nov. 22 as a "Fed watcher," was asked to resign 10 days later when federal officials notified the company of the investigation.

Rae said he did not know if Langevin, whose job was to follow Federal Reserve actions and advise the company on possible moves by the board, successfully tapped into the board's computer. But he said Langevin did not pass any such information on to the company and that the company "was not the recipient of any reports from Mr. Langevin."

According to the charge filed by prosecutors, Langevin attempted to gain access by telephone to the board's computer data files of information on the changes of the nation's money supply—a key factor in determining Fed actions. Rae said information of that nature would be "extremely valuable" to investors and brokers who follow the Fed's credit policies, which are important in predicting interest rates and securities prices.

The court filing does not say whether Langevin—who was earning $35,000 a year at the Fed and $60,000 a year at the brokerage firm—secured the secret information.

Sources said yesterday that the first unauthorized entry, made on the day Langevin began work at E. F. Hutton, was discovered within days by a Fed supervisor, who reviewed information regarding who was using the computer files and discovered that the employe whose name was used was on leave that day.

After that, the Fed used computer-blocking mechanisms to thwart further attempts and traced the attempts to Langevin at E. F. Hutton, sources said.

Langevin's last attempt to gain entry into the files was Nov. 29, a week after the first entry was made, according to prosecutors.

Langevin declined to comment on the case or on an assertion made by prosecutors in court papers that he made plans to tap into the computer 10 days before he left the Fed. "I'm trying to put everything back together," he said, adding that, "In hindsight, it was totally unnecessary for me to do this, and it was a very unfortunate thing. This is an excruciating experience."

Langevin also said he did not pass any of the information he gathered to E. F. Hutton. A spokesman for the Fed said he could not comment on the incident except to say that Langevin, who worked there for six years, had a good work record.

[From the Wall Street Journal]

FORMER FED AIDE CHARGED BY UNITED STATES WITH WIRE FRAUD

WASHINGTON.—A former Federal Reserve Board economist was charged with wire fraud for allegedly trying to obtain confidential data from a Fed computer after he began work for E. F. Hutton & Co.

The charge was filed in federal court here against Theode C. Langevin, who worked at the Fed from 1976 until last Nov. 19. The suit alleges that on Nov. 22, his first day on the job as a money-market analyst at the brokerage-house unit of E. F. Hutton Group Inc., Mr. Langevin attempted to get financial information from the Fed computer by using the name and password of a Fed employee.

The charge came in a criminal information rather than an indictment, which is possible only if the defendant has waived his right to have a grand jury approve the charge. In such circumstances, prosecutors say, the accused person usually pleads guilty.

The maximum penalty for wire fraud is five years in prison and a $1,000 fine. But it would be rare for a first offender in such a case to be sentenced to more than a token amount of time in prison.

The court papers don't disclose how 34-year-old Mr. Langevin got the Fed employee's password, whether Mr. Langevin succeeded in obtaining any information from the Fed computer or whether, if he did get the data, he made any use of it.

In his last year and a half at the Fed, Mr. Langevin had access to the Fed's computer data bank in the course of his work in the projection unit of the research and statistics division's banking section, court papers say.

The Fed's data bank contains confidential and sensitive data that include money-supply projections, according to the filings with the court.

Mr. Langevin's job at E. F. Hutton was to analyze Fed policy affecting money supply, according to the securities firm. Tapping confidential Fed data could give him a big advantage in that job. Economists and securities dealers look to the money supply as a signal of future credit-policy moves by the Fed, which quickly affect interest rates and securities prices.

Mr. Langevin and his lawyer, Leslie Fein, declined to comment publicly on the case, as did the Fed.

Hutton and its customers didn't profit from any knowledge Mr. Langevin may have obtained, the securities firm said. "Frankly, he was here so short a time that he didn't make any written or oral recommendations," said Thomas Rae, Hutton's general counsel. "We were neither benefited nor hindered, nor were our customers."

Hutton says its records show that Mr. Langevin worked there from last Nov. 23 to Dec. 3, when he was "terminated." Hutton wouldn't elaborate. The hiring date is a day later than that cited by the Justice Department.

Some Wall Street executives speculated that the Fed could have caught on to Mr. Langevin's alleged scheme and provided him with false data. That would raise the possibility that Hutton could have sustained trading losses if it had access to the phony figures, and acted on such data.●

NURSING STUDENT LOANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. ST GERMAIN) is recognized for 5 minutes.

● Mr. ST GERMAIN. Mr. Speaker, as the Congress takes up again the task of balancing our Nation's economic resources against the many urgent needs of our people, I feel that a letter I received from the dean of the College of Nursing at the University of Rhode Island has particular relevance.

In response to a request from the American Nurses' Association for assistance in obtaining increased dollars for nursing and for the nursing student loan program, Dr. Barbara L. Tate, the dean of the Rhode Island University College of Nursing, has written that she is hesitant to request continued support for student loans until the repayment record has been improved.

During the first years of nursing student loans, the repayment record was excellent. It appears, however, that nursing students of more recent years have lost the sense of obligation of earlier borrowers. While this seems to be in keeping with current trends in society, it is highly inappropriate behavior for professional people.

Dean Tate has suggested that guidelines could be developed for deans and directors of nursing colleges to assist financial aid offices in maintaining contact with graduate nurses, alumni groups, and district nursing associations that have interest-free loan moneys available to assist members with timely repayment of the interest-bearing Government loans. The National Student Nurse Association should encourage professional accountability for repayment of their loans by the graduating nurses as they enter their chosen field, in order that the funds may be available for others who will follow them in seeking nurses' training.

Mr. Speaker, I was impressed by the attitude taken by this college official in Rhode Island, and I think her suggestion is a very timely one that would have benefits for all who realize the importance of supporting financial aid to worthy students in a responsible way.●

NATIVE SON OF LIVINGSTON, TEX., BECOMES FAVORITE SON OF REDSKIN FANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. WILSON) is recognized for 5 minutes.

● Mr. WILSON. Mr. Speaker, as a change of pace from the serious business of our day, I would like to take a moment to mention with pride a constituent of mine who has gained fame recently as one of Washington's sports heroes.

Mark Moseley, as you know, has been named by the Associated Press as this year's Most Valuable Player for the National Football League. He is the first placekicker to be granted this honor.

Mark's most recent achievement comes as a much deserved reward in a career that has included hard work, disappointment and successes, and now glory for himself, his team, and all Redskin fans. He is a record holder many times over, in the NFL for consecutive field goals—23—and for single season field goal accuracy—a 95.2-percent average. Many of my colleagues will remember for some time the recordsetter he kicked against the Giants—42 yards with 4 seconds to go—to win for the Redskins. In his 9 years with the Redskins he has provided the necessary points 13 times to tie or win a game, five times within the last few seconds.

Mark's skill and strength were not born overnight or without effort. He has spent a lot of years getting where he is now. He began training in junior high school, doing chores for his father after class and then returning to the school track in the evening to run. According to his father, Jack, he has always loved sports. Jack pointed out proudly that this is not Mark's first unique honor. In 1979 his alma mater, Stephen F. Austin State University, named him to their Hall of Fame. He is one of the youngest men in their history to be given this distinction.

Some of you may wonder why a Cowboy fan would be singing the praises for a rival team member. I am proud whenever one of my fellow Texans makes good. As his friend and neighbor I am happy for him, and he is still a good old boy from Livingston, Tex., and the Second Congressional District. I wish him many more years of kickin' 'em long and true.●

INTERNATIONAL MARINE SCIENTIFIC RESEARCH ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. STUDDS) is recognized for 30 minutes.

● Mr. STUDDS. Mr. Speaker, today I am joining Representatives JOEL PRITCHARD, WILLIAM HUGHES, and DON BONKER in introducing legislation intended to facilitate the conduct of marine scientific research. This bill is needed to respond to major changes which have occurred over the past decade in the manner in which marine research is regulated by coastal countries.

Not long ago, oceanographers were free to plan and carry out research projects virtually anywhere on or under the seas of the world. The United States developed the globe's largest and best-equipped oceanographic fleet, and U.S. scientists were pioneers in research related to oceanic energy resource, the effect of ocean conditions on weather, marine pollution, and marine biology.

In recent years, this situation has changed. Dozens of coastal states have asserted the right to regulate marine research within 200 miles of their shores. The legitimacy of this right, moreover, has been recognized in the text of the Law of the Sea Treaty recently opened for signature in Jamaica.

The United States would be hard pressed at this point to deny that a coastal state is entitled to regulate marine research within 200 miles of its shores, subject, of course, to the appropriated delimitation of overlapping zones. Official U.S. policy, nevertheless, continues to recognize such a right generally only within 3 miles of shore, up to 12 miles for fisheries research, and with respect to shelf research throughout the coastal state's Outer Continental Shelf. The divergence between U.S. policy and that of foreign countries has caused major hardships to U.S. marine scientists in recent years. The Department of State has not been willing to forward requests by U.S. scientists to conduct research in waters adjacent to other states, unless a portion of the research

to be conducted is in areas over which the United States explicitly recognizes the right of the foreign state to exercise research control. Many scientists have thus been forced to significantly alter the scope—and cost—of research projects simply in order to gain State Department cooperation in forwarding research requests.

Scientific efforts have also been hampered by the view prevalent in some developing countries that industrialized nations, such as the United States, derive an inequitably large share of the benefits of oceanic research. This attitude stems from a view that much research has important commercial and military implications, and that more developed countries are better able than other states to process and make use of data derived from research.

As a result, many countries have begun to place restrictions on foreign scientists seeking to work in their waters. Rights accorded to coastal states by the Law of the Sea Treaty include the right to authorize research, to ask for additional information about particular projects, to participate in and share data derived from research efforts and even to control the publication of information obtained. Under the framework of the treaty, scientists would be required to seek governmental permission to conduct research in waters comprising 42 percent of the world's oceans, and containing the vast majority of the living and nonliving marine resources in which mankind presently has an interest.

The text of the Law of the Sea Treaty reflects the increasingly uncertain and difficult conditions under which marine scientists are forced to operate. In recent years, U.S. scientists have almost completely abandoned efforts to conduct research in waters close to countries such as India and Trinidad and Tobago, which have made their work exceptionally difficult. In addition, many proposed projects have been curtailed due to actual or anticipated opposition from coastal states, or to uncertainties about the regulations under which the research would be conducted. These difficulties have combined with reductions in Government support for research to create a major crisis for American marine science. These problems cannot be resolved completely through domestic legislative action on the part of the United States, but I believe that Congress can play a role in focusing attention on the crisis, and in pointing a way toward at least a partial solution.

The legislation we are proposing today will update U.S. policy to reflect the present stage of evolution of international law. Under the bill, the United States asserts the right to regulate marine scientific research within 200 miles of our shores and on the U.S. Outer Continental Shelf. It provides, further, that marine research may be conducted by scientists in all areas subject to U.S. research jurisdiction, provided that the research is conducted in a lawful manner. In addition, the Secretary of State will be required to promptly transmit to appropriate foreign officials requests from U.S. scientists for permission to conduct research in areas over which a foreign state legitimately asserts the right to authorize and regulate research. The right of a foreign state to regulate research will be considered legitimate with respect to areas within 200 miles of the shores of that state—again subject to appropriate delimitation—or on its Outer Continental Shelf.

These provisions are designed to eliminate the problem which the State Department now has in forwarding research requests to other countries. The United States will both assert for itself, and recognize for other states, the right to regulate marine research on the Outer Continental Shelf and in coastal waters out to 200 miles. By making it clear that the United States does not deem it necessary to enact new restrictions on research in U.S. waters, we will be in a position to argue that other governments should adopt a liberal regulatory regime as well.

Clearly, some coastal States may continue to regulate marine research in their waters in a manner which will make it difficult for U.S. scientists either to obtain permission to conduct research, or to carry out projects in an economically feasible or scientifically productive way. This is regrettable, but Congress has no power to legislate for other countries. The bill which we are introducing seeks to make the best of the situation, however, by instructing the Secretary of State to initiate negotiations aimed at obtaining bilateral and multilateral agreements with other nations on the subject of marine research. In conducting these negotiations, the Secretary shall seek agreement on procedures which will minimize fiscal and procedural restraints on marine research. These agreements are to be sought initially with countries or groups of countries within whose areas of marine research jurisdiction U.S. scientists have expressed the greatest interest in conducting research.

The proposal to seek bilateral agreements is consistent with a recommendation made by the ocean policy committee of the National Academy of Science in 1978, and with congressional testimony submitted by leading scientists last year. It is predicated on the view that most coastal States can be persuaded not to interpret their right to regulate marine research in a manner which will make it difficult or impossible for U.S. scientists to conduct responsible research in their waters. Article 243 of the Law of the Sea Treaty provides, moreover, that:

> States and competent international organizations shall co-operate, through the conclusion of bilateral and multilateral agreements, to create favorable conditions for the conduct of marine scientific research in the marine environment.

By adopting an approach which is consistent with international law, and by stating our own willingness to accept research by foreign scientists within U.S. waters, the legislation is designed to create the best possible international climate within which U.S. scientists may submit proposals for research.

The bill being introduced today is not intended to reflect either a positive or a negative judgment on the Reagan administration's decision to refrain from signing the Convention on the Law of the Sea. Its purpose is simply to deal as effectively and as practically as possible with the very serious problems presently being experienced by marine scientists of the United States.

Before concluding, I want to emphasize my belief in the importance of marine scientific research. This is not a problem, after all, which is of concern solely to oceanographers, academics, and laboratory technicians. It is a matter critical to all those who live near, or who derive their livelihood in whole or in part from, the resources of the sea.

Political boundaries are, from a scientific perspective, irrelevant. The ability to gather additional data and to compare phenomena in one part of the world with those in another is crucial to understanding both living and nonliving marine resources.

Cooperation among scientists and nations is essential to the study of fisheries migration, and to concepts of proper fisheries management. Satellite-collected data on surface water temperatures and on the availability of plankton are important to predictions of fish population, but satellite collection techniques are valueless unless supplemented by on-site sampling conducted from ships.

Ocean researchers have provided important information about the movement of the geological plates which make up the Earth's crust. Studies in this area are valuable for predicting the presence of oil and mineral resources beneath the ocean floor. Scientists played a key role, as well, in recent discoveries of hydrothermal sulfide deposits thought likely to be of greater importance than the manganese nodules which have for years been the target of proposals for deep seabed mining.

Studies of ocean pollution will be severely hampered if political bound-

aries are permitted to interfere with research. Ocean currents, which disperse pollutants, are significantly lacking in respect for lines drawn on maps. Studies in one part of the world may be indispensable for assessing the potential effects of an action contemplated in another geologically or climatically similar region 10,000 miles away.

Marine biologists are faced with the enormously difficult task of studying the chain of life in a vast and ever-changing environment to which scientists may only at great cost and difficulty obtain limited access. The effectiveness of their efforts should not be strained further by burdensome restrictions on the geographical scope and efficiency of their research. Theories about marine life on the Outer Continental Shelf of the United States need to be tested against data derived from other parts of the ocean, such as those located in comparable latitudes in the Southern Hemisphere. Certain types of research, moreover, may best be conducted in relatively pollution-free waters rarely found off the U.S. coast.

It should not be necessary to point out the importance of the oceans to the survival of human life. It is clearly in our interest, therefore, to facilitate efforts aimed at learning everything we possibly can about the oceans and about their effect on our climate, our food supply, and our capacity to generate energy. In turn, we need to learn more about the effect of our industrial, commercial, and recreational activities on the long-term health of the oceans.

The legislation we are introducting today will not, in itself, untie the political knot presently restricting marine scientific research. It is my belief, however, that the bill, if enacted, would represent a significant step forward, and I think it is about as much as Congress can accomplish through legislative action at the present time.

During the weeks ahead, I am hopeful that interested members of the public, and particularly those from the scientific community, will be sharing with Congress their own views on the marine science problem, and on the possible legislative and administrative options which we might take.

Representative NORMAN D'AMOURS, chairman of the House Subcommittee on Oceanography, has already expressed his intention to hold hearings on the marine science issue, and I am confident that this problem will, under his leadership, receive the attention and action it deserves.●

ZIP+4

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. FORD) is recognized for 5 minutes.

● Mr. FORD of Michigan. Mr. Speaker, during consideration of the 1981 Reconciliation Act, the House, acting on a recommendation by the Post Office and Civil Service Committee, voted to bar implementation of the controversial ZIP+4 proposal of the Postal Service until October 1983.

The Committee contended, and the House agreed, that the Postal Service was moving too hastily on a program which is extremely worthwhile in concept, but which still needed more study.

Today the General Accounting Office released the findings of its own study on ZIP+4. I am pleased to note that the GAO report ratifies the decision of the House: ZIP+4, if carefully implemented, will be an extremely worthwhile program.

GAO concludes that successful Postal Service automation through ZIP+4 will result in lower future postal costs and lower postal rates for all Americans.

From the beginning, the committee had no problems with the concept. But, like the GAO, it saw the need for additional time and study. Now, in its report, GAO has recommended an implementation procedure which should guarantee success.

I congratulate GAO on an outstanding job.●

REINTRODUCTION OF IMPEACHMENT RESOLUTIONS CONCERNING FEDERAL RESERVE BOARD AND OPEN MARKET COMMITTEE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 30 minutes.

Mr. GONZALEZ. Mr. Speaker, today I have reintroduced two resolutions and three bills having to do with what I consider to be the prime concern of this Nation, and that is its economic, its monetary, and fiscal well-being, which, as I need not remind anybody, has been under very serious assault and waging those of us seeking the integrity of the processes in defense of the people a losing battle. I have reintroduced the impeachment resolution directed to the Chairman of the Federal Reserve Board, Paul Volcker, and an accompanying resolution seeking the impeachment of the Open Market Committee, which means the entire Board, because the Open Market Committee consists of five extraneous private bankers, members of the Federal Reserve System, and the seven Federal Reserve Board members.

I have reintroduced the substantive legislation seeking the reform long overdue, overdue since 1923, of the Federal Reserve System, whereby it would be amenable to the congressional intent at the time of the adoption of the original act in 1913; an accompanying bill, suggested legislation, that would out-and-out do away with the so-called Open Market Committee; and, really, a third bill that would also further modify the system and, in an attempt to bring it into accountability, in effect bring the Federal Reserve Board within the control of the Government by placing it, as it should be and should have been all along, under the Department of the Treasury of the United States.

□ 1745

I found in waging this battle since the last Congress that there is a terrible and abysmal ignorance as to the nature of the Federal Reserve Board and the system both within the membership of the Congress as well as among the general population; so some of the statements and utterances that I have made in pursuit of these goals sought by way of introduction of these resolutions and bills have seemed not only startling, but radical, bombastic to some, and then when the realization of what the facts are dawns on these particular citizens, they confess that they were not aware, they were not aware that the Federal Reserve Board, for instance, is not a governmental entity at all. It is not a part of the U.S. Government. It is a private bankers' institution. It is an institution wholly owned by the private banking system of this country. It is not amenable to any kind of accountability to any branch of the Government, which means to the people of the United States. It is not accountable to the President and it is certainly not accountable to the Congress.

I have said repeatedly since I have been a member of the Banking Committee—and that has been the 21 years plus that I have been a Member of the House of Representatives—has the Federal Reserve Board either through its Chairman or any individual member ever uttered one expression admitting that there is a responsibility of accountability to the Congress?

Now, what then do the people have by way of control of the institution that is determining its fate economically, the one force that says just how much interest, the extortionate interest rates that America has been crucified upon and particularly American business, are determined by what is legally the fiscal agent of the U.S. Treasury. That is the legal definition of the Federal Reserve Board.

It is supposed to be the fiscal agent, not the master, not the controlling factor, runaway and unaccountable for any of its actions, even its own internal administration.

Is there an inspector-general in the Federal Reserve System? If so, I do

not know of anybody that knows of his existence.

In yesterday's newspapers, we had a confirmation of what I have been alleging and one of the specific allegations in my bill of impeachment that I have been drawing forth on the floor of the House, and so that the record will show some background explanation, this was made necessary because, in the last Congress, the Committee on the Judiciary would not give serious consideration or entertain a hearing on these resolutions I had introduced.

I wrote the distinguished chairman of that committee urging him to consider my resolutions seriously. They are not a political ploy. They are not any effort to get publicity. After all, this thing does not get publicity even if I desired it; but I do expect to have serious consideration of a matter that I certainly consider very serious and with a great sense of urgency and priority.

Once, the chairman wrote back saying that he could not guarantee a hearing, but was instructing the staff to evaluate the resolutions, though to this day I have not had any kind of a reaction from any staff or staff counsel as to whether or not they have ever analyzed the resolution; so pointing out that the resolutions I referred to and have introduced fall under the privileged category in our system of legislative procedure, I then said that I would then proceed as if the whole House were the Judiciary Committee and I would draw up the specifics in the allegations and the general charge under the constitutional phraseology of the articles of impeachment.

Thus far, I have drawn three general Articles of Impeachment, with six specific charges. One of them had to do with the terrible fraud perpetrated on the American people, on their Treasury, and therefore, harming their well being, was the leaking of information by members of the Open Market Committee that had therefore inured to the unconscionable profit of certain vested banking interests headquartered in New York; one, specifically, the Hanover Manufacturers Trust, or Hanny-Manny, as they call it colloquially in New York.

At the time I first raised that allegation, I did so several years ago when it was obvious that such a leak had occurred and there was some indirect comment in the New York newspapers. I tried to get the then-chairman of the Banking Committee to do something about it, but as now, this was considered something exciting, something flamboyant, something that certainly you cannot be serious about; so it was not until we had a public hearing, at which the Chairman of the Board came before the committee, that I had a chance to raise the issue and the question and then I had the joinder of the then-chairman and a couple members to the point where the then-chairman said, "Well, I'll promise you we will look into it and we will investigate."

I asked, "But how?"

The Congress is not permitted to have the General Accounting Office review the Federal Reserve Board. The Federal Reserve Board has fought tooth and nail against all efforts we have made, and I was the one who joined Chairman Wright Patman about 16, 17, 14 years ago when we introduced and reintroduced an accountability bill, seeking—seeking what? An audit of the Federal Reserve Board, which to this day has not been accomplished. Of course, we wanted to do it using the only arm that the Congress of the United States has, which is the General Accounting Office.

Well, that has been thwarted because it was fought bitterly by these interests that are so powerful now that they are the ones that are ruling the country. The decisions on the major issues of the Government and the people of this country, whether it is financial, fiscal, or monetary, or the questions of war and peace are not being made in the Halls of the Congress or even in the offices of the Presidency. They are being made in these plush offices of these international oligopolistic bankers that are running, literally running, the affairs of this country; everything, the rates of interest, the wellbeing, the standard of living.

As a matter of fact, let me say, by way of parentheses, that one of the things that triggered me off into this venture was the bald effrontery with which the Chairman of the Federal Reserve Board came before this committee and, under questioning on my part, admitted—he said, "Yes. This policy we are urging"—tight money policy, so-called—"Yes, it will mean that the standard of living of some Americans will be detrimentally affected."

That made my blood boil. I said, "What Americans? Who do you think will be detrimentally affected, David Rockefeller and the New York Bankers?" Of course not; the little guys, the little people, the ones that elect us and keep us in office, the ones we are supposed to be at least looking after their basic interests.

I said, "So, Mr. Chairman, since when do you arrogate to yourself this tremendous power and admit that it is in your power to affect vast segments of the American people as to the deterioration of their standards of living?"

That is something the Constitution places in the Congress of the United States. The Congress is the national policymaking body.

So these efforts on my part are just meager individual efforts to restore to the proper framework of reference, constitutionally speaking, the power that vests in the people. After all, the Constitution of the United States says in the very first five words, "We, the people of the United States, in order to form a more perfect union"—et cetera, et cetera. It does not say we, the Congress, or I, the President, or we the judges—the three branches of the Government. It says, we, the people, meaning that the people are the sovereigns. They are the sovereignty. They are the source of power and they have lost it. The people have lost control of the destiny of their own Government.

Who are we to boast that we presume to be representatives of these people if we do not speak forth without fear or favor and particularly in such a vital area as this one? So here I bring out these charges. They can investigate.

Two years later, last year, I was asking whatever came of that. Finally, finally, on my insistence and pressure, they produced a report by a lawyer member of the law firm in New York that does business with the bankers, who was assigned to look into that so-called, they called it mistaken, mistaken reporting on the part of the Federal Reserve, that is, the Open Market Committee. It was not a leak. It was a mistake.

So I have printed that report, such as it is, and offered it for the RECORD and it is in one of our CONGRESSIONAL RECORDS of last year. So there is no Member, past, present or future, that can plead ignorance.

I analyzed that report and I pointed out how inadequate it was; however, there were some who said, "Well, you still haven't made a case."

But here is yesterday's New York Times, and I offer this as No. 1 under extraneous material, page 1, it says, "Data Theft Laid to Ex-Federal Reserve Aide."

[From the New York Times, Jan. 5, 1983]

DATA THEFT LAID TO EX-FEDERAL RESERVE AIDE

(By Jonathan Fuerbringer)

WASHINGTON, January 4.—A former economist with the Federal Reserve Board who left to work for a brokerage firm was charged today with illegally tapping the federal Reserve's computer to obtain secret data about the nation's money supply.

Federal officials said that soon after joining E. F. Hutton as a forecaster, the 34-year-old economist, Theode C. Langevin, was caught by tracing the phone calls he made to the computer. Officials then let him tap into a computer programmed with phony money figures so that he could be caught "with his hands in the cookie jar," an official said.

Money supply data, if obtained in advance of its release each Friday by the Federal Reserve, would be of tremendous value to a forecaster working in a borkerage house that trades in stocks and bonds. Interest rates and yields of Government securities and bonds are often affected, moving up or

down, when changes in the growth rate of the money supply are reported.

Mr. Langevin went to work for Hutton in New York after leaving the Federal Reserve on Nov. 19. But he was at Hutton for only 10 days before being asked to leave because of the allegations of his computer-tapping, according to Thomas Rae, Hutton's general counsel.

Information filed in Federal District Court here by an Assistant United States District Attorney, William S. Block, indicated that Mr. Langevin tried to gain access to the Federal Reserve's computers in late November, just after he had left the Reserve for Hutton. At Hutton, Mr. Langevin was a "Fed watcher," whose job was to predict Reserve policy and its impact in the credit markets.

The information document, which is just a little more than two pages long, said that Mr. Langevin had used the name of someone still working at the Federal Reserve and that person's access code to the computer to try to get at the money supply data by calling up the computer through the use of a terminal connected to a telephone. Based on a normal procedure, according to former employees, Mr. Langevin's computer access code, if he had his own, would have been canceled even before he left the Federal Reserve.

Mr. Langevin is the first person to be formally charged with trying to get secret money supply data from the Federal Reserve computer system, and his case has raised questions about the security of the system.

It also caused concerns in the financial markets because the information on the nation's money supply, if known before its official release, could give someone an early indication of the probable course of interest rates. That would provide an invaluable edge in playing the bond market.

Officials said that the information in the dummy computer program was fabricated money supply data. The court filing did not say whether Mr. Langevin obtained accurate information in earlier attempts. Mr. Rae of Hutton said, however, that Mr. Langevin "prepared no figures for Hutton nor were any of his figures used for Hutton's proprietary account or those of our customers."

An official in the United States Attorney's office said that when an information document was filed in a felony case it often meant the defendant was expected to waive his right to a grand jury indictment and plead guilty to the charge. The maximum penalty for the charge of fraud by wire is five years in jail and a $1,000 fine.

HEARING EXPECTED NEXT WEEK

A hearing is expected next week, the official said. Mr. Langevin, reached at his home in Laurel, Md., said he had no comment. His lawyer, Leslie G. Fein, also declined to comment. A spokesman for the Federal Reserve, Joseph Coyne, referred all questions to Mr. Block. Mr. Block would not comment on the charges.

Because neither Mr. Langevin nor his lawyer would comment, there is no indication whether Mr. Langevin will plead guilty. Former employees of the Federal Reserve who knew Mr. Langevin could not say why he reportedly tried to tap the computer. But some suggested that he might have "ended up over his head" in his new job as a "Fed watcher," under considerable pressure to produce accurate forecasts of interest rate movements.

Mr. Langevin worked at the Federal Reserve for almost seven years and for the last 18 months of his employment was an economist in the Federal Reserve's research and statistics division, according to the information.

Former officials said that his job required him to gather bank deposit data used in computing money supphy changes and he would have had access to the computer. But it could not be confirmed if Mr. Langevin had access to the computer on his own while he worked at the Fed.

DETAILS SKETCHY

The details of what Mr. Langevin did are still very sketchy because no officials will comment on the record and little is said off the record. But, apparently, Mr. Langevin at some point after Nov. 12, according to the information, devised his scheme to tap the computer.

The information document said that an attempt to tap the computer was made on or about Nov. 22, just days after he joined Hutton. Officials indicated that there were other attempts, but the information is based on only one call.

I am going to excerpt from that story one significant paragraph for those who have wanted to apologize, if not cover up, for the Federal Reserve Board, and I quote now:

The details of what Mr. Langevin did are still very sketchy because no officials will comment on the record and little is said off the record. But, apparently, Mr. Langevin at some point after November 12, according to the information, devised his scheme to tap the computer.

Even the newspapers say details, you are not going to get them from the Federal Reserve officials.

I offer as a No. 2 inclusion for the RECORD under extraneous material a similar story in the Washington Post of Wednesday, January 5. This was yesterday's newspaper.

[From the Washington Post, Jan. 5, 1983]

FRAUD CHARGED IN FED COMPUTER CASE

(By Al Kamen)

Federal prosecutors filed fraud charges yesterday against a former Federal Reserve Board aide who gained access to the board's computer files of sensitive financial data using another computer in a major brokerage firm, according to sources close to the investigation.

The employe, Theode C. Langevin, 34, of Laurel, was accused of one count of wire fraud for attempting to penetrate the files on Nov. 22, the day he went to work for E. F. Hutton & Co., a Wall Street securities firm, according to information filed in U.S. District Court yesterday.

Authorized employes are able to tie into the Fed's computer files using a numerical code that is transmitted by telephone. When employes leave the Fed, their code numbers are canceled. Sources familiar with the investigation say that Langevin, using another Fed employe's name and access code, got into the Fed computer system on at least one occasion.

Prosecutors file an information in lieu of an indictment when they expect defendants to plead guilty. Reached by phone at his home, Langevin said he intends to plead guilty to the charge, but said he did not know if a court hearing date had been set for the plea. He faces up to five years in prison and a $1,000 fine on the one charge.

Thomas Rae, general counsel at E.F. Hutton, said yesterday that Langevin, who began work there on Nov. 22 as a "Fed watcher," was asked to resign 10 days later when federal officials notified the company of the investigation.

Rae said he did not know if Langevin, whose job was to follow Federal Reserve actions and advise the company on possible moves by the board, successfully tapped into the board's computer. But he said Langevin did not pass any such information on to the company and that the company "was not the recipient of any reports from Mr. Langevin."

According to the charge filed by prosecutors, Langevin attempted to gain access by telephone to the board's computer data files of information on the changes of the nation's money supply—a key factor in determining Fed actions. Rae said information of that nature would be "extremely valuable" to investors and brokers who follow the Fed's credit policies, which are important in predicting interest rates and securities prices.

The court filing does not say whether Langevin—who was earning $35,000 a year at the Fed and $60,000 a year at the brokerage firm—secured the secret information.

Sources said yesterday that the first unauthorized entry, made on the day Langevin began work at E.F. Hutton, was discovered within days by a Fed supervisor, who reviewed information regarding who was using the computer files and discovered that the employe whose name was used was on leave that day.

After that, the Fed used computer-blocking mechanisms to thwart further attempts and traced the attempts to Langevin at E.F. Hutton, sources said.

Langevin's last attempt to gain entry into the files was Nov. 29, a week after the first entry was made, according to prosecutors.

Langevin declined to comment on the case or on an assertion made by prosecutors in court papers that he made plans to tap into the computer 10 days before he left the Fed. "I'm trying to put everything back together," he said, adding that, "In hindsight, it was totally unnecessary for me to do this, and it was a very unfortunate thing. This is an excruciating experience."

Langevin also said he did not pass any of the information he gathered to E.F. Hutton. A spokesman for the Fed said he could not comment on the incident except to say that Langevin, who worked there for six years, had a good work record.

□ 1800

In the meanwhile, in the last special order in which I developed this theme, I mentioned the fact that in pursuance of this, not only unaccountability, but the tremendous power exercised by this interest and coterie—it is an oligarchic coterie—one of the specifics I had brought out was the secret meeting in Florida between the Chairman of the Federal Reserve Board and Mr. Nelson Bunker Hunt, the billionaire from Texas and the one who unsuccessfully tried to corner the silver market, and the president of the First City of New York, Walter Riston. Now, here is the fiscal agent of the U.S. Treasury meeting in secret in Florida with these two gentlemen, because involved was more

than $20 billion of bank credit and resources that should have been available to the industry and the commerce the merchants and the small folks of our country. After all, this is what banks are chartered for, public convenience and necessity, not for these speculative efforts to try greedily to control such a volatile thing as the silver market.

I pointed that out as one of the specifics, and I said that in their arrogance they did not mind admitting to the fact, but only because Mr. Riston thought, what was wrong with that? After all, Mr. Volcker is our errand boy. He, like Henry Kissinger, has come off the payroll of the Chase Manhattan, and when they are through with whatever semi- or quasi-public function they serve, they go back on the payroll.

Now, I think it is still the same, age-old story. He who pays the fiddler calls the tune. It never has been any different. It is not any different now, and it never will be any different.

So, last year after some of these charges there was a little flurry, and then there was a reaction on the part of some Members of the Senate and some colleagues in the House, and they said, "Oh, yes, you know the Federal Reserve is the culprit. You know, come to think of it, yes, they do have something to do with controlling interest rates."

All along, all these years the story has been that interest rates are an act of God, or if anybody causes it, it is the profligacy of the Congress, but now all of a sudden they come up with a namby-pamby, milk toast resolution saying, "Please, Mr. Volcker, help a little bit, try to reduce interest rates a little."

So, I offer now the No. 3 extraneous matter for the RECORD, the Washington Post of Wednesday, January 5, column by Evans and Novak entitled, "A Clear Message to Volcker."

It goes on to point out that one of the accomplishments of the so-called unproductive lameduck session was to have appended an amendment to the all-important emergency continuing resolution. This amendment expressed the sense of the Congress—well, it was this resolution I have reference to—warning, institutionalizing what many lawmakers have said informally of the high interest rate program of the Feds and choking off recovery in 1983, was their fear. I quote now, "As they did in 1981."

Then it goes on to say that Mr. Volcker got furious when he got wind of the original wording of the resolution, the sense of the Congress, meaning nothing other than it is the sense of the Congress. As I said before, that is a powderpuff. You want to hit a guy Volcker with a powderpuff. What we need is a sledgehammer. That is what is needed, and this is what will eventually be forthcoming.

Mr. Speaker, at this point I insert the column from the Washington Post by Evans and Novak:

A CLEAR MESSAGE TO VOLCKER

The accomplishment by the unproductive lameduck Congress that may have the longest-reaching consequences was one that received almost no attention: a formal warning to the Federal Reserve Board not to push up interest rates as the economy recovers. The overlooked amendment to the catch-all bill providing money for the government calls on the central bank "to achieve and maintain a level of interest rates low enough to generate significant economic growth and thereby reduce the current intolerable level of unemployment." Although Fed Chairman Paul Volcker shrugged it off as inconsequential, he was sufficiently worried to try to kill it in the Senate.

The amendment, while merely expressing the "sense of Congress," is in fact a warning institutionalizing what many lawmakers—including Senate Majority Leader Howard Baker—have said informally: if the Fed chokes off a recovery in 1983 as it did in 1981, expect legislation enforcing the will of Congress. Such legislation is the product of an odd coalition of liberal Democrats in both houses with conservative House Republicans. Its mere introduction encouraged the Fed's dramatic policy change last summer that pushed interest rates downward. With no chance to kill it in the Democratic House, the Fed relied on its friends in the Republican Senate—including the majority leader.

But Baker refused to help. The smooth-talking Republican floor leader informed the central bank that his Democratic counterpart, Minority Leader Robert Byrd, had given this proposal top priority in the lame duck. Why not, suggested Baker, pull the amendment's teeth rather than start a fight that would unify Democrats and split Republicans? Thus, the Federal Reserve's greatest Senate champion—Banking Committee Chairman Jake Garn—switched rather than fight. His price of additional language ("with due regard for controlling inflation") was readily paid by Byrd.

Garn's inflation language was seized on as a face-saver by the Federal Reserve. The public reaction by the Fed's spokesman was that "we can live with it," but the private response was contemptuous. Volcker told congressmen the proposal was meaningless, a view shared by Reagan administration economic policymakers who oppose anything resembling reflation.

Such bravado was not apparent, however, just after the amendment's passage, when a Fed official telephoned a Senate Democratic staffer to tell him regional bank presidents of the Federal Reserve had placed a conference call to Washington seeking to know what it all meant. The Senate staffer replied that it meant mandatory legislation if interest rates start climbing.

As if to reassure Congress, the Fed on Dec. 28 released minutes of its Open Market Committee's mid-November meeting which confirmed a switch in focus from controlling the money supply to controlling interest rates. If any doubt remained among monetarist purists (including some highly placed administration officials), monetarism was declared quite dead.

The lame duck's warning to the Fed attempts to prevent its resurrection. Since that warning has overwhelming Democratic and substantial Republican support in Congress, plus backing from highly influential senior aides in the White House, its impact on the economy can be profound.

What I am afraid of is that this process is so irreversible now that when it comes it will be out of knee-jerk reaction to chaos and crisis, and we still will not do what should have been done over these many years. But anyway, this article goes on and points out that Mr. Volcker became furious, and he then brought pressure and compelled the Senators to change the phraseology of it, soften it further is the word that he used, in order to make it acceptable. But then the article goes on and says that Mr. Volcker then figured that that was a meaningless gesture. This future anchors down the charges I have made and continue to make, and repeat today.

The American people have lost control of their economic, financial and fiscal and monetary destinies, and it is in the hands of these arrogant and unaccountable powers. I believe that if the Congress will eventually get around to it in an orderly fashion, that is still possible to bring about some redress of this grievance and some accountability, but I am afraid that at this point in the initial stages of this Congress and at this juncture in our historical development, that it is irreversible, and that we will be in spasms, reacting to chaos and a breakdown because in the greed of these interests they fail to note that this is now so interdependent that even whatever modicum of effort is made now domestically, the course has been set very much like these little artifacts they sell where you have these pendulum-like bulbs hitting each other, action and reaction. It is the same thing now, and the world is in that phase, and we have no control over some of those forces that now in turn impinge upon us.

I will continue the processes in behalf of the impeachment resolutions as we go in the future into the 98th Congress.

HUMAN RIGHTS SITUATION IN TAIWAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. PEASE) is recognized for 5 minutes.

● Mr. PEASE. Mr. Speaker during a recent congressional visit to Taiwan, sponsored by the Soochow University, a staff consultant from Members of Congress for Peace Through Law, Frank Record, had an opportunity to talk with several government officials, American businessmen, several "retired" Foreign Service officers at the American Institute in Taiwan and several Taiwanese politicians concerning the human rights situation in the Re-

public of China. His report, which follows, is based on these meetings and conversations as well as on information compiled by the State Department, Members of Congress, Amnesty International, Freedom House, and other human rights organizations.

The Taiwan Relations Act specifies that "the preservation and enhancement of human rights of all the people on Taiwan are hereby reaffirmed as objectives of the United States." This report indicates, however, that despite some recent improvements there are some serious human rights problems in Taiwan. As the chair of the Human Rights Committee of Members of Congress for Peace Through Law, I commend it to the attention of my colleagues.

HUMAN RIGHTS IN TAIWAN: A STATUS REPORT

In many respects Taiwan is the envy of the developing world. Its dramatic economic growth and its relatively high per capita income and distribution of income has placed it alongside Japan as one of the most prosperous countries of the region. Yet there is a darker side to modern-day Taiwanese society.

In face of the impressive economic statistics, a highly educated population, a prosperous middle class and a growing number of very able local political leaders, it comes as somewhat of a shock to learn that the 18 million people of this island nation have lived under martial law for 33 years—the longest such period for any country in modern history.

Martial law empowers the military authorities in Taiwan to suspend all the rights of the constitution in the Republic of China, including the freedom of speech, assembly and demonstration. It permits the Taiwan Garrison Command and other military authorities on the island to detain, interrogate and harass those suspected of opposing the ruling party, the Kuomintang, KMT. Perhaps warranted under the chaotic conditions which prevailed in Taiwan a generation ago, martial law seems very much out of place in a country enjoying economic prosperity, social stability and a much-reduced threat of invasion from the Chinese mainland.

Although KMT officials can assert with some justification that their human rights record compares favorably to that of such Asian nations as Vietnam, the Philippines and the People's Republic of China, it is clearly inferior to Japan's accomplishments in the area of democratic government and civil and political liberties.

Most outside authorities on international human rights issues have been critical of Taiwan's record: Amnesty International and the National Council of the Churches of Christ have documented human rights abuses. Freedom House, in its 1982 edition of Freedom Around the World, rank's Taiwan's commitment to political rights in the same category as that of Uganda and South Africa—hardly a flattering comparison. The Asia Subcommittee of the House Foreign Affairs Committee has held hearings on the repressive policies of the KMT inside Taiwan and their surveillance activities of Chinese nationals living in the U.S. The State Department, in its most recent human rights report, also noted that Taiwan remains an essentially one-party system where coordinated opposition is generally prohibited.

The following discussion of human rights in Taiwan centers on the following issues: (I) the make-up of the country's ruling party, the KMT; (II) the handling of political demonstrations, as exemplified in the Kaohsiung incident in 1979; (III) the highly publicized death of Prof. Chen Wen Cheng while in police custody; (IV) the KMT's policy toward the Presbyterian Church in Taiwan; and (V) political prisoners and the alleged mistreatment of detainees by the police and security forces.

I. MAKE-UP OF THE KMT

According to many political observers, the domination by the "mainlander" minority—about 15 percent of the island's population who fled from the Chinese mainland in the late 1940s—over the "Taiwanese" majority—those islanders whose roots go back earlier than the 1940s—has been the root cause of most of the human rights problems in that island nation over the past three and a half decades.

Since 1949 the mainlanders, through the KMT's total control over the armed forces, the judiciary and the political system, have held all the levers of power and have not allowed any other political groups or parties to organize against them.

KMT officials, however, maintain that their ranks include numerous Taiwan-born party members, that the representation of native Taiwanese in local and central legislative bodies has been increasing in recent years and that many non-mainlanders now hold executive branch positions.

All the KMT officials with whom this observer talked—including the Defense Minister, the Vice Foreign Minister and the Premier—are very concerned about the security threat to Taiwan from the PRC and thus justify continued martial law and tight political controls over the island's population as vital to their national survival.

They argue that the PRC's promises concerning 'peaceful reunification' cannot be trusted and that sooner or later the government on the mainland will invade or threaten to invade Taiwan. Furthermore they insist that their government faces an internal threat from the Taiwan Independence Movement which, they claim, seeks the violent overthrow of the KMT.

Political opponents of the KMT contend, however, that democratization of the political system and the lifting of martial law would enhance Taiwan's international reputation and, thereby, do more to protect the island from communist control than any of the policies of the present authoritarian government.

II. THE KAOHSIUNG INCIDENT

Many human rights observers believe that Taiwan's international image—already marred by the long-standing imposition of martial law—was further damaged by its handling of a large anti-goverment demonstration in the port city of Kaohsiung in December of 1979 and the subsequent crackdown on dissidents throughout the island.

Government officials contend that during the Kaohsiung incident numerous members of the police and the security forces were injured by the demonstrators. They point to the open trials of the Kaohsiung defendants and to what they say is the widespread sentiment across the island that they fully deserved their long jail sentences.

Critics of the government claim that its security agents deliberately provoked incidents of violence at an otherwise peaceful political rally and that the KMT used the demonstration as a pretext to arrest, torture and imprison its political opponents. In their opinion, the detained Kaohsiung defendants, including Huang Hsin-chieh, Chang Chun-hung, Yao Chia-wen, Lin Hung-Hsuan, have become even more popular among the Taiwanese as symbols of resistance to the KMT.

III. THE CHEN WEN-CHENG CASE

There is near unanimous agreement from many diverse sources of human rights information that the death of Prof. Chen Wencheng, while in police custody, marked a deterioration in the human rights situation in Taiwan and heightened concerns about freedom of speech and association in the Chinese communities throughout the U.S. Professor Chen, who taught statistics at the Carnegie-Mellon University, went to Taiwan in the Spring of 1981 to visit relatives. On July 3 of that year his body was found on the campus of Taiwan University shortly after a 12 hour interrogation by the security police concerning Prof. Chen's alleged Taiwan independence activities in the U.S.

In its most recent human rights report, Freedom House noted that the Taipei authorities had made progress in allowing greater freedom in local elections and in otherwise meeting local Taiwanese aspirations for more political influence within the government. However, it also made reference to what it called the very disturbing death of Professor Chen and indicated that he might have been murdered as an example for other Taiwanese living abroad to remain silent about the political situation inside Taiwan.

On July 30, 1981 the Asian and Pacific Affairs Subcommittee of the House Foreign Affairs Committee held a hearing on the circumstances surrounding Prof. Chen's death and on the activities of the Taiwan Government agents in the U.S. According to Rep. Jim Leach, a long-time advocate of improved human rights in Taiwan, it appeard likely that information gathered by these agents in Pittsburgh at the Carnegie-Mellon University was partly responsible for his death at the hands of one of Taiwan's security forces. According to Rep. Leach, these intelligence-gathering and surveillance activities are a flagrant violation of the Bill of Rights protecting all U.S. citizens and residents.

IV. PERSECUTION OF THE PRESBYTERIAN CHURCH

The Rev. Arie Brouwer, representing the National Council of the Churches of Christ, in testimony before the Human Rights Subcommittee of the House Foreign Affairs Committee, described the persecution of the Taiwanese Presbyterian Church by the KMT. The Presbyterian Church, outspoken in defense of the rights of self-determination for the Taiwanese people, has seen its leader, Rev. Kao Chunming, imprisoned for seven years on charges of sedition.

Other members of the Church had been arrested, interrogated and jailed, including Wang Hsien-hsien who got a six year sentence for reportedly criticizing the sentencing handed down to Rev. Kao. The Church has also been prevented from joining the World Council of Churches and some of its parishes have been arbitrarily taxed and their congregations reportedly infiltrated with KMT agents.

V. POLITICAL PRISONERS AND JUDICIAL SYSTEM ABUSES

Amnesty International, the Nobel-prize winning human rights organization based in London, has called on the Taipei authorities

to release the Kaohsiung defendants and to amend Taiwan's legislation so as to bring it in line with international standards on interrogation and trial procedures.

Amnesty International has long recommended, without much success, that the government make full investigations into the allegations of ill-treatment and torture, that evidence or confessions obtained as a result of torture be excluded by the courts and that all prisoners of conscience be released.

Its efforts to protect the rights of detainees have been at least partially successful as the government now allows defendants the right to retain a defense lawyer immediately after their arrest. It remains to be seen, however, whether they will actually be able to make use of this new provision and if it has any effect in deterring ill-treatment and torture—an all-too-common practice by the police and security forces.

There now seems to be some optimism regarding the possible release of long-term political prisoners: On October 20, 1982 Defense Minister Soong Chang-chih announced that the Legislative Yuan, the country's chief legislative body, was reviewing the cases of 22 prisoners who have been detained on charges of sedition for more than 30 years. It appears that some or all of these prisoners, who are between 55 and 65 year of age and in poor health, would be released on humanitarian grounds.

Other recent positive developments include the introduction of a law under which prisoners and former prisoners could claim compensation for ill-treatment suffered at the hands of the police or security forces. The government has also started what is probably the first judicial investigation into claims that torture by the police led to a detainee's death following the death in police custody of Wang Ying-hsien on May 7, 1982, one day after he was detained on suspicion of carrying out a bank robbery.

VI. SUMMARY

Despite some recent improvements there are, nonetheless, some fundamental human rights problems in Taiwan including martial law, the ban on the formation of new political parties, widespread press censorship and the continued policy of arresting and detaining people for the non-violent exercise of their rights to freedom of expression.

If Taiwan's leaders would implement a policy designed to bring political and human rights standards up to the level of their economic and industrial achievements, then that country could begin to emerge from its near pariah status in the international community: the full political participation of all Taiwanese on the island the implementation of all the rights guaranteed in the country's constitution are urgent tasks facing the Taipei government.●

THE PROMISE OF THE PRESIDENT'S PRIVATE SECTOR SURVEY ON COST CONTROL IN THE FEDERAL GOVERNMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma (Mr. ENGLISH) is recognized for 10 minutes.

● Mr. ENGLISH. Mr. Speaker, last year under the leadership of Chairman BILL FORD, the House Post Office and Civil Service Committee commenced an investigation of the activities of the President's Private Sector Survey on Cost Control in the Federal Government, better known as the Grace committee. The committee's chairman is Peter Grace of the W. R. Grace Co.

The Grace committee is composed of 150 corporate executives who are charged with the mission of finding waste and management inefficiency in the executive branch. The committee was chartered in accordance with the Federal Advisory Committee Act last June by Executive order and was to complete its efforts by December 31, 1982.

The Executive order stated that:

The committee was to be funded, staffed and equipped, to the extent practicable and permitted by law, by the private sector without cost to the Federal Government.

The order suggests a joint project between the Government and a tax-exempt, nonprofit organization that was to be established specifically for the purpose of funding the committee's work. Operating funds were solicited from the Fortune 500 firms.

As Chairman FORD discovered during the course of his hearings, the Grace committee has mushroomed into an elaborate organization. It has solicited the participation of an additional 1,000 corporate executives and assigned them to some 35 different task forces.

What is the matter with all of this? Are we not getting the benefit of all this private sector expertise at no cost to the taxpayers? Perhaps this will turn out to be the case, but so far, the Grace Committee has exhibited all of the worst features of the Government bureaucracies that it is investigating. Let us look at the record to date.

First, the true cost of the committee is hidden. Although the committee gives the appearance of operating at no cost to the taxpayers, the committee's expenses come from tax-exempt contributions from giant corporations. Thus, while there is no direct cost, there is a hidden reduction in tax revenues.

Second, the committee has failed to meet its original deadline. The President was forced to extend the life of the committee for at least 6 months by issuing a new Executive order on New Year's Eve.

Third, although the committee has only been in existence for a few months, it has already increased its size. The President has increased the size of the basic committee from 150 to 170.

Fourth, the committee operations are shrouded in mystery. The members of the committee's task forces have not been publicly identified. The task forces are operating behind closed doors, and in violation of the Federal Advisory Committee Act. This is consistent with the Reagan administration policy of keeping the public in the dark about Government operations.

Fifth, the committee has refused to provide information to congressional oversight committees and to the General Accounting Office. It wasn't until a subpena was threatened that the administration was willing to provide even a tortured explanation of why the committee's task forces were above the law.

Sixth, the committee and its task forces are refusing to comply with conflict of interest laws despite the fact that the potential for such conflicts is real. The corporate executives that make up the committee's task forces have access to Government documents that could reveal secrets about competitors or about Government actions that affect the firms that the executives work for. In addition, the task force members may be able to place themselves in a position where they can improperly influence Government policies that affect their firms. There is a fine line between management improvements and policy deliberations.

Since the life of Grace Committee has been extended for another 6 months, it is premature to make any judgments about its final product. It may well be that the committee may make some suggestions leading to a more effective and more efficient government. I certainly hope so.

However, based on the record to date, it looks like the Grace Committee may only teach Government agencies how to become more effective and more efficient in hiding cost information, failing to meet deadlines, expanding in size, hiding its activities from the public eye, stonewalling the Congress, and ignoring conflict of interest laws.

Since the Reagan administration has already made a practice of each of these pernicious bureaucratic tendencies, it may well be that the Grace Committee has something to offer after all. Even if agencies become more efficient only in avoiding accountability, perhaps they will have more time to carry out their basic functions. But then if the agencies and the Grace Committee cannot be held accountable, we will never know if they are carrying out their basic functions.

It is my hope, however, that the Grace Committee will have more to offer us in 6 months.●

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BURTON of Indiana) to revise and extend their remarks and include extraneous material:)

Mr. COUGHLIN, for 60 minutes, January 26, 1983.
Mr. GEKAS, for 10 minutes, today.
Mr. HORTON, for 15 minutes, today.
Mr. EMERSON, for 10 minutes, today.
Mr. TAUKE, for 5 minutes, today.
(The following Members (at the request of Mrs. BOXER) to revise and extend their remarks and include extraneous material:)
Mr. ALEXANDER, for 30 minutes, today.
Mr. SIMON, for 30 minutes, today.
Mr. RICHARDSON, for 10 minutes, today.
Mr. STARK, for 5 minutes, today.
Mr. NELSON, for 5 minutes, today.
Mr. HAMILTON, for 5 minutes, today.
Mr. ST GERMAIN, for 5 minutes, today.
Mr. WILSON, for 5 minutes, today.
Mr. STUDDS, for 30 minutes, today.
Mr. FORD, of Michigan, for 5 minutes, today.
Mr. BROWN, of California, for 10 minutes, today.
Mr. GONZALEZ, for 30 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. PEASE, for 5 minutes, today.
(The following Member (at the request of Mr. PENNY) to revise and extend his remarks and include extraneous material:)
Mr. ENGLISH, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:
(The following Members (at the request of Mr. BURTON of Indiana) and to include extraneous matter:)
Mr. BROOMFIELD in two instances.
Mr. MOORHEAD.
Mr. MORRISON of Washington.
Mr. THOMAS of California in two instances.
Mr. RUDD in four instances.
Mr. MARRIOTT.
Mr. HAMMERSCHMIDT.
Mr. HANSEN of Idaho in five instances.
Mr. ROTH.
Mr. MICHEL.
Mr. WOLF.
Mr. YOUNG of Florida in five instances.
Mr. STANGELAND.
Mr. DENNY SMITH.
Mr. CONTE in two instances.
Mr. MCKINNEY in two instances.
Mr. HUNTER.
(The following Members (at the request of Mrs. BOXER) to revise and extend their remarks and to include extraneous matter:)
Ms. MIKULSKI.
Mr. RODINO.
Mr. KASTENMEIER.
Mr. LEVITAS in three instances.
Mr. DORGAN in two instances.
Mr. STARK in five instances.
Mr. GORE in two instances.
Mr. FRANK.
Mr. LANTOS in three instances.
Mr. D'AMOURS.
Mr. FUQUA in five instances.
Mr. HOYER.
Mr. HAMILTON.
Mr. HUBBARD.
Mr. PATTERSON.
Mr. FORD of Michigan.
Mr. JONES of North Carolina.
Mr. WEISS.
Mr. VENTO.
Mr. WALGREN.
Mr. RANGEL.
Mr. GUARINI.

ADJOURNMENT

Mr. PENNY. Mr. Speaker, pursuant to the provisions of Senate Concurrent Resolution 1 and House Resolution 28, 98th Congress, I move that the House stand adjourned until 12 o'clock meridian, Tuesday, January 25, 1983, in memory of the late Honorable BENJAMIN S. ROSENTHAL of New York.
The motion was agreed to.
The SPEAKER pro tempore. Pursuant to the provisions of Senate Concurrent Resolution 1 and House Resolution 28, 98th Congress, the House stands adjourned until 12 o'clock meridian on Tuesday, January 25, 1983, in memory of the late Honorable BENJAMIN S. ROSENTHAL of New York.
Thereupon (at 6 o'clock and 10 minutes p.m.), pursuant to Senate Concurrent Resolution 1 and pursuant to House Resolution 28, the House adjourned until Tuesday, January 25, 1983, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

[Omitted from the Record of January 3, 1983]

1. A communication from the President of the United States, transmitting an appraisal of our Nation's soil and water resources and the Secretary of Agriculture's program for departmental conservation activities, pursuant to section 7(a) of Public Law 95-192; to the Committee on Agriculture.

2. A letter from the Secretary of Defense, transmitting certification of a certain major defense system, pursuant to section 917 of Public Law 97-86; to the Committee on Armed Services.

3. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Navy's proposed sale of certain defense articles to Turkey (Transmittal No. 83-12), pursuant to 10 U.S.C. 133b; to the Committee on Armed Services.

4. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report on loan, guarantee, and insurance transactions supported by Eximbank during September 1982 to Communist countries; to the Committee on Banking, Finance and Urban Affairs.

5. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report on loan, guarantee, and insurance transactions supported by Eximbank during October 1982 to Comunist countries; to the Committee on Banking, Finance and Urban Affairs.

6. A letter from the District of Columbia Auditor, transmitting a report on the D.C. Department of Transportation's booting program with regard to low-numbered license plates, pursuant to section 455(d) of Public Law 93-198; to the Committee on the District of Columbia.

7. A letter from the Secretary of Health and Human Services, transmitting the National Institute for Occupational Safety and Health's annual report for fiscal year 1981, pursuant to section 22(f) of Public Law 91-596; to the Committee on Education and Labor.

8. A letter from the Secretary of Energy, transmitting reports on regional petroleum reserves and strategic alcohol fuel reserve, pursuant to sections 6(c) and 6(d) of Public Law 97-229; to the Committee on Energy and Commerce.

9. A letter from the Secretary of Health and Human Services, transmitting the second annual report of the Director of the National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases on its activities and the activities of diabetes research and training centers, covering fiscal year 1982, pursuant to sections 434(e) and 435(b) of the Public Health Service Act, as amended; to the Committee on Energy and Commerce.

10. A letter from the Chairman, President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research, transmitting the 1982 annual report on the Commission's activities and recommendations, pursuant to section 1802(d) of the Public Health Service Act, as amended; to the Committee on Energy and Commerce.

11. A letter from the Chairman, President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research, transmitting a report on the social and ethical issues of genetic engineering with human beings, pursuant to section 1802(a)(4) of the Public Health Service Act, as amended; to the Committee on Energy and Commerce.

12. A letter from the Administrator, Energy Information Administration, transmitting their quarterly report for the period July through September 1982, concerning imports of crude oil, residual fuel oil, refined petroleum products, natural gas, and coal; reserves and production of crude oil, natural gas, and coal; refinery activities; and inventories; together with data on exploratory activity, exports, nuclear energy, and electric power, pursuant to section 11(c)(2) of the Energy Supply and Environmental Coordination Act of 1974; to the Committee on Energy and Commerce.

13. A letter from the Director, Defense Security Assistance Agency, transmitting the annual report of the operation of the special defense acquisition fund, pursuant to section 53(a) of the Arms Export Control Act; to the Committee on Foreign Affairs.

14. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Navy's intention to offer to sell certain defense articles and services to Turkey (Transmittal No. 83-12), pursuant to section 36(b) of the Arms Export Control Act, as amended, together with certification that the sale is consistent with the principles contained in section 620C(b) of the Foreign Assistance Act, pursuant to section

620C(d) of the act; to the Committee on Foreign Affairs.

15. A letter from the Acting Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

16. A letter from the Office of the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

17. A letter from the Secretary of Commerce, transmitting the annual report for fiscal year 1982 on export administration, pursuant to section 14 of Public Law 96-72; to the Committee on Foreign Affairs.

18. A letter from the Chairman, U.S. Synthetic Fuels Corporation, transmitting the annual report summarizing the activities of the Inspector General's office for the fiscal year ending September 30, 1982, pursuant to section 122(d) of Public Law 96-294; to the Committee on Government Operations.

19. A letter from the Administrator, Panama Canal Commission, transmitting notice of a new system of records submitted by the Panama Canal Commission, pursuant to U.S.C. 552a(o); to the Committee on Government Operations.

20. A letter from the Secretary of Energy, transmitting the final report on comprehensive energy plans for each American insular area, pursuant to section 604 of Public Law 96-597; to the Committee on Interior and Insular Affairs.

21. A letter from the Acting Assistant Secretary of Interior (Indian Affairs), transmitting a proposed plan for the use of the judgment funds of the Yankton Sioux Tribe in Dockets 342-70 and 343-70, pursuant to the Indian Judgment Funds Act of 1973; to the Committee on Interior and Insular Affairs.

22. A letter from the clerk, U.S. Claims Court, transmitting a certified copy of the court's judgment order Nos. 100-B-2-(A-E) and 398-72, *the Klamath and Modoc Tribes and Yahooskin Band of Snake Indians* v. *the United States*; to the Committee on Interior and Insular Affairs.

23. A letter from the Director, Minerals Management Service, Department of the Interior, transmitting notice of the proposed refund of $25,803.21 in excess royalty payments to the Mobil Oil Corp., pursuant to section 10(b) of the Outer Continental Shelf Lands Act of 1953, as amended; to the Committee on Interior and Insular Affairs.

24. A letter from the Director, Minerals Management Service, Department of the Interior, transmitting notice of the proposed refund of $1,415.92 in excess royalty payments to the Cities Service Co., pursuant to section 10(b) of the Outer Continental Shelf Lands Act of 1953, as amended; to the Committee on Interior and Insular Affairs.

25. A letter from the Director, Administrative Office of the United States Courts, transmitting a report on the number of bankruptcy judges that will be needed after March 31, 1984, and the locations at which they shall serve, pursuant to section 406(b) of Public Law 95-598; to the Committee on the Judiciary.

26. A letter from the chairman, Board of Directors, Future Farmers of America, transmitting the audit report of the organization for the period ending August 31, 1982, pursuant to section 3 of Public Law 88-504; to the Committee on the Judiciary.

27. A letter from the comptroller, American Veterans of World War II, Korea-Vietnam, transmitting the audit report of the organization for the fiscal year ended August 31, 1982, pursuant to section 3 of Public Law 88-504; to the Committee on the Judiciary.

28. A letter from the Secretary of Transportation, transmitting a report on the results of the engineering survey and planning and market feasibility studies regarding the redevelopment of Union Station, pursuant to section 114(e) of Public Law 97-125; to the Committee on Public Works and Transportation.

29. A letter from the Administrator of Veterans' Affairs, transmitting a report on the activities of the exchange of medical information program of the Veterans' Administration for fiscal year 1982, pursuant to 38 U.S.C. 5057; to the Committee on Veterans' Affairs.

30. A letter from the U.S. Trade Representative, transmitting copies of trade agreements accompanied by the required statements of the reasons for the entry into such agreements, pursuant to section 162(a) of Public Law 93-618 (H. Doc. No. 98-5); to the Committee on Ways and Means and ordered to be printed.

31. A letter from the U.S. Trade Representative, transmitting recommendations of the President as to appropriate rates of duty for articles affected by termination of a trade agreement with Argentina, pursuant to section 125(e) of Public Law 93-618; to the Committee on Ways and Means.

32. A letter from the Chairman, U.S. International Trade Commission, transmitting the Commission's 32d quarterly report on trade between the United States and the nonmarket economy countries, pursuant to section 410 of the Trade Act of 1974; to the Committee on Ways and Means.

33. A letter from the Acting Fiscal Assistant Secretary of the Treasury, transmitting the statement of liabilities and other financial commitments of the U.S. Government as of September 30, 1982, pursuant to section 402 of Public Law 89-809; to the Committee on Ways and Means.

34. A letter from the Chairman, Joint Commission on Guayule, transmitting the second report of the Joint Commission for the years 1980 and 1981, pursuant to section 4(g) of Public Law 95-592; jointly, to the Committee on Agriculture and Science and Technology.

35. A letter from the Chairman, National Transportation Safety Board, transmitting a copy of the Board's appeal of OMB's proposed budget allowance for fiscal years 1983 and 1984, pursuant to section 304(b)(7) of Public Law 93-633; jointly, to the Committees on Appropriations, Energy and Commerce, and Public Works and Transportation.

36. A letter from the Chairman, Federal Election Commission, transmitting a copy of its revised fiscal year 1983 pay cost supplemental appropriation request, pursuant to section 307(d)(1) of Public Law 92-225, as amended; jointly, to the Committees on Appropriations and House Administration.

37. A letter from the Mayor, District of Columbia, transmitting a draft of proposed legislation to authorize the transfer of the Camp Simms Military Reservation to the Architect of the Capitol and to authorize the Architect to exchange Camp Simms for an equivalent site if offered by the District government, and for other purposes; jointly, to the Committees on the District of Columbia and House Administration.

38. A letter from the Comptroller General of the United States, transmitting a report recommending that the Bureau of Economic Analysis should take the lead in efforts to improve GNP estimates (GAO/GGD-83-1, December 27, 1982); jointly, to the Committees on Government Operations and Post Office and Civil Service.

39. A letter from the Comptroller General of the United States, transmitting a report on international assistance to refugees in Africa (GAO/ID-83-2, December 29, 1982); jointly, to the Committees on Government Operations and Foreign Affairs.

40. A letter from the Secretary of Health and Human Services, transmitting a report on reforming hospital payments under medicare, pursuant to section 1135(c) of the Social Security Act, as amended; jointly, to the Committees on Ways and Means and Energy and Commerce.

[*Submitted January 6, 1983*]

41. A letter from the Deputy Assistant Secretary of Defense, transmitting the report covering fiscal year 1982 on aviation career incentive pay, pursuant to 37 U.S.C. 301a(e); to the Committee on Armed Services.

42. A letter from the Secretary of Education, transmitting a revised report on the definition of Indian, including public comment, pursuant to section 453(b) of Public Law 97-100, title II; to the Committee on Education and Labor.

43. A letter from the Secretary of Education, transmitting volume I of a report on the prospects for financing elementary and secondary education, pursuant to section 1203(f) of Public Law 95-561; to the Committee on Education and Labor.

44. A letter from the Acting Director, National Institute of Education, Department of Education, transmitting the 3-year report by the Department on the National Assessment of Educational Progress, pursuant to section 405(k)(6) of Public Law 95-561; to the Committee on Education and Labor.

45. A letter from the Chairman, Advisory Panel on Financing Elementary and Secondary Education, transmitting the final report by the Panel on financing elementary and secondary education, pursuant to section 1203(f) of Public Law 95-561; to the Committee on Education and Labor.

46. A letter from the Secretary of Health and Human Services, transmitting a report on the Department's administration of the Fair Packaging and Labeling Act during fiscal year 1982, pursuant to section 8 of Public Law 89-755; to the Committee on Energy and Commerce.

47. A communication from the President of the United States, transmitting the comprehensive energy emergency response procedures report, pursuant to section 272(b) of Public Law 97-229; to the Committee on Energy and Commerce.

48. A letter from the Director, Office of Legislative Affairs, U.S. International Development Cooperation Agency, transmitting the executive branch's third report on economic conditions in Turkey and the ability of that country to meet its debt service obligations, pursuant to section 723 of Public Law 97-113; to the Committee on Foreign Affairs.

49. A letter from the Secretary of Education, transmitting a report of the Department's disposal of surplus property to educational institutions during fiscal year 1982, pursuant to section 203(o) of the Federal Property and Administrative Services Act of

1949, as amended; to the Committee on Government Operations.

50. A letter from the Assistant Secretary for Administration, Department of the Treasury, transmitting notice of proposed changes in an existing records system, pursuant to 5 U.S.C. section 552a(o); to the Committee on Government Operations.

51. A letter from the Acting Assistant Secretary, Department of Housing and Urban Development, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

52. A Letter from the Sergeant at Arms, U.S. House of Representatives, transmitting his annual report of funds drawn by him, the application and disbursement of the sums, and balances remaining in his hands, as of December 31, 1982, pursuant to section 7 of the act of October 1, 1980 (26 Stat. 646); to the Committee on House Administration.

53. A letter from the Director, Minerals Management Service, Department of the Interior, transmitting notice of the proposed refund of $41,738 in excess royalty payments to Diamond Shamrock Corp.; Tenneco Oil Exploration & Production; and Arco Oil & Gas Co.; pursuant to section 10(a) of the Outer Continental Shelf Lands Act of 1953, as amended; to the Committee on Interior and Insular Affairs.

54. A letter from the Register of Copyrights, Library of Congress, transmitting a copy of the report "Library Reproduction of Copyrighted Works," pursuant to section 108(i) of 17 U.S.C.; to the Committee on the Judiciary.

55. A letter from the Governor of Minnesota, transmitting the 1982 Minnesota water quality report, pursuant to section 305(b) of the Water Pollution Control Act Amendments of 1972; to the Committee on Public Works and Transportation.

56. A letter from the Chairman, U.S. Nuclear Regulatory Commission, transmitting the Commission's report for the second calendar quarter of 1982, on abnormal occurances at licensed nuclear facilities, pursuant to section 208 of Public Law 93-438; jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

57. A letter from the Comptroller General of the United States, transmitting a report on automated mail processing (GGD-83-24, January 6, 1983); jointly, to the Committees on Government Operations and Post Office and Civil Service.

58. A letter from the Comptroller General of the United States, transmitting a report on administration of tax exemption provisions for electric cooperatives (GGD-83-7, January 5, 1983); to the Committee on Government Operations and Ways and Means.

59. A letter from the Secretary of the Interior, transmitting the annual report for fiscal year 1982 on the study to evaluate oil and gas development, wilderness characteristics, and wildlife resources on Federal lands in the central Arctic area of Alaska, pursuant to section 1001 of Public Law 96-487; jointly; to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

[Omitted from the Record of January 3, 1983]

By Mr. NEAL:

H.R. 224. A bill to limit the acquisition and use of motor vehicles; to the Committee on Government Operations.

H.R. 225. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide that ambulance or rescue services members are entitled to death benefits made available under such act; to the Committee on the Judiciary.

H.R. 226. A bill to provide that any increase in the rate of pay for Members of Congress proposed during any Congress shall not take effect earlier than the beginning of the next Congress; to the Committee on Post Office and Civil Service.

H.R. 227. A bill to amend the Federal Salary Act of 1967 and the Legislative Reorganization Act of 1946 to provide that adjustments in the pay for Members of Congress may not take effect unless specifically approved by each House of Congress; to the Committee on Post Office and Civil Service.

H.R. 228. A bill to amend the Internal Revenue Code of 1954 to allow individuals a credit against income tax for qualified fire detector expenses; to the Committee on Ways and Means.

H.R. 229. A bill to amend the Internal Revenue Code of 1954 to exempt from the excise tax on firearms small manufacturers and producers; to the Committee on Ways and Means.

H.R. 230. A bill to amend the Tax Equity and Fiscal Responsibility Act of 1982 to repeal the increase in tax on cigarettes; to the Committee on Ways and Means.

H.R. 231. A bill to amend the Solar Energy and Energy Conservation Bank Act to authorize appropriations for the provision of financial assistance under such act through fiscal year 1990, and for other purposes; jointly, to the Committees on Banking, Finance and Urban Affairs and Energy and Commerce.

By Mr. NOWAK:

H.R. 232. A bill to prohibit increases in the wellhead prices of natural gas during the 6-month period beginning January 1, 1983; to the Committee on Energy and Commerce.

By Mr. OBERSTAR:

H.R. 233. A bill to repeal certain changes made by the Omnibus Budget Reconciliation Act of 1981 to the extended unemployment compensation program, to extend the Federal Supplemental Compensation Act of 1982 and to increase the number of weeks for which compensation is payable under such act, and for other purposes; to the Committee on Ways and Means.

By Mr. PARRIS:

H.R. 234. A bill to authorize the Secretary of the Interior to establish a memorial to the Civilian Conservation Corps at Prince William Forest Park, in the State of Virginia; to the Committee on House Administration.

H.R. 235. A bill to require the Attorney General to submit to the Congress a report on the economic and logistic feasibility of moving the Lorton Reformatory from Lorton, Va., into the District of Columbia; to the Committee on the Judiciary.

H.R. 236. A bill to amend section 8905(e) of title 5, United States Code, to require the Office of Personnel Management to provide Federal employees and annuitants with an opportunity to transfer enrollments between health benefits plans whenever an adjustment is made in the rates charged or the benefits provided under any such plan and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 237. A bill to repeal section 301 of the Omnibus Reconciliation Act of 1982; to the Committee on Post Office and Civil Service.

H.R. 238. A bill to amend the Internal Revenue Code of 1954 to allow retirement income to be taken into account in computing the deduction for two-earner married couples; to the Committee on Ways and Means.

H.R. 239. A bill to amend the Internal Revenue Code of 1954 with respect to the exemption from tax of veterans' organizations; to the Committee on Ways and Means.

H.R. 240. A bill to repeal section 278 of the Tax Equity and Fiscal Responsibility Act of 1982, which imposes the hospital insurance tax on Federal employment; to the Committee on Ways and Means.

H.R. 241. A bill to amend title II of the Social Security Act to provide generally that benefits thereunder may be paid to aliens only after they have been lawfully admitted to the United States for permanent residence, and to impose further restrictions on the right of any alien in a foreign country to receive such benefits; to the Committee on Ways and Means.

H.R. 242. A bill to provide for the safeguarding of taxpayer rights, and for other purposes; to the Committee on Ways and Means.

H.R. 243. A bill to defer congressional pay adjustments until the beginning of the next following Congress, to require a recorded vote in each House for annual congressional pay adjustments, to provide that appropriations of funds for congressional pay be considered separately, and for other purposes; jointly, to the Committees on Post Office and Civil Service and Rules.

By Mr. PURSELL:

H.R. 244. A bill to encourage on-the-scene emergency care aboard aircraft by relieving license medical personnel and air carrier employees from civil liability for damages resulting from any act or omission rendering such care; to the Committee on the Judiciary.

H.R. 245. A bill to amend title 39, United States Code, relating to nonprofit service clubs qualifying for third-class nonprofit rates of postage; to the Committee on Post Office and Civil Service.

H.R. 246. A bill to amend section 1304 of the Internal Revenue Code of 1954 relating to income tax returns of married individuals; to the Committee on Ways and Means.

By Mr. QUILLEN:

H.R. 247. A bill to amend title 10 of the United States Code to permit senior reserve officers' training programs to be established at public community colleges; to the Committee on Armed Services.

H.R. 248. A bill to amend Public Law 874, relating to Federal impact aid, to provide for the use of current assessed values of Federal property in determining eligibility for certain assistance under such act; to the Committee on Education and Labor.

H.R. 249. A bill to amend the Public Health Service Act to authorize the Secretary of Health and Human Services to provide assistance for the treatment of epilepsy; to the Committee on Energy and Commerce.

H.R. 250. A bill to amend the Railroad Retirement Act of 1974 to change benefit eligibility requirements so that individuals who have completed 30 years of service as an employee and have attained the age of 55 years

are eligible and so that certain other individuals who have attained the age of 55 years and are related to employees are also eligible; to the Committee on Energy and Commerce.

H.R. 251. A bill to provide that a Federal agency may not require that any person maintain records for a period in excess of 4 years, and a Federal agency may not commence an action for enforcement of a law or regulation or for collection of a civil fine after 4 years from the date of the act which is the subject of the enforcement action or fine, and for other purposes; to the Committee on Government Operations.

H.R. 252. A bill to provide for payments in lieu of real property taxes, with respect to certain real property owned by the Federal Government; to the Committee on Government Operations.

H.R. 253. A bill to remove from the Supreme Court of the United States and the district courts of the United States jurisdiction over any case relating to voluntary prayer in any public school or public building; to the Committee on the Judiciary.

H.R. 254. A bill to repeal the portion of title 18, United States Code, commonly called the Gun Control Act of 1968; to the Committee on the Judiciary.

H.R. 255. A bill to provide reduced rates for nonprofit senior citizens organizations; to the Committee on Post Office and Civil Service.

H.R. 256. A bill to amend title 39 of the United States Code to provide for door delivery of mail to the physically handicapped, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 257. A bill to require authorizations of new budget authority for Government programs at least every 6 years, to provide for review of Government programs every 6 years, and for other purposes; to the Committee on Rules.

H.R. 258. A bill to amend title 38, United States Code, to require that burials be permitted in national cemeteries on weekends and holidays; to the Committee on Veterans' Affairs.

H.R. 259. A bill to amend the Internal Revenue Code of 1954 to exempt farmers from the highway use tax on heavy trucks used for farm purposes; to the Committee on Ways and Means.

H.R. 260. A bill to amend title 38, United States Code, to remove the time limitation for the use of GI bill educational assistance benefits; to the Committee on Veterans' Affairs.

H.R. 261. A bill to amend title 38, United States Code, to provide that monthly annuity payments under the Railroad Retirement Act of 1974 shall not be included as income for the purpose of determining eligibility for or the amount of certain veterans' pension and dependency and indemnity compensation benefits; to the Committee on Veterans' Affairs.

H.R. 262. A bill to prohibit permanently the issuance of regulation on the taxation of fringe benefits; to the Committee on Ways and Means.

H.R. 263. A bill to amend the Internal Revenue Code of 1954 to provide that the requirement that unemployment compensation be reduced by certain retirement benefits will not apply to social security and railroad retirement benefits; to the Committee on Ways and Means.

H.R. 264. A bill to amend the Internal Revenue Code of 1954 to provide a refundable tax credit for taxpayers who maintain households which include elderly persons who are determined by a physician to be disabled; to the Committee on Ways and Means.

H.R. 265. A bill to amend title II of the Social Security Act to provide that the automatic cost-of-living increases in benefits which are authorized thereunder may be made on a semiannual basis, rather than only on an annual basis as at present; to the Committee on Ways and Means.

H.R. 266. A bill to amend the Internal Revenue Code of 1954 to provide that in the case of individuals who attain age 62 no penalty shall be imposed for failure to pay estimated income tax where taxable income for the taxable years is less than $20,000—$30,000 in the case of a married couple filing a joint return—and more than 50 percent of such income is retirement income; to the Committee on Ways and Means.

H.R. 267. A bill to amend the Internal Revenue Code of 1954 to increase the amount allowed to be deducted each taxable year for expenses incurred in connection with the elimination of architectural and transportation barriers for the handicapped and elderly from $25,000 to $100,000, and to make permanent the allowance of such deduction; to the Committee on Ways and Means.

H.R. 268. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for contributions for the construction or maintenance of buildings housing fraternal organizations; to the Committee on Ways and Means.

H.R. 269. A bill to amend the Internal Revenue Code of 1954 to provide to individuals who have attained the age of 62 a refundable credit against income tax for increases in real property taxes and utility bills; to the Committee on Ways and Means.

H.R. 270. A bill to amend the Internal Revenue Code of 1954 to eliminate the adjusted gross income limitation on the credit for the elderly, to increase the amount of such credit, and for other purposes; to the Committee on Ways and Means.

H.R. 271. A bill to amend the Internal Revenue Code of 1954 to allow individuals to compute the amount of the deduction for payments into retirement savings on the basis of the compensation of their spouses, and other purposes; to the Committee on Ways and Means.

H.R. 272. A bill to amend the Internal Revenue code of 1954 to allow a deduction for amounts paid by an individual for dependent care services to enable him to perform volunteer services for certain organizations; to the Committee on Ways and Means.

H.R. 273. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

H.R. 274. A bill to amend the Internal Revenue Code of 1954 to allow handicapped individuals a deduction for certain transportation expenses; to the Committee on Ways and Means.

H.R. 275. A bill to amend the Internal Revenue Code of 1954 to exempt nonprofit volunteer firefighting or rescue organizations from the Federal excise taxes on gasoline, diesel fuel, and certain other articles and services; to the Committee on Ways and Means.

H.R. 276. A bill to amend the Internal Revenue Code of 1954 to provide that an individual may deduct amounts paid for his higher education, or for the higher education of any of his dependents; to the Committee on Ways and Means.

H.R. 277. A bill to amend the Walsh-Healey Act and the Contract Work Hours Standard Act to permit certain employees to work a 10-hour day in the case of a 4-day workweek, and for other purposes; jointly, to the Committees on Education and Labor and the Judiciary.

H.R. 278. A bill to create a commission to grant exclusive franchises for the exploration for and the commercial development of geothermal energy and for the right to market any such energy in its natural state, and for other purposes; jointly, to the Committees on Energy and Commerce and Interior and Insular affairs.

H.R. 279. A bill to amend the Social Security Act to provide for inclusion of the services of licensed practical nurses under medicare and medicaid; jointly, to the Committees on Ways and Means and Energy and Commerce.

H.R. 280. A bill to amend the Social Security Act to provide for the payment of services by psychologists, and for other purposes; jointly, to the Committees on Ways and Means and Energy and Commerce.

H.R. 281. A bill to amend the Social Security Act to provide for inclusion of the services of licensed (registered) nurses under medicare and medicaid; jointly, to the Committees on Ways and Means and Energy and Commerce.

H.R. 282. A bill to amend title XVIII of the Social Security Act to provide medicare coverage of personal emergency response services; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. RANGEL:

H.R. 283. A bill to provide certain protections for tenants of public housing and other assisted housing projects; to the Committees on Banking, Finance and Urban Affairs.

By Mr. ROBINSON:

H.R. 284. A bill to repeal the Davis-Bacon Act, and for other purposes; to the Committee on Education and Labor.

H.R. 285. A bill to preserve and protect the free choice of individual employees to form, join, or assist labor organizations, or to refrain from such activities; to the Committee on Education and Labor.

H.R. 286. A bill to establish the authorized area of Shenandoah National Park; to the Committee on Interior and Insular Affairs.

H.R. 287. A bill to amend section 1951, title 18, United States Code, Act of July 3, 1946; to the Committee on the Judiciary.

H.R. 288. A bill to delay until January 1, 1984, the effect of any regulation issued by the Secretary of the Treasury concerning the establishment of a viticultural area if the name provided for such area contains the term "Shenandoah Valley"; to the Committee on Ways and Means.

By Mr. ROE:

H.R. 289. A bill to authorize the President to award the Congressional Medal of Honor to the eight servicemen who died during the attempt to rescue the Americans who were held hostage in Iran; to the Committee on Armed Services.

H.R. 290. A bill to amend title 10, United States Code, to raise to 45 the maximum age at which an individual may receive an original appointment as a commissioned officer of the Armed Forces; to the Committee on Armed Services.

H.R. 291. A bill to amend the Home Owners' Loan Act of 1933 to provide that a Federal savings and loan association may not offer a renegotiable rate mortgage to

any person unless such institution also offers such person a standard mortgage instrument; to the Committee on Banking, Finance and Urban Affairs.

H.R. 292. A bill to amend the Equal Credit Opportunity Act to prohibit discrimination against any applicant for credit on the basis of the geographical location of the applicant's residence; to the Committee on Banking, Finance and Urban Affairs.

H.R. 293. A bill to amend title 5, United States Code, to entitle Civil Air Patrol cadets 18 years of age and older to compensation available to Civil Air Patrol senior members in the event of disability or death, and to increase the level of compensation available to both; to the Committee on Education and Labor.

H.R. 294. A bill to amend the Older Americans Act of 1965 to provide that the Commissioner of the Administration on Aging may make grants to assist older persons adversely affected by natural disasters, and for other purposes; to the Committee on Education and Labor.

H.R. 295. A bill to further amend the Older Americans Act of 1965, as amended, to establish a program under which institutions of higher education may receive grants to defray 55 per centum of the tuition costs of older persons attending such institutions on a tuition-free basis, and for other purposes; to the Committee on Education and Labor.

H.R. 296. A bill to amend section 411 of the Higher Education Act of 1965 to exclude from eligibility calculations for basic grants the value of a family's residence; to the Committee on Education and Labor.

H.R. 297. A bill to amend the Older Americans Act and the Public Health Service Act to provide expanded counseling assistance for the elderly sick and disabled; to the Committee on Education and Labor.

H.R. 298. A bill to correct inequities in the termination and renewal of franchises, to protect franchisees from unfair practices, to protect franchisors and franchisees from actions inconsistent with the successful operation of franchises, to provide consumers with the benefits which result from a competitive and open-market economy, and for other purposes; to the Committee on Energy and Commerce.

H.R. 299. A bill to amend the Federal Food, Drug, and Cosmetic Act and the Fair Packaging and Labeling Act and to otherwise require the labels on foods and food products to disclose all of their ingredients and any changes in their ingredients, their nutritional content, accurate weight data, storage information, their manufacturers, packers, and distributors, and their unit prices and to provide for uniform product grading and prohibit misleading brand names; to the Committee Energy and Commerce.

H.R. 300. A bill to establish a National Foreign Investment Control Commission to prohibit or restrict foreign ownership control or management control through direct purchase, in whole or part; from acquiring securities of certain domestic issuers of securities; by merger, tender offer, or any other means; control of certain domestic corporations or industries, real estate, or other natural resources deemed to be vital to the economic security and national defense of the United States; to Committee on Energy and Commerce.

H.R. 301. A bill to establish a program of drug benefits for the aged; to establish a Drug Benefits Council and other appropriate management controls to provide for the efficient administration of such program; and to require the conducting of certain studies and experiments, to enhance the capability of the Secretary of Health and Human Services to administer such program, and for other purposes; to the Committee on Energy and Commerce.

H.R. 302. A bill to establish within the Department of Health and Human Services a Home Health Clearinghouse to provide elderly persons with a single place where they can obtain complete information on the Federal home health programs available to them; to the Committee on Energy and Commerce.

H.R. 303. A bill to amend title XIX of the Social Security Act to permit States to establish flexible income contribution and resource standards for couples in which one spouse is in a nursing home; to the Committee on Energy and Commerce.

H.R. 304. A bill to amend the Social Security Act to establish a national catastrophic illness insurance program under which the Federal Government, acting in cooperation with State insurance authorities and the private insurance industry, will reinsure and otherwise encourage the issuance of private health insurance policies which make adequate health protection available to all Americans at a reasonable cost; to the Committee on Energy and Commerce.

H.R. 305. A bill to amend the Clean Air Act to promote the use of alcohol as a motor vehicle fuel and as an additive to motor vehicle fuels, and for other purposes; to the Committee on Energy and Commerce.

H.R. 306. A bill to amend the Flammable Fabrics Act to prohibit the manufacture for sale in commerce of articles of interior furnishing intended for use in any public facility unless such articles conform with requirements established by the Consumer Product Safety Commission designed to make such articles fire resistant; to the Committee on Energy and Commerce.

H.R. 307. A bill to provide for a Council of Oil Importing Nations, and for other purposes; to the Committee on Foreign Affairs.

H.R. 308. A bill directing the President to take certain actions with respect to any country which engages in certain hostile actions against property of the United States or U.S. officers or employees assigned to duty abroad; to the Committee on Foreign Affairs.

H.R. 309. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to require as a condition of assistance under such act that law enforcement agencies have in effect a binding law enforcement officers' bill of rights; to the Committee on the Judiciary.

H.R. 310. A bill to amend chapter 44 of title 18 of the United States code to extend the mandatory penalty feature of the prohibition against the use of firearms in Federal felonies, and for other purposes; to the Committee on the Judiciary.

H.R. 311. A bill to amend title 18, United States Code, to increase the term of imprisonment for certain offenses relating to carrying or using firearms, to eliminate eligibility for parole with respect to such term, and to require that such term be served before and consecutively to any related sentence of imprisonment; to the Committee on the Judiciary.

H.R. 312. A bill to amend various laws relating to civil rights to extend their protection to the elderly, and for other purposes; to the Committee on the Judiciary.

H.R. 313. A bill to provide that the U.S. District Court for the Judicial District of New Jersey shall be held at Paterson, N.J., in addition to those places currently provided by law; to the Committee on the Judiciary.

H.R. 314. A bill to amend the Ominbus Crime Control and Safe Streets Act of 1968 to add a requirement that the comprehensive State plan include provisions for attention to the special problems of prevention, treatment, and other aspects of crime against the elderly; to the Committee on the Judiciary.

H.R. 315. A bill to designate the birthday of Martin Luther King, a legal public holiday; to the Committee on Post Office and Civil Service.

H.R. 316. A bill to repeal section 301 of the Omnibus Reconciliation Act of 1982; to the Committee on Post Office and Civil Service.

H.R. 317. A bill to amend the Congressional Budget Act to require the Congressional Budget Office, for every bill or resolution reported in the House or Senate, to prepare and submit, along with its regular estimate of the Federal cost involved, an estimate of the cost which would be incurred by State and local governments in carrying out or complying with such bill or resolution; to the Committee on Rules.

H.R. 318. A bill to create a Joint Congressional Committee on Foreign Investment Control in the United States; to the Committee on Rules.

H.R. 319. A bill to establish as a part of the Rules of the House of Representatives and the Senate a procedure for the periodic congressional review of Federal programs and tax expenditures, and to improve legislative oversight of Federal activities and regulatory programs; to the Committee on Rules.

H.R. 320. A bill to stimulate research and development aimed at the production of gasohol as an alternative energy source by establishing national demonstration facilities for the conversion of garbage and other solid wastes into fuels, to be constructed by the Secretary of Energy under the Federal Nonnuclear Energy Research and Development Act of 1974; to the Committee on Science and Technology.

H.R. 321. A bill to provide for an accelerated program of wind energy research, development, and demonstration, to be carried out by the Department of Energy with the support of the National Aeronautics and Space Administration and other Federal agencies; to the Committee on Science and Technology.

H.R. 322. A bill to provide for a research, development, and evaluation program to determine the feasibility of collecting in space solar energy to be transmitted to Earth and to generate electricity for domestic purposes; to the Committee on Science and Technology.

H.R. 323. A bill to establish a program to promote the utilization of spinoffs from space technology in meeting the needs and alleviating the suffering of the elderly; to the Committee on Science and Technology.

H.R. 324. A bill to amend title 38, United States Code, to establish a Court of Veterans' Appeals and to prescribe its jurisdiction and functions; to the Committee on Veterans' Affairs.

H.R. 325. A bill to amend section 3104 of title 38, United States Code, to permit certain service-connected disabled veterans who are retired members of the uniformed services to receive compensation concurrently with retired pay, without deduction from

either; to the Committee on Veterans' Affairs.

H.R. 326. A bill to amend title 38 of the United States Code in order to provide mortgage protection life insurance to certain veterans unable to acquire commercial life insurance because of service-connected disabilities; to the Committee on Veterans' Affairs.

H.R. 327. A bill to extend the eligibility of certain persons for educational benefits under the GI bill; to the Committee on Veterans' Affairs.

H.R. 328. A bill to amend title 38, United States Code, to eliminate the time period in which a veteran has to use his educational benefits; to the Committee on Veterans' Affairs.

H.R. 329. A bill to amend title 38, United States Code, to provide for the payment of service pensions to veterans of World War I and the surviving spouses and children of such veterans; to the Committee on Veterans' Affairs.

H.R. 330. A bill to amend title 38 of the United States Code in order to authorize the Administrator of Veterans' Affairs to make scholarship grants to individuals attending medical schools on the condition that such individuals will serve in Veterans' Administration facilities for a certain period of time upon completion of professional training, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 331. A bill to amend title 38, United States Code, to waive the 1-year limitation on claims for compensation from the Veterans' Administration for disabilities and diseases incurred in or aggravated by military service in the case of claims by veterans who served in Southeast Asia during the Vietnam era for compensation for disabilities resulting from exposure to the phenoxy herbicide known as agent orange or other phenoxy herbicides; to the Committee on Veterans' Affairs.

H.R. 332. A bill to amend title 38 of the United States Code to promote the care and treatment of veterans in State veterans' nursing homes; to the Committee on Veterans' Affairs.

H.R. 333. A bill to amend title 38 of the United States Code in order to waive the payment of premiums for national service life insurance by certain persons who have attained age 70; to the Committee on Veterans' Affairs.

H.R. 334. A bill to amend title 38, United States Code, to provide that remarriage of the surviving spouse of a veteran after age 60 shall not result in termination of dependency and indemnity compensation; to the Committee on Veterans' Affairs.

H.R. 335. A bill to amend title II of the Social Security Act to reaffirm the fact that benefits payable thereunder are exempt from all taxation; to the Committee on Ways and Means.

H.R. 336. A bill to amend title II of the Social Security Act to provide for payment of a transition benefit to the spouse of an insured individual upon such individual's death if such spouse has attained age 50 and is not otherwise immediately eligible for benefits; to the Committee on Ways and Means.

H.R. 337. A bill to amend title II of the Social Security Act to provide that a husband and wife may elect to split their earnings for social security purposes upon the retirement of either or both of them, or upon their divorce, and to equalize the benefits payable to a retired worker and his or her spouse, on such worker's wage record, if they have not so elected; to the Committee on Ways and Means.

H.R. 338. A bill to amend title II of the Social Security Act to provide that a divorced spouse may qualify for benefits on the basis of a marriage which lasted for as few as 5 years, instead of only on the basis of a marriage which lasted for 10 or more years as at present, in the case of certain late-life divorces; to the Committee on Ways and Means.

H.R. 339. A bill to amend title II of the Social Security Act to provide that the combined earnings of a husband and wife during the period of their marriage shall be divided equally and shared between them for benefit purposes, so as to recognize the economic contribution of each spouse to the marriage and assure that each spouse will have social security protection in his or her own right; to the Committee on Ways and Means.

H.R. 340. A bill to amend title II of the Social Security Act to provide that upon the death of one member of a married couple the surviving spouse or surviving divorced spouse shall automatically inherit the decreased spouse's earnings credits to the extent that such credits were earned during the period of their marriage; to the Committee on Ways and Means.

H.R. 341. A bill to provide that the Federal Government shall assume 100 percent of all Federal, State, and local welfare costs; to the Committee on Ways and Means.

H.R. 342. A bill to amend title XVI of the Social Security Act to provide that the income and resources of parents shall not be attributed to their children, for purposes of determining the eligibility of such children for supplemental security income benefits, in certain cases where the payment of such benefits is necessary to enable the parents to provide disability-related home care without which the children would require continued instutitionalization; to the Committee on Ways and Means.

H.R. 343. A bill to amend title II of the Social Security Act to provide that the automatic cost-of-living increases in benefits which are authorized thereunder may be made on a semiannual basis, rather than only on an annual basis as at present; to the Committee on Ways and Means.

H.R. 344. A bill to provide income tax incentives for the modification of certain facilities so as to remove architectural and transportational barriers to the handicapped and elderly; to the Committee on Ways and Means.

H.R. 345. A bill to amend the Internal Revenue Code of 1954 to eliminate the requirement that States reduce the amount of unemployment compensation payable for any week by the amount of certain retirement benefits; to the Committee on Ways and Means.

H.R. 346. A bill to amend title II of the Social Security Act to provide that the widow's or widower's insurance benefits to which a disabled individual becomes entitled before attaining age 60 shall not be less than the amount—71½ percent of the deceased spouse's primary insurance amount—to which they would have been reduced if the first month of such entitlement had been the month in which such individual attained that age; to the Committee on Ways and Means.

H.R. 347. A bill to amend title II of the Social Security Act to provide in certain cases for an exchange of credits between the old-age, survivors, and disability insurance system and the civil service retirement system so as to enable individuals who have coverage under both systems to obtain maximum benefits based on their combined service; to the Committee on Ways and Means.

H.R. 348. A bill to amend the Internal Revenue Code of 1954 to permit an exemption of the first $10,000 of retirement income received by a taxpayer under a public retirement system or any other system if the taxpayer is at least 65 years of age, is disabled, or is handicapped; to the Committee on Ways and Means.

H.R. 349. A bill to amend the Internal Revenue Code of 1954 and title II of the Social Security Act to provide a full exemption, through credit or refund, from the employees' tax under the Federal Insurance Contributions Act, and an equivalent reduction in the self-employment tax, in the case of individuals who have attained age 65; to the Committee on Ways and Means.

H.R. 350. A bill to recognize the special relationship between Congress and organizations of war veterans, to amend the Internal Revenue Code of 1954 to provide that a limit on the tax-exempt status of such organizations shall apply only if such organizations engage in substantial lobbying on issues unrelated to veterans affairs, the Armed Forces, or national defense, and for other purposes; to the Committee on Ways and Means.

H.R. 351. A bill to permit a married individual filing a joint return to deduct certain payments made to an individual retirement plan established for the benefit of a working spouse; to the Committee on Ways and Means.

H.R. 352. A bill to repeal the provision of the Omnibus Budget Reconciliation Act of 1981 which provides that certain ex-service members will not be eligible for unemployment compensation; to the Committee on Ways and Means.

H.R. 353. A bill to prohibit permanently the issuance of regulations on the taxation of fringe benefits; to the Committee on Ways and Means.

H.R. 354. A bill to provide for the safeguarding of taxpayer rights, and for other purposes; to the Committee on Ways and Means.

H.R. 355. A bill to amend the Social Security Act and the Internal Revenue Code of 1954 to reduce social security taxes and apply the proceeds thereof exclusively to the financing of the old-age, survivors, and disability insurance program, with the medicare program being hereafter financed from general revenues, earmarking a portion of Federal income tax receipts for that purpose, rather than through the imposition of employment and self-employment taxes as at present; to the Committee on Ways and Means.

H.R. 356. A bill to amend the Internal Revenue Code of 1954 to permit an exemption of the first $10,000 of retirement income received by a taxpayer under a public retirement system or any other system if the taxpayer is at least 65 years of age; to the Committee on Ways and Means.

H.R. 357. A bill to amend the Internal Revenue Code of 1954 to restore the deduction for State and local taxes on gasoline and other motor fuels and to allow the deduction for such taxes without regard to whether the taxpayer itemizes other deductions; to the Committee on Ways and Means.

H.R. 358. A bill to amend the Internal Revenue Code of 1954 to provide that the standard mileage rate for use of a passenger automobile which may be used in computing

the charitable contribution deduction shall be the same as the standard mileage rate which may be used in computing the business expense deduction; to the Committee on Ways and Means.

H.R. 359. A bill to amend the Internal Revenue Code of 1954 to provide an additional income tax exemption where a taxpayer, his spouse, or any dependent of the taxpayer is handicapped; to the Committee on Ways and Means.

H.R. 360. A bill to amend the Internal Revenue Code in 1954 to provide a tax credit of $250 to an individual for expenditures for health insurance premiums; to the Committee on Ways and Means.

H.R. 361. A bill to amend the Internal Revenue Code of 1954 to provide that severance pay resulting from a plant closing shall be subject to tax at reduced rates; to the Committee on Ways and Means.

H.R. 362. A bill to amend the Internal Revenue Code of 1954 to allow a refundable tax credit for amounts paid for increases in electricity under automatic fuel adjustment clauses as a result of the shutdown of the nuclear power generating facilities; to the Committee on Ways and Means.

H.R. 363. A bill to eliminate the offset against social security benefits in the case of spouses and surviving spouses receiving certain Government pensions; to the Committee on Ways and Means.

H.R. 364. A bill to amend the Internal Revenue Code of 1954 to allow a deduction to taxpayers who contribute the right to use certain real property to charitable organizations for outpatient geriatric clinics or for multipurpose senior centers; to the Committee on Ways and Means.

H.R. 365. A bill to amend title XVI of the Social Security Act to direct the Secretary, in determining the extent to which the value of an individual's home is excludable for purposes of establishing his or her eligibility for supplemental security income benefits, to take into account regional variations in the market prices of homes and to make periodic adjustments reflecting changes in land and home values; to the Committee on Ways and Means.

H.R. 366. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

H.R. 367. A bill to amend the Internal Revenue Code of 1954 to provide individuals a credit against income tax for amounts paid or incurred by the taxpayer for alterations to his principal residence in order to make such residence more suitable for handicapped family members; to the Committee on Ways and Means.

H.R. 368. A bill to amend the Internal Revenue Code of 1954 to provide a credit against income tax for one-third the amount of certain local wage taxes paid by individuals who are not residents of the local government area; to the Committee on Ways and Means.

H.R. 369. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for State and local public utility taxes; to the Committee on Ways and Means.

H.R. 370. A bill to amend the Internal Revenue Code of 1954 to treat permanently and totally disabled individuals in the same way as individuals who have attained the age of 55 for purposes of the one-time exclusion of gain from the sale of a principal residence; to the Committee on Ways and Means.

H.R. 371. A bill to repeal sections 301 through 308 of the Tax Equity and Fiscal Responsibility Act of 1983, which impose withholding on interest and dividends; to the Committee on Ways of Means.

H.R. 372. A bill to repeal section 278 of the Tax Equity and Fiscal Responsibility Act of 1982, which imposes the hospital insurance tax on Federal employment; to the Committee on Ways and Means.

H.R. 373. A bill to amend the Internal Revenue Code of 1954 to suspend the imposition of interest and to prohibit the imposition of a penalty for failure to pay tax on underpayments of tax resulting from erroneous advice given in writing by the Internal Revenue Service; to the Committee on Ways and Means.

H.R. 374. A bill to amend the Commodity Credit Corporation Charter Act to create within the Commodity Credit Corporation a National Grain Board, to provide the highest possible prices in foreign markets for American agricultural producers, to provide price and supply stability in domestic markets, and for other purposes; jointly, to the Committees on Agriculture and Foreign Affairs.

H.R. 375. A bill to amend title XVIII of the Social Security Act to authorize payment under the medicare program for certain services performed by chiropractors; jointly, to the Committees on Energy and Commerce and Ways and Means.

H.R. 376. A bill to amend title XVIII of the Social Security Act to include, as a home health service, nutritional counseling provided by or under the supervision on a registered dietitian; jointly, to the Committees on Energy and Commerce and Ways and Means.

H.R. 377. A bill to create a national system of health security; jointly, to the Committees on Energy and Commerce and Ways and Means.

H.R. 378. A bill to increase alternatives to institutionalization for senior citizens; jointly, to the Committees on Energy and Commerce and Ways and Means.

H.R. 379. A bill to require business concerns which undertake changes of operations to give notice to the Secretary of Labor, and to affected labor organizations, employees, and local governments; to require business concerns to provide assistance to employees who suffer an employment loss caused by changes of operations; to authorize the Secretary of Labor to provide assistance to such business concerns, and to such affected employees and local governments; and for other purposes; jointly, to the Committees on Education and Labor and Banking, Finance and Urban Affairs.

H.R. 380. A bill to amend the Federal Aviation Act of 1958, relating to aircraft piracy, to provide a method for combating terrorism, and for other purposes; jointly, to the Committees on Public Works and Transportation, the Judiciary, and Foreign Affairs.

H.R. 381. A bill to amend the Export Administration Act of 1969 to improve the administration of export controls by assigning to the Secretary of Defense the primary responsibility for identifying the types of technologies and goods which shall be controlled for national security purposes; by providing for a comprehensive and continuing review of export controls with a view to strengthening controls over exports of critical technologies and goods while facilitating exports of any technologies and goods which will not significantly adversely affect the national security of the United States; and by providing for congressional oversight of such exports; and for other purposes; jointly, to the Committees on Foreign Affairs and Armed Services.

H.R. 382. A bill to establish an Interagency Committee on Arson Control to coordinate Federal antiarson programs, to amend various provisions of the law relating to programs for arson investigation, prevention, and detection, and for other purposes; jointly, to the Committees on Banking, Finance and Urban Affairs and the Judiciary.

H.R. 383. A bill to provide for an accelerated program for the recovery of energy from municipal wastes, and for other purposes; jointly, to the Committees on Science and Technology and Energy and Commerce.

H.R. 384. A bill to direct the Secretary of Health and Human Services to provide Federal minimum standards for health insurance for the elderly, and to amend title XVIII of the Social Security Act for the purpose of directing the Secretary to study methods of further improving the regulation of health insurance for the elderly and to evaluate methods by which the medicare program could more fully meet the health insurance needs of the elderly; jointly, to the Committees on Ways and Means and Energy and Commerce.

H.R. 385. A bill to amend title XVIII of the Social Security Act to provide for the enforcement of standards relating to the rights of patients in certain medical facilities; jointly, to the Committees on Ways and Means and Energy and Commerce.

H.R. 386. A bill to amend title XVIII of the Social Security Act to authorize payment under the supplementary medical insurance program for the cutting and removal of corns, warts, and calluses, and the reduction of club nails; jointly, to the Committees on Ways and Means and Energy and Commerce.

H.R. 387. A bill to provide for the termination of the Interim Convention on the Conservation of North Pacific Fur Seals of February 9, 1957, to prohibit the taking of seals in the Pribilof Islands, and for other purposes; jointly, to the Committees on Foreign Affairs, Merchant Marine and Fisheries, and Interior and Insular Affairs.

By Mr. ROTH:

H.R. 388. A bill entitled "Domestic Crime Control and Prevention Act"; to the Committee on the Judiciary.

By Mr. ROTH (for himself, Mr. KINDNESS, Mr. STANGELAND, Mr. PETRI, Mr. WEBER, Mr. YATRON, Mr. TAUKE, Mr. GUNDERSON, Mr. SENSENBRENNER, and Mr. ROGERS):

H.R. 389. A bill to direct the President to impose certain limitations on the amount of milk protein products that may be imported into the United States; to the Committee on Ways and Means.

By Mr. SHUMWAY:

H.R. 390. A bill to provide that certain records classifying individuals on the basis of ethnicity shall classify as "Filipino" individuals identifiable as being of Filipino origin; to the Committee on Government Operations.

H.R. 391. A bill to amend certain provisions of law relating to the disposition of public lands in Mono County, Calif., and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 392. A bill to establish the Mono Lake National Monument in the State of California, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 393. A bill to provide law enforcement authority for certain Bureau of Reclamation employees, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 394. A bill to impose quotas on the importation of East German montan wax during 1983, 1984, and 1985; to the Committee on Ways and Means.

H.R. 395. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

H.R. 396. A bill to amend the Internal Revenue Code of 1954 to repeal the estate and gift taxes and the tax on generation-skipping transfers; to the Committee on Ways and Means.

H.R. 397. A bill to amend the Internal Revenue Code of 1954 to provide for equipment which conserves irrigation water an additional 10 per centum investment tax credit; to the Committee on Ways and Means.

By Mr. SMITH of Iowa:

H.R. 398. A bill to amend the Commodity Exchange Act to require a producer referendum as a condition of designation of certain contract markets; to the Committee on Agriculture.

H.R. 399. A bill to amend the United States Grain Standards Act for the purpose of expanding foreign trade by improving and maintaining the quality of grain shipped from an export elevator at an export port location; to the Committee on Agriculture.

H.R. 400. A bill to amend the Commodity Exchange Act to require public disclosure of certain information relating to sales of commodities for export, and for other purposes; to the Committee on Agriculture.

H.R. 401. A bill to authorize loans for study at nonprofit institutions of higher education; to the Committee on Education and Labor.

H.R. 402. A bill to amend the Small Business Act to authorize the Small Business Administration to purchase equity securities of qualified small business concerns; to the Committee on Small Business.

H.R. 403. A bill to provide the Small Business Administration with additional authority to assist small business concerns in obtaining financing, and for other purposes; to the Committee on Small Business.

H.R. 404. A bill to clarify the eligibility of certain small businesses for loans under the Small Business Act, to aid, protect, and preserve small businesses in meat production and marketing, and for other purposes; jointly, to the Committees on Agriculture and Small Business.

H.R. 405. A bill to amend the Small Business Act to assist and protect small businesses against unreasonable use of economic power by major meatpacking companies, and for other purposes; jointly, to the Committees on Agriculture and Small Business.

H.R. 406. A bill to provide for better access to the Federal courts for small businesses and others with small to moderate size claims, to expand the duties of the Office of Advocacy of the Small Business Administration, and for other purposes; jointly, to the Committees on the Judiciary and Small Business.

H.R. 407. A bill to develop natural resources, to provide meaningful employment opportunities producing assets of lasting value, and to enhance the environment through a program providing incentives to State, local, and Federal agencies to plant trees on public lands; jointly, to the Committees on Agriculture, Interior and Insular Affairs, and Small Business.

By Mr. STARK (for himself and Mr. DREIER of California):

H.R. 408. A bill to direct the President to seek negotiations with the Soviet Union for the establishment of a permanent joint United States-Soviet Communications Center to provide an additional channel for communications in order to reduce the threat of an accidental nuclear war; to the Committee on Foreign Affairs.

By Mr. STUDDS:

H.R. 409. A bill to extend daylight savings time; to the Committee on Energy and Commerce.

By Mr. TAUKE:

H.R. 410. A bill to provide mandatory social security coverage for Members of Congress and the Vice President; to the Committee on Ways and Means.

By Mr. WALKER:

H.R. 411. A bill to amend the Internal Revenue Code of 1954 and the Social Security Act to provide an exemption from coverage under the social security program, through a tax-refund procedure, for employees who are members of religious faiths which oppose participation in such program, and to provide a similar exemption on a current basis—pursuant to waiver certificates filed in advance—for employers engaged in farming and their employees in cases where both are members of such faiths; and to make the existing exemption for self-employed members of such faiths available to certain additional individuals; to the Committee on Ways and Means.

H.R. 412. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income gain on the sale or exchange of certain farmland if the owners of the farmland, in a covenant binding themselves and all future owners of their land, restrict the use of such land to use as farmland; to the Committee on Ways and Means.

By Mr. WEISS:

H.R. 413. A bill to provide that the Secretary of Housing and Urban Development may not approve any application for rental increases in federally assisted housing unless the amount of such increase is permitted under State and local law; to the Committee on Banking, Finance and Urban Affairs.

H.R. 414. A bill to provide authority for the President to stablize prices, wages, interest rates, and corporate dividends; to the Committee on Banking, Finance and Urban Affairs.

H.R. 415. A bill to amend the Age Discrimination in Employment Act of 1967 to permit persons to bring suits under the act in Federal district courts without regard to whether any proceedings have been commenced by or on behalf of such persons under State law, and for other purposes; to the Committee on Education and Labor.

H.R. 416. A bill to provide that ionization smoke detectors containing any radioactive isotope shall be considered banned hazardous substances subject to the prohibitions of the Federal Hazardous Substances Act; to the Committee on Energy and Commerce.

H.R. 417. A bill to provide that ionization smoke detectors shall bear a label specifying that they contain radioactive materials; to the Committee on Energy and Commerce.

H.R. 418. A bill to remove certain trade restrictions with respect to Cuba; to the Committee on Foreign Affairs.

H.R. 419. A bill to amend title VI of the International Claims Settlement Act of 1949—relating to claims of nationals of the United States against the German Democratic Republic—to permit the determination of claims of persons who were aliens lawfully admitted for permanent residence in the United States as of the date of loss and by September 4, 1974, citizens of the United States; to the Committee on Foreign Affairs.

H.R. 420. A bill to amend title 44, United States Code, to permit citizen suits to recover records wrongfully removed from agency files; to the Committee on Government Operations.

H.R. 421. A bill to amend the Atomic Energy Act of 1954 to modify certain statutory limitations on the amount of financial protection required with respect to nuclear incidents, to remove the statutory limitations on the aggregate liability for a single nuclear incident, to limit the financial obligations of the United States with respect to such incidents, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 422. A bill to amend title 18, United States Code, to require a specific judicial order for entry of premises to intercept a wire or oral communication under chapter 119 of such title; to the Committee on the Judiciary.

H.R. 423. A bill to amend the Budget and Accounting Act, 1921, and the Congressional Budget Act of 1974 to require the inclusion of certain figures on capital and operational expenditures in the budgets transmitted to the Congress by the President and in the first concurrent resolutions on the budget; jointly, to the Committees on Government Operations and Rules.

H.R. 424. A bill to amend the Privacy Act of 1974 and the Communications Act of 1934 to provide for the protection of telephone records, and for other purposes; jointly, to the Committees on Government Operations, Energy and Commerce, and the Judiciary.

H.R. 425. A bill to facilitate the economic adjustment of communities, industries, and workers to reductions or realinements in defense or aerospace contracts, military facilities, and arms export, and for other purposes; jointly, to the Committees on Armed Services, Banking, Finance and Urban Affairs, Education and Labor, Government Operations, and Ways and Means.

H.R. 426. A bill to amend title XVIII of the Social Security Act to eliminate increases in the medicare part A deductible and coinsurance amounts effected by the Omnibus Budget Reconciliation Act of 1981; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. WEISS (for himself, Mr. BURTON of California Mr. WAXMAN, and Mr. LOWRY of Washington):

H.R. 427. A bill to prohibit discrimination on the basis of affectional or sexual orientation, and for other purposes; jointly, to the Committees on the Judiciary and Education and Labor.

By Mr. WEISS (for himself, Mr. MITCHELL of Maryland, and Mrs. COLLINS of Illinois):

H.R. 428. A bill to amend the Federal Food, Drug, and Cosmetic Act to require that the label and advertising for contraceptive drugs and devices state the effectiveness of the drugs and devices in preventing conception in humans, and or other purposes; to the Committee on Energy and Commerce.

By Mr. WHITEHURST:

H.R. 429. A bill to amend title 10, United States Code, to allow the Secretary of a military department to accept voluntary, uncompensated services from persons desiring to provide such services in programs designed for the morale and support of military members and their families; to the Committee on Armed Services.

H.R. 430. A bill to provide for payments in lieu of taxes to be made by the United States to local governments for property exempt from property taxation under Federal law which is located within the jurisdiction of the local government and owned by the United States, a foreign government, or an international organization; to the Committee on Government Operations.

H.R. 431. A bill to establish a National Zoological Foundation; to the Committee on Merchant Marine and Fisheries.

H.R. 432. A bill to modify the navigation project for Lynnhaven Inlet, Bay, and connecting waters, Va.; to the Committee on Public Works and Transportation.

H.R. 433. A bill to amend title 38, United States Code, to provide that remarriage of the surviving spouse of a veteran after age 60 shall not result in termination of dependency and indemnity compensation; to the Committee on Veterans' Affairs.

H.R. 434. A bill to provide for medicare coverage of influenza vaccine and its administration; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. WYDEN (for himself, Mr. AUCOIN, Mr. FOLEY, Mr. ROBERT F. SMITH, Mr. MORRISON of Washington, Mr. DICKS, Mr. BONKER, Mr. CRAIG, and Mr. DENNY SMITH):

H.R. 435. A bill to modify the Bonneville lock and dam project that the Secretary of the Army, acting through the Chief of Engineers, is authorized to construct a new lock; to the Committee on Public Works and Transportation.

By Mr. WALKER:

H.R. 453. A bill to amend the Internal Revenue Code of 1954 to provide individuals who have attained the age of 62 a refundable credit against income tax for increases in real property taxes and utility bills; to the Committee on Ways and Means.

[*Introduced January 6, 1983*]

By Mr. WHITTEN:

H.R. 454. A bill making appropriations to provide for productive employment for the fiscal year 1983, and for other purposes; to the Committee on Appropriations.

H.R. 455. A bill to enable agriculture producers to regain solvency, to protect the jobs of those engaged in providing agricultural equipment, chemicals, seeds and supplies, and to prevent further imposition on the agricultural industry of the cost of U.S. foreign policy, and for other purposes; jointly, to the Committees on Agricultural and Foreign Affairs.

H.R. 456. A bill to authorize the Secretary of the Army, acting through the Chief of Engineers, to acquire lands or interest therein and on behalf of the Soil Conservation Service for flood prevention purposes in watersheds; jointly to the Committees on Agriculture and Public Works and Transportation.

H.R. 457. A bill to restore rights accorded private citizens against slander and libel to public officials and candidates for public office; to the Committee on the Judiciary.

By Mr. ANDERSON:

H.R. 458. A bill to repeal the withholding of tax from interest and dividends; to the Committee on Ways and Means.

By Mr. APPLEGATE:

H.R. 459. A bill to amend the Railroad Unemployment Insurance Act to assure sufficient resources to pay benefits under that Act, to increase the maximum daily benefit provided under that Act, to restore extended unemployment benefits for certain individuals, and for other purposes; to the Committee on Energy and Commerce.

By Mr. APPLEGATE (by request):

H.R. 460. A bill to amend title 38 of the United States Code to permit certain eligible veterans to purchase up to $20,000 of National Service Life Insurance; to the Committee on Veterans' Affairs.

H.R. 461. A bill to amend title 38 of the United States Code, in order to provide mortgage protection life insurance to certain veterans unable to acquire commercial life insurance because of service-connected disabilities; to the Committee on Veterans' Affairs.

H.R. 462. A bill to amend title 38 of the United States Code, to waive the 1-year limitation on claims for compensation from the Veterans' Administration for disabilities and diseases incurred in or aggravated by military service in the case of claims by veterans who served in Southeast Asia during the Vietnam era for compensation for disabilities resulting from exposure to the phenoxy herbicide known as "Agent Orange" or other phenoxy herbicides; to the Committee on Veterans' Affairs.

H.R. 463. A bill to amend section 110 of title 38 of the United States Code, to liberalize the standard for preservation of disability evaluations for compensation purposes; to the Committee on Veterans' Affairs.

H.R. 464. A bill to amend section 312 of title 38 of the United States Code, by providing a 2-year presumptive period of service connection for the psychoses which develop within 2 years from the date of separation from active service; to the Committee on Veterans' Affairs.

H.R. 465. A bill to amend title 38 of the United States Code, to extend eligibility for the Veterans' Administration clothing allowance to certain veterans with skin disorders resulting from service-connected diseases or injuries; to the Committee on Veterans' Affairs.

H.R. 466. A bill to amend title 38, United States Code, to extend from 1 year to 2 years the period during which veterans with service-connected disabilities may apply for National Service Life Insurance; to the Committee on Veterans' Affairs.

H.R. 467. A bill to amend section 802 of title 38, United States Code, to increase specially adapted housing benefits for certain seriously service-connected disabled veterans; to the Committee on Veterans' Affairs.

H.R. 468. A bill to amend section 3104 of title 38, United States Code, to permit certain service-connected disabled veterans who are retired members of the Armed Forces to receive compensation concurrently with retired pay, without deduction from either; to the Committee on Veterans' Affairs.

H.R. 469. A bill to amend title 38, United States Code, to provide that payments made to a hospitalized incompetent veteran will not be terminated unless such veteran's estate exceeds $3,000, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. ARCHER:

H.R. 470. A bill to allow the President an item veto in appropriations bills; to the committee on the Judiciary.

H.R. 471. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

By Mr. BEVILL:

H.R. 472. A bill to make applicable to the Tennessee-Tombigbee Waterway certain provisions of law relating to taxation on fuel used in commercial transportation on inland waterways; to the Committee on Ways and Means.

By Mr. BIAGGI:

H.R. 473. A bill to amend title 18 of the United States Code to prohibit certain damage to, and theft of property used for religious purposes, and for other purposes; to the Committee on the Judiciary.

H.R. 474. A bill to amend section 844 of title 18, United States Code, to increase penalties for destruction of Federal property by explosives, and for other purposes; to the Committee on the Judiciary.

H.R. 475. A bill to amend title II of the Social Security Act and the Internal Revenue Code of 1954 to temporarily prohibit termination of coverage in the case of State and local employees and in the case of employees of nonprofit organizations, to provide the Secretary of Health and Human Services with information necessary to evaluate problems caused by such terminations, and for other purposes; to the Committee on Ways and Means.

By Mrs. BOUQUARD:

H.R. 476. A bill to repeal the withholding on interest and dividends enacted by the Tax Equity and Fiscal Responsibility Act of 1982; to the Committee on Ways and Means.

H.R. 477. A bill to repeal provisions of law providing for salary adjustments for Members of Congress, and to provide that legislation increasing Member's compensation, Federal income tax benefits, or limitations on outside earnings is considered separately from other legislation, is adopted only by a recorded vote, and does not take effect until the start of the Congress following the Congress in which approved; jointly to the Committees on Appropriations, Post Office and Civil Service and Rules.

By Mr. BROWN of California:

H.R. 478. A bill to establish the national space policy of the United States, to declare the goals of the Nation's space program (both in terms of space and terrestrial applications and in space science), and to provide for the planning and implementation of such a program; to the Committee on Science and Technology.

H.R. 479. A bill to establish the Arid Lands Renewable Agricultural Resources Corporation; jointly, to the Committees on Agriculture and Rules.

By Mr. BROWN of California (for himself, Mr. FUQUA, and Mr. WALGREN):

H.R. 480. A bill to maintain and enhance the U.S. leadership in information science and technology by establishing an Institute for Information Policy and Research to address national information policy issues; to provide a forum for the interaction of government, industry and commerce, and educational interests in the formulation of national information policy options; to provide a focus and mechanism for planning and coordinating Federal research and development activities related to information sci-

ence and technology; and to amend the National Science and Technology Policy, Organization, and Priorities Act of 1976 to create a new position of Special Assistant for Information Technology and Science Information; to the Committee on Science and Technology.

By Mr. BROWN of California (for himself, Mr. WALGREN, and Mr. DYMALLY):

H.R. 481. A bill to advance the national prosperity and welfare, to establish a National Technology Foundation, and for other purposes; jointly, to the Committees on the Judiciary and Science and Technology.

By Mrs. BYRON (for herself, Mrs. HOLT, and Mr. DYSON):

H.R. 482. A bill to insure that rates charged by natural-gas companies are market-sensitive; to the Committee on Energy and Commerce.

By Mrs. BYRON:

H.R. 483. A bill to improve the efficiency and strategic effectiveness of export regulation of strategic trade, to revise the Export Administration Act of 1979, and for other purposes; jointly, to the Committees on Foreign Affairs and Armed Services.

By Mr. CAMPBELL:

H.R. 484. A bill to provide procedures for certain cases of death or disqualification of persons eligible to be selected as President or Vice President by the Congress; to the Committee on House Administration.

By Mr. CAMPBELL (for himself, Mr. SIMON, Mr. HYDE, Mr. HARTNETT, Mr. FRENZEL, Mr. LAGOMARSINO, Mr. GINGRICH, Mr. WINN, Mr. REGULA, Mr. LIVINGSTON, Mr. SOLOMON, Mr. BARNARD, Mr. RUDD, Mr. GRAMM, Mr. SPENCE, Mr. PORTER, Mr. NICHOLS, Mr. WHITTAKER, and Mr. CRAIG):

H.R. 485. A bill to amend the Fair Labor Standards Act of 1938 to provide a special minimum wage for the employment for limited periods of time of youth aged 19 and under and to broaden the authority for the employment of full-time students at a special minimum wage; to the Committee on Education and Labor.

By Mr. CHAPPELL:

H.R. 486. A bill to amend title 10, United States Code, to provide a new Assistant Secretary of Defense for Reserve Affairs and to change the existing position of Assistant Secretary of Defense for Manpower and Reserve Affairs to Assistant Secretary of Defense for Manpower; to the Committee on Armed Services.

H.R. 487. A bill to amend the Occupational Safety and Health Act of 1970, and for other purposes; to the Committee on Education and Labor.

H.R. 488. A bill to amend the Freedom of Information Act of exempt naval nuclear propulsion information from disclosure in the absence of finding that such disclosure will not be inimical to the interests of the United States; to the Committee on Government Operations.

H.R. 489. A bill to assist in combating crime by reducing the incidence of recidivism, providing improved Federal, State and local correctional facilities and services, strengthening administration of Federal corrections, strengthening control over probationers, parolees, and persons found not guilty by reason of insanity, and for other purposes; to the Committee on the Judiciary.

H.R. 490. A bill to amend title 28 of the United States Code, to provide for an exclusive remedy against the United States in suits based upon acts or omissions of U.S. employees, and for other purposes; to the Committee on the Judiciary.

H.R. 491. A bill to authorize the Attorney General to exchange criminal record information with certain State and local agencies; to the Committee on the Judiciary.

H.R. 492. A bill to authorize the Secretary of the Interior to classify and inventory wetland resources, to measure wetlands degradation, to evaluate the environmental contribution of natural wetlands, and for other purposes; to the Committee on Merchant Marine and Fisheries.

H.R. 493. A bill to repeal the provisions of the Omnibus Budget Reconciliation Act of 1982 which, for fiscal years 1983, 1984, and 1985, reduce and delay cost-of-living increases in annuities and retired or retainer pay based on Government service and reduce, in relation to the amount of such increases, the pay of members and former members of the uniformed services for their service in Federal civilian positions; to the Committee on Post Office and Civil Service.

H.R. 494. A bill to amend title 5, United States Code, to restore semi-annual cost of living adjustments for Federal annuitants; to the Committee on Post Office and Civil Service.

H.R. 495. A bill to establish the Mineral Conservation Research and Development Commission within the National Science Foundation, and to provide for the inventory of major nonfuel raw materials and the development of substitute materials; to the Committee on Science and Technology.

H.R. 496. A bill to repeal the withholding of tax from interest and dividends; to the Committee on Ways and Means.

H.R. 497. A bill to amend the Internal Revenue Code of 1954 to allow individuals to designate $1 of their income tax liability to be used for purposes of reducing the public debt of the United States; to the Committee on Ways and Means.

H.R. 498. A bill to amend the Internal Revenue Code of 1954 to prohibit the Internal Revenue Service from terminating for reasons of racial discrimination the tax-exempt status of any organization established for the purposes of educational instruction without proper adjudication by a court of the United States or of any State; to the Committee on Ways and Means.

H.R. 499. A bill to amend title II of the Social Security Act to eliminate the 5-month waiting period which is presently a prerequisite of eligibility for disability insurance benefits or the disability freeze; to the Committee on Ways and Means.

By Mr. D'AMOURS (for himself, Mr. ANDREWS of North Carolina, Mr. ASPIN, Mr. BARNARD, Mr. BIAGGI, Mr. BONIOR of Michigan, Mr. CAMPBELL, Mr. COURTER, Mr. DANIEL B. CRANE, Mr. DAVIS, Mr. DERRICK, Mr. ERDREICH, Mr. FRANK, Mr. GARCIA, Mr. HALL of Ohio, Mr. HANSEN of Idaho, Mr. HARKIN, Mr. HUGHES, Mr. JONES of Tennessee, Mr. KASTENMEIER, Mr. KILDEE, Mr. KINDNESS, Mr. KRAMER, Mr. LUJAN, Mr. LUKEN, Mr. LUNDINE, Mr. MCCURDY, Mr. MCGRATH, Mr. MCKINNEY, Mr. MARKEY, Mr. MARRIOTT, Mr. MAVROULES, Mr. MILLER of Ohio, Mr. NEAL, Mr. NOWAK, Ms. OAKAR, Mr. PATMAN, Mr. PATTERSON, Mr. PAUL, Mr. PRICE, Mr. RAHALL, Mr. RATCHFORD, Mr. RODINO, Mr. ROSE, Mrs. ROUKEMA, Mrs. SCHNEIDER, Mrs. SCHROEDER, Mr. SCHUMER, Mr. STOKES, Mr. TOWNS, Mr. WALGREN, Mr. WHITEHURST, Mr. WORTLEY, Mr. WON PAT, Mr. YOUNG of Alaska, and Mr. ZABLOCKI):

H.R. 500. A bill to repeal sections 301 through 308 of the Tax Equity and Fiscal Responsibility Act of 1982, which impose withholding on interest and dividends; to the Committee on Ways and Means.

By Mr. CHAPPELL:

H.R. 501. A bill to amend title II of the Social Security Act to provide that an individual may qualify for disability insurance benefits and the disability freeze if he has 40 quarters of coverage, regardless of when such quarters were earned; to the Committee on Ways and Means.

H.R. 502. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income certain amounts received by members of certain firefighting and rescue units; to the Committee on Ways and Means.

H.R. 503. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

H.R. 504. A bill to amend the Clean Air Act and the Federal Water Pollution Control Act to provide that compliance orders shall include cost-benefits analyses; jointly, to the Committees on Energy and Commerce and Public Works and Transportation.

H.R. 505. A bill to amend title XVIII of the Social Security Act to provide for the administrative and judicial review of claims, involving the amount of benefits payable, which arises under the supplementary medical insurance program; jointly, to the Committees on Energy and Commerce and Ways and Means.

H.R. 506. A bill to amend titles II and XVIII of the Social Security Act to eliminate the requirement that an individual must have been entitled to disability benefits for at least 24 months in order to qualify for medicare on the basis of disability; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. CHAPPELL:

H.R. 507. A bill to amend title II of the Social Security Act to provide that the waiting period for disability benefits shall not be applicable in the case of a disabled individual suffering from a terminal illness; to the Committee on Ways and Means.

By Mr. CORCORAN:

H.R. 508. A bill to repeal the provisions of law allowing automatic cost-of-living adjustments in the salaries of Members of Congress; to the Committee on Post Office and Civil Service.

By Mr. PHILIP M. CRANE:

H.R. 509. A bill to amend the Housing and Community Development Act of 1974 for the purpose of providing guaranteed loans under title I of such act to assist communities with a shortage of water supply; to the Committee on Banking, Finance and Urban Affairs.

H.R. 510. A bill to provide that all Federal Reserve notes and other currencies of the United States shall be redeemable in gold; to the Committee on Banking, Finance and Urban Affairs.

H.R. 511. A bill to preserve and protect the free choice of individual employees to form, join, or assist labor organizations, or to refrain from such activities; to the Committee on Education and Labor.

H.R. 512. A bill to prohibit payment of any Federal funds to or for the benefit on any entity which provides abortion counseling to minors without the consent of their

parents or guardians; to the Committee on Energy and Commerce.

H.R. 513. A bill to amend title X of the Public Health Service Act to provide that grants and contracts may not be made under that title to any entity which provides abortion counseling to minors without the knowledge and consent of their parents or guardians, and for other purposes; to the Committee on Energy and Commerce.

H.R. 514. A bill to repeal title V of the Motor Vehicle Information and Cost Savings Act pertaining to fuel economy standards for automobiles; to the Committee on Energy and Commerce.

H.R. 515. A bill to provide for the confidentiality of medical and dental records of patients not receiving assistance from the Federal Government, and for other purposes; to the Committee on Energy and Commerce.

H.R. 516. A bill to limit U.S. contributions to the United Nations; to the Committee on Foreign Affairs.

H.R. 517. A bill to provide for the conveyance of certain public lands under the jurisdiction of the Bureau of Land Management to citizens of the United States who establish a residence on such lands; to the Committee on Interior and Insular Affairs.

H.R. 518. A bill to remove statutory limitations upon the application of the Sherman Act to labor organizations and their activities, and for other purposes; to the Committee on the Judiciary.

H.R. 519. A bill to provide that in civil actions where the United States is a party, a prevailing defendant or plaintiff may recover a reasonable attorney's fee and other reasonable litigation costs; to the Committee on the Judiciary.

H.R. 520. A bill to amend title 28 of the United States Code to allow voluntary school prayer; to the Committee on the Judiciary.

H.R. 521. A bill to limit the jurisdiction of the Supreme Court and of the district courts in certain cases; to the Committee on the Judiciary.

H.R. 522. A bill to amend title 18 of the United States Code to increase the penalties for persons convicted of committing a felony with or while unlawfully carrying a firearm; to the Committee on the Judiciary.

H.R. 523. A bill to limit the jurisdiction of the Supreme Court and the district courts in certain cases; to the Committee on the Judiciary.

H.R. 524. A bill to protect the freedom of the press under the first amendment to the Constitution; to the Committee on the Judiciary.

H.R. 525. A bill to limit the jurisdiction of the Supreme Court and of the district courts in cases regarding voluntary school prayer; to the Committee on the Judiciary.

H.R. 526. A bill to amend title 5 of the United States Code to provide that a rule promulgated by a Federal agency may not become final unless such agency submits such rule and an economic impact statement with respect to such rule to the Congress and the Congress approves such rule and statement, and for other purposes; to the Committee on the Judiciary.

H.R. 527. A bill to provide for annual observances of certain legal public holidays on their traditional dates; to the Committee on Post Office and Civil Service.

H.R. 528. A bill to amend title 39, United States Code, to eliminate certain provisions relating to private carriage of letters, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 529. A bill to change the name of the Rochambeau Bridge crossing the Potomac River in Virginia and the District of Columbia to the "Heroes Bridge"; to the Committee on Public Works and Transportation.

H.R. 530. A bill to amend the Metric Conversion Act of 1975 to provide that the functions of the Federal Government with respect to the metric system shall be limited to coordinating the conversion to such system areas or industries which desire it, and keeping the public informed thereon, without encouraging in any way the adoption or use of such system; to the Committee on Science and Technology.

H.R. 531. A bill to amend the Internal Revenue Code of 1954 with respect to the deduction of charitable contributions to organizations from which the taxpayer or a member of his family receives services; to the Committee on Ways and Means.

H.R. 532. A bill to amend the Internal Revenue Code of 1954 to exclude fringe benefits from the definition of gross income; to the Committee on Ways and Means.

H.R. 533. A bill to provide that the Internal Revenue Service may not implement certain proposed rules relating to the determinations of whether private schools have discriminatory policies; to the Committee on Ways and Means.

H.R. 534. A bill to amend the Internal Revenue Code of 1954 to exclude all interest from the gross income of individuals; to the Committee on Ways and Means.

H.R. 535. A bill to amend the Internal Revenue Code of 1954 to apply the civil fraud penalty only to that portion of an underpayment which is attributable to fraud; to the Committee on Ways and Means.

H.R. 536. A bill to amend the Internal Revenue Code of 1954 to repeal certain limitations on industrial development bonds; to the Committee on Ways and Means.

H.R. 537. A bill to amend the Internal Revenue Code of 1954 to exempt individuals over age 70 from Federal income tax; to the Committee on Ways and Means.

H.R. 538. A bill to amend the Internal Revenue Code of 1954 to repeal the estate and gift taxes and the tax on generation-skipping transfers; to the Committee on Ways and Means.

H.R. 539. A bill to amend the Internal Revenue Code of 1954 to exclude from the gross income of noncorporate taxpayers gain from the sale or exchange of assets which have been held by the taxpayer for more than 1 year; to the Committee on Ways and Means.

H.R. 540. A bill to amend the Internal Revenue Code of 1954 to provide income and estate tax deductions for decedents who donate organs for use as transplants; to the Committee on Ways and Means.

H.R. 541. A bill to repeal title I of the Crude Oil Windfall Profit Tax Act of 1980; to the Committee on Ways and Means.

H.R. 542. A bill to amend the Internal Revenue Code of 1954 to provide that a 10-percent income tax rate shall apply to all individuals, and to repeal all deductions credits, and exclusions for individuals other than a $2,000 deduction for each personal exemption; to the Committee on Ways and Means.

H.R. 543. A bill to amend the Internal Revenue Code of 1954 to increase the amount of the annual exclusion from taxable gifts to compensate for inflation since the enactment of such exemption and to provide an automatic increase in such amounts to compensate for future inflation; to the Committee on Ways and Means.

H.R. 544. A bill to amend the Internal Revenue Code of 1954 to clarify the standards used for determining whether individuals are self-employed for purposes of the employment taxes; to the Committee on Ways and Means.

H.R. 545. A bill to amend the Internal Revenue Code of 1954 to provide for individuals who have attained age 65 a credit against income tax of 50 cents for each dollar of earned income, subject to certain limitations; to the Committee on Ways and Means.

H.R. 546. A bill to amend the Internal Revenue Code of 1954 to increase the regular investment tax credit from 10 to 15 per centum; to the Committee on Ways and Means.

H.R. 547. A bill to amend the Internal Revenue Code of 1954 to provide a Federal income tax credit for tuition; to the Committee on Ways and Means.

H.R. 548. A bill to amend the Internal Revenue Code of 1954 to allow certain married individuals who file separate returns to be taxed as unmarried individuals; to the Committee on Ways and Means.

H.R. 549. A bill to eliminate any requirement in the Internal Revenue Code of 1954 of a holding period to qualify a transaction for long-term capital gain treatment; to the Committee on Ways and Means.

H.R. 550. A bill to amend the Internal Revenue Code of 1954 to exclude tips from gross income; to the Committee on Ways and Means.

H.R. 551. A bill to establish "National Tax Hiberation Day" as a legal public holiday; jointly to the Committees on Post Office and Civil Service and Ways and Means.

By Mr. D'AMOURS:

H.R. 552. A bill to prohibit any State from imposing a tax on the income derived by any individual from services in the Federal area within such State if such individual is not a resident or domiciliary of such State; to the Committee on the Judiciary.

H.R. 553. A bill to amend title 4 of the United States Code to restrict the authority of any State to impose any income tax on any compensation paid to any individual who is not a domiciliary or resident of such State; to the Committee on the Judiciary.

H.R. 554. A bill to make permanent the exemption from the Federal unemployment tax of services performed by full-time students for summer camps; to the Committee on Ways and Means.

By Mr. HARKIN (for himself, Mr. BEDELL, Mr. BROWN of California, Mr. CONTE, Mr. CROCKETT, Mr. D'AMOURS, Mr. DELLUMS, Mr. DORGAN, Mr. DWYER, Mr. ECKART, Mr. EDWARDS of California, Mr. EVANS of Iowa, Mr. FAUNTROY, Mr. FAZIO, Mr. FLORIO, Mr. FRANK, Mr. GEJDENSON, Mr. GRAY, Mr. HOWARD, Mr. JACOBS, Mr. JEFFORDS, Mr. JONES of North Carolina, Mr. KASTENMEIER, Mr. KILDEE, Mr. LEACH of Iowa, Mr. LONG of Maryland, Mr. MARKEY, Mr. MATSUI, Mr. MINISH, Mr. MITCHELL, Mr. MOAKLEY, Mr. OBERSTAR, Mr. PEASE, Mrs. SCHNEIDER, Mr. SEIBERLING, Mr. SMITH of Iowa, Ms. SNOWE, Mr. STARK, Mr. TAUKE, Mr. VENTO, Mr. WEAVER, Mr. WEBER, and Mr. WEISS):

H.R. 555. A bill to amend the Federal Power Act to limit the recovery by public utilities of certain costs of construction work in progress through rate increases; to the Committee on Energy and Commerce.

By Mr. D'AMOURS (for himself, Mr. JEFFORDS and Mr. ALBOSTA):

H.R. 556. A bill to amend the Internal Revenue Code of 1954 to provide that expenditures for woodburning stoves shall be eligible for the residential energy credit for energy conservation expenditures; to the Committee on Ways and Means.

By Mr. DINGELL:

H.R. 557. A bill to provide that any policy change which is adopted by the Board of Governors of the Federal Reserve System or by the Federal Open Market Committee and which will affect interest rates or the supply of money shall be subject to a congressional disapproval procedure; to the Committee on Banking, Finance and Urban Affairs.

H.R. 558. A bill to amend the Federal Reserve Act to require the Board of Governors of the Federal Reserve System and the Federal Open Market Committee to take such actions as are necessary to reduce interest rates to reasonable levels; to the Committee on Banking, Finance and Urban Affairs.

By Mr. DINGELL (for himself, and Mr. WIRTH) (by request):

H.R. 559. A bill to amend the Securities Exchange Act of 1934 to increase the sanctions against trading in securities while in possession of material nonpublic information; to the Committee on Energy and Commerce.

H.R. 560. A bill to amend section 4 of the Securities Exchange Act of 1934 to permit the Securities and Exchange Commission to accept certain payments and reimbursements with respect to attendance at meetings and conferences concerning the functions of the Commission; to the Committee on Energy and Commerce.

H.R. 561. A bill to amend section 4 of the Securities Exchange Act of 1934 to permit payments or relocation expenses to participants in the professional fellows programs of the Securities and Exchange Commission, notwithstanding any other provision of law; to the Committee on Energy and Commerce.

H.R. 562. A bill to amend section 15 of the Securities Exchange Act of 1934 with respect to activities of brokers and dealers who are not members of registered securities associations; to the Committee on Energy and Commerce.

H.R. 563. A bill to amend the Securities Exchange Act of 1934 with respect to public membership on the Municipal Securities Rulemaking Board; to the Committee on Energy and Commerce.

By Mr. DURBIN:

H.R. 564. A bill to repeal the withholding of tax from interest and dividends; to the Committee on Ways and Means.

By Mr. EDGAR:

H.R. 565. A bill to establish a National Groundwater Commission and for other purposes; jointly, to the Committees on Public Works and Transportation and Energy and Commerce.

By Mr. EMERSON (for himself, Mr. ROSE, and Mr. ROBINSON):

H.R. 566. A bill to require that a certain minimum amount of funds be appropriated for grants to conduct forestry research and extension, and for other purposes; to the Committee on Agriculture.

By Mr. ERLENBORN:

H.R. 567. A bill to establish a Department of Health, Education, and Welfare, and for other purposes; to the Committee on Government Operations.

By Mr. EVANS of Iowa:

H.R. 568. A bill to amend the Consolidated Farm and Rural Development Act and the Farm Credit Act of 1971 to require farmers to implement conservation plans which provide for the protection of soil, water, and other natural resources (especially with respect to fragile lands) as a condition of eligibility for loans made and insured under such Acts with respect to acquiring and enlarging farms; to the Committee on Agriculture.

H.R. 569. A bill to provide environmental employment opportunities for senior citizens by establishing the Senior Environmental Employment Corps within the Environmental Protection Agency; to the Committee on Education and Labor.

H.R. 570. A bill to amend the Internal Revenue Code of 1954 to provide that the normalization rules of the investment tax credit shall apply to natural gas pipelines without regard to the additional restriction imposed where there is a Federal determination that natural gas is in short supply; to the Committee on Ways and Means.

By Mr. FISH:

H.R. 571. A bill to make the programs authorized under the U.S. Housing Act of 1937 subject to the requirements of the Buy American Act; to the Committee on Banking, Finance and Urban Affairs.

H.R. 572. A bill to establish a national adoption information exchange system; to the Committee on Education and Labor.

H.R. 573. A bill to amend section 1332 of title 28, United States Code, to grant jurisdiction to the district courts to enforce any custody order of a State court against a parent who, in contravention of such order, takes a child to another State; to the Committee on the Judiciary.

H.R. 574. A bill to amend the Internal Revenue Code of 1954 to increase to $2,500 the amount of interest which may be excluded from gross income and to make such exclusion permanent; to the Committee on Ways and Means.

H.R. 575. A bill to amend the Internal Revenue Code of 1954 to allow a deduction from gross income for social agency, legal, and related expenses incurred in connection with the adoption of a child by the taxpayer; to the Committee on Ways and Means.

H.R. 576. A bill to amend the Internal Revenue Code of 1954 to extend until December 31, 1990, the energy investment tax credit for solar, wind, geothermal, and ocean thermal property; to the Committee on Ways and Means.

H.R. 577. A bill to amend the Internal Revenue Code of 1954 to permit an exemption of the first $5,000 of retirement income received by a taxpayer under a public retirement system or any other system if the taxpayer is at least 65 years of age; to the Committee on Ways and Means.

H.R. 578. A bill to amend the Internal Revenue Code of 1954 to provide a credit for the purchase and installation of security devices; to the Committee on Ways and Means.

H.R. 579. A bill to amend the Internal Revenue Code of 1954, with respect to excluding from recapture investment tax credit used to fund tax credit employee stock ownership plans and to permit recovery by such plans of previously recaptured investment tax credit; to the Committee on Ways and Means.

H.R. 580. A bill to revise the laws governing appointments to the service academies so as to relieve Members of Congress from the responsibility of making nominations for appointments thereto, and for other purposes; jointly, to the Committees on Armed Services and Merchant Marine and Fisheries.

H.R. 581. A bill to terminate the granting of construction licenses of nuclear fission powerplants in the United States pending action by the Congress following a comprehensive 5-year study of the nuclear fuel cycle, with particular reference to its safety and environmental hazards, to be conducted by the Office of Technology Assessment, and for other purposes; jointly, to the Committees on Energy and Commerce, Interior and Insular Affairs and Foreign Affiars.

By Mr. FUQUA (for himself, Mr. WALGREN, Mr. BROWN of California, Mr. LUNDINE, Mr. MCCURDY):

H.R. 582. A bill to provide a national policy for engineering, technical, and scientific personnel, to provide for cost-sharing by the private sector in training such personnel, and for other purposes; to the Committee on Science and Technology.

By Mr. GLICKMAN (for himself, Mr. SKELTON, Mr. MINETA, Mr. SIMON, Mr. ECKART, Mr. STOKES, Mr. HOWARD, and Mr. RAHALL):

H.R. 583. A bill to amend the Natural Gas Policy Act of 1978 to impose a moratorium on price increases; to the Committee on Energy and Commerce.

By Mr. GONZALEZ:

H.R. 584. A bill to revise and reinstate the Renegotiation Act of 1951; to the Committee on Banking, Finance and Urban Affairs.

H.R. 585. A bill to authorize the President to award the medal of honor posthumously to the family of Armando G. Leal, Jr.; to the Committee on Armed Services.

H.R. 586. A bill to abolish the Federal Open Market Committee; to the Committee on Banking, Finance and Urban Affairs.

H.R. 587. A bill to repeal the Federal Reserve Act and transfer the functions formerly carried out under the Act to the Department of the Treasury; to the Committee on Banking, Finance and Urban Affairs.

H.R. 588. A bill to vest in the Secretary of the Treasury all functions relating to the examination and supervision of federally insured banks; to the Committee on Banking, Finance and Urban Affairs.

By Mr. GORE:

H.R. 589. A bill to amend the Consolidated Farm and Rural Development Act to provide that emergency loans not to exceed $5,000 may be made and insured under such Act on the basis of estimated losses caused by disasters; to the Committee on Agriculture.

H.R. 590. A bill to amend the Consolidated Farm and Rural Development Act to reduce the interest rate payable on certain disaster emergency loans made and insured under such Act; to the Committee on Agriculture.

H.R. 591. A bill to amend the Disaster Relief Act of 1974 to increase the aggregate amount of grants which may be made under such Act to any individual or family adversely affected by a major disaster; to the Committee on Public Works and Transportation.

H.R. 592. A bill to amend the Small Business Act to reduce the interest rate payable on the Federal share of certain disaster loans made under such Act; to the Committee on Small Business.

By Mr. GUARINI:

H.R. 593. A bill to designate the New York Bulk and Foreign Mail Center at Jersey City, N.J. as the "Michael McDermott Bulk and Foreign Mail Center"; to the Committee on Public Works and Transportation.

By Mr. SAM B. HALL, JR.:

H.R. 594. A bill to amend section 1 of the Act of June 5, 1920, as amended, to authorize the Secretary of Commerce to settle

claims for damages of less than $2,500 arising by reason of acts for which the National Oceanic and Atmospheric Administration is responsible; to the Committee on the Judiciary.

H.R. 595. A bill to amend title 28 of the United States Code to provide for an exclusive remedy against the United States in suits based upon acts or omissions of U.S. employees, to provide a remedy against the United States with respect to constitutional torts, and for other purposes; to the Committee on the Judiciary.

H.R. 596. A bill to transfer responsibility for furnishing certified copies of Miller Act payment bonds from the Comptroller General to the officer that awarded the contract for which the bond was given; to the Committee on the Judiciary.

H.R. 597. A bill to amend sections 2733, 2734, and 2736 of title 10, United States Code, and section 715 of title 32, United States Code, to increase the maximum amount of a claim against the United States that may be paid administratively under those sections and to allow increased delegation of authority to settle and pay certain of those claims, and for other purposes; to the Committee on the Judiciary.

H.R. 598. A bill to amend the Internal Revenue Code of 1954 to exclude from the gross income of individuals who have attained the age of 62 interest received during any taxable year; to the Committee on Ways and Means.

H.R. 599. A bill to amend the Internal Revenue Code of 1954 to provide that all oil from any royalty interest shall be exempt from the windfall profit tax; to the Committee on Ways and Means.

By Mr. KASTENMEIER:

H.R. 600. A bill to reorganize, consolidate, and expand Federal monitoring, analysis, reporting, and policy functions with respect to foreign acquisition of U.S. businesses and assets in vital and sensitive national interest sectors of the U.S. economy, and for other purposes; jointly, to the Committees on Energy and Commerce, Government Operations, and Foreign Affairs.

By Mr. HAMILTON (for himself and Mr. SIMON):

H.R. 601. A bill to help insure the Nation's independent factual knowledge of the Soviet Union and Eastern European countries, to help maintain the national capability for advanced research and training on which that knowledge depends, and to provide partial financial support for national programs to serve both purposes; jointly, to the Committees on Foreign Affairs and Education and Labor.

By Mr. HAMMERSCHMIDT:

H.R. 602. A bill to expand the medical freedom of choice of consumers by amending the Federal Food, Drug, and Cosmetic Act to provide that drugs will be regulated under that act solely to assure their safety; to the Committee on Energy and Commerce.

H.R. 603. A bill to amend the Communications Act of 1934 in order to prohibit the television broadcasting of programs portraying nudity, obscenity, or explicit sexual activity which is offensive to the public taste and morals; to the Committee on Energy and Commerce.

H.R. 604. A bill to amend chapter 44 of title 18 of the United States Code (respecting firearms) to penalize the use of firearms in the commission of any felony and to increase the penalties in certain relating existing provisions; to the Committee on the Judiciary.

H.R. 605. A bill to amend title 18 of the United States Code to prohibit the robbery of a controlled substance from a pharmacy, and for other purposes; to the Committee on the Judiciary.

H.R. 606. A bill to amend title 38, United States Code, to revise the provisions of such title relating to the construction and alteration of, and acquisition of land for, national cemeteries; to the Committee on Veterans' Affairs.

H.R. 607. A bill to amend title 38, United States Code, to clarify the period for which an employer is required to grant an employee who is a member of the National Guard or Reserve a leave of absence in order to allow the employee to perform required active duty for training; to the Committee on Veterans' Affairs.

H.R. 608. A bill to amend title 38, United States Code, to permit veterans freedom of choice as to how certain drugs and medicines will be supplied to them; to the Committee on Veterans' Affairs.

H.R. 609. A bill to amend title 38 of the United States Code to provide that progressive muscular atrophy or amyotrophic lateral sclerosis developing a 10-percent or more degree of disability within 7 years after separation from active service during a period of war shall be presumed to be service connected; to the Committee on Veterans' Affairs.

H.R. 610. A bill to provide an opportunity to individuals to make financial contributions, in connection with the payment of their Federal income tax, for the advancement of the arts and the humanities; to the Committee on Ways and Means.

H.R. 611. A bill to repeal the withholding of tax from interest and dividends; to the Committee on Ways and Means.

H.R. 612. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for the purchase and installation of certain teletypewriters for use by individuals whose sight, hearing, or speech is impaired; to the Committee on Ways and Means.

H.R. 613. A bill to amend title 38, United States Code, to establish new educational assistance programs for veterans and for members of the Armed Forces; jointly, to the Committees on Armed Services and Veterans' Affairs.

By Mr. HANSEN of Idaho:

H.R. 614. A bill to strengthen the American family and to promote the virtues of family life through education, tax assistance, and related measures; jointly, to the Committees on Armed Services, Education and Labor, the Judiciary and Ways and Means.

By Mr. HEFNER:

H.R. 615. A bill to repeal the witholding of tax from interest and dividends; to the Committee on Ways and Means.

By Mr. HORTON:

H.R. 616. A bill to extend the authorization of appropriations for general revenue sharing for 3 years; to the Committee on Government Operations.

By Mr. HUNTER (for himself and Mr. SKEEN):

H.R. 617. A bill to amend the Mineral Leasing Act of 1920 to provide a procedure for determining the eligibility of foreign citizens for the issuance of mineral leases on Federal lands, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. HYDE:

H.R. 618. A bill to establish U.S. governmental policy with regard to respect for human life; jointly, to the Committees on Education and Labor, Energy and Commerce, the Judiciary, and Post Office and Civil Service.

By Mr. KASTENMEIER:

H.R. 619. A bill to amend the Natural Gas Policy Act of 1978 to impose a freeze on natural gas price increases; to the Committee on Energy and Commerce.

By Mr. KAZEN:

H.R. 620. A bill to amend the Small Business Act to provide assistance to areas of economic dislocation in the United States that is the result of drastic fluctuation in the value of the currency in a country contiguous to the United States; to the Committee on Small Business.

H.R. 621. A bill to repeal sections 301 through 308 of the Tax Equity and Fiscal Responsibility Act of 1982, which impose withholding on interest and dividends; to the Committee on Ways and Means.

By Mr. KILDEE:

H.R. 622. A bill to amend title 5 of the United States Code to provide death benefits to survivors of Federal law enforcement officers and firefighters, and for other purposes; to the Committee on Education and Labor.

H.R. 623. A bill to designate certain public lands in the State of Michigan as wilderness, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 624. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to authorize the payment of benefits with respect to public safety officers who die of certain medical conditions sustained in the performance of duty; to the Committee on the Judiciary.

By Mr. KINDNESS (for himself and Mr. RAHALL):

H.R. 625. A bill to amend the Internal Revenue Code of 1954 to provide financial relief to State and local governments by eliminating a requirement that would result in a duplicative mailing each year; to the Committee on Ways and Means.

By Mr. KOGOVSEK:

H.R. 626. A bill to provide for the establishment of a national strategic materials and minerals coordination program, and for other purposes; jointly, to the Committees on Interior and Insular Affairs and Armed Services.

By Mr. LEVITAS:

H.R. 627. A bill to require the Comptroller General of the United States to carry out audits of expenditures and financial transactions of Members, officers, and standing committees of the House of Representatives; to the Committee on House Administration.

H.R. 628. A bill to amend title 18, United States Code, to further restrict the interception of certain wire or oral communications; to the Committee on the Judiciary.

H.R. 629. A bill to amend title 28 of the United States Code, to require the Attorney General to transmit reports to the Congress summarizing any position of the Attorney General that any provision of law is unconstitutional and is not to be enforced or defended by the United States, and for other purposes; to the Committee on the Judiciary.

H.R. 630. A bill to establish public buildings policies for the Federal Government, to establish the Public Buildings Service in the General Services Administration, and for other purposes; to the Committee on Public Works and Transportation.

H.R. 631. A bill to provide coverage under the Federal Old-Age, Survivors, and Disability Insurance System for all officers and

employees of the United States and its instrumentalities other than those in the judicial branch; to the Committee on Ways and Means.

H.R. 632. A bill to provide coverage under the Federal Old-Age, Survivors, and Disability Insurance System for all Members of Congress and other officers and employees in the legislative branch of the Government; to the Committee on Ways and Means.

H.R. 633. A bill to provide that Members of Congress will be treated in the same manner as other taxpayers with respect to the deductibility of living expenses while away from home in the pursuit of a trade or business; to the Committee on Ways and Means.

By Mr. LUKEN:

H.R. 634. A bill to amend title 38, United States Code, to extend the delimiting period within which a Vietnam-era veteran may use educational assistance under chapter 34 of that title upon discharge or release from active duty from the present ten years to twenty years, but not later than December 31, 1999; to the Committee on Veterans' Affairs.

By Mr. McDONALD:

H.R. 635. A bill to repeal the Davis-Bacon Act, and for other purposes; to the Committee on Education and Labor.

By Mr. McKINNEY:

H.R. 636. A bill to establish a demonstration program for the purpose of providing for better coordination at the local level of efforts to upgrade housing for families receiving assistance from the Department of Health and Human Services; to the Committee on Banking, Finance and Urban Affairs.

H.R. 637. A bill to amend the Internal Revenue Code of 1954 to provide tax incentives to encourage the building and rehabilitation of rental housing; to the Committee on Ways and Means.

By Mr. MINISH:

H.R. 638. A bill to establish a National Development Bank to provide loans to finance urgently needed public facilities for State and local governments to help achieve a full employment economy by providing loans for the establishment of businesses and industries, and the expansion and improvement of such existing businesses and industries, and to provide job training for unskilled and semi-skilled unemployed and underemployed workers; to the Committee on Banking, Finance and Urban Affairs.

H.R. 639. A bill to revise and reinstate the Renegotiating Act of 1951; to the Committee on Banking, Finance and Urban Affairs.

H.R. 640. A bill to amend the Federal Election Campaign Act of 1971 to reduce multicandidate political committee contribution limits; to the Committee on House Administration.

H.R. 641. A bill to limit availability and use of handgun bullets that are capable of penetrating certain body armor; to the Committee on the Judiciary.

H.R. 642. A bill to recognize the organization known as the Catholic War Veterans of the United States of America, Incorporated; to the Committee on the Judiciary.

H.R. 643. A bill to amend chapter 44 of title 18 of the United States Code to extend and strengthen the mandatory penalty feature of the prohibition against the use of firearms in Federal felonies, and for other purposes; to the Committee on the Judiciary.

H.R. 644. A bill entitled: "The Handgun Crime Control Act of 1983"; to the Committee on the Judiciary.

H.R. 645. A bill to establish as a part of the Rules of the House of Representatives and the Senate a procedure for the periodic congressonal review of Federal programs and tax expenditures, and to improve legislative oversight of Federal activities and regulatory programs; to the Committee on Rules.

H.R. 646. A bill to repeal the withholding on interest, dividends, and patronage dividends enacted by the Tax Equity and Fiscal Responsibility Act of 1982; to the Committee on Ways and Means.

By Mr. MONTGOMERY (by request):

H.R. 647. A bill to amend title 10, United States Code, to authorize former members of the Armed Forces who are totally disabled as the result of a service-connected disability to travel on military aircraft in the same manner and to the same extent as retired members of the Armed Forces are permitted to travel on such aircraft; to the Committee on Armed Services.

H.R. 648. A bill to establish the Veterans' Administration as an executive department; to the Committee on Government Operations.

H.R. 649. A bill to amend title 38, United States Code, to establish a Court of Veterans' Appeals and to prescribe its jurdisdiction and functions; to the Committee on Veterans' Affairs.

H.R. 650. A bill to amend title 38, United States Code, to establish a program to provide direct loans to veterans for residential solar energy systems and certain other energy conservation improvements; to the Committee on Veterans' Affairs.

H.R. 651. A bill to amend title 38, United States Code, to clarify the authority of the Administrator to approve the release of name and address information from Veterans' Administration (VA) record systems for the purposes of conducting field examinations, investigations or other inquiries for title 38 benefits programs pursuant to 38 U.S.C. Section 3311; to the Committee on Veterans' Affairs.

By Mr. MONTGOMERY:

H.R. 652. A bill to amend title 38, United States Code, to authorize the Administrator of Veterans' Affairs to furnish a flag to drape the coffin of any deceased member of a reserve component of the Armed Forces who has completed 20 years of service creditable for purposes of retirement under chapter 67 of title 10, United States Code; to the Committee on Veterans' Affairs.

By Mr. MORRISON of Washington (for himself, Mr. FOLEY, Mr. PRITCHARD, Mr. BONKER, Mr. DICKS, Mr. LOWRY of Washington, and Mr. CHANDLER):

H.R. 653. A bill to amend Public Law 96-162 to provide a credit to the State of Washington for certain construction costs associated with the Yakima River Basin Water Enhancement Project; to the Committee on Interior and Insular Affairs.

By Mr. NATCHER:

H.R. 654. A bill to extend veteran benefits to persons serving in the Armed Forces between November 12, 1918, and July 2, 1921; to the Committee on Veterans' Affairs.

By Mr. NEAL:

H.R. 655. A bill to amend title II of the Social Security Act to extend the recently enacted authority for continued payment of disability benefits during appeal; to the Committee on Ways and Means.

By Ms. OAKAR:

H.R. 656. A bill to amend the Federal employee health benefit plan provisions of chapter 89 of title 5, United States Code, to increase the Government contribution rate, to extend coverage for employees who are separated due to reductions in force, to require carriers to obtain reinsurance or stop-loss insurance (or to otherwise demonstrate financial responsibility), to assure adequate mental health benefit levels and otherwise limit benefit reductions, to mandate an open season each year, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. PERKINS:

H.R. 657. A bill to amend the Foreign Trade Zones Act to exempt bicycle component parts which are not re-exported from the exemption from the customs laws otherwise available to merchandise in foreign trade zones; to the Committee on Ways and Means.

H.R. 658. A bill to provide for a moratorium on terminations of disability benefits under title II of the Social Security Act based on determinations made under the continuing disability investigation program and a moratorium on the collection of overpayments based on determinations under such program, and to amend such title II to expand the continued payment of disability benefits during appeal of terminations of such benefits; to the Committee on Ways and Means.

By Mr. PERKINS (for himself, Mr. CLAY, Mr. SCHUMER, Mr. MOAKLEY, Mr. STOKES, Mr. KOGOVSEK, Mr. BONIOR of Michigan, and Mr. PORTER):

H.R. 659. A bill to strengthen the security and the economic and cultural progress of the Nation through Federal assistance for improved student opportunities in mathematics, science, technology, and foreign languages in the elementary and secondary schools; to the Committee on Education and Labor.

By Mr. PICKLE:

H.R. 660. A bill to amend title II of the Social Security Act to make miscellaneous and technical improvements relating to cash management, gender-based distinctions, coverage, and other matters under the old-age, survivors, and disability insurance program; to the Committee on Ways and Means.

By Mr. PORTER:

H.R. 661. A bill to repeal the subtitle of the Tax Equity and Fiscal Responsibility Act of 1982 relating to withholding on interest and dividends; to the Committee on Ways and Means.

By Mr. PRITCHARD (for himself and Mr. LOWRY of Washington):

H.R. 662. A bill to designate national forest lands in the State of Washington as the Cougar Lakes Wilderness; to the Committee on Interior and Insular Affairs.

By Mr. QUILLEN:

H.R. 663. A bill to amend title II of the Social Security Act to provide that an individual's entitlement to benefits thereunder shall continue through the month of his or her death (without affecting any other person's entitlement to benefits for that month), in order to provide such individual's family with assistance in meeting the extra death-related expenses; to the Committee on Ways and Means.

By Mr. ROYBAL:

H.R. 664. A bill to amend the Food Stamp Act of 1977 to require that individuals who are elderly or disabled and who live in certain types of group living arrangements be treated as individual households; to the Committee on Agriculture.

H.R. 665. A bill to restrict the prepayment of loans made under section 202 of the

Housing Act of 1959 for housing projects for the elderly and handicapped; to the Committee on Banking, Finance and Urban Affairs.

H.R. 666. A bill to provide assistance and coordination in the provision of child-care services for children living in homes with working parents, and for other purposes; to the Committee on Education and Labor.

H.R. 667. A bill to establish the Civilian Conservation Corps II to perform such projects on public or Indian lands or waters as the Secretary of the Interior may authorize, and for other purposes; to the Committee on Education and Labor.

H.R. 668. A bill to amend title 5, United States Code, to include as creditable service for civil service retirement purposes service as an enrollee of the Civilian Conservation Corps, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 669. A bill to amend the Internal Revenue Code of 1954 to make permanent law the deduction for expenditures to remove architectural and transportation barriers to the handicapped and elderly; to the Committee on Ways and Means.

H.R. 670. A bill to amend title II of the Social Security Act to extend gratuitous wage credits to individuals who served in the United States Cadet Nurse Corps during World War II, and for other purposes; to the Committee on Ways and Means.

Mr. ROYBAL (for himself, Mr. HAMMERSCHMIDT, Mr. PEPPER, Mr. DONNELLY, Mr. CONYERS, Mr. ROEMER, Mr. SUNIA, Mr. WINN, Mr. UDALL, Mr. WEISS, Mr. FRANK, Mrs. SCHROEDER, Mr. LEHMAN of Florida, Mr. FORD of Michigan, Mr. KINDNESS, Mr. FAZIO, Mr. LOWRY of Washington, Mrs. COLLINS, Mr. DANIEL, Mr. WYDEN, Mr. AKAKA, Mr. DIXON, Mr. EVANS of Iowa, Mr. WASHINGTON, Mr. CROCKETT, Mr. MARKEY, and Mr. DAUB):

H.R. 671. A bill to provide that elderly and handicapped individuals and families may use assistance provided under section 8 of the United States Housing Act of 1937 or title V of the Housing Act of 1949 with respect to shared housing projects; to the Committee on Banking, Finance and Urban Affairs.

Mr. ROYBAL (for himself, Mr. ADDABBO, Mr. CLAY, Mr. FOGLIETTA, Mr. FROST, Mr. GUARINI, Mr. HOYER, Mr. LUNDINE, Mr. MITCHELL, Ms. OAKAR, Mr. PANETTA, Mr. PRITCHARD, Mr. RAHALL, Mr. YATES, Mr. LIVINGSTON, Mr. CONYERS, Mr. HALL of Ohio, Mr. WEAVER, and Mr. RATCHFORD):

H.R. 672. A bill to establish an Office of Housing for the Elderly within the Department of Housing and Urban Development; to the Committee on Banking, Finance and Urban Affairs.

Mr. ROYBAL (for himself, Mr. MINETA, and Mr. SCHEUER):

H.R. 673. A bill to provide for payment by the United States for certain medical services and treatment provided to United States citizens and permanent residents suffering from physical injuries attributable to the atomic bomb explosions on Hiroshima and Nagasaki, Japan, in August 1945; to the Committee on the Judiciary.

Mr. RUDD:

H.R. 674. A bill to repeal the Metric Conversion Act of 1975 (15 U.S.C. 205a et seq.); to the Committee on Science and Technology.

H.R. 675. A bill to amend the Internal Revenue Code of 1954 to permit banks, savings and loan institutions, and similar financial institutions to issue tax-exempt certificates for housing purposes, and for other purposes; to the Committee on Ways and Means.

By Mr. SHANNON (for himself, Mr. MARTIN of North Carolina, and Mr. GEPHARDT):

H.R. 676. A bill to amend the Internal Revenue Code of 1954 to provide that certain indebtedness incurred by educational organizations in acquiring or improving real property shall not be treated as acquisition indebtedness for purposes of the tax on unrelated business taxable income; to the Committee on Ways and Means.

By Mr. SHANNON (for himself and Mr. CONABLE):

H.R. 677. A bill to provide that subtitles A and C of the Internal Revenue Code of 1954 shall be applied without regard to the value of lodging located in the proximity of an educational institution and furnished by such institution to its employees for taxable years or periods beginning before January 1, 1984; to the Committee on Ways and Means.

By Mr. DENNY SMITH (for himself, Mr. GREGG, Mr. DAUB, Mr. WALGREN, Mr. MILLER of Ohio, Mr. WEBER, Mr. HANSEN of Utah, and Mr. SAM B. HALL, JR.):

H.R. 678. A bill to amend title II of the Social Security Act and chapter 21 of the Internal Revenue Code of 1954 to provide social security coverage for Members of Congress; to the Committee on Ways and Means.

By Mr. SOLOMON:

H.R. 679. A bill to amend title 10 of the United States Code to allow reserve commissioned officers to be promoted to, or recognized in, a higher reserve grade while serving on active duty; to the Committee on Armed Services.

H.R. 680. A bill to amend the Federal Property and Administrative Services Act of 1949 to allow volunteer fire departments and emergency rescue squads to receive donations of Federal surplus personal property; to the Committee on Government Operations.

H.R. 681. A bill to reestablish constitutional procedures for the imposition of the sentence of death, and for other purposes; to the Committee on the Judiciary.

H.R. 682. A bill to modify the insanity defense in the Federal courts; to the Committee on the Judiciary.

H.R. 683. A bill to provide that rates of pay for Members of Congress shall not be subject to adjustment under the Federal Salary Act of 1967 or subject to any other automatic adjustment; to the Committee on Post Office and Civil Service.

H.R. 684. A bill to direct the President to impose certain limitations on the amount of milk protein products that may be imported into the United States; to the Committee on Ways and Means.

H.R. 685. A bill to repeal the withholding on interest and dividends enacted by the Tax Equity and Fiscal Responsibility Act of 1982; to the Committee on Ways and Means.

H.R. 686. A bill to amend the Internal Revenue Code of 1954 to provide a credit against income tax for up to $750 of the cost of purchasing a new highway vehicle; to the Committee on Ways and Means.

H.R. 687. A bill to amend the Internal Revenue Code of 1954 to provide individuals a limited exclusion from gross income for interest on deposits in certain savings institutions; to the Committee on Ways and Means.

H.R. 688. A bill to amend the Internal Revenue Code of 1954 to reinstate the partial exclusion of dividends and interest, and for other purposes; to the Committee on Ways and Means.

H.R. 689. A bill to amend the Internal Revenue Code of 1954 to allow the residential energy credit for certain wood or peat burning stoves; to the Committee on Ways and Means.

H.R. 690. A bill to amend title II of the Social Security Act to make it clear that social security benefits are and will continue to be exempt from all taxation; to the Committee on Ways and Means.

By Mr. STANGELAND:

H.R. 691. A bill to amend the Agricultural Act of 1949 with respect to the determination of acreage bases to be used under acreage reduction programs for the 1983 crop of wheat and feed grains; to the Committee on Agriculture.

H.R. 692. A bill to repeal the Davis-Bacon Act; to the Committee on Education and Labor.

H.R. 693. A bill to repeal the withholding of tax from interest and dividends; to the Committee on Ways and Means.

H.R. 694. A bill to transfer to the Secretary of the Army certain functions, powers, and duties of the Secretary of Transportation relating to water vessel anchorages, bridge location and operation, and the provision of icebreaking facilities and aids to navigation; jointly, to the Committees on Merchant Marine and Fisheries and Public Works and Transportation.

H.R. 695. A bill to provide that each State must establish a workfare program, and require participation therein by all residents of the State who are receiving benefits or assistance under the aid to families with dependent children, food stamp, and public housing programs, as a condition of the State's eligibility for Federal assistance in connection with those programs; jointly to the Committees on Agriculture, Banking, Finance and Urban Development, Education and Labor, and Ways and Means.

By Mr. STANGELAND (for himself, Mr. APPLEGATE, Mr. HARTNETT, Mr. WEBER, Mr. STENHOLM, Mr. DE LUGO, Mr. SENSENBRENNER, Mr. LAFALCE, and Mr. GILMAN):

H.R. 696. A bill to amend the Agricultural Act of 1949 to modify the dairy price-support program; to the Committee on Agriculture.

By Mr. STARK:

H.R. 697. A bill to amend the Internal Revenue Code of 1954 to expand the circumstances where relief from liability for income tax (and penalties and interest with respect thereto) is provided to a spouse for a deficiency with respect to a joint return, and to provide similar relief with respect to certain separate returns of married individuals; to the Committee on Ways and Means.

H.R. 698. A bill to make permanent the increase in the tax on cigarettes and to provide cost-of-living adjustments in the amount of such tax; to the Committee on Ways and Means.

By Mr. STARK (for himself and Mr. ARCHER):

H.R. 699. A bill to amend the Internal Revenue Code of 1954 with respect to the tax treatment of certain conversions of residential rental property into condominium units; to the Committee on Ways and Means.

By Mr. STARK (for himself and Mr. HANCE):

H.R. 700. A bill to define the circumstances under which construction workers may deduct travel and transportation expenses in computing their taxable incomes for purposes of the Federal income tax; to the Committee on Ways and Means.

By Mr. STARK (for himself, Mr. GORE, and Mr. SHANNON):

H.R. 701. A bill entitled: "Computer Contribution Act of 1983"; to the Committee on Ways and Means.

By Mr. STARK (for himself, Mr. PICKLE, and Mr. SHANNON):

H.R. 702. A bill to amend the Internal Revenue Code of 1954 to make the credit for increasing research activities permanent, and for other purposes; to the Committee on Ways and Means.

By Mr. STUDDS (for himself, Mr. PRITCHARD, Mr. HUGHES, and Mr. BONKER):

H.R. 703. A bill to facilitate the conduct of international marine scientific research; to the Committee on Foreign Affairs.

By Mr. STUMP:

H.R. 704. A bill to repeal the withholding tax from interest and dividends; to the Committee on Ways and Means.

By Mr. TAUKE (for himself, Mr. EVANS of Iowa, Mr. LEACH of Iowa, Mr. SMITH of Iowa, Mr. BEDELL, Mr. HARKIN, Mr. DAUB, Mrs. MARTIN of Illinois, Mr. BEREUTER, Mr. WINN, Mr. NOWAK, and Mr. ROBERTS):

H.R. 705. A bill to amend the Natural Gas Policy Act of 1978 to clarify the definition of abuse for purposes of disqualifying certain cost passthroughs to distributors and consumers of natural gas; to the Committee on Energy and Commerce.

By Mr. TAUKE (for himself, Mr. BEDELL, Mr. BONKER, Mr. EVANS of Iowa, Mr. FROST, Mr. GRADISON, Mr. KILDEE, Mr. KINDNESS, Mr. KOGOVSEK, Mr. LAGOMARSINO, Mr. LEACH of Iowa, Mr. ROBINSON, Mr. SYNAR, and Mr. WHITEHURST):

H.R. 706. A bill to defer congressional pay adjustments until the beginning of the next following Congress, to require a recorded vote in each House for annual congressional pay adjustments, to provide that appropriations of funds for congressional pay be considered separately, and for other purposes; jointly, to the Committees on Post Office and Civil Service and Rules.

BY Mr. VENTO:

H.R. 707. A bill to provide assistance, through the Federal Housing Finance Corporation and the Internal Revenue Code of 1954, to individuals and families purchasing a residence for the first time, and for other purposes; jointly, to the Committees on Banking, Finance and Urban Affairs and Ways and Means.

By Mr. VENTO (for himself, Mr. WYLIE, Mr. MCKINNEY, Mr. DIXON, Mr. WEISS, Mr. LOWRY of Washington, Mr. OBERSTAR, Mr. SABO, Mr. LAFALCE, Ms. OAKAR, Mr. FORD of Tennessee, Mr. FRANK, and Mr. MITCHELL):

H.R. 708. A bill to require the Secretary of Housing and Urban Development to administer a demonstration program for assisting communities and nonprofit organizations in providing emergency shelter; to the Committee on Banking, Finance and Urban Affairs.

By Mr. WALGREN:

H.R. 709. A bill to amend the Legislative Reorganization Act of 1946 to eliminate the annual adjustment in the rate of pay payable to Members of Congress, and to eliminate the permanent appropriation for Member's compensation; jointly, to the Committees on Post Office and Civil Service and Appropriations.

By Mr. WEBER:

H.R. 710. A bill to repeal the withholding of tax from interest and dividends; to the Committee on Ways and Means.

By Mr. WHITEHURST:

H.R. 711. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for State and local public utility taxes; to the Committee on Ways and Means.

By Mr. WHITEHURST (for himself and Mr. QUILLEN):

H.R. 712. A bill to amend the Internal Revenue Code of 1954 to provide tax-saving incentives for savings accounts established for the purpose of purchasing a home; to the Committee on Ways and Means.

By Mr. WHITEHURST (for himself and Mr. STANGELAND):

H.R. 713. A bill to terminate the Department of Energy; jointly, to the Committees on Government Operations and Rules, and Energy and Commerce.

H.R. 714. A bill to terminate the Department of Education; jointly to the Committees on Government Operations and Rules.

By Mr. WORTLEY:

H.R. 715. A bill to repeal sections 301 through 308 of the Tax Equity and Fiscal Responsibility Act of 1982, which impose withholding on interest and dividends; to the Committee on Ways and Means.

By Mr. WORTLEY (for himself and Mr. SOLOMON):

H.R. 716. A bill to amend the Agricultural Act of 1949 to modify the dairy price support program for fiscal years 1983 through 1985; to the Committee on Agriculture.

By Mr. WRIGHT:

H.R. 717. A bill to provide that certain property held in foreign-trade zones shall be exempt from State and local ad valoream taxation; to the Committee on Ways and Means.

By Mr. ARCHER:

H.J. Res. 52. Joint resolution proposing an amendment to the Constitution of the United States allowing an item veto in appropriations bills; to the Committee on the Judiciary.

H.J. Res. 53. Joint resolution proposing an amendment to the Consitution of the United States requiring the submission of balanced Federal funds budgets by the President and action by the Congress to provide revenues to offset Federal funds deficits; to the Committee on the Judiciary.

By Mrs. BOUQUARD:

H.J. Res. 54. Joint resolution acknowledging the Big Brothers/Big Sisters of America for its achievements and recognizing its volunteers for their service to children; to the Committee on Post Office and Civil Service.

By Mr. CHAPPELL:

H.J. Res. 55. Joint resolution proposing an amendment to the Constitution of the United States relative to the balancing of the budget; to the Committee on the Judiciary.

By Mr. PHILIP M. CRANE:

H.J. Res. 56. Joint resolution to designate the week beginning October 3, 1983, as "National Respect Life Week"; to the Committee on Post Office and Civil Service.

H.J. Res. 57. Joint resolution to designate the second week in October of each year as "National Respect Life Week"; to the Committee on Post Office and Civil Service.

By Mr. DIXON:

H.J. Res. 58. Joint resolution requiring the Federal Energy Regulatory Commission to commence a rulemaking relating to natural gas pipeline rate designs, and to report its findings, conclusions, and recommendations; to the Committee on Energy and Commerce.

By Mr. EMERSON (for himself, Mr. DANIEL B. CRANE, Mr. SMITH of New Jersey, Mr. STANGELAND, Mr. WEBER, and Mr. LIVINGSTON):

H.J. Res. 59. Joint resolution to amend the Constitution to establish legislative authority in Congress and States with respect to abortion; to the Committee on the Judiciary.

By Mr. RUSSO (for himself, Mr. DURBIN, Mr. MOAKLEY, Mr. ROE, Mr. OTTINGER, Mr. KOGOVSEK, Mr. SIMON, Mr. DORGAN, Mr. SHANNON, Mr. ANTHONY, Mr. MATSUI, Mr. GIBBONS, Mrs. KENNELLY, Mr. FLIPPO, Mr. GUARINI, Mr. JONES of Oklahoma, Mr. JACOBS, and Mr. FORD of Tennessee):

H.J. Res. 60. Joint resolution to direct the President to issue a proclamation designating February 16, 1983, as "Lithuanian Independence Day"; to the Committee on Post Office and Civil Service.

By Mr. GORE (for himself, Mr. ASPIN, Mr. DOWNEY of New York, Mr. PRITCHARD, and Mr. HAMILTON):

H.J. Res. 61. Joint resolution calling on the United States and the Soviet Union to give first priority in the START negotiations to eliminating the fear of a nuclear first strike; to the Committee on Foreign Affairs.

By Mr. GUARINI:

H.J. Res. 62. Joint resolution designating the month of March 1983 as "National Eye Donor Month"; to the Committee on Post Office and Civil Service.

By Mr. HAMMERSCHMIDT:

H.J. Res. 63. Joint resolution to authorize the erection of a memorial on public grounds in the District of Columbia, or its environs, in honor and commemoration of members of the Armed Forces of the United States who served in the Korean war; to the Committee on House Administration.

H.J. Res. 64. Joint resolution proposing an amendment to the Constitution of the United States to provide that appropriations made by the United States shall not exceed its revenues, except in time of war or national emergency; to the Committee on the Judiciary.

By Mr. HARKIN, (for himself, Mr. PATTERSON, Mr. BONIOR of Michigan, Mr. STUDDS, Mr. DELLUMS, Mr. OBERSTAR, Mr. EDGAR, Mr. DASCHLE, Mr. WEAVER, Mr. FOGLIETTA, Mr. KASTENMEIER, Mr. OTTINGER, Mr. CONYERS, Mr. DOWNEY of New York, Mr. WEISS, Mr. WASHINGTON, Mr. MITCHELL, Mr. LELAND, Mrs. SCHROEDER, Mr. WALGREN, Mr. SEIBERLING, Mr. GARCIA, Mr. DONNELLY, Mr. WYDEN, Mr. LEVINE of California, Mr. SIMON, Mr. LOWRY of Washington, Mr. MILLER of California, Mr. PANETTA, Mr. HERTEL of Michigan, Mr. ECKART, Mr. FRANK, Mr. JACOBS, Mr. VENTO, Mr. RAHALL, Mr. STOKES, Mr. GRAY, Mr. DORGAN, Mr. DIXON, Mr. WOLPE, Mr. FAZIO, Mr. KILDEE, Mr. EVANS of Illinois, Mr. RICHARDSON, Mr. TORRES, Mr. SIKORSKI, Mr. SABO, and Mr. SHANNON):

H.J. Res. 65. Joint resolution to prohibit the sale to the Government of Guatemala of spare parts for helicopters or A-37 aircraft; to the Committee on Foreign Affairs.

By Mr. KINDNESS:

H.J. Res. 66. Joint resolution proposing an amendment to the Constitution of the United States to provide that equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex; to the Committee on the Judiciary.

By Mr. LEVITAS:

H.J. Res. 67. Joint resolution proposing an amendment to the Constitution of the United States relative to the balancing of the budget; to the Committee on the Judiciary.

By Mr. LUKEN:

H.J. Res. 68. Joint resolution proposing an amendment to the Constitution of the United States relating to the terms of office of the President, Vice President, and Members of Congress, and for other purposes; to the Committee on the Judiciary.

By Mr. MARRIOTT (for himself and Mr. MYERS):

H.J. Res 69. Joint resolution to authorize the President to issue a proclamation designating the week beginning on November 20, 1983, as "National Family Week"; to the Committee on Post Office and Civil Service.

By Ms. MIKULSKI:

H.J. Res. 70. Joint resolution designating the week beginning March 6, 1983, as "Women's History Week"; to the Committee on Post Office and Civil Service.

By Mr. MINISH:

H.J. Res. 71. Joint resolution to authorize the President to proclaim the last Friday of April each year as "National Arbor Day"; to the Committee on Post Office and Civil Service.

By Mr. MYERS:

H.J. Res. 72. Joint resolution to authorize the President to issue a proclamation designating the week beginning on November 20, 1983, as "National Family Week"; to the Committee on Post Office and Civil Service.

By Mr. OBERSTAR (for himself, Mr. ALBOSTA, Mr. DAUB, Mr. ERLENBORN, Mr. GUNDERSON, Mr. HANSEN of Utah, Mr. KILDEE, Mr. HYDE, Mr. LAGOMARSINO, Mr. LENT, Mr. LIVINGSTON, Mr. MARRIOTT, Mr. MAZZOLI, Mr. MCDADE, Mr. MCEWEN, Mr. MURPHY, Mr. PRICE, Mr. SKELTON, Mr. STANGELAND, Mr. WEBER, Mr. YOUNG of Alaska, and Mr. YOUNG of Missouri):

H.J. Res. 73. Joint resolution proposing an amendment to the Constitution of the United States with respect to the right to life; to the Committee on the Judiciary.

By Mr. SHANNON:

H.J. Res. 74. Joint resolution designating the first Sunday of every August as "National Day of Peace"; to the Committee on Post Office and Civil Service.

By Mr. SOLOMON:

H.J. Res. 75. Joint resolution proposing an amendment to the Constitution to require that congressional resolutions setting forth levels of total budget outlays and Federal revenues must be agreed to by two-thirds of both Houses of Congress if the level of outlays exceeds the level of revenues; to the Committee on the Judiciary.

H.J. Res. 76. Joint resolution proposing an amendment to the Constitution of the United States with respect to the proposal and the enactment of laws by popular vote of the people of the United States; to the Committee on the Judiciary.

By Mr. VENTO:

H.J. Res. 77. Joint resolution proposing an amendment to the Constitution of the United States relative to contributions and expenditures intended to affect congressional, Presidential, and State elections; to the Committee on the Judiciary.

By Mr. BROWN of California:

H. Con. Res. 20. Concurrent resolution expressing the sense of the Congress that the common security of all nations is threatened by the escalating arms race and that the danger of nuclear war requires renewed and persistent efforts to negotiate a comprehensive treaty for a staged disarmament to be verified by an international security and disarmament authority and accompanied by strengthened international peacekeeping and dispute resolution institutions; to the Committee on Foreign Affairs.

By Mr. BIAGGI:

H. Con. Res. 21. Concurrent resolution to call for an end to the use of plastic bullets by British security forces in Northern Ireland; to the Committee on Foreign Affairs.

By Mr. FISH:

H. Con. Res. 22. Concurrent resolution to express the sense of the Congress that nuclear war represents the world's greatest potential health hazard and that all nuclear weapons in the world should be eliminated; to the Committee on Foreign Affairs.

By Mr. GOODLING (for himself, Mr. BARNES, Mr. HANSEN of Utah, Mr. NELSON of Florida, Mr. WHITEHURST, Mr. BEILENSON, Mr. BROOMFIELD, Mr. CLINGER, Mrs. COLLINS, Mr. DANNEMEYER, Mr. ERLENBORN, Mr. FORSYTHE, Mr. HARTNETT, Mr. LANTOS, Mr. LEHMAN of Florida, Mr. MARRIOTT, Mr. PORTER, Mr. PRITCHARD, Mrs. ROUKEMA, Mr. SEIBERLING, Mr. WALKER, and Mr. BURTON, of Indiana):

H. Con. Res. 23. Concurrent resolution to express the sense of the Congress concerning the legal minimum age for drinking and purchasing alcohol; jointly, to the Committees on the Judiciary and Public Works and Transportation.

By Mr. NEAL:

H. Con. Res. 24. Concurrent resolution to express the sense of the Congress that the President should seek an agreement with the Soviet Union and other nations to eliminate nuclear weapons; to the Committee on Foreign Affairs.

By Mr. SHANNON:

H. Con. Res. 25. Concurrent resolution calling upon the Government of the United Kingdom to ban the use of plastic and rubber bullets against civilians; to the Committee on Foreign Affairs.

H. Con. Res. 26. Concurrent resolution calling upon the Government of the United Kingdom to outlaw the Ulster Defense Association, its membership, activities, and any like terrorist organization; to the Committee on Foreign Affairs.

By Mr. SOLOMON:

H. Con. Res. 27. Concurrent resolution expressing the sense of the Congress that the President should take any actions necessary to make individuals who are required to register under the Military Selective Service Act and who do not register ineligible to receive Federal financial assistance or benefits, to participate in any programs or activities receiving Federal financial assistance, and to be employed by the Federal Government or any organization receiving Federal financial assistance; jointly to the Committees on Government Operations and Post Office and Civil Service.

By Mr. VENTO:

H. Con Res. 28. Concurrent resolution expressing the sense of the Congress that studies should be undertaken immediately into possible alternative methods for financing annuities provided under the Railroad Retirement Act of 1974; jointly to the Committees on Energy and Commerce and Ways and Means.

By Mr. CONTE (for himself, Mrs. SCHNEIDER, Mr. BOLAND, Mr. HORTON, Mr. OBERSTAR, Mr. MOAKLEY, Mr. AKAKA, Mr. JEFFORDS, Mr. DONNELLY, Mr. ANNUNZIO, Mr. YATRON, Mr. MCKINNEY, and Mrs. ROUKEMA):

H. Res. 24. Resolution expressing the House of Representatives' opposition to an imposition of an import fee on crude oil and refined products; to the Committee on Ways and Means.

By Mr. DENNY SMITH (for himself, Mr. HANSEN of Utah, Mr. GINGRICH, Mr. DANNEMEYER, Mr. LUJAN, Mr. ROBERTS, Mr. CRAIG, Mr. HARTNETT, Mr. MARLENEE, and Mr. GREGG):

H. Res. 25. Resolution to provide that the Budget Committee of the House consider in detail the option of a freeze on Federal spending at fiscal year 1983 levels in developing Concurrent Budget Resolutions for fiscal years 1984, 1985, and 1986; to the Committee on Rules.

By Mr. PHILIP M. CRANE:

H.Res. 29. Resolution relating to the capital of Israel; to the Committee on Foreign Affairs.

H. Res. 30. Resolution to amend the Rules of the House of Representatives to eliminate the limitations on outside earned income of Members of the House; to the Committee on Rules.

By Mr. GONZALEZ:

H. Res. 31. Resolution providing for the impeachment of Paul A. Volcker, Chairman of the Board of Governors of the Federal Reserve System; to the Committee on the Judiciary.

H. Res. 32. Resolution providing for the impeachment of Paul A. Volcker, Anthony M. Solomon, Lyle E. Gramley, J. Charles Partee, Emmett J. Rice, Nancy H. Teeters, John J. Balles, Robert P. Black, William F. Ford, Karen N. Horn, Preston Martin, and Henry C. Wallich, as members of the Federal Open Market Committee; to the Committee on the Judiciary.

By Mr. ROYBAL:

H. Res. 33. Resolution expressing the sense of the House of Representatives that the Attorney General of the United States should grant extended voluntary departure status to members of the Silva class of aliens living in the United States; to the Committee on the Judiciary.

By Mr. SOLOMON:

H. Res. 34. Resolution expressing the sense of the House of Representatives concerning the validity of the current Selective Service registration system; to the Committee on Armed Services.

By Mr. WALGREN:

H. Res. 35. Resolution to amend the Rules of the House of Representatives to provide that legislation increasing Members' compensation, Federal income tax benefits, or limitations on outside earnings is considered separately from other legislation, is adopted only by a recorded vote, and does not take effect until the start of the Congress following the Congress in which approved; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

[*Omitted from the Record of January 3, 1983*]

By Mr. ALEXANDER:

H.R. 436. A bill for the relief of Kurt Perwolf, his wife Hilda Perwolf, and his son Christian Perwolf; to the Committee on the Judiciary.

By Mr. ANDERSON:

H.R. 437. A bill for the relief of Patrick Starkie; to the Committee on the Judiciary.

By Mr. BROWN of California:

H.R. 438. A bill for the relief of Toshiko Imamura; to the Committee on the Judiciary.

By Mr. HANSEN of Idaho:

H.R. 439. A bill for the relief of the Aetna Insurance Co. and other insurance companies; to the Committee on the Judiciary.

H.R. 440. A bill for the relief of Frederick Francisco Akers; Susan Ferniz Akers, spouse; Christopher Ferniz Akers, son; and Christina Ferniz Akers, daughter; to the Committee on the Judiciary.

H.R. 441. A bill for the relief of Monjaras Andres Arteaga; to the Committee on the Judiciary.

H.R. 442. A bill for the relief of Walter Mario Piccirillo, Emma Piccirillo, spouse; and Mario Williams Piccirillo and Roberto Piccirillo, sons; to the Committee on the Judiciary.

By Mrs. HOLT (by request):

H.R. 443. A bill for the relief of Ms. Chang Ai Bae; to the Committee on the Judiciary.

By Mrs. HOLT:

H.R. 444. A bill for the relief of Brett Williams; to the Committee on the Judiciary.

By Mr. HUNTER:

H.R. 445. A bill for the relief of In Hong Song and spouse, Sung J. Park; to the Committee on the Judiciary.

H.R. 446. A bill for the relief of Juan Escobar Rodriguez; to the Committee on the Judiciary.

By Mr. LEHMAN of Florida:

H.R. 447. A bill for the relief of Rosa Cecilia Auniga-Moya; to the Committee on the Judiciary.

By Ms. MIKULSKI (by request):

H.R. 448. A bill for the relief of Mirza Arqueta, Griselda Arqueta, Brenda Arqueta, and Clarisa Arqueta; to the Committee on the Judiciary.

By Mr. QUILLEN:

H.R. 449. A bill for the relief of Clemente Diaz Ibarra; to the Committee on the Judiciary.

By Mr. ROBINSON (by request):

H.R. 450. A bill for the relief of Beulah C. Shifflett; to the Committee on the Judiciary.

By Mr. SHUMWAY:

H.R. 451. A bill to validate conveyances of certain lands in the State of California that form part of the right-of-way granted by the United States to the Central Pacific Railway Co.; to the Committee on Interior and Insular Affairs.

By Mr. SMITH of Iowa:

H.R. 452. A bill for the relief of Jerome J. Hartmann and Rita J. Hartmann; to the Committee on the Judiciary.

By Mr. HANSEN of Idaho:

H. Res. 23. Resolution to refer the bill entitled "A bill for the relief of Aetna Insurance Company, and other insurance companies" to the Chief Commissioner of the U.S. Court of Claims; to the Committee on the Judiciary.

[*Introduced January 6, 1983*]

By Mr. BADHAM:

H.R. 718. A bill for the relief of Samuel C. Willett; to the Committee on the Judiciary.

By Mr. BEVILL:

H.R. 719. A bill for the relief of Frank L. Hulsey; to the Committee on the Judiciary.

By Mr. PHILLIP BURTON:

H.R. 720. A bill for the relief of Dalila Barrinuevo; to the Committee on the Judiciary.

By Mr. FISH:

H.R. 721. A bill for the relief of Karen Odell Donnelly; to the Committee on the Judiciary.

H.R. 722. A bill for the relief of Caterina Spadaro; to the Committee on the Judiciary.

By Mr. FORD of Michigan:

H.R. 723. A bill for the relief of Marsha D. Christopher; to the Committee on the Judiciary.

By Mr. GLICKMAN:

H.R. 724. A bill for the relief of Carlos Mebrano Gatson; to the Committee on the Judiciary.

By Mr. GONZALEZ:

H.R. 725. A bill to waive certain time limitations with respect to awarding the medal of honor to Rudolph Salais Vela; to the Committee on Armed Services.

H.R. 726. A bill for the relief of James A. Ferguson; to the Committee on the Judiciary.

H.R. 727. A bill for the relief of Marcelo Enrile Inton; to the Committee on the Judiciary.

By Mr. GOODLING:

H.R. 728. A bill for the relief of Remigio Aquino and his wife Ines Aquino; to the Committee on the Judiciary.

By Mr. SAM B. HALL, JR.:

H.R. 729. A bill for the relief of Tehran American School; to the Committee on the Judiciary.

H.R. 730. A bill for the relief of Ronald Goldstock and Augustus M. Statham; to the Committee on the Judiciary.

H.R. 731. A bill for the relief of six employees of the Pearl Harbor Naval Shipyard, Department of the Navy, Pearl Harbor, Hawaii; to the Committee on the Judiciary.

H.R. 732. A bill for the relief of Gregory B. Dymond, Samuel K. Gibbons, Jack C. Kean, James D. Nichols, and Roy A. Redmond; to the Committee on the Judiciary.

By Mr. HAMMERSCHMIDT:

H.R. 733. A bill for the relief of Raul Arriaza, his wife, Maria Marquart Schubert Arriaza, and their children, Andres Arriaza and Daniel Aivouich Arriaza; to the Committee on the Judiciary.

By Mr. HUBBARD:

H.R. 734. A bill for the relief of Mithila Rajendra Agshikar Bharne; to the Committee on the Judiciary.

H.R. 735. A bill for the relief of Kirsten Rytgaard; to the Committee on the Judiciary.

By Mr. KAZEN:

H.R. 736. A bill for the relief of Raul Lopez Maldonado; to the Committee on the Judiciary.

By Mr. LANTOS:

H.R. 737. A bill for the relief of Shanna Teresa Milich; to the Committee on the Judiciary.

By Mr. LEVITAS:

H.R. 738. A bill for the relief of Dr. William H. Wall; to the Committee on the Judiciary.

By Mr. LEWIS of California:

H.R. 739. A bill for the relief of John Delgado Adams; to the Committee on the Judiciary.

By Mr. LOTT:

H.R. 740. A bill for the relief of Elsie B. Lawson; to the Committee on the Judiciary.

H.R. 741. A bill to remove restrictions on the use of certain real property in Harrison County, Miss.; to the Committee on Veterans' Affairs.

By Mr. OTTINGER:

H.R. 742. A bill for the relief of Mr. Jose R. Dominguez-Miranda, Maria Celina Dominguez, Isabel Cristina Dominguez, and Luis Roberto Dominguez; to the Committee on the Judiciary.

By Mr. RUDD:

H.R. 743. A bill for the relief of Theda June Davis; to the Committee on the Judiciary.

By Mr. STUMP:

H.R. 744. A bill for the relief of La Paz Enterprises, Ltd.; to the Committee on the Judiciary.

By Mr. YOUNG of Alaska:

H.R. 745. A bill for the relief of Stephen C. Ruks; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 4: Mr. RITTER, Mr. BEREUTER, Mr. CONTE, Mr. FISH, Mr. KINDNESS, Mrs. MARTIN of Illinois, Mr. MILLER of Ohio, Mr. NOWAK, Mr. OXLEY, Mr. REGULA, Mr. WHITTAKER, and Mr. WINN.

H.R. 5: Mr. D'AMOURS.

H.R. 6: Mr. SUNDQUIST, Mr. EMERSON, Mr. MILLER of Ohio, Mr. WINN, and Mr. BROYHILL.

H.R. 135: Mr. LUNDINE.

H.R. 171: Mr. STANGELAND, Mr. QUILLEN, Mr. PAUL, Mr. HARTNETT, Mr. MOORHEAD, Mr. YOUNG of Alaska, Mr. DAVIS, Mr. SMITH of New Jersey, Mr. SILJANDER, Mr. MARRIOTT, Mr. HAMMERSCHMIDT, Mr. SUNIA, Mr. SHUMWAY, Mr. WINN, Mr. KINDNESS, Mr. STOKES, Mr. EMERSON, Mr. CHAPPELL, Mr. WON PAT, Mr. MCDONALD, and Mr. DENNY SMITH.

H.J. Res. 1: MI. RINALDO, Mr. FAZIO, and Mr. CLINGER.

H.J. Res. 2: Mr. OTTINGER, Mr. MCNULTY, Mr. SMITH of New Jersey, Mr. KOSTMAYER, Ms. KAPTUR, Mr. TORRICELLI, Mr. STOKES, Mr. BOSCO, Mr. ANDERSON, and Mr. OWENS.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

[*Submitted January 3, 1983*]

1. By the Speaker: Petition of the Charge d'Affaires, a.i., Embassy of the Union of Soviet Socialist Republics, Washington, D.C., relative to a message of peace; to the Committee on Foreign Affairs.

2. Also, petition of the Hoopa Valley Business Council, Hoopa, Calif., relative to the judgment award of the U.S. Court of Claims; to the Committee on Interior and Insular Affairs.

3. Also, petition of the Common Council of the city of Lockport, N.Y., relative to Federal antitrust laws; to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

MISSING CHILDREN

HON. ORRIN G. HATCH

OF UTAH

IN THE SENATE OF THE UNITED STATES

Monday, January 3, 1983

● Mr. HATCH. Mr. President, I rise before this distinguished assembly to focus additional attention on the tragedy of missing children. The Department of Health and Human Services has estimated that approximately 1.3 million children disappear each year. A significant number do not leave of their own accord.

Statistics do not disappear, but children do; dimpled babies, active preschoolers, little leaguers, and young teens are stolen, possibly mistreated, thus, leaving mothers, fathers, and siblings stunned and brokenhearted. As more and more children are victimized each year, the missing children nightmare has been brought to the forefront of national consciousness.

In response to increased public awareness, President Reagan signed into law the Missing Children Act. I was pleased to cosponsor this legislation of which the chief advocate in this body was Senator HAWKINS. The main component of the law gives parents the right to insist that their missing child's records are included in the FBI's computorized register and distributed to local law enforcement agencies throughout the country. This federal law is a step in the right direction, but in addition, we must build an active framework of concern and awareness within each of our communities.

Utahns were jarred into action by the occurrence of some tragic incidences which shocked our entire Nation. Television documentaries and news and magazine articles have detailed Utah's missing children cases. Danny Davis had not been seen since the afternoon he disappeared while shopping with his grandfather at a Salt Lake supermarket. Is he living? Is he being abused? Will we ever find him? Three-year-old Rachael Runyan was finally found—but long after she was dead. Her small body was badly decomposed and almost beyond recognition. With her hands tied behind her back, she was located in an isolated canyon creek bed.

But these are only two of many examples. Missing children are a horrifying reality. It is a reality that exists not only in our Nation's urban centers, but in the small country towns as well. Indeed, the people of the Rocky Mountain valleys are no longer naive to the grim disaster of missing children. The citizens of Utah, faced with this ugly reality have begun to fight back, and I would like to briefly describe their efforts. The initiatives taken by many citizens in Utah—law enforcement agencies, private organizations, and individuals in the State of Utah are worthy examples to all communities. I am proud of their efforts, and I urge you to share them with your constituents.

Thousands volunteered in the search for Rachael Runyan. Businesses and churches donated money, facilities, and manpower. A committee formed to organize the search for Rachael, working out of a neighborhood center, the committee began a nationwide distribution of flyers with Rachael's picture. From this a composite drawing of the suspect was made possible. The community raised $20,000, to be matched by the Runyans, for a $40,000 reward.

Out of this initial crisis, a continuing child protection effort evolved. The Utah Parent and Teacher's Association was the first to swing into action, dusting off unused child protection programs presented in the schools by local law enforcement agencies. They reinstated a force of mothers, "parent watch," to patrol streets during the hours when children are going to and from school. With the assistance of the Utah Association of Women, the PTA is promoting "McGruff House" posters to be placed in windows telling a child in trouble that he can enter that house for refuge and help.

Town meetings have been sponsored by law enforcement agencies, county and city governments, PTA's, and the Utah Association of Women to formulate policies and instruct parents in preventative measures and appropriate action to take should the need arise. All Utahns have been instructed to report any suspicious looking individuals.

In addition, the Utah Association of Women has organized a new committee with the sole responsibility of developing, coordinating, and promoting various initiatives. Volunteers disperse child indentification packets—"Identi-Child Kits"—which are produced by "Friends of Child Find." The kit includes identification instructions, precautionary measures, procedures to take when a child is missing, and guidelines for identifying a suspect and an automobile. This type of information, when really available to police, can expedite the speedy location of a missing child.

The Utah Association of Women has also organized groups of women to lobby the Utah State Legislature for stronger kidnapping legislation. Partially because of their encouragement, the State Department of Public Safety has renewed intensive training of police in kidnap recovery procedures and is developing an extensive roadblock and communication system. Further, the department of public safety, with the active support of the Utah Association of Women and the PTA, is taking positive action toward cracking down on "juvenile protection" violators. This law prohibits leaving a child in a situation that could prove harmful to the child.

Indeed the scope of contributors is impressively broad, and I have only briefly mentioned a few examples. Programs aimed at preventing missing children and locating those that are lost, have succeeded with outstanding community support, and without Federal intervention. As a Senator, and as a father, I am deeply grateful for the tireless efforts of Utahns in preventing and coping with the tragedy of this all-too-common crime.

DEVELOPING THE USES OF ARID LAND PLANTS

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. BROWN of California. Mr. Speaker, Congress has been spending a great deal of time examining our dependence upon other countries as sources for a number of important materials. We experienced a rude awakening to our vulnerability with the oil embargo and have become aware of a number of other strategic and essential materials in the same category.

For some of these materials there is a solution to the problem of foreign dependence. Many plants growing in this country produce suitable replacements for products we are now importing. As many of my colleagues know, I have been working for some time to get these plants into commercial production. But one of the greatest impediments to commercialization is the financing required to bridge research on these plants into the commercial sector.

To overcome this problem, I am introducing legislation to establish the Arid Lands Renewable Agricultural Resources Corporation. This Corporation is identical to the Synthetic Fuels

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Corporation but is directed at replacing nonfuel uses of petroleum with materials from renewable plant sources. It is focused upon arid land plants because many of these plants are proven sources of oils and hydrocarbons which can be used to replace imported petroleum.

The Corporation would use price guarantees, loan guarantees, direct loans, and joint ventures in that order of declining priority to encourage the production of critical materials from plants native to the Southwestern United States. Most of the bill details the function and organization of the Corporation, which is identical to the one that Congress approved for the Synthetic Fuels Corporation. The remaining parts of the bill detail the purpose and needs of this Corporation.

There are sections of this bill pertaining to production goals, expenses, and so forth, which have been purposely left open, to be made final after congressional deliberations. The cost of this legislation is dependent upon the production goals and is likewise to be determined later.

Some of my colleagues will undoubtedly ask why we need such a Corporation. Let me provide some background.

The plants which are the subject of this legislation are all native to the Southwestern United States and are drought resistant, more tolerant to salinity than other commercial crops, and all produce products in demand by industry and our Defense Establishment. They have been the subject of much research by universities and industry, and are at the threshold of commercial production.

One of the plants, guayule, is a semiarid perennial shrub which produces natural rubber and a number of commercially attractive resins. It has been used by industry in the past and, during World War II, was the subject of massive development as a part of our war effort. This country currently imports 100 percent of its natural rubber—800,000 metric tons—at a cost of nearly $1 billion per year. The Department of Defense is currently examining its natural rubber needs with an eye toward encouraging guayule production. Our strategic stockpile goal for natural rubber of 850,000 long tons is not close to being met with only 120,000 tons in storage.

If a classic example of the difficulties associated with the commercialization of a new idea or product, guayule has not been developed to meet the existing demand for natural rubber. Industry will not incorporate guayule in its products until there is an assured volume of plant material available. Farmers will not enter into commercial production until a market can be guaranteed. The Federal Government has been unwilling to finance the development of this crop without significant industry funding. Industry has been reluctant to make large development investments on this long-term payback undertaking without some financial assurances from the Federal Government.

Another plant which is the focus of this bill is jojoba, again a native Southwestern plant which produces a nut yielding a high quality lubricant. This lubricant has many times the life of petroleum products and is beginning to be marketed for use in the transportation industry. The oil, technically a liquid wax, is also useful as a feedstock for making plastic and fertilizers and has use in dermatological applications. Those of you who have seen advertisements for jojoba shampoo know of other commercial uses. Jojoba oil can replace petroleum and petrochemicals in many of these applications.

Euphorbia lathyris, also known as gopherweed, produces a hydrocarbon latex with a number of critical uses. This hydrocarbon can be used as a chemical feedstock as well, and has in addition produced high octane gasoline in laboratory tests. Much research is underway but, again, commercial development of this petroleum-replacing plant is not proceeding at a pace commensurate with the national need.

Circubita, commonly called buffalo gourd, is another arid land plant with considerable economic importance. Circubita seeds are a source of oil with many of the same applications as peanut and sunflower oil. The yields per acre are in the range of commercial production of soybeans and peanuts, but require much less water.

This is only a partial list of the plants which can be moved, using this Corporation, into commercial production.

Many of my colleagues are probably in agreement with me on the value of developing these plants but some may wonder why the need for this Corporation.

First, I consider these plant resources to be just as critical as the oil shale and sand or the plant sources of alcohol fuels which are the focus of the Synthetic Fuels Corporation. Yet the Synfuels Corporation is not set up to deal with the nonfuel petroleum demand addressed primarily in this bill.

Second, private industry cannot be expected to make the necessary development investments on its own. As with the Synthetic Fuels Corporation projects, the payback for investments made in these agricultural sources of materials is not within a length of time likely to be considered by a business as a justification for the investment. The efforts authorized in this bill are of critical importance to the strategy and defense of the United States and are a legitimate Federal concern.

This legislation has many advantages over the projects planned for the Western United States under the authority of the Synfuels Corporation. Those projects seek to save one limited resource—oil—but at the expense of another limited resource—water. The synfuels efforts planned for the West are entirely antithetical to our region's resource conservation needs. Water is already scarce in the arid West and many of the synfuels projects will only make that situation worse.

Also, the synfuels projects are extremely disruptive, causing rural areas to swell in numbers, with armies of outsiders coming to construct and run these facilities. This bill will use the existing farming structure and will increase the cropping options of Southwestern farmers.

But the most important reason is the potential for the creation of new industries and new jobs centered on the growing and processing of these crops. The Federal Government, through this Corporation, will have minimal budgetary exposure but will be able to leverage large amounts of private sector funding. We will be creating a Government-industry partnership which we all see as essential for revitalizing our economy.

What this legislation represents is one approach to removing the last barrier in the technology transfer process, the funding of the initial commercial venture. If we are serious about bringing new products and processes into the marketplace, then we would take a serious look at the approach embodied in this bill.●

A BILL TO AMEND SECTION 514(c) OF THE INTERNAL REVENUE CODE

HON. JAMES M. SHANNON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. SHANNON. Mr. Speaker, today I am reintroducing a bill to amend section 514(c) of the Internal Revenue Code, a provision of the tax law that restricts the growth of endowments that support colleges, universities, and other educational institutions.

Growth in educational endowments is a key way for the private sector to increase its ability to underwrite a greater share of educational costs that must be borne by non-Federal sources. As educational costs have risen over the last decade, the need for additional support from all sources has intensified. If we are to look beyond the Federal Government for a larger share of the necessary assistance, we must create an environment where that aid can more readily be obtained. One of the most important sources for such

support is our educational endowments. In my judgment, these endowments are a national treasure—a vital resource for current students and our legacy to future generations of students.

To illustrate the present squeeze on higher education, one need look at one area—federally funded student aid. Over the last few years, in constant dollars, that aid has been cut by 23 percent, according to the American Council on Education. This growing gap in our commitment to universal access to quality education must be bridged.

I believe the legislation I am proposing today will move us toward that goal. Mr. Speaker, enactment of this legislation will enable educational institutions to diversify their investment portfolios and provide a greater hedge against inflation through investment in real estate.

Real estate prices reflect the fact that the use of debt financing is customary in real estate purchases. Many investors, including pension trusts (representing an accumulation of funds 20 times greater than the endowments of all educational institutions combined) are permitted to earn income from leveraged real estate free of tax.

Consequently, educational organizations are placed at a competitive disadvantage. To the extent they acquire debt financed real estate, they must accept a lower rate of return than pension trusts on an identical investment because the income earned by an educational organization is subject to tax and yields less net income. The bill I am proposing will eliminate this inequity for tax-exempt educational organizations.

I want to emphasize that my bill would involve little or no revenue loss. The assets of educational endowments equal only about 5 percent of the assets of pension trusts which already enjoy this exemption. It has been estimated that the revenue loss that would occur with this change would not exceed $500,000.

In 1969, the Congress enacted section 514(c) to eliminate so-called sham transactions where businesses utilized the tax-exempt status of certain organizations through sale-lease-back arrangements. The statute curing the abuse has proved to be unduly restrictive. The penalty tax imposed now is a serious disincentive for tax-exempt educational organizations seeking legitimate passive real estate investments.

Thus, under present law tax-exempt educational organizations are subject to tax on income from debt financed real property not utilized in education-related activities. The effect of existing law has been to encourage tax-exempt educational organizations to invest in more risky, less stable, stocks and bonds. This has occurred because the income from such investments is treated as passive investment income and is not subject to tax while income from leveraged real estate investments is subject to Federal income tax under a complex formula.

The bill I am introducing today would simply extend the exemption from this tax already enjoyed by tax-exempt pension trusts to tax-exempt educational organizations. Moreover, my bill includes a series of safeguards to prevent the use of abusive type transactions that led to the enactment of current law.●

BALANCE OF TERROR

HON. ARLAN STANGELAND

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. STANGELAND. Mr. Speaker, for Americans, there can be no greater challenge than the complex task of preserving our liberty, while also backing away from the nuclear "balance of terror."

Survival and freedom must be our equal goals. No matter how complicated this issue becomes, we cannot ignore our responsibilities.

The only practical way to have both the United States and the U.S.S.R. reduce their arsenals is to engage in face-to-face negotiations. And the best way for such talks to succeed is for the Soviets to realize that America is just as united in its commitment to liberty as it is in its genuine desire for peace and stability.

At this time, our best hope for improving the situation rests in the two negotiations being held in Geneva. These strategic arms reduction talks (START) could lead America and the U.S.S.R. to reduce the long-range and regional nuclear weapons in their arsenals, thus lowering the terrible risk of nuclear war.

On the same day last week, President Reagan and Yuri Andropov expressed optimism about these START negotiations. I share their optimism, if the American people can present a united front on this crucial issue.

There is room for disagreement on the approaches to preserving our liberty while reducing nuclear arsenals. But at these negotiations, America's envoys must have our full support.

For that reason, I am cosponsoring H.J. Res. 4. This resolution expresses full congressional support for our negotiators in seeking mutual, balanced, and verifiable nuclear reductions leading to equal and significantly lower weapons levels and decreased risk of nuclear war.

The resolution also urges negotiators to reduce first those weapons which are so fast that they could trigger nuclear war before world leaders can contact each other. These include the short-range missiles which the Soviets have placed in Eastern Europe.

The resolution also urges negotiators to work for new "confidence-building" proposals, such as improved communications which would reduce the risk of nuclear war starting because of error, misunderstanding, or equipment failure.

The issues of survival and freedom transcend all factions, all philosophies, all partisan political consideration. Every responsible American must work for the reduction and elimination of nuclear weapons from the arsenals of every nation of the world.

But we cannot do it alone—the Soviets must cooperate. And the best way to guarantee that they will negotiate in good faith is for the Congress to show that it is in full support of our negotiators, who are working to preserve our freedom and survival.●

DREW LEWIS: AIDE EXTRAORDINAIRE

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. WOLF. Mr. Speaker, transportation is a priority issue in the 10th District of Virginia and soon after I began my first term in the House in 1981, I had the privilege to meet with Secretary of Transportation Drew Lewis to discuss the transportation problems of northern Virginia and particularly National and Dulles Airports, the two federally owned facilities located in the 10th District.

From that first meeting I was impressed with Secretary Lewis' genuine concern about these issues and his willingness to listen and to assist in solving those problems. From that meeting, too, evolved the initial work on the Metropolitan Washington airports policy, implemented in December 1981, which has proven to be a good beginning in achieving its goal of guiding the future operation and development of Washington National and Dulles International Airports and to improve the quality of the environment in the area.

Secretary Lewis' leadership and his direct and personal interest in addressing the needs of the Washington community and particularly northern Virginia made the critical difference in the adoption of the policy through which progress has been realized to achieve a safer and more efficient balance in traffic between National and Dulles.

He has also recognized the importance of mass transportation to the Washington metropolitan area and

has consistently supported funding for Metrorail.

In addition, his impressive accomplishments in just 2 years at the helm of the Department of Transportation include the sensitive handling of the air controllers' strike with his major concern to assure the safety of the Nation's airways, while also addressing problems raised about the management policies of the Federal Aviation Administration and later making changes to improve those policies to prevent future problems. In a related aviation issue, under Mr. Lewis' guidance, a multibillion-dollar program to modernize the air traffic control system was begun.

It was also Drew Lewis who recognized the deteriorating condition of the Nation's infrastructure and the critical need to repair the country's highways and bridges and first proposed early last year an increase in highway taxes to fund those repairs, with a portion also going for mass transit projects. After the proposal garnered the support of admijistration and congressional leaders, he worked round the clock during the recent special session of the 97th Congress to assure passage of highway legislation for that purpose.

Drew Lewis vision, creativity, and managerial expertise are qualities which are all too rarely found in our leaders today. His hard work and diligence earned him the respect of Members from both sides of the aisle and his recently announced resignation will leave a void in the Cabinet which will be next to impossible to fill. Not only is northern Virginia and the Washington community losing an ally, but the entire Nation is losing a dedicated public servant who will be returning to private industry on February 1.

On behalf of the people of the 10th District of Virginia, I offer sincere appreciation to Secretary Lewis for his help and guidance on so many transportation projects in this area and wish him continued success in his new position in the private sector.

I would like to share with my colleagues the following editorial from the Washington Post which pays tribute to Secretary Lewis as an "aide extraordinaire":

[From the Washington Post, Dec. 31, 1982]

DREW LEWIS: AIDE EXTRAORDINAIRE

Given the fact that transportation is usually not among the first-string positions in a president's Cabinet, the high regard that Drew Lewis has enjoyed as secretary of transportation is all the more notable. Topping a lengthy list of accomplishments is his latest—the nickel-a-gallon increase in the gasoline tax, for the construction of highways, bridges and mass transit systems. Long before even President Reagan would endorse this levy, Mr. Lewis was point man for the tax increase—meeting with potential opponents, working into the formula a share of its yield dedicated to transit and greasing the skids for it on Capitol Hill.

The most difficult situation Mr. Lewis says he faced was the 1981 PATCO strike. He had tried to negotiate a new contract with the air traffic controllers' union, and a generous settlement had been agreed to by the union leaders before the strike occurred. Mr. Reagan decided to fire the strikers, and Mr. Lewis supported the action vigorously—at the same time commissioning an important study of air traffic control procedures and supervisors' attitudes that was to find management weaknesses in the Federal Aviation Administration.

The secretary's attention to detail and knowledge of the Washington scene extended as well to the local area—from National Airport/Dulles policies to money for Metro and new life for Union Station.

The prevalent—and sound—view in the White House is that President Reagan is losing an exceptionally valuable Cabinet officer and team player. In two fast-paced years of selling and shepherding significant policies for the president, Mr. Lewis has earned widespread bipartisan respect for his keen political sense, management ability and intimate knowledge of the complex fields that his department is charged with overseeing. All this, coupled with strong loyalty, made Secretary Lewis a standout in an administration not exactly overstocked with such successful operators.●

RETIREMENT OF ALBERT M. LEDDY

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. THOMAS of California. Mr. Speaker, one of Kern County's most able law enforcement officers, District Attorney Albert M. Leddy, is retiring this month, and I would like to commend his public service to my colleagues.

Albert Leddy has been considered one of the most effective district attorneys in Kern County's history. Congress often debates Federal support for local law enforcement efforts, and I have supported many such measures as a Congressman, but in truth, we cannot actually enforce the laws of our Nation and its States; that must be left in the hands of those such as Albert Leddy. It is fortunate that in Kern County we have had competent, effective, and respected administrators for our justice system.

Albert Leddy was educated in Bakersfield and at the University of California at Berkeley, where he received his bachelor's and law degrees. Following law school, Mr. Leddy returned to Bakersfield to begin his career in law in 1952 when he served as deputy district attorney and then as assistant district attorney until 1965.

In 1970, Mr. Leddy was elected district attorney, and he has been reelected twice since before retiring this year. He is on the board of directors of the California District Attorneys Association, and he is chairman of the University of California Continuing Education of the Bar Advisory Group on Criminal Law.

Mr. Leddy's civic affiliations include Rotary, Elks, American Legion, Italian Heritage Dante Association, Kern County and California Bar Associations, and Kern County Law Enforcement Administrators. As it is with outstanding people, it seems that his services are sought and obtained by many organizations.

As Mr. Leddy retires from the office in which he has served so well, I wish to congratulate him and extend my best wishes to him and his family.●

REPORT ON THE TAMPA BAY REGIONAL PLANNING COUNCIL AREA ON AGING

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. YOUNG of Florida. Mr. Speaker, to better serve our Nation's older Americans, the Congress in 1973 amended the Older Americans Act to create area agencies on aging which are charged with administering the Older Americans Act at the grassroots level.

The General Accounting Office in 1981 evaluated the success of 12 area agencies throughout the United States to determine if these agencies are serving older Americans as planned.

The Tampa Bay Regional Planning Council Area Agency on Aging, which serves the senior Americans I represent in Pinellas County, Fla., was not one of the agencies included in the GAO report. In an effort to evaluate the Tampa Bay Agency on Aging, Ben Lowe, a distinguished journalist who has worked as my senior intern in Washington and was my representative to the 1982 White House Conference on Aging, used the criteria of the General Accounting Office and reviewed the Tampa Bay agency.

The agency is of great importance to the congressional district I represent, which has 141,405 residents 65 or older—one-quarter of the district's total population. In his report to me, Ben Lowe concluded that the Tampa Bay Area Agency on Aging is "well-run, aware, and efficiently functioning" and that the agency's director, Julia E. Greene, and her staff are "doing all they can to meet their responsibilities toward aging Floridians."

For the benefit of my colleagues, I would like to submit Ben Lowe's well-researched and complete report following my remarks.

To: The Honorable C. W. Bill Young, Member of Congress, Eighth Congressional District
From: Benton S. Lowe, St. Petersburg, Fla.
Subject: Tampa Bay Regional Planning Council Area Agency on Aging

REPORT

The General Accounting Office, for its report, surveyed six State Agencies and eleven area agencies. The Tampa Bay Regional Planning Council Area Agency was not one. In Florida, "area agencies" reviewed were in Winter Park and Fort Pierce. Two others were in Missouri, two were in Oregon, two were in Arizona, two were in California and one was in Loveland, Colorado. Among others, the State Offices visited included Florida's Department of Health and Rehabilitative Services.

It is not intended that this offering be detailed and ponderous. It is meant to be an impression relayed to you of how the Tampa Bay Regional Planning Council Area Agency on Aging seems to be standing up to the criteria of the General Accounting Office. This report is based on interviews, observation, and an understanding of the issues acquired after some years experience with the elderly in the Sixth Florida District Area Agency on Aging. From a personal standpoint, even after years of involvement, one is never sure how things are and the General Accounting Office approach was an ideal one to follow for this writing.

One of the major criticisms of the General Accounting Office was that the Area Agencies on Aging (hereinafter called "the agencies") paid off contractors in provider agreements (congregate dining, etc.) without exploring the level of service or even ascertaining in fact whether the service has even been provided. The Tampa Bay Regional Planning Council Area Agency on Aging (hereinafter called "this agency") maintains a control on expenditures versus level of performance to the extent that funds spent are perpetually compared with services rendered. Two things are thus found: (1) how much money is left at any given time versus how much yearly service has been provided and (2) in doing (1), the controls themselves indicate performance. (One thing now being worked on is a better method of ascertaining how many people are accurately being served in various categories, duplications, etc.)

The General Accounting Office criticized "the agencies" for their general contracting procedures. "This agency" uses a Health and Rehabilitative Services model contract but adds strengthening clauses where possible. This agency never contracts with a profit organization as the concept is to contractually farm out needed elderly service to providers existing for those explicit needs. Meals, neighborly services, homemaker services, chore services, transportation, and the like are all included. All subcontracts under a prime contract are approved. This agency has eighteen contracts which procure 34 different services for the elderly. All of the contractual relationships are approved by the Florida Department of Health and Rehabilitative Services. (There is much feeling that better supervision could be furnished by the Atlanta region of the Department of Health and Human Services.) Thus, it appears now what the area agencies really are. They are administrative offices creating and administering a group of contractors who furnish services mandated under the terms of Title III-B of the Older Americans Act. It is the backbone of the "aging network" which includes the Administration on Aging (of the Department of Health and Human Services), 57 state agencies on aging, and 6 territorial units, and about 655 local area agencies on aging. The total funds this year for Title III-B totals about $252 million. This Area Agency on Aging has about $5 million to dispense, and this is based on a formula grant basis prepared by each State. The census of older people in an agency territory also cannot be overlooked as this, plus need of the area plus other contributing factors form the basis of the formula. This Agency is among the top agencies in this regard.

To return to contracts and performance, this Area Agency seems to be nearly completely free of the weaknesses that the General Accounting Office found elsewhere. In fact, it seems to be a little ahead of the criteria of the General Accounting Office because during contract performance, when need lessens or contractors show that services could be better used in other categories, this is done by contract amendment or scope adjustment and the control documents reflect the changes. And as for payment, during start-up times (fiscal and contract years are January to December), 1/12 of the contract cost is paid in each of January and February and then in March actuals are available and the agency goes back and adjusts to actual. This is a good contracting procedure. Extra surveillance is also given new resources under contract but this is not too impressive if tight surveillance is not also put on the old contractors. This agency, however, seems to be doing well on watching all its contractors.

To support the feeling of this writer that Tampa Bay Regional Planning Council's Area Agency on Aging is doing a workmanlike job of administration in contracts and services control, attached are Exhibit I (contractual agreement), Exhibit II (analysis of spending), and Exhibit III (control of performance). Exhibit IV is a group of three administrative documents used in this agency's control of services and contractors. It would be fine if a properly-qualified person within the Area Agency on Aging could be designated, delegated contracting officer. As it is, the federal contracting officer has authorized the Department of Health and Rehabilitative Services in Tallahassee to act in such capacity. The inherent power of a federal contracting officer is well-known throughout government and it may well be that this power has to be contained at the Department of Health and Rehabilitative Services but the idea is still meritorious. The other probably unachievable goal would be to escape the Department of Health and Rehabilitative Services altogether and operate closer to the Atlanta contracting officer.

Although the agency exists to administer the funds given it by the Congress via the Older Americans Act, it also constantly is alert to the things that go with such responsibility. The General Accounting Office was quite critical of the fact that many of the Area Agencies on Aging that it explored persisted in screening the income of the elderly served as a part of determining a person's eligibility for services under Title III-B. This is prohibited under the Older Americans Act. Two of the three Florida area agencies that the General Accounting Office surveyed fell under this criticism. This agency is quite active in community care for the elderly. As an example, which includes a variety of services like some health care (catheter techniques, bandage changing, etc.): homemaker services (shopping, lunches, clean house, etc.); and, an area between the two foregoing, personal care, which is a variety of things. In Day Care, taking invalids to day care centers to relieve the family, dialysis and other more involved health care adjuncts are done. However, the agency does a lot of care need investigation but generally for making sure the proper service is made available. In the use of the services outlined above, this agency does allow contributions from those who wish to make them. Under a new Florida law in community care, in certain instances, a sliding scale of fees based on income is part of the eligibility. It is not working very well. Most of the services are to add to those furnished by family or other sources but when things like stroke and the like are involved, a more detailed arrangement is necessary.

It is noteworthy that this agency contributed one-half of all of Florida's program income for the last fiscal year.

However, despite the confusion in this area, this agency sees to it that those who need services furnished by the sources funded by this agency, receive them. It is generally true that in the Florida Sixth District, many older people do not depend on outside help for their living requirements. But, many do, too.

The General Accounting Office did not think that Area Agencies on Aging were giving proper attention to the priority service requirements. This agency (and all other) under law must spend at least 50% of its funding for the delivery of access services (transportation, etc.), in-home services (homemaker, home health aide, etc.), and legal services. This requirement is being met at this agency. The mandate of the law is respected.

The General Accounting Office felt that the area agencies were woefully lax in using Title III-B funds as catalysts to attract needed outside resources. (This, by the way, is an increasing requirement as federal funds get more difficult to obtain.) This agency has done acceptably well in this. As an example, it made possible some books with large print for bookmobiles and then, the County stepped in the took over the service. In another case, this agency contributed much toward the progress of the Senior Center in St. Petersburg and now, it is supported by the City and other elements and is a tremendous success. Again, a badly-needed mobile dental care service was propelled by this agency until it was picked up by local government. This service is a dynamic example of practical service to needy elderly.

This writer also explored some things he had wondered about that you would also ponder. It is a dilemma over how many older people the Area Agency on Aging should employ. The Federal Register mandates that the area agency must give preference in hiring to all those over 60. The Tampa Bay Regional Planning Council Area Agency has eleven personnel. Older Americans number four. It must be recognized that younger people must also have a chance at employment and a chance to grow in this kind of effort. The younger people in Tampa Bay Regional Planning Council's Area Agency do understand their work. They do not patronize or make light of or ridicule the many older people with whom they come in contact. This is admirable. I cannot say this of a lot of younger geriatric careerists. It is also true that many older people who may need work cannot qualify for this kind of complex activity. Many

might be interested in part-time work but there is no provision for it. All in all, it would appear that considering the realities of the situation and the dedication of Director Greene and staff, at least a sincere approach and recognition is being kept in mind. However, it is certain that more pressure will develop in this category of operations, from a variety of standpoints.

During the years (literally) of this writer's observance of this agency, remarks have been heard regarding whether or not the level of meetings and regional, state, and national conferences were all necessary. Certainly, there are many. This was explored. Certain and recurring new staff members have to be oriented to various degrees and this is part of the "meeting" requirement. The Director, Julia Greene, has become a resource, nationally, in this kind of endeavor and she often heads academic-type activities at conventions and meetings. She combines these larger meetings into opportunities to achieve things which might have to be done at separate meetings. Those who attend the meetings, converse with one another and observe the constantly-changing atmosphere of the older American achieve new understandings in housing grants, humane approaches, preventative health and legal restrictions thereon (a coming field) and other things. One new effort, badly needed, is in the field of retirement planning for those some years away from the actual date. However, it would be recommended that strong surveillance be exerted on out-of-office activities.

This concludes the report. This writer generally can reassure you that the Sixth Florida District has at its service a well-run, aware and efficiently-functioning Area Agency on Aging. There are some things that could be improved but these are mostly outside the decision-making authority of the Tampa Bay Regional Planning Council Area Agency on Aging. It is satisfying to be able to report this good state of affairs because so many worthwhile services are being administered by the group being reported on. Older Americans will continue to have trouble, and circumstances will continue to change to add to the dilemma, but all in all, considering the problems, those on the firing line here are doing all they can to meet their responsibilities toward aging Floridians.●

REVITALIZING OUR ECONOMY

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. BROWN of California. Mr. Speaker, in a few days the new unemployment figures will be announced. If the trend continues, it will be even higher than the 10.8 percent post-depression record of November, with more than 11 million people looking for work, millions of others settling for part-time employment, and still millions of others simply too discouraged to continue to look for work. Even the President's generally optimistic economic forecasters predict that unemployment will not go below 10 percent this year.

Other economic factors look bleak as well. Federal budget deficits have reached levels almost beyond comprehension and they continue to grow. Factory utilization has not been so low since the Great Depression. Record numbers of businesses are going bankrupt. The agriculture, steel, automobile, and housing industries, which in the past have provided the foundation of our industrial strength, are suffering from a prolonged depression. We have strayed off the course of economic prosperity.

The causes of our present economic difficulties are many and complex. Some of the problems have been developing for more than a decade and some are the result of recent short-sighted policies. There are fundamental changes taking place in the world economy, changes to which we have been slow to respond. International trade is becoming an increasingly important part of the world economy. Our economic leadership in the past has resulted in large part from our lead in technology and industrial innovation. In the last generation, 9 out of every 10 jobs created have been in the service and information sectors, and new markets continue to grow in industries such as computers, communications, electronic components, aerospace, pharmaceuticals, energy, and bioengineering.

Now other countries are realizing the important role that technological developments will play in the coming decades. Other nations, such as Japan and France, are using targeted research and development plans to challenge the United States in markets of both mature industries and high-technology industries. This fundamental change in the world economy forces us to establish new policies for both the short term and long term to insure that the United States remains competitive in the world economy.

Meeting that challenge will require an investment in people and technology, and economic cooperation among labor, small business, large corporations, educational institutions, and government. New technologies are essential both to make basic industries competitive and to expand opportunities in high-technology growth industries. Therefore, we must invest in a work force which is adequately educated and trained to function in a technological society. Hearings on innovation and productivity have made it clear that the present efforts of the Federal Government to provide technically trained workers and to facilitate technology development are fragmented and are too small to provide a focus for a national economy in which innovation can thrive. I am introducing legislation today which will attempt to remedy this aspect of the problem.

We must act now to restore economic growth and regain economic security. No single, simple response will be enough. But an emphasis on our economic strengths—innovation and productivity specifically—can help to meet the economic challenges of today. An understanding of our economic capabilities and the nurturing of our economic potentials will insure not only a brighter future for our own children, but for all the children of the world.●

NATIONAL DAY OF PEACE

HON. JAMES M. SHANNON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. SHANNON. Mr. Speaker, the issues of war and peace have been on the mind of every American in recent months. On the one hand, the administration has been calling for a $1.6 trillion increase in defense spending, saying that we have been falling behind the Soviet Union in nuclear arms and that it is essential for us to build more of them. On the other hand, people all over the country have become increasingly concerned that this unending arms buildup could lead us into a nuclear war. In letters, petitions, and local referendums they have overwhelmingly expressed their support for a halt to these preparations for a war that nobody wants to fight. The administration may claim that these people are influenced by Communists, but there is simply no ignoring the fact that a deep and genuine desire to turn away from war and to work toward peace has been growing in our country.

For the past few years, several of my constituents in Massachusetts have set aside a day to express this desire for peace, to take some time to stop and think about the importance of international peace and the prospects for achieving it. People have gathered on the first Sunday of every August to celebrate peace with dance, music, and theater. Similar celebrations have been held in other parts of the country. I think that it is important for all Americans to have this opportunity to devote a day to the celebration of peace. For this reason, I am introducing the following resolution to establish the first Sunday in August as a "National Day of Peace":

Whereas all Americans need to reflect on the prospect of peace among the peoples of the world; and

Whereas a time should be set aside when people of all shades of opinion can come together in unity to consider the possibilities for peaceful coexistence: Now, therefore, be it:

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled, That the first Sunday of every August is designated as "National Day of Peace" and the President is requested to issue a proclamation

calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Mr. Speaker, whatever our individual views may be on defense matters, I think that all of us can agree that peace is the goal we are all striving for. I urge my colleagues to join me in sponsoring this legislation that will set aside a day to remind us of that goal and to give us a chance to reflect on how we can best achieve it.●

A BILL FOR THE RELIEF OF THEDA JUNE DAVIS

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. RUDD. Mr. Speaker, I rise today to reintroduce a private bill to correct an injustice that has been done to a constituent of mine while working for a program funded and supervised by the Federal Government.

Miss Theda June Davis of Phoenix, Ariz., is a schoolteacher who was hired by a federally funded job training program known as SER/Jobs for Progress in 1970 to 1971.

During the course of her employment, Miss Davis was passed over for promotion. She filed a claim against Jobs for Progress for discrimination based on sex, and was successful in obtaining a judgment in her favor. In addition, she was awarded some $35,000 compensatory damages by a Federal court.

While Jobs for Progress is a fully federally funded grant program, it cannot, by law, use its funds to pay claims. The Federal Government supervises this program, funds this program, makes all the rules for this program. Yet, Miss Davis, who has been wronged by this program cannot be compensated by those responsible. The bill that I am introducing would not right the wrong that has been committed, but it will compensate Miss Davis for her hardship, and carry out the lawful award given her by a Federal court for damage done to her by a Federal program.

H.R. 743

A bill for the relief of Theda June Davis

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury shall pay to Theda June Davis of Phoenix, Arizona, out of any money in the Treasury not otherwise appropriated, the sum of $35,499.25 plus interest thereon calculated at the rate of 6 per centum per year from December 1, 1976, to April 3, 1980, and at the rate of 10 per centum per year from April 4, 1980, to the date the sum is paid. Such sum is the amount of a court judgment in favor of Theda June Davis against a nonprofit Arizona corporation based upon a finding of sex-based discrimination. The Arizona corporation is totally funded by Federal grants from the Department of Labor.

SEC. 2. No part of the amount provided for in the first section of this Act in excess of 10 per centum thereof shall be paid to or received by an agent or attorney on account of services rendered in connection with the claim described in the first section, and the payment or receipt in excess of 10 per centum of the amount provided for in the first section shall be unlawful, any contract to the contrary notwithstanding. Violation of the provisions of this section is a misdemeanor punishable by a fine not to exceed $1,000.●

RETIREMENT OF DR. THOMAS MAHONEY AS THE SECRETARY OF ELDER AFFAIRS FOR THE COMMONWEALTH OF MASSACHUSETTS, JANUARY 6, 1983

HON. SILVIO CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. CONTE. Mr. Speaker, I rise today to share with my colleagues some of my reflections on the retirement of my good friend, Dr. Thomas Mahoney as the secretary of elder affairs in the Commonwealth of Massachusetts. His retirement leaves a void in the administration in my State, a void that will be very difficult to fill.

It was April 30 of 1971, Mr. Speaker, when the Massachusetts Executive Office of Elder Affairs became the Nation's first cabinet-level agency of State government with the responsibility of dealing with the problems of the elderly and the issues of aging within the State. In 1973, the department of elder affairs was established in Massachusetts with some very specific responsibilities. Among these are the administration of certain direct service programs, including a new concept in social service: home care. It assists elderly residents of the Bay State in giving them the best physical and mental health facilities attainable, suitable housing, opportunity for employment, and a chance to pursue meaningful activities.

Tom Mahoney took over these responsibilities when he became the secretary of elder affairs under the King administration in 1979. Today, with the change in administrations in Massachusetts, Dr. Mahoney will leave to become a professor of history at the Massachusetts Institute of Technology. Dr. Mahoney has assured my colleagues in the Massachusetts delegation that he will remain active in affairs affecting the elderly, and I know that I speak for all of them when I say we appreciate his support.

There have been many secretaries of this department in the Commonwealth of Massachusetts, but Tom truly distinguished himself as one of the greatest. Tom was charged with the responsibility of leading the Massachusetts delegation to the White House Conference on Aging in 1981, and he introduced, on behalf of the Commonwealth two highly successful and far-reaching resolutions calling for an end to the discriminatory practice of mandatory retirement in all employment sectors and urging the Congress to work their hardest to protect social security benefits. Both eventually won positions as among the 10 highest priorities of the White House Conference.

He has appeared on more than 130 radio and television programs, authored countless articles for newsletters and editorial pages, and has initiated many public forums on issues affecting the elderly. In 1982, Secretary Mahoney was awarded credentials from the United Nations, and participated in activities of the World Assembly on Aging in Vienna, Austria. By July of last year, he had traveled over 50,000 miles in Massachusetts alone, addressed more than 700 groups and represented my State before thousands of interested citizens in public sessions.

Tom and I share a strong concern for the rights of the elderly in this Nation, and have worked long and hard to see that they are treated fairly in America. There have been countless times when both myself and my staff have relied on him and his office for assistance.

His presence will be sorely missed at the department of elder affairs, but I know that I will still be able to count on my good friend, Tom Mahoney, to fight for the rights of the elderly. I know that I speak for all of my colleagues in the Massachusetts delegation when I say: "Goodby, Tom—it was a job well done." We are going to miss you.

Thank you, Mr. Speaker.●

H.R. 5, THE OCEAN AND COASTAL RESOURCES MANAGEMENT AND DEVELOPMENT BLOCK GRANT ACT

HON. NORMAN E. D'AMOURS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. D'AMOURS. Mr. Speaker, Monday I introduced, along with Mr. WALTER B. JONES of North Carolina, chairman of the House Merchant Marine and Fisheries Committee, H.R. 5, a bill to establish an "ocean and coastal resources management and development fund." This legislation is identical to H.R. 5543, which was approved by the House during the 97th Congress by a vote of 260 to 134.

H.R. 5 is intended to serve several clearly defined and critically important principles. First, the bill implements the principle that a modest por-

tion of future increases in Federal revenues from the extraction of publicly owned, nonrenewable, ocean energy resources should be allocated to coastal States for the continued sound management of, and research on, renewable ocean and coastal resources.

Second, it recognizes that States will continue to be asked to address, perhaps more intensely than in the past, the impacts of energy development and other development in the coastal areas.

Third, the bill recognizes that to reduce Federal-State conflict, coordinate the acceleration of offshore lease sales and State management capacity and, thus, establish critical Federal-State partnership required for maintenance of the national interest, it is necessary to build on the progress made in State coastal management and living marine resource activities by continuing Federal financial involvement.

Fourth, it acknowledges the valuable role played in nationally directed oceanographic and coastal research by the national sea grant college program and asserts that this type of Federal-State partnership in university conducted research will continue to be critically important.

Fifth, it rectifies a serious imbalance between States that receive substantial funds from the leasing of Federal lands within their boundaries and coastal States that receive no revenue from the leasing of tracts in the Outer Continental Shelf (OCS) off their coasts.

Last, it also recognizes the need to address the size of the Federal budget deficit by basing the block grants on an increase in future Federal OCS revenues and not on the present level of such revenues. An improvement of the Federal-State partnership in ocean and coastal resource management and offshore oil and gas development should encourage cooperation in attaining a more predictable OCS leasing schedule and, thus, increase OCS bonus revenues to the Federal Government.

These principles are effectuated in H.R. 5 through the establishment of a fund capturing 10 percent of the growth in OCS revenues from a base year—fiscal year 1982—up to a maximum of $300 million. These funds would go to coastal States in the form of block grants to support activities authorized by the Coastal Zone Management Act of 1972, the coastal energy impact program various living marine resource programs, the national sea grant college program, as well as other natural resource management programs of importance to the individual States. Great latitude and discretion is given to the States in using these funds.

Congress long ago recognized the coastal zone as an area of vital environmental and economic importance. The pressures placed on the coastal zone as a result of the often conflicting demands of environmental and economic interests have made it an area of special congressional attention.

In 1969, the Stratton Commission on Marine Science, Engineering and Resources found the uses to which the coastal zone was being put had outrun the abilities of the local governments to plan for and manage, and that furthermore, the States did not have the resources to coordinate local efforts.

In 1972, Congress established the Coastal Zone Management Act, which was designed to assist coastal States in developing and carrying out comprehensive programs for managing their coastal zones, protecting valuable coastal resources such as wetlands and beaches, and increasing access to recreation. In 1976, Congress added another title to the Coastal Zone Management Act, to establish the coastal energy impact program (CEIP). CEIP provides grants and loans to State and local governments to offset the effects of such energy-related activities in the coastal zone as offshore oil and gas development, fuel transportation and energy facility siting. Over the years Congress has also extended strong support to the national sea grant college program, which provides research, education, and advisory services in marine research, including management, conservation, and utilization of our marine resources.

The pressures on our coastal areas have never been greater, especially in light of the accelerated Outer Continental Shelf oil and gas leasing program pushed by this administration. Nevertheless, the present administration has set about to dismantle all the coastal programs that have allowed the States to plan for and manage these concerns.

H.R. 5 is an attempt to provide a mechanism by which these critical programs, such as the coastal zone management program and the sea grant program can survive and prosper to meet the present challenge to the coastal areas of our Nation.

Lastly, let me add that OCS mineral development is the only exception to a longstanding Federal policy of sharing with affected States a significant portion of receipts from resource development activities on federally owned lands. Currently, we turn over to inland States a full 50 percent of all revenues derived from on-land mineral resource development. In fiscal 1981 close to $1 billion in payments were made to these States. That same year, the OCS oil and gas leasing program generated over $10 billion in revenue for the Federal Government, but one penny went to coastal States to help mitigate the undeniable effects of OCS activity. This is wrong. H.R. 5 still falls far short of providing equal treatment to coastal States, but it is an important step in the right direction.

H.R. 5 is clearly needed and long overdue legislation that deserves speedy congressional consideration.●

RETIREMENT OF LOUIS A. "AL" LOUSTALOT

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. THOMAS of California. Mr. Speaker, we often discuss in this body the need for Federal criminal code revision and more Federal grants to fight crime. However, the key to effective law enforcement lies not in Washington but in the efforts of our local law enforcement officials. It is one such official, retiring Kern County Sheriff Louis A. "Al" Loustalot, whom I would like to honor today.

Sheriff Loustalot has served more than three full decades with the Kern County Sheriff's Department. During his competent tenure as County Sheriff, Al Loustalot relied upon his long experience in all law enforcement fields to build a respected and effective department.

Al Loustalot is a native of Kern County and a product of Kern County schools. He served his country as a sergeant in the U.S. Army in the South Pacific during World War II. When he returned, he went immediately into law enforcement in 1947.

Any good leader must have the respect of those he commands, and Sheriff Loustalot earned it through his own experience with the department, first as a deputy, then as a sergeant, detective patrol commander, captain, and search and rescue commander.

Sheriff Loustalot has served as president of the California State Sheriffs' Association, and he is a member of several other State and national law enforcement associations, including the State Board of Corrections.

In addition, he has served his community through other organizations such as American Legion, Elks, Caledonia Lodge, Scottish Rite Bodies, Shrine Club, Native Sons of the Golden West, the Kern County Basque Club, and the Kern County Fish and Game Association.

As Sheriff Loustalot retires from a career of public service, I would like to thank him, congratulate him, and extend my best wishes to Sheriff Loustalot and his family. It is people such as our sheriff who bear the great responsibility of enforcing and upholding our laws.●

A CIVILIAN SPACE POLICY: LONG OVERDUE

HON. GEORGE E. BROWN, JR.
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. BROWN of California. Mr. Speaker, I have been calling for a renewed and vigorous space policy for some time. I introduced legislation under President Carter and again under President Reagan during the 97th Congress. I hope to promote discussion of the development of a coherent, long-range policy stressing the civilian, economic, and technological benefits of an aggressive space program by reintroducing this legislation now. The bill I introduce today, if enacted, would support the recommendations of the 1981 report of the House Subcommittee on Space Science and Applications on which I serve.

There was a great deal of public discussion this past year regarding the activities of the United States in space, particularly the interface between the civilian and military uses of space. The last years have seen the Department of Defense budget for space activities overtake the National Aeronautics and Space Administration's (NASA's) entire budget.

I cannot entirely blame this administration for the downward trend in funding for civilian space programs or for the increasingly larger budget for Department of Defense activities. According to NASA's figures, defense spending in space has exceeded civilian spending in the last years. Moreover, it is no secret that the Space Shuttle, funded primarily by NASA, is largely committed to defense purposes, with more than half of its flights destined for defense missions into the next decade. However, this administration is the first to indicate that it wishes to pursue, with increasing enthusiasm, the development of arms in space, with even greater possibility of the violation of the Outer Space Treaty. This is a serious matter effecting more than only NASA. At the same time, the administration has cut back on the civilian space program, including severe cuts to the planetary programs. Despite its past successes, and the inspiration and national pride the planetary program fosters, the expenditures in fiscal year 1983 are just two-thirds of what they were 5 years ago. What is left of the civilian space program is shrunken and diminishing.

I was sorely disappointed with the space policy announced by President Reagan last July 4. The increasing emphasis placed on the military uses of space and particularly the weaponization of space is an alarming trend. While my legislation does not address this problem directly, various other legislative proposals do, including my own legislation calling for multilateral disarmament as well as legislation soon to be introduced by Representative MOAKLEY calling for a ban on weapons of any kind in space. I support these initiatives and will be urging action this Congress on this important issue. While my legislation is strictly framed as a civilian space policy, it may be important to devise a comprehensive civilian/military space policy.

Former Secretary of Defense under President Carter, Harold Brown, for whom I have great respect perhaps summarized this issue best in an editorial appearing in the Washington Post during our October election break. The occasion was the 25-year anniversary of the launching of Sputnik. His is a well reasoned argument for salvaging our civilian space program and curtailing the spread of the arms race into space. Dr. Brown, former president of the California Institute of Technology and former Secretary of Defense, has long supported a strong defense while being keenly aware of the importance of Federal support for science and technology to this Nation. He is particularly sensitive to the open process that is so important to good science. For many reasons he is opposed to the militarization of space and I urge my colleagues to read this article. I insert it for the RECORD at this time.

[From the Washington Post, October 4, 1982]

25 YEARS AFTER SPUTNIK: WAR AND PEACE IN SPACE

(By Harold Brown)

Sputnik's anniversary today reminds us that crucial choices must now be made about U.S. activities in space; some are already being made by default. These choices include the exploration of the solar system, the prospects of Soviet-American agreement not to damage or kill each other's satellites, and the possibility of deploying a gigantic system to destroy ballistic missiles in flight.

Various scientific, civil and military functions can be carried out from space—often but not always better than from the surface or atmosphere of the Earth. Many of the civil and military functions overlap—in navigation, communication and weather satellites. Acquiring satellite data on Earth resources has something in common with military intelligence-gathering. But the frequency, timing, geography and fineness of detail required are completely different. Early warning of a missile attack by detection of the infrared signal emitted from a missile exhaust is a peculiarly military requirement.

Even when the requirements have much in common, the differences will sometimes dictate separate military systems, though the military often can and should use civil systems, as it does on Earth. U.S. military space activities now outspend civil ones, not because the former are too large—yet. The latter have shrunk too far.

By and large, the United States is ahead of the U.S.S.R. in these military support uses for space; in general, the Soviets, by virtue of their geographically central position, have less need to rely on space-based systems for such support. There are exceptions to each judgment—radar surveillance of the oceans is one. But overall there is good reason for the United States to avoid having space become a scene of active combat.

In space, unlike the seas, it may not be too late to limit by agreement the threats to its free use before those threats are fully developed. Greater U.S. reliance on space, and the likelihood that the United States could if necessary bring enough technological abilities to bear in space wars to win, could well provide motives for each side for such an agreement.

The Soviets have spent a decade working on a limited anti-satellite capability, capable of intercepting low-altitude satellites. Their system, which consists of only a few launchers and vehicles and has experienced occasional failures, is now in being. The United States has countered with the development of a system, scheduled for tests at the end of this year, with considerably more capability and flexibility.

In my judgment, the value from the U.S. point of view of a few such vehicles, or even of the development program itself, is to get the Soviets to agree to a rollback to zero anti-satellite (ASAT) capability on both sides, or to deter them from using such a capability in times of crisis.

The ASAT negotiations of 1978 and 1979 made only marginal progress. One difficulty is that vehicles suitable for launch of satellites are also suitable for launch of satellite killers. Moreover, high-energy lasers from the ground or from space can be used for anti-satellite or other military activities. Adequate verification of an anti-satellite agreement is likely to be more difficult than adequate verification of a strategic arms agreement, because a few anti-satellite vehicles can cut a substantial swath in the satellite capabilities at which they are aimed, while a few ballistic missiles more or less make very little difference to the balance.

Thus, it may be that the best that can be hoped for from ASAT negotiations would be 1) a declaration that attacks on satellites are a hostile act prohibited in peacetime and 2) limitation—for example, to low altitudes—on development and deployment of anti-satellite capabilities consistent with what can be adequately verified. The United States should press to resume such negotiations.

In recent years, some enthusiasts for space wars have proposed all sorts of space-based systems involving such ideas as particle beams, lasers and multiple warheads. Many of the individual technologies required for such systems are far from being demonstrated. Most of the proposed schemes require combinations of several such new technologies into a complex system; some would entail enormous costs.

A space-based chemical laser deployed in a satellite to defend the satellite itself is probably feasible within the next five years. A system of such satellites to defend not only themselves but other satellites would cost some billions, but could probably be feasible in a decade. A system of space-based lasers to intercept ballistic missiles would probably not be feasible before the next century, if ever, and would cost on the order of $100 billion. Moreover, by the time it was deployed, countermeasures against it would be possible, at lower cost, to prevent the system from operating as a successful ballistic missile defense.

My expectation is that the financial limitations under which the Defense Department is again laboring will prevent any such system from being mounted. But it is less clear that its enthusiasts can be prevented from spending some billions of dollars in a fruitless attempt.

Finally, a word is in order on the evisceration of the planetary exploration and space science programs. These are human and intellectual adventures for whose achievements U.S. technology and determination will deservedly be remembered a century from now. The potential terrestrial applications of space-based astronomy, from the understanding of planetary atmospheres and geological processes and from the knowledge of the birth and evolution of the universe, are also real, though less predictable.

Both the planetary exploration and space science programs have been decreasing in funding at an accelerating rate over the last decade. Under budgets now projected, it is likely that the ability to carry out such programs will be lost for the rest of this decade. In that case, it would take most of another decade and many billions of dollars to rebuild it.

At a time when U.S. technology is one of the few comparative advantages that this nation has, and one of the few instruments of American prestige and morale, it is foolish to let the space science and planetary exploration programs wither. The contrast with the proposals for technologically and militarily dubious multi-billion-dollar space weapons programs is all the more painful.

The benefits provided this country economically through space technology spinoffs, through jobs, and through improvements throughout many sectors of our society—spanning agriculture, communications, medicine, energy—are unparalleled in any other Federal program. To turn our back on the fundamental economic strength represented by our country's scientific leadership, in the name of national security is, in my view, a form of hypocrisy. It is also bad economic policy.

The exploration of deep space, and the development of near-Earth applications of space, will continue regardless of what our Government chooses to do. However, the development can be accelerated and conducted in an orderly fashion if we choose to proceed in a conscientious, deliberate manner. It is time for the United States to end its space policy drift, and to firmly chart a new course for the future. Mr. Speaker, the time is now for a new, bold national space policy. The text of my legislation follows.

H.R. 478

A bill to establish the national space policy of the United States, to declare the goals of the Nation's space program (both in terms of space and terrestrial applications and in space science), and to provide for the planning and implementation of such a program.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Space Policy Act of 1983".

PURPOSE

SEC. 2. It is the purpose of this Act to establish a national space policy and program direction that will enable the United States—

(1) to maintain leadership in space science and technology;

(2) in collaboration, where appropriate, with other countries and international entities, to develop and use the space environment for the benefit of humanity; and

(3) to develop and demonstrate advanced technology capabilities in open and imaginative ways for the benefit of developing as well as developed countries.

FINDINGS

SEC. 3. The Congress finds that—

(1) the United States space program has challenged mankind to travel beyond our planet and has provided the opportunity to expand human knowledge, to extend the limits of our consciousness, and to improve the human condition;

(2) the United States space program has established the scientific and technological leadership of the United States in space activities devoted to peaceful purposes for the benefit of all mankind;

(3) evolving space transportation capabilities will permit the confident placement of facilities and people in orbit, and thereby produce new opportunities for developing and using the space environment;

(4) the development of economical and flexible space transportation systems will make possible productive, cost-effective, and routine uses of the space environment that can materially assist the United States and other nations in the solution, control, and management of problems on Earth;

(5) the technological challenges and advances of space research and development contribute to the vitality and competitiveness of the economy of the United States;

(6) further exploration and study of the solar system will promote understanding of the Earth and its environment and their evolution;

(7) progress in data processing and analysis, together with enhanced methods of acquiring and transmitting data from space, provide new opportunities for developing useful information and services in such areas as climate and weather research and prediction, environmental and pollution-monitoring, crop forecasting, plant disease control, drought and flood control, mineral and natural resource exploration and management, land use planning, geodesy, mapping soil and water conservation, and earthquake research and prediction;

(8) advanced satellite communications technology can provide new commercial and public services in such areas as personal communications, data transmission, education, delivery of health care services, access to governmental institutions, traffic control, emergency services, search and rescue missions, and navigation;

(9) space activities provide new opportunities for international cooperation in the realization of benefits for humanity;

(10) the successful development and use of the space environment for scientific and applied purposes depends on continued research and development efforts conducted by the government and private sector; and

(11) the productive development and use of the space environment requires new policies, procedures, and institutional arrangements that encourage initiative by, and use the innovative capabilities of, the private sector.

POLICY

SEC. 4. The Congress declares it to be the policy of the United States that—

(1) the United States is committed to the exploration and use of outer space by all nations for peaceful purposes and for the benefit of mankind;

(2) the United States is committed to the exploration and use of outer space in support of its national well-being;

(3) the space programs of the United States will be conducted to increase scientific knowledge about the Earth and the universe, to develop and use space technology, and to maintain United States leadership in space science and technology;

(4) the United States rejects any claims of sovereignty over outer space or over natural celestial bodies or any portion thereof;

(5) the United States considers that the space systems of all nations and international organizations are the property of such nations and international organizations, respectively, that space systems for peaceful purposes have the right of passage through, and operation in space without interference, and that interference with space systems will be viewed as an infringement on sovereign rights;

(6) the United States will continue to foster cooperation in international space activities by conducting joint programs;

(7) close coordination will be maintained among the space activities of the various departments and agencies of the United States Government to promote integration of programs and technology transfer and to allow optimal use of all resources;

(8) data and information from the space program of the United States will, to the extent practical and consistent with Government policy on cost recovery, be fully disseminated;

(9) the benefits of space program research to terrestrial applications will be maximized by rapid dissemination of information concerning such programs to appropriate public and private bodies; and

(10) the development of space capabilities and systems by the private sector to produce economic benefits to, and to enhance the technological position of, the United States, will be encouraged.

PROGRAM

SEC. 5. (a) Consistent with the provisions of this Act, the President shall assure that the space program of the United States will proceed toward the achievement of the goals in space and terrestrial applications, and the goals in space science, which are described in subsections (b) and (c).

(b) The goals in space and terrestrial applications to be achieved, as soon as possible consistent with the efficient and prudent use of public funds, are—

(1) the pursuit of scientific and technical knowledge and experience to suport the continued leadership of the United States in the development and use of space for peaceful purposes and for the benefit of mankind;

(2) the establishment and operation, in collaboration with the private sector as appropriate, of a system of high-resolution remote sensing of the Earth's resources and environment;

(3) the development of improved capability for the interpretation and rapid utilization of remote sensing data;

(4) the investigation and determination of institutional arrangements for international cooperation in the use of remote sensing systems, including the fullest possible declassification of satellite monitoring and

surveillance data, and provision for increased training in data interpretation;

(5) the design and development of advanced satellite communications systems, providing increased capabilities for frequency and orbit utilizations;

(6) the establishment, in collaboration with the private sector as appropriate, of satellite communications systems in space to meet public needs in emergency services, health care delivery, education, teleconferencing, and other public services and activities deemed appropriate; and

(7) the design and testing of technologies and procedures to determine the technological and economic feasibility of space-based manufacturing of products such as materials and pharmaceuticals, as welll as the creation of new and useful goods, services, and markets.

(c) The goals in space science to be achieved, as soon as possible consistent with sound scientific procedures and the prudent use of public funds, are—

(1) the continued United States leadership in the extension of scientific and cultural knowledge through experimentation in and from the environment of space;

(2) the expansion of our international planning and coordinating effort in order to maximize scientific potential;

(3) the pursuit of a vigorous program of planetary and lunar science and exploration, including reconnaissance of the outer planets and comparative studies of celestial bodies, to understand the origin and evolution of the solar system, and to better understand the Earth and its space environment;

(4) the development of increased understanding of the Sun, its interaction with the terrestrial environment, and basic atmospheric processes;

(5) the utilization of advanced technology, including orbiting astronomical observation facilities and free-flying satellites, to investigate and better understand the origin and evolution of the cosmos and the fundamental laws of physics that govern cosmic phenomena;

(6) the continuation of research in the life sciences to insure human health, safety, and effective performance in space flight, to further use the space environment and space technology in the advancement of knowledge in medicine and biology, and to understand the evolution and distribution of life in the universe; and

(7) the interpretation and application of these advances in scientific knowledge to the preservation of the Earth and its environment and to meeting related human needs.

PROGRAM PLANNING, IMPLEMENTATION, AND REPORTING

SEC. 6. (a) The President shall, to the extent practical, carry out the program described in section 5 through the National Aeronautics and Space Administration. The resources of other agencies and departments, including but not limited to the National Oceanic and Atmospheric Administration, the Federal Emergency Management Agency, the defense and intelligence organizations, and the Department of State, Energy, Education, Agriculture, Interior, and Commerce, shall be utilized as appropriate in research, development, and demonstration, dissemination of information, and industrial or commercial development.

(b) The President shall report to the Congress on the progress of the space program as follows:

(1) Not later than one year following the date of the enactment of this Act, the President shall prepare and submit to the Congress a five-year plan which shall establish priorities for the space program over the succeeding five-year period, and which shall contain details regarding—

(A) the role of each Federal agency and department in the program;

(B) proposed annual outlays over the five-year period; and

(C) specific missions, projects, or programs to be undertaken in achieving the goals set forth in subsections (b) and (c) of section 5.

(2) The President shall annually revise the plan to reflect the progress that has been achieved in meeting the scientific and technological goals specified in subsections (b) and (c) of section 5. The revisions shall be submitted to the Congress as part of the annual budget message.

(c) Not later than one year following the date of the enactment of this Act, the President shall prepare and submit to the Congress proposed goals for the space program over the succeeding twenty-year period.

AUTHORIZATION

SEC. 7. There are authorized to be appropriated to carry out this Act such sums as may be specified for that purpose in annual authorization Acts hereafter enacted.●

PRESIDENTIAL SUCCESSION

HON. CARROLL A. CAMPBELL, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. CAMPBELL. Mr. Speaker, constitutional scholars and political scientists alike have endlessly dissected the problems associated with the very real possibility of a Presidential election being thrown into the House of Representatives. But they have all apparently overlooked a glaring loophole that could send our system into a tailspin.

Current law makes no provision for replacement of a candidate who dies or is disqualified during the 3-week period between inconclusive voting of the Electoral College and balloting for a President and Vice President by the House and Senate. With the loss of a candidate and in the absence of a replacement mechanism, we risk the disenfranchisement of millions of Americans and the possibility that a major political party could be left without a candidate.

Section 4 of the Constitution's 20th amendment calls on Congress to provide for this contingency, but to date we have done nothing. To close this gap in our Presidential election process, I have reintroduced a bill which provides that in the event of the death or disqualification of a Presidential candidate, the Vice-Presidential running mate automatically would be elevated for consideration by the House, and would name his successor for the Vice-Presidential candidacy. If the Vice-Presidential candidate dies or is disqualified, the Presidential candidate would name a replacement. If both candidates of a party die or are disqualified, their party's national committee would name replacements.

No election procedure is perfect. But I believe the approach outlined in my bill, following precedents set down for succession, is the clearest, most logical procedure to meet the contingency described in section 4 of the 20th amendment. And I believe we must have a procedure in place to meet that contingency.●

RENTAL HOUSING IN OR NEAR COLLEGE CAMPUSES

HON. JAMES M. SHANNON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. SHANNON. Mr. Speaker, today Mr. CONABLE and I are introducing a bill, similar to legislation we introduced last year, to address a situation that threatens an important aspect of college life on many campuses.

For many years a substantial number of colleges and universities, both public and private, have maintained rental housing for their faculty and administrators on or near their campuses. In April 1982 the IRS issued technical advice memoranda in cases involving four New England colleges which held that when colleges and universities provide such rental housing to their employees at less than a hypothetical "fair rental value" that could be obtained from members of the general public, the difference between that value and the rent actually charged constitutes income to the employees under section 119 of the Internal Revenue Code. Furthermore, it was held that this income constitutes "wages" subject to income and social security tax withholding and that the educational institution would be retroactively liable for the full amount of taxes not withheld in past years. Thus, if a faculty member is charged rent of $300 a month to live in a small house near the campus for which a business executive, attracted to the campus atmosphere, would be willing to pay $400 a month, the faculty member is deemed to have received $100 a month in additional "income," and the college or university for which he or she works is assessed for the withholding taxes on that amount.

The IRS took this position despite the fact that the colleges involved were charging what they believed to be reasonable rents, rents that covered the costs to them of owning the property and took into account the value to both the employees and the colleges themselves of having such housing available. These values are considerable. The availability of attractive housing at a reasonable cost near their place of employment can be an impor-

tant factor in attracting top-quality faculty members to a college or university. Furthermore, institutions that provide this type of housing have found that the educational atmosphere is greatly enhanced by having administrators and faculty members living on or near the campus, where they are readily accessible to students and where all three groups may mix in an informal atmosphere.

The IRS position also seems contrary to recent law, in particular the Supreme Court's decision in *Central Illinois Power Co.* v. *U.S.*, 435 U.S. 21 (1978), in which the Court held that the taxpayer had no duty to withhold tax on lunch reimbursements to its employees where its liability was not certain, and IRS Revenue Ruling 80-53, published in response to Central Illinois, which states that withholding will not be required where the employer has a reasonable basis for believing that the benefits involved do not constitute wages and no statute or other authority specifically requires withholding. It also seems to contradict the moratorium on changes by the IRS in the fringe benefit area that was enacted in 1978 and which will be in effect until the end of this year. The IRS claims that its position is based on legal precedents that were established long before the moratorium was enacted, but the fact remains that educational institutions had been following this practice for years without being challenged by the IRS.

If the IRS implements this policy, the retroactive tax liability could deal a serious financial blow to colleges and universities across the country at a time when they are already suffering serious financial burdens due to declining enrollment and cuts in Federal aid. It is likely that many such institutions would be forced to sell off the housing units involved. Ironically, this could actually result in a revenue loss as private owners acquired these residences and began deducting the mortgage interest and property taxes from their Federal income tax. The institutions would be caught in a vicious circle—by maintaining an attractive campus atmosphere they would attract outside people to the community who could afford to bid up rental values, driving faculty members away from the campus area, and diminishing the special quality of life there.

The legislation that we are introducing would simply prevent the IRS from implementing this policy before January 1, 1984. Until then, as long as the rent charged by an educational institution for this type of housing met the institution's necessary direct costs in providing it, the difference between that and the "fair market rent" could not be charged as income to the employee. This would accord this rental housing the same treatment that other types of employee benefits enjoy under the 1978 moratorium. We hope that by the expiration of this moratorium period Congress will be able to take a good look at this area and make some decisions about how all of these benefits should be treated. This legislation is not intended to affect the position of the IRS in applying section 119 to situations not covered by the bill. Thus, where the IRS currently concludes that a college housing situation does not give rise to any tax obligations, we do not intend enactment of this legislation to change that result.

Mr. Speaker, the legislation we introduced last year was supported not only by the four colleges initially involved but by the American Council on Education, the National Association of Independent Colleges, and colleges and universities across the country. Many Members of Congress have been contacted by schools in their districts urging them to support the legislation, and many more, if they looked, would find a college or university in their district that would be affected by these provisions. I urge my colleagues to join Mr. CONABLE and me in giving these schools a break by supporting these provisions.

H.R. 677

A bill to provide that subtitles A and C of the Internal Revenue Code of 1954 shall be applied without regard to the value of lodging located in the proximity of an educational institution and furnished by such institution to its employees for taxable years or periods beginning before January 1, 1984

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

(a) IN GENERAL.—For taxable years or periods beginning before January 1, 1984, subtitles A and C of the Internal Revenue Code shall be applied without regard to the value of qualified campus lodging furnished by, or on behalf of, any educational institution described in section 170(b)(1)(A)(ii) of such Code to any employee of such institution or to any spouse or dependent (within the meaning of section 152 of such Code) of such employee.

(b) QUALIFIED CAMPUS LODGING.—

(1) IN GENERAL.—For purposes of this section, the term "qualified campus lodging" means lodging—

(A) which is provided by an educational institution described in section 170(b)(1)(A)(ii),

(B) which is located on a campus of, or in the proximity of, such institution, and

(C) for which such institution receives a reasonable rent which is not less than the necessary direct costs paid or incurred by such institution in providing such lodging.

(2) REASONABLE RENT.—

(A) LESS THAN FAIR RENTAL VALUE.—A rent shall not be precluded from being treated as a reasonable rent solely because of the fact that such rent is less than the fair rental value of the lodging provided.

(B) FACTORS.—The determination of whether any rent is a reasonable rent shall take into account such factors as the necessary direct costs of such institution furnishing the lodging, the value of the lodging to the employee to whom the lodging is furnished, and any educational purposes of the institution in furnishing such lodging.

(c) SPECIAL RULE WHERE RENT IS LESS THAN DIRECT COSTS.—In any case in which lodging would be treated as qualified campus lodging but for the fact that the rent received was less than the necessary direct costs described in subsection (b)(1)(C), only the excess of—

(1) the amount of such necessary direct costs, over

(2) the rent received with respect to such lodging, shall be taken into account for purposes of subtitles A and C of the Internal Revenue Code for taxable years or periods beginning before January 1, 1984.●

THE ACCOMPLISHMENTS OF INTERIOR SECRETARY JAMES WATT

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. RUDD. Mr. Speaker, after the dust settles every time another self-proclaimed environmentalist group makes personal attacks on our Secretary of the Interior, it gives us time to pause to view Secretary James Watt's great qualities and the truly tremendous accomplishments he has made in 2 short years in office.

Secretary Watt, who holds the Stewardship responsibility for one-third of the land in America, has brought about positive change in the management of our natural resources, nothing short of remarkable at this point of the administration.

Recently, the Secretary publically detailed all of his Department's achievements in the last year, and I was pleased to read one distinguished journalist's account of the complete record of Secretary Watt.

One of the most distinguished members of the Washington press corps, Ben Cole, a Washington correspondent for the Arizona Republic and the Indianapolis Star gave his review of James Watt's performance in a recent column. Honored by his peers in the news media in many respects, Ben Cole has served as president of the renowned Gridiron Club, he has been named to the Sigma Delta Chi Hall of Fame, and his many years of dedication to this field are well known in and out of his profession.

I would like to share a copy of Ben Cole's recent column, "A Proud James Watt Reviews Interior's Accomplishments," a well-written and, I think, telling story of the true record of our Interior Secretary.

[From the Arizona Republic]

A PROUD JAMES WATT REVIEWS INTERIOR'S ACCOMPLISHMENTS

(By Ben Cole)

WASHINGTON.—There was something poignant about watching Interior Secretary James Watt flipping charts and telling a

roomful of reporters of his achievements in the last year.

Nobody in the Reagan Cabinet has been as beset by critics as the tall, bespectacled lawyer from Colorado.

Interior, Watt said, is one of the smallest of the federal agencies, yet one of the most visible.

It spends $6 billion a year, but generates $20 billion.

Watt noted that in the last year, only the departments of the Treasury and Defense have been called before committees of Congress more frequently than Interior.

In ringing, almost jubilant tones, Watt read the letter of transmittal he sent to President Reagan covering the annual report of his department.

"Mr. President," he said, "we can have both a clean environment and the development of our energy resources needed for a sound economy. It is not an 'either-or' proposition."

Flipping his charts, Watt proudly demonstrated how his administration has picked up the neglected National Parks system and is spending $1 billion over a five-year period to restore facilities enjoyed by millions.

In the field of energy, Secretary Watt noted potential of public lands resources that he insists are available without destruction of scenic wonders or degradation of the land.

"Eighty-five percent of the crude oil still to be discovered in America is likely to come from public lands," he said.

"As well, 40 percent of the natural gas, 35 percent of the coal, 80 percent of the oil shale, nearly all of the tar sands, and substantial portions of uranium and geothermal energy will come from public lands."

He noted that in 1982 he signed leases for 70.4 million acres of public lands for coal mining.

This, he said with a smile, was the most since 1968, when then Secretary Stewart L. Udall, one of the nation's fervent environmentalists, signed leases for 164.1 million acres of coal lands—more than twice the 1982 figure.

Then he declared with almost boyish enthusiasm that the nation's energy future is secure for hundreds of years.

His charts showed that in 1982, Interior has increased onshore oil and gas leasing to 50 million acres, up from 11.3 million the last year of President Carter's administration.

Offshore leasing jumped from nearly zero to 200 million acres.

Watt pointed to the work done in revising and publishing proposed new rules for restoration of strip mine lands.

He noted that his administration collected $1.6 million in fines from violators in 1981 and $1.9 million in 1982, with a projection of $2.2 million in 1983.

Returning to energy, Watt noted that in 1979–80, only 1,064,927 acres were leased for geothermal development, whereas in 1980–81 the total is 2,106,775.

Taken together, these achievements are noteworthy. They are also going to bring down upon Secretary Watt the increasing wrath of the environmentalists, many of whom would rather freeze us all to death than give up an acre of marginal wilderness to energy development.

Matter it not that Interior in 1982 added 245 miles to the Wild and Scenic Rivers System; designated 192 National Recreational Trails to a total of 7,182 miles; marked 18 new properties as National Historical Landmarks; and designated six new National Natural Landmarks (to a total of 543). Secretary Watt isn't going to get much credit in some quarters.

In some places he will be scoffed at for calling 1981 a year of change, and 1982 a year of progress.

Criticism, he said, will still come from the same small groups that have been hacking on him the last two years.

He said he intends to remain Interior secretary through the rest of President Reagan's term, and implicitly beyond, if the president continued in office.

Some of those who watched Secretary Watt's vigorous performance, boasting of what his administration has done, said that he had beat his own drum for more than an hour.

Secretary Watt deserves to have some appreciative Americans beat his drum for him.●

INTRODUCTION OF A RESOLUTION EXPRESSING OPPOSITION TO THE IMPOSITION OF AN OIL IMPORT FEE

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. CONTE. Mr. Speaker, today I am introducing on behalf of myself and many other notable Members a resolution expressing the opposition of the House of Representatives to the imposition of an import tax on crude oil and refined petroleum products as a means of raising revenues. I am also pleased to report that Secretary of the Department of Energy Edwards in a letter dated April 14, 1982, stated to me that he, too, opposes such a proposal. He states:

> Our past experience with quotas, taxes, price controls, and entitlements have taught us, at the very least, that we must make every effort to avoid such a course.

Now, as the administration and the Congress contemplate negotiating the details of the fiscal 1984 budget, discussions regarding a "quick fix" solution to raise revenues persist. One such proposal which has reared its ugly head is the most regressive, penny-wise and pound-foolish concept imaginable: an oil import fee on crude oil and products. Lest you characterize my efforts here today—and those of my colleagues from the Northeast who have joined me in cosponsoring this resolution—as an attempt by the Northeast to avoid paying for its energy needs, I suggest that you consider the results of the study prepared by the Congressional Research Service on the dire impact on the economy if a $5 per barrel fee were to be imposed. The bottom line is that the effect of such a fee will reverberate throughout all sectors of our economy. No family will be spared the impact of the fee as the price of domestically produced crude oil rises to the level of the artificially priced imports. The price of gasoline and home heating oil will increase by 12 cents per gallon; residents will witness an increase in their electric utility costs of approximately $100 per month in some sections of our country.

The residual effect of a $5 per barrel tax is ominous—not only will the price of all petroleum products increase by 10 to 15 percent, but the already depressed housing industry will be devastated; the already ailing automobile industry will be devastated; the already distressed agriculture industry will be devastated. The list is endless.

In fact, many of those recipients of social security will have wiped out whatever benefits are protected by budget negotiators in this latest round of "revenue raising roulette." In addition, the CRS study estimates that a $5 tax will cause unemployment to rise by another 96,000 workers in 1984; real gross national product will decline by 1.4 percent; and inflation to increase by 1.5 percent in 1984. All this is expected to occur while domestic oil producers are reaping another $10 to $15 billion in additional net profits.

One of the most telling statistics, however, in this high-risk game of chance is that with a $5 per barrel tax, the Federal deficit will be reduced by $4 to $9 billion in fiscal year 1984. It may, however, increase the deficit by $5 billion in fiscal year 1985, as the economy slows down as a direct result of Uncle Sam's self-imposed "oil shock."

Mr. Speaker, it is painfully obvious that there are available more progressive, more efficient revenue-raising options.

The cosponsors of this measure find it unconscionable to levy this tax on our economy and thus on the consumers of this Nation; particularly while they are enduring the present economic situation.

Therefore, I hope that Members from all regions of the country will realize the wisdom of this resolution. Send a message to the President before he comes up here later this month for the state of the Union address and proposes this nonsense. Send a message to the administration and Members of Congress who are feverishly drafting a budget plan that we oppose this foolishness, and cosponsor the resolution.

Thank you, Mr. Speaker.●

INTRODUCTION OF THE DEFENSE INDUSTRIAL BASE REVITALIZATION ACT, H.R. 13

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. McKINNEY. Mr. Speaker, January 3, 1983, I introduced H.R. 13, the Defense Industrial Base Revitalization

Act. The bill is identical to H.R. 5540 as reported by the Banking Committee last May. For more information about our committee's action I refer my colleagues to House Report 97-530, parts II and III.

Although the committee-reported bill was debated on the House floor and some amendments were adopted, I chose to reintroduce the unamended version in this Congress. I think that it is not necessary for the committee to go back to square 1 to judge the merits of this proposal: the hearing record that was developed during the 97th Congress sufficiently supports the need for the bill.

The Banking Committee should consider the amendments offered by our colleagues, as well as those that were going to be offered, to determine how H.R. 13 should be improved. And then I would urge prompt referral of the legislation to the full House for speedy passage.

I supported a number of the adopted amendments and would urge their inclusion again. But the Banking Committee can consider also the numerous other amendments to H.R. 5540 that were pending and help expedite further consideration when this proposal comes before the House.

Mr. Speaker, the Defense Industrial Base Revitalization Act in the 97th Congress had an impressive list of bipartisan cosponsors as well as an equally impressive list of supporting groups representing labor, business, education, defense, manufacturing, mining and mineral sectors of the economy. I expect to see the same support rally behind H.R. 13.

This bill should be recognized for its merits. It is an economic stimulus program; it is a jobs program; it is a defense program; it is a skills training program; and, it would use more effectively funds from the national defense function of the budget to accomplish its objectives.

I invite my cosponsors of H.R. 5540 to rejoin me in sponsoring H.R. 13 and I invite those of my colleagues who were not on that bill to get on board this year. The country needed this legislation last year, but it is even more critical now.●

INFORMATION SCIENCE AND TECHNOLOGY ACT OF 1983

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. BROWN of California. Mr. Speaker, today I am introducing the "Information Science and Technology Act of 1983." Joining me as cosponsors of this bill are the chairman of the Committee on Science and Technology, DON FUQUA, and DOUG WALGREN, the chairman of the Subcommittee on Science, Research and Technology in the 97th Congress. This proposed legislation is an updated version of a bill I introduced in the 97th Congress, H.R. 3137. In May and June of 1981, the Subcommittee on Science, Research and Technology, on which I serve, held hearings on the bill. The subcommittee's recommendations and an analysis of the hearings prepared by the Congressional Research Service (CRS) are available through the Subcommittee on Science, Research and Technology.

Since I introduced this legislation 2 years ago, the computer has continued to gain importance in our society. Last week, for the first time ever, Time magazine chose a machine, the computer, to be "Man of the Year." During these last few years, many people have devoted a great deal of time and effort to determine the best mechanism for developing an information policy. At the request of the Science and Technology Committee and other committees, the Office of Technology Assessment (OTA) recently completed several studies on informational technology and public policy issues. These studies include "Informational Technology and Its Impact on American Education," "Computer-Based National Information Systems: Technology and Public Policy Issues," and "Implications of Electronic Mail and Message Systems for the U.S. Postal Service." The hearings, the OTA reports, and the continued rapid advances in information science and technology have convinced me that the United States must strive to develop a coherent information policy.

The Institute for Information Policy and Research, as established by the bill I am introducing today, is one of several alternatives for creating a forum for the development of a comprehensive information policy. The Subcommittee on Science, Research and Technology is soliciting suggestions for other means to achieve the same goal. I would like to thank those experts who have already provided comments on this subject. My purpose in reintroducing this bill in an essentially unmodified form is to provide a vehicle for continued discussion. Mr. Speaker, I welcome any comments on the general goal of the best means to develop an information policy and on the particular approach outlined in this bill. When we have gathered those comments together, we will be revising this bill and proposing other legislation as necessary and appropriate.

I would like to include here an excerpt from the subcommittee's recommendations following the hearings on H.R. 3137. These recommendations demonstrate the increasing need for an information policy as we advance into the "information age."

RECOMMENDATIONS ON H.R. 3137

(NOTE.—Excerpt from "Report Prepared by the Congressional Research Service, Library of Congress, for the Subcommittee on Science, Research and Technology. Transmitted to the Committee on Science and Technology, U.S. House of Representatives. Ninety-seventh Congress, Second Session. Serial DD. June 1982.")

The United States is continuing a rapid transition from an economy based on industrial production to one based increasingly on information products and services. Information and the ability to access it quickly and reliably is becoming a vital source of political and economic power. The products of microelectronics technology now permeate virtually every aspect of commercial and industrial activity, and the importance of microelectronics is manifest not only in the dollar value of information products and services themselves, but also in the central role played by information technology in increasing productivity and promoting innovation in other sectors of industry and commerce.

Important as these economic consequences are, the impact of the Information Revolution will also be felt in many ways that are difficult to measure in dollars and cents. Decisions about development and applications of information technology will have a major influence on the pattern and quality of American life for many years to come.

The Information Revolution is rooted largely in American scientific and technological leadership, but foreign governments have been quick to recognize the economic and social challenges posed by the transition to the information age. A number of our major trading partners have responded with active programs designed not only to enhance their competitive positions in international trade, but also to train their citizens in the effective use of information technology. The stakes are high in this information game, and we ignore at our peril the importance which our competitors now ascribe to their information industries and to the development of widespread computer literacy in their societies.

UNITED STATES RESPONSE TO THE INFORMATION REVOLUTION

From the testimony received on H.R. 3137 and on the broader issues prompting its introduction, it is clear that the Federal Government is having a difficult time developing a coherent strategic view of how our transition to an information society should take place. A consensus on the proper scope of "national information policy" does not yet exist in this country. The important contribution of commercial and not-for-profit enterprises, combined with the Government's inclination to defer to the marketplace in information activities, requires a unique approach to policy development in the United States. However, there appear to be at least three major problems in the present decentralized approach to information issues:

1. Lack of coordination among agencies charge with information responsibilities and between the public and private sectors;

2. Inadequate attention at high levels to the broad changes in many economic, technical and social sectors which may be triggered by information technology; and

3. Lack of investment of human or financial resources to insure that our Nation makes best use of new technological devel-

opments both domestically and in our competitive trade position.

COORDINATION

Responsibility for Federal research, development, and policy activities concerned with information is widely dispersed throughout the Executive Branch, and there appears to be no adequate mechanism for developing and promoting an integrated approach. This inadequacy is most obvious in the areas of international information policymaking; scientific and technical information (STI); and the general question of public and private sector interaction.

In each of these areas what appears to be lacking is a systematic approach to information technology and its uses which could assemble and focus the collective insights of different agencies and the private sector, and plug them into the policymaking process. It is particularly difficult to provide objective analyses of long-range concerns under the present institutional and bureaucratic constraints within which agencies deal with their various portions of information policy. In the absence of a strong coordinating mechanism, important decisions with great potential impact are sometimes made with little or no involvement of groups with relevant expertise. For example, the recent landmark settlements made by the Justice Department with AT&T and with IBM were made with virtually no contribution from the Federal information and telecommunications policymaking apparatus.

HIGH-LEVEL ATTENTION TO INFORMATION CONCERNS

Information is part of the life blood of any institution or organization. There is a strong tendency to take information and the tools used to process it for granted, and to think of them as ancillary to the real business at hand. Nowhere is this more apparent than at the high levels of the United States Government, where officials, beset with performance demands and operating with diminishing resources, have generally not accorded a high priority to information issues.

The United States is probably unique among developed nations in not having any clearly designated Cabinet-level official with primary responsibility for information and communications issues. Given this situation, it is essential that leadership in information issues be forthcoming from the agencies and individuals with statutory or designated responsibilities in these areas. The Congress should make clear to high-level officials with these responsibilities that it regards the development and application of information technology as an issue deserving high priority.

RESOURCE LEVELS

Although the Subcommittee acknowledges the need for budget stringency, it has serious concern about underinvestment in precisely those areas which have most promise of yielding great future economic returns. Information products and services represent one of the fastest growing areas of the United States economy, and our future economic success and national security depend heavily on the continuing development and application of new microelectronic technology. The long-term consequences of deep budget cuts in this area, including in particular the loss to key Government agencies of highly skilled policy professionals, will be to weaken our ability to adapt and use the fruits of the Information Revolution.

SUMMARY

Information and communications technologies are still in a rapid stage of development, and this development will be a dominant feature of the next decade. Ensuring the efficient and humane use of this technology raises many difficult public policy issues. Existing mechanisms appear to be incapable of generating and sustaining the kind of government-private sector cooperation that is essential to maintain United States leadership in world information markets and to maximize the potential benefits of microelectronics and communications technologies. The Subcommittee believes that rapid improvements are needed.

Mr. Speaker, there are several ways to approach the issues summarized above. The "Information Science and Technology Act of 1983" addresses these issues in the following manner.

SUMMARY OF BILL

Information and communication technologies are still in a stage of rapid development, and this development will be a dominant feature of the coming decade. The Information Science and Technology Act establishes an Institute for Information Policy and Research, with a lifespan of 10 years. This independent institute in the executive branch would be a transitional mechanism to facilitate our Nation's evolution toward a society based increasingly on information products and services. This mechanism would make possible cooperative interests, and State and local governments, for the productive and humane use of information technology in the workplace, school and home.

The independence of the Institute would allow it a broad and integrated perspective on such issues as institutional structure and regulatory policy, a perspective not subject to the political or bureaucratic constraints on the several dispersed agencies now concerned with information issues. As structured in this legislation, the Institute would not be engaged in hardware research and development, nor would it have any regulatory authority. Its primary purpose would be to provide a focal point for policy research and analysis and a forum for consideration of the information interests of government, business and education. The Institute would be governed by a 15-member National Information Science and Technology Board representing all functions involved in information generation and transfer, and administered by a Director. It would be concerned with conducting policy options, and proposing goals and methods in support of policy development for scientific and technical R & D; dissemination of scientific and technical information; international information issues; regulatory issues; and impacts of information technology on education and training needs and on the work force. The Office of Policy Analysis and Development of NTIA would be transferred to the Institute, and other policy research and analysis programs which are of overall national important and transcend particular agency missions may be transferred.

The bill requires close coordination between the Institute and other agencies, including the National Science Foundation and the Department of Commerce. Appropriations of $6, $8, and $10 million are authorized for fiscal years 1984, 1985, and 1986 respectively.

Title II of the bill establishes the position of Special Assistant for Information Technology and Science Information in the Office of Science and Technology Policy. The Special Assistant would be a member of the Board of the Institute and would have responsibility for coordinating the Institute functions with other agencies of the executive branch and with assisting the Director of OSTP in formulating policy on information technology and on scientific information.

(For further details about the bill, I refer you to my introductory statement for H.R. 3137 in the Congressional Record of April 8, 1981.)

Mr. Speaker, Congress must move quickly to address some of the important concerns arising from the information revolution. A concerted effort is needed, and I look forward to working with other Members and other committees to meet the legislative challenges presented by these exciting new advances.

National information policies will evolve whether answers are arrived at consciously or unconsciously, deliberately or haphazardly. The question is whether our Government, and Congress in particular, will be foresighted enough to take a considered and coordinated approach. I hope and believe that Congress will, and I invite my colleagues to join me in working to make that hope a reality.●

ASSISTANCE FOR UNEMPLOYED TEENAGERS

HON. CARROLL A. CAMPBELL, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. CAMPBELL. Mr. Speaker, I have reintroduced a bill today that will provide assistance for unemployed teenagers. According to the latest U.S. Department of Labor statistics, there are 12 million people out of work today, representing 10.8 percent of our work force. The teenage unemployment rate is better than twice that amount at 24.2 percent, and for black teenagers, the rate is a devastating 50.1 percent. While the overall unemployment rate for white teenagers has inched up gradually, the rate for black teenagers has grown in quantum leaps—from 10 percent in 1948 to over 50 percent today. This racial disparity is obviously becoming more acute, and many economists agree that we can expect even worse in the immediate future.

A basic law of economics is that the quantity of labor demanded is inversely related to the wage rate. When a minimum wage is established at a level above one that would be determined by market forces, employment opportunities are restricted for the least productive workers by pricing their services out of the market. The resulting higher labor costs may exceed the value of some workers' services, causing disemployment among these workers. Indeed, the minimum wage may benefit those workers who retain their jobs at the higher wage, but those who lose their jobs or are not hired at all clearly are made worse off. Some un-

employed workers may seek jobs in uncovered sectors, where minimum wage laws pose no barriers to employment, but in so doing, increase the supply of labor, exerting downward pressure on wage rates in those areas. In addition, as coverage has expanded, fewer jobs have become available in uncovered sectors for displaced workers to turn to.

Surely everyone can agree that there is a serious youth unemployment problem, contributing to crime rates and growth in welfare rolls, and that something must be done. There is, indeed, one obvious step we can take to attack teenage unemployment without embarking on an expensive Government jobs program. We can enact a youth opportunity wage. This legislation would allow youths of 19 years and under to be paid at 85 percent of the minimum wage for the initial year of this employment. After this training period, such employees would be paid at least the full minimum wage.

The Federal minimum wage has been extolled as a moral effort to assure every worker a decent wage. In reality, it prices many low-skilled workers out of the job market, and hits hardest at the teenage worker who is likely to be low-skilled because of age, immaturity, and lack of job experience. Most people assume that minimum wage benefits accrue to the needy, yet the Minimum Wage Study Commission's report reveals that less than one-third of an increase in the minimum wage would go to families with pre-tax earnings of $10,000 or less.

A youth opportunity wage would encourage private employment, with its hopes of job permanence. In fact, studies have shown that a 15 percent wage differential would create a minimum of 170,000 jobs at the current unemployment rate. Also, contrary to the arguments of some, experience in other nations with a youth differential indicates that older workers would not be displaced. Rather, business would be encouraged to retain the marginal, entry level jobs that would otherwise be lost in times of high unemployment or as the minimum wage increases. And this initiative would not cost the taxpayers a dime. Instead, it would save money as we move young people into the productive labor force.

Mr. Speaker, America's young people are anxious and willing to work, but without a youth opportunity wage, teenagers will continue to bear the burden of high unemployment.●

ENDING THE VIOLENCE IN NORTHERN IRELAND

HON. JAMES M. SHANNON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. SHANNON. Mr. Speaker, a problem that is a continuous source of concern to Americans and indeed to people all over the world, is the unending violence in Northern Ireland. Every few weeks we are treated to a new report of innocent civilians killed and injured by the terrorist activities or reactions by British troops. I had the opportunity to travel to Northern Ireland last year as part of a delegation from the Friends of Ireland, and I saw first hand the terrible destruction, both to property and human life, that has resulted. That experience left me with a firm belief that we in Congress must do all we can to help alleviate this situation.

Today I am reintroducing two resolutions that I introduced shortly after my visit to Ireland last year. They propose measures that, if carried out, would be important steps toward breaking the cycle of violence that is currently gripping Northern Ireland.

The first resolution calls upon the British Government to create and enforce a ban on the Ulster Defense Association, or U.D.A. The U.D.A., which was formed in 1972, is the largest terrorist organization in Northern Ireland; it is currently estimated to have a membership of about 10,000. Several sources in Ireland have estimated that the U.D.A., along with other loyalist organizations, are responsible for at least 600 deaths, many of them sectarian murders. It is also involved in bomb making and gun running, and many of its mambers have been jailed for these and other serious crimes. It has also organized and participated in several general strikes designed to undermine peace efforts and intimidate those who support such efforts. Despite British suggestions that the U.D.A. is a political organization, U.D.A. members have openly admitted that they are a military body dedicated to terrorizing their opponents.

No one would deny that the existence and activities of terrorist organizations are a major factor in the atmosphere of violence that now pervades Northern Ireland, and that the violence can never be contained as long as such organizations are allowed to operate freely. For this reason the British Government has, justifiably, banned other terrorist groups such as the Irish Republican Army, the Irish National Liberation Army, the Ulster Volunteer Force, and the Red Hand. Indeed, the British policy is to ban any republican organization, no matter how small, as soon as it turns to violence. Yet a group that openly proclaims itself to be a terrorist organization is allowed openly to organize, raise money, and recruit new members. British authorities argue that if the U.D.A. were banned, members would be forced underground, where they would commit covert crimes, and that allowing the U.D.A. to remain legal allows identification of U.D.A. members who may be involved in illegal activities. But is this is true, why is the same policy not applied to other terrorist organizations?

The failure to ban the U.D.A. contributes to the violence not only because it allows its members to operate with impunity, but also because it creates suspicion and resentment among members of the Catholic minority. It leads to an image of partiality and selectivity in British enforcement policy in which security forces are seen to concentrate excessively on activities of Catholic groups while ignoring those of the U.S.D. Peace can never come to Northern Ireland unless justice is seen to be exercised in a fair and impartial manner. A ban on the U.D.A., as called for in my resoltuion, would be an opportunity for the British Government to show a commitment to such fairness.

The second resolution I am introducing today calls upon the British Government to ban the use of plastic and rubber bullets against civilians in Northern Ireland. Both of these bullets were introduced into Northern Ireland by British forces for the purpose of crowd control. The rubber bullet is designed to be fired short of a crowd and to bounce against the crowd's shins and thighs. Over 56,000 of them were used between 1970 and 1975, when their use was halted because of an unacceptable serious injury rate. The plastic bullet has been used as a replacement since then, despite the fact that it has a far higher death and injury rate than rubber bullets. According to British Army instructions for their use, plastic bullets are designed to be fired at selected persons rather than indiscriminately at crowds, and to be aimed so as to directly strike the lower part of the body, rather than be bounced off the ground. Despite the fact that they are supposed to be used only in limited circumstances, over 36,000 of them have been fired; and despite the Army guidelines, they have often been aimed at the upper part of the body.

To date, 11 persons have been killed by plastic bullets and more than 160 have been seriously injured, with injuries ranging from bruises and lacerations to broken bones, brain damage, and several cases of blindness. Many of the victims were children; many had not been involved in any sort of riot or protest. A 14-year-old girl was killed while returing home from a local shop in an area where witnesses

had seen no rioting taking place, a 39-year-old man was killed in his kitchen when a plastic bullet came through the window.

Although the British Home Secretary last year described these bullets as lethal, British authorities in Northern Ireland have indicated that they will continue to use them as a security measure. Many groups in Ireland and Great Britain have called for a change in this policy, and in May 1982 the European Parliament passed a resolution calling for an end to the use of plastic bullets against civilians by members of the European Community. I hope that Congress will add its voice to theirs and that this will persuade the British Government to reconsider its use of these deadly weapons.

All of us here in Congress, and all of our constituents, would like to see an end to the destruction and violence in Northern Ireland. We would like to see an end to the bitterness and mistrust that has prevented the people of Northern Ireland from finding a solution to their problems. I hope that my colleagues will join me in sponsoring two resolutions that could encourage the British Government to take steps that could lead to a reduction in that mistrust and violence and thus contribute to a peaceful resolution of the situation in Northern Ireland.

H. CON. RES. 25

Concurrent resolution calling upon the Government of the United Kingdom to ban the use of plastic and rubber bullets against civilians

Whereas a delegation of United States Congressmen representing the "Friends of Ireland" traveled to Ireland, visiting Dublin, Belfast, and Derry between May 29 and June 2, 1982;

Whereas serious concern about the continued use of plastic bullets by British security forces was strongly expressed to this delegation;

Whereas the delegation was disappointed by the negative response of the British authorities to their representations on the use of plastic bullets in Northern Ireland;

Whereas the European Parliament has voted overwhelmingly in favor of a ban on the use of plastic bullets against civilians in the member states of the European Community;

Whereas in recent years eleven people, many of them children under fifteen, have been killed in Northern Ireland by plastic bullets fired by British security forces and over one hundred and sixty people have sustained injuries, including brain damage, loss of eyes, and total blindness;

Whereas all of the injuries have been suffered by civilians, many of them in nonriot situations;

Whereas according to official statistics from the Northern Ireland administration thirty-six thousand plastic bullets have been used in Northern Ireland, of which approximately twenty-six thousand were used during the first seven months of 1981;

Whereas the British Home Secretary has described plastic bullets as "lethal";

Whereas in serious rioting last year in fourteen British cities, during which gasoline bombs and other potentially lethal missiles were used against police, plastic bullets were not used in any instance; and

Whereas the use of plastic bullets in the United Kingdom has been restricted to Northern Ireland alone: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress condemns the use of plastic or rubber bullets in Northern Ireland and calls upon the Government of the United Kingdom to ban the use of plastic or rubber bullets against civilians.

SEC. 2. The Clerk of the House of Representatives shall transmit a copy of this resolution to the President for the purpose of informing the Government of the United Kingdom.

H. CON. RES. 26

Concurrent resolution calling upon the Government of the United Kingdom to outlaw the Ulster Defense Association, its membership, activities, and any like terrorist organization

Whereas a delegation from the United States Congress representing the "Friends of Ireland" traveled to Ireland, visiting Dublin, Belfast, and Derry, from May 29 to June 2, 1982;

Whereas serious concern was expressed to the delegation about the continued unchecked operations of the Ulster Defense Association;

Whereas the Ulster Defense Association is the largest paramilitary organization in Northern Ireland;

Whereas the Ulster Defense Association has clearly shown itself to be a terrorist organization responsible for the murder of innocent civilians, bombings in the Irish Republic, and for the illegal importation and stockpiling of arms;

Whereas over four hundred members of the Ulster Defense Association have been jailed for serious offenses and some of these have been members of the Ulster Defense Regiment which is an integral part of the security forces in Northern Ireland;

Whereas the Ulster Defense Association is allowed to operate openly in Northern Ireland, to recruit members and to raise funds, despite its crimes against the people of Northern Ireland; and

Whereas the Ulster Defense Association and other loyalist terrorist organizations have been responsible for more than six hundred deaths in Northern Ireland: Now, therefore, be it:

Resolved by the House of Representatives (the Senate concurring), That the Congress condemns all acts of violence in Northern Ireland and calls upon the Government of the United Kingdom to outlaw the Ulster Defense Association, its membership, activities, and any like terrorist organization.

SEC. 2. The Clerk of the House of Representatives shall transmit a copy of this resolution to the President for the purpose of informing the Government of the United Kingdom.●

REPEAL THE 1975 METRIC CONVERSION ACT

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. RUDD. Mr. Speaker, today I am reintroducing my bill to repeal the Metric Conversion Act of 1975 and eliminate the unnecessary and detrimental programs which have been needlessly advanced as a result of the 1975 law.

Last year, the 97th Congress took a very positive step in agreeing with the President's decision to eliminate all funding for the U.S. Metric Board, one of the agencies authorized in the 1975 law. This action effectively closed down the Metric Board, but it did not halt all Federal activities aimed at the promotion or imposition of metric conversion.

Perhaps the most damaging result of the 1975 Metric Act was the endless confusion and cost it laid on the backs of the private sector and the American people.

Many Americans were led to believe that passage of the Metric Conversion Act, as the title implies, meant it was the policy of the United States to begin mandatory conversion to metric. Businesses began to wonder how soon they would be required to change their product sizes, their tools, their equipment and building materials, and the many millions of transactions they make dependent on a consistent system of weights and measures since almost every activity in this country is based on our customary, or inch-based, system used predominantly over the two centuries of our Nation's existence.

And no wonder our citizens were confused. Most of the conversion activity was being initiated in the Federal Government itself, not the private sector. Almost immediately after the 1975 law was passed, Federal agencies provoked widespread public opposition by trying to impose metric on highway signs, weather reporting, marketing beverages and other products, school materials, and so on.

All of this Federal activity was brewing, yet the fact remains that all of this conversion was supposed to be voluntary. The 1975 law itself said conversion was strictly voluntary, and the clear intent of Congress in writing the legislation was to make it optional—to leave it to the discretion of private industry, not a bunch of bureaucrats here in Washington.

But the 1975 law was entirely unnecessary because the policy of the United States, as set back in 1866, declares that our Nation maintains a dual system of customary and metric measurement as dictated by the needs and desires of the private sector.

Nothing in the 1975 law should have changed that policy. But the result has been the creation of all kinds of federally sponsored programs, and regulatory actions, aimed at encouraging and in effect imposing metric as the sole system.

The bottom line of this issue is that the American people are strongly

against changing measurement systems, and certainly are opposed to any sort of mandatory efforts by our Government to impose metric.

Further, it is neither the proper role nor responsibility of our Government to promote or encourage one system of measurement. Our private sector—small and large businesses, land surveyors, grocers, engineers, carpenters, teachers, and so forth—is fully capable of making this choice. So far, the widespread success and usage of our customary measurements—inches, pounds, gallons, et cetera—indicate the preference of the majority of our citizens. If it is in the interests of certain sectors to use metric, those industries can make that choice without the prodding of the Government.

Congress, which has the authority for determining national policy on weights and measures as stated in our constitution, has never authorized our Federal Government to impose metric measurement in any manner, and I believe it would be unwise for this body to ever do so.

The U.S. Metric Board, while no longer receiving Federal funds or operating, is still authorized by the 1975 law, and metrication activities continue to be pursued by some agencies, particularly the Department of Commerce, which issue regulations and guidelines directly affecting American private industry, as a result of the misleading 1975 law.

I urge my colleagues to join me in sponsoring the legislation I am offering today to repeal the 1975 Metric Conversion Act and set forth a clear policy of weights and measures in the United States.

H.R. 674

A bill to repeal the Metric Conversion Act of 1975 (U.S.C. 205a et seq.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Metric Conversion Repeal Act of 1983".

FINDINGS AND POLICY

SEC. 2. (a) The Congress finds that—

(1) the majority of the American people do not favor conversion from customary United States weights and measures to the metric system, despite United States involvement as an original signatory party to the 1875 Convention—Weights and Measures (20 Stat. 709), and the fact that voluntary use of metric measurement standards in the United States has been authorized by law since 1866 (Act of July 28, 1866; 14 Stat. 339);

(2) the Metric Conversion Act of 1975 (15 U.S.C. 205a et seq.) has conveyed to the American public and to the business community the erroneous impression that United States conversion to the metric system is national policy, which it is not;

(3) no country in the world has converted its economy to the international system of units (SI), the wavelength-based metric system adopted by the General Conference of Weights and Measures in 1960 and cited as the optional system of metric measurement in the Metric Conversion Act of 1975;

(4) the United States Metric Board, created by the Metric Conversion Act of 1975, is an unnecessary promotional vehicle within the Federal Government, authorized to use the resources and power of the Government to influence and encourage conversion to the metric system throughout the United States in violation of the intent of Congress;

(5) Federal bureaucratic imposition of metric conversion has been fostered by the United States Metric Board's ad hoc Interagency Committee on Metric Policy (ICMP), which has promulgated Federal metric policy and guidelines (Federal Register, January 8, 1980), instructing all Federal agencies to implement increasing metric usage through Government procurement, contracting, and other policy initiatives in violation of the intent of Congress;

(6) several Federal departments and agencies have provoked widespread public opposition by attempting to impose use of metric measurement on highway signs, in weather reporting, in marketing beverages and other products, through school curriculum materials, and through internal departmental or agency guidelines, also not in keeping with the intent of Congress that use of metric measurement by any sector in the United States be strictly voluntary, as provided under the 1866 statute, and not imposed by the Federal Government;

(7) according to an exhaustive study by the Comptroller General of the United States, the cost and disruption of metric conversion to the American people would be enormous, while the purported benefits of such conversion are nonexistent or questionable in practically every area;

(8) there is no evidence that a solely metric system would be better for the United States economy, and United States economic activity and world trade have not been hampered or injured by a dual system of customary and metric measurement according to the Comptroller General's report;

(9) standardization and rationalization of measurements, and other purported benefits ascribed to metric measurement, have occurred throughout the world under the customary system without metric conversion;

(10) the United States Metric Board has failed to assist the public to become familiar with the meaning and applicability of metric measures in daily life, and has failed to coordinate metric conversion initiated in the private sector involving private industry and the Federal Government, two of its three responsibilities required by law;

(11) it is in the interests of the United States to eliminate Federal Government entities or programs, such as those continuing and expanding beyond the intent of Congress under the Metric Conversion Act of 1975, when it is clear that such entities or programs are detrimental or unnecessary to public need; and

(12) voluntary conversion to metric measurements, if desired by private industry, can be adequately assisted by privately funded organizations such as the American National Metric Council (ANMC).

(b) The Congress declares that it is the policy of the United States—

(1) to continue a dual system of customary and metric measurement in the United States, as dictated by the needs and desires of the private sector, and to end Federal Government promotion or imposition of metric conversion;

(2) to pursue a vigorous effort to avoid wherever possible undue or harmful socio-economic effects of Federal Government programs or actions, such as those needlessly imposed by efforts being advanced under the Metric Conversion Act of 1975; and

(3) to eliminate Federal Government entities or programs that would cause undue socioeconomic effects, or whose existence or objectives are not supported or needed by the American people.

REPEAL OF METRIC CONVERSION

SEC. 3. The Metric Conversion Act of 1975 (15 U.S.C. 205a et seq.) is repealed.●

NATIONAL TECHNOLOGY FOUNDATION ACT OF 1983

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. BROWN. Mr. Speaker, our national economy is in deep trouble and there are no clear signs of improvement. Unemployment is at the highest level since the thirties. Federal budget deficits have reached levels almost beyond comprehension and they continue to grow. Factory utilization has not been so low since the Great Depression. The agriculture, steel, automobile, and housing industries, which in the past have provided the foundation of our industrial strength, are suffering from a prolonged depression. The U.S. share of world exports has declined in the past two decades while the portion of our domestic market captured by imported goods has risen. We have strayed off the course of economic prosperity.

We must act now to restore economic growth and regain economic security.

The causes of our present economic difficulties are many and complex. Some of the problems have been developing for more than a decade and some are the result of recent shortsighted policies. There are fundamental changes taking place in the world economy, changes to which we have been slow to respond. International trade is becoming an increasingly important part of the world economy. Our economic leadership in the past has resulted in large part from our lead in technology and industrial innovation. Now other countries are realizing the important role that technological developments will play in the coming decades. Other nations, such as Japan and France, are using targeted research and development plans to challenge the United States in markets of both mature industries and high-technology industries. This fundamental change in the world economy forces us to establish new policies for both the short term and the long term to insure that the United States remains competitive in the world economy.

New policies in a number of areas will be needed in order to establish a comprehensive economic program. Three important areas for new policies are investment in people, investment in new technologies, and economic cooperation. Throughout the 96th and 97th Congresses, the Subcommittee on Science, Research and Technology, on which I serve, has been considering the need for changes in these areas through our study on the crucial issues of innovation and productivity. Hearings have covered science and math education, engineering manpower needs, patent policy, Federal laboratory utilization, the Government's role in industrial innovation by high-technology small businesses, a focusing point for technology through a foundation, university-industry relations, and several other areas. A number of other subcommittees have also been holding hearings on these issues.

Through these hearings, we have learned that a precondition for innovation is a work force that is adequately educated and trained to function in our technological society. We have also learned that new technologies are essential both to make basic industries competitive and to expand opportunities in high-technology growth industries. We now realize that economic cooperation is required to provide an environment in which private enterprise can flourish in both the short and long term. The many hearings on innovation and productivity have made it clear that current efforts of the Federal Government to provide technically trained workers and to facilitate technology development are fragmented and are too small to provide a focus for a national economy in which innovation can thrive.

Today, I am introducing the National Technology Foundation Act of 1983, a bill designed to correct some of the problems we have found in these essential areas. The bill would establish a National Technology Foundation to facilitate the advance of technology, technological innovation, technology utilization, and the supply of technological manpower for the improvement of the national well-being. It is a revised version of H.R. 3749 introduced in the 97th Congress and H.R. 6910 introduced in the 96th Congress. Joining me as cosponsors are DOUG WALGREN, the chairman of the Subcommittee on Research, Science, and Technology, and MERV DYMALLY.

Responsibility for technology-related programs is now scattered throughout the Federal Government.

The programs which this bill would consolidate in a single agency might, in theory, be adequately supported in their current homes, the Department of Commerce and the National Science Foundation. This has not been the case. Support has been modest at best and even at their best they still suffer the fractionation of being in several agencies. I am reserving judgment on which course of action is best, consolidation in a new agency or strengthening in existing agencies. The bill to establish a National Technology Foundation is a vehible by which we can continue to focus the discussion of alternatives.

WHY A NATIONAL TECHNOLOGY FOUNDATION

The population of the world is growing inexorably while its resources are inexorably being consumed. Only if there are continual major improvements in technology can the world provide for its inhabitants. By improved technology I mean not only the development of hardware but also the better organization of society to assist in the efficient use of technology, the Foundation would support development of the requisite knowledge base, the resources of high-quality manpower, high-technology small business, the promotion of technology transfer for appropriate civilian utilization and stimulation for entry into the stream of commerce, the establishment of technological standards, and the long-range planning and forecasting needed for each of these areas. In short, the Foundation would be a focal point for all that technology embodies.

While the U.S. Government has adopted a largely laissez faire attitude toward international trade in high-technology items—other than military hardware—governments in other countries—most notably Japan—have planned and provided a national atmosphere in which both technology development and the export of high-technology products are carefully nurtured.

These efforts have often been highly successful. Their products can be seen on our roads, in our homes, and in our factories and offices. The international balance of trade has been unfavorable to the United States for several years. It is likely that without a coherent and more vigorous Federal policy of technology development and promotion, the United States will not be able to compete effectively in future world trade. The National Technology Foundation would provide a focus for technology development and movement into the stream of commerce. I will soon be introducing additional legislation directed specifically at the immediate need for a forum where government, industry, and university representatives can meet to identify and establish development plans for specific economically strategic technologies.

High-technology industries have been responsible for the creation of a higher share of new jobs than low-technology industries, and the development of new jobs than low-technology industries, and the development of new technologies promises relief from the current unacceptable levels of unemployment.

The profession that takes knowledge and converts it into the design of products and processes is engineering. In the Federal Government, engineering has been overshadowed by science. Moreover, there is a shortage of engineers in the country today at all levels of training, including a shortage of the most educated, who will be needed to train future generation. Among other things, the National Technology Foundation would recognize the importance of engineering and help harness its potential.

THE SPECIFIC NEEDS ADDRESSED BY THE NATIONAL TECHNOLOGY FOUNDATION

Links between the generation of knowledge and its use need to be strengthened. The National Technology Foundation would help tie science to useful applications.

The United States needs to insure that an adequate supply of technological manpower, training or educational institutions, facilities, and equipment is available to it. Otherwise, the manpower problem is likely to become even more severe as our industrial base grows to include more high-technology industries. The National Technology Foundation would provide this necessary planning.

SUMMARY OF THE BILL

The National Technology Foundation would be an independent agency with eight main branches for, first, small business; second, institutional and manpower development; third, technology policy and analysis; fourth, intergovernmental technology; fifth engineering; sixth, national (problem focused) programs; seventh, National Bureau of Standards; and, eighth, Patent and Trademark Office and National Technical Information Service. The agency would have programs transferred from NSF and from the Department of Commerce.

The National Technology Foundation Act incorporates the two main features of Public Law 96-480, passed with bipartisan support of the 96th Congress by putting the Office of Industrial Technology functions of Public Law 96-480 into the technology policy and analysis branch of the Foundation and putting the responsibility for the support of centers for Industrial Technology in the institutional and manpower development branch.

The governance of the Foundation would be handled by a Director and a National Technology Board patterned in organization, but not composition, after the National Science Board. Key functions of the Board would be to establish the policies of the Foundation and review the Foundation's budget and programs. The Director would have all powers not assigned to the Board and would be assisted by a deputy and eight assistants, one for each branch.

The bill requires close coordination between the National Technology foundation and other agencies, particularly the National Science Foundation and the Department of Commerce. The National Technology Foundation and the National Science Foundation are to have interlocking directorates.

The bill contains authorizations for fiscal years 1984 ($480 million), 1985 ($670 million), and 1986 ($875 million). In each year, the eight branches plus an "other purposes" category each have a line item. Each branch grows over the 3 years of authorization.

For further information about the bill, I refer you to my introductory statement for H.R. 3749 in the CONGRESSIONAL RECORD of June 2, 1981.

SUMMARY

The concept of a National Technology Foundation grows out of continuing study of innovation and productivity by the Subcommittee on Science, Research and Technology. This study, over the course of the 96th and 97th Congresses, has demonstrated the importance of new technologies in creating new jobs and contributing to economic growth. It has also revealed a clear need for the Federal Government to improve its programs in support of technology. The consolidation and enhancement of existing fragmented programs in a National Technology Foundation is an alternative deserving careful consideration, especially now when we urgently need to rebuild and revitalize the American economy.

Mr. Speaker, I welcome any comments on, or support for, this legislation.●

SANTA ANA NEIGHBORHOOD ORGANIZATIONS

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. PATTERSON. Mr. Speaker, today I am pleased to recognize the contributions and achievements of the Santa Ana Neighborhood Organization. Since its inception in 1976, SANO's members have worked diligently and successfully to upgrade the housing and improve the quality of living for thousands of Santa Ana families.

A nonprofit, grassroots organization, SANO represents 13 low- and moderate-income neighborhoods within the city of Santa Ana. These neighborhoods comprise approximately one-fourth of the city's total area and roughly 10,000 families.

SANO has successfully attacked the problems of overcrowding, high crime and unsafe housing in Santa Ana by energetically pursuing public works and community development funds and encouraging neighborhood residents to take a greater part in the public policy process. The key to their success has been the organization's dedicated members as well as the enthusiasm of the neighbors themselves. Those without previous experience in civic participation were quickly trained to develop the necessary confidence to speak before a city council or to articulate at other forums the pressing needs of one's family home.

The list of SANO's accomplishments attests to its great success. To cite just a few examples, I would mention, first, their input to all phases of the city's general plan revision; second, the reinvestment of at least $7.7 million in capital improvements such as storm drains, curbs, gutters, sidewalks, and street lighting; third, the preservation of scarce housing stock by the relocation of 25 homes into lower income areas, thus averting condemnation after eminent domain for public use of land was declared; fourth, rezoning to save at least 89 homes from future redevelopment which the residents had not seen as essential to economic development; fifth, 6 years of participation by all neighborhoods in the city's community development block grant hearings leading to major physical improvements; sixth, the initiation of a neighborhood housing services branch as funded in part by the Neighborhood Reinvestment Corp.; and seventh, successfully petitioning the city to bring in a neighborhood preservation or integrity program with rehabilitation loans, grants, or rebates.

Most of these victories won on behalf of the 13 neighborhoods and the city as a whole would not have been possible without the leadership of SANO's current president and former vice president, Sam Romero. For several years, Sam has devoted endless hours to SANO's many projects. He is easily one of the most dedicated civic leaders I have ever had the pleasure to work with during my entire career in public service.

I would also like to acknowledge his fellow officers, and certainly the other members of SANO for their 6 years of fine service to this community. Together, they have created a model organization that any other community would be well-served to emulate. I am aware that today, SANO is as strong as ever and is looking forward to many more productive years.

Mr. Speaker, in recognizing SANO before you and my colleagues, I can happily report that the spirit and genius of our democratic principles are alive, well and at work in Santa Ana as a result of the constructive efforts of the Santa Ana Neighborhood Organizations.●

LET US GET AMERICA GOING AGAIN

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. HUBBARD. Mr. Speaker, I received a letter last month from one of my constituents, James R. Perry, of Central City, Ky, Mr. Perry wrote to me about the need for the Congress to get America going again by making people aware of the severe difficulties America is facing resulting from imported products, from tax increases, from abuse in our Federal programs such as food stamps, and from unemployment. I believe that my colleagues, as we begin the 98th Congress, will be interested in his timely comments. The letter follows:

CENTRAL CITY, KY.

DEAR MR. HUBBARD: I received your newsletter for Nov. 10, 1982. It comes as no surprise to me that taxes will sky rocket again next year. I am 44 years of age and very aware of how the federal government operates. More of the same as always (lower taxes in one area, 10% paycheck deductions). You fellows on Capitol Hill will probably get away with it, because most of the people are not wise. If they were, we wouldn't allow this to happen again, and again, and again.

"Cigarettes and Telephone"—It matters little which or what it may be. You will find a way to tax it, and then have the nerve to tell us what a good and noble thing has been done.

"Food Stamps"—I am sick and tired of standing in line at the checkout line, seeing people dressed better who are buying better cuts of meat and then seeing them getting into their expensive cars. Many other people and I just try to make ends meet until our next pay day.

"Social Security"—I am sick of hearing the elected in Washington talk about promises and pledges, when they themselves do not pay one cent to Social Security. I could talk for hours but you would turn a deaf ear.

"Protect Yourself"—I don't need a lock on my door, because through the legal means of taxing and the high cost of trying, I have nothing for anyone to steal—sad but true.

"Unemployment"—If you would encourage the tax paying people (not government workers because for the most part we are in a mess) to buy American made products, instead of letting people stay blind to the fact that when they buy foreign made products, the middle man is the only one who gains. They buy their products cheap and sell at American made prices, simply because the margin of profit is higher.

I am sorry that my outlook is so bleak. But so long as you people, who have been educated out of your common sense, are allowed to run our country, I won't have much, if any, hope.

Sincerely yours,

JAMES R. PERRY.●

WHO PAYS AND WHO PROFITS

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. DORGAN. Mr. Speaker, last August, the Congress enacted a law that will require banks and savings institutions to withhold taxes from the interest earned on the bank accounts of most Americans.

Taxpayers will not receive their interest and then pay the taxes themselves by April 15 of the following year. Instead, the banks will subtract the taxes on that interest income directly from the taxpayer's account.

In effect, banks and savings institutions will be collecting taxes for the Federal Government, just as employers collect taxes by withholding from their employees' paychecks.

While we are making this new imposition upon the individual taxpayers of this country, some of the largest banks that will be collecting these taxes are themselves making practically no contribution at all to the Federal Government.

Last year, for example, the very largest banks in this country paid an average of only about 3 percent of their income in Federal income taxes, according to a Joint Committee on Taxation study completed for Mr. PEASE of Ohio and myself.

Meanwhile, the average individual in this country has been paying over 14 percent.

In other words, American factory workers and file clerks have been bearing over four times the Federal tax load as have banks such as Chase Manhattan and BankAmerica on the average.

With the Federal Government facing massive deficits, do we now ask these banks to start paying their share? No. Instead we tell the individual taxpayers of this country that we are going to impose upon them further.

While these largest banks have been contributing very little, they have been getting more and more.

At this very moment, the Federal Government is spending millions to bail out many of these same big banks on the bad loans they have made to Communist countries, military dictators, and others.

I am not talking about every bank in this country. I am talking about the big ones like those included in our study who seem to think that the purpose of Government is to take from everyone else in order to provide a safety net for themselves.

Indeed our smaller community banks are not treated quite the same way. Many of these smaller banks will be burdened by this new law along with their depositors. Lacking the sophisticated computers of their big city counterparts, these smaller banks face a very large bookkeeping chore just to keep track of all this new withholding.

I am aware that some Americans are not reporting all of their interest income. But the big tax avoiders are not the people who are earning interest in savings banks. They are the highfliers who have very complicated financial arrangements.

The vast majority of Americans are honest. They are reporting their income. Yet these are the people whom we are going to burden more.

Mr. Speaker, the Government keeps taking more and more from those who have less and less. It requires less and less from those who have more and more. This is not progress. It is the road backward to the dark ages of human history.

Government means justice. The people of this country are willing to pay their share. But they expect everyone else to pay their share as well.

We should not be asking the people of this country to forgo even a small portion of their savings account interest, unless we first ask the banks to pay their own fair share as well.●

A QUESTION FOR ANDROPOV

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. LANTOS. Mr. Speaker, in today's Washington Post, the President's favorite columnist, George Will, makes a most appropriate suggestion concerning some unfinished business for President Reagan before undertaking a summit meeting with Yuri Andropov. I commend Mr. Will's column to the serious attention of my colleagues:

[From the Washington, Post, Jan. 6, 1983]

A QUESTION FOR ANDROPOV: WHERE IS RAOUL WALLENBERG?

(By George F. Will)

The gauze of lies that the Soviet regime wraps around reality has never been thick enough to muffle this question: Where is Raoul Wallenberg?

Now it is asked again, in the wake of the most recent in a long series of tormenting reports. A Russian immigrant in Israel says that when he was hospitalized in 1972 on the way to prison, he met a man who "looked Jewish, so I asked who he was. He answered in accented Russian that he was Swedish and was there because he helped the Jews. He said his name was Raoul Wallenberg." That occurred a quarter of a century after 1947, the year the Kremlin says Wallenberg died.

Last May, when tardily releasing documents about the Wallenberg case, a Swedish official said, "We are working on the supposition that he is still alive." (Sweden's lethargy concerning the case—lethargy born of cowardice—hardly constitutes "working.") If alive, he is 70. It is 38 years since he disappeared from Hungary into the Soviet Union.

On Jan. 17, 1945, he was seized by Soviet forces that were "liberating" Hungary from their former allies, the Nazis. Three weeks later he was in the emblematic institution of the Soviet regime, Moscow's Lubyanka prison.

At 32, representing neutral Sweden, Wallenberg was in Budapest at America's request, working with breathtaking bravery and saving scores of thousands of Jews from Adolf Eichmann's final chapter of the "final solution," the destruction of Hungarian Jews. He bought buildings and draped them with Swedish flags as diplomatically protected territory. He dressed "Aryan-looking" Jewish men in SS uniforms to protect Jewish havens. He distributed fake passports, and used sheer audacity to intimidate Nazi soldiers into opening the doors of cattle cars. Thanks to him, the 120,000 Jews in Budapest were the most substantial Jewish community surviving in Europe when the war ended.

One certainty is that Andrei Gromyko died in the 1957 memorandum asserting that Wallenberg's "sojourn in the Soviet Union"—Gromyko's words—ended with a heart attack in prison in 1947. This memorandum came after 12 years of Kremlin denials that Wallenberg had ever been in Soviet hands. Gromyko cited the evidence of two Soviet functionaries, both conveniently dead, and said the body had been cremated—a transparent fabrication, given Soviet practices.

There has been a steady trickle of reports about Wallenberg, first from returning German prisoners of war, then from released political prisoners and Jewish emigrants. The reports give dates and places—prisons, cell numbers—that trace a tantalizing trail across the years and through the gulags.

For example, in 1961 a Soviet professor of medicine told a visiting Swedish physician that he had recently examined Wallenberg in a "mental hospital." In 1977 a Muscovite just released from the gulag called his daughter in Israel and mentioned meeting in a Moscow prison a Swede "who had served 30 years." Two years later the Muscovite was back in prison because, his wife said, he wrote a letter about Wallenberg. Sources in Eastern Europe report that in 1981 Wallenberg was moved to a prison hospital near Leningrad.

Why was he arrested in the first place? The Soviet machinery of brutality operates so automatically it leaves little room for, and certainly does not require much mind. But Soviet repressors certainly did not want brave witnesses to the breaking of Eastern Europe. Why was he kept? Perhaps, in part, to show contempt for Western disapproval. Why did Soviet troops using horses and ropes drag away the statue erected to him in Budapest in 1948? Because the Kremlin disapproved of what he did.

It is prudent that we insistently ask what happened when Wallenberg ended his dance of death with the Third Reich and fell into the hands of its moral twin. When the Soviet Union gets away with such acts—acts that are as contemptuous as they are contemptible—it gets the idea that it can unleash "yellow rain" and can shoot the pope with little to fear from the West's fitful disapproval.

Besides, if this case is not America's business, what is? On Oct. 5, 1981, Wallenberg became only the second person (Winston Churchill was the first) to be made an honorary American citizen.

Signing the bill conferring this honor, President Reagan said "we're going to do everything in our power" to locate Wallenberg. But we have not done that. So before Reagan agrees to meet with Yuri Andropov, he should receive an answer, beyond the routine mendacities, to this question: Where is Raoul Wallenberg?●

GEORGE STAVROS: OUTGOING PRESIDENT OF THE LOMITA CHAMBER OF COMMERCE

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. ANDERSON. Mr. Speaker, I would like to pay tribute to a man who has been an outstanding member of his community, and a fine example for all citizens. George Stavros, whose term as president of the Lomita Chamber of Commerce will expire at the end of this month, has presided over one of the most active periods of the chamber in recent history. As president, George Stavros served with the same great care and interest that he has shown for years in his many community activities.

George Stavros has lived in our community since he joined his family in San Pedro after service in the famous "Rainbow Division" during the Second World War. George worked for DiCarlo Baking Co. for 16 years, before joining with his brother Mike in 1963 as partners in the Wayfarer Restaurant and Hot-N-Tot Restaurant, both in the city of Lomita.

In his early years here, George Stavros was active in organizing youth groups in the Greek community, and has sponsored San Pedro and Lomita softball and little league teams. He is a very active member of the South Bay Trojan Club, being an avid Trojan football fan and supporter of all U.S.C. sports programs. Currently a member of St. Katherine's Greek Orthodox Church of Redondo Beach, he served for 10 years on the church board, holding the office of president for 3½ years. He is a member of the Torrance Lodge of the Benevolent and Protective Order of Elks, and a member of the San Pedro Lodge of the Order of AHEPA (American Hellenic Educational Progressive Associations), where he has held various leadership positions, including serving as president for 4 years.

George Stavros has been a longtime member of the Lomita Chamber of Commerce, serving in various capacities over a number of years. His dedication and ability as president of the chamber will be missed when his term expires, but I am sure he will continue to be an asset to his community. My wife, Lee, and I join in expressing our appreciation to George Stavros, and wish him, his wife Helen, and their four sons, Michael, Steve, Tony, and Chris, nothing but the best in the many years ahead.

THE NATIONAL HOMEOWNERSHIP BOND BILL

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. RUDD. Mr. Speaker, I am introducing today a bill which will provide adequate mortgage money at an affordable rate for new home construction. It will stimulate the homebuilding industry and put thousands of construction workers and workers in supporting industries, now laid off, back to work. And, it will provide a new source of private capital for lending institutions such as savings and loans, and banks. Most importantly, Mr. Speaker, it will accomplish all of these necessary things without a dollar of Federal outlays, placing no new burden on the Treasury.

While the program for economic recovery has succeeded in many respects, there is still a continued high interest rate which stifles economic recovery, causing more unemployment which in turn causes more Federal outlays, causing higher deficits, putting pressure on the credit market and keeping interest rates high.

Clearly, something must be done to break the cycle of low economic output, high unemployment, high deficits, and high interest rates causing further economic deterioration. The prescription for our economic ailments is to put workers back to work, which will reduce pressure on the Federal budget, which in turn will reduce pressure on interest rates, which will lead to better economic performance, which will lead to even more employment.

However, any method prescribed for putting people back to work needs one clear aspect: It must not involve Federal outlays which will exacerbate the current spending hemorrhage which is destroying hopes for true economic recovery. The prescription for our unemployed, for the millions of people who seek decent, affordable housing at bearable interest rates is this bill which I have introduced today: The national home ownership bond bill.

Under the national home ownership bond bill, lending institutions would be authorized to issue national home ownership bonds in denominations of $1,000. These bonds would have a face yield of 8 percent, with a preferential tax treatment given to the investor making this equivalent to a 12-percent return. The lending institutions would be required to earmark the proceeds from the bonds for 10 percent traditional mortgages on new homes. The issuing period for the bonds would be 3 years, with a 5-year period of maturity. In addition, at the end of the bond period there will be no prepayment penalty upon renegotiation.

This bill will put thousands of construction workers back to work; it will put thousands of workers in allied industries back to work. It will provide affordable housing for millions of Americans who cannot now afford homes, and most importantly, it will help get our economy moving without relying on Federal Treasury outlays. This bill will, in fact, bring more back to the Treasury in additional income taxes through increased payrolls than any possible tax expenditure outlined in the bill.

Many of us who served in the last Congress remember the several attempts made to pass "make work" legislation that would have required huge outlays from a Federal budget already drowning in red ink. This bill, the national homeownership bond bill, will not "make work," it will let the pent-up desire for jobs, housing, and affordable credit work to get our economy moving again. A similar bill, introduced by myself in the last Congress was declared "far superior" by the Secretary of the Treasury to any other attempt at reviving the housing industry. It is my hope that you will join in this movement to restore the strength to our economy, that we may provide once again the blessing of prosperity that has been the heritage in this great Nation.

H.R. 675

A bill to amend the Internal Revenue Code of 1954 to permit banks, savings and loan institutions, and similar financial institutions to issue tax-exempt certificates for housing purposes, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) part III of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to items specifically excluded from gross income) is amended by redesignating section 130 as section 131 and by inserting after section 129 the following new section:

"SEC. 130. TREATMENT OF NATIONAL HOME OWNERSHIP BONDS.

"(a) GENERAL RULE.—In the case of an individual—

"(1) gross income does not include any amount received as interest on a national home ownership bond, and

"(2) there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to 50 percent of the amount excluded from gross income under paragraph (1) for the taxable year.

"(b) NATIONAL HOME OWNERSHIP BOND.—For purposes of this section—

"(1) IN GENERAL.—The term 'national home ownership bond' means any certificate of deposit issued before January 1, 1986, by a qualified financial institution if—

"(A) all of the amount of the deposit is used to provide qualified owner-financing.

"(B) the certificate has a maturity of 5 years,

"(C) the investment yield on the certificate does not exceed 8 percent compounded quarterly, and

"(D) such certificate is offered in denominations of $1,000 or any mutiple of $1,000.

"(2) QUALIFIED OWNER-FINANCING.—

"(A) IN GENERAL.—The term 'qualified owner-financing' means any financing if—

"(i) such financing is provided in connection with the acquisition of a single family residence—

"(I) which can reasonably be expected to become the principal residence of the individual to whom the financing is provided within a reasonable time after the financing is provided, and

"(II) the original use of which begins with the individual to whom the financing is provided,

"(ii) such financing is secured by a first lien on the residence being acquired with such financing,

"(iii) the effective rate of interest on the financing does not exceed 10 percent,

"(iv) such financing is assumable by subsequent purchasers,

"(v) such financing may be prepaid without penalty after the expiration of the 5-year period beginning on the date on which provided, and

"(vi) the amount of such financing does not exceed the lesser of—

"(I) $100,000, or

"(II) 80 percent of the cost of acquiring the residence being financed.

"(B) EFFECTIVE RATE.—The effective rate of interest on any financing shall be determined under rules similar to the rules of section 103A(i)(2)(B).

"(c) QUALIFIED FINANCIAL INSTITUTION.—For purposes of this section, the term 'qualified financial institution' means—

"(1) a bank (as defined in section 581),

"(2) any mutual savings bank, cooperative bank, domestic building and loan association, and any other savings institution chartered and supervised as a savings and loan or similar institution under Federal State law, and

"(3) a credit union,

the deposits or accounts in which are insured under Federal or State law or are protected and guaranteed under State law. Such term also includes an industrial loan association or bank chartered and supervised under Federal or State law in a manner similar to a savings and loan institution."

(b) Subsection (b) of section 6401 of such Code (relating to excessive credits treated as overpayments) is amended—

(1) by striking out "and 43 (relating to earned income credit)" and inserting in lieu thereof "43 (relating to earned income credit), and section 130(a)(2) (relating to interest on national home ownership bonds)", and

(2) by striking out "39 and 43" and inserting in lieu thereof "39, 43, and 130(a)(2)".

(c) The table of sections for part III of subchapter B of chapter 1 of such Code is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 130. Treatment of national home ownership bonds.

"Sec. 131. Cross references to other Acts."

(d) The amendments made by this section shall apply to certificates of deposit issued after the date of the enactment of this Act.●

COMMON SECURITY—A BLUEPRINT FOR SURVIVAL

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. BROWN of California. Mr. Speaker, 21 years ago, President John Kennedy directed John J. McClory, adviser to President Eisenhower, to reach an agreement with the Soviets on the fundamental principles for future disarmament negotiations. John McCloy met with Soviet Representative, Valerian A. Zorin, on three occasions. On September 20, 1961, they signed the Joint Statement of Agreed Principles for Disarmament Negotiations, known as the McCloy-Zorin agreement. Three months later, the U.N. General Assembly adopted the agreement as the foundation for future negotiations toward general and complete disarmament.

Today, I have introduced a common security resolution based upon the McCloy-Zorin agreement, which calls for secure disarmament and a framework for the peaceful settlement of disputes. This resolution works in concert with other peace initiatives, encouraging a multilateral disarmament agreement, binding upon all nations, and verified by an international body. Disarmament would proceed in phases, insuring that no country secures a military advantage over another.

I have incorporated into my proposal concepts from a May 1982 report by the Independent Commission on Disarmament and Security Issues entitled, "Common Security—a Blueprint for Survival." This report looks beyond superpower confrontations to the need to hold multilateral negotiations on nuclear arms reductions, the need to limit nonnuclear weapons of mass destruction, and the need to be concerned about the international buildup in conventional weapons. This report proposes concrete, constructive remedies, and I recomment it to anyone interested in what more can be done to achieve worldwide disarmament.

The significant contributions—including the name of this resolution—made by the Independent Commission on Disarmament and Security Issues should be a starting point in the process of achieving true international security and genuine disarmament. The Chairman of the Commission, Olaf Palme, former Prime Minister of Sweden, deserves much credit. Other notables include Cyrus Vance, former Secretary of State of the United States, George Arbatov, member of the Soviet Central Committee and Deputy of the Supreme Soviet, David Owen, former Secretary of State for Great Britain, and many other experts.

This common security resolution is but one step toward our objective. It would require verification of disarmament, promote institutions dedicated to peaceful resolutions of disputes, and require the peaceful development of space. This bill encompasses, and works in concert with, a number of legislative initiatives which have been, or will shortly be, introduced. These include Congressman MARKEY's "Nuclear Freeze," Congressman GLICKMAN's "Academy for Peace and Conflict Resolution," and Congressman MOAKLEY's "Ban on Weapons in Space."

These initiatives are not utopian dreams, but constructive proposals to insure common security and our very survival. For over 50 years, the United States has supported multilateral arms control and disarmament. Beginning with the Geneva Protocol of 1925, which prohibited the use of bacteriological warfare, the United States has steadily participated in controlling and eliminating the worst evils of war. We have not always been successful, and, at times, we have been diverted from that course, but the underlying objective of common security has remained consistent. Among the many treaties and agreements to which the United States has been a party are:

The Antarctic Treaty (December 1959) was the first post-World War II arms limitation agreement, designating the Antarctic as a zone of peace.

The Limited Test Ban Treaty (August 1963) was negotiated by the United States, the U.S.S.R., and the United Kingdom to prohibit all but underground nuclear testing.

The Outer Space Treaty (January 1967) is designed to prevent a nuclear arms race in outer space.

The Nuclear Nonproliferation Treaty (July 1968) links efforts to prevent the horizontal, country to country, proliferation of nuclear weapons with promises that the nuclear powers will seek comprehensive arms controls.

The Antiballistic Missile Treaty (July 1974) restricts the development of ABM's in an effort to prevent an ABM arms race and to maintain the deterrent nature of ICBM's.

At the close of World War II when the bombed-out ruins of the cities of both victorious and defeated nations stood as mute testimony to the destructiveness of the era's conventional weapons, public support for disarmament was strong. World War II's enormous toll of human life and suffering—including the obliteration of Hiroshima and Nagasaki—strengthened determinaiton to reduce armaments and thereby to lessen the probability of another catastrophic world war.

Today, we have an entire generation which has grown up under the threat

of nuclear annihilation, a generation which has been told, in George Orwell's words, that "war is peace," a generation which is now being taught that nuclear war is winnable. Yet, gradually, and with increasing conviction, the American public is again becoming aware of the magnitude of this terrifying problem.

On November 28, 1945, less than 4 months after the bombing of Hiroshima, the English philosopher Bertrand Russell rose and said in the House of Lords:

> We do not want to look at this thing simply from a point of view of the next few years; we want to look at it from the point of view of the future of mankind. The question is a simple one: Is it possible for a scientific society to continue to exist, or must such a society inevitably bring itself to destruction? It is a simple question but a very vital one.

Although science and technology made nuclear warfare possible, it was politics which demanded it. And politics must now bring us back from the brink of self-destruction. Passage of this common security resolution cannot, by itself, bring peace or remove the threat of nuclear war. The technology of global destruction is there and will not simply vanish. But we can and we must develop the means to halt the global arms race, defuse political crises, and insure the peaceful resolution of conflicts.

As Jonathan Schell explained in his book "The Fate of the Earth":

> Nuclear peril threatens life, above all, not at the level of individuals, who already live under the sway of death, but at the level of everything that individuals hold in common. Death cuts off life; extinction cuts off birth * * * In extinction, a darkness falls over the world not because the lights have gone out but because the eyes that behold the light have been closed.

The eyes of the future are our responsibility; a responsibility that we cannot ignore without risking all that makes our lives meaningful. I urge my colleagues to join me in this significant first step toward peace.●

ORPHAN DRUG ACT

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. WALGREN. Mr. Speaker, President Reagan is to be saluted for signing into law the Orphan Drug Act (H.R. 5238).

I supported this bill as a member of the House Health Subcommittee in view of the clear need for this kind of legislation that was brought out in hearings before our committee. For most drug companies it is not in their economic interests to develop drugs for rare diseases because so few people need them. This bill will make the regulatory approval process for these drugs clearer and put into place some incentives to encourage companies to manufacture them. For example, it grants limited patent-like rights when a drug is orphaned because it would be unpatentable.

There are many diseases affecting a small number of people in this country. Yet for these people the diseases are overwhelming and are hardly small problems. Examples are Huntington's disease which afflicts 14,000 persons; Lou Gehrig's disease, 9,000 persons; Tourette syndrome, 100,000 persons; and muscular dystrophy, 200,000 persons.

This bill had unanimous and bipartisan support when it passed the Congress. I commend the President for taking this humane and compassionate step toward alleviating pain and suffering for many people. I hope we will see many advances in the pharmaceutical field as a result.

I would like to share with my colleagues the letter I sent President Reagan urging that he sign the bill.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
WASHINGTON, D.C., *January 3, 1983.*

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I am writing to urge that you sign into law H.R. 5238, the Orphan Drug Act which passed the House and Senate on unanimous votes. I believe that the bill is carefully constructed and provides needed incentives to pharmaceutical companies to produce drugs for treating rare diseases.

I would urge you to take this small step toward alleviating pain and disease experienced by hundreds and thousands of people.

Sincerely,

DOUG WALGREN,
Member of Congress.●

OMNIBUS BILLS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for January 5, 1983, into the CONGRESSIONAL RECORD:

OMNIBUS BILLS

Two weeks ago, for the third time in 14 months, the federal government ground to a halt because the Congress could not pass a budget. As these crippling fiscal impasses have become more common, I have grown accustomed to federal employees asking me, only half in jest, whether they should go to work the next day. In the middle of a church service the other day I had a worshipper turn to me and ask, "Why can't you keep the government running?"

One of the principal culprits preventing the smooth and continuous operation of the federal government is the omnibus spending bill (or, as we call it, the "continuing resolution"). Unable to pass the 13 traditional spending bills in a timely fashion, the Congress now readily supplants them, or at least some of them, with an omnibus spending bill. The continuing resolution was first used a century ago, but it has evolved since then and has changed radically in character. It used to be a device to tide the government over for a few days until separate spending bills could be passed; today, it is a device that provides money for most of the government and stays in effect for most of the year. The continuing resolution is rapidly becoming one of the major instruments through which government policy is made.

There can really be no doubt that the continuing resolution performs a new role these days. For example, government financing for most of the 1982 fiscal year was provided by an omnibus spending measure that stayed in effect from March 1 to December 30. Worse still, instead of merely continuing the level of spending at current rates (and thus truly deserving the name "continuing resolution"), the measure contained hundreds of extraneous provisions, many of them new, many of them granting increases in spending, and many of them making basic changes in the law. The continuing resolution this year will make available 78 percent of all appropriated monies. In the last 20 years, the Congress has used the continuing resolution 74 times. Fully 85 percent of all appropriations bills for these years have been passed after the start of the fiscal year.

The continuing resolution has become the means by which new multi-billion-dollar programs of employment are passed, new weapons systems are approved, and vigorous debates on abortion, school prayer, busing, and public works are conducted. It is the cause of many a testy, unruly congressional session. Because it affects so many different projects and programs, it is bound to be highly controversial and very hard to enact. What is worse, the continuing resolution has apparently begun to serve as a "model" of congressional procedure. More and more of the legislative work of the Congress is done in omnibus packages: another example is the enormous "reconciliation" bill which is now being used regularly to make hundreds of changes in authorizing legislation in order to enforce the overall taxing and spending targets set every year by the budget resolution. Most of our recent legislative accomplishments, such as they are, are found in omnibus bills.

Almost everyone who is familiar with the basic principles of public administration agrees that running the federal government with these large legislative packages is not good practice. Most members of Congress, including this one, are embarrassed by it. We know that it is not a good way to manage the nation's affairs, and as a general rule many of us, myself included again, vote against these packages. It is unwise to make law under the pressure of deadlines, with the possibility of government shutdown or a disruption of the Congress' calendar looming just ahead. As it rushes the federal budget through the frantic final hours of a legislative session, Congress neglects its deliberative duties and holds itself up to ridicule.

It is not easy to explain why the Congress has become so dependent on omnibus legislative measures. Part of the explanation is that members of Congress do not want to send separate bills to the floor for fear that they may be defeated. For example, the last separate spending bill for the Departments of Labor and Health and Human Services passed in 1979; members of Congress do not want to see the bill on the floor because it

raises so many disputes on social issues. The continuing resolution and the reconciliation bill testify to the fact that the Congress' consensus-building skills have deteriorated markedly. Another part of the explanation is that the issues before the Congress simply defy easy solutions. For example, it is becoming increasingly clear that the problems of the social security system are deeply rooted and will never be solved in a painless fashion. Whether the reasons be economic or social, things are just much more complex than they were a decade or two ago.

Even though the reasons for our inability to handle the budget may be understood, it is, nonetheless, a very serious matter that we are unable to enact a budget in an orderly way. The inability suggests that the Congress is paralyzed. It reflects poorly on the institution and implies simply that the Congress is not equal to its most important task—approving the federal budget. If the Congress cannot perform that task satisfactorily, what does it mean for the nation?

I have the uneasy feeling that these omnibus bills show us losing control of the legislative process. The Congress is sputtering along, its leadership unable to exert discipline. We sense that our needs are urgent, but that we are not addressing them forthrightly. Members of Congress complain that there has been a failure of leadership, that the budget process is overloaded, that the blocking actions of a few willful legislators are at fault. The question, I suppose, is whether the breakdown is temporary or permanent. It is true that we are in a transition, with political power shifting and new governmental relationships being created as a result of the November election.

I make no claim to know how to resolve all these problems. I do believe, however, that our heavy reliance on omnibus bills is a mistake, and that we should, without delay, do everything we can to return to the more traditional procedures.●

HATCH ACT REFORM

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. HOYER. Mr. Speaker, when the Congress originally passed the Hatch Act, the intent of the statute was noble and pragmatic—remove Federal employees from the political pressures of Government which might destroy the merit system of employment and advancement for these workers. Since enactment of this legislation, however, it has become clear that Federal employees have also lost one of their most treasured rights—the right to participate in the political process. I wonder how many of my colleagues have had to tell their federally employed constituents that the law prevents them from handing out literature or from calling voters during a political campaign, regardless whether that campaign may be for local city mayor or for the President of this country.

I firmly believe that we can extend to Federal workers the protection from political interference with their jobs without sacrificing that most important constitutional right of participation in the political process. To that end, I am a strong advocate for reform of the Hatch Act.

This past December, Mr. Kenneth Blaylock, president of the American Federation of Government Employees, published, what I believe to be, an excellent commentary on the Hatch Act and the need for reforms in that statute. I am including those remarks here for the benefit of many of my colleagues who may have missed his most telling remarks.

The remarks follow:

[From the Government Standard, December 1982]

HATCH ACT REFORM IS NECESSARY TO RESTORE BASIC CITIZENSHIP RIGHTS

(By Kenneth T. Blaylock)

It's time to remove another barrier to having effective government by amending the Hatch Act.

The theme of elections for the last decade has been ineffective government. Federal workers have been made the scapegoat for all the negatives in this national debate—yet they are not allowed to participate in the debate.

Experience teaches us that laws which deny or prohibit Constitutional, human, social or economic rights for any class of Americans penalize all Americans.

As a Nation, we have suffered poll taxes, literacy tests, disenfranchised women and other Jim Crow devices. In the past, voters have been kept away from the polls because of their race, age, sex and not being landowners.

But over the decades, these barriers have been struck down. Now it is time to salvage the political rights that are being denied to federal workers simply because of their occupation. This is no more legitimate than denial of rights because of age, sex and race.

The Hatch Act may have been originally enacted—as some still claim—with the benevolent idea in mind of protecting a merit system of government and federal workers from politically-motivated management and elected officials.

But the law lingers on the books today as a set of shackles, rather than as a shield. The blunt truth we must face now is the overwhelming fact that it is being used to keep federal workers from participating fully in the democratic process. There's no way to disguise that ugly reality.

So the first reason the act should be amended is that federal workers are American citizens, and should not be denied basic rights of a free democracy.

Further, it is a basic American principle that the accused be allowed to defend himself or herself. Which leads me to my second point, and gets back to the national debate about efficiency of Government.

It also leads to an interesting question: Who is being protected by the Hatch Act in its present form?

The policies and programs that are at the core of the debate about efficiency in government are set by elected members of Congress and appointed management—not by federal workers.

Yet these elected and appointed leaders are allowed to shift the blame for policy mistakes and program failures off their own shoulders and on to the backs of the workers.

In effect, the Hatch Act is used to keep federal workers out of any public debate about government programs and agency actions. Those who could really make a worthwhile contribution to the argument—the federal workers who know what's going on—are kept out of the dialogue at election time.

It seems to me the public would be better served, if federal workers were allowed to make voters aware of agency shortcomings by being able to take part in the election process debate that eventually sets the course for government.

Previous administrations, as well as the present one, have given public lip service to the idea of federal workers being able to speak up and blow the whistle when programs go wrong, errors in managerial judgment occur, cost overruns are concealed and corruption spreads. Yet, those who dare speak out are harassed, or shunted off to inconsequential jobs or fired.

If the Hatch Act were amended to allow these same federal workers to speak up during the campaign debates, more truth about the government would come to the public's attention and wiser decisions could be made by the voters.

Furthermore, if the law were amended to allow federal workers to endorse candidates, serve on those candidates' campaigns—there might be a better balance to the ideas that are made available.

The basic concept of protecting a career merit system of government is as valid today as it was in 1939. Day-to-day services and operation of government must go on as was demonstrated during the Nixon Administration.

We cannot afford to return to the "spoils system" of government. However, the needs of government, the rights of citizens of this country and the American right to know should be balanced by strengthening the prohibition against improper use of official office or political exploitation, while allowing Federal workers basic rights of involvement in our political process.

We will not rest until those rights are restored.●

WITHHOLDING FUNDING FOR THE LAW OF THE SEA COMMISSION: I SALUTE A GOOD DECISION

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. BROOMFIELD. Mr. Speaker, I am delighted to share with my colleagues some good news to begin this New Year. On December 30, 1982, the administration decided to refuse to pay the costs of a "Preparatory Commission" that will implement the Law of the Sea Treaty. This was a sane and proper decision and I congratulate the President for his efforts.

As all of you know, the United Nations General Assembly passed a resolution that would, among other things, finance the Preparatory Commission under the Law of the Sea Treaty from the regular U.N. budget.

The U.N.'s conference of the Law of the Sea established a permanent commission for this Third-World grab of mineral resources at the ocean bottom. This conference just had a posh reception at the sumptuous Montego Bay facilities to inititate the 4-day-long signing ceremony.

Transportation, housing, and food costs for U.N. diplomats and secretariat staff attending the function and supporting the Commission came out of the U.N.'s general budget.

This expensive signing ceremony, and even costlier staff relocation, come at a time when the United States and many nations in the world are having severe economic difficulties. Recently, delegates from the United States, the Soviet Union, and Britain met with the Secretary General of the U.N. to express their concern over the rising costs of the organization. U.N. spending has risen over 80 percent in 5 years. This has meant a rise in the U.S. contribution from $99 million in 1977 to $180 million in 1982.

Our government has fought hard to uphold fiscal responsibility in the U.N., and in this case consistently opposed this financing scheme. It is not a proper expense of the U.N. within the meaning of its own charter. The Preparatory Commission is legally independent of and distinct from the U.N. The Commission is not a U.N. subsidiary organization. It is not answerable to that body. As such, membership in the U.N. does not obligate a member to finance or otherwise support this Law of the Sea Organization.

In addition, these funds are destined to finance the very aspects of the Law of the Sea Treaty that are unacceptable to the United States—namely, having the Commission develop rules and regulations for the seabed mining regime.

The President recently ordered a thorough review of the financing plan for the Commission. He determined that the assessment levied upon the United States is improper under the U.N. charter and is not legally binding upon members. Furthermore, the activities of the Commission will be adverse to the interests of the United States. As a result of this decision, the administration will withhold its pro rata share of the cost of the U.N. budget for funding the Commission.

This decision will result in a savings to the U.S. taxpayer of between $500,000 to $700,000. During this period of fiscal austerity and economic difficulties. I believe that the President is to be commended for grabbing the bull by the horns. He said "no" to funding this improper and costly assessment for efforts that are obviously not in our Nation's interests.●

CIGARETTE TAX LAW CHANGE

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. STARK. Mr. Speaker, I am today introducing legislation which will make permanent the recent increase in cigarette taxes and adjust this increase annually to reflect increases in the cost of living. During consideration of the Tax Equity and Fiscal Responsibility Act of 1982, the Congress wisely decided to double the excise tax on cigarettes from 8 cents to 16 cents. Unfortunately the legislation provided for termination of the tax increase in 1985. My bill would make the increase permanent and would provide that the tax would be increased each year (rounded upward to the nearest cent) to parallel increases in the consumer price index.

My Speaker, each year cigarettes add billions of dollars to our national health costs. At the cost of providing care to those that suffer the adverse medical consequences of smoking increases, it is only fair that taxes on cigarettes are correspondingly increased to help offset these costs.

The Government clearly cannot stop people from smoking, but we can and should require that smokers help defray the costs associated with its consequences. I hope that this legislation will be swiftly approved by the Congress.

The text of the bill is printed below:

H.R. 698

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (c) of section 283 of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by striking out "and before October 1, 1985".

(b) Section 5701 of the Internal Revenue Code of 1954 (relating to rate of tax on cigars, cigarettes, and cigarette papers and tubes) is amended by adding at the end thereof the following new subsection:

"(f) COST-OF-LIVING ADJUSTMENTS IN RATE OF TAX ON CIGARETTES.—

"(1) IN GENERAL.—In the case of cigarettes removed in a calendar year after 1983, subsection (b) shall be applied by increasing each dollar amount contained therein by the cost-of-living adjustment for such calendar year.

"(2) COST-OF-LIVING ADJUSTMENT.—For purposes of paragraph (1), the cost-of-living adjustment for any calendar year is the percentage (if any) by which—

"(A) the CPI for October of the preceding calendar year, exceeds

"(B) the CPI for October 1982.

"(3) CPI.—The term 'CPI' means the Consumer Price Index for All Urban Consumers published by the Department of Labor.

"(4) ROUNDING.—Any increase under paragraph (1) shall be rounded to the nearest 1 cent."

(c) The amendment made by subsection (b) shall apply with respect to cigarettes removed after December 31, 1983.●

ARE COLLEGE SPORTS WORTH THE COST?

HON. JOHN P. HAMMERSCHMIDT

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. HAMMERSCHMIDT. Mr. Speaker, the community college is a relative newcomer to our system of postsecondary educational opportunities. The role of these facilities is still evolving.

Mrs. Maxine Pettit, whose expertise in this field includes eight years of service on the Board of Trustees of the North Arkansas Community College in Harrison, Ark., recently set down some thoughts about the community college concept, which were published in the Wednesday, December 29, 1982, edition of the Arkansas Gazette.

Mr. Speaker, I recommend Mrs. Pettit's article to the attention of my colleagues and ask that the text be included in the RECORD.

ARE COLLEGE SPORTS WORTH THE COST?

A recent study by Dr. Michael Elliott, former director of the state Department of Higher Education, revealed that all state-supported schools, with the exception of the University of Arkansas, lost money in intercollegiate athletics. The amount was not insignificant—a combined deficit in the 1980-81 year of $4.4 million.

Is anyone surprised that varsity sports shows this large deficit? Accountability of our resources must surely lead parents, boards of trustees and educators to answer an even more relevant question: Is it worth it, especially in the light of the rapid rise in the cost of living, which means the cost of running an intercollegiate athletic program will continue to rise also?

As a board member of the North Arkansas Community College, I have been very vocal in my opposition to varsity athletics. I have called attention to the increasing costs in meetings with my colleagues and administrators, public statements and even a report that went to the North Central Association. I am obviously very much in the minority with my viewpoint. Varsity sports continue not only at my college but at all but one of the community colleges in Arkansas. Only the East Arkansas Community College in Forrest City has dropped its varsity sports program, for the reason, I would assume, that the benefits did not warrant the time, effort and money that went into it.

During the 1960s, the enrollment in higher education increased 2½ times more than in the previous three centuries. In the last two decades college costs increased twentyfold.

The community college has come on the scene in recent years, partially as an answer to the high cost of education. However, the idea behind its design is not too well understood, and, therefore, not overwhelmingly endorsed by many Arkansas citizens. I believe its unqiue characteristics make varsity sports incompatible and irrelevant.

A community college has the same obligation to provide the highest quality academic transfer programs as a junior college, but it also has potential for life enrichment in its

community service orientation that is unmatched in a traditional college program. Also, the constitutional design of a community college gives it a built-in flexibility that carries with it a very real obligation to assess the cultural, recreational and educational needs of the community and respond to them as far as budget and personnel allow. These programs require primacy in the budget.

Another unorthodox element of the community college is its existence as a commuter institution. By law it is prohibited from providing housing for students. Also, the average age level of the students nationwide is a decade or more than the average age of college students. Most of the students at North Arkansas Community College come from a seven-county area of Arkansas and several counties in southwestern Missouri.

Many are married with children; some are veterans, and others, in their 30s and 40s, are seeking new career directions. Some students carry part-time and even full-time jobs. There are, of course, the traditional 18- and 19-year-olds, working on academic transfer programs to senior institutions. This diversity greatly influences the programs, simply because the interests and needs of many students rule out any participation in varsity sports, or even any marked degree of interest in the programs. (A study at North Arkansas Community College last year revealed that less than 10 per cent of the student body attended varsity sports events.)

MAJOR CHANGES CITED

Major changes are occurring rapidly in society, and new services and activities should be offered to meet them.

Two fine examples of responding to community needs can be seen in the way the North Arkansas College administration initiated and developed a reading program for persons with reading disabilities. Also, our college has one of the best nurses training program in the state, answering major needs in the large and growing Boone County area. Responding to further community priorities, NACC has a fine arts complex on the drawing boards.

A California community college educator has defined several areas that hold serious challenges for education in the decades ahead. He predicts greater diversity of student bodies and foresees "the impact of declining academic performance of secondary schools and the matriculation of culturally handicapped minorities with great emphasis having to be given to remedial studies."

In addition, there is an awakening interest in young people for skills in recreational activities such as water sports, golf, tennis, dancing and numerous other activities that can be beneficial for health and enjoyment for literally a lifetime.

As costs of education continue to rise and considering the very short-range benefits of intercollegiate sports for a very small percentage of any student body, I suggest that perhaps responsible accountability would lead community colleges to seriously evalute recreational activity versus the traditional varsity program if the colleges feel a need for any kind of sports program.

As a parent, taxpayer and involved citizen, I would like to see the community colleges spend money on the arts and humanities rather than athletics.

One of the most profound beliefs we can have about the human personality is that we were born to be creative in some form or another. So I am led to believe that the arts, philosophy and the written and spoken word have almost a divine dimension in our search for the wholeness of life.

As we move to meeting the challenges of a technological age with its emphasis on materialism, I urge that we be aware of the enormous value of our cultural and spiritual resources in the roots of this nation. We should draw on them to help us make decisions on the value systems we wish to live by and to pass on to the next generation.

Ultimately, I perceive the bottom line in education to be not money but priorities. What do we place first is a question that must be answered by every educational institution.●

NATIONAL FAMILY WEEK

HON. DAN MARRIOTT

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. MARRIOTT. Mr. Speaker, it gives me great pleasure to announce to the House of Representatives that I have today introduced legislation to designate the week beginning November 20, 1983, as "National Family Week."

It has always been my belief that the family is the backbone of our country. No country can prosper without strong family units. It is through the family that our children are molded into responsible, productive citizens. A lack of family unity has brought about increased crime and corruption to our streets. It is imperative that not only legislators, but all Americans, be aware of the dangers which exist for the future of our country if the family unit is allowed to disintegrate.

This is the seventh consecutive year that I have either sponsored or cosponsored this type of legislation. In the past, this resolution has received overwhelming bipartisian support from those of us in Congress representing American families. It is widely recognized in the Congress that setting aside 1 week in recognition of the family gives every citizen the opportunity to reevaluate their relationship with their family. Family members should be aware of those individuals who are part of their family who are suffering personal failures and support them so that they, too, can enjoy the great success realized by other members of the same family unit.

A week of national observance of the family can give each of us an opportunity to put things in perspective. And, what better week to set aside than by proclaiming Thanksgiving Week as National Family Week.

In addition to sponsoring this resolution, I have also cosponsored Representative GEORGE MILLER's measure to establish a Select Committee on Children, Youth, and Families for the 98th Congress. I not only supported this legislation in the 97th Congress, but cosponsored and fought for its passage. It is important that this Congress give the recognition necessary to establishment of a committee to review the special status, needs, and concerns of this vital element of our society. This is an important first step toward an increased nationwide understanding of the diverse and complex circumstances affecting children and families. Congress needs a single oversight committee whose sole responsibility is reviewing and improving the quality of life for families and children. This commitment knows no jurisdictional, philosophical, or partisan lines.

I urge my colleages to support the passage of these two important pieces of legislation.●

PAY RAISE REFORMS STILL NEEDED

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. WALGREN. Mr. Speaker, today I am introducing two pieces of legislation which will reform the way in which the Congress grants itself pay increases.

The first, will simply repeal the current provision of law which allow automatic cost-of-living increases for Members without a separate appropriation. This was enacted with passage of the 1982 continuing resolution in October of 1981.

The second will amend the House rules so that any legislation which increases Members' salaries, income tax benefits, or limitations on outside earnings may only be considered under the following three circumstances: First, there is a record vote; second, the legislation is considered separately from any other legislation; and third, the change will not take effect until after an intervening election.●

NEWS THAT'S HARD TO FIND

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. MICHEL. Mr. Speaker, all of us have wondered from time to time about those important events that somehow do not become news. The Journal Star of Peoria, Ill., recently published an editorial concerning this phenomenon, listing such real events—but non-news—as fighting in a Lebanese city and a recent change of government in a South American country. Why do events like these receive almost no media coverage and other events fill the front pages and television evening news? The Journal Star

asks: "Does 'news' have to fit present notions, an established ideological scenario, to be news?"

I suspect that half of the criticism that is made of the media comes from those who want more news, not less news—more coverage, not less. No responsible political figure wants the press to stop reporting. All most of us ask is that the full story is published and that many kinds of news stories appear, instead of the same old subjects. I know, in my case, I would prefer much more coverage of what I do—and, yes, fail to do—in the Congress. We are willing to let the people judge whether we are doing a good job. But all too often the job we are doing, in its totality, is not reported at all.

At this point, I wish to insert in the RECORD, "News That's Hard To Find" from the Journal Star, December 20, 1982.

[From the Journal Star, Peoria, Ill., Dec. 20, 1982]

NEWS THAT'S HARD TO FIND

In Lebanon's second largest city, Tripoli (bigger than Peoria), scenes like those we saw recently in Beirut have been taking place for some time. Artillery firing, rockets blasting, buildings shattering and people dying.

Have you seen any buildings exploding in Tripoli on the tube? Seen any of the wide-eyed children in any rubble-strewn streets? Have you read a word about the fighting there?

Tripoli is 40 miles north of Beirut. The Israeli army conquered and occupies southern Lebanon but the Israelis never swept north, and there are no multinational peace forces there—only the Syrian army, the PLO and local militias. Tripoli is essentially a Moslem city.

Ergo, neither Christians nor Israeli are involved—yet buildings have been blown up, shelling and rocketing and all the elements of war in an urban center have been going on there.

This really suggests what Lebanese have told us from the start—that the problem has always been the foreign forces in Lebanon, essentially the Syrians and the PLO, who have been there for seven years.

But who cares?

It was only a "good story" worth extensive reporting when Israel invaded to throw out the PLO and the Syrians in the south, and (offer to get out themselves if and when the PLO and Syrians depart the rest of the country.)

It was news only as long as cameras could focus from relative safety on the horrors of war in an urban center, when Yasir Arafat would pose for the cameras and when Israelis could be called the invaders.

Why is that? Especially when it serves to obliterate the real story, the seven year continuing experience sans Israel, and any real understanding of the problem?

Or take another example:

In formerly Dutch Guiana—now Surinam—a "Colonel" Douterse has taken over, executed union leaders, rival politicians, a vice president of the International Football Federation (with headquaters in Geneva,) and is in general conducting a reign of terror, flanked by Cuban and Nicaraguan "advisors," apparently.

Surinam is 63,000 square miles of territory on the strategic Atlantic coast between Venezuela and Brazil. Now, consider that El Salvador is 8,500 square miles in size on the Pacific coast of Central America, with a recently installed civilian government following general elections in which the population voted heavily in the presence of foreign observers.

We've heard a lot about it. How much have you heard about Surinam? Why is it that we have heard so mch about El Salvador and the questions about "human rights" there still standing from a previous regime . . . and so little about Surinam where the executions are still going on?

Does "news" have to fit preset notions, an established ideological scenario, to BE news?

Or is it simply that wherever authorities are sufficiently pro-American or pro-freedom to permit newsmen and TV cameras in, those newsmen and TV people then proceed to sensationalize the worst thing they can find, surmise or suspect. . . ripping up the host authorities.

But where the authorities do not give a hoot about the U.S. or the idea of freedom, and have nothing but contempt for the "free press" they can carry out murderous warfare or political pogroms ruthlessly, and there are no U.S. newsmen and no U.S. TV network people allowed.

This is a wonderful arrangement for crucifying struggling friends, seeking to be free, while giving enemies devoted to the destruction of freedom and of the United States a pass.

Why?

Simply because "show business" can't bother with events or people who refuse to cooperate in the snow?

Meanwhile the "spokes persons" for all sorts of good things like "peace" and "human rights" in some mysterious fashion seldom have any ringing pronouncements to make when socialist dictators or generals or colonels or whatever Arafat calls himself, are doing their dirty work around the world.

And the result is a lopsided view wherever there is a real struggle. Those who provide media access get the shaft. Those who lock us out escape such bad publicity.

Result: most of the time the totalitarians and their "revolutionary" trainees get attention when they want it for their propaganda, and get silence when they want it—while they are doing their dirty work.●

TRIBUTE TO HOWARD FRIEDMAN, A MAJOR INFLUENCE ON FLORIDA

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. FUQUA. Mr. Speaker, a dear friend, a trusted adviser, and a major influence in Florida—Howard Friedman—died on December 26, thus ending a remarkable career of contributions to my native State.

Howard Friedman was a native of the Bronx who first came to Florida during World War II as a soldier stationed at Camp Gordon Jackson at Carrabelle.

He remained in the State, married a Tallahassee girl, and became one of the most influential figures not only in Florida politics but within the State education system where he worked tirelessly for 35 years for greater opportunities for Florida youngsters through better education.

His first civilian job in Tallahassee was as a columnist for the Tallahassee Democrat but he left that post in 1947 to become a senior executive in the education department where he served under four commissioners and ended his career as director of information and public relations and executive assistant to the commissioner.

Job titles, however, could never do justice to the beneficial effect of Howard Friedman's efforts on behalf of education in Florida.

For decades he was the education department's chief representative before the Florida Legislature and seldom was any bill affecting legislation considered without Howard's carefully considered appraisal being sought by key legislators.

From 1947 until his death of cancer last month, Howard Friedman was a contributing factor to every session of the Florida Legislature and, indeed, became an institution in his own right.

For years Howard maintained a standing reservation at one of Tallahassee's favorite restaurants—the Silver Slipper—which was a magnet during legislative sessions for lawmakers, lobbyists, journalists and government executives.

Seldom did a major figure in Florida decide on a career move without visiting with Howard and his friends at his table which was, as much as anything in Florida, the vortex of the State's political whirlwinds.

Howard was a significant factor in my own first congressional campaign and beyond that has been a consistent friend since my freshman days in the Florida Legislature in 1958, when he was already a seasoned veteran of Florida politics.

The State of Florida was a great beneficiary of Howard Friedman's love and efforts.

He will be greatly missed by the thousands who knew and respected him.

My deepest condolences to his wife, Mary, and their three sons, Harry, Jay, and Marty.●

REPEAL 10 PERCENT WITHHOLDING MEASURE

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. ROTH. Mr. Speaker, during the last Congress, this body was responsible for passing a bill which will soon create a serious hardship on many of

our people, unless we act quickly to forestall it.

For this reason, I am supporting legislation which will repeal the provision of last year's tax act which calls for the withholding of 10 percent of our citizens' interest and dividends.

Among those who will be hit the hardest by this withholding are the poor, the unemployed, and the elderly.

We have more than 26 million people in this country who are over 65 years old and who depend on the interest from their savings to help make ends meet each month. The money the new law will take are funds that these responsible citizens have set aside to provide for the years when their income would be reduced.

I said at the time the bill was debated that it was wrong, and I say now that the prospect of withholding the savings of the elderly has not improved since that time.

No one who has the virtue of thrift should be penalized for those values. I call upon my colleagues to support legislation which will repeal this provision from our Nation's tax laws and restore the incentive to save and help our country to prosper again.●

TRIBUTE TO J. EDWARD ATKINSON

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. DIXON. Mr. Speaker, on Friday, February 4, 1983, friends and colleagues of J. Edward Atkinson will gather at the Beverly Wilshire Hotel in Los Angeles, Calif., to pay tribute to this distinguished and hardworking individual on the occasion of his retirement. Knowing of his strong community commitment, and being a longtime admirer, I would especially like to take a few minutes to share with my colleagues just a few of Eddie's outstanding and unselfish contributions to his company and to his fellow Los Angeleans.

Born and raised in Denver, Colo., Eddie moved to Los Angeles, Calif., to attend Loyola University, where he received his baccalaureate degree. A dedicated scholar, Eddie took time from his busy academic schedule to make a name for himself in the athletic field as an All-American on the university football team.

After graduation, Eddie settled in Los Angeles. Compelled by the desire to contribute to the quality of life in his community, Eddie decided to run for public office. In 1958, he became the first black to run for the Los Angeles City Council, losing by less than 1,000 votes.

In 1965, Eddie began his career as public relations supervisor with the Carnation Co. at their world headquarters in Los Angeles, Calif. More than 18 years have passed and Eddie is now retiring from the company where he has been acting since 1965 as a liaison officer between the Carnation Co. and the minority community.

When not representing his company officially, Eddie can be found working in a variety of community endeavors, especially those designed to support minority art. In 1971, Eddie dedicated his energies to the publication of "Black Dimensions in Contemporary American Art" as editor and researcher of the project. This work, which chronicled the genius of 50 black American artists, was recognized by Esquire magazine and the Business Committee for the Arts for its outstanding contribution in promoting the arts.

A further example of his intense community dedication was evidenced by his involvement in the development of "Rising Voices/Voces Que Surgen," a book including inspiring stories of 52 outstanding Spanish-Americans portrayed in vivid words and photos. Not only did Eddie participate in the promotion and distribution of this project, he also coordinated and edited the book. In addition, he has authored many pamphlets on employment, prenatal care and health, and black history, whose distribution has exceeded 15 million.

Over the years, numerous individuals have been touched by Eddie's warmth and his seemingly never ending reservoir of wisdom and support. He is a committed and extremely diligent servent who has given much to the community, asking nothing in return while rejoicing in the progress and the fruits of his labor. His receipt of an honorary doctorate in 1979 from King Memorial College in Columbia, S.C., is testimony to dedication.

Throughout his professional career, Eddie has received numerous accolades from his peers. In 1974, he was awarded the Silver Anvil for his dynamic public relations program on behalf of Carnation Co. The Silver Anvil Awards are presented by the Public Relations Society of America and represent the ultimate honors that public relations professionals can receive.

In addition, he was awarded the 1978 Achievement Award from the Los Angeles Association of Advertising Women and the National Association of Market Developers' Presidential Award. In 1979, the Governor of Kentucky bestowed upon Eddie the title of Honorary Kentucky Colonel, in honor of Eddie's distinguished career.

When friends and colleagues gather on February 4 to pay tribute to Eddie, they will honor a gentleman who has given much to the community. Although Eddie leaves Carnation, Los Angeleans can be certain that his mark will continue to be felt throughout the community. As he embarks on the second phase of life, I join with his many friends in saluting this distinguished Los Angelean and wish him every success that his future is sure to bring.●

WOMEN'S HISTORY WEEK

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Ms. MIKULSKI. Mr. Speaker, today I am reintroducing a joint resolution designating Women's History Week. This resolution, like those before it, calls upon the country to recognize the valuable contribution women have made to the history of this Nation. As you know, we celebrated Women's History Week last year with ceremonies and activities across the Nation. We want to do that again in 1983.

Just as women who are half of the population of this country have not been written into the Constitution, they have also not been written into our history. And yet, they were there, beside their husbands, their fathers, their brothers, and their friends. They sailed the seas, tilled the soil, built the cities, and raised families.

Women's History Week is one step forward in the evolving recognition of those values, and of those rights. Women's History Week says to people across this Nation, "Women are achievers, women are important, women are half of all this country is."●

TRIBUTE TO MRS. ANN SMARTT EVINS

HON. ALBERT GORE, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. GORE. Mr. Speaker, sad news came to Members of the Tennessee delgation in the midst of Monday's swearing in ceremonies. That afternoon, Mrs. Ann Smartt Evins, for 47 years the beloved wife of former Representative Joe L. Evins, was killed in an automobile accident. At this difficult time, the sympathy of my family and the people of my district, many of whom were represented by Mr. Evins during his years in Congress, goes out to Mr. Evins and the family.

Mrs. Ann Evins was a gifted person with boundless energy and enthusiasm for life. She was an integral part of Congressman Evins' 30-year career of distinguished service as a Member of this body. Her compassion and caring for others was best illustrated again for me the last time I saw her. I

stopped by the Evins' home in Smithville, Tenn. unannounced, hoping to spend a few minutes with Congressman and Mrs. Evins as I traveled between open meetings in the district. Mrs. Evins graciously received me but apologized for having to leave as I was arriving. She was on her way to teach handicapped children. I suppose my last memory of Mrs. Evins will be of her running out the door, arms full of books, keeping her appointment with the children as a volunteer teacher in remedial reading.

This is a fitting memory of Mrs. Evins. As a person, a mother, and the wife of one of the most powerful men in Congress, Ann Evins was the kind of person of whom it will be said by all who knew her that our lives are richer because she lived.

The Tennessean of January 4, 1982, reported in part:

Mrs. Evins was the daughter of the late Circuit Court Judge R. W. Smartt and Anne Fancher Smartt. She was born in Smartt Station, Tenn., near McMinnville, in a community named after her father—who was a Circuit Court judge for 32 years.

She and the former Congressman were married 47 years ago.

Rep. Evins, 72, served 30 years in Washington, representing Tennessee's old 4th and 5th Congressional districts. He did not seek re-election in 1976 from the House of Representatives, at a time when he was widely considered one of the most powerful men in Congress.

Wilkes Coffey Jr. of Murfreesboro, an attorney who served as administrative assistant to Evins in Washington, said he "had an opportunity to observe closely the enormous contribution that Mrs. Evins made to the most distinguished record of service compiled by Congressman Evins over 30 years."

"She was calm and serene, whatever the demands of public life, and made a unique and lasting contribution to her husband's career and to many who were associated with him," Coffey said.

Mrs. Evins and her husband lived in Smithville the 47 years they were married. She taught school for two years at Smithville High School, shortly after moving to Smithville following her graduation from Maryville College.

She had graduated from Warren County High School and was a member of the Smithville Church of Christ.

Survivors in addition to her husband include three daughters, Jane Leonard, Washington, Mary Overton, Berkeley, Calif., and Joanne Carnahan, Dallas; a sister, Cornelia Hodges, Knoxville; three brothers, John M., Knoxville, Robert W., and Diemer L. Smartt, McMinnville; and five grandchildren.

In an editorial the Tennessean added:

MRS. ANN SMARTT EVINS

Mrs. Ann Smartt Evins, the wife of former Tennessee Rep. Joe L. Evins, died Monday in an automobile crash near Lebanon. The tragedy is deeply felt by all who knew her.

Mrs. Evins, who was 72, was the epitome of graciousness among political wives. Having grown up as the daughter of Circuit Court Judge R. W. Smartt of Smartt Junction, Mrs. Evins was well acquainted with the demands of political life. For 30 years in the nation's capital, from 1946 until the year Mr. Evins retired, she distinguished herself as a careful, courteous woman who gave liberally of her time and energy and who was well-liked by the wives of presidents, Cabinet officials and congressmen. She was devoted to her husband and his career and to her family.

What perhaps sustained her was her abiding religious faith. A member of the Church of Christ, she regularly attended Sunday night services in Washington, as well as semi-monthly "prayer breakfasts," held by Capitol Hill wives, that coincided with identical events hosted by the president for their husbands.

Conscientious to a fault, Mrs. Evins once mused to a reporter. "Every woman has to decide what comes first. I sometimes wonder if I'm putting first things first." Mrs. Evins needn't have worried. There were never any complaints, only praise, for her efforts to be her husband's ambassador. She will be sadly missed.

The Nashville Banner wrote in an editorial:

MRS. JOE L. EVINS: "GRAND LADY"

Mrs. Joe L. Evins will be remembered as a "grand lady," as her friends and family described her. She will also be remembered as the strong right arm of former Rep. Evins, one of Tennessee's most illustrious members of the U.S. House of Representatives.

Her tragic death Monday in an automobile accident near Lebanon brought to an end a life that was both rewarding and unselfish. Rep. Albert Gore recalled that on a recent visit to the Evins home in Smithville, he was greeted by Mrs. Evins carrying books under her arm, on her way to one of her many volunteer projects—tutoring children who were having difficulty reading.

Mrs. Evins' life was one of giving. She was the guiding force behind many civic and charitable endeavors, and she was the guiding force behind the remarkable political career of her husband, who was long considered one of the nation's most effective and powerful congressmen.

Mr. Evins retired in 1976 without suffering a defeat in 16 campaigns for Congress. Much of that success he attributed to Mrs. Evins, who was at his side throughout the rigorous campaigns and lent him her strong support throughout his 30 year congressional career.

Mrs. Evins was devoted to her husband and his career. She loved her family and her community. She gave unstintingly of herself to helping others, most of whom she did not know. She knew only that they needed help, and she gave it unselfishly.

The niche she carved for herself was not in the spotlight; that she gladly reserved for her husband. Her place was by his side. And she was always there.

Ann Smartt Evins was indeed a "grand lady." She will be remembered for a long, long time, as will her abundant works and influence.●

A TRIBUTE TO THE LATE DR. DANIEL JORDAN, EDUCATOR AND RELIGIOUS LEADER

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. LANTOS. Mr. Speaker, today, I wish to pay honor to the memory of Dr. Daniel Jordan, whose recent tragic death has resulted in a great loss to the world.

Dr. Jordan was dean of the school of education and professor of education at National University in San Diego, Calif. He was also one of nine members of the National Spiritual Assembly of the Baha'i faith, and had served twice as chairman of that board.

He dedicated his life to the Baha'i principle of universal education. His distinguished career as an educator was truly exemplary of his belief in the application of knowledge in the service of all mankind.

A Rhodes scholar, Dr. Jordan held an M.A. degree in music from Oxford University, and a Ph.D. in human development from the University of Chicago. He had been director of the Center for the Study of Human Potential and professor of education at the University of Massachusetts/Amherst, where he was the founder and director of the American National Institute for Social Advancement (ANISA), a comprehensive model of education designed to develop the human capacity to learn, act and communicate.

The author and editor of numerous articles and books on education and human development, Dr. Jordan had lectured throughout the Nation and the world, appearing on more than 200 radio and television shows. He had served as an educational consultant to the U.S. Office of Education, the Department of State, and many national and international agencies, schools, and institutions of higher education. He also directed and administered many governmental grant programs.

Dr. Jordan's commitment to education, accompanied by wisdom and vision, as well as his commitment to religious freedom, peace, and world brotherhood will be sorely missed by this Nation. Our hearts cry out against the cruelty of having one of our finest young leaders viciously robbed of life in his most productive years. I want to formally express my sadness over this loss, and ask my colleagues in Congress to join with the members of the Baha'i faith worldwide in prayers for Dan Jordan and his family.●

A TRIBUTE TO STUART J. ORBACH

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. MOORHEAD. Mr. Speaker, I would like to take this opportunity to express my gratitude to Stuart J. Orbach for the outstanding job he did as president of the Burbank Chamber of Commerce for the year 1982.

Mr. Orbach was the youngest president in the 65-year history of the Burbank Chamber and he was the only chamber staff member in the Nation to be elected a chamber president.

As a businessman and newspaper columnist, he has been active in the local business and civic communities. He is a man of great energy and vitality and he has worked with singular dedication to maintain those characteristics in the southern California business community.

Mr. Speaker, I appreciate Stuart Orbach and all men like him who are concerned enough to get involved, who care enough to assume responsibilities, and who are bright and able enough to make meaningful contributions to our society.●

HANK DRANE, REPORTER; A DISTINGUISHED CAREER ENDS

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. FUQUA. Mr. Speaker, Hank Drane, of the Florida Times-Union in Jacksonville, concluded a distinguished 36 years as a reporter at the beginning of this year and I feel compelled to enter this heartfelt tribute to his contributions to Florida, the South, and the Nation.

I have known Hank Drane since the earliest days of my political career, when I was a freshman State legislator in Tallahassee and Hank was already a veteran State political reporter.

That was in 1958 and during that 25 years I have never known Hank Drane to be less than an honorable gentleman and a dedicated, hardworking, factual reporter.

During his 36-year career, Hank has watched the State of Florida move from a sleeping and somewhat backward southern State to become not only a giant in population, but a vital, vibrant political and economic factor in the Nation.

While Hank had the style and temperament to gain friendship with many of the great figures in Florida and national politics, he never lost the ability, even compulsion, to talk to the people in barbershops and along backroads to gain insight into what the average person wanted from his government and its leaders and how they felt about decisions already made.

In his farewell column last Sunday, Hank said he was retiring "chiefly because I would like to experience the feeling of working at some other pursuit before the old bones become too arthritic and the enthusiasm for life begins to ebb; to become, as it were, a part of what is going on inside the arena rather than sitting on the rim to observe and report what is happening inside."

While I understand Hank's wish to participate in other endeavors, I cannot help but advise him that his contributions to government and the public life of Florida have been no less important than those of many who held elective office.

As a journalist of outstanding perception, Hank's regular commentary of life in Florida, the South, and the Nation, will certainly be missed.

But as an historian, a walking encyclopedia of Florida history and folklore, and as a human being, I am confident that his talent and his knowledge will continue to keep him active and the rest of us informed through one medium or another.

While I congratulate Hank on his career and wish him well in his retirement, I also anxiously await the beginning of whatever new career he enters and look forward to his continued contributions to understanding and betterment of our American way of life.●

AFGHAN REFUGEES IN PAKISTAN

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. RODINO. Mr. Speaker, it is important that we, as free American citizens, do not lose sight of the plight of helpless Afghan refugees huddled together on their border inside Pakistan. The famous actor Kirk Douglas, at the request of his Government and the President of Pakistan, journeyed the long distance to these refugee camps to draw attention to the misery suffered by the homeless citizens of a once-free Afghanistan.

I am inserting into the RECORD a report from Gilbert Robinson, Acting Director of the USIA, to his superior, Mr. Charles Wick, Director of the USIA, describing in human terms the accomplishments of Kirk Douglas' trip. Kirk Douglas is a good friend of mine and I am proud to document his achievements on behalf of his country.

To: Director Charles Wick.

From: Gilbert Robinson.

MEMO

In November Kirk Douglas accepted an invitation from the Government of Pakistan to visit Afghan refugees in that country in order to bring international attention to their plight and to the brutal Soviet war against the Afghan people. I want to give you a report of his visit and its effect.

Kirk spent the five days around Thanksgiving—November 23-27—in Pakistan, talking with officials concerned with refugee affairs and visiting refugee camps near the Afghan border. At one camp, he shared a Thanksgiving meal of mutton stew and unleavened bread with the refugees.

He visited refugee schools, saw camps for widows and orphans, and toured the Red Cross hospital for war-injured Afghans in Peshawar. In the hospital he talked with men and women with bullet and shrapnel wounds and, most tragically, children whose legs had been blown off by the gaily colored plastic mines shaped like toys which the Russians drop from helicopters.

In Islamabad on Thanksgiving evening, he met for an hour with President Mohammad Zia-ul Haq, who had been very pleased by Kirk's public comments about Pakistan's extraordinary generosity toward the refugees.

Illness prevented Kirk from staying for dinner, but the following evening, learning that he had visited another refugee camp, the President broke protocol by calling on him at his hotel. (The two met again at the White House State dinner in honor of President Zia. There the President warmly embraced Kirk, and all members of his entourage commented very favorably on the positive effects of the visit.)

Wherever he went, Kirk was warmly received by the Pakistanis and the Afghans alike. He was struck by the generous hospitality of Pakistan in receiving the refugees as guests, and by the unbroken spirit of the refugees in their determination to continue resistance to the Soviet invaders until their country is restored to them.

In Pakistan, close on-the-spot coverage of Kirk's activities and several press conferences generated more than a hundred very favorable stories in the domestic press and daily items on the evening television news. Pakistan Television subsequently did an excellent one-hour program on Kirk, his career, and the visit.

Day-to-day coverage of the visit plus reporting from a press conference which Kirk gave in Washington after his return was widely played in the United States and internationally, in countries as dissimilar as Japan and Chile, the Philippines and Saudi Arabia.

The visit was the subject of a seven-minute segment with Kirk on "Good Morning America," December 7.

USIA has produced an excellent 15-minute documentary on the visit which will be shown by our posts to worldwide audiences.

Kirk's visit to the refugees was arduous. To fit it into his schedule, he flew without rest directly from Los Angeles to Islanabad, some twenty-three hours, and returned again without stopover. In Pakistan, he refused to let illness deter him. He deserves the highest commendation for the humanitarian and patriotic spirit which led him to undertake this important mission and for the intelligence, sensitivity and professionalism which made it such a profound success in reminding the world of the continuing Afghan tragedy.●

A TRIBUTE TO BARBARA LEARNARD

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. ANDERSON. Mr. Speaker, today I wish to honor a woman who has, for the past year, served with distinction as president of the Women's Division of the Lomita Chamber of Commerce. Barbara Learnard, whose term as president expires at the end of January, has been an inspiration to the citizens of her community, both through her career and her volunteer work.

Barbara Learnard has a history of helping people, especially those with special needs. With a degree in education from Fresno State College, a master's degree from California Lutheran, and diplomas in physically handicapped, elementary, and special education, Ms. Learnard has made great accomplishments in both regular and special education. When, in 1980, she retired from teaching after over 37 years, she was known as a specialist in the fields of home and hospital education, and was considered a pioneer of teleclass teaching. She is a past president of Chapter 357 of the Council for Exceptional Children.

Besides her career of service, Barbara Learnard has also devoted her time to many local concerns. She is active in her church choir, has been a Girl Scout volunteer, a den mother, and handled publicity for the Lomita Little League. She has been a community correspondent for the Lomita Headlight, and is a member and past chaplain of the Post 1622 Lomita VFW Auxiliary.

Barbara Learnard has been a vital force in the founding of many local organizations. She was a founder of the Lomita Historical Society in 1975, where she has since served as president for 2 years, and also as vice president and treasurer. She is a charter member of the Lomita Sister City Association, for which she has been publicity chairman. Barbara is also a charter member of the Friends of the Lomita Library, where she has spent 11 years on the board of directors, including 2 years as president. She has been the Lomita representative to the Los Angeles County Southwest Regional Library Council.

Barbara Learnard has also set an example in fulfilling her civic duties. She served on the city of Lomita's Community Development and Rehabilitation Commission from 1974 to 1981, and was bicentennial chairman and time capsule chairman. She has also been chairman of Lomita's Arts, Humanities, and Culture Committee, and, since spring of 1981, a member of the Planning Commission. Before her current term as president of the Lomita Chamber of Commerce Women's Division, Barbara Learnard had served the chamber as recreational secretary and as vice president. For her many contributions, in 1979 Barbara Learnard received the South Bay YMCA Award of Merit.

I am pleased that my district has someone as active and committed as Barbara Learnard, and I hope that she will, after her term as president is over, continue to serve in the same fashion. My wife Lee joins me in wishing Barbara, her husband Lew, and their two children, Celia and Brian, all the best in their many years ahead.●

PUBLIC SERVICE: GETTING YOURS

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mrs. SCHROEDER. Mr. Speaker, Reagan administration officials themselves appear to be the main beneficiaries of what passes for an economic recovery program. Private jets, inside deals, lavish office redecorating, $58,000 a year woodchoppers, are just some of the examples to date. The administration has given new meaning to the concept of public service.

[From the Washington Post, Jan. 2, 1983]

DUBIOUS DEALS OF REAGAN'S CROWD: BEHAVING LIKE THE PUBLIC TRUST IS YOUR PRIVATE CORPORATION

(By Robert G. Kaiser)

If you don't live in Richmond (where the Times-Dispatch put the story on the front page) you probably don't know about Dennis E. LeBlanc, who earns $58,500 of your tax dollars each year for official duties that include chopping wood and sweeping out the barn at President Reagan's ranch.

Improbable? Not in this administration.

LeBlanc is a former California highway patrolman who served on Gov. Reagan's security detail in Sacramento, and later worked for Ronald Reagan, private citizen, handling affairs at his ranch. He came to Washington with President-elect Reagan, worked in the White House's office of special support services, then last June moved over to the Commerce Department's National Telecommunications and Information Administration. LeBlanc became "associate administrator for policy analysis and development," a top-level job that pays $58,500.

LeBlanc spent two of his first five months on this job in Santa Barbara, at the Reagan ranch, cutting wood, cleaning stables, building fences and "coordinating" the work of Secret Service security and communications personnel on the ranch, whose facilities LeBlanc helped build in his earlier, White House job.

"I feel perfectly at ease with it," LeBlanc said on the phone last week. "I look at it as just a detailee to the White House." Lots of government officials get detailed to the White House, he added.

Earlier, LeBlanc told John Hall of the Media General news service in an interview published in Richmond: "Chopping wood may seem like a vacation to some people. But the total amount of time I spend during the year is considerable."

What about the time away from telecommunications policy analysis? "This is not a day-to-day hotbed of activity," LeBlanc told Hall, speaking of the telecommunications office at Commerce. "I do call in and find out how things are going."

Obviously, LeBlanc is a crony of the president's; Reagan likes to have his company when he is out chopping brush on the ranch. But he is a crony earning top dollar on the peoples' payroll.

In other times, an arrangement like this might have been called a scandal. But in Ronald Reagan's Washington, it gets a shrug.

To some extent Richard Nixon deserves the credit for this. One of Nixon's most baleful legacies to his countrymen was the "I-am-not-a-crook" plea. Somehow Nixon managed to establish the idea that if a public figure can stay out of the pokey, everything else is okay.

But could Nixon have stood before any audience and said, with a straight face, "I am not a sleazy, conniving rogue?" Probably not. He wanted the world not to care about the sort of thing, and to an incredible degree he got what he wanted. Americans no longer seem capable of outrage at behavior that is simply improper or dubious. We seem to demand the smoking gun—as in the case of Labor Secretary Donovan—that will put a fellow in the clink before we'll ge mad.

Well, that's a theory, anyhow. You need some kind of theory to explain the apparent public indifference to the cases of embarrassing behavior in the Reagan administration. These are not "cases" in the police-blotter sense; none of the embarrassed members of this administration has been charged with a crime—not Richard V. Allen, or William J. Casey, or Raymond J. Donovan, or Max Hugel, or William French Smith, or James G. Watt, or Robert P. Nimmo, or Nancy Harvey Steorts, or William F. Harvey, or Donald Bogard, or Frederic N. Andre, or Thomas C. Reed, or John F. Lehman, or any of the others. No, these cases raise questions about other kinds of abuses—greed, corner-cutting, or cynical misuses of power. Many of these cases suggest a willingness to treat the federal government like one's own private corporation. They are "cases" in a political sense—cases of people in high position who have engaged in behavior that raises doubt about whether they deserve high position.

It isn't easy to read the long newspaper articles that describe instances of questionable behavior by high officials. They are detailed, complex and written under the eyes of lawyers who rarely help clarify a story. It is harder still to remember the details of particular cases, especially after some Senate committee or the Justice Department has concluded that the person in question is not guilty of any crime or "not unfit to hold office," in the felicitous phrase the Senate Intelligence Committee found to express its confidence in Casey, the director of the Central Intelligence Agency.

But rereading earlier stories about all of these individuals now, and doing it all at one sitting, creates a powerful impression. What follows is a selective review of some high points of the record up to now:

William J. Casey. Casey, who helped run Ronald Reagan's presidential campaign, sought to become his secretary of state and settled for CIA director, has had a long

career as a businessman and lawyer that has involved numerous lawsuits and a series of confirmation fights when he was appointed to high office in the Nixon, Ford and Reagan administrations. A thorough review of Casey's past would fill the Outlook section. Two instances, neither very well publicized, raise relevant questions about Casey.

The first is an old story—23 years old. Here is how the Associated Press has told it:

"A plagiarism suit brought by Harry Fields in 1959 contend[ed] that a tax booklet edited by Casey had used, without authorization, 2½ pages of a manuscript that Fields had written on employee benefit plans.

"According to court records, Fields gave Casey the manuscript to relay it to a New York publishing house, but Casey first showed it to one of his assistants who was editing an article for Casey's tax booklet on the same subject. Casey said he was unaware the assistant had copied the manuscript and used a portion of it in the booklet.

"A jury awarded Fields damages of $40,425, including $12,850 in punitive damages from Casey. Subsequently, Fields agreed to accept an immediate payment of $20,500 and to allow the verdict to be expunged from the record and to have the transcript sealed.

"In 1971, Casey told the Senate Banking Committee the settlement came about after the case, Judge J. Braxton Craven, told attorneys that the verdict was not supported by evidence and that he intended to set it aside.

"However, when Judge Craven was asked about Casey's claim, he denied making such a statement and told the committee that on the contrary, he felt the jury's verdict was 'amply' supported by the evidence."

A second item is just six months old. The Associated Press again tells the story:

"The CIA has established a 'screening arrangement' to keep tabs on Director William J. Casey's stock transactions and prevent him from official steps that would enhance his holdings.

"The new system still allows Casey to buy or sell stocks at his discretion.

"CIA officials said the new arrangement took effect May 28, [1982], after Casey reported selling more then $600,000 in oil stocks in 1981, a year oil stock prices plummeted in response to a worldwide glut.

"The CIA director is among a handful of top officals with broad access to U.S. intelligence information, including secret estimates of world oil supplies. Casey is the only senior Reagan administration offical with such access who neither set up a blind trust nor divested some of his holdings before taking office. . . ."

Max Hugel should follow Casey, because they have been friends for more than 20 years, and because Casey (over the objections of others in the White House and the CIA) gave Hugel one of the most sensitive jobs in the intelligence agency, chief of its clandestine operations.

Hugel only held that job for a few months—until The Washington Post reported allegations against him by two brothers who had once been Hugel's business associates. The brothers had made tape recordings that appeared to show Hugel engaging in blatantly improper stock dealings with them. Hugel proclaimed his innocence (he has since filed a libel suit against the two brothers). When he heard the tape reordings he said he recognized his voice, but didn't know what to make of the conversations he was hearing.

Among the things the tapes recorded was Hugel telling one of the two brothers: "If you do [*what I ask*], *I'll kiss you on both cheeks.* And if you don't I'll cut your [obscenity] off. You got no choice anyway. I'll get my Korean gang after you and you don't look so good when you're hanging by the [obscenity] anyway." Hours after The Post revelations hit the street, Hugel resigned from the CIA.

One has to wonder how the head of the CIA could turn to a man like Hugel to run the agency's most sensitive, dangerous operations. Hugel had no experience in intelligence, no experience in foreign policy, no experience in government, and no expertise on international affairs. His decision to give Hugel this job, Casey said later, was "a mistake" for which he took "full responsibilty." However, it was Hugel who resigned; Casey is still on the job.

William French Smith. On Dec. 11, 1980, Ronald Reagan announced his intention to make his longtime personal lawyer, Smith, the attorney general. Twenty days later—more precisely, just eight hours before the end of the 1980 tax year—Smith invested $16,500 in an oil and gas tax shelter from which he would claim $66,000 in tax deductions. In other words, Smith claimed $4 in tax writeoffs for every $1 in cash he invested, or at least twice as much as the Internal Revenue Service (whose "lawyer" Smith was about to become in his new job) then regarded as permissible, as the attorneys for Smith's tax shelter deal knew. They advised the investors that the deduction was adventurous, and said an IRS audit could be expected.

Thirteen days later, on Jan. 13, 1981, the Earle M. Jorgenson Co.—headed by Jorgenson, who, like Smith, was a member of Reagan's "kitchen cabinet"—said farewell to their board member, the new attorney general-designate, with a golden handshake. The Jorgenson board made Smith a "severance payment" of $50,000, which was more than Smith had earned in all the six years he had served on Jorgenson's board and the three years he had been on its audit committee. A company spokesman said this was the first such cash severance payment ever made to a Jorgenson director.

Had Smith inquired at his new place of employment, the Justice Department, he would have learned that in earlier cases, the department had ruled that incoming government officials could not accept such severance payments. But Smith did not inquire; he just took the money.

Stories in The Post last May revealed these matters, which Smith had included in financial disclosure reports filed earlier in the spring. The newspaper stories created quite a furor, and within days Smith announced that he would limit the tax deduction he took on the oil and gas deal to the amount he actually invested, and would return the $50,000 to the Jorgenson firm.

In a public statement explaining these decisions on May 28, Smith announced: "Although I earnestly believe that none of these actions are required by propriety or law, public service often invites the use of an even stricter standard. I intend to apply the strictest of standards."

Richard V. Allen. Allen's three watches and the ten $100 bills in his office safe got plenty of publicity, and led to his resignation as President Reagan's national security advisor. But in the furor over those matters, less attention was paid to a deal Allen made with Peter D. Hannaford, who bought out Allen's consulting business.

Hannaford was Michael Deaver's partner in a California public relations firm before Deaver joined the Reagan White House staff. Hannaford then moved his operations to Washington. (In the capital, Hannaford's firm apparently prospered. Public records showed Hannaford quadrupling his business as a lobbyist for domestic and foreign clients.) He also took over Allen's Potomac International Corp., agreeing to pay Allen $160,000 in installments for the firm's assets. Allen collected this money while serving as Reagan's NSC adviser.

But what are the assets of a consulting firm? Not much that is tangible, as the parties asknowledged. Apparently the only asset that could justify such a selling price was a list of clients that Hannaford could expect to retain. But why would a client who signed on with Allen—purportedly an expert on international security and trade issues—stick with a firm now run by a California P.R. man?

A White House report on the Allen affair released last January included this paragraph:

"Mr. Allen continued to have contacts with former clients of Potomac [his old firm, now owned by Hannaford] after Jan. 21, 1981 [inauguration day]. These included 'social' or 'courtesy' meetings at the White House, as well as luncheons and dinners at which a former client may have paid for Mr. Allen's meal. Some of the luncheons were hosted by Mr. Allen at the White House staff mess. Both Mr. Allen and his former clients indicate that no 'business' was discussed at these meetings, lunches, or dinners. The circumstances, including the reciprocal nature of the entertainment and the long friendship between Mr. Allen and these individuals support the conclusion that personal friendship was the motivating factor for the contact. Mr. Allen had no contacts with clients of the Hannaford company."

Nancy Harvey Steorts. Steorts, chairman of the Consumer Product Safety Commission, ordered renovations to her office soon after she moved in. She had $10,000 spent on carpets, curtains and new paint, and on a new office entryway so she would have her own private reception area instead of sharing one with another commission member.

Soon after taking office, Steorts instructed the mailroom clerk who also served as her chauffeur to wear a uniform and hat whenever he drove her official car. Agency lawyers told her she could not give such an order, so she modified it, telling her driver to wear a suit. The clerk, a GS-4 earning less than $14,000 a year, said he didn't own a suit and couldn't afford to buy one. But agency accountants said government funds could not be used for a suit. In the end, two agency officials chipped in to buy the man a suit to protect his job.

According to The Wall Street Journal, Steorts used her car to go to lunch at the Mayflower Hotel, two blocks from her office, and also had her driver take her college-age daughter to visit friends.

Robert P. Nimmo. A protege of Edwin Meese III in the White House, Nimmo is a former California state legislator whom President Reagan named to run the Veterans' Administration. Nimmo spent $54,183 redecorating his office (he sent the old furniture to the office of Mary Nimmo, a spokesman for the Commerce Department who is his daughter). He also leased a big Buick as his offical car, though the rules said he should have a compact model. And he used the VA's chauffeur to take him to

and from work in violation of government regulations. When this was discovered, Nimmo repaid the government $6,641 of his own money for his luxurious commute.

Last October, shortly before the GAO was expected to release a report criticizing Nimmo for misusing chartered military aircraft and first-class air travel and for misusing his government chauffeur, Nimmo resigned.

William F. Harvey. The temporary chairman of the board of the Legal Services Corp.—his appointment lapsed when Congress adjourned—collected $25,028 in consulting fees from the government during the first 11 months of 1982. This, of course, got a lot of publicity, but the details of what Harvey was collecting for were buried on the inside pages.

For example, Harvey apparently disliked airplanes, so he drove to Washington from his home in Indianapolis for meetings of the Legal Services board. He charged the government at the rate of $221 a day to which he was entitled for the time it took him to make this drive. Sometimes he billed a one-way trip (615 miles) as two full days of consulting—$442.

Harvey billed the government $194.22 for postal expenses in connection with a two-day board meeting at the end October. Last May, during a five-night stay in Washington, he ran up a taxi bill of $147.05. (That would require about 70 trips within the first taxi zone, assuming he gave 20 percent tips.)

The list stops here for purely arbitrary reasons. There are many more cases of questionable behavior in this crowd, from James Watt's parties at the Custis-Lee Mansion (the Republican National Committee finally picked up the $6,517.30 tab for them) to the First Lady's acceptance of fancy clothes from American designers. That practice was dropped when the White House realized the implications of reporting gifts of clothes to Mrs. Reagan valued at thousands of dollars. Those she had accepted she gave away to museums as examples of historic creations by American couturiers.

What does this all add up to? "Ruled by shady men, a nation itself becomes shady," wrote H. L. Mencken many years ago, a nice aphorism that isn't easily digested in the real world. It doesn't seem fair to say that this crew is dramatically shadier than all of its predecessors. After all, it includes some wealthy men whose compliance with the new disclosure and conflict-of-interest regulations makes them look like paragons of upright behavior: George Shultz and George Bush are two, according to lawyers who deal with these matters.

But whatever the moral significance of all this, there are disturbing practical implications. It can only deepen the American public's cynicism about its governing institutions, and about the rules of fair play that Americans pretend to take seriously.

Eventually these embarrassments may add up to a serious political problem for Reagan. The White House is already distressed that many Americans perceive its policies as "unfair." Slippery behavior and selfishness in the upper reaches of the government cannot but make this perception sharper.

Two years ago, when the Reagan administration was taking shape, we were introduced to the "kitchen cabinet," that group of California millionaires who were Ronald Reagan's oldest backers and closest pals. These men are not big industrialists, but self-made entrepreneurs and small businessmen. They are the kind of rich Americans we associate with country clubs and conspicuous consumption.

Ed Meese, the president's counselor, may have revealed their view of the world with poetic clarity at a reporters' breakfast in Washington last May. "The progressive income tax is immoral," Meese said then. "I don't think we should penalize someone because he's successful."

In other words, wealthy men have no greater obligations to society than poorer ones; wealth is not a privilege but an entitlement. From there it is not a long jump to the conclusion that government service is a noble sacrifice whose fiscal pain should be kept to a minimum. And from there it is no jump at all—just a hop or a skip—to the kinds of behavior that have embarrassed the Reagan administration during its first two years in office.●

NUCLEAR WEAPONS REDUCTIONS

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. BROOMFIELD. Mr. Speaker, on the first day of this new Congress I introduced, along with Congressmen SAM STRATTON, BILL CARNEY, and MELVIN PRICE, chairman of the House Committee on Armed Services, House Joint Resolution 4, which expresses the support of Congress for the objectives of the ongoing arms reduction negotiations in Geneva. It is critical that this body supports our Government's current efforts to achieve substantial, verifiable, equitable, and militarily significant reductions in the nuclear arsenals of both superpowers.

The President recently described nuclear arms control as "one of the most important tasks of our age." In a world which is armed to the teeth and seemingly awaiting Armageddon, real progress in arms control negotiations has never been more important than today. I believe that substantial reductions, below the current levels of the superpowers' nuclear arsenals, must be given thoughtful and serious consideration in the strategic arms control process.

Our negotiators at the strategic arms reduction talks are now seriously considering proposals which would reduce the quantity of ballistic missile warheads, the number of intercontinental ballistic missiles, and the aggregate of strategic nuclear delivery vehicles in each nation's arsenal below both current and SALT II levels.

Just recently, Soviet leader Yuri Andropov announced that the Soviets are now prepared to reduce their strategic arms by 25 percent. This proposal in itself goes beyond the maintenance of nuclear arsenals at current levels.

If the United States is to be successful in these arms reduction talks, the Soviets must be convinced that the U.S. proposals to reduce nuclear arms represent the firm commitment of Congress and the American people. The Soviet Union will simply refuse to negotiate seriously in Geneva with a U.S. delegation whose position has been repudiated by us here in Congress. Any efforts to propose substitute negotiations, including negotiations to freeze nuclear weapons, at current levels, would send the wrong signal to the Soviets and cripple our current negotiating efforts.

Dramatic reductions of nuclear arms to comparable levels for both the United States and the Soviet Union, which is the prime objective of the ongoing Geneva negotiations, should receive the full support of Congress. Your support for House Joint Resolution 4, will move the world closer to the lasting peace which all of us devoutly seek on this fragile planet.●

EMERGENCY FUNDS FOR THE HOMELESS

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. STARK. Mr. Speaker, I would like to alert my colleagues to the fact that during the first week back in January I will be proposing legislation to allocate $50 million for emergency food and shelters.

During the lameduck session, the House passed a "jobs bill" that included $50 million for emergency food and shelters, but this program died when the job provisions were deleted.

But as you know, money for the estimated 2 million homeless is still desperately needed this winter, and I invite Members to join me in sponsoring legislation to provide $50 million in emergency relief.

Mayors and State health officials at an emergency conference in November described in painful detail the Nation's growing dependence on soup kitchens and public shelters. Local communities are being literally overwhelmed with requests for food and shelter. Unfortunately the cuts made in social welfare programs have come just in time to make things tougher for millions of formerly hard-working citizens suddenly out of jobs. Too many of these "new poor" are losing their homes and becoming part of the wandering poor living in their cars or tents. In my own State of California homeless families are living in the State parks and even on the margins of the Los Angeles Freeway.

The need for emergency shelters for victims of domestic violence has also greatly increased because of rising tensions brought on by the stress of unemployment and hard times. It is estimated that only 30 percent of the women and children seeking services

can now be serviced because of lack of shelters. Funding for domestic violence has been exacerbated by the budget cuts. In 1980 there were 13 separate federally funded programs that in some way provided assistance to local shelters and related projects. Today, five of the programs have been totally abolished, three block granted and doing less than Congress had originally hoped, and two more targeted for abolition. The remaining programs that have survived are now able to offer only paper hope.

Private charities cannot bridge the gap because as the urban Institute points out some 300,000 private charities will lose $33 billion in Federal aid between 1982 and 1985. The U.S. Catholic Conference concluded that "the stark reality is that the private resources are not sufficient."

My proposal is designed to authorize $50 million for emergency shelter and related assistance for: First, individuals and families who are without any form of regular shelter and food and have been determined by an appropriate public or private agency to be in need of emergency life-protecting shelter and food and/or; second, parents and their children who have suffered spousal abuse which has necessitated leaving their homes and are in need of emergency shelter.

Funds would be available on a 100-percent Federal basis through fiscal year 1983. State welfare agencies may contract with private nonprofit charitable organizations or other public agencies to administer the funds, determine need and/or provide assistance.

I invite groups interested in this legislation to call or write my office for copies of the draft proposal during the recess.●

INTRODUCTION OF LEGISLATION

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. McKINNEY. Mr. Speaker, today I am introducing two pieces of legislation which I believe can be major influences on the direction that federally assisted housing programs will take in the future. Those proposals are the Residential Rental Housing Tax Incentive Act and a bill to coordinate the housing programs of HHS and HUD.

As a member of the Banking Committee's Housing Subcommittee for 12 years I have had the opportunity to study the existing public housing programs and to assess their successes and failures. I yield to no one in my compassion for those people in this country who are not able to find decent shelter at an affordable price. Decent housing is not a choice between the "haves" and the "have-nots."

Those people who are financially able to afford housing should be able to find something decent priced within their means. This category includes millions of lower income American families who do not want to depend on Government assistance but who are forced by housing shortages either to live in substandard units or to pay unconscionable rents. These people need to have a hope for the future and I propose to give it to them.

My two bills are not direct handouts to either the renter or the landlord. The Residential Rental Housing Tax Incentive Act addresses the extreme need for more private sector production of rental housing through a tax incentive approach. I believe that we must act now to restore rental housing to at least the bare margin of profitability, and that tax advantages are essential to that margin. We must also act immediately to contain the subsidy costs of the assisted housing programs, which can no longer be directly supported by the Federal Government. The savings associated with a tax incentive approach to producing new and rehabilitated rental units affordable by low-income people are obvious when you compare these indirect costs with the frightening costs of direct subsidy programs. Even if Congress never authorizes a single additional unit for subsidization, annual housing assistance outlays under existing commitments will be at least $9.6 billion by 1986. Clearly, we must develop more efficient approaches.

Consequently, I propose shortening the period for straight-line depreciation—the method most preferred for housing development—to 10 years for newly constructed or rehabilitated rental housing, and to 8 years for new buildings in which at least 20 percent of the units are leased to low-income families at affordable rents. The 20-percent standard developed by the Mortgage Bond Subsidy Act and tandem financing of section 8 projects insured under section 221(d)(4) of the National Housing Act appears a more realistic and workable approach to providing low-income rental units. I would also broaden the definition of low-income rehabilitation which qualifies for 5-year writeoff under existing law to the 20-percent standard and increase to $40,000 per unit the maximum which may be depreciated without any of the complex restrictions in the current law.

Finally, this bill includes financial incentives for owners of rental properties in which 20 percent of the tenants are low income both to maintain the property and continue to own it after most of the usual tax benefits have been taken. Specifically, I propose an investment tax credit to kick in after 5 years of occupancy. Landlords would receive a $1 reduction in taxes for each $1 spent on maintenance, up to 5 percent of the adjusted basis in the building. The credit would kick in just at the point when the building typically requires new paint and the inevitable small but costly repairs. In addition to creating more low-income housing, this provision should help to extend the useful, rental life of many buildings.

Our experience with the section 8 program clearly illustrates that the major problem of housing low-income families cannot be resolved by throwing money at the problem even if we had the funds. It is for that reason I argue that only through tax incentives will we be able to maintain our commitment to an adequate supply of rental housing but without increasing Federal outlays. The Residential Rental Housing Tax Incentive Act will restore that vital element of profit incentive to the development and maintenance of rental housing for all income groups. If Federal housing policy is to shift away from direct subsidies, new techniques must be developed to close the construction and maintenance gap. This proposal will do that immediately.

The second bill I am introducing is a demonstration program to improve the quality of housing paid for by Federal Government under the HHS/AFDC program. It encourages the Department of Housing and Urban Development and Department of Health and Human Services to work together—instead of working against each other—in an effort to provide better housing for needy Americans. It may surprise many of my colleagues to learn that these two agencies are at odds, and I should emphasize that this circumstance is by no means intentional. However, I view it as one of the major problems facing our housing policy. Let me explain.

Traditionally, we think of HUD as the primary agency which provides housing assistance. Indeed, HUD has a wide variety of programs, most of which require landlords to meet minimum housing standards for rental units.

At the same time, however, the Department of Health and Human Services spends at least $5 billion a year on housing assistance. This assistance takes the form of direct payments to AFDC recipients who, in turn, use that money to purchase housing on the open market. Unlike HUD, however, HHS mandates no minimum standards to be met by landlords who house these recipients. As a result, landlords can and do receive the full amount of this assistance money regardless of the condition of their buildings. In a tight rental market, this system there-

by sustains a demand for substandard housing and assures a steady cash flow to landlords who rent substandard units. It is estimated that 50 percent of the housing units occupied by recipients of the AFDC program are considerably below accepted standards for safe and decent housing.

The legislation I am introducing today is intended to end this contradiction in which HUD is working to improve our housing stock while HHS is subsidizing a substandard stock. It would accomplish this goal by authorizing the Secretary of Housing and Urban Development to encourage States and units of local government to develop programs which encompass both HUD and HHS funds to assist lower income families. Policy and program development would be developed at the local level, where the housing needs of the poor are known and where the programs needed to remedy housing problems are best understood. While local programs could differ, they must all provide for the improvement of housing quality for lower income families.

Once plans are developed, States and localities can apply to the HUD Secretary for the funds needed to carry out the proposal. The legislation provides an authorization of $25 million for the Secretary's discretionary fund, which should be used to fund at least 20 local demonstration projects. Once these projects have been completed, it is my hope that Congress will get about the business of straightening out this housing debacle once and for all.

Mr. Speaker, our rental housing crisis is simply too critical to let the existing conflict between HUD and HHS continue. It is the cornerstone of our Nation's housing policy to provide decent, safe, and sanitary housing for all Americans. And yet, we are funding a $5 billion program which effectively frustrates this goal. I submit that we can correct this insanity through a modest financial incentive for States and localities. In return for this incentive, we will take a giant step toward the realization of our stated housing policies.

This demonstration program was included in the housing bill reported by the Banking Committee in the 97th Congress; it was included in the substitute amendment developed by the committee during the "lameduck" session and has been given a friendly review by my friends on the Senate Banking Committee.

Mr. Speaker, both of my proposals are needed urgently by the disadvantaged renters in this country. They will help provide more and better rental housing for low-income Americans but without worsening the budget situation. These are tough times economically, but with innovative approaches such as the HUD/HHS coordination program and the Residential Rental Housing Tax Incentive Act this Congress can meet its housing obligation.●

IN HONOR OF THE RETIREMENT OF JOHN C. BRIZENDINE, PRESIDENT, DOUGLAS AIRCRAFT CO. AND CORPORATE VICE PRESIDENT, McDONNELL DOUGLAS CORP.

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. ANDERSON. Mr. Speaker, as Members of Congress, we are indeed fortunate to be in the unique position to develop close friendships with a number of men and women both inside and outside of Government. One such friend, who stands out among the rest, and who I admire not only for his keen business sense, but also for his friendship, is John Brizendine. John, who late this past year announced his retirement as president of Douglas Aircraft Co. as well as from his position as corporate vice president of McDonnell Douglas Corp., will be honored at a testimonial dinner on January 20. I would like to take this opportunity to briefly relate to my colleagues some of the many accomplishments of John these past years.

Born August 3, 1925, in Independence, Mo., John was a naval aviator in the Second World War and attended the University of Kansas, where he received both his B.S. and M.S. degree in aeronautical engineering.

He began his illustrious career at the McDonnell Douglas Corp. in 1950 as a flight test engineer at Santa Monica, Calif. It was here John began his long, steady climb to the top of the corporate ladder. Some of the positions John subsequently held were flight test engineer, Edwards Air Force Base, Calif. (1951); flight test engineer, Patuxent River Naval Air Test Center, Md. (1953); flight test engineer and test project engineer, Edwards Air Force Base, Calif. (1953-54); test project engineer—DC-8 FAA certification (1958); DC-8 program manager, Santa Monica, Calif. (1960); special assignment: Project "Forge" (1961); DC-9 program manager, aircraft division (1965); vice president/general manager, DC-10 program, aircraft division (1968); executive vice president (1971); corporate vice president, McDonnell Douglas Corp. (1972); president, Douglas Aircraft Co. (1973); and board of directors, McDonnell Douglas Corp. (1982).

As you can see, John's rise to the top can only be described as spectacular. His widespread knowledge in the complex field of aeronautical engineering as well as his ability to understand the intricacies of internal corporate affairs won him widespread respect and support.

John made the time to become involved in a number of professional organizations. Among these are: Conquistadores del Cielo; American Institute of Aeronautics and Astronautics—fellow; Air Force Association; Navy League; National Defense Transportation Association; and, National Council for United States-China Trade, chairman 1978-82.

Also, through John's accomplishments at Douglas Aircraft and his involvement in community affairs, he has been the recipient of numerous awards. These include: Tau Beta Pi (national engineering fraternity); Sigma Gamma Tau (national honorary aeronautical engineering society); National Management Association Silver Knight Award, 1965; Boy Scouts of America Distinguished Eagle Award; University of Kansas Distinguished Alumnus Citation, 1974.

Mr. Speaker, in addition to John's triumphs in the field of aviation in this country, he served—in a sense—as our unofficial ambassador: to numerous foreign countries. His extensive travels throughout the world on behalf of our airframe industry gave him the opportunity to extend American goodwill to the four corners of the globe. To me John Brizendine epitomizes the very best that America has to offer to our allies; this applies not only in his technical ability but also his business skills as well as his high moral standards.

I must also say that my wife and I have enjoyed getting together with John and his lovely wife, Shirley, on numerous occasions. They are two of the finest people that we have had the privilege of knowing and, although John is retiring for a well-deserved rest, I am sure that we will continue to see them active in the community.

My wife, Lee, joins me in congratulating John on his many accomplishments and on his unblemished career at Douglas Aircraft. We wish him and his wife, Shirley, and their two children, Suzanne and John, all the best in their future endeavors.●

UNIVERSAL COVERAGE FOR SOCIAL SECURITY

HON. ELLIOTT H. LEVITAS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. LEVITAS. Mr. Speaker, I am today reintroducing legislation that would require Members of Congress and employees of the legislative and executive branches of the Federal Government to participate in the social security program.

There has been much talk recently about what we are going to do to save

the social security system, and in the course of this talk, many citizens outside the Federal Government have come to realize that most Federal employees do not participate at all in social security. In becoming aware of this fact, most people's first question, logically enough, is: If the social security system is such a wonderful program, why do not Federal employees and those in Congress—which after all was the originator of the system and is now responsible for making desirable changes in it—participate in social security and come under its coverage? Is their own retirement system better and more beneficial?

It seems rather strange that the social security system, which supposedly is good enough to cover 116 million working Americans at the present time, is apparently not good enough for Congress or even for the Commissioner of Social Security himself.

We made a commitment in the 95th Congress to improve the social security system, and yet little action has been taken to fulfill that commitment. The Social Security Amendments of 1977, which passed in the 95th Congress, established a National Commission on Social Security to study the social security system and make recommendations for improving it. The National Commission on Social Security delivered its report to President Reagan on March 12, 1981. The research, field hearings, and factual findings of this prestigious, bipartisan commission provided an excellent basis for considering the future of social security. However, I was advised that the comprehensive 1981 report of the National Commission on Social Security was totally ignored after its delivery to the White House. Instead of considering its recommendations and taking action on the issue, President Reagan appointed another commission which began the study process all over again. The Reagan commission will presently report its findings and recommendations, although much disagreement remains among its members as to what action should be taken on social security.

Both commissions, however, have agreed on one point—the question of universal coverage. And, I can think of no better way for those of us in Congress to demonstrate that we fully recognize our commitment to act on the social security issues than by placing ourselves under mandatory participation in the social security system, thereby tying our own personal finances into the future of a program which already affects 90 percent of the country's working population, because they are paying into the system, and over 35 million, because they are receiving monthly benefits from it. It is our responsibility to take decisive action now, because the wheels of change have already been set in motion.

The 1981 report of the National Commission on Social Security recommended that social security coverage be made compulsory for all Federal, State, and local government employees not now covered by any retirement system, and for the President, Vice President, Cabinet members, Social Security Commissioner and Members of Congress, and employees of nonprofit organizations. The Commission also recommended that by 1985, all new Government employees joining civil service be included on a mandatory basis. Furthermore, according to press reports, President Reagan's advisory commission also recommends bringing into the system all future Federal employees and current Federal employees with less than 5 years of Government service.

I believe required participation in the system by Members of Congress and other Federal employees would go a long way toward sensitizing the Congress and the executive branch as to what must be done.

After all, if the present system is so good, why should not we all pay for it and benefit from it? On that basis alone, I would confidently anticipate speedy and overwhelming passage of this legislation so that U.S. Representatives and Senators would be able to avail themselves of the social security system's present advantages and opportunities, providing, of course, that Members of Congress really do think that the program as it now exists is a good investment to make for one's future.

On the other hand, if enthusiastic congressional support for this legislation does not materialize after all, we should in all fairness explain to our constituents just why what is good enough for them is not good enough for us. We can certainly be quite confident that such an explanation will be requested, if not demanded, by our constituents. And if it is sought by enough people, the only justifiable and defensible response we can give will be to enact either this bill or the necessary remedial legislation.

In sum, I believe that all of us in the Congress will have more incentive promptly to improve the social security system if we ourselves become part of it.●

TRAVEL EXPENSE DEDUCTIONS

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. STARK. Mr. Speaker, today I am introducing legislation to amend the Internal Revenue Code of 1954 to clarify the rules for deducting travel expenses to and from temporary job sites. The purpose of this clarification is to insure that the travel expenses construction workers incur in order to practice their trades may be deducted in the same way that lawyers, accountants, and professionals are allowed to deduct their business travel expenses.

The background is as follows: Section 162 of the Internal Revenue Code authorizes taxpayers to deduct their ordinary and necessary business expenses including travel expenses incurred for business reasons. On the other hand, travel expenses incurred for personal reasons are not deductible. For example, a person with a regular job in a city who chooses for personal reasons to live in a distant suburb cannot deduct the costs of driving to and from the regular job each day.

The courts have attempted to distinguish business from personal travel expenses through the use of the so-called temporary job doctrine: If the job is temporary, then the travel costs are deductible. The Internal Revenue Service, however, has been applying this doctrine without regard to its purpose of distinguishing travel undertaken for business purposes from travel undertaken for personal purposes. As a result, thousands of construction workers around the country are being denied the ability to deduct expenses that, by any rational standard, constitute ordinary and necessary business expenses.

Here is a typical example. A construction worker has lived and worked in a particular community for many years. His primary business contacts are in that community. He has a home in that community; his children attend school there; he and his wife vote and pay taxes there. His wife may have a job there. If construction work becomes temporarily unavailable in the home community—and in the current economy this is happening more and more often—the worker has only two choices. He can look for work in more distant areas and work away from home until a job in his community becomes available, or he can remain unemployed. If he takes a distant job, he must either move his home and family to that job or incur substantial additional expense, either by traveling many miles each day or by renting temporary lodging near the job.

For most workers, moving home and family is either impossible or contrary to good business judgment. Housing near the job may be unavailable or prohibitively expensive. More importantly, however, construction work is inherently uncertain; workers are well aware that they are likely to be laid off without warning at any time. Furthermore, the worker in this situation fully intends to take work closer to his traditional work area as soon as a job

opens up. The worker therefore has only two choices; remain unemployed or incur travel expenses in order to practice his trade.

The travel expenses are therefore clearly necessary to the worker's trade. Nevertheless, the IRS automatically disallows most such expenses. In fact, the IRS has conducted mass audits at large construction projects for the purpose of disallowing travel expenses. On the other hand, the IRS allows professionals and businessmen to deduct, without question, the expenses they incur when they have to travel to practice their trade.

The IRS uses the so-called 1-year rule as the basis for its arbitrary action. Under this "rule," a job that has lasted for more than 1 year is automatically regarded as not temporary, and travel expenses are disallowed. This hindsight test ignores the crucial fact that the worker could have been laid off at any time throughout the year. The 1-year rule has been expressly rejected by the U.S. Court of Appeals for the Eighth Circuit, but the IRS has announced that it will refuse to follow the eighth circuit's holding.

The IRS also uses as a ground for disallowance the fact that the worker's job is indefinite, but it is the very indefiniteness of the job that makes deductibility appropriate. A worker's decision to avoid travel expenses by moving his family makes economic sense only if he has some assurance the job will last for a substantial period of time; it makes no sense if he is uncertain whether the job will last much longer. And, if it is not reasonable for the worker to move closer to the job, then his travel expenses are the result of business necessity, not personal choice, and they should be deductible.

Mr. Speaker, equity and efficiency require that something be done. The current IRS interpretation unfairly penalizes the working men and women of this country, and has led to expensive and needless litigation. Construction workers deserve to have the special problems of their industry recognized. Their travel expenses to distant job sites are certainly more necessary to their jobs than an executive's three-martini lunch is to his.

My proposed bill institutes an easily administered rule that will eliminate the need for litigation in the vast majority of cases. Construction workers will be recognized as being temporarily away from home for the first 2 years of employment at any job site more than 30 miles from their home. This will eliminate the disputes in the vast majority of cases. In those few cases that are not resolved by the 2-year rule, the deductibility of the travel expenses will be determined case by case. In making this determination, the IRS and the courts will be prohibited from using either the 1-year rule or the "indefinite employment" rationale, but will make their decision according to whether the expenses are incurred because of business necessity rather than personal convenience.

Mr. Speaker, I ask unanimous consent that the bill be printed in the RECORD.

H.R. 700

To define the circumstances under which construction workers may deduct travel and transportation expenses in computing their taxable incomes for purposes of the Federal income tax

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT OF INTERNAL REVENUE CODE OF 1954

(a) TRAVEL AND TRANSPORTATION EXPENSES OF CONSTRUCTION WORKERS.—Section 162 of the Revenue Code of 1954 (relating to deductions for ordinary therein the following new subsection:

"(h) SPECIAL RULE FOR CONSTRUCTION WORKERS.—

"(1) DEFINITION OF TEMPORARY JOB SITE.—For purposes of applying subsections (a)(1) and (a)(2) to travel and transportation expenses incurred by construction workers, a job at a site located more than 30 miles from a construction worker's principal place of residence—

"(A) shall be deemed to be temporary for the first 2 years that the worker is employed at that job, and

"(B) shall be determined to be temporary or not temporary with respect to periods following the first 2 years of employment based on an examination of all the facts and circumstances, subject to the rules set forth in subparagraphs (2), (3), and (4).

"(2) EFFECT OF FIRST 2 YEARS ON SUBSEQUENT DETERMINATION.—In determining whether or not a job is temporary under subparagraph (1)(B), the worker's employment at the job during the period specified in subparagraph (1)(A) shall not be taken into account.

"(3) INDEFINITE EMPLOYMENT.—No deduction shall be disallowed, by reason of section 262 or any other provision of law, solely because a construction worker's employment at a job site is of indefinite duration.

"(4) PROHIBITION ON APPLICATION OF 1 YEAR RULE.—In making the determination specified in subparagraph (1)(B), no length of time shall be deemed, either automatically or presumptively, to make the job other than temporary. The '1-year' rule set forth is Revenue Ruling 59-371, or in any similar ruling or regulation, is expressly disapproved as a grounds for disallowing deductions.

"(5) DEFINITION.—For purposes of this subsection, the term 'construction worker' means any individual employed, whether as a skilled, semiskilled, or unskilled laborer, in the building or construction industry, but does not include clerical or management employes.".

(b) TECHNICAL AMENDMENT.—Subsection 162(h) of the Internal Revenue Code of 1954 is amended by striking out "(h)" and inserting therefor "(j)".

SEC. 2. EFFECTIVE DATE

This section shall be effective upon enactment.●

WPPSS DISASTER DEMANDS IMMEDIATE FEDERAL ACTION

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. HANSEN of Idaho. Mr. Speaker, the following letter again requests timely action by appropriate Federal officials to maximize public protection in the impending economic disaster involving the Washington Public Power Supply System (WPPSS):

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., December 30, 1982.

Mr. DONALD HODEL,
Secretary, U.S. Department of Energy, Washington, D.C.

DEAR DON: Recent developments in the continuing crisis of the Washington Public Power Supply System (WPPSS) lead me to write you again to renew the urgent request that officers of the Federal Government convene a meeting for the purpose of apportioning by agreement financial obligations to prevent the total collapse of the entire WPPSS system and the consequent damage to the economy of the Northwest.

As previously discussed, by virtue of your office as Secretary of Energy you are certainly an appropriate person to call such a conference. However, since the judge in King County, Washington, has ordered trial on the matter of the participation contracts and surrounding issues, there will soon come a time when I can no longer ethically urge my constituents, who are signators to the agreement, to cooperate in seeking an extrajudicial compromise to the economic calamity of WPPSS.

When the King County judge denied the right of step-up to the plaintiffs in the Chemical suit, he guaranteed that any judicial settlement will be inequitable to someone. Unless there is rapid action to bring the parties together while there is still time to do so, the situation will continue to deteriorate. Since the bond underwriters are maintaining their obdurate silence on who owns the bearer bonds, there is little doubt that the actions of the WPPSS management and their advisors within and outside government will have to be subjected to intense scrutiny.

A mediated solution to the collapse of WPPSS will certainly mitigate the concerns of members of Congress, the ratepayers of the Northwest and the people in general that the government is not in the posture of protecting special financial interests as an antagonist to the welfare of its own citizens.

In view of the continuing demands I have made for the bond underwriters on the WPPSS project to come forward with the facts on who retains ownership of those bonds, I am dismayed at recent statements which seem to emanate from federal officials suggesting that the Congress should bail out WPPSS on WPN 2. It is my view that until the agencies of the Federal Government charged with the management of electricity in the Northwest force the disclosure of the facts on the current financing of WPPSS, no consideration of any kind can be given to the financing by the taxpayers of the completion of any part of WPPSS.

There is already question as to whether the co-ops and utilities have been financing

WPPSS or Wall Street, but direct financing of the underwriters by the government can only be described as outrageous.

Since the January 10th court action is fast approaching, please let me know your intentions as soon as possible regarding my suggestion that you act as mediator to more quickly and fairly salvage the WPPSS situation.

Sincerely,

GEORGE HANSEN,
Member of Congress.●

CURBING WORLD HUNGER

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. DORGAN. Mr. Speaker, during the last Congress, we moved on several fronts to insure that foreign aid really worked and served truly needy recipients.

Yet foreign aid remains very controversial and the number of hungry and dying children grows with each passing day.

A recent article in the Washington Post by Stephen S. Rosenfeld suggests a sensible way to help break hunger's stranglehold on poor children.

Rosenfeld cites the plan recommended in the annual report of the United Nations Children's Fund. The report outlines a simple and promising program to cut in half the number of children who die from malnutrition and infection each day.

If developed nations could work together and invested only $1 billion per year for 20 years they could help save 20,000 children each day. A sound investment for human dignity and world peace.

The article follows:

[From the Washington Post, Dec. 31, 1982]

BILLION-DOLLAR BARGAIN

(By Stephen S. Rosenfeld)

It gives a nice glow to send or receive a UNICEF holiday greeting card: you are doing your bit for the world's children. Just how much you are doing, and how little, you can discover from "The State of the World's Children, 1982-1983," the annual report of the United Nations Children's Fund put out by its executive director, James P. Grant.

Grant, well known in Washington for his work at AID and the Overseas Development Council, is a great packager and promoter of the do-able. In his new report, he offers something eye-popping; how to cut in half, from 40,000 to 20,000, by the year 2000 the number of children who die from malnutrition and infection every day, and how to do this for a mere $1 billion a year, with existing technology and infrastructure, and without further political changes or risks for the Third World nations where the kids now die.

UNICEF's four aces:

(1) Oral rehydration therapy (ORT), a new technique developed in Bangladesh using cheap, easy-to-use materials to stop the diarrhea-caused dehydration that is the single biggest killer of children in the world.

(2) Universal child immunization, made feasible by scientific advances (more heat-stable vaccines) and by the delivery system of community organizations and paraprofessionals now increasingly in place in the Third World.

(3) Promotion of breast feeding, which has declined steeply in recent decades in poor countries, to reduce "the most unnecessary malnutrition of all."

(4) Mass use of home child-growth charts to make mothers the more knowing and participatory helpers of their children's health.

These four "low-cost, low-risk, low-resistance people's health actions," as Grant describes them, "do not depend on the economic and political changes which are necessary in the longer term if poverty itself is to be eradicated. They are available now"—given, as always, the political will.

Nor will such a children's "survival revolution" merely run up population growth rates, Grant argues. As parents become more confident that their children will survive, they tend historically to have fewer births.

I heard a roomful of development professionals dissect the UNICEF program for an evening. Basically, no one could lay a finger on it.

But so much for the hopeful side. The sobering side starts from an awareness that economic distress has halted the postwar improvement in global child health. The numbers of children living and growing in ill health are set to increase.

UNICEF's new program centers on improving the use of available food. But as many as a third of the families in need lack the requisite land, job or income. For them, UNICEF supports, with the rhetoric that is its sole recourse in this realm, "political and economic change to allow the poor to both participate in, and benefit from, the increases in production which can most certainly be achieved."

Meanwhile, UNICEF isolates the world's poorest families, finding them caught in a cycle of ill health, low energy and poverty—from which they still could be released by consumer food subsidies targeted on undernourished pregnant women and young children.

Is this getting too radical-sounding for you? Is there a bit too much of the proclivity for broad-scale social justice and social engineering that often seems to be mixed with the water up there at the United Nations?

If so, then perhaps you will accept an obligation to spell out your alternative. The unfortunate fact is that the simplest way to remain a moderate and to be regarded as "sound" in the face of great deprivation is to avert your gaze from the conditions that incline many of those who observe them closely to more far-reaching solutions.

In any event, UNICEF finesses that choice in the short run by offering a program within the ideological reach of just about everybody. Think of it: for a lousy billion dollars a year and no revolution, millions of kids can live.●

SAN PEDRO CITIZEN OF THE YEAR BOB BECK

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. ANDERSON. Mr. Speaker, I would now like to pay tribute to a man who has been chosen from a field of 35 nominees to be honored by his fellow citizens. Robert F. Beck, editor-manager of the San Pedro News-Pilot, has been named 1983 San Pedro Citizen of the Year by the San Pedro Lions Clubs. On January 27, he will be honored at a community recognition dinner at Ports O' Call restaurant in San Pedro.

After graduating from California State University at San Diego in 1958, Bob Beck worked as a reporter for the News-Pilot. He was promoted to managing editor in 1965, and was named editor-manager in 1971. Bob Beck is known and appreciated for his famous "Beck 'n' Call" columns. As editor-manager of the News-Pilot, Bob is also known for being very accessible to the public. He is a man who has always placed the concerns of his community and the responsibilities of his difficult job ahead of all else.

Bob Beck has long been active in numerous harbor area organizations. He is on the board of directors of the Salvation Army, the Harbor Area Retarded Children's Foundation, San Pedro Meals on Wheels, maritime industries luncheon, Wilmington Boys Club, and the harbor division, Police Youth Foundation. He is treasurer of the San Pedro Peninsula Hospital board of directors, the treasurer of the San Pedro Peninsula Health Services Corp., and the treasurer of the San Pedro Services Corp. Bob Beck is also secretary of the Ambulatory Health Services Corp., and is vice president of the Boys Club of San Pedro. He recently became a specialist reserve police officer with the Los Angeles Police Department.

As if this were not enough, Bob Beck is also a member of the San Pedro Rotary Club, the Wilmington Chamber of Commerce, the 15th Councilmanic District Advisory Council, the 4th Supervisorial District Advisory Council, the Harbor Division Police Community Council, the Citizens Planning Advisory Committee for the Harbor Area, the Harbor Association of Industry & Commerce, the San Pedro Athletic and Recreation Committee, and the Exhausted Roosters. He is also a member of several professional organizations: the American Society of Newspaper Editors, Sigma Delta Chi, the Society of Professional Journalists, the California Newspaper Publishers Association Editors Conference, and the Associated Press Managing Editors.

But Bob Beck is more than just a name on the rolls of whatever organization he is a member of. He is an outstanding worker, constantly going to meetings and helping out whenever he can. In all cases in which my wife, Lee, and I have had a chance to work with Bob, he has shown that he will get the job done. We were especially honored when he agreed to serve on the board

of directors of the Glenn and Lee Anderson Foundation. Both Lee and I would like to take this occasion to say "Thank you" to Bob for his great accomplishments in the community. We wish him, his wife Billie, and his sons Mark and David, all the best in the years ahead.●

REINTRODUCTION OF R&D TAX INCENTIVE LEGISLATION—A JOBS PROGRAM FOR THE FUTURE

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. STARK. Mr. Speaker, to restore the economic prosperity of our Nation, I believe a long-term commitment must be made to encourage research and development (R&D) spending. Therefore, today Messrs. PICKLE, SHANNON, HEFTEL, and I are reintroducing legislation to make permanent certain R&D tax incentives contained in the 1981 Tax Act.

From World War II to the late 1960's, America reaped the rewards of being the world's leader in science and technology. Our superior position gave the United States a competitive edge in world markets, created new jobs and industries, and increased the Nation's productivity. I believe that large R&D expenditures were a fundamental source for many of these gains.

However, during the seventies R&D spending slackened in the United States, while it greatly increased in Europe and Japan. In fact, in the United States, R&D spending as a percentage of gross national product (GNP) peaked at 2.96 percent in 1964. By 1978, the West German and Japanese ratio of R&D to GNP was 2.37 percent and 1.93 percent, respectively, thus, in one case surpassing and in the other coming close to the 1978 U.S. R&D expenditure of 2.23 percent of GNP. And, in the United States, a large percentage of our R&D spending is focused on the space and defense programs—a significant factor since civilian R&D expenditures have a greater impact on economic growth and productivity. During the past two decades, Germany and Japan have had the highest ratios of civilian R&D to GNP in the world.

These high levels of Japanese and German R&D are a source of their export competitiveness—competitiveness which is transferring jobs from the United States to those countries and their international subsidiaries.

Between 1971 and 1978, the number of patents issued to American inventors declined 16 percent, while the number of patents to foreign inventors rose 11 percent. Over one-half of those patents distributed to foreigners were issued to Japanese and West German inventors.

If America is to maintain its leadership in high-tech industries, this trend cannot be allowed to continue.

With this in mind, I was greatly encouraged by several sections in the 1981 Economic Recovery Tax Act which provided:

First, for a 25 percent tax credit for certain research and experimental expenditures, but only to the extent that current-year expenditures exceed the average amount of such expenditures during a base period. This provision expires December 31, 1985.

Second, that for 2 taxable years after the date of enactment, taxpayers must allocate or apportion all research and experimental expenditures paid or incurred in activities conducted in the United States to U.S. source income; this provision is designed to encourage R&D in the United States, rather than abroad.

Already industry leaders have pointed to these provisions as a positive stimulus for their companies' R&D spending. A recent survey done by McGraw-Hill projected a 17-percent increase in R&D spending in the United States during 1982. They also expect an expenditure increase of 37 percent between now and 1985. However, America cannot expect its industries and universities to make long range plans for R&D, when the 1981 provisions expire by 1985. Long-range R&D projects can be extremely expensive, and without this incentive they may never be started. We must make a strong and permanent commitment to R&D spending, through a removal of the termination date on the 1981 provisions.

I believe this change would help put this Nation on the road to recovery by helping create a whole new generation of clean, high-value-added products for American workers to produce.●

GAO AUDIT OF LEGISLATIVE ACCOUNTS

HON. ELLIOTT H. LEVITAS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. LEVITAS. Mr. Speaker, during previous Congresses, there have been numerous allegations about misconduct or abuse of funds by our colleagues in Congress. The charges, substantiated or not, have cast a shadow over the credibility of Congress in general. One very direct way I know of restoring public confidence in the honesty and integrity of elected officials is to let the Sun shine on official office accounts as provided for in legislation that I plan to reintroduce.

The Legislative Accounts Audit and Control Act, which I will introduce, requires an annual audit by the General Accounting Office of House Members' and committees' accounts. At the present time, every appropriation made by the Congress for any function of the Federal Government is subject to an annual audit by the GAO, except for the Congress of the United States. Our predecessors in the Congress established the GAO and required annual audits to insure that taxpayers' dollars were being properly spent.

In my view, the congressional exemption should never have been granted in the first place. While we cannot speak for the other body, we in the House have an obligation to the taxpayer to let him know how we expend public funds to run our individual offices and our committees.

Certainly, it is not too much to ask that those who set policy and appropriate funds for other governmental functions be subject to scrutiny on how they will spend the $1.1 billion in tax dollars appropriated to carry out the legislative function in fiscal year 1983.

Therefore, my bill would require the GAO to perform an audit of any expenditures or financial transactions of each Member, officer, or standing committee of the House of Representatives involving disbursements from the contingent fund of the House during calendar years 1979, 1980, 1981, and 1982, with such audit to be completed within 9 months. Beyond that, my bill would require, beginning with calendar year 1983 and each calendar year thereafter, an annual GAO audit to be completed no later than 3 months following the close of the calendar year. Upon completion of any audit, the Comptroller General would transmit a report to the Speaker of the House with respect to the results of such audit and any such report would be available to the public for inspection and copies furnished upon request for a reasonable charge.

More than ever, Government, and certainly Congress, is being held up to public scrutiny. We resolved in the 95th Congress to open up our personal finances to public view. I can think of no reason for not letting the taxpayers see how their public moneys are being used.●

SEC ASKED TO PROBE WPPSS BOND MARKETING

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. HANSEN of Idaho. Mr. Speaker, it has become necessary for protection of the public to ask the Securities and Exchange Commission to investigate the bond underwriting and mar-

keting circumstances of the Washington Public Power Supply System (WPPSS), a $26 billion nuclear energy project. The following letters and articles describe this situation of the investigation which now has the support of the chairman of the House Committee on Energy and Commerce:

[From the Washington Post, Jan. 5, 1983]

SEC ASKED TO PROBE BOND MARKETING

Four congressmen from the Pacific Northwest are asking the Securities and Exchange Commission to investigate the marketing of bonds financing five nuclear power plants in the region.

In a statement issued yesterday by Rep. George Hansen of Idaho, the congressman said they met Monday with SEC Chairman John Shad "to present a letter expressing their concern with the growing indications of irregularities in the development and marketing" of the bonds. The others are Reps. Larry Craig of Idaho, Jim Weaver of Oregon, and Mike Lowry of Washington.

NORTHWEST CONGRESSMEN URGE SEC PROBE OF WPPSS FINANCING

WASHINGTON, D.C.—A delegation of four Pacific Northwest Congressmen met yesterday with Chairman John Shad of the Securities and Exchange Commission to present a letter expressing their concern with the growing indications of irregularities in the development and marketing of bonds financing five nuclear plants in the Washington Public Power Supply System (WPPSS) complex.

The principal reason for the meeting was to urge the SEC to investigatge the operation of the bond industry in relation to the financing of WPPSS. the four, George Hansen of Idaho, Jim Weaver of Oregon, Mike Lowry of Washington, and Larry Craig of Idaho, have most of the 88 involved participant utilities among their state constituencies. All have been actively concerned for the growing scandal of WPPSS operational and financing difficulties.

The SEC is required by law to maintain confidentiality on matters under investigation, but the Congressmen were able to reveal that their visit dealt in part with the misapprehension many people have that WPPSS bonds are government guaranteed. Taking care to emphasize that they are not, the four legislators also pointed out that the problem goes beyond marketing techniques of bond sales organizations.

A major concern discussed at the meeting was in how the bonds originated and the part played in the contract of participation and the inducements to the 88 made by or with the consent and cooperation of the bond underwriters. While sharing misgivings over the unusual financial maneuverings of the WPPSS, BPA and the underwriting partnership, each of the delegation expressed different concerns. Congressman Weaver denounced the excessive profits of the underwriters. Congressman Craig informed the Chairman that farmers in Idaho would be going out of business through inability to pay the doubled and tripled new rates if WPPSS and the financiers were successful in the suit. Congressman Lowry pointed out that, historically, large and high-yield bonds were sold in the last two years when financial liability of the power plants was in serious doubt. Congressman Hansen, in delivering the letter, expressed concern for the small investors who had innocently bought WPPSS bonds and now were in danger of being wiped out and also pointed out that if the WPPSS matter is not resolved equitably, most of the rate payers would face rate increases of several hundred percent.

The letter addressed to Chairman Shad urged the SEC to initiate a thorough investigation of the member's of the underwriting group which were involved in the WPPSS affair for conduct which has raised the possibility of material misrepresentation both in inducing the smaller utilities to enter the agreement and in marketing the bonds. The Chairman, citing his duty of confidentiality, promised to look into the matter.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C. December 30, 1982.

Mr. JOHN S. R. SHAD,
Chairman, Securities and Exchange Commission, 5th Street, NW., Washington, D.C.

DEAR MR. CHAIRMAN: Since late in 1981, a 26 billion dollar electrical generation project in the Pacific Northwest, known as the Washington Public Power Supply System (WPPSS), has been in deep financial trouble. The project was for the construction of five nuclear power plants. The first of these plants, NP1, 2, and 3, were all that were originally planned. Apparently due to an adverse I.R.S. tax ruling, certain financing benefits from those plants were lost which jeopardized the cost-benefit feasibility.

Thereafter two additional plants, NP4 and 5, were added to the project and their financing was based upon requiring 88 small electric distributors, including many of the municipalities and cooperatives in the Northwest, to enter financing agreements involving their agreeing to pay for the plants, whether they ever produced electricity or not.

There has been active concern with the problem for a year since NP4 and 5 were terminated in the early stages of construction. The obvious result was that the participants in 4 and 5, which have come to be known as the 88, will be forced to pay 7 billion dollars for electricity which they will never receive.

We now bring this matter to your attention as Chairman of the Securities and Exchange Commission, because of disturbing developments in the litigation and in other disclosures about the entire financing situation surrounding this economic disaster.

First, it now appears that the entire scheme to build and finance NP4 and 5 was developed out of a need to protect bond underwritings on NP1, 2, and 3. There is reason to believe that the members of the financial underwriting community, which your agency supervises, had a large part in devising the strategy for involving the small utilities in the WPPSS matter, for their own and their preferred clients' benefit.

Second, there is now sworn testimony in the WPPSS litigation in King County, Washington, by a bond underwriting counsel for the consortium of bond underwriters that the underwriters knew, before they procured the signatures of the 88 on the participation agreements to finance NP4 and 5, that at least 16 of the 88 were legally incapable of binding their entities to such an agreement. They nonetheless took the lead in both drafting the participation agreement and soliciting the assent of the 88. In so doing, it appears that the financial underwriters intentionally misrepresented to the 16 lacking capacity and the 72 with apparent capacity the nature and the effect of the agreement.

Third, should the facts stated in the paragraph above be verified, every bond issued on NP4 and 5 contained a material misrepresentation of a crucial fact and every sale was infected with fraud.

Fourth, based upon information provided by representatives of the bond underwriting group which prepared and marketed the WPPSS bonds, most, if not substantially all, of the WPPSS bonds have been retained in the portfolios of the underwriters sponsoring the issues. While we do not know of any illegality involved in doing so, given the other anomalies in the WPPSS matter, such retention requires full investigation and public disclosures.

Fifth, after the collapse of 4 and 5 had become publicly known, several issues of bonds were floated which bore characteristics requiring some explanation.

(a) All the later issues were handled on a negotiated or a non-competitive basis, including the largest bond issue in history.

(b) The bonds were let on an exceptionally favorable yield, especially since the reason given for the non-competitive method was that the bidding would produce too expensive a result.

(c) Despite the troubled history of WPPSS and the facts of the situation, i.e. that 4 and 5 were terminated and that two others of the five were to be seriously delayed or even terminated, the bonds were universally rated very highly by the ratings services, S&P and Moody's.

We have indications that despite the large retentions by the underwriters, many smaller investors will be seriously hurt by the coming default on the WPPSS bonds. Our constituents include both members of the 88 and bond purchasers who can ill-afford to be the victims of financial coups by large securities firms. Each of the managing firms in the later offerings have been asked to reveal to us whether and in what amounts they have retained the WPPSS issues for their own benefit. To date none of them has responded. We do not propose to allow alleged fears for the financial community to obstruct the necessary acquisition of facts about the financing of WPPSS.

We therefore urge you in your supervisory capacity over these institutions to immediately initiate appropriate inquiries to determine the facts and whether those facts require remedial action to protect the investing public. We understand this to be your primary function and in that spirit offer you this opportunity to cooperate in resolving this affair.

Despite the pending litigation, the problems presented by the WPPSS matter cannot be solved by the judiciary alone, nor will the determination of the courts be either or timely enough to save what can and should be saved out of this disastrous situation. Your prompt consideration and cooperation is urgently requested.

Sincerely,

GEORGE HANSEN.
JIM WEAVER.
LARRY E. CRAIG.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., December 30, 1982.

Mr. JOHN S. R. SHAD,
Chairman, Securities and Exchange Commission, Washington, D.C.

DEAR MR. CHAIRMAN: In addition to the concerns expressed in the letter delivered to you today, there are an undetermined number of my constituents who have purchased bonds in the WPPSS series, some of

whom have expressed concern to me as to whether they will recover their investment. I am well aware that bond investments represent a risk and that no one can rightly guarantee recovery to an investor.

However, even on the investor side of the WPPSS problem, there are unanswered questions which require attention. Using only one such investor as an example, a couple put the bulk of their life's earnings in WPPSS bonds. They now turn to their Congressman and ask a series of trenchant questions which I am not able to answer. But I share their concern and intend to find the answers for them.

First, they had never entered the securities market before and therefore were more than ordinarily dependent on their broker and on public sources of information. The first question is how these bonds maintained AAA ratings when there was already serious internal discussion of terminating 4 and 5. Are the rating services liable for their gross inaccuracies in rating these questionable bonds? What is the source of their information? Are they really at arms length with the financial community whose work they assess?

Second, how can any bond salesman be justified in representing these bonds as government backed? If this is still a case of caveat emptor, then what purpose does the Commission serve?

Third, how, with the intimate knowledge possessed by the financial underwriters, can we explain the continued issuance of bonds on a AAA rating on all five projects even after four of them had been publicly declared terminal or indefinitely suspended?

Fourth, how do you explain that, with literally no prospect of production from four of the five and with the fifth due for on-line service no earlier than mid-1984, WPPSS have "revenue" bonds continued to be sold at a premium within the past three months?

Fifth, how does one account for the personal representations by WPPSS management personnel to bond holders that the bonds remain a "good as gold investment" and that they should be retained as a solid investment?

In essence, Mr. Chairman, both the participants—the 88—and the small individuals who invested in WPPSS bonds have been clearly victimized by those enterprises under your supervision. I think that it is time to put technicalities aside and get to the facts. Your cooperation will go a long way to shoring up the credibility of the financial industry. But with or without assistance, the facts will surface. I urge that such exposure be properly done through your good offices.

Sincerely,

GEORGE HANSEN,
Member of Congress.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, D.C., December 14, 1982.

Hon. GEORGE HANSEN,
Member of Congress, Longworth Building, Washington, D.C.

DEAR GEORGE: Thank you very much for your recent letters expressing concern about the potential financial disaster caused by cancellation of the nuclear power plants of the Washington Public Power Supply System.

You are correct in assuming that this Committee has jurisdiction, both because of the energy aspects and because of the securities aspects of the problems facing the Northwest, and we have been closely monitoring the situation.

At the moment it appears that hasty Congressional action, as contrasted with continued oversight, would be ill-advised. Nevertheless, we are concerned and if you have some specific information which might be helpful to us, I would welcome receiving it.

Again, thank you for taking the time to express your concerns.

Sincerely,

JOHN D. DINGELL, *Chairman.*

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, D.C., January 3, 1983.

Hon. JOHN S. R. SHAD,
Chairman, Securities and Exchange Commission, Washington, D.C.

DEAR MR. CHAIRMAN: I received the enclosed correspondence from Representative George Hansen and from Paul J. Cotugno relative to bond issues of the Washington Public Power Supply System (WPPSS). Representative Hansen raises questions about the manner in which the bonds were structured, rated and underwritten. Mr. Cotugno has had ongoing problems with Merrill Lynch concerning WPPSS bonds purchased for his account.

I ask that you review and respond to their questions, and I would appreciate your informing me whether there are any improprieties in the issuance and sale of the bonds as described by Mr. Hansen and whether there was any improper or illegal behavior on the part of Merrill Lynch or irregularities in Mr. Cotugno's arbitration proceedings. An early reply to both would be appreciated.

Sincerely,

JOHN D. DINGELL, *Chairman.*

Enclosure.

HOUSE OF REPRESENTATIVES,
Washington, D.C., December 30, 1982.

Confidential memo to Pacific Northwest colleagues:

You will find attached the draft of a letter to the Chairman of the SEC which I plan to hand-carry to him and deliver with a personal interview. I hope that you will find the letter in agreement with your own views and join me as a co-signer. It would be even more beneficial if those of you who agree would also attend the interview or send a representative.

There are some matters which I thought best not to include in the letter but which I intend to raise. Among them is the fact that I personally will not be put off by the stonewalling tactics of the financial community on who owns the financial instruments involved in the WPPSS situation. I am prepared to tell the Chairman that we will get the facts, even if that means reducing the value of the bonds to the paper they are written on. I feel very strongly that those members of the 88 in Idaho not be sacrificed on the altar of shoring up the credibility of the investment banking group, and assume you feel similarly about your own constituents in the same boat.

We must also face the fact that the litigation in the Northwest will not really resolve anything. If the remaining members of the 88 are ordered to pay, many of them have already told me they will have no alternative but to default and go bankrupt which would further complicate the ability of the more solvent participants to pay. The indications grow daily that this whole enterprise was an exercise in financial piracy and I am shocked that so many of the agencies within and outside government are refusing to allow the facts to be aired. As recently as Wednesday, the Washington Post ran a story which, while milder than it might have been, seriously acknowledges that WPPSS is a financial disaster of national concern.

I think that a joint effort on our part will not only be beneficial but is essential, since time is of the essence if we are to prevent the collapse of the small utilities in the Northwest.

From information now available, I am convinced that the Chemical Bank suit is framed very carefully to mask the massive involvement of the financial community in the bond underwriting and forestall their being forced to sue in their own names and expose their retention of the bonds. Even the bond holders whom Chemical admits to are mainly financial institutions or are owned by such institutions. Please let me know how you feel about signing the letter and participating in the conference with the Commissioner.

Sincerely,

GEORGE HANSEN,
Member of Congress.●

RANGEL REINTRODUCES PUBLIC HOUSING TENANT PROTECTION ACT

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. RANGEL. Mr. Speaker, on the first day of this 98th Congress it was my honor to introduce, for the second year in a row, the Rangel Public Housing Tenant Protection Act.

This bill is designed as a bill of rights for public housing tenants.

This bill is designed to prevent the administration from balancing the budget on the backs of public housing tenants.

This bill is designed to protect the tenants of our public housing programs from the arbitrary attacks of the Reagan administration.

More than ever before, the public housing programs of this Nation need the support of Congress, because this administration is intent on dismantling the public housing system entirely. Ronald Reagan and his aides do not believe that public housing is economically efficient, and in this administration, that is the gravest flaw that can be laid at a programs' doorstep, no matter how compassionate, how humane, or how necessary that program might be.

And because the housing program is inefficient, if this administration had their way, we would see the end of the public housing program as we know it. And in its place we would see a voucher system, a program where those in need get a slip of paper which will count as a part of their rent when they find a place for themselves and their families. The problem is, however, that there are not enough places out there to find. The crisis in housing

today is not simply one of price, although goodness knows there is a price crisis as well. The crisis in housing today is an availability problem. In lots of urban areas, my own city of New York included, there is simply not enough housing, at any price. And the kind of housing that low-income families can find on the housing market is often so bad that no one ought to be forced to live in it. Decent affordable housing is simply not to be had, either with or without a voucher. And that is why we in Congress must rally behind our public housing program.

The President and his men do not seem to realize, do not seem to understand, the kind of misery that their proposals have created already and the kind of pain that their proposals will continue to inflict if more of them are adopted.

My bill would defend public housing and defend public housing tenants. It would roll back tenant rent contribution from 30 to 25 percent of adjusted income and would all for a number of exclusions to be taken from income before the rent contribution is calculated. The exclusions include: all medical and dental expenses including prescription drugs—the value of food stamps received by the family; income from any member of the family under 18 earned during the course of a summer job; income from any member of the family earned while enrolled in school; $500 for each student; $500 for each elderly person; all child care expenses related to working; and all educational expenses.

Mr. Speaker, I would urge your support and that of our colleagues for this bill.●

TAX RELIEF FOR AN INNOCENT SPOUSE

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. STARK. Mr. Speaker, today I am introducing legislation to provide greater equity and justice to those innocent spouses now unfairly burdened with tax liability under section 6013(e) of the Internal Revenue Code.

In January 1971 Congress enacted an amendment to the Tax Reform Act of 1969 which recognized that joint and several liability by married couples filing joint Federal tax returns was not always a fair determination of tax liability. In seeking to relieve one spouse from liability for an erroneous understatement of gross income attributed to the other spouse the act established the concept of the innocent spouse. For purposes of the act a spouse could be declared innocent if five conditions were met: (1) a joint return was filed, (2) an amount properly includable in gross income had been omitted from the return, (3) the omitted income exceeded 25 percent of the gross income reported on the joint return, (4) the innocent spouse established that in signing the return he or she did not know of and had no reason to know of the omission from the income, and (5) taking into account whether or not the spouse significantly benefited from the items omitted from gross income and all other facts and circumstances, it was inequitable to hold the spouse in question liable for the deficiency in tax.

While Congress believed this remedial act would create equitable and just relief for an innocent spouse it has at best turned out to be only a halfway measure. Before drafting the bill, I polled attorneys in the Greater San Francisco Bay area as to the advisability and need for this type of legislation. The questions I asked were (1) including deductions and credits along with gross income in determining forgiveness and (2) on reducing or eliminating the 25 percent threshold test. A number of practitioners responded, providing specific comments and examples of the problems in the present innocent spouse rule and on the need for change.

First, there is a flaw in the existing legislation because it only provides relief with respect to taxes on amounts includable in gross income under chapter 1 of the code. However, frequently cases involved errors in deductions or credits rather than gross income and thus the innocent spouses have not been forgiven for the tax liability. Since the intent of the original bill was to grant relief where it would be inequitable to impose liability, my proposed bill represents the recognition of the obvious fact that it is possible that such an inequity could arise in the context of improper deductions or credits. Specifically, as one practitioner noted:

> This bill represents a logical step forward in the protection of the "innocent spouse" in that it extends coverage to any understatement of income whether or not it is also an omission.

Second, drawing the line at income omissions exceeding 25 percent of gross income stated on the return has proven too high and onerous a threshold test in many situations. In fact most of the attorneys polled believed the percentage threshold should be reduced. Presently the test unnecessarily excludes from coverage situations involving sizable tax deficiencies caused by erroneous deductions against income where relief would be equitably deserving. In reducing the threshold test to a "substantial understatement" of tax, i.e. those exceeding 10 percent or $500, whichever is the lesser amount, required to be shown on the return, this legislation seeks to grant more equitable relief without unnecessarily overburdening the courts and the Internal Revenue Service with suits in which the deficiency is de minimis.

Third, this amendment will eliminate the unfair provision requiring the innocent spouse prove that she or he did not significantly benefit from the omitted item. When the people is separated or living apart due to abandonment or desertion, it is easy enough to establish that the innocent spouse did not significantly benefit. However, as matters now stand, it is more difficult and sometimes impossible, to prove no significant benefit when the couple lives together. In removing this test we will end the inherent bias against an innocent spouse who is living with a guilty tax evader.

Lastly, my bill provides relief for innocent spouses filing separate returns under section 66 of the Internal Revenue Code, which relates to treatment of community income where spouses live apart. In a noncommunity property State, a taxpayer filing a separate return is not taxed on income earned by the other spouse. However, at present, in a community property State, like California, a taxpayer filing a separate return is charged with income earned by the other spouse. The income of each spouse is community income and 50 percent is therefore attributable to the nonearning spouse and must be reported on the latter's separate return. As a result, in a community property State an innocent spouse is liable for a deficiency attributable solely to income earned by the other spouse. As Congress has acknowledged the justice of granting relief for joint returns it seems only equitable to make relief available in a similar manner to those filing separate returns.

I would also like to point out that last year my State of California amended its innocent spouse provision (section 18402.9) of the State Tax Code in a manner similar to my proposal. The results appear to be quite favorable, and California's example should pave the way for a similar change in the Federal tax laws.

Clearly persons who are unaware of and uninvolved in the substantial understatements of tax attributable to gross erroneous items reported by their spouses on Federal tax returns deserve and need the protection from unfair tax liability which this bill is designed to provide. In closing, as one attorney wrote, "the problem is very likely to cross my desk unless legislation similar to your proposal is enacted."●

TRIBUTE TO BETTIE JO KIMES

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. ANDERSON. Mr. Speaker, I am honored by this opportunity to rise before my colleagues and to share with each of you the joy and sadness which I feel because one of San Pedro and California's most esteemed public servants, Mrs. Bettie Jo Kimes, retired January 1, after 26 years of inspirational service to our communities.

Bettie Jo has served the last 2½ years of an eventful career as principal of the South Shores Magnet School for the Visual and Performing Arts. This school is particularly unique in that it shares a curriculum with the California State University, Dominguez Hills, and attracts students from throughout the Los Angeles Unified School District as part of a voluntary integration program. Under her impeccable direction since its inception in 1980, this cooperative program provides an extraordinary educational opportunity for participating students, who regularly receive instruction from the faculty of the university and have access to its facilities for the cultural and performing arts.

A firm believer in the paramountcy of academics, Bettie Jo also recognizes the value of art and other forms of cultural expression. I would only ask my colleagues to consider how recent has been this understanding in America, and with it the willingness to foster and to patronize the development of cultural arts in our own Nation. For it was not until the infant years of this century that we began to recognize the vast yet then still latent artistic talents of our people. It is with this realization in mind that Bettie Jo holds as one of her most cherished hopes the achievement by our society of a consummate understanding of and appreciation for the cultural arts.

It is in this spirit of appreciation for how far we have come as a nation aspiring to excellence in the fields of education and the cultural arts because of people like Bettie Jo, and of hope that we will continue these pursuits, that my wife, Lee, and I extend to Bettie Jo Kimes, to her daughters, Debra Dawn and Kimberlee Jo Kimes Smith, to her son-in-law, Thomas Smith, and to her grandson, Joshua Kimes Smith, our warmest wishes for continued bliss and fulfillment.●

CONSTITUTIONAL AMENDMENT TO BALANCE THE BUDGET

HON. ELLIOTT H. LEVITAS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. LEVITAS. Mr. Speaker, I am reintroducing legislation which proposes an amendment to the Constitution of the United States requiring that the budget be balanced. I have been fighting for a balanced budget ever since I came to Congress over 8 years ago.

At first, calling for a balanced budget was like a voice in the wilderness. Now, that voice crying in the wilderness has become a roar because it has become the collective voice of the American people, the administration, and, I believe, a majority of our colleagues.

The American people know that you cannot continue to outspend your income year after year without at some point reaching the day of reckoning. We have reached that point, and we have the support of the public to balance the budget.

We must now balance the budget in order to create a psychological climate which repudiates the past irresponsible spending habits of our Government and sets the stage for dealing with out most serious domestic problem—unemployment. In order to deal with this problem, we must get our economy rolling again.

The best solution to unemployment is a healthy and vigorous economy. We simply must reduce the high deficits projected by the Reagan administration. In the final analysis, jobs are provided by the private sector of our economy, not by the Government. In order for the private sector to do this we must assure that they have adequate capital to expand and provide jobs. That means lower interest rates and that in turn, means reducing the enormous Federal budget deficits which keep interest rates high.

Our Federal debt is now over $1 trillion. Commerce Secretary Malcolm Baldrige has projected that the administration's fiscal year 1983 budget deficit will reach $140 to $160 billion.

It does not take an expert to know that deficits of this magnitude have a detrimental effect on our economy. Huge deficits force the Government to borrow money to finance these shortfalls. By competing in the credit market for available funds. Washington helps to keep the interest rates high.

A balanced budget would strengthen the economy because it would help us reduce the national debt and eliminate Government deficits. This would bring interest rates down and make more money available to private borrowers and lenders. That, in turn, translates into more housing starts, more capital expansion, and more credit for farmers. And these improvements translate into more jobs.

The time to balance the budget is now.

We have not had a balanced budget since 1969. Since that time, the Government has spent like a drunken sailor, money that we did not have to spend.

We were, in effect, charging fur coats to our grandchildren. We are paying the price for our recklessness now in astronomical interest rates, double-digit unemployment, swollen governments at all levels, and a regulatory morass created to administer the spending of the money we did not have.

Some people have said that Congress alone is the cause of increasing Federal spending. Congress certainly has played a role in the sad history. But I think it is important to point out that in almost every year since 1945, the Congress has appropriated fewer of the taxpayers' dollars than the Presidents—whether Democrat or Republican—have requested.

A balanced budget means that we are finally putting a stop to the spending spree. We are creating a psychological climate which repudiates the past and says to ourselves, to the stock and bond markets, to our trading partners, to the rest of the world, that we will put our fiscal house in order, that we will increase productivity, that we will decrease our national debt, that we will begin to act in a fiscally, monetarily, economically sound way. We will begin to set a climate of careful management of our income, careful husbanding of our resources, careful planning and tighter control of our budget.

We must send the message to the spenders in Congress and to the American people that a balanced budget is essential and attainable, and is the only way to restore fiscal sanity to our economy.

Last year, the Senate passed a constitutional amendment to balance the budget. Unfortunately, this body failed to follow suit. We cannot fail again this year. I urge my colleagues to join me in this effort to balance the budget.●

REA MODERATION NEEDED IN WPPSS CRISIS

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. HANSEN of Idaho. Mr. Speaker, further action insisting on REA moderation in dealing with the WPPSS crisis faced by local electric co-ops in the Pacific Northwest is most welcome in the position outlined by

the chairman of the Senate Energy Committee. The documents follow:

Hon. JAMES A. MCCLURE,
U.S. Senate, Washington, D.C.

DEAR JIM: I am grateful for the copy of your letter to Mr. Harold Hunter, dated December 28, 1982. As you may be aware, several weeks ago, while the co-op people were in Washington during the period December 9 to 14, I arranged to have Mr. Hunter come to my office in order to express my dissatisfaction with both the actions and the attitude of the REA toward our electrical cooperatives.

A copy of the letter I wrote Mr. Hunter on December 14th, the day of this visit to my office, is reproduced in the CONGRESSIONAL RECORD for December 21, 1982. I am attaching a copy of the RECORD entry for your interest. Although my letter goes into somewhat more detail in what I feel is required of REA in the circumstances, it is very gratifying to receive your letter urging similar action. It is to be hoped that you can also support my demand for more adequate disclosure of the BPA and REA part in involving the constituents we share in what appears to be an increasingly scandalous situation.

U.S. SENATE,
COMMITTEE ON ENERGY AND
NATURAL RESOURCES,
Washington, D.C., December 28, 1982.

Hon. GEORGE HANSEN,
U.S. House of Representatives, Washington, D.C.

DEAR GEORGE: I am enclosing a copy of the letter I sent to the Administrator of the Rural Electrification Administration on the subject of the R.E.A.'s position with regard to its member cooperatives that are participants in the Washington Public Power Supply System's nuclear power plants 4 and 5. It is my feeling that the remarkably complicated situation which exists regarding the WPPSS plants and debt warrants a degree of flexibility on the part of the R.E.A.

I understand that representatives of these co-ops have been in touch with you about their problems. Since your constituents are affected by this situation, I would like to suggest that you send a similar letter to the R.E.A. as well.

Sincerely,

JAMES A. MCCLURE,
United States Senator.

U.S. SENATE,
COMMITTEE ON ENERGY AND
NATURAL RESOURCES,
Washington, D.C., December 28, 1982.

HAROLD HUNTER, *Administrator,*
Rural Electrification Administration, Department of Agriculture, Washington, D.C.

DEAR MR. HUNTER: Your office has issued directives to certain R.E.A. cooperatives that are participants in the Washington Public Power Supply System nuclear power plant projects 4 and 5 which they feel would have the effect of forcing them to pass resolutions requiring immediate payments under their share of the WPPSS obligation.

They are understandably concerned that making such payments at the present time in light of pending litigation on the subject would run counter to their best interests. In some cases they are in fact precluded from doing so by orders from State regulatory commissions as well as stipulations entered into with respect to pending legal actions.

Regardless of my own views as to the liability for and payment of the WPPSS debt, I feel that the unusual circumstances have in fact created a situation which warrants a degree of flexibility on your part. I would therefore hope that you would not restrain or restrict the proceeds of loans made or contemplated to be made by the R.E.A. to these co-ops. They should at least have the opportunity to have their legal position settled without the threat of additional jeopardy to their financing.

I understand that the co-op representatives are greatly encouraged after a meeting with R.E.A. attorneys in Washington earlier this month. I want you to know that I am watching the situation with great interest and concern, and I would appreciate being informed about any plans or possibilities for assisting the affected co-ops. I am very anxious to do whatever I can to help insure their stability.

Sincerely,

JAMES A. MCCLURE,
United States Senator.

REDUCING ERROR IN INCOME SUPPORT PROGRAMS ACT

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. STARK. Mr. Speaker, today I am introducing a bill to prevent fraud and overpayment in various welfare programs by requiring State unemployment agencies to collect individual wage information on a quarterly basis.

Presently only 38 States require individual wage data be reported quarterly to State employment agencies, even though it is generally acknowledged that this data is the best wage information for verification purposes in administering Federal and State needs-based programs.

Unreported and underreported wages are two of the principal causes of overpayments in needs-based programs. Although the exact amount of overpayments caused by recipients not properly reporting income is unknown, the General Accounting Office estimates that in fiscal years 1978 and 1979, five of six major welfare programs had annual overpayments of $867 million. Without corrective action, Federal expenditures, because of overpayments in these five programs, will probably exceed $1 billion in fiscal year 1983. In addition an unknown amount of other program benefits are improperly provided to cash grant recipients who would not be eligible for such benefits if their incomes were properly disclosed.

Clearly this situation needs to be remedied. Given the current shortage of funds for public assistance programs, we must insure that funds go only to those in need, with the least amount of error or payment to those who may have other sources of income.

In addition, my bill will make available to child support enforcement agencies the wage information of delinquent parents. Even though this will not solve the problem of enforcing child support orders, it will at least provide child support enforcement agencies with another source of information to enable them to more effectively track down parents who fail to make their child support payments and who have improperly thrown their families onto the public dole.

The hard-working people of this country deserve to see an end to fraud and abuse in our welfare system. This bill, by requiring all States to collect wage data that can be used for verifying welfare eligibility, will go a long way toward ending welfare overpayments.

H.R. 926

A bill to amend the Social Security Act to require State unemployment agencies to collect individual wage information on a quarterly basis, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Reducing Error in Income Support Programs Act".

SEC. 2. REQUIREMENT OF QUARTERLY SYSTEM OF INDIVIDUAL WAGE REPORTING.

(a) Subsection (a) of section 303 of the Social Security Act is amended by striking out the period at the end of paragraph (9) and inserting in lieu thereof "; and" and by adding at the end thereof the following new paragraph:

"(10) Requiring all persons paying remuneration submit to contributions under the State law (determined without regard to any limitation on the amount of remuneration to subject) to submit, not less frequently than quarterly, reports to the State agency charged with the administration of the State law which show—

"(A) the name and address of each individual to whom such remuneration is paid,

"(B) the amount of such remuneration paid to each individual, and

"(C) such other information as such State agency may deem appropriate to administer the State law;".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to services performed after December 31, 1984.

SEC. 3. DISCLOSURE OF INFORMATION.

(a) CHILD SUPPORT ENFORCEMENT.—

(1) Subparagraph (A) of section 303(e)(1) of the Social Security Act is amended to read as follows:

"(A) shall disclose, upon request and on a reimbursable basis, to officers or employees of any State or local child support enforcement agency any of the following information contained in the records of such State agency—

"(i) wage information,

"(ii) whether an individual is receiving, has received, or has made application for, unemployment compensation, and the amount of any such compensation being received (or to be received) by such individual,

"(iii) the current (or most recent) home address of such individual, and

"(iv) whether an individual has refused an offer of employment and, if so, a description

of the employment so offered and the terms, conditions, and rate of pay thereof, and".

(2) Subsection (e) of section 303 of such Act is amended by adding at the end thereof the following new paragraph:

"(5) For purposes of section 455 of this Act, expenses incurred to reimburse a State agency for furnishing information or services pursuant to this subsection shall be considered to constitute expenses incurred in the administration of the plan described in the last sentence of paragraph (1)."

(b) ADMINISTRATION OF PLAN FOR AID TO FAMILIES WITH DEPENDENT CHILDREN PLAN.—Section 303 of such Act is amended by adding at the end thereof the following new subsections:

"(f)(1) The State agency charged with the administration of the State law—

"(A) shall disclose, upon request and on a reimbursable basis, to officers or employees of a State or a political subdivision charged with the administration of a State plan for aid and services to needy families with children approved under part A of title IV of this Act, any of the following information contained in the records of such State agency—

"(i) wage information,

"(ii) whether an individual is receiving, has received, or has made application for, unemployment compensation, and the amount of any such compensation being received (or to be received) by such individual,

"(iii) the current (or most recent) home address of such individual, and

"(iv) whether an individual has refused an offer of employment and, if so, a description of the employment so offered and the terms, conditions, and rate of pay therefor, and

"(B) shall establish such safeguards as are necessary (as determined by the Secretary of Labor in regulations) to insure that information disclosed under subparagraph (A) is used only for purposes of determining an individual's eligibility for aid or services, or the amount of such aid or services, under the State plan approved under part A of title IV of this Act.

"(2) Whenever the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law, finds that there is a failure to comply substantially with the requirements of paragraph (1), the Secretary of Labor shall notify such State agency that further payments will not be made to the State until the Secretary is satisfied that there is not longer any such failure. Until the Secretary of Labor is so satisfied, the Secretary shall make no further certification to the Secretary of the Treasury with respect to such State.

"(3) For purposes of section 403 of this Act, expenses incurred to reimburse a State agency for furnishing information pursuant to paragraph (1) shall be considered to constitute expenses incurred in the administration of the State plan approved under part A of title IV of this Act.

"(g) The State agency charged with the administration of the State law shall be furnished, upon request and on a reimbursable basis, any information contained in the records of any agency or office referred to in subsections (d), (e), or (f) to which the State agency has furnished any information under such subsections, relating to an individual and the earnings, employment, health, and address of such individual. Any information furnished to the State agency under this subsection shall be used only for purposes of determining an individual's eligibility for unemployment compensation or the amount of unemployment compensation payable to an individual. No finding of a failure to comply substantially with any of the requirements of subsections (d), (e), or (f) shall be made or enforced with respect to any such agency or office which is failing to comply with this subsection."

(c) TECHNICAL AMENDMENTS.—

(1) Paragraph (2) of section 304(a) of such Act is amended to read as follows:

"(2) makes a finding with respect to a State or a State agency under subsection (b), (c), (d), (e), or (f) of section 303,".

(2) Section 454(20)(A) of the Social Security Act is amended by striking out "section 508 of the Unemployment Compensation Amendments of 1976" and inserting in lieu thereof "section 303(e) of this Act".

(3) Subsection (a) of section 3304 of the Internal Revenue Code of 1954 is amended by striking out paragraph (16) and by redesignating paragraph (17) as paragraph (16).

(4)(A) Subsection (b) of section 3 of the Wagner-Peyser Act (as amended by the Job Training Partnership Act) is hereby repealed.

(B) Subsection (b) of section 508 of the Unemployment Compensation Amendments of 1976 is hereby repealed.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.●

FOR THE RELIEF OF MARSHA D. CHRISTOPHER

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. FORD. Mr. Speaker, today I am reintroducing a private bill I introduced last year to remedy an injustice suffered by one of my constituents, Mrs. Marsha D. Christopher. Mrs. Christopher, the mother of five children, was a temporary letter carrier who, through the contributory negligence of the U.S. Postal Service, was mauled by a vicious dog and horribly disfigured. Mrs. Christopher was awarded worker's compensation by the Labor Department, but because she received a settlement from the dog's owner, the Labor Department later reduced her award by nearly $40,000. This reduction left Mrs. Christopher with totally inadequate compensation for her pain and suffering, disfigurement, loss of work, future psychological and employment problems, and the trauma of 14 surgical repair operations.

The bill I have introduced would suspend the operation of 5 U.S.C. 8132, which compels the reduction of Federal worker's compensation awards where a settlement is obtained from third party tortfeasor. The Treasury would be directed to repay to Mrs. Christopher the portion of her worker's compensation award which she returned to the Labor Department, as well as the amount by which her compensation payments were reduced.

The Judiciary Committee's Subcommittee on Administrative Law and Governmental Relations, chaired by Representative George Danielson, held a hearing on this bill in March 1982, and, after Representative SAM B. HALL, Jr., assumed the charimanship, reported it favorably on December 1, 1982. Unfortunately, there was not sufficient time to schedule a full committee markup before the 97th Congress adjourned, and the bill died, despite strong support in the Senate.

In closing, Mr. Speaker, I would like my colleagues to know that this is only the second private bill I have introduced in almost two decades of service in the House of Representatives. I think that provides some measure of how strongly I feel about the unfairness of the application of the present law in the case of Mrs. Christopher and how strongly I feel about her suffering and misfortune. I urge all of my colleagues to support this bill when it eventually comes before this body for approval.●

VIETNAM VETERANS VIGIL

HON. THOMAS J. TAUKE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. TAUKE. Mr. Speaker, at the end of formal U.S. military involvement in Southeast Asia, over 1,400 American servicemen and civilians remained officially listed as prisoners of war (POW) or missing in action (MIA), with some 1,200 listed as killed in action, body not recovered. Since that time, primarily due to the determination of the families and a nucleus of concerned citizens, the Vietnamese have repatriated the remains of 78 of these men. Almost 2,500 Americans are still unaccounted for, according to the National League of POW/MIA Families, and the Communist governments of Indochina steadfastly deny holding prisoners and refuse to provide information on those whose fate remains unknown.

The influx of Indochinese refugees into this country over the past few years has resulted in additional evidence that the Vietnamese continue to hold Americans in captivity. The Defense Intelligence Agency (DIA), according to the national league, is currently investigating over 400 eyewitness reports pertaining to men still held captive. In fact, some sightings are as recent as December 1981.

On December 23, a group of Vietnam veterans began a round-the-clock candlelight vigil at the Vietnam Veterans Memorial to call attention to the unaccounted POW's and MIA's. I visited the memorial to meet with these individuals on Tuesday, January 4, and I urge my colleagues to stop by the Viet-

nam Memorial and to talk with these men who so nobly served our country. It is important for us to remind them that they and their comrades, whose fate is not known, are not forgotten.●

IN SUPPORT OF A BELVA LOCKWOOD COMMEMORATIVE STAMP

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. LaFALCE. Mr. Speaker, the town of Royalton and the Royalton Historical Society in Niagara County, N.Y., have submitted an application to U.S. Postal Service for the issuance of a Belva Lockwood commemorative stamp. They are seeking issuance of the stamp to mark the 100th anniversary of Mrs. Lockwood's nomination for President of the United States. The nomination was made by the Equal Rights Party in August 1884 at a convention in San Francisco.

As Julia Hull Winner, historian, the Niagara County Historical Society, notes in an article entitled "Belva A. Lockwood—That Extraordinary Woman,"

The idea of a woman aspiring to the Presidency was audacious to say the least; the more startling because she had been twice married and widowed and was nearing fifty-four years of age.

Her quest for the Presidency was a serious one. Mrs. Lockwood campaigned for equal voting and property rights for women, uniform marriage and divorce laws, ending corruption in high places, educating the masses of people, and highest development of the individual, paying the public debt, peace, civil service reform, and reviving lagging industries by encouraging commercial relations with other countries.

During her lifetime, Mrs. Lockwood was an educator, lawyer, lecturer, wife, and mother. She was and is, today, an inspiration. Ms. Winner states:

Her contribution to the cause of women's rights and equality of all people is incalculable and did not end with her passing.

An article from the Oswego Times of May 1917 describes this energetic, intelligent woman, worthy of the recognition sought. I urge my colleagues to join me in support of the Belva Lockwood commemorative stamp request. The Oswego Times article follows:

[From the Oswego Times, May 24, 1917]

MRS. BELVA LOCKWOOD DIES—FAMOUS WOMAN LEFT OSWEGO IN THE YEAR 1866

PRESIDENTIAL CANDIDATE IN THE YEAR 1884, SHE WAS A LEADER IN FEMALE SUFFRAGE CAUSE, ALSO WON FIVE MILLION FOR INDIANS

Mrs. Belva A. B. Lockwood, the Emmeline Parkhurst of the early Suffrage movement in America, died on Saturday, at her home in Washington, D.C., after a long illness at the age of 87. The outstanding fact in the public mind about Mrs. Lockwood is that she, a woman, startled the country by running for the Presidency in 1884 and again in 1888. But that was just one incident in a crowded life.

The older suffrage workers of today think of her as the woman whose labors did as much to open the way to other women in industry and the professions, as much to acquire justice for the wronged of both sexes as those of any person of her time.

Previous to her marriage to Mr. Lockwood, Mrs. Lockwood, then Mrs. Belva Ann McNall, conducted a female seminary in this village. She removed from Oswego in 1866. Her last visit to this village was in August of 1909, when she was one of the guests of honor and principal speakers at the Old Home Week Celebration.

Born in Royalton, N.Y., in 1830, Belva Bennett Johnson (sic) had no easy time to get an education. She was sent to the public school, but she had to work to get money for a course in Genesee Wesley an Seminary. Her first husband, Uriah H. McNall, a young farmer of Royalton, died early, leaving her with one daughter, and in 1869 she was married to the Rev. Ezekiel Lockwood, a Baptist clergyman, whose death occurred in 1877, nine (sic) years after their marriage. She was no man hater and was heard to declare after Mr. Lockwood's death that she believed she would get married again, because she could "manage men so nicely."

A widow at 24 years of age, with a child, she was teaching school in Royalton, at a salary (of) only $3 a week. Men teachers doing the same work were getting twice as much or more.

"I kicked to the school trustees," she said, "I went to the wife of the Methodist minister. The answer I got opened my eyes and raised my dander. 'I can't help you, you cannot help yourself, for it is the way of the world.'"

The apparent hopelessness of women's cause so aroused her that she fought for more than fifty years against the exclusion of women from the rights which men enjoyed. She fortified herself with a collegiate education at Genesee College in the days when higher education was rare among women, and for successive periods was Preceptress of Seminaries at Lockport and Owego.

Her desire for knowledge was not to be kept down and in 1857 she got an A. M. at the Genesee College. She next received an LL. D., from Syracuse University and continued here study of law at the National University Law School in Washington and the University Extension, Oxford. For more than forty years she practised her profession, finding time between cases—and she had some important ones—to champion and push through Congress some bills that were well worth while.

Mrs. Lockwood forced the passage in 1870 of a measure for equal pay for women employees of the Government; in 1873 of a $50,000 appropriation to pay bounties to sailors and marines, and in 1879 of the bill admitting women lawyers to practise in the United States Supreme Court, a right which when granted she was the very first to take advantage of. She was the first Portia to appear in the United States Supreme Court.

It is Belva Lockwood whom women have to thank for retiring rooms in District court rooms and for matrons in the jails. She was one of a committee of eight appointed by the Federation of Womens Clubs to get a law changing the descent of property rights for women of the District of Columbia. She represented her Government at the Congress of Charities and Corrections in Switzerland in 1896. All this time she was writing books and pamphlets on the subjects that filled her mind—peace and arbitration, the rights of women and the rights of all oppressed people.

Mrs. Lockwood won several notable legal battles, notably that of the Cherokee Indians against the United States Government, in which she secured a settlement of $5,000,000 for the Indians. During President Garfield's administration she made unsuccessful application for the Brazilian mission.

Mrs. Lockwood was a delegate to the Universal Peace Convention at Paris in 1888 and again in 1890 to the congress at London, where she read papers on arbitration and disarmament. She lectured throughout the country and until her last illness maintained a law office in Washington.

"Suffrage is no longer an issue," said Mrs. Lockwood on the occasion of her eighty-fifth birthday. "It is an accomplished fact. Those states which have denied it to women will come around."

Andrew Carnegie was asked several years ago to aid Mrs. Lockwood financially. A delegation of Washington citizens sought him as Mrs. Lockwood was dispossessed of her home and belongings by a ruling of the District Supreme Court, at the age of 84.

It was then brought out for the first time how Mrs. Lockwood had received the retainer of the Cherokee Indians to fight their case for them in the Supreme Court. Many years before when she had been practicing before the Court of Claims, she became acquainted with a North Carolina Cherokee Indian named Jim Taylor. She had conducted several cases for Taylor, and he was so pleased with her work that he influenced a number of other members of his tribe to bring their cases. He proposed to bring her claims of the Cherokee Indians against the United States Government, he and she to divide the fees equally. The agreement was duly recorded and for several years both Mrs. Lockwood and the Indians did well with the arrangement.

A year or two later, Taylor died, and his heirs in going over his possessions found the copy of the agreement with Mrs. Lockwood. they filed suit to recover one-half of Mrs. Lockwood's fee, and won their case against Mrs. Lockwood for $9,000.

In her long career as a lawyer, she had more than 7,000 pension cases. She also had charge of the Gage insanity litigation and of other important cases. But the advancement of women was always closest to her heart.

"I am very simple minded," she said once to a newspaper reporter. "When I wish to do a thing I only know one way, to keep at it till(sic) I get it." Mrs. Harriet Stanton Blatch, who remembers Mrs. Lockwood coming to the home of her mother, Mrs. Elizabeth Cady Stanton, in the old days, describes her as exceedingly "sprightly, aggressive, energetic." She was the first to suggest for suffragists those so-called militant methods which are everyday jobs now and excite no comment but which even so daring a woman as Mrs. Stanton would not undertake. She sought to induce Mrs. Stanton to besiege Congress with a feminine army.

"We'll take 200 women to the Capitol," Mrs. Lockwood said, "and ask permission for two or three of us to address that body on suffrage. If it is granted the whole 200 shall talk and keep on talking. If it is refused we'll go in anyway."

"A fine plan, Belva," said Mrs. Stanton. "Go and try it." But Mrs. Lockwood never did.

She was nominated for President of the United States by the Equal Rights party in California. A description of her as she appeared during the campaign of 1884 shows her "tall, commanding, with dark curly hair and a strong soprano voice"—she had been a frequent lecturer on many topics.

A VERITABLE BARNUM

Her critics called her "a veritable Barnum for advertising," holding that she looked on her nomination merely as something to bring her business in her profession. Certainly it brought her much notoriety, and made the house at 619 F. Street N.W., Washington, where she lived with her two daughters, a marked place. She herself was a noticeable figure whether on foot or going about Washington on her tricycle, the vehicle she employed.

Her Presidential platform was advanced—woman suffrage, prohibition, arbitration instead of war, the abolition of capital punishment, various labor reforms, including equal pay for women; Government ownership for railways and the telegraph, and to make men sweet and clean by taking tobacco from them. Whether it was this last one that defeated her, history does not say.

Strong for peace though she was, author of many pamphlets in favor of arbitration, she yet helped to equip the Twenty-eighth Regiment in 1861. Seven times she crossed the ocean to attend international conferences, mostly on peace; thrice she was a delegate to conferences in this country.

When the European war began in 1914 she held that it was not necessary for the United States to prepare, because "no nation hates us enough to fight us."●

SOVIET JEWISH EMIGRATION DECLINES SHARPLY

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. BIAGGI. Mr. Speaker, I am deeply distressed by recent figures provided me by the Greater New York Conference on Soviet Jewry and the National Conference on Soviet Jewry that indicate the number of Jews allowed to emigrate from the Soviet Union last year was the lowest since 1970.

In fact, the number of Jews allowed to leave the Soviet Union in 1982 was a shockingly low 2,692. This compares to the 9,447 Jews who were allowed to emigrate from the Soviet Union in 1981.

Even more disturbing is the alarming trend these figures represent. In 1980, Soviet Jewish emigration stood at a level of 21,471, and in 1979, the highest level of Soviet Jewish emigration was recorded, 51,320. This means that since 1979, the number of Jews allowed to leave the Soviet Union has declined by 95 percent. Clearly, this is an intolerable situation that deserves our priority attention.

During the prior Congress, I authored a resolution unanimously passed by the House that sharply denounced the Soviet Government's treatment of their Jewish citizenry. The resolution focused particular attention on the declining emigration rate. Since that time, matters have deteriorated still further.

It is obvious that stronger forms of pressure are necessary. I am hopeful that under the new Soviet leadership of Yuri V. Andropov, human rights conditions in the Soviet Union will improve. However, in order for that to happen, it is essential that President Reagan insist that the human rights issue continue to play a major role in U.S. foreign policy. Simply put, the issue of Soviet emigration must be a primary focal point during any United States-Soviet negotiations especially with respect to certain agricultural agreements which are so beneficial to the Soviet Union. We should not reward the Soviets for their repressive policies. I call on my congressional colleagues to join me in helping to realize this crucial goal.

At this time, Mr. Speaker, I wish to insert an article that appeared in the New York Times discussing the declining Soviet Jewish emigration rate:

[From the New York Times, Dec. 30, 1982]

JEWISH EXODUS FROM SOVIET REACHED A LOW POINT IN '82

The number of Jews allowed to emigrate from the Soviet Union this year was the lowest since 1970, according to figures issued yesterday by the Greater New York Conference on Soviet Jewry and the National Conference on Soviet Jewry.

The two groups announced at a news conference at the Association of the Bar of the City of New York on West 44th Street that 2,670 Jews were granted emigration visas in 1982 compared with 9,447 Jews last year, permitted to leave the Soviet Union. The highest level was 51,320, in 1979.

Seymour P. Lachman, university dean of the City University of New York and chairman of the Greater New York group, said:

"The road to freedom is now closed to Soviet Jews. The number of Jews allowed to emigrate in 1982 has plummeted by a staggering 95 percent in the past three years."

DETERIORATION UNDER BREZHNEV

He called on Western governments to "intensify their efforts on behalf of Soviet Jewry and to respond vigorously to Soviet oppression."

"The final years of the Brezhnev regime were disastrous for Soviet Jews," he said, adding that the Soviet authorities had systematically isolated Jews from the world Jewish community and from their historic, religious and cultural roots.

"It is time for the new Soviet leadership to put the Soviet Union back on the path of international law," he said.

In a statement assessing the situation of Soviet Jews seeking to emigrate, Theodore R. Mann, chairman of the National Conference, said the decline had been accompanied by threats and arrests of Jewish activists.

"Hebrew teachers are severely harassed because of their efforts to promote the historic language of their people," he said, adding that the security police had raided the homes of some, and that others had been forced to curtail their instruction after threats of arrest and harm to their families.

He said that Soviet Jews who had actively protested Soviet policies were sentenced to labor camps and prisons and some who were released this year were being threatened with re-arrest.

MEETING WITH SHULTZ IS SOUGHT

According to Jerry Goodman, executive director of the National Conference, the organization is seeking a meeting with Secretary of State George P. Shultz to discuss the issue of Soviet emigration policy.

"Our assessment of the Reagan Administration is that their pronouncements are good," he said. "We have been assured that this issue is a priority in term of bilateral relations between the two countries."

Mr. Goodman said that, in recent conversations between National Conference members and Jewish activists in Moscow, the activists were hopeful that the situation would improve under the new leadership of Yuri V. Andropov.

"We are not going to ask back idly," Mr. Goodman said. "We don't know whether Mr. Andropov will heed our voices, but we are going to escalate our efforts across the country and see to it that this issue is put at the top of the agenda when U.S. leaders sit down to negotiate with the Soviets.●

TRIBUTE TO RALPH BERRY

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. ANDERSON. Mr. Speaker, I am honored by this opportunity to share with my colleagues some of the contributions and accomplishments of a true public servant, Ralph Berry.

Ralph served the year just ended as the president of the Wilmington Chamber of Commerce. He will be formally stepping down from the office he has held in such an exemplary fashion at a dinner to be given in recognition of his many fine achievements as their president on Thursday, January 20, 1983. One of these, and a goal he has realized, has been to shed the "little town" image with which Wilmington was regarded prior to his assuming the presidency of the Wilmington Chamber of Commerce.

Yet Ralph's contributions to Wilmington are not anomalies, they are what secured for him the request and admiration of the community and its members. As Wilmington's postmaster, a position he has held since 1980, and as a member of both the Wilmington Chamber of Commerce and the Los Angeles Harbor Kiwanis Club, he has contributed to the responsible growth and the vitality of Wilmington. His tenaciousness led to the awarding of a contract providing for the construction of a post office in Wilmington. This may seem like a small feat to some of us here who may represent bustling cities or affluent suburbia, but to many of our communities that are striving for increased self-sufficiency, it is a leader like Ralph that

enables these small wonders to occur; and occur they did.

During Ralph's 1-year term as president of the Wilmington Chamber of Commerce, membership increased significantly. The results of his recruiting effort will inevitably prove far reaching and should be felt for years to come through increased business activity in Wilmington, a stronger association between the business and residential communities there, as well as an improved way of life for Wilmington's residents.

In acknowledging his exceptional qualities as a community leader and public servant, my wife, Lee, and I would like to extend to Ralph Berry, his wife, Lorene, and to all of his children, our wishes for a life of continued happiness and fulfillment.●

COMPUTER CONTRIBUTIONS ACT IS REINTRODUCED

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. STARK. Mr. Speaker, I am today introducing legislation which I sponsored in the last Congress to encourage the donation of personal computers to primary and secondary schools. During the 97th Congress, the Computer Contributions Act received broad bipartisan support and, on September 23, passed the House of Representatives by a vote of 223 to 61. Unfortunately, after being favorably reported by the Senate Finance Committee, the legislation failed to reach the Senate floor.

My bill provides manufacturers of computers with a tax deduction equal to their cost of manufacturing plus one-half of their markup not to exceed twice their cost. This rule parallels a provision added by the Congress in 1981 for the donation of scientific equipment to colleges and universities for research purposes.

During the past Congress, this bill was attacked as special interest legislation designed to benefit one company. These accusations are just plain wrong. The legislation is designed to help the children and schools of America by providing them with state-of-the-art equipment which all too many schools simply cannot afford to purchase. By encouraging the donation of computers by means of a tax deduction, the Government is obtaining these computers much more cheaply than they could through outright purchases. In addition the legislation, of course, grants equal benefits to all companies that donate equipment.

Computer technology has become a major force in our lives. Our school-age children need to start learning about them as soon as possible. I hope that we will be able to swiftly approve this legislation.

The text of the bill is printed below:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Computer Contribution Act of 1983".

SEC. 2. CHARITABLE CONTRIBUTIONS OF COMPUTER EQUIPMENT TO PRIMARY AND SECONDARY SCHOOLS.

Subsection (e) of section 170 of the Internal Revenue Code of 1954 (relating to certain contributions of ordinary income and capital gain property) is amended by adding at the end thereof the following new paragraph:

"(5) SPECIAL RULE FOR CONTRIBUTIONS OF COMPUTER EQUIPMENT TO PRIMARY AND SECONDARY SCHOOLS.—

"(A) LIMIT ON REDUCTION.—In the case of a qualified contribution of computer equipment, the reduction under paragraph (1)(A) shall be no greater than the amount determined under paragraph (3)(B).

"(B) QUALIFIED CONTRIBUTION OF COMPUTER EQUIPMENT.—For purposes of this paragraph, the term qualified contribution of computer equipment means a charitable contribution by a corporation of tangible personal property described in paragraph (1) of section 1221, but only if—

"(i) the contribution is to a qualified educational organization,

"(ii) the contribution is made pursuant to a written plan of the taxpayer which shall seek to prevent undue concentrations of the taxpayer's contributions of computer equipment from the geographic standpoint or from the standpoint of the relative economic status of the donees' students,

"(iii) the property is assembled by the taxpayer and the taxpayer is regularly engaged in the business of assembling and selling computer equipment of the same kind as such property.

"(iv) the contribution is made—

"(I) not later than 6 months after the date the assembly of the property is substantially completed, and

"(II) during 1984,

"(v) the original use of the property is by the donee,

"(vi) the property is computer equipment substantially all the use of which by the donee will be at the institution directly in the education of students.

"(vii) the property is not transferred by the donee in exchange for money, other property, or services, and

"(viii) the taxpayer receives from the donee a written statement representing that its use and disposition of the property will be in accordance with the provisions of clauses (vi) and (vii).

"(C) QUALIFIED EDUCATIONAL, ORGANIZATIONS.—For purposes of this paragraph, the term qualified educational organization means—

"(i) an educational organization which is described in subsection (b)(1)(A)(ii), and

"(ii) a school operated as an activity of an organization described in section 501(c)(3) and exempt from income tax under section 501(a) if such school normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on.

Such term shall not include any institution of higher education (as defined in section 3304(f)) and shall not include any organization not located in the United States.

"(D) COMPUTER EQUIPMENT.—For purposes of this paragraph, the term 'computer equipment' means—

"(i) a data processor which—

"(I) can be programmed in at least 3 standard computer languages,

"(II) has a random access memory with a capacity for at least 32,000 bytes, and

"(III) is (or can be) connected with a screen for visual display of the data.

"(ii) if donated by the taxpayer for use in connection with a data processor described in clause (i) donated by the taxpayer—

"(I) a display screen,

"(II) a printer, or

"(III) a disc drive, and

"(iii) any installation equipment for equipment described in clause (i) or (ii).

"(E) CORPORATION.—For purposes of this paragraph, the term 'corporation' shall not include—

"(i) an electing small business corporation (as defined in section 1371(b)),

"(ii) a personal holding company (as defined in section 542), and

"(iii) a service organization (as defined in section 414(m)(3)).

"(F) Gifts made under this act shall be considered charitable contributions."

SEC. 3. EFFECTIVE DATE.

The amendment made by section 2 shall apply to taxable years ending after December 31, 1983.●

MICHAEL McDERMOTT BULK AND FOREIGN MAIL CENTER

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. GUARINI. Mr. Speaker, I am reintroducing today a bill which would change the name of the New York Bulk and Foreign Mail Center in Jersey City, N.J., to the Michael McDermott Bulk and Foreign Mail Center. This mail center is in my district, and this legislation is important to me and to the postalworkers in my district, 4,100 of whom work at this huge postal facility alone. The House passed this measure last September under the consent calendar after the Public Works and Transportation Committee and its Subcommittee on Public Buildings and Grounds reported favorably on this bill in a unanimous expression of bipartisan support. Unfortunately, time constraints in the press of last-minute business in the other body prevented their consideration of this bill. I am looking forward to approaching this measure now, in the new year, with a restored sense of vitality.

Michael McDermott was a 25-year-old employee at the New York Bulk and Foreign Mail Center who was killed in an accident by a faulty conveyor belt on December 15, 1979, just over 3 years ago. Safety devices meant to prevent the kind of accident that happened to Mike McDermott had been removed in order to speed the flow of mail that Christmas. Young

Mike McDermott left behind a wife and an infant daughter.

The accident touched off a wave of charges that postal management had no concern for the safety of workers at the facility. Subsequent investigations of Mike McDermott's death revealed that 5,000 accidents had occurred at this facility in the 2 years preceding the fatal accident. An onsite survey conducted by the congressional Subcommittee on Postal Personnel and Modernization 1 week after the incident turned up a number of safety violations—and that the same conveyor belt violations which caused the young father's death still existed.

There is a single important reason for the renaming of the New York Bulk and Foreign Mail Center as the Michael McDermott Bulk and Foreign Mail Center—a reminder to all that worker safety is the most important aspect of any industrial-type operation. Will Michael McDermott have died in vain? I believe it is right that Mike McDermott become a symbol of safety consciousness. Rather than provoke disharmony between management and workers, the renaming should facilitate discussion of safety consciousness. It could also be a symbol that the post office does want to make safety its first priority.

I want to make clear the function of this facility. As you know, it is traditional to name public buildings after statesmen and generals who have distinguished themselves with long records of public service. This is not a bill which would break this tradition—the Bulk and Foreign Mail Center is not a post office as we know them in our hometowns; it is an industrial-type, warehouse facility to which only postal employees go.

What is most important about this bill to me and the many men and women who have spent their lives in the frontlines of public service is the symbol for safety consciousness that Michael McDermott can become. Naming this facility after Michael McDermott will provide us a monument symbolizing the sacrifice of all working men and women who have lost their lives in public service. Let me assure you—young Mike McDermott was a hero. He is typical of the so many unsung heroes of this land—who go to work evey day to support their family and save for their dreams for the future. He was the kind of American we are proud to represent as Members of Congress.

Michael McDermott was not an uncommon man. However, to forget him now—to let his death be in vain when the sorrow we feel from his loss can be turned into something positive—would demean the struggle of American working men and women. When we honor Michael McDermott, we shall be honoring a man who represents the group which made America great, a group which is distinguished by its achievements, a group which continues to serve America well—the working men and women of this country. Their safety while working is of paramount importance. Your favorable consideration of this bill would be a strong signal to all that industry should, first and foremost, be concerned with worker safety. Thank you.●

THE FUTURE OF RAILROAD RETIREMENT

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. VENTO. Mr. Speaker, during the 97th Congress the railroad retirement program was under substantial attack. Efforts were made to cut back dual benefits for current recipients and to reduce and eliminate the Railroad Retirement Board.

In the face of these attacks, Congress spoke out firmly in support of railroad retirees. We successfully reinstated the dual benefit and have resisted attempts to eliminate the Board and the district offices.

However, our actions did not fully resolve the problems facing this important program. It is now clear that the future soundness of the Railroad Retirement System is in doubt.

The Railroad Retirement System, which, throughout its history, has been financed by payroll taxes, is going broke despite corrective action taken by Congress in 1981. The reason for this is the precipitous decline in railroad employment. In less than 2 years employment has fallen almost 20 percent. It has gone from 509,000 in January 1981 to 416,000 in November 1982. This is a loss of nearly 100,000 contributing employees.

A vicious cycle has been established. As employment declines, payroll taxes have been raised. This creates a strong inducement for management to reduce employment further in order to reduce tax costs. Since taxes are high, even a small drop in employment means a big financial loss to the Railroad Retirement System, and a big drop is devastating. Taxes then are raised to make up for lost revenue. Employment is then cut to reduce costs.

However, rail employment decline has not meant a decline in the railroad industry. Deregulation of the industry under the Staggers Rail Act, the various tax reforms, and reorganizations, many made possible by legislation, have put the industry in the best condition ever. Until the current recession caught up with the railroads, they were, according to their own statements, having record years for freight traffic and profits. When this recession ends, as it will, the industry will again experience these conditions.

If rail traffic and revenues are increasing while employment is dropping, productivity must be skyrocketing. The industry is in a better financial position, not a weaker one, to finance the retirement obligations to the men and women who built it, sustained it the last half century, and put it where it is today.

In view of this situation, it is clear that a means, other than payroll taxes, at least in part, must be found to finance these retirement obligations from the record revenues which the industry will achieve. While a ton-mile tax has been suggested, it is not the sole alternative which should be considered.

For this reason, I am introducing today a concurrent resolution expressing the sense of the Congress that the Railroad Retirement Board, rail labor, and rail management should jointly or independently explore possible alternative methods of financing the railroad retirement program. The resolution directs that one of the alternatives that should be considered is a ton-mile tax. The resolution specifically directs joint or separate reports be made to the Congress by October 1, 1983.

I am confident that the study called for will be made in good faith, and that the report will be filed in October 1983 as requested. The rail sector, labor and management have always contributed to the solution of their retirement program problems. Congress has responded to such private initiatives with the legislation when necessary. We urgently need the private sector's cooperation today.

The failure to respond would have serious repercussions on rail retirees. We cannot get bogged down in a morass of indifference, nor can we back down from the commitments that have been made to these individuals. We urgently need the positive contribution of the rail industry, labor and the Railroad Retirement Board to maintain the commitment and protect railroad retirees today and tomorrow.●

REINTRODUCTION OF THE ERA

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. WEISS. Mr. Speaker, it is appropriate that the equal rights amendment be the first legislation introduced in the new Congress. Its designation as House Joint Resolution 1 demonstrates that the struggle to pass the ERA will have a top priority in the 98th Congress.

As a member of the Congressional Caucus for Women's Issues, I cospon-

sored House Joint Resolution 1, and I strongly support the caucus' plans to redouble efforts to insure that the Constitution reflects most Americans' strong conviction that the equality of women is guaranteed.

Opponents are still claiming that the ERA is not needed because women can win equality through Federal laws already on the books and changes in State and local statutes.

But no statute can provide the all-encompassing protection of a constitutional amendment. Statutes can be repealed or undermined, a lesson we are learning only too well under this administration. Support for equal rights can disappear as quickly as changes occur in the White House, the Congress, or the State legislatures.

Currently, we have a President who pays lip service to women's rights but works actively to subvert the gains women have made. Nothing so dramatizes the need for ERA as the administration's pathetic record on equal rights. Antidiscrimination laws, such as the title IX prohibition on discrimination in federally funded education programs, are being weakened. Social programs that seek to equalize opportunity for women in employment, education, housing and other areas are being reduced or eliminated. Fewer women are being considered for judicial and Federal appointments than under past administrations.

Women cannot even rely on existing statutes to protect them. The Equal Pay Act, for example, was passed in 1963, but women are still paid less than men for doing the same work in every job classification in the labor force. College educated women, on the average, earn less than men with an eighth grade education. Poverty has increasingly become a female phenomenon; two out of every three poor adults are women.

ERA is not just women in the labor market. Full-time homemakers will benefit from it as well, since discrimination against women is still rampant in our tax and retirement systems, insurance policies, family law, and other areas.

Moreover, by eliminating sex as a factor in determining legal rights for all citizens, the ERA will protect men as well as women. A man should not be denied the opportunity to learn nursing, for example, any more than a woman should be denied the opportunity to learn engineering. Family law and criminal law should not treat men more harshly than women.

The ERA, in its simplicity, offers the best argument for itself: "Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex." I am confident that those words will become part of the Constitution before another ratification deadline has passed.●

UNEMPLOYMENT IN SOUTHWEST WASHINGTON

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. BONKER. Mr. Speaker, as we begin this new session of Congress, our No. 1 priority must be to put our Nation's men and women back to work.

In dry economic terms, unemployment is a key cause of the spiraling budget deficit that is inhibiting any real economic recovery—every percentage point of joblessness adds $30 billion to the deficit. In human terms, unemployment is a tragedy affecting millions of Americans and their families.

Officially, nearly 12 million Americans are unemployed. The real number is much higher, for the official figures fail to count the millions of workers who are forced against their will to work reduced hours and the over 1 million jobseekers who have simply given up of ever finding work.

In my own State of Washington, the unemployment rate is 12.4 percent, far above even the 10.8-percent national average.

I believe the Federal Government can and must be an ally of the unemployed. Congress should take steps to make U.S. exports more competitive, strengthen education, training, and retaining programs, inititate a housing stimulus program, work with management and labor to revitalize our industrial base, and countless other things.

Mr. Speaker, at this time, I would like to insert into the RECORD an article from the Daily World, of Aberdeen Wash., which describes the plight—and the courage—of forest product workers in Washington.

The workers in this article are exemplary of what is occurring all across our Nation. They are real people who are struggling to feed their families, people who want to work but cannot find jobs.

I hope that stories like these will convince the Reagan administration to put aside their rigid policies and work with us during the 98th Congress toward real solutions to our Nation's No. 1 problem—unemployment.

WOODWORKERS JUST TRYING TO HOLD ON

(By Emmet Pierce)

GRAYS HARBOR.—Sitting around a table in an Aberdeen union hall, four unemployed woodworkers shared a pot of coffee and swapped stories about tough times in Grays Harbor.

"If it wasn't for unemployment compensation and food stamps, it would be worse than the Depression," said Vernon Montoure, a 54-year-old mill worker.

Montoure said he was thrown out of work when the E. C. Miller Cedar Lumber Co. closed its doors last spring. Until then he worked 30 years without taking a handout. But these days he finds himself standing in food lines.

"I never thought it would happen to me." he said. "I was young during the Depression. I stood in the commodity lines with my folks. These lines are longer."

"I'm making it mainly because of family support. I know a lot of people who aren't," said Bill Douglas, 30, a burly, bearded mechanic who formerly worked for ITT-Rayonier Inc. "I don't have unemployment compensation anymore. The last check I got was last April."

Douglas has been out of work since February 1981. Kurt Rehberg, 24, a former Mayr Brothers Logging Co. mill worker, has been out of work since August.

"I still get unemployment and I can live on it," he said with a shrug. "The wife and me will get along. We got a food basket the other day. It blew me away. I never got anything like that before."

Pride fades when you're struggling to survive, he said. He accepted the gift.

"I've been laid off since February," said Mike Degerlund, 33, who worked for Evans Products Co. "You got to know someone to get a job."

All four men belong to the International Woodworkers of America Local 374. They share a mixture of fear and optimism. There are an estimated 6,600 Grays Harbor laborers out of work. That's 17 percent of the area's work force. The timber industry's slump is expected to continue into 1983. Montoure said his age would make it hard for him to find work.

"These fellows are young," he said, gesturing toward his three companions. "At my age they don't want to train me for another job."

But the need for more training was also on young Rehberg's mind.

"I should have stayed in college like everyone told me to," he said. "I only know how to work in the mill. That's all I know how to do . . . I'll find work somehow. I've just got to hold on."

None of the men want to leave the area, but all have considered it.

"A guy might have to move if the jobs don't come back," said Montoure. "Some people made a move right off. That may help the ones who stay."

Degerlund said mill workers and loggers are used to going a month or more without work. But the timber industry's last boom year was 1979. Since then work has been sporadic at best. And three years is a long time to wait out an economic slump.

The workmen try not to let unemployment get them down. Each had his own way of dealing with anger and disappointment. Douglas played park league baseball to work off his frustration. Rehberg plays basketball and takes long walks. Degerlund cuts firewood. When Montoure gets depressed he washes his car. Jobless laborers who can't get their minds off their problems get just plain mean, Douglas said.

"You learn to roll with it," he said. "You can't keep it on your mind all the time."

Montoure said the wood products industry is tied to the housing industry. Owning one's own home is part of the American Dream, he said. Ironically, many woodworkers have never realized that dream.

"How am I going to save $5,000 for a down payment and closing costs and then make an $800 per month payment?" Rehberg asked. "There's just no way."

Montoure said the timber industry will rebound once home loan interest rates fall,

but woodworkers may be among the last people to benefit from an economic upturn.

"We always pay the price," Degerlund said bitterly. "We're the working people."

Degerlund gets angry every time President Reagan picks up a newspaper classified ads section to illustrate the availability of jobs.

"There ain't no work," he said his voice rising. "It's easy for him to pick up the paper and say, 'See all these jobs,' but they're specialized jobs."

Douglas agreed. Most job opportunities just don't apply to loggers and mill workers.

"I'd look really good coming to a house as a beauty consultant," Douglas quipped.

"It's nothing that we can control," said Rehberg. "If it was just up to going and getting a job, we'd have jobs."

There may be fewer jobs, but numerous food drives throughout Grays Harbor have kept people from going hungry, said Rehberg. Even some unemployed workers find some way to contribute.

"When you know how much you appreciate people bringing food to your house, you give some too," he said.

Everyone sitting around the table agreed Grays Harbor is meeting the challenge of tough times.

"This is a great community to live in, good times or bad," Degerlund said.●

TERRORISTS DESERVE TOUGHER PENALTIES

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. BIAGGI. Mr. Speaker, today I am introducing a bill to establish tougher, mandatory penalties for those persons convicted of terrorist attacks on Federal buildings.

The bill is intended to provide a greater deterrent to terrorists, such as those responsible for the New Year's Eve bombing in New York that seriously injured three city police officers.

Under my bill, when a person dies from a bombing attack on Federal property, those responsible would be required to face the death penalty, or mandatory life imprisonment if the death penalty is not imposed. In cases, such as the recent New York City attack, when persons are injured—but not killed—my bill would impose a mandatory prison sentence of from 5 to 20 years.

Under current law, the maximum sentence these criminals face is 20 years (for causing injury) to life in prison (for causing death), which means they are eligible for parole after only 7 to 10 years.

However, as shocking as it may sound, a terrorist who injures or kills when bombing Federal property might not ever spend a day behind bars under current law because there is no mandatory penalty or enforceable capital punishment sentence for the crime. My bill would correct this serious injustice.

The need for stiffer, mandatory penalties is clear—existing law is simply not an effective deterrent. For example, the terrorist group which New York City police believe set the New Year's Eve blast, FALN, has claimed responsibility for some 100 bombings that have killed six people, wounded dozens more, and resulted in more than $3.5 million in property damage during the past 8 years. Although 30 of their attacks have taken place in New York, the group has claimed responsibility for other bombings in Chicago, Washington, Philadelphia, and San Francisco. We must take tough and immediate actions to more effectively deal with these terrorists acts. I believe my proposal offers us that opportunity.

Mr. Speaker, as one who was wounded 10 times during my 23 years with the New York City Police Department, I am especially concerned about the life-threatening dangers these terrorist bombings pose to our Nation's law enforcement community. In the New Year's Eve bombing in New York, one courageous police officer, Rocco Pascarella, went to investigate a suspicious package he thought might be a bomb. It exploded as he approached, causing him to lose his right leg. Two bomb squad detectives, Salvatore R. Pastorella and Anthony S. Senft, also suffered extremely serious injuries when another of the series of bombs exploded in their faces as they attempted to dismantle it. Detective Pastorella lost all the fingers of his right hand, suffered very serious eye injuries and may have been deafened. Detective Senft, also suffered an eye injury, as well as extensive facial and body injuries.

Every police officer knows there are certain risks associated with the difficult task of fighting crime. However, those risks can be minimized, and we can help by passing tougher laws that serve as more effective crime deterrents.

Acting in this belief, I intend to do everything possible to seek the early passage of this crucial anticrime measure and I urge my colleagues to support me in this worthy cause.

[From the New York Times, Jan. 2, 1983]

F.A.L.N. PUERTO RICAN TERRORISTS SUSPECTED IN NEW YEAR BOMBINGS

(By Robert D. McFadden)

Federal and city investigators said yesterday that a Puerto Rican terrorist group was apparently responsible for a series of bombings on New Year's Eve that rocked four government buildings in lower Manhattan and Brooklyn and seriously injured three police officers.

The blasts, which struck Police Headquarters and two Federal office buildings in Manhattan and the Federal Courthouse in Brooklyn during a 90-minute period, severed a leg of one officer and injured the eyes of two bomb squad detectives.

The detectives, one of whom also lost all the fingers on his right hand and may have been deafened, were felled when one of the bombs blew up in their faces. They might have been killed had they not been wearing armored suits, the police said. A fifth bomb, made of four sticks of dynamite, was found in lower Manhattan and dismantled before it exploded.

Authorities said the explosions were believed set by the F.A.L.N.—Fuerzas Armadasa de Liberación National, or Armed Forces of National Liberation—which has claimed responsibility for some 100 bombings that have killed six people in an eight-year campaign of terror in the name of Puerto Rican independence.

Police Commissioner Robert J. McGuire said that at 10:20 P.M., after three of the bombs had exploded, a man called WCBS Radio and said: "This is the F.A.L.N. We are responsible for the bombings in New York City today. Free Puerto Rico. Free all political prisoners and prisoners of war."

The caller hung up after making the statement, which was recorded, the commissioner said. Shortly afterward, at 10:27 P.M., a man called The Associated Press in New York City and claimed that the Palestine Liberation Organization was responsible for the bombings and that two more bombs would go off within an hour, Commissioner McGuire said.

Two more bombs were found at a Federal office building downtown. One exploded and the other was dismantled. However, the Federal Bureau of Investigation and Commissioner McGuire expressed skepticism about the claim on behalf of the P.L.O.

"We are definitely investigating an F.A.L.N. link," said Joseph Valiquette, a spokesman for the F.B.I.

"The type of device used is consistent with what the F.A.L.N. has previously used and taken credit for," Commissioner McGuire said at a new conference. "The type of message given is also consistent."

As word of the blasts spread, the Police Department received scores of calls warning that bombs had been planted in various locations in the city, including in the midst of the huge crowd of revelers gathered in Times Square for the New Year's Eve celebration.

Security at all public buildings was increased and searches were conducted for other bombs, but none was found, the Commissioner said. Police at the Midtown South Precinct said that officers scanned the Times Square crowd for suspicious packages but took no other precautions.

The Commissioner gave the following details of the bombings:

The first detonated at 9:27 P.M. on the north side of 26 Federal Plaza, which houses the offices of the F.B.I. and other Federal agencies. The device, made of several sticks of dynamite and a timer, knocked out windows on three floors but caused no injuries.

Four blocks away, at 9:55 P.M., a second bomb exploded on the north side of 1 Police Plaza, the city's Police Headquarters building, which is near City Hall and the Municipal Building. Officer, Rocco Pascarella, 33 years old, who was on security detail, had heard the first blast, gone out to investigate and found the package. It exploded just as he approached, nearly severing his right leg just below the knee.

The 12-year police veteran, who is married, has one daughter and lives in Queens, was taken to Bellevue Hospital, where surgeons attempted without success to reattach the leg with microsurgery. He was listed in guarded condition late yesterday.

The third bombing occurred at 10 P.M. outside the United States District Courthouse at 225 Cadman Plaza East in Brooklyn's Borough Hall section. It shattered windows throughout the building but injured no one. "The explosion was heard all around the Brooklyn Heights neighborhood," said Officer Timothy Kane of the 84th Precinct.

At 10:45 P.M. one of two bombs exploded at 1 St. Andrews Plaza, which houses the Manhattan Federal courts and the offices of the United States Attorney for the Southern District of New York. The building is adjacent to the Metropolitan Correctional Center and just across Park Row from 1 Police Plaza.

The device blew up just as Detectives Salvatore R. Pastorella, 42, and Anthony S. Senft, 36, were trying to examine it after putting steel-mesh blankets over both bombs.

Detective Pastorella, a 15-year member of the force from Brooklyn, lost all the fingers of his right hand, sustained very serious injuries to both eyes and may have been deafened. Detective Senft, an officer for 10 years who lives in Suffolk County, suffered an injury to one eye and extensive facial and body injuries.

The two detectives were rushed to Bellevue Hospital, where they were listed later in stable but very serious condition. Commissoner McGuire said the two had been saved from death or more critical injuries by the protective suits they were wearing.

Other bomb-squad detectives at St. Andrews Plaza were ordered not to attempt immediately to remove the fifth bomb. When it had not detonated by 12:30 A.M., the detectives deactivated the device, placed it in a bomb-disposal truck and took it to the Police Department's firing range at Rodman's Neck in the Bronx.

Commissioner McGuire said that the timing and placement of the bombs suggested that the people who planted them had apparently not intended to harm ordinary citizens.

He said that 60 investigators assigned to the joint F.B.I.-Police Department Terrorist Task Force are working on the bombings.

While no suspects were named, the Commissioner said that investigators had some potentially important clues. He said several persons may have seen a man planting the last two bombs in the vicinity of St. Andrews Plaza at about 10:15 P.M.

The Commissioner said that the man was reported to be Hispanic, was carrying a package and had approached some Chinese neighborhood residents who were standing nearby and indicated to them that they should leave the area. Mr. McGuire said the police were looking for those people and he urged them, or anyone else who saw the man, to contact the police. He did not explain how the police had learned of the potential witnesses.

BOMBS IN INNOCUOUS PACKAGES

Investigators also had as evidence the dismantled fifth bomb. It consisted of four sticks of dynamite, each weighing about one-half pound, a blasting cap, a nine-volt battery and a pocket watch.

The other devices were believed to be similar, Mr. McGuire said. All were in "innocuous packages wrapped in newspaper," each smaller than a shoebox, the Commissioner said.

A coordinated assault on the offices of government, corporate and financial institutions has been the hallmark of the F.A.L.N., whose last bombing spree struck the New York and American Stock Exchanges, the Chase Manhattan Bank and the headquarters of Merrill Lynch & Company last March 1.

At that time, Kenneth Walton, deputy director of the New York office of the F.B.I., said that the explosions appeared to mark a resurgence of the group, which had been inactive for two years since the arrests in 1980 of 11 top members.

Since surfacing in 1974, the group has claimed responsibility for more than 100 bombings, including 30 in New York and others in Chicago, Washington, Philadelphia and San Francisco. In addition to six deaths, they have caused scores of injuries and more than $3.5 million in damage. The most devastating blast killed four persons and injured 60 others at Fraunces Tavern in lower Manhattan in 1975.●

CONDOMINIUM COST REDUCTION ACT IS REINTRODUCED

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. STARK. Mr. Speaker, today, Congressman ARCHER and I are reintroducing legislation which will remove the necessity for costly condominium converters.

Mr. Speaker, for many people the dream of homeownership starts with the least expensive form of housing. Because of obvious factors, such as smaller unit size, economies of scale, and considerably less land, condominiums are often the most cost-effective and energy-efficient ownership housing available today.

Present tax laws treat condominium conversion in a curious way that encourages sales to professional converters and not to present tenants. If you own an apartment building and sell units to your tenants you are considered a "dealer" in real estate and must pay taxes on your entire gain at ordinary income tax rates, no matter how long you owned the building. However, if you sell the building to a professional converter you get capital gains on the entire gain. Hence the law favors sales to a converter and not directly to tenants.

Because of this anomaly an entire conversion industry grew in the 1970's. Conversions are not an easy process. Experts are needed to handle the legal intricacies and the unique tenant-landlord problems. But instead of hiring a company on a fee basis, conversion companies bought the building from the owner who then converted the buildings.

Converters typically get short-term loans pegged above the prime. To cover the cost of carrying the loan, they many times had to upgrade the building that made it possible to charge more for the units but invariably makes it difficult or impossible for present tenants to afford the units. This has caused the kind of displacement that has helped give conversions a bad name.

If the tax laws did not so strongly discourage apartment owners to convert their buildings themselves, several positive results would occur.

First, there would be no need to carry a large short-term loan. This would keep the conversion costs down and allow more tenants during "upgrading" or to keep units empty for prospective buyers. It would be a lot easier to keep units as rentals—an entirely uneconomic situation for a professional converter. It has been estimated by the National Apartment Association that involvement of a middleman converter can raise the cost of a unit 25 percent. In addition, the presence of a professional converter purchasing a building almost always generates fear and uncertainty among existing tenants, especially the elderly. We believe the conversion problems could be significantly ameliorated if the present owner is involved in the conversions.

The legislation that I have introduced today with my colleague, the gentleman from Texas (Mr. ARCHER) would alter the tax treatment conversions making the Code less "pro-converter." First, an owner would get capital gain up to the value of the building as an apartment rental. On sale to individuals, any amount received greater than the value of the building as appraised as a rental building, would be taxed at ordinary income tax rates.

I am confident that this bill has no revenue impact. It is only cutting out the middleman giving the owner the option to convert him or herself with a greater likelihood that the present tenants would be able to purchase the units and make more lower priced units placed on the market.

The text of the legislation is printed below.

H.R. 699

A bill to amend the Internal Revenue Code of 1954 with respect to the tax treatment of certain conversions of residential rental property into condominium units

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That (a) part IV of subchapter P of chapter 1 of the Internal Revenue Code of 1954 (relating to special rules for determining capital gains and losses) is amended by adding at the end thereof the following new section:

SEC. 1257. ELECTION TO TREAT CERTAIN CONVERSIONS INTO CONDOMINIUM UNITS AS SALES.

(a) GENERAL RULE.—For purposes of this title, at the election of the taxpayer—

(1) the conversion of any qualified residential real property into condominium units shall be treated as a sale of such property for an amount equal to its fair market value as residential rental property, and

(2) any gain determined under section (a)(1) shall be capital gain. Any additional gain determined upon disposition of the dwelling units shall be ordinary income. All

such grain shall be recognized as from time to time realized in the same proportion that gain in the first sentence bears to the gain in the second sentence.

(3) Expenditures incurred in connection with improvements in the dwelling units while held by the taxpayer in anticipation of their sale, or pursuant to a contract of sale between the taxpayer and the buyer, shall be treated as reducing that portion of the gain treated as ordinary income.

(b) QUALIFID RESIDENTIAL REAL PROPERTY.—For purposes of this section, the term "qualified residential real property" means and any real property—

(1) which was residential rental property (as defined in section 167(j)(2)(B)) in the hands of the taxpayer, and

(2) which, except in the case of property acquired by inheritance or devise, was residential real property held by the taxpayer for at least 5 continuous years immediately before the conversion into condominium units.

(c) FAIR MARKET VALUE DETERMINATIONS.—For purposes of this section, the fair market value of any qualified residential real property shall be determined as residential rental property immediately before the conversion and without regard to any substantial improvement made in anticipation of the conversion.

(d) SPECIAL RULES.—

(1) SECTION APPLIES ONLY WHERE GAIN RESULTS.—Subsection (a)(1) shall not apply if the application of such subsection would result in the recognition of a loss.

(2) BASIS ADJUSTMENTS.—The Secretary shall prescribe such regulations as he may deem necessary to provide for adjustments in basis to reflect gain recognized under this section.

(3) ELECTION.—An election under subsection (a) shall be made at such time and in such manner as the Secretary shall by regulations prescribe. Such an election, once made, may be revoked only with the consent of the Secretary.

(b) The table of sections for part IV of subchapter P of chapter 1 of such Code is amended by adding at the end thereof the following new item:

SEC. 1257. ELECTION TO TREAT CERTAIN CONVERSIONS INTO CONDOMINIUM UNITS AS SALES.

(c) The amendments made by this section shall apply to conversions after the date of the enactment of this Act in taxable years ending after such date.●

DORGAN: A GOOD CHOICE FOR WAYS AND MEANS COMMITTEE

HON. THOMAS A. DASCHLE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. DASCHLE. Mr. Speaker, the decision by the steering and policy committee to appoint North Dakota Congressman BYRON L. DORGAN to the House Ways and Means Committee is an important step for better representation here in Congress for our agricultural interests.

During the last session I served with Mr. DORGAN on the House Agriculture Committee. He did an outstanding job on that committee fighting for the interests of the family farmer. However, it was clear to us that we desperately needed representation on the House Ways and Means Committee that deals with all export issues, all tax issues, and many other vital areas.

The Ways and Means Committee last session, for example, death with over 80 bills that affected agriculture and yet there was virtually no one on that committee who represented a rural district and would be a voice for the family farmer in making those decisions.

The trade and export issues are some of the most important issues facing our farmers over the next decade. The Ways and Means Committee is responsible for our foreign trade policies, and we are glad that a farm State Representative will be part of the framing of those policies.

We need to do much more for our farmers in the area of trade. They need more and better foreign markets, and Representative DORGAN will help us reach that goal.

In summary, having BYRON DORGAN serve on the powerful House Ways and Means Committee will improve his ability to represent farm State interests. It will also give us a chance to better coordinate the efforts of the Ways and Means Committee and the Agriculture Committee to develop meaningful agricultural policies on price supports and exports that will give the family farmers a chance to see an improving agricultural economy for a change.●

AMERICA WILL SUFFER WITHOUT STUDENT AID

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. FRANK. Mr. Speaker, my predecessor in the House, Father Robert Drinan, S.J., has had several very distinguished careers. Both before and after his service as one of the outstanding Members of the House, he has been a leading educator in America. For years he served as dean of one of our outstanding institutions, Boston College Law School. Some of his former students sit in the House today. Since leaving the House he has, among other things, resumed teaching law at the Georgetown Law Center.

Recently he wrote a compelling article on the need for continued support by Congress of comprehensive student loan programs. Father Drinan points out that making higher education financially possible for every qualified young person is important both as a matter of fairness and as an essential element in a long-term strategy for keeping America's economy competitive in the world.

I ask that his remarks be printed here so that our colleagues can once again benefit from his cogent arguments.

[From the Cincinnati Enquirer, Dec. 26, 1982]

AMERICA WILL SUFFER WITHOUT STUDENT AID

(By Robert F. Drinan, S.J.)

Will the 98th Congress continue those programs of financial aid to college students which have helped to make it possible for 12,358,000 young people to attend college and for 3,200 institutions of higher education to survive? The answer is in doubt.

In 1978, Congress made all college students, regardless of income, eligible for guaranteed loans. During the next three years $15 billion was borrowed from the nation's banks—more than the total amount lent in the preceding 13 years. In a law that took effect Oct. 1, 1981, these loans were restricted to students whose combined parental income was under a certain ceiling. The number of loans in the following year dropped from 3.5 million to 2.7 million. The number of loans available in 1982 in Ohio declined by 24.3% and in Kentucky by 24.4%. In addition, the outright grants to students from the federal government declined nationally by 7%.

The enrollment of freshmen in September, 1982, decreased somewhat—especially in private colleges. The nation's 1,500 private colleges had 16,000 fewer freshmen in the fall of 1982 than in the fall of 1981. This 3.8% decline has brought about the first total enrollment drop in private colleges since 1971. It will mean that over the next four years there will be a loss to these private colleges of some $250 million.

This shortfall may have been due to the uncertainty about the availability of financial aid rather than the actural lack of money for tuition loans. But the same uncertainty continues, and college administrators are nervous about what to expect in September, 1983.

The Reagan administration has recommended a slashing of financial grants from $2.4 billion to $1.4 billion, a cutback in work-study funds from $528 million to $397 million and the elimination of all $178 million in national direct student loans. The House of Representatives will probably vote to continue these programs at their present level of funding, but the future of these programs is very uncertain.

The pressure to reduce student grants and loans will be intense. Deficits will remain in the $150-billion range for 1983, and the Office of Management and Budget (OMB) estimates that the 1984 deficit will be a staggering $185 billion.

There is abundant evidence that the cutbacks in the availability of student loans (which declined from $7.8 billion in 1981 to $6.1 billion in 1982) have had undesirable results on thousands of students and hundreds of colleges. The federal student grant and loan programs initiated in the 1970s can be compared to the monumental Land Grant College Act of 1863 by which thousands of acres of land were given by the federal government to start the great state universities and the GI Bill of Rights which educated some 12 million veterans after World war II.

About the only objection heard to the student loan program is the reported default rate. The inadequate collection procedures of the federal government as well as the colleges may have been as responsible as anything else for whatever excessive defaults

may have occurred. The problem is on its way to being resolved. This year, 436 colleges with default rates over 10% are barred from receiving loans. In 1983 the federal government will propose further tightening measures in the collection procedures, including possibly a plan by which income-tax returns or even wages may be withheld from those who have defaulted on student loans.

Aside from the uncertainty surrounding federal loans and grants, the nation's colleges and universities face problems from the declining numbers of persons reaching their 18th birthday. The 1982 total of 4,185,000 will decline to 3,772,000 in 1984 and to 3,329,000 in 1995. The total will not turn upward until the year 2000 when it will be 3,758,000.

There are undoubtedly improvements which could be made in the five major federal loan-grant-work programs. But the continual need for them is evident. States are retrenching in student assistance. Michigan, for example, economically devastated for a decade, has since 1975-76 doubled its tuition for its 15 state-related colleges and universities and phased out 150 degree programs. Some states have increased state aid for students; in 1982-83 Ohio is giving 67,000 awards totaling $33,856,000—an increase of 6.3%. But nationally, student aid last year increased 9% from all sources while tuition and fees increased 14%.

If there is any simple principle which unites liberals and conservatives when they think about the economy it is their agreement on the urgency of training more persons for careers in high technology so that the United States can meet its competition abroad from Japan, West Germany and more and more industrialized nations like Singapore and Taiwan. It is well known that one out of every five adult Americans is handicapped by "functional illiteracy" and that this unfortunate situation may cost the nation an estimated $225 billion in lost productivity.

The future of America will be determined in very significant ways by what the congress and the White House do about helping college students in 1983. The carefully integrated programs now on the books permit every qualified American youth to go to the college of his or her choice whether it is Oberlin or Ohio State. Should not that be a right which the Congress and the country should cherish?●

EVANGELICAL BAPTIST PRISONERS IN THE U.S.S.R.

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. McDONALD. Mr. Speaker, as we start a new year, we sometimes forget that the persecution of Christian believers today, is no less real than it was in the days of the Roman Empire. Christians are still suffering and dying for their belief in God and his son born on Christmas Day. Therefore, it is appropriate to remember the fate of certain Evangelical Baptist prisoners in the U.S.S.R. who are suffering and dying for their faith. A list of some of them arrested and their address in forced labor camps follows:

LIST OF EVANGELICAL BAPTIST PRISONERS IN THE SOVIET UNION, JULY 1, 1982

1. Afanaseva, Ludmila Arsenyevna.
Home address: d. Maneyevo, Bashkirskaya ASSR, Soviet Union.
b. 1958.
Arrested: March 23, 1982.

2. Alekseyev, Vyacheslav Konstantinovich.
Home address: ul. Shafiyeva 6, kv. 14, g. Ufa, Bashkirskaya ASSR 450083, Soviet Union.
b. September 1936; 3 children.
Arrested: March 12, 1982.

3. Antonov, Ivan Yakovlevich.
Home address: Neonila Ivanovna Antonova (wife), ul. Kotovskogo, 41, g. Kirovograd 316013, Soviet Union.
b. August 19, 1919; 3 children.
Arrested: May 14, 1982.

4. Antonov, Pavel Ivanovich.
Home address: Neonila Ivanovna Antonova (mother), ul. Katovskogo, 41, g. Kirovograd 316013, Soviet Union.
b. November 25, 1957.
Arrested: February 17, 1982.

5. Antropov, Pavel Nikolayevich.
Home address: Maria Grigorievna Antropova (wife), ul. Kalinina, 9, g. Mozhga, Udmurtskaya ASSR 427760, Soviet Union.
b. November 20, 1930.
Arrested: February 3, 1982.

6. Arbuzov, Ivan Grigorievich.
Home address: ul. Pavlova 18, g. Nizhny Tagil, Sverdlovskaya oblast, Soviet Union.
b. 1914.
Arrested: April 20, 1982.

7. Arnautov, Georgi Ivanovich.
Home address: Anna Mikhailovna Arnautova (wife), ul. Molodyozhnaya, 49, g. Kherson 325013, Khersonskaya oblast, Soviet Union.
b. January 10, 1922; 3 children.
Camp address: otr. 7 br. 74, uchr. YuZ 312/87, g. Gorlovka, Donetskaya oblast 338035, Soviet Union.
Arrested: August 18, 1980.
Sentence: (2nd) 2 years strict.

8. Azarov, Mikhail Vladimirovich.
Home address: Anna Petrovna Azarova (wife), ul. Ropshenskaya, 23 kv. 27, 197110 g. Leningrad, Soviet Union.
b. April 27, 1937; 4 children.
Camp address: UC 20/7 "L", g. Leningrad 195213, Soviet Union.
Arrested: August 14, 1981.
Sentence: (2nd) 4 years ordinary plus confiscation.

9. Baturin, Nikolai Georgievich.
Home address: Valentina Matveyevna Baturina (wife), ul. Sadovaya, 4 kv. 13, g. Shakhty 346500 Rostovskaya obl., Soviet Union.
b. Decementer 15, 1927; 6 children.
Camp address: YH 1612/44 "G", g. Belovo, Kemerovskaya obl. 652600, Soviet Union.
Arrested: November 5, 1979.
Sentence: (6th) 5 years strict.

10. Belan, Boris Nikolayevich.
Home address: Maria Semyonovna Belan (wife), ul. Lisunova kvartal 4,40, kv. 27, g. Tashkent, Uzbekskaya SSR 700171, Soviet Union.
b. May 28, 1954.
Arrested: January 12, 1982.

11. Beiev, Ivan Petrovich.
Home address: Zinaida Nikolayevna Beleva (wife), ul. Karla Marksa, 11/4 kv. 121, Kishinev 277045, Moldavskaya SSR, Soviet Union.
b. March 26, 1940.
Camp address: OSch 29/5 "Ye", ul. Levanevskogo, g. Kagul 278830, Soviet Union.
Arrested: January 20, 1982.
Sentence: 2.5 ordinary.

12. Berezovsky, Vasily Tarasovich.
Home address: Lilia Romanovna Berezovskaya (wife), ul. Linina, 13 kv. 21, g. Chervonograd, Lvovskaya oblst 292210, Soviet Union.
b. October 20, 1936; 6 children.
Arrested: November 24, 1981.

13. Bessonov, Vladimir Ivanovich.
Home address: Svethlana Ivanovna Bessonova (wife), ul. Poleganovskaya, 2, g. Chernovtsy, Chernovitskaya obl. 274008, Soviet Union.
b. November 27, 1949; 3 children.
Camp address: K-231/2-17, p/o/ Lesnoye, pos. Zarechny, Verkhnekansky r-n, Kirovskaya oblast 612870, Soviet Union.
Arrested: July 27, 1980.
Sentence: 3 years ordinary.

14. Bogar, Ivan Biilovich.
Home address: Maria Avgustinovna Bogar (wife), ul. Tereka, 65, pos. Koroleva, Zarakapatskaya obl. 295560, Soviet Union.
b. November 24, 1952; 3 children.
Arrested: May 13, 1981.

15. Boiko, Nikolai Yerofeyevich.
Home address: Valentina Ilinichna Boiko (wife), ul. Limannya, 8, pos. Shevchenko-1, p. Krasnoselka, Odessa 272168, Soviet Union.
b. February 23, 1922; 8 children.
Camp address: YaB 257/5 otr. 8, g. Sovietskaya Gavan, Kabarovsky krai 682880, Soviet Union.
Arrested: December 29, 1980.
Sentence: (2nd) 5 years strict plus 5 exile.

16. Bondar, Lidia Trofimovna.
Home address: Marfa Semyanyuk Bondar (sister), ul. Minskaya, 31, g. Krasnodar 350006, Soviet Union.
Camp address: UVL' 315/187, ul. 1 Maya 20, g. Lvov 290007, Soviet Union.
Arrested: April 20, 1982.
Sentence: (2nd).

17. Brykova, Nadezhda Ivanovna.
Home address: Maria Fedorevna Brykova (mother), 1-aya Besh-Bala, 217, g. Fergana, Uzbekskaya SSR 712011, Soviet Union.
b. December 19, 1943.
Camp address: uchr. UO 68/3 br. 21, Ust Labinsk, Krasnodarsky krai 352310, Soviet Union.
Arrested: June 18, 1980.
Sentence: 3.5 ordinary plus confiscation.

18. Bublik, Sergei Ivanovich.
Home address: Ekaterina Dementyevna Olshevskaya (mother), per. Donetsky, 45, g. Rostov-na-Dornu 346000, Soviet Union.
b. November 13, 1957.
Camp address: p/ya 288-28 4/24, p.o. Khairyuzovka, Ilansky 4-n, Krasnoyarsky krai 663850, Soviet Union.
Arrested: January 19, 1980.
Sentence: 3 years ordinary.

19. Burdeiny, Viktor Aleksandrovich.
Home address: ul. Tretiya, 101, s. Zdolbitsa, Zdolbunovsky raion, Rovenskaya obl., Soviet Union.
b. April 24, 1943; 2 children.
Camp address: p/ya OR 318/46-3, s. Ekaterinovka, g. Sarny, Rovenskaya oblast 265452, Soviet Union.
Arrested: July 20, 1980.
Sentence: (2nd) 3 years strict.

20. Bykov, Viktor Ivanovich.
Home address: Nina Petrovna Bykov (wife), ul. Gertsena, 96 kv. 1, g. Novorossiisk, Krasnodarsky krai 353912, Soviet Union.
b. December 23, 1930; 5 children.
Camp address: UO 68/1 br. 5, pos. Novosadovy, Abinsky raion, Krasnodarsky krai, Soviet Union.
Arrested: June 18, 1980.
Sentence: 3.5 years ordinary plus confiscation.

21. Bystrova, Tamara Vasilievna.
Home address: Maria Adamovna Bystrova (mother), Tallinna maante, 15-2, Narva, Estonskaya SSR, Soviet Union.
b. January 4, 1949.
Camp address: p/ya YaV 49/5 2-21, g. Chelyabinsk 454014 Soviet Union.
Arrested: January 19, 1980.
Sentence: 3 years ordinary.
22. Bytin, Aleksandr Fedorovich.
Home address: Nina Stepanovna Bytin (wife), 3-ii Tkatsky proezd, g. Bryansk-27, 24127, Soviet Union.
b. September 11, 1934; 8 children.
Camp address: uchr. OB 21/4-7, pos. Lokot, Btrasovsky raion, Bryanskaya oblast 242300, Soviet Union.
Arrested: November 11, 1981.
Sentence: (3rd) 3 years strict.
23. Chaban, Pavel Savelevich.
Home address: Stepanova Antonina Chaban (wife), ul. Krupskaya, 23 kv 1, g. Kovel, Volynskaya oblast, Soviet Union.
b. September 25, 1934; 5 children.
Camp address: Mkh 324/78, s. Raikovtsy, Khmelnitskaya oblast 281428, Soviet Union.
Arrested: December 29, 1981.
Sentence: 2 years ordinary.
24. Chertkova, Anna Vasilievna.
Home address: ul. Stankevicha 36, g. Alma-Ata, Kazakhskaya SSP 480056, Soviet Union.
b. November 8, 1927.
Psychiatric hospital address: spetspsikhbolnitsa otd. 11, uchr. UYa 64, g. Tashkent 700069, Soviet Union.
Confined in hospital since 1973.
25. Chigarskikh, Yuri Stepanovich.
Home address: Valentina Pavlovna Chigarskikh (wife), ul. Satyrina, 20 kv. 43, g. Kirov 610011, Soviet Union.
b. November 17, 1935; 7 children.
Camp address: otr. 5 br. 50, GSP OR 216/7, g. Kirov 610602, Soviet Union.
Arrested: March 26, 1981.
Sentence: 3 years ordinary.
26. Chipets, Ivan Filatovich.
Home address: Polina Nikolayevna Chipets (wife), ul. Golovka, 14, g. Nikopol, Dnepropetrovskaya oblast 322909, Soviet Union.
b. April 13, 1929.
Camp address: YuYe 312/1, pos. Mirnoye, Telmanovsky raion, Donetskaya oblast 342228, Soviet Union.
Sentence: 2.5 years ordinary.
27. Chovgan, Fedor Kuzmich.
Home address: Anna Ivanovna Chovgan (wife), ul. Mira, 30, pos. Paynytino, Lozovsky r-n, Kharkovskyya oblast 313520, Soviet Union.
b. March 31, 1932.
Camp address: YuYe 312/1 3-33, pos. Mirny, Telmanovsky raion, Donetskaya oblast 342228, Soviet Union.
Sentence: 3.5 years ordinary plus confiscation.
28. Danilyuk, Ivan Grigoriyevich.
Home address: Antonina Alekseyevna Danilyuk (wife), ul. Poletayeva, 13 kv. 64, g. Chernovitsy, Chernovitskaya oblast 274018, Soviet Union.
b. January 2, 1938.
Arrested: February 21, 1982.
Sentence: (2nd) 5 years strict.
29. Deshko, Mikhail Pavlovich.
Home address: Marta Vasiliyevna Deshko (mother), s. Deshkovitsa, 82, Irshavsky raion, Zakarpatskaya oblast 295205, Soviet Union.
b. May 26, 1956.
Camp address: p/ya OR 318-76-6, st. Rafalovka, Rovenskaya oblast 265968, Soviet Union.
Arrested: January 8, 1981.
Sentence: 3 years ordinary.
30. Didnyak, Gennady Vasilievich.
Home address: Svetlana Ivanovna Didnyak (wife), ul. Frunze, 44 kv. 7, g. Nikolayev 327029, Soviet Union.
b. September 16, 1956; 1 child.
Arrested: March 1, 1982.
31. Didnyak, Maria Vasilievna.
Home address: Vasily Konstantinovich Didnyak (husband), ul. Frunze, 44 kv. 7, g. Nikolayev 327029, Soviet Union.
b. April 29, 1933.
Arrested: March 1, 1982.
32. Dolbun, Liliya Iosifovna.
Home address: ul. Proletarskaya 58, g. Mogilev 212011, Soviet Union.
b. 1932; 6 children.
Arrested: August 18, 1981.
Sentence: 1 year forced labor.
33. Donchenko, Aleksandr Maksimovich.
Home address: Anna Yakovlevna Donchenko (mother), Saltovskoye shosse, 246 kv. 5, g. Kharkov, Kharkovskaya oblast 310171, Soviet Union.
b. September 6, 1960.
Camp address: US 319/56 3-33, s. Perekrestovka, Romensky raion, Sumskaya oblast 245930, Soviet Union.
Arrested: July 19, 1980.
Sentence: 2 years ordinary.
34. Donchenko, Lubov Maksimovna.
Home address: Anna Yakovlevna Donchenko (mother), Saltovskoye shosse, 246 kv. 5, g. Kharkov 310171, Kharkovskaya oblast, Soviet Union.
b. April 15, 1951.
Camp address: otr. 6 br. 9, uchr. YuG 311/74, g. Odessa 270059, Soviet Union.
Arrested: October 14, 1980.
Sentence: 3 years ordinary.
35. Dubovik, Viktor Mikhailovich.
Home address: Nina Ivanovna Dubovik (wife), per. Strelkovy, 36a, g. Simferopol-38, Krymskaya oblast, Soviet Union.
b. June 18, 1937; 5 children.
Address in exile: ul. Sovietskaya, 24, p. Tsentralny, Verxneketsky raion, Tomskaya oblast, Soviet Union.
Arrested: April 18, 1973.
Sentence: 5 years ordinary, 5 years exile.
36. Durksen, Yakov Frantsevich.
Home address: Ekaterina Abramovna Durksen (wife), s. Apollonovka, Isil'kul'sk r-n, Omskaya obl. 646000, Soviet Union.
b. March 9, 1924; 10 children.
Camp address: p/ya UB 14/10 "Zh", g. Zmeinogorsk, Altaisky krai 658460, Soviet Union.
Arrested: March 17, 1981.
Sentence: (3rd) 5 years strict.
37. Enns, Dmitri Petrovich.
Home address: Elena Yakovlevna Enns (wife), S. Borisovka, Uspensky raion, Pavlodarsky oblast, Kazakhskaya SSR 638143, Soviet Union.
b. November 18, 1953.
Arrested: April 17, 1982.
38. Ewert, Eduard Yakovlevich.
Home address: Ekaterina Vladimirovna Ewert (wife), ul. Chakalova, 52, g. Makinsk, Tselingoradskaya oblast, Kazakhskaya SSR 474010, Soviet Union.
b. June 27, 1949; 6 children.
Camp address: otr. 6 br. 24, uchr. RU 170/2, g. Uralsk, Kazakhskaya SSR 417901, Soviet Union.
Arrested: March 24, 1981.
Sentence: 2.5 years ordinary.
39. Faleyev, Anatoly Vasilievich.
Home address: Emiliya Timofeyevna Faleyeva (wife) ul, Fadeyeva, 345, g. Krasnodar, Krasnodarsky krai 350057, Soviet Union.
b. February 17, 1942; 1 child.
Camp address: UO 68/12 (2-21), pos. Oktyabrsky, Primorsko-Akhtarsky r-n, Krasnodarsky krai, Soviet Union.
Arrested: June 18, 1980.
Sentence: 3 years ordinary.
40. Fenchyak, Vasily Vasiliyevich.
Home address: Elena Yurevna Fenchyak (mother), ul. Michurina, 14, s. Velikiye Luchki, Mukachevsky raion, Zakarpatskaya oblast 295413, Soviet Union.
b. January 1, 1951.
Camp address: YuZ 17/7 12-43, Gopri, g. Kherson 326244, Soviet Union.
Arrested: November 30, 1980.
Sentence: 3 years ordinary.
41. Filippishin, Viktor Yakovlevich.
Home address: Evgenia Mikhailovna Filippishin (wife), ul. Livanskogo, 1, g. Khotin, Chernovitskaya oblast 275360, Soviet Union.
b. March 7, 1939; 8 children.
Arrested: March 22, 1982.
42. Firsov, Vladimir Lukich.
Home address: Valentina Konstantinova Firsov (wife), ul. Omskaya, 11, g. Barnaul, Altaisky krai 656061, Soviet Union.
b. April 16, 1928; 1 hcild.
Camp address: uchr. ZhD 158/3 3-32, g. Zhanatas, Dzhambulskaya oblast, Kazakhskaya SSR, Soviet Union.
Arrested: September 2, 1981.
Sentence: 3 years ordinary.
43. Freeman, Ewald Rheingoldovich.
Home address: Maria Petrovna Freeman (wife), ul. Lenina, 76, s. Olgino, Uspensky raion, Pavlodarsky oblast, Kazakhskaya SSR 638143, Soviet Union.
b. January 29, 1939; 9 children.
Arrested: April 17, 1982.
44. Golub, Vasily Andreyevich.
Home address: Olga Ivanova Golub (wife), ul. Vysotnaya, 41, Voroshilovgrad, Voroshilovgradskaya obl. 348043, Soviet Union.
b. May 16, 1930; 7 children.
Camp address: p/ya OR 318/46-5, g. Sarny, Rovenskaya obl. 265452, Soviet Union.
Arrested: September 8, 1980.
Sentence (3rd) 5 years strict.
45. Gomon, Vitaly Aleksandrovich.
Home address: Anastasiya Gomon (mother), Yanvarskaya vosstaniya, 11 kv. 79, g. Kiev-10, Soviet Union.
b. July 22, 1956.
Camp address: p/ya YaG 14/11 otr. 7, pos. Novo-Orlovsk, Achinsky raion, Chitinskaya oblast 674470, Soviet Union.
Arrested: October 15, 1981.
Sentence: 3 years ordinary.
46. Goroshenin, Vladimir Nikitovich.
Home address: Nadezhda Aleksandrovna Goroshenin (wife), ul. Glinki, 40, g. Kizlyar, Dagestanskaya ASSR 368800, Soviet Union.
b. June 26, 1942; 6 children.
Arrested: April 6, 1982.
47. Gotman, Leonard Genrikhovich.
Home address: Nina Gotman (wife), ul. Oktyabrskaya, 31, g. Davlekanovo, Bashkirskaya ASSR 452120, Soviet Union.
b. August 5, 1923; 8 children.
Arrested: December 17, 1981.
48. Ivashchenko, Yakov Yefremovich.
Home address: Anna Iosifovna Ivashchenko (wife), ul. Petrovskaya, 87a, p/o Petrovskoye, Kievo-Svyatoshinsky r-n, Kievskaya obl. 255203, Soviet Union.
b. May 10, 1932; 10 children.
Camp address: OU 85/8 otr. 6 br. 67, g. Simferopol, Krymskaya oblast, Soviet Union.
Arrested: May 22, 1981.
Sentence: 4 years ordinary plus 4 years exile.
49. Kabysh, Nikolai Ilich.

Home address: Vera Vasilievna Kabysh (wife), ul. Gorkogo, 36, g. Znamenka, Kirovogradskaya oblast, Soviet Union.
b. January 2, 1926; 7 children.
Camp address: YaF 306/2 otr. 4, g. Kyzyl, Turvinskaya ASSR, Soviet Union.
Arrested: January 19, 1980.
Sentence: 3 years strict.
50. Kabysh, Maiya Nikolayevna.
Home address: Vera Vasilievna Kabysh (mother), ul. Gorkogo, 36, g. Znamenka, Kirovogradskaya oblast, Soviet Union.
b. May 1, 1953.
Arrested: April 17, 1982.
51. Kalmus, Ekaterina Ivanovna.
Home address: Nina Yakovlevna Kalmus (mother), ul. Frunze, 45, Rudnik Aksu, Selintinsky raion, Tselinogradskaya oblast, Kazakhskaya SSR, Soviet Union.
b. June 22, 1956.
Camp address: uchr. LA 155/4 otr. 18, pos. Zhaugash, Iliisky raion, Alma-atinskaya oblast 483115, Soviet Union.
Arrested: August 27, 1980.
Sentence: 2 years ordinary.
52. Kalyashin, Aleksei Aleksandrovich.
Home address: Mariya Petrovna Kalyashina (mother), Privokzalnaya pl. d.1 kv. 4, g. Murom, Vladimirskaya obl. 602200, Soviet Union.
b. January 2, 1955.
Camp address: p/ya 288-28, 101-11, p/o Khairyuzovka, Ilansky raion, Krasnoyarsky krai 663850, Soviet Union.
Arrested: September 1, 1981.
Sentence: 3 years ordinary.
53. Kelier, Vladimir Genrikhovich.
Home address: Ekaterina Ivanovna Keller (mother), ul. Mechnikova, 45, g. Issyk, Alma-Atinskaya oblast, Kazakhskaya SSR, Soviet Union.
b. March 22, 1955.
Unrestricted Settlement address: ul. Lineinaya 3, st. Agadyr, Dzhezkazganskaya oblast, Kazakhskaya SSR 672140, Soviet Union.
Arrested: June 18, 1980.
Sentence: 3 years unrestricted settlement plus confiscation.
54. Khailo, Vladimir Pavlovich.
Home address: Maria Emilyanovna Klhailo (wife), ul. Severnaya, 11, g. Krasnyluch, Voroshilovgradskaya oblast 394004, Soviet Union.
b. March 15, 1932; 15 children.
Psychiatric hospital address: YaE 308 RB, ul. Chicherina 101, g. Dnepropetrovsk 320006, Soviet Union.
Arrested: November 14, 1980.
55. Kholodenkov, Georgi Fedotovich.
Home address: Tatyana Fedotovna Kholodenkova (sister), ul. Svobodny 29, g. Volchansk, Kharkovskaya oblast 312510, Soviet Union.
b. 1924; 2 children.
Arrested: February 7, 1982.
56. Khorev, Mikhail Ivanovich.
Home address: Vera Georgievna Khoreva (wife), ul. Minskaya, 28 kv. 30, g. Kishinev, Moldavskaya SSR 277015, Soviet Union.
b. December 19, 1931: 3 children.
Camp address: p/ya UKh-16/3 "B", g. Omsk 644062, Soviet Union.
Arrested: January 28, 1980.
Sentence: (3rd) 5 years strict plus confiscation.
57. Khrapov, Nikolai Petrovich.
Home address: Nadezhda Nikolayevna Khoreva (daughter), ul. Orombakhsh, 69, g. Tashkent, 700141, Soviet Union.
b. March 17, 1914; 6 children.
Camp address: uchr. GM 172/6, otr. 4 br. 41, g. Shevchenko, Magishlakskaya oblast 466200, Kazakhskaya SSR, Soviet Union.
Arrested: March 3, 1980.
Sentence: (5th) 3 years strict.●

HONORING LOUIS P. BERGNA

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. EDWARDS of California. Mr. Speaker, it is with great pleasure that we join the citizens of Santa Clara in honoring Louis P. Bergna on this, the eve of his retirement from his office as district attorney for Santa Clara.

As an extraordinarily respected leader and as a dedicated public servant, District Attorney Bergna has worked successfully to promote justice. For a quarter of this century, Louis Bergna labored at the grueling and often thankless task of a chief prosecuting attorney, and he has always excelled.

Consistently, Lou demonstrated both his diligence and his ability to innovate. During his career, Lou turned his attention to a huge array of issues, including those surrounding juvenile delinquency, medical jurisprudence, legal sentencing, grand jury reform, and the abuse of narcotics, and Lou regularly found ways for public attorneys to help reduce the crime, anxiety, and violence in our society.

Yet, Lou was more than a first-rate attorney. He was a first-rate citizen.

With the Boy Scouts, the Red Cross, the United Fund, and a score of other philanthropic organizations, Lou worked to build, preserve, and protect our community. He has served as a teacher, as an organizer, and as a glowing example. He has served us, his neighbors.

Today then, we proudly join all of those who thank Louis Bergna for his energy and his compassion, and we wish him all of the good fortune he so richly deserves.●

A SALUTE TO LOUIS RUSSO

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. WALGREN. Mr. Speaker, today I want to salute a great American businessman who exemplifies all that is good in our country—a land of real opportunity for those who work hard to realize their dreams.

On January 26, Louis Russo of Bridgeville, Pa., will celebrate his 78th birthday. Born in Italy, Mr. Russo came to America at age 5 where his family settled in Allegheny County, Pa., where he has been, thankfully for us, ever since.

While many immigrants have come to our shores over the years and helped to make this a great, diverse nation, I am especially pleased to salute Mr. Russo because he has earned the respect and friendship of so many people in our community.

Working first as an apprentice in a machine shop in Carnegie in 1921, Mr. Russo's hard work allowed him to open up a restaurant in Mount Lebanon a few years later. There he reportedly served that last legal drink before the community went "dry." He was soon able to build his own two-story building in Bridgeville to house his restaurant and a bowling alley. Later on Mr. Russo bought the Norwood Hotel, a famous old historic landmark on Station Street in Bridgeville. As a young boy, I recall a number of always enjoyable political rallies in Mr. Louis' hotel. That building was destroyed by fire in 1962, although the tradition of excellent political rallies still continues in another building owned by the Russo family.

Owner of restaurants, hotels, bowling alleys, and other business rental properties, Mr. Russo will be honored later this month by the Bridgeville Area Chamber of Commerce. That is a very special recognition to this very special man.

Mr. Speaker, I think you might like to meet Louis Russo. For many, many years, like you he has been an avid golfer. Now retired, each day Mr. Russo meets a group of a dozen or so men at the Bridgeville Dairy Store to decide where they will go golfing that day. That no doubt has helped to keep Louis Russo in great shape to preside over his clan of five children and their offspring.

Louis Russo deserves the special salute by his community. His friends will never forget his contributions which have enriched the lives of all of us.●

HOUSE OF REPRESENTATIVES—*Tuesday, January 25, 1983*

The House met at 12 o'clock noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Almighty God, whose wisdom is infinite and whose love endures forever, bless this House and all those who labor here for the common good. May the vision of the world you have given—a vision where righteousness and justice and peace reign, and where truth and honor are the standard, be with us and remain our constant guide. May the power of Your spirit lift us from the common level of life to do those good things that are worthy of the high calling to faithful service that we have received. Gracious God, we recognize that our own insight and power is not able to right the wrongs and find the paths of peace and thus we ask that You continue to strengthen us and surround us each day with Your love. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair wishes to make the following announcement concerning privileges of the floor for House staff during the 98th Congress.

Rule XXXII strictly limits those persons to whom the privileges of the floor during sessions of the House are extended, and that rule prohibits the Chair from entertaining requests for suspension or waiver of that rule. As reiterated as recently as August 22, 1974, by Speaker Albert under the principle stated in Deschler's Procedure, chapter 4, section 3.4, the rule strictly limits the number of committee staff permitted on the floor at one time during the consideration of measures reported from their committees. This permission does not extend to Members' personal staff except when a Member has an amendment actually pending during the 5-minute rule. To this end, the Chair requests all Members and committee staff to cooperate to assure that not more than the proper number of staff are on the floor, and then only during the actual consideration of measures reported from their committees.

The Chair will again extend this admonition to all properly admitted majority and minority staff by insisting that their presence on the floor, including the areas behind the rail, be restricted to those periods during which their supervisors have specifically requested their presence. The Chair stated this policy in the 97th Congress, and an increasing number of Members have insisted on strict enforcement of the rule. The Chair has consulted with and has the concurrence of the minority leader with respect to this policy and has directed the Doorkeeper and the Sergeant at Arms to assure proper enforcement of the rule.

TRIBUTE TO NANCY HANKS

(Mr. BOLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOLAND. Mr. Speaker, the cause of the arts in the United States lost one of its most respected leaders with the death of Nancy Hanks on January 7.

Nancy Hanks was a familiar figure on Capitol Hill especially during her tenure as the Chairman of the National Endowment for the Arts. She enjoyed a reputation on both sides of the Capitol as a skilled administrator who pursued the interests of her agency with vigor and with an uncommon flair. No effort was too great for her to make, regardless of the amount of her time or energy required, if that effort were likely to give her an opportunity to share her belief in the importance of the arts in the United States with a Member of the House or Senate. It was no coincidence that under her stewardship, the budget for the National Endowment for the Arts increased tenfold. It was instead a tribute to the strength of Nancy Hanks' commitment to the arts and her remarkable success in persuading others to share in that commitment.

In 1976, the Smithsonian Institution presented Nancy Hanks with its highest award, the Smithson Medal, in recognition of her work at the National Endowment for the Arts. The citation which accompanied that award stated in part, "Your greatest accomplishment may well be that you have demonstrated that patronage of the arts is a legitimate, necessary, and continuing function of the Federal Establishment." As a result of the Federal support which Miss Hanks relentlessly encouraged, millions of Americans, who might not otherwise have done so, were afforded an opportunity to share in the cultural life of their country.

Mr. Speaker, I had the privilege of serving with Nancy Hanks on the Board of Regents of the Smithsonian Institution. I regret that she could not have served longer, because her experience and ability was a great asset to the Board. We will miss her counsel in the days ahead. The American people are in her debt for the work that she did to increase the prominence of the arts in our society.

IT IS TIME TO QUESTION NATIONAL POLICY THAT HAS PLACED OUR MARINES IN LEBANON

(Mr. SKELTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKELTON. Mr. Speaker, more than 4 months have passed since the President committed U.S. troops to Lebanon. A letter I received lately from the State Department offers no indications of when we might expect our troops to come home. In light of this week's news reports of U.S. Marines being involved in a volatile situation, I feel that we must begin to question the President's intentions for the 1,200 young American military men in Lebanon.

The 1973 War Powers Act limits to 60 to 90 days the President's authority to commit troops to hostile or potentially hostile areas without congressional approval or a declaration of war. In committing troops to Lebanon, the President reported his action to Congress in keeping with the provisions of section 4A2 of the War Powers Act. He did not, however, cite section 4A1 of that act which would have required congressional approval. Rather, the President declared that our men would not be in a hostile environment. Yet, just yesterday, the Washington Post reported that many Marine leaders view the situation in Lebanon as "an accident waiting to happen."

It is time for us to question the national policy that has placed our marines in Lebanon. I believe, Mr. Speaker, that the provisions of the War Powers Act section 4A1 should now be considered.

THE NEW PACIFIC

(Mr. SUNIA asked and was given permission to address the House for 1

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

minute and to revise and extend his remarks and include extraneous matter.)

Mr. SUNIA. Mr. Speaker, last month, Governor Ariyoshi of Hawaii was inaugurated for another term as leader of that State. I would like to inform the House about the growing respect this Governor is enjoying in the community of Pacific islands. Governor Ariyoshi has taken a front and center position in his effort to help the people of the Pacific—not just the American Pacific islanders—but all who reside in this part of the world.

My own Governor, Peter Tali Coleman, attended the inaugural ceremonies. Other Pacific leaders traveled to Hawaii to participate. That is an indication of the kind of respect the Pacific has for Governor Ariyoshi. And that respect is an asset to our Nation.

Quite fittingly, Governor Ariyoshi chose for his inaugural address a fitting theme, "The New Pacific." In that speech, the Governor alluded to the diversity of this vast region of the world, its problems and possibilities. I believe the Governor's message should be carefully considered by our policymakers. For indeed, Mr. Speaker, I believe the Pacific is the ocean and area of future concern. Governor Ariyoshi is quite correct, and should be commended, for pointing that out now.

As the only Member of this House who comes from deep in the heart of the South Pacific Ocean, it is my hope that following his initiative in the Caribbean Ocean, the President will next turn to the Pacific. Just as its name indicates, this is a peaceful ocean. We need to keep it that way. The best way to do that is the Ariyoshi way—be concerned with the problems of the area.

In recent years, a number of the small island groups have become independent. Most of them are friendly to America and supportive of her interests. But we are not the only major country in this world whose shores are bathed by the Pacific waters. Each one of those nations have their own interests to serve and protect, and quite often those are contrary to ours.

Fortunately, we have the State of Hawaii in the north, Guam and Northern Marianas in the west, and American Samoa in the south. With those groups as bases, and with the Governor Ariyoshi-type leadership, we can and should forge a strong policy of aid and assistance to peoples of the Pacific Ocean, a policy that will help them, and us, in the future.

Mr. Speaker, I am inserting in the RECORD the inaugural remarks of Governor Ariyoshi:

GOV. GEORGE R. ARIYOSHI'S INAUGURAL ADDRESS

This ceremony, the inauguration of a lieutenant Governor and a Governor of Hawaii, is one that reaches back through time all the way to the year 1000.

And it is fitting that the ceremony—whether for the appointed governors of the Territory or the elected governors of the Aloha State—has always taken place here before this honorable and historic structure.

It is a ceremony honored by time, and today it is a ceremony honored by your presence.

In accepting once again the leadership of this state for the next four years, I thank you for coming. And I am glad you are here. Because you—the people of Hawaii—are what this ceremony is all about.

I stand before you grateful indeed that the people chose in November's election to validate the work we have done in the Governor's office. But I prefer to see this moment in a larger perspective, for the State of Hawaii itself is bigger than any political party, bigger than any political differences, bigger than any candidate—winner or loser. In the larger sense, what we celebrate here today is the orderly continuity of our beloved and very special state.

In the election, each of us fought hard for our beliefs and our aims. That is the very essence of the democratic process. But let me suggest that one of the most significant things about the election is simply that it took place.

In a world of postponed elections, in a world of no elections at all, in a world where out of 124 nations today with populations of over one million, only fourteen have democratic been through most of the twentieth century, our American elections come off on schedule—and do in fact reflect the will of the people!

Franklin Delano Roosevelt once described democracy as "the most humane, the most advanced, and, in the end, the most unconquerable of all forms of human society." Perhaps it takes this great vitality from the fact that—compared to all other forms of government—democracy works somewhat as the human mind works.

In democracy, as in the human heart, we find a process of endless choice.

In democracy, as in the human heart, we must peacefully balance our own needs against the needs of others.

In democracy, as in the human heart, we move almost instinctively toward integrity and generosity—knowing that in that balance, we may find the best path into the future.

I would like to touch briefly this afternoon on three ideas which I think lie at the heart of that future. I want to talk with you about how we treat each other, about how we treat our land, and about what I see as the greatest opportunity that lies before us today.

In spite of our differences, there is a live-and-let-live tradition in these islands, a sense of community, a sense of neighborliness. It has been here a long time.

Back in 1854, when Kamehameha the Fourth assumed the throne, he said in his inaugural address:

"To be kind and generous to the foreigner, to trust and confide in him, is no new thing in the history of our race. I therefore say to the foreigner that he is welcome. But the duties we owe to each other are reciprocal."

Well . . . the foreigners did come from all corners of the world. My parents were among them. And people are still coming! Today our population is close to a million.

We may look different.

We may speak differently.

We may worship in different ways.

We may cook different foods and make different music—as we shall see in the program immediately following these ceremonies over in the Capitol rotunda!

But from this diversity—perhaps under the spell of the Aloha Spirit—we have achieved a one-ness.

This tradition has held firm, even though it has been strained from time to time. I think I can say, with modesty and accuracy, that here in our island home, we live together with a greater general harmony—a more honest harmony—than can be found anywhere else.

Let us resolve to hold fast to this fine tradition—even as new people arrive, even as new ideas arrive, even as the past recedes beyond our memory. For only as we work and live in this way can we have any kind of a decent society at all.

Adlai Stevenson once said that "how we treat each other is just as important as what we get done." Those words are in my heart today, and I commend them to you.

And then there is the important issue of how we treat our land.

Though we have made mistakes, it is true that we are developing a sense—a philosophy—of how to use the land here in our special and fragile place.

Some landscapes, of course, are beyond our power to add or detract. Looking at the Grand Canyon, at the Painted Desert, at Niagara Falls, at Waimea Canyon, or at the great green upthrust of the Pali, we see scenery to which man's presence can simply not add anything.

But in most cases, the quality of the landscape, the everyday working landscape, consists of what the French scientist Rene Dubos has called "a fitness between man and his surroundings."

That sense of fitness is what we have been working toward over the past decade here in Hawaii. It is not easy to define, as we see from developing our State Plans. Sometimes the fitness must be defined case-by-case.

But as we human beings intervene in the workings of nature, as we intervene in the landscape or the seascape that surround us, let us do so in the same way that the Benedictine monks learned to do back in the sixth century. They used the land, but at the same time they enhanced the land. In these more complex times, let us remember them.

Let us resolve not to overwhelm the land. Let us preserve its beauty, its fertility. And as we build what we need, let us find the right balance—the fitness—between ourselves and the earth itself.

My friends, a great opportunity lies before us today. One of the new official state maps published by Hawaii carries the title The New Pacific. The title is accurate, for the great Pacific basin is today the scene of many changes—of much newness. New exchanges of ideas. New patterns of trade. New emerging countries, striving for recognition and independence.

Today, from our base in Hawaii, we can take advantage of our great geographic gift by reaching out across the Pacific in every direction—in friendship, and in many other ways. We can do this because of the special quality of our people—because we are a Pacific people and we understand the Pacific way.

We have before us a business opportunity, a farming and aquaculture opportunity, a transportation opportunity, a telecommunication and technology opportunity, an educational and scientific opportunity.

Soaring beyond the borders of our islands, we can be more than a "way-station" in the New Pacific. We can become a great engine

of ideas and cooperative ventures as the Pacific basin emerges into the 21st century and takes its place in the modern world.

And we can do all this while still holding fast to the good things that have made up our diverse past. Let us see this chance, my fellow citizens—and let us take this chance! The Age of the Pacific is upon us!

In these three areas, and in many others, how we conduct ourselves today will clearly affect Hawaii's tomorrow.

When a great stone is tossed into the water—as when an idea is tossed into the minds of receptive people—waves are set up. Reactions begin.

At first the waves have a high frequency, and they move out at high speed from the source. They grow longer and lower as they travel out from the sources, but they never stop. Neither in theory nor in fact do they stop!

About fifteen years ago, a scientist from the Scripps Oceanographic Institute set up a series of five wave-measuring stations, stretching south-to-north across the Pacific. One of his stations was here on Oahu. And he found that wave patterns beginning in a great antarctic storm could be measured as they came ashore at Cook Inlet in Alaska—eleven thousand miles away. Now, if you went down and stood on the shore at Cook Inlet you could not perceive this pattern of waves. But the computer perceived and recorded the pattern—and the waves had indeed traversed the entire Pacific Ocean!

As we look across the horizon of time into the future, we cannot expect that those future citizens of Hawaii will perceive or understand everything that we have done. But our actions—large and small—will have a lasting effect across time and space.

So in the democratic spirit, we must act with prudence as well as confidence.

In that same spirit, we must act with sensible caution and high hopes.

In that same spirit, we must build upon the good things of the past, but not be afraid to try something brand new.

Whether our special place remains special over time is to some degree in our hands right today.

If I may speak personally for a moment, let me tell you that I accept the challenge of being once again your governor with a full and grateful heart.

This difficult job is in fact, a great gift from you. And what you have given me is not simply the title, but your trust. Receiving this trust for the third time this morning, I find that it is as precious as ever. For we must now live up not only to what we have accomplished, but to your realistic expectations for the next four years.

Though this is my last term in this office, it will not be a time of unwinding or running down.

I shall remember, as Lincoln put it, that "the dogmas of the quiet past are inadequate to the stormy present."

And though the times we live through are uncertain, I shall strive to work with confidence, and remain continuously open to new ideas.

I shall welcome anybody's contribution to this state—whatever form it may take—at any time.

And right down to the last day, I shall try my best to be a good Governor.

It has been twenty-eight years since I first went door-to-door in search of votes, and my posters—many of which were tacked up by my parents—identified me as "the boy from Kalihi."

Well . . . that was a long time ago! Over the years, I have been tested and tempered and perhaps toughened by time. But I want to assure you that in terms of the enthusiasm, dedication, and hope that I will bring to this job for the next four years, I am still—at heart—"the boy from Kalihi."

Let me close, if I may, with a paraphrase of the closing words of another inaugural address—one that I have long admired. Twenty-one years ago, standing before the East Face of the Capitol in Washington, D.C., President John F. Kennedy used these words to speak of the nation. Today, standing before Iolani Palace, I borrow them to speak of Hawaii:

"Let us go forth now to lead the state we love, trusting in God, but knowing that here on Earth, God's work must truly be our own."

Mahalo.

ECONOMIC EQUITY ACT

(Ms. FERRARO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. FERRARO. Mr. Speaker, today, as we ponder the state of the Union, many of us are also looking at the condition of the 51 percent of our Nation that is female.

Within the month, I, and many of my colleagues, male and female, will be introducing the 1983 version of the Economic Equity Act. This legislation is designed to remedy some of the most grievous problems facing women in today's economy.

Those of us who support economic equity for women are especially grateful that we have the strong support of our Speaker.

He has always shown leadership and concern in this vital area. This year, he has reaffirmed his deep commitment to equality for all Americans by joining the Congressional Caucus for Women's Issues and by making the ERA House Joint Resolution 1.

What do we mean by economic equity for women? We mean a fair chance for women to receive pension benefits which they or their husbands have earned—in private employment or civil service. We mean an insurance system which does not discriminate on the basis of sex. We mean a tax structure which recognizes the contribution of homemakers. We mean child care policies that help the neediest mothers hold down jobs outside the home and allow them to keep their families together.

Mr. Speaker, I thank you and all those who have worked so long and hard for economic fairness for women, thank you. With your help, this can be the year fairness becomes law.

THE 98TH CONGRESS IS READY TO ACT

(Mrs. BOXER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BOXER. Mr. Speaker, tonight the President will address this great country in his state of the Union address.

I trust he will be forthright as he analyzes the real state of our Nation. I trust he will understand that we cannot wait around for prosperity to trickle down while poverty trickles up; that we cannot hope to solve our deficit problems with the biggest military budget in history; that we cannot any longer endure a Department of Interior and Environmental Protection Agency which have no commitment to protect our environment and our health; that we can only be a great nation if our Government reflects all the needs of our people—for jobs, housing, fair taxation, health, education, environment, peace, and true economic equity for women.

Tonight our President can change the course of the last 2 years before we sink further into deficits, joblessness, and nuclear fears.

I believe the 98th Congress is ready to act; I know America needs us to act.

I trust we will have action not stalemate; reason not rhetoric on all sides.

This state of the Union address which signals the start of the 98th Congress gives us a real opportunity. Let us seize it. We cannot afford not to.

RESOLUTION INTRODUCED TO TERMINATE MILITARY ASSISTANCE TO EL SALVADOR

(Ms. OAKAR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. OAKAR. Mr. Speaker, today I am introducing a resolution which would terminate all current forms of military assistance to El Salvador. It does not terminate economic aid.

Mr. Speaker, 2 weeks ago, Bill Ford, brother of Sister Ita Ford, who was murdered 2 years ago in El Salvador, visited the country where his sister worked and died. His remarks upon his return sum up the feelings of people of conscience everywhere:

> To suggest that there has been an improvement in respect for human rights in El Salvador is an obscenity.

I believe it is time to end our participation in perpetuating the violence in El Salvador. The 35,000 civilians and 8 Americans—and this is a conservative estimate—who have died there were not killed with bullets and guns made in El Salvador. Massive doses of our own taxpayers' assistance and the resistance of the U.S. Government, as well as the Government of El Salvador, to promote negotiations have only succeeded in polarizing and regionalizing the conflict.

It is now 2 years since the administration embarked on a new policy for

Central America. The opening of a new session of Congress is an appropriate time to tally up the results and revise our strategy. I hope other Members will support my resolution and not only end the violence there but save the taxpayers of our country a lot of money.

SWEARING IN OF MEMBERS-ELECT

The SPEAKER. At this time the Chair will swear in the Members-elect who have not been sworn in and who desire to be sworn in.

If the Members-elect will raise their right hands, the Chair will now administer the oath of office.

The SPEAKER administered the oath of office to the following Members-elect: Hon. AL SWIFT, Hon. ELWOOD HILLIS, and Hon. DAN COATS.

The SPEAKER. The gentlemen are now Members of the Congress of the United States and the Chair congratulates them.

REPEAL 10 PERCENT WITHHOLDING

(Mr. NICHOLS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NICHOLS. Mr. Speaker, I am today joining with another member of the Alabama delegation in introducing legislation to repeal the new income tax withholding requirement for earned interest and dividends.

Last year there were some persuasive arguments presented to support this part of the new tax law. We were told that billions of dollars of tax revenues were lost each year because some taxpayers simply did not declare part or all of their interest or dividend income. It was reasoned that withholding part of these earnings would correct the problem.

After careful review of the new requirements it is now evident that these good intentions have gone astray. Simply put, Congress made a mistake by including the 10-percent withholding requirements in the 1982 tax bill.

I do not sympathize with the tax cheaters who avoid taxes on a portion of their income. These tax deadbeats should be dealt with to insure we all pay our fair and legal tax liability. I am now convinced that withholding 10 percent of interest and dividend earnings is not the best means of improving our collection process.

It is estimated that the taxpayer compliance rate in declaring interest and dividend income is 96.7 percent. It is hard to imagine that the new law will substantially increase this rate. The incremental cost of improving compliance may exceed the revenues collected. It is easy to see that there will be a large cost incurred by private businesses to meet the new provisions, and ultimately it will be the consumer who will bear this new cost. In other words, the cost meeting the requirements may exceed the additional revenues collected.

There are alternatives. Most interest bearing accounts and dividend payments are already reported to the IRS. It is just a matter of matching investors' dividend and interest earnings with their tax returns. Also, interest from Federal Treasury notes are not reported to the IRS. With the Federal Government reporting interest income, a large number of tax evaders may be discovered.

Better reporting and more sophisticated cross-checking are better means of improving our collection process. That is our ultimate goal, not harassing honest citizens.

THE BIENNIAL BUDGETING ACT

(Mr. PANETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PANETTA. Mr. Speaker, our experiences in the past Congress have strengthened my conviction that we should move to a 2-year budget cycle. Time and time again we have missed crucial Budget Act deadlines. The last year we passed all of our appropriation bills before the start of the fiscal year was 1977. I question how long Congress can continue to operate this way without completely losing the trust of the American people, to say nothing of our ability to influence the Federal budget.

Our record on meeting deadlines has been pretty bleak recently. In 5 of the last 7 years we have failed to adopt a first budget resolution before the May 15 deadline set in the Budget Act. Last year was our worst performance—the first budget resolution was not adopted until June 23. In 1980 we only passed three appropriation bills before October 1; in 1981 just one appropriation bill was passed before the beginning of the fiscal year; and this past fall we only had three appropriation measures adopted before the start of fiscal year 1983. Unfortunately, continuing resolutions are becoming permanent fixtures in the congressional budget process.

Besides our failure to meet budget deadlines our work here in Congress is dominated more and more by budget matters. In this past Congress we enacted 232 public laws, about half of what we passed in the 96th Congress. I would never argue that the number of laws passed is a measure of the quality of a Congress, but these figures do indicate that we are considering fewer issues these days. In the last 2 years our focus has been almost entirely on budgetary matters, as a consequence other pieces of legislation, many in critical policy areas, have been squeezed out of the legislative process.

I feel one solution to these problems is to stretch out the budget process over 2 years and to institute a 2-year budget period. The Biennial Budgeting Act I am introducing today proposes that the first year of each congressional term be devoted to formal oversight of programs and agencies, to the reporting by the Budget Committees of a budget resolution and the reporting by the legislative committees of all authorizing legislation. Early in the second year authorization bills and a budget resolution will be passed, making way for consideration of appropriation bills, which would be passed by the seventh day after Labor Day.

This approach would yield three basic benefits: More oversight of present programs, more time for thoughtful planning of a new budget, and more time to consider nonbudgetary matters. It would take us away from the stop-and-go funding we now engage in, where too many decisions result from last-minute panic instead of proper planning.

Specifically, the bill would provide for the following schedule:

FIRST YEAR

The committees of each House would spend the first 6 months of the first session conducting oversight hearings on existing programs and policies. Following these hearings, the authorizing committees would have another 6 months to conduct hearings and report out new legislation. The Budget Committees would follow essentially the same schedule, reporting out a concurrent budget resolution by November 30, allowing legislative committees time to incorporate guidelines within the resolution into their work.

SECOND YEAR

Each House would devote itself to working on new authorizing legislation, with a deadline of March 10 for passage of these measures. March 31 would be the deadline for consideration of the budget resolution. It is only after this point that appropriations bills come into consideration. By April 15, the Appropriations Committees are to report out their bills, with the seventh day after Labor Day the final day for action.

I am pleased to report that support for a 2-year budget has increased considerably over the past year. In the Senate this past session, 2-year bills were introduced by Senators FORD, QUAYLE, ROTH, and COCHRAN. Alice Rivlin, Director of the Congressional Budget Office, and Comptroller General Charles Bowsher have praised the 2-year concept. In Ms. Rivlin's testimony before the Rules Committee's task force on the budget process she stated

that a biennial budget would "reduce the legislative burden, encourage oversight and enhance the quality of deliberation." Mr. Bowsher, in his testimony before the task force, commented that a biennial budget would "significantly enhance the stability of the entire budget process." He went on to state that a 2-year budget would "allow more time for congressional decisionmaking and oversight, reduce the number of times the Congress must act on the same program; provide more time for long-range planning, and provide an opportunity for better budget analysis, financial and operational planning, budget execution, and program review by both the Congress and the executive branch."

An important contribution to the debate on the 2-year budget concept is expected later this year in the form of a General Accounting Office report on the subject. In July of 1981 Congressmen MINETA, BETHUNE, REGULA, and myself requested on behalf of the House Budget Committee's task force on enforcement, credit and multiyear budgeting that the GAO undertake such a study. Work on this project has been underway for the last year and a half.

A preliminary report on experiences the States have had with 2-year budgeting was released this past December. Ohio, Wisconsin, and Florida, all 2-year budget States, were selected for analysis by the GAO. In this report it was observed that in the legislatures of these States timing and workload are not considered a problem. The report went on to note the following:

During the 2-year budget cycle, agency personnel can spend time in the off-budget year managing their agency activities.

Biennial budgeting does not require the State government's full time attention for budget review every year. Therefore more time is available to do nonbudget activities.

Biennial budgeting allows a "planned approach" to 2-year budgeting; that is, through budget preparation, analysis of policy issues, and major budget proposals.

I am looking forward to a full report on the 2-year budget concept later this year.

It is very gratifying to see the 2-year budget concept receiving more attention and debate. Because it proposes such sweeping changes in the way we do business in Congress, and 2-year budget proposal will have to be closely examined and extensively debated. With the upcoming GAO report and the many 2-year proposals in the Senate, I believe the stage is being set in the 98th Congress for a more serious look at this idea.

The following is a copy of the Biennial Budgeting Act:

H.R. 750

A bill to amend the Congressional Budget Act of 1974 to provide for a two-year budgeting cycle, to provide for separate and timely consideration each of authorizing legislation, budget resolutions, and appropriations, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Biennial Budgeting Act of 1983".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress hereby finds and declares that the present annual budgeting process of the Congress—

(1) allows too little time for the fulfillment by the Congress of its legislative oversight responsibilities;

(2) allows too little time for the review and consideration by the Congress of authorizing legislation, of budget resolutions, and of appropriation bills; and

(3) allows too little time for the evaluation of costly and complicated Federal programs and consequently contributes to the unrestrained growth of the Federal budget.

(b) It is the purpose and intent of the Congress in this Act to establish a more thorough and timely process for the enactment of the Federal budget by—

(1) establishing a two-year cycle for the adoption of the budget;

(2) providing clearly allocated time for the holding of oversight hearings by the several committees of each House in order to review the various programs and agencies of the Federal Government; and

(3) requiring that consideration of authorizing legislation, of the budget, and of appropriation bills and resolutions be separate and distinct, thus allowing full evaluation of the need for and the merits and costs of the various programs and agencies of the Federal Government.

ESTABLISHMENT OF TWO-YEAR CYCLE FOR CONGRESSIONAL BUDGET PROCESS

SEC. 3. Section 300 of the Congressional Budget Act of 1974 is amended to read as follows:

"TIMETABLE

"SEC. 300. The timetable with respect to the congressional budget process for any Congress (beginning with the Ninety-ninth Congress) is as follows:

"First Session

"On or before:	Action to be completed:
January 3	President submits current services budget.
15th day after Congress meets.	President submits his budget for 2-fiscal-year period beginning in succeeding calendar year (the '2-fiscal-year budget period').
	All committees begin oversight hearings with respect to 2-fiscal-year budget period.
June 30	Committees complete oversight hearings and submit their reports thereon.
July 1	All committees begin legislative work for 2-year budget period.

"First Session—Continued

"On or before:	Action to be completed:
October 31	Committees and joint committees submit reports to Budget Committee with respect to 2-fiscal-year budget period.
November 10	Congressional Budget Office submits report to Budget Committees with respect to 2-fiscal-year budget period.
November 30	Budget Committees in both Houses report first concurrent resolution on budget for 2-fiscal-year budget period.
December 31	Committees report bills and resolutions authorizing new budget authority and providing new spending authority for 2-fiscal-year budget period.

"Second Session

"On or before:	Action to be completed:
January 3	President submits current services budget.
15th day after Congress meets.	President submits revised budget for 2-fiscal-year budget period.
March 10	Congress completes action on bills and resolutions authorizing new budget authority and providing new spending authority for 2-fiscal-year budget period.
March 31	Congress completes action on concurrent resolution on budget for 2-fiscal-year budget period.
April 15	Appropriations Committee reports bills and resolutions providing new budget authority for 2-fiscal-year budget period.
7th day after Labor Day.	Congress completes action on bills and resolutions providing new budget authority and new entitlement authority for 2-fiscal-year budget period.
September 25	Congress completes action on reconciliation bill or resolution, or both, implementing concurrent resolution.
October 1	2-fiscal-year budget period begins.".

OVERSIGHT ACTIVITIES

SEC. 4. (a) Title III of the Congressional Budget Act of 1974 (as amended by the other provisions of this Act) is further amended by adding at the end thereof the following new section:

"OVERSIGHT ACTIVITIES OF COMMITTEES

"SEC. 312. During the period beginning on the 15th day after the Congress meets in each odd-numbered year and ending June 30 of such year, each standing committee of the House of Representatives and the Senate shall review and study the application, administration, execution, and effectiveness of those laws (or parts of laws) the subject matter of which is within the juris-

diction of that committee and the organization and operation of the Federal agencies and entities having responsibilities in or for the administration and execution thereof, in order to determine whether such laws and the programs thereunder are being implemented and carried out in accordance with the intent of the Congress and whether such programs should be continued, curtailed, or eliminated. In addition, each such committee (during such period) shall review and study any conditions or circumstances which may indicate the necessity or desirability of enacting new or additional legislation within the jurisdiction of that committee (whether or not any bill or resolution has been introduced with respect thereto). The findings and determinations made by each such committee as a result of its oversight activities under the preceding provisions of this section in any year shall be reported to the House of Representatives or the Senate no later than June 30 of such year, and shall constitute the basis for such committee's legislative work with respect to the 2-fiscal-year budget period beginning on October 1 in the succeeding year.".

(b) The table of contents in section 1(b) of such Act is amended by adding after the item relating to section 311 the following new item:

"Sec. 312. Oversight activities of committees.".

ANNUAL CONCURRENT RESOLUTION ON THE BUDGET

SEC. 5. (a) The heading of section 301 of the Congressional Budget Act of 1974 is amended to read as follows:

"ANNUAL ADOPTION OF CONCURRENT RESOLUTION ON THE BUDGET"

(b) Section 301(a) of such Act is amended by striking out "the first concurrent resolution on the budget" in the first sentence and inserting in lieu thereof "a concurrent resolution on the budget".

(c) Section 301(b) of such Act is amended—

(1) by striking out "first" in the matter preceding paragraph (1);

(2) by striking out "shall not be enrolled until" and all that follows in paragraph (1) and inserting in lieu thereof "shall not be enrolled until a subsequent concurrent resolution on the budget has been agreed to or until any other specified procedure which is considered appropriate to carry out the purposes of this Act has been subsequently completed, and, if a reconciliation bill or reconciliation resolution is required to be reported in connection with either such concurrent resolution on the budget or otherwise, until the Congress has completed action on that bill or resolution;";

(3) by redesignating paragraph (2) as paragraph (3); and

(4) by inserting after paragraph (1) the following new paragraph:

"(2) the reconciliation procedure described in section 310; and".

(d) Section 301(d) of such Act is amended by striking out "first" in the first and second sentences.

(e) Section 301(e) of such Act is amended by striking out "first" in paragraphs (1) and (2).

PERMISSIBLE REVISIONS OF CONCURRENT RESOLUTION ON THE BUDGET; ELIMINATION OF SECOND CONCURRENT RESOLUTION AS PRESENTLY REQUIRED

SEC. 6. (a) Section 304 of the Congressional Budget Act is amended by striking out "first".

(b) Section 310 of such Act is amended—

(1) by striking out "SECOND REQUIRED CONCURRENT RESOLUTION AND" in the heading and inserting in lieu thereof "RECONCILIATION";

(2) by striking out the heading of subsection (a), and the first and last sentences of such subsection;

(3) by striking out subsection (b);

(4) by redesignating subsection (c) as subsection (b);

(5) by redesignating subsection (f) as subsection (c) and by amending subsection (c) (as redesignated) by—

(A) striking out "subsection (a)" and inserting in lieu thereof "section 301(a)"; and

(B) striking out "subsection (c)" and inserting in lieu thereof "subsection (b)";

(6) by striking out "(c)" and inserting in lieu thereof "(b)" in subsection (d); and

(7) by striking out subsection (e).

RECONCILIATION PROCESS

SEC. 7. Section 310(a)(1) of the Congressional Budget Act of 1974 is amended to read as follows:

"(1) specify the total amount by which spending authority described in section 401(c)(2)(C) which is to become effective during such fiscal year, contained in laws, bills, and resolutions within the jurisdiction of a committee, is to be changed and direct that committee to determine and recommend changes to accomplish a change of such total amount;".

CONFORMING AMENDMENTS TO CONGRESSIONAL BUDGET ACT

SEC. 8. (a) The table of contents in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended—

(1) by striking out "Adoption of First Concurrent Resolution" in the item relating to section 301 and inserting in lieu thereof "Annual Adoption of Concurrent Resolution on the Budget";

(2) by striking out "First concurrent resolution" in the item relating to section 303 and inserting in lieu thereof "Concurrent resolution"; and

(3) by striking out "Second required concurrent resolution and reconciliation" in the item relating to section 310 and inserting in lieu thereof "Reconciliation".

(b) Section 2(2) of the Congressional Budget Act of 1974 is amended by striking out "each year" and inserting in lieu thereof "biennially".

(c) Paragraph (4) of section 3 of such Act is amended—

(1) by adding "and" after the semicolon at the end of subparagraph (A);

(2) by striking out subparagraph (B); and

(3) by redesignating subparagraph (C) as subparagraph (B).

(d) Section 3 of such Act is amended by adding at the end thereof the following new paragraph:

"(6) The term '2-fiscal-year budget period' means the period of 2 complete fiscal years beginning on October 1 in any even-numbered year.".

(e) Section 202(f)(1) of such Act is amended—

(1) by striking out "April 1 of each year" and inserting in lieu thereof "November 10 of each odd-numbered year"; and

(2) by striking out "October 1 of that year" and inserting in lieu thereof "October 1 of the succeeding year".

(f)(1) Section 301(a) of such Act is amended—

(A) by striking out "MAY 15" in the heading and inserting in lieu thereof "MARCH 31 OF EACH EVEN-NUMBERED YEAR"; and

(B) by striking out "May 15 of each year" in the first sentence and inserting in lieu thereof "March 31 of each even-numbered year".

(2) Section 301(c) of such Act is amended—

(A) by striking out "March 15 of each year" in the matter preceding paragraph (1) and inserting in lieu thereof "October 31 of each odd-numbered year"; and

(B) by striking out "October 1 of such year" in paragraph (2) and inserting in lieu thereof "October 1 of the succeeding year".

(3) Section 301(d) of such Act is amended—

(A) by striking out "April 15 of each year" and "October 1 of such year" in the second sentence and inserting in lieu thereof "November 30 of each odd-numbered year" and "October 1 of the succeeding year", respectively; and

(B) by striking out "such fiscal year" and "such period" in paragraph (6) and inserting in lieu thereof "the first fiscal year of such 2-fiscal-year budget period" and "such 5-year period", respectively.

(l) Section 302(c) of such Act is amended by striking out "or 310".

(h) Section 303 of such Act is amended—

(1) by striking out "FIRST" in the heading; and

(2) by striking out "first" in subsection (a) (in the matter following paragraph (4)).

(i) Section 305 of such Act is amended by striking out ", except that" and all that follows down through "15 hours" in subsection (b)(1).

(j)(1) Section 307 of such Act is amended—

(A) by striking out "ALL APPROPRIATION BILLS TO BE COMPLETED BEFORE FIRST APPROPRIATION BILL IS REPORTED" in the heading and inserting in lieu thereof "APPROPRIATION BILLS";

(B) by inserting "(a)" after "307.";

(C) by striking out "that year" each place it appears and inserting in lieu thereof "that period"; and

(D) by adding at the end thereof the following new subsection:

"(b)(1) Except as provided in paragraph (2), all bills and resolutions containing appropriations or otherwise providing budget authority for any 2-fiscal-year budget period shall be reported in the House of Representatives and Senate no later than April 15 of the year in which such period begins.

"(2) If the Committee on Appropriations of the House of Representatives or the Senate determines that changes in circumstances with the passage of time require a waiver of paragraph (1) with respect to any bill or resolution providing supplemental appropriations or otherwise providing budget authority for any period, such committee may report, and the House or Senate may consider and adopt, a resolution waiving the application of such paragraph in the case of such bill or resolution.".

(2) The table of contents in section 1(b) of such Act is amended by striking out "all appropriation bills to be completed before first appropriation bill is reported" in the item relating to section 307 and inserting in lieu thereof "appropriation bills".

(k) Section 308 of such Act is amended—

(1) by striking out "such fiscal year" and "such period" in paragraphs (1)(B) and (2)(B) of subsection (a) and inserting in lieu thereof in each instance "the first fiscal year of such 2-fiscal-year budget period" and "such 5-year period", respectively; and

(2) by striking out "such fiscal year" and "such period" (each place it appears) in sub-

section (c) and inserting in lieu thereof "the first fiscal year of such 2-fiscal-year budget period" and "such 5-year period", respectively.

(l) Section 309 of such Act is amended by striking out "each year" in the matter preceding paragraph (1) and inserting in lieu thereof "each even-numbered year" and by striking out "310(c)" and by inserting in lieu thereof "310(b)".

(m) Section 310 of such Act is amended—

(1) by striking out "each year" in subsection (d) and inserting in lieu thereof "each even-numbered year"; and

(2) by inserting "in any even-numbered year" after "adjournment sine die of either House".

(n) Section 311(a) of the Congressional Budget Act of 1974 is amended by striking out "After the Congress" and all that follows down through "310(c)" and inserting in lieu thereof "After the Congress has completed action on a concurrent resolution on the budget for a fiscal year, and, if a reconciliation bill or resolution (or both) for such fiscal year is required to be reported by such concurrent resolution on the budget".

(o) Section 401(b)(1) of such Act is amended by striking out "the fiscal year which begins during the calendar year in which" and inserting in lieu thereof "the first 2-fiscal-year budget period which begins after".

(p)(1) Section 402 of such Act is amended—

(A) by striking out "REPORTING OF" in the heading and inserting in lieu thereof "ACTION ON";

(B) by striking out the heading of subsection (a) and inserting in lieu thereof "DATES FOR REPORTING AND FINAL ACTION.—(1)";

(C) by striking out "May 15" in subsection (a) and inserting in lieu thereof "December 31";

(D) by adding at the end of subsection (a) the following new paragraph:

"(2) The Congress shall complete action on all bills and resolutions directly or indirectly authorizing the enactment of new budget authority for a 2-fiscal-year budget period no later than March 10 preceding the beginning of such period."; and

(E) by striking out "such committee" in subsection (b) and inserting in lieu thereof "the committee involved".

(2) The table of contents in section 1(b) of such Act is amended by striking out "reporting of" in the item relating to section 402 and inserting in lieu thereof "action on".

(q) Section 605(a) of such Act is amended—

(1) by striking out "each year (beginning with 1975)" and inserting in lieu thereof "each odd-numbered year (beginning with 1985)";

(2) by striking out "the ensuing fiscal year" and inserting in lieu thereof "the 2-fiscal-year budget period beginning in the following calendar year"; and

(3) by striking out "such ensuing fiscal year" and inserting in lieu thereof "such period".

(r) Section 607 of such Act is amended—

(1) by striking out "for a fiscal year (beginning with the fiscal year commencing October 1, 1976)" and inserting in lieu thereof "for a fiscal year or a 2-fiscal-year budget period (beginning on or after October 1, 1985)"; and

(2) by striking out "May 15 of the year preceding the year in which such fiscal years begins" and inserting in lieu thereof "March 31 of the year in which such fiscal year or budget period begins".

(s) Section 904(a) of such Act is amended by inserting "(as enacted or as amended by the Biennial Budgeting Act of 1983)" after "and IV" in the matter preceding paragraph (1).

(t) The following sections of such Act are amended by striking out "fiscal year" each place it appears and inserting in lieu thereof "2-fiscal-year budget period": 3(a)(1); (a)(4)(A), (a)(4)(B), and (a)(4)(C); 202(f)(1); 301(a)(1), (b)(1), (c)(2), and (d) (first sentence); 303(a)(1), (a)(2), (a)(3), (a)(4), (b)(1), and (b)(2); 304; 307; 308(a) (before paragraph (1)), (a)(1)(A), (a)(2)(A), (a) (last sentence), (b) (first sentence), (b)(1), (b)(2), (b)(3), (b)(4), and (c); 309 (1) and (2); 310 (a) (first sentence), (a)(1)(A), (a)(1)(C), and (f); 311 (a) and (b); 401 (a) and (b)(2); 402(a).

(u) The following sections of such Act are amended by striking out "such year" each place it appears and inserting in lieu thereof "such period": 3(a)(1); 303(a) (after paragraph (4)); 308 (a)(2)(A) and (b)(3).

AMENDMENTS TO BUDGET PROCESS PROVISIONS OF TITLE 31 OF THE UNITED STATES CODE

SEC. 9. (a) So much of section 1105(a) of title 31 of the United States Code as precedes paragraph (1) thereof is amended to read as follows:

"(a) The President shall transmit to the Congress, during the first 15 days of the first session of each Congress beginning with the Ninety-ninth Congress, the budget for the 2-fiscal-year budget period (as defined in paragraph (6) of section 3 of the Congressional Budget Act of 1974) beginning on October 1 of the succeeding calendar year. The budget so transmitted shall include a tentative budget for each of the two fiscal years in such period, shall contain the President's budget message together with summary data and text and supporting detail, and shall set forth in such form and detail as the President may determine (with respect to each such fiscal year) the following:".

(b) Section 1105(a)(5) of title 31 of the United States Code is amended by striking out "the fiscal year for which the budget is submitted and the 4 fiscal years after that year" and inserting in lieu thereof "each such fiscal year and the 3 fiscal years after the second such year".

(c) Section 1105(a)(6) of title 31 of the United States Code is amended by striking out "the fiscal year for which the budget is submitted and the 4 fiscal years after that year" and inserting in lieu thereof "each such fiscal year and the 3 fiscal years after the second year".

(d) Section 1105(a)(9) of title 31 of the United States Code is amended by striking out "ensuing fiscal year for which the budget is submitted" and inserting in lieu thereof "2-fiscal-year budget period involved".

(e) Section 1105(a)(12) of title 31 of the United States Code is amended—

(1) by striking out "fiscal year" in subparagraph (A) and inserting in lieu thereof "2-fiscal-year budget period"; and

(2) by striking out "each of the 4 fiscal years after that year" and inserting in lieu thereof "each of the 3 fiscal years after such period".

(f) Section 1105(a)(13) of title 31 of the United States Code is amended by striking out "fiscal year" and inserting in lieu thereof "2-fiscal-year budget period".

(g) Section 1105(a)(14) of title 31 of the United States Code is amended by striking out "that year" and inserting in lieu thereof "the 2-fiscal-year budget period".

(h) Section 1105(a) of title 31 of the United States Code is further amended by adding at the end thereof (after and below paragraph (24)) the following new sentences: "During the first 15 days of the second session of each such Congress the President shall transmit to the Congress any revisions he may desire to make in the budget transmitted in the first session of that Congress. In applying the succeeding provisions of this section with respect to any budget transmitted to the Congress for a 2-fiscal-year budget period, the term 'ensuing fiscal year' shall be deemed to read first year of the 2-fiscal-year budget period involved', and other references to fiscal years shall be deemed to be references to the 2-fiscal-year budget periods in which the years involved respectively fall.".

EFFECTIVE DATE

SEC. 10. Except as specifically otherwise indicated, the amendments made by this Act shall become effective on the first day of the first session of the Ninety-ninth Congress.

□ 1215

THE PRESIDENT HAS 2 MORE YEARS TO OFFER LEADERSHIP

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALEXANDER. Mr. Speaker, here we are at midterm, and while the cloud of failure hangs over the Reagan Presidency, he need not be judged a failure, for the President has 2 more years within which to offer leadership. I hope that he will find the 98th Congress eager to offer alternatives to help meet the challenge that besets our Nation.

Here is a partial agenda: to make social security solvent, to pursue comprehensive tax reform, to get entitlements under control, to keep defense spending within bounds and to come to grips with a historic deficit. This agenda will require bipartisan support, and Democrats will offer alternatives and not be bashful about it; but I believe this agenda will be dealt with because the American people say that these are things that they expect to be done by their President and their Congress. The state of the Union depends on it.

SOME SUGGESTIONS FOR THE PRESIDENT'S STATE OF THE UNION MESSAGE

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, I have read with a great deal of gladness some of the reports in the early papers that tonight when the President addresses the American people on the state of the Union, he is looking to compromise.

Well, Mr. President, I might suggest that the best way that he can compromise is to change his priorities around a little bit. The American people believe as a survey in today's New York Times reveals, 63 percent believe that the budget deficit should be reduced by reducing the increase in defense spending. Only 29 percent think the Government should further cut programs for the poor.

Mr. President, I for one want to compromise. The budget deficit is a problem that will cripple this country whether we have a small recovery or not in the next few months; but it is the general feeling of the American people and of our party that priorities must be changed. Defense must be cut, programs for the poor have been cut enough.

FUTURE AGENDA AS SEEN BY SUBCOMMITTEES AND COMMITTEES OF THE HOUSE

(Mr. GORE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GORE. Mr. Speaker, I would like to call to the attention of my colleagues the publication today of the future agenda as seen by the subcommittees and committees of the U.S. House of Representatives.

The Clearing House on the Future has worked long and hard to compile a list of all those future issues within the narrow jurisdiction of each one of the 200 subcommittees and we are asking people in the university community, the business community, the futures community, all around this country to begin a dialog with the subcommittees of the Congress about how we can better focus our vision of the future within each narrow jurisdiction so we can do a little better job of anticipating some of these problems before they become crises.

The Clearing House, incidentally, will have its first meeting of the new session tomorrow night with a dinner discussion with John Nesbitt, the author of Megatrends and I invite my colleagues to attend.

THE BIPARTISAN SOCIAL SECURITY COMPROMISE

(Mr. CONABLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONABLE. Mr. Speaker, I would like today to ask the indulgence of the Members of the House for a discussion of the so-called bipartisan social security compromise that was worked out by the Commission and agreed to by the President and the leaders of this and the other House.

This critically important issue faces the Congress as almost its first order of business. It is a true compromise in that nobody is satisfied with it, but I would like not only to discuss the elements of that compromise, but the balance that it involves and the probable alternatives if it fails. I believe it is important for my colleagues to keep their powder dry on this issue until they have considered the alternatives.

I, therefore, hope we will get maximum participation in the special order that I have just reserved for today's session.

THE STATE OF THE UNION

(Mr. BORSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BORSKI. Mr. Speaker, this is a very special moment for me. It is the first time I have stood here in the well to address the House of Representatives. It is a great privilege for me to be a part of this historic body.

Mr. Speaker, without meaning to steal any of the President's thunder, I rise to comment on the state of the Union. For many millions of people across this country, these are hard times. In December, the rate of unemployed stood at nearly 11 percent. Over 12 million Americans cannot find jobs. The figure for youth unemployment is over 24 percent. For minority youth, the rate is an astounding 52 percent. Over half of the minority youth in this country are not able to find work.

It is difficult to convey the magnitude of this problem with numbers. This past weekend near my district in Philadelphia over 2,700 men and women stood patiently in the cold for hours to apply for 30 jobs at a refinery. Some of them camped out over night in order to be the first in line. We have seen this spectacle repeated again and again throughout the country.

The time has come for action. Our country is strong but troubled. We desperately need programs to put our jobless back to work. The people of our Nation remain hopeful that this House will take the lead in addressing the critical problem of unemployment.

Let this be the Congress that is remembered as the one that put America back to work.

The SPEAKER. That was the maiden address of the gentleman from Pennsylvania (Mr. BORSKI) and the Chair wants to congratulate the gentleman.

SOCIAL SECURITY—OUR FIRST PRIORITY

(Mr. PACKARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PACKARD. Mr. Speaker, as we begin the work of the 98th Congress, we must immediately consider the proposed solutions to the social security crisis. The American people will wait no longer for us to move forward toward an equitable resolution of this problem. It is disgraceful that this issue has been used to foster fear which increases daily among the elderly of our Nation. The demagoguery and political posturing on social security must end—and they must end today.

We must replace the old rhetoric with serious discussion. First among our priorities must be the need for a solution which is fair to all. Current recipients of social security benefits must be assured that their payments will not be reduced, and individuals who are paying into social security must be confident that the system will remain solvent.

The National Commission on Social Security Reform has given us a preliminary blueprint from which we may finalize the design of a truly satisfactory solution. We must do so without further delay.

The SPEAKER. The Chair announces that the gentleman who was just at the microphone was elected as a write-in candidate, a very unusual situation.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to make an announcement.

After consultation with the majority and minority leaders, and with their consent and approval, the Chair announces that this evening, during the joint session to hear an address by the President of the United States, only the doors immediately opposite the Speaker and those on his left and right will be open.

No one will be allowed on the floor of the House who does not have the privilege of the floor of the House.

Due to the large attendance which is anticipated, the Chair feels that the rule regarding the privilege of the floor must be strictly adhered to.

Children of Members will not be permitted on the floor and the cooperation of all the Members is requested.

APPOINTMENT AS ADDITIONAL MEMBERS OF JOINT ECONOMIC COMMITTEE

The SPEAKER. Pursuant to the provisions of 15 U.S.C. 1024(a) the Chair appoints as additional members of the Joint Committee the following Members on the part of the House.

Mr. WYLIE of Ohio; Mrs. HOLT of Maryland; Mr. LUNGREN of California; and Mrs. SNOWE of Maine.

RESIGNATION AS MEMBER OF COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

The SPEAKER laid before the House the following resignation as a Member of the Committee on Interior and Insular Affairs:

HOUSE OF REPRESENTATIVES,
Washington, D.C., January 7, 1983.

Hon. THOMAS P. O'NEILL, Jr.
H204 Capitol,
Washington, D.C.

DEAR MR. SPEAKER: I hereby submit my resignation from the Committee on Interior, effective immediately.

Sincerely,

GEORGE MILLER,
Member of Congress.

The SPEAKER. Without objection, the resignation is accepted.

There was no objection.

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON WAYS AND MEANS

The SPEAKER pro tempore (Mr. SMITH of Florida) laid before the House the following communication from the chairman of the Committee on Ways and Means:

COMMITTEE ON WAYS AND MEANS,
Washington, D.C., January 10, 1983.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, H204 U.S. Capitol, Washington, D.C.

DEAR MR. SPEAKER: This is to advise you that, pursuant to sec. 8002 of the Internal Revenue Code, the following members of the Committee on Ways and Means have been designated to serve on the Joint Committee on Taxation during the 98th Congress:

Dan Rostenkowski (D., Ill.)
Sam M. Gibbons (D., Fla.)
J. J. Pickle (D., Tex.)
Barber B. Conable, Jr. (R., N.Y.)
John J. Duncan (R., Tenn.)

Sincerely yours,

DAN ROSTENKOWSKI,
Chairman.

COMMUNICATION FROM THE HONORABLE LAUGHLIN E. WATERS, U.S. DISTRICT JUDGE

The SPEAKER pro tempore laid before the House the following communication from the Honorable Laughlin E. Waters, U.S. district judge:

CENTRAL DISTRICT OF CALIFORNIA,
Los Angeles, Calif., January 3, 1983.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker, House of Representatives, H-209, The Capitol, Washington, D.C.

DEAR MR. SPEAKER: In accordance with your designation of me, pursuant to House Resolution 11, Ninety-eighth Congress, adopted by the House of Representatives, to administer the oath of office to Representative-elect Mickey Edwards, of the Fifth District of Oklahoma, I have the honor to report that on the 3rd day of January, 1983, at Los Angeles, California, I administered the oath of office to Mr. Edwards, form prescribed by Section 1757 of the Revised Statutes of the United States, being the form of oath administered to Members of the House of Representatives, to which Mr. Edwards subscribed.

For your convenience, I am enclosing a copy of the official transcript of the proceedings.

Sincerely,

LAUGHLIN E. WATERS,
U.S. District Judge.

COMMUNICATION FROM THE HONORABLE G. WILLIAM WHITEHURST

The SPEAKER pro tempore laid before the House the following communication from the Honorable G. WILLIAM WHITEHURST:

HOUSE OF REPRESENTATIVES,
Washington, D.C., January 18, 1983.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House,
Washington, D.C.

DEAR MR. SPEAKER: Attached is a copy of a subpoena directing my employee and Norfolk District Office Manager, Mrs. Eileen Lee, to appear in United States District Court, Norfolk, Virginia on January 26, for her testimony relevant to her casework activities in behalf of a former constituent in 1979. I am reporting this to you and forwarding the subpoena pursuant to Rule 50 of the Rules of the United States House of Representatives.

Thanking you in advance, I remain,

Sincerely,

G. WILLIAM WHITEHURST.

FURTHER COMMUNICATION FROM THE HONORABLE G. WILLIAM WHITEHURST

The SPEAKER pro tempore laid before the House the following communication from Hon. G. WILLIAM WHITEHURST:

HOUSE OF REPRESENTATIVES,
Washington, D.C., January 20, 1983.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I notified you on January 18 that I had received a subpoena directing my employee and Norfolk District Office Manager, Mrs. Eileen Lee, to appear in United States District Court, Norfolk, Virginia, on January 26. I have made a determination that I deem her testimony relevant to the case, and that it will not offend the rights and privileges of the U.S. House of Representatives. Therefore, it is my desire that she comply with the subpoena.

Thanking you again for your attention in this matter, I remain,

Sincerely,

G. WILLIAM WHITEHURST.

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON ENERGY AND COMMERCE

The SPEAKER pro tempore laid before the House the following communication from the chairman of the Committee on Energy and Commerce:

COMMITTEE ON ENERGY AND COMMERCE,
Washington, D.C., January 18, 1983.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: This is to inform you, pursuant to the provisions of House Rule L (50) Sec. 2, that the Chief Counsel/Staff Director of the Committee on Energy and Commerce has been served with a subpoena ad testificandum and duces tecum in *United States of America* v. *Herbert G. Case.* et al., a case pending in the United States District Court for the District of New Jersey calling for the Chief Counsel/Staff Director of the Committee on Energy and Commerce to appear and testify on January 25, 1983 at the U.S. Courthouse and Post Office in the City of Newark, New Jersey.

I will undertake to make the necessary determinations required by Sec. 3 of House Rule L (50), in consultation with counsel. I will make the requisite determinations as expeditiously as possible and inform you of them under the provisions of Rule L (50).

Sincerely,

JOHN D. DINGELL,
Chairman.

□ 1230

BIPARTISAN AGREEMENT ON SOCIAL SECURITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. CONABLE) is recognized for 60 minutes.

Mr. CONABLE. Mr. Speaker, I do not intend to use the full 60 minutes, but I do hope to use this time to discuss dispassionately the bipartisan agreement on social security which was arrived at after roughly 3 weeks of negotiation by a small part of the National Commission on Social Security Reform. A report has now been written based on this agreement and I commend it to the attention of my colleagues.

I hope that everyone in this body will understand that this report is a true compromise in the sense that none of the people who have subscribed to it, and 12 out of the 15 members of the National Commission did subscribe to it, would, if left to his own devices, have come up with a proposal of this sort.

It is a true compromise, in short, in that it is unsatisfactory to everyone; but it probably is superior to what would happen in the legislative process if we were to follow the course we have followed from time immemorial of running away from this issue. We have run out of bailing wire, Mr. Speaker. The time has come when we must deal with social security. We must deal with it in some way that will not only give our elderly citizens confidence that they will get next month's check, but also will give some confidence to our young people that by the time they retire it will be still a system of value to them.

That was our goal, and to achieve that goal we had to give way frequently on personal preferences, because the issue is so sensitive that to deal with it on other than a bipartisan basis almost inevitably insures failure to stabilize the system and not simply to find some way of pumping addition-

al resources into it regardless of the possible destructiveness of the resulting dynamic.

Now, I am going to go over the details of this proposal and then I want to talk about the politics of it a little.

First of all, it is controversial in that it extends coverage to all newly issued (after January 1, 1984) Federal employees. This insures the opposition of the Federal employees' unions.

Many of our Federal employees are quite sincerely convinced that their system is not only superior but that it is sound and solvent. That is not my view of it. It is a system in greater actuarial imbalance than social security, but because it involves a smaller number of people it does not seem to involve the peril to the Nation that social security imbalances do.

Quite frankly, it was impossible to get agreement on the coverage by social security under some sort of a supplemental system, of existing Federal employees. I myself was skeptical that we could afford to do that, because given the political clout of the Federal employees' unions, in order to provide the kind of transition rules that would be acceptable to them, we would have had to make major concessions which would have been expensive for the system.

Now, many of the Federal employees are going to say that, in effect, going to a supplemental system where the basic coverage is social security for all new hires, with civil service retirement pay providing only an increment above the basic social security coverage, we will be walking away from what has been a closed-end system and a funded system and, therefore, the General Treasury ultimately will have to pick up much of the cost of the currently vested Federal employees who participate in the civil service retirement system.

I will not deny this, Mr. Speaker, but I will say to my colleagues that that system is so out of balance that the General Treasury is already picking up the great bulk of the cost for Federal retirees. I do not have the most recent figures, but in 1980 it was my understanding that of the $15 billion paid out in Federal retirement, only $3 billion came from withholding from pay and the rest came directly out of the General Treasury.

Viewed in this light, we are not walking away from a major obligation that will add, in large part, to the Federal Treasury's liabilities; but we are sowing the seeds, in fact, of a sounder and more balanced system for the future if our Federal employees are covered under social security as their basic coverage and an integrated type of program in which the civil service retirement will pay only an increment above that, will be the norm.

We also, in connection with extending coverage, required the coverage of all remaining nonprofit employees. This is a very small number of people, but some of the nonprofit organizations have not covered their employees for social security. They should. They are generally low-paid employees. Although it will raise the cost for some nonprofits who elected not to go into social security before, it clearly is a desirable extension of coverage.

Now, we have, as you know, a constitutional problem in trying to cover State and local employees. There is a serious question whether the courts would permit us to dictate the conditions under which State and local employees should work, including their coverage by social security. A fairly large proportion of our State and local employees are covered by social security now. But we have in the law a provision that if they have elected voluntary coverage in the past, a 2-year notice is required in ordered to withdraw from the system. It has been assumed we could constitutionally impose conditions on the withdrawal from the system. We are trying to terminate the withdrawal procedure totally in our bipartisan compromise. We are saying that we will ban withdrawal of coverage by State and local employees by providing that any notice of termination is invalid unless the process of termination is completed by the enactment date of the new legislation.

Mr. Speaker, I would be the first to acknowledge that this will be tested in the courts as to constitutionality. However, it seemed to the commissioners that is was desirable to try to force universal coverage of social security. The system was designed for universal coverage, and if we can do so it would clearly be in the best interests not only of the social security system itself, but an improvement of the perception of fairness which requires that most Americans be covered whether they want to be or not. In most instances it is a mandatory system and will continue to be so. To the extent possible it should be mandatory for all.

So much for extension of coverage. The second major provision of the compromise is controversial also and has to do with the possible taxation of benefits, something that we have never previously done.

There is a philosophical issue here: The employees who contribute to the social security system do so after income tax on the amount of their contribution. Therefore, what they pay into the system has already been taxed. As such, they should not be taxed on what they draw out in benefits or they would be taxed twice on the same money.

However, the employer's contribution is deductible from taxes as a normal labor expense, like any other business expense, and so for some time, some economists have been saying to us we would be justified in taxing half of social security benefits.

Now, quite frankly, many people depend solely on social security, whether the system was intended in that way originally or not. So it was felt that if we were to tax half the benefits for income tax purposes, it should be done only for people above a certain income level. The income level that has been chosen in our recommended bipartisan solution is $20,000 or more for a single taxpayer and $25,000 or more for joint returns.

That does not include—I want to repeat this—that does not include, in establishing a threshold, the social security payments themselves. In other words, to be taxed on half your social security benefits you must have taxable other income of $20,000 as an individual and $25,000 as a joint taxpayer.

This will reach roughly 11 percent of the beneficiaries of social security. It will provide a substantial sum of money, however, for our short-term crises, that shortfall of $150 to $200 billion which the Commission has described as afflicting us between now and the end of 1989. Taxing benefits to this extent will produce $30 billion of that money and it will provide 0.6 percent of long-term payroll. It is, in short, a significant amount of money that will be raised by taxing benefits.

Now, I know that a burden of explanation is going to be required of our colleagues in moving to the taxation of benefits for the first time. There are many ways of looking at this, however.

If we had reduced benefits for high-income people by internal changes in the benefits structure, no one would think of this as a tax. If fact, we are reducing benefits by taxing them. However, it is very difficult to administer as a benefit reduction by readjustment of the internal structure simply because a needs test is required in order to determine whether people, whatever their social security pension may be, have other income of $20,000 or $25,000.

Thus, it was viewed as a very difficult item to administer if, instead of treating it as a tax on benefits, we treated it as a reduction of benefits, something that many people would have thought quite acceptable even though they opposed increased taxation.

□ 1245

The last problem in connection with this particular proposal is that the money, of course, raised by the income tax is paid to the Federal Treasury and not to the social security fund. We will require, assuming this proposal is adopted, that Treasury estimate every year the amount of money raised by taxing the benefits, and that an exact-

ly equal amount of money be paid by the General Treasury into the social security trust fund so that the money will be available for the assistance of the system and will not just go to swell the General Treasury. Our purpose in this was not to reduce the deficit generally, but to improve the soundness of the social security system. These revenues became, then, General Treasury money going into the social security system, but the amount determined by a fixed level of income taxation, which can be accurately estimated by Treasury and therefore will not become the excuse for some massive and increasing infusion of General Treasury money into the system.

The third major point of the compromise involves a shift of the automatic increase in benefits to a calendar year basis, making the increase payable in January instead of July. This was an extremely controversial element of the compromise because it involves a 6-month delay in the 1983 COLA, which otherwise would be paid July 1. If I may say, Mr. Speaker, there are some additional advantages to having the COLA paid at the beginning of the year. You have a coincidence of the adjustment of the bend point and the COLA which reduces the double whammy that hits the system particularly hard for first-year beneficiaries of the system. It also provides a permanent reduction in the expenditures of the system in that the 6 months of COLA delay is not made up anywhere else. Indeed, the long-term reduction of benefits that is the result of the delay projected out for the period 1983–89, is $40 billion. That is a reduction of benefit growth, not a cut in existing payments. The payment will be only delayed for people who have been afraid that they would have actual current benefit reductions, and thus they will get their benefit increase based on the cost of living hereafter on January 1, and not on July 1. It contributes 0.27 percent of long-term payroll imbalance to have slipped the benefits, the COLA payment date from July 1 to January 1.

Let me complete that thought. There is one very important element in this agreement, and that is that the slippage of the date will be accompanied by an increase in the $20 month disregard of social security benefits under supplemental security income—SSI—to $50. We have previously disregarded only $20 of social security income for SSI recipients. Now, I recall when we passed SSI we hoped that this would save social security. We should find ways of increasing SSI for the truly needy because, unless we do that, we find ourselves pumping additional money into social security, giving much money to people who do not need it in order to get a little money to people who need it badly. So, we must keep SSI up to date. SSI comes out of the General Treasury, not the social security system. And thus, as part of the deal whereby the COLA was slipped for 6 months, we are providing for an increase in the disregard of social security income which is counted in determining the needs of those on SSI.

The fourth item: We have changed and moved up the rate increases which have been previously scheduled for the OASDI tax rate. This is controversial also because, although we are not changing the long-term rate of tax, we are moving up the date at which some of the rate increases are payable. First, the 1985 OASDI tax rate of 5.7 percent—it is now 5.4 percent—is moved up from 1985 to 1984. That is a 0.3-percent increase in the payroll tax rate. For 1984 only, it is offset by a refundable income tax credit so that the net cost to employees will not change.

Now, this refundable credit was terribly important to some members of the Commission. Indeed, many of our more liberal members wanted it to be made permanent. Most of us who were anxious to improve the solvency of the system and to damp down this growth resisted this idea because it could become the pattern for the future. It could be a simple thing hereafter simply to increase the payroll tax, give an offsetting income tax credit, and thus divert increasing sums of money from the General Treasury into the social security system, thus making it unnecessary to suppress the growth of benefits. So some of us wanted such an offsetting income tax credit not to become part of the pattern of the future; it was limited to 1984.

The present rate called for now by existing law, 5.7 percent, was kept for 1985 to 1987. The 1988 and 1989 rate was rescheduled to 6.06 percent, a figure short of the rate which will come into existence, 6.2 percent, in 1990 under existing law. There is no offsetting income tax credit. After 1990 the tax rate will be the same as existing law calls for. This will raise $40 billion again in the short term, between now and the end of 1989. It is exactly the same sum of money that will be raised by shifting the COLA benefit date from July to January. It provides, however, only 0.02 percent of payroll long-term correction because it relies on existing law after 1990.

Now then, there are some other provisions that I would like to discuss, but only briefly. We made also some equity adjustments for women which, while they cost some money, were very modest in the overall compromise and simply provided for particular provisions helping widows who remarry, providing for some indexing of earning records for purposes of deferred survivor benefits by wages instead of prices; permitting a divorced spouse to receive benefits regardless of whether the insured former spouse in fact retired at age 65 or not, and so forth. These were called equity provisions. They are not significant in the overall compromise, but do make social security somewhat more attractive for some women under some circumstances.

We also reduced the weighting in computing social security benefits, the windfall for persons with pensions from noncovered employment, effective for those first eligible to retire after 1983. That raises almost as much as the aforementioned equity provisions lose, to the compromise.

The next provision of the compromise is also controversial. As you know, self-employed people do not contribute or have contributed in their behalf to the social security systems as much as employed people. If you are self-employed, you pay a social security tax of 150 percent of the amount paid by an employee. Nobody pays the employer's share. Therefore, 150 percent goes into the system as opposed to the 200 percent that goes in in behalf of an employee once both the employer and employee have paid their contributions. Of course the self-employed still draw out of the system at the same rate as the employed, despite the lower total contribution. This would change that to say that a self-employed person must pay 200 percent of the employee's share; but he will be allowed one-half of the combined rate as a deduction in the same way that the employer now gets a deduction for his entire contribution to the social security system. There is controversy about whether that should be made a credit rather than a deduction, but that provision as it stands in the recommendation will raise $18 billion between now and the end of 1989, and 0.19 percent of long-term payroll.

This is a desirable provision. It is going to be resisted by the self-employed, who, if they were to have no income tax payable, would wind up paying twice as much social security tax because they would have no tax against which to deduct, the so-called employer's share, out of income.

Now, the next provision is somewhat gimmicky, but is perfectly sound in a fiscal sense, and that has to do with crediting to the OASDI trust funds as a lump sum now the present value of future OASDI benefits attributed to military service before 1957, plus the equivalent of the employer-employee taxes on free credits based on allowances for military service for 1957 to 1982. It also transfers an amount equal to uncashed OASDI checks from the inception of the program to the trust fund out of the Treasury, where such unclaimed checks have been reposing.

As to the military credit, I think all I have to do in that respect is to explain why we are talking about the present value of future OASDI benefits.

Before 1957 there was no payment made on account of military employees of the Federal Government to the social security trust fund. However, we gave credits for military payments at that point. Those credits mean that the time will come when people who served in the military before 1957 will be making claims against the social security system based on that service. At that point, the social security system is paid by the General Treasury for the amount of the claim. What we have done instead is, we have made an estimate of the current value of all those potential claims and have paid it in one lump sum into the trust fund as part of this compromise. It provides $18 billion in contribution to the social security system, but it has no long-term effect at all, and in fact just takes into account the expected claims against the system on account of past military credits awarded.

Between 1990 and the year 2010, the next proposal would gradually increase the delayed retirement credit for individuals between 65 and 70 from 3 to 8 percent a year. If someone continues to work beyond age 65, we now allow his benefits to go up by only 3 percent a year. It is a very slight incentive to continue to work, and we are moving that up between 1990 and the year 2010 by gradual steps to an incentive of 8 percent a year increase in his benefits. That will have the effect of encouraging a substantial number of additional people to work beyond age 65. It will actually cost the system money unless it affects the behavior of people who have very scant incentive to continue to work beyond age 65 under the current law.

We permit interfund borrowing to continue from 1983 to 1987. That is intended only as an insurance in the event that the short-term steps we have taken are not sufficient to get the fund up adequately. I must say that estimates show the funds should be, by 1988, at at least 30 percent of the total demand, which is a safe cushion for demand at that point.

Beginning in 1988—and this is a very important provision and the last one I want to deal with—beginning in 1988 if the combined OASDI fund ratio; that is, the amount in the fund compared to the estimated payment out during the year, falls below 20 percent of the annual outgo, the lesser of the increase in average wage or in the CPI, (prices) would be paid as COLA's until that ratio returns to 20 percent, when the COLA based on the CPI again would be paid.

This is the so-called stabilizer proposal which would insure that if the fund drops below 20 percent, we would go to a reduced COLA, based on the lower of wages or prices. Such a provision should be added incentive for us to maintain the stability of the system. It will begin only in 1988, at which time it is estimated that there will be 30 percent in the fund and, therefore, such a trigger would not occur.

But if we have miscalculated on our demographics or on our economic assumptions, we have to have some kind of a fail-safe to insure that we would not again move the fund toward bankruptcy where it totters so perilously at this very moment. It goes beyond that. When the fund ratio reaches 32 percent, we would make some adjustments to try to repay to the then beneficiaries some of the money that had been withheld from them by the lower COLA during the period of fiscal stringency.

Now, Mr. Speaker, this would reduce substantially the size of the short-term shortfall—that is, the amount of expenditure from the social security system above the amount of receipts of the social security system—between now and the end of 1989 or the beginning of 1990. We deliberately did not resolve the full long-term imbalance in the system, that is, the imbalance beyond 1990 which, expressed as a percent of payroll, was deemed to be 1.8 percent. We have taken care of all but 0.58 percent of that. But 0.58 percent of payroll was deliberately left for the legislative process to resolve.

There was disagreement in the Commission as to how that 0.58 percent of long-term payroll should be reduced. It was suggested by some, and mostly Democrats—although I would not want to characterize any of these positions by party label, because there was great divergence in both parties on the Commission—but generally the Democrats felt 0.58 percent of payroll should be met in the long run by raising taxes after 1990. The Republicans felt instead that it was desirable, given the sharp increases in longevity which have occurred and which are still expected, that sometime after the year 2000 we should begin to phase in a slightly higher retirement age. We could reach 0.58 percent of payroll by a 1-year increase in the retirement age phased in a month a year starting in the year 2003, thereafter indexing the retirement age to longevity, and that would help us a good deal with the demographic problems facing us in the first quarter of the 20th century as the postwar baby boom reaches the age of retirement.

This surge of population now going through our society like a pig through a python is going to cause serious problems for social security starting in the year 2010, when the current relatively low birth rate is going to be moving into the labor force; and thus we have considerable need for the kind of actuarial wallop that raising the retirement age would give.

The sensitivity about raising the retirement age almost entirely relates to the current high unemployment rate, and if we assume that the current high unemployment rate will continue out into the years when relatively fewer young people are going to be coming into the work force after the year 2000, then perhaps that is something that we will want to look at carefully.

However, most of us think that demographics are going to put additional pressure on our people to work longer if we are to maintain our standard of living, and the unemployment rate, disastrous as it is now, is not likely to continue out beyond the year 2000 and, therefore, some suppression in the length of time in which social security is paid out through some increase in the retirment age is desirable. I call attention to the fact that we do not put our sole reliance on that in that we have given additional incentives to work beyond age 65 in the premium that I discussed earlier.

Mr. Speaker, I hope the House will seriously consider this proposal. It is being characterized as relying too heavily on taxes and not enough on the suppression of the dynamics in the system through some change in COLA or through some suppression of the growth of benefits by any one of the number of devices that are possible.

I will say that it is my impression that this proposal, whatever Members may think of the balance between tax increase and benefit growth suppression, will give us some confidence in the future of the system, something that I believe would be desperately necessary if we are to be able to certify to the next generation the value of the system.

It is bound to be a contentious matter as we go down the way. I suspect there will be elements in both parties that will not support the compromise. I hope that they will consider the probability that if we cannot make this compromise stick, the only easy way to resolve the issues will be either to raise taxes or to dump massive amounts of General Treasury money into a system, which will then force old people to come to the Budget Committee every year to seek as a matter of priority and not as a matter of right the increases necessary to maintain their purchasing power.

One of the great advantages of the social security system as we have had it is that we have not had to go to the budget process to determine the level of benefits. The benefits have been determined by formula and have been financed by a closed end system, a payroll tax which is fairly automatic. I hope we will retain that characteristic of the system. Indeed maintaining a closed-end system has had some disciplining effect which has kept us from letting this system, however much it has grown—it is now more than 5 percent of our gross national product—

grow even faster. So I hope we will retain that degree of discipline.

I acknowledge that every individual in this body can probably think of some way in which he would like to see this proposal improved. The legislative process will follow. The Committee on Ways and Means is committed to a very quick series of hearings and markup sessions. It is indeed necessary that we do this because we all know that unless we have a resolution of the issue before the middle of the year, it is probable that we will suffer at least the temporary embarrassment of not being able to send the checks out.

It is a desirable thing clearly, Mr. Speaker, for us to resolve this not just for the short term, not just to insure that we can get through this year comfortably, but for a much longer term so that the political polarization inherent in such a sensitive institution as social security cannot continue to whipsaw our elder citizens and our younger citizens and eventually bring us to the level of generational warfare, which will be good for neither and not good either for the country and the politicians who have to deal with the issue.

Now is the time to act. We have a vehicle that can be used. I am quite confident that the leadership will do everything it can to see that such a bipartisan agreement is adopted, and I am sure that the legislative process will view with some presumption such a balanced package and act in favor of the work of the Commission.

Mr. GAYDOS. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Pennsylvania.

Mr. GAYDOS. Mr. Speaker, I was listening intently to my colleague, and I do want to commend him for clarifying many of the points that have been appearing recently in the news media, both written and telephonic.

I would like to ask the gentleman if he is in a position at this time to inform me as to whether or not he will be supporting a closed rule on this Commission package, or has he not decided yet? How is it going to be presented to the body?

Mr. CONABLE. Mr. Speaker, I will support a closed rule; that is correct. I must say that we will have to resolve the issue of 0.58 percent of long-term payroll, and I will not support a closed rule if the package is substantially changed through the legislative process.

However, if this proposal is brought to the Committee on Rules, I will be before the Committee on Rules urging a closed rule, realizing that this body is easily stampeded by emotional appeals, and that it is a classic case for a closed rule, assuming the legislative process is treated as I think it should be.

Mr. GAYDOS. Mr. Speaker, some of the suggestions of the Commission—and this is purely my personal opinion—seem to be good. They have good logic and good reasons, and the facts seem to substantiate that conclusion. However, there are some elements in the overall suggestion or recommendation that would possibly bear a little more discussion on the floor of the House, and I would hope that under certain circumstances the committee might come out with a qualified closed rule and allow some debate in some of the areas.

Mr. CONABLE. Mr. Speaker, I am sure that the leadership will act wisely in this respect.

I will say, though, Mr. Speaker, that if this thing begins to come apart in small ways, it is likely to come apart totally, and the result is likely to be disastrous in a legislative sense, in a fiscal sense, and in a political sense. I think the American people would like to see us deal with this issue in a predictable way by bipartisan effort and not by the roulette of confrontation on this floor.

Mr. Speaker, I yield back the balance of my time.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. CLINGER) is recognized for 5 minutes.

● Mr. CLINGER. Mr. Speaker, on January 3, 1983, I was absent from the floor of the House of Representatives. Had I been present, I would have voted in the following fashion:

Rollcall No. 2: Election of Speaker; Representative ROBERT H. MICHEL of Illinois;

Rollcall No. 4: House rules; by a yea-and-nay vote of 249 yeas to 156 nays with 1 voting "present," the House agreed to order the previous question on the resolution, "no"; and

Rollcall No. 5: House rules; by a yea-and-nay vote of 156 yeas to 250 nays, the House rejected a motion to commit the resolution to a select committee to be appointed by the Speaker with instructions to report the resolution back with an amendment striking the rule change relating to restrictions on the offering of certain amendments to appropriations bills, "yes."●

TRADE WAR BATTLES LEVEL BETHLEHEM MILLS, WORKERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. GAYDOS) is recognized for 30 minutes.

Mr. GAYDOS. Mr. Speaker, a man-made force recently hammered away a big piece of the industrial base of the United States, and, until this Congress and this administration understand and face such forces, bigger chunks will fall.

Understanding requires memory and attention over a period of years.

I want to interrupt my general train of thought at this time, Mr. Speaker, and enter into the RECORD the fact that one of our colleagues recently sent me a letter, among other things, asking me to reconsider some of my past statements and also future statements regarding the American position on the international trade situation which I have been discussing periodically off and on for the last 4 or 5 years. I attribute to my colleague nothing but good intentions, but he did mention to me that he thought some of my statements were stirring up some type of minority problems within the country.

I want to assure him in the RECORD today that has not been my intention in the past, I hope it would not be my intention in the future, and if he interprets it that way, I would like to correct him and say that is not what I intended. I do not intend to castigate, accuse, criticize, or condemn any country or any nationality.

I do, though, remain unstinting in my position that this country comes first as far as trade is concerned and as far as I am concerned. If my remarks are interpreted along those lines, it is not what I intended. If I make reference to the Japanese or the European Community of Nations, I make it in a respectful manner but in a forceful manner.

□ 1315

It is not my intention to intimate that there is some question as far as nationality is concerned or minorities or what have you.

I just wanted to make that point very clear so that these remarks of mine today, which will cover around 15 minutes, are not misinterpreted again, because I do have respect for my colleague, and I do not think I should mention his name at this time in the RECORD. I have sincere respect for him, and I would hope that is not what he intended in his somewhat complaining manner to me in that written communication.

Mr. Speaker, Bethlehem Steel Co., the Nation's second largest, announced after Christmas that it will close about 20 percent of its capacity this year.

Ten thousand persons will be permanently out of work in Lackawanna, N.Y., and Johnstown, Pa.

Layoffs in the steel industry numbered 166,600 about the time the closings were announced, and another 14,000 workers were on short weeks.

For large portions of the year past, capacity utilization hovered around 30 percent in the steel industry, a rate

worse than during the Great Depression.

Furthermore, analysts predict that between the mid-1970's and mid-1980's the United States will have lost about 20 percent of its steelmaking capacity. Capacity has fallen about 4 percent a year since 1977, in this country, the year of a prior dumping episode and big closings that decimated Youngstown, Ohio, and Johnstown.

And imports took 22.3 percent of the U.S. market through October of last year.

These are not Adam Smith-style imports that are faithful to free trade. They are imports that are subsidized, imports that are dumped, and imports that are traded by an official Europe-Japan cartel that split up the world, fixed prices, and pumped the excess production in those countries here in the United States, the only existing free market in the world today.

Meanwhile, the United States is the only industrial nation that is incapable of meeting its needs for steel by domestic production; and soon, if things go according to plan, we will be less capable. It is the only open market in the world.

We are supposed to have laws and international agreements that prevent this kind of trade. But the laws—or the judges—are proving weak in the face of the flood.

Last year our European allies were judged to be subsidizing steel production up to 40 percent. But this Government was anxious to avoid a quarrel internationally. It lowered the subsidy findings and forced a negotiated settlement to keep them happy.

The Europeans wanted time to rationalize their industry in an orderly fashion; begged and bullied for time to avoid the political disruption of sudden closings. They got it.

And 10,000 persons will be out of work in Lackawanna and Johnstown in a sudden closing; and Bethlehem will close 20 percent of its capacity; and the United States will have lost 20 percent of its capacity before long.

But there were corresponding developments in Europe about the same time—events in England where subsidies of up to 40 percent were found, and where a leading executive has acknowledged, "We are some way short of operating at the best world levels of efficiency."

Bear in mind that without subsidies, British Steel could not sell in this market; bear in mind that with proper countervailing duties, British Steel could not sell here; nevertheless, British Steel continues to flow here under the forced agreement.

The British have faced this situation quite boldly, if I may say. They have decided to raise the credit limits for Government-owned British Steel for 1983 and 1984. They have decided to go on losing $11 million a week.

And they have decided to keep open all five major plants of British Steel although there should be closures at least of the magnitude of Bethlehem's under any principle of free enterprise economics or free trade.

The announcement of this official decision of the British Government appeared in the Wall Street Journal on December 21, 1982, little more than a week before the announcement of Bethlehem's closings.

European steelmakers have lost $10 billion over the last 5 years, according to a recent speech of David Roderick, chairman of the American Iron and Steel Institute.

December was a month that brought forth much that could further the understanding in this new Congress about what is going on internationally, as far as steel is concerned.

With most of the steel-using U.S. shipyard industry at the point of failure, there was another development in Europe.

From Amsterdam, on December 30, we received this word: The Dutch Government granted a loan equivalent to $38 million to the country's largest shipbuilder, which is on the verge of bankruptcy. The Government owns 46 percent of the company.

And from Tokyo on December 1, we had this news: Six Japanese steelmakers have agreed to export 1.3 million tons of steel to China in the first 6 months of 1983, and a spokesman for Nippon Steel said the orders could reach 2.2 million tons this year.

This ties in with the news of December 15, a showing that the Europeans and the Japanese split up the world steel market by official agreement; that they divided it complete with quotas and price-fixing rights. And China, incidentally, is in Japan's half of that agreement.

But to fully appreciate this, you have to mix in some news from Washington 2 months earlier: The Export-Import Bank of the United States gave the Government of China a $60 million loan and an $8 million guarantee to build a steel cold rolling mill near Shanghai.

This, they say, will lead to the sale of $80 million in U.S. goods and services. It also will lead to attempts to export steel to the United States to gain foreign exchange when the mill is open.

There is only one open major market for steel in the world today—the United States.

In 1981, this Export-Import Bank of ours devoted about $415 million to building world steel capacity in an oversupply that already exists in the world. This was about 8 percent of its total business that year.

Every nation wants its own steel industry, wants foreign exchange, wants to export.

And there is only one open market. Meanwhile, we will shrink at an annual rate of 4 percent, so the record shows.

In Taiwan in December, Toyota and the Government agreed to establish a new automobile operation that will target 200,000 cars for export.

There is only one open auto market—the United States.

They did it, according to an executive involved, to create a new source of demand for the Government-owned China Steel Corp.

The last major U.S. help that Taiwan got on steel, that I have a note on, was in 1979 when they received $47 million for a stainless mill.

Meanwhile, dumping and subsidy have wrecked the U.S. specialty steel industry, which is, admittedly, worldwide, by all known experts, the most modern and efficient in the world.

Also in December, Mr. Speaker, United States Steel Co. cut prices on tubular steel goods by 20 percent to compete with Japanese steelmakers, who had been selling at about a 15-percent discount from domestic prices.

This sounds good and competitive and Adam Smith-like until you learn that this month there was an official and final finding that some Japanese makers have been dumping different kinds of pipe and tube here at margins of up to 252 percent in this country.

One of the dumpers was Sumitomo Metals, which buys half pages in the Wall Street Journal to say, "The next time you see the Sumitomo Metals name, remember, we're a steel company and proud to be doing business in the U.S.A."

And Sumitomo was the company with the 252-percent dumping margin on one product line which I first memtioned. Its average margin on seamless pipe and tube was 22.9 percent. The average dumping margin was 11.6 percent for all the companies named in that case.

Mr. Speaker, the next time I see the Sumitomo Metals name, I also will remember Lackawanna and Johnstown and a dumping margin of 252 percent.

Many of the dumping cases hauled before our trade law involve Japanese companies; and, of course, the biggest criminal dumping case ever filed was against Japanese steel coming to the west coast of the United States. The company paid $11.2 million in fines to close that case last year and to shut off further investigation.

Also in the last year, American steel producers have announced the closing of three big mills on the west coast of the United States.

From these events, a reasonable person can conclude that if they are dumping massively to move certain kinds of products, they are willing to do it—and they probably are doing it—to move every kind of product. And

competitive price cuts will not make a bit of difference.

As a recent Forbes magazine noted, the politics of Japan dictate that the mills keep running in Japan.

In fact, Forbes quoted the general manager of Nippon Steel's giant Yawata Works—built for export, by the way—on the situation.

The general manager said, "Our political and social structure does not permit us to fire workers."

So they come on with dumping in the range of 252 percent.

And we are asked to pay the price for their political and economic stability by firing workers in the tens of thousands in this country.

It is time this Congress of the United States looked to the political and economic stability of the United States!

But there are many reasons why the Japanese are so heavily into this market. Another of the reasons was pointed out to me not long ago by Thomas Graham, the chief executive officer of Jones & Laughlin Steel Corp.

Mr. Graham noted that while American steelmakers have to make a profit to stay in business—and American steelworkers have to be efficient to keep their jobs—the situation often is different elsewhere throughout the world.

J&L surveyed the 5-year return on sales for U.S. companies and found the average to be 2.65 percent profit, which is not enough to attract the capital necessary to invest in a more efficient industry.

He also found that for the same 5 years—this is very important—the foreign returns were worse than ours. They were as follows:

Plus 1.4 percent for Nippon Steel with its delicate political and social structure; and,

Plus 0.7 percent for Nippon Kokan; and,

Plus 1 percent for proud old Sumitomo, with its 252-percent dumping margin on pipe; and,

Minus 7 percent for British Steel; and,

Minus 9 percent for Italsider.

The Japanese have been capitalized in the range of 80 percent and above by Government-sponsored and directed loans—while in this country, it is in the area of 40 percent—and they are entirely free of the pressure to show a profit to attract investment. They can settle in, take losses for as many years as you want to add up, and be sure of having the market when it all is over. It is their industrial policy. How are you going to compete with that?

□ 1330

As the head of Nippon Steel observed in an interveiw with American Metal Market last year:

In this day and age, you cannot expect Adam Smith's laissez-faire philosophy to work.

I agree with him. I think he knows what he is talking about.

Is this free trade? According to Adam Smith, is this free trade? Is the idea of comparative advantage and who can produce what the best and cheapest, is this in that whole concept of international free trade, that upon which the general agreements on tariff and trade are founded, the GATT arrangements and the 1979 Trade Act, or is it a trade war, according to the principles of Clausewitz on war, which I mentioned so many times. Are we in a trade war or is this Samurai economics which I talked about at length for an hour a month ago?

Getting back to the international trade war, says Clausewitz in his great documentary, is an act of force to compel our enemy to do our will.

Let us review who is compelled to do what in this international trading situation.

Unemployment ranges from 11 percent up to 25 percent across industrial America. In the steel industry, the production is roughly around 33 percent of capacity—mind you, 33 percent, a third. In unemployment, you are talking about 150,000 full-time steelworkers that are unemployed and have been unemployed substantially and many of which are using up their last extended unemployment benefits.

On top of that, just to emphasize the exigency of the situation, we in Congress, in fact, on the Education and Labor Committee just discussed it and are looking for make-work programs in this country and we are looking to extend unemployment compensation because people are losing their homes through mortgages and defaults. When you have people standing in line, 20,000 strong, for 200 jobs, you know something is wrong and when the incidents of Americans freezing to death because they have no sustenance and no shelter in a telephone booth down here in Washington, D.C., recently, 2 or 3 days ago, then you know something is wrong.

These are the things we are talking about. I do not know if there is an insensitivity of the majority of the Members of this House. I would hope there is not, and even on the other side, that this is something that should be expected, something we cannot do anything about. All I know is here the greatest country in the world and the so-called richest country, and I have serious doubt about that, cannot afford to provide sufficient shelter and food. You and I are both reading in the newspaper, seeing many documentaries, facts and proof, both written and visual, all to the effect that this country is in serious trouble with employment problems. We still today do not have a national steel policy. Every country that I know of, when they used to look at this country and try to emulate what this country has done and how we achieved a very high standard of living, all the countries in the world looked at this country and concluded that we have got to do what America did. On further investigation, they concluded that America's strength and the high level of living, the overall health, all the other accomplishments that we have enjoyed over the last 30, 40 or 50 years, that all of that came from—what? A basic steel industry capability, and all of them knew they had to go ahead and put steel mills into effect so they could get in on international trade and sell steel and encourage international exchange and get some money into their countries.

Yes, you know, it is flattery to mimic somebody or copy somebody; and yes, all these emerging countries did that.

But what happened? We now have a glut on the international market of steelmaking capacity and this country, through international development banks, through loans, through soft and hard window loans, through the United Nations, any way you want to cut the cake, through the Asian Development Bank, the International Development Bank, the African Development Bank, the South American Development Bank, all these places, made money, almost unlimited availability.

What did they do? Down in Trinidad they put a steel mill up. In Japan, with American capital, and do not let anybody tell you differently, that originally put Japan back on its feet, and this went to Europe and Spain and Portugal, all American money. That is where you got that great pit you have today, $300 billion-plus with all these international giveaway programs. That is how it came about and this is what we are reaping. We are reaping the result of that. It is not magic. It is not imagination. It is just one unadulterated fact. This is what has happened. I did not say it happened. I did not make the rules. All I am looking for as a Member of this House over here is to look at the facts internationally and to put them in orderly fashion, make a logical argument and, hopefully, hopefully, influence my colleagues to think rationally. That is what I am trying to do. That is why I am making these speeches. Taking the time of not only my colleagues in this House and maybe the personnel of this House, trying to put in logical form facts that are unadulterated and accurate, so that my colleagues will have the benefit of calling upon these facts, analyzing them and hopefully will conclude that they will then vote on the proper side of the issue when we establish a national

steel policy in this country, hopefully pass a domestic content bill, hopefully maybe a reciprocity trade bill of some sort or measure, some legislation. I do not know if that is going to be true. Maybe my efforts are wasted. I hope not.

Meanwhile, British Steel's five major plants will stay open at least 3 years at minus 7-percent return on sales. In this country they would all be closed down.

Bethlehem just closed.

Eurpoean steel still comes here under the forced settlement which I talked about, with massive subsidies made available by their governments. Japan and Europe have a formal agreement, as I mentioned before, to split the world market and send excess production here. That is the basis of a suit alleged by nine major steel producing companies in this country; the AISI, the American Iron and Steel Institute; nine companies which belong to that organization filed an antidumping and antisubsidies suit. They alleged this. I am not alleging it. They alleged it.

Japan and the European countries got together, divided up the world market. They are going to keep out of each other's backyards. Japan was to have everything from the Suez Canal all over and the European countries would have everything on the other side of the Suez Canal. That was the line of demarcation. Again it is not me talking. It is a matter alleged in a formal complaint before the U.S. Trade Commission. That is what they have got.

I mentioned to you earlier that pursuant to that arrangement that Japan just made, that 252, that 3- to 4-million ton arrangement with China. You have been reading about what China and the United States have been doing as far as textiles are concerned.

Japanese capacity will remain where it has been, at around 110 million tons per year. They pay big fines for dumping in this country, and I can give you the facts. Other countries, in fact, France got so perturbed when they had one of these TV television items for sale in France, France got so perturbed because they were in there invading the French market, dumping in the French market. I am talking about the Japanese video cassettes. What the French did, they did what the Japanese did, they made the point of entry in the middle of France. They made all these cassettes coming in to be sent out to the middle of France right outside of Paris. That is where they had to go to clear customs. That is how they kept them out and that is how they put a lid upon those things coming in under subsidies.

In this country, we are too honorable. You get into a big long drawn out fight. You have to file before the Trade Commission. You have to go through their procedures. You have a finding, then a reexamination, then an investigation, then another conclusion, then a recommendation and finally the President, if he is not all entangled in international intrigue and American international policy, may—he may, maybe, he may follow the recommendations and put some kind of an embargo on or some kind of surcharge. He may do it. We have not been very successful.

Taiwan is insuring a source of demand for its steel and it worked out with Japan that business that I talked about with Toyota.

Clearly, the first condition of war is met, as Clausewitz says.

Their will is to keep going and to keep going no matter what sacrifices the American worker must make now and in the future.

It is foolish to endlessly voice fears of starting a trade war. It is really foolish, because we have one. If anyone says we do not, they do not understand the factual situation. They have not spent time reading what is occurring. They do not have at their fingertips at least authentic facts with which to analyze and on which to base a conclusion, a reasonable conclusion. They just are not listening and they just are not analyzing what the situation is.

War is not always a voluntary decision of state policy. You can start one or you can have one thrust on you, and I suggest strongly for the record that that is just what is happening to us in this international trade war. It is being thrust upon us, because I have not seen anything in any of the facts indicating that this country has been participating along the lines of subsidization of that great percentage and of dumping.

Albert Wojnilower, managing director and chief economist of the First Boston Corp., looked at the economy last year and came to a conclusion. Mr. Wojnilower said:

> Notwithstanding all the rhetoric in favor of re-industrialization, it is rapid de-industrialization that is being accomplished internationally today.

Almost 6 years ago, after the dumping binge of 1977 and closings of steel producing facilities in Youngstown, Ohio, and Johnstown, Pa., a spokesman for the U.S. Trade Representative warned that the Europeans were forming up to become an export cartel.

Between then and now, we had cordial trade talks and we had faith as a trading nation. We had promises to do better from our European friends. We even had the Trade Law of 1979 passed in this very House and we had assurances then that it would end the binges of the early 1970's and the late 1970's, and the United States became even more open than it had been, although it had been the most open market in the world, and we still opened up this market even further.

Notwithstanding the cordiality and the promises, the Europeans did form this export cartel, that is those seven or eight countries, with subsidies of up to 40 percent, admitted and found as a matter of record, and they did quietly make this agreement with the Japanese, the one about dividing up the world into two spheres, that would have seen all parties indicted and tried on criminal charges had they been American executives doing this, what they did internationally.

Remember, all these actions are contrary to the general agreements on tariff and trade which something like 27 or 28 nations are part of and have signed the treaty.

We lost here in this country because we have no policy beyond simply to wait and hope. We lost because we have more faith than memory, more wishfulness than a mighty will to do something.

The trade deficit for 1982 has been estimated at $44 billion—mind you, $44 billion—and the President's chief economist foresees one of $70 billion for 1983—$70 billion for fiscal year 1983.

While the economists see nothing but higher trade deficits, trade deficits may be matching the budget deficits, I and others see a need to analyze the situation.

Leaders such as Lloyd McBride of the United Steelworkers of America see a need for the thing the Japanese and the Europeans have fashioned into such a forceful weapon of trade war—an industrial policy, nothing more, nothing less.

As Mr. McBride noted in a recent speech to the AFL-CIO,

> Every other industrial county has a coherent and articulated national industrial policy designed to advance * * * particular industries or groups of industries.

Such a policy need not shield the grossly inefficient in this country or the hopeless or the outdated manufacturer, it need not do that; but it must offer a chance to fight for survival against dumping margins, which I quoted before, of 252 percent by Sumitomo, against 40-percent subsidies by our European brethren and against the practice of Government-financed targeting on certain items.

It must give American workers a chance to win this international trade war.

As things stand now, American workers could work for a dollar an hour less than the worst paid of the competition throughout the whole world and it would make no difference; if the competition has to dump to keep going and to keep delivering here, it will dump. It will dump no matter what the cost is. This is the meaning of a 252-percent margin.

□ 1345

And when I say "dump," I mean when a country manufactures an item, ships it over to this country, and sells it for less than what it costs them, what they sell it for at home, or what it costs them to produce. That is dumping. That is outlawed, it is illegal under the General Agreement on Tariffs and Trade that Japan is a signatory to, England, France, Luxembourg, Germany, Spain, and Brazil also. It is illegal to do that. Yet everybody is doing it.

Right now events are setting our agenda, speaking about international events. To ignore the order of business that the world demands would be close to nonfeasance.

Mr. Speaker, if this Congress does not begin, if this Congress does not decide what is necessary for the United States to be healthy and to function as a major nation of the free world, if we do not then move to secure these things, then we will be neither an industrial country nor a major nation for long. Our base will have been blasted and broken so severely that it will not carry the load which we have been carrying.

Then we will know the desolation described in the Old Testament, the Book of Job:

A nation has come upon my land, strong and without number, whose teeth are the teeth of a lion, and he hath the jaw teeth of a great lion . . . that which the palmerworm hath left hath the locust eaten; that which the locust hath left hath the cankerworm eaten; and that which the cankerworm hath left hath the caterpillar eaten.

All we will have proved by submitting is what the trade warriors knew all along: that it is fatal to confuse the real with the ideal situation.

Making policy is what Congress is supposed to do. If this administration will not propose a policy to use, we should send one to them. That is what we were elected to do; it is what events demand.

The 98th Congress should get on with it at the earliest possible date. Lackawanna and Johnstown are warnings that worse is to follow if we fail. They stand in relation to the future as Youngstown stood to today. Youngstown does not have today a steelmaking capacity.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 1. Concurrent resolution providing for a joint session of Congress to receive a message from the President on the State of the Union.

The message also announced that the Vice President, pursuant to Public Law 96-296, appointed Mr. GOLDWATER, on the part of the Senate, to the Motor Carrier Ratemaking Study Commission.

The message also announced that the Vice President, pursuant to section 1024 of title 15, United States Code, appointed Mr. BENTSEN, Mr. PROXMIRE, Mr. KENNEDY, and Mr. SARBANES, on the part of the Senate, to the Joint Economic Committee for the 98th Congress.

The message also announced that the Vice President, pursuant to Public Law 91-551, reappointed Mr. JACKSON as a member, on the part of the Senate, of the Board of Regents of the Smithsonian Institution effective as of January 3, 1983.

H.R. 29 INTRODUCED TO GRANT A FEDERAL CHARTER TO THE POLISH LEGION OF AMERICAN VETERANS, U.S.A.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, on the first day of the 98th Congress I introduced H.R. 29, a bill to grant a Federal charter to the Polish Legion of American Veterans, U.S.A.

Organized in 1921 by Polish-American veterans of World War I, this fine service organization has over 9,000 members in 10 States who perform valuable volunteer services in some 45 Veterans' Administration hospitals. A Federal charter would be most helpful in assisting the Polish Legion of American Veterans to expand its volunteer services to our veterans and their survivors, and also to the handicapped and the elderly.

The PLAV received recognition in 1978 from the Veterans' Administration as claims agents, and has over 60 years of outstanding service experience to our beloved country. In addition to the activities of the PLAV Ladies Auxiliary, the legion sponsors a yearly national scholarship contest to assist worthy students in obtaining their education, and for the last 25 years has also sponsored a yearly Americanism essay contest to inspire the young people.

In addition to performing voluntary community and hospital services, members of the Polish Legion of American Veterans conduct an aid to the blind program, provide gifts to men and women in the armed services at Christmastime, and contribute food and medicine relief for the hard-pressed people of Poland.

Passage of H.R. 29 would give long overdue recognition to the major contributions being made by the PLAV to the well-being of our Nation. These valiant Americans are most deserving of the official recognition of the U.S. Government for the courageous and splendid sacrifices made by over 3 million Americans of Polish descent who have fought for the freedom of America in all of its wars and conflicts.

Mr. Speaker, the Preamble of the Constitution of the Polish Legion of American Veterans, U.S.A. follows:

PREAMBLE

As a living monument to over 3,000,000 Americans of Polish descent who served in the Armed Forces of the U.S.A. in all Wars and Conflicts of whom many thousands have made the supreme sacrifice for their country by giving their lives, we the Polish Legion of American Veterans associate ourselves for the following purposes:

To uphold and defend the Constitution of the United States of America and all the principles for which it stands:

To encourage active interest in all manifestations and demonstrations of patriotic nature, that the glory and sanctity of American ideals may be forever preserved.

To protect the good name of Americans of Polish ancestry against unfriendly attacks and against attempts to belittle their contributions to the progress and development of the United States.

To insure that all individuals, especially those of Polish ancestry, shall not be alienated from, but receive positive support from curriculum and teaching considerations and from the textbooks and reference materials used in our schools, concerning Poles and Polish-Americans.

To combat the destructive propaganda of communism and other alien influences endeavoring to weaken or destroy our American institutions and democratic form of government.

And to maintain and preserve the true spirit of fraternity and patriotism arising from the sacrifices in the wars and conflicts of the United States of America and to perpetuate friendships and associations arising therefrom by mutual aid and cooperation in patriotic, charitable, educational, and civic activities.

To these principles the Polish Legion of American Veterans is dedicated.

Mr. Speaker, encouragement of charitable organizations such as the PLAV is vital to the continued well-being of all our country's citizens, especially at a time of limited public financing, and would strengthen America's tradition of volunteer action which has been so beneficial in assisting our country's handicapped and elderly citizens.

A Federal charter would help the PLAV to expand their volunteer services and these services would be provided without charge to the American taxpayers. It is imperative in this time of fiscal austerity that we in the Congress do everything possible to encourage organizations like the PLAV to meet the needs of our veterans through private resources.

Mr. Speaker, I urge my colleagues to support and cosponsor H.R. 29, both to recognize the outstanding work of these fine veterans who have sacrificed so much for our country and to promote the goals of this compassionate, hardworking, and patriotic organization.●

LONG-RANGE ANSWER TO THE UNEMPLOYMENT PROBLEMS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. SIMON) is recognized for 30 minutes.

Mr. SIMON. Mr. Speaker and my colleagues of the House, I have today introduced a bill calling for a long-range answer to the unemployment problems in this country. It is not intended to answer the immediate unemployment problem that we have. It is a bill that will call for the establishment of a WPA type of program in this country starting in 1985.

We have a choice in this country. We made a decision 50 years ago that we would not let unemployed people starve, and now we have a choice either of paying them for doing something or paying them for doing nothing. I think it makes infinitely more sense to pay people for doing something.

We have to move away from the land of make believe in which we now live. We are pretending that just around the corner there are going to be enough private sector jobs to give America once again full employment. I am all for as many private sector jobs as we can have, but the reality is that we have two trends that are facing us. One is: There is a declining demand for unskilled labor; and No. 2, there is an increasing pool of unskilled labor. And that means that for a long, long time to come, unemployment is going to be a permanent phenomenon in our society, and the sooner we face up to that reality the better off we all are going to be.

I am pleased to say that the chairman of the subcommittee to which this bill is referred, the gentleman from California (Mr. HAWKINS) who has done so much pioneering in this employment field, is a cosponsor of my legislation, and the chairman of the full committee, the gentleman from Kentucky (Mr. PERKINS) who also has done a great deal in this field, is a cosponsor of this bill.

Very briefly, Mr. Speaker, here is what the bill says: We will, starting in 1985, for fiscal year 1985, say to Americans, "If you have been out of work 30 days, we are going to guarantee you work 4 days a week at the minimum wage, 4 days a week so that on the fifth day, as in the old WPA program, on the fifth day you can go out and find jobs in the private sector, and even if you get another minimum wage job, if it is 40 hours a week, it means a 25-percent increase in income. At 4 days a week on minimum wage, it means $5,500 a year. If there are two people in the household, that would mean $11,000 a year."

We limit it to two per household.

There is also a veterans' preference so we can do something about the very severe problem of our unemployed Vietnam veterans.

Now, what type of projects are we talking about? I have a card over here that lists some of the kinds of things that we are talking about.

We are talking about park projects. We are talking about a lot of things that WPA did. We are also talking about taking people who know how to read and write and teaching some of the 25 million adult Americans who do not know how to read and write, how to read and write, so they can become a productive part of our society.

We are talking about planting trees. Why do we not, for example, instead of paying people for doing nothing, why do we not plant 200 million trees in this Nation this year? Why do we not build some bicycle paths? Why do we not do what happened almost 50 years ago: Turn the national liability of unemployment into a national asset? That is what I want to do. That is what I think the American people want us to do.

Well, I have listed a whole raft of things here: Tearing down buildings. I have a county in my district, Pulaski, where you have about 29 percent of the population on welfare today. In that same county you have some buildings that are condemned, that ought to be torn down. Why do we not put 2 and 2 together and use some commonsense?

Let me add that 1 out of 10 jobs will be supervisory jobs, jobs that would be covered under Davis-Bacon, jobs that would provide meaningful work to a lot of people now unemployed at a higher than the minimum wage salary.

The bill calls for a 13-person board in whatever local area is designated by the Governor of the State. In many instances, it would be a county. Sometimes it might be a group of counties. It might be part of a county. Two of the people would be designated by the Governor, one from each party; the other 11 would be chosen by the mayors and chief executives of the local government, with labor and management mandated to be represented, and one person from the field of education.

The cost in gross terms: We start out in 1985 with $5 billion, $10 billion in 1986, and then the program goes full scale starting in 1987, $15 billion a year. That is a gross cost, however, because we think there would be substantial savings.

For each 1 percent of unemployment right now it costs the Federal Government $25 billion. That is the figure the President uses. Now, even if it is $22 billion or $28 billion, it still means that 1 percent unemployment costs us a significant amount of money.

My bill, when it reaches fruition, would provide employment, and I hope things will improve so we do not need to provide it for more than this number, but would provide employment for 3 million people, about 3 percent of the unemployed.

You take 3 percent times the $25 billion, and you can figure out we are talking about not substantial expenditures but really substantial savings. And when you talk about $25 billion for 1 year, for 1 percent of unemployment as a cost, that does not count all the other social costs.

Last year, for example, our prison population in this Nation went up 10 percent. That is a cost. That is a cost to those families, it is a cost to the American taxpayers, and it is a cost, I frankly think, we could have avoided had we had this kind of a program in place.

One other thing: My bill calls for the President to appoint a commission made up of labor and management to look immediately at how we can mesh this program with unemployment compensation. With the kinds of problems that my colleague from Pennsylvania just spoke about ahead of me here, the unemployment in the steel industry, people running out of unemployment benefits.

The question is really, for this Congress and this Nation: Are we willing to face up to the real dimensions of unemployment or are we going to live in the land of make believe, believing that just around the corner somehow unemployment is going to disappear? I think this Nation moved ahead by facing reality in Indiana, in southern Illinois, and elsewhere, facing reality, not ducking the questions, and if we face the reality I think we are going to have to come up with something along the line of this legislation that I have introduced.

Mr. Speaker, I hope that my colleagues will give my bill serious consideration.

A BILL TO RESTORE THE WILDERNESS STUDY AREAS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. PANETTA) is recognized for 5 minutes.

● Mr. PANETTA. Mr. Speaker, on December 30, 1982, after the adjournment of the 97th Congress, the Secretary of the Interior published in the Federal Register notification that he had deleted from consideration for wilderness designation 173 wilderness study areas in 10 Western States. In a single stroke, with neither congressional nor full agency review, the Secretary terminated an ongoing wilderness review of nearly 670,000 acres of our Nation's public land. The Secretary's decision to eliminate these BLM lands from consideration for designation as wilderness completely circumvents established BLM policy clearly requiring public review of critical deci-

sions affecting the status of inventoried wilderness study areas.

In approving the Federal Land Management Policy Act of 1978 (FLMPA) Congress stated unequivocally that there were lands in the public domain which, because of their important wilderness characteristics, deserved to be subjected to close and careful study to assess those characteristics. Pursuant to the enactment of that legislation, the Bureau of Land Management developed explicit procedures for conducting that review. FLMPA also directed that the lands inventoried by the Bureau be preserved in such a manner so as not to impair the suitability of such areas for preservation as wilderness.

In one decision, the Secretary has aborted the review process mandated by FLMPA, he has subverted the carefully planned public review provisions of the interim management plan developed by BLM, and he has exposed the eliminated lands to the possibility of irreparable degradation before any decision regarding their suitability for wilderness area designation can be made. He has made a mockery of a carefully crafted and sensibly organized wilderness review process by seizing the prerogative to take wilderness designations away from the Bureau and the public, and by exercising it unilaterally. He leaves Congress little choice but to intervene.

Today, I am introducing legislation which would restore the lands eliminated by the December 30 notification to their original status as wilderness study areas, and which would permit the congressionally approved wilderness review process to continue its course with those lands. The bill would not make any determination on the suitability of these areas for wilderness designation. The bill would be subject to the approval of both Houses of Congress, and would subject the Secretary's actions regarding the BLM wilderness study inventory to congressional approval. Finally, the bill would restore the wilderness study areas to the status they held before their deletion from consideration from the wilderness study inventory.

It may be argued that these lands in question are not as the Wilderness Act states, "untrammeled by man, where man himself is a visitor who does not remain." That is certainly a possibility; some—even many—of these lands may not possess those unique qualities required for wilderness designation. However, an established process for elimination of wilderness study areas which do not have such characteristics already exists and has been underway for 2 years.

The elimination of these lands from consideration was not based upon a claim that they were not natural enough, or primative enough, or conducive to solitude. In fact, the review process mandated by Congress in FLMPA is designed to determine precisely those qualities, and to reject those wilderness study areas which are not suitable for designation. The decision was based upon an interpretation of law which has not been recognized heretofore by Bureau of Land Management policy, and which may, in fact, hold no authority whatsoever for elimination of these lands.

Without the enactment of the legislation I introduce today—or legislation similar to it—the determination of whether or not those qualities required by the FLMPA review exist on these parcels will never be made. That determination will have already been made by the Secretary of Interior, without the required public review, without consultation of Congress, and based upon factors having nothing to do with those lands' wilderness characteristics.

Frankly, I do not hold so much faith in the Secretary's good judgment that I am willing to permit him to decide, without review, the suitability of 600,000 acres of our Nation's public land for designation as wilderness. Congress has provided for the orderly, thorough, nonpartisan review of these study areas; it is the duty of Congress to insure that the primary authority of that process is not preempted by lone bureaucratic fiat.

Benjamin Disraeli posed the question this way: "A government of statesmen, or of clerks?" The question of whether or not an executive agency can disregard the clear directions of the legislature in this regard stands out in the thicket of questions surrounding this issue. However, more important is the immediate threat of leasing for over 600,000 acres of our Nation's public lands whose review for wilderness designation may never be completed. Congress should not permit the essential choices affecting the disposition of these lands to be wrestled away from the public by the Executive. I urge your support for this important and much-needed legislation.

H.R. 874

A bill to prohibit the removal by the Secretary of the Interior of certain areas from wilderness study status

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) no area designated as a wilderness study area under section 603 of the Federal Land Policy and Management Act of 1976 before December 31, 1981, may be removed from its status as a wilderness study area under such section on the grounds that such area comprises less than 5,000 contiguous acres if such area is—

(1) contiguous with land managed by another agency which has been formally determined to have wilderness or potential wilderness values,

(2) contiguous with an area of less than 5,000 acres of other Federal lands administered by an agency with authority to study and preserve wilderness lands, and the combined total is 5,000 acres or more, or

(3) subject to strong public support for such identification and it is clearly and obviously of sufficient size as to make practicable its preservation and use in an unimpaired condition, and of a size suitable for wilderness management.

(b) No area designated as a wilderness study area under section 603 of such Act before December 31, 1981, may be removed from its status as a wilderness study area under such section on the grounds that such area lacks the requisite wilderness characteristics if such lands may possess such characteristics when considered in association with contiguous lands administered by an agency other than the Bureau of Land Management.

(c) No area designated as a wilderness study area under section 603 of such Act before December 31, 1981, may be removed from its status as a wilderness study area under such section on the grounds that such area overlays non-Federally-owned mineral rights.

SEC. 2. No action of the Secretary of the Interior, or of any other agency or instrumentality of the United States which was taken before the date of the enactment of this Act shall be treated as valid to the extent that such action is not consistent with the provisions of section 1.

SEC. 3. The Secretary of the Interior is prohibited from modifying or revoking the inventory of public lands subject to review and designation as wilderness under section 603 of the Federal Land Policy and Management Act of 1976 without the prior express approval of both Houses of Congress.●

INTERNATIONAL CUSTOMS DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. GIBBONS) is recognized for 5 minutes.

● Mr. GIBBONS, Mr. Speaker, 30 years ago, on January 26, 1953, the international customs organization known as the Customs Cooperation Council held its first meeting in Brussels, Belgium. In recognition of this occasion, the Council has declared January 26, 1983, as International Customs Day. This occasion is also being used to give recognition to customs services around the world in view of the role they play in producing national revenue and in protecting national borders from economically and physically harmful importations.

I am particularly proud of the U.S. Customs Service for its great contributions to the Nation over the past 193 years of its existence. U.S. Customs was once the sole revenue producer for a young United States. Although that role has diminished over the years, in fiscal year 1982 Customs collected a record $9.9 billion in revenue. In addition, Customs has taken on such important responsibilities as interdicting narcotics at our borders, preventing the exportation of critical technology, inspecting imported merchandise for duty assessment, and enforcing the regulations for over 40 Government agencies.

The U.S. Customs Service represents the United States at the Customs Cooperation Council (CCC), a 93-member international organization founded to facilitate international trade and promote cooperation between governments on customs matters. The council works to simplify and standardize legal instruments and rules of international customs. The CCC also renders technical assistance in areas such as customs tariffs, valuation, nomenclature, and law enforcement. Its objective is to obtain, in the interest of international trade, the best possible degree of uniformity among the customs systems of member nations. The United States became a member on November 5, 1970. All America benefits when both exporters and importers operate in an atmosphere of simple and unambiguous customs operation around the world.

I want to take this opportunity to congratulate the Customs Cooperation Council on its past accomplishments and for its ambitious goals of further harmonizing and simplifying those customs rules which affect international commerce. I also congratulate the U.S. Customs Service for its fine work both nationally and internationally.●

NATIONAL SCHOOL GUIDANCE AND COUNSELING WEEK

(Mr. PERKINS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. PERKINS. Mr. Speaker, National School Guidance and Counseling Week, sponsored by the American School Counselor Association, will be celebrated February 7-11, 1983. This observance is held each year to call public attention to the important work which school counselors are doing with our Nation's children, adolescents, and adults with respect to their personal, social, educational, and career development.

The American School Counselor Association and its parent organization, the American Personnel & Guidance Association estimate that more than 67,000 professional counselors are working with our Nation's teachers and other educational personnel. They perform important roles in assisting our youth and adults and it is fitting during this observance that we take time to recognize their efforts on behalf of our citizenry. Professional counselors, operating from a base of school guidance programs, are an integral part of the Nation's educational process.

As the 1983 National School Guidance and Counseling Week theme states—"Counseling Is Caring." Let us encourage students, parents, and the public in general to learn more about these useful and vital services and thank these professional educators for their dedication and hard work. Thanks should also go to ASCA and APGA for providing programs and services which are designed to improve the competencies and skills of counselors across our Nation.●

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. CONABLE, today, for 60 minutes.

(The following Members (at the request of Mr. GEKAS) to revise and extend their remarks and include extraneous material:)

Mr. CLINGER, for 5 minutes, today.

(The following Members (at the request of Mr. PENNY) to revise and extend their remarks and include extraneous material:)

Mr. GAYDOS, for 60 minutes, today.
Mr. GONZALEZ, for 30 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. SIMON, for 30 minutes, today.
Mr. ROSTENKOWSKI, for 10 minutes, today.
Mr. PANETTA, for 5 minutes, today.
Mr. GAYDOS, for 60 minutes, January 26.
Mr. STRATTON, for 60 minutes, January 26.
Mr. HOYER, for 60 minutes, January 27.

(The following Member (at the request of Mr. SIMON) to revise and extend his remarks and include extraneous material:)

Mr. GIBBONS, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. GEKAS) and to include extraneous matter:)

Mr. MCGRATH.
Mr. LEWIS of California in two instances.
Mr. ARCHER.
Mr. MICHEL in two instances.
Mr. WHITEHURST.
Mr. PORTER.
Mrs. SNOWE in two instances.
Mr. SCHULZE.
Mr. MYERS.
Mr. GILMAN in three instances.
Mr. PAUL in two instances.
Mr. LOEFFLER.
Mr. WOLF.

(The following Members (at the request of Mr. PENNY) and to include extraneous matter:)

Mr. STARK in five instances.
Mr. EDWARDS of California.
Mr. LEVITAS.
Mr. MCNULTY.
Mr. BERMAN.
Ms. KAPTUR.
Mr. FLORIO.
Mr. ANDERSON in 10 instances.
Mr. GONZALEZ in 10 instances.
Mrs. BOUQUARD in five instances.
Mr. HAMILTON in 10 instances.
Mr. BROWN of California in 10 instances.
Mr. ANNUNZIO in six instances.
Mr. JONES of Tennessee in 10 instances.
Mr. BONER of Tennessee in five instances.
Mr. ECKART.
Mr. EDGAR.
Mr. FASCELL in two instances.
Mr. TORRES.
Mr. CORRADA in five instances.
Mr. RODINO in two instances.
Mr. ALEXANDER.
Mr. TRAXLER.
Mr. CLAY in seven instances.
Mr. LONG of Maryland.
Mr. DE LA GARZA in 10 instances.
Mr. PEPPER.

RECESS

The SPEAKER pro tempore (Mr. SMITH of Florida). Pursuant to the order of the House of Monday, January 3, 1983, the Chair declares the House in recess until approximately 3:40 p.m. this evening.

Accordingly (at 1 o'clock and 58 minutes p.m.), the House stood in recess until approximately 8:40 p.m.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 8 o'clock and 40 minutes p.m.

JOINT SESSION OF THE HOUSE AND SENATE HELD PURSUANT TO THE PROVISIONS OF HOUSE CONCURRENT RESOLUTION 1 TO HEAR AN ADDRESS BY THE PRESIDENT OF THE UNITED STATES

The SPEAKER of the House presided.

The Doorkeeper, the Honorable James T. Malloy, announced the Vice President and Members of the U.S. Senate, who entered the Hall of the House of Representatives, the Vice President taking the chair at the right of the Speaker, and the Members of the Senate the seats reserved for them.

The SPEAKER. The Chair appoints as members of the committee on the part of the House to escort the President of the United States into the Chamber:

The gentleman from Texas (Mr. WRIGHT), the gentleman from Washington (Mr. FOLEY), the gentleman from Louisiana (Mr. LONG), the gentleman from Arkansas (Mr. ALEXANDER), the gentleman from California (Mr. EDWARDS), the gentleman from Illinois

(Mr. MICHEL), the gentleman from Mississippi (Mr. LOTT), the gentleman from New York (Mr. KEMP), the gentleman from California (Mr. MOORHEAD), and the gentleman from California (Mr. LAGOMARSINO).

The VICE PRESIDENT. The President of the Senate, at the direction of that body, appoints the following Senators as members of the committee on the part of the Senate to join a like committee on the part of the House of Representatives to escort the President of the United States into the House Chamber:

The Senator from Tennessee (Mr. BAKER), the Senator from Alaska (Mr. STEVENS), the Senator from Texas (Mr. TOWER), the Senator from Idaho (Mr. MCCLURE), the Senator from Utah (Mr. GARN), the Senator from South Carolina (Mr. THURMOND), the Senator from Indiana (Mr. LUGAR), the Senator from California (Mr. WILSON), the Senator from West Virginia (Mr. BYRD), the Senator from California (Mr. CRANSTON), the Senator from Hawaii (Mr. INOUYE), the Senator from Mississippi (Mr. STENNIS), the Senator from Washington (Mr. JACKSON), and the Senator from Louisiana (Mr. LONG).

The Doorkeeper announced the ambassadors, ministers, and chargés d'affaires of foreign governments.

The ambassadors, ministers, and chargés d'affaires of foreign governments entered the Hall of the House of Representatives and took the seats reserved for them.

The Doorkeeper announced the Chief Justice of the United States and the Associate Justices of the Supreme Court.

The Chief Justice of the United States and the Associate Justices of the Supreme Court entered the Hall of the House of Representatives and took the seats reserved for them in front of the Speaker's rostrum.

The Doorkeeper announced the Cabinet of the President of the United States.

The members of the Cabinet of the President of the United States entered the Hall of the House of Representatives and took the seats reserved for them in front of the Speaker's rostrum.

At 9 o'clock and 2 minutes p.m., the Doorkeeper announced the President of the United States.

The President of the United States, escorted by the committee of Senators and Representatives, entered the Hall of the House of Representatives, and stood at the Clerk's desk.

[Applause, the Members rising.]

The SPEAKER. Members of the Congress, I have the high privilege and the distinct honor of presenting to you the President of the United States.

[Applause, the Members rising.]

THE STATE OF THE UNION—ADDRESS BY THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 98-1)

The PRESIDENT. Mr. Speaker, Mr. President, distinguished Members of the Congress, honored guests and fellow citizens: This solemn occasion marks the 196th time that a President of the United States has reported on the state of the Union since George Washington first did so in 1790. That is a lot of reports, but there is no shortage of new things to say about the state of the Union. The very key to our success has been our ability, foremost among nations, to preserve our lasting values by making change work for us rather than against us.

I would like to talk with you this evening about what we can do together—not as Republicans and Democrats, but as Americans—to make tomorrow's America happy and prosperous at home, strong and respected abroad, and at peace in the world.

As we gather here tonight, the state of our Union is strong, but our economy is troubled. For too many of our fellow citizens—farmers, steel and auto workers, lumbermen, black teenagers, and working mothers—this is a painful period. We must all do everything in our power to bring their ordeal to an end. It has fallen to us, in our time, to undo damage that was a long time in the making, and to begin the hard but necessary task of building a better future for ourselves and our children.

We have a long way to go, but thanks to the courage, patience, and strength of our people, America is on the mend.

Let me give you just one important reason why I believe this—it involves many Members of this body.

Just 10 days ago, after months of debate and deadlock, the bipartisan Commission on Social Security accomplished the seemingly impossible.

Social security, as some of us had warned for so long, faced disaster. I, myself, have been talking about this problem for almost 30 years. As 1983 began, the system stood on the brink of bankruptcy, a double victim of our economic ills. First, a decade of rampant inflation drained its reserves as we tried to protect beneficiaries from the spiraling cost of living. Then the recession and the sudden end of inflation withered the expanding wage base and increasing revenues the system needs to support the 36 million Americans who depend on it.

When the Speaker of the House, the Senate majority leader, and I formed the bipartisan Commission on Social Security, pundits and experts predicted that party divisions and conflicting interests would prevent the Commission from agreeing on a plan to save social security.

Well, sometimes, even here in Washington, the cynics are wrong. Through compromise and cooperation, the members of the Commission overcame their differences and achieved a fair, workable plan. They proved that, when it comes to the national welfare, Americans can still pull together for the common good.

Tonight, I am especially pleased to join with the Speaker and the Senate majority leader in urging the Congress to enact this plan by Easter.

There are elements in it, of course, that none of us prefers, but taken together it forms a package that all of us can support. It asks for some sacrifice by all—the self-employed, beneficiaries, workers, Government employees, and the better-off among the retired—but it imposes an undue burden on none. And, in supporting it, we keep an important pledge to the American people: the integrity of the social security system will be preserved—and no one's payments will be reduced.

The Commission's plan will do the job. Indeed, it must do the job. We owe it to today's older Americans—and today's younger workers.

So, before we go any further, I ask you to join with me in saluting the members of the Commission who are here tonight, and Senate Majority Leader HOWARD BAKER and Speaker TIP O'NEILL, for a job well done.

I hope and pray the bipartisan spirit that guided you in this endeavor will inspire all of us as we face the challenges of the year ahead.

Nearly half a century ago, in this Chamber, another American President, Franklin Delano Roosevelt, in his second state of the Union message, urged America to look to the future—to meet the challenge of change and the need for leadership that looks forward, not backward.

"Throughout the world," he said, "change is the order of the day. In every nation economic problems long in the making have brought crises of many kinds for which the masters of old practice and theory were unprepared."

He also reminded us that, "the future lies with those wise political leaders who realize that the great public is interested more in Government than in politics."

So, let us, in these next 2 years—men and women of both parties and every political shade—concentrate on the long-range, bipartisan responsibilities of Government, not the short-range or short-term temptations of partisan politics.

The problems we inherited were far worse than most inside and out of Government had expected; the recession was deeper than most inside and out of Government had predicted. Curing those problems has taken more time, and a higher toll, than any of us wanted. Unemployment is far too high. Projected Federal spending—if

Government refuses to tighten its own belt—will also be far too high and could weaken and shorten the economic recovery now underway.

This recovery will bring with it a revival of economic confidence and spending for consumer items and capital goods—the stimulus we need to restart our stalled economic engines. The American people have already stepped up their rate of saving, assuring that the funds needed to modernize our factories and improve our technology will once again flow to business and industry.

The inflationary expectations that led to a 21½ percent interest prime rate and soaring mortgage rates 2 years ago are now reduced by almost half. Lenders have started to realize that double-digit inflation is no longer a way of life. So interest rates have tumbled, paving the way for recovery in vital industries like housing and autos.

The early evidence of that recovery has started coming in. Housing starts for the fourth quarter of 1982 were up 45 percent from a year ago. And housing permits—a sure indicator of future growth—were up a whopping 60 percent.

We are witnessing an upsurge of productivity and impressive evidence that American industry will once again become competitive in markets at home and abroad—insuring more jobs and better incomes for the Nation's workforce.

But our confidence must also be tempered by realism and patience. Quick fixes and artificial stimulants, repeatedly applied over decades, are what brought us the inflationary disorders that we have now paid such a heavy price to cure.

The permanent recovery in employment, production, and investment we seek will not come in a sharp, short spurt. It will build carefully and steadily in the months and years ahead.

In the meantime, the challenge of Government is to identify the things we can do now to ease this massive economic transition for the American people.

The Federal budget is both a symptom and a cause of our economic problems. Unless we reduce the dangerous growth rate in Government spending, we could face the prospect of sluggish economic growth into the indefinite future. Failure to cope with this problem now could mean as much as a trillion dollars more in national debt in the next 4 years alone. That would average $4,300 in additional debt for every man, woman, and child and baby in our Nation.

To assure a sustained recovery, we must continue getting runaway spending under control to bring those deficits down. If we do not, the recovery will be too short, unemployment will remain too high, and we will leave an unconscionable burden of national debt for our children. That we must not do.

Let us be clear about where the deficit problem comes from. Contrary to the drumbeat we have been hearing for the last few months, the deficits we face are not rooted in defense spending. Taken as a percentage of the gross national product, our defense spending happens to be only about four-fifths of what it was in 1970. Nor is the deficit, as some would have it, rooted in tax cuts. Even with our tax cuts, taxes as a fraction of gross national product remain about the same as they were in 1970.

The fact is, our deficits come from the uncontrolled growth of the budget for domestic spending. During the 1970's the share of our national income devoted to this domestic spending increased by more than 60 percent—from 10 cents out of every dollar produced by the American people to 16 cents. In spite of all our economies and efficiencies, and without adding any new programs, basic, necessary domestic spending provided for in this year's budget will grow to almost $1 trillion over the next 5 years.

The deficit problem is a clear and present danger to the basic health of our Republic. We need a plan to overcome this danger—a plan based on these principles.

It must be bipartisan. Conquering the deficits and putting the Government's house in order will require the best efforts of all of us.

It must be fair. Just as all will share in the benefits that will come from recovery, all would share fairly in the burden of transition.

It must be prudent. The strength of our national defense must be restored so that we can pursue prosperity in peace and freedom while maintaining our commitment to the truly needy.

And finally, it must be realistic. We cannot rely on hope alone.

With these guiding principles in mind, let me outline a four-part plan to increase economic growth and reduce deficits.

First, in my budget message, I will recommend a Federal spending freeze. I know this is strong medicine, but so far we have only cut the rate of increase in Federal spending. The Government has continued to spend more money each year, though not as much more as it did in the past. Taken as a whole, the budget I am proposing for the next fiscal year will increase no more than the rate of inflation—in other words, the Federal Government will hold the line on real spending. Now, that is far less than many American families have had to do in these difficult times.

I will request that the proposed 6-month freeze in cost-of-living adjustments recommended by the bipartisan Social Security Commission be applied to other Government-related retirement programs. I will also propose a 1-year freeze on a broad range of domestic spending programs, and for Federal civilian and military pay and pension programs.

Let me say right here, I am sorry, with regard to the military, in asking that of them because for so many years they have been so far behind and so low in reward for what the men and women in uniform are doing, but I am sure they will understand that this must be across the board and fair.

Second, I will ask the Congress to adopt specific measures to control the growth of the so-called uncontrollable spending programs. These are the automatic spending programs, such as food stamps, that cannot be simply frozen—and that have grown by over 400 percent since 1970. They are the largest, single cause of the built-in or structural deficit problem. Our standard here will be fairness—insuring that the taxpayers' hard-earned dollars go only to the truly needy; that none of them are turned away; but that fraud and waste are stamped out. And, I am sorry to say, there is a lot of it out there. In the food stamp program alone, last year we identified almost $1.1 billion in overpayments. The taxpayers are not the only victims of this kind of abuse; the truly needy suffer as funds intended for them are taken not by the needy but by the greedy. For everyone's sake, we must put an end to such waste and corruption.

Third, I will adjust our program to restore America's defenses by proposing $55 billion in defense savings over the next 5 years. These are savings recommended to me by the Secretary of Defense, who has assured me they can be safely achieved and will not diminish our ability to negotiate arms reductions or endanger America's security. We will not gamble with our national survival.

Fourth, because we must insure reduction and eventual elimination of deficits over the next several years, I will propose a standby tax limited to no more than 1 percent of the gross national product to start in fiscal 1986. It would last no more than 3 years and it would start only if the Congress has first approved our spending freeze and budget control program. And there are several other conditions also that must be met, all of them in order for this program to be triggered. You could say that this is an insurance policy for the future, a remedy that will be at hand if needed, but only resorted to if absolutely necessary.

In the meantime, we will continue to study ways to simplify the Tax Code and make it more fair for all Americans. This is a goal that every Ameri-

can who has ever struggled with a tax form can understand.

At the same time, however, I will oppose any efforts to undo the basic tax reforms that we have already enacted—including the 10-percent tax break coming to taxpayers this July and the tax indexing which will protect all Americans from inflationary bracket creep in the years ahead.

Now, I realize that this four-part plan is easier to describe than it will be to enact. But the looming deficits that hang over us—and over America's future—must be reduced. The path I have outlined is fair, balanced, and realistic. If enacted, it will insure a steady decline in deficits, aiming toward a balanced budget by the end of the decade. It is the only path that will lead to a strong, sustained recovery.

Let us follow that path together.

No domestic challenge is more crucial than providing stable, permanent jobs for all Americans who want to work. The recovery program will provide jobs for most, but others will need special help and training for new skills. Shortly, I will submit to the Congress the Employment Act 1983 designed to get at the special problems of the long-term unemployed as well as young people trying to enter the job market. I will propose extending unemployment benefits, including special incentives to employers who hire the long-term unemployed, providing programs for displaced workers, and helping federally funded and State-administered unemployment insurance programs to provide workers with training and relocation assistance. Finally, our proposal will include new incentives for summer youth employment to help young people get a start in the job market.

We must offer both short-term help and long-term help for our unemployed. I hope we can work together on this, as we did last year in enacting the landmark Job Training Partnership Act. Regulatory reform legislation, a responsible Clean Air Act, and passage of Enterprise Zone legislation will also create new incentives for jobs and opportunity.

One out of every five jobs in our country depends on trade. So, I will propose a broader strategy in the field of international trade—one that increases the openness of our trading system and is fairer to America's farmers and workers in the world marketplace. We must have adequate export financing to sell American products overseas. I will ask for new negotiating authority to remove barriers and get more of our products into foreign markets. We must strengthen the organization of our trade agencies and make changes in our domestic laws and international trade policy to promote free trade and the increased flow of American goods, services, and investments.

Our trade position can also be improved by making our port system more efficient. Better, more active harbors translate into stable jobs in our coalfields, railroads, trucking industry, and ports. After 2 years of debate, it is time for us to get together and enact a port modernization bill.

Education, training, and retraining are fundamental to our success, as are research, development, and productivity. Labor, management, and government at all levels can and must participate in improving these tools of growth. Tax policy, regulatory practices, and Government programs all need constant reevaluation in terms of our competitiveness. Every American has a role, and a stake, in international trade.

We Americans are still the technological leaders in most fields. We must keep that edge, and to do so we need to begin renewing the basics—starting with our educational system. While we grew complacent, others have acted. Japan, with a population only about half the size of ours, graduates from its universities more engineers than we do. If a child does not receive adequate math and science teaching by the age of 16, he or she has lost the chance to be a scientist or an engineer.

We must join together—parents, teachers, grassroots groups, organized labor, and the business community—to revitalize American education by setting a standard of excellence.

In 1983, we seek four major education goals:

A quality education initiative to encourage a substantial upgrading of math and science instruction through block grants to the States.

Establishment of education savings accounts that will give middle and lower income families an incentive to save for their children's college education and, at the same time, encourage a real increase in savings for economic growth.

Passage of tuition tax credits for parents who want to send their children to private or religiously affiliated schools.

A constitutional amendment to permit voluntary school prayer; God should never have been expelled from America's classrooms in the first place.

Our commitment to fairness means that we must assure legal and economic equity for women, and eliminate, once and for all, all traces of unjust discrimination against women from the United States Code. We will not tolerate wage discrimination based on sex and we intend to strengthen enforcement of child support laws to insure that single parents, most of whom are women, do not suffer unfair financial hardship. We will also take action to remedy inequities in pensions. These initiatives will be joined by others to continue our efforts to promote equity for women.

Also in the area of fairness and equity, we will ask for extension of the Civil Rights Commission which is due to expire this year. The Commission is an important part of the ongoing struggle for justice in America, and we strongly support its reauthorization. Effective enforcement of our Nation's fair housing laws is also essential to insuring equal opportunity. In the year ahead, we will work to strengthen enforcement of fair housing laws for all Americans.

The time has also come for major reform of our criminal justice statutes and acceleration of the drive against organized crime and drug trafficking. It is high time that we make our cities safe again. This administration hereby declares an all-out war on big-time organized crime and the drug racketeers who are poisoning our young people. We will also implement recommendations of our Task Force on Victims of Crime, which will report to me this week.

American agriculture, the envy of the world, has been the victim of its own successes. With one farmer now producing enough food to feed himself and 77 other people, America is confronted with record surplus crops and commodity prices below the cost of production. We must strive, through innovations like the payment-in-kind "crop swap" approach, and an aggressive export policy, to restore health and vitality to rural America. Meanwhile, I have instructed the Department of Agriculture to work individually with farmers with debt problems to help them through these tough times.

Over the past year, our Task Force on Private Sector Initiatives has successfully forged a working partnership involving leaders of business, labor, education, and government to address the training needs of American workers. Thanks to the task force, private sector initiatives are now underway in all 50 States of the Union and thousands of working people have been helped in making the shift from dead-end jobs and low-demand skills to the growth areas of high technology and the service economy. Additionally, a major effort will be focused on encouraging the expansion of private community child care. The new Advisory Council on Private Sector Initiatives will carry on and extend this vital work of encouraging private initiative in 1983.

In the coming year we will also act to improve the quality of life for Americans by curbing the skyrocketing cost of health care that is becoming an unbearable financial burden for so many. And we will submit legislation to provide catastrophic illness insurance coverage for older Americans.

I will also shortly submit a comprehensive federalism proposal that will continue our efforts to restore to States and local governments their roles as dynamic laboratories of change in a creative society.

During the next several weeks, I will send to the Congress a series of detailed proposals on these and other topics and look forward to working with you on the development of these initiatives.

So far, now, I have concentrated mainly on the problems posed by the future. But in almost every home and workplace in America, we are already witnessing reason for great hope—the first flowering of the man-made miracles of high technology, a field pioneered and still led by our country.

To many of us now, computers, silicon chips, data processing, cybernetics, and all the other innovations of the dawning high technology age are as mystifying as the workings of the combustion engine must have been when that first Model T rattled down Main Street U.S.A.

But, as surely as America's pioneer spirit made us the industrial giant of the 20th century, the same pioneer spirit today is opening up another vast frontier of opportunity—the frontier of high technology. In conquering this frontier we cannot write off our traditional industries, but we must develop the skills and industries that will make us a pioneer of tomorrow. This administration is committed to keeping America the technological leader of the world now and into the 21st century.

But let us turn briefly to the international arena. America's leadership role in the world came to us because of our own strength and because of the values which guide us as a society: Free elections, a free press, freedom of religious choice, free trade unions, and, above all, freedom for the individual and rejection of the arbitrary power of the State. These values are the bedrock of our strength. They unite us in a stewardship of peace and freedom with our allies and friends in NATO, in Asia, in Latin America and elsewhere. There are also the values which in the recent past some among us have begun to doubt and view with a cynical eye.

Fortunately, we and our allies have rediscovered the strength of our common democratic values. And we are applying them as the cornerstone of a comprehensive strategy for peace with freedom. In London last year, I announced the commitment of the United States to developing the infrastructure of democracy throughout the world. We intend to pursue this democratic initiative vigorously. The future belongs not to governments and ideologies which oppress their peoples but to democratic systems of self-government which encourage individual initiative and guarantee personal freedom.

But our strategy for peace with freedom must also be based on strength—economic strength and military strength. A strong American economy is essential to the well-being and security of our friends and allies. The restoration of a strong, healthy American economy has been and remains one of the central pillars of our foreign policy. The progress I have been able to report to you tonight will, I know, be as warmly welcomed by the rest of the world as it is by the American people.

We must also recognize that our own economic well-being is inextricably linked to the world economy. We export over 20 percent of our industrial production, and 40 percent of our farmland production is for export. We will continue to work closely with the industrialized democracies of Europe and Japan and with the International Monetary Fund to insure it has adequate resources to help bring the world economy back to strong, noninflationary growth. As the leader of the West and as a country that has become great and rich because of economic freedom, America must be an unrelenting advocate of free trade. As some nations are tempted to turn to protectionism, our strategy cannot be to follow them but to lead the way toward freer trade. To this end, in May of this year, America will host an economic summit meeting in Williamsburg, Va.

As we begin our third year, we have put in place a defense program that redeems the neglect of the past decade. We have developed a realistic military strategy to deter threats to peace and to protect freedom if deterrence fails. Our Armed Forces are finally properly paid, after years of neglect, are well trained, and becoming better equipped and supplied—and the American uniform is once again worn with pride. Most of the major systems needed for modernizing our defenses are already underway and we will be addressing one key system—the MX missile—in consultation with the Congress in a few months.

America's foreign policy is once again based on bipartisanship—on realism, strength, full partnership and consultation with our allies, and constructive negotiation with potential adversaries. From the Middle East to Southern Africa to Geneva, American diplomats are taking the initiative to make peace and lower arms levels. We should be proud of our role as peacemakers.

In the Middle East last year, the United States played the major role in ending the tragic fighting in Lebanon, and negotiated the withdrawal of the PLO from Beirut.

Last September, I outlined principles to carry on the peace process begun so promisingly at Camp David. All the people of the Middle East should know that, in the year ahead, we will not flag in our efforts to build on that foundation to bring them the blessings of peace.

In Central America and the Carribbean Basin, we are likewise engaged in a partnership for peace, prosperity, and democracy. Final passage of the remaining portions of our Caribbean Basin Initiative, which passed the House last year, is one of this administration's top legislative priorities for 1983.

The security and economic assistance policies of this administration, in Latin America and elsewhere, are based on realism and represent a critical investment in the future of the human race. This undertaking is a joint responsibility of the executive and legislative branches, and I am counting on the cooperation and statesmanship of the Congress to help us meet this essential foreign policy goal.

At the heart of our strategy for peace is our relationship with the Soviet Union.

The past year saw a change in Soviet leadership. We are prepared for a positive change in Soviet-American relations. But the Soviet Union must show, by deeds as well as words, a sincere commitment to respect the rights and sovereignty of the family of nations. Responsible members of the world community do not threaten or invade their neighbors and they restrain their allies from aggression.

For our part, we are vigorously pursuing arms reduction negotiations with the Soviet Union. Supported by our allies, we put forward draft agreements proposing significant weapons reductions to equal and verifiable lower levels. We insist on an equal balance of forces. And, given the overwhelming evidence of Soviet violations of international treaties concerning chemical and biological weapons, we also insist that any agreement we sign can and will be verifiable.

In the case of intermediate-range nuclear forces, we have proposed the complete elimination of the entire class of land-based missiles. We are also prepared to carefully explore serious Soviet proposals. At the same time, let me emphasize that allied steadfastness remains a key to achieving arms reductions.

With firmness and dedication, we will continue to negotiate. Deep down, the Soviets must know it is in their interests as well as ours to prevent a wasteful arms race. And once they recognize our unshakeable resolve to maintain adequate deterrence, they will have every reason to join us in the search for greater security and major arms reductions. When that moment comes—and I am confident that it

will—we will have taken an important step toward a more peaceful future for all the world's people.

A very wise man, Bernard Baruch, once said that America has never forgotten the nobler things that brought her into being and that light her path. Our country is a special place because we Americans have always been sustained, through good times and bad, by a noble vision—a vision not only of what the world around us is today, but what we, as a free people, can make it be tomorrow.

We are realists; we solve our problems instead of ignoring them, no matter how loud the chorus of despair around us.

But we are also idealists, for it was an ideal that brought our ancestors to these shores from every corner of the world.

Right now we need both realism and idealism. Millions of our neighbors are without work. It is up to us to see they are not without hope. This is a task for all of us. And may I say Americans have rallied to this cause, proving once again that we are the most generous people on Earth.

We who are in Government must take the lead in restoring the economy.

[Applause, the Members rising.]

The PRESIDENT. Here all that time I thought you were reading the paper. [Laughter.]

The single thing that can start the wheels of industry turning again is further reduction of interest rates. Just another one or two points can mean tens of thousands of jobs. Right now, with inflation as low as it is, 3.9 percent, there is room for interest rates to come down.

Only fear prevents their reduction. A lender, as we know, must charge an interest rate that recovers the depreciated value of the dollars loaned, and that depreciation is, of course, the amount of inflation. Today, interest rates are based on fear, fear that Government will resort to measures, as it has in the past, that will send inflation zooming again.

We who serve here in this Capital must erase that fear by making it absolutely clear that we will not stop fighting inflation; that, together, we will do only these things that will lead to lasting economic growth.

Yes, the problems confronting us are large and forbidding. And, certainly, no one can or should minimize the plight of millions of our friends and neighbors who are living in the bleak emptiness of unemployment. But we must and can give them good reason to be hopeful.

Back over the years, citizens like ourselves have gathered within these walls when our Nation was threatened; sometimes when its very existence was at stake. Always, with courage and commonsense, they met the crises of their time and lived to see a stronger, better, and more prosperous country.

The present situation is no worse and in fact is not as bad as some of those they faced. Time and again, they proved that there is nothing we Americans cannot achieve as free men and women.

Yes, we still have problems—plenty of them. But it is just plain wrong—unjust to our country and unjust to our people—to let those problems stand in the way of the most important truth of all: America is on the mend.

We owe it to the unfortunate to be aware of their plight and to help them in every way we can. No one can quarrel with that—we must and do have compassion for all the victims of this economic crisis. But the big story about America today is the way that millions of confident, caring people—those extraordinary "ordinary" Americans who never make the headlines and will never be interviewed—are laying the foundation, not just for recovery from our present problems, but for a better tomorrow for all our people.

From coast to coast, on the job and in classrooms and laboratories, at new construction sites and in churches and in community groups, neighbors are helping neighbors. And they have already begun the building, the research, the work, and the giving that will make our community great again.

I believe this because I believe in them—in the strength of their hearts and minds, in the commitment that each one of them brings to their daily lives, be they high or humble. The challenge for us in Government is to be worthy of them—to make Government a help, not a hinderance to our people in the challenging but promising days ahead.

If we do that, if we care what our children and our children's children will say of us, if we want them one day to be thankful for what we did here in these temples of freedom, we will work together to make America better for our having been here—not just in this year, or in this decade, but in the next century and beyond.

Thank you and God bless you.

[Applause, the Members rising.]

At 9 o'clock and 50 minutes p.m., the President of the United States, accompanied by the committee of escort, retired from the Hall of the House of Representatives.

The Doorkeeper escorted the invited guests from the Chamber in the following order:

The members of the President's Cabinet.

The Chief Justice of the United States and the Associate Justices of the Supreme Court.

The ambassadors, ministers, and chargés d'affaires of foreign governments.

JOINT SESSION DISSOLVED

The SPEAKER. The Chair declares the joint session of the two Houses now dissolved.

Accordingly, at 9 o'clock and 51 minutes p.m., the joint session of the two Houses was dissolved.

The Members of the Senate retired to their Chamber.

MESSAGE OF THE PRESIDENT REFERRED TO THE COMMITTEE OF THE WHOLE HOUSE ON THE STATE OF THE UNION

Mr. GEPHARDT. Mr. Speaker, I move that the message of the President be referred to the Committee of the Whole House on the State of the Union and ordered printed.

The motion was agreed to.

APPOINTMENT AS MEMBERS OF COMMISSION ON SECURITY AND COOPERATION IN EUROPE

The SPEAKER. Pursuant to section 3, clause 1, of Public Law 94-304, the Chair appoints as members of the Commission on Security and Cooperation in Europe the following Members on the part of the House:

The gentleman from Florida, Mr. FASCELL, chairman;

The gentleman from Illinois, Mr. YATES;

The gentleman from Colorado, Mr. WIRTH;

The gentleman from Massachusetts, Mr. MARKEY;

The gentleman from Pennsylvania, Mr. RITTER; and

The gentleman from New Jersey, Mr. SMITH.

ADJOURNMENT

Mr. GEPHARDT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 53 minutes p.m.), the House adjourned until tomorrow, Wednesday, January 26, 1983, at 3 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

60. A letter from the Director, Office of Management and Budget, transmitting the cumulative report on rescissions and deferrals of budget authority as of January 1, 1983, pursuant to section 1014(e) of Public Law 93-344 (H. Doc. No. 98-7); to the Committee on Appropriations and ordered to be printed.

61. A letter from the Acting Comptroller General of the United States, transmitting his review of proposed deferrals of budget authority and revisions of previously reported deferrals, contained in the message from

the President dated December 7, 1982 (H. Doc. No. 98-264), pursuant to section 1014 (b) and (c) of Public Law 93-344 (H. Doc. 97-8); to the Committee on Appropriations and ordered to be printed.

62. A letter from the Acting Comptroller General of the United States, transmitting his review of the proposed rescission, deferrals, and revision of a previously reported deferral of budget authority, contained in the message from the President dated December 16, 1982 (H. Doc. No. 97-269), pursuant to section 1014 (b) and (c) of Public Law 93-344 (H. Doc. No. 98-9); to the Committee on Appropriations and ordered to be printed.

63. A letter from the Secretary of State, transmitting a report, covering the month of December, on the manner in which the national interest of the United States has been served by the payments made by the Commodity Credit Corporation to the U.S. creditors on credits guaranteed by the CCC on which payments had not been received from the Polish People's Republic, pursuant to section 306 of Public Law 97-257; to the Committee on Appropriations.

64. A letter from the Principal Deputy Assistant Secretary of Defense (Comptroller), transmitting notice of the proposed obligation of $100.4 million in the Army stock fund for war reserve stocks, pursuant to section 734 of Public Law 97-114; to the Committee on Appropriations.

65. A letter from the Principal Deputy Assistant Secretary of Defense (Comptroller), transmitting certification that no use was made of appropriated funds for payments of military construction contracts in foreign countries during the period of April 1 through September 30, 1982, except when the Treasury Department was not holding excess foreign currencies in the country involved, pursuant to section 109 of Public Law 97-106; to the Committee on Appropriations.

66. A letter from the Administrator, Panama Canal Commission, transmitting a report on a violation of a fiscal year 1982 Panama Canal Commission operating expense allotment, pursuant to section 3679(i)(2) of the Revised Statutes, as amended; to the Committee on Appropriations.

67. A letter from the Secretary of Defense, transmitting a report on measures to combat waste, fraud, abuse, and mismanagement in the Defense program, pursuant to section 918 of Public Law 97-86; to the Committee on Armed Services.

68. A letter from the Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting notice of the proposed conversion to contractor performance of the administrative telephone service function at the Naval Air Station, Dallas, Tex., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

69. A letter from the Deputy Assistant Secretary of the Air Force (Logistics and Communications), transmitting notice of the proposed conversion to contractor performance of the technical order and decal distribution function at McClellan Air Force Base, pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

70. A letter from the Deputy Assistant Secretary of Defense (Military Personnel and Force Management), transmitting the submarine duty incentive pay annual report, pursuant to 37 U.S.C. 301c(e), as amended; to the Committee on Armed Services.

71. A letter from the Deputy Assistant Secretary of the Air Force (Logistics and Communications), transmitting notice of the decision to convert to contractor performance the technical order and decal distribution function at Hill Air Force Base, pursuant to section 502(b) of Public Law 96-342, as amended; to the Committee on Armed Services.

72. A letter from the Deputy Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting a notice of the decision to convert to contractor performance the inactive ship maintenance function at the Naval Inactive Ship Maintenance Detachment, Philadelphia, Pa., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

73. A letter from the Assistant Secretary of the NAVY (Shipbuilding and Logistics), transmitting notice of the decision to convert to contractor performance the laundry service function at the Naval Regional Medical Center, Portsmouth, Va., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

74. A letter from the Principal Deputy Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting notice of the decision to convert to contractor performance the custodial function at the U.S. Naval Academy, Annapolis, Md., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

75. A letter transmitting a report on fire safety standards in lower-income housing projects, pursuant to section 3291(b) of Public Law 97-35; to the Committee on Banking, Finance and Urban Affairs.

76. A letter from the Comptroller of the Currency, transmitting the annual report of the Comptroller of the Currency, pursuant to section 333 of the Revised Statutes; to the Committee on Banking, Finance and Urban Affairs.

77. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting notice of a proposed transaction involving U.S. exports to Mexico in the amount of $127,500,000, pursuant to section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended; to the Committee on Banking, Finance and Urban Affairs.

78. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report on loan, guarantee and insurance transactions supported by Eximbank during November 1982 to Communist countries; to the Committee on Banking, Finance and Urban Affairs.

79. A letter from the Chairman, Council of the District of Columbia, transmitting Initiative Measure No. 9, "D.C. Mandatory-Minimum Sentences Initiative of 1981," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

80. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-241, "Real Property Tax Rates for Tax Year 1983 Act of 1982", pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

81. A letter from the Council of the District of Columbia, transmitting D.C. Act 4-242, "Minority Contracting Act of 1976 Amendments Act of 1982", pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

82. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-243, "Ward Court Designation Act of 1982", pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

83. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-244, "Closing of a Portion of a Public Alley in Square 1743 Act of 1982", pursuant to section 602-(c) of Public Law 93-198; to the Committee on the District of Columbia.

84. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-245 "Closing and Dedication of Public Alleys in Square 669 Act of 1982", pursuant to section 602(c) of Public law 93-198; to the Committee on the District of Columbia.

85. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-249, "Veterinary Practice Act of 1982", pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

86. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-254, "Police Officer and Firefighter Cadet Programs Funding Authorization and Human Rights Act of 1982", pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

87. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-256, "District of Columbia Protection of Minors Act of 1982", pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

88. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-257, "Eviction Limitation, Fire and Casualty Amendment Act of 1982", pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

89. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-258, "Anna J. Cooper Circle Designation Act of 1982", pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

90. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-259, "Closing of a Portion of Porter Street, Northeast, Act of 1982" pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

91. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-260, "Closing of a Public Alley in Square 140 Act of 1982", pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

92. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-261, "Closing of a Portion of a Public Alley in Square 5129 Act of 1982", pursuant to Public Law 93-198; to the Committee on the District of Columbia.

93. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-262, "Closing of a Public Alley in Square N-699 Act of 1982", pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

94. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-264, "Closing and Dedication of Public Alleys in Square 859 Act of 1982", pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

95. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-265, "Closing of a Public Alley in Square 280 Act of 1982", pursuant to section

602(c) of Public Law 93-198; to the Committee on the District of Columbia.

96. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-266, "Closing of Two Public Alleys in Square 2877 Act of 1982", pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

97. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-267, "Closing of a Public Alley in Square 2873 Act of 1982", pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

98. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-268, "Closing of a Portion of a Public Alley in Square 772 Act of 1982", pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

99. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-269, "Closing of Three Public Alleys in Square 2667 Act of 1982", pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

100. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-270, "Closing of a Public Alley in Square 2882 Act of 1982", pursuant to section 602 of Public Law 93-198; to the Committee on the District of Columbia.

101. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-271, "Closing and Dedication of Public Alley in Square 2875 Act of 1982", pursuant to section 502(c) of Public Law 93-198; to the Committee on the District of Columbia.

102. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-272, "Closing of a Portion of a Public Alley in Square 185 Act of 1982", pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

103. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-273, "Closing of a Public Alley in Square 24 Act of 1982", pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

104. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-274, "Closing of Three Public Alleys in Square 24 Act of 1982", pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

105. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-275, "Closing of Four Public Alleys in Square 24 Act of 1982", pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

106. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-276, "Windom Place, Northwest, Designation Act of 1982", pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

107. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-277, "Youth Employment Act of 1979 Amendments/Job Skills and Placement Programs for Public Housing Residents Act of 1982", pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

108. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-278, "Child Restraint Act of 1982", pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

109. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-279, "Vendors Regulation Amendment Act of 1982", pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

110. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-280, "Rental Housing Conversion and Sale Act of 1980 Amendment Act of 1982", pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

111. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-281, "New Housing Construction Incentive Act of 1982," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

112. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-282, "State Revenue Officers Registration Improvements Act of 1982," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

113. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-283, "Christmas Tree Act of 1982," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

114. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-284, "D.C. Adoption of the Uniform Child Custody Jurisdiction and Marital or Parent and Child Long-Arm Jurisdiction Amendments Act of 1982," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

115. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-285, "Street and Alley Closing and Acquisition Procedures Act of 1982," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

116. A letter from the Council of the District of Columbia, transmitting D.C. Act 4-286, "D.C. Sentencing Improvements Act of 1982," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

117. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-287, "Anti-Intimidation and Defacing of Public or Private Property Criminal Penalty Act of 1982," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

118. A letter from the Council of the District of Columbia, transmitting D.C. Act 4-288, "Alcoholic Beverage Control Amendments Temporary Act of 1982," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

119. A letter from the Council of the District of Columbia, transmitting D.C. Act 4-289, "Summary Abatement of Life-or-Health Threatening Conditions Act of 1982," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

120. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-290, "Staggered Motor Vehicle Registration Act of 1982," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

121. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-291, "Equitable Tax Relief Act of 1982," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

122. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-292, "District of Columbia Public Assistance Act of 1982 Personal Needs Allowance Amendments Act of 1982," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

123. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-299, "D.C. Real Estate Licensure Act of 1982," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

124. A letter from the Secretary of Labor, transmitting the final report on involuntary retirement pursuant to section 5 of the Age Discrimination in Employment Act of 1967, as amended, Public Law 90-202; to the Committee on Education and Labor.

125. A letter from the Secretary of Labor, trasmitting an interim report on agreements for experimental projects concerned with the second career training and placement of older persons in private sector employment; to the Committee on Education and Labor.

126. A letter from the Secretary of Education, transmitting the annual report on the International Research and Studies Program; to the Committee on Education and Labor.

127. A letter from the Secretary of Health and Human Services, transmitting a report on health care costs and financing, health resources, utilization of health resources, and the health of the Nation's people, pursuant to sections 308(a)(2)(A), 308(a)(2)(B), 308(a)(2)(C), and 308(a)(2)(D), of the Public Health Service Act; to the Committee on Energy and Commerce.

128. A letter from the Secretary of Health and Human Services, transmitting a report on State compliance with medicaid utilization control requirements, pursuant to section 1903(g)(6) of the Social Security Act, as amended; to the Committee on Energy and Commerce.

129. A letter from the Secretary of Transportation, transmitting the annual report on railroad financial assistance, pursuant to section 515 of Public Law 94-210, section 409 of Public Law 96-448, and section 10 of Public Law 91-663; to the Committee on Energy and Commerce.

130. A letter from the Vice President, Government Affairs, National Railroad Passenger Corporation, transmitting a report on passengers carried and on-time performance for the month of October 1982; to the Committee on Energy and Commerce.

131. A letter from the Chairman, Federal Trade Commission, transmitting a copy of an advanced notice of proposed rulemaking regarding amendments to the trade regulation rule on games of chance in the food retailing and gasoline industries, pursuant to section 18(b)(2)(B) of the Federal Trade Commission Act, as amended; to the Committee on Energy and Commerce.

132. A letter from the Secretary, Federal Trade Commission, transmitting a resubmittal of a proposed trade regulation rule governing the funeral industry practices, pursuant to section 21(g)(2) of the Federal Trade Commission Improvements Act of 1980, as continued by Public Law 97-377; to the Committee on Energy and Commerce.

133. A letter from the Vice President, Government Affairs, National Railroad Passenger Corporation, transmitting a financial report of the Corporation for the month of September 1982, pursuant to section 308(a)(1) of Public Law 91-518, as amended;

to the Committee on Energy and Commerce.

134. A letter from the Vice President, Government Affairs, National Railroad Passenger Corporation, transmitting a financial report of the Corporation for the month of October 1982, pursuant to section 308(a)(1) of Public Law 91-518, as amended; to the Committee on Energy and Commerce.

135. A letter from the President of the United States, transmitting a report on actions taken to encourage other grain exporting countries to establish food security reserves, and their responses, pursuant to section 711(c) of Public Law 97-113; to the Committee on Foreign Affairs.

136. A letter from the Secretary of State, transmitting the third certification for the provision of certain security assistance and the assignment of certain military personnel to El Salvador, pursuant to section 728 (b) and (d) of Public Law 97-113; to the Committee on Foreign Affairs.

137. A letter from the Secretary of Commerce, transmitting notice of the extension and expansion of export controls maintained for foreign policy purposes, pursuant to section 6(e) of the Export Administration Act of 1979, and Executive Order 12214; to the Committee on Foreign Affairs.

138. A letter from the Office of Legislative Affairs, Agency for International Development, transmitting a report on economic conditions in Israel and the capacity of that country to service its foreign debt, pursuant to section 723 of Public Law 97-113; to the Committee on Foreign Affairs.

139. A letter from the Acting Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

140. A letter from the Acting Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

141. A letter from the Acting Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

142. A letter from the Assistant Secretary for Congressional Relations, transmitting reports on political contributions made by Ambassador-designate Lewis A. Tambs, and by members of his family, pursuant to section 304(b)(2) of Public Law 96-465; to the Committee on Foreign Affairs.

143. A letter from the Secretary of the Treasury, transmitting the combined statement of receipts, expenditures and balances of the U.S. Government for the fiscal year ended September 30, 1982, pursuant to section 15 of the act of July 31, 1894; to the Committee on Government Operations.

144. A letter from the Secretary of Health and Human Services, transmitting a report on the Department's transfer of surplus real property in fiscal year 1982 for public health purposes, pursuant to section 203(o) of the Federal Property and Administrative Services Act of 1949, as amended; to the Committee on Government Operations.

145. A letter from the Comptroller General of the United States, transmitting a list of reports issued or released by the General Accounting Office during December 1982, pursuant to section 234 of the Legislative Reorganization Act of 1970; to the Committee on Government Operations.

146. A letter from the Director, Office of Management and Budget, transmitting a report on Federal Information Collection, Volume III, to monitor and report executive branch agency responses to the Commission on Federal Paperwork, pursuant to Public Law 96-511; to the Committee on Government Operations.

147. A letter from the Director, Office of Management and Budget, transmitting a proposed revision to OMB Circular No. A-76, "Performance of Commercial Activities," to be published in the Federal Register; to the Committee on Government Operations.

148. A letter from the Assistant Secretary of State for Congressional Relations, transmitting the annual report on the Foreign Service retirement and disability system, pursuant to section 121(a)(2) of the act of September 12, 1950, as amended; to the Committee on Government Operations.

149. A letter from the Chairman, National Labor Relations Board, transmitting a report on the Board's activities under the Government in the Sunshine Act during calendar year 1982, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

150. A letter from the Chairman, Board of Governors, U.S. Postal Service, transmitting a report on the Board's activities under the Government in the Sunshine Act during calendar year 1982, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

151. A letter from the Secretary, Mississippi River Commission, Corps of Engineers, Department of the Army, transmitting a report on the Commission's activities under the Government in the Sunshine Act during calendar year 1982, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

152. A letter from the Chairman, Federal Mine Safety and Health Review Commission, transmitting a report on the Commission's activities under the Government in the Sunshine Act during calendar year 1982, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

153. A letter from the Records Officer, U.S. Postal Service, transmitting notice of a proposed modification of a Federal records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

154. A letter from the Acting Director, National Park Service, Department of the Interior, transmitting a report covering the disposal of surplus Federal real property for parks and recreation purposes for fiscal year 1982, pursuant to section 203(o) of the Federal Property and Administrative Services Act of 1949, as amended; to the Committee on Government Operations.

155. A letter from the Deputy Assistant Secretary for Health Operations and Director, Office of Management and Budget, transmitting the annual report for the PHS Commissioned Corps Retirement System for the plan year ending September 30, 1981, pursuant to Public Law 95-595 (92 Stat. 2541); to the Committee on Government Operations.

156. A letter from the Deputy Administrator, General Services Administration, transmitting a report on the donation of Federal surplus personal property, pursuant to section 203(o) of the Federal Property and Administrative Services Act of 1949, as amended; to the Committee on Government Operations.

157. A letter from the Secretary, Chrysler Corporation Loan Guaranty Board, transmitting a report on the Board's activities under the Freedom of Information Act during calendar year 1981, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

158. A letter from the Chairman, Federal Election Commission, transmitting proposed forms implementing the Federal Election Campaign Act, pursuant to section 311(f), Public Law 92-225; to the Committee on House Administration.

159. A letter from the Vice Chairman, Federal Election Commission, transmitting proposed rules and regulations governing the Presidential Primary Matching Payment Account, pursuant to section 9039(c) of the Internal Revenue Code of 1954; to the Committee on House Administration.

160. A letter from the Secretary of the Interior, transmitting the fifth annual report of the Department's research and development activities in coal mining technologies for the period January 1 through December 31, 1982, pursuant to section 908 of Public Law 95-87; to the Committee on Interior and Insular Affairs.

161. A letter from the Assistant Secretary of the Interior, transmitting the biennial report on continuing studies of the quality of water of the Colorado River Basin, pursuant to sundry reporting requirements; to the Committee on Interior and Insular Affairs.

162. A letter from the Director, Minerals Management Service, Department of the Interior, transmitting notice of the proposed refund of $202,758.92 to Clark Oil & Refining Corp., for excess royalty payment, pursuant to section 10(b) of the Outer Continental Shelf Lands Act of 1953; to the Committee on Interior and Insular Affairs.

163. A letter from the Director, Minerals Management Service, Department of the Interior, transmitting notice of the proposed refund of $121,907.15 to Kerr-McGee Corp., Chevron U.S.A. Inc., Shell Oil Co., and Newmont Oil Co., for excess royalty payment, pursuant to section 10(b) of the Outer Continental Shelf Lands Act of 1953; to the Committee on Interior and Insular Affairs.

164. A letter from the Director, Minerals Management Service, Department of the Interior, transmitting notice of the proposed refund of $1,068,027.05 to Gulf Oil Corp., for excess royalty payment, pursuant to section 10(b) of the Outer Continental Shelf Lands Act of 1953; to the Committee on Interior and Insular Affairs.

165. A letter from the Director, Minerals Management Service, Department of the Interior, transmitting notice of the proposed refund of $9,700.75 to the Gulf Exploration & Producing Co., for an excess royalty payment, pursuant to section 10(b) of the Outer Continental Shelf Lands Act of 1953; to the Committee on Interior and Insular Affairs.

166. A letter from the Director, Minerals Management Service, Department of the Interior, transmitting notice of the proposed refund of $54,321.35 to the Phillips Petroleum Co., General American Oil Co., of Texas, and Gulf Oil Exploration & Production Co., for excess royalty payments, pursuant to section 10(b) of the Outer Continental Shelf Lands Act of 1953; to the Committee on Interior and Insular Affairs.

167. A letter from the Director, Minerals Management Service, Department of the Interior, transmitting notice of the proposed refund of $47,655.81 to Chevron U.S.A. Inc., for an excess royalty payment, pursuant to section 10(b) of the Outer Continental Shelf

Lands Act of 1953; to the Committee on Interior and Insular Affairs.

168. A letter from the Director, Minerals Management Service, Department of the Interior, transmitting notice of the proposed refund of $42,549.27 to the Amoco Production Co., Marathon Oil Co., Phillips Petroleum Co., and Conoco, Inc., for excess royalty payments, pursuant to section 10(b) of the Outer Continental Shelf Lands Act of 1953; to the Committee on Interior and Insular Affairs.

169. A letter from the Director, Minerals Management Service, Department of the Interior, transmitting notice of the proposed refund of $27,170.60 to the Mobil Oil Corp., for an excess royalty payment, pursuant to section 10(b) of the Outer Continental Shelf Land Act of 1953; to the Committee on Interior and Insular Affairs.

170. A letter from the Director, Minerals Management Service, Department of the Interior, transmitting notice of the proposed refund of $100,806.86 to the Phillips Petroleum Co., for an excess royalty payment, pursuant to section 10(b) of the Outer Continental Shelf Lands Act of 1953; to the Committee on Interior and Insular Affairs.

171. A letter from the Director (Minerals Management) Department of the Interior, transmitting notice of the proposed refund of $816,287.36 to Oxy Petroleum, Inc., Chevron U.S.A., Inc., Gulf Oil Exploration & Production Co., General American Oil Co. of Texas, Getty Oil Co., and the Superior Oil Co., for 91 leases, pursuant to section 10(b) of the Outer Continental Shelf Lands Act of 1953, as amended; to the Committee on Interior and Insular Affairs.

172. A letter from the Deputy Assistant Secretary of Interior (Indian Affairs, Operations), transmitting an order ceasing accrual of interest on outstanding loans of Indians or Indian tribes, pursuant to (94 Stat. 2244) July 1, 1932; to the Committee on Interior and Insular Affairs.

173. A letter from the Chief Justice of the United States, transmitting the proceedings of the meeting of the Judicial Conference of the United States held in Washington, D.C., on September 22 and 23, 1982, pursuant to 28 U.S.C. 331; to the Committee on the Judiciary.

174. A letter from the Chairman, Copyright Royalty Tribunal, transmitting the annual report for the fiscal year ending September 30, 1983, pursuant to section 808 of Public Law 94-553; to the Committee on the Judiciary.

175. A letter from the chairman, Little League Baseball, transmitting the annual report and audit of the organization for the year ended September 30, 1982, pursuant to section 14(b) of Public Law 88-378; to the Committee on the Judiciary.

176. A letter from the Secretary of the Interior, transmitting the annual report of the Migratory Bird Conservation Commission for fiscal year 1982, pursuant to section 3 of the Migratory Bird Conservation Act of 1929; to the Committee on Merchant Marine and Fisheries.

177. A letter from the Deputy Assistant Secretary of Agriculture for Administration, transmitting a negative report on the employment of specially qualified scientific and professional personnel for calendar year 1982, pursuant to 5 U.S.C. 3104(b); to the Committee on Post Office and Civil Service.

178. A letter from the Librarian of Congress, transmitting a report on scientific and professional positions in existence in the Library of Congress during calendar year 1982, pursuant to 5 U.S.C. 3104(c); to the Committee on Post Office and Civil Service.

179. A letter from the Chairman, U.S. Merit Systems Protection Board, transmitting the Board's annual report on its activities for the calendar year 1982, and on appeals received, decided, and completed within 120 days in 1982, pursuant to 5 U.S.C. 1209(b) and 5 U.S.C. 7701(i)(2); to the Committee on Post Office and Civil Service.

180. A letter from the Director, Office of Management and Budget, transmitting a soil conservation service plan for the Calapooya Creek Watershed, Oreg., pursuant to section 5 of Public Law 83-566; to the Committee on Public Works and Transportation.

181. A letter from the Deputy Administrator, General Services Administration, transmitting an amended lease prospectus, pursuant to section 7(a) of Public Law 86-249, as amended; to the Committee on Public Works and Transportation.

182. A letter from the Deputy Administrator, Environmental Protection Agency, transmitting estimates of costs of implementation of the Federal Water Pollution Control Act received from States, pursuant to section 516 (b) (1) of the Federal Water Pollution Control Act; to the Committee on Public Works and Transportation.

183. A letter from the Deputy Administrator, Environmental Protection Agency, transmitting the Agency's Science Advisory Board's comments on the annual 5-year plan for research, development, and demonstration, pursuant to section 5 of Public Law 94-475; to the Committee on Science and Technology.

184. A letter from the Executive Secretary, Office of the Secretary of Defense, transmitting a report covering fiscal year 1982 on the Defense Department's procurement from small business and other business firms, pursuant to section 10(d) of the Small Business Act, as amended; to the Committee on Small Business.

185. A letter from the Administrator of Veterans' Affairs, transmitting a report covering fiscal year 1982 on the nature and disposition of all cases in which an institution, approved for veterans' benefits, utilizes advertising, sales, or enrollment practices which are erroneous, deceptive, or misleading, pursuant to 38 U.S.C. 1796(d); to the Committee on Veterans' Affairs.

186. A letter from the Administrator of Veterans' Affairs, transmitting the report on the sharing of medical resources program of the Veterans' Administration for fiscal year 1982, pursuant to 38 U.S.C. 5057; to the Committee on Veterans' Affairs.

187. A letter from the director, National Legislative Commission, American Legion, transmitting the proceedings of their 64th annual national convention, and a financial statement and independent audit of the organization, pursuant to section 9 of the act of September 19, 1919, and section 3 of Public Law 88-504 (H. Doc. No. 98-10); to the Committee on Veterans' Affairs and ordered to be printed.

188. A letter from the managing trustee (Secretary of the Treasury), transmitting notice that the Federal Old-Age and Survivors Insurance Trust Fund borrowed from both the Federal Disability Insurance Fund and the Federal Hospital Insurance Trust Fund, and that these borrowings are the last authorized by law, pursuant to section 201(1)(4) of the Social Security Act, as amended; to the Committee on Ways and Means.

189. A letter from the Chairman, National Commission on Social Security Reform, transmitting the final report of the Commission; to the Committee on Ways and Means.

190. A letter from the Under Secretary of Agriculture for International Affairs and Commodity Programs, transmitting a commodity and country allocation table showing the planned programing of food assistance under titles I and III of the Agricultural Trade Development and Assistance Act, covering the second quarter of fiscal year 1983, pursuant to section 408(b) of the act; jointly, to the Committees on Agriculture and Foreign Affairs.

191. A letter from the Secretary of Housing and Urban Development, transmitting the Department's semiannual report on energy conservation standards for new buildings, pursuant to section 311(4) of Public Law 94-385; jointly, to the Committees on Energy and Commerce and Banking, Finance and Urban Affairs.

192. A letter from the Secretary of Energy (acting), transmitting the annual status report on the uranium mill tailings remedial action program, pursuant to section 114(a) of Public Law 95-604; jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

193. A letter from the Comptroller General of the United States, transmitting a report on the use of Federal agricultural research facilities (RCED-83-20, January 14, 1983); jointly, to the Committees on Government Operations and Agriculture.

194. A letter from the Comptroller General of the United States, transmitting a report on the use of loans to support foreign military sales (ID-83-5, January 19, 1983); jointly, to the Committees on Government Operations and Foreign Affairs.

195. A letter from the Secretary of the Interior, transmitting the Department's annual report on the recruitment and training of Indians for positions subject to Indian preference, pursuant to section 2(d) of Public Law 96-135; jointly, to the Committees on Interior and Insular Affairs and Post Office and Civil Service.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DE LA GARZA:

H.R. 746. A bill to repeal sections 301 through 308 of the Tax Equity and Fiscal Responsibility Act of 1982, which impose withholding on interest and dividends; to the Committee on Ways and Means.

By Mr. QUILLEN:

H.R. 747. A bill to repeal section 301 through 308 of the Tax Equity and Fiscal Responsibility Act of 1982, which impose withholding on interest and dividends; to the Committee on Ways and Means.

By Mr. ADDABBO:

H.R. 748. A bill to provide for the development and implementation of programs for youth camp safety; to the Committee on Education and Labor.

H.R. 749. A bill to amend the Flammable Fabrics Act to prohibit the manufacture for sale in commerce of articles of interior furnishing intended for use in any public facility unless such articles conform with requirements established by the Consumer Product Safety Commission designed to

make such articles fire resistant; to the Committee on Energy and Commerce.

By Mr. PANETTA:

H.R. 750. A bill to amend the Congressional Budget Act of 1974, to provide for a 2-year budgeting cycle, to provide for separate and timely consideration each of authorizing legislation, budget resolutions, and appropriations, and for other purposes; jointly, to the Committee on Rules and Government Operations.

By Mr. ADDABBO:

H.R. 751. A bill to provide for a study by the Secretary of Transportation, in consultation with the Secretary of Defense and the Secretary of the Treasury, concerning measures necessary to insure the security of firearms, ammunition, and explosives being transported in interstate commerce; to the Committee on the Judiciary.

By Mr. ADDABBO (for himself and Mr. FISH):

H.R. 752. A bill to permit collective negotiation by professional retail pharmacists with third-party prepaid prescription program administrators and sponsors; to the Committee on the Judiciary.

By Mr. ADDABBO:

H.R. 753. A bill to amend section 3626 of title 39, United States Code, to make the rates for third-class mail matter mailed by nonprofit community or civic improvement organizations the same as the rates for third-class mail matter mailed by organizations considered qualified nonprofit organizations under former section 4452 of such title; to the Committee on Post Office and Civil Service.

H.R. 754. A bill to provide for certain research and demonstration respecting the disposal of sludge, the reclamation of waters damaged by sludge and sewage, assistance to State and local governments for the removal of sludge and other solid waste from waters and shoreline areas, and to provide that grants for waste treatment works shall be made only if such works provide for environmentally sound sludge management; to the Committee on Public Works and Transportation.

H.R. 755. A bill to establish a grant program for the acquisition of medical equipment and supplies for the treatment of aircraft accident burn victims; to the Committee on Public Works and Transportation.

H.R. 756. A bill to amend title 38 of the United States Code in order to provide outpatient dental services and treatment to any veteran who has a service-connected disability rated at 60 percent or more; to the Committee on Veterans' Affairs.

H.R. 757. A bill to amend the Social Security Act to provide for Federal participation in the costs of the old-age, survivors, and disability insurance program and the medicare program; to the Committee on Ways and Means.

H.R. 758. A bill to amend the Internal Revenue Code of 1954 to eliminate the requirement that States reduce the amount of unemployment compensation payable for any week by the amount of certain retirement benefits, and for other purposes; to the Committee on Ways and Means.

H.R. 759. A bill to amend the Social Security Act to make certain that recipients of supplement security income benefits, recipients of aid to families with dependent children, and recipients of assistance or benefits under certain other Federal and federally assisted programs will not have the amount of such benefits, aid, or assistance reduced because of post-1974 increases in monthly social security benefits; to the Committee on Ways and Means.

H.R. 760. A bill to repeal sections 301 through 308 of the Tax Equity and Fiscal Responsibility Act of 1982, which impose withholding on interest and dividends; to the Committee on Ways and Means.

H.R. 761. A bill to amend the Hazardous Materials Transportation Act of 1974 to prohibit the transportation of radioactive materials in densely populated areas; jointly, to the Committees on Energy and Commerce and Public Works and Transportation.

H.R. 762. A bill to amend the Social Security Act to require automatic sprinkler systems in all nursing facilities and intermediate care facilities certified for participation in the medicare or medicaid program, and to provide for direct low-interest Federal loans to assist such facilities in constructing or purchasing and installing automatic sprinkler systems; jointly, to the Committees on Ways and Means and Energy and Commerce.

H.R. 763. A bill to amend title XVIII of the Social Security Act to provide for the coverage of certain psychologists' services under the supplementary medical insurance benefits program established by part B of such title; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. BEILENSON:

H.R. 764. A bill to prohibit the use of master meters for gas and electricity supplied to new buildings having more than one unit, and for other purposes; to the Committee on Energy and Commerce.

By Mr. DAUB:

H.R. 765. A bill to amend the Internal Revenue Code of 1954 to increase to $2,500 the maximum deduction for contributions to retirement savings and to allow individuals to compute the amount of the deduction for payments into retirement savings on the basis of the compensation of their spouses; to the Committee on Ways and Means.

H.R. 766. A bill to amend the Internal Revenue Code of 1954 to increase to $2,500 the maximum deduction for contributions to retirement savings; to the Committee on Ways and means.

H.R. 767. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income $2,000 of interest on savings in the case of an individual taxpayer; to the Committe on Ways and means.

H.R. 768. A bill to repeal the withholding of tax from interest and dividends; to the Committee on Ways and Means.

H.R. 769. A bill to provide for uniform financial management and audit standards, and for other purposes; to the Committee on Government Operations.

H.R. 770. A bill to reform the laws relating to the provision of Federal assistance in order to simplify and coordinate the management of Federal assistance programs and requirements, provide assistance recipients with greater flexibility, and minimize the administrative burden and adverse economic impact of such programs and requirements; jointly, to the Committees on Government Operations and Rules.

By Mr. BRYANT:

H.R. 771. A bill to repeal sections 301 through 308 of the Tax Equity and Fiscal Responsibility Act of 1982, which imposes withholding on interest and dividends; to the Committee on Ways and Means.

By Mr. BROOMFIELD:

H.R. 772. A bill to prohibit any individual who has diplomatic immunity from the criminal jurisdiction of the United States from possessing a handgun without the approval of the Secretary of State; to the Committee on Foreign Affairs.

H.R. 773. A bill to amend the Small Business Act to increase employment in the 10 States having the highest rates of unemployment by increasing for a 3-year period the Federal procurement set-asides for small businesses doing business in any such State; to the Committee on Small Business.

By Mr. CHAPPIE:

H.R. 774. A bill to rename a reservoir in the Central Valley project, California, as the "Trinity Lake" and the "Clair Engle Dam"; to the Committee on Interior and Insular Affairs.

By Mr. CLAY:

H.R. 775. A bill to amend title 5, United States Code, to improve the basic workweek of firefighting personnel of executive agencies, and for other purposes; to the Committee on Post Office and Civil Service.

By Mrs. COLLINS:

H.R. 776. A bill to amend the Department of Defense Appropriation Act, 1983, to require the procurement of certain articles packaged in the United States or its possessions; to the Committee on Appropriations.

By Mr. SIMON (for himself, Mr. HAWKINS, Mr. PERKINS, Mr. CLAY, Mr. CORRADA, Mr. WEISS, Mr. WASHINGTON, Mr. DURBIN, Mr. KILDEE, Mr. MURPHY, and Mr. WILLIAMS of Montana):

H.R. 777. A bill to guarantee a work opportunity for all Americans; to the Committee on Education and Labor.

By Mrs. COLLINS (for herself, Mr. JONES of North Carolina, Mr. CROCKETT, Mr. WINN, Mr. RANGEL, Mr. CONTE, Mr. WON PAT, Mr. MITCHELL, Mr. BOSCO, Mr. WASHINGTON, Mr. ROE, Mr. BEVILL, Mr. SMITH of Florida, Mr. FROST, Mr. MARRIOTT, Mr. SAVAGE, Mr. DWYER of New Jersey, Mr. FAUNTROY, Mr. FRENZEL, and Mr. GARCIA):

H.R. 778. A bill to amend title 18 of the United States Code to make unlawful the adulteration of food, drugs, and cosmetics carried out for the purpose of causing death or injury; to the Committee on the Judiciary.

By Mr. CORRADA:

H.R. 779. A bill to amend the Social Security Act to place Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa on the same basis as States for the purpose of payment under the medicaid program; to the Committee on Energy and Commerce.

H.R. 780. A bill to provide that certain judicial pleadings and proceedings in the Commonwealth of Puerto Rico may be conducted in the Spanish language, and for other purposes; to the Committee on the Judiciary.

H.R. 781. A bill to amend the Social Security Act to provide that Federal assistance to Puerto Rico, the Virgin Islands, and Guam under the aid to families with dependent children, child welfare, and social services programs shall be furnished on the same basis (under the same formula and without specific dollar ceilings) as in the case of other States, and to amend section 28 of such act to extend to Puerto Rico, the Virgin Islands, and Guam the program of special benefits at age 72 for certain uninsured individuals; to the Committee on Ways and Means.

H.R. 782. A bill to amend title XVI of the Social Security Act and related laws to extend the supplemental security income benefits program to Puerto Rico, the Virgin

Islands, and Guam on the same basis as the States; to the Committee on Ways and Means.

H.R. 783. A bill to amend the Internal Revenue Code of 1954 to extend the investment tax credit and the accelerated cost recovery system to certain property used in Puerto Rico or other possessions; to the Committee on Ways and Means.

By Mr. DANIEL B. CRANE:

H.R. 784. A bill to provide for a 5-percent salary reduction for Members of Congress; to the Committee on Post Office and Civil Service.

H.R. 785. A bill to repeal the provisions in title 23, United States Code, relating to a national maximum speed limit of 55 miles per hour; to the Committee on Public Works and Transportation.

H.R. 786. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

H.R. 787. A bill to repeal section 1725 of title 18, United States Code, which prohibits mailable matter on which no postage has been paid from being deposited into letter boxes; jointly, to the Committees on Post Office and Civil Service and the Judiciary.

By Mr. DANIEL B. CRANE (for himself and Mr. PHILIP M. CRANE):

H.R. 788. A bill to provide for congressional pay adjustments, and for other purposes; jointly, to the Committees on Post Office and Civil Service and Rules.

By Mr. DE LA GARZA:

H.R. 789. A bill to strengthen the penalty provisions of the Gun Control Act of 1968; to the Committee on the Judiciary.

H.R. 790. A bill to amend the Internal Revenue Code of 1954 to provide a Federal income tax credit for tuition; to the Committee on Ways and Means.

By Mr. DICKINSON (for himself, Mr. NICHOLS, and Mr. SHELBY):

H.R. 791. A bill to repeal the withholding of tax from interest and dividends; to the Committee on Ways and Means.

By Mr. EDGAR:

H.R. 792. A bill to establish the Veterans' Administration as an executive department; to the Committee on Government Operations.

H.R. 793. A bill to amend title 38, United States Code, to allow State directors of veterans' employment and assistant State directors of Veterans' employment to be hired from outside a State if they have 2 years' experience in that position; to the Committee on Veterans' Affairs.

By Mr. FLORIO (for himself and Mr. DINGELL):

H.R. 794. A bill to establish a service industries development program, and for other purposes; to the Committee on Energy and Commerce.

By Mr. GAYDOS:

H.R. 795. A bill to amend the Clean Air Act to prohibit the Environmental Protection Agency from requiring motor vehicle inspection and maintenance until such time as each new motor vehicle is required to be separately tested for compliance with emission standards before its sale by the manufacturer, and for other purposes; to the Committee on Energy and Commerce.

H.R. 796. A bill to provide a temporary means to correct imbalances in the natural gas market in order to restrain prices charged to natural gas users; to the Committee on Energy and Commerce.

H.R. 797. A bill to correct inequities in the relationship between sales representatives and their principals, and for other purposes; to the Committee on Energy and Commerce.

H.R. 798. A bill to extinguish Federal court jurisdiction to require attendance at a particular school of any student because of race, color, creed, or sex; to the Committee on the Judiciary.

H.R. 799. A bill to protect firearms owners' constitutional rights, civil liberties, and rights to privacy; to the Committee on the Judiciary.

By Mr. CONYERS (for himself, Mrs. KENNELLY, Mr. STARK, Mr. BEILENSON, Mr. BROWN of California, Mr. BEVILL, Mr. TRAXLER, Mr. CROCKETT, Mr. KILDEE, Mr. LEVIN of Michigan, Mr. FROST, Mr. WEISS, Mr. SMITH of Florida, Mr. ROYBAL, Mr. FOWLER, Mr. LEHMAN of Florida, Mr. GEJDENSON, Mr. DYMALLY, Mr. FOGLIETTA, Mr. RANGEL, Mr. WASHINGTON, Mr. HOYER, Mr. SEIBERLING, Mr. DONNELLY, Mrs. BOXER, Mr. LOWRY of Washington, Mr. HAWKINS, Mr. LEVINE of California, Mr. BOLAND, Mr. SABO, Mr. STOKES, Mr. YATES, Mr. EDWARDS of California, Mr. COYNE, Mr. EVANS of Illinois, Mr. ADDABBO, Mr. MARKEY, Mr. HORTON, Mr. MATSUI, Mr. BURTON of California, Mr. TALLON, Mr. KOSTMAYER, Mr. RATCHFORD, Mr. BATES, Mr. NOWAK, Mr. RODINO, Mr. COLEMAN of Missouri, Mr. D'AMOURS, Mr. FAUNTROY, Mr. CARR, Mr. WON PAT, Mr. WHEAT, Mr. FRANK, Mr. SIMON, and Mr. MRAZEK):

H.R. 800. A bill to designate the birthday of Martin Luther King, Jr., a legal public holiday; to the Committee on Post Office and Civil Service.

Mr. GAYDOS:

H.R. 801. A bill to promote increased ocean transportation of bulk commodities in the foreign commerce of the United States in U.S.-flag ships, to strengthen the defense industrial base, and for other purposes; to the Committee on Merchant Marine and Fisheries.

H.R. 802. A bill to amend title 39 of the United States Code to provide that regular daily mail delivery shall not be limited by the Postal Service to fewer than 6 days each week; to the Committee on Post Office and Civil Service.

H.R. 803. A bill to authorize critical inland navigation improvement projects on the Monongahela and Upper Ohio River Waterways; to the Committee on Public Works and Transportation.

H.R. 804. A bill to authorize construction of a modification of the Gallipolis locks and dam, Ohio River, Ohio and W. Va., and to insure that this work shall be completed expeditously; to the Committee on Public Works and Transportation.

H.R. 805. A bill to amend title II of the Social Security Act to provide generally that benefits thereunder may be paid to aliens only after they have been lawfully admitted to the United States for permanent residence, and to impose further restrictions on the right of any alien in a foreign country to receive such benefits; to the Committee on Ways and Means.

H.R. 806. A bill to repeal sections 301 through 308 of the Tax Equity and Fiscal Responsibility Act of 1982, which impose withholding on interest and dividends; to the Committee on Ways and Means.

H.R. 807. A bill to amend the Fair Labor Standards Act of 1983, to require prenotification to affected employees and communities of dislocation of business concerns, to provide assistance (including retraining) to employees who suffer employment loss through the dislocation of business concerns, to business concerns threatened with dislocation, and to affected communities, to prevent Federal support for unjustified dislocation, and for other purposes; jointly, to the Committees on Education and Labor and Banking, Finance and Urban Affairs.

H.R. 808. A bill to amend the Child Abuse Prevention and Treatment Act to require the National Center on Child Abuse and Neglect to prevent practices in certain health care facilities which permit handicapped infants to die through deliberate neglect, to establish judicial remedies to prevent such practices, and for other purposes; jointly, to the Committees on Education and Labor and Energy and Commerce.

H.R. 809. A bill to amend the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act of 1965; jointly, to the Committees on Public Works and Transportation and Banking, Finance and Urban Affairs.

By Mr. GRADISON:

H.R. 810. A bill to amend title II of the Social Security Act to provide for a program to systematically compare information on State death certificates with information maintained under the social security program in order to insure that inappropriate benefits are not paid with respect to individuals who have died; to the Committee on Ways and Means.

H.R. 811. A bill to amend the Internal Revenue Code of 1954 to extend until December 31, 1987, the energy investment tax credit for recycling property; to the Committee on Ways and Means.

By Mr. JENKINS:

H.R. 812. A bill to amend section 1114 of title 18, United States Code, to provide for protection of U.S. probation officers and pretrial service officers; to the Committee on the Judiciary.

H.R. 813. A bill to amend title 28, United States Code, to make changes in judicial divisions in the northern district of Georgia; to the Committee on the Judiciary.

H.R. 814. A bill to amend the Tennessee Valley Authority Act of 1933 to make the enhancement of the economic and social well-being of the people residing and owning property in the Tennessee and Mississippi River Basins a purpose of that act; to the Committee on Public Works and Transportation.

H.R. 815. A bill to amend the Revenue Act of 1978 to provide that, with respect to the amendments allowing the investment tax credit for single purpose agricultural or horticultural structures, credit or refund shall be allowed without regard to the statute of limitations for certain taxable years to which such amendments apply; to the Committee on Ways and Means.

H.R. 816. A bill to amend the Internal Revenue Code of 1954 to provide for the taxation of crude oil purchasing cooperatives; to the Committee on Ways and Means.

H.R. 817. A bill to amend the Internal Revenue Code of 1954 to increase to $900 the minimum amount a parent not having custody of a child must provide for the support of the child in certain cases in order to claim a personal exemption for the child; to the Committee on Ways and Means.

H.R. 818. A bill to amend the Internal Revenue Code of 1954 to provide that income received by handicapped individuals from activities at certain sheltered workshops shall not be taken into account in de-

termining the allowance for a personal exemption with respect to such individual; to the Committee on Ways and Means.

H.R. 819. A bill to amend title II of the Social Security Act to permit a State to modify its coverage agreement so as to exclude services performed in any year by an election official or election worker if the remuneration paid for such services is less than $300 (instead of only if such remuneration is less than $100 as at present); to the Committee on Ways and Means.

By Mr. JENKINS (for himself and Mr. FRENZEL):

H.R. 820. A bill to amend the Internal Revenue Code of 1954 to clarify the tax-exempt status of agricultural and horticultural organizations operated for the purpose of bargaining collectively for the sale of members' products; to the Committee on Ways and Means.

H.R. 821. A bill to amend the Internal Revenue Code of 1954 to permit qualified pension funds and certain educational organizations to invest in working interests in oil and gas properties without incurring unrelated business taxable income; to the Committee on Ways and Means.

By Mr. KASTENMEIER:

H.R. 822. A bill to prohibit the production of lethal binary chemical munitions by the United States and to call on the President to enter into immediate negotiations with the Soviet Union for a mutual, verifiable limitation on the production and stockpiling of chemical weapons; jointly, to the Committees on Armed Services and Foreign Affairs.

By Mr. KILDEE:

H.R. 823. A bill to amend the Internal Revenue Code of 1954 to repeal the provisions which include unemployment compensation in gross income; to the Committee on Ways and Means.

H.R. 824. A bill to repeal the changes made by the Tax Equity and Fiscal Responsibility Act of 1982 in the tax treatment of unemployment compensation; to the Committee on Ways and Means.

By Mr. KILDEE (for himself and Mr. GOODLING):

H.R. 825. A bill to amend the Vocational Education Act of 1963 to provide comprehensive vocational guidance services and programs for States and local educational agencies; to the Committee on Education and Labor.

By Mr. KOSTMAYER:

H.R. 826. A bill to amend the Wild and Scenic Rivers Act by designating a segment of the Delaware River in Pennsylvania and New Jersery as a component of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. LAFALCE:

H.R. 827. A bill to amend the Natural Gas Policy Act of 1978 to prohibit enforcement of take-or-pay clauses in contracts for natural gas; to the Committee on Energy and Commerce.

By Mr. LEATH of Texas (by request):

H.R. 828. A bill to prohibit the contracting of certain Federal positions reserved for preference eligibles; to the Committee on Post Office and Civil Service.

H.R. 829. A bill to amend title 5, United States Code, to prohibit the contracting of certain Federal positions reserved for preference eligibles; to the Committee on Post Office and Civil Service.

H.R. 830. A bill to amend title 38, United States Code, to transfer the functions of the Secretary of Labor under chapters 41, 42, and 43 of such title (relating to job counseling, training, placement, and reemployment of veterans) to the Administrator of Veterans' Affairs, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 831. A bill to amend title 38 of the United States Code in order to liberalize the eligibility for benefits under chapter 42 of such title (relating to employment and training of disabled and Vietnam-era veterans); to the Committee on Veterans' Affairs.

H.R. 832. A bill to amend title 38, United States Code, to authorize the Veterans' Administration to provide vocational rehabilitation training to certain former prisoners of war; to the Committee on Veterans' Affairs.

By Mr. LOEFFLER:

H.R. 833. A bill to repeal the withholding of tax from interest and dividends; to the Committee on Ways and Means.

By Mr. McCOLLUM (for himself, Mr. CHAPPELL, Mr. PAUL, and Mr. FASCELL):

H.R. 834. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income dividends and interest received by individuals who have attained age 62; to the Committee on Ways and Means.

By Mr. McCURDY (for himself, Mr. ECKART, Mr. LAFALCE, Mr. DYMALLY, Mr. DWYER of New Jersey, and Mr. WILLIAMS of Montana):

H.R. 835. A bill to authorize an educational assistance program which will provide low-cost loans to college students who pursue mathematics and science baccalaureate degrees and enter the precollege mathematics and science teaching profession, and for other purposes; to the Committee on Education and Labor.

By Mr. McCURDY (for himself, Mr. ECKART, Mr. DYMALLY, and Mr. DWYER of New Jersey):

H.R. 836. A bill to amend the Internal Revenue Code of 1954 to allow a credit to certain employers for compensation paid to employees with precollege mathematics or science teaching certificates who are employed for the summer months by such employers or who are employees who teach a limited number of hours; to the Committee on Ways and Means.

By Mr. McDONALD (for himself and Mr. PAUL):

H.R. 837. A bill to expand the medical freedom of choice of consumers by amending the Federal Food, Drug, and Cosmetic Act to provide that drugs will be regulated under that act solely to assure their safety; to the Committee on Energy and Commerce.

By Mr. McDONALD (for himself and Mr. STUMP):

H.R. 838. A bill to permit the introduction or delivery for introduction of laetrile into interstate commerce without the approval of a new drug application under the Federal Food, Drug, and Cosmetic Act; to the Committee on Energy and Commerce.

By Mr. McDONALD:

H.R. 839. A bill to restrict the authority of the Secretary of Health and Human Services with respect to the regulation of vitamin and mineral products for over-the-counter use; to the Committee on Energy and Commerce.

H.R. 840. A bill to require the Comptroller General of the United States to audit annually the gold held by the United States on the first day of each fiscal year and to report his findings to the Congress; to the Committee on Banking, Finance and Urban Affairs.

H.R. 841. A bill to provide that existing regulations issued by the Secretary of Labor with respect to occupational exposure to cotton dust shall cease to be effective and that any future regulations with respect to such exposure shall be subject to congressional disapproval; to the Committee on Education and Labor.

H.R. 842. A bill to repeal the Occupational Safety and Health Act of 1970; to the Committee on Education and Labor.

H.R. 843. A bill to repeal titles XV and XVI of the Public Health Service Act; to the Committee on Energy and Commerce.

H.R. 844. A bill to exempt certain blood fractions from the Federal Food, Drug, and Cosmetic Act for 5 years, and for other purposes; to the Committee on Energy and Commerce.

H.R. 845. A bill to abolish the Federal Election Commission; to the Committee on House Administration.

H.R. 846. A bill to amend title 44, United States Code, to require that Federal publications which are distributed to the public free of charge shall bear a statement indicating that the printing and distribution of such publications are financed by U.S. taxpayers; to the Committee on House Administration.

H.R. 847. A bill to repeal the Gun Control Act of 1968; to the Committee on the Judiciary.

H.R. 848. A bill to amend chapter 44 of title 18 of the United States Code (respecting firearms) to penalize the use of firearms in the commission of any Federal felony and to increase the penalties in certain related existing provisions; to the Committee on the Judiciary.

H.R. 849. A bill to provide for a 10-percent reduction in congressional salaries whenever the budget is not balanced; to the Committee on Post Office and Civil Service.

By Mr. GEPHARDT (for himself, Mr. GRADISON, Mr. CORCORAN, Mr. HEFTEL of Hawaii, Mr. MOORE, Mr. PORTER, and Mr. PETRI):

H.R. 850. A bill to institute fundamental reforms in the health care delivery system, to assist all Americans in obtaining health care, and to restrain increases in the cost of health care; jointly, to the Committees on Ways and Means, Energy and Commerce, the Judiciary, and Post Office and Civil Service.

By Mr. McDONALD (for himself and DANIEL B. CRANE):

H.R. 851. A bill to amend title 23, United States Code, for the purpose of deleting the provisions relating to a national maximum speed limit of 55 miles per hour; to the Committee on Public Works and Transportation.

By Mr. McDONALD:

H.R. 852. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

H.R. 853. A bill to repeal the subtitle of the Tax Equity and Fiscal Responsibility Act relating to withholding on interest and dividends; to the Committee on Ways and Means.

H.R. 854. A bill to limit eligibility for appointment and admission to any U.S. service academy to male individuals; jointly, to the Committees on Armed Services and Merchant Marine and Fisheries.

By Mr. McDONALD (for himself and Mr. PAUL):

H.R. 855. A bill to terminate all participation by the United States in the United Nations, and to remove all privileges, exemptions, and immunities of the United Nations; to the Committee on Foreign Affairs.

H.R. 856. A bill to terminate Federal involvement in education; to the Committee on Government Operations.

By Mr. MICHEL (for himself and Mr. MADIGAN):

H.R. 857. A bill to deauthorize the William L. Springer Lake portion of the flood control project for the Illinois River and tributaries, Illinois, Wisconsin, and Indiana, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. MITCHELL:

H.R. 858. A bill to amend section 305 of the Federal Property and Administrative Services Act of 1949 pertaining to contract progress payments made by agencies of the Federal Government, to provide for the elimination of retainage in certain instances, and for other purposes; to the Committee on Government Operations.

H.R. 859. A bill to reauthorize the Local Public Works Capital Development and Investment Act of 1976, and for other purposes; to the Committee on Public Works and Transportation.

H.R. 860. A bill to amend the Small Business Act and the Small Business Investment Act of 1958; to the Committee on Small Business.

H.R. 861. A bill to extend through fiscal year 1984 SBA pilot programs under section 8 of the Small Business Act; to the Committee on Small Business.

By Mr. MITCHELL (for himself and Mr. ADDABBO):

H.R. 862. A bill to amend the Small Business Act to facilitate the implementation of programs to assist small business; jointly, to the Committees on Small Business and Post Office and Civil Service.

H.R. 863. A bill to amend the Small Business Act; to the Committee on Small Business.

By Mr. MONTGOMERY:

H.R. 864. A bill to repeal the withholding of tax from interest and dividends; to the Committee on Ways and Means.

By Mr. OBERSTAR:

H.R. 865. A bill to amend the Railroad Retirement Act of 1974 to assure that surviving parents receive benefits that are equal to those analogous surviving parents receive under the Social Security Act; to the Committee on Energy and Commerce.

H.R. 866. A bill to amend the Railroad Retirement Act of 1974 to require the inclusion of certain compensation in the computation of benefits if that compensation is taxed for railroad retirement purposes; to the Committee on Energy and Commerce.

H.R. 867. A bill to amend the Railroad Retirement Act of 1974 to eliminate the limitation of "years of service" credit for military service to wartime service; to the Committee on Energy and Commerce.

H.R. 868. A bill to amend the Railroad Retirement Act of 1974 to eliminate deductions from certain annuities on account of military pensions, disability compensation, and other gratuitous benefits given under other acts of Congress; to the Committee on Energy and Commerce.

H.R. 869. A bill to amend the Railroad Retirement Act of 1974 to provide benefits for certain disabled spouses of railroad employees and for certain spouses of disabled railroad employees; to the Committee on Energy and Commerce.

H.R. 870. A bill to amend the Railroad Retirement Act of 1974 to provide that remarried widows who elected a residual lump sum payment may rescind that election, repay the lump sum, and receive an annuity in certain instances; to the Committee on Energy and Commerce.

H.R. 871. A bill to amend the Railroad Unemployment Insurance Act to provide that unemployment benefits of railroad employees will not be reduced by reason of the receipt of certain unrelated social insurance benefits; to the Committee on Energy and Commerce.

H.R. 872. A bill to amend the Railroad Retirement Act of 1974 with regard to the definition of the term "spouse"; to the Committee on Energy and Commerce.

By Mr. OBERSTAR (for himself, Mr. EDGAR, Mr. HORTON, Mr. CONTE, Mrs. SCHNEIDER, Mr. WOLPE, Mr. WALGREN, Ms. MIKULSKI, Ms. OAKAR, Mr. HARKIN, Mr. SEIBERLING, Mr. ECKART, Mr. BOLAND, Mr. BEDELL, Mr. ROTH, Mr. WORTLEY, Mr. MITCHELL, Mr. VENTO, Mrs. MARTIN of Illinois, Mr. RINALDO, Mr. LONG of Maryland, Mr. MCHUGH, Mrs. COLLINS, Mr. WINN, Mr. NOWAK, Mr. FRANK, Mr. MINISH, Mr. APPLEGATE, Mr. LEACH of Iowa, Mr. KASTENMEIER, Mr. BEREUTER, Mr. REGULA, Mr. GAYDOS, Mr. FORD of Michigan, Mr. GILMAN, Mr. STUDDS, Mr. STOKES, Mr. FLORIO, Mr. PEASE, Mr. SENSENBRENNER, Mr. SMITH of New Jersey, Mr. YATRON, Mr. BOEHLERT, Mr. D'AMOURS, Mr. RINALDO, Ms. KAPTUR, Mr. ST GERMAIN, Mr. CLINGER, and Mr. WISE):

H.R. 873. A bill to provide a temporary means to correct imbalances in the natural gas market in order to restrain prices charged to natural gas users; to the Committee on Energy and Commerce.

By Mr. PANETTA:

H.R. 874. A bill to prohibit the removal by the Secretary of the Interior of certain areas from wilderness study status; to the Committee on Interior and Insular Affairs.

By Mr. PAUL:

H.R. 875. A bill to repeal the Federal Reserve Act; to the Committee on Banking, Finance and Urban Affairs.

H.R. 876. A bill to repeal section 105(b) of the Monetary Control Act of 1980; to the Committee on Banking, Finance and Urban Affairs.

H.R. 877. A bill to authorize and direct the General Accounting Office to audit the Federal Reserve Board, the Federal Advisory Council, the Federal Open Market Committee, and Federal Reserve banks and their branches; to the Committee on Banking, Finance and Urban Affairs.

H.R. 878. A bill to execute Article 1, section 8 of the U.S. Constitution; to the Committee on Banking, Finance and Urban Affairs.

H.R. 879. A bill to discontinue annual and quadrennial adjustments in the pay of Members of Congress and to provide for a reduction in the pay of Members of Congress effective for any pay period based on any increase in the Consumer Price Index published during the preceding pay period, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. PERKINS:

H.R. 880. A bill to increase the number of weeks for which railroad unemployment benefits are payable; to the Committee on Energy and Commerce.

By Mr. PERKINS (for himself, Mr. KILDEE, Mr. WIRTH, and Mr. PRITCHARD):

H.R. 881. A bill to authorize a national program of improving the quality of education; to the Committee on Education and Labor.

By Mr. PICKLE:

H.R. 882. A bill to require a two-thirds vote of each House of Congress (except in a state of emergency) to pass a joint resolution to continue appropriations for departments, agencies, and other entities of the Federal Government pending the passage of appropriation acts for such departments, agencies, and other entities; to the Committee on Rules.

H.R. 883. A bill to amend the Internal Revenue Code of 1954 to exclude certain activities of closely held corporations from the at-risk rules; to the Committee on Ways and Means.

H.R. 884. A bill to amend the Internal Revenue Code of 1954 to reduce mortgage interest rates for first-time home buyers by providing a partial exclusion for interest on certain mortgages, and for other purposes; to the Committee on Ways and Means.

H.R. 885. A bill to provide mandatory social security coverage for Members of Congress and the Vice President; to the Committee on Ways and Means.

By Mr. RINALDO:

H.R. 886. A bill to amend title XVI of the Social Security Act to eliminate the benefit reduction which is presently provided for SSI recipients in certain long-term care institutions where such institutions do not meet applicable State-established standards; to the Committee on Ways and Means.

By Mr. SAWYER:

H.R. 887. A bill to repeal the Davis-Bacon Act, and for other purposes; to the Committee on Education and Labor.

H.R. 888. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for dividends paid by domestic corporations; to the Committee on Ways and Means.

H.R. 889. A bill to amend the Internal Revenue Code of 1954 to increase the number of taxable years to which a net operating loss may be carried back; to the Committee on Ways and Means.

H.R. 890. A bill to amend the Internal Revenue Code of 1954 to increase the limitations on the deduction for individual retirement savings and to allow individuals covered by employer plans to qualify for such deduction; to the Committee on Ways and Means.

H.R. 891. A bill to establish a webless migratory game bird research fund and to require a Federal permit for the taking of any webless migratory game bird; to the Committee on Merchant Marines and Fisheries.

H.R. 892. A bill to amend the Social Security Act to facilitate enforcement of provisions requiring suspension of benefits to inmates of prisons and other public institutions by insuring the availability of necessary information from Federal instrumentalities; to the Committee on Ways and Means.

H.R. 893. A bill to amend the Internal Revenue Code of 1954 to allow an individual to withdraw amounts from an individual retirement account for the purchase of a principal residence; to the Committee on Ways and Means.

H.R. 894. A bill to amend the Internal Revenue Code of 1954 with respect to the treatment of agricultural labor for purposes of the Federal unemployment tax; to the Committee on Ways and Means.

By Mrs. SCHNEIDER:

H.R. 895. A bill to provide that surplus public lands suitable for conservation, recreation, or historic purposes should be made available to States and local units of govern-

ment at no cost or minimal cost; to the Committee on Interior and Insular Affairs.

H.R. 896. A bill to amend title 5, United States Code, to assure that benefits under the Federal employees health benefits program for retired Federal employees are not reduced below the level in effect at the time of retirement, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 897. A bill to amend the Internal Revenue Code of 1954 to provide a tax credit to employers who add new employee positions to their payrolls in areas of substantial unemployment and to provide tax incentives for the training of skilled labor in labor-short industries; to the Committee on Ways and Means.

By Mrs. SCHNEIDER (for herself, Mr. WEBER, Mr. D'AMOURS, Mr. DELLUMS, Mr. Brown of California, Mr. GORE, Mr. LELAND, and Mr. SEIBERLING):

H.R. 898. A bill to require the Administrator of General Services to take certain actions to improve the management of the Federal procurement programs; to the Committee on Government Operations.

By Mr. SHAW:

H.R. 899. A bill to repeal the withholding of tax from interest and dividends; to the Committee on Ways and Means.

By Mr. SPENCE:

H.R. 900. A bill to repeal the provisions of the Tax Equity and Fiscal Responsibility Act of 1982 which require withholding on interest and dividends; to the Committee on Ways and Means.

By Mr. STARK:

H.R. 901. A bill to provide a 2-year extension of the income tax deduction for expenditures to remove certain architectural and transportation barriers; to the Committee on Ways and Means.

By Mr. TAUZIN:

H.R. 902. A bill to repeal the provisions of the Tax Equity and Fiscal Responsibility Act of 1982 relating to withholding on interest and dividends; to the Committee on Ways and Means.

By Mr. TAYLOR:

H.R. 903. A bill to repeal the withholding of tax from interest and dividends; to the Committee on Ways and Means.

By Mr. TRAXLER:

H.R. 904. A bill to amend the Child Nutrition Act of 1966 to eliminate certain restrictions on the eligibility of schools to participate in the special milk program; to the Committee on Education and Labor.

H.R. 905. A bill to amend the Internal Revenue Code of 1954 to prorate the heavy truck use tax where the truck is used on public highways more than 5,000 miles but not more than 10,000 miles; to the Committee on Ways and Means.

By Mr. VANDER JAGT:

H.R. 906. A bill to amend the Internal Revenue Code of 1954 to provide that a fire or rescue vehicle and a chassis sold for conversion into a fire or rescue vehicle, an ambulance, hearse or combination ambulance-hearse will be exempt from the excise tax on trucks; to the Committee on Ways and Means.

H.R. 907. A bill to amend section 119 of the Internal Revenue Code of 1954 to provide that meals furnished by an employer to an employee may be considered furnished for the convenience of the employer if the meals are furnished on the business premises of the employer generally, except under certain conditions whereby meals may be furnished off the business premises of the employer; to the Committee on Ways and Means.

H.R. 908. A bill to provide for a 3-year suspension of the duty on B-naphthol; to the Committee on Ways and Means.

By Mr. VOLKMER:

H.R. 909. A bill to freeze natural gas prices; to the Committee on Energy and Commerce.

H.R. 910. A bill to amend the Natural Gas Policy Act of 1978 to define abuse for purposes of determining whether passthroughs of amounts paid to interstate pipelines for natural gas should be denied, and to deny passthroughs to interstate pipelines for actions which are imprudent; to the Committee on Energy and Commerce.

H.R. 911. A bill to change the effective date for compensation for Members of Congress; to the Committee on Post Office and Civil Service.

By Mr. WHITEHURST:

H.R. 912. A bill to authorize a travel and transportation allowance to a member of the uniformed services stationed overseas for each dependent child who attends a school in the United States for the purpose of obtaining a secondary or undergraduate college education; to the Committee on Armed Services.

By Mr. WON PAT:

H.R. 913. A bill to amend the Immigration and Nationality Act to make alien crewmen, serving on board a fishing vessel having its home port or operating base in the United States, nonimmigrant aliens while they are temporarily in Guam, the Northern Mariana Islands, or American Samoa; to the Committee on the Judiciary.

H.R. 914. A bill to waive the visa requirements for aliens visiting Guam for not more than 15 days; to the Committee on the Judiciary.

By Mr. WON PAT (for himself, Mr. DE LUGO, Mr. COUGHLIN, Mr. LAGOMARSINO, and Mr. BEREUTER):

H.R. 915. A bill to authorize the appointment of citizens of the Northern Mariana Islands as officers in the Armed Forces of the United States; to the Committee on Armed Services.

By Mr. WYLIE (for himself and Mr. KASICH):

H.R. 916. A bill to repeal sections 301 through 308 of the Tax Equity and Fiscal Responsibility Act of 1982, which impose withholding on interest and dividends; to the Committee on Ways and Means.

By Mr. YOUNG of Missouri (for himself and Mr. PRICE):

H.R. 917. A bill to modify the project for the replacement of locks and dam 26, Mississippi River, Alton, Ill., and Missouri; to the Committee on Public Works and Transportation.

By Mr. DANIEL B. CRANE (for himself, Mr. STANGELAND, Mr. FRENZEL, Mr. WEBER, Mr. DICKINSON, Mr. WILSON, Mr. CORCORAN, Mr. WHITTAKER, Mr. SUNIA, Mr. ROBINSON, Mr. MONTGOMERY, Mr. SMITH of Florida, Mr. BLILEY, Mr. FIELDS, and Mr. PAUL):

H.R. 918. A bill to place a moratorium on activity of the Federal Trade Commission with respect to certain professions and professional associations until the Congress expressly authorizes such activity; to the Committee on Energy and Commerce.

By Mr. DOWNEY of New York:

H.R. 919. A bill to amend the Internal Revenue Code of 1954 to provide for the establishment of the deduction of contributions to parents and students' savings accounts for educational purposes; to the Committee on Ways and Means.

H.R. 920. A bill to eliminate discrimination with regard to mental illness under medicare; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. DOWNEY of New York (for himself and Mr. MCKINNEY):

H.R. 921. A bill to amend the Internal Revenue Code of 1954 to modify the credit allowed for expenses for household and dependent care services necessary for gainful employment to include credit to individuals for expenses for the care of a mentally or physically handicapped child of such individual and to provide for the exemption from taxation of trusts established to provide care for such children except to the extent of distributions and to provide a deduction for contributions to such trusts; to the Committee on Ways and Means.

By Mr. GLICKMAN (for himself, Mr. ENGLISH, Mr. STANGELAND, Mr. HIGHTOWER, and Mr. VOLKMER):

H.R. 922. A bill to provide for nonrecourse loans on commodities received as payments in kind; to the Committee on Agriculture.

By Mr. HUGHES:

H.R. 923. A bill to amend the Internal Revenue Code of 1954 to allow certain individuals who have attained age 65 or who are disabled a refundable tax credit for property taxes paid by them on their principal residences or for a certain portion of the rent they pay on their principal residences; to the Committee on Ways and Means.

By Mr. PEASE:

H.R. 924. A bill to amend title II of the Social Security Act to facilitate the administration of the social security system, and for other purposes; to the Committee on Ways and Means.

By Mr. PEASE (for himself, Mr. BROWN of California, and Mr. SEIBERLING):

H.R. 925. A bill to improve worker training under the Trade Act of 1974, and for other purposes; to the Committee on Ways and Means.

By Mr. STARK:

H.R. 926. A bill to amend the Social Security Act to require State unemployment agencies to collect individual wage information on a quarterly basis, and for other purposes; to the Committee on Ways and Means.

By Mr. STARK (for himself, Mr. MURPHY, and Mr. CROCKETT):

H.R. 927. A bill to amend title IV of the Social Security Act to establish a temporary program of emergency shelter for homeless individuals and families; to the Committee on Ways and Means.

By Mr. ADDABBO:

H.J. Res. 78. Joint resolution to authorize and request the President to issue a proclamation designating November 30, 1983, as "National Postal Workers' Recognition Day"; to the Committee on Post Office and Civil Service.

H.J. Res. 79. Joint resolution authorizing the President to proclaim September 8, 1983, as National Cancer Prevention Day; to the Committee on Post Office and Civil Service.

H.J. Res. 80. Joint resolution to authorize and request the President to issue a proclamation designating April 17 through April 24, 1983; as "Jewish Heritage Week"; to the Committee on Post Office and Civil Service.

By Mr. DE LA GARZA:

H.J. Res. 81. Joint resolution proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

By Mr. GAYDOS:

H.J. Res. 82. Joint resolution proposing an amendment to the Constitution of the United States guaranteeing the right to life; to the Committee on the Judiciary.

By Mr. GRADISON:

H.J. Res. 83. Joint resolution to amend the Social Security Act to restore the treatment of the Federal old-age survivors insurance trust fund, the Federal disability insurance trust fund, and the Federal hospital insurance trust fund, in relation to the budget of the United States, to the treatment of such trust funds before their inclusion in the unified budget of the United States; to the Committee on Ways and Means.

By Mr. HYDE:

H.J. Res. 84. Joint resolution proposing an amendment to the Constitution of the United States guaranteeing the right of life to the unborn; to the Committee on the Judiciary.

H.J. Res. 85. Joint resolution proposing an amendment to the Constitution of the United States providing that all persons shall have the right to be free from discrimination; to the Committee on the Judiciary.

By Mr. KASTENMEIER:

H.J. Res. 86. Joint resolution to prohibit military assistance for El Salvador; to the Committee on Foreign Affairs.

H.J. Res. 87. Joint resolution calling for a verifiable comprehensive treaty banning the testing, production, deployment and use of all space-based weapons for use against space, air or ground targets, and ground-based or air-based weapons for use against satellites and the dismantling of existing weapons systems; to the Committee on Foreign Affairs.

By Mr. McDONALD:

H.J. Res. 88. Joint resolution proposing an amendment to the Constitution of the United States relative to the force and effect of treaties; to the Committee on the Judiciary.

By Ms. OAKAR:

H.J. Res. 89. Joint resolution to terminate U.S. military assistance and sales to El Salvador; to the Committee on Foreign Affairs.

By Mr. PAUL:

H.J. Res. 90. Joint resolution proposing an amendment to the Constitution of the United States to limit the number of years any individual may serve as a Federal judge or magistrate; to the Committee on the Judiciary.

H.J. Res. 91. Joint resolution proposing an amendment to the Constitution of the United States to provide for 4-year terms for Senators, to limit the number of terms any individual may serve as Senator or Representative, and to limit the length of each session of the Congress; to the Committee on the Judiciary.

By Mr. VOLKMER:

H.J. Res. 92. Joint resolution proposing an amendment to the Constitution of the United States with respect to the right to life; to the Committee on the Judiciary.

By Mr. RAHALL (for himself, Mr. McDADE, Mr. ROE, Mr. CONTE, Mr. WON PAT, Mr. STOKES, Mr. GUARINI, Mr. RATCHFORD, Ms. OAKAR, Mr. LAFALCE, Mr. JONES of Tennessee, Mr. BEVILL, Mr. MINETA, Mr. SIMON, Mr. FORD of Tennessee, and Mr. DYMALLY):

H.J. Res. 93. Joint resolution to provide for the awarding of a special gold medal to Danny Thomas in recognition of his humanitarian efforts and outstanding work as an American; to the Committee on Banking, Finance and Urban Affairs.

By Mrs. COLLINS:

H. Con. Res. 29. Concurrent resolution expressing the sense of the Congress on natural gas prices; to the Committee on Energy and Commerce.

By Mr. GAYDOS:

H. Con. Res. 30. Concurrent resolution requesting a report from the Securities and Exchange Commission on acquisition of U.S. firms by foreign nationals; jointly, to the Committees on Energy and Commerce and Foreign Affairs.

By Mr. LONG of Maryland:

H. Con. Res. 31. Concurrent resolution expressing the sense of Congress with respect to ongoing investigations of foreign trade practices involving steel mill products; to the Committee on Ways and Means.

By Mr. McDONALD:

H. Con. Res. 32. Concurrent resolution expressing the sense of the Congress that the United States terminate diplomatic relations with the Soviet-sponsored Government of Afghanistan; to the Committee on Foreign Affairs.

By Mr. PAUL:

H. Con. Res. 33. Concurrent resolution prohibiting use of Federal funds for foreign travel by Senators, Representatives, and officers and employees of the Congress, unless such travel is specifically authorized by a recorded three-fourths vote of the House involved; to the Committee on House Administration.

By Mrs. SCHNEIDER:

H. Con. Res. 34. Concurrent resolution expressing the sense of the Congress concerning the funding for the general revenue sharing program; to the Committee on Government Operations.

By Mr. WON PAT:

H. Con. Res. 35. Concurrent resolution relating to self-determination for the people of Guam; to the Committee on Interior and Insular Affairs.

By Mr. ADDABBO:

H. Res. 36. Resolution expressing the sense of the House that the President should not impose import fees on crude oil and refined petroleum products; to the Committee on Ways and Means.

By Mr. DANIEL B. CRANE:

H. Res. 37. Resolution expressing the sense of the House of Representatives regarding the heroism of Arland D. Williams, Jr., after the airplane crash in the Potomac River on January 13, 1982; to the Committee on Post Office and Civil Service.

By Mr. GAYDOS:

H. Res. 38. Resolution expressing the sense of the House of Representatives with respect to the acceleration of wellhead natural gas prices; to the Committee on Energy and Commerce.

By Mr. McDONALD:

H. Res. 39. Resolution to establish a Select Committee to Investigate Illegal or Unethical Practices of the Internal Revenue Service; to the Committee on Rules.

H. Res. 40. Resolution to provide for the establishment of the Select Committee on the Role of the United States in the United Nations; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII,

1. The SPEAKER presented a memorial of the Legislature of the Territory of Guam, relative to the Government Comptroller for Guam; to the Committee on Interior and Insular Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ALBOSTA:

H.R. 928. A bill for the relief of Robert Sewpal Matadial, Bepi Mata Matadial, Majnushri Matadial, and Jayshree Matadial; to the Committee on the Judiciary.

By Mr. CHAPPIE:

H.R. 929. A bill to authorize the Secretary of the Interior to convey certain lands in Placer County, Calif., to Mrs. Edna C. Marshall, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. FOLEY:

H.R. 930. A bill for the relief of Mrs. Eva M. Crews; to the Committee on the Judiciary.

By Mr. HUGHES:

H.R. 931. A bill for the relief of Mrs. Juana Garcia de Lumpuy and her children, Frank Lumpuy and Linelsa Lumpuy; to the Committee on the Judiciary.

H.R. 932. A bill for the relief of Harry Chen Tak Wong; to the Committee on the Judiciary.

By Mr. McDONALD:

H.R. 933. A bill for the relief of C. Vernon Myers; to the Committee on the Judiciary.

H.R. 934. A bill for the relief of Joyce G. McFarland; to the Committee on the Judiciary.

By Mr. RAHALL:

H.R. 935. A bill for the relief of Generoso Blando; to the Committee on the Judiciary.

H.R. 936. A bill for the relief of Mountaha Bou-Assali Saad; to the Committee on the Judiciary.

H.R. 937. A bill for the relief of Prashant Agarwal; to the Committee on the Judiciary.

H.R. 938. A bill for the relief of Sheng Tchou and Ming Tchou Watt; to the Committee on the Judiciary.

H.R. 939. A bill for the relief of Doctor Ida Zafra Villanueva; to the Committee on the Judiciary.

By Mr. SOLARZ:

H.R. 940. A bill for the relief of Blanca Nellie Quintana; to the Committee on the Judiciary.

H.R. 941. A bill for the relief of Li Nam Ping; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 6: Mr. RUDD, Mr. ROBERT F. SMITH, Mr. CORCORAN, Mr. TAUZIN, Mr. HANSEN of Idaho, Mr. DEWINE, Mr. LOWERY of California, Mr. PARRIS, Mr. RIDGE, Mr. HYDE, and Mr. BILIRAKIS.

H.R. 17: Mr. HARKIN, Mr. DELLUMS, Mr. LEACH of Iowa, Mr. WHITEHURST, Mr. ROE, Mr. DWYER of New Jersey, Mr. PERKINS, Mr. LELAND, Mr. GUARINI, Mr. LAFALCE, Mr. WEAVER, Mr. RANGEL, Mr. WALKER, Mr. MARLENEE, Mr. RATCHFORD, Mr. BEDELL, Mr. TAUKE, Mr. YATES, Mr. ANDERSON, Mr. SIMON, Mr. HAMILTON, Mr. LONG of Louisiana, Mrs. COLLINS, Mr. LOWRY of Washington, Mr. WAXMAN, Mr. CLAY, Mr. FASCELL, Mr. NEAL, Mr. WILSON, Mr. KILDEE, Ms. MIKULSKI, Mr. EDGAR, Mr. MINISH, Mr. GLICKMAN, Mr. MAVROULES, Mr. MCKINNEY, Mr. WASHINGTON, Mr. FISH, Mr. FAZIO, Mr. PORTER, Mr. PARRIS, and Mr. GEPHARDT.

H.R. 30: Mr. CLAY, Mr. MURPHY, Mr. KILDEE, Mr. KOGOVSEK, Mr. WASHINGTON, Mr. MARTINEZ, Mr. SCHUMER, Mr. MOAKLEY, Mr. STOKES, Mr. BONIOR of Michigan, Mr. PORTER, Mr. OLIN, Mr. STAGGERS, Mr. BEREUTER, Mr. MARKEY, Mr. FOGLIETTA, Mr. BARNES, Mr. DOWNEY of New York, Mr. FRANK, Mr. MITCHELL, Mr. RODINO, Mr. HUGHES, Mr. SMITH of Florida, Mr. LEVIN of Michigan, Ms. MIKULSKI, Ms. OAKAR, Mr. MCKINNEY, Mr. DWYER of New Jersey, Mr. UDALL, Mr. LAFALCE, Mr. FORD of Tennessee, Mr. MCNULTY, Mr. EDGAR, Mr. SUNIA, Mr. GORE, Mr. WON PAT, Mr. TOWNS, Mr. DIXON, Mr. FAUNTROY, Mrs. BOGGS, Mr. HAMILTON, Mr. WEAVER, Mr. HOYER, Mr. EDWARDS of California, Mr. FAZIO, Mr. SEIBERLING, and Mr. BERMAN.

H.R. 42: Mr. BEVILL, Mr. WILSON, Mr. HUBBARD, Mr. PATMAN, Mr. DWYER of New Jersey, Mr. WALGREN, Mr. FAUNTROY, Mr. BONKER, Mr. MICHEL, Mr. SYNAR, Mr. EDGAR, Mr. HATCHER, Mr. STOKES, Mr. WILLIAMS of Montana, Mr. SCHEUER, Mr. MITCHELL, Mr. STENHOLM, Mr. SAM B. HALL, Jr., Mr. MCDADE, Mr. FAZIO, Mr. WIRTH, Mr. SUNIA, Mr. WON PAT, Mr. JONES of Oklahoma, Mr. MURPHY, and Mr. PORTER.

H.R. 66: Mr. DE LUGO.

H.R. 80: Mr. LOWRY of Washington.

H.R. 81: Mr. LOWRY of Washington.

H.R. 194: Mr. D'AMOURS, Mr. HOWARD, Mr. SAM B. HALL, Jr., Mr. SYNAR, Mr. TAUZIN, and Mr. HUBBARD.

H.R. 223: Mr. WILLIAMS of Ohio, Mr. COURTER, Mr. ROBERTS, Mr. WHITTAKER, Mr. JACOBS, Mr. VOLKMER, Mr. WYDEN, Mr. ROBERT F. SMITH, Mr. MCCAIN, and Mr. KASICH.

H.R. 388: Mr. WILSON, Mr. SIMON, Mr. AKAKA, Mr. STENHOLM, Mr. WON PAT, Mr. FORSYTHE, Mr. SOLOMON, Mrs. MARTIN of Illinois, and Mr. PETRI.

H.R. 389: Mr. WILLIAMS of Montana, Mr. WORTLEY and Mr. SMITH of Florida.

H.R. 430: Mr. SISISKY.

H.R. 500: Mr. ADDABBO, Mr. ANDERSON, Mr. ANDREWS of Texas, Mr. ANNUNZIO, Mr. AUCOIN, Mr. BEREUTER, Mr. BILIRAKIS, Mr. BLILEY, Mrs. BOGGS, Mr. BORSKI, Mrs. BOXER, Mr. BROWN of Colorado, Mr. CARR, Mr. CONYERS, Mr. DEWINE, Mr. DWYER of New Jersey, Mr. DYSON, Mr. ECKART, Mr. EDWARDS of Oklahoma, Mr. EMERSON, Mr. EVANS of Iowa, Mr. EVANS of Illinois, Mr. FASCELL, Mr. FEIGHAN, Mr. FIELDS, Mr. FORSYTHE, Mr. FRANKLIN, Mr. RALPH M. HALL, Mr. SAM B. HALL., Jr., Mr. HAMILTON, Mr. HOPKINS, Mr. HORTON, Mr. HUBBARD, Mr. HUTTO, Mr. JACOBS, Ms. KAPTUR, Mr. KEMP, Mr. KOSTMAYER, Mr. MCCOLLUM, Mr. MCDADE, Mr. MCKERNAN, Mr. MARTIN of North Carolina, Mr. MITCHELL, Mr. MOAKLEY, Mr. NIELSON of Utah, Mr. OBERSTAR, Mr. OLIN, Mr. OXLEY, Mr. PARRIS, Mr. PETRI, Mr. QUILLEN, Mr. ROBERTS, Mr. ROE, Mr. ROWLAND, Mr. SENSENBRENNER, Mr. SHARP, Mr. SIKORSKI, Mr. SIMON, Mr. SKEEN, Mr. SLATTERY, Mr. SMITH of New Jersey, Mr. DENNY SMITH, Mr. SMITH of Florida, Mr. ROBERT F. SMITH, Mrs. SNOWE, Mr. SPRATT, Mr. STENHOLM, Mr. SUNIA, Mr. SYNAR, Mr. TALLON, Mr. TAUZIN, Mr. TORRICELLI, Mr. VALENTINE, Mr. VANDERGRIFF, Mr. VOLKMER, Mrs. VUCANOVICH, Mr. WEAVER, Mr. WHITLEY, Mr. WILLIAMS of Montana, Mr. WYDEN, and Mr. YOUNG of Missouri.

H.R. 550: Mr. DENNY SMITH.

H.R. 653: Mr. TAUZIN.

H.J. Res. 1: Mr. SWIFT, Mrs. SMITH of Nebraska, Mr. BEREUTER, Mr. FORD of Tennessee, Mr. MCKERNAN, Mr. D'AMOURS, Mr. PETRI, Mrs. JOHNSON, Mr. GOODLING, Mr. OTTINGER, Mr. CHANDLER, Mr. BOEHLERT, Mr. WHITEHURST, and Mr. TALLON.

H.J. Res. 2: Mr. SWIFT, Mr. LEVINE of California, Mr. LUKEN, Mr. WON PAT, Mr. D'AMOURS, Mr. BONER of Tennessee, Mr. DE LUGO, Mr. ANDREWS of North Carolina, Mr. MILLER of California, Mr. SHARP, Mr. SYNAR, Mr. DURBIN, Mr. FAZIO, Mr. RUSSO, and Mr. PANETTA.

H.J. Res. 59: Mr. GEPHARDT, Mr. LUKEN, and Mr. TAUKE.

H.J. Res. 73: Mr. RUSSO, Mr. LUNGREN, Mr. O'BRIEN, and Mr. SENSENBRENNER.

H. Con. Res. 9: Mr. GINGRICH.

H. Res. 17: Mr. LELAND, Mr. FAUNTROY, Mr. FORD of Tennessee, Mr. DELLUMS, Mr. WHEAT, Mr. DYMALLY, Mr. TOWNS, Mr. WASHINGTON, Mr. LEVITAS, Mr. CONYERS, and Mr. RAY.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

4. By the SPEAKER: Petition of the City Council of Cleveland, Ohio, relative to a public works job program; to the Committee on Education and Labor.

5. Also, petition of the Italian-American Labor Council, Inc., New York, N.Y., relative to employment; to the Committee on Education and Labor.

6. Also, petition of Lavone A. Jackson of New Jersey, relative to a jobs proposal; to the Committee on Education and Labor.

7. Also, petition of SCORPA, Statewide Committees Opposing Regional Plan Areas, Santa Cruz, Calif., relative to the Advisory Commission on Intergovernmental Relations; to the Committee on Government Operations.

8. Also, petition of the Italian-American Labor Council, Inc., New York, N.Y., relative to immigration; to the Committee on the Judiciary.

9. Also, petition of the Italian-American Labor Council, Inc., New York, N.Y., relative to the Competitive Shipping and Shipbuilding Act of 1982; to the Committee on Merchant Marine and Fisheries.

10. Also, petition of the Second Biennial National Shipbuilding Conference of the Metal Trades Department, AFL-CIO, Washington, D.C., relative to American shipyard workers; to the Committee on Merchant Marine and Fisheries.

11. Also, petition of the United Presbyterian Church, New York, N.Y., relative to a national holiday honoring the birthday of Martin Luther King, Jr.; to the Committee on Post Office and Civil Service.

12. Also, petition of the City Council, Anaheim, Calif., relative to municipal bond provisions of the Tax Equity and Fiscal Responsibility Act of 1982; to the Committee on Ways and Means.

13. Also, petition of the Italian-American Labor Council, Inc., New York, N.Y., relative to imports and foreign trade; to the Committee on Ways and Means.

14. Also, petition of the American Historical Association, Washington, D.C., relative to nuclear weapons; jointly, to the Committees on Armed Services and Foreign Affairs.

15. Also, petition of the Italian-American Labor Council, Inc., New York, N.Y., relative to NATO; jointly, to the Committees on Armed Services and Foreign Affairs.

SENATE—*Tuesday, January 25, 1983*

The Senate met at 12 noon and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Thus saith the Lord, Let not the wise man glory in his wisdom, neither let the mighty man glory in his might, let not the rich man glory in his riches; but let him that glorieth glory in this, that he that understandeth and knoweth me, that I am the Lord which exercises lovingkindness, judgment, and righteousness in the earth; for in these things I delight, saith the Lord. —Jeremiah 9: 23, 24.

Almighty God, God of Abraham, Isaac, and Jacob—Sovereign of the nations, Lord of history, we call upon Thee on behalf of the President of the United States, the Members of the House and Senate. All are aware of the magnitude of the issues which face this Congress as it convenes. We thank Thee for the privilege of beginnings, for the hopes, the dreams, the aspirations, and the anxieties with which this fresh challenge to public service confront us.

Deliver us, Gracious God, from a false pride and misplaced confidence in personal and collective human power which would cause us to tackle critical issues without a realistic sense of our need for divine wisdom, courage, and strength.

Remembering the pressures and emotions in the closing hours of the lameduck session, may harsh words and enmity be dissolved in loving reconciliation and may the words of the Apostle Paul be heeded, "Let all bitterness and wrath be put away from you and be kind one to another." (Ephesians 4: 31). In the name of Him who loved us unconditionally and who prayed on the cross for the forgiveness of those who put him there. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. BAKER. Mr. President, I thank the Chair.

THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

BILLS AND RESOLUTIONS

Mr. BAKER. Mr. President, I inquire of the Chair: Was there not a unanimous-consent order entered previously providing that no bills or resolutions would be received by the Senate until after the President delivers his message on the state of the Union?

The PRESIDENT pro tempore. The Senator is correct.

ORDER FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that, after the expiration of the time allocated to the two leaders under the standing order, there be a period for the transaction of routine morning business to extend not past the hour of 12:30 p.m. in which Senators may speak, and speak only, for not more than 2 minutes each.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECESS FROM 12:30 P.M. UNTIL 8:15 P.M.

Mr. BAKER. Mr. President, I ask unanimous consent, that at the conclusion of the time just provided for the transaction of routine morning business, the Senate then automatically, at the motion of the Chair, stand in recess until the hour of 8:15 p.m., when it will reconvene for the purpose of proceeding to the Hall of the House of Representatives to hear the address by the President of the United States on the state of the Union.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that, at the conclusion of that address, the Senate then stand in recess until the hour of 12 noon tomorrow.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR THE RECOGNITION OF CERTAIN SENATORS ON TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that on tomorrow, after the recognition of the two leaders under the standing order, eight Senators be recognized on special orders of not to exceed 15 minutes each in the following order: The distinguished senior Senator from Oregon (Mr. PACKWOOD), the distinguished junior Senator from Massachusetts (Mr. TSONGAS), the distinguished junior Senator from Iowa (Mr. GRASSLEY), the distinguished senior Senator from South Carolina (Mr. THURMOND), the distinguished junior Senator from Idaho (Mr. SYMMS), the distinguished junior Senator from Pennsylvania (Mr. SPECTER), the distinguished senior Senator from Alabama (Mr. HEFLIN), the distinguished junior Senator from Minnesota (Mr. BOSCHWITZ), and the distinguished Senator from South Dakota (Mr. ABDNOR).

The PRESIDING OFFICER. Without objection, it is so ordered.

EXPRESSION OF WELCOME, SERVICE, AND COOPERATION

Mr. BAKER. Mr. President, I take this opportunity to welcome all Members, particularly our freshmen Members, for joining us here today and to say to my friend the minority leader that I look forward to a year of service with all Members and to the further cooperation that has existed in the past between Members on both sides of the aisle.

WILLIAM F. HILDENBRAND, SECRETARY OF THE SENATE

Mr. BAKER. Mr. President, I wish to inform the Senate that the Secretary of the Senate, the Honorable William F. Hildenbrand, underwent surgery for a heart bypass a week ago at Walter Reed Army Medical Center and the reports are that he is doing very well indeed. He has been released from the hospital and returned home, and, contrary to general belief that he had no heart, indeed, the surgeons did find a heart and repaired it successfully.

Mr. President, I am prepared to yield my time remaining under the standing order to the distinguished minority leader, if he wishes.

Mr. BYRD. Mr. President, I thank the majority leader and I accept his offer.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The minority leader is recognized.

WILLIAM F. HILDENBRAND

Mr. BYRD. First, Mr. President, let me express comfort and gladness at the news with respect to the Secretary of the Senate, Mr. Hildenbrand. The

fact that he is improving rapidly and will soon be back at his post here I am sure pleases all of us on both sides of the aisle.

SENATOR HOWARD BAKER

Mr. BYRD. Mr. President, I must confess that I was a bit surprised at some news that came to us during the last few days. I refer specifically to the news that the distinguished majority leader, Mr. BAKER, does not intend to run for the Senate at the termination of his term. Having worked with HOWARD BAKER in the leadership in one fashion or another for a long period of time, I have a real and very deep admiration for him and I have a warm glow of friendship that has never ceased to burn brightly.

Emerson wrote a poem which I think is especially fitting:

Not gold, but only men can make a nation great and strong;
Men who for truth and honor's sake stand fast and labor long;
Real men who work while others sleep,
Who dare while others fly.
They build a nation's pillars deep
And lift them to the sky.

I see HOWARD BAKER as one of those men. He has been a very fine Senator from the State of Tennessee. He has been an effective Senator from the State of Tennessee. He has been a good leader and one who has shown constant consideration for the Members of the minority. And he is a man who, as far as I have found him to be, when he gives his word, keeps his word.

It is a bit early to be saying that we will miss HOWARD around here, but I think I would be less than honest and certainly not sincere if I did not say that at this point.

I look forward to the remaining 2 years of his presence in this Senate with the pleasure that he will be here with us and that we will continue to be able to work together as we understand each the other's problems and burdens. The decision he has made is one that only he could make. But not only did it come as a surprise from Senator BAKER but many of us feel that the Senate will have lost a good man, a good Senator, and certainly one who has performed effectively and who is highly respected—highly respected—by every Member on both sides of the aisle.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. BYRD. I yield.

Mr. BAKER. Mr. President, I am grateful in the extreme for the remarks by my friend, the minority leader. Words will not permit me to express to him my deep gratitude and appreciation.

I admire the minority leader for many reasons, but I especially admire him for his ability to reach for the words that will always serve best for a particular purpose. He has done that.

I was overwhelmed with the nature of his remarks as well as the content of his statement.

I may say, Mr. President, that 2 years is a long time in politics. I predict very freely that in the course of the next 2 years, while our friendship and admiration will remain unimpaired—will grow in those 2 years—he and I will have some real donnybrooks in that time and they will produce some strong emotional remarks.

I will remember these words as a great comfort to me as we proceed through this year and next year in trying to do the country's business in accordance with our respective viewpoints.

Mr. BYRD. Mr. President, I guess the greatest comment that can be said about my friend and fellow Member of this body is that he is a reasonable man. HOWARD BAKER is the epitome of reasonableness.

Mr. BAKER. Mr. President, I appreciate the comments of the distinguished minority leader.

Mr. BYRD. Mr. President, I yield back any remaining time I may have to the majority leader.

(At this point Mr. DENTON assumed the Chair.)

Mr. THURMOND. Mr. President, I shall not take this opportunity to pay any long tribute to the distinguished majority leader. He has announced that he does not intend to run again. I regret that. But I shall wait to hear his final departure, hoping he will change his mind, to make a more definitive statement about his services.

However, I would like to say just very briefly at this time that I am in my 29th year in the Senate, and I have not served with a more reasonable, a more understanding, a more able majority leader than the distinguished Senator from Tennessee. He is a man of unquestioned integrity and character. I believe everyone recognizes this. He is a man of tremendous courage. He is a man of great compassion. He is always courteous in his actions.

Mr. President, I do not know of any one man in the Senate who has been able to hold our side of the aisle together better than he has done.

I just want to say it has been a great pleasure to serve with him and I look forward to serving with him this year and next year, hoping by then he will change his mind and run again.

Mr. BAKER. Mr. President, I thank the President pro tempore. I respect him for what he stands for, the integrity of his positions, and the absolute accuracy of his remarks almost always.

Let me just say very quickly—and I do not want this to turn into a "Goodby to HOWARD BAKER" party because there are 2 years to go and there are a lot of things to be done—that everybody has to serve according to his own likes. I look around the Chamber and I see Senator STENNIS, Senator STROM THURMOND, and Senator JENNINGS RANDOLPH, and others, who have served here a long time. I admire them more than I could possibly say. They are the pillars of the Senate.

But, Mr. President, everyone of us is different. One morning I woke up and said, "I have been there for 18 years and in the leadership for 8 years, either as majority leader or minority leader."

I decided that my own particular personality has said I want to go and do something else.

I would like right now to say to some of those who have said that I was weary or wrong, I have enjoyed every minute of it. There are no secondary implications, there are no decisions. It is very simple. It is for me and just for me; 18 years is long enough, and I am going to do something else.

I appreciate the remarks. I will continue to owe a debt of gratitude to those who have a different political personality, upon whom we can depend to go forward with the business of this country, as the distinguished President pro tempore and the distinguished minority leader will do.

Mr. CRANSTON. Mr. President, I rise first to echo the words of my leader, Senator BYRD, about the leader of the majority, Senator BAKER. He has been a great friend and an outstanding leader. I think it is probably quite unusual that there is such an affectionate regard for a leader of the opposite party on this Senate floor. In the past I am sure there have been occasions where such warm feelings have been held, but sometimes it has been much the opposite.

All of us have enjoyed working with HOWARD BAKER and we look forward to 2 more years of collaboration and confrontation with great pleasure and expectation.

Mr. BAKER. Mr. President, if the Senator will yield, it has been a great pleasure for me. His own contribution to the service of the Senate and his own personality make it a distinct pleasure to serve with him.

U.S. ARMS CONTROL POLICY

Mr. BAKER. Mr. President, last week, the chairman of the Senate Foreign Relations Committee, Senator PERCY, delivered a speech which I believe contributes in an important way to the current debate on U.S. arms control policy. Senator PERCY correctly notes that "significant progress has been made in arms control in the past 2 years." Specifically, he states that "our negotiations have successfully drawn from the Soviets several START and INF proposals that go far

beyond positions that the Soviets were willing to take 2 years ago."

Senator PERCY concludes that the United States must combine a credible defense posture with intelligent flexibility if the negotiations are to prove successful in this coming critical year. He expresses his confidence, which I share, in the commitment of President Reagan and Secretary Shultz to arms control.

I ask unanimous consent that Senator PERCY's speech be placed in the RECORD and I commend it for your review.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

ADDRESS BY SENATOR CHARLES PERCY BEFORE MERIDIAN WEST'S GREAT DECISIONS PROGRAM

Ladies and gentlemen, it is a great pleasure for me to take part in the Great Decisions program, sponsored by Meridian West's Public Affairs Forum. It is most appropriate that the Christian Science Monitor has taken a leading role in this series. In the field of foreign relations, the Monitor has set an example for American journalism by reporting on issues that are not necessarily the most popular at a particular time, but are nevertheless important. For example, for several years, the Monitor was virtually alone among American newspapers in noting the significance of Europe's then-nascent peace movement for the future of Western security and arms control policy.

Today, my remarks will focus on arms control policy and the prospects for reaching significant arms reduction agreements. In my view, there is no more fundamental issue confronting mankind. The Great Decisions program has recognized this fact and has placed it at the top of its priorities.

While I recognize the difficulties of negotiating with a potential adversary, the United States has no option but to pursue arms control in a serious and meaningful way. Our government must act as if our lives depend upon it for I believe that they do. As John F. Kennedy stated over two decades ago.

"Man holds in his mortal hands the power to abolish all forms of human poverty and all forms of human life."

In the twenty-three years since Kennedy uttered these words, I am sorry to say, we have been all too successful in developing the means for assuring human destruction. Our weapons are bigger, better and more numerous. Should nuclear war occur, this great city of San Francisco would not be spared; there are more than enough weapons to guarantee this. Should just a single, one megaton bomb explode over San Francisco, hundreds of thousands would perish in the first seconds. Nearly every person and structure within two miles of ground zero would be destroyed. As far away as Berkeley, Oakland and Sausalito, millions of people would suffer a slow and agonizing death in the days and weeks that followed. There would be more burn victims in this city alone than there are facilities to treat them throughout the United States. The survivors might truly envy the dead and life may prove intolerable in the inhospitable environment of a post-nuclear world.

I raise these grim facts only because I believe that we all must constantly keep this picture of nuclear war in the forefront of our thoughts. While we have thus far managed to contain the power of the atom, a single mechanical failure or miscalculation could bring an end to the world as we know it. Those in Washington and Moscow who hold the key to the doomsday weapons and those who today are setting our arms control policy have a particular responsibility in preventing this disaster from happening.

I believe that, ultimately, arms control offers the best chance of avoiding a nuclear disaster. For this reason, I want to assess tonight how far we have come since Ronald Reagan assumed office and how far we still have to go in reaching significant arms reductions. We are at a crucial juncture in U.S.-Soviet talks aimed at reducing the nuclear menace. What we do in the coming months may well determine whether Ronald Reagan and Yuri Andropov, the Soviet Union's new leader, will be able to improve our common security by reaching agreement on nuclear weapons reductions.

The record of the past two decades of arms control talks suggests that we must be cautious in our expectations. Arms control agreements have placed some restraints on weapons development and have, in one instance, prevented a potentially deadly ballistic missile defense weapons race. Significant nuclear arms reductions have, however, evaded several Presidents. Neither of our last two Presidents were able to ratify a single major nuclear arms control agreement with the Soviets. Indeed, the number of strategic warheads have increased many times in the years since the start of the SALT talks alone. It is with this history of elusive arms control agreements in mind that we should assess the progress of the Reagan Administration.

The Administration is currently under heavy criticism as a result of the firing of Eugene Rostow as Director of the Arms Control and Disarmament Agency. News reports concerning the U.S. negotiating position at the Geneva Intermediate Range Nuclear Force talks also create uncertainties. I, too, am concerned about the apparent disarray in the arms control establishment, coming as it does at a critical time in the Geneva talks. I would be more reassured if the new nominee had greater experience in the arms control area.

I believe, however, that despite these problems the American people realize that significant progress has been made in arms control in the past two years. The rhetoric of strategic nuclear superiority and fighting limited nuclear war has for the most part been replaced by a more pragmatic approach to arms control. Let's review the record.

First, the United States is deeply engaged in three sets of arms control talks with the Soviets; two on nuclear arms control in Geneva and one on conventional arms control in Vienna. The Geneva talks have been described by both sides as businesslike, with no resort to rhetoric by either side.

Second, while these negotiations proceed, the President has pledged not to undercut SALT I and SALT II as long as the Soviets also comply with this policy. This pledge is still being honored by both sides.

Third, the positions that the U.S. negotiators have taken in the START and INF talks are strategically sound. They would reduce significantly the most destabilizing strategic missiles and remove all intermediate range missiles from Europe.

Fourth, our negotiators have been tough, as they should be. The talks are complex and have taken time, but SALT II took seven years to negotiate.

And fifth, in the process, our negotiators have successfully drawn from the Soviets several START and INF proposals that go far beyond positions that the Soviets were willing to take two years ago. For example, the Soviet START position is now in some respects superior to SALT II. The Soviet position on INF continues to emerge and now reportedly includes a willingness to destroy some SS-20s and to accept a balance of nuclear warheads in Europe.

I do not want to leave you with the impression that an arms control agreement is imminent. Indeed, major negotiating differences still separate the United States and the Soviet Union. But the prospects are better than most observers believe.

In START (Strategic Arms Reduction Talks), the President has proposed reducing strategic warheads by one-third in a first phase, to be followed by further reductions in missile throwweight in a second phase. The U.S. proposal would have the effect of reducing the number of Soviet heavy missiles that are particularly destabilizing, and moving a large percentage of the Soviet missile force to sea where they would be more secure. If acceptable to the Soviets, the result would be a world less susceptible to nuclear miscalculation.

The Soviets have been unable to accept this far-reaching U.S. proposal and have instead proposed capping all strategic delivery systems at 1800. This is a useful starting offer for it would require the Soviets to dismantle many more weapons than the United States. The American proposal, if put in comparable terms, would reduce strategic delivery systems to about 1,200. The possibility for a compromise on numbers exists and, if combined with other restraints, would result in an arms accord far superior to SALT II. It would, indeed, exceed the standard set by President Carter's March 1977 proposal for deep cuts that Moscow summarily rejected, and which subsequently was used by SALT critics as a yardstick for measuring the 1979 SALT II accord.

There are things that each side can do in START to improve the chances for a breakthrough. The Soviets can stop trying to negotiate the INF talks in START. their insistence on using START to stop the planned NATO INF deployments is only complicating an already difficult negotiation on strategic systems. INF systems should be negotiated in the INF talks. For its part, the United States must be willing to negotiate on two systems considered crucial to the Soviets—MX and cruise missiles.

I would also recommend that once agreement with the Soviet Union is within reach of our phase one objectives, that agreement should be promptly concluded and submitted in the form of a treaty for ratification. This should occur before the negotiations move on to the more troublesome throwweight proposals which the United States has identified for phase two of START. We should not be overly ambitious in START, and we should not try to attain all ideal outcomes at once. A good accord should not become hostage to the best accord.

In the INF (Intermediate-Range Nuclear Force) talks, the United States has proposed the so-called "zero-zero option" partially in response to European wishes. The zero-zero option was an idea born in the Netherlands, championed by the West German government, and subsequently embraced by President Reagan. In my view, eliminating INF forces in Europe is an appealing concept. It would ban entirely the single greatest threat to European security and, given the

mobility of the systems involved, reducing to zero would greatly simplify verification.

The Soviets' initial INF proposal was inequitable, offering only strategic advantage to Moscow and insecurity to our allies. A major part of the problem was the fact that while the Soviets had in place the MIRVed and mobile SS-20 missile to bargain with—there are over 340 in place at the present time—the United States had only future deployment plans as a counter. The Soviets are realists and are unlikely to give anything away without getting something in return.

As support for NATO's missile deployment becomes more imminent, the Soviets have shown a greater willingness to narrow the gap in Geneva. Soviet Party Chief Andropov has offered to reduce Soviet INF missiles to the level of French and British nuclear forces. Our allies rejected this offer as unacceptable and the United States concurred. Politically, it would weaken the nuclear guarantee that links the U.S. to Europe. Militarily, it would unrealistically equate the triple warhead SS-20 to the less capable weapons of our allies. Moreover, Mr. Andropov gave no indication of what was to be done with the weapons to be reduced. Were they simply to be moved east and, therefore, be in position to be redeployed against the West in a crisis?

Recently, in conversations with West German politicians, the Kremlin's new leader has reportedly stated Soviet readiness to meet some of these concerns. He is willing to dismantle "some" SS-20s and will consider the issue posed by the SS-20s warhead advantage.

The next year of START and INF negotiations will tell if the differences between the United States and Soviet Union can be overcome. Time is now becoming a critical factor. Decisions on MX and cruise missile deployments must be made soon in the United States and Europe. In addition, a U.S. election year has traditionally proved to be a difficult time to conduct major international negotiations.

To prove successful in these negotiations during 1983, the United States must combine a credible defense posture with intelligent flexibility in the negotiations. I therefore oppose a complete abandonment of the MX missile and I urge our European allies to continue plans to deploy the cruise and Pershing II missiles.

With regard to the question of appropriate negotiating flexibility, I am reassured by President Reagan's January 14 statement that "We will consider every serious (arms control) proposal and we have the determination to succeed in this, the most important undertaking of our generation."

The President's confidence is echoed by our START negotiator, Ed Rowny, who has stated that the chances for a strategic arms agreement in 1983 are about 50-50. Our INF negotiator, Paul Nitze, also indicated on January 18 that he is confident that the United States would show adequate negotiating flexibility if it becomes wise to change our position.

I know that President Reagan wants an arms control agreement and that his two able and experienced negotiators can produce fair and equitable treaties. I am concerned that there are those in the Administration who would prefer to see no arms control treaties at all. But with the commitment of the President and the dedication of Secretary of State Shultz, I do not believe that these dissenting bureaucrats will be successful. I take particular comfort in knowing that Secretary Shultz will now take a larger role in these negotiations. In his short tenure at the State Department, he has demonstrated a pragmatic approach to issues, such as the Middle East and East-West trade, which I am sure he will also bring to arms reductions.

I also want to emphasize my belief that a good deal of the credit for the progress made thus far can go to the American people. If the public had not been active through groups such as the Nuclear Freeze Campaign and the National Conference of Bishops, I doubt that government officials would have taken such notice and acted accordingly. I urge the American people to continue their vigilance and to bring new suggestions to the attention of officials in Washington.

We on the Senate Foreign Relations Committee have also sought to encourage the Administration's arms control efforts. For example:

We held five days of hearings on the various nuclear freeze proposals and received testimony from senior Administration officials as well as freeze proponents such as Randall Kehler of the Nuclear Freeze Campaign.

We reported favorably a resolution which I introduced calling for deep reductions in U.S. strategic systems. The resolution also would have formalized this nation's compliance with all existing strategic arms limitation agreements, including SALT II.

We have held special hearings to question specific Administration officials such as T. K. Jones, who spoke carelessly about nuclear war.

We have held several hearings in which we have successfully urged the Administration to consider procedures to ratify the Threshold Test Ban Treaty and the Treaty on Peaceful Nuclear Explosions.

During the next six months, the Committee will continue its efforts, beginning with nomination hearings late this month, on the new Arms Control and Disarmament Agency Director Kenneth Adelman. The Committee will want to be assured that Mr. Adelman is fully conversant with arms control issues and shares the President's commitment to negotiating an agreement. We will further make certain that the Agency dedicated to arms control is staffed by people who are willing to be advocates of arms control.

Later this spring, the Committee will conduct a major set of hearings on U.S.-Soviet relations, with the primary focus on arms control. We believe there is much to be gained by trying hard to better understand how the Russians view us and our actions, as well as how to help them better understand our concerns.

The Committee will also pay special attention this year to so-called confidence-building measures such as hot line improvements and pre-notification of weapons tests and deployments. These confidence-building measures can with little effort significantly contribute to strategic confidence and stability

Finally, I remind you all again that the previous two Administrations were unable to have even one major arms control treaty ratified. The Reagan Administration could quickly have two ratified in 1983, the Threshold Test Ban Treaty signed by President Nixon in 1974 and the Treaty on Peaceful Nuclear Explosions signed by President Ford in 1976. I believe a way can be found to ratify them both. In addition, I am confident that the President intends successfully to negotiate treaties significantly reducing strategic and intermediate range nuclear weapons. The Reagan Administration could then accomplish what its two predecessors could not, and have four nuclear arms control agreements ratified by 1985. I dedicate my efforts to achieving this goal. With the endorsement of the Administration and with bipartisan support in the Senate, it can be done.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 12:15 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 1. Concurrent resolution providing for a joint session of Congress to receive a message from the President on the State of the Union.

The message also announced that the House has agreed to the following resolutions:

H. Res. 2. Resolution informing the Senate of the election of Thomas P. O'Neill, Jr., as Speaker of the House and Benjamin J. Guthrie as Clerk of the House of Representatives; and

H. Res. 3. Resolution authorizing the appointment of three members of the House, to join three members of the Senate to notify the President of the United States that a quorum of each House is assembled.

H. Res. 14. Resolution relative to the death of the Honorable Jack Swigert, late a Representative from the State of Colorado; and

H. Res. 28. Resolution relative to the death of the Honorable Benjamin S. Rosenthal, late a Representative from the State of New York.

The message further announced that pursuant to the provisions of title 15, United States Code, section 1024(a), the Speaker appoints as members of the Joint Economic Committee the following Members on the part of the House: Mr. HAMILTON, Mr. LONG of Louisiana, Mr. MITCHELL, Mr. HAWKINS, Mr. OBEY, and Mr. SCHEUER.

JOINT SESSION OF THE TWO HOUSES TO RECEIVE A MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a concurrent resolution from the House.

The PRESIDING OFFICER (Mr. DENTON) laid before the Senate House Concurrent Resolution 1, as follows:

H. CON. RES. 1

Resolved by the House of Representatives (the Senate concurring), That the two Houses of Congress assemble in the Hall of the House of Representatives on Tuesday, January 25, 1983, at 9 o'clock post meridian for the purpose of receiving such communications as the President of the United States shall be pleased to make to them.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the concurrent resolution.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 1) was agreed to.

Mr. BAKER. Mr. President, I am advised that the resolution does not provide for the appointment of the escort committee, so I am now putting a unanimous-consent request. I ask unanimous consent that the President of the Senate be authorized to appoint a committee of Senators on the part of the Senate to join a like committee on the part of the House of Representatives to escort the President of the United States into the House Chamber.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, there is a time set for the transaction of routine morning business, is there not?

The PRESIDING OFFICER. The Senator is correct. Under the previous order, the Senate will now proceed to the transaction of routine morning business.

Mr. BAKER. Mr. President, in view of the fact that there are 20 minutes left for the transaction of routine morning business, I ask unanimous consent that Senators may speak for not more than 4 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

MAJORITY LEADER'S YEAREND REPORT ON 2D SESSION OF THE 97TH CONGRESS

Mr. BAKER. Mr. President, I ask unanimous consent that the majority leader's year-end report on the second session of the 97th Congress be printed as a Senate document and that additional copies be printed for distribution by the majority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

MINORITY LEADER'S YEAREND REPORT ON 2D SESSION OF THE 97TH CONGRESS

Mr. BAKER. Mr. President, I ask unanimous consent that the minority leader's yearend report on the second session of the 97th Congress be printed as a Senate document and that additional copies be printed for distribution by the minority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

BEST WISHES TO BILL HILDENBRAND AND WELCOME TO NEW MEMBERS

Mr. CRANSTON. Mr. President, I also wish Bill Hildenbrand a speedy recovery and an early return to the Senate. I do not know how we get along without him.

Mr. President, I also welcome my colleague from California, PETE WILSON. It is a pleasure to see him on the Senate floor. I look forward to working with him in the days and years to come. I also welcome two new Members on our side, JEFF BINGAMAN and FRANK LAUTENBERG.

THE PLIGHT OF SOVIET JEWS CONTINUES TO WORSEN

Mr. CRANSTON. Mr. President, as one who has long been concerned about the tragic plight of Soviet Jews, I direct the attention of my colleagues to the distressingly low number of Jews being granted their right to emigrate from the Soviet Union. In 1982, less than 2,700 Jews were allowed to leave the Soviet Union. Emigration levels have not been this dismal since the early 1960's. The sharp downturn of Jewish emigration, from a high point of 51,320 in 1979, is extremely disheartening.

The Soviet Union pledged to respect human rights, including the right of citizens to emigrate freely, when it signed the Helsinki Final Act. Yet, the Soviet Government continues its harassment of Jews who express a desire to emigrate and its obstruction of their freedom to practice their religion and to maintain their culture.

Looking at the volatile United States—Soviet relationship over the past two decades, it is clear that the level of Jewish emigration has served as a barometer of the state of United States-Soviet relations. When détente was at its height, Jewish emigration rose. When we entered a period of strained relations with Moscow, Jewish emigration plummeted.

It is a sad fact that Soviet Jews are held hostage by the U.S.S.R. in the game of international politics.

More than ever, it is essential that the United States speak out forcefully on this issue. Oppressed people all over the world look to the United States as a beacon of hope, as a champion for the victims of oppression, and as a power that Moscow cannot ignore. Human rights must be an active, consistent, and integral element in our foreign policy. It is vital that Moscow be put on notice that Americans care deeply about human rights. The Soviets must understand how difficult it will be to improve United States-Soviet relations so long as Moscow persists in harassing and oppressing Jews and other dissidents.

As the leaders in the Kremlin begin a new chapter in Soviet history, I call upon them to take a long, hard look at the direction of their emigration policy. I fervently hope that the new Soviet leadership will conclude that it is in their own interest and in the interest of improving United States—Soviet relations that they begin to treat their citizens with greater respect and humanity. The Soviet leadership could make a significant symbolic gesture by ending the imprisonment of Anatoly Shcharansky and other prisoners-of-conscience.

I shall do all I can to help reduce tensions between our two countries and at the same time will continue to do my utmost to alleviate the plight of Soviet Jews—a people who have suffered for too long. I urge the Soviet leaders to liberalize their emigration policies and to live up to the human rights provisions guaranteed in the Helsinki accords.

Mr. President, I am submitting for the RECORD a chart showing the declining numbers of Soviet Jews granted exist visas.

I ask unanimous consent that it appear at this point in my remarks.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

Soviet Jewry Research Bureau—Jewish emigration from the U.S.S.R.

1965 to June 1967	4,498
October 1968–70	4,235
1971	13,022
1972	31,681
1973	34,733
1974	20,628
1975	13,221
1976	14,261
1977	16,736
1978	28,864

JEWISH EMIGRATION FROM THE U.S.S.R.

	1979		1980		1981		1982	
	Amount	Percent [1]	Amount	Percent [1]	Amount	Percent [1]	Amount	Percent [1]
January	3,722	39.4	2,803	39.6	850	24.9	290	26.9
February	3,837	35.9	3,023	42.1	1,407	15.8	283	21.9
March	4,418	34.7	3,049	40.9	1,249	14.3	289	27.3
April	4,296	29.9	2,469	37.3	1,155	15.5	288	29.5
May	4,163	35.4	1,976	37.3	1,141	15.8	205	27.8
June	4,358	35.7	1,767	31.8	866	14.5	182	27.5
July	4,068	30.0	1,205	23.8	779	22.2	186	23.1
August	4,711	32.3	770	28.1	430	22.3	238	20.2
September	4,663	29.1	1,307	24.3	405	28.6	246	20.7
October	4,746	33.8	1,424	22.0	368	24.2	168	34.5
November	4,193	34.7	789	26.4	363	25.0	137	38.0
December	4,145	34.3	889	23.1	434	22.8	176	39.8
Total	51,320	33.7	21,471	34.4	9,447	18.6	2,688	27.3

[1] Figures represent the percentage of those who proceeded to Israel.

Note.—From October 1968–December 1982, 262,307 persons left the Soviet Union with Israeli visas. Approximately 162,483 of them went to Israel.
Source: Soviet Jewry Research Bureau.

Mr. CRANSTON. Mr. President, I also recommend to my colleagues an article in the New York Times about Soviet Jewish emigration which I ask unanimous consent to have printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Dec. 30, 1982]

JEWISH EXODUS FROM SOVIET REACHED A LOW POINT IN '82

The number of Jews allowed to emigrate from the Soviet Union this year was the lowest since 1970, according to figures issued yesterday by the Greater New York Conference on Soviet Jewry and the National Conference on Soviet Jewry.

The two groups announced at a news conference at the Association of the Bar of the City of New York on West 44th Street that 2,670 Jews were granted emigration visas in 1982 compared with 9,447 Jews last year, permitted to leave the Soviet Union. The highest level was 51,320, in 1979.

Seymour P. Lachman, university dean of the City University of New York and chairman of the Greater New York group, said:

"The road to freedom is now closed to Soviet Jews. The number of Jews allowed to emigrate in 1982 has plummeted by a staggering 95 percent in the past three years."

DETERIORATION UNDER BREZHNEV

He called on Western governments to "intensify their efforts on behalf of Soviet Jewry and to respond vigorously to Soviet oppression."

"The final years of the Brezhnev regime were disastrous for Soviet Jews," he said, adding that the Soviet authorities had systematically isolated Jews from the world Jewish community and from their historic, religious and cultural roots.

"It is time for the new Soviet leadership to put the Soviet Union back on the path of international law," he said.

In a statement assessing the situation of Soviet Jews seeking to emigrate, Theodore R. Mann, chairman of the National Conference, said the decline had been accompanied by threats and arrests of Jewish activists.

"Hebrew teachers are severely harassed because of their efforts to promote the historic language of their people," he said, adding that the security police had raided the homes of some, and that others had been forced to curtail their instruction after threats of arrest and harm to their families.

He said that Soviet Jews who had actively protested Soviet policies were sentenced to labor camps and prisons and some who were released this year were being threatened with a re-arrest.

MEETING WITH SHULTZ IS SOUGHT

According to Jerry Goodman, executive director of the National Conference, the organization is seeking a meeting with Secretary of State George P. Shultz to discuss the issue of Soviet emigration policy.

Mr. CRANSTON. Mr. President, I yield the floor.

THE HIKE OF BOB McGHEE

Mr. COCHRAN. Mr. President, last year, a good friend of mine, Bob McGhee of Gulfport, Miss., fulfilled a lifelong dream by completing his hike of the entire length of the Appalachian Trail. It took him 12 years to do it. During the last part of the trip, through Vermont and Maine, he was joined at separate intervals by his daughter, Anne, and his son, Bill.

It was my pleasure to congratulate him personally when he stopped off in Washington on his way back home after becoming the 1,000th person to complete this trip.

The Appalachian Trailway News, November/December 1982 edition, contains an article he wrote that describes some of his recollections of that 2,000 mile experience.

I invite the attention of my colleagues to the article and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

REFLECTIONS—A.T./60 + BOB/60=1 HAPPY 2,000-MILER

(By Bob McGhee)

(Bob McGhee of Gulfport, Miss., didn't know it at the time he reported completing the A.T. that he was the 1,000th person (See 2,000-Miler Log, Page 4) to do so! We celebrate this folksy distinction by publishing his report on a hike that took 12 years to complete, just in time for his 60th birthday.—Ed.)

An "Up Front" column in the July/August issue of *Appalachian Trailway News* mentioned that the first stretch of the A.T. was born in 1922. That happens to be my birth year also and makes us have a common denominator. As can be seen by the heading above, the formula produced a happy result.

My interest in the Trail began while in my early teens in Bluefield, W. Va., where I was born on July 4, 1922, and lived until graduation from college. The Trail at that time passed through Virginia about 50 miles from home. Even then, I dreamed of someday walking the whole Trail. World War II delayed early plans, schooling further delayed them, and, when I moved to Mississippi, the dream became dimmer. However, in the sixties, I took a group of Scouts for a week's hike in the Smokies and that rekindled the old dream. In 1970, I began to log the miles hiked on the A.T. and, by 1979, had completed about 500 miles. At that time, I decided that if I ever intended to complete the whole Trail, more than week-long trips were needed. For the next three years, approximately 500 miles were completed each year, and on July 15, 1982, I was able to pat the sign on top of Katahdin, knowing that I had walked the entire Trail. That was indeed a happy moment!

As stated, this was not a thru-hike, nor a solo hike. The shortest trek was one day, and longest 61 days. I found the 61 days a little long. The one-week treks were too short, for after one week I was just getting into shape for hiking and had to stop. For me, about six weeks seemed ideal.

Most of the first 500 miles were done with more than one companion. On some trips there were as many as 10 or 12, and, on some, as few as one. On the last leg of 550 miles, from Vt. 9 to Baxter Peak, my daughter, Anne, was with me for the first 18 days, and my son, Bill, for the last three. These two periods were very enjoyable. I had never backpacked with my daughter before, and I shall never forget it. Needless to say, it was also great to have my son along at Baxter Peak when I completed the Trail.

I also want to mention all the support and encouragement from long-time friends at home and new friends along the Trail. My wife was behind me all the way. New friends on the Trail shared data, and new friends in towns along the Trail were very helpful in countless ways.

Along the way I was asked what part was the most difficult, or which part I liked best. Personally, I think these things are determined by the weather conditions or the time of the year. To me, Mt. Madison was as hard as any because when I crossed it, the weather was very foggy and windy. That combination, coupled with the rough, steep terrain, made it tough for me. Incidentally, I liked the White Mountains of New Hamp-

shire as well or better than any other part because of their majestic beauty. This area was traversed during June 1982. I also think the Smokies are hard to beat in the fall for their spectacular foliage colors. As for beautiful and remote woods, I liked Maine the best.

Another question frequently asked along the way was, why? My answer: to fulfill a lifelong dream.

Now that the Trail has been completed, I'll rest a while, then I'm sure to be back on some section of the Trail again, for it is ever-changing, always exciting and always calling.

Mr. BYRD. As one who has visited over 700 of the roughly 1,000 post offices in West Virginia, getting up into the hollows, over the hills and up the creeks, down into the waterholes, and so on, I think I have some appreciation of the physical endurance that was required by the gentlemen to whom the Senator has referred.

Mr. COCHRAN. Mr. President, I might add that Bob McGhee, who made this trek, is a native of Bluefield, W. Va. He grew up at a place in West Virginia some 50 miles from the location of what became the Appalachian Trail. His completion of this hike occurred on his 60th birthday, which also was the 60th birthday of the Appalachian Trail. So he comes from good West Virginia and sturdy stock.

Mr. BYRD. I am certain of that.

Mr. COCHRAN. We are glad to have him as a citizen of our State now.

THE VETO OF CRIME PACKAGE

Mr. KENNEDY. Mr. President, I am dismayed by the administration's veto of the only anticrime legislation which was sent to the President last year. Once again, the administration has turned its back on one of the most serious problems threatening domestic security.

The crime package was a significant step forward in the continuing war against crime. It enjoyed broad bipartisan support. The act authorized desperately needed Federal financial assistance to State and local governments to develop effective anticrime programs. It contained other significant law enforcement improvements, including authorization for a new "drug czar" to provide the coordination which is sorely lacking in Federal drug enforcement efforts.

Talking tough on crime is not enough. The war on crime has been declared again and again—and it has been lost over and over. If the latest war is to be fought with more than words, it is time to replace rhetoric with action.

I am disappointed that the administration has refused to take a leadership role in the fight against crime. But I will not abandon the millions of law abiding citizens who look to their Federal Government to protect them against muggers and rapists. I will work to assure that comprehensive bail and sentencing reform legislation are sent to the President early in the 98th Congress, and that Federal assistance to States is reauthorized, so that law enforcement officials have the tools and resources they need to win the war on crime.

GEORGE BROWN

Mr. BENTSEN. Mr. President, it was with great sorrow that I learned of the death this past weekend of my good friend, George Brown.

George Brown was a man of incredible energy, vast achievement and transparent goodness. He symbolized the potential of our American experience and enriched the lives of all who knew him.

But even more, Mr. President, my friend George Brown was a participant. He was always involved, never a spectator, never content to sit on the sidelines or in the stands.

He gave so much of himself in so many ways to so many people.

Be it making democracy work, funding and shepherding the education of young minds, or encouraging the healing of the ill, George Brown was there.

George Brown was one of the most broad gaged, intelligent men I have ever known. He and his wife, Alice, have always held—and will always hold—a very special place in the lives of Mrs. Bentsen and me.

Those of us who were touched by the example, counsel and assistance of George Brown will miss him, yet, he will live in so many ways. He will live also in his children, in whom he imbued his philosophy of giving of himself, of participating.

George Brown was a generous man, in every sense of that term, who had a profound concern for his community. He left his mark on the city of Houston and the State of Texas, and beyond this, he left his mark on the lives of those of us who were privileged to know him and to benefit from his wisdom and counsel.

I consider myself fortunate to be among those who counted George Brown as a friend and I am deeply saddened by his passing.

Mr. President, we shall miss George Brown—not just for what he accomplished, or for what he meant to his friends and family—but for what he symbolized in the way of potential and achievement and concern.

I offer my heartfelt sympathy to his wife Alice and to his family at this very difficult time.

I ask unanimous consent to have printed in the RECORD editorials from the Houston Chronicle and the Houston Post eulogizing George Brown.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Houston Post, Jan. 25, 1983]

GEORGE BROWN

It is not easy, almost a presumption, to try to summarize so full a life as that of George Brown. His was the epitome of the American story: He was reared in an appreciation of learning and an expectation of serving his community. He earned his way to the position that made possible his natural generosity. And throughout, he loved and enjoyed each phase of the life span allowed him.

Leaving Rice Institute in 1918 to enlist in the Marine Corps, he discovered the romance of engineering. "Engineers," he said, "were men who went to far-off places, who built things all over the world," He continued to feel that romance when, with his brother Herman, he began to build the dams, the bridges and the roads his country needed to become the leading power of the 20th century. By World War II his company, Brown & Root, was ready to build whatever was needed by a nation at war—shipyard, naval air station, destroyer escort or landing craft.

But it was not until 1946 that George Brown began the travel he had envisioned. Brown & Root spent 11 years reconstructing Guam. It built offshore drilling and production platforms in the Gulf of Mexico, North Sea, Persian Gulf and Lake Maracaibo. It built the world's longest highway bridge across Lake Pontchartrain. It built dams in Haiti, Thailand and Australia, gas compressor stations in Venezuela and Canada, power plants in Puerto Rico. And it converted the big oil pipelines to carry natural gas to the Eastern seaboard, which was still burning oil, coal and coke for heating, cooling and power.

To those who knew him best, it was apparent that his imagination and creativity knew no bounds. He had the rare gift of evoking, of drawing out the thoughts and ideas of others and of listening to what they said. For the past 30 years he gave these talents to a new career of service to Houston and to humankind, as philanthropist, civic leader, patron of the arts and of the humanities. With his wife, Alice, as his continuing partner, he used the Brown Foundation to channel funds to the colleges and universities of Houston, of Texas and elsewhere. They gave grants to stimulate excellence in teaching and research. They gave the Museum of Fine Arts its vast Brown Pavilion and provided matching grants to prompt others to give to Rice University, Southwestern University and the museum.

In the 1960's, George Brown was given the highest accolades his profession could offer. Tall, slender, white-haired in his latter years, a man of tremendous brilliance and drive, he will linger in the memory of those who knew him for his great gentleness and sweetness. No one will ever be able to count the number of lives he enriched and transformed. His death at 84 will not end the influence of the life he lived.

[From the Houston Chronicle, Jan. 25, 1983]

GEORGE R. BROWN

George R. Brown was a builder, and one of the things he played an important role in building is the city of Houston.

Brown, who died Saturday at 84, built bridges, dams, roads, ships, air bases and chemical plants. He made a fortune, and gave millions to educational and cultural institutions.

George Brown and his late brother, Herman, headed Brown & Root Inc. In the days before World War II, their company built air bases and, to meet the national emergency, went into the shipbuilding business on the Houston Ship Channel, turning out 359 ships before the war's end. The company was instrumental in the development of the petrochemical industry along the Gulf Coast. Brown was founder of Texas Eastern Transmission Corp.

Brown & Root was the contractor for major facilities all over the world—Africa, Spain, Pakistan, Italy, Mexico and Venezuela among other nations. The scope of Brown's leadership is indicated by the list of major firms with which he was associated. He served as a director of Halliburton Co., International Telephone and Telegraph Co., Southland Paper Mills, First City National Bank of Houston and Louisiana Land and Exploration Co., to mention just a few. He received many major awards from professional groups.

Brown attended Rice Institute (now Rice University) before graduating from the Colorado School of Mines, and he helped Rice in a multitude of ways. Most Houstonians are familiar with the story of how Brown & Root built the Rice football stadium in 10 months on a non-profit basis. The Brown Foundation gave Rice University funds for two residential colleges and the Browns endowed two professorships.

Brown became a trustee of Rice University in 1943 and seven years later became chairman of the board of trustees. He held the title of trust emeritus until his death. In addition, Brown provided assistance to Southwestern University in Georgetown and many other deserving causes.

As an engineer, Brown literally changed the landscape in many parts of the world. As a philanthropist, he made major contributions to higher education. He leaves behind many lasting monuments to his great skill and energy.

DEATH OF GEORGE R. BROWN

Mr. LONG. Mr. President, this splendid country of ours owes its greatness to the many men and women who worked to make it a better place for themselves and their fellow man.

On January 22, 1983, a great American who gave his fullest to his nation, his family and his community died at the age of 84.

I am referring to George R. Brown of Houston, Tex. whom I consider to be a great American patriot.

Mr. Brown ranked among our Nation's greatest industrialists. He was a cofounder and chairman of the board of Brown & Root, one of the world's largest construction companies.

Mr. Brown served his country in the Marine Corps during World War I.

Mr. President, during World War II, Mr. Brown's company took on a contract to build ships for the military. The company built 350 ships in such an efficient manner that it won praises and awards from President Truman and the armed services.

But, Mr. Brown's successes and accomplishments were not limited to his business enterprises. He was an indefatigable champion of other causes.

One of his favorite philanthropic causes involved Rice University, which he attended as a youth.

In 1942, Mr. Brown contributed his own money and orchestrated a deal whereby Rice University paid $5 million for interest in an oil field which has so far returned $42 million to the university.

And, as chairman of the Board of Trustees of Rice University, Mr. Brown led a drive which raised $43 million for the university.

Through the Brown Foundation, Mr. Brown gave Rice University funds for two residential colleges; Margaret Root Brown College for women and Edgar Odell Lovett College for men.

Many of the Senators who served in this body knew Mr. Brown, I knew him well. Rarely, have I met a more honorable and kind man.

He will be remembered and missed by all who knew him.

EL SALVADOR CERTIFICATION

Mr. KENNEDY. Mr. President, once again, President Reagan has certified the uncertifiable. The administration's latest certification of human rights compliance in El Salvador flies in the face of the facts.

Rather than a concerted effort by the Salvadoran Government to comply with internationally recognized standards of behavior, independent human rights groups report that "the human rights situation in El Salvador is worse than ever."

Rather than bringing indiscriminate violence by the armed forces under control, government forces or allied paramilitary groups carried out over 5,000 political murders in 1982, nearly half of them in the last 6 months, according to the Legal Protection Office of the Archdiocese of San Salvador.

Rather than being encouraged to join a free democratic process, government opponents are deprived of life and liberty. In October, 17 labor and opposition political leaders were abducted by armed men in civilian clothes; some later turned up in military jails, while others remain unaccounted for. The use of torture continues.

Rather than promoting a political solution to the conflict in El Salvador, the Reagan administration and the Salvadoran Government have repeatedly rejected proposals for unconditional negotiations.

Rather than being prosecuted for the murders of six Americans 2 years ago, those who ordered and carried out those crimes remain unpunished. Last month the Maryknoll Sisters concluded that the possible trial of five low-ranking National Guardsmen for the killing of four American churchwomen in December 1980 "cannot lead to justice" as it is designed to be carried out. A few weeks earlier, the authorities ordered released for lack of evidence an officer implicated in the deaths of the Salvadoran land reform director and two American labor advisers in January 1981.

Due in no small measure to pressure from the U.S. Congress, limited land reform has proceeded in El Salvador, but major portions of the program have never been implemented and the entire effort will grind to a halt in March unless there are unexpected steps to extend its life.

Two weeks ago acting Archbishop Rivera y Damas cautioned:

> The day is coming when President Reagan will certify that the country respects human rights. Nevertheless, charges continue of illegal arrests, of discoveries of mutilated corpses, and of disappearances * * *.

He described El Salvador's continuing violence as "an excess of madness that must be brought to a halt."

The administration should have listened to the archbishop in San Salvador, instead of closing its eyes and ears to continuing denial of human rights in that country. Brutality cannot be ended by certifying that it does not exist, or that it is slightly better than it used to be. Rather than continuing to support the arbitrary use of military power in El Salvador, the United States should be pressing for an end to violence, opposing military intervention from any quarter, and fostering a process of negotiation and reconciliation in El Salvador.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Public Law 91-551, reappoints the Senator from Washington (Mr. JACKSON) as a member of the Board of Regents of the Smithsonian Institution effective as of January 3, 1983.

Mr. BYRD. I wish to express my happiness that Mr. JACKSON has been reappointed to the position just announced by the Chair. I express my appreciation to Mr. BAKER for allowing this to be done on this particular day.

RECORD TO REMAIN OPEN UNTIL 6 P.M.

Mr. BAKER. Mr. President, it might be appropriate, I think, and I do now ask unanimous consent that Senators may have until 6 p.m. today in which to submit statements for the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF TIME FOR ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I am advised that the Senator from Wisconsin

(Mr. PROXMIRE) is on his way to the floor. I ask unanimous consent that the time for the transaction of routine morning business be extended until not past the hour of 12:40 p.m., under the same terms and conditions, with the proviso that, after the Senator from Wisconsin concludes his remarks in morning business, the Chair recess the Senate according to the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

HOW WE ARE DOING ON VERIFICATION: THE HEART OF ANY NUCLEAR LIMITATION TREATY?

Mr. PROXMIRE. Mr. President, the current issue of Newsweek carries an excellent and concise analysis of the status of verification in a nuclear arms limitation agreement between the United States and the Soviet Union. Most of the American people, and I am sure a strong majority of this body, favor the achievement of a nuclear arms limitation agreement with the Soviet Union. Indeed, many of us believe no mission of this Government is nearly as important as developing an agreement that stops the arms race, leaves both countries in rough nuclear equality, and especially and above all provides for an effective system of verification so we can be sure that both sides are keeping the agreement.

In the Newsweek article by John Brecher and John Lindsay, both the amazing precision and competence of the technical surveillance equipment and its serious shortcomings are set forth. The article, without saying so, strongly implies that we will not be able to rely on any verification procedure unless it includes onsite inspection. Newsweek opines: "That is not going to happen: the Soviets have flatly refused to allow it, and the Pentagon is wary of allowing Communists into America's secret sites."

Mr. President, there have been different signals from the Soviet Union on this issue in the past, and I hope and pray we do not give up on "onsite" inspection. Such inspection may be essential to any kind of truly effective verification. If both sides become convinced that onsite inspection represents the only way to provide fully reliable verification and therefore must be an essential part of reaching an agreement that both sides will keep, we will have a fighting chance to move in that direction.

Mr. President, I ask unanimous consent that the article, "Keeping Everybody Honest," from Newsweek magazine be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Newsweek, Jan. 31, 1983]

KEEPING EVERYBODY HONEST

(By John Brecher with John H. Lindsay)

Arms control keeps snagging on the same issue: verification. The word is abstract but the problem is simple—neither the United States nor the Soviet Union trusts the other to keep a deal. To make sure that no one cheats, both countries have deployed a star-wars array of snooping gear. Pentagon officials joke that their satellites can read the license plate of a Volga from 100 miles up or tell which Russian soldiers shaved each morning. But the hardware alone can't keep nuclear superpowers honest and mankind safe. Both sides must at least trust the other to come clean if it gets caught cheating. "We can know from our observations when a new, puzzling gadget of some sort shows up in Siberia," says former CIA director William Colby. "Without a treaty we can ask indignantly what it is, and they will tell us as indignantly it is none of our business."

The easiest and best way to verify compliance is on-site inspection of production facilities, missile sites and testing grounds. But that is not going to happen: the Soviets have flatly refused to allow it, and the Pentagon is wary of allowing communists into America's secret sites. Verification of a START agreement will likely be left to "national technical means," which include an arsenal of supersophisticated snooping devices:

The KH-11 Digital Imaging Satellite. At least two of these U.S. reconnaissance satellites are aloft at all times, circling the earth at altitudes between 170 and 300 miles. They have fuel for two years—and the space shuttle's tanker capacity will probably first be used to refuel one of them. The satellites' sweeping scans are instantaneously transmitted as a series of electric impulses, arriving at earth as multispectral images in several bands of visible and infrared light.

The Big Bird Satellite. The KH-11's predecessor, it flies at an altitude of 100 to 200 miles and uses old photographic techniques. Film is developed on board and a TV-scanned image of the photograph is transmitted back to earth. The pictures are exceptionally sharp and are used for details on specific targets.

The Close Look Satellite. It comes down to only 80 or 90 miles, photographing ground details. The satellite then jettisons the film over the Pacific; as it floats down on a parachute, a plane catches the film in the air with a special hook.

The Chalet Satellite. A geosynchronous satellite, it turns with the earth every 24 hours, so it stays over one spot. It collects much-desired Soviet telemetry, which are radio signals that reveal details of rocket performance during Russian tests.

High-flying intelligence aircraft—the SR-71, U-2 and TR-1—are constantly snapping pictures. There are also two new snooping stations on the ground in China which monitor ICBM tests and have more than made up for the loss of installations in Iran. The monitoring devices are sophisticated enough that when the Soviets tested an SS-18 missile with 12 warheads instead of the usual 10, U.S. intelligence sensors advised against alarm: two of the warheads were decoys.

Relying on those technical means, the verification procedures of SALT I appear to have worked. A Soviet-American group called the Standing Consultative Commission meets every six months to privately discuss alleged violations of the treaty. Washington has often brought complaints to the SCC, and the Soviets have repeatedly either stopped what they were doing or explained their actions. In the mid-1970s, the Soviet complained that the United States had concealed some Minuteman silos in Montana, in violation of the treaty. The Air Force denied the charge at first, but then discovered that technicians working on nose cones had protected themselves from below-zero temperatures by draping canvas over their scaffolding—which did conceal the silo covering. The United States removed the canvas, cleared up the violation—and got a lesson in the sophistication of the Soviets' own reconnaissance satellites.

A Verification Nightmare: But the problems of verification get more serious every day. Under SALT, both sides agreed not to use hard-to-break codes for their telemetry signals, so that they could be sure that rocket tests did not violate the agreements. But the Russians are encoding more and more of their telemetry, making it impossible for the United States to determine facts such as how many warheads were carried aboard a test-fired rocket. The Soviet ability to put more and more warheads on their missiles makes it increasingly difficult to monitor the number of bombs. And America's new cruise missile will be a verification nightmare: they are small and portable, and it is impossible to tell whether they are armed with nuclear or conventional warheads. "We must be certain that we do not let our agreements get too far ahead of our verification capability," says Sen. John Glenn. But unless Moscow and Washington move fast, new technology could complicate verification enormously—and put an arms-control agreement all but out of reach.

THE GENOCIDE CONVENTION: IT IS TIME FOR THE 98TH CONGRESS TO ACT

Mr. PROXMIRE. Mr. President, since 1967 I have daily urged the Senate to approve the Convention on the Prevention and Punishment of Genocide. Despite my urgings and those of many of my colleagues, this body has failed to act on this vital human rights issue.

The beginning of the 98th Congress is an auspicious time to move swiftly in support of the Genocide Convention. Our world today is marked by an increasing international awareness on the part of people from nations around the globe. With the broadening of this international arena, more and more voices can be heard contributing to a dialog of concern that centers on the weighty topic of human rights. There is not a single country in the world where the guarantee of an individual's fundamental human rights is not a matter of consequence. Indeed, there are nations where, if human rights could be guaranteed, hundreds and hundreds of lives would not be in jeopardy at this very moment.

Mr. President, I give the Senate the charge to approve a treaty that will make genocide a punishable crime, for what could be a greater violation of human rights than the cold, calculated act of mass execution?

By approving this treaty, the United States would affirm its allegiance to the world community in the ongoing struggle to secure a minimum of basic rights for all people of all countries. Moreover, I would like to remind the Senate that the United States is the only remaining nation, of the original 80 invited to sign, that has failed to ratify the Genocide Convention. By giving our advice and consent to this important document, the world would be assured that America has entered the fight for human rights without reservation or qualification.

I urge that we push hard toward final approval of the Genocide Convention. Respect for human life should not be treated as a secondary issue; it is a moral imperative from which we cannot shy. Let us demonstrate for all others that America is committed to the rights of every individual wherever he or she may live.

BUDGET DEFERRALS—MESSAGE FROM THE PRESIDENT RECEIVED DURING THE ADJOURNMENT—PM 1

Pursuant to the provisions of Public Law 95-344, section 1014, the Secretary of the Senate, on January 5, 1983, during the adjournment of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, was referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Commerce, Science, and Transportation, the Committee on Environment and Public Works, the Committee on Banking, Housing, and Urban Affairs, and the Committee on Energy and Natural Resources; and ordered printed as a Senate document:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report four deferrals totaling $38,897,952 and a revision to a previous deferral, increasing the amount deferred by $10,000,000.

The deferrals affect programs in the Departments of Agriculture, Commerce, Housing and Urban Development, and Interior.

The details of the deferrals are contained in the attached reports.

RONALD REAGAN.

THE WHITE HOUSE, *January 5, 1983.*

MESSAGE FROM THE HOUSE RECEIVED DURING THE ADJOURNMENT

Under the authority of the order of the Senate of January 3, 1983, the Secretary of the Senate, on January 5, 1983, received a message from the House of Representatives stating that the House had agreed to the following concurrent resolution:

S. Con. Res. 1. Concurrent resolution providing for an adjournment of the Senate and the House of Representatives for more than three days.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1. A communication from the Administrator of the Panama Canal Commission transmitting, pursuant to law, a report on a violation of law relative to an overobligation of an internal allotment of apportioned funds; to the Committee on Appropriations.

EC-2. A communication from the Deputy Assistant Secretary of Defense for Manpower, Reserve Affairs, and Logistics transmitting, pursuant to law, a report on operations under the Aviation Career Incentive Act; to the Committee on Armed Services.

EC-3. A communication from the Director of the Defense Security Assistance Agency transmitting, pursuant to law, a report on a foreign military sale to Turkey; to the Committee on Armed Services.

EC-4. A communication from the Assistant Secretary of State for Congressional Relations transmitting, pursuant to law, a report relative to certain property to be transferred to the Republic of Panama under the Panama Canal Treaty of 1977; to the Committee on Armed Services.

EC-5. A communication from the Comptroller of the Currency transmitting, pursuant to law, the Annual Report of the Comptroller of the Currency; to the Committee on Banking, Housing, and Urban Affairs.

EC-6. A communication from the Secretary of Transportation transmitting, pursuant to law, the Annual Report on Railroad Financial Assistance; to the Committee on Commerce, Science, and Transportation.

EC-7. A communication from the Secretary of Health and Human Services transmitting, pursuant to law, a report on the administration of the Fair Packaging and Labeling Act; to the Committee on Commerce, Science, and Transportation.

EC-8. A communication from the vice president for Government Affairs, Amtrak, transmitting, pursuant to law, a report for September 1982 on the revenues of the National Railroad Passenger Corporation; to the Committee on Commerce, Science, and Transportation.

EC-9. A communication from the vice president for Government Affairs, Amtrak, transmitting, pursuant to law, a report for October 1982 on the revenues and expenses of the National Railroad Passenger Corporation; to the Committee on Commerce, Science, and Transportation.

EC-10. A communication from the vice president for Government Affairs, Amtrak, transmitting, pursuant to law, a report for October 1982 on the passengers per day and on-time performance of trains operated by the National Railroad Passenger Corporation; to the Committee on Commerce, Science, and Transportation.

EC-11. A communication from the Director of the Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of an excess royalty payment to Chevron U.S.A. Inc.; to the Committee on Energy and Natural Resources.

EC-12. A communication from the Director of the Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on refunds of excess royalty payments to Kerr-McGee Corp., Chevron U.S.A., Shell Oil Co., and Newmont Oil Co.; to the Committee on Energy and Natural Resources.

EC-13. A communication from the Director of the Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on refunds of excess royalty payments to Amoco Production Co., Marathon Oil Co., Phillips Petro. Co., and Conoco; to the Committee on Energy and Natural Resources.

EC-14. A communication from the Director of the Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on a refund of an excess royalty payment to Clark Oil and Refining Co.; to the Committee on Energy and Natural Resources.

EC-15. A communication from the Secretary of the Interior transmitting, pursuant to law, a report on the study to evaluate oil and gas development, wilderness characteristics, and wildlife resources on Federal lands in the Central Arctic Area of Alaska; to the Committee on Energy and Natural Resources.

EC-16. A report from the Secretary of Energy entitled "Strategic Alcohol Fuel Reserve"; to the Committee on Energy and Natural Resources.

EC-17. A communication from the Secretary of Energy transmitting, pursuant to law, a report entitled "Regional Petroleum Reserves"; to the Committee on Energy and Natural Resources.

EC-18. A communication from the President of the United States and the Secretary of Energy transmitting, pursuant to law, a report entitled "Comprehensive Energy Emergency Response Procedures"; to the Committee on Energy and Natural Resources.

EC-19. A communication from the Chairman of the Nuclear Regulatory Commission transmitting, pursuant to law, a report on abnormal occurance at licensed nuclear facilities for the second calendar quarter of 1982; to the Committee on Environment and Public Works.

EC-20. A communication from the Governor of the State of Minnesota transmitting, pursuant to law, a report on Minnesota Water Quality; to the Committee on Environment and Public Works.

EC-21. A communication from the Secretary of the Treasury transmitting, pursuant to law, a report on borrowing by the Federal Old-Age and Survivors Insurance Trust Fund; to the Committee on Finance.

EC-22. A communication from the Director of the Office of Legislative Affairs of AID, transmitting, pursuant to law, a report on economic conditions in Israel and its capacity to service its foreign debt; to the Committee on Foreign Relations.

EC-23. A communication from the Assistant Secretary for Congressional Relations, Department of State, transmitting, pursuant to law, a Secretarial determination regarding transfer of funds under the Fishermen's Protective Act; to the Committee on Foreign Relations.

EC-24. A communication from the Acting Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on certain international agreements, other than treaties, entered

into by the United States within the previous 60 days; to the Committee on Foreign Relations.

EC-25. A communication from the Acting Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States within the previous 60 days; to the Committee on Foreign Relations.

EC-26. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Management of the Federal Emergency Management Agency—A System Being Developed"; to the Committee on Governmental Affairs.

EC-27. A communication from the Comptroller General of the United States transmitting, pursuant to law, a listing for the month of November 1982 of General Accounting Office Reports transmitted to Congress; to the Committee on Governmental Affairs.

EC-28. A communication from the Chairman of the D.C. Council transmitting a copy of an act of the Council, Initiative Measure No. 9; to the Committee on Governmental Affairs.

EC-29. A communication from the Chairman of the D.C. Council transmitting, pursuant to law, an act of the Council D.C. Act 4-241; to the Committee on Governmental Affairs.

EC-30. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 4-242; to the Committee on Governmental Affairs.

EC-31. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 4-243; to the Committee on Governmental Affairs.

EC-32. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 4-245; to the Committee on Governmental Affairs.

EC-33. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 4-249; to the Committee on Governmental Affairs.

EC-34. A communication from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, a copy of D.C. Act 4-244; to the Committee on Governmental Affairs.

EC-35. A communication from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, a copy of D.C. Act 4-254; to the Committee on Governmental Affairs.

EC-36. A communication from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, a copy of D.C. Act 4-256; to the Committee on Governmental Affairs.

EC-37. A communication from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, a copy of D.C. Act 4-257; to the Committee on Governmental Affairs.

EC-38. A communication from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, a copy of D.C. Act 4-258; to the Committee on Governmental Affairs.

EC-39. A communication from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, a copy of D.C. Act 4-259; to the Committee on Governmental Affairs.

EC-40. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a copy of D.C. Act 4-260; to the Committee on Governmental Affairs.

EC-41. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 4-261; to the Committee on Governmental Affairs.

EC-42. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 4-262; to the Committee on Governmental Affairs.

EC-43. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 4-264; to the Committee on Governmental Affairs.

EC-44. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 4-265; to the Committee on Governmental Affairs.

EC-45. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 4-266; to the Committee on Governmental Affairs.

EC-46. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 4-267; to the Committee on Governmental Affairs.

EC-47. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 4-268; to the Committee on Governmental Affairs.

EC-48. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 4-269; to the Committee on Governmental Affairs.

EC-49. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 4-270; to the Committee on Governmental Affairs.

EC-50. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 4-271; to the Committee on Governmental Affairs.

EC-51. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 4-272; to the Committee on Governmental Affairs.

EC-52. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 4-273; to the Committee on Governmental Affairs.

EC-53. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 4-274; to the Committee on Governmental Affairs.

EC-54. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 4-275; to the Committee on Governmental Affairs.

EC-55. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 4-276; to the Committee on Governmental Affairs.

EC-56. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 4-277; to the Committee on Governmental Affairs.

EC-57. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 4-278; to the Committee on Governmental Affairs.

EC-58. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 4-279; to the Committee on Governmental Affairs.

EC-59. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 4-280; to the Committee on Governmental Affairs.

EC-60. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 4-281; to the Committee on Governmental Affairs.

EC-61. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a copy of D.C. Act 4-282; to the Committee on Governmental Affairs.

EC-62. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a copy of D.C. Act 4-283; to the Committee on Governmental Affairs.

EC-63. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a copy of D.C. Act 4-284; to the Committee on Governmental Affairs.

EC-64. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a copy of D.C. Act 4-285; to the Committee on Governmental Affairs.

EC-65. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a copy of D.C. Act 4-286; to the Committee on Governmental Affairs.

EC-66. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a copy of D.C. Act 4-287; to the Committee on Governmental Affairs.

EC-67. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a copy of D.C. Act 4-288; to the Committee on Governmental Affairs.

EC-68. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a copy of D.C. Act 4-289; to the Committee on Governmental Affairs.

EC-69. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a copy of D.C. Act 4-290; to the Committee on Governmental Affairs.

EC-70. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a copy of D.C. Act 4-291; to the Committee on Governmental Affairs.

EC-71. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a copy of D.C. Act 4-292; to the Committee on Governmental Affairs.

EC-72. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a copy of D.C. Act 4-299; to the Committee on Governmental Affairs.

EC-73. A communication from the Chairman of the Federal Mine Safety and Health Review Commission transmitting, pursuant to the law, the annual report to Congress re-

garding compliance with the Government in the Sunshine Act; to the Committee on Governmental Affairs.

EC-74. A communication from the Assistant Secretary for Congressional Relations transmitting, pursuant to law, the fiscal year 1981 report on the Foreign Service Retirement and Disability System; to the Committee on Governmental Affairs.

EC-75. A communication from the Acting Director of the National Park Service transmitting, pursuant to law, a report covering the disposal of surplus Federal real property for parks and recreation purposes for fiscal year 1982; to the Committee on Governmental Affairs.

EC-76. A communication from the Chairman of the National Labor Relations Board transmitting, pursuant to law, the calendar year 1982 report concerning implementation of the Government in the Sunshine Act; to the Committee on Governmental Affairs.

EC-77. A communication from the Deputy Administrator of the General Services Administration transmitting, pursuant to law, a report concerning the transfer for donation of surplus personal property by GSA; to the Committee on Governmental Affairs.

EC-78. A communication from the Chairman of the U.S. Merit Systems Protection Board transmitting, pursuant to law, a report on the Board's processing of appeals during fiscal year 1981; to the Committee on Governmental Affairs.

NOTICES OF HEARINGS

COMMITTEE ON THE BUDGET

Mr. DOMENICI. Mr. President, the Senate Committee on the Budget will hold a meeting on the internal budget and rules of the Budget Committee on January 27, 1983, in room 6202, Dirksen Senate Office Building at 10 a.m.

For further information, contact Nancy Moore of the Budget Committee staff at 224-4129.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

● Mr. McCLURE. Mr. President, I would like to announce for the information of the Senate and the public the scheduling of public hearings before the Committee on Energy and Natural Resources to consider the President's proposed budget for fiscal year 1984. The committee will receive testimony from administration witnesses as follows: Tuesday, February 1 at 10 a.m.—Department of Energy; Wednesday, February 2 at 10 a.m.—Department of the Interior; and Thurdsay, February 3 at 10 a.m.—Department of Agriculture (Forest Service) and U.S. Synthetic Fuels Corporation. All hearings will be held in room SD-366 of the Dirksen Senate Office Building.

For further information regarding these hearings, you may wish to contact Mr. Richard Grundy of the committee staff at 224-2564.●

NOTICE CONCERNING ANNUAL REGISTRATIONS OF MASS MAILINGS

The Secretary of the Senate submits the following notice for the information of Senators:

Senators are reminded of the requirements concerning registration of mass mailings under Senate rule 40.

Members are required to register annually such mass mailings. The 1982 calendar year filing will be due on February 1, 1983. Mass mailings are also accepted on a "as mailed" basis, if Members so desire.

The following are excerpts from rule 40:

. . . 3. (a) When a Senator disseminates information under the frank, by a mass mailing (as defined in Section 3210(a)(6)(E) of title 39, United States Code), the Senator shall register annually with the Secretary of the Senate such mass mailings. Such registration shall be made by filing with the Secretary a copy of the matter mailed and providing, on a form supplied by the Secretary, a description of the group or groups of persons to whom the mass mailing was mailed.

(b) the Secretary of the Senate shall promptly make available for public inspection and copying a copy of the matter mailed, and a description of the group or groups of persons to whom the mass mailings were mailed . . .

Mass mailing registrations should be filed with the Senate Office of Public Records, 119 D Street NE., room A-623, Washington, D.C. 20510, telephone 224-0322.

ADDITIONAL STATEMENTS

SENATOR ARMSTRONG: ONE IN A MILLION

● Mr. HELMS. Mr. President, the February edition of Conservative Digest contains a column by Paul Weyrich in which our distinguished colleague from Colorado (Mr. ARMSTRONG) is accurately and deservingly described as a statesman of dedication, intelligence, and courage.

Paul Weyrich has a familiarity with Congress that few others possess. He has served effectively as top assistant to a number of Senators, and his knowledge of the legislative process is nothing short of remarkable.

Mr. President, BILL ARMSTRONG is indeed a refreshing and inspiring Member of the Senate. While he is best known as a skilled and effective legislator, I am most impressed with his deep sense of compassion and his unshakable faith in God.

Mr. President, I ask that Paul Weyrich's column be printed in the RECORD.

The article follows:

BILL ARMSTRONG, THE ALL-AMERICAN SENATOR

The news is so grim these days, and this issue of Conservative Digest is largely devoted to taxes which President Reagan's advisors appear determined to raise again and again, that I just thought you might want to read something pleasant for a change.

I've usually been in the position of urging conservatives to fight on principle, and Senators Helms, East, Nickles and Humphrey did just that when they filibustered the gas tax during the lame duck session. Jesse Helms went the full route and kept the Senate in session a few days longer than his colleagues wanted and for that was subjected to incredible abuse inside and outside of the Senate. The usually humorous Senator Alan Simpson showed a dark side of his personality when he not only lashed out against Helms but then almost refused to shake hands when Helms held out the olive branch. The elitist conservative columnist, George Will, called Helms a national disgrace, a charge which was answered very effectively, although surprisingly, by James Jackson Kilpatrick who suggested the nation ought to thank Helms, not criticize him.

In the midst of all of this turmoil, the opponents of the Senate filibuster, who have long lusted after rules changes so they can ram their agenda through the Congress, seized the opportunity to begin to push for major revisions of Senate procedure. In the process, to take advantage of the atmosphere, they contributed to the angry feelings against Jesse Helms. Now, mind you, when Howard Metzenbaum, the leftist from Ohio, did exactly the same thing, he received the praise of some of his colleagues and favorable newspaper editorials for acting in the public interest. Likewise with Lowell Weicker and Bob Packwood.

What is pleasant about all of this? Well, one Senator, who didn't even support the filibuster, rose to put the situation in perspective, defend the good name of Jesse Helms and to suggest that even though he has occasionally suffered because of the current Senate rules, the system is a good one. That Senator was Bill Armstrong who, on that December 22d, did a great service to the Senate and the nation by his intervention. He was joined, I might add, by Jim McClure and Russell Long.

Armstrong had the courage and good sense and Christian dignity to step into a situation from which most of his colleagues ran away as fast as they could. I was very saddened to hear some of the Senators I most admire join behind the scenes in criticizing Helms. Armstrong, by contrast, both privately and publicly defended Helms and the other Senators and in doing so, helped the situation greatly because in this years in Congress, he has earned the respect of his colleagues.

The role Armstrong played here was a typical one. Most of the time his deeds are not in public. He is a Senator who is frequently called on to give a pep talk to a colleague who has hit bottom, to give comfort to someone who has been afflicted, to give witness to the Lord's power and strength when His servants get weak.

At a time when so many we look to for leadership let us down, the good character of Bill Armstrong is something to celebrate as the serious work in the Congress begins. This is not to say that I always agree with the Senator. He certainly has supported things I wouldn't have, and his intervention in various party contests back in Colorado has caused him a great deal of trouble. Still, it is in the nature of things that he would intervene. He is usually supporting a friend of long standing. In and of itself in politics, that is highly unusual these days. Politicians, once they are elected, are almost ex-

pected to repudiate those who helped them get where they are in favor of their enemies. Armstrong sticks with his friends, even when it hurts.

You might charge that I am biased because, after all, the good Senator serves on the board of the Free Congress Research and Education Foundation, of which I am president. Yet from that vantage point, I can point out to you that Armstrong is no different in private than in public, something which is also unusual in Washington. When he agreed to serve on the board, he said he would actively participate. I took that with a grain of salt. Some of my colleagues have Senators on their boards and they can never get them to meetings. To my great surprise, Armstrong has made virtually every meeting of the board and takes a lively and active interest in the life of the foundation.

Ronald Reagan is supposed to be the great communicator, and indeed he is the best in the White House since FDR. Watch out for Armstrong, though. This former broadcaster is not only a rousing speaker, but a very skilled debater. I will be very surprised if he doesn't end up on some national ticket at some point in our history.

His talents aside, I am just grateful that we have a man like Armstrong in the Senate. The papers revealed that the Senator was at the bedside of Congressman-elect Jack Swigert when he died of cancer a few days before he was to be sworn in to the 98th Congress. What most of the papers didn't recall was that Swigert was Armstrong's primary opponent when he ran for the Senate in 1978. Knowing what I knew of that situation, many of us were deeply moved by the friendship which developed after Armstrong won the primary.

At a time in our history when most Senators get briefed on complex legislation by aides running alongside of the Senators on the way to the elevators, Armstrong often takes home stacks of books on the complex subjects of the day. He seeks understanding of what he is doing and his colleagues recognize that. That is why, although he often puts them on the spot with tough amendments and proposals, they increasingly seek his advice.

This is a man who will take time out of a busy day to hold a bible study session in his office with fellow Senators and then to host other sessions at night in his home.

Bill Armstrong isn't just one in a hundred. He is one in a million. So if you haven't got anything you can think of to be thankful for today, remember the Senator from Colorado. He needs your prayers, because it is a cinch that he will be working and praying for you.●

ILLEGAL IMMIGRATION

● Mr. EAST. Mr. President, yesterday's Washington Post contained a front-page story belaboring the obvious: the Immigration and Naturalization Service (INS) is so badly understaffed that it cannot do its job. Every member of this body that has given 10 minutes of thought or study to the problem of illegal immigration knows that the INS cannot be expected to enforce the immigration laws with the funds it is given.

The flow of illegal immigrants has increased tenfold or more in the last decade. Despite reported pleas for help from INS officials, Congress has refused to find meaningful increases in INS enforcement resources, even though the necessary funds could be raised by user fees charged aliens entering our Nation legally.

Some people are looking for an easy way to "solve" the problem without arresting and repatriating illegal aliens. Thus, the calls for an amnesty to "wipe the slate clean." The sad truth is that Congress is unwilling to enforce the laws of the land. Vociferous special interest groups and a sympathetic news media stand ready to scream "police state" should any real attempt be made to enforce our laws. That threat is apparently enough to prevent any effort to enforce the generous and fair immigration laws of this Nation.

I am ready to increase INS funding. Perhaps if my colleagues will read Mr. Adam A. Dobrin's story in the Washington Post, they will decide to join me. I ask that the article entitled "Area Aliens Use Legal Tangle To Block Deportation by INS" be printed in the RECORD.

The article follows:

AREA ALIENS USE LEGAL TANGLE TO BLOCK DEPORTATION BY INS

(By Adam A. Dobrin)

Nine years ago Woon-Sun Wu, an arrival from Hong Kong, was charged by the Washington office of the Immigration and Naturalization Service with being an undocumented worker—an illegal alien. At a hearing, Wu admitted that he was here illegally and agreed to leave the country. He is still here.

This case is typical of thousands, according to INS officials, in a system gone so awry that officials believe only a tiny fraction of the illegal immigrants arrested in the Washington area ever leave the country.

Last year, for example, the INS Washington field office, which covers the District of Columbia and Virginia, arrested about 1,000 persons believed to be illegal immigrants. Although most of those conceded their illegal status and volunteered to leave the country, they never left, INS officials said. Only 19 were known to have been deported, according to Narciso Leggs, a senior INS deportation officer.

Others, along with an uncounted number over the years, have simply remained here because INS does not have the manpower to follow their cases or because they have clogged the courts with appeals that take years to be heard, INS officials said.

"They can beat the system by using the system," said Kellogg H. Whittick, who recently retired as Washington INS district chief. He described his office as a "revolving door" for illegal aliens who can delay their departure indefinitely by appealing, or simply ignoring, the rules.

In Wu's case, according to court documents, after conceding his illegal status, he volunteered to leave the country in 1974. Subsequently, he appealed his status five times and failed to attend scheduled deportation hearings at least three times, according to court records. The case is still in the courts.

Mark Mancini, Wu's attorney for the last six months, said his client has been allowed to stay here for years because "INS simply never followed up," and because "he is only taking advantage of the various forms of relief available to him under the law."

Reached at the Chinese restaurant in Richmond where he now works as a cook, Wu, now 38, referred a reporter to his English-speaking brother-in-law, who referred the inquiry to Mancini.

"If the INS does not insist and enforce the departure on the day the alien concedes his deportability, they might as well forget it," Mancini said. Even if the alien has agreed to leave, if he then appeals, he can usually stay indefinitely, Mancini said. "It is almost incomprehensible to most people that this can be true, but it is the way the system works," he said.

INS attorney Don Couvillon said the Wu case "is a splendid example of how if you really do not want to leave this country, you don't have to. . . . we do the best job we can under adverse circumstances."

Some of the problems that INS Washington field office authorities say they encounter include:

A backlog of more than 8,000 cases in the deportation section of the office. The three-member staff assigned to monitor them works without a computer.

Only one immigration court attorney responsible for prosecuting the more than 1,000 immigration cases waiting to go to trial.

The aliens' increasing awareness of the cumbersome nature of the system and the means of exploiting its weaknesses. About 20 percent of the alleged illegal immigrants apprehended never attend their preliminary hearings, and most of those are never caught again, officials said. After their arrest, many agree to voluntary departure, but then decide to appeal and remain here as that process goes on, said officials.

INS policy that has reduced bond. The average bond today costs $500 to $1,000, as opposed to $2,000 or more in previous years. Whittick, the former head of the Washington field office, said overcrowded jails had no space for those who could not afford to post the higher bond.

Understaffing in most sections of the local INS office. Ten agents are responsible for investigating cases in D.C. and Virginia.

Duke Austin, a spokesman for the INS national office, said there are no statistics to determine the extent of such problems at other INS district offices. "I think it's going to vary from place to place," he said. "Certainly there are backups" in cases waiting to be heard.

Richard R. Spurlock, director of the INS office in Baltimore, which covers Maryland, said his office, with a backlog of 900 cases, is not facing problems on the scale of the Washington office. He said he believes there are fewer illegal immigrants in Baltimore than Washington, New York or other cities.

Whittick said the Washington area attracts large numbers of illegal immigrants because of the number of service jobs here, and because there is an established base of friends and relatives here.

Washington field office INS agents, increasingly aware of the futility of their efforts, characterize their work as a "joke," "pointless" and "frustrating."

Whittick said the INS agents will continue to be ineffective until Congress revamps immigration laws that allow the illegal immigrants to stay here.

"One section of the law says one thing and another section says something else. It's like a cop giving a person a traffic ticket for running a red light and then turning around

and saying, 'Well, if you back up you won't get the ticket,'" said deportation officer Leggs. "It's just a merry-go-round."

One example officials like to give is the "suspension of deportation" law, which says a person who has been in this country for seven years cannot be deported. "The one who avoids being caught the longest gets the benefit," said Mark Riordan, a local INS investigator.

In spite of their complaints, district INS agents in the past nine months have been charging more people with being illegal aliens than ever before, officials said. Because of an appeals court decision early last spring giving the INS here broader authority to obtain warrants, and the simultaneous end of what Whittick described as particular problems involving Iranians, Cubans and Haitians, the local office has been able to focus more on catching illegal aliens.

"Until we were able to take care of the Cuban boat-lift mess, the Haitian refugees and the Iranian students who had overstayed their visas that President Carter wanted us to arrest and send back, our hands were pretty much tied," said Whittick.

But the increased raids and arrests are only adding to the backlog without lowering the aliens' population in Washington, officials said. INS investigators say they feel as though they are on a sinking ship.

Steve Stephanadis, assistant INS district director for investigations, said, "For the past two years the work force that I could put on the street I could count on two hands."

"Now just what is it that you expect of this office in the nation's capital? How do you want us to respond to the many problems that we have?" Stephanadis asked rhetorically. "You and I know there is one hell of an alien population in our area."

When asked for his estimate, Stephanadis said that going to a "gypsy soothsayer" would be as accurate as any statistics that might be available.

One plan developed by officials to deal with the manpower problem has been to show force in a way that makes the local INS office look more powerful than it really is.

"We try to give the appearances wherever we can to make them believe we have sufficient force so that they will stay away. If the aliens think we don't have the manpower to do the work, they will actually be attracted to this area. It would be considered a free port for them," said Whittick.

Added Stephanadis, "I'm still way in the hole [in manpower]. I can't come upstairs [to the district director's office] and say, 'yes, I can see daylight now.' We're still just treading water. That's all we're doing right now."●

UKRAINIAN INDEPENDENCE DAY

● Mr. DOLE. Mr. President, on January 22, 1983, the Ukrainian-American community commemorated the 65th anniversary of the proclamation of Ukraine's independence or, more precisely, the reestablishment of a free Ukrainian state. On January 22, 1919, all Ukrainian lands were unified in one state.

In these last 65 years, the Ukrainian nation has suffered horrors. In 1920, the fledgling Ukrainian Republic was brutally overrun by the Red army. In 1922, Bolshevik-dominated Ukraine voluntarily joined the new Union of Soviet Socialist Republic and became, for all practical purposes, a puppet regime. In the 1930's an estimated 5 to 7 million Ukrainians lost their lives in Stalin's ultimately successful but costly attempt to forcibly collectivize the peasants.

Millions more died in slave labor camps in Siberia as a result of Stalin's inhumane purges which were in part designed to obliterate the more nationally conscious elements of Ukrainian society. During World War II, the Ukrainian insurgent army valiantly struggled against both Stalin and Hitler and continued its fight for independence until the early 1950's. Supporters of this movement were executed or sent to Siberia.

THE RIGHT TO THE FUTURE

Attempts to stifle the Ukrainian nation continue to this day. Ukrainian history and literature are distorted by the regime. In a number of the larger Ukrainian cities, the use of the Ukrainian language in public is virtually nonexistent thanks to the Kremlin's conscious policy of Russification. A leading Ukrainian political prisoner, Yuri Badzyo, in a document smuggled out of the labor camp in which he is being held, describes the current situation as follows:

> The openly assimilationist program of the USSR Communist Party, in effect, deprives the non-Russian peoples of the country of their right to their own ethnic future * * * the falsification of Ukrainian history * * * (in) the doctrine of the Union of Ukraine and Belorussia with Russia, essentially signifies a theoretical denial of Ukrainian and Belorussians as separate ethnic identities * * * turning the Russian language, particularly since the mid-1970's, into the basic language of Ukrainian society * * * (and resulting in) the harsh persecution of people who express the slightest dissatisfaction with the national status of the Ukrainian people.

Despite these attacks on the spirit and dignity of the Ukrainian people, the struggle continues. Along with Yuri Badzyo, thousands of Ukrainian patriots, many of them incarcerated in Soviet labor camps, prisons, or special psychiatric hospitals, continue to speak out on behalf of the Ukrainian nation. The Commission on Security and Cooperation in Europe, in which I serve as cochairman, continues to receive troubling reports from Ukraine which reveal the scale of the Soviet campaign against Ukrainians who speak out in defense of their human and national rights. Members of the Ukrainian Helsinki Monitoring Group, for instance, continue to be dealt with harshly with 27 of its 30 members in the Soviet Union currently behind bars or in internal exile.

HERITAGE OF FREEDOM

Why, Mr. President, one might ask, should we keep on commemorating Ukrainian Independence Day? What significance does it have to the present time? The answer, I think, is clear. It lies on our Nation's own precious heritage of freedom and in our traditional respect for the rights and dignity of all men. Our support for the Ukrainian people in their desire for freedom and independence is consistent with what this Nation has always stood for. To support others in their quest for freedom is, in the final analysis, an indication of how we value our own freedom.●

DEATH OF CONGRESSMAN BENJAMIN S. ROSENTHAL

● Mr. MOYNIHAN. Mr. President, today I wish to speak, all too briefly, in memory of my good friend and distinguished colleague from New York, the late Congressman Benjamin S. Rosenthal.

It was a moment of profound sorrow when I learned of Ben Rosenthal's death. No one fortunate enough to know Ben could have failed to be warmed by his personal charm and impressed by his formidable intellect. As a man and as a legislator, he was many things. He was never other than an individual of great courage and deep compassion for others. A friend of the consumer and the poor. A champion of human rights and civil rights. A vigorous defender of just causes here and abroad.

Few among us can even hope to enlarge the concept of public service. Ben Rosenthal could and did. He leaves the Congress enhanced by the integrity and conviction he brought to it. When Ben felt that something was wrong, he was not afraid to say so. Witness, for instance, his singular stand against the Vietnam war in 1965, a time when most of his constituents—and most of his colleagues—felt otherwise. Have we all not benefited from the high personal standards Ben Rosenthal set for himself?

So, too, from the extraordinary diligence with which he looked after American interests abroad, as the senior member of the House Committee on Foreign Affairs. He was one of few who had the foresight to investigate the extent of foreign investment in our country and to assess the implications for foreign policy and national security. In this, he has not only alerted us to the issue, but also laid important groundwork for the formulation of a national policy in this area.

In all, Ben Rosenthal was a friend to all New York and indeed the Nation. The country should know that it has lost a strong and principled man.

Mr. President, several weeks ago I had the solemn responsibility of attending the memorial services for this great man. At that time, Ben Rosenthal was eulogized by Rabbi I. Usher Kirshblum in terms so eloquent and

fitting that I should very much like to share them with my colleagues. I ask that Rabbi Kirshblum's remarks be printed in the RECORD.

The remarks follow:

EULOGY FOR CONGRESSMAN BENJAMIN S. ROSENTHAL

(By Rabbi I. Usher Kirshblum)

(January 6, 1983)

"A prince and a great man fell" and is departing from us unto eternity. Congressman Benjamin Rosenthal, tall as he was from his neck down was even taller from his neck up. The mourners are by no means limited to the immediate members of his family. The citizens of the Borough of Queens, the City and State of New York, the Nation, Israel and the entire free world, have sustained an irreparable loss.

As I stand before you I can see Ben smiling at me quizzically and asking, "What am I doing in the Synagogue? This honor should be reserved for religious Jews." If religion is to be judged merely on the basis of one's observance then my beloved Ben would be absolutely right. But observance is just a holy means to an even holier and—the road which leads to the highest principles for which Judaism stands. By that standard I say, without any hesitation or mental reservation, Congressman Benjamin S. Rosenthal was a deeply religious man for he had built his entire life upon the highest principles of ethics, justice and morality.

It was in 1962 when I first met Ben at his office in Woodside. He was about to immerse himself in his first Congressional campaign. One issue plagued him. He knew that a large segment of his Congressional District was for that which he opposed. He sought guidance and advice. Who would have blamed him if he had compromised a little or hedged somewhat? But not Ben! He always followed the dictates of his conscience. He was prepared to lose the election but not his principles. He was elected by the narrowest of margins—just a few hundred votes. Think of it what a loss it would have been for our Country if this brilliant man were defeated because of his principles!

Throughout his career Ben never tried to guess what the people would want him to say or do but he felt that it was his duty not just to listen to his constituents but also to teach them right from wrong.

Ben was a champion of human rights. He was absolutely color blind, never able to distinguish between Jew and Christian, between Black and White. To him all were God's children created in His image. He looked afar, had great visions of a better and more peaceful world. But at the same time, he never lost sight of the little man in front of him who needed his help. He was most sensitive to the problems of the poor, the sick and the ill. Ben had a great love for Israel and its people but it was not a blind love. When he differed with some act or statement he did not rush with tongue or pen to criticize but confined his remarks to a very intimate group of friends. He had a deep concern for the Jews behind the Iron Curtain and he left no stone unturned until he rescued a number of them. At all times Ben walked in the footsteps of the Prophet, Micah, doing justly, loving mercy and walking humbly with his God.

Though completely dedicated to his calling, Ben served as a model for all politicians in his relationship with his family. He never allowed his career to interfere with the role that he loved most—a most caring son to his mother, Ceil, a most loving husband to his wife, Lila, a most devoted father to Debra and Edward, and most affectionate brother to his sister, Lola, and to Brian, who as his son by marriage and physician, was so close to him. His children were never resentful of his career. On the contrary, they were very proud of him because he never deprived them of his companionship. Tired as he was after a number of speaking engagements in New York he always rushed off to make the last shuttle to Washington.

Despite his illness Ben kept working almost to the very end. He did not miss an hour of the recent Lame Duck session. Though in great pain, he never complained but kept pushing and hoping to give more of himself in the coming days to his Country and his people. After he was sworn in on Monday, G-d, in His merciful way, decided to grant Ben eternal sleep. Now free from pain, no longer to be tormented by the Angel of Death, he is going home for a complete rest. In a whisper Ben speaks to us,

Let me die working,
Still tackling plans unfinished, tasks undone,
Clean to its end, swift may my race be run.
No lagging steps, no faltering, no shirking,
Let me die working.

Let me die thinking,
Let me fare forth still with an open mind,
Fresh secrets to unfold, new truths to find.
My soul undimmed, alert, no questions blinking,
Let me die thinking.

Let me die laughing,
No sighing o'er past sins; they are forgiven.
Spilled on this earth are all the joys of heaven.
The wine of life, the cup of mirth still quaffing;
Let me die laughing.

S. HALL YOUNG.●

POLITICS AND CULTURE

● Mr. EAST. Mr. President, Prof. Charles Moser of George Washington University recently contributed a perceptive essay to the January 1983 issue of Chronicles of Culture. I heartily recommend this publication to any of my colleagues seeking a different perspective on the important issues of our time, and I ask that Professor Moser's article be printed in the RECORD.

The essay follows:

[From Chronicles of Culture, January 1983]

COMMENT—POLITICS & CULTURE

(By Charles Moser)

History, in the end, remembers a society more by its culture than by its politics. If a modern American knows little about the dramatists and poets and sculptors of ancient Greece or Rome, he knows even less about their political leaders. The point is well put in an ancedote told in the Soviet Union: a century hence a Russian schoolchild asked to identify Leonid Brezhnev recalls him as a politician in the age of Solzhenitsyn.

A society's culture encompasses the entire gamut of its spiritual possibilities, starting with art at the highest level and extending to the front page of a daily newspaper. Furthermore, a culture must deal with the society's established moral and religious values, even when it sets out to challenge them.

Politics has to do with the selection of a society's governmental leaders and with the formulation of its laws and regulations. A society's legislation necessarily reflects its ethical standards: if most members of a society believe it wrong to kill under ordinary circumstances, its laws will include sanctions against murder. Society continually legislates morality; the conflict is always over which—not whether—moral standards should be incorporated in its rules. In our day American society is plagued by a political and cultural division between those who defend moral standards in our legislation and those who reject them.

In premodern times culture dominated politics, a situation which persisted into recent centuries. Actually, culture and politics generally worked in tandem. In Russia, for example, only in the 19th century did the cultural elite adopt a hostile stance toward the political objectives of the state. Both before and after that time—as in the Soviet Union today—the artist generally supported the interests of the government. Many of the great Russian writers of the 18th century were also government officials, and in the 1780's Catherine the Great even wrote (or at least had published under her name) satirical plays intended to improve the morals of society, as a supplement to the legislation she promulgated for the same purpose.

In the course of time, however, politics spread throughout society, until finally Marxist theory declared that politics should permeate society entirely, and therefore also determine its culture. So culture—even high culture—has become the concern of the totalitarian state, which establishes Ministries of Culture to tend to it. The writer in a totalitarian society knows that he faces political penalties—imprisonment, exile, perhaps even death—if he goes against the official cultural line, precisely because the political authorities consider what he does important. By contrast, the American writer enjoys an enviable artistic freedom, but he knows in his soul that he owes this to the belief among the powerful that his activities are of no political consequence. In the American polity the notion that ideas have no practical impact on society is still powerful and influential.

In analyzing culture and politics we may make another useful division; between what can be called the central culture and the peripheral culture, and between legislative and electoral politics, for there is a special link between the central culture and legislative politics, and between the peripheral cultural and electoral politics.

The central culture based in the great intellectual centers—Boston, New York, Washington, Chicago, Los Angeles—controls the major radio and television networks, newspapers, the book-publishing industry, prominent organs of opinion, the universities, and so forth. Surveys consistently show that a very considerable proportion of those who create our central culture epouse ethical values at variance with the moral traditions of the population at large, and they work vigorously to advance those values in every way possible. The peripheral culture is scattered through the heartland of the country, in the smalltown newspapers, local radio and television stations, small newsletters, civic organizations. The values the peripheral culture holds dear are much closer to those held by the people at large than those of the central culture.

Electoral politics is more closely tied to the peripheral culture than to the central

one, because electoral campaigns are conducted over the length and breadth of the nation, with substantial direct contact between representative and constituent. The communication channels between representative and constituent (brochures, local radio and television advertising, electoral meetings) are controlled primarily by the organs of the peripheral culture. Consequently, the concerns of the ordinary citizen carry much more weight in the electoral process than in the legislature process. So the electoral mistakenly assumes that the good men it has elected to office will do the right thing in Washington. The frequent complaint that Senator X says one thing at home and does another in Congress reflects a psychological division that is rooted as much in culture as it is in politics—as the central culture defines the overall agenda of legislative politics. It decides which issues are important (nuclear power, racism, feminism, Israeli "imperialism") and which are not (the Soviet threat, genocidal aggression in Afghanistan and Angola, the right to life, school prayer, busing for racial balance). Party leaders in Congress often have safe constituencies, with token opposition or none at all; they are therefore less influenced by the peripheral culture, and so listen primarily to the political demands of the central culture. The staff of Congressional committees who arrange legislative hearings form a part of that central culture, and the permanent bureaucracy of the executive branch also derives its notions of what is politically vital from the central culture. Only rarely does an elected official in Washington display a sufficient grasp of the central culture's working to be able to resist it consciously and consistently. To be sure, after the 1980 elections the peripheral culture has been able to place some items on the political agenda, but the central culture has prevented the actual enactment of most of them.

The central culture realizes not only that culture defines politics, but also that political action can mold both the central and the peripheral cultures. Abortion is a case in point. Before 1972, the right to abortion on demand was preached only by parts of the radical left and by the McGovernite wing of the Democratic Party (which was decisively repudiated by the electorate that year). Shortly afterward, however, in a signal political triumph of the central culture, the Supreme Court decreed what amounted to an almost-untrammeled right to abortion. Now, thanks to the authority of that political institution, the peripheral culture has shifted toward an acceptance of what not long ago was still considered a serious moral transgression, despite the impressive efforts of the defenders of the right to life during the intervening decade. Thus, under pressure of the central culture, politics has influenced the peripheral culture. American society's view of homosexuality could undergo a similar evolution. Although the peripheral culture opposes any official recognition of this deviation from behavioral norms, the central culture works unceasingly to legitimize it through legislation forbidding discrimination on the basis of "sexual orientation." Some localities, including the nation's capital, have already adopted such laws. If similar legislation were passed at the national level and not promptly reversed, within a few years the peripheral culture might move to a much greater tolerance of homosexuality.

Of course the central culture also seeks to advance its aims through its own direct channels. For instance, it works to eliminate what it considers "sexism," largely through cultural censorship: by consciously eradicating the "sexist" assumptions of the English language, it believes it can alter the reality which that language reflects. Other elements of the central culture are also used for this purpose, as, for example, a current network television advertisement which shows a girls' volleyball team ignominiously defeating a boys' team. The central culture will not succeed entirely in its radical objectives here, for reality is more intractable than it knows; but it can move in that direction and occasion much social disruption in the process.

The liberal left in Western society has always recognized the social and political importance of culture, and it therefore has been willing to invest substantial financial resources in order to control it, ultimately for political ends. The left has invaded the nervous system of our society—the communications media. A social organism can react only to the signals it receives through that nervous system, and to the extent that the central culture controls the nervous system, it also controls the society as a whole. Beyond that, the left knows that even apolitical elements of culture can contribute to the defense of their political purposes, and so the Public Broadcasting System effectively shields its slanted public-affairs programming through the presentation of ballet and opera and poetry readings.

Traditional conservatives have been slow to awaken to the vital importance of culture as a determinant of politics. Now, however, young conservatives are finally being trained to enter the media at the bottom; resources are being invested in cultural enterprises; and publications like "Chronicles of Culture" have come into existence. The creation of a substantial alternative to the liberal central culture is a herculean task. That alternative must be extensive and impressive enough to overcome liberal influence both at the center and at the periphery, and powerful enough to form a milieu within which traditionalist political leaders can exist. The undertaking is difficult, but it is entirely worthy of those who feel the need to defend the finest accomplishments of Western civilization.●

HOW THE DOLLAR STOLE CHRISTMAS

● Mr. DOMENICI. Mr. President, on December 9, 1982, a very distinguished American, Mr. Robert O. Anderson, chairman of the board of Atlantic Richfield Co., delivered an address which I think deserves consideration by all Members of the Senate.

I submit Mr. Anderson's remarks for the RECORD.

The remarks follow:

HOW THE DOLLAR STOLE CHRISTMAS

Thank you. It is a pleasure to deliver this luncheon address with a vista of the sea for a background. We are here to talk about world agriculture—tropical agriculture specifically, in the context of the whole realm of global activity. I would like to address myself to what I call the "Phantom Factor"—the hidden element in world agriculture which is probably as important as, or more important than, non-tariff trade barriers, or overproduction and the great crop surpluses of 1982 in the United States. This is United States monetary policy, because it has had a profound impact on world agriculture, and particularly on the United States. It has occurred at a most unfortunate time, when the world economy has been through three consecutive years of what could euphemistically be called nongrowth, or perhaps slipping backwards. It is the direct product of United States government policy and not an accident. I am not here today to criticize that policy, but rather to point out its hidden effect.

This morning, one of our speakers referred to the two great shocks of increased energy prices, one in 1973–74 and the second in 1979–80. I would like to venture that the third shock—this monetary shock—has been an equally severe force in the world community.

As a starting point, one must go back to the end of World War II, at which time it was very evident that England could no longer perform as the world's banker, and that the emerging world community that the free world believed in at the end of the war was clearly going to demand a banking system that could support growing world trade and investment. The United States, in spite of a rather provincial background, agreed to be the world's banker and accept the unmistakable role of world leadership that such a responsibility entailed.

That meant that the British Pound Sterling, which had up until then served as the world's currency for most transactions, was relegated to a secondary role. This probably more than anything else, signified the true breakup of the British Empire. In signing the Bretton Woods agreement we agreed that we would fix our currency as the base for all of the other currencies in the world, and that we would maintain what we called a gold exchange standard. This did not mean that you could take your money and turn it in for gold—you could not. But it did mean that a foreign bank could present dollars in its possession and take gold.

This system has worked surprisingly well—it worked so well that in 1963 or 1964 when I was Chairman of the Dallas Federal Reserve Bank, I became interested in monetary matters and learned that there was not a university in the United States giving an undergraduate course in monetary affairs that there was hardly a graduate course in the subject, and that you had to get up to the highest levels to find a few people who recognized the importance of monetary matters, or even that the subject was one of possible interest. So American economists who are now calling a number of the shots in our country really have been raised with a bit of a blind spot and are now trying to catch up, since Milton Friedman popularized the subject. But we still have not learned to come to terms with the dual role of the dollar: as the American currency and, far more important, as the world's currency. It is the latter role that concerns me here today as our administration or lack of administration of the overseas dollars create tremendous problems for the rest of the world.

In 1971 we discovered that we did not have enough gold to honor our gold exchange commitment. We put great pressure on any country that had come in to exchange for gold, and gave them a lecture on why they really did not want it and tried to get them to take a quick flight home. But jawboning not succeeding, and with our gold reserves clearly inadequate, President Nixon returned from Camp David that year with Treasury Secretary John Connally and announced that the United States was going to

unilaterally suspend the gold exchange standard. Now to most people this really did not mean much, because they could never exchange their dollars for gold, but I can assure that this was an absolute earthquake for the rest of the world.

We announced that instead of having fixed exchanges, whereby everyone knew exactly how many units of his own money it took to buy a dollar, from then on the dollar would float—it might change from day to day and circumstances would indicate whether it went up or down. Now most countries don't have enough money out in the rest of the world that it prevents them from influencing the value of their money so that they can practice what is called a "dirty float." In other words you float your money but you put a little "english" on it to improve or reduce its value depending on how you feel about the market at that moment. But with $1.3 trillion outside the country, three times what we have in the United States we were unable to practice a dirty float and the dollar floats freely. It floated downward in the seventies, creating very advantageous marketing conditions for our country. In the last three years, however, the Federal Reserve gave up its traditional method of controlling the dollar based on its monitoring of interest rate ranges and began managing the dollar in an absolute sense based on M1 or the money supply.

In undertaking that, in my opinion they overlooked the fact that there are three dollars outside the United States for every dollar inside and that it only takes a man on an electronic keyboard to transfer that money from Hong Kong to New York. As interest rates went up very sharply, money started to pour in. We have drained much of the world's liquidity by retrieving dollars, bringing them back to the United States, converting nonbearing notes, which are dollar bills, into fixed-term, high-yielding government securities. The long-term impact of this has yet to be seen.

In three years we have done two things—one is cause, one is effect. The cause has been an artificially restrictive monetary policy, at least compared to our historical monetary treatment. The effect has been the extremely high interest rates which have created a great deal of economic stress throughout the Third World and have also dried up a large part of the world's liquidity.

I think our current economic dilemma was well summed up in an article I saw recently which simply said "the big money in ships today is in wrecking them." Three, four, and five year old vessels are going under the hammer. In India they beach them and go at them with large numbers of wrecking bars. This applies to modern, sophisticated ships, container vessels, some of which leave the yard to go only a few miles to the wrecker's yard. This is symbolic of what is happening in the world economy today.

The biggest problem, and one that we really have not come to grips with, I don't think we have appreciated it, is the extraordinary strength of the dollar. The dollar has appreciated in value anywhere from 30-40% against most of the world's currencies in the last twelve months.

To the tourist who wants to go to Paris, that is great, prices are much lower this year. But if you happen to be engaged in world commerce, or an American worker in an automotive plant, this is not a banner year. I read an article in Europe a few weeks ago that pointed out that a 2 million yen vehicle, which could be set down in San Francisco for $10,000 a year or so ago, now costs only $7,500. Detroit had enough problems with the $10,000 vehicle—you can imagine what its outlook is with these $7,500 cars. The price of steel in France, solely because of the rise in the value of the dollar, is down $125 a ton in eight months—full price, not dumping. Congress is suddenly talking of trade barriers to protect United States industry from what is essentially the growing strength of our own currency.

Conversely, our $3.30 per bushel wheat is priced to the European buyer at $5/bushel or more in his currency. His products on the other hand come into the United States at 20-30% less than they did one to one and a half years ago. I have a hunch that the canefields of Hawaii may be having more problems with monetary values than with any drought or production difficulties. These monetary problems are very real—a lot of Hawaii's competition in the sugar industry is from the Third World where the change in the value of the dollar has been far greater than the 30-40% that has occurred in Europe and Japan. In parts of Europe today crude oil sells for the equivalent of $50/barrel in internal currency. This creates real hardships for any country, as the cost of imports which are dollar-denominated continues to rise. Their purchasing power as measured in dollars is shrinking rapidly and cutting into world trade and the cost of their imports is soaring along with internal inflation, driven by their "dollar denominated" needs.

For years, everyone has had a strong preference or demand for dollars in trade, and there were very few people, particularly where energy was concerned, who could not dictate what price would be charged and in what currency. Today the dollar has become the norm in the majority or world exchange. It is only in more recent years, when energy use and production has become more abundant, that one hears of transfers in other currencies, and of barter transactions. If world liquidity continues to shrink, there is no question that we are going to be increasingly confronted with barter and countertrade. Barter is the earliest and most primitive form of trade, and occurs between two parties that want to do business but don't have money. For the first time I have realized how the Japanese and English trading companies started; they were trading with areas of the world that did not have hard currency, and they learned to trade goods for goods. We Americans have never learned this, since we have never had a problem with our currency and have been naive enough to think that therefore no one else would have such a problem.

This rising value of the dollar has led to decreasing competitiveness of all United States agricultural products, along with commodities in general. There is reason for alarm as there is no reason to believe that the dollar's slip of the last few weeks will continue. If the dollar continues to rise, if the Franc drops to eight or nine to the dollar, there is no way the United States farmer or manufacturer can compete with imports from the European Community agricultural sector. Straight across the board Japan and the European Community will be in a highly advantageous position and the entire spectrum of commodity production in the United States may be following our steel industry into decline and oblivion.

Going back to Bretton Woods, where we began, we see that all of the Bretton Woods discussions centered around one issue: stopping any major country from pricing its money too low. By pricing its money too low, a country is in effect subsidizing its exports. Instead of concerning ourselves with this, we have inadvertently made all of the currencies of the world extremely cheap, and our own extremely dear. I personally hope that our present monetary policy will not continue much longer, since I see continuing strength in the dollar and a continuing depressing impact on world trade. I think that more than anything else we alone have contributed to the decline of economic activity of the world today. There may be a need to think in terms of barter if people need to do business—one of our speakers today has a very novel approach to this, trying to systematize it with a type of quasi-currency. Such a discussion a few years ago would have been found redundant and perhaps nonsensical, but given the pressures of today, especially those faced by Third World countries, we may be looking to find new solutions.

With that, I would like to leave you thinking of the "Phantom Factor" that is aggravating the present economic situation in the United States. This morning in our meeting I took my shoe off, to try to see where it was made. It occurred to me that twenty years ago no one in the room would be wearing an article of clothing that was not made in the United States. I would hazard that there are very few articles of clothing in this room today that were made in the United States—and if the apparel was, the fabric was not. We have managed to lose an automobile industry and a steel industry, and commodities are particularly sensitive to the "Phantom Factor." In reading the Wall Street Journal the other day, I realized that there should be about five more columns in the commodities section so that the prices could be shown in yen, in the pound, in the franc, and so on—plus net change from the day before. More often than not, the currency change is greater than the market change.

The latter is readily illustrated by the fact that the cost of producing copper in Chile in terms of United States currency has dropped during the last year from 73¢ a pound to 49¢ a pound. This places the Chilean copper industry in a profitable position along with Zaire and Zambia at the very moment that every major copper deposit in the United States is seriously under study for complete shutdowns. No amount of increased productivity in the United States can overcome a handicap of these dimensions. It is interesting to note that something like 15% of the world's aluminum capacity is now shut down—virtually all of it here in the United States! As the dollar continues to strengthen, we are virtually locked into rising unemployment and further deterioration in trade and fiscal balance.

Until we address ourselves to the realities of today's monetary system, and its impact on trade, and the disadvantage that accrues to our country under current restrictive practices, we will have problems.

Perhaps we are at a point where the entire world monetary system must be examined.

If such an inquiry should be started, it must begin with a careful assessment of our own national goals together with the Federal Reserve System and its changed role from its inception in 1913 as a largely domestically oriented system to protect and regulate the American Banking System.

Over the last 60 years and due largely to the Bretton Woods and Smithsonian Agreements, it has become a very different and

largely international institution with direct and indirect powers that can supersede the efforts of even the largest central banks of the world. Its degree of autonomy and insulation from both politics and social pressures make it truly unique among global institutions and if it should desire to avail itself of its full powers, it would be the most powerful unilateral institution in the world.

First and foremost, we must accept the realities of the dollar and its commanding position in world commerce. Until we define our own responsibilities and goals, it will be impossible for the rest of the world to re-establish a sound economic base for future growth. Basically, we must recognize that the overly strong dollar can be a corrosive influence to economic activities and employment not only in the United States but throughout the world. Like the grinch, the dollar just stole Christmas.●

BUDGETARY BEDLAM

● Mr. EAST. Mr. President, I submit for the RECORD an editorial from the December 29, 1982, Wall Street Journal regarding the recently concluded postelection session of the 97th Congress. It is entitled "Budgetary Bedlam" and describes the Government's inability to restrain spending during a period of weak economy. I ask that it be printed in the RECORD.

The editorial follows:

[From the Wall Street Journal, Dec. 29, 1982]

BUDGETARY BEDLAM

Those closing hours of the 97th Congress were full of the kind of drama and excitement Washington loves to create, in part because it distracts the voters from what is really going on. Jesse Helms, trying to block a five-cent increase in the federal tax on gasoline, endured abuse seldom before heard in the Senate chamber, even when the body has punished a member for a gross violation of law. The drama is worth returning to, for it told us a lot about what the Senate can get serious about.

The Senate can get very upset about having its Christmas vacation delayed. There was much talk about "abusing" the Senate's rules, though if the Senate had been following its own budget procedures all year there would never have been a special session or a filibuster.

More important, the Senate can become enraged when a member tries to deny his fellows large chunks of pork. It was telling that the worst retaliation other senators could threaten Senator Helms with was zapping his peanut subsidies (if they actually did, it would be a good start). The theory of the gasoline-tax bill the senator opposed was to fix roads and bridges, but Congress quickly got to the point: handing out $5.5 billion in goodies.

Every state, to start with, was guaranteed 85% of whatever taxes were collected in that state—raising the question of why the state couldn't raise its own taxes and fix its own bridges. Then mass transit and other goodies were cut into the game, probably sparing New York City and Washington from having to raise mass transit fares right away, the one step most necessary to salvaging their infrastructure. A headline on the front page of last Friday's Washington Post said it all: "Gasoline Tax a Bonanza for Region."

The drama also showed us what the Senate is not serious about—the final dimensions of the federal budget for the fiscal year that began last Oct. 1. Yes, there is a budget now, of sorts. Congress never got around to all the 13 separate appropriations bills. But it did pass an "omnibus" appropriations bill in the final hours lumping together in one big chunk the 78% of total appropriations that were never treated individually.

These appropriations bills, which do not include the large sums for Social Security and interest on the federal debt that do not pass through the appropriations process, stack up to about $490 billion. That means that the spending most directly under congressional control is, after allowing for about 5% inflation, being boosted by Congress at a 7% annual rate. There are very few enterprises in this country that are growing at that rate, and certainly the U.S. and world economies are not experiencing anything like that growth.

There are some other interesting things about what the Congress has just accomplished. Readers may remember that President Reagan struck a compromise deal with Congress last June. In return for this vigorous show of spending restraint we have just described above, the president agreed to a tax increase package approximating $100 billion. The final touch in this reversal of the president's former role as a tax cutter was his conversion late this year to the gasoline tax, which members of Congress happily gave him total credit for while they gleefully took credit for what the tax will buy, those mass transit subsidies and the like.

The president also ended the year out of pocket in another way. His defense budget, which he had already compromised once, ended up $19 billion under the $258 billion, including military construction, he had requested in the fiscal 1983 budget. Nondefense spending came out above his initial request and above his later compromise.

What we have just witnessed as the 97th Congress passes into history, then, is another Congress, this one with a Republican in the White House and a Republican-controlled Senate, that could not achieve fiscal discipline. It has insisted on having the government continue its unchecked growth, spending far more than it can hope to take in. Its members yammer publicly and privately for more taxes to feed this expensive habit, oblivious to the fact that the very recession they so often deplore derives from the burdens they are inflicting on the productive sector.

And of course, the final embarrassing scene was played on the Senate floor with poor old Jesse Helms and a handful of supporters trying to hold out against his angry colleagues, who wanted that money fast. Senator Kennedy heaped a special scorn on the North Carolinian for making such a big deal out of a mere $5.5 billion. "We have too easily permitted this historic chamber to become the laughing stock of the nation," he declaimed. We doubt that anyone is laughing.

INTERVIEW WITH DR. ALEXANDER

● Mr. ARMSTRONG. Mr. President, recently the Washington Post published an interview with Dr. Benjamin Alexander, president of the University of the District of Columbia. I was impressed with the tone and insights of Mr. Alexander's observations. I commend his forthright view to the attention of my colleagues, and I submit for the RECORD the interview.

The interview follows:

THE TOUGH PATH THAT HE NOW EXPECTS OTHERS TO TAKE

Q. I'm wondering whether the experience in your own life is what lies in back of your attitude that blacks, even from disadvantaged backgrounds, should not have special privileges, special opportunities, have special concessions made to them. Where did you grow up?

A. I grew up in Cincinnati, Ohio.

Q. What part of town did you live in?

A. The ghetto area, the poor area. I saw a shooting and a killing practically every Saturday night. But I come from a religious home. My parents would say to me, "We are poor now because everybody is poor now [in the Depression]. But education could get you above this. What you must do is work hard."

My father was just a foundry worker, and my mother was just a hospital maid. But what they knew was this: that if you got an education—she worked at the hospital—you could be the doctor. But this is what all the parents in those days said to their kids. We came home at night, we studied because they asked us to study. When I was in school, the community had spelling bees for the blacks. So we knew how to spell. We had debates. When I was in the sixth grade—debate champion. Everybody was trained. I could think and talk on my feet at that early stage. We don't do this now.

[In 1954], I wanted to earn a doctorate degree so I applied to Howard, [one of America's premier black universities.] Howard would not accept me because, number one, of my color. Absolutely true.

Q. You mean your [dark] complexion?

A. Yeah, it was my complexion. Also the economic background of my parents.

My mother and my father had maybe a 4th grade education. When I went to the chemistry department I was just told outright—if you were lighter in color or if your parents were professional people—. Howard turned me down.

So then I applied to Georgetown University and [they] accepted me. Now here's the thing that's going to be a shocker to you: When I got to Georgetown, I had met Dr. Michael Sullivan. He gave me the assignment to start working on my doctorate degree. But there was a Jesuit father [who] met me and he said "Do we [already] have enough blacks here?" He and Dr. Sullivan said that's no way to run a university. This man has been accepted and I don't care what his color is. I don't care what his religion is. He's gonna go to Georgetown.

I said I would need a job here. I applied to the U.S. Department of Agriculture in Beltsville. At that time, in chemistry, people were chosen by the type of grades they made. They had a competitive examination that was given to all chemists graduating from universities. I took the competitive examination along with some other students, and I made 102 on that examination—97 plus five points veteran's preference. I had finished number 3. In those days, everything was competitive, which I liked very much, because then it was ability. They saw that I made this grade at Beltsville. They hired me on the basis that I went to the

University of Cincinnati. I went to Bradley University.

Now, when I got here, they found out I was black. [They] said there are separate facilities for black and white—we had maintenance people working here, they had their toilet—and we bring a professional in, he may not eat in the eating place they eat in. They said they were not gonna hire me. So this white fella, William Barthel, he said, "I hired this man, and I hired the most qualified person I could. [He has the] credentials. If you don't let him come, they you'll have to fire me also." I knew it was gonna be a big stink. So what they decided was, "Well, you got him. He'll work for you." So they let me use the same facilities they used. They let me eat where they would eat. I wish we could go back to competitive examinations and so forth and judge you only on that.

See, when I went to school, psychologically they say that if you put a black in the back of the room, psychologically you kill him. You know I stayed in the back of the room all my life. Matter of fact, in one class [the teacher] didn't even let the blacks sit in the room. We sat in the hallway so we could see and hear but we were not a part of the class.

Question. Where was this?

Answer. This was in Cincinnati elementary school. When I got to the University of Cincinnati, I was majoring in chemistry, but you had to take zoology. There was a very attractive white girl named Anderson. My name was Alexander. [We] were supposed to [be lab] partners based upon alphabet. Well, the professor came up, he said, "You cannot have her for a partner." And I said, "Why?" And he told me why. "She's a white woman. We'll get you a partner." The next day when I came back my partner was the only Jewish person in the class. My partner was a genius. Smartest person in the class. Honors and everything. We took partnerships also in chemistry, because he's Jewish and I'm black—what the heck. They make a good combination. This is why I think I got such an excellent background in chemistry.

Question. Let's back up. With some real disadvantages early on, something happened to you that made you know that you could succeed. A lot of children who grew up the way you grew up don't have that attitude. I'm wondering how you can justify treating everybody as though they were like you; and how do you get kids to have the kind of attitude that you have?

Answer. I know for a fact that 85 percent of the people can do what I have done if they work hard at it. It's a bell-shaped curve. On this side there are 15 percent and they're going to be geniuses and they will make it whether they're taught anything or not. Now we're going to have 70 percent here, Bill, and those 70 percent are average people. They can be doctors, they can be lawyers, they can be writers, they can be newspaper editors. They can be anything they want to be. But they have to be motivated. God did not make everybody equal. But I say I was in this 85 percent on this side, and because I was in that 85 percent on this side I knew I could make it. Now, Bill, what's wrong with society today and particularly for my people is they have not told them that you must work hard to succeed. They've not told them coddling people is the best way in the world to destroy them. What they've been taught is, you know, we're going to give you this and give you that. And when you give me things all you do is make me a beggar.

My generation is no different, for blacks, from the present generation. The only difference is in my generation parents worked their hands to the bone to see that their children got a college education. At the University of Cincinnati where I went, blacks were outstanding. You didn't teach me how to read. They knew how to read when they got there. You didn't have to teach them how to write. They knew how to write. You didn't have to teach them what to go into. We went into the fields that were difficult. In my day at the University of Cincinnati, blacks majored in chemistry, physics, and the smartest fellow in the physics area there was a black. We went into zoology, we went into the fields where there was less discrimination and you were judged on your ability.

Now let's go back to what we ought to do. When I was on the [D.C.] board of education, 60 percent of that time we were above the national norm, because we had a track system. In that track system, it was broken down into those who were college-prepared and those who were not. Now people can say what they want to, the track system had some good. You need ability grouping. I don't care what anybody says. Because people are not the same.

Q. You talked about the track system and acknowledge that some people learned more slowly than others. As long as you have only the college-prep track going to college, one can set standards that are consonant with the demands made by the top-notch universities.

What changes when you start admitting people to college from a general track or from a lower track—which is what you inevitably do when you have an open-admissions college—is you get people who become eligible for enrollment simply by virtue of having graduated from high school. What happens when you apply the rigid standards?

A. I'm very pleased to have open admissions. Everybody will be given an opportunity to come to UDC if they wish. I have no right to say to a person you cannot become a lawyer or a doctor or professional person. I have the right to give that person the opportunity. Now if that person is in that 15 percent that I mentioned to you and he does not make it, now it's my job to let that person know that there are other jobs in the world that are equally as important as being a college graduate.

For example, in San Francisco a plumber with 6 to 7 months work will make more than teachers with college degrees starting off in the school system. Some of the people working on the Metro system here, their salaries are higher than people who work here at the university with college degrees. This society has stated that if you have a college degree, you are somebody. If you do not have a college degree, you're not somebody. Now that is wrong. To me if you have a college degree and you are doing a worthwhile job and you're happy, that's important. If you don't have a college degree and you're driving a truck and you're satisfied, that's important. We need the truck driver, we need the schoolteacher. Now is a schoolteacher more important than a truck driver? This society says yes. I don't say that.

Q. But there's a different kind of question: With open admissions you enroll people from a still-troubled public-school system who may not have even been eligible for the more prestigious schools. You admit them in fairly significant proportions. It seems to me that once you admit people who are not fully prepared to be freshmen, you've got just three possibilities. One is that you expect them to achieve more than their counterparts at Harvard or Stanford. Second, you expect them to flunk out at very high rates. And third you lower what you require of them.

A. We will not have lower standards, because there you're coddling students and you're crippling them. Let's take number one. Many students have come through high schools over this country and they were not prepared. But remember not only does UDC admit those students, Harvard admits those students. Yale admits those students. We all admit students of the type. Now if they come here, we give them remediation help if they're willing to do it. Every one of those students put on probation were contacted and asked if they'd like to come in for remedial help.

Q. Do you require an extra semester for that remedial help? Because if you don't, you get back to what I was talking about. While they're doing remediation they're not doing what a freshman who did not need remediation would be doing.

A. It's given to them after school hours.

Q. Non-credit help?

A. It's essentially non-credit. Absolutely. Out of every 100 students who come here ill-prepared, we save about say, six, and we lose four. Well, you can't beat that. That's 60 percent. Now if we were not offering these services we would be condemning those 60 percent that we now save.

I say this sincerely. That kid on the corner can shoot dice, and he can tell you the odds on making 8, or 5, or 4. That kid in the clinic can count basketball, football, anything like that. These are things he's interested in. What we must do is train students to do the computer work, brain work. Then we will take the other student at this end of the line and he will be the one that will repair the robots. Both are needed. Somebody must build the robots, somebody must repair the robot.

What's wrong with society, and I want to emphasize this, is that person who makes, Fs, if he's in the 85 percent I'm talking to you about, he can make Bs, if he works at it and tries hard.

Perfect example, one of our faculty members right now has a son, IQ about 124. He just walked out of UDC, just flunked out, this past term. That kid has no reason to flunk out of this school. Do you know why he flunked out? He's lazy. He doesn't want to work. He thought he could miss class. This is a new day at UDC. You're not going to come in and miss classes and people give you anything. Somehow I don't make excuses for those people. It's time for us to stop this nonsense of coddling black people. The only think worth a damn in this country is green power. And how do you get green power? By brain power.

Q. Do you sometimes find yourself tempted into controversy almost for the sake of controversy?

A. The reason I'm controversial is because I try to do what is right. You know and I know that everything I've said is absolutely correct.

THE NEXT IMMIGRATION BILL

● Mr. EAST. Mr. President, despite the diligent efforts of the chairman of the Subcommittee on Immigration and Refugee Policy of the Senate

Committee on the Judiciary, his counterpart, Mr. MAZZOLI, in the other body, and other concerned Members on both sides of the aisle, Congress has once again failed to act to regain control over our borders. The flood of illegal immigration, which has now continued and grown for a decade, is nothing short of a national disgrace.

We cannot continue to allow our immigration laws to be flaunted by millions of uninvited, unscreened foreign nationals. We need a substantial and immediate increase in resources for the Immigration and Naturalization Service (INS). We could not have defeated the Axis powers in World War II with our 1933 Army. We cannot stop what former INS Commissioner Leonard Chapman called the illegal alien invasion with yesterday's INS.

If we allow this influx to continue much longer, ethnic conflict a la Quebec and massive unemployment will surely be the result. We cannot continue to study this problem indefinitely. We need to act now.

The Washington Times of December 29, 1982, carried an editorial containing some sensible suggestions for immigration control. I ask that the editorial entitled "The Next Immigration Bill" be printed in the RECORD.

The editorial follows:

THE NEXT IMMIGRATION BILL

One of the finest achievements of the 97th Congress was its failure to pass the Simpson-Mazzoli Immigration Control and Reform bill. This leaves it up to the 98th Congress to write a better bill, and a better one can be written.

A big problem with Simpson-Mazzoli was the blanket amnesty it would have given to several million illegal immigrants, eventually making them eligible for billions of dollars in welfare, unemployment, and other benefits and services. This would have raised the incentive for more illegal immigration. Immigrants would have good reason to cross the border and hope that some future Congress would throw up its hands and "solve" the problem by declaring another amnesty.

A supportable immigration bill should offer no amnesty. The way to enforce laws is to enforce them, not to declare them void. There are two good ways to do this.

First, beef up enforcement. No broad legal reform is needed to do this; just more money for border patrols and investigative staffs. According to an estimate from the Border Patrol Supervisors Association, existing laws could be effectively administered with a tripling of current enforcement staff.

At a cost of roughly $200 million, by one congressional estimate, that won't be cheap. It is far less, however, than the $2 billion a year in federal welfare costs that amnesty would have added eventually to the taxpayer's load. It is less than the drain illegal aliens already place on federal, state, and local budgets. (Under a recent Supreme Court ruling, illegal immigrants are entitled to free public schooling, and the number of illegals now receiving food stamps may be in the hundreds of thousands.)

Second, make it illegal for unions and businesses to hire illegal aliens. If immigrants know that American employers are likely to run a check on them, the incentive to sneak into the country will diminish. And if fines for hiring illegal aliens are set high enough, they will deter businesses and unions from hiring the illegal immigrant in the first place.

Most employers already ask for identification. At a low cost, the government can provide a telephone number that employers can call to find out if a Social Security number the job-seeker gives is legitimate or phoney.

A nationwide Social Security computer-telephone system would work this way. First, the computer would be programmed to flag a number that wasn't registered with the Social Security Administration. Or that didn't match the name given by the job applicant. Or that duplicated another number already in use.

Next, every employer and union would be able to telephone a regional office to check a job applicant's Social Security number with the computer. This would take no longer than it now takes a store to check your Visa or American Express account.

As it works now, an undocumented alien either buys a forged Social Security card or simply makes up a number and gives it to a prospective employer. A computer check system wouldn't be perfect, but it would make the illegal alien's deceptions easier to detect.

Simpson-Mazzoli hinted at such a solution by requiring the executive branch to study ideas for identifying legal immigrants. The next immigration bill should tackle the practical problems of enforcement head-on.

Bringing immigration under control isn't as difficult as the Simpson-Mazzoli debate made it look. A less sweeping bill that simply addresses enforcement will do the trick.●

DR. HOLLIS FREEMAN PRICE—A DISTINGUISHED TENNESSEAN

● Mr. SASSER. Mr. President, it is with great sadness that I report the recent loss of one of Tennessee's most prominent citizens, Dr. Hollis Freeman Price, who died November 6, 1982, at his home in Memphis. He was 78.

Dr. Price, who served as president of LeMoyne-Owen College for 27 years, was active in Memphis civic and educational affairs virtually until the time of his death. He was one of the United States foremost educators, one of the country's most valued ambassadors of good will, and one of the world's truly good and great men.

Dr. Price was born in Capahosic, Va., the son of the principal of an American Missionary Association of the Congregational Church school there. He was a graduate of the Williston Academy in East Hampton, Mass., obtained a bachelor's degree from Amherst College in 1927, and a master's degree in economics from Columbia University. He received two honorary doctorate degrees, from Brandeis University in 1958 and from Amherst in 1962.

In 1933 he became an instructor in economics at Tuskegee Institute in Tuskegee, Ala., a position he held for 10 years. In 1943 he was named president of LeMoyne-Owen College in Memphis, and held the post until his retirement in 1970.

Dr. Price took a leave of absence from the college in 1954 to serve as director of fundraising for the United Negro College Fund. In 1957, he directed the rapid social change study in Liberia for the World Council of Churches and the Phelps Stokes Fund. The study was published by the world council. He also participated in rapid social changes conferences in Greece and Austria in 1958.

A strong supporter of public education, he was a member of the Better Schools Committee in Memphis and devoted a large amount of his retirement years to the improvement of city schools. He served as one of two advisers to the Memphis Board of Education from 1969 to 1971.

Dr. Price, a member and deacon of the Second Congregational Church in Memphis, was a member of the long-range planning committee of the United Church of Christ and a member of the United Church Board for World Ministries.

He was a past chairman of the board of directors of the Memphis Urban League and a member of the board of the Tennessee Council on Human Relations, the Tennessee Conference on Social Welfare, the advisory council of Memphis Family Services, and the board of management of the Abe Scharff Branch of the YMCA.

Among the graduates of LeMoyne-Owen College during his presidency who have achieved national prominence include Dr. Willie Herenton, Memphis city schools superintendent, Benjamin Hooks, executive director of the NAACP, and Marion Barry, Mayor of Washington, D.C.

Dr. Price was a man of many talents and great energy, whose memory will be cherished by all those who knew him. He was a man of ideas, and a man of action. "We should strive to expand and enlarge the area of interracial understanding, not only for our own good, but as an example to the whole world," he said.

Indeed, the life and works of Dr. Price are an example to the whole world.

Mr. President, I ask that an editorial from the Commercial Appeal, a Memphis newspaper, be printed in the RECORD.

The editorial follows:

HE SHOWED THE WAY [1]

That was not Dr. Price's style. Rather, he was one of that smaller band of leaders who showed the way to civil rights and a greater measure of equality to both his students and his colleagues and to those whites who had come to realize however belatedly that the time for change had come. He was showing that way long before those militants arrived on the scene.

[1] The name of Dr. Hollis Freeman Price does not belong among those of the militants who so violently shook the nation out of its easy acceptance of racial discrimination during the 1960s.

He could do that because he was first of all an educator, a man who could appeal to people's reason and sense of fairness rather than to their passions. And he was able to do that, too, because he was a gentleman in every sense of that word and remained one throughout all the strife he witnessed in his 78 years.

Oh, he could be angry, too, about the denial of those rights the Constitution and the founding fathers of this nation said were due all men because all men were created equal. But he knew how to contain that anger, knew how to speak persuasively and effectively to those people of the establishment and to those of the ranks who were willing to listen, and when necessary to those who were not so willing to listen, so they would respond.

That was not always easy. Even bringing black and white leaders together for the most fundamental purposes was difficult in the 1940s and 1950s, especially so in this Southern city he had accepted as his home. Dr. Price and his colleagues did not have the weight of Supreme Court decisions behind their pleadings as the activists did in the 1960s. They were on their own, a few brave and sincere people taking on a formidable task against heavy odds. In many ways they risked more than the firebrands who followed them.

By measurement against what was achieved later through the efforts of others and with the hope of Congress and enlightenend presidents as well as civil rights leaders, the accomplishments of those early days now may seem meager.

But what came later would not have been possible if Hollis Price and the few others like him had not taught people like Benjamin Hooks, Dr. Willie Herenton and Marion Barry the truths they needed and the philosophy and determination to pursue those truths. And it would not have been possible either without the leadership and inspiration he gave as president of Lemoyne College and then LeMoyne-Owen College and in his many, many other activities to many hundreds of students whose names are not so familiar but who took the message to many places and to the people of the community.

For all that he was recognized many times by the leadership of Memphis. The list of awards and of things in which he was "the first black" citizen in Memphis is long. He accepted the honors graciously, seldom noting that he could have used such recognition to greater effect if it had come at an earlier time and if those many who spoke so glowingly in later years of his efforts had been in the forefront with him when so few were there.

But, again, that was not his style. He did not harbor grudges because he understood his philosophy, his religion and his purposes and he remained steadfast to them.

It will be said he was a great black leader of Memphis. But his leadership should not be so qualified. He was a leader of Memphis—a leader and educator for people of all races and creeds, and of people of all stations in life.

Such leaders are rare and must not be forgotten.●

ILLEGAL ALIENS

● Mr. EAST. Mr. President, the failure of Congress to control immigration is almost total. For a decade, the problem has grown while Members "study" the problem.

The problem is no longer confined to the Southwest and our great metropolitan centers. Even rural areas of North Carolina are beginning to suffer because of the failure of Congress to appropriate adequate funds for the law enforcement activities of the Immigration and Naturalization Service. A dedicated local law enforcement officer, P. Huber Hanes, provided the Danbury Reporter in Stokes County with information contained in a November 18, 1982, article on illegal aliens. I ask that this article be printed in the RECORD.

The article follows:

ILLEGAL ALIENS A BIG PROBLEM LOCALLY, ACCORDING TO DEPUTY

During tobacco season there were about 3,000 Spanish-speaking illegal aliens in this area, according to Forsyth County Deputy P.H. Hanes. He was referring to the tobacco belt region of Stokes, Yadkin, Rockingham, Surry and Forsyth counties.

Hanes was one of the interpreters in district court Monday for a rape case in which three Mexicans were charged. The charges were dismissed.

Hanes said there are also quite a few non-Spanish-speaking illegal aliens in this area, including Greeks, Cypriots, Sicilians, Germans and Africans. Most of the local "alien" problems, however, deal with the Spanish-speaking group, he said.

Hanes, who served two years with the U.S. Border Patrol, said between 30,000 and 35,000 Mexicans are entering this country illegally every day and that currently there are 15 million illegal aliens from Mexico living here.

He said the problem is a massive one which will persist until Americans put their foot down. Hanes said illegal aliens are taking American workers' jobs, contributing little to society, since many of them can't read or write.

He said an illegal alien in Forsyth County was found to be a carrier of tuberculosis.

Hanes said illegal aliens don't pay taxes on their wages and often send their money back home.

All is not good for the illegal alien, though, according to the deputy. He equated their living conditions with virtual slavery. They are often forced to live in dilapidated shacks, called "wet shacks", with no electricity, no water or sewage and infested with rodents.

You may see as many as 20, to 30, even 50, Mexicans living in one shack, he said. "You'd be amazed at how a person lives". Mattresses are thrown on the floor. Hanes has seen excrement wiped on the walls of alien homes.

Hanes said Mexicans pay dearly to get into this country. Illegal aliens pay smugglers, or coyotes, $200 to $300 for passage. Coyotes include not only other illegal aliens or Mexican nationals, but U.S. citizens.

Once the illegal alien reaches his workplace, both he and his employer must pay the smuggler a percentage of the hourly wage.

In tobacco, for example, an illegal alien would make $3.35 to $3.50 an hour. Of that, he would have to pay the smuggler 40 cents an hour. The employer also has to pay the smuggler 40 cents an hour.

Why does the employer go along? Cheap labor.

Hanes said illegal aliens concoct a variety of ways to get new identities and papers once they get into the United States. Many will make up a name, or borrow one, and get a driver's license. They can go to a register of deeds office and get a copy of someone's birth certificate. From there, it's easy to get a social security card, Hanes said.

One of the defendants charged in Stokes County District Court Monday is a case in point. Antonio Hernandez who was charged with aiding and abetting in a rape, but his name isn't Hernandez at all, according to a Hendersonville woman who says she is carrying his child.

She says his name is Primativo Maria Perez and that he borrowed a birth certificate from Antonio Hernandez to help him get an identity. The woman doesn't know who the real Hernandez is. Perez was also charged with a traffic violation locally, and for that charge he gave the name Castillo.

Hanes said the problem of illegal aliens fabricating identities is "so massive it's virtually impossible to break."

Once an illegal alien obtains a social security card, he may be eligible for a wide range of benefits, including welfare, Hanes said.

If an alien is in the United States legally, he will have a green (I151) card, officially called the Immigration Registered Alien card. But counterfeiting has been a problem in some areas of the United States.

Hanes estimated that only one out of 50 Mexican aliens is in this country legally.

Many Spanish-speaking aliens identify themselves as Mexicans whether or not they actually are. That's because the United States has an agreement with Mexico to voluntarily return, or VR, illegal aliens from that country in lieu of deportation.

The difference is VR is not a criminal offense and deportation involves felonious charges. Theoretically, a person who goes through deportation proceedings could be forced to serve a prison sentence in the United States before being returned to his country. But that almost never happens.

Most Mexican illegal aliens are VR'ed, while most non-Mexicans are deported.

King attorney Clarence Carter, who represented Julia Cati Ramires in the district court case Monday, said his client and the two other defendants had twice "slipped" into this country illegally.

Carter said Ramires has five brothers and each one's goal is to get into the United States, where people own their own cars and houses.●

BIRTH DEFECTS AND MENTAL RETARDATION

Mr. HEINZ. Mr. President, I ask that the following statements by two extraordinary individuals, Mrs. Eunice Kennedy Shriver, and Secretary of Health and Human Services Richard Schweiker, be printed in the RECORD.

Their remarks, with respect to the rewarding of a grant to Georgetown University for biomedical research of birth defects and mental retardation, address the responsibility we all have to constantly improve on the quality of life.

The statements follow:

REMARKS BY EUNICE KENNEDY SHRIVER AT GEORGETOWN UNIVERSITY PRESS CONFERENCE

I'm delighted to be here at this historic launching of a program that will have a profound effect on the quality of life for thou-

sands of young women and their babies, yet unborn.

It is entirely fitting that this unique research and clinical effort should take place here in our nation's capital, and that it should be centered in Georgetown University.

The reason why Georgetown has been selected to receive this grant is very clear. It is an institution which has a strong moral commitment to life. In clinical terms, this commitment requires that the fetus receive the same consideration and treatment as any other patient.

It means that this institution is not simply satisfied with decrying abortion. But out of respect for the personhood of the fetus, it is undertaking to correct surgical and medical problems in utero and to treat the fetus as a patient. In so doing, we hope that professionals everywhere will be influenced to regard this new life as a person to whom they are committed to give treatment.

How will this grant really enliven this commitment to help the fetus? There are other institutions dedicated to life. But the reason for Georgetown is the presence here of the Kennedy Institute of Ethics. This ethical resource is critical because as soon as there is a commitment to treating the fetus medically or surgically, new ethical issues arise.

For example, if there are invasive surgical procedures to be carried out in utero through the mother's body, how do we balance the risk to mother and fetus?

Who should make the decision about whether the fetus should be treated at all? How much risk should be imposed on the mother? Or upon the fetus?

These represent major ethical issues which have never existed before, because fetal treatment is such a new event in medical history.

The same kinds of ethical issues arise in such new practices as in vitro fertilization, the repair of abnormalities in utero, and genetic manipulation within the fetus. The presence of scholars at the Kennedy Institute will make it possible, we hope, to respond to some of these issues and develop guidelines based on practical experience in the clinic and the hospital ward.

This collaborative effort will create a circle of protection for the fetus and the newborn baby—for the mother and for those who are committed to the treatment and preservation of life. It begins in the laboratories of the National Institute of Child Health and Human Development, the world's most distinguished center for basic fetal research.

Through the basic research at the National Institute, it is possible to study the many factors that may be responsible for disorders of fetal development as well as the basic mechanisms responsible for the initiation of labor. In the laboratories, techniques can be used that cannot be readily applied to human beings. The findings of such research, and the techniques of further investigation, can be learned by the clinical fellows working there so that they can be applied in an ethically acceptable manner to human life. These findings may assist in developing clinical insight into the problem of very low-birth weight babies, which is the major cause of infant mortality in the United States.

Finally, the circle is completed in the pilot program in the District of Columbia, where an ethically oriented and family-based curriculum will be presented to pregnant adolescents and new mothers to establish and reinforce the values of responsible parenthood.

As you well know, the fundamental interest of the Kennedy Foundation is in improving the well being of those already mentally retarded and in the prevention of mental retardation among those yet unborn. This has led to our concern for adolescent pregnancy, as teenage mothers have a disproportionate number of very low-birth weight babies, and these babies have a very great risk of becoming severely mentally retarded.

So the award for adolescent pregnancy programs in the District of Columbia is quite consistent with the interest of the Foundation and with the ethical and clinical objectives of the major grant to Georgetown.

The District of Columbia has the highest infant mortality rate in the United States. This has been shown not to be the result of the poor care of babies once they are born, but rather that there are so many more babies born with very low-birth weight—especially to adolescent mothers.

By instilling in these young women a strong sense of responsibility for the fetus, for good nutrition, for exercise, for keeping their appointments at the clinic, and taking better care of themselves and the life they carry, those factors leading to prematurity and very low-birth weight babies can be sharply reduced.

We hope that this circle of caring and valuing—from the research bench to the delivery room and beyond will become a model for every community, for every health-care provider, for every institution involved in scientific research into the mysteries of human life.

On behalf of my family and the Kennedy Foundation, I salute the marvelous scientists, professionals, ethicists, doctors, midwives, nurses, and especially the young parents who will become part of this new circle of health and life.

Thank you!

REMARKS BY RICHARD S. SCHWEIKER, SECRETARY OF HEALTH AND HUMAN SERVICES [1]

As Secretary of Health and Human Services, and before that through my years on the Senate Health Committee, I have personally come to know the great potential we have to promote and protect our children's health through biomedical research. As you know, our research efforts have produced dramatic gains in recent years . . . enabling more children to grow up to lead healthy, normal and productive lives.

Dr. King, President Healy, Mrs. Shriver. It is a special pleasure for me to be here this morning . . . to join the distinguished members and guests of the Joseph P. Kennedy, Jr. Foundation and Georgetown University as they launch an important new partnership to combat mental retardation.

The research grant being announced today will enable the scientific community to build on that progress. Through the generosity of the Kennedy Foundation, Georgetown University will begin an ambitious program of maternal, fetal and child-health research. Together they aim to build a program of national prominence to reduce the suffering and despair associated with birth defects. It's an exciting prospect—full of new hope and new promise for our Nation's children.

In addition, the Kennedy Foundation is awarding a second grant for an adolescent pregnancy program which will provide health and social services to pregnant teenagers in the District.

From the standpoint of my Department, this new private sector partnership is an important contribution to our ongoing fight against mental retardation and birth defects. Under the foundation grant, several perinatal fellows will be trained in basic research programs at the National Institutes of Health. Currently, the National Institute of Child Health and Human Development—part of the National Institutes of Health—is conducting a number of studies to learn mental retardation. In addition, we're now able to diagnose and surgically correct many fetal abnormalities before birth, advances that were unheard of just a few years ago.

At the same time—and equally important—my Department welcomes this cooperative venture because it's an exciting expression of private sector initiative and good will. It shows that government and the private sector do indeed share common goals * * * to improve America's health.

That's why I'm privileged to join you today, because these grants reflect the kind of private initiative that this Administration—and all of us here today—applaud and encourage.

On behalf of the Department of Health and Human Services, I commend Mrs. Shriver and the Kennedy Foundation and congratulate Georgetown University on this important occasion. Your new partnership will indeed make a difference—a brighter health future for Americans today and for those to come.

[1] This text is the basis of Secretary Schweiker's oral remarks. It should be used with understanding that some material may be added or omitted during presentation.

MAYOR RICHARD FULTON, PRESIDENT-ELECT OF THE U.S. CONFERENCE OF MAYORS

● Mr. SASSER. Mr. President, I pay tribute to my friend and adviser, Mayor Richard Fulton of the metropolitan government of Nashville-Davidson County, Tennessee. Mayor Fulton is the president-elect of the U.S. Conference of Mayors. His terms of office will begin in July.

This year is a crossroads in the future of our Nation's local governments. Record Federal deficits have forced cutbacks in spending for domestic programs administered largely by local and State governments. In fact, these programs have taken a disproportionate share of the budget reductions made during the 97th Congress.

One thing is clear: Good leadership is needed if local governments are to work effectively with State and Federal officials to overcome budgetary restraints.

Mayor Richard Fulton certainly provides that leadership. He is the second chief executive for the consolidated county government of Nashville-Davidson County and he has served in this capacity for 8 years. Previously, Dick Fulton represented the Fifth District of Tennessee in the U.S. Congress for 13 years. While in the Congress, he was a member of the powerful House Ways and Means Committee and served as Democratic regional whip.

He is one of Tennessee's most dedicated and effective public servants.

He is eminently qualified to take on the important task before him of insuring the well-being and vitality of the Nation's cities in the fact of a growing national deficit and wholesale changes in the Federal aid system that are now taking place.

In my role as ranking Democrat on the Subcommittee on Intergovernmental Relations and as a member of the Advisory Commission on Intergovernmental Relations [ACIR], I will work with Mayor Fulton to preserve the vital public services that our Nation's cities provide.

I look forward to working with Mayor Fulton as he assumes the reins of the U.S. Conference of Mayors a few months from now. I value his advice and counsel on matters of interest to local government. I wish him every success in his new role as he assumes the presidency of the U.S. Conference of Mayors.●

WHERE U.S. DEFENSE IS WEAK

● Mr. EAST. Mr. President, the American people are losing patience with Congress. Faced with an almost total collapse of border control and the presence of millions of illegal aliens in an economy plagued by unemployment, Congress does nothing.

The House of Representatives fails to act on even the flawed immigration reform bill passed last year by the Senate. The administration does not even ask for levels of INS funding that could begin to regain control over our borders. Congress appropriates billions of dollars for social programs which properly belong within the jurisdiction of the States and localities, while ignoring control over our borders—one of the clearest responsibilities of the Federal Government.

Richard L. Strout, writing in the January 7, 1983 Christian Science Monitor, expresses the disgust and impatience of many Americans with a government that fails in one of its most basic duties. I ask that his article "Where U.S. Defense is Weak" be printed in the RECORD.

The article follows:

WHERE U.S. DEFENSE IS WEAK

(By Richard L. Strout)

America is absent-minded about its own ethnicity. I think it is about the only country that is this way. When my grandfather sat in the New Hampshire legislature after the Civil War it was just taken for granted that the American racial stock would continue to be predominantly Anglo-Saxon. The tide of variegated immigrants was only starting to rise. Now the population pattern has changed drastically. Other great rivers have flowed into the central pool. Even to raise the ethnic issue is often regarded as racist.

I know of no other country where conditions are parallel to this in scale and consequence. The United States will defend its borders, of course. President Reagan will ask Congress this year for a military budget of $245 billion or so. That protects the United States militarily. But to protect the physical borders the government assigns only about $77 million for its border patrol. This is grossly inadequate. There are only about 350 patrolmen on duty at any one time. I do not believe that there is another such example in the world. Take the 2,000-mile Mexican border, for example. It is porous. Nobody knows for sure, of course, but estimates are that the number of illegal Mexican aliens in the United States about equals the 12 million U.S. workers unemployed.

Former Immigration Commissioner Leonard Chapman estimated in July 1976 that only one of every three or four persons attempting to enter illegally was apprehended.

The casualness of this is what startles the foreigner. Nearly everybody agrees that the situation needs tightening. A high-level presidential commission studied the matter. It produced the compromise Immigration Reform and Control Act (Simpson/Mazzoli) in 1982. This proposed sanctions on employers who knowingly hired illegal aliens, and methods of identification. The Senate passed the measure overwhemingly, 80 to 19. Did it pass the House? Not at all. It never got a vote. Now the work starts over again. On any dark night on the Mexican border bands of illegals enter. As broadcaster David Brinkley said on his show Nov. 14, "Illegal immigration is now almost totally out of control." There is wide agreement.

This situation, of course, affects America's economy. It involves job supply, workers' wages, and the simple question of whether the nation can enforce its own policies. The attraction of employment here is a magnet that brings illegal entry from around the world. A federal law forbidding employers to hire aliens lacking work authorization cards would dull or remove the magnet. The proposed bill has compassionate provisions recognizing the plight of those illegal aliens who have lived here a long time. But now we are back at space one, the starting point.

The United States has brought its own population almost under control; natural increase is about 0.8 percent a year. Mexico's natural increase is three times that, around 2.5 percent a year, one of the highest in the world. Mexico is almost broke. The surge to come to the United States, legally or illegally, has rarely been higher. It is true of many other hard-up countries, too. Confronted by this global situation the United States can't make up its mind to take the stern steps of restraint to preserve its relatively advantageous position. We waver.

On Dec. 8 the Mexican Senate (according to Federation for American Immigration Reform, the local interest group which watches such things) unanimously passed a resolution questioning the US policy of controlling immigration and expressing "our alarm and concern for the repercussions which will impact both countries if the Simpson-Mazzoli legislation is passed." The Mexican statement continued that "this transcendent matter should not be considered from a unilateral perspective, but rather should be treated from a bilateral and even multilateral perspective, taking into account the far-reaching migratory phenomenon of undocumented persons between our two countries." The Mexican Senate referred proposed stricter US immigration policies to the Latin American Congress, the World Congress, the Group of Parliamentarians for a New World Order, and to its own Foreign Relations Committee.

Hi-ho. The Mexican Senate says it's not our business; the US Congress says nothing and US unemployment hits 10.8 percent.●

STEVE LACEY TO BE INDUCTED INTO TENNESSEE SPORTS HALL OF FAME

● Mr. SASSER. Mr. President, today I commend Mr. Steve Lacey—a famous name in Tennessee sports—for his forthcoming induction into the Tennessee Sports Hall of Fame.

Mr. Lacey, who resides in Johnson City, has contributed immeasurably to athletics in upper east Tennessee. He served Milligan College for 52 years as head football coach, athletic director, dean, vice president and chairman of the board of trustees. He was also a star athlete as a student.

He is a man of high morality and integrity. He has instilled in hundreds of students his sense of life's values.

Steve brought many championships to Milligan College. He has epitomized the athletic ideals of hard work and fair play. He has made an indelible mark on the quality of life in upper Tennessee.

He has been a leader in his community. He has provided leadership in many areas and his advice and counsel are sought and respected.

Mr. President, I ask that two recent articles from the Johnson City Press Chronicle on Mr. Lacey's induction into the Tennessee Sports Hall of Fame be printed in the RECORD.

The articles follow:

[From the Johnson City Press-Chronicle, Jan. 21, 1983]

LACY'S WELL-DESERVED RECOGNITION

Modern-day Johnson Citians may know Steve Lacy as a businessman and a key member of the Milligan College board of trustees.

The period when Milligan was a small-college football power is long in the past—and perhaps surprising to the younger generation. Milligan dropped football in the early 1960s.

But Milligan did hold such a place in athletics—and Steve Lacy was the key figure. As athletic director and football, baseball, track and women's basketball coach at Milligan in the 1930s, Lacy's teams won league championships in all four sports.

Actually, we can take Lacy one step further back. He was a star in football, basketball, and baseball at Milligan before becoming the coach and athletic director just two years after graduation.

He later became dean, vice-president and chairman of the board at Milligan. And he also made his mark in the business world. But he remained avidly interested in athletics. Milligan followed the dropping of football by deemphasizing athletics—but with Lacy's urging, the college resumed offering basketball and baseball scholarships in the 1960s and the Milligan teams in those sports began cutting a swath through small college circles.

Milligan, of course, has long savored Lacy's contributions. The fieldhouse at Mil-

ligan was named in his honor. But now those long-ago sports achievements are being more widely recognized. Lacy is one of seven named this week to the Tennessee Sports Hall of Fame. Lacy and the others will be honored in Nashville at a banquet in February.

Lacy will be in rather good company. The Tennessee Sports Hall of Fame was founded in 1966 and has now honored 128 individuals. Certainly, Lacy deserves to be there—and we offer our congratulations to him.

[From the Johnson City Press-Chronicle, Jan. 20, 1983]

SPORTS HALL OF FAME TO INDUCT STEVE LACY

(By Victor Hull)

He's not exactly "Bear" Bryant, but he's probably as close as Milligan College will come to a football legend. In any case, his name is forever linked with Milligan's sports legacy.

Steve Lacy's contribution to athletics in Upper East Tennessee will be formally recognized when the 75-year-old former athlete, coach, scholar and businessman is inducted into the Tennessee Sports Hall of Fame Feb. 25th.

Lacy was informed last week by Hall of Fame President John Bibb that he will join six other Tennesseans, including former pro football player Ed Cifers and ex-major league first abaseman Merv Throneberry, when the shrine's membership is increased to 128 next month.

"Naturally I consider it a very big honor to be inducted," said Lacy in an interview. "Any athlete would feel honored."

Lacy's connections to Milligan are as varied as the 52 years he has served the school. He came to Milligan after graduating as valedictorian of Holston High School in 1927 and lettered two years in football (as an end and guard), played baseball and lettered four years in basketball, unabashedly his favorite sport.

As team captain, and all-conference guard, Lacy helped the Buffs capture their second consecutive conference basketball champion his senior year.

He recalls his playing years vividly. "A very unusual thing happened after my junior year. Joe Keefhauver, who still lives around here, could have been captain my senior year, but he told the boys I should be," said Lacy, who could probably fill an afternoon with stories from his sports career. "I've never forgotten his unselfish attitude."

After graduating from Milligan (cum laude, no less) in 1931, he started recruiting for the school. The same man who played football in college—despite the fact he'd never seen a game before coming to Milligan—didn't hesitate to accept the head coach's and athletic director's position when it was offered him in 1933—just two years out of college.

He piloted the Buffaloes to a perfect 9-0 season in 1940, probably the highlight of Milligan's short-lived football program that began in 1920 and ended a little more than 30 years later. The team outscored its opponents 179-33 and was considered for an invitation to the Sun Bowl.

In 1941, he led Milligan to a 6-2 record and turned down head coaching positions at Virginia Tech and the University of Richmond. During his last year as head coach and athletic director, 1942, Milligan compiled a 5-0-1 mark.

Lacy was the only coach in the history of the now-defunct Smokey Mountain Athletic Conference to win championships in four sports—football, basketball, baseball and track.

"One thing stood out—that he'd won conference championships in four sports," said Madison Brooks, divisional chairman of the Tri-Cities chapter and a member of the election committee.

Sports activities weren't Lacy's only connection with Milligan. He served as the college's dean and vice president for eight years, chairman of the board of trustees for more than 18 years, and member of the board of trustees for more than 30 years.

The Tennessee Sports Hall of Fame was founded by Middle Tennessee Sportswriters and Broadcasters in 1966, when 15 people were inducted.●

ABORTION AND THE NUCLEAR FREEZE MOVEMENT

● Mr. EAST. Mr. President, I would like to draw the attention of my colleagues to three timely articles by Father James V. Schall. Father Schall, a widely published author and essayist, has taught political science at the Gregorian University in Rome. At present, he divides his time between lecturing at the University of San Francisco and Georgetown University.

His articles address related subjects of current concern. The first two "Surgical Death" and "Who Judges?", appeared in San Francisco on June 10 and July 22, respectively, in The Monitor, the official newspaper of the Archdiocese of San Francisco. They deal with the topics of abortion and euthanasia and defend the principle to the sanctity of all human life. The third article "Peace, War, Poverty: Some Myths People Swear By," analyzes the position of some of the adherents of the nuclear freeze movement.

None of us wants to see the deaths of millions or the destruction of this planet. We should strive to limit the proliferation of nuclear weapons by entering into enforceable agreements with our allies. As Father Schall points out, however, death is not the worst of all evils. Worse by far is the total denial of human worth and dignity that has characterized totalitarian regimes in this century. Once this Nation rallied to the cry, "Give me liberty or give me death." I would hope that we would still place such a high value on liberty and human dignity, that we would still resist aggression on the part of these powers, and that we would never fall into the trap of advocating unilateral disarmament.

Mr. President, I believe that Father Schall's articles make a significant contribution to the public dialog on the issues of abortion and the nuclear freeze, and I ask that they be printed in the RECORD at the conclusion of my remarks.

The articles follow:

[From the Monitor, July 22, 1982]

WHO JUDGES?

(By Father James V. Schall, S.J.)

Recently, I saw a story about a lady from Anaheim, who had 17 miscarriages before she finally gave birth to a son. "I made a lot of promises to God, because you need to have faith and patience," the happy mother exclaimed, while her husband was "overjoyed beyond description." (San Jose News, 20 May)

About the same time, I read a Letter to the Editor (May 21) in the same newspaper entitled, "Who Are They to Judge?" A local San Jose woman wrote: "I have a gorgeous, intelligent 2-year-old son. But if amniocentesis had told me I should have expected much less, the decision to continue the pregnancy would have been mine and mine alone—and nobody else's business."

These two instances—17 miscarriages over against the will to eliminate what is not normal, perhaps what is not "gorgeous" or "intelligent"—are enormously instructive, I think.

Let me see if I can spell out the relevant principles. The thesis espoused by the San Jose woman was that the life or death of a less than perfect fetus was exclusively in her hands.

The father, evidently, let alone society or God, had no business with or interest in this purely "private" decision.

No one doubts, of course, that any mother, if she wants, can, as a matter of fact, arrange to destroy her child, in the womb or not, just as she could hire a Mafia agent to get rid of her husband for a slight fee.

But this woman was evidently claiming an ethical "rightness" for her actions. She attributed absolute autonomy to her will over the existence of another human being. "Who can comfortably look you in the eye and tell you that you have to go through this pregnancy, delivery, and the rest of your life trying to make life as pleasant as possible for this pathetic thing?" she asked.

Prescinding for a moment from whether "ethical" or "physical" deformity is more "pathetic," it seems clear that He who tells us, "Thou shalt not kill," is He who looks us in the eye and tells us to go through with such pregnancies, to devote our lives to making life as pleasant as possible for what is born of us, perfect or not, "pathetic" or not.

Moreover, if the reason we are not killed by our own parents, following this same logic, is that we are "gorgeous two-year-olds," then these same gorgeous two-year-olds, once grown up, will, on looking at their very own parents in their respective old ages, decide that nobody can tell them to go on caring for their parents when they become naturally "pathetic."

Quid pro quo. Thus, not only is there here a claim of absolute autonomy of one human being over another, but also an arbitrary definition of health, perfection, intelligence, or "gorgeousness" that is used to decide who shall live and who shall die.

"You must have been a beautiful baby" suddenly becomes an old song with lethal implications for those of us who are not so intelligent or so gorgeous.

Let us take a look, on the other hand, at the lady with the 17 miscarriages. What was her attitude? First, that it was good to try to have children. Seventeen miscarriages are not the same as seventeen abortions, even though both produce dead fetuses.

The woman in Anaheim placed the whole process in the hands of God, not in her own. She realized that, in dealing with life and death, she was following the life giving hope that lies behind all begetting.

The difference between a miscarriage and an abortion is very great. The mother who aborts wants what is conceived in her dead, for her own, not the fetus' good. She takes steps to make it happen. No abnormal or retarded child, let alone someone who is "gorgeous," wants to be "dead."

The notion that these latter lives are not worthwhile, that they are "pathetic," is a moral judgment indicating rather the deformity of the one who makes it his or her "business" to destroy a human fetal life.

The woman who knew she was likely to have a miscarriage, however, sought to give life. She sought to care rather than to kill. She knew that many conceived human fetuses do not come to term, including her own. This is nature's way.

The key question remains: what is our attitude to life in the first place? Life is a gift whenever, wherever, and however it occurs among us, even though we ought to make it come to be in a family, when we can.

When we look upon the life of another as "ours" to decide its fate, we already betray existence. We sin against the light.

The lady from Anaheim made "lots of promises to God," while the lady from San Jose decided that someone else's life was "her own business."

What conclusions can we draw from these reflections? I think only one, that unless we first believe in the sanctity of human life, no one is safe, even from his own mother.

And we will not see this sanctity until we can make promises to God. "Joy beyond description" awaits this latter belief, while only death results from the "nobody else's business" view, even if we decide to keep our two-year-olds because they happen to be gorgeous.

[From the Monitor, June 10, 1982]

SURGICAL DEATH

(By Father James V. Schall, S.J.)

The New York Times (April 11, 1982) carried a brief item of thirty-one column lines on page thirty-seven called "Surgical Death," no doubt a strange place to put something that would better be called "The Death of Western Civilization" and emblazoned in banner headlines on Page One.

This title of "Surgical Death" did not, of course, mean that someone died during the process of a legitimate surgical intervention. Rather it specifically meant that a doctor used surgery to kill something alive.

Plato long ago asked, "Who could do you the most harm?" His answer was, using the physician as an example, not just anyone, but the person who could do us the most good.

The article, in any case had a completely anticeptic tenor, almost as if we were reading a cook book or an engineering journal. There was only a brief hint that something more was at stake when "Some physicians criticized the procedure as 'misuse of medicine.'"

Just what was this "procedure"? A forty year old woman was carrying twins, one of whom evidently had Down's Syndrome. With permission of the unnamed parents, as if it were theirs to give and the physicians to receive, two doctors decided that the child with the disorder did not deserve to live.

So they cooly, unerringly "inserted a long needle,' quite scientific it all was, "into the heart of the child" to "destroy" it, as the article said with as much emotion as if it were telling us we had just swatted a fly or shot a skunk.

Naturally, when you put long needles into the hearts of any living thing, it stops being a living thing. It is destroyed, like a dog on a freeway. The second twin was born normally.

To clarify the principle involved: Nothing presumed to be 'abnormal' deserves to be born. Therefore, it ought to be destroyed. Contrary to the Pope, there is no right to be born."

This 'procedure' as I intimated, was criticized as 'bad medicine' since most of us want doctors to keep us alive, not kill us befcre or after birth. We think that if there is something "wrong" with us, doctors should try to correct it or help us live with our problem.

When we go to a doctor's office, we do not want to worry about the doctor's philosophy, to worry about Plato's problem of who can do us the "most" harm, that is, destroy us.

For public consumption at least, this particular killing was justified on the grounds of saving the second child. This same lethal procedure was tried elsewhere, with both twins lost.

To clarify the principle: If my life as such threatens yours, some doctor can destroy me, however questionable the facts about whether the simple existence of me is what threatens you.

Lest we doubt what is at issue here, George Will followed the similar case of a baby, this time already born, not merely in fetal status, with Down's Syndrome. (Washington Post, April 22, 1982).

Here, the parents, doctors, and the State of Indiana, using such merciless ideas as "freedom of choice" and "treatment to do nothing" let the already born baby starve to death rather than perform a simple surgical intervention or allow others to adopt it and feed it.

To clarify the principle: No imperfect human life, whether in the pre- or postpartum stage—this includes all of us, of course—should be allowed to live. Only the "perfect" are "human," protected by our morals and laws.

Those of us who have been following these issues all along have known that both in logic and in fact, it would come to this. First, "conceive" unwillingly (or "willingly" and change your mind), then abort "willingly" but reluctantly, then abort "legally," then let "die" willingly, then let die legally, then "make" die "unwillingly" but "legally" if life does not meet "perfection" standards.

Soon enough, if it had not already happened, we will read a coldly clincial article, probably in The New York Times, about how some "merciful" doctor put "a long needle" accurately into the heart of a born child, with permission of "caring" parents, watched over by the "scientific interests" of the profession of medicine, since no life but a perfect life was worth saving anyhow. Notice how all the "death" adjectives have suddenly become "Christianized" in the process.

Then, finally, we will get a philosopher at some big university, backed by one probably at a theological faculty, finding out suddenly that there are many opinions on this wonderful topic about what it takes to be declared unworthy of life.

There will be not only Down's Syndrome, but other physical, mental, moral, racial, national, or species criteria. Mein Kampf, in fact, had already thought of a lot of these things.

In other words, by calling a surgical intervention in a womb with a long needle "care," by allowing a baby to die unattended for the greater good, we erect the eugenic state, to which we subject all our lives.

No longer are family, medical professions, and state required to protect our lives as their goal. Rather they are required to decide who shall live and who shall die, on the basis of whom they decide is perfect.

I prefer to follow John Paul II who said bluntly at Kaduna in Nigeria (14 February 1982) that "Abortion is the murder of an innocent child. It has to be condemned by society."

The destruction of a fetus with a long needle, the starving to death of a born child—these should be called murder. The society that does not say so has prepared us all for execution in advance at the hands of those who get legal and political control of "What Lives Are Worth Living?"

The essence of civilization, of morality, of dignity is this: All life, Down's Syndrome or whatever, is worth living. Unlike the readers of Mein Kampi, we would do well in time to check who it is wielding the long needles and letting babies starve on Court Orders in the State of Indiana.

[From the Hillsdale Review, fall, 1982]

PEACE, WAR, POVERTY: SOME MYTHS PEOPLE SWEAR BY

(By James V. Schall)

To a peace rally at the United Nations Plaza, at the beginning of the Disarmament Conference, a Buddhist monk walked 3,000 miles from Los Angeles. Here too, a famous lady pediatrician said, "Give the American people a weapons freeze now." She did not say, evidently, "Give the Russian people a weapons freeze now." Whether a weapons freeze is a step to freedom or a step to tyranny was not indicated, as it might in fact be either. A 97 year-old monk said, "This shows the world is about to be turned over and converted." A weapons freeze may indeed suggest that the world is "about to be turned over and converted," but to what, we wonder? There are some things we do not want to be converted to. This is why we have weapons.

Many good people insist that wars are caused by weapons. A good woman, Margaret Thatcher, told the same United Nations Disarmament Conference that this proposition was not so, wars are caused by aggressors, not arms. A sign on Bush Street in San Francisco suggested that nuclear weapons cause "human needs" not to be met. Plato said that human desires are infinite. Thus, they will never all be met. Therefore, we should control our desires.

Some people, however, desire what we have. We can either give what we have to them or prevent them from taking it from us. Most people whose human needs are not met do not live in societies with nuclear weapons. And we should be very careful to know just who it is we appoint to "meet our human needs." Today, the concept of "someone else's needs" is the main justification of absolute power erected, so it claims, to meet just these needs. The servile state comes in on wings of charity and kindness.

If nuclear weapons were to disappear tomorrow, most people would still have the same needs, mostly still unmet. Weapons are not transformable into bread. And man does not live by bread alone. The man who lives by bread alone is more than a little below the angels. He who knows how to make weapons knows also how to bake

bread. This is not a question of war, just talent. So will and talent are not interchangeable, even though we need talent to do some things we want to do well. Evil is not just ignorance. Ignorance knows neither how to make bread nor weapons. Knowledge is good. He who knows how to make the weapons also knows how to bake the bread. But he may not will thus to do so. Virtue is not exclusively knowledge.

Losing a war may be the basis of prosperity. Prosperity seems to disappear when one's neighbor learns how to be rich. Some people choose not to learn how to be rich. Poverty is the most relative concept in the history of the world. The richest if kings seem like paupers now, while the poor have television sets and ways to prevent themselves from coming to be. The poor need beauty as much as they need bread, probably more. The poor are not poor because the rich are rich. If the poor wish to be rich, they need the rich to imitate and emulate. This is why rich and poor need to be neigbors, not enemies. We need not choose to be rich, but if we do, we need to know how to become rich. This takes sacrifice and savings. Prosperity disappears also when men forget what causes it in the first place. Poverty likewise comes about when men choose not to learn about keeping wealth. Rich societies have become very poor. The rich are not always the good. The poor are always to be with us, even if we are rich, even evidently if we are good. The poor come to rich societies to learn how to be rich. They take the places of the children of the rich who do not learn.

Many think that if we rid ourselves of our weapons, there will be no wars. Our enemies think this too, which is why they prefer that we have no weapons. Enemies also know that it is far easier for them if their adversaries choose not to arm themselves. Some people call this the peace movement. Others call it suicide. And if we have no weapons, will there not still be fists, rocks, and slings? The long bow was once an ultimate weapon. When European cities realized that the walls of their cities were useless against newly invented artillery, they kept them up as ornaments and gardens.

Other people believe that poverty is caused by weapons. Others, still, hold the opposite, that if we take the guns away from the ordinary citizenry, only criminals will be armed. The man who shot the President was acquitted. The men who shot Anwar Sadat were executed. Some people doubt whether anything is worth fighting for. Others, especially those actually living in repressive societies against their wills, know this is not so. Some argue, "better red than dead." Others become dead escaping from societies that are red. Still others have no chance to try to escape. Not any sort of life is worth living, examined or not. "Better a millstone tied to his neck and he be cast into the sea * * *" "Give me liberty or give me death." But do not kill the innocent. The innocent have become weapons to defeat the righteous. Must we live in the worst state to be moral?

Fear of war and fear of poverty have become the main instruments to eliminate freedom for those who prefer to think that war and proverty are the worst of evils. The reasons that cause men to fight are not the reasons that cause men to be poor, unless bread is also a weapon. C. S. Lewis wrote that neither war, nor poverty, nor death was the worst of evils. He who can think of nothing worse than war and death has not begun to think. Man lives by bread and by cake too, but he wonders about more.

Yet, freedon cannot mean that "everything is permitted." Some things are simply not "permitted," even if they happen rather frequently and we see them every day in our midst. We live in a world in which evil is allowed. Human rights mean that some things are not "human" and other things are not "rights." A world in which evil can occur through human agency is a world in which something important can happen because of human initiative. It makes a difference what we choose and what reject. Forgiveness means that there is something to be forgiven. We can only forgive what ought not to have happened. Every moment is, therefore, significant.

Some people hold that there can be good people in any sort of society, even in a corrupt one. Others maintain that individual goodness is a function of the environment, social or natural. Some even say that the causes of war and crime lie not in poverty but in the will. Some poor people do evil. But many poor people do not do evil, not because they are poor, but because they think it wrong, rich or poor. Some rich people do good things. Most people seem to do a mixture of both, whatever their society or environment.

Some myths are more dangerous than others. One dangerous myth is that if we will to stop making weapons, we will likewise choose to "cure" poverty. But poverty is cured by knowledge of how to cure it and the will to do so, both. Riches also involve work. Another myth is that if only we stop making weapons, we will remain free. Still another myth is that if we remain free, we will become rich. "Give me liberty or give me death" need not be the words of a rich man. They are more likely to be the words of a poor man who knows there are other things in this world besides riches, dangerous things. War societies can be poor societies.

The poor often attack the poor. Many rich societies do not go to war, neither do they aid the poor. Many poor societies are poor because they choose to be poor by how they choose to govern or misgovern themselves. Societies which believe that somebody else exploited them will remain poor until they exploit somebody else. With this mentality, such societies will never become rich by learning for themselves how to produce wealth. Wrong ideas are the final root of poverty. Many rich societies are rich because of someone else's efforts or inventions. Oil is not wealth without an economy which engenders and generates riches. Henry Ford was Saudi Arabia's greatest benefactor.

All atomic plants ever built in the history of mankind have killed far, far fewer humans than the bicycle or the penknife. Abolish the Bicycle? The most lethal weapon known to man is the human will. That does not mean that we should destroy our wills, but we can change our minds.

Poor societies can be just societies with discipline, so can rich and middle-class societies, self-discipline. Poor societies can lack freedom, but have bread, even steaks. Rich societies usually have little poverty, but they need not have freedom. Slaves often eat well. Some rich societies, however, have many poor people. They also may have enough freedom for the poor to become rich and for the rich to become poor. The poor do not want wealth "just given" to them. They prefer to earn it.

If we turn our weapons into plowshares, we may not choose to plow. If we turn our plowshares into weapons, we may not need to fight. But then again, we may. Aristotle said that sometimes it is less than human not to be brave. Never to fight can mean that nothing is worth fighting for, nothing is worth living for, a very shallow life. Weakness can be innocent. Chosen weakness can invite aggression. Never having to fight may mean being ready to fight. Eternal vigilance is the price of liberty. Mere survival is not another name for peace. It is, however, another name for slavery. Cowards survive. Run, Run, Run away * * *. Some things should frighten us.

In 1929, G. K. Chesterton wrote an essay on Hilaire Belloc, in which he described their first meeting. They were both young journalists who took a particularly unpopular position during the Boer War, then going on in South Africa. Neither opposed this war on pacific grounds, namely, on the theory that it was wrong to fight for anything. Nor did they oppose it on the grounds that it was wrong for little people to fight for their own freedom. Both were pro-Boers. They thought it was right for a small people to fight against an invader, even if the imperialist were English, as both were. Chesterton went on, "We disliked cosmopolitan war; and it was hard to say whether we more despised those who praised war for the gain of money, or those who blamed war for the loss of it."

These last words stick—those who "blamed" war for the loss of money. Wealth can always be reproduced, if we know how to produce it in the first place, witness Japan. If the only reason we blame war is because it loses our money, do we praise it because it gains wealth? Men keep fighting wars because they know that the theory that war is caused by poverty is false. Margaret Thatcher said that the British fought in the Falklands because of a principle. Men ought to find a better way than war, to be sure. But it does not follow that they have yet found this better way. Augustine remains. And it is quite possible to imagine a worse way, one that is actually called "peace." This way would say that nothing is worth fighting for. Avoid death at all costs, even of principle.

This is what the "nuclear freezers" do not understand. This is why we ought to know what the world is to look like to those who want to convert us before we decide to follow them. Walking 3,000 miles from Los Angeles to New York proves nothing about war or peace. But it's a long, long way to Tipperary. War is not caused by poverty or weapons. Nor is peace "caused" by wealth or empty hands. If we do not have something to live for, we will have nothing to die for. If we have nothing worth dying for, it does not really matter much whether we live or die. Carpe diem. Eat, Drink, and be Merry, for tomorrow we may still be alive.

Four wars were going on recently, none of them nuclear, none of them judged to be just or unjust by the clergy. The newspaper also says, "A solar flare so huge that scientific instruments couldn't measure shot from the Sun's surface, releasing more energy that the Earth uses in a year." When the Sun reabsorbs the Earth, will nature be unjust? If we blow ourselves up, will we have more profound questions to ask than if we die in our beds one by one?

The foundation myth in the Republic of Plato said that we should all believe that we live in a just order and do what is best for us to do, when all is ordered to the good. At the beginning of Acts, it says, "Why stand you there looking up?" What myths we swear by tells us what we are.

MEMORIAL ADDRESS IN HONOR OF LEONARD STORY ZARTMAN

● Mr. MOYNIHAN. Mr. President, on October 12, 1982, I had the solemn duty of delivering a memorial address in honor of Leonard Story Zartman, a distinguished citizen of Rochester, N.Y., and sometime adviser to the President. A man of great patriotism and personal charm, Story Zartman served his country in the highest tradition of public service. In order that my address be preserved for his many friends, colleagues, and admirers, I ask that it be printed in the RECORD.

MEMORIAL ADDRESS: LEONARD STORY ZARTMAN, SEPTEMBER 18, 1926—OCTOBER 9, 1982

(By Senator DANIEL PATRICK MOYNIHAN)

He was blessed and had the power to bless.

That is, of course, a line of Yeats speaking to another man, but words any of us could use to describe Leonard Story Zartment.

He radiated both spirit and life. No one could encounter him and not be changed by that encounter. Changed, and for the better. Enlarged and enlivened. More conscious not just of the power of goodness, but the joy of it. For he was of all things. Until and including his very last moments, a man of good cheer.

He came into my own world naked although not in the least alone. He was rather one of a draft of several hundred graduates of Andover and Exeter academies who met in the showers of their and our first day in the Navy with about the same number recruits from the schools of New York City.

He and I were different in every ephemeral regard of church, caste and political creed. He was born a Republican, and only later baptized an Episcopalian. We immediately became fast friends and remained so for thirty-eight years.

The world changed. He did not. To the last moment he was the man I met that first day, or rather later in the evening. The new apprentice seamen were summoned to an assembly after supper. We arrived in a ragtag of pajamas and skivies. Story arrived in a silk paisley dressing gown. There was no rule against it and every reason for it. The evening needed a touch of daring. We were outward bound to fate we did not know, but in that one beaugeste Story taught us that it would never be drab.

We were then serving a President of the United States, albeit at some distance. He was later to serve yet another Chief Executive as a Marine Corps officer in the Korean War. Still later we were to serve together. Again, this time in the White House itself, although in the most public of positions, that is a part of his life he shared with only a few persons, most especially of course his beloved Barbara. It was Franklin D. Roosevelt who spoke of his quest for assistants with a passion for anonymity. It is a credit to both their high standards that none really appeared in Washington until Story Zartman arrived a quarter century later. I was there as an observer, and now I can speak. I have never known a man so dedicated to public service, to the President he served, and more yet to the institution of the presidency. In everything he did, he added honor, stability, and achievement. Would there had been just a very few more like him. But how could that be, when in all truth there was none like him.

In the White House, as here in Rochester, his abiding concern was racial and economic justice and progress. It was the crisis of his time, and he rose to it with a manly courage, a lawyerlike sense of procedure, and that unfailing good cheer which prevailed—nay, triumphed—time and again. The community of Rochester knows how much it owes him. Let me simply, because I was there, report the nation's debt as well.

And so old friend good bye. You leave us longing for you but blessed for having known you. And you also leave us Lydia and Sarah and Nat and Dana and Mary and Eve. Your goodly and seemly offspring, blessed as we are blessed by you.●

PRELIMINARY NOTIFICATION PROPOSED ARMS SALES

● Mr. PERCY. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $50 million or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that such a notification was received on January 3, 1983.

Interested Senators may inquire as to the details of this preliminary notification at the offices of the Committee on Foreign Relations, room 4229, Dirksen Senate Office Building.

The official notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., January 3, 1983.
In reply refer to I-04745/82ct.

Dr. HANS BINNENDIJK,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to an East Asian country for major defense equipment tentatively estimated to cost in excess of $14 million.

Sincerely,

PHILIP C. GAST,
Director.●

PROPOSED ARMS SALES

● Mr. PERCY. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $50 million or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulated that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

In keeping with the committee's intention to see that such information is immediately available to the full Senate, I ask to have printed in the RECORD at this point the notification which has been received. The classified annex referred to in the covering letter is available to Senators in the office of the Foreign Relations Committee, room 4229 of the Dirksen Senate Office Building.

The material follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., January 3, 1983.
In reply refer to I-17546/82ct.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 83-12 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Navy's proposed Letter of Offer to Turkey for defense articles and services estimated to cost $205 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

You will also find attached a certification as required by Section 620C(d) of the Foreign Assistance Act of 1961, as amended, that this action is consistent with Section 620C(b) of that statute.

Sincerely,

PHILIP C. GAST,
Director.

TRANSMITTAL NO. 83-12

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective purchaser: Turkey.
(ii) Total estimated value:

	Millions
Major defense equipment [1]	$132
Other	73
Total	205

[1] As defined in section 47(6) of the Arms Export Control Act.

(iii) Description of articles or services offered: Four of each of the following systems: MK 45 MOD 1 5" gun mounts, AN/SQS-56 sonar sets, NATO Seasparrow missile launching systems, AN/WQC-2A underwater communications sets, AN/WSN-2 stabilized gyrocompass sets, MK 15 MOD 1 Phalanx close-in-weapon systems and eight MK 32 MOD 5 surface vessel torpedo tubes.

(iv) Military department: Navy (LBI and LBM).

(v) Sales commission, fee, etc., paid, offered, or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: See annex under separate cover.

(vii) Section 28 report: Case not included in section 28 report.

(viii) Date report delivered to Congress: January 3, 1983.

POLICY JUSTIFICATION

TURKEY—COMBAT AND ELECTRONICS SYSTEMS

The Government of Turkey (GOT) has requested the purchase of four of each of the following systems: MK 45 MOD 1 5" gun mounts, AN/SQS-56 sonar sets, NATO Seasparrow missile launching systems, AN/WQC-2A underwater communications sets, AN/WSN-2 stabilized gyrocompass sets, MK 15 MOD 1 Phalanx close-in-weapon systems and eight MK 32 MOD 5 surface vessel torpedo tubes at an estimated cost of $205 million.

This sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of Turkey in fulfillment of its NATO obligations; furthering NATO rationalization, standardization, and interoperability; and enhancing the defense of the Western Alliance.

By the 1980 U.S.-GOT Agreement for Cooperation on Defense and Economy, the U.S. Government is committed to assist the Turkish Navy (TN) in the development of modern frigates. The TN has requested U.S. combat and electronics systems to outfit four frigates (MEKO 200 type), the first two of which will be constructed in the Federal Republic of Germany and the latter two in Turkey. The combat and electronics systems included in the sale will be provided in accordance with, the subject to the limitations on use and transfer provided for under the Arms Export Control Act, as embodied in the terms of sale. This sale will not adversely affect either the military balance in the region or U.S. efforts to encourage a negotiated settlement of the Cyprus question.

There will be no prime contractor for this sale. The items will be purchased from the various contractors which provide them to the U.S. Navy.

Implementation of this sale will require the assignment of additional U.S. contractor representatives to Turkey. However, the exact numbers have not been established.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

U.S. DEPARTMENT OF STATE, UNDER SECRETARY OF STATE FOR SECURITY ASSISTANCE, SCIENCE, AND TECHNOLOGY,
Washington, D.C., December 27, 1982.

Pursuant to section 620c(d) of the Foreign Assistance Act of 1961, as amended (the Act), and the authority vested in me by Department of State Delegation of Authority No. 145, I hereby certify that the provision to Turkey of four of each of the following systems: MK 45 MOD 1 5" gun mounts, AM/SQS-56 sonar sets, NATO SEASPARROW missile launching systems, AN/WQC-2A underwater communications sets, AN/WSN-2 stabilized gyrocompass sets, MK 15 MOD 1 PHALANX close-in-weapons systems and eight MK 32 MOD 5 surface vessel torpedo tubes at an estimated cost of $205 million is consistent with the principles contained in section 620(b) of the Act.

This certification will be made part of the certification to the Congress under section 36(b) of the Arms Export Control Act regarding the proposed sale of the above-named articles and is based on the justification accompanying said certification, and of which such justification constitutes a full explanation.

WILLIAM SCHNEIDER.●

IMMIGRATION CONTROL: THE IMPOSSIBLE DREAM?

● Mr. HUDDLESTON. Mr. President, I stand here at the dawn of a new Congress, the 98th, and Mr. President, I am deeply troubled.

It is a new year, a bright beginning, but here I am again talking about the same old problem you have heard me discuss for the last 7 years. This problem is not a trendy new issue; it is in fact decades old. We have talked about it endlessly and studied it from every possible perspective; several times we have walked right up to it, only to walk away again.

The problem is uncontrolled immigration and we still have not done anything to solve it. Remember all of the hopes, dreams, and activity during the last several years? Countless hours of congressional hearings were held, numerous interagency studies were made, and a National Select Commission was organized to study the problem.

At the conclusion of all of this activity, we really thought we would get an immigration bill through Congress last year. But we did not. We again walked up to the problem, looked it in the eye, and walked away.

The failure to deal effectively with this escalating problem is a serious breach of our responsibility to the American people. By turning our heads while certain special interest groups pursue their own selfish goals, we are in effect guaranteeing that the social and economic problems caused by massive uncontrolled immigration will not only continue but will multiply.

Many of you know how deeply I feel about this issue. I do not serve on the committee that handles immigration; this is not a task that I am required to look at by the rules of the Senate. My sole motivation in seeking a solution to this problem is to assure that the people of this great country continue to have the advantages and benefits they have worked so long to secure.

Uncontrolled immigration is not an issue that will go away. Instead, it will only get worse if we ignore it. Some of us have deluded ourselves into believing that time alone will solve these problems. Obviously this will not work. We must be the ones to make the difficult decisions that will solve this problem.

The Senate exercised a great deal of leadership on this issue last year and I commend the Members who helped push the bill through this body. By all indications we must again be the leaders and again send a bill to the House.

However, if we are required to be the leader on this issue, I believe that we must send a strong signal to our colleagues in the House which says that an effective immigration control bill must be passed during this Congress.

The effects of uncontrolled immigration on our country are dramatic and damaging. Take the effect of uncontrolled immigration on employment, both unemployment and conditions of work. In the last year we have had new evidence of displacement of American workers by illegal immigrants.

Malcolm Lovell, Under Secretary of Labor, reports that 40 million Americans compete directly with illegal aliens for jobs. Some uninformed people will tell you that Americans would not take the jobs that illegals hold; tell that to the 40 million Americans who worry every day about whether their boss will fire them so he can hire an illegal alien.

Even those who used to say that illegals are good for the country are changing their tunes. Wayne Cornelius, a zealous advocate of illegal alien workers, now says:

> In some labor markets, especially those where labor contractors and subcontractor shops have become prevalent (such as in harvest labor and the garment industry), downward pressure on wages and working conditions is more severe and U.S.-born workers may be discouraged from seeking jobs in those sectors of the economy. . . . Undoubtedly indirect displacement of U.S.-born workers and legal immigrants by Mexican illegals does take place as specific labor markets become depressed.

In other words, even those most interested in a continuing flow of illegal aliens admit that illegal immigrants hurt American workers. Illegals take jobs that Americans want and need, and, by taking lower wages and poor working conditions without complaint, they hurt American workers' wages and working conditions.

The average wage of an illegal immigrant apprehended in Denver in the last 2 years was $6 an hour. The average illegal immigrant today is working in a city in a good job paying well. When we talk about creating more jobs for America, do we want these jobs to go to illegal aliens?

Everyone in recent weeks has been talking about jobs programs. I think that our emphasis on getting America back to work is correct, but let us not forget that one of the easiest and least expensive ways of generating jobs is to do something about uncontrolled immigration. Let us go after one of the real problems in unemployment, something that will solve immediately one of the causes of unemployment.

When illegal aliens displace American workers, the unemployment rate

increases. In Miami, a landscaping service fired 30 Americans and hired 30 Haitians at lower wages. I constantly hear about people in the garment industry who have been fired so their employer can bring in illegal aliens. Now I am hearing more and more about skilled people, mechanics, machinists, draftsmen, being displaced by illegal aliens.

It was once fashionable to talk about the poor starving illegal immigrant who came here because he or she could not get work in their home country. We have to change that image today, however, because it is no longer the poorest and least skilled people who come here. Often it is the most skilled, middle-class worker who comes here illegally.

Today we are taking the cream of the crop of the Third World's elite. And, the flow is increasing steadily as the worldwide recession causes more unemployment in foreign countries.

These new sophisticated illegal aliens are not as afraid of taking Government benefits as in the past. In the past 2 years, we have seen new evidence of just how easy it is for illegal aliens to get social services and benefits from American taxpayers.

The Supreme Court ordered the State of Texas to provide more than $400 million in public school tuition to illegal alien children.

A study by David North of the New Transcentury Foundation found millions of dollars in prohibited unemployment compensation payments to illegal aliens last year.

The State of Illinois found that illegal aliens were getting $66 million in unemployment compensation in that State alone; two-thirds of the deficit in that State's unemployment compensation program went to illegal aliens.

Remember that the Congressional Budget Office found that each unemployed person costs the Federal Treasury more than $7,000 a year, in 1978 dollars. If we could replace 1 million illegal aliens with American unemployed workers, we would save $7 billion in 1 year. That money would be saved for necessary entitlement programs. And because employed American workers pay far more in taxes, relative to their wages, than do illegal aliens, we can generate more revenue from putting those Americans back to work.

Although I will not go into a great deal of detail, I have to mention the effect that uncontrolled immigration has on our population and our resources. Immigration now makes up more than half of our population growth, while Americans are sacrificing to have smaller families, fewer children.

But our population keeps growing because so many people enter this country each year. More people means that our scarce resources, like water and energy, will be used up faster. Can we really afford to allow all of our difficult conservation efforts to be balanced out by new immigrants?

Those who follow immigration know that I am not in favor of stopping immigration; I support a generous, but controlled level of immigrant admissions. But I am increasingly concerned about the lack of any realistic response to this problem from Congress.

Listening to the debate on immigration in the House of Representatives last year, I was surprised to hear so many others commenting on the danger that has troubled me for so long: If we do not control immigration now, when we have a chance to set policies that are generous and flexible, we may soon face an irresistible clamor to cut off immigration entirely.

My colleague, ALAN SIMPSON of Wyoming, has also noted this increasing resentment. He calls it "compassion fatigue." The American people will continue to provide warm receptions to needy strangers. But they do not want their generosity abused. Those who try to fool the system, get an advantage over others, force their way into this country, should not be rewarded, because that is what makes the American people really angry.

At present, that is what is happening in immigration: The system is being run by the immigrants and by those who profit from disarray. Our immigration policies are not being set in Washington, they are being set in Hanoi, in Havana, in Tehran, and in a thousand other foreign cities.

Some lawyers and well-meaning but misguided persons who want no limits to admissions of one group or another are combining to thrust wedges into the workings of the system, forcing it to a halt, injuring all of those who want to respect our laws and come here legally. To a large extent they have succeeded. According to INS officials, our immigration laws are no longer an effective deterrent to illegal immigration.

Not all of these people are outside this Government. There are numerous people, particularly in the Department of State, who believe that wide-open immigration is a means to build their bureaucratic power, whatever the consequences to the country.

There are others who want only to keep the status quo, bad though it is, because they lack the courage to solve any of the problems. And, there are those who ignore the plight of America's poor and unemployed, in the mistaken belief that immigrants deserve more consideration than poor blacks, Hispanics or whites who are citizens of this country.

Perhaps, Mr. President, that is what galls me the most about this tortuously slow process of immigration reform: That those with these delusions of purifying America through unlimited immigration, of more docile and cheaper workers through immigration, of personal gains no matter what the effect on poor Americans, have been able to stop urgently needed immigration legislation.

Well, that must change. This is the year for us to act. We again can look forward to recommendations from Senator SIMPSON and others. We will again have the chance to act on proposals for change, for order and rationality in immigration, for regaining control over immigration.

Mr. President, we have some "windows of opportunity" this year. First, we will receive again recommendations from Senator SIMPSON, second, we must reauthorize the Refugee Act of 1980, reforming it for the better with our 3 years of experience. In both instances we will have a chance to provide a realistic level of resources for enforcing the immigration laws.

We must accept the challenge these opportunities provide. We must act this year. We must do something about immigration.

Mr. President, I believe that there are six basic things which must be accomplished during the year.

First, we must prohibit the hiring of illegal immigrants in American jobs. Whether or not we can remove illegal immigrants already in American jobs, we certainly must reserve new jobs for unemployed Americans. With 12 million Americans currently unemployed, it would be a travesty to do otherwise.

Second, we must increase the resources available to enforce our immigration laws to a reasonable level. For several years we have cut back on immigration enforcement so that our interior enforcement, for example, is still below the 1978 level.

We must provide enough border patrol officers, enough interior enforcement officers, enough adjudicators, and enough support so that the Immigration and Naturalization Service can do its job. And we must insure that the funds we provide are fully and well-spent.

Third, we must control legal admissions to this country, at a generous level that is consistent with our national interest and needs. We cannot let legal admissions be used as a plaything for special interest groups and those who seek only profit from an overloaded system.

Fourth, we must reform the Refugee Act of 1980 and its implementation. Despite years of criticism, the Department of State, reluctantly aided and abetted by officials of the Immigration and Naturalization Service, are still admitting thousands of aliens as refugees who do not qualify under the Refugee Act's definition.

We now have 3 years of experience under the Refugee Act; we can see where the administration and its pred-

ecessor have made mistakes, and we can correct those mistakes. We can also start reducing the size of the refugee program which now costs U.S. taxpayers over $2 billion a year.

And fifth, we can clear up the mess in immigration benefit adjudications. We have 150,000 asylum petitions pending in a system designed for only a few a year. We must clean up the problems in the system, and insure a fair, but fast and final decision on each asylum and immigration benefit petition.

And we must be sure that the Immigration and Naturalization Service adjudicates each petition fully and accurately, not shirking its responsibility to insure that each applicant is eligible for what he or she seeks.

Sixth, we must insure that any program to legalize the status of illegal aliens already in the United States is executed by an Immigration and Naturalization Service committed to carrying out its duty to protect the American people, even if this means scrapping the preliminary policies drafted by the INS which would accept an applicant for legalization without any direct review by trained INS officers.

Mr. President, because of the possibility that immigration reform will be caught up in election delays as soon as this fall, I believe that we must complete legislative action by the end of this year.

If we do not meet this deadline, I fear that we will again have lost our chance to enact real immigration reform. Perhaps more importantly, I fear that, if we do not act this year, we will lose whatever momentum remains for rational immigration reform for several years to come. And, when we return to the issue, I fear that the issue will be dominated by demagogs and by those who are not so interested in open dialog.

I do not want to travel that path. I would much rather that we simply got on with our present task. I want us to enact substantive, realistic immigration reform this year.

So I urge my colleagues to help me, to help Senator SIMPSON, to help each other, and to help the country by acting quickly and forcefully to solve our immigration problems. And let us act before it is too late.●

PROGRAM

Mr. BYRD. Mr. President, if I may get a response from the distinguished majority leader if he is in a position to give such a response, what is the program for the rest of the week?

Mr. BAKER. I thank the minority leader.

Mr. President, to begin with, it is my hope that we can find legislative or Executive Calendar business to do this week. I must say, however, that that is a pretty forlorn hope, because there is just not anything on the calendar. We have a couple of nominations coming up and we are going to do the best we can.

In that general respect, though, may I say to the minority leader that I have urged the chairmen of the committees in a meeting just held to try very hard to bring us those measures which have been considered previously by the committee and we should be able to reach our calendar very promptly, so that we do not squander these precious days at the front end of this session.

I anticipate that we are going to have a reasonably busy agenda in the early part of this session, unlike last year, when we were in session only a part of each week through, I believe, the month of March.

I shall advise the distinguished minority leader as we get further into this business, but the answer to the question is that, this week and perhaps the first of next week, we are going to have to piece together what we can do. The minority leader and I shall have other conversations about the schedule for the remainder of this year and how we shall arrange the agenda of the Senate. Suffice it to say at this moment that I hope to move very important legislative and executive business early in the year so we do not have a buildup later in the year.

Mr. BYRD. Does the majority leader expect to be in session daily through Friday of this week?

Mr. BAKER. Not through Friday of this week. I expect us to be in session through Thursday of this week, not Friday, but I do expect us to be in session on Monday.

Mr. BYRD. There are at least two nominations that are important nominations, heads of departments. I assume the majority leader will want to bring those up on the floor in reasonably short order.

Mr. BAKER. I do, Mr. President.

May I inquire if rollcall votes will be required on either or both of those nominations?

Mr. BYRD. I imagine rollcall votes will be required on both. We have at least one Senator on this side who feels every department head nomination should have a rollcall vote.

Mr. BAKER. I am aware of that, Mr. President. I felt fairly sure that would be the answer the minority leader would give me. I must say I do not disagree with the policy.

RECESS UNTIL 8:15 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 8:15 tonight.

Thereupon, at 12:36 p.m., the Senate recessed until 8:15 p.m.; whereupon, the Senate reassembled when called to order by the President pro tempore.

QUORUM CALL

Mr. GRASSLEY. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR DOLE TOMORROW

Mr. BAKER. Mr. President, I have been advised that the distinguished Senator from Kansas (Mr. DOLE) wishes to be recognized on special order tomorrow. I ask unanimous consent that he be recognized on special order in sequence, following those Senators who have been provided special order time tomorrow, for not to exceed 15 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I am advised that the House of Representatives is in recess until 8:40 p.m. It will be about 5 minutes before we proceed, as a body, to the floor of the House of Representatives.

Under the order previously entered, at the conclusion of the President's report on the state of the Union, the Senate will stand in recess until 12 noon tomorrow.

Mr. President, I will not now, once again, suggest the absence of a quorum, so that the distinguished President pro tempore may vacate the chair and join us to proceed to the House of Representatives.

JOINT SESSION OF THE TWO HOUSES—MESSAGE OF THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 98-1)

The PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the Hall of the House of Representatives.

Thereupon, at 8:38 p.m., the Senate, preceded by the Sergeant at Arms, Howard Liebengood; the Assistant Secretary of the Senate, Marilyn E. Courtot; and the President pro tempore

(Mr. THURMOND), proceeded to the Hall of the House of Representatives to hear the address by the President of the United States, Ronald Reagan.

(The address by the President of the United States, this day delivered by him to the joint session of the two Houses of Congress, appears in the proceedings of the House of Representatives in today's RECORD.)

RECESS

At the conclusion of the joint session of the two Houses, and in accordance with the order previously entered, at 9:51 p.m. the Senate recessed until tomorrow, January 26, 1983, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate January 25, 1983:

DEPARTMENT OF TRANSPORTATION

Elizabeth Hanford Dole, of Kansas, to be Secretary of Transportation.

The following-named persons to be Members of the Advisory Board of the Saint Lawrence Seaway Development Corp.:

Conrad Fredin, of Minnesota, vice William W. Knight, Jr., resigned.

L. Steven Reimers, of North Dakota, vice Miles F. McKee, resigned.

INTERSTATE COMMERCE COMMISSION

Paul H. Lamboley, of Nevada, to be a Member of the Interstate Commerce Commission for the remainder of the term expiring December 31, 1984, vice Darius W. Gaskins, Jr., resigned.

DEPARTMENT OF STATE

Richard T. McCormack, of the District of Columbia, to be an Assistant Secretary of State, vice Robert D. Hormats, resigned.

Lewis Arthur Tambs, of Arizona, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Colombia.

AFRICAN DEVELOPMENT BANK

Donald T. Regan, of New Jersey, to be Governor of the African Development Bank for the term of 5 years (new position).

W. Allen Wallis, of New York, to be Alternate Governor of the African Development Bank for the term of 5 years (new position).

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

Manfred Eimer, of Maryland, to be an Assistant Director of the U.S. Arms Control and Disarmanent Agency, vice George William Ashworth, resigned.

OVERSEAS PRIVATE INVESTMENT CORPORATION

Thomas A. Bolan, of New York, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 1985 (reappointment).

U.S. ADVISORY COMMISSION ON PUBLIC DIPLOMACY

Hershey Gold, of California, to be a Member of the U.S. Advisory Commission on Public Diplomacy for a term expiring July 1, 1984, vice Neil C. Sherburne, term expired.

DEPARTMENT OF JUSTICE

Carol McGrew Pavilack, of Arizona, to be a Commissioner of the U.S. Parole Commission for a term of 6 years, vice Dorothy Parker, resigned.

Francis M. Mullen, Jr., of Virginia, to be Administrator of Drug Enforcement, vice Peter B. Bensinger, resigned.

FEDERAL LABOR RELATIONS AUTHORITY

Barbara Jean Mahone, of New York, to be a Member of the Federal Labor Relations Authority for a term of 5 years expiring July 29, 1987, vice Leon B. Applewhaite, term expired.

John Carl Miller, of Ohio, to be General Counsel of the Federal Labor Relations Authority for a term of 5 years, vice H. Stephan Gordon, resigned.

NATIONAL SCIENCE FOUNDATION

Edward A. Knapp, of New Mexico, to be Director of the National Science Foundation for a term of 6 years, vice John Brooks Slaughter, resigned, to which position he was appointed during the recess of the Senate from October 2, 1982, until November 29, 1982.

NATIONAL ADVISORY COUNCIL ON WOMEN'S EDUCATIONAL PROGRAMS

Diana Powers Evans, of Oregon, to be a Member of the National Advisory Council on Women's Educational Programs for a term expiring May 8, 1984, vice Ellen Sherry Hoffman, term expired.

NATIONAL LABOR RELATIONS BOARD

Donald L. Dotson, of Pennsylvania, to be a Member of the National Labor Relations Board for the term of 5 years expiring December 16, 1987, vice John Carl Miller who was appointed to this position during the last recess of the Senate.

RAILROAD RETIREMENT BOARD

Robert A. Gielow, of Illinois, to be a Member of the Railroad Retirement Board for the term of 5 years from August 29, 1982, vice William P. Adams, term expired.

SENIOR FOREIGN SERVICE

The following-named Career Members of the Senior Foreign Service of the Department of Agriculture for promotion in the Senior Foreign Service to the class indicated:

A Career Member of the Senior Foreign Service of the United States of America, class of Minister-Counselor:

Rolland E. Anderson, Jr., of Virginia.

The following-named Career Members of the Foreign Service of the Department of Agriculture for promotion into the Senior Foreign Service as indicated:

Career Members of the Senior Foreign Service of the United States of America, class of Counselor:

Richard L. Barnes, of Virginia.
William L. Davis, Jr., of Arkansas.
Charles J. O'Mara, of Maryland.
James V. Parker, of North Carolina.
James E. Ross, of Florida.
James P. Rudbeck, of Virginia.
Bryant H. Wadsworth, of Virginia.

SENIOR FOREIGN SERVICE

The following-named Career Members of the Senior Foreign Service of the U.S. Information Agency for promotion in the Senior Foreign Service to the classes indicated:

Career Member of the Senior Foreign Service of the United States of America, class of Career Minister:

Robert T. Curran, of Michigan.

Career Members of the Senior Foreign Service of the United States of America, class of Minister-Counselor:

Stephen F. Dachi, of Maryland.
Norris D. Garnett, of California.
Boulos A. Malik, of the District of Columbia.
Richard D. Moore, of Virginia.
Herwald H. Morton, of Maryland.
Robert L. M. Nevitt, of Virginia.

The following-named Career Members of the Foreign Service of the U.S. Information Agency for promotion into the Senior Foreign Service as indicated:

Career Members of the Senior Foreign Service of the United States of America, class of Counselor:

Holley Mack Bell, of North Carolina.
Edward F. Conyngham, of Oregon.
John H. Corr, of Florida.
Eddie Deerfield, of Washington.
Kenton W. Keith, of Missouri.
Edwin P. Kennedy, Jr., of California.
Howard A. Lane, of Illinois.
Donna M. Oglesby, of Florida.
Diane K. Stanley, of Florida.
Wesley D. Stewart, of Ohio.

U.S. COAST GUARD

The following regular officers of the U.S. Coast Guard for promotion to the grade of commander:

David W. Kennedy, Jr.
Eugene N. Tulich
Roger A. Brunell
Francis R. Tardiff
Michael F. Cowan
Charles E. Hughes
Duane R. Jefts
Paul D. Bridges, Jr.
Augusta L. Duncan
James C. Tanner
Jack L. Elam
Charles L. Kidd, Jr.
David A Potter
William B. Hodges, Jr.
Norman V. Scurria, Jr.
Larry V. Grant
James T. Ingham
Larry J. Olson
Richard J. Asaro
Norman C. Edwards, Jr.
John T. Tozzi
Frank J. Scaraglino
Joseph E. Casaday
John H. Legwin III
Arthur W. McGrath, Jr.
Alexander T. T. Polasky
Kenneth B. Allen
Richard B. Meyer
Frederick V. Minson
John A. Bastek
Leighton T. Anderson
William C. Hain III
James M. MacDonald
John R. Taylor
Larry E. Parkin
Dennis L. Bryant
Thomas S. Johnson III
Clifton K. Vogelsberg
James T. Paskewich
William R. Johanek
Daniel B. McKinley
Theodore J. Sampson
Thomas H. Collins
Richard W. Hauschildt
George R. Perreault
Ronald S. Matthew
Ernest R. Riutta
Edmund I. Kiley
John A. Magiera
John T. Okon
James T. Doherty, Jr.
John F. Stumpff
James E. Doyle
Raymond L. McFadden
Richard L. Murphy
Robert J. Lachowicz
Glendon L. Moyer
James L. Hested
Edward C. Karnis
George H. Mercier
Richard L. Maguire
James A. Smith
Juan T. Salas
Thomas E. Thompson
Ronald L. Edmiston
Robert B. Bower
Richard R. Clark
James C. Clow
Douglas A. Macadam
Stephen L. Swann
Floyd W. Thomas
Robert P. Bender
Robert B. Vanasse
Arthur F. Shires
Kevin V. Feeney
Peter D. Lish
Edward C. Cooke
William J. Theroux
Robert E. Gronberg
Dennis R. Erlandson
Roger D. Mowery
Jack W. Scarborough
Frank P. Murray
Roy C. Samuelson, Jr.
Dennis L. McCord
Richard L. Cashdollar
Harold B. Dickey
Edward B. P. Kangeter III
Bruce E. Weule
Wayne Young
John W. McBride
Wayne K. Six
Geoffrey M. Harben
Jay A. Creech
William F. Holt
John R. Hruska
Robert K. Jones
Olav R. Haneberg
Ronald C. Hoover

Robert B. Swart
Duane I. Preston
Robert F. O'Toole
Thomas J. Burnaw
Charles R. Leland
Richard R. Buhl
Frederick H. Edwards III
Robert E. Luchun
Craig E. Jud
Ernest J. Williams
David F. Patton, Jr.
Michael R. Perkins
Francis P. Hopkins
Peter B. Fontneau
Robert A. Knapp

The following retired recalled officer of the U.S. Coast Guard for promotion to the grade of commander:

Richard B. Disharoon

U.S. COAST GUARD

The following regular officers of the U.S. Coast Guard for promotion to the grade of lieutenant commander:

Joseph E. Blanchard
Gary C. Rowland
Elmo J. Peters, Jr.
Gerald O. Robichaud
John C. Reed
David B. Crawford
Steven E. Froehlich
John D. Cook
Paul G. Miller
Byron D. Ward, Jr.
Calvin M. Rich
Thomas J. Donlon
Roy W. Clark, Jr.
David W. Smith
Thomas J. Collins
Tajr Hull
John V. Oshea
Gary S. Steinfort
Grant E. Leber
Michael J. Pierce
Gary P. Kosciusko
Robert T. Young
Steven J. Bellona
Dennis H. Schenck
Robert W. Bruce, Jr.
Frederick A. Adams
Robert G. Ross
Donald S. Lewis
Stephen H. Francis
Robert F. Ohara
Douglas I. Boyles
Stanley T. Fuger, Jr.
Edward P. Boyle
Robert L. Skewes
David M. Rice
Peter A. Popko
Rodney B. Bowles
David A. Anderson
Keith Coddington
Dale L. Thompson
Charles A. Barrett
Michael M. Rosecrans
Michael M. Ashdown
James R. Loew
Dante J. Grasso, Jr.
Michael F. Breen
George F. Wright
Robin E. Gutridge
Stephen E. Trenchard
Robin E. Crusse
Kenneth H. Good
Kenneth N. Knutson, Jr.
Michael A. Robinett
Freddy L. Montoya
Harry K. Foote
Robert F. Petko
Larry L. Hereth
David W. Smith
Jimmie L. Sether
Daniel J. Scherer
Robert E. Dodge, Jr.
Robert G. Blythe
Douglas S. Hertz
Deborah M. Dupree
David R. Innis
Joseph E. Donovan
Robert R. Meeks
James M. Collin
Judith M. Hammond
Jon W. Peterson
Robert F. Rzemieniewski
Thomas A. Wattsfitzgerald
Robert C. Johnson
James L. Converse
Stephen L. Johnson
Marc B. Wilson
Anthony C. Yamada
John D. Pendegraft
Michael W. Brown
Peter J. Boyd
Lawrence J. Shirley
Thomas D. Meyer
John S. Clay
Keith A. Moll
Gregory L. Rahl
David W. Moore
Guy H. Buckelew
Randal K. Corrigan
Gary R. Mansi
Warren G. Scheeweis
Louis J. Orsini
Patrick L. Shuck
James W. John
Alton J. Parks
Albert A. Hoffman
Bruce D. Martin
David E. Elliot
Joseph F. Duncan
Thomas W. Hathaway
Carl R. Perkins
Richard J. Armstrong
Virgilio S. Merced
Garace A. Reynard
Dennis A. Stuart
Glen A. Reed
William E. Bruce
William M. Duncan
Bradford C. Herter
James M. Dennis
Paul T. Delaire
Robert A. Hughes
James E. Hatfield
Margaret R. Riley
Frank L. Whipple
Dwight H. Meekins
Walter J. Brudzinski
David W. Beach
Michael K. Parmelee
Michael R. Bowen
Robert E. McDaniel
Bradley N. Balch
Douglas B. Cameron
Leonard J. Kuhnemann
Thomas P. Talbot, Jr.
Stewart L. Gingrich
Alberto J. Gaston
John R. Odom III
Thomas R. Pigage
Donald J. Klingenberg
John A. Pepe, Jr.
Daniel E. Kah
Stanley J. Walz
Dale L. Harrington
Larry R. Manthei
Gary A. Dehnel
Leonard F. Edinger II
Harold L. Hayes
Steven L. Hamilton
Ronald W. Batson
Thomas S. Cunningham
Lawrence C. Craig
Donald J. Alciati
Steven R. Fothergill
Kent E. Fisher
Leslie H. Smith
Ronald Bunk
Robert C. Perry
Alan J. Kiehle
John G. Shaw
John S. Ryba
Douglas B. Perkins
Denis A. Kremer
John E. Schrinner
Jonathan V. Embler
Christopher A. Grimm
Kurt A. Carlson
Rex J. Prosser
Vivien S. Crea
Kay L. Hartzell
Gabriel O. Kinney
Jerry R. Penska
David M. Giraitis
Florian F. Rundio, Jr.

IN THE AIR FORCE

The following officers for appointment in the Reserve of the Air Force to the grade indicated, under the provisions of chapter 837, title 10, United States Code:

To be major general

Brig. Gen. William L. Copeland, xxx-xx-x... xxx-...FV, Air Force Reserve.
Brig. Gen. Gerald E. Marsh, xxx-xx-xxxx xxx-...FV, Air Force Reserve.
Brig. Gen. Edward L. McFarland, xxx-xx-x... xxx-...FV, Air Force Reserve.
Brig. Gen. John D. Moore, xxx-xx-xxxx FV, Air Force Reserve.
Brig. Gen. Joseph L. Shosid, xxx-xx-xxxx xxx-...FV, Air Force Reserve.
Brig. Gen. James L. Tucker, Jr., xxx-xx-x... xxx-...FV, Air Force Reserve.
Brig. Gen. Jerome N. Waldor, xxx-xx-xxxx xxx-...FV, Air Force Reserve.

To be brigadier general

Col. Clyde F. Autio, xxx-xx-xxxx FV, Air Force Reserve.
Col. Norman J. Deback, Jr., xxx-xx-xxxx xxx-...FV, Air Force Reserve.
Col. Ira De Ment, III xxx-xx-xxxx FV, Air Force Reserve.
Col. Ralph D. Erwin, xxx-xx-xxxx FV, Air Force Reserve.
Col. Walter Jajko, xxx-xx-xxxx FV, Air Force Reserve.
Col. Simeon Kobrinetz, xxx-xx-xxxx FV, Air Force Reserve.
Col. Frances I. Mossman, xxx-xx-xxxx FV, Air Force Reserve.
Col. Thomas R. Pochari xxx-xx-xxxx FV, Air Force Reserve.
Col. William C. Roxby, Jr., xxx-xx-xxxx xxx-...FV, Air Force Reserve.
Col. Rocco R. Sgarro, xxx-xx-xxxx FV, Air Force Reserve.
Col. John G. Sullivan, xxx-xx-xxxx FV, Air Force Reserve.

IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Robert L. Bergquist, xxx-xx-xxxx xxx-... U.S. Army.

IN THE ARMY

The U.S. Army Reserve officers named herein for appointment as Reserve Commissioned Officers of the Army, under the provisions of title 10, United States Code, sections 593(a), 3371, and 3384:

To be major general

Brig. Gen. Jimmy F. Bates, xxx-xx-xxxx.
Brig. Gen. Robert S. Holmes, xxx-xx-xxxx.
Brig. Gen. Robert E. Louque, Jr., xxx-xx-x... xxx-...
Brig. Gen. Norman W. Martell, xxx-xx-xx... xxx-...
Brig. Gen. James R. Montgomery, xxx-xx-x... xxx-...
Brig. Gen. Donald A. Pearson, xxx-xx-xxxx xxx-...

To be brigadier general

Col. Joseph G. Gray, xxx-xx-xxxx.
Col. James F. Robb, xxx-xx-xxxx.
Col. Guilford J. Wilson, Jr., xxx-xx-xxxx.
Col. Edward Y. Hirata, xxx-xx-xxxx.
Col. Dennis R. Jones, xxx-xx-xxxx.
Col. George V. Bauer, xxx-xx-xxxx.

The Army National Guard of the United States officers named herein for appointment as Reserve Commissioned Officers of the Army, under the provisions of title 10, United States Code, section 593(a), 3385, and 3392:

To be major general

Brig. Gen. John G. Castles, xxx-xx-xxxx.

To be brigadier general

Col. Charles F. Blattner, xxx-xx-xxxx.
Col. Ralph H. Brown, xxx-xx-xxxx.
Col. Samuel E. Fleming, Jr., xxx-xx-xxxx.
Col. Alvin D. McArthur, Jr., xxx-xx-xxxx.
Col. Harry L. Moore, xxx-xx-xxxx.
Col. Kenneth R. Newbold, xxx-xx-xxxx.
Col. David L. Nudo, xxx-xx-xxxx.
Col. Ervin T. Osbourn, xxx-xx-xxxx.
Col. Joseph J. Saladino, xxx-xx-xxxx.
Col. James E. Threlfall, xxx-xx-xxxx.
Col. Mucio Yslas, Jr., xxx-xx-xxxx.

IN THE NAVY

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370.

To be admiral

Adm. Robert L. J. Long, xxx-xx-xxxx/1120, U.S. Navy.

IN THE AIR FORCE

The following-named officers for promotion as a Reserve of the Air Force, under the appropriate provisions of chapter 35 and 837, title 10, United States Code.

Lieutenant colonel to colonel

LINE OF THE AIR FORCE

Arant, Carl P., Jr., xxx-xx-xxxx
Armstrong, James E., xxx-xx-xxxx
Auger, Ronald W., xxx-xx-xxxx
Backes, Clarence M., xxx-xx-xxxx
Beall, Thomas W., xxx-xx-xxxx
Beavers, Roy K., xxx-xx-xxxx
Bradkin, William E., xxx-xx-xxxx
Broadhurst, Frank S., xxx-xx-xxxx
Brown, Charles V., xxx-xx-xxxx
Burnette, Wilbert G., xxx-xx-xxxx
Carll, Donald W., xxx-xx-xxxx
Christine, Charles T., xxx-xx-xxxx
Clark, James S., Jr., xxx-xx-xxxx
Clayton, Robert F., xxx-xx-xxxx
Cobb, James B., xxx-xx-xxxx
Collier, John W., xxx-xx-xxxx
Cover, James D., xxx-xx-xxxx
Davidson, Ricky R., xxx-xx-xxxx
Davis, Esker K., xxx-xx-xxxx
Dishner, Jimmy G., xxx-xx-xxxx
Eagles, Sidney S., Jr., xxx-xx-xxxx
Edwards, William W., Jr., xxx-xx-xxxx
Ferguson, Hill A., xxx-xx-xxxx
Fisk, Richard P., xxx-xx-xxxx

Fleck, James L., xxx-xx-xxxx
Gartrell, James W., Jr., xxx-xx-xxxx
Hammond, Bobby L., Jr., xxx-xx-xxxx
Hibsman, D. Edgar, xxx-xx-xxxx
Himelhoch, Norman E., xxx-xx-xxxx
Holt, Landon B., Jr., xxx-xx-xxxx
Jennings, Walter G., xxx-xx-xxxx
Johnson, Hoyte E., xxx-xx-xxxx
Jonas, Douglas L., xxx-xx-xxxx
Jordan, Donald L., xxx-xx-xxxx
Kerbel, Waldemar K., xxx-xx-xxxx
Kingston, George, xxx-xx-xxxx
Kline, Robert L., xxx-xx-xxxx
Legarreta, Frank J., xxx-xx-xxxx
Ludford, Joseph F., xxx-xx-xxxx
Madden, Neil B., xxx-xx-xxxx
Manocchio, Nicholas A., Jr., xxx-xx-xxxx
Marlatt, Jeryl L., xxx-xx-xxxx
Martin, Donald D., xxx-xx-xxxx
Matchette, James W., xxx-xx-xxxx
Max, Robert H., xxx-xx-xxxx
Maxwell, Frank M., III, xxx-xx-xxxx
McAleer, George R., Jr., xxx-xx-xxxx
Meredith, Harvey L., xxx-xx-xxxx
Moses, Ray N., Jr., xxx-xx-xxxx
Noland, Ronald G., xxx-xx-xxxx
Oaks, William B., xxx-xx-xxxx
Paulk, Linton A., xxx-xx-xxxx
Pennell, James K., Jr., xxx-xx-xxxx
Pohlen, Michael J., xxx-xx-xxxx
Porter, William H., xxx-xx-xxxx
Ramsdale, Charles R., xxx-xx-xxxx
Robertson, Rufe L., Jr., xxx-xx-xxxx
Roddey, John G. R., xxx-xx-xxxx
Salter, Robert E., xxx-xx-xxxx
Sanchez, Alex A., xxx-xx-xxxx
Schroeder, Deon E., xxx-xx-xxxx
Schwerman, Carl L., xxx-xx-xxxx
Shasholin, Sviatoslav I., xxx-xx-xxxx
Smith, Thomas M., xxx-xx-xxxx
Srull, Charles F., xxx-xx-xxxx
Stephens, Franklin L., xxx-xx-xxxx
Sullivan, Philip L., xxx-xx-xxxx
Tucker, Odie K., xxx-xx-xxxx
Vanblois, John P., xxx-xx-xxxx
Vonbargen, Robert F., xxx-xx-xxxx
Wahl, William C., xxx-xx-xxxx
Walker, Kenneth W., xxx-xx-xxxx
Weir, John F., Jr., xxx-xx-xxxx
White, Charles R., xxx-xx-xxxx
Williams, Marshall L., xxx-xx-xxxx
Winsett, Byron B., Jr., xxx-xx-xxxx
Witherspoon, Gayland B., xxx-xx-xxxx
Yasher, Michael R., xxx-xx-xxxx
Young, William R., xxx-xx-xxxx
Zale, Robert J., xxx-xx-xxxx

CHAPLAIN CORPS

Demartinis, Joseph P., xxx-xx-xxxx
Wieber, Elmer F., xxx-xx-xxxx
Wood, David P., xxx-xx-xxxx

DENTAL CORPS

Graves, Richard C., xxx-xx-xxxx
Parisi, Renaldo G., xxx-xx-xxxx
Rhyne, Robert R., xxx-xx-xxxx
Stringer, Dale E., xxx-xx-xxxx
Young, Robert L., xxx-xx-xxxx

JUDGE ADVOCATE

Carlson, Lyle R., xxx-xx-xxxx
Deleon, Armando, xxx-xx-xxxx
Demas, James C., xxx-xx-xxxx
Dorfman, Donald P., xxx-xx-xxxx
Foley, James J., xxx-xx-xxxx
Frederick, Richard E., xxx-xx-xxxx
Hyland, Gerald W., xxx-xx-xxxx
Kantor, Barry, xxx-xx-xxxx
McKnew, Thomas I., xxx-xx-xxxx
Wolk, Stuart R., xxx-xx-xxxx

MEDICAL CORPS

Blacker, Gerry J., xxx-xx-xxxx
Carlson, Mary N. S., xxx-xx-xxxx
Crates, Gordon C., xxx-xx-xxxx
Fisher, Wallace C., xxx-xx-xxxx
Giles, Forrest D., xxx-xx-xxxx
Haller, Michael J., xxx-xx-xxxx
Jardon, Oscar M., xxx-xx-xxxx
Johnson, Warren E., xxx-xx-xxxx
Madorsky, David D., xxx-xx-xxxx
McBride, William P., xxx-xx-xxxx
Miller, Charles H., xxx-xx-xxxx
O'Connor, Patrick S., xxx-xx-xxxx
Phelps, Herschel, R., Jr., xxx-xx-xxxx
Pye, Stephen, A., Jr., xxx-xx-xxxx
Rockwood, Charles A., Jr., xxx-xx-xxxx
Stanton, Eugene S., xxx-xx-xxxx
Workmon, Frederick C., Sr., xxx-xx-xxxx
Young, Walter K. W., xxx-xx-xxxx

NURSE CORPS

Guzik, Lois D., xxx-xx-xxxx
Hartnett, Joan T., xxx-xx-xxxx
Hewson, Judith A., xxx-xx-xxxx
Merrill, Marjorie C., xxx-xx-xxxx
Newhall, Patricia A., xxx-xx-xxxx

MEDICAL SERVICE CORPS

Durr, Jerry L., xxx-xx-xxxx
Kittell, Charles J., xxx-xx-xxxx
Kusumoto, Kenneth S., xxx-xx-xxxx
McCaffrey, Charles R., Sr., xxx-xx-xxxx

BIOMEDICAL SCIENCES CORPS

Dorn, Charles R., xxx-xx-xxxx

AIR FORCE

The following Air National Guard of the United States officers for promotion in the Reserve of the Air Force under the provisions of section 593(a) title 10 of the United States Code, as amended:

LINE OF THE AIR FORCE

To be lieutenant colonel

Maj. Milton B. Baxter, xxx-xx-xxxx.
Maj. Bruce G. Bramlette, xxx-xx-xxxx.
Maj. Larry M. Brown, xxx-xx-xxxx.
Maj. Theodore E. Dobson, xxx-xx-xxxx.
Maj. Marvin W. Dyer, xxx-xx-xxxx.
Maj. Edward J. Farrell, xxx-xx-xxxx.
Maj. John T. Halsey, xxx-xx-xxxx.
Maj. Nathan D. Hathorne, xxx-xx-xxxx.
Maj. Bruce R. Hill, xxx-xx-xxxx.
Maj. Jimmy P. Hunt, xxx-xx-xxxx.
Maj. James D. Lindsey, xxx-xx-xxxx.
Maj. Charles T. Mauney, xxx-xx-xxxx.
Maj. Daniel E. Omara III, xxx-xx-xxxx.
Maj. William C. Wear III, xxx-xx-xxxx.

MEDICAL CORPS

Maj. John P. Allen, xxx-xx-xxxx.
Maj. Ned E. Beiser, xxx-xx-xxxx.
Maj. Iain G. Campbell, xxx-xx-xxxx.
Maj. William M. Doyle, xxx-xx-xxxx.
Maj. William J. Fiden, Jr., xxx-xx-xxxx.
Maj. Leonard J. McIntyre, xxx-xx-xxxx.
Maj. Robert R. Morrison, xxx-xx-xxxx.

NURSE CORPS

Maj. Maritta L. Loo, xxx-xx-xxxx.

IN THE AIR FORCE

The following Air National Guard of the United States officers for promotion in the Reserve of the Air Force under the provisions of section 593(a) title 10 of the United States Code, as amended:

LINE OF THE AIR FORCE

To be lieutenant colonel

Maj. Richard M. Anders, xxx-xx-xxxx.
Maj. James A. Arthur, xxx-xx-xxxx.
Maj. George T. Barker, xxx-xx-xxxx.
Maj. Douglas J. Bauman, xxx-xx-xxxx.
Maj. Gerald S. Kean, xxx-xx-xxxx.
Maj. Kevi R. Lustey, xxx-xx-xxxx.
Maj. Louis A. Meier, xxx-xx-xxxx.
Maj. Robert B. McConnell, xxx-xx-xxxx.
Maj. David J. Noonan, xxx-xx-xxxx.
Maj. Anthony C. Volante, xxx-xx-xxxx.

LEGAL

Maj. Robert A. Fairbanks, xxx-xx-xxxx.

CHAPLAIN

Maj. Joseph K. Criqui, xxx-xx-xxxx.

IN THE AIR FORCE

The following officers for appointment in the Regular Air Force in the grade indicated, under the provisions of sections 531 and 716, title 10, United States Code, with date of rank to be determined by the Secretary of the Air Force.

LINE OF THE AIR FORCE

To be major

Kee, James A., xxx-xx-xxxx

To be first lieutenant

Czerepak, George K., xxx-xx-xxxx

The following cadet, U.S. Air Force Academy, for appointment as a second lieutenant in the Regular Air Force, under the provisions of sections 9353(b) and 531, title 10, United States Code, with date of rank to be determined by the Secretary of the Air Force.

Davis, Howard D., xxx-xx-xxxx

The following officer for appointment in the Regular Air Force under the provisions of section 531, title 10, United States Code, with grade and date of rank to be determined by the Secretary of the Air Force.

LINE OF THE AIR FORCE

Grove, Richard J., xxx-xx-xxxx

The following officers for appointment in the Regular Air Force under the provisions of section 531, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated, and with grades and dates of rank to be determined by the Secretary of the Air Force in accordance with section 533, title 10, United States Code.

MEDICAL CORPS

Fishburn, Frederick B., xxx-xx-xxxx
Green, Robert P., Jr., xxx-xx-xxxx
Mitchell, Edith P., xxx-xx-xxxx
Roudebush, James G., xxx-xx-xxxx
Ryan, Kevin P., xxx-xx-xxxx
Thurman, Francis W., xxx-xx-xxxx
Trent, William G., xxx-xx-xxxx
Warren, Donald J., xxx-xx-xxxx

DENTAL CORPS

Alston, Richard D., xxx-xx-xxxx
Alvarez, Angel D., xxx-xx-xxxx
Beadnell, Steven W., xxx-xx-xxxx
Brown, Stephen C., xxx-xx-xxxx
Crooks, Pearl A., xxx-xx-xxxx
Deeley, William S., xxx-xx-xxxx
Denny, John M., xxx-xx-xxxx
Donahue, William J., xxx-xx-xxxx
Edwards, Jack, xxx-xx-xxxx
Fegley, Donald J., xxx-xx-xxxx
Fegley, Fay M., xxx-xx-xxxx
Grover, William M., xxx-xx-xxxx
Hess, Donald C., xxx-xx-xxxx
Huffman, Neil C., xxx-xx-xxxx
Kellar, Murray, xxx-xx-xxxx
Kyrios, Dean M., xxx-xx-xxxx
Lindell, Kathleen A., xxx-xx-xxxx
Love, Gregory K., xxx-xx-xxxx
Rossell, Jay M., xxx-xx-xxxx
Valko, Robert M., xxx-xx-xxxx

The following persons for appointment as Reserve of the Air Force, in the grade indicated, under the provisions of section 593, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code to perform the duties indicated.

MEDICAL CORPS

To be lieutenant colonel

Berman, Merrill I., xxx-xx-xxxx

Black, William D., xxx-xx-xxxx
Brewer, Schiele A., xxx-xx-xxxx
Carlisle, James H., xxx-xx-xxxx
Doran, Frederick G., xxx-xx-xxxx
Eichbaum, Edgar G., xxx-xx-xxxx
Ensenat, Jose R., xxx-xx-xxxx
Froilan, Jorge T., xxx-xx-xxxx
Ketterer, Sigmund G., xxx-xx-xxxx
Medina, Anibal, xxx-xx-xxxx
Ostewinkle, Robert J., xxx-xx-xxxx
Romero, Russell C., xxx-xx-xxxx
Sanders, Edward A., xxx-xx-xxxx
Schidlowsky, Oleg P., xxx-xx-xxxx
Shah, Ravindra F., xxx-xx-xxxx
Strefling, John L., xxx-xx-xxxx

The following person for appointment as Reserve of the Air Force (ANGUS) in the grade indicated, under the provisions of section 593 and 8351, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code.

MEDICAL CORPS

To be lieutenant colonel

James, Vernon L., xxx-xx-xxxx

IN THE ARMY

The following-named officers for permanent promotion in the U.S. Army, and appointment into the Regular Army as appropriate, in accordance with the appropriate provisions of title 10, United States Code:

To be colonel

Buckner, Richard A., xxx-xx-xxxx
McCord, Chancey K., xxx-xx-xxxx
Spiller, Winton, Jr., xxx-xx-xxxx

MEDICAL SERVICE CORPS

To be colonel

Brickhouse, Eugene A., xxx-xx-xxxx
Eason, Lloyd J., Jr., xxx-xx-xxxx

ARMY NURSE CORPS

To be colonel

Van Lith, Rita W., xxx-xx-xxxx

ARMY

To be lieutenant colonel

Guilliams, Charles D., xxx-xx-xxxx
Johnson, Bruce H., Jr., xxx-xx-xxxx
Niles, David P., xxx-xx-xxxx
Stromberg, Peter L., xxx-xx-xxxx
Wrona, Richard M., xxx-xx-xxxx
Teasdale, Kenneth W., xxx-xx-xxxx

CHAPLAIN CORPS

To be lieutenant colonel

Haworth, Lawrence E., xxx-xx-xxxx

MEDICAL SERVICE CORPS

To be lieutenant colonel

Andre, Richard G., xxx-xx-xxxx
Clark, Richard L., xxx-xx-xxxx
Morris, Harold B., xxx-xx-xxxx
Morrissey, Blaise M., xxx-xx-xxxx

ARMY NURSE CORPS

To be lieutenant colonel

Devore, Donna J., xxx-xx-xxxx
Matteson, Joann, xxx-xx-xxxx

MEDICAL CORPS

To be lieutenant colonel

Wright, Daniel G., xxx-xx-xxxx

ARMY

To be major

Dewey, Stephen E., xxx-xx-xxxx
Ireland, Arthur P., Jr., xxx-xx-xxxx
Rees, Michael D., xxx-xx-xxxx
Roughead, Ronald, xxx-xx-xxxx
Schumacher, Walter F., xxx-xx-xxxx
Sumera, Ronald R., xxx-xx-xxxx
Thomas, Joseph, E., Jr., xxx-xx-xxxx
Thomas, Larry A., xxx-xx-xxxx

JUDGE ADVOCATE GENERAL CORPS

To be major

MacIntyre, Karen A., xxx-xx-xxxx

MEDICIAL SERVICE CORPS

To be major

Keith, Raymond T., xxx-xx-xxxx
Korte, Don W., Jr., xxx-xx-xxxx
Valdes, Victor M., xxx-xx-xxxx
Yearta, William J., xxx-xx-xxxx

ARMY NURSE CORPS

To be major

Butler, Mary J., xxx-xx-xxxx

MEDICAL CORPS

To be major

Levey, Irwin L., xxx-xx-xxxx
Szekely, Daniel R., xxx-xx-xxxx
Tarassoff, Peter G., xxx-xx-xxxx
Todd, Phillip J., xxx-xx-xxxx
Yancey, Arthur H., II, xxx-xx-xxxx

DENTAL CORPS

To be major

Cole, Arthur L., xxx-xx-xxxx

IN THE NAVY

The following-named commander of the U.S. Navy for permanent promotion to the grade of captain in the Medical Corps pursuant to title 10, United States Code, section 624, subject to qualifications therefor as provided by law:

Lentz, Ronald Jay

The following-named lieutenant commanders of the U.S. Navy for permanent promotion to the grade of commander in the line and Medical Corps, as indicated, pursuant to title 10, United States Code, section 624, subject to qualifications therefor as provided by law:

UNRESTRICTED LINE

To be commander

Bagaglio, Mario Joseph, Jr.
Dermanual, Eugene Michael, Jr.
Kelly, James Peter
Spahr, John Franklin, III

MEDICAL CORPS

To be commander

Schwartz, Henry Jesse Calvin

The following-named lieutenants of the U.S. Navy for permanent promotion to the grade of lieutenant commander in the Line and Medical Corps, as indicated, pursuant to title 10, United States Code, section 624, subject to qualifications therefor as provided by law:

UNRESTRICTED LINE

To be lieutenant commander

Eckles, Alfred H., III
Hurley, Richard Leonard
Kvamme, James D.
Smith, Rodney Joseph
Taylor, James William, Jr.
Willis, Gibson
Wilson, Donald Edward

MEDICAL CORPS

To be lieutenant commander

Alexander, James Charles, Jr.
Allenby, Kent Stewart
Arrowsmith, Daniel Lee
Aycock, George Ramon, Jr.
Bates, Barbara Jean
Benson, Constance Ann
Biggs, Robert Harold
Duckworth, Garrett Wayne
Engelberg, Catherine Morton
Goler, Michael Reginald
Hetherington, Maxine Lorrain
Jones, Dan Michael
Jones, Frank Stanley
Jones, Lynwood Alexander, III
Kapral, Jane Louise
Kaye, Howard Norman
Leidich, Raymond Bruce
McIver, Ronald Allen
Mills, Leland David
Pon, Eugene
Pruski, Judith Diane
Rice, Loretta June
Sucsy, Robert James
Surber, William Edmund
Thorpe, Joseph Edward
Trump, David Haskell

IN THE NAVY

The following-named Naval Reserve officers for permanent appointment in the Line or staff corps of the U.S. Navy in the permanent grade of ensign, subject to qualifications therefor as provided by law:

Arnold, Herb I.
Bonde, William J.
Gallagher, Kevin J.
Loucks, Gregory E.
Massari, Stephen
Murphy, Peter D.
Olson, Jesse J.
Weisenburg, Warren L.
Whitley, Steven T.
Yates, Philip A.

The following-named Navy enlisted candidates to be appointed permanent chief warrant officer, W-2, in the U.S. Navy, subject to qualifications therefor as provided by law:

Gower, Charles G.
Karabinos, George R., Jr.
Languell, Dennis L.
Sullivan, Joseph E.

Paul L. Flicker, medical college graduate, to be appointed a permanent captain in the Medical Corps in the Reserve of the U.S. Navy, subject to qualifications therefor as provided by law.

Commander Randolph M. Stevens, U.S. Navy officer, to be appointed a permanent commander in the Dental Corps in the Reserve of the U.S. Navy, subject to qualification therefor as provided by law.

IN THE NAVY

The following-named Naval Reserve Officers Training Corps candidates to be appointed permanent ensign in the line or staff corps of the U.S. Navy, subject to qualification therefor as provided by law:

Aaron, Cornelius K.
Abbott, Robert S.
Abel, Thomas C.
Achenbach, Mark R.
Acosta, Ronald
Adams, David G.
Adams, Kevin P.
Adams, Thomas J.
Adams, Tracy A.
Adler, David B.
Agan, Christopher E.
Albright, Cynthia A.
Aldridge, Aaron E.
Allen, Ronnie J.
Allison, Phillip R.
Allman, Patrick H.
Almeter, Mitchell N.
Alpaugh, Michael
Alvarez, William J.
Amend, Robert J.
Anderson, Kenneth B.
Anderson, Kirk J.
Anderson, Robert S.
Andrews, Annie B.
Angel, Kenneth T.
Ansley, Keith G.
Apel, Kevin S.
Arbter, John S.
Arnold, Douglas R.
Arnold, Timothy W.
Arrowood, James B.
Arture, Michael L.
Attra, Broderick C.
Aue, Steven J.
Augustine, Paul K.
Auten, Kenneth W.
Ayers, James
Babchyck, Bruce C.
Babineaux, Herbert J., Jr.
Bachman, Raymond E., Jr.
Baffa, Richard C.
Bailey, Lindley A.
Baker, Emily L.
Baker, Frank W., Jr.
Baker, James B.
Baker, Jerry N.
Balantic, Frank W.
Balkus, Michael
Ball, Larry T.
Ballinger, Catherine A.
Ballinger, Richard J.
Bancroft, Richard A.
Barclay, Keith L.
Bargers, Michael G.
Barker, Charles D.
Barnes, Brian G.
Barnes, Christopher A.
Barnes, Roy T.
Barrett, Robert B.

Barry, Michael S.
Bartley, John L.
Barto, Ronald E.
Barton, Kenneth P.
Basil, John D., Jr.
Bass, Cullen
Bastien, David W.
Batchelder, Craig D.
Bates, Darryl W.
Bauman, Robert A.
Beall, Thomas R.
Beaton, Brian L.
Beatty, Brian J.
Beatty, Jacquelyn E.
Beck, Thomas T.
Bedford, John E.
Beernink, Kurt P.
Beierl, John S.
Belcher, Michael F.
Belgum, Stephen A.
Belliveau, Scott E.
Bellrichard, Tod A.
Belongia, Larry R.
Benack, William C.
Bender, James B.
Bennett, Arthur C.
Bennett, William J.
Bergeman, Scott D.
Berger, Theodore J.
Bergey, Terrence L.
Bergin, Michael W.
Bergman, Gunard E.
Berkey, Richard D.
Berry, James E.
Bertolaccini, Steven G.
Bertolino, Lawrence G.
Biggs, Kristian P.
Bischoff, Douglas A.
Bishopp, Christopher A.
Bissett, Alan S.
Bjerg, Paul W.
Bjork, Karl A.
Bjorklund, Bruce R.
Blackburn, Robert O.
Blackman, Scott L.
Blair, John P.
Blanchette, Bryan M.
Bliss, William B.
Blue, John I.
Boaz, Bruce W.
Bocovich, Michael
Bodine, Daniel L.
Boehl, Robert F., Jr.
Boehmer, Kathleen
Bogdan, Steven R.
Bohan, Richard P.
Bohnstedt, Kevin D.
Bois, Steven G.
Bonnet, Brian C.
Bonnie, Donald R.
Boorda, Robert N.
Boorujy, William R.
Boothe, Douglas H.
Borden, Steven A.
Boreth, James M.
Bose, Eugene
Bothwell, Brian P.
Boulanger, Guy A.
Bourg, Robert C.
Bourque, Michael T.
Bowers, Craig S.
Bowlin, Sean M.
Boyd, John H.
Boyt, Debra L.
Brackett, Donald C.
Bradford, Jeffery T.
Bramhall, Todd J.
Branch, Gary W.
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Braund, Elizabeth C.
Breor, Scott F.
Brett, Clark A.
Brey, David P.
Brice, Tom T.
Briest, George R.
Briggs, Michael B.
Brinsfield, Stephen A.
Brinson, Jack E., Jr.
Broadaway, Ronny T., Jr.
Brock, Judith A.
Brooks, Conrad D.
Brovold, Christopher T.
Brown, Curtis G.
Brown, James E.
Brown, James J.
Brown, Larence H.
Brown, Larry D.
Brown, Mark C.
Brown, Matthew A.
Brown, Roger W.
Brown, Sandra K.
Brown, Thomas L., II
Brown, William D.
Brueckner, Daniel J.
Brugato, Michael A.
Bruning, Terry L.
Brunton, Neil B.
Buchanan, Gary R.
Buck, Bruce A.
Buckley, William A.
Buescher, Brian G.
Buford, Grant E.
Bunce, Jeffrey R.
Bunting, Robert S.
Burgess, Cheryl L.
Burke, Kenneth D.
Burroughs, William H.
Burton, Clyde T.
Burton, Roger L.
Busch, Mona R.
Byrd, Julius H.

Cadaing, Gaius L.
Cagle, Gregory E.
Cain, Wiliam J.
Caldwell, Robert H.
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Cameron, James A.
Cameron, Robert R.
Campbell, Andrew T.
Campisano, Joseph M.
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Cardwell, Robert F.
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Carlson, Christopher P.
Carlson, Ronald R.
Carnes, Jeffrey J.
Carney, Carl J.
Carter, Gordon R.
Cartmill, Kevin J.
Case, Stephen E.
Catlett, Neil A.
Cavano, Michael J.
Cayward, Timothy B.
Centofanti, Vito J.
Cerny, William F.
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Chandler, Michael A.
Chapla, Peter D.
Chase, Mark D.
Chesnutt, Curtis J.
Chin, Calvin A.
Choi, Peter K.
Christensen, Scott J.
Cicoria, Denise M.
Clapp, Mark D.
Clardy, Herman S.
Clark, Arthur L.
Clark, Carol S.
Clark, Denise M.
Clark, Julia D.
Clark, Vincent G.
Clegg, Arezou Y.
Cleveland, Ronald L.
Clock, William J.
Close, David L.
Cluever, Steven D.
Clyde, Robert D.
Cmaylo, Julie L.
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Coker, Thomas R.
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Coons, John D.
Coontz, Steven R.
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Cross, Larry D.
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Davis, Dale R.
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Diestler, Daniel D.
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Dorman, Thomas W.
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Foote, Lawrence J.
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Foster, Bradely C.
Fox, Michael A.
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Justesen, Larry R.
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Kelly, Cari G.
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Kelly, Linus J.
Kelly, Matthew D.
Kelly, Robert P.
Kelly, Terrence R.
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Kesgir, Lakis
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Keyes, Bradley B.
Kiel, David H.
Kies, Francis A.
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Kindt, John C.
King, Andrew A.
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Kinneer, Laureen B.
Kirtley, Mark A.
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Klaus, Nicholas B.
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Knaff, John J. III
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Koenig, Thomas C.
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Kohnle, Albert H.
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Koopman, Philip J.
Krambeck, Scott D.
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Kroll, John A.
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Laingen, Charles W.
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Lape, John D.
Larose, Joseph A.
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Lauer, Michael S.
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Lawrence, Jefferson L.
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Lewis, Gerard M.
Lewis, Kenneth A.
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Linnell, Paul F.
Litherland, John J.
Little, John D.
Livingston, Samuel N.
Locke, Randall W.
Loman, Richard F., Jr.
Londow, Kenneth
Looby, Matthew G.
Looney, Robert B.
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Loughridge, Michael F.
Lovell, Adrian D., Jr.
Lovely, Ronald A.
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Lowe, Russell K.
Lower, Bryan J.
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Lu, Sheldon D.
Luhrsen, Donald J., Jr.
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Lyons, Thomas S.

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Macneil, Neil J.
Madsen, Elizabeth R.
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Magill, Karen E.
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Malekmadani, Joseph
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Mann, Alan A.
Mann, Harry P.
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Manning, Mary E.
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Marcotte, Ivan A.
Marett, Michael J.
Markham, Ernest B.
Marshall, Robert W.
Marston, Robert P.
Martens, Ralph
Martin, Bradley S.
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Martino, Peter
Martonosi, Anthony N.
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Mase, David W.
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Massard, Gareth E.
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Matteucci, Jace
May, Christopher T.
Maybury, David A.
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McBride, Paul M.
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McClintock, Andrew D.
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McCubrey, Everett J., III
McCurley, John M.
McDaniels, James R.
McDonald, Malcolm S.
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McDonough, Barry R.
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McGown, Michael E.
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McHugh, Michael J.
McKay, William S.
McKellar, James W.
McKelvy, John B.
McLaughlin, William P.
McLenagan, James R.
McMaken, Glenn J.
McMillan, William L.
McMillen, Andrew C.
McMonagle, Richard C.
McRae, Jack A.
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Meek, James S., Jr.
Mele, Martin K.
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Merritt, William S.
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Meyer, Lavern
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Miller, Daniel J.
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Miller, Robert J.
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Mitter, Mark J.
Mock, Michael
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Morrissey, Desmond
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Mosteller, Robert J.
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Muzzey, Robert C.
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Nauck, Kurt R.
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Nededog, Jose G.
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Olsen, Clifford I.
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Overbey, Stephen G.
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Schultz, Paul O.
Schultz, Scott D.
Schwaner, Keith M.
Scorse, William H.
Scott, Tommy
Scribner, Frank F.
Seal, Constance J.
Seal, Edward B.
Sears, Ian S.
Sedor, John W.
Seligman, Robert D.
Semon, Charles F.
Semple, George J.
Sen, Jeffrey C.
Senke, William J.
Sergeant, Peter T.
Severin, Frederick M.
Sexton, Michael S.
Shaffer, Brent C.
Shaluly, Joseph R.
Shanahan, Teresa L.
Shanley, Leo B.
Shannon, Daniel J.
Shappell, Joseph R.
Sharbel, Joseph A.
Shaw, James D.
Shaw, Robert W.
Shea, Stephen R.
Shenk, Leland C.
Sherrod, Barry H.
Shervin, Andrew A.
Shields, James L.
Shirley, Charles E., Jr.
Shobbrook, Timothy J.
Sholtis, Charles A.
Shumway, David J.
Sillman, Bradley J.
Sills, David W.
Simerlein, Steven J.
Simonson, Steven E.
Sims, Mark S.
Sioda, Paul A.
Slaughter, John M.
Sloan, Steven E.
Smith, Craig W.
Smith, Douglas W.
Smith, Gerald L.
Smith, Jeffrey C.
Smith, Kelly L.
Smith, Loal L.
Smith, Matthew B.
Smith, Royce L.
Smith, Samuel A.
Smith, Steven M.
Smith, Thomas W.
Smith, Timothy G.
Smith, Wayne C.
Snider, Stephen D.
Sniffen, Jefferey A.
Snook, Jeffrey G.
Snyder, Jon D.
Snyder, Richard P.
Soltis, John T.
Sonner, Robert A.
Sopchick, Michael K.
Soriano, James C.
Souter, Charles R.
Sowby, Susan E.
Spangler, Steven R.
Spann, James H., Jr.
Sparks, Richard A.
Speights, Jeffrey S.
Sperbeck, James D.
Spivey, Russell P.
Splaine, Michael J.
Stader, James F.
Stahura, Douglas A.
Stanbery, Charles E., Jr.
Stanford, Gerard K.
Stanford, Michael L.
Staniland, Richard C.
Stanko, Mark T.
Stanley, Phillip F.
Staples, Bryan P.
Stark, Lois E.
Starr, Thomas E.
Stauffer, Michael J.
Steckler, Frederick W.
Steffen, Ronald G.
Steffens, William H.
Steinberger, John L.
Steiner, Edward L.
Steiner, Frederick W.
Stephens, Vicki S.
Stickney, Bingham P.
Stickney, Robert W.
Stitz, Elizabeth H.
Stockman, Brien D.
Stolarski, Christopher P.
Stone, John
Stoner Steven K.
Stotts, Timothy P.
Strabala, Jeffrey W.
Stange, Robert C., III
Stuart, Ebenezer B.
Studds, Gregory A.
Studt, John R.
Suddreth, Steven L.
Sudy, Brian J.
Sullivan, Andrew J.
Sullivan, Jeffrey P.
Sullivan, Kevin M.
Sullivan, Sean C.
Summers, John M.
Susbilla, Robert T.
Suski, Michael A.
Suthon, Peter B.
Swanson, Erik R.
Sweeney, Daniel W.
Sweeney, Michael J.
Sweeny, James B.
Swett, William C.
Swicegood, Steven R.
Sylvia, Frederic R.
Szarleta, Norbert E.

Talley, Susan G.
Talley, William A., III
Taplin, Rodney H.
Taylor, Daniel M.
Taylor, Dora J.
Taylor, Kevin D.
Taylor, Stanford J.
Tedmon, Richard S.
Tefft, Nancy L.
Teicher, Dario E.
Tenbrink, Mark H.
Tertocha, Thomas E.
Tester, Elizabeth K.
Thatcher, Paul S.
Therriault, Robert W.
Tholen, Steven L.
Thomas, Delbert D.
Thompson, Tommy
Thornton, Frederick P.
Thorpe, William L.
Tighe, Gerard P.
Tilton, Tanya T.
Timme, Mark T.
Tinsley, John R.
Todd, John C.
Toensing, Paul E.
Tokach, Victor J.
Tonn, David M.
Tonnesen, Kenneth K.
Torp, Raymond J.
Townsend, Charles D.
Townsend, Phillip J.
Tracy, Terrance M.
Traver, Lance E.
Trotnic, Gary L., Jr.
Tulenko, Edward
Turlip, James D.
Turner, John F.
Turner, Nathan S.
Tutt, Valerie L.
Twite, Eric H.
Twyman, David F.
Tyau, Wesley Y.
Ungashick, James T.
Urband, Marlon F.
Urquhart, Lionel B.

Vaca, Rebecca A.
Vale, Richard A.
Van Wagner, Christine
Vanbloem, Patricia M.
Vansloten, Kevin S.
Vanstavoren, Karl F.
Vanvugt, Michael D.
Varnadore, James L.
Vela, John J., Jr.
Venden, Cary D.
Veto, Timothy A.
Via, David C.
Vince, Robert J.
Vincent, Steven F.
Virga, David L.
Visscher, Kevin L.
Vojvoda, Richard A., Jr.
Void, Jeffrey D.
Voter, Richard S.

Waagbo, David J.
Wakefield, Mark E.
Wakeman, Mark E.
Waldhauser, Michael G.
Walker, John D.
Walker, John W.
Walters, Alfred G.
Walters, Sharman J.
Walton, Scott F.
Walton, William D.
Ward, Robert E.
Ware, Jeffree
Warhola, Paul J.
Waring, Gary K.
Warnock, Kevin J.
Warren, Douglas J.
Warren, Joseph G.
Warren, Robert M.
Warriner, David T.
Washington, Barbara D.
Wasielewski, Philip G.
Waterfield, Timothy M.
Waters, Christopher M.
Watkins, Randolph R.
Watkins, Richard M.
Weatherly, Walter B.
Webb, Charles D.
Weber, Lisa E.
Weir, Clark E.
Weirick, Nils T.
Weisz, Kerry M.
Weitfle, Michael P.
Welch, William M.
Wells, David C.
Wells, Glenn P.
Welty, James N.
Wernert, John C.
Werre, Timothy J.
Westbrook, Mark S.
Westcott, Mark T.
Westermann, Christian P.
Weyrens, Peter M., II
Whalen, Donald C.
Wheeler, William E.
Whiddon, David D.
Whieldon, Thomas W.
Whitaker, Barron D.
Whitaker, Philip B.
White, Bruce A.
White, Cheramye R.
White, Dwayne
White, John
Whitehead, Richard R.
Whitely, John E.
Whitesides, William E.
Whitlock, Adam H.
Whitson, Andrew S.
Whitted, Gregory T.
Whitty, John S.
Wied, Douglas C.
Wierman, Kurt W.
Wighton, Jeanne L.
Wilbur, Richard M.
Wilkins, David L.
Wilkins, David R.
Wilkinson, David H.
Will, Gregory J.
Willeson, Alec M.
Williams, Anthony K.
Williams Edward S.
Williams, Franics T.
Williams, James M.
Williams, James V.
Williams, Jeffrey S.
Williams, Matthew B.
Williams, Rhys M.
Williams, Richard R.
Williams, Robert
Williams, Robert G.
Williams, Robyn L.
Williamson, Peter H.
Wilson, Scott R.
Wilson, Timothy M.
Wimmer, Edward J., Jr.
Winckler, Thomas R.
Wine, Leonard D.
Winfield, Djuannia D.
Wipperman, Dirk E.
Wise, Stephen B.
Wolfe, David C.
Wolfe, Gary I.
Wonder, Frank A.
Wood, Christopher M.
Woodall, Mark E.
Woodard, Charles W.
Woodford, Thomas J.
Woodroof, Kelly E.
Woodruff, Mark J.
Woods, Gregory M.
Woods, William F.
Woodson, James S.
Wooten, Clarence W.
Wortham, Gary K.
Wright, Byron L.
Wyatt, Whitney B.

Yambrovich, Michael A.
Yang, Kuo H.
Yaple, Steven A.
York, Charles T.
Young, Jack W.
Young, Marshall S.
Young, Steven J.
Young, Timothy J.

Zangas, John L.
Zeleznik, Brian A.
Zeller, Thomas A.
Zietkiewicz, John P.
Zimmer, Gary P.
Zimmerman, Mark L.
Zuegel, Jonathan D.
Zupke, Michael H.

EXTENSIONS OF REMARKS

H.R. 5: THE OCEAN AND COASTAL RESOURCES MANAGEMENT AND DEVELOPMENT BLOCK GRANT ACT

HON. WALTER B. JONES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 6, 1983

● Mr. JONES of North Carolina. Mr. Speaker, on the opening day of this Congress, my colleague from New Hampshire, Mr. D'AMOURS and I introduced H.R. 5, a bill to establish the ocean and coastal resources management and development fund. This legislation would establish a framework for basing State ocean and coastal resource management block grants on an extremely modest proportion of Federal revenues from the development of Outer Continental Shelf (OCS) oil and gas resources. It will serve the dual purpose of preserving valuable ocean resources and providing an incentive for coastal States to cooperate with expanded OCS oil and gas development.

The bill we introduced January 3 is identical to H.R. 5543, as passed by the House on September 29, 1982, by a vote of 260-134. Given the press of other business during the post-election session of the 97th Congress, it was not possible for the other body to consider the legislation.

However, three similar bills had been introduced in the Senate and hearings were held before the Senate Committee on Commerce, Science and Transportation. It is expected that the Senate will act expeditiously on this proposal during the 98th Congress. In the Committee on Merchant Marine and Fisheries, we intend to move as quickly as possible in considering the bill and reporting it to the House.

H.R. 5 would establish a fund that is based on only the increase in Federal OCS revenues that result from the acceleration of our offshore program. Specifically, fiscal year 1982 would be the base year on which only 10 percent of the growth in revenues after that year would form the calculation for the fund—but with a ceiling of $300 million.

The administration's estimate for Federal OCS revenues in fiscal year 1983 is some $15 billion. Thus, the $300 million established by the legislation would represent only 2 percent of such revenues—an extraordinarily moderate investment for the protection of our State coastal management and fishery programs and for the expansion of our offshore oil and gas program.

Proceeds from the fund would be applied to further the purposes of the national sea grant college program and to provide block grants to coastal States (including Grant Lakes States and U.S. territories). These grants would permit continuation and enhancement of State programs for coastal management, coastal energy impact, fishery and natural resource programs.

The benefits of offshore oil and gas development are spread nationally while the impacts are disproportionately felt in the adjacent coastal States and localities. The fund established by our bill would provide coastal States with fiscal resources adequate to prepare for and address the impacts that inevitably accompany mineral extraction activities close to their coastal areas. Currently, this capacity for preparedness is being threatened with extinction as a direct result of the administration's proposed termination of important ocean and coastal programs. The Nation's policy of accelerating OCS development is one of which I am strongly supportive. However, this policy should not be accompanied by the elimination of programs that support the wise management of our ocean margins. By failing to recognize the Federal-State partnership required for accelerated OCS development, these inconsistent policies threaten to inhibit the OCS leasing process by promoting conflict and litigation.

H.R. 5 should also be viewed in the context of the question of equity between coastal States and those with large amounts of Federal land within their borders. Under the Mineral Lands Leasing Act of 1920, 50 percent of the Federal mineral leasing receipts are paid directly to the States within which mining occurs and under the national forest receipts program, 25 percent of all proceeds from the sale of timber from national forests is paid to the State within which those Federal lands are located. In many other cases, an additional 40 percent is returned indirectly through a reclamation fund. Equally important, such States have been granted the authority to place a tax upon the severence of mineral resources from Federal lands. State and local governments also receive compensation for property taxes lost as a result of Federal ownership of lands.

On the other hand, coastal States receive no direct share of OCS revenues and are not authorized to tax or generate revenues from Federal leases on the OCS. H.R. 5 would go a long way toward correcting this inequity and would require considerably less, in terms of money and proportion, than that provided from inland mining on public lands and from timber sales in national forests.

Finally, it should be noted that the strong support for this legislation in the 97th Congress was reflected not only in the bill's 56 cosponsors and the strong vote on the floor of the House, but also in the endorsement of at least 20 individual Governors and the support of the New England Governor's Association, the Western Governor's Association, the Southern Governor's Association, the National Governor's Conference, and the National Association of Attorneys General. There is also broad support for this concept from local governments, private associations, and individuals.

Again, I would like to reiterate the strong support of the Committee on Merchant Marine and Fisheries for this legislation and to indicate my intention to bring it to the full House for consideration early in this first session of the 98th Congress. Also, I pledge myself to working closely with the other body and with the administration to seek a reasonable accommodation of all interests concerned and to fashion a final legislative proposal that will receive broad and bipartisan endorsement from the full Congress.●

MORATORIUM NEEDED TO HALT SOCIAL SECURITY WITHDRAWALS

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. BIAGGI. Mr. Speaker, today I am reintroducing legislation designed to halt a growing problem which is draining millions of dollars from the social security trust funds each year—the withdrawal of State, local, and nonprofit organizations from the social security system. My bill would impose a 6-year moratorium on all withdrawals from the system and should be viewed as a stopgap measure to effect stability in our Nation's largest retirement program.

The need for this legislation is clear and has been made even more dramatic this week after the announcement that the city of Los Angeles has pulled

out its 55,000 workers from the system worth $143 million in contributions each year. In all, at the end of 1982, 100 local governments terminated participation representing 76,000 contributors to the system. The situation if further exacerbated by the fact that an added 400 governmental units, 456 hospitals—with 417,000 employees—and 499 nonprofit organizations have notified the agency of their intent to withdraw within the next 2 years—as required by law. It has been estimated by both the Social Security Administration and the Congressional Budget Office that these terminations will cost the system at least $500 million in the next 2 years. Clearly, at a time when we are seeking ways to bring solvency to the system, stopping this drain on the system should receive high priority.

I also wish to note that stopping this "opting out" provision in current law is an issue which has been discussed by the National Commission on Social Security Reform. It is my contention that this provision must be a part of any reform package presented to the Congress this year as we can hope to save at least a half billion dollars by 1987. This bill eliminates the moratorium on withdrawals in 1990—which will bring us through the short-term crisis that the system faces.

The second component of this legislation would allow those organizations which have voluntarily withdrawn from social security coverage to opt back into the system if they so choose. Under current law, once termination by State, local, and nonprofits occurs, they can no longer return back into the system. Such a provision is patently unfair to employees who have been denied the opportunity to decide if, in fact, they indeed wanted to withdraw from the system. Employers are not required to notify employees that they plan to terminate participation in social security. Current procedure requires the participant to send written notice to the Social Security Administration—and the termination of their contact occurs within 2 years. During this waiting period, no notification of employees is required, nor do they have any formal role in the decision. Withdrawal, once completed, becomes irrevocable. Since 1959, 22 percent of the State and local employees covered by social security have been terminated, with the bulk of the terminations having occurred in the past 3 years. For tax-exempt, nonprofit organizations, the problem is greater, although difficult to measure because these organizations are protected from disclosing such information because their very status as nonprofits exempts them from the requirement of providing information to the Social Security Administration. In fact, when a tax-exempt organization, currently participating in social security decides to terminate coverage, it can virtually do so overnight by closing its books on Friday and reopening as a new, nonprofit entity on Monday. Such a practice allows these entities to circumvent the 2-year waiting period required in the law and renders it virtually impossible to track participants in the system. In 1981, the Social Security Administration estimates that nonprofits paid about $5 billion into the OASI and DI trust funds. To allow this level of participation without insuring the futures of 350,000 employees who are making half of these contributions is clearly unconscionable.

The problem of social security withdrawals is especially pronounced in nonprofit hospitals. According to the Social Security Administration, 3.8 million of the 4.7 million workers in nonprofit facilities are enrolled in social security Of the 2.3 million in nonprofits/hospitals some 1.6 million are participating in the system. Coverage is through an equal employer-employee contribution of 6.74 percent of salary.

Originally omitted from coverage, nonprofit health facilities were provided the option of coverage in the 1950 amendments to the Social Security Act, along with public employees. With the increase in the payroll tax deduction in 1978, more facilities have began to "opt out," driven by rising costs associated with both health care delivery and employee wages and benefits. In fact, one prominent Social Security Administration official estimates that withdrawal notices from nonprofits have increased 500 percent in the last year alone. To date, we know that 456 hospitals have filed withdrawal notices, pending termination, representing nearly 417,000 employees. While these hospitals may see withdrawal as a short-term benefit in reduced payroll taxes, these withdrawals represent a genuine threat to the long-term stability of the entire system. This bill will return stability to the system and to future benefits of those employees who are now merely protected at the fiscal whim of employers.

This bill would also require new, nonprofit entitles formed after January 1, 1984, and granted tax-exempt status to be covered under social security—the option would be removed. Such mandatory coverage would eliminate the ability that these groups now have to disband themselves on paper and to reorganize as new organizations—effecting immediate withdrawal from the system. This provision will close the existing loophole in the law which allows for this growing and dangerous practice.

This bill also addresses the lack of accountability of organizations which seek to terminate their contracts with the Social Security Administration by requiring the Internal Revenue Service to make available any such information to the Secretary of Health and Human Services. While all organizations will be required to stay in the system, this disclosure provision will insure that the Social Security Administration is made aware of all entities which have notified the IRS of their intent to withdraw from the system to date.

Finally, this bill includes a sunset provision of January 1, 1990, and also requires the Secretary of HHS to submit a report to Congress, 1 year prior to that date, of recommendations as to whether this 6-year freeze on withdrawals should, in fact, be permanent. The policy rationale which provided for optional coverage by State, local, and nonprofits was sound when it was enacted in 1950. However, 1982 is not 1950 and the social security challenge before us is unmistakably clear. We must act immediately on this measure to prevent any further unnecessary hemorrhaging of the social security trust fund—a drain which is costing the system one-half billion dollars per year and which threatens to grow larger if this practice continues unchecked. Passage of H.R. 6356 will put an immediate stop to this.

For the benefit of my colleagues, I am inserting into the RECORD an article from the Chicago Tribune which further details this withdrawal problem. I also wish to commend the distinguished chairman of the Social Security Subcommittee, Mr. PICKLE, for his vigorous commitment to the elimination of this problem and I anticipate that we will see this issue raised again when the Committee on Ways and Means begins hearings on this issue on February 1.

The article follows:

[From the Chicago Tribune, Jan. 5, 1983]

LOCAL AGENCIES FLEE SOCIAL SECURITY ROLLS

WASHINGTON.—Defections from the Social Security system are running at an all-time high as hundreds of counties and other government agencies move to rid themselves of the payroll tax burden.

The cash-short system lost an estimated 75,077 government contributors on Jan. 1 as 100 counties, school districts and other public agencies pulled their employees out of the system.

Los Angeles County yanked its 55,000 employees out over the objections of unions in a move that will cost Social Security $143 million in 1983 and reportedly save the county $36 million.

The losses were more than double the previous high set in 1979, when 81 state and local government agencies pulled 34,134 workers out of Social Security, including all of Alaska's 14,500 state employees.

"The system itself is in financial trouble," said Social Security spokesman James Brown. "Any time you lose money, it's not good for the system."

More than 275 government agencies are threatening to pull 104,506 employees out of the system at the end of 1983, and 112 agen-

cies with 63,149 are threatening to withdraw at the end of 1984.

In addition, 177 nonprofit agencies—hospitals, schools, charities and other groups—were scheduled to drop out last year and nearly 900 others—with several hundred thousand employees—are threatening to withdraw over the next two years.

Social Security does not yet know which ones have carried out the threat to withdraw.

Federal workers are not covered by Social Security. Most state and local governments and nonprofit agencies such as colleges and hospitals have opted to join the system, although they aren't required to.

But for most of the 116 million workers who pay 6.7 percent of their earnings to Social Security, there is no way out of the system.

The pace of withdrawals has quickened in the last two years as Social Security's financial picture worsened and as efforts were mounted in Congress to bar the door to any more defections.

The National Commission on Social Security Reform, which says Social Security needs to save $150 billion to $200 billion by 1990, favors mandating coverage for new federal workers and all nonprofit employees.

Most members also seemed to favor extending coverage to all state and local government workers, but the panel is not expected to press for that because of uncertainties over whether such a move would be constitutional.

Brown said that in addition to Los Angeles County, 1982's dropouts included the Gwinnett County, Ga., Board of Education with 3,584 workers; the Dougherty County, Ga., Board of Education with 2,519; Santa Cruz County, Calif., with 1,988; the Tri-City Hospital District in California with 1,333; Adams County, Colo., with 1,018; Riverside, Calif., with 1,047, and the Marion County, Fla., Hospital District with 755.

Among these scheduled to retire from Social Security at the end of this year are San Diego County with 11,977 employees; Fresno County, Calif., with 7,899; the Richmond County, Ga., Board of Education with 4,200; South Broward, Fla., Hospital District with 2,324, and King County, Wash., Public Hospital District No. 1 with 1,200.

By law, the withdrawals by state and local agencies take place at the end of the calendar year, two full years after they notify Social Security that they want out. They can delay a decision for a third year, but once out, they cannot get back in.

Dropouts contend they can give employees comparable benefits at a lower cost. Workers and employers each must pay the 6.7 percent payroll tax on earnings up to $35,700, or up to $2,391 per worker.●

IN OPPOSITION TO SOCIAL SECURITY COVERAGE FOR NEW FEDERAL EMPLOYEES

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. CLAY. Mr. Speaker, I strongly oppose the recommendation of the National Commission on Social Security Reform to extend social security coverage on a mandatory basis to all newly appointed Federal employees. Implementation of this ill-advised recommendation would have two deleterious effects and would be contrary to the public interest.

First, reducing the payments into the strong and viable civil service retirement plan would weaken that otherwise strong and healthy retirement system. It would therefore only be a matter of time before that system was in trouble. Given recent trends, it would follow that employee contributions would be increased and benefits to retirees would be reduced.

Second, adoption of the Commission's recommendation would provide minimal support to the social security system while at the cost of reducing benefits and increasing costs to active and retired Federal and postal employees.

Both active and retired Federal and postal workers have borne much more than their fair share under Reagan's economic game plan. Last year alone the costs for health coverage of the Federal work force were increased while benefits were decreased, their cost-of-living adjustments were adversely affected, and they are now forced to pay the medicare portion of the social security tax.

Now, I understand, the Reagan administration is considering a freeze on Federal pay raises, still additional delays in the cost-of-living adjustments, raising the retirement age, and finally universal social security coverage which would merge the civil service retirement system with the social security system. I oppose each of these proposals.

Extending social security to the Federal work force would force this dedicated corps of workers to give up a better retirement plan of their own simply to bail out the ailing social security system.

In addition, raiding the civil service retirement system to help finance social security is a breach of faith with Federal and postal workers, who already pay more toward retirement than do social security recipients.

I intend to actively work and vote against legislative efforts to merge the two programs and any other ill-advised proposals which adversely affect Federal and postal workers.●

PROCEEDINGS OF THE U.S. DISTRICT COURT OF PUERTO RICO

HON. BALTASAR CORRADA

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. CORRADA. Mr. Speaker, today I introduced a bill which provides that pleadings and proceedings in the U.S. District Court of Puerto Rico be conducted in the Spanish language at the request of the defendant, all parties to a civil litigation or upon the court's own motion. It also disallows a resident's disqualification of service on a Federal petit or grand jury in the District of Puerto Rico when proceedings are conducted in Spanish, solely because such person lacks proficiency in the English language.

The unique situation faced by the Federal District Court in Puerto Rico calls for the changes embodied in the bill. The judges, prosecutors, defense counsel, and the overwhelming majority of court personnel are, primarily, Spanish-speaking, and secondarily, English-speaking. In addition, the Federal District Court of Puerto Rico sits in a jurisdiction where Spanish is the primary language of the overwhelming majority of the population as well as of defendants, litigants, and witnesses; to some, Spanish is still the sole language.

The concept of a language option for the U.S. District Court of Puerto Rico was originally approved by the Senate during the 93d Congress. Subsequently, it was approved by the Senate in the 95th Congress and the same bill I introduced today passed the House in the 96th Congress. Notwithstanding the bipartisan and overwhelming support of this legislation by the people of Puerto Rico and the recognized need of the same by the House and the Senate, efforts to secure its passage by both Chambers during the same Congress have been fruitless. It is unfortunate that the better administration of justice in the U.S. District Court of Puerto Rico has been put on hold by unreasonable delays in the consideration of this bill by Congress. Time is long overdue for the improvements in our justice system called for in the bill.

I urge my colleagues to join me in securing the passage of this legislation which is of utmost importance to the people of Puerto Rico and to the ends of justice.●

THE HARRIMAN INSTITUTE AND SOVIET STUDIES

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. HAMILTON. Mr. Speaker, I would like to enter into the CONGRESSIONAL RECORD the following excerpts from addresses delivered on the occasion of the dedication of the W. Averell Harriman Institute for Advanced Study of the Soviet Union at Columbia University, October 21, 1982.

From the address delivered by Governor Harriman:

We and the Soviet Union are the two greatest countries in the world. We have completely different ideologies. There is

nothing that would induce me to have anything to do with their ideology, and they seem to believe in their own. But there are common interests, and despite our differences, we can do a great deal to help the security of our nation and prevent a confrontation which could be extremely dangerous.

Anyone who has studied the situation knows that whichever side would start a nuclear war would commit suicide, because each side—the United States as well as the Soviet Union—has adequate ability to destroy the other, even after a first strike. In fact, there is no such thing as a first strike knocking the other nation out. The first strike destroys the society but that nation has adequate return force to destroy its enemy.

This is an appalling situation and should be recognized and not forgotten. We should try to find the ways and means by which we can get along better with the Soviet Union. We should find ways and means of learning more about them. Their people want to be our friends even if their leaders are not anxious to do that.

Changes will occur in the Soviet Union. I am not suggesting, however, that we can get them to make changes. Yet I have such faith in the influence of the Soviet people that I believe the changes will come of their own accord. But there will be no change for the better if we do not try to do our best to find the ways and means to work together.

And so this afternoon, I hope we will assume the attitude and responsibility for finding ways in which we can work with the Soviet Union—and there are ways! They are human beings, whatever the problems created by their system. They are people who want to see improvement in the life of their nation. They do not want war any more than we do, and they want a better life for their people.

My wife and I hope—and Pamela has shared my ideas from the very beginning—that the dedication of these papers and the very important work Columbia has undertaken to do will make a difference. The Institute will have Marshall Shulman as its director. He is one of the most capable men in his field, and with his guidance the Institute will be doing excellent work. New scholarship will be stimulated, and the number of graduates who will be available for work in the field will increase.

I have read in the papers that there is a downgrading of interest in Russian affairs. That attitude can be changed, and Columbia will do a great deal to effect that change. I cannot express my delight and gratitude to President Sovern and to Marshall Shulman for what Columbia is doing by accepting my gift, which is a modest part of the whole program that will go on continuously, as long as these institutions survive—which will be in perpetuity.

From the address delivered by the Honorable Cyrus R. Vance:

In recent years we have witnessed a marked decline in the study of other regions of the world and an alarming reduction in the number of individuals with expert knowledge in these areas. It is painfully clear that this condition is damaging to our nation. For we cannot properly shape and execute our foreign policy unless we have the knowledge and skills to understand and accurately analyze the external events which are taking place around us. In particular, we need greater knowledge and expertise in the area of Soviet studies. For the foreseeable future, the Soviet Union will continue to be the major rival of the United States and a potential military threat. As the two great nuclear powers, we hold in our hands the fate of the world. It is critically important that we have the necessary pool of knowledge and talent to help us understand the Soviet Union and fashion effective solutions to the testing issues that face us.

From World War II to the present, we have witnessed extreme swings in public attitudes about the Soviet Union, reflecting the shallow roots of these attitudes. More often than not, debates about our Soviet policy have been based upon slogans and stereotypes, rather than upon knowledge. We cannot afford this ignorance. It is dangerous, in a time of nuclear weapons and turbulence in international politics.

The Soviet Union is a complex and changing society. That it does not share our values or our vision of what the international system should be makes it all the more essential that we bend every effort to deal with the Soviet Union from a base of knowledge and not from ignorance. The Soviet Union has important strengths and weaknesses, and we must take the measure of both accurately, without exaggerating or minimizing either. We need for this task a concentration of effort to train a more adequate number of specialists who will devote themselves to the long and difficult pursuit of objective knowledge and analysis of the Soviet Union in all its aspects—its society, its political system, its economy, its foreign policy, its military capabilities, its history, and its culture.

This is why I see the founding of the W. Averell Harriman Institute as an event of singular importance. I am confident that, under the masterful leadership of Marshall Shulman, it will spark a turnaround in the serious decline of our national capabilities in this field. Bearing the stamp of Averell Harriman and continuing the traditions long established at Columbia University, the Institute will set standards for quality and objectivity that will raise the level of studies of the Soviet Union not only in the United States, but throughout the Western world.

I have mentioned several times the need for objectivity. In a subject as controversial as Soviet studies, it is not easy to shield it from the political winds and passions of the moment, but it is essential to do so. Not only scholarly standards are at stake, but practical policy considerations depend upon it.

If we are to have—as we must—a more rational management of our relations with the Soviet Union, we must keep in mind two things. First, our policy must be based upon realistic and objective knowledge and understanding of the Soviet Union, the Soviet system and Soviet behavior. Second, we must have a clear understanding of our own interests and values, in order to know how best to protect them in managing this competitive relationship.●

BROTHER CAN YOU SPARE A BILLION?

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. McDONALD. Mr. Speaker, the list of nations in the world that are in de facto default of their international debts continues to grow. For the most part, these are Communist and Third World countries. It is a fact that our Department of State encouraged these loans and that our large banks rushed in to make them. No one really seemed to worry about repayment of the debts. Any banker who made local loans such as those that have been made abroad would be arrested.

However, now we have a very delicate financial situation in the world as a result of these ill-advised loans. Colin Welch wrote a very cogent editorial on this subject that appeared in Chief Executive magazine for winter 1982–83 that I feel is well worth my colleagues' time to read. The editorial follows:

BROTHER, CAN YOU SPARE A BILLION?

Did a lot of international bankers recently go mad? At the end of last year, according to figures supplied by the Amex bank of London, developing countries had external debts of over $600 billion. Of these, excluding government-guaranteed export credits, more than half were owed to international banks. This was an increase of about 400 percent in six years. Many of these loans were to countries which would normally be regarded as bad risks: Countries without assets, or those that squander their assets, which are hopelessly corrupt or which pursue economic policies actively hostile to prosperity and growth. It looked like shoveling money down so many drains.

As a result of their apparent imprudence, these bankers are now adrift on a stormy sea of troubles. There are prospects of more widespread defaults, some vast, like Mexico; of repeated recyclings, with repayment postponed from this year to next year, sometime, never; of non-payment even of interest, absurdly low as much of it is. There is even talk of a no-debt-repayment strike by a cartel of hard-pressed ne'er-do-wells—a thought which makes bankers and their shareholders shiver in their Guccis.

Why did the bankers behave so foolishly? Well, thanks to the recession, opportunities for investment nearer home were few. Some observers cynically assert that it is just easier to lend a billion dollars to, say, Zaire than to hunt out a thousand likely-looking entrepreneurs and lend them a million dollars each. It's easier still if the loan is guaranteed not only by Zaire's immeasurable resources (pause for laughter) but by the U.S. or some other Western government. Many economists blame governments harshly for prodding banks into injudicious lending by guarantees and arm twisting. If so, it is not the bankers who went mad but the prodding governments, which gave the impression that they'd always be around to bail out whoever got into difficulties.

Just the same it's impossible to absolve bankers altogether. Their first duty, after all is to shareholders and depositors, not to governments. A senior vice president of Citibank, speaking about Poland, recently said, "Who knows what political system works. All we ask is, 'Can they pay their bills?'" Doesn't this remark reveal a blinkered narrowness of mind which almost invites retribution? Can a country pay its bills? One would think that an intelligent lender would examine, among other things, a country's political system. And if one finds that the system is geared to produce poverty and misery, is it wise to sign the loan check? A

banker who ignores or is baffled by different political systems hardly deserves success.

If no major bank crashes as a result of the recent lending spree, we shall in one sense be very lucky: disaster can spread fast, as it did after the 1931 Credit Anstalt crash. On the other hand, as an economist has ruefully pointed out, if bad banks aren't allowed to fail, there'll be more bad banks. His remark was capped by a wry joke: "First I'll give you the bad news. Chase Manhattan is merging with the Polish National Bank. Now the good news—the Poles are going to run the operation."

When all's said and done, however, it's one thing to lend to countries which don't matter much, to countries which if not friendly, are not effectively hostile or menacing, and where loans, if they don't do any good, don't do much harm either. This may be foolish. But far worse is cheap credit for obvious and important enemies, credit which enables them to more effectively threaten the West, to divert scarce resources from civilian to military uses, to buy as well as beg, borrow, steal and copy Western technology, to oppress their subjects more efficiently and to make the free world more subservient to their will. I refer of course to the Siberia gas pipeline.

Sure, it creates (or preserves) some jobs. So would Keynes's old plan of burying five pound notes in bottles and setting the unemployed to dig them up. The snag in both schemes is that they would destroy jobs elsewhere. The financial basis of the pipeline project is vast cheap loans to Russia. In effect this means that West European governments, or bankers acting on their behalf, borrow at say 15 percent (or forgo interest of that order) in order to lend to Russia at around 8 percent. Ignoring all dangers of default, this makes double nonsense. One nonsense is that someone must bear the financial burden, just as Keynes's five pound notes, if not just printed for the occasion, had to be taken from someone. The risk to other jobs is already plain. The other nonsense is that such improvident conduct can only force up interest rates with danger to more jobs still. Americans may choose to bear this in mind when they are next lectured by Euro-groaners about Washington's high interest rates.

Apart from the effects of its unsound financing, the pipeline will also earn Russia hard currency she desperately needs and render Europe dangerously dependent on Russian energy supplies. As to the proportion of Europe's gas which will eventually come from Siberia, every figure we here is higher. A small proporation, if cut off, might be made good by the European gas grid. But if it is anything like 30 percent, no grid could compensate for that being cut off without disaster. A lot of European factories would be silent, a lot of homes cold.

Would Russia in fact ever turn off the tap, or threaten to? If you doubt it, remember how many times she has used her oil supplies to blackmail her customers into obedience, often successfully.

One Euro-excuse does make some sense: America's huge grain exports to Russia. True, Russia has to pay on the nail for these, in hard currency. The deal is thus not entirely to her advantage. But it is nonetheless perverse to argue that grain or anything else is not of military value to Russia. It enables her to divert resources from civil to military use.

There is much moaning about the damage done to the Western alliance by the present rows. They could in fact do much good, if they ended in hard agreements, binding on all allies, to outlaw all cheap credit to Russia and her satellites; to demand from them, if not payment in full at once, much bigger down payments (often only 15 percent or so at present); to require Russia to underwrite all future satellite debts; to give more teeth to Cocom—the coordinating committee governing exports to Communist countries, and to ban not only technology exports but—yes—grain also.

Otherwise Lenin's prophecy will surely come true, that "when we have to hang the capitalists, they will sell us the rope." Khrushchev further predicted: "We will bury you." Shall we sell them the spade? Well no, perhaps not. Banks will probably give them the rope on credit and the spade too.●

TO HONOR MR. JOHN J. JOHNSTONE

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. LEWIS of California. Mr. Speaker, on February 4, 1983 the San Bernardino Division of the General Telephone Co. will honor a very close personal friend of mine, Mr. John J. Johnstone. John has served as the San Bernardino division manager for General Telephone for the past 23 years. During that time he has been very active in many civic affairs and activities in San Bernardino.

John was born in Oskaloosa, Iowa and moved with his parents to Los Angeles early in his youth. He is a U.S. Navy veteran and is happily married to the former Elizabeth Christian of Los Angeles. They have two daughters, Kim and Laurie, and two grandsons, Robert John (B. J.) and Scotty.

Some of his past activities include being the chairman of the Annual Law Enforcement Recognition Dinner and one of the prime instigators of this event, president of the board of directors, treasurer, and camp committee chairman of the YMCA; and on the board of directors of the Arrowhead Chapter of the Multiple Sclerosis Society.

John has also served on the Inland Empire Council of the Boy Scouts of America, the Air Force Association, the advisory board of the San Bernardino Salvation Army, the San Bernardino Symphony Association, and the Arrowhead United Way Foundation.

He was the past president and is a current member of the San Bernardino Chamber of Commerce and was past president and current member of the San Bernardino Rotary Club. He also serves on the board of directors of Inland Action, Inc., the Board of Trustees for St. Bernardine Hospital Foundation, and is the executive representative for Executive Women, International, and is a past president and member of the Arrowhead Country Club. Golfing is one of John's favorite hobbies and it was at this country club that he shot his only hole-in-one in 1974.

In December 1976, John was named as the Citizen of the Year for San Bernardino by the board of realtors.

Mr. Speaker, I take great pride in commending to my colleagues, John J. Johnstone for his tireless devotion not only to the General Telephone Co., but also to the community of San Bernardino.●

H.R. 80, POSTAL MINORITY CONTRACTING

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. CLAY. Mr. Speaker, recently I introduced a bill, H.R. 80, which requires that at least 10 percent of all contracts granted by the U.S. Postal Service shall be awarded to minority business enterprises. H.R. 80 is intended to insure equal economic opportunity within the Postal Service by the limited use of criteria which will accomplish remedial objectives in an area where voluntary compliance has been inadequate.

H.R. 80 is an outgrowth of several years' investigation by my Subcommittee on Postal Operations and Services. For example, several years ago I found that minority business firms in 12 selected cities received only 3 percent of over $50 million of Postal Service procurement dollars. In six cities—Baltimore, Md., Cleveland, Ohio, Detroit, Mich, New York, N.Y., St. Louis, Mo., and Washington, D.C.—less than 1 percent of Postal Service contractual dollars were directed to minority businesses.

I was saddened by the dismal record of the Postal Service in support of minority business and learned that minority firms were almost entirely excluded from providing supplies, services, and equipment because ongoing programs within the Postal Service are ineffective in making equal economic opportunity a reality with the Postal Service.

While the Postal Service has admittedly made significant strides in improving this record, H.R. 80 would address the remnants of these problems by providing that:

First, at least 10 percent of the expenditures made by the Postal Service shall be for minority business firms.

Second, a case-by-case exemption is provided, subject to at least 30 days advance notice to the authorizing committees in the House and the Senate, including the reasons for the exemption.

Third, the requirements of the bill shall not apply to collective bargaining agreements.

Fourth, minority business enterprise is defined to mean a firm which is owned by at least 50-percent designated minority ownership.●

MAINE CONSTITUENT HEROICALLY SAVES TWO LIVES

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mrs. SNOWE. Mr. Speaker, often acts of bravery go unnoticed in these hectic times, and that is why I would like to take this opportunity to share with my colleagues a courageous and unselfish deed performed by my constituent, Mr. Greg Jalbert, of Eagle Lake, Maine.

Mr. Jalbert risked his own life to save two victims of a near fatal tragedy. An experienced Maine guide, Mr. Jalbert rescued two local area residents whose car had broken through the ice of Eagle Lake. Pulling the passengers from the chilling waters, his quick, level-headed reaction to the situation saved these individuals from drowning.

Greg Jalbert's bravery and his immediate response to the situation is highly commendable. His compassion for the lives of these people is truly heartwarming and I take pride in recognizing this heroic act. Deeds of this magnitude should not go unnoticed, and I, again, praise him for his courageous efforts in saving these two lives.●

MEDICARE PROGRAM IN PUERTO RICO

HON. BALTASAR CORRADA

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. CORRADA. Mr. Speaker, I am introducing legislation today to amend the Social Security Act to place American citizens in Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands and American Samoa on the same basis as the residents of the 50 States for the purpose of payment under the medicaid program.

The medicaid program in Puerto Rico currently serves over 1.3 million medically indigent American citizens at a cost of approximately $200 million. Of this dollar amount the Federal Government contributes only $45 million and the government of Puerto Rico the remaining $155 million.

The actual ceiling under current law is obsolete and constitutes an outrageous inequity for these U.S. citizens living in Puerto Rico. I hope you will be very interested in cosponsoring this legislation as well as all my colleagues.●

LOANS TO BRAZIL AND MEXICO

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. HAMILTON. Mr. Speaker, the U.S. Government has recently made two sizeable loans to Latin American countries, Brazil and Mexico. These loans come against a background of increasing debt problems for countries around the world and the possibility of other sizeable loans to friendly states.

Because of the size of these loans to Brazil and Mexico and the possibility of other such loans to other states, I wrote the State Department about these loans in December 1982. I am submitting two letters for the RECORD, my own letter to the Secretary of State concerning these loans, and the State Department's response.

COMMITTEE ON FOREIGN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Washington, D.C., December 7, 1982.

Hon. GEORGE P. SHULTZ,
Secretary, Department of State,
Washington, D.C.

DEAR MR. SECRETARY: I am writing to you concerning the loan which the President discussed with the Government of Brazil during his recent trip to Latin America.

I would be interested in more information about this loan and possible loans to Mexico. How large are they? What are the terms of these loans? What will be the budget outlays for such expenditures in each fiscal year? What are the foreign policy justifications for the United States undertaking a loan of this sort at this time? Are there any similar loans being discussed with any other countries in Latin America?

I look forward to your responses to these questions.

With best regards,
Sincerely yours,

LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East.

DEPARTMENT OF STATE,
Washington, D.C., December 17, 1982.

Hon. LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East, Committee on Foreign Affairs, House of Representatives.

DEAR MR. HAMILTON: I am responding to your letter to Secretary Shultz of December 7 concerning the loan to Brazil, which the President announced during his December 1-3 visit, and loans to Mexico or other Latin American countries.

The U.S. Government has provided to the Government of Brazil a series of short-term loans totalling $1.23 billion. This is "bridge" financing, in anticipation of Brazil's drawing of funds from the International Monetary Fund. We expect repayment within 90 days. The source of the finance is Treasury's Exchange Stabilization Fund. There are no budgetary costs because the Treasury Department is required by law to charge the borrower interest at a rate corresponding to that which the Treasury would have to pay if it went into the private capital markets to raise a similar amount for a similar period. There is also no risk to the U.S. Government because the loan is fully secured.

The U.S. government also has participated in a Bank for International Settlements loan to the Mexican Government amounting to $1.85 billion. The U.S. portion was $985 million. As with the loan to Brazil, principal and interest will be repaid in a short period. Mexico, too, has approached the IMF for assistance. In addition, the U.S. government advanced payment, at a discount, for Mexican oil deliveries to the Strategic Petroleum Reserve, and provided Mexico with agricultural credit guarantees. These arrangements are mutually beneficial because they provide Mexico with needed financial liquidity and the U.S. with energy supplies and markets for our farm produce.

In both cases, we believe the U.S. national interest was well served by prompt action to assist these friendly nations at a time of severe balance of payments difficulty. Our failure to act could have had an impact not only on the economic health of those countries, but also on the world financial system.

This is not to say that the United States government should be the prime lender of last resort. We believe strongly that all nations have a responsibility to cooperate in meeting the current world liquidity problem. We are working closely with other countries to strengthen the capabilities of existing mechanisms, and to establish new resources.

No similar loans are being discussed with Latin American countries at this time.

Sincerely,

POWELL A. MOORE,
Assistant Secretary for Congressional Relations.●

REPEAL PUBLIC LAW 93-641—DEPOLITICIZE HEALTH CARE

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. McDONALD. Mr. Speaker, today I am reintroducing a bill to repeal titles XV and XVI of the Public Health Service Act, which were created by Public Law 93-641, the National Health Planning and Resources Development Act of 1974.

Public Law 93-641 should be repealed since it promotes and encourages complete nationalization of the health care professions.

First, the law presently provides both the mechanism and the means for total centralized control of health care by the Federal Government. Title XV establishes the mechanism by, first, directing the Secretary of the Department of Health and Human Services to issue guidelines concerning national health planning policy; second, setting "national health priorities"; and third, creating a nationwide network of "health systems agencies," "health service areas," and "State health planning and development agencies."

Title XVI provides the means by authorizing Federal aid for developing "health resources"—essentially building new medical facilities or modernizing old ones—and Federal funding for

the health systems agencies established in title XV. Acceptance of these funds brings a medical facility under Federal control, if indeed it is not already taking orders from HHS through prior acceptance of funds from Federal programs such as medicare and medicaid.

Federal health planning by its very nature will lead to total Federal control of health care. One of the law's alleged purpose is to control the cost of health care, which has been rising at a high rate for the past few years. But it attempts to do this by treating the effect, the rising prices, not the cause, which is, first, Government-caused inflation and second, Government programs that socialize health care. When payments of medical services are collectivized, as under medicare and medicaid, the individual pays the same amount regardless of the cost and frequency of his own treatment. If health care is free on demand, demand soars and prices rise.

The health planners propose to stop this by ordering prices to hold still. They propose "maximum, allowable cost" for drugs and "professional standards review" for the elderly and indigent under medicare and medicaid, to make sure the Government pays for no unnecessary services. Thus, free medicine for the elderly and indigent is leading directly to Government rationing of health care services to these citizens. Eventually the health planners would like to insure that the Government does not pay for costly services which the planning process determines are unneeded, thereby extending Government rationing of health care to everyone.

Such controls, however, will not work unless they are total. Prices will continue to rise so long as the Government continues its inflationary policies and its involvement in health care, leading the planners to lobby for complete nationalization. There are only two ways to deal with the consequences of the insatiable demand induced by Government health care programs. One is to eliminate the Government programs and allow the market to bring supply and demand back into balance. The other is to give the Government total control over supply. The health planners leave no doubt which option they choose.

Second, Federal health planning is politicizing the entire field of health care. Instead of market demand determining and directing the supply of medical facilities and services, these decisions increasingly are being made by Government and quasi-government officials. The decision to build a new hospital is not being determined by the demand for medical services by the people in a given area but by officials of a health systems agency who, in conjunction with officials of HHS appropriate regional planning center, attempt to determine if their health plans are in accord with the national health priorities set by Congress and the national guidelines for health planning issued by the Secretary of HHS. Thus, decisions affecting the health of millions of people must go through layer after layer of health planners before anything can be done. Since the decision is political, not economic, those with political pull will get the new hospital, if anyone does, not necessarily those who need it most. Such a system is designated not to provide health services but to prevent them from being provided.

Third, Public Law 93-641 is unconstitutional, probably on many grounds. At the very least, however, it is a violation of the 10th amendment. In fact, several States have filed suit charging that the law is an illegal intrusion on a State's rights.

If we continue down the road being paved by Federal health planners, the American people will be denied the right to control their own health. Government planners not only will be setting doctor and hospital fees but rationing medical care as well. Whether or not someone should have an operation no longer will be a medical decision arrived at by the individual and his or her doctor but a political decision arrived at by Government health planners. In Great Britain, where health planners have been in control for many years under the National Health Service, patients are waiting in line in some cases for years for a hospital bed to have a needed operation.

This is what Government health planning will lead to in our country if we do not change our course and begin systematically to eliminate Government control of health care.

It is for these reasons that I am introducing legislation to repeal Public Law 93-641, title XV and XVI of the Public Health Service Act. Repeal of this law would be an excellent first step toward depoliticizing the field of medicine.●

A PARLIAMENTARY REFERENCE GUIDE TO THE CONGRESSIONAL BUDGET ACT

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. MICHEL. Mr. Speaker, I have assembled information which I hope will be of assistance to the Members in our deliberations with respect to the various technicalities of the Budget Act. I am placing in the CONGRESSIONAL RECORD today this material which the Members may wish to preserve for ready reference.

I have devoted considerable time and great care in preparing this documentary material and I hope it will prove to be of value to the membership of the House of Representatives.

PARLIAMENTARY REFERENCE GUIDE TO THE CONGRESSIONAL BUDGET PROCESS (TITLE III OF PUBLIC LAW 93-344)

Code	Title	Proper vehicle	Report		Passage		Committee of conference			Congress completes action
			House	Senate	House	Senate	Sent to conference	Conference report agreed to by		
								House [1]	Senate	
1	First Required Concurrent Resolution on the Budget (Sec. 301) (H. Rept. No.—).	H. Con. Res. (or) S. Con. Res.	301(d) [2]	301(d) [2]	10 hr + 4 hr debate.[3] 305(a) [4].	50 hr + 4 hr debate. 305(c) [4].	7-day limit: 305(d).	5 hr debate: 302(a), 305(a)(4), rule XLIX.	10 hr debate: 302(a), 305(c), 305(e).	May 15 deadline: 301(a), 302(a), 303.
1(a)	Permissible Revision of First Required Concurrent Resolution on the Budget (Sec. 304) (H. Rept. No.—).	H. Con. Res. (or) S. Con. Res.	304	304	10 hr debate: 305(a).	50 hr debate: 305(b), 305(c).	7-day limit: 305(d).	5 hr debate: 302(c), 304(a)(4), rule XLIX.	10 hr debate: 302(c), 305(c), 305(e).	302(c), [302(b)].
2	Second Required Concurrent Resolution on the Budget (Sec. 310) (H. Rept. No.—).	H. Con. Res. (or) S. Con. Res.	310(a) [5]	310(a) [5]	10 hr debate: 305(a).	15 hr debate: 305(b), 305(c).	7-day limit: 305(d).	5 hr debate: 302(c), 304(a)(4), rule XLIX.	10 hr debate: 302(c), 305(c), 305(e).	Sept. 15 deadline: 302(c), 310(b), 310(f), 302(b); no adj. until action is completed.
2(a)	Permissible Revision of Second Concurrent Resolution on the Budget (Sec. 304) (H. Rept. No.—).	H. Con. Res. (or) S. Con. Res.	304	304	10 hr debate: 305(a).	50 hr debate: 305(b), 305(c).	7-day limit: 305(d).	5 hr debate: 302(c), 305(a)(4), rule XLIX.	10 hr debate: 302(c), 305(c), 305(e).	302(c), [302(b)].

PARLIAMENTARY REFERENCE GUIDE TO THE CONGRESSIONAL BUDGET PROCESS (TITLE III OF PUBLIC LAW 93-344)—Continued

Code	Title	Proper vehicle	Report		Passage		Committee of conference			Congress completes action
			House	Senate	House	Senate	Sent to conference	Conference report agreed to by		
								House [1]	Senate	
					RECONCILIATION PROCESS					
2(b)	Reconciliation Bill or Resolution as Result of Directions in the Second Required Concurrent Resolution on the Budget [Sec. 310(c)(d)(e)(f)].	H. Con. Res. (or) S. Con. Res.	310(c)	310(c)	20 hr debate: 310(e), [305(b)].			10 hr debate: 310(a), [305(c)].		Sept. 25 deadline: 310(d). 310(f); no adj. until action is completed.

[1] Rule XLIX of the House of Representatives provides that the vote by which the conference report on the concurrent resolution on the budget was agreed to in the House (or by which the concurrent resolution itself was adopted in the House, if there is not conference report) shall be deemed to have been a vote by the House in favor of a joint resolution establishing the amount of the statutory limit on the public debt at the appropriate level set forth in the concurrent resolution on the budget. This rule was added in the 96th Congress by Public Law 96-78 (approved September 29, 1979, 93 Stat. 589).

[2] April 15 deadline.

[3] Report available for 10 days.

[4] The Full Employment and Balanced Growth Act of 1978 (Public Law 95-523, section 303(b) amended this subsection by adding subparagraphs 305(a) (3) and (4), and making conforming changes, relating to debate and amendments on economic goals and policies during consideration of the first concurrent resolution on the budget in the House (a similar addition was made in secton 305(b) (3) and (4) relating to Senate procedure).

[5] May be filed anytime.

Note.—How to use this chart: This chart shows the different stages of the budget process in Congress and at each point the related sections of title III of the Congressional Budget Act of 1974.

The budget process consists principally of the passage of 2 required concurrent resolutions: The first (code 1) which is considered the "target" resolution to guide the Congress in their deliberations on the funding bills: and the second (code 2) which is the final and binding budget for the oncoming fiscal year. the law allows the Congress to revise either at any time (code 1(a) and 2(a)). The second (code 2) or final resolution may require the Congress change, modify, or enact new laws to be able to stay within the levels set in the second resolution. Any such bill or resolution is entitled a reconciliation bill or resolution (code 2(b)).

To find the desired provision of the 1974 Congressional Budget Act, locate the measure of interest in the column labeled "Title." To find the requirements for particular action on that measure, follow the row across the page to the column labeled by the desired activity. Bracketed citations refer to sections which have partial application.

TITLE III—CONGRESSIONAL BUDGET ACT OF 1974 (PUBLIC LAW 93-344)

SECTION 300—TIMETABLE

SEC. 300. The timetable with respect to the congressional budget process for any fiscal year is as follows:

On or before:	Action to be completed:
November 10	President submits current services budget.
15th day after Congress meets.	President submits his budget.
March 15	Committees and joint committees submit reports to Budget Committees.
April 1	Congressional Budget Office submits report to Budget Committees.
April 15	Budget Committees report first concurrent resolution on the budget to their Houses.
May 15	Committees report bills and resolutions authorizing new budget authority.
May 15	Congress completes action on first concurrent resolution on the budget.
7th day after Labor Day.	Congress completes action on bills and resolutions providing new budget authority and new spending authority.
September 15	Congress completes action on second required concurrent resolution on the budget.
September 25	Congress completes action on reconciliation bill or resolution, or both, implementing second required concurrent resolution.
October 1	Fiscal year begins.●

LaFALCE BILL WOULD LOWER NATURAL GAS PRICES

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. LaFALCE. Mr. Speaker, today I am introducing legislation to lower natural gas prices.

In response to the natural gas shortages of the midseventies, natural gas pipeline companies signed long-term, take-or-pay contracts with producers that require them to pay for contracted amounts of high-priced natural gas, whether they needed it or not. Today, demand for natural gas is down and supplies have increased, but take-or-pay provisions have forced natural gas prices continually upward.

My bill would cancel take-or-pay provisions of natural gas contracts, thus enabling pipeline companies to purchase available, low-cost natural gas.

Natural gas prices have continued their upward spiral despite abundant supplies and shrinking demand. Pipelines have been forced to forego less expensive gas and purchase high-priced gas due to take-or-pay provisions. This unnecessary expense is passed on to natural gas distribution companies and directly to consumers.

Consolidated Gas Supply Corp., which supplies natural gas to western New York's three distribution companies—National Fuel, RG&E, and NYSEG—has recently seen the percentage of low-cost gas in its distribution system shrink from approximately 53 percent to approximately 40 percent. To give you a general idea of what this means to western New York consumers, Consolidated sells its low-cost natural gas for approximately $1.45 per thousand cubic feet. Other categories of natural gas range from $2.50 per thousand cubic feet to over $8 per thousand cubic feet for deep gas, that recovered from depths greater than 15,000 feet. This is occurring despite the fact that low-cost gas is available in the ground and ready for pumping.

The legislation I am introducing today will make natural gas prices responsive to the supply and demand of the marketplace. The bill goes beyond temporary price freezes and will actually lower natural gas prices paid by consumers by forcing more low-cost gas into the interstate pipeline system.

My bill achieves this goal by freeing pipeline companies and consumers from the contractual bind that ties them to high-priced natural gas. In some instances, take-or-pay levels in producer-pipeline contracts reach as high as 80 to 90 percent. Under these conditions, consumers have only higher prices to look forward to. National Fuel, RG&E, and NYSEG customers face unconscionable increases of over 30 percent this heating season as compared to last year. If we can break the take-or-pay contractual bind, we can remove the stranglehold that natural gas price increases have had on our economy, and the pocketbooks of consumers.

My bill would have a somewhat different effect on the natural gas prices paid by National Fuel, RG&E, and NYSEG customers. RG&E has an exclusive supply contract with the Consolidated Gas Supply Corp. NYSEG purchases the bulk of its gas from Consolidated, the Tennessee Gas Transmission Co., and Corning Natural Gas. And, National Fuel has purchased gas from six pipeline companies and directly from approximately 160 small producers in the Appalachian region.

The mix of high- and low-cost gas, and the prices paid by customers of the three vary. But one thing is con-

stant: My bill would provide the catalyst for lower natural gas prices throughout all of western New York.

Our major task now, Mr. Speaker, is to prod Congress into taking action on this bill. When I testified before the Fossil and Synthetic Fuels Subcommittee in December, I stressed the need for quick congressional action to hold down natural gas prices. My bill gives the Congress a vehicle to achieve this objective and more. I hope that the subcommittee and the full Congress will act before the end of the 1983 heating season to provide real relief to natural gas consumers.●

H.R. 82, POLITICAL FREEDOM FOR FEDERAL EMPLOYEES

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. CLAY. Mr. Speaker, recently I introduced a bill, H.R. 82, the Federal Employees' Political Activities Act of 1983, modifying the Hatch Act by permitting Federal employees the right to participate voluntarily in political activities so long as those activities do not even appear to compromise the integrity of the merit system or the impartial administration of the functions of our Government.

Previous studies by the Congress had revealed not even the suggestion of any wrongdoing in Federal employes participating in political activity voluntarily and on their own time. The Hatch Act, well intended as it was, was enacted in a period during which the Congress was deeply concerned about the growth in the power and influence wielded by then-President Franklin Roosevelt. Times and conditions have changed since enactment of the Hatch Act in 1939 and my legislation takes notice of these realities.

This bill is similar to H.R. 81, the Postal Employees' Political Activities Act of 1983, which I also introduced recently. I introduced two separate bills because, notwithstanding the different status of Postal and Federal employees, they are ill advisedly treated as one and the same. The introduction of two separate bills recognizes that these two groups are separate and distinct and that their issue of full political participation for each group should not be confused.

H.R. 82 retains the principles of integrity, impartiality, and merit in our Federal personnel system. The principal provisions of the bill are as follows:

Federal employees are encouraged to exercise their right of voluntary political participation.

The prohibitions of existing law employees in foreign intelligence positions, law enforcement, auditing, and contracting positions are retained.

Prohibits the use of official authority, influence or coercion with respect to the right to vote, not to vote, or to otherwise engage in political activity.

Prohibits solicitation of political contributions by superior officials and making or soliciting of political contributions in Government rooms or buildings.

Prohibits political activity while on official duty, in Federal buildings, or in uniform.

Requires that employees who seek elective office do so on their time.

Permits State and local employees to seek elective office if they hold federally funded positions.

Designates the special counsel of the Merit Systems Protection Board (MSPB) as the enforcing authority and the MSPB as the adjudicatory authority.

Subjects violators to removal, suspension, or lesser penalties at the discretion of the Merit System Protection Board.

Requires the Office of Personnel Management (OPM) to report annually to the Congress.

H.R. 82 adds to and strengthens those meritorious features of the Hatch Act by providing employees and the public with greater protection against any resurgence of the spoils system. It updates those parts of the Hatch Act which are no longer applicable by permitting those voluntary, off-duty political activities which do not conclusively interfere with the impartial administration of effective public service.●

SSI BENEFITS PROGRAM FOR PUERTO RICO

HON. BALTASAR CORRADA

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. CORRADA. Mr. Speaker, today I have introduced a bill that will extend to Puerto Rico the supplemental security income benefits program on the same basis as the 50 States, the District of Columbia, and the Northern Mariana Islands.

Since I came to Congress in January 1977 I have been consistently seeking the inclusion of Puerto Rico in the SSI program. I have done so because I believe that a program like SSI, designed to help aged, blind, and disabled American citizens, should apply to the same extent to the American citizens living in Puerto Rico who share these same conditions.

We must change the present law which permits that the blind, aged, and disabled Puerto Ricans be treated differently than our fellow American citizens and lawful resident aliens living in the U.S. mainland.

Mr. Speaker, I would hope that you, as well as all my colleagues, support this bill that only provides equal treatment under this program for the American citizens living in Puerto Rico.●

THE 97TH AND 98TH CONGRESSES

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. HAMILTON. Mr. Speaker, I insert my Washington Report for Wednesday, January 12, 1983, into the CONGRESSIONAL RECORD:

THE 97TH AND 98TH CONGRESSES

The 97th Congress has ended, and the 98th Congress is underway.

The 98th Congress promises to be lively. It will be filled with talk about initiatives to boost employment, curbs on the growth of military spending, and policies to revitalize American industry in order to make it more competitive. One of the highest priorities will be a revision of the social security system. Dealing with the soaring cost of social security frightens every politician in Washington, but it must be dealt with nonetheless. I also expect a renewal of the controversy surrounding the nuclear freeze, though the intensity of the controversy will depend on the public's attitude toward President Reagan's ideas on arms control.

The great question for the 98th Congress will be whether it can address the acute problems of the economy any better than they were addressed in 1982. Even though the 98th Congress will undoubtedly swing toward the center of the political spectrum, there is nothing to suggest that its moderates can translate their ideas into specific proposals any more effectively than did the conservatives of the 97th Congress. If anything, our economic problems are more difficult than they were before simply because, not having made progress in resolving them, we have further eroded what little confidence we might still have had in our ability to handle the economy properly. With deficits getting larger, stagnation continuing, and unemployment at record levels, there is broad disagreement about the basic features our economic policy ought to have.

Nothing is present to make us think that it will be any easier for the Congress to deal with the federal budget this year. Many members of Congress already believe that President Reagan's budget for fiscal year 1984 will be rejected and then redrawn by the Congress, as was the President's budget for fiscal year 1984. High levels of military spending will certainly promote sharp clashes. A majority of the Congress is clearly moving toward a reduction in the rate of growth of military expenditures, but President Reagan, arguing that national security comes before deficits, is bound to press hard for a continued rapid expansion of the defense sector. With the economy still sluggish, I would expect the cries for repeal of the July 1 tax cut to fade.

My guess is that we are facing another bruising congressional session in which economic and budgetary issues will confound the members and overshadow just about everything else.

The recently completed 97th Congress has to be judged a disappointment, chiefly because it simply did not deal effectively with

the nation's economy and other pressing problems. The federal budget so dominated the session that most other legislation got swept aside. Even so, only six of the regular appropriation bills passed, and then only three months after the fiscal year began. Many members of Congress, myself included, will remember the 97th Congress less for what it did than for what it did not do. The Congress did not succeed in revising our failing immigration laws, in reforming our cumbersome regulatory processes, in updating our laws on clean air and clean water, in strengthening rules for the disposal of hazardous waste, in reorganizing our archaic federal criminal code, or, most importantly, in overhauling the social security system. A new and costly program of employment was jettisoned in the final days of the session, largely because of the certainty of a presidential veto. The Congress also failed to terminate the Departments of Energy and Education as the President favored but did not insist, and it did not deal with his program of "new federalism" under which more governmental responsibility would be shifted to the states. Social issues (such as abortion, busing, and school prayer), though much discussed, were not dealt with, either.

The list of major legislation which did not make it through the Congress was long. The so-called "local content" bill, one requiring foreign automobile manufacturers to use a high percentage of American labor and parts in cars they sold in the United States, was defeated. So were several presidential favorites, among them the Caribbean Basin Initiative (liberal trading terms would have been granted to Caribbean and Latin American countries), "dense pack" basing for the MX missile (all the missiles would have been clustered together in a single installation in Wyoming), constitutional amendment requiring a balanced budget (there would have been no deficit spending without two-thirds majorities in both houses of Congress), and legislation to create "enterprise zones" (special tax breaks would have been given to businesses locating in depressed area). Radio Marti, a new station designed to broadcast to Cuba, was shelved as well. There was no reform of the Bankruptcy Act even though the federal bankruptcy court is threatened with paralysis.

The 97th Congress did take affirmative steps. It accelerated the nation's military build-up by pushing defense spending from $205 billion last year to $232 billion this year, a six percent increase over inflation. Also, it slowed the trend toward ever larger domestic social programs—with a few exceptions, such as the extension of unemployment benefits—and it tried (unsuccessfully so far) for economic growth through lower taxes.

Other affirmative steps deserve mention. Major water projects were continued in Arizona, Tennessee, North Dakota, Nebraska, and Utah. The Congress approved a high-level office to oversee enforcement of our drug laws. Also, it slowed the review of social security disability cases, set up a long-term program for the burial of radioactive waste from civilian nuclear plants, and acted both to improve the nation's deteriorating roads and to bolster mass transit with a nickel-per-gallon increase in the federal tax on gasoline. Cuts on the social side of the budget were initially applauded as being long overdue, but the perception has grown that the cuts were made at the expense of the poor while subsidies to the not-so-poor continued unabated.●

AUDIT OF THE FEDERAL RESERVE

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. PAUL. Mr. Speaker, today I am introducing a bill to require the General Accounting Office to conduct a complete and thorough audit of the Federal Reserve System and banks.

This bill provides that "the Comptroller General * * * shall make * * * an audit for each fiscal year of the Federal Reserve Board, the Federal Advisory Council, the Federal Open Market Committee, and all Federal Reserve Banks and their branches, including transactions of the system's open market account conducted through recognized dealers." The bill further provides that the General Accounting Office shall have access to all books and records of the Federal Reserve.

The audit of the Federal Reserve is necessary. In considering a bill to audit the Federal Reserve in 1978, the Senate Committee on Governmental Affairs declared that:

> The three Federal banking regulatory agencies are at the present time the only exceptions to audit by the GAO. Yet they are empowered to carry out functions crucial to our system of government and to our nation's economy. Last year the three agencies incurred operating expenses exceeding $920 million. None of these expenditures were subjected to an audit by the GAO which, as the investigative arm of the Congress, serves to insure the effectiveness of governmental programs as well as appropriate and legal expenditure of funds.

Amazingly, despite this declaration that the Federal Reserve, the FDIC, and the Office of the Comptroller of the Currency "are empowered to carry out functions crucial to our system of government and to our Nation's economy," the Congress went on to enact a law that prevents the GAO from auditing those functions, functions which are "crucial to our system of government and our Nation's economy." I quote from the 1978 act:

> An audit made under paragraph (1)(A) shall not include—
>
> (A) transactions conducted on behalf of or with foreign central banks, foreign governments, and nonprivate international financing organizations;
>
> (B) deliberations, decisions, and actions on monetary policy matters, including discount window operations, reserves of member banks, securities, credit, interest on deposits, and market operations;
>
> (C) transactions made under the direction of the Federal Open Market Committee including transactions of the Federal Reserve System Open Market Account; and
>
> (D) those portions of oral, written, telegraphic, or telephonic discussions and communications among or between Members of the Board of Governors, and officers and employees of the Federal Reserve System which deal with topics listed in subparagraphs (A), (B), and (C) of this paragraph.

As the law now stands, the GAO is forbidden to look into those functions of the Federal Reserve which are "crucial to our system of government and our Nation's economy." The reasons stated by the Senate committee for auditing the Fed are sound ones, but the present law explicitly forbids any investigation of the functions of the Fed which are so important in our economy.

Auditing the expenditures of the Fed is, of course, an important function. It would be nice to know how they spend the billion dollars per year that are not returned to the Treasury. I have seen their marble palace uptown and heard about their caches of cash out in Virginia, and as important as these things are, it is far more important that the Congress and the American people be provided with the results of an investigation of the essential operations of the Fed.

This is especially so since the passage of the Monetary Control Act, which empowered the Fed to purchase the paper obligations of foreign governments and use them as collateral for Federal Reserve notes. This extraordinary provision of the law was not debated in the House or the Senate, nor was testimony taken on it. Yet it is just one example of the sort of power that the Federal Reserve has, and which remains beyond the reach of the investigatory arm of the Congress.

In stating a reason for excluding these "crucial functions" from the Purview of the GAO audit, the Senate Committee on Governmental Affairs wrote:

> . . . the Federal Reserve Board must be able to independently conduct the nation's monetary policy. . . .

The "independence" of the Fed has long been used as a device to shield the Fed from congressional investigation. It is time that we recognized that the independence of the Fed is a legal fiction. One can trace the policies of the Federal Reserve merely by tracing the histories of Presidential elections. I will use the most recent campaign as an example, but one could just as easily select the earlier campaigns of Ford, Nixon, or Johnson for illustrations of the fact that the Fed takes its cues from the White House.

In May of 1980, when the Presidential campaign was beginning in earnest, and it was becoming increasingly clear that Ronald Reagan would be the nominee of the Republican Party, the Federal Reserve Board began a 6-month expansion of the money supply that was almost unprecedented in our history. During the last 6 months of the year, M1B increased $25.8 billion, or 13.4 percent. Actually the increase prior to the election was greater: The

Fed took the money supply up almost $29 billion before scaling back in December, after the Presidential election was over. If one excludes the decrease in December, M1B grew at a 16.4-percent rate in the 5 months prior to the election.

Why? Simply because restraint in the growth of the money supply during a Presidential campaign might lead to the defeat of the incumbent. The Fed knows that it can give the economy a temporary "high" by jacking up the money supply, and it does so, even though the longrun consequences of such an opportunistic policy will be severe.

But it is not only the longrun consequences that will be severe. The ups and downs in interest rates in 1980 followed the ups and downs in the Fed's manipulation of the money supply. Easy money causes high interest rates, and no better illustration of this can be found than the prime rate peaking at 21.5 percent last December, and now falling off as the Fed ceases to expand the growth in the money supply.

Yet it is decisions such as these, decisions which drive interest rates to record levels that are fatal to many businesses, decisions that increase prices at record rates in double-digit inflation, and decisions which will soon affect the unemployment rate by driving it up, that are not permitted to be included in the GAO audit.

I think it is time that the Congress and the American people found out exactly what the Fed is up to. Is there any insider dealing based on the decisions the Fed makes in its secret meetings? What is the relationship between the Fed and foreign governments and international banks? The sooner we find out the better off we will be. The system deserves no more blind faith and support from the American people.●

TO HONOR MR. GORDON M. RIDD

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. LEWIS of California. Mr. Speaker, on January 22, 1983, Mr. Gordon M. Ridd was honored at a retirement dinner for his many years as an outstanding firefighter and distinguished community leader. Today I would like to join with those who honored Chief Ridd and commend him to the U.S. House of Representatives.

Chief Ridd commenced his career in firefighting in August 1949 as a firefighter in Winnipeg with the Canada Fire Department where he worked until November 1955. In May 1961 Chief Ridd was hired at rank of engineer to Monte Vista Fire Protection District—which in 1967 became Montclair Fire Department. His career progressed as he was assigned to the Fire Prevention Bureau of the Monte Vista Fire Protection District in 1965. By March 1972 he was promoted to captain in charge of fire prevention bureau. This led to his eventual promotion to battalion chief in charge of fire prevention bureau. By July 1981 Chief Ridd had been promoted to division chief in charge of fire prevention bureau.

His professional education reflects his devotion and dedication to the profession of firefighting. In 1949 he attended the Fire Academy in Winnipeg, Canada. He continued his education at Chaffey College where he majored in fire science. Chief Ridd furthered his education with courses at the California State Fire Academy at Asilomar and at the California Specialized Training Institute.

In 1962 Chief Ridd received a commendation for heroism from the city of Montclair.

An active member of his community, Chief Ridd has been a member of several organizations. He has participated as a member of the California Fire Chiefs Association, fire prevention, southern section. Gordon has served as president for the San Bernardino County Fire Prevention Officers Association and for the Optimist Club of Montclair. In addition, he has found time to be active in the Fire Marshals Association of America, in the San Bernardino County Fire and Arson Investigators Association and as a member of the California Conference of Arson Investigators.

Chief Ridd will reside in the city of Montclair upon his retirement with his wife, Catherine. There he will continue in partnership in R&T Fire Investigations.

Mr. Speaker, I take great pride in commending to my colleagues, Chief Gordon Ridd, a truly dedicated public servant who has, through his selfless years of hard work, protected his community from countless fire dangers.●

H.R. 81: HATCH ACT REFORM FOR POSTAL EMPLOYEES

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. CLAY. Mr. Speaker, recently I introduced a bill, H.R. 81, the Postal Employees' Political Activities Act of 1983 which reforms the Hatch Act by permitting postal employees to participate voluntarily in political activities so long as those activities do not even appear to compromise the integrity of the Postal Service. At the same time this bill, protects the public against improper political activities and solicitations, coercion, and protects postal employees against involuntary political activities.

The Hatch Act was enacted precipitously in 1939. It was an overreaction to coercion of and kickbacks by Federal employees and public assistance recipients. As presently written, the law is vague, overly broad, and consists of a patchwork of over 3,000 administrative rulings, most of which are not understood by either the public or postal employees.

H.R. 81 differentiates between voluntary and involuntary political activities. It protects the public interest while providing postal empolyees with greater freedom to participate in the political process.

In summary, the bill provides the following:

States that postal employees are encouraged to exercise their right of voluntary political participation.

Prohibits the use of official authority, influence, or coercion with respect to the right to vote, not to vote, or to otherwise engage in political activity.

Prohibits solicitation of political contributions by superior officials and making or soliciting political contributions in Government rooms or buildings.

Prohibits, with certain limited exceptions, political activity while on official duty, in Federal buildings, or in uniform.

Requires that employees who seek elective office do so on their own time, and that employees shall, upon request, be granted accrued annual leave or leave without pay to seek elective office.

Designates the special counsel of the Merit System Protection Board (MSPB) as the enforcing authority and the MSPB as the adjudicatory authority.

Subjects violators of law to removal, suspension, or lesser penalties at the discretion of the MSPB; requires a minimum of 30 days suspension without pay for any employee found guilty of violating the prohibition against use of official authority or influence for political purposes.

Requires the U.S. Postal Service to report annually to the Congress on its implementation of this act.

The Postal Service system is a quasi-autonomous public corporation. Some may have problems with that fact but, be that as it may, postal employees are in a different category from Federal employees. The postal worker's role, as an employee of a semi-independent agency, and the role of a Federal civilian employee, as an employee of the Government, make these two groups separate and distinct. Unfortunately, the issue of full political participation for postal and Federal employees has been confused, notwithstanding their

different status, so that they are treated as one and the same.●

FEDERAL ASSISTANCE TO PUERTO RICO NEEDS EQUAL TREATMENT

HON. BALTASAR CORRADA

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. CORRADA. Mr. Speaker, today I have intoduced legislation to provide that Federal Assistance to Puerto Rico under the programs known as aid to families with dependent children, child welfare, social services, and the special benefits for age 72 for certain uninsured individuals shall be furnished on the same basis, under the same formula, and without specific dollar ceiling as in the case of other States.

Mr. Speaker, this is another example of social welfare programs aimed to help our needy children and their families throughout the Nation where eligible children and families residing in Puerto Rico are treated in a discriminatory manner.

Puerto Rico receives a total amount of $72 million under a cap to the AFDC programs. This amount bears no proportion to the needs of our actual and potential recipients of benefits under this program.

To seek and achieve equal treatment under AFDC programs is nothing but just and fair.

Mr. Speaker, I urge you and all my colleagues to support this bill. By doing so we will be honoring our commitment to promote the well-being of all American citizens throughout the Nation.●

THE REPRESENTATIVE CONGRESS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. HAMILTON. Mr. Speaker, I insert my Washington Report for Wednesday, January 19, 1983 into the CONGRESSIONAL RECORD:

THE REPRESENTATIVE CONGRESS

For the past year, I have been keeping a secret list. It enumerates the complaints that people have made to me against the United States Congress.

The list includes the following entries: Congress is not efficient; Congress is not solving the problems of the nation; Congress is immobilized by delay and obstruction; Congress cannot do anything but pass a budget and increase taxes; Congress is too busy; Congress gets bogged down in details; Congress is too responsive to special interest groups; Congress has the best politicians that money can buy; Congress treats its members too generously, with paid junkets and political perks; Congress is a center of scandal, whether of money, sex, illegal drugs, or alcohol; Congress does not pay enough attention to the average man and woman.

From this distressingly long but still incomplete list (to which you may want to add a complaint of your own), it is clear that knocking Congress is one of America's favorite indoor sports. I would not argue for a moment that there is no truth to these complaints. There is something to each of them, and without doubt Congress needs to improve its performance and its image in every instance. It could—and can—do better.

Nonetheless, I have come to believe that one of the distinctive and permanent features of Congress is its widespread unpopularity. The unpopularity comes about in part, I think, because of the nature of the legislative process. The process is slow, complex, cumbersome, and often unproductive. Congress is also unpopular because the substance of its work is highly controversial. The range of policies and the volume of problems Congress deals with create endless opportunities for dissatisfaction. With respect to most issues, either action or inaction draws fire. I suppose that an institution to which people ascribe the responsibility for resolving all the ills of the nation is bound to fall short of expectations. Disfavor may be its lot in life. It is also true that most members of Congress do not defend the institution; in fact, many seem to enjoy its unpopularity. They campaign against it, and they go to great pains to separate themselves from it. Americans will probably not acclaim an institution which their own representatives disclaim.

If a most vital characteristic of Congress—its representativeness—is kept in mind, then the failings of Congress can be better understood. To my way of thinking, it is the representative nature of Congress that lies at the root of many of the most scathing criticisms. Yet if the people want a truly representative legislature—one which faithfully reflects the variety of America as it confronts the nation's most difficult problems—then the legislature will inevitably be sluggish, untidy, overburdened, and somewhat chaotic. It appears to me that an institution which is both efficient and representative is a contradiction in terms.

Our constitutional forefathers did not expect Congress to be efficient. They wanted it to represent the people and to be responsive to the people. My view of Congress, often expressed and frequently challenged, is that it is more responsive to the people and more representative of the people than most Americans think. A body of 535 men and women elected by 230 million Americans from extremely diverse states and districts is just not going to function like clockwork. Complete integrity will not be its hallmark. It will never live up to exalted standards of performance.

Critics often overlook the fact that Congress is an intensely political organization. No longer are members of Congress insulated from their constituencies as they were in the early days of the nation; on the contrary, today they are within a few hours of their constituents no matter where they live, and in any case they are only a telephone call away. Most of them are quite readily accessible to the folks back home. Moreover, members records are widely publicized, and their statements are quickly analyzed. While it is true that Congress may not respond to all people as well as it should, it does respond to those people (and they are many) who know how to use the political process to their advantage and who understand how to press their views upon members. If Congress does not always discern the public good and if it is not always totally fair to all groups, that may be because not every group has been equally effective in pressing its interests on Congress. In most cases, however, Congress has been responsive and has acted as a representative of the people, at least for those who have made their claims.

There is another way to appreciate the political character of Congress. I would suggest that Congress follows quite closely the clear and dominant moods of the country. In recent years, Congress has shown sensitivity to the moods against big government, against high taxes, and against too little defense by supporting deregulation, tax cuts, and additional defense spending. Today, for example, Congress is not passing much new legislation because it senses that the people really do not want it. Far from being unresponsive, members of Congress are astute politicians, acutely aware of the views of their constituents and well prepared to serve them.

The responsiveness of Congress, of course, can be overstated. Given the number of interests in the country, Congress cannot and does not answer all of them. But overall, members of Congress strive to represent their constituents' interests as they understand those interests; the extent to which those interests are understood depends on how effectively they have been communicated to members of Congress. The most difficult cases arise when interests conflict. In such cases, there is usually ambiguity or delay as the act of legislative balancing runs its course.

In sum, Congress is a political body which mirrors the views of the American people. Its main feature is neither its courage, its skill, nor its efficiency, but its representativeness.●

DR. MARTIN LUTHER KING'S BIRTHDAY A NATIONAL HOLIDAY

HON. PETER W. RODINO, JR.

OF NEW NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. RODINO. Mr. Speaker, I am once again joining as a sponsor of legislation to designate Dr. Martin Luther King's birthday a national holiday. I have been committed to this cause for over a decade because I believe our country should set aside a day to honor the American who laid the foundation for the civil rights movement and who generated the drive for human rights around the world. At the same time, this national holiday would be a time for all Americans to reexamine our commitment to fight bigotry, hatred, oppression, and injustice.

It has been nearly 15 years since Dr. Martin Luther King was assassinated

in Memphis. Yet we still do not have a national holiday to honor this man who aroused the conscience of this Nation to live up to its great humanitarian ideals. We still do not have a day devoted to reflection and recommitment to these ideals.

I believe it takes a rare person or an extraordinary event to justify a national holiday. Martin Luther King, Jr. was much more than a rare person. He was unique in American history—as a man, as a leader, and as an advocate for freedom. The events closely associated with his leadership of the civil rights movement were more than extraordinary. They had, and will continue to have, an extraordinary impact on American society.

The Nation and the world feel the deep loss of the presence, the voice, and the wisdom of Dr. Martin Luther King, Jr.

For, no voice would be more welcome now, when the forces of reaction are trying to push back the clock of civil rights. No voice would be more helpful today, when Federal budget managers are ignoring the issues of unemployment, poverty, hunger in our society, and decay in our cities. No voice is more needed now, when the senseless escalation of the nuclear arms race has moved our Nation and our world closer to the brink of annihilation.

His firm, resolute, confident voice of freedom, of justice, of love, of nonviolent action, and peace is sorely missed now.

A national holiday dedicated to Dr. King's ideals would give us an opportunity to nurture his dream.

I will continue to work for the Dr. King holiday bill, and I urge my colleagues to join me in this effort.

Dr. King sacrificed his life for his dream of a fully just America. Surely we can dedicate 1 day to sustain the life of that dream.●

HOW A BILL BECOMES A LAW

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. MICHEL. Mr. Speaker, those of us in Congress are so close to the legislative process that we sometimes forget that the way in which a bill becomes law is not clearly understood by many of our fellow Americans. I receive inquiries from time to time about this question. I have prepared a brief summary of the process in the hope it may be useful to anyone who is interested in the machinery of government.

HOW A BILL BECOMES LAW

Ours is a government of the people, by the people, for the people. It is not a pure democracy. It is a republic in a democracy. It is a representative democracy.

Our laws are the embodiment of the wishes and wants, the ideas and ideals of the American people as expressed through their representatives in the Congress: 435 in the House of Representatives and 100 in the Senate. Any Member of the House or Senate may introduce a bill embodying a proposed law or revision of existing laws, at any time when his respective House is in session. When introduced, the bill will be entered in the Journal of the House, and the title and sponsors of it printed in the CONGRESSIONAL RECORD of that day.

EACH BILL NUMBERED

Each bill introduced is assigned a number by the clerk of each House and referred to the committee having jurisdiction over the subject matter by the presiding officer, that is, the Speaker of the House or the President of the Senate. Copies of the bill are printed by the Government Printing Office and made publicly available from the congressional document rooms.

Acting through its chairman, the committee decides whether a bill should be taken up by the full committee or referred to a subcommittee for its initial consideration.

THE DELIBERATIVE STAGE

The committee's deliberations are the most important stage of the legislative process. It is here that detailed study of the proposed legislation is made and where people are given the right to present their views in public hearings. When the chairman has set a date for public hearings it is generally announced by publication in the CONGRESSIONAL RECORD.

Copies of the bill under consideration by the committee are customarily sent to the executive departments or agencies concerned with the subject matter for their official views to be presented in writing or by oral testimony before the committee. The number of witnesses, pro and con, heard by the committee is largely dictated by the importance of the proposed legislation and degree of public interest in it.

TESTIMONY HEARD

The transcript of the testimony taken is available for inspection in the individual committee offices. Quite frequently, dependent on the importance of the subject matter, the committee hearings on a bill are printed and copies made available to the public.

After conclusion of the hearings the committee proceeds to meet in executive sessions—sometimes referred to as "markup" sessions—to discuss the bill in detail and to consider such amendments as any member of the committee may wish to offer. Each committee has it own rules of procedure but they generally conform to the rules of the House itself.

THE COMMITTEE VOTE

By a formal vote of the committee, it decides whether to report favorably to the House the bill with or without committee amendments. A committee report must accompany the bill, setting forth the nature of the bill and reasons for the committee's recommended approval. The report sets forth specifically the committee amendments and, in compliance with the rules of each House, indicates all changes the bill would make in existing law. Any committee member, individually or jointly, may file additional supplemental or minority views to accompany the majority committee report. The committee report, accompanying the bill, is viewed by the courts and the administrative agencies as the most important document as to the intent of the Congress in the proposed legislation.

AFTER REPORTING

When a bill is reported by the committee it is placed on the appropriate calendar. The majority leadership decides how and when the bill will be considered on the floor. In general the bill is allowed to remain on the calendar for several days to enable members to become acquainted with its provisions.

In both the House and the Senate innumerable measure of relatively minor importance are disposed of by unanimous consent. In the Senate, where debate is unlimited, major bills are brought up on motion of the majority leader and in the House are called up under a privileged resolution reported from the Rules Committee which fixes the limits of debate and whether amendments may be offered from the floor. The Rules Committee resolution is called a rule for consideration of a bill; a closed rule if no amendments are allowed, as is generally the case in tax bills, and an open rule if amendments can be offered.

REACHING CONSENSUS

While there are distant differences between the House and Senate procedures, in general a bill is debated at length with the proponents and opponents presenting their views to acquaint the membership, as well as the general public, with the issues involved, and all with a view to arriving at the consensus. Amendments are frequently offered to make the measure more in conformity with the judgment of the majority. In the course of consideration of the bill there are various parliamentary motions, in both the House and the Senate, which may be offered to determine the sentiment of the members with respect to the pending legislation. The measure may be postponed to some future date or referred back to the committee which reported it.

With the conclusion of general debate and the reading of the bill for

amendments, the question becomes whether the House or Senate, as the case may be, will pass the bill in its final form. The CONGRESSIONAL RECORD of the day the bill was under consideration will set forth the verbatim debate on the bill and the disposition made of such amendments as were offered.

AFTER PASSAGE

With the passage of a bill by either body it is messaged to the other with the request that they concur. If no action has been taken on the like measure by the body receiving the message the bill is usually referred to the appropriate committee of that body for consideration. Hearings are again held and the bill reported for floor action. On relatively minor or noncontroversial matters the Senate or the House accepts the measure as messaged to it by the other body.

If there are substantial differences between the House and Senate versions of a given bill, the measure is sent to a conference committee which is appointed by the Speaker and the President of the Senate from the ranking committee members of each body having original jurisdiction over the bill. The object of the conference committee is to adjust the differences between the two bodies, and to report back to each its agreement. The report of the conference committee must be in writing and signed by those agreeing thereto and must have the signature of the majority of the conferees of each House.

CONFERENCE REPORT

The report of the conference committee cannot be amended and must be accepted or rejected by each House as it stands. If either House finds itself unable to accept the conference committee report a further conference is usually requested.

When the bill has been agreed to in identical form by both bodies a copy of the bill is enrolled, signed by the Speaker and by the President of the Senate, for presentation to the President. The bill becomes law with the President's signature of approval, or it may become law without his signature if he does not return it, with his objections, to the Congress within 10 days of its presentation to him.

If the President should return the bill, with his objections, to the originating body of the Congress, his veto may be overridden by two-thirds of both the House and Senate respectively voting to have the measure become law the President's objections to the contrary notwithstanding. Both the President's veto message and a record of the vote of the individual Members in the motion to override are required by the Constitution and set forth in the CONGRESSIONAL RECORD.●

FEDERAL FIREFIGHTERS' WORKWEEK

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. CLAY. Mr. Speaker, today I am introducing legislation which would eliminate a glaring inequity in the treatment of Federal firefighters by reducing the regularly scheduled Federal firefighter workweek from 72 to 56 hours. The bill also authorizes the payment of 25 percent premium pay and overtime pay for any hours in excess of the 56-hour workweek.

Federal firefighters currently work a scheduled 72-hour workweek. They are paid salaries comparable to most municipal firefighters who work an average 54 hours weekly. The Fair Labor Standards Act extends special overtime-pay provisions to all fire and police personnel, including Federal firefighters. It mandates payment for all hours in excess of 54 hours per week. But, under a decision of the Comptroller General, Federal firefighters receive only one-half time, not time and one-half, for each of the 18 hours of overtime they are required to work each week.

The rationale for this payment scheme was that since Federal firefighters receive regular pay, which includes 25 percent premium pay, for each of the 72 hours they work, they are only entitled to receive one-half time their regular rate of pay for the 18 overtime hours. What this has meant to the average Federal firefighter—GS-5, step 4—is the payment of approximately $1.85 per hour for 18 hours of overtime. As a result, the Federal service has experienced difficulties in retaining high quality personnel, with many firefighters leaving to work for municipal fire departments.

Recognizing the inequity of the 72-hour workweek, the 95th Congress passed an identical bill, H.R. 3161, with wide bipartisan support in both the House and Senate. However, the President vetoed the bill on the basis of arguments set forth by the Civil Service Commission during the consideration of the bill. Those arguments were rejected by both the House and Senate Civil Service Committees.

The first objection to the bill was that the legislation did not reduce premium pay for Federal firefighters; that premium pay should be reduced when hours are reduced. This argument was based on a faulty interpretation of premium pay provisions.

Under existing law, Federal employees who regularly perform substantial amounts of standby duty beyond a normal tour of duty are entitled to receive additional compensation in lieu of overtime, night differential, Sunday and holiday pay. It is a percentage, not to exceed 25 percent of an employee's base pay. The actual percentage of premium pay which an employee receives is fixed by the Office of Personnel Management on the basis of overtime, nights, Sundays, and holidays worked. The 56-hour workweek would meet each of the criteria for full premium pay, and is therefore justified under current law.

The second major objection to the legislation was that it would impair the ability of the heads of Federal agencies to manage the work force. However, no provision of the vetoed bill would have had this effect. The legislation simply said that—

> The regularly schedule administrative workweek of Federal firefighters shall be an average of 56 hours per week, computed on the basis of a period of 21 consecutive days.

It provided that—

> The duration and frequency of work shifts occurring within such period shall be determined under regulations prescribed by Civil Service Commisssion.

This provision would fully permit agency heads to manage Federal firefighters.

The third and final objection to the House- and Senate-passed bill was that the Department of Defense would be required to hire 4,600 new Federal firefighters at an annual cost of $46.7 million. Defense Department estimates were rejected by both the House and Senate, in light of Congressional Budget Office estimates that only 2,200 new Federal firefighters would be needed if the 72-hour workweek were reduced, at a cost of $24.3 million.

Throughout consideration of the vetoed bill, the reduced Federal firefighter workweek, along with the continuation of 25 percent premium pay, was regularly characterized as some sort of windfall by the bill's opponents. The provisions of H.R. 3161 would have decreased the average Federal firefighter's weekly paycheck by approximately 9 percent. Furthermore, comparisons between Federal firefighter locals and corresponding municipal locals revealed that municipal firefighters earned at least $500 more per year for an average 54-hour workweek, with Federal firefighters working 33 percent more hours per week. Under these circumstances, the depiction of this bill as a windfall for Federal firefighters was and remains unwarranted.

Federal firefighters continue to be treated unfairly by the Federal Government in terms of work hours and compensation. I have therefore introduced this bill, and expect both the House and Senate to lend their support once again, so that this unfair treatment of Federal firefighters may finally be rectified.●

REAGAN CABINET APPOINTMENTS

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mrs. SNOWE. Mr. Speaker, I want to take this opportunity to offer my congratulations to the two newest Secretaries-designate to the Cabinet: Elizabeth Dole and Margaret Heckler. I have worked extensively with both Elizabeth and Peggy, and am certain we can look forward to informed and able leadership as they assume charge of these two extremely important Federal Departments. Further, their appointment brings with it the promise of a strong voice on behalf of women within the Cabinet and the hope for greater involvement of women in important policymaking positions in the administration.

President Reagan is to be commended for appointing these two extremely well-qualified individuals to his Cabinet. Both Elizabeth and Peggy have a wealth of experience and specialized knowledge of the interworkings of the Federal Government. Their work has earned them the respect of women and men across the political spectrum, and will benefit the President, his administration, and the country.

Women have become a strong and vocal political force in electoral politics, although they remain seriously underrepresented in important policymaking roles at all levels of government. This can in part be attributed to the relatively recent entry of large numbers of women into politics who have not yet had sufficient time to work up to positions of higher authority. This is changing: Not as fast as many of us would hope, but it is changing. Record numbers of women ran and were elected in local and State elections last year, as those women already holding elective office continued to move up to positions of greater influence and power.

In filling these two Cabinet vacancies, President Reagan was no doubt presented with a number of highly qualified candidates, both male and female. In nominating Elizabeth Dole and Margaret Heckler, I believe he wisely chose the two people best qualified for the job. It is my hope that their nominations will be warmly received and swiftly approved by the new Senate.●

HELP TO PUERTO RICO'S ECONOMIC DEVELOPMENT

HON. BALTASAR CORRADA

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. CORRADA. Mr. Speaker, today I have introduced legislation to amend the Internal Revenue Code of 1954 and extend the investment tax credit and the accelerated cost recovery system to certain property used in Puerto Rico.

Mr. Speaker, as you are well aware, Puerto Rico's economic development depends on its ability to attract U.S. capital investments. Since 1921 Congress has acknowledged this fact and has allowed special tax treatment for U.S. subsidiary corporations doing business in Puerto Rico. These tax advantages have worked well and are responsible for most of Puerto Rico's economic development. Nevertheless, in recent years Congress has enacted laws like ERTA and TEFRA which extended new tax benefits to domestic corporations doing business in the mainland. While doing so Puerto Rico's historical advantages to attract U.S. capital investments have diminished proportionately.

This bill seeks to extend the investment tax credit and the accelerated cost recovery system to companies doing business in Puerto Rico with a passthrough mechanism that will enable the U.S. parent companies to take advantage of them. This bill will not give new benefits to U.S. companies. It will only extend the existing benefits to companies doing business in Puerto Rico and by providing a passthrough mechanism will maintain the historical balance of incentives between doing business in the mainland and in Puerto Rico.

I urge all my colleagues to support this bill which will be of great help to Puerto Rico's economic development.●

ALBERT EINSTEIN DISTINGUISHED ACHIEVEMENT AWARD

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. PEPPER. Mr. Speaker, I would like to take this opportunity to share with you and the community at large the honor bestowed upon an exemplary Miamian, Lawrence B. Austin, who was the recipient of the Albert Einstein Distinguished Achievement Award. Mr. Austin has carried on the tradition of communal leadership through philanthropic activity, and has found the time and energy to engage in a multitude of humanitarian causes. His speech, which I include here, should serve as an inspiration to all:

ALBERT EINSTEIN COLLEGE OF MEDICINE

Senator Pepper, Governor Askew, Dr. Lamm, Rabbis, and distinguished guests.

A short time ago, while visiting my brother's home, I was glancing at some old books. One that particularly caught my eye was my mother's high school physics text. Now, I don't begin to know why this particular book stood out from the others because my knowledge of the subject is quite limited. Perhaps the reason it attracted my attention was that I'd just read a brief article in Time magazine on the explosion of knowledge in our modern world. The article pointed out that of all the scientists the world has ever known, living and dead—from Galen and Pasteur and Madame Curie to Dr. Salk and Von Braun and Einstein to men and women now working in sophisticated labs seeking cures for cancer and new uses for computers—over 90 percent of all scientists who has ever lived, are now alive. I was going to elementary school when the Russians launched the Sputnik in 1958 and the world of knowledge exploded. The arts took a terrific academic pounding in those days, as everyone suddenly wanted, or they wanted their children, to be engineers and chemists and technicians and lead the race into the 21st Century. All at once there was no time to broaden oneself, to seek new horizons. The name of the game became competition. Values changed, people changed, the world changed.

So, it was in this frame of mind that I looked at my mother's book—a monument to a long-gone past even though it was just a generation ago, just a few short years as the world turns. I looked up a few items to see what changes had been made in just a couple of decades. Of course, basic physical laws, like gravity and the state of matter, were the same then as we understand them now, and such things as astronavigation and orbital physics were not even there. I doubt if they'd have even been written in a science fiction book back then. But I did find a good basis for comparison when I happended on the subject atomic energy.

Atomic energy was known, but the vast potential it held had not been recognized. The book simply said, "It has been suggested that atoms, the smallest nondivisable state of matter, contain a great amount of elemental energy. However, very little research has been done on this subject, and little is known about the nature of such energy." It went on to make a few points about radioactivity as it occurs in nature, and a few other things I don't really understand. I sat back for a moment, and I thought about a few things, a few things I'd like to share with you, this evening.

This book was in use in the high schools of our nation in the 1920's, 1930's and 1940's, during the time when Dr. Albert Einstein, the namesake of this university's College of Medicine, was propounding the theories that would unleash the atom and change the world.

I thought about his mysterious "$E=MC^2$", possibly the best known and least understood scientific equation in the history of the world, and about the fact that it assures us that energy can be turned into matter.

I thought about Hiroshima and Nagasaki and the mushroom clouds that appeared that day forever to hang over mankind, to pervade our souls with a fear never before known on this planet. I thought about elec-

trical power now being generated from atomics and about nuclear submarines, about the implications for advanced medicine and about space travel using atomic drives, in short, I thought about all the miracles wrought from atomic power in the term of my own lifetime.

As I thought of the growth of atomic energy, and of how this energy is created from almost nothing, my mind turned to another such creation. In 1948, just one year before I was born, the nation of Israel became a reality on the face of the earth. For the first time in two thousand years, the Star of David was raised over its native land, and the Jews came home. Dispersed by occupying Romans in the latter part of the first century A.D., the Jews had been homeless nomads since—persecuted, reviled, hated, always strangers in strange lands, the first to be blamed and the last to be remembered.

And as is the case with the power of the atom, something had been created as if from nothing, an entity from elemental energy. From hostility, vilification, and the ashes of the Holocaust, a nation was created—a nation destined to have vast, far-reaching consequences on every facet of life throughout the world and across the spectrum of humanity.

For just as surely as the discovery of the atom led to the discovery and utilization of the unfathomable energy within it, so the rediscovery of the long-dormant spark of Jewish nationalism led irrevocably to the discovery of the incredible, unquenchable energy that lies in the secret heart of Judaism, and in the living heart of every descendant of Abraham, Isaac, and Jacob.

As steel is iron which has been passed through the fire, so Judaism is the steel of humanity which has been hardened by the very fires of hell itself.

This tempering, or hardening, has been the result of 4,000 years of existence in the cradle of humanity—the Middle East, and elsewhere in the hotbeds of the earth. The Jews were "God's Chosen People" from the beginning, but this didn't seem to give us any special advantages. Our history is a history of brilliant victories and tragic defeats. The Jews have lived and died by the book and sword, and discrepancies appear often in our histories. Amazing victories under David, and Joshua. Crushing defeats by the Babylonians. Servitude for generations as the slaves of Egypt. Hard-fought wars in Canaan for the promised land. Thousands of years fighting the Hittites and the Persians and every other neighbor imaginable. Conquest and dispersion by the Roman legions under Caesar, and finally the absolute tragedy of the Holocaust. Victory and defeat—but always with the spirit to rise again, and stand as men upon the face of the earth, always the spirit to be involved, to do, to make things happen, to carry on our traditions and our uniqueness . . . never has so much been done to such a small group of people, yet those people have survived uniquely intact, with thousands of years of history and tradition. Never has a spirit been so abused and still survived.

The Jews are in some ways like the mountains of the earth—unchangeable, unconquerable. Legions march across them, and fade away: The Pharoahs, the Babylonians, the Hittites, the Persians, the Roman Empire, and the Nazis are no more upon the earth. Every nation that has lifted up sword against Israel has perished. And so we go on, because we must, our hopes alive, our dreams unchanged, our spirits strong.

Herzl began the political process of rebirth for his nation and, with the dedication of a few believers, his beginning has brought about the formation of a nation that is critical to world peace. From its turbulent beginning, Israel has emerged as the bastion against communist domination of the rich oil-producing Middle East, as a guardian for freedom, and as a reminder that the rights of man will never be overcome by tyrants.

It is refreshing that one small nation, one small spirit stands firm against the giants of the earth, as David once stood against Goliath, willing to pay in the coin of blood the price for peace, security, and integrity, willing to stand for its beliefs and traditions against the combined might of world opinion. This little nation and these people believe those traditions to be right, and their cause to be just. It is thrilling to know that generations of modern young Israelis stand on the site of ancient tragedy, Masada, and promise themselves, their long-dead ancestors, and their God, "Never Again."

America shares in these deep traditions and heritages. Our nation has been one which has provided shelter and support for Jews and for Israel. America has given us a place to grow and regain our strength, and has held our hands as we struggled to regain our ancestral home. America has found in Israel a lasting friend in a critical area of the world—the only real democracy in the Middle East—in an era when the number of democracies is dwindling sadly.

The rebirth of Israel is a statement to the world that the will of a people can endure, that genocide can be resisted, that there are forces at work in the universe beyond politics and war and science and economics . . . or any other "ology" or "ism" imaginable.

The very existence of Yeshiva University and of the Albert Einstein College of Medicine further attests to the spirit of the Jewish people.

The creation of the college in the 1950's, during a time when economic conditions were generally unfavorable for such a venture, was miracle enough, but the reason for its creation goes beyond even that.

From the beginning of time, we Jews have held medicine in the highest respect. The physician was the most honored of men, described in ancient literature as one who imitates the ways of God, giving health and bringing release from pain. He was considered not just a craftsman, but the wisest of sages.

Many of the greatest of our scholars have been physicians—men such as Ezra and Ben Sira who wrote, "Honor the physician with the honor due him, for the Lord created him * * * and He gave skill to men that He might be glorified in His marvelous works. By them He heals and takes away pain."

Jews in the middle ages were instrumental in the advance of medical science. Moses Maimonides wrote ten major medical papers, a number of which retained their scientific validity well into the modern era. Jewish physicians were honored as teachers and researchers throughout history. The names of Paul Ehrlich, Sigmund Freud, August Wasserman, Bela Schick, Jonas Salk, Albert Sabin, and others compose an awesome honor role.

But despite this age-old reverence for the healing arts, and our traditional sensitivity to the suffering of others, Jews in the late forties and early fifties were facing a major tragedy. We were being overlooked, shunted aside, ignored, blatantly discriminated against in our efforts to enroll in American medical colleges.

A "quota system" shadowed the land. Talented young Jewish college graduates found themselves required to fill out applications casually listing "mother's maiden name," "ethnic origin," and "ancestry," and being passed over for admission in favor of others of different faiths and backgrounds. Jewish medical educators were not invited to faculties. All this was done in the face of a shocking national shortage of doctors and other medical personnel.

It was to solve this problem, in the face of the many difficulties posed by the times, that the College of Medicine was established at Yeshiva University—a testament to the intensity of our people, and the will we have to do what we must, even when that task is impossible. Yeshiva's faith, and recognition of necessity, brought about the creation of what we see at its campus today is a far cry from the unfinished labs and classrooms confronted by the first class of 53 men and 3 women. Today, here in our South Florida region alone, we have over 70 alumni from the Einstein College of Medicine, another 200 graduates of the Yeshiva University, as well as graduates of Wurzweiller who serve as social workers in Federation and in old-age homes and other agencies. Graduates of Cordozo are practicing law, and many Rabbinical graduates are not only serving in the pulpits and classrooms, but many are prominent in business and professions all over Broward and Dade Counties.

We have many people to thank for this success: Dr. Samuel Belkin, for his dogged determination, Dr. Harry Zimmerman for his counsel, and scores and hundreds of others who gave generously not only of their money but their time, because they believed.

I believe it is important to recall the words of Dr. Marcus Kogel, first dean of the fledgling school, as he addressed the first class. These words go far beyond his specific subject, for while they refer to those in training to be doctors, they carry a message to our people as a whole, and indeed to all mankind. These words are the essence of humanity, and I quote briefly.

"Your concern, most of all, will be with people. They will be rich and poor, but mostly poor; they will be healthy and sick, but mostly sick. There will be joy and despair. There will be happiness and woe. You will see death and the beginnings of life. But at all times and under all circumstances, you must maintain an attitude of gentleness and warmth; of love and respect for your fellow man * * * for miracles are performed as often with warmth and understanding as with science."

The atom, Israel, Yeshiva University, the Albert Einstein College of Medicine—all are elemental forces and triumphs of the spirit of mankind. I stand before you a puzzled man, wondering why I am here at the focal point of all this energy and achievement. I stand in the presence of those greater than myself, and with every fiber of my being feel humility and awe, that I have been chosen as one of those to be honored. This tribute is welcome, but frightening. I accept it with gratitude, but I ask for the prayers and best wishes from each of you that I may bear it always as I received it, unmarred by arrogance, unsullied by selfishness.

I conclude with simply "thank you" for the honor you have done me, my wife, my children, my parents, and all my family.●

A SAD COMMENTARY ON THE WALL STREET JOURNAL: THE LETTER THEY WOULD NOT PRINT

HON. ELLIOTT H. LEVITAS
OF GEORGIA
IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. LEVITAS. Mr. Speaker, the Wall Street Journal, normally thought to be an objective reporter of facts, recently demonstrated that its editorial policy can be skewed by faulty facts. A December 31, 1982, editorial, "Gorsuch in the Dock," was so filled with factual inaccuracies, that I wrote a letter to the Wall Street Journal editorial board pointing out the truth, in the hope they would get their facts straight even if their editorial judgment was questionable. Even when the inaccuracies were called to their attention, the editorial board failed to correct the facts.

The Wall Street Journal is entitled to its own editorial judgment, however wrongheaded it may be. But, to distort facts is another thing altogether. Facts will be facts, the Wall Street Journal editorial policy notwithstanding.

I am putting in the CONGRESSIONAL RECORD today the editorial which appeared in the Wall Street Journal, on December 31, 1982, regarding the Gorsuch contempt of Congress matter, together with a letter to the editor which I wrote on January 5, 1983, in response. Unfortunately, this letter was neither printed nor even acknowledged by the Wall Street Journal. Other major, responsible national newspapers, who might have had different views from those of us in Congress, still had the objectivity to publish responses and corrections to their views. I wonder what the Wall Street Journal is covering up, except its own mistakes.

The Wall Street Journal's factually flawed editorial is a sad commentary on itself. The error is compounded by the failure to let other voices be heard or the factual record set straight.

The article and letter follow:

[From the Wall Street Journal, Dec. 31, 1982]

GORSUCH IN THE DOCK

In the waning hours of the lameduck session, the House took its most punitive action, next to impeachment, against an executive branch official by citing Environmental Protection Agency Administrator Anne M. Gorsuch for contempt. While the dispute ostensibly involved congressional access to EPA documents on toxic waste dumps, the real issue is whether this administration is to be allowed by the environmental lobby, entrenched bureaucrats and their friends in congress to put its stamp on environmental policy.

This particular compaign, part of a broad assault on Mrs. Gorsuch that began the day she took office, started with House oversight investigations of the administration of the so-called Superfund Act of 1980. This act also was passed in the haste of a lameduck session. It was preceded by a great deal of exaggerated and cynical drum-beating about the alleged horrors of an old toxic waste dump that had been uncovered at Love Canal in Niagara Falls, N.Y. The superfund provided money to clean up such dumps. When the House called on Mrs. Gorsuch and other administration officials to testify and submit documents on the work of the superfund, they dutifully complied.

This, however, didn't satisfy the House Public Works and Transportation Committee, which leaked word it believed the administration was cutting "sweetheart deals" with polluters. On Nov. 16, the committee subpoenaed Mrs. Gorsuch to turn over "all books, records, correspondence, memorandums, papers, notes and documents" relating to the EPA's investigation of 160 hazardous waste sites. Mrs. Gorsuch then made available to the committee an estimated 787,000 pages of documents, filling 52 filing cabinets, and said that copying and personnel costs would amount to $245,000 to meet a March 1 deadline.

At the direction of President Reagan, however, Mrs. Gorsuch said that at least 74 "enforcement sensitive" documents were being withheld from the committee because their disclosure could jeopardize ongoing investigations or negotiations over cleaning up dump sites. The president invoked executive privilege.

The words "executive privilege" rang in the ears of the House Democraric leadership like a tocsin (or maybe a toxin), a reminder of the days of Watergate. What followed was a classic railroad job by Congress.

The contempt resolution against Mrs. Gorsuch was called up with only two days' notice to the full committee, without giving members sufficient time to study the issue or to explore options. The committee rejected, along party lines, a motion to provide more time for debate. It rejected White House proposals to meet administration officials to discuss the matter. It rejected a proposal to see a sampling of the withheld documents to better understand the administration's position on these "enforcement sensitive" issues. It also rejected a proposal to allow a U.S. District Court to determine the validity of the subpoena.

The committee then cited Mrs. Gorsuch for contempt and didn't provide its report to the full House until the morning of the floor debate. A lopsided, bipartisan majority voted 259 to 105 for the contempt citation; 55 Republicans voted with the majority, while only four Democrats voted against the resolution.

While the threat of a congressional contempt citiation is not at all uncommon, a compromise is usually reached. In fact, the last court conviction for contempt of Congress was in 1916 against a U.S. attorney.

But, in the case of Mrs. Gorsuch, the House showed no willingness for discussion or compromise. Indeed, it really hasn't shown much interest in investigating the administration waste clean-up at all. Who, for instance, plans to read 787,000 pages of text? Rather, the House's intent is to show this administration, as it has shown others before it, that the real power in Washington does not lie with an elected president and his appointees but with the permanent alliances of lobbies, staff professionals and long-term legislators.

Mrs. Gorsuch took the matter philosophically. The congressional blitzkrieg against her, she said, "would not produce the documents. It would not decide the issue of separation of powers. It would only send me to jail for a much-needed rest."

Mrs. Gorsuch, it might be argued, has not played her cards as well as she might have in Washington. That is another way of saying that she has resisted the temptation to submit to the pressures of the permanent established. Hell hath no fury like an entrenched power structure scorned, no matter how deserving it might be of that scorn. The fight between Mrs. Gorsuch and the Congress has nothing to do with a few documents that weren't included in a vast stack no one ever intended to read. It has everything to do with whether an elected government or a permanent government will control power. The issue is important enough that we hope Mrs. Gorsuch is not deterred by this latest affront from continuing to buck the system.

COMMITTEE ON PUBLIC WORKS
AND TRANSPORTATION,
Washington, D.C., January 5, 1983.

Mr. DANIEL HENNINGER,
Editorial Board, Wall Street Journal,
New York, N.Y.

DEAR MR. HENNINGER: It is apparent from your editorial of December 31, 1982, "Gorsuch in the Dock", that your sources of information had to be solely from the Administration's views and not from any responsible news sources and certainly not from Members of Congress who were directly involved, for so far as I am able to determine you made no effort to check your information with the Committee or House leadership.

Your "facts" are so totally flawed as to be unworthy of your editorial column. Let me illustrate this.

Wall Street Journal myth: "(The Committee) rejected proposals to meet with Administration officials to discuss the matter."

Fact: As Chairman of the Subcommittee, I, along with other Members of the Committee, met with and discussed proposals for solution with the Assistant Attorney General on December 8, 1982, and with Fred Fielding, Counsel to the President, on December 16, 1982. Those meetings were in addition to a meeting between myself and other Members of the Committee, with the Deputy Administrator of EPA and other EPA officials on October 1, 1982, where an agreement was, in fact, reached only to be abrogated by EPA a few days later. All proposals to resolve the matter were initiated by the Committee.

Wall Street Journal myth: "(The Committee) rejected a proposal to see a sampling of the withheld documents to better understand the Administration's position . . ."

Fact: No such proposal was made to our Committee.

Wall Street Journal myth: "(The Committee) also rejected a proposal to allow a U.S. District Court to determine the validity of the subpoena."

Fact: The proceedings in prosecution of the contempt citation will take place in a U.S. Distict court where all issues of the validity of the subpoena can be raised and decided. The proposal by the Administration was to introduce new legislation, attempt to pass it through both Houses of Congress, and bring another action in court under those new procedures, if the law was passed. Since that proposal for new, and unnecessary, legislation was made for the first time five days before Congress was to adjourn, it was hardly a serious or good faith proposal.

Wall Street Journal myth: ". . . The House showed no willingness for discussion or compromise."

Fact: The discussions and negotiations to resolve the problem were extensive, including those noted above, and stretched over a four month period. It was only the Congress which took the initiative in seeking a compromise.

Wall Street Journal myth: "(Congress) really hasn't shown much interest in investigating the Administration (sic) waste cleanup at all."

Fact: The Superfund law was passed by Congress in December 1980. Just over a year later Congress began its oversight of the law we passed. Two House Committees have been investigating this problem for almost a year. Our Subcommittee began its investigation in March and has had public hearings as well as staff investigations going on all year.

Wall Street Journal myth: ". . . the Subcommittee subpoenaed Mrs. Gorsuch to turn over 'all books, records, correspondence, memorandums, papers, notes and documents relating to EPA's investigation of 160 hazardous waste sites.' "

Fact: You fail to quote the full wording of the subpoena which went on to limit the scope to only those documents actually dealing with enforcement of the law. The Subcommittee specifically excluded the hundreds of thousands of chemical company shipping papers, or bills of lading, and the hundreds upon hundreds of inches-thick technical papers that are known to comprise 95 percent, or more, of EPA's files on the 160 disposal sites in question.

Mrs. Gorsuch was specifically told we did not need nor want mounds of paper that had no pertinency to our investigation, all of which could be sorted out if access to the files had been permitted. The EPA assertion that the Committee sought 787,000 documents which would cost $245,000 to copy is both untrue and a shabby smoke screen.

EPA's offer to furnish masses of irrelevant pieces of paper, while withholding essential documents that could show how well or badly the law is being enforced, amounts to nothing more or less than a sham. Our effort to obtain rital documents is not a paper sale in which performance is judged on the basis of how much paper is brought. It is a thorough investigation in which just a few documents may contain the pertinent and essential information. Those are the documents EPA is withholding.

Had Mrs. Gorsuch allowed the Subcommittee access to its enforcement files to determine what information was relevant to its inquiry, we estimate that a few hundred, possibly a thousand or so documents, at the very most, would be involved.

These are some of the major misstatements contained in your editorial. If a cub reporter had made that many errors in just one article, he would likely be fired.

Beginning early in 1982, the Investigations and Oversight Subcommittee of the House Committee on Public Works and Transportation had attempted to conduct an inquiry into EPA's enforcement of the so-called Superfund Act of 1980, providing for the clean-up of hazardous waste dump sites. The Act established a $1.6 billion trust fund and a mechanism for recovery of the clean-up costs from the party responsible for creating the site.

EPA was fully cooperative in the early phase of our inquiry, which centered on procedures and mechanisms involved in administration of the clean-up program. But, in mid-September, when we requested specific details of the enforcement effort, involving names, site locations, and dollar amounts of clean-up settlements, the agency stonewalled.

There followed two months of continued effort by the Subcommittee to obtain the Agency's cooperation, all of which proved fruitless. Finally, on November 16, a subponen was issued calling on Mrs. Gorsuch to produce only those documents actually dealing with enforcement of the Superfund law.

When Mrs. Gorsuch finally appeared before the Subcommittee on December 2 to invoke executive privilege she handed us a list of 23 "enforcement sensitive documents" which she said were to be withheld from Congressional scrutiny. The number one document on that list dealt with Love Canal—the very same toxic waste dump referred to by your doublespeak editor as an "alleged horror" that received "a great deal of exaggerated and cynical drum-beating."

To set the record straight on that "alleged horror", which EPA lists on its Superfund priority list, New York State health authorities have found an extremely high rate of miscarriages, birth defects, and liver problems among the families who had the misfortune to live near this dump site. Thousands of residents were evacuated from the area four years ago after toxic fumes and traces of deadly dioxin showed up in their basements and drainage ditches. And, only last July, the Wall Street Journal reported in its news columns that health authorities still disagree as to whether the area is safe for human habitation, as EPA claims. And Love Canal is one of the files that have been closed to us. Why?

Neither Congress nor the American people should be made to sit idly by for years on end for EPA to address this widespread and continuing threat to public health and safety.

Mrs. Gorsuch, as Administrator, has custody of the agency generated documents the Committee needs. That is why she was subpoenaed. Her refusal, based on Presidential direction, is nothing more than a "Nuremberg defense". She is responsible for her own actions. Remember Attorney General Elliot Richardson resigned rather than fire Archibald Cox.

We do not want subpoenas. We do not want contempt citations. We do not want impeachment proceedings. We do not want confrontation. We do want, and will get, the information and documents to do our constitutional job of oversight of this expensive and important public health and environmental program. We, therefore, will press forward with the Congressional remedies to get the job done.

Your editorial contends that the issue in this matter is "whether our elected government or a permanent government will control power." The fact is that the elected Congress is being stonewalled by the unelected bureaucrats at EPA and the Justice Department. It is the elected and accountable branch of government—Congress—that has the responsibility to see whether the laws it passes are being properly implemented.

At issue is the right of the American people to know if a law created to protect their lives is being enforced adequately, and the responsibility of Congress to the American people to insure that enforcement.

With best wishes, I am,

Very truly yours,

ELLIOTT H. LEVITAS,
Chairman, Subcommittee on Investigations and Oversight.●

POSTAL PRIVATE EXPRESS STATUTES

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. CLAY. Mr. Speaker, in recent months, many sincere and well-intentioned persons have questioned the continued viability of the private express statutes which, among other provisions, establishes a monopoly for the U.S. Postal Service in the delivery of first-class letter mail. Opponents of the private express statutes contend that they encourage inefficiency by the Postal Service and that private carriers could deliver first-class letter mail cheaper and more efficiently than the Postal Service. Further, some opponents of the private express statutes erroneously believe that the statutes were enacted for the protection of the Postal Service, rather than for the protection of the American people.

Robert L. Hardesty, Chairman of the Postal Board of Governors, recently presented cogent and persuasive arguments in favor of the retention of the private express statutes in the Washington Post of January 21, 1983. Under the leadership of Chairman Hardesty, the Postal Board of Governors has assumed a more proper and balanced role in providing policy direction for the Postal Service and its managers. I commend his article to my colleagues and other interested persons.

Chairman Hardesty's article follows:

SO YOU WANT TO LET FREE ENTERPRISE TAKE OVER THE MAIL DELIVERY

(By Robert L. Hardesty)

An argument is brewing over proposals to abolish the Private Express Statutes, which give the Postal Service a partial monopoly over the delivery of letter mail. Under these proposals, the responsibility for mail delivery would shift from the federal government and the Postal Service to the invisible hand of the marketplace and private companies. The premise is that men and women driven by the profit motive can deliver all the mail more efficiently, and at a lower cost, than the Postal Service.

This is nonsense. Certainly, a private business can make a profit by delivering some mail at a lower price in certain easily accessible, densely populated areas. But the consequences for nationwide postal delivery would be disastrous. The universal postal system as we know it today would be destroyed.

Scores of private postal operators would spring up in populated areas to offer delivery services for local mail. As smart businessmen, these operators would limit themselves to high-volume, low-cost areas, such as Wall Street and similar downdown business districts. They simply would not bother to delivery mail to high-cost areas, such as rural America, less densely populated suburbs and poor inner-city neighborhoods. They would also not be likely to offer postal

customers conveniences that we have come to rely on, such as window service.

No wonder mail service by some of the private operators woud be less expensive—they would only provide low-budget delivery service in high-profit areas.

The consequences for the Postal Service would be ominous. This "cream-skimming," as it is called, would take a considerable volume of mail away from the Postal Service. The cost of providing service to rural communities, center-city neighborhoods and other high-cost areas would skyrocket due to the loss of urban business volume.

The Postal Service would either have to raise its rates dramatically or, more likely, look to Congress for the lost revenue. The mailers or the taxpayers would be left to bear these costs. If the postal monopoly were eliminated today and the taxpayers subsidized delivery in unprofitable areas, the cost of delivering mail to those areas would add $100 billion to the federal deficit by the mid-1990s.

The consequences for the American consumer would be worse, for we would have a balkanized postal service with many delivery systems. In addition to first and second-class mail, we would have first and second-class communities.

Where would the buck stop under such a balkanized system, and who would accept the ultimate responsibility for the many services the public has come to expect:

For forwarding mail when it has to go to another part of the country?

For protecting the privacy of the mail?

For protecting the public against fraud and false advertising?

For handling the huge volumes of foreign mail?

For ensuring uniformity of service?

To force the American people to depend on the services of private carriers is to ask them to play Russian roulette with their personal correspondence, their bills and their financial transactions.

It would also impose upon them a crazy-quilt system of rates that a genius couldn't keep in his head. The public has trouble enough calculating zoned parcel post rates. Think how difficult it would be to calculate the cost of mailing a letter from New York to Louisville to a rural route outside of Paducah, Ky.—via three different carriers, or two carriers plus the Postal Service.

The continuation of a nationwide system is a clear benefit to the American public and to American business. In putting a first-class stamp on a letter, a mailer in New York City or Biloxi or Honolulu can reach anyone in the 50 states from the mailbox on the nearby street corner. In a world without the Private Express Laws, the Postal Service simply could not offer such service to everyone at a relatively low, uniform price.

The Private Express Statutes exist to protect the American mailing public. They enable the U.S. Postal Service to be the most efficient postal system in the world. Abolition of these laws would be costly to our taxpayers, chaotic to our systems of commerce and communications, and a reversal of a 200-year policy that mail delivery in our democracy is a basic and fundamental service provided to the people by the government of the United States.●

MARTIN O'BRIEN SPEAKS FOR SENIOR CITIZENS

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. SIMON. Mr. Speaker, there are a host of small publications that enrich this country, including some of very limited circulation where the writer simply sounds off on what his or her gripes or opinions may be on a certain day. One I received is edited by Martin O'Brien in Los Angeles, titled simply "Mr. O'Bie." He is 76 years old and in the current issue he comments on what life is like for a senior citizen. His comments are not wrapped in sentimentality. I believe my colleagues will like their candor and we can learn from what he says:

WHAT ONE PERSON REALLY THINKS ABOUT OLD AGE, RETIREMENT, THE GOLDEN YEARS, THE GLORIOUS SUNSET OF LIFE, AND ALL THAT OTHER GUNK

Golden years my arse! Getting old is tough. Aches and pains, mental distress, lack of communication. Now that rings a bell. Lack of understanding by our government, lack of respect from government employees, and others. Treated as second class citizens. Talked about and argued over as if you were a sack of oats. In many other countries, you are valued for your good deeds and good character. Not so here. The more money you have the better you are treated.

My wife and I are the lucky ones. Like a few thousand others, we have communication with our family, understanding and respect for each other. We argue things out, and we lead a wonderful life. How many old people do not have these blessings. Little communication, little if any understanding, and are left alone and ignored.

Left alone and ignored—this is I think the most painful problem of old age. It is a killer. When one gets old, one's brain does not. But it has to be used, and when it is not—senility can set in.

When I was a child (here we go again; yes Virginia, I really was a child), my mother took me out to what was called the Poor Farm to see one of her relatives that my mother had lost track of; it was a big square barn with straight back chairs, no carpets, pictures, and practically no personal belongings. Three and four people were crowded into each room. Men on one floor, women on another. Married couples who had been together for forty, fifty years or more were separated.

I don't remember the food. My mother took her out of there, got her a room with her old friends, had a doctor call on her (in those days doctors still made house calls), and paid her rent and her expenses until she died a few years later. She had a civil war widow's pension of twelve dollars per month. By the way, a doctor's house call was three dollars. 1913.

The Poor Farm has changed its name, it's now a rest home offering varying degrees of comfort, depending on how much money you can spend. However, the surroundings have not changed much. Loneliness, fear, no one to communicate with—these things have not vanished with the past.

We live in a high rise of mostly older people. The income level is fairly good. Yet, at mail time, you should see the happy faces and the sad faces, as some get a letter or two and some get none.

Now let us take a look at the faults of the old people. I will take myself as an example. Crabby, cranky, hard to live with, fussy about food. All those little surface things that mean only that I am mad at myself for getting old.

NATURAL GAS PRICE RISE MUST STOP

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. LaFALCE. Mr. Speaker, western New York speaks with one voice when natural gas prices are concerned: "Enough is enough." Our message is clear and simple: Something must be done to stop and turn around the skyrocketing cost of natural gas. Congress must act now.

In December, the foundation for action was laid when the Subcommittee on Fossil and Synthetic Fuels held hearings on natural gas prices. Members from every section of the country appeared before the subcommittee to amplify the complaints that they have received from their constituents and to offer solutions. I ask that my testimony before the subcommittee be printed in the RECORD so that all Members will hear the cry for help that we in western New York are sending to the Congress.

The statement follows:

STATEMENT OF CONGRESSMAN JOHN J. LaFALCE

Mr. Chairman, two weeks ago, Western New Yorkers, already reeling under skyrocketing natural gas prices, were greeted with a headline that read, "National Fuel Supplier Eyes Price Hike." The Tennessee Gas Pipeline Company which provides approximately 40 percent of the natural gas bought by Western New York's National Fuel Company, has asked the Federal Energy Regulatory Commission (FERC) for permission to "pass-through" a 9 percent natural gas price increase. The price pass-through, which in all likelihood will be approved by FERC, is unwarranted, and represents the bastardization of the Natural Gas Policy Act of 1978.

Congress passed the Natural Gas Policy Act (NGPA) in response to a growing supply crisis in the natural gas marketplace. NGPA immediately deregulated "deep" gas found at below 15,000 feet or gas that was otherwise difficult to obtain; provided for the phased deregulation of "new" gas contracted for after April 1977; and extended federal regulations on "old" gas contracted for before 1977. NGPA was enacted at a time when oil prices were rising and natural gas shortages were occurring in an energy market that was raging out of control as a result of the OPEC oil embargo and subsequent price increases.

Since 1978, however, the natural gas marketplace has changed dramatically. New reserves have been discovered, conservation

increased, and natural gas imports stepped up. Combined with a world wide recession, these factors have contributed to a significant decline in demand for natural gas and to a stabilization and even decline in oil prices. Yet natural gas prices continue to increase. Take-or-pay contracts, indefinite price escalator clauses, and guaranteed price pass-throughs have left consumers at the mercy of natural gas producers and pipeline companies. Local gas distribution companies are literally locked into contracts for higher priced natural gas, while low-cost, regulated natural gas remains untapped by natural gas producers.

This is just the opposite of what Congress intended when it passed the Natural Gas Policy Act in 1978. It kept controls on old gas in order to moderate price increases. However, if producers and pipelines do not sell old, low-cost gas, prices paid by our constitutents will reflect only the price of natural gas that is being decontrolled or, worse yet, not subject to any controls at all.

It is not difficult to understand what motivates natural gas producers. Although congressional opposition forced the Reagan Administration to withhold its proposal to totally deregulate natural gas prices and persuaded FERC to withdraw several regulatory actions that would have categories of natural gas free from controls, producers are still hoping that there will come a day when they can charge several dollars for natural gas that cost pennies to recover.

Why should they sell old, low-cost gas when they can pass through the cost of new, expensive gas with impunity and hold onto reserves of old, low-cost gas hoping that one day it will be old, low-cost, AND high-priced?

The aspirations of natural gas producers received a boost recently when the new Secretary of Energy, Donald Hodel, said that he hopes to accelerate the schedule for the deregulation of natural gas prices. He made it clear that the Administration will be sending a natural gas deregulation proposal to Congress next year, one that guarantees new price increases on top of those already being heaped upon consumers throughout the country.

Mr. Chairman, in March of this year, at the end of the 1981-1982 heating season, FERC approved a round of natural gas price adjustments. The average gas adjustment charge—the cost paid by consumers as a direct result of the actions being taken by producers and pipeline companies—in Western New York stood at $24.28, a fourfold increase from February when the average charge was $6.31. This contrasts markedly with 1981 when the gas adjustment charge increased from $4.02 in February to $4.46 in March, and reflects the ever increasing cost of natural gas supplied to our local gas distribution company.

Projections that natural gas prices will increase an additional 30 percent during the 1982-1983 heating season means that consumers can expect another large increase in the gas adjustment charge in March 1983.

Several pieces of legislation have been introduced to help restore some degree of balance to the natural gas market. I have cosponsored legislation to freeze natural gas wellhead prices at their current level to allow for a period of congressional review and approval of needed changes to the Natural Gas Policy Act.

I have also cosponsored legislation to allow FERC to deny automatic price pass-throughs if a pipeline company does not purchase available, low-cost natural gas. Without this guarantee, pipeline companies would be forced to shop around for cheap gas and put pressure on natural gas producers, who can sometimes be found just down the corporate hallway, to reopen old gas wells.

The Northeast Midwest Congressional Coalition has introduced legislation to require natural gas pipeline companies to adjust the volume and mix of gas within their systems to provide the lowest price gas possible for their distribution companies. Legislation has also been introduced to prohibit the automatic pass-through of purchased gas costs and give FERC the authority to deny pass-throughs where consumer interests are clearly ignored.

Mr. Chairman, the confusion and complexity that describe the natural gas marketplace are reflected in the many legislative "solutions" to continually rising natural gas prices. But one thing is clear; we cannot continue to allow natural gas pipeline and producers to reap record profits by flooding the market with high-priced natural gas when abundant supplies of old, low-cost natural gas are available.

You and this subcommittee can count on my full support as you grapple with this most difficult and urgent problem. Our constituents are demanding, with good reason, that Congress act to control spiraling natural gas prices, while the Administration is laying plans for the total deregulation of natural gas prices.

The choices are clear, and I hope that the 98th Congress will confront this issue forcefully and comprehensively before the next round of natural gas price increases further drains our economy and the pocketbooks of our constituents.

Thank you.●

BROAD CONSENSUS OPPOSES FTC DOCTOR EXEMPTION

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. FLORIO. Mr. Speaker, the 98th Congress will soon be considering reauthorization of the Federal Trade Commission. Last year an FTC reauthorization was not enacted, largely because of the controversy surrounding attempts by some health professions organizations, including the American Medical Association, to obtain an exemption for professions from FTC jurisdiction.

I have consistently opposed the professions exemption, supporting instead, the Dingell-Broyhill compromise approach worked out last year. A recent newspaper column by James J. Kilpatrick cogently points out the harm to the public that would be produced by the professions exemption.

It is noteworthy that a conservative like Mr. Kilpatrick strongly opposes the exemption. While I think that Mr. Kilpatrick is mistaken in his criticism of other FTC initiatives, it is indicative of the broad consensus regarding the need for continued FTC monitoring of the business practices of professions, that even those who disagree on other matters agree on this point.

I insert Mr. Kilpatrick's article in the RECORD for the information of all members.

AMA'S RX FOR DOCTORS: A DOSE OF GREED

(By James J. Kilpatrick)

A nice bit of irony could be found in two stories this month involving the medical profession. Out in Utah we saw a brilliant team of doctors working with an artificial heart, and this was an occasion for admiration. Here in Washington, we saw a shameless team of doctors lobbying for one of the worst bills to be considered by the 97th Congress, and this was an occasion for contempt.

Enough has been written about the Utah story to make the point: Doctors individually do marvelous things. When doctors act collectively, it is another matter entirely.

Up to the very last moments of the lame duck session, the American Medical Association was seeking frantically to escape from the regulatory hand of the Federal Trade Commission. The AMA got its bill through the House, but thanks to handfull of gutsy senators—notably Packwood of Oregon and Rudman of New Hampshire—the AMA lost in the Senate. Defeat of the AMA's bill was about the only Christmas present the lame duck session gave the people.

Conservatives ordinarily look upon the Federal Trade Commission with the same regard they have for hoof and month disease. In times past the FTC has saddled up and ridden off in all directions, proposing or imposing rules having to do with funeral directors, used car salemen, and advertisers of mouthwash and cereals. In a celebrated case, the FTC invented the novel doctrine of a "shared monopoly," a condition to be equated with partial virginity. These regulatory excesses have deserved all the scorn heaped upon them.

But the FTC has been on precisely the right track in its efforts to prevent the medical and dental professions—and other professions also—from engaging in business practices that cannot be condoned. Let me lean on that word "business." Medicine is indeed a noble profession, but it is also a business. Doctors are doctors not only for their love of humanity, but also for their affection for the almighty dollar. As businessmen, they are engaged in the same kind of competition faced by automobile manufacturers and real estate salesmen.

Yet professional societies, raising the pious banner of "ethics," have seen to it that their competition is different. It is thus "unethical" for doctors to advertise their prices, office hours and willingness to make house calls. it is "unethical" for doctors to let elderly patients know if they will accept medicare payments. By contrast, it is quite acceptable for local medical societies to fix prices, to engage in boycotts, and to ostracize maverick doctors who refuse to go along with the local establishment.

The AMA's purpose was to obtain legislation that would exempt the learned professions from prosecution by the FTC for anticompetitive business practices. It never was entirely clear just which "state-licensed professionals" would have benefited from the House bill. As the Heritage Foundation has pointed out, "professionals" include doctors, dentists, lawyers, cosmetologists, land surveyors, portrait photographers, and even beekeepers and salesmen of lightning rods.

In any event, the idea was to prevent the FTC from bringing the doctors-as-businessmen to heel. Toward that end the AMA invested a fortune in campaign contributions. In House and Senate committee hearings, AMA spokesmen argued in favor of self-regulation and state regulation. They contended that state attorneys general and the U.S. Department of Justice could cope effectively with any practices in violation of antitrust laws. They raise the specter that the FTC would not be content to oversee the lawfulness of a doctor's billing practices: The FTC would then seek to peer over a doctor's shoulder in the operating room. Pfui!

Well, let us rejoice. The AMA's bill died in the 97th Congress, but let us not rejoice completely. Be assured that the fight will be resumed next year. These is no reason under moon or sun why professionals should be exempt from FTC prosecution for price-fixing, boycotts and the like. Under those white coats beats many a noble heart, but let us not kid around: Those white coats cover many a greedy blackguard too.●

SOLZHENITSYN ASSESSES THE SOVIET UNION "STATE OF THE NATION"

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. WOLF. Mr. Speaker, I would like to call to the attention of my colleagues an article from the January 16, 1983, Miami Herald which reprinted an article from France's L'Express magazine by Alexander Solzhenitsyn on the state of the Soviet Union today.

SOLZHENITSYN ON RUSSIA'S "MORTAL DISEASE"

[The Soviet Union's new leader, Yuri Andropov, has promised his people a better life, a decentralized economy and a more productive industrial establishment. But can the Soviet system really be reformed or improved? Exiled Soviet author Alexander Solzhenitsyn, a Nobel Prize winner, assesses the Soviet "state of the nation" as inherited by Andropov in this article reprinted from France's L'Express magazine.

(By Alexander Solzhenitsyn)

The example of the U.S.S.R. allows us to watch transformations wrought by communism in a country and a people that fall under its control. The differences among Communist countries are negligible: The essential features of the regimes are identical. Staying in power at any price, even at the cost of an entire people and the neighboring countries, is the Communists' supreme principle. Like a steel axis, this principle links Lenin to Brezhnev (Stalin, in fact, has never been anything but a Lenin whose ideas have been pushed to their extreme).

Right from the start, the Communists unleased a domestic war to wipe out not only their armed rivals but large segments of the civilian population, devastating vast areas, destroying towns and entire provinces. The devastation was their own fault; the Communists took grain from the peasant, including grain for sowing, and the 1921 famine spread to over 30 million people. Up to 5 million peasants died in the Volga River basin alone. In 1933 famine killed an additional 5 million to 6 million people. During the war years, peasants used to eat bread made from grass. In the post-World War II years, people were dying from hunger while the government was selling wheat abroad.

No wonder that right after the initial clashes with Hitler's invaders (in 1941) nearly 3 million Soviet soldiers surrendered. Even when, in the final months of World War II, Germany's collapse was evident, hundreds of thousands of Soviet citizens, chased by the war from their homeland, kept rejoining the liberation army fighting Stalin.

After the war, the Communists sought to eliminate all rivals at home. They liquidated all the political parties save their own, all neutral organizations, be they economic, national or religious. They systematically destroyed all those who might or could have become opponents of communism—the aristocrats, clergy, businessmen and industrialists. One after another, they wiped out those whose heads would rise above popular masses and who dared to display independence of thought.

In the first instance, the hardest blow was aimed at the Russian nation, the most important one, and the Russian Orthodox religion. Then, systematically, the blows hit other nationalities. In the late 1920s the massacres had already claimed several million victims. Soon came the extermination of 12 million to 15 million peasants, chiefly those working the hardest. Why should they have exterminated the most valuable part of the peasant population?

We don't understand anything about communism if we judge it by rational human norms. As figured by Marx, the backbone of communism is naked power, power at any price without regard to the losses of the population or its degeneration. For Communist regimes, the important thing was to suppress all potential rivals in the country. Thus, the peasant population, which represented 80 per cent of all citizens, had to be deprived of its vital strength to make it incapable of government.

While being economically ruinous, the system of kolkhozes (collective farms) is politically advantageous. The farming economy in a Communist country is not based on long-range planning, but on ideology. The monstrous, centralized bureaucracy running economic planning is not capable of foreseeing reality. It does not think of the days to come. It aims at extracting from the land the maximum for today as if there were going to be no tomorrow.

For decades, the regime has been showering the country with foolish and ruinous instructions, but the people, lacking all freedoms, can do nothing but knuckle under. A peasant no longer puts all his heart into his toil as he has been doing for centuries. The Communists have succeeded in beating the peasants into indifference, into dutifully carrying out stupid orders.

Seeding and harvesting is done at the wrong times, in the wrong ways. Rich pastures, ploughed into fields, yield mediocre crops. The cutting down of forests diminishes the water level of Russian rivers. A beautiful lake may be dried up to carry out a land-improvement project. The acreage thus gained is lost elsewhere because manpower employed in the drying up of the lake is withdrawn from productive areas. Cereal crops and vegetables are allowed to rot because of poor storage and insufficient transportation. In winter, farming machinery is left outdoors to rust.

If there is no time to use all the prescribed amount of fertilizer, it is burned so as to eliminate all traces. A tractor driver may sell his grain at a low price, knowing full well that no one will find out.

Two months each year, inexperienced students and town dwellers are made to go to the countryside to help harvest crops. Without useful skills, they waste two months and are paid for the work lost back home during their absence. Over the past 10 years imports of wheat have risen 40 times in the U.S.S.R. The country has experienced four bad crops in succession—a good example of Communist agriculture.

For decades, the government has been buying up produce supplied by the kolkhozes at ridiculously low prices. In fact, kolkhoz workers have been toiling for no gain at all. Those spending their workdays eliminating weeds may get as their entire salary a few bundles of the bad herbs to feed their cow or goat.

The government imposes a hard day on the kolkhoz worker without paying him, and then allows him to work into the evening on a tiny individual bit of farmland. On these small portions of land toil old people (who until recently got no retirement pension), invalids and children.

The individual parcels total 2 per cent of the arable land, yet they supply one-third of Russia's total production of vegetables, eggs, milk and meat. But since one-third of the production of the kolkhozes rots because of bad storage, the result is that peasants, doubly exploited by the regime, produce on their small patches of land—thanks to the hard work of old people and children, and lacking all modern machinery and fertilizers—half of the country's farming production. Furthermore, they are not free to sell everything they produce on the open market, since they are expected to sell part of it to the government as in the past, in the way of a new tax or, like today, in the way of a forced sale, called a "freely granted" sale.

Think about the proportions existing in Communist agriculture: 98 per cent of arable land is worked every day by a work force, and 2 per cent of individual parcels are worked by invalids, children and, only in the evening, by adults. Yet, in their ideological folly, the authorities would like to eliminate this system of private enterprise.

Lately, kolkhozes have been increasingly replaced by sovkhozes (Soviet state-owned farms that pay wages to workers), a system that transforms the kolkhoz members into workers and deprives them of their individual land lots. Entire villages are being razed to wipe out the remaining vestiges of rural civilization; peasants are moved to multistored buildings where they can no longer keep hens or cattle. Once again, the Soviet regime is undermining the foundations of production, but scoring a ideological triumph.

The same absurdities can be detected in all areas of economic life. The government's total control over production has destroyed production. For over 60 years, Soviet leaders, newspapers and other media have been announcing daily glaring successes of Soviet industry. Yet the latter is in bad shape; it leaks on all sides. The Soviet economy's primary goal is not the development and growth of production, or improvement of work and profit. Its goals are to enhance a powerful military machine, and to provide abundance for the ruling class.

The party bureaucracy is not capable of organizing production or trade; all it can do is confiscate whatever is being produced. This system rules out any and all individual

responsibility. Because of their incapacity to run the economy effectively, the authorities resort to widespread violence. Economic life is bound and gagged by countless administrative bans handed down to prevent popular forces from expressing themselves freely. These bans cover many scientific fields that are vital for the country's future. Advanced technology, therefore, must be purchased, or stolen, from the West.

Work productivity is rising, thanks to general technical progress, but this progress leads to a fabulous indebtedness to foreign countries, or it must be paid for by a wasteful exploitation of underground riches. Since they came to power, the Soviet leaders have sold, at low prices, underground reserves sufficient for three generations to come.

The U.S.S.R. is a big power that buys everything from electronics to cereals, and that sells only raw materials and armaments. As to its living standards, the country ranks 30th or 40th in world statistics; 12 percent of the government income comes from the proceeds, at high price, of the sale of vodka, which helps to keep the people drunk and numb; and from low-quality wines, produced without any regard for hygiene. The government wishes the people to be drunk to finance its world designs.

The economic plan that runs the economy makes no mention of local, concrete events and allows for no modification during its execution. It thus leads to absurdities and chaos, and people in charge have one thing on their minds: how to bypass the plan's rigid prescriptions at the cost of facing stiff penal sanctions.

The plan can never be carried out if one follows the directives, because of lack of either material or manpower. One simply has to violate the law, and everyone is afraid of being dragged into court. Yet, if they did not bend the law, nothing could ever be done.

Decorations and praise go to those who produce the largest amount of goods irrespective of whether they are useful or salable. To carry out the plan, each year more trees are cut down than can be used. Thus, they are allowed to rot on the spot. The one region richest in resources, Siberia, lacks sufficient electric power thanks to the plan. The vast industrial complex at Kama stretches across an area of rich farmland. In constructing the railroad from Lake Baikal to Amur, nothing was spared in the way of investment and manpower. yet the quality of the track is lamentable, and trains keep derailing over it, though the cost of construction per kilometer totaled 5 million rubles, 20 times as much as the price in old Russia nearly 80 years ago.

Examples of this sort are legion. To this can be added another Communist product—compulsory, institutionalized lying. From its inception, the Communist regime assigned for itself the task of covering up the reality of the outside world to its populations.

Right from the start of the first Stalinist five-year plan, the regime announced impossible targets. This was made worse by the slogan, "The five-year plan will be fulfilled in four years." At the risk of sanctions, everybody was told to comply fully with the plan. The only way out was to supply the administration with spurious reports and inflated figures. Since then, doctored figures have been the rule for the Soviet plans, none of which have been completely fulfilled.

The U.S.S.R. has no correct statistics either for home or foreign consumption. Its leaders do not know the true situation of their own country. Needless to say, such crazed economic management, with all eyes riveted solely on the country's military needs irrespective of the general well-being, has led to the irreversible destruction of the natural environment.

Many electric power plants have been built near dams whose construction have caused flooding of vast areas of arable land, pastureland and residential neighborhoods. The hastily built dams have ruined the fishing industry, which had been worth much more than the electricity gained from the dams. Under these new seas, pride of the Communists, lie a good dozen towns, hundreds of villages and precious woodland.

On the other hand, the Azov Sea, which once produced more fish than the Black, Caspian and Baltic seas put together, has seen its water level drop because of the Volga-Don Canal. It is today nothing but a dump for industrial waste. The number of fish caught there is 90 percent to 100 percent less than it was before World War II. Once European Russia had been laid waste, the destruction was widened onto areas beyond the Urals.

Lake Baikal is a tragic example. For 25 million years it had withstood all geological disaster. It provided the cleanest water anywhere. It has now been polluted by heavy-metal waste from an industrial complex producing rubber tires for Soviet giant bombers.

Entire wooded areas are cut down in Siberia without concern for planting saplings to replace them. Bad forestry techniques are irreversibly running soils of the taiga (Russia's subarctic coniferous forest dominated by spruces and firs). The Taiman-to-Europe natural-gas pipeline now under franic construction, using forced labor and pushed along with European and Japanese help, ruins vast stretches of soil.

Half a century ago, peasants were wiped out for the benefit of the foolish idea of kolkhozes. Today, one asks, where are the crops? Instead, the government says, let us change the weather; let us send rivers flowing south instead of issuing into the Arctic Sea—one more crazy plan that in a few years will bring about a new disaster. The entire globe will suffer from the changed conditions of the Arctic Ocean.

The plan calls for no waste-reprocessing plants. Areas around towns and industrial establishments are spoiled by piles of trash. All rivers are polluted. The density of toxic waste is two or three times above the tolerable limit. None of this information is made public officially. The destruction of nature and threats hanging over Soviet populations are state secrets, too. Those who dare discuss it in public wind up in psychiatric asylums.

Within the past 10 years the number of cases of lung cancer has doubled in our country. We keep dying with our nature. Children are growing up like orphans. The father's wages being insufficient, most mothers have to work. Millions of children start their lives in overcrowded kindergartens in an atmosphere of unhealthy mental tension.

Lack of qualified personnel is widespread and hygiene is deplorable in the children's homes. But this does not prevent the children from being fully indoctrinated.

Drunkenness and debauchery start early in life in the U.S.S.R. The youth are fully enslaved by their superiors who exploit them without guilt. If they lose their jobs, they lose their right to live in the town where they work. In the Soviet Union, the employer has absolute authority over workers. Wages are miserable, at best covering one-tenth of the work furnished.

Everybody experiences housing shortages; each apartment is shared by several families. One may work dozens of years in the same factory, yet will never make enough money to acquire the right to a larger, separate, family apartment.

Outside of Moscow and Leningrad, goods everywhere are shoddy. And one has to spend hours standing in lines before buying anything. Some products often disappear entirely—soap, washing powder, needles, porcelain, underwear, electric bulbs and other things. Never in the 65 years under communism did the population get enough food. In rural areas shortages have been the rule for decades. There is neither meat nor fish, eggs nor milk. Rice has not been seen for half a century. Recently, food rationing has been established in several towns, though there has been no war or major natural disaster.

In no other country do so many women have to work under such painful physical conditions and without the help of machines. In addition to their professional work, Soviet women spend some 30 hours a week standing in lines for provisions, and doing their home chores.

The government's interest is to make sure the population's attention will be entirely absorbed by its need to survive, and so people will have no time to think about anything else. The government is extracting billions of rubles from the subdued people and the land. The Soviet population, heaving under its burden, has only one way of resisting—stealing from the government its morsel of bread.

In the old days, theft was a grave sin in Russia. Nowadays, stealing from the government is a daily habit, without which one cannot survive. By stealing from the state, the people recover a small piece of their rights, and the self-defense of the popular masses is badly hurting the regime. It is impossible to buy certain things in an honest way. But they can be stolen in the workshop and resold at the market in exchange for stolen goods.

Billions of rubles in raw materials or tools are stolen each year, disrupting national production. Children of the kolkhoz workers are taught how to steal when they are six years old. No one wants to work honestly for a dishonest regime. No one gets his deserved wages, but then no one puts his heart into his work. Everybody—workers, public servants and even scientific researchers—organize their "leisure" time during work hours, to be in good physical condition for their new, well-paid moonlighting activities in the evening, or personal occupations at home.

The harshness of everyday life and the constant shortages, crowded homes and lack of free time leave women no energy to raise their children. Thus abortions are frequent among the populations of Slavic stock. These abortions, in turn, bring about growing sterility. Bad food for pregnant women, insufficient medical care, polluted city air and alcoholism among mothers have raised the rate of child mortality.

Using estimates from before 1917, the birthrate was such that our country should have had in 1985 nearly 400 million people. Yet its population numbers only 226 million—this is the price we had to pay for communism. We are entering a period

where the extinction of Slavic populations in the U.S.S.R. will become inevitable.

Communism's anti-human character has no precedent in history. Until the 20th Century, no country had known similar suffering. Now this system has been set up in more than 20 countries. On many occasions it was about to collapse, yet each time it managed to survive at the expense of its powerful enemies.

Communism is a trap from which no country has succeeded in escaping. No personal tyranny can be compared with Communist ideology. Every tyrant has one day reached the limits of his yearning for power. Yet, totalitarianism is a regime that cannot be judged in a rational way. It aims not at assuring the success for its country, health and prosperity of its people—but it sacrifices them to reach goals abroad. Its final aim is not a reasonable ambition, but a fanatical desire to devour as many territories and peoples in all four corners of the earth as possible.

It would be hopeless to try to reach a compromise with communism, to improve relations with it by concessions or trade. Communism is a negation of life and represents a mortal disease for all countries. It is the death of mankind. No country on earth is immune from it. One cannot correct or improve communism. One can only try to put an end to it.

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FOR THE PURPOSE OF INTRODUCING LEGISLATION FOR A SECOND LOCK AT LOCK AND DAM 26

HON. ROBERT A. YOUNG

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. YOUNG of Missouri. Mr. Speaker, I am today introducing legislation which will fulfill the finding of need by the Upper Mississippi River Basin Commission's completed study of the future multiple use of the Mississippi River and authorize a second or auxiliary chamber at the replacement project for lock and dam 26.

The present locks and dam 26 was completed in 1938 and consists of the dam and two lock chambers, both 110 feet in width. The main lock is 600 feet in length and its auxiliary is 360 feet long.

For many years locks and dam 26, because of its strategic location as the first lock below the confluence of the upper Mississippi and Illinois Rivers, has been the major bottleneck along our inland waterway system. In 1978, Congress enacted Public Law 95-502 which, among other provisions, authorized a replacement dam with a single 1,200 foot lock.

Lock and dam 26 has been the subject of extensive legal action both before and after Congress acted in 1978. A combination of environmental groups and railroads tied up the project for several years. I am pleased to report that funds have been appropriated and construction commenced in April 1980, and work continues on this much-needed facility.

The new facility will not open until, at best, late 1988 and during the construction period, traffic demands at the existing facility will more rapidly exceed the capability of the overburdened and deteriorating facility.

According to a 1979 Peat, Marwick & Mitchell Co. report, shipment of farm products through locks and dam 26 increased from 1966 to 1978 by 19.9 million tons, or 150 percent. Shipment of chemicals through locks and dam 26 increased by 2.46 million tons, or 158 percent.

To illustrate the critical role locks and dam 26 play in the export of grain, let me point out that 115 grain terminals are located above this point on the upper Mississippi and Illinois Rivers. All grain shipped from these terminals to New Orleans and other Gulf of Mexico export locations must pass through locks and dam 26, the critical congestion point for the grain export trade.

According to the Peat, Marwick & Mitchell review, total tonnage at this point increased from 27.6 million tons in 1966 to 62.5 million tons in 1978. Grain products constituted about 54.6 percent of the 1978 total tonnage.

Corps of Engineers data indicate that total tonnage at locks 26 reached 70.3 million tons in 1981 and could reach close to 90 million tons by the end of this decade.

Peat, Marwick & Mitchell documented the 1976-78 average waiting time for the entire 9-month shipping season:

[In hours]

Year	Main chamber	Auxiliary chamber
1976	11.3	9.1
1977	10.2	6.9
1978	18.7	13.8

During the 1978 shipping season, the average tow waited nearly 19 hours to use the main chamber at locks No. 26 and nearly 14 hours to use the auxiliary chamber. Between 1977 and 1978, the average tow delay in the main and auxiliary chambers increased by 83 and 100 percent, respectively. On September 8, 1980, the average delay was 48 hours at the main chamber, slightly less at the auxiliary chamber, with 10 towboats northbound, 15 southbound, waiting to be locked through.

An auxiliary chamber is essential for proper maintenance and in times of emergencies in the main chamber. An April 1976 failure in the wall of the present main chamber tied up over 100 barge tows for 19 days. The smaller auxiliary chamber allowed some tows to pass through, but millions of dollars were nevertheless wasted.

Without a second lock at the new facility, maintenance problems could potentially paralyze the upper Midwest because navigation would be cut off at St. Louis. The Peat, Marwick & Mitchell report indicates that a sufficient number of rail cars are not available to handle the tonnage which would be stalled at Alton, Ill., by such problems.

Section 101 of Public Law 95-502 directed the Upper Mississippi River Basin Commission (UMRBC) to prepare a comprehensive master plan for the management of the upper Mississippi River and its tributaries. Section 101 further directed the UMRBC to immediately initiate a specific evaluation of the economic need for a second lock at Alton, Ill. This report, submitted to Congress on January 1, 1982, stated that sufficient need exists for construction of a second chamber at the replacement lock and dam 26.

It is my hope that, due to the need to incorporate design and engineering plans into the Corps of Engineers construction schedule for the new facility, Congress will approve this legislation as swiftly as possible.

It is also my hope that this legislation will be enacted strictly on its merits, without being held hostage to waterway user tax/cost recovery proposals which are favored by the administration. During the course of the 97th Congress, this project was the subject of two separate hearings in the Subcommittee on Water Resources, Committee on Public Works and Transportation. The overwhelming evidence provided by the testimony of many experts was that this project is absolutely essential to our national transportation network and to the cost effectively and timely movement of our Nation's vital commodities.

I am not alone in my concern that reversal of the policy of nearly 200 years of Federal responsibility for our Nation's ports and inland waterways will seriously harm the flow of commerce both on the domestic and international fronts.

Public Law 95-502 also imposed an escalating waterway fuel tax on shallow draft commercial waterway operators. Congress, unsure of the effects such taxes would have on the Nation's water transportation system, mandated a comprehensive study of their impact. The study was finally submitted to the Congress in February of 1982, and during the course of several months of hearings on the study and the administration's cost recovery proposals, it was clearly established that the section 205 study neglected to consider and evaluate many of the mandates which were deemed of major importance when Congress enacted Public Law 95-502. In other words, the study had serious discrepanies. The study neglected to evaluate, for example, the impact of unemployment, the flight from one region of our country to another that would inevitably come

about due to the imposition of additional user fees. The study neglected to evaluate the eventual shift that would occur from one mode of transportation to another mode, and whether the other modes of transportation would be able to sufficiently and economically handle the shift, or whether or not the other modes even had the capability and capacity. The study neglected to seriously analyze the extreme difficulties that the waterway industry is currently suffering in the present economic environment or the near future. As a result, many regions of the country, including my own, conducted their own min-205 study and the results were overwhelming that severe dislocations would occur in the waterway industry upon the imposition of additional user fees or the administration's cost recovery proposals. The question of user fees and cost recovery have not and will not be solved in the immediate future.

We cannot, however, afford the luxury of time in authorizing a second chamber at lock and dam 26.

Let me emphasize that many of our Nation's ports and inland waterway facilities are strained to capacity, require modernization, and are subject to frequent breakdowns. We cannot overlook the national benefit and need for a modern waterway system, which in coordination with other modes of transportation will enhance the U.S. export trade while insuring the safe and efficient uninterrupted flow of commerce.

Mr. Speaker, my bill proposes that the second or auxiliary chamber be 110 feet in width like the present and new main chamber and 600 feet in length, exactly one-half the capacity of the new chamber. This would make the dual lock capacity exactly identical to the present lock and dam No. 27 at Granite City, Ill. Lock and dam 27 is the next locking facility below lock and dam 26 and the last facility on the Mississippi River.

In addition, Mr. Speaker, a strong viable economy is one of the most valuable elements of national defense. Specifically, the economy serves as a vehicle for generating income to support our national defense and as a means of supporting our commitments to our allies outside the continental United States. First, the movement of grain is a critical element in our balance of trade and a favorable balance of trade can strengthen our economy. Second, a first-class navigation system is an essential requirement for moving materials for a military mobilization effort. We must take steps to prevent delays in moving vital goods. A second lock at lock and dam 26 will prevent delays and thereby strengthen our national defense.

Mr. Speaker, I urge my colleagues to join me and Mr. PRICE in cosponsoring this legislation of vital interest to the Midwest and the Nation as a whole. Let us act now and take advantage of the economies of building the auxiliary lock while construction is underway on the new facility of lock and dam No. 26.●

JOE P. JOHNSON—A FAREWELL TO A DISTINGUISHED ARKANSAN

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. ALEXANDER. Mr. Speaker, Joe Paul Johnson, a good friend, a fellow Arkansan, a man known and loved by many in this Congress died on January 6.

Joe was a person whose warmth, good humor, zest for life, and concern for others marked both his personal life and a long and productive professional career.

Joe was the President and chief operating officer of the Martin Haley Companies, Inc., an international public relations firm that serves more than 140 corporations, organizations, and nations. He had reached that distinguished position after many successful professional experiences. However, throughout his life Joe maintained a strong sense of himself as an Arkansan.

He was born in Emery, Ark., on February 14, 1930 to Mr. and Mrs. Dave Johnson. Joe graduated from Cave City High School and the University of Arkansas and was active in politics at the local, State, and Federal levels since 1950. For many years he worked for the Associated Milk Producers. He also served as special assistant to Chairman Wilbur Mills of the Ways and Means Committee of the U.S. House of Representatives.

Joe served his country, as well, as a lieutenant in the U.S. Air Force from 1953 to 1955.

In his various roles, as a lobbyist, as adviser to the chairman of the prestigious Ways and Means Committee and as a corporate executive, Joe Johnson always reflected the basic American virtues he grew up with in Arkansas: fairness to others and a commitment to the ideals and goals of the democratic process that are the underpinning of our Nation.

Joe was a loving son, husband, father, and grandfather and leaves behind his mother, Mrs. Bertie Johnson, who lives in Cave City, Ark., his wife, Janice Ireland Johnson, his daughters, Judy Tapp of Arlington, Tex., and Linda Lookadoo of Falls Church, Va., and his grandchildren, Eric, Lashelle, Joshua, and Jessica. And Joe leaves behind, as well, many friends and colleagues he has helped are cared for over the years. But he leaves our lives all the richer for having known him and his gentle and wise ways.

The American poet Emily Dickinson once wrote,

Because I could not stop for Death
He kindly stopped for me—
The Carriage held but just ourselves—
and Immortality.

Joe could not stop for death. He was too busy helping others realize the joys life holds. But he left a legacy that will never die. Joe taught, by example, that a worthwhile existence comes from respecting and holding dear—with all our strength—the values and visions of those whose lives we touch.

Joe Johnson was a private person who shared his effervescence, his wit, and his bursting enthusiasm for all the good that life has to offer.

I offer my condolences to his family, share the grief of his friends, and commend Joe P. Johnson in these Chambers of the U.S. Congress for having given so much of the beauty of his existence to others.●

POLICE OFFICERS HONORED

HON. RAYMOND J. McGRATH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. McGRATH. Mr. Speaker, on January 22, two members of the Nassau County Police Department, Patrolman James B. Dempsey and Patrolman Antonio S. Graziano, were honored by their fellow officers as Top Cops of the Year 1979. Both men are residents of the district I represent, and I wish to share their accomplishments with my colleagues as an example of outstanding work in the field of law enforcement.

I should also point out that the awards for each year are given out at 4-year intervals to an individual officer or two officers working as partners. Out of a force numbering more than 3,000 members, the Top Cop award is a significant accomplishment. During the year 1979, Officers Dempsey and Graziano were assigned to undercover duty in the Narcotics Division of the NCPD. Early in the year, they were able to infiltrate a high level drug ring, which transported and distributed massive quantities of quaaludes. Their operation began with the purchase of two quaaludes from a street sale and ended with the arrest of four subjects who participated in a sale of 17,000 of the illegal tablets. Another 180,000 were seized. One of the subjects arrested was a known organized crime figure. The street value of the illegal drugs was estimated at $1 million. Later in the year, the officers undertook a 6-month investigation of a Long Island bar, whose owners had

been implicated in illegal drug sales and related activities. The officers posed as regular patrons of the establishment, and even participated on its softball team. They sacrificed countless hours of their own time to maintain their cover. In the course of their activities aimed at the drug sales, they prevented a serious disturbance at the bar and uncovered an illegal fireworks dealer who was arrested with accomplices and $45,000 worth of contraband. This case ended in a raid in which 28 persons were arrested on drug related charges. A loaded illegal firearm was also seized. The bar, which had long been a nuisance to area residents was closed by State liquor authorities. For their efforts during 1979, Officers Dempsey and Graziano were presented with two department citations, the department's medal of commendation, and a meritorious service award. Both men have received numerous other commendations including recent citations from the Federal Drug Enforcement Administration. The officers are now part of the Long Island Task Force of the DEA, and they have participated in several major cases with other local, State, and Federal officials.

We in Congress are somewhat removed from the day to day activities of law enforcement. The dangers faced by undercover officers are only known to us through television and movies where heroes return week after week fully recovered from assaults or injuries. Nothing can describe the tremendous pressure under which officers must operate when working undercover for long periods.

It is encouraging to know that we have police officers with the dedication displayed by Officers Dempsey and Graziano. I want to congratulate them for their well deserved honor and wish them continued safety and success in their careers.●

INDIVIDUAL INVESTORS INCENTIVE ACT OF 1983

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. SCHULZE. Mr. Speaker, 5 years ago, this House took a positive step to encourage investment and promote the growth of capital formation. With the passage of the Revenue Act of 1978, maximum Federal tax rates on long-term capital gains were rolled back from 49 to 28 percent. More recently, tax disincentives to productive investment have been reduced through the Economic Recovery Tax Act of 1981.

The 1978 changes were overwhelmingly approved by the Congress and were hailed as a significant development, for it began to reverse our past misguided economic policies. Old, discredited policies have resulted in our Government taxing profits and dividends, savings and capital, sales and income, and all of the other rewards of risk taking so heavily that the risks are frequently no longer worth taking.

While I do not wish to minimize the importance of the capital gains tax reduction, it must be viewed as only the first step in our ongoing struggle to reverse our Nation's declining production growth by encouraging individuals to invest their savings in America's future.

Regrettably, the United States remains a nation with a low level of capital investment and the lowest savings rate of all major industrialized nations. In the last 10 years, millions of investors have left the stock market.

The economic problems this country faces today are legion. While the stock market in late 1982 and early 1983 is doing well, there is a dearth of venture capital for new, innovative small business ventures.

Small business, as this body well knows, employs more workers than the mammoth concerns that claim the glamour in our economy. Small business is the backbone of our economy, and many would agree, our way of life.

H.R. 63, the Individual Investors Incentive Act of 1983 will benefit the economy of our country, and all segments of the business community. This legislation will increase productivity, create jobs, provide additional capital for research and development and will strengthen our Nation's ability to compete overseas.

The bill will accomplish this purpose by providing a 10-percent tax credit of up to $1,000 to individuals to $2,000 to married couples filing a joint tax return for new or additional investments in stocks, bonds and mutual funds investing in domestic corporations.

Additionally, the bill encourages investment in all types of businesses by stipulating that there would be no limit on the size of a company whose stock would be a permissible investment. Further, it provides for a minimum 12-month holding period in order to qualify for the tax credit, thus encouraging investment rather than speculative trading. Finally, the tax credit would not be limited to new stock issues, due to the fact secondary markets are not less important to equity capital formation than the sale of new issues.

This legislation which I am proposing has the strong support of such groups as the 700 chief executives of the committee of publicly owned companies and the National Association of Investment Clubs which is comprised of over 4,000 clubs and over 51,000 small investors.

It should also be noted that this concept is not an untested idea but is modeled after a French law enacted in 1978. As a result of this law, Frenchmen investing in the stocks and bonds of French companies were permitted to deduct up to 5,000 francs—roughly $1,200—from their taxable income each year for 4 consecutive years. Since the enactment of this investment incentive, the French Bourse stock index has increased by over 60 percent with 1 million Frenchmen having taken advantage of this incentive. Half of these individuals have been first-time investors which contrasts with our dwindling and aging shareholders base.

Mr. Speaker, rarely do we have an opportunity to pass legislation beneficial to all of our constituents. There is nothing in this proposal which any interest group could find objectionable unless they object to increased productivity, the creation of new jobs, additional capital for research and development, and improved efficiency in American industry.

I urge my colleagues to examine this legislation and to adopt this proposal, the Individual Investors Incentive Act of 1983, as a realistic means of attracting vitally needed investment which will facilitate the development of capital formation.●

BOB JOHN RETIRES

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. MURTHA. Mr. Speaker, it is with both gratitude and sadness that I mark the retirement of reporter Bob John from the Johnstown Tribune Democrat.

The gratitude comes for a man who has served the newspaper profession and the Johnston area community for 46 years. The sadness comes because both the profession and the community will be poorer for Bob John's absence from the Tribune.

Bob John's career has spanned the age of manual typewriters and "hot" typesetting to the computer terminals and offset printing. Through all the changes in newspaper styles and development, Bob John has retained his commitment to straight news reporting—he lays out the facts, he gets the quotes accurately, he double-checks his facts, he reports the news. In an age when you have trouble picking up some newspapers and finding any news because it is all interpretation and features, Bob John has remembered that the basis of the news business is reporting the news. And he does it right.

In remembering Bob John's work, I think back to a comment made by one

of his colleagues. Dave Leherr was news editor at the Pittsburgh Post-Gazette before tragically dying at a young age, but one time after he had covered a political rally in Johnstown, I asked him if he knew Bob John. His response was quick and accurate, "Bob John is a gentlemen." And he is.

Over the years, it has become unfortunate that in many cases dealings between officials and the press have become antagonistic. But Bob John always remained a gentleman, treated his news subjects with respect, and never forgot the human beings behind the news and their feelings and concerns.

Bob John has also been a strong member of the community. For many years he has headed the Route 219 Association. He raised his family in Johnstown, and has been a part of many community activities.

I understand that on Veterans Day last year, Bob wore some of his military medals into the office. That little example tells us a great deal about Bob—he recognizes tradition, he stands for principles, he is not afraid to state his views and stand up for what he believes is right.

I join the community in wishing Bob well and much enjoyment in his retirement. Still, he will be missed—by his friends and by the journalism profession which has been richer and more professional for his work.●

DISSENTING VIEWS ON THE REPORT OF THE NATIONAL COMMISSION ON SOCIAL SECURITY REFORM

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. ARCHER. Mr. Speaker, as one of three members of the National Commission on Social Security Reform who filed dissenting views on the Commission's final report, I would like to share my thoughts with my colleagues in the House of Representatives who will be called upon to enact social security reform legislation this year. The text of my dissenting views follows:

DISSENTING VIEWS OF CONGRESSMAN BILL ARCHER

It is customary in instances such as this to address one's dissenting views to the body of the main report itself.

In this case, however, it is perhaps more appropriate for me to address my comments on the report to my children and future grandchildren and those of their generations who will be most affected by the changes proposed. Should the Commission's proposals be enacted into law, it is they who have the most at stake.

Unquestionably, great credit is due the President, the Congressional leadership and Commission negotiators who were able to arrive at this point where a plan exists to be considered by the Congress. The fact that I personally have strong reservations about the specific plan proposed in no way diminishes my respect for that effort.

It is unfortunate that the agreement reached continues to leave in doubt, in my opinion, the future stability of the Social Security system. We have not taken advantage of this rare historic opportunity to do more toward designing greater stability. The proposals treat symptoms, not causes.

My concern stems from a variety of sources, but primarily from those involving the basic economic and demographic assumptions used to assess the short and long term deficits, and the failure to address adequately the basic structural deficiencies which will continue to cause severe strains on the system in the future.

The compromise agreement does not make a specific recommendation regarding a portion of the long term need (.58% of payroll), even assuming the accuracy of the projections of the dimensions of the gap it sought to close. That significant element has been left open to Congressional consideration under the terms of the agreement. Neither does the agreement address certain factors influencing the short term need, such as the repayment of loans made to the retirement fund by the Health Insurance trust fund. Those revenues will be badly needed as the HI fund becomes deficient in the near future. In fact, the Commission's agreement bears no relationship to the parallel dilemma faced in the health insurance program.

Fundamental principles inherent in the basic concept of Social Security have been abrogated by the Commission's recommendations. The large infusion of general revenues into the system makes it self-sustaining no longer. The "earned right" concept which has been basic to the system since it was created has been abridged by a new means test. The concept of Social Security as a floor of protection to supplement other retirement savings has been further eroded by the agreement's perhaps unintended result of encouraging Social Security to be viewed as a sole source retirement system.

Certainly there is some good in the recommendations. The proposal to bring federal employees into the system is a welcome one, but its coverage of only newly hired employees continues an inequity. Ironically, those now in Congress who must vote on the plan are themselves going to continue to be exempt from coverage. So will those presently employed by the federal government who will administer the changes.

The plan provides very modest improvement in the treatment of women, but continues major inequities in this area as well as in other areas of the system.

There is a brief delay in cost of living increases for present beneficiaries, as a partial attempt to offset benefit increases which resulted in an increase of 52 percent in purchasing power for the average Social Security recipient over the past 15 years.

This is essentially the only element of the plan which directly affects those now retired or soon to retire—except for those retirees who have set aside a portion of their earnings in savings for their retirement. The plan taxes those who have saved for their retirement and imposes a means test for full benefits. Those who do not save are rewarded by the system because of this change.

A Congress which has acted in recent years to encourage individual retirement savings is now being asked to enact a significant disincentive to retirement savings. There is also a basic flaw in the way the "means test" inherent in the tax on benefits is determined. Individuals with non-Social Security retirement income of $20,000 or more will be taxed on half of all their Social Security benefits. Those with incomes of $19,999.99 or less will not be taxed on any of their benefits. One penny of income could make the difference in whether hundreds of dollars in taxes must be paid.

The imposition of a means test, for the first time, destroys the earned right concept fundamental to Social Security and lends a new welfare aspect to its administration.

The same is true of the large infusion of general revenues proposed by the plan. The self-financing structure of the Social Security system has been significantly eroded.

Of the $168.7 billion in short term deficit reductions in the plan, approximately one-third is represented by direct and indirect infusion of general revenues, which, combined with payroll tax increases accounts for some 75 percent of the short term deficit reductions. In terms of the long term deficit, new taxes account for even more of the reduction (excluding the portion of the deficit left unresolved by the report).

I do not hold the position that the deficit reductions for both the short term and long term should be accomplished without any additional taxes beyond those already scheduled by existing law to go into effect. I am concerned, however, about a recommended proposal which includes such an imbalance of dependence upon new revenues (taxes and general Treasury funds) relative to structural changes which would restrain the growth of spending outlays. I question the ability of our tax base in the future to support this enormous projected growth.

Structural changes are critical to the long term stability of the system. The report leaves unanswered the question of what benefit level our economy can afford in the next century and what those in the work force at that time will be able to pay.

What we should be providing here is a basis for realistic expectations for future Social Security recipients against which they can determine their own needs for retirement security beyond what the system may provide them at that time. There is great danger that these proposals have made promises which the system will not be able to support.

Changes which would more directly relate taxes paid into the system to benefits received are the type of structural changes which would lend greater credibility to Social Security. The Commission recommendations continue present inequities instead. An individual with a short covered employment history continues to be treated more favorably than his counterpart with the same average income who has a longer covered employment history.

Another important consideration the agreement does not address adequately is that of demographic changes, increased life expectancy and improvements in the physical and mental ability of individuals to continue to work. There is no direct recommendation by the Commission that the age of retirement be adjusted to take such changes into account. Nor is there adequate attention given to revision of automatic cost of living increases relative to the taxes which support them.

In regard to taxes imposed by the compromise, the use of a refundable tax credit (a concept which has been rejected repeatedly

by Congress) ruptures the fundamental parity between employer and employee.

The 33-percent increase in the tax on the self-employed is too great a burden for those who are already operating at the margin because of difficult economic conditions.

In summary, the recommendations proposed by the National Commission on Social Security Reform, in my judgment, leave the system's future very much in doubt. We are again addressing the symptomatic deficits facing Social Security, rather than taking advantage of this opportunity to address the causes of the problems themselves.

We have postponed once again the day of reckoning by transferring the burden of supporting the system's shortcomings to future generations.

Social Security represents the single most important commitment to the elderly made by our society. It is a great testimony to our nation's dedication to assuring retirement security for our elderly of all generations.

The question facing Congress as we begin consideration of the Commission's recommendations is whether this particular plan exactly fulfills that commitment as completely as it must. I clearly have misgivings that it does.

As the legislative process begins, there remains an opportunity for the thoughtful concerns of others who share those misgivings to strengthen the product which is ultimately enacted. My own greatest hope is that my strong desire to guarantee the solvency of Social Security into the future can be matched by a confidence that the solution accomplishes that goal.●

REPEAL WITHHOLDING PROVISION

HON. TOM LOEFFLER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. LOEFFLER. Mr. Speaker, today I am introducing legislation to repeal the withholding of taxes on interest and dividend income.

Proposals to withhold an automatic percentage of interest and dividend income have been defeated seven times by the Congress since 1941. I have consistently opposed withholding taxes during my tenure in Congress and want to provide the House with the opportunity to vote separately on this issue, an opportunity we did not have last year during consideration of the tax bill.

As you know, the 10-percent withholding on interest and dividend income will not actually take effect until next July. We in the Congress have the chance and the responsibility to pass repeal legislation quickly and spare our citizens and businesses the bureaucratic nightmare this regulation will undoubtedly cause.

My reasons for opposing automatic withholding on interest and dividend income are simple. For 4 years, I have spoken here and in the 21st District of Texas about the bankrupting policies of "tax and spend, tax and spend." It made absolutely no sense to me at the time the withholding provision was included in the tax bill, and it makes no sense to me now, to even think about raising taxes to reduce our Federal deficit when so much remains to be done to stem the tide of Federal spending.

I firmly believe people should pay the taxes they owe, whether it be tax on straight income or tax on interest derived from savings or investments. The Internal Revenue Service already has the mechanism to collect tax due on interest and dividend income. Right now, each and every American who receives interest income receives a form 1099 annually, stating total amounts received. An identical form 1099 is filed with the IRS. If the IRS is currently disregarding the information reported on the 1099's there seems to be no reason to collect the same information through automatic withholding, which will cost the law-abiding public $1 billion to implement and $1 billion annually to administer.

Prematurely automatic withholding of taxes on interest and dividend income will take some $4.3 billion out of the private capital market and the economy as a whole in fiscal year 1983. The stimulation of saving and investment in the private sector is critical to our economic recovery. I believe this automatic withholding on interest and dividend income goes against the very principles of a free market economic recovery.

Mr. Speaker, we in the 98th Congress have the opportunity to repeal this automatic withholding on interest and dividend income before it ever takes effect. I urge my colleagues to pass this legislation decisively and expeditiously.●

A LAMEDUCK TRIUMPH: NUCLEAR WASTE POLICY ACT

HON. MARILYN LLOYD BOUQUARD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mrs. BOUQUARD. Mr. Speaker, the passage of the nuclear waste bill is the most dramatic evidence we have of constructive activity in this lameduck session. The final enactment of an articulated Federal Government policy on nuclear waste has been years in the offing and represents the work of numerous Members of the House and the Senate. At least seven House committees and three Senate committees were heavily involved in crafting final legislation which now awaits the President's signature.

This bill is a finely woven mixture of R&D features which complement a Federal repository program for permanent storage of high-level nuclear waste. Our Science and Technology Committee reported out our R&D version of the bill 1 year ago this week. I am pleased to note that the final legislation incorporates the major provisions of the bill, H.R. 5016, which I introduced nearly 1½ years ago. The bill authorizes construction of a test and evaluation facility for nuclear research and development so that the DOE can proceed with greater certainty in siting and constructing a long-term geological repository. The generators of nuclear waste will pay for the site-specific R&D as well as the first commercial repository, that is, the program is to great extent moved off budget. Generic R&D will continue under Federal funding and our Energy Research and Production Subcommittee will be concerned about obtaining assurances that these activities complement the more site-specific test and evaluation facility work. I would encourage the Department of Energy to be aggressive in requesting a sufficient amount of funding in the fiscal year 1984 budget so that they can comply with the strong congressional intent of the Nuclear Waste Act.

Passage of this bill will be one of the major accomplishments of the 97th Congress, and I am extremely pleased that the full House has supported this effort to resolve, once and for all, the problem of uncertainties surrounding nuclear waste disposal.

Finally, I want to congratulate the three main committee chairmen on the House side, Messrs. FUQUA, UDALL, and DINGELL; and the ranking minority members of the three committees, Messrs. WINN, LUJAN, and BROYHILL, for their great efforts in seeing that this legislation was finally enacted into law.●

A GREAT AMERICAN LEADER PASSES

HON. JOHN T. MYERS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. MYERS. Mr. Speaker, it is with deep sadness that I bring to the attention of our colleagues the passing of one of America's greatest leaders, Gen. David Shoup.

General Shoup was appointed Commandant of the Marine Corps by President Eisenhower on January 1, 1960, and continued to serve in that capacity under President Kennedy. His own military judgment and experience cut right across American military history in this century. As a colonel in the 2d Marine Division in the Pacific during World War II, he was severely wounded on the first day of the invasion of Tarawa, one of the bloodiest battles of the war. Nevertheless, he continued to direct his troops for the 2 remaining days of the battle, an action for which he was awarded

the Medal of Honor. The medal citation most accurately captured David Shoup's character:

By his brilliant leadership, daring tactics, and selfless devotion to duty, Col. Shoup was largely responsible for the final decisive defeat of the enemy, and his indomitable fighting spirit reflects great credit upon the U.S. Naval Service.

Yet it was this same military hero who advised against the buildup of American forces in Southeast Asia and who taught that there was no need to instill hate when indoctrinating troops. Rather, he said, "We teach them what there is in this country worth living for, worth fighting for, worth giving your life for."

Mr. Speaker, Indiana is deeply proud of David Shoup, as is his alma mater, DePauw University. Dave was born in Battleground, Ind., a town name befiting a hero. He and his wife, Zola, graduated from Covington High School, the same school from which I graduated; I have known Dave and Zola for many years.

A poet, military hero, and accomplished statesman, General Shoup was truly a great leader. For that heroic leadership General Shoup has earned the eternal gratitude of his country.

To Zola, his children, and grandchildren I offer my deepest sympathy on his passing.●

THE SECRET OF INDIVIDUAL PRODUCTIVITY

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. EDGAR. Mr. Speaker, Robert J. Carroll, a businessman from Springfield, Pa., and one of my constituents, recently wrote an interesting article offering thoughtful suggestions for increasing American productivity.

A native of western Michigan, Mr. Carroll earned a bachelor's degree in nautical science from the U.S. Merchant Marine Academy and sailed as a ship's officer. After serving as an instructor at the Academy, he did graduate work in industrial relations at St. John's University. Putting these skills to work in a varied business career, Mr. Carroll was employed in sales and industrial relations before forming his own company in 1953. Through offices in seven major American cities, the R. J. Carroll Co. performs personnel work for small businesses which cannot justify full-time personnel directors.

As an entrepreneur and self-made businessman, Mr. Carroll knows what is necessary to run a successful business enterprise. Recently, he has been interested in the Japanese challenge to American industry, and has spoken to groups in the Philadelphia area regarding Japanese management techniques that can be adopted by the American business community. In his article in the Springfield Press, Mr. Carroll wrote of several lessons managers in the United States can learn from the Japanese. I commend this fine article to my colleagues:

THE SECRET OF INDIVIDUAL PRODUCTIVITY

Let's put some data into our mental computers and see what comes out:

ITEM

1. People produce, not machines.
2. Most people are more educated than the demands of their job.
3. Most people want to do a good job.
4. Most managers and supervisors were never trained to be managers or supervisors.
5. We are not as productive as the Japanese.

Some causes for concern:

ITEM

1. Many segments of our economy are hurting desperately viz. automobiles, steel, television production and related items.
2. There is an adversary relationship between "Management and Labor."
3. Most people are capable of doing a better job than they do.

A study conducted in San Diego concluded that a Japanese managed firm producing electronic components using American manpower, selling to an American market and using materials primarily made in America, out-produced their competition by better than 15 percent.

Any manager of any organization regardless of its service or product, would absolutely turn handsprings to achieve an increase of 15 percent in productivity—or would they?

As a country, we have leaped forward with giant steps technologically, but we are still in our infant clothes sociologically.

We can put a man on the moon, and satellites in orbit, but can't seem to unleash or harness the thinking potential of our people.

What is the major distinction between the American worker and the Japanese worker? The answer is, that the average American worker is interested in their work, the average Japanese worker is concerned about their work. The result is better individual productivity.

There in those two words lies the distinction and the challenge to American management.

The great hope of American Management is, that the average American worker has just as much ability to be and desire to be concerned, as the Japanese. But, concern has to be elicited, it has to be developed.

The root of all increased productivity, is not in the ability of the individual, for as we have already explored, the average American worker is more capable than the demands of their job. But, increased productivity is rooted in attitude. It's not what a person can do that is important, it's what they want to do. And, that is the challenge that Management must face.

One answer to this could lie in a part of Japanese Management sometimes referred to as quality circles or employee involvement groups.

Quality circles are a part of a total philosophy of management called Consensus Management.

There are very few problems that people are involved with that they are not also the answer to. That's probably not the best grammer, but it effectively says what has to be said. And, that is that very few problems of any nature, in an organization, regardless of its service or product, cannot be effectively coped with and answered by, the very people who are involved.

And, that of course is the secret of quality circles.

After a recent talk to the Springfield Rotary Club, I received the following letter. It will remain anonymous out of respect for the individual, but suffice to say that this person took the idea and ran with it so to speak. And, you also:

Dear Bob:

Just a little report back on the "Japanese Touch" in management. In my own little way I have tried to copy some of the ideas and with about two minutes of your time, I will tell you how. The first positive thing that happened was quite sensational. My wife and I went away for a long weekend and my assistant, who I left in charge, worked very hard and did a fine job. After I realized what he accomplished I took the employee and his wife to dinner, thanked him and handed him $100 cash. He almost fell over before he could thank me. Now for the best part—he has been working his tail off ever since.

I have been planning to buy a new hearse. So instead of just doing it, I called the men together to get their opinions and any input that they might have. They were thrilled that I would ask, gave some good suggestions, that I not only used, but I am very pleased with. We have only had the car a week now, but they have never taken such good care of a piece of equipment.

Thirdly, I have now dispensed more authority and in all decisions I talk to the men, (I have to admit, even if my mind is set) to get their ideas. In just four short weeks I feel that we are getting more done, the employees are happier and a better atmosphere has been created. So while all this works with big corporations in Japan, a little eleven employee funeral home, can see and feel the results of the "Japanese Touch," also.

People want to contribute, people are the business of management. But, people have been brought up in the philosophy that management will say what has to be done and their job is to do it. What this fails to recognize is that the body that has been hired to do a job brings with it a mind. Management, by and large, is ignoring this mental capacity to its great disadvantage.

This is too short a column to explore how quality circles should be implemented in any organization. But, if there is an interest in the subject, and you feel that I could be of service to you let me know and I'll be happy to send you additional literature.

Remember, that just as no one player can win any team game, so, too, no one manager can be as effective nor as productive as he or she could be if they used their whole "team."●

HONORING CALIFORNIA'S CITY: PICO RIVERA

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. TORRES. Mr. Speaker, the city of Pico Rivera was incorporated on January 29, 1958, and is now celebrating its 25th anniversary as a city. The

city is a combine of two historic unincorporated communities: Pico and Rivera. The union of these two areas, each of which had its own strong tradition, has been a happy and successful one. Now Pico Rivera is a city of 56,000 people with its own excellent school district and a record of political stability.

It is a model for others to follow. The leaders of the city have fashioned a balance between the contract system and services by city forces that has proved to be highly successful. Under wise leadership by a succession of dedicated city councils and planning commissions, Pico Rivera has developed into a well-balanced community of industrial, commercial, and residential land uses.

Pico Rivera is a family-oriented community of well-maintained residential properties. Its beautiful parks are highly patronized. Many organizations work closely with the city government to provide a variety of healthful outlets for people of all ages. Pico Rivera operates 20 baseball fields which are busy day and night. The city's Olympic size swimming pool will be used for training purposes in the 1984 Olympics. Working closely with the U.S. Army Corps of Engineers, the city has developed in the Whittier Narrows area a bicentennial park. The complex includes an area, public campgrounds, stables, and a municipal golf course with driving range, pro shop, and restaurant.

To assure a continued high-quality environment for all elements of the community, Pico Rivera operates a multifaceted housing assistance program. An extremely active redevelopment agency has completed one major shopping center, and is now engaged in major industrial development with the assistance of an urban development action grant from the Federal Government. Pico Rivera is coordinating rehabilitation of Whittier Boulevard, including new storefronts and new offstreet parking facilities. It also works closely with the Northrop Corp. which is developing its advanced systems division on 220 acres within the city limits.

Further, Pico Rivera has extremely capable and progressive civic leaders. The city council members include: Mayor Garth Gardner, first elected in 1972 and served on the planning commission for 13 years; Mayor Pro Tempore James M. Patronite, elected in 1974 and served on the incorporation committee in 1956; Councilman John Chavez, elected in 1978 and served on the planning commission for 5 years; Councilman Alberto Natividad, elected in 1982 and is retired from the Los Angeles County Sheriff's Department; and Councilman Gil de La Rosa, also elected in 1982 and served for 14 years as a member of the board of the El Rancho Unified School District.

Mr. Speaker, I know that my colleagues in the House of Representatives wish for the people of Pico Rivera a future that builds upon their achievements of the last 25 years. I am honored to represent the people of Pico Rivera in Congress during their 25th anniversary.●

MATH AND SCIENCE EDUCATIONAL CRISIS

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. PORTER. Mr. Speaker, our Nation is now facing a serious educational crisis. The subjects of math and science have been dangerously neglected, creating a potential breakdown of our Nation's scientific development. There is now a severe shortage of qualified and motivated teachers in these fields.

The lack of available instruction in our educational system has resulted in a substantial drop in popularity and aptitude for both of these subjects. SAT math scores have continued to decline while an increasing number of colleges offer remedial math courses rather than promoting more advanced professional programs. There is a growing concern that our educational system will not be able to produce the caliber of scientists necessary for our Nation's continued advancement in science and technology. This could have serious long-term effects on the health and welfare of our society.

In a recent article in the Chicago Sun-Times, Robert Filler, dean of the College of Science and Letters at Illinois Institute of Technology, points out the major flaws in our math and science program and offers suggestions on how to resolve this crisis. I submit the article for the information of my colleagues:

WE MUST RESOLVE MATH, SCIENCE CRISIS

(By Robert Filler)

The recent report of Mayor Byrne's Task Force on High Technology notes the enormous potential of the Chicago area, with its diverse corporate strength, abundant energy, skilled labor, transportation facilities and outstanding universities and other institutions of science and technology. But we've also been reading chapter and verse about the disastrous state of math and science education in America's public schools. Most students are not being encouraged to study these linchpins of high technology—nor do they have the opportunity to do so.

If we don't have face up to this crisis, it will be difficult for Chicago and Illinois to sustain a strong, versatile technological base; nor will the United States be adequately prepared to compete successfully with Japan and Western Europe in the accelerating on the horizon.

Let's examine a few dimensions of the problem that symbolize the decline in our technological leadership.

In 1980, 28 states had shortages of math teachers, critical in 16.

In 1981, 42 states had shortages in physics teachers, critical in 27. There is only one certified physics teacher for every two public high schools in Chicago.

In 1981, half of all math and science teachers nationally were unqualified or less than qualified and teaching with emergency certificates.

In the last decade, there was a 77 percent decline in the number of secondary school math teachers being trained and a 65 percent drop in science teachers.

The popularity of math dropped from 48 percent in third grade to 18 percent in 12th grade.

The average SAT score in math declined steadily, from 502 in 1963 (the post-Sputnik halcyon days) to 466 in 1981.

Enrollments in remedial math in public four-year colleges increased more than 70 percent during the last five years.

How can we reverse these trends that already have cost us a large segment of a generation that would have contributed to our scientific advancement? Instead of handwringing and carping at students, teachers, parents and government, let us formulate specific plans, for the hour is late. We will need much of the remainder of this century to turn things around. Good scientists, engineers and technicians must be nurtured, often for many years.

For starters, here are a few suggestions:

1. The Illinois Board of Education and Board of Higher Education should convene an extraordinary conference to establish a task force that will address this paralytic drift.

Appropriate representatives of pre-college math and science teachers, local boards of education, colleges and universities and science and technology-based industries should be invited.

2. Educationists on the state and Chicago school boards must place much greater emphasis on subject matter and less on the methodology with which they have been so preoccupied. The scandalously meager math and science requirements for high school graduation must be increased. They should also raise the standards in our schools of education, which for too long have attracted a high percentage of the weaker college students.

3. Talented and gifted high school students should be invited to our universities for special programs and increased use should be made of television, especially closed-circuit TV.

4. Education Secretary Terrel H. Bell is considering sending legislation to Congress to provide aid for retraining teachers in math and science. Bell and the Congress should be bombarded with letters and telegrams in support of such legislation. A similar post-Sputnik program was a very effective and inexpensive investment.

5. The main loss of interest in science and math occurs between the fourth and eighth grades, owing primarily to poorly informed, unmotivated teachers who are themselves unenthusiastic and fearful of these subjects. We can increase their interest and allay their fears by bringing them to our universities for short courses and workshops in computer science and modern applied science. Positive attitudes of these teachers will rub off on pupils and be reinforced by good high school courses, developed to coordinate with elementary and college programs.

6. With the cooperation of teacher unions, we can increase the numbers of certified

teachers in fields in very short supply. College graduates in science command excellent salaries. Good students will not enter teaching unless they are paid a premium of at least $2,000 to $3,000 a year above the regular teacher's salary. This is being done in Houston and other communities.

With the will and determination of all concerned, we can resolve this crisis to the ultimate advantage of the economy and security of the nation.●

GREAT WESTERN COUNCIL OF BOY SCOUTS HONORS HOYT S. PARDEE

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. BERMAN. Mr. Speaker, I am delighted to report to you and have incorporated into the RECORD of this Congress a significant event in the Great Western Council, Boy Scouts of America, a large portion of whose members are citizens of the 26th Congressional District.

The Great Western Council has selected an individual whose life has been an outstanding example for our Nation's youth to emulate, for this Distinguished Eagle Award.

This award will be presented to a man who has achieved distinction through service to Scouting as a member of the Great Western Council executive board, member of the investment committee, chairman of the Pardee/Great Western Council Golf Tournament and supporter of the Great Western Sea Base Program, and he has given distinguished service to his community and Nation as a founder, senior vice president, and director of the Pardee Construction Co.; founder and officer of the Pacific Western Mortgage Co.; member of the board of trustees of the UCLA Foundation, UCLA Chancellor's Associates, Dean's Council, Graduate School of Management, and Hoyt S. Pardee Fund with the UCLA Foundation; and president of the Par West Financial and chairman of the board of the Weyerhaeuser Mortgage and Weyerhaeuser Venture Co.

Because of these and other achievements and the desire of the Boy Scouts of America, upon the nomination of the Great Western Council and the recommendation of a committee of Distinguished Eagle Scouts to the National Court of Honor, acting on behalf of the executive board of the Boy Scouts of America, the honor and rank of Distinguished Eagle Scout is awarded to and conferred upon him.

The citizens responsible for this event are also to be commended and they are: Michael K. Lanning, chairman, assisted by George M. Pardee, Jr., J. Douglas Pardee, guest speaker Dr. Tom Haggai, chief Scout executive James Tarr, Great Western Council Scout executive Wayne L. Julian, council president Arthur Burdorf, council treasurer Charles Cox, council commissioner Robert W. Begen, past president Ward B. Dennis, vice presidents Richard Breithaupt, Jr., Donald W. Douglas, Jr., Joseph D. Winston, Melvin Wynn; Sylvia Genovy, Marcelle Parker, Don Van Winkle, and Kathy O'Connor. The event was held February 3, 1983, at the Century Plaza Hotel in Los Angeles.

Mr. Speaker, it is fitting that this Congress give its approbation, encouragement, and hearty congratulations to a citizen who has, freely and wholeheartedly, contributed so much of his time, talent, and resources to the well-being of the people of our Republic.●

ROE AGAINST WADE—A SWEEPING DECISION

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. PAUL. Mr. Speaker, January 22, 1983, marked the 10th anniversary of the fateful Supreme Court decision, Roe against Wade—a sweeping decision that overturned anti-abortion statutes in all 50 States.

In the majority opinion for Roe against Wade, Justice Blackmun stated that in order for the fetus to be worthy of any protection under the law, it must have "the capacity for meaningful life outside the mother's womb." This phrase, "meaningful life," has been used to justify the abortion of fetuses in whom any abnormality is detected. Further, this "quality of life" argument has been the rationale behind increasing incidents of infanticide, such as the Infant Doe case in Bloomington, Ind.

The quality of life that any fetus may enjoy cannot be determined prior to the child's birth. Even if a fetus or newborn is considered "normal," there is no way of determining the quality of life that child will enjoy over the years. Whether that child will be the victim of child abuse or some other heinous crime, or a debilitating accident cannot be known at birth. Any of these tragedies would certainly affect the quality of life enjoyed.

According to Dr. C. Everett Koop, a great pediatric surgeon and the Surgeon General of the U.S. Public Health Service, mental and physical handicaps are in no way related to happiness. Koop also states that the vast majority of disabled infants are within the realm of treatment.

I would like to submit to this body the story of a handicapped person whom most of the world had given up on. Born without eyes, mentally retarded, and with cerebral palsy, all of the medical experts expected Leslie to die shortly after birth. This is the story of 30 years of the extraordinary love, patience, and diligence of his adoptive mother, May Lemke. Under her care, Leslie has developed outstanding talents as a musician.

The story follows:

[From the Reader's Digest, October 1982]

THE MIRACLE OF MAY LEMKE'S LOVE

(By Joseph P. Blank)

The Milwaukee County General Hospital had a serious problem: a six-month-old infant named Leslie. Mentally retarded and without eyes, the baby also had cerebral palsy. He was a limp vegetable, totally unresponsive to sound or touch. His parents had abandoned him.

The hospital staff didn't know what to do—until a pediatrician mentioned May Lemke, a nurse-governess living nearby. A nurse telephoned May and explained that in all likelihood Leslie would die in a short time. "Would you help us by taking care of him while he lives?" the nurse asked.

"If I take him he certainly will not die, and I will take him," May replied. The nurse never mentioned that the county could provide money for the infant's care, and it never occurred to May to ask.

That was 30 years ago. May was 52 at the time. She and her second husband, Joe, lived in a small house at the edge of a lake in nearby Pewaukee. A World War I bride from England, May had raised five children to adulthood. Her first husband died in 1943, and five years later she married Joe Lemke, a skilled construction worker.

Four and a half feet tall and weighing 90 pounds, May is still the direct-talking, indefatigable woman Joe married. And she retains the same deep faith in God. Today, at 82, she rarely walks; she scurries.

When May accepted the baby, she accepted him as just that, a baby—no different from others—to be taught and loved. On the first feeding attempt, she saw that Leslie lacked the sucking reflex that is spontaneous with most babies. Apparently he had been fed by tube at the hospital. May quickly taught him. She put the bottle nipple between his lips, then put her lips near his moving the nipple and making sucking sounds against his cheek. He caught on.

As she worked with him, May sang a lullaby remembered from her own childhood. She changed a few words to fit Leslie's blindness:

Only a baby small dropped from the sky
Only a baby small without any eyes
Only a baby small always at rest
Only a baby small that God knows best.

She bathed him, cuddled him for hours, talked to him, sang to him. He never moved or uttered a sound.

Year after year she cared for him, but there was no movement. No smile. No tears. No sound. If May had not tied him to the back of the chair he would have toppled over.

May never stopped talking to him. She massaged his back, legs, arms, and fingers. She prayed, and sometimes when she prayed she wept and put Leslie's hands to her cheeks so he could feel the tears. "I feel sad right now and I'm crying," she would say.

May refused to consider the child a burden. "I did not seek Leslie, so there has to be a reason why I was picked to raise this child," she told herself. "God, in his time, will show me the reason."

May was never reluctant to bring Leslie out in public. He was her boy, her love. She intuitively felt that somewhere in the maze of his damaged brain he was trying, and she was proud of him. During a bus ride, a woman who several times had seen May talking to the unresponsive boy in her arms said, "Why don't you put that child in an institution? You're wasting your life."

"It's you who's wasting your life," May snapped. "This kind of a child is brought around by kindness and love. Not in an hour or a month or a year. Lasting kindness and love."

One summer, Joe spent hours in the lake bobbing the boy around in the water, hoping that the doll-like, lifeless movements of his arms and legs would inspire him to move his limbs voluntarily. Once or twice May thought she detected deliberate motions, but Leslie did not repeat them.

That fall May took Leslie to a rehabilitation center in Milwaukee. No one thought anything could be done for the boy. There was not a single word of encouragement.

This professional pessimism didn't deter her. She knew that someday Leslie was going to break out of his prison. She just had to help him. She tried to think of a way to get the concept of walking into his mind. He had never made a move to crawl. He had never seen anyone walk.

She asked Joe, who was a rock of support to her, to make a wide leather belt for her waist and attach small loops on each side of it. Taking steps, she would clasp Leslie's hands to her hips in the hope that he would absorb the walking motion. He just slumped and dangled behind her.

The Lemkes then had a chainlink fence erected along the side of their property, and May stood Leslie next to it, thrusting his fingers through the openings. After several weeks he finally got the idea of letting the fence support him. He stood. He was 16.

Then May tried to get him to move along the fence. She never stopped talking to him, encouraging him: "Come on, love, move just a little bit, a little bit." She said this hundreds of times, moving his hands and feet herself. Finally, he moved on his own.

Once he could do that, she tried to lure him away from the fence. "Come to Momma, love. Please come to Momma," she'd call. After months, he learned to totter two or three steps.

It was an interminable, grueling struggle, but May never thought of it as a struggle; she was simply striving to help her boy. But she knew that she needed help in the effort. "Please do something for Leslie, May prayed time and again." He may be 18 years old, but he's still a baby. "Once she got angry. "The Bible tells of the miracles. Please, dear God, let there be a miracle for this boy."

One day she noticed Leslie's index finger moving against a taut piece of string around a package, as if plucking it. "Was this a sign?" she wondered. "What did it mean?"

"Music!" she exclaimed to herself. "That's it. Music." From then on the Lemke house was filled with music from the record player, the radio and the TV. Hour after hour the music played. Leslie gave no indication that he was listening.

May and Joe bought an old upright piano for $250 and placed it in Leslie's bedroom. Repeatedly, May pushed his fingers against the keys to show him that his fingers could make sounds. He remained totally indifferent.

It happened in the winter of 1971. May was awakened by the sound of music. It was 3 a.m. Someone was playing Tchaikovsky's Piano Concerto No. 1. She shook Joe. "Did you leave the radio on?" she asked.

"No," he said.

"Then where's the music coming from?" She swung out of bed and turned on a living-room light. It dimly illuminated Leslie's room. Leslie was at the piano. May saw a smile glowing on his face.

He had never before got out of bed on his own. He had never seated himself at the piano. He had never voluntarily or deliberately struck the keys with his fingers. Now he was actually playing a concerto—and with deftness and confidence.

May fell to her knees. "Thank you, dear God. You didn't forget Leslie."

Leslie obviously had been listening to the music, and listening with such intense concentration that, like a computer, his brain had stored every composition that had come to his ears. Why the music burst out of him on that early-morning hour in late winter is unknown. But come it did, like a gale. His repertoire ranged through the classics, rock, ragtime, county-western and gospel.

"Coming out" musically opened the door for all kinds of emotions and developments. Occasionally a single word popped from his mouth. Then one afternoon some children were playing on the other side of the chainlink fence, and May asked them what they were doing. One of them answered, "We're having fun." Leslie took a few steps along the fence. "I'm having fun," he said in a thick but understandable voice. It was his first complete sentence, and May grabbed him and hugged him.

Several months later in the family living room Leslie began to tremble, and tears rolled down his cheeks. "I'm crying," he sobbed. "I'm crying." He had never wept before and now he did so just as his mother had years before. May watched him cry a flood for 20 minutes. She was grateful that he could express whatever pain or fear had been locked inside him. To her it was a beautiful sight. Leslie also learned to feel his way through the rooms. May and Joe taught him to use the toilet. He brushed his teeth. He bathed himself.

Meanwhile, Leslie's skill at the piano steadily increased. His rendition of Gershwin's "Rhapsody in Blue" in a tour de force, flawless and evocative.

And he sings. Before learning to speak clearly he could readily mimic a variety of singers. He has a big, round voice and, when he pulls out all the stops, it can be heard a block away. He can do Luciano Pavarotti in two Italian operas, Jimmy Durante in "Inka Dinka Doo," Louis Armstrong in "Hello, Dolly!" and both parts of the Jeanette MacDonald-Nelson Eddy duet in "Sweethearts."

Two years ago, at the age of 28, Leslie began talking in earnest. Although he cannot hold a give-and-take conversation, he makes statements and can ask and answer questions. Sometimes he expresses an opinion. While listening to TV one night Leslie got fed up with the dialogue in a situation comedy. "Better get that off," he said. "They're all crazy."

As news of Leslie's talent traveled, groups requested him for concerts. May pondered the invitations; then she decided that public appearances would be valuable to Leslie. The music would give him a sense of participating in society. "And those people sitting out there, watching and listening, might get a sense of wonderment and a feeling of hope that they might never had had. They would see what can happen to a human being thought to be absolutely hopeless and helpless."

Leslie played at churches, civic clubs and schools, and for groups of cerebral-palsy and retarded children and their parents. He went on to colleges, county fairs, local television and finally network television.

He loves performing. Sometimes he will burst into song while sitting in an airport lounge or airliner. People around him are often startled by his first notes, but his closing always is met with exclamations and applause.

There still are many things that Leslie cannot do. Those fingers that perform so brilliantly at the keyboard cannot use a knife or fork. Conversation does not flow easily. but ask what music means to him and he replies with a voice that is firm. "Music," says Leslie, "is love."

For nearly two centuries authorities have puzzled over the phenomenon of the autistic savant (often called idiot savant)—a person who, though mentally retarded by brain damage, is capable of an extraordinary specific talent. "The feats performed by a typical autistic savant are usually far beyond the capabilities of even the most brilliant of normal minds," says Bernard Rimland in "Cognitive Defects in the Development of Mental Illness." "How can a child with an I.Q. of 37 instantly tell you that 6427 times 4234 equals 27,211,918?" And Leslie's achievement, especially since it occurred after childhood, is so formidable that it defies belief. "We can neither match the autistic savant's performance nor explain how it is achieved," Rimland, director of the Institute for Child Behavior Research in San Diego and a leading researcher in the field, further states.

But May Lemke believes there's only one explanation for a miracle. And each day she gives Leslie the same loving care that helped that miracle occur.●

TRIBUTE TO PAUL WIRTZ

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. LONG of Maryland. Mr. Speaker, I rise today to pay tribute to a man who has given his career in distinguished service to his country and to his community.

Mr. Paul Wirtz of Roland Park in Baltimore, Md., retired on January 20 of this year after over 41 years of service in utility and environmental management at Aberdeen Proving Ground. He began his career there in 1941 as a junior engineering aid. With the exception of 2½ years of service in the Navy during World War II, he has devoted himself continuously since then to improving the quality of life of the installation's personnel and to the stewardship of the Proving Ground's marvelous natural environment.

For the past 8 years, Mr. Wirtz has served as APG's Deputy Director of the Facility Engineering Directorate as well as Installation Environmental Quality Coordinator. With his leadership, Aberdeen Proving Ground has won the Department of the Army's Environmental Award for its excel-

lence in environmental management. Among other distinctions, Mr. Wirtz has earned the Commander's Award for Civilian Service at the installation.

Since he arrived in 1941, he has consulted in the design and construction of every new building at the installation, maintaining the balance between human demands and environmental quality, which maximizes the quality of life for all. Throughout his career, Mr. Wirtz has also been a champion of stewardship, striving to make the best use of the natural environment for the greatest benefit of all while steadfastly attending to the needs of the ecosystem and demonstrating deep respect for nature's beauty. In fact, he spearheaded efforts to create an environmental office at the Proving Grounds long before the Army mandated the creation of such offices for all its installations.

At this time, it is only fitting for us to recognize his service and celebrate the great gifts which his life thus far has made to us all. His commitment to excellence, his courage, his vision, his ambition for other people, and his way with people are all qualities we need to respect and emulate. I am happy and proud to be able to make these remarks in tribute to a truly remarkable person.

I am sure that my colleagues join me in wishing Mr. Wirtz a happy and fulfilling retirement.●

PROVIDING A TAX DEDUCTION FOR MAKING FACILITIES ACCESSIBLE TO THE HANDICAPPED

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. STARK. Mr. Speaker, I am today introducing legislation which will extend for 2 years section 190 of the Internal Revenue Code which provides a deduction for businesses which make their facilities accessible to the handicapped.

Since its enactment in 1976, this provision has been a vital component in our efforts to assure that the handicapped are fully integrated into our society. However, such integration necessitates the renewal of this provision which expires at the end of 1983. Congress must act quickly to maintain the momentum originally generated by this provision, a momentum toward greater accessibility for the handicapped to jobs, recreational facilities, and shops.

Currently, section 190 provides for a deduction of up to $25,000 of the costs that businesses incur in the renovation of their facilities. In many cases, the costs are in excess of the allowable deduction. The cost to the Treasury in implementing this provision is at least partly offset by the taxable earnings of handicapped persons who are able to return to work or find new jobs because of greater opportunities.

Mr. Speaker, it has appeared to be the trend of late to eliminate or discontinue programs which were originally intended to assist certain less fortunate members of our society. The current administration, in particular, has engaged in a very aggressive program to dismantle many of the programs that Congress has enacted over the years in complete disregard of the success of some of these programs. While we may well be in the midst of a time of diminishing expectations, it would appear to be, at very least, an irreversible slight to the physically disadvantaged if we were to retract the singular consideration society has afforded them, some degree of latitude in the choice of where to go, what to do and where to work, a latitude not presently commensurate with our own.

Therefore, may I urge you to act quickly to extend this very vital provision.●

THE 17TH ANNIVERSARY OF THE SIGNING OF THE CUBAN EXILES' DECLARATION OF FREEDOM

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. FASCELL. Mr. Speaker, January 23, 1983, marked the 17th anniversary of the signing of the Declaration of Freedom by the Cuban exiles in the United States.

On this date, 17 years ago, 1,500 Cubans left their homes and the oppression of Castro's totalitarian government to seek freedom and opportunity in the United States. These brave people gathered in Key West, Fla., to declare their strong commitment to extending to their homeland the ideals of freedom and a representative democracy, modeled after that in our Nation.

These convictions are no less compelling today than they were in 1966 at the original signing. This declaration reflects the Cuban's determination to fight for democracy, human rights, and the fundamental freedoms of speech, religion, education, press, and enterprise. I urge our colleagues to join in reflecting on the tragic situation which brought these people to our shores, and on the aspirations and dreams embodied in their declaration.

The text follows:

DECLARATION OF FREEDOM

In the City of Key West, Monroe County, State of Florida, United States of America, we, the Cuban exiles in the United States, in the name of God Almighty, and speaking both for ourselves and the oppressed people in Cuba, the Martyr Island, do say:

That on January 1st, 1959, the slavery yoke that came from Europe and was extinguished in Cuba at the end of the 19th century, was resumed.

That those responsible for this high treason to our Fatherland and to our People are just a score of traitors who, usurpating the Government of the Country have been acting as mercenary agents for the Sino/Soviet imperialism, and have surrendered to that imperialism our Freedom and our Dignity, also betraying the American Hemisphere.

That as a consequence of this high treason, those who are usurpating the Power in Cuba (as they were never elected by the People), are imposing a regime of bloodshed, terror and hate without any respect or consideration to the dignity of the human being or the most elementary human rights.

That in their hunger for power, these traitors, following the pattern of totalitarian regimes, are trying, within Cuba, to separate the Family, which is the cornerstone of actual society, and at the same time, are poisoning the minds of the Cuban children and youth, in their hopes of extending the length of time for this abominable system.

That the rule of the Law has been wiped out in Cuba, and it has been replaced by the evil will of this score of traitors, who are acting under orders from their master, the Sino/Soviet imperialists.

In view of the aforegoing, we declare.

First: That the actual Cuban regime is guilty of high treason to our Fatherland and to the ideas of the Freedom Revolution which was started on October 10th, 1868.

Second: That this score of traitors who have committed treason against our Fatherland, in case they survive the downfall of their regime, will have to respond, even with their lives before the Ordinary Courts of Justice of Cuba.

Third: That as the Noble Cuban People will not ever surrender, because that Nation was not born to be slaves, we, the Cuban People, hereby make the present declaration of freedom.

We hereby swear before God Almighty to fight constantly, until death comes to us to free Cuba from Communism.

The fundamentals of this Revolution for Freedom are:

First: God Almighty, above all things, in Whom we believe as the essence of Life.

Second: The Fatherland, with all of its laws, traditions, customs and history as a spiritual value, only surpassed by the concept of God.

Third: The Family, as the cornerstone of the Human Society.

Fourth: Human Rights, for each and every citizen, regardless of race or creed.

Fifth: The Law, as the foundation for the proper development of the Human Society.

Sixth: Democratic Government, with its three independent branches: Legislative, Executive and Judicial.

Seventh: Representative Democracy, through the exercise of Universal Suffrage, Periodically, Free and Secretive, as the expression of Popular Sovereignty.

Eighth: Freedom of Worship, Freedom of Teaching, Freedom of the Press and Free Enterprise.

Ninth: Private Property and Ownership, as the basic expression of Liberty.

Tenth: The improvement of living conditions for both rural and city working masses, with the just and necessary meas-

ures, keeping in mind the legitimate interests of both Labor and Capital.

Eleventh: The derogation and eradication of anything which is opposed to the political and religious fundamentals aforementioned and specifically, the abolition of Communism and any other form of totalitarian manifestation.

Signed and sealed in Key West, Florida, on the 23d day of January, 1966.●

CONTRIBUTIONS OF JUDGE WATT

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. EDWARDS of California. Mr. Speaker, on February 11, Judge John Douglas Watt will be honored at his retirement dinner. At this time, I would like to bring to the attention of my colleagues the fine sustained contributions that Judge Watt has made during his career of public service.

Judge Watt's service to this country began long before his judicial career. As a member of the Armed Forces, he had an 8-year career in the U.S. Navy during World War II. Upon his retirement from the Navy, Judge Watt pursued his education securing first a bachelor's degree from San Jose State University, and ultimately earning his law degree from the UCLA Law School.

The ensuing law career that Judge Watt enjoyed was marked not only by professional skill and strength, but also by personal conviction and perseverance. In the midst of his scholastic endeavors, Judge Watt faced and conquered an immense challenge: polio. I am sure that Judge Watt's courage has been a source of inspiration to countless others who have been similarly challenged.

During his legal career, he was distinguished first as a lawyer, winning a major water law case before the U.S. Supreme Court; then as referee of the (then) Industrial Accident Commission; and finally as presiding workers' compensation judge for the State of California's Workers' Compensation Appeals Board office in San Jose, Calif., the position from which he now retires.

It is my great honor and privilege to pay tribute to Judge John Douglas Watt. I sincerely hope his retirement years are as rewarding to him as his years of service have been to the people of the State of California.●

WHY ENTREPRENEURS TRUST NO POLITICIAN

HON. JAMES F. McNULTY, JR.

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. McNULTY. Mr. Speaker, small business enterprise traditionally has been the foundation for the creation of new jobs to provide goods and services to American consumers. In fact, 70 percent of all new private sector jobs in the past decade were created by small businesses.

But it is no secret that the recession is hitting small business enterprises particularly hard. In southern Arizona, for instance, which I represent, bankruptcy rates today are at record highs. Joblessness is increasing correspondingly. It is incumbent upon Congress to act to reinvigorate small business—a critically important form of economic enterprise.

I know my colleagues concur with me in fully expecting a thorough and productive debate on this subject over the coming weeks and months. I am hopeful that an article which appeared in the January 16, 1983, Washington Post "Outlook" section can contribute to that debate.

The article, entitled "Why Entrepreneurs Trust No Politician" and authored by Joel Kotkin and Don Gevirtz, outlines many of the problems facing our Nation's small businessmen and women—and lays important responsibility for discouraging our national entrepreneurial spirit at the feet of our national tax policy. By selective adjustments in our tax laws, the authors argue, substantial encouragement could be provided the entrepreneur. I believe the article makes a number of important contributions to the public understanding of small business' problems, and believe it could help Congress to act promptly to restore vitality to this important sector of our economy.

The article follows:

[From the Washington Post, Jan. 16, 1983]

WHY ENTREPRENEURS TRUST NO POLITICIAN

(By Joel Kotkin and Don Gevirtz)

As the economy wretchingly declines, Washington has turned its gaze increasingly towards the entrepreneur as the nation's last best hope for economic survival.

"You meet heroes across a counter," Ronald Reagan proclaimed in his inaugural address. ". . . There are entrepreneurs with faith in themselves and an idea who create new jobs, new wealth and opportunity."

Gary Hart, the Colorado senator who is an advocate of the "new" liberalism, says one of the key ideas of his economic program is to encourage "new entrepreneurial frontiers."

Even mainstream liberals like Walter Mondale have been seeking out entrepreneurs. Not only did he hold an "entrepreneurial seminar" in Washington, he trekked to Silicon Valley last summer to meet with the likes of Charles Sporck, president of National Semiconductor, Robert Noyce, founder and vice chairman of Intel Corp., and Steve Jobs, founder and chairman of Appel Computer.

But even as the politicians trumpet their newfound buzzwords about the entrepreneurial spirit, it has become painfully clear to the entrepreneurs themselves that the national political leadership understands little about who they are and what they need.

They are deeply disappointed in Ronald Reagan, a politician they hoped would break the mold by actually helping them, as he promised he would. Instead, Reagan's fiscal and monetary policies are driving thousands of them bankrupt.

"We're bleeding in so many places and Washington isn't providing us with any answers," claims Mel Boldt, president of the 220-member Illinois Independent Business Association and owner of a small Chicago-area machine shop. "It's like a rat being forced into a corner—we've got to bite back. When you drive an entrepreneur to the brink of losing his business, you're threatening his life."

This festering resentment among entrepreneurs is not aimed just at the nation's political establishment. It extends to the leaders of the entrenched Fortune 500 companies who have long possessed the dominant business voice in the corridors of power. With economic circumstances pushing them to the wall, a major schism is widening between the two great capitalist groups—the entrepreneurs and the corporate bureaucrats—which could alter the shape of American politics.

Many entrepreneurs, particularly the founders and owner-operators of growing firms, increasingly regard the bulk of the nation's giant corporations as lumbering bureaucracies that have lost the creative, competitive drive that accounted for their growth in the first place. After granting the exceptions like Hewlett-Packard, 3M, Texas Instruments and IBM, entrepreneurs associate big business today with companies like U.S. Steel and Chrysler, whose very economic survival has become inextricably linked to protectionist legislation and tax breaks guarded by their friends in Washington.

"The big guns have no credibiity anymore," maintains George Hatsopolous, founder of Thermo-Electron, a Waltham, Mass., high-tech firm, and a key member of the entrepreneur-oriented American Business Conference. "We are the only hope left in this country."

"The big companies have thrown up their hands in the battle and surrendered. Now it's up to the small and mid-sized companies to take over leadership and educate both the Congress and the public."

To entrepreneurs like Hatsopolous, Washington's longstanding tilt towards big business makes little economic sense. They note that small and mid-sized firms created some 70 percent of all new private-sector jobs during the last decade, while employment among the nation's 26 largest companies barely remained even.

Although many of these new jobs are in the service sector of the economy, perhaps the most dramatic contributions from entrepreneurs have come in manufacturing, the critical source of the nation's unemployment and trade problems.

Even in generally depressed industries like steel, where some 30 percent of a once 400,000-strong work force has been laid off, entrepreneurial "mini-mills" such as North

Carolina-based Nucor's have enjoyed strong sales and employment growth. In fact, during the last 15 years, these energy-efficient, technologically sophisticated minimills that specialize in serving local markets, have increased their share of domestic steel production from 3 percent to more than 15 percent of the national total.

Equally important, as big steel companies continue to lose market-share to foreign competitors, the mini-mills have been able to blunt and even reverse that penetration of local markets without resorting to government import quotas.

Even more dramatic have been the contributions made by the nation's entrepreneurial high-technology companies. During the past decade, northern California's Silicon Valley, home to thousands of high-technology entrepreneurial firms, has become the nation's most prolific producer of new manufacturing jobs, adding over 25,000 annually. Across the continent in Massachusetts, small and mid-sized high-technology firms have sparked a remarkable industrial renewal that now accounts for over 250,000 manufacturing jobs.

If they had their wits about them, the Democrats could reap tremendous benefits from a developing split between the entrepreneurs and the Republican-oriented big business bureaucracies. But even those trendy "neo-liberals" or "Atari Democrats," who so loudly proclaim their admiration for entrepreneurs, seem utterly incapable of addressing their needs.

Swept away by their own post-industrial fantasies, the Atari Democrat public-policy gurus have put together a program calling for federal targeting of "future-Oriented" industries such as computers. But these proposals leave most entrepreneurs stone cold, including those very high-technology executives who would theoretically gain most from such federal largesse.

"I guarantee you that no government agency can target the right industry; in fact, I'll almost guarantee they'll target the wrong one," says Noland Bushnell the California entrepreneur who founded Atari. "The targeting role belongs to the entrepreneurs. The problem is that these Atari Democrats would never, have targeted Atari."

Unfortunately, this lack, of appreciation for the creative, often unpredictable role of entrepreneurs in shaping new industries increasingly characterizes the set of policy recommendations from some of Reagan's leading liberal critics.

Among the worst ideas now gaining currency among Democrats is in the proposal to revive the Depression-era Reconstruction Finance Corporation (RFC). This proposal, promoted by influential New York investment banker Felix Rohatyn and recently introducted in Congress by House Democrats, would set up a board to dispense government-backed loans to selected industries.

Like the schemes of the Atari Democrats, the RFC proposal grows out of the deeply mistaken notion that public policy experts and politicians are somehow best suited to steer capital into the proper industries. Although the RFC clearly had an important role to play in the Depression years and during the mobilization for the Second World War, its post-war record was clouded by political favoritism and corruption, leading to its abolition in 1954. It seems logical that, under today's conditions, any attempt to revive the RFC would only produce a similar travesty.

Equally ominous for entrepreneurs have been the growing protectionist rumblings in Congress, capped by recent House passage of "domestic-content" legislation meant to penalize Japanese car makers. Six of the seven leading Democratic presidential candidates, including some of the most ardent boosters of entrepreneurism, supported this proposal, demonstrating utter disregard for the fundamental competitive principles which drive most entrepreneurs.

"Protectionism is not the answer to our long-run problems in this industry," observes Tom Sigler, president of the Continental Steel Corporation, a recently organized mini-mill-type operation in Kokomo, Ind., a town with nearly 20 percent unemployment. "Meeting the competition, getting the elements together to meet it, that's what made this country. All those foreign people are doing is taking a page out of our book and doing it better. If we can't get ourselves ready to meet the challenge, we're the fools and deserve to lose. And I hate to lose."

In addition, for many entrepreneurial firms, particularly in the high-tech field, protectionism jeopardizes crucial foreign markets necessary for sustaining their fast growth. According to a recent GAO study of 72 young venture-capital-backed firms, more than 15 percent of their total sales, worth $900 million, were to overseas customers.

"When American or Japanese entrepreneurs are protected by the government, the price goes up, the quality goes down and the adrenalin of competition gets drained," said Randy Knapp, chairman of Wespercorp, a Tustin, Calif., computer-parts firm with expanding markets in Japan and Europe. "Protectionism is bad business for us."

On protectionism and so many other issues, entrepreneurs must now face off against a broad array of entrenched interests including both declining industries, such as autos, and those unions which have been so tragically linked to their fate. With the exception of such forward-looking unions as the Communications Workers, organized labor has consistently lobbied within the Democratic Party for positions anathema to entrepreneurs.

"Ever since Roosevelt, the Democrats have fostered the big corporate state," explains Walter Stults, president of the National Association of Small Business Investment Companies (NASBIC) and for 30 years a leading Washington advocate for entrepreneurs. "They always see themselves getting together with a few labor leaders, a few guys from the Fortune 500, and making economic policy. Up until recently, they haven't even bothered to include the entrepreneur."

To combat what Stults describes as "a coalition of the bigs," enterpreneurs must now set out to organize themselves into an independent, coherent political force on the national scene. To accomplish this, however, entrepreneurs will have to overcome the very individualistic—even egocentric—impulse central to the entrepreneurial character.

"The nature of these folks is very diverse," comments John Rennie founder of Massachusets-based Pacer Systems Corp., and president of the 1,500-member Smaller Business Assoication of New England (SBANE). "We have our share of high-techers and low-techers, extreme liberals and extreme conservatives. You take a look at them and say, 'Damn, how do you build a constituency out of such a motley group?'"

Despite these problems, entrepreneurs are beginning to develop a new political consciousness and the organizational muscle to make it count. Nothing was more important in pushing them forward than the 1769 doubling of the capital-gains rate by the Congress, a move which dried up sources of venture capital for new-business development and expansion. Entrepreneurs trying to reverse the capital-gains legislation soon found they were fighting a lonely battle, facing both the active opposition of traditional liberals and the indifference of corporate lobbies such as the Business Roundtable.

Most severely affected by the capital-gains increase were the nation's young, high-technology companies who watched their prime sources of capital dry up as their Japanese competitors used their ample supplies of long-term bank credit to develop their products and deeply penetrate high-technology markets around the world, including in the United States.

Driven to desperation, a coalition of entrepreneurial groups, led by the 1,900-member American Electronics Association (AEA) and especially its then-board member, Edward Zschau, lobbied hard to reduce the rate.

In 1978 AEA and its allies on Capitol Hill, including the late Republican congressman William Steiger, overcame staunch Carter administration opposition and succeeded in winning a capital-gains reduction. This entrepreneurial victory—which helped stimulate an increase in venture capital from a mere $10 million in 1975 to over $1.3 billion last year—contributed to the rapid development of such high-technology firms as Apple Computers, Genentech and Tandem. It also convinced entrepreneurs, most of whom have an instinctive distaste for politicians and government, of the importance of building a strong political presence in Washington.

"About then, entrepreneurs began to realize the problem was the government and politicians, not the Japanese," recalls AEA chief Washington lobbyist Ken Haggerty. "We realized we were in a fight with big business and everyone else over allocating the pie. It changed some attitudes real fast."

Over the last few years, this change of attitude among entrepreneurs has led to the formation of new, independent-minded groups such as the American Business Conference (ABC), a coalition of some 85 mid-range ($25 million to $1 billion in annual sales) growth companies.

ABC, AEA and other entrepreneur-oriented groups have battled such powerful organizations as the Business Roundtable over issues like the "safe-harbor leasing" provision in the 1981 tax bill which ABC president Jack Albertine characterizes as unfairly tilted toward Fortune 500 companies and declining industries. Over the next few years, Albertine believes, Washington will be the scene of a growing conflict between growth companies and the corporate dinosaurs who make up so much of the Fortune 500 today.

"The corporate bureaucrats are interested only in retaining their earnings and big salaries while our guys are into equity and expansion," Albertine, an economist, charges. "It's basically boiling down to a question of perspective and power. Over time, I think it will become clear that the balance of power is shifting away from those big, old companies and towards us."

But before entrepreneurs can expect to acquire significant political power, they must find a way to further develop their organizational strength, particularly in terms

of campaign fund raising. Equally important, entrepreneurs need to adopt a clear-cut economic program which can offer hope to the rest of the nation.

Although this is not the place to spell out in detail an entrepreneurial economic plan for America, it is possible to lay out some of the fundamental ideas which are likely to reflect the views of most entrepreneurs. Among the most basic are:

A major revision of the tax code. Traditionally, tax laws have favored large corporations with powerful lobbies as reflected in the 1981 safe-harbor leasing provision, which allowed large, unprofitable companies to sell their tax breaks. That, along with accelerated depreciation and other measures, allow giants like General Electric to pay negligible taxes. Growth companies, like the members of the American Business Conference, consistently pay twice the effective tax rate of the nation's top-100 firms. Tax policy should encourage the entrepreneurial process by eventually eliminating capital gains for investments in entrepreneurial businesses. A good immediate step would be to reduce the current 28-percent capital-gains rate for corporations down to the 20 percent rate prevailing for individuals, thereby accelerating the flow of venture funds from cash-rich institutions to small and mid-sized companies.

Allow companies to earn up to $500,000 in profits before paying any corporate income tax. Such a change could greatly enhance the ability of small firms to grow in the crucial years before they can easily get at public equity and private venture capital markets.

A far-reaching reform of the nation's banking system. Deregulation has so far concentrated only on the deposit-gathering side of the equation. New money-market certificates last month netted giants like Chase Manhattan over $50 billion, but the reform did little to encourage banks to loan more to entrepreneurial firms. In addition, an unspoken rule among American bank regulators discourages banks from making big enough loans to high-growth firms. In America, an entrepreneur can borrow at most $4 against every dollar of equity in his business—a formula left over from the Great Depression that doesn't allow for the kind of extraordinary growth some of these companies can achieve. Japanese firms can borrow as much as $20 against $1 of equity, depending on how promising the new industry appears.

An expansion of the research-and-development tax credit. Current provisions favor a giant corporation which can spend large sums on expensive equipment for research. This discriminates against smaller firms who tend to spend most of their R&D monies on salaries for creative personnel. A reform allowing small companies to write off their salaries for R&D workers would greatly enhance this nation's technological development since small and mid-sized firms produce from four to 24 times more innovations per research dollar than Fortune 500 corporations, according to the National Science Foundation.

A major federal effort to train workers for new industries. Even under current depressed circumstances, small, innovative firms lack the key personnel they need, such as computer programmers, assemblers and technically oriented sales people. Unlike large companies that have the ability to pay for such training, small and mid-sized firms need some expanded tax credits to train these vital workers. They also need vastly improved technical education in the nation's schools.

Of course, even if the various elements of the entrepreneurial community can unite behind such an agenda, the chances of getting these proposals through Congress in the immediate future are small. But entrepreneurs are a remarkably persistent lot. Aroused, they could give Washington a political jolt.

"You know, we entrepreneurs have one real advantage over everyone else—we're too dumb to know what's impossible," asserts Edward Zschau, a former AEA official and electronics-company entrepreneur recently elected to Congress from the Silicon Valley. "We are people who have succeeded because we didn't know we could fail. We have spent our lives being told the things we wanted to do were impossible but we've always found a way to make it happen."●

BENEFIT FOR ARMED SERVICES MEMBERS NEEDED

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. WHITEHURST. Mr. Speaker, today I am introducing legislation to authorize a travel and transportation allowance to a member of the uniformed services stationed overseas for each dependent child who attends a school in the United States for the purpose of obtaining a secondary or undergraduate college education.

I am doing this for the following reasons:

Since 1980 civil service and Foreign Service employees stationed overseas have been authorized a yearly travel and transportation allowance for each qualifying dependent attending school in the United States. However, military members serving overseas do not receive this allowance. Consequently, the member has to pay out of his own pocket the travel costs for his student dependents unless they can get space available—space A—accommodations on military flights.

A recent NMWA survey of overseas military families indicated that—

Sixty-five percent of the families paid for commercial flights for their students;

Another 16 percent paid for commercial flights in combination with space A accommodations; and

Only 14 percent of the families managed to have their students use space A exclusively.

A qualifying student dependent of an overseas foreign or civil service employee is assigned a space required priority on a military flight, while a military member's student dependent must fly space available. Thus, the child of a Foreign Service or civil service employee can "bump" the military member's child if both are trying to get a seat on the same flight.

Space available travel is—

Undependable: Many eligible people compete for the same accommodations during summer and holiday periods when the students have to travel.

Costly: In the end, military families frequently have to pay for commercial flights after their children have spent days cutting short vacations and holidays waiting for the elusive space accommodations.

Difficult: Students are often not allowed to sleep in the military airport lounges and denied a room on base while waiting for a possible space A seat.

Because so many students cannot fly space A, the overseas military family assumes a larger financial burden in order to reunite their family than does the overseas civil service or Foreign Service employee. Having more than one student in the family only increases the burden.

The military member anticipating these financial burdens may turn down an overseas assignment or choose to retire. The cost of replacing one NCO is estimated to be $100,000.

Overseas military families should receive the same transportation allowance and flight status for qualifying student dependents as the overseas civil service and Foreign Service employees receive.

The cost for the Government to provide this equal allowance and accommodation status would be approximately $900,000.

Mr. Speaker, given the fact that civil service and Foreign Service personnel already enjoy this benefit, it seems to me that it is only fair that we grant it to members of our uniformed services, and I trust that my colleagues will see fit to remedy the existing inequity without delay.●

BAR-ILAN UNIVERSITY ORGANIZATION HONORS ERNEST FRIEDMAN AND BENYAMIN NAVON

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. WAXMAN. Mr. Speaker, on October 26, 1982, the West Coast Friends of Bar-Ilan University and Women for Bar-Ilan honored Ernest J. Friedman with the presentation of the Menachem Begin Medal of Achievement Award.

Ernest Friedman has been a community leader in Los Angeles for many years. He has been involved in numerous cultural, charitable, and civic affairs including serving as a board member of the Jewish Federation Council of Greater Los Angeles, Cedars-Sinai Medical Center, Vista del Mar, Jewish Big Brothers, the United Way, American Jewish Committee,

and University of Southern California School of Medicine, among many others. Mr. Friedman's interest and support of the Bar-Ilan University in Israel is an extension of his special affinity for exceptional educational and community institutions. His efforts have contributed to the well-being of the Jewish community and the community at large both in Israel and at home.

Bar-Ilan University is the only American-chartered university in Israel. It has an enrollment of 11,000 students. It is an institution which combines the highest standards of secular scholarship with the study of the Judaic heritage.

Benyamin Navon has held many posts of wide scope and importance in Israel's Ministry of Foreign Affairs. Since 1978 Mr. Navon has served as consul general of Israel in the Los Angeles area. In recognition of his exemplary service, the West Coast Friends of Bar-Ilan University have conferred upon him an Honorary Fellowship in Bar-Ilan University.

I ask the Members to join me in congratulating Ernest J. Friedman and Benyamin Navon on their many years of accomplishment and to wish them continued success in their endeavors.●

REDUCING ERROR IN INCOME SUPPORT PROGRAMS ACT

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. STARK. Mr. Speaker, today I am introducing a bill to prevent fraud and overpayment in various welfare programs by requiring State unemployment agencies to collect individual wage information on a quarterly basis.

Presently only 38 States require individual wage data be reported quarterly to State unemployment agencies, even though it is generally acknowledged that this data is the best wage information for verification purposes in administering Federal and State needs-based programs.

Unreported and under-reported wages are two of the principal causes of overpayments in needs-based programs. Although the exact amount of overpayments caused by recipients not properly reporting income is unknown, the Government Accounting Office estimates that in fiscal years 1978 and 1979, five of six major welfare programs had annual overpayments of $867 million. Without corrective action, Federal expenditures, because of overpayments in these five programs, will probably exceed $1 billion in fiscal year 1983. In addition, an unknown amount of other program benefits are improperly provided to cash grant recipients who would not be eligible for such benefits if their incomes were properly disclosed.

Clearly this situation needs to be remedied. Given the current shortage of funds for public assistance programs, we must insure that funds go only to those in need, with the least amount of error or payment to those who may have other sources of income.

In addition, my bill will make available to child support enforcement agencies the wage information of delinquent parents. Even though this will not solve the problem of enforcing child support orders, it will at least provide child support enforcement agencies with another source of information to enable them to more effectively track down parents who fail to make their child support payments and who have improperly thrown their families onto the public dole.

The hard-working people of this country deserve to see an end to fraud and abuse in our welfare system. This bill, by requiring all States to collect wage data that can be used for verifying welfare eligibility, will go a long way toward ending welfare overpayments.

H.R. 926

A bill to amend the Social Security Act to require State unemployment agencies to collect individual wage information on a quarterly basis, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as "The Reducing Error in Income Support Programs Act of 1983".

SEC. 2. REQUIREMENT OF QUARTERLY SYSTEM OF INDIVIDUAL WAGE REPORTING.

(a) Subsection (a) of section 303 of the Social Security Act is amended by striking out the period at the end of paragraph (9) and inserting in lieu thereof "; and" and by adding at the end thereof the following new paragraph:

"(10) Requiring all persons paying remuneration subject to contributions under the State law (determined without regard to any limitation on the amount of remuneration so subject) to submit, not less frequently than quarterly, reports to the State agency charged with the administration of the State law which show—

"(A) the name and address of each individual to whom such remuneration is paid,

"(B) the amount of such remuneration paid to each individual, and

"(C) such other information as such State agency may deem appropriate to administer the State law;".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to services performed after December 31, 1984.

SEC. 3. DISCLOSURE OF INFORMATION.

(a) CHILD SUPPORT ENFORCEMENT.—

(1) Subparagraph (A) of section 303(e)(1) of the Social Security Act is amended to read as follow:

"(A) shall disclose, upon request and on a reimbursable basis, to officers or employees of any State or local child support enforcement agency any of the following information contained in the records of such State agency—

"(i) wage information,

"(ii) whether an individual is receiving, has received, or has made application for, unemployment compensation, and the amount of any such compensation being received (or to be received) by such individual,

"(iii) the current (or most recent) home address of such individual, and

"(iv) whether an individual has refused an offer of employment and, if so, a description of the employment so offered and the terms, conditions, and rate of pay thereof, and",

(2) Subsection (e) of section 303 of such Act is amended by adding at the end thereof the following new paragraph:

"(5) For purposes of section 455 of this Act, expenses incurred to reimburse a State agency for furnishing information or services pursuant to this subsection shall be considered to constitute expenses incurred in the administration of the plan described in the last sentence of paragraph (1)."

(b) ADMINISTRATION OF PLAN FOR AID TO FAMILIES WITH DEPENDENT CHILDREN PLAN.—Section 303 of such Act is amended by adding at the end thereof the following new subsections:

"(f)(1) The State agency charged with the administration of the State law—

"(A) shall disclose, upon request and on a reimbursable basis, to officers or employees of a State or a political subdivision charged with the administration of a State plan for aid and services to needy families with children approved under part A of title IV of this Act, any of the following information contained in the records of such State agency—

"(i) wage information,

"(ii) whether an individual is receiving, has received, or has made application for, unemployment compensation, and the amount of any such compensation being received (or to be received) by such individual,

"(iii) the current (or most recent) home address of such individual, and

"(iv) whether an individual has refused an offer of employment and, if so, a description of the employment so offered and the terms, conditions, and rate of pay thereof, and

"(B) shall establish such safeguards as are necessary (as determined by the Secretary of Labor in regulations) to insure that information disclosed under subparagraph (A) is used only for purposes of determining an individual's eligibility for aid or services, or the amount of such aid or services, under the State plan approved under part A of title IV of this Act.

"(2) Whenever the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law, finds that there is a failure to comply substantially with the requirements of paragraph (1), the Secretary of Labor shall notify such State agency that further payments will not be made to the State until the Secretary is satisfied that there is no longer any such failure. Until the Secretary of Labor is so satisfied, the Secretary shall make no further certification to the Secretary of the Treasury with respect to such State.

"(3) For purposes of section 403 of this Act, expenses incurred to reimburse a State agency for furnishing information pursuant to paragraph (1) shall be considered to constitute expenses incurred in the administration of the State plan approved under part A of title IV of this Act.

"(g) The State agency charged with the administration of the State law shall be furnished, upon request and on a reimbursable basis, any information contained in the records of any agency or office referred to in subsections (d), (e), or (f) to which the State agency has furnished any information under such subsections, relating to an individual and the earnings, employment, health, and address of such individual. Any information furnished to the State agency under this subsection shall be used only for purposes of determining an individual's eligibility for unemployment compensation or the amount of unemployment compensation payable to an individual. No finding of a failure to comply substantially with any of the requirements of subsections (d), (e) or (f) shall be made or enforced with respect to any such agency or office which is failing to comply with this subsection."

(c) TECHNICAL AMENDMENTS.—

(1) Paragraph (2) of section 304(a) of such Act is amended to read as follows:

"(2) makes a finding with respect to a State or a State agency under subsection (b), (c), (d), (e), or (f) of section 303,".

(2) Section 454(20)(A) of the Social Security Act is amended by striking out "section 508 of the Unemployment Compensation Amendments of 1976" and inserting in lieu thereof "section 303(e) of this Act".

(3) Subsection (a) of section 3304 of the Internal Revenue Code of 1954 is amended by striking out paragraph (16) and by redesignating paragraph (17) as paragraph (16).

(4)(A) Subsection (b) of section 3 of the Wagner-Peyser Act (as amended by the Job Training Partnership Act) is hereby repealed.

(B) Subsection (b) of section 508 of the Unemployment Compensation Amendments of 1976 is hereby repealed.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.●

HIGHER EDUCATION COSTS

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. DOWNEY, Mr. Speaker, one of the greatest financial burdens faced by a middle-income family in the United States today is that of higher education for its children. Education is more than an advancement tool for the individual receiving it—indeed, an educated citizenry is the most valuable asset a nation can possess.

Today, I am reintroducing a bill I proposed in the 97th Congress to establish the parents and students savings program, called the PASS plan. Under this plan, taxpayers are allowed a deduction for contributions to a qualified higher education fund, which is established solely for the purpose of financing the future costs of high education of eligible beneficiaries. Taxpayers make contributions up to $1,500 per year to a PASS fund. The student could then use the assets of the fund to attend institutions of higher education anywhere in the United States. Upon completion of college, the beneficiary would be required to report the distribution received from the fund as ordinary income, with a tax liability spread over a 5-year period.

This program has been successful in New York State since its enactment in 1978. And although other States offer incentives for savings for education, the participation rate in such plans would increase dramatically if there were also Federal tax incentives to promote long-range savings for education. A Federal PASS program would provide a strong incentive for such savings, and would become an important source of much-needed funds for capital investment by the private sector.

My bill differs from most other educational savings incentive bills in several important ways. First, it allows a maximum contribution of $1,500, and it contains an escalator clause tying the maximum contribution to the Consumer Price Index. Second, the plan allows parents and grandparents to establish a separate fund for each child. Third, it permits accounts to be set up according to the IRS definition of a close relative, allowing foster children and other dependents to benefit from the program. Fourth, the PASS bill allows withdrawals from a PASS account for up to 10 years from the date of high school graduation, distinguishing it from other bills which limit withdrawal to the 26th birthday of the beneficiary. Fifth, the PASS plan allows transportation to be counted as an allowable fund expense. Sixth, contributors may benefit from the current high interest rates, as the money in PASS accounts may be placed into high-interest money market certificates. Finally, PASS accounts under my plan have no reporting requirements, making them comparable to ordinary savings accounts in this respect.

My PASS plan would promote savings for investment in education, help relieve the crushing burden on parents of higher education costs, and increase the amount of funds available for business investment.●

COUNSEL TO THE GOVERNOR OF NEW YORK

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. WEISS. Mr. Speaker, New York Governor Mario Cuomo has appointed an attorney of outstanding abilities to the post of counsel to the Governor. Alice Daniel, the appointee, received high praise as the Director of the Justice Department's Civil Division and as Legal Service Corporation executive.

But an article by Roy Cohn in the New York Post on December 8, that was reprinted in the CONGRESSIONAL RECORD on December 21, belittled Ms. Daniel for her involvement in organizations that are concerned with the rights of prisoners. The article offered not a single shred of evidence that Ms. Daniel is an unsatisfactory appointment but concluded by doubting her capacity to carry out the job.

The next day, James A. Wechsler responded to the attack with the following article in the New York Post, setting the record straight about Ms. Daniel's qualifications to be legal counsel to the Governor:

CUOMO HAS THE BEST OF COUNSEL

(By James A. Wechsler)

Back in 1977, then U.S. Attorney General Benjamin R. Civiletti organized a "talent search." Its mission was to find a new head for the civil division of the Justice Dept.—the biggest unit in that agency.

"I remember that we reviewed 50 or more very promising possibilies," Civiletti recalled in a telephone interview yesterday. "We all felt Alice Daniel was the most qualified."

It was a choice he and associates were to celebrate throughout her two-and-a-half year tenure, which ended with the change in administrations.

"She was just superb—bright, energetic, with great sense of legal judgment—and a very good sense of humor," Civiletti said.

"It wasn't easy—coming in as head of a division of about 450 lawyers and without previously knowing us. She also had to work with U.S. Attorneys throughout the country.

"She didn't sit around passively—she made important structural changes while getting along very well with the many people involved."

The 48-year-old, Brooklyn-born woman he was talking about was recently named by Gov.-elect Mario Cuomo as his legal counsel.

Her designation was widely heralded inside and outside the legal fraternity. The first public dissenting opinion came from attorney Roy M. Cohn on this page yesterday. It will hardly shake Mario Cuomo.

By traditional standards, Mrs. Daniel's credentials, beginning with a distinguished record as law student and teacher, could hardly be more impressive.

Running the Justice Dept.'s many-faceted civil divisions with distinction would be generally deemed an accomplishment—for man or woman. It both defends the government in an infinite variety of civil suits and handles the prosecution of recovery suits.

Such matters, however, are obviously not on Mr. Cohn's mind. He devoted only one cryptic paragraph to Mrs. Daniels' Justice Dept. role. The real thrust of his critique seemed to be that her broad view of things closely resembles that of Mario Cuomo.

Like Cuomo during the recent campaign, Mrs. Daniel is accused of being a "do-gooder." (The epithet has long had a curious sound; is a "do-badder" worthier of esteem?) Specifically, Cohn detects a sinister concern for the rights of defendants allegedly overshadowing the fate of "victims." Cuomo was subjected to the same attack.

Mrs. Daniel has indeed demonstrably exhibited serious commitment to the Bill of Rights. She has been an executive of the Legal Services Corp., an entity dedicated to the proposition that the poor are no less entitled to counsel than the affluent. The Reagan Administration, vigorously support-

ed by Mr. Cohn, has been waging a high-pressure drive to destroy or cripple that agency.

Gov. Cuomo would surely be disposed to resist that operation without benefit of Mrs. Daniel's counsel.

Cohn also finds her guilty of association with the Prisoners' Rights project of the NAACP's Legal Defense Fund and the Civil Liberties Union. She would no doubt confess.

The simplistic view that constitutional protection for defendants is the main contributing cause to the crime plague has been contested here on many days.

Certainly nothing in his indictment of Mrs. Daniel will come as shock or revelation to Cuomo. Parenthetically it might be noted that the director for criminal justice whom Cuomo simultaneously named is a former district attorney.

The real question is whether Cohn, now an actively practicing Republocrat, should be sitting in adversary judgment on Cuomo's choice of his lawyer. Some questions, at least, were settled by the election; one was the new governor's right to pick his own counsel.

In fact, there may even be those who voted against Lew Lehrman because they feared he would select the former counsel to Joe McCarthy's Investigating Committee for the post.

Which is another way of saying that, for some of us, Roy Cohn's attack is the ultimate testimonial to Alice Daniel.●

GREEN CONDEMNS SOVIET RESTRICTIONS OF JEWISH EMIGRATION

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. GREEN. Mr. Speaker, I want to share with my colleagues the tragic statistics on the drop in Soviet Jewish emigration. As 1982 recedes from our memory, and the 98th Congress begins, we must not forget Soviet intransigence on this important issue. In 1982, the number of Jews leaving the Soviet Union plummeted to roughly one-third that of the previous year, 1981. The magnitude of this drop is underscored by the fact that 1981 was a year in which fewer Jews left the Soviet Union than any year in recent memory.

The following table charts the tightening Soviet grip on Jews:

Jews permitted to emigrate from U.S.S.R.

Year:	
1982	2,692
1981	9,447
1980	21,471
1979	51,320

This precipitous drop in emigration figures must be reversed. The U.S. Government must make clear in all its dealings with the Soviets that it will not countenance what is clearly a betrayal of the freedoms guaranteed in the Helsinki Final Act. We must press the emigration issue with the Soviets again and again until the gates open and Jews are permitted to live where they choose. We must make a special effort in this cause now, so as to demonstrate to the new Soviet leadership the depth of American outrage over the U.S.S.R.'s denial of the human rights of its Jewish population, and signal that a reversal of these policies would improve our countries' relationship.

I have written to Soviet Ambassador Dobrynin to protest the latest decline in Soviet Jewish emigration, and ask that my letter be printed in the RECORD. I encourage all my colleagues to join me in working to insure that the right to emigrate is guaranteed for Jews in the Soviet Union, and that Soviet policies on emigration are reversed. The figures in the chart above are too shocking to go unprotested.

HOUSE OF REPRESENTATIVES,
Washington, D.C., January 25, 1982.

Ambassador ANATOLY DOBRYNIN,
Embassy of the U.S.S.R.,
Washington, D.C.

DEAR MR. AMBASSADOR: I was shocked to learn of the precipitous decline in the number of Jews permitted to leave the U.S.S.R. in 1982 and am writing to protest your country's policies on Soviet Jewish emigration.

The Helsinki Final Act, to which the U.S.S.R. is a party, guarantees certain fundamental human rights such as the right to live where one chooses. By clamping down on Soviet Jewish emigration, this right is flagrantly violated by the Soviet Union.

This tragedy is compounded by the Soviet authorities' harsh treatment of its Jewish population. Through systematic harassment of Jews who seek only to practice their religion without interference, the Soviet Union denies Jews the right to participate fully in either Soviet life or in Jewish community life.

These policies must be reversed. Now, with the advent of a new Soviet leader, there exists an excellent opportunity for the Soviet Union to demonstrate its good will to the U.S. by permitting Jews to emigrate. I demand that your country take this course.

Sincerely,

BILL GREEN,
Member of Congress.●

ARMENIAN-AMERICANS

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. COELHO. Mr. Speaker, I rise today on behalf of a group of Americans seldom given the recognition due them, but whose courage, culture, and tradition have contributed greatly to the betterment of our society, Armenian-Americans.

As most of us are aware, George Deukmejian, the recently elected Governor of California, is of Armenian descent. I am most privileged and proud to have in my district a large segment of the Armenian population. My district is made up almost entirely of dozens of ethnic groups whose roots are spread all over the world. In light of this fact, I am particularly appreciative of the fine example which the Armenian community has set for other ethnic groups—being a full participant in the community—and at the same time retaining for their children and grandchildren those things which are unique to their culture. This is especially laudable if one is aware of the terrible deprivation, suffering, and persecution that these people have endured in the past. A lesser people would have given up all hope and their national identity would have been lost. Their contribution to my district and to surrounding communities only exemplifies the true Armenian spirit of courage, loyalty, and fortitude.

I would like to call the attention of my colleagues an article that recently appeared in the Sacramento Bee on January 16, 1983, which gives an historical perspective on the Armenian people and their background:

ARMENIANS: NEW "IN" GROUP HAD GRIM PAST

(By Bob Sylva)

Gov. George Deukmejian is Armenian.

His wife, Gloria nee Saatjian, is Armenian too.

The governor makes a point of noting that his parents, like thousands of other Armenians, fled Armenia to find freedom in the United States. The "Duke" is proud of his heritage. Armenians all over are proud of George Deukmejian. Friends of Armenian ancestry fill important slots in his administration. The Armenians are a fiercely loyal and hard-working people. A lot of Armenians live in Fresno.

Prediction: look for things "Armenian" to be buzz items for the next four years in Sacramento. Like Armenian food ("shish kebab"). Or famous Armenian sayings (There will be no tax increase.") Armenia is suddenly "in."

Where the hell's Armenia?

Like Latvia or Lithuania, and, to a lesser degree Botswana or Abu Dhabi, Armenia is one of those vague, overcast countries that you just can't easily place on the mental world map.

"Armenia? Hmm, isn't that next to . . . Germany?" Not quite.

The problem with Armenia is that, as a sovereign nation with historically prescribed boundaries, it simply doesn't exist anymore. There's no such place as "Armenia." It's a victim of genocide and political oppresssion, and the Armenians, like the Jews, are a persecuted people. Unlike the Jews, however, the Armenians have no Israel. Nor have they had means of redress. They've suffered without reparations.

Therefore, in order to understand the Armenians, why they came to the United States, and what forces were put to bear on a boy like George Deukmejian, one has to appreciate the Armenian condition.

In short, few nations in history have been terrorized as much as Armenia, an ancient people whose sphere once stretched from the Black to the Caspian seas, including all of eastern Turkey and a southern section of the Soviet Union. Today, only 10 percent of that original territory still survives as Armenian "homeland," and it's under Soviet domination.

Because of its strategic location between East and West, and because it was the first nation to embrace Christianity, Armenia, for some 2,500 years, has been a bloody doormat where scores of invading forces have wiped their feet. starting with the Persians, the Byzantines, Huns, Arabs, Mongols and Ottoman Turks, the history of Armenia has been one of continual occupation and oppression.

However, it was in 1915 that the Armenians were confronted with the "final solution." By decree of Talaat Pasha, minister of the interior for the revolutionary Young Turks, the Armenians became this century's first victims of a government-sanctioned genocide.

In a brutal and systematic fashion, Turkish-occupied Armenia's estimated 1.75 million Armenians were wrested from their homes and driven on death marches to the deserts of Syria and Mesopotamia. There, they were either murdered outright or slowly died of starvation. By the end of World War I, some 1.5 million Armenians had been wiped out.

And the world did little but watch. Indeed, it was no less than Hitler, who, just 25 years later, justified his own pogroms, by saying: "I have given orders to my Death Units to exterminate without mercy or pity men, women and children belonging to the Polish-speaking race. It is only in this manner that we can acquire the vital territory which we need. After all, who remembers today the extermination of the Armenians?"

The surviving Armenians remember. There are an estimated 6 million Armenians in the world today. About 2½ million of them live in the Soviet Republic of Armenia; 3 million are scattered throughout the Middle East and Europe; and the remaining 500,000 are in the United States.

Of those, 100,000 reside in the Los Angeles area, which has the largest concentration of Armenians, and an estimated 20,000 are in Fresno. Sacramento has only a sprinkling of Armenians, perhaps as few as 200 families, though it does boast its own Armenian church, St. James, at 3240 B St., and an active chapter of Triple X, the statewide Armenian fraternity.

Though Armenians today are assimilated and prominent in all fields of endeavor, they all share a profound outrage over the Turkish-perpetrated genocide, which left no Armenian family untouched, and a confounding sadness that no country has ever seen fit to publicly condemn the Turkish government.

Not only have Armenians gone without any restitution from Turkey, which excuses the atrocities as "casualties of war," they also have never even been graced with an apology.

This, then, is the historic backdrop of the Armenian situation.

"They killed us!" cries Vart Ohanesian, her soft voice trembling with palpable horror.

After 68 years, she and her husband, Yervant, still recall the 1915 tragedy with tears in their eyes.

Bringing out a small, oval-framed photograph of her sole surviving brother, she shakes her head and sobs, "This is all I have left." Mother, father, two sisters and another brother, all killed by the Turks. Vart, as fragile as a piece of china, then apologizes for her outburst, and shuffles away choking back her emotions.

The Ohanesians, Yervant, 87, Vart, 78, reign as the oldest Armenians in Sacramento. They live in a small but scrupulously neat east Sacramento home, which is filled with family pictures and reminders of their Armenian homeland. A framed color photo of George and Gloria Deukmejian enjoys a prominent position atop the mantle."He's a nice person, a good man," pronounces Yervant, "I hope he does a good job," echoes Vart.

The Ohanesians have been married 62 years. "A long time, Sonny," says Vart with a gentle smile. And perhaps because they've been married such a long time, they've become shadows of each other, knowing each other's thoughts, sometimes even articulating them at the same time.

Asked about their life in Armenia and their exodus to America, both, with the bubbling excitement of small children eager to speak, begin to blurt out biographical facts and narrative details simultaneously. A confusing, competitive hubbub results which irks Yervant no end.

Finally, Yervant, who has imperious eyes and an impatient manner, levels a stern gaze at Vart, and snaps exasperatedly, if affectionately, "OK, then shut up. I do it!"

Vart, momentarily chastised, sinks back in her chair at the dining room table and rubs her delicate hands. "I'm sorry," she whispers meekly. "I just get so excited."

Yervant, satisfied, and now the center of attention, slowly unfolds his tale.

"It's a long story, Sonny," again chimes in an irrepressible Vart.

Yet, it's a familiar one to most Armenian immigrants, and the pertinent facts are these:

Yervant and Vart were born and raised in a bustling Armenian town, high in the mountains, near the Soviet border (they can't translate the name of the city into English). Yervant's father was a shopkeeper; Vart's a tailor.

When the Turkish death sentence of 1915 came down, both families were seized from their homes and led separately, and shackled, into the Syrian desert. Vart's family, except for one brother, was killed outright; Yervant's father was executed, and two of his brothers died of starvation in the refugee camps. Yervant, then 19, dug the graves himself. He escaped death by disguising himself as a Kurdish tribesman, a Moslem people who roamed the desert.

From the Syrian city of Aleppo, Yervant and the surviving members of his family, as well as Vart and her brother, traveled to Beirut and arranged passage to Constantinople.

There, Yervant and Vart were married. Eventually they secured passports, and, with relatives already living in Fresno (author William Saroyan was Yervant's first cousin), the family managed to immigrate to the United States on March 4, 1922. Vart remembers the exact date.

The story of the Ohanesians now falls into a classic immigrant pattern. Yervant worked on a ranch for a while in Fresno. Then the family moved to Sacramento, where he got a job in a cannery ("At 25 cents an hour," says Yervant. "But I worked hard.")

When World War II broke out, Yervant bought a small grocery from a Japanese family that was being sent to the internment camps. Later, he bought a larger store. He saved his money. He bought some income property. Then he retired some time ago. And now he putters around the house. "I help the wife," he quips with a wink. "If I don't she throw me out!"

Yervant and Vart raised five children, three girls, two boys ("They all got college education," beams Vart, who never had a chance to finish school. "I have to brag about my children," she brags). They now have eight grandchildren, and family pictures are scattered throughout the Ohanesian home. "We all come together on holidays," says Vart. "We do everything together. I'm a good cook, but they don't let me do too much."

As for the past, Vart turns sad and rubs her hands. "I never forget. How am I going to forget? We never forget." Her gently voice becomes uncharacteristically hard.

As for Armenian nationalist groups, like the Secret Army for the Liberation of Armenia, which, since 1970, has conducted various "terrorist" acitvities against the Turkish government, Yervant and Vart have little sympathy or support. They both shake their heads simultaneously.

"They are wrong," says Yervant firmly.

"They are too late, Sonny," echoes Vart.

At that, she smiles and asks "Sonny" to stay over for a real Armenian dinner.●

EMERGENCY FUNDS FOR THE HOMELESS

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. STARK. Mr. Speaker, today I am proposing legislation to address the problem of the homeless which has become nothing less than a national tragedy. My bill will allocate $50 million for emergency shelter and related assistance for these unfortunate individuals and families.

I do not need to spend much time explaining the problem of the homeless. Anyone who has picked up a major newspaper or national news magazine recently has seen articles graphically describing the horrible plight of the "new wandering poor." A recent survey of large cities by the United States Conference of Mayors places the number of homeless at 2 million. Other projections range from 500,000 to 4 million. Terrible as these figures are the real problem is that the numbers are growing at a frightening pace.

Mayors and State health officials have painfully detailed to us the Nation's growing dependence on soup kitchens and public shelters. Local communities are being literally overwhelmed with requests for food and shelter. Unfortunately that cuts made in social welfare programs have come just in time to make things tougher for millions of formerly hard-working citizens suddenly out of work. Our faltering economy has brought an ever growing number of middle class individuals and families to ranks of the homeless. Unable to afford their homes these "new poor" have been forced to sleep in their cars, at campgrounds or in makeshift tents pitched along the roadside. A survey conducted by U.S. News & World Report

found the problem of the homeless becoming acute not only in the industrial Midwest but in the Sun Belt areas as well.

The need for emergency shelters for victims of domestic violence has also greatly increased because of rising tensions brought on by the stress of unemployment and hard times. In Maryland, for example, State officials say there is an alarming increase in the incident of wife beating that they believe have been fueled by the Nation's difficult economic times. It is estimated that only 30 percent of the women and children seeking services can now be served because of lack of shelters. Funding for domestic violence has been exacerbated by the budget cuts. In 1980 there were 13 separate federally funded programs that in some way provided assistance to local shelters and related projects. Today, five of the programs have been totally abolished, three block granted and doing less than Congress had originally hoped, and two more targeted for abolition. The remaining programs that have survived are now able to offer only paper hope.

Private charities cannot bridge the gap because, as the Urban Institute points out, some 300,000 private charities will lose $33 billion in Federal aid between 1982 and 1985. The U.S. Catholic Conference concluded that "the stark reality is that the private resources are not sufficient."

My proposal is designed to authorize $50 million for emergency shelter and related assistance for: First, individuals and families who are without any form of regular shelter and food and have been determined by an appropriate public or private agency to be in need of emergency shelter and related assistance and/or second, parents and their children who have suffered spousal abuse which has necessitated leaving their homes and are in need of emergency shelter and related assistance.

Funds would be available on a 100 percent Federal basis through fiscal year 1983. State welfare agencies may contract with private nonprofit charitable organizations or other public agencies to administer the funds, determine need and/or provide assistance.

I hope we can all join in this most important initiative on behalf of the homeless.●

MEDICARE MENTAL ILLNESS NONDISCRIMINATION ACT

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. DOWNEY. Mr. Speaker, it has been estimated that 15 to 20 percent of our Nation's 26 million older citizens have significant mental health problems. Further, the President's Commission on Mental Health reported that between 20 to 30 percent of those older persons labeled "senile" actually have reversible, treatable conditions. The appropriate care of these individuals and those with related illnesses will avoid unnecessary institutionalization and may reduce medicare costs. Proper treatment will also give these senior citizens a chance to regain control over their lives and to become more productive members of society.

Unfortunately, restrictions in the medicare program prevent many of our senior citizens from receiving adequate mental health care. Because of this, I am reintroducing the medicare mental illness nondiscrimination bill. This bill is designed to eliminate the discriminatory treatment of mental disorders under medicare. In sum, this bill:

First, eliminates the discriminatory 50–50 copayment formula for mental health care in favor of the 80–20 copayment formula now used for physical health care;

Second, eliminates the discriminatory annual $250 maximum payment for outpatient care of nervous, mental, or emotional disorders; and

Third, eliminates the discriminatory 190-day lifetime limit for inpatient psychiatric care and substitutes the "spell of illness" definition employed for physical health care.

The medicare mental illness nondiscrimination bill contains recommendations that have been languishing for over a decade. It is now time to take major strides to benefit the large and special population of elderly citizens in need of mental health care services.●

TRIBUTE TO NANCY HANKS

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. WEISS. Mr. Speaker, with the death of Nancy Hanks earlier this month, we have lost a champion of the arts, a leader whose skills brought dramatic improvements in support for arts groups and artists in communities across the country.

For 8 years, she chaired the National Endowment for the Arts, fighting to encourage Congress, the administration, the public, and the private sector to recognize and respond to the need for strong support for the arts. Under her direction, NEA appropriations increased more than tenfold. Private sector funding for the arts expanded substantially. Support for the arts was established as a bipartisan issue. And the reputation of the NEA was markedly enhanced, a contribution that has endured.

As a member of the Postsecondary Education Subcommittee, which oversees the Endowments, I had the privilege of becoming personally familiar with the work of Nancy Hanks. Her considerable knowledge, skill, energy, and charm made her one of the more impressive administration representatives that I have heard testify before a congressional committee.

Her life before and after her tenure at NEA was filled with notable accomplishments. But her greatest achievement, I believe, was building national prominence for the National Endowment for the Arts and strengthening the constituency for the arts in America. These are and will continue to be lasting memorials to Nancy Hanks.●

TEMPORARY NATURAL GAS MARKET CORRECTION ACT OF 1983

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Ms. KAPTUR. Mr. Speaker, today I join with other members of the Northeast-Midwest Congressional Coalition to cosponsor emergency legislation designed to bring much-needed relief through lower natural gas prices to residential and commercial consumers. Again in this heating season, people in my district and around the country are struggling to cope with astronomical price increases.

The Temporary Natural Gas Market Correction Act of 1983 requires pipeline companies to deliver the least cost mix of natural gas to distribution companies. The legislation would mandate the pipelines to take the maximum amount of least expensive gas they have under contract before purchasing the high-priced gas covered by the "take or pay" arrangement between pipeline companies and producers.

Natural gas prices continue to grow unabated. In the last year, prices on average have increased between 20 and 60 percent. Prices in all urban areas rose roughly 25 percent on average. Moreover, Ohio consumers have seen their increases rise close to twice the urban average. According to a recent consumer study, purchase gas adjustment filings from last summer and early fall will result in $246.3 million in natural gas price increases this winter. A breakdown by economic sector indicates that residential consumers will bear $108.2 million of that increase, with an average annual increase projected to be $61 per household. The increase to commercial consumers is expected to be $44.4 million and $90.8 million to industrial users.

This grave situation is getting worse. Last week a major natural gas pipeline company requested approval of price increases totaling an estimated $461 million over the next 6 months. In much of the Midwest this action will constitute an increase of 15 to 40 percent, or a total of $70 a residential customer for March through August, on the average. In November, three pipeline companies requested a price increase that could result in a $26.2 million increase in Ohio alone.

A recent letter from a constituent of mine illustrates the plight of middle- and low-income people across the country who are struggling to pay their gas bills:

> The gas shortage of the mid 1970's has long since been remedied, but the price increasing trend set at that time continues to skyrocket * * * if Congress does not approve a freeze and/or a reduction in gas rates, thousands of retired persons on fixed incomes and thousands more with low incomes will be forced into starvation in order to pay their bills. I would hope that members of Congress would have enough feeling for their fellow citizens to stop this cruel and inhuman price gouging.

Even when consumers make dramatic cutbacks in their use of natural gas, their battle is fought in vain. A constituent who has kept meticulous records told me that between December 1981 and December 1982 his family used 24 percent less natural gas than the previous year, yet their bill continued to skyrocket.

For many, the natural gas price increases have become a choice between fuel or food. I hope that Congress will respond to this emergency situation. This legislation will help to alleviate the crisis this heating season. The 98th Congress also needs to address the issue of scheduled price decontrols and to develop a long-term natural gas policy. We owe the American people nothing less.●

RISE IN BATTERED WOMEN BLAMED ON POOR ECONOMY

HON. AUSTIN J. MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. MURPHY. Mr. Speaker, I would like to bring to the attention of my colleagues here in the House an article which recently appeared in the Washington Post headlined "Rise in Battered Women Blamed on Poor Economy." The text of this article describes the drastic increase in the number of women reporting to battered women's shelters in the Washington, D.C., metropolitan area citing economic stress as the precipitating cause for the rise in abuse cases. Baltimore's House of Ruth, one of Maryland's 11 public local shelters, was forced to turn away 450 victims of domestic violence during 1981. Although figures have not yet been completely compiled, it is anticipated that nearly 1,000 people which is more than double the amount turned away in 1981, will be unable to be served by these shelters due to lack of Federal and State financial support.

Although the facts set forth in this article are indeed discouraging to those seeking shelters in the Washington, D.C., area, it is even more alarming to learn that throughout the country, more than 2 million women are beaten each year by their husbands. Researchers who conducted this national survey speculate that even these figures are grossly underestimated since a large number of domestic violence cases go unreported by victims, friends, hospitals, and even police. An FBI uniform crime report recently released facts that 40 percent of female homicide victims are killed by family members or boyfriends. Couple these statistics with those of a Connecticut hospital which found that battering accounts for one in four suicide attempts by women and we realize the immediate need for action to be taken to provide a temporary retreat and counseling service for both victims and their abusers.

Despite these shocking statistics, as of February 1981, there were only 400 shelters offering battered women and children emergency services. It is important to note, however, that these 400 shelters existed at a time when some Federal support and guidance was provided through the Department of Health and Human Services. The services provided through the Office on Domestic Violence and the National Clearing House on Domestic Violence within HHS provided a data bank on services to victims, maintained research and funding source information and technical assistance to shelters and other related projects throughout the country. Both programs were abolished in 1981 as a result of budget reductions requested by the administration. Currently the only Federal assistance available to these struggling shelters is a few dollars from the Legal Enforcement Assistance Office and the social services block grant. The administration has proposed to abolish LEA and money is so tight within the block grant program that very few States are able to expend moneys for new or existing shelters. As a result many shelters have been forced to close because private contributions are simply not enough to keep them operating.

In light of this growing problem, I wish to advise my colleagues that I intend to introduce legislation within the next few weeks to provide Federal assistance for victims of domestic violence as well as to offer preventative services to the abusers. I sincerely hope that after reading the following article you will join me in sponsoring this desperately needed legislation.

[From the Washington Post, Jan. 16, 1983]

RISE IN BATTERED WOMEN BLAMED ON POOR ECONOMY

(By Margaret Shapiro)

Every day for the last four years they have appeared at the doorstep of a Baltimore rowhouse that shelters battered women and asked to be taken in. Some have black eyes and cuts from beatings administered by irate husbands; others are simply scared.

But each day of late, at least five of these physically abused women, some with equally frightened children, will be turned away, simply because the House of Ruth shelter, with 50 beds, cannot keep up with the demand.

The overload at the House of Ruth is occurring at other shelters throughout Maryland—and around the country—and points up what state officials say is an alarming increase in the incidents of wife beating that they believe have been fueled by the nation's difficult economic times.

"The thing that people fight about most when they are married is money," said Linda Heisner, director of the state division of Protective Services for Children and Families. "When you look at the economy there are more people under stress financially so there are going to be more arguments about money. It's the same sort of stress that is causing the increase in child abuse."

Heisner said it is difficult to document the increase through police statistics because many women will not report abuse.

Also, until recent years, law enforcement officials did not keep statistics about spouse abuse. Recent FBI statistics showed a slight decrease in the number of reported abuse cases, a decrease that Heisner said she believes is caused by the greater number of widely publicized alternatives to calling police, such as moving into shelters, calling hotlines or using new legal methods to force an aggressor out of the house.

"In significant numbers people don't call the police," she said. "It's at the shelters where you see the increase."

Officials in Virginia and the District of Columbia have also noted the increase in the number of women seeking shelter.

"With all the kind of social pressures that are on right now, people's ability to cope with stress is lower and it takes less to set people off," said Janice Moore, executive director of My Sister's Place in the District.

My Sister's Place provided beds for 262 women and children last year, about 90 more than the year before.

Nationally, similar trends have become apparent, according to the Washington, D.C.-based National Coalition Against Domestic Violence. One coalition officer, Barbara Shaw, who is based in Illinois, said last week that a battered women's shelter in Peoria, Ill., recently released statistics showing a dramatic increase in the demand for beds during periods of layoffs at the local plants.

In Maryland, Heisner said that almost all 11 public local shelters and privately run facilities have operated at full capacity during the last year and frequently have had to turn away eligible women.

The most dramatic increase in the number of women turned away occurred at Baltimore's House of Ruth, where 450 women were turned away in fiscal 1981, while 235 were turned away in the first three months

of fiscal 1982, which began in July, according to director Bettye Williams.

If the same rate keeps up for the rest of the year, nearly 1,000 people—more than twice the number in 1981—will have been turned away.

At the same time, the number of requests by battered women for the shelter's legal service increased by two-thirds.

"I think the explanation is right there in Washington," Williams said. "One of the precipitating causes of abuse is stress, economic stress. But what are these people going to do? We try to get a bed for them somewhere else."

At the Montgomery County shelter in Bethesda, which with 26 beds is the largest in the state, the number of women using the facility in October was double the amount of past years, according to Cindy Anderson, director of the county's Abused Persons Program.

October is normally a quiet month, Anderson said.

The number of women using the shelter has steadily increased since the center opened, with 125 using it in 1979 and nearly 200 in 1982.

Anderson attributes the increase to difficult times and greater publicity about the shelter.

In addition, Anderson said, contacts through the hotline are up 25 percent in the last year, from 2,263 in 1981 to about 2,840 last year.

Prince Georges County has not had a battered women's shelter for two years, since Assisi closed in the wake of allegations of financial improprieties by its director. But a new facility is scheduled to open in the county in March, and shelter officials are seeking donations of supplies and equipment.●

TAX INFORMATION FOR DIRECT SELLERS

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. STARK. Mr. Speaker, I would like to call the public's and the Congress attention to a new IRS publication entitled "Tax Information for Direct Sellers." This publication, No. 911, grew out of a hearing by the Ways and Means Select Revenue Measures Subcommittee last April. The hearing was devoted to problems which were occurring in certain tax deductions being claimed by some direct sellers. At the hearing, our colleague from Georgia, Mr. FOWLER, suggested to the Treasury Department witnesses that the IRS prepare a pamphlet to help this sector of our economy better understand what are appropriate tax deductions. In this way, the vast majority of honest direct sellers could better resist the charlatan claims of a few who were urging excessive and illegal deductions.

The IRS is to be commended for responding to Mr. FOWLER's suggestion, and I hope that this publication will resolve many of the questions which have been raised in the past.

It is my understanding that the Direct Sellers Association is attempting to make the availability of this publication widely know, prior to this year's tax filings. They are to be commended for their cooperation in this project.●

CHILD CARE AND FAMILY CARE TRUST ACT

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. DOWNEY. Mr. Speaker, today, I am reintroducing the child care and family care trust act, which provides savings incentives to families with developmentally disabled children and adults.

The child care and family care trust act offers encouragement to families with severely handicapped children or progressively disabled adults so that they can provide essential care for as long as possible. It does this by recognizing the extraordinary time and effort required by parents of disabled children and offers a new way for them to continue to provide for their needs.

The bill does this in two ways. First, it increases the amount a parent can claim for child care expenses, and does not require the parents of a developmentally disabled child to go to work to be eligible to claim the tax credit. Second, it helps provide for long-term care needs by establishing qualified family care trusts. The tax treatment of these trusts would be like an IRA, allowing a maximum contribution of $15,000 per year. Families caring for adults with diseases like multiple sclerosis or Hodgkins could also use the trust procedure. Trustees would invest money for the accounts and accumulated funds to be used as medical needs dictate.

The alternative to making it financially possible for families to provide for their own handicapped or disabled dependents is to rely on public funds. With increasing concern about the prospect of large budget deficits, this does not appear to be a likely solution. I believe we need to help parents of severely handicapped children or progressively disabled so that they can provide the essential care themselves for as long as possible.●

MAJ. GEN. JOHN A. JOHNSTON

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. TRAXLER. Mr. Speaker, Maj. Gen. John A. Johnston has been the "standard bearer" of the Michigan National Guard since 1974 when he simultaneously became the adjutant general of Michigan, the director of the State department of military affairs, and the commanding general of the Michigan National Guard.

General Johnston's stellar career started at the height of World War II when as a 19-year-old he enlisted in September of 1942 as an aviation cadet in the U.S. Army Air Corps. His pilot training continued through 1943 and after advanced training in tactical reconnaissance he was assigned to the European theater in 1944. During this tour of duty, he was assigned to the 67th photo group and to the 363d photo group when it was formed in France. Assigned to the 162d Tactical Reconnaissance Squadron for the duration of this tour, he flew 98 combat missions during one of which his aircraft was damaged by gunfire requiring him to parachute over enemy lines. A free French patriot returned him to the U.S. Army hospital where he received treatment for wounds and he returned to duty within 30 days. In October 1945, he was released from active duty but remained active in the Air Force Reserve until 1946, at which time the 171st Fighter Squadron of the Michigan Air National Guard was formed.

General Johnston served in many capacities with the 171st Fighter Squadron and was the commander when the unit was recalled to active duty in January 1951 during the Korean action as a part of the 127th Fighter Wing. After release from active duty in October 1952, he served as tactical squadron commander, tactical group commander, and director of operations of the 127th Tactical Reconnaissance Wing until his appointment as assistant adjutant general for air, State of Michigan in October 1959. He also served as commander, headquarters, Michigan Air National Guard for 4 years. He has been a member of Tactical Air Command Reserve Forces Policy Council and the Department of the Air Force Reserve Forces Policy Committee.

After release from military service in 1945, he was employed in the Detroit area as superintendent of a tool, die, and gage design and manufacturing firm until recalled to the Air Force in 1951. After this release from active duty in 1952, he was employed as air commander of the Air Technician Detachment for the Michigan Air National Guard at Detroit Metropolitan Airport until his appointment in 1959 as assistant adjutant general for air. He was employed by the State of Michigan in this capacity until appointed adjutant general of Michigan on December 31, 1974.

General Johnston has attended nearly all of the senior service schools including the Air Command and Staff

College where he graduated in 1960 and the Industrial College of the Armed Forces in 1971. He has also attended the flight orientation courses and subsequently flown the following military aircraft: P-40, P-51, T-33, F-84, F-94, F-89, F-86, RF-84, and RB-57; as well as C-47, C-54, and C-131.

General Johnston has particularly distinguished himself since his appointment in 1974. In this important assignment, the forceful leadership and the outstanding and dedicated efforts of General Johnston were significantly displayed in the development of both Army and Air Forces in Michigan which are now prepared on the shortest notice to meet their wartime mission requirements. The developed force is equally ready to react to a full spectrum of military support to civil needs as has been aptly demonstrated by repeatedly successful accomplishment of blizzard relief operations, ice dam reduction, train accident assistance, tornado recovery missions, and emergency traffic assistance. Through his personal efforts Camp Grayling has become not only one of the finest training facilities in the country for both Active and Reserve Army and Air Forces, but, recognizing the need in the event of a national emergency for mobilization stations and sites in this part of the Nation, he has personally doggedly pursued to successful fruition the designation of the northern Michigan facility as a mobilization site. His close liaison with officials in other States as with those in Washington, D.C. has resulted in an awareness of the outstanding capabilities of the National Guard force in Michigan under his leadership to meet any and all challenges. The singularly distinctive accomplishments of General Johnston while serving as adjutant general of Michigan crown an over 40-year distinguished military career in the service of his country and reflect great credit on him.

His decorations and awards include Air Medal with (15) Oak Leaf Clusters; Purple Heart; Distinguished Unit Citation; Air Force Outstanding Unit Award; Air Force Organization Excellence Award; European-African-Middle Eastern Campaign Medal with (5) Bronze Stars; World War II Victory Medal; Army of Occupation Medal; American Campaign Medal; National Defense Service Medal with (1) Bronze Star; Humanitarian Service Medal; Air Force Longevity Service Award; Armed Forces Reserve Medal with Hour Glass; Office of the Secretary of Defense Identification Badge; Michigan Distinguished Service Medal; and Michigan Broad Sword Service Medal with Oak Leaf Cluster.

General Johnston is presently a member of the Military Order of World Wars, Military Order of Foreign Wars, Air Force Association, Quiet Birdmen, National Guard Association of the United States, National Guard Association of Michigan, American Legion, American Defense Preparedness Association, and serves as president of the board of directors at St. Lawrence Hospital.

General Johnston was appointed to the Reserve Forces Policy Board by the Deputy Secretary of Defense for a 3-year term from January 1981.

His retirement upon reaching his 60th birthday at the end of this month will be a loss not only of his friendship and wise counsel, but a loss to the Nation of a career of dedicated service to achieving and keeping a just peace.●

VIETNAM "BROTHERS" SEEK HELP FROM EACH OTHER

HON. BOBBI FIEDLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Ms. FIEDLER. Mr. Speaker, I would like to bring to the attention of my colleagues a program that is working successfully in my area to help Vietnam era veterans. The program called the "Sponsorship Plan" was put together by Congressional Medal of Honor winner and former prisoner of war Leo Thorsness. The Los Angeles Times recently reported on this program as follows:

[From the Los Angeles Times, Jan. 2, 1983]

VIET "BROTHERS"—VETS SEEK HELP FROM EACH OTHER

(By David Wharton)

Gregory Gallison came home from three years in Vietnam in 1970 and found no one waiting to shake his hand or throw a parade or give him a job.

The young black veteran had no skills or experience, and when he took his problems to the Veterans Administration and asked for training, he got forms to fill out and long lines to stand in. When he went for therapy, he got counselors who had not been to the war and did not know what it was like to come back.

Finally, he robbed a liquor store and got five years in prison.

Now, about 12 years later, Gallison has steady work and is trying to rebuild his life. But it was not the bureaucracy that saved him, nor a government training program nor a VA counselor. It was Leo Thorsness' simple idea: putting together a group of Vietnam veterans who, like himself, had made it and wanted to help the veterans who had not.

Thorsness, a prisoner of war for six years and now a successful businessman, calls it the Sponsorship Plan. The Big Brother-like volunteer program matches troubled veterans with those who have successfully reentered mainstream society. It eschews costly job training and counseling in favor of giving a veteran a "buddy" who has contacts in the business world and can help him find a job, any kind of job.

"WHAT YOU REALLY NEED"

"All the (psychological) counseling in the world won't help if you can't get a job," said Thorsness. "The job is what you really need to feel worthwhile."

After two months, the program, which operates out of a small Wilshire District office, has matched 22 pairs of veterans and found jobs for four veterans.

Gallison, a stocky Texan with thick black hair and a full beard, was one of the first matches, paired with Lucky Simone, a talkative, 36-year-old New Yorker with long blond hair and a paunch that spills out over his waistband.

Simone, who spent 16 months with the Marines in Vietnam, managed a Los Angeles apartment building and needed a maintenance man. He hired Gallison to work two days a week. After a month or so, Simone helped him get work three more days a week at an apartment building across the street.

"Counseling doesn't always help a whole lot," said Gallison, 34. "A job helps more than someone telling you what to do, it helps you get adjusted. . . . It's a helluva program."

"We just show them the way to their own destiny," Simone said. "We don't babysit these guys at all."

Thorsness runs the program through the Vietnam Veterans Leadership Program, a nationwide, nonprofit organization for which he serves as Los Angeles chairman. The Leadership Program was set up in 1981 to aid an estimated 500,000 veterans who have not been able to readjust economically or emotionally.

FROM DAYS ON FARM

At first, the local Leadership Program office acted only as a referral service, putting veterans in touch with agencies and programs that could help them. Then Thorsness developed his idea, which he said he drew from his childhood days on a Minnesota farm.

"If someone's barn burned down, neighbors would come from all over and help rebuild the thing," said Thorsness, now a director of civic affairs for Litton Industries and a man who ran unsuccessfully for U.S. Senator in South Dakota after returning from Vietnam in the early 1970s. "This is that sort of an approach, people helping people."

That kind of bond—"a brotherhood," Simone calls it—is easy to observe as Simone and Gallison work together in the apartment building. They are friends first, worker and boss second.

Gallison says he and Simone often talk about the war and about how Simone adjusted to civilian life when he came back. They talk about the difficulties Gallison faces, about his money worries and his fear that he might resort to crime again.

"It's hell out there, me being black and an ex-con, but Lucky is a friend. I can come to work and be down, then we can talk for an hour and I'll feel better," Gallison said. "It's one vet helping another vet, and it helps to see that he has made it."

Simone said that, like Gallison, he had some emotional difficulties when he came back from Vietnam, but he kept busy.

Within three months he had entered Stanford University as a premed student. After three semesters at Stanford, he left school to become a stand-up comic and then the proprietor of a shop that sold oils and incense.

Finally, Simone took over management of the Los Angeles apartment building and accepted a position as director of operations for a local security service.

As for Gallison, "What the Army trained me to do was kill and no one was hiring killers," he said of his return to the states.

He considered going to school, but felt that the GI bill would not have provided enough money to live on. The pressures of unemployment finally got to be too much for him to handle, he said, and less than a year after returning from the war he robbed the store.

"At the time it seemed like a perfectly good idea. I needed some money to eat and rent a place to sleep and try to get some clothes. I made a mistake," he said.

After serving five years at Soledad, Gallison said, he spent the next seven "bumming around, sleeping on the beach, trying to survive. It was hell."

An occasional odd job kept him from going back to crime, but his patience was running out. It was then that he saw a television commercial for the Vietnam Veterans Leadership Program. It looked like another in a chain of veterans programs that could not help him, but Gallison was desperate so he gave the Leadership Program a call—and found Simone.

Simone assures that the friendship and help is not one-sided

A lively man who comes from a long line of hotel and restaurant managers, Simone recalls that even after he was happily settled in Los Angeles with his wife, Iris, he found that there remained some bad feelings from the war he thought he had left behind years before.

"I went through a time of mixed emotions and quick temper. I started to get angry again," he said.

The renewed anger was triggered by what Simone and other veterans refer to as "the stigma" of serving in the war—their feeling that some hold their military service against them.

For some veterans the image problem can be an overwhelming barrier. For Simone it was an inspiration.

"That's the thing that's biggest for me. I'm taking that frustration and directing it toward a positive thing," he said.

Leadership Program officials are optimistic about the success of the jobs program. The group also offers veterans free dental care through a volunteer dentist in Pasadena and free legal counseling from a Los Angeles lawyer. But right now, Thorsness is most interested in helping veterans get jobs and feel better about themselves.

"A lot of these guys don't want to talk about 'Nam," Simone said, "but you can't keep those kinds of feelings pent up—they are going to be there until you die. When vets do go to some of these counseling centers, they get a counselor who was never in 'Nam, he can't really understand because he never experienced it. And that's why a vet talking to another vet is the best way to go.

"I feel like we veterans are banding together like a brotherhood," he said. "For every guy that gets back into the mainstream, there's another guy to help those who haven't."

Mr. Speaker, I believe the veterans who are working to help themselves and their fellow veterans deserve our heartfelt thanks and commendation for the excellent job they are doing.●

TEMPORARY NATURAL GAS MARKET CORRECTION ACT, JANUARY 25, 1983

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. OBERSTAR. Mr. Speaker, the failure of the postelection session of the 97th Congress to enact the Temporary Natural Gas Market Correction Act was a major disappointment.

On behalf of the Northeast Midwest Congressional Coalition, I introduced this legislation in the 97th Congress with a total of 49 cosponsors.

The purpose of this legislation was to provide emergency, temporary relief for natural gas consumers facing price escalations ranging from 20 to 60 percent this winter, at a cost of $13 to $20 billion in higher natural gas prices.

We introduced legislation in reponse to the contradiction of increasing supplies, declining demand, and rising prices. This anomoly was the consequence of "take or pay" provisions in contracts between pipeline companies and natural gas producers. The effect of these provisions is to require the pipeline company to use more expensive gas, rather than to use available, lower cost natural gas.

Pipeline companies signed these long-term, take or pay contracts in response to the shortages which occurred in the mid-1970's.

On September 29, 1982, members of the Northeast Midwest Congressional Coalition met with FERC Chairman Butler to ask him to take administrative action to require modification of these contracts. Chairman Butler informed us that the Commission had no statutory authority to require renegotiation.

Our legislation would have not only permitted such renegotiation, but required pipelines to deliver the least cost mix of gas to distribution companies by requiring them to take the maximum amount of least expensive gas under contract before taking expensive gas covered by "take or pay" provisions. A pipeline company would have the authority and legal duty to refuse high-priced gas if less expensive gas is available under existing contracts.

That legislation offered a sensible, responsible legislative solution to a critical problem facing natural gas consumers. It was necessary in December; it is necessary now.

For that reason, we are again introducing the Temporary Natural Gas Market Correction Act. It embodies the principles of equity to gas consumers which form the basis of any natural gas legislation enacted by the 98th Congress.●

DEFENSE STAND

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. ASPIN. Mr. Speaker, there is a sound way to reduce the defense budget without crimping national security. Unfortunately, most discussions of defense spending get hung up on simplicities.

Take a look at the two most popular proposals for trimming the defense budget—eliminating waste and killing weapons systems.

Waste stands at the top of everyone's list—whether pro- or anti-military, whether conservative or liberal. Unfortunately, there is no line item in the budget saying, "For expenditure on waste: $8,345,856,524." One cannot, therefore, introduce an amendment proposing to reduce the funding for waste. You have to work your way through the budget, item by item. And that raises the second problem of cutting waste. One man's waste is another man's top priority. We devote more than three-fourths of $1 billion to subsidize the operations of commissaries and PX's. That is waste to many outside critics; but it is a morale booster essential to retain quality troops to many people in the military—and even to many in Congress who want to eliminate military waste. In short, there is a lot of waste in the Pentagon and a lot of money to be saved by eliminating it—but it is a long, tough road to reach a consensus on just what waste is when you go beyond the obvious abuses but petty sums involved in such things as personal servants for generals and bust enlargements for their wives.

The other, ever-popular source of savings is the elimination of weapons systems, the "big ticket" items that attract a lot of attention and opposition, like the B-1 bomber and the MX missile. Weapons only attract attention when they are going into production, by which time they have also attracted support from labor unions as well as industry and the military. These constituencies combined can rarely be beaten. Furthermore, Congressmen and Senators lose interest in killing a weapon when they see that very little money will be cut from the current year's spending as a result. They stand to take a great deal of flak for killing a weapon system without being able to point to any immediate, large change in the size of the deficit.

If attacks on waste and big-ticket items are not going to do the trick, what is?

The best place to look is at the Reagan add-ons. Ronald Reagan took office proclaiming the need for real growth in defense of 7 percent a year.

But what he presented to Congress was something else. Shortly after taking office, he asked for increases in the defense budget for fiscal year 1981, then in progress, that would take real growth to 10.6 percent. His 1982 budget called for a 15.7 percent hike in defense appropriations and the 1983 budget requested a 13.3-percent increase. These huge sums are not for any major increase in the size of the forces. While the Reagan plan calls for more ships in the Navy, it provides for the same number of Army divisions and the same number of Marine air wings and the same size for most other components.

Instead of a larger Force structure, the Reagan money is going into three areas: Pay, readiness and modernization. Pay and readiness were both shortchanged at times during the 1970's. Lagging pay hurt the All-Volunteer Force. Low readiness funding meant training time was reduced, spare parts were missing and maintenance backlogged. A certain amount of catchup in pay and readiness is not only justifiable but necessary.

However, the biggest bloc of funding in the Reagan program goes for Force modernization—that is, for newer weapons: for F-15's and F-16's to replace Air Force F-4's; for F-14's and F-18's to replace Navy F-4's; for the M-1 tank to replace the M-60. With the bulge of funding to catch up in pay and readiness, the Reagan program additions now go largely for these weapons programs. This is the key area where we should focus if we want to bring defense spending under control and reduce the deficit.

Slowing the pace of modernization is not cost free. But there are many benefits. Our skyrocketing procurement budget feeds inflation. Military procurement puts heavy demands on key sectors of the economy threatening to drive up costs for the weapons we are buying and for other technical goods as well. Second, we now have systems overload. The Pentagon bureaucracy can not cope with it all, opening up the threat of wasteful practices and fraud. (When the Reagan White House first told the Pentagon how much procurement would increase, the services said they would need to hire 6,000 more procurement officers just to process the paperwork.)

The bureaucratic catchphrase for slowing the rate of modernization is "stretchout."

The administration objects that this is inefficient and will actually raise costs. It has argued that while slower production rates lower outlays in a particular year, they raise the total cost of the program. That is because unit costs of an airplane (or anything else that comes off a production line) rise when you run the production line at a slower rate than it was designed for.

The Reagan argument can be summed up by looking at the following table for the Mythical F-13½ fighter, for which both the Carter and Reagan programs planned a buy of 600 aircraft.

THEORETICAL PROCUREMENT PLAN FOR MYTHICAL F-13½

	Administration	
	Carter	Reagan
Years	12	8
Planes per year	50	75
Unit cost (millions)	$25	$23½
Annual budget (billions)	$1.25	$1.75
Total cost (billions)	$15	$14
Total planes	600	600

The conclusions are inescapable. By producing at a faster rate, we enjoy the economies of scale and reduce the cost of each individual aircraft. We will have to budget more for the plane each year—an additional half billion a year—because of the compressed schedule. But in the end we will get the same number of planes for a billion dollars less. We are saving a billion dollars by producing faster. The slower production line is penny wise and pound foolish.

The mathematics are precise and accurate.

The conclusion is wrong.

The error is that the arithmetic doesn't take into consideration the realities of politics and the economy. Put simply, what happens 8 years from now when the Pentagon has bought all 600 F-13½'s and the Consolidated General Aircraft and Better Mousetrap Corp. is about to shut down the line and lay off 40,000 employees?

One of two things will happen. The Pentagon may suddenly discover an urgent need for 300 more F-13½'s. Or, it may decide it is now time to replace the F-13½ (or some other aircraft in the inventory) with a new model and issue a contract for same to Consolidated General Aircraft.

Aircraft manufacturing employment does vary, but there is an unspoken agreement that the Government doesn't leave a major aerospace firm—one largely dependent on Government business to stay in business—to flounder without enough Government contract work to keep going.

So, the effect of compressing production is not to save money in the long run, but to cost money by creating the new "need" for Consolidated General to get a Government contract once the speeded-up production of the F-13½ ends.

Of course, we would get additional F-13½'s out of that, or some copies of a wholly new aircraft. But production of those aircraft should be justified on the basis of the needs of national defense, not the needs of Consolidated General.

There remains one problem with my formulation, however. The money we appropriate this year will be spent out over several years. Of every $100 we appropriate for missiles this year, only $14 will be spent this year. Of every $100 we appropriate for tanks this year, only $6 will be spent this year. That means that no matter how hard we whack away at appropriations for procurement, we will only make a dent in spending—and that means we only make a dent in this year's deficit.

To really get a handle on the budget, we must reach back to those last few years of huge budget increases and retroactively reduce the budgets.

Yes, that can be done.

As of last September, the Pentagon was sitting on $37.9 billion in unobligated balances. That is money Congress appropriated but which the Defense Department has not put under contract. That money can be rescinded without incurring any penalties. If we were to reduce the unobligated balances by 21 percent of $8.1 billion, we would be retroactively reducing the real growth rate in 1981 and 1982 to 10 percent—a growth rate still substantially higher than the President said he wanted in the first place. By cutting the unobligated balances $24 billion, we would retroactively trim the real growth rate to 7 percent—precisely the growth rate the President said he wanted on taking office.

If I said this was a painless cut, I would be overselling my case. But this is about as painless a cut as one can get.

By doing two things—trimming the force modernization request in this year's budget request and rescinding part of the unobligated balances from past years—we can accomplish several goals:

We can reduce the level of defense spending in this and coming years, and thus reduce the deficits in those years.

We can remove a stimulus for inflation.

We can reduce the systems overload that threatens to make yesterday's Pentagon management look positively superb by comparison with what might happen tomorrow.

We can remove the driving force that will demand even more weapons once current production schedules are complete.

In sum, economic constraints should influence defense budget decisions, but if we want to do it without damaging defense it should be done in a specific way. We should address defense spending on three fronts. First, eliminate waste where possible. Then, judge the big ticket items on the basis of defense needs only. Finally, factor economic constraints into force modernization decisions; that is, decide what percentage growth we can afford over the near term—7 percent, 5 percent, whatever—and adjust force modernization plans accordingly.●

UNEMPLOYMENT IN WEST VIRGINIA

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. RAHALL. Mr. Speaker, last Thursday marked the second anniversary of the Reagan administration coming to power. The President used this date to observe:

> My biggest regret is that because the accumulated damages piled up so high for so long, putting America's house in order has been a tough and painful task.

Little does Mr. Reagan know how truly painful his programs have been on the American people—and especially on the people of my home State, West Virginia.

According to the most recent statistics compiled by the West Virginia Department of Employment Security, over 86,000 State residents are out of work. A figure of 15.3 percent, which places West Virginia in the unfortunate position of being No. 1 in the United States in the rate of unemployed persons.

Nearly every aspect of the State's business employment picture has shown a decline in the 24 months of the Reagan administration. Manufacturing jobs are down—14 percent, mining jobs are down—16 percent, and now our Governor has announced the need to lay off 1,600 State employees to stem the tide of a growing economic crisis.

The unemployment rate in all eight counties that make up my congressional district is well above the national average—with the high being in McDowell County—approaching an astronomical 40 percent.

It is hard to believe that just 12 months ago, the unemployment rate in West Virginia was 7.4 percent. Thereby in just 1 year, Reaganomics has doubled the number of out-of-work West Virginians.

Tonight, in this Chamber, the President will stand before us and the American people, to give us his assessment of the state of the Union. He will no doubt tell us how successful his administration has been in bringing down the rate of inflation; and he will delight in informing us that the prime interest rate is coming back into reality; and he will certainly predict that economic recovery is just around the corner.

While President Reagan will do his best to maintain his winning reputation as the "Great Communicator," it will be made even clearer to the American people that his policies are not as wise and fair as his campaign rhetoric of 2 years ago led the American people to believe.

Back in West Virginia, my constituents will not be surprised either, because they were not in the first place—in 1980, West Virginia voted Democratic, and will again in 1984.●

ADDITION OF MR. HEFTEL OF HAWAII AS AN ORIGINAL COSPONSOR TO R&D TAX BILL

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 25, 1983

● Mr. STARK. Mr. Speaker, on January 6, Congressmen SHANNON, PICKLE, HEFTEL, and I introduced H.R. 702, a bill to make permanent certain R&D tax provisions contained in the 1981 Tax Act.

Through an oversight, our colleague from Hawaii (Mr. HEFTEL) was not listed on the printed bill.

I would like the RECORD to show that he is an original cosponsor of this important legislation.●

HOUSE OF REPRESENTATIVES—*Wednesday, January 26, 1983*

The House met at 3 p.m.

Rev. Patrick Paschak, OSBM, pastor, St. George Ukrainian Catholic Church, New York, N.Y., offered the following prayer:

Let us pray.

Mindful of the spiritual gifts required in the conduct of our affairs as individuals and as a nation, we ask, Almighty God, for the wisdom and courage to seek the welfare of the people through truth, justice, and lasting peace upon the face of the Earth.

We ask for these gifts for the President, Congress, and the people of these United States.

God of goodness and mercy, we look with great hope upon this distinguished body of men and women, and with lifted hearts repeat the words of Thomas Jefferson: "I like the dreams of the future better than the history of the past."

Grant, Almighty God, that these efforts to assure freedom for all nations be not in vain. The recent resolution of Congress to restore freedom of churches in Ukraine brings to memory on this day the Ukrainian nation's proclamation of freedom of 65 years ago, and new hope for the future.

We commit, O Lord, to Your mercy the welfare of the valiant Ukrainian people and beg that they, too, may soon join the family of free nations.

Knowing that the safety and prosperity of nations ultimately depend on the protection and blessing of God, we humbly implore this grace on this day for this great Nation. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

GOVERNMENT MUST TAKE THE LEAD IN ENDING ECONOMIC DISTRESS

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALEXANDER. Mr. Speaker, last night, during the President's state of the Union address, we Democrats in Congress greeted one passage with a standing ovation. "We who are in Government must take the lead in restoring the economy," Mr. Reagan said, and we applauded this invitation of bipartisanship to place the needs of the Nation ahead of partisanship politics.

The President was indeed conciliatory in quoting Franklin D. Roosevelt, who led our Nation out of an economic depression and, in doing so, demonstrated that Government must take the lead in ending economic distress. Two years ago, Mr. Reagan told us the Government was the problem, not the solution. That he has evidently become wiser in office is a testament to his capacity for growth. And we should take his call for bipartisan cooperation at face value.

We will differ on the terms of a solution, but the President's acknowledgement of our common purpose was a welcome reminder. For, after all, we learned on the gridiron Saturday what we shall be rediscovering throughout this 98th Congress: "America's team" is right here in Washington—and nowhere else.

CORPORATE TAXES

(Mr. ANNUNZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANNUNZIO. Mr. Speaker, I read with interest the article which appeared in the Washington Post on January 23, 1983, written by our former colleague, Charles Vanik, who was the ranking member of the House Ways and Means Committee. It was entitled "The Corporate Raid on the Treasury." The points made were well taken.

Why is there no serious discussion of taking back some of the more amazing business deductions which are now part of the Tax Code? Those Americans who are still working look toward April 15 with dread. Corporations look toward the same date with visions of rebates. What is the basis for such preferential treatment of corporations over consumers? As Former Congressman Vanik said, would not it be nice if the American taxpayer could carry losses backward and collect taxes paid in better years?

Think of all the energy and ingenuity that goes into tax shelters. All the hours that go into trying to accomplish a tax liability of zero for the major corporations. What if all that effort were redirected into business development and ideas that will get people back to work. We might find our way out of this recession a lot quicker.

Our balance is off; our vision is skewed. We have to get the deficit down. About that fact there is no debate. But let us start looking hard at ways which would not make hard times for most Americans, unbearable ones. If additional cutbacks have to be made, let us look at the place where there is still meat on the bone. I agree with former Congressman Vanik, if we can talk about capping social security, we can talk about capping business deductions.

AMERICAN CONSERVATION CORPS ACT OF 1983

(Mr. McNULTY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McNULTY. Mr. Speaker, I am pleased to join with the distinguished chairman of the Committee on Education and Labor and my other colleagues in cosponsoring legislation to establish the American Conservation Corps. This legislation is cost effective and urgently needed, and I urge the House to pass it expeditiously.

The bill is particularly appropriate for these times. It addresses serious needs in areas that are critically important to the national interest: Employment, particularly of our youth; and conservation, particularly of our scenic public lands.

There is no question, Mr. Speaker, that the severity and duration of this recession is devastating to America's youth. The specter of a continuing and deep recession, and the knowledge that it will affect the young and unskilled most directly, is bleak inspiration for our future workers.

I am privileged to make cosponsorship of the American Conservation Corps Act of 1983 one of my first acts as a Member of Congress and I urge my colleagues to support this legislation.

INTRODUCTION OF SOCIAL SECURITY REFORM ACT OF 1983

(Mr. PEASE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEASE. Mr. Speaker, yesterday I reintroduced a bill to force several important administrative reforms in the social security system. Congressman HEFTEL and I introduced a similar bill in the last Congress.

It is important that the Congress and the Social Security Administration take every step they can to avoid

waste and unintended distributions of benefits. While such administrative tightening is important all the time, it is particularly important now as social security faces enormous pressures to make outright reductions in benefits—something we must avoid if at all possible.

The legislation I am introducing does four main things to prevent unwarranted benefit payments from sapping the system. It requires that the Secretary of the Department of Health and Human Services develop a program that will insure that the Social Security Administration has accurate and timely information on deaths of social security beneficiaries so benefit checks can be stopped. In the past, there are instances where benefit checks have continued to be paid to beneficiaries who have passed away. While debt collection efforts have recovered some of this money, it is obviously preferable that checks be stopped on time in the first place.

Because of the misuse and counterfeiting of social security cards, the bill also would require that all new social security cards be made on a noncounterfeitable banknote-type paper. In the past, counterfeit or falsified social security cards have made it possible for individuals to improperly qualify for other Government benefits programs such as unemployment insurance or food stamps. We want to end this abuse.

The bill prohibits any individual from employing a person who does not have a valid social security card. If an individual is not a citizen or a national of the United States, the bill requires his employment status be clearly marked on his social security card for potential employers to see. Noncitizens admitted to the United States on travel visas, for example, will not be able to seek employment—as the law currently intends.

Lastly, the legislation that we are today introducing will prevent social security benefits from being paid to the spouses or dependents of a U.S. citizen who has moved abroad and begun those relationships after age 57. This provision is meant to limit the wholesale adoption of large families overseas by Americans who have moved late in their lives and not had a long-standing family relationship. It will end social security payments to persons who have not set foot in the United States and currently become eligible for social security benefits only through marriage.

Mr. Speaker, these administrative remedies are an important part in assuring that social security is a dependable and healthy system. They plug loopholes that have existed too long. I hope that the Congress can consider them as part of the comprehensive social security bill that must be approved by May.

RIGHTS OF STATES IN THE REGULATION OF THEIR WATER RESOURCES

(Mr. REGULA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REGULA. Mr. Speaker, today I am introducing a bill that will protect the rights of the States in the regulation of their water resources.

The U.S. Supreme Court recently declared water an article of commerce for the first time. This means that States attempting to conserve and protect water could be sued for illegally restricting interstate commerce.

Last week a Federal judge in Albuquerque, following the Supreme Court's holding, ruled unconstitutional a New Mexico law prohibiting the export of underground water to another State.

The water crisis in the West is serious. Equally serious is the recent judicial stripping of States rights with regard to the regulation of water resources.

My bill authorizes the States to regulate the transfer of water to insure that Federal regulation does not impair or impede the efforts of the States to protect and control this resource. It very simply states the clear intention of the Congress that water regulation is a legitimate interest of the States and should, therefore, be within their jurisdiction.

VOLUNTARY PRAYER IN PUBLIC SCHOOLS

(Mr. KINDNESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINDNESS. Mr. Speaker, a lot of Americans, including me, cannot accept the notion that the framers of our Constitution intended to prohibit voluntary group prayer in public schools. But a series of Supreme Court decisions has resulted in just that.

That is why President Reagan has endorsed and I have introduced a constitutional amendment which would allow voluntary "individual or group prayer in public schools or other public institutions." As you know, in the last Congress, the proposal never even got a hearing in this body.

The absence of meaningful public debate and discussion of this matter has disillusioned countless Americans.

Mr. Speaker, the formulation of public policy on such a vital issue is the responsibility of elected Representatives, not the privilege of judges. The time has come to remove this question from the court dockets and place it where it belongs: before the Congress and the legislatures of the various States.

Today I am reintroducing the school prayer amendment and urge my colleagues to join as cosponsors in supporting the restoration of this fundamental right.

DEFENSE SPENDING

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, last night we heard the President in his state of the Union address talk about a freeze on spending. Well, the freeze that he talked about is like calling your canoe the *Queen Elizabeth II.* There is a freeze on certain programs, but the vast majority of programs he left untouched. I think the American people are in agreement that you cannot freeze certain kinds of spending, allow other kinds of spending to completely accumulate and go on and on and on, and call it a fair freeze.

Defense spending in this budget, after inflation, goes up 9 percent. That is no freeze. And if we want to balance the budget, eventually what we have to do is, we have to cut down that kind of growth.

There was progress, I believe, in what the President had to say, Mr. Speaker. After all, in 1981 he came to us as a supply sider; in 1982 he came to us as a monetarist; and at least now he is mouthing the words of Keynesian economics. But real Keynesian economics will not work with such large increases in defense spending and cuts in other spending.

□ 1515

A TRIBUTE TO FORMER SECRETARY OF TRANSPORTATION DREW LEWIS

The SPEAKER pro tempore (Mr. STRATTON). Under a previous order of the House, the gentleman from Pennsylvania (Mr. COUGHLIN) is recognized for 60 minutes.

GENERAL LEAVE

Mr. COUGHLIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of this special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. COUGHLIN. Mr. Speaker, I am honored to lead this special order in tribute to Drew Lewis, our outstanding Secretary of Transportation, who is leaving the President's Cabinet to return to the private sector at the apex of a remarkable career.

The administration and the Nation have been fortunate for his public service. To my knowledge, there has been no finer Cabinet official in any administration.

When Drew was named Secretary of Transportation by President Reagan, I said to my colleagues that he was the finest executive I have ever known. He has proved that beyond doubt. Combining leadership, organizational ability, and a quick study capability, he accomplished more in 2 short years than anyone would have believed possible.

I also said that I knew of no more politically sensitive executive. I mean politically sensitive in the best sense of the word—knowing the needs of the Nation and its representatives, and understanding how to get the job done.

He accomplished long-sought goals: Movement of Conrail to the private sector; transfer of commuter rails to transit authorities; an expanded airport and airway improvement plan coupled with user fees; a rational National Airport policy; the transfer of Marad to DOT; bus deregulation; regulatory reform; the auto industry import initiative; the Drunk Driving Commission; a revitalization of Amtrak as well as, of course, his courageous and competent handling of the air traffic controllers, strike, and the historic highway and transit bill passed in the lameduck session.

While Drew's successes in public and private life are widely acknowledged, I think you should be aware that his beginnings as a businessman and entrepreneur stemmed from modest undertakings. Despite what you may read in publications about members of the President's Cabinet, Drew was not handed a "silver spoon" business opportunity with which to launch his career.

One of Drew's first enterprises started when he attended Norristown, Pa., High School with his friend Dick Schweiker, the outgoing Secretary of Health and Human Services. Drew and Dick—and you may find this hard to believe—trapped muskrats for profit. I really cannot say how profitable their business was, but knowing Drew I am sure that is why the muskrat population in the Norristown area is depleted.

Contrary also to what has been published, Drew's late father did not install him in the front office of his contruction firm to start his executive career. Actually, the late Mr. Lewis believed Drew should start from the ground up—or more accurately from below the ground up. Drew was shipped off to the Azores to dig ditches.

Before Drew's business acumen became known throughout Pennsylvania, his political abilities were recognized throughout Montgomery County and later throughout the Commonwealth. He was architect of Dick Schweiker's upset victory in a primary election for U.S. Representative—the win paving the way for Dick's outstanding career as a Representative, Senator, and finally as Secretary of HHS.

To those of us who have known and worked with Drew through the years, his successes as deputy chairman of the Republican National Committee was presaged by his tenure as Montgomery County, Pa., Republican chairman. He became chairman after James E. Staudinger was killed in a plane crash. Drew assumed the job under difficult circumstances and immediately proved to be one of our most successful chairmen.

Drew, of course, went on to a number of business achievements. His experience as a trustee of the holding company for the Reading Railroad and other assignments in the transportation field as a private consultant served as the solid base for his role as Secretary of Transportation.

From the beginning, as Secretary, Drew asserted command and made the tough decisions that placed the Department of Transportation in the forefront in recognizing, defining, and planning for public and private transportation needs facing the country. His decisiveness, coolness, sound judgment, and unparalleled administrative ability won the support and admiration of the White House. He won the cooperation of the Congress. And he made believers of an often jaded and cynical news media.

First and foremost, Drew succeeded in establishing a rational and practical policy for the national administration that balances the many divergent and conflicting elements in private and public transportation. He saw the need for improving and maintaining our Interstate Highway System, for preserving our mass transit systems without making them fully dependent wards of the Federal Government, for modernizing our air traffic controller system, and for integrating all segments of his program in a coherent package that the Congress and the public would accept.

Drew's political courage, as well as his vision, never was more sharply displayed than it was in guiding to enactment a bill to raise the Federal tax on gasoline. He laid the groundwork carefully and, despite early rebuffs, continued to work toward his goal.

Work, in fact, is the operative verb. Drew was unstinting in the time, effort and involved negotiations devoted to this important measure. He always was available. Not only his staff, but Drew himself lobbied endlessly through the lameduck Congress to convince Congressmen of the necessity for the bill. He was no onlooker in the tedious process of labor and compromise that produced the new law. Unlike too many other top officials who stand aloof from the nitty-gritty of the legislative process, Drew was in the thick of it.

The result is a law which, while not 100 percent acceptable to everyone, will help us to repair and rehabilitate our crumbling system of interstate highways and bridges. It designates a specific portion to aid mass transit systems whose demise would prove a crippling, if not fatal, blow to our urban areas.

In the minds of many, Drew's actions in the unfortunate air traffic controller's strike stand out. I will not dwell on this episode, but Drew did what had to be done. Regardless of how distasteful or difficult his role, he showed that the Federal Government could not be defied with impunity and that he could keep the planes flying.

I think it is typical of Drew that, in his news conference announcing his departure as Secretary of Transportation, he spoke of the air traffic controllers' situation. He did not boast of what he had done. In response to a question of whether he had any regrets or would do anything different, Drew referred to the controllers. His answer was he regretted that the walkout could not have been resolved in any other manner, because he felt deep sorrow over so many individuals and their families who were so adversely affected.

There is much more that could be said of Drew's performance as a Cabinet officer. I think, however, that I speak for all my colleagues when I state I am sure Drew will be just as successful in his new post in private industry as he was in his job as a public official.

Many individuals come and go in the service of the Federal Government. Many leave their marks—for better or for worse. Of Drew's service, it can be said truthfully that he did make his mark—a significant mark not just as an individual official but as an agent for the public's welfare. The Nation and its citizens are being served better as a result of Drew's accomplishments.

Mr. Speaker, I yield to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I thank the gentlemen for yielding.

I welcome the opportunity provided by the gentleman from Pennsylvania (Mr. COUGHLIN) to pay tribute to a distinguished public servant, Secretary of Transportation Drew Lewis.

Mr. Lewis, as the United States seventh Secretary of Transportation, has been a dedicated servant of our great Nation since 1981. He brought to this position an excellent record of varied and valuable experiences. He has been an active Republican since 1976, when he became a national committeeman. In 1974, he was the Republican candidate for Governor in his home State of Pennsylvania, and during the 1980 election, he served as the deputy political director of the Reagan-Bush campaign.

Drew Lewis may also be credited with a successful career in business and transportation. He headed his own consulting firm, Lewis & Associates in Philadelphia, founded in 1975. As a co-trustee of the Reading Co. of Philadelphia, he led the reorganization of the Reading Railroad in 1980, saving it from bankruptcy. In addition, he held key positions in such national corporations as Snelling & Snelling, Inc., of Philadelphia, and Simplex Wire & Cable Co. of Boston.

These laudable achievements enabled Mr. Lewis to become an effective Secretary of Transportation. His approach toward his relationship with the Congress was consistently bipartisan; marking his term in office consistently productive. He strongly influenced such legislation as the 5-cent-a-gallon-gas tax, the deregulation of buses, the compromise that allowed Conrail to return to the private sector, and was able to keep the airlines running during the critical air traffic controllers' strike. These accomplishments indicate that all the respect and praise recited today for Secretary Lewis is well deserved.

Secretary Lewis, you have served the public and your Nation in an outstanding manner. Not only do we commend you for your stellar stewardship at the Department of Transportation but we will miss the inspiration of your dynamic presence. I join with my colleagues in wishing you good health, happiness, and success in all future endeavors.

Mr. COUGHLIN. Mr. Speaker, I yield to my distinguished colleague, the gentleman from Pennsylvania (Mr. SHUSTER), the ranking minority member on the Public Works and Transportation Subcommittee.

Mr. SHUSTER. Mr. Speaker, I have expressed this sentiment on the floor of this House before, but today it is no less true than it was then. Drew Lewis is the best Secretary of Transportation this Nation has ever had. As a fellow Pennsylvanian, I have known Drew Lewis for more than a decade when he was a businessman and leader in the State party. Many of us knew then that Drew was an extremely capable, effective, tough, and fair leader and it surprised no one when he was appointed to the President's Cabinet.

I have felt very fortunate in my position as ranking member of the Surface Transportation Subcommittee to be able to work very closely with the Secretary on several major issues. We have not always agreed, but there was never any doubt where he stood and in this city that is a rare quality. His outstanding job performance during the air traffic controllers strike should serve as a model to any leader on how to effectively and skillfully handle a major crisis.

Secretary Lewis always went out of his way to keep the lines of communication open to the Hill on a bipartisan basis. That effort paid off when legislation rejuvenating the air traffic control system was enacted and at the end of the 97th Congress with the passage of the historic bill, the Surface Transportation Assistance Act of 1982. It can certainly be said for years to come that Drew Lewis had a major role in saving and revitalizing this Nation's transportation infrastructure.

Even though Drew Lewis has served well as a leader and architect of national transportation policy, he has also been a good friend and supporter to his home State of Pennsylvania. The Secretary has been extremely helpful to the State in its problems with the Clean Air Act and has been urging and working for an equitable solution. The Surface Transportation Act just mentioned will bring millions of dollars of badly needed revenues for Pennsylvania's highways and mass transit systems. The people of Pennsylvania can truly say that they had a friend in Washington.

For these many reasons, we will miss Drew Lewis in this town. He brought intelligence, integrity, candor, administrative skill, and solid business sense to a crucial Federal Department. I wish Drew all the best in his new challenge and it has been my privilege to have worked with him for the past several years.

Mr. COUGHLIN. Mr. Speaker, I thank my colleague very much. I join in his feeling that it will be a loss to this town both of talent as well as a personal loss to those of us from Pennsylvania, a friendship.

I yield to the distinguished chairman, the gentleman from California (Mr. ANDERSON).

Mr. ANDERSON. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, during the years I have served in the House as a member of the Committees on Public Works and Transportation and Merchant Marine and Fisheries, it has been my privilege to work with several fine Secretaries of Transportation. Let me say, though, without reservation, that none have been finer than Drew Lewis.

Shortly after Drew took office he came to the Hill to discuss the new administration's transportation budget proposals with several of us. I recall being quite impressed by both his outstanding grasp of details and his desire to work with us, and I wondered which, as I have seen in the past, would fade first. Neither ever did.

Now, almost 2 years later as Secretary Lewis is preparing to leave office, I am still impressed, or I should say more impressed than ever, by those two qualities.

And, as I have gotten to know him better, I would add to the list his almost superhuman tenacity. The 97th Congress saw passed H.R. 6211—the Surface Transportation Assistance Act of 1982, signed into law early this year. There are many people in Congress, the administration, and the public and private sectors who might feel they played key roles in the enactment of that legislation. But let me say this: None of them would have had the opportunity, this bill would not have gotten off of first base, were it not for the persistent efforts of Drew Lewis.

The Secretary has been an outstanding spokesman on the Nation's transportation needs. And he has been a strong leader in gathering support for the type of legislation required to make sure these needs are met. Of course, throughout this process, Secretary Lewis was working with the President and other administration officials to convince them that the legislation was indeed needed. I knew that this process was a grueling one: One that lasted for nearly the entire 2 years he has served.

But it was really one month, the month of December, that the Secretary worked virtually around the clock on this legislation.

He was up here on the Hill everywhere, putting out one fire after another; testifying at hearings; answering questions at committee markup sessions, and sitting outside rooms where conferees were meeting.

Drew's appearance here should not have been surprising. He had been meeting with many of us regularly over 2 years for breakfast at his office. He has always seemed to enjoy working with Members, and we have certainly enjoyed working with him.

Secretary Lewis has been a knowledgeable, helpful, straight-shooting Secretary of Transportation. His effectiveness can best be measured by the uphill, successful fight to enact the Surface Transportation Assistance Act. I am not sure how we can properly measure the exemplary service he has given to his country.

As he departs for the private sector, I think we should all wish only the best for Drew Lewis. He has certainly earned it.

Mr. COUGHLIN. Mr. Speaker, I thank my distinguished colleague, the gentleman from California. Certainly no one knows more about our transportation needs and about transportation legislation than the gentleman from California, and coming from him those are high words of praise, indeed, and I thank my colleague.

I yield to my colleague, the gentleman from Pennsylvania (Mr. CLINGER).

Mr. CLINGER. Mr. Speaker, I thank my colleague very much for yielding.

I would first of all also like to thank my colleague for bringing this special order. I think it is fitting, more than fitting, that we recognize this afternoon and express our very deep appreciation to an outstanding public servant and one who has served so well

and so completely capably in the office of the Secretary of Transportation for the last 2 years.

I think back to the gubernatorial campaign in Pennsylvania in 1974, which is when I first became acquainted with Drew and worked actively in his campaign. I came to know him as a hard driving, very intelligent, and passionately committed candidate toward the goal of better Government.

I think a couple things that struck me about him then which have remained true to this day are that he had the capacity or he had the ability, I think, that he never looked over anyone's shoulder. Too often, I think, you find people in political life who when they are talking to you are looking for the next person, the more important person, perhaps, that they should be touching base with, that they should be talking with. Drew Lewis was never like that. No matter who he was talking to, he was talking directly to you and, much more importantly, he was listening to you. I think this was the hallmark of Drew Lewis. He was a listener and he paid attention to what he heard. He was not on any kind of an ego trip at any time.

The second thing that struck me was that he has just an impressive analytical mind. He was able then, as he is today, to cut immediately to the root of the problem. He would hear an issue described and instantaneously would know the exact right question to ask to get right to the heart of the matter and then he would get his very fertile mind working on what kind of approach should we take, what sort of policy should we be talking about.

□ 1530

And finally, I think then, as now, you just were terribly impressed with his passionate conviction that Government could be a force for good and it could be run efficiently and effectively for the good of the people.

So I was absolutely delighted, obviously, as we all were, when I learned of his appointment, because I knew just what a superb job he was going to do. It has been said here he is a superb administrator, that he administered that Department better than anyone in the history of the Department of Transportation. Others, and you, have eloquently described his very real accomplishments in this office, which I will not detail, but just let me reiterate the one characteristic that I think we all found true of Drew Lewis, that you never had to guess where Drew was coming from; you always knew exactly where he stood on any issue. That is rare, it seems to me, of people in public life.

He was never overly concerned about protecting his flanks; he was always very straight up, very straightforward, and above all, extraordinarily intelligent in his approach to the problems. He was a pragmatist, an effective Government employee.

I would just have to say that Warner Amex's gain is clearly the Government's very real loss, and I add my thanks to Drew Lewis for doing such an outstanding job as Secretary of Transportation and wish him and Marilyn well as they embark upon their new vocation.

Mr. Speaker, I thank the gentleman from Pennsylvania once more.

Mr. COUGHLIN. I certainly thank my colleague for his kind remarks.

Certainly during the gubernatorial campaign there was a question of "Drew who?" and that is certainly not a question any more.

Mr. Speaker, I yield to the gentleman from Florida (Mr. SHAW).

Mr. SHAW. I thank the gentleman for allowing me to participate in this special order for, certainly, one of the great gentleman in Washington.

Mr. Speaker, I agree he is the greatest Secretary of Transportation this country has ever had. When the gentleman from Pennsylvania (Mr. COUGHLIN) spoke of "Drew who?" that is exactly what I asked when I came to Washington upon learning that the Secretary who was appointed, who had not yet been ratified by the Senate as Secretary of Transportation, was Drew Lewis. I knew him vaguely, his reputation as an organizer, a political organizer, and the good work he had done for his party in the State of Pennsylvania. But as a freshman from Florida, that is about all I knew about Mr. Lewis.

When I first was appointed to the Committee on Public Works and Transportation, as a freshman I will never forget the beginning of the 97th Congress in that icy January when, as a new Member, as a freshman, I made an appointment with the Secretary-designate to go to talk with him about some of the problems of transportation in Florida, as to my hopes and aspirations for the transportation system of Florida, as well as the problems we had encountered with the Coast Guard.

Much to my great surprise, 15 minutes before my appointment to visit with him at his temporary office, Secretary of Transportation-designate Lewis walked into my office, and I can tell you there is no greater experience, as a freshman, to find that the Cabinet officer-elect who had been appointed would take time out of his schedule to come and visit in a freshman's office.

We talked at great length. There were many questions that I had with regard to the transportation system in Florida with which he had not familiarized himself. However, he assured me he would become very familiar with them.

I can say it was in very, very short order when I would talk to him about the incomplete I-95, I would talk to him about the 595, the east-west expressway which was so important to my home district, that he knew all about it. He even knew where it was; he could tell me the road numbers bordering the particular highway we were talking about.

When I would talk with him about the problems Florida experienced in the Caribbean, he knew exactly what was going on. When we talk about accessibility, I do not think that any Cabinet officer, now or before Mr. Drew Lewis, has ever been more accessible to the Congress.

We talked about the Surface Transportation Act of 1982. I am sure all of us who were here late that night in the lameduck session will long remember that it was Secretary Lewis, not his lobbyists, who was standing outside that door and shaking hands with the Members of this Congress. I am sure this made a great impression on each and every Member of the Congress who had never seen this before.

In my short term in the Congress, I have never seen it before. I have never known a Secretary who is more concerned about the individual problems of the entire country, who is more knowledgeable as to the transportation needs, as to the needs of the Coast Guard of this country and the tremendous jobs which it has, particularly in my own area of the country.

I am extremely grateful for the 2 years that I have had to spend with Secretary Drew Lewis. We in the Congress certainly wish him well, and I can say that even though we will be certainly welcoming a very fine and very capable lady into this fine position, I think that she is going to find that she has some very, very large shoes to fill in this giant of a man who served this country so well.

This country certainly is richer for having Drew Lewis for the last 2 years, for his contribution to transportation will stand as a permanent memorial for what he has done.

I thank the gentleman from Pennsylvania once more.

Mr. COUGHLIN. Mr. Speaker, I thank my colleague from Florida for his kind remarks.

Certainly in my 14 years in this body, that was the first time I have ever seen a Secretary of a Department outside the doors of this Chamber at 1 o'clock in the morning thanking people for their support. This meant a great deal to all of us.

I yield to my colleague, the gentleman from Pennsylvania (Mr. WALKER).

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, first of all, I want to thank the gentleman from Pennsylvania for taking this special order to give us a chance to reflect a bit on Drew Lewis' service to the country as Secre-

tary of Transportation. I think that the words that have been heard here earlier during the special order are really a tribute to the kind of record that Drew Lewis has compiled.

We have had an opportunity over the years to observe Drew in several different capacities: As a Pennsylvanian, as a civic leader, as a political leader, as a business leader. It seems to me that in each of these various aspects, he has shown that he was capable of the kind of distinguished career that he achieved as Secretary of Transportation.

Pennsylvania, I think, really lost an opportunity when we failed—not he failed, but we failed—to elect him Governor in 1974 when he was the Republican candidate. As a Republican, I have had an opportunity to see him work as a national committeeman, as a deputy party chairman on the national level, and as head of the Reagan for President forces in Pennsylvania.

In each case, Drew Lewis had the capacity to put people and country ahead of politics, which is what really made him the superb politician which he is.

Then, as a member of a Transportation Oversight Committee here in the Congress, I had a chance to observe Drew as he wrestled with very frustrating and very serious issues, and he was always able to deal with those issues on the basis of intelligence, with an attitude of accommodation toward the various interests in the Congress and the various interests across the country, and that intelligence and that kind of an accommodation was what got the job done.

I certainly concur with my colleagues who said it previously: Drew Lewis is the best single Secretary of Transportation this country has ever had.

Finally, I have been able to say that I can observe him as a friend. I have been proud to see the way he has grown as he has taken charge in both our State and across the country. As his friend, I join with the gentlemen in wishing him well as he takes on new endeavors.

I think the gentleman from Pennsylvania again.

Mr. COUGHLIN. I thank my colleague from Pennsylvania.

Mr. Speaker, I yield to the distinguished gentleman from Ohio (Mr. LATTA).

Mr. LATTA. Mr. Speaker, I want to thank the gentleman for taking this time and commend him for giving us the opportunity to pay tribute to the services of Drew Lewis, because Drew, as everybody has been pointing out here, was an outstanding Secretary, did a tremendous job in very difficult times, and did them well.

Mr. Speaker, I am pleased to join my colleagues in recognition of the contributions made to this Nation by Transportation Secretary Drew Lewis, who leaves his Cabinet post soon to return to private business. He deserves the highest praise for his dedicated work and his accomplishments.

He proved to be an outstanding Cabinet member—a team player, an administration advocate, a friend of the Congress. He brought dignity and respectability to the Transportation Department by using his leadership and political skills.

As the ranking Republican on the Budget Committee, I worked with Drew on budget matters and as a member of the House Republican leadership. He is a credit to this administration.

During his 2 years as the Transportation Department's head, Drew made numerous solid contributions. It was Drew who took steps to modernize our air traffic control system. He faced the air traffic controllers' strike—unfortunate though it was—with decisiveness and courage. During this controversial strike, Drew maintained the integrity of the air traffic control system and, drawing upon his reservoir of business and political experience, overcame the crisis.

Drew Lewis was confronted with other tough challenges during 1981 and 1982: the railroad strike; the revitalization of our roads and highways; mass transportation; and revision of automobile safety rules.

Mr. Speaker, we are fortunate indeed to have had a man of Drew Lewis' caliber as Secretary of Transportation. We are also fortunate to have a successor of Elizabeth Dole's stature to step into the large void being left by Drew Lewis' departure. I wish Drew Lewis every success in his new endeavors in the private sector. I also wish our new Secretary the same success in her new job as Secretary of Transportation.

Mr. COUGHLIN. I thank the gentleman from Ohio for his comments. The gentleman has experienced many Secretaries of Transportation in his long and distinguished career in this body, and coming from him, that is very high praise, indeed.

Mr. Speaker, I yield to my colleague, the gentleman from Pennsylvania (Mr. RITTER).

Mr. RITTER. I thank my colleague for yielding.

Mr. Speaker, I commend the gentleman for taking this special order on behalf of a truly special person.

I would like to take this opportunity to pay tribute to a dear friend and fellow Pennsylvanian, our Secretary of Transportation, Drew Lewis.

Two years ago when Drew Lewis came to Washington, the Department of Transportation was in great need of new ideas to deal with some problems, problems such as the struggling maritime industry, a Conrail system that was losing over $1 million a day, a declining mass transit system, and a decaying highway infrastructure.

In each of these areas, Drew Lewis offered sound solutions—not rhetoric, not political solutions.

Many around here and around the country know Drew Lewis by his hallmark, that is, quality, his ability to forge consensus. That ability was due in large part to the workability of his proposals, to the diplomacy of his approach. In 2 years as Secretary, there was also some unexpected problems that surfaced in which strong leadership was essential.

During the highly charged air traffic controllers strike, the railroad strike, Drew Lewis acted courageously to protect the Nation's interest and the safety of individuals. I worked closely with Secretary Lewis on the Conrail issue, the railroad strike, on the gas tax, and I must say that of the Cabinet officers whom I have had the opportunity to work closely with, Drew Lewis was his own person; he did a lot of his own work, and when it came down to the nexus of making choices, Drew Lewis was on the scene.

In his relatively short time as head of the Department of Transportation, his record of success is well known.

In 1981, Drew worked with the congressional leaders to begin to return Conrail to the private sector and to reform it so that it could do something many thought was impossible, that is, become profitable.

On other railroad matters, Drew's knowledge of the industry and leadership ability was every bit as apparent. Last summer when we were threatened by a railroad strike, he came to Capitol Hill with a practical approach to resolving a seemingly irreconcilable dispute, and his plan was quickly and overwhelmingly accepted by the Congress.

There is no Cabinet officer who commands more respect from both sides of the aisle than Drew Lewis.

In August 1981, after the air traffic controllers went on strike, Drew worked relentlessly to insure that our Nation's skies were safe for the hundreds of thousands of daily passengers who depend on air travel.

Under his leadership, despite a devastating strike, the system generally worked and it continues to work well.

That is a tribute to him. In 2 years as Secretary of Transportation, he never gave up on his plan to rebuild and maintain our Nation's deteriorating roads and bridges with his user-fee concept. While I differed with Drew Lewis on some of the details of the proposal, his uncanny ability to forge a package and gather support for it from so many diverse groups assured the proposal's success.

Drew Lewis' leadership will be greatly missed by this administration, by the people of his home State of Penn-

sylvania, and more importantly, by the millions of Americans who depend on our Nation's highways, skies, railroads, and waterways.

Drew Lewis will be most remembered for his keen ability to forge solutions to the most difficult problems, solutions that would be acceptable to Congress and to the Nation. He never promised anyone a free ride. He was always honest with those with whom he worked in detailing the cold, hard choices involved in solving the problems.

Congress and the people respected him for the straight-forward, practical approach to real problems. In the public sector as well as the private sector, success has been his trademark.

I want to wish Drew Lewis all the best in his new role at Warner Amex, and as anxious as he may be to begin his responsibilities there, I am confident that he will continue to play an active role in the national life of our country. His warmth, his friendliness, his ability was much appreciated and will be sorely missed. In the opinion of many, he is indeed one of the best, the brightest, and the nicest.

I personally feel and regret the void left by his leaving the Government, but along with my colleagues, I wish him all good fortune in his new endeavors.

Mr. Speaker, I again thank the gentleman from Pennsylvania for yielding to me.

Mr. COUGHLIN. Mr. Speaker, I thank my colleague from Pennsylvania for his well-taken remarks.

Mr. Speaker, I yield to another colleague from Pennsylvania (Mr. GEKAS).

Mr. GEKAS. I thank the gentleman for yielding to me.

Mr. Speaker, I, too, appreciate Congressman COUGHLIN's special effort to bring to the attention of the country, perhaps for the last time, the accomplishments of Drew Lewis. I was struck and was grateful for the unanimity of remarks with respect to the appreciation that this Congress is tendering to the retiring Secretary.

I knew that my Pennsylvania colleagues would feel very strongly and kindly about their fellow Pennsylvanian, not only because they are personal friends but because they had a better chance to observe over the years his demeanor and his way of accomplishing great works, but I was more than pleasantly surprised when I heard the remarks of the gentlemen from throughout the Nation, from various congressional districts, about the Secretary of Transportation.

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I can add nothing to the original remarks, the first remarks made by Congressman COUGHLIN. They were sufficient in themselves. Then, when we heard the subsequent endorsements of all the Members, all I can do is to say that I confirm every single word, every phrase that was uttered about our friend, Drew Lewis.

I end with one brief thought that rushed through my consciousness as I was listening to all of this; that in the best sense of the democracy as the Athenians first conceived it, the best mark of citizenship was when one individual listened to the call of his nation, to drop whatever he may be doing in his own neighborhood to answer the call for help that emanated from the highest pinnacles of his government to save the nation, to help the nation, to serve the nation; and that citizen without question did answer such call, and then after the service was rendered, to quietly retreat back to his own home and to his own neighborhood, ready again, if need be, to answer the call of his nation.

I suspect that as we observe Drew Lewis, who heeded par excellence the call to Government service, that now as he retires quietly back to his neighborhood, that the trumpet of calling by the Government and by this Nation will again bring back Drew Lewis at some unforetold future date to again serve his Nation.

I thank the gentleman for yielding to me.

Mr. COUGHLIN. I thank my colleague. I feel sure that we have not seen the last of Drew Lewis in terms of public service and in terms of service to this Nation. I am sure he will continue in that kind of service to the country for many years to come.

Mr. Speaker, I yield to my colleague from Florida (Mr. LEWIS).

Mr. LEWIS of Florida. Mr. Speaker, I thank the gentleman from Pennsylvania for yielding time. I am very proud to stand on this floor and make my first remarks in the U.S. House of Representatives in respect to our outgoing Secretary of Transportation, Drew Lewis.

As a member of the Florida State House of Representatives, I organized the I-95 Task Force in order to complete Interstate 95 in Florida. In 1981, Secretary Drew Lewis opened his door to me and several members of this task force. From that point forward, we had a friend in Washington, one who was as committed to seeing the "missing link" of I-95 completed as we are. Secretary Lewis showed us the light at the end of the tunnel. His cooperative spirit and guidance has assured us that completing the "missing link" of I-95 is no longer just a 20-year-old pipe dream. Thank you, Drew, for being an inspirational leader to us all and for never being too busy to lend a helping hand. To the people of Florida, and in particular, the 12th Congressional District.

Mr. COUGHLIN. Mr. Speaker, I thank the gentleman from Florida. I think it is remarkable, really, that Drew's fame has preceded him to the Congress, and I really appreciate the gentleman from Florida taking this time.

Mr. Speaker, I yield to my colleague from Virginia (Mr. WOLF).

Mr. WOLF. Mr. Speaker, it is with mixed emotions that I join today in this special order to pay tribute to an outstanding public servant. While my best wishes for continued success go to Drew Lewis as he departs as Secretary of Transportation to take on a new challenge in the private sector, frankly I hated to hear of his resignation and his leaving Government service.

I regret that he will not be continuing at the helm of the Department of Transportation because in just 2 short years in Washington, he has demonstrated a talent that if often in short supply around here—he get things done. Drew Lewis has clearly been the most influential Transportation Secretary since the Department was created in 1967. His impressive record of accomplishments reflects his hard-working, effective, and fast-paced style which has gain him the respect of conservatives and liberals alike from both sides of the aisle.

To cite just one example, because of his personal and relentless involvement in pursuing the critical need he saw to repair this country's deteriorating infrastructure, today we have in place a fair and equitable means to pay for those repairs, with a portion also going to assist in the development of our mass transportation needs.

My admiration for his work also centers around more parochial interests in the transportation problems of northern Virginia, especially in the development of a balanced airports policy which recognizes the overcrowding and congestion at National Airport and the underuse of Dulles Airport. There are many Members of Congress and top officials in Washington who know exactly what needs to be done to solve the problems at National Airport. Unfortunately over the years, there have been few who have fought for what they know is right. One has been Drew Lewis and it has been a privilege to have worked with him to improve the quality of air transportation in the Metropolitan Washington area by capping growth at National and encouraging developments at Dulles.

Drew Lewis is a fighter, a man of his convictions who has tempered his staunch advocacy on the issues with a willingness to compromise. He has clearly been a pacesetter, an expert manager and administrator in directing this Nation's vital and critical transportation network from our highways to our airways.

Not only are northern Virginians and the Washington community losing a friend and ally, but the entire

Nation will miss his leadership. I would like to take this opportunity to thank him for his service to his country and fellow citizens and to wish him success and Godspeed in his future endeavors.

I think, as other Members have said, that I will predict that Drew Lewis will be back in Washington. We will call on him, I am sure, and when we do he will come back.

Second, perhaps if we wanted to make Dulles International Airport the airport it really can be, I should introduce a bill to change the name from the Dulles International Airport to the Drew Lewis International Airport. I am sure that my colleagues would support that.

Mr. COUGHLIN. I thank my colleague from Virginia, who has done a great job in transportation matters in the northern Virginia area and in the Washington metropolitan area.

Mr. Speaker, I yield to my colleague from Virginia (Mr. BATEMAN).

Mr. BATEMAN. Mr. Speaker, let me commend the gentleman for giving those of us in the Congress this opportunity to express our views on our departing Secretary of Transportation, Drew Lewis, and commend my colleague for giving us this opportunity to pay the tribute to him which is due.

Mr. Speaker, I stand before you today not so much to pay tribute to a great public servant, but to commend a set of personal qualities that all of us in public life should aspire to possess.

All too prevalent in these times is a public attitude of cynicism and mistrust toward Government officials; I am sure that all of you can bear witness to examples of this attitude. Is it any wonder that we have a difficult time attracting our best citizens to public service?

Drew Lewis, in his 2 years as Secretary of Transportation, has demonstrated the qualities we need in Government, especially as we face these troubled times. Without debating the right or wrong decisions and policies that emanated from the Transportation Department during his tenure, we must all agree that Secretary Lewis brought to his job a dedication and a commitment to confront issues of major importance to our efforts to get the wheels of our economy rolling again. From his opening days at his post, Secretary Lewis was diligent in his efforts to gain an insight and an expertise over the broad range of activities under the jurisdiction of his Department, from highway and waterway improvement to air safety, from mass transportation to the Coast Guard.

Secretay Lewis was able to use his insight, combined with his determination and his courage to make decisions that not only set new directions for transportation policy, but in one notable case, reaffirmed the strength and will of the Federal Government.

Detractors of Drew Lewis may disagree with many of the policies he advocated for his Department, but they must all be in agreement about the qualities that he brought to the performance of his duties.

Although I am new to Congress, I am making these remarks as someone who has spent several years in public service, and I must say that with Secretary Lewis' decision to return to private life, those of us that stay behind in public life, as well as all Americans, are losing someone who brought distinction to his government.

With all due respect to Secretary Lewis' very capable successor, she has a tough act to follow.

I join with my colleagues in wishing Mr. Lewis a very happy and successful future.

● Mr. McDADE. Mr. Speaker, I join my colleagues in paying tribute to Drew Lewis as he prepares to leave the Department of Transportation to become the chairman of Warner Amex. Any yet one can only do so with mixed feelings. Certainly, we owe Drew many accolades at the close of his brilliant tenure as Secretary of Transportation. I must concede, however, that I am disappointed to see his considerable talents lost to this government and even more disappointed that I will not have Drew Lewis to call on concerning transportation problems in my own 10th Congressional District of Pennsylvania.

Drew's stunning accomplishments in exceedingly sensitive circumstances have made him one of the stars of the Reagan Cabinet. His calm, firm, and prudent leadership during the explosive days of the air traffic controller's strike helped avert a potential disaster. In addition, Drew ultimately persuaded a taxcutting administration and a skeptical Congress of the wisdom of his plan for a nickel-a-gallon gas tax increase to pay for this Nation's deteriorating highway and mass-transit system.

These feats are all part of the public record, but many of us here—especially those of us from Pennsylvania—who had the pleasure of working privately with Drew have no doubt why he would shine in any cabinet. I am here to testify that whatever my concern, Drew was always a ready listener and an aggressive problem-solver. These are the hallmarks of a great administrator.

I congratulate Warner Amex and wish Drew Lewis good luck in his new challenge.●

● Mr. GOODLING. Mr. Speaker, I understand that Drew Lewis was cleaning out the turkey pen at this Schwensksville farm one November afternoon in 1980 when his wife, Marilyn, called out to him that Ed Messe was on the line. Drew got so excited, he bolted out of the turkey pen and raced for the telephone. All Ed Meese wanted was advice on where he could get his car repaired in Washington. Poor Drew; he spent the rest of the day rounding up turkeys, since, in his haste, he had forgotten to close the pen.

Well, his auto repair advice to Mr. Meese must have been sound, because—luckily for us—a few days later, Ed called Drew back and formally invited him to serve as President Reagan's Secretary of Transportation.

Drew is the seventh individual to hold this post, which was created in 1967, and, by all accounts, he is by far the most capable Transportation Secretary this country has ever had. It is easy to see why. As has frequently been written about Drew, he has a talent that is too often in short supply in this town. Drew Lewis gets things done.

And what an agenda he has accomplished during his 2-year tenure. Think of Drew Lewis, and what comes to mind are the phaseout of subsidies to Conrail, the phase-in of user fees to pay for transportation systems, and keeping America into training by getting Amtrak into paying its own way. Drew has been a pacesetter who worked hard for obtaining voluntary quotas on Japanese auto imports and for fundamental changes in this country's air traffic system. His finest hours were probably at the start and finale of his stewardship—during the 1981 strike by the Federal air traffic controllers, and, in the lameduck session of the 97th Congress, when his plan for a nickel-a-gallon increase in the Federal gasoline tax to repair this Nation's deteriorating highways and mass transit systems received bipartisan approval.

Drew is a Pennsylvanian, and, as a member from the Keystone State, I am glad to have worked with him these past 2 years. I say "worked with," because Drew was always available to visit my district or anyone's district to talk to the railroaders, the truckers, and all the people having troubles on the interstate or problems in their respective transportation industries back home. His rapport with Congress has been bipartisan and multiregional, and this has probably been one of the key reasons for his success in achieving the goals both of his department and of this administration.

Go through some newsclippings on Drew Lewis, and you will see words like "influential," "top notch," "standout," "adroit political operator," "consummate administrator," and "aide extraordinaire." His past includes stints as a construction foreman, a salesman, a corporate president, a management reorganizer, an entrepreneur, a committeeman, a campaign manager, and a candidate for Governor, not to men-

tion a gentleman farmer, student pilot, avid car collector, tennis player, golfer, fisherman, husband, and father of three.

You will also see that he has been a good friend to his friends, loyal to his President, and a moderator who can mend fences and patch up alliances.

Drew is leaving his post for a job with Warner Amex, and those of us in the Pennsylvania delegation especially will miss him. I personally would like to thank him for all that he and his excellent staff at the Department of Transportation have done to help the 19th District of Pennsylvania. Drew's personal endorsement of a concurrent resolution which I have sponsored urging the States to unify the legal drinking age at 21 has certainly been a boost in getting more exposure to the serious problem of teenage drunk driving.

Good luck, Drew. And, when in the future the phone rings and Marilyn yells that yet another prominent individual needs to speak with you—just remember how long it took you to get all those gobblers back inside their pen.●

● Mr. CONTE. Mr. Speaker, I want to commend the gentleman from Pennsylvania (Mr. COUGHLIN) for arranging this special order to pay tribute to Transportation Secretary Drew Lewis. Secretary Lewis has been an outstanding and dedicated public servant, and I am happy to join in this special order.

Without detracting from any of the other Cabinet members, it would be fair to say that Drew Lewis has been one of the real stars of this administration. He brought to the Department of Transportation a solid background of achievement in business and management positions, and this experience rapidly paid off as he took firm control of the Department from his first day in office. The combination of managerial skill and political savvy exhibited by Drew Lewis served him well in dealing with the difficult issues of 1981 and 1982.

As the ranking Republican on the House Appropriations Committee, and as a member of the Transportation Appropriations Subcommittee, I have had the privilege of working closely with Drew Lewis, not only on budget and appropriations matters, but also on some of the major policy initiatives undertaken under his leadership.

Any list of Secretary Lewis' accomplishments over the past 2 years would have to include the development of a new plan for a modernized air traffic control system, along with the passage of related aviation user fee and airport development legislation. In addition, his handling of the air traffic controllers' strike, while controversial, insured the continued safety, integrity, and operation of the national air traffic control system.

The recent enactment of new legislation that provides for increased funding of our many unmet highway and mass transit needs was due in no small part to Secretary Lewis' persistent advocacy, both within the administration and here on Capitol Hill.

Mr. Speaker, I could go on and on about the many other accomplishments of Drew Lewis during his 2 years at the helm of the Department of Transportation. Such a list could include his handling of the national railroad strike, the development of a sound Metropolitan Washington airports policy, his efforts to negotiate voluntary restraints of Japanese auto imports, and his promotion of programs to reduce the incidence of drunk driving.

Mr. Speaker, I am sure that my colleagues will join me in thanking Drew Lewis for his dedicated public service, and in wishing him well in his new endeavors.●

● Mr. CORCORAN. Mr. Speaker, it is with respect and admiration for Secretary Lewis' abilities that I join my colleagues today in this testimonial to his service as Secretary of Transportation. His keen sense of how to achieve transportation goals has served Congress, the administration and the American people well.

His practice of holding weekly meetings with the leadership of our distinguished Public Works and Transportation Committee is characteristic of the operations of the Transportation Department staff under his leadership. Its congressional liaisons have earned a deserved reputation for the quick turnaround and thoroughness that is so helpful to us. This was particularly the case in the recent, historic debate on the highway bill, and I am sure my colleagues will readily recall his personal and extensive participation in our deliberations to the extent of watching floor debate in the Chamber.

There can be no greater attest to his capabilities than the new highway law. His skillful coordination of and cooperation with parties involved in its consideration were sensitively, realistically, and yet forcefully employed.

In reviewing the tenure of Drew Lewis as Secretary of Transportation from the standpoint of my membership on the House Post Office and Civil Service Committee, I must, of course, commend his leadership and guidance when striking air traffic controllers threatened to disrupt our Nation's vital air traffic system. One can now only point to the rapidly recovering system as evidence of the swift and successful action he took in conjunction with the Federal Aviation Administration and Mr. J. Lynn Helms during this most difficult time. The United States most certainly owes Drew Lewis a sincere debt of gratitude.

As Drew Lewis moves on—though I may have the pleasure of working with him should I gain membership on the subcommittee involved with cable television—he should know that I and my colleagues here today appreciate the privilege we have had to work with such a capable and talented person. I wish him well.

Thank you, Mr. Speaker.●

● Mr. JONES of North Carolina. Mr. Speaker, as chairman of the House Committee on Merchant Marine and Fisheries, I have perhaps had as much contact and association with Secretary Drew Lewis as any other Member of Congress. I have found him to be most cooperative and understanding of the multitude of problems of the maritime industry. He is certainly one of the most accessible Secretaries of Transportation that I have had the pleasure of knowing.

In my opinion no one has had more crucial decisions to make, and we all admire his tenacity and firm stands which he has taken in what I consider to be the best interests of the American public.

I shall certainly miss him, not only as Secretary of DOT, but more importantly, as that of a true friend. I join with others in thanking him for the fine job he has done, as well as wishing him much health and happiness in his new position.●

● Mr. MINETA. Mr. Speaker, I am proud to join those who honor Secretary Drew Lewis today. As Secretary of Transportation and as an outstanding public servant, Drew has proven himself to be an effective leader.

Consistently, Drew Lewis has served the public interest with his hard work and with his pragmatism. Weathering severe political storms, Drew has regularly supported sensible public investments in our country's safety and productivity, and I grew to respect Drew deeply during the years we have spent working together on public transportation projects.

Drew's role as a pragmatist and as a leader was most recently symbolized by his triumph with the infrastructure bill, which provides for much needed highway gas taxes, transit construction, and road repair. With dogged determination, Drew promoted this legislation first in the administration and then in Congress, and in future years, as we reap the benefits of this legislation, we will owe large thanks to Drew Lewis.

During his term in the Cabinet, Drew demonstrated the tremendous importance of the Secretary of Transportation. As Drew turned his attention to the growing concerns of the aviation industry, the automobile industry, and the mass transit industries, Drew successfully fostered growth and efficiency.

As chairman of the House Aviation Subcommittee, I saw Drew work long and hard to champion the interests of

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this country's airline passengers as he developed extensive airport and airway legislation, In other work with the House Committee on Public Works and Transportation, I saw Drew demonstrate the same vigor and pragmatism as he developed programs which provided for highway maintenance and mass transit construction.

Drew deserves all of the praise he has received for his pragmatism and dedication. During tough times, we could turn to Drew and still see a winner.

I hope Drew also receives the future rewards he deserves, and I thank Drew for his statesmanship, his hard work, and his friendship.●

● Mr. McKINNEY. Mr. Speaker, admiringly, I would call Drew Lewis a pragmatic moderate—he looks first at the job to be done, and only then at the approach to be taken. Drew's time as a Cabinet member has been short and yet his accomplishments have been many. In the 2 years Drew headed the Department of Transportation, he not only improved our national transportation system but also addressed a number of area transportation concerns. As the key lobbyist for the 5-cent gas tax, Drew's efforts will be noted in the years to come with the upgrading of our national roadways. When faced with the 1981 PATCO strike, Drew held his ground and, in doing so, gained the support of the American people. He also recognized—as many others in the administration failed to do—the particular transportation needs of the Northeast corridor. Locally, Drew tackled the stalled and embarrassing Union Station-Visitor's Center project. It will finally be completed—a beautiful old building rightfully restored to full use as a train station as well as a convention center. Drew was also a friend in the acquisition of funds for our local Metro system and in clearly defining the touchy and often muddy relationship between Dulles and National Airports. Both the Nation and the Washington area should long feel grateful to Drew.●

● Mr. BROYHILL. Mr. Speaker, I would like to take this opportunity to join my colleagues today as we honor Secretary of Transportation Drew Lewis. At the end of this month, Secretary Lewis leaves his Cabinet post to return to the private sector.

Since his arrival in Washington as head of the Department of Transportation, Drew Lewis has represented the Reagan administration well.

He has played a critical role in the development of a transportation policy that places the role of the Federal Government in its proper perspective.

During the 97th Congress I had the privilege of working directly with Drew Lewis on three rail-related issues that required action by the Committee on Energy and Commerce, on which I serve as the ranking minority member.

The Secretary clearly and convincingly articulated the desirability of transferring Conrail—the Consolidated Rail Corporation—back to the private sector. Through his efforts, Conrail is in a position to be moved into the private sector where it belongs. The Northeast Rail Services Act of 1981, which provides for the sale of Conrail, has removed the burden on the taxpayers of this country to continue to heavily subsidize and run a railroad.

Similarly, the Secretary, on behalf of the administration, took a very firm stand with respect to funding for Amtrak—the Nation Rail Passenger Service Corporation. Although unpopular to Amtrak supporters, Drew Lewis expressed the belief that Amtrak must be run more like a business; that it must do more to increase its revenues; and that it must hold down its costs by eliminating trains that never could be run profitably. This commonsense business approach helped set the stage for some meaningful reforms to Amtrak. Although much remains to be accomplished, the Secretary's efforts have set the stage for further meaningful reforms—and have proved that fiscal responsibility with respect to Amtrak need not be a foreign concept.

Finally, as my colleagues are all aware, the Congress, last September, was required to step in and resolve a rail strike that, if it had continued, would have had a devastating impact upon the economy of this Nation. Secretary Lewis played a key role in working with the Congress and the parties to the dispute to resolve this most troublesome issue. The Secretary approached the breakdown of negotiations between the parties cautiously. After assessing that the inability of rail labor and management to resolve their sole remaining difference was really an intraunion dispute, the Secretary moved to restore essential freight rail service. He did this by working in a bipartisan manner with the leadership of the Congress, showing the capacity to be a willing listener as he briefed congressional leaders on the approach recommended by the President.

In the case of each of these legislative initiatives, I observed in Drew Lewis a firmness in his approach born out of a sense of purpose that the position he was articulating was the right one. Yet having plotted a course with respect to these issues, the Secretary always demonstrated an understanding of the need to listen to and work with those of us in the Congress who ultimately had the responsibility of acting on the administration's proposal.

I have enumerated only a few of the accomplishments of Drew Lewis since he assumed his role as a member of the President's Cabinet. As you are all aware, he has been praised by Members on both sides of the aisle for his successes on these and other issues.

We will all miss Secretary Lewis. I would close by simply expressing my sincere appreciation to the Secretary for his service to the President and to the country.●

● Mr. OXLEY. Mr. Speaker, I rise to commend Drew Lewis for his dedicated service to the Reagan administration and to the United States as the Secretary of Transportation. With judgment and strength, he led the Department and the Nation through a major transportation crisis. Also, Drew provided an example of negotiation and compromise in his dealings with Congress.

Drew's special ability of turning profits from failing businesses is documented by a long record of success. This talent is essential, particularly during times of economic distress, and I trust Drew will apply his knowledge and expertise to benefit additional private enterprises. Drew's credentials document his value to whatever organization he may serve. From Snelling & Snelling to the Republican National Committee to Conrail, his expertise and administrative abilities have increased efficiency. He possesses a remarkable range of knowledge in an array of fields. His proven effectiveness in public management, transportation, government, and politics will be sorely missed.

Looking beyond technical expertise, it is my good fortune to call Drew a friend. I first came to Congress during his term as Transportation Secretary and found him most responsive and helpful. I benefited both personally and professionally from our association.

I wish Drew every good fortune in his new endeavors; however, I must also say that I, like many others, am reluctant to see him leave public service. He is without question one of the most talented and innovative managers in the Nation. Although no longer a member of this administration, Drew will continue to be a respected resource for those of us in Government who share the responsibility for developing solutions to the economic and other crucial problems facing the United States.●

● Mr. SHUMWAY. Mr. Speaker, I am very pleased to have this opportunity to pay tribute to Drew Lewis as he prepares to return to private life, and to express my admiration and commendation to him for the outstanding job he has done as Secretary of Transportation over the past 2 years.

From the outset of his tenure in office, Drew was confronted with major challenges—challenges which he consistently met with responsible

action and sound reason. Few individuals stepping into the Secretary's position could anticipate the major impact of the air traffic controllers strike. However, Drew addressed that confrontation with positive and firm measures, making it perfectly clear that the administration would not back down to those who chose to break the law.

On a personal note, I have always found Drew Lewis to be an articulate, intelligent, and forthright individual, as well as an engaging and personable personality. He has typified the very best qualities of a Cabinet officer, and has brought well deserved respect to his office and his Department.

Drew Lewis will be missed by those of us who have been privileged to know and work with him. I would like to take this opportunity to extend every best wish to him as he departs the Nation's Capital, and to say that I am confident his future endeavors will be marked by equal success.●

● Mr. MAZZOLI. Mr. Speaker, I too, would like to add my commendation to Secretary Drew Lewis for his accomplishments as the Secretary of Transportation. Mr. Lewis made a significant contribution to the well-being and future of this country as Secretary of Transportation.

As he prepares to return to the private sector, I wish him much success in his future endeavors, and extend appreciation for the service he has rendered.●

● Mr. KRAMER. Mr. Speaker, it is indeed a pleasure for me to be part of this farewell tribute to Drew Lewis.

I know I join many of my colleagues when I say that, as Secretary of Transportation, Drew has been held in high regard by many on both sides of the aisle. His attention to detail, his political sense, and his knowledge of the complex fields that his Department is charged with overseeing has earned him the bipartisan respect and support he worked hard for and deserves.

As Secretary of Transportation his accomplishments are many. To assist the ailing auto industry, he was able to obtain voluntary quotas on Japanese imports. His skills as negotiator and compromiser during the 1981 air traffic controller's strike are well known. Drew was also instrumental in averting a potentially disruptive air line pilot's strike in April.

As the Representative of Colorado's Fifth District, I have on several occasions required the assistance of Drew and his Department. The resulting responses were always timely, informative and most beneficial. On one occasion, I requested his assistance in seeing that the construction timetable for C-470, which is needed to relieve traffic congestion in Metropolitan Denver, be moved up. His attention, interest and understanding in the importance of this project resulted in the completion date for C-470 being moved up from 1994 to as early as 1986.

This is only one of many instances, I am sure, where Drew has been willing to work with and along side Members providing whatever assistance he can on the local level.

I know I speak for many when I say that the administration is losing an exceptionally valuable Cabinet officer, and the Congress is losing a fine friend at the Department of Transportation.

I would like to close by wishing Drew the best of luck as he leaves Government service to return to the private sector. The working relationship he established with the Members will be missed.●

● Mr. RINALDO. Mr. Speaker, it is with a sense of personal regret that I join my colleagues today in saying farewell to a truly outstanding member of the President's Cabinet, Secretary of Transportation Drew Lewis. After 2 years of commendable service, Secretary Lewis will be stepping down February 1 to pursue other goals.

During his Cabinet tenure, he has compiled an impressive record of achievement and in doing so has gained recognition as an exceptionally talented leader. His hard work and diligence earned him the respect of Members from both sides of the aisle.

One of the most difficult problems the Secretary had to deal with was the strike by the air traffic controllers. He dealt with the strike sensitively and at the same time managed to maintain safe airways for the traveling public. It was during this period that he commissioned a study of air traffic control procedures and supervisors' attitudes in an effort to improve operations and working conditions for the controllers. On the basis of management weaknesses and other shortcomings revealed by the study, Secretary Lewis initiated a program to modernize the air traffic control system.

I express my admiration and gratitude for a job well done, and I wish Secretary Lewis success and happiness in his future endeavors. He has done a commendable job for his President and his country.●

● Mr. LEHMAN of Florida. Mr. Speaker, the announcement that Transportation Secretary Andrew L. Lewis would be stepping down was probably not a total surprise to anyone in this House, but I found it distressing that he decided to leave so soon. I know he will be missed.

As a member of the Appropriations Subcommittee on Transportation, I had the pleasure of working with Drew Lewis, and I grew to admire and respect his intelligence, his unflappable character, and his cool handling of the inevitable crises. But it was during this past fall, when Adam Benjamin's untimely death thrust me into the subcommittee's chairmanship, that I really began to know Drew. He was most accessible and very helpful to me as I worked to get on top of issues Adam had always taken the lead on, and to prepare for floor consideration and conference on our bill.

I certainly regret that Drew will not be around to present his fiscal year 1984 transportation budget, although I have no doubt that his successor will be very capable.

Before my years in Miami and Washington politics, I ran a good-sized business. I am hard-pressed to think of more than a handful of people I have known and worked with who can match Drew Lewis, in style or in substance, in private life or in public life. I think we can be confident that his insights will be available to the country; we will certainly continue to need his experience and abilities at the highest levels. I wish him and his family all the best.●

● Mr. MARTIN of New York. Mr. Speaker, I am grateful to my colleague from Pennsylvania for this opportunity to salute our departing Secretary of Transportation.

Drew Lewis, as we all know, is a man of many significant accomplishments in public and private life. I am sure his fellow Pennsylvanians in this body, as well as other colleagues participating in this special order, will provide many details on Drew's distinguished and promising career, so I will refrain from doing so here.

I will, however, express my deep admiration for, and gratitude to, Drew Lewis for his outstanding service to my constituents and all Americans as Secretary of Transportation.

The Department of Transportation, Mr. Speaker, has an intimate involvement with my congressional district. The St. Lawrence Seaway Development Corporation, an operating administration within the Department, maintains headquarters in Massena, N.Y.; it employs many of my constituents and, with its Canadian counterpart, runs the facilities that give us America's fourth seacoast and a great national and local economic resource—the St. Lawrence Seaway-Great Lakes System.

Additionally, the Department of Transportation's Urban Mass Transit Administration, working on behalf of our Nation's mass transit systems, is important to one of the largest private-sector employers in my district, the New York Air Brake Co., a major manufacturer of mass transit braking equipment.

These various administrations, Mr. Speaker, have begun better serving my constituents with Drew Lewis at the helm of the Department of Transportation. His managerial skills are awe-

some, and the vast improvements he has wrought are the evidence.

But that is not all. Drew Lewis gets personally involved in his work. He has come to my congressional district. He has sought out, met and spoken to the Department of Transportation's employees there. He has dedicated a new Seaway Corporation headquarters building at Massena. He has observed the St. Lawrence Seaway. He has toured the New York Air Brake, reviewed its work under a Federal grant he helped expedite, and spoken to management and labor about their work.

Mr. Speaker, I am deeply grateful for the personal attention, concern and effort Drew Lewis has given to my congressional district and my constituents, invariably with positive results. I am sure that many of my colleagues feel the same way.

Drew Lewis has demonstrated a competence, a professionalism and a commitment that epitomize good government. He will bring the same qualities to his new endeavor, and I wish him well.●

● Mr. YATRON. Mr. Speaker, I am grateful for this opportunity to join with my colleagues to pay tribute to Drew Lewis, unquestionably one of this Nation's finest public servants.

I have known Secretary Lewis for many years, as our association dates back to our mutual service to the State of Pennsylvania. I have known for a long time what many Americans recently learned as a result of Drew Lewis' tenure as Secretary of Transportation: That he is an extremely capable, talented, and dedicated public official. It is no surprise to me that many experts have rated Drew Lewis as one of President Reagan's most effective and respected Cabinet members.

It is with sorrow and regret that I see this outstanding individual leave public life. But I know his new position will present many new and exciting challenges.

Drew Lewis has served his nation exceptionally well, and I am glad to have had the opportunity to work with him and to witness firsthand his many remarkable skills. It gives me great pleasure to honor this fine American and to wish him the very best in all his future endeavors.●

● Mr. SNYDER. Mr. Speaker, the tenure of Drew Lewis as Secretary of Transportation has been all too short, but few if any Cabinet members in any administration have been more active and accomplished more for the good of the Nation in such a short span of time.

He has been an extremely capable and politically astute administrator, and this administration could not have had a more effective spokesman in transportation matters. His imminent departure will be a great loss.

He faced every challenge with firmness, prudence, and sound judgment. On more than one occasion, we found ourselves fortunate to have Drew Lewis in the driver's seat at DOT.

He worked hard to negotiate a fair settlement with the Nation's air traffic controllers in 1981, and when they struck, he moved decisively to keep the Nation's airplanes flying and the airways safe.

Drew Lewis was the man of the hour when he helped secure funding for a new multibillion dollar nationwide air traffic control computer system, and again when he conceived and marshaled support for the 5-cent-a-gallon increase in the Federal gasoline tax to finance road maintenance and mass transit improvements.

His accessibility and willingness to work long hours in the interest of reaching an acceptable compromise earned him bipartisan respect in this and the other body.

I commend Secretary Lewis for his outstanding record of public service and wish him the very best as he returns to the private sector.●

● Mr. MONTGOMERY. Mr. Speaker, I want to add my name to the list of admirers for the work done by Drew Lewis as Secretary of Transportation. He leaves the administration to join the private sector again on Febuary 1. This Nation will miss his skills and expertise.

Drew Lewis is regarded by groups on all sides of the political spectrum as one of the most capable and hardest working members of President Reagan's Cabinet.

I am happy to join in this tribute to Drew and to say thanks to him for the truly outstanding work he has done. He has been at the front of several tough situations during his tenure as Transportation Secretary and in each of these, he has performed in a most professional manner.

I wish the best for him in private business. He has done a good job and this is a fine tribute to him.●

● Mr. QUILLEN. Mr. Speaker, I am pleased to join my colleagues in paying tribute to Drew Lewis.

Mr. Lewis has been an outstanding and valuable member of the President's Cabinet and has compiled a remarkable record of accomplishment as Secretary of Transportation over the past 2 years. He has served his Department, his President, and his country well.

He is leaving public service in a few days to return to private business and I know he will be missed by those of us who have had the privilege and the pleasure of working with him. I appreciate especially his efforts to work closely with Members of Congress on matters affecting national transportation policy.

Drew Lewis brought to the President's Cabinet a reputation for superb management ability and effectiveness. His record of accomplishment as Secretary of Transportation attests to the fact that he leaves office with that reputation enhanced.

I am sure he will continue to enjoy success in his new endeavors and I extend to him my congratulations for a job well done and my best wishes in the years ahead.●

● Mr. HAMMERSCHMIDT. Mr. Speaker, as a member of the House Public Works and Transportation Committee I have been privileged to work closely with Secretary Lewis during the past 2 years and I appreciate this opportunity to pay special tribute to this man of many accomplishments.

Drew Lewis is considered by many transportation specialists to have been one of the most effective men to serve as head of this relatively new Department, which was formed in April 1967.

Before joining the Reagan administration, Drew made his well-deserved reputation as an effective problem solver and corporation troubleshooter by reviving struggling companies in private industry. As it turned out this was excellent training for the many problems to be faced during his tenure as Secretary of Transportation.

Drew took on the task of reshaping the air traffic control system after the PATCO strike resulted in the firing of 11,400 striking controllers. Although he had tried to negotiate a new contract with the air traffic controllers' union before the strike occurred, he vigorously supported the President's action and proceeded to institute fundamental changes in the air-traffic system to put the Nation's airways back in order as soon as possible. In fact, those reforms—an abrupt speedup in the recruitment and training of new controllers and new flight rules to improve safety in the skies—prevented what might have been a potential disaster for air travel and instead resulted in a remarkably smooth and successful operation.

As Transportation Secretary, Drew had certain goals he wanted to accomplish and his firsthand knowledge of railroad operations, coming from 9 years as trustee of Reading Railroad, influenced him to phase out Federal subsidies to Conrail and begin the process of returning the railroad to the private sector.

Heading his long list of accomplishments, Drew conceived and guided through Congress the nickel-a-gallon gasoline tax aimed at raising $5.5 billion for reconstruction of this Nation's highways, bridges, and mass transit systems.

Drew has earned widespread bipartisan respect for his keen judgment, management ability, and intimate knowledge of the complex fields for which his Department is responsible.

His long list of achievements, his ability to make things happen and his loyalty to the policies of the administration he served have earned him the privilege of returning to public service whenever he decides to do so.●

● Mr. FLORIO. Mr. Speaker, Drew Lewis will be leaving his position of Secretary of Transportation on February 1 to become chairman of Warner Amex Cable Communications. I know we will miss his ability and expertise.

As chairman of the Subcommittee on Commerce, Transportation and Tourism, it has been my pleasure to be able to work with Drew over the past 2 years. While we may have disagreed on how to accomplish certain goals, I know that he shared a commitment to a sound transportation system and recognized the crucial importance of transportation to our economy.

Over the past 2 years, we have worked together to insure a viable Conrail, a cost effective national Amtrak system, and $125 million in transition assistance for the Northeastern commuter authorities taking over commuter service from Conrail. We have also been able to provide for a transfer of the Alaska Railroad to the State of Alaska.

Drew has provided much leadership in the transportation field and should be proud of his record as Secretary. I am sure he will be equally successful in his new position. I wish him the best of luck.●

● Mrs. MARTIN of Illinois. Mr. Speaker, the announcement that Drew Lewis was resigning as Secretary of Transportation signaled the departure of an outstanding public servant from Government. I wish the Secretary all the success in the world as he returns to the private sector, and I want him to know how much we in the Congress have appreciated his leadership and administrative qualities.

Transportation is one of the primary responsibilities of the Federal Government. It is vital to the safety, mobility, and economic prosperity of our entire Nation. Too often we have taken the existence of our highways, airways, railways, and waterways for granted. For too long the needs of our transportation system have been neglected as a national priority.

During the last 2 years, Drew Lewis has made transportation a national priority and has brought the force of Government to work on improving the transportation sector. Not until Drew Lewis took control of DOT have so many important transportation issues moved through the process. He has exercised leadership and demonstrated his administrative abilities in handling one of the largest and most diverse Federal departments.

His decision to leave DOT will be a loss, not just for an administration that is losing a star Cabinet officer, but also for a government and the society it serves. Drew Lewis will be missed by every builder, operator, and user of our transportation system. He will be especially missed by the area I represent, because he was the first Secretary of Transportation to take a personal interest in the transportation needs of northern Illinois. Drew Lewis visited my district to assess what needed to be done and then helped to get it done. He will be missed in a way that was best described by the following editorial from the Rockford Register Star, my district's largest newspaper:

NORTHERN ILLINOIS LOSING A GOOD FRIEND

Northern Illinois will lose a good friend when Transportation Secretary Drew Lewis leaves the Reagan cabinet Feb. 1.

Lewis became polically controversial early in the Reagan administration when he led the tough stance against striking air traffic controllers.

But he also is the one Reagan cabinet member who has recognized the special needs of northern Illinois and delivered some meaningful aid to this area.

Lewis played a major role in putting together the new federal transportation package, which contains so many benefits for the Rockford area and for the North-South Freeway.

There's little chance this part of the nation will have as good a friend in Lewis' replacement.

John Kramer, director of the Illinois Department of Transportation, would make an outstanding federal transportation secretary and has fought hard for the Rockford area in state government for several years. But he is a long shot for the federal appointment.

Reagan reportedly is leaning toward appointment of a woman and someone already part of the president's team to replace Lewis. Most prominently mentioned are Elizabeth Dole, as assistant to the president in charge of the public liaison office, and Faith Whittlesey, now ambassador to Switzerland.

We have no reason at this point to question the qualifications of either, although a proven transportation expert such as Kramer obviously would bring more professionalism to the job.

We will miss Drew Lewis. We believe Kramer would make an outstanding replacement. But, realistically, we can only hope whoever the president selects will share Lewis' recognition of the special transportation problems facing our area and the entire north-south central corridor of Illinois.

Secretary of Transportation Lewis will be an extremely hard act to follow, although I am sure Elizabeth Dole will meet that challenge if anyone can. I wish Drew Lewis success as he returns to private life. More importantly, I convey my thanks for the past 2 years he has given in such outstanding service to Government. We all will miss you, Mr. Secretary.●

● Mr. BEREUTER. Mr. Speaker, I am delighted to have this opportunity to join my colleagues in this special tribute to Secretary of Transportation Drew Lewis.

One of my favorite forms of constituent forums involves sessions with student groups. These are generally question-and-answer sessions where the students are given an opportunity to ask a variety of questions about their government. One of the most popular questions I receive is: "Congressman, who is the best or your favorite Cabinet Secretary?"

Without hesitation, I have said, "Drew Lewis." It is with respect, and profound admiration, that I offer my sincere thank you to the man who has so intelligently, capably, and effectively run the Department of Transportation for the last 2 years. In 2 short years, he has left an impressive legacy of approved legislative and administrative initiatives for the Nation. On the Capital scene he has found and begun to implement solutions to important airport and transportation problems that others have viewed as Gordian knots.

During my 4 years and 1 month of service in the Congress of the United States, no member of the Cabinet has been as cooperative with me either personally or through his staff and as sensitive to the needs of my constituents and the State of Nebraska as has Transportation Secretary Drew Lewis. Just yesterday I met with a representative of his Department to discuss our continued planning for key transportation projects that affect my district. Even as he winds down his service to DOT, he is ever sensitive to the objectives of a Congressman and his constituency while maintaining the objectivity necessary to provide national leadership and to pursue the public interest.

Drew Lewis was an able administrator. Always a candid and effective spokesman for the administration, he has repeatedly demonstrated his ability to successfully pursue his legislative agenda with Congress. Few Presidents have been better served by one of their Cabinet officers.

We will miss Drew Lewis as our Secretary of Transportation and wish him well as he pursues a career in the private sector. While regretting that immediate loss we look forward to the contributions of his very able and already distinguished successor, Elizabeth Dole.●

● Mr. COATS. Mr. Speaker, I am pleased to have this opportunity to express my appreciation—and the appreciation of the people of northeastern Indiana—for Drew Lewis' exemplary service to this country as Secretary of Transportation.

As a new Member of this body I learned a great deal from the Secretary and his work. Without a doubt, his assignments were from among the toughest issues facing the administration. Yet whether he won or lost—he won most of the time, as I recall—his approach was one of professional evenhandedness and his goal was always to to serve the interest of all

Americans. Drew Lewis set a standard for public service which we would all be wise to follow.

My constituents also benefited directly from the Secretary's competence and personal attention. In several instances he was directly—and very effectively—involved in transportation issues affecting northeastern Indiana. I believe his involvement stemmed from an understanding of the importance of transportation to our economy and its reawakening strength. My constituents are gratefully aware of the Secretary's expressions of interest and concern.

There is no doubt in my mind that Secretary Lewis will continue to play a vital role in making choices for the future. I am sorry to see him leave Government service but am grateful for his example and wish him Godspeed.●

● Mr. CLINGER. Mr. Speaker, I am going to miss Drew Lewis. Drew, of course, is from Pennsylvania, my home State. Having Pennsylvania in common, I have had the privilege of knowing Drew for many years prior to my coming to Congress and his appointment as Secretary of the Department of Transportation.

I must say that I was very pleased when I learned of Drew's appointment to Transportation. I knew of his capabilities as an administrator and, as a member of the House Public Works and Transportation Committee, I believed that someone of any lesser stature would perhaps be outflanked by the challenges that lie ahead.

And some challenges Drew did face as Secretary of Transportation. Who can forget the PATCO strike or the plans laid to modernize our airports? What is more, who expected the perennial issue of raising the gasoline tax to be resolved? I know that I was convinced for a long time that a gasoline tax increase was necessary, but I did not expect the issue to be resolved so quickly and ably, thanks to the negotiating skills of Drew Lewis.

But there is another side to the departing Secretary of Transportation that we should all remember. When Drew was asked about regrets he had when he announced his resignation, his response was that as Secretary of Transportation he regretted most the suffering of families hurt by the PATCO strike. I think that response is a sign of a great civil servant who served his country well.●

SIXTY-FIFTH ANNIVERSARY OF UKRAINIAN INDEPENDENCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. STRATTON) is recognized for 60 minutes.

GENERAL LEAVE

Mr. STRATTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to extend and revise their remarks on the occasion of the 65th anniversary of Ukrainian independence.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. STRATTON. Mr. Speaker, I am sure that we all welcome the presence of Father Paschak of New York City in commemoration of this important anniversary which we celebrate every year here in this Chamber. I would advise my colleagues that there will be a reception given by the Ukrainian Congress Committee of America in honor of the 65th anniversary of the independence of the Ukraine to be held in the Longworth cafeteria at 6 p.m.

Mr. Speaker, I am most pleased to have the opportunity to arrange with my good friend from Pennsylvania (Mr. RITTER), a special order to commemorate the 65th anniversary of Ukrainian independence in the House of Representatives. This occasion will allow Members once again to rise to express their firm support for the freedom and dignity for the brave people of the Ukraine and their struggle against Soviet domination. The actual date of the anniversary was Saturday, January 22; but we hold these proceedings today because the House was not in session on Saturday.

I did, however, have the honor of attending a dinner on Saturday night in Cohoes, N.Y., for the 65th commemoration of the declaration of independence of the Ukrainian Republic sponsored by the combined branches of the Ukrainian Congress Committees in Cohoes, Amsterdam, Watervliet, and Troy.

Rather than expound from my own limited background on this important subject, as I have done on previous Ukrainian independence days over the 24 years I have been a Member of the House, Mr. Speaker, I would like this time to pursue a somewhat more unusual route. I would like to include as a portion of my remarks a very eloquent address delivered at that dinner last Saturday by Mr. Jacob Spiak of Watervliet, N.Y., president of the Combined Ukrainian Congress Committees in New York State's capital district. Mr. Spiak catches so much better than someone who is not of Ukrainian heritage could, the full impact and meaning of the event we are celebrating today, as well as the prospects that lie ahead for the people of the Ukraine.

Address of Mr. Jacob Spiak of Watervliet, N.Y.:

Ukraine in the early months of 1917 must have been a rather confusing yet guardedly optimistic place to be. Russia, Austria-Hungary, Germany, France, England, the United States, the entire world, in fact, was at war.

The Austro-Hungarian Empire quickly became a victim of the European war theater. In Russia, the revolution had successfully disintegrated the power of the czarist regime. As these two empires which controlled Ukrianian lands fell, the desire for freedom which had survived the many years of their domination quickly surfaced.

In April, after declaring that "the hour of freedom has come", the Ukrainian Central Council began a concentrated effort in the direction of policy and action necessary to establish a national liberation movement.

A framework was quickly developed to govern the country during this period of tremendous social and political turmoil.

Congresses were rapidly convened to develop bodies of law and to democratically select political leaders and policies and establish administrative and judicial systems. The Ukrainian National Army was organized to defend the fledgling government. The formerly Russian controlled financial and industrial enterprises were nationalized. The Ukrainian culture and language, repressed by the captors for many years now emerged. To meet the tremendous demand for printed material and communication, newspapers and publishers reappeared, no longer subject to government censorship.

And finally, came the the statement of freedom—

"From this day on the Ukrainian national republic becomes an independent, subordinate to no one, free sovereign state of the Ukrainian people."

With those words, 65 years ago today, the Ukrainian Central Council proclaimed to the world the independence of the Ukrainian nation. It is this day that we commemorate tonight.

Declaring one's independence is one matter, keeping it is another. The republic was forced to defend its independence from its outset, and finally after almost three years of freedom, in the summer of 1920, the Ukrainian national republic was crushed by the Russian Communists.

Under their domination the 50 million Ukrainian people have truly suffered. They have been forced to endure severe political and cultural repression as the Soviet Government continues its policy of russification. Both the Orthodox and Catholic Church structures have been destroyed.

In May of this year we will mark the 50th anniversary of the man-made famine of 1932 and 1933 in which 7 to 10 million Ukrainians were starved to death as the Soviets attempted to force the collective farm system onto Ukraines agriculture. During and after the Second World War it is estimated that several hundred thousand Ukrainians were either annihilated or exiled for their support of the Ukrainian insurgent army and the organization of Ukrainian nationals, both of which fought against first the Nazi and then the Soviet occupation of Ukraine. Even as we stand here today, thousands of Ukrainians are incarcerated in Russian prisons, labor camps, and psychiatric wards because they objected to the governments policy of russification, violations of human rights, or simply spoke of a free Ukraine.

Tonight the mayors of our member cities have honored us by signing proclamations designating January 22nd as Ukrainian Independence Day. This past Monday in Albany, our State assembly, Senate, and Governor signed similar proclamations. In other States and at the Federal level this activity is also taking place. To the sponsors

of these resolutions I express the most sincere gratitude of all the Ukrainian people.

These proclamations and the ceremonies and speeches associated with them have a twofold purpose.

The first is to insure that we, who are free, never forget the plight of 50 million people who are not, and that we demonstrate that we have not and will not forsake them in their quest for freedom.

The second is to guarantee that they, the oppressed inhabitants of the land of our forefathers, gain strength and encouragement from our actions.

May the knowledge of our observances and support bolster the aspirations, the dreams, and the spirit of our shackled Ukrainian brothers and sisters until the day of freedom is once again theirs.

Second, Mr. Speaker, I would like to include a very remarkable document that was read, both in Ukrainian and in English, to the assembled guests at the dinner. This was a selection of excerpts from the "Fourth Universal of the Ukrainian Central Rada," in other words, a fourth official proclamation by the controlling governmental body of the Ukrainian people as organized following the collapse of the czarist regime in 1917:

EXCERPTS FROM THE (FOURTH) UNIVERSAL OF THE UKRAINIAN CENTRAL RADA

People of Ukraine!

By your power, will and word the Free Ukrainian National Republic has been established on the Ukrainian land. The ages-long dream of your fathers, those fighters for freedom and for the rights of the working people, has come true.

And so that neither the Russian government nor any other hinder Ukraine from establishing the desired peace and lead our country to order, to creative life, to the strengthening of the revolution and our freedom, we, the Ukrainian Central Rada, do hereby announce to all citizens of Ukraine:

From this day on the Ukrainian National Republic becomes an independent, subordinate to no one, free, sovereign State of the Ukrainian People.

With all neighboring States, such as Russia, Poland, Austria, Romania, Turkey and others, we wish to live in peace and friendship, yet none of them may interfere with the life of the Independent Ukrainian Republic.

And first of all, we direct the Government of our Republic, the Council of National Ministers, to proceed with the already started peace negotiations with the Central Powers, to conduct them independently and to bring them to a conclusion, disregarding any obstacles presented from any other part of the former Russian Empire, and to establish peace so that our country might begin its economic life in peace and harmony. . . . and we call upon all citizens of our Republic to defend the general welfare and our feedom even at the risk of life.

In the meantime, in order to establish a local authority that would enjoy the confidence and support of all revolutionary democratic segments of the population, the Government shall invite the cooperation of the councils of peasants, workers and soldier's deputies, elected from among the local population, in setting up the local self-government.

From this day on the Ukrainian National Republic is taking over the most important branches of trade and all profits shall be used for the benefit of the people.

We direct our citizens to conduct the elections with speed and diligence; to take every measure to count the votes as quickly as possible, so that in a few weeks our Constituent Assembly—the supreme governing body of our Land—shall strengthen liberty, order and welfare by writing a constitution of the Independent Ukrainian National Republic for the benefit of the entire working population, for the present and for the future.

Until that time, we call upon all citizens of the Independent Ukrainian National Republic to stand vigilant guard over freedom and the rights of our nation, and to defend them with every effort, against all enemies of the Independent Ukrainian Republic of peasants and workers.

KIEV,
January 22, 1918.

Hearing these resolutions read by Mr. Wasyl Slobodian of Cohoes, almost gives one a feeling of witnessing history in the very process of being made. While the Bolsheviks and the Mensheviks were fighting it out on the banks of the Neva River in Leningrad, the people of the Ukraine—after much soul-searching—decided to abandon any association with the Russians and go their own independent way, just as the Members of the Continental Congress in Philadelphia did in 1776 in their Declaration of Independence.

What a pity this newly proclaimed Ukrainian independence should have been so short lived. How we all hope and pray, even after 65 years have come and gone, that some day soon the Ukraine will once again be free.

Mr. Speaker, at this point I will yield to my distinguished friend from Arizona (Mr. RUDD). I know he has some important statements to be made in connection with this anniversary.

Mr. RUDD. Mr. Speaker, I want to take this opportunity to thank and to express my gratitude to my distinguished colleague from New York for taking this special order to commemorate the anniversary that we are talking about, and which he is so ably putting forward.

I am very honored to join with my colleague in this commemoration special order, the commemoration of Ukrainian Independence Day.

There is certainly no virtue which is more highly prized in America than that of courage and dedication to freedom. For this reason, the Ukrainian people and the American people are certainly bound together in a close brotherhood. Since 1918, the people of the Ukraine have been stalwart in their defense of their culture, their religion and their language, and all of this despite the brutal suppression of Soviet Communist Russia. The Ukrainians have never conceded and never given up hope of reestablishing a free Ukraine.

□ 1600

Our Nation was founded by people with the same spirit.

Today we live in a world where Communist aggression seeks to dominate all free peoples. The kind of courage which sacrifices comfort for the present in order to secure liberty for future generations is all the more precious and more revered.

Ukrainian resistance to Soviet attempts to wipe out the rich heritage of the Ukraine has been exemplary. Because of their persistent efforts, they have endured hardship and persecution, but their suffering has only served to enkindle their love of freedom and to burn the promise of a free nation into their hearts.

We honor today the men and women who have upheld this hope for so long. Their conviction is our conviction, and so we share in their struggle and in their hope for the future. Our prayer for the people of the Ukraine is that they will remain strong in their belief in the dignity of human beings, and, because of the righteousness of their cause, that God will reward their efforts.

"Shche ne umerla Ukraina," which means the Ukraine still lives. "Slava Amerytsi," which means glory to America.

So, Mr. Speaker, I also say, "Shche ne umerla Ukraina." I again thank my very distinguished colleague, the gentleman from New York (Mr. STRATTON) for his remarks in this regard and for his leadership in support of the cause of the Ukrainians. I will continue to support him and the Ukrainians in their effort for freedom.

Mr. STRATTON. Mr. Speaker, I want to thank my friend, the gentleman from Arizona (Mr. RUDD) for his very welcome remarks, and I also commend him for his command of the Ukrainian language. I have not learned as much of it as he has.

Mr. ROTH. Mr. Speaker, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from Wisconsin.

Mr. ROTH. Mr. Speaker, we are here today to commemorate an important event. Sixty-five years ago, the Ukrainian people achieved their independence. Our Nation, and this Congress, can reaffirm our own commitment to liberty and freedom through recognition of the continued effort by Ukrainian nationalists to reobtain their independence.

In recent years, we have all heard in considerable detail about the struggles for freedom that are conducted by peoples in the Third World. Yet we heard very little about struggles for freedom by captive peoples in the Second World.

At the end of the First World War, many new nations in Eastern Europe emerged from centuries of captivity.

The people in Latvia, Lithuania, Estonia, Poland, Hungary, Czechoslovakia, and the Ukraine all joined the community of free, sovereign states.

For the Ukrainians, their "day in the sun" lasted a brief 3 years, but despite the quick suppression of this nation by the Communist leaders in Moscow, the Ukrainian people have continued to adhere to their ethnic, linguistic and cultural traditions. Even though they have lost their political independence, they have continued to maintain themselves as a vital, independent people and have successfully resisted all efforts at Russification.

For the other independent peoples of Eastern Europe, their freedom was lost at the end of the Second World War. Yet despite nearly 40 years of suppression, these peoples continue to look to the West and have resisted the imposition of Communist totalitarianism.

Our remarks tonight are an important addition to the public diplomacy that is conducted by our Government. Our international broadcast services continually tell these peoples the truth about what is going on in the world, the truth about what their governments are doing, and the truth about the role which the Soviet Union is playing in the world at large.

As the representatives of the American people, the remarks that are made here today will send an important signal to the captive peoples of the Second World. We are telling them that they are not forgotten by the American people, and that we hope that one day we will again welcome them to the world of sovereign, independent nations. We want to encourage them in their efforts to regain their political independence and send to them our message: You are not forgotten.

The achievements of 65 years ago by the Ukrainian people have not been forgotten by the American Government and the American people. We look forward to again dealing with you and your independent government and want you to know that you have friends and allies here in the West in your struggle.

Mr. STRATTON. Mr. Speaker, I thank the gentleman from Wisconsin (Mr. ROTH).

Mr. RITTER. Mr. Speaker, will the gentleman yield?

Mr. STRATTON. I yield to my good friend, the gentleman from Pennsylvania.

Mr. RITTER. Mr. Speaker, I thank the gentleman for yielding.

I would like to thank the gentleman personally for the leadership that he has shown in standing up for the rights of the oppressed peoples under the Soviet boot and standing up for the rights of nations that have for many years been captive but whom he obviously has not forgotten.

As we gather today, let us think of the Mykola Rudenkos and of the Oles Berdnyks who sit in dark cells, isolated, not even allowed to see their loved ones. The lifeblood of a country is forced to rot in KGB havens for the humane.

One can only wonder at the kind of achievements these people would have given to the world—yes, even to us. One wonders what great research of substance Dr. Nina Strokata would have accomplished had her life not been uprooted and she been forced to emigrate. One wonders what great things Vyacheslav Chornovil, the journalist, would have done had he not been cast into prison for his belief in human rights. I am proud to say that I have adopted this particular prisoner of conscience, Vyacheslav Chornovil, and have not let this name be forgotten. The Chornovil case represents the barbarity of Soviet repression and the lack of observance of those human rights agreements as encompassed by Helsinki which the Soviets themselves signed.

As we reflect back on that important day in January 1918, when the Ukraine declared its independence from the Soviet Union, it is also important to look into the future and work even harder for the goal all of us have set, and that is the recognition of the Ukraine as an independent people, an independent culture, and, yes, an independent nation. The eventual goal, of course, is self-determination for the people of the Ukraine, and we here have the unique historical role of keeping that goal alive to nurture and to keep the flame burning in our hearts and in the hearts of our children as well.

I believe that keeping this flame going is important because of a number of things I have seen in the past several years. Two years ago I traveled to the Afghan-Pakistan border to witness the ongoing atrocity of the Soviet Union versus the Afghan people there. Now, despite the suffering, despite the misery, and despite 3 million out of 15 million people being dislocated from their homes and sent into a neighboring country, what I saw was a people more than ever in their own history united to defeat a common foe, prepared really to give their lives for that cause. Their strength and their courage in many cases were the only weapons they had.

Their battle is not an easy one. They are fighting a formidable foe, one who uses the most sophisticated weapons, including chemical and biological gases to subjugate a population, to destroy crops, and to devastate villages. Their suffering is immense. Yet after 3 years they battle on.

And I saw this same spirit to persevere against great odds in a House hearing room in November 1981. The event was a Helsinki Commission hearing on the atrocities committed by the Soviet Union upon members of the Ukrainian Human Rights Monitoring Group. All the members had been either imprisoned, exiled, or harassed by the KGB. The spirit of those still in the Ukraine transcended the Iron Curtain to reach us in that hearing room. And I heard Petro Grigorenko, who, despite physical weakness from age and the pain suffered at the hands of his tormentors, having himself been subjected to imprisonment, say, "There is a growing anger among the people, among the nations which will rise up to the Soviet leaders." I believe him because I have seen it.

Last night we heard President Reagan, speaking in this very Chamber, affirm this Nation's commitment to furthering human rights around the world. This commitment to human rights is one of the hallmarks of our great Nation, and I am proud to join as a member of the Helsinki Commission and as a Member of Congress, with our President in furthering this goal.

Now, how does this tie in with Ukrainian independence today? I think it is obvious that the Ukraine is part of this struggle, of this spirit, of this growing anger, and of this repudiation of totalitarianism. Ukrainians who pause today in reflection of their independence day represent the people of a free Ukraine, because as long as people believe and work toward the day of the Ukraine's rebirth, then a free Ukraine still exists. It exists not only in the souls and in the minds of Ukrainians and Ukrainian Americans and Ukrainian Europeans and Ukrainians all over the world, as well as Ukrainians in the Soviet Union, but in all others who long for the energy, for the creation, and for the spirit that a free Ukraine would certainly bring to the people of this world.

I am proud to represent an area rich in ethnic culture and tradition. The Lehigh Valley of Pennsylvania is a much better place to live because of this. The Ukrainian Americans and many others have contributed to our community and have made us aware of their heritage.

One of the highlights of last summer for me was to help organize a communitywide Ethnic Day which featured various foods and dancing and customs from the different ethnic communities. But beyond that, what was also featured were pieces of the culture of these groups, and the Ukrainian Americans in our area showed to the other citizens of the Lehigh Valley their rich and varied culture. They showed that they are not a part of Russia, that they are not really Soviet citizens, that they are Ukrainians, and that they have a very

special history to bring to all Americans.

Today, then, it is a real honor to join with the many people in my own Lehigh Valley of Pennsylvania, the United States, and around the world to commemorate the 65th anniversary of Ukrainian Independence Day, and I am heartened that many of my colleagues are also here to join with me. I look ahead to this new Congress not only as a continuation of our united struggle but also as a new beginning. As the new cochairman of the ad hoc committee for the Baltic States and the Ukraine, I look forward to keeping the plight of the Baltic peoples and the Ukrainians before Congress and before the American people.

The price of freedom is not cheap. It is something that must be won and then held onto every day. Ukrainians have paid the price for their freedom for 65 years, and it is up to us to honor their struggle and to help them keep it alive.

As General Grigorenko stated, there is an anger and it is rising.

□ 1615

Let us keep the spirit that Ukrainians show to us alive and strong. For those who are behind the Iron Curtain, we are in many ways their only hope.

Mr. STRATTON. Mr. Speaker, I want to commend the gentleman for his remarks and express appreciation that he has taken over the role of our former colleague, the gentleman from Illinois, Mr. Derwinski, who is now a member of the executive branch of Government. But the gentleman from Pennsylvania, I know, will carry on that responsibility very ably indeed.

● Mr. ANNUNZIO. Mr. Speaker, on January 22, 1918, the independence of Ukraine was declared by the Ukrainian Central Rada, the Parliament of the Ukrainian people, and even though since that time, Ukrainians have lived through terrible years of oppression, they have maintained the same unshakable belief in the ideals of liberty and self-determination which inspired them 65 years ago to declare their independence.

When the Ukrainian people founded the Ukrainian National Republic, they had high hopes for a new era of national renewal dedicated to the principles of justice, freedom, and human dignity. Sadly, their aspirations were cut short by the Bolsheviks, who, in 1920, reestablished Russian control over the new republic, and this action was the beginning of a long and desolate period of spiritual darkness for the Ukrainian people.

During the past 65 years, millions of innocent people in Ukraine have been persecuted and imprisoned by agents of the Soviet Government for actions which been "unacceptable" to the Communists. In 1932-33, Ukrainian farmers were ordered by Stalin into collective farming, and when they protested, Russia retaliated by confiscating most of the grain and imposing a famine which took the lives of 7 million Ukrainians.

Soviet authorities have made numerous arrests in recent years for alleged "anti-Soviet agitation and propaganda" by Ukrainian intellectuals, writers, literary critics, professors, students, and scientists, and other individuals from all walks of life, and the internment and torture continues today, as the Soviets attempt to completely crush the culture, religion, heritage, and language of the Ukrainian people. Despite this most severe repression by the Communists, Ukrainian tradition has survived.

Because of this Soviet abuse, Walter Polovchak, a 15-year-old Ukrainian boy, who has permanent resident status and now lives in the 11th Congressional District of Illinois which I am honored to represent, wishes to remain in the United States rather than be returned to his parents in Soviet-occupied Ukraine. I have introduced legislation in the 98th Congress to insure that Walter's choice to remain in this country is protected, and I join with freedom-loving people throughout the world who have expressed their support for Walter's wishes. It is our duty as Americans to do all in our power to see that Walter's rights are upheld, and I urge my colleagues to give their bipartisan support to this bill so that Walter will never again be forced to live under the tyranny and oppression of the Communists.

Dr. Pylyp Demus, chairman, Committee for the Defense of Ukrainian Political Prisoners, Ukrainian Congress Committee of America—Chicago Division, recently forwarded to me a petition signed by a number of my constituents urging the Communists to release and give amnesty to Ukrainian prisoners of conscience, and to honor the understandings embodied in the Helsinki Accords and international law. A copy of this petition, along with the letter I wrote to Secretary General Yuri Andropov, expressing my concern about human rights violations against Ukrainians, follow:

PETITION RE: AMNESTY AND IMPROVED TREATMENT OF UKRAINIAN POLITICAL PRISONERS

On this day, January 12, 1983, set aside every year as Ukrainian Political Prisoners Day, we, the undersigned, ask you to intervene both with the government of the United States and, whenever possible, with the Soviet government on behalf of the thousands of Ukrainians incarcerated in the Soviet Union for their courageous activities to secure greater freedoms in their own land. We cannot stand-by idly and watch the flagrant persecution and imprisonment of Ukrainians for their attempts to exercise basic religious, national and human rights. Ukrainians continue to suffer persistent violations of their human rights as the Soviet Union tries to stamp out their national identity and aspirations for freedom.

Therefore, we request that Ukrainian prisoners of conscience in the Soviet Union be given amnesty and released and that the present treatment and conditions be improved in accordance with the pledges to honor the understandings embodied in the Helsinki Accords and international law.

JANUARY 26, 1983.

His Excellency YURI ANDROPOV,
General Secretary, Communist Party of the Soviet Union, The Kremlin, Moscow, Union of Soviet Socialist Republics.

DEAR MR. GENERAL SECRETARY: Please find enclosed a copy of a petition, forwarded to me by the Ukrainian Congress Committee of America—Chicago Division, and signed by several of my constituents, in which they express their opposition to your country's "flagrant persecution and imprisonment of Ukrainians for their attempts to exercise basic religious, national and human rights," as your country "tries to stamp out their national identity and aspirations for freedom."

I appeal to you to use your influence as General Secretary to release and give amnesty to all Ukrainian prisoners of conscience in the Soviet Union, and to improve the present treatment and conditions of Ukrainians in accordance with the pledges your country has made as a signatory of the Helsinki Agreement on Security and Cooperation in Europe and the United Nations Universal Declaration of Human Rights.

Sincerely,

FRANK ANNUNZIO,
Member of Congress.

Mr. Speaker, although the Ukrainians are still under the yoke of foreign domination, I am hopeful that one day their love of liberty will triumph, and Ukraine will once again take her rightful place in the community of free nations. It is with pride that I pay tribute to the millions of Ukrainians who are continuing their struggle to achieve the blessings of liberty in their own homeland, and I am honored to join with Americans of Ukrainian descent in my own 11th district and all over this Nation, who continue to cherish the hope of eventual independence and a free Ukraine. The spirit of the people of the Ukraine is a testimony to the fact that tyranny, in whatever brutal form its manifests itself, cannot conquer the soul of a nation and its people.●

● Mr. ANDERSON. Mr. Speaker, 65 years ago last Saturday, January 22, the Ukrainian people proclaimed their independence, and established a Ukrainian National Republic. This independent and sovereign state was recognized almost immediately by most nations of the world: Germany, Austria-Hungary, Turkey, Bulgaria, France, and Great Britain all accorded the young republic de facto recognition.

Not only was the new republic recognized by other states, the people of the Ukraine had for centuries considered themselves one nation, although dominated by the Russian presence. When the czarist empire fell in 1917,

the people of the Ukraine swiftly and eagerly acted on that opportunity to express their freedom.

The Ukrainian Republic, however, was doomed to be short lived. At the very time that the Ukrainian people were rejoicing in their long-awaited independence, the Soviet Russian Government sought to consolidate its power by absorbing the Ukraine into the new Soviet empire. A brutal struggle followed in which the Ukraine fought alongside the newly independent Polish Republic against their common Bolshevik enemy. After 3½ years of bitter resistance, the Ukraine was conquered by the numerically superior Russian Army and has remained under Soviet domination ever since.

Save for the brief era of the embattled Ukrainian National Republic, the people of the Ukraine have had only the hope of freedom, for real freedom has been denied them. Czarist oppression was merely replaced with Soviet oppression. The Ukrainian Church was brutally liquidated. In 1932, when Stalin ordered the grain fields of the Ukraine, known as "the breadbasket of Europe," into collectives, the people resisted. As a result, most of the grain was confiscated. Over 7 million people died in the resulting 1932-33 famine. But the spirit of the Ukrainian people would not die. During World War Two, the underground Ukrainian partisan army fought both Nazis and Soviets in their effort to gain freedom. More recently, groups like the Ukrainian Helsinki Group have resisted Soviet efforts to deny Ukrainian rights.

The Soviet empire continues to grow; within the last 3 years, Afghanistan has suffered the same fate that overtook the Ukraine. Resistance to tyranny lives on, but at a terrible price. Because of the tragic history of the Ukrainian people, January 22 remains a bittersweet celebration for the 50 million Ukrainians in their homeland, and the 2 million Ukrainian-Americans enjoying freedom in this land. Their observance, and our recognition, of this important day, helps keep the flame of hope burning for a free Ukraine.

In the words of the great Ukrainian poet, Taras Schevchenko: "Our souls will never perish, freedom knows no dying."●

● Mrs. HOLT. Mr. Speaker, let us never abandon the hope for freedom of the captive peoples of the Russian Empire. Through centuries of wars and oppression, the people of the Ukraine have never stopped hoping, praying, and struggling for their independence.

Today, we commemorate the date in 1918 when the Ukraine declared its independence, but the new Republic was crushed after 3 years by Communist Russia.

Soviet Russia has been trying ever since to eradicate the culture and religion of the Ukraine, but has not succeeded. Let us salute the brave people of the Ukraine and the courageous peoples in other parts of the Soviet Empire who struggle to maintain their heritage and long for freedom and independence.●

● Mr. BONKER. Mr. Speaker, it gives me great pleasure to participate in this special order in honor of Ukrainian independence. I thank my esteemed colleagues, DON RITTER and SAMUEL STRATTON, for their leadership in bringing this special occasion to the attention of the Congress.

The Subcommittee on Human Rights and International Organizations, which I chair, has long been concerned about the situation in the Ukraine. In February of 1982, the subcommittee considered the subject of human rights in the Ukraine and the Soviet Union, and passed House Concurrent Resolution 205, introduced by our colleague BERNIE DWYER, expressing the sense of the Congress with respect to violations of human rights by the Soviet Union in the Ukraine. The resolution eventually passed the full House of Representatives.

Of all the rights violated by the U.S.S.R. perhaps the cruelest is the continued systematic effort to deprive the Ukrainian people of their national identity, culture, and religious traditions. Yet in spite of this effort, the Ukrainian spirit lives on, and it is that spirit that we salute today.●

● Mr. BROOMFIELD. Mr. Speaker, 65 years ago, the country of the Ukraine declared itself to be an independent nation. This is also the 64th anniversary of the Act of Union whereby all Ukrainian lands were unified into one independent and sovereign Ukrainian nation. I praise and admire the Ukrainian people for their fortitude and perseverence in their long and costly struggle for freedom.

It is tragic that today these people are neither free nor independent. For over 60 years, the Ukraine has been subjected to the totalitarian dictatorship of the Soviet Union.

As the second largest Socialist Republic of the U.S.S.R., the 5 million citizens of the Ukraine comprise the strongest, most determined, and most outspoken voice of nationalism in the Soviet Union. After many years of Soviet domination, Ukrainians have fought to preserve their own culture and traditions. The Soviets, however, have imposed not only communism, but also Russian national supremacy on these captive peoples.

Today in the Soviet Union, Ukrainians are denied the right to emigrate even though they are denied full citizenship. The Soviet Government has made it illegal to teach either the Ukrainian language or culture in Ukrainian schools. The Soviets allow only the Russian language and Russian culture to be legally taught to Ukrainian children.

Those Ukrainians courageous enough to strike out against the Soviet system are ruthlessly crushed by the Soviet authorities. The monitoring groups of the Helsinki accords, for example, have been singled out for Soviet torment. All 33 members of the watch group have been arrested.

According to Andrei Sakharov, the Ukrainian people comprise only 20 percent of the total Soviet population, yet they are 50 percent of all Soviet political prisoners. In addition, prison sentences handed down to Ukrainian political prisoners are on the average twice as long and twice as harsh as those dispensed to others.

The continuing struggles in the Ukraine reflect the inability of Soviet interventionism to eliminate the aspirations of a determined people. Suppression has not worked in the Ukraine, where the spirit of nationalism continues. It has not worked in Afghanistan, where nationlist rebels continue to fight occupying Soviet forces. It has not worked in Poland, where the spirit of Solidarity and freedom live on.

As we express our concern for the proud and courageous citizens of the Ukraine, we must also pay tribute to the 2 million Ukrainian Americans who have made significant political, economic, and cultural contributions to the well-being of this country. In this land of the free, I share the great sorrow and anger felt by Ukrainians when they think of the long oppression suffered by their motherland.

It is in the common spirit of liberty, faith, and justice for human rights that my colleagues, and I pay tribute to the Ukrainian people in their undaunted struggle for human rights, freedom, and the national independence of the Ukraine.●

● Mr. GEKAS. Mr. Speaker, this week marks the 65th anniversary of Ukrainian Independence Day. It was on January 22, 1918, that the Ukrainian people declared their independence from Russia, establishing a Ukrainian National Republic. By the end of the year, the Republic was engaged in battle with Russian soldiers, who proved too numerous to overcome. In 1920, the independence of Ukraine was extinguished by the victorious Communist armies of Russia. That does not mean that the battle for Ukrainian independence has ended.

Let me emphasize that the struggle for Ukrainian human rights will always continue, as it has for the past 65 years. The spirit of Ukrainian independence lives on within the many Ukrainian Americans found in the United States. Together with their elected officials in Washington, these people have devoted much of their

time and effort to criticizing the Soviet Government's refusal to allow Ukrainians their basic human rights. This anniversary salutes these courageous people as well as the Ukrainians still in their native land who have risked imprisonment, torture, and exile to publicize the sad conditions of their fellow countrymen and women.

Today's special order puts the Soviet Government on notice that the United States will never forget the Ukrainian bid for independence in 1918. At the same time, the House of Representatives is also expressing deep concern that the Soviets abide by the Helsinki Treaty they signed, guaranteeing the human rights of those persons in the U.S.S.R. For both of these reasons, I appreciate the opportunity to participate in this important commemoration on the floor of the House.●

● Mr. DWYER of New Jersey. Mr. Speaker, as we embark on a new year and a new Congress, it is especially appropriate that this body take time out to reiterate our ongoing and steadfast commitment to our compatriots in the Ukraine upon the 65th anniversary of their valiant fight for freedom.

It is well documented that human rights violations and Soviet policy toward this captive people is particularly severe and repressive.

Yet, a dedicated, grassroots movement of resistance to this oppression in Ukraine still confronts the oppressors daily, against what for most would be insurmountable odds.

Mr. Speaker, it was my honor and privilege to sponsor an initiative in honor of the Ukrainian Helsinki Monitoring Group which 2 months ago celebrated another great moment in Ukrainian history: the sixth anniversary of its founding. These individuals—many suffering in Soviet labor camps, many others in exile—deserve our deepest respect.

But today we are called on to honor another significant date in the chronicle of Ukraine, and I want to thank my colleagues, Mr. STRATTON and Mr. RITTER, for calling this special order.

We are participating in a call for a free Ukraine, a freedom for which our Ukrainian friends have fought relentlessly since the Communist takeover many years ago.

That they are still fighting the internal repression and religious persecution they face every day is a powerful tribute to Ukrainian courage and their strong belief that someday their people will be free.

It is a belief I deeply share and join in reaffirming on this 65th anniversary of the independence they so richly deserve.●

● Mr. DONNELLY. Mr. Speaker, I am deeply honored to share my thoughts today on the importance of observing Ukrainian Independence Day. We mark the 65th anniversary of the proclamation of a free Ukrainian National Republic with understandably solemn yet strong emotion.

We know all too painfully well that Ukraine's days of independence were brief, as the Soviet Russian armies moved quickly to extinguish all vestiges of sovereignty and freedom.

Many years have gone by since Ukraine was first occupied and subjugated by murderous force. However, our prayers and hopes for a return of independence to Ukraine have not faded, and have not grown silent with the passing of time. Today's special order in the House of Representatives marking the anniversary of this important date demonstrates that the United States of America continues to stand proudly as a beacon of freedom to all people everywhere.

I commend my colleagues SAM STRATTON and DON RITTER for calling today's special order. Let there be no doubt that we in the Congress will continue to draw attention to the legitimate desire of the people of Ukraine for independence and nationhood once again.●

● Mr. ROE. Mr. Speaker, I take great honor today in rising to salute the brave Ukrainian people on the occasion of the 65th anniversary of Ukrainian Independence Day.

Perhaps more than any time in recent years, this 1983 commemoration takes on a special meaning. The Soviet Union's Iron Curtain around central Europe is beginning to show some cracks at the seams. The continuing occupation of Afghanistan by Russian troops, the turmoil in Poland, and the recent failure of their wheat crop have combined to create the most severe economic crisis in recent memory for the Soviets.

Like Poland's Solidarity labor movement, strikers, and workers' demands for free unionism have also emerged in the Ukraine. Hopefully that situation will result in a lessening of Soviet influence and control over the area and the beginning of a new era where the Ukraine and other dominated Slavic States will once again regain their independence.

Mr. Speaker, January 22, 1918, was a day of true glory for the Ukraine when their free Democratic Parliament, the Rada, declared the nation's independence. But the Communist forces that had taken over imperialist Russia during the revolution of 1917 saw the Ukrainian National Republic as a serious threat to itself and its heinous goals.

In 1922, the Russian Communists forcibly took control of the Ukraine and began a brutal repressive campaign that continues today. It is no underestimation that millions of Ukrainians have been systematically slaughtered by a series of Soviet regimes over the past 61 years. The Russian slavemasters have forced the proud Ukrainian people to leave their homeland and to serve as slave labor on factories and farms throughout the Soviet Union.

But despite all that turmoil and tragedy, the Ukrainians living in the Soviet Union have somehow managed to maintain both their dignity and ethnic identity. There is no question that while Russian control over the Ukraine is brutal and complete, the spirit of the Ukrainian people has never been diminished.

It is most fitting that the House of Representatives, the greatest deliberative body in the world, set aside time to recognize Ukrainian Independence Day. That recognition sends a loud and clear message to the Soviet Union that the people of the Ukraine have not been forgotten.

That feeling was perhaps best expressed in a letter written by a leading Ukrainian American, Kenneth Wanio, president of the Ukrainian Congress Committee of America, Passaic-Bergen Branch in Clifton, N.J. He stated:

> Unless the alarm is rung, the Russian empire will continue to grow unabated. Unless the truth is told, more nations will suffer the same terror and indignity. This is the true Ukrainian message.

Mr. Speaker, on behalf of the people of the Eighth Congressional District of New Jersey, I join in saluting the heroic Ukrainian people on the anniversary of this important day in their lives. May it serve as a hope for all Ukrainians to maintain in their hearts, that with God's help, their self-destiny as a nation may once again become a reality.●

● Mr. GILMAN. Mr. Speaker, this past week marked an important anniversary, that of the 65th year of independence for the Ukrainian people. It is ironic, however, that the Ukrainians in their homeland are unable to celebrate, because of the oppressive domination by the Soviet Union. It is left to those of us on the outside to commemorate this occasion, and to give it the forum it deserves.

For years, the Ukrainian people had longed for their own government, and in 1918 that dream was realized, when Parliament proclaimed the Independent Ukrainian National Republic. This fledgling country was fated to exist for only 4 years. In 1922 the Republic was overtaken by the Bolsheviks, and the Ukraine has not been free since. While the Soviet leadership maintains that the Ukrainian citizens are not oppressed or exploited, we in the West know that the struggle for human dignity and national rights continues daily in the Ukraine.

Americans of Ukrainian descent celebrate the anniversary of their Republic on January 22, in remembrance of their national independence, and in anticipation of reinstating that free government. In the Soviet Union, however, it is a day like any other, bereft

of recognition and celebration. Any acknowledgment of that day may only be remembered silently.

Mr. Speaker, in observance of the anniversary of Ukrainian independence I urge my colleagues to join in focusing our attention on this captive nation. It is important to commemorate the ideals of human and national rights and to lend our energies and exhortations to the right and just goals of all oppressed peoples of the world, including all those Ukrainians currently under Soviet domination.●

● Mr. PORTER. Mr. Speaker, today is the 65th anniversary of Ukrainian Independence Day. Because of the Ukrainian peoples brave struggle for freedom over the past 65 years, it is fitting that Congress should pay tribute to their aspirations and hopes for freedom.

On January 22, 1918, the Ukrainian National Republic proclaimed its independence from foreign powers and its existence as a free and democratic state. But it was soon crushed by the Soviet Red army, and repression and subjugation by the Soviets became the lot of the Ukrainians. Currently Ukrainians comprise 45 percent of the prisoners in the Gulag Archipelago.

During World War II the Ukrainians again sought freedom and fought against both the Red army and the Nazi's. The Ukrainian Insurgent Army fought until 1952 when it was suppressed by the combined forces of the U.S.S.R., Czechoslovakia, and Poland.

Today the people of Eastern Europe, too have been all but crushed under the Soviet boot, with the tyranny in Poland under General Jaruezelski, being only the most recent example.

The Union of the Soviet Socialist Republic itself is, of course, not all Russia, but in part captive nations like the Ukraine, whose people's cultural, religious, and personal rights are systematically denied, and who strive to break the chain of Soviet bondage and again become masters of their own destinies and homelands. Let us salute their bravery and their continuing quest for freedom, on this 65th anniversary of Ukrainian independence.●

● Mr. MORRISON of Connecticut. Mr. Speaker, 65 years ago, on January 22, 1918, the Ukrainian people, through the Ukrainian Central Rada in Kiev, proclaimed a sovereign and independent Ukraine. Tragically, Ukrainian independence was cut short in only 3 short years, when, after an heroic struggle, the Ukrainian people were forced to submit to Soviet military might. Yet the Ukrainian people have never submitted in spirit to Soviet domination. Despite decades of the most severe forms of religious and political repression by the Soviets, they have kept intact their Ukrainian culture, traditions, and national identity.

I am proud to honor their struggle today by joining with my colleagues and with Ukrainians around the world to commemorate Ukrainian Independence Day and to affirm the principles of human rights and national self-determination that the goal of a free and independent Ukraine represents.

I also would like to take this opportunity to call on the Department of State to resume the process of opening a U.S. consulate in Kiev, the capital of Ukraine. In doing so, the United States will demonstrate further its commitments to the important principles that we affirm here today.●

● Mr. WORTLEY. Mr. Speaker, I would like to take this opportunity to join with my colleagues in commemoration of the 65th anniversary of Ukrainian independence. We should remember today as an example of the continued struggle for freedom that burdens many of our brothers and sisters around the world.

This struggle has not dampened the spirit or the determination of the Ukrainian people. Their culture, language, and heritage have survived years of Soviet oppression. The Ukrainian people remain a strong force. Although they are denied the right to live in freedom, they continue to be a people of independent spirit. Their strong desire for self-determination is unyielding.

We all look toward the day the Ukrainian people will gain permanent independence. The Soviets have, for too long now, denied the Ukrainian people the most basic of all human rights. In the words of Abraham Lincoln, "Those who deny freedom to others deserve it not for themselves." I agree with this statement and I salute the Ukrainian people for their perseverance, their fortitude and their patience. May we soon see the day when all Ukrainians enjoy the freedom and independence that we as Americans take for granted.●

● Mr. FORD of Michigan. Mr. Speaker, it is with great pride and admiration that I rise today to join in the commemoration of the 65th anniversary of the Ukrainian Independence Day. The profound courage of the Ukrainian people is never ending in their quest to obtain freedom once again.

Today we mark the formation of the United Ukrainian Republic, a full-fledged sovereign and independent state which was born on January 22, 1918. Almost immediately after that proclamation, the Ukrainians were thrown into bitter war with the Soviet superpowers. Without assistance from its Western allies, the Ukrainians valiantly fought the Communist invaders for 3½ years before they were forced under Soviet domain.

The Ukrainians continue to be subjected to Soviet oppression. Year after year, day after day there are incidents of flagrant abuse of human rights—outright persecution and genocide even though the Soviet Union is a signatory of the Helsinki Accords on Human Rights. There is a long history of countless Ukrainians that are being annihilated by deportations and outright executions and man-made famines. At this time, we must not forget the plight of a great Ukrainian, Mykola Danylovych Rudenko, who was the founder of the Ukrainian Public Group to Promote Observance of the Helsinki Accords. Mr. Rudenko formed this monitoring group in November 1976, and a year later after police searches and harassment was arrested. Since 1977, Rudenko has been serving a very rigid 7-year prison term for what the Soviets charged as "anti-Soviet agitation and propaganda." Mr. Rudenko has a spinal injury that makes his work extremely painful. His wife continued his work until she, too, was arrested and sent to prison.

I am very moved by the strength and conviction of these individuals. Mr. Speaker, I am thankful for this opportunity to pay tribute to these courageous people and their overwhelming commitment to human rights and freedom.●

● Mr. GUARINI. Mr. Speaker, January 22 marked the 65th anniversary of the independence of the Ukraine. I am proud to join with those people of Ukrainian origin in commemorating this occasion.

While we celebrate the 65th anniversary of the independent Ukrainian state, we must remember that the history of this proud and fiercely independent people runs strong throughout history. Even in the face of brutal assaults on the religious and cultural values of the Ukrainian people by the U.S.S.R., Ukrainian culture and tradition still thrives.

As we well know, the freedom of the Ukrainian people was short lived, although the quest for freedom continues today. On January 22, 1918, the Ukraininan Central Rada in Kiev proclaimed the sovereign and independent state of the Ukrainian people. The independence of this nation was emboldened in November of 1918 by the addition of western Ukraine to the new United Ukraininan Republic. However, it was not long before the armies of Communist Russia invaded the newly independent state. The Ukrainians fought 3 long years against tremendous odds before losing their freedom to the Russians.

Since that time Ukrainians have refused to allow the flame of freedom to die. It is a pleasure to join with my colleagues in recognizing the quest of the Ukrainian people for their own independent nation.●

● Ms. FERRARO. Mr. Speaker, January 22, 1918, is an important and emo-

tional day in Ukrainian history. It was on that day that the Ukrainian National Republic declared itself a sovereign and democratic state.

This freedom for which they fought so long to achieve was short lived. Three years later, after a heroic struggle, the Soviet occupation of the Ukraine began. Ever since that time, the Ukrainian people have known only exile, persecution, and the violation of their basic human rights.

Today, the Ukrainian people still seek the independence that their forefathers had attained in 1918. As Americans, we have been fortunate to still have the independence and freedoms that our forefathers fought for us in 1776. It is my hope that in cherishing these freedoms, my colleagues will join me in supporting the Ukrainian right of freedom from the Soviet Union. Only when Soviet policies are revealed and repudiated by the rest of the civilized world will these authorities make concessions to humanitarian principles. The Soviet Union must be made to realize that it will be held accountable for its denial of basic human rights in the Ukraine.

In commemoration of Ukrainian Independence Day, we must all support the efforts of the Ukrainian people to achieve their independence. The Ukrainian people have suffered long enough. They deserve not to be forgotten.●

● Mr. MINISH. Mr. Speaker, January 22 was the 65th anniversary of the independence of the Ukraine, and I rise to commemorate that event. It is true that many Americans are not aware that the people of the Ukraine established themselves as an independent nation at the end of World War I, and this is no accident since that nation was forcibly incorporated into the Soviet Union just a few years later. The Communist government of the U.S.S.R. has since done its best to eradicate all the distinctive features of Ukrainian culture and nationhood, and only the sturdy character of the Ukrainians themselves has kept their unique national identity alive.

Particular credit for the survival of the Ukrainian culture is due to the Ukrainian community in the United States, which has not forgotten nor let the world forget their relatives in the old country. Ukrainian refugees and Americans of Ukrainian descent have played a critical role in preserving many facets of this culture which would otherwise have been in jeopardy, and I hope that they will continue this good work until Ukrainian culture can again thrive unhampered in its native soil. In preserving this national culture and feeling, the American community has done a great service not only to those still in the Ukraine—who are certainly aware that they have not been forgotten—but also to the rest of the world, which benefits from the richness of a culture otherwise lost to it.

In marking Ukrainian Independence Day, Congress plays its part in encouraging and honoring a brave people.●

● Mr. DINGELL. Mr. Speaker, today we commemorate the 65th anniversary of the most important day in the history of the Ukraine—on January 22, 1918, the Ukrainian people declared national independence.

Three years after the declaration of independence, the Ukrainian nation was brutally subjected to occupation by the armed forces of Communist Russia. Throughout the 60 years of foreign domination which followed, the Soviet Union consistently repressed and terrorized the Ukrainian people, denying them all human rights and, what is more, the right to self-determination.

Despite this, the Ukrainians have never wavered in their vision for a free Ukraine. Theirs has been a daily struggle for freedom and justice in an effort to preserve and nurture a unique culture and ethnic identity.

We in America enjoy the greatest freedoms of any nation in the world. Yet, we cannot and must not forget the millions of people throughout the world, and specifically in the Ukraine, who have been unable to share in the fruits of freedom. Their struggle is our struggle, for we are all partners in the same cause. When freedom is denied for one, we are all endangered. On this day, let us all reaffirm our faith in the Ukrainian people, and our undying hope that justice and liberty will prevail throughout the world.●

● Mr. BLILEY. Mr. Speaker, I rise at this time to join with my colleagues in observance of the continuing struggle of the Ukrainian people for political and cultural independence from Russia.

I wish to begin by thanking my colleague for sponsoring this important observation by the House of Representatives and I appreciate his allowing me to add my voice to those who decry the forcible imposition of tyranny on the people of the Ukraine.

The history of the Ukraine and its people is replete with examples of political and cultural harassment and oppression. The tsars subjugated the Ukraine long ago for its food supplies and its strategic location. Ever since that time the Ukrainian people have struggled and at times have fought for their independence and their heritage. When the revolution overthrew the tsar in 1917 and promised a new beginning for all of the Russian Empire there was hope and anticipation in the Ukraine that the words were not hollow and the promises not empty.

With the breakdown of the political structure that had existed and maintained the bonds of servitude on millions of people the Ukraine declared and established its independence. It was not long before the true meeting of the new promises became clear as the new republic was invaded by several armies and a years long armed struggle followed. The brave people who were willing to die for freedom were overcome after exhausting their resources and failing to receive help that they deserved from others. The Ukrainian people have now learned the lesson that their Bolshevik overlords are even worse than their predecessors because they are even more ruthless and efficient brutalizers of the human spirit.

The repression and murders ordered by Stalin in the 1930's were unprecedented until that time and have only been surpassed by Stalin's contemporary madman—Adolf Hitler. My heart goes out to the noble people of the Ukraine, not just for their suffering, but for their spirit and perseverance. These people have not lost hope—they continue in their lonely and frustrating vigil of the soul for peace, freedom and their own identity.

Mr. Speaker, I realize that what we say here today will not change the world or even that part of it ruled by the Soviet slave masters, but I do believe that we can maintain spiritual solidarity with these people and all peoples who are kept from exercising the most basic liberties that we in this Nation hold so dear. We are fortunate in the United States because our masters were an ocean away from us and there were people there who recognized the righteousness of our cause. For this very reason we owe less fortunate people who are still seeking to join us the best that we can do for ourselves in protecting our freedom and asking for theirs.●

● Mr. DAUB. Mr. Speaker, I rise to express my earnest support for the cause of the Ukrainian people. While today the world commemorates the 65th year of declared independence for the Ukraine, for the Ukrainian people these 65 years have been filled with repression and void of basic freedoms which we as Americans have come to expect.

All Americans should pause today to rejoice in our own freedom and remember those who are not so fortunate—those who are dominated by continued efforts to smother their culture, traditions, and self-determination.

I ask my colleagues' continued support, and I ask all Americans to remember that freedom is not easy—that freedom is given to those who fight for it—lest we grow complacent toward the rights for which our predecessors in this Congress struggled.

Let us solemnly mark this day as the day in which the Ukrainian people declared their independence. I commend my colleagues for their efforts to focus

world attention on the plight of the Ukrainian people.●

● Mr. FORSYTHE. Mr. Speaker, I would like to bring to the attention of my colleagues the 65th anniversary of the Ukrainian National Republic's Proclamation of Independence. For a brief period between 1918 and 1921, a free Ukrainian nation was a reality. In 1921, with the Bolsheviks firmly in control of the Russian Government, Ukraine's short-lived freedom was ended when it was forced to become a part of the Union of Soviet Socialist Republics. Though they were initially promised the right to retain their cultural and political independence, years of Russian persecution and repression have made it clear that the Kremlin's goal was to crush Ukrainian nationalism forever.

It is unfortunate that many Americans misunderstand the nature of Ukraine and its people. They are presently a part of the Soviet Union but they are certainly not "Russian" by culture or ethnicity. Historically, the Ukrainians have had a distinct tradition which produced their own brands of art, literature, religion, and language. They are also blessed with fierce nationalism and individualism which have kept their tradition alive in the face of Russian attempts to obliterate their culture.

Today, the 50 million Ukrainians living under Russian domination comprise 20 percent of the Soviet Union's population and its largest ethnic group. The millions of Ukrainians who have chosen to leave their homeland over the years have had a positive impact on the United States. Our culture has been enriched by the 2 million Ukrainian Americans now living in this country. They brought with them the hope that Ukraine will one day regain its independence and they continue to work toward that goal. I think it is appropriate that Ukrainian Americans live in a nation which, like their homeland, has proved to the world that denial of freedom only intensifies people's thirst to be free.●

● Mr. DURBIN. Mr. Speaker, thousands of patriotic Ukrainian Americans and Ukrainian nationals celebrated their independence day last Saturday, January 22, 1983. Sixty-five years ago, the Ukraine proclaimed its independence.

Since Ukrainian independence, this nation has been the battleground for two World Wars, attacked by both the Germans and then the Russians. The Soviet regime has subjected the Ukraine to its rule and subjected the people to a series of indignities, including food shortages, political suppression and attempts at cultural annihilation.

But the Ukrainians are a strong, resilient, and fighting people, never having become politically nor culturally subservient to any foreign government. This is highlighted by the courage of the UPA, the anti-Communist Ukrainian nationalist guerrillas of 1952, and by two Ukrainian literary critics arrested in 1966 for a spirited defense of fellow Ukrainian poets against attempts by the Soviet literary bureaucracy to impose conformity upon them. By communicating openly with foreign visitors, the Ukrainians casually defy the Soviet KGB's rules of silence.

We in the United States must continue to pay tribute to the Ukrainian people on their anniversary of independence. By so doing, we can give hope to all Ukrainians that there will be a rebirth of their independence. We must continue to speak out on behalf of those who suffer from the Soviet Government's ongoing policy of denying basic human rights.●

● Mr. McGRATH. Mr. Speaker, once again it is a privilege to join my colleagues in the observance of the 65th anniversary of the Proclamation of Ukrainian Independence. It is unfortunate that the 50 million citizens of Ukraine are unable to celebrate this occasion in true freedom. This is another day of infamy for the oppressive Soviet regime, which has imposed its will and government on the proud and courageous Ukrainian people.

As is the case in other republics dominated by the Soviet police state, the strength and character of the Ukrainian people has not been crushed by the fear of government sanctions. In spite of the KGB menace, imprisonment, and constant threats, many brave citizens stand strong and maintain their culture and traditions, which date back over 1,000 years.

For well over 6 years, the Ukrainian Helsinki Group has been monitoring Soviet compliance with the Helsinki accords. The plight of that group's members is most indicative of the policies of repression and brutality practiced by Soviet authorities. All have been incarcerated, placed in internal exile, or forced to leave their native country. Yet others take their places and continue the struggle for dignity and respect of their rights as citizens of a sovereign and free nation.

We have to let the message of those who have been silenced by persecution be made known to all Americans and people throughout the world who treasure freedom and human rights. Again and again, we must repeat the stories of Soviet contempt for justice and the sanctity of international accords upholding human rights. Without our help, the captors of the Ukrainian people will go to even greater lengths to snuff out the flame of resistance. Today I call once more upon the Members of this Congress and all who represent the American people to support the cause of Ukrainian freedom so that the citizens of Ukraine can some day join us in the community of free nations.●

THE MILITARY FUTURE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ), is recognized for 10 minutes.

● Mr. GONZALEZ. Mr. Speaker, I come from a district that from the very outset of its existence—before the formation of the Union, and before the Pilgrims landed at Plymouth Rock—has been a major military outpost. From the days of the Empire of New Spain, to the present moment, San Antonio has been a military city. We, in San Antonio, are sensitive to what sound defense means; and we support with extraordinary consistency a defense program that meets our pressing national needs. But as I pointed out in two addresses during the past 2 weeks in my district, our real needs stand in great danger of being swamped by poor national leadership. It is not enough for the President to spend unprecedented sums of money on defense; the President must show what the needs are, define those needs with precision, and have a program that clearly protects our central national interests.

The problem we face today is that defense spending is perceived as not just huge, but blind. This leads to the threat that the opposite extreme will take place—that we will have blind and unwise cuts. The only way to prevent that kind of disaster will be for the President to do more than project images—he must produce a program of real substance. That is the crucial test of leadership. It does not matter how persuasive the speech or the speaker is, because what counts is its content, its meat. An orator may be much admired, but people do not mistake oratory for leadership.

The great test for a successful defense policy is at hand. This is a critical year, a crucial year. It demands much of Congress, and also much of the President. We are in great danger of a colossal failure in defense policy; the President must now provide not just the words of leadership; he must produce reasoning and substance. Thus far, he has not done so. As one who believes in a strong defense program, I believe it is among the most urgent of all our problems, to understand what is happening and not to fall into the trap that has been set before us. Blind cutting of defense programs is no more rational than blind spending, as I explained in my statements January 15 and 17, and I include those statements in the RECORD.

REMARKS OF U.S. REPRESENTATIVE HENRY B. GONZALEZ, TEXAS RESERVE OFFICERS ASSOCIATION, SAN ANTONIO, TEX., JANUARY 15, 1983

I want to begin by thanking you for the privilege of being with you this evening. Being citizen-soldiers, you have a special place in our country, because you have answered the highest call of citizenship—the call of service to the country. It is an honor for me to join in this event, because it is always a privilege to stand with those who serve.

These are troubled times, far more troubled than anyone might have suspected in the sour winter of just 2 years ago, when the Iranian hostage crisis was coming to an end and a new President coming to power. The nation's economy is terribly wounded and appears to be a long way from recovering health. No one expects more than a modest recovery, and there are international circumstances that could, in fact, trigger a genuine economic disaster such as the world has not seen in 50 years. Measured in real terms, our nation's wealth is not growing at all—in fact, it is shrinking. The value of our national product today is less than it was 1 year ago, and about the same as it was 2 years ago. In truth and fact, the national product of the United States has not shown any significant growth in 4 years. Nor does anyone expect much real growth in this year.

Down on the farm, 1982 was the worst year since 1933, the lowest year of the Great Depression. Up in the factory heartlands, through the cities great and small, there are millions of unemployed—12 million on the register and another 2 million out of work but too discouraged even to register. Only one out of four of the unemployed is getting any kind of compensation. Translated into practical reality, what that means is that millions of Americans are being forced into poverty—into homelessness and into desperation and degradation. Because the economy is shrinking, 3 million jobs in this country have simply vanished since 1981. Two million jobs in manufacturing plants have been lost in the last 2 years. A half million construction jobs have been swallowed up. A half million service jobs have disappeared.

But not only are Americans losing jobs because of a shrinking economy; those who still have jobs are seeing their earning power erode away. The typical weekly paycheck in 1977 was $189. Last month, measured in those same 1977 dollars, the paycheck was worth $30 less.

I dwell on all this because economic uncertainty translates into personal uncertainty and personal fear. Everyone knows that the President's economic program is not working. Instead of growth, we have an actual shrinkage in the economy—not a recession, but what is in fact a depression. Instead of confidence, we have fear. Instead of booming investment, we have industry after industry cutting back on expansion plans. Instead of reasonable rates of interest, we have real rates of interest that are at historically high levels. For instance, home mortgages are now at about 14 percent—whereas, in historic terms, based on the present economic situation, they should be at about 7 or 8 percent. Interest rates, in other words, are unjustifiably high, even though the Reagan program promised rapid declines in such rates.

Well, what does all this mean for military policy? The connection is close, and it is vital.

First of all, when the President's economic policy—and this applies to any President—does not work, people lose confidence. People ask: If this guy is so wrong on economic policy, what makes you so sure that he is right on anything else?

Second, when people are going hungry and losing their homes, losing their farms, and when their children see too little chance of getting a decent job, they cannot understand why the President wants to cut out money for education, money for jobs, and money for food while at the same time carrying out a program that will double the cost of defense in a period of less than 5 years. When a man has to take his family into a soup kitchen, and sit his kids down beside derelicts, because there is no job and there is no money and the food stamps don't last a month, that man is going to ask how the country can afford vast new outlays for military weapons, but can't afford to leave him with any pride or decency or hope. And let me tell you, there are thousands, tens of thousands, of decent, proud and hardworking Americans who find themselves in exactly that kind of situation.

I recite all this by way of saying that, to those of us who were aware of the situation, today's demands for cuts in the military budget are by no means a surprise.

It is also not a surprise that the Defense Department aims to make its cutbacks in such areas as training and maintenance, which it has curtailed for years. Even though Secretary Weinberger claimed that readiness would be a prime objective, the fact is that we are years away from curing shortages in parts, the Defense Department is paying little more than lip service to improved logistics support, and instead of increasing training funds, Mr. Weinberger is planning to cut back on large-scale military exercises. The Pentagon is so preoccupied with its incredible procurement targets that it is neglecting—dangerously so—the need to maintain and be ready with what it has available now, This is not a new failing at the Pentagon, but more in the nature of an old and dangerous habit.

For those of us who are concerned about an effective national defense—and I am one of them—the hard fact is that we are facing very difficult times. It does not make me happy to see that my fears of 2 years ago and of last year have turned out to be accurate. It does not make me happy to say that tough times are ahead for the defense program, but let me explain why I feel this is the case.

The questions that are being raised today about the defense budget were easily foreseeable. They should not surprise anybody. They are a consequence of the bad economic situation that we are in—a situation that, incidentally, I warned about when Mr. Reagan proposed his program. And the questions are being raised because the Federal Government faces an unprecedented deficit, about which I will say more in a few seconds.

I said that the questions were foreseeable. Almost exactly 1 year ago, I sent a staff member to this base, among others, to look over military construction requests. My specific instruction at that time was to tell the local commanders that by budget time 1 year hence—meaning right now, today—economic conditions and the Federal deficit would be so bad that the Reagan administration would be very largely discredited. My further instruction was to warn local commanders that 1 year hence—again, meaning today, right now—there would be great and perhaps irresistible demands to cut the military budget. I also warned that among the first things to be cut back would be military construction. I said that if anybody had anything urgent that was planned for the 1984 budget, they'd better let me know, because fiscal 1983 was going to be about the last good opportunity. Well, here we are in 1983, and it is budget time. Secretary of Defense Weinberger this week announced some cutbacks for his fiscal year 1984 plan, and sure enough, military construction is in for reductions. We'll soon know the details, but the direction is clear—my warning was correct.

Two years ago, President Reagan predicted that his program would produce a Federal deficit of about $22 billion for fiscal 1983, and a small surplus for fiscal 1984. Well, it turns out that the 1983 deficit will probably run about $150 billion, and the 1984 figure will be about $200 billion. In other words, far from fixing the fiscal problems that he talked about for 30 years, he's made them infinitely, maybe irreparably, worse. These are very large numbers, beyond the mind of man really to comprehend. Let me try and translate them into more useful terms.

At present and projected levels, the Federal deficit is eating up 60 percent or more of all net new savings in this country. As long as the economy is depressed, that isn't bad. But economic recovery would mean an increased demand for loans from people who want to buy automobiles or homes, and an increased demand for loans from business people who are expanding their operations. Unless the Federal Reserve acts in a way to accommodate all that demand, the gigantic deficit would tend to drive interest rates up. But if the demand for money is accommodated, inflationary fears could build up, and interest rates remain unrealistically high anyway. In either case, recovery would get killed in the cradle.

But what does all this have to do with financing the defense budget? Everything.

If the Federal deficit is going to be reduced very much, there are precious few choices available.

First, some of the deficit will be taken care of by economic growth. But not very much, since growth will be little or nothing in the next 12 months, barring some miraculous change in worldwide conditions, and some sudden stroke of genius from the White House, and some change of heart at the Federal Reserve.

Second, a certain amount of deficit financing is no problem. The problem occurs when overall economic management is bad—which is the case right now—or when the deficit is too big for the economy to accommodate, which would be the case if present policies remain unchanged in a time of overall recovery.

So, what are the choices?

The Federal budget today consists in the main of just three things: defense, income security, and interest on the debt.

If you added up the cost of the defense budget, together with income security (that's social security, VA pensions, medicare, and the like), you would have 70 percent of the Federal budget. If you threw in interest payments (which have increased almost 100 percent under Mr. Reagan), those three functions would account for 84 percent of the whole Federal budget.

Mr. Reagan has said that he does not want to cut social security, and that he will not cut the defense budget. It's impossible to cut interest obligations, since those are contract obligations. So that leaves you with

just 16 percent of the budget to use for deficit reduction purposes. As it happens, the present "rest of the budget" consists of $90 billion. If the defense budget is unchanged, if interest payments are made, and if income security and medical assistance programs are maintained, we could simply shut down all of the rest of the Federal Government and still be operating $110 billion in the hole. Obviously, that's impossible—we have to have courts, we have to have the borders policed, we have to pave the highways, we have to maintain air traffic control, we have to maintain health research, we have to keep the lights on at the White House.

It is no wonder then that budget-cut talk centers on the defense budget. With 14 million people out of work, it is silly for the President to talk about cutting food stamps. In any case, the whole food stamp program would only cover the Pentagon's cost for 6 days. The Congress is a favorite target of demagogs, but the fact is that the whole cost of running Congress for 1 year would not pay defense costs beyond lunchtime on January 1. There is, truthfully, little or nothing that can be squeezed out of the so-called domestic budget, and that is why attention focuses on the military budget.

This year, for instance, the MX missile will come before the Congress again. Right now, it is a billion-dollar program, but nobody knows where the missile will be based. In fiscal 1984, though, plans are for a $4 billion MX budget. The same goes for other programs. The big-ticket items that down payments have been made on are falling due, and at just the wrong time. We are very likely to see a debate on how much sense it makes to quadruple spending on a homeless missile, versus keeping up a pittance of help for hungry and unemployed workers. I do not say that this is a fair way to debate budget issues, but it is in fact the kind of choice that we are being asked to make.

The fact is that there is no substitute for a sound and ample defense. There is no way that we can afford to be less than fully prepared. But because of the economic failures of the President, we are facing the worst of all possible choices—what some in Washington call having to choose between Granny and a submarine. If the choice is impossible, it is all too real. For defense needs, it is unfortunate. Yet the truth is that Mr. Reagan's defense plans are given no more credibility than his economic proposals. There is a huge body of support for defense, and yet that has been squandered. The only way it can be recovered would be for the administration to do several things:

First, adopt an economic program that makes sense, that recognizes past mistakes, and that restores growth and confidence;

Second, adopt a tax program that is fair (because the present tax code is grossly unfair) and that people have faith in;

Third, adopt a domestic program that provides help and hope, rather than the Scrooge/Stockman hammer on the heads of the poor;

Fourth, adopt a defense program that has clear aims, objectives, and priorities. For defense, this last thing is crucial.

Two years ago, I suggested that the Defense Department had done a poor job of understanding its mission, and that the President (at that time, Mr. Carter) had not done a good job of setting out what our national objectives were. Consequently, I said that the military program tried to be everything to everybody at once, which made it unable to do anything for anybody very well.

Today, 2 years later, the Pentagon budget is being pictured as a Santa grab-bag, with no sense or priority or order. That may be untrue and it may be unfair, but the reality is that if Mr. Carter did a poor job of setting out national objectives, Mr. Reagan has done no job at all. The result is that the Defense Department is portrayed as operating with nothing but a blank check. That is unfair, it is unfortunate—but what is worst of all, it could be tragic in terms of our ability to do what we need to do to maintain our position and security in the world. If it was important 2 years ago to have a clearly understood set of national objectives, and a program that is clearly designed to carry out those goals, it is absolutely vital to have it today, for otherwise the defense budget is reduced to simply another target for panicky budget cuts. If there is any one thing that we should have learned in this century, it is that the defense program is not something that can be done on a start-and-stop basis, nor something that can be done on a panic basis (at least not in the missile age). Defense requires sustained effort. It requires thoughtful effort. But we are in danger of making it just another marble in the annual budget tournament—unless there is a better perception of what we must do, what we aim to do, and how we aim to do it. That is a task that President Carter did not do very well, but tragically, one that Mr. Reagan has not done—nor attempted to do—at all. The results can be terrible.

I am not happy with the outlook today. Yet, I would not be true if I said that I had anything less than faith in my country, in its people, and in its future.

It may be that our leaders will not lead—but our people will push. And, therefore, I believe that though this is our winter of discontent, the time is not far away when the needs I have spoken about will be met—when we will have national priorities and programs that our people believe in, will support, and that will serve us well.

REMARKS OF U.S. REPRESENTATIVE HENRY B. GONZALEZ, AMERICAN LOGISTICS ASSOCIATION, JANUARY 17, 1983

Welcome to San Antonio! I would not want your day to be as hot as a jalapeno, but I hope that your stay here is as mellow as a mariachi.

Back in the days when General Eisenhower was a young officer stationed here at Fort Sam Houston, San Antonio was known as the mother-in-law of the Army—so many Army members were married there. That's one way of explaining the close connection between this city and the military, but it isn't quite accurate. In point of fact, San Antonio is more like the daughter of the regiment, because it had its beginnings as a missionary garrison, outpost of the Empire of New Spain. If you were to go out to mission San Jose—and I hope you do—you will see a church, but you will also see that the church is in the middle of a fortified compound. All of this dates back to 1619, which means that San Antonio was a significant military outpost before the Pilgrims found their way to the rocky shore of Plymouth. From that time to this, our city has had a close relationship with the military. As a matter of fact, even the city hall sits on a piece of ground known as Military Plaza. That's not because the city fathers wanted to honor the military, but because in Old Spain, every city including this one had two parks, or plazas. One of those parks was for training the militia, keeping the soldiers in shape—and so it was called the Military Plaza. It just happened that when the time came to build a city hall, in the last century, the budget was too tight to allow for the purchase of land. So, as city fathers are wont to do, the city hall was plunked down in the midst of what had been a fine park—Military Plaza.

Even though the Alamo is our best known military landmark, you and I both know that this town is the place where military aviation really got its modern start—at the old parade ground on Fort Sam Houston—at Kelly Field, where Lindbergh learned the mysteries of flying a wood, wire, and canvas airplane—and at Randolph Field, which in its day was the best known military landmark outside of West Point, as much a symbol of air power then as the Pentagon is today of the whole defense establishment.

Our town started as a military outpost; it has always been host to a military garrison, up to and including the Rough Riders, and all kinds of soldiery, whether better or worse, whether boot recruit or astronaut. We're proud of that history and relationship, and proud to have you here in our town.

I don't have to tell you that these are uncertain times. We have no way of knowing what the Reagan administration is about to propose by way of a defense budget, but we do know that the budget process this year is the most disorderly perhaps of any in modern times. As just one example, when the Secretary of Defense was told to make cuts in his 1984 program, the Secretary first floated a trial balloon calling for a 4 percent pay cap on military cost of living pay increases. The very next day he called for an outright freeze on pay. On neither occasion, did he so much as bother to call the Joint Chiefs of Staff to ask for their recommendations. The Joint Chiefs had different ideas, because they know that Mr. Weinberger's implusive move was simply not realistic.

This is one small example of a process that has gotten out of hand. The administration has failed to make a clear definition of what our national interests really are, and what our military mission really is. That has left the Defense Department trying to be all things to all places, making it less capable and less credible, despite unprecedented defense spending. What this will led to is an adverse reaction—one that we can already see building. The result will be bad in the other way—blind cutting in reaction to what is perceived as blind spending. This kind of outcome would of course be dangerous to our national security, for as anybody in the logistics business knows, a successful defense depends on careful planning and a sustained effort. If the Lone Ranger can't reload his six gun, then even silver bullets are no help. And that is what is at stake in the current debate—whether or not we are going to have the careful and well-thought-out program, whether or not we are going to have the sustained effort we must have. The outcome largely depends on whether or not this administration can overcome its disarray. There is no doubt—none whatever—that this is a crucial year for a credible and sustainable defense effort.

This is not a question that ought to be a matter of partisan debate. It is a matter of our deepest and most basic national interest. We here in San Antonio know and understand that it is among the most difficult of all political tasks to summon up the courage to sustain a military program during

hard economic times. But we also know that this is an age in which the luxury of time to prepare no longer exists, for this is truly the age of the quick or the dead.

A few yards from here is the Alamo. Santa Ana won that battle because he enjoyed overwhelming numbers. But not many weeks after the Alamo, Santa Ana suffered total defeat, in an afternoon battle at San Jacinto. I don't think a single soldier of his army escaped death or capture that day. The disaster that hit Santa Ana was the result of surprise; it seems that the Generalissimo had taken time for his daily siesta, and a dalliance with a certain young lady. You might say that he suffered defeat, and Texas gained independence, because Santa Ana was overconfident, thoughtless, and careless. That was in 1836. Today, nearly 150 years later, the weapons of war have changed—but one thing that remains the same is that today, it's still an invitation to disaster to be caught with your military pants down. We, in San Antonio, understand that—and so do you, and so must the rest of the country.

Again, as we say here, bienvenidos, y buenas dias.●

IRV KUPCINET CELEBRATES 40TH ANNIVERSARY OF HIS POPULAR CHICAGO NEWSPAPER COLUMN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, I rise to bring to the attention of my colleagues the 40th anniversary of "Kup's Column," authored by my good friend, Irv Kupcinet, of the Chicago Sun-Times and nationally known syndicated talk show host. During the past four decades, he has written some 12,000 columns.

As stated in the January 17, 1983, edition of the Sun-Times:

> Kup is a Chicago legend. the man and his prominence as author, syndicated columnist, radio commentator, television personality, National Football League official and tireless charity worker have spawned profiles in national magazines and spread his fame around the world. But his heart is here, and he never made any bones about Chicago being his own. His 1960 book, which the cover touts as an "affectionate portrait" of the city, was titled "Kup's Chicago."

Irv Kupcinet's newspaper career began in 1935 when he joined the Chicago Times, predecessor of the Sun-Times, as a sportswriter. He earned his B.A. in journalism from the University of North Dakota, where he also played football. A member of the 1935 all-star squad, Kupcinet played pro ball with the Philadelphia Eagles, and later officiated in the National Football League for 10 years.

Kup has continually and tirelessly devoted endless hours to many charitable causes, helping to make our city a great place to live, and for 38 years, he has led the Purple Heart Cruise, an annual all-day event in Chicago to honor hospitalized veterans and GI's in training at Chicago area military bases.

I congratulate him on the 40th anniversary of his column, and I extend my best wishes to Irv Kupcinet for abundant good health and continuing success in his career and his charitable endeavors during the years ahead.●

MARTIN LUTHER KING NATIONAL HOLIDAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. COYNE) is recognized for 5 minutes.

● Mr. COYNE. Mr. Speaker, I rise in support of the measure by Mr. CONYERS to designate January 15 as a national holiday in honor of Dr. Martin Luther King.

Dr. King stood for peace, which for him was not a state brought about by passiveness, but something bound up in the achievement of justice. His dedication to political equality has caused many Americans to ask that we designate one day a year to remember the man and what he stood for.

If ever there were times in which we needed a day to reflect on the need for peace and justice, these are the times. If we are to honor someone who dedicated his life to these goals, Dr. King is that man. His moral and political leadership enlightened many of us during his lifetime. His legacy of deeds and words inspires us today.

On the arms race, Dr. King was adamant when he accepted the Nobel Peace Prize in 1964. He said:

> I refuse to accept the cynical notion that nation after nation must spiral down a militaristic stairway into the hell of nuclear destruction.

How far have the nations of the world swirled down that stairway since Dr. King spoke those words? We should all be so adamant.

On another issue that continues to haunt us, the easy access of even the least stable among us to firearms, Dr. King had this to say:

> By our readiness to allow firearms to be purchased at will and fired at whim, we have created an atmosphere in which violence and hatred have become popular pastimes.

Those all too popular pastimes ended Dr. King's life. He suggested his own eulogy in a sermon on February 4, 1968, just 2 months before his death:

> Yes, if you want to say that I was a drum major, say that I was a drum major for justice; say that I was a drum major for peace; I was a drum major for righteousness; and all the other shallow things will not matter . . .

Dr. King was indeed a drum major for peace and justice. We should not allow shallow arguments against making his birthday a national holiday prevail.

To those who argue that making January 15 a national holiday will somehow hurt national productivity, I say: Look to Pennsylvania. It has designated January 15 as a State holiday, and continues to function well. I hope that this Congress will follow Pennsylvania's example.

At this point, I would like to share with my colleagues a 1981 Pittsburgh City Council resolution which calls on the Congress to do just that:

RESOLUTION No. 34

Whereas, the Reverend Martin Luther King, Jr. dedicated his life and endeavors to the achievement of a just and healthy society and the enhancement of respect and trust in our institutions and the insurance that all citizens are treated equally before the law; and

Whereas, his outstanding contributions included the Nobel Peace Prize and other forms of international recognition; and

Whereas, January 15 is the birthdate of this great American and is celebrated throughout the United States of America; and

Whereas, celebrations are held in schools, churches and community centers; and

Whereas, the Commonwealth of Pennsylvania has designated January 15 as a State holiday; and

Whereas, the United States Congress has been petitioned to designate January 15 as a National legal holiday;

Now, therefore, be it resolved, that the Mayor and the Members of Council of the City of Pittsburgh on behalf of the residents of the City of Pittsburgh do honor and recognize the birthdate of the Reverend Martin Luther King, Jr. and encourage the Congress of the United States to designate January 15 as a National legal holiday.●

COMPUTER CRIME LOOPHOLE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. NELSON) is recognized for 5 minutes.

● Mr. NELSON of Florida. Mr. Speaker, as we enter the 98th Congress, I would like to address an issue that is becoming more salient to the Federal Government's information system—computer crime.

As the author of the Federal Computer Systems Protection Act, which I intend to reintroduce this session, I have followed with interest the story of a former Federal employee who, after leaving his Government position, used a telephone line to invade the Federal Reserve Board's confidential computer files. Tapped was sensitive data on the Nation's money supply. Although the criminal is now facing charges of wire fraud, I believe the significance of the incident is clear. As Newsweek, January 17, 1983, commented in its coverage of the case, "computer theft, even of confidential Government information is no difficult feat, and Theo Langevin will not be the last to try breaking the data bank."

I suggest to you today that in our increasing reliance on these tremendous machines, without adequate deterrents, the Federal Government is vul-

nerable to those persons who might seek to misuse its computer systems.

This new and unique problem of computer crime is bringing unprecedented trials to our courtrooms. While the Langevin break-in to the Federal Reserve Board computer ended in charges filed under an existing wire fraud provision, William S. Block, assistant U.S. attorney handling the case, informs that if the interstate telephone lines had not been utilized to enter the system, conviction of the thief would have proven difficult. Furthermore, in the absence of that interstate factor, a general theft statute may have been the only recourse available to the Government in pursuing the matter through the judicial system.

Under the 1948 law, United States Code title 18, section 641,

> Whoever embezzles, steals, purloins or knowingly converts to his use or the use of another, or without authority, sells, conveys or disposes of any record, voucher, money or thing of the value of the United States or of any department or agency thereof, * * * shall be fined not more than $10,000 or imprisoned not more than ten years, or both; but if the value of such property does not exceed the sum of $100, he shall be fined not more than $1,000 or imprisoned not more than one year or both.

Most disturbing about such application is Attorney Block's explanation of the value of computer information in legal terms. Without specific legal definition, the damage of illegal entry can only be measured by the actual minutes or seconds an intruder is in the system; and most importantly not by the value of the stolen data. Block explained, the Langevin intrusion into the sensitive monetary policy files of the Federal Reserve Board could be estimated at less than $100 worth of computer time, while the information itself was certainly invaluable. This means the criminal could receive a fine of less than $1,000 and/or less than 1 year's prison sentence for tampering with data vital to the stability of our country's economy.

Beyond this issue of the usage value, under the general theft rule—which is one of only a very few provisions available to prosecute computer crimes—the Federal Government faces further ambiguities in the courtroom. The proprietary nature of the data stolen must also be proven to proceed with prosecution. Attorney Block stressed that while the taking of Government information may be unauthorized, it is not necessarily protected by current laws, as might be computer data in the private sector.

One must also remember that computer crime requires no sophisticated tools for robbing our information systems—only public telephone lines, a dishonest computer operator and a stolen password. Therefore, I urge you to join me to help protect the integrity of the Federal computer systems vital to our Government's effective operation. As the great potential for computers in our lives is realized, so is the unfortunate potential for abuse.

It is at this point in the RECORD I include two recent articles, "Dialing for Data—Illegally," from Newsweek, January 17, 1983, and "Former Fed Aide Pleads Guilty to Tapping Files," from the Washington Post, January 12, 1983.

[From Newsweek, Jan. 17, 1983]

DIALING FOR DATA—ILLEGALLY

It was a switch on the well-known ad: when the Federal Reserve Board's computer talked, someone at E. F. Hutton listened. Or so it seemed for a short time last fall, according to papers filed in a federal court in Washington last week accusing former Hutton economist Theode C. Langevin of attempted computer theft from the nation's central bank. Langevin, 34, who had left a job at the Federal Reserve only days before, allegedly tapped into the Fed's data bank by telephone on at least one occasion in November, seeking advance weekly projections of the U.S. money supply. The information was invaluable to him in his Hutton job as a forecaster of Fed policy and that policy's effect on interest rates.

It was a simple enough scheme: the brokerage's computer has a telephone modem, a device that translates computer bits into signals that can be transmitted over phone lines. So does the Federal Reserve's computer. Using the access code of an unnamed Fed employee—his own official code had been canceled when he left government service—Langevin allegedly put his terminal in touch with the Fed's data bank and proceeded to rifle the files.

But the government was on to him. The unauthorized code use was spotted and traced back to Langevin at Hutton. Federal investigators then apparently planted incriminating evidence in the Federal Reserve computer, in the form of false figures for the money supply, and built the case against him. He was forced to resign his job after government officials notified the brokerage of the investigation, and he now faces up to five years in jail and a $1,000 fine on a single count of wire fraud. The procedure being followed in the case—a filing of information rather than an indictment—suggests that Langevin is expected to plead guilty when he goes before the court.

E. F. Hutton officials, meanwhile, say they received no benefit from any information Langevin may have obtained illegally from the Fed. Government officials were reluctant to discuss the case at all, but the disturbing implication was clear: computer theft, even of confidential government information, is no difficult feat, and Theode Langevin will not be the last to try breaking the data bank.

[From the Washington Post, Jan. 12, 1983]

FORMER FED AIDE PLEADS GUILTY TO TAPPING FILES

(By Al Kamen)

A former Federal Reserve Board aide who tapped into the board's computer files of sensitive financial data pleaded guilty yesterday in U.S. District Court to one count of wire fraud.

Theode C. Langevin, 34, of Laurel, admitted at a hearing before U.S. District Court William B. Bryant that, after he left the Fed to work for E.F. Hutton and Co., a Wall Street securities firm, he used another Fed employe's code name to gain access to the Fed's computer files containing information on the changes of the nation's money supply, a key factor in determining Fed actions.

Assistant U.S. Attorney William S. Block told Bryant that Langevin, who faces five years in prison and a $1,000 fine, checked twice before he began work as a $60,000-a-year analyst at the brokerage firm to make sure he could gain access to the Fed computer from outside the building.

Block said that Langevin, using a computer at E.F. Hutton, used the name and code name "Paz" of another Fed employe, Wayne Smith, to tap into the computer on Nov. 22, the day he began working for E.F. Hutton. Block said Smith did not know Langevin had his code name, and that E.F. Hutton officials were unaware of Langevin's activities. E.F. Hutton did not receive any information from Langevin before they asked him to resign Dec. 3, 10 days after the incident, Block said.

The illegal access to the Fed computer files was discovered the next day, when Langevin's supervisor saw that the computer noted that Smith had used the computer on a day when Smith had not come to work. The supervisor then alerted other officials and the FBI, which traced subsequent efforts a week later by Langevin to penetrate the computer files to a telephone number at the brokerage firm's New York office.

A Fed official said yesterday that, since then, officials have taken measures to tighten security and to make sure that even persons authorized to use the computer files cannot do so from outside the Fed's offices.●

BEDELL SOCIAL SECURITY PACKAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. BEDELL) is recognized for 5 minutes.

● Mr. BEDELL. Mr. Speaker, judging from the hundreds of letters and phone calls I receive, it is apparent that no issue has alarmed so many Americans and caused so much anxiety and fear as the future of our social security system.

Directly or indirectly, social security touches the lives of almost every American—young and old alike. There is no question that social security is the central feature of the way Americans plan their financial futures. That security must be restored and preserved.

The American people can be certain that Congress will not allow the system to cave in. Because of unexpected economic developments in past years—high unemployment, rapid inflation, low real wage growth—the social security system has been forced to carry a heavier and heavier load. Nonetheless, I am personally committed to assuring that the millions of Americans who have paid into the system over the past 30 or 40 years in good faith receive every dollar of assistance they deserve.

The question that remains is how can we strengthen the system without destroying it and without delaying benefits to those who have earned them.

The American people have been told that because of the dire condition of the social security funds, we must either sharply cut back on benefits or raise the payroll taxes. I contend that this is simply not true.

Through forums I conducted in my district on the future of social security, through my open door meetings, and through the hundreds of letters and phone calls from my constituents, I have received helpful suggestions and ideas on how we can preserve our social security system in a fair and evenhanded manner.

As a direct result of these ideas and suggestions, Mr. Speaker, I introduced a three-bill package of reforms. Today, I am reintroducing the Bedell social security package.

My package consists of three bills which will not significantly cut benefits to those who are retired or near retirement. They do not raise the tax burden on the working, sector, but my bills do address the system's financial problems in the near and longer term.

The package consists of the following bills:

A bill which will end payment of all social security benefits to convicted criminals confined to penal institutions. Currently, prisoners are receiving many types of social security benefits. For example, a loophole exists which says that a prisoner can collect monthly social security disability checks, if he agrees to enter a rehabilitation program. As one can imagine, many prisoners do this and continue to drain the financially troubled system.

Rather than severely cutting benefits, the second bill will modify the formula used to adjust benefits to keep pace with inflation by increasing the cost-of-living adjustments by either the rise in the CPI or the wage index, whichever is lower.

Finally, social security was originally established in 1935 as a Federal insurance program to provide supplemental retirement income. Over the years, other social programs have been added to the social security system. Thus, to redirect the system back toward its original purpose, my third bill will finance the hospital insurance program—part A of medicare—from general revenues. In 1965, the payroll tax was expanded to include withholding for the Federal hospital insurance program. Since part B of medicare is already financed primarily from general funds and since the program is more socially oriented and the benefits are not related to a worker's contributions, it is better suited for support from general funds.

The current payroll tax would be applied toward financing the other two parts of social security—retirement and survivors' benefits and disability insurance.

By taking sensible and fair actions like the bills included in my social security package, we do not have to go back on our word to the people. By taking the steps I proposed, we can save the system billions of dollars painlessly and put our social security system back on a stable financial base.

H.R. 945

A bill to amend title II of the Social Security Act to provide that the automatic cost-of-living increases in benefits thereunder shall be based either on increases in the Consumer Price Index or on increases in wages, whichever (in any particular case) is lower

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 215(i)(1) of the Social Security Act is amended—

(1) by striking out "and" at the end of subparagraph (B);

(2) by redesignating subparagraph (C) as subparagraph (E); and

(3) by inserting after subparagraph (B) the following new subparagraphs:

"(C) the term 'Consumer Price Index increase percentage', with respect to any cost-of-living computation quarter, means the percentage (rounded to the nearest one-tenth of 1 percent) by which the Consumer Price Index for that cost-of-living computation quarter exceeds such index for the most recent prior calendar quarter which was a base quarter under subparagraph (A)(ii) or, if later, the most recent cost-of-living computation quarter under subparagraph (B);

"(D) the term 'wage increase percentage', with respect to any cost-of-living computation quarter, means the percentage (rounded to the nearest one-tenth of 1 percent) by which the average hourly earnings index for total private nonfarm workers, prepared by the Department of Labor, for the calendar quarter immediately preceding such cost-of-living computation quarter, exceeds such index for the calendar quarter immediately preceding the most recent prior calendar quarter which was a base quarter under subparagraph (A)(ii), or, if later, the calendar quarter immediately preceding the most recent prior cost-of-living computation quarter under subparagraph (B); and".

(b) Section 215(i)(2)(A)(ii) of such Act is amended by striking out "by the same percentage" and all that follows down through the semicolon, in the sentence immediately following subdivision (III), and inserting in lieu thereof "by the Consumer Price Index increase percentage or the wage increase percentage, whichever (with respect to the cost-of-living computation quarter involved) is lower;".

SEC. 2. The amendments made by the first section of this Act shall apply with respect to monthly benefits under title II of the Social Security Act for months after December 1983.

H.R. 946

A bill to amend title II of the Social Security Act and chapters 2 and 21 of the Internal Revenue Code of 1954 to provide that the hospital insurance program shall hereafter be financed from general revenues rather than through the imposition of payroll taxes as at present, reallocating the future proceeds of such taxes to the old-age, survivors, and disability insurance program in order to assure the actuarial soundness of that program

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a)(1) section 1817(a) of the Social Security Act is amended by striking out all that follows the second sentence and inserting in lieu thereof the following: "There are hereby authorized to be appropriated to the Trust Fund for each fiscal year such sums as may be determined (in an annual authorization Act applicable to that year) to be necessary to provide for the prompt payment of benefits under this part and the administrative expenses incurred in connection therewith, and to provide an adequate contingency reserve.".

(2) Section 1817(f) of such Act is repealed.

(b)(1) Section 201(a) of such Act is amended—

(A) by striking out "(other than sections 3101(b) and 3111(b))" each place it appears in paragraph (3); and

(B) by striking out "(other than section 1401(b))" each place it appears in paragraph (4).

(2) Section 201(g)(2) of such Act is amended by striking out "3101(a)" in the first sentence and inserting in lieu thereof "3101".

(c) The second sentence of section 706(d) of such Act is amended by striking out paragraph (1), (2), and (3) and inserting in lieu thereof the following:

"(1) a separate report with respect to the old-age, survivors, and disability insurance program under title II and of the taxes imposed under sections 1401, 3101, and 3111 of the Internal Revenue Code of 1954,

"(2) a separate report with respect to the hospital insurance program under part A of title XVIII and of the financing thereof, and

"(3) a separate report with respect to the supplementary medical insurance program established by part B of title XVIII and of the financing thereof.".

(d) Sections 6051(e) and 6413(c)(3) of the Internal Revenue Code of 1954 are repealed.

(e) Section 6(c)(2) of the Railroad Retirement Act of 1974 is amended by striking out "(excluding, for this purpose, the amount of the employee tax attributable to that portion of the tax rate derived from section 3101(b) of the Internal Revenue Code of 1954)".

SEC. 2. (a)(1) Section 3101 of the Internal Revenue Code of 1954 (relating to rate of tax on employees under Federal Insurance Contributions Act) is amended to read as follows:

"SEC. 3101. RATE OF TAX.

"In addition to other taxes, there is hereby imposed on the income of every individual a tax equal to the following percentage of the wages (as defined in section 3121(a)) received by him with respect to employment (as defined in section 3121(b))—

"(1) with respect to wages received during the calendar year 1984, the rate shall be 6.70 percent;

"(2) with respect to wages received during the calendar year 1985, the rate shall be 7.05 percent;

"(3) with respect to wages received during the calendar years 1986 through 1989, the rate shall be 7.15 percent; and

"(4) with respect to wages received after December 31, 1989, the rate shall be 7.65 percent."

(2) Section 3111 of such Code (relating to rate of tax on employers under Federal Insurance Contributions Act) is amended to read as follows:

"SEC. 3111. RATE OF TAX.

"In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to the following percentages of the wages (as defined in section 3121(a)) paid by him with respect to employment (as defined in section 3121(b))—

"(1) with respect to wages paid during the calendar year 1984, the rate shall be 6.70 percent;

"(2) with respect to wages paid during the calendar year 1985, the rate shall be 7.05 percent;

"(3) with respect to wages paid during the calendar years 1986 through 1989, the rate shall be 7.15 percent; and

"(4) with respect to wages paid after December 31, 1989, the rate shall be 7.65 percent."

(3) Section 1401 of such Code (relating to rate of tax on self-employment income) is amended to read as follows:

"SEC. 1401. RATE OF TAX.

"In addition to other taxes, there shall be imposed for each taxable year, on the self-employment income of every individual, a tax as follows:

"(1) in the case of any taxable year beginning after December 31, 1983, and before January 1, 1985, the tax shall be equal to 9.35 percent of the amount of the self-employment income for such taxable year;

"(2) in the case of any taxable year beginning after December 31, 1984, and before January 1, 1986, the tax shall be equal to 9.90 percent of the amount of the self-employment income for such taxable year;

"(3) in the case of any taxable year beginning after December 31, 1985, and before January 1, 1990, the tax shall be equal to 10.00 percent of the amount of the self-employment income for such taxable year; and

"(4) in the case of any taxable year beginning after December 31, 1989, the tax shall be equal to 10.75 percent of the amount of the self-employment income for such taxable year.".

(b) Section 201(b) of the Social Security Act is amended—

(1) by striking out "(K)" and all that follows down through "which wages shall be certified" in paragraph (1) and inserting in lieu thereof "(K) 1.90 per centum of the wages (as so defined) paid after December 31, 1983, and before January 1, 1985, and so reported, (L) 2.15 per centum of the wages (as so defined) paid after December 31, 1984, and before January 1, 1986, and so reported, (M) 2.20 per centum of the wages (as so defined) paid after December 31, 1985, and before January 1, 1990, and so reported, and (N) 2.55 per centum of the wages (as so defined) paid after December 31, 1989, and so reported, which wages shall be certified"; and

(2) by striking out "(K)" and all that follows down through "which self-employment income shall be certified" in paragraph (2) and inserting in lieu thereof "(K) 1.40 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1983, and before January 1, 1985, (L) 1.58 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1984, and before January 1, 1986, (M) 1.62 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1985, and before January 1, 1990, and (N) 1.90 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1989, which self-employment income shall be certified".

SEC. 3. The amendments made by subsections (a) and (b) of the first section of this Act shall apply with respect to fiscal years ending after December 31, 1983 (but only with respect to wages paid, and self-employment income for taxable years ending, after that date). The amendments made by subsections (a)(1), (a)(2), and (b)(1) of section 2 (and by subsections (d) and (e) of the first section of this Act) shall apply only with respect to wages paid or received on and after January 1, 1983. The amendments made by subsections (a)(3) and (b)(2) of section 2 shall apply only with respect to taxable years beginning after December 31, 1983. The remaining amendments made by this Act shall take effect upon their enactment.

H.R. 944

A bill to amend title II of the Social Security Act to provide that no benefits thereunder may be paid to convicted criminals who are inmates of penal institutions

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) title II of the Social Security Act is amended by adding at the end thereof the following new section:

SUSPENSION OF BENEFITS FOR INMATES OF PENAL INSTITUTIONS

"SEC. 234. (a) Notwithstanding any other provision of this title, no monthly benefit shall be paid under this title to or for any individual for any month during any part of which such individual is confined in a jail, prison, or other penal institution or correctional facility pursuant to his conviction of an offense which constituted a felony under applicable law.

"(b) Benefits which would be payable under this title to any individual (other than a confined individual whose benefits are suspended under subsection (a)) on the basis of the wages and self-employment income of such a confined individual (or on the basis of the same wages and self-employment income as those on which the suspended benefits are or would be based) shall be payable as though such confined individual were receiving the benefits so suspended.".

(b) Section 223 of such Act is amended—

(1) by striking out "for purposes of benefits payable or any month during which such individual is so confined" in subsection (d)(6)(B); and

(2) by striking out subsection (f).

SEC. 2. The amendments made by the first section of this Act shall apply with respect to benefits for months after the month in which this act is enacted.●

RULES OF THE COMMITTEE ON WAYS AND MEANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ROSTENKOWSKI) is recognized for 5 minutes.

● Mr. ROSTENKOWSKI. Mr. Speaker, pursuant to the requirement of clause 2(a) of rule XI of the Rules of the House of Representatives, I submit herewith the rules of the Committee on Ways and Means for the 98th Congress and ask that they be printed in the RECORD at this point. These rules were originally adopted in an open session of the committee on January 6, 1983.

RULES OF THE COMMITTEE ON WAYS AND MEANS FOR THE NINETY-EIGHTH CONGRESS

Rule XI of the Rules of the House of Representatives, provides in part:

* * * The Rules of the House are the rules of its committees and subcommittees so far as applicable, except that a motion to recess from day to day is a motion of high privilege in committees and subcommittees.

* * * Each subcommittee of a committee is a part of that committee, and is subject to the authority and direction of that committee and to its rules as far as applicable.

* * * Each standing committee of the House shall adopt written rules governing its procedure. Such rules * * *

(1) shall be adopted in a meeting which is open to the * * *

(2) shall be not inconsistent with the Rules of the House or with those provisions of law having the force and effect of Rules of the House * * *

In accordance with the foregoing, the Committee on Ways and Means, on January 6, 1983, adopted the following as the Rules of the Committee for the 98th Congress.

RULE 1. IN GENERAL

Except where the terms "full Committee" and "subcommittee" are specifically referred to, the following rules shall apply to the Committee on Ways and Means and its subcommittees as well as to the respective chairmen.

RULE 2. MEETING DATE, QUORUM, AND QUORUM FOR TAKING TESTIMONY AND EVIDENCE

The regular meeting day of the Committee on Ways and Means shall be on the second Wednesday of each month while the House is in session. A majority of the Committee constitutes a quorum for business. Provided, however, that two members shall constitute a quorum at any regularly scheduled hearing called for the purpose of taking testimony and receiving evidence.

RULE 3. SUBCOMMITTEE MEETINGS

Insofar as possible, meetings of the Committee and its subcommittees shall not conflict. Subcommittee chairmen shall set meeting dates after consultation with the Chairman and other subcommittee chairmen with a view toward avoiding simultaneous scheduling of Committee and subcommittee meetings or hearings wherever possible.

RULE 4. SUBCOMMITTEES

All matters referred to the Committee on Ways and Means involving the Internal Revenue Code, except those revenue measures referred to Subcommittees under paragraphs 1, 2, 3 or 5, shall be considered by the whole Committee and not in subcommittee.

There shall be six standing subcommittees as follows: Subcommittee on Social Security; Subcommittee on Health; Subcommittee on Public Assistance and Unemployment Compensation; Subcommittee on Trade; Subcommittee on Select Revenue Measures; and Subcommittee on Oversight.

The jurisdiction of such subcommittees includes:

1. Subcommittee on Social Security shall consist of 11 Members, 7 of whom shall be Democrats and 4 of whom shall be Republicans.

In general, the jurisdiction of the Subcommittee on Social Security includes bills and matters referred to the Committee on Ways and Means which relate to the Federal Old-Age, Survivors' and Disability Insurance System, the Railroad Retirement System, and employment taxes and trust fund operations relating to those systems. The jurisdiction of this subcommittee, more specifically, includes bills and matters involving title II of the Social Security Act and Chapter 22 of the Internal Revenue Code (the Railroad Retirement Tax Act), as well as provisions in title VII and title XI of the Act relating to procedure and administration involving the Old-Age, Survivors' and Disability Insurance System.

2. Subcommittee on Health shall consist of 8 Members, 5 of whom shall be Democrats and 3 of whom shall be Republicans.

In general, the jurisdiction of the Subcommittee on Health includes bills and matters which are referred to the Committee on Ways and Means which relate to programs which provide payments (from any source) for health care, health delivery systems, or health research. More specifically, the jurisdiction of the Subcommittee on Health includes bills and matters which relate to the health care programs of the Social Security Act (including titles V, XI (Part B), XVIII, and XIX thereof) and tax credit and deduction provisions of the Internal Revenue Code dealing with health insurance premiums and health care costs.

3. Subcommittee on Select Revenue Measures shall consist of 11 Members, 7 of whom shall be Democrats and 4 of whom shall be Republicans.

The jurisdiction of this subcommittee shall consist of those revenue measures which, from time to time, shall be referred to it specifically by the Chairman of the full Committee.

4. Subcommittee on Trade shall consist of 14 Members, 9 of whom shall be Democrats and 5 of whom shall be Republicans.

In general, the jurisdiction of the Subcommittee on Trade includes bills and matters referred to the Committee on Ways and Means which relate to: customs and customs administration including tariff and import fee structure, classification, valuation of and special rules applying to imports, and special tariff provisions and procedures which relate to customs operation affecting exports and imports; import trade matters, including import impact, industry relief from injurious imports, adjustment assistance and programs to encourage competitive responses to imports, unfair import practices including antidumping and countervailing duty provisions, and import policy which relates to dependence on foreign sources of supply; commodity agreements and reciprocal trade agreements including multilateral and bilateral trade negotiations and implementation of agreements involving tariff and nontariff trade barriers to and distortions of international trade; international rules, organizations and institutional aspects of international trade agreements; budget authorizations for the U.S. Customs Service, the U.S. International Trade Commission, and U.S. Trade Representative; and special trade-related problems involving market access, competitive conditions of specific industries, export policy and promotion, access to materials in short supply, bilateral trade relations including trade with developing countries, operations of multinational corporations, and trade with nonmarket economies.

5. Subcommittee on Public Assistance and Unemployment Compensation shall consist of 11 Members, 7 of whom shall be Democrats and 4 of whom shall be Republicans.

In general, the jurisdiction of this subcommittee includes bills and matters referred to the Committee on Ways and Means which relate to the public assistance provisions of the Social Security Act including welfare reform, supplemental security income, aid to families with dependent children, social services, child support, eligibility of welfare recipients for food stamps, and low-income energy assistance.

More specifically, the jurisdiction of this subcommittee includes bills and matters relating to titles I, IV, VI, X, XIV, XVI, XVII, XX and related provisions of titles VII and XI of the Social Security Act.

The jurisdiction of this subcommittee also includes bills and matters referred to the Committee on Ways and Means which relate to the Federal-State system of unemployment compensation, and the financing thereof, including the programs for extended and emergency benefits.

More specifically, the jurisdiction of this subcommittee includes all bills and matters pertaining to the programs of unemployment compensation under titles III, IX and XII of the Social Security Act, Chapter 23 of the Internal Revenue Code, the Federal-State Extended Unemployment Compensation Act of 1970, the Emergency Unemployment Compensation Act of 1974, and provisions relating thereto.

6. Subcommittee on Oversight shall consist of 11 Members, 7 of whom shall be Democrats and 4 of whom shall be Republicans.

The jurisdiction of this subcommittee includes all matters within the scope of the Committee but shall be limited to existing law and said oversight jurisdiction shall not be exclusive but shall be concurrent with that of the other subcommittees, and with respect to matters involving the Internal Revenue Code said concurrent jurisdiction shall be shared with the full Committee. Before undertaking any investigation or hearing, the chairman of the Subcommittee on Oversight shall confer with the Chairman of the full Committee and the chairman of any other subcommittee having jurisdiction.

RULE 5. SUBCOMMITTEE CHAIRMEN

Democratic members of the Committee shall have the right in order of full Committee seniority to bid for vacant subcommittee chairmanships. Such bids shall be subject to approval by a majority of those present and voting in the Democratic caucus of the Committee. If the caucus rejects a subcommittee chairmanship bid, the next senior Democratic Member may bid for the position as in the first instance. No member of the Committee who serves on the Budget Committee shall serve as a chairman of a subcommittee. A subcommittee chairmanship shall not be considered vacant while the subcommittee chairman has taken a leave of absence to serve on the Budget Committee.

RULE 6. EX-OFFICIO MEMBERS OF SUBCOMMITTEES

The Chairman and the ranking minority member may sit as ex-officio members of all subcommittees. They may be counted for purposes of assisting in the establishment of a quorum for a subcommittee. However, their absence shall not count against the establishment of a quorum by the regular members of the subcommittee. Ex-officio members shall neither vote in the subcommittee nor be taken into consideration for purposes of determining the ratio of the subcommittee.

RULE 7. REFERENCE OF LEGISLATION AND SUBCOMMITTEE REPORT

Every bill, or other matter (except bills concerning the Internal Revenue Code) referred to the Committee or initiated by the Committee shall be referred by the Chairman of the full Committee to the appropriate subcommittee within 2 weeks from the date of its receipt by the Committee unless by a majority vote in the full Committee, consideration is to be by the full Committee. A subcommittee shall, within 3 legislative days of receipt of a bill referral, acknowledge same to the full Committee.

After a bill has been pending in a subcommittee for a reasonable period of time, the Chairman of the full Committee may make a request in writing to the subcommittee that the subcommittee forthwith report the bill to the full Committee with its recommendations. If within 7 legislative days after the Chairman's written request, the subcommittee has not so reported the bill, then there shall be in order in the full Committee a motion to discharge the subcommittee from further consideration of the bill. If such motion is approved by a majority vote in the full Committee, the bill may thereafter be considered only by the full Committee.

No bill reported by a subcommittee shall be considered by the full Committee unless it has been presented to all members at least 2 legislative days prior to the meeting, together with a comparison with present law, a section-by-section analysis of the proposed change, a section-by-section justification, and a draft statement of the costs of carrying out the bill that is consistent with the requirements for reported bills under clause 7 of Rule XIII of the Rules of the House of Representatives.

RULE 8. SUPERVISION, DUTIES OF COMMITTEE STAFF

The staff of the Committee, both professional and clerical, shall be under the general supervision and direction of the Chairman of the full Committee except as provided in clause 5(d) and clause 6 of Rule XI of the Rules of the House of Representatives concerning committee expenses and staff. Provided, however, that the chairman of each subcommittee shall be entitled to select and designate at least one professional staff member for said subcommittee and at least one clerical staff member for said subcommittee subject to the approval of a majority of the Democratic members of said full Committee. The ranking minority member shall have the right to designate one staff member. Said staff members shall be compensated at a salary commensurate with the responsibilities prescribed by said subcommittee chairman. Compensation shall be provided out of appropriated

amounts—rather than statutory amounts allowed each committee.

RULE 9. COMMITTEE BUDGET AND EXPENSES

The Chairman, in consultation with the majority members of the Committee, shall, for each session of the Congress, prepare a preliminary budget. Such budget shall include necessary amounts for staff personnel, travel, investigation, and other expenses of the Committee. After consultation with the minority members, the Chairman shall include an amount budgeted to minority members for staff under their direction and supervision. Thereafter, the Chairman shall combine such proposals into a consolidated Committee budget, and shall present the same to the Committee for its approval or other action. The Chairman shall take whatever action is necessary to have the budget as finally approved by the Committee duly authorized by the House. After said budget shall have been adopted, no substantial change shall be made in such budget unless approved by the Committee.

RULE 10. WITNESSES

In order to assure the most productive use of the limited amount of time available to question hearing witnesses, a witness who is scheduled to appear before the Committee shall file with the clerk of the Committee at least 24 hours in advance of his appearance a written statement of his proposed testimony. Failure to comply with this rule may result in the witness being denied the opportunity to testify in person. A witness shall limit his oral presentation to a summary of his position and shall provide sufficient copies of his written statement to the clerk for distribution to Members, staff and news media.

RULE 11. QUESTIONING OF WITNESSES

Committee members may question witnesses only when recognized by the Chairman for that purpose. All members shall be limited to five minutes on the initial round of questioning. In questioning witnesses under the five minute rule, the Chairman and the ranking minority member may be recognized first after which members may be recognized in the order of their arrival at the hearing. Among the members present at the time the hearing is called to order, seniority shall be recognized. In recognizing members to question witnesses, the Chairman may take into consideration the ratio of majority members to minority members and the number of majority and minority members present and shall apportion the recognition for questioning in such a manner as not to disadvantage the members of the majority.

RULE 12. PUBLICATION OF DECISIONS

A press release describing any tentative or final decision made by the Committee on legislation under consideration shall be made available to each member of the Committee as soon as possible, but no later than the next day. However, the legislative draft of any tentative or final decision of the Committee shall not be released until such draft is made available to each Member of the Committee.

RULE 13. AMENDMENT TO PROVISION PREVIOUSLY READ

In the process of reading a bill for amendments, it shall be in order to return to a previously read portion of the bill for the purpose of considering and acting upon amendments thereto. However, if such previously read portion has been adopted by a record vote, it shall be in order for any member of the majority, on the same or the next day on which a quorum of the Committee is present, to move for the reconsideration thereof, and such motion shall take precedence of all other questions except the consideration of a motion to adjourn, and shall not be withdrawn without the consent of the Committee, and thereafter any Member may call it up for consideration.

RULE 14. RECORD VOTES

A record vote on an issue shall be required on the request of a Member which is supported by at least one-fifth of a quorum.

RULE 15. PREVIOUS QUESTION

The Chairman shall not recognize a Member for the purpose of moving the previous question unless the Member has first advised the Chair and those Members present that this is the purpose for which recognition is being sought.

RULE 16. RECOMMENDATION FOR APPOINTMENT OF CONFEREES

Whenever in the legislative process it becomes necessary to appoint conferees, the Chairman shall recommend to the Speaker as conferees the names of those members of the subcommittee (or subcommittees) which handled the substantive legislation in the order of their subcommittee seniority and such other committee members as the Chairman may designate. In making recommendations of minority members as conferees the Chairman shall consult with the ranking minority member of the Committee.

RULE 17. RECORDS OF HEARINGS

An accurate stenographic record shall be kept of all testimony taken at a public hearing. The staff shall transmit to a witness the transcript of his testimony for correction and immediate return to the Committee office. Only changes in the interest of clarity, accuracy and corrections in transcribing errors will be permitted. Changes which substantially alter the actual testimony will not be permitted. Members shall correct their own testimony and return transcripts as soon as possible after receipt thereof. The Chairman may order the printing of the hearing without the corrections of a witness or Member if he determines that a reasonable time has been afforded to make corrections and that further delay would impede the consideration of the legislative action which is the subject of the hearing. A witness appearing in a public hearing, or submitting a statement for the record of a public hearing, or submitting a written comment in response to a published request for comments by the Committee must provide the Committee with a list of any clients or persons, or any organization for whom the witness appears which shall be made available for public inspection unless otherwise directed by the Committee. Verbal testimony and statements for the record, or written comment in response to a request for comments by the Committee, will be accepted only from citizens of the United States or corporations or associations organized under the laws of one of the 50 States of the United States or the District of Columbia, unless otherwise directed by the Chairman of the Committee or subcommittee involved. Written statements from noncitizens may be considered for acceptance if transmitted to the Committee in writing by Members of Congress.

RULE 18. TRANSCRIPTS OF OTHER COMMITTEE MEETINGS

An accurate stenographic record shall also be kept of all markup and other meetings of the Committee, whether they be open or closed to the public. This record, marked as "uncorrected," shall be available for inspection by Members of the House, or members of the Committee together with their staffs, at reasonable times and places. This record shall not be published or made public in any way except by a majority vote of the Committee. Before any public release of the uncorrected record, Members must be given a reasonable opportunity to correct their remarks. In instances in which a stenographic record is kept of a conference committee proceeding, all of the requirements of this rule will likewise be observed with respect to such record.

RULE 19. BROADCASTING OF COMMITTEE OR SUBCOMMITTEE HEARINGS

The provisions of clause 3(f) of Rule XI of the Rules of the House of Representatives are by reference specifically made a part of these rules. In addition, the committee has adopted the following policy with respect to media coverage of meetings:

An appropriate area of the committee's hearing room is designated for members of the press and any equipment they use.

No interviews are allowed in the committee room while the committee is in session. Individual interviews must take place before the gavel falls for the convening of a meeting or after the gavel falls for adjournment.

Day-to-day notification of the next day's electronic coverage will be provided by the media to the Chairman through the chief counsel or some other person who might be designated in his absence.

Still photography will be permitted during a committee meeting as long as it does not disrupt the proceedings or block the vision of committee members or witnesses.

Klieg lights will be permitted to illuminate the hearing room only during the first fifteen minutes following the Chairman's initial calling of the committee to order.

Further conditions may be specified by the Chairman.

RULE 20. PARTY RATIO

The ratio of Democrats to Republicans on any subcommittee of the Committee shall be consistent with the ratio of Democrats to Republicans on the Committee.

RULE 21. PROXY VOTING

Voting by proxy shall be permitted in accordance with the manner prescribed in clause 2(f) of Rule XI of the Rules of the House of Representatives.

RULE 22. TRAVEL OF MEMBERS AND STAFF

Consistent with the primary expense resolution and such additional expense resolution as may have been approved, the provisions of this rule shall govern travel of Committee members and Committee staff. Travel to be reimbursed from funds set aside for the full Committee for any Member or any Committee staff member shall be paid only upon the prior authorization of the Chairman. Travel may be authorized by the Chairman for any Member and any Committee staff member in connection with the attendance of formal or informal hearings conducted by the Committee, its subcommittees, or any other committee or subcommittee of the Congress on matters relevant to the general jurisdiction of the Committee, and meetings, conferences and investigations which involve activities or subject matter relevant to the general jurisdiction of the Committee. Before such authorization is given there shall be submitted to the Chairman in writing the following:

(1) The purpose of the travel;

(2) The dates during which the travel is to be made and the date or dates of the event for which the travel is being made;

(3) The location of the event for which the travel is to be made;

(4) The names of Members and Committee staff seeking authorization.

Where travel is in connection with the conduct by Members of the Committee of an informal hearing, the prior approval not only of the Chairman but also of subcommittee chairmen shall be required where the hearing involves any matter within the jurisdiction of one or more of the subcommittees of the Committee.

In the case of travel of Members and staff of a subcommittee to hearings, meetings, conferences, and investigations involving activities or subject matter under the legislative assignment of such subcommittee to be paid for out of funds allocated to such subcommittee, prior authorization must be obtained from the subcommittee chairman and the Chairman. Such prior authorization shall be given by the Chairman only upon the representation by the applicable chairman of the subcommittee in writing setting forth those items enumerated above.

Within 60 days of the conclusion of any travel authorized under this rule, there shall be submitted to the Chairman a written report covering the information gained as a result of the study or investigation, or meeting, conference or hearing attended pursuant to such travel.●

LEGISLATION TO COMBAT MATH AND SCIENCE TEACHER SHORTAGE

The SPEAKER pro tempore (Mr. STRATTON). Under a previous order of the House, the gentleman from Oklahoma (Mr. MCCURDY) is recognized for 5 minutes.

Mr. McCURDY. Mr. Speaker, yesterday I reintroduced legislation to combat the critical shortage of science and math teachers. Senator JOHN GLENN is reintroducing identical bills in the Senate.

It is our educational system that has enabled us to advance faster and farther than any other country in the world. America's future hinges on high technology, but we do not have the science and math teachers to prepare our young people for their roles in a technological world. In 1981, 43 States reported a shortage of math teachers. Forty-two States reported a shortage of physics teachers. Over the last 10 years there has been a dramatic decline in the number of college students earning degrees in math and science education. According to a survey of school principals, 50 percent of the math and science teachers in our classrooms are unqualified and teaching with emergency certificates.

The key to a quality education is a quality teacher. One of the first steps toward improving math and science education must be a program to attract, retain and update talented teachers. No matter how much time and money we invest in curriculum and equipment, if we do not have the qualified teachers the trend toward scientific illiteracy will continue. If we allow that to happen, we will surely surrender our position of world economic and military leadership.

The legislation which I have introduced directly attacks the teacher shortage. It encourages students to pursue math and science teaching careers. Plus, it gives them an incentive to stay in the classroom.

H.R. 835, the Precollege Mathematics and Science Teacher Assistance Act, amends the Higher Education Act of 1965 to establish a direct student loan program for college students who pursue careers in precollege math and science teaching. For each year that the borrower teaches, a percentage of the loan will be forgiven. If the borrower does not go into teaching, he or she will be required to pay back the loan in full with 9-percent interest. This interest rate is higher than contained in my bill in the 97th Congress. This is not an expensive program. The Congressional Budget Office has estimated that it will cost $12 million in the first year and work its way up to $57 million in the fourth year.

I have also introduced H.R. 836, the Math and Science Education Act. This bill grants a tax credit to high tech firms that hire precollege math and science teachers during the summer or allow their certified employees to teach part time in the local schools. One of the greatest problems facing our education system is the salary differential with industry. Math and science teachers can earn 50 to 100 percent more in industry. Naturally, they are leaving the classroom for the higher paying jobs. This tax credit would supplement teacher salaries and provide them with hands-on high technology experience to prepare their students for future jobs. It would also help alleviate the present shortage as industry begins to share its certified employees with the schools.

While I believe that the loan will attract talented young people into teaching and the tax credit will help retain them in the classroom, we also need a program to update and upgrade the skills of our present teachers. I will shortly be introducing a more comprehensive bill which includes the loan program and a second title for an inservice teacher training program.

I have just returned from a Science and Technology Committee trip to Japan. After several days of meetings with Japanese officials representing government, education, and private industry, what struck me most was their uniform cooperation and commitment to excellence in education. At the close of World War II, the Japanese recognized that a high quality of education must come before productivity and prosperity. They know that education planning is a vital component of economic planning. They have set high standards of scientific literacy for all Japanese citizens. They have made enormous investments in education, allowing them to surpass our own achievements. They are attracting and retaining teachers. Their students are performing better than American students on science and math achievement tests. Their young people are prepared for and pursuing careers in science and technology.

We can learn a lot from the Japanese commitment to excellence in education. I hope that we, as representatives of the people, can join with industry, educators, and the general public in an effective response to the science and math education crisis in America.

I would like to thank the National Council of Teachers of Math and the National Association of Secondary School Principals for their invaluable assistance in formulating this legislation. I would also like to express my appreciation to the National Science Teachers Association, the National Association of Elementary School Principals, and the National Association of State Boards of Education.

This legislation is targeted to a specific need—the critical shortage of qualified teachers. I believe it is an essential component of the solution to our education crisis and I urge my colleagues to join me in this initiative so vital to our Nation's future.

GENERAL LEAVE

Mr. McCURDY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order on today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

AMERICAN CONSERVATION CORPS ACT OF 1983

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. SEIBERLING) is recognized for 5 minutes.

● Mr. SEIBERLING. Mr. Speaker, I am pleased to introduce today, with over 100 of my colleagues, the American Conservation Corps Act of 1983. I am particularly pleased to have had the active support in developing this bill of Mr. PERKINS, Mr. HAWKINS, Mr. CONTE, Mr. BEREUTER, Mr. JEFFORDS, and Mr. ROYBAL.

The bill is essentially identical to the bill which was favorably reported last year by both the Committee on Interior and Insular Affairs and the Committee on Education and Labor. It passed the House last year by a wide margin, with bipartisan support, 291 to 102.

Although last year's bill died in the Senate, companion legislation is being introduced today by Senators MOYNIHAN and MATHIAS. We expect to have the bill considered by the House early in this session, and have been promised that it will be taken up this year by the Senate Energy and Natural Resources Committee.

Last night President Reagan announced that his new budget will include job training and youth summer employment programs. This is just such a program. It would establish a youth conservation work program, modeled after the Civilian Conservation Corps (CCC) of the 1930's. The purpose is twofold: to provide jobs and training for young people who need them and to accomplish needed conservation work in a cost-effective efficient way.

The program would be funded with Federal revenues from various leasing and permitting activities. It would be administered by the Secretary of the Interior in cooperation with the Secretaries of Agriculture and Labor. Other Federal agencies as well as State and local governments and Indian tribes would also be eligible to participate.

With unemployment among youth at record highs (over 50 percent for black youth alone), this bill would be one cost-effective step we can take to offer them meaningful jobs that will not only aid them during these present difficult times but that will help provide them with a future as well. Like the old CCC, it would help restore physical and land-based resources, from which future industries and jobs can be dervied.

SUPPORT

The legislation is supported by a broadbased coalition of organizations, ranging from the American Forestry Association and the National Parks and Conservation Association to the Native American Rights Fund, the National Urban League and the U.S. Conference of Mayors.

I would also like to note that the bill has benefited from input and guidance from people who have worked with youth conservation programs for more than a decade, including Federal and State youth conservation program staff who gave us many insights, as well as factual data. Where there were problems with the previous programs, we tried to remedy them; where there were successes, we tried to build on them. That we succeed is measured by the wide support the legislation has received both in the Congress and throughout the country.

SERVING THE DISADVANTAGED

The proposed ACC, and its predecessors, the Youth Conservation Corps (YCC) and the Young Adult Conservation Corps (YACC), were criticized by the administration for not being targeted exclusively to disadvantaged youth. Targeting determines who is eligible for a program; it does not determine or guarantee a good program. Indeed testimony at subcommittee hearings in the 97th Congress cited research which concluded that programs designed to bring minority and disadvantaged groups together work well. Research on YCC shows convincingly that enrollees increased their social skills by working and learning with people from different ethnic and economic backgrounds. This breaking down of barriers between groups is a desirable social outcome, consistent with decades of effort directed at a more integrated national society. The new ACC program would give preference to selection of minorities and disadvantaged young people, but without precluding other youth interested in working for conservation and natural resources.

Even setting aside social considerations, the fact is that well over half of the participants in the previous programs were from families earning less than $15,000 a year and over a third were from families earning less than $10,000 a year. Under the provisions of the bill requiring that special consideration be given to disadvantaged youth, the percentages will undoubtedly be higher; yet the door will still be open to allow youth from a wide variety of backgrounds to have the opportunity to work together.

QUALITY OF WORK

This is not a make-work program. Habitat protection, reforestation and timberland improvement, restoration of recreational facilities and commercial fisheries, research on endangered species, and public resource maintenance are not marginal in value or work content. When enrollees in previous programs did less skilled types of work, regular agency staff were released for projects requiring high skills.

Indeed, the enrollees were not supposed to replace other workers, but rather do the work that was needed and which would otherwise not be accomplished. The youth projects reflected the full range of work required to carry out the missions of land management agencies.

BENEFITS

Furthermore, the cost effectiveness, as well as the quality, of the two programs was documented at subcommittee hearings in the last Congress. Agency representatives from the Departments of the Interior and Agriculture testified that, for each $1 spent in the YCC program $1.04 was returned in the value of the work, averaged nationwide. For YACC the average return was $1.20. In individual cases the value of the work reached over $7 per dollar expended.

There are, moreover, future benefits of these programs, long-term values for renewable resources as well as for the youth themselves. For example, the Chairman of the Board of Directors of the Tennessee Valley Authority, in a letter to the subcommittee, noted that, as a result of TVA's use of the Civilian Conservation Corps in the 1930's, trees that were planted by the CCC "provided the resources base for a still-growing, multibillion-dollar forest industry that today employs some 60,000 valley citizens."

In recent years, the TVA has also used the YACC program. Over 5,000 valley young people were provided employment and on-the-job training from 1977 to April 1982. In a news release announcing the closure of the program, TVA noted that these young workers were "responsible for more than $17 million in needed conservation and resource development projects and provided $1.50 worth of work for every $1 of investment. Projects have included strip mine reclamation, historic building restoration, energy conservation projects, urban park development, State park maintenance, and hiking trail construction."

The future value of renewable resource projects conducted under the ACC would, in fact, make a positive economic contribution at a time when resources, worldwide, are under enormous pressure.

Implementation of the ACC at the earliest possible time would be a wise and prudent investment in the future. Consideration of the measure comes at a time when youth unemployment is at record levels, when public lands and facilities face increased pressure from visitor use, and when serious environmental and resource problems are not getting the attention they deserve. Potential benefits of the program far outweigh its costs.

In summary, the American Conservation Corps is an investment in the future, both for our Nation's lands and for our Nation's youth.●

THE FIRST STEP TOWARD LONG-TERM ECONOMIC REVITALIZATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LUNDINE) is recognized for 5 minutes.

● Mr. LUNDINE. Mr. Speaker, last Congress, I proposed legislation, together with my colleagues DAVE BONIOR and LEE HAMILTON, to establish a National Industrial Development Board. Hearings were held by the Economic Stabilization Subcommittee of the House Banking Committee during the last Congress on this proposal, but definitive action was not taken.

Today, we once again submit this proposal for further consideration by the House. I am convinced it provides a framework and important first step in addressing our country's serious in-

dustrial decline and in acknowledging the needs of our emerging growth industries of the future.

Our country is beset with serious and complex long-term economic problems. These problems go to the very heart of the structure of our institutions and of our economy. I was moved to propose this legislation last year after realizing that our problems have grown way beyond the scope of traditional policy prescriptions and that the approach to development of new long-term economic policies is going to require a breaking down of the traditional adversarial relationship between Government, business, labor, and other interests in our society. A consensus between these critical players in our economy must be developed. It cannot be imposed by government and will not evolve if left to the whims of the marketplace.

The problems of the rest of this century are different then they have been in our past. For the first time, we are a Nation which has experienced several consecutive years of decline in productivity growth. We are a Nation which is beset with competitive challenges from abroad in many of the linkage industries which are basic to our industrial base and national defense capability. We are in the midst of a great technological revolution. Millions of previously productive American workers need to be educated for the transition to a new work world of the 1980's. Supply of energy and other natural resources is strained. Our business community is paralyzed, being caught between the uncertainties of changes in national policies and their own short-term goals and objectives. As a result, they continue to fail to invest in the long-term future of our basic industries.

While the majority of new jobs which have been created in our country has occurred in the service sector of our economy, it is fundamentally important to understand that this service sector cannot remain strong over the long term without a robust industrial sector in our economy. Just as our agricultural base has provided this country with the wherewithal to expand over the past century, so too will a strong and competitive industrial base be essential to economic growth in our future.

Last year when I introduced this legislation, I went into great detail about the troubled state in many key industries in our Nation. Unfortunately, a reexamination of the status of these industries 1 year later reflects that they are as troubled, if not more so, then they were then. Automobiles, steel, construction, machine tools, textiles, glass, rubber, chemicals, consumer electronics, and even semiconductors, are facing critical long-term problems.

It is also evident today that most of the macroeconomic policies that were still being touted last year as the solution to revitalizing our economy and industrial base have failed in their task. However, macroeconomic policies, no matter how well thought through are not going to be enough to reindustrialize our economy. We need to couple sensible macroeconomic policies with an industrial policy aimed at the various constituent parts of this economic quagmire.

Many people fear the effort to develop an industrial policy on the basis that it would amount to the Government picking winners and losers. Such a concern is not well founded when the proposal I am making to establish a National Industrial Development Board is carefully considered. I am proposing a mechanism for development of consensus and cooperation in terms of long-term investment strategies and Government policies designed to complement them.

The fact is that we already have an industrial policy in this country; one of the worst kind. It is an industrial policy based on ad hoc political decisions instead of one based on a consensus and accurate information. Today, the Government subsidizes many aspects of the energy industry, and a host of business activities through tax policy and other financing mechanisms. We make decisions about investment in public infrastructure without careful thought about how they coordinate with our long-term industrial goals. Government subsidizes research and development in various industries. Finally, through regulatory policy, particularly in the area of antitrust, government influences industrial development.

This ad hoc industrial policy was sufficient for many years while the United States was the preeminent world economic leader. Today, however, we face fierce competition and foreign governments which are targeting policies to capture our markets. As such, we need to have a deeper understanding of how we can most effectively meet this new challenge and how we can most fairly distribute the sacrifices that are going to be required to keep America strong.

We need a new institutional mechanism to insure that our ad hoc industrial policy evolves into one that can address the problems of the future. The National Industrial Development Board would bring together, in equal numbers, chief executives of major businesses, presidents of major unions, national political leaders and major representatives of the public interest, such as environmentalists, consumerists, minorities, educators, and small businesspeople.

The Board's specific responsibilities will include: First, recommending industrial development priorities for the United States; second, recommending solutions to particular problems of industrial policy which are referred to the Board by congressional committees or executive agencies; and third, providing credible, consensus-backed information on the domestic and global economic situation.

The Board would be strictly advisory in nature. This will facilitate the development of consensus and insure that that consensus is based on a process of fact finding and negotiation, instead of special interest lobbying.

Members of the Board will be appointed by the President from nominees forwarded to him by the Speaker of the House, the majority leader of the Senate, and the minority leaders of both Chambers. Members will serve for 6 years. The Board will have a permanent staff of around 200 to assist in development of data and information and to lay the groundwork for consensusmaking by the Board.

The work of the Board will encompass assessments of sectors which are experiencing structural decline, sectors which can anticipate difficulties in coming years, and high-technology industries which promise strong growth in the future. The Board will report annually to Congress and the President on the results of its analysis. This will be in addition to specific tasks referred to the Board by key congressional committees. Finally, the Board will provide a badly needed service of monitoring shifts in the international economy and of providing early warning of threats to the competitiveness of domestic industries. This information resource will be invaluable in the years ahead.

In the months ahead, as Congress attempts to grapple with the perplexing problems of our economy, this legislation should receive careful scrutiny. While we have many serious short-term economic concerns, at the same time, we must lay the foundation for development of a long-term economic strategy for our country. Everyone seems to agree that we need to encourage a closer working relationship between government, labor, and industry to solve our economic problems. The call for the development of an Economic Cooperation Council by many Democrats recently as a central component to future economic policy is an example of the belief that a new institution like the National Industrial Development Board is critically needed.

Since serving as mayor of a small upstate New York community in Jamestown, N.Y., before coming to Congress, I have seen the many economic benefits of labor, management, government, and community cooperation and consensus. In many ways, Jamestown in the 1970's was a microcosm of the problems facing us more broadly across the country today. Through the

institutionalization of labor-management committees in Jamestown, whose goal was the enhancement of cooperation and consensus building, we were able to turn the economy of that small New York town around. Similar efforts at cooperation and consensus building, have paid rich dividends for other communities across the country. What we have learned from these experiences should not be ignored at the national level.

We need a National Industrial Development Board, or an Economic Cooperation Council, or call it what you may. The design of the National Industrial Development Board I am proposing is carefully thought through, although I am certainly open to dialog about its various elements. Some believe, for example, that the size of the Board is too large, or that we need to change the composition of its membership somewhat. Others advocate that such a board be attached to a bank or several banks to insure that recommendations based on consensus can be more easily implemented.

I will be reviewing all of these points carefully in upcoming months. I hope that we can explore them together and begin to build a long-term economic policy for this country. It is time that we discard the ad hoc, adversarial, and short-term mentality that has governed our Federal policies throughout this century. Our country's future presents us with a greater challenge than ever before in our history. If we can collectively meet that challenge through innovation and trust, our future will also provide us with greater opportunity.●

NATIONAL INDUSTRIAL DEVELOPMENT BOARD ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. BONIOR) is recognized for 5 minutes.

● Mr. BONIOR of Michigan. Mr. Speaker, with the gentleman from New York (Mr. LUNDINE) and the gentleman from Indiana (Mr. HAMILTON), I am introducing today the National Industrial Development Board Act. I want to commend the gentleman from New York for his leadership in guiding the development of this measure.

Our Nation faces its deepest economic crisis since the Great Depression. Prompting a full recovery, including immediate economic stimulus through job creation, is the highest priority facing this Congress.

Yet, as we face the problems of the present, we cannot avoid questions about our future and our past, about the forces that helped create the present recession and remain imbedded in our economy.

America faces economic problems beyond the present cyclical swing. Those problems haunted our past and will shape our future.

America faces the problem of leveling productivity growth in a world where our competitors have been increasing their productivity aggressively. America faces the demands of a new society with an expanded work force. America faces the problem of declining growth in industrial investment.

These problems cannot be wished away. Nor can their solution be left to the often distant effects of larger macroeconomic policies. These problems reflect failures of our marketplaces. They reflect specific sectoral issues. They reflect unique regional needs. These problems must be faced directly and addressed in their own terms.

As our distinguished colleague, the recently retired chairman of the Joint Economic Committee, Mr. Reuss, put it, "there is a consensus that we need a consensus." The problems of an ailing industrial base cannot be met by an adversarial system of interest advocacy that pits labor, management, public interests, and government against each other in escalating rounds of charge and countercharge.

The greatest single precondition to a new consensus is policies that will restore the belief that our society and its government are fair; that sacrifices will be borne by all and that we will all share in the opportunities of a better future. But that alone will not be enough.

America needs a new consensus, but stating the need is easier than defining the path. America needs to bring its diverse interests together in a combined decisionmaking process. The Industrial Development Board Act proposes we take a step toward that consensus by creating a new institutional mechanism for industrial problem solving.

The road to a new consensus would be hard in any case because it inevitably involves a compromise of interests. The task is made doubly difficult by its strangeness. The very idea of an explicit industrial strategy is new to America.

The dominance of the United States in the post-World War II world allowed us to avoid, for a while, the need for an explicit industrial strategy. Nearly alone in a war-ravaged world, America was given a competitive edge. Our great vision of a shared prosperity seemed easily attained. Today, that edge and that vision can no longer be assumed. They must be consciously sustained.

We must face the hard facts of a newly competitive world marketplace. We must face the hard facts of past errors. We must face the human costs of industrial change. We must face them as a nation, conscious of the choices, seeking fairness and growth.

We have delayed long enough. This bill presents us with the opportunity of a new beginning.●

ONE HUNDRED YEARS OF CIVIL SERVICE MYTHS AND REALITIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. PANETTA) is recognized for 5 minutes.

Mr. PANETTA. Mr. Speaker, I would like to take this opportunity to commemorate the 100th anniversary of the Pendleton Act which transformed our Government from a chaotic spoils system to a stable career civil service based on merit. I would also like to pay tribute to 100 years of outstanding service by Government workers who protect us from fire and crime, who provide health and financial assistance to our sick and elderly, and whose scientific and technological research has enabled us to maintain the American way of life.

I am very concerned by the lack of appreciation many Americans show for our Federal employees. There is a growing perception that the Federal Government has become an unproductive monolith whose growth is exploding beyond control. In reality, while the Federal budget has grown 800 percent over the past 30 years, the growth of the Federal work force has been only 9.7 percent. In 1952 there were 2.57 million Federal civilian employees, today there are just over 2.8 million. And as a percentage of total U.S. civilian employment, Federal employment has been decreasing from 3.8 percent in 1968 to 2.7 percent today.

Federal employees have been depicted as inefficient and unproductive. Witness the private package delivery firm's advertisement which portrays U.S. postal workers as rude and apathetic. The fact is the U.S. Postal Service delivers more mail, more efficiently, at a lower cost than any other nation in the world. It handles 110 billion letters per year, over 160,000 pieces per employee, a worker productivity rate almost 50 percent higher than in Japan. In addition, the 20-cent cost of mailing a first-class letter in the United States is lower than in any industrialized country in the world, except Belgium and Switzerland. Overall, since 1967 the average annual increase in productivity has been 1.4 percent among Federal workers. Most private sector executives can only dream of such productivity gains.

Despite improvements in Government efficiency and productivity we are now facing a severe crisis in the civil service system. The Reagan administration has embarked on a dangerous campaign against the career service unmatched in the 100-year history of the merit system. The result has been a consistent loss of qualified

and reliable senior personnel at an unprecedented rate.

Through the widespread use of reduction-in-force measures the administration has tried to put its ideological imprint on what is supposed to be an apolitical career civil service. In hastily conceived agency reorganization plans more and more political appointees are being brought in as former career posts are turned into prizes for the politically reliable. Administration planners even conducted a seminar for managers entitled, "How To Avoid Committing Prohibited Personnel Practices in the Reagan Administration." A better title would have been "How To Unload the Politically Unreliable Career Employee, and Get Away With It."

Many of the President's appointees have come to Washington with the idea that Government does not work. In many cases they are charged with the administration of programs which they are ideologically committed to abolishing. The career employee, who knows that Government does work, cannot help but feel alienated and insecure in this environment.

To make matters worse, civil service salaries have not even begun to keep pace with inflation. According to the President's Advisory Committee on Federal Pay, Government salaries are 13.9 percent below wages for comparable private sector jobs. The salaries of top level career employees have increased by only 75 percent since 1969. Yet in the same period the Consumer Price Index rose by over 160 percent. The pay comparability law, enacted in 1970 to insure equal pay for equal work, has been systematically ignored since its inception.

The average employee contribution to the Federal employee health benefit program has increased by 55 percent over the past 2 years. At the same time FEHBP benefits have been reduced by an average of 15 percent. In addition, Federal employees are now required to pay a 1.3 percent of salary medicare tax in order to be eligible for part A medicare benefits. And this year, the President is expected to propose an increase in employees' present 7 percent of salary contribution for retirement benefits to 11 percent in 1985. Clearly, these proposals are inequitable and have dealt a low blow to the dedicated career employee.

Mr. Speaker, when we combine the politicization of the career service with miserable pay comparability we are left with a demoralized Federal work force. This has led to the situation which we now face; a "brain drain" in which top level careerists are leaving the civil service at an alarming rate. In 1981, 78 percent of all eligible senior executives age 55 to 59 opted for early retirement, compared with 19 percent in 1978. These are seasoned professionals at the height of their productivity and expertise, and we are losing them to the private sector.

Clearly, the administration is in danger of creating a self-fulfilling prophecy. If this brain drain is allowed to continue, we might just find ourselves with the bumbling and unproductive bureaucracy that the President seeks to eliminate. Let us not cut off our nose to spite our face. What we need now is a balanced policy which takes into account both the needs of productive employees and the taxpayer's right to a cost-effective and efficient civil service. I think this is what Congress had in mind when it passed the Pendleton Act 100 years ago.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GILMAN) to revise and extend their remarks and include extraneous material:)

Mr. GEKAS, for 10 minutes, today.

Mr. COUGHLIN, for 60 minutes, on February 2.

(The following Members (at the request of Mr. ORTIZ) to revise and extend their remarks and include extraneous material:)

Mr. GONZALEZ, for 10 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. COYNE, for 5 minutes, today.

Mr. NELSON of Florida, for 5 minutes, today.

Mr. ROE, for 5 minutes, today.

Mr. BEDELL, for 5 minutes, today.

Mr. ROSTENKOWSKI, for 5 minutes, today.

Mr. MCCURDY, for 5 minutes, today.

Mr. STARK, for 30 minutes, on January 27.

Mr. BONER of Tennessee, for 20 minutes, on January 27.

Mr. MICA, for 5 minutes, on January 27.

Mr. HOYER, for 60 minutes, on January 31.

Mr. OTTINGER, for 60 minutes, on March 17.

(The following Members (at the request of Mr. MCCURDY) to revise and extend their remarks and include extraneous material:)

Mr. SEIBERLING, for 5 minutes, today.

Mr. LUNDINE, for 5 minutes, today.

Mr. BONIOR of Michigan, for 5 minutes, today.

Mr. PANETTA, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. GILMAN) and to include extraneous matter:)

Mr. GREEN.

Ms. FIEDLER.

Mr. YOUNG of Alaska in two instances.

Mr. BROOMFIELD.

Mr. MACK.

Mr. MCGRATH.

Mr. LENT in two instances.

Mr. GILMAN in three instances.

Mr. BADHAM.

Mr. WHITEHURST.

Mr. WOLF.

Mr. YOUNG of Florida.

Mr. GOODLING.

(The following Members (at the request of Mr. ORTIZ) and to include extraneous matter:)

Mr. MURTHA.

Mr. MCDONALD in five instances.

Mr. OBERSTAR.

Ms. KAPTUR.

Ms. FERRARO.

Mrs. COLLINS in three instances.

Mr. WEISS in two instances.

Mr. RAHALL.

Mr. DOWNEY of New York in three instances.

Mr. COELHO.

Mr. MURPHY.

Mr. MATSUI.

Mr. BEILENSON.

Mr. MICA.

Mrs. BOXER.

Mr. STARK in three instances.

Mr. HANCE.

Mr. LONG of Maryland.

Mr. MAZZOLI.

Mr. EDGAR.

Mr. CLAY.

Mr. JONES of Tennessee.

(The following Members (at the request of Mr. MCCURDY) and to include extraneous matter:)

Mr. DONNELLY in two instances.

Mr. LUNDINE.

Mr. GUARINI in two instances.

Mr. HUBBARD.

Mrs. COLLINS in two instances.

Mr. MAZZOLI.

ADJOURNMENT

Mr. MCCURDY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 28 minutes p.m.), the House adjourned until tomorrow, Thursday, January 27, 1983, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

196. A letter from the Director, Office of Management and Budget, transmitting a Soil Conservation Service plan for the Elm Creek watershed, Texas, pursuant to section 5 of Public Law 83-566 as amended; to the Committee on Agriculture.

197. A letter from the Chairman, National Commission for Employment Policy, transmitting the Commission's eighth annual

report, pursuant to section 505 of Public Law 93-203; to the Committee on Education and Labor.

198. A letter from the Secretary of Energy, transmitting a request to delay the fourth national energy policy plan by 60 days from April 1 to May 31, 1983, pursuant to Public Law 95-91; to the Committee on Energy and Commerce.

199. A letter from the Secretary of State, transmitting a report on the activities and certain financial information concerning the participation of the United States in the Multinational Force and Observers, pursuant to section 6 of Public Law 97-132; to the Committee on Foreign Affairs.

200. A letter from the Director, Defense Security Assistance Agency, transmitting a report covering the quarter ended December 31, 1982, listing the price and availability estimates provided to countries and the requests for issuance of letters of offer received, pursuant to section 28 of the Arms Export Control Act, as amended; to the Committee on Foreign Affairs.

201. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense articles and services to the Philippines (Transmittal No. 83-13), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

202. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Navy's intention to offer to sell certain defense articles and services to Spain (Transmittal No. 83-14), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

203. A letter from the Acting Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

204. A letter from the Comptroller General of the United States, transmitting a report evaluating the evolution of management and administrative support systems in the Federal Emergency Management Agency (GAO/GGD-83-9, January 6, 1983); to the Committee on Government Operations.

205. A letter from the Comptroller General of the United States, transmitting an audit of the Senate Building beauty shop for the fiscal year ending February 28, 1982 (GAO AFMD-83-6; January 6, 1983); to the Committee on Government Operations.

206. A letter from the Acting Inspector General, Department of Labor, transmitting a report of a proposed computer match of State unemployment insurance and U.S. Department of Treasury employee payroll records, pursuant to Public Law 95-452; to the Committee on Government Operations.

207. A letter from the Executive Director, Committee for Purchase from the Blind and Other Severely Handicapped, transmitting the committee's annual report of activities under the Freedom of Information Act during calendar year 1982, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

208. A letter from the Clerk of the House of Representatives, transmitting a list of reports which it is the duty of any officer or department to make to Congress, pursuant to rule III, clause 2, of the Rules of the House of Representatives (H. Doc. No. 98-11); to the Committee on House Administration and ordered to be printed.

209. A letter from the Chairman, U.S. Civil Rights Commission, transmitting a report entitled "Intimidation and Violence: Racial and Religious Bigotry in America," pursuant to section 104(c) of Public Law 85-315; to the Committee on the Judiciary.

210. A letter from the Clerk, U.S. Court of Claims, transmitting a report on all judgments rendered by the court during fiscal year 1982, pursuant to 28 U.S.C. 791(c); to the Committee on the Judiciary.

211. A communication from the President of the United States, transmitting a draft of proposed legislation to designate a "Nancy Hanks Center" and the "Old Office Building" in Washington, D.C., and for other purposes (H. Doc. No. 98-12); to the Committee on Public Works and Transportation and ordered to be printed.

212. A letter from the Chairman, Six-State High Plains Study Council, transmitting a report on the Ogallala aquifer regional study with recommendations, pursuant to section 193 of Public Law 94-587; to the Committee on Public Works and Transportation.

213. A letter from the Secretary of Defense, transmitting notice of the waiver of the staffing requirements and the monetary set-aside provisions in the Office of Research and Technology Applications, pursuant to section 11(b) (1) and (2) of Public Law 96-480; to the Committee on Science and Technology.

214. A letter from the Secretary of Energy, transmitting the second annual report on activities under the Methane Transportation Research, Development, and Demonstration Act of 1980, pursuant to section 9 of Public Law 96-512; to the Committee on Science and Technology.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

[Omitted from the Record of January 25, 1983]

H.R. 764 was introduced by Mr. BEILENSON.

H.R. 765 through 770 were introduced by Mr. DAUB.

By Mr. GAYDOS:

H.R. 942. A bill to amend the Securities Exchange Act of 1934 to restrict persons who are not citizens of the United States from acquiring more than 35 percent of the nonvoting securities or more than 5 percent of the voting securities of any issuer whose securities are registered under such act, and for other purposes; to the Committee on Energy and Commerce.

[Introduced January 26, 1983]

By Mr. ANDERSON:

H.R. 943. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income reduced airline fare benefits received by airline employees and their families; to the Committee on Ways and Means.

By Mr. BEDELL:

H.R. 944. A bill to amend title II of the Social Security Act to provide that no benefits thereunder may be paid to convicted criminals who are inmates of penal institutions; to the Committee on Ways and Means.

H.R. 945. A bill to amend title II of the Social Security Act to provide that the automatic cost-of-living increases in benefits thereunder shall be based either on increases in the Consumer Price Index or on increases in wages, whichever (in any particular case) is lower; to the Committee on Ways and Means.

H.R. 946. A bill to amend title II of the Social Security Act and chapters 2 and 21 of the Internal Revenue Code of 1954 to provide that the hospital insurance program shall hereafter be financed from general revenues rather than through the imposition of payroll taxes as at present, reallocating the future proceeds of such taxes to the old-age, survivors, and disability insurance program in order to assure the actuarial soundness of that program; to the Committee on Ways and Means.

By Mr. BEILENSON:

H.R. 947. A bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 to require manufacturers of new passenger cars to install high-mounted rear stop lamps in such passenger cars to reduce rear-end collisions by providing a more effective brake warning to following drivers; to the Committee on Energy and Commerce.

By Mr. BENNETT:

H.R. 948. A bill to modify the navigation project for Jacksonville Harbor, Fla., to authorize the Secretary of the Army to improve navigation in Mill Cove, Jacksonville Harbor, Fla.; to the Committee on Public Works and Transportation.

By Mr. DANIEL:

H.R. 949. A bill to amend the Immigration and Nationality Act to repeal the authority to establish an adverse wage rate, for nonimmigrant aliens brought into the United States for temporary agricultural labor, higher than the highest of the Federal or State minimum wage rate or the prevailing wage rate; to the Committee on the Judiciary.

By Mr. DAUB (for himself, Mr. WHITEHURST, Mr. DENNY SMITH, Mr. FORSYTHE, Mr. PETRI, Mr. WOLF, Mr. MCDADE, Mr. MCEWEN, Mr. GOODLING, Mr. LAGOMARSINO, Mr. BEVILL, Mrs. MARTIN of Illinois, Mr. OXLEY, Mr. HUGHES, Mr. GLICKMAN, Mr. MORRISON of Washington, Mr. SOLOMON, Mr. LEWIS of California, Mr. TAUKE, Mr. PORTER, Mr. RAHALL, Mr. JACOBS, Mr. COATS, Mr. MCDONALD, Mr. LUNGREN, Mr. HARTNETT, Mr. BROWN of Colorado, Mr. WON PAT, Mr. BLILEY, Mr. ROWLAND, Mr. COUGHLIN, Mr. VANDER JAGT, Mr. ROBERTS, Mr. NICHOLS, Mr. ROBERT F. SMITH, Mr. HANCE, Mr. KINDNESS, Mr. SENSENBRENNER, Mr. WORTLEY, Mr. ROBINSON, Mr. MCKINNEY, Mrs. VUCANOVICH, Mr. PARRIS, Mr. HANSEN of Idaho, Mr. HILER, Mr. SILJANDER, Mr. CAMPBELL, Mr. PAUL, Mr. BEDELL, Mr. WINN, Mr. WEAVER, Mr. MURPHY, Mr. MCCOLLUM, Mr. RITTER, Mr. MCCAIN, Mrs. SCHNEIDER, Mr. ROGERS, Mr. BILIRAKIS, Ms. FIEDLER, Mr. MARRIOTT, Mr. WHITTAKER, Mr. SAM B. HALL, JR., Mr. RUDD, Mr. HANSEN of Utah, Mr. DUNCAN, Mr. FIELDS, Mr. STANGELAND, Mr. KASICH, Mr. DEWINE, Mrs BOUQUARD, and Mr. KOGOVSEK):

H.R. 950. A bill to amend title II of the Social Security Act to provide generally that benefits thereunder may be paid to aliens only after they have been lawfully admitted to the United States for permanent residence, and to impose further restrictions on the right of any alien in a foreign coun-

try to receive such benefits; to the Committee on Ways and Means.

By Mr. DAUB (for himself, Mr. SUNIA, Mr. WON PAT, Mr. RATCHFORD, Mr. SAM B. HALL, JR., Mr. HAMMERSCHMIDT, Mr. MITCHELL, Mr. FRANK, Mr. RICHARDSON, Mr. HOWARD, Mr. PRICE, Mrs. HOLT, Mr. KINDNESS, Mr. SCHEUER, Mr. CONYERS, Mr. MCKINNEY, Mr. SOLARZ, Mr. BEREUTER, Mr. APPLEGATE, Mr. BEVILL, Mr. FORSYTHE, Mr. ADDABBO, Mr. SOLOMON, Mr. MCCOLLUM, Mrs. SCHNEIDER, Mr. WORTLEY, Mr. DEWINE, Mr. SWIFT, Mr. LIPINSKI, Mr. KOGOVSEK, and Mr. EDGAR):

H.R. 951. A bill to amend title II of the Social Security Act to provide that a monthly insurance benefit thereunder shall be paid for the month in which the recipient dies and that such benefit shall be payable for such month only to the extent proportionate to the number of days in such month preceding the date of the recipient's death; to the Committee on Ways and Means.

By Mr. DAUB:

H.R. 952. A bill to prohibit permanently the issuance of regulations on the taxation of fringe benefits; to the Committee on Ways and Means.

By Mr. BIAGGI:

H.R. 953. A bill to limit availability and use of handgun bullets that are capable of penetrating certain body armor; to the Committee on the Judiciary.

H.R. 954. A bill to amend the Internal Revenue Code of 1954 to lower the limitation on defined benefit plans established for policemen and firemen; to the Committee on Ways and Means.

H.R. 955. A bill to establish a bipartisan national commission to study ways of improving Federal and State efforts to enforce child support obligations and recoup delinquent child support payments; jointly, to the Committees on the Judiciary and Ways and Means.

By Mr. PHILIP M. CRANE:

H.R. 956. A bill to amend the Airport and Airway Improvement Act of 1982 to make all privately owned airports which are used for public purposes eligible for assistance under that act; to the Committee on Public Works and Transportation.

H.R. 957. A bill to repeal the withholding of tax from interest and dividends; to the Committee on Ways and Means.

H.R. 958. A bill to repeal part B of title XI of the Social Security Act (relating to peer review of the utilization and quality of health care services); jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. DONNELLY:

H.R. 959. A bill to amend the Immigration and Nationality Act to provide that aliens who die while serving with the U.S. Armed Forces during certain periods of hostilities may be considered to have been citizens of the United States at the time of such aliens' deaths; to the Committee on the Judiciary.

H.R. 960. A bill to confer citizenship posthumously on Cpl. Wladyslaw Staniszewski; to the Committee on the Judiciary.

H.R. 961. A bill to authorize construction of the project for flood control, Town Brook, Mass.; to the Committee on Public Works and Transportation.

H.R. 962. A bill to repeal sections 301 through 308 of the Tax Equity and Fiscal Responsibility Act of 1982, which impose withholding on interest and dividends; to the Committee on Ways and Means.

By Mr. DUNCAN (for himself and Mr. BONER of Tennessee):

H.R. 963. A bill to provide that no gain shall be recognized for purposes of the Internal Revenue Code of 1954 from any net gift made before March 4, 1981; to the Committee on Ways and Means.

By Mr. EMERSON:

H.R. 964. A bill to amend the Internal Revenue Code of 1954 to exempt farm trucks from the heavy truck use tax where use on public highways does not exceed 10,000 miles; to the Committee on Ways and Means.

By Ms. FIEDLER:

H.R. 965. A bill to amend the Internal Revenue Code of 1954 to provide a refundable tax credit for taxpayers who maintain households which include elderly persons who are determined by a physician to be disabled; to the Committee on Ways and Means.

H.R. 966. A bill to amend the Trade Act of 1974 to provide for congressional initiation of actions to respond to unfair foreign trade practices, and for other purposes; to the Committee on Ways and Means.

H.R. 967. A bill to amend the Internal Revenue Code of 1954 to extend the credit for the employment of certain new employees, to include as a targeted group for purposes of such credit certain individuals who have exhausted their rights to unemployment benefits, and for other purposes; to the Committee on Ways and Means.

By Mr. FOLEY:

H.R. 968. A bill to amend the Saccharin Study and Labeling Act to extend the period during which the Secretary of Health and Human Services may not prohibit or restrict the sale or distribution of saccharin or products containing saccharin; to the Committee on Energy and Commerce.

By Mr. FRENZEL:

H.R. 969. A bill to amend the Internal Revenue Code of 1954 to provide tax-saving incentives for savings accounts established for the purpose of purchasing a home; to the Committee on Ways and Means.

H.R. 970. A bill to amend the Internal Revenue Code of 1954 to exempt from tax gain the sale of an individual's principal residence; to the Committee on Ways and Means.

H.R. 971. A bill to amend the Internal Revenue Code of 1954 to provide that no gain or loss will be recognized in the case of transfers of a principal residence in divorce or legal separation proceedings; to the Committee on Ways and Means.

H.R. 972. A bill to amend the Internal Revenue Code of 1954 to provide certain individuals living abroad an exclusion for income from sources within foreign countries; to the Committee on Ways and Means.

H.R. 973. A bill to amend the Internal Revenue Code of 1954 to make permanent the present percentage rate for computing the addition to reserves for bad debts for banks and to modify the experience method to allow a showing based on facts and circumstances; to the Committee on Ways and Means.

H.R. 974. A bill to amend the Internal Revenue Code of 1954 to make certain changes in the tax treatment of private foundations; to the Committee on Ways and Means.

H.R. 975. A bill to amend the Internal Revenue Code of 1954 to allow the tax-exempt status of the interest of certain life insurance accounts to flow through to policyholders; to the Committee on Ways and Means.

H.R. 976. A bill to amend the Internal Revenue Code of 1954 to provide that the amount of the charitable deduction allowable for expenses incurred in the operation of a motor vehicle will be determined in the same manner Government employees determine reimbursement for use of their vehicles on Government business; to the Committee on Ways and Means.

H.R. 977. A bill to amend the Internal Revenue Code of 1954 with respect to the definition of political contribution; to the Committee on Ways and Means.

H.R. 978. A bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 to provide for the treatment of trucking industry plans under rules governing multiemployer plans and to make certain other improvements in such rules; jointly, to the Committees on Ways and Means and Education and Labor.

H.R. 979. A bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 to permit the making of certain loans and leases by an employee benefit plan to a substantial employer maintaining the plan, and for other purposes; jointly, to the Committees on Ways and Means and Education and Labor.

By Mr. FRENZEL (for himself and Mr. JENKINS):

H.R. 980. A bill to amend the Internal Revenue Code of 1954 relating to group term life insurance purchased for employees; to the Committee on Ways and Means.

By Mr. FRENZEL (for himself and Mr. GIBBONS):

H.R. 981. A bill to amend the Internal Revenue Code of 1954 to provide more equitable taxation of foreign source income, and for other purposes; to the Committee on Ways and Means.

By Mr. GEJDENSON (for himself, Mrs. JOHNSON, Mrs. KENNELLY, Mr. MCKINNEY, Mr. MORRISON of Connecticut, and Mr. RATCHFORD):

H.R. 982. A bill to provide for the settlement of land claims of the Mashantucket Pequot Indian Tribe of Connecticut, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. GILMAN:

H.R. 983. A bill to amend the Internal Revenue Code of 1954 to make the credit for dependent care expenses a refundable credit and to allow an additional investment tax credit for dependent care center property; to the Committee on Ways and Means.

H.R. 984. A bill to repeal the withholding on interest and dividends enacted by the Tax Equity and Fiscal Responsibility Act of 1982; to the Committee on Ways and Means.

By Mrs. HOLT:

H.R. 985. A bill to amend chapter 44 of title 18 of the United States Code (respecting firearms) to penalize the use of firearms in the commission of any felony and to increase the penalties in certain related existing provisions; to the Committee on the Judiciary.

By Mr. LATTA:

H.R. 986. A bill to repeal the withholding on interest, dividends, and patronage dividends enacted by the Tax Equity and Fiscal Responsibility Act of 1982; to the Committee on Ways and Means.

By Mr. LENT:

H.R. 987. A bill to authorize the Secretary of Housing and Urban Development to make grants to local agencies for converting closed school buildings to efficient, alternate uses, and for other purposes; to the

Committee on Banking, Finance and Urban Affairs.

By Mr. LENT (for himself and Mr. MCGRATH):

H.R. 988. A bill to amend the Internal Revenue Code of 1954 to increase the amount allowed to be deducted each taxable year for expenses incurred in connection with the elimination of architectural and transportation barriers for the handicapped and elderly from $25,000 to $100,000, and to make permanent the allowance of such deduction; to the Committee on Ways and Means.

By Mr. LUNDINE:

H.R. 989. A bill entitled "Specialty Steel Fair Trade Act of 1983"; to the Committee on Ways and Means.

By Mr. LUNDINE (for himself and Mr. BONIOR of Michigan):

H.R. 990. A bill to establish a National Industrial Development Board for purposes of formulating policy recommendations for industrial development in the United States; to the Committee on Banking, Finance and Urban Affairs.

By Mr. LONG of Maryland:

H.R. 991. A bill to amend the Fair Labor Standards Act of 1938 to provide that blind persons may not be employed at less than the applicable minimum wage under that act; to the Committee on Education and Labor.

By Mr. McCANDLESS:

H.R. 992. A bill to repeal the withholding of tax from interest and dividends; to the Committee on Ways and Means.

By Mr. PEASE:

H.R. 993. A bill to amend section 203 of the Federal Property and Administrative Services Act of 1949 to require, prior to disposal, that notice and first right of refusal be given to certain previous holders of surplus real property suitable for agricultural uses; to the Committee on Government Operations.

H.R. 994. A bill to establish a procedure, in addition to impeachment, for the removal of certain members of the judiciary of the United States whose conduct is or has been inconsistent with the good behavior required by article III, section 1 of the Constitution of the United States, to establish additional procedures for the retirement of certain disabled members of the judiciary of the United States, and for other purposes; to the Committee on the Judiciary.

H.R. 995. A bill to amend the River and Harbor Act of 1968 to authorize the Army Corps of Engineers to carry out nonstructural projects to prevent or mitigate shore damages attributable to Federal navigation works; to the Committee on Public Works and Transportation.

H.R. 996. A bill to provide for the formation of regulatory negotiation commissions; jointly, to the Committees on the Judiciary and Government Operations.

By Mr. REGULA:

H.R. 997. A bill to authorize the States to regulate the transfer of water to insure that federal regulation does not impair or impede the efforts of the States to protect and control this resource; jointly, to the Committees on Interior and Insular Affairs and Public Works and Transportation.

By Mr. ST GERMAIN:

H.R. 998. A bill to repeal sections 301 through 308 of the Tax Equity and Fiscal Responsibility Act of 1982, which impose withholding on interest and dividends; to the Committee on Ways and Means.

By Mr. SEIBERLING (for himself, Mr. PERKINS, Mr. HAWKINS, Mr. CONTE, Mr. BEREUTER, Mr. JEFFORDS, Mr. ROYBAL, Mr. DICKS, Mr. UDALL, Mr. LUJAN, Mr. BURTON of California, Mr. KAZEN, Mr. WON PAT, Mr. WEAVER, Mr. MARKEY, Mr. CORRADA, Mr. MURPHY, Mr. RAHALL, Mr. VENTO, Mr. HUCKABY, Mr. KOGOVSEK, Mr. KILDEE, Mrs. BYRON, Mr. DE LUGO, Mr. GEJDENSON, Mr. PATMAN, Mr. MOODY, Mr. MOLLOHAN, Mr. CLARKE, Mr. MCNULTY, Mr. LAGOMARSINO, Mr. MARRIOTT, Mr. BIAGGI, Mr. MILLER of California, Mr. WEISS, Mr. WILLIAMS of Montana, Mr. WASHINGTON, Mr. MARTINEZ, Mr. OWENS, Mr. BOUCHER, Mr. PETRI, Mr. RODINO, Mr. VANDER JAGT, Mr. MCKINNEY, Mr. KASTENMEIER, Mr. FAUNTROY, Mr. BOLAND, Mr. ROE, Mr. SCHUMER, Mr. MATSUI, Mr. BEILENSON, Mr. CONYERS, Mr. SWIFT, Mr. MOAKLEY, Mr. FEIGHAN, Mr. MITCHELL, Mr. BATES, Mr. BOSCO, Mr. D'AMOURS, Mr. LEHMAN of Florida, Mr. GORE, Mrs. BOXER, Mr. LOWRY of Washington, Mr. NATCHER, Mr. FAZIO, Mr. GRAY, Mr. SIKORSKI, Mr. ECKART, Mr. PEASE, Mr. CLINGER, Mr. APPLEGATE, Mr. HOYER, Ms. KAPTUR, Mr. PANETTA, Mr. SMITH of Florida, Mr. SAVAGE, Mr. BERMAN, Mr. BEDELL, Mr. STOKES, Mr. LAFALCE, Mr. DOWDY of Mississippi, Mr. MORRISON of Connecticut, Mr. BARNES, Mr. STUDDS, Mr. WHITEHURST, Mr. NEAL, Mr. DELLUMS, Mr. BONIOR of Michigan, Mr. ALEXANDER, Mr. CROCKETT, Mr. DOWNEY of New York, Mr. SAM B. HALL, JR., Mr. EDGAR, Mr. BENNETT, Mr. ALBOSTA, Mr. WOLPE, Mr. SOLARZ, Mr. OBERSTAR, Mr. ROTH, Mr. CORCORAN, Mr. FUQUA, Mr. RINALDO, Mr. ADDABBO, Mr. RATCHFORD, Mr. LEVINE of California, Mr. LIPINSKI, Mr. EDWARDS of California, Mr. WYDEN, and Mr. WALGREN):

H.R. 999. A bill to provide for the conservation, rehabilitation, and improvement of natural and cultural resources located on public or Indian lands, and for other purposes; jointly, to the Committees on Education and Labor and Interior and Insular Affairs.

By Mr. SOLOMON:

H.R. 1000. A bill to amend the Internal Revenue Code of 1954 to permit an exemption of the first $10,000 of retirement income received by a taxpayer under a public retirement system or any other system if the taxpayer is at least 65 years of age; to the Committee on Ways and Means.

By Mr. WORTLEY:

H.R. 1001. A bill to amend the Internal Revenue Code of 1954 to provide a refundable credit against income tax for social security taxes paid by an individual who has attained age 62 but not age 68; to the Committee on Ways and Means.

By Mr. WYLIE:

H.R. 1002. A bill to authorize the conveyance to the State of Ohio for wildlife management purposes of certain lands acquired for the Big Darby Lake, Ohio, project; to the Committee on Public Works and Transportation.

H.R. 1003. A bill to amend the Congressional Budget Act of 1974 and the Budget and Accounting Act, 1921, to provide that Federal expenditures shall not exceed Federal revenues, except in time of war or economic necessity declared by the Congress; jointly, to the Committees on Government Operations and Rules.

By Mr. YOUNG of Florida (for himself and Mr. BILIRAKIS):

H.R. 1004. A bill to repeal the withholding of tax from interest and dividends; to the Committee on Ways and Means.

By Mr. ANDERSON:

H.J. Res. 94. Joint resolution to amend the Constitution of the United States to provide for balanced budgets and elimination of the Federal indebtedness; to the Committee on the Judiciary.

By Mr. ANDERSON (for himself, Mr. CONTE, Mr. HANSEN of Idaho, Mr. CAMPBELL, Mr. MARRIOTT, Mr. BOLAND, Mr. STANGELAND, Mr. VANDERGRIFF, Mrs. SCHNEIDER, Mr. ROE, Mr. O'BRIEN, Mr. SCHUMER, Mr. HATCHER, Mr. DWYER of New Jersey, Mr. WALGREN, Mr. BATES, Mr. WORTLEY, Mr. FOLEY, Mr. STOKES, Mr. ANDREWS of Texas, Mr. MCDADE, Mr. FAUNTROY, Mr. FAZIO, Mr. RAY, Mr. LANTOS, Mr. MONTGOMERY, Mr. ARCHER, Mr. MURPHY, Mr. PORTER, Mr. BEILENSON, Mr. SHELBY, Mr. LAGOMARSINO, Mr. WOLF, Mr. HILER, Mr. FORSYTHE, Mr. WHITEHURST, Mr. RALPH M. HALL, Mr. REGULA, Mr. MCCOLLUM, Mr. CLINGER, Mr. ROTH, Mr. SAM B. HALL, JR., Mr. BLILEY, Mr. QUILLEN, Mr. KOGOVSEK, Mr. APPLEGATE, Mr. MINETA, Mr. DAUB, Mr. FUQUA, Mr. RAHALL, Mr. ZABLOCKI, Mr. ADDABBO, Mr. SKELTON, and Mr. EDGAR):

H.J. Res. 95. Joint resolution to designate the week commencing with the third Monday in February 1983 as "National Patriotism Week"; to the Committee on Post Office and Civil Service.

By Mr. BLILEY (for himself, Mr. ROWLAND, Mr. AKAKA, Mr. DWYER of New Jersey, Mr. O'BRIEN, Mr. HOWARD, Mr. ROE, Mr. SUNIA, Mr. MCEWEN, Mrs. BOXER, Mr. WASHINGTON, Mr. FAUNTROY, Mr. SCHUMER, Mr. HAMMERSCHMIDT, Mr. HANSEN of Idaho, Mr. KEMP, Mr. LAGOMARSINO, Mr. LELAND, Mr. MATSUI, Mr. MAVROULES, Ms. MIKULSKI, Mr. BONIOR of Michigan, Mr. BATEMAN, Mr. BONER of Tennessee, Mrs. BOUQUARD, Mr. DAUB, Mr. MARTINEZ, Mr. SHELBY, Ms. KAPTUR, Mr. SMITH of Florida, Mr. FORSYTHE, and Mr. FROST):

H.J. Res. 96. Joint resolution to authorize and request the President to designate March 27, 1983, as "National Recovery Room Nurses Day"; to the Committee on Post Office and Civil Service.

By Mr. COATS (for himself and Mrs. BOUQUARD):

H.J. Res. 97. Joint resolution to direct the President to issue a proclamation designating the week beginning February 13, 1983, as "Big Brothers/Big Sisters Appreciation Week"; to the Committee on Post Office and Civil Service.

By Mr. FRENZEL:

H.J. Res. 98. Joint resolution proposing an amendment to the Constitution of the United States to limit the tenure of office of Senators and Representatives; to the Committee on the Judiciary.

H.J. Res. 99. Joint resolution proposing an amendment to the Constitution of the United States to provide a single 6-year term for the President; to the Committee on the Judiciary.

By Mr. KINDNESS (for himself, Mr. DAUB, Mr. EDWARDS of Alabama, Mr. GINGRICH, Mr. HAMMERSCHMIDT, Mr. HARTNETT, Mr. HOPKINS, Mr. HYDE, Mr. LOTT, Mr. MARTIN of New York, Mr. MCCOLLUM, Mr. MCDONALD, Mr. PERKINS, Mr. QUILLEN, Mr. RITTER, Mr. RUDD, Mr. SENSENBRENNER, Mr. SHELBY, Mr. SILJANDER, Mr. SKEEN, Mr. SMITH of New Jersey, Mrs. SMITH of Nebraska, Mr. SOLOMON, Mr. SPENCE, Mr. SNYDER, and Mr. TAUKE):

H.J. Res. 100. Joint resolution proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

By Mr. TAUKE:

H.J. Res. 101. Joint resolution designating September 22, 1983, as "American Businesswomen's Day"; to the Committee on Post Office and Civil Service.

By Mr. WALGREN:

H.J. Res. 102. Joint resolution designating the week beginning March 20, 1983, as "National Mental Health Counselors Week"; to the Committee on Post Office and Civil Service.

By Mr. WHITEHURST (for himself, Mr. CHENEY, Mr. HEFNER, Mr. MURPHY, Mr. ROTH, Mr. EMERSON, Mr. MOAKLEY, Mr. BATEMAN, Mr. HORTON, Mr. ROE, Mr. WINN, Mr. LAFALCE, Mr. MARTIN of New York, Mr. MCGRATH, Mr. NOWAK, Mr. PURSELL, Mr. RICHARDSON, Mr. BLILEY, Mr. CLINGER, Mr. SWIFT, Mr. STENHOLM, Mr. PEPPER, Mrs. BOXER, Mr. DYMALLY, Mr. MORRISON of Washington, Mr. RAHALL, Mr. GORE, Mr. ROBINSON, Mr. SIMON, Mr. CAMPBELL, Mr. KINDNESS, Mr. MOORE, Mr. HUGHES, Mr. BONKER, Mr. DINGELL, Mr. LOWERY of California, Mr. COURTER, Mr. WORTLEY, Mr. HOWARD, Mr. WON PAT, Mr. PATMAN, Mr. RUDD, Mr. CHAPPIE, Mr. ROEMER, Mr. LOWRY of Washington, Mr. FRENZEL, Mr. BEVILL, Mr. FOLEY, Mr. WHITTEN, and Mr. MAVROULES):

H.J. Res. 103. Joint resolution to authorize the President to issue a proclamation designating the week beginning on March 11, 1984, as "National Surveyors Week"; to the Committee on Post Office and Civil Service.

By Mr. WYLIE (for himself and Mr. STANGELAND):

H.J. Res. 104. Joint resolution proposing an amendment to the Constitution of the United States with respect to the offering of prayer in public buildings; to the Committee on the Judiciary.

By Mr. BIAGGI:

H. Con. Res. 36. Concurrent resolution authorizing the printing of additional copies of the document entitled "Older Americans Act: A Staff Summary"; to the Committee on House Administration.

By Mr. DONNELLY:

H. Con. Res. 37. Concurrent resolution expressing the sense of the Congress with respect to the withholding of interest and dividends; to the Committee on Ways and Means.

By Mr. LONG of Maryland:

H. Con. Res. 38. Concurrent resolution expressing the sense of Congress with respect to periods of silence (for private prayer, meditation, contemplation, or introspection) in public schools; jointly, to the Committees on Education and Labor and the Judiciary.

[Omitted from the Record of January 25, 1983]

By Mr. LEVITAS (for himself, Mr. THOMAS of Georgia, Mr. MCDONALD, Mr. BARNARD, Mr. JENKINS, Mr. FOWLER, Mr. GINGRICH, Mr. HATCHER, Mr. RAY, and Mr. ROWLAND):

H. Res. 41. Resolution designating February 12, 1983, as "Georgia Day"; to the Committee on Post Office and Civil Service.

[Introduced January 26, 1983]

By Mrs. HOLT:

H. Res. 42. Resolution to amend the rules of the House of Representatives to require a recorded vote upon the passage of any legislation that economically affects Members as a separate class, and for other purposes; to the Committee on Rules.

By Mr. ROSTENKOWSKI (for himself and Mr. CONABLE):

H. Res. 43. Resolution providing amounts from the contingent fund of the House for expenses of investigations and studies by the Committee on Ways and Means in the 1st session of the 98th Congress; to the Committee on House Administration.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

2. By the SPEAKER: Memorial of the House of Representatives of State of Michigan, relative to an accounting of American servicemen and civilians missing as a result of the Vietnam conflict; to the Committee on Foreign Affairs.

3. Also, memorial of the Legislature of the State of Oklahoma, relative to the social security disability insurance program; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. CLARKE:

H.R. 1005. A bill for the relief of Muradali P. Gillani, Yasmeen Muredali Gillani, and Aneela Gillani; to the Committee on the Judiciary.

By Mr. DANIEL:

H.R. 1006. A bill for the relief of Mrs. Josefina Flores-Dimacali; to the Committee on the Judiciary.

By Mr. DUNCAN:

H.R. 1007. A bill for the relief of John W. Ruth, Sr.; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 4: Mr. GOODLING.

H.R. 15: Mr. BOSCO, Mr. CARR, Mr. CONYERS, Mr. DOWDY of Mississippi, Mr. EDWARDS of Oklahoma, Mr. FEIGHAN, Mr. FORSYTHE, Mr. FRANK, Mr. HANSEN of Idaho, Mr. HERTEL of Michigan, Mr. HUTTO, Mr. KILDEE, Mr. KINDNESS, Mr. KOLTER, Mr. LUJAN, Mr. MURPHY, Ms. OAKAR, Mr. PETRI, Mr. RICHARDSON, Mr. ROBERTS, Mr. ROE, Mr. SCHEUER, Mr. SWIFT, Mr. TAUZIN, Mr. TRAXLER, Mr. WISE, and Mr. YOUNG of Alaska.

H.R. 71: Mr. HIGHTOWER.

H.R. 85: Mr. WON PAT and Mr. MURPHY.

H.R. 221: Mrs. HOLT, Mr. MYERS, Mr. ROBERTS, Mr. REID, Mr. YOUNG of Alaska, Mr. MCCAIN, Mr. TAUZIN, Mr. STOKES, Mr. KINDNESS, Mr. PRICE, Mr. ROTH, Mr. NIELSON of Utah, Mr. TAUKE, and Mr. BOSCO.

H.R. 458: Mr. PATMAN and Mr. TAUZIN.

H.R. 676: Mr. BOLAND, Mr. WON PAT, Mr. BROWN of Colorado, Mr. SUNIA, Mr. ROBINSON, Mr. DWYER of New Jersey, Mr. MOAKLEY, Mr. MRAZEK, Mr. FAZIO, Mr. WILSON, Mr. WYDEN, Mr. EDGAR, and Mr. ROE.

H.R. 677: Mr. MCKINNEY, Mr. STANGELAND, Mr. CONYERS, Mr. BEILENSON, Mr. WALGREN, Mr. FORSYTHE, Mr. WILLIAMS of Montana, Mr. EDWARDS of Oklahoma, Mr. STOKES, Mr. OWENS, Mr. LAGOMARSINO, Mr. CLINGER, Mr. RATCHFORD, Mr. EDGAR, and Mr. ROE.

H.R. 685: Mr. TAUZIN.

H.R. 688: Mr. TAUZIN.

H.J. Res. 2: Mr. NOWAK.

H.J. Res. 22. Mr. LEVITAS, Mr. ROE, Mr. WHITEHURST, Mr. MARRIOTT, Mr. DOWDY of Mississippi, Mr. STOKES, Mr. CONTE, Mr. WINN, Mr. MYERS, Mr. WEAVER, Mr. MATSUI, Mr. CORRADA, Mrs. SCHNEIDER, Mr. JONES of Tennessee, Mr. DONNELLY, Mr. LAGOMARSINO, Mr. RUDD, Mr. BATES, Mr. WOLF, Mr. RATCHFORD, Mr. OXLEY, Mr. KINDNESS, Mr. HORTON, Mr. SIMON, Mr. COURTER, Mr. MINETA, Mr. HATCHER, Mr. SCHEUER, Mr. FROST, Mrs. HOLT, Mr. HUGHES, Ms. OAKAR, Mr. AKAKA, Mr. STANGELAND, Mr. ROBERTS, Mr. LENT, Mr. HEFNER, Mr. ANDREWS of North Carolina, Mr. MONTGOMERY, Mr. WEBER, Mr. DASCHLE, Mr. MOLINARI, Mr. SMITH of New Jersey, Mr. CONYERS, Mr. JACOBS, Mr. PRITCHARD, Mr. FRENZEL, Mr. DWYER of New Jersey, Mr. ROBINSON, Mr. SCHUMER, Mr. LONG of Maryland, Mr. HOWARD, Mr. GORE, Mr. MURPHY, Mr. GRADISON, Mr. SHARP, Mr. GOODLING, Mr. WORTLEY, Mr. CORCORAN, Mr. DYMALLY, Mr. FAUNTROY, Mr. FRANK, Mr. STARK, Mr. STENHOLM, Mr. MAVROULES, Mr. RAHALL, Mr. FAZIO, Mr. HAMILTON, Mrs. SNOWE, Mr. MCDADE, Mr. PARRIS, Mr. SAVAGE, Mr. GRAY, Mr. PORTER, Mr. HOYER, Mr. SHELBY, Mr. BONIOR of Michigan, Mr. WEISS, Mr. RALPH M. HALL, Mr. MCCOLLUM, Mr. FEIGHAN, Mr. FORSYTHE, Mr. TOWNS, Mr. ADDABBO, Mr. HALL of Ohio, Mr. VANDER JAGT, Mr. O'BRIEN, Mr. DAUB, Mr. EDWARDS of California, Mr. COATS, Mr. EDGAR, Mr. CHANDLER, and Mr. GREEN.

H.J. Res. 65: Mr. EDWARDS of California, Mr. HALL of Ohio, Mr. GEJDENSON, Mr. STARK, Mr. KOLTER, Mr. BRYANT, Mr. OBEY, Ms. MIKULSKI, Mr. MAVROULES, Mr. LEVIN of Michigan, Mr. KOSTMAYER, Mr. HARRISON, Mr. LEHMAN of California, Mr. CARR, Mr. MINETA, Mr. MRAZEK, Mr. MCHUGH, Mrs. COLLINS, Mr. BORSKI, Mr. FAUNTROY, Mr. SAVAGE, Mrs. BOXER, Mr. MORRISON of Connecticut, Ms. OAKAR, Mr. CROCKETT, Ms. KAPTUR, Mr. PENNY, Mr. MARKEY, Mr. BATES, Mr. MOAKLEY, Mr. LEHMAN of Florida, Mr. COYNE, and Mr. OWENS.

H.J. Res. 74: Mr. MOAKLEY, Mr. WON PAT, Mr. MATSUI, Mr. WALGREN, Mr. LEACH of Iowa, Mr. FORD of Tennessee, Mr. FAUNTROY, Mr. ROE, Mrs. SCHNEIDER, Mr. WEISS, Mr. SUNIA, Mr. SCHEUER, Mr. DWYER of New Jersey, Mr. FEIGHAN, Mr. CONYERS, Mr. DOWNEY of New York, Mr. SIMON, Mr. FAZIO, Mrs. SNOWE, Mr. STOKES, Mr. EARLY, Mr. EDWARDS of California, Mr. ANDERSON, Ms. KAPTUR, Mr. FORSYTHE, Mr. FRANK, Mr. MCNULTY, Mr. GRAY, Mr. DONNELLY, Mr.

WYDEN, Mr. HALL of Ohio, Mr. RATCHFORD, and Mr. JEFFORDS.

H. Con. Res. 25: Mr. MOAKLEY, Mr. BOLAND, Mr. CARNEY, Mr. HERTEL of Michigan, Mr. FAUNTROY, Mr. FEIGHAN, Mr. WEISS, Mr. ROE, Mr. MCKINNEY, Mr. WILLIAMS of Montana, Mr. MITCHELL, Mr. CONYERS, Mr. MRAZEK, Mr. FRANK, Mr. FOGLIETTA, Mr. CORRADA, Mr. WALGREN, Mr. KOSTMAYER, Mr. EDWARDS of California, Mr. HOWARD, Mr. MURPHY, Mr. SMITH of Florida, Mr. FORSYTHE, and Mr. EDGAR.

H. Con. Res. 26: Mr. MOAKLEY Mr. BOLAND, Mrs. KENNELLY, Mr. CARNEY, Mr. FAUNTROY, Mr. FEIGHAN, Mr. MCNULTY, Mr. WILLIAMS of Montana, Mr. DWYER of New Jersey, Mr. CONYERS, Mr. MRAZEK, Mr. CORRADA, Mr. EDWARDS of California, Mr. MCHUGH, Mr. FORSYTHE, Mr. BERMAN, and Mr. FRANK.

PETITIONS, ETC.

Under clause 1 of rule XXII,

16. The SPEAKER presented a petition of James A. Mitchell, Los Angeles, Calif., relative to retroactive veterans' benefits; which was referred to the Committee on the Judiciary.

SENATE—*Wednesday, January 26, 1983*

(Legislative day of Tuesday, January 25, 1983)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Praise ye the Lord. Give thanks unto the Lord, for He is good; for His mercy endureth forever.—Psalm 106: 1.

Merciful Heavenly Father, we thank Thee for the successful surgery of Secretary Bill Hildenbrand. We pray for his rapid and complete recovery and for special blessing upon those who stand in the breach during his absence.

God of truth, justice, and righteousness, midst all the other crises confronting us is the crisis of loss of confidence in political leadership. Grant to each Senator the will—the determination—the courage—and the grace to perform in a way that will restore confidence and respect. Lead them to virtue and integrity in their private lives as well as public. Help them to see that private impropriety not only feeds cynicism, but actually militates against the effective performance of the Senate.

May they always choose principle over expediency, selflessness over ego, righteousness over sin, and the common good over special interest. Infuse them with a passion for purity in their personal, family, and public lives in order that the Senate may enjoy the wisdom, strength, and power which comes with moral integrity. In the name of Him whose life was a model of human perfection and love. Amen.

THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. BAKER. I thank the Chair.

THE PRESIDENT'S STATE OF THE UNION ADDRESS

Mr. BAKER. Mr. President, I want to take this opportunity to congratulate President Reagan on his state of the Union address last night. I believe that the President's remarks prove, once again, how strong a President he is, and how determined a leader he is to restoring our Nation's economic vitality and international security.

President Reagan exhibited before Congress and the entire Nation that he has the leadership to adapt to the difficulties of the present, while adhering to the basic philosophical tenets which serve as the basis for his administration.

I am confident that the President's package of budget proposals and domestic initiatives will receive full attention in the Senate, and I am also confident that we will be able to work in the bipartisan fashion which is desired by the President, to construct legislative vehicles which will add to the considerable progress which has already been made in the past 2 years.

Last night's speech was a positive and constructive foundation for this new Congress, and it is both my hope and expectation that its spirit will be realized.

ORDER FOR ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, there are 10 special orders for today, according to my list.

I ask unanimous consent that, after the recognition of the two leaders under the standing order and the execution of special orders, there be a period for the transaction of routine morning business of not more than 1 hour, in which Senators may speak for not more than 5 minutes each.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SENATE SCHEDULE

Mr. BAKER. Mr. President, it is clear from the printed calendar of business today that there is no business. The cupboard is bare. I have no doubt that later in the session we will look back on today with some nostalgia.

NO SESSION ON FRIDAY

In view of the fact that I have been advised by my colleagues who serve as chairmen of committees that they do not anticipate that any bills will reach the Senate floor this week, on which the Senate could act—or, indeed, nominations or other executive business—I announce that the Senate will not be in session on Friday of this week.

I anticipate that we will have a short session tomorrow so that Senators may make statements and introduce bills and resolutions, and the Senate will conduct other business that can be transacted.

ORDER FOR RECESS UNTIL TOMORROW

Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 12 noon tomorrow.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR THURMOND AND SENATOR GRASSLEY TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that tomorrow, after the recognition of the two leaders under the standing order, the Senator from South Carolina (Mr. THURMOND), the distinguished President pro tempore, the present occupant of the chair, be granted a special order of not to exceed 15 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that after the expiration of the time allocated to the Senator from South Carolina under the special order, the junior Senator from Iowa (Mr. GRASSLEY) be recognized for not to exceed 15 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR ROUTINE MORNING BUSINESS TOMORROW

Mr. BAKER. After that, Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business, of not more than 2 hours, in which Senators may speak for not more than 10 minutes each.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECESS FROM TOMORROW UNTIL MONDAY NEXT

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business on tomorrow, Thursday, it stand in recess until 12 noon on Monday next.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, that is the schedule of the Senate for this week and the beginning of next week.

I repeat: There is on the calendar no legislative or executive business that

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

can be transacted by the Senate at this time. Therefore, it is anticipated that nothing will be done except statements by Senators, the introduction of bills and resolutions, the submissions of petitions and memorials, and other matters that may be properly transacted.

The Senate will not be in session on Friday. We will be in session on Monday, at noon. If there is any business we can transact then, we will attempt to do so. However, it appears that it may be Tuesday before committees will supply us with material that will come to our attention.

Mr. President, if I may, I should like to yield now to the distinguished Senator from Louisiana (Mr. LONG) for the purpose of submitting a resolution.

The PRESIDENT pro tempore. The Senator from Louisiana is recognized.

Mr. LONG. Mr. President, I ask unanimous consent that I may introduce a proposed constitutional amendment at this time.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(The remarks of Mr. LONG in connection with the introduction of a proposed constitutional amendment establishing a commission to fix salaries of Members of Congress are printed under Introduction of Bills and Joint Resolutions.)

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I am advised that the distinguished Senator from Kansas (Mr. DOLE), the chairman of the Finance Committee, who has a special order today, may require additional time, beyond the time allocated to him under that order. I ask unanimous consent that any time remaining to me under the standing order may be allocated to him for his purposes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I am prepared to yield time to any Senator who wishes. Does the Senator from Louisiana or the Senator from New York wish me to yield?

Mr. MOYNIHAN. I would defer to the Senator from Louisiana, but I would appreciate 5 minutes.

Mr. LONG. I will wait.

Mr. MOYNIHAN. When does the Senator from Kansas wish to speak?

Mr. BYRD. After the minority leader's time.

Mr. President, I yield 5 minutes to Mr. LONG and 5 minutes to Mr. MOYNIHAN from my time.

Mr. TSONGAS. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER (Mr. SYMMS). The Senator will state it.

Mr. TSONGAS. Will the Senator yield? Will the Chair indicate what the sequence is?

The PRESIDING OFFICER. There are a series of special orders which start with Mr. PACKWOOD. The next one will be the Senator from Massachusetts (Mr. TSONGAS), and so forth.

Mr. TSONGAS. I thank the Chair.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

(The further remarks of Mr. LONG in connection with the introduction of a proposed constitutional amendment establishing a commission to fix salaries of Members of Congress are printed under Introduction of Bills and Joint Resolutions.)

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana has 1½ minutes remaining.

Mr. LONG. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Under the previous order, the Senator from New York is recognized for 5 minutes.

(The remarks of Mr. MOYNIHAN in connection with the introduction of a bill relating to social security amendments are printed under Introduction of Bills and Joint Resolutions.)

The PRESIDING OFFICER. Under the previous order, the Senator from Oregon (Mr. PACKWOOD) is to be recognized.

CHANGE IN SEQUENCE OF SPECIAL ORDERS

Mr. PACKWOOD. Mr. President, I ask unanimous consent that Senator DOLE might go before me. I ask further unanimous consent that the order of Senator TSONGAS and myself be reversed, and that he go first and that I go second.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATOR DOLE

The PRESIDING OFFICER. Under the previous order, the Senator from Kansas (Mr. DOLE) is recognized for 15 minutes.

(The remarks of Mr. DOLE and other Senators in connection with the introduction of legislation relating to Social Security Amendments of 1983 are printed under Introduction of Bills and Joint Resolutions.)

RECOGNITION OF SENATOR TSONGAS

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for not more than 15 minutes.

(The remarks of Mr. TSONGAS and other Senators relating to introduction of the equal rights amendment are printed under Introduction of Bills and Joint Resolutions.)

RECOGNITION OF SENATOR PACKWOOD

The PRESIDING OFFICER. The Senator from Oregon is recognized.

(The remarks of Mr. PACKWOOD relating to introduction of the equal rights amendment are printed under Introduction of Bills and Joint Resolutions.)

RECOGNITION OF SENATOR THURMOND

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

(The remarks of Mr. THURMOND in connection with the introduction of legislation are printed under Introduction of Bills and Joint Resolutions.)

RECOGNITION OF SENATOR GRASSLEY

The PRESIDING OFFICER (Mr. HUMPHREY). The Senator from Iowa is recognized, under the previous order, for not more than 15 minutes.

(The remarks of Mr. GRASSLEY relating to the introduction of legislation are printed under Introduction of Bills and Joint Resolutions.)

RECOGNITION OF SENATOR SYMMS

The PRESIDING OFFICER. Under the previous order, the Senator from Idaho is recognized for not more than 15 minutes.

FAIR TRADE

Mr. SYMMS. Mr. President, I rise today to advise this body of my views on the importance of a fair, equitable, and open international trading system and, in particular, to focus attention on a particular piece of legislation which passed the 97th Congress that is an example, in my opinion, of the type of legislation that has the capability to threaten the continued viability of the international trading system that is so important and vital to the wherewithal for the economy and I think the strength of the free world.

International trade is, and will continue to be, a vital component of the economies of all our trading partners. A prosperous, well-functioning trading system will make an important contribution to the success of our economies, and there is no question in my mind that it is a cornerstone of America's national security program.

Trade is an increasingly powerful source of innovation and growth for all economies. Everyone gains from the access to the world's markets and the spur of international competition. Trade clearly reinforces everyone's efforts to reduce inflation, to increase

production and to expand employment.

In addition, and very importantly, trade can contribute to mutually beneficial cooperation among nations. Healthy trade relations can strengthen friendships and alliances and can help integrate countries into the market-oriented trading system which has served us all so well.

Mr. President, I think you heard it stated many times by a great historian who said "Show me borders that trade cannot pass through and we will see borders that sooner or later soldiers will pass through."

So I think it behooves all of us and particularly those of us who come from exporting States, such as mine, that produces agricultural products, minèral products, and forest products for export, that it is of vital importance that we are very careful with what this Congress does in terms of protectionism and fair trade policies in relation to free trade.

The current trade policy of the United States has its roots in historical experience. Following World War II, the major industrial nations recognized that the bilateral agreements and protectionist policies pursued by many nations during the interwar period had done severe harm to their economies, played havoc with the international economy, and contributed to the frictions and tensions which ultimately led to the outbreak of war. The United States and its partners, therefore, set out to create a new trading system based on fair trading rules, on nondiscrimination among trading partners, and on the commitment to reduce trade barriers, especially high tariffs.

That system is embodied in the General Agreement on Tariffs and Trade commonly referred to as GATT. Despite its imperfections and departures from certain of its principles, this system has brought enormous benefits to virtually every nation in the world and has served American interests as well. The dramatic growth in trade since the war has strengthened our own economy and that of our trading partners. U.S. exports grew from $10.8 billion in 1950 to $221 billion in 1980. This has meant millions of jobs for everyone concerned. And while we are currently facing some problems with the system, we would be considerably worse off if we had chosen a trading system based on more restrictive principles and rules. Such a system might well have brought prolonged economic weakness to our trading partners and poorer markets for everybody's exports.

Today, there is no question about it, there are strains in the system. Competition among developed countries and with developing countries is more intense than it was years ago. And slower growth in many developed nations increases the difficulty of adjusting to rapid increases in imports.

In the face of keener competition, many countries face enormous pressures to protect individuals by restricting imports or supporting noncompetitive exports. They are tempted to work out bilateral trade arrangements which protect certain patterns of trade or limit trade. Investment practices are increasingly used as a means of forcing increased procurement or increased exports. Barriers exist in services where the United States is very competitive. Certain countries that benefit greatly from the trading system seem to have failed to open their markets adequately, even while taking advantage of open markets in other countries. However, we must attempt to solve these problems and distortions or they will severely weaken the international trading system.

Personally, I am committed to the support of an open trading system on the basis of agreed rules. At the same time, I would expect similar undertakings from other countries. Open trade on the basis of mutually agreed upon rules is in our best interests, economically, politically, and peacefully, and is consistent with every nation's commitment to strengthen their own economies.

Consequently, I believe that the most important challenge the United States faces today is making sure that trade is a two-way street. Increased equity and reciprocal market access and opportunities for U.S. exporters and investors is my goal and I think is a goal of many of the Members of this body. The United States cannot make a contribution to the goal of free trade by ignoring attacks upon it by others or by not pursuing increased market access for our goods, services, and investment. Clearly, no nation can long sustain public support of any policy unless its people sense that there are equity and tangible benefits for them in the application of that policy.

The U.S. adherence to a free trade policy requires that it strictly enforce existing trade agreements, to strengthen our domestic trade laws to make them more useful and responsive to the needs of those they protect, and seek expanded coverage of trade issues under the mutually accepted international framework of the General Agreement on Tariffs and Trade (GATT).

Today, the United States finds itself more dependent on international trade and more challenged by international competition than at any time in recent history. About one-sixth of the goods that are produced in the United States are sold in foreign markets, and 1 out of 3 acres of American farmland is planted for export. U.S. exporters are encountering stiffer competition overseas, even in products in which traditionally they have dominated the world market, and domestic producers of a growing number of products are experiencing intensified competition from imports. These developments make it critical that the United States adopt a comprehensive range of domestic policies that will help to improve the international competitiveness of U.S. producers. Many of the international trade problems the United States faces today arise from the lack of vitality in the U.S. economy and from the burdens placed on U.S. producers by domestic policies.

One of the major challenges to the U.S. economy is the adjustment to major changes in world trade patterns, including those brought about by the number of nations that are major exporters of manufactured products. How the United States responds to these adjustment pressures will have a far-reaching impact on the future dynamism and productivity of the U.S. economy.

That is why I was particularly chagrined to see that Congress passed a resolution that in my judgment was not adequately reviewed, which directly contrasts with our overall trade policy objectives to achieve a fair, equitable, and open international trading system.

The resolution to which I am referring calls upon the President to deny the investment tax credit to American firms that buy Japanese-made machine tools and was passed by the Senate, without hearings or debate, in the last hours of the 97th Congress.

The United States has consistently resisted the efforts of other countries to use their tax systems to create protectionist discrimination against imports. If the President were to deny the investment tax credit to American firms that buy Japanese-made machine tools not only would the machine tool users in my State be forced to pay a higher price for their tools but the exporting industries of my State might have their export markets threatened by a retaliatory protectionist measure. In addition, many other countries would be pleased to follow our lead by discriminating against American exports in their domestic markets.

How did this dangerous resolution get through the Senate? Obviously, when it was introduced, late in the lameduck session, most Senators had their minds on the highway gas tax bill. Some were no doubt influenced by a set of inflammatory allegations by the Houdaille Industries' lobbyists that the Japanese machine tools industry is an illegal cartel and that it receives multibillion dollar off-budget subsidies from the Government of Japan.

In the rush to adjournment, those allegations were not given the careful study they should have received

before being endorsed by the Senate. A little reflection suggests that Houdaille's claims raised more questions than they answered.

If Houdaille's cartel and subsidy allegations were true, the domestic industry would have been entitled to bring treble damage actions against the Japanese under the antitrust laws and could have demanded enormous countervailing duties against Japanese products. The laws providing such relief have been in force for many years.

A quite different picture of the Japanese machine tool industry was provided by the National Machine Tool Builders' Association, of which Houdaille Industries is a member. The NMTBA sent a study mission to Japan in 1981 to look into the nature of the competitive threat. The study mission found no significant subsidies to the Japanese machine tool industry. "We found to our surprise," their report states, "that Japan's machine tool industry is investing and modernizing without special tax credits or incentives." The study mission also reported no evidence that would support Houdaille's cartel claim. On the contrary, the study mission specifically noted that the "aim of MITI (Japan's Ministry of International Trade and Industry) is not to reduce competition among Japanese companies."

What the NMTBA study mission did find to be the source of Japan's competitive strength is instructive:

In summary, the strong competition from the Japanese machine tool industry is primarily the result of the willingness of management to invest heavily in its future, market its products aggressively throughout the world, work doggedly toward long-term goals, and pay an unusual amount of attention to the training and motivation of its workforce.

Responding to such a challenge with legislated protectionism will not solve the problems of the American machine tool industry. It only increases the risk of ricochet protectionism against American agriculture and other efficient export industries, and significantly increases the difficulty of reaching agreements which will improve our market access in foreign markets for competitive American products.

I am hopeful that in the 98th Congress we will all be more cautious in proposing and supporting trade legislation that is not in the overall best interest of the American people.

An open and fair international economic system is essential to promoting the revitalization of the U.S. economy. Competitive pressures from the world trading system help to promote efficiency in the domestic economy. The effectiveness of implications for U.S. success in addressing foreign policy and national security objectives depend, to a great extent, on the U.S. ability to continue to play a leadership role in maintaining and improving the world trading system.

Mr. President, I ask unanimous consent to print in the RECORD a copy of the National Machine Tool Builders' Association study.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MEETING THE JAPANESE CHALLENGE

(Prepared by the Japanese Study Mission of the National Machine Tool Builders' Association, September 14, 1981)

INTRODUCTION

From June 1 through 11, 1981, NMTBA's Japanese Study Mission (Appendix A) toured Japanese machine tool and metalworking plants (Appendix B) to observe their manufacturing and management methods. The purpose of this trip was to learn how the Japanese machine tool industry has developed so rapidly and what the Japanese have done to become strong international competitors in a relatively short period of time.

We hope that the information in this report will be helpful to the members of NMTBA in developing their own strategies for becoming more competitive and for meeting the challenge presently faced by the American machine tool industry from strong competitors abroad.

This report is divided into three sections:

I. Overview and Recommendations.

II. Major Factors Contributing to Japan's Machine Tool Competitiveness.

III. Specific Observations of Japanese Manufacturing Operations.

In addition, appendices D and E provide supplemental material which will be of interest to many members. Lists of the group participants and the companies visited are contained in appendices A and B. Further readings are suggested in the bibliography (Appendix C).

SECTION I. OVERVIEW AND RECOMMENDATIONS

We were impressed by the volume of production, rate of capital investment and the high level of dedication by the workers. But we did not see any miracles. We did learn, though, that America is being challenged and somehow we must all rise to meet the challenge.

Many Americans prefer to explain Japan's economic performance as the result of World War II's devastation and that nation's subsequent rebuilding, copying Western technology, dumping, government subsidies and low wages. The fact is, though, that none of these are significant factors in Japan's current industrial competitiveness.

As a result of our study, we have concluded that the principal factors contributing to the Japanese machine tool industry's success are five fold:

1. Management has a unique relationship with labor which results in a highly motivated, hard working, well trained and productive workforce.

2. Management sets long-range goals for market share and output, takes a world view of the market and willingly sacrifices short-term profits to achieve long-term goals.

3. The average level of manufacturing technology is roughly equal to America's. But equipment utilization, productivity and quality control efforts are generally more effective. "The people in the factories are not in the right place by accident.

4. The relationship between government and business is supportive rather than adversarial. Although the government directly subsidizes private business only under specific conditions, it is relentless in its efforts to create conditions that will help business flourish.

5. In "favored" industries, such as machine tools, intensive capital investment is encouraged by the government and the financial community, and undertaken by management. Four of the six machine tool companies visited by NMTBA had major construction projects underway.

These five factors, acting in concert, have resulted in the development of the Japanese machine tool industry. In 20 years, it has grown from a maker of basic machine tools, often under license, to one of the major producers of CNC equipment in the world.

However, the Japanese machine tool industry is not made up of supermen. It is composed of good managers and motivated workers, efficiently producing modern machine tools by basically conventional methods.

Nowhere in the 13 factories toured by our study group did we see any unique manufacturing technology. In general, Japanese machine tool builders use the same types of machinery to build their products as in America. However, the equipment and technology are very intelligently applied and many builders are investing heavily in the latest technology to improve productivity further.

After studying the Japanese tax laws, we learned that investment incentives are no more liberal in Japan than in the USA. The only current tax "breaks" enjoyed by Japanese machine tool builders are for pollution control equipment, sale of technology licenses abroad and increases in spending for R&D.

Vis-a-vis the U.S. and other Western nations, Japanese industry in general does not employ cheap labor. In the machine tool plants where we inquired about labor rates, we concluded that Japanese workers earn about 80 percent of the pay of equivalent American machine tool employees. However, there appears to be a significant gradation in pay in Japan. Small, cottage shops pay very low wages; while a current study by an American machine tool builder indicates that the largest companies—those that employ 30 percent of the Japanese workforce—pay wages at least equal to those in the United States (In the U.S. 30 percent of the workforce is employeed by companies of 1000 or more people.). According to government data, in 1978 a Japanese employee's annual income, including bonuses, represented Y3,750,000 ($17,000). "With all fringe benefits added in, the average Japanese family income has surpassed that of its American counterpart, but in purchasing power . . . the average Japanese in 1978 had not yet surpassed his American counterpart." [3]

The product designs of the Japanese machine tool industry are neither unique nor superior to American designs. They produce well-made, quality products that are technically competitive with Western machine tools. Generally the range of products and options is more limited than that which is available from similar-size U.S. builders.

In summary, the strong competition from the Japanese machine tool industry is primarily the result of the willingness of management to invest heavily in its future, market its products aggressively throughout the world, work doggedly toward long-term

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See Appendix C, Bibliography and References.

goals, and pay an unusual amount of attention to the training and motivation of its workforce.

Recommendations

To meet this competitive challenge, the American machine tool industry must be aggressive.

Those willing to take the necessary steps can both meet their overseas competitors and enjoys future growth and profitability comparable to that currently being enjoyed by many Japanese builders.

"Japanese industry does not always achieve success in overtaking Western companies . . . aggressive U.S. and European business strategies have frustrated Japanese efforts." [4]

In those segments of the American machine tool industry most directly affected by Japanese competition, U.S. companies should study the manufacturing and marketing techniques of their foreign competitors. They should adopt those techniques which can improve each company's operation and devise additional competitive tactics which will capitalize on each company's unique strengths.

In general, meeting the Japanese competition will require increased risk-taking by American machine tool builders, coupled with foregoing short-term returns in favor of long-term objectives and actions.

The American machine tool industry should aggressively invest in the latest, most efficient means of production that incorporate the newest manufacturing technology—including automated, unmanned, flexible machining systems (FMS)—to improve productivity and reduce costs. Making such investiments may require setting aside conventional, short-term objectives for capital investment justification in favor of investment decisions based upon more nebulous long-term considerations.

Similarly, the American machine tool industry needs to make heavy, aggressive investments in research and development to devise products incorporating the best available technology. Such new products need to contribute to our reputation for producing durable, productive, efficient, high-quality machine tools.

We need to increase dramatically our emphasis on every aspect of quality in the design, manufacture, application and service of American machine tools.

Machine tool builders should develop extensive programs to motivate, build trust and instill pride in their workforce. We need to instill a conviction that the company's success is, ultimately, their personal success. They must understand that their jobs depend upon the success of their employer and that the real adversary is not their employer's management, but the workers in every competitor's plant. We and our employees must all learn to work together more closely, to cooperate better for the success of our company and to manufacture our products more productively.

And we, as managers of American machine tool plants, must raise our horizons beyond America—the world's largest machine tool market—and view the entire world as our marketplace. The Japanese grew by first learning how to serve their own market's needs efficiently and then by expanding into the world. Until 1975, Japan's machine tool exports remained below 20 percent of their output—averaging less than 12 percent. By the late 1970's, Japan's machine tool exports were averaging about 40 percent of total output. To compete effectively with builders from other nations and to generate the production volumes that enhance efficiency, American machine tool builders need to take a world-marketing approach.

The tax legislation recently enacted by Congress will be helpful in generating the climate needed to make the heavy investments required of the American machine tool industry—and other American industries. However, excessive regulation, adversarial attitudes, unnecessarily-strict antitrust laws, export interference, licensing delays and all the other anti-private-economy rules and attitudes that exist in the U.S. Government will continue to inhibit American industry's efforts to meet foreign challenges. Therefore, we must continue our efforts to present information to legislators and regulators in an effort to create a climate that is more supportive of industry's efforts to prosper in an increasingly competitive world.

Comments by Study Mission Leader, N. Howe

Much of what we found in Japan can and must be transferred to the U.S.A., particularly their people-oriented style of management. However, we must remember that our work environment is sociologically different and would not digest the Japanese style, but the underlying practice of sincerity in communication with and participation by the work force in work place activities is valid and necessary.

As for their manufacturing technology exemplified by (1) operating with minimal work in process or (2) the flexible machining systems or (3) the unmanned machining operations, etc., the key word is study. Each of us needs to study these techniques to see first of all if they would fit into our operations and if so, how to adopt them.

The next step is more difficult. Assuming that the Japanese approach is valid, are we willing to give up short-term profits in the process of making the large investments necessary to restructure our manufacturing operations for the future?

Since we will find that this is necessary if we are to survive, it becomes increasingly urgent that we work for rapid capital recovery beyond what the new tax bill provides.

If the Japanese onslaught becomes too great and seriously impacts the health of our industry, we will need to impress the government that temporary help in some form is needed so that we can recover our leading position. Any weakening of the machine tool industry will have grave implications for the security of our country.

Finally, we need to look inward as managers and ask ourselves if we are up to the challenge. Are we competitive? Are we prepared to manage our operations with equivalent painstaking care and excruciatingly intense attention to detail that the Japanese managers display?

SECTION II. MAJOR FACTORS CONTRIBUTING TO JAPAN'S MACHINE TOOL COMPETITIVENESS

". . . No quick and easy cures brought Japan to where it is today . . . Most of the management techniques . . . were initiated 20 years ago." [5]

Workers' attitudes and motivation

"We've seen an intensity in the workforce that I have not seen anywhere in the world. The quality, intensity and doggedness of management should get the credit." [6]

The average Japanese worker may accomplish no more than a loyal, hardworking American in a comparable factory, but loyalty to the company is typically higher and hard work is the norm—not the exception—in Japanese factories. Within a Japanese company there is only one attitude the company's welfare is the all-consuming objective. All workers, regardless of assignment, see the company's objectives, namely growth, improved product quality and design and reduced costs, as their own objectives. Japan's system of lifetime employment is a major contributor to this attitude.

"The lifetime employment system makes the working group the most important group in life. . . . the new employee . . . will be closely connected with it for years and, because he will always remain with the company, (it is almost impossible to change jobs in mid-career in Japan) he will personally identify himself with the progress and success of his particular group and the larger organization of which it is a part. In return for being looked after and protected, he gives complete loyalty and devotion." [7]

Fear of losing their jobs and protection of skills contribute to American workers' featherbedding and inflexibility. The Japanese worker, however, eagerly seeks technological change and, because his status and future are less related to a special skill level, he is more willing to perform various tasks and assist fellow workers.

Both the company's and the employee's commitment are long term. Employees join Japanese machine tool builders directly from high school, technical school or a university. They remain until retirement at approximately age 57. Therefore, it is rational for Japanese companies to invest far more heavily in training than do Western companies. As a result of a lifetime of learning, Japanese workers know the company's products and their jobs very thoroughly.

Salary, in a Japanese machine tool plant, is not a principal motivator. Until an employee is in his mid-30's, his pay is based on age and need. For example, an engineer and a floor sweeper of the same age will make the same salary.

When a worker gets married or has children, he receives an additional increase; and when, somewhere in his thirties, he assumes supervisory responsibility or develops a special skill he will receive additional increases. However, pay differentials between workers and management in Japanese companies is much smaller than in comparable American companies.

The Japanese company views itself as a family, with the chief executive as the head. All of the managerial and supervisory personnel spend a significant proportion of their time getting to know their subordinates and their hopes, family life and problems. Japanese companies make personnel relations their number one objective, with the chief executives proud of nicknames like "Papa." The company tries to keep abreast of worker desires and offers more services than seem minimally necessary.

Some American-style benefits such as long-term paid sick leave and coffee breaks are rarely provided by Japanese companies in comparable amounts. Japanese companies concentrate their benefits in areas that will keep the employee attached to the company over a long period of time and reward those who have been faithful and hard working. Management enjoys considerable leeway using prerequisites to convey the message that loyalty will be rewarded. Company reception halls are available. Resort houses can be used by employees with the appropriate years of loyal service. Mortgages are obtained from a worker's company at subsidized interest rates (from ⅓ to ½ the rate of conventional loans) and many com-

panies own houses that they rent to married employees at low rates. For single employees, there is free housing in company dormitories. Companies have daily ceremonies, frequent parties and celebrations, special-interest clubs, courses, lectures and exhibitions. Every major company has sports teams and a variety of athletic facilities for its workers.

Japan does not have a substantial system of unemployment compensation. But, "As part of the Japanese employment maintenance program initiated in 1975 (following the 'oil shock'), if an employer in a depressed industry does not lay off employees the government will compensate for half the pay of those unneeded, or two-thirds the pay in small and medium-sized firms. From January 1975 to April 1977, 69,414 business establishments received such subsidies for some 3.5 million idle workers for a total of 29 million man-days . . . a creative way to maintain . . . attachment of the company to the individual employee." [3]

It is not some mystical group loyalty embedded in the character of the Japanese race that makes its companies successful. It is the successful manager who daily builds on the basic loyalty each worker feels for his company. This coupled with his steadfast, unswerving devotion to the objectives of the firm, absence of an air of superiority and his sincere and skillful people-oriented approach effectively channels the energy of all toward the company goals.

With this unique company spirit prevailing, Japan's success is not surprising.

Japanese management's objectives

". . . the Japanese manager . . . clamors for market share over profit. In all his calculations, time and profit are the missing elements . . ." [1]

Every Japanese machine tool builder's goal is market share and output volume, as opposed to profit. They will boldly sacrifice profits for several years to build the groundwork for later success.

In most countries, investments will not be made unless sufficient profits would accrue to generate a prompt and satisfactory return on investment. If ROI is insufficient, managers defer the investment and seek additional profits from existing operations. To do otherwise would tempt the ire of shareholders.

In Japan, company pride and strength are given precedence. Profit (at least in the short term) is traded off against market share, expansions into new fields and new markets or just growth. The managers want expansion. In Japan this means greater possibilities of promotion, higher salaries, bigger bonuses and better perks. As a company rises in rank, so does the status of its managers.

Additionally, the Japanese "view business not as a series of discrete projects but as an integrated business whose competitive position can be advanced or liquidated. Major investments are evaluated for their impact on competitive cost position and market share for the whole business over a several year period. Accordingly, the Japanese typically find it easier to initiate investment in projects with a long term payoff." [4]

The company's capacity to think in long-range terms is made possible in part by its greater reliance on bank loans than on the sale of securities to meet its capital requirements. Thus stockholders lack power to pressure for yearly profit. Banks, who are often major stockholders, are primarily interested in a company's long-range growth.

It is not that the Japanese are not interested in profitability, but that they are prepared to defer maximizing immediate profits in order to increase market share. They judge their company's success less by annual profit than by the annual changes in the market share.[8] As the Boston Consulting Group has demonstrated, profitability is closely related to market share. As firms expand, they have more low-priced young labor and more modern plants.

As a result of this unique structure and long-term outlook, Japanese management has displayed a tremendous talent for marketing its products, particularly in the export markets. Management is willing to make the up-front investment in terms of marketing costs, establish sales offices manned with sales and service engineers (one firm has 120 servicemen in the USA alone), invest in a finished product inventory for quick deliveries, provide stock of spare parts for immediate delivery and mount aggressive advertising campaigns. For them the market is the only thing!

In Japan, because rivals are striving for market share and because the seniority system and bank lending require expansion, it becomes more dangerous to stand pat than to move ahead with bold modernization and innovation.

And, throughout America and Europe, in industries that are being challenged by the Japanese, it's also becoming dangerous to stand pat. Ultimate survival may require that we, and our stockholders, develop a willingness to forego the short term and concentrate on long-term survival and growth.

Three of the companies we visited articulated their corporate goals this way:

"We have to be more technically oriented in the machining center field and try to be a leader of the machining center market. Then we can overcome the market war of the future."

"To grow in size and become the largest machine tool builder in Japan, particularly to develop CNC grinding machines. To reduce lead time by adding capacity to produce special purpose machine tools and to provide equipment for the developing FMS market. To increase the total productivity of our NC machines and to make NC a greater portion of our total product mix. And to introduce a robot as part of our machine tool line—either a material handling device for our machine tools or a free-standing robot."

"Our goal for the future is to concentrate all of our efforts on research and development to open the way to ever newer techniques for unlimited growth tomorrow."

Manufacturing technology

In Japan's machine tool plants we saw nothing that indicated a superior grasp of technology. What we did see was boundless energy and determination to put the latest state-of-the-art into practice.

A new parts-manufacturing plant in America would, most probably, be a modernized version of existing plants. In Japan new machine tool parts making plants use only the latest technology. They are designed to operate with minimum staffing during the day shift and then operate unmanned throughout the night. Of course these plants then become valuable sales displays to show the capability of the builder's products.

Even when new plants are not being built, many Japanese builders have installed multiple-pallet machining centers that are tended by operators during the day and then run unattended at night, thereby using a portion of the newest FMS technology. In virtually every plant, each operator ran several (up to five) machining centers. On average, we estimate that Japanese machine tool industry manning is over two machines per worker.

Throughout our travels it was apparent that FMS is upon us. Virtually every Japanese builder was talking about it, preparing products for it and planning to use it in his plants. Several builders have manufactured and sold FMS systems and at least two of them have complete FMS-equipped parts-making plants under construction.

The phenomenon is illustrative, we think, of the Japanese machine tool industry. As each company grows, it installs only the very latest manufacturing technology—again concentrating on the long-term, rather than short-term, profitability and ROI. However, all of the machine tool plants that we visited also had a substantial number of planers, radial drills and even shapers.

As a result, at the current time the average Japanese machine tool plant does not enjoy any significant equipment advantage over a typical American machine tool plant.

But it does enjoy an advantage in the way the equipment is used. Two comments by other industry executives illustrate: "In the area of technology, we are equal to or better than the Japanese. But they've taken process, manufacturing and industrial engineering techniques from us and tuned them to the nth degree. We don't." [9] "Their technology is not any better than ours; . . . the differences in asset utilization appear to be more a matter of management . . . than equipment." [10]

More details of the manufacturing operations and assembly techniques of the Japanese machine tool industry are included in the following section of this report. However, because of their significance, some are worth mentioning here also:

Multiple machine operation was not limited to NC equipment, although it was virtually universally applied to NC. Whenever a machining cycle could be left unattended, it was. In one case a single operator was manning a "cell" of seven standard general purpose milling machines.

The absence of support people was conspicuous. Keeping their workplaces and machines in good order is a responsibility assigned to the operators themselves, along with maintaining output, helping fellow workers and assuring that every part produced meets or exceeds quality standards. Moreover, each worker is trained to correct the minor problems that often arise in the course of the day, to conduct regular preventive maintenance, to monitor and adjust equipment and to search continually for ways to eliminate potential disruptions and improve efficiency. [11]

Timekeeping, if done at all, was done by travelers accompanying the work—precise cost accounting is practically nonexistent in the Japanese machine tool industry.

In the assembly areas the lack of parts waiting to be assembled was conspicuous. We were told that just the right number of parts are delivered to each assembly scheduled for work, on a twice-daily basis. There is little traveling of assembly workers to and from stockrooms and toolrooms, and "group discussions" seemed nonexistent.

In some plants, machines (generally CNC lathes) were assembled on moving conveyor systems. It was common for assembly teams to work on a particular product line—one

hydraulic man, one pneumatic man, one electrical man, one electronic man, etc. Sometimes these people were working on different machines, or two or three might be working on one machine.

The care and attention to the quality of the product was impressive. Pre-painted parts rarely required touchup. Quality workmanship on individual parts was evident even in the uniformity of broken or chamfered edges. According to the Japanese, "It would be much too easy if quality control meant nothing more than throwing away defective parts; the goal is to avoid their creation. These are the little things that don't attract much attention. But a little margin in quality over the competitor and another little margin in price under the competitor (and a little margin in delivery), are quite enough for the Japanese to conquer yet another market." [1]

Perhaps because of these "little things," the luck of good timing, shrewd market analysis or the absence of major customization of products, production volumes were generally quite high. This contributes significantly to the success of the Japanese machine tool industry.

Government-industry relations

"Business is the essence of Japan's national life . . ." [1]

The Japanese bureaucrats in the Ministry of International Trade and Industry (MITI) conceive of industries passing through three stages of development: a consolidation, growth and development stage during which they need support and direction; a mature stage (currently the status of the machine tool industry) during which MITI provides few, if any, direct aids but continues to be relentless in its efforts to create conditions for business to flourish; and a declining stage in which MITI again steps in, this time to cushion the impact of the decline. As an example of this last action, MITI has helped textile plants sell their facilities to consumer electronics firms.

Whenever possible, the Japanese government (which employs only about 3.5 percent of the workforce versus America's 15 percent) creates visions of industrial development and passes the implementation of them on to the private sector. Hence the government in Japan is supportive of industry and coordinated in its efforts to assure the economic development of the nation. This is in contrast to the uncoordinated, often adversarial relationship that exists between American industry and government.

The Japanese have long recognized that the machine tool industry (and other segments of the machinery industry) is critically important to the country's industrial development. Therefore, Japan's industrial policy has aimed at progress towards leadership for the industry.

Active intervention by the government began in 1956 with the Extraordinary Measures Law for the Rehabilitation of the Machinery Industry. Between 1956 and 1960, the Japan Development Bank provided funds for the modernization of equipment; MITI authorized rationalization cartels for purchasing parts and importing materials; standards were set for the industry and guidelines were established for production technology improvement. During this period the government provided approximately 100 loans totaling Y2.5 billion ($7 million) to the machine tool industry for equipment modernization.

In 1961 the Extraordinary Measures Law was extended. But now it was aimed at stimulating mergers and joint investment in the machinery industry. Between 1961 and 1965 the Japan Development Bank made loans of Y34 billion ($95 million) for some 644 projects, primarily in the auto parts, bearings and machine tool industries. Again, for the machine tool industry the emphasis was on modernizing equipment.

When the law was extended again in 1966, emphasis was shifted to making the companies internationally competitive. In the machine tool industry some companies were encouraged to drop certain product lines. During this five year period the Japan Development Bank provided more than Y30 billion ($85 million) to assist the machinery industry in its development.

In addition to these loan programs, a series of special depreciation laws was enacted to promote modernization and to encourage other Japanese companies to buy Japanese machinery. This, of course, also aided the Japanese machinery industry. During the years between 1963 and 1976 the government forfeited more than Y174 billion ($680 million est.) in tax revenue.

To promote exports, the government instituted an additional series of tax measures. Export income was free from taxation between 1953-1964. Accelerated depreciation programs for capital investment to produce products for export were in effect from 1964 through 1978; and other tax benefits of a lesser nature were in effect during the 1950's and 1960's.

Today, however, Japanese machine tool builders receive only three tax "breaks." First, royalty income from abroad is partially tax exempt. Second, capital investment for pollution control can be depreciated at twice the normal (12 year) rate. And third, any R&D expenditures that exceed the previous year's receive a 25 percent tax credit, while depreciation is accelerated on R&D facilities.

Through programs such as these, and by an absence of unwarranted or unnecessary interference by government, Japan's efforts to guide industry development have achieved considerable success. Japan has only a small export share in ordinary machine tools compared to Germany and the USA, but a high share in NC machine tools.

In Japan, the government's key concern has been putting capital together, not splitting it apart. ". . . government policy has been successful in Japan because there has been less" [12]

The U.S. Government's response to the Japanese challenge is illustrated by our abortive efforts to develop a foreign trade policy and an industrial policy, much like Japan has done so successfully. In 1971 when America had a large trade imbalance with Japan, White House Trade Representative Peter Peterson began to develop the outline of such a policy. With subsequent dollar devaluation, the urgency was gone and efforts to develop a trade policy were abandoned.

In 1977, we again faced the same crisis. New officials had to start from scratch without the broad public and business understanding necessary to achieve success. Again, nothing happened and the dollar declined to about 50 percent of its 1971 value. (Exchange rates during this period were: Pre-1971, Y360=$1; 1972, Y303=$1; 1977, Y268=$1; 1978, Y210=$1; Mid-1981, Y220=$1).

Finance and investment

Japanese managers' long-term outlook have a dramatic effect upon their investment and financial decisions. Because of the way they are financed and supported by the banking community, Japanese companies can be much more daring in their capital investments than their Western counterparts.

The Japanese company with a given amount of resources is much more secure than an American firm in making bold efforts to modernize and undertake new activities. In addition to financial backing through banks, the company can be sure that key government ministries (MITI usually) are concerned with their success and will help out in unpredictable emergencies. They also know that the government will be unlikely to undertake antitrust or other legal action, so long as the company operates within the generally understood guidelines of propriety.

If an established, reliable company should encounter economic difficulty (as happened to a major Japanese machine tool builder in 1975) it will not go out of business, because it is backed by the banks. And behind the banks are various government institutions. In short, business has a financial safety net.

Japanese companies are heavily leveraged. Their relations with the banks that service their capital needs are very close. And the banks are anxious to continue making loans to good customers with strong future potential for repayment. Furthermore, the ownership of publicly-owned companies is heavily concentrated in the large trading companies, the banks and insurance companies.

All of this encourages the Japanese company's long-range view, and desire for growth and increasing market share.

We found no evidence of detailed financial analysis prior to making investment decisions. These decisions seem to be based on using the latest technology, productivity and quality improving methods, and the most modern manufacturing techniques, without serious consideration of the return on investment.

All successful companies spoke of projected growth. It is the guiding principle which drives the engine of investment. As a result, they have plunged forward and done the things that we have known to be technically feasible, but have not had the courage or ability to risk doing.

Also, we found to our surprise, that Japan's machine tool industry is investing and modernizing without special tax credits or incentives. New equipment is depreciated over 12 years, down to a 10 percent residual scrap value. Further, total corporate income tax rates are approximately 54 percent. However, with mute stockholders, many of whom prefer to lend money and do not insist upon short-term results; with high debt service costs; with substantial depreciation deductions for large amounts of newly-purchased capital equipment; and with liberal deductions for employee benefits, it seems possible that many Japanese companies pay only modest income taxes.

In short, the Japanese corporate financial system, while 180 degrees out of phase with America's, creates an environment that encourages investment, expansion and long-range planning.

SECTION III. SPECIFIC OBSERVATIONS OF JAPANESE MANUFACTURING OPERATIONS

"The company appears to be carefully managed, with close attention to detail. There does not seem to be any great effort to push the speed of the metal cutting, but rather to find the appropriate speed where the spindles will be turning and the chips flying."—Study Mission Member

A. Japanese machine tool factories

In general, the Study Mission was struck by three things during its visits to Japanese machine tool plants: First, everything was working—the people and the machines. Second, the types of equipment and level of manufacturing technology currently in use is not significantly different from America's. And third, the plants were clean, neat, well organized, with a general absence of parts waiting to be worked on or waiting to be assembled.

Expediters, timekeepers, materials handlers, chip handlers and similar employees commonly found in U.S. plants were noticeable by their absence. Employees all wear company uniforms and hats—including management and supervisory personnel.

A distinguishing feature of Japan's machine tool plants was their obvious productivity. Although feeds and speeds on the machine tools were rather conservative, and no one appeared to be rushing, virtually all of the machine tools in the factories were making chips and the workers kept up a steady, uninterrupted pace. Their operations were likened to the tortoise in "The Tortoise and the Hare." The result is an output rate that we estimate at approximately twice that of a comparable U.S. operation.

The production rates of the plants visited (admittedly the "cream of the Japanese crop") were often very high. Monthly output figures for CNC turning machines ranged from a low of 150 to a high of 220. CNC machining center output totals ranged from a low of 20 per month (for a new product) to a high of 100. The output of standard lathes and milling machines was quoted to 100 per month.

The total lead time for machining center manufacture (from order to shipment) was quoted in the range of 6 months to 19 months—with delivery preference for export orders. Machining center assembly times ranged from 360 hours (including 15 percent for inspection and testing) to 600 hours for large machines. One company stated that a machining center capable of handling a 20-inch cubic part required 350 machining hours (including subcontracted work) and 450 assembly hours.

Several of the companies used automated stacker systems for parts warehousing. Twice-daily part delivery kept the clutter of parts waiting to be assembled to a minimum. Several companies were asked their inventory turnover rates. These ranged from a high of 4¾ turns per year to a low of 3. The average was about 3½.

The plants we visited were often air conditioned. Lighting levels were generally low, with individual machine lights in common use. At one company, the employees all postponed their lunch period 30 minutes so that our group could observe the entire plant in full operation.

Machining Operations

With the very notable exception of the new parts-machining facilities that are under construction, most of the machining operations observed by our group were very similar to those found in the U.S.

The proportion of new machine tools in builders' plants were not as high as we anticipated—although that proportion varied significantly from plant to plant. Planning was the generally accepted technique for machining the way surfaces on major structural components.

We observed group technology being applied in some of the factories. Machines were grouped to make specific products, such as gears, spindles, gear boxes, etc. One company estimates that it has saved 20 percent through group technology.

In virtually no case did operators stand and watch NC machines operate. In most factories, one operator runs anywhere from two to five NC machines at one time. In addition, the Japanese made extensive use of multiple-part setups. Pallet carrousels, or multiple-pallet changing devices, were often used. In addition, it was common to see multiple-part fixtures on several of the pallets. NC machines were always left running during lunch, and usually filled with fresh parts and left to operate unattended at the end of the day.

In only one plant did we observe any system of labor tickets being used—in this case, with computer-connected reporting stations located throughout the plant.

In several companies we noticed a broad mix of machine tool brands. Apparently, it is Japanese policy to purchase machines from various suppliers—both domestic and foreign—or to have reciprocity arrangements.

One machine setup particularly interested the group, as it illustrated the ingenuity used by some Japanese builders. The machine is a special traveling-column bridge-mill, equiped with a right-angle universal head and a tool changer. With this arrangement the company can machine five surfaces (two sides, two ends and the top) of large machine bases, including drilling and tapping. After completing work on the sides and ends of the base, the universal head is deposited in a nest to one side of the machine, and a vertical head is inserted—which converts the machine to a conventional bridge-mill for machining the top surfaces of the part. Apparently, by changing heads, additional rigidity is obtained during way machining. The operation of two to three of these machines is controlled by one operator.

Assembly Operations

The assembly methods of most Japanese machine tool companies are not substantially different from ours and do not account for their high productivity. However, their machines have been designed for easy assembly. This is apparently the result of the companies' engineers having spent a lot of time in the shop.

In most of the plants visited, machine assembly was accomplished by teams, with members moving from machine to machine as they complete their portion of the operation. Team members are divided by type of work—electrical, electronic, mechanical, hydraulic, etc.

In two of the plants, CNC turning machines are assembled on indexing conveyor systems. Machine bases are placed on pallets at one end of the conveyor. As a machine is completed at the other end of the conveyor, it is removed. The pallet is recirculated (usually under the floor) to its original starting position, and the conveyor is indexed one position. Only the standard, no-frills models are assembled this way. Attachments, tooling or special work is performed on the machines in an adjoining bay, after conveyor assembly.

One common practice, which is made practical because of the workers' care, is the prepainting of parts. Castings, housing, guards, etc. are usually prepainted—often before machining. The quality of this painting was described as "superb" and little touch-up is required after the machine is assembled.

In many companies we saw considerably more hand work (scraping, deburring, polishing, etc.) than is common in most U.S. plants.

Quality Control and Testing

We were surprised to find little evidence of the famous Quality Control Circles in use in the Japanese machine tool plants we visited. However, we were told that if a quality or production problem arises, all of those involved—from manager to sweeper—gather to discuss the problem and decide how to solve it.

Each employee is 100 percent responsible for the portion of the product that he produces. Once the worker attests to the quality of his step, the product can move on to the next step. This process reduces the number of formal inspections required. There is usually a functional test for each major subassembly (3,000 cycles on a tool changer, for example) and a stringent final test of the machine.

Final machine inspection, which takes up to 80 hours, generally includes at least 24 hours of fault-free operation. (If there is a fault in the 23rd hour, the 24-hour process is repeated.) In one company, the sales/service engineer who will install the machine conducts the final inspection.

Even without formal QC Circles, employee participation seems enormous. One company with 3,300 employees receives 5,000 bona-fide suggestions per month. All of these are thoroughly investigated and then implemented if they will improve operation in any way.

Flexible Machining Systems (FMS) and Flexible Manufacturing Factories (FMF)

The challenge of the future, as one Japanese machine tool company president put it, is "how to utilize the other 16 hours of each day." Japan's answer is with FMS/FMF.

During our visit we saw CNC machines that were equipped for unmanned operation in virtually every builder's plant. And virtually every builder talked about FMS as the way of the future—a path they are all planning both for their own operations and for their products.

Three of the companies we visited are actually building or operating parts-making factories capable of unmanned operation. One, Fanuc, opened its factory in December 1980, where it makes parts for robots, its line of wire-cut EDM machines and "mini machining centers." Yamazaki has its factory well underway and plans to open it in the fourth quarter of 1981. And Mori Seiki has started construction of the building to house its facility.

We were informed that some Japanese metalworking companies who have purchased FMS equipment are achieving 6,800 hours per year uptime with only one labor shift because of unmanned night and weekend operation.

Fanuc's Facility

This new 200,000 square-foot plant in the shadow of Mt. Fuji produces robots, wire-cut EDM machines and machining centers in relatively high potential volumes. The machining portion of the plant is designed to be operated as a highly-automated manned factory during the day shift; and as a totally unmanned facility during the evening and night shifts. After only six months of operation, the two unmanned shifts were producing 1.2 times the output of the one manned shift—the company's goal is 1.5, since they feel that the theoretical limit of 2.0 is impractical.

The facility contains 22 machining centers and 7 CNC turning machines. Each machine's pallet capacity equals 16 hours of production, to facilitate the unmanned shifts. The largest pallet carrousel system on a machining center contains 12 pallets; the smallest contains two (on a very large machine); the median is six pallets per machining center. Each of the turning machines is loaded and unloaded by an industrial robot. Parts are brought to the robot on a pallet carrousel. Stock and finished parts are transported between the machines and automated storage facilities on wire-guided carts. During the unmanned shifts, a single employee monitors the entire plant from a control room. Television monitors are used to view the machining operations and load meters monitor all of the power circuits. In the event of a malfunction, the attendant shuts the machine tool down until the next day when maintenance people are available.

We were informed that this entire facility cost Y8 billion ($36 million) of which Y3 billion ($13.6 million) was machine tool and equipment investment.

Ymazaki's FMF

This facility consists of two parallel lines of machining centers housed in a 3,000 square meter building. One machine line is for large, heavy parts and the other will produce smaller parts. The small parts line contains eight machining centers, while the large line consists of ten machines.

This factory will handle between 120 and 130 different parts under a central DNC system. The parts will all be box type (headstocks, beds, columns, etc.) capable of being mounted on 2 x 3.6-meter pallets. Pallets will be transported between storage areas and the machines' pallet changers on shuttle cars.

Each of the machining centers is equipped with a tool-drum changer. A drum handling system transfers tooling between the machines and the toolroom.

The factory is designed to operate with seven workers on each of the first two shifts and in an unmanned mode on the night shift. The company calculates that 80 to 100 workers using conventional NC machine tools would be required to equal the output of this facility.

A team of 20 engineers spent six months designing the plant and nine months writing the software. The facility reportedly will cost $20 million.

Other Systems

As mentioned earlier, several Japanese machine tool builders have multiple-pallet machining center arrangements in their plants capable of unattended operation. Mori Seiki is currently constructing a 216,000 square foot parts-machining plant. We were told that the facility would be manned by five operators on each of two shifts, with no operators on the third shift. The building will house 25 machining centers and other equipment.

Although there was little discussion of FMS for cylindrical parts, one company stated that such a system is under development. Another builder is constructing round-part capability into an FMS installation under construction outside of Japan and Fanuc is producing round parts in its FMF.

It is obvious that the Japanese are making strides with operatorless machining. It is interesting to note that the machining is being done in a very conservative manner and that the elements of these systems employ known technology and "off-the shelf" equipment.

It appears that these companies are using their FMS/FMF installations as both a manufacturing and marketing tool—demonstrating the company's technological capabilities.

Although there has been much discussion of the use of robots in Japan, we saw little evidence of their common use. Most turning machine manufacturers reported that they have supplied several machines with part-handling robots, but these represent only a small portion of their output.

Based upon our observations, it appears that Japan's machine tool industry is emphasizing the development of more complete flexible machining systems, rather than the use of robots for materials handling.

B. Product designs

In general we found that the products of the companies we visited were well designed, using conventional machine tool construction principles. We noted that most machines made liberal use of cast iron, but it was often intricately cored to reduce weight.

The Japanese commonly use integral bed ways which are machined and ground after hardening, rather than using rails mounted on their machine bases, as is common in the U.S. We noted that many builders used significantly more hydraulics than is normal American practice. There was a tendency in some designs to use a great deal of electronic hardware to accomplish functions normally included in American software.

At one company, epoxy was used in the spindlehead, instead of antifriction bearings. The epoxy appeared to be applied almost like putty and then machined and ground. It is supposedly available through a German firm.

The chief engineer of another company explained that each of its machining centers has a diagnostic system that allows the user to push an inquiry button and "ask" where a problem is located. A machine diagram then appears on the screen and the location of the malfunctioning component is highlighted. This system is also capable of being remotely connected to a central system at the company's headquarters for more sophisticated diagnostics.

The group also saw a flexible machining system that had been constructed for an American customer. It featured two large traveling-column machining centers with five or six additional tool drums stored on a rack behind the machines. A single large table spanned the area in front of the machining centers. At each end (for each machining center) there were rotary work tables, two fixed work table areas and a rack containing three different spindle heads. The two machines can operate over a distance of 60 to 80 inches within six locations.

Research and Development

Throughout out plant visits, one thing became abundantly clear. The companies in the Japanese machine tool industry do not receive any significant amount of useful information from the Ministry of International Trade and Industry's (MITI) Mechanical Engineering Laboratory. They stated that the Laboratory's work is all on a very academic level and therefore of little or no practicial assistance to machine tool builders.

However, several of the companies we visited were conducting projects for the laboratory as part of its unmanned laser machining project. In most cases, the companies seemed to feel that this project, though more practically oriented, was not going to produce a workable, economic factory.

Each of the companies on our itinerary conducted its own substantial R&D operations, and some sponsored research at universities. One company reported that 70 of its approximately 1,000 employees were graduate engineers conducting research. Another firm with less than 1,000 employees has 80 graduates engineers in research and design work.

Following are some of the projects that companies reported as typical of the work being done in their laboratories. Development of a 20,000 rpm direct AC spindle drive system that will be part of a modular machining center design with an accuracy of one micron. Development of a threadless lead screw using a friction drive principle that is expected to replace conventional ball screws. Other projects include adaptive control; broken tool detection systems; tool size detection; and touch sensors for axis setting; machine adjustment and gaging.

C. Personnel policies and practices

Discussions of personnel philosophies and the general working of the Japanese employment system are contained in Section II of this report and in Appendix E. The following is factual information directly related to the machine tool firms we visited.

In the Japanese machine tool industry, factory workers appear to earn between $12,000 and $18,000 per year in salary and bonus (not including extensive fringes). Professional employees earn between $15,000 and $35,000 annually. An engineer or accountant who has been with a firm about 10 years and is classified as a manager would earn between $25,000 and $35,000. One company that is part of a large zaibatsu stated that a graduate design engineer with 10 years' experience is paid $27,000 to $29,000 in salary, bonus and retirement. The bonus represents 4 to 5 months' pay and retirement is an additional 4 months' pay. Hence this employee's base pay is less than $16,000. (However, he also gets company housing, free medical treatment, etc.). The average worker in another company is slightly over 30 and earns $14,000 in salary and bonus. For this average worker, income is independent of whether he is factory, office or professional personnel.

Retirement is generally earned after 20 years of service, and mandatory retirement age ranges between 56 and 58 (and is gradually moving to 60). Retirement benefits consist of two to four months' pay for each year of service. There is no equivalent to our Social Security System in Japan.

The average age of the employees in the companies visited ranged from 28 to about 33. This means that a major portion of the industry's workers are still in the young, low paying age bracket. Also, women traditionally work only from approximately age 17 to about 27 and are much lower paid than men. This further lowers average pay and age for companies that employ large numbers of women.

New workers typically begin by painting, working on the burr bench or scraping. After six months, they are reviewed for their suitability for various types of work—assembly or machining. After one year, they are again reviewed and their assignments further refined.

The Japanese schools supply a large number of youngsters who desire factory jobs. Graduates of the technical schools are apparently very well trained, but every com-

pany has extensive on-the-job training procedures for all new employees.

D. Marketing, export, and licensing

The Japanese are selective in their marketing approaches. If they find that the potential for market share does not exist, they will skip a product or model. Unlike many U.S. manufacturers, they will not manufacture a product just to round out the product line—they are very selective in machine sizing.

Product development decisions are made in several steps. A committee of sales people (including distributors, in many cases) gather on a continuing basis to consider what is needed in the marketplace. These recommendations are then passed along up the management chain until management reaches a consensus on which projects to take up, and in what order.

Most companies appear to sell both through agents and directly. Typically, in their home market, they will sell directly to major customers and through distributors and/or trading companies to smaller firms. Overseas, they sell through Japanese trading companies until they are well enough established to deal directly with local distributors.

When dealing through a trading company or Japanese dealers, the agent accepts all of the payment risk and the builder is promptly paid.

The following table (developed from data on page 194 of NMTBA's Economic Handbook of the Machine Tool Industry) shows the recent dramatic growth in Japan's machine tool exports as a percent of the nation's total machine tool production:

Growth in Japan's machine tool export

Year:	*Percent exported*
1963	5.5
1964	7.5
1965	11.7
1966	19.3
1967	12.7
1968	9.9
1970	8.2
1971	12.0
1972	16.3
1973	14.6
1974	18.6
1975	29.6
1976	34.9
1977	38.4
1978	43.0
1979	42.5
1980	37.9

Every machining center or NC lathe that is exported from Japan requires a license to ensure that the company is charging a sufficient amount and not dumping the machine. In addition, machine tools sold to Socialist nations require the same types of licenses as in the U.S. However, obtaining them is a much different matter. Licenses for shipment to the USSR take about one month for a 5-axis machine tool. We were informed that regulations concerning what can and cannot be shipped to Socialist countries are clearly printed for all machine tool companies. The companies questioned stated that they have never had a license denied.

APPENDIX A.—THE JAPANESE STUDY MISSION

Nathaniel S. Howe, Litton Vice President, Group Executive Machine Tools, Litton Industries, Inc.

Ralph E. Cross, Sr., Chairman of the Board, Cross & Trecker Corporation.

George J. Becker, President and Chief Executive Officer, Giddings & Lewis, Inc.

Glenn D. Babbitt, President and Chief Operations Officer, Motch & Merryweather Machinery Co.

Joseph E. Clancy, President, Bridgeport Machines Division of Textron, Inc.

Michael W. Davis, President, White-Sundstrand Machine Tool Co., Div. of White Consolidated Industries, Inc.

Richard A. Jerue, Vice President, Engineering, DeVlieg Machine Company.

James A. Gray, President, NMTBA.

Jesse Maffuid, International Marketing Director, NMTBA.

Charles Pollock, Public Relations Director, NMTBA.

APPENDIX B.—COMPANIES TOURED

Nippon Kokan (NKK) Steel, Keihen Works, Ohgishima Complex, Yokohama Prefecture, Nippondenso Co., Ltd., Aichi Plant.

Makino Milling Machine Co., Ltd., Atsugi Plant, Toyoda Machine Works, Ltd., Main Plant, Aichi Prefecture.

Sony Corporation, Atsugi Plant, Mori Seiki Co., Ltd., Nara Plant and Main Plant, Mief Prefecture.

Mechanical Engineering Laboratory, AIST/MITI, Tsukuba Research Center, Yasuda Industry Co., Ltd., Okayama Prefecture.

Okuma Machinery Works Ltd., Ohguchi Plant, Achi Prefecture, Kawasaki Heavy Ind., Ltd., Hyogo Works, Kobe.

Yamazaki Machinery Works, Ltd., Main Plant, Achi Prefecture, Fujitsu Fanuc, Ltd., Hino and Fuji Plants, Yamanashi Prefecture.

Toyota Motor Company, Ltd., Aichi Plant.

APPENDIX C.—BIBLIOGRAPHY AND REFERENCES

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APPENDIX D.—BUREAUCRATS AND BUSINESSMEN

A DISCUSSION OF THE INTERACTION BETWEEN JAPANESE BUSINESSES AND THE JAPANESE GOVERNMENT

Japan's first economic "miracle"

Economic development occurred much later in Japan than in the industrialized Western nations. As a result, from the very beginning, the Japanese Government has been closely allied with business in an effort to help the economy "catch up."

Japan had been ruled as a feudal agrarian society for nearly three centuries by the Tokugawa Shoguns before the "black ships" of Commodore Perry forcibly opened the country to trade. That action dramatically made the Japanese aware of how far they had fallen behind in commerce, science, technology and even culture. Once having realized its own weaknesses, Japan reformed, restored power to Emperor Meiji and became a student of the West. Beginning in 1868, the government imported technology and machinery, setting up whole factories operated by foreign technicians. At the same time, it sent missions throughout the world to find the best economic structures, machinery and technology.

Because this rapid industrialization was very expensive, and the government did not really know how to run factories, they sold their spinning mills and ships cheaply to private interests in the mid-1870's. The new Japanese entrepreneurs were generally either old merchant families, like Mitsui and Sumitomo, or the younger sons of samurai families. They all had one thing in common—good relations with the government. Hence, the government financially supported Japan's new industry with cheap loans, bailouts of companies in difficulty, protective barriers around the domestic market, and by encouragement of exports.

By 1896, the government and Japan's developing industrial economy began to branch out into heavy industry—in the form of iron and steel production and shipbuilding. This decision also gave birth to Japan's machinery industry.

With its industrial foundations in place, World War I was a boon to neutral Japanese companies. They quintupled industrial production and converted the country from a debtor nation in 1914 to a creditor nation in 1920.[1] This was Japan's first economic miracle.

World War II—An utter disaster

As a result of World War II, however, Japan lost its colonies and, hence, its sources of raw materials. Its population grew 15 percent as people withdrew from the former colonial empire. National income declined 40 percent, the nation lost 20 percent of its pre-war assets and the population was dazed and apathetic. However, the collapse of industry and government allowed dynamic individuals to rise and launch new ventures. Land reform increased agricultural productivity and the Japanese soon went

[1] Osamu Nariai, "The Modernization of the Japanese Economy," Tokyo, Foreign Press Center, 1977, page 15.

back to work just to survive. Without the burden of a military budget, the Japanese began to slowly rebuild their economy, with the help of U.S. aid. Humility and poverty proved to be a better basis for economic development than pride, unwillingness to learn from others, or bloated expectations could ever have been.

Then the Korean War did for Japan what World War I had done earlier. It created a sharp demand for goods and services for the large American army. But if the Japanese, with the urging of their newly-formed government, had not been reconstructing and conscientiously modernizing their factories with the latest Western technology, they would not have been able to seize this opportunity.

The government's influence on reconstruction

In Japan, since the days of the Meiji era, the government has always played an extremely important economic role. Business is the essence of Japan's national life and no government can ignore or neglect that fact. "The objectives of government and business are the same: The maintenance of Japan's economic health and the promotion of the nation's interests." [2]

James Abegglen has compared the Japanese government-business relationship to a Western conglomerate—channeling cash from low-growth to high-growth areas, using the debt capacity of mature businesses to finance rapid-growth areas moving into entirely new businesses with dominant financial power and cutting costs and prices to achieve rapid success. However, in actuality, the government and bureaucracy in Japan are just not that efficient. They do make mistakes.

The reconstruction of the Japanese economy was not too difficult, with American assistance providing the funds to build new factories and purchase raw materials. But an even more important factor was the urge among the Japanese to get nothing but the best factories, with the newest technology. This policy was encouraged by the government, especially the Ministry of International Trade and Industry (MITI), which sought the best technologies, negotiated favorable prices and discouraged unnecessary expenditures. This is why, for example, Japan built only BOF steel plants with Austrian technology developed in 1953 and leapt ahead of the West.

Another important factor in Japan's rapid reconstruction was its insistence on obtaining economies of scale. One large factory was preferable to several small ones. Even better, an integrated complex was preferable to a single large factory. The ultimate was a grouping of complexes to take advantage of savings due to nearby suppliers and processors. Often, large-scale factories would be constructed even if there were no market research showing the existence of customers.

And finally, credit for Japan's industrial emergence goes to the Japanese, who did not take the first fruits of their economic development and enjoy them. Most of the early earnings were poured into further investment in growth and modernization.

Bureaucracies—An elite corps of elite

In Japan, politicians make many important decisions, but compared to the American Government, elected politicians have little leverage over the bureaucracy. The Prime Minister appoints only two people to each ministry. The person who really runs each ministry is the administrative vice-minister—a career officer. The key decisions are made by permanent bureaucrats rather than by politicians.

The leading bureaucrats come from the best universities (usually Tokyo University) and have risen through the ranks in a carefully prescribed fashion. Perhaps the closest American analogy to the prestige of being selected to enter the Japanese bureaucracy, and the care with which candidates are selected, is being selected to clerk for a Supreme Court Justice. But in Japan the talent is kept together and utilized until retirement.

Since only about 3½ percent of the workforce are in the bureaucracy, the ministries tend to be small, averaging about 500 elite-track people. Equally dedicated bureaucrats may be found in other countries, but all Japanese elite bureaucrats show exceptional dedication. This is true even though they are generally paid less than their counterparts in the private sector. The bureaucrats know that they are dealing with important problems and they take pride in this fact.

Ministries rotate all elite bureaucrats through a prescribed course of two- to four-year terms. They are commonly assigned to regional, overseas and key sectional positions within the ministry. At about age 50, the top several in each age group advance to become chiefs of the most important divisions. All others who entered the ministry at that same time retire, usually taking jobs in the private sector or with business associations. When the administrative vice minister chooses his successor, all remaining peers of the successor resign—generally accepting high positions in private firms or entering politics. These jobs are available because these former bureaucrats have both ability and access to the ministry.

In America, at the end of the 19th Century, it became clear that competition alone did not sufficiently serve the public interest. Initially spurred by Teddy Roosevelt's Trust Busters, the burgeoning American bureaucracy developed and administered increasingly numerous and complex regulations designed to tame monopolies and curb the evils of business. Today the American bureaucrats' jobs as they perceive it, is to oversee business and uncover deceptions.

By contrast, the Japanese bureaucrat tries to encourage modernization and provide a framework that best enables business to prosper in the long run. Bureaucrats accept responsibility for everything that occurs in Japan within their sphere of jurisdiction. If terrorists explode a bomb at Narita Airport, the highest officials in the National Police Agency are held accountable. If the yen is devalued, Ministry of Finance officials are criticized. If a senior White House advisor makes a surprise visit to Peking, American specialists in the Foreign Ministry suffer for not knowing. If steel is in oversupply, MITI officials are blamed.

The constant interaction among elite bureaucrats reinforces their long-range viewpoint. Since they are a small group who know each other intimately, are rotated frequently and interact constantly, they all have the mission of the ministry as a whole clearly in sight. They are aware of one another's responsibilities.

The Ministry of International Trade and Industry

Although the Japan Development Bank, the Export-Import Bank, the Bank of Japan and the Finance Ministry all play a role, MITI takes the greatest initiative in guiding industrial growth. The Japanese often describe MITI officials as over-anxious mothers who hover over their children and push them to study. MITI sets high standards for modernizing plants and equipment and encourages companies without sufficient capital to meet those standards to merge. This way, MITI endeavors to push the pace of modernization ahead of market forces.

MITI is notable for the variety of roles it plays—broad policy architect, ad hoc working level problem solver, formal regulator, regional policy arbiter and informal administrative guide. In carrying out its mandate, it considers the whole range of potential government measures—tax, antitrust, special lending, price and capacity controls, export and import measures, environmental regulations, raw materials' price setting and procurement, technology subsidy, dislocation subsidy and regional policy.

When they believe it to be in Japan's best interest, MITI officials will even try to restructure entire industries. For example, as wages rose to Western levels in the 1960's, MITI tried to reconcentrate resources into capital-intensive industries. After the "oil shock" in 1973, they accelerated plans to push Japan into service- and knowledge-intensive industries rather than energy-intensive ones.

MITI officials consider it their responsibility to assist companies in declining industries to merge or go out of business. Then they encourage new industries to move into these localities and employ the personnel who were laid off. MITI will also work out depression cartels—agreements among companies in a depressed sector to reduce production capacity equally.

And when other nations demand restrictions or quotas on Japanese exports, MITI bureaucrats formulate the agreement among Japanese companies to restrict exports proportionately.

MITI's aim is not to reduce competition among Japanese companies. It tries to incubate the strongest possible companies with the greatest competitive potential. In this respect it operates much like an American sports league—setting rules about size, recruitment and play to develop equally matched teams with strong competitive abilities. It stops short of telling the coach how to run his team.

MITI is divided into branches corresponding to major industrial sectors. Each branch studies the overall prospects of its sector and the potential of all the individual companies in the sector. Then MITI helps insure that the promising companies have access to the necessary capital, land, foreign exchange, technology, resources and markets.

Although MITI officials can and do help arrange funding from governmental banks, it is more common, when MITI approves of strong promising companies, that the commercial banks take the initiative themselves. The banks eagerly compete to give loans to companies that have MITI's blessing.

MITI reserves for itself the right to enunciate very detailed rulings about what companies can and cannot do, but it does so only with a broad base of support from the leading firms in an industrial sector. For example, to contain the damage to small stores and bring order to their gradual decline, MITI decrees how large a department store may be and where is must be located.

Surprisingly, the statutory powers granted MITI are very limited and efforts to en-

[2] James C. Abegglen, The Boston Consulting Group, "The Economic Growth of Japan," Scientific American, March 1970.

large them were turned down by the Diet and the business community. The Ministry's effectiveness is not derived from law, but from the voluntary cooperation of the business community. This is accomplished in five ways:

1. Companies know that MITI is primarily interested in their welfare.

2. MITI provides valuable information and analysis.

3. MITI bureaucrats and company officials at all levels meet constantly, both formally and informally, to develop mutual understandings.

4. Companies know that when they do request things over which MITI has statutory control (license, permits, choice locations, etc.) MITI will respond more favorably to cooperative companies.

5. MITI generally works in harmony with the consensus in an industrial sector, or in the business community as a whole.

Cooperative companies are eventually rewarded; uncooperative ones punished. Through cooperation with the Finance Ministry, MITI may determine a company's allowable tax deductions and the amount of depreciation permitted, or what companies have the easiest access to lending. However, banks rarely need to recall loans, MITI rarely needs to refuse permits and industrial associations rarely need to consider expulsion. Since MITI acts with the tacit agreement of the business community, it can usually count on the firms in a particular sector to discipline an unreliable member.

Many of MITI's decisions might better be described as an enunciation of a consensus among the major firms, with input for a wide variety of institutions. These letter include publicly funded banks, business management associations, trade associations and private banks. These institutions serve as intermediaries between the ministry and the companies. The entire process is called informal consensus building.

As mentioned earlier, bureaucrats tend to allow thriving industries to operate with little or no intervention. But intensive interaction occurs in both declining and growing industries. In both cases, because individual companies often cannot solve their problems alone, MITI officials explore and promote mergers and restructuring within an industry sector. This process can take more than a decade to complete.

Even with its leverage and prestige, mighty MITI is not always victorious. It tried hard to consolidate the automobile industry into two or three strong companies—but there are now six. It opposed the construction of the first modern postwar steel plant in 1951, believing that Japan could not hope to compete with America's steel industry. And Sony was delayed two years in importing transistor technology, because MITI bureaucrats did not think Sony was capable of making good use of the technology.

However, such errors are kept to a minimum and the system normally self-corrects rapidly because of the involvement of all affected parties in the decision-making process and their commitment to the resulting decisions.

Industrial and trade associations

Depending on the issue and the extent of common interests, trade associations, or ad hoc groups of companies in a sector, look out for a range of interests impossible to represent in the United States, where antitrust laws are more rigid. To make sure that they have entree when politicians consider issues like tax rates, consolidation and rationalization of firms, industrial and safety standards, and protection against foreign industrial threats, they make regular collective political contributions as a sector. On more detailed issues they deal regularly with the bureaucracy, and major trade associations (and corporations) include staff members who were elite bureaucrats in big ministries, creating smooth relationships with the bureaucracy.

The associations discuss virtually every issue considered by bureaucrats in their sphere, for even if bureaucrats eventually resolve the issue they must first fully understand the dominant views of the sector. In a declining industry it is the trade association that helps shape the depression cartel with apportionment of quotas for reduced production. When the United States demands that Japan limit exports to the United States, this association, in cooperation with MITI, apportions quotas for reduced exports, although paradoxically the kind of restraint the United States demands is prohibited in America by antitrust legislation. Similarly, in times of growth, because of the danger of "overheating" the economy and of creating excess capacity, it is this industrial sector organization that works out with the appropriate MITI branch a fair system for restraining expansion.

"The foreigner is struck with the paradox of extraordinarily competitive relations among firms in an industry whose leaders nonetheless genuinely enjoy each others' company when working for the industry as a whole. Officials who fight to increase their company's market share can seem totally relaxed in the camaraderie of drinking with counterparts in rival companies. Sector association leaders at times fight almost as arduously and effectively in the interest of the sector as a whole as the individual company leaders fight for the good of their own businesses. Indeed, they cannot understand how Americans can keep their individual companies abreast of modern developments without the kind of cooperation that American antitrust practice forbids."[3]

Japan's tradition of strong trade associations dates from prewar period when government essentially ran industry through this mechanism. The structure remains today, but the functioning is no longer one-sided. Officers of the association sit on formal MITI advisory councils and associations pass considerable data to MITI. It is because MITI is so well informed at the working level that government-business communications work so well in Japan. The associations focus their constituents; interests, speak conclusively for them and implement policy once it is formed.

Government and the industrial machinery sector

The Japanese fully recognize the critical importance of the machinery industry to the country's industrial development—and have shielded it from competition.

Japan was far behind major European and U.S. companies in production and design capability in the 1950s and early 1960s, but by the mid-1970s they had virtually caught up in many segments of the industry.

As its producers have become more successful, the Japanese government has shifted its policy from massive aid and very close direction to a looser form of assistance and cooperation, bordering on benign neglect. The types of aid offered, if any, have also changed with the needs of the industry, as it evolved from which imported technology to one on the cutting edge of new developments.

Assistance to the industrial machinery industry began in 1956 with the Extraordinary Measures Law for the Rehabilitation of the Machinery Industry. It was aimed at rationalizing the industry's production and creating initial demand for its products. The law focused on the basic components and simple machinery, including the products of the machine tool industry.

For the first 10 years, MITI organized purchasing cartels for parts and materials. The Japan Development Bank loaned money for modernization and various standards and guidelines were set. The goals were to establish basic standards in an industry made up of thousands of producers, to eliminate the marginal producers and to modernize.

Throughout the 1950s and early 1960s the only machinery that could be imported were types that were not made in Japan. This guaranteed a market for Japanese manufacturers and encouraged foreigners to license their technology or to form joint ventures in Japan. In addition, a series of special depreciation provisions were enacted to promote general industrial modernization and encourage the purchase of Japanese machinery.

By the mid-1960s, the simple machine industry had been modernized and rationalized, so emphasis was shifted to making these companies internationally competitive. This emphasis was felt by the U.S. machine tool industry in the late-1960s.

Export promotion

The Japanese developed a variety of inventive ways to encourage machinery exports—including the formation of associations, export price subsidies, both short- and long-term export financing and tax incentives.

The Japanese Machinery Exporters Association was organized and financed in 1953. It provides information, technological advice and promotional assistance to exporters. The association is exempt from antitrust laws and has the authority to implement orderly marketing agreements, put price floors under exports and negotiate with MITI.

In the early 1950s, the "linking" system enabled Japanese exporters of machinery to price competitively. The government controlled the import of raw sugar, but in order to provide a subsidy to machinery exporters, the control of raw sugar imports was handed over to the Machinery Exporters Association. The Association sold the sugar at the international price and the profit they obtained was meant to compensate machinery exporters for losses incurred in building export sales. By awarding this right to machinery exporters who priced at international or even lower levels, it compensated them for losses incurred in building export sales.

Since then, direct export grants have been reduced to a minimum level. The only major grant program still operative in the industrial machinery sector is the assistance given export associations from the bicycle racing fund, which totals about Y4 billion ($18 million) per year.

Tax incentives played an important role in export promotion in the 1960s, but have become less significant in the 1970s. Only the technology export income deduction (deduction of a portion of the royalties received from abroad) is significant today.

[3] Vogel, "Japan as Number One," pages 108, 110.

Present policy

By 1970 the entire Japanese machinery industry had been rationalized and modernized. The Japanese industry enjoyed a predominance in its home market and had made inroads into world markets for some products, particularly simple machine tools and textile machinery. Hence, the government policy turned away from rationalization, protectionism and export assistance. It aimed towards research and development assistance.

These efforts to guide industrial development have been successful. Japan has only a small export share in ordinary machine tools compared to Germany and the U.S., but a high share in numerically controlled machine tools. Over 50 percent of Japan's machinery exports went to non-OECD countries in 1974-76, compared to 40 percent for the U.S.A. and 30 percent for Germany. Finally, Japan's most rapid growth has been in steel mills, chemical plants and other "wholeplant" sales.

APPENDIX E.—THE COMPANY FAMILY AND LIFETIME EMPLOYMENT: THE TENDER TRAP

A DISCUSSION OF THE JAPANESE EMPLOYMENT SYSTEM

Nothing is more important in Japan than the "Company Family." It is a very strong bond and few Japanese are able to avoid it, even those not formally covered by Japan's system of lifetime employment. The institution is far more than just a workplace, it reaches into the social life of employees and extends into spheres that would elsewhere be regarded as private.

The relations between company and employee are considerably more than contractual. As new employees join a company, they have little choice but to follow the many who are already there. They can only exert an effect over time. The company atmosphere will shape and mold them, absorbing not only their time, energy and ability, but creating the major stage for self-realization. Friends, acquaintances, protectors and rivals are made there. Relationships become all the more important since employees are expected to stick to the same company for life. Even leisure is drawn into business as employees live in company dormitories, attend company parties and go on company-organized tours.

In Japan, the company provides work and a salary; it offers allowances and benefits otherwise lacking in society. If the company does well, the employees will do well. If they are the cause of the company doing poorly, then they have to answer for it—not only to themselves but to their colleagues, family and acquaintances who know them as members of such-and-such company. The very idea of engaging in strikes which will harm the company, let alone sabotaging it or destroying its reputation, is not even a last resort. Sooner or later such action would be bound to turn against them. The result is that the Japanese, as a group, work harder than people with similar jobs in the West.

How the system works

Each year, in April, a new class of employees is brought into the company. This class consists of college graduates who are potential managers, and junior high school, high school and technical school graduates for clerical and factory jobs. The principal difference between the two groups is that, no matter how gifted, it is almost impossible for the high school graduates to bypass the university graduates. In the same way, the new class of employees will not bypass the class of the year before.

The selection of university graduates is only partly related to their ability—with personality and the ranking of their university playing a major role. With this human clay, chosen for its moldability, a long process begins. During the first part of his career, but rarely for more than two years at a time, the potential manager is shifted around from section to section; from subsidiary to subsidiary; from home office to the provinces. During this period he develops a feel for the company, a feeling of loyalty, and the acquaintanceship of many, many other managers and potential managers. Gradually these potential managers rise on the "escalator," reaching section chief after about 15 years and department head after another 15. These are the two basic goals.

If the company is expanding, the graduate has a good chance of success. But as expansion slows down and top posts are filled, the escalator slows down and the management positions do not open. A recent survey by the Japanese Ministry of Labor indicates that only 23 percent of a management class will reach section head, and only 13 percent, department head. To reach a higher post the competition is fierce.

This gradual rise from year to year assumes that the correct decisions were made in the beginning. It assumes the young man hired fresh out of school will ultimately be the one who's needed, that he will learn everything necessary along the way and will one day reach the top. The alternative of promoting a really good man or demoting an incompetent is too revolutionary to contemplate.

Once he reaches a management position, the Japanese manager devotes most of his efforts to "human engineering"—getting the people concerned to agree on a policy; bringing about cooperation and harmony among them; and in general, keeping the lower level staff busy at work. The last is not achieved by driving them on, but by enticing them to contribute for the good of the company. It is also important for the manager to intimately know other managers, distributors, subcontractors, clients, customers and bureaucrats.

The personal element is crucial to the success of any venture in Japan. Rather than fire him, a lazy worker must be persuaded to make greater efforts. Rather than just get rid of an opposing faction, peace must be made. A manager or leader isn't really supposed to do much except encourage the others, to greater efforts while he sorts out any difficulties.

For the other half of the entering class—the technical, junior and senior high school graduates—they will rarely get to the middle management level and almost never to the top. It will take a senior high school graduate 25 years to become a section head. As for the junior high school graduate who enters the company at about age 15, he will be 30 before becoming leader of his "workbench" or group, and about 37 upon becoming assistant foreman—assuming he is an outstanding employee.

Hiring a new employee is a far more serious matter in Japan than elsewhere. The employee is often expected to spend his life with the company and he becomes an integral part of it. Company life is supposed to prevail over every other aspect of his personal life. In many cases the new recruits will live in company dormitories, eat at company dining halls, engage in sports and other relaxation with other company personnel, and scarcely even see parents or outside friends for some time. The first years are spent turning employees into company men, molding them to the company pattern and breaking bad habits.

This spiritual training and company patriotism is inculcated well beyond the initial training period. Until the end of their careers, many Japanese employees can expect to be called together every morning for an edifying morale talk by the company president, department head or foreman. They will hear slogans linking work with every conceivable moral value, and they may also sing the company song.

Of course, the Japanese do not count exclusively on spiritual motivation. They also count upon extremely good leadership techniques throughout the day. In the factory, people are not sitting around idle; experts have figured out where to put them for best results. Despite their high position, leaders and foremen are at the front of the men. They organize the plans and campaigns together, each person is told his task and they go into action as a team. The supervisory staff is in the thick of the action—not sitting back directing. They wear the same uniform as their workers, eat with them and usually are directly involved in production work.

Unions and labor relations

Although vastly different from those in the West, labor unions exist in Japan—and they have been effective. The most striking thing about Japanese unions is that they are company-based, a form that has virtually disappeared in most other countries. Company-based unions are, naturally, an outgrowth of the company family. The close relations between all the workers in one company and the fact that their personal success depends very much on the success of their company has further reinforced the company-based union. It makes more sense for the workers to have a bargaining unit that includes everyone in the enterprise, no matter what trade. This way, they think of themselves as company employees, not as welders, machinists, pipe fitters, etc.

People's view on the union's effectiveness have tended to vary, for the unions themselves have waxed and waned in power. During the early postwar days and again in the turbulent 1960s, the unions seemed to possess real political power and attraction. With recessions, their status and membership have sunk.

Many observers feel that the company-based union is the ultimate splitting of any labor movement and is the master stroke of management. However, these observers overlook the utter dependence of the workers on the company, as well as the dependence of the company on its workers.

A clue to the relatively smooth relations and limited conflicts is found in the curious interface at collective bargaining. The labor representatives are often the older, senior workers, not the more radical, younger ones. And the representatives of management are frequently the former union delegates who have since moved into low-level managerial posts. The older workers are expected to calm down the hot heads in the union, and the young managers will gently feed up the feelings of labor to the top management.

The winner at the bargaining table is not preordained. The unions may not be always aggressive, but they are well established, aware of their members' needs, the company's needs and their own power. What they can accomplish depends on their relative

strength—something they know far better for being a company union. When the economy is slow, the unions are the weaker partner in the bargaining process. When the economy picks up, the opposite is true.

Because of Japan's growing economy, the unions have been very successful in achieving rapid wage increases—bringing their income on a par with Western workers. There have, however, been fewer demands for long weekends, holidays or summer vacations. Japanese labor has never refused to engage in overtime or even failed to come in to work on "days off" when the company needed them. Such cooperation obviously makes it easier to run operations rationally.

Organized labor's real success has been in the area of fringe benefits, which play a substantial role in Japan. The ingeniousness and persistence of labor has been striking. Bonuses, which had once been given in special circumstances when the company did particularly well, were institutionalized. Now every worker assumes he will get a substantial bonus twice a year—a sum equal to two or three months salary each time. In addition, the unions have negotiated substantial premiums for night work, heavy work, driving a vehicle during working hours, family allowances and dozens of others. In general, the unions have done very well for their workers.

Japanese labor, in many ways, seems tame. But this is not entirely the case. The Japanese simply do not tend to use as much violence, verbal or physical, in a situation as Westerners. However, this does not hamper their ability to impose their views on others. They much prefer a policy of pin pricks to violent confrontation. Japanese folk wisdom assumes the latter will solve nothing and only create bitterness. Even those who actually do go on strike usually hold a very brief, if lively, one. It may be an action in which workers go about business as usual and just wear a red armband or headband, or they may come screaming and jumping around management representatives. But the level of violence is rarely very high and the idea of harming persons or property of the company is almost inconceivable. Thus, Japan does not suffer the crushing blows of destroyed factories, sabotage, lost production or purposely downgraded product quality.

The real reason for this labor peace is that the matter of personnel (and personal) relations is with the company every day of the year. Management does not wait for strikes to find out what is troubling the workers or the union. There are a large number of people in managerial circles who are deeply involved in maintaining harmonious relations. This ongoing activity, the constant contacts, the acquaintance by management with needs and the awareness by labor of possibilities makes it relatively easy to settle conflicts when they arise.

Lifetime employment

The basic pillar of the whole Japanese employment system is lifetime employment. Although this is regarded as the essence of Japan's employment structure, the actual number of people covered by a written or verbal contract of lifetime employment has been estimated between one-third and one-half of the working population.

Women are not included among lifetime employees. They are considered periodic or part-time workers because few continue working throughout their adult lives. There are also many workers who are called in for hourly or daily wages when the production schedule requires them. Even though they may work 40 to 60-hour weeks for years, they never cease to be "temporary" employees. Other people are hired to do a specific task are not considered permanent employees. And finally, substantial portions of many company's work is done by subcontractors. In the case of larger companies, their subcontractors may also be large and hence have a core of lifetime employees too. Eventually the subcontracting firms become small enough that "guaranteed lifetime employment" becomes unrealistic, although small company employees also tend to stay with their employers.

Lifetime employment is possible in Japan since the large, growing companies that offer it are well-financed and ultimately backed by the government. To further enhance the system, these companies have developed a seniority system of wage increases under which people are paid on the basis of almost anything but ability—seniority, age, marriage, number of children, etc. This system was devised so that newly trained employees, in whom the company invests so heavily, will be motivated to remain. The wages for junior employees are kept disproportionately low, and those for senior workers are high as a reward for loyalty. The result is a highly motivated workforce that is anxious to contribute to the company family's success in any way possible.

Mr. SYMMS. I would be happy to yield to my good friend from Iowa with whom I have enjoyed being both in the other body and now in this body, and for whom I have such deep and esteemed respect.

Mr. GRASSLEY. I thank the Senator from Idaho for yielding to me.

I would like to comment at this point since I was the main sponsor of the resolution. You asked how this resolution got the consideration that it did. I would suggest that one of the main reasons is that it had 26 cosponsors.

I agree with your very good statement until you got to the specific point about this resolution, specifically in regard to the goals the Senator seeks of fair and free trade. You could not have laid out a more sound philosophy.

I share with the Senator his concerns that he has toward the move toward protectionism, and that we need to combat that.

It is better for the whole world, as well as for the United States, for an expanding economy to solve our worldwide unemployment problem to have free and fair trade, and the Senator and I are both working in the same direction.

Why was this particular resolution introduced? It was not specifically for Houdaille, but because it was an outstanding example of where the documentation demonstrated there is proof of violations, contrary to the Senator's statement. I would like to ask the Senator to look at the research that has gone into the Houdaille petition now before the Office of the U.S. Trade Representative. The outstanding research and analysis on the subsidization of this industry by the Japanese Government shows their intent of taking over dominance in world trade of the machine tool industry.

I would also suggest to you that I was pursuing this issue as an example of what the U.S. Government can do to wake up countries like Japan or, in the case of agricultural trade, the European Community, of possible movements toward protectionism, and the subsidization of production of exports. Contrary to the spirit of GATT, as the Senator suggested, unless the U.S. Government takes a strong stand with specific examples, I do not think we are going to bring the European Community or the Japanese to the bargaining table.

My resolution was just one example of one industry hurt as shown by sound research and analysis and, using that resolution as an example of where the President can use existing authority——

The PRESIDING OFFICER. The time of the Senator from Idaho has expired.

Mr. GRASSLEY. Mr. President, I ask unanimous consent for 2 more minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. This is just one example of what our President can do under existing law.

Remember this: The 1971 Tax Act provided for the President to rescind investment tax credit on imports where there is a showing of a subsidy by a foreign government on a product coming into this country which is unjustifiably restricting U.S. commerce. I asked the President to look at that section and use his authority so that not only would the Japanese Government not be unfairly subsidizing imports coming into this country, but also prevent the American taxpayers from having to subsidize those imports coming into this country as well.

There is no way industries in this country can compete against the Japanese Government or against unfair subsidies. We can compete fairly, as the Senator suggests that we compete, but beyond that we cannot, and hence my resolution was introduced to assure American industries a chance for fair and equal competition.

Mr. SYMMS. I thank the Senator very much, and if he would yield to me the remainder of the 2 minutes——

Mr. GRASSLEY. Yes.

Mr. SYMMS. I appreciate his comments so much.

I would say to the Senator that he and I are on the same track. My concern is that we do things here that occasionally send a signal, and the perception often times may be, that everyone in the United States is becoming very protectionist. I think this dialog is very helpful. I think the Senator makes a very good explanation of

part of the problem in this unfair subsidy, and I think under GATT and other trade agreements we have that maybe these other courses should be pursued.

I hope we have not sent a signal because I know in my State, where we export a big percentage of the wheat grown in my State is exported to Japan.

Mr. GRASSLEY. The signal I send is one that I want free and fair trade.

RECOGNITION OF SENATOR HEFLIN

The PRESIDING OFFICER. Without objection, the Senator from Alabama is recognized for not more than 15 minutes under the previous order.

(The remarks of Mr. HEFLIN relating to the introduction of legislation are printed under Introduction of Bills and Joint Resolutions.)

RECOGNITION OF SENATOR ABDNOR

The PRESIDING OFFICER. Without objection, the Senator from South Dakota is recognized under the previous order for not more than 15 minutes.

(The remarks of Mr. ABDNOR relating to the introduction of legislation are printed under Introduction of Bills and Joint Resolutions.)

THE AGRICULTURAL ECONOMY

Mr. ABDNOR. Mr. President, a year ago in my state of the agricultural economy statement, I reported that 1982 would be the third consecutive year of declining record low farm net income. As we are all painfully aware, 1982 farm net income fell to $19 billion. The real value of 1982 farm net income is comparable to the incomes earned by farmers during the Great Depression. That goes back a long time.

It also drew attention to the declining value of farm assets—a dramatic and frightening reversal of a 30-year trend of tremendous growth in farm wealth. The Department of Agriculture recently confirmed that the value of farm assets dropped almost $40 billion since January 1981; in constant 1972 dollar terms, a plummet of over $100 billion.

A year ago I emphasized another alarming new trend. While net income and the value of farm assets would decline in 1982, farm debt and the cost of servicing that debt would rise. During 1982 farm debt, in fact, climbed almost $14 billion and the cost of servicing total farm debt now stands at 15 percent of total production expenses—almost $22 billion in 1982. Less than 10 years ago, Mr. President, only 7 percent of farm production expenses went for interest outlays.

An equally depressing event in 1982 was the decline in the volume as well as the value of U.S. agricultural exports.

On the positive side, the increase in farm production costs was held down to a remarkable rate of less than 2 percent in 1982. We need to be particularly conscious of the fact that for every 1 percentage point increase in the cost of farm inputs, farm net income is reduced by $1.4 billion. By reducing the rate of cost inflation of farm inputs from 9 percent in 1981 to 2 percent in 1982, the farm net income picture improved by $7 billion. Had inflation not relented, farm net income in 1982 would have been reduced to just $12 billion. Now that input price inflation is under control, however, an improvement in farm net income in 1983 can come about only by higher output prices and revenue.

So much for 1982. We now hear from the Department of Agriculture that 1983 farm net income is forecast at between $15 and $19 billion; from no change to down over 20 percent from 1982—1983 will very likely mark agriculture's fourth consecutive year of record low and declining farm net income.

A further deterioration in the state of the agricultural economy is almost beyond comprehension. But this Congress, Mr. President, must not only comprehend this extremely dangerous situation but must effectively deal with it to avoid consequences of devastating proportions.

CLINT ROBERTS, A FORMER REPRESENTATIVE IN CONGRESS FROM THE STATE OF SOUTH DAKOTA

Mr. ABDNOR. Mr. President, 2 years ago this month, former Congressman Clint Roberts was sent to Washington by the people of South Dakota to represent them in the U.S. House of Representatives. Clint felt that the interest of the constituency should be No. 1, 100 percent of the time.

Over the years, I have enjoyed a close friendship with Clint, a relationship that began when we were both farming in Lyman County, S. Dak. I have trusted and admired Clint for his honesty, integrity, and sincerity, both in his private and professional life. The people of South Dakota always knew where he stood on a particular issue. In fact, he was perhaps too honest, even at the risk of upsetting a constituent.

Clint's philosophy is a result of his South Dakota upbringing. In his farewell letter to his constituents, he remarked:

I have always lived by a lesson taught to me many years ago by my grandfather. He taught me that each of us should try to leave this world a better place for the sake of future generations.

Recently, I read an editorial in the Lyman County (S. Dak.) Herald about Clint. It is a ringing testimonial of the lessons that he learned during his 2-year stay in Washington. Mr. President, I ask unanimous consent that the editorial about Mr. Roberts be printed in the RECORD. I feel that we can learn from his experiences encountered as a Member of the U.S. House of Representatives.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

WE ALL SHOULD LEARN THE LESSONS THAT ROBERTS DID

(By Gordon Garnos)

Justice William O. Douglas, in a 1973 U.S. Supreme Court decision, stated, "A legislator's function in informing the public concerning matters before Congress or concerning the administration of government is essential to maintaining our representative democracy."

Beginning with the first "circular letter" sent in 1797 from a Virginia congressman to his constituents, Congress has recognized its obligation to keep the electorate fully informed. And while the issues have changed and the technology boomed, Congress basic communication duty remains the same.

But to what extent?

This is just one of the questions, we are sure, that South Dakota's Clint Roberts has asked since he went to Congress two years ago.

The people of South Dakota, and the nation, should take heed in what he had to say about Washington and Congress as was noted in his reflections in Monday's Public Opinion, "Roberts learned a lot in two years." Knowing the congressman as we do, we are sure his comments weren't "sour grapes," but truisms when the one-term representative said such things as:

"I guess I was a little bit surprised at the number of people whose number one concern was their re-election rather than what was good for the country." "They take walks on issues that were too tough for them to face." "There are so many games played there. There are so many things that are phony, so many things that are choregraphed back there to bringing about a press release aimed at a certain group of people, it's often nothing but theatrics." "We'd go through the motions so that someone could look good back home."

Come January 3, Roberts won't be going through the motions. But he has brought to light what a number of us have suspected for years. The game played by a congressman in Washington in his communications with his constituents back home is quite often one part "theatrics, one part propaganda", a small part communication and seldom the overall picture of an individual issue.

As long as we have known Congressman Roberts, perhaps the one thing he is criticized for, and which he really shouldn't have been, is that he has always been brutally honest—often, we suspect, at the risk of upsetting a constitutent. We don't know of a time when he made a statement for the convenience of the situation rather then the truth. The people of South Dakota always knew where he stood on an issue, whether or not it was to an individual's liking. It's a shame when one has to be criticized because he was being honest.

As he said in his reflections, his greatest disappointment was the way some congressman operated, but, in spite of it all, there were some good moments for him and for South Dakota during his two-year stay in Washington. His inheritance tax proposals were included into President Reagan's tax package and the South Dakota water development bill, which he sponsored, was signed into law last September—just to mention a couple.

While we didn't always agree with Roberts' stand on the issues, we always agreed with his honesty with the people back home. Whether or not he attempts a comeback in South Dakota politics, the people of our state owe Clint Roberts a debt of gratitude—for his years as a legislator and as South Dakota's secretary of agriculture and for his two years of service in Washington and his need to always be honest with those with whom he deals. Thanks, Clint . . .

Mr. ABDNOR. Mr. President, I yield back the remainder of my time.

RECOGNITION OF SENATOR BOSCHWITZ

The PRESIDING OFFICER. Under the previous order, the Senator from Minnesota (Mr. BOSCHWITZ) is recognized for not to exceed 15 minutes.

(The remarks of Mr. BOSCHWITZ relating to the introduction of legislation are printed under Introduction of Bills and Joint Resolutions.)

TRIBUTE TO NANCY HANKS

Mr. PELL. Mr. President, it was with a great sense of loss that I learned of the death earlier this month of Nancy Hanks, the second chairman of the National Endowment for the Arts, whose energy, skill, and commitment to the arts were awe inspiring. Those of us in Congress who had had a hand in conceiving the National Endowment for the Arts and developing it into a living and productive entity could not have imagined a more capable person to guide the agency through those critical years.

The 1960's had been a rocky period for the arts in Congress. In the early days it was considered frivolous and impractical to espouse a role for the Federal Government in the arts. After the controversial enabling legislation was finally approved in 1965, Roger Stevens, and then Nancy Hanks, were responsible for weaving the National Endowment for the Arts into the lives of the American people and for cementing its place under Federal jurisdiction. The congressional sponsors could not have had a more effective advocate. I recall especially the brilliant way in which Nancy prodded and then persuaded and ultimately converted so many in Congress to become supporters of the arts. Her zeal was infectious.

The Arts Endowment gained in every possible way during her 8-year tenure as chairman. She became an ambassador for the arts and traveled across the country pleading the cause of the arts and promoting more involvement on the part of the private sector. Over these years the agency's budget grew by leaps and bounds—from $16 to $100 million. I was always tremendously impressed with Nancy's adroitness in achieving these victories as well as in the way she established the arts early on as a bipartisan issue. It is one of her many legacies that this bipartisan support for her former agency continues unabated today.

I will miss Nancy greatly and want to extend my profound sympathies to her dear mother, Mrs. Bryan Hanks.

As a further tribute to Nancy Hanks I ask unanimous consent that a fine article by Carla Hall of the Washington Post be printed in the RECORD. It is titled "Nancy Hanks' Gentle Persuasion: An Appreciation," and it beautifully details the specific qualities that made Nancy Hanks such an inspired public servant.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Jan. 10, 1983]

NANCY HANKS' GENTLE PERSUASION

(By Carla Hall)

In 1970, when the National Endowment for the Arts (NEA) was five years old, its new chairman, Nancy Hanks, came up against one key member of Congress who was unconvinced about increasing funding for the agency.

That was Julia Butler Hansen, a Washington state Democrat, who was chairman of the House appropriations subcommittee that recommended budget levels for the NEA. It was important that she be convinced. "Mrs. Hansen said, 'I don't have any letters,' " Anne Murphy, then the NEA congressional liaison, recalled yesterday. "Nancy said, 'Letters? You want letters?' She had fliers put on every seat of every concert hall and theater in the country. Mrs. Hansen got stacks of letters, thousands, mailbags of them, in three weeks, maybe four."

Nancy Hanks died Friday night of cancer at New York's Columbia Presbyterian Hospital at the age of 55. In the eight years that she chaired the endowment, she elevated the agency and the cause of the arts to national prominence and established its constituency as a powerful and vocal political force. "She made the endowment into a national program," said Rep. Sidney Yates (D-Ill.), the current chairman of the House appropriations subcommittee on the Interior.

She was a sturdy woman with a knowing smile and a raspy, low voice that allowed a tinge of a Southern accent to come through. She was friendly and easily accessible to the endowment staff, which grew tremendously during her tenure. Although a staunch Repubican, Hanks largely put aside personal politics and made the arts a bipartisan issue.

Hanks was a little-known figure—she had been working on study projects at the Rockefeller Brothers Fund—when Richard Nixon appointed her chairman of the National Endowment for the Arts in 1969. Her predecessor was Roger Stevens, the first chairman of the NEA and now chairman of the Kennedy Center. Nixon aide Leonard Garment asked Stevens if he had any suggestions. Stevens mentioned Hanks. "I said, 'I think she's a rather smart girl' . . . Nobody had even thought of her at that point in time. They were looking for some women for jobs."

Stevens' estimation of her turned out to be an understatement. With a formidable combination of political savvy and personal charm, she guided the NEA from a budget of $11 million in 1969 to $114 million in 1977, the year she left her post. "Never did I know Nancy to not be prepared," said Murphy, now the director of the American Arts Alliance. "She was obviously charming. She made being feminine an asset. She smiled and she batted her eyelashes. And she was tough as nails."

Along the way she won the administration of artists and arts administrators all over the country.

But her most crucial win was the Congress.

"She handled the hearings before Congress in a brilliant manner," said Yates. "She not only was well-prepared with her budget . . . she was very conscious of recognizing the role of Congress in this matter. She made it a point to visit members of Congress and take care of their questions."

Hanks made sure she never was boring. She submitted written testimony to the committee and then, during her appearance at the hearing, talked about other things. "She was witty and thoroughly informed," said Yates, "the kind of administrator that members of Congress not only like to work with but one I was privileged to call a friend."

Once, at a reception at the Phillips Collection, Hanks displayed the endowment's logo, a stylized bird. "You may think it is a strange dove or a dead pigeon," she told the guests who included National Council on the Arts members. "But it is, in fact, an eagle." And the crowd applauded.

"I remember several congressmen saying at parties that if only someone like her was running the State Department," said her friend, Charles Blitzer, who recently resigned from the post of assistant secretary for History and Art at the Smithsonian to become director of the National Humanities Center.

"She never took no for an answer," said Murphy. "She just pursued. She would invite [members of Congress] to a performance, go to their office, be sure to let them know when something was happening in their district. She'd read their daughter got married and she would call them. She courted them. In many ways, it was like a mating dance."

Frank Evans, a former Democratic congressman from Pueblo, Colo., and a member of the House Appropriations Subcommittee on the Interior, was someone Hanks cultivated:

"She'd never been able to convince him to support the arts," said Murphy. "She ran into him at a cocktail party once. He had on a silver and turquoise belt. She started talking to him about the belt and Indian art and preserving indigenous art. That was the beginning. She would find other things that he was interested in. She was nobody's dope. She wouldn't talk off the top of her head. She wouldn't meet with someone like Frank without having read about him and what he was concerned about."

She talked to Evans about water conservation in the West, one of his concerns. It might come up when Hanks encountered Evans at a reception or on the Hill. "She would make it come up," said Murphy. "She would just say, 'By the way, I read your speech at such and such a place and I

thought it was good but it didn't address such and such . . .' "

She took Rep. John Murtha (D-Pa.), a subcommittee member and another who had to be convinced, to his first concert since his Navy days, according to Murphy. After Hurricane Agnes had devastated Murtha's home town of Johnstown, Pa., Hanks quickly awarded a chairman's grant of $10,000 to the orchestra there for a special day of music and festivities, Murphy recalled. Hanks also got private businesses to contribute. Impressed by the turnout in his town for the event, Murtha has been supportive of the NEA ever since, Murphy said. "Everyone knew she didn't do it for political reasons. She just saw a need and moved very quickly."

In the early '70s, when the NEA was in danger of a budget cut, Hanks and her deputy chairman, Michael Straight, mobilized all their forces. Straight gave a series of 10 or 12 parties, Murphy estimates, at his house and invited different members of Congress. Hanks called in some of the NEA's glittering reserves for active duty at these parties—National Council members Billy Taylor, Rosalind Russell and Beverly Sills were asked to come. Hanks found actor Eddie Albert, performing in a play at the National Theater, and asked him to come. And, of course, Hanks herself worked the crowd of congressional folk. "She talked to them and cajoled them and flirted with them and gave them sound information," said Murphy. "She would know any arts group and any grant of the district of any congressman."

In the end, "she must have turned around 100 or so people who would have voted for the cuts," said Murphy.

She was not a bureaucrat, not a sycophant. Neither did she go looking for a fight. She was shrewd. When being witty would do nicely, she was witty. Once, former Republician Congressman H. R. Gross from Iowa announced angrily on the House floor during a debate on the appropriations bill that the NEA was funding belly dancers. When Hanks was called for her reaction, she said she was sure it was a mistake and that he meant to say ballet dancers and that, yes, of course, the NEA funded ballet dancers . . .

Her 20-year battle with cancer (she had a mastectomy in 1962, according to a close friend and associate) also did not deter her. It was something that she rarely discussed with anyone. In India on a cultural mission a few years ago with Blitzer, "She ran me ragged," he said. "We went to Ahmadabad on a killingly hot day. I was sort of stumbling through it all, and Nancy was running ahead."

She was tireless during her endowment days, accessible to staffers, many of whose careers she nurtured and guided. Loaded down with briefing books—"she looked like a bag lady," said Murphy—she traveled around the country to see arts programs and arts administrators.

And when she resigned her post, though she stayed close to arts groups and was still a familiar face at opening nights, she enjoyed the freedom to walk out of a bad play at the intermission—which she and Blitzer did several years ago.

Her birthday was New Year's Eve, and she celebrated with a party each year at her Georgetown home. Wandering past the Richard Hunt sculpture in the living room, guests drank champagne and ate ham with mustard and marmalade sauce. Blitzer remembers meeting Rosemary Woods there one year and Sen. Charles Percy (R-Ill.) leading the group in a chorus of "Happy Birthday" another year.

Tomorrow there will be a memorial service for her at the Cathedral of St. John the Divine in Manhattan. It will be conducted by her cousin, the Rev. James Park Morton.

"She told me her father was so excited when she was born that he forgot to file for a last-minute tax deduction," said Murphy. "Nancy would have remembered."

ORDER OF BUSINESS

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, I yield to the distinguished minority leader.

The PRESIDING OFFICER. The Senator from West Virginia, the distinguished minority leader, is recognized.

Mr. BYRD. Mr. President, I beg the Senator's pardon. I did not realize he had the floor.

I thank him for yielding.

Mr. President, has morning business begun?

The PRESIDING OFFICER. It has not begun.

The Chair will advise the Senator from West Virginia that there have been a number of Senators who have been speaking as though in morning business by unanimous consent.

Mr. BYRD. Mr. President, I would just as soon have morning business begun than to have to ask for unanimous consent, if that is agreeable.

The PRESIDING OFFICER. The Chair will point out to the distinguished minority leader that there is one special order remaining.

Mr. BYRD. Very well.

Mr. President, then I ask unanimous consent that as in morning business I may offer a resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

RULE XVI AMENDMENT

Mr. BYRD. Mr. President, I offer a resolution and I ask that the title of it be stated by the clerk and the resolution be read.

If it is agreeable all the way around, I ask for the immediate consideration of the resolution following the reading of the resolution by the clerk.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Yes.

Mr. President, there will be no objection from me nor would I have the right to object to a certain aspect of the procedure, to the stating of the resolution by title or to the reading of the resolution. At the appropriate time I wish to advise the Chair I will object to the immediate consideration of the resolution.

The PRESIDING OFFICER. The clerk will state the resolution.

The assistant legislative clerk read as follows:

A resolution (S. Res. 14) to amend rule XVI of the Standing Rules of the Senate with respect to the priority of deciding certain points of order made against amendments to general appropriation bills.

Resolved, That paragraph 4 of rule XVI of the Standing Rules of the Senate is amended—

(1) by inserting "(a)" after "4."; and

(2) by adding at the end of such paragraph the following new subparagraph:

"(b) If a point of order is made by any Senator against an amendment to a general appropriations bill on the ground that such amendment proposes general legislation or proposes a limitation or restriction not authorized by law and is to take effect or cease to be effective upon the happening of a contingency, it shall not be in order to raise the defense of germaneness unless there is House legislative language on that subject contained in the bill.".

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

Mr. BAKER. Yes, Mr. President, I object to the immediate consideration of the resolution.

The PRESIDING OFFICER. Objection is heard.

The resolution will go over under the rules.

Mr. BYRD. Mr. President, if the distinguished Senator from North Carolina will permit me, I introduce a resolution that is exactly similar to the resolution which will in time go on the calendar of bills, motions, and resolutions coming over under the rule, and I ask unanimous consent that this measure be appropriately referred to the Rules Committee.

The PRESIDING OFFICER. Without objection, the matter will be referred.

The Senator from North Carolina.

Mr. HELMS. Mr. President, I thank the Chair.

I have precisely the same situation as was the case with the distinguished minority leader.

SENATE JOINT RESOLUTION 8—PROPOSED AMENDMENT TO GUARANTEE THE RIGHT TO LIFE

Mr. HELMS. Mr. President, I send to the desk (for himself, Mr. EAST, and Mr. DENTON) a joint resolution and ask for its immediate consideration.

Mr. BAKER. Mr. President, is the Senator proceeding under the same procedure; that is, to try to place the resolution on the calendar?

Mr. HELMS. Exactly.

Mr. BAKER. Mr. President, I wonder if the Senator, instead of asking now for its immediate consideration, will ask that it be offered and it might be stated by title or perhaps even that the resolution be read because it will be necessary for me to object again to the immediate consideration of the resolution.

Mr. HELMS. That is agreeable. It need only be stated by title.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 8) to amend the Constitution of the United States to guarantee the right to life.

Mr. HELMS. Mr. President, I ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

Mr. BAKER. Mr. President, I thank the Senator for accommodating to my suggestion.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. I now must object, as he knows I must, to the immediate consideration of this resolution.

The PRESIDING OFFICER. Objection is heard to the immediate consideration of the resolution.

SENATE JOINT RESOLUTION 9—PROPOSED AMENDMENT TO PROTECT THE RIGHT TO LIFE

Mr. HELMS. Now, Mr. President, I send a joint resolution to the desk (for himself, Mr. EAST and Mr. NICKLES) and ask that the title be stated.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 9) to amend the Constitution of the United States to protect the right to life.

Mr. HELMS. Mr. President, I ask for immediate consideration of the joint resolution.

Mr. BAKER. Mr. President, once again, as the Senator from North Carolina knows, in order to perfect the procedure involved, I object to the immediate consideration of the resolution.

The PRESIDING OFFICER. Objection is heard.

S. 26—LEGAL PROTECTION FOR UNBORN HUMAN BEINGS

Mr. HELMS. Mr. President, I send a bill to the desk (for himself, Mr. EAST, Mr. ZORINSKY, Mr. NICKLES, Mr. JEPSEN, and Mr. DENTON) and ask that it be stated.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 26) to provide legal protection for unborn human beings and for other purposes.

Mr. HELMS. Mr. President, I ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

Mr. BAKER. Mr. President, once again I must object, and I do object.

The PRESIDING OFFICER. Objection is heard.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The majority leader is recognized.

Mr. BAKER. Mr. President, I have no idea how long we will be in morning business but the time will run from after the execution of the Specter special order; is that correct?

The PRESIDING OFFICER. The Senator is correct.

RECORD TO REMAIN OPEN UNTIL 5 P.M. TODAY

Mr. BAKER. Mr. President, assuming Senator SPECTER reaches the floor, and I do assume that, otherwise some other provision will have to be made, I ask unanimous consent that notwithstanding the Senate may stand in recess or adjournment prior to that hour that the RECORD may remain open today until the hour of 5 p.m. for the introduction of bills, resolutions, petitions, memorials, and statements by Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE RECOGNITION OF SENATOR SPECTER ON TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that on tomorrow, Thursday, January 27, the distinguished junior Senator from Pennsylvania (Mr. SPECTER) be added for a special order of not to exceed 15 minutes at the end of the list of special orders previously authorized.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

ORDER FOR THE RECOGNITION OF SENATOR SPECTER AT ANY TIME PRIOR TO RECESS OR ADJOURNMENT OF THE SENATE TODAY

Mr. BAKER. Mr. President, I hope the distinguished Senator from Pennsylvania (Mr. SPECTER) will advise the leadership, on whether he requires the time provided for him today on special order, as soon as possible so that we may plan for the remainder of the day.

Mr. President, since the Senator from Pennsylvania is not here, and I have had no word up to this moment when he will arrive, perhaps we can arrange things this way: Mr. President, I ask unanimous consent that the Senator from Pennsylvania (Mr. SPECTER) may be recognized on special order at any time today prior to the recess or adjournment of the Senate, notwithstanding the Senate may at that time be in a period for the transaction of routine morning business, under the same terms and conditions as previously ordered.

ROUTINE MORNING BUSINESS

I further ask unanimous consent that the time for the transaction of routine morning business begin at this moment under the same terms and conditions as previously authorized, notwithstanding the Specter order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. BAKER. I yield.

Mr. BYRD. The Senator used the words "recess or adjournment."

Mr. BAKER. Recess. The order has already been entered to recess over until 12 o'clock noon tomorrow.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. There will now be a period for the transaction of routine morning business.

DAIRY PROGRAM

Mr. PRESSLER. Mr. President, during the last several years, the dairy price support program has been the subject of numerous debates in Congress. In March 1981, the semi-annual adjustment in the dairy price support level was repealed and the support level has been frozen since October 1, 1980. Unfortunately, the dairy surplus has continued to grow. Last year, a program to reduce the support price to farmers by 50 cents on December 1, 1982, and April 1, 1983, was implemented to help pay the storage cost for the dairy surplus. That program is now in litigation and is not in effect.

Since the passage of the 50-cent reduction program, it has become clear that the program will not reduce milk production and will likely increase production. The program should be repealed and an effective program to reduce the dairy surplus should be implemented.

Any program to effectively reduce the dairy surplus must:

Provide an incentive to farmers to reduce production—possibly similar to the set-aside program for grain;

Increase consumption of dairy products domestically by reducing consumer prices, along with any reduction in farm prices;

Distribute the current dairy surplus to all possible markets, including needy people (both domestically and abroad), and through sales to any interested foreign nations;

Restrict the importation of dairy products such as casein, which are often subsidized and unfairly compete with domestic dairy products.

In my meetings with dairy farmers and other interested people, these points are always raised and they should be included in any dairy proposal. Another suggestion which is often considered is to place a limit on the amount of milk support payments going to individual dairy farmers. This would be similar to the $50,000 per farm payment limitation on other farm programs. The proposal would aid family-type farmers, while reducing the support level for large nonfamily corporate farms.

It is time to take action on the dairy program to resolve the dairy surplus problem and not just look for ways to reduce the cost of the program. If milk production is effectively reduced and controlled, the cost of the dairy price support program will also decline. A bandaid approach to support program cost reductions will only increase costs in the long run and compound the problem. The dairy farmer must know what the program will be in the future so he can plan ahead. I have urged the Department of Agriculture to come up with an effective program and I will be submitting a proposal to control dairy production. I urge my colleagues also to consider carefully various options for controlling dairy production.

Mr. President, I yield the floor.

RECOGNITION OF SENATOR SPECTER

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I thank the Chair.

(The remarks of Mr. SPECTER relating to the introduction of legislation are printed under Statements on Introduced Bills and Joint Resolutions.)

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the agreement reached by the majority leader, the Senate now is in morning business.

THE DEVASTATING PROBLEM OF DRASTICALLY RISING NATURAL GAS PRICES

Mr. JEPSEN. Mr. President, I rise once again to declare that it is time for the Congress and the President of the United States to address the devastating problem of drastically rising natural gas prices. It is time for the Congress and this administration to come to grips with a problem that literally has the people of this country choosing between food or fuel. I jest you not about the seriousness of this problem. Indeed, in a recent survey taken by the Heritage Area Agency on Aging, senior citizens in eastern Iowa stated that one of their major concerns was the choice between food or fuel for this winter. In the area covered by this survey, 377 senior citizens stated that this choice was uppermost on their minds and their most serious problem. This is a national tragedy: this is a national disgrace:

There is no reason for this situation to occur. There is no reason or justification for the current stalemate for resolution of this problem by the Congress or the administration.

This is clearly an unacceptable situation.

I remind you, however, that this problem extends far beyond the senior citizen. Every level of American life is affected by these rapidly escalating prices. One out of two American households are in some way hit by this burden. The leaping costs of natural gas cut indiscriminately into every budget. Again, I say, there is no reason for this to continue. It is time for congressional action now. Tomorrow will be too late for some Americans.

I realize that there is no quick-fix solution to rising natural gas prices. However, positive, corrective changes can be made in the Natural Gas Policy Act that will have a beneficial impact for all Americans.

The act was passed at a time when there was a shortage of natural gas. It was designed to encourage exploration and the development of new gas sources. In that respect, the act can be declared successful. However, the act never anticipated prices rising faster than provided for in the act. Likewise, the industry did not expect oil prices to fall as dramatically as they have recently. In this context we must remove the impediments in the Natural Gas Policy Act which are currently preventing gas prices from decreasing.

I have introduced legislation which will begin the process of modifying the Natural Gas Policy Act by expanding the definition of the word abuse as used in the act. This expanded definition will give the Federal Energy Regulatory Commission the necessary authority to order correction of abuses by the gas industry. In particular, take-or-pay clauses would be limited, indefinite price escalators would be tied down and market-out clauses would be required in all contracts.

This will be a beginning for congressional action to combat the serious problem of price hikes. But there is more that can be done.

I call upon the gas industry to stop hiding behind the NGPA saying that their acts are in compliance with that law while they are raising gas rates to new and absurd heights.

I call upon the gas industry to begin setting its own house in order.

It is necessary that pipeline companies begin to organize their business affairs in an economic way. They can begin by using prudence when negotiating contracts. In fact, they can begin by renegotiating many of the unnecessarily high-priced contracts which they currently have. Some in the industry have already begun to do so. I commend them and encourage others to follow their example.

More can also be done by the public. They must continue to keep up their vigilance on this issue. They must continue to write and to call their elected representatives to tell them how high natural gas prices are affecting families, and businesses, and communities in this country.

Over 80 million occupied housing units depend on natural gas for their heat and other household uses. That is 55.4 percent of all U.S.-occupied housing units according to 1980 figures.

The Congress owes these people a natural gas pricing system which will work fairly and properly on their behalf. That is clearly not the situation now.

I urge my colleagues to join me in securing a safe and sound pricing system for their constituents. The people deserve it. The people expect it.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. STEVENS). Without objection, it is so ordered.

RETIREMENT OF ELEANOR LAWRENCE

Mr. MATHIAS. Mr. President, I call the attention of my colleagues to the fact that Eleanor Lawrence, a valued staff member of the Joint Committee on Printing, will retire at the end of January after more than 31 years of Federal service. Since 1967 she has served as executive secretary and the staff person responsible for the distribution of publications to congressional offices.

Any congressional employee who has requested copies of publications from the Joint Committee, or anyone who has ordered printing from the Government Printing Office and has needed to consult with the committee for special handling, will recall Eleanor's capable and cheerful assistance. She is one of those rare people on the Hill who works daily with both Senate and House offices and knows hundreds of congressional staffers by their first names.

Before coming to the Joint Committee on Printing, she worked for 10 years as an assistant to Representative Joe Martin, the former Republican Speaker of the House during the 80th and 83d Congresses.

A native of Massachusetts, Eleanor and her husband, Jim, who also retires this month from Federal service, plan to move to the sunnier climate of Florida to enjoy their well-earned retirement. Our best wishes go with them.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MATHIAS). Without objection, it is so ordered.

REGIONAL RESOURCE CENTERS

Mr. HATCH. Mr. President, today I want to focus your attention upon our regional resource centers, a small but remarkable national program. For the past 12 years these centers have served as an excellent resource in meeting the special needs of American handicapped children. Established in 1970, these centers have assisted States in providing our handicapped children with their rightful opportunity for an appropriate education. I am proud to have a regional resource center in Utah and want to publicly acknowledge the efforts of all our current RRC's.

BASIC PURPOSE

Regional resource centers were established as a regional resource to improve distribution of educational services and techniques available for those working with handicapped children. They assist State and local education agencies in all aspects of carrying out the requirements of Public Law 94-142 to provide a free, appropriate, individualized education for all handicapped children. Regional resource centers' (RRC's) services include training of special education personnel, demonstration of education methods, planning and coordination of programs, and development and dissemination of materials and information. They are the only agency which provides technical assistance for special education at the regional level. There are 12 RRC's which directly serve the States of one-fourth of the Members of the Senate. Since RRC's serve multi-State regions, other States are also served.

EFFECTIVENESS OF RRC'S

In October 1979, the U.S. Department of Education commissioned the Communication Technology Corp. of New Jersey to evaluate the RRC program. The study found that the RRC program has been very successful at both the State and local level in building increased knowledge of and capacity for implementing Public Law 94-142. They have been particularly effective in the training of special education personnel, dissemination of materials and information, and developing new educational techniques. They have acted as a liaison between the Office of Special Education and the State and local agencies. The RRC's have provided a framework by which consumer groups can be linked with new technologies and practices to help solve problems which remain in providing special education.

FUNDING PROBLEMS

In 1976 the RRC's appropriation was as high as $10 million. For fiscal year 1981, the RRC's were given an appropriation of $7.656 million. In fiscal year 1982, the appropriation was cut over half to only $2.88 million. As a result, RRC's have had to make major cuts in many essential services. During the 98th Congress, the RRC's along with nine other discretionary special education programs were to reviewed for reauthorization. During that period, adjustments were to be considered. However, the RRC's time has runout. Its funding is on a 3-year cycle and expires in June.

It has been brought to my attention that on February 1, 1983, a new request for proposals will be published by the Office of Special Education, Department of Education. Since funding in fiscal year 1983 remained at the same level as fiscal year 1982, drastic changes had to be made in the design of the RRC program. The number of RRC's have been reduced to only six, each center serving a much larger area, with a probable dilution of the effectiveness of the centers' services to the States. Increasing fiscal year 1983 funding by a mere $2.5 million would permit restoration of the many vital services curtailed during fiscal year 1982 and I urge my colleagues to give serious consideration to the request for a supplemental to accomplish that objective.

Obviously, RRC's have benefited all of our States and it would be a great disservice to our constituents to allow a program as effective as our RRC's to cut services because of an oversight in the provision of adequate funding. Let us show our appreciation to the RRC's for a job well done by supporting restoration of funds.

REPRESENTATIVE JACK SWIGERT

Mr. STEVENS. Mr. President, words structured to bestow the highest praise sometimes seem inadequate when attempting to describe the contribution of a man or woman. It is impossible to properly describe what Jack Swigert gave to all of us. He was a national hero in the battle to conquer space and in the battle to overcome cancer.

Jack was a personal friend of mine. I admired him from day one. Maybe I did so initially because of my lifelong interest in the space program. But, after getting to know Jack, I understood the true depth of this quiet American hero.

Recently, an article appeared in the Washington Post written by George F. Will entitled, "Jack Swigert's Example." It is an excellent piece; one of the best I have read. More importantly, however, the column underlines the beauty of Jack Swigert's gift to his country. It describes his realistic perspective and will to overcome adverse odds.

I looked forward to serving with Jack Swigert in Congress. He would have added something a little extra to the legislative process. But, although he will not be with us in one sense, his spirit, enthusiasm, and strength provided all of us with an example to follow.

Mr. President, I ask unanimous consent that the text of the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

JACK SWIGERT'S EXAMPLE

Newspapers exist primarily to inform. But the first and finest columnist (Samuel Johnson) rightly insisted that men more frequently require to be reminded than informed. So let us now be reminded of Jack Swigert's gifts to his country. He gave examples of bravery when he did not die, and when he did.

Some public persons take too much to heart Longfellow's announcement that life is real, life is earnest. They are oppressively somber, their backs bent, figuratively speaking, beneath the weight of responsibility. Swigert was not like that. He had life in perspective, perhaps because he had felt the breath of death.

The first time was with the world watching. To be precise, the world was listening to the laconic space-speak between Houston and Apollo 13. It was April 13, 1970—a great day for the superstitious.

Suddenly, crackling across 206,000 miles came words more memorable to those who heard them than "the Eagle has landed." The words, spoken in a tone of tenseness not hitherto heard from space, were: "We've got a problem." Suddenly, the space program stopped being automatic and antiseptic and became a matter of desperate improvisation to save three men outbound at 2,200 mph.

An oxygen tank had exploded, damaging the command capsule's electricity, computer, water and fuel cells. Instead of heading for a moon landing, astronauts Swigert, James Lovell and Fred Haise were in danger of dying as no one ever had, hurtling into deep space. But with superb help from Houston, they launched themselves into a maneuver that whirled them around the moon and homeward.

Last summer, when Swigert was running for Congress, a small malignancy was removed from his nasal passage. When a physical examination in August left him with mysterious back pains, he underwent extensive tests, which revealed cancer in his bone marrow. By then it was too late for Colorado Republicans to field another candidate so, like a spacecraft locked in orbit, he continued, adding chemotherapy, with its debilitating effects, to the wear-and-tear of

campaigning. He lost some hair and frequently looked ravaged, but he gave an imperishable example to a national constituency—the 3 million Americans who have cancer and are summoning the physical and emotional stamina to carry on.

There was reason to hope, if not to expect, that the therapy would arrest the disease. In 1982, as in 1970, Swigert acted on the principle that however long the odds, you are not beaten until you concede. But shortly before Christmas, pain drove him into a Washington hospital.

There, to the end, he was what he had been all his life: in control. Surrounded by and attached to the paraphernalia of high-technology medicine, he monitored his condition. He had a mind disciplined by close encounters with danger (he survived a plane crash while an Air Force fighter pilot in Korea) and eyes trained to extrapolate reality from electronic impulses on guages and screens.

At one point he told a doctor that he thought one lung was filling and he should have an X-ray. The doctor disagreed, so Swigert bet him a steak dinner. Before 24 hours had passed, Swigert had died at age 51, a week before he was to have been sworn in as a congressman.

Heroism is not as promiscuously distributed as President Reagan said in his inaugural address, when he baptized us all heroes. But there are humble, hidden forms of heroism. A gifted professional basketball player (Spencer Haywood), asked how it felt to be a hero, responded that if you want to see heroism, watch a welfare mother raising a large family.

But public acts of heroism, although not morally grander than private bravely, have special power as models of virtue. The communication of patterns of excellence once was a function of literature. However, the tutelary task once performed by, say, the Bible, Bunyan and Shakespeare is no longer performed by any corpus of great books that shape the community's moral imagination.

Walker Percy writes novels of moral seriousness, but his characters do not make virtue vivid. John Updike is a gifted writer, but his Harry "Rabbit" Angstrom and other residents of Brewer, Pa., are not intended to do for us what Homer's and Dante's creations did for Greece and Italy—supply unifying patterns of excellence. Contemporary literature is doing some serious things, but not that serious thing.

Nations always, but especially in an era of nonheroic or antiheroic literature, need conspicuous real heroes. This nation just lost one.

NOTICE OF DETERMINATIONS BY THE SELECT COMMITTEE ON ETHICS

Mr. STEVENS. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD this notice of Senate employees who propose to participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The Select Committee on Ethics has received a request for a determination under rule 35 which would permit Mr. Gary Russell of the staff of Senator BOSCHWITZ, Mr. Ashley Thrift of the staff of Senator HOLLINGS, Mr. Thomas Melia of the staff of Senator MOYNIHAN, Mr. Winslow Wheeler of the staff of Senator KASSEBAUM, Mr. Gene Karp of the staff of Senator DECONCINI, and Ms. Margo Carlisle of the staff of Senator MCCLURE, to participate in a program sponsored by the Hebrew University of Jerusalem in Jerusalem from January 9 to 18, 1983.

The committee has determined that participation by Messrs. Russell, Thrift, Melia, Wheeler, Karp, and Ms. Carlisle in the program in Jerusalem, at the expense of the Hebrew University of Jerusalem, to participate in seminars on American/Israeli relations, is in the interest of the Senate and the United States.

The Select Committee on Ethics has received a request for a determination under rule 35 which would permit Mr. William Canis, of the staff of Senator PERCY, to participate in a program sponsored by a foreign educational organization, the Chinese Culture University, in Taipei, Taiwan, from January 7 to 16, 1983.

The committee has determined that participation by Mr. Canis in the program in Taipei, Taiwan, at the expense of the Chinese Culture University, is in the interest of the Senate and the United States.

THE IMF LENDING INCREASE

Mr. PROXMIRE. Mr. President, an editorial appearing in the Wall Street Journal for January 25 has termed the IMF lending increase an all-out assault on the U.S. Treasury—led by the Secretary of the Treasury himself. This turnabout by the administration is especially ironic since only a few months ago, Treasury officials were adamant that any increase in the IMF quota would be inflationary.

The Wall Street Journal also puts its finger on an important point when it observes that the U.S. share of any lending increase would have to be borrowed out of the money markets and thus diverted from productive uses in our own economy.

The Treasury argument on this point is somewhat misleading. Treasury officials are quick to point out that the IMF lending increase will not increase budget outlays or the budget deficit. However, this result is brought about only through some questionable accounting assumptions. For example, when the IMF draws upon our currency we receive an "asset" in return—we have a reserve position in the IMF that can be counted in our offical international reserves. Since we are merely exchanging "assets" Treasury contends the transaction has no outlay effect.

By the same line of reasoning, virtually any loan transaction of the Federal Government could be considered to be off-budget. When the SBA makes a loan to a small business, the United States gives up cash and gets in return an IOU from the business. In other words, we have exchanged one financial asset—cash—for another financial asset—a promisory note. However, current accounting practices treat this type of transaction as an outlay since the money must be borrowed by the Treasury and the money is thus diverted from other uses.

The exact same thing happens when the IMF draws upon our currency. The Treasury must finance this drawing by going into the Government securities market and borrowing the money. Thus the $8 to $10 billion U.S. share of the IMF lending limit may ultimately have to be borrowed by the Treasury and diverted away from loans and investments in our own economy.

Whatever the accounting legerdemain, there clearly is no free lunch. Likewise, whatever the need for the IMF lending increase, it is misleading to infer that somehow this increase does not really cost anything since it is off-budget.

Mr. President, I ask unanimous consent that the Wall Street Journal editorial appear in the RECORD at the end of my remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Jan. 25, 1983]

IN FOR A DIME

In for a dime, in for a dollar, as the old saying goes. We're seeing the truth of that in the Reagan administration's decision to go along with ill-considered efforts to bail out all the world's debtors. What started as a relatively modest effort to increase International Monetary Fund reserves is turning into an all-out assault on the U.S. Treasury—led by the secretary of the Treasury himself.

We don't doubt that the mountain of country debt that has been accumulated over the past decade poses a serious threat to financial stability. And though we have often expressed our reservations about the way the IMF operates in the real world, there is probably a role for such an institution to play in helping the financial system to adjust to the new realities.

But trying to overcome the ill-effects of a decade of profligacy by throwing even more liquidity at the problem is like adding fuel to the fire. Yet that appears to be pretty much what this administration, in a clear reversal of policy, is trying to do.

As recently as last fall's IMF meetings in Toronto, Secretary Regan was hanging tough, refusing to go along with demands from an unholy alliance of bankers and Western politicians for a doubling of IMF reserves to lend to countries that had worked themselves into a financial hole. Then it got out that the U.S. might go along with a 20% increase, or even a 40% increase. The latest figure is 50%, plus a $10 billion to

$15 billion increase in the "General Arrangement to Borrow." There are also rumors that the IMF would be allowed to spew out a new batch of Special Drawing Rights—better known as "paper gold."

So it looks to us like the bankers and creditor governments, who are trying to protect sour loans by getting the U.S. to throw good money after bad, are going to get pretty close to a 100% increase after all. And judging from the ever-lengthening list of Third World countries threatening us with default unless they are given fresh credits, that won't be the end.

Bad enough that the U.S. economy is being mugged in this fashion. The $10 billion or so that the U.S. would have to put up toward a 50% increase in IMF quotas wouldn't show up in the federal budget directly, but it would still have to be borrowed out of the money markets. Thus it would be siphoned off from potentially productive use in the private sector to largely unproductive use in trying to shore up other countries.

But in sleepwalking toward its policy stance on this issue, the administration is likely to get politically mugged as well. A number of Democrats already are asking—with some reason—why, if we are running a bailout for the rest of the world, we can't have our own Reconstruction Finance Corp. here at home. They will try to hold the IMF appropriation hostage to just such a scheme. They probably won't get their RFC, but they will be in a good political position to ask what kind of administration is it that bails out other countries and the international banks while, as popular mythology insists, "cutting domestic spending to the bone."

Republicans will be tempted to try to take the IMF appropriation hostage for their own reasons. Some would like to force a change in the conditions usually laid down by the IMF for a loan, stressing economic growth and tax cuts, for example, rather than the "austerity" programs favored by some of the neo-Keynesians at the IMF. Others would like to force a return to some sort of gold standard.

We are sympathetic, but the immediate and most realistic approach is to set limits. It's little wonder that one country after another has come trooping to the IMF and the banks in recent weeks asking—indeed, demanding—new credits. The word is out that the vaults are wide open. Why not take advantage of it? To our knowledge, not a single country has been refused.

There may be reasons of state for bailing out some of these places—Mexico, for example, where the American interest is clear and compelling. But if resources are spread too thin, there won't be enough to do any real good in any single country—even if the bureaucrats in far-off places like Brussels and Washington knew what to do, which is doubtful. The answer is to scale back sharply on the proposed increases in IMF reserves and to define our priorities much more clearly for aid either through the IMF or bilaterally.

When it's clear to the rest of the world that we mean business, and that there isn't an inexhaustible pot of gold at the end of the rainbow, debtors will have a real incentive to do what needs doing themselves. Those who really can't make it on their own will be all the more eager to meet the sensible conditions of their creditors. There may be some defaults; some banks may get hurt. But there's no way to avoid such pain if the situation is as bad as the experts say it is. There's not enough money—or wisdom—to bail out everybody.

GENOCIDE CONVENTION: SOVIET ATROCITY IN AFGHANISTAN

Mr. PROXMIRE. Mr. President, December 27, 1982, marked the third anniversary of the Soviet invasion of Afghanistan. I would like to take this occasion to relay the details of a recent UPI report I have read documenting a Soviet atrocity in Padkhwab-e-Shana village in the Logar Province of Afghanistan. An American, Michael Barry, led a three-member team to the village from November 26 to December 4, 1982.

During his clandestine journey, Barry and his team members discovered the burned and charred remains of 105 Afghan civilians, primarily migrant workers and refugees, in an underground irrigation channel. These villagers had hidden underground because they were afraid of the approaching Soviet and Afghan troops. Once discovered, the Soviets trapped the Afghans by pouring an inflammable liquid, presumably gasoline or kerosene, into the irrigation channel, burning to death all 105 of the people inside. Eleven children were among those innocent victims of the massacre.

Barry, who speaks the Dari language of Western Afghanistan, gathered his information from interviews with eyewitnesses and his own trip inside the channel where he took photos and brought back samples of the sooty deposits lining the channel's walls. Although it was not immediately known why the Soviets took such a drastic measure against these civilians, it was believed the victims were suspected of being sympathizers with Moslem rebels fighting the Communist regime. For this association, these innocent villagers suffered a horribly violent death.

Atrocities like these can hardly be comprehended by citizens of a free nation like the United States. Yet, we cannot ignore the fact that gross violations of human rights occur daily, in all parts of the world. The United States, as the leader of the free world, has the responsibility to take the lead in an effort to heighten international consciousness of human rights violations such as the one that occurred in the Afghan village. However, we readily point to abuses in other countries while we refuse to take action ourselves on a treaty that would outlaw one of the most serious human rights violations imaginable. I am referring to our failure to ratify the Genocide Convention, which protects one of the most fundamental human rights, the right to live, by making genocide an international crime.

Although atrocities like the one previously cited in Afghanistan would not be covered under the treaty, ratification of the Genocide Convention would be a strong affirmation of our respect for human life and our commitment to prevent future genocidal acts.

We have frequently invoked the terms of this convention in condemning the Soviet Union for its practices. But in failing to ratify this treaty, we leave ourselves vulnerable to charges of hypocrisy. In fact, the Soviet Union has pointed out that Americans "resolutely refused to accept legal obligations" through ratification of human rights treaties and are therefore in no position to criticize them for human rights violations.

Why do we handily give other countries the ammunition to shoot down our record on human rights? Let us demonstrate to other nations around the world that we are truly committed to the protection of human rights by joining the 83 other nations who have already signed the Genocide Convention.

I urge my colleagues to act without further delay in ratifying this important treaty.

HATCH-WARNKE DEBATE ENLIGHTENS THE NUCLEAR RESTRAINT NEGOTIATIONS WITH THE SOVIET UNION

Mr. PROXMIRE. Mr. President, today's New York Times carries a debate between our colleague, Senator ORRIN HATCH, and the former director of the Arms Control and Disarmament Agency, Paul Warnke, on the progress or lack thereof of our country's negotiations with the U.S.S.R. on the reduction of nuclear weapons.

Senator HATCH argues that this country should, and I quote:

> Stand fast on (the President's) original proposals, including the "zero option" under which America would not deploy 572 new medium-range missiles in Europe . . . if the Soviet Union dismantled its approximately 340 new 11-20's and 260 older SS-4's and 11-5's.

Mr. Warnke argues, and I quote:

> Our rigid insistence on the zero option thus is not likely to bring reductions in the Soviet nuclear threat to Western Europe. What it is more apt to bring is suspicion that America is not serious about controlling nuclear arms. This suspicion would solidify Western European resistance to deployment of the cruise and Pershing 2 missiles. We would then find ourselves with the worst of all possible results: no reduction in the Soviet intermediate-range nuclear missile force, no deployment of the new American missiles in Western Europe and a perceived Soviet veto on NATO's weapons decisions.

Mr. President on this most vital of all problems that confronts our Government—the control of and reduction of nuclear weapons, the Hatch-

Warnke debate provide considerable enlightenment. I therefore ask unanimous consent that both the article by Senator HATCH and the article by Mr. Warnke be printed in the CONGRESSIONAL RECORD in full.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

"ZERO" EQUALS SECURITY

(By Orrin G. Hatch)

WASHINGTON.—President Reagan's proposals aimed at limiting intercontinental nuclear weapons, as well as intermediate-range nuclear missiles to be deployed in Europe, have been under severe attack inside and outside his Administration. I believe he should stay his course.

Eugene V. Rostow, dismissed as director of the Arms Control and Disarmament Agency, complains that his own efforts to achieve an interim agreement on intermediate weapons were sandbagged and that he was fired for his "zeal" for peace. Some conservatives charge that Moscow has cheated on the ratified SALT I, and on SALT II, which both sides are abiding by although the Senate has not ratified it. And leaks are springing everywhere.

Mr. Reagan should stand fast on his original proposals, including the "zero option," under which America would not deploy 572 new medium-range missiles in Europe—the Pershing 2's and cruise missiles—if the Soviet Union dismantled its approximately 340 new SS-20's and 260 older SS-4's and SS-5's.

At some point, we must decide when to make our last, best offer to Moscow. In the meantime, we must make a better effort to coordinate the four separate arms control talks under way in Europe. Such coordination could help promote improvement in verification procedures, crucial for successful strategic-arms-reduction and intermediate-range nuclear-forces treaties. These procedures would help allay the threat of surprise attack in Europe, long considered the precursor of a strategic nuclear war.

Meeting in Geneva, Vienna and Madrid in November with our negotiators and their Soviet counterparts, I was struck by the damage that leaks in Washington are inflicting on conduct of the negotiations. The worst damage has been done to the Geneva talks on medium-range nuclear forces. News leaks, usually attributed to the State Department, testify to middle-level officials' desire to offer a "reasonable" compromise—in effect saying that we are considering major concessions to the zero option even before Moscow has put its offer on the table. Why should department officials urge such a compromise when we still have 11 months to hear Soviet offers before missile deployments begin?

It would be relatively easy to verify Soviet Union compliance with the zero option: All its existing intermediate-range missiles must be dismantled and never reappear. But if Moscow retained some, how would we keep track of these rather small, mobile missiles aboard trucks when our reconnaissance systems cannot "see" the whole Soviet Union at the same time? I hope that those willing to tolerate some remaining Soviet missiles must also want on-site inspections, without which the Senate would not ratify a treaty on medium-range missiles.

The strategic arms reduction negotiations have been no less controversial. Critics of Mr. Reagan charge that his proposal for one-third cuts in long-range nuclear missiles is not a credible negotiating offer, and they maintain that SALT II should be ratified instead, but Moscow's existing offer of a one-fourth cut in long-range nuclear missiles and bombers has at least temporarily silenced these critics. Senator Charles H. Percy has correctly noted, "Our negotiators have successfully drawn from the Soviets several Start and I.N.F. [intermediate-range nuclear forces] proposals that go far beyond positions that the Soviets were willing to take two years ago." Mr. Reagan should stay the course in the strategic-arms and medium-range-arms talks, relying principally on his seasoned negotiators, Edward I. Rowny and Paul H. Nitze, to decide when to make new offers in response to Soviet concessions, instead of on young policy makers at home who lack experience in dealing with the Russians—Kenneth L. Adelman, Mr. Rostow's successor, and Richard R. Burt, Assistant Secretary of State-designate for European Affairs.

Public concern about nuclear arms control has too often caused policy makers to neglect the negotiations on control of conventional arms, under way in Vienna and Madrid, to reduce the chances of surprise attack in Europe. Regrettably, Secretary of State George P. Shultz's advisers have not even proposed that he visit the talks in Vienna on the mutual and balanced reduction of forces—the M.B.F.R. talks—in spite of European suggestions that the Administration follow up on Mr. Reagan's new M.B.F.R. proposal last fall on inspecting reduced forces. In addition, we should coordinate the Vienna talks with current efforts to convene a conference on disarmament in Europe, which Max Kampelman is discussing in Madrid with the Soviet Union.

European diplomats complain that the proposal for a conference, approved by the Atlantic alliance, has been hamstrung by opposition from the State Department's European Bureau, even though Mr. Reagan was the first American President to endorse this proposal.

Improved verification procedures can result both from an agreement on the mutual and balanced reduction of forces and an agreement in a European disarmament conference on confidence-building measures to reduce the risk of surprise attack in Europe. Such measures would include advance notification of military maneuvers and a system of military inspection teams to investigate, on hours' notice, any suspicious military activity on either side.

Critics should stop the carping and the news leaks, and focus constructively on resolving arms control problems.

"ZERO" MAY MEAN NOTHING

(By Paul C. Warnke)

WASHINGTON.—In explaining the dismissal of the Arms Control and Disarmament Agency director, Eugene V. Rostow, and the reported reprimand of the negotiator on intermediate-range nuclear forces, Paul H. Nitze (apparently for taking his job too seriously), the Reagan Administration has made one fact clear. Those responsible for strategic nuclear policy still believe that more American nuclear weapons, rather than fewer Soviet missiles, mean greater security.

White House and State Department spokesmen, confirming the rejection of the exploratory intermediate-range package giving each side 75 missiles that was developed by Mr. Nitze and the Soviet negotiator, Yuli A. Kvitsinsky, stated that America is seeking "the best solution, one which will provide for the complete elimination of long-range land-based intermediate nuclear forces on both sides." In short, it's still President Reagan's "zero option" or nothing. If this in fact is our final position, then we may well get nothing—zero Soviet reductions and zero deployment in Western Europe of the 572 ground-launched cruise missiles and Pershing 2 ballistic missiles.

President Reagan, in his Jan. 20 news conference, underscored the uncompromising United States position, insisting that so long as Moscow has any SS-20 missiles, a failure to deploy new American missiles in Western Europe will leave NATO with "no deterrent." As a going-in position, the zero option made some sense. For it to be a solution acceptable to the Russians, however, they must be willing to ignore Britain's and France's intermediate-range nuclear forces, our F-11K fighter-bombers stationed in the United Kingdom, our Sixth Fleet aircraft that carry nuclear weapons, the Poseidon missiles assigned for North Atlantic Treaty Organization defense, and the proposed deployment of sea-launched cruise missiles on attack submarines and surface ships. My own negotiating experience makes me skeptical that the Russians will be this accommodating.

Insistence that British and French forces are not part of a NATO nuclear deterrent is not apt to have much appeal for those at whom these forces are targeted. Nor will Soviet leaders readily be converted to the "theological" doctrine that NATO needs its own nuclear missiles to offset Soviet missiles aimed at Western Europe.

In fact, of course, the 572 new missiles, whose deployment is scheduled to begin in December, would not be turned over to our NATO allies. Western Europe, including France and Britain, would remain largely dependent on the United States' nuclear deterrent with or without this additional deployment. The 464 ground-launched cruise missiles and 108 Pershing 2's would remain American missiles under exclusive American control and thus, as a practical matter, only a minor augmentation of the almost 10,000 American warheads that can now strike all Soviet targets.

Compounding the negotiating difficulties is the fact that the talks on the medium-range nuclear weapons in Europe deal only with an artificial segment of the overall strategic balance. For the Soviet Union to consider eliminating its entire intermediate-range nuclear-missile force, it has to know what will happen to the overall American nuclear arsenal. Any comprehensive, durable treaty will have to take account of all Soviet nuclear weapons that can strike Western Europe and North America and all American warheads that can strike Soviet territory, whether launched from our Great Plains, ballistic-missile submarines, strategic bombers or American bases in NATO territory.

Our rigid insistence on the zero option thus is not likely to bring reductions in the Soviet nuclear threat to Western Europe. What it is more apt to bring is suspicion that America is not serious about controlling nuclear arms. This suspicion would solidify Western European resistance to deployment of the cruise and Pershing 2 missiles. We would then find ourselves with the worst of all possible results: no reduction in the Soviet intermediate-range nuclear-missile force, no deployment of the new American missiles in Western Europe and a perceived Soviet veto on NATO's weapons decisions.

There is still a way out. Mr. Nitze should be authorized to explore Yuri V. Andropov's suggestions that the Soviet Union might make significant reductions in its intermediate-range nuclear-missile force. If the Soviet leaders are willing to destroy—not just redeploy—missiles containing at least the number of warheads on the proposed cruise missiles and Pershing 2's, then we should be willing to defer any deployment and to integrate the Geneva talks on intermediate-range missiles with those on reducing intercontinental ballistic missiles, submarine-launched ballistic missiles and strategic bombers.

This approach would greatly strengthen our negotiating position, now handicapped because separate talks on intermediate-range nuclear forces require asking Moscow to give up forces in being for forces we might or might not have in the future. It would create opportunities for tradeoffs that do not now exist. Most importantly, it would promptly reduce the nuclear threat to Europe. This cannot be done by deploying vulnerable American missiles on that crowded continent.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-79. A communication from the Register of Copyrights transmitting, pursuant to law, a report entitled "Limitations on exclusive rights: Reproduction by Libraries and Archives"; to the Committee on the Judiciary.

EC-80. A communication from the Deputy Under Secretary of Labor for International Affairs transmitting, pursuant to law, a report relative to a labor action by the U.S. Senate Restaurant employees (Capitol Employees Organizing Group) concerning trade union rights; to the Committee on Labor and Human Resources.

EC-81. A communication from the Chairman of the Advisory Panel on Financing Elementary and Secondary Education transmitting, pursuant to law, a final report relative to improvement of the quality and excellence of American education; to the Committee on Labor and Human Resources.

EC-82. A communication from the Secretary of Education transmitting, pursuant to law, his review of the national assessment of educational progress; to the Committee on Labor and Human Resources.

EC-83. A communication from the Secretary of Agriculture transmitting, pursuant to law, a report on the Shawnee Hills Study Area, Illinois; to the Committee on Agriculture, Nutrition, and Forestry.

EC-84. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Data Processing Costs Can Be Reduced at Army and Air Force Exchange Service"; to the Committee on Armed Services.

EC-85. A communication from the Director of the Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on a refund of an excess royalty payment to Mobil Oil Co.; to the Committee on Energy and Natural Resources.

EC-86. A communication from the Director of the Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on a refund of an excess royalty payment to Cities Service Co.; to the Committee on Energy and Natural Resources.

EC-87. A communication from the Secretary of Energy transmitting, pursuant to law, a report on the Automotive Technology Development Program; to the Committee on Energy and Natural Resources.

EC-88. A communication from the Chairman of the Federal Election Commission transmitting, pursuant to law, its revised fiscal 1983 pay cost supplemental appropriation request; to the Committee on Appropriations.

EC-89. A communication from the Clerk of the U.S. Court of Claims transmitting, pursuant to law, a copy of the Court's judgment order in Kalamath and Modoc Tribes and Yahooskin Band of Snake Indians v. The United States; to the Committee on Appropriations.

EC-90. A communication from the Principal Deputy Assistant Secretary of Defense (Comptroller) transmitting, pursuant to law, a report relative to use of appropriated funds in foreign countries; to the Committee on Appropriations.

EC-91. A communication form the Principal Deputy Assistant Secretary of Defense (Comptroller) transmitting, pursuant to law, modification of the intent to obligate certain funds in the Army Stock Fund for War Reserve Stocks; to the Committee on Appropriations.

EC-92. A communication from the Assistant Secretary of the Navy for Shipbuilding and Logistics transmitting, pursuant to law a report on a decision to convert the Administrative Telephone Service function at the Naval Air Station, Dallas, Texas to performance under contract; to the Committee on Armed Services.

EC-93. A communication from the Secretary of Defense transmitting, pursuant to law, a report making certain certifications concerning the HARM missile system; to the Committee on Armed Services.

EC-94. A communication from the President and Chairman of the Export-Import Bank of the United States transmitting, pursuant to law, a report on transactions by the Bank with communist countries during September 1982; to the Committee on Banking, Housing, and Urban Affairs.

EC-95. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Value Engineering has the Potential to Reduce Mass Transit Construction Costs"; to the Committee on Banking, Housing, and Urban Affairs.

EC-96. A communication from the Associate General Counsel of the Federal Communications Commission transmitting, pursuant to law, an order relative to opposition to WCCO Radio Inc.'s petition for Reconsideration; to the Committee on Commerce, Science, and Transportation.

EC-97. A communication from the Secretary of Energy transmitting, pursuant to law, a report concerning territorial energy assessment; to the Committee on Energy and Natural Resources.

EC-98. A communication from the Director of the Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on a refund of excess royalty payment to Phillips Petroleum Co.; to the Committee on Energy and Natural Resources.

EC-99. A communication from the Director of the Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on a refund of an excess royalty payment to Gulf Oil; to the Committee on Energy and Natural Resources.

EC-100. A communication from the Director of the Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on a refund of an excess royalty payment to Mobil Oil Co.; to the Committee on Energy and Natural Resources.

EC-101. A communication from the Director of the Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on a refund of an excess royalty payment to Diamond Shamrock Corp., Tenneco Oil, and ARCO Oil; to the Committee on Energy and Natural Resources.

EC-102. A communication from the Director of the Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on a refund of an excess royalty payment to Gulf Oil Co.; to the Committee on Energy and Natural Resources.

EC-103. A communication from the President of the United States transmitting a draft of proposed legislation to designate a Nancy Hanks Center in Washington, D.C.; to the Committee on Environment and Public Works.

EC-104. A communication from the U.S. Trade Representative transmitting, pursuant to law, a report regarding duties on bovine leather and canned corned beef; to the Committee on Finance.

EC-105. A communication from the Secretary of Health and Human Services transmitting, pursuant to law, a report relative to reforming hospital payments under Medicare; to the Committee on Finance.

EC-106. A communication from the Secretary of the Treasury transmitting, pursuant to law, a report on domestic international sales corporations (DISCs); to the Committee on Finance.

EC-107. A communication from the Managing Trustee of the Board of Trustees of the Social Security Trust Funds transmitting, pursuant to law, a report on borrowings by the Federal Old-Age and Survivors Insurance Trust Fund from the Federal Disability Insurance Trust Fund; to the Committee on Finance.

EC-108. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "International Assistance to Refugees in Africa can be Improved"; to the Committee on Foreign Relations.

EC-109. A communication from the Office of the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, copies of international agreements, other than treaties, entered into by the United States within the previous sixty days; to the Committee on Foreign Relations.

EC-110. A communication from the Acting Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, copies of international agreements, other than treaties, entered into by the United States within the previous sixty days; to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STAFFORD, from the Committee on Environment and Public Works, without amendment:

S. Res. 13. An original resolution authorizing expenditures by the Committee on Environment and Public Works; referred to the Committee on Rules and Administration.

By Mr. STAFFORD, from the Committee on Environment and Public Works, without amendment:

S. 61. An original bill to designate a "Nancy Hanks Center" in the Old Post Office Building in Washington, D.C., and for other purposes.

Mr. STAFFORD. Mr. President, I send to the desk an original bill reported today by the Committee on Environment and Public Works.

The bill would honor the memory of Nancy Hanks and recognize her outstanding public service and contributions to the arts by designating the "Nancy Hanks Center" in the Old Post Office Building in Washington.

Mr. President, I would like the RECORD to reflect that Senator MOYNIHAN and Senator RANDOLPH joined with me in sponsoring this legislation. In addition Senator PELL and Senator HATFIELD have asked that they be added as cosponsors.

We would, of course, be happy to add other colleagues that we hear from prior to passage by the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DOLE (for himself, Mr. MOYNIHAN, Mr. HEINZ, Mr. BAKER, Mr. STEVENS, Mr. LAXALT, Mr. DANFORTH, Mr. KENNEDY, Mr. BENTSEN, Mr. MURKOWSKI, and Mr. STAFFORD):

S. 1. A bill to implement the consensus recommendations of the National Commission on Social Security Reform; to the Committee on Finance.

By Mr. CRANSTON:

S. 2. A bill to amend certain Federal laws to prohibit mandatory retirement, eliminate barriers to the employment of older workers, and provide incentives for part-time and full-time employment of such workers; to the Committee on Finance.

S. 3. A bill to amend title II of the Social Security Act to provide that the combined earnings of a husband and wife during the period of their marriage shall be divided equally and shared between them for benefit purposes, so as to recognize the economic contribution of each spouse to the marriage and assure that each spouse will have social security protection in his or her own right; to the Committee on Finance.

By Mr. CRANSTON (for himself and Mr. RIEGLE):

S. 4. A bill to provide assistance and coordination in the provision of childcare services for children living in homes with working parents and for other purposes; to the Committee on Labor and Human Resources.

By Mr. CRANSTON:

S. 5. A bill to designate certain public lands in the State of California as wilderness, and for other purposes; to the Committee on Energy and Natural Resources.

S. 6. A bill to amend title XIX of the Social Security Act to extend and improve medicaid services to low-income children and pregnant women, and for other purposes; to the Committee on Finance.

By Mr. CRANSTON (for himself, Mr. HATFIELD, Mr. HOLLINGS, Mr. INOUYE, Mr. LEVIN, Mr. MOYNIHAN, Mr. METZENBAUM, Mr. PELL, Mr. RANDOLPH, and Mr. TSONGAS):

S. 7. A bill to amend title XIX of the Social Security Act to extend medicaid eligibility to certain low-income pregnant women and newborn children; to the Committee on Finance.

By Mr. CRANSTON (for himself, Mr. DECONCINI, and Mr. HART):

S. 8. A bill to amend title 38, United States Code, to provide a new educational assistance program for persons who enter the Armed Forces after a date to be determined by the President, and to repeal the December 31, 1989, termination date for the Vietnam-era GI bill, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. CRANSTON (for himself, Mr. MATSUNAGA, and Mr. DECONCINI):

S. 9. A bill to amend title 38, United States Code, to provide a 15-percent increase in the rates of educational and training assistance allowances under the GI bill and in the rates of subsistence allowances under the Veterans' Administration rehabilitation program for services-connected disabled veterans; to the Committee on Veterans' Affairs.

By Mr. CRANSTON:

S. 10. A bill to amend the Federal Reserve Act to provide for the increased responsiveness and accountability of the Federal Reserve System to Congress and citizens, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. CRANSTON (for himself, Mr. RANDOLPH, Mr. MATSUNAGA, Mr. MITCHELL, and Mr. DECONCINI):

S. 11. A bill to amend title 38, United States Code, to establish a Veterans' Administration Advisory Committee on Women Veterans; to improve various aspects of Veterans' Administration health-care programs; to extend the period for Vietnam-era veterans to request counseling under the Veterans' Administration readjustment counseling program; to promote the recruitment and retention of certain health-care personnel in the Veterans' Administration's Department of Medicine and Surgery; to express the sense of the Congress with respect to the role of the Administrator of Veterans' Affairs; to require the Administrator of Veterans' Affairs to conduct an epidemiological study of long-term health effects in veterans of exposure to ionizing radiation from nuclear test detonations; and for other purposes; to the Committee on Veterans' Affairs.

By Mr. FORD (for himself, Mr. QUAYLE, Mr. BUMPERS, Mr. PELL, Mr. NUNN, Mr. GARN, Mr. HUDDLESTON, and Mr. SYMMS):

S. 12 A bill to provide for a 2-year Federal budget cycle, and for other purposes; read the first time.

By Mr. DOLE (for himself, Mr. LONG, Mr. DANFORTH, Mr. BENTSEN, Mr. BAKER, Mr. WALLOP, Mr. SYMMS, Mr. JEPSEN, Mr. D'AMATO, and Mr. THURMOND):

S. 13. A bill to amend the Internal Revenue Code of 1954 to decrease the holding period for long-term capital gain treatment from 1 year to 6 months; to the Committee on Finance.

By Mr. COCHRAN (for himself, Mr. HUDDLESTON, Mr. PRYOR, Mr. MATTINGLY, Mr. HEFLIN, Mr. THURMOND, Mr. NUNN, Mr. ZORINSKY, Mr. BOREN, and Mr. DIXON):

S. 14. A bill to provide authority for activities to develop and expand markets for U.S. agricultural commodities, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HELMS:

S. 15. A bill to repeal the Surface Transportation Assistance Act of 1982; to the Committee on Finance.

By Mr. DOLE (for himself, Mr. LONG, and Mr. BENTSEN):

S. 16. A bill to amend the Internal Revenue Code of 1954 to provide for the establishment of, and the deduction of contributions to, education savings accounts; to the Committee on Finance.

By Mr. DOLE (for himself, Mr. HATFIELD, Mr. JEPSEN, Mr. MOYNIHAN, Mr. DIXON, Mr. RIEGLE, Mr. LEVIN, Mr. DANFORTH, Mr. DOMENICI, and Mr. ANDREWS):

S. 17. A bill to expand and improve the domestic commodity distribution program; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DOLE (for himself and Mr. DOMENICI):

S. 18. A bill to improve farm commodity prices, to strengthen the national economy through a comprehensive, demand-oriented agricultural export policy, and for other purposes; to the Committee on Finance.

By Mr. DOLE (for himself, Mr. LONG, Mr. HEINZ, Mr. DANFORTH, and Mr. WALLOP):

S. 19. A bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 to assure equality of economic opportunities for women and men under retirement plans; to the Committee on Finance.

By Mr. ROTH:

S. 20. A bill to provide for a 2-year budget process, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other has 30 days of continuous session to report or be discharged.

By Mr. MOYNIHAN:

S. 21. A bill to redesignate the Department of Commerce as the Department of Trade and Commerce to consolidate all functions relating to international trade in the Department of Trade and Commerce; and for other purposes; to the Committee on Governmental Affairs.

By Mr. PROXMIRE:

S. 22. A bill to amend the Communications Act of 1934 in order to recognize and confirm the applicability of and to strengthen and further the objectives of the first amendment to radio and television broadcasting stations; to the Committee on Commerce, Science, and Transportation.

By Mr. MOYNIHAN (for himself, Mr. HART, Mr. CRANSTON, and Mr. BRADLEY):

S. 23. A bill to conduct an inventory of our Nation's water and sewer systems, bridges, highways and roads; to develop a 10-year investment plan to rebuild the public improvements essential to economic development; and for other purposes; to the Committee on Environment and Public Works.

By Mr. HUDDLESTON (for himself, Mr. BOREN, Mr. ZORINSKY, Mr. PRYOR, Mr. HEFLIN, Mr. BAUCUS, Mr. BUMPERS, Mr. DECONCINI, Mr. EXON, Mr. GLENN, Mr. NUNN, Mr. RIEGLE, Mr. KENNEDY, Mr. BENTSEN, Mr. LEVIN, and Mr. BURDICK):

S. 24. A bill to provide emergency credit assistance to farmers, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. MOYNIHAN:

S. 25. A bill to amend the Internal Revenue Code of 1954 to decrease the holding period required for long-term capital gains treatment to 6 months; to the Committee on Finance.

By Mr. HELMS (for himself, Mr. EAST, Mr. ZORINSKY, Mr. NICKLES, and Mr. JEPSEN):

S. 26. A bill to provide legal protection for unborn human beings and for other purposes; read the first time.

By Mr. MOYNIHAN (for himself, Mr. MATHIAS, Mr. BUMPERS, Mr. BURDICK, Mr. CRANSTON, Mr. GLENN, Mr. HATFIELD, Mr. HEINZ, Mr. JACKSON, Mr. LEAHY, Mr. LEVIN, Mr. PELL, Mr. PRYOR, Mr. RANDOLPH, Mr. SARBANES, Mr. METZENBAUM, and Mr. KENNEDY):

S. 27. A bill to provide for the conservation, rehabilitation, and improvement of natural and cultural resources located on public or Indian lands, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BOREN:

S. 28. A bill to avoid the double taxation of foreign source export income, and for other purposes; to the Committee on Finance.

By Mr. GRASSLEY:

S. 29. A bill to strengthen law enforcement in the areas of child exploitation and pornography, and for other purposes; to the Committee on the Judiciary.

By Mr. MATHIAS:

S. 30. A bill to amend the Internal Revenue Code of 1954 to provide that individual income tax rates not be adjusted to reflect increases in the Consumer Price Index; to the Committee on Finance.

By Mr. MATHIAS (for himself, Mr. MELCHER, Mr. CRANSTON, and Mr. BAKER):

S. 31. A bill to amend title 17 of the United States Code with respect to home recording and video and audio recording devices and media, and for other purposes; to the Committee on the Judiciary.

S. 32. A bill to amend title 17 of the United States Code with respect to rental, lease of lending of sound recordings; to the Committee on the Judiciary.

S. 33. A bill to amend title 17 of the United States Code with respect to rental, lease of lending of motion pictures and other audiovisual works; to the Committee on the Judiciary.

By Mr. ANDREWS (for himself and Mr. BURDICK):

S. 34. A bill to amend the Internal Revenue Code of 1954 to exempt income derived by charitable organizations from conducting certain games of chance from the tax imposed on unrelated business income; to the Committee on Finance.

By Mr. ROTH (for himself and Mr. EAGLETON):

S. 35. A bill to establish a Commission on More Effective Government, with the declared objective of improving the quality of Government in the United States and of restoring public confidence in government at all levels; to the Committee on Governmental Affairs.

By Mr. COCHRAN (for himself, Mr. HUDDLESTON, Mr. PRYOR, Mr. MATTINGLY, Mr. HEFLIN, Mr. THURMOND, and Mr. NUNN):

S. 36. A bill to authorize special payment-in-kind land conservation programs, to provide authority for activities to develop and expand markets for U.S. agricultural commodities, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. COCHRAN (for himself, Mr. NUNN, and Mr. DURENBERGER):

S. 37. A bill to temporarily reduce the duty on certain disposable surgical drapes and sterile gowns; to the Committee on Finance.

By Mr. NICKLES (for himself, Mr. NUNN, Mr. HATCH, Mr. KENNEDY, Mr. HELMS, Mr. EAST, Mr. SYMMS, Mrs. HAWKINS, Mr. DENTON, Mr. WARNER, and Mr. MATTINGLY):

S. 38. A bill entitled the Long Shoremen's and Harbor Worker's Compensation Act; to the Committee on Labor and Human Resources.

By Mr. BOREN (for himself, Mr. PRYOR, Mr. HEFLIN, Mr. HOLLINGS, Mr. RANDOLPH, Mr. PROXMIRE, Mr. SASSER, Mr. FORD, Mr. MELCHER, Mr. HUDDLESTON, Mr. ZORINSKY, Mr. PELL, and Mr. GLENN):

S. 39. A bill to amend the Internal Revenue Code of 1954 to repeal the withholding of tax on interest and dividends; to the Committee on Finance.

By Mr. METZENBAUM (for himself and Mr. THURMOND):

S. 40. A bill to require the divorcement of motor fuel service stations from operation by certain producers and refiners of motor fuels, and for other purposes; to the Committee on the Judiciary.

By Mr. DURENBERGER (for himself, Mr. SASSER, Mr. BAKER, Mr. DOMENICI, Mr. ROTH, Mr. BRADLEY, Mr. PRYOR, Mr. PERCY, Mr. STAFFORD, Mr. TSONGAS, Mr. DIXON, Mr. FORD, Mr. ANDREWS, Mr. D'AMATO, Mr. MATTINGLY, Mr. SPECTER, Mr. HUDDLESTON, Mr. GRASSLEY, Mr. SARBANES, Mr. MCCLURE, Mr. BOSCHWITZ, Mr. GORTON, Mr. GARN, Mr. PELL, Mr. WILSON, Mr. WEICKER, Mr. STEVENS, Mr. NUNN, Mr. COCHRAN, Mr. RIEGLE, Mr. BAUCUS, Mr. SYMMS, Mr. LONG, Mr. RUDMAN, Mr. ABDNOR, Mr. MITCHELL, Mr. DANFORTH, Mr. COHEN, Mrs. KASSEBAUM, Mr. HOLLINGS, Mr. WALLOP, Mr. JEPSEN, Mr. BURDICK, Mr. MATHIAS, Mr. MOYNIHAN, Mr. KENNEDY, Mr. DODD, Mr. LUGAR, Mr. INOUYE, Mr. HART, Mr. HEFLIN, Mr. TOWER, Mr. QUAYLE, Mr. THURMOND, Mr. DENTON, Mr. JACKSON, Mr. JOHNSTON, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mrs. HAWKINS, Mr. ZORINSKY, Mr. BENTSEN, Mr. TRIBLE, Mr. CHAFEE, Mr. GLENN, and Mr. RANDOLPH):

S. 41. A bill to extend the revenue sharing program for local governments through fiscal year 1986; to the Committee on Finance.

By Mr. HELMS:

S. 42. A bill to provide for the minting of American Gold Eagle coins pursuant to article 1, section 8, of the U.S. Constitution; to the Committee on Banking, Housing, and Urban Affairs.

S. 43. A bill to advance by 1 year the inflation adjustments to tax tables and to raise the personal exemptions to $2,000; to the Committee on Finance.

By Mr. BAKER (for Mr. KASTEN) (for himself, Mr. PERCY, Mr. GORTON, Mr. STAFFORD, Mr. HELMS, Mr. HATCH, Mr. LUGAR, Mr. GARN, Mr. NICKLES, Mr. QUAYLE, and Mr. GLENN):

S. 44. A bill to regulate interstate commerce by providing for a uniform product liability law, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SYMMS (for himself, Mr. MCCLURE, Mr. ZORINSKY, and Mr. HATCH):

S. 45. A bill to amend title 18, chapter 44, United States Code, to provide clarification of limitations on controls of the interstate movement of firearms, and to prohibit the use of Federal funds to political subdivisions which implement certain gun control ordinances; to the Committee on the Judiciary.

By Mr. PACKWOOD (for himself, Mr. STEVENS, Mr. GORTON, Mr. KASTEN, and Mr. HOLLINGS):

S. 46. A bill to consolidate and reenact certain of the marine safety and seaman's welfare laws of the United States; to the Committee on Commerce, Science, and Transportation.

By Mr. GORTON:

S. 47. A bill to improve the international ocean commerce transportation system of the United States; to the Committee on Commerce, Science, and Transportation.

By Mr. PACKWOOD:

S. 48. A bill to amend subtitle IV of title 49, United States Code, to remove restrictions in intermodal ownership, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. STEVENS (for himself, Mr. MURKOWSKI, Mr. INOUYE, Mr. GOLDWATER, Mr. MCCLURE, Mr. NICKELS, Mr. SYMMS, Mr. HATCH, Mr. ANDREWS, Mr. JOHNSTON, and Mr. BAKER):

S. 49. A bill to reopen hunting and trapping lands in Alaska; to the Committee on Energy and Natural Resources.

By Mr. COHEN (for himself and Mr. MITCHELL):

S. 50. A bill to provide access to trade remedies to small businesses, and for other purposes; to the Committee on Finance.

By Mr. CRANSTON:

S. 51. A bill to require persons who manufacture cigarettes or little cigars for sale or distribution in commerce to meet performance standards prescribed by the Consumer Product Safety Commission, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SPECTER:

S. 52. A bill to combat violent and major crime by establishing a Federal offense for

continuing a career of robberies or burglaries while armed and providing a mandatory sentence of life imprisonment; to the Committee on the Judiciary.

By Mr. SPECTER (for himself, Mr. HEFLIN, Mr. KENNEDY, Mr. BAUCUS, Mr. BIDEN, and Mr. MATHIAS):

S. 53. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968; to the Committee on the Judiciary.

By Mr. SPECTER (for himself and Mr. HEINZ):

S. 54. A bill to provide for the restructuring of the U.S. Bankruptcy Courts; to the Committee on the Judiciary.

By Mr. BAKER (for Mr. GOLDWATER) (for himself, Mr. PACKWOOD, Mrs. KASSEBAUM, Mr. STEVENS, Mr. KASTEN, Mr. HOLLINGS, Mr. FORD, Mr. RIEGLE, Mr. EXON, and Mr. HEFLIN) (by request):

S. 55. A bill to amend the Communications Act of 1934 in order to encourage and develop marketplace competition in the provision of certain broadcast services and to provide certain deregulation of such broadcast services, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SPECTER:

S. 56. A bill to amend the United States Code to provide an insanity defense and postacquittal commitment procedures; to the Committee on the Judiciary.

By Mr. SPECTER (for himself, Mr. HEFLIN, and Mrs. HAWKINS):

S. 57. A bill to amend title 18 of the United States Code relating to the sexual exploitation of children; to the Committee on the Judiciary.

By Mr. SPECTER:

S. 58. A bill to authorize incarceration in Federal prisons of convicts sentenced to life imprisonment under the habitual criminal statute of a State; to the Committee on the Judiciary.

S. 59. A bill to require States to assure that prisoners have a marketable job skill and basic literacy before releasing them on parole; to the Committee on the Judiciary.

By Mrs. KASSEBAUM:

S. 60. A bill to amend the Natural Gas Policy Act of 1978, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. STAFFORD:

S. 61. An original bill to designate a "Nancy Hanks Center" and the "Old Post Office Building" in Washington, D.C., and for other purposes; from the Committee on Environment and Public Works; placed on the calendar.

By Mr. SASSER (for himself, Mr. ABDNOR, Mr. BINGAMAN, Mr. BOREN, Mr. BOSCHWITZ, Mr. BRADLEY, Mr. CHAFEE, Mr. CRANSTON, Mr. DECONCINI, Mr. DIXON, Mr. DOMENICI, Mr. DURENBERGER, Mr. EAGLETON, Mr. EXON, Mr. EAST, Mr. GORTON, Mr. HART, Mr. HOLLINGS, Mr. HUDDLESTON, Mr. HUMPHREY, Mr. JOHNSTON, Mr. LEVIN, Mr. LUGAR, Mr. MATHIAS, Mr. MOYNIHAN, Mr. MURKOWSKI, Mr. PELL, Mr. PERCY, Mr. PRYOR, Mr. RANDOLPH, Mr. RIEGLE, Mr. SARBANES, Mr. SPECTER, Mr. STAFFORD, Mr. STENNIS, Mr. DANFORTH, and Mr. ZORINSKY):

S. 62. A bill to provide for the issuance of a commemorative stamp to honor the dedication of the Vietnam Veterans Memorial; to the Committee on Governmental Affairs.

By Mr. CRANSTON (for himself and Mr. TSONGAS):

S. 63. A bill to amend the Uniform Time Act of 1966 to provide that daylight savings time commence each year on the first Sunday in March rather than the last Sunday in April; to the Committee on Commerce, Science, and Transportation.

By Mr. DANFORTH (for himself and Mr. EAGLETON):

S. 64. A bill to establish the Irish Wilderness in Mark Twain National Forest, Mo.; to the Committee on Energy and Natural Resources.

By Mr. RANDOLPH (for himself and Mr. SASSER):

S. 65. A bill to extend the Appalachian Regional Development Act to provide transitional assistance to the Appalachian region; to the Committee on Environment and Public Works.

By Mr. BAKER (for Mr. GOLDWATER):

S. 66. A bill to amend the Communications Act of 1934; to the Committee on Commerce, Science, and Transportation.

By Mr. ABDNOR:

S. 67. A bill for the relief of Yeshwant Gopal Phadke and Shailaja Yeshwant Phadke; to the Committee on the Judiciary.

By Mr. FORD:

S. 68. A bill for the relief of Natvarlal Govindji Patel; to the Committee on the Judiciary.

S. 69. A bill for the relief of Dr. Samuel Blancaflor Gregorio, and his wife, Raquel Luga Gregorio; to the Committee on the Judiciary.

By Mr. LONG (for himself, Mr. PROXMIRE, and Mr. SPECTER):

S. 70. A bill to delete the provisions of the Internal Revenue Code of 1954 which treat Members of Congress separately with respect to living expense deductions; to the Committee on Finance.

By Mr. RANDOLPH:

S. 71. A bill to redesignate the days on which Washington's Birthday, Memorial Day, and Columbus Day are celebrated and to make each day a legal public holiday; to the Committee on the Judiciary.

By Mr. MELCHER:

S. 72. A bill for the relief of Elli Doukanari; to the Committee on the Judiciary.

S. 73. A bill for the relief of Basile Christopoulos and Maria Christopoulos, husband and wife, and George Christopoulas, their son; to the Committee on the Judiciary.

S. 74. A bill entitled the Reye's Syndrome Act of 1983; to the Committee on Labor and Human Resources.

By Mr. MELCHER (for himself, Mr. JOHNSTON, Mr. Proxmire, Mr. RANDOLPH, Mr. HOLLINGS, Mr. BOREN, Mr. HUDDLESTON, and Mr. ZORINSKY):

S. 75. A bill to repeal sections 301 through 308 of the Tax Equity and Fiscal Responsibility Act of 1982, which impose withholding on interest and dividends; to the Committee on Finance.

By Mr. DOLE (for himself, Mr. ARMSTRONG, Mr. LAXALT, and Mr. DANFORTH):

S. 76. A bill to increase the retirement age at which full benefits are paid; to the Committee on Finance.

By Mr. MATTINGLY:

S. 77. A bill to expand the export sales of agricultural commodities produced in the United States through the use of commodities acquired by the Commodity Credit Corporation; to the Committee on Agriculture, Nutrition, and Forestry.

S. 78. A bill to provide that benefits under title II of the Social Security Act may be paid to aliens only after they have been lawfully admitted to the United States for permanent residence, and to impose further restrictions on the right of any alien in a foreign country to receive such benefits; to the Committee on Finance.

By Mr. ZORINSKY:

S. 79. A bill for the relief of Kazimiera Chrostek; to the Committee on the Judiciary.

By Mr. SYMMS (for himself and Mr. MCCLURE):

S. 80. A bill for the relief of the Aetna Insurance Co. and other insurance companies; to the Committee on the Judiciary.

By Mr. HATCH (for himself and Mr. THURMOND):

S. 81. A bill to amend section 1979 of the Revised Statutes (42 U.S.C. 1983), relating to civil actions for the deprivation of rights, to limit the applicability of that statute to laws relating to equal rights; to the Committee on the Judiciary.

By Mr. RIEGLE:

S. 82. A bill for the relief of Marsha D. Christopher; to the Committee on the Judiciary.

By Mr. BOSCHWITZ:

S. 83. A bill to extend the Federal supplementary compensation program 6 months; to the Committee on Finance.

By Mr. CRANSTON:

S. 84. A bill to authorize the establishment of the Deset Pupfish National Wildlife Refuge in the State of Nevada, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DIXON (for himself and Mr. DODD):

S. 85. A bill to provide for the public financing of general elections for the U.S. Senate, and for other purposes; to the Committee on Rules and Administration.

By Mr. PELL:

S. 86. A bill to provide for daylight savings time on an expanded basis, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. JEPSEN:

S. 87. A bill to amend part B of title IV of the Higher Eduction Act of 1965 to provide that the guaranteed student loan program be available only to students having need for such assistance; to the Committee on Labor and Human Resources.

S. 88. A bill to secure the right of individuals to the free exercise of religion guaranteed by the first amendment of the Constitution; to the Committee on the Judiciary.

By Mr. HATCH:

S. 89. A bill to amend the Saccharin Study and Labeling Act; to the Committee on Labor and Human Resources.

By Mr. JEPSEN:

S. 90. A bill to amend the Internal Revenue Code of 1954 to allow the taxpayer the choice of a tax credit or a deduction for each household which includes a dependent person who is at least 65 years old; to the Committee on Finance.

S. 91. A bill to direct the Secretary of the Army, acting through the Chief of Engineers, to carry out a waters resources development project on, and along, a certain segment of the Des Moines River, Iowa; to the Committee on Environment and Public Works.

By Mr. FORD:

S. 92. A bill for the relief of Robert Haufler; to the Committee on Veterans' Affairs.

By Mr. HATCH:

S. 93. A bill to repeal the provisions of the Federal Food, Drug, and Cosmetic Act which prohibit the use in labeling or advertising of representations concerning the ap-

proval of drugs and devices under such act; to the Committee on Labor and Human Resources.

By Mr. JEPSEN:

S. 94. A bill to establish a soil tilth center at Iowa State University; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. QUAYLE (for himself and Mrs. KASSEBAUM):

S. 95. A bill to provide for a 2-year Federal budget cycle, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committee has 30 days of continous session to report or be discharged.

By Mr. MELCHER:

S. 96. A bill to establish the Lee Metcalf Wilderness and Management Area in the State of Montana, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. FORD:

S. 97. A bill to amend the Railroad Unemployment Insurance Act to provide supplemental unemployment benefits to certain employees with less than 10 years of service; to the Committee on Labor and Human Resources.

By Mr. BOSCHWITZ (for himself, Mr. INOUYE, Mr. GORTON, Mr. JEPSEN, Mr. PERCY, Mr. KASTEN, Mr. GRASSLEY, Mr. GARN, Mr. RUDMAN, Mr. TOWER, and Mr. SPECTER):

S. 98. A bill to amend the Internal Revenue Code of 1954 to provide for the establishment of enterprise zones; to the Committee on Finance.

By Mr. SASSER (for himself and Mr. INOUYE):

S. 99. A bill to amend the Agricultural Act of 1949 to provide credit assistance to farmers, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BOSCHWITZ:

S. 100. A bill to assure that actions taken by foreign countries do not impact severely on domestic agricultural exports and agriculture, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DECONCINI (for himself, Mr. THURMOND and Mr. HATCH):

S. 101. A bill to amend title 18 to limit the application of the exclusionary rule; to the Committee on the Judiciary.

By Mr. PELL (for himself, Mr. CHAFEE, and Mr. MOYNIHAN):

S. 102. A bill to require the Administrator of General Services to notify States of the availability of surplus real property and to convey at reduced cost certain surplus real property for public park or public recreational use to State and local governments; to the Committee on Governmental Affairs.

By Mr. BOREN:

S. 103. A bill to amend the Highway Revenue Act of 1982 to repeal the increase in the highway use tax; to the Committee on Finance.

By Mr. DECONCINI:

S. 104. A bill to repeal the withholding of tax from interest and dividends, to require statements to be filed by the taxpayer with respect to interest, dividends, and patronage dividends, and to advance by 2 years the effective date for the partial exclusion of interest; to the Committee on Finance.

By Mr. THURMOND (for himself, Mr. BIDEN, Mr. BYRD, Mr. ZORINSKY, Mr. HOLLINGS, Mr. NICKLES, Mr. DOMENICI, Mr. COCHRAN, Mr. KASTEN, Mr. ABDNOR, Mr. EAST, Mr. BOREN, Mr. GOLDWATER, Mr. DOLE, Mr. HUDDLESTON, Mr. NUNN, Mr. D'AMATO, Mr. GRASSLEY, Mr. HEINZ, Mr. SYMMS, Mr. DECONCINI, Mr. TOWER, Mr. BAUCUS, Mr. HUMPHREY, Mr. BURDICK, Mr. CHILES, Mr. LONG, Mr. PRESSLER, Mr. GARN, Mr. HATFIELD, Mr. JEPSEN, Mr. QUAYLE, Mr. TRIBLE, Mr. COHEN, Mr. BAKER, Mr. HATCH, Mr. RUDMAN, Mr. MURKOWSKI, and Mr. SIMPSON):

S. 105. A bill to define the affirmative defense of insanity and to provide a procedure for the commitment of offenders suffering from a mental disease or defect, and for other purposes; to the Committee on the Judiciary.

By Mr. LEVIN (for himself, Mr. SPECTER, Mr. BYRD, Mr. DIXON, Mr. BRADLEY, Mr. MOYNIHAN, Mr. SARBANES, Mr. PROXMIRE, Mr. PACKWOOD, Mr. KENNEDY, Mr. ROTH, Mr. THURMOND, and Mr. RIEGLE):

S. 106. A bill to amend the Tax Equity and Fiscal Responsibility Act of 1982 to extend the Federal Supplemental Compensation Act of 1982 beyond March 31, 1983; to the Committee on Finance.

By Mr. THURMOND (for himself, Mr. RANDOLPH, Mr. PRYOR, and Mr. PELL):

S. 107. A bill to establish the Veterans' Administration as an executive department; to the Committee on Governmental Affairs.

By Mr. GRASSLEY:

S. 108. A bill to amend the Internal Revenue Code of 1954 to encourage contributions of equipment to postsecondary vocational education programs and to allow a credit to employers for vocational education courses taught by an employee without compensation and for temporary employment of full-time vocational educational instructors; to the Committee on Finance.

By Mr. SASSER (for himself, Mr. BAUCUS, Mr. PRYOR, Mr. BUMPERS, Mr. MELCHER, Mr. BOREN, Mr. ZORINSKY, Mr. NUNN, Mr. SPECTER, and Mr. MATSUNAGA):

S. 109. A bill to amend title 18 of the United States Code to prohibit the robbery of a controlled substance from a pharmacy; to the Committee on the Judiciary.

By Mr. HUDDLESTON:

S. 110. A bill to amend the Internal Revenue Code of 1954 to eliminate withholding of tax from interest and dividends; to the Committee on Finance.

By Mr. HATCH:

S. 111. A bill to amend the Internal Revenue Code of 1954 to increase the amount allowed to be deducted each taxable year for expenses incurred in connection with the elimination of architectural and transportation barriers for the handicapped and elderly from $25,000 to $50,000, and to make permanent the allowance of such deduction; to the Committee on Finance.

By Mr. HATCH (for himself and Mr. STAFFORD):

S. 112. A bill to make certain technical amendments to improve implementation of the Education Consolidation and Improvement Act of 1981, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. ABDNOR (for himself and Mr. MELCHER):

S. 113. A bill to amend the Internal Revenue Code of 1954 to repeal the highway use tax on heavy trucks and to increase the tax on diesel fuel used in heavy trucks; to the Committee on Finance.

By Mrs. KASSEBAUM:

S. 114. A bill for the relief of Carlos Mebrano Gatson; to the Committee on the Judiciary.

By Mr. PRESSLER:

S. 115. A bill entitled the Tax Revision Act of 1983; to the Committee on Finance.

S. 116. A bill to require the President to take certain actions to obtain relief from subsidized agricultural imports and from nontariff trade barriers imposed by foreign countries against agricultural goods produced in the United States; to the Committee on Finance.

By Mr. CHILES (for himself and Mr. NUNN):

S. 117. A bill to improve the effectiveness and efficiency of Federal law enforcement efforts; to the Committee on the Judiciary.

By Mr. HATCH (for himself, Mr. THURMOND, Mr. DECONCINI, Mr. MATHIAS, Mr. LEAHY, Mr. KENNEDY, Mr. BAUCUS, and Mr. LAXALT):

S. 118. A bill to provide for the establishment of a Commission on the Bicentennial of the Constitution; to the Committee on the Judiciary.

By Mr. HATCH (for himself, Mr. THURMOND, Mr. DECONCINI):

S. 119. A bill to provide procedures for calling Federal constitutional conventions under article V for the purpose of proposing amendments to the U.S. Constitution; to the Committee on the Judiciary.

By Mr. DOLE:

S. 120. A bill to extend for 2 years the allowance of the deduction for eliminating architectural and transportation barriers to the handicapped and elderly; to the Committee on Finance.

By Mr. ROTH (for himself, Mr. COHEN, Mr. HEINZ, and Mr. MATTINGLY):

S. 121. A bill to establish as an executive department of the Government of the United States a Department of Trade, and for other purposes; to the Committee on Governmental Affairs.

By Mr. DURENBERGER:

S. 122. A bill to repeal certain sections of Public Law 97-252 that restrict the access of draft nonregistrants to Federal educational assistance; to the Committee on Labor and Human Resources.

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. 123. A bill to amend titles XVIII and XIX of the Social Security Act to provide that clinical psychologist services shall be covered under part B of medicare and shall be a required service under medicaid; to the Committee on Finance.

By Mr. ZORINSKY:

S. 124. A bill to amend the Agricultural Act of 1949 to provide emergency relief for farmers, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. INOUYE (for himself, Mr. HOLLINGS, Mr. HEFLIN, Mr. LONG, and Mr. SARBANES):

S. 125. A bill to authorize appropriations for the maritime construction differential subsidy for fiscal year 1984, to promote a strong U.S. merchant marine, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HUMPHREY (for himself and Mr. HATCH):

S. 126. A bill to remedy alcohol and drug abuse; to the Committee on Labor and Human Resources.

By Mr. MATHIAS (for himself and Mr. HEFLIN):

S. 127. A bill to revise the first section of the Clayton Act to expand the scope of the antitrust laws, and for other purposes; to the Committee on the Judiciary.

By Mr. ROTH:

S. 128. A bill entitled The Equal Opportunity Retirement Act of 1983; to the Committee on Finance.

By Mr. D'AMATO (for himself and Mr. MOYNIHAN):

S. 129. A bill to make certain land owned by the United States in the State of New York part of the Green Mountain National Forest; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. COCHRAN (for himself and Mr. NUNN):

S. 130. A bill to amend the Consolidated Farm and Rural Development Act to provide credit assistance to farmers, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SASSER (for himself, Mr. SARBANES, Mr. PELL, Mr. BRADLEY, Mr. INOUYE and Mr. TSONGAS):

S. 131. A bill to require the Economic Regulatory Administration of the Department of Energy to complete the investigation of all oil overcharge cases pending within the Administration; to the Committee on Energy and Natural Resources.

By Mr. SASSER:

S. 132. A bill to amend the Energy Policy and Conservation Act to prohibit the purchase of Iranian and Libyan oil to fill the Strategic Petroleum Reserve, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. D'AMATO:

S. 133. A bill to establish a Federal annuity program to compensate participants in private pension plans which terminate before July 1, 1974, for nonforfeitable pension benefits which were lost by reason of the termination, and for other purposes; to the Committee on Labor and Human Resources.

S. 134. A bill to amend the Internal Revenue Code of 1954 to permit certain cooperative housing corporations to replace conventional financing with tax-exempt financing; to the Committee on Finance.

By Mr. MATTINGLY:

S. 135. A bill to prohibit permanently the issuance of regulations on the taxation of fringe benefits; to the Committee on Finance.

By Mr. D'AMATO:

S. 136. A bill to amend the Internal Revenue Code of 1954 to lower the limitation on defined benefit plans established for policemen and firemen; to the Committee on Finance.

By Mr. ROTH (for himself, Mr. MITCHELL, Mr. SASSER, Mr. DURENBERGER, Mr. DANFORTH, Mr. HEFLIN, Mr. DODD, Mr. TSONGAS, Mr. MELCHER, Mr. ABDNOR, Mr. PACKWOOD, Mr. D'AMATO, Mr. STAFFORD, Mr. COCHRAN, Mr. LEVIN, Mr. TRIBLE, Mr. RIEGLE, Mr. WALLOP, Mr. CRANSTON, Mr. MURKOWSKI, Mr. PELL and Mr. HUDDLESTON):

S. 137. A bill to amend the Internal Revenue Code of 1954 to continue to allow mortgage bonds to be issued; to the Committee on Finance.

By Mr. PRESSLER:

S. 138. A bill to amend the Highway Revenue Act of 1982 to repeal the increase in the highway use tax and to amend the Internal Revenue Code of 1954 to increase the tax on diesel fuel; to the Committee on Finance.

By Mr. HATCH (for himself and Mr. THURMOND):

S. 139. A bill to provide for civil rights in public schools; to the Committee on the Judiciary.

By Mr. HATCH:

S. 140. A bill to amend title VIII of the Act commonly called the Civil Rights Act of 1968 to revise the procedures for the enforcement of fair housing, and for other purposes; to the Committee on the Judiciary.

S. 141. A bill to provide a special defense to the liability of political subdivision of States under section 1979 of the Revised Statutes (42 U.S.C. 1983) relating to civil actions for the deprivation of rights; to the Committee on the Judiciary.

By Mr. CRANSTON:

S. 142. A bill to amend the Wild and Scenic Rivers Act by designating a segment of the Tuolumne River in California as a component of the National Wild and Scenic River System; to the Committee on Energy and Natural Resources.

S. 143. A bill to authorize the Twenty-nine Palms Band of Luiseno Mission Indians to lease for ninety-nine years certain lands held in trust for such band; to the Select Committee on Indian Affairs.

By Mr. DANFORTH (for himself, Mr. BENTSEN, Mr. ANDREWS, Mr. BOREN, Mr. BRADLEY, Mr. CHAFEE, Mr. CHILES, Mr. COHEN, Mr. CRANSTON, Mr. D'AMATO, Mr. DECONCINI, Mr. DOLE, Mr. GLENN, Mr. GRASSLEY, Mr. HART, Mr. HEINZ, Mr. HOLLINGS, Mr. INOUYE, Mr. KASTEN, Mr. MATTINGLY, Mr. MELCHER, Mr. MITCHELL, Mr. MOYNIHAN, Mr. PRESSLER, Mr. PROXMIRE, Mr. RANDOLPH, Mr. RIEGLE, Mr. ROTH, Mr. SIMPSON, Mr. SYMMS, Mr. TSONGAS, and Mr. PERCY):

S. 144. A bill to insure the continued expansion of reciprocal market opportunities in trade, trade in services, and investment for the United States, and for other purposes; to the Committee on Finance.

By Mr. MITCHELL (for himself, Mr. STAFFORD, Mr. MOYNIHAN, Mr. DODD, Mr. RUDMAN, Mr. LEAHY, Mr. BAUCUS, Mr. PROXMIRE, Mr. KASTEN, Mr. HART, Mr. HUMPHREY, Mr. PELL, Mr. HOLLINGS, Mr. TSONGAS, and Mr. KENNEDY):

S. 145. A bill to amend the Clean Air Act to better protect against interstate transport of pollutants, to control existing and new sources of acid deposition, and for other purposes; to the Committee on Environment and Public Works.

By Mr. MITCHELL (for himself, Mr. COHEN, Mr. MATHIAS, Mr. HEFLIN, and Mr. SARBANES):

S. 146. A bill to exempt certain fishing vessels from FUTA; to the Committee on Finance.

By Mr. LEVIN:

S. 147. A bill to create jobs in the public sector for individuals who have exhausted their eligibility for unemployment compensation benefits; to the Committee on Labor and Human Resources.

By Mr. SASSER (for himself, Mr. INOUYE, and Mr. HUDDLESTON):

S. 148. A bill to amend the Internal Revenue Code of 1954 to allow a credit against tax for contributions and payments to sheltered workshops; to the Committee on Finance.

By Mr. GRASSLEY:

S. 149. A bill for the relief of Adel Shervin; to the Committee on the Judiciary.

By Mr. JEPSEN:

S. 150. A bill to amend the Internal Revenue Code of 1954 and title IV of the Higher Education Act of 1965 to establish the collection of student loans in default; to the Committee on Finance.

By Mr. PROXMIRE:

S. 151. A bill to amend the Federal Election Campaign Act of 1971 to limit contributions by nonparty multicandidate political committees in election campaigns for the U.S. Senate, to provide for financing of general election campaigns for the U.S. Senate, and for other purposes; to the Committee on Rules and Administration.

By Mr. JEPSEN:

S. 152. A bill to amend the Internal Revenue Code of 1954 to provide an investment tax credit for certain soil and water conservation expenditures; to the Committee on Finance.

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. 153. A bill to amend title 38, United States Code, to provide that the Administrator of Veterans' Affairs may furnish outpatient dental services and treatment for non-service-connected disability to any war veteran who has a service-connected disability of 80 percent or more; to the Committee on Veterans' Affairs.

S. 154. A bill to amend title 38, United States Code, to authorize the Administrator of Veterans' Affairs to provide incentive special pay for certain dentists in the Department of Medicine and Surgery of the Veterans' Administration; to the Committee on Veterans' Affairs.

S. 155. A bill to amend subchapter I of chapter 73 of title 38, United States Code, to provide for the payment of incentive special pay to Veterans' Administration psychologists who obtain certain board certification in a professional specialty; to the Committee on Veterans' Affairs.

By Mr. INOUYE:

S. 156. A bill to amend the Internal Revenue Code of 1954 to modify the third-year tax cut for individuals with taxable incomes over $50,000; to the Committee on Finance.

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. 157. A bill to amend title 10, United States Code, to provide vision care services under CHAMPUS; to the Committee on Armed Services.

By Mr. INOUYE:

S. 158. A bill to amend title 10, United States Code, to eliminate the restrictions on the types of medical care that the uniformed services may provide, directly or by contract, to dependents of members of the uniformed services; to the Committee on Armed Services.

S. 159. A bill to amend section 1086(c) of title 10, United States Code, to provide for payment under the CHAMPUS program of certain health care expenses incurred by certain members and former members of the uniformed services and their dependents to the extent that such expenses are not payable under medicare; to the Committee on Armed Services.

S. 160. A bill to amend title XVIII of the Social Security Act to require that medicare providers also participate in the civilian health and medical program of the uniformed services (CHAMPUS); to the Committee on Finance.

S. 161. A bill to amend title 10 of the United States Code to provide that reimbursement to providers of medical services may be made under the CHAMPUS program in accordance with medicare reim-

bursement principles; to the Committee on Armed Services.

S. 162. A bill to amend title 10, United States Code, to authorize the Secretary of Defense to conduct studies and demonstration projects to develop incentives for economy in the administration of the civilian health and medical program of the uniformed services while maintaining or improving the quality of health and medical care available under such program; to the Committee on Armed Services.

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. 163. A bill to amend title XII of the Public Health Service Act to provide for demonstration programs relating to emergency health care for children; to the Committee on Finance.

By Mr. INOUYE:

S. 164. A bill to make scholarships available to provide clinical psychologists for Indians; to the Committee on Labor and Human Resources.

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. 165. A bill to specify that health maintenance organizations may provide the services of clinical psychologists; to the Committee on Labor and Human Resources.

By Mr. INOUYE:

S. 166. A bill to amend title XVIII of the Social Security Act to provide that services furnished by a clinical psychologist shall be reimbursable under medicare when furnished by a health maintenance organization to a member of that organization; to the Committee on Finance.

S. 167. A bill to provide optional medicaid coverage for individuals who would have qualified for AFDC but for amendments to the earned income disregard and related programs; to the Committee on Finance.

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. 168. A bill to specifically include Native Hawaiians within a group of underserved populations for the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970; to the Committee on Labor and Human Resources.

By Mr. INOUYE:

S. 169. A bill to transfer the National Institute of Mental Health to the National Institutes of Health; to the Committee on Labor and Human Resources.

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. 170. A bill to require that skilled nursing facilities furnishing services under the medicare and medicaid programs be adequately equipped with wheelchairs and other appropriate equipment and supplies; to the Committee on Finance.

S. 171. A bill to require the Secretary of Health and Human Services to prepare and transmit to the Congress a special report on the health care needs of native Hawaiians and other native American Pacific Islanders; to the Committee on Labor and Human Resources.

S. 172. A bill to amend title 5 of the United States Code to provide payments under Government health plans for services of nurses not performed in connection with a physician; to the Committee on Governmental Affairs.

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. 173. A bill to amend titles XVIII and XIX of the Social Security Act to provide that professional nurse services shall be covered under part B of medicare and shall be a required service under medicaid; to the Committee on Finance.

By Mr. INOUYE:

S. 174. A bill to amend titles XVIII and XIX of the Social Security Act to provide that pediatric nurse practitioner services shall be covered under part B of medicare and shall be a required service under medicaid; to the Committee on Finance.

By Mr. DECONCINI (for himself and Mr. THURMOND):

S. 175. A bill to amend title 17 of the United States Code to exempt the private noncommercial recording of copyrighted works on video recorders from copyright infringement.

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. 176. A bill to amend titles XVIII and XIX of the Social Security Act to provide that gerontological nurse practitioner services shall be covered under part B of medicare and shall be a required service under medicaid; to the Committee on Finance.

By Mr. INOUYE:

S. 177. A bill to amend title XVIII of the Social Security Act to provide for coverage under medicare of services performed by a nurse-midwife; to the Committee on Finance.

S. 178. A bill to amend title 5 of the United States Code to provide payments under Goverment health plans for services of nurse-midwives not performed in connection with a physician; to the Committee on Finance.

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. 179. A bill to amend titles XVIII and XIX of the Social Security Act to provide that psychiatric nurse specialist services shall be covered under part B of medicare and shall be a required service under medicaid; to the Committee on Finance.

S. 180. A bill to amend titles XVIII and XIX of the Social Security Act to provide that clinical social worker services shall be covered under part B of medicare and shall be a required service under medicaid; to the Committee on Finance.

S. 181. A bill to amend titles XVII and XIX of the Social Security Act to provide more adequate coverage of the services of mental health specialists under the medicare supplemental benefits program and under medicaid programs; to the Committee on Finance.

S. 182. A bill to amend title 5, United States Code, to provide payments under certain Federal employee health benefits plans for services of mental health specialties; to the Committee on Governmental Affairs.

S. 183. A bill to amend titles XVIII and XIX of the Social Security Act to provide that community mental health center services shall be covered under part B of medicare and shall be a required service under medicaid; to the Committee on Finance.

S. 184. A bill to establish the position of Associate Director for Minority Concerns in the National Institute on Alcohol Abuse and Alcoholism; to the Committee on Labor and Human Resources.

S. 185. A bill to establish the position of Associate Director for Minority Concerns in the National Institute on Drug Abuse; to the Committee on Labor and Human Resources.

By Mr. INOUYE:

S. 186. A bill to require that imports of fresh ginger root meet all the requirements imposed on domestic fresh ginger root; to the Committee on Agriculture, Nutrition, and Forestry.

S. 187. A bill to authorize the sale of certain fish in the State of Hawaii; to the Committee on Commerce, Science, and Transportation.

S. 188. A bill to further the development and maintenance of an adequate and well balanced American merchant marine by requiring that certain mail of the United States be carried on vessels of U.S. registry; to the Committee on Commerce, Science, and Transportation.

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. 189. A bill to limit the costs resulting from acts of negligence in health care and to improve the level of health care services in the United States, and for other purposes; to the Committee on Labor and Human Resources.

S. 190. A bill to direct the Secretary of Labor to identify and address the unique needs of immigrants in the United States taking into account that immigrants are concentrated in a select number of identifiable cities, and for other purposes; to the Committee on Labor and Human Resources.

S. 191. A bill to direct the Secretary of Education to identify and address the unique needs of immigrants in the United States taking into account that immigrants are concentrated in a select number of identifiable cities, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. INOUYE (for himself and Mr. RANDOLPH):

S. 192. A bill to amend statutes relating to the talking books program to include mentally handicapped individuals, and for other purposes; to the Committee on Rules and Administration.

By Mr. INOUYE:

S. 193. A bill to recognize the organization known as the National Academies of Practice; to the Committee on the Judiciary.

S. 194. A bill for the relief of Mr. Donald Shrope and Mrs. Guadalupe L. Shrope; to the Committee on the Judiciary.

S. 195. A bill for the relief of Apolonio P. Tumamao and others; to the Committee on the Judiciary.

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. 196. A bill to deauthorize the navigation project for the Kalihi Channel at Honolulu Harbor, Hawaii; to the Committee on Environment and Public Works.

By Mr. INOUYE:

S. 197. A bill to direct the Secretary of the Department of Transportation to conduct an independent study to determine the adequacy of certain industry practices and Federal Aviation Administration rules and regulations, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. 198. A bill to amend title 5, United States Code, to provide payments under certain Federal employee health benefit plans for community mental health care services; to the Committee on Governmental Affairs.

By Mr. INOUYE:

S. 199. A bill for the relief of Mark Maio Fernandez; to the Committee on the Judiciary.

S. 200. A bill to direct the Secretary of the Army to determine the validity of the claims of certain Filipinos who assert that they performed military service on behalf of the United States during World War II, and for other purposes; to the Committee on Armed Services.

S. 201. A bill to authorize reduced postage rates for certain mail matter sent to Mem-

bers of Congress; to the Committee on Governmental Affairs.

By Mr. INOUYE (for himself, Mr. MATSUNAGA, and Mr. THURMOND):

S. 202. A bill to amend chapter 67 of title 10, United States Code, to grant eligibility for retired pay to certain reservists who did not perform active duty before August 16, 1945, and for other purposes; to the Committee on Armed Services.

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. 203. A bill to amend title 10, United States Code, to authorize former members of the Armed Forces who are totally disabled as the result of a service-connected disability to travel on military aircraft in the same manner and to the same extent as retired members of the Armed Forces are permitted to travel on such aircraft; to the Committee on Armed Services.

S. 204. A bill to amend title 10 of the United States Code relating to retention in active status of certain officers; to the Committee on Armed Services.

By Mr. INOUYE:

S. 205. A bill to amend the Shipping Act, 1916, to provide for jurisdiction over common carriers by water engaging in foreign commerce to and from the United States utilizing ports in nations contiguous to the United States; to the Committee on Commerce, Science, and Transportation.

S. 206. A bill to increase the role of the Secretary of Transportation in administering section 901 of the Merchant Marine Act, 1936; to the Committee on Commerce, Science, and Transportation.

S. 207. A bill to authorize the Secretary of the Army, acting through the Chief of Engineers and in cooperation with the governments of the Trust Territory of the Pacific Islands and the Commonwealth of Northern Mariana Islands, to study and draft plans for the development, utilization, and conservation of water and related land resources of such territory and Commonwealth, and for other purposes; to the Committee on Environment and Public Works.

By Mr. INOUYE:

S. 208. A bill to amend the Hazardous Materials Transportation Act to prohibit the transportation of hazardous waste for the purposes of disposal abroad; to the Committee on Commerce, Science, and Transportation.

By Mr. INOUYE (for himself, Mr. DECONCINI, Mr. GOLDWATER, Mr. LEAHY, Mr. MATSUNAGA, Mr. PELL, Mr. RANDOLPH, Mr. RIEGLE, Mr. SYMMS, Mr. TSONGAS, and Mr. WARNER):

S. 209. A bill to amend the Controlled Substances Act to establish a temporary program under which heroin would be made available through qualified hospital pharmacies for the relief of pain of cancer patients; to the Committee on Labor and Human Resources.

By Mr. HELMS (for himself, Mr. EAST, Mr. ZORINSKY, Mr. NICKLES, Mr. JEPSEN, and Mr. DENTON):

S. 210. A bill to provide legal protection for unborn human beings and for other purposes; to the Committee on the Judiciary.

By Mr. DECONCINI:

S. 211. To provide for the establishment of a national cemetery in Maricopa County, Ariz.; to the Committee on Veterans' Affairs.

By Mr. PRESSLER (for himself, Mr. WARNER, Mr. SASSER, Mr. INOUYE, Mr. HOLLINGS, Mr. HEFLIN, Mr. RIEGLE, Mr. FORD, Mr. LONG, Mr. EXON, Mr. JOHNSTON, Mr. HUDDLESTON, Mr. LEAHY, and Mrs. HAWKINS):

S. 212. A bill to authorize funds for the U.S. Travel and Tourism Administration; to the Committee on Commerce, Science, and Transportation.

By Mr. LONG (for himself, Mr. BAKER, Mr. CHILES, Mr. CRANSTON, Mr. DOLE, and Mr. MOYNIHAN):

S.J. Res. 1. Joint resolution proposing an amendment to the Constitution of the United States with respect to fixing the compensation of Members of the Congress; to the Committee on the Judiciary.

By Mr. KENNEDY (for himself, Mr. HATFIELD, Mr. BAUCUS, Mr. BIDEN, Mr. BINGAMAN, Mr. BRADLEY, Mr. BURDICK, Mr. BUMPERS, Mr. BYRD, Mr. CRANSTON, Mr. DODD, Mr. EAGLETON, Mr. GLENN, Mr. HART, Mr. HOLLINGS, Mr. HUDDLESTON, Mr. INOUYE, Mr. LEAHY, Mr. LAUTENBERG, Mr. LEVIN, Mr. MATSUNAGA, Mr. MELCHER, Mr. METZENBAUM, Mr. MITCHELL, Mr. MOYNIHAN, Mr. PELL, Mr. PRYOR, Mr. RIEGLE, Mr. SARBANES, Mr. STAFFORD, Mr. TSONGAS, Mr. WEICKER, Mr. CHAFEE, and Mr. PROXMIRE):

S.J. Res. 2. Joint resolution calling for a mutual and verifiable freeze and reduction in nuclear weapons; to the Committee on Foreign Relations.

By Mr. HATCH (for himself, Mr. NICKLES, Mr. BOSCHWITZ, Mr. DENTON, Mr. ZORINSKY, Mr. HUMPHREY, and Mr. EAGLETON):

S.J. Res. 3. Joint resolution to amend the Constitution to establish legislative authority in Congress and the States with respect to abortion; to the Committee on the Judiciary.

By Mr. BAKER (for Mr. GARN) (for himself, Mr. ABDNOR, Mr. DANFORTH, Mr. DECONCINI, Mr. EAGLETON, Mr. EAST, Mr. FORD, Mr. GRASSLEY, Mr. HATCH, Mr. HATFIELD, Mr. HELMS, Mr. JEPSEN, Mr. LUGAR, Mr. MCCLURE, Mr. NICKLES, Mr. PRESSLER, Mr. PROXMIRE, Mr. RANDOLPH, and Mr. ZORINSKY) (by request):

S.J. Res. 4. Joint resolution proposing an amendment to the Constitution of the United States for the protection of unborn children and other persons; to the Committee on the Judiciary.

By Mr. THURMOND (for himself, Mr. HATCH, Mr. DECONCINI, Mr. DOLE, Mr. HEFLIN, Mr. GRASSLEY, Mr. DENTON, Mr. BURDICK, Mr. EAST, Mr. LUGAR, Mr. PROXMIRE, Mr. GARN, Mr. BENTSEN, Mr. RUDMAN, Mr. ZORINSKY, Mr. ABDNOR, Mr. STENNIS, Mr. D'AMATO, Mr. SYMMS, Mr. KASTEN, Mr. PRESSLER, Mr. NICKLES, Mr. MURKOWSKI, Mr. HUMPHREY, Mrs. HAWKINS, Mr. QUAYLE, Mr. JEPSEN, Mr. TRIBLE, Mr. LAXALT, Mr. HELMS, Mr. NUNN, Mr. PRYOR, Mr. DANFORTH, Mr. JOHNSTON, Mr. SIMPSON, and Mr. MATTINGLY):

S.J. Res. 5. A joint resolution proposing an amendment to the Constitution relating to Federal budget procedures; to the Committee on the Judiciary.

By Mr. GRASSLEY:

S.J. Res. 6. A joint resolution to urge the Committees on the Budget of both the Senate and the House of Representatives to strive to the maximum to apply the freeze concept across the board during the upcoming budgetary process; to the Committee on the Budget and the Committee on Governmental Affairs, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other have thirty days of continuous session to report or be discharged.

By Mr. HEFLIN:

S.J. Res. 7. A joint resolution proposing an amendment to the Constitution altering Federal budget procedures; to the Committee on the Judiciary.

By Mr. HELMS (for himself and Mr. EAST):

S.J. Res. 8. A joint resolution to amend the Constitution of the United States to guarantee the right to life; read the first time.

By Mr. HELMS (for himself, Mr. EAST, and Mr. NICKLES):

S.J. Res. 9. A joint resolution to amend the Constitution of the United States to protect the right to life; read the first time.

By Mr. TSONGAS (for himself, Mr. PACKWOOD, Mr. KENNEDY, Mr. MATHIAS, Mr. BYRD, Mr. BIDEN, Mr. LEAHY, Mr. DECONCINI, Mr. METZENBAUM, Mr. BAUCUS, Mr. SARBANES, Mr. SPECTER, Mr. DODD, Mr. WEICKER, Mrs. KASSEBAUM, Mr. RANDOLPH, Mr. PERCY, Mr. DURENBERGER, Mr. HATFIELD, Mr. PROXMIRE, Mr. MOYNIHAN, Mr. COHEN, Mr. PELL, Mr. BRADLEY, Mr. CRANSTON, Mr. DANFORTH, Mr. STEVENS, Mr. HEINZ, Mr. EAGLETON, Mr. GLENN, Mr. GORTON, Mr. HART, Mr. HOLLINGS, Mr. INOUYE, Mr. JACKSON, Mr. LEVIN, Mr. MELCHER, Mr. RIEGLE, Mr. BENTSEN, Mr. ROTH, Mr. HUDDLESTON, Mr. BOREN, Mr. DIXON, Mr. BUMPERS, Mr. MATSUNAGA, Mr. MITCHELL, Mr. MURKOWSKI, Mr. ANDREWS, Mr. STAFFORD, Mr. CHAFEE, Mr. BURDICK, Mr. BOSCHWITZ, Mr. BINGAMAN, Mr. LAUTENBERG, and Mr. JOHNSTON):

S.J. Res. 10. Joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for women and men; to the Committee on the Judiciary.

By Mr. ROTH (for himself, Mr. BOSCHWITZ, Mr. BUMPERS, Mr. DIXON, Mr. DURENBERGER, Mr. EAST, Mr. FORD, Mr. HEINZ, Mr. HELMS, Mr. MURKOWSKI, Mr. NICKLES, Mr. NUNN, Mr. PERCY, Mr. SPECTER, Mr. STAFFORD, Mr. THURMOND, and Mr. TSONGAS):

S.J. Res. 11. Joint resolution entitled "National Safety in the Workplace Week."

By Mrs. KASSEBAUM (for herself and Mr. GLENN):

S.J. Res. 12. Joint resolution relative to arms control negotiations; to the Committee on Foreign Relations.

By Mr. HELMS (for himself, Mr. EAST, and Mr. DENTON):

S.J. Res. 13. Joint resolution to amend the Constitution of the United States to guarantee the right to life; to the Committee on the Judiciary.

By Mr. HELMS (for himself, Mr. EAST, Mr. NICKLES, and Mr. DENTON):

S.J. Res. 14. Joint resolution to amend the Constitution of the United States to protect the right to life; to the Committee on the Judiciary.

By Mr. MOYNIHAN (for himself, Mr. LUGAR, Mr. HOLLINGS, Mr. STAFFORD, Mr. RIEGLE, Mr. KENNEDY, Mr. BENTSEN, Mr. DIXON, Mr. DECONCINI, Mr. BUMPERS, Mr. GRASSLEY, Mr. FORD, Mr. GORTON, Mr. MATTINGLY, Mr. MATSUNAGA, Mr. STENNIS, Mr. MCCLURE, Mr. NUNN, Mr. ZORINSKY, Mr. RANDOLPH, Mr. TSONGAS, Mr.

SARBANES, Mr. HUDDLESTON, Mr. D'AMATO, Mrs. HAWKINS, Mr. COCHRAN, Mr. QUAYLE, and Mr. GARN):

S.J. Res. 15. A joint resolution designating the month of March 1983 as National Eye Donor Month; to the Committee on the Judiciary.

By Mr. D'AMATO (for himself, Mr. EXON, Mr. LUGAR, Mr. MOYNIHAN, Mr. BUMPERS, Mr. ARMSTRONG, Mr. DECONCINI, Mr. REIGLE, Mr. STEVENS, Mr. LEAHY, Mr. HEINZ, Mr. LEVIN, Mr. PERCY, and Mr. PRESSLER):

S.J. Res. 16. A bill to provide for the designation of the 65th anniversary of the renewal of Lithuanian independence, February 16, 1983, as "Lithuanian Independence Day"; to the Committee on the Judiciary.

By Mr. PRYOR (for himself, Mr. BAUCUS, Mr. BOREN, Mr. BURDICK, Mr. CHAFEE, Mr. DECONCINI, Mr. FORD, Mr. GLENN, Mr. HUDDLESTON, Mr. JACKSON, Mr. LEVIN, Mr. MATSUNAGA, Mr. METZENBAUM, Mr. PELL, Mr. PROXMIRE, Mr. RANDOLPH, and Mr. STAFFORD):

S.J. Res. 17. A joint resolution proposing an amendment to the Constitution to provide for the direct popular election of the President and Vice President of the United States; to the Committee on the Judiciary.

By Mr. JEPSEN (for himself, Mr. EAGLETON, Mr. DENTON, Mr. ABDNOR, Mr. TSONGAS, Mr. TOWER, Mr. MATTINGLY, Mr. COCHRAN, Mr. LUGAR, Mrs. HAWKINS, and Mr. RANDOLPH):

S.J. Res. 18. A joint resolution designating September 22, 1983, as "American Business Women's Day"; to the Committee on the Judiciary.

By Mr. INOUYE:

S.J. Res. 19. A joint resolution to authorize and request the President to designate the period August 26, 1983, through August 30, 1983, as "National Psychology Days"; to the Committee on the Judiciary.

S.J. Res. 20. A joint resolution to authorize and request the President to designate March 27, 1983, as "National Recovery Room Nurses Day"; to the Committee on the Judiciary.

By Mr. DECONCINI (for himself, Mr. METZENBAUM, Mr. BURDICK, Mrs. HAWKINS, Mr. SASSER, Mr. STENNIS, Mr. PRYOR, Mr. D'AMATO, Mr. PELL, Mr. GOLDWATER, Mr. RANDOLPH, Mr. ANDREWS, Mr. HUDDLESTON, Mr. DURENBERGER, Mr. STAFFORD, Mr. MATSUNAGA, Mr. GORTON, Mr. JEPSEN, Mr. LAXALT, Mr. ROTH, Mr. BUMPERS, Mr. MATTINGLY, Mr. BAUCUS, Mr. KENNEDY, Mr. MATHIAS, Mr. RIEGLE, Mr. CRANSTON, Mr. PROXMIRE, Mr. QUAYLE, Mr. HEINZ, Mr. EAGLETON, Mr. MURKOWSKI, and Mr. HEFLIN):

S.J. Res. 21. Joint resolution to designate April 1983 as "National Child Abuse Prevention Month"; to the Committee on the Judiciary.

By Mr. DECONCINI:

S.J. Res. 22. Joint resolution proposing an amendment to the Constitution altering Federal budget procedures; to the Committee on the Judiciary.

By Mr. DECONCINI (for himself and Mr. DANFORTH):

S.J. Res. 23. Joint resolution proposing an amendment to the Constitution of the United States with respect to the number of terms of office which Members of the Senate and the House of Representatives may serve; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. STAFFORD:

S. Res. 13. Resolution authorizing expenditures by the Committee on Environment and Public Works; to the Committee on Rules and Administration.

By Mr. BYRD:

S. Res. 14. Resolution to amend rule XVI of the Standing Rules of the Senate with respect to the priority of deciding certain points of order made against amendments to general appropriation bills.

S. Res. 15. Resolution to amend rule XVI of the Standing Rules of the Senate with respect to the priority of deciding certain points of order made against amendments to general appropriation bills; to the Committee on Rules and Administration.

By Mr. MATTINGLY:

S. Res. 16. Resolution to affirm fiscal responsibility; to the Committee on the Budget.

By Mr. SYMMS (for himself and Mr. MCCLURE):

S. Res. 17. Resolution to refer the bill S. 80, entitled, "A bill for the relief of Aetna Insurance Company, and other insurance companies" to the Chief Commissioner of the United States Court of Claims; to the Committee on the Judiciary.

By Mr. INOUYE:

S. Res. 18. Resolution disapproving the proposed deferral of budget authority for the dairy indemnity program; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other have thirty days of continuous session to report or be discharged.

By Mr. CRANSTON (for himself and Mr. SIMPSON, Mr. RANDOLPH, Mr. MATSUNAGA, Mr. DECONCINI, Mr. MITCHELL, and Mr. DENTON):

S. Con. Res. 2. Concurrent resolution expressing the sense of the Congress with respect to the role of the Administrator of the Veterans' Affairs; to the Committee on Veterans' Affairs.

By Mr. HELMS:

S. Con. Res. 3. Concurrent resolution relating to foreign currency deposits; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. INOUYE:

S. Con. Res. 4. Concurrent resolution expressing the sense of the Congress that it is in our national interest that a comprehensive review now be conducted by the General Accounting Office (GAO) regarding importance of ensuring that our nation's merchant seamen have ready access to quality health care; to the Committee on Commerce, Science, and Transportation.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOLE (for himself, Mr. MOYNIHAN, Mr. HEINZ, Mr. BAKER, Mr. STEVENS, Mr. LAXALT, Mr. DANFORTH, Mr. KENNEDY, Mr. BENTSEN, and Mr. MURKOWSKI):

S. 1. A bill to implement the consensus recommendations of the National Commission on Social Security Reform; to the Committee on Finance.

SOCIAL SECURITY AMENDMENTS OF 1983

Mr. DOLE. Mr. President, today I introduce, with Senators MOYNIHAN, HEINZ, BAKER, STEVENS, LAXALT, DANFORTH, KENNEDY, BENTSEN, and MURKOWSKI, S. 1, the Social Security Amendments of 1983. This legislation would implement the bipartisan reforms recommended by the National Commission on Social Security Reform. In my view, the consensus reached by the National Commission holds the potential for marking the end of a bitter period of political partisanship. Republicans and Democrats, the House and the Senate, Congress, and the Executive all demonstrated the degree of cooperation so essential for enacting a responsible social security financing bill.

I want to thank my distinguished colleague from New York for his role in the reaching of a bipartisan consensus on social security reform. We started down this path of compromise largely because of a conversation engaged in by myself and the Senator from New York on the Senate floor on January 3, the day new Members were being sworn in. The Senator from New York came to me and said, "Let's not let this opportunity slip away to work out something on social security."

That started a series of meetings among Commission members which were enlarged to bring in White House representatives, and representatives of the Speaker and others.

I should also point out that when we were negotiating these matters in November it was the distinguished Senator from Pennsylvania, who now joins us as a cosponsor of S. 1, who initially tried to work out a compromise. It was a bit early at that time, but I think he laid the foundation. We were starting from that base when we got together with the Senator from New York, the distinguished former Social Security Commissioner Robert Ball, and BARBER CONABLE. Later members of the White House staff joined us. Then, Senator ARMSTRONG joined us. We made every effort to keep in close contact with all the members of the Commission. As we neared a compromise, we consulted with the chairman of the Ways and Means Committee, the ranking minority member of the Finance Committee, and others who had a direct interest. I was encouraged by the level of bipartisan cooperation.

Just a year ago, prospects for a bipartisan consensus were remote. As my colleagues will recall, the National Commission was created by Executive order on December 16, 1981. At that time, the social security program had been embroiled in political controversy for nearly a year. The system moved closer to insolvency as proposals for financial reform were subjected to partisan political attack. The 15 individuals selected as Commission members em-

bodied widely divergent views, creating further concern that anything could be accomplished. To outsiders at least, these members probably seemed incapable of reaching any true bipartisan consensus.

ACCOMPLISHMENTS OF THE SOCIAL SECURITY COMMISSION

On January 15, 1983, the National Commission on Social Security Reform accomplished what some said was impossible. With the cooperation and approval of President Reagan and House Speaker O'NEILL, the Commission forged a consensus reform package with broad bipartisan support. As is clear from the 12 members who supported the package, both political parties were represented as were the interests of the elderly, organized labor and business, and the general taxpayers. Along with myself and Senators MOYNIHAN and HEINZ, the other Commission members who support these recommendations are: Representatives BARBER CONABLE and CLAUDE PEPPER, former Commissioner of Social Security Robert Ball, Robert Beck, chairman of the board and chief executive officer of Prudential Insurance Co., Mary Falvey Fuller, management consultant and member of the 1979 Advisory Council on Social Security, Alan Greenspan, chairman and president of Townsend, Greenspan, & Co., Martha Keys, former representative in the 94th and 95th Congresses, Lane Kirkland, president of the AFL-CIO, and Alexander Trowbridge, president of the National Association of Manufacturers.

Agreeing to the essential provisions of a social security solution was not the only accomplishment of the National Commission. It should be noted that the Commission also reached unanimous agreement on the size of the short- and long-term deficits in the social security cash benefit programs—old-age and survivors insurance and disability insurance. In concrete dollar terms, the Commission quantified the seriousness and the urgency of the financing problem. Remember that only a year ago, partisan lines had been drawn between those who did and did not believe there was any financing problem at all before the year 2000.

In addition, the National Commission provided a valuable forum for diverse views on social security. With the able leadership of Chairman Alan Greenspan and with the expert assistance of Executive Director Robert Myers, members of both political parties were able to work together in studying the social security financing problem and options for financial reform. In recent weeks, we engaged in intensive negotiations which were, to a large extent, free of the political partisanship that so seriously damaged efforts for responsible reform in 1981.

MAJOR PROVISION

The legislation we introduce today reflects the basic agreements reached by the 12-member majority. It closes the short-term deficit identified by the Commission, and goes a long way toward closing the long-range deficit. It requires concessions from all of the parties who have a stake in social security—current and future beneficiaries, taxpayers, and Government employees who do not now contribute to the system. While no one member is happy with every specific recommendation, the important fact is that consensus was reached on how to save the system.

First, the bill would expand coverage. Newly hired Federal employees, the President, Vice President and Members of Congress, and employees of nonprofit organizations would be covered by social security on a mandatory basis. State and local governments would no longer be granted the privilege of opting out of the system. To deal with the problem that will exist as long as coverage is not universal, windfalls will be eliminated for people who earn disproportionately large benefits under social security because of long periods in noncovered employment.

Second, on the benefit side, the annual cost-of-living adjustment would be delayed by 6 months, from July to January. To protect the needy elderly during the transition to the new payment schedule, the income disregard under the supplemental security income (SSI) program would be increased from $20 to $50 per month. This would allow the income of a social security recipient on SSI to rise by $30 a month beginning in July even though his or her COLA is delayed. Also, for beneficiaries with high incomes, half of social security benefits would be included in taxable income. This would apply to individuals with adjusted gross incomes above $20,000—$25,000 for couples.

On the revenue side, part of the payroll tax increases now scheduled by law would be accelerated. The 1985 increase in the OASDI rate would take place in 1984, and part of the 1990 increase would take place in 1988. There would be no payroll tax increases, however, over and above those already scheduled to take place in current law. Also, a refundable income tax credit would exactly offset the increase in the employee's tax in 1984.

For the self-employed, the payroll tax would be increased so as to equalize his or her contribution to the social security trust funds with that of workers and their employers. The OASDI tax on the self-employed—now about 1.5 times the employee's tax—would be made equal to the combined employee-employer rate, with half of the tax made deductible from Federal income taxes as a business expense.

To help stabilize the financial condition of social security, this bill includes a provision which would trigger a new method of indexing benefits if reserves are critically low. Beginning in 1988, if reserves fall below 20 percent of annual outgo, the annual COLA would be based on the lower of the increase in wages or prices. As reserves begin to accumulate again, a "catch-up" provision would repay beneficiaries for any prior reduction in their benefit increases. This would help prevent insolvency when prices grow more rapidly than wages, as they have in the last 5 years.

There are also provisions included in this bill which would increase outlays somewhat, but they improve the equity of the system considerably for women and for the elderly who continue to work. Benefit adequacy is improved for widows and widowers, and for disabled widows and widowers. Eligibility requirements are eased for divorced widows and widowers, and for divorced disabled widows and widowers. For the elderly who continue to work and who do not now receive an actuarially fair increase in benefits when they delay retirement, the delayed retirement credit would be increased from 3 to 8 percent a year.

Finally, two accounting changes would be made to improve the treatment of the social security trust funds. First, the trust funds would be reimbursed for all foregone taxes and interest on account of gratuitous wage credits provided to people with military service. The trust funds are not currently reimbursed until the additional benefits are paid. Second, the trust funds would be credited with the value of all checks which have remained unnegotiated for a year or longer. Presently, such checks represent a drain on the trust funds even if they are never cashed.

OTHER RECOMMENDATIONS

In addition to these provisions, which constitute the bipartisan consensus, this bill contains three other recommendations made by the National Commission. These were approved unanimously in November. First, trust fund investment procedures would be revised so as to improve the level of public understanding. In the future, any excess reserves would be invested on a month-to-month basis at a rate equal to the average interest rate paid on long-term Government bonds. Second, two public members would be added to the Social Security Board of Trustees. Presently, the Board is composed of the Secretaries of Treasury, Labor, and Health and Human Services. Third, salary reductions made under salary-reduction plans qualifying under section 401(k) of the Internal Revenue Code would be included in taxable wages for purposes of OASDHI. This change should prevent

future decreases in OASDHI tax income and benefit credits that might otherwise occur from increased use of section 401(k) plans.

REFINEMENTS MAY BE NECESSARY

Together, these provisions form a consensus package that carefully balances many interests. To the greatest extent possible, therefore, this must be considered as a package. Commission members recognize, however, that many details remain to be worked out within the legislative process. Some of the specifics are in need of improvement; some are in need of refinement.

For example, the way benefits are taxed in this bill would create a "notch." People with incomes below the thresholds would pay no taxes at all on their social security benefits, whereas individuals with just a dollar of income over the thresholds would pay taxes on a full 50 percent of their benefits. Certainly, there will be strong support for correcting this anomaly by phasing in the amount of benefits subject to taxation in some way.

Other revenue provisions of the legislation also raise a number of practical and technical issues that will no doubt have to be addressed as we move through the legislative process. To insure that tax is paid on taxable social security benefits, for example, the bill includes a provision for information reporting to the IRS and the social security beneficiary on the amount of benefits paid. It should be possible to implement this system without causing undue concern to beneficiaries, the vast majority of whom will not owe income tax on their benefits. This could be done by a clear and conspicuous instruction on the reporting form stating that benefits are taxable only for those with income above the threshold levels. Still, we will want to be sure that this system is effective and fair, and we ought to be open to other options.

Another area that may need further exploration is the mechanism for estimating the amount of income tax revenues due to the trust funds under the proposal to tax benefits, and the system for allocating those revenues to the trust funds. Under the bill, the Treasury Department is to estimate the revenues due to the trust funds, as was recommended by the National Commission. These estimates would be made on a preliminary basis, the funds allocated to the trust funds, and a later reconciliation made based on actual tax return information as collected in the IRS "Statistics of Income." The goal is to insure that there is a clear, objective standard for allocating income tax revenues to the trust funds in connection with the taxation of benefits, so that we have a precise reconciliation of the actual amounts due to the trust funds. That way we also guarantee precision in determining the level of reserves in the trust funds.

We also recognize, of course, that other technical issues will have to be resolved. The bill as drafted makes clear that we do not want to tax benefits that may be paid retroactively with respect to a period before the date this legislation takes effect. At the same time, benefits that may be "bunched" in a single year due to payment following a retroactive determination of eligibility ought not to trigger excessive tax liability in the year in which the benefits are paid. Existing income tax averaging rules may be sufficient to deal with this problem but it is possible that a special rule would be helpful.

Also, I am aware that there are concerns about the self-employed tax. Is a deduction or a tax credit the most appropriate offset for the higher tax? Should the self-employed receive the tax credit provided to employees in 1984? I can assure interested parties that we will receive testimony in the Finance Committee hearings and we will address these issues when the legislation is marked up.

The delay in the social security COLA raises questions for other programs. For example, when the social security COLA is delayed, the annual increase in supplemental security income (SSI) payments is also delayed. This was not recommended by the National Commission, but instead results from the way the SSI title of the Social Security Act is linked to the OASDI title. We in Congress will have to make an explicit decision in this regard. A similar problem is created in the SMI—supplemental medical insurance—program. We will have to consider whether the increase in the SMI premium should continue to take place each July, as it would under this legislation, or whether it should be synchronized with the OASDI increase.

Finally, it should be noted that there were unique problems in the drafting of the equity provisions. These problems resulted from well-known gender-based distinctions now in the law. For example, the Commission agreed to allow benefits to be payable to divorced widows and widowers who remarry. Divorced widowers benefits are not now in the law; however, they are paid under a Supreme Court ruling. By liberalizing the treatment of women, therefore, the treatment of men is liberalized indirectly. This type of problem will be corrected by later legislation designed to eliminate gender-based distinctions in the Social Security Act.

I feel confident that these and any other problems that may become apparent as the legislation is carefully considered, can be handled within the normal legislative process without jeopardizing the basic bipartisan agreement. With the essential elements of a consensus bill before us, we in Congress are in a strong position to hammer out these details and enact legislation in the early months of the 98th Congress. Prompt action is essential not only for the peace of mind of beneficiaries and taxpayers, but also because of the real solvency constraint we face.

FINANCING PROBLEM MAKES PROMPT ACTION ESSENTIAL

As almost everyone is by now aware, the social security retirement program will not be able to pay benefits on time beginning in July. In fact, were it not for the interfund borrowing authorized in 1981, the retirement program would have stopped meeting its monthly payments on time back in November. With the authority for interfund borrowing now expired—as of December 31, 1982—July is when all of the money borrowed from the other two trust funds—$17.5 billion in total—finally runs out.

Reauthorizing interfund borrowing cannot help the retirement program for long. The retirement program is so large—accounting for 73 percent of all social security spending—and its borrowing demands are so heavy, with interfund borrowing the rest of the system could be insolvent before the year is out. The Social Security Board of Trustees, the Congressional Budget Office, and a wide variety of private actuaries and economists all agree that substantial additional trust fund revenues must be provided or savings must be achieved if the social security system is to remain solvent through the remainder of this decade.

How much the system requires in savings or revenues depends on how we expect the economy to perform. The National Commission settled on $150 to $200 billion between now and 1989, as the amount required to keep OASDI solvent through 1990. More would be required to fund the medicare deficit. This amount was not judged to provide a comfortable reserve margin under any economic circumstances, but enough to see the system through the kind of economic circumstances we have experienced in the past 5 years or so. If the economy performs better, substantial reserves could begin to accumulate by the end of the decade. According to the social security actuaries, this legislation would reduce the short-range deficit by $168 billion.

While it is the short-term financing problem that is immediately pressing, the long-term financing problem is equally serious, if not more so. The Social Security Board of Trustees reports that the combination of the baby-boom generation retiring and gradually lengthening lifespans will lead to a dramatic increase in the cost of social security after the turn of the

century—about 55 percent between 2005 and 2035 alone. In the year 2035, when the young people of today are retiring, the actuaries expect that the elderly population will account for 21 percent of the overall population—as compared to 11 percent today—and the typical 65-year-old will have a life expectancy of 17 years—as compared to 14.5 years today. The effect will be to decrease the ratio of taxpayers to beneficiaries from just over 3:1 today to 2:1, helping to generate the enormous long-term deficits we now foresee.

According to the social security actuaries, the long-term deficit in the nonmedicare social security programs is 1.8 percent of taxable payroll. This is the figure adopted by the National Commission. To translate, it means that over the next 75 years, the actuaries project that benefits will outstrip payroll tax income, in 1983 dollar terms, by about $25 billion per year, or $2 trillion in total. Including medicare, the long-term deficit has been estimated at 7.01 percent of taxble payroll, or nearly $8 trillion in total.

The measures included in the bipartisan consensus would meet two-thirds of the long-range OASDI deficit, reducing it by 1.22 percent of taxable payroll. I will propose an amendment which would close the remaining deficit by gradually increasing the retirement age for people retiring after the year 2000.

THE TIME FOR ACTION IS NOW

We have a big job ahead of us in Congress. We face many difficult decisions as to the details of the legislation, and the adequacy of the measures proposed. As mentioned, the balance of the long-term deficit remains to be addressed. In my view, a balanced solution to this problem will involve bringing the cost of social security into line with the ability of our working population to finance the system. The tax burden is already heavy, and the confidence of young people critically low.

The American people—the 36 million people receiving benefits as well as the 116 million working people who support the system—deserve more than another quick fix that holds the system together until the next crisis comes along. They deserve the speedy consideration of this bipartisan package of recommendations. Confidence in the long-term viability of social security will be restored only by enacting measures that put the system on a sound financial footing and do so without imposing an unrealistic tax burden on present and future workers.

Within a matter of weeks, the House Ways and Means Committee and the Senate Finance Committee will begin the task of weighting S. 1 and other options and then drafting social security financing legislation. Hearings will begin in the Ways and Means Committee on February 1 and in the Finance Committee on February 15. Chairman ROSTENKOWSKI and I are firmly committed to seeing that the essential elements of this reform package—as endorsed by President Reagan, Speaker O'NEILL, Majority Leader BAKER, and others—are adopted by the Congress and enacted into law by May. Moving quickly to shore up the Nation's largest domestic program is in all of our interests.

Attached are statements of endorsement of the bipartisan recommendations of the National Commission on Social Security Reform by President Reagan, House Speaker O'NEILL, Majority Leader WRIGHT, Minority Leader MICHEL, and Senate Majority Leader BAKER. Also attached is a provision-by-provision summary of S. 1.

I ask unanimous consent that this material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the White House, Office of the Press Secretary]

STATEMENT BY THE PRESIDENT

Speaker of the House O'Neill, Majority Leader Baker and I have today received from the Commission on Social Security a "Recommended Bi-Partisan Solution to the Social Security Problem" (summary attached).

This Bi-Partisan Solution would solve the Social Security problem defined by the Commission. It is my understanding that the Speaker and the Majority Leader find this Bi-Partisan Solution acceptable.

Each of us recognizes that this is a compromise solution. As such, it includes elements which each of us could not support if they were not part of a bi-partisan compromise. However, in the interest of solving the Social Security problem promptly, equitably, and on a bi-partisan basis, we have agreed to support and work for this Bi-Partisan Solution.

I look forward to the Congress beginning consideration of this package through hearings before the House Ways and Means Committee on February 1.

I believe the American people will welcome this demonstration of bi-partisan cooperation in offering a solution that can keep a fundamental trust, while solving a fundamental national problem.

I wish to thank the members of the Commission, and especially Chairman Greenspan, for their tireless effort, and for the cooperative and responsible manner in which they have met a most difficult challenge.

REMARKS OF THE SPEAKER THOMAS P. O'NEILL, JR., JANUARY 15, 1983

I am pleased that the National Commission on Social Security Reform has fulfilled its mandate by producing a set of responsible recommendations for making sure the Social Security system is financially sound and able to meet its obligations.

Because the Commission has reached a bipartisan agreement acceptable to the President and to me, one that I can support and will work for; I am hopeful that it will provide the basis for bipartisan cooperation in the Ways and Means Committee and the full House.

As I stated on January 3rd this legislation is at the top of the agenda of the new Congress. It is vitally necessary. With the work of the Commission successfully completed; the legislation will go forward under the able leadership of Congressman J. J. Pickle and Chairman Dan Rostenkowski.

I congratulate the Members of the Commission and its Chairman Alan Greenspan for their hard work and perseverance.

Senator Claude Pepper, Robert Ball and Martha Keyes served at my request. At the time of their appointment I promised to support their recommendations if a bipartisan agreement was reached. It has been and I will keep my promise to them.

STATEMENT OF MAJORITY LEADER HOWARD H. BAKER, JR.

I want to congratulate the members of the National Social Security Commission on a job well done.

The bipartisan agreement that has been reached offers a plan to salvage and to keep solvent the Social Security system. The vote of the Commission to adopt these recommendations, by such an overwhelming majority, vindicates my belief that great decisions of our time must be made in a bipartisan way.

I believed at the time the President decided to establish this Commission last spring, that an issue of this importance demanded the cooperation of the two great national political parties and had to be removed from the arena of partisan politics. This decision tonight is a clear demonstration of our ability to forge a bipartisan coalition on such issues.

It is now incumbent on the leadership and the members of Congress to take these initiatives and ratify them. It is a sound plan, and I join with President Reagan and Speaker O'Neill in the commitment to work for its enactment.

I want to express my particular appreciation to Senator Bob Dole, Chairman of the Finance Committee, Senator John Heinz and Senator Bill Armstrong, all of whom I asked to serve on the Commission, for their invaluable contributions. I give my wholehearted thanks to Alan Greenspan, the Commission Chairman, for the successful conclusion of a monumental task.

STATEMENT OF HOUSE REPUBLICAN LEADER ROBERT H. MICHEL

It is a relief to know that the bipartisan Commission on Social Security has reached agreement on recommendations for the immediate and long term financing of the Social Security system.

It has been more than two years since the financial crisis facing Social Security became painfully evident to the Administration and the Congress. It was not until those who chose to demagogue the issue fully realized the depth of the problem that any bipartisan solutions could be sought.

The Commission's recommendations are not entirely what I would have preferred; however, I will join with the President, the Speaker and the Senate Majority Leader in supporting and working their enactment in a truly bipartisan fashion.

I commend Chairman Greenspan and the members of the Commission who put the integrities of the Social Security system above all other considerations in arriving at these recommendations. I must also commend the President for exercising both leadership and statesmanship in seeking this bipartisan agreement.

STATEMENT OF HOUSE MAJORITY LEADER JIM WRIGHT

The steps outlined to me by Claude Pepper and Robert Ball constitute a framework for a constructive bipartisan solution to the Social Security problems.

According to competent actuarial advice, the approach will permit us to maintain the solvency of the Social Security trust fund perpetually into the future without reducing benefits for America's retirees.

The members of the Commission deserve our sincere congratulations and the program they have put together deserves our support.

DOLE HAILS SOCIAL SECURITY COMPROMISE—PREDICTS CONGRESSIONAL APPROVAL

WASHINGTON.—Senator Bob Dole, Chairman of the Senate Finance Committee and a member of the National Commission on Social Security Reform, praised the bipartisan agreement reached by the Commission over the weekend. "The package is balanced, fair, and responsible," Senator Dole said.

"The Commission, with the cooperation and approval of President Reagan and Speaker O'Neill, has developed a consensus reform package which merits speedy Congressional approval," Senator Dole said. "Once the members of the Commission reached agreement on the size and severity of the financing crisis, the painful process of seeking consensus on recommendations to save the system went forward. We considered every possible option for ensuring short and long term solvency. While no one member of the Commission may be totally happy with our recommendations, we have kept faith with Social Security beneficiaries—current benefit levels will be maintained."

Dole announced today that the Senate Finance Committee will begin hearings shortly on the compromise package. The Chairman predicted congressional approval of the package in early May.

"Prgsident Reagan told me today that he will actively support and work for the passage of this bipartisan agreement," said Senator Dole, following a telephone call from the President. "With the anticipated cooperation of the House Ways and Means Committee Chairman, Dan Rostenkowski, we can put this important issue behind us. Again, I commend President Reagan and Speaker O'Neill for the high standard of leadership they demonstrated in helping the Commission reach this historic agreement."

TABLE A.—SHORT-RANGE AND LONG-RANGE COST ANALYSIS OF OASDI PROPOSALS

Proposal	Short-term savings, 1983–89 (billions)	Long-range savings (percentage of payroll)
Cover nonprofit and new Federal employees [1]	+$20	+0.30
Prohibit withdrawal of State and local government employees	+3	
Taxation of benefits for higher income persons	+30	+.60
Shift COLA's to calendar-year basis	+40	+.27
Eliminate windfall benefits for persons with pensions from noncovered employment	+.2	+.01
Continue benefits on remarriage for disabled widow(er)s and for divorced widow(er)s	−.1	
Index deferred widow(er)'s benefits based on wages (instead of CPI)	−.2	−.05
Permit divorced aged spouse to receive benefits when husband is eligible to receive benefits	−.1	−.01
Increase benefit rate for disabled widow(er)s aged 50–59 to 71½ percent of primary benefit	−1	−.01
Revise tax rate schedule	+40	+.02
Revise tax basis for self-employed	+18	+.19
Reallocate OASDI tax rate between OASDI and DI		
Allow interfund borrowing from HI by OASDI		
Credit the OASDI trust funds, by a lump sum payment for cost of gratuitous military service wage credits and past unnegotiated checks	+18	
Base automatic benefit increases on lower of CPI or wage increases after 1987 if fund ratio is under 20 percent, with catchup if fund ratio exceeds 32 percent		
Increase delayed retirement credit from 3 percent per year to 8 percent, beginning in 1990 and reaching 8 percent in 2010		[3] −.10
Additional long-range changes [2]		+.58
Total effect	+168	+1.80

[1] Includes effect of revised tax schedule.
[2] Alternate methods for obtaining this long-range savings are presented in the additional statements of the members (in chapter 4).
[3] This cost estimate assumes that retirement patterns would be only slightly affected by this change. If this change does result in significant changes in retirement behavior over time, the cost increase would be less (or possibly even a small savings could result).

TABLE B.—YEAR-BY-YEAR SHORT-RANGE COST ANALYSIS OF OASDI PROPOSALS

[In billions]

Proposal	1983	1984	1985	1986	1987	1988	1989	1983–89
Cover nonprofit and new Federal workers [1]		+$1	+$2	+$3	+$4	+$4	+$5	+$20
Prohibit withdrawal of State/local workers		([2])	([2])	([2])	+1	+1	+1	+3
Taxation of benefits for higher-income persons		+1	+4	+5	+6	+7	+8	+30
Shift COLA's to calendar-year basis	+$5	+5	+5	+6	+6	+6	+7	+40
Eliminate windfall benefits		([2])	([2])	([2])	([2])	([2])	([2])	+.2
Benefits for remarried widow(er)s		([2])	([2])	([2])	([2])	([2])	([1])	−.1
Index deferred widow(er)'s benefits by wages		([2])	([2])	([2])	([2])	([2])	([2])	−.2
Divorced spouse's benefits when husband eligible		([2])	([2])	([2])	([2])	([2])	([2])	−.1
Higher benefit rate for disabled widow(er)s		([2])	([2])	([2])	([2])	([2])	([2])	−1
Revised tax schedule		+9	([2])		+15	+16	+40	
Revised tax basis for self-employed		+1	+3	+3	+3	+4	+5	+18
Credit trust funds for military wage credits	+20	−1	−1	([2])	([2])	([2])	([2])	+18
Total effect	+25	+16	+13	+17	+20	+37	+41	+168

[1] Includes effect of revised tax schedule.
[2] Less than $500 million.

SECTIONS 101 AND 102

Coverage of Employees of Nonprofit Organizations and Newly Hired Federal Employees.

Present Law: Approximately 91 percent of the Nation's workers are covered by social security. The major groups not now covered are Federal civilian employees (2.7 million), State and local government employees (3.9 million), and private, nonprofit organization employees (about 1 million).

Federal civilian employees that are covered under a Federal staff retirement system are excluded from coverage under social security as are members of Congress. (About 7 percent of Federal employees are covered by social security.)

Employees of the States and their political subdivisions are covered only through agreements between the Secretary of Health and Human Services and the States. Under the agreements, each State decides what groups will be covered, subject to provisions in the Federal law which assure retirement system members a voice in the coverage decision. About 74 percent of State and local employees are covered under social security.

Employees of nonprofit religious, charitable, educational, or other tax-exempt organizations specified in section 501(c)(3) of the Internal Revenue Code are covered under Social Security if the organization files a certificate with the IRS waiving its exemption from social security taxation. About 80–90 percent of nonprofit employees are covered under Social Security.

Proposed Change: Extend mandatory coverage to all nonprofit employees, all new Federal employees, all members of Congress, and the President and Vice President.

Effective Date: January 1, 1984.

Revenue Gain: The following table reflects the savings to the OASDI trust funds, based on assumptions by the NCSSR.

Short-range (calendar years):	*Billions*
1984	$1
1985	2
1986	3
1987	4
1988	4

1989	5
1983–89	20

Long-range: +.3 percent of taxable payroll.

SECTION 103

Duration of Agreement for Coverage of State and Local Employees.

Present Law: Employees of State and local governments may be covered under social security at the option of the State and in agreement with the Secretary of Health and Human Services. Coverage may be terminated if the State gives 2 years' written notice of such intent. Notice can only be given after a State or local group has been covered for at least 5 years. Once coverage is terminated, the group can never again be covered under social security.

Proposed Change: No longer permit State and local governments which have elected social security coverage for their employees to terminate such coverage. Pending termination notices would be invalid.

Effective Date: On enactment.

Revenue Gain: The following table displays the additional revenues to the OASDI trust funds, based on assumptions used by the UCSSR.

Short-range (calendar years):	*Billions*
1984	(1)
1985	(1)
1986	(1)
1987	$1
1988	1
1989	1
1984–89	3

[1] Less than $500,000,000.

Long-range: negligible.

SECTION 201

Shift of Cost-of-Living Adjustment to a Calendar Year Basis.

Present Law: The automatic cost-of-living adjustment (COLA) of social security benefits is applicable to June benefits (payable early in July). The amount of the increase is equal to the percentage by which the Consumer Price Index (for Urban Wage Earners and Clerical Workers, CPI-W) for the first quarter of the calendar year has increased over the CPI for the first quarter of the previous calendar year. No COLA is paid unless the increase in the CPI is at least 3 percent. By law, cost-of-living adjustments in the SSI program are made at the same time, and in the same amount as the increases in social security.

In determining an individual's payment and eligibility under the SSI program (means-tested assistance for the needy elderly and disabled), $20 per month in income, including social security, is disregarded. An additional amount is disregarded if the individual has income from earnings.

Proposed Change: Provide the automatic cost-of-living adjustment in social security benefits on a calendar year basis. Beginning in 1983, the COLA for OASDI benefits would be applied to the December benefit, which is payable at the beginning of January. For 1983, the COLA would be calculated as under current law (i.e., the change in the CPI for the first quarter of 1983 over the CPI for the first quarter of 1982). Beginning with the COLA for 1984, the adjustment would be computed by comparing the increase in the CPI for the third quarter of a year over the CPI for the third quarter of the previous year. This would ensure that the lag between the end of the period over which the COLA is measured and the time the COLA is actually applied to benefits remains 3 months.

In addition, the amount of social security benefits that can be disregarded in determining SSI payments and eligibility, would be increased from $20 to $50 monthly. (This would not be a generalized increase in the income disregard.) This proposal would become effective for SSI benefits payable for months after June, 1983.

Cost/Savings: The following table shows the savings (−) to the OASDI trust funds and the cost (+) to the SSI program, based on assumptions used by the NCSSR.

OASDE (calendar years):	*Billions*
1983	−$5
1984	−5
1985	−5
1986	−6
1987	−6
1988	−6
1989	−7
1983–89	−40
SSI (calendar years):	
1983	+$0.25
1984	+.75
1985	+.75
1986	+.75
1987	+.75
1988	+.75
1989	+.75
1983–89	+4.75

OASDI Long-range: −.27 percent of taxable payroll.

SECTION 202

Elimination of "Windfall" Benefits for Individuals Receiving Pensions from Non-Covered Employment.

Present Law: Social Security benefits for workers with low average earnings are a relatively high proportion (up to 90 percent) of their average earnings under social security. However, no distinction is made between persons who have a lifetime of low earnings and those who have low average earnings only because they worked few years in covered employment (possibly at high wages) and many years in employment not covered by social security. Both groups receive the heavily weighted social security benefit intended for the first group. The heavily weighted benefit paid to the second group is often referred to as a windfall.

The present law benefit formula for persons who reach age 62 or become disabled in 1983 is: 90 percent of the first $254 of average indexed monthly earnings in covered employment (AIME), plus 32 percent of AIME over $254 and up to $1,528, plus 15 percent of AIME in excess of $1,528.

Proposed Change: Retired and disabled workers who become eligible for a pension based on non-covered employment after 1983 would have their social security benefit reduced (but not eliminated). For such workers, the heavily weighted 90-percent factor in the benefit formula would be replaced by a factor of 32 percent. In no case would total benefits be less than the present law social security benefit plus 50 percent of the worker's pension based on non-covered employment. Survivors benefits would not be affected.

Effective: January 1, 1984, for retired or disabled workers who first become eligible for a non-covered pension after 1983.

Savings: The following table displays the savings to the OASDI trust funds, based on assumptions used by the NCSSR:

Short-range (calendar years):	*Billions*
1984	(1)
1985	(1)
1986	(1)
1987	(1)
1988	(1)
1989	(1)
1984–89	$.2

[1] Less than $500,000,000.

Long-range: .01 percent of taxable payroll.

SECTION 203

Benefits for Divorced or Disabled Widow or Widower Who Remarries.

Present Law: Widow(er)s benefits are payable at age 60 to spouses who: (1) were married to the wage earner at the time of death, (2) had been married for nine months before the death of the wage earner, and (3) do not remarry before age 60 unless the subsequent marriage ended in death, divorce or annulment. If the widow(er) marries after age 60, he or she receives the largest benefit to which he or she is entitled as a wage earner, widow(er) or spouse.

Disabled Widow(er)s benefits are payable from age 50 to 60 to disabled spouses who: (1) were married to the wage earner at the time of death, (2) had been married to the wage earner for nine months before the time of death, and (3) are not married. These benefits convert to widow(er)s benefits at age 60.

Surviving Divorced Spouses benefits are payable at age 60 to spouses who: (1) were divorced from the wage earner at the time of death, (2) had been married to the wage earner for 10 years before divorce, and (3) are not married.

Disabled Surviving Divorced Spouses benefits are payable from age 50 to 60 to divorced spouses who: (1) were divorced from the wage earner at the time of death, (2) had been married to the wage earner for 10 years before divorce, and (3) are not married. These benefits convert to Surviving Divorced Spouses benefits at age 60.

Proposed Change: As is the case for widows and widowers, allow benefits to continue to be paid to certain beneficiaries upon remarriage if that marriage takes place after the age of first eligibility for benefits. No change would be made in the current dual entitlement provision of the law which allows only the highest benefit to which an individual is eligible to be drawn.

Disabled Widow(er)s benefits would be payable to those who remarry after age 50.

Surviving Divorced Spouses benefits would be payable to those who remarry after age 60.

Disabled Surviving Divorced Spouses benefits would be payable to those who remarry after age 50.

Divorced spouses would continue to lose eligibility for benefits upon remarriage.

Effective date: For benefits payable for months after December 1983.

Cost: The following table displays the cost to the OASDI trust funds, based on assumptions used by NCSSR.

Short-range (calendar years):	*Billions*
1984	(1)
1985	(1)
1986	(1)
1987	(1)
1988	(1)
1989	(1)
1984–89	$0.1

[1] Less than $500,000,000.

Long-range: Negligible.

Change in Indexing for Deferred Survivor Benefits.

Present Law: Survivor benefits are based on the amount of benefits that would have been payable to the deceased worker as de-

termined by applying a benefit formula to the worker's earnings in covered employment. Such earnings are indexed to reflect economy-wide wage increases through the second year before the death of the worker. Beginning with the year of death, benefit levels are indexed to price changes.

Should the worker die long before retirement age, the benefit to which the widowed spouse ultimately becomes eligible in old-age (or at disability) is based on outdated wages. Thus, women who become widowed at a relatively young age, but do not become eligible for benefits for many years, are deprived of their husband's unrealized earnings as well as the economy-wide wage increases that may have occurred since the death of their husbands.

Proposed Change: In the case of deferred survivor benefits, continue indexing the worker's earnings to reflect economy-wide wage increases rather than price increases. Such wage indexing would apply through the year the worker would have reached age 60, or (2) two years before the survivor becomes eligible for aged or disabled widow's benefits, whichever is earlier.

Effective: For persons becoming eligible for benefits after December 31, 1983.

Cost: The following table displays the cost of this proposal to the OASDI trust funds, based on assumptions used by the NCSSR:

Short-range (calendar years):	*Billions*
1984	(1)
1985	(1)
1986	(1)
1987	(1)
1988	(1)
1989	(1)
1984–89	$.2

[1] Less than $500,000,000.

Long-range: .05 percent of taxable payroll.

SECTION 205

Benefits for Divorced Spouses Regardless of Whether Former Spouse Has Retired.

Present Law: A divorced spouse, eligible for benefits at age 62, may not begin to draw social security benefits until the worker begins to draw benefits. For some divorced women, this means that they must wait several years beyond their own retirement age (either because their ex-spouse delays retirement or otherwise fails to apply for benefits) before they can begin to draw benefits.

Proposed Change: Make benefits payable at age 62 to divorced spouses (who have been divorced for at least 2 years) if the former spouse is eligible for retirement benefits, whether or not they have been claimed or suspended because of substantial employment.

The direct effect of this provision is to exempt the divorced spouse from the earnings test applied to the worker.

Effective: On enactment, for monthly social security benefits payable for months after December 1983.

Cost: The cost of this proposal to the OASDI trust funds, based on assumptions used by the NCSSR:

Short range (calendar year):	*Billions*
1984	(1)
1985	(1)
1986	(1)
1987	(1)
1988	(1)
1989	(1)
1984–89	$0.1

[1] Less than $500,000,000.

Long range: 0.01 percent of taxable payroll.

SECTION 206

Increase in Benefit Amount for Disabled Widows and Widowers.

Present Law: Social security benefits for widows and widowers are first payable at age 60. Benefits are payable in full (i.e., 100 percent of the worker's primary insurance amount) at age 65, and at reduced rates at ages 60–64 (i.e., phasing up from 71.5 percent of the primary insurance amount at age 60). Benefits are also payable at reduced rates to disabled widows and widowers aged 50–59 (i.e., phasing up from 50 percent of the primary insurance amount at age 50).

Proposed Change: Increase disabled widow(er)s benefits to 71.5 percent of the primary insurance amount, the amount to which widow(ers)s are entitled at age 60.

Effective: Effective for monthly social security benefits payable for months after December 1983.

Cost: The following table displays the cost of this proposal to the OASDI trust funds, based on assumptions used by the NCSSR:

Short range (calendar year):	*Billions*
1984	(1)
1985	(1)
1986	(1)
1987	(1)
1988	(1)
1989	(1)
1984–89	$1

[1] Less than $500,000,000.

Long range: 0.01 percent of taxable payroll.

SECTION 207

Adjustment of Cost-of-Living Increase When Trust Fund Ratio Falls Below 20 Percent.

Present Law: The automatic cost-of-living adjustment (COLA) in social security benefits is applicable to the June benefit, which is payable at the beginning of July. The amount of the increase is equal to the percentage by which the Consumer Price Index (for Urban Wage Earners and Clerical Workers, CPI-W) for the first quarter of the calendar year has increased over the CIP for the first quarter of the previous calendar year. No cost-of-living adjustment is made unless the increase in the CPI is at least three percent.

Proposed Change: To help stabilize social security outgo relative to income, this provision would trigger the indexing of benefits to the lower of the increases in wages or prices whenever trust fund reserves are critically low. When reserves accumulate again, provision would be made for (1) repayment of amounts foregone in earlier years and (2) reinstatement of full ongoing benefit levels based on full CPI increases. The triggering of this modified cost of living adjustment and the payback would be based on the OASDI trust fund ratio (the OASI and DI trust fund balances in the funds, exclusive of any outstanding loans from the HI trust fund, as a percentage of the estimated outgo from the funds in the next year).

More specifically, beginning in 1988, at the earliest, if the ratio for the combined OASDI trust funds at the beginning of a year is less than 20 percent, the COLA payable would be based on the increase in the CPI or the increase in wages, whichever is lower. (For 1988 only, the combined trust fund ratio would be computed on an estimated basis as of December 31, 1988.) When the fund ratio at the beginning of a year (following a period of wage indexing) exceeds the trigger level of 32 percent, "catch-up" payments would be provided and ongoing benefit amounts would be increased to the level they would have been if a full CPI increase had been given in each year.

To determine the "catch-up" amount, the cumulative benefit reduction from the last increase based on the CPI through the beginning of the "catch-up" year would be calculated for each recipient. That amount would be payable over the 12 months of the catch-up year. After the twelve-month payback period, benefits would be increased by the percentage needed to give benefits equal to the amount that would have been paid if all past cost-of-living increases had been based on the CPI. If there were not sufficient funds available to provide a complete "catch-up", then the 12-month period would be pro-rated so that the estimated cost of this "catch-up" would equal the funds available. Individuals would not be repaid for any periods they did not actually receive a COLA at a rate based on wage increases.

This change would not apply to the SSI program, which is financed out of Federal general revenues.

Cost/Savings: This proposal is estimated to have no impact on the trust funds under NCSSR economic assumptions.

SECTION 208

Increase In Old-Age Insurance Benefit Amounts on Account of Delayed Retirement.

Present Law: A worker who delays retirement beyond age 65 (i.e., does not actually receive social security benefits) is eligible for a delayed retirement credit (DRC). The worker's benefit is increased for each month after age 65 and prior to age 70 (age 72 before 1983) for which benefits are not paid, either because of earnings or because the worker does not claim benefits. For workers eligible for benefits after 1978, the delayed retirement credit is equal to 3 percent per year (one-quarter of 1 percent per month). For workers eligible before 1979, the credit is equal to 1 percent per year (one-twelfth of 1 percent per month).

Proposed Change: Gradually increase, between 1990 and 2010, the delayed retirement credit to 8 percent per year.

Effective: For workers attaining age 65 in 1990 and after.

Cost: This proposal is estimated to cost the OASDI trust funds 0.1 percent of taxable payroll in the long-range.

SECTION 302

Taxation of Social Security Benefits for Higher-Income Persons.

Present law: Under a series of rulings in 1938 and 1941 by the Internal Revenue Service, social security benefits are excluded from gross income for purposes of the income tax. Railroad retirement benefits are excluded under the provision of the Railroad Retirement Act.

Proposed Change: Under the provision, one-half of an individual's social security benefits would be included in adjusted gross income if other adjusted gross income exceeded the base amount. The base amount would be $25,000 in the case of a joint return, $20,000 in the case of a single taxpayer or a married taxpayer filing a separate return (except that the base amount would be zero in the case of a married taxpayer filing a separate return when the taxpayer does not live apart from his spouse at all times during the taxable year).

The Secretary of Health and Human Services would be required to file information returns with respect to social security payments, indicating the amount of social security benefits paid to an individual during

the year and the name and address of the individual to whom paid. Copies of these returns would be provided to the recipients of social security benefits.

Beginning in 1984, the Secretary of the Treasury would be required to transfer to the appropriate trust funds, on at least a quarterly basis, the revenues generated under this provision.

Effective date: The provision would apply to benefits received after December 31, 1983, which are attributable to periods after that date.

Revenue Gain: The following table displays the estimated additional revenues to the OASDI trust funds:

Short range (calendar year):	*Billion*
1984	$1
1985	4
1986	5
1987	6
1988	7
1989	8
1984–89	30

Long range: 0.60 percent of taxable payroll.

SECTION 303

Acceleration of Increase in FICA Taxes; 1984 Employee FICA Tax Credit.

Present Law: The Federal Insurance Contributions Act (FICA) imposes two taxes—old-age, survivor and disability insurance (OASDI), and hospital insurance (HI) on employes and employers. These social security taxes are paid at the same rate by both the employer and employee on wages earned in employment covered by social security, up to the maximum amount creditable for the year. The current OASDI rate is 5.40 percent. This rate is scheduled to increase to 5.70 percent in 1985 and to 6.20 percent in 1990.

Also, under present law employees do not receive an income tax credit for OASDI or HI taxes paid.

Proposal: This provision would: (1) move the 1985 OASDI tax rate of 5.7 percent for employers and employees to 1984; (2) keep the current law rate of 5.7 percent for 1985–87; (3) reschedule the 1988–89 rate to 6.06 percent, and (4) make no change in the tax rate for 1990 and thereafter. In addition, for wages received during calendar year 1984, employees would be eligible for a refundable tax credit in an amount equal to the increase in the employee rate caused by accelerating the 1985 tax rate into 1984 (i.e., 0.3 percent of their includable wages). Employees would receive this credit as an offset to the amount of FICA tax withheld from their paychecks during calendar year 1984.

The HI tax rate schedules now in the law would not be altered. Moreover, these rate increases would not apply to railroad retirement taxes.

The following table compares the proposed tax changes with current law:

SOCIAL SECURITY TAX RATES—EMPLOYERS AND EMPLOYEES, EACH (PERCENT)

Calendar years	OASDI		HI, current law	OASDHI	
	Current law	Proposed change		Current law	Proposed change
1983	5.40	5.40	1.30	6.70	6.70
1984	5.40	5.70	1.30	6.70	7.00
1985	5.70	5.70	1.35	7.05	7.05
1986–87	5.70	5.70	1.45	7.15	7.15
1988–89	5.70	6.06	1.45	7.15	7.51
1990	6.20	6.20	1.45	7.65	7.65

Revenue Gain: The following table displays the estimated additional revenues to the OASDI trust funds, based on assumptions used by the NCSSR.

Short range (calendar year):	*Billions*
1984	$9
1985	(1)
1986	0
1987	0
1988	15
1989	16
1984–89	40

[1] Less than $500,000,000.

Long range: 0.02 percent of taxable payroll.

SECTION 304

Self-Employment Taxes; Deduction for 50 percent of Self-Employment Tax.

Present law: The Self-Employment Contributions Act imposes two taxes (OASDI and HI) on self-employed individuals. The OASDI tax rate on the self-employed is approximately equal to 1.5 times the employee rate. It is scheduled to rise from 8.05 percent in 1983 to 8.55 percent in 1985, and 9.3 percent in 1990 and thereafter. Under present law, self-employed persons cannot deduct from Federal income taxes, as a business expense, any OASDI taxes paid.

Proposed Change: This provision would make the self-employed OASDI tax rate equal to the combined employer-employee rate, beginning in 1984, as those rates are rescheduled under Section 103. Also beginning in 1984, self-employed individuals would be allowed to deduct for income tax purposes 50 percent of self-employment OASDI taxes paid. This deduction would be allowed in computing adjusted gross income.

The HI tax rate schedule for the self-employed now in the law would not be altered.

The following table compares the proposed tax changes with current law:

SOCIAL SECURITY TAX RATES FOR THE SELF-EMPLOYED (PERCENT)

Calendar years	OASDI		HI, current law	OASDHI	
	Current law	Proposed law		Current law	Proposed law
1983	8.05	8.05	1.30	9.35	9.35
1984	8.05	11.40	1.30	9.35	12.70
1985	8.55	11.40	1.35	9.90	12.75
1986–87	8.55	11.40	1.45	10.00	12.85
1988–89	8.55	12.12	1.45	10.00	13.57
1990	9.30	12.40	10.45	10.75	13.85

Revenue Gain: The following table displays the estimated additional revenues to the OASDI trust funds:

Short range (calendar year):	*Billions*
1984	$1
1985	3
1986	3
1987	3
1988	4
1989	5
1984–89	18

Long range: 0.19 percent of taxable payroll.

SECTION 305

Coverage of Payments Under Salary Reduction Plans.

Present Law: Any payment to or on behalf of an employee or his beneficiary to or from a qualified tax-free trust forming part of a stock bonus, pension, or profit-sharing plan of an employer under section 401 of the Internal Revenue Code (IRC) is excluded from social security coverage. Such payments are not subject to the OASDI of HI tax, nor are they deemed covered earnings for purposes of social security. IRC amendments enacted in 1978 provide that a plan may qualify under section 401 even though it offers employees a choice of receiving cash or having contributions made to the trust. (If the employee elects to receive cash, the payments are covered under social security.)

Proposed Change: Include in taxable wages for purposes of OASDHI, those salary reductions made under salary-reduction plans qualifying under Section 401(k) of the Internal Revenue Code.

Effective: Applies to payments made after December 31, 1983.

Cost/Savings: This proposal would not produce significant additional income to the OSADHI programs currently, because not many of these salary-reduction plans have yet been put into effect. However, if the proposal is not enacted, it is quite probable that many such plans will be instituted and that, in the absence of the proposal, considerable decreases in OASDHI tax income and in benefit credits to the trust funds would result.

SECTION 401

Allocations to Disability Insurance Trust Fund.

Present Law: The following table displays the tax rate allocation between OASI and DI for employers, employees and the self-employed:

OASDI TAX RATES

[In percent]

	Employers and employees, each			Self-employed		
	OASI	DI	OASDI	OASI	DI	OASDI
1983–84	4.575	0.825	5.4	6.8125	1.2375	8.05
1985–89	4.750	0.950	5.7	7.1250	1.4250	8.55
1990 and later	5.100	1.100	6.2	7.6500	1.6500	9.30

Proposed change: Reallocate the OASDI tax rates in order to achieve approximately the same trust fund ratios (the balance in a trust fund at the beginning of a year as a percentage of the projected outgo for that year) in both the OASI and DI trust funds. The allocation for the self-employed would be double the employee tax rate because of the impact of section 104 of the bill. The following table displays the new tax rate allocation under the proposal:

OASDI TAX RATES

[In percent]

	Employers and employees, each			Self-employed		
	OASI	DI	OASDI	OASI	DI	OASDI
1984	5.45	0.25	5.7	10.9	0.5	11.40
1985–87	5.20	.50	5.7	10.4	1.0	11.40
1988–89	5.56	.50	6.06	11.2	1.0	12.12
1990 and later	5.40	.80	6.20	10.8	1.6	12.40

Cost/Savings: There would be a negligible impact on the combined OASDI trust funds.

SECTION 402

Interfund Borrowing Extension.

Present Law: Public Law 97-123 authorized, through December 31, 1982, borrowing between the OASI, DI, and HI trust funds whenever it was determined by the Managing Trustee (the Secretary of Treasury) that additional funds were needed to pay benefits. The Conference Report specified

that amounts borrowed could not exceed what was required to ensure benefit payments for six months. Under this authority, $17.5 billion was transferred to the OASI trust fund from the DI and HI trust funds in 1982. This transfer is expected to be sufficient to permit timely payment of OASI benefits through June 1983.

Under the law, the borrowing fund is required to make periodic interest payments on outstanding balances. Also the loan must be repaid when the Managing Trustee determines that the assets of the borrowing fund are sufficient to begin repayment. Accrued interest on the amounts borrowed by OASI totaled $33 million at the end of 1982 and is projected to total approximately $800 million by July 1983.

Proposed Change: Through 1987, authorized interfund borrowing between the OASI and DI trust funds and from the HI trust fund. Provisions governing repayment of the debt and interest payments on outstanding balances would be the same as under current law.

Effective: On enactment.

Cost/Savings: Negligible.

SECTION 403

Crediting Amounts of Unnegotiated Checks to the Trust Funds.

Present Law: When payments are made to social security beneficiaries, a voucher is submitted by the Social Security Administration to the Treasury Department for the amount of benefits. This amount is then withdrawn from the social security trust funds and the payments are sent to the beneficiaries. For any number of reasons, some benefit checks are not cashed. Under present procedure, regardless of why a check is not cashed, the money has technically been spent by the social security trust funds. The General Fund of the Treasury holds these funds until the check is cashed.

Proposed Change: Reimburse from the General Fund of the Treasury to the OASDI trust funds a lump sum payment equal to the amount of uncashed OASDI checks which were issued prior to the enactment of this provision, which on the date of enactment remain unnegotiated twelve months after their date of issuance. In the future, the Secretary of Treasury would be required to take such actions as may be necessary to ensure that the social security trust funds are credited on an ongoing basis for the amount of unnegotiated checks.

Effective Date: The lump sum transfer would be made thirty days after the enactment of the provision.

Revenue Gain: The following table displays the savings to the OASDI trust funds, based on assumptions used by the NCSSR.

Short-range calendar year:	*Billions*
1983	$0.8
1984	[1]
1985	[1]
1986	[1]
1987	[1]
1988	[1]
1989	[1]
1983–89	1.1

[1] Less than $500,000,000.

Long-range: Negligible.

SECTIONS 404 AND 405

Military Wage Credits.

Present Law: Since 1946, the OASDI system has provided noncontributory wage credits to persons who served in the military forces. Such military personnel have been credited with earnings on which no payroll taxes have been paid. Two types of credits have been given:

Pre-1957 Military Wage Credits—For World War II veterans, noncontributory wage credits of $160 for each month of active military service. These credits were provided to protect veterans from losing social security coverage during their military service. This type of credit applies to military service from 1940 to 1957.

Post-1956 Military Wage Credits—Noncontributory wage credits of $300 per quarter ($1,200 per year, subject to the maximum earnings base) for military service performed after 1956 to recognize the value of non-cash compensation, such as food, shelter and medical services. (In 1957, members of the military were compulsorily covered under social security.)

To finance the additional costs incurred in paying the benefits based on periods of military service for which no contributions were made, the social security trust funds receive reimbursements from the General Fund of the Treasury. The annual reimbursement to the trust funds has been about $700 million in recent years.

Proposed Change: Credit the OASDI trust funds, in a lump sum, with an amount equal to the estimated additional cost of providing future benefits based on pre-1957 military wage credits. This estimate would be adjusted every five years to reflect actual experience.

In addition, the OASDI trust funds would be credited with a lump sum payment equaling the taxes that would have been collected and the interest that would have been earned if the credits for service after 1956 and before 1983 had been taxed as they were earned, less the reimbursements already received. Beginning in 1983, a general fund appropriation would reimburse the trust funds annually for the employer-employee taxes on additional military wage credits given for non-cash compensation in the previous year.

Effective: Lump sums would be payable 30 days after the enactment of this legislation.

Revenue Gain: The additional revenue to the OASDI trust funds is reflected in the following table, based on assumptions used by the NCSSR.

Short-range (calendar year):	*Billions*
1983	18.4
1984	[1]
1985	[1]
1986	[1]
1987	[1]
1988	[1]
1989	[1]
1983–89	16.5

[1] Revenue loss of less than $500,000,000.

Long-range: Negligible.

SECTION 406

Trust Fund Investment Procedure.

Present Law: The Managing Trustee of the social security trust funds is obligated by law to "invest such portions of the trust funds as is not, in his judgment, required to meet current withdrawals". Investments must be made in special public-debt obligations (special issues not available to the general public) unless the managing trustee determines that investing in U.S. Government obligations available in the open market is in the public interest. Historically, over 90 percent of the investments have been in special issues.

Special issues have maturity dates which are to be set with "due regard" for the needs of the trust funds. They earn a rate of interest equal to the average market yield on all marketable interest-bearing obligations of the U.S. which are not due or callable for at least 4 years.

The maturity dates of newly issued special issues and the redemption schedule for trust fund investments are not set by law, but by Treasury procedure. The Treasury attempts to set the maturity dates for special issues from 1 to 15 years—so that about 1/15 of the total portfolio comes due in each of the next 15 years. When securities must be sold to meet benefit obligations, special issues with the shortest duration until maturity are sold first. In the event that there are several securities with the same duration until maturity, those with the lowest interest rate are sold first.

Proposed Change: This proposal would eliminate discretion in the investment of trust fund assets. All trust fund assets would be reinvested each month at a rate of interest based on the average market rate on all long-term public-debt obligations currently held by Treasury.

The proposal would require the Managing Trustee to: (1) redeem all present special issues at their face amount; (2) redeem all flower bonds (marketable government bonds which, for inheritance tax purposes, are redeemable at par) at their current market values; and (3) invest, on a monthly basis, the redeemed investments and all future funds only in special issues. The interest rate on special issues would be determined on a month-to-month basis and would be based on the average market rate on all public-debt obligations with a duration of four or more years until maturity.

Effective: The first day of the month following the date of enactment.

Revenue Gain: No significant gain or loss anticipated.

SECTION 407

Addition of Public Members to Board of Trustees.

Present Law: The Board of Trustees of the four social security trust funds (Old-Age and Survivors Insurance, Disability Insurance, Hospital Insurance, and Supplemental Medical Insurance) consists of, *ex officio*, the Secretaries of the Treasury, Health and Human Services, and Labor, with the Secretary of the Treasury serving as the managing trustee. Among other responsibilities, the Board of Trustees is required to report to each year on the operation and status of the trust funds, and review the general policies followed in managing the trust funds, and recommend changes in such policies.

Proposed Change: In order to improve public confidence in the integrity of the trust funds, two public members would be added to the Board of Trustees of the four social security trust funds. The public members would be nominated by the President and confirmed by the Senate. The two public members could not be from the same political party.

Effective: Upon enactment.

Revenue Gain: Negligible.

Mr. DOLE. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act, with the following table of contents, may be cited as the "Social Security Amendments of 1983".

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TITLE I—CHANGES IN COVERAGE

COVERAGE OF NEWLY HIRED FEDERAL EMPLOYEES

SEC. 101. (a)(1) Section 210(a) of the Social Security Act is amended by striking out paragraphs (5) and (6) and inserting in lieu thereof the following:

"(5) Service performed in the employ of the United States or any instrumentality of the United States, if such service—

"(A) would not be included in the term 'employment' for purposes of this subsection by reason of the provisions of paragraph (5) or (6) of this subsection as in effect on January 1, 1983,

"(B) is performed by an individual who has been continuously in the employ of the United States or an instrumentality thereof since December 31, 1983; and

"(C) is not service performed as the President or Vice-President of the United States or as a Member, Delegate, or Resident Commissioner of or to the Congress;

"(6) Service performed in the employ of the United States or any instrumentality of the United States if such service is performed—

"(A) in a penal institution of the United States by an inmate thereof;

"(B) by any individual as an employee included under section 5351(2) of title 5, United States Code (relating to certain interns, student nurses, and other student employees of hospitals of the Federal Government), other than as a medical or dental intern or a medical or dental resident in training; or

"(C) by any individual as an employee serving on a temporary basis in case of fire, storm, earthquake, flood, or other similar emergency;".

(2) Section 210(p) of such Act is amended by striking out "provisions of—" and all that follows and inserting in lieu thereof "provisions of subsection (a)(5).".

(b)(1) Section 3121(b) of the Internal Revenue Code of 1954 is amended by striking out paragraphs (5) and (6) and inserting in lieu thereof the following:

"(5) service performed in the employ of the United States or any instrumentality of the United States, if such service—

"(A) would not be included in the term 'employment' for purposes of this subsection by reason of the provisions of paragraph (5) or (6) of this subsection as in effect on January 1, 1983, and

"(B) is performed by an individual who has been continuously in the employe of the United States or an instrumentality thereof since December 31, 1983; and

"(C) is not service performed as the President or Vice-President of the United States or as a Member, Delegate, or Resident Commissioner of or to the Congress;

"(6) service performed in the employ of the United States or any instrumentality of the United States if such service is performed—

"(A) in a penal institution of the United States by an inmate thereof;

"(B) by any individual as an employee included under section 5351(2) of title 5, United States Code (relating to certain interns, student nurses, and other student employees of hospitals of the Federal Government), other than as a medical or dental intern or a medical or dental resident in training; or

"(C) by any individual as an employee serving on a temporary basis in case of fire, storm, earthquake, flood, or other similar emergency;".

(2) Section 3121(u)(1) of such Code is amended to read as follows:

"(1) IN GENERAL.—For purposes of the taxes imposed by sections 3101(b) and 3111(b), subsection (b) shall be applied without regard to paragraph (5) thereof.".

(c) The amendments made by this section shall be effective with respect to remuneration paid after December 31, 1983.

COVERAGE OF EMPLOYEES OF NONPROFIT ORGANIZATIONS

SEC. 102. (a) Section 210(a)(8) of the Social Security Act is amended by striking out subparagraph (B) thereof and by striking out "(A)" after "(8)".

(b)(1) Section 3121(b)(8) of the Internal Revenue Code of 1954 is amended by striking out subparagraph (B) thereof and by striking out "(A)" after "(8)".

(2) Subsection (k) of section 3121 of such Code is repealed.

(c) The amendments made by this section shall be effective with respect to remuneration paid after December 31, 1983.

(d) Notwithstanding any provision of section 3121(k) of the Internal Revenue Code of 1954 (or any other provision of law) the period for which a certificate is in effect under such section may not be terminated on or after the date of the enactment of this Act.

DURATION OF AGREEMENT FOR COVERAGE OF STATE AND LOCAL EMPLOYEES

SEC. 103. (a) Subsection (g) of section 218 of the Social Security Act is amended to read as follows:

"Duration of Agreement

"(g) No agreement under this section may be terminated, in its entirety or with respect to any coverage group, on or after the date of the enactment of the Social Security Amendments of 1983.".

(b) The amendment made by subsection (a) shall apply to any agreement in effect under section 218 of the Social Security Act on the date of the enactment of this Act, without regard to whether a notice of termination was in effect on such date.

TITLE II—CHANGES IN BENEFITS

SHIFT OF COST-OF-LIVING ADJUSTMENTS TO CALENDAR YEAR BASIS

SEC. 201. (a)(1) Section 215 (i)(2)(A)(ii) of the Social Security Act is amended by striking out "June" and inserting in lieu thereof "December".

(2) Section 215(i)(2)(A)(iii) of such Act is amended by striking out "May" each place it appears and inserting in lieu thereof in each instance "November".

(3) Section 215(i)(2)(B) of such Act is amended by striking out "May" each place it appears and inserting in lieu thereof in each instance "November".

(4) Section 203(f)(8)(A) of such Act is amended by striking out "June" and inserting in lieu thereof "December".

(5) Section 230(a) of such Act is amended by striking out "June" and inserting in lieu thereof "December".

(6) Section 215(i)(2) of such Act as in effect in December 1978, and as applied in certain cases under the provisions of such Act as in effect after December 1978, is amended by striking out "June" in subparagraph (A)(ii) and inserting in lieu thereof "December", and by striking out "May" each place it appears in subparagraph (B) and inserting in lieu thereof in each instance "November".

(7) Section 202(m) of such Act (as it applies in certain cases by reason of section 2 of Public Law 97-123) is amended by striking out "May" and inserting in lieu thereof "November".

(8) The amendments made by this subsection shall apply with respect to cost-of-living increases determined under section 215(i) of the Social Security Act for years after 1982.

(b)(1) Section 215(i)(1)(A) of the Social Security Act is amended by striking out "March 31" and inserting in lieu thereof "September 30", and by striking out "1974" and inserting in lieu thereof "1982".

(2) Section 215(i)(1)(A) of such Act as in effect in December 1978, and as applied in certain cases under the provisions of such Act as in effect after December 1978, is amended by striking out "March 31" and inserting in lieu thereof "September 30".

(3) The amendments made by this subsection shall apply with respect to cost-of-living increases determined under section 215(i) of the Social Security Act for years after 1983.

(c) Section 215(i)(4) of such Act is amended by inserting ", and as amended by section 201 (a)(6) and (b)(2) of the Social Security Amendments of 1983," after "as in effect in December 1978".

(d)(1) Section 1612(b)(2) of such Act is amended by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C) and inserting before subparagraph (B) the following new subparagraph:

"(A) the first $600 per year (or proportionately smaller amounts for shorter periods) of benefits received under title II of this Act;".

(2) Section 1612(b)(2)(B) of such Act (as redesignated by paragraph (1)) is amended by inserting before the semicolon at the end thereof the following: ", reduced (but not below zero) by any amount excluded under subparagraph (A)".

(3) The amendments made by this subsection shall be effective with respect to benefits payable under title XVI of the Social Security Act for months after June 1983.

ELIMINATION OF WINDFALL BENEFITS FOR INDIVIDUALS RECEIVING PENSIONS FROM NONCOVERED EMPLOYMENT

SEC. 202. (a) Section 215(a) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(7)(A) In the case of an individual whose primary insurance amount would be computed under paragraph (1) of this subsection, and who becomes entitled after 1983 to a monthly periodic payment (or a payment determined under subparagraph (D)) based (in whole or in part) upon his earnings for service which did not constitute 'employment' as defined in section 210 of purposes of this title (hereafter in this paragraph and in subsection (d)(5) referred to as 'non-covered service'), the primary insurance amount of that individual during his entitlement to old-age or disability insurance benefits shall be computed or recomputed under subparagraph (B) with respect to the initial month in which the individual becomes eligible for such benefits, and shall be periodically recomputed thereafter at such times as the Secretary determines there has been a significant change in the amount of such periodic payment.

"(B) If paragraph (1) of this subsection would apply to that individual (except for subparagraph (A) of this paragraph), there shall first be computed an amount equal to the individual's primary insurance amount under this subsection (other than this paragraph), except that for purposes of such computation the percentage of the individual's average indexed monthly earnings established by subparagraph (A)(i) of paragraph (1) shall be 32 percent. There shall then be computed (without regard to this paragraph) a second amount, which shall be equal to the individual's primary insurance amount under this subsection (other than this paragraph), except that such second amount shall be reduced by an amount equal to one-half of the portion of the monthly periodic payment attributable to noncovered service to which the individual is entitled (or deemed to be entitled) for the month for which such old-age or disability insurance benefits are payable. The individual's primary insurance amount shall be the larger of the two amounts computed under this subparagraph (before the application of subsection (i)) and shall be deemed to be computed under paragraph (1) of this subsection for the purpose of applying other provisions of this title.

"(C) No primary insurance amount may be reduced by reason of this paragraph below the amount of the primary insurance amount as determined under paragraph (1)(C)(i).

"(D)(i) Any periodic payment that otherwise meets the requirements of subparagraph (A), but which is paid on other than a monthly basis, shall be allocated on a basis equivalent to a monthly payment (as determined by the Secretary), and such equivalent monthly payment shall constitute a monthly periodic payment for purposes of this paragraph.

"(ii) In the case of an individual who has elected to receive a periodic payment that has been reduced so as to provide a survivors benefit to any other individual, the payment is deemed to be increased (for the purpose of any computation under this paragraph) by such reduction.

"(iii) If an individual to whom subparagraph (A) applies is eligible for a periodic payment beginning with a month that is subsequent to the month in which he becomes eligible for old-age or disability insurance benefits, the amount of that payment for purposes of subparagraph (B) shall be deemed to be the amount to which he is, or is deemed, to become entitled (subject to clauses (i), (ii), and (iv) of this subparagraph) in such subsequent month.

"(iv) For purposes of this subparagraph, the term 'periodic payment' includes a payment payable in a lump sum if it is a commutation of, or a substitute for, periodic payments.".

(b) Section 215(d) of such Act is amended by adding at the end thereof the following new paragraph:

"(5) In the case of an individual whose primary insurance amount is not computed under paragraph (1) of subsection (a) by reason of paragraph (4)(B)(ii) of that subsection, and who becomes entitled after 1983 to a monthly periodic payment (or a payment determined under subsection (a)(7)(D)) based (in whole or in part) upon his earnings in non-covered service, his primary insurance amount for purposes of his entitlement to old-age or disability insurance benefits shall be the primary insurance amount computed or recomputed under this subsection (without regard to this paragraph and before the application of subsection (i)) reduced by an amount equal to the smaller of—

"(i) one-half of the primary insurance amount (computed without regard to this paragraph and before the application of subsection (i)), or

"(ii) one-half of the portion of the monthly periodic payment (or payment determined under subsection (a)(7)(D)) attributable to noncovered service to which that individual is entitled (or deemed to be entitled) for the initial month of his eligibility for old-age or disability insurance benefits.

The amount of such periodic payment for purposes of clause (ii) shall be periodically recomputed at such times as the Secretary determines there has been a significant change in the amount of such periodic payment.

"(C) No primary insurance amount may be reduced by reason of this paragraph below the amount of the primary insurance amount as determined under subsection (a)(1)(C)(i).".

(c) Section 215(f) of such Act is amended by adding at the end the following new paragraph:

"(9)(A) In the case of an individual who becomes entitled to a periodic payment determined under subsection (a)(7)(A) or (a)(7)(D) in a month subsequent to the first month in which he becomes entitled to an old-age or disability insurance benefit, and whose primary insurance amount has been computed without regard to either such subsection or subsection (d)(5), such individual's primary insurance amount shall be recomputed, in accordance with either such subsection or subsection (d)(5), as may be applicable, effective with the first month of his concurrent entitlement to either such benefit and such periodic payment.

"(B) If an individual's primary insurance amount has been computed under subsection (a)(7) or (d)(5), and it becomes necessary to recompute that primary insurance amount under this subsection—

"(i) so as to increase the monthly benefit amount payable with respect to such primary insurance amount (other than in the case of the individual's death), such increase shall be determined as though such primary insurance amount had initially been computed without regard to subsection (a)(7) or (d)(5), or

"(ii) by reason of the individual's death, such primary insurance amount shall be recomputed without regard to (and as though it had never been computed with regard to) subsection (a)(7) or (d)(5).

"(C) In the case of any individual whose primary insurance amount is subject to the requirements of subsection (a)(7) or (d)(5), the amount of such primary insurance amount shall be recomputed as may be required under such subsections by reason of a significant change in the amount of the relevant periodic payment.".

(d) Sections 202(e)(2)(B)(i) and 202(f)(3)(B)(i) of such Act are each amended by striking out "section 215(f) (5) or (6)" and inserting in lieu thereof "section 214(f)(5), 215(f)(6), or 215(f)(9)(B)".

BENEFITS FOR SURVIVING DIVORCED SPOUSES AND DISABLED WIDOWS AND WIDOWERS WHO REMARRY

SEC. 203. (a)(1) Section 202(e)(3) of the Social Security Act is repealed.

(2) Section 202(e)(4) of such Act is amended to read as follows:

"(4) For purposes of paragraph (1), if—

"(A) a widow or a surviving divorced wife marries after attaining age 60, or

"(B) a disabled widow or disabled surviving divorced wife described in paragraph (1)(B)(ii) marries after attaining age 50,

such marriage shall be deemed not to have occured.".

(b)(1) Section 202(f)(4) of such Act is repealed.

(2) Section 202(f)(5) of such Act is amended to read as follows:

"(5) For purposes of paragraph (1), if—

"(A) a widower marries after attaining age 60, or

"(B) a disabled widower described in paragraph (1)(B)(ii) marries after attaining age 50, such marriage shall be deemed not to have occurred.".

(c)(1) The amendments made by subsection (a) shall be effective with respect to monthly benefits payable under title II of the Social Security Act for months after December 1983.

(2) In the case of an individual who was not entitled to a monthly benefit under title II of such Act for December 1983, no benefit shall be paid under such title by reason of such amendments unless proper application for such benefit is made.

DETERMINATION OF PRIMARY INSURANCE AMOUNT FOR DEFERRED SURVIVOR BENEFITS

SEC. 204. (a) Section 215(a) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(8)(A) If a person is entitled to benefits under subsection (e) or (f) of section 202 on the basis of the wages and self-employment income of a deceased individual whose primary insurance amount would otherwise be determined under paragraph (1), the primary insurance amount of such deceased individual shall be determined, for purposes of determining the amount of the benefit under such subsection, as if such deceased individual died in the year in which the person entitled to benefits under such subsection first became eligible for such benefits or, if earlier, the year in which such deceased individual would have attained age 60 if he had not died (except that the actual year of death of such deceased individual shall be used for purposes of section 215(b)(2)(B)(ii)(II)).

"(B) Notwithstanding subparagraph (A), if a person—

"(i) is entitled to benefits under subsection (e) or (f) of section 202 on the basis of the wages and self-employment income of a deceased individual, and

"(ii) was entitled to benefits under this title on the basis of the wages and self-employment income of such deceased individual in the month before the month in which such person became eligible for the benefits described in clause (i),

the primary insurance amount of such deceased individual shall be the primary insurance amount determined under the rules which would apply (but for subparagraph (A)) or the primary insurance amount determined under subparagraph (A), whichever is larger.

"(C) For purposes of determining the maximum family benefit amount with respect to a deceased individual for whom a primary insurance amount is determined under this paragraph, the primary insurance amount of such deceased individual shall be the primary insurance amount determined under the rules which would apply (but for this paragraph) or the primary insurance amount determined under this paragraph, whichever is larger.".

(b) The amendments made by subsection (a) shall apply to the benefits of individuals who become eligible for benefits under sections 202 (e) and (f) of the Social Security Act after December 1983.

BENEFITS FOR DIVORCED SPOUSE REGARDLESS OF WHETHER FORMER SPOUSE HAS RETIRED

SEC. 205. (a) Section 202(b) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(5) For purposes of determining the entitlement of a divorced wife to a benefit under this subsection and the amount of such benefit, in the case of a wife who has been divorced from her former husband for a period of not less than 24 months—

"(A) such former husband shall be deemed to be entitled to an old-age insurance benefit if he would be entitled to such a benefit if he applied therefor; and

"(B) the amount of such benefit for such divorced wife shall be determined without regard to reductions which are or would be made under section 203 on account of work performed by such former husband.".

(b)(1) The amendment made by subsection (a) shall be effective with respect to monthly benefits payable under title II of the Social Security Act for months after December 1983.

(2) In the case of an individual who was not entitled to a monthly benefit under title II of such Act for December 1983, no benefit shall be paid under such title by reason of such amendment unless proper application for such benefit is made.

INCREASE IN BENEFIT AMOUNT FOR DISABLED WIDOWS AND WIDOWERS

SEC. 206. (a)(1) Section 202(q)(1) of the Social Security Act is amended by striking out the semicolon at the end of subparagraph (B)(ii) and all that follows and inserting in lieu thereof a period.

(2) Section 202(q)(6) of such Act is amended to read as follows:

"(6) For purposes of this subsection, the 'reduction period' for an old-age, wife's, husband's, widow's, or widower's insurance benefit is the period beginning—

"(A) in the case of an old-age or husband's insurance benefit, with the first day of the first month for which such individual is entitled to such benefit,

"(B) in the case of a wife's insurance benefit, with the first day of the first month for which a certificate described in paragraph (5)(A)(i) is effective, or

"(C) in the case of a widow's or widower's insurance benefit, with the first day of the first month for which such individual is entitled to such benefit or the first day of the month in which such individual attains age 60, whichever is later,

and ending with the last day of the month before the month in which such individual attains retirement age.".

(3) Section 202(q)(7) of such Act is amended by striking out the matter preceding subparagraph (A) and inserting in lieu thereof the following:

"(7) For purposes of this subsection, the 'adjusted reduction period' for an old-age, wife's, husband's, widow's, or widower's insurance benefit is the reduction period prescribed in paragraph (6) for such benefit, excluding—".

(4) Paragraphs (1)(B)(i), (3)(E)(ii), and (3)(F)(ii) of section 202(q) of such Act are each amended by striking out "(6)(A)" and inserting in lieu thereof in each instance "(6)".

(5) Section 202(q)(3)(G) of such Act is amended by stiking out "paragraph (6)(A) (or, if such paragraph does not apply, the period specified in paragraph (6)(B))" and inserting in lieu thereof "paragraph (6)".

(6) Section 202(q)(10) of such Act is amended—

(A) by striking out "or an additional adjusted reduction period";

(B) in subparagraphs (B)(i), (C)(i), and (C)(ii), by striking out ", plus the number of months in the adjusted additional reduction period multiplied by 43/240 of 1 percent"; and

(C) in subparagraph (B)(ii), by striking out ", plus the number of months in the additional reduction period multiplied by 43/240 of 1 percent".

(b)(1) The amendments made by this section shall be effective with respect to monthly benefits under title II of the Social Act for months after December 1983.

(2) In the case of an individual who was not entitled to a monthly benefit under title II of such Act for December 1983, no benefit shall be paid under such title by reason of such amendments unless proper application for such benefit is made.

ADJUSTMENT TO COST-OF-LIVING INCREASE WHEN TRUST FUND RATIO FALLS BELOW 20 PERCENT

SEC. 207. (a) Section 215(i)(2)(A)(ii) of the Social Security Act is amended, in the matter following clause (III), by striking out "The increase shall be derived" and inserting in lieu thereof "Except as othewise provided in paragraph (5), the increase shall be derived".

(b) Section 215(i) of such Act is amended by adding at the end thereof the following new paragraph:

"(5)(A) The amount of the increase under paragraph (2) to become effective for monthly benefits payable for December 1988 or any December thereafter shall, if the Secretary makes a finding under this paragraph that the combined trust funds ratio (as defined in subparagraph (D)) as of the start of business on January 1, of the calendar year in which such December falls is less than 20.0 percent, be determined under paragraph (2) by substituting—

"(i) the percentage (rounded to the nearest one-tenth of 1 percent) by which the average of the total wages for the preceding calendar year (as determined for purposes of subsection (b)(3)(A)(ii)) exceeds such average for the second preceding calendar year (and if no increase in such wages took place, the percentage shall be deemed to be zero), for

"(ii) the percentage otherwise applicable under paragraph (2),

but only if the percentage determined under clause (i) is less than the percentage determined under clause (ii).

"(B) In any case in which a cost-of-living adjustment would not be made under this subsection on account of the relevant increase in the Consumer Price Index being less than 3 percent, no such cost-of-living increase shall be made by reason of this paragraph. For purposes of any subsequent determination of a cost-of-living increase based upon a period of more than 12 months, the percentage of the cost-of-living increase (if any) to be applied under paragraph (2) shall be the sum of the percentage increases for each relevant 12-month period in such longer period which would have been effective under this subsection (including this paragraph) but for the provision of paragraph (1) which limits such increases only to cases in which the relevant increase in the Consumer Price Index is equal to or greater than 3 percent.

"(C) The Secretary shall make the finding with respect to the combined trust funds ratio (as of the start of business on January 1 of each calendar year) on October 1 of each calendar year, based upon the most recent data available as of that time.

"(D) For purposes of this paragraph, the term 'combined trust funds ratio' means the ratio of—

"(i) the combined balance in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, reduced by the amount of any outstanding loan (including interest thereon) from the Federal Hospital Insurance Trust Fund, as of the start of business on January 1 of any calendar year, to

"(ii) the amount estimated by the Secretary to be the total amount to be paid from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund during such calendar year for all purposes authorized by section 201, but excluding any transfer payments between such trust funds and reducing the

amount of any transfer to the Railroad Retirement Account by the amount of any transfers into either such trust fund from the Railroad Retirement Account.

"(E) If any increase under paragraph (2) has been determined on the basis of the substitute formula in subparagraph (A)(i) of this paragraph, and, for any succeeding calendar year, the Secretary determines that the combined trust funds ratio is greater than 32.0 percent, the Secretary shall pay additional benefits with respect to the 12-month period beginning with the following December in amounts not to exceed—

"(i) in the aggregate, a total amount which, according to actuarial estimate, equals the amount by which the balance in such trust funds on the date of such determination exceeds the amount necessary to effect a combined trust funds ratio of 32.0 percent for the following year; and

"(ii) with respect to any individual, for benefits for each month in such 12-month period, an amount equal to one-twelfth of the total amount by which all benefits paid to him during all previous years were less than the amounts which would have been paid to him but for the provisions of this paragraph.

Such additional benefits shall be paid as a percentage increase in the monthly benefits otherwise payable for months during such 12-month period. If there are not sufficient funds available to pay additional benefits in the full amount to all individuals (taking into account the limitation in clause (i)), amounts paid under this subparagraph shall be paid on a pro rata basis to all individuals who are entitled to any such amount and are entitled to a benefit under this title for the months in which such additional amounts are being paid.

"(F) In any case in which additional payments are made by reason of the provisions of subparagraph (E), for purposes of determining benefit amounts for months after the 12-month period for which such additional benefits were made, the percentage increase under this subsection applicable to benefits payable for such 12-month period shall be deemed to be the actual percentage achieved by reason of such additional payments (as measured with respect to payments which are not subject to reduction under any other provision of this Act).".

(c) Only with respect to the determination made for January 1, 1988, the combined trust fund ratio for such year (for purposes of determining the increase under section 215(i) of the Social Security Act for benefits payable for December of such year) shall be determined by using the actuarial estimate of the Secretary of Health and Human Services of the ratio of—

(1) the combined balance which will be available in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, reduced by the amount of any outstanding loan (including interest thereon) from the Federal Hospital Insurance Trust Fund, at the close of business on December 31 of such calendar year, to

(2) the amount estimated by the Secretary to be the total amount to be paid from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund for calendar year 1988 for all purposes authorized by section 201 of such Act, but excluding any transfer payments between such trust funds, and reducing the amount of any transfer to the Railroad Retirement Account by the amount of any transfers into either such trust fund from the Railroad Retirement Account.

(d) Section 1617(a)(2) of the Social Security Act is amended by inserting ", or, if greater, the percentage by which benefit amounts under title II would be increased for such amount but for the provisions of section 215(i)(5)," after "are increased for such month".

INCREASE IN OLD-AGE INSURANCE BENEFIT AMOUNTS ON ACCOUNT OF DELAYED RETIREMENT

SEC. 208. (a) Section 202(w)(1)(A) of the Social Security Act is amended to read as follows:

"(A) the applicable percentage (as determined under paragraph (6)) of such amount, multiplied by".

(b) Section 202(w) of such Act is amended by adding at the end thereof the following new paragraph:

"(6) For purposes of paragraph (1)(A), the applicable percentage is—

"(A) 1/12 of 1 percent in the case of an individual who first becomes eligible for an old-age insurance benefit before 1979; and

"(B) in the case of all other individuals—

"(i) 1/4 of 1 percent for increment months earned prior to 1990,

"(ii) with respect to increment months earned after 1989, a percentage equal to the percentage in effect under this subparagraph for months in the preceding calendar year (as increased pursuant to this clause), plus 1/48 of 1 percent, and

"(iii) 3/8 of 1 percent for increment months earned after 2008.".

(c)(1) Paragraphs (2)(A) and (3) of section 202(w) of such Act are each amended by striking out "age 72" and inserting in lieu thereof "age 70".

(2) The amendments made by paragraph (1) shall apply with respect to increment months in calendar years after 1983.

TITLE III—REVENUE PROVISIONS

SEC. 301. AMENDMENT OF 1954 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 302. TAXATION OF 50 PERCENT OF SOCIAL SECURITY BENEFITS OF HIGHER INCOME PERSONS.

(a) GENERAL RULE.—Part II of subchapter B of chapter 1 (relating to amounts specifically included in gross income) is amended by redesignating section 86 as section 87 and by inserting after section 85 the following new section:

"SEC. 86. SOCIAL SECURITY BENEFITS.

"(a) IN GENERAL.—If the adjusted gross income (determined without regard to this section, section 105(d), or section 221) of the taxpayer for the taxable year exceeds the base amount, there shall be included in the gross income of the taxpayer for the taxable year an amount equal to one-half of the social security benefits paid to the taxpayer during the taxable year.

"(b) BASE AMOUNT.—For purposes of this section, the term 'base amount' means—

"(1) except as provided in paragraphs (2) and (3), $20,000.

"(2) $25,000, in the case of a joint return, and

"(3) zero, in the case of a taxpayer who—

"(A) is married at the close of the taxable year (within the meaning of section 143) but does not file a joint return for such year, and

"(B) does not live apart from his spouse at all times during the taxable year.

"(d) SOCIAL SECURITY BENEFIT.—For purposes of this section, the term 'social security benefit' means any amount paid to the taxpayer by reason of entitlement to a monthly benefit under title II of the Social Security Act.".

(b) INFORMATION REPORTING.—Subchapter B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by adding at the end thereoff the following new section:

"SEC. 6050F. RETURNS RELATING TO SOCIAL SECURITY BENEFITS.

"(a) REQUIREMENT OF REPORTING.—The Secretary of Health and Human Services shall make a return, according to the forms and regulations prescribed by the Secretary, setting forth—

"(1) the aggregate amount of social security benefits (within the meaning of section 86(d)) paid to any individual during any calendar year, and

"(2) the name and address of the individual to whom paid.

"(b) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS FURNISHED.—Every person making a return under subsection (a) shall furnish to each individual whose name is set forth in such return a written statement showing—

"(1) the name and address of the person making such return, and

"(2) the aggregate amount of payments to the individual as shown on such return.

The written statement required under the preceding sentence shall be furnished to the individual on or before January 31 of the year following the calendar year for which the return under subsection (a) was made.".

(c) APPROPRIATIONS AND TRANSFERS TO TRUST FUNDS.—Section 201 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(m)(1) There are appropriated, out of any moneys in the Treasury not otherwise appropriated, for each fiscal year—

"(A) to the Federal Old-Age and Survivors Insurance Trust Fund an amount which bears the same ratio to the increase in tax liability under chapter 1 of the Internal Revenue Code of 1954 which is attributable to section 86 of such Code and properly allocable to such fiscal year as—

"(i) the amount which is appropriated to such trust fund under subsection (a) for such fiscal year, bears to

"(ii) the aggregate amounts appropriated under subsections (a) and (b) for such fiscal year, and

"(B) to the Federal Disability Insurance Trust Fund an amount equal to the portion of the increase in tax described in subparagraph (A) which is not appropriated under subparagraph (A).

"(2)(A) The Secretary of the Treasury shall estimate for fiscal year 1984 (and each year thereafter) the amount appropriated under paragraph (1).

"(B) On the basis of the estimate under subparagraph (A), the Secretary of the Treasury shall not less than quarterly make transfers to the appropriate trust funds.

"(3)(A) The Secretary of the Treasury shall make proper adjustments in the amounts subsequently transferred under paragraph (2) to the extent prior estimates differed from the amounts required to be appropriated.

"(B) For purposes of this subsection, the final determination of the amount required

to be transferred under this subsection for any fiscal year shall be based on the final statistics of income which are—

"(i) published under section 6108(a) of the Internal Revenue Code of 1954, and

"(ii) properly allocable to such fiscal year.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits received after December 31, 1983, and attributable to periods after such date.

SEC. 303. ACCELERATION OF INCREASE IN FICA TAXES; 1984 EMPLOYEE FICA TAX CREDIT.

(a) ACCELERATION OF INCREASE IN FICA TAXES.—

(1) TAX ON EMPLOYEES.—Subsection (a) of section 3101 (relating to rate of tax on employees for old-age, survivors, and disability insurance) is amended by striking out paragraphs (5), (6), and (7) and inserting in lieu thereof the following:

"(5) with respect to wages received during the calendar years 1982 and 1983, the rate shall be 5.40 percent;

"(6) with respect to wages received during the calendar years 1984 through 1987, the rate shall be 5.70 percent;

"(7) with respect to wages received during the calendar year 1988 and 1989, the rate shall be 6.06 percent; and

"(8) with respect to wages received after December 31, 1989, the rate shall be 6.20 percent.".

(2) TAX ON EMPLOYERS.—Subsection (a) of section 3111 (relating to rate of tax on employers for old-age, survivors, and disability insurance) is amended by striking out paragraphs (5) through (7) and inserting in lieu thereof the following:

"(5) with respect to wages paid during the calendar years 1982 and 1983, the rate shall be 5.40 percent;

"(6) with respect to wages paid during the calendar years 1984 and 1987, the rate shall be 5.70 percent;

"(7) with respect to wages paid during the calendar years 1988 and 1989, the rate shall be 6.06 percent;

"(8) with respect to wages paid after December 31, 1989, the rate shall be 6.20 percent.".

(3) CONFORMING AMENDMENT TO RAILROAD RETIREMENT TAX ACT.—Section 3231 (relating to definitions) is amended by adding at the end thereof the following new subsection:

"(i) TAXES IMPOSED BY SECTIONS 3101(a) AND 3111(a).—For purposes of this chapter, the rates of tax imposed by sections 3101(a) and 3111(a) shall be determined without regard to the amendments made by the Social Security Amendments of 1983.".

(b) CREDIT FOR EMPLOYEE FICA TAXES ATTRIBUTABLE TO ACCELERATION OF THE INCREASE IN THE RATE OF TAX.—

(1) IN GENERAL.—Subchapter B of chapter 65 (relating to rules of special application for abatements, credits, and refunds) is amended by inserting at the end thereof the following new section:

"SEC. 6430. CREDIT FOR CERTAIN 1984 EMPLOYEE FICA TAXES.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by subtitle A for any taxable year which begins in (and ends with or after) calendar year 1984 an amount equal to the product of—

"(1) .003, multiplied by

"(2) the amount of wages received by the taxpayer during calendar year 1984 with respect to which—

"(A) a tax was imposed by section 3101(a), or

"(B) a payment was made under an agreement under section 218 of the Social Security Act.

"(b) CREDIT TO BE REFUNDABLE.—For purposes of this title (other than subpart A of part IV of subchapter A of chapter 1 and chapter 63), the credit allowed by subsection (a) shall be treated as if it were allowed by section 31 and not this section.

"(c) WAGES DEFINED.—For purposes of this section, the term 'wages' has the meaning given to such term by section 3121(a), except that such term also includes remuneration covered by an agreement under section 218 of the Social Security Act.

"(d) COORDINATION WITH ADVANCE PAYMENTS UNDER SECTION 3510.—

"(1) RECONCILIATION OF PAYMENTS ADVANCED AND CREDIT ALLOWED.—If any payment is made to the taxpayer by an employer under section 3510 during 1984, then the tax imposed by this chapter for the taxable year to which subsection (a) applies shall be increased by the aggregate amount of such payments.

"(2) EFFECT OF RECONCILIATION ON OTHER CREDITS.—Any increase in tax under paragraph (1) shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit (other than the credit allowed by subsection (a)) allowable under this subpart.".

(2) CONFORMING AMENDMENT.—The table of sections for subchapter b of chapter 65 is amended by adding at the end thereof the following new item:

"Sec. 6430. Credit for certain 1984 employee FICA taxes.".

(c) ADVANCE PAYMENT OF SOCIAL SECURITY CREDIT.—

(1) IN GENERAL.—Chapter 25 (relating to general provisions involving employment taxes) is amended by adding at the end thereof the following new section:

"SEC. 3510. ADVANCE PAYMENT OF 1984 FICA TAX CREDIT.

"(a) IN GENERAL.—Except as otherwise provided in this section, every employer making payment of wages to an employee shall, at the time of paying such wages, make an additional payment to such employee equal to the product of—

"(1) .003, multiplied by,

"(2) the amount of such wages with respect to which—

"(A) a tax is imposed by section 3101(a) for the payroll period, or

"(B) a payment was made under an agreement under section 218 of the Social Security Act.

"(b) PAYMENTS TO BE TREATED AS PAYMENTS OF FICA TAXES.—

"(1) EMPLOYEE PAYMENTS.—For purposes of this title, payments made by an employer under subsection (a) to his employees for any payroll period—

"(A) shall not be treated as the payment of compensation, and

"(B) shall be treated as made out of amounts required to be deducted for the payroll period under section 3102 (relating to FICA employee taxes), and as if the employer had paid to the Secretary, on the day on which the wages are paid to the employees, an amount equal to such payments.

"(2) FAILURE TO MAKE ADVANCE PAYMENTS.—For purposes of this title (including penalties), failure to make any advance payment under subsection (a) at the time provided therefor shall be treated as the failure at such time to deduct and withhold under subchapter A of chapter 24 an amount equal to the amount of such advance payment.

"(c) DEFINITIONS.—For purposes of this section—

"(1) WAGES.—The term 'wages' has the meaning given such term by section 6430(c).

"(2) EMPLOYER.—The term 'employer' includes any person treated as an employer under any agreement made pursuant to section 218 of the Social Security Act.".

(2) CONFORMING AMENDMENTS.—

(A) Section 6302 (relating to mode or time of collection) is amended by adding at the end thereof the following new subsection:

"(e) CROSS REFERENCE.—

"For treatment of payment of FICA tax credit advance amounts as payment of withholding and FICA taxes, see section 3510(b).".

(B) The table of sections for chapter 25 is amended by adding at the end thereof the following new item:

"Sec. 3510. Advance payment of 1984 FICA tax credit.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply only with respect to remuneration received or paid, and taxable years beginning, after December 31, 1983.

SEC. 304. SELF-EMPLOYMENT TAXES.

(a) INCREASE IN RATE OF TAX.—Subsection (a) of section 1401 (relating to the old-age, survivors, and disability insurance tax on self-employment income) is amended by striking out paragraphs (5), (6), and (7) and inserting in lieu thereof the following:

"(5) in the case of any taxable year beginning after December 31, 1981, and before January 1, 1984, the tax shall be equal to 8.05 percent of the amount of the self-employment income for such taxable year;

"(6) in the case of any taxable year beginning after December 31, 1983, and before January 1, 1988, the tax shall be equal to 11.40 percent of the amount of the self-employment income for such taxable year;

"(7) in the case of any taxable year beginning after December 31, 1987, and before January 1, 1990, the tax shall be equal to 12.12 percent of the amount of the self-employment income for such taxable year; and

"(8) in the case of any taxable year beginning after December 31, 1989, the tax shall be equal to 12.40 percent of the amount of self-employment income for such taxable year.".

(b) ALLOWANCE OF DEDUCTION FOR 50 PERCENT OF THE SELF-EMPLOYMENT TAX.—

(1) ALLOWANCE OF DEDUCTION.—

(A) IN GENERAL.—Part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) is amended by redesignating section 223 as section 224 and by inserting after section 222 the following new section:

"SEC. 223. DEDUCTION FOR 50 PERCENT OF SELF-EMPLOYMENT TAXES.

"There shall be allowed as a deduction for the taxable year an amount equal to 50 percent of the tax imposed by section 1401(a) which is paid or accrued by the taxpayer during such taxable year.".

(B) DEDUCTION ALLOWED IN COMPUTING ADJUSTED GROSS INCOME.—Section 62 (defining adjusted gross income) is amended by inserting after paragraph (16) the following new paragraph:

"(17) SELF-EMPLOYMENT TAXES.—The deduction allowed by section 223.".

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 275(a) (relating to disallowance of deductions for certain taxes) is amended—

(i) by striking out "and" at the end of subparagraph (B),

(ii) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon and "and"; and

(iii) by adding at the end thereof the following new subparagraph:

"(D) the taxes imposed by section 1401 (relating to self-employment taxes) to the extent a deduction is not allowed with respect to such taxes under section 223.".

(B) Subsection (b) of section 1403 (relating to cross references) is amended by adding at the end thereof the following new paragraph:

"(4) For provisions relating to deductibility of self-employment taxes, see sections 223 and 275(a)(1)(D).".

(C) Subsection (a) of section 1402 (defining net earnings from self-employment) is amended by inserting "(other than the deduction allowed by section 223)" after "trade or business" the second place it appears.

(D) The table of sections for part VII of subchapter B of chapter 1 is amended by striking out the item relating to section 223 and inserting in lieu thereof the following new items:

"Sec. 223. Deduction for 50 percent of self-employment taxes.

"Sec. 224. Cross References.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1983.

SEC. 305. COVERAGE OF PAYMENTS UNDER SALARY-REDUCTION PLANS.

(a) DEFINITION OF WAGES—

(1) INTERNAL REVENUE CODE OF 1954.—Section 3121(a)(5)(A) (defining wages) is amended by inserting "is a payment under a qualified cash or deferred arrangement under section 401(k) or" after "unless such payment".

(2) SOCIAL SECURITY ACT.—Section 209(e)(1) of the Social Security Act is amended by inserting "is a payment under a qualified cash or deferred arrangement under section 401(k) of the Internal Code of 1954 or" after "unless such payment".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to payments made after December 31, 1983.

TITLE IV—MISCELLANEOUS FINANCING PROVISIONS

ALLOCATIONS TO DISABILITY INSURANCE TRUST FUND

SEC. 401. (a) Section 201(b)(1) of the Social Security Act is amended by striking out clauses (K) through (M) and inserting in lieu thereof the following: "(K) 1.65 per centum of the wages (as so defined) paid after December 31, 1981, and before January 1, 1984, and so reported, (L) 0.50 per centum of the wages (as so defined) paid after December 31, 1983, and before January 1, 1985, and so reported, (M) 1.00 per centum of the wages (as so defined) paid after December 31, 1984, and before January 1, 1990, and so reported, and (N) 1.60 per centum of the wages (as so defined) paid after December 31, 1989, and so reported,".

(b) Section 201(b)(2) of such Act is amended by striking out clauses (K) though (M) and inserting in lieu thereof the following: "(K) 1.2375 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1981, and before January 1, 1984, (L) 0.50 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1983, and before January 1, 1985, (M) 1.00 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1984, and before January 1, 1990, and (N) 1.60 per centum of the self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1989,".

INTERFUND BORROWING EXTENSION

SEC. 402. (a) Section 201(l)(1) of the Social Security Act is amended by striking out "January 1983" and inserting in lieu thereof "January 1988".

(b) Section 1817 of such Act is amended by striking out subsection (j) thereof.

CREDITING AMOUNTS OF UNNEGOTIATED CHECKS TO TRUST FUNDS

SEC. 403. (a) The Secretary of the Treasury shall take such actions as may be necessary to ensure that amounts of checks for benefits under title II of the Social Security Act which have not been presented for payment within a reasonable length of time (not to exceed twelve months) after issuance are credited to the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, whichever may be the fund from which the check was issued. Amounts of any such check shall be recharged to the fund from which they were issued if payment is subsequently made on such check.

(b)(1) The Secretary of the Treasury shall transfer from the general fund of the Treasury to the Federal Old-Age and Survivors Insurance Trust Fund and to the Federal Disability Insurance Trust Fund, as appropriate, such sums as may be necessary to reimburse such Trust Funds in the total amounts of all currently unnegotiated benefit checks. After the amounts appropriated by this subsection have been transferred to the Trust Funds, the provisions of subsection (a) shall be applicable. There are hereby appropriated into such Trust Funds such sums as may be necessary to reimburse such Trust Funds for the amount of currently unnegotiated benefit checks. The first such transfer shall be made within thirty days after the date of the enactment of this Act with respect to all such unnegotiated checks as of such date of enactment.

(2) As used in paragraph (1), the term "currently unnegotiated benefit checks" means the checks issued under title II of the Social Security Act prior to the date of the enactment of this Act, which remain unnegotiated after the twelfth month following the date on which they were issued.

TRANSFER TO TRUST FUNDS FOR BENEFITS ATTRIBUTABLE TO MILITARY SERVICE BEFORE 1957

SEC. 404. (a) Section 217(g) of the Social Security Act is amended to read as follows:

"Appropriation to Trust Funds

"(g)(1) Within thirty days after the date of the enactment of the Social Security Amendments of 1983, the Secretary shall determine the amounts which are the amounts estimated to be necessary to be transferred into each of the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the Federal Hospital Insurance Trust Fund on such date of enactment so that each such Trust Fund will be in the same position at the close of September 30, 2015 as each such Trust Fund whould otherwise be in at the close of September 30, 2015 if section 210 of this Act as in effect prior to the Social Security Act Amendments of 1950, and this section, had not been enacted (less any amounts previously transferred under the provisions of this subsection as in effect prior to the date of the enactment of the Social Security Amendments of 1983). The rate of interest to be used in initially determining such amount shall be the rate determined under section 201(f) for public debt obligations which were or could have been issued for purchase by such Trust Funds on the date of the enactment of the Social Security Amendments of 1983, and the assumptions with respect to future increases in wage and price levels shall be consistent with such rate of interest. The Secretary of the Treasury shall transfer the amounts determined under this paragraph into such Trust Funds from the general fund in the Treasury within thirty days after the date of the enactment of the Social Security Amendments of 1983. There are hereby appropriated into such Trust Funds sums equal to the amounts to be transferred in accordance with this paragraph into such Trust Funds.

"(2) The Secretary shall revise the amount determined under paragraph (1) within one year after the date of the transfer made under paragraph (1), and every five years thereafter, as warranted by data which may become available to him after the date of the transfer under paragraph (1) based upon actual benefits paid under this title and title XVIII. Any amounts determined to be needed for transfer shall be transferred annually by the Secretary of the Treasury into the appropriate Trust Fund from the general fund in the Treasury, or out of the appropriate Trust Fund into the general fund in the Treasury, as may be appropriate. There are authorized to be appropriated to such Trust Funds sums equal to the amounts to be transferred in accordance with this paragraph into such Trust Funds.".

PAYMENTS TO TRUST FUNDS OF AMOUNTS EQUIVALENT TO TAXES ON SERVICE IN THE UNIFORMED SERVICES PERFORMED AFTER 1956

SEC. 405. (a) Section 229(b) of the Social Security Act is amended to read as follows:

"(b) There are authorized to be appropriated to the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the Federal Hospital Insurance Trust Fund, for each fiscal year, amounts equal to the additional amounts which would be appropriated into each such Trust Fund for such fiscal year under sections 201 and 1817 of this Act if the amounts of the additional wages deemed to have been paid by reason of subsection (a) constituted remuneration for employment (as defined in section 3121 (b) of the Internal Revenue Code of 1954) for purposes of the taxes imposed by sections 3101 and 3111 of the Internal Revenue Code of 1954.".

(b) The amendment made by subsection (a) shall be effective with respect to wages deemed to have been paid for calendar years after 1982.

(c)(1) Within thirty days after the date of the enactment of this Act, the Secretary of Health and Human Services shall determine the amounts equal to the additional amounts which would have been appropriated into the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the Federal Hospital Insurance Trust Fund under sections 201 and 1817 of the Social Security Act, if the additional wages deemed to have been paid under section 229(a) of the Social Security Act prior to 1983 had constituted

remuneration for employment (as defined in section 3121(b) of the Internal Revenue Code of 1954) for purposes of the taxes imposed by sections 3101 and 3111 of the Internal Revenue Code of 1954, and the amount of interest which would have been earned on such amounts if they had been so appropriated.

(2)(A) The Secretary of the Treasury shall, within thirty days after the date of the enactment of this Act, transfer into each such Trust Fund, from the general fund in the Treasury, an amount equal to the amount determined with respect to such Trust Fund under paragraph (1), less any amount appropriated into such Trust Fund under the provisions of section 229(b) of the Social Security Act prior to the date of the determination made under paragraph (1) with respect to wages deemed to have been paid for calendar years prior to 1983. There are hereby appropriated into such Trust Fund sums equal to the amounts to be transferred in accordance with this subparagraph into such Trust Funds.

(B) The Secretary shall revise the amount determined under subparagraph (A) within one year after the date of the transfer made under paragraph (1), as warranted by data which may become available to him after the date of the transfer under subparagraph (A) based upon actual benefits paid under this title and title XVIII. Any amounts determined to be needed for transfer shall be transferred by the Secretary of the Treasury into the appropriate Trust Fund from the general fund in the Treasury, or out of the appropriate Trust Fund into the general fund in the Treasury, as may be appropriate. There are authorized to be appropriated to such Trust Funds sums equal to the amounts to be transferred in accordance with this subparagraph into such Trust Funds.

TRUST FUND INVESTMENT PROCEDURE

SEC. 406. (1) Section 201 of the Social Security Act is amended by striking out subsections (d), (e), and (f) and inserting in lieu thereof the following new subsections:

"(d) There are hereby created on the books of the Treasury of the United States an account to be known as the Old-Age and Survivors Insurance Depositary Account and an account to be known as the Disability Insurance Depositary Account.

"(e) The Managing trustee shall deposit that portion of the Federal Old-Age and Survivors Insurance Trust Fund not required to meet current withdrawals from such Trust Fund in the Old-Age and Survivors Insurance Depositary Account and that portion of the Federal Disability Insurance Trust Fund not required to meet current withdrawals from such Trust Fund in the Disability Insurance Depositary Account.

"(f)(1) The Secretary of the Treasury may apply moneys deposited in an account pursuant to subsection (e) in any way in which he is authorized by law to apply moneys in the general fund of the Treasury.

"(2)(A) Moneys deposited in an account pursuant to subsection (e) shall be treated as indebtedness of the United States for purposes of section 1305(2) of title 31, United States Code, and shall earn interest, payable monthly, in an amount equal to the product obtained by multiplying the average balance of moneys in the account for such month by the average market yield (computed by the Managing Trustee on the basis of market quotations as of the end of each day of the previous month) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of four years from the end of such previous month, except that 'flower bonds' shall not be included in such computation.

"(B) For purposes of this paragraph, the term 'flower bond' means a United States Treasury bond which was issued before March 4, 1971, and which may, at the option of the duly constituted representatives of the estate of a deceased individual, be redeemed at par (face) value, plus accrued interest to the date of payment, if—

"(i) it was owned by such deceased individual at the time of his death,

"(ii) it is part of the estate of such deceased individual, and

"(iii) such representatives authorize the Secretary of the Treasury to apply the entire proceeds of the redemption of such bond to the payment of Federal estate taxes.

"(3) The Managing Trustee may withdraw moneys deposited in an account pursuant to subsection (e) whenever he determines that such moneys are necessary to meet current withdrawals from the Trust Fund which deposited such moneys, and the Secretary of the Treasury may sell obligations of the United States in the market in an amount not to exceed the amount of such withdrawal if he determines that such withdrawal necessitates an increase in the general fund of the Treasury by an amount not exceeding such amount.".

(b) Section 1817 of such Act is amended by striking out subsections (c), (d), and (e) and inserting in lieu thereof the following new subsections:

"(c) There is hereby created on the books of the Treasury of the United States an account to be known as the Hospital Insurance Depositary Account.

"(d) The Managing Trustee shall deposit that portion of the Federal Hospital Insurance Trust Fund not required to meet current withdrawals from such Trust Fund in the Hospital Insurance Depositary Account.

"(e)(1) The Secretary of the Treasury may apply moneys deposited in the account pursuant to subsection (d) in any way in which he is authorized by law to apply moneys in the general fund of the Treasury.

"(2)(A) Moneys deposited in the account pursuant to subsection (d) shall be treated as indebtedness of the United States for purposes of section 1305(2) of title 31, United States Code, and shall earn interest, payable monthly, in an amount equal to the product obtained by multiplying the average balance of moneys in the account for such month by the average market yield (computed by the Managing Trustee on the basic of market quotations as of the end of each day of the previous month) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of four years from the end of such previous month, except that 'flower bonds' shall not be included in such computation.

"(B) For purposes of this paragraph, the term 'flower bond' means a United States Treasury bond which was issued before March 4, 1971, and which may, at the option of the duly constituted representatives of the estate of a deceased individual, be redeemed at par (face) value, plus accrued interest to the date of payment, if—

"(i) it was owned by such deceased individual at the time of his death,

"(ii) it is part of the estate of such deceased individual, and

"(iii) such representatives authorize the Secretary of the Treasury to apply the entire proceeds of the redemption of such bond to the payment of Federal estate taxes.

"(3) The Managing Trustee may withdraw moneys deposited in the account pursuant to subsection (d) whenever he determines that such moneys are necessary to meet current withdrawals from the Trust Fund, and the Secretary of the Treasury may sell obligations of the United States in the market in an amount not to exceed the amount of such withdrawal if he determines that such withdrawal necessitates an increase in the general fund of the Treasury by an amount not exceeding such amount.".

(c) Section 1841 of such Act is amended by striking out subsections (c), (d), and (e) and inserting in lieu thereof the following new subsections:

"(c) There is hereby established on the books of the Treasury an account to be known as the Supplementary Medical Insurance Depositary Account.

"(d) The Managing Trustee shall deposit that portion of the Federal Supplementary Medical Insurance Trust Fund not required to meet current withdrawals from such Trust Fund in the Supplementary Medical Insurance Depository Account.

"(e)(1) The Secretary of the Treasury may apply moneys deposited in the account pursuant to subsection (d) in any way in which he is authorized by law to apply moneys in the general fund of the Treasury.

"(2)(A) Moneys deposited in the account pursuant to subsection (d) shall be treated as indebtedness of the United States for purposes of section 1305(2) of title 31, United States Code, and shall earn interest, payable monthly, in an amount equal to the product obtained by multiplying the average balance of moneys in the account for such month by the average market yield (computed by the Managing Trustee on the basis of market quotations as of the end of each day of the previous month) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of four years from the end of such previous month, except that 'flower bonds' shall not be included in such computation.

"(B) For purposes of this paragraph, the term 'flower bond' means a United States Treasury bond which was issued before March 4, 1971, and which may, at the option of the duly constituted representatives of the estate of a deceased individual, be redeemed at par (face) value, plus accrued interest to the date of payment, if—

"(i) it was owned by such deceased individual at the time of his death,

"(ii) it is part of the estate of such deceased individual, and

"(iii) such representatives authorize the Secretary of the Treasury to apply the entire proceeds of the redemption of such bond to the payment of Federal estate taxes.

"(3) The Managing Trustee may withdraw moneys deposited in the account pursuant to subsection (d) whenever he determines that such moneys are necessary to meet current withdrawals from the Trust Fund, and the Secretary of the Treasury may sell obligations of the United States in the market in an amount not to exceed the amount of such withdrawal if he determines that such withdrawal necessitates an increase in the general fund of the Treasury by an amount not exceeding such amount.".

(d)(1) Not later than 30 days after the date of enactment of this Act, the Secretary of the Treasury shall redeem at par all outstanding obligations of the United States issued under the Second Liberty Bond Act exclusively for purchase by the Federal Old-Age Insurance Trust Fund, the Federal Disability Insurance Trust Fund, the Federal Hospital Insurance Trust Fund, and the Federal Supplementary Medical Insurance Trust Fund (hereinafter in this subsection referred to as the "Trust Funds").

(2)(A) The Managing Trustee may sell any marketable obligation of the United States held by the Trust Funds at market price at any time and shall sell (or redeem) all "flower bonds" held by the Trust Funds at market price within thirty days of the date of enactment of this Act.

(B) For purposes of this paragraph, the term "flower bond" means a United States Treasury bond which was issued before March 4, 1971, and which may, at the option of the duly constituted representatives of the estate of a deceased individual, be redeemed at par (face) value, plus accrued interest to the date of payment, if—

(i) it was owned by such deceased individual at the time of his death,

(ii) it is part of the estate of such deceased individual, and

(iii) such representatives authorize the Secretary of the Treasury to apply the entire proceeds of the redemption of such bond to the payment of Federal estate taxes.

(3) The proceeds from the redemption and sale of obligations of the United States pursuant to paragraphs (1) and (2) shall be paid to the Trust Fund selling or redeeming such obligations and that portion of such proceeds which is not required to meet current withdrawals from such Trust Fund shall be deposited in the account established with respect to such Trust Fund by subsection (a), (b), or (c) of this Act.

(e) The amendments made by this Act shall take effect on the first day of the month following the date of enactment of this Act.

ADDITION OF PUBLIC MEMBERS TO TRUST FUND BOARDS OF TRUSTEES

SEC. 407. (a) Sections 201(c), 1817(b), and 1841(b) of the Social Security Act are each amended by striking out the period at the end of the first sentence and inserting in lieu thereof a comma and "and of two members of the public (both of whom may not be from the same political party), who shall be nominated by the President for a term of four years and subject to confirmation by the Senate.".

(b) The amendments made by subsection (a) shall become effective on the date of enactment of this Act.

Mr. DOLE. Mr. President, today I am also submitting, with Senators ARMSTRONG, LAXALT and DANFORTH, an amendment to Senate bill 1, which is also being introduced as a separate bill. It would gradually raise the social security retirement age for people attaing age 62 after the turn of the century. This is a much needed change in the social security program which would, in combination with the reforms contained in Senate bill 1, eliminate the long-range deficit in the cash benefit programs (old-age and survivors insurance and disability insurance).

Under this amendment, the age at which full retirement benefits are payable would be gradually increased to 66, between 2000 and 2015. Then, beginning in 2015, the normal retirement age would be increased automatically on a phased-in basis to keep the ratio of retirement-life expectancy to the potential working-lifetime from rising over time. Early-retirement benefits would continue to be available beginning at age 62 for workers and spouses and at age 60 for widows and widowers, but the actuarial reduction factors now in the law would be increased.

According to the social security actuaries, the retirement age under this amendment would rise very gradually, reaching 67 in the year 2023, and 68 in the year 2053. One-third of the long-range OASDI deficit (0.65 percent of taxable payroll over the next 75 years) would be eliminated.

I might remind my colleagues that the bipartisan consensus reached by 12 of the 15 members of the National Commission on Social Security Reform did not solve the entire long-range deficit. There were two views about how to close the remaining funding gap of 0.58 percent of taxable payroll. The minority view, embraced by Senator MOYNIHAN, Representative PEPPER, Robert Ball, Martha Keys, and Lane Kirkland, would increase the payroll tax by 0.46 percentage points on the employee and employer, each, in the year 2010. The long-term rate now in the law for OASDI is 6.2 percent on the employee and employer, each; 7.65 percent including medicare. The minority proposal would lead to an OASDHI tax of 8.1 percent on the employee and employer each, and that is before the medicare deficit is closed.

The majority view, embraced by myself, Senator HEINZ, Representatives ARCHER and CONABLE, Alan Greenspan, Robert Beck, Mary Falvey Fuller, and Alexander Trowbridge, and now by Senators ARMSTRONG, LAXALT, and DANFORTH, was that the retirement age should be increased very gradually in the way provided in this amendment.

The Commission majority presented the following reasons this change: Americans are living longer; older workers will be in greater demand in future years; the disability program can be improved to provide cash benefits and medicare to those 62 and older who, for reasons of health, are unable to continue working; and, because the ratio of workers to beneficiaries is projected to decline after the turn of the century, younger generations are expected to pay significantly higher taxes to support the system in the 21st century. An increase in the normal retirement age would lessen that burden. Given sufficient notice, coming generations of beneficiaries can adjust to a later retirement age just as earlier generations adjusted to age 65.

Some background statistics may be useful in evaluating the appropriateness of raising the social security retirement age. When social security was enacted, life expectancy at birth was 61 years for men and 65 years for women. Today, it is 70 years and 78 years, respectively. According to the social security actuaries, by the year 2035, when today's young people are retiring, life expectancy will have climbed another 4 years for men and 5 years for women.

Life expectancy at age 65 has similarly improved. Whereas the typical man age 65 in 1940 could expect to live another 12 years, today he can expect to live another 14.5 years. Life expectancy for 65-year-old women has increased from 13.7 to 19.1 years. By 2035, men and women at age 65 will be able to look forward to another 17 to 23 years of life, respectively.

Two conclusions can be drawn from these trends in longevity. First, the improvements that have taken place to date already justify an increase in the retirement age. Given the long-range nature of our saving and retirement decisions, however, ample lead-time must be provided before changes in the retirement age can be effected.

Second, it should be clear that these trends in longevity will have a significant impact on the long-range cost of social security. Costs will be driven up in the next century as more people live to attain old-age and as people draw benefits for a longer period of time. By 2035, we expect the elderly to comprise 21 percent of the overall population, as compared to 11 percent today, and the ratio of taxpayers to beneficiaries to have fallen from 3.2:1 today to 2:1. The long-term cost of social security—excluding medicare—will thus rise by 55 percent—17.01 percent of taxable payroll—between 2005 and 2035 alone.

The long-term cost of social security must be brought into line with our ability to finance the system. The payroll tax burden is already high and confidence in the system among young people is at an all time low. In my view, gradually raising the retirement age is an equitable way to lighten the burden on future generations and shore up confidence in the long-term viability of the system.

Attached is a brief summary of this provision.

FUTURE INCREASE IN RETIREMENT AGE

Present Law: Unreduced retirement benefits are available to workers, spouses, and widows and widowers at age 65. Actuarially reduced benefits are available at age 62 for workers and spouses and at age 60 for widows and widowers (age 50 if they are disabled).

Proposed Change: Gradually raise the retirement age to 66 by the year 2015, beginning with those who attain age 62 in 2000.

Beginning with those who attain age 62 in 2012, the normal retirement age could be automatically adjusted (on a phased-in basis) so that the ratio of the retirement-life expectancy to the potential working-lifetime remains the same in future years as it was in 1990. Early-retirement benefits would continue to be available beginning at age 62 for workers and spouses and at age 60 for widows and widowers, but the actuarial reduction factors would be larger. The minimum age for eligibility for medicare benefits would continue to be tied to the age at which unreduced retirement benefits are first available.

Cost/Savings: The estimated long-range savings of this proposal for the OASDI program is 0.65 percent of taxable payroll.

Mr. President, I ask unanimous consent that the text of the amendment be printed in the RECORD.

There being no objection, the text of the amendment was ordered to be printed in the RECORD, as follows:

At the end of title II add the following new section:

INCREASE IN RETIREMENT AGE

SEC. 209. (a) Section 216 of the Social Security Act is amended by inserting before subsection (b) the following new subsection:

"Retirement Age

"(a) (1) The term 'retirement age' means—

"(A) with respect to an individual who attains the early retirement age (as defined in paragraph (2)) before January 1, 2000, 65 years of age; and

"(B) with respect to an individual who attains early retirement age after December 31, 1999, 65 years of age plus the number of months in the age-increase factor (as determined under paragraph (3)) for the year in which such individual attains early retirement age.

"(2) The term 'early retirement age' means age 62 in the case of an old-age, wife's or husband's benefit, and age 60 in the case of a widow's or widower's benefit.

"(3) The age increase factor for individuals who attain early retirement age in any calendar year shall be determined as follows:

"(A) With respect to individuals who attain early retirement age in the 12-year period consisting of the calendar years 2000 through 2011, the age increase factor shall be equal to 1/12 of the number of months in the period beginning with January 2000 and ending with December of the year in which the individual attains early retirement age.

"(B) With respect to individuals who attain early retirement age in the 10-year period beginning with calendar year 2012 or with any tenth calendar year thereafter, the age increase factor shall be the number of months equal to the sum of the age increase factor in effect for individuals attaining early retirement age in the last year of the preceding 10-year period plus—

"(i) with respect to individuals attaining early retirement age in the last year of such 10-year period, the number of months equal to the 'age increase adjustment factor' (as determined under paragraph (4)) for such last year, and

"(ii) with respect to individuals attaining early retirement age in any of the first nine years of such period, the number of months equal to the product of (I) 1/10 of the age increase adjustment factor described in clause (i), and (II) the number of years in the period beginning with the first year of such 10-year period and ending with the year in which such individual attains early retirement in which such individual attains early retirement age (rounded to the nearest whole month).

"(4)(A) The term 'age increase adjustment factor' means for any 10-year period the number equal to the number of months by which the retirement age for individuals attaining early retirement age in the last year of such 10-year period (determined under paragraph (B)) exceeds the retirement age for individuals attaining early retirement age in the last year of the preceding 10-year period.

"(B) The retirement age for the last year of any 10-year period (beginning after 2011), hereafter in this paragraph referred to as the 'determination year', shall be that age (rounded to the nearest whole month) which if applied to individuals attaining early retirement age in the twenty-first year preceding such determination year, would yield a ratio, according to the official life table for such twenty-first preceding year, of—

"(i) the expectation of life at such retirment age, to

"(ii) such retirement age minus 20, which is the same (or closest to) the ratio determined under subparagraph (C) for such determination year.

"(C) The ratio under this subparagraph is the ratio of—

"(i) the expectation of life at the retirement age applicable to individuals who attained early retirement age in the thirty-first year preceding such determination year, according to the official life table for such thirty-first preceding year, to

"(ii) the retirement age described in clause (i) minus 20.

"(D) For purposes of this paragraph, the term 'official life table' means the life table for total persons in the United States that is prepared decennially by the National Center for Health Statistics for the 3-year period centering around the year of the decennial population census (and such tables shall be referred to as relating to such census year).".

(b) Section 202(q)(9) of such Act is amended to read as follows:

"(9) The reduction factors for early retirement specified in paragraph (1) shall be periodically revised by the Secretary such that—

"(A) for old-age insurance benefits, wife's insurance benefits, and husband's insurance benefits, the reduction factors applicable to an individual entitled to such a benefit at an age not more than 3 years lower than the retirement age applicable to such individual, shall be the same as under such paragraph (1), and such factors shall be increased by 5/12 of 1 percent for each month below that age which is 3 years lower than the applicable retirement age; and

"(B) for widow's insurance benefits and widower's insurance benefits, the reduction factors for those entitled to such benefits at the earliest possible early retirement age shall be the same as specified in paragraph (1), and those for later ages shall be established by linear interpolation between the applicable reduction factor for such earliest possible early retirement age and a factor of unity at the applicable retirement age.".

(c) The Social Security Act is amended—

(1) by striking out "age 65" or "age of 65", as the case may be, each place it appears in the following sections and inserting in lieu thereof in each instance "retirement age (as defined in section 216(a))":

(A) subsections (a), (b), (c), (d), (e), (f), (g), (r), and (w) of section 202,

(B) subsections (c), (f), (h), and (j) of section 203,

(C) section 209 (r),

(D) section 211 (b)(3),

(E) subsections (f) and (i) of section 215,

(F) subsections (h) and (i) of section 216,

(G) section 223 (a),

(H) subsections (a), (b), (c), and (e) of section 226,

(I) section 1811,

(J) section 1818 (a)(1),

(K) section 1836(2),

(L) section 1837, and

(M) section 1838;

(2) by striking out "age sixty-five" in section 203 (c) and inserting in lieu thereof "retirement age (as defined in section 216(a))"; and

(3) by striking out "age of sixty-five" in section 223(a) and inserting in lieu thereof "retirement age (as defined in section 216(a))".

Mr. MOYNIHAN. Mr. President, I join today with Senators DOLE and HEINZ in introducing S. 1, the Social Security Amendments of 1983.

I wish first to cite the editorial judgment of the Washington Post which stated, on January 18, 1983, that the package comes "as close to absolute fairness as any social security revision can ever be."

I would like to state my personal view that what is at stake here is more than the integrity of the social security system, which the distinguished chairman of the Committee on Finance, the Senator from Kansas, has called by every measure the most important domestic priority we have. At issue also is our capacity to govern. The country wonders whether we can make decisions in these two bodies.

Last evening, I think with great appropriateness, at the outset of his state of the Union message, with a graciousness we have come to be familiar with in his public pronouncements, the President pointed to the work of the bipartisan commission as an example of what a bipartisan spirit can accomplish, and he asked that it carry over to other and equivalently pressing matters.

I certainly hope we shall do so, and I pledge to the chairman of the Committee on Finance and to the ranking member my cooperation in all these matters.

This bill embodies the recommendations of the National Commission on Social Security Reform. Senator DOLE, Senator HEINZ, and I served on the Commission along with 12 other White House and congressional appointees in a spirit of bipartisan cooperation. The success of the Commission in finally reaching agreement on January 15 was due to the extraordinary efforts of Chairman Greenspan, Senator DOLE, Congressman PEPPER, and Congressman CONABLE during exhausting negotiations. I heartily applaud them all. As with any effective compromise, the final agreement was not completely satisfactory to any one

participant. But taken together, these recommendations offer a solution to the $150-$200 billion short-term social security financing problems and take us a long way toward eliminating revenue shortfalls projected over the next 75 years for the system.

A brief description of how the agreement came about may serve to help us recognize how much we needed such a success, and raises the prospect of further successes, equally important.

On May 12, 1981, the administration proposed a package consisting primarily of benefit cuts designed to raise $110 billion in 5 years. The Senate however, passed unanimously, on May 20, 1981, a resolution which stated "that Congress shall not precipitously and unfairly reduce early retirees' benefits." The prospect of governmental gridlock loomed.

But the shrinkage of the trust funds that resulted from further deterioration in the national economy, coupled with mounting public concern that the system was becoming insolvent, underscored the need for action. On December 16, 1981, by Executive order of the President, the National Commission was created and charged with providing appropriate recommendations to the administration and the Congress "on long-term reforms to put social security back on a sound financial footing."

The Commission met nine times during 1982 and reviewed material produced by various public bodies including Congress, the 1979 Advisory Council, and the 1981 National Commission on Social Security Reform. It sought the advice of experts and examined a wide variety of alternative approaches. These deliberations led to a consensus about the size and nature of the problem. The Commission agreed that there is a short-term problem—a $150 to $200 billion shortfall between now and 1989; that from 1990 through the early 2000's the system will be in surplus; and that due to the retirement of the "baby boom" generation, there is a long-term problem beginning after 2010. Equally important, the Commission agreed that "Congress . . . should not alter the fundamental structure of the social security program or undermine its fundamental principles."

However, there was no agreement on solutions to the social security crisis. Commission members were deeply divided on recommendations to cover both the short-term and long-term revenue shortfalls. The impasse persisted throughout December, despite the heroic efforts of Chairman Greenspan to achieve compromise. The Commission's reporting deadline was extended from December 31 to January 15, 1983, but there was little hope of a successful result.

On January 3, a New York Times article by Senator DOLE appeared, making the case that "[T]hrough a combination of relatively modest steps, including some acceleration of already scheduled taxes and some reductions in the rate of future benefit increases, the system can be saved." He agreed that we could not give up, and there followed an exhausting series of negotiations between the Commission and the White House. By January 15, final recommendations were agreed upon and the result announced as the Commission report.

Twelve of the fifteen Commission members, the President, the Speaker, and other congressional leaders agree that the Commission recommendations strike an acceptable balance between tax increases and reductions of benefit increases. No Commission member is satisfied with every recommendation. No Member of the Senate will be satisfied with every recommendation. But as a Washington Post editorial argues, the package comes "as close to absolute fairness as any social security revision can ever be." The balance, nonetheless, is fragile. This legislation will not survive if the President, Members of Congress, and the people allow it to be significantly altered as it makes its way through the legislative process.

More than just social security is at stake here. When S. 1 passes, we will have demonstrated that there is a governing center in American politics. This Commission is just an example of what can be done. First, get your facts straight. Second, decide to live with them. Third, resolve to surmount them, because, fourth, what is at stake is our capacity to govern.

I conclude by saying that if we are on the verge of a historically important achievement, it could not have come without the chairman of the Finance Committee's initiative. His willingness to cooperate made it possible, and I want to express my personal thanks to him, and which I think the Nation would share if they only knew. In time, no doubt they will.

I thank the Senator.

I ask that we might add names at the desk during the remainder of the day if that is agreeable.

I ask unanimous consent that I may do that.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I might say to my colleagues who may be listening or have staff listening that we would hope that we could have additional cosponsors. We are not trying to have 100 cosponsors, although we would like to. As I suggested to my Republican colleagues yesterday, for the first 10 cosponsors, I would try to arrange a color photograph with CLAUDE PEPPER, the distinguished Member of the House of Representatives who has been very active in developing this legislation. I think that offer is still good. I have not checked it with Congressman PEPPER.

Mr. MOYNIHAN. But there are only five spaces that remain.

Mr. DOLE. That is right.

I wish to rush over right now and do that. There will be others following me.

But this compromise deserves consideration, and I hope that those who are currently opposed to it will look at it closely and give us their help.

Again, I express my thanks and gratitude to every member of the Commission, the 12 who supported it, and the 3 who could not support it, but for sound reasons. It is my hope that we can start hearings on February 15 and have this legislation passed before the Easter recess. I am certain we are going to have the cooperation of everyone on our committee.

I hope that any other statements that might be introduced on this legislation might follow the statements of the Senator from Kansas, the Senator from New York, the Senator from Pennsylvania, and the Senator from Louisiana, and I so ask unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I thank the Senator from Oregon for yielding that time.

Mr. HEINZ. Mr. President, I rise to join with Senator DOLE and Senator MOYNIHAN in introducing S. 1.

I am pleased today to finally be able to rise as cosponsor of a bipartisan bill to restore solvency to the financially troubled social security system. For two agonizing years the Congress has been deadlocked on the social security issue. Two years of partisan wrangling on this issue have only heightened the fears of beneficiaries and weakened public confidence in the program, while trust fund reserves have continued to dwindle. Had it not been for an emergency loan of $17 billion to the old age and survivors insurance trust fund from the other social security funds, the December and January checks would have been delayed. As it is we have only a few weeks to enact the legislation necessary to assure that the July checks go out on time. A bipartisan agreement now is particularly important because time is so short.

The bill we are introducing today embodies the findings and recommendations of the National Commission on Social Security Reform, on which I was privileged to serve with my distinguished colleagues, Senator DOLE, Senator MOYNIHAN, and Senator ARMSTRONG. The 15 members of this Commission, under the able direction of Chairman Alan Greenspan, worked for a year to develop a solvency package which could be enacted by the Congress. This is a realistic package from a political perspective. It is a consen-

sus package which incorporates a wide range of views on social security.

I want to commend my colleagues who have served so valuably and tirelessly on the Commission, and I am thinking especially of Senator DOLE, our chairman, an extremely active member of the Commission, and Senator MOYNIHAN, both of whom were very deeply engaged in some very important negotiations right up until the very last minutes. Speaking for my colleagues, I think we owe them both deep gratitude.

The social security bill before us provides the foundation for an early legislative remedy to social security's financing woes. It is a remedy which should hearten all beneficiaries and workers who have feared for the future of the social security system. Contained in this bill are measures which can restore the solvency of social security for the next 7 years and the several decades into the future with no reductions in current social security benefit levels and no increases in payroll tax rates above those already scheduled in law. These measures reaffirm the soundness of the basic structure of social security by making minor and temporary adjustments to provide immediate relief from what are largely short-term financing problems.

As a whole, the bill is a fair and reasonable package of changes. Although there are individual elements of the package which are unattractive by themselves, the package in its entirety is worthy of support. Any of the proposals in this package, or for that matter any single proposal on social security, would be unlikely by itself to receive support from a majority of Members in either Chamber. However, taken together these proposals fairly balance the burdens of financing social security. It is this balance that has been so important in gaining the support of the President, the Speaker of the House, the majority leader, and other congressional leaders.

The effects of this package in the next 7 years are fairly distributed. About a third of the $168 billion in new financing would affect employers and workers, another third would affect other accounts in the budget, and a third would affect beneficiaries. It is noteworthy that these effects will not only be broadly shared, but that they will be minimal for any particular group of individuals.

For employers and workers there will be no increase in social security tax rates over rates already scheduled in the law. The schedule for rate increases will be stepped up, however, and the self-employed will have their rate sent equal to the combined employer-employee rate. The immediate effect of these changes will be relatively small: In the first 5 years, only 14 percent of the total financing of the package will come from workers and employees, including the self-employed.

Most of the net addition in taxes will not affect employers and their employees until 1988 and 1989. Prior to this there will be a 1-year advance in the 1985 FICA tax rate nominally equal to an additional 0.3 percent each on employer and employee in 1984. However, employees will have the entire amount of the increase immediately refunded through an income tax credit, and therefore will experience no change in their paychecks. For employers, because the increase in the FICA tax will be deductible as a business expense, the net additional cost will average only about 3 cents per hour per job.

From 1985 to 1987, employer and employee will pay the same taxes they are now scheduled to pay. Even the 1988–89 acceleration will only increase rates for those years by 0.36 percent each on employer and employee for a net increase of about 4 to 5 cents per hour per job. Between 1983 and 1989, only 12 percent of the total financing of the package will come from net additional taxes on employers and only 9 percent from employees.

The self-employed have for years been receiving full social security benefits but paying only three-quarters of the combined OASDI tax paid by employers and employees. The difference is intended to compensate for the fact that the self-employed cannot now deduct social security taxes as a business expense. This bill would correct these inequities by requiring that the self-employed pay the full social security tax but allowing them to deduct half of the 11.4 percent OASDI tax payment as a business expense. The new tax rate, resulting from this change plus the 1-year advance of the 1985 tax rate, would be 3.35 percent above the 1983 rate. But the net tax payment for the average self-employed person would increase by only $5.80 per week under the proposal in this bill. I recognize that as introduced today this provision may not adequately address the concerns of smaller farmers and small business people, and I anticipate that these problems will be properly addressed in the careful attention it will receive during committee markup.

Covering all nonprofit organizations and ending the option to terminate coverage for State and local governments will finally end unfair and self-serving "opt outs" which could take more than $1 billion a year out of social security by 1984. In addition, by extending mandatory coverage to nonprofit organizations we will bring the 15 percent of nonprofit employers not now covered under social security into the system. These employees will begin paying FICA taxes January 1, 1984, offset by a reduced burden on employers to providing supplemental pensions and life insurance.

Altogether, provisions affecting workers and employers will account for only 31.5 percent of the financing of the package over the next 7 years.

The smallest part of the financing package comes from changes which will only affect accounts within the budget. These will account for 30.4 percent of the total financing in the package. About half of this amount is realized almost immediately so that neither outright benefit cuts or new payment tax increases will be necessary.

The largest single transfer is an immediate one-time $18 billion transfer to pay for inadequate social security tax contributions for military personnel in past years. This transfer will in no way affect the pay or benefits of military personnel.

In later years, the largest effects on other budget accounts will come from reduced tax revenues resulting from the tax deduction for the self-employed and the 1984 tax credit.

Coverage of new Federal employees, beginning in 1984, will result in some redirection of contributions from the civil service retirement fund to the social security trust funds. Under this proposal there would be no increase in contributions for new employees. In addition, the Federal Government would finance a supplemental pension plan. Net cost for the total budget are expected to remain the same or be somewhat lower depending upon the features of the supplemental plan. We fully expect that existing Federal retirement benefits for present employees to be completely retained and properly funded and that a comprehensive transition and long term legislative proposal will be developed and enacted to meet the requirements of all affected individuals.

Finally, 38.1 percent of the total financing package comes from provisions which will affect beneficiaries. All 36 million beneficiaries will receive a full cost-of-living adjustment—but will receive it in January 1984 instead of July 1983. The average beneficiary will receive an increase of about $22 per month beginning in next January. However, 2 million of the poorest social security beneficiaries will be protected from the effects of the delay. Those beneficiaries, who are receiving supplemental security income (SSI), will have their SSI benefits increased to fully compensate for and protect against the 6-month delay in the social security COLA.

The wealthiest 10 percent of the social security beneficiaries will also begin paying income taxes on half of their social security benefits. Although some refinements may be made, in general, people receiving social security benefits with additional

income in excess of $20,000 (single) or $25,000 (joint) would begin in 1984 adding half of their security benefits into taxable income. As a result of this change, the typical single elderly taxpayer affected with $30,000 in adjusted gross income and $6,000 in social security, would have their taxes increased less than 2 percent of their income between 1983 and 1984.

Even with these changes, the elderly receiving social security benefits will still pay substantially less than comparable nonelderly. For example a single nonelderly individual with a gross income of $36,000 and average itemized deductions will pay $5,780 in income taxes in 1984, compared to the elderly single social security beneficiary noted above with the same gross income and deductions who would pay—$4,751.

In short, the social security proposals contained in this bill will affect a broad range of individuals but should place an undue burden on none. Clearly, some of these proposals will need to be modified in committee in the coming months to assure the provisons work as they are intended. But, as a whole this is a fair and reasonable package. It is a package that carefully balances the concerns of workers and beneficiaries and the interests of the various groups involved. Most importantly, it is a package that meets the need to restore solvency to social security for coming decades and makes most of the changes necessary to insure its financial health for the coming 75 years.

I hope we can work responsibly to perfect the bipartisan consensus we have. I hold out for solutions incorporating a different distribution of the burden is to deny the work of months of careful consideration and balancing which have already taken place not only on the Commission, but with the leadership of the House and Senate and the President. Ultimately, there is no painless solution to social security's financing problems. But we believe the framework we are introducing today spreads the pain that there is as fairly as possible.

As guardians of the health of our most successful and most important social program, we in the Congress must act to restore public confidence in social security. I believe that this bill, with the amendments that Senator DOLE and I are cosponsoring to it, will restore social security's long-term financial integrity and will in so doing rebuild public confidence in the most basic of our public commitments. I urge my colleagues to support the bill and the amendments we introduce today as the only equitable, comprehensive, and realistic means we have before us to bring the social security retirement program back to financial health.

I thank the Senator from Kansas.

Mr. LONG. Mr. President, I wish to join in commending the distinguished chairman of the committee as well as the Democratic member and all members of the Commission for the fine work they have done.

I particularly thank the chairman and Senator MOYNIHAN for the leadership they provided on both sides of the aisle to bring the Commission together where an overwhelming majority of the Commission did bring in a unanimous recommendation.

I am confident that we will succeed in passing this measure.

Mr. President, I wish to reserve the right to offer an amendment or two if it seems to be the thing to do at the time and has good logic to recommend it.

I assure the chairman that if he thinks the measure should pass and have a vote straight up and down with no amendments, he will have my enthusiastic support because something must be done to maintain the solvency of the social security system.

The Senator from Kansas and the Senator from New York have exercised the leadership that statesmanship requires in order to advance and protect the interests of this great Nation.

I salute them and applaud them for the fine work they and the other members of the Commission have done who worked diligently to help bring this matter about.

Mr. DOLE. I thank my distinguished colleague from Louisiana. He certainly has had a lot of experience with social security over the years and knows how difficult an issue it is. We will need his valuable assistance in refining this bill, although I am not looking for major changes that might upset the fragile compromise we have.

Mr. BENTSEN. Mr. President, I am pleased to join with Senators BAKER, DOLE, MOYNIHAN, and others as an original cosponsor of S. 1, a bill designed to address the future financing of our social security program. I have not come to this decision easily. As all of us are aware, the package of recommendations fashioned by the National Commission on Social Security Reform contains some provisions that—taken individually—are difficult to support. However, uppermost in our minds must be the need to deal with the revenue shortfall in social securityi so that the solvency of the system is preserved and millions of Americans who have planned for a dignified retirement can continue to rely on the integrity of the Federal Government's commitments.

Chairman Greenspan and each of the members of the Commission should be commended for the many hours of hard work and the care with which they crafted a package designed to distribute equitably the burden of revenue increases and benefit modifications. It is a fair compromise, a just division of responsibility, and a necessary first step to insuring the long term health of the social security system.

My cosponsorship of S. 1, however, should in no way signal that I will refrain from offering suggested improvements to the basic recommendations developed by the Commission. I fully intend to insure that questions about integrating the Federal employee retirement and the social security systems are addressed. I want to see the solvency of the medicare system raised when we consider continuation of interfund borrowing. The long-term gap between revenues and obligations should be explored, and other refinements necessary to smooth the transition for nonprofit organizations, employers, and State and local jurisdictions merit thorough review. That having been said, I am pleased to note that the Commission addressed the sensitive issue of cost-of-living adjustment indexing, reallocation of tax rates among the funds, and has offered a solid recommendation about increasing the retirement credit for those who elect to stay in the work force past the age of 65. These are issues I discussed during the course of my recent reelection campaign and, in my judgment, are bold steps in the right direction.

Mr. President, I hope my colleagues in the Senate will join in the spirit of cooperation to turn away fears and doubts that have been raised about the willingness of elected officials to come to grips with a politically difficult but obviously important problem. It is the very least that 116 million workers and 26 million retirees deserve; 142 million Americans have put their trust in our judgment. And I believe S. 1 provides an equitable and responsible first step toward resolving one of the most important issues facing this Congress.

Mr. TSONGAS. Mr. President, let me commend the previous speakers for the progress that has been made on the social security issue. I for one never expected that to be resolved. I was flabbergasted that progress was made. I think it is a very good sign that people can cooperate.

I only have one question. Since the Senator from Kansas has such a reputation for reasonableness and initiative and understanding where we have to go, I cannot understand why his name is not on my list here for the ERA that we are going to talk about now. Was that a misprint?

Mr. DOLE. That was not a misprint.

I understand the Senator from Massachusetts will accept additional cosponsors at a later date.

The Senator from Kansas voted for and supported ERA in the past. I have

no intention of withdrawing that support.

We are working on some economic equity issues which I want to focus on first, not that they have priority over the ERA. Again, I certainly have no intention of changing my long-held position.

Mr. TSONGAS. Mr. President, will the Senator tell me with whom he would like a color photograph, I would be glad to arrange it.

Mr. DOLE. I had one this morning with my wife.

By Mr. CRANSTON:

S. 2. A bill to amend certain Federal laws to prohibit mandatory retirement, eliminate barriers to the employment of older workers, and provide incentives for part-time and full-time employment of such workers; to the Committee on Finance.

EMPLOYMENT OPPORTUNITIES FOR OLDER AMERICANS

Mr. CRANSTON. Mr. President, I am today introducing S. 2, the proposed Employment Opportunities for Older Americans Act of 1983, a comprehensive proposal aimed at promoting a new concept of retirement and eliminating those obstacles and disincentives that keep older Americans out of the work force. This measure is identical to the legislation I introduced as S. 3010 shortly before adjournment of the 97th Congress.

BACKGROUND

Mr. President, each year thousands of older workers are driven into forced idleness because of mandatory retirement rules and fiscal disincentives in both public and private retirement programs. Underlying these rules and policies and continuing to permeate our employment policies is the myth portraying older workers as liabilities rather than as assets, to the American workforce. Numerous recent studies and articles have documented the extent to which older workers are forced out of their jobs or discouraged from continuing to work.

Mr. President, I believe that it is imperative that we begin now to reevaluate and replace these outdated policies regarding older workers. The Federal Government has a major role to play in helping to shape a new national policy regarding older workers.

Every public opinion poll conducted in recent years has demonstrated beyond a shadow of doubt that an overwhelming percentage of older workers would like to continue in the work force beyond the normal retirement age of 65. A significant majority of these older workers indicate that they would like to have the option of part-time work. For example, a Harris poll last year of current workers between the ages of 55 to 64 found that 79 percent said they would prefer part-time work to complete retirement. Surveys of current retirees demonstrate an equally strong desire to continue to work, particularly in part-time positions.

Although economic factors, especially the double-digit inflation that has eroded the retirement income of millions of Americans, plays a role in some of these responses, the desire to continue in the labor force is consistently expressed even when an adequate retirement income is assumed. It is clear that older Americans appreciate and seek the noneconomic benefits of employment—the sense of vitality and productivity that comes from continuing as active participants in the labor force.

Despite this data relating to these desires on the part of older workers to continue working in some fashion, their labor force participation has been steadily declining. Between 1950 and 1980, the portion of those 65 or older in the labor force fell from 24 percent to 13 percent.

The cause of this continual decline of older workers clearly lies with the retirement and employment policies that discourage remaining in the work force. Not only do these policies and practices deprive many older workers of the advantage of continued employment, but they are costly for society and will be increasingly more so in the years ahead.

Demographic trends indicate that the proportion of older Americans in our population will soon be rapidly increasing. In 1980, 1 in 9, or 24 million Americans were 65 years or older, compared to 1 in 12 in 1950. This population will increase only moderately over the next 25 years, but soon after 2010 its size will grow dramatically. It is projected that by 2030, nearly 1 in 5, or almost 56 million Americans will be 65 or older.

If older workers continue to retire at the current rates, the increased costs for the social security system and the general reduction in revenues will be staggering. For each new retiree, social security average payout increases by about $4,800 and Federal income tax revenues drop by about $2,000. In addition, demographic data indicate that we will soon be entering an era when retention of older workers in the work force will be essential to our national productivity. With today's unemployment statistics at an all-time high—10 million Americans unable to find jobs—it may be difficult to envision a time when we will face a shortage of workers. Yet, all of the data indicate that the growth rate of the Nation's labor force is slowing dramatically. It is predicted that the number of 18- to 24-year-old entrants to the work force will fall by 16 percent in the next 2 decades, largely because of the drop in births during the seventies. As the number of young workers declines, the need to provide opportunities for older workers to stay in the work force will increase. Moreover, there is every indication that the new job slots that will need to be filled will be ones that are ideal for older workers. According to available employment projections, 74 percent of the increase in employment slots in the next 2 decades will be in wholesale or retail sales and in services industries—2 industries which currently employ 60 percent of all workers age 65 or older. These data also indicate expanded opportunities for part-time employment for older workers over the same period since those industries and occupations projected to have the largest increased future employment needs are frequent users of part-time employees.

Mr. President, it is clear that this Nation is going to need the skills of older workers in the labor-scarce years ahead. It is equally clear that older workers want to stay in the work force, particularly in part-time employment. And it is just as clear from the standpoint of the social security system and Federal tax revenues that the Nation would benefit substantially from their continued employment. Our task is to remove the obstacles, polices, and practices which currently drive out of the work force those older workers who want to continue working.

REEVALUATING AND REVISING RETIREMENT CONCEPTS

Mr. President, if we are going to meet the challenges that are ahead, it is imperative that we begin now to reevaluate and revise our basic attitudes toward retirement. The concept of retirement in America today is one of abrupt, total withdrawal from the labor force. One day, an individual is engaged full time as a part of the labor force; the next, he or she is forced into total retirement, complete exclusion from the workplace. The economic costs of continuing these policies will be substantial. The human and societal costs are incalculable.

Substantial evidence exists to demonstrate that forced retirement often has severe deteriorative impact upon the physical and psychological health of older individuals. Mandatory retirement policies often subject workers to sudden and sometimes strong negative reactions that affect mental attitudes, health, and, eventually in many cases, longevity. These policies detract from the quality of life for many older Americans by taking away from them the sense of fulfillment and self-sufficiency that many workers gain from productive employment. They are left with forced idleness, a loss of meaning and worth in their lives, and often insufficient resources to maintain an adequate standard of living.

It is time for our Nation to begin to foster a new perspective on retirement and older workers. I believe that the

new perspective should be premised upon a shift from the concept of an abrupt, total withdrawal from the labor force to one of gradual withdrawal where older workers are afforded the opportunity, if they choose, to reduce their work pace, shift to less demanding work roles, or participate in more flexible work schedules. In particular, part-time employment represents an appealing and practical way for older workers to remain in the work force and supplement their incomes, to fill the need for additonal workers in the labor-scarce years ahead, and, at the same time, to reduce their work pace.

Mr. President, efforts to develop new models of retirement options are already beginning as some leading corporations throughout America have begun programs that capitalize on the skills and experience of older workers and promote hiring practices and work patterns that accommodate the needs and desires of these workers.

Hearings over the past several years in both the Senate and House have documented the extent to which major American corporations such as Xerox, Polaroid, GE, Grumman Aerospace Co., Bank of America, and the Travelers Insurance Co. have begun developing innovative ways of providing employment opportunities for older workers. Travelers Insurance Co. provides an excellent example. After learning that 85 percent of its employees over 55 were interested in some kind of paid employment after retirement, the company established a retiree job bank, offering flexible work options to retirees—options include temporary work, either part or full time, from 1 day to 6 months or more; part-time permanent jobs, either 5 part days or several full days a week; and job sharing in which two or even three retirees share the same full-time job. In order to encourage retirees to work, Travelers changed its pension rules to provide that retirees can work for the company 960 hours a year, nearly half time, with no reduction in pension benefits. Travelers has found the program to benefit both the retirees and the company itself as it retains the services of experienced employees. Out of the average of 60 temporary positions available at Travelers headquarters each day, 55 of those positions are filled by retirees familiar with the work. However, these companies have expressed concern about the continuation of Government policy which hinder and impede the development of these new programs.

NEED TO REVISE GOVERNMENT POLICIES WHICH HINDER FLEXIBLE RETIREMENT POLICIES

Mr. President, a successful implementation of an older worker's employment policy and a reversal of the existing restrictive concepts of retirement depends in large part upon the voluntary acceptance and promotion by American employers of this new approach to older workers. As I noted, many of our leading corporations are beginning to propose and implement these new policies.

But this task cannot be successful unless we begin, at the Federal level, to revise those Government policies that encourage early retirement, discourage delayed retirement, and inhibit employers from developing the type of flexible work arrangements that older workers need to order to encourage them to stay in the work force.

For example, the social security system—the major retirement program for the vast majority of Americans—contains serious disincentives to continued work for older Americans. The current adjustment schedule—the basis for computing benefit levels—for early and delayed retirement is unquestionably tilted to encourage early retirement. The social security earnings limitation provision is also a major impediment to continued work. A recipient under age 70 who continues to work loses $1 in benefits for every $2 earned over the exempt amount, currently set at $6,600 a year. This is the equivalent of a 50-percent tax on that additional income. When this 50-percent tax is added to the current 6.7 percent social security payroll tax imposed upon earned incomed, to the Federal income tax of at least 12 percent on taxable income, and to possible State and local taxes, it can easily amount to a tax rate over 70 percent on earnings above the $6,600 limitation until the entire social security benefit is forfeited.

Similarly, the Federal Government sanctions mandatory retirement at age 70 by limiting the applicability of the Age Discrimination in Employment Act and provides tacit approval under the Employee Retirement Income Security Act—ERISA—of private pension plans which penalize older workers by benefit forfeiture and elimination of pension accrual benefits for continued work beyond the normal retirement age.

Mr. President, the legislation I am introducing today is aimed at revising those Federal policies that are partly responsible for reduced employment of many older Americans and substituting policies designed to enhance the employment opportunities of those older Americans who can and choose to continue to work. This measure provides a blueprint for a new Federal policy to promote employment opportunities for older Americans.

DESCRIPTION OF S. 2

Mr. President, as I indicated in my opening remarks, the legislation I am introducing today is a comprehensive proposal aimed at eliminating the obstacles and disincentives which tend to discourage employers from providing employment opportunities for older workers and discourage the older workers themselves from staying in the work force. The proposed Employment Opportunities for Older Americans Act of 1983 deals with a number of different statutes relating to these issues, and I would like to take a few moments to describe briefly the various provisions contained in this measure.

ELIMINATION OF MANDATORY RETIREMENT

Mr. President, the first step that must be taken to encourage older workers to stay in the work force is elimination of mandatory retirement.

Forcing older workers out of their jobs at some arbitrary age is an archaic, discriminatory, and unreasonable policy. It is a policy that robs society of the contributions and productivity of an increasingly important segment of our work force, and it robs these individuals of the dignity and self-sufficiency which comes from working. In 1978, we began to deal with the issue of mandatory retirement by abolishing it for Federal workers and by raising the age from 65 to 70 for most older workers. I supported the 1978 measure as an interim step toward total abolition of mandatory retirement. It is time now to finish the work we began in 1978 and to eliminate once and for all the mandatory retirement policies that force workers out of their jobs at an arbitrary age.

The bill I am introducing today would eliminate the age 70 provision as well as the two exemptions contained in the 1978 bill which denied tenured college professors and certain business executives the protection of the statute.

Mr. President, the 1978 amendments to the ADEA also directed the Department of Labor to conduct a study to determine the impact of raising the mandatory retirement age from 65 to 70 on both older and younger workers and upon employers and to determine the probable impact of total abolition of mandatory retirement. The interim report of the Department of Labor, submitted last year, estimated that raising the retirement age from 65 to 70 resulted in over 200,000 older workers being able to stay in their jobs. The report indicated that another 200,000 would continue working if mandatory retirement ages were abolished altogether.

This report also contains some very interesting data on the impact upon women, minorities, and younger workers of retaining older works in their jobs. As my colleagues may recall, in 1978, the argument was made that raising the retirement age from 65 to 70 would adversely affect employment opportunities for younger workers, women, and minorities. Those arguments were forcefully rebutted by the testimony of a number of groups, such as the National Organization for Women and the National Caucus on

the Black Aged, which pointed out that women and minority group individuals have a special interest in seeing the elimination of mandatory retirement since they often have the least resources in their retirement years and hence forced retirement often means relegating them to an existence below the poverty level.

Mr. President, in my view the Department of Labor report is particularly important because it conclusively and finally lays to rest the spurious argument that we must deny employment opportunities to older workers in order to protect other groups of workers. The report found that there was no significant job slot competition between older workers likely to continue in the work force and these other categories of workers. Specifically, the report found that the additional over 65 workers would be potential competitors for less than one-quarter of 1 percent of all full-time workers ages 16 to 24; for less than one-half of 1 percent of all full-time black workers ages 16 to 59; and for around one-tenth of 1 percent of all full-time female workers ages 16 to 59. The report also cited studies indicating that even a substantial increase in labor force participation by workers over 65—such as a 10-percent rise—would have insignificnat impact upon the employment and promotional opportunities for younger workers.

Mr. President, elimination of mandatory retirement policies will give older workers the option—I stress, the option—of continuing in the labor force rather than being forced to retire when they reach some fixed chronological age. An older worker's ability to perform a job and the desire to continue working—not his or her birthdate—should be the determinative factors in retirement decisions. Elimination of mandatory retirement at a specified age is an essential prerequisite to the development of a comprehensive policy to encourage older workers to stay in the labor force.

PENSION DISCRIMINATION

Mr. President, it is estimated that one-half of the male retirees and one-third of the female retirees between 1979 and 1982 were eligible for a private pension. Discrimination in private pension plans against older workers is among the various factors which tend to discourage older workers from continuing in the work force.

A number of private pension plans discourage continued work past a set retirement age in two ways: First, many plans provide that an employer can refuse to credit the additional work years after retirement age to an employee's pension; second, many plans provide for a total forfeiture of pension benefits if an employee continues working beyond a minimum amount in a particular industry or for a former employer.

According to a report published by the Congressional Budget Office, "Work and Retirement Options for Continued Employment of Older Workers," July 1982, 27 percent of the workers covered by private pension plans are subject to provisions that prohibit accrual of pension benefits entirely after the normal retirement age, and 22 percent are in plans that limit in some fashion pension benefit accrual after a particular age. Under these plans, if a worker continues to work after the normal retirement age, he or she gets no or reduced additional pension credits for those additional work years. In effect, the older worker is denied this fringe benefit that younger workers receive automatically. The Department of Labor estimates that elimination of this discrimination in private pension programs against older workers would keep close to 70,000 more men in the work force after normal retirement age. No estimates are currently available on the number of female workers likely to continue working if these disincentives were eliminated.

The legislation I am introducing today would deal with this problem by amending the ADEA to state clearly that it is unlawful to treat older workers differently from younger workers with respect to the accrual of pension benefits. A companion amendment would prohibit plans under ERISA from containing this type of discrimination.

Mr. President, the second type of disincentive contained in private pension plans involves provisions requiring total forfeiture if an individual continues to work for the same employer or in the same industry after he or she becomes eligible for pension benefits. Prior to 1982, a pension could be withheld for any amount of work by a pensioner. According to one estimate, there are about 66,000 pensioners between the ages of 65 to 69 who did not work because of these forfeiture of benefit rules. Current Department of Labor regulations permit some work activity by pensioners but allow all benefits to be withheld from retirees who work more than 40 hours per month in prohibited employment.

The legislation I am introducing today would prohibit an employer from withholding pension benefits so long as the pensioner did not work more than 1,000 hours per year. This is roughly twice the current allowable amount and would enable a retiree to work approximately half-time before losing his pension.

Mr. President, I want to stress here that what we are trying to achieve is increased flexibility and opportunities for older workers to stay in the work force, particularly part time. We are rapidly approaching an era when our society is going to need the skills and contributions of these older workers. These part-time employees will be able to contribute to our national productivity, continue to be taxpayers, and increase their own standard of living in old age through continued work effort.

PART-TIME EMPLOYMENT INCENTIVES

Mr. President, a major purpose of this legislation is to promote the availability of part-time employment opportunites for older workers. Older Americans have repeatedly indicated that they are desirous of these part-time employment opportunities. In addition to the provision permitting part-time work without losing pension benefits which I just described, there are several other provisions in this legislation designed to have specific impact upon part-time employment opportunities.

First, this legislation would provide for cutting in half the FICA tax—commonly known as the social security payroll tax—imposed upon both the employee and the employer for workers over age 65 with respect to wages that do not exceed one-half of the contribution and wage base established under the Social Security Act. Under current law, the employer is obligated to pay the full FICA tax for each employee, regardless of the fact that the employee may be part time. Thus, an employer faces a situation where the FICA tax on two part-time employees will exceed the tax which would have been paid to one worker performing the same job.

For the older worker, having to pay the full employee FICA tax on part-time employment creates an additional fiscal disincentive, particularly when the employee is already subjected to the equivalent of a 50-percent tax on earnings up to a certain level in excess of the social security earnings limitation. There have been proposals made to eliminate entirely FICA taxes on workers over 65. Consideration has also been given to providing for a pro rata reduction in the FICA tax. However, the administrative difficulties in applying a pro rata reduction would be enormous. Hence, the legislation I am proposing would simply cut the FICA tax in half for older workers and their employees for wages up to one-half of the applicable wage base provided under the Social Security Act.

Second, this legislation would extend the existing targeted job tax credit to low-income older workers. As I will explain in a moment, this would result primarily in the creation of part-time jobs for older workers.

The targeted job tax credit provides employers with a tax credit equal to 50 percent of the first $6,000 in wages paid in the first year to workers in certain targeted categories, and 25 percent of the first $6,000 paid in the second year of employment. Between 1979 and 1981, 800,000 workers were

benefitted under the existing targeted categories which cover persons who are economically disadvantaged and are 18- to 24-year-olds, Vietnam era veterans or former convicts as well as youths 16 to 19 in cooperative education programs, former CETA public service employment participants, vocational rehabilitation referrals and welfare assistance recipients.

The Congressional Budget Office has estimated that 1.5 million older workers between the ages of 62 and 69 and 2.6 million who are 70 years and older would be eligible under the same income standards that are applied to the other categories under the existing credit. Costs of extending the credit to low-income older workers could range between $50 million per year in reduced revenues if 2 percent of the 1.5 million used the credit to $250 million if 10 percent used the credit. However, the Congressional Budget Office estimates that this cost would be partially offset by increased social security revenues ranging from $7 million to $25 million, by increased income taxes paid by the employer, and reduced social security benefits resulting from the work effort of these new employees.

The Congressional Budget Office has also indicated that because of the combined effects of the social security earnings limitation and the $6,000 limit in the existing offset for employers, the likely effect of extending the TJJC to this group would be primarily to create jobs paying under $6,000 likely to be part-time jobs. Thus, this provision would contribute to stimulating the availability of the part-time employment opportunities that older workers have repeatedly indicated they desire.

SOCIAL SECURITY PROVISIONS

Mr. President, the current social security law discourages older workers from delaying retirement and continuing in the work force in two major ways: First, the social security earnings limitation discourages continued work effort by imposing on those under 70 the equivalent of a 50-percent tax on earned income in excess of a specified amount—currently $6,600 per year—and second, the present adjustment factors in benefit levels for early or late retirement favor those who retire before age 65 and discourage those who delay retirement past age 65.

The social security limitation earnings limitation requires that a social security recipient under age 70 lose $1 in social security benefits for every $2 in earned income over $6,600. This work disincentive is compounded by the fact that the social security benefits are not taxable while the earned income that may replace them under the earnings limitation provision is taxable. Thus, the social security recipient not only loses his or her social security benefits because of the earned income restriction, that earned income is then reduced by the applicable income tax.

In addition, it has been a continuing source of resentment that this earnings limitation applies only to earned income and not to other sources of income. Thus, the social security recipient who must work to supplement his or her social security benefit is penalized while the recipient who has income from other sources, for example, investment income, is not penalized. Although arguments can be made to justify this distinction—it encourages savings for retirement years since there is no penalty for income from such sources—the basic provision clearly discourages working.

There have been various proposals to eliminate entirely the earnings limitation or to mitigate its adverse impact by raising the exempt amount. Although I am sympathetic to the desire to abolish the earnings limitation, efforts in that direction have been unsuccessful in major part because of the large cost entailed. It has been estimated that repeal of the earnings test would increase social security program costs by $6 to $7 billion in the first year and more in future years, and that most of the added benefits would go to individuals with higher incomes. At a time when the social security trust fund is subject to so many other difficulties, it is likely that a total repeal of the earnings limitation would be perceived as neither prudent or feasible.

The legislation I am introducing today, however, deals in a different manner with one aspect of the earnings limitation problem.

It includes a proposal made by the 1981 National Commission on Social Security for the creation of a partially refundable tax credit for people 65 and older who lose social security benefits under the earnings test. The purpose of this credit is to offset the additional income tax paid by these individuals on the earned income that replaced their nontaxable social security benefits. This credit would be equal to the lowest Federal income tax rate—currently 14 percent—multiplied by a specific factor based on the age attained in the year and then applied to the amount of social security benefits withheld during the tax year. The multiple would increase with age, so as to encourage people to work longer. Under this credit, if a 66-year-old worker earned $20,000 in 1982 and has his or her full social security benefit of $6,000 withheld under the earnings limitation provision, the income tax credit he or she would be eligible for would be computed as 14 percent times 0.7 multiplied by the foregone social security benefit of $6,000. The result would be a tax credit of $588, offsetting the taxation of the earned income.

Mr. President, this proposal by the 1981 National Commission on Social Security is a creative response to the earnings limitation problem and one that would not place an additional financial drain on the already strained social security trust fund.

Mr. President, the second proposal I have incorporated in this measure dealing with the social security disincentives to delayed retirement is also derived from the recommendations of the 1981 Commission. A number of individuals and organizations have urged a change in the adjustment factors used in the social security program for delayed retirement. In order to create an incentive to delay retirement, larger increases in benefits for retirement after 65 have been urged. I was pleased to note that one of the recommendations just made by the National Commission on Social Security Reform was to increase the adjustment factor for delayed retirement.

The 1981 Commission had presented four different alternative schedules for early and delayed retirement. The legislation that I am introducing incorporates the alternative D schedule proposed by the 1981 Commission.

An important feature of this alternative is that it incorporates the concept that there is no normal retirement age. Instead, it provides a range between 62 and 72 of actuarial equivalent benefits, rather than artificially setting the 100-percent benefit at age 65. The actuarial equivalent concept is based upon the notion that a person who retires early, being younger, can be expected to receive benefits for a longer period of time and, conversely, that those who retire late need to receive higher benefits because, being older, they can expect fewer years of benefit payments.

I ask unanimous consent that a chart setting forth the four alternative schedules for benefit adjustment factors set forth in the 1981 National Commission on Social Security report be reprinted in the RECORD at this point.

There being no objection, the following chart was ordered to be printed in the RECORD, as follows:

TABLE 5–4.—BENEFIT ADJUSTMENT FACTORS FOR AGE OF RETIREMENT

Age at retirement	Percent of full benefit payable under—					
	Present law	Actuarial equivalent	Alternatives			
			A	B	C	D
62	80	79.5	80	80	78.7	78
63	86.67	87.0	86.67	86.67	86.1	85
64	93.33	93.5	93.33	93.33	92.6	92
65	100	100.0	100	100	99.0	99
66	103	107.2	107	107	106.1	106
67	106	115.1	114	115	114.0	113
68	109	124.0	121	124	122.8	122
69	112	134.0	128	134	132.7	132
70	115	145.4	135	145	144.0	143

TABLE 5–4.—BENEFIT ADJUSTMENT FACTORS FOR AGE OF RETIREMENT—Continued

Age at retirement	Percent of full benefit payable under—					
	Present law	Actuarial equivalent	Alternatives			
			A	B	C	D
71	118	158.3	142	158	156.7	156
72	121	172.9	149	173	171.2	170
Estimated long-range cost as percentage of taxable payroll		.09	.09	.11	.0	−.03

Source: "Social Security in America's Future," final report of the National Commission on Social Security, March 1981, page 135.

Mr. President, although I think that each of the four alternative schedules deserves consideration, alternative D has two advantages. First, it does not presume any particular age is the normal age for retirement, but establishes equal benefits at any age within the range of 62 to 72. Second, it would not increase the long-term costs of the social security system and, in fact, would slightly reduce the long-term deficit. Because this schedule would result in some, albeit slight, reduction in rates for persons retiring before the age of 65, I have included a delayed effective date, 1990, for those provisions because I strongly believe that we should not be proposing changes that would adversely affect, even mildly, anyone approaching retirement age without giving that person adequate opportunity to plan accordingly. In any event, these reductions would be minimal; for example, an individual retiring at the earliest possible age, 62, who would receive a $400 a month benefit under current law, 80 percent of the benefit at age 65, would receive a monthly benefit of $390 or 78 percent of the benefit at age 65 under this proposal. The schedule would provide substantial increases for those retiring after age 65. For example, a person retiring at age 68 who would receive a benefit of $545 under current law would receive $610 under this formula.

Mr. President, the proposal in this alternative D would establish an actuarially based range of retirement options with incentives toward delayed retirement to replace the current adjustment factors which discourage delayed retirement. It would not assume any normal retirement age, but would allow individuals to choose any time between the ages of 62 and 72 for retirement and receive retirement benefits of equal value to those provided at any age within this range.

This formula is neutral as to the various proposals to raise the age of retirement from 65 to 68. It assumes no normal retirement age; should the Congress adopt one of the proposals to raise the age of retirement, this adjustment range could be shifted from the current 62 to 72, to 65 to 75 or whatever range might be established. I am very sympathetic to those proposals to raise the basic retirement age gradually over a long period of time, but the proposal I am introducing today stays within the existing range for retirement benefit adjustments. It would simply equalize benefits within that range so that those individuals who delay their retirement would not be penalized as they are under the present adjustment factors.

APPRENTICESHIP PROGRAMS

Finally, Mr. President, the proposed Employment Opportunities for Older Americans Act of 1982 includes a provision appending the National Apprenticeship Act to which would prohibit age discrimination in apprenticeship programs. A great number of apprenticeship programs which recruit entrants into the skilled trades apply upper age limits for aspiring workers. These policies reflect an attitude toward the productivity and longevity of older workers that is inconsistent with the demographic changes ahead in our work force. As the demand for older workers grows and older workers look at second careers, age barriers in apprenticeship and other job training programs must be reevaluated. A worker in the year 2000 is as likely to spend as many years in the work force after his 45th birthday as before that age. In many cases, older workers will be needed to transfer them from heavy industrial jobs to lighter tasks. They will need to have access to training programs to make these transfers. Elimination of age discrimination in apprenticeship programs is one of the steps that should be taken as we attempt to reorient our attitude toward older workers.

CONCLUSION

Mr. President, I believe that this proposal represents a comprehensive approach to expanding the employment opportunities of older Americans who want to stay in the work force in some fashion after the normal retirement age. I hope that the introduction of this measure at this time will stimulate a dialog within the Congress that will contribute to a reevaluation and revision of our basic policies regarding retirement. The changes which have taken place in our society and will continue to take place in the coming decades demand that we discard our existing rigid concepts about retirement and replace them with a flexible range of options that will meet the needs of older workers, of American business, of our economy, and of our society.

Mr. President, I ask unanimous consent that the full text of the bill that I am introducing today be printed in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Employment Opportunities for Older Americans Act of 1983".

TITLE I—AMENDMENTS TO AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967

AGE LIMITATION

SEC. 101. (a)(1) Section 12(a) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631(a)) (relating to age limitations) is amended by striking out "but less than 70 years of age".

(b) Subsections (c) and (d) of section 12 of such Act (29 U.S.C. 631 (c) and (d)) are repealed.

BENEFIT ACCRUAL BEFORE MAXIMUM NORMAL RETIREMENT BENEFIT

SEC. 102. Section 4(f)(2) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623(f)(2)) (relating to prohibition of age discrimination) is amended—

(1) by striking out "and" after "hire any individual,"; and

(2) by inserting before the semicolon at the end thereof a comma and "and no employee benefit plan shall require or permit the suspension of an employee's benefit accrual or the reduction of the rate of an employee's benefit accrual because of age before accruing the maximum normal retirement benefit".

TITLE II—PENSION ACCRUALS FOR OLDER WORKERS

BENEFIT ACCRUAL BEYOND NORMAL RETIREMENT AGE

SEC. 201. (a)(1) Subsection (a) of section 204 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1054(a)) (relating to benefit accrual requirements) is amended to read as follows:

"(a) Each pension plan shall satisfy the requirements of subsection (b)(3), and—

"(1) in the case of a defined benefit plan, shall satisfy the requirements of subsection (b)(1); and

"(2) in the case of a defined contribution plan, shall satisfy the requirements of subsection (b)(2).".

(2) Section 204(b)(1) of such Act (29 U.S.C. 1054(b)(1)) is amended by adding at the end the following new subparagraph:

"(H) Notwithstanding the preceding subparagraphs, a defined benefit plan shall be treated as not satisfying the requirements of this paragraph if, under the terms of the plan, an employee's benefit accrual is suspended or the rate of an employee's benefit accrual is reduced solely because of age before accruing the maximum normal retirement benefit.".

(3) Section 204(b) of such Act (29 U.S.C. 1054(b)) is further amended—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(B) by inserting after paragraph (1) the following new paragraph:

"(2) An individual account plan satisfies the requirements of this paragraph if, under the plan, employer contributions to the employee's account are not suspended or reduced solely because of age.".

(b)(1) Section 411(b)(1) of the Internal Revenue Code of 1954 (relating to accrued benefit requirements) is amended—

(A) by striking out "GENERAL RULES.—" and inserting in lieu thereof "DEFINED BENEFIT PLANS.—"; and

(B) by adding at the end thereof the following new subparagraph:

"(H) CONTINUED ACCRUAL BEYOND NORMAL RETIREMENT AGE.—Notwithstanding the preceding subparagraphs, a defined benefit plan shall be treated as not satisfying the requirements of this paragraph if, under the terms of the plan, an employee's benefit accrual is suspended or the rate of an employee's benefit accrual is reduced solely because of age before accruing the maximum normal retirement benefit."

(2) Section 411(b) of the Internal Revenue Code of 1954 is further amended—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(B) by inserting after paragraph (1) the following new paragraph:

"(2) DEFINED CONTRIBUTION PLANS.—A defined contribution plan satisfies the requirements of this paragraph if employer contributions to the employee's account are not suspended or reduced solely because of age.".

(3) The first sentence of section 411(a) of the Internal Revenue Code of 1954 (relating to minimum vesting standards) is amended by striking out "paragraph (2) of subsection (b), and" and all that follows down through the end thereof and inserting in lieu thereof "subsection (b)(3), and also satisfies, in the case of a defined benefit plan, the requirements of subsection (b)(1) and, in the case of defined contribution plan, the requirements of subsection (b)(2)."

EMPLOYMENT BEYOND NORMAL RETIREMENT AGE

SEC. 202. (a) Section 206 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1056) (relating to form and payment of benefits) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) If—

"(1) a participant or beneficiary is receiving benefits under a pension plan, or

"(2) a participant is separated from the service and has nonforfeitable rights to benefits,

a plan may not deny, suspend, or reduce the benefits of such a participant by reason of any increase in the income of the participant due to employment of the participant by any employer for less than 1,000 hours during a calendar year.".

(b)(1) Section 203(a)(3)(D)(v) of such Act (29 U.S.C. 1053(a)(3)(D)(v)) is amended by striking out "section 206(c)" and inserting in lieu thereof "section 206(d)".

(2) Section 211(b)(1) of such Act (29 U.S.C. 1061(b)(1)) is amended by striking out "206(d)" and inserting in lieu thereof "206(e)".

EFFECTIVE DATE

SEC. 203. The amendments made by this title shall apply with respect to plan years beginning after December 31, 1984.

TITLE III—FURTHER AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1954

CREDIT FOR EMPLOYMENT OF CERTAIN NEW EMPLOYEES

SEC. 301. (a) Subsection (d) of section 51 of the Internal Revenue Code of 1954 (relating to members of targeted groups) is amended—

(1) by striking out "or" at the end of subparagraph (H);

(2) by striking out the period at the end of subparagraph (I) and inserting in lieu thereof a comma and "or";

(3) by inserting after subparagraph (H) the following new subparagraph:

"(J) low-income older worker.";

(4) by redesignating paragraphs (11), (12), (13), and (14) as paragraphs (12), (13), (14), and (15), respectively, and inserting after paragraph (10) the following new paragraph:

"(11) LOW-INCOME OLDER WORKER.—The term 'low-income older worker' means an individual certified by the designated local agency as—

"(A) at least 65 years of age, and

"(B) a member of an economically disadvantaged family (as determined under paragraph (12)).".

(b) Paragraph (3)(A)(ii), paragraph (4)(C), and paragraph (7)(A) of such Code are amended by striking out "paragraph (11)" each place it appears and inserting in lieu thereof "paragraph (12)".

(c) The amendments made by this section shall apply to amounts paid or incurred after December 31, 1984, in taxable years ending after such date.

CREDIT FOR CERTAIN OLDER WORKERS

SEC. 302. (a) Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable against tax) is amended by inserting before section 45 the following new section:

"SEC. 44H. CREDIT FOR CERTAIN OLDER WORKERS.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual who has attained 62 years of age before the close of the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the applicable percentage of the section 44H amount of such individual for such taxable year.

"(b) LIMITATION.—No credit shall be allowable under subsection (a) with respect to an individual who was eligible for an old-age insurance benefit under section 202 of the Social Security Act prior to January, 1979.

"(c) DEFINITIONS.—For purposes of this section—

"(1) APPLICABLE PERCENTAGE.—The term 'applicable percentage' means the product obtained (expressed as a percentage) by multiplying the lowest rate of tax imposed under the subsection of section 1 which is applicable to such individual for the taxable year by the following multiple:

If the age of the individual at the close of the taxable year is:	The multiple is:
62	0.3
63	.4
64	.5
65	.6
66	.7
67	.8
68	.9
69	1.0

"(2) SECTION 44H AMOUNT.—The term 'section 44H amount' means an amount equal to the amount by which old-age benefits otherwise payable to an individual under section 202 of the Social Security Act for a taxable year are reduced pursuant to section 203 of such Act for such taxable year on account of work by such individual.".

(b)(1) Subsection (b) of section 6401 of such Code (relating to excessive credits treated as overpayments) is amended—

(A) by striking out "and 43 (relating to earned income credit)," and inserting in lieu thereof "43 (relating to earned income credit), and 44H (relating to older worker credit),", and

(B) by striking out "39 and 43" and inserting in lieu thereof "39, 43, and 44H".

(2) Paragraph (2) of section 55(b) of such Code (defining regular tax) is amended by striking out "39 and 43" and inserting in lieu thereof "39, 43, and 44H".

(c) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting before the item relating to section 45 the following new item:

"Sec. 44H. Credit for certain older workers.".

(d) The amendments made by this section shall apply to taxable years beginning after December 31, 1984.

SEC. 303. REDUCTION IN EMPLOYMENT TAXES WITH RESPECT TO OLDER WORKERS.

(a)(1) Section 3101 of the Internal Revenue Code of 1954 (relating to rate of FICA tax on employees) is amended by adding at the end the following new subsection:

"(e) TAX WITH RESPECT TO OLDER WORKERS.—In the case of wages received during a calendar year by an individual who is 65 years of age or older, each rate of tax imposed by subsections (a) and (b) shall be, with respect to that portion of such wages which does not exceed one-half of the contribution and benefit base (as defined in section 230 of the Social Security Act) in effect for such calendar year, one-half of the rate otherwise applicable under such subsection.".

(2) Section 3111 of such Code (relating to rate of FICA tax on employers) is amended by adding at the end the following new subsection:

"(d) TAX WITH RESPECT TO OLDER WORKERS.—In the case of wages received during a calendar year by an individual who is 65 years of age or older, each rate of tax imposed by subsections (a) and (b) shall be, with respect to that portion of such wages which does not exceed one-half of the contribution and benefit base (as defined in section 230 of the Social Security Act) in effect for such calendar year, one-half of the rate otherwise applicable under such subsection.".

(b)(1) Section 3201 of such Code (relating to rate of Railroad Retirement Act tax on employees) is amended by adding at the end the following new subsection:

"(c)(1) In the case of compensation paid in any calendar month for services rendered by an employee who is 65 years of age or older, the rate of tax imposed on the income of such employee under subsection (a) for such month shall equal, with respect to that portion of such compensation which, when added to the compensation paid in the preceding months of the same calendar year to such employee, does not exceed one-half of the current maximum annual taxable 'wages' (as defined in section 3121), one-half of the rate of tax otherwise applicable under such subsection.

"(2) In the case of compensation paid in any calendar month for services rendered by an employee who is 65 years of age or older, the rate of tax imposed on the income of such employee under subsection (a) shall be increased—

"(A) with respect to the portion of such compensation described in paragraph (1), by each rate of tax specified in section 3101(e); and

"(B) with respect to the remainder (if any) of such income, by each rate of tax specified in subsection (b).".

(2) Section 3211 of such Code (relating to rate of Railroad Retirement Act tax on employee representatives) is amended by adding at the end the following new subsection:

"(c)(1) In the case of compensation paid in any calendar month for services rendered by an employee representative who is 65 years of age or older, the rate of tax imposed under subsection (a) shall be, with respect to the portion of such income described in section 3201(c)(1), one-half of the rate of tax otherwise imposed under such subsection.

"(2) In the case of compensation paid in any calendar quarter for services rendered by an employee representative who is 65 years of age or older, the rate of tax imposed under subsection (a) shall be increased—

"(A) with respect to the portion of such compensation described in section 3201(c)(1), by the rates of tax specified in section 3101(e) and section 3111(d); and

"(B) with respect to the remainder (if any) of such compensation, by the rates otherwise applicable under such subsection.".

(3) Section 3221 of such Code (relating to rate of Railroad Retirement Act tax on employers) is amended by adding at the end the following new subsection:

"(e)(1) In the case of compensation paid in any calendar month by an employer for any services rendered to him by an employee who is 65 years of age or older, the rate of tax imposed on such employer under subsection (a) shall be, with respect to the portion of such compensation described in section 3201(c)(1), one-half the rate of tax otherwise imposed on such employer under such subsection.

"(2) In the case of compensation paid in any calendar month by an employer for any services rendered to an employee who is 65 years of age or older, the rate of tax imposed under subsection (a) shall be increased—

"(A) with respect to the portion of such compensation described in section 3201(c)(1), by the rates of tax specified in section 3111(d); and

"(B) with respect to the remainder (if any) of such compensation, by the rates of tax specified in subsection (b).".

(c) The amendments made by this section shall apply with respect to wages received and compensation paid after December 31, 1984.

TITLE IV—AMENDMENTS TO THE SOCIAL SECURITY ACT

CHANGE IN OLD-AGE INSURANCE BENEFIT AMOUNTS ON ACCOUNT OF EARLY OR DELAYED RETIREMENT

SEC. 401. (a)(1) Section 202(q)(1)(A) of the Social Security Act (relating to reduction of benefit amounts for certain beneficiaries) is amended by striking out "⅝ of 1 percent" and inserting in lieu thereof "0.5833 percent".

(2) Section 202(q)(9) of such Act (relating to definition of retirement age) is amended to read as follows:

"(9)(A) Except as provided in subparagraph (B), for purposes of this subsection, the term 'retirement age' means age 65.

"(B) For purposes of determining the amount (if any) by which an old-age insurance benefit shall be reduced under paragraph (1), the term 'retirement age' means age 65 and 2 months.".

(b)(1) Paragraph (1) of subsection (w) of section 202 of such Act relating to increase in old-age insurance benefit amounts on account of delayed retirement is amended by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following new subparagraphs:

"(A) 0.5 percent of such amount, multiplied by the number of the increment months (if any) of such individual ending after such individual attains age 65 and before such individual attains age 66; plus

"(B) 0.5833 percent of such amount, multiplied by the number of the increment months (if any) of such individual ending after such individual attains age 66 and before such individual attains age 67; plus

"(C) 0.75 percent of such amount, multiplied by the number of increment months (if any) of such individual ending after such individual attains age 67 and before such individual attains age 68; plus

"(D) 0.8333 percent of such amount, multiplied by the number of increment months (if any) of such individual ending after such individual attains age 68 and before such individual attains age 69; plus

"(E) 0.9166 percent of such amount, multiplied by the number of increment months (if any) of such individual ending after such individual attains age 69 and before such individual attains age 70; plus

"(F) 1.0833 percent of such amount, multiplied by the number of increment months (if any) of such individual ending after such individual attains age 70 and before such individual attains age 71; plus

"(G) 1.1666 percent of such amount, multiplied by the number of increment months (if any) of such individual after such individual attains age 71 and before such individual attains age 72.".

(2) Paragraph (2) of subsection (w) of section 202 of such Act is amended to read as follows:

"(2) For purposes of this subsection, the term 'increment month' means a month with respect to which an individual—

"(A) is a fully insured individual (as defined in section 214(a)), and

"(B)(i) is not entitled to an old-age insurance benefit, or

"(ii) suffers a deduction under section 203(b) or 203(c) in an amount equal to the amount of such benefit.".

(3) Paragraph (3) of subsection (w) of section 202 of such Act is amended to read as follows:

"(3) A determination shall be made annually of the amount by which the benefits of an individual are required to be increased pursuant to paragraph (1), and such amount shall be applied to the old-age insurance benefit payable to such individual without regard to this subsection, beginning with benefits for January of the year following the year with respect to which such determination is made; except that the amounts applicable to the benefits of an individual who attains age 72 shall be determined through the month before the month in which such individual attains such age and shall be applicable to the old-age insurance benefit payable to such individual without regard to this subsection beginning with the month in which such individual attains such age.".

(d)(1) The amendments made by subsections (b) and (c) of this section shall apply with respect to increased benefit amounts payable under section 202(w) of the Social Security Act for months after December 1984.

(2) The amendments made by subsection (a) of this section shall apply with respect to reduced benefit amounts payable under section 202(q) of such Act for months after December 1990.

TITLE V—AMENDMENTS TO THE NATIONAL APPRENTICESHIP ACT

PROHIBITION OF AGE DISCRIMINATION IN APPRENTICESHIP PROGRAMS

SEC. 501. The first section of the Act of August 16, 1937 (50 Stat. 664, chapter 663; 29 U.S.C. 50), popularly known as the National Apprenticeship Act, is amended by inserting "(a)" after the section designation and by adding at the end thereof the following new subsection:

"(b) In promoting labor standards for the welfare of apprentices under subsection (a) of this section, the Secretary shall ensure that no program of apprenticeship discriminates against any individual, because of the age of such individual, in admission to, or employment in, any such program.".

By Mr. CRANSTON:

S. 3. A bill to amend title II of the Social Security Act to provide that the combined earnings of a husband and wife during the period of their marriage shall be divided equally and shared between them for benefit purposes, so as to recognize the economic contribution of each spouse to the marriage and assure that each spouse will have social security protection in his or her own right; to the Committee on Finance.

SOCIAL SECURITY EQUITY ACT OF 1983

Mr. CRANSTON. Mr. President, I am today introducing S. 3, the proposed "Social Security Equity Act of 1983", which is identical to the legislation I introduced, S. 3034, shortly before adjournment of the 97th Congress. This measure is aimed at correcting the inequitable and inadequate treatment of women under the social security system. It is similar to a proposal, H.R. 1513, introduced in the 97th Congress by Representative MARY ROSE OAKAR, who is the chair of the House of Representatives' Select Committee on Aging's Task Force on Social Security and Women and has been a tremendous leader in the effort to reform the social security system in a manner that would adequately and equitably deal with the needs of older women.

OLD AGE AND POVERTY

Mr. President, to understand the need for reform, it is important to understand the conditions of poverty and dependency which face millions of older women in our society.

It is not an overstatement to say that the problem of poverty in old age is primarily a problem for women. Seventy-two percent of the elderly in this Nation who live in poverty are women. Most of them live alone and a majority of these women—60 percent—rely upon social security as their sole source of income. In contrast, 46 percent of unmarried male social security recipients and 29 percent of married couples receive no other income. Not only are women more likely to be to-

tally dependent upon social security, their benefit levels are substantially below benefits received by men. The average social security income for all aged women in 1978 was $2,527 compared to $3,390 for men. The result is that 38 percent of unmarried women receiving social security benefits live below poverty whereas only 23 percent of the unmarried male recipients and 7 percent of couples live in poverty. One principal difference is that most elderly women—63 percent—are alone in old age. In contrast, 75 percent of elderly men live with a spouse. Thus, men are likely to live in retirement with a combined social security benefit; women are likely to live only on their own inadequate benefit.

In every category—private pensions, asset income, earnings, and social security benefits—older women have dramatically fewer resources and less income in old age than older men.

Mr. President, there are, of course, many factors which contribute to the economic hardships which face women in their retirement years. A major cause is that the social security system fails to take into account the changing roles and needs of American women.

HISTORICAL PERSPECTIVE

Mr. President, much of the problem lies in the fact that the social security system was developed in an era when the role of women in our society was far different from what it is today. In the 1930's when the social security program was created, the typical American family consisted of a man who was a full-time worker and his wife who was a full-time, lifelong homemaker. The labor force participation of married women was less than 17 percent and fewer than 1 in 12 marriages ended in divorce. The social security benefit structure was thus established on the concept of a lifelong couple with one wage earner and a dependent spouse.

The situation has dramatically changed over the past 50 years and the typical family of the thirties and forties is not the typical family of today. Women have become a major part of America's work force, enriching the world of work with their contributions and productivity, despite continuing wage discrimination and employment barriers. The percentage of married women in the work force exceeds 50 percent and it has been estimated that 90 percent of all women spend some portion of their lives in the work force, many of them moving in and out of the roles of wage earners and homemakers as the needs of their families change. It is no longer true that women are likely to be either lifelong homemakers or lifelong wage earners; these roles are combined and interchanged throughout a lifetime.

Similarly, we must recognize, like it or not, that the status of marriage has changed dramatically over the past 50 years. Today, one in three marriages ends in divorce.

Mr. President, despite these massive changes in our society, the social security system has continued to operate on the basis of a philosophy designed for an era when most women did not work and when most women were part of a lifelong marriage. Consequently, the current system works well only for that very small number of women whose family and work patterns have not changed from the thirties and forties. For the vast majority of women and families that no longer fit into that pattern, the system fails to provide either adequately or equitably for their needs.

Under the current system, a woman can receive benefits as a covered worker based upon her own earnings record or she can receive benefits as a dependent wife, widow, or ex-wife of a covered worker, but she cannot receive both benefits. If she is entitled to both a worker's benefit and a dependent spouse's benefit, she receives only the higher of the two benefits and loses the other.

A dependent spouse benefit is equal to 50 percent of the benefit of the working spouse. Because many women have gaps in their work history due to absences from the workplace for child-care responsibilities and generally have much lower earnings records, many find that their benefits as a dependent spouse are greater than the benefits they would be entitled to receive on the basis of their own work history. Thus, many married women who enter the work force and make contributions to the social security system find that their years of work and contributions make little or no difference in their benefit levels. They are no better off than if they had never worked and never paid into the social security system.

Mr. President, the inequities of the current system can be even more acute for those women who have been full-time homemakers and are displaced from that role either by divorce of the death of a spouse. After years of work as a homemaker in a marriage, a divorced woman may find herself without any work record of her own and eligible for social security benefits only as a dependent spouse. Although she may be of retirement age, she cannot receive any social security benefits unless the marriage lasted 10 years and then not until her former spouse reaches age 62 and retires. If he elects to continue working, she receives no benefits at all until he retires or dies. Even if she is able to receive a spouse benefit, it is likely to be woefully inadequate. The level of the dependent spouse benefit—50 percent of the primary benefit—was geared toward the notion of women whose marriages do not end in divorce and who will be able to rely upon a combination of their husband's 100 percent benefit and the additional 50 percent spouse benefit. The spouse benefit may well be insufficient to live on alone.

A widow is equally vulnerable under the present system. Unless she has been able to establish a sufficient social security account in her own name, she will be dependent upon the work and earnings record of her deceased spouse. However, her ultimate social security benefit will be calculated on the basis of his wage record at the time of his death, not the equivalent value of that level at the time she reaches retirement age. If she loses her husband 5 to 10 years before she reaches retirement age, his earnings records will be years out-of-date. Unable to build up sufficient credits in her own account and unable to add his credits to her account to the extent of her earnings after this death, she is likely to be left with a benefit level that condemns her to entering retirement in poverty.

The current system also discriminates against intact families with two-wage earners as contrasted with one-wage earner families. Under the benefit calculation formula, a two-earner couple is likely to receive less benefits at retirement than a one-earner couple with exactly the same lifetime earnings. Thus, one family with average monthly earnings of $1,000 and one-wage earner can ultimately receive higher benefits from social security than another family with the exact same average earnings, but with two-wage earners contributing to the total family income. This occurs because of the dependent spouse benefit and because of the formula which is used to calculate benefits. This also means that a survivior of such a two-earner family will also get less benefits than a survivor of a one-earner family.

Mr. President, it is time that we begin the task of revising the social security system to recognize and reflect the changing roles and responsibilities of both men and women in our society and provide for a more equitable recognition of their contributions to a family unit.

Marriage, insofar as economics are concerned, should be viewed as an interdependent partnership in which each spouse makes a contribution—either in the paid work force or as a homemaker or in some combination of roles—and both ought to accrue social security protection equally.

The view of female dependency which is a foundation of the present social security system belongs to a bygone era. Women today are achieving the status of equal partnership with men in every facet of our society. The social security system needs to be updated to reflect that partnership.

EARNINGS SHARING—A CONCEPT FOR TODAY'S MARRIAGE PARTNERSHIP

Mr. President, the proposal I am introducing today would incorporate the concept of "earnings sharing" into the social security system. Basically, marriage for social security purposes would be regarded as a partnership. In order to compute benefits, all of the earnings of a married couple would be combined and divided equally between the spouses upon retirement or divorce. Each member of the couple would have established for him or her an individual social security account. Earnings acquired before or after a marriage would go into this individual account along with whatever share each member acquired during marriage. The concept of dependency would be replaced by the concept of equality.

Although this is a major change from the current social security system of benefit accrual, it is a principle which is now applied in virtually every jurisdiction with respect to other assets acquired during a marriage. Upon the termination of a marriage, these other assets are generally divided equally between the husband and wife. Interests in other pension programs are now generally considered part of the assets acquired during the marriage and are considered in the division of property between the couple upon the termination of the marriage. The same would be true under the "earnings sharing" concept in the social security system.

There have, of course, been numerous proposals made to deal with the inequities and inadequacies of the current system. The "earnings sharing" concept, however, has numerous advantages. It would eliminate the current discrimination against two-wage earner families. They would no longer receive less benefits than one-earner families with identical earnings records. It would recognize the value of the contribution of a homemaker and accord her with a social security account in her own right. Upon divorce or death of a spouse, a woman could build upon the separate account created for her during her years of marriage, rather than be forced to start from scratch in establishing a social security account. Likewise, credits from earnings she receives prior to marriage will be able to be added to her account accrued during marriage. The same, of course, would be true for the husband. Women who enter and leave the work force to fill the necessary child-rearing roles would no longer be penalized by gaps in their social security coverage.

Finally, in this time when the social security system if facing major fiscal problems, the earnings sharing proposal would not generate any additional costs. I would simply divide more equally social security benefits between men and women and thereby lift the standard of living for the millions of elderly women who would otherwise be condemned to live out their retirement years in proverty.

TRANSITION PROBLEMS

Mr. President, this proposal calls for major restructuring of the social security benefit system to respond to the changing role and needs of women. Obviously, changes of this dimension and scope must be phased in over time so that individuals can make appropriate plans for their retirement years. The legislation I am introducing provides that it would not be effective with respect to any one over the age of 50 in 1985 when this proposal would become effective under the bill. Those then under 50 would begin having social security accounts established and computed under this proposal at that time. Because no one under age 50 could reach the minimum retirement age of 62 before 1997, no one under age 50 in 1985 would actually begin receiving benefits under this system until 1997 at the earliest. Different transition provisions are provided for individuals who might become eligible for social security disability benefits during this phase-in. In no case, would a person who became disabled during this period ever receive less benefits as long as that disability continued than they would be entitled to under the old system.

Transition periods often give rise to unanticipated inequities and further provisions may be needed to relieve any hardships which may occur during this period.

One major problem with a phase-in approach is that none of the benefits of the new system would be realized by the millions of elderly women now living in poverty; nor would it provide any relief for those women over 50 who are rapidly approaching retirement. There are several proposals for limited changes in the social security system designed to help pre-retirement women, and I am committed to exploring fully these limited changes to help deal with the problems of these women who will not benefit from this new proposal.

As I suggested on October 1, 1982, when I first introduced the predecessor to this bill, such interim modifications would include allowing a divorced spouse entitled to a dependent spouse benefit to elect to receive benefits when she reaches retirement age regardless of whether her former spouse elects to retire and the indexing of a deceased spouse's wage-base for the purpose of computing a widow's benefit.

I was pleased to note that the National Commission on Social Security Reform included in its recommendations both of these proposals.

Additionally, 5 of the 15 Commissioners—Robert Ball, Martha Keys, Lane Kirkland, Daniel Patrick Moynihan, and Claude Pepper—issued a supplementary statement identifying "earnings sharing as the most promising approach to the solution of social security problems of special concern to women." A sixth Commissioner—Mary Falvy Fuller—issued a separate supplementary statement addressing issues relating to women which similarly identified earnings sharing as "the most direct method of restoring the proper treatment of both spouses." I am greatly encouraged by this recognition by 40 percent of the Commissioners of the earnings sharing concept as the most fair and equitable approach to making social security responsive to the changing needs of women in our society.

Finally, Mr. President, I think it is important to stress that the earnings-sharing concept is premised upon the assumption that most married women will be in the work force for a major part of their lives. These two-wage earner families will receive benefits which fully reflect both contributions. Conversely, the one-wage earner family will receive benefits based on their actual earning records rather than that record plus a dependent spouse benefit. Hence, as part of the implementation of this proposal it will be important to apprise the public of the full effect and implications of this proposal with respect to its relationship to actual earnings. Then families will be able to plan both their work patterns and retirement expectations accordingly. At the same time, it is critical that we begin to take the steps that are essential toward reforming the system in a major way to deal with these problems so that future generations of women will be adequately and equitably treated under the social security system.

CONCLUSION

Mr. President, this is basically a relatively simple concept of equitably sharing benefits created during a marriage. The actual implementation of such a proposal will naturally entail a great number of problems and issues that must be resolved. I am convinced that the basic concept is correct and reflective of the role and needs of women in our society today and should be adopted.

Implementation of this proposal would go a long way toward resolving the current inequities in the social security system for future generations. It would also substantially improve the adequacy of social security benefits for women who will reach age 62 at the end of this century. It is elderly women who are in the greatest need of assistance from social security and the most likely to suffer from poverty in their old age under the current system.

The social security system is vital to the security and well-being of millions of Americans—current retirees and prospective retirees. We have an obligation to protect this system, to make sure that it is fiscally stable and provides benefits in an equitable and fair fashion to those who rely upon social security in their old age. I believe that this proposal moves us a major step in that direction, and I look forward to continuing to work toward that goal.

I ask unanimous consent that the text of this bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Social Security Equity Act of 1983".

SEC. 2. Title II of the Social Security Act is amended by adding at the end thereof the following new section:

"SHARING OF EARNINGS BY MARRIED COUPLES

"SEC. 234. (a)(1) For purposes of determining the eligibility of an individual and the spouse of such individual for old-age and disability benefits and the amount of such benefits to which each is or may become separately entitled, the combined earnings of such individual and such spouse shall, to the extent that such earnings are attributable to the marriage period of such individual and such spouse (as determined under paragraph (2)), be divided equally between them and shared in accordance with this section.

"(2)(A) Except as provided in subparagraph (B), for purposes of this section, the term 'marriage period' means the period—

"(i) beginning with the first day of the calendar year in which the marriage of an individual and the spouse of such individual occurs, and

"(ii) ending with the last day of the calendar year preceding the earliest calendar year in which such individual or such spouse dies, they are divorced, or one of them files application for old-age or disability insurance benefits.

"(B)(i) No marriage period shall begin for any individual and the spouse of such individual if their marriage occurs after such individual or such spouse has filed an application for old-age insurance benefits.

"(ii) No marriage period shall include a period for which such individual or such spouse is entitled to disability insurance benefits or the waiting period (as defined in section 223 (c)(2)) with respect to such benefits.

"(iii) A marriage period shall include the 'earliest calendar year' referred to in clause (ii) of subparagraph (A) for purposes of recomputations for that year under section 215 (f)(2), in any case where an individual or the spouse of such individual dies or they are divorced, unless the survivor (where one of them dies) or either of them (where they are divorced) is remarried later in the same year.

"(b)(1) Except to the extent otherwise provided in subsections (c), (d), and (e), an individual and the spouse of such individual shall each be credited for all of the purposes of this title with wages and self-employment income, for each calendar year for which either of them is credited with any wages and self-employment income without regard to this section during their marriage period, in an amount equal to—

"(A) 50 percent of the combined total of the wages and self-employment income otherwise credited to both of them for that year if (at the close of the month for which the benefit determinations involved are being made) they are both still living, or

"(B) 100 percent of such combined total, up to but not exceeding the maximum amount that may be counted for that year without exceeding the ceiling imposed for that year under section 215(e), if (at the close of such month) one of them has died.

"(2) Nothing in this section shall affect the crediting of wages and self-employment income to any individual for any calendar year not included in a marriage period of such individual; but to the extent that wages and self-employment income are credited pursuant to this section the other provisions of this title specifying the manner in which wages and self-employment income are to be credited shall (to the extent inconsistent with this section) not apply.

"(3) Except where the context requires otherwise, for purposes of this section, the term 'spouse' includes a divorced spouse, a surviving spouse, and a surviving divorced spouse.

"(c) Subsections (a) and (b) shall not apply with respect to the crediting of wages and self-employment income for any calendar year, in the case of any individual and the spouse of such individual, if—

"(1) as a result of the application of such subsections with respect to that year such individual or such spouse would cease to be a fully insured individual (as defined in section 214(a)); or

"(2) such individual or such spouse is applying for disability insurance benefits (or for the establishment of a period of disability) and as a result of the application of such subsections with respect to that year would cease to be insured for such benefits under section 223(c)(1) (or for such a period under section 216(i)(3)).

"(d) Subsection (a) and (b) shall not apply for purposes of determining the amount of the benefit payable to any individual for any month if—

"(1) the total amount of the wages and self-employment income credited to such individual for a marriage period, as determined without regard to this section, is higher than the total amount of the wages and self-employment income credited to such individual's spouse for that period, as so determined; and

"(2) such individual's spouse (taking subsections (a) and (b) into account) has not filed application for old-age or disability insurance benefits by the close of such month.

"(e) Notwithstanding any of the preceding provisions of this section—

"(1) benefits payable under subsection (d) or (h) of section 202 on the basis of the wages and self-employment income of any individual, and benefits payable under subsection (b), (c), (e), (f), or (g) of such section 202 (on the basis of such wages and self-employment income) to any person other than a spouse who has shared in our been credited with a part of such individual's earnings under subsections (a) and (b) of this section, shall be determined as though this section had not been enacted if—

"(A) the application of this section has changed such individual's primary insurance amount from what it would otherwise have been; and

"(B) the crediting of wages and self-employment income to such individual and the spouse of such individual without regard to this section would increase the amount of such benefits; and

"(2) in the application of section 203(a) (relating to maximum family benefits) with respect to benefits payable on the basis of the wages and self-employment income of any individual, where all or any part of the wages and self-employment income of such individual and the spouse of such individual was credited to them in accordance with this section, the primary insurance amount of such individual (and the crediting of such wages and self-employment income) shall be determined in accordance with this section but the benefits payable to any other person on the basis of the wages and self-employment income of such individual shall be determined without regard to this section.

"(f) Notwithstanding any other provision of this title, no wife's, husband's, widow's, or widower's insurance benefit shall be paid to any individual for any month under subsection (b), (c), (e), or (f) of section 202, and no individual shall be entitled to any such benefit, unless—

"(1) the period of such individual's marriage (to the spouse or former spouse on the basis of whose wages and self-employment income such benefit is payable) ended before the effective date of this section;

"(2) such individual is under the age of 62 (and is otherwise entitled to such benefit);

"(3) such benefit is payable without regard to age and solely by reason of such individual's having a child in his or her care; or

"(4) the application of this section to such individual is prevented by subsection (c) or (d) (or by clause (i) or (ii) of subsection (a)(2)(B)).

"(g) For purposes of subsections (a)(2) and (d), an individual's application for old-age or disability insurance benefits shall be deemed to have been filed on the first day of the first month for which (by reason of the operation of section 202(j) cr 223(b)) such individual is entitled to such benefits.".

SEC. 3. (a) Section 202(b)(1) of the Social Security Act is amended by striking out "The wife" and inserting in lieu thereof "To the extent permitted by section 234(g), the wife".

(b) Section 202(c)(1) of such Act is amended by striking out "The husband" and inserting in lieu thereof "To the extent permitted by section 234(g), the husband".

(c) Section 202(e)(1) of such Act is amended by striking out "The widow" and inserting in lieu thereof "To the extent permitted by section 234(g), the widow".

(d) Section 202(f)(1) of such Act is amended by striking out "The widower" and inserting in lieu thereof "To the extent permitted by section 234(g), the widower".

(e) Section 205(c)(5) of such Act is amended—

(1) by striking out "or" at the end of subparagraph (I);

(2) by striking out the period at the end of subparagraph (J) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new subparagraph:

"(K) to reflect any changes in the crediting of wages and self-employment income which may be necessitated by section 234.".

(f) Section 215(b) of such Act is amended by adding at the end thereof the following new paragraph:

"(5) The determination of the wages and self-employment income to be credited to an individual under this subsection shall in all cases be made after the application of section 234.".

SEC. 4. (a) Except as provided in subsection (b), the amendments made by this Act shall only apply to wages and self-employment income payable after December 31, 1984, to an individual who has not attained age 50 on or before such date, and only if—

(1) the spouse of such individual has not attained age 50 on or before such date; and

(2)(A) in the case of a benefit based upon the attainment by the wage earner of age 62, such individual and such spouse attain age 62;

(B) in the case of a benefit based upon the death of the wage earner, such death occurs after December 31, 1984 and the individual claiming such benefit attains age 62; and

(C) in the case of a benefit described in subparagraph (A) or (B) with respect to a divorced individual and spouse, the divorce occurs after December 31, 1997.

(b) In the case of a disability insurance benefit, and a widow's or widower's insurance benefit based upon disability—

(1) if an individual is entitled to such benefit before January 1, 1985, the provisions of this Act shall not apply—

(A) for the period for which such individual continues to be entitled to such benefit, and

(B) if such individual continues to be entitled to such benefit until age 62, for the period such individual is entitled to an old-age insurance benefit;

(2) if—

(A) an individual becomes entitled to such benefit after December 31, 1984, and before January 1, 1997; and

(B) the total benefits payable to all individuals on the basis of the wages and self-employment income of the individual upon whose disability such entitlement is based (determined without regard to the provisions of this Act) exceeds the total of benefits payable to all individuals on the basis of the wages and self-employment income of the individual upon whose disability such entitlement is based, and to the spouse of such individual, under the provisions of this Act;

the provisions of this Act shall not apply for the period during which the conditions of subparagraph (B) continue to be met and during which such individual (i) continues to be eligible for such benefit, or (ii) in the case of such an individual who continued to be eligible for such benefit until age 62, is entitled to an old-age insurance benefit.

By Mr. CRANSTON (for himself and Mr. RIEGLE):

S. 4. A bill to provide assistance and coordination in the provision of child-care services for children living in homes with working parents and for other purposes; to the Committee on Labor and Human Resources.

CHILD CARE ASSISTANCE ACT OF 1983

Mr. CRANSTON. Mr. President, I am today introducing S. 4, the proposed Child-Care Assistance Act of 1983.

This measure is very similar to the legislation I introduced in the 96th Congress, also numbered S. 4. This proposal arose out of the recommendations and testimony presented during an extensive series of hearings which I chaired in 1977, 1978, and 1979 while I had the privilege of serving as the chairman of the Subcommittee on Child and Human Development of the Labor and Human Resources Committee. It has been shaped by consultations over the past several years with numerous organizations and individuals concerned about the need to provide adequate, affordable child-care services to the millions of American families who need and desire such services in order for one or both parents to remain or enter the labor force. The changes in the bill I am introducing today incorporate many of the suggestions made by witnesses at our 1979 hearings. The basic framework and purpose remains the same—to increase assistance to working families in need of child-care services.

I am pleased to be joined in introducing this measure by the distinguished Senator from Michigan (Mr. RIEGLE), who served with me on the Child and Human Development Subcommittee and was an original cosponsor of S. 4 when it was first introduced in 1979. Senator RIEGLE's concern and commitment to the well-being of the children of this Nation was demonstrated repeatedly during the time we served together on the Child and Human Development Subcommittee and since then as an active member of that committee, and I look forward to continuing to work with him on this important legislation.

A companion bill is also being introduced in the House of Representatives by my good friend and colleague from California, Representative EDWARD ROYBAL, who introduced S. 4 in the House in the 96th Congress and the 97th Congress. Mr. ROYBAL has a long-standing and deep commitment to this issue, and I am delighted to be working with him as we continue our efforts to develop sound and realistic proposals to meet the growing need of American families for high quality, yet affordable, child care.

BACKGROUND

Mr. President, throughout my service in the Senate, I have been deeply involved in issues relating to child-care services for working parents. The lack of adequate child care is one of the most serious problems facing millions of families, and it serves as a major impediment to the attainment of economic security for countless numbers of women and children.

During my service as the chairman of the Child and Human Development Subcommittee, I had the opportunity to chair a series of hearings, both in Washington and in my own State of California, which focused upon the enormous and growing need for decent, affordable child-care services for the millions of young children whose parents are in the workforce.

Mr. President, it is not an exaggeration to say that what was once a major problem is rapidly approaching a major crisis. During the past 2 years under the Reagan administration, the Nation's inadequate supply of child care has deteriorated even further. Existing child-care programs have been severely hurt by budget cutbacks in programs—particularly title XX, the child-care food program, and the CETA program—which provide support to many child-care programs.

At the same time as the Federal Government has reduced funding for existing child-care programs, the number of mothers of young children entering the labor force has continued to grow.

When I first began work on S. 4 in 1977, it was estimated that 50.7 percent of the mothers of children under age 18 and 40.9 percent of the mothers of children under age 6 were in the work force. Today, those numbers have increased by almost 20 percent—to 59 percent and 50 percent, respectively. In just the last 2 years, the number of children under the age of 6 whose mothers are in the work force has risen from 7.5 million to 8.5 million—an increase of more than 13 percent.

Moreover, demographic data indicate that these increases will continue. It has been projected that by the year 1990, there will be 11.5 million children under the age of 6 and 17.2 million children between the ages of 6 and 13 whose mothers will be working. That represents an increase of almost 7 million children from the current 22 million children under age 13 with mothers in the work force.

The data also indicate a wide disparity between the number of children with working mothers and the number of available child-care slots. The Department of Health and Human Services, in reports issued in 1980 and 1981, indicated that there were some 900,000 center based and 5.2 million family day-care places available. That is roughly 6 million places for 22 million children under 13.

WHERE ARE THE CHILDREN AND WHAT IS HAPPENING TO THEM

What is happening to the rest of the children?

We do not really know. We do know from census reports that almost 20 percent of the children between the ages of 6 and 13 whose mothers are working full time "take care of themselves" after school until their parent or parents return home. That means that millions of children, many as young as 6 years of age, are left for periods up to 4 hours a day in empty homes or in schoolyards or on the streets.

The census figures are also probably on the low side since in many States leaving a child of tender years alone without adult supervision can be considered child neglect and many par-

ents are reluctant to admit they leave their children alone. The children's defense fund has estimated that as many as 6 to 7 million children under the age of 13 are probably left to fend for themselves for a large part of their day.

During the hearings on S. 4 held in the 95th and 96th Congresses, we heard parents from all over the country testify about the inadequacy of existing resources, the lengthy waiting lists, and the dismal alternatives faced by families. We heard of children being sent to live with relatives in other States because their parents could not find adequate, affordable child care. The large discrepancies between the number of available child-care places and the number of children needing care translated into the very real and moving stories told by witness after witness.

Mr. President, one has only to glance at the newspapers around the country to appreciate that the number of latch-key children continues to grow. In every community across the land, the number of children left alone appears to be increasing. A U.S. News & World Report story told of Houston officials estimates that between 40 and 60 percent of that city's schoolchildren are on their own until parents return from work; estimates by an elementary schoolteacher in Indianapolis that 80 percent of her school's children go home to empty houses; and reports by a sixth grade teacher in Maryland that 24 of her 28 students were latch-key children.

In two major cities—Detroit and Newark—fire department officials are reported to have said that one in six calls received involve children alone in a house. The chilling consequence of such statistics—the loss of young lives—has become all too frequent.

Mr. President, add to the number of latch-key children the number of children who are left in unsafe or inadequate care, the number of parents who are forced to drop out of the work force and go on welfare because they cannot find child care, and the number of children who are shuffled from program to program, and the picture becomes more and more grim.

CHILD CARE DRASTICALLY CUT

As desperate as the situation was in 1979, it has, quite obviously, grown worse in the intervening years. While the number of children needing care has continued to escalate, resources for child care have been slashed. The Social Security Act title XX program, the major source of direct financial assistance to child-care programs was reduced in fiscal year 1982 from $3.1 to $2.4 billion and the $200 million earmark for child care was eliminated. The estimates were that some 150,000 families would lose their child-care assistance under title XX as a result of the first year Reagan cuts. Those projections have been substantiated by reports from various States on how child-care programs have actually been hurt by the funding cutbacks.

The National Women's Law Center, in a report issued in April of 1982, documented some of the impact. They found, for example, that in Alabama the number of title XX subsidized day-care slots were reduced from 11,000 to 8,500. In Michigan, almost a 25-percent reduction in the number of children being served in child-care programs was reported. In Massachusetts, eligibility for title XX was lowered to include only persons with income no greater than 70 percent of the State's median income. Arkansas and Illinois were reported to have imposed new, higher fee requirements, pushing many low-income families out of the program. The children's defense fund, in a recent publication, the Child Care Handbook, reported that in West Virginia, one-third of the 300 families receiving title XX assistance at one child-care program were declared ineligible for services under new criteria. Many desperate parents in this program were reported to have asked for reductions in already minimal salaries in order to remain eligible for subsidized care.

Mr. President, the information is not yet all in, but what we do know paints a dismal picture for child care across the Nation. Reduction in Federal support has forced many States to slash support for child-care programs; in many cases, this has caused programs to raise their fees, further driving up the cost of child care—beyond the reach of many low-income families.

FEMINIZATION OF POVERTY

Mr. President, as serious as the problems are in the supply of safe, affordable child care today, there is simply no question that the need will grow in the decade ahead. There may be as many as 3 million more children under the age of 6 whose mothers will be in the work force by 1990.

It is equally important to understand that these women are entering the work force for one major reason: economic necessity. Two-thirds of the women in the work force are either sole providers or have husbands who earn less than $15,000. Their earnings play a critical role in the economic well-being of their families. For the one in six American families headed by a woman, her earnings are a matter of survival.

Mr. President, although adequate child care is a matter which ought to concern every member of our society—male and female alike—there is little question that the lack of adequate child care has a major and profound impact upon the economic well-being of millions of women and children in this country. Increasingly, our Nation has been experiencing what has been graphically described as the feminization of poverty. Although the number of families living in poverty has remained relatively constant over the past decade, the composition of those families has dramatically changed. The number of poor families headed by a male dropped from 3.2 million to 2.6 million between 1969 and 1978, while the number headed by women increased by one-third, from 1.8 million to 2.7 million. Today, families with female heads have a poverty rate six times that of male-head families, and almost one-third of all female-headed families live below the poverty line.

Lack of affordable child care is a major factor in keeping these women and their children in poverty. The U.S. Commission on Civil Rights has published two important reports focusing on the factors that limit economic opportunities for women. The first report, "Women: Still in Poverty," published in July of 1979, identified the lack of adequate child care as one of the key obstacle to women in poverty. The Commission noted:

> In the absence of safe affordable child care, women who would raise their families out of poverty must remain outside the labor force, or when compelled to work, place their children in circumstances detrimental to their wholesome growth.

The second report, published in July of 1981, "Child Care and Equal Opportunity for Women," examined in even greater detail the extent to which lack of adequate child care services restricts women, particularly in terms of employment opportunities.

Here is what this report found:

First, substantial numbers of women are prevented from taking paid work because of the unavailability or inadequacy of child care. The Commission noted that a number of studies suggest that approximately one of every five or six unemployed women is unemployed because she is unable to make satisfactory child-care arrangements.

Second, the unavailability of adequate child-care limits employment opportunities for many women—either in terms of their hours of employment or their inability to seek or accept job promotions or acquire the training necessary for advancement.

Finally, lack of child care or inadequate child care can have a detrimental effect upon job performance. A UAW representative told the Civil Rights Commission that stress was a significant factor in industrial accidents and that worry about inadequate child care was cited as the single greatest cause of stress by a number of female assembly line workers participating at a 1978 conference on occupational health and working women. One of the key reasons a number of employers have recently become interested in helping their employees find or secure adequate child-

care services is because of the recognition that lack of such care has a detrimental effect upon employee performance.

Mr. President, it is clear that the unavailability of adequate child care restricts the employment opportunities of working mothers in a variety of ways. Adequate child care must be a cornerstone of any effort to provide equal opportunities in the work force to American women. Without such assistance, attainment of economic security will remain an elusive goal for millions and millions of women and their children.

THE WIDENING GAP IN FEDERAL ASSISTANCE

Mr. President, it is important, I believe, to focus for a moment on what appears to be a widening gap in Federal assistance for child-care services between families at different ends of the income spectrum.

On the one hand, the little support which was once available to low-income families has been reduced. At the same time, Federal assistance for child-care expenses incurred by moderate and upper income families has been steadily increasing. Today, the largest source of Federal support for child-care costs—over $1 billion in 1981—was provided under the IRS child-care tax credit.

I cosponsored and supported the 1981 expansion of the child care tax credit because I shared the view that increases in the credit were long overdue. The recent changes, enacted as part of the 1981 tax bill, Public Law 97-34, increased the maximum amount of credit which could be claimed and included provisions giving more benefits to families on the lower end of the income scale. However, the measure which was approved by the Senate and which I strongly supported included provisions which would have made the credit refundable, thus allowing benefits to go to those low-income working families whose taxable income is too low to be affected by a nonrefundable tax credit. Unfortunately, however, the House conferees refused to accept the Senate refundability provisions and, as a consequence, these families continue to be excluded from the benefits of the largest source of Federal support for child care expenses.

Mr. President, in 1979, the latest year for which data are available almost 80 percent of the benefits under the child care tax credit went to families with incomes over $15,000. Although the 1982 amendments should result in a greater proportion of the credit going to lower income families, the fact remains that utilization of the Tax Code as a primary vehicle for providing Federal financial assistance in meeting child care expenses of working parents has major limitations in terms of helping those in greatest need of assistance. Even with the Senate refundability provision, the tax credit would not have adequately resolved many of the problems faced by these families. Tax adjustments the following April do little to help families with limited cash resources to meet the weekly and monthly child care fees that absorb major portions of their incomes.

And, finally, a tax credit does little to increase the supply of child care—a major problem.

Thus, although bringing about a reasonable and fair child care tax credit is an important part of an overall program to help working families meet their child care needs, it cannot be the sole source of support. We need a program to help those families who are falling through the cracks.

PURPOSES OF S. 4

Mr. President, the purpose of the proposed Child-Care Assistance Act of 1983 is to promote the availability and diversity of quality child-care services for all children and families who need such services by providing assistance to the States to expand the existing supply of child-care services, improve the quality of and coordination among child-care programs, and generally foster increased coordination of programs at the local, State, and Federal levels. Grants would be available to States, under the terms specified in the act, to carry out these activities and to make additional resources available to help families find and meet the costs of child care. The bill is also designed to provide mechanisms to facilitate an assessment of the extent of the need for child-care services throughout the Nation, both an initial assessment within the next few years and continuing assessments periodically thereafter.

Additionally, and fundamentally, the bill is aimed at strengthening the functioning of families by seeking to assure that parents are not forced by lack of available programs or financial resources to place a child in an undesirable care facility or arrangement.

SUMMARY OF S. 4, THE PROPOSED CHILD CARE ACT OF 1983

Mr. President, for the benefit of my colleagues, I will describe the provisions of our bill.

Section 1 would establish the short title of the bill as the Child-Care Assistance Act of 1983.

Section 2 would set forth the findings and purposes of the act. The findings pertain to the extent of the need for child-care services. The purposes of the act are to provide assistance to the States in improving the quality of and coordination among child-care programs and provide additional resources for child-care services; to provide mechanisms for assessing the extent of the need for child-care services in the Nation; to promote at all governmental levels coordination of child-care programs and other services for children and their families; to promote the availability and diversity of quality child-care services for all children and families who need such services; to provide assistance to families whose financial resources are insufficient to pay the full cost of necessary child-care services; and to strengthen the functioning of families by seeking to assure that parents are not forced by lack of available programs or financial resources to place a child in an undesirable care facility or arrangement.

Section 3 would direct that nothing in the act be construed to authorize any public agency or private organization or any individual associated therewith to interfere with, or to intervene in, any child-rearing decision of parents. The purpose of this legislation is to help parents who need financial or other assistance to secure the child care they want for their children—not to diminish or interfere with the rights of parents.

Section 4 would provide for State participation under the act through the submission to the Secretary of Health and Human Services of a State plan providing for the specification of a State agency to be responsible for administration and oversight of a State plan designed to meet the need for child care services within the State for pre-school children and school age children of working parents, with special attention to meeting the need for services for migrant children, handicapped children, children with limited English language proficiency, and other groups of children having special needs. The term "preschool" is used broadly to encompass children under the age of 6, including infants. Similarly, the term "handicapped" is not intended to be limited to children who have been formally classified as such but rather to focus upon the needs of children.

This State plan would provide the basic framework within each State for assessing child care needs and for developing of a plan for meeting those needs. Each State would have substantial flexibility to design the plan to meet its own particular needs within the parameters set by the act. The State agency specified under the plan would also be responsible for coordinating, to the maximum extent feasible, the provision of services under this act with other child care programs and services assisted under other State or Federal provisions of law, and with other appropriate services, including health, nutrition, and social services, available to such children under other Federal and State programs.

In response to suggestions made by several witnesses at our hearings, section 4(a)(1) has been modified to make it clear that the State agency designated to administer the program should be an agency with the capacity to

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carry out such an important function and an appropriate mission in terms of the welfare of children. Thus, section 4(a)(1) now specifies that an "appropriate" State agency be so designated.

Section 4(a)(3)(A)(i) would provide that funds be distributed within the State, in accordance with the plan developed, to child care providers that are licensed or othewise in compliance with State laws and meet the quality standards developed by the Secretary for all child care programs receiving Federal funds under this act. The original S. 4 referred only to "licensed" providers that meet the standards established under the act. Various witnesses pointed out that in some States procedures other than licensing are used to regulate child care providers. For example in certain States, registration programs are used for some family day care providers. The modification is made to clarify that programs and providers that are in compliance with applicable State laws are eligible for participation. All providers, however, would also be subject to the second requirement—section 4(a)(3)(A)(ii)—of meeting the quality standards applicable to programs funded under the act.

Section 4(a)(3)(b) would require States to distribute the funds by grant or contract to eligible child care providers and authorizes States to make such distributions, on a demonstration project basis, through alternative payment mechanisms. This limitation of alternative payment mechanisms to only demonstration projects is in response to the concerns expressed by some witnesses that some restrictions should be placed upon alternative payment mechanisms approaches until thorough evaluations of their effectiveness have been completed. At the same time, other witnesses expressed support for the notion of developing innovative types of programs that would further enhance parental choices.

Various alternative payment programs have been developed in several States. For example, in California alternative payment programs were created under the State's 1978 alternative child care legislation, commonly referred to as the AB 3059 program. Nineteen programs were established under this legislation. These programs act primarily as administrative mechanisms to pay for subsidized child care for eligible families; they do not generally provide child care directly. Payments are made either to the child care providers under a vendor program or to the parents themselves under a voucher program.

In a number of cases, the vendor/voucher program operates as part of an information and referral program. Assessment of these programs has been very favorable. Similar types of programs have also been established in Florida. The community coordinated child care for central Florida program is an example of a very effective alternative payment program. In 1979, 3,000 children were receiving assistance under this program.

However, in both California and Florida, these alternative payment programs are operated in conjunction with other services and safeguards to insure that quality child care is provided. These approaches might not be feasible in other areas, particularly where an inadequate supply of child care places exists or where adequate safeguards are not in place to protect against misuse. Thus, the new provisions limit utilization of alternative payment mechanisms to demonstration projects established under guidelines issued by the Secretary. Those guidelines should be focused upon insuring the quality of care and safeguards as well as evaluation of the effectiveness of these programs.

Section 4 contains another modification to make it clear that a State could choose, in the development of its plan for expenditure of the funds under the act, to transfer a portion of funds to an umbrella-type organization—either public or private nonprofit—to distribute funds to child care providers within a particular community. For example, a State might pass through funds to a city or county or a local nonprofit entity rather than deal directly with child-care providers.

Section 4(a)(3)(C)(i) would provide that priority for receipt of funds be given to child care providers that provide priority for services for children on the basis of child and family need, taking into account factors such as family income, family size, and the special needs of children from households with a single parent, with particular emphasis on the provision of child care services to families where lack of child care is or would be a barrier to the continuation or commencement of employment. The need of a child for continuity of care, for example, could be a factor in determining priority for services. As part of the overall focus of S. 4 upon meeting employment-related child care needs, emphasis is placed upon services to families where lack of such services would be an obstacle to continued unemployment or attainment of employment.

Section 4(a)(3)(C)(ii) would provide that priority in the distribution of funds within a State be given to child care providers that, to the maximum extent feasible, provide for an economic mix of children enrolled in the program. This provisions, coupled with a requirement in section 4(a)(5) for the establishment of a sliding fee scale, based upon the services provided and family income adjusted for family size, is designed to promote programs which encourage an economic mix as well as avoid the problems that occur presently when a family loses its assistance if a parent gets a raise or promotion. During our earlier hearings, we heard witnesses describe how parents were dropped from programs when their incomes rose slightly. A sliding fee scale which provides for an increase in family contributions as income rises is a far preferable approach.

Section 4(a)(4)(A) would give the State agency the responsibility of making sure that funds will be distributed to the maximum extent feasible, to a variety of child care providers, including but not limited to child care centers and family day care providers. In other words, parental choice should not be limited to a particular type of care. A diversity of providers is a key factor in promoting real parental choices.

Section 4(a)(4)(B) has also been modified to give a priority in the distribution of funds to community-based programs which provide meaningful opportunities for parental involvement. The issue of whether only nonprofit providers should be eligible for receipt of public funds has been a difficult issue which has often divided the child care community. On the one hand, some argue that allowing proprietary child care programs to receive funds to provide services to eligible families will invite substantial problems. On the other hand, many argue that limiting participation, for examples, only to nonprofit or public agencies, restricts parental choice.

Indeed, proprietary child care programs now are major providers of child care in this country, and excluding them from participation would substantially limit the freedom of a parent to choose the particular program that the parent feels is best for his or her child. On balance, such an exclusion would undermine the fundamental philosophy behind S. 4—that we should be assisting parents in securing child care services and increasing their choices, not limiting them to a particular program. The most effective ways of insuring that all providers—nonprofit and public as well as proprietary—provide quality care for children is to establish uniform standards applicable to all programs which seek such funds and to make reliable information about competing programs available to inquiring parents.

At the same time, I recognize the concerns expressed by those who fear that syndicated profitmaking programs may seek to dominate the program. Our modification of section 4 to provide a priority for funding of community-based programs—which could include local proprietary entities—with meaningful opportunities for parental involvement is designed to target limited funds toward those programs most likely to involve parents

actively in the actual operation of the program, while still allowing other programs the opportunity to participate.

Section 4(a)(6) would further provide that the State's plan include provisions for the establishment of procedures for data collection to show how the child care needs of the State are being met by programs assisted under the act, and the degree of unmet child care needs within the State.

Section 4(a)(7) also would specifically provide that the State plan must include a provision for the establishment or support by grant or contract to public or private nonprofit entities, of information and referral services. These provisions have been expanded to stress the fact that these programs not only help parents in locating child care, but that they also perform a host of other functions ranging from technical assistance and training services for existing child care providers to needs assessment information for potential child care providers. These provisions for information and referral programs are a particularly important part of S. 4. I am proud to say that California has been a national leader in the establishment of and support for information and referral programs. These programs have overwhelmingly demonstrated their effectiveness in dealing with a number of problems in the child care area.

Provisions are also included in sections 4(a) (8), (9), (10), and (11) to require the State plan to provide for the training of child care personnel, for the development and implementation of State licensing or regulation of child care providers, the establishment of procedures for meaningful parental involvement in State and local planning, and the monitoring and evaluation of programs and services provided under the act, and to certain assurances that funds received under the act will be used to supplement, and not supplant, existing Federal funds used for the support of child care services and related programs. For each fiscal year, the State is limited to no more than 10 percent of its funding for administration of the program.

Section 4(b) would provide, as part of the State plan requirements, for the establishment of a State advisory panel on child care. At least one-third of the members of the panel would be parents of children who are receiving or have recently received child care services of the types supported under the act. Another one-third would be representatives of different types of child care providers and professionals in the field of child development or related fields. These provisions provide greater flexibility than the original S. 4, and the representation of parents has been increased from one-fourth to one-third.

The State advisory panel would be responsible for advising the State agency on the preparation of, and policy matters arising in the administration of, the State plan, and for the review and evaluation of child care programs and services provided under the act and other provisions of law, and would be authorized to prepare and submit, through the State agency, recommendations to the Secretary. Sufficient funds would be required to be made available under the State plan for the State advisory panel to carry out its functions, to obtain the services of such professional, technical, and clerical personnel as necessary, and to pay the reasonable expenses—as determined in accordance with guidelines prescribed by the Secretary—of panel members while carrying out their duties.

Section 4(c) would provide for the Secretary to approve any State plan which meets the requirements set forth in the act, and provide that the Secretary may not disapprove any State plan, except after reasonable notice, an opportunity to correct deficiencies in the plan, and notice of an opportunity for a hearing on the grounds for the disapproval.

Section 4(d) would provide that the specified State agency be required to provide the Secretary with a concise report on an annual basis describing activities, results, and performance of the State agency in meeting the objectives of the State plan and the purposes of the act.

Section 5 relates to the national administration of the act. The Secretary would be directed to designate an identifiable administrative unit within HHS and an individual within that administrative unit to be responsible for carrying out the provisions of this act, for coordination of other activities within HHS relating to child care, and for seeking to coordinate pertinent HHS child care-related activities with those of other Federal departments and agencies. The Secretary would also be directed to make available to such unit such staff and resources as are necessary for it to carry out effectively its functions under the act.

Section 5 also would provide for the establishment of a National Advisory Panel on Child Care Needs and Services, of which not less than one-third must be parents of children who are receiving or have recently received child care services of the type supported under the act, not less than one-third must be representatives of child care providers, including representatives of different types of child care programs and professionals in the field of child development and related fields. One-third of the members serving on the National Advisory Panel would be required to be individuals who are serving on, or have served on, a State advisory panel established under the act.

The National Advisory Panel would be made responsible for reviewing Federal policies with respect to child care services and advising the Secretary with respect to the standards developed for programs receiving assistance under the act.

Section 5 further would provide that the Secretary, with the assistance of the National Advisory Panel, and not later than 12 months after the date of enactment of the act, shall prepare proposed standards to be applied to programs receiving assistance under the act. The proposed standards would cover factors having a demonstrated impact on the quality of child care, including, but not limited to, such factors as group size and composition in terms of the number of teachers and the number and ages of children, the qualifications of the child care providers, and the physical environment, parental involvement, and necessary support services—including but not limited to health, nutrition, and social services—for child care programs. These standards would be published in the Federal Register for public comment and distributed to each State advisory panel and State agency designated or established under the act.

Mr. President, extensive work has already gone into the development of standards for federally supported child care programs, and it is anticipated that the Panel would utilize these materials.

Section 6 would provide authority to the Secretary to make direct grants for or contracts with public and private organizations for the support of innovative, demonstration child care projects in such areas as night-time care, care for sick children, migrant children, handicapped children, and children with limited English language proficiency, or other special needs populations. Projects funded under this section would have to have an evaluation component, and the Secretary would be required to establish regulations to carry out these provisions.

Section 7 would provide that States receiving assistance under the act shall submit to the Secretary every 2 years a report outlining the current status of child care licensing or regulation within the State, the deficiencies, if any, in the existing licensing or regulating program, a plan by the State to expand its licensing or regulating program, and the types of assistance the State requires in order to make improvements in its licensing or regulating program. The Secretary would be authorized to make grants to States for the purpose of developing, improving, or implementing child care licensing or regulating programs. Also, the Secretary, with the assistance of the

National Advisory Panel, would be mandated to develop a Model State Licensing or Regulating of Child Care Providers Act to be used by the States as a guide to improving licensing or regulating of child care providers.

Again, in each of the provisions of word "regulation" or "regulating" has been added in recognition of the fact that some States may use other terms or systems for certain types of child care.

Section 8 would authorize the Secretary to make grants to and enter into contracts with institutions of higher education, State and local public agencies, and private organizations to provide training programs for child care providers and employees. The Secretary would also be authorized to provide technical assistance to the States in the planning, developing, and coordinating of child care services, in the developing, expanding, and implementing of State licensing of child care programs, and in developing and conducting teacher or child care provider training programs.

Section 9 would provide for an allotment of 1 percent of the total sums appropriated to be made available to Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands. The remainder of the sums appropriated would be allocated among the States based with even weight upon: First, each State's relative proportion of children living in homes where both parents are employed or seeking employment or where the child resides with only one parent and that parent is employed or seeking employment, and second, the State's relative proportion of children who reside in households having incomes which are equal to or less than one-half of the median income of the United States for families of the same size. Section 9 also provides for reallotment of any State's allotment which is not utilized.

Mr. President this section was modified to factor in those parents seeking employment as well as those actually employed so as not to penalize States facing high unemployment.

Section 10 would provide for the Secretary to make payments to each State having a plan approved under section 4 in the amount allotted under section 9, and provide that payments under the act may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

Section 11 would authorize the Secretary, after reasonable notice and opportunity for hearing, to withhold payments to any State where there has been a substantial failure to comply with any provision or any requirement set forth in the State plan of that State or of any applicable provision of the act. In the case of noncompliance by a particular program or project, further payments would be authorized to be limited to programs or projects under the State plan, or portions thereof, that are not affected by such noncompliance.

Section 12 would direct the Secretary to carry out reviews and evaluations of the programs and activities carried out under the act and conduct studies on child care needs for the purpose of providing information aimed at achieving the following purposes: Enabling the Congress and the executive branch to seek to reach agreement upon specific, realistic objectives and expectations for programs and activities under the act; assuring that programs and activities established and carried out under the act at the Federal, State, and local levels are likely to achieve progress toward such objectives and expectations; obtaining sufficient data to measure progress under the act and making those data available to the Congress and the executive branch; and enabling Congress and the executive branch to better understand the child care needs of the Nation and how best to meet those needs in a cost-effective fashion.

In carrying out these functions, the Secretary would be directed to consult with appropriate committees of the Congress and members of the executive branch to examine representative samples of actual programs, to identify or develop cost-effective programs, and to determine how the results of such reviews and evaluations can best be disseminated and utilized to achieve the purposes described. Also, the Secretary would be directed to prepare and transmit to the President and the Congress on or before March 1 every 2 years a concise report of activities and progress under the act.

Mr. President, the evaluation and oversight provisions of this bill were originally developed in close consultation with the General Accounting Office. In 1978, the Comptroller General released a report with respect to improving congressional oversight efforts. That report outlined a process for planning and carrying out congressional oversight programs. GAO staff provided great assistance to us in designing and drafting these provisions, and I am deeply appreciative of their efforts to assist us in building effective monitoring mechanisms into our legislative efforts.

Section 13 would set forth definitions of the various terms utilized in the act. A "child" is defined as any individual who has not attained the age of 15 except that with respect to eligibility for services, the definition of "child" may include a handicapped individual who has not yet attained the age of 18. A "parent" includes any natural parent, foster parent, or legal guardian with whom the child resides.

Section 14 would authorize the appropriations to carry out the provisions of the act—$200 million for fiscal year 1984 and such sums as may be necessary for each of the 4 succeeding fiscal years. Of the sums appropriated for any fiscal year, 75 percent would be earmarked for grants under section 4, relating to grants for carrying out the State plan; 5 percent for making grants under section 6, relating to demonstration projects; 5 percent for making grants under section 7, relating to licensing or regulating assistance; 5 percent for making grants or contracts under section 8(a), relating to training programs; and 10 percent for carrying out sections 5, 8(b), and 12, relating to national administration—including the reasonable expenses of the National Advisory Panel on Child Care Needs and Services—and training and technical assistance.

Section 14 also would provide that no funds would be authorized to be appropriated for any fiscal year unless funds appropriated for the preceding fiscal year to carry out part A of title V of the Economic Opportunity Act of 1964, relating to the Head Start program, are at least equal to the funds appropriated for that for fiscal year 1983—approximately $912 million.

Mr. President, the level of authorization of appropriations for the first year—$200 million—represents the amount which had been available prior to fiscal year 1982 at 100 percent Federal funding for child care services provided under title XX. It would thus represent simply a restoration of funding which was lost as a result of the Reagan administration's budget reductions. In subsequent years, appropriations would presumably be increased at reasonable rates.

Mr. President, let me stress that this bill is not designed to meet the entire need for assistance in the child care area. S. 4 would simply provide the framework for a modest and measured increase in support of those families with the greatest needs. In addition, built into the legislation are provisions for the collection of data needed to assess the extent to which additional funds are needed, and additional appropriations could be sought as this information is evaluated.

OTHER INITIATIVES

Mr. President, as we move forward in our efforts to develop a comprehensive framework for child care services along the lines envisioned in S. 4, there are certain other interim steps that can and should be taken to make child care services more readily available and affordable.

Greater incentives should be established to encourage employers to become involved in child care activities. Involvement of employers can range from actual onsite child care programs to subsidizing child care for

employees as part of a fringe benefit package. Employer-sponsored child care can become an important part of the overall child care picture. I have in the past cosponsored amendments to the Tax Code to make involvement in such activities more attractive to employers. Although employer-sponsored child-care programs have tended to develop more readily in certain areas—for example, in hospital settings where the child care needs of the staff are difficult to meet, because of hours and other demands, and tend to be limited to large employers—greater involvement of employers should be encouraged.

It is also possible that certain aspects of S. 4, for example, the provisions relating to support for information and referral programs, can and should be enacted even before the entire framework is put into place.

I have also been exploring the possibility of proposing a mechanism to help nonprofit child care programs secure loan funds to meet the necessary startup costs. In the past several years, a number of child care providers have expressed to me their deep frustration in attempting to find funds—on a temporary basis—to get their facilities ready for operation. In many cases, the programs anticipate having no difficulties meeting operating costs through parental fees and other sources of funds for ongoing programs, but are unable to get commercial banks in their communities to advance them the necessary funds for startup costs.

These and other small steps toward addressing the larger child care problems should be fully explored as we continue to work toward developing a sound and coordinated approach to child care needs.

CONCLUSION

Mr. President, I believe that the proposed Child Care Assistance Act of 1983 addresses an important—and ever-growing—need in this country for a comprehensive, coordinated approach to child care. I know that there will be some who continue to question the feasibility of proposing a comprehensive child care bill at this time of budget constraints. Yet, there is simply no question that the demand and need for child care will continue to grow. If we take steps today to design an efficient and cost-effective mechanism for meeting those needs, the ultimate savings will far outweigh the short-term expenditure.

Indeed, child care itself is both a short-term and a long-term investment in the future. Short-term expenditures may be almost immediately offset by increased tax revenues derived from parent earnings and reductions in governmental and other expenditures necessitated by the effects of lack of adequate child care arrangements. Some longer term social costs such as juvenile vandalism, delinquency, and child abuse and neglect may also be reduced by prudent and cost-effective investments in child care today.

Mr. President, I am deeply grateful to the many individuals and organizations who have provided their insights, guidance, and encouragement on the development and formulation of this legislation. I very much hope that by reintroducing S. 4 today we will be beginning again the effort to enact a meaningful child care measure, a measure so sorely needed and so long awaited. I hope that the differences that have in the past divided the supporters of child care can be resolved as we move forward toward meeting the needs of American families. I look forward to working with my colleagues and all interested individuals and organizations toward that end.

Mr. President, I ask unanimous consent that the text of S. 4 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 4

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Child-Care Act Assistance of 1983".

STATEMENT OF FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) the number of children living in homes where both parents work or where children are living with a single parent who works has increased dramatically over the last decade;

(2) the number of licensed child-care openings is far short of the number required for children in need of child-care services;

(3) existing child-care programs are frequently filled to capacity and often have long waiting lists for admission;

(4) the lack of available child-care services results in many children being left—some all day—without adequate supervision;

(5) the rise in school vandalism, juvenile alcoholism, and serious juvenile crimes has been accompanied by an increase in the number of school-age children with working parents and without resources for after-school supervision;

(6) many parents are unable to afford adequate child-care services and do not receive any financial assistance for such services through any established program;

(7) the years from birth to age six are especially important in the development of a child and the care children receive during this period is critical to the developmental process;

(8) making adequate child-care services and alternatives available for working parents and parents seeking employment or to develop employment skills promotes and strengthens the well-being of families and the national economy; and

(9) there is a lack of coordination among existing child-care programs receiving Federal and State assistance and among such programs and other programs providing services to children and their families, and an absence of a coordinated administration of child-care programs and services at the Federal level.

(b) Recognizing that the parent is and must continue to be the primary influence in the life of the child and that the parent must have ultimate responsibility for decisions on how the child will be raised, it is the purpose of this Act—

(1) to provide assistance to States in improving the quality of and coordination among child-care programs and provide additional resources for child-care services;

(2) to provide mechanisms for assessing the extent of the need for child-care services in the Nation;

(3) to promote coordination at all governmental levels of child-care programs and other services for children and their families;

(4) to promote the availability and diversity of quality child-care services for all children and families who need such services;

(5) to provide assistance to families whose financial resources are not sufficient for them to pay the full cost of necessary child-care services; and

(6) to strengthen the functioning of families by seeking to assure that parents are not forced by lack of available programs or financial resources to place a child in an unsafe, unhealthy, or otherwise undesirable care facility or arrangement.

PROTECTION OF PARENTAL RIGHTS

SEC. 3. Nothing in this Act shall be construed to authorize any public agency or private organization or any individual associated therewith to interfere with, or to intervene in, any child-rearing decision of parents.

STATE ACTIVITIES

SEC. 4. (a) Any State desiring to participate in a program authorized by this Act shall submit to the Secretary a plan, not less often than biennially, in such detail and form as the Secretary deems necessary. Each such plan shall—

(1) specify an appropriate State agency with the capacity to administer the programs and services authorized under this Act and to coordinate with other State and local agencies involved in the provision of services to children to be designated or created as the State agency, to act either directly or through arrangements with other State or local public agenices, act as the State agency responsible for the administration and oversight of the plan submitted under this subsection (hereinafter in this Act referred to as the "State agency");

(2) provide that the specified State agency will—

(A) make an assessment of child-care needs in the State and an assessment of the effectiveness of programs and services funded under this Act and other provisions of law in meeting such needs;

(B) develop a plan designed to meet the need for child-care services within the State for pre-school children and school-age children, with special attention to meeting the need for services of migrant children, handicapped children, children with limited English-language proficiency, and other groups of children having special needs;

(C) coordinate, to the maximum extent feasible, the provision of services under this Act with other child-care programs and services funded under any State or other Federal provision of law, and with other appropriate services, including social, health, mental health, and nutrition services, available to such children under other Federal and State programs; and

(D) prepare the reports required under subsection (d) of this section;

(3) provide that—

(A) funds under this Act will be distributed within the State in accordance with the plan submitted to the Secretary under this section and will be used for services provided only by child-care providers which—

(i) are licensed in the State or have applied for a renewal of such license and are determined by the State to be likely to be approved for renewal or, if not required to be licensed under applicable State law have otherwise met the requirement of State law; and

(ii) meet the standards prescribed under section 5(c);

(B) funds will be distributed to eligible child-care providers by contract or grant either directly or, as provided in the State plan, through grants or contracts to public or private non-profit agencies for distribution to eligible child-care providers within a designated geographic area, or may be distributed through alternative payment demonstration projects under such terms as the Secretary may prescribe for demonstration projects; and

(C) priority will be given to child-care providers in the State that provide assurances that—

(i) priority for services will be given to children on the basis of child and family need, taking into account such factors as family income, family size, and the special needs of children from households with a single parent, with particular emphasis on the provision of child-care services to families where lack of child care is or would be a barrier to the continuation or commencement of employment; and

(ii) each such child-care program will, to the maximum extent feasible, provide for an economic mix of children enrolled;

(4) provide that—

(A) funds will be distributed, to the maximum extent feasible, to a variety of child-care providers in each community including, but not limited to, child-care centers and family day-care providers; and

(B) priority will be given in the distribution of funds to community-based programs providing meaningful opportunities for parental involvement.

(5) provide for the establishment of sliding fee schedules based upon the services provided and family income adjusted for family size for children receiving services assisted under this Act;

(6) provide for the establishment of procedures for data collection and evaluation designed to show (in a manner not inconsistent with guidelines established by the Secretary)—

(A) how the child-care needs of the State are being met by programs funded under this Act including information as to the numbers of children being assisted, type of child care and child-care provider, numbers of programs and child-care providers, care givers, and support personnel utilized, and such other information as the Secretary considers necessary to explain how funds provided under this Act are being utilized;

(B) the degree to which child-care needs are not being met by programs funded under this Act or other programs;

(C) the extent to which the availability of child care has been increased, including, but not limited to, numbers of licensed or regulated child-care openings, the extent to which existing programs are filled, and the numbers and average time associated with waiting lists for admission to existing programs;

(D) how the purposes of the Act and the objectives of the State set forth in each State plan are being met;

(7) provide, by grant or contract to public or private nonprofit agencies, for the support or establishment of information-and-referral services to assist in identifying existing child-care services, in providing information and referral to interested parents, and in providing information and technical assistance to existing and potential child-care providers and others concerned with the availability of child care;

(8) provide, by grant or contract, for the support of training programs for child-care personnel;

(9) establish procedures for the development and implementation of State licensing or regulating of child-care providers in accordance with the criteria prescribed pursuant to section 7(a);

(10) establish procedures for meaningful parental involvement in State and local planning, monitoring, and evaluation of programs and services funded under this Act;

(11) provide assurances that funds provided under this Act will be used to supplement, and not supplant, existing Federal funds used for the support of child-care services and related programs;

(12) provide, for each fiscal year, that the State will use for administration of the State plan for such fiscal year an amount not to exceed 10 per centum of the funds distributed to such State, except that in the case of Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, the State will use an amount not to exceed 5 per centum of the funds distributed to such State, for administrative costs;

(13) provide for the establishment of a State Advisory Panel in accordance with subsection (b) of this section and specify the amount of funds to be allocated to such panel; and

(14) provide for the establishment of reasonable opportunities to be heard for any parent, child-care provider or child-care program which has been adversely affected or aggrieved by a decision of the State agency or any program funded under this Act.

(b)(1) The State Advisory Panel on Child Care established by the State shall be composed of not less than fifteen members—

(A) of which not less than one-third shall be parents of children who are receiving or have recently received child-care services of the type funded under this Act; and

(B) of which not less than one-third shall be representatives of child-care providers and care givers within the State, including representatives of different types of child care programs (such as public, private, and private non-profit programs, center-based and family day-care programs) and professionals in the field of child development.

(2) The State Advisory Panel shall—

(A) advise the State on the preparation of, and policy matters arising in the administration of, the State plan submitted under subsection (a) of this section;

(B) review and submit comments to the State agency on the State plan; and

(C) review and evaluate child-care programs and services funded under this Act and other provisions of law in the State and the progress of such programs and services in meeting the objectives of the State plan and the purposes of this Act and make recommendations, as appropriate, on the development of State standards and policies relating to child-care programs and the provision of child-care services,

and may prepare and submit, through the State agency such recommendations and evaluations together with such additional comments, as that State agency considers appropriate, to the Secretary.

(3) Each State Advisory Panel shall meet within thirty days after the beginning of each fiscal year and establish the time, place, and manner of its future meetings, except that such panel shall have not less than two public meetings each year at which the public is given an opportunity to express views concerning the administration and operation of the State plan.

(4) Each State Advisory Panel shall be authorized to obtain the services of such professional, technical, and clerical personnel and to contract for such other services as may be necessary to enable the panel to carry out is functions under this Act. Members of the State Advisory Panel, while serving on the business of the Panel, shall be reimbursed, in accordance with standards prescribed by the Secretary, for reasonable travel and subsistence, and other necessary expenses incurred by them in carrying out their duties as members of the State Advisory Panel. The Secretary shall assure that funds sufficient for the purpose of this paragraph are made available to each panel from funds available for the administration of the State plan.

(c) The Secretary shall approve and State plan, and any modification thereof, if (after approval of the first such plan) the State agency has complied with the provisions of subsection (d) of this section and if such plan complies with the provisions of subsections (a) and (b) of the section, and the Secretary shall not disapprove any State plan except after reasonable notice, an opportunity to correct deficiencies in the plan, and notice of an opportunity for a hearing.

(d) For the purpose of providing information to the Secretary and the Congress to aid in their understanding of the implementation and effectiveness of programs under this Act, the State agency specified under subsection 4(a)(1) of this Act shall prepare and submit to the Secretary not later than December 1 of each year, a concise report describing activities, results, and performance in the State in meeting the objectives of the State plan and the purposes of this Act. The report submitted under this subsection shall contain the results of the data collection, reviews, and evaluations carried out pursuant to subsections (a)(6) and (b)(2)(C) of this section.

NATIONAL ADMINISTRATION

SEC. 5. (a)(1) The Secretary shall designate an identifiable administrative unit and an individual in charge of such unit within the Department of Health and Human Services to carry out the provisions of this Act, and to seek to coordinate activities within the Department relating to child care with the pertinent activities of other Federal agencies.

(2) The Secretary shall make available to such unit such staff and resources as are necessary to enable it to carry out effectively its functions under this Act.

(b)(1) Within six months after the date of enactment of this Act, the Secretary shall establish within the Office of the Secretary a National Advisory Panel on Child Care Needs and Services which shall be composed of not less than fifteen members—

(A) of which not less than one-third shall be parents of children who are receiving or have recently received child-care services of the type funded under this Act; and

(B) of which not less than one-third shall be representatives of child-care providers, including representatives of different types of child-care programs (such as public, private, and private nonprofit programs center-based and family day-care programs) and professionals in the field of child development and related fields,

and not less than one-third of the members serving on the National Advisory Panel shall be individuals who are serving on, or have served on, a State Advisory Panel established by a State under section 4(b).

(2) The National Advisory Panel shall review Federal policies with respect to child-care services and make recommendations to and advise the Secretary with respect to the standards developed by the Secretary pursuant to subsection (c) of this section and may submit to the President and to the Congress such comments as it considers appropriate with respect to the reports of the Secretary submitted under Section 12 of this Act.

(3) The Secretary shall make available to the National Advisory Panel such personnel and technical assistance as are necessary to carry out effectively its functions under this section.

(4) Members of the National Advisory Panel who are not regular full-time employees of the United States shall, while attending meetings and conferences of the National Advisory Panel or otherwise engaged in the business of the National Advisory Panel, be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service for GS-18 in section 5332 of title 5, United States Code, including traveltime; and, while so serving on the business of the National Advisory Panel away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(c)(1) With the assistance of the National Advisory Panel, and not later than twelve months after the date of the enactment of this Act, the Secretary shall prepare and develop proposed standards to be applied to programs funded under this Act. The standards developed pursuant to this subsection shall cover factors having a demonstrated impact on the quality of child care including, but not limited to—

(A) group size and composition in terms of the number of teachers and the number and age of children;

(B) the qualifications of the child-care provider;

(C) the physical environment;

(D) parental involvement; and

(E) necessary support services including but not limited to health, nutrition, and social services.

(2) After distribution for comment to each State panel and State agency designated or established under section 4(a)(1) the Secretary shall publish the proposed standards in the Federal Register.

(3) After taking into consideration any comments received by the Secretary with respect to the regulations proposed under paragraph (1) of subsection (c) of this section, but in no event later than one hundred and twenty days after the Secretary publishes proposed standards under paragraph (2) of this subsection, the Secretary shall publish in the Federal Register final standards to be applied to programs funded under this Act.

(4) Until such time as the final standards have been adopted, programs funded under this Act shall comply with the requirements imposed upon child-care programs funded through payments made under title XX of the Social Security Act.

DEMONSTRATION PROJECTS

SEC. 6. (a) The Secretary is authorized to make grants to and enter into contracts with public agencies and private organizations to support innovative, demonstration child-care projects, including projects providing nighttime care, care for sick children, migrant children, children with limited English-language proficiency, handicapped children, or other special needs populations. No grant may be made under this subsection unless adequate funds are included in such grant to evaluate and report to the Secretary on the effectiveness of the approach of the program in meeting the child-care needs of the families being served.

(b) No grant may be made under this section unless an application is made to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary determines necessary. The Secretary shall prescribe regulations to carry out the provisions of this section.

LICENSING IMPROVEMENT GRANTS

SEC. 7. (a) Each State receiving funds under this Act shall prepare a report to be submitted to the Secretary outlining the current status of child-care licensing or regulation within the State, deficiencies, if any, in the existing licensing or regulating program (including an assessment of the adequacy of staff to carry out effectively the State program), the plan of the State for expanding its licensing program to cover all types of child-care providers (except where children are being cared for in their own homes, by a relative, or on a less than full-time basis in a noncommercial, neighborhood setting, such as a cooperative play group or occasional childcare arrangements), and the types and amounts of assistance the State requires to make improvements in its licensing or regulating program. Each such State shall submit its report under this subsection not later than twelve months after it first receives a payment under section 10. The report submitted under this subsection shall include, separately, information with respect to center based programs and family day care programs.

(b) The Secretary is authorized to make grants to States submitting a report under subsection (a) of this section for the purpose of developing, improving, or implementing its childcare licensing or regulating program. No grant may be made under this section unless the State submits an application to the Secretary therefor at such time, in such manner, and containing or accompanied by such information as the Secretary considers necessary.

(c) With the assistance of the National Advisory Panel on Child Care Needs and Services and with the cooperation of the National Conference of Uniform Commissioners of State Law the Secretary shall develop a Model State Licensing or Regulating of Child Care Providers Act to be used by the States as a guide to improving licensing or regulating of child-care providers.

TRAINING AND TECHNICAL ASSISTANCE

SEC. 8. (a)(1) The Secretary is authorized to make grants to and enter into contracts with institutions of higher education, State and local public agencies, and private organizations to provide preservice and inservice training to teachers, other care givers, and administrative personnel involved in child-care programs, to recruit and train low-income parents for childcare positions, to provide specialized training in early childhood education for certified elementary school teachers who are unemployed, to train information and referral workers, to train persons providing service to handicapped children, migrant children, and children with limited English-language proficiency, and to develop and improve teacher certification criteria for child-care programs.

(2) The Secretary is authorized to provide technical assistance to States in planning, developing, and coordinating child-care services, in developing, expanding, and implementing of State licensing or regulating of child-care programs, and in developing and conducting of teacher or child-care-provider training programs with special attention to the factors described in paragraph (1) of this subsection.

(b) No grant may be made under this section unless an application is made to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary considers necessary.

ALLOTMENTS

SEC. 9. (a) From the sums appropriated pursuant to section 14(a) for each fiscal year, the Secretary shall allot not more than one per centum among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands according to their respective needs.

(b) From the reminder of such sums, the Secretary shall allot—

(1) to each State the amount which bears the same ratio to 50 per centum of such remainder as the number of children living in homes in which—

(A) both parents of such child are employed or seeking employment; or

(B) the child resides with only one parent and that parent is employed or seeking employment,

in such State bears to the number of such children in all States; and

(2) to each State an amount which bears the same ratio to 50 per centum of such remainder as the number of children who reside in households having incomes which are equal to or less than one-half of the median income of the United States for families of the same size, as determined in accordance with criteria established by the Secretary, in such State bears to the number of such children in all States.

For the purpose of this subsection, the term "State" does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(c) The Secretary shall obtain from the appropriate departments and agencies of the United States the most recent satisfactory data available in order to determine the allocation provided for in subsection (b) of this section.

(d) That portion of any State's allotment under subsection (b) of this section for a fiscal year which the Secretary determines will not be required for the period such allotment is available shall be available for reallotment from time to time on such date during such period as the Secretary may fix to other States in proportion to the original allotment of such States under subsection (b) for such year, but with such proportionate amount for any of such other States

being reduced to the extent it exceeds the sum the Secretary estimates will be needed in such State and will be used for such period for carrying out State plans approved under this Act, and the total of such reduction shall be similarly realloted among the States whose proportionate amounts are not so reduced. Any amount realloted to a State under this subsection during a year shall be deemed part of its allotment under subsection (b) of this section for such year.

PAYMENTS

SEC. 10. (a) From the amounts allotted to each State under section 9 of this Act, the Secretary shall make a grant to each State having a plan approved by him under section 4 of this Act in an amount equal to the total sums to be expended by the State under the plan for the fiscal year for which the grant is to be made.

(b) Payments under this Act may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

WITHHOLDING OF GRANTS

SEC. 11. Whenever the Secretary after reasonable notice and opportunity for a hearing to any State, finds—

(1) that there has been a failure to comply substantially with any provision or any requirements set forth in the State plan of that State approved under section 4; or

(2) that in the operation of any program or project funded under this Act there is a failure to comply substantially with any applicable provision of this Act,

the Secretary shall notify such State of the findings and that no further payments may be made to such State under this Act (or, in the case of non-compliance by a particular program or project, that further payments to the State will be limited to programs or projects under the State plan or portions thereof, not affected by such non-compliance) until the Secretary is satisfied that there is no longer any such failure to comply, or that the noncompliance will be promptly corrected.

REVIEW AND EVALUATION

SEC. 12. (a) The Secretary shall make reviews and evaluations of the programs and activities funded under this Act (to be conducted by persons not directly or indirectly involved in administration of the programs or activities to be reviewed or evaluated), and conduct studies of child-care needs for the purpose of providing information aimed at—

(1) enabling the Congress and the executive branch to seek to reach agreement upon specific, realistic objectives and expectations of achievement for programs and activities funded under this Act;

(2) determining whether the programs and activities established and carried out under this Act at the Federal, State, and local levels will be likely to achieve progress toward such objectives and expectations;

(3) assuring that sufficient data necessary to ascertain such progress is collected and made available to the Congress and the executive branch; and

(4) improving the capability of the Congress and the executive branch to understand child-care needs in the Nation and how best to meet such needs in a cost-effective fashion.

(b) In carrying out reviews, evaluations, and studies under this section, the Secretary shall—

(1) ascertain the specific objectives and expectations for achievement regarding programs and activities carried out under this Act of appropriate managers and policymakers in the executive branch and of appropriate committees of the Congress;

(2) examine a representative sample of the actual operation and results of such programs and activities at the Federal, State, and local levels;

(3) compare the objectives and expectations for achievement with the actual operation and results of programs and activities, including comparisons of the objectives of State plans with the actual operation and results under such plans and an assessment of the effects of increased availability of child care (including changes in the incidence of child abuse, school vandalism, and juvenile delinquency, and other relevant effects such as changes in health status, school attendance, and school performance);

(4) identify or develop programs and activities, or parts of programs and activities, that are able, or are likely to be able, to achieve in a cost-effective fashion progress toward such objectives and expectations; and

(5) determine how the results of such reviews, evaluations, and studies can best be disseminated and utilzied to achieve the purposes described in subsection (a) of this section.

(c) The Secretary shall prepare and transmit to the President and the Congress on or before March 1 of 1986 and every two years thereafter a concise report containing—

(1) a statement of specific, realistic objectives and expected progress toward such objectives over the next two years for the programs and activities funded under this Act, and a statement relating such objectives and expected progress to the purposes of this Act;

(2) the results of all comparisons made under subsection (b)(3) of this section, including comparisons necessary for judging the effectiveness with which State plans, and the objectives of such plans, are carried out at the State and local levels;

(3) the results of efforts under subsection (b)(4) of this section, including options or recommendations (or both) with respect to any legislative action deemed necessary or desirable for achieving the purposes set forth in subsection (a) of this section; and

(4) plans for reviews, evaluations, and studies under this section for the ensuing year, including a statement detailing the programs and activities (or parts thereof) funded under this Act to be the subject of such activities.

(d) The Secretary shall prepare and transmit to the President and the Congress not later than four years after the date of the enactment of this Act a report on child-care needs in the Nation. Such report shall include, but not be limited to, a summary of the results of data collection under sections 4(a)(6)(A), 4(a)(6)(B), and 4(b)(2)(C) of this Act and any studies of child-care needs conducted by the Secretary under this section, a summary of other relevant research on child-care needs, and an analysis of options for more fully meeting such needs including options for legislative action.

(e) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall, until the expiration of three years after the completion of a program, project, or activity authorized or assisted under this Act, have access for the purpose of audit and examination of any books, documents, papers, and records of recipients which in the opinion of the Secretary or the Comptroller General may be related or pertinent to grants or contracts authorized to be made under this Act.

DEFINITIONS

SEC. 13. As used in this Act—

(1) "child" means any individual who has not attained the age of fifteen except that with respect to eligibility for services, the definition of a "child" may include a handicapped individual who has not yet attained the age of eighteen;

(2) "parent" includes any natural parent, foster parent, or legal guardian with whom the child resides;

(3) "Secretary" means the Secretary of Health and Human Services; and

(4) "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

AUTHORIZATION OF APPROPRIATIONS

SEC. 14. (a) Except as provided in subsection (b) of this section, there are authorized to be appropriated $200,000,000 for fiscal year 1984, and such sums as may be necessary for each of the four succeeding fiscal years for carrying out the provisions of this Act. Of the sums so appropriated for any fiscal year, 75 per centum shall be used for making grants under section 4, relating to grants for carrying out the State plan; 5 per centum shall be used for making grants under section 6, relating to demonstration projects; 5 per centum shall be used for making grants under section 7, relating to licensing assistance; 5 per centum shall be used for making grants or contracts under section 8(a), relating to training programs; and 10 per centum shall be used for carrying out the provisions of sections 5, 8(b), and 12 relating to national administration (including the reasonable expenses of the National Advisory Panel on Child Care Needs and Services) and training and technical assistance.

(b) No funds are authorized to be appropriated for any fiscal year unless funds appropriated for the preceding fiscal year to carry out part A of title V of the Economic Opportunity Act of 1964, relating to Project Head Start, are at least equal to the funds appropriated for such part for the fiscal year 1983.

Mr. RIEGLE. Mr. President, I am very pleased to be joining my good friend from California, Mr. CRANSTON, in the introduction of comprehensive Federal child care legislation, S. 4. Senator CRANSTON has long been a leader in the Senate in the development of legislative initiatives on behalf of our Nation's children. In the 96th Congress, I was pleased to serve on the Subcommittee for Child and Human Development of the Labor and Human Resources Committee under Senator CRANSTON's chairmanship. Subcommittee hearings held by Senator CRANSTON focused on the critical need for quality child care services for millions of American children whose parents were in the work force, searching for work or involved in job training programs. Testimony offered by parents and child care providers from across the Nation provided ample documentation that the overwhelming

need of American families for affordable child care was not being met. S. 4 was developed to begin to address the many problems and concerns expressed by troubled parents and child development specialists. I was pleased to cosponsor S. 4 then in the 96th Congress and I am grateful that Senator CRANSTON has chosen to reintroduce this important bill. The supply of adequate child care has eroded since Senator CRANSTON first offered this legislative proposal. The Federal Government has a responsibility to assist working parents in the placement of their children in quality care facilities.

In the last 2 years, Reagan administration policies have exacerbated the child care problems of many American families by reducing Federal support for child care services—funding that was already clearly inadequate to meet the growing need for services. The Social Security Act title XX program, the major source of financial assitance for child care was reduced in fiscal year 1982 from $3.1 to $2.4 billion and the $200 million earmarked for child care was eliminated. Early reports on the impact of these cuts on child care in States across the Nation indicate that in many cases the consequences have been devastating. My own State of Michigan, faced with an economic crisis of enormous proportions has been forced to severely curtail child care services as a result of the withdrawal of Federal support. Title XX reductions have resulted in an estimated 25-percent reduction in the number of children served, and the number may be much higher.

We must begin to assume leadership and responsibility for assuring that our Nation's children are adequately cared for while their parants do what is economically necessary for their family's livelihood—work, search for work, or train for work. I urge my colleagues to join me in support for this important measure.

By Mr. CRANSTON:

S. 5. A bill to designate certain public lands in the State of California as wilderness, and for other purposes; to the Committee on Energy and Natural Resources.

CALIFORNIA WILDERNESS ACT OF 1983

Mr. CRANSTON. Mr. President, I introduce for appropriate reference the California Wilderness Act of 1983. This legislation is nearly identical to S. 1584 which I sponsored in the 97th Congress. The only difference is the additional designation of the Tuolumne River Canyon Wilderness comprising some 18,200 acres in the Stanislaus National Forest.

Specifically, this bill designates some 3.5 million acres in California as wilderness—2.1 million acres of national forest land and 1.4 million acres of national parkland. For national forests, the bill designates 54 separate wilderness areas and wilderness additions ranging from the lush forests of the Trinity Alps to the endangered California condor habitat in the Dick Smith area of the Los Padres Forest and the Nation's highest desert mountains in the Boundary Peak area. Under the legislation, 4 additional areas, involving another 162,000 acres, are classified as wilderness study or planning areas, subject to further wilderness evaluation. For the national parks, the legislation adds the 253-acre Crocker Ridge area and 7,000 acres of Sierra National Forest lands to Yosemite National Park, completing watershed protection along the park's southern boundary. It also adds 12,000 acres of highly scenic Sequoia National Forest lands to Sequoia-Kings Canyon National Park, rounding out the park for better management. The bill also establishes two park wilderness areas—a 677,600-acre Yosemite Wilderness and an 825,823-acre Sequoia-Kings Canyon Wilderness Area.

There is an urgent need for Congress to act on the Forest Service's RARE II proposals for California. The ninth circuit court has now upheld the finding of the U.S. district court in the case of the State of California against Bergland that the environmental impact statement on RARE II is not sufficient, potentially subjecting the EIS to challenges in other States. The State of California, conservationists, and many of us here in the Senate and the House, object to legislation declaring the EIS sufficient—overturning the lawsuit—in the absence of congressional action on the California wilderness legislation. Thus, the ninth circuit court ruling makes it imperative that Congress address the California wilderness situation right away.

Additionally, the Forest Service and commercial interests in California need to know what the final wilderness boundaries will be before planned developments can proceed. Many worthwhile projects are being held up because of the failure of Congress to enact comprehensive California wilderness legislation. In dealing with wilderness statewide, this bill assures that development of important known deposits of minerals like the cobalt and nickel around the North Fork of the Smith River will not be hampered by wilderness designation or further wilderness study. It facilitates the construction of needed hydroelectric power projects in the Sierra Nevada Mountains and power transmission lines through potential wilderness lands. The bill also excludes from wilderness potential ski development areas in California on national forest lands. It permits the expansion of existing ski areas like Mount Baldy and the relocation and development of others like Mount Shasta.

By including sufficiency language and resolving the California lawsuit on RARE II, the bill frees up some 590,000 acres of national forest roadless lands with 86 million board feet of annual potential yield currently under injunction for timber harvesting. This resolution of the California RARE II lawsuit should help the Forest Service to identify the land base on which to plan timber sales in the future, relief long sought by the California timber industry.

The bill provides that RARE II lands in California not designated as wilderness, or remaining in further planning upon enactment of the bill, need not have their wilderness potential reevaluated until second generation forest management plans are prepared, and in no case prior to the date established by law for the completion of first generation plans. And until the initial plans are revised these released areas would not have to be managed to protect their suitability as wilderness. However, I believe that wilderness should not be ruled out as a management option when the forest management plans are revised. Thus, the bill provides that should the lands still be roadless at that time wilderness would be considered as an alternative along with timbering and other multiple uses as called for under the National Forest Management Act.

Mr. President, this California wilderness bill embodies many compromises. A wide variety of uses of national forest lands were considered and competing environmental and commerical interests have been carefully balanced. Many of the roadless areas released to nonwilderness under this legislation are important to California conservationists. At the same time, some timbered lands with high-wilderness values are protected for all time as part of the National Wilderness System. I am convinced that the legislation as now drafted is fair and evenhandedly addresses the needs of all parties in the State.

Nonetheless I anticipate that there will be requests for amendments to the bill and that modifications will be made both in the Senate committee and in conference. Most importantly, it's my hope that this 98th Congress will settle the RARE II issues in my State and enact omnibus California wilderness legislation. Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 5

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "California Wilderness Act of 1983".

DESIGNATION OF WILDERNESS

SEC. 2. (a) In furtherance of the purposes of the Wilderness Act, the following lands, as generally depicted on maps, appropriately referenced, dated July 1980 (except as otherwise dated) are hereby designated as wilderness, and therefore, as components of the National Wilderness Preservation System—

(1) certain lands in the Inyo National Forest, California, which comprise approximately forty-nine thousand nine hundred acres, as generally depicted on a map entitled "Boundary Peak Wilderness—Proposed", and which shall be known as the Boundary Peak Wilderness;

(2) certain lands in the Cleveland National Forest, California, which comprise approximately five thousand nine hundred acres, as generally depicted on a map entitled "Caliente Wilderness Proposal" dated July 1980, and which shall be known as the Caliente Wilderness;

(3) certain lands in the Eldorado National Forest, California, which comprise approximately fourteen thousand acres, as generally depicted on a map entitled "Caples Creek Wilderness—Proposed", dated November 1980, and which shall be known as the Caples Creek Wilderness;

(4) certain lands in the Lassen National Forest, California, which comprise approximately one thousand eight hundred acres, as generally depicted on a map entitled "Caribou Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be a part of the Caribou Wilderness as designated by Public Law 88-577;

(5) certain lands in the Stanislaus and Toiyabe National Forests, California, which comprise approximately one hundred ninety thousand acres, as generally depicted on a map entitled "Carson-Iceberg Wilderness—Proposed", and which shall be known as the Carson-Iceberg Wilderness: *Provided, however,* That the designation of the Carson-Iceberg Wilderness shall not preclude continued motorized access to those previously existing facilities which are directly related to permitted livestock grazing activities in the Wolf Creek Drainage on the Toiyabe National Forest in the same manner and degree in which such access was occurring as of the date of enactment of this Act;

(6) certain lands in the Shasta Trinity National Forest, California, which comprise approximately seven thousand three hundred acres, as generally depicted on a map entitled "Castle Crags Wilderness—Proposed", and which shall be known as the Castle Crags Wilderness;

(7) certain lands in the Shasta Trinity National Forest, California, which comprise approximately eight thousand two hundred acres, as generally depicted on a map entitled "Chancelulla Wilderness—Proposed", and which shall be known as Chancelulla Wilderness;

(8) certain lands in the Lassen National Forest, California, which comprise approximately fifteen thousand five hundred acres, as generally depicted on a map entitled "Cinder Buttes Wilderness—Proposed", and which shall be known as the Cinder Buttes Wilderness;

(9) certain lands in the Angeles National Forest, California, which comprise approximately four thousand four hundred acres, as generally depicted on a map entitled "Cucamonga Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be a part of the Cucamonga Wilderness as designated by Public Law 88-577;

(10) certain lands in the Inyo National Forest, California, which comprise approximately seven thousand six hundred acres, as generally depicted on a map entitled "Deep Wells Wilderness—Proposed", and which shall be known as the Deep Wells Wilderness;

(11) certain lands in the Los Padres National Forest, which comprise approximately sixty-seven thousand acres, as generally depicted on a map entitled "Dick Smith Wilderness—Proposed", dated October, 1979, and which shall be known as Dick Smith Wilderness: *Provided,* That the Act of March 21, 1968 (82 Stat. 51), which established the San Rafael Wilderness is hereby amended to transfer four hundred and thirty acres of the San Rafael Wilderness to the Dick Smith Wilderness and establish a line one hundred feet north of the centerline of the Buckhorn Fire Road as the southeasterly boundary of the San Rafael Wilderness, as depicted on a map entitled "Dick Smith Wilderness—Proposed", and wherever said Buckhorn Fire Road passes between the San Rafael and Dick Smith Wildernesses and elsewhere at the discretion of the Forest Service, it shall be closed to all motorized vehicles except those used by the Forest Service for administrative purposes;

(12) certain lands in the Sierra National Forest, California, which comprise approximately thirty thousand acres, as generally depicted on a map entitled "Dinkey Lakes Wilderness—Proposed", and which shall be known as the Dinkey Lakes Wilderness: *Provided,* That within the Dinkey Lakes Wilderness the Secretary of Agriculture shall permit nonmotorized dispersed recreation to continue at a level not less than the level of use which occurred during calendar year 1979;

(13) certain lands in the Sequoia National Forest, California, which comprise approximately thirty-one thousand acres, as generally depicted on a map entitled "Domeland Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be part of the Domeland Wilderness as designated by Public Law 88-577;

(14) certain lands in the Stanislaus National Forest, California, which comprise approximately six thousand one hundred acres, as generally depicted on a map entitled "Emigrant Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be a part of the Emigrant Wilderness as designated by Public Law 93-632;

(15) certain lands in the Inyo National Forest, California, which comprise approximately forty-six thousand four hundred acres, as generally depicted on a map entitled "Excelsior Wilderness—Proposed", and which shall be known as the Excelsior Wilderness;

(16) certain lands in the Angeles National Forest, California, which comprise approximately thirty-two thousand nine hundred acres, as generally depicted on a map entitled "Fish Canyon Wilderness—Proposed", and which shall be known as the Fish Canyon Wilderness;

(17) certain lands in the Tahoe National Forest, California, which comprise approximately twenty-five thousand acres, as generally depicted on a map entitled "Granite Chief Wilderness—Proposed", and which shall be known as the Granite Chief Wilderness;

(18) certain lands in the San Bernardino National Forest, California, which comprise approximately ten thousand six hundred acres, as generally depicted on a map entitled "Granite Peak Wilderness—Proposed", and which shall be known as the Granite Peak Wilderness;

(19) certain lands in the Cleveland National Forest, California, which comprise approximately eight thousand acres, as generally depicted on a map entitled "Hauser Wilderness Proposal" dated July 1980, and which shall be known as the Hauser Wilderness;

(20) certain lands in Toiyabe National Forest, California, which comprise approximately forty-nine thousand two hundred acres, as generally depicted on a map entitled "Hoover Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be a part of the Hoover Wilderness as designated by Public Law 88-577;

(21) certain lands in and adjacent to the Lassen National Forest, California, which comprise approximately forty-one thousand eight hundred and forty acres as shown on a map entitled "Ishi Wilderness—Proposed", and which shall be known as the Ishi Wilderness;

(22) certain lands in the Inyo National Forest, California, which comprise approximately nine thousand acres, as generally depicted on a map entitled "John Muir Wilderness Additions, Inyo National Forest—Proposed", and which are hereby incorporated in, and which shall be deemed to be a part of the John Muir Wilderness as designated by Public Law 88-577;

(23) certain lands in the Sierra National Forest, California, which comprise approximately eighty-one thousand acres, as generally depicted on a map entitled "John Muir Wilderness Additions, Sierra National Forest—Proposed", dated November 1980, and which are hereby incorporated in, and which shall be deemed to be a part of the John Muir Wilderness as designated by Public Law 88-577: *Provided,* That the Secretary of Agriculture is authorized to modify the boundaries of the John Muir Wilderness Additions and the Dinkey Lakes Wilderness as designated by this Act in the event he determines that portions of the existing primitive road between the two wilderness areas should be relocated for environmental protection or other reasons. Any relocated wilderness boundary shall be placed no more than three hundred feet from the centerline of any new primitive roadway and shall become effective upon publication of a notice of such relocation in the Federal Register: *Provided further,* That the nonwilderness jeep corridor between Spanish Lake and Chain Lakes which is surrounded by the John Muir Wilderness Additions as designated by this Act shall be open to the public only for one week each year between July 15 and August 15 and one week between September 15 and October 15;

(24) certain lands in the Lassen National Forest, California, which comprise approximately three thousand nine hundred acres, as generally depicted on a map entitled "Lassen Volcanic Wilderness Additions—Proposed", and which are hereby incorporated in, and shall be deemed to be a part of the Lassen Volcanic Wilderness as designated by Public Law 92-510;

(25) certain lands in the Klamath National Forest, California, which comprise approximately thirty-eight thousand acres, as generally depicted on a map entitled "Marble Mountain Wilderness Additions—

Proposed", and which are hereby incorporated in, and shall be deemed to be a part of the Marble Mountain Wilderness as designated by Public Law 88-577;

(26) certain lands in the Sierra and Inyo National Forest, California, which comprise approximately nine thousand acres, as generally depicted on a map entitled "Minarets Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be a part of the Minarets Wilderness as designated by Public Law 88-577;

(27) certain lands in the Eldorado, Stanislaus, and Toiyabe National Forests, California, which comprise approximately sixty thousand acres, as generally depicted on a map entitled "Mokelumne Wilderness Additions—Proposed", dated November 1980, and which are hereby incorporated in, and which shall be deemed to be a part of the Mokelumne Wilderness as designated by Public Law 88-577;

(28) certain lands in the Sierra and Sequoia National Forests, California, which comprise approximately forty-five thousand acres, as generally depicted on a map entitled "Monarch Wilderness—Proposed", and which shall be known as the Monarch Wilderness;

(29) certain lands in the Shasta Trinity National Forest, California, which comprise approximately thirty-seven thousand acres, as generally depicted on a map entitled "Mt. Shasta Wilderness—Proposed", and which shall be known as Mt. Shasta Wilderness;

(30) certain lands in the Six Rivers National Forest, California, which comprise approximately eight thousand one hundred acres, as generally depicted on a map entitled "North Fork Wilderness—Proposed", and which shall be known as the North Fork Wilderness;

(31) certain lands in the Shasta Trinity National Forest, California, which comprise approximately twenty-eight thousand acres, as generally depicted on a map entitled "Pattison Wilderness—Proposed", and which shall be known as the Pattison Wilderness;

(32) certain lands in the Cleveland National Forest, California, which comprise approximately thirteen thousand one hundred acres, as generally depicted on a map entitled "Pine Creek Wilderness—Proposed", and which shall be known as the Pine Creek Wilderness;

(33) certain lands in the San Bernardino National Forest, California, which comprise approximately seventeen thousand acres, as generally depicted on a map entitled "Pyramid Peak Wilderness—Proposed", and which shall be known as the Pyramid Peak Wilderness;

(34) certain lands in the Klamath and Rogue River National Forests, California, which comprise approximately twenty-five thousand three hundred acres, as generally depicted on a map entitled "Red Buttes Wilderness—Proposed", and which shall be known as the Red Buttes Wilderness;

(35) certain lands in the Klamath National Forest, California, which comprise approximately twelve thousand acres, as generally depicted on a map entitled "Russian Peak Wilderness—Proposed", and which shall be known as the Russian Peak Wilderness;

(36) certain lands in the San Bernardino National Forest, California, which comprise approximately twenty-one thousand five hundred acres, as generally depicted on a map entitled "San Gorgonio Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be a part of the San Gorgonio Wilderness as designated by Public Law 88-577;

(37) certain lands in the San Bernardino National Forest, California, which comprise approximately ten thousand nine hundred acres, as generally depicted on a map entitled "San Jacinto Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be a part of the San Jacinto Wilderness as designated by Public Law 88-577: *Provided however,* That the Secretary of Agriculture may pursuant to an application filed prior to January 1, 1983, grant a right-of-way for, and authorize construction of, a transmission line or lines within the area depicted as "potential powerline corridor" on the map entitled "San Jacinto Wilderness Additions—Proposed": *Provided further,* That if a power transmission line is constructed within such corridor, the corridor shall cease to be a part of the San Jacinto Wilderness and the Secretary of Agriculture shall publish notice thereof in the Federal Register;

(38) certain lands in the Sierra and Inyo National Forests and the Devils Postpile National Monument, California, which comprise approximately one hundred and ten thousand acres, as generally depicted on a map entitled "San Joaquin Wilderness—Proposed", and which shall be known as San Joaquin Wilderness: *Provided however,* That nothing in this Act shall be construed to prejudice, alter, or affect in any way, any rights or claims of right to the diversion and use of waters from the North Fork of the San Joaquin River, or in any way to interfere with the construction, maintenance, repair, or operation of the Jackass-Chiquito hydroelectric power project (or the Granite Creek-Jackass alternative project) as proposed by the Upper San Joaquin River Water and Power Authority: *Provided further,* That the designation of the San Joaquin Wilderness shall not preclude continued motorized access to those previously existing facilities which are directly related to permitted livestock grazing activities nor operation and maintenance of the existing cabin located in the vicinity of the Heitz Meadow Guard Station within the San Joaquin Wilderness, in the same manner and degree in which such access and operation and maintenance of such cabin were occurring as of the date of enactment of this Act;

(39) certain lands in the Cleveland National Forest, California, which comprise approximately thirty-nine thousand five hundred and forty acres, as generally depicted on a map entitled "San Mateo Canyon Wilderness—Proposed", and which shall be known as the San Mateo Canyon Wilderness;

(40) certain lands in the Los Padres National Forest, California, which comprise approximately two thousand acres, as generally depicted on a map entitled "San Rafael Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be a part of the San Rafael Wilderness as designated by Public Law 90-271;

(41) certain lands in the San Bernardino National Forest, California, which comprise approximately twenty thousand one hundred and sixty acres, as generally depicted on a map entitled "Santa Rosa Wilderness—Proposed", and which shall be known as the Santa Rosa Wilderness;

(42) certain lands in and adjacent to the Sequoia National Forest, California, which comprise approximately forty-eight thousand acres, as generally depicted on a map entitled "Scodies Wilderness—Proposed", and which shall be known as the Scodies Wilderness;

(43) certain lands in the Angeles and San Bernardino National Forests, California, which comprise approximately forty-four thousand acres, as generally depicted on a map entitled "Sheep Mountain Wilderness—Proposed", and which shall be known as Sheep Mountain Wilderness;

(44) certain lands in the Cleveland National Forest, California, which comprise approximately five thousand two hundred acres, as generally depicted on a map entitled "Sill Hill Wilderness Proposal" dated July 1980, and which shall be known as the Sill Hill Wilderness;

(45) certain lands in the Six Rivers, Klamath, and Siskiyou National Forests, California, which comprise approximately one hundred and one thousand acres, as generally depicted on a map entitled "Siskiyou Wilderness—Proposed", and which shall be known as the Siskiyou Wilderness;

(46) certain lands in the Mendocino National Forest, California, which comprise approximately thirty-seven thousand acres, as generally depicted on a map entitled "Snow Mountain Wilderness—Proposed", and which shall be known as Snow Mountain Wilderness;

(47) certain lands in the Sequoia and Inyo National Forests, California, which comprise approximately seventy-seven thousand acres, as generally depicted on a map entitled "South Sierra Wilderness—Proposed", and which shall be known as the South Sierra Wilderness;

(48) certain lands in the Modoc National Forest, California, which comprise approximately one thousand nine hundred and forty acres, as generally depicted on a map entitled "South Warner Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be a part of the South Warner Wilderness as designated by Public Law 88-577;

(49) certain lands in the Lassen National Forest, California, which comprise approximately seven thousand acres, as generally depicted on a map entitled "Thousand Lakes Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be a part of the Thousand Lakes Wilderness as designated by Public Law 88-577;

(50) certain lands in and adjacent to the Lassen National Forest, California, which comprise approximately twenty-two thousand acres, as generally depicted on a map entitled "Timbered Crater Wilderness—Proposed", and which shall be known as the Timbered Crater Wilderness;

(51) certain lands in and adjacent to the Klamath, Shasta Trinity and Six Rivers National Forests, California, which comprise approximately five hundred thousand acres, as generally depicted on a map entitled "Trinity Alps Wilderness—Proposed", and which shall be known as the Trinity Alps Wilderness;

(52) certain lands in the Stanislaus National Forest, California, which comprise approximately eighteen thousand two hundred acres, as generally depicted on a map entitled "Toulumne River Canyon Wilderness—Proposed", and shall be known as the Toulumne River Canyon Wilderness.

(53) certain lands in the Los Padres National Forest, California, which comprise approximately two thousand seven hundred and fifty acres, as generally depicted on a map entitled "Ventana Wilderness Addi-

tion—Proposed", and which are hereby incorporated in, and which shall be deemed to be a part of the Ventana Wilderness as designated by Public Laws 91-58 and 95-237; and

(54) certain lands in and adjacent to the Six Rivers and Mendocino National Forests, California, which comprise approximately forty-six thousand acres, as generally depicted on a map entitled "Yolla-Bolly Middle Eel Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be a part of the Yolla-Bolly Middle Eel Wilderness as designated by Public Law 88-577.

(b) The previous classifications of the High Sierra Primitive Area, Emigrant Basin Primitive Area, and the Salmon-Trinity Alps Primitive Area are hereby abolished.

MONACHE WILDERNESS STUDY AREA

SEC. 3. (a) In furtherance of the purposes of the Wilderness Act, the following lands shall be reviewed by the Secretary of Agriculture as to their suitability for preservation as wilderness. The Secretary shall submit his report and findings to the President, and the President shall submit his recommendation to the United States House of Representatives and the United States Senate no later than three years from the date of enactment of this Act:

(1) certain lands in the Sequoia National Forest, California, which comprise approximately forty-two thousand acres, as generally depicted on a map entitled "Monache Wilderness Study Area", dated July 1980, and which shall be known as the Monache Wilderness Study Area.

(b) Subject to valid existing rights, the wilderness study area designated by this section shall, until Congress determines otherwise, be administered by the Secretary of Agriculture so as to maintain their presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System: *Provided*, That within the Monache Wilderness Study Area the level of use existing during the year ending June 30, 1980, shall be permitted to continue.

ADMINISTRATION OF WILDERNESS AREAS

SEC. 4. (a) Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary concerned in accordance with the provisions of the Wilderness Act: *Provided*, That any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

(b) Within the National Forest wilderness areas designated by this Act—

(1) as provided in subsection 4(d)(4)(2) of the Wilderness Act, the grazing of livestock, where established prior to the date of enactment of this Act, shall be permitted to continue subject to such reasonable regulations, policies and practices as the Secretary deems necessary, as long as such regulations, policies and practices fully conform with and implement the intent of Congress regarding grazing in such areas as such intent is expressed in the Wilderness Act and this Act;

(2) as provided in subsection 4(d)(1) of the Wilderness Act, the Secretary concerned may take such measures as are necessary in the control of fire, insects, and diseases, subject to such conditions as he deems desirable; and

(3) as provided in section 4(b) of the Wilderness Act, the Secretary concerned shall administer such areas so as to preserve their wilderness character and to devote them to the public purposes of recreational, scenic, scientific, educational, conservation, and historical use.

(c) Within sixty days of the date of enactment of this Act, the Secretary of Agriculture shall enter into negotiations to acquire by exchange or otherwise (on a willing-buyer-willing-seller basis and at the landowner's option) all or part of any privately owned lands within the Trinity Alps, Granite Chief, Castle Crags, and Mount Shasta Wilderness areas as designated by this Act. Such acquisition shall to the maximum extent practicable, be completed within three years after the date of enactment of this Act. Market and exchange values shall be determined without reference to any restrictions on access or use which arise out of designation as a wilderness area.

FILING OF MAPS AND DESCRIPTIONS

SEC. 5. As soon as practicable after enactment of this Act, a map and a legal description on each wilderness area shall be filed with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and each such map and description shall have the same force and effect as if included in this Act: *Provided*, That correction of clerical and typographical errors in each such legal description and map may be made. Each such map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

ADDITIONS TO NATIONAL PARK SYSTEM

SEC. 6. (a) The following lands are hereby added to the National Park System:

(1) certain lands in the Sierra National Forest, California, which comprise approximately seven thousand acres, as generally depicted on a map entitled "Mt. Raymond Addition, Yosemite National Park—Proposed", dated July 1980, and which are hereby incorporated in, and which shall be deemed to be a part of Yosemite National Park;

(2) certain lands in the Sequoia National Forest, California, which comprise approximately twelve thousand acres, as generally depicted on a map entitled "Jennie Lakes Additions, Kings Canyon National Park—Proposed", dated July 1980, and which are hereby incorporated in, and which shall be deemed a part of Kings Canyon National Park.

(b) Upon enactment of this Act, the Secretary of Agriculture shall transfer the lands described in subsection (a) of this section, without consideration, to the administrative jurisdiction of the Secretary of the Interior for administration as part of the national park system. The boundaries of the national forests and national parks shall be adjusted accordingly. The areas added to the national park system by this section shall be administered in accordance with the provisions of law generally applicable to units of the national park system.

(c) The Secretary of the Interior shall study the lands added to the national park system by subsection (a) of this section for possible designation as national park wilderness, and shall report to the Congress his recommendations as to the suitability or nonsuitability of the designation of such lands as wilderness by not later than three years after the effective date of this Act.

(d) The Secretary of Agriculture is authorized and directed to transfer to the jurisdiction of the Secretary of the Interior for administration as a part of the Yosemite National Park, two hundred and fifty-three acres of the Stanislaus National Forest at Crocker Ridge, identified as all that land lying easterly of a line beginning at the existing park boundary and running three hundred feet west of and parallel to the center line of the park road designated as State Highway 120, also known as the New Big Oak Flat Road, within section 34, township 1 south, range 19 east, and within sections 4, 9, and 10, township 2 south, range 19 east, Mount Diablo base and meridian. The boundary of Yosemite National Park and the Stanislaus National Forest shall be adjusted accordingly.

The Secretary of the Interior is authorized and directed to transfer to the jurisdiction of the Secretary of Agriculture one hundred and sixty acres within the boundary of the Sierra National Forest identified as the northwest quarter of section 16, township 5 south, range 22 east, Mount Diablo base meridian, subject to the right of the Secretary of the Interior to the use of the water thereon for park purposes, including the right of access to facilities necessary for the transportation of water to the park.

NATIONAL PARK WILDERNESS

SEC. 7. The following lands are hereby designated as wilderness in accordance with section 3(c) of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1132(c)) and shall be administered by the Secretary of the Interior in accordance with the applicable provisions of the Wilderness Act:

(1) Yosemite National Park Wilderness, comprising approximately six hundred and seventy-seven thousand six hundred acres, and potential wilderness additions comprising approximately three thousand five hundred and fifty acres, as generally depicted on a map entitled "Wilderness Plan, Yosemite National Park, California" numbered 104-20, 003-E dated July 1980, and shall be known as the Yosemite Wilderness;

(2) Sequoia and Kings Canyon National Parks Wilderness, comprising approximately eight hundred and twenty-five thousand eight hundred and twenty-three acres; and potential wilderness additions comprising approximately one hundred acres, as generally depicted on a map entitled "Wilderness Plan—Sequoia-Kings Canyon National Parks—California", numbered 102-20, 003-F and dated August 1981, and shall be known as the Sequoia-Kings Canyon Wilderness.

MAP AND DESCRIPTION

SEC. 8. A map and description of the boundaries of the areas designated in section 7 of this Act shall be on file and available for public inspection in the Office of the Director of the National Park Service, Department of the Interior, and in the Office of the Superintendent of each area designated in section 7. As soon as practicable after this Act takes effect, maps of the wilderness areas and descriptions of their boundaries shall be filed with the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, and such maps and description shall have the same force and effect as if included in this Act: *Provided*, That correction of clerical and typographical errors in such maps and descriptions may be made.

CESSATION OF CERTAIN USES

SEC. 9. Any lands (in section 7 of this Act) which represent potential wilderness additions upon publication in the Federal Regis-

ter of a notice by the Secretary of the Interior that all uses thereon prohibited by the Wilderness Act have ceased, shall thereby be designated wilderness. Lands designated as potential wilderness additions shall be managed by the Secretary insofar as practicable as wilderness until such time as said lands are designated as wilderness.

ADMINISTRATION

SEC. 10. The areas designated by section 7 of this Act as wilderness shall be administered by the Secretary of the Interior in accordance with the applicable provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act, and where appropriate, any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary of the Interior.

SIX RIVERS PLANNING AREAS

SEC. 11. (a) The following planning areas shall be reviewed by the Secretary of Agriculture as to their suitability or nonsuitability for preservation as wilderness. The Secretary shall submit his report and findings to the President, and the President shall submit his recommendations to the United States House of Representatives and the United States Senate no later than three years from the date of enactment of this Act:

(1) certain lands in the Six Rivers and Klamath National Forests, California, which comprise approximately sixty thousand acres, as generally depicted on a map entitled "Eightmile and Blue Creek Planning Areas", dated July 1980; and

(2) certain lands in the Six Rivers National Forest, California, which comprise approximately thirty thousand acres, as generally depicted on a map entitled "Orleans Mountain Planning Area", dated July 1980: *Provided*, That within the area shown on such map as the "Ski Study Area" the Secretary shall conduct a special study as to the suitability or nonsuitability of the area for location of an alpine ski facility. In conducting such ski study the Secretary shall consider the need for an alpine ski facility in the region, climatological factors, the feasibility and location of possible road access to any ski facility and the impact of ski development on other multiple uses.

(b) Subject to valid existing rights, the planning areas designated by this section shall, until Congress determines otherwise, be administered by the Secretary of Agriculture so as to maintain their presently existing wilderness character.

(c) Until Congress determines otherwise, timber volumes within the planning areas designated by this section shall be included in the base used to determine potential yield for the national forest concerned.

(d) Notwithstanding any existing or future administrative designation or recommendation, mineral prospecting, exploration, development, or mining of cobalt and associated minerals undertaken under the United States mining laws within the North Fork Smith roadless area (RARE II, 5-707, Six Rivers National Forest, California) shall be subject to only such Federal laws and regulations as are generally applicable to national forest lands designated as nonwilderness.

WILDERNESS REVIEW CONCERNS

SEC. 12. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II);

(2) the Congress has made its own review and examination of national forest roadless areas in California and of the environmental impacts associated with alternative allocations of such areas.

(b) on the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to national forest lands in States other than California, such statement shall not be subject to judicial review with respect to national forest system lands in the State of California;

(2) upon enactment of this Act, the injunction issued by the United States District Court for the Eastern District of California in State of California versus Bergland (483 F. Supp. 465 (1980)) shall no longer be in force;

(3) with respect to the national forest lands in the State of California which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II), except those lands remaining in further planning upon enactment of this Act, that review and evaluation shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976 (Public Law 94-588) to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the initial plans and in no case prior to the date established by law for completion of the initial planning cycle;

(4) areas in the State of California reviewed in such final environmental statement and not designated as wilderness by this Act or remaining in further planning upon enactment of this Act need not be managed for the purpose of protecting their suitability for wilderness designation pending revision of the initial plans;

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of national forest system lands in the State of California for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

DILLON CREEK

SEC. 13. (a) Certain lands in the Klamath National Forest, California, which comprise approximately thirty thousand acres, as generally depicted on a map entitled "Dillon Creek Further Planning Area", dated July 1980, shall be considered for all uses, including wilderness, during the preparation of a forest plan for the Klamath National Forest pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended.

(b) Pending completion of the plan, development activities such as timber harvest, road construction, and other activities that may reduce wilderness potential of the land will be prohibited. Activities permitted by prior rights, existing law, and other established uses may continue pending final disposition of the area. Although no harvesting of timber will be allowed other than for emergency reasons, standing timber on commercial forest land in the area will be used to determine allowable sale quantity.

(c) Recommendations for the Dillon Creek Further Planning Area shall be submitted to the Congress and, unless the Congress enacts legislation to the contrary within one hundred and eighty calendar days while Congress is in session, the Dillon Creek Area shall be designated for the use recommended and managed accordingly, beginning January 1, 1986.

SEVERABILITY

SEC. 14. If any provision of this Act or the application thereof is held invalid, the remainder of the Act and the application thereof shall not be affected thereby.

By Mr. CRANSTON:

S. 6. A bill to amend title XIX of the Social Security Act to extend and improve medicaid services to low-income children and pregnant women, and for other purposes; to the Committee on Finance.

MATERNAL AND CHILD HEALTH ACT

Mr. CRANSTON. Mr. President, I am introducing today, S. 6; the proposed Maternal and Child Health Act of 1983, to extend and improve medicaid coverage in all States for our Nation's poorest children and pregnant women. This legislation would insure the accessibility of health care for low-income children and pregnant women, improve the quality of care they receive, and build our capacity to provide services to meet their needs.

BACKGROUND

Mr. President, the well-being of the children of this country should be of utmost concern to everyone. I strongly believe that the strength and future productivity of our Nation rests on the health of our children. The importance of essential immunizations and basic health services for infants and children and vital prenatal, delivery, and postnatal services in connection with pregnancy is enormous. When children do not receive adequate health care, they are deprived of the opportunity to grow up strong and take their places as productive members of our society. An early diagnosis means a better prognosis. Lack of such care simply increases the need for remedial, more costly services later on. We cannot go back and effectively immunize a child after she or he contracts polio or diphtheria.

A comprehensive maternal and child health program would be the most cost-effective and productive investment we could make at this time to improve our Nation's health status. S. 6 would be a major step toward achieving that goal. This legislation is very similar to S. 1204, as introduced in the 96th Congress by Senator RIBICOFF, a great champion of child health matters, in which I was privileged to join as a cosponsor. It is also very similar to H.R. 4962, the proposed child health assessment program (CHAP), companion legislation to S. 1204,

which was passed by the House during the 96th Congress. S. 6 also incorporates and expands upon the provisions of S. 7 which I am also introducing today along with 10 of my colleagues, to provide uniform medicaid coverage in all States for low-income pregnant women and their infants.

OBJECTIVES OF S. 6

Mr. President, the objectives of S. 6 are to protect the important contribution that medicaid makes to the use of health services by low-income children and pregnant women, to recover the ground lost because of Reagan budget cuts in medicaid resulting in States restricting eligibility and limiting the services provided, and to extend and improve medicaid coverage for the increasing number of poor children and women in this country. S. 6 would phase in over 6 years, a series of substantial improvements in the medicaid program.

NEED FOR THE BILL

Mr. President, medicaid is an extremely important source of healthcare funding for low-income children. Before medicaid was enacted in 1965, children living in low-income families received far fewer health services than children from higher income families. Some never saw a physician. Now, the use of health services by poor children covered under medicaid is far more comparable to that of nonpoor children.

Unlike other medicaid eligible population groups, however, medicaid eligible children rely largely on medicaid with few other financial resources to help pay for medical care. Medicaid is estimated to be twice as important as a source of payment for physician services for children as it is for nonelderly adults, and four times more important than it is for elderly adults. It is even more important as a source of funds for children's hospital services than for physician services.

In 1981, over 50 percent of the 21.5 million recipients of medicaid in 1981 were children. Ninety percent of those—9.3 million—received medicaid coverage because they qualified for AFDC. Children also account for the majority—56.9 percent—of recipients under State optional medically needy programs.

It therefore should not be surprising, Mr. President, that the drastic cuts that the Reagan administration has forced and is pursuing in both the AFDC and medicaid programs are hurting children who are bearing the brunt in many States of the resulting restrictions on eligibility, elimination of benefits, and cutbacks on services.

The most common reaction of States to Reaganomics is not to adjust the eligibility standards or actual payments under AFDC according to inflation. The lowering of AFDC standards also reduces the standard used to determine medicaid eligibility. A comparison of 1980 welfare eligibility standards with the increase of the Consumer Price Index in 1980 shows that only 5 States were within 90 percent or more of their comparable 1970 standard; 27 States were at 60 to 90 percent; and 18 States had eligibility payment standards set at only 24 to 59 percent of the 1970 level.

The most common changes States have made in eligibility standards have been for optional eligibility groups. Income standards for the medically needy group have been increased substantially in many States. In California, Illinois, and New York—States which, in the past have had generous medically needy programs, the income eligibility standard has been restricted to 115 percent of the AFDC standard.

The result is that an increasingly smaller percentage of poor children are now eligible for medicaid. Between 1982 and 1983, over 700,000 children are estimated to lose their medicaid coverage. An unknown number of additional children and pregnant women have also been and will continue to be affected by lost benefits and reduced access to providers resulting from budget cutbacks. In a 1981 study on the effects of medicaid cutbacks on access to health services, it was calculated that the recent eligibility changes made in medicaid and AFDC will result in a 20- to 34-percent decrease in physician visits for medicaid recipients—the majority of which are expected to be physician visits for children.

In other words, Mr. President, at a time when unemployment, caused by Reagan's misguided budget policies, is at the highest level it has ever been since the last Great Depression, and our economy is gasping for breath—conditions which are rapidly expanding the ranks of the poor—the Reagan administration wants the 12.3 million already poor children in this country to become even poorer before they could qualify for aid.

This disastrous trend will worsen unless we take action to correct it. The proposed Maternal and Child Health Act of 1983 would help immediately to restore and extend services to the youngest members of our society who are most vulnerable to cuts in health services. This legislation would also eventually offer hope for present and future health of the estimated 5 million children in this country who lack access to health care but who are currently ineligible for medicaid.

SUMMARY OF S. 6

First, in fiscal year 1984, a minimum income level for medicaid eligibility would be established in all States for children under the age of 6 and pregnant women, regardless of family structure, who are in families with incomes below the higher of either the State's AFDC payment standard or 55 percent of the Federal poverty level. This would correct the inequitable situation in 28 States where children in low-income intact families are not eligible for medicaid. It would also extend coverage to the children in 31 States in this country where the AFDC eligibility standard is below 55 percent of the Federal poverty level. The new standard would be used only for the purposes of providing medical care to children and pregnant women. It would not add to the welfare roles or make adults in these families eligible for medicaid.

Under S. 6 all new eligibles would be entitled to those medicaid services mandated under section XIX of the Social Security Act, as well as those provided at the option of the State in which they live. This provision would provide these children with the most important services they may need—inpatient hospital services; outpatient hospital services; rural health clinic services; laboratory and X-ray services; skilled nursing facility services; physicians' services; early periodic screening, diagnosis, and treatment services for children under age 21; and family planning services. All pregnant women covered under this provision would be eligible for coverage of those services also provided for in S. 7—prenatal, delivery, and postnatal care for both the mother and the infant for a minimum of 60 days after the birth. These services and the great need for them will be described at greater length in my introductory statement on that bill.

Upon enactment of this legislation, the Federal matching rates for these services for all eligible women and children would be increased in each State by 5 percentage points above each State's current fiscal year match rate.

States would be prohibited from limiting the amount, duration, or scope of services they currently provide for children under age 21 below recognized standards for adequate care as determined by the Secretary in consultation with experts on children's health care. States would also be required to collect age-specific and diagnostic-related data on the children and pregnant women receiving benefits under their medicaid programs and report this data to the Department of Health and Human Services (HHS). Such data is important to our understanding of children's health-care needs and our ability to measure the success of the medicaid program in providing these services. The Secretary of HHS would be directed to report to Congress 2 years after the enactment of this legislation on the implementation of these new provisions.

Second, in fiscal year 1986, medicaid eligibility would be established for all children under the age of 18, regard-

less of family structure, who are in families with incomes below the higher of either the State's AFDC payment standard or 55 percent of the Federal poverty level. The children added under this provision would be eligible for all the services covered under the higher matching rate established in fiscal year 1984.

Mr. President, I recognize that many adolescents in this country lack adequate health care. I would prefer to extend eligibility to this group immediately following enactment of this legislation. If, during committee consideration of this measure, the estimated costs of covering 6 to 18-year-olds in the first year is not prohibitive, I would gladly support doing so.

Third, in fiscal year 1988, a new higher minimum income level for medicaid eligibility would be established in all States for children under the age of 18 and pregnant women, regardless of family structure—this level would bring into the program those women and children who are in families with incomes between the higher of either the State's AFDC payment standard or 55 percent of the Federal poverty level and 66⅔ percent of that level. Medicaid coverage would be extended by 4 months to any medicaid child who loses his or her eligibility for any reason other than attaining the maximum age of coverage for children under the State plan. For children with special health conditions which cannot be corrected but which can be ameliorated or controlled with proper diagnosis and treatment, such as epilepsy and diabetes, eligibility would be extended for 1 year following the date when the child would otherwise lose eligibility. Extending eligibility in these ways would help to eliminate many of the problems of children going on and off medicaid due to vacillation in family income, a result which, in the past, has complicated program administration, burdened providers, and resulted in children not receiving the care they need.

Mandatory services, those which must be covered under every State's plan, would be expanded to include for all medicaid children, regardless of assessment, all current mandatory benefits plus uniform assessments; immunizations; clinic services; diagnosis and treatment of hearing and vision problems including hearing aides and eyeglasses; prescribed drugs; insulin; prosthetic devices; home health services; physical therapy and rehabilitative services; routine dental care and orthodontics for physical or psychological impairment; ambulatory mental health services; and emergency crisis intervention inpatient mental health services. States would be prohibited from imposing limits on the amount, duration, and scope of these mandatory services.

The addition of these services would vastly improve the care children receive through medicaid. Under the current program, many a State plans do not meet the needs of children for treatment because of limitations on covered services. This new package of minimum benefits would emphasize and encourage ambulatory and preventive services.

Two types of arrangements would be encouraged for health-care providers receiving reimbursement for child health care: First, services performed by a physician or other health-care provider who enters on a prospective basis into a written agreement with the State that requires certain standards for the provision of that care—specifically, that these services will include timely and appropriate child health assessments, provision of or referral for basic diagnostic and treatment services, and necessary followup services; and, second, services provided by a continuing care provider—a health-care provider who enters into an agreement with the State agency to provide services to a specific individual on a continuing basis. The use of providers who will agree to provide or oversee all primary care needed by a child will have a great influence on a child's access to health services by insuring an available source of quality care.

The Federal matching rates to States would be increased by 25 percentage points, up to a maximum of 90 percent for health assessments and all outpatient services provided to all children who have been assessed and reassessed at appropriate intervals. Federal matching rates to States for all outpatient services provided to children who are under the care of a continuing care provider would be increased by 30 percentage points up to a maximum of 95 percent; the current matching rate would remain for inpatient services so as to encourage reliance on ambulatory, or prevention oriented, types of care. Outreach and followup services would be matched at 75 percent. These increased matching rates would provide States with incentives to increase their efforts to provide vitally needed health services to eligible children.

States would be required to develop plans for the implementation of these new provisions and a system of performance-related bonuses and penalties would be established in the form of adjustments to the Federal share of State medicaid administrative costs.

RELATIONSHIP TO ECONOMIC AND BUDGETARY FACTORS

Mr. President, I recognize that we are under severe budget constraints and must be vigilant in our efforts to reduce deficits and restore health to our economy. Yet, I believe that while we wrestle with Federal budget deficits we should not lose sight of the needs of our citizens or our goals for our country.

This legislation would balance these two concerns by providing that the President may make a determination to postpone the effective date of any of the expansion increments in the bill for 2 years, based on the President's determination that, taking into account specified considerations regarding the health and budget impacts of the delay, postponing the effective dates would be in the national interest. The President would have to submit his determination to delay the effective dates no later than when he submits his budget for the fiscal year in which the increment would otherwise take effect. The effective dates would be delayed unless each House of Congress, prior to July 1 of the fiscal year in which the increment would otherwise take effect, adopts a resolution to disapprove of the President's determination.

JUST AN INITIAL DRAFT

I realize that this legislation encompasses many issues of interest to many Senators. It is intended as an initial draft of a plan to which I, as well as others, might want to offer changes to strengthen and improve its implementation. In order to facilitate Senate consideration of this measure, I plan to urge my colleagues on the Senate Finance Committee to hold hearings on the effects of budget cuts on children's health programs and children's need for health care. After further review of this draft of S. 6 and further recommendations from interested groups and individuals, I intend to submit appropriate amendments to it.

CONCLUSION

Mr. President, S. 6 proposes a major step toward achieving the objectives of all of the health legislation I have sponsored since I have been in the Senate. It would provide the framework for making comprehensive cost-effective, compassionate, and accessible health care available to all those women and children who need it. By focusing on the health needs of children we would assure not only good health in early years but also a major advance for good health in later years for much of our population. Enactment of this legislation would result in long-term savings to the country through the early detection of potentially serious disorders in children, and through insuring that these children receive the health care they need to prevent lifetime illness or disability and thus avoid the major heartaches and societal costs that such disorders entail.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 6

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This act may be cited as the "maternal and Child Health Act of 1983".

PURPOSE

SEC. 2. The purpose of this Act is to broaden medicaid eligibility and modify the early and periodic screening, diagnosis, and treatment program—

(1) to increase the number of needy children and pregnant women eligible for medicaid coverage;

(2) to assure that appropriate prenatal, delivery, and postpartum care is made available for needy pregnant women;

(3) to facilitate the entry of needy children into a health care system within their community that will provide comprehensive, ongoing primary and preventive health care;

(4) to assure the continuity of care for a period after a child would on account of income become ineligible for medical care under the medicaid program;

(5) to encourage participation in the medicaid program of providers willing to assume responsibility for comprehensive, continuing primary and preventive health care of individual children;

(6) to require more comprehensive medicaid coverage of needed health services for eligible children;

(7) to increase immunization levels of children; and

(8) to provide further incentives to States to arrange for and encourage quality health care for children

MEDICAID ELIGIBILITY OF POOR CHILDREN AND PREGNANT WOMEN

SEC. 3. (a)(1) Section 1902 (a)(10)(A) of the Social Security Act is amended—

(A) by striking out "and" at the end of clause (i);

(B) by redesignating clause (ii) as clause (iv) and, in such clause, by striking out "who are not individuals described in clause (i)" and inserting in lieu thereof "who are not individuals described in clause (i), (ii), or (iii)"; and

(C) by inserting after clause (i) the following new clauses:

"(ii) any pregnant woman during the period consisting of her pregnancy and the 60-day period immediately following the last day of pregnancy, if such woman's resources (including the resources of her family) are such that she meets the resources test of eligibility for medical assistance under the State plan approved under this title applicable to a family with dependent children, and such woman's income, including the income of her family, is such that either (I) she meets the income test of eligibility for medical assistance under such plan applicable to a family with dependent children, or (II) her income does not exceed 55 percent of the official poverty line established for an individual or for a family of the same size, as appropriate, by the income poverty guidelines for the nonfarm population of the United States as prescribed by the Office of Management and Budget and adjusted pursuant to section 672 of the Omnibus Budget Reconciliation Act of 1981;

"(iii) any individual under age 6, without limitation as to amount, duration, or scope of such assistance below recognized standards for adequate care for children as determined by the Secretary in consultation with experts on child-health needs, if such individual's resources (including the resources of his family) are such that he meets the resources test of eligibility for medical assistance under the State plan approved under this title applicable to a family with dependent children, and such individual's income, including the income of his family, is such that either (I) he meets the income test of eligibility for medical assistance under such plan applicable to a family with dependent children, or (II) his income does not exceed 55 percent of the official poverty line established for an individual or for a family of the same size, as appropriate, by the income poverty quidelines for the nonfarm population of the United States as prescribed by the Office of Management and Budget and adjusted pursuant to section 672 of the Omnibus Budget Reconciliation Act of 1981; and".

(2) Section 1903 of such Act is amended by inserting after subsection (b) the following:

"(c) Notwithstanding any provision of subsection (a), the percentage which would otherwise apply under such subsection with respect to amounts expended for medical assistance to pregnant women and to individuals under age 18, in accordance with the provisions of section 1902 (a)(10)(A) (ii) or (iii), shall be equal to such otherwise applicable percentage plus five percentage points.".

(3) Section 1902(e) of such Act is amended by adding at the end thereof the following new paragraphs:

"(4) Notwithstanding any other provision of this title, each State plan approved under this title must provide that any pregnant woman who is eligible for, has applied for, and has received medical assistance under the State plan and who becomes ineligible for such assistance because of increased income from employment of herself or her family, shall remain eligible for all such medical assistance provided under the State plan until the end of the 60-day period beginning on the last day of her pregnancy, and that any child born as a result of such pregnancy shall remain eligible for all such medical assistance provided under the State plan until the end of such 60-day period.

"(5) Effective October 1, 1987 notwithstanding any other provision of this title, each State plan approved under this title must provide (A) that any individual under the age 18 who becomes ineligible because of increased resources or income for medical assistance under the State plan shall, nonetheless, remain eligible for all medical assistance provided under the State plan to individuals under such age who are otherwise eligible for such assistance until the end of the 4-calendar-month period beginning with the month following the month in which the individual became ineligible or, in the case of any such individual with a condition which cannot be corrected through treatment but which can be controlled or stabilized through treatment, until the end of the 12-calendar-month period beginning with the month in which the individual became ineligible, and (B) in the case of such an individual—

"(i) who, as certified by a physician or other qualified provider and additionally certified by another physician or other qualified provider, has a medical condition which existed on the date the child would but for this paragraph be ineligible for medical assistance and which can be corrected through treatment, and

"(ii) for whom a plan of treatment, including an estimate of its duration, has been submitted by the provider making the initial certification to the single State agency which administers or supervises the administration of the State plan,

for continuation of eligibility for medical assistance until such condition is corrected.".

(4) Section 1905(a)(4) of such Act is amended by striking out "and" before "(C)", and by inserting before the semicolon at the end the following: "; and (D) prenatal and postnatal services".

(b)(1) The amendments made by subsection (a) shall be effective with respect to payments under title XIX of the Social Security Act for quarters beginning on or after October 1, 1983.

(2) Effective for quarters beginning on or after October 1, 1985, section 1902(a)(10)(A)(iii) is amended by striking out "age 6" and inserting in lieu thereof in each instance "age 18".

(3) Effective for quarters on or after October 1, 1987, sections 1902(a)(10)(A)(ii) and (iii) are each amended by striking out "55 percent" and inserting in lieu thereof "66⅔ percent".

(c) Effective October 1, 1983, each State having a plan approved under title XIX of the Social Security Act shall collect, and periodically report to the Secretary of Health and Human Services, age/specific and diagnosis-specific data with respect to services provided under such plan to pregnant women and individuals under age 18. The Secretary shall report to the Congress prior to 1986 with respect to his findings based upon such data.

MATERNAL AND CHILD HEALTH PROGRAM

SEC. 4. (a) Section 1905(a)(4) of the Social Security Act is amended by adding a semicolon at the end of clause (A) and by amending clause (B) to read as follows: "(B) the following services for individuals under age 18: (i) child health assessment services and continuing care services provided in accordance with section 1918, (ii) immunizations, clinic services, diagnosis and treatment of vision and hearing problems, including hearing aids and eyeglasses (whether prescribed by a physician skilled in the diseases of the eye or by an optometrist), prescribed drugs and insulin, prosthetic devices, home health services, physical therapy, and rehabilitative services, (iii) ambulatory mental health services delivered in centers funded under the Community Mental Health Centers Act or meeting standards established by the Secretary in regulations, (iv) emergency crisis intervention inpatient mental health services provided in an accredited psychiatric institution or an institution for mental diseases, and (v) routine dental care (which shall include only diagnostic, preventive, restorative, and emergency dental services and only such orthodontics as the Secretary determines by regulation to be appropriate for different age groups for conditions causing major physical or psychological handicaps);".

(b) Title XIX of such Act is amended by adding at the end thereof the following new section:

MATERNAL AND CHILD HEALTH PROGRAM

"SEC. 1918. (a) A maternal and child health program under this section must assure the availability to each individual who is under the age of 18 and who is eligible under the State plan to receive medical assistance—

"(1) child health assessments in accordance with subsection (b),

"(2) the care and services listed in paragraphs (1) through (5) and (17) of section

1905 (a), without regard to amount, duration, or scope, and

"(3) to the extent practicable, continuing care in accordance with subsection (c).

"(b)(1) Child health assessment under a maternal and child health program shall include such services and procedures at such periods as the Secretary determines appropriate to determine the health status and identify the health problems of the individual being assessed. A child health assessment may be considered as provided under this section only if the assessment was provided by (A) a physician or other health care provider who enters into a written agreement (described in paragraph (2)) with the single State agency responsible for adminstering or supervising the adminstration of the State plan under this title (hereinafter in this section referred to as the 'State agency'), or (B) a continuing care provider.

"(2) The written agreement referred to in paragraph (1) must provide, in accordance with standards established by the Secretary, that the provider agrees as follows:

"(A) To provide timely and appropriate child health assessments to individuals under the age of 18 and eligible under the State plan to receive medical assistance (such individuals hereinafter in this section referred to as 'eligible individuals').

"(B)(i) To provide directly to eligible individuals whom it has assessed such basic diagnostic and treatment services (including immunization against childhood diseases) as the Secretary shall specify in regulations, or

"(ii) to provide to eligible individuals whom it has assessed timely referral to other health care providers for the provision of the basic diagnostic and treatment services referred to in clause (i), and to (I) provide to such individuals followup services which insure the timely and appropriate provision of the services for which such a referral has been made, (II) enter into agreements with appropriate public agencies and nonprofit community-based agencies for the provision of such followup services, or (III) furnish to the State agency such information as that agency determines to be necessary to allow followup on the provision of needed services.

"(C)(i) To provide directly to eligible individuals routine dental care (as defined in section 1905(a)(4)(B)(v)), or

"(ii) To provide to eligible individuals whom it has assessed referral to a dentist, from a list provided by the State agency of dentists participating in the child maternal and child health program.

"(D)(i) To refer eligible individuals to appropriate providers for any corrective treatment the need for which is disclosed by an assessment but which is not available directly from the provider, and (ii) to (I) provide to such individuals followup services which insure the timely and appropriate provision of the treatment for which such a referral has been made, (II) enter into agreements with appropriate public agencies and nonprofit community-based agencies for the provision of such followup services, or (III) furnish to the single State agency that administers, or supervises the administration of, the State plan such information as that agency determines to be necessary to allow followup on the provision of needed corrective treatment.

"(E) To take responsibility for the management of the medical care of each eligible individual whom it has assessed and to assure that child health assessments are performed on a timely and periodic basis.

"(F) To be reasonably accessible on an ongoing basis to eligible individuals whom it has assessed in order to provide continuing medical care or to assure the continuing availability of medical care and services.

"(G) To make such reports (i) to the State agency as the agency determines to be necessary to assure compliance with the requirements of the agreement, and (ii) to the Secretary as he determines to be necessary to assure compliance with the requirements of the agreement.

"(3) As used in this subsection and section 1902(a)(46), the term 'health care provider' includes a physician, public health department, community health clinic or center, primary care center, migrant health center, facilities delivering ambulatory health services and operated by the Indian Health Service, health maintenance organization, day care or headstart program, rural health clinic, maternal and child health center, school system, and such other providers as may be specified by the Secretary by regulation.

"(4) Payment may be made under a State plan to a health care provider for the provision of child health assessments, and other medical care and services to children, under an agreement described in paragraph (2) notwithstanding the fact that the provider does not ordinarily bill other third-party payers for the provision of such assessments, care, and services.

"(c)(1) Continuing care services are the services described in subparagraphs (A), (B)(i), (C), (D), (E), (F), and (G) of paragraph (2) and primary and preventive care (including such care and services as the Secretary may specify by regulation). For purposes of this section a 'continuing care provider' is a health care provider who enters into an agreement with the State agency to provide, in accordance with regulations of the Secretary, continuing care services to a specific individual on a continuing basis.

"(2) States shall make payments for continuing care services in accordance with methods and standards meeting such requirements as the Secretary may by regulation prescribe. The Secretary may establish minimum reimbursement levels (which may be uniform nationally or may vary by State or region), may permit payment based on a prospectively determined capitation rate, and payment on a periodic basis, and may permit or require other payment incentives.

"(d) In carrying out a maternal and child health program under this section, the State agency (1) shall enter into arrangements with health maintenance organizations to provide services to individuals under that program who choose to have such services provided by such organizations, and (2) shall make payments to such organizations for such services at a rate not less than an amount determined by the Secretary to be 95 percent of the average expenditure for medical assistance to individuals under the age of 18 in such State.

"(e) The State agency shall prepare and keep current a list of dentists who agree to receive payment for services under the State plan approved under this title and shall provide to each health care provider who has entered into an agreement under subsection (b) or (c) the names of such dentists practicing in the area in which the provider is practicing.

"(f) The State agency shall assure the compliance of health care providers who have entered into agreements under subsection (b) or (c) or who have made a certification under subsection (b) with the terms of such agreements or certification.

"(g) The Secretary may by regulation require that all providers of child health assessments and other ambulatory health care services under this title to individuals under the age of 18 (or all providers within reasonable classifications of such providers) submit uniform reports and use uniform claim forms.".

(c)(1) Section 1905 of such Act is amended by adding at the end thereof the following new subsection:

"(n) The term 'outreach' means (1) the identification and location of families of children eligible for medical assistance under a State plan approved under this title and informing them of the services available under the child health assurance program described in section 1913 and such other actions as the Secretary may prescribe to facilitate the provision of medical assistance to such children, and (2) the identification and location of pregnant women who are eligible for medical assistance and informing them of the prenatal, delivery, and postnatal and other services available to them and such other actions as the Secretary may prescribe to facilitate the provision of medical assistance for pregnant women.".

(2) Section 1902(a) is amended—

(A) by striking out "and" at the end of paragraph (43);

(B) by striking out the period at the end of paragraph (44) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(45) assure (through the allocation of a reasonable percentage of program funds and through the use, whenever possible and in accordance with regulations of the Secretary, of nonprofit community-based organizations) the provision of outreach to pregnant women eligible for medical assistance.".

(d) Section 1903(i) of such Act is amended—

(1) by striking out the period at the end and inserting in lieu thereof "; or", and

(2) by adding at the end thereof the following new paragraph:

"(7) with respect to any amount expended for dental screening apart from the provision of other routine dental care (as defined in section 1905(a)(4)(B)(v)).".

(e) Section 1902(a) of such Act (as amended by subsection (c)) is amended—

(1) by striking out "and" at the end of paragraph (44);

(2) by striking out the period at the end of paragraph (45) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(46) provide that the State will develop, with substantial public input, a plan for the implementation of a maternal and child health program described in section 1918 which will meet the minimum level of acceptable performance established under section 1903(v) and which will (A) identify and make provision for agreements with all qualified health care providers willing to enter into agreements described in subsection (b) or (c) of section 1918, (B) make provision for such terms (including terms of prompt payment and adequate reimbursement) as may reasonably be expected to elicit the involvement of health care providers in the maternal and child health program, (C) assure coordination between State and local agencies participating in such program and other federally funded programs in the State providing health care services to children and pregnant women, (D) assure (through the allocation of a reasonable percentage of program funds and through the

use, whenever possible and in accordance with regulations of the Secretary, of nonprofit community-based organizations) the provision of outreach to individuals and the provision of followup on the provision of needed care and services and scheduling for and provision of subsequent periodic child health assessments, unless the child health assessment provider or continuing care provider has assumed such responsibility, and (E) describe measures to be taken to reduce duplication of the well-child services provided by other than a health care provider with an agreement under subsection (b) or (c) of section 1918 with those services provided under such program.".

FEDERAL MATCHING FOR MATERNAL AND CHILD HEALTH PROGRAM

SEC. 5. (a) Section 1903(a) of the Social Security Act is amended—

(1) by inserting "subject to subsection (v)," in paragraph (2) after "(2)";

(2) by inserting "subject to subsection (v)," in paragraph (3) after "(3)";

(3) by inserting "subject to subsection (v)," in paragraph (6) after "(6)";

(4) by inserting "subject to subsection (v)," in paragraph (7) after "(7)";

(5) by redesignating paragraph (7) as paragraph (8); and

(6) by inserting after paragraph (6) the following new paragraph:

"(7) an amount equal to 75 per centum of sums expended during such quarter which are attributable to outreach and followup services provided in accordance with paragraphs (45) and (46) of section 1902(a); plus".

(b) Section 1905(b) of such Act is amended—

(1) by striking out "(b) The term" and inserting in lieu thereof "(b)(1) Except as provided in paragraph (2), the term";

(2) by redesignating clauses (1) and (2) as clauses (A) and (B), respectively, and

(3) by adding at the end the following:

"(2) The Federal medical assistance percentage for child health assessments and for ambulatory services provided to an individual under the age of 18 with a current health assessment under a child health assurance program under section 1918—

"(A) in the case of child health assessments and such services provided to such an individual who is covered under an agreement described in section 1918(c)(1), is the lower of—

"(i) the Federal medical assistance percentage determined under paragraph (1) increased by 30 percentage points, or

"(ii) 95 percent; and

"(B) in the case of child health assessments and such services provided to such an individual who is not covered by such an agreement, is the lower of—

"(i) the Federal medical assistance percentage determined under paragraph (1) increased by 25 percentage points, or

"(ii) 90 percent.

The percentage under this paragraph shall not be subject to increase under section 1903(c).".

(c) Section 1903 of such Act is amended by adding after subsection (u) the following new subsections:

"(v)(1) The amount required to be paid to the State pursuant to paragraphs (2), (3), (6), (7), and (8) of subsection (a) for administration of the State plan shall be adjusted as follows: For each two percentage points by which the level of performance of the State in implementing its maternal and child health program under section 1918 exceeds the reasonable level of performance established under subsection (w)(1)(C) such amount shall be increased by 1 percent, except that such amount may not be increased by more than 25 percent. The Secretary shall by regulation provide for a procedure whereby a State agency may demonstrate to the satisfaction of the Secretary, with respect to any period, that it has achieved a performance level which entitles it to a higher amount than the amount determined by the Secretary.

"(2)(A) If the Secretary determines that a State has failed to have a maternal and child health program which meets the minimum level of performance established under subsection (w)(1)(B), the Secretary shall notify the State of such failure and of the fact that the amount required to be paid to the State, with respect to each fiscal quarter beginning after the date of the notification, pursuant to paragraphs (2), (3), (6), and (8) of subsection (a) for administration of the State plan shall, except as provided in subparagraphs (B) and (C), be reduced by 20 percent of that amount until the State shows to the satisfaction of the Secretary that the failure with respect to which the reduction applies has been corrected.

"(B) If a State demonstrates to the satisfaction of the Secretary that the State intends to correct a failure established under subparagraph (A), he may withhold the imposition of a reduction under such subparagraph for a period of time (not exceeding six months) to allow the State to fully achieve the minimum level of performance. If, at the end of the period, the Secretary determines that the failure has been corrected, he may waive the imposition of the reduction in whole or in part with respect to the period.

"(C) Any State dissatisfied with a determination of the Secretary under subparagraph (A) may, not later than 60 days after the date it was notified of the determination, file a petition with the Secretary for a review of the determination in accordance with procedures established by the Secretary. Such procedures shall provide that such review shall be conducted by an impartial party and shall be completed, and findings and a final determination made, not later than 180 days after the date the State filed its petition for such review.

"(w)(1)(A) The level of performance of a State in implementing a maternal and child health program under section 1918 is measured by the ratio of—

"(i) the individuals under the age of 18 in the State who were covered under an agreement under section 1918(c) for the provision of continuing care services and who received, during the period under review, all necessary care and services covered under such agreement, and

"(ii) the individuals under the age of 18 in the State who were not covered under such agreement but who—

"(I) received, during the period under review, a timely child health assessment in accordance with section 1918(b) and received in a timely manner after such an assessment (as specified by the Secretary by regulation) any necessary medical care or treatment for conditions found during such assessment, or

"(II) were not due for an assessment and did not need treatment for conditions found during an assessment,

to the total number of individuals under the age of 18 in the State during such period who were enrolled to receive medical assistance under the State plan approved under this title. In determining such ratio, a value of 1.2 shall be given to each individual in the State described in clause (i) and a value of 1.0 shall be given to each individual in the State described in clause (ii).

"(B) The minimum level of performance of a State in implementing a maternal and child health program under section 1918 is a ratio (as determined under the last sentence of subparagraph (A)) of individuals in the State described in clauses (i) and (ii) of subparagraph (A) to the total number of individuals under the age of 18 in the State who were enrolled to receive medical assistance under the State plan approved under this title which is not less than 25 percent.

"(C) The reasonable level of performance of a State in implementing a maternal and child health program under section 1918 is a ratio (as determined under the last sentence of subparagraph (A)) of individuals in the State described in clauses (i) and (ii) of subparagraph (A) to the total number of individuals under the age of 18 in the State who were enrolled to receive medical assistance under the State plan approved under this title which is at least 50 percent.

"(2) A determination of the level of a State's performance in implementing a maternal and child health program under section 1918 shall be (A) conducted at least twice a year, and (B) determined on a random, statistically valid sample. The first sample shall be taken from data from the first 6 months of a State's implementation of section 1918. Each State will cooperate with the Secretary to provide access to documentation needed to make the sample.

"(3) The Secretary will annually report to Congress the actual level of performance (as measured under paragraph (1)(A)) of each State in implementing a maternal and child health program under section 1918.".

(d)(1) The Secretary of Health and Human Services shall, on a continuing basis, make a study, on a State-by-State basis, of the ratio of individuals under the age of 18 enrolled to receive medical assistance under a State plan approved under title XIX of the Social Security Act to the number of individuals under the age of 18 in families whose income is not above 66⅔ percent of the applicable nonfarm income official poverty line, as defined by the Office of Management and Budget and in effect under section 672 of the Omnibus Budget Reconciliation Act of 1981.

(2) Not later than eighteen months after the effective date of section 1918 of the Social Security Act, the Secretary shall report to the Congress (A) the results of the study under paragraph (1) of the first twelve months after such date, and (B) as determined by such results, the effectiveness of the performance standards prescribed by section 1903(w) of the Social Security Act as an appropriate measure of the performance of a State in providing necessary health care to individuals under the age of 18.

(3) If on the basis of the study under paragraph (1), the Secretary determines that the ratio of the number of individuals under the age of 18 enrolled in a State to receive medical assistance under a State plan approved under title XIX of the Social Security Act to the number of individuals under age of 18 in families in that State whose income is not above 66⅔ percent of the applicable nonfarm income official poverty line referred to in paragraph (1) is significantly less than the average ratio of such individuals in all the States, the Secretary shall—

(A) require the State to submit a plan for outreach (as defined in section 1905(n)(1) of the Social Security Act), and

(B) if the State does not submit and implement a plan for outreach satisfactory to the Secretary, provide outreach (as so defined) in the State and deduct from payments to be made to the State pursuant to paragraphs (2), (3), (4), and (8) of section 1903(a) of the Social Security Act for administration of the State plan under title XIX of such Act 50 percent of the cost of providing the outreach.

(e) Any individual under the age of 18 who has been screened pursuant to section 1905(b) (4) (B) of the Social Security Act (as in effect on the date of the enactment of this Act) on a date before the effective date of the amendments made by this section shall, for purposes of section 1905(b)(2) of the Social Security Act (as amended by this Act), be deemed, in accordance with regulations established by the Secretary, to have had a child health assessment (as defined in section 1918 of the Social Security Act, as amended by this Act) on that date.

STATE MAINTENANCE OF EFFORT REQUIREMENT

SEC. 6. Section 1903 of the Social Security Act is amended—

(1) by striking out "(1) an amount" in subsection (a) and inserting in lieu therof "(1) except as provided in subsection (x), an amount", and

(2) by adding after subsection (w), as added by section 5, the following new subsection:

"(x) If the Secretary determines that a State has taken an action, during a quarter beginning during the four-year period beginning on the date of enactment of the maternal and Child Health Act of 1983, which—

"(1) reduces the standard of income or resources for eligibility for medical assistance for individuals under the age of 18 below the applicable standards in existence on the date of the enactment of such Act, or

"(2) Reduces the amount, duration, or scope of medical assistance (other than inpatient care and services) made available to individuals under the age of 18 below the applicable medical assistance available on such date of enactment,

the Federal medical assistance percentage for such State for child health assessments and for ambulatory services provided to an individual under the age of 18 with a current health assessment under a maternal and child health program under section 1918 shall for such quarter be determined under section 1905(b)(1).".

STUDY OF DUPLICATION OF SERVICES UNDER MATERNAL AND CHILD HEALTH PROGRAMS

SEC. 7. The Secretary of Health, Education, and Welfare (hereinafter in this Act referred to as the "Secretary") shall make a study to determine the extent to which Federal programs directly provide, or assist in meeting the cost of providing, to children and pregnant women the health services provided under title XIX of the Social Security Act. The Secretary is to complete the study and make a report to Congress not later than October 1, 1989. In the report the Secretary shall—

(1) specify the extent of the duplication between the programs under titles V and XIX of the Social Security Act, make recommendations respecting the coordination and integration of services to children and pregnant women under such titles, and make recommendations for legislation to eliminate unnecessary duplication; and

(2) specify the extent of duplication between the program under title XIX of the Social Security Act and programs under other Federal laws, make recommendations for actions that should be undertaken by the States and the Federal Government to improve the coordination and integration of health services for children and pregnant women provided under such programs, and make recommendations for legislation to eliminate unnecessary duplication.

This section does not authorize the enactment of new budget authority.

STUDY AND DEMONSTRATION PROJECTS ON PROVIDER PARTICIPATION IN MATERNAL AND CHILD HEALTH PROGRAM

SEC. 8. (a) The Secretary, directly or through grants to or contracts with public or private agencies or organizations, shall study and, to the extent he determines to be necessary, conduct demonstration projects in order to evaluate (1) the participation of health care providers in the maternal and child health programs established pursuant to section 1918 of the Social Security Act, and (2) methods of improving their level of participation in such programs, especially programs in areas where there is a shortage of health care providers.

(b) The Secretary, directly or through grants to or contracts with public or private agencies and organizations, shall develop and carry out experiments and demonstration projects designed to determine the effect of payment on a capitation basis for child health assessments and other services provided under maternal and child health programs established pursuant to section 1918 of the Social Security Act upon the level of participation and performance of such providers in these programs.

(c) In the case of projects under this section, the Secretary may waive compliance with the requirements of title XIX of the Social Security Act, including those requirements which relate to methods of payment for services provided, to the extent and for the period he finds necessary to enable States, agencies, or organizations to carry out such projects. Costs incurred in such projects in excess of those which would otherwise be reimbursed or paid under such title may be reimbursed or paid to the extent that such waiver applies to them (with such excess being borne by the Secretary, under such terms and conditions as he may establish). Grants and payments under contracts made for such projects may be made in advance or by way of reimbursement, and in such installments and on such conditions as the Secretary finds necessary to carry out the purpose of this section.

(d) The Secretary shall submit to Congress, not later than October 1, 1990, a report on the studies and projects conducted under this section, including such findings, conclusions, and recommendations as he deems appropriate.

STUDY AND REPORT ON EFFECTIVENESSS OF MATERNAL AND CHILD HEALTH PROGRAM

SEC. 9. (a)(1) The Secretary of Health and Human Services shall conduct or arrange (through grants or contracts) for the conduct of an ongoing study of the effectiveness of the maternal and child health program under section 1918 of the Social Security Act. Not later than two years after the effective date of section 1918 of the Social Security Act and each two years thereafter, the Secretary shall report to Congress the results of the study and include in the report (1) the effect of preventive and primary care services on the health status of individuals under the age of 18 assessed under such program, (2) the incidence of the various disorders identified in assessments conducted under the program, and (3) the cost of identifying, in such program, such disorders.

(2) The authority of the Secretary to enter into contracts under paragraph (1) shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

(b) For the fiscal year ending September 30, 1988, and for each fiscal year thereafter there are authorized to be appropriated for purposes of carrying out subsection (a) an amount equal to one-eighth of 1 percent of the amount appropriated in the preceding fiscal year for payments to States under title XIX of the Social Security Act for the provision of ambulatory services for individuals under the age of 18.

EFFECTIVE DATE

SEC. 10. Except as otherwise provided in this Act and subject to Section, the amendments made by sections 4 through 9 of this Act shall be effective for quarters beginning on or after October 1, 1987.

DELAY IN EFFECTIVE DATES

SEC. 11. (a) The effective date of the amendment made by section 3(b)(2) (October 1, 1985) shall be delayed until the date specified in a determination which, in accordance with subsection (b), is made by the President and not disapproved by the House of Representatives and the Senate.

(b)(1) Not later than the date on which the President's Budget for fiscal year 1986 is transmitted to the Congress pursuant to section 1105(a) of title 31, United States Code, the President may make a determination to delay the effective date of such amendment until a date not later than October 1, 1987, that the President specifies in such determination. Unless prior to July 1, 1985, the House of Representatives and the Senate each adopt a resolution disapproving such determination, such amendment shall take effect on the date the President so specified.

(2) Prior to making a determination pursuant to paragraph (1), the President shall (A) take into account (i) the estimated amount of the federal expenditures that would be incurred in fiscal years 1986 and 1987 as the result of such amendment taking effect on October 1, 1985, (ii) the health-care needs of the children concerned that would be unmet during the period of any delay in the effective date of such amendment, (iii) the health effects and projected costs of such needs going unmet during such a period of delay, and (iv) the estimated amounts of any federal deficits in such fiscal years and the expected impact on any such federal deficits and the national economy of allowing such amendment to take effect on October 1, 1985, as opposed to the date which the President is considering specifying, (B) obtain and review the recommendation of the Secretary of Health and Human Services in terms of the considerations specified in clause (A), and (C) decide what, if any, date prior to October 2, 1987, to which the effective date of such amendments should be delayed upon finding that such delay is, in terms of such considerations in the national interest.

(3) Any determination pursuant to paragraph (1) must, in order to be considered to have been made in accordance with this subsection, be (A) submitted to the Committees on Ways and Means and on Energy and Commerce of the House of Representatives

and to the Committee on Finance of the Senate no later than the date on which the President's budget for fiscal year 1986 is transmitted to the Congress, and (B) accompanied by a statement of the reasons for the determination in terms of the considerations specified in paragraph (2)(A).

(c)(1) In the cases of the amendments made by section 3(b)(3) and sections 4 through 9, the effective date of such an amendment (October 1, 1987) shall be delayed until the date specified with respect to such amendment in a determination which, in accordance with subsection (d), is made by the President and not disapproved by either the House of Representatives and the Senate.

(d)(1) Not later than the date on which the President's budget for fiscal year 1988 is transmitted to the Congress pursuant to section 1105(a) of title 31, United States Code, the President may make a determination to delay the effective date of one or more of such amendments until a date not later than October 1, 1989, that the President specifies in such determination. Unless prior to July 1, 1987, the House of Representatives and the Senate each adopt a resolution disapproving such determination, such amendment or amendments shall take effect on the date the President so specified.

(2) Prior to making a determination pursuant to paragraph (2) the President shall (A) take into account (i) the estimated amount of the federal expenditures that would be incurred in fiscal years 1987 and 1988 as the result of such amendment or amendments taking effect on October 1, 1987, (ii) the health-care needs of the children, pregnant women, and mothers concerend that would be unmet during the period of any delay in the effective date of such amendment or amendments, (iii) the health effects and projected costs of such needs going unmet during such period of delay, and (iv) the estimated amount of the federal deficit in such fiscal years and the expected impact on the federal deficit and the national economy of allowing such amendments to take effect on October 1, 1987, as opposed to the date which the President is considering specifying, (B) obtain and review the recommendation of the Secretary of Health and Human Services in terms of the considerations specified in clause (A), and (C) decide what, if any, date prior to October 2, 1989, to which the effective date of such amendment or amendments should be delayed upon finding that such delay is, in terms of such considerations, in the national interest.

(3) The President may make more than one determination under paragraph (1) but may not make more than one determination with respect to any particular amendment.

(4) Any determination pursuant to paragraph (1) must, in order to be considered to have been made in accordance with this subsection, be (A) submitted to the Committees on Ways and Means and on Energy and Commerce of the House of Representatives and to the Committee on Finance of the Senate no later than the date on which the President's budget for fiscal year 1988 is transmitted to the Congress, and (B) accompanied by a statement of the reasons for the determination in terms of the considerations specified in paragraph (2)(A).

(e)(1) If a resolution referred to in subsection (b)(1) or (c)(1) only expresses the disapproval of the House of Representatives or the Senate of the determination involved, the provisions of section 1017(b), (c), and (d)(1), (2), and (3) of the Impoundment Control Act of 1974 (Public Law 93-444; 88 Stat. 332 et seq.), shall apply to such resolution in the same manner that such provisions apply to an impoundment resolution (as defined in section 1011(4) of such Act), except that (A) the references in such section 1017(b) to 'the committee' shall be deemed to be references to the Committee on Ways and Means with respect to the House of Representatives and to the Committee on Finance with respect to the Senate, (B) the references in such section 1017(b) to 'proposed deferral' shall be deemed to be references to the determination involved, and (C) the date of introduction in the House of Representatives shall be deemed to be the date which the Committee on Commerce and Energy of the House of Representatives is discharged from further consideration pursuant to paragraph (2).

(2) At the end of 25 calendar days of continuing session of the Congress after such determination is submitted to the Committee on Commerce and Energy of the House of Representatives, such Committee shall be discharged from further consideration of such resolution, and such resolution shall immediately be referred to such Committee on Ways and Means.

By Mr. CRANSTON (for himself, Mr. HATFIELD, Mr. HOLLINGS, Mr. INOUYE, Mr. LEVIN, Mr. METZENBAUM, Mr. MOYNIHAN, Mr. PELL, Mr. RANDOLPH, Mr. RIEGLE, and Mr. TSONGAS):

S. 7. A bill to amend title XIX of the Social Security Act to extend medicaid eligibility to certain low-income pregnant women and newborn children; to the Committee on Finance.

MEDICAID COVERAGE FOR PREGNANT WOMEN

Mr. CRANSTON. Mr. President, I am pleased to introduce today, S. 7, legislation that would provide uniform medicaid coverage in all States for pregnant low-income women and their infants. The amendment I am proposing to the medicaid program is similar to the amendment I authored last Congress, and similar to the amendment I submitted for printing in the 96th Congress to S. 1204, the proposed child health assessment program (CHAP), and similar to one I had proposed in the 95th Congress. It is also very similar to the provision passed in the House during the 96th Congress in H.R. 4962, the companion to S. 1204. I am pleased to be joined in cosponsoring this amendment by a number of my colleagues who have been steadfast supporters of this measure. They include the Senator from Oregon (Mr. HATFIELD), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), the Senator from Michigan (Mr. LEVIN), the Senator from Ohio (Mr. METZENBAUM), the Senator from New York (Mr. MOYNIHAN), the Senator from Rhode Island (Mr. PELL), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Michigan (Mr. RIEGLE) and the Senator from Massachusetts (Mr. TSONGAS).

Mr. President, I will continue to advocate adoption of this legislation until Congress provides medicaid eligibility to women who do not have the economic resources to enable them to afford prenatal, delivery, and postnatal care so necessary for their health and the health of their expected baby. This legislation is also necessary to correct the inequitable situation in many States under which a woman becomes eligible for medicaid coverage after her first child is born, but is not eligible during the critical prenatal, delivery, and postnatal period of her first pregnancy when, to a major extent, the future health of her child is determined.

We must not abandon, however—and I continue to be committed to the enactment of—a comprehensive health-care program for low-income children and pregnant women. I strongly believe that the strength and future productivity of our Nation rests on the health of our children. Thus, today, I am also introducing S. 6, the proposed Maternal and Child Health Act of 1983 to provide access to health care for low-income children and pregnant women, improve the quality of care they receive, and build our capacity to provide services to meet their needs.

Thus, while the instant measure, S. 7, focuses on the period of pregnancy and immediately thereafter, S. 6 would cover both pregnancy and subsequent health needs of low-income children.

Mr. President, I fully support making comprehensive, compassionate, cost effective, and accessible health care available to all Americans who need it. That has been the objective of all the health legislation I have sponsored since I have been in the Senate. By focusing on the health needs of first pregnant women and infants, and, next, of children, we would be taking an important step toward achieving that goal.

S. 7 represents a modest, first step toward improving the health status of our Nation's children, but it is an essential one. The single most important step we could take to prevent poor pregnancy outcome and thus give every child the opportunity to start life under the best circumstances that medicine would provide, would be to insure that every pregnant woman receives proper prenatal, delivery, and postnatal care.

It is, therefore, my conviction that it makes good sense from both a health care and a fiscal policy point of view for medicaid coverage to be provided, beginning with the prenatal period, for all low-income women who are pregnant with their first child—whether they are in intact families or not—whose income level would make them eligible for medicaid coverage under the higher of either the State eligibility standard or 55 percent of the poverty level. The latter level is $5,307 for a family of four, and $2,640

for an individual. Coverage would be provided during the prenatal and delivery period and for both the mother and her newborn for a minimum of 60 days after the birth. Under the comparable provision in the comprehensive bill, S. 6, in fiscal year 1988, the coverage for their care would be expanded to women with income levels up to 66⅔ percent of the poverty level.

GAPS IN COVERAGE FOR PRENATAL CARE

Mr. President, the medicaid program was created by Congress to insure financial access to health care for individuals who are unable to afford needed health services. Under present law, medicaid coverage is mandated for low-income women of child-bearing age who are parents of a dependent child under part A of title IV of the Social Security Act—aid to families with dependent children (AFDC)—or who are disabled or blind and receive benefits under the supplemental security income (SSI) program.

States have the option to extend medicaid benefits to the medically needy—those individuals in families with income in excess of the State's AFDC eligibility standard but who still meet the AFDC or SSI categorical criteria and are unable to pay all or part of their medical expenses. However, as of December 1982, 20 States have determined that a pregnant woman during her first pregnancy does not have a family until the child is born and therefore does not qualify under the AFDC program. Such a requirement precludes medicaid coverage of prenatal, delivery, and postnatal care for many young, low-income women. According to the Health Care Financing Administration in the Department of Health and Human Services, since December 1980 six States dropped coverage for first time pregnant women.

States also have the option to extend coverage to low-income pregnant women who do not meet the categorical requirements of AFDC or other welfare programs with respect to intact families. Thus, States may, but are not required to, provide coverage to low-income pregnant women living with an unemployed spouse. Although a number of States do provide medicaid coverage in such cases, in 28 States a married low-income pregnant woman whose husband is living in her household and is unemployed or underemployed is not eligible for medicaid. Since December 1980, four States have dropped coverage of families with unemployed parents; three of these had also been providing coverage for first time pregnant women.

Thus, as of December 1982, 31 States do not provide medicaid coverage to low-income women who fall into one or both of these two categories; that is, they are either pregnant with their first child or in an intact family.

Mr. President, medicaid coverage for presently uncovered, pregnant women has become even more crucial because of the cutbacks the Reagan administration has forced in a variety of health, nutrition, education, child care, and support programs that provide essential services to pregnant women and their infants. These cuts—which I have consistently opposed—have been made arbitrarily and indiscriminately, without regard to the merits of these programs, their beneficial results, or their cost-effectiveness. The result has left many pregnant women with no place to turn for the care they need.

Nowhere is this more evident than in the health programs available to these women. Drastic cuts in Federal assistance to State medicaid programs has resulted in a number of States restricting eligibility, eliminating benefits, and cutting back on services. The most common practice States have followed is not adjusting the eligibility standards or actual payments under AFDC according to inflation despite the fact that 34 jurisdictions in the country already have AFDC eligibility payment standards below 55 percent of the Federal poverty level.

The lowering of AFDC standards also reduces the standard used to determine medicaid eligibility. A comparison of 1980 welfare eligibility standards with the Consumer Price Index in 1980 shows that only five States were within 90 percent or more of their comparable 1970 standard; 27 States were at 60 to 90 percent; and 18 States had eligibility payment standards set at only 24 to 59 percent of their 1970 level. In other words, in all States families have to be much poorer today to qualify for medicaid than in 1970.

The most common changes States have made in eligibility standards have been for optional eligibility groups. Income standards for the medically needy group have been increased substantially in many States. In California, Illinois, and New York—States which, in the past have had generous medically needy programs—the income eligibility standard has been restricted to 115 percent of the AFDC standard.

One optional medicaid category very important to low-income pregnant women is coverage for 18- to 21-year-olds. Since 1981, eligibility for 18- to 21-year-olds has been eliminated by 10 of the 44 States which included such coverage under their medicaid programs.

States are also increasingly adopting restrictions on basic services provided to medicaid recipients. As many as 16 States have limited or are proposing to limit the number of hospital days covered under their medicaid programs. For infants in need of neonatal intensive care services, the impact of restricting hospital stays could result in catastrophic costs to the family, bad debts to the hospital, cost shifting to private pay patients, or possibly restrictive hospital admission policies for high-risk pregnant women.

Other health programs to which low-income pregnant women might have turned for care have also borne the brunt of the Reagan budget cuts. In particular, funding has been severely cut back for the title V maternal and child health and the community health centers programs, both of which provide modest funding to establish public health services for poor mothers and children living in areas not adequately served by private providers or who cannot afford to purchase private health care and yet are ineligible for medicaid. These cuts have resulted in serious reductions in services. Forty-four States have reduced prenatal and delivery services for women under their maternal and child health programs due to the 25-percent reduction in this program when, in 1981, it was placed along with several other programs in a block grant to the States. In the past 2 years, over 464,000 children and women of child bearing age have lost services at community health centers due to Federal funding cuts affecting 28 percent of all community health centers in the Nation.

THE NEED FOR PRENATAL CARE

Mr. President, the cutback in these programs jeopardizes the health of many of our citizens, and, more importantly, of our future citizens. There is no question about the relationship between inadequate care during pregnancy and infant mortality and morbidity and the resultant very large societal costs resulting from the birth of children in ill health. Our success in reducing infant mortality and morbidity depends on whether or not we make services available to all pregnant women who need them. Medicaid coverage of prenatal, delivery, and postnatal care has proven successful in helping to lower infant mortality. According to a 1980 study by the Urban Institute, in States that do not provide medicaid coverage for first time pregnancies, neonatal mortality rates are 2 to 5 percent higher, resulting in 28 to 107 more infant deaths per 1,000 live births, depending on race and sex.

Two days ago, the Food Research and Action Center released a report indicating that "after years of steady progress, infant mortality rates are going up once again." In seven States surveyed by the center, Statewide infant mortality rates increased between 1980 and 1981. This tragic finding must not be ignored.

The majority of poor pregnancy outcomes occur in a minority of mothers each year. Approximately 1 in 7 pregnancies are at risk out of over 3 million births each year. This high-risk

group is identifiable by present clinical and laboratory expertise. If low birth weight is used as a measure of pregnancy outcome, almost two-thirds of women at high risk of having a low birth weight infant can be indentified during prenatal care, and application of quality medical care to this group would have a beneficial effect on outcome.

According to the Surgeon General's 1980 report "Healthy People," low birth weight is the greatest single hazard for newborns, increasing their vulnerability to developmental problems and to death. Of all infant deaths, two-thirds occur in infants weighing less than 2,500 grams at birth. These low birth weight infants have a 20 times greater risk of dying in their first year of life. Low birth weight is also related to infant morbidity such as impairment of the central nervous system leading to such developmental disabilities as mental retardation, cerebral palsy, epilepsy, and autism. Women with such identifiable medical conditions as diabetes, hypertension, kidney or heart disease, or who experience complications of pregnancy such as toxemia, or infections of uterus, have a much greater risk of poor pregnancy outcome.

Adequate prenatal care can help to identify many of the maternal risks associated with poor pregnancy outcome, and steps can be taken to prevent or reduce these risks including arranging for the mother to give birth in a hospital equipped with resources suited to the needs of her pregnancy.

Mr. President, despite the importance of timely prenatal care, over 5.6 percent of all pregnant women in this country receive no or inadequate prenatal care. The percentage of women lacking adequate prenatal care is considerably higher among poor, nonwhite, adolescent, and unmarried women, those in rural areas, and those over 35 years of age—the very groups most likely during pregnancy to be at high risk due to other factors. According to data compiled by the National Center for Health Statistics in 1975, approximately twice the proportion of black as of white mothers received late or no prenatal care—the infant mortality rate for black infants in this country is nearly twice that of white infants. Adolescents and women over 35 were the most likely to receive late or no prenatal care.

The need to provide prenatal, delivery, and postnatal care to those pregnant women unable to afford private care for themselves or their infants cannot be overstated. In the 96th Congress, I chaired a hearing on efforts needed to improve pregnancy outcome and reduce infant mortality. The overwhelming weight of the testimony from that hearing confirmed the recommendations of the General Accounting Office and numerous public health experts that the most important step we could take to prevent poor pregnancy outcome would be to insure that every pregnant woman received proper prenatal, delivery, and postnatal care.

Similar findings were made by the Select Panel for the Promotion of Child Health which was created by Congress to assess the status of maternal and child health and to develop a comprehensive plan to promote the health of children and pregnant women in the United States. One of the first recommendations made by that panel is to mandate medicaid eligibility for all pregnant women whose family income is at or below the federally established poverty level, including first-time pregnant women.

FINANCIAL BARRIERS TO CARE

Mr. President, experience has shown that without assurance of third-party reimbursement many low-income women will not seek prenatal care. Instead they arrive at the hospital emergency room when the birth of their child is imminent. This practice obviously creates a greater risk for the mother as well as for the child. The medical expenses related to pregnancy are costly and create a real deterrent to medical care for a young woman with limited income. A sample survey conducted by the Health Insurance Association of America showed that in 1981 hospital and medical expenses for maternity averaged about $2,046 in the United States. Costs vary tremendously in different regions of the country, and particularly between rural and urban areas.

Moreover, the obstacle these high costs present to a low-income pregnant woman is aggravated by requirements of advance payments of cash in certain communities. The January 1980 GAO study "Better Management and Resources Needed To Strengthen Federal Efforts To Improve Pregnancy Outcome"—HRD—80-24—cites numerous examples of economic barriers faced by low-income women in obtaining medical care.

Under S. 7, the expectant mother will be encouraged to seek early prenatal care. The result will be a greater chance for a healthy infant.

BLACK-MARKET ADOPTIONS AND ALTERNATIVES TO ABORTION

Mr. President, in the 95th Congress, as chairman of the former Subcommittee on Child and Human Development of the Labor and Human Resources Committee, I chaired hearings on the issue of adoption reform. Several witnesses testified that the provision of birth-related costs to women with problem pregnancies would help stem the tide of black-market adoptions since pregnant women who have no other way of having their pregnancy-related medical costs covered often resort to black marketeers. Those in the business of selling babies, these women have found, are all too ready to provide prenatal, delivery, and postnatal medical coverage in exchange for the child. The data show that teenagers are particularly vulnerable for black-market exploitation. More than three-quarters of mothers who give birth at age 17 or younger have no health insurance. Only one-sixth are covered for prenatal care; fewer than one-fifth are covered for payment of their hospital or doctor bill.

Mr. President, S. 7 would provide an alternative to abortion for many women. The lack of economic resources to pay for the medical care necessary to carry a pregnancy to term can be a factor in leading a pregnant woman to choose to terminate her pregnancy. I feel strongly that no woman should be forced because of economic pressure to resort to abortion or black-market baby sellers. The legislation we are introducing would address this situation by providing assurances to women who do not have the economic resources to afford the adequate pregnancy care so necessary for their health and the health of their expected infants. Medicaid coverage for these women would allow them to make decisions about their pregnancy free of an economic coercion that should not play a role in this very delicate decisionmaking process.

FISCAL IMPACT

Mr. President, I know that the Members of the Senate are particularly concerned about the budget implications of any new coverage.

In 1982, the Congressional Budget Office estimated that the cost of such legislation when it was offered as an amendment to the CHAP bill would be $30 million in its first full year with estimated increments of another $30 million each subsequent year as women become aware of the coverage of prenatal care and seek medicaid reimbursement, rising to a projected cost of $140 million in fiscal year 1985.

The CBO's estimates were based on the assumption that the total population of low-income pregnant women eligible for this new coverage—100,000 annually—would not avail themselves of the coverage until fiscal year 1985.

Mr. President, I think this is a relatively small price to pay for the health of these tens of thousands of women and their infants. These costs would be returned many times over in the savings that would be realized from a reduction in pregnancy complications and infant morbidity which result from inadequate prenatal care.

Mr. President, many of these women who would be served under our bill are members of a high-risk group that is the most likely to have low-birth-weight infants. These infants, in turn, are 10 times as likely to suffer from developmental disabilities as children of normal birth weight. The lifetime

costs of care for developmentally disabled individuals is high. Institutional care now runs about $20,000 a year. When applied to a lifetime, estimating an average life of 40 years, the costs would run between one-half and $1 million per individual. The costs of education are double that estimated for the average child—about $2,500 a year. And then there is the lost productive capacity, the addition to the GNP foregone, and the taxes unpaid as a result of such developmental disabilities.

A more immediate expense that can be avoided by adequate prenatal care is the expense of care in a neonatal intensive care unit. For example, HHS, in testifying in the 95th Congress on the adolescent health, services, and pregnancy prevention bill, reported that more than one-third of the 57,000 low-birthweight babies born to teenagers each year require intensive care. Roughly 6 percent of all births annually require this kind of care with an average cost of over $8,000 per episode.

CONCLUSION

Mr. President, these economic costs to society are staggering, and they can be avoided. But I believe we must look beyond the dollars and cents implications. We must look to the heartache that is produced, and the human potential that is lost or reduced, through the tragedies of infant mortality and morbidity. These are the ultimate and inevitable and, in many cases, preventable results of lack of good prenatal care.

I believe we should do all we can to give all our children the opportunity to develop to their maximum potential. This legislation would provide them with the strong beginning that is essential to their physical and intellectual development.

I ask unanimous consent that the text of the bill we are introducing today be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 7

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1902(a)(10)(A) of the Social Security Act is amended—

(1) by striking out "and" at the end of clause (i);

(2) by redesignating clause (ii) as clause (iii) and, in such clause, by striking out "who are not individuals described in clause (i)" and inserting in lieu thereof "who are not individuals described in clause (i) or (ii)"; and

(3) by inserting after clause (i) the following new clause:

"(ii) any pregnant woman and any child born as a result of such pregnancy, during the period consisting of such pregnancy and the 60-day period immediately following the last day of pregnancy, if such woman's resources (including the resources of her family) are such that she meets the resources test of eligibility for medical assistance under the State plan approved under this title applicable to a family with dependent children, and such woman's income, including the income of her family, is such that either (I) she meets the income test of eligibility for medical assistance under such plan applicable to a family with dependent children, or (II) her income does not exceed 55 percent of the official poverty line established for an individual or for a family of the same size, as appropriate, by the income poverty guidelines for the nonfarm population of the United States as prescribed by the Office of Management and Budget and adjusted pursuant to section 672 of the Omnibus Budget Reconciliation Act of 1981; and".

(b) Section 1902(e) of such Act is amended by adding at the end thereof the following new paragraph:

"(4) Notwithstanding any other provision of this title, each State plan approved under this title must provide that any pregnant woman who is eligible for, has applied for, and has received medical assistance under the State plan and who becomes ineligible for such assistance because of increased income from employment of herself or her family, shall remain eligible for all such medical assistance provided under the State plan until the end of the 60-day period beginning on the last day of her pregnancy, and that any child born as a result of such pregnancy shall remain eligible for all such medical assistance provided under the State plan until the end of such 60-day period.".

(c) Clause (viii) of section 1905(a) of the Social Security Act is amended to read as follows:

"(viii) women during pregnancy and during the 60-day period beginning on the last day of such pregnancy, and, during such 60-day period, any child born as a result of such pregnancy,".

(d) Section 1905(a)(4) of such Act is amended by striking out "and" before "(C)" and by inserting ", and (D) prenatal and postnatal services" before the semicolon at the end thereof.

SEC. 2. (a)(1) Except as provided in paragraph (2), the amendments made by this Act shall apply to medical assistance provided, under a State plan approved under title XIX of the Social Security Act, on or after the first day of the first calendar quarter beginning at least six months after the date of the enactment of this Act.

(2) If the Secretary of Health and Human Services determines that State legislation is necessary to permit amendment of the State plan under title XIX of the Social Security Act to meet the additional requirements imposed by the amendments made by this Act, he shall not find a failure to comply with the requirements of such title solely on the basis of such State's failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

(b) The Secretary of Health and Human Services shall issue the regulations required by this Act within six months after the date of the enactment of this Act.

By Mr. CRANSTON (for himself, Mr. DECONCINI, and Mr. HART):

S. 8. A bill to amend title 38, United States Code, to provide a new educational assistance program for persons who enter the Armed Forces after a date to be determined by the President, and to repeal the December 31, 1989, termination date for the Vietnam-era GI bill, and for other purposes; to the Committee on Veterans' Affairs.

ALL-VOLUNTEER FORCE EDUCATIONAL ASSISTANCE ACT

Mr. CRANSTON. Mr. President, I am introducing today S. 8, the proposed "All-Volunteer Force Educational Assistance Act." Joining with me in introducing this legislation are Senators DECONCINI and HART.

This measure derives, with certain modifications, from the provisions of S. 417, which I introduced in the 97th Congress on February 5, 1981, and amendment No. 3623 to that measure, which I submitted for printing on September 29, 1982. It would amend title 38, United States Code, to add a new chapter 30, entitled "All-Volunteer Force Educational Assistance," which would establish a new, standby program of educational incentives designed to enhance the recruitment and retention of qualified men and women into this Nation's Armed Forces and to assist in the retention of skilled and experienced personnel in the military. This new peacetime GI bill would go into effect on a date to be determined by the President—if the Congress does not disapprove—based on a Presidential determination that initiating this new program of educational incentives is necessary in the national interest.

For some time now, there has been much interest in the enactment of a peacetime GI bill. Indeed, at the close of the 97th Congress, there were nine measures pending before the Senate Veterans' Affairs Committee, on which I am privileged to serve as the ranking minority member. Two days of hearings were held on such measures on July 22 and 23, 1981.

Mr. President, I continue to believe very strongly that educational incentives, if properly designed and implemented, can aid significantly in helping to insure the success of the All-Volunteer Force. Educational benefits—as part of a military compensation system made up of both pay and benefits—have a special, important role to play in increasing the numbers and quality of men and women we attract to and retain in the Armed Services.

TWO-TIERED BENEFIT STRUCTURE DERIVED FROM S. 417, 97TH CONGRESS

As derived from S. 417, the structure of the educational benefits under this measure—incorporating a two-tiered concept with a level of basic benefits of $9,000 essentially for all who serve 3 years of active duty and a second, higher tier, with a potential benefit of up to an additional $13,500 for service beyond 3 years—is as follows:

The first tier, the basic educational assistance program, would be available

to all those entering the service—or reenlisting in the service—on or after the effective date as it would be determined by the President. Eligibility would be established by completion of 36 months of service after the date of such enlistment or reenlistment followed by discharge or release under conditions other than dishonorable or by completion of 24 months of service and entry into a commitment to serve 4 years in the Ready Reserve. The benefits in this first tier would be $9,000 in educational assistance, which would be paid at the rate of $250 a month for a maximum of 36 months' enrollment in a full-time program of approved education or training—and paid at a proportionately reduced rate for less-than-full-time training.

With respect to the commitment to serve in the Ready Reserve, the measure would provide for the suspension of educational benefits when an eligible veteran is not satisfactorily carrying out this commitment. Benefits would be reinstated upon certification that the individual had again begun satisfactorily performing his or her Ready Reserve commitment.

In addition to the basic program, this legislation would provide a higher, second tier of supplemental educational assistance. Eligibility for this supplemental assistance would be limited to those who have all of the following qualifications: Have completed the requisite service for the basic program; have a high school diploma or equivalency certificate prior to completion of the 3-year minimum service requirement; have an honorable discharge; and have served a minimum of 6 years active duty. As an alternative to the last qualification, a minimum of 4 years on active duty and a commitment to serve 4 years in the Ready Reserve would suffice. This Ready Reserve option would be subject to the same suspension and reinstatement provisions that I described in connection with the first-tier benefits.

Individuals meeting the eligibility criteria for the second tier would earn supplemental educational assistance at the rate of $375 a month for each month of continuous active-duty service beyond the 3 years required for the basic benefits.

For example, those who serve a total of 6 continuous years of active duty would earn the maximum supplemental educational assistance of $13,500 for a maximum total level of assistance of $22,500—$9,000 under the basic program and $13,500 under the supplemental. Those who serve at least a fourth year on active duty and make a commitment to serve 4 years in the Ready Reserve would earn $375 for each month of active-duty service in excess of the 36-month service requirement for basic assistance. For example, an individual who serves 5 full years on active duty and enters into a 4-year Ready Reserve commitment would earn $9,000 under the supplemental program—$375 for each of the 24 months of active duty after the first 36 months—in addition to the $9,000 under the basic program.

These supplemental benefits would generally be paid in the same way as the basic benefit—that is, at $250 a month for full-time pursuit—but could be paid at the individual's choice, at a rate of up to $500 for enrollment in a full-time program of education and be combined with the basic benefit for a total mixmum monthly assistance level of $750. At the maximum $500 monthly rate, the maximum number of months for use of supplemental benefits would be 27 months, but the basic benefits would still continue for a full 36 months.

DISCRETIONARY TARGETED AUGMENTATION BY ARMED SERVICES

Finally, my proposal would provide discretion under certain circumstances, in both tiers of the program, for benefit levels to be augmented by the individual service branches, consistent with guidelines developed by the Secretary of Defense, for the purpose of helping to overcome difficulties in the recruitment or retention of specific categories of personnel where critical shortages of personnel are being experienced—such as in the combat arms area in the Army.

With respect to this augmentation authority, the approval of the Secretary of Defense would specifically be required before any branch could increase the level of benefits, and the augmentation authority would be subject to the availability of appropriations made specifically for this purpose to the Department of Defense—not those made to various services. It is my intention in these provisions, to provide the Secretary of Defense not just with the authority needed to provide for flexible recruitment and retention tools but also with the means to forestall the occurrence of costly, wasteful "recruiting wars" between the various branches of the Armed Forces and to assure that the criteria that are developed for any augmentation and any approval of specific categories for augmentation take into account the real needs of each of the services branches.

ENTITLEMENT PERIOD

With respect to both tiers of the program, individuals would generally have 10 years following discharge or release from active duty in which to use their benefits—generally the same period as under the current chapter 34 GI bill. In-service use of benefits would be permitted following completion of the applicable minimum-service requirement.

ADMINISTRATION OF PROGRAM

The VA would be charged with the responsibility of administering the program, and the administration would be similar to the administration of benefits under the current GI bill.

Every 2 years, the Secretary of Defense and the Administrator of Veterans' Affairs would be required to report to the Congress on the extent to which benefit levels are adequate to achieve the twin purposes of promoting recruitment and retention and defraying educational expenses, on the continuing necessity for the program, and on its administration.

MODIFICATIONS MADE FROM S. 417

Mr. President, I want to highlight three very significant changes that I have incorporated in this proposal that differ from my proposal in the 97th Congress. The first two of these modifications were initially proposed in amendment No. 3023 which I submitted for printing on September 29, 1982.

TRIGGERED EFFECTIVE DATE

The major impetus for enactement of a GI bill-type program has derived in large part from concerns about the failure of the Armed Forces to recruit and retain qualified individuals. At the time I introduced my measure in early 1981, recruitment and retention shortfalls in the Armed Forces were reaching emergency proportions. The four service branches had each failed to reach their recruitment goals, and retention rates were very low. The caliber of new recruits was a major concern.

However, since that time, the service branches have enjoyed a major upturn in both recruitment and retention. Secretary of Defense Weinberger announced in December 1982 that, in terms of both recruiting and retention, fiscal year 1982 was "one of the best years since the beginning of the All-Volunteer Force, was better than most years under conscription, and even surpassed the excellent results of last year." In fiscal year 1982, all four service branches met or exceeded their objectives for recruitment. The reenlistment rate was up sharply; 52 percent of those who finished first hitches in fiscal 1982 decided to reenlist—a level topping the prior year's 43-percent record which had been unmatched in peacetime history.

The final recruiting figures for fiscal year 1982 also show that the Armed Forces recruited their highest percentage of high school graduates ever. The proportion of high school graduates among new recruits rose from 68 percent in 1980—a 5-year low—to 86 percent in fiscal 1982. On military entrance exams, 87 percent of new recruits scored average or above—the best performance on the tests since 1976.

Because of the foregoing, I share concerns that others have expressed that implementation of GI bill-type benefits at this time would be prema-

ture. Moreover, Mr. President, considerable potential problems that await us down the road may undermine this current recruitment and retention success. The pool of eligible young men is projected to decline over the next decade. Competition among the military, colleges, and industry for smaller numbers of qualified and talented young men and women can be expected to intensify substantially. A significant upswing in the economy could substantially reduce the attractiveness of military service as well as encourage more individuals to leave the military when their hitches are up.

Thus, the measure I am introducing would provide now for enactment of a peacetime GI bill educational incentive program with its implementation to be triggered by the President. Under this authority, the program would become effective when the President, upon the recommendation of the Secretary of Defense made after receiving the views of the Secretaries of the military departments, would make certain specified findings—and the Congress did not disagree—that the program is necessary to assist in meeting recruitment and retention goals. After Presidential notice to the Congress 60 days before invoking the trigger, Congress by resolution—adopted by each House under an expedited consideration process modeled on the Budget Act expedited process for impoundment resolutions—could disapprove the establishment of the program. In this way, although a standby program would be on the books, it would not become effective until there was a consensus that it was needed. In addition my measure would provide for the program to be "triggered off" by the same procedure when the need for it as a recruitment and retention device was found by the President to be no longer necessary.

The provision for a congressional role in the making of these determinations is very important, Mr. President. It seems to me that what essentially is involved here would be a type of delegation by the Congress to the President of a legislative decision. It is the province of the Congress to establish effective dates for programs. This is a very important responsibility, especially where large expenditures are at stake, as they are here. Hence, as a matter of fiscal and legislative prudence and consistence with the Budget Act, Congress should be guaranteed a fair opportunity to participate in making, and, if it wishes, to disapprove of, any triggering determination by the President.

This congressional participation is fundamental to the standby approach I am proposing. Without an assured congressional role, I believe this would be an unwise and possibly unconstitutional delegation of legislative branch power to the executive branch.

Mr. President, this triggering mechanism is designed to take a forward-looking approach to the issues of providing for our national defense in the years to come. It recognizes the current and likely future recruitment and retention situation and the concerns about both the cost effectiveness and recruitment and retention and educational effectiveness of a GI bill at this time. I believe it strikes the appropriate balance among these considerations.

DEPARTMENT OF DEFENSE FUNDING

The bill I am introducing also would make another fundamental modification to the approach in the original proposal I made in S. 417 last year. As proposed in amendment No. 3623, S. 8 would provide that all benefits are to be funded from appropriations to the Department of Defense. I came to this conclusion in September 1981, when preparing for a markup, which was ultimately canceled, of educational incentive legislation by the Veterans' Affairs Committee, and circulated such an amendment to committee members in preparation for that markup. The bill I am introducing today would make clear that Department of Defense funds are to be used to cover the costs of administration as well as paying benefits.

This basis for taking the approach is my conviction that the cost of these benefits must be considered in the context of their rightful place in our budgetary process—as a direct and continuing cost of providing for our national defense. Since what is at stake is essentially a recruitment and retention device—rather than a readjustment benefit—the Department of Defense should bear the costs of the program.

ELIMINATION OF AUTHORITY FOR TRANSFER TO DEPENDENTS

The third major modification in the measure I am introducing today is the elimination of the authority I had proposed in S. 417 to permit a service member to transfer his or her unused benefits to a spouse or a child. As my colleagues may recall, S. 417 would have made transferability available on a discretionary basis in order to help overcome recruitment and retention problems as to specific categories of personnel.

However, based on the preliminary results of a test of this type of benefits in terms of cost and its effectiveness as a recruitment and retention device, I do not at this time support transferability as an element in an All-Volunteer GI bill.

The tests conducted by the Armed Forces indicated that transferability has limited, if any, effectiveness as a recruitment device. Although it showed potential for some positive effect in terms of its value as a retention device, its attractiveness was confined primarily to service members who were officers—an area where retention problems are minimal.

Moreover, Mr. President, transferability could be a very expensive component of a new GI bill program since it could be expected that all or most of service members with remaining entitlement to benefits would transfer them to their children and spouses. Many individuals who remain on active duty well beyond their initial periods of enlistment make the service their career and stay in the military in order to establish eligibility for retirement benefits—benefits which can be in themselves a very significant retention incentive. Hence, the cost-effectiveness of providing substantial educational incentives in the form of transferability is questionable.

Finally, there are concerns that providing for transfer to dependents might very well undercut in the long run the recruitment purposes of a program of educational incentives. By virtue of providing educational benefits to dependents—individuals who have made no commitment to military service—it could reduce the incentive to enter the service among the pool of potential eligibles.

Thus, Mr. President, in light of these factors, I have decided to delete this authority from the proposal I am introducing at this time.

PROMOTION OF RECRUITMENT AND RETENTION

Mr. President, the goals of promoting recruitment and retention in the military would be served by this legislation in a variety of ways. First, the benefits would encourage many individuals to enlist in the military for the first time. Recruiters would welcome this powerful tool to encourage people to enlist in order to finance their educations through military service.

Second, this educational program is designed to give major encouragement to entrants into military service to complete their initial terms of service. The costs to the military are very high when military personnel—especially first term personnel—fail to complete enlistments. Military dropouts, like school dropouts, are very expensive for society. The armed services must make a large outlay of funds to train and pay a new recruit but realize little return on that investment when the enlistee fails to complete his or her term of service.

This bill would deal with the problem of first term retention in two ways. Most important, no benefits would accrue to a person who fails to complete the 3-year minimum service requirement, or, in the case of the Ready Reserve option, fails to complete 2 years of active duty and to enter into a 4-year Reserve commitment.

Also, the bill would encourage the enlistment of high school graduates—since only a high school graduate will

be eligible for both the basic as well as the supplemental educational assistance benefits—and, as I noted previously, experience has shown that high school graduates are far more likely to complete their initial terms of service than are nonhigh school graduates.

Third, as to longer term retention or reenlistment, this educational assistance program would provide major incentives for active duty personnel to remain in the military. Current active duty personnel will have a very substantial incentive to reenlist in order to begin to earn the benefits which would be made available under the new program. Additionally, the program is designed to become increasingly attractive beyond the initial 3-year term of service during which the basic benefits are earned and would, therefore, encourage individuals to remain in the service for progressively longer periods.

In particular, the program would encourage service personnel to serve for up to 6 years in order to earn maximum entitlement to the higher, supplemental educational assistance benefits.

Fourth, as I have noted, by permitting the service branches, under the supervision of the Secretary of Defense selectively to augment benefit levels, the proposal provides flexibility and ample latitude to permit each of the services to target on recruitment and retention needs for specific personnel and skills while seeking to avoid costly and inequitable competition among the services.

REPEAL OF THE 1989 TERMINATION DATE

Finally, Mr. President, I want to make special mention of another provision in this measure—the one to repeal the 1989 termination date for the current Vietnam-era GI bill. This provision is identical to that which the Senate passed on September 24, 1982, in section 204 of H.R. 6782, the proposed "Veterans Compensation, Education, and Employment Amendments of 1982," but which the House would not accept last year.

Under the current GI bill, carried out under chapter 34, no educational assistance benefits may be paid after December 31, 1989. This termination date, which was added to chapter 34 in 1976 by Public Law 95-202, was designed to permit those who entered the service prior to December 31, 1976—the general termination date for entry into the service in order to aquire eligibility for current GI bill benefits—to complete their initial enlistments and then have a 10-year period in which to use their GI bill benefits.

For some time now I have been concerned by reports from persons now on active duty with eligibility for the current GI bill suggesting that they will leave the service in order to utilize their GI bill benefits prior to the 1989 termination date. According to testimony presented by the Department of Defense at a hearing before the Senate Veterans' Affairs Committee last July 28, all the military departments believe that if the 1989 termination date is not extended, some service member will elect to separate early in order to use their earned benefits. Survey evidence indicates that 41 percent of third term personnel leaving the Navy report losing GI bill benefits as one of the most important factors in their decision to leave the services. That is a principal reason why the Department of Defense supported section 204 of the Senate-passed H.R. 6782 last year.

According to the Department of Defense, there are still over 800,000 service members on active duty who entered the service prior to 1977 and who thus have eligibility for the current chapter 34 GI bill. To the extent that these experienced individuals elect to leave the service early in order to use their GI bill benefits, the military incurs undue costs because of the need to recruit and train replacements. In addition, the replacement of senior personnel with more junior personnel reduces the effectiveness and readiness of the Armed Forces.

In the cases of those who choose to remain on active duty and thereby lose the opportunity to make full use of the benefits to which they are entitled, it seems to me to be very unfair to penalize them by cutting short or eliminating their periods of eligibility because they sought to fulfill a greater obligation of service to the Nation.

Thus, the bill I am introducing today would repeal section 1662(e) of title 38, the provision which establishes the December 31, 1989, termination date. It would thus generally provide all members of the service—as well as those who left service after December 31, 1979—who are entitled to GI bill benefits with a full 10-year period from the date of their separation from service to complete their educations under the current chapter 34 GI bill. I have taken the position of recommending this full 10-year period approach, rather than my prior proposal for a modified delimiting period, which passed the Senate in 1980 but which also was not accepted by the House and which was included in my bill, S. 417, last Congress, in recognition of the Department of Defense's and VA's current position of support for such a delimiting period paralleling current law.

Because the major underlying purpose for repealing the termination date is to provide a retention incentive for the armed services, rather than a readjustment benefit for veterans, the bill would provide that the Department of Defense would bear the full responsibility for the cost of all educational and training benefits paid after December 31, 1989. Thus as did the Senate-passed provision in H.R. 6782, S. 8 would require the Department of Defense to reimburse the VA for all costs incurred—for benefits and administration—after that date.

COST ESTIMATE

Mr. President, as is the case with respect to virtually all proposals for a peacetime GI bill, the costs are not insignificant. According to preliminary estimates by the Congressional Budget Office on the predecessor bill, S. 417, the costs in the first full year in which basic benefits would be paid would be $46.4 million. Subsequently, by 1995 that cost would rise to a "steady state" cost of around $1 billion. However, I should point out that since eligibility for these benefits would not begin to be established until after the President triggers on the program and benefits would not actually begin to be paid until 2 years after that date, the earliest time at which costs could begin would be fiscal year 1986.

I want to stress that these are preliminary cost estimates and are subject to revision and refinement. As more accurate estimates are developed, I will share them with my colleagues.

CONCLUSION

Mr. President, as I have noted, S. 8 is designed to contribute to the recruitment and retention of well-qualified personnel in the All-Volunteer Force, and I believe it is fashioned in such a way as to do so in an equitable, efficient, and cost-effective manner. I believe that the triggered approach to these benefits is essential since, as I noted, I have concluded that the outright restoration of GI bill-type benefits at this time is premature. However, I continue to believe strongly in the value of educational incentives to enhance recruitment and retention in the Armed Forces and as a sound investment in the future of our Nation. I also fully concur with the sentiment that one does not "fix the roof when it's raining" and that the time to address the issues involved in educational incentives and their relationship to the needs of the All-Volunteer Force is now—not when, and if, recruitment and retention problems again reach emergency proportions.

This measure is thus designed to provide a progressive approach to issues involved in providing for our national defense in the years to come. It recognizes the current and likely future recruitment and retention situations and the concerns about both the cost effectiveness and general effectiveness of a GI bill. As I indicated earlier, I believe it strikes the appropriate balance among these considerations.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 8

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "All-Volunteer Force Educational Assistance Act".

SEC. 2. (a) Title 38, United States Code, is amended by inserting before chapter 31 the following new chapter:

"CHAPTER 30—ALL-VOLUNTEER FORCE EDUCATIONAL ASSISTANCE

"Subchapter I—Purposes; Definitions

"Sec.
"1401. Purposes.
"1402. Definitions.

"Subchapter II—Basic Educational Assistance

"1411. Entitlement to basic educational assistance.
"1412. Payment of basic educational assistance.

"Subchapter III—Supplemental Educational Assistance

"1421. Entitlement to supplemental educational assistance.
"1422. Payment of supplemental educational assistance.

"Subchapter IV—General and Administrative Provisions

"1431. Expiration of period during which entitlement may be used.
"1432. Suspension of educational assistance.
"1433. Exclusion of certain service for purpose of earning entitlement.
"1434. Extension to permit completion of term.
"1435. Program requirements.
"1436. Appropriations.
"1437. Additional amounts of assistance.
"1438. Reporting requirements.

"SUBCHAPTER I—PURPOSES; DEFINITIONS

"§ 1401. Purposes

"The purposes of this chapter are (1) to promote and assist the All-Volunteer Force program of the United States by providing for the establishment for men and women entering active duty of an improved program of educational assistance designed to help in the recruitment and retention of well-qualified men and women, and (2) to provide those men and women with assistance in obtaining an education that they might not otherwise be able to afford.

"§ 1402. Definitions

"For the purposes of this chapter:

"(1) The term 'basic educational assistance' means educational assistance provided under subchapter II of this chapter.

"(2) The term 'date determined by the President' means the date determined by the President pursuant to section (8)(a) of the All-Volunteer Force Educational Assistance Act.

"(3) The term 'educational institution' has the same meaning provided in section 1652(c) of this title.

"(4) The term 'eligible veteran' means any person who—

"(A) entered a period of active duty in the Armed Forces after the date determined by the President;

"(B) after entering such period of active duty (i) served on active duty for a period of three or more consecutive years, or (ii) served on active duty for a period of two or more consecutive years and has agreed in writing to serve and has been accepted for service in the Ready Reserve of a component of the Armed Forces for a period of four or more years, and

"(C)(i) was discharged or released from such period of active duty under conditions other than dishonorable, or (ii) has served three or more consecutive years of an obligated period of active duty which began after the date determined by the President and has not been discharged or released from such period of active duty.

"(5) The term 'program of education' has the same meaning provided in section 1652(b) of this title.

"(6) The term 'supplemental educational assistance' means educational assistance provided under subchapter III of this chapter.

"SUBCHAPTER II—BASIC EDUCATIONAL ASSISTANCE

"§ 1411. Entitlement to basic educational assistance

"An eligible veteran shall be entitled to basic educational assistance, in the maximum amount of $9,000, payable in accordance with the provisions of this chapter.

"§ 1412. Payment of basic educational assistance

"(a) The Administrator shall pay to each eligible veteran who is pursuing an approved program of education under this chapter basic educational assistance pursuant to this section to help meet, in part, the expenses of such veteran's subsistence, tuition, fees, supplies, books, equipment, and other educational costs.

"(b) The Administrator shall pay to an eligible veteran basic educational assistance (1) at the monthly rate of $250 if such veteran is pursuing an approved program of education under this chapter on a full-time basis, or (2) at an appropriately reduced rate, as determined, under regulations which the Administrator shall prescribe, if such veteran is pursuing an approved program of education under this chapter on less than a full-time basis.

"SUBCHAPTER III—SUPPLEMENTAL EDUCATIONAL ASSISTANCE

"§ 1421. Entitlement to supplemental educational assistance

"(a) Except as provided in subsection (b) of this section, an eligible veteran who has received a secondary school diploma (or equivalency certificate) and who—

"(1)(A) has served after the date determined by the President six or more consecutive years of active duty in the Armed Forces, and (B)(i) was honorably discharged or released therefrom, or (ii) has not been discharged or released from such veteran's current period of active duty; or

"(2)(A) has served after such date four or more consecutive years of active duty but less than six, (B) has been honorably discharged or released therefrom, and (C) has agreed in writing to serve and has been accepted for service in the Ready Reserve of a component of the Armed Forces for a period of four years or more after such discharge or release,

shall be entitled to supplemental educational assistance in the amount of $375 for each consecutive month in excess of thirty-six consecutive months that such veteran served on active duty after the date determined by the President up to a maximum total amount of $13,500, payable in accordance with the provisions of this chapter.

"(b) No part of any period of active duty that occurs prior to the period of active duty by which the veteran concerned qualifies as an eligible veteran under section 1402(4) of this title shall be counted for purposes of subsection (a) of this section.

"(c) On or before the first date on which a person who has entitlement to basic educational assistance enters a period of active duty that could serve, in whole or in part, to entitle such veteran to supplemental educational assistance, the Secretary concerned shall advise such person in writing of the requirement, in subsection (a) of this section, of being honorably discharged or released in order to be eligible for supplemental educational assistance.

"§ 1422. Payment of supplemental educational assistance

"(a) The Administrator shall pay to each eligible veteran who is pursuing an approved program of education under this chapter supplemental educational assistance pursuant to this section to help meet, in part, the expenses of such veteran's subsistence, tuition, fees, supplies, books, equipment, and other educational costs.

"(b)(1) Except as provided in paragraph (2) of this subsection, the Administrator shall pay to an eligible veteran supplemental educational assistance (A) at the monthly rate of $250 if such veteran is pursuing an approved program of education under this chapter on a full-time basis, or (B) at an appropriately reduced rate, as determined under regulations which the Administrator shall prescribe, if such veteran is pursuing an approved program of education under this chapter on less than a full-time basis.

"(2) An eligible veteran who is pursuing an approved program of education under this chapter on a full-time basis shall be paid supplemental educational assistance at such monthly rate between $250 and $500 as such veteran may elect in accordance with regulations which the Administrator shall prescribe, In such regulations, the Administrator, with the concurrence of the Secretary of Defense, may establish increments of assistance which the veteran may elect to be paid supplemental educational assistance as the Administrator considers necessary for efficient administration.

"(3) Supplemental educational assistance shall be paid to an eligible veteran concurrent with the payment of basic educational assistance to such veteran if such veteran so elects.

"SUBCHAPTER IV—GENERAL AND ADMINISTRATIVE PROVISIONS

"§ 1431. Expiration of periods during which entitlement may be used

"(a) Except as provided in subsections (b) through (d) of this section, the period during which an eligible veteran may use such veteran's entitlement to educational assistance under this chapter expires at the end of the ten-year period beginning on the date of such veteran's last discharge or release from active duty.

"(b) In the case of any eligible veteran who has been prevented, as determined by the Administrator, from pursuing a program of education under subchapter II or III of this chapter within the ten-year period prescribed by subsection (a) of this section, because—

"(1) such veteran has not met the nature of discharge requirement of such subchapter before (A) the nature of such discharge or release was changed by appropriate authority, or (B) with respect to educational assistance under subchapter II of this section, the Administrator determined, under regulations prescribed by the Administrator,

that such discharge or release was under conditions other than dishonorable, or

"(2) such veteran's discharge or dismissal was, under section 3103 of this title, a bar to benefits under this title before the Administrator determined that such discharge or dismissal is not a bar to such benefits.

such ten-year period shall not run during the period of time that such veteran was so prevented from pursuing such program of education.

"(c) In the case of a veteran eligible for educational assistance under the provisions of this chapter who, subsequent to such veteran's last discharge or release from active duty, was captured and held as a prisoner of war by a foreign government or power, the ten-year period described in subsection (a) of this section shall not run (1) while such veteran is so detained, or (2) during any period immediately following such veteran's release from such detention during which such veteran is hospitalized at a military, civilian, or Veterans' Administration medical facility.

"(d)(1) In the case of any person who is an eligible veteran and—

"(A) who was prevented from pursuing such veteran's chosen program of education prior to the expiration of the ten-year period for use of entitlement under this chapter otherwise applicable under this section because of a physical or mental disability (not including a condition described in subparagraph (A) of paragraph (2) of this section) which was not the result of such veteran's own willful misconduct, and

"(B) who applies for an extension of such ten-year period within one year after (i) the last day of such period, or (ii) the last day on which such veteran so prevented from pursuing such program, whichever is later,

such ten-year period shall not run with respect to such veteran during the period of time that such veteran was so prevented from pursuing such program and such ten-year period will again begin running on the first day following such veteran's recovery from such disability on which it is reasonably feasible, as determined under regulations which the Administrator shall prescribe, for such veteran to initiate or resume pursuit of a progam of education with educational assistance under this chapter.

"(2)(A) A condition referred to in paragraph (1)(A) of this subsection and in subparagraph (B) of this paragraph is an alcohol or drug dependence or abuse condition of a veteran in a case in which it is determined, under regulations which the Administrator shall prescribe for the implementation of this paragraph, that—

"(i) such veteran (I) has received recognized treatment for such condition, or (II) has participated in a program of rehabilitation for such condition, and

"(ii) such condition is sufficiently under control to enable such veteran to pursue such veteran's chosen program of education under this chapter.

"(B) In the case of any person who is an eligible veteran and—

"(i) who was prevented from pursuing such veteran's chosen program of education prior to the expiration of the ten-year period for use of entitlement under this chapter otherwise applicable under this section because of a condition described in subparagraph (A) of this paragraph, and

"(ii) who applies for an extension of such ten-year period within one year after (I) the last date of the delimiting period otherwise applicable under this section, (II) the termination of the last period of such treatment or such program of rehabilitation, or (III) the date on which final regulations prescribed pursuant to subparagraph (A) of this paragraph are published in the Federal Register, whichever is the latest,

such ten-year period shall not, subject to subparagraph (C) of this paragraph, run with respect to such veteran during the period of time that such veteran was so prevented from pursuing such program and such ten-year period will again begin running on the first day, following such condition becoming sufficiently under control to enable such veteran to pursue such veteran's chosen program of education under this chapter, on which it is reasonably feasible, as determined in accordance with such regulations, for such veteran to initiate or resume pursuit of a program of education with educational assistance under this chapter.

"(C) An extension of the applicable delimiting period because of such condition shall be limited to the period of time the veteran was receiving treatment or the period of time the veteran was participating in a program of rehabilitation for such condition plus such additional length of time as the veteran demonstrates, to the satisfaction of the Administrator, that the veteran was prevented by such condition from initiating or completing such program of education, but in no event shall the extension be for more than four years.

"§ 1432. Suspension of educational assistance

"The payment of educational assistance under this chapter shall be suspended in the case of any eligible veteran who fails to serve satisfactorily in the Ready Reserve of a component of the Armed Forces during a period of Ready Reserve service that such veteran is committed to serve in connection with establishing entitlement to such assistance. The payment of such assistance shall be reinstated upon receipt of certification from the Secretary concerned that such veteran is serving satisfactorily as a member of such Ready Reserve.

"§ 1433. Exclusion of certain service for purpose of earning entitlement

"For the purpose of section 1402 of this title, the term 'active duty' does not include any period during which an individual was assigned full time by the Armed Forces to a civilian institution for a course of education which was substantially the same as established courses offered to civilians, served as a cadet or midshipman at one of the service academies, or served under the provisions of section 511(d) of title 10 pursuant to an enlistment in the Army National Guard or the Air National Guard, or as a Reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve.

"§ 1434. Extension to permit completion of term

"(a) If a veteran is enrolled under this chapter in an educational institution regularly operated on the quarter or semester system and the period during which such veteran may use such veteran's entitlement under this chapter would, under section 1431 of this title, expire during a quarter or semester, such period shall be extended to the termination of such quarter or semester.

"(b) If a veteran is enrolled under this chapter in an educational institution not regularly operated on the quarter or semester system and the period during which such veteran may use such veteran's entitlement under this chapter would under section 1431 of this title, expire after a major portion of the course is completed, such period shall be extended to the end of the course or for twelve weeks, whichever is the lesser period of extension.

"§ 1435. Program requirements

"Except as otherwise provided in this chapter, the provisions of sections 1663, 1670, 1671, 1673, 1674, 1677, 1681(c), and 1683 of this title and the provisions of chapter 36 of this title, with the exception of section 1780(a)(6), shall be applicable to the provision of educational assistance under this chapter.

"§ 1436. Appropriations

"(a) Payments for entitlement earned under this chapter and payments under subsection (b) of this section shall be made from appropriations made to the Department of Defense.

"(b)(1) The Secretary of Defense shall make payments to the Administrator for all expenses incurred by the Administrator in administering this chapter.

"(2) Payments under paragraph (1) of this subsection shall be made in advance or by way of reimbursement, with necessary adjustments for overpayments and underpayments.".

"§ 1437. Additional amounts of assistance

"Subject to the availability of appropriations made to the Office of the Secretary of Defense specifically for the purposes of this section, if the Secretary is concerned, in accordance with regulations which the Secretary of Defense may prescribe to implement this section, determines it to be necessary and appropriate in order to obtain or retain the services of sufficient numbers of qualified active-duty personnel in specific categories of such personnel, such Secretary concerned may, if the Secretary of Defense approves in the cases of particular categories, increase the amount of basic or supplemental educational assistance, or both, payable on account of active-duty service performed in one or more such categories and the monthly rate or rates at which such assistance may be paid.

"§ 1438. Reporting requirements

"The Secretary of Defense and the Administrator, not less than once every two years following the date determined by the President, shall submit to the Congress separate reports on the operation of the programs provided for in this chapter and shall include in each such report (1) information indicating (A) the extent to which the benefit levels provided under this chapter are adequate to achieve the recruitment and retention purposes of this chapter and of providing an adequate level of financing assistance to help meet the cost of pursuing a program of education, and (B) whether it is necessary for the purposes of maintaining adequate levels of well-qualified active-duty personnel in the Armed Forces to continue to offer the opportunity for educational assistance under this chapter to persons who have not yet entered active-duty service, and (2) such recommendations for administrative or legislative changes regarding the provision of educational assistance under this chapter as the Secretary or Administrator, respectively, consider appropriate.".

(b) The tables of chapters at the beginning of such title and at the beginning of part III of such title are each amended by inserting above the item relating to chapter 31 the following new item:

"30. All-Volunteer Force Educational Assistance ..... 1401".

SEC. 3. Section 1508(f)(1) of title 38, United States Code, is amended—

(1) in subparagraph (A), by inserting "30 or" before "34" the first place it appears and striking out "chapter 34" the second place it appears and inserting in lieu thereof "either chapter 30 or chapter 34"; and

(2) in subparagraph (B), by inserting "30 or" before "34".

SEC. 4. Section 1623 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(e) In the event the participant becomes entitled to basic educational assistance under subchapter II of chapter 30 of this title, such participant shall be disenrolled from the program under this chapter effective the last day of the month in which such participant becomes entitled to such assistance.".

SEC. 5. Section 1795 of title 38, United States Code, is amended—

(1) in subsection (b)—

(A) by striking out "of this section" and inserting in lieu thereof "of subsection (a) of this section or under chapter 30 of this title"; and

(B) by inserting at the end the following new sentence: "Computations made for the purposes of this subsection with respect to chapter 30 of this title shall be based on counting one forty-eighth of the maximum total amount of assistance payable under such chapter 30 of this title as one month of assistance under such chapter."; and

(2) by adding at the end the following new subsection:

"(c)(1) A person who is an eligible veteran as defined in section 1402(4) of this title for purposes of chapter 30 of this title shall not be afforded educational assistance under any provision of chapter 34, 35, or 36 of this title.

"(2) The entitlement of any person to educational assistance under chapter 30 of this title shall be reduced by 1 dollar for each dollar of assistance that has been paid to such person under chapter 34, 35, or 36 of this title.".

SEC. 6. Section 408 of the Veterans' Education and Employment Assistance Act of 1976 (Public Law 94-502, 90 Stat. 2383, 2397) is amended—

(1) in subsection (a), by (A) striking out "(a)(1)" and (B) striking out all after "December 31, 1981" and inserting a period in lieu thereof; and

(2) by striking out subsection (b) in its entirety.

SEC. 7. (a) Section 1662 is amended by striking out subsection (e) in its entirety.

(b)(1) Chapter 34 is amended by adding at the end the following new section:

"§ 1694. Reimbursement by the Secretary of Defense

"The Secretary of Defense shall reimburse the Administrator for all amounts of educational or training assistance allowances paid by the Administrator under this chapter or chapter 36 of this title after December 31, 1989.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1694. Reimbursement by the Secretary of Defense.".

"SEC. 8. (a)(1) Subject to subsections (c), (d), and (f) and except as provided in subsection (e), the amendments made by sections 2 through 6 shall take effect on the date determined by the President, upon the recommendation of the Secretary of Defense, in accordance with the provisions of paragraph (2).

"(2)(A) In making a determination pursuant to paragraph (1), the President (i) shall take into account (I) the projected costs of establishing the improved program of educational assistance for men and women entering active duty in the Armed Forces that would be established under chapter 30 of title 38, United States Code (as added by section 2(a)), (II) the recruitment and retention experiences of the Armed Services in the preceding fiscal year and the projected recruitment and retention performances of the Armed Services for the fiscal year in which such determination is made and the next four fiscal years, and (III) other alternatives and their projected costs to enhance such recruitment and retention, and (ii) shall determine a date for the establishment of such program upon finding that the establishment of the program on such date is, in terms of the factors specified in clause (i), necessary in the national interest of the United States in order to achieve the purposes of such chapter 30.

"(B) Prior to making a recommendation under paragraph (1), the Secretary of Defense shall consult with the Administrator of Veterans' Affairs and obtain and review the recommendations of the Secretaries of the military departments in terms of the consideration specified in subparagraph (A).

"(b)(1) Subject to subsections (c) and (d) and except as provided in subsection (c), no person shall be eligible for benefits under chapter 30 of title 38, United States Code (as added by section 2(a)), who enters a period of active duty in the Armed Forces after the date determined by the President, upon the recommendation of the Secretary of Defense, in accordance with the provisions of paragraph (2), to be the date for termination of eligibility for benefits under such chapter.

"(2)(A) In making a determination pursuant to paragraph (1), the President (i) shall take into account (I) the projected costs of continuing the improved program of educational assistance established under chapter 30 of title 38, United States Code, (II) the recruitment and retention experiences of the armed services in the preceding fiscal year and the projected recruitment and retention performances of the armed services for the fiscal year in which such determination is made and the next four fiscal years, and (III) other alternatives and their projected costs to enhance such recruitment and retention, and (ii) shall determine a date on which continuation of such a program is, in terms of the factors specified in clause (i), no longer necessary in the national interest of the United States in order to achieve the purposes of such chapter 30.

"(B) Prior to making a recommendation under paragraph (1), the Secretary of Defense shall consult with the Administrator of Veterans' Affairs and obtain and review the recommendations of the Secretaries of the military departments in terms of the considerations specified in subparagraph (A).

"(c) On each December 1 after the date of the enactment of this Act through 1987, the President shall make a determination pursuant to subsection (a)(1) or subsection (b)(1), as appropriate, and shall, not later than thirty days thereafter, submit to the Committees on Armed Services and Veterans' Affairs of the House of Representatives and the Senate a report explaining the reasons for that determination. Subject to subsection (f), the President may also make such a determination on any date other than December 1.

"(d)(1) Not later than sixty days prior to a date determined by the President pursuant to subsection (a) or (b), the President shall submit to the Committees on Armed Services and Veterans' Affairs of the House of Representatives and the Senate written notice thereof, together with a report explaining the reasons for the determination.

"(2) For the purposes of computing the sixty-day period referred to in paragraph (1) and the thirty-day period referred to in subsection (c), there shall be excluded—

"(A) the days on which either House is not in session because of an adjournment or more than three days to a day certain or an adjournment of the Congress sine die, and

"(B) any Saturday and Sunday, not excluded under the preceding clause, when either House is not in session.

"(e)(1) The amendments made by section 2 through 6 shall not take effect on the date determined pursuant to subsection (a) if, prior to such date, the House of Representatives and the Senate each adopt a resolution disapproving such determination.

"(2) The period for acquiring eligibility for benefits under chapter 30 of title 38, United States code (as added by section 2(a)), shall not terminate on the date determined pursuant to subsection (b) if, prior to such date, the House of Representatives and the Senate each adopt a resolution disapproving such determination.

"(3) The provisions of section 1017 (b), (c), and (d) (1), (2), and (3) of the Impoundment Control Act of 1974 (Public Law 93-344; 88 Stat. 332 et seq.), shall apply to a resolution under paragraph (1) or (2) which only expresses the disapproval of the House of Representatives or the Senate of such a determination in the same manner that such provisions apply to an impoundment resolution (as defined in section 1011(4) of such Act), except that the first reference in such section 1017(b) to 'the committee' shall be deemed to be a reference to 'the Committee on Armed Services' and the references in such section 1017(b) to 'proposed deferral' shall be deemed to be references to the determination involved.

"(f) The authority of the President to make a determination pursuant to subsection (a) shall expire on December 1, 1987.".

By Mr. CRANSTON (for himself, Mr. MATSUNAGA, and Mr. DECONCINI):

S. 9. A bill to amend title 38, United States Code, to provide a 15-percent increase in the rates of educational and training assistance allowances under the GI bill and in the rates of subsistence allowances under the Veterans' Administration rehabilitation program for service-connected disabled veterans; to the Committee on Veterans' Affairs.

GI BILL BENEFITS INCREASE ACT OF 1983

Mr. CRANSTON. Mr. President, I am introducing S. 9, the proposed GI Bill Benefits Increase Act of 1983. This measure, in which Senators MATSUNAGA and DECONCINI have joined with me as original cosponsors would provide for a 15-percent cost-of-living increase in rates of VA educational and training assistance allowances—popularly known as GI bill benefits—and VA rehabilitation subsistence allowances. This 15-percent increase

would become effective on October 1, 1983, or, in the event that the Congress enacts legislation delaying the cost-of-living adjustments scheduled for June 1 of this year, it would become effective the same number of months after October 1, 1983, as the social security COLA is postponed by legislation.

Mr. President, it is important to understand that GI bill benefits are not automatically increased each year. They are not indexed to the Consumer Price Index—CPI—or any other measure of increases in the cost of living or cost of education. They have, since the enactment 17 years ago in 1966 of the current, so-called Vietnam-era GI bill been increased only seven times.

Furthermore, it should be noted that when the current GI bill was enacted the rate of benefits paid to veterans of the Vietnam-era enrolled in training was actually less than the rate of benefits paid to veterans who trained under the Korean conflict GI bill—$100 per month for a single Vietnam-era veteran in full-time institutional training in 1966 compared to $110 a month for a similarly situated Korean-conflict veteran in 1952.

When I first came to the Senate in 1969, the GI bill benefit for a single veteran in full-time training was $130 monthly. In 1970, legislation I authored in the Senate, enacted as Public Law 92-219, increased the benefit to $175 monthly. Since that time, the benefits have been increased by just over 95 percent—to $342 a month. However, over the same period, the CPI has increased by more than one and a half times that—by more than 158 percent.

The last time that GI bill benefits were increased was the two-step, 10-percent increase made by Public Law 96-466. A 5-percent increase took effect on October 1, 1980, and the second 5 percent, on January 1, 1981. This two-step approach was necessary because the allocation to the Committee on Veterans' Affairs for entitlement programs under the congressional budget for fiscal year 1981 did not make sufficient provision for the cost of making the full 10-percent increase effective on October 1, 1980.

The increase in the CPI from October 1980 through November 1982 has been 15.6 percent; since January 1981, the increase has been 12.7 percent. Based on economic projections of increases in the CPI through the third quarter of this year—the earliest the proposed increased rates would be effective—the CPI will have risen between 21 to 22 percent since the first step of the previous increase in October 1980 and between 18 to 19 percent since the second step in January 1981. It should be stressed that the 1980-81 increase did not begin to represent an increase that made up for the effects of inflation since the time of the prior increase in October 1977; over that period of time—October 1977 to October 1980—the rise in the CPI was 37.6 percent.

Mr. President, we should not permit the value of the GI bill dollar to continue to be eroded so substantially by increases in the cost of living. Veterans and other eligible persons—the dependents of veterans with service-connected disabilities rated totally and permanently disabling and the survivors of those who died from service-connected causes—who are struggling to complete schooling must be given some fair assurance that their benefits will not be so greatly deflated.

Those now enrolled in training and receiving assistance from the VA—and during this fiscal year, more than 800,000 individuals are expected to be using GI bill benefits—are primarily veterans of the Vietnam era. The number of Vietnam-era veterans in training or education programs in this fiscal year is 692,100 or about 85 percent of the total number of individuals receiving VA assistance. More than 89,000 of the trainees are surviving or dependent children and spouses. Still others—30,040—are service-connected disabled veterans participating in Veterans' Administration programs of vocational rehabilitation.

Some of these veterans enrolled in education program are those very Vietnam-era veterans on whose behalf the 97th Congress enacted—based on a proposal I initially made—the so-called targeted delimiting date extension. As my colleagues may recall, this extension was enacted so that Vietnam-era veterans, regardless of their discharge dates, who are still experiencing difficulties in making the transition from military to civilian life—particularly those who are unemployed, underemployed, unskilled, or educationally disadvantaged—would have one last opportunity to utilize effectively their GI bill entitlements. According to CBO estimates at the time of enactment of the targeted delimiting date, 38,900 Vietnam-era veterans are expected to train under their authority. To fail to insure that the rates of educational assistance they receive are adequate would effectively preclude many of them from taking advantage of this last chance at enhancing their job skills.

Based on a preliminary Congressional Budget Office analysis, the cost of providing a 15-percent cost-of-living increase would be $350 million in fiscal year 1984, $400 million in fiscal year 1985, $355 million in fiscal year 1986, $275 million in fiscal year 1987, and $215 million in fiscal year 1988. I should point out that the cost figure for fiscal year 1984 assumes an October 1, 1983, effective date. If that effective date were delayed as provided for in the contingency-delay provision in this bill—which mandates a delay of the same number of months, if any, that this year's social security cost-of-living adjustment is delayed—that cost would, of course, be substantially less. The National Commission on Social Security, as we all know, has recommended the enactment of legislation to delay the social security COLA by 6 months.

It is estimated by CBO that these increases would affect about 600,000 trainees in fiscal year 1984. This number declines rapidly—to about 450,000 in fiscal year 1985—and continues its decline as the number of eligibles reach the expiration of their delimiting periods or complete their training.

So that my colleagues may understand the effect of this increase on individual veterans, a 15-percent increase would raise monthly payments for a single veteran in full-time GI bill training from $342 to $393 and for a married veteran with two children from $493 to $566. Under the VA's rehabilitation program for service-connected disabled veterans, the full-time monthly subsistence allowance would rise from $282 to $324 for a single veteran and from $441 to $506 for a married veteran with two children. In calculating these rates, it should be noted that, consistent with the manner in which increased rates of VA compensation were calculated last year in Public Law 97-306, amounts have been rounded down to the next lower dollar.

Mr. President, I want to point out that my proposal would also provide for a 15-percent increase in what is known as the reporting fee. This is the amount that the VA pays to educational institutions for each student receiving GI bill assistance in order to help defray the cost to the institution of processing the often extensive paperwork required by the VA to ascertain the student's enrollment and attendance and the school's approval for GI bill benefits.

At this time, the VA reimburses schools $7 for each veteran-enrollee and $11 for each veteran-enrollee who is in receipt of advance payments. My proposal would increase these benefits—benefits last increased more than 5 years ago by Public Law 95-202—to $8 and $12.50, respectively.

CONCLUSION

I recognize fully that these are difficult times for many Americans. Jobs are difficult, and in many cases nearly impossible to find; bills and debts are mounting up and hard to pay; and even the costs of basic necessities stay discouragingly high.

But, Mr. President, we should not let that prevent us from taking the steps necessary to insure that those veterans of the Vietnam era, those children and spouses of veterans who made enormous sacrifices, and those veter-

ans with disabilities incurred in service receive a fair measure of the assistance they are owed. I urge all of my colleagues to join me in this initiative.

Mr. President, I ask unanimous consent that at this time there be printed in the RECORD a document showing existing rates of VA educational and training assistance and vocational rehabilitation subsistence allowances and the rates of such allowances as they would be under my proposal, along with a copy of the bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMPARISON OF RATES OF BENEFITS UNDER EXISTING LAW AND BENEFITS AS PROPOSED TO BE INCREASED BY S. 9, THE GI BILL BENEFITS INCREASE ACT OF 1983

Type of program	Existing law				S. 9			
	No dependents	1 dependent	2 dependents	Each additional dependent	No dependent	1 dependent	2 dependents	Each additional dependent
Educational assistance allowances:								
Institutional:								
Full time	$342	$407	$464	$29	$393	$468	$533	$33
Three quarter time	257	305	348	22	295	350	400	25
Half time	171	204	232	15	196	234	266	17
Cooperative	276	323	367	21	317	371	422	24
Farm cooperative:								
Full time	276	323	367	21	317	371	422	24
Three quarter time	207	242	275	16	238	278	316	18
Half time	138	162	184	11	158	186	211	12
On-job and apprenticeship training allowances:								
1st 6 mo	249	279	305	13	286	320	350	14
2d 6 mo	186	217	243	13	213	249	279	14
3d 6 mo	124	155	180	13	142	178	207	14
4th and any succeeding 6 mo periods	62	92	119	13	71	105	136	14
Rehabilitation subsistence allowances:								
Institutional or independent living:								
Full time	282	349	411	30	324	401	472	34
Three quarter time	212	262	308	23	243	301	354	26
Half time	141	175	206	15	162	201	236	17
Farm co-op, apprenticeship or other OJT: Full time	246	297	343	22	282	341	394	25
Extended evaluation: Full time	282	349	411	30	342	401	472	34
Full-time	$317	$371	$422	$24				
Three-quarter-time	238	278	316	18				
Half-time	158	186	211	12";				

S. 9

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "GI Bill Benefits Increase Act of 1983".

TITLE I—GI BILL RATE INCREASES

SEC. 101. Chapter 34 of title 38, United States Code, is amended—

(1) by amending the table contained in paragraph (1) of section 1682(a) to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Type of program	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Institutional:				
Full-time	$393	$468	$533	$33
Three-quarter-time	295	350	400	25
Half-time	196	234	266	17
Cooperative	317	371	422	24";

(2) by striking out "$342" in section 1682(b) and inserting in lieu thereof "$393";

(3) by amending the table contained in paragraph (2) of section 1862(c) to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Basis	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
"Total salary cost reimbursable under this section	*Allowable for administrative expense*			
$5,000 or less	$796.			
Over $5,000 but not exceeding $10,000.	$1,434.			
Over $10,000 but not exceeding $35,000.	$1,434 for the first $10,000 plus $1,328 for each additional $5,000 or fraction thereof.			
Over $35,000 but exceeding $40,000.	$8,680.			
Over $40,000 but not exceeding $75,000.	$8,680 for the first $40,000 plus $1,148 for each additional $5,000 or fraction thereof.			
Over $75,000 but not exceeding $80,000.	$17,214.			
Over $80,000	$17,214 for the first $80,000 plus $1,002 for each additional $5,000 or fraction thereof.";			

(2) by striking out "$7" and "$11" in section 1784(c) and inserting in lieu thereof "$8" and "$12.50", respectively;

and

(4) by striking out "$76" and "$911" in section 1692(b) and inserting in lieu thereof "$87" and "$1,047", respectively.

SEC. 102. Chapter 35 of such title is amended—

(1) by striking out "$276"; in section 1732(b) and inserting in lieu thereof "$317"; and

(2) by striking out "$342", "$108", "$108", and "$11.44" in section 1742(a) and inserting in lieu thereof "$393", "$124", "$124", and "$13.15", respectively.

SEC. 103. Chapter 36 of such title is amended—

(1) by amending subsection (b) of section 1774 to read as follows:

"(b) The allowance for administrative expenses incurred pursuant to subsection (a) of this section shall be paid in accordance with the following formula:

(3) by striking out "$342" in section 1786(a)(2) and inserting in lieu thereof "$393";

(4) by amending the table contained in paragraph (1) of section 1787(b) to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Periods of training	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
First 6 months	$286	$320	$350	$14
Second 6 months	213	249	279	14
Third 6 months	142	178	207	14
Fourth and any succeeding 6-month period	71	105	136	14";

and

(5) by striking out "342" in section 1798(b)(3) and inserting in lieu thereof "$393".

TITLE II.—REHABILITATION SUBSISTENCE ALLOWANCE RATE INCREASE

SEC. 201. Chapter 31 of such title is amended by amending the table contained in section 1508(b) to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Type of program	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Institutional training:				
Full-time	$324	$401	$472	$34
Three-quarter-time	243	301	354	26
Half-time	162	201	236	17

Column I	Column II	Column III	Column IV	Column V
Type of program	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Farm cooperative, apprentice, or other on-job training:				
Full-time	282	341	394	25
Extended evaluation:				
Full-time	324	401	472	34
Independent living training:				
Full-time	324	401	472	34
Three-quarter-time	243	301	354	26
Half-time	162	201	236	17"

TITLE III.—EFFECTIVE DATE

SEC. 301. (a) Subject to subsection (b), the amendments made by this Act shall take effect on October 1, 1983.

(b) If the increase in benefit amounts payable under title II of the Social Security Act that would take effect pursuant to section 215(i) of such Act on June 1, 1983, is delayed by reason of a law enacted in 1983, the effective date of the amendments made by this Act shall be delayed beyond October 1, 1983, by the same number of months as such increase is so delayed.

By Mr. CRANSTON:

S. 10. A bill to amend the Federal Reserve Act to provide for the increased responsiveness and accountability of the Federal Reserve System to Congress and citizens, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

FEDERAL RESERVE REFORM ACT OF 1983

Mr. CRANSTON. Mr. President, I am introducing legislation today to give Congress and the President greater influence over the Federal Reserve Board and over the conduct of monetary policy.

The purpose of my bill, the Federal Reserve Reform Act of 1983, is to give Congress and the President greater influence in the development and implementation of monetary policy and to place a reasonable limit on the ability of the Federal Reserve to perpetuate its policies and its monetary thinking irrespective of changes in elected administrations.

The fundamental principle underlying my proposal is that it is inconsistent with representative democracy for the tremendous power of the Federal Reserve Board to be wielded exclusively by individuals who are politically accountable to no one.

The Federal Reserve Board, as presently established by the Federal Reserve Act, enjoys greater independence than any executive branch agency. The Fed is the only agency whose budget is not subject to the appropriations process. The Fed pays itself. Its members serve 14-year terms, virtually on a par with the lifetime terms of the Federal judiciary, which average out to be 16 years.

However, unlike the Federal courts, the Federal Reserve Board was not created by the Constitution. The Fed clearly is a legislative creature of Congress—there is no constitutional requirement that we have a Fed.

Presently, Congress exercises virtually no oversight of the Fed. Should Congress disagree strongly with the conduct of monetary policy there are only very limited opportunities for Members to raise concerns in an effective manner.

I do not want to suggest that the Federal Reserve Board, as presently constituted, is some Frankenstein monster running amok.

But the lack of political accountability by those who decide our monetary policy is a misservice to our democracy. It is contrary to the principles upon which our Nation is founded and should be governed.

Paul Volcker, the present Chairman of the Board of Governors of the Federal Reserve System, repeatedly has been cited as the most powerful man of influence over the economy.

Mr. President, I wish to make clear that my remarks are not intended to be an attack upon Mr. Volcker. What I have said and will say are criticisms of the institution as presently established by the Federal Reserve Act.

For various reasons, notably the need of the Federal Reserve to establish its credibility with the financial markets, Mr. Volcker's term as Chairman has been marked by very heavy reliance upon his personal credibility for the conduct of a restrictive, anti-inflationary monetary policy which is closely identified with him personally. In that regard he has been successful by all accounts.

But regardless of the results achieved by Paul Volcker, reliance on the "cult of personality" at the Fed is dangerous in the long run, contrary to good democratic government and undermines progress toward broad-based support for the conduct of monetary policy.

I will repeat that my remarks are not an attack on Paul Volcker. He has done what he has done because, as he sees it, that was what was required of him by circumstances and necessity.

My proposal has been criticized on the grounds that it could subject monetary policy to political expediency, undermining the stability of our monetary and banking system.

Independence from politics, however, is no guarantee of wise, sound policy.

Nor has the so-called independence of the Fed rendered it immune from occasional suspicions that monetary policy has been modified from time to time to meet the election year needs of incumbent administrations.

As for confidence of the markets, that ultimately depends upon performance.

Even with the independence of the Fed, the markets clearly understand that the Federal Reserve can resist for only a time the widespread, desperate needs of Government and the economy, including the world economy, for additional credit. There is a real limit as to how long those needs can go unmet without worse disasters occurring. Thus, the markets see as inevitable the Fed's eventual yielding.

My point is that the independence of the Fed probably produces results no different from those that would be produced under my bill with two major exceptions: First, there would be political accountability for the conduct of monetary policy and, second, there would be a real opportunity to coordinate fiscal and monetary policy.

Under our present system, there is no effective way for our Government to coordinate fiscal and monetary policy. The Reagan administration marched fiscal policy in a stimulative direction; the Fed countermarched in the opposite direction. The result obtained has brought double trouble to the economy.

Monetary policy is important, and to paraphrase Milton Friedman, it is too important to be left in the hands of central bankers.

I favor abolishing the Fed as an independent agency and making it part of the Treasury Department.

That would be the simplest, most effective solution to the plaguing national problem of division of responsibility for monetary and fiscal policy when both should be the responsibility of the elected administration.

But, realistically, the chance of getting such a drastic change enacted at this time is, I recognize, virtually nil.

My bill would amend the Federal Reserve Act to require the Fed to get its operating funds through a congressional appropriation, the procedure followed by all other executive and independent agencies.

Congressional power over the Fed's purse would for the first time make congressional oversight effective when we feel the Fed's monetary policy is dangerously off track.

Currently, the Federal Reserve gets its operating budget independently of Congress from the Reserve's surplus funds account which derives from profits earned on its open market transactions.

My bill would give the President a greater voice in determining monetary policy by returning to the Secretary of the Treasury the seat he once held on the Fed's Board. The Secretary of the Treasury originally was designated a member of the Board when the Fed was established in 1913, but his seat was abolished in 1936.

The Secretary, who is the principal economic figure in the executive branch, should sit on the Fed Board of

Governors so that an administration can have a formal opportunity to push for monetary policies consistent with its own program. The Secretary's presence on the Fed Board would provide a greater opportunity for coordination of monetary and fiscal policy.

The bill further strengthens the President's voice by making the 4-year term of the Board's Chairman and Vice Chairman coterminous with that of the President. The President should be able to name a Chairman sympathetic to his economic views at the very outset of his administration.

Under current law, the Chairman of the Board of Governors of the Federal Reserve, who is second only to the President in power over the Nation's economy, is always a holdover from the prior administration.

President Reagan, as matters now stand, will not be able to name a Chairman until August 7 this year when the term of Paul Volcker, who was appointed by President Carter expires. President Reagan's appointee, in turn, will continue to serve as Chairman nearly 3 years into the next President's term, unless my reform bill becomes law.

My bill also proposes to shorten the term of the members of the Board from 14 years to 7 years. It would not affect the terms of any of the present incumbents.

Mr. President, what I have proposed actually is very moderate. Shortening the terms of the Board of Governors and the proposals to make the terms of the Chairman and Vice Chairman coterminous were recommended in 1961 by the prestigious Commission on Money and Credit.

Placing the Secretary of the Treasury on the Board returns to the Federal Reserve System an important part of its original structure. The reasons for removing the Secretary from the Board in 1936 are not entirely clear. In large part, it occurred at the insistance of Senator Carter Glass who thought that the Secretary contributed very little to the Board's deliberations. I think to the contrary that there must be vastly improved communications between the Fed and the administration. The best way to accomplish this, short of placing the Fed within the Treasury, is to make the Secretary of the Treasury a voting member of the Board and to permit the President to name his Chairman at that start of his administration.

Finally, it is time for Congress to assert the power of the purse over the Fed. Congress should remind the Federal Reserve Board that it works for all the people, and specifically we must remind the Board and its employees here in Washington that they are our representatives in the Nation's banking system, and are not acolytes of a self-perpetuating, quasi-central banking institution.

I have confidence that monetary policy arrived at through democratic political processes can serve the Nation better and more consistently than the present secretive process conducted within a very small enclave of persons.

I know that the process of politically responsible determination of monetary policy is not easy, but I am convinced that the success of our economic future depends upon it. It is not healthy in a democracy for important policymaking to become alienated from the general public. This is happening with monetary policy.

Thus, my bill really is an attempt to achieve sounder monetary policy.

I urge my colleagues to consider it carefully in this light.

I ask unanimous consent that the text of my bill be printed in full at the end of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 10

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Reserve System Reform Act of 1983".

BOARD OF GOVERNORS SUBJECT TO APPROPRIATIONS

SEC. 2. (a) The last sentence of the first paragraph of section 7 of the Federal Reserve Act (12 U.S.C. 289) is amended by striking out "surplus fund of the Federal Reserve bank" and inserting in lieu thereof "general fund of the Treasury".

(b)(1) The third paragraph of section 12 of the Federal Reserve Act (12 U.S.C. 243) is amended to read as follows:

"There are authorized to be appropriated such sums as may be necessary for the salaries and operating and administrative expenses of the Board in carrying out the provisions of this Act, and the Board may not expend any amount not appropriated pursuant to such authorization. The Board may enter into agreements with the Administrator of General Services with respect to the maintenance, operation, or protection of any building owned by the Board.".

(2) The amendment made by paragraph (1) shall not be construed to prohibit the Board of Governors of the Federal Reserve System from retaining amounts held by such Board on the date of the enactment of this Act and using such amount for purposes of carrying out its responsibilities under the Federal Reserve Act (12 U.S.C. 221 et seq.) other than for its salaries and operating and administrative expenses.

(c) The fourth paragraph of section 10 of the Federal Reserve Act (12 U.S.C. 244) is amended by striking out the fourth sentence.

(d) The amendments made by this section apply to fiscal years beginning on or after October 1, 1982.

TERMS OF MEMBERS AND EXECUTIVE OFFICERS OF BOARD OF GOVERNORS

SEC. 3. (a) The first paragraph of section 10 of the Federal Reserve Act (12 U.S.C. 241) is amended by inserting after the first sentence thereof the following: "On and after the date of enactment of the Federal Reserve System Reform Act—

"(1) the Secretary of the Treasury shall serve as a member of the Board ex officio; and

"(2) the term of office of each member shall be seven years.".

(b) The third sentence of the second paragraph of section 10 of such Act (12 U.S.C. 242) is amended by striking out "term of four years" each place it appears and inserting in lieu thereof "until such time as the term of the President making such designation shall expire".

(c) The amendments made by this section shall apply to individuals appointed to be members of the Board of Governors of the Federal Reserve System or designated to serve as Chairman or Vice Chairman of the Board of Governors of the Federal Reserve System on or after the date of enactment of this Act.

By Mr. CRANSTON (for himself, Mr. RANDOLPH, Mr. MATSUNAGA, Mr. DECONCINI, and Mr. MITCHELL):

S. 11. A bill to amend title 38, United States Code, to establish a Veterans' Administration Advisory Committee on Women Veterans; to improve various aspects of Veterans' Administration health-care programs; to extend the period for Vietnam-era veterans to request counseling under the Veterans' Administration Readjustment Counseling Program; to promote the recruitment and retention of certain health-care personnel in the Veterans' Administration's Department of Medicine and Surgery; to express the sense of the Congress with respect to the role of the Administrator of Veterans' Affairs; to require the Administrator of Veterans' Affairs to conduct an epidemiological study of long-term health effects in veterans of exposure to ionizing radiation from nuclear test detonations; and for other purposes; to the Committee on Veterans' Affairs.

VETERANS' PROGRAMS IMPROVEMENT ACT OF 1983

Mr. CRANSTON. Mr. President, as the ranking minority member of the Committee on Veterans' Affairs, I am today introducing for myself and my Democratic colleagues on the committee, the Senator from West Virginia (Mr. RANDOLPH), the Senator from Hawaii (Mr. MATSUNAGA), and the Senator from Arizona (Mr. DECONCINI), S. 11, the proposed "Veterans' Programs Improvement Act of 1983". This measure, which addresses a variety of issues relating to the Veterans' Administration and VA benefits and services has, as its basic underlying purpose, the continued improvement of the agency's ability to meet the needs of our Nation's veterans and their dependents.

At this time when all Federal efforts are receiving intense scrutiny, it is important to reflect on the importance of the VA and the benefits and services provided through that agency. The reponsibilities we have to those who served our Nation in the Armed Forces are uniquely Federal ones. No

individual enters the service on behalf of a particular State; service in the Armed Forces is service to the Nation as a whole. The Veterans' Administration, as the principal Federal agency with responsibility for providing for our veterans, must be accorded appropriated recognition and support, together with the legislative authorities it needs in these rapidly changing times in order to carry out its mission fully and effectively.

The measure we are introducing today is directed toward those ends.

READJUSTMENT COUNSELING

Mr. President, the Congress first authorized the VA to provide readjustment counseling to Vietnam-era veterans in Public Law 96-22 which took effect on October 1, 1979. Under that law, eligible Vietnam-era veterans had 2 years from the date of their discharge or if discharged prior to October 1, 1979—the situation for the vast majority of Vietnam-era veterans—2 years from that date or until September 30, 1981, to request counseling.

In 1981, the period of eligibility to request readjustment counseling was extended in Public Law 97-72 by 3 years, until September 30, 1984. This extension was enacted in recognition of the fact that the VA's program for providing readjustment counseling had, of necessity, taken a considerable time to get underway and become effective and that there was a continuing need for the services offered by the program. In addition to the extension of the eligibility period, the Public Law 97-72 provision also mandated the VA to study how to meet Vietnam-era veterans' readjustment needs after the September 30, 1984, eligibility expiration date and to submit a report to Congress by April 1, 1984, on its plans in that regard.

Mr. President, the measure we are introducing today contains a provision—section 307—that would extend by 1 year—until September 30, 1985—the period within which an eligible veteran can make an initial request for readjustment counseling from the VA and by 6 months—until October 1, 1984—the date by which the VA must report to the Congress on the agency's plans for continuing to provide readjustment counseling after the expiration of eligibility.

Mr. President, these changes to the readjustment counseling authority are needed for a number of reasons. First, the Public Law 97-72 amendments to the readjustment counseling authority contemplated a thoughful comprehensive evaluation, over the period of the extension of eligibility provided in that law, of the impact of the agency's readjustment counseling efforts and alternatives for the future evolution of those efforts. Because there has been such substantial flux in top VA leadership—with the Administrator having been replaced earlier this month and the Deputy Administrator, last August—a further extension at this time would seem appropriate in order to give the new Administrator and his top managers sufficient time to design and accomplish any evaluation or other analysis that the Administrator may wish to have before making any recommendation on plans regarding the future of the program.

Second, and in a similar vein, extending the period between the due date of the VA's report and the expiration of the period to request eligibility would give the Congress a fair chance to review various alternatives for the future. Under the deadlines in current law—under which the report is due April 1, 1984, and the eligibility for new participations expires on September 30, 1984—the Committees on Veterans' Affairs would have only 45 days until the May 15 deadline imposed by section 402(a) of the Budget Act to consider reporting legislation to extend the eligibility date or otherwise to address the future of the VA's readjustment counseling effects.

Third, this extension would give the program as it is presently in place the stability necessary to identify and serve the needs of eligible veterans. Both because the program has only recently undergone a significant expansion—nearly a third of the 136 centers and satellites have been open only a year or less at this time—and because of the flux in top VA management I mentioned a moment ago, including major changes in the leadership of the readjustment counseling program—the program has only now reached a relatively stable stage from which services can be provided on a nationwide basis.

Fourth, the very slow development of the fee-for-services component of the program is another reason for providing an eligibility period extension. Under the fee-basis component of the program eligible veterans who are unable to receive counseling at vet center facilities can receive such counseling from providers who contract with the VA. For a variety of reasons, the agency only late last year began to make that program element function as intended by the Congress, and eligible veterans who need fee-basis help should be accorded the opportunity to receive assistance than the proposed extension will allow.

Fifth, Mr. President, as a final point in support of the proposed extension, it appears clear that the need for readjustment counseling among some Vietnam-era veterans is a continuing one. The national salute to Vietnam veterans last November and the growing public recognition of Vietnam veterans have been important in allowing many Vietnam veterans to acknowledge their service during that most divisive period and, in so doing, to recognize that they have some unresolved feelings about their service and the recognition—or more frequently, lack of recognition—they received for that service from their fellow citizens.

This is a healthy phenomenon, one that should be fostered, and the vet center program offers a major way for them to come to grips with these feelings. The 1-year extension is proposed with that goal in mind.

PREVENTIVE HEALTH CARE

Mr. President, the skyrocketing cost of health care in the United States has become an enormous problem, and effective steps must be taken to address the problem.

One of the most promising means to combat inflation in health-care costs is to shift the emphasis in health-care services more toward the prevention of disease and maintenance of health rather than focusing single-mindedly on treating illnesses and injuries after they occur. Many public health experts are convinced, and I agree, that such an emphasis would significantly improve health in the long run and, at the same time, result in significant long-term savings for individuals and also for the Nation as a whole—through reduced demand for care, treatment, and rehabilitation less absenteeism on the job due to illness, and a decreased demand on income-supplement programs. Despite the obvious advantages of emphasizing preventive health-care services, in most segments of our health-care system the financial incentives are arrayed against the provision of preventive services. Health-care providers generally are paid only for the care and treatment of those who are sick or injured, and the development of preventive health-care services has thus lagged.

In the VA, health-care services are generally available only for the care and treatment of disabilities—two exceptions are authority for sickle cell screening in section 651 of title 38 and participation in Government immunization programs in section 612(j). In 1979, in section 105 of Public Law 96-22, Congress gave the VA express authority in a new subchapter VII in chapter 71 of title 38 to conduct a preventive health-care services pilot program during fiscal years 1980 through 1984. Under this pilot program, preventive health-care services may be provided to veterans with service-connected disabilities rated 50 percent or more disabling and to veterans receiving care and treatment involving a service-connected disability. In conjunction with this pilot program, the VA was authorized to conduct studies to assess the advantages and cost-effectiveness of preventive services. Unfortunately, the VA has done virtually nothing to utilize this authority.

The form of the legislation enacted in section 105 was a compromise derived from broader, mandatory preven-

tive health-care authorities that I had authored and the Senate had passed in the 94th and 95th Congresses. This pilot program authority has just less than 2 years left to run at this point, and the VA has no plans for any significant action under it in this fiscal year or in fiscal year 1984. Thus, as we near the end of the so-called pilot phase, it seems clear that we are going to learn little more than we already know about the effectiveness of providing such preventive health-care services in the VA. Indeed, the fact that the pilot program authority is scheduled to expire at the end of fiscal year 1984 could be expected to discourage the mounting of any current efforts to develop and implement preventive services that could be expected to achieve pay-offs in the form of better health and cost savings only after the services have been in place for a number of years.

The agency's disappointing performance in this regard has been the result of insufficient commitment to preventive health care on the part of the VA and its Department of Medicine and Surgery and of the fact that DM&S has in recent years been confronted with many difficult competing choices for available appropriations, a situation which has tended to work against decisions to undertake any new efforts.

Mr. President, the VA's foot dragging on this issue is counterproductive to good health care and to cost-effective health care. In order to emphasize the importance that the agency recognize the potential of providing such services and begin to develop and provide them substantially, at least on a selective basis, section 302 of the bill we are introducing would chance the authority to provide preventive health-care services from a pilot program to a permanent authority and require that preventive health-care services that the VA considers feasible and appropriate be provided to veterans with service-connected disabilities rated 50 percent or more disabling and to those receiving VA care and treatment for a service-connected disability. This provision would require the provision of at least one preventive service on a systematic basis—such as hypertension screening, nutrition or substance-abuse education, or glaucoma testing—to those veterans for whom the VA already has a full medical-care responsibility, as in the case of 50-percent-or-more disabled veterans, or whom the VA is in the process of treating for their service-connected disabilities.

With respect to this program, the VA's discretionary authority in section 663(a)(2) of title 38 to conduct studies to assess the medical advantages and cost-effectiveness or providing preventive health-care services would be made mandatory. This would help to insure that appropriate advantage is taken—to the benefit of VA patients and the Nation as a whole—of the VA's unique capability as the Nation's largest, centrally managed health-care system to conduct well-controlled, scientific studies of the effects of providing new and innovative forms of care such as preventive services.

In addition, section 601 of title 38—the section which contains definitions relating to VA health-services—would be amended to include preventive health-care services as part of medical services and thus provide a statutory basis for providing such services to all veterans receiving VA care on an inpatient or outpatient basis.

Mr. President, I would note that this latter provision would not require that any specific type of preventive services be provided to any individual or category of individuals. Under this section 601 amendment, all decisions regarding what particular forms of preventive health care to provide to which patients would remain the province of the VA and its health-care professionals.

Mr. President, we have a great deal to learn about the best way to provide preventive health-care services and the cost-effectiveness and practicality of various services. Nevertheless, there is a significant role for such services that already are known to be simple, inexpensive, and cost-effective, and the enactment of the provisions I have just outlined will provide a basis for needed further development within the VA. Together, the amendments that section 302 of this bill would make would expand the opportunities for the furnishing of preventive services and express a clear congressional mandate and expectation that meaningful efforts to develop and provide such services—and to conduct appropriate studies of their effectiveness—will be undertaken.

To the extent that those opportunities are used wisely, the VA will be making valuable and economical contributions both to improving the health of veteran patients and to meeting the national need for more information on the long-term effectiveness of various types of preventive health-care services.

WOMEN VETERANS

Mr. President, on September 24, 1982, the General Accounting Office completed a report—GAO HRD-82-98—that had been requested by my good friend from Hawaii (Mr. INOUYE) regarding the VA's efforts to provide benefits and services to women veterans. This is an issue of growing importance as women continue to make up a larger percentage of the Armed Forces and, in time, of the veteran population.

Although the GAO report focused directly only on medical benefits for women veterans, its findings highlighted the fact that, because the VA's target population has been so predominatly male over the years, there are many shortcomings at present in the agency's efforts to meet the needs of women veterans.

Mr. President, many of the specific concerns identified by the GAO in the health-care area are being addressed by the VA and the obligation of the Congress is to maintain oversight of these efforts so as to ensure that they are effective. In this regard, I want to note my concern—which I expressed to the Administrator of Veterans' Affairs, Harry N. Walters, at his recent confirmation hearing—that the VA had indicated that it would take as long as eighteen months to collect data on its present procedures and practices on providing health care to women veterans.

Attempting to remedy the various specific problems identified by GAO is not itself a sufficient response to bring about the institutional change of perception and awareness that the changes in the make-up of the veteran population call for. To assist in that regard, section 201 of the measure we are introducing would establish a "Veterans' Adminstration Advisory Committee on Women Veterans." This entity, to be comprised of individuals from outside the VA with expertise in various areas relevant to women veterans, would be a valuable asset to the Administrator.

In fact, I understand that Administrator Walters, who expressed his Commitment at his confirmation hearing to addressing the needs of women veterans, is actively considering establishing a similar body through administrative action and that he has taken other steps, including appointing a special assistant, a major part of whose duties will be to advise the Administrator on issues relating to women veterans. I applaud him for these steps and see the proposal for a statutory advisory committee as a logical extension of his efforts. In addition to advising the Administrator, this group will have an ongoing responsibility to submit an annual report to appropriate Committees of the Congress. Through such reports, the Congress will be kept apprised of the agency's efforts and will have an independent basis for learning of matters within the VA that require administrative or legislative attention.

Mr. President, section 202 of the bill includes a provision, derived from one that I first introduced last Congress, that would provide a basis for eligible women veterans to receive outpatient care from private providers, at VA expense, for the treatment of non-service-connected gender-related conditions. This provision was passed by the Senate last June as part of a VA health-care measure but was not in-

cluded in that compromise agreement on that legislation. It was not included in the compromise agreement because of a concern that providing a new fee-basis authority could work at cross purposes to the need for the VA to build up its in-house staff capacity to meet women veteran's gender-related needs.

Although I agreed to that approach last year, shortly thereafter the GAO released its report finding that the VA is generally unable—either through in-house resources or the use of other existing authorities—to meet the needs of many women veterans for gender-related health care. This report has convinced me that there is a real need for a fee-basis authority for the foreseeable future while the VA takes the steps necessary to evaluate the likely demand from women veterans for gender-related care and to acquire the staff necessary to meet the demand. Without such fee-basis authority, it is likely that the situation found by the GAO will not improve for a long time, particularly in light of the 18 months the VA has indicated it will need just to collect data on the current situation. Once the VA can demonstrate very clearly that this situation no longer prevails, I would be willing to reconsider the necessity for continuing such an extraordinary fee-basis authority. But, until such time, such authority is needed if the VA is to offer the same range of services to male and female veterans.

Mr. President, as a final point on these provisions relating to women veterans, I am pleased to note that my good friend from Hawaii (Mr. INOUYE) has indicated his support for their enactment. I look forward to working with him on these matters and on follow-up on the GAO report.

CABINET STATUS FOR THE ADMINISTRATOR OF VETERANS' AFFAIRS

A provision in the measure that I am today introducing—section 501—would express the sense of Congress with respect to the role of the Administrator of Veterans' Affairs—specifically that the Administrator should be designated a member of the Cabinet, should fully participate in Cabinet meetings, and should be the principal adviser to the President on all matters relating to veterans and their dependents.

Mr. President, for over 50 years, the Veterans' Administration has been the principal Federal agency with responsibility for providing benefits and services to veterans and their survivors. The agency's principal mission is described concisely and eloquently in the words of Abraham Lincoln in his second inaugural address—"to care for him who shall have borne the battle and for his widow, and his orphan." It is through the VA that the United States meets its historical commitment to provide health care and compensation to veterans disabled during their service, assistance to the survivors of those who made the ultimate sacrifice, and readjustment assistance to all those who serve honorably in the Armed Forces during periods of war.

Mr. President, because of the VA's special responsibility for meeting veterans needs, it serves very important national defense functions. Major commitments made by the Nation to its veterans are directly fulfilled through the VA. If the Federal Government, through the VA, is seen as being unwilling or unable to honor commitments made to those who have served the Nation in the past, it is unlikely that the Armed Forces will be able to attract or retain the men and women needed to maintain the All-Volunteer Force. Honoring such commitments faithfully and effectively, therefore, is not only a moral obligation but an important action in support of the All-Volunteer Force.

Through its health-care system the VA serves a further, tangible national defense function. VA hospital and medical resources are the first backup to the health-care resources of the Department of Defense in time of war or other national emergency involving military conflict. This logical and important role of the VA was codified last year in Public Law 97-174. Should the need arise, the VA must be ready to provide critically needed assistance to DOD, the health-care resources of which would be totally inadequate to care for large numbers of casualties.

Mr. President, for more than 50 years, the VA has been the principal Federal agency with responsibility for providing benefits and services to veterans. Today, there are nearly 30 million veterans and about 66 million dependents or survivors of veterans. Among Federal departments and agencies, only DOD has more employees than the VA, and the VA's budget—around $25 billion—ranks sixth among Federal departments and agencies. The VA operates the largest centrally managed health-care system in the United States and administers the largest direct insurance program in the country. The VA will be distributing over $13 billion in income maintenance payments and approximately $1.7 billion in education, training, and rehabilitation assistance payments in fiscal year 1983; operates one of the Federal Government's two major home loan guaranty programs, with over 4 million loans currently guaranteed; and operates 108 national cemeteries, and provides burial assistance for nearly 350,000 deceased veterans annually.

In light of the VA's size and importance, the agency and its programs should be accorded appropriate recognition, status, and treatment within the executive branch. Too often this has not been the case.

In the past, the VA has frequently been relegated to a relatively insignificant role within the executive branch, with the Administrator having little or no access to the President or other top officials in the White House. This was particularly true with respect to the former VA Administrator Robert Nimmo, who was often precluded from meaningful participation in matters affecting the VA, particularly budget matters. For example, in September 1981, 2 months after Mr. Nimmo took office, the President, with no advance consultation with the Administrator, decided to submit revisions of the fiscal year 1982 budget for the VA, reducing certain major VA accounts, such as the medical care account and medical and prosthetics research accounts, to levels substantially below those that the President had earlier agreed to in the context of the first concurrent resolution on the budget for fiscal year 1982. In fact, as far as I am aware, Mr. Nimmo did not even meet with President Reagan until very late in his tenure as Administrator.

Mr. President, I am pleased that the current Administrator, Harry Walters, appears to be committed to reversing this situation—he met with the President shortly before his confirmation hearing and has pledged his strong intention to maintain his access to top officials in the White House. However, the VA Administrator's access to the President and the White House should not rise or fall on the basis of the aggressiveness and other personal qualities of the Administrator. It should flow from the status of the position of the Administrator and the importance of the VA mission.

To preclude recurrence of the relegation of the VA to a relatively insignificant role within the executive branch, with the Administrator having little or no access to the President or other top officials in the White House, the VA should be elevated to Cabinet-level status. Such a step would insure that the head of the VA would participate in top administration discussions and decisions which in turn should result in greater coordination and sharing of expertise between the VA and other Government departments. It would mean greater recognition of the impact of general governmental decisions on the VA's ability to fulfill its mission.

It is also important to keep in mind that the Administrator of Veterans' Affairs has important statutory responsibilities, under section 220 of title 38, United States Code, for seeking to achieve the maximum feasible effectiveness and coordination of all Federal programs and activities affecting veterans—including those conducted by the Department of Labor and other agencies, as well as by the VA. The Administrator is also charged in that

same provision with actively promoting the effective implementation and enforcement of all laws and regulations providing for special consideration, emphasis, or preference for veterans. These responsibilities need to be carried out far more effectively and aggressively than they have been in the past. Cabinet status for the head of the VA would promote needed interaction with the heads of executive branch departments.

Mr. President, I also want to point out that this provision would not mandate the designation of the Administrator as a Cabinet member. The Cabinet consists of executive branch department heads and certain other officials designated by the President. Neither the Cabinet nor its membership were established by the Congress. Thus, I believe it preferable at this time, in striking an appropriate balance between the prerogatives of the President and the Congress, to exercise congressional restraint with respect to the composition of the Cabinet. Legislation mandating a specific official's membership or participation in the Cabinet should, I believe, be considered an extraordinary remedy to be pursued only as a last resort.

However, I consider it entirely appropriate for the Congress to make its view known regarding the advisability and desirability of elevating a particular official to Cabinet membership. In the case of the Administrator of Veterans' Affairs, I believe that a very strong, clear case exists for the Congress to express such a view.

RADIATION EPIDEMIOLOGICAL STUDY AND LITERATURE REVIEW

Mr. President, section 601 of the bill we are introducing today would require the VA to conduct, through a contract with a public or private entity, an epidemiological study of veterans exposed to radiation during the nuclear weapons test program or during service with the occupation forces in Hiroshima and Nagasaki following World War II. This study would focus on identifiable prevalent illnesses in the veterans and genetic or congential problems in their natural children. The VA would also be required to conduct a review and analysis of literature relating to long-term adverse health effects in humans of exposure to radiation. Under the provision, the President would be required to direct the VA to consult and actively coordinate with other Federal Government entities involved in radiation exposure-related studies and to report to the Congress on that effort.

The study and literature review are very similar to those that the VA is required to conduct, pursuant to Public Law 96-151 as amended by Public Law 97-72, with respect to the exposure of our troops in Vietnam to agent orange. There is one key difference: Whereas the VA had the option of conducting the agent orange epidemiological study by contract—an option which only after 3 years had elapsed since enactment of that law, the VA finally recently decided, as I and many others had urged to pursue—S. 11 would require that the VA itself not carry out this radiation epidemiological study but rather contract with an outside entity for its design and conduct.

Mr. President, although I am far from satisfied with the VA's efforts on the issue of agent orange, I believe that those efforts, now at long last underway, come closer to what the VA should be doing to resolve a very difficult and troubling issue than does the agency's attention to resolving issues relating to the health effects in veterans' exposed to radiation and the impact of such exposure on those veterans and their offspring. The attitude that has seemed to prevail among some within the VA on the radiation issue is that basically the matter is closed with no questions left unanswered. I do not accept that analysis. Nor do I believe that the VA should.

Certainly, there is an ever-growing body of information—most based on followup study of the health history of the Japanese exposed at Hiroshima and Nagasaki—about the health effects of radiation exposure. However, there is very little information specifically related to the veterans exposed during the weapons test program or, for that matter, to the nonmilitary personnel exposed to radiation from those tests, such as the citizens in Utah who are currently engaged in litigation on the question of the Government's liability for the health problems that they contend were caused by their exposure.

Mr. President, there are two central questions relating to the veterans' exposure to radiation that must be answered—what was the level of their exposure and what are the probable health effects of that level of exposure. A scientifically valid epidemiological study such as is proposed in the bill we are introducing can help supply part of the equation—namely, what is the current health status of the veterans who were present at the Pacific and Nevada test sites or in Hiroshima and Nagasaki, what is the health status of their natural children, and how does the health status of these veterans and their children compare to that of persons not exposed to radiation from nuclear weapons. Until such information is available or until there are irrefutable answers to the questions about the level of the veterans' exposure and the effects of such exposure, many of these veterans and their survivors will continue to believe that they are not receiving appropriate treatment from the VA and the Federal Government in general.

Because veterans who were exposed to radiation are barred by the Feres doctrine from bringing suit under the Federal Tort Claims Act against the Government for damages related to their exposure, the VA claims adjudication process is at present their only recourse and, because of a provision in title 38, United States Code, court review of VA decisions on claims for benefits is precluded. Thus, veterans exposed to radiation and their survivors have a very narrowly conscribed opportunity for redress. Although we will continue with our attempts to enact legislation to permit judicial review of VA decisions, it is imperative that the agency administering the only remedy currently available be, and be perceived as being, as prepared as possible to give claims from veterans exposed to radiation and their survivors full and fair consideration. I believe the study and literature review that would be mandated by this provision would provide the VA with critical, presently unavailable information relating directly to the veteran population, thereby equipping the agency to resolve the veterans' claims more fairly.

Mr. President, with respect to the proposed study and literature review, some will undoubtedly say that further study is simply unnecessary and that all information needed about the effects of radiation is available. However, those taking that position will be divided as to why they believe as they do. Some may well assert that the VA's claims decision record on veterans exposed to radiation is correct and that further study will only confirm that position. Others may just as likely contend the opposite—that the VA is consistently wrong in its adjudication of claims from these veterans and their survivors but not because of a lack of information; rather they will maintain that the VA's position is driven by an unwillingness to provide these veterans and their survivors the redress they are due. Without attempting to reconcile the viewpoints—the proposed study and literature review are far better suited to that task—I believe that the wide divergence between these positions supports the need for the study and review.

Mr. President, with further reference to the need for the proposed study and literature review, I note that the orphan drug legislation, legislation that I cosponsored and that was enacted earlier this month as Public Law 97-414, includes provisions directing the Secretary of Health and Human Services, first, to conduct research and report to the Congress on the relationship between exposure to iodine-131 from a nuclear detonation and the development of thyroid cancer, and second, to devise and publish radioepidemiological tables that set forth the likelihood that a person

who was exposed to a specified level of radiation and who later develops a radiation-related cancer developed such a cancer as a result of the radiation exposure. These are worthwhile undertakings and I, along with my colleague from Utah (Mr. HATCH), the author of the relevant provisions in the new law, and others in the Congress who are particularly concerned about the long-term health effects of exposure to radiation, look forward to reviewing the results of the Secretary's efforts to fulfill the mandates of the law. The work product that will be developed by the Secretary pursuant to these provisions will not, however, provide the type of information specific to the radiation-exposed veterans that is needed by the VA at this time. Thus, the general efforts mandated by Public Law 97-414 and the provisions in the bill we are introducing today are, in my view, complementary and fully compatible.

Mr. President, I also want to note that the National Academy of Sciences is currently engaged in conducting a mortality study of approximately 55,000 veterans who participated in various atomic tests. Although I believe that this study is of great importance in the ongoing quest for answers to questions about the health effects in veterans of exposure to low-level ionizing radiation from participation in the nuclear test program, the focus on mortality alone is not sufficient. Thus, the study we propose would be charged with determining the relative morbidity of the veteran population and the existence of genetic or congential defects among these veterans' natural children.

Mr. President, there is a final point that I wish to make regarding these proposals for further study on the status of U.S. veterans exposed to radiation. The Associated Press reported on January 13, 1983, that the British Defense Ministry is going to survey the health history of 12,000 Britons—both former military personnel and civilians—who took part in British atomic tests that were conducted in the Pacific and in Australia during the 1950's. In the AP wire story about this effort, a Defense Ministry representative was quoted as saying that information about the British atomic tests "clearly indicates that test personnel were not subjected to any significant health risks. But it is recognized that it is desirable to test the validity of this assessment." Without commenting on the assessment of whether the tests subjected the participants to risk, it is very easy to agree with the latter point that the validity of that assessment should be tested.

Such an approach is as valid for U.S. service personnel as it is as valid for British personnel.

GENETIC AND CONGENITAL DISABILITIES REPORT

Mr. President, section 602 of our bill is designed to help address the issue of possible genetic or congenital effects from exposure to ionizing radiation from nuclear detonations or to dioxin as found in herbicides used in Vietnam. These are issues that have received significant attention in recent months and years as veterans have expressed their concerns that the adverse health effects of their exposure to radiation or dioxin could have consequences for their children.

Without attempting to resolve those questions at this point—studies already underway or in the planning stages or such as the study proposed in section 601 of this bill are the appropriate means to gather the information needed to provide answers—I am concerned that, in the event that a connection is found between genetic or congenital defects and veterans' exposure to such hazards, there is no clear basis under current law for the Federal Government to provide benefits and services to those suffering such problems—either to veterans for genetic damage, including a genetic inability to have any children and genetic damage making the parenting of children inadvisable because of the possibility that the veteran's children would have genetic damage or congenital defects, or to veterans' children for genetic or congenital problems. For example, the VA's Board of Veterans' Appeals, the final appellate authority on veterans' claims for benefits, has determined that genetic damage to a veteran is not a disability for which service-connected disability compensation may be awarded, and there is no provision in title 38 to provide any monetary benefits or health-care services to a veteran's child who has birth defects even if it were to be demonstrated that such defects were the result of damage incurred in active-duty service to the veteran-parent's genes.

Mr. President, in order to give the Congress some basis for addressing these issues in the future, the provision in the bill we are introducing would direct the Administrator of Veterans Affairs to submit a report, within 180 days after the date of the enactment, to the two Committees on Veterans Affairs. The report would set forth possible alternative approaches to providing Federal benefits and services to the veterans exposed during their military service to ionizing radiation from nuclear detonation, dioxin as found in herbicides used in Vietnam, or other hazardous substances and, possible alternative approaches to providing Federal benefits and services to the natural children of such veterans. This report would not deal with whether there is a basis for providing benefits and services at this time. Rather, the emphasis would be on setting forth and providing an analysis of alternative approaches in the event the Congress wishes to move toward making a decision to provide such benefits and services in the cases of certain veterans or certain exposures.

It is desirable that the Congress have such alternatives before it in advance of the study results that could form the basis for providing benefits and services—such as the Vietnam veteran offspring birth defects study being conducted at present by the Centers for Disease Control. Such advance recommendations from the VA as this bill would require be developed would facilitate a more thoughtful consideration of the merits of various alternatives allowing a greater opportunity to understand and assess all of their ramifications free from the time pressures and the emotionally charged atmosphere that may be generated by study reports providing definitive answers. It would likewise be more desirable for the VA to have the opportunity to develop alternatives in an atmosphere conducive to careful evaluation and analysis.

TRANSFER OF CERTAIN HEALTH-CARE PERSONNEL

Mr. President, I have long been committed to insuring that the VA has the ability to recruit and retain sufficient qualified personnel to staff the many facilities of the agency's Department of Medicine and Surgery. Without sufficient qualified personnel, DM&S cannot fulfill its mission of providing quality health care to eligible veterans.

Mr. President, health-care personnel working in DM&S are presently employed under one of two personnel systems. Under current law, physicians, dentists, nurses, optometrists, podiatrists, physicians assistants, and expanded-function dental auxiliaries are employed under a special DM&S personnel system under title 38, United States Code. This system was established in 1946 when DM&S was first established by statute as a separate department within the VA. All other health-care personnel working in DM&S are employed in the regular civil service under title 5, United States Code.

The title 38 personnel system was established because of concerns that the regular civil service system was not flexible enough to permit the VA to hire direct health-care personnel in a timely fashion or to specify the terms and conditions of their employment in such a way as to facilitate the management of the provision of health care. Also, the DM&S title 38 system was established in response to concerns that the civil service system was too rigid to respond effectively to the subtle differences in the requirements that various health-care facilities throughout the VA system could be expected to have in seeking to recruit

their staffs. Although there are many parallels between the title 38 personnel system and the civil service system, there are some significant differences, and it is generally agreed that the title 38 system has served the VA's needs very well.

Mr. President, in response to concerns that there were other health-care professions and occupations within DM&S in addition to those already under the title 38 system as to which the VA was experiencing significant recruitment and retention difficulties, I authored a provision, enacted 2½ years ago as part of Public Law 96-330, that directed the VA to conduct a study and report to Congress on which of the categories of employees working in DM&S who provide direct patient-care services or services incident to direct patient-care services should be considered for conversion to the title 38 system and on other possible changes to existing personnel practices to deal with these difficulties. That report—entitled "Study of the Feasibility and Desirability of Converting Selected Health Care Occupations to Title 38, United States Code"—was submitted to the Congress on September 1, 1982. It has been printed as House Veterans' Affairs Committee Print No. 108, 97th Congress.

Mr. President, the VA's report is a very impressive, well-documented and comprehensive evaluation of the current situation regarding nontitle 38 health-care personnel within DM&S that will be quite useful to the Congress, not only with reference to the immediate question of which occupations and professions to consider for conversion to title 38 but also with respect to other issues relating to the agency's ability to compete with non-VA health-care facilities sufficiently well to meet the VA's requirements.

Among the many recommendations in the report is the recommendation that three health-care occupations—licensed practical-vocational nurses, physical therapists, and certified or registered respiratory therapists—be converted from the regular civil service system under title 5 to the title 38 personnel system. As to these three occupations, the task force that conducted the study found that there were "severe difficulties in recruitment, retention, and morale on a nationwide basis." In addition, the task force attributed these problems to failings in the civil service system.

Mr. President, the provisions of title IV of the measure we are introducing today would carry out this recommendation to convert these occupations to the title 38 personnel system with a modification that would leave in effect with respect to employees in these occupational categories certain title 5 provisions generally considered more favorable from an employee standpoint—those relating to employees' probationary periods, performance appraisals, and termination and disciplinary protections and provisions, set forth in section 3321 and subchapter I of chapter 43 and subchapters I and II of chapter 75 of that title.

As to the other recommendations made in the report—which do not urge legislative action and with respect to which legislation does not appear necessary at this time—a provision in the bill we are introducing would require the Administrator of Veterans Affairs and the Director of the Office of Personnel Management to report jointly to the appropriate committees of the Congress on how those recommendations are carried out. The requirement for this report is designed to elicit information as to whether significant difficulties occur in implementing some or all of the other VA recommendations and, thus, to assist the Congress in considering whether further legislative action is appropriate and necessary with respect to those recommendations.

DEFINITION OF VIETNAM ERA

Mr. President, under title 38, United States Code, and other provisions of law relating to Government benefits based on service in the Armed Forces, certain benefits are available to only veterans of a period of war or to war veterans and certain other categories such as service-connected disabled veterans, or are available to war veterans on a basis different than they are available to veterans of peacetime service only. Under title 38, the principal benefits that are in this category are pension, burial, housing, and employment benefits.

For purposes of benefits under title 38, the "Vietnam-era" is a period of war defined in current law—section 101(29) of title 38—as extending from August 5, 1964, until May 7, 1975. The starting date, the date the Gulf of Tonkin resolution was adopted by the Congress, has always been recognized as an arbitrary one since there never was a declaration of war in the Vietnam conflict and there is no clear date or event—such as the invasion of Pearl Harbor in 1941—from which to date U.S. involvement in the Vietnam conflict. The end date of the Vietnam era—May 7, 1975—was the date originally set by President Ford in a Presidential proclamation and later enacted by Congress. Clearly, there were many U.S. service personnel in Vietnam prior to August 1964; equally clearly, the commitment of significant numbers of U.S. combat troops occurred significantly after that date. The dedication of the Vietnam Veterans Memorial last November highlighted the arbitrary nature of the August 1964 date since the memorial includes the names of service personnel who died in Vietnam from hostile fire as early as 1959.

Mr. President, although it is not possible to set a precise date for the start of the Vietnam era, I do not believe it is appropriate to continue to tell all those individuals who served in Vietnam prior to the Gulf of Tonkin resolution that they are not veterans of a period of war. Thus, section 101 of the bill would amend title 38 to provide that for those veterans who served in Vietnam, the Vietnam era will begin on July 8, 1959—the date the first U.S. military personnel were killed by enemy action in Vietnam. In my view, the date that the activities of our troops in Vietnam clearly had begun to expose them to the substantial possibility of being killed by the enemy is the appropriate date from which that period of war began for those who served there. This amendment would not change the concluding date of the Vietnam era.

Mr. President, I note that the definitions of two other periods of war in title 38—The "Spanish-American War," defined in section 101(6) and "World War I" defined in section 101(7)—have more than one meaning, depending on the particular place and time of a veteran's service. Both definitions extend war-time status eligibility for approximately a year in the case of the Spanish-American War and 3 years in the case of World War I for only veterans who served in particular war zones rather then all those who served anywhere within a particular period of time. Thus, this proposal, with respect to the definition of the "Vietnam-era" is precedented.

CONCLUSION

Mr. President, as I noted at the outset, this diverse bill has as a unifying purpose bringing about the continued improvement of the Veterans' Administration's ability to meet the needs of our Nation's veterans and their dependents. I look forward to working on this measure with the committee chairman, my good friend from Wyoming (Mr. SIMPSON), the cosponsors and other members of the commitee, the Veterans' Administration, the veterans' service organizations, and others interested in legislation affecting veterans.

Mr. President, I ask unanimous consent that the text of S. 11 be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 11

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Veterans' Programs Improvement Act of 1983".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to

be made to a section or other provision of title 38, United States Code.

TITLE I—DEFINITION OF VIETNAM ERA

SEC. 101. Section 101(29) is amended to read as follows:

"(29) The term 'Vietnam era' (A) means the period beginning on August 5, 1964, and ending on May 7, 1975, and (B) in the case of a veteran who served in the Republic of South Vietnam during the period beginning on July 8, 1959, and ending on May 7, 1975, means such period.

TITLE II—WOMEN VETERANS

SEC. 201. (a) Chapter 3 is amended by inserting after section 221 the following new section:

"§ 222. Advisory Committee on Women Veterans.

"(a)(1) The Administrator shall establish an advisory committee to be known as the Advisory Committee on Women Veterans (hereinafter in this section referred to as the 'Committee').

"(2) The members of the Committee shall be appointed by the Administrator from the general public and shall include—

"(A) appropriate representatives of women veterans;

"(B) individuals who are recognized authorities in fields pertinent to the needs of women veterans, including the gender-specific health-care needs of women; and

"(C) appropriate representatives of both male and female service-connected-disabled veterans.

The Committee shall also include, as ex-officio members, the Chief Medical Director and the Chief Benefits Director, or their designees and a public and military member of the Department of Defense Advisory Committee on Women in the Services selected by the Administrator after consultation with the Secretary of Defense. The Administrator may also invite representatives of such other departments and agencies of the United States, as the Administrator considers appropriate, to participate in the meetings and other activities of the Committee.

"(3) The Administrator shall determine the number, terms of service, and pay and allowances of members of the Committee appointed by the Administrator, except that the term of service of any such member may not exceed three years.

"(4) The Committee shall meet not less than four times in fiscal years 1984 and 1985 and thereafter at such times as determined by the Committee.

"(b) The Administrator shall, on a regular basis, consult with and seek the advice of the Committee with respect to the administration of benefits under this title for women veterans and the needs of such veterans with respect to compensation, health care, and rehabilitation.

"(c) Not later than July 1, 1984, and not later than July 1 of each year thereafter, the Committee shall submit to the Administrator a report on the programs and activities of the Veterans' Administration that pertain to women veterans. The Committee shall include in each such report an assessment of the needs of such veterans with respect to compensation, health care, and rehabilitation, a review of the programs and activities of the Veterans' Administration designed to meet such needs, and such recommendations (including recommendations for administrative and legislative action) as the Committee considers appropriate. The Administrator shall immediately submit such report to the Congress with any comments concerning the report that the Administrator considers appropriate. The Committee may also submit to the Administrator such other reports and recommendations as the Committee considers appropriate. The Administrator shall submit with each annual report submitted to the Congress pursuant to section 214 of this title a summary of all reports and recommendations of the Committee submitted to the Adminstrator since the previous annual report of the Administrator submitted to the Congress pursuant to such section.".

(b) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 221 the following new item:

"222. Advisory Committee on Women Veterans.".

SEC. 202. Section 601(4)(C)(iv) is amended by inserting after "veterans" a comma and "and medical services described in section 612(f)(1)(A) of this title for a women veteran if the Administrator has determined, based on an examination by a physician employed by the Veterans' Administration (or, in areas where no such physician is available, by a physician carrying out such function under a contract or fee arrangement), that a medical condition of such woman veteran relating to her gender precludes appropriate treatment in facilities described in clauses (A) or (B) of this paragraph".

TITLE III—VETERANS' ADMINISTRATION HEALTH-CARE PROGRAMS

SEC. 301. Section 612A is amended—

(1) in subsection (a), by striking out "September 30, 1984" and inserting in lieu thereof "September 30, 1985";

(2) in subsection (g)(1), by striking out "1984" each place it appears and inserting in lieu thereof "1985"; and

(3) in subsection (g)(2), by striking out "April 1, 1984" and inserting in lieu thereof "September 30, 1984".

SEC. 302. (a) Section 601(6)(A)(i) is amended by inserting after "podiatric services" a comma and "(in the case of persons otherwise receiving other services under this chapter) preventive health-care services as defined in section 662 of this title".

(b) Section 661 is amended—

(1) by striking out "pilot";

(2) by striking out "under which the Administrator may attempt"; and

(3) by striking out "certain" both places it appears.

(c) Section 663 is amended—

(1) in subsection (a), by striking out "may" both places it appears and inserting in lieu thereof "shall";

(2) by striking out subsection (b); and

(3) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(d)(1) The heading of subchapter VII of chapter 17 is amended to read as follows:

"Subchapter VII—Preventive Health-Care Services Program".

(2) The item relating to such subchapter in the table of sections at the beginning of such chapter is amended to read as follows:

"Subchapter VII—Preventive Health-Care Services Program".

TITLE IV—VETERANS' ADMINISTRATION HEALTH-CARE PERSONNEL

SEC. 401. Section 4104(1) is amended by striking out "and" and inserting after "auxiliaries" a comma and "licensed practical or vocational nurses, physical therapists, and certified or registered respiratory therapists".

SEC. 402. (a) Section 4105(a) is amended—

(1) by striking out "Physicians" in clause (1) and inserting in lieu thereof "Physician";

(2) by striking out clauses (8) and (9);

(3) by redesignating clause (10) as clause (8); and

(4) by adding at the end the following new clause:

"(9) Physician assistant, expanded-function dental auxiliary, licensed practical or vocational nurse, physical therapist, certified or registered respiratory therapist, occupational therapist, dietitian, or other position—

have such medical, dental, scientific, or technical qualifications as the Administrator shall prescribe.".

(b) Section 4105(b) is amended by striking out all beginning with "as physician" through "auxiliary" and inserting in lieu thereof "to a position listed in section 4104(1) of this title".

SEC. 403. Section 4106 is amended by adding at the end the following new subsection:

"(g)(1) The provisions of this section other than subsection (b) shall apply to licensed practical or vocational nurses, physical therapists, and certified or registered respiratory therapists.

"(2) The probationary period set forth in section 3321 of title 5 and the provisions of subchapter I of chapter 43 and subchapters I and II of chapter 75 of title 5 shall apply to persons employed in the positions specified in paragraph (1) of this subsection.".

SEC. 404. Section 4107 is amended—

(1) in subsection (b)(1), by inserting below the "Clinical Podiatrist and Optometrist Schedule" the following:

"LICENSED PRACTICAL OR VOCATIONAL NURSE SCHEDULE

"LP/VN-4	$14,901	minimum to	$19,374 maximum
"LP/VN-3	$13,369	minimum to	$17,383 maximum
"LP/VN-2	$11,949	minimum to	$15,531 maximum
"LP/VN-1	$10,645	minimum to	$13,840 maximum";

(2) by amending subsection (f) to read as follows:

"(f) Under standards which the Administrator shall prescribe in regulations—

"(1) basic pay for physician assistants, expanded-function dental auxiliaries, physical therapists, and certified or registered respiratory therapists shall be based on the Nurse Schedule grade titles and related basic pay ranges, and

"(2) physician assistants, expanded-function dental auxiliaries, licensed practical or vocational nurses, physical therapists, and certified or registered respiratory therapists shall be entitled to additional pay on the same basis as provided for nurses in subsection (e) of this section."; and

(3) by amending subsection (g)(1)(A) to read as follows:

"(A) individuals employed in positions listed in section 4104(1) of this title,".

SEC. 405. Section 4108(a) is amended by striking out all beginning with "physicians" through "auxiliary" and inserting in lieu thereof "individuals appointed to the Department of Medicine and Surgery in positions listed in section 4104(1) of this title, except that the hours of employment in carrying out responsibilities under this title of any such individual (other than an intern or resident appointed pursuant to section 4114 of this title)".

SEC. 406. Section 4110(a) is amended—

(1) by inserting a comma and "except for a person employed as a licensed practical or vocational nurse, physical therapist, or cer-

tified or registered respiratory therapist" before the period at the end of the first sentence; and

(2) by amending the second sentence to read as follows: "The majority of employees on a disciplinary board shall be employed in the same category of position as the employee who is the subject of the charges.".

SEC. 407. Section 4113 is amended by striking out "and expanded-function dental auxiliaries" and inserting in lieu thereof "expanded-function dental auxiliaries, licensed practical or vocational nurses, physical therapists, and certified or registered respiratory therapists".

SEC. 408. Section 4114(a) is amended—

(1) in paragraph (1)(A), by inserting after "auxiliaries" a coma and "licensed practical or vocational nurses, physical therapists, certified or registered respiratory therapists";

(2) in paragraph (1)(B), by inserting after "auxiliaries" a coma and "licensed practical or vocational nurses, physical therapists, certified or registered respiratory therapists,";

(3) in paragraph (3)(A), by striking out "and" in the first sentence and inserting after "auxiliaries" a coma and "licensed practical or vocational nurses, physical therapists, and certified or registered respiratory therapists"; and

(4) in paragraph (3)(B), by inserting "licensed practical or vocational nurses, physical therapists, or certified or registered respiratory therapists," before "and interns".

SEC. 409. Section 4116(a) is amended by inserting after "auxiliary" each place it appears a comma and "licensed practical or vocational nurse, physical therapist, certified or registered respiratory therapist".

SEC. 410. Section 4117 is amended by inserting after "auxiliaries" a comma and "licensed practical or vocational nurses, physical therapists, certified or registered respiratory therapists".

SEC. 411. (a) Not later than January 1, 1984, the Administrator of Veterans' Affairs and the Director of the Office of Personnel Management shall submit a joint report to the Committees on Veterans' Affairs of the Senate and the House of Representatives regarding the status of efforts to carry out the recommendations made in the report prepared by the Veterans' Administration, pursuant to section 117 of Public Law 96-330, and transmitted to the Committees on Veterans' Affairs on September 1, 1982, entitled "Study of the Feasibility and Desirability of Converting Selected Health Care Occupations to Title 38, United States Code".

(b) Such report shall contain—

(1) with respect to each such recommendation, information on the decision that has been made as to whether such recommendation is being implemented in the manner described in the report and, if not, as to whether it is to be implemented in a modified form or not implemented and a statement of the reasons for such decision;

(2) a timetable for the actions planned for the implementation of each recommendation that is being implemented either in its original form or as modified;

(3) any further recommendations of the Administrator or Director or both for legislative or administrative action or both relating to the subject matter of such report; and

(4) such other information relating to the subject matter of such report as the Administrator or the Director or both consider appropriate.

SEC. 412. The amendments made by this title shall take effect one hundred and eighty days after the date of the enactment of this Act.

TITLE V—STATUS AND ROLE OF ADMINISTRATOR OF VETERANS' AFFAIRS

SEC. 501. (a) The Congress finds that—

(1) the Nation has an historic and deeply-rooted commitment to providing benefits and services to those who served in the Armed Forces;

(2) this commitment must be continued and maintained, both to fulfill moral obligations to those who served in the past and to assure those now in the Armed Forces and potential service men and women that the Nation's obligations to those who serve will always be honored;

(3) the Veterans' Administration is the principal Federal entity responsible for veterans' benefits and programs;

(4) the Administrator of Veterans' Affairs is the principal Executive Branch official responsible for the administration of such benefits and programs and for seeking the coordination of veterans programs administered by other Federal departments and agencies;

(5) the Veterans' Administration has a potential population of beneficiaries totalling nearly 30 million veterans and over 66 million survivors and dependents;

(6) the Veterans' Administration will distribute over $13 billion in income maintenance payments and approximately $1.7 billion in education, training, and rehabilitation assistance payments in fiscal year 1983; operates one of the Federal Government's two major home loan guaranty programs, with over 4 million loans currently guaranteed; administers the largest direct insurance program in the Nation; operates 108 national cemeteries and provides burial assistance for nearly 350,000 deceased veterans annually;

(7) the Veterans' Administration operates the largest centrally-administered health-care system—consisting of, among other facilities, 172 hospitals, 226 outpatient clinics, and 97 nursing home care units—in the United States;

(8) the Veterans' Administration health-care system serves as the primary back-up to the medical resources of the Department of Defense in time of war or national emergency involving the use of the Armed Forces in armed conflict;

(9) in terms of share of the annual Federal budget, the Veterans' Administration ranks sixth among Federal departments and agencies, and among Federal departments and agencies only the Department of Defense employs more personnel;

(10) there is a need for greater coordination between the Veterans' Administration and other Federal entities administering veterans programs and between the Veterans' Administration and other Federal entities providing similar benefits to individuals on a basis other than their status as veterans;

(11) by virtue of the Veterans' Administration not being included in the President's Cabinet, the Administrator of Veterans' Affairs generally is not included in Cabinet meetings and deliberations and generally does not have the ready access to the President and senior advisors on the President's staff that Cabinet members have; and

(12) as a consequence, Presidential decisions affecting veterans and the Veterans' Administration are made from time to time without an understanding of their full impact on veterans and on the Veterans' Administration's ability to carry out its statutory missions.

(b) In view of the findings in subsection (a), it is the sense of the Congress that the Administrator of Veterans' Affairs should be designated by the President as a member of, and full participant in all activities of, the Cabinet and as the President's principal advisor on all matters relating to veterans and their dependents.

TITLE VI—HEALTH HAZARDS STUDIES AND REPORT

SEC. 601. (a) The Administrator of Veterans' Affairs, through contracts or agreements with private or public agencies or persons (other than the Departments of Defense and Energy), shall provide for the conduct of an epidemiological study of the long-term adverse health effects (including psychological) of exposure to ionizing radiation from the detonation of a nuclear device in connection with the test of such device or with the American occupation of Hiroshima and Nagasaki, Japan, during the period beginning September 11, 1945, and ending on July 1, 1946, in persons who, while serving in the Armed Forces of the United States, may have been exposed to such radiation. Such study shall include, but not necessarily be limited to, a study of identifiable prevalent illnesses, including malignancies, in the persons potentially exposed and genetic and congenital problems suffered by the natural children of such persons.

(b)(1) The Administrator shall also conduct a comprehensive review of scientific analysis of the literature covering studies already conducted or underway relating to the long-term adverse health effects (including genetic and psychological) in humans of exposure to radiation, including nuclear device, medical, and occupational exposures.

(2) The Administrator may, in carrying out the review and literature analysis required by paragraph (1), enter into contracts or agreements with private or public agencies or persons for such services, including for the conduct in whole or in part of such review and analysis, as the Administrator considers appropriate.

(c)(1) For the purpose of ensuring that any study carried out by the Federal Government with respect to the adverse health effects in humans of exposure to radiation is scientifically valid and is conducted with efficiency and objectivity, the President shall ensure that—

(A) the epidemiological study required by subsection (a) is fully coordinated with studies which are planned, are being conducted, or have been completed by other departments, agencies, and instrumentalities of the Federal Government and which pertain to the adverse health effects in humans of exposure to radiation including to ionizing radiation from the detonation of a nuclear device in connection with the test of such a device or with the American occupation of Hiroshima and Nagasaki, Japan, during the period beginning on September 11, 1945, and ending on July 1, 1945; and

(B) all appropriate coordination and consultation is accomplished between and among the Administrator and the heads of such departments, agencies, and instrumentalities that may be engaged, during the conduct of the epidemiological study required by subsection (a), in the design, conduct, monitoring, or evalutation of such radiation-exposure studies.

(2) Not later than ninety days after the date of the enactment of this Act, the President shall submit to the appropirate committees of the Congress a report containing a description of the steps taken and plans made to assure the coordination and consultation required under paragraph (1).

(d)(1) Not later than eighteen months after the date of the enactment of this Act, the Administrator shall submit to the appropriate committees of the Congress a report on the literature review and analysis conducted under subsection (b), together with such comments and recommendations for administrative or legislative action, or both, as the Administrator considers appropriate, including recommendations regarding (A) the need for additional research in any areas in which the Administrator determines that the report indicates such research is necessary for the resolution of questions as to whether certain significant adverse long-term health effects result from exposure to radiation, and (B) the departments, agencies, or instrumentalities that should carry out such research.

(2) The Administrator shall submit copies of such report to the departments, agencies, and instrumentalities described in subsection (c) and such other departments, agencies, and instrumentalities of the Federal Government as the Administrator considers appropriate and shall recommend to the appropriate departments, agencies, and instrumentalities that they carry out any such additional research.

(e)(1) Not later than twenty-four months after the date of the enactment of this Act, and annually thereafter, the Administrator shall submit to the appropriate committees of the Congress a report on the epidemiological study conducted under subsection (a) containing (A) a description of the results thus far obtained under the study, and (B) such comments and recommendations for administrative or legislative action, or both, as the Administrator considers appropriate in light of such results.

(2) Not later than ninety days after the submission of each report under paragraph (1), the Administrator shall, based on the results described in such report and the comments and recommendations thereon and any other available pertinent information, publish in the Federal Register, for public review and comment, a description of actions, if any, that the Administrator proposes to take with respect to programs administered by the Veterans' Administration. Each such description shall include a justification or rationale for any such action the Administrator proposes to take.

(3) The requirement in paragraph (1) for the submission of annual reports shall expire upon the submission of a report after the completion of the study conducted under subsection (a).

SEC. 602. In order to provide a basis for evaluation by the Congress of the merits of various alternative approaches to providing Federal benefits and services, either through the Veterans' Administration or otherwise—

(1) to veterans who were exposed during service in the Armed Forces of the United States to ionizing radiation from the detonation of a nuclear device, to dioxin contained in herbicides used in Vietnam, or to other hazardous substances, or

(2) to the natural children of such veterans in the event that, in the cases of such veterans and such children who are suffering from genetic or congenital disabilities, it is determined that such benefits and services should be provided because of the degree of likelihood that such disabilities may be the result of such veterans' exposure, the Administrator, within 180 days after the date of the enactment of this Act, shall submit a report to the Committees on Veterans' Affairs of the House of Representatives and the Senate setting forth various alternative approaches (together with the Administrator's comments on the appropriateness and the advantages and disadvantages of each) to providing such benefits and services to such veterans and natural children.

TITLE VII—TECHNICAL AMENDMENTS

SEC. 701. Section 203(b) is amended by striking out "not".

SEC. 702. Section 301(3) is amended by striking out the semicolon at the end and inserting in lieu thereof a period.

SEC. 703. Section 360 is amended by striking out "has suffered (1)" and inserting in lieu thereof "(1) has suffered".

SEC. 704. Section 361 is amended by striking out "United States Code,".

SEC. 705. Section 1682(c)(1)(C) is amended by inserting a comma after "week)".

SEC. 706. Sections 2002 and 2002A are amended by striking out "a Assistant" and inserting in lieu thereof "an Assistant".

SEC. 707. Section 4142(i)(4) is amended by striking out the comma following "accepted".

SEC. 708. Section 5010(c)(2)(B) is amended by striking "or" the first place it appears and inserting in lieu thereof "and".

By Mr. FORD (for himself and Mr. QUAYLE):

S. 12. A bill to provide for a 2-year Federal budget cycle, and for other purposes; to the Committee on the Budget.

BUDGET PROCEDURES IMPROVEMENT ACT OF 1983

Mr. FORD. Mr. President, on behalf of the junior Senator from Indiana, Mr. QUAYLE, and myself, I send to the desk a bill for introduction, and ask unanimous consent that it be held at the desk pending disposition of joint referral matters pursuant to rule XVII, or by further unanimous consent.

The PRESIDING OFFICER. Is there objection? The Chair hears none and it is so ordered.

Mr. FORD. Mr. President, on September 30, 1981, I introduced S. 1683, a bill to establish a 2-year budget and appropriation cycle, and to make other improvements in the budget process. I am informed that this was the first bill to establish a 2-year budget cycle ever introduced in the Senate. I was preceded in this move in the House of Representatives by Congressman LEON PANETTA, who first introduced such a measure on September 13, 1977. It is my understanding that Mr. PANETTA has already introduced or intends to introduce a House bill similar to that which we are introducing today in the Senate.

On January 25, 1982, our colleague, Senator QUAYLE, introduced S. 2008, a slightly different measure to establish a 2-year budget cycle. During last year, Senator QUAYLE and I concluded that we could expedite the acceptance of the 2-year budget cycle concept if we eliminated the minor differences in our two bills and jointly supported a common bill. Accordingly, on August 19, 1982, we introduced S. 2864, the product of our successful efforts to come together on a common approach.

The bill we introduce today is identical to S. 2864, except for necessary technical changes and revised effective dates. The principal thrust of the measure is to establish a 2-year cycle for budget and appropriation measures.

On the last day of our late, unlamented lame duck session, several Senators expressed their concern with the breakdown in our budget and appropriation processes. The senior Senator from Illinois, Mr. PERCY, introduced a resolution designed to avoid the annual chaos and mistakes of relying on continuing resolutions by providing for automatic spending authority in the absence of timely passage of regular appropriations bills.

In introducing his resolution, Senator PERCY observed that in the continuing resolution enacted during the lame-duck session, 78 percent of all funding for the Federal Government had been rushed through in a few days. Senator PERCY noted that:

Senators were asked to vote for or against one piece of ill-considered legislation which will affect the lives of every American citizen. More than $420 billion was appropriated in the continuing resolution which we had less than 2 hours to study. Hundreds of amendments were added or deleted * * * in conference. [Repeated waivers of the Budget Act were required.] Authorizations were altered without thoughful and considered judgment. Personal interests were inserted.

The result of the process is a bad piece of legislation and a humiliation for all of us who participated in the process * * *.

In the past few years, on numerous occasions, Congress has failed in this fashion to perform its constitutional responsibility in a timely and constructive manner. To allow this to continue is a disgrace.

Our colleague, Senator NUNN, commending Senator PERCY for his remarks, went on to observe:

We are going through a cycle that no one can ever catch up with, let alone stay ahead of. I think we are seriously going to have to consider going to a 2-year appropriation and authorization cycle. We are having total duplication between authorizing committees and the appropriations committee where none of us have time to do the job we are supposed to do.

We are in a mess in terms of the fiscal situation in this body and in the Congress. I think the public perceives it, and I believe it is up to all of us, as Members of this body, to begin to find answers. We cannot continue to go on like this.

Mr. President, perhaps our recently retired former colleague from Virginia, Senator Harry Byrd, said it best when he said, "We call this legislation a continuing resolution. I think what it continues is total fiscal irresponsibility."

As Senator NUNN said, I believe it is now time for us to give serious consideration to adopting the 2-year budget and appropriation cycle. As this 2-year cycle concept is given more attention, consideration and analysis, I am certain we will all become convinced of the necessity for abandoning the 1-year cycle, and of the advantages which will flow from making such a change.

I shall mention only a few of these benefits.

First and foremost will be the better job done on budget and appropriation actions in the executive and legislative branches of the Federal Government. Next, I would list the advantages to the States, in having earlier and more reliable appropriation decisions to feed into their plans.

Further, with the time saved by eliminating needless repetitive steps in our budget and appropriation activities in Congress, each House will be able to do more and better legislative oversight. It is also my belief that a 2-year budget cycle will lend needed economic stability to both the public and private sectors. We all welcome any step which can offer some hope of helping to curb inflation. The 2-year budget move has been supported by the Director of the Congressional Budget Office, Alice Rivlin, and the Comptroller General of the United States, Charles Bowsher. Also, the present Director of the Office of Management and Budget, David Stockman, supported the principle when he was a Member of Congress.

Senator QUAYLE and I are asking the Senate leadership to request joint referral of this bill to the Committees on the Budget, Governmental Affairs and Rules and Administration. This was done for S. 1683, and we had asked for the same referral for S. 2864.

For this purpose, Senator QUAYLE and I have talked with the leaders, and with the chairmen and ranking minority members of Budget and Governmental Affairs, and I have spoken with Senator MATHIAS, the chairman of the Rules Committee on which I serve as ranking minority member. The measure introduced clearly contains important matter falling within the jurisdiciton of each of these committees, and I hope we will have the support of all of our colleagues on this referral request.

Mr. President, I also ask unanimous consent that the following individuals be listed as cosponsors: Mr. BUMPERS, Mr. PELL, Mr. NUNN, Mr. GARN, Mr. HUDDLESTON, and Mr. SYMMS.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. I also ask unanimous consent that a brief summary of S. 12, the Budget Procedures Improvement Act of 1983, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BRIEF SUMMARY OF S. 12, THE BUDGET PROCEDURES IMPROVEMENT ACT OF 1983

1. Establishes a two-year budget process. The budget for each two-fiscal year budget period is considered and enacted throughout both sessions of the preceding Congress.

2. Requires that enrollment of all spending bills be withheld until action on the second budget resolution and reconciliation is completed.

3. Prohibits:

(1) including reconciliation instructions in other than the required second resolution;

(2) directing committees, in any budget resolution, to change legislation authorizing the enactment of new budget authority; and

(3) the consideration of a reconciliation bill or resolution which contains provisions other than provisions which (a) provide budget or spending authority, (b) relate to revenues, or (c) specify the limit of the public debt.

4. Requires that spending measures and budget reports include tables in which the estimates or recommendations are set forth in the same budget accounts used by the President, and requires the President to consult with committees prior to changing the budget accounts.

5. Strengthens the requirement for committees to conduct oversight investigations and to report their findings to their respective Houses during each Congress. Also strengthens the authority of committees to request assistance and information from agencies and from the General Accounting Office and other legislative staff agencies, while safeguarding the protection of confidential information.

The new cycle would become effective with the Ninety-ninth Congress. In January 1985 the President would submit the proposed budget for the first two-fiscal-year period beginning October 1, 1986.

Each of the above points is described more fully in the Section by Section Analysis which follows.

SECTION-BY-SECTION ANALYSIS OF S. 12, THE BUDGET PROCEDURES IMPROVEMENT ACT OF 1983

Section 2 sets forth the purposes of the bill—to revise the work schedules for Congressional budget and program review activities so as to provide adequate time for thorough consideration of costly and complicated Federal programs and for agencies and State and local governments to plan for the implementation of programs.

Section 3 revises the timetables for the Federal budget process to provide for a biennial process in place of the current one-year process. Presidential estimates would be submitted for periods of two fiscal years; concurrent resolutions on the budget would be for two years; and appropriations and other spending bills would provide budget authority for two fiscal years. The schedule of events established by S. 12 for the two-year budget process is:

First Session

Nov. 10—President's current services budget submitted.

Dec. 31—JEC economic evaluation of current services budget submitted to Budget Committees.

Jan. 15—President's budget recommendations submitted.

Jan. 15—Program reviews begin.

April 15—CBO reports submitted to Budget Committees.

May 15—Committees' Views and Estimates reports submitted to Budget Committees.

June 15—First Budget Resolution reported.

July 1—Authorization bills reported.

July 31—First Budget Resolution agreed to.

Sept. 15—Committees report allocations of First Resolution amounts.

Dec. 1—Congressional action completed on authorizing legislation.

Second Session

Jan. 15—President's revisions to his recommendations submitted.

March 31—CBO report submitted to Budget Committees.

March 31—Spending bills reported by House Committee on Appropriations.

April 15—Spending bills reported by Senate Committee on Appropriations.

June 15—Second Budget Resolution reported.

July 15—Spending bills agreed to.

Aug. 1—Second Budget Resolution agreed to.

Sept. 25—Action completed on reconciliation bill or resolution, and spending bills enrolled.

Oct. 1—Two-fiscal-year budget period begins.

Oct. 1—Committees report findings and conclusions from their reviews and studies of programs to their respective houses.

The focus of the first session is the first budget resolution and the sessions culminates in committees' allocations of the budget totals in the resolution among programs and in the completion of action on authorizing legislation. A related provision, Section 4(q), prescribes a level of detail absent from such allocations now, so that they will be more meaningful statements and can serve as a basis for preparing spending bills in the second session and for ascertaining if spending bills are consistent with the budget resolution totals and allocations.

In the second session, the focus is on the consideration and enactment of appropriations and other spending measures. A second budget resolution provides a vehicle for adjusting the overall totals to reflect changes in economic conditions, changes in priorities within major functional categories, and for reconciling differences between the spending bills and overall budget totals. Spending bills are withheld from enrollment until completion of action on the second budget resolution and reconciliation, if any. In recognition of the use of the reconciliation process to make extensive and substantial changes, more time is provided for the preparation and consideration of reconciliation bills or resolutions (August 1 to September 25) instead of the 10 day period, (September 15 to 25) now provided. A related provision, Section 41(1)(4)(A), increases the time for debate in the Senate from 20 to 100 hours, again in recognition of the fact that many substantive issues can be incorporated in a single reconciliation bill, and that they need more deliberation than is possible in 20 hours.

Throughout the timetable, events have been arranged so that offices responsible for an action have time to use the results of prior, related actions. For example, CBO estimates are made due one month before committees Views and Estimates Reports, and action on authorizations for appropriations is to be completed in the first session with appropriations now reported until the second session.

Section 4 makes changes throughout the 1974 Budget Act conforming to the revised timetable in Section 3. Five-year projections of budget estimates are changed to four years to conform to the two-fiscal-year periods.

Section 4 also makes changes to improve the discipline of the budget process and to correct conditions which have developed from efforts to improvise stronger enforcement within the current provisions of the Act. These changes are set forth below.

1. A point of order is provided against the consideration of a first concurrent resolution or a revision thereto which instructs committees to report changes in bills, laws, or resolutions or which would expand the scope of the congressional budget process to additional aspects of government operations. Sections 4(d) and 4(g).

2. A point of order is provided against budget resolutions containing instructions to Committees to make changes in program authorizations. This is in keeping with the express intent of the 1974 Budget Act, as stated in the legislative history, that budget resolutions, reconciliation instructions, and reconciliation bills and resolutions, not apply to authorizations. Section 4(l)(1)(F).

3. A point of order is also provided against considering any reconciliation bill or resolution or amendment thereto or conference report thereon which changes any provision of law other than provisions which: (a) provide budget or spending authority, (b) relate to revenues, or (c) specify the limit on the public debt. Section 4(1)(4)(B). The phrase "relate to revenues" is intended to encompass provisions of law which establish an obligation to make payments to the United States government and which provide a basis for ascertaining the amount thereof.

4. The time for debate of a reconciliation bill or resolution in the Senate is increased from 20 to 100 hours. Section 4(1)(4)(A).

5. Appropriations and other spending measures are not to be enrolled prior to completion of action on the required second resolution and reconciliation bill or resolution, if any. This is to correct the problem which now can arise from the consideration and enactment of spending measures throughout a time period of several months, some of which individually exceed the amounts "assumed" in the budget resolution, with the result being that "room" in the budget intended for other programs is preempted, thereby causing irresistible pressure to increase the totals. Under this procedure all bills would be held and all would be equally subject to adjustment in reconciliation. None would have enacted status; and none should, therefore, be regarded by agencies and the public as completed and used as a basis for commitments. This procedure will help reduce the need for Budget Committee chairmen to challenge bills on the Floor which are thought to exceed assumptions in the budget resolutions, which has sometimes led to disagreements over what was assumed, over the status of such assumptions, over committee prerogatives to differ from the assumptions, and over the role of the Budget Committee with respect to such details. Section 4(k)(1)(F). A related change, Section 4(q), by requiring greater specificity in committee allocation reports and in reports accompanying spending measures will also make it easier to see whether or not any bill is within the amounts in a committee's own allocation report and, therefore, within the totals allocated to the committee in the statement of managers accompanying the conference report on a budget resolution.

6. Certain tabular data is required for budget reports and reports accompanying budget resolutions and spending measures. Views and Estimates Reports, committees' allocations of first resolutions budget totals, CBO bill cost estimates, budget resolutions, and spending measures are to include or be accompanied by reports including tables in which the budgetary aspects of the report or measure are set forth in the same accounts used by the President in his budget estimates transmitted in January of the first session of the Congress. Section 4(g). The purpose of this provision is to facilitate a ready comparison of the measures and reports to not only the President's estimates but to all other related documents throughout a budget cycle; that is, to provide a common language through which the recommendations and decisions can be expressed. See also paragraph 2 in the comment on Section 5, below.

Section 5 makes changes in Title 31 of the U.S. Code, in which the Budget and Accounting Act, 1921, and parts of the Congressional Budget and Impoundment Control Act of 1974 were recently codified, consistent with the two-fiscal-year budget process, and corresponding to the timetable in Section 3.

Related to item 6 in the comment on Section 4, above, the President is required to use the same account structure in his January estimates and his current services estimates submitted the preceding November, and account changes from one fiscal period to another are required to be made only in consultation with the Appropriations, Budget and authorizing committees. The Budget Account Listing in the fiscal year 1985 Budget is designated as the beginning reference point. This is an extension of the present provision which covers only the major functional categories and which requires consultation only with the Budget and Appropriations Committees. The change is a reflection of the increased involvement of authorizing committees in the details of the budget since the enactment of the Congressional Budget Act of 1974. Expansion of this provision is also a reaffirmation of the need for current services estimates to be submitted prior to the submission of the January estimates in order to provide a planning base to authorizing committees, which have the earliest action in the congressional budget process and therefore the greatest need for current services estimates in November. Section 5(b).

The combined effects of the improvements made by Section 4(q) and Section 5(b) are to provide a measure of stability in the form in which the budget is presented so that Congressional offices need not waste time figuring out a new structure, and for congressional decisions to be made within a consistent information structure so as to facilitate understanding beyond the circle of those most intimately involved in the process.

Flexibility in the presentation of new programs is provided through allowing the President's January budget to include new accounts not in the current services budget solely for the purpose of presenting new programs. Similarly, committees are permitted to use interim account numbers to report new programs. Account identification codes for such accounts are to be assigned by the Congressional Budget Office as a central reference point to maintain consistency in the account structure.

Section 6 amends the definition of "appropriations Acts" to conform to the two-fiscal-year budget process.

Section 7 modifies and strengthens the legislative oversight requirements set forth in Section 136 of the Legislative Reorganization Act of 1946 to—

1. provide that committees should begin conducting reviews and studies of programs on January 15 of each first session and report their findings and conclusions to their respective houses by October 1 of the second session;

2. provide that these reviews and studies should constitute the basis for a committee's legislative work during the succeeding congress;

3. authorize chairmen and ranking minority members to request information and assistance from heads of agencies in conducting such reviews, including the final budget recommendations and justifications submitted by agencies to OMB;

4. authorize chairmen and ranking minority members to request the Comptroller General to provide summaries of any audits or reviews conducted by the GAO in the past six years regarding programs being studied by committees;

5. authorize chairmen and ranking minority members to request assistance from legislative staff agencies in conducting reviews and studies of programs;

6. clarify that chairmen and ranking minority members may request information for such studies and reviews to be provided on computer tape and that agencies are not required to charge a fee when information is provided in this fashion; and

7. clarify that the study and reporting requirement does not require the public disclosure of national security information or other information the disclosure of which is protected by law.

Section 8 makes changes to the Rules of the Senate and House of Representatives to conform them to the two-fiscal-year budget process.

Section 9 sets forth the effective dates, which are—

1. The first day of the 99th Congress, for the two-fiscal-year budget process, except for the provision requiring the first two-fiscal-year current services budget;

2. November 9, 1984, for the first two-fiscal-year current services budget, which is to be submitted November 10, 1984, the year preceding the 99th Congress; and

3. The date of enactment, for the amendments pertaining to the fiscal year 1986 budget.

Section 10 contains provisions for the transition from a one-fiscal-year to a two-fiscal-year budget process. During the first session of the 99th Congress, two processes will take place: (a) the First Session activities for the development of the first two-fiscal-year budget, for fiscal years 1987 and 1988, and (b) the enactment of the budget for the last one-fiscal-year budget, for fiscal year 1986. Section 10 specifies that the budget for fiscal year 1986 is to be considered as if these amendments were not in effect, except that certain procedural changes made part of the two-fiscal-year process are also by this Section made specifically applicable to the consideration of the fiscal year 1986 budget. These are—

1. A point of order is provided against considering the required first budget resolution or revisions thereof if they instruct committees to make changes in bills, laws, or resolutions or if they contain matter which pertains to subjects other than budget authority, outlays, revenues (including offsetting receipts and collections), or the public debt.

2. Appropriations and other spending measures are not to be enrolled until action is completed on the required second resolution and the reconciliation bill or resolution, if any.

3. A point of order is provided against a required second resolution containing instructions with respect to authorizations for the enactment of new budget authority.

4. A point of order is provided against considering a reconciliation bill or resolution (including amendments thereto or a conference report thereon) which changes any provision of law other than provisions which provide budget or spending authority, relate to revenues, or specify the limit of the public debt. The phrase "relate to revenues" is intended to encompass provisions of law which establish an obligation to make payments to the United States government and which provide a basis for ascertaining the amount thereof.

5. Views and Estimates Reports, committees' suballocations of budget resolution totals among programs, CBO bill cost estimates, budget resolutions, and appropriations and other spending measures are required to contain, or be accompanied by reports containing tables in which the budgetary information is set forth in the same account records used in the President's January budget estimates.

6. The President's current services estimates and January budget estimates are required to be in the same account structure as that used in the fiscal year 1985 Budget, except for changes made in consultation with the Appropriations, Budget, and authorizing committees.

Mr. QUAYLE. Mr. President, I ask unanimous consent that the name of the Senator from Kansas (Mrs. KASSEBAUM) be added as an original cosponsor of this bill.

The PRESIDING OFFICER (Mr. ANDREWS). Without objection, it is so ordered.

Mr. QUAYLE. Mr. President, last night, in his speech, the President spoke about bipartisanship. He started off talking about the potential solution to social security along the lines of a bipartisan commission established to deal with this problem. According to reports, the President's pronouncements about bipartisanship occurred seven times last night.

Mr. President, there are a number of problems confronting this Nation that need a bipartisan solution. One problem happens to be social security. Others happen to be arms control, jobs, budget, tax reform—you name it.

The introduction today of a 2-year budget proposal by the Senator from Kentucky (Mr. FORD) and myself is a bipartisan approach to improving the budget process.

Let us face reality. The budget process we have today simply does not work.

If any good news came out of the lameduck session of the last Congress, perhaps it is the clear manner in which it demonstrated that we need to reform and revitalize the process of how we conduct business around here. The way we have been conducting business in the last few years is simply unmanageable.

Today, we are operating under a continuing resolution. I believe there are other Senators, not only the original cosponsors of this measure, who agree that this is not a proper way to run the Government and that we have to do something.

There is no way for Congress, in a consistent and equitable way, to come to grips with a $700 or $800 billion budget on an annual basis.

We need to give State and local governments, and other entities that operate under Federal mandates, some degree of guidance on how their funding is going to come about.

The proposal for a 2-year budget process has strong support, and I hope the leadership on both sides of the aisle, as well as all other Senators, will take this reform issue seriously. I believe the Members of the Senate will do so, and I hope we can move forward with some true reform in this session of Congress.

Mr. President, the Budget Act of 1974 was passed to simplify, clarify, streamline, and save time and money. Now Congress finds itself unable to meet its budgetary deadlines, control its own legislative schedule or perform proper evaluations and oversight of programs. In its present form, the process simply does not work.

The congressional budget process has evolved into a major implement for making fiscal and economic policy. Hundreds of programs have been affected, billions of dollars in spending cuts and many changes in our tax laws enacted in the guise of abiding with budget resolutions and reconciliation bills. In fact, during the last 2 years the most significant legislation passed by Congress have been in the form of reconciliation bills.

Congress cannot be expected to authorize, appropriate, evaluate and give proper oversight to a budget totaling $750 billion within the time constraints of 1 year. Yet it is expected to. It is also supposed to continue considering other important legislation on a rational and methodical basis. For this to happen, and for us to do the best job possible, Congress needs more time.

That is why last year I introduced in the Senate, along with Senator FORD of Kentucky, the Budget Procedures Improvement Act of 1982, S. 2864. Today, we are reintroducing this same bill in an updated version as S. 12. S. 12 will strengthen and reform the current congressional budget process by extending the 1-year budget cycle to 2. It also provides for more timely oversight of authorizing legislation and appropriations.

PROBLEMS WITH THE CURRENT SPENDING AND BUDGET PROCESSES

The traditional congressional process of reaching spending decisions involves two stages, each executed by different committees in each House. At the first level, authorizing committees review specific programs and spell out their detailed line-item requirements. Following these actions, appropriations committees are supposed to evaluate the recommended authorizations and determine the actual spending levels for authorized programs.

The 1974 Budget Act established the two budget committees, not as replacements for either the authorizing or appropriations committees, but as a third layer in the spending process. The Budget Committees were intended to set targets and ceilings for the other committees, but not to engage in line-item determinations. The purpose of the Budget Act was to create a procedure by which normal spending decisions could be made in a better informed environment. Total revenues and aggregate spending as well as deficits and outyear budget projections were to become part of the congressional decisionmaking process.

In practice, the budget process has not worked this way, partly because the traditional distinction between authorizations and appropriations have become blurred over the last several years, and partly because Congress has been unable to complete its work on authorization and appropriations bills in a timely way. Also, the 1974 Budget Act is extremely unwieldly.

Under current law, Congress must pass two budget resolutions each year—a first budget resolution on May 15 to set targets for spending by functional categories, and a second budget resolution by September 15 to set binding floors on revenue and ceilings on expenditures. Reconciliation as envisaged in the 1974 Budget Act is a simple mechanism for technically adjusting the figures in the second budget resolution with those in the first. The 1974 Budget Act extended the fiscal year from July 1 to October 1, so that appropriations committees would have more time to complete appropriations actions.[1] It was hoped that continuing resolutions, already a problem in 1974, could be eliminated by this 3-month extension. The budget timetable established by the 1974 Budget Act is presented in table 1.

Since passage of the Budget Act, the first and second budget resolution deadlines have been met only twice out of 11 reporting dates. Authorizing and appropriation bills have also been slow in emerging from the Congress.

The present Budget Act has not fulfilled expectations. It allows too little time for consideration of authorization and appropriations bills, and too little time for program oversight. The power or the executive branch to reduce the congressional workload through use of traditional and normal

Footnotes at end of article.

Presidential impoundment powers is also limited by the act.[2]

PROBLEMS WITH THE AUTHORIZATION AND OVERSIGHT PROCESSES

The distinction between authorizations and appropriations is blurred. Since the rapid growth of entitlement programs, in the early 1970's, authorization bills have taken on the characteristics of appropriations bills by mandating specific levels of spending. On the other hand, the recent and growing practice of attaching legislative riders to appropriations bills has also changes their character. Frequently, appropriations have included specific line-item requirements, in the manner of authorizing legislation.

Thus, in recent years it has become increasingly difficult to distinguish the differences between authorizing bills and appropriations bills. In addition, the arguments surrounding certain authorizations have been so heated that on occasion appropriations bills have passed before the relevant authorizing legislation. This process turns the traditional legislative scheme upside-down. The results are a chaotic legislative process that has nearly ground to a halt.

Congress also makes ineffective use of its oversight powers in the process of passing authorizing legislation. Yet its responsibilities in this area are enormous.

For example, it was estimated the President's fiscal year 1981 budget contained 150 civil and defense-budget accounts with approximately 1,000 programs requiring some kind of annual authorization action.[3]

In the rush to review $750 billion worth of programs, pass the requisite 13 appropriations bills, and 2 budget resolutions each year, programs are rarely, if ever, carefully evaluated. Congress simply does not have the time to collect and review all the relevant information with respect to programs which now must be authorized on an annual basis. In fact, Congress spends virtually no time in review and oversight of entitlement programs, yet these now account for more than half the Federal budget.

BREAKDOWN IN THE APPROPRIATIONS PROCESS

Compared to our ability to conduct oversight and review authorizations, our record on appropriations since enactment of the Budget Act is equally dismal.

Congress, under normal legislative procedures, should fund Federal agencies for a fiscal year through the annual enactment of 13 regular appropriation bills. If Congress does not complete action on one or more of these bills before October 1, it then enacts continuing appropriations in the form of a joint resolution. This provides stop-gap funding for the affected agencies. Joint resolutions of this type are generally referred to as "continuing resolutions."

The practical effect of these resolutions is to continue the funding of programs where, in the absence of regular authorizing legislation and appropriations, they would lapse. Their use is defended by House Appropriations Committee Chairman JAMIE WHITTEN, who states that:

> The philosophy of the continuing resolution is to provide minimum funding for the orderly continuation of existing programs for the interim period until regular appropriation bills are enacted.[4]

Continuing resolutions were first used over a century ago, but they are now becoming a common and recurring feature of the appropriations process. Since 1972, 35 continuing resolutions have been enacted into law (see table 2). In the 6 years since the Budget Act took effect, there has been only one occasion when all appropriations bills were enacted on time. Even that year a continuing resolution was necessary to fund some programs. Over the past 5 years, 16 continuing resolutions have been enacted, and Congress has enacted continuing resolutions every year since the new budget process became effective. Today, much of the Federal Government is functioning because of a continuing resolution.

In addition, funding levels in some continuing resolutions have been permitted at higher rates than the previous year's. And, mandatory spending has frequently been differentiated from discretionary spending.

In cases where the Appropriations Committees have no discretion over the allocation of certain funds, the continuing resolutions provide for "such amounts as may be necessary." This spending is therefore not tied to a particular rate. Such an action applies to annually appropriated entitlement programs such as veterans' compensation, Federal unemployment benefits and black lung disability payments. The end result is an automatic increase in "uncontrollable," or mandatory spending. This happens even though no authorizing legislation or appropriations have passed Congress beyond the relevant continuing appropriation.[5]

In overall terms, passage of the Budget Act has not resulted in a more rational and efficient congressional process for making decisions on appropriations. The haphazard system of review and the reliance on continuing appropriations makes long-range planning impossible. This is true for Federal, State and local agencies dependent on Federal funds.

Under the present system, programs are not effectively evaluated before funding is either fully or partially appropriated. Also, managers of annually authorized programs have little flexibility. They must spend the funds appropriated for the given year or run the risk of losing deferred budget authority in the succeeding year's budget.

The result of this is that many Federal programs are regarded as suspect and unstable. And individuals dealing with these programs cannot be certain of funding levels or plan their activities except on a short-term basis. This situation only harms the morale of people involved and hampers the efficient operation of the programs.

EXECUTIVE INABILITY TO HELP RATIONALIZE SPENDING DECISIONS: THE LOSS OF IMPOUNDMENT POWERS

Historically, Presidents have used impoundment powers to make spending decisions. This kept congressional committees from being inundated with copious quantities of annual decisions.

Presidential impoundment dates back to the early days of the Republic, and has been a major budget instrument since the New Deal. Franklin Roosevelt held back funds from public works projects; Harry Truman withheld money from veterans' hospitals and the Air Force; and John Kennedy impounded funds allocated for the B-70 bomber. President Nixon broadened the use of impoundment by withholding funds from highways, water and sewer grants, and various urban programs.

Current law reflects Congress reaction to Nixon's use of the impoundment power as he refused to spend funds for programs he did not like. This was the case even though they had been authorized and appropriated by Congress.

The 1974 Budget Act, officially entitled the Budget Impoundment and Control Act, attempts to reduce the President's power to impound funds. The President is now required to inform Congress should he decide to withhold funds from appropriated programs. Such a decision is presently subject to congressional disapproval.

The act provides for congressional control over two types of Presidential impoundments: First, Recessions—when appropriations lapse before being spent; and second, Deferrals—when expenditures are delayed. For a rescission to stand, the law requires Congress to vote its concurrence. Otherwise, the rescission is automatically disapproved. Deferrals are allowed to stand unless either the House or the Senate disapproves.

During the last two Presidencies, the use of the impoundment power under the Budget Act has appeared to be declining. President Ford asked for approximately $7 billion in rescissions in 1975 and 1976 and Congress accepted about $500 million—or 7 percent.

In the 4 years of the Carter administration, the President asked for rescissions totaling about $5 billion. Congress approved some $2.6 billion (52 percent). However, President Reagan, in 1981—a period of budget crisis—re-

quested $16.5 billion in rescissions, of which $1.1 billion were later withdrawn. Congress accepted $11.7 billion, or 71 percent.

Over the life of the Budget Act, the value of deferrals has exceeded the dollar value of rescissions. Yet deferrals are not really savings as they must be spent during the fiscal year.

Congressman Robert Giaimo, former chairman of the House Budget Committee, describes the 1974 Budget Act as a bargain between the Congress and the President in which Congress agrees to curb its undisciplined spending habits in exchange for the President's surrender of his impoundment powers.[6]

Congress, in adopting the Budget Act, determined it would make the difficult political choices on spending and tax matters, rather than leaving them to the President. However, it is clear that within the framework of the 1974 Budget Act, Congress is unable to make these choices. Congress must now determine whether to restore the President's impoundment powers or to reform the Budget Act or some combination of the two. If nothing is done, our legislative process will grind to a halt.

THE BUDGET PROCEDURES IMPROVEMENT ACT OF 1983 PROVISIONS AND LEGAL AND CONSTITUTIONAL BASIS

S. 12 will replace the annual fiscal year cycle with a 2-year fiscal period.

To accomplish this, the bill amends provisions of the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93-344 as amended), the Budget and Accounting Act of 1921 (31 U.S.C. 11(a)), and various other provisions in title 31 U.S. Code, in title 1, and in other titles.

This legislation provides for authorizations in each odd-numbered year and appropriations in each even-numbered year. There are appropriate means for changes should they become necessary to meet unforeseen circumstances. It also directs the President to provide the Congress with a program which essentially converts annual into biennial (or longer) authorizations. This is in accord with the statement in the House Conference Report (H. Rept. No. 93-1101) on the 1974 act:

> The managers have given careful consideration to all of the elements in the budget calendar and particularly to the need for allowing adequate time for committee preparation and floor debate on each budget decision. The managers believe that in the future it will be necessary to authorize programs a year or more in advance of the period for which appropriations are to be made. When this is done, Congress will have adequate time for considering budget-related legislation within the timetable of the congressional budget process. The managers call attention to section 607 which requires advance submissions of proposed authorizing legislation, and to the expectation that Congress will develop a pattern of advance authorizations for programs now authorized on an annual or multiyear basis (31 U.S.C. 11(c)).

Representative Richard Bolling, of Missouri, supports a 2-year budget process. During debate on the conference report on the 1974 bill, he said:

> I am convinced that the most sensible—and in the long run, necessary—solution would be the enactment of authorizing legislation in the year before the appropriations are made. If this were done, Congress would be able to proceed to early consideration of appropriations bills and the dismal practice of continuing resolutions would be ended. The conference will move in the direction of advance authorizations by requiring the President to submit request for new authorizations in the calendar year prior to the one in which they are to take effect. The bill also calls for a study of the desirability and feasibility of advance appropriations.

S. 12 provides that commencing in the 99th Congress and beginning on October 1, 1986, and each even-numbered year thereafter, there shall be a biennial fiscal period ending on September 30 of the following even-numbered year.

Consequently, appropriations will be adopted for the biennial fiscal period as well, with appropriations enacted in the second or even-numbered year of the cycle.

The first and second concurrent budget resolutions are retained as well as a reconciliation act. There is also provision for subsequent concurrent resolutions should they be necessary. In the latter event, amended authorization and appropriations measures could be enacted.

There are no constitutional restrictions against the adoption of such a program. There are no authorization limits in the Constitution, and the only appropriations limit is found in article I, section 8, clause 12 which provides, "To raise and support armies, but no appropriation of money to that use shall be for a longer term than two year." Even this restriction has been given a limited interpretation.[7]

Under the present law (see table I above) the President submits a current services budget by November 10. He then submits his budget on the 15th day after Congress convenes. The committees and joint committees must then report to the respective Budget Committees, by March 15, their views and estimates on programs within their jurisdiction. They also include estimates of new budget authority and budget outlays. The committees then are supposed to report bills and resolutions authorizing new budget authorities by May 15.

The Budget Committees are to report the first concurrent resolution by April 15 and the Congress should complete consideration of it by May 15. By the seventh day after Labor Day the Congress should conclude action on bills and resolutions providing for new budget authority. However, the bill does not set a date for the congressional completion of authorizing bills.

The 1974 budget timetable imposes these tight procedures on all committees and on both Houses.[8] In practice, Congress has been unable to sustain the timetable and has been forced to enact numerous continuing resolutions. This is a condition the drafters of the 1974 act had hoped to eliminate.

The timetable in S. 12 remedies this situation by extending the annual procedure into a 2-year process.

The President would submit his current services budget by November 10, and he would submit his budget by January 15 of the odd years. The committees would then immediately begin to hold oversight hearings and consider the aspects of the budget within their jurisdiction.

On April 15, CBO reports would be submitted to the Budget Committees with respect to the biennial fiscal period. These two committees would then report the first concurrent resolution to their respective Houses by June 15; and by July 31, Congress could complete action on the first concurrent resolution. Committees would report their authorizing legislation by September 15. These reports would be based on the allocations in the concurrent resolution. And under a new provision, Congress would complete action on bills and resolutions authorizing new budget authority for the biennial period by December 1.

In the second year of the cycle, that is, the even-numbered year, Congress would enact appropriations bills, the second budget resolution and any reconciliation bill, all by September 25. These actions would therefore be completed before the commencement of the next biennial fiscal period beginning October 1.

Such actions are within the authority of Congress to designate and enact. They should help remedy the present problems of meeting tight authorization, budget, and appropriations timetables, and thus avert the consideration of continuing resolutions. The extended procedure should also help avoid the necessity for waivers on authorization bills, a process that is a frequent feature under the current act because of time limitations.[9]

In addition, a 2-year budget process would be fully consistent with Senate Joint Resolution 58, the constitutional amendment to balance the budget. This passed the Senate on August 4, 1982. The amendment clearly directs Congress to pass enabling legislation which would help put it into effect.

The detailed analysis of Senate Joint Resolution 58, contained in the report issued by the Senate Judiciary Committee (July 10, 1981), states

clearly that the term "fiscal year," for purposes of balancing the budget, shall be defined by statute. The report states (p. 44), "The amendment does not require an immutable definition of fiscal year; other fiscal years could be defined without straining the intent."

Senator THURMOND, chairman of the Senate Judiciary Committee and one of the floor managers of the balanced budget amendment, unequivocably stated in a colloquy with Senator FORD that, "we know of nothing that would prohibit going to a 2-year cycle," (CONGRESSIONAL RECORD, August 3, 1982. p. S9681).

Nothing in the constitutional amendment requires Congress to change the fiscal year for all Government programs. The amendment addresses only the budget process and the constraints under which it shall be balanced.

In addition, it is clear from the legislative history and the debate on the Senate floor that the amendment sponsors hoped to provide Congress with substantial procedural flexibility. In a colloquy on July 27, 1982, Senator DOMENICI proposed that the constitutional amendment be written so Congress could establish a multiyear base period for determining the rate of national economic growth. Senator HATCH, another floor manager of the constitutional amendment, spoke in support of Senator DOMENICI's proposal; and it was subsequently accepted by the full Senate (CONGRESSIONAL RECORD, July 27, 1982, p. S9190).

S. 12 AND STRENGTHENING THE OVERALL LEGISLATIVE PROCESS

S. 12 not only establishes a 2-year budget, but it contains several provisions to strengthen the congressional appropriations and the oversight process. The bill also provides for a more rational and efficient sharing of information between the legislative and executive branches. And, it clarifies the relationship between the budget committees and other legislative committees in the process of making line-item spending decisions. All these provisions are clearly within the authority of Congress. Specifically, S. 12:

Requires that enrollment of all spending bills be withheld until action on the second budget resolution and reconciliation is completed.

Prohibits: First, including reconciliation instructions in other than the required second resolution; second, using budget resolutions to expand the congressional budget process to include additional aspects of Government operations; and third, directing committees, in any budget resolution, to change legislation authorizing the enactment of new budget authority.

Requires that spending measures and budget reports include tables in which the estimates or recommendations are set forth in the same budget accounts used by the President, and requires the President to consult with committees prior to changing the budget accounts.

Strengthens the requirement for committees to conduct oversight investigations and to report their findings to their respective Houses during each Congress. Also strengthens the authority of committees to request assistance and information from agencies and from the General Accounting Office and other legislative staff agencies, while safeguarding the protection of confidential information.

CONCLUSION

S. 12 establishes a 2-year budget process and strengthens Congress ability to conduct oversight and review legislative programs.

Now that the Senate has passed the constitutional amendment to balance the budget, it is essential Congress move ahead expeditiously to strengthen the budget process.

The current process is simply too time consuming, especially when it requires two budget resolutions each year over and above the required annual authorization and appropriations bills. Because of this enormous time commitment, Congress is left with little time for essential legislative activity. Realistically, under time constraints embodied in the 1974 Budget Act, the system is in danger of complete collapse.

Since passage of the Budget Act, the first and second budget resolution deadlines have been met only twice in 11 reporting dates.

Congress record on appropriations is equally dismal. Since 1976, when the Budget Act took effect, there has been only one time that all appropriations bills were enacted by the beginning of the fiscal year. Even in that year a continuing resolution was needed to fund some programs.

Over the past 6 years, 15 continuing resolutions have been enacted. In fact, much of the Federal Government is still operating on a continuing resolution.

There is now less than a month before this fiscal year ends, yet Congress still has not enacted a single appropriations bill. Once again, Congress will be forced to enact another continuing resolution to keep the Federal Government functioning.

Congress clearly needs more time for consideration of authorization and appropriation bills. The authorization process needs strengthening so programs can effectively be reviewed and evaluated. The work of oversight committees also needs to be integrated into the work of the appropriations committees as well as into the budget.

Only by providing congressional committees with sufficient time can Congress hope to regain fuller control of its legislative, budget, and appropriations responsibilities. Only then will the budget be based on a full economic review of legislative proposals as well as economic considerations of the moment.

The present ability of Congress to gain control over the budget is in serious doubt. The weight of prior-year obligations and automatic expenditures built into the budget is causing us to drown in a sea of increasing deficits.

Unless this situation is rectified, Congress will, in effect, lose its ability to legislate. Government will continue to operate on a kind of "automatic pilot." There will be little effective oversight of current policy, and the budget will remain ladened by "uncontrollable" spending.

It is Congress responsibility to insure that legislation is carefully considered and spending policies brought under control. For these reasons, it is essential Congress move to a 2-year budget cycle.

With this cycle, Congress would see the results of the first year's decisions by the second year, and thus be able to make any requisite corrections. Congress would have the needed time to review the major Federal programs and consider new ones. And Congress would have twice the time it now has to make the necessary decisions on appropriations and budget.

I ask unanimous consent to have the footnotes and tables printed in the RECORD and that the text of S. 12, its summary and its section-by-section analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FOOTNOTES

[1] Section 501 of the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93-344) changed the start of the fiscal year from July 1 to October 1, effective beginning with fiscal year 1977.

[2] Dan Quayle, "Redress the Balance on Presidential Budget Impoundments!", The Journal of the Institute for Socioeconomic Studies, Vol. VI, No. 4, Winter 1981-82, pp. 9-21.

[3] Statement by Charles A. Bowsher, Comptroller General of the United States, on "Budgeting, Accounting, Program Analysis and Auditing: Roles and Relationships for the 1980's and Beyond," George Washington University, November 20, 1981, p. 8.

[4] Congressional Record, November 13, 1979, page H10607 (daily edition).

[5] Robert A. Keith, "An Overview of the Use of Continuing Appropriations," Congressional Research Service, September 26, 1980, pp. 10-11.

[6] Robert N. Giaimo, "Congress Must Get Serious," Washington Post, June 4, 1982.

[7] Analysis of S. 2008 by American Law Division of CRS.

[8] Senate Committee on the Budget, 95th Congress, 2d session, January 18 and 19, 1978, pp. 28-34.

[9] Allen Schick, Congress and Money (1980), p. 461.

TABLE 1.—CONGRESSIONAL BUDGET TIMETABLE UNDER THE 1974 BUDGET ACT

Oct., Nov., Dec.: Longer Term, In-Depth Analysis of next year's issues by Budget Committee Staffs and the Congressional Budget Office (CBO).

Third Week of Jan.: President's version of next year's budget received and analysis by the Budget Committee Staffs.

Late January: Congressional Budget Office submits Annual Report.

Jan., Feb., Mar.: Budget Committee hearings on next year's budget, completion of staff studies.

No Later Than March 15: All Senate Committees report needs and provide data to Budget Committee.

No Later Than April 15: Budget Committee decides own version of budget and reports to Senate Floor (First Budget Resolution).

Late April: Senate debates first Budget Resolution containing non-binding spending and revenue targets.

Early May: Conference between Senate and House to iron out differences between two versions.

No Later Than May 15: Congress agrees to First Budget Resolution, allocates spending targets to Committees.

No Later Than May 15: Congressional Committees report new authorizing legislation; Appropriations Committee begins work on Appropriations Bills.

June and July: Spending bills reported to Senate Floor, measured against First Budget Resolution.

Late Summer: Budget Committee reviews economy and budget developments; prepares Second Budget Resolution.

Labor Day plus 7 Days: Congress completes action on all spending bills.

September 15: Congress completes action on Second Budget Resolution setting binding revenue floor and spending ceilings and allocates final spending levels to Committees.

September 25: If necessary, Congress completes action on Reconciliation Bill, to cut back on spending through changes in already enacted laws.

October 1: New Fiscal Year begins.

TABLE 2.—CONTINUING RESOLUTIONS ENACTED FOR FISCAL YEARS 1972–82

Fiscal year	Congress	House joint resolution No.	Public law No.	Date approved[1]
1972	92d	742	92–38	July 1, 1971.
1972	92d	829	92–71	Aug. 9, 1971.
1972	92d	916	92–139	Oct. 15, 1971.
1972	92d	946	92–162	Nov. 20, 1971.
1972	92d	1005	92–201	Dec. 18, 1971.
1973	92d	1234	92–334	July 1, 1972.
1973	92d	1278	92–390	Aug. 18, 1972.
1973	92d	1306	92–446	Sept. 29, 1972.
1973	92d	1331	92–571	Oct. 26, 1972.
1973	93d	345	93–9	Mar. 8, 1973.
1974	93d	636	93–52	July 1, 1973.
1974	93d	727	93–124	Oct. 16, 1973.
1975	93d	1062	93–324	June 30, 1974.
1975	93d	1167	93–448	Oct. 17, 1974.
1975	93d	1178	93–570	Dec. 31, 1974.
1975	94th	219	94–7	Mar. 14, 1975.
1976	94th	499	94–41	June 27, 1975.
1976	94th	733	94–159	Dec. 20, 1975.
1976	94th	857	94–254	Mar. 31, 1976.
1977	94th	1105	94–473	Oct. 11, 1976.
1977	95th	351	95–16	Apr. 1, 1977.
1978	95th	626	95–130	Oct. 13, 1977.
1978	95th	643	95–165	Nov. 9, 1977.
1978	95th	662	95–205	Dec. 9, 1977.
1979	95th	1139	95–482	Oct. 18, 1978.
1980	96th	412	95–86	Oct. 12, 1979.
1980	96th	440	95–123	Nov. 20, 1979.
1981	96th	610	96–369	Oct. 1, 1980.
1981	96th	644	96–536	Dec. 16, 1980.
1981	97th	[2]	97–12	June 5, 1981.
1982	97th	325	97–51	Oct. 1, 1981.
1982	97th	368	97–85	Nov. 23, 1981.
1982	97th	370	97–92	Dec. 15, 1981.
1982	97th	409	97–161	Mar. 31, 1982.
1983	97th	631	97–377	Dec. 15, 1982.

[1] Section 501 of the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93–344) changed the start of the fiscal year from July 1 to October 1, effective beginning with fiscal year 1977.

[2] H.R. 3512: A supplemental appropriation that provided further continuing appropriations for specified agendas.

Source: Congressional Research Service.

TABLE 3.—CONGRESSIONAL BUDGET TIMETABLE UNDER S. 12, THE BUDGET PROCEDURES IMPROVEMENT ACT OF 1983

FIRST SESSION

November 10: President's current services budget submitted.

December 31: JEC economic evaluation of current services budget submitted to Budget Committees.

January 15: President's budget recommendations submitted.

January 15: Program reviews begin.

April 15: CBO reports submitted to Budget Committees.

May 15: Committees' views and estimates reports submitted to Budget Committees.

June 15: First Budget Resolution reported.

July 1: Authorization bills reported.

July 31: First Budget Resolution agreed to.

September 15: Committees report allocations of First Resolution amounts.

December 1: Congressional action completed on authorizing legislation.

SECOND SESSION

January 15: President's revisions to his recommendations submitted.

March 31: CBO report submitted to Budget Committees.

March 31: Spending bills reported by House Committee on Appropriations.

April 15: Spending bills reported by Senate Committee on Appropriations.

June 15: Second Budget Resolution reported.

July 15: Spending bills agreed to.

August 1: Second Budget Resolution agreed to.

September 25: Action completed on reconciliation bill or resolution, and spending bills enrolled.

October 1: Two-fiscal-year budget period begins.

October 1: Committees report findings and conclusions from their reviews and studies of programs to their respective Houses.

SECTION-BY-SECTION ANALYSIS OF S. 12, THE BUDGET PROCEDURES IMPROVEMENT ACT OF 1983

Section 2 sets forth the purposes of the bill—to revise the work schedules for Congressional budget and program review activities so as to provide adequate time for thorough consideration of costly and complicated Federal programs and for agencies and State and local governments to plan for the implementation of programs.

Section 3 revises the timetables for the Federal budget process to provide for a biennial process in place of the current one-year process. Presidential estimates would be submitted for periods of two fiscal years; concurrent resolutions on the budget would be for two years; and appropriations and other spending bills would provide budget authority for two fiscal years. The schedule of events established by S. 12 for the two-year budget process is:

FIRST SESSION

November 10: President's current services budget submitted.

December 31: JEC economic evaluation of current services budget submitted to Budget Committees.

January 15: President's budget recommendations submitted.

January 15: Program reviews begin.

April 15: CBO reports submitted to Budget Committees.

May 15: Committees' Views and Estimates reports submitted to Budget Committees.

June 15: First Budget Resolution reported.

July 1: Authorization bills reported.

July 31: First Budget Resolution agreed to.

September 15: Committees report allocations of First Resolution amounts.

December 1: Congressional action completed on authorizing legislation.

SECOND SESSION

January 15: President's revisions to his recommendations submitted.

March 31: CBO report submitted to Budget Committees.

March 31: Spending bills reported by House Committee on Appropriations.

April 15: Spending bills reported by Senate Committee on Appropriations.

June 15: Second Budget Resolution reported.

July 15: Spending bills agreed to.

August 1: Second Budget Resolution agreed to.

September 25: Action completed on reconciliation bill or resolution, and spending bills enrolled.

October 1: Two-fiscal-year budget period begins.

October 1: Committees report findings and conclusions from their reviews and studies of programs to their respective houses.

The focus of the first session is the first budget resolution and the session culminates in committees' allocations of the budget totals in the resolution among programs and in the completion of action on authorizing legislation. A related provision, Section 4(q), prescribes a level of detail absent from such allocations now, so that they will be more meaningful statements and can serve as a basis for preparing spending bills in the second session and for ascertaining if spending bills are consistent with the budget resolution totals and allocations.

In the second session, the focus is on the consideration and enactment of appropriations and other spending measures. A second budget resolution provides a vehicle for adjusting the overall totals to reflect changes in economic conditions, changes in priorities within major functional categories, and for reconciling differences between the spending bills and overall budget totals. Spending bills are withheld from enrollment until completion of action on the second budget resolution and reconciliation, if any. In recognition of the use of the reconciliation process to make extensive and substantial changes, more time is provided for the preparation and consideration of reconciliation bills or resolutions (August 1 to September 25) instead of the 10 day period, (September 15 to 25) now provided. A related provision, Section 4(1)(4)(A), increases the time for debate in the Senate from 20 to 100 hours, again in recognition of the fact that many substantive issues can be incorporated in a single reconciliation bill, and that they need more deliberation than is possible in 20 hours.

Throughout the timetable, events have been arranged so that offices responsible for an action have time to use the results of prior, related actions. For example, CBO estimates are made due one month before committees Views and Estimates Reports, and action on authorizations for appropriations is to be completed in the first session with appropriations not reported until the second session.

Section 4 makes changes throughout the 1974 Budget Act conforming to the revised timetable in Section 3. Five-year projections of budget estimates are changed to four-years to conform to the two-fiscal-year periods.

Section 4 also makes changes to improve the discipline of the budget process and to correct conditions which have developed from efforts to improvise stronger enforcement within the current provisions of the Act. These changes are set forth below.

1. A point of order is provided against the consideration of a first concurrent resolution or a revision thereto which instructs committees to report changes in bills, laws, or resolutions or which would expand the scope of the congressional budget process to additional aspects of government operations. Sections 4(d) and 4(g).

2. A point of order is provided against budget resolutions containing instructions to Committees to make changes in program authorizations. This is in keeping with the express intent of the 1974 Budget Act, as stated in the legislative history, that budget resolutions, reconciliation instructions, and reconciliation bills and resolutions, not apply to authorizations. Section 4(l)(1)(F).

3. A point of order is also provided against considering any reconciliation bill or resolution or amendment thereto or conference report thereon which changes any provision of law other than provisions which: (a) provide budget or spending authority, (b) relate to revenues, or (c) specify the limit on the public debt. Section 4(l)(4)(B). The phrase "relate to revenues" is intended to encompass provisions of law which establish an obligation to make payments to the United States government and which provide a basis for ascertaining the amount thereof.

4. The time for debate of a reconciliation bill or resolution in the Senate is increased from 20 to 100 hours. Section 4(l)(4)(A).

5. Appropriations and other spending measures are not to be enrolled prior to completion of action on the required second resolution and reconciliation bill or resolution, if any. This is to correct the problem which now can arise from the consideration and enactment of spending measures throughout a time period of several months, some of which individually exceed the amounts "assumed" in the budget resolution, with the result being that "room" in the budget intended for other programs is preempted, thereby causing irresistible pressure to increase the totals. Under this procedure all bills would be held and all would be equally subject to adjustment in reconciliation. None would have enacted status; and none should, therefore, be regarded by agencies and the public as completed and used as a basis for commitments. This procedure will help reduce the need for Budget Committee chairmen to challenge bills on the Floor which are thought to exceed assumptions in the budget resolutions, which has sometimes led to disagreements over what was assumed, over the status of such assumptions, over committee prerogatives to differ from the assumptions, and over the role of the Budget Committee with respect to such details. Section 4(k)(1)(F). A related change, Section 4(q), by requiring greater specificity in committee allocation reports and in reports accompanying spending measures will also make it easier to see whether or not any bill is within the amounts in a committee's own allocation report and, therefore, within the totals allocated to the committee in the statement of managers accompanying the conference report on a budget resolution.

6. Certain tabular data is required for budget reports and reports accompanying budget resolutions and spending measures. Views and Estimates Reports, committees' allocations of first resolutions budget totals, CBO bill cost estimates, budget resolutions, and spending measures are to include or be accompanied by reports including tables in which the budgetary aspects of the report or measure are set forth in the same accounts used by the President in his budget estimates transmitted in January of the first session of the Congress. Section 4(q). The purpose of this provision is to facilitate a ready comparison of the measures and reports to not only the President's estimates but to all other related documents throughout a budget cycle; that is, to provide a common language through which the recommendations and decisions can be expressed. See also paragraph 2 in the comment on Section 5, below.

Section 5 makes changes in Title 31 of the U.S. Code, in which the Budget and Accounting Act, 1921, and parts of the Congressional Budget and Impoundment Control Act of 1974 were recently codified, consistent with the two-fiscal-year budget process, and corresponding to the timetable in Section 3.

Related to item 6 in the comment on Section 4 above, the President is required to use the same account structure in his January estimates and his current services estimates submitted the preceding November, and account changes from one fiscal period to another are required to be made only in consultation with the Appropriations, Budget and authorizing committees. The Budget Account Listing in the fiscal year 1985 Budget is designated as the beginning reference point. This is an extension of the present provision which covers only the major functional categories and which requires consultation only with the Budget and Appropriations Committees. The change is a reflection of the increased involvement of authorizing committees in the details of the budget since the enactment of the Congressional Budget Act of 1974. Expansion of this provision is also a reaffirmation of the need for current services estimates to be submitted prior to the submission of the January estimates in order to provide a planning base to authorizing committees, which have the earliest action in the congressional budget process and therefore the greatest need for current services estimates in November.

The combined effects of the improvements made by Section 4(q) and Section 5(b) are to provide a measure of stability in the form in which the budget is presented so that Congressional offices need not waste time figuring out a new structure, and for congressional decisions to be made within a consistent information structure so as to facilitate understanding beyond the circle of those most intimately involved in the process.

Flexibility in the presentation of new programs is provided through allowing the President's January budget to include new accounts not in the current services budget solely for the purpose of presenting new programs. Similarly, committees are permitted to use interim account numbers to report new programs. Account identification codes for such accounts are to be assigned by the Congressional Budget Office as a central reference point to maintain consistency in the account structure.

Section 6 amends the definition of "appropriations Acts" to conform to the two-fiscal-year budget process.

Section 7 modifies and strengthens the legislative oversight requirements set forth in Section 136 of the Legislative Reorganization Act of 1946 to—

1. provide that committees should begin conducting reviews and studies of programs on January 15 of each first session and report their findings and conclusions to their respective houses by October 1 of the second session;

2. provide that these reviews and studies should constitute the basis for a committee's legislative work during the succeeding Congress;

3. authorize chairmen and ranking minority members to request information and assistance from heads of agencies in conducting such reviews, including the final budget recommendations and justifications submitted by agencies to OMB;

4. authorize chairmen and ranking minority members to request the Comptroller General to provide summaries of any audits or reviews conducted by the GAO in the past six years regarding programs being studied by committees;

5. authorize chairmen and ranking minority members to request assistance from legislative staff agencies in conducting reviews and studies of programs;

6. clarify that chairmen and ranking minority members may request information for such studies and reviews to be provided on computer tape and that agencies are not required to charge a fee when information is provided in this fashion; and

7. clarify that the study and reporting requirement does not require the public disclosure of national security information or other information the disclosure of which is protected by law.

Section 8 makes changes to the Rules of the Senate and the House of Representatives to conform them to the two-fiscal-year budget process.

Section 9 sets forth the effective dates, which are—

1. The first day of the 99th Congress, for the two-fiscal-year budget process, except for the provision requiring the first two-fiscal-year current services budget;

2. November 9, 1984, for the first two-fiscal-year current services budget, which is to be submitted November 10, 1984, the year preceding the 99th Congress; and

3. The date of enactment, for the amendments pertaining to the fiscal year 1986 budget.

Section 10 contains provisions for the transition from a one-fiscal-year to a two-fiscal-year budget process. During the first session of the 99th Congress, two processes will take place: (a) the First Session activities for the development of the first two-fiscal-year budget, for fiscal years 1987 and 1988, and (b) the enactment of the budget for the last one-fiscal-year budget, for fiscal year 1986. Section 10 specifies that the budget for fiscal year 1986 is to be considered as if these amendments were not in effect, except that certain procedural changes made part of the two-fiscal-year process are also by this Section made specifically applicable to the consideration of the fiscal year 1986 budget. These are—

1. A point of order is provided against considering the required first budget resolution or revisions thereof if they instruct committees to make changes in bills, laws, or resolutions or if they contain matter which pertains to subjects other than budget authority, outlays, revenues (including offsetting receipts and collections), or the public debt.

2. Appropriations and other spending measures are not to be enrolled until action is completed on the required second resolution and the reconciliation bill or resolution, if any.

3. A point of order is provided against a required second resolution containing instructions with respect to authorizations for the enactment of new budget authority.

4. A point of order is provided against considering a reconciliation bill or resolution (including amendments thereto or a conference report thereon) which changes any provision of law other than provisions which provide budget or spending authority, relate to revenues, or specify the limit of the public debt. The phrase "relate to revenues" is intended to encompass provisions of law which establish an obligation to make payments to the United States government and which provide a basis for ascertaining the amount thereof.

5. Views and Estimates Reports, committees' suballocations of budget resolution totals among programs, CBO bill cost estimates, budget resolutions, and appropriations and other spending measures are required to contain, or be accompanied by reports containing, tables in which the budgetary information is set forth in the same account records used in the President's January budget estimates.

6. The President's current services estimates and January budget estimates are required to be in the same account structure as that used in the fiscal year 1985 Budget, except for changes made in consultation with the Appropriations, Budget, and authorizing committees.

S. 12

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, this Act may be cited as the "Budget Procedures Improvement Act of 1983".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds and declares that the present annual Federal budgeting process—

"(1) allows insufficient time for the fulfillment by the Congress of its legislative and oversight responsibilities;

"(2) allows insufficient time for the fulfillment by the Congress of its legislative and oversight responsibilities;

"(3) allows insufficient time for the evaluation of costly and complicated Federal programs, and thereby contributes to the unrestrained growth of the Federal budget; and

"(4) allows insufficient time for agencies and State and local governments to plan for the implementation of programs.

(b) It is the purpose of this Act to establish a more thorough and timely process for the adoption of the Federal budget by—

(1) establishing a two-year cycle for the adoption of the budget:

(2) requiring the separate and distinct consideration of authorizing legislation, the budget, and appropriation bills and resolutions and other spending measures and thereby allowing full evaluation of the need for and the merits and costs of the various programs and agencies of the Federal Government;

(3) strengthening congressional procedures for the consideration of budget resolutions, reconciliation bills and resolutions, aporopriation bills and resolutions, and other measures providing spending authority; and

(4) strengthening the requirement for congressional oversight of Federal programs by authorizing committees.

REVISION OF TIMETABLE

SEC. 3. Section 300 of the Congressional Budget Act of 1974 (2 U.S.C. 631) is amended to read as follows:

"TIMETABLE

"SEC. 300. The timetable with respect to the Congressional budget process for any Congress (beginning with the Ninety-ninth Congress) is as follows:

"First Session

"On or before:	Action to be completed:
November 10 (of the preceding year).	President submits current services budget for the 2-fiscal-year budget period beginning in the succeeding even-numbered year.
January 15	President submits his budget for the 2-fiscal-year budget period beginning in the succeeding calendar year.
April 15	Congressional Budget Office submits report to Budget Committees with respect to the 2-fiscal-year budget period.
May 15	Committees and joint committees submit reports to Budget Committees with respect to the 2-fiscal-year budget period.
June 15	Budget Committees report first concurrent resolution on the budget for the 2-fiscal-year budget period to their Houses.
July 1	Committees report bills and resolutions authorizing new budget authority for the 2-fiscal-year budget period.
July 31	Congress completes action on the first concurrent resolution on the budget for the 2-fiscal-year budget period.
September 15	Committees report allocations of the first concurrent resolution on the budget among programs within their jurisdiction.
December 1	Congress completes action on bills and resolutions authorizing new budget authority for the 2-fiscal-year budget period.

"Second Session

"On or before:	Action to be completed:
January 15	President submits revised budget for the 2-fiscal-year budget period.
March 31	House committees report bills providing new budget authority and new spending authority for the 2-fiscal-year budget period.
March 31	Congressional Budget Office submits report to Budget Committees with respect to the 2-fiscal-year budget period.

"Second Session—Continued

"On or before:	Action to be completed:
April 15	Senate committees report bills providing new budget authority and new spending authority for the 2-fiscal-year budget period.
June 15	Budget Committees report second required concurrent resolution on the budget for the 2-fiscal-year budget period to their Houses.
July 15	Congress completes action on bills and resolutions providing new budget authority and new spending authority for the 2-fiscal-year budget period.
August 1	Congress completes action on second required concurrent resolution on the budget for the 2-fiscal-year budget period.
September 25	Congress completes action on the reconciliation bill or resolution, or both, implementing the second required concurrent resolution on the budget for the 2-fiscal-year budget period.
October 1	2-fiscal-year budget period begins.".

AMENDMENTS TO THE CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974

SEC. 4. (a) Section 2(2) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 621(2)) is amended by striking out "each year" and inserting in lieu thereof "biennially".

(b)(1) Section 3(4) of such Act (2 U.S.C. 622(4)) is amended by striking out "fiscal year" each place it appears and inserting in lieu thereof "2-fiscal-year budget period".

(2) Section 3 of such Act (2 U.S.C. 622) is further amended by adding at the end thereof the following new paragraph:

"(6) The term '2-fiscal-year budget period' means the period of 2 consecutive fiscal years beginning on October 1 of any even-numbered year.".

(c)(1) Section 202(f)(1) of the Congressional Budget Act of 1974 (2 U.S.C. 602(f)(1)) is amended—

(A) by striking out "April 1 of each year" and inserting in lieu thereof "April 15 of each odd-numbered year";

(B) by striking out "the fiscal year commencing on October 1 of that year" and inserting in lieu thereof "each fiscal year in the succeeding 2-fiscal-year budget period";

(C) by striking out "such fiscal year" the first place it appears and inserting in lieu thereof "such 2-fiscal-year budget period"; and

(D) by striking out "such fiscal year" the second place it appears and inserting in lieu thereof "each fiscal year in such 2-fiscal-year budget period".

(2) Section 202(f) of such Act (2 U.S.C. 602) is further amended—

(A) by striking out "paragraph (1)" in paragraph (2) and inserting in lieu thereof "paragraphs (1) and (2)";

(B) by redesignating paragraph (2) as paragraph (3); and

(C) by inserting after paragraph (1) the following new paragraph:

"(2) On March 31 of each even-numbered year, the Director shall transmit to the Committees on the Budget of the House of Representatives and the Senate such revisions of the report required by paragraph (1) as may be necessary due to changing economic conditions and due to any revisions in the Budget transmitted by the President to the Congress on January 15 of that year under the last sentence of subsection (a) of section 1105 of title 31, United States Code.".

(d)(1) Section 301(a) of such Act (2 U.S.C. 632(a)) is amended—

(A) by striking out "May 15" in the subsection heading and inserting in lieu thereof "July 31 of Each Odd-Numbered Year";

(B) by striking out "May 15 of each year" in the first sentence and inserting in lieu thereof "July 31 of each odd-numbered year";

(C) by striking out "the fiscal year beginning on October 1 of such year" and inserting in lieu thereof "the 2-fiscal-year budget period beginning on October 1 of the succeeding year"; and

(D) by inserting a comma and "for each fiscal year in such period" after "set forth".

(2) Section 301(a)(7) (2 U.S.C. 632(a)(7)) of such Act is amended by inserting "except as provided in subsection (b)(2)," before such other matters.

(3) Section 301(b) (2 U.S.C. 632(b)) of such Act is amended to read as follows:

"(b) ADDITIONAL MATTERS IN CONCURRENT RESOLUTION.—

"(1) Except as provided in paragraph (2) the first concurrent resolution on the budget may also require any other procedure which is considered appropriate to carry out for purposes of this Act.

"(2) It shall not be in order in the Senate or the House of Representatives to consider any first concurrent resolution on the budget—

"(A) which directs any committee to determine and recommend changes in bills, laws, or resolutions; or

"(B) which includes any matter with respect to any subject other than budget outlays, budget authority, the surplus or deficit in the budget, revenues (including off-setting receipts and off-setting collections), or the level of the public debt.".

(4) Section 301(c) of such Act (2 U.S.C. 632(c)) is amended—

(A) by striking out "March 15 of each year" in the matter preceding paragraph (1) and inserting in lieu thereof "May 15 of each odd-numbered year";

(B) by striking out "the" the second place it appears in paragraph (2) and inserting in lieu thereof "an"; and

(C) by striking out "the fiscal year beginning on October 1 of such year" in paragraph (2) and inserting in lieu thereof "each fiscal year in the 2-fiscal-year budget period beginning on October 1 of the succeeding year".

(5) Section 301(d) of such Act (2 U.S.C. 632(d)) is amended—

(A) by striking out "fiscal year" in the first sentence and inserting in lieu thereof "2-fiscal-year budget period";

(B) by striking out "April 15 of each year" in the third sentence and inserting in lieu thereof "June 15 of each odd-numbered year";

(C) by striking out "the fiscal year beginning on October 1 of such year" in the third sentence and inserting in lieu thereof "the 2-fiscal-year budget period beginning on October 1 of the succeeding year";

(D) by striking out "five" in paragraph (6) and inserting in lieu thereof "four";

(E) by striking out "such fiscal year" in paragraph (6) and inserting in lieu thereof "the first fiscal year of such 2-fiscal-year budget period,"; and

(F) by striking out "such period" in paragraph (6) and inserting in lieu thereof "such four-fiscal-year period".

(6) Section 301(e) of such Act (2 U.S.C. 632(e)) is amended—

(A) by striking out "fiscal year" each place it appears and inserting in lieu thereof "2-fiscal-year budget period"; and

(B) by striking out "set for" in paragraph (1) and inserting in lieu therof "set forth".

(e)(1) Section 302(a) of such Act (2 U.S.C. 633(a)) is amended—

(A) by inserting "for a 2-fiscal-year budget period" after "budget" the first place it appears; and

(B) by inserting "for each fiscal year in such 2-fiscal-year budget period" after "estimated allocation".

(2) The last sentence of section 302 (b) of such Act (2 U.S.C 633(b)) is amended—

(A) by striking out "Each" and inserting in lieu thereof "By September 15 of each odd-numbered year, each",

(B) by striking out "promptly".

(f)(1) Section 303(a) of such Act (2 U.S.C. 634(a)) is amended—

(A) by striking out "fiscal year" each place it appears and inserting in lieu thereof "2-fiscal-year budget period"; and

(B) by striking out "such year" and inserting n lieu thereof "such period".

(2) Section 303(b) of such Act (2 U.S.C. 634(b)) is amended by striking out "fiscal year" each place it appears and inserting in lieu thereof "2-fiscal-year budget period".

(g) Section 304 of such Act (2 U.S.C. 635) is amended—

(1) by striking out "OF" the second place it appears in the section heading and inserting in lieu thereof "ON";

(2) by striking out "fiscal year" the first two places it appears and inserting in lieu thereof "2-fiscal-year budget period";

(3) by striking out "for such fiscal year";

(4) by inserting before the period "for such 2-fiscal-year budget period"; and

(5) by adding at the end thereof the following: "Prior to the adoption of the second concurrent resolution on the budget required for a 2-fiscal-year budget period under section 310(a), it shall not be in order in the Senate or the House of Representatives to consider any concurrent resolution on the budget revising the most recently agreed to concurrent resolution on the budget for such 2-fiscal-year budget period if the concurrent resolution making such revisions—

"(1) directs any committee to determine and recommend changes in bills, laws, or resolutions; or

"(2) includes any matter with respect to any subject other than budget outlays, budget authority, the surplus or deficit in the budget, revenues (including offsetting receipts and offsetting collections), or the level of the public debt.".

(h) Section 305 of such Act (2 U.S.C. 636) is amended by striking out "fiscal year" each place it appears and inserting in lieu thereof "2-fiscal-year budget period".

(i)(1) Section 307 of such Act (2 U.S.C. 638) is amended—

(A) by striking out the section heading and inserting in lieu thereof "COMMITTEE ACTION ON APPROPRIATION AND OTHER SPENDING BILLS";

(B) by inserting "(a) COMMITTEE ACTION ON REGULAR APPROPRIATIONS BILLS.—" before "Prior";

(C) by striking out "fiscal year" and inserting in lieu thereof "2-fiscal-year budget period";

(D) by striking out "that year" each place it appears and inserting in lieu thereof "that 2-fiscal-year budget period"; and

(E) by inserting "for each fiscal year in that 2-fiscal-year budget period" after "committee's recommendations";

(F) by striking out "as" before "set forth";

(G) by inserting "for each such fiscal year" before "in the most recently"; and

(H) by adding at the end thereof the following new subsection:

"(b) REPORTING OF CERTAIN MEASURES.—

"(1) All bills and resolutions providing budget authority or spending authority described in section 401 (c)(2)(C) for any 2-fiscal-year budget period—

"(A) shall be reported to the House of Representatives no later than March 31 of the year in which such period begins; and

"(B) shall be reported to the Senate no later than April 15 of the year in which such period begins.

"(2) If a committee of the House of Representatives or the Senate determines that a waiver of paragraph (1) is necessary with respect to any bill or resolution providing supplemental appropriations for any period, such committee may report, and the House or Senate may consider and adopt, a resolution waiving the application of such paragraph in the case of such bill or resolution.".

(2) The table of contents in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking out the item relating to section 307 and inserting in lieu thereof the following new item:

"Sec. 307. Committee action on appropriation and other spending bills.".

(j)(1) Section 308(a) of the Congressional Budget Act of 1974 (2 U.S.C. 639(a)) is amended—

(A) by striking out "fiscal year" in the matter preceding paragraph (1) and inserting in lieu thereof "2-fiscal-year budget period";

(B) by striking out "fiscal year" in paragraph (1)(A) and inserting in lieu thereof "2-fiscal-year budget period";

(C) by inserting "for each fiscal year in such 2-fiscal-year budget period" after "resolution" the first place it appears in paragraph (1)(A);

(D) by inserting "for each such fiscal year" after "set forth" in paragraph (1)(A);

(E) by inserting a comma after "projection" in paragraph (1)(B);

(F) by striking out "5" in paragraph (1)(B) and inserting in lieu thereof "4";

(G) by striking out "such fiscal year" in paragraph (1)(B) and inserting in lieu thereof "the first fiscal year of such 2-fiscal-year budget period,";

(H) by striking out "such period" in paragraph (1)(B) and inserting in lieu thereof "such 4-fiscal-year period";

(I) by inserting "for each fiscal year in such 2-fiscal-year budget period" after "governments" in paragraph (1)(C);

(J) by striking out "fiscal year" in paragraph (2)(A) and inserting in lieu thereof "period";

(K) by inserting "for each fiscal year in such 2-fiscal-year budget period" after "tax expenditures" the second place it appears in paragraph (2)(A);

(L) by striking out "such year" in paragraph (2)(A) and inserting in lieu thereof "such period";

(M) by inserting a comma after "projection" in paragraph (2)(B);

(N) by striking out "5" in paragraph (2)(B) and inserting in lieu thereof "4";

(O) by striking out "such fiscal year" in paragraph (2)(B) and inserting in lieu thereof "the first fiscal year of such 2-fiscal-year budget period,"; and

(P) by striking out "such period" in paragraph (2)(B) and inserting in lieu thereof "such 4-fiscal-year period".

(2) Section 308(b) of such Act (2 U.S.C. 639 (b)) is amended—

(A) by striking out "fiscal year" in the first sentence and inserting in lieu thereof "2-fiscal-year budget period";

(B) by striking our "such fiscal year" the first place it appears in paragraph (1) and inserting in lieu thereof "each fiscal year in such 2-fiscal year budget period";

(C) by striking out "such fiscal year" the second place it appears in paragraph (1) and inserting in lieu thereof "each such fiscal year,";

(D) by striking out "such fiscal year" the third place it appears in paragraph (1) and inserting in lieu there of "such 2-fiscal-year budget period";

(E) by inserting "for each such fiscal year" after "set forth" in paragraph (1);

(F) by striking out "fiscal year" in paragraph (2) and inserting in lieu thereof "2-fiscal-year budget period";

(G) by striking out "fiscal year" in paragraph (3) and inserting in lieu thereof "2-fiscal-year budget period";

(H) by inserting "for each fiscal year in such 2-fiscal-year budget period" after "revenues" the first place it appears in paragraph (3);

(I) by striking out "such year" the first place it appears in paragraph (3) and inserting in lieu thereof "each fiscal year in such 2-fiscal-year budget period";

(J) by striking out "such year" the second place it appears in paragraph (3) and inserting in lieu thereof "each such fiscal year";

(K) by inserting "for each fiscal year in such 2-fiscal-year budget period" after "debt" the first place it appears in paragraph (4);

(L) by striking out "such fiscal year" the first place it appears in paragraph (4) and inserting in lieu thereof "such 2-fiscal-year budget period"; and

(M) by inserting "each" before "such fiscal year" the second place it appears in paragraph (4).

(3) Section 308 (c) of such Act (2 U.S.C. 639 (c)) is amended—

(A) by striking out "Five" in the subsection heading and inserting in lieu thereof "Four";

(B) by striking out "each fiscal year" in the matter preceding paragraph (1) and inserting in lieu thereof "each 2-fiscal-year budget period";

(C) by striking out "5 fiscal years beginning with such fiscal year" and inserting in lieu thereof "4 fiscal years beginning with the first fiscal year is such 2-fiscal-year budget period"; and

(D) by strking out "such period" each place it appears and inserting in lieu thereof "such 4-fiscal-year period".

(k)(1) Section 309 of such Act (2 U.S.C. 640) is amended—

(A) by inserting a semicolon and "LIMITATION ON ENROLLMENT OF CERTAIN BILLS AND RESOLUTIONS" at the end of the section heading;

(B) by inserting "(a) Completion of Action Required.—" before "Except";

(C) by striking out "the seventh day after Labor Day of each year" in the matter preceding paragraph (1) and inserting in lieu thereof "July 15 of each even-numbered year";

(D) by striking out "such year" the second place it occurs in paragraph (1) and inserting in lieu thereof "such period";

(E) by striking out "fiscal year" each place it appears and inserting in lieu thereof "2-fiscal-year budget period"; and

(F) by adding at the end thereof the following new subsection:

"(b) LIMITATION ON ENROLLMENT.—Bills and resolutions providing new budget authority for any 2-fiscal-year budget period or new spending authority described in section 401(c)(2)(C) for any 2-fiscal-year budget period shall not be enrolled until the concurrent resolution on the budget required to be reported under section 310(a) for such 2-fiscal-year budget period has been agreed to, and if a reconciliation bill or reconciliation resolution, or both are required to be reported under section 310(c) for such 2-fiscal-year budget period, until Congress has completed action on that bill or resolution, or both.".

(2) The item relating to section 309 in the table of contents in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting before the period a semicolon and "limitation on enrollment of certain bills and resolutions.".

(l)(1) Section 310(a) of the Congressional Budget Act of 1974 (2 U.S.C. 641(a)) is amended—

(A) by striking out "The" in the first sentence and inserting in lieu thereof "By June 15 of each even-numbered year, the";

(B) by striking out "fiscal year" in the first sentence and inserting in lieu thereof "2-fiscal-year budget period";

(C) by striking out "such fiscal year" each place it appears in paragraph (1) and inserting in lieu thereof "each fiscal year in such 2-fiscal-year budget period";

(D) by inserting "for each fiscal year in such 2-fiscal-year budget period" after "revenues" in paragraph (2);

(E) by inserting "for each fiscal year in such 2-fiscal-year budget period" after "debt" in paragraph (3); and

(F) by inserting before the matter following paragraph (4) the following new sentence:

"It shall not be in order in the Senate or the House of Representatives to consider any such concurrent resolution if such concurrent resolution directs any committee to determine and recommend changes in laws, bills, or resolutions directly or indirectly authorizing the enactment of new budget authority.".

(2) Section 310(b) of such Act (2 U.S.C. 641(b)) is amended by striking out "September 15 of each year" and inserting in lieu thereof "August 1 of each even-numbered year".

(3) Section 310(d) of such Act (2 U.S.C. 641(d)) is amended by inserting "even-numbered" after "each".

(4) Section 310(e) of such Act (2 U.S.C. 641(e)) is amended—

(A) by striking out "20 hours" in paragraph (2) and inserting in lieu thereof "100 hours"; and

(B) by adding at the end thereof the following new paragraph:

"(3) It shall not be in order in the Senate or the House of Representatives to consider any reconciliation bill or resolution or any amendment thereto or any conference report thereon which changes any provision of law other than provisions of law which—

"(A) provides new budget authority or spending authority described in section 401(c)(2)(C);

"(B) relate to revenues; or

"(C) specify the amount of the statutory limit on the public debt.".

(5) Section 310(f) of such Act (2 U.S.C. 641(f)) is amended—

(A) by striking out "It" and inserting in lieu thereof "In any even-numbered year, it"; and

(B) by striking out "fiscal year" each place it appears and inserting in lieu thereof "2-fiscal-year budget period".

(m) Section 311(a) of such Act (2 U.S.C. 642) is amended—

(1) by striking out "fiscal year" the first and second places it appears in the matter preceding paragraph (1) and inserting in lieu thereof "2-fiscal-year budget period";

(2) by striking out "such fiscal year" the second, third, and fourth places it appears in the matter preceding paragraph (1) and inserting in lieu thereof "any fiscal year in such 2-fiscal-year budget period".

(3) by striking out "such fiscal year" in the matter following paragraph (3) and inserting in lieu thereof "the 2-fiscal-year budget period in which such fiscal year occurs";

(4) by inserting "for any such fiscal year" after "outlays" in the matter following paragraph (3);

(5) by inserting "for any such fiscal year" after "revenues" the first place it appears in the matter following paragraph (3); and

(6) by inserting "for such fiscal year" after "revenues" the second place it appears in the matter following paragraph (3).

(n) Section 401(b) of such Act (2 U.S.C. 651(b)) is amended—

(1) by striking out "the fiscal year which begins during the calendar year in" in paragraph (1) and inserting in lieu thereof "the first 2-fiscal-year budget period which begins after the date on";

(2) by striking out "for such fiscal year" in paragraph (2) and inserting in lieu thereof "budget for the 2-fiscal-year budget period in which such fiscal year occurs"; and

(3) by inserting "for such fiscal year" after "new budget authority" the second place it appears in paragraph (2);

(o)(1) Section 402(a) of such Act (2 U.S.C. 652(a)) is amended—

(A) by striking out "REPORTING OF" in the section heading and inserting in lieu thereof "ACTION ON";

(B) by striking out "(a) REQUIRED REPORTING DATE.—" and inserting in lieu thereof "(a)(1) DATES FOR REPORTING AND FINAL ACTION.—";

(C) by striking out "May 15" and inserting in lieu thereof "July 1 of the odd-numbered year";

(D) by striking out "fiscal year" each place it appears and inserting in lieu thereof "2-fiscal-year budget period"; and

(E) by adding at the end thereof the following new paragraph:

"(2) The Congress shall complete action on all bills and resolutions directly or indirectly authorizing the enactment of new budget authority for a 2-fiscal-year budget period not later than December 1 of the year preceding the year in which such 2-fiscal-year budget period begins.".

(2) The table of contents in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by

striking out "Reporting of" in the item relating to section 402 and inserting in lieu thereof "Action on".

(p) Section 403(a) of the Congressional Budget Act of 1974 (2 U.S.C. 653(a)) is amended—

(1) by striking out "4" in paragraph (1) and inserting in lieu thereof "three"; and

(2) by striking out "four" in paragraph (2) and inserting in lieu thereof "three".

(q)(1) Title IV of such Act (2 U.S.C. 651 et seq.) is amended by adding at the end thereof the following new section:

"REPORTS

"SEC. 405. (a)(1) The reports required by sections 301(c), 302(b), 308(b), and 308(c) shall contain the tables described in subsection (b).

"(2) Any—

"(A) concurrent resolution on the budget reported by the Committee on the Budget of the Senate or the House of Representatives under section 301, 304, or 310 of this Act; and

"(B) bill or resolution reported by a committee of the Senate or the House of Representatives which provides, modifies, or terminates budget authority or spending authority described in section 401(c)(2)(C), or which contains or modifies estimates of budget outlays,

shall be accompanied by a report containing the tables described in subsection (b). The conference report on any bill or resolution described in clause (A) or (B) of the preceding sentence shall be accompanied by a joint statement of the managers containing such tables.

"(b)(1) The tables required by subsection (a) shall set forth estimates of budget authority, spending authority described in section 401(c)(2)(C), and budget outlays for each of the accounts (to which the report, bill, or resolution referred to in such subsection pertains) which are set forth in the Budget Accounts Listing contained in the Budget of the United States Government submitted by the President pursuant to subsection (a) of section 1105 of title 31, United States Code, during the Congress in which the report referred to in subsection (a)(1) is made or the bill or resolution described in subsection (a)(2) is reported. If any such report, bill, or resolution contains provisions involving budget authority, spending authority, or outlays for which accounts have not been included in such Budget Accounts Listing, the estimates therefor in the table required by this subsection shall be set forth in account records with account identification codes assigned by the Director of the Congressional Budget Office.

"(2) The tables described in paragraph (1) which are required to be included in the reports required by sections 301(c), 302(b), 308(b), and 308(c), and in the reports accompanying any concurrent resolution on the budget reported under section 301, 304, or 310 shall also set forth estimates for the budget authority and spending authority described in section 401(c)(2)(C) which will become available without further congressional action and estimates of the outlays that will result from such budget authority and spending authority. With respect to the reports required by sections 301(c) and 302(b), the estimates described in the preceding sentence are only required for the accounts or portions of accounts relating to the subject matter within the legislative jurisdiction of the committee submitting the report.".

(2) The table of contents in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 404 the following new item:

"Sec. 405. Reports.".

(r) Section 904(b) of the Congressional Budget Act of 1974 (2 U.S.C. 621(b)) is amended by inserting "or any provision of a first concurrent resolution on the budget requiring a procedure pursuant to section 301(b)(2))" after "title III or IV".

AMENDMENTS TO TITLE 31, UNITED STATES CODE

SEC. 5. (a) Section 1101 of title 31, United States Code, is amended by adding at the end thereof the following new paragraph:

"(3) 'two-fiscal-year budget period' has the meaning given to such term in paragraph (6) of section 3 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622 (6)).".

(b) Section 1104(c) of title 31, United States Code, is amended—

(1) by inserting "(1)" after the subsection designation;

(2) by striking out the last sentence thereof; and

(3) by adding at the end thereof the following new paragraph:

"(2) The budget submitted pursuant to section 1105 for the 2-fiscal-year budget period beginning on October 1, 1986, and the estimates of outlays and proposed budget authority required to be submitted under section 1109 for such 2-fiscal-year budget period, shall be set forth in the same accounts which are set forth in the Budget Accounts Listing contained in the budget submitted for fiscal year 1985 under section 1105. Any change in the accounts used in the budget submitted under section 1105 for the 2-fiscal-year budget period beginning on October 1, 1986, or any succeeding 2-fiscal-year budget period, or in the estimates of outlays and proposed budget authority required under section 1109 for any such 2-fiscal-year budget period, from the accounts set forth in the Budget Accounts Listing contained in the budget submitted under section 1105 for fiscal year 1985 or the preceding 2-fiscal-year budget period, as the case may be, shall be made only in consultation with the Committees on Appropriations, the Committees on the Budget, and the committees having legislative jurisdiction over the programs or activities which will be affected by such changes. The provisions of this paragraph do not prohibit the inclusion of new accounts in the Budget Accounts Listing contained in the budget submitted pursuant to section 1105 solely for purposes of presenting estimates for new programs.".

(c)(1) So much of section 1105(a) of title 31, United States Code, as precedes paragraph (1) thereof is amended to read as follows:

"(2) By January 15 of each odd-numbered year, beginning with 1985, the President shall transmit to the Congress, the budget for the 2-fiscal-year budget period (as defined in section 3(6) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(6))) beginning on October 1 of the succeeding calendar year. The budget transmitted under this subsection shall include the President's Budget Message, summary data and text, and supporting detail. The budget shall set forth in such form and detail as the President may determine—".

(2) Section 1105(a)(5) of title 31, United States Code, is amended by striking out "the fiscal year for which the budget is submitted and the 4 fiscal years after that year" and inserting in lieu thereof "each fiscal year in the 2-fiscal-year budget period for which the budget is submitted and the two fiscal years immediately following the second fiscal year in such 2-fiscal-year budget period".

(3) Section 1105(a)(6) of title 31, United States Code, is amended by striking out "the fiscal year for which the budget is submitted and the 4 fiscal years after that year" and inserting in lieu thereof "each fiscal year in the 2-fiscal-year budget period for which the budget is submitted and the two fiscal years immediately following the second fiscal year in such 2-fiscal-year budget period".

(4) Section 1105(a)(9)(C) of title 31, United States Code, is amended by striking out "the fiscal year" and inserting in lieu thereof "each fiscal year in the 2-fiscal-year budget period".

(5) Section 1105(a)(12) of title 31, United States Code, is amended—

(A) by striking out "the fiscal year" in subparagraph (A) and inserting in lieu thereof "each fiscal year in the 2-fiscal-year budget period"; and

(B) by striking out "each of the 4 fiscal years after that year" in subparagraph (B) and inserting in lieu thereof "each of the 2 fiscal years immediately following the second fiscal year in such 2-fiscal-year budget period".

(6) Section 1105(a)(13) of title 31, United States Code, is amended by striking out "the fiscal year" and inserting in lieu thereof "each fiscal year in the 2-fiscal-year budget period".

(7) Section 1105(a)(14) of title 31, United States Code, is amended by striking out "that year" and inserting in lieu thereof "each fiscal year in the 2-fiscal-year budget period for which the budget is submitted".

(8) Section 1105(a)(16) of title 31, United States Code, is amended by striking out "the fiscal year" and inserting in lieu thereof "each fiscal year in the 2-fiscal-year budget period".

(9) Section 1105(a)(17) of title 31, United States Code, is amended—

(A) by striking out "fiscal year following the fiscal year" and inserting in lieu thereof "each fiscal year in the 2-fiscal-year budget period following the 2-fiscal-year budget period";

(B) by striking out "that following fiscal year" and inserting in lieu thereof "each such fiscal year"; and

(C) by striking out "fiscal year before the fiscal year" and inserting in lieu thereof "2-fiscal-year budget period before the 2-fiscal-year budget period."

(10) Section 1105(a)(18) of title 31, United States Code, is amended—

(A) by striking out "the prior fiscal year" and inserting in lieu thereof "each of the 2 most recently completed fiscal years";

(B) by striking out "for that year" and inserting in lieu thereof "with respect to that fiscal year"; and

(C) by striking out "in that year" and inserting in lieu thereof "in that fiscal year".

(11) Section 1105(a)(19) of title 31, United States Code, is amended—

(A) by striking out "the prior fiscal year" and inserting in lieu thereof "each of the 2 most recently completed fiscal years";

(B) by striking out "for that year" and inserting in lieu thereof "with respect to that fiscal year"; and

(C) by striking out "in that year" each place it appears and inserting in lieu thereof "in that fiscal year".

(12) Section 1105(a) of title 31, United States Code, is further amended by adding at the end thereof the following new sentence:

"By January 15 of each even-numbered year, the President shall transmit to the Congress any revisions the President may desire to make in the Budget transmitted in the previous year.".

(d) Section 1105(b) of title 31, United States Code, is amended by striking out "each year" and inserting in lieu thereof "each even-numbered year".

(e) Section 1105(c) of title 31, United States Code, is amended—

(1) by striking out "fiscal year for" each place it appears and inserting in lieu thereof "2-fiscal-year budget period for";

(2) by inserting "or current 2-fiscal-year budget period, as the case may be," after "current fiscal year"; and

(3) by striking out "that year" and inserting in lieu thereof "that period".

(f) Section 1105(d) of title 31, United States Code, is amended by striking out "fiscal year" and inserting in lieu thereof "2-fiscal-year budget period".

(g) Section 1106(a) of title 31, United States Code, is amended—

(1) by striking out "fiscal year" in the matter preceding paragraph (1) and inserting in lieu thereof "2-fiscal-year budget period";

(2) by striking out "that fiscal year" in paragraph (1) and inserting in lieu thereof "each fiscal year in such 2-fiscal-year budget period";

(3) by striking out "the 4 fiscal years following the fiscal year" in paragraph (2) and inserting in lieu thereof "each fiscal year in the first 2-fiscal-year budget period following the 2-fiscal-year budget period";

(4) by striking out "future fiscal years" in paragraph (3) and inserting in lieu thereof "each fiscal year in the first 2-fiscal-year budget period following the 2-fiscal-year budget period for which the budget is submitted"; and

(5) by striking out "fiscal year" the last place it appears in paragraph (3) and inserting in lieu thereof "2-fiscal-year budget period".

(h) Section 1106(b) of title 31, United States Code, is amended by striking out "the fiscal year" and inserting in lieu thereof "each fiscal year in the 2-fiscal-year budget period".

(i)(1) Section 1109(a) of title 31, United States Code, is amended—

(A) by striking out "each year" and inserting in lieu thereof "each even-numbered year (beginning with 1984)";

(B) by striking out "the following fiscal year" and inserting in lieu thereof "each fiscal year in the 2-fiscal-year budget period beginning in the following even-numbered year"; and

(C) by striking out "during that year" and inserting in lieu thereof "during each such year".

(2) Section 1109(b) of title 31, United States Code, is amended by inserting "even-numbered" after "each".

(j) Section 1110 of title 31, United States Code, is amended—

(1) by striking out "fiscal year" and inserting in lieu thereof "2-fiscal-year budget period (beginning on or after October 1, 1986)"; and

(2) by striking out "May 16 of the year before the year in which the fiscal year begins" and inserting in lieu thereof "May 16 of the year before the year in which the bills and resolutions setting forth such authorizations are to be reported under section 402 of the Congressional Budget Act of 1974 (2 U.S.C. 652)".

(k) Section 1114 ot title 31, United States Code, is amended—

(1) by striking out "The" each place it appears and inserting in lieu thereof "For each 2-fiscal-year budget period, beginning with the 2-fiscal-year budget period beginning on October 1, 1986, the"; and

(2) by striking out "each year" each place it appears.

TITLE AND STYLE OF APPROPRIATION ACTS

SEC. 6. Section 105 of title 1, United States Code, is amended to read as follows:

"§ 105. Title and style of appropriation Acts

"(a) The style and title of all Acts making appropriations for the support of the Government shall be as follows: 'An Act making appropriations (here insert the object) for the 2-fiscal-year budget period ending September 30 (here insert the even-numbered calendar year).'.

"(b) All Acts making regular appropriations for the support of the Government shall be enacted for a 2-fiscal-year budget period, and shall specify the amount of appropriations provided for each fiscal year in such period.

"(c) For purposes of this section, the term '2-fiscal-year budget period' has the same meaning as in section 3(6) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(6)).".

AMENDMENTS TO THE LEGISLATIVE REORGANIZATION ACT OF 1946

SEC. 7. (a) Section 136(a) of the Legislative Reorganization Act of 1946 is amended—

(1) by striking out "Congress" in the matter preceding paragraph (1) and inserting in lieu thereof "Senate and the House of Representatives";

(2) by striking out "its" each place it appears in paragraphs (1) and (2) and inserting in lieu thereof "their";

(3) by inserting "(except the Committees on Appropriations, the Committees on the Budget, the House Committee on House Administration, the House Committee on Rules, and the House Committee on Standards of Official Conduct)" after "Representatives" in the matter following paragraph (2); and

(4) by striking out the second and third sentences thereof.

(b) Section 136 of such Act is further amended by striking out subsections (b) and (c) and inserting in lieu thereof the following new subsections:

"(b) During the period beginning on January 15th of each odd-numbered year and ending October 1 of the following year, each standing committee of the House of Representatives and the Senate to which subsection (a) applies shall review and study—

"(1) the application, administration, execution, and effectiveness of those laws (or parts of laws) the subject matter of which is within the jurisdiction of that committee, and

"(2) the organization and operation of the Federal agencies and entities having responsibilities in or for the administration thereof,

in order to determine whether such laws and the programs thereunder are being implemented and carried out in accordance with the intent of the Congress and whether such programs should be continued, modified, or eliminated. During such period, each such committee shall also review and study any conditions or circumstances which may indicate the necessity or desirability or enacting new or additional legislation within the jurisdiction of that committee (whether or not any bill or resolution has been introduced with respect thereto). Such committee may carry out the required reviews and studies by contract, or may require a Government agency to do so and furnish a report thereon to the committee. Such committees may rely on such techniques as pilot testing, analysis of costs in comparison with benefits, or provision for evaluation after a defined period of time. The findings and determinations made by each such committee from its oversight activities under this section in any year shall be reported to the House of Representatives or the Senate no later than October 1 of such even-numbered year, and shall constitute the basis for such committee's legislative work during the succeeding Congress.

"(c) To assist a standing committee in carrying out its responsibilities under this section, the head of each Federal agency which administers the laws or parts of laws under the jurisdiction of such committee shall provide to such committee such studies, information, analyses, reports, and assistance, including the requests for appropriations and the justifications therefor submitted by the agency to the Director of the Office of Management and Budget pursuant to section 215 of the Budget and Accounting Act, 1921, as may be requested by the chairman and ranking minority member of the committee, except that such request and justifications for a 2-fiscal-year budget period shall not be submitted under this subsection until after the day the President transmits the Budget to the Congress under section 201(a) of such Act for such period.

"(d)(1) To assist a standing committee in carrying out its responsibilities under this section, the head of any agency shall furnish without charge to such committee computer tapes or discs, together with explanatory documentation, containing information received, compiled, or maintained by the agency as part of the operation or administration of a program, or specifically compiled pursuant to a request in support of a review of a program, as may be requested by the chairman and ranking minority member of such committee.

"(2) The Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate shall prescribe rules and regulations for their respective Houses which will minimize duplication of requests under paragraph (1) of this subsection.

"(e) Within thirty days after the receipt of a request from a chairman and ranking minority member of a standing committee having jurisdiction over a program being reviewed and studied by such committee under this section, the Comptroller General of the United States shall furnish to such committee summaries of any audits or reviews of such program which the Comptroller General has completed during the preceding six years.

"(f) Consistent with their duties and functions under law, the Comptroller General of the United States, the Director of the Congressional Budget Office, the Director of the Office of Technology Assessment, and the Director of the Congressional Research Service shall furnish to each standing committee of the Senate or the House of Representatives such information, studies, analyses, and reports as the chairman and ranking minority member may request to assist

the committee in conducting reviews and studies of programs under this section.

"(g) This section does not require the public disclosure of matters that are specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive order, or which are otherwise specifically protected by law. This section does not require any committee of the Senate to disclose publicly information the disclosure of which is governed by Senate Resolution 400, Ninety-fourth Congress, or any other rule of the Senate.".

AMENDMENTS TO RULES OF SENATE AND HOUSE OF REPRESENTATIVES

SEC. 8. (a) Paragraph 8 of rule XXVI of the Standing Rules of the Senate is repealed.

(b)(1) Clause 4(a)(1)(A) of rule X of the Rules of the House of Representatives is amended by inserting "odd-numbered" after "each".

(2) Clause 4(a)(2) of rule X of the Rules of the House of Representatives is amended by striking out "such fiscal year" and inserting in lieu thereof "the 2-fiscal-year budget period in which such fiscal year occurs".

(3) Clause 4(b)(2) of rule X of the Rules of the House of Representatives is amended by striking out "fiscal year" and inserting in lieu thereof "2-fiscal-year budget period".

(4) Clause 4(f) of rule X of the Rules of the House of Representatives is amended by striking out "annually" each place it appears and inserting in lieu thereof "biennially".

(5) Clause 4(g) of rule X of the Rules of the House of Representatives is amended—

(A) by striking out "March 15 of each year" and inserting in lieu thereof "May 15 of each odd-numbered year";

(B) by striking out "fiscal year" the first place it appears and inserting in lieu thereof "2-fiscal-year budget period"; and

(C) by striking out "that fiscal year" and inserting in lieu thereof "each fiscal year in such ensuing 2-fiscal-year budget period".

(6) Clause 4(h) of rule X of the Rules of the House of Representatives is amended by striking out "fiscal year" and inserting in lieu thereof "2-fiscal-year budget period".

(c)(1) Clause 2(l)(1)(C) of rule XI of the Rules of the House of Representatives is amended—

(A) by striking out "fiscal year" and inserting in lieu thereof "2-fiscal-year budget period";

(B) by striking out "that year" the each place it appears and inserting in lieu thereof "that 2-fiscal-year budget period";

(C) by inserting "for each fiscal year in that 2-fiscal-year budget period" after "committee's recommendations";

(D) by striking out "as" before "set forth"; and

(E) by inserting "for each such fiscal year" before "in the most recently".

(2) Clause 4(a) of rule XI of the Rules of the House of Representatives is amended by striking out "fiscal year if reported after September 15 preceding the beginning of such fiscal year" and inserting in lieu thereof "2-fiscal-year budget period if reported after August 1 of the year in which such 2-fiscal-year budget period begins".

(d) Clause 2 of rule XLIX of the Rules of the House of Representatives is amended by striking out "fiscal year" and inserting in lieu thereof "2-fiscal-year budget period".

EFFECTIVE DATE

SEC. 9. The provisions of this Act and the amendments made by this Act shall take effect the first day of the Ninety-ninth Congress, except that—

(1) the amendments made by section 5(i) of this Act shall take effect on November 9, 1984; and

(2) the provisions of section 10 of this Act shall take effect on the date of enactment of this Act.

FISCAL YEAR 1986

SEC. 10. (a) Notwithstanding the amendments made by sections 3, 4, 5, 6, 7, and 8 of this Act, the President shall submit to the Congress a budget for fiscal year 1986, and the estimate of outlays and proposed budget authority that would have been required under section 1109 of title 31, United States Code (as such section was in effect on November 8, 1984). The provisions of section 201 of the Budget and Accounting Act, 1921 (now 31 U.S.C. 1105), as such provisions were in effect on the day before the effective date of this Act, shall apply to the submission by the President of the budget for fiscal year 1986. The provisions of section 1109 of title 31, United States Code (as such provisions were in effect on November 8, 1984) shall apply with respect to the submission of such estimates by the President.

(b) Notwithstanding the amendments made by sections 3, 4, 5, 6, 7, and 8 of this Act, the Congress shall complete action on the concurrent resolutions on the budget that would have been required for fiscal year 1986 under the provisions of the Congressional Budget Act of 1974 as such provisions were in effect on the day before the effective date of this Act. The provisions of the Congressional Budget and Impoundment Control Act of 1974 (as such provisions were in effect on the day before the date of enactment of this Act) shall apply with respect to concurrent resolutions on the budget for fiscal year 1986, bills and resolutions providing new budget authority or new spending authority for fiscal year 1986, and bills and resolutions authorizing the enactment of new budget authority for fiscal year 1986, except that—

(1) the provisions of section 301(b)(1) of such Act (as in effect on the day before the effective date of this Act) shall not apply with respect to fiscal year 1986, and the provisions of section 301(b)(2) of such Act (as in effect on the day before the effective date of this Act) shall not apply with respect to fiscal year 1986 to the extent that such provisions are inconsistent with clause (2) of this subsection;

(2) it shall not be in order in the Senate or the House of Representatives to consider any first concurrent resolution on the budget for fiscal year 1986 required by section 301 of such Act (as in effect on the day before the effective date of this Act) if such concurrent resolution on the budget—

(A) directs any committee to determine and recommend changes in bills, laws, or resolutions; or

(B) includes any matter with respect to any subject other than budget outlays, budget authority, the surplus or deficit in the budget, revenues (including off-setting receipts and off-setting collections), or the level of the public debt.

(3) prior to the adoption of the second concurrent resolution on the budget required for a fiscal year under section 310(a) of such Act (as in effect on the day before the effective date of this Act), it shall not be in order in the Senate or the House of Representatives to consider under section 304 of such Act (as in effect on the day before the effective date of this Act) any concurrent resolution on the budget revising the most recently agreed to concurrent resolution on the budget for such fiscal year if the concurrent resolution making such revisions—

(A) directs any committee to determine and recommend changes in bills, laws, or resolutions; or

(B) includes any matter with respect to any subject other than budget outlays, budget authority, the surplus or deficit in the budget, revenues (including offsetting receipts and offsetting collections), or the level of the public debt;

(4) bills and resolutions providing new budget authority for fiscal year 1986 or new spending authority described in section 401(c)(2)(C) of such Act for fiscal year 1986 shall not be enrolled until the concurrent resolution on the budget required to be reported under section 310(a) of such Act (as in effect on the day before the effective day of this Act) for such fiscal year has been agreed to, and if a reconciliation bill or reconciliation resolution, or both, are required to be reported under section 310(c) of such Act (as in effect on the day before the effective day of this Act) for such fiscal year, until Congress has completed action on that bill or resolution, or both;

(5) it shall not be in order in the Senate or the House of Representatives to consider any concurrent resolution on the budget required under section 310(a) of such Act (as in effect on the day before the effective day of this Act) for fiscal year 1986 if such concurrent resolution directs any committee to determine and recommend changes in laws, bills, and resolutions directly or indirectly authorizing the enactment of new budget authority for fiscal year 1986;

(6) it shall not be in order in the Senate or the House of Representatives to consider any reconciliation bill or resolution for fiscal year 1986 or any amendment thereto or any conference report thereon which changes any provision of law other than provisions of law which—

(A) provide new budget authority or spending authority described in section 401(c)(2)(C) of such Act;

(B) relate to revenues; or

(C) specify the amount of the statutory limit on the public debt.

(7) section 405 of such Act, as added by section 4(q) of this Act, shall apply with respect to fiscal year 1986; and

(8) section 1104(c)(2) of title 31, United States Code, as added by section 5(b) of this Act, shall apply with respect to fiscal year 1986.

By Mr. DOLE (for himself, Mr. LONG, Mr. DANFORTH, Mr. BENTSEN, Mr. BAKER, Mr. WALLOP, Mr. SYMMS, Mr. JEPSEN, and Mr. D'AMATO):

S. 13. A bill to amend the Internal Revenue Code of 1954 to decrease the holding period for long-term capital gain treatment from 1 year to 6 months; to the Committee on Finance.

CAPITAL GAINS TAX ACT OF 1983

● Mr. DOLE. Mr. President, I send to the desk a bill to amend the Internal Revenue Code, to shorten the long-term capital gains holding period from 1 year to 6 months.

Mr. President, during the last Congress both the Senate Finance Committee and the full Senate approved legislation, on several occasions, to shorten the long-term capital gains

holding period. Such a provision was contained in the Senate-passed version of the Tax Equity and Fiscal Responsibility Act of 1982, and was also passed by the Senate last September as an amendment to the debt ceiling bill, by a vote of 77 to 17. But unfortunately, that amendment was removed when the debt ceiling bill was recommitted.

The House of Representatives also approved similar legislation last Congress. The tax bill approved in 1981 by the House would have shortened the long-term capital gains holding period from 1 year to 6 months. Unfortunately, both the conferees on the 1981 tax bill and the conferees on the 1982 tax bill rejected this measure.

After discussion with House Members and others who have an interest in this matter, however, I am convinced that it is worth making another try this Congress.

CAPITAL GAINS HOLDING PERIOD

The 6-month holding period for capital gains was, I believe, one of the more important provisions of the Senate-passed tax bill. There is considerable evidence that the difference in tax treatment of short-term and long-term transactions under present law provides an incentive for investors not to realize short-term gains. Studies of capital asset sales data confirm that investors are "locked in" to investments simply because they do not want to be taxed on short-term gains. As a result, the efficiency of capital markets is reduced because investors hold assets longer than they might otherwise, in the absence of tax considerations. By reducing the capital gains holding period, we expect to reduce the lock-in effect and its adverse impact on capital market efficiency. It should also be noted that, prior to 1976, the holding period was 6 months.

Mr. President, the provisions of this bill have been carefully considered in the recent past, and have received considerable support, including the endorsement of the Reagan administration. It is significant that both the Senate and the House have recently passed major legislation including a 6-month holding period provision. I believe the time is long overdue for the Congress to enact this important measure.

Mr. President, I ask unanimous consent to include in the RECORD a copy of the bill, and a technical explanation of the bill's provisions.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 13

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Capital Gains Tax Act of 1983".

SECTION 2. DECREASE IN HOLDING PERIOD REQUIRED FOR LONG-TERM CAPITAL GAIN TREATMENT.

(a) IN GENERAL.—

(1) CAPITAL GAINS.—Paragraphs (1) and (3) of section 1222 of the Internal Revenue Code of 1954 (relating to other terms relating to capital gains and losses) are each amended by striking out "1 year" and inserting in lieu thereof "6 months".

(2) CAPITAL LOSSES.—Paragraphs (2) and (4) of section 1222 of such Code are each amended by striking out "1 year" and inserting in lieu thereof "6 months".

(b) CONFORMING AMENDMENTS.—The following provisions of the Internal Revenue Code of 1954 are each amended by striking out "1 year" each place it appears and inserting in lieu thereof "6 months":

(1) Paragraph (1)(B) of section 166(d) (relating to nonbusiness debts).

(2) Subsection (a) of section 341 (relating to treatment of gain to shareholders in the case of collapsible corporations).

(3) Paragraph (2) of subsection (a) and subparagraph (L) of subsection (e)(4) of section 402 (relating to capital gains treatment for certain distributions in the case of a beneficiary of an exempt employees' trust).

(4) Subparagraph (A) of section 403(a)(2) (relating to capital gains treatment for certain distributions in the case of a beneficiary under a qualified annuity plan).

(5) Paragraph (1) of section 423(a) (relating to employee stock purchase plans).

(6) Paragraph (2) of section 532(c) (relating to capital gains of banks).

(7) Subparagraphs (A) and (B) of section 584(c)(1) (relating to inclusions in taxable income of participants in common trust funds).

(8) Paragraphs (3) and (4) of section 642(c) (relating to charitable deductions for certain trusts).

(9) Paragraphs (1) and (2) of section 702(a) (relating to income and credits of partner).

(10) Subparagraph (A) of section 817(a)(1) (relating to certain gains and losses in the case of life insurance companies).

(11) Subparagraph (B) of section 852(b)(3) (relating to taxation of shareholders of regulated investment companies).

(12) Subparagraph (A) of section 856(c)(4) (relating to definition of real estate investment trust).

(13) Paragraphs (3) (B) and (7) of section 857(b) (relating to taxation of shareholders of real estate investment trust).

(14) Paragraph (11) of section 1223 (relating to holding period of property).

(15) Section 1231 (relating to property used in the trade or business and involuntary conversions).

(16) Paragraph (2) of section 1232(a) (relating to sale or exchange in the case of bonds and other evidences of indebtedness).

(17) Subsections (b), (d), and Subparagraph (A) of subsection (e)(4) of section 1233 (relating to gains and losses from short sales).

(18) Paragraph (1) of section 1234(b) (relating to treatment of the grantor of an option in the case of stock, securities, or commodities).

(19) Subsection (a) of section 1235 (relating to sale or exchange of patents).

(20) Paragraph (4) of section 1246(a) (relating to holding period in the case of gain on foreign investment company stock).

(21) Subsection (i) of section 1247 (relating to loss on sale or exchange of certain stock in the case of foreign investment companies electing to distribute income currently).

(22) Subsections (b) and (g)(3)(C) of section 1248 (relating to gain from certain sales or exchanges of stock in certain foreign corporations).

(23) Subparagraph (A) of section 1251(e)(1) (defining farm recapture property).

(c) TECHNICAL AMENDMENT RELATING TO TIMBER, COAL, AND DOMESTIC IRON ORE.—Section 631 of such code (relating to gain or loss in the case of timber, coal, or domestic iron ore) is amended—

(1) by striking out "for a period of more than 1 year" in the first sentence of subsection (a) and inserting in lieu thereof "on the first day of such year and for a period of more than 6 months before such cutting", and

(2) by striking out "1 year" in subsections (b) and (c) and inserting in lieu thereof "6 months".

(d) TECHNICAL AMENDMENT RELATING TO STRADDLES.—Section 1092 (d)(2) of such Code (defining position) is amended—

(1) by striking out clause (ii) of subparagraph (B) and inserting in lieu thereof the following:

"(ii) is part of a straddle none of the offsetting positions of which would, if sold by the taxpayer on the last day on which such option could be exercised, result in the recognition of—

"(I) long-term capital gain or loss, or

"(II) in the case of a syndicate (within the meaning of section 1256(e)(3)(B)), long-term capital gain or loss or ordinary income or loss.", and

(2) by adding at the end thereof the following new subparagraph:

"(C) SPECIAL RULES FOR APPLICATION OF SUBPARAGRAPH (B)(ii).—For purposes of subparagraph (B)(ii)—

"(i) a stock option (other than an option meeting the requirements of section 1236 or which would meet such requirements if section 1236 applied to such option) held or granted by a dealer shall not be treated as meeting the requirements of such subparagraph unless such option is entered into in the normal course of the dealer's trade or business, and

"(ii) the determination as to whether a sale would result in long-term capital gain or loss shall be made without regard to the rules of subsections (b) and (d) of section 1233 (as made applicable by reason of subsection (b)).".

(e) TECHNICAL AMENDMENT RELATING TO CERTAIN SHORT-TERM GOVERNMENT OBLIGATIONS.—Section 1232 (a)(4)(A) (relating to certain short-term government obligations), as in effect before the amendments made by section 231(c)(4) of the Tax Equity and Fiscal Responsibility Act of 1982, and section 1232(a)(3)(A), as in effect after such amendments, are each amended by striking out "held less than 1 year".

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided by this subsection, the amendments made by this section shall apply to sales and exchanges made after June 30, 1983.

(2) CONFORMING AMENDMENTS.—The amendments made by subsection (b) shall take effect on July 1, 1983.

(3) STRADDLES.—The amendments made by subsection (d) shall apply to any position which is part of a straddle (within the meaning of section 1092(c) of the Internal Revenue Code of 1954) held after June 30, 1983.

TECHNICAL EXPLANATION OF CAPITAL GAINS TAX ACT OF 1983

PRESENT LAW

Gains or losses on sales or exchanges of capital assets held for more than 12 months are considered long-term capital gains or losses (Sec. 1222 of the Internal Revenue Code). For noncorporate taxpayers, only 40 percent of net long-term capital gains are included in taxable income, while 100 percent of net short-term gains are included. However, 100 percent of net short-term losses (up to $3,000) are deductible, while only 50 percent of net long-term losses (up to $3,000) may be deducted.

For corporate taxpayers, net long-term capital gains are subject to an elective, alternative tax rate of 28 percent, while net short-term gains are taxed at ordinary corporate rates.

REASONS FOR CHANGE

The differential tax treatment of short-term and long-term transactions creates incentives for investors not to realize short-term gains. Studies of capital asset sales data confirm that investors are "locked-in" to investments because they do not desire to realize short-term gains. This reduces capital market efficiency because investors hold assets longer than they otherwise might in the absence of tax considerations. By reducing the capital gains holding period from 12 to 6 months, the lock-in effect and its adverse impact on capital market efficiency will be reduced. Prior to 1977, the holding period was 6 months.

EXPLANATION OF PROVISION

The holding period for determining whether a gain or loss on the sale or exchange of a capital asset or certain business property is long-term or short-term is reduced from 1 year to 6 months. Thus, property held for more than 6 months will be eligible for long-term capital gain or loss treatment.

The bill also modifies the treatment of straddles in stock options. Under present law (Sec. 1092(d)), certain straddles in listed stock options are exempt from the loss deferral, short sale, and wash sale rules of section 1092 if one of the options in the straddle is of a type with respect to which the maximum period during which such option may be exercised is less than the capital gains holding period. Currently, listed stock options generally expire within 9 months and the capital gains holding period is one year; therefore, all listed stock options are generally exempt from section 1092. Shortening the holding period to 6 months, however, would make listed stock option straddles subject to the loss deferral, wash sale, and short sale rules.

To deal with these problems, the bill makes several changes to the stock option exemption in section 1092. First, it provides that listed stock options are generally exempt from the loss deferral, wash sale, and short sale rules if none of the positions in the straddle can produce long-term capital gain or loss. In the case of syndicates, the straddles are exempt only if none of the positions can produce either long-term capital gain or loss or ordinary income or loss. For a stock option owned by a dealer to be exempt, the option must also be entered into in the normal course of the dealer's trade or business (unless the option is held in the dealer's investment account). No inference is intended about the circumstances under which stock options are capital assets under existing law.

The bill also provides that gain from the cutting of timber is to be treated as long-term capital gain only if the timber has been held for more than 6 months and was held on the first day of the taxpayer's taxable year.

The bill makes a variety of other conforming changes to the Code.

EFFECTIVE DATE

The provision generally applies to sales or exchanges made after June 30, 1983. Thus, in the case of an installment sale made prior to July 1, 1983, of a capital asset held more than 6 months, but less than 1 year, all payments received will continue to be treated as short-term capital gain. The changes relating to stock option straddles apply to positions held on June 30, 1983.

Mr. President, I am particularly pleased that I am being joined in introducing this bill by the distinguished ranking minority member of the Committee on Finance as well as Messrs. DANFORTH, BENTSEN, SYMMS, JEPSEN, and D'AMATO.●

By Mr. COCHRAN (for himself, Mr. HUDDLESTON, Mr. PRYOR, Mr. MATTINGLY, Mr. HEFLIN, Mr. THURMOND, Mr. NUNN, Mr. ZORINSKY, Mr. BOREN, and Mr. DIXON):

S. 14. A bill to provide authority for activities to develop and expand markets for U.S. agricultural commodities, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

AGRICULTURAL MARKET EXPANSION ACT OF 1983

Mr. COCHRAN. Mr. President, Senator HUDDLESTON and I are reintroducing legislation which would provide the Secretary with authority to utilize surplus agricultural stocks to expand commercial sales and increase donations to the world's needy.

I am pleased that Senators PRYOR, MATTINGLY, HEFLIN, THURMOND, NUNN, ZORINSKY, BOREN, and DIXON are joining us as cosponsors.

This bill was part of S. 3074 which was introduced by Senator HUDDLESTON and me on December 3, 1982.

Last fall, after another record harvest and slumping export sales, I became concerned that unless immediate action was taken that the mounting surpluses would continue to depress prices for a number of years.

At that time I pointed out that there are two basic reasons for the rapid increase in surplus stocks.

First, the demand for U.S. farm products is depressed. There are three causes for this, including the worldwide recession, the strength of the U.S. dollar which had added to the cost of U.S. goods abroad, and finally our market shares have been reduced because of subsidies by our competitors.

Second, crop yields during the last 2 years have been above average.

As a result, we have accumulated surplus stocks of corn, wheat, cotton, soybeans, and rice equivalent to production on over 30 million acres and prices are depressed.

The Secretary has already announced a payment-in-kind program to encourage farmers to make further cuts in production. Also today Senator HUDDLESTON and I have introduced in a separate bill legislation which clarifies the Secretary's authority to implement the payment-in-kind program and to lend congressional support to this effort. This is a step in the right direction but I believe that a balanced approach is needed to assure the future health of our agricultural economy.

The reason this legislation is being introduced as a separate initiative is because of the importance of exports to our agricultural economy and the need to clearly focus on efforts to maintain our market shares in the world market.

The aggressive use of export subsidies by the European Community and others has eroded our market share of such products as poultry and eggs, and wheat flour.

Exports from the European Community to countries outside the Community have more than doubled in 5 years.

This dramatic growth has been closely correlated to funding of export subsidies. For example, in 1976 the European Community exported $12 billion of agricultural products while spending $2 billion on export subsidies. Last year between $7 and $8 billion was spent by the Community on subsidies helping them reach $80 billion in farm exports.

To see the impact this is having here at home one needs to look no further than our poultry industry. In 1976 the United States exported 29,000 metric tons of whole chickens to the Middle East. Last year because of subsidies by the European Community the United States made no sales of whole broilers to that area.

The bill we are introducing today provides the authority the Secretary needs to utilize our surplus stocks through a bonus program to met unfair competition by our export competitors, and to increase our donations and Public Law 480 assistance abroad.

Specifically, the bill authorizes the Secretary of Agriculture to tender, at zero cost, commodities acquired by the Commodity Credit Corporation to U.S. exporters and users, and foreign purchasers, to encourage development, maintenance, and expansion of markets for U.S. agricultural commodities and their products.

The intent of this program is to increase the volume of agricultural commodities and products thereof and products produced using the commod-

ities moving into foreign markets, to reduce the amounts of these commodities in Government stocks and to develop, maintain, and expand foreign markets. The Commodity Credit Corporation could provide commodities held by the CCC to U.S. exporters, users, or foreign purchasers as an incentive to foreign customers to purchase additional U.S. commmodities above the level of normal marketings. For example, if a foreign purchaser that normally purchases a given quantity of a specific commodity agrees to purchase additional quantities, then an amount equal to some portion of the additional purchases could be provided at no cost to the foreign importer. In addition, it is contemplated that the Secretary could provide commodities or products even though purchases are less than normal marketings in cases where such bonuses would contribute to maintaining or expanding U.S. markets.

Furthermore, Government stocks could be made available to domestic producers such as poultry, eggs, and livestock and to processors at zero cost in cases where the products have been identified for export markets currently in the noncommercial category. This would include those markets lost due to subsidies of other countries.

Such bonus agricultural commodities would serve to reduce the overall cost of U.S. commodities to foreign purchasers and thereby increase the competitiveness of U.S. products. Commodities provided under the program could offset the use of export subsidies by competing exporting nations.

The bill requires that equal treatment be provided to domestic purchasers and users of U.S. agricultural commodities as the foreign purchasers and users that receive U.S. commodities and products where the importation of a manufactured product made, in whole or in part, from a commodity made available for export under this provision would place domestic users of the commodity at a competitive disadvantage. In such a case, in order to assure that domestic purchasers or users are not disadvantaged by the importation of a foreign manufactured product made, in whole or in part, from a commodity made available for export under the program, domestic purchasers or users would be eligible for receipt of a like amount of commodities or products.

In providing this authority it is not intended to worsen the problem now faced by the cotton industry resulting from foreign manufactured cotton products coming into the United States and competing unfairly with domestic products. Accordingly, the bill provides that the program shall be carried out in a manner that gives equal treatment to domestic users of U.S. agricultural commodities. In the case of cotton, this would be the processor, manufacturer, or other user who opens the bale of raw cotton. Any action taken by the Secretary under this provision, with respect to exports of cotton, is to be accompanied by comparable action for domestic users.

This bill also provides that commodities or products shall be provided in such a manner so as to encourage increased utilization and avoid displacing normal sales. Commodities are not to take the place of domestic of foreign commercial sales or be reexported.

Section 416 of the Agricultural Act of 1949 provides the Secretary of Agriculture the authority to donate surplus dairy products to needy persons in foreign countries. The bill extends the authority for food donations under section 416 of the Agricultural Act of 1949 to other agricultural commodities and products acquired by the Commodity Credit Corporation. The commodities or products would be donated through foreign governments and public and private nonprofit humanitarian organizations for the assistance of needy persons outside the United States.

In order to facilitate movement of these donated commodities to needy individuals, the CCC may pay reprocessing, packaging, transporting, handling, and other charges, including ocean freight for overseas delivery, associated with the donated commodities or products.

Because the U.S. Government conducts food donation programs under other legislative authority, the provision requires the Secretary of Agriculture to ensure that donations under this authority complement, and are coordinated with, other U.S. foreign assistance programs, such as the Agricultural Trade Development and Assistance Act of 1954—Public Law 480.

This provision would also permit increased exports of CCC surplus commodities under titles I and III of the Agricultural Trade Development and Assistance Act of 1954, and such exports would be in addition to the level of assistance programed under that act.

Mr. President, I believe that the authorities contained in this bill will greatly improve the ability of the Secretary to expand our commercial sales and expand donations through the use of surplus stocks.

I urge my colleagues to join me in this effort to gain passage of this legislation.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 14

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Agricultural Market Expansion Act of 1983".

EXPANSION OF UNITED STATES AGRICULTURAL EXPORT MARKETS

SEC. 2. The Agriculture and Food Act of 1981 is amended by inserting after section 1209 a new section as follows:

"EXPANSION OF UNITED STATES AGRICULTURAL EXPORT MARKETS THROUGH THE USE OF COMMODITIES ACQUIRED BY THE COMMODITY CREDIT CORPORATION

"SEC. 1209A. (a) Notwithstanding any other provision of law, the Secretary of Agriculture may formulate and carry out an export expansion program under which commodities acquired by the Commodity Credit Corporation are tendered at no cost to United States exporters and processors for export, and foreign purchasers, to encourage development, maintenance, and expansion of markets for United States agricultural commodities and the products thereof.

"(b) In carrying out the program authorized under this section, the Secretary of Agriculture shall—

"(1) take such action as may be necessary to ensure that the program provides equal treatment to domestic and foreign purchasers and users of United States agricultural commodities in any case where the importation into the United States of a manufactured product made, in whole or in part, from a commodity made available for export under this section would place domestic users of the commodity at a competitive disadvantage;

"(2) ensure insofar as possible that any use of Commodity Credit Corporation stocks for the purposes of the program authorized under this section be made in such manner as to encourage increased use, and avoid displacing usual marketings, of United States agricultural commodities and products thereof; and

"(3) take reasonable precautions to prevent the resale or transshipment to other nations, or use for other than domestic use in the nation to which stocks of the Commodity Credit Corporation are shipped, of the stocks of the Commodity Credit Corporation made available to export participants in the program.

"(c) The Secretary of Agriculture shall carry out the program authorized by this section through the Commodity Credit Corporation.

"(d) The Secretary of Agriculture may issue such regulations as the Secretary deems necessary to carry out this section.

"(e) The authority provided under this section shall be in addition to, and not in place of, any authority granted to the Secretary of Agriculture or the Commodity Credit Corporation under any other provision of law.".

AUTHORITY FOR THE USE ABROAD OF COMMODITY CREDIT CORPORATION STOCKS

SEC. 3. Section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431) is amended by striking out the last two sentences and inserting in lieu thereof the following: "Such dairy products and other agricultural commodities and products thereof acquired by the Commodity Credit Corporation also may be donated through foreign governments and public and nonprofit private humanitarian organizations for the assistance of needy persons outside the United States, and the Commodity Credit Corporation may pay, with respect to commodities and products thereof so donated, reprocessing, packaging,

transporting, handling, and other charges, including the cost of overseas delivery. To ensure that any such donations for use outside the United States complement, and are coordinated with, other United States foreign assistance, such donations shall be coordinated through the mechanism designated by the President to coordinate assistance under the Agricultural Trade Development and Assistance Act of 1954 and shall be in addition to the level of assistance programmed under that Act. Agricultural commodities and products thereof acquired by the Commodity Credit Corporation may also be used to increase the level of agricultural exports under titles I and III of the Agricultural Trade Development and Assistance Act of 1954 consistent with the purposes of that Act and shall be in addition to the level of assistance programmed under that Act.".

DISPOSITION OF DAIRY PRODUCTS ABROAD

SEC. 4. Notwithstanding any other provision of law, the Secretary of Agriculture is encouraged to donate abroad, or sell for export at the best price obtainable, at least 50,000 metric tons of dairy products owned by the Commodity Credit Corporation, during each of the fiscal years 1983 through 1985. The Secretary shall report semiannually, through September 30, 1985, to Congress on the status of such donations or sales.

COMMODITY CREDIT CORPORATION SALES OF EXTRA LONG STAPLE COTTON

SEC. 5. Section 407 of the Agricultural Act of 1949 (7 U.S.C. 1427) is amended by adding at the end thereof the following new sentence: "Nothwithstanding any other provision of this section, effective beginning thirty days after the enactment of this sentence, stocks of extra long staple cotton held by the Commodity Credit Corporation may be sold for unrestricted use at such price levels as the Secretary determines appropriate to maintain and expand export and domestic markets for such cotton.".

IMPROVED DISTRIBUTION OF SURPLUS AGRICULTURE COMMODITIES

SEC. 6. Section 1114(a) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e) is amended by inserting immediately after the first sentence thereof the following new sentence: "Whenever a commodity is made available without charge or credit, the Secretary of Agriculture shall encourage consumption thereof through agreements with private companies under which the commodity is processed into end products for use by eligible recipients, with the expense of the processing to be borne by the recipients.".

Mr. HUDDLESTON. Mr. President, I am pleased to join Senator COCHRAN in introducing the Agricultural Market Expansion Act of 1983. The bill contains provisions for programs designed to develop and expand markets for U.S. agricultural commodities. We must strengthen the agricultural markets as one part of our efforts to return the farm economy to prosperity.

EXPORT MARKET EXPANSION

During fiscal year 1982, U.S. farm product exports dropped for the first time in 13 years. Export volume declined by 2 percent from the previous year and the value of these exports fell 11 percent. The Department of Agriculture forecasts that U.S. farm exports may decline further in this fiscal year.

The severe financial problems facing farmers are due, in no small part, to the weak demand in export markets. We must undertake a serious effort to increase our export sales.

The bill authorizes the Secretary of Agriculture to formulate and carry out a program that uses commodities, acquired by the Commodity Credit Corporation, to maintain and expand export sales of U.S. agricultural products. Such commodities could be tendered at no cost to U.S. exporters to encourage sales in areas of the world where exports can be made in addition to the usual export marketings of the United States. Also, under the program, the agricultural products could be used to encourage sales in markets where the addition of the Commodity Credit Corporation stocks of agricultural products to the quantities already moving in commerce will enable U.S. exporters to be competitive in price with the subsidized exports of other nations. By enabling our exports to meet unfair competition caused by such subsidies, the program authorized by the bill will help preserve our share of international markets.

The bill requires the Secretary of Agriculture to insure that normal export sales of U.S. agricultural products are not displaced. Further, the bill provides that U.S. processors of agricultural products can be compensated, using the stocks of commodities owned by the Commodity Credit Corporation, in any case where U.S. processors are placed at an unfair competitive disadvantage by the use of the bonus CCC commodities by foreign processors who sell their processed products to the United States.

The bill will allow the efficient use of inventories of surplus agricultural commodities that might otherwise prove to be burdensome in future years. The use of these stocks as a "bonus" for buying American agricultural products will expand export sales and improve the income of our farmers.

INCREASED USE OF U.S. AGRICULTURAL COMMODITIES

The bill contains provisions designed to allow the use of excess stocks of agricultural commodities in the Public Law 480—food-for-peace—sales programs. The bill provides that commodities acquired by the Commodity Credit Corportion can be used to increase the level of agricultural exports shipped under titles I and III of Public Law 480. Using our abundant supplies for the food-for-peace program is far preferable to simply storing the commodities in Government warehouses.

The bill also expands the authority of the Secretary of Agriculture to donate surplus agricultural commodities and products owned by the Commodity Credit Corporation to assist needy persons outside the United States. Such commodities and products will be donated through foreign governments and public and nonprofit private humanitarian organizations. Under existing law, the Secretary's authority to donate commodities abroad is limited to dairy products. The bill would expand that authority to include all agricultural commodities and products held by the CCC. The bill will eliminate, in part, the cost of storing Commodity Credit Corporation stocks and foster good will toward the United States in many foreign nations.

The bill also encourages the Secretary of Agriculture to export at the best price possible, and to donate abroad, dairy products owned by the Commodity Credit Corporation. Specifically, the Secretary will be encouraged to export at least 50,000 tons of dairy products in each of the 1983 through 1985 fiscal years. Such use of CCC dairy products can serve to develop new markets for our dairy products.

The bill will remove the existing restriction on sales by the Commodity Credit Corporation of its Extra Long Staple cotton below 115 percent of the loan rate. Removing this restriction will provide the Secretary with greater flexibility to make Extra Long Staple cotton more price-competitive in both export and domestic markets and can help to reduce surplus stocks of this commodity.

The bill also contains a provision to amend section 1114(a) of the Agriculture and Food Act of 1981, which authorizes the donation of surplus agricultural commodities acquired by the Government under price support programs to domestic nutrition projects. Under the amendment, the Secretary of Agriculture is to encourage the consumption of surplus agricultural commodities, as provided under that section, through agreements with private companies under which the surplus commodities are processed into end products for use by eligible recipients, with the expense of the processing to be borne by the recipients. This provision gives schools additional options for using free USDA commodities, but places no obligation on them to do so. This provision could encourage the processing of dairy items, such as cheese, into other products readily usable in school lunch programs.

CONCLUSION

Mr. President, this bill is responsive to the needs of American farmers who rely on export sales as a major market for their products. Together with other steps—such as the payment-in-kind land diversion program and additional measures to strengthen farm commodity programs—to help farmers cope with severe financial problems, I

believe we can establish a basis for recovery in the farm economy.

I urge my colleagues to support this legislation.

Mr. President, I ask unanimous consent to have placed in the RECORD a summary of the provisions of the Agricultural Market Expansion Act of 1983.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF THE MAJOR PROVISIONS OF THE AGRICULTURAL MARKET EXPANSION ACT OF 1983

The bill will authorize a new agricultural export development program that uses commodities acquired by the Commodity Credit Corporation as bonus commodities. The bill also will authorize other activities to increase the use of U.S. agricultural commodities.

The major provisions of the bill will—

(1) under the new export development (bonus commodity) program—

(a) authorize the Secretary of Agriculture to tender commodities acquired by the Commodity Credit Corporation to U.S. exporters and processors for export, and foreign purchasers, at no cost to encourage the development, maintenance, and expansion of markets for U.S. agricultural commodities and products;

(b) require the Secretary, in carrying out the bonus commodity program, to take such action as may be necessary to ensure that the program provides equal treatment to domestic and foreign users of a commodity in any case in which the importation into the United States of a manufactured product made with a bonus commodity would place domestic users of that commodity at a comparative disadvantage; and

(c) require the Secretary to take reasonable precautions to prevent the resale or transshipment of bonus commodities to other countries;

(2) authorize the donation of agricultural commodities and products acquired by the Commodity Credit Corporation to assist needy persons outside the United States (the donation of CCC-held dairy products is authorized under existing law; this provision of the bill will extend the authority to other agricultural commodities and products);

(3) authorize the use of agricultural commodities and products acquired by the Commodity Credit Corporation to increase the level of U.S. agricultural exports made under concessional sales agreements under the Food for Peace program;

(4) encourage the Secretary to donate abroad, or sell for export at the best price obtainable, at least 50,000 tons of dairy products owned by the Commodity Credit Corporation during each of the 1983 through 1985 fiscal years;

(5) authorize the sale of extra-long staple cotton held by the Commodity Credit Corporation at such price as the Secretary determines appropriate to maintain and expand export and domestic markets for extra long staple cotton; and

(6) require the Secretary to encourage consumption of surplus agricultural commodities through agreements with private companies to process bulk commodities into end products usable by food aid recipients, with the expense of processing to be borne by the recipients.

By Mr. DOLE (for himself and Mr. LONG):

S. 16. A bill to amend the Internal Revenue Code of 1954 to provide for the establishment of, and the deduction of contributions to, education savings accounts; to the Committee on Finance.

EDUCATION SAVINGS ACCOUNTS

● Mr. DOLE. Mr. President, concern has been expressed recently about the possibilities of continued high unemployment rates. Several proposals have been discussed which are intended to address this as a short-term problem. However, whether or not we enact a so-called jobs program to attempt to reduce present unemployment, we should not avoid the major long-term problems concerning employment opportunities for Americans.

An increasingly complicated, technological society will require greater amounts of highly sophisticated training. If we do not educate our children adequately, they will find greater and greater difficulty in obtaining jobs in the marketplace. Unfortunately, the costs of specialized training and college education have escalated dramatically, doubling over the last decade and exceeding $10,000 per year at many private colleges. The increase over last year alone is estimated to be 11 percent. College costs are beyond the means of many families if they have not prepared for their children's education well in advance, and, from a broader perspective, this situation will work to the detriment of our country.

INCENTIVES TO ENCOURAGE SAVINGS FOR EDUCATION

Some legislators, recognizing this problem, have argued for more direct spending programs to finance higher education. The Government does have a role to play here. However, it is unreasonable to expect that the Federal Government should shoulder the burden alone.

It seems to me that a better view would be to provide sufficient incentive for families themselves to save for their children's higher education. In a sense, providing a tax incentive to foster additional savings is similar to providing a direct spending program. However, there is an additional benefit in providing Government assistance only if the family is willing to commit its own resources to long-term savings for their childrens' education. In a time of scarce resources, we should be helping first those who are willing to help themselves obtain an education.

For these reasons, the Senator from Kansas is reintroducing legislation to provide for tax-deferred savings accounts, similar to individual retirement accounts to help encourage saving for education. I am pleased, Mr. President, that the distinguished ranking minority member of the Finance Committee, the senior Senator from Louisiana, is joining me in sponsoring this important bill.

TAX-DEFERRED EDUCATION ACCOUNTS

The bill provides that an education savings account may be established for each child. Parents and the child may contribute up to $750 per year to this account, to a maximum of $3,000 per family, and receive a corresponding tax deduction. Contributions may be made each year of a child's life until the child reaches 21 or enrolls at a qualified college or vocational school, whichever occurs first.

Amounts from the fund will not be subject to tax when used for tuition, fees, and reasonable living expenses while the child is at a qualified educational institution. However, the amounts so expended will be included ratably in the child's income over a 10-year period beginning in the year the child attains age 25.

The bill would require banks and other financial institutions maintaining these accounts to file information reports, much like those presently required for IRA's, with the IRS. These simple information reports will help prevent taxpayer noncompliance with the dollar limitations imposed upon deductible contributions.

Mr. President, in the 96th and 97th Congresses, I introduced legislation similar to this measure, but substantially more costly to the Federal revenues. The bill would have allowed a larger education account for each child and would also have provided for tax-preferred savings accounts to encourage individuals to save for a downpayment on a home.

However, in the face of projected high Federal deficits, it seemed to this Senator that the legislation would have to be made more modest in scale if it were to have a chance for serious consideration.

Mr. President, this Senator is indeed serious about this legislation. The need to encourage higher education exists; a solution must be found within budget constraints. I hope this bill will provide a foundation for an appropriate commitment of our Government to higher education.●

By Mr. DOLE (for himself, Mr. HATFIELD, Mr. JEPSEN, Mr. MOYNIHAN, Mr. DIXON, Mr. RIEGLE, and Mr. LEVIN):

S. 17. A bill to expand and improve the domestic commodity distribution program; to the Committee on Agriculture, Nutrition, and Forestry.

DOMESTIC COMMODITY DISTRIBUTION AND FOOD ASSISTANCE ACT

● Mr. DOLE. Mr. President, today, along with my colleagues, Senators DANFORTH, DOMENICI, HATFIELD, JEPSEN, MOYNIHAN, ANDREWS, DIXON, RIEGLE, and LEVIN, I am introducing legislation that will attempt to channel surplus agricultural commodities

to those who are in genuine need of food. The Senator from Kansas and other Members of Congress have been very concerned about reports that the lines in the soup kitchens are steadily growing and that food banks are often unable to serve the demand for available food. Perhaps this trend may be traced to the increase in the number of people unemployed, or just simply to poor economic conditions in general. Nonetheless, it is our responsibility to try to address some of the problems that are out there.

AGRICULTURAL SURPLUS TO NEEDY AMERICANS

Mr. President, most Americans think of this country of ours as a land of plenty. It seems incomprehensible to us that, with our great agricultural overabundance, people within our society are going hungry. This is a phenomenon that I have given much thought to in recent months—it is the reason that I am introducing the legislation today. Several weeks ago, the Senator from Kansas read an article in the Sunday New York Times magazine entitled "Once Again Hunger in America." This article prompted me to explore some options to see if something could be done to help people who are falling between the cracks of our social programs. It is unconscionable that Americans could again be suffering from the kind of hunger and malnutrition that once plagued our society before Federal nutrition programs became a nationwide reality.

COMMODITY DISTRIBUTION

The Domestic Commodity Distribution and Food Assistance Act would require the Secretary of Agriculture to give agricultural commodities to eligible domestic recipient agencies when there is a great surplus. Commodities that are owned by the Commodity Credit Corporation or are returned to farmers under the payment-in-kind (PIK) program will be given to food banks, churches, and other organizations that provide food to low income and unemployed persons. Schools, nutrition programs for the elderly, child care food programs, and others would continue to be eligible for the free bonus commodities.

Currently, only dairy products are being given away free, or as a bonus to eligible institutions. This legislation would expand the definition of bonus commodities to include wheat (flour), rice, corn, and other commodities as they become surplus and can be used. This bill will require the Secretary of Agriculture to publish annually an announcement of the commodities he anticipates are likely to be available during the next 3 years, so that recipient agencies can plan accordingly.

ADMINISTRATIVE FUNDING

We have tried to address some of the problems that occurred during the USDA cheese giveaway. For the first time, this bill would provide administrative money to assist States in the distribution of the commodities. It would also provide administrative money to food banks and other nonprofit organizations to help with the distribution, transportation, processing and storage of donated commodities. It seems to make a lot of sense to direct funds that are currently being spent to store agricultural surpluses into the actual distribution and processing of commodities. Why pay millions of dollars to store food surpluses when needy people could be eating them? It is my hope that this legislation will help to alleviate conditions of hunger that continue to exist in our inner cities and rural areas and are accentuated by poor economic conditions and high unemployment.

There has been a commodity distribution system in existence in this country for several decades, but it has never been as effective as it might have been. Through this legislation, I have tried to improve the current system, after listening to recommendations from those familiar with the system, and those who have not been eligible to participate, such as food banks and other charitable organizations. At this point, it might be appropriate to clarify the intent of section 4(b) of this legislation. The proviso reads:

If a State agency cannot fully meet all requests for a given commodity the State agency shall give special consideration to public or private nonprofit organizations that serve low-income and unemployed persons.

This special consideration does not mean exclusivity. Historically, there has been a tendency in some States to give low priority to the needs of food banks, and there has been no Federal policy to provide direction. This section is intended to establish a better balance of priorities.

According to estimates by the Department of Agriculture, this legislation is expected to move about $1.035 billion worth of commodities, such as cheese, butter, nonfat dry milk, wheat, corn, rice, soybeans, and other commodities as they are declared surplus. The administrative cost of the bill is estimated to be about $52 million.

SUPPLEMENTAL NUTRITION EFFORT

Mr. President, this legislation is intended to complement existing nutrition programs and fill a gap that seems to exist, because some people are falling between the cracks. In these difficult economic times, it is our duty to try to create a juxtaposition betweeen America's image of a land of plenty and America's citizens who are in need of food. We should channel our national abundance to those who can really benefit from existing agricultural surpluses.

Mr. President, I thank my colleagues for their support, and ask that a copy of the section-by-section summary of this bill be inserted in the RECORD, along with the full text of the legislation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 17

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Domestic Commodity Distribution and Food Assistance Act."

SEC. 2. (a) In order to complement the domestic nutrition programs, make maximum use of our agricultural abundance, and to expand and improve the domestic distribution of surplus and price supported commodities under the authority of section 416 of the Agricultural Act of 1949 and section 32 of Public Law 74-320, whenever commodities are used to make special payments in kind to producers, or are tendered at no cost to expand export markets, or are limited in production through a land diversion program, or acquired by the Commodity Credit Corporation in excess of international food aid commitments, such commodities shall be made available to recipient agencies without charge or credit in a form suitable for home or institutional use: *Provided*, That commodities made available to public and private nonprofit organizations that relieve situations of emergency and distress through the provisions of food to low income and unemployed persons shall be made available in quantities suitable for individual households.

(b) The Commodity Credit Corporation shall pay for the cost of processing and packaging such commodities into forms suitable for home or institutional use with funds available to the Commodity Credit Corporation or through a payment in kind system which would provide commodities equal to the value of the processing cost.

(c) The Secretary shall publish before the beginning of each year an announcment of the commodities and the quantities of such commodities which he anticipates are likely to be made available without charge or credit during each of the next three years.

(d) Notwithstanding any other provision of law up to 2 million metric tons of wheat made available under section 302(a) of the Food Security and Wheat Reserve Act of 1980 may be used for the purposes of this Act, provided that the reserve will be replenished by an equivalent quantity of wheat pursuant to the provisions of 302(b) of such Act.

SEC. 3. Eligible recipient agencies shall include, but not be limited to, public and private nonprofit organizations that relieve situations of emergency and distress through the provision of food to low income and unemployed persons; charitable institutions; nutrition programs for the elderly; public or nonprofit schools and school food authorities; State agencies; child care institutions; Federal, State, and local nonprofit postsecondary schools; Federal, State, and local penal institutions; Veterans' Administration hospitals; disaster relief organizations; public or nonprofit summer camps; the commodity supplemental feeding program; the summer feeding program; and the needy family program on Indian reservations.

SEC. 4. (a) The Secretary shall provide the commodities made available pursuant to section 2 in such quantities as can be used without waste to State agencies for distribu-

tion to eligible recipient agencies and to private companies that process commodities for eligible recipient agencies pursuant to section 6.

(b) State agencies receiving agricultural commodities and administrative expenses under this Act shall distribute such commodities in the quantities requested to eligible recipient agencies within their respective State: *Provided*, That if a State agency cannot fully meet all requests for a given commodity the State agency shall give special consideration to public or private nonprofit organizations that serve low income and unemployed persons.

(c) The Secretary may provide such commodities directly to eligible recipient agencies and shall do so when State distributing agencies are not permitted by law to make distribution to certain categories of recipient agencies.

(d) The Secretary shall ensure that any recordkeeping or other regulatory or paperwork requirements imposed by either Federal or State agencies on recipient agencies shall be kept to a minimum.

SEC. 5. The Secretary shall make payments to the States from funds available to the Commodity Credit Corporation, or from section 32 of Public Law 74-320 to pay expenses incurred by State agencies in the storage, distribution, and transportation of donated commodities. The payments shall not be less than an amount equal to 5 percent of the value of all commodities, both entitlement and bonus, distributed during the preceding fiscal year: *Provided*, That no State shall charge recipients or eligible recipient agencies for costs related to commodity distribution: *Provided further*, That States shall pay the costs incurred by public and private nonprofit organizations that serve low-income and unemployed persons in the storage, distribution, transportation and administration of commodities donated under this Act.

SEC. 6. The Secretary of Agriculture and State agencies shall encourage consumption of commodities made available without charge or credit through agreements with private companies under which such commodities are processed into end food products for use by eligible recipient agencies, with the expense of the processing to be borne by the recipient agencies; except that each fiscal year the Secretary shall use funds equal to those storage and spoilage costs that the Secretary would have incurred in the preceding year other than for this Act to further process products into end food products for use by public and nonprofit agencies that relieve situations of emergency and distress through the provision of food to low-income and unemployed persons.

SEC. 7. The Secretary shall obtain such assurance as he deems necessary that the eligible recipient agencies of commodities donated under this Act will not diminish their normal expenditures for food by reason of such donation. Donated foods shall be requested and distributed only in quantities which can be consumed without waste. Under no circumstances should the amount of food ordered by recipient agencies be in excess of anticipated usage based on inventory records and controls or beyond their ability to accept and store such food.

SEC. 8. Section 1114(d) of the Agriculture and Food Act of 1981 shall apply to any commodities distributed pursuant to this Act.

COMMODITY DISTRIBUTION FOOD ASSISTANCE ACT—SECTION-BY-SECTION SUMMARY

Sec. 2(a) would require the Secretary of Agriculture to distribute free to eligible recipient agencies surplus commodities owned by the Commodity Credit Corporation.

Sec. 2(b) requires the Secretary to pay for initial processing of commodities, such as wheat into flour, with CCC funds, or with an in-kind payment to the processor.

Sec. 2(c) requires the Secretary to publish annually an announcement of what he anticipates he will declare bonus within the next two years in an effort to assist states in planning. The only obligation is that the Secretary publish a planning document; it is non-binding.

Sec. 2(d) authorizes up to 2 million metric tons of wheat to be available for domestic purposes from the International Food Reserve, and also requires that any additional aquisitions by the CCC be used to replenish this reserve.

Sec. 3 of the bill defines eligible recipient agencies and provides that the commodities shall be distributed through the states except where the commodity will be processed for eligible recipients nationwide under Sec. 6 of the bill.

Sec. 4 provides administrative money to the states to operate the commodity distribution program; this money is to be used to help with distribution and processing costs incurred by the states in the shipment of these commodities to eligible recipient agencies.

Sec. 5 provides safeguards against the waste and misuse of commodities.

Sec. 6 requires the Secretary and the states to work with private companies and eligible recipients to make it easier for eligible recipients that wish to further process the bonus commodities into a variety of end food products.●

By Mr. DOLE:

S. 18. A bill to improve farm commodity prices, to strengthen the national economy through a comprehensive, demand-oriented agricultural export policy, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE AGRICULTURAL EXPORT EXPANSION ACT OF 1983

Mr. DOLE. Mr. President, the opening of the 98th Congress is a fitting occasion for the introduction of legislation designed to expand markets for the increased sale of U.S. farm products aboard. I am, therefore, introducing today S. 18, the Agricultural Export Expansion Act of 1983.

PROBLEMS FACING AMERICAN AGRICULTURE

Mr. President, much has and will be said concerning the dire situation facing American farmers this year. From the profitable prices of the early 1970's, wheat farmers have seen persistently low and depressed prices since the fall of 1976. As a result, producers with a choice of crops have changed from wheat to corn, other feed grains and soybeans. As bountiful and record harvests have continued worldwide, these crops have also seen sharp declines in price. As a result, related industries such as dairy and cattle have fallen prey to the ironic weakness of American agriculture—its productivity.

OBSTACLES TO FARM EXPORTS

In addition to efforts to reduce farm production in exchange for participation in Government programs, the United States has intensified efforts in the past decade to develop foreign markets for agricultural products. The Department of Agriculture and private industry have cooperated to fund overseas programs designed to stress the reliability of the United States as a supplier of quality products to the world marketplace. Unfortunately, the competitive practices of other exporting countries and the irregular intervention of the U.S. Government in export markets for foreign policy and national security reasons have undermined these efforts and contributed to the growth of almost insupportable supplies of food and feed grains in this country.

As a result, Mr. President, we are faced with a choice between mounting an expensive subsidy campaign to counter the unfair trade practices of our competitors or continuing to sustain domestic farm program costs in excess of $12 billion per year. I would submit that whatever solution we find this year will need to combine increased funding of export programs without raising overall agricultural outlays by the Treasury.

EXPORT PIK AND SECTION 416 AUTHORITIES

Mr. President, the Agricultural Export Expansion Act of 1983 takes several important steps to increase U.S. farm exports. The first two sections of the bill incorporate programs proposed by the administration last year, and introduced by the chairman and ranking member of the Agriculture Subcommittee on Agricultural Production, Marketing and Stabilization of Prices, the distinguished Senators from Mississippi and Kentucky.

There is a broad consensus that the so-called export PIK program to provide bonus commodities to foreign buyers of U.S. farm products and the section 416 authority for the Agriculture Secretary to distribute surplus stocks to overseas agencies should be enacted into law, providing there is minimal displacement of regular commercial sales.

NEED FOR ADDITIONAL FUNDING FOR EXPORTS

In addition to these two authorities, S. 18 addresses the important issue of whether the limited funds available for farm programs are being utilized to the greatest possible benefit for farmers. With the Federal deficit projected at up to $200 billion in fiscal year 1984 alone, it is clear that continued austerity will be needed if we are to hold down inflation and encourage a further drop in interest rates.

Last year, we were able to fund export programs due to the coincidental reduction in the cost of the dairy

program. The $175 to $190 million per year earmarked for the blended credit program and other export initiatives has so far been successful in regaining lost markets for U.S. agricultural products. President Reagan recognized the success of these efforts in his speech to the Farm Bureau Federation in Dallas when he approved another $250 million for use in the balance of fiscal year 1983.

We know these programs are effective and that increased funding should be found to insure a viable long-range agriculture export program. We also know that we cannot look to other sectors of the economy to pay for the cost of expanding agricultural markets abroad. We are not going to be able to continue to tap the dairy program or the General Treasury for the needed additional funds in the future. As a result, those concerned with the well-being of farmers and growth of export markets need to establish priorities among the various farm programs currently authorized and funded.

REDUCTION OF TARGET PRICE INCREASES FOR EXPORT PROMOTION

The method proposed in S. 18 for providing additional funding for export programs is to reduce by one-half the scheduled increases in target prices for the 1984 and 1985 crops. The resulting savings, estimated by USDA at about $1 billion in fiscal years 1984 through 1986, would be earmarked for a new revolving fund to be used to make direct short- and intermediate-term loans for purchases of U.S. farm products. Repayments to the fund would be available for relending without the need for annual review by Congress. However, the Secretary of Agriculture would be required to submit an annual report to the House and Senate Agriculture Committees on how the fund had been administered.

FOREIGN MARKET DEVELOPMENT FUNDING

The savings in this proposal would also be used to increase funding for the foreign market development cooperator program by 10 percent in fiscal years 1985 and 1986. This program has shown itself to be an effective combination of Government and private initiatives to expand and maintain export markets for U.S. farmers. S. 18 would insure its continued growth independent of future reductions in Federal spending.

For farmers concerned with getting commodity prices up to profitable levels, the cost of reducing the size of target price increases in 1984 and 1985 is a small price to pay. Farmers know that, when deficiency payments are made, it means that prices are too low to allow most operations to turn a profit even with the Government check.

In addition, the target price levels established in the 1981 farm bill assumed that inflation and production costs would continue to rise at double digit rates. Instead, the recession and oil glut have worked to moderate increases. The need for target prices at the levels now scheduled is not as great today as it appeared 2 years ago.

MOST EFFICIENT USE OF RESOURCES

Finally, Mr. President, farm prices have remained at or below price support loan levels for most commodities for several years, and are stubbornly resisting efforts to bring them up by cutting back production and stimulating demand. To continue to raise target prices when there is little prospect of market prices attaining even the levels set for 1982 crops, much less 1983 or 1984, is an inefficient use of scarce resources. These moneys would be much better spent on programs that do the most good in raising prices—by expanding demand and increasing market share overseas.

ECONOMIC SUPPORT FUND

Another provision of S. 18 would amend the Foreign Assistance Act of 1961 by requiring that no less than 20 percent of the State Department's Economic Support Fund be used for purchases of U.S. agricultural products. At the funding level for fiscal year 1982 of $3.2 billion, this would earmark $640 million for farm exports. In addition, this provision would require that no less than 50 percent of these sales be processed or value-added products.

EXPORT-RELATED REPORTS

The three final sections of S. 18 set deadlines for reports from the executive branch on important issues involving the potential for enhanced farm exports.

The State Department would be required to report by July 1, 1983, on programs and funds currently available through its operations and those of aid which could be used to maximize agricultural export sales;

The President would be required to report by March 31, 1983, on the status of negotiations on a new long-term agreement on agricultural trade with the Soviet Union, and would be urged to initiate such discussions with a view toward expanding the terms of the existing accord;

The Agriculture Department would be required to report by July 1, 1983, on the growth and prospects for expansion of bilateral agreements which are locking in an increasing share of the world market for major farm commodities.

Mr. President, there will undoubtedly be many other proposals for protecting and expanding markets for U.S. farm exports before Congress this session. I only hope that we will make the effort to identify and emphasize creative ways to fund export expansion in a manner consistent with our overall effort to control Federal expenditures. It was in this spirit that the provisions of S. 18 were developed.

Mr. President, I ask that a section-by-section summary and the text of this legislation be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE AGRICULTURAL EXPORT EXPANSION ACT OF 1983—SECTION-BY-SECTION SUMMARY

Findings and Declaration of Policy: The Congress declares that expansion of agricultural exports is of fundamental economic importance to the Nation and is one of the highest national priorities.

Sec. 3. Export PIK Authority: Allows the Secretary of Agriculture to make surplus commodities available at no cost to foreign countries which purchase U.S. agricultural products.

Sec. 4. Section 416 Authority: Allows the Secretary to donate surplus commodities abroad through public and private nonprofit agencies for humanitarian purposes.

Sec. 5. Export Promotion Through Reduction in Target Price Increases: Allows the Secretary to reduce by one-half the scheduled increases in target prices for 1984 and 1985 crops, with any savings required to be used to promote farm exports:

Increase of 10 percent in the budget for the Foreign Market Development Cooperator Program administered by the Foreign Agricultural Service.

Balance of savings to constitute an "Agricultural Export Promotion Revolving Fund" for direct short and intermediate-term credits, with repayments available for new loans.

Sec. 6. Economic Support Fund: Requires no less than 20 percent of the Fund be used for purchases of U.S. agricultural exports, including at least one-half in processed or value-added products.

Sec. 7. State Department Report: Requires the Secretary of State to report by July 1, 1983, on additional programs and funding available for expanding U.S. farm exports.

Sec. 8. Long-Term Agreement Negotiations: Requires the President or his deputy to report by March 31, 1983, on the status of negotiations on a new long-term agreement on agricultural trade with the Soviet Union, and expresses the sense of Congress that the U.S. should initiate such negotiations.

Sec. 9. Report on Bilateral Agreements: Requires the Secretary of Agriculture to report by July 1, 1983, on the expansion of bilateral agricultural trade agreements and their impact on trade.

S. 18

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Agricultural Export Expansion Act of 1983".

FINDINGS AND DECLARATION OF POLICY

SEC. 2. (a) The Congress finds that—

(1) continued low prices severely erode the economic position of farmers and all sectors that depend upon agricultural production;

(2) erratic actions of the United States Government concerning domestic agricultural commodities and products thereof have severely damaged the credibility of the United States as a reliable supplier of agricultural commodities and products thereof to international markets;

(3) the competitive position of domestic agricultural exports has been weakened by foreign export subsidies, unfair trade prac-

tices, high interest rates, and unfavorable foreign exchange rates; and

(4) an increase in agricultural exports from the United States would create new jobs, improve this Nation's balance of trade, and otherwise strengthen the national economy.

(b) The Congress declares that expansion of agricultural exports is of fundamental economic importance to the Nation and is one of the highest national priorities.

EXPANDED MARKETS FOR DOMESTIC AGRICULTURAL COMMODITIES AND PRODUCTS

SEC. 3. (a) As used in this section, the term "agricultural commodity" means wheat, feed grains, upland cotton, rice, and other agricultural commodities, and the products thereof.

(b)(1) Notwithstanding any other provision of law, in order to encourage the expansion of export markets for domestic agricultural commodities and products thereof, the Secretary of Agriculture may develop and carry out a program under which agricultural commodities acquired by the Commodity Credit Corporation are made available for export to domestic exporters, domestic processors (for export), and foreign purchasers.

(2) Agricultural commodities shall be made available to domestic exporters, domestic processors, and foreign purchasers under this section without charge.

(c) In carrying out the program authorized by this section, the Secretary of Agriculture shall—

(1) if the importation of a manufactured product made, in whole or in part, from an agricultural commodity made available for export under this section would place domestic processors of the commodity at a competitive disadvantage, take such action as may be necessary to ensure that equal treatment is provided to domestic exporters and foreign purchases and to domestic processors of such commodity;

(2) give priority, among foreign purchasers receiving agricultural commodities under this section, to foreign purchasers who have traditionally purchased agricultural commodities produced in the United States and who continue to purchase such commodities on an annual basis in quantities greater than the level of purchases in a previous representative period;

(3) ensure, insofar as possible, that use of any agricultural commodities made available under this section be made in a manner that will encourage increased use, and avoid the displacement of usual marketings, of domestic agricultural commodities; and

(4) take reasonable precautions to prevent the resale or transshipment to other contries, or use for other than domestic use in the importing country, of agricultural commodities made available under this section.

(d)(1) If a foreign purchaser sells commodities received under this section in the importing country and uses funds received from such sale to construct or rehabilitate facilities in such country and the Secretary of Agriculture determines that such facilities improve the handling, marketing, processing, storage, or distribution of domestic agricultural commodities, such purchaser shall be eligible to receive supplemental distributions of commodities under this section.

(2) The Secretary may make supplemental distributions under this subsection with such commodities, at such intervals, and in such quantities as the Secretary determines appropriate taking into account the extent to which facility improvements have been made, the capability of the importing country to distribute or otherwise use additional agricultural commodities, and such other factors as the Secretary determines promote the purposes of this section.

(e) The Secretary of Agriculture shall carry out the program authorized by this section through the Commodity Credit Corporation.

(f) The Secretary of Agriculture may issue such regulations as the Secretary determines necessary to carry out this section.

(g) The authority provided in this section shall be in addition to, and not in place of, any authority granted to the Secretary of Agriculture or the Commodity Credit Corporation under any other provision of law.

EXPANDED AUTHORITY FOR THE USE ABROAD OF COMMODITY CREDIT CORPORATION STOCKS

SEC. 4. Section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431), as amended by section 110 of the Omnibus Budget Reconciliation Act of 1982 (96 Stat. 766), is amended—

(1) in the next to the last sentence—

(A) by inserting "and other agricultural commodities and products thereof acquired by the Commodity Credit Corporation" after "products";

(B) by inserting "for the direct distribution, sale, or barter of such commodities and products" after "organizations"; and

(C) by inserting "and products thereof" after "commodities"; and

(2) by inserting before the last sentence, the following new sentence: "The proceeds and services realized from the sale or barter of such commodities and products by such organizations shall be used exclusively to provide assistance to needy persons and may not be used by such organizations to defray operating or overhead expenses.".

AGRICULTURAL EXPORT PROMOTION THROUGH REDUCTION IN TARGET PRICE INCREASES

SEC. 5. (a) Notwithstanding any other provision of law, the Secretary of Agriculture may adjust the established price for wheat, feed grains, upland cotton, and rice under sections 107B(b)(1)(C), 105B(b)(1)(C), 103(g)(3)(B), and 101(i)(2)(C), respectively, of the Agricultural Act of 1949 (7 U.S.C. 1445b-1(b)(1)(C); 144d(b)(1)(C); 1444(g)(3)(A)(i); and 1441(i)(2)(C))—

(1) for the 1984 crop, at a level which is not less than the midpoint between the minimum established prices for the 1983 and 1984 crops of such commodity prescribed under such section; and

(2) for the 1985 crop, at a level which is not less than the midpoint between the minimum established prices for the 1984 and 1985 crops of such commodity prescribed under such section.

(b) For each of the fiscal years ending September 30, 1984, September 30, 1985, and September 30, 1986, if the Secretary exercises the authority provided by subsection (a), the Secretary shall estimate for each fiscal year the amount of any savings realized from the adjustment of the established price at the level authorized under subsection (a) rather than the level prescribed in the sections referred to in subsection (a).

(c) For each of the fiscal years ending September 30, 1984, September 30, 1985, and September 30, 1986, the Secretary shall use funds available to the Commodity Credit Corporation in an amount equal to the amount of any savings made as the result of any action taken by the Secretary of Agriculture under subsection (a) for each fiscal year—

(1) to ensure that the cooperator programs of the Foreign Agricultural Service of the Department of Agriculture are funded at a level which is at least 10 percent greater than the funding level provided for such programs during fiscal year 1983; and

(2) from the balance of funds remaining after providing any funding required under clause (1), to provide funds for the Agricultural Export Promotion Revolving Fund established under subsection (d).

(d)(1) There is hereby established in the Treasury a revolving fund to be known as the Agricultural Export Promotion Revolving Fund, which shall be available without fiscal year limitation for use by the Commodity Credit Corporation (hereafter referred to in this subsection as the "Corporation") for financing in accordance with this section and section 5(f) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c(f)) the following—

(A) commercial export sales of United States agricultural commodities out of private stocks or stocks owned or controlled by the Corporation on credit terms of not to exceed three years;

(B) export sales of United States breeding animals (including, but not limited to, cattle, swine, sheep, and poultry), including the cost of freight from the United States to designated points of entry in other nations; and

(C) the establishment of facilities in importing countries to improve the capacity of such countries for handling, marketing, processing, storing, or distributing fungible agricultural commodities produced in and exported from the United States (through the use of local currency generated from the sale of United States agricultural commodities).

(2) The Corporation shall use the revolving fund only to extend credit for purposes of market development and expansion and only where there is substantial potential for developing or enhancing regular commercial markets for United States agricultural commodities.

(3) The Secretary of Agriculture shall ensure that the revolving fund is used in such a manner as to involve equitable use of the funds to finance sales to the greatest feasible number of countries consistent with maximizing market opportunities.

(4) There are authorized to be appropriated to the Agricultural Export Promotion Revolving Fund such sums as may be necessary to carry out the provisions of this subsection. All funds received by the Corporation in payment for credit extended by the Corporation using the revolving fund, including interest or other receipts on investments and credit obligations, in financing export sales of the types specified in paragraph (1) of this subsection shall be added to and become a part of such revolving fund.

(5) The Secretary shall submit an annual report to Congess not later than December 1 of each year with respect to the use of the revolving fund in carrying out export credit sales by the Corporation in the previous fiscal year. Such report shall include, for the previous fiscal year, the names of the countries extended credit under this subsection, the total amount of such credit extended to each such country, the names of the United States exporters that received any such credit, the total amount of credit provided to each such exporter stated separately for each commodity for which the credit was extended, and a discussion and evaluation of the market development and expansion activities of the Corporation under this subsection during such fiscal

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year. The first such report shall be submitted to Congress not later than December 1, 1983.

(e) The Secretary shall carry out the program provided by this section through the Commodity Credit Corporation.

(f) The authority provided in this section shall be in addition to, and not in place of, any authority granted to the Secretary of Agriculture or the Commodity Credit Corporation under any other provision of law.

ECONOMIC SUPPORT FUND

SEC. 6. (a) Section 531 of the Foreign Assistance Act of 1961 (22 U.S.C. 2346) is amended by adding at the end thereof the following new subsection:

"(d) the President shall use an amount equal to not less than 20 percent of the funds appropriated to carry out this chapter for the purchase of domestic agricultural commodities. At least one half of such amount shall be used to purchase processed or value-added products of such commodities.".

(b) The amendment made by this section shall become effective on October 1, 1983.

SECRETARY OF STATE REPORT

SEC. 7. (a) The Secretary of State shall submit to the Congress not later than July 1, 1983, a report describing all programs administered by the Secretary under which surplus domestic agricultural commodities and products thereof are or could be distributed in foreign countries.

(b) The report required under subsection (a) shall include—

(1) the types of agricultural commodities distributed under the programs described in subsection (a) over the ten-year period preceding the date of enactment of this Act;

(2) the names of the countries receiving such distributions;

(3) the prices (if any) charged for such distributions;

(4) the credit terms under which such distributions were made; and

(5) recommendations concerning how programs described in subsection (a) could be used to expand the export of surplus domestic agricultural commodities and products thereof.

REPORT ON LONG-TERM AGREEMENT NEGOTIATIONS

SEC. 8. (a) The President shall submit to the Congress not later than March 31, 1983, a written report describing his actions and intentions with respect to the negotiation of a long-term grain sales agreement with the Government of the Soviet Union the terms of which provide for a higher minimum purchase requirements than the agreement in effect on the date of enactment of this Act and which would be effective October 1, 1983.

(b) It is the sense of the Congress that the President should initiate negotiations with the Government of the Soviet Union to reach an agreement described in subsection (a).

REPORT ON BILATERAL AGREEMENTS

SEC. 9. The Secretary of Agriculture shall submit to the Congress not later than July 1, 1983, a report describing the growth of and prospects for bilateral agricultural trade agreements and the potential impact of such agreements on trade.

By Mr. DOLE (for himself, Mr. LONG, and Mr. HEINZ):

S. 19. A bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 to assure equality of economic opportunities for women and men under retirement plans; to the Committee on Finance.

RETIREMENT EQUITY ACT OF 1983

Mr. DOLE. Mr. President, the Senator from Kansas, along with the distinguished Senator from Louisiana, is pleased to introduce today legislation which should significantly improve the chances that women will receive benefits under pension plans. Unlike some proposals, this legislation is designed to minimize disruption in plan administration and increases in the costs of providing benefits. However, this legislation will go a long way toward assuring that pension plans will provide benefits that a plan participant or spouse reasonably expects to be there.

INCREASED PENSION PARTICIPATION

Probably the most important area for improvement in terms of equity is to lower the age at which service with an employer must be taken into account if an employee is covered by a pension plan. Under present law, an employee's service generally must be taken into account if the employee is at least age 25 and has at least 1 year of service with the employer. This rule has great impact on the large number of employees who start work after high school or even after college and find that, although they work faithfully for their employer on a full time basis, they are not earning any credit for retirement benefits.

The bill I introduce today will lower the age threshold for participation in a pension plan from age 25 to age 21.

This change will have a major impact for women in the work force. The reason for this is that many women begin work before age 25. In fact, nearly 70 percent of women join the work force on a full time basis before age 25. This problem is exacerbated by the current rules that apply when an employee takes a period of time off to have a child. Presently, all prior service with an employer must be taken into account only if the period of absence from work is shorter than the number of years of service with the employer. Reducing the participation age to 21 will have the additional benefit of requiring that years of service with the employer be taken into consideration for the so-called breaks in service rule from age 21, rather than age 25.

In addition, the bill will allow up to 1 year of absence due to the birth of a child and the employee will not lose credit for prior service with the employer if the employee returns to work.

INCREASED BENEFITS FOR NONEMPLOYEE SPOUSES

Under present law, generally, if a pension plan provides for a benefit in the form of an annuity, it must be in the form of a joint and survivor annuity unless the employee spouse elects otherwise. The legislation I am introducing today will change this rule to require the consent of the nonemployee spouse to elect out of joint and survivor annuity coverage. In order to make certain that the administrative burden created by this provision is as small as possible, the pension plan will be able to rely on a notarized consent or, in the alternative, a consent in writing witnessed by a plan representative.

In addition, the bill extends the requirement that benefits be paid in the form of a joint and survivor annuity in all plans that provide annuity benefits.

Another area that has caused much confusion is to what extent Federal pension laws affect how pension benefits can be treated in a divorce case. S. 19 will clarify Federal law so that accrued pension benefits may clearly be subject to a State law property settlement pursuant to divorce or separation agreement. However, the law will also be made clear that no pension plan will be required to distribute pension plan assets prior to the retirement of the pension plan participant.

Where payment of joint and survivor benefits have begun prior to divorce, the bill also protects the benefits of a surviving spouse.

The bill is intended to address many inequities under the Federal pension laws which have come to our attention. However, it is not intended as an exclusive list. There may be additional areas and other approaches which should be discussed before final action is taken.

Some areas have not yet been addressed in the bill because we have not been able to agree upon an appropriate solution or because we have not obtained sufficient information to balance competing interests. For example, the bill does not deal with the problem of forfeiture of benefits because of death before retirement. This Senator would welcome comment on the severity of the problem, the impact of various solutions on participant spouses' plans, and whether any solution should be attempted within the pension laws specifically or through other means.

Another area which deserves further comment and analysis is break-in service rules. Some groups have argued that, after a certain minimum period of employment, all years of service with an employer should be included in determining pension benefit accruals when an employee returns to work after a period of absence. Others have argued that a rule of this nature would provide too much of ap incentive for an employer to hire a new employee rather than to rehire the former employee because of increased pension costs. I ask interested groups

to comment on these issues when the Finance Committee has hearings on S. 19.

By Mr. ROTH:

S. 20. A bill to provide for a 2-year budget process, and for other purposes; jointly, to the Committee on the Budget and to the Committee on Governmental Affairs, pursuant to the order of August 4, 1977.

THE FEDERAL BUDGET REFORM ACT

● Mr. ROTH. Mr. President, today I am introducing S. 20, the Federal Budget Reform Act. This legislation will streamline the existing budget process by establishing a 2-year budget cycle. S. 20 retains the requirements in the current process which have proven successful and eliminates those which have proven burdensome and unworkable. It is essential that the Congress act promptly to reform the budget process. If the need for reform of the congressional budget process was not obvious after the recurring problems of continuing resolutions and missed budget deadlines, surely the spectacle of the closing days of the last Congress is conclusive evidence of a desperate need for revisions in the process.

This legislation is the product of a careful review of the Congressional Budget Act by the Governmental Affairs Committee. In October 1981, I convened hearings to explore some of the problems of the current process. We heard the concerns of several Members of Congress and other individuals with expertise in this area. As a result of these oversight hearings in the last Congress I introduced a comprehensive revision of the congressional budget process, S. 2629.

Last September, I held hearings on S. 2629 in the Governmental Affairs Committee. The Director of the Congressional Budget Office, Dr. Alice Rivlin, testified on S. 2629, finding that S. 2629 "provides an excellent framework for shaping the next reform in congressional budgetmaking." Charles A. Bowsher, Comptroller General, testified before my committee that S. 2629 "will be an excellent vehicle for furthering the Congress understanding both of the issues and of some innovative approaches the Congress might wish to take toward simplifying its budget process, allowing more time for Congress to do its work and strengthening discipline and enforcement within its budget process." Today I am reintroducing this legislation, with technical changes, for consideration in this new Congress.

Briefly, S. 20, the Federal Budget Reform Act, would establish a 2-year budget cycle. The first session of each Congress would be devoted to budget and appropriations. Early in the year, the Congress would agree to a single binding budget resolution, which would prescribe spending and revenue limits for the 2-year period beginning in the next January. Within the framework of the budget resolution, the Congress would then approve an omnibus appropriations bill, which would combine the 13 annual appropriations bills into one 2-year bill. The second session of each Congress would be devoted to considering authorizations and to oversight activities.

S. 20 would allow each new President and Congress to put their policies into place in the first year of their respective terms. Under S. 20, budget policy would go into effect in the second session of each term, as it now does under normal circumstances. I believe this approach to a biennial timetable would promote accountability to the public for budget decisions. Under alternative timetables, budget decisions would not actually go into effect until the election of the next Congress.

In order to enforce these spending decisions, reconciliation would be permitted any time after the binding budget resolution was passed. If budget conditions drastically changed, the budget resolution could be revised by a two-thirds vote of the Congress. The purpose of this provision is to force the Congress to review its spending habits and perhaps revise priorities, instead of routinely revising the budget every time the wind changes.

My legislation would improve congressional control over the Federal budget. S. 20 would bring spending of off-budget agencies into the unified budget. My bill does not encompass a credit budget format, although it would certainly not preclude it. I know Senator PERCY and others have done extensive work in this area, and I believe it has great merit.

As I have said many times, I strongly believe that our current budget process is a vast improvement over the chaos which existed before its enactment. Some have raised concerns that this is not an appropriate time to revise the budget process, and that if we tamper with it we risk losing the benefits it may have. I firmly believe that if we do not move soon to make the necessary revisions to streamline the cumbersome aspects of this process, we may see it abandoned altogether. We continue to be faced with a multitude of difficult, complex policy decisions. There is no question that to address the problem of the burgeoning deficits, hard choices will be required of the Congress. Frankly, my legislation is not designed to be an economic cure-all. It would, however, allow us to make the necessary decisions in a more logical, rational way. The budget process has evolved as the fundamental process for setting national priorities. This is certainly one of the central roles Congress performs, but it is not, or should not be, the only function of Congress. S. 20 would set a realistic timetable for the Congress to make the essential spending decisions while allowing time for our other duties and responsibilities. It would provide much needed certainty to the financial markets and the rest of the country.

As chairman of the Governmental Affairs Committee which has jurisdiction over changes in the budget process, I believe S. 20 embodies the direction in which we need to progress on budget reform. I hope to hold additional hearings early this year on this proposal. I would hope the Governmental Affairs Committee will report a comprehensive budget reform measure as soon as possible. I welcome the comments and suggestions of my colleagues on ways in which this legislation might be further strengthened.●

By Mr. MOYNIHAN:

S. 21. A bill to redesignate the Department of Commerce as the Department of Trade and Commerce to consolidate all functions relating to international trade in the Department of Trade and Commerce, and for other purposes; to the Committee on Governmental Affairs.

DEPARTMENT OF TRADE AND COMMERCE ACT OF 1983

Mr. MOYNIHAN. Mr. President, on this first day of legislative business of the 98th Congress, I rise to introduce S. 21, legislation to transform the current Department of Commerce into a new Department of Trade and Commerce.

This proposal is a direct response to a new reality of the world economy, to which the United States must respond: The patterns of international trade now exert significant influence over the patterns, and the very health, of the American economy. Each year, the nations of the world export more than $2 trillion in goods and service; and of course, a like amount is imported. The United States accounts for more than 10 percent of these totals. Fully 15 percent of the products manufactured in America, produced by more than 5 million American workers, are export-related.

The current recession has accentuated the crucial role exports and imports play in our economic life. We have just registered the largest trade deficit in our history, some $35 billion in 1982, and the Chairman of the President's Council of Economic Advisers, Dr. Martin Feldstein, foresees a trade deficit of some $65 to $75 billion next year. That is $75 billion that, under previous conditions, flowed to U.S. manufacturers; now, it will stimulate production and employment abroad.

In part, this imbalance reflects a succession of misguided macroeconomic strategies, chiefly the devastating high interest rates that have arrested consumer spending and business in-

vestment, and with them economic growth. These interest rates have attracted foreign investment to the dollar, appreciating the dollar's value and, in this way, made American-made products more expensive on the world market while foreign-produced goods became less expensive in the American market. According to the Federal Reserve Board, the value of the dollar, as measured against a trade-weighted basket of 20 other Western currencies, increased 31 percent from December 1980 to December 1982. This means that, all other factors being equal, the price of U.S. goods abroad increased 31 percent merely from the rise in the dollar's foreign exchange value, while the price of foreign-produced goods on the U.S. market was effectively reduced some 24 percent.

There is another reason for the deteriorating position of the U.S. trade balance. Alone among the major nations of the world, we do not have one central place to coordinate information, policies, and assistance to promote our exports. Alone among the major nations of the world, we do not have one central place to which business and local governments can turn for help in promoting exports. It is time to organize ourselves.

In its early years, the current Department of Commerce was enormously useful, helping to create a truly national economy within the United States out of the regional economies that grew up in the first half of the 19th century. That work is done. Now, the Department should turn to the challenge of our own time—defining the role our national economy can play in a newly competitive world. In fact, the Department seems to want to do just that. If you open up the "United States Government Manual," its description of the Department begins as follows:

> The Department of Commerce, encourages, serves, and promotes the nation's international trade * * *

The Department can truly begin to do so, if we consolidate the various trade-related responsibilities currently strewn across the Government among seven cabinet departments and more than a half-dozen agencies and offices. Under this legislation, the functions of the present Commerce Department would be retained in a new subdepartment directed by an undersecretary and devoted to domestic commerce. The innovation consists in gathering into one place trade-related responsibilities currently carried out by the Departments of State, Treasury, Energy, Labor, Defense, Agriculture, and Commerce, as well as the Office of the Special Trade Representative in the Executive Office of the President, the Export-Import Bank, the International Trade Commission, the International Development Cooperation Agency, the Overseas Private Investment Corporation, and the Small Business Administration.

This is not an idle proposal to reshuffle a few offices within the Government, append a new name, and erect a new building. This is a thoughtful response to the disturbing patterns of current world trade, to circumstances which observers from all points on the political spectrum have come to view with alarm.

Many of you will have heard President Reagan's radio address of last November 20, entitled "International Free Trade." This was just prior to the opening of the ministerial meetings of the General Agreement on Tariffs and Trade—or GATT—in Geneva. The President said;

> We are reminding our trading partners that preserving individual freedom and restoring prosperity also requires free and fair trade in the marketplace. The United States took the lead after World War II in creating an international trading and financial system that limited governments' ability to disrupt free trade across borders. We did this because history had taught us an important lesson: free trade serves the cause of world peace.
>
> When governments get too involved in trade, economic costs increase and political disputes multiply. Peace is threatened. In the 1930's, the world experienced an ugly specter—protectionism and trade wars and, eventually, real wars and unprecedented suffering and loss of life.
>
> There are some who seem to believe that we should run up the American flag in defense of our markets. They would embrace protectionism again and insulate our markets from world competition. Well, the last time the United States tried that there was enormous economic distress in the world. World trade fell by 60 percent, and young Americans soon followed the American flag into World War II.

Cordell Hull could not have said it more eloquently.

The President had reason to be hopeful. It was he, at his first economic summit in Ottawa in the summer of 1981, who proposed the recent meeting of the General Agreement on Tariffs and Trade, the first at the ministerial level in 9 years.

For many years, the GATT succeeded in promoting freer and wider world trade. In 1934, following implementation of the Smoot-Hawley tariffs passed in 1930, the average U.S. tariff rate had reached 47 percent—and U.S. exports and imports had plummeted nearly two-thirds in 2 years. GATT was established 13 years later, following World War II, and by the opening of the 1962 Kennedy round of GATT negotiations, the average U.S. tariff had dropped to 12 percent. Today, the average U.S. tariff rate is about half that, 6 percent.

Yet, the most recent GATT conference was a near total failure. At the very outset, Michel Jobert, the French Foreign Trade Minister, denounced the United States for "dogmatic liberalism." Free trade, of course, was a profound article of faith with the early nineteenth century school of British economists known as liberals—and, in their view, an article deeply associated with the cause of world peace. Alas, the French never forget.

Now, Ronald Reagan has been denounced for much in his career, but rarely for "dogmatic liberalism." But then, the world increasingly sees these matters differently. Increasingly, the world has tried to find shortcuts to economic growth, shortcuts around free trade—subsidies for exports to the United States, nontariff barriers to U.S. exports, and so on.

At the close of the recent GATT meeting, Hobart Rowen of the Washington Post described the results as "a bitter defeat for free trade." The Wall Street Journal wrote that the GATT "just barely survived the meeting." And Ambassador Bill Brock, our distinguished Trade Representative and a man respected throughout the U.S. Government, returned and told the Senate Finance Committee that—

> We came so close to a disaster that maybe the biggest achievement we had was in keeping the system in some form intact.

It was as bad as that.

And why? Because most of the nations of the world just do not subscribe to GATT's principles. When GATT was formed following World War II, it assumed its members had something like free economies, in which the overwhelming proportion of commercial decisions were in private hands. Government previously had interfered through tariffs and quotas. If these could be substantially eliminated, the world would have free trade—and more trade.

The 23 original members of GATT basically fit this description. Today, GATT is a world trade organization with 87 members—including 4 from the Soviet bloc. Indeed, 2 days ago, the Soviet Union moved to secure observer status at future GATT meetings—a matter which will require great caution.

The political economy of the world has changed since GATT was formed in 1947. Of GATT's industrialized members, the United States almost alone still subscribes to the economic tenets which underlay the organization's formation. In Japan, the powerful Ministry of International Trade and Industry formulates industrial as well as trade policy and facilitates corporate modernization, investment, and technological decisions in accordance with these policies. France has moved from the state-planning principles of the Gaullist's Dirgisme, embodied in the Comisariat General Au Plant, to the state-directed economics of the current Socialist government.

The United States has continued to provide only a minimum of Government subsidy for export products—and to resist state direction or planning of

matters concerning international trade. We persist in speaking as we have for a half-century. We conjure up images of a world in free trade, failing to notice that the kind of economies assumed for such trade have, for the most part, passed from the world scene.

What is to be done? One course would have us continue to slide towards protectionism, sideways as it were, moving from one industry to another. Responding to some bit of damage after-the-fact, with policies that ultimately bring more damage.

A few months ago, our International Trade Commission found that several European nations were providing huge subsidies for steel exports to the United States. Last winter, Europeans were selling carbon steel in the United States at $500 a ton—with a Government subsidy of $130 a ton. The GATT already provides that when export subsidies exceed a certain limit, the receiving country can offset the subsidies with temporary countervailing duties. What did our Government acutally do? It did what our rhetoric insists we not do. Instead of countervailing duties, within the context of GATT principles, we negotiated quota agreements with the European governments.

Quotas? The very word was an abomination to the statesman who lived through the economic and social misery spawned by the trade wars of the 1930's, and who in response established the GATT.

Consider recent action by the Congress, which voted to essentially bar the use of foreign-produced cement, steel, and manufactured products in any project sponsored under the road repair-jobs legislation of the last session. That is a zero-quota. A trade bar, a step toward harsh trade conflict with our allies.

The end of such a process is all too clear—deteriorating relations between governments forced to oversee sinking economies. Ending, once again, with misery all around and the erosion of the Western Alliance.

Behind the exhilarating rhetoric of protectionism, these are the real consequences.

There is another alternative. We can recognize that the world economy has changed and organize ourselves to make the most of present-day realities. Crucial to this is the recognition that our Government must play a greater role in trade. We may accept this only reluctantly, insisting it is not so. But accept it we must, because it is so.

A greater government role is the alternative to protectionism offered by the current stage of world political economy.

We must begin by insisting on the remedies against unfair trade practices, remedies provided for in GATT agreements. Our Government has not done so, in large part because there is no one organization within our National Government which is responsible. Trade responsibilities are spread all over—among seven Cabinet departments and a half-dozen other agencies and offices.

This dispersion is not happenstance. The modern era of reciprocal trade agreements, which led to the GATT, was born in the State Department, under the leadership of Cordell Hull. The State Department was the appropriate place then, because the United States had, or at least acknowledged, few interests abroad except trade.

But America's world responsibilities in the post-war years have changed our State Department in fundamental ways. Not the least of these changes has been a consistent incapacity to insist on its own principles—such as free trade—when it finds any particular nation violating them. And this has been especially true when the violator is an ally. From the State Department's view, some larger geopolitical issue is always at stake, not to be jeopardized by some trade squabble.

The Department has not been wrong on this at any one point. But a generation of this has brought us growing protectionism among these allies and trade deficits at home which have averaged more than $30 billion annually over the last 5 years.

We cannot go on in this manner. We must organize ourselves. This legislation is the crucial first step toward doing so, and I ask for your support.

Mr. President, I ask unanimous consent that the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 21

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Trade and Commerce Act of 1983".

FINDINGS

SEC. 2. The Congress finds and declares that—

(1) the responsibility for developing and implementing the trade policy of the United States is divided among the Departments of Agriculture, Commerce, Defense, Energy, Labor, State, Transportation, and the Treasury, the United States Trade Representative, the International Development Corporation Agency, the International Trade Commission, the Small Business Administration and various other agencies;

(2) this division of trade responsibilities is cumbersome and has hindered efforts to expand international trade and to enforce the trade agreements of the United States, based upon the principles agreed to under the auspices of the General Agreements on Tariffs and Trade;

(3) it is in the national interest to promote the export of American goods and services, aid local and state governments in their efforts to increase local export activities, and to encourage overseas investment and foreign investment in the United States, thereby creating domestic employment opportunities;

(4) international trade has become an increasingly important component of the national income of the United States with exports presently accounting for over 10 percent of the gross national product;

(5) free international trade will more efficiently allocate the world's resources, increasing output and raising living standards for all trading nations;

(6) free trade between nations breaks down social and cultural barriers and leads to greater understanding and cooperation among the peoples of the world; and

(7) the creation of a cabinet-level Department of Trade and Commerce will promote these objectives and help facilitate the development and implementation of a coordinated and coherent international economic policy for the United States.

DEFINITIONS

SEC. 3. As used in this Act, unless otherwise provided or indicated by the context—

(1) the term "Department" means the Department of Trade and Commerce or any component thereof;

(2) the term "Secretary" means the Secretary of Trade and Commerce;

(3) the term "department" means an executive department under section 101 of title 5, United States Code;

(4) the term "agency" has the same meaning as provided in section 551 (1) of such title; and

(5) the term "function" includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

ESTABLISHMENT OF DEPARTMENT

SEC. 4. (a)(1) The Department of Commerce is redesignated the Department of Trade and Commerce.

(2) The Secretary of Commerce is redesignated the Secretary of Trade and Commerce. The Secretary shall have the rank and status of Ambassador Extraordinary and plenipotentiary with respect to international trade and investment matters.

(b) There shall be in the Department an Under Secretary of International Trade who shall be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary of International Trade shall be the head of an international trade division within the Department and shall perform such functions as the Secretary may prescribe.

(c) There shall be in the Department an Under Secretary of Domestic Commerce who shall be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary of Domestic Commerce shall be the head of a domestic commerce division within the Department and shall perform such functions as the Secretary may prescribe.

(d) There shall be in the Department separate offices for—

(1) strategic trade;

(2) financing and credit for international trade;

(3) the collection and analysis of information concerning the distribution of economic resources throughout the domestic economy; and

(4) such other offices as the Secretary considers appropriate.

(e) The Secretary shall prescribe the order by which the officers of the Department shall act for, and exercise the powers of, the Secretary during the absence or disability of the Secretary or in the event of a vacancy in the office of the Secretary.

FUNCTIONS

SEC. 5. (a) The Secretary shall—

(1) exercise leadership, under the direction of the President, in international trade and domestic commerce matters;

(2) develop and coordinate the policies of the United States for the promotion of beneficial international trade relationships with respect to industrial and agricultural products, services, raw materials, and investment;

(3) negotiate agreements relating to the international trade of the United States and assert and protect the rights of the United States under such agreements;

(4) protect American industry, agriculture, and labor from unfair and injurious foreign trade practices;

(5) seek and promote new trade and commercial opportunities in foreign countries for American goods, services, and investment;

(6) assist in financing international trade between the United States and foreign countries;

(7) administer and enforce customs and related laws;

(8) promote and undertake the development, collection, analysis, and dissemination of technical, statistical, economic, and other information relating to domestic and international trade and investment including analysis of the distribution of the supplies and flows of capital, labor, and other resources among the sectors of the national economy and the long-term implication of such distribution; and

(9) assist State and local government efforts to increase exports.

(b) In carrying out his functions, the Secretary shall consult, exchange information, and carry on joint planning, research, and other activities with the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Defense, the Secretary of Energy, the Secretary of Labor, the Secretary of State, the Secretary of Transportation, the Secretary of the Treasury, and the heads of such other departments and agencies as the Secretary considers appropriate.

(c) The Secretary shall jointly study, with the Secretary of Agriculture, the Secretary of Commerce, the Secretary of State, the Secretary of the Treasury, and the heads of such other departments or agencies as the Secretary considers appropriate, how Federal policies and programs can ensure that international trade and commerce systems most effectively serve both national and international economic needs. The Secretary shall include in the annual report required by section 8 of this Act an account of the studies and activities conducted under this subsection, including any legislative recommendations which the Secretary determines desirable.

(d) The Secretary shall consult with the Secretary of Defense in carrying out the functions transferred by section 6(f).

(e) The Secretary shall consult with the Secretary of Agriculture in carrying out the functions transferred by section 6(l).

TRANSFERS TO THE DEPARTMENT OF TRADE AND COMMERCE

SEC. 6. (a) There are transferred to the Secretary all functions of the United States Trade Representative and the Office of the United States Trade Representative in the Executive Office of the President.

(b) The Export-Import Bank of the United States is transferred to the Department.

(c) The Overseas Private Investment Corporation is transferred to the Department.

(d)(1) The Trade and Development Program of the International Development Cooperation Agency is transferred to the Department.

(2) There are transferred to the Secretary all functions of the Director of the International Development Cooperation Agency with respect to or being administered through the Trade and Development Program.

(e)(1) The United States Customs Service of the Department of the Treasury is transferred to the Department.

(2) There are transferred to the Secretary all functions of the Secretary of the Treasury or the Department of the Treasury with respect to or being administered through the United States Customs Service.

(f) There are transferred to the Secretary all functions of the Secretary of Defense with respect to export of strategic materials which functions are administered by the Assistant Secretary of Defense (International Security Affairs). Such functions shall be administered by the head of the office of strategic trade established pursuant to section 4(d)(1).

(g) There are transferred to the Secretary all functions of the Secretary of Energy with respect to the importation and exportation of energy and energy-producing materials, including fuels, which functions are being administered by the Assistant Secretary of Energy for International Affairs.

(h) There are transferred to the Secretary all functions of the Secretary of Labor or the Department of Labor with respect to or being administered through the Office of Trade Adjustment Assistance of the Department of Labor.

(i) There are transferred to the Secretary all functions of the Secretary of State, the Department of State, and officers and components of such Department relating to international trade and investment as determined by the Director of the Office of Management and Budget.

(j) There are transferred to the Secretary all functions of the Secretary of Transportation with respect to the importation and exportation of transportation systems and equipment which functions are being administered by the Assistant Secretary of Transportation for Policy and International Affairs.

(k) There are transferred to the Secretary all functions of the Secretary of the Treasury, the Department of the Treasury, and officers and components of such Department relating to international trade and investment as determined by the Director of the Office of Management and Budget.

(l) There are transferred to the Secretary all functions of the Secretary of Agriculture, the Department of Agriculture, and officers and components of such Department relating to the export of agricultural products as determined by the Director of the Office of Management and Budget.

(m) The United States International Trade Commission is transferred to the Department.

(n) There are transferred to the Secretary all functions of the Small Business Administration with respect to extensions of credit and revolving lines of credit to enable small business concerns to engage in export and import business.

ADMINISTRATIVE PROVISIONS

SEC. 7. (a) In addition to the authority contained in any other Act authorizing functions transferred to the Secretary by this Act, the Secretary is authorized, subject to the civil service and classification provisions of title 5, United States Code, to select, appoint, employ, and fix the compensation of such officers and employees, including investigators, attorneys, and hearing examiners, as are necessary to carry out the provisions of this Act, and to prescribe the authority and duties of such officers and employees.

(b) The Secretary may obtain services as authorized by section 3109 of title 5, United States Code, at rates not to exceed $100 per day for individuals unless otherwise specified in an appropriation Act.

(c) In addition to the authority to delegate and redelegate functions contained in any other Act authorizing functions transferred to the Secretary by this Act, the Secretary may delegate his functions to such officers and employees of the Department as he may designate, and may authorize such successive redelegations of such functions as he may find appropriate.

(d) The Secretary may make such rules and regulations as may be necessary or appropriate to administer and manage the functions of the Secretary or the Department.

(e)(1) The Secretary is authorized to establish a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as the Secretary shall find to be desirable in the interest of economy and efficiency in the Department, including such services as—

(A) a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its components;

(B) central messenger, mail, telephone, and other communications services;

(C) office space, central services for document reproduction, and for graphics and visual aids; and

(D) a central library service.

(2) The capital of the fund shall consist of any appropriations made for the purpose of providing working capital and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the Secretary may transfer to the fund, less the related liabilities and unpaid obligations. Such funds shall be reimbursed in advance from available funds of agencies and offices in the Department, or from other sources, for supplies and services at rates which will approximate the expense of operation, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from sale or exchange of property and receipts in payment for loss or damage to property owned by the fund. There shall be covered into the United States Treasury as miscellaneous receipts any surplus of the fund (all assets, liabilities, and prior losses considered) above the amounts transferred or appropriated to establish and maintain such fund. There shall be transferred to the fund the stocks of supplies, equipment, other assets, liabilities, and unpaid obligations relating to the services which the Secretary determines, with the approval of the Director of the Office of Management and Budget, will be performed.

(f) The Secretary shall cause a seal of office to be made for the Department of such design as he shall approve, and judicial notice shall be taken of such seal.

(g)(1) The Secretary is authorized to accept, hold, administer, and utilize gifts and bequests of property, both real and per-

sonal, for the purpose of aiding or facilitating the work of the Department. Gifts and bequests of money and the proceeds from sales of other property received as gifts or bequests shall be deposited in the Treasury in a separate fund and shall be disbursed upon order of the Secretary. Property accepted pursuant to this paragraph, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift or bequest.

(2) For the purpose of Federal income, estate, and gift taxes, property accepted under paragraph (1) shall be considered as a gift or bequest to or for use of the United States.

(3) Upon the request of the Secretary, the Secretary of the Treasury may invest and reinvest in securities of the United States or in securities guaranteed as to principal and interest by the United States any moneys contained in the fund provided for in paragraph (1). Income accruing from such securities, and from any other property held by the Secretary pursuant to paragraph (1), shall be deposited to the credit of the fund, and shall be disbursed upon order of the Secretary.

(h) The Secretary is authorized to appoint, without regard to the classification and civil service provisions of title 5, United States Code, such advisory committees as may be appropriate to assist the Department in the performance of its functions.

(i)(1) Subject to the provisions of the Federal Property and Administrative Services Act of 1949, the Secretary is authorized to make, enter into, and perform such contracts, grants, leases, cooperative agreements, or other similar transactions with Federal or other public agencies (including State and local governments) and private organizations and persons, and to make such payments, by way of advance or reimbursement, as the Secretary may determine necessary or appropriate to carry out functions of the Secretary or the Department.

(2) Notwithstanding any other provision of this Act, no authority to enter into contracts or to make payments under this Act shall be effective except to such extent or in such amounts as are provided in advance under appropriation Acts. This subsection shall not apply with respect to the authority granted under subsection (g) of this section.

(j)(1) The Secretary is authorized, upon the written request of any person, or any State, territory, possession, of political subdivision thereof, to (A) make special statistical studies relating to international trade and domestic commerce, (B) prepared from the records of the Department special statistical compilations, and (C) furnish transcripts of such studies and compilations of the Department upon the payment of the actual cost of such study or compilation by the person or body requesting such work.

(2) All moneys received by the Department in payment for any study or compilation prepared under paragraph (1) shall be deposited in a separate account to be administered under the direction of the Secretary. Such moneys may be used, in the discretion of the Secretary, for the ordinary expenses incidental to the preparation of any such study or compilation or to secure in connection therewith the services of persons who are not officers or employees of the United States, to such extent or in such amounts as are provided in advance in appropriation Acts.

(k)(1) The Secretary is authorized to enter into contracts, to such extent or in such amounts as are provided in appropriation Acts, with educational institutions, public or private agencies or organizations, or persons for the conduct of research into any aspect of the problems related to the programs of the Department which are authorized by statute.

(2) The Secretary shall require a showing that any institution, agency, organization, or person with which the Secretary expects to enter into any contract pursuant to this subsection have the capability of doing effective work. The Secretary shall furnish such advice and assistance to any such institution, agency, organization, or person as the Secretary determines will best carry out the functions of the Department, participate in coordinating all research initiated under this subsection, and indicate the lines of inquiry which the Secretary considers most important. The Secretary shall encourage, and assist in the establishment and maintenance of, cooperation by and between all institutions, agencies, organizations, or persons with which the Secretary enters into contracts under this subsection, and between such institutions, agencies, organizations, and persons and other research organizations, the Department, and other Federal departments and agencies.

(3) The Secretary may disseminate in the form of reports or publications to public or private agencies or organizations, or individuals such information as the Secretary finds pertinent on the research carried out pursuant to this section.

(4) This subsection does not modify or repeal any provision of law administered by the Department which authorizes contracts for research.

ANNUAL REPORT

SEC. 8. The Secretary shall, as soon as practicable after the end of each fiscal year, prepare and transmit a written report to the President on the activities of the Department during such fiscal year, including activities under section 5(c) of this Act. The President shall submit such report to the Congress.

TRANSFER MATTERS

SEC. 9. (a) The personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available, in connection with the functions, offices, and agencies transferred by this Act, are, subject to section 1531 of title 31, United States Code, transferred to the Department for appropriate allocation.

(b) The transfer of personnel pursuant to subsection (a) of this section shall be without reduction in classification or compensation for one year after such transfer.

(c) Any person who, on the day preceding the effective date of this Act, held a position compensated in accordance with the Executive Schedule, and who, without a break in service, is appointed in the Department to a position having duties comparable to those performed immediately preceding his appointment shall continue to be compensated in his new position at not less than the rate provided for his previous position, for the duration of his service in his new position.

(d) In the exercise of the functions transferred under this Act, the Secretary shall have the same authority as was exercised by the head of the department or agency exercising such functions immediately preceding their transfer, and the actions of the Secretary in exercising such functions shall have the same force and effect as when exercised by the head of the department or agency from whom such functions are transferred.

(e)(1) The Director of the Office of Management and Budget, such time as the Director provides, may make such determinations as may be necessary with regard to the functions, offices, agencies, or portions thereof, transferred by this Act, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of approporiations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, offices, agencies, or portions thereof, as may be necessary to carry out the provisions of this Act. The Director shall provide for such further measures and dispositions as may be necessary to effectuate the purposes of this Act, and for the termination of the Office of United States Trade Representative.

(2) After consultation with the Director of the Office of Personnel Management, the Director of the Office of Management and Budget is authorized, at such time as the Director of the Office of Management and Budget provides, to make such determinations as may be necessary with regard to the transfer of positions within the Senior Executive Service in connection with functions, offices, and agencies transferred by this Act.

SAVINGS PROVISIONS

SEC. 10. (a) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective in the exercise of functions which are transferred under this Act by (A) any department or agency, any functions of which are transferred by this Act, or (B) any court of competent jurisdiction; and

(2) which are in effect at the time this Act takes effect.

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the President, the Secretary, by any court of competent jurisdiction, or by operation of law.

(b) The provisions of this Act shall not affect any proceedings pending at the time this Act takes effect before any department or agency or any component thereof, the functions of which are transferred by this Act; but such proceedings, to the extent that they relate to functions so transferred, shall be continued before the Department. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or repealed by the Secretary, by a court of competent jurisdiction, or by operation of law.

(c) Except as provided in subsection (e)—

(1) the provisions of this Act shall not affect actions commenced prior to the date this Act takes effect, and

(2) in all such actions proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this Act had not been enacted.

(d) No action or other proceeding commenced by or against any officer in his official capacity as an officer for any department or agency from whom functions are transferred by this Act shall abate by reason of the enactment of this Act. No

cause of action by or against any department or agency from which functions are transferred by this Act, or by or against any officer thereof in his official capacity shall abate by reason of the enactment of this Act. Causes of action and actions with respect to a function, office, or agency transferred by this Act, or other proceedings may be asserted by or against the United States or an official of the Department as may be appropriate and, in an action pending when this Act takes effect, the court may at any time, on its own motion or that of any party, enter an order which will give effect to the provisions of this subsection.

(e) If before the date on which this Act takes effect, any department, office, or agency, or any officer thereof in his official capacity, is a party to an action, and under this Act—

(1) such office or agency is transferred to the Department, or agency; or

(2) any function of such department, office, agency, or officer is transferred to the Secretary,

such action shall be continued with the Secretary or other appropriate official of the Department substituted or added as a party.

(f) Orders and actions of the Secretary in the exercise of the functions transferred under this Act shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the head of the department, office, or agency in exercising such functions immediately preceding their transfer. Any statutory requirements relating to notice, hearings, actions upon the record, or administrative review that apply to any functions transferred by this Act shall apply to the exercise of such functions by the Secretary.

(g)(1) Reference in any other Federal law to the Department of Commerce (or any office or agency thereof) or to the Secretary of Commerce shall be deemed to mean the Department or the Secretary, respectively.

(2) With respect to any function transferred by this Act and exercised after the effective date of this Act, reference in any other Federal law to any department, office, or agency, or any officer thereof, the functions of which are so transferred, shall be deemed to mean the Secretary or the Department.

TERMINATION

SEC. 11. The Office of the United States Trade Representative is terminated.

CONFORMING AMENDMENTS

SEC. 12. (a) Section 19(d)(1) of title 3, United States Code, is amended by striking out "Secretary of Commerce" and inserting in lieu thereof "Secretary of Trade and Commerce".

(b) Section 101 of title 5, United States Code, is amended by striking out "The Department of Commerce." and inserting in lieu thereof "The Department of Trade and Commerce.".

(c)(1) Section 5312 of title 5, United States Code, is amended—

(A) by striking out the item relating to the Secretary of Commerce and inserting in lieu thereof the following:

"Secretary of Trade and Commerce"; and

(B) by striking out the item relating to the Special Representative for Trade Negotiations.

(2) Section 5314 of title 5, United States Code, is amended by striking out the items relating to the Under Secretary of Commerce and the Deputy Special Representatives for Trade Negotiations and by adding at the end thereof the following:

"Under Secretary of International Trade of the Department of Trade and Commerce.

"Under Secretary of Domestic Commerce of the Department of Trade and Commerce.".

(3) Section 5315 of title 5, United States Code, is amended—

(A) by striking out the item relating to the Assistant Secretaries of Commerce and inserting in lieu thereof the following:

"The Assistant Secretaries of Trade and Commerce (8).''; and

(B) by striking out the item relating to the General Counsel of the Department of Commerce and inserting in lieu thereof the following:

"The General Counsel of the Department of Trade and Commerce.".

(4) Section 5316 of title 5, United States Code, is amended—

(A) by striking out the item relating to the Commissioner of Customs, Department of the Treasury and by inserting in lieu thereof the following:

"Commissioner of Customs, Department of Trade and Commerce."; and

(B) by striking out "Department of Commerce" each place it appears and inserting in lieu thereof in each such place "Department of Trade and Commerce".

(d) Section 242(a) of the Trade Expansion Act of 1962 (19 U.S.C. 1872(A)) is amended by striking out "United States Trade Representative" and inserting in lieu thereof "Secretary of Trade and Commerce who shall be Chairman".

(e)(1) The first sentence of section 231 of the Foreign Assistance Act of 1961 (22 U.S.C. 2191) is amended by striking out "Secretary of State" and inserting in lieu thereof "Secretary of Department of Trade and Commerce".

(2) The first paragraph of section 233(b) of such Act (22 U.S.C. 2193(b)) is amended by striking out the third sentence thereof, and by inserting in lieu thereof the following:

"The Secretary of Trade and Commerce shall be a permanent voting member of the Board, ex officio.".

(3) Section 233(c) of such Act (22 U.S.C. 2193(a)) is amended by adding at the end thereof the following new sentence: "The President of the Corporation shall report to the Secretary of Trade and Commerce.".

(f)(1) Section 3(a) of the Export-Import Bank Act of 1945 (12 U.S.C. 635a(a)) is amended to read as follows:

"(a) The Export-Import Bank of the United States is established as an independent agency within the Department of Trade and Commerce.".

(2) Section 3(b) of such Act (12 U.S.C. 635a(b)) is amended by inserting after the first sentence the following new sentence: "The President of the Bank shall report to the Secretary of Trade and Commerce.".

(3) The first sentence of section 3(c) of such Act (12 U.S.C. 635a(c)) is amended to read as follows: "There shall be a Board of Directors of the Bank consisting of the President of the Export-Import Bank of the United States, who shall serve as Chairman, the First Vice President of the Bank who shall serve as Vice Chairman, the Secretary of Trade and Commerce, and two additional persons appointed by the President of the United States by and with the advice and consent of the Senate.".

(g) The first section and section 2 of the Act of March 3, 1927 (44 Stat. 1381, chapter 348; 19 U.S.C. 2071 and 2072) and section 301 of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075) are amended by striking out "the Treasury" each time it appears and by inserting in lieu thereof "International Trade and Commerce".

(h) The first sentence of section 330 (a) of the Tariff Act of 1930 (19 U.S.C. 1330 (a)) is amended to read as follows: "The United States International Trade Commission (referred to in this title as the 'commission') is an independent agency within the Department of Trade and Commerce and shall be composed six commissioners who shall be appointed by the President, by and with the advice and consent of the Senate.".

SEPARABILITY

SEC. 13. If any provision of this Act and the amendments made by this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act, and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE; INITIAL APPOINTMENT OF OFFICERS

SEC. 14. (a) This Act and the amendments made by this Act shall take effect ninety days after the date on which the Secretary first takes office, or on such prior date after enactment of this Act as the President shall prescribe and publish in the Federal Register.

(b) Notwithstanding subsection (a), any of the officers provided for in this Act may be appointed in the manner provided for in this Act at any time after the date of enactment of this Act. Any such officer shall be compensated from the date he first takes office at the rates provided for in this Act. Such compensation and related expenses of any such officer shall be paid from funds available for the functions to be transferred to the Department pursuant to this Act.

INTERIM APPOINTMENTS

SEC. 15. (a) If one or more officers required by this Act to be appointed by and with the advice and consent of the Senate has entered upon office on the effective date of this Act and notwithstanding any other provision of law, the President may designate an officer in the executive branch to act in such office for one hundred and twenty days or until the office is filled as provided in this Act, whichever occurs first.

(b) Any officer acting in an office due to a designation by the President under subsection (a) shall receive compensation at the rate prescribed for such office.

By Mr. PROXMIRE:

S. 22. A bill to amend the Communications Act of 1934 in order to recognize and confirm the applicability of and to strengthen and further the objectives of the first amendment to radio and television broadcasting stations; to the Committee on Commerce, Science, and Transportation.

FIRST AMENDMENT CLARIFICATION ACT OF 1983

Mr. PROXMIRE. Mr. President, today I am introducing the First Amendment Clarification Act of 1983.

This bill is similar to a measure I first introduced in 1975 and then again in 1977, 1979, and 1981.

The major goal of this legislation is to give fuller meaning to our first amendment's guarantee of freedom of the press by abolishing the so-called

fairness doctrine and the equal-time rule.

FREE PRESS RIGHTS

The first amendment forbids the Congress from passing any law that might diminish our right to have a free press.

But, unfortunately, Congress has enacted a law which does just that. I refer, of course, to the Communications Act, which has abridged the rights of a part of the free press.

Other means of mass communication—newspapers, magazines, pamphlets, books, and motion pictures—have kept their free press rights. But not broadcasting.

In the most recent Roper poll released by the Television Information Office, 64 percent of the respondents said that they got their news information from television while 18 percent cited radio. Clearly, television and radio are the dominant source of news for the American people. Yet, because of governmental controls like the fairness doctrine and the equal-time rule, broadcasters are second-class citizens when it comes to first amendment rights.

Freedom of the press is for the benefit of all Americans. If television and radio, the most popular disseminators of news and opinion, continue to be tied down by stifling Government regulation, the people of this Nation will continue to be the losers.

Mr. President, my bill aims to change this situation by giving broadcasters more of the first amendment freedom they deserve.

PURPOSE DEFINED

The first section of my bill defines its purpose: to recognize and confirm the applicability of the first amendment to broadcasting and to strengthen and further the objectives of the first amendment.

This purpose is to be accomplished by removing certain statutory and regulatory restrictions placed on broadcasters operating under the Communications Act of 1934.

Section 2 of my bill deals with the definition of "public interest, convenience, and necessity" under which broadcasters operate.

That phrase in the Communications Act is currently used to make broadcasters accountable to the Federal Communications Commission, after the fact, for everything they put on the air.

My proposal makes it clear that the term "public interest, convenience, and necessity" cannot be construed to give the FCC jurisdiction to require that any person be provided broadcast time, or to require that any viewpoint be given broadcast time.

Section 3 of my bill repeals that part of the Communications Act which permits the FCC to revoke the license of any station that willfully refuses or fails to allow a candidate for Federal office to buy reasonable amounts of broadcast time.

SECTION 315 REPEALED

Section 4 repeals section 315 of the Communications Act of 1934. Section 315 contains both the equal time rule and the basis for the FCC's fairness doctrine.

The equal time rule requires that when a candidate for public office is given or sold time, any other candidate for that same office must be given an equal opportunity.

That sounds great. But the equal time rule is an abridgment of the first amendment. It is governmental control over a part of the free press.

The fairness doctrine of the FCC requires that broadcasters afford reasonable opportunities for the presentation of contrasting viewpoints on controversial issues of public importance.

Unlike the equal time requirement, the fairness doctrine does not call for each viewpoint to receive the same amount of air time. Nor does it require that the other viewpoint be given in the same program.

Again, that sounds fine. But the fairness doctrine, like the equal time rule, violates the first amendment. Once more, a segment of the free press is being regulated by the Government.

PUBLIC BROADCASTING

Section 5 deals with a first amendment problem contained in section 396(g)(1)(A) of the Communications Act of 1934, which authorizes the Corporation for Public Broadcasting to facilitate the full development of educational broadcasting in which programs of high quality, obtained from diverse sources, are to be made available to noncommercial educational television or radio stations. But this must be done with strict adherence to objectivity and balance in all programs or series of programs of a controversial nature.

Such a Government-imposed standard is inappropriate and undesirable. Trying to enforce it can result in a chilling effect on the free play of ideas which public broadcasting should help promote.

By simply deleting this standard, section 5 of my bill is designed to solve the first amendment problem it poses.

Finally, section 6 of my bill repeals the prohibition on political editorializing by noncommercial educational broadcasting stations. This section of the current law, aimed at licensees, seems clearly unconstitutional.

Mr. President, I ask unamious consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 22

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE AND STATEMENT OF PURPOSE

SECTION 1. (a) This Act may be cited as the "First Amendment Clarification Act of 1983".

(b) It is the purpose of this Act to recognize and confirm the applicability of and to strengthen and further the objectives of the first amendment of the Constitution of the United States by removing statutory and regulatory restrictions on broadcasters operating under the Communications Act of 1934.

DEFINITION OF PUBLIC INTEREST, CONVENIENCE, AND NECESSITY

SEC. 2. Section 309 of the Communications Act of 1934 is amended by adding at the end thereof the following:

"(j) Notwithstanding any other provision of this part, effective on and after the date of the enactment of this subsection for the purposes of this part, the term 'public interest, convenience, and necessity' shall not be construed to give the Commission jursidiction to require the provision of broadcast time to any person or persons or for the expression of any viewpoint or viewpoints.".

REPEAL OF LICENSE OR CONSTRUCTION PERMIT REVOCATION POWER RELATING TO FACILITIES FOR CANDIDATES FOR FEDERAL PUBLIC OFFICE

SEC. 3. Section 312(a) of the Communications Act of 1934 is amended by inserting "or" at the end of clause (5), striking out the semicolon and "or" at the end of clause (6) and inserting in lieu thereof a period, and striking out clause (7).

REPEAL OF SECTION 315 RELATING TO FACILITIES FOR CANDIDATES FOR PUBLIC OFFICE

SEC. 4. Section 315 of the Communications Act of 1934 is repealed.

REPEAL OF CERTAIN LIMITATIONS OF CORPORATION FOR PUBLIC BROADCASTING

SEC. 5. Section 396(g)(1)(A) of the Communications Act of 1934 is amended by striking out all beginning with the comma following "telecommunications entities" to the semicolon at the end thereof.

REPEAL OF PROHIBITION OF POLITICAL EDITORIALS

SEC. 6. Section 399 of the Communications Act of 1934 is repealed.

By Mr. MOYNIHAN:

S. 23. A bill to conduct an inventory of our Nation's water and sewer systems, bridges, highways and roads; to develop a 10-year investment plan to rebuild the public improvments essential to economic development, and for other purposes; to the Committee on Environment and Pubic Works.

THE REBUILDING OF AMERICA ACT OF 1983

Mr. MOYNIHAN. Mr. President, during the last months of the 97th Congress, public works, a much maligned and too often obscure corner of public policy, came back into vogue. It seems to have taken the shock of record unemployment to bring to the fore the national economic dependency on public works. Highways, roads, bridges, mass transit, water supply, and sewer systems are the underpinnings of efficient commercial and industrial activity. Yet, by all accounts these facilities are falling apart faster than we are fixing them.

Some of us for quite some time have been alarmed by the precipitous decline in public investment over the last decade. According to statistics gathered by the Department of Commerce, public works investment by all levels of government declined from 4.1 percent of the gross national product in 1965 to 2.3 percent in 1977—a 44-percent decline. But few have been aware that such a decline has been taking place. And at a time when the need for repairing, rehabilitating, or replacing our existing public works could play a vital role in creating employment for both skilled construction workers and unskilled laborers, we have not recognized means of mobilizing the Federal Government to put an emergency public works program in place.

It is not necessarily for lack of funds that we find ourselves in this predicament. We in the Federal Government seem to lack the willpower and the budgetary tools to accurately measure public investment in a way that informs us of the adequacy of present levels. Getting our facts straight is the first step toward solving the problem of "disinvestment", the wearing out of capital through inadequate maintenance and rehabilitation.

It is for this reason, Mr. President, that my colleagues and I once again introduce the Rebuilding of America Act. The bill would lead to the development of a national investment plan, setting priorities to guide Federal expenditures for public improvements over the next two decades. The national investment plan would be predicated on the facts and findings contained in a national inventory of public improvements.

On September 17, 1982, I introduced the Rebuilding of America Act (S. 2926 in the 97th Congress) with six of my colleagues. During the lameduck session, I again introduced this legislation but this time, as S. 3061, it was part of a larger effort to address both national needs in public improvements and the immediate necessity to put Americans back to work. S. 3061 was introduced on December 1, 1982, with 16 colleagues and several days later was incorporated into the Senate Democratic jobs proposal offered to the highway gas tax legislation, H.R. 6211.

In spite of the passage of the highway bill which authorized the expenditure of an additional $27.5 billion on highways, roads, bridges and mass transit over the next 5 years, I am still persuaded that a concentrated effort to conduct an inventory, establish investment priorities, and develop the principles of capital budgeting would be an extremely useful enterprise. Most important, we should build the capability in the Federal agencies to handle this information; this is not the work for outside consultants.

Other articles and statements, including my introductory remarks on September 17, 1982, enumerate the approximate bounds of the so-called infrastructure problem. I shall not repeat those facts here. However, it is worth repeating that there can be no doubt that this problem is public in nature, national in scope and appropriately attended to by the Federal Government. The Federal Governement is now responsible for fully one-half of all public works investment in the United States through grants and direct investment.

A 1980 Commerce Department study "Public Works Investment in the United States," made several interesting observations with regard to the regional allocation of Federal funds for public works:

The Western and Southern regions of the U.S. received over three-fourths of all direct Federal public works investment in 1972 and 1977.

On a per capita basis, the Mountain region received $97 per capita in 1977 and the New England region received $3 per capita.

From the Federal perspective, public works projects fall into three basic categories: first, federally owned; second, federally assisted but owned by a State or local government; and third, totally non-Federal projects. Most public works projects in the Northeastern region of the United States fall into the third category. Cities and States in the Northeast traditionally have built their canals, highways, and water systems without assistance from the Federal Government.

Clearly, the Federal programs through which about $25 billion is spent each year are not meeting the needs of a significant portion of our population. Those areas are instead struggling to meet their own needs, and in most cases, they are failing to do so.

It is not the purpose of this legislation to preempt State and local prerogatives in the matter of roads and water systems, but rather to help focus and coordinate Federal assistance.

Since the first introduction of this legislation, a number of individuals have questioned the need for a commission to conduct the required work. Having just served on the President's Commission on Social Security, I am well aware of the advantages and disadvantages of such an extra-institutional arrangement. But in the end, the Commission succeeded where other established institutions failed in producing an agreed upon set of facts on which to base sound public policy for both a short term and long term financing problem. Such is my expectation for the National Commission on the Rebuilding of America.

I nonetheless remain open to other approaches, and indeed anticipate the introduction of additional legislation in the near future. We have an opportunity to reshape the Federal involvement in public works for the next several decades. It is time we leave 19th century solutions behind us.

I shall once again request that hearings on this legislation be scheduled at the earliest opportunity in the Committee on Environment and Public Works.

I ask that a summary of the bill followed by the bill itself be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE REBUILDING OF AMERICA ACT OF 1983,
SUMMARY OF THE BILL

The "Rebuilding of America Act" would establish a National Commission on Rebuilding America to devise a program for reconstructing and rehabilitating the nation's public improvements—the system of roads, bridges, water supply and sewer systems.

The bill states the findings of Congress that national public improvements have been deteriorating at an alarming rate, that there is a serious regional imbalance in the capability of such facilities to support economic activity and growth, and that the Federal Government has failed to develop a response to the problem.

Accordingly, the bill would establish a National Commission on the Rebuilding of America that would be required to:

(1) conduct an inventory of national public improvements by region, state, and metropolitan area and by type of facility, with attention to the condition of the facilities, their sufficiency to support economic growth, and recent patterns of investment and deterioration; and

(2) develop a national public improvements plan, setting priorities and detailing the means of financing needed public improvements over the next ten and twenty years and further recommending changes in Federal laws, regulations, and policies that would permanently insure adequate investment, and clarifying the relationship among Federal, State, and local responsibilities for development and maintenance of public improvements.

In additional, the General Accounting Office would submit to Congress within six months of enactment a model unified budget for both the current and prior fiscal years. This budget would distinguish Federal civilian captial investment outlays from other Federal outlays. The Commission in its final plan would include recommendations on the utility of such a capital budget within the unified budget.

The 13-member Commission would be composed of five distinguished individuals from the private sector who are conversant with infrastructure needs, one of whom would be Commission chairman; the Secretaries of the Army, Transportation and Commerce; and representatives of the five major organizations of state and local elected officials.

The Commission would have two years and a budget of five million dollars to complete its work. The $5 million would be drawn from existing appropriations and no new spending would be required to fund the Commission. The Commission's recommendations regarding investment priorities would become binding unless disapproved

by the Congress within 120 days of their submission.

The Army Corps of Engineers, which spearheaded the development of the Nation's public improvements in the 19th and early 20th centuries, would provide principal administrative support to the Commission. The Commission would be restricted to no more than thirty full-time employees, drawn from and paid by various Federal agencies. No new Federal employees would be hired.

S. 23

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be cited as the "Rebuilding of America Act of 1983".

FINDINGS

SEC. 102. The Congress finds and declares that—

(a) highways, roads, bridges, mass transit systems, and water supply and sewer systems are public improvements vital to national development and prosperity;

(b) public works investment in the United States has declined at an alarming rate over the last decade and has resulted in the poor condition of much of our public improvements;

(c) the national costs of deteriorated public improvements are significantly higher than the costs of repairing, rehabilitating, improving, or replacing existing facilities;

(d) the Federal Government is responsible for one-half of all public works investment in the United States through grants in aid and direct investment;

(e) the Federal Government has no institutional means of formulating a comprehensive national public improvements plan and ordering national priorities; and

(f) direct Federal public works investment has been spread unevenly throughout the regions of the Nation.

POLICY

SEC. 103. It is the policy of the Congress that—

(a) States and local governments shall retain their traditional primacy in decisions affecting the use of land and water within their jurisdictions;

(b) the Federal Government shall adopt practices and procedures that will lead to regionally balanced economic development;

(c) prior Federal involvement in a national public improvement shall be a primary consideration but not a sole determinant in establishing future national priorities; and

(d) disincentives for maintaining, repairing, rehabilitating, and replacing deteriorating national public improvements that now exist in Federal laws and regulations shall be corrected to encourage the most economically efficient pattern of investment in public improvements by the Federal Government.

NATIONAL INVENTORY OF PUBLIC IMPROVEMENTS

SEC. 104. The National Commission on the Rebuilding of America, established pursuant to section 108 and hereinafter referred to as the "Commission", shall conduct an inventory of existing major public improvements by region, State, and major metropolitan area of the United States and by type of facility, surveying especially—

(i) age and condition of the facility;

(ii) trends in the condition of the facility over the last twenty years and the relation of those trends to usage and maintenance schedules;

(iii) means of financing the maintenance, repair, rehabilitation, replacement, and new construction of facilities;

(iv) comparison of condition of public improvements within a region, State, or major metropolitan area and the pattern of economic development over the last twenty years; and

(v) trends in public expenditures for maintenance, repair, rehabilitation, replacement, and new construction of public improvements by region, State, and major metropolitan area and by level of government.

DEVELOPMENT OF A NATIONAL PUBLIC IMPROVEMENTS PLAN

SEC. 105. (a) The Commission shall develop a National Public Improvements Plan, hereinafter referred to as the "Plan", listing in priority order, needed maintenance, repair, rehabilitation or replacement of public improvements in each region, for the next ten and twenty years, or such other time periods as the Commission may deem appropriate, to sustain regionally balanced national economic development. Priorities shall be listed by type of facility for the Nation as a whole and for each region, and shall further consider the relative priorities among the various types of facilities. The Plan shall include recommended means of financing the needed maintenance, repair, rehabilitation, and replacement, taking into account the least-cost life-cycle costs of developing and maintaining national public improvements and the appropriate mix of Federal, State, and local resources to implement the Plan. The Commission shall consider prior Federal involvement, level of prior maintenance, and regional equity in its recommendations on financing the Plan.

(b) As an integral part of the Plan, the Commission shall suggest specific revisions in Federal laws, regulations, and policies and further suggest alterations in the current responsibilities of Federal, State, and local governments that may be necessary to reverse the pattern of disinvestment in national public improvements and sustain economic development. The Commission shall include analyses and recommendations in accordance with policies set forth in section 103 concerning—

(i) the report of the Comptroller General to the Congress, submitted pursuant to section 106 of this Act, on identifying Federal civilian capital investment outlays in the unified Federal budget;

(ii) changes in the imposition or allocation of excise taxes, user fees, other sources of public revenue, and borrowing authorities;

(iii) statutory or regulatory revisions in grants-in-aid, direct construction, or subsidy programs that would eliminate corruption, waste, and delay; that would encourage consideration of least-cost life-cycle costs in developing and maintaining facilities; and that would correct regional imbalances and disincentives for maintenance of facilities in Federal programs; and

(iv) the desirability and feasibility of scheduling public improvements construction and major renovation work in a manner counter to national or regional economic cycles in order to reduce the cost of such work and to dampen economic fluctuations.

REPORT ON IDENTIFYING CIVILIAN CAPITAL INVESTMENT IN THE FEDERAL BUDGET

SEC. 106. (a) Within six months of enactment of this Act, the Comptroller General shall submit to the Committee on the Environment and Public Works and the Committee on the Budget of the Senate and to the Committee on Public Works and Transportation and the Committee on the Budget of the House of Representatives, model unified budgets, for the fiscal year in which this Act is enacted and for the immediately preceding fiscal year, that distinguish Federal civilian capital investment outlays from other Federal outlays.

(b) Along with the model unified budgets, the Comptroller General shall submit a report including—

(1) a description of how the model budgets differ from existing Federal budget documents;

(2) an analysis of the usefulness of the model budgets in identifying investment and disinvestment needed in public improvements;

(3) an analysis of the usefulness of the model budgets in identifying approproiate programs and amounts of Federal fiscal support in building, maintaining, and repairing needed public improvements; and

(4) an analysis comparing the usefulness of a separate capital budget with the model unified budgets for the purposes of identifying investment and disinvestment in, and appropriate Federal programs and amounts of Federal fiscal support for needed public improvements.

PROCEDURES

SEC. 107. (a) The Commission shall submit to Congress and the President, not later than one year from the date of enactment of this Act, the national inventory of public improvements required pursuant to section 104.

(b) Not later than eighteen months after the enactment of this Act, the Commission shall submit to Congress and the President a draft Plan required pursuant to section 105. For purposes of soliciting and considering public comment, the Commission shall further distribute the draft Plan to affected Federal agencies, all Members of Congress, major public interest groups, the Governors of the States, local officials, and make the report generally available to the public. All affected Federal agencies shall submit written comments to the Commission within thirty days.

(c) Not later than twenty-four months after the enactment of this Act, the Commission shall submit to the Congress and the President the final version of the Plan pursuant to section 105.

(d) Unless the Congress enacts a joint resolution of disapproval of that portion of the Plan required pursuant to subsection 105(a) within one hundred and twenty calendar days of receipt of the final Plan, that portion of the Plan shall be deemed to be approved by the Congress and shall be the policy of the Federal Government: *Provided however,* That no statute or regulation of the Federal Government, of a State or political subdivision there of shall be in any way altered by congressional approval of that portion of the Plan pursuant to subsection 105(a).

(e) The Senate Environment and Public Works Committee and House Public Works and Transportation Committee shall hold hearings on the proposed changes in existing law pursuant to section 105 and shall report legislative proposals to the Senate and House of Representatives regarding such changes within one hundred and eighty days of receipt of the Plan to permit full Federal implementation of the Plan.

ESTABLISHMENT OF THE COMMISSION

SEC. 108. (a) There is hereby established a National Commission on the Rebuilding of America which shall assess the condition of the national public works infrastructure, analyze causes of disinvestment in the national public works infrastructure, and evaluate the need to repair, maintain, replace, and expand the national public works infrastructure to support balanced development of the national economy.

(b) The Commisssion shall be composed of—

(1) the Secretary of the Army, the Secretary of Transportation, and the Secretary of Commerce; in the event the Secretary is unable to attend a meeting of the Commission, he may designate a representative but in no case may the designee be of a rank lower than Assistant Secretary;

(2) representatives of each of the following organizations: the National Governors' Association, the National Conference of State Legislatures, the National League of Cities, United States Conference of Mayors, and the National Association of Counties; and

(3) five individuals from the private sector selected by the President who among them have experience in and knowledge of public investment financing, civil engineering, State and local budgeting practices, and regional planning.

(c) The President shall designate one of the five individuals as Chairman of the Commission. The Chairman shall be an individual of national recognition with experience in both public affairs and private enterprise. The Chairman shall be confirmed by the Senate.

(d) The Secretary of Housing and Urban Development, the Secretary of Labor, the Secretary of Agriculture, the Secretary of the Interior, and the Adminstrator of the Environmental Protection Agency or their designees shall attend the meetings of the Commission as nonvoting members.

(e) The Commission shall be convened within thirty days of enactment of this Act.

DEFINITIONS

SEC. 109. For the purpose of this Act—

(a) the term "national public improvement" means the Nation's system of highways, roads, bridges, mass transit, main water supply and distribution systems, and sewer systems;

(b) the term "facility" means any physical structure such as a highway, road, bridge, transit line, or structure related to a mass transit system, water supply storage, treatment, and distribution system or sewage treatment and collection system which is owned and operated by the Federal Government, a State, municipality, or other public agency or authority organized pursuant to State and local law;

(c) the term "maintenance" means routine and regularly scheduled activities intended to keep the facility operating at its designed specifications;

(d) the term "repair" means the correction of a structural flaw in the facility without adding significantly to the design life of such a facility;

(e) the term "rehabilitation" means the correction of structural flaws in a facility so as to extend the engineered design life of such a facility;

(f) the term "replacement" means the reconstruction of an existing facility;

(g) the term "life-cycle cost" means the total cost of constructing, operating, and maintaining a facility, including the interest on any borrowed funds, over the design engineered life of the facility;

(h) the term "State" means any State of the United States, the District of Columbia, Puerto Rico, Guam, American Samoa, the Northern Marianas Trust Territories, or the Virgin Islands; and

(i) the term "region" means one of the nine geographical groups of States defined by the Bureau of the Census in the Statistical Abstract of the United States.

AUTHORIZATION OF APPROPRIATIONS

SEC. 110. (a) There shall be a staff for the Commission consisting of no more than thirty full-time employees of the Federal Government, who shall be detailed by the various agencies upon request of the Chairman of the Commission: *Provided*, That nothing in this section shall be construed to permit an increase in the level of total Federal employment.

(b) The Secretary of the Army shall assign an employee of the Army Corps of Engineers as staff director for the Commission, with the concurrence of the Chairman of the Commission, and shall also provide office space, supplies, equipment, and necessary contracting and other support services to the Commission and its staff.

(c) The heads of all Federal agencies are directed to cooperate with the Commission to the maximum extent possible, and to provide, on a timely basis, such information as the Commission may request.

(d) There is hereby authorized to be transferred or reprogramed from appropriations otherwise available to the Army Corps of Engineers, the Department of Transportation, and the Department of Commerce, the total of $5,000,000 to carry out the duties of the Commission during its tenure, said sum to be exclusive of salaries for staff.

(3) The private members of the Commission shall be compensated for their time engaged on Commission business at the daily rate established for employees at grade 18 of the General Schedule.

By Mr. HUDDLESTON (for himself, Mr. BOREN, Mr. ZORINSKY, Mr. PRYOR, Mr. HEFLIN, Mr. BAUCUS, Mr. BUMPERS, Mr. DECONCINI, Mr. EXON, Mr. GLENN, Mr. NUNN, Mr. RIEGLE, Mr. KENNEDY, Mr. BENTSEN, Mr. LEVIN, and Mr. BURDICK):

S. 24. A bill to provide emergency credit assistance to farmers, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

EMERGENCY AGRICULTURAL CREDIT ACT OF 1983

Mr. HUDDLESTON. Mr. President, U.S. farmers are facing the worst economic conditions since the Great Depression. Almost every economic and financial indicator points to severe hardship for farmers unless additional action is taken to strengthen the farm economy.

The needs of farmers facing severe credit problems must be addressed as part of a sound agricultural recovery program. Reductions in Federal agricultural credit programs, record high real interest rates, low commodity prices, and increasing costs of production have made it difficult for farmers to obtain credit and meet existing financial obligations.

The bill I am introducing today will provide desperately needed credit assistance to farmers.

Under existing law, the Farmers Home Administration has authority to grant deferrals on repayment of farm loans to avoid foreclosures. Under present stated policies, the Farmers Home Administration indicates that it will not foreclose on borrowers who: First, have acted in good faith; second, have made an honest effort to pay; third, are applying recognized successful management practices; fourth, have accounted for all loan security; and fifth, have a reasonable change to repay their loan.

Unfortunately for many farmers, the facts indicate that the Farmers Home Administration has not implemented this policy. The reality has been a record number of foreclosures and forced liquidations of Farmers Home Administration farm borrowers in 1982.

The bill will put into law what the administration says is its policy. Specifically, the Secretary of Agriculture will be required to grant deferrals and forego foreclosures on Farmers Home Administration farm loans when the borrower shows that he, first, has exercised good management practices, second, due to circumstances beyond his control, is temporarily unable to continue making payments on the principal and interest of the loan when due, and third, has a reasonable chance of repayment of the loan after the deferral period ends. The Secretary would apply these criteria on a case-by-case basis. Although they did not become law, similar proposals were approved, separately, by the Senate and House last year.

The bill also provides that the interest that accrues during the deferral period will bear no interest.

To assist borrowers whose credit requirements are above the Farmers Home Administration's regular operating loan limits or who may no longer qualify for credit from their traditional lenders, this legislation will extend the economic emergency direct loan program.

The Senate adopted a similar proposal in the final days of the 97th Congress, but it was later modified in conference, at the administration's request. Under the modified provision that became law, $600 million in loan guarantees will be made available in 1983 for the economic emergency loan program.

Some farmers will benefit from the implementation of the economic emergency loan guarantee program. However, in my judgment, direct loans from the Farmers Home Administration could assist many more farmers and provide the credit at a much lower interest rate. For that reason, I believe it is important that the economic

emergency direct loan program also be extended.

The bill will raise the direct loan limit under the Farmers Home Administration regular operating loan program from $100,000 to $200,000. The $100,000 limit was set in 1978 and farm operating costs have greatly increased since that time. Also, the implementation of the payment-in-kind program should reduce the overall demand for operating credit. Therefore, the loan limit can now be raised without squeezing out any current borrowers.

The bill also provides an additional $200 million in operating loan funds for new Farmers Home Administration borrowers and mandates the use of funds allocated to the Farmers Home Administration limited resource operating loan progam.

Despite the great need farmers have for credit assistance, last year for the first time, the administration implemented a policy of assisting almost exclusively existing borrowers and discouraging the use of the limited resource operating loan program. In fiscal year 1982, the Farmers Home Administration did not use $121 million in operating loan funds that had been specifically earmarked for limited resource borrowers.

These provisions will make Farmers Home Administration better able to fulfill its role as the lender of last resort for all family farmers and insure that the Farmers Home Administration uses all of its authorities to aid farmers.

Finally, this legislation will require the Farmers Home Administration to allow the rescheduling or reamortization of existing farm loans at the original or current rate of interest, whichever is lower. The Farmers Home Administration has been attempting to change its regulations to permit this, but the Office of Management and Budget has refused to allow the change.

The credit problems of our Nation's farmers are likely to grow more serious as this year progresses. Unless the administration makes substantial changes in its farm credit policies, the only hope for our Nation's farmers, and the only way we will be able to prevent unnecessary farm liquidations, will be enactment of this legislation.

I ask unanimous consent that the text of the bill and a summary of the major provisions be presented in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 24

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Emergency Agricultural Credit Act of 1983".

LOAN DEFERRALS AND A MORATORIUM ON FORECLOSURES

SEC. 2. Section 331A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981a) is amended by—

(1) inserting the designation "(a)" before the existing text thereof;

(2) in the second sentence, striking out "section" and inserting in lieu thereof "subsection"; and

(3) adding at the end thereof the following new subsections:

"(b) During the period beginning with the date of enactment of this subsection and ending September 30, 1983, the Secretary shall permit, at the request of the borrower, the deferral of principal and interest on any outstanding loan made, insured, or held by the Secretary for farm ownership purposes under subtitle A of this title, farm operating purposes under subtitle B of this title, disaster emergency purpose under subtitle C of this title, or economic emergency purposes under the Emergency Agricultural Credit Adjustment Act of 1978, and shall forego foreclosure of any such loan, in both cases on a showing by the borrower that the borrower (1) has followed good management practices, (2) due to circumstances beyond the borrower's control, is temporarily unable to continue making payment on such principal and interest when due, and (3) has a reasonable chance of repayment of the loan after the deferral of principal, and interest and foregoing of foreclosure. The Secretary shall waive the payment of interest that accrues during the deferral period on any loan deferred under the provisions of this subsection. The provisions of this subsection shall be applicable only to borrowers who own or operate family-size farms, as certified by the county committee.

"(c) Upon the expiration of any period of deferral of payment of principal and interest and foregoing of foreclosure by the Secretary under subsection (b) of this section, the Secretary shall make available to the borrower, at the borrower's request, procedures whereby the loan may be consolidated, rescheduled, or reamortized to provide equitable repayment terms consistent with the borrower's farm and financial situation, and any loan so consolidated, rescheduled, or reamortized shall bear interest at a rate not in excess of the rate of interest on the original loan.

"(d) The Secretary shall promulgate regulations that provide (1) for notification of all farm borrowers under this Act and the Emergency Agricultural Credit Adjustment Act of 1978 of the provisions of this section and all other servicing alternatives offered by the Secretary, (2) clear procedures by which borrowers may petition the Secretary for relief under such provisions and alternatives, and (3) for appeal within the Department of Agriculture from a decision that denies relief under such provisions and alternatives.

"(e) Any farm loan deferred, consolidated, rescheduled, or reamortized under any authority of the Secretary under this title other than under subsections (b) and (c) of this section shall, notwithstanding any other provision of this title, bear interest on the balance of the original loan and for the term of the original loan at a rate not in excess of the rate of interest on the original loan.".

OPERATING LOAN PROGRAM; LIMITED RESOURCE FARMERS

SEC. 3. (a) Section 313 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1943) is amended by striking out "$100,000, or, in the case of a loan guaranteed by the Secretary, $200,000" and inserting in lieu thereof "$200,000, or, in the case of a loan guaranteed by the Secretary, $400,000".

(b) Section 346 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1994) is amended by adding at the end thereof the following new subsections:

"(e) Notwithstanding any other provision of law, there are hereby authorized to be insured, or made to be sold and insured, from the Agricultural Credit Insurance Fund during fiscal year 1983, insured operating loans in an aggregate amount of $1,660,000,000. Of that amount, $200,000,000 shall be for new borrowers. As used in the preceding sentence, the phrase 'new borrowers' means agricultural producers who did not receive any farm operating credit from the Farmers Home Administration during fiscal year 1982 or that part of fiscal year 1983 ending on the date of enactment of this subsection.

"(f)(1) Notwithstanding any other provision of law, not less than 20 percent of the loans for farm ownership purposes under subtitle A of this title, and not less than 20 percent of the loans for farm operating purposes under subtitle B of this title, authorized to be insured, or made to be sold and insured, from the Agricultural Credit Insurance Fund during fiscal year 1983 shall be for low-income, limited-resource farmers.

"(2) The Secretary shall provide notification to all farm borrowers under this Act, as soon as practicable after the date of enactment of the Emergency Agricultural Credit Act of 1983, of the provisions of this Act relating to low-income limited-resource farmers and the procedures by which persons may apply for loans under the low-income, limited-resource farmer program.".

ECONOMIC EMERGENCY LOAN PROGRAM

SEC. 4. (a) Section 202 of the Emergency Agricultural Credit Adjustment Act of 1978 (7 U.S.C. prec. 1961 note) is amended by striking out "The Secretary of Agriculture may" and inserting in lieu thereof "The Secretary of Agriculture shall".

(b) Section 211 of the Emergency Agricultural Credit Adjustment Act of 1978 (7 U.S.C. prec. 1961 note) is amended by—

(1) striking out "September 30, 1982" and inserting in lieu thereof "September 30, 1984"; and

(2) immediately after "$600,000,000", inserting a comma and "except that, in fiscal year 1983, such $600,000,000 shall be in addition to the total amount of money borrowed under contracts of guarantee entered into under the authorization provided in the Act of December 18, 1982 (Public Law 97-370, 96 Stat. 1799)".

SUMMARY OF THE MAJOR PROVISIONS OF THE EMERGENCY AGRICULTURAL CREDIT ACT OF 1983

LOAN DEFERRALS AND MORATORIUM ON FORECLOSURES

The Emergency Agricultural Credit Act of 1983 will require the Secretary of Agriculture, during the period beginning on the date of enactment of the bill and ending September 30, 1983, to—

(i) permit family farmers with economic emergency loans or farm loans under the Consolidated Farm and Rural Development Act, on request, to defer repayment of the loans, and

(ii) forego foreclosure on the loans,

if the borrower can show that he has followed good management practices, is tempo-

rarily unable to continue making payments on the loan due to circumstances beyond his control, and has a reasonable chance of repayment of the loan after the deferral.

The bill also will—

(1) require the Secretary to waive the payment of interest that accrues during the deferral period on any loan deferred under the bill;

(2) require the Secretary, after a period of deferral ends, to make available to the borrower consolidation, rescheduling, or reamortization of the loan at an interest rate not in excess of the interest rate on the original loan;

(3) require the Secretary to promulgate regulations that provide—

(a) for notification of all FmHA farm borrowers of the deferral provisions and other loan servicing alternatives offered by the Secretary;

(b) clear procedures by which borrowers can petition the Secretary for relief under the deferral provisions and alternatives; and

(c) for appeal within the Department of Agriculture from a decision that denies such relief; and

(4) establish that, for any farm loan deferred, consolidated, rescheduled, or reamortized by the Secretary under authorities provided in the Consolidated Farm and Rural Development Act other than those contained in the bill, the interest rate for the remaining balance and term of the original loan cannot exceed the rate of interest for the original loan.

FARM OPERATING LOANS

The Emergency Agricultural Credit Act of 1983 will—

(1) raise the loan limits for farm operating loans under the Consolidated Farm and Rural Development Act as follows—

(a) no insured loan could be made to a farmer that would cause the farmer's total outstanding farm operating loans under that Act to exceed $200,000 (under current law, the figure is $100,000); and

(b) no guaranteed loan could be made to a farmer that would cause the farmer's total outstanding farm operating loans under that Act to exceed $400,000 (under current law, the figure is $200,000); and

(2) add $200,000,000 to the amount authorized for insured farm operating loans under that Act in fiscal year 1983, the additional funds to be reserved for new borrowers (farmers who have not received any operating credit from the Farmers Home Administration since September 30, 1981).

LIMITED RESOURCE FARMERS

The Emergency Agricultural Credit Act of 1983 will require that not less than 20% of the amounts authorized for insured farm ownership and farm operating loans under the Consolidated Farm and Rural Development Act in fiscal year 1983 be made available for the low-income, limited-resource farmer program (under which farmers who qualify for the program receive loans at a reduced rate of interest).

The bill also will require the Secretary to provide notification to all FmHA farm borrowers of the provisions of the low-income, limited-resource farmer program and the procedures by which borrowers can apply for inclusion in the program.

ECONOMIC EMERGENCY LOANS

The Emergency Agricultural Credit Act of 1983 will extend the economic emergency loan program to September 30, 1984 and—

(1) require the Secretary to make loans available to farmers under the program; and

(2) authorize the making of $600,000,000 in economic emergency loans in fiscal year 1983 in addition to the amounts authorized for guaranteed loans in the 1983 Agriculture Appropriations Act.

● Mr. BOREN. Mr. President, American agriculture, the very foundation of this country, is in the midst of an economic depression. As is obvious today, when the farm economy is weak, the entire American economy is weak.

Americans need only look back at history to learn a simple, invaluable lesson. It was the collapse of agriculture, leading to dispersal sales of land and equipment which signaled the start of the last depression. The domino effect which could result from a collapse of agriculture threatens our entire economy again in the 1980's.

It is clear from the statistics that the agricultural economy is in a depression. We are facing an economic emergency in the agricultural economy and we must take action.

Net farm income, adjusted for inflation, is lower than it was in 1932, the worst year of the Depression. Indeed, farm income appears to be the lowest annual farm income, adjusted for inflation, since the Department of Agriculture began keeping records of farm income in the early part of this century.

Projections indicate that total cash receipts to farmers in 1982 were actually be less than receipts in 1981, the first time there has been such a decline since 1975. It is expected that for 1982, for the first time ever, farm production expenses exceeded cash receipts from farm marketings, despite an increase in production expenses of only 2 percent over 1981 expenses.

The current farm credit situation vividly exemplifies the serious condition of the agricultural economy. The percent of Farmers Home Administration farm borrowers delinquent as of June 30 of each year has also increased dramatically, signifying the seriousness of the agricultural economic condition. Five years ago, in 1978, 13 percent of Farmers Home Administration farm borrowers were delinquent, as compared to 28 percent in 1982. The dollar amount delinquent has more than tripled in the past 3 years.

Not only are FmHA delinquencies rising, but every farm credit source shows similar increases. Preliminary data collected by the Farm Credit Administration shows that 4,383 farm credit borrowers were in the process of being liquidated in 1982. That number is estimated to be a 100-percent increase over 1981. Federal land banks report a 30-percent increase in delinquent borrowers in 1982. Production credit associations report a 27-percent increase in delinquent borrowers in 1982.

Yet, despite this bleak picture, the administration has not used existing authorities to ease the credit situation. Under existing law, the administration could forgo foreclosures and the administration says that its policy is to do that. Yet, in 1981, it was reported that the Farmers Home Administration had set a goal of reducing farm loan delinquencies by 20 percent, even if that meant forcing some farmers out of business.

The administration has said repeatedly that forced liquidations were not increasing. Yet, the facts show otherwise. In 1980, there were a total of 260 foreclosures by the Farmers Home Administration. There were no more than 300 foreclosures in 1981. However, in fiscal year 1982, there were 844 foreclosures—almost three times the number in 1981—5,908 liquidations and 1,245 bankruptcies discharged.

Further, this administration has refused to use its authority to implement the economic emergency loan program. Under this program, the Secretary makes insured loans to qualified farmers who cannot get credit elsewhere due to economic stresses, such as a general tightening of agricultural credit or an unfavorable relationship between production costs and prices received for agricultural commodities. The Secretary could have made up to $600 million in economic emergency loans in fiscal year 1982. The funds for these loans would come from repayment of outstanding economic emergency loans; and, therefore, the programs would not involve substantial new Federal expenditures.

Although we are indeed facing an economic emergency in agriculture, the administration has not yet decided the program is needed.

This administration has also failed to use the limited resource loan program funds provided by Congress. The limited resource loan program was established to serve borrowers who had special credit needs—limited resource farmers, beginning farmers and owners and operators of small or family farms with a low income. This program, in the past, has provided young family farmers with an opportunity to buy some land, in addition to providing some young farmers with the means to stay in business. Under this program, qualified borrowers are provided farm operating or farm ownership loans at a reduced rate of interest.

At a time when farmers are experiencing a tremendous need for credit due to weak demand and oversupply, the administration is discouraging the use of the limited resource operating loan program. In fiscal year 1982, FmHA did not use $121 million in operating loan funds specifically earmarked for limited resource borrowers. Of this amount, FmHA failed to spend over $7 million that was allocated to my home State of Oklahoma. Yet, in Oklahoma, the average net farm

income in 1981 was only $14 per farm, the lowest in the entire Nation. In 1982, that figure will register in the red. Certainly, this would be considered low by anyone's standards, yet, the funds were not used.

Obviously, the farm economic situation for 1983 will show no improvement from 1982 without a major revision of agricultural policy. Every effort must be made to ease the credit situation for farmers, reduce interest rates, reduce commodity surpluses, improve farm income, and increase agricultural exports.

Last night, in the state of the Union address, the President said that he was directing USDA to work with farmers, individually, to help them stay in business during this critical time.

The bill we are introducing today will put into law what the President has directed the USDA to do. I hope he will lend his support to the passage of this bill.

Specifically, our legislation will require the Secretary to grant deferrals and forgo foreclosures on Farmers Home Administration farm loans when the borrower can show he has followed good management practices, is temporarily unable to make payments due to circumstances beyond his control, and has a reasonable chance of repayment of the loan after the expiration of the deferral period. This provision would be applied, by the Secretary, on an individual, case-by-case basis.

We have also included a provision which requires the Secretary to establish clear procedures to implement the deferral provision and to notify all borrowers of these and all other servicing alternatives available. Some of the FmHA borrowers I have talked with were never informed of the choices they do have.

The bill also provides for the extension of the economic emergency direct loan program and requires that the Secretary make these loans available to farmers.

Because of the increased costs of production, we have provided for an increase in the operating loan limit. In 1978, the limit was set at $100,000; our legislation would move this up to $200,000.

Our legislation also includes an authorization for an additional $200 million in operating loan funds. The current economic condition in agriculture has caused many new borrowers to turn to the "lender-of-last-resort," the FmHA. The additional $200 million, provided in our bill, should insure that the needs of current FmHA borrowers, as well as new borrowers, can be met.

Because of the administration's failure to use the limited resources loan program, our bill requires the FmHA to use the limited resource operating loan program. The use of these funds will allow many of our small farmers and young farmers to remain in farming.

During the recess, I had an opportunity to visit with some of the FmHA county supervisors in my State. The expressed to me a need for the authority to allow the rescheduling or reamortizing of existing farm loans at the original rate of interest, whichever if lower. They told me that with this authority, they could keep most of their borrowers in business this year. Though the FmHA has the authority to do this for housing loans, they are still unable to use this method for helping their farm borrowers. We have included a provision which will require the FmHA to use this authority for their farm program borrowers as well.

Mr. President, the Emergency Agricultural Credit Act of 1983 if both compassionate and prudent. It is compassionate in that it will assist those farmers who are having financial difficulties through no fault of thier own. It is prudent in that it will protect not only the agricultural economy, but it will also protect the health of our Nation's total economy from a potential domino effect if agriculture experienced a total collapse.

It is imperative that we act now. The future of our entire economy rests upon agriculture. If we do not see recovery in the agricultural sector, we will never experience full economic recovery in the Nation. I urge my colleagues to help us enable our farmers to remain on the farm.●

EMERGENCY AGRICULTURAL CREDIT ACT OF 1983

Mr. KENNEDY. Mr. President, I am pleased to join my colleagues in cosponsoring the Emergency Agricultural Credit Act of 1983. This measure is necessary to alleviate the harsh and unfair impact of the recession on our Nation's farmers.

American agriculture is the backbone or our economy. Farm foreclosures and voluntary liquidations are at record high levels. We cannot stand idle while this collapse continues.

This legislation would provide much needed relief to those farmers who have demonstrated that they are good managers and are suffering temporary financial hardship due to circumstances beyond their control. By reducing the number of farm failures this measure will mitigate the adverse impact of the farm crisis on secondary related industries, such as farm machinery, and on the agriculture-based economies of rural communities.

The administration has repeatedly ignored earlier requests by Congress to use its authority under existing law to help the Nation's farmers. Additional delay is unacceptable. It is time for Congress to act. No farmer should lose his farm because of the failure of national economic policy. I urge my colleagues to support this measure.

By Mr. MOYNIHAN:

S. 25. A bill to amend the Internal Revenue Code of 1954 to decrease the holding period required for long-term capital gains treatment to 6 months; to the Committee on Finance.

CAPITAL GAINS TAX

Mr. MOYNIHAN. Mr. President, I rise today to introduce legislation to reduce the holding period for long-term capital gains from 1 year to 6 months. At a time when our long-term economic growth is seriously jeopardized by steep declines in corporate capital investment, there is no other measure which would have such immediate salutory effects, reducing distortions in the operation of the capital markets and the allocation of investment capital.

The treatment of capital gains has been a crucial concern of mine throughout my tenure in this Chamber. In September and October of 1978, I worked in the Senate Finance Committee to attach a provision to the 1978 tax bill to reduce the capital gains tax for individuals from a maximum of 49.2 to 28 percent, and to reduce the maximum capital gains tax for corporations from 30 to 28 percent. This proposal was incorporated in the 1978 Revenue Act, signed by President Carter on November 6, 1978. As a result, investment in small venture capital firms climbed $1 billion in 1979, the amount of capital raised through new public offerings doubled from 1978 to 1979, and revenues from the capital gains tax actually increased 15 percent from 1978 to 1979.

In 1980, I attached a provision in the Senate Finance Committee to reduce the capital gains tax further, from 28 to 20 percent. This tax bill was reported out of Senate Finance by a 19-to-1 vote, but was tabled on the floor under pressure from the White House. Finally, on May 14 of last year, I introduced legislation to eliminate entirely the holding period for capital gains, and to reduce the so-called alternative rate for corporations on their capital gains from 28 to 20 percent. On July 23, 1982, the Senate passed the Tax Equity and Fiscal Responsibility Act, raising nearly $100 billion in additional revenues over 3 years, while also reducing the long-term capital gains holding period from 1 year to 6 months. Unfortunately, the capital gains provision was deleted in conference with the House of Representatives. It is this provision which, once again, I offer today.

Under current law, then, two types of capital gains are distinguished: short term and long term. Short-term capital gains are taxed as ordinary income, at rates up to 50 percent.

Long-term capital gains are treated more favorably, in recognition of the crucial role longer term investment plays in capital investment and economic growth: only 40 percent of the gain on an investment is subject to taxation, yielding at this time a maximum rate of 20 percent. In order to qualify for the lower tax rates on investment profits under present law, then, a taxpayer must hold his asset for more than 1 year.

There is nothing especially fundamental or sacred about the 1-year rule. Congress, in fact, has experimented with many different holding periods. It has been as long as 10 years, during the Great Depression, and as short as 6 months, during the era of high economic growth and investment from 1947 to 1976. And there have been many variations in between: from 1922 to 1933, the holding period was 2 years; from 1934 to 1937, the holding period was changed four times, ranging in length from 1 year to 10; from 1938 to 1941, we experimented with two holding periods, of 18 months and 2 years; and following the high investment and high growth era of the 6-month holding period from 1947 to 1976, Congress tried a 9-month holding period in 1977, and shifted to the present 1-year holding period in 1978.

Mr. President, there are sound economic reasons for reducing the holding period. Markets are most efficient when investors face as few disincentives as possible in moving their capital about in search of the highest return. The need to hold an investment for 1 year in order to qualify for the lower tax treatment, then, injects a nonmarket factor into investment behavior and decisions. Investors may be reluctant to shift their funds into more productive uses if they must wait to take advantage of the capital gains rate on their current investments. Capital markets suffer distortions and, consequently capital is used relatively inefficiently.

By reducing the period to qualify for long-term capital gains tax treatment, Congress can reduce distortions in the marketplace. The results: more efficient capital flows, increased investment and higher productivity—and with these improvements, greater output and lower unemployment.

The present 1-year holding period deters some people from investing at all. Lower it, and we are likely to see an increase in demand for stocks, raising equity prices. There is also strong evidence suggesting that a reduction in the holding period may actually increase revenues—as did the reduction in the maximum capital gains tax rate in 1978-79. Why? If investors are undeterred by tax disincentives from realizing gains at the most optimal time, the amount of taxable profit is likely to increase. This would lead to higher, not lower, tax revenues.

Mr. President, few people today doubt that the Nation's long-term economic problems are caused, in part, by inadequate capital formation. This shortage of capital for investment has dampened productivity, output, and employment. This legislation is designed to address one of the causes of our current investment capital shortage.

I urge my colleagues to support its speedy passage, and I ask unanimous consent that the text of the legislation be printed in the CONGRESSIONAL RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 25

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DECREASE IN HOLDING PERIOD REQUIRED FOR LONG-TERM CAPITAL GAIN TREATMENT.

(a) IN GENERAL.—

(1) CAPITAL GAINS.—Paragraphs (1) and (3) of section 1222 of the Internal Revenue Code of 1954 (relating to other terms relating to capital gains and losses) are each amended by striking out "1 year" and inserting in lieu thereof "6 months".

(2) CAPITAL LOSSES.—Paragraphs (2) and (4) of section 1222 of such Code are each amended by striking out "1 year" and inserting in lieu thereof "6 months".

(b) CONFORMING AMENDMENTS.—The following provisons of the Internal Revenue Code of 1954 are each amended by striking out "1 year" each place it appears and inserting in lieu thereof "6 months":

(1) Paragraph (1)(B) of section 166(d) (relating to nonbusiness debts).

(2) Subsection (a) of section 341 (relating to treatment of gain to shareholders in the case of collapsible corporations).

(3) Paragraph (2) of subsection (a) and subparagraph (L) of subsection (e)(4) of section 402 (relating to captial gains treatment for certain distributions in the case of a beneficiary of an exempt employees' trust).

(4) Subparagraph (A) of section 403(a)(2) (relating to capital gains treatment for certain distributions in the case of a beneficiary under a qualified annuity plan).

(5) Paragraph (1) of section 423(a) (relating to employee stock purchase plans).

(6) Paragraph (2) of section 582(c) (relating to capital gains of banks).

(7) Subparagraphs (A) and (B) of section 584(c)(1) (relating to inclusions in taxable income of participants in common trust funds).

(8) Paragraphs (3) and (4) of section 642(c) (relating to charitable deductions for certain trusts).

(9) Paragraphs (1) and (2) of section 702(a) (relating to income and credits of partner).

(10) Subparagraph (A) of section 817(a)(1) (relating to certain gains and losses in the case of life insurance companies).

(11) Subparagraph (B) of section 852(b)(3) (relating to taxation of shareholders of regulated investment companies).

(12) Subparagraph (A) of section 856(c)(4) (relating to definition of real estate investment trust).

(13) Paragraphs (3) (B) and (7) of section 857(b) (relating to taxation of shareholders of real estate investment trust).

(14) Paragraph (11) of section 1223 (relating to holding period of property).

(15) Section 1231 (relating to property used in the trade or business and involuntary conversions).

(16) Paragraph (2) of section 1232(a) (relating to sale or exchange in the case of bonds and other evidences of indebtedness).

(17) Subsections (b), (d), and subparagraph (A) of subsection (e)(4) of section 1233 (relating to gains and losses from short sales).

(18) Paragraph (1) of section 1234(b) (relating to treatment of the grantor of an option in the case of stock, securities, or commodities).

(19) Subsection (a) of section 1235 (relating to sale or exchange of patents).

(20) Paragraph (4) of section 1246(a) (relating to holding period in the case of gain on foreign investment company stock).

(21) Subsection (i) of section 1247 (relating to loss on sale or exchange of certain stock in the case of foreign investment companies electing to distribute income currently).

(22) Subsections (b) and (g)(3)(C) of section 1248 (relating to gain from certain sales or exchanges of stock in certain foreign corporations).

(23) Subparagraph (A) of section 1251(e)(1) (defining farm recapture property).

SEC. 2. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in the this section, the amendments made by this Act shall apply to sales and exchanges made after the date of enactment of this Act.

(b) CONFORMING AMENDMENTS.—The amendments made by section 1(b) shall take effect on the day after the date of enactment of this Act.

(c) CAPITAL LOSSES.—

(1) IN GENERAL.—The amendments made by section 1(a)(2) shall not apply with respect to the sale or exchange of—

(A) property held by the taxpayer on the date of enactment of this Act, or

(B) property the basis of which in the hands of the taxpayer is determined by reference to property held by the taxpayer on the date of enactment of this Act.

(2) CONFORMING AMENDMENTS.—The amendments made by section 1(b) shall not apply with respect to losses on the sale or exchange of property held by the taxpayer on the date of enactment of this Act.

By Mr. HELMS (for himself, Mr. EAST, Mr. ZORINSKY, Mr. NICKLES, and Mr. JEPSEN):

S. 26. A bill to provide legal protection for unborn human beings, and for other purposes; read for the first time.

LEGAL PROTECTION FOR UNBORN HUMAN BEINGS

Mr. HELMS. Mr. President, Congress is not relegated solely to a constitutional amendment in order to correct the errors of Roe against Wade. If Congress could never contradict the constitutional interpretation of the Supreme Court through legislation, then we in Congress would be anointing the Supreme Court with an infallibility in constitutional interpretation which it does not have in fact and which it was never intended to have by the framers of the Constitution. Our Federal Government is one of checks

and balances, and congressional enforcement of the 14th amendment under section 5 thereof is one way Congress can provide a check on the excesses of the Supreme Court.

The human life bill which I am introducing today is virtually identical to that favorably reported by the Separation of Powers Subcommittee in December 1981. The subcommittee's report provides detailed explanation of the bill, and, Mr. President, I ask unanimous consent that such report, including the footnotes, be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE HUMAN LIFE BILL—S. 158

The Subcommittee on Separation of Powers of the Senate Committee on the Judiciary, to which was referred the bill, S. 158, to recognize that the life of each human being begins at conception and to enforce the fourteenth amendment by extending its protection to the life of every human being, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill as amended do pass.

I. AMENDMENT IN THE NATURE OF A SUBSTITUTE

Strike out the enacting clause and all after the enacting clause and substitute in lieu thereof the following:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 42 of the United States Code shall be amended at the end thereof by adding the following new chapter:

CHAPTER 101

SECTION 1. (a) The Congress finds that the life of each human being begins at conception.

(b) The Congress further finds that the fourteenth amendment to the Constitution of the United States protects all human beings.

SEC. 2. Upon the basis of these findings, and in the exercise of the powers of Congress, including its power under section 5 of the fourteenth amendment to the Constitution of the United States, the Congress hereby recognizes that for the purpose of enforcing the obligation of the States under the fourteenth amendment not to deprive persons of life without due process of law, each human life exists from conception, without regard to race, sex, age, health, defect, or condition of dependency, and for this purpose "person" includes all human beings.

SEC. 3. Congress further recognizes that each State has a compelling interest, independent of the status of unborn children under the fourteenth amendment, in protecting the lives of those within the State's jurisdiction whom the State rationally regards as human beings.

SEC. 4. Notwithstanding any other provision of law, no inferior Federal court ordained and established by Congress under article III of the Constitution of the United States shall have jurisdiction to issue any restraining order, temporary or permanent injunction, or declaratory judgment in any case involving or arising from any State law or municipal ordinance that (1) protects the rights of human persons between conception and birth, or (2) prohibits, limits, or regulates (a) the performance of abortions or (b) the provision at public expense of funds, facilities, personnel, or other assistance for the performance of abortions: *Provided,* That nothing in this section shall deprive the Supreme Court of the United States of the authority to render appropriate relief in any case.

SEC. 5. Any party may appeal to the Supreme Court of the United States from an interlocutory or final judgment, decree, or order of any court of the United States regarding the enforcement of this Act, or of any State law or municipal ordinance that protects the rights of human beings between conception and birth, or which adjudicates the constitutionality of this Act, or of any such law or ordinance. The Supreme Court shall advance on its docket and expedite the disposition of any such appeal.

SEC. 6. If any provision of this Act or the application thereof to any person or circumstance is judicially determined to be invalid, the validity of the remainder of the Act and the application of such provision to other persons and circumstances shall not be affected by such determination.

II. PURPOSE OF THE PROPOSED ACT

The purpose of S. 158 is first, to recognize the biological fact that the life of each human being begins at conception; second, to affirm that every human life has intrinsic worth and equal value regardless of its stage or condition; and third, to enforce the fourteenth amendment by ensuring that its protection of life extends to all human beings.

III. NEED FOR THIS LEGISLATION

To protect the lives of human beings is the highest duty of government. Our nation's laws are founded on respect for the life of each and every human being. The Declaration of Independence holds that the right to life is a self-evident, inalienable right of every human being. Embodied in the statement that "all men are created equal" is the idea of the intrinsic worth and equal value of every human life. The author of the Declaration, Thomas Jefferson, explained in later years that "the care of human life and happiness, and not their destruction, is the first and only legitimate object of good government." [1]

Today there is a strong concern among many citizens that government is not fulfilling its duty to protect the lives of all human beings. Since 1973 abortion has been available on demand nationwide,[2] resulting in more than one and one-half million abortions per year. Yet this abrupt and fundamental shift in policy occurred without any prior inquiry by any branch of the federal government to determine whether the unborn children being aborted are living human beings. Nor has any branch of the federal government forthrightly faced the question whether our law should continue to affirm the sanctity of human life—the intrinsic worth and equal value of all human life—or whether our law should now reject the sanctity of life in favor of some competing ethic. Only by determining whether unborn children are human beings, and deciding whether our law should and does accord intrinsic worth and equal value to their lives, can our government rationally address the issue of abortion.

A government can exercise its duty to protect human life only if some branch of that government can determine what human life is. It can afford no protection to an individual without first ascertaining whether that individual falls within a protected class. The principal author of the fourteenth amendment, Congressman John A. Bingham of Ohio, recognized this truism when he stated that, in order to decide whether an individual is protected under the law of our land, "the only question to be asked of the creature claiming its protection is this: Is he a man?" [3] Since the fourteenth amendment expressly confers on Congress the power to enforce the protections of that amendment, including the protection of life, it is appropriate for Congress as well as the Supreme Court to ask whether a particular class of individuals are human beings.

Some branch of government, as a practical matter, *must* have power to answer this basic question. Otherwise, the government would be unable to fulfill its duty to protect each individual that *is* a human being. When the individual under consideration is an unborn human child, the basic question becomes, "When does the life of each human being begin?" Only by examining this question can the government determine whether unborn children are living human beings. Only after addressing this issue can a government intelligently decide whether to accord equal value to the lives of unborn children and whether to protect their lives under the law.

In its hearings on S. 158, the Subcommittee has exhaustively addressed all questions relevant to the protection of lives of unborn children under the fourteenth amendment. Through these hearings we have also come to recognize that the fundamental question concerning the life and humanity of the unborn is twofold. Not only must government answer the biological, factual question of when the life of each human being begins; it must also address the question whether to accord intrinsic worth and equal value to all human life, whether before or after birth.

These two questions are separate and distinct. The question of when the life of a human being begins—when an individual member of the human species comes into existence—is answered by scientific, factual evidence. Science, however, is not relevant to the second question; science cannot tell us what value to give to each human life. This second question can be answered only in light of the ethical and legal values held by our citizens and expressed by the framers of our Constitution.

The two congressional findings contained in section 1 of S. 158 correspond to these two distinct questions. The congressional finding in section 1(a) of the bill addresses the first question and rests on a factual, scientific determination. The congressional finding in section 1(b) of the bill reflects the conclusion of the Subcommittee that the fourteenth amendment answers the second question by affirming the intrinsic worth and equal value of all human lives.

Much confusion has arisen in the Subcommittee's hearings and in public debate over S. 158 because of the failure to distinguish between the two basic questions. Those, on the one hand, who claim that scientific evidence can resolve the abortion issue ignore the significance of the second question. They fail to see that even if unborn children are human beings, government must decide whether their lives are of such value

[1] Speech to the Republican Citizens of Washington County, Maryland (March 31, 1809) reprinted in J. Bartlett, "Familiar Quotations," 472-73 (14th ed. 1968).

[2] The state of the law allowing abortion on demand is explained at pp. 5-6, infra.

[3] Cong. Globe, 40th Cong., 1st Sess. 542 (1867).

that they should be protected under the law. Those, on the other hand, who deny that science has any relevance to the abortion issue generally focus only on the second question and refuse to acknowledge the possibility of answering the first. They ignore the role science plays in informing us that a particular individual is a member of the human species, a separate individual whose life we must decide either to value or not.[4]

The Subcommittee has taken pains to separate its consideration of the two questions. In this report, we shall often refer to the "scientific question" and the "value question" as a convenient shorthand. We have analyzed the testimony of various witnesses and sources of public record as they relate to each question separately. And we report separately our conclusions on each question.

We emphasize that both questions must be answered by some branch of government before the abortion issue can be fully and rationally resolved. The need for Congress to investigate both questions stems partly from the self-professed institutional limitations of our federal judiciary. The Supreme Court, in its 1973 abortion decision, declared itself unable to resolve when the life of a human being begins: "When those trained in the respective disciplines of medicine, philosophy, and theology are unable to arrive at any consensus, the judiciary, at this point in the development of man's knowledge, is not in a position to speculate as to the answer." *Roe* v. *Wade*, 410 U.S. 113, 159 (1973). The Court went on to explain that a "wide divergence of thinking" exists on the "sensitive and difficult" question of when a human life begins, *id.* at 160; hence, the judiciary is not competent to resolve the question.

As a result of its self-professed inability to decide when the life of a human being begins, the Supreme Court rendered its 1973 abortion decision without considering whether unborn children are living human beings. And because the Court did not consider whether unborn children are living human beings, it was able to avoid an explicit decision on whether our law accords intrinsic worth and equal value to the life of every human being regardless of stage or condition. The Court thus declined to address either of the crucial questions relevant to pretecting unborn children under the law: the Court addressed neither the scientific question nor the value question. The Court's entire 1973 opinion concerning the power of states to protect unborn children—including the Court's ruling on personhood of the unborn—must be read in light of this failure to resolve the two fundamental questions concerning the existence and value of unborn human life.

That a judicial decision addressing neither of these fundamental questions has led to a national policy of abortion on demand throughout the term of pregnancy is a great anomaly in our constitutional system. It is important to examine the judicial reasoning that led to this result. The Court held that "the right of personal privacy includes the abortion decision," but added that "this right is not unqualified and must be considered against important state interests in regulation." 410 U.S. at 154. Because it did not resolve whether unborn children are human beings, the Court could not make an informed decision on whether abortions implicate the interest and duty of the states to protect living human beings. Still, without purporting to know whether unborn children are living human beings, the Court stated by fiat that they are not protected as persons under the fourteenth amendment.[5]

Then the Court created judge-made rules governing abortion. 410 U.S. at 163-65. During the first three months of an unborn child's life, the states may do nothing to regulate or prohibit the aborting of the child. In the next three months of the unborn child's life the states may regulate only the manner in which the child is aborted; but abortion remains available on demand. In the final three months before the child is born, the states may prohibit abortions except when necessary to preserve the "life or health of the mother." *Id.* at 165.

The apparently restricting standard for the third trimester has in fact proved no different from the standard of abortion on demand expressly allowed during the first six months of the unborn child's life. The exception for maternal health has been so broad in practice as to swallow the rule. The Supreme Court has defined "health" in this context to include "all factors—physical, emotional, psychological, familial, and the woman's age—relevant to the well-being of the patient." *Doe* v. *Bolton*, 410 U.S. 179, 192 (1973). Since there is nothing to stop an abortionist from certifying that a third-trimester abortion is beneficial to the health of the mother—in this broad sense—the Supreme Court's decision has in fact made abortion available on demand throughout the pre-natal life of the child, from conception to birth.

Statistics such as those of the District of Columbia showing that more children are aborted than are born alive demonstrate the availability of abortion on demand.[6] The news media have reported some of the shocking results of abortion on demand during the third trimester, including the purposeful killing of babies who survive an abortion procedure. *See* Jeffries & Edmonds, "Abortion: The Dreaded Complication," *Philadelphia Inquirer*, Aug. 2, 1981, Today Magazine, at 14. Whether the Supreme Court intended such an extreme result is not clear.[7]

Roe v. *Wade* has been widely criticized by constitutional scholars; it is frequently cited as the most extreme example of a case in which the Supreme Court substituted its own judgment for the judgments of elected legislatures. *See, e.g.*, Byrn, *An American Tragedy: The Supreme Court on Abortion*, 41 Fordham L. Rev. 807 (1973); Destro, *Abortion and the Constitution: The Need for Life-Protective Amendment*, 63 Calif. L. Rev. 1250 (1975); Ely, *supra* note 5. While some critics assailed the decision on the ground that unborn children are human beings who ought to be protected by law, the majority of the constitutional scholars who attacked *Roe* made it clear that they personally favored permissive abortion laws, but objected to the Court's decision on the ground that under our Constitution legislatures rather than the federal courts have the power to make abortion policy. In the words of Professor Ely, *Roe* "is bad because it is bad constitutional law, or rather because it is *not* constitutional law and gives almost no sense of an obligation to try to be." Ely, *supra* note 5, at 947.

Not the least of the problems with *Roe* v. *Wade* was that it did not adequately explain either the constitutional or factual bases for its holdings or their precise scope. For instance, it has been suggested that the court's holding that the states may not protect unborn children rests not on the Court's uncertainty about when life begins, but on the Court's endorsement of a rule of constitutional law to the effect that the class of "fourteenth amendment persons" does not necessarily include all human beings. *See The Human Life Bill: Hearings on S. 158 Before the Subcommittee on Separation of Powers of the Senate Committee on the Judiciary*, 97th Cong., 1st Sess. (1981) [hereinafter cited as *Hearings on S. 158*] (May 21 transcript at 94-95) (testimony of Professor William Van Alstyne). *See also* note 5, *supra*. Under this analysis, even if there were a universal consensus to the effect that unborn children are human beings, they would have no constitutional rights and could not be protected by law. If this was actually the holding of *Roe* v. *Wade*, then the possibility that new classes

[4] For instance, the medical and scientific witnesses who testified against S. 158 universally, argued that the question when human life begins is a "moral, religious or philosophical" question rather than a scientific one. In context, it is clear that they were interpreting the question, "Is it a human being?" not as an inquiry about whether a certain being is an individual member of the human species, but as a value question concerning what rights ought to be given to such creature. *See* pp. 10-15, *infra*. Similarly, the doctors who responded to a questionnaire sent by Senator Baucus tended to regard "human being" as a semantic construct presupposing a conclusion that the being in question is entitled to certain rights, rather than as a designation for all individual members of the human species.

[5] The Court devoted very little analysis to its holding that the word "person" in the fourteenth amendment does not include the unborn. Justice Blackmun noted first that of the *other* uses of the word "person" in the Constitution—such as the qualifications for the Office of President and the clause requiring the extradition of fugitives from justice—"nearly all" seem to apply only postnatally and "[n]one indicates, with any assurance, that it has any possible pre-natal application." 410 U.S. at 157. As professor John Hart Ely has pointed out, the Court might have added that most of these provisions were "plainly drafted with *adults* in mind, but I suppose that wouldn't have helped." Ely, *The Wages of Crying Wolf: A Comment on Roe* v. *Wade*, 82 Yale L. J. 920, 925-26. (1973). Justice Blackmun also noted that "throughout the major portion of the nineteenth century prevailing legal abortion practice were far freer than they are today. . . ." 410 U.S. at 158. This statement seems not to reflect an awareness that the relatively permissive attitude toward abortion prior to quickening that prevailed in the *early* nineteenth century was over-whelmingly rejected by the very legislatures that ratified the fourteenth amendment. It was these same legislatures which adopted strict anti-abortion laws. These laws in turn resulted from the consensus in the medical profession, based on recent scientific discoveries, that the unborn child was a human being from the moment of conception. *See* pp. 10, 24-25, *infra*. Although Justice Blackmun mentioned these political and scientific developments in an earlier portion of his opinion, 410 U.S. at 138-142, he did not discuss their relevance to an understanding of the consensus at the time of the adoption of the fourteenth amendment on whether the word "person" includes the unborn.

[6] At hearings before another Subcommittee of the Senate Committee on the Judiciary, Dr. Irwin M. Cushner, who testified against restrictions on abortion, stated that no more than two percent of induced abortions are performed "for clinically identifiable reasons," and that no more than one percent are performed to save the life of the mother or for any other purpose related to physical health. Hearings Before the Subcommittee on the Constitution of the Senate Committee on the Judiciary, October 14, 1981.

[7] Chief Justice Burger, for example, stated in a separate opinion that the Court was not endorsing a constitutional right to abortion on demand. *Doe* v. *Bolton*, 410 U.S. 179, 208 (1973) (Burger, C.J., concurring).

of human beings will be held not to be "fourteenth amendment persons" gives the decision profound and disturbing implications beyond the abortion context.

A congressional determination that unborn children are human beings and that their lives have intrinsic worth and equal value will encourage the Court to reexamine the results and the reasoning of *Roe* v. *Wade*. In *Roe* the Court expressed a desire to decide the abortion issue "consistent with the relative weights of the respective interest involved . . ." 410 U.S. at 165. The Court's view of the relative weight of the interests of the unborn child was necessarily influenced by the Court's professed inability to determine whether the unborn child was a living human being. It is difficult to believe that the Court would again balance the respective interests in such a way as to allow abortion on demand, if the Court were to recognize that one interest involved was the life of a human being.

IV. THE SCIENTIFIC QUESTION; WHEN DOES A HUMAN LIFE BEGIN

During the course of eight days of hearings, fifty-seven witnesses testified on S. 158 before the Subcommittee. Of these witnesses, twenty-two, including world-renowned geneticists, biologists, and practicing physicians, addressed the medical and biological question raised by the bill. Eleven testified in support of the bill and eleven in opposition.

The testimony of these witnesses and the voluminous submmissions received by the Subcommittee demonstrate that contemporary scientific evidence points to a clear conclusion: the life of a human being begins at conception, the time when the process of fertilization is compete. Until the early nineteenth century science had not advanced sufficiently to be able to know that conception is the beginning of a human life, but today the facts are beyond dispute.

Physicians, biologists, and other scientists agree that conception marks the beginning of the life of human being—of a being that is alive and is a member of the human species. There is overwhelming agreement on this point on countless medical, biological, and scientific writings. Extensive quotation from such writings would be unnecessarily redundant except for the strenuous efforts by some parties to deny or obscure this basic fact. The following are only a limited sample from the scientific literature:

"*Zygote.* This cell results from fertilization of an oocyte by a sperm and is *the beginning of a human being.*"

* * * * *

Development begins at fertilization, when a sperm unites with an oocyte to form a *zygote* (from the Greek *zygotus,* meaning "yoked together"). Each of us started life as a cell called a *zygote.*" K. Moore, *The Developing Human,* 1, 12 (2d ed. 1977).

"In this first pairing, the spermatozoon has contributed its 23 chromosomes, and the oocyte has contributed its 23 chromosomes, thus re-establishing the necessary total of 46 chromosomes. The result is the conception of a unique individual, unlike any that has been born before and unlike any that will ever be born again." M. Krieger, *The Human Reproductive System* 88 (1969).

"[A]ll organisms, however large and complex they may be when full grown, begin life as but a single cell.

"This is true of the human being, for instance, who begins life as a fertilized ovum. . . ." I. Asimov, *The Genetic Code* 20 (1962).

"It is penetration of the ovum by a spermatozoon and the resultant mingling of the nuclear material each brings to the union that constitutes the culmination of the process of *fertilization* and marks the initiation of the life of a new individual." B. Patten, *Human Embryology* 43 (3d ed. 1968).

"The formation, maturation and meeting of a male and female sex cell are all preliminary to their actual union into a combined cell, or *zygote,* which definitely marks the beginning of new individual." L. Arey, *Developmental Anatomy* 55 (7th ed. 1974).

"A human being originates in the union of two *gametes,* the ovum and the spermatozoon." J. Roberts, *An Introduction to Medical Genetics* 1 (3d ed. 1963).

"Bisexual reproduction is characteristic of all vertebrates, and *gametogenesis* (the production of *germ cells*) is its first phase. The next phase, the beginning of the development of a new individual, is the fusion of two germ cells (*gametes*) of different nature; one, the *spermatozoon* from the male parent; the other, the *ovum* from the female parent. The result of this fusion is the formation of the first cell of the new individual, the *zygote.*" W. Hamilton & H. Mossman, *Human Embryology* 14 (4th ed. 1972).

"The zygote thus formed [by the moving together of two sets of chromosomes] represents the beginning of a new life." J. Greenhill & E. Friedman, *Biological Principles and Modern Practice of Obstetrics* 23 (1974).

"The zygote is the starting cell of the new organism." S. Luria, *Thirty-Six Lectures in Biology* 146 (1975).

"A new individual is initiated by the union of two gametes—a male gamete, or *spermatozoon,* and a female gamete, or *mature ovum.*" J. Brash, *Human Embryology* 2 (1956).

"Fertilization is significant in that new life is created, but specifically the cardinal features of fertilization are that (1) the diploid number of chromosomes [46] is reconstituted and (2) the sex of the conceptus is designated chromosomally." J. Thomas, *Introduction to Human Embryology* 52 (1968).

"A new individual is inaugurated in a single cell (zygote) that results from the union of a male gamete (spermatozoön) with a female gamete (ovum or egg)." T. Torrey, *Morphogenesis of the Vertebrates* 47 (3d ed. 1971).

"The fertilized egg cell—or zygote—contains nuclear material from both parents. It marks the beginning of the life of a new human being and is a useful focal point for presenting all the diverse aspects of organic reproduction." G. Simpson & W. Beck, *Life: An Introduction to Biology* 139 (2d ed. 1965).

Many witnesses who appeared before the Subcommittee reaffirmed the scientific consensus on this point. Dr. Jerome Lejeune of the Université René Descartes in Paris, discoverer of the chromosomal disease which causes mongolism, testified that, "[l]ife has a very, very long history, but each individual has a very neat beginning—the moment of its conception."[8] *Hearings on S. 158* (April 23 transcript at 18).

Similarly, Dr. Watson Bowes, Professor of Obstetrics and Gynecology at the University of Colorado School of Medicine, stated, "If we are talking, then, about the biological beginning of a human life or lives, as distinct from other human lives, the answer is most assuredly that it is at the time of conception—that is to say, the time at which a human ovum is fertilized by a human sperm." *Id.* at 61. Dr. Bowes ended his prepared statement as follows: "In conclusion, the beginning of a human life from a biological point of view is at the time of conception. This straightforward biological fact should not be distorted to serve sociological, political, or economic goals." *Id.* at 65.

Dr Hymie Gordon, Professor of Medical Genetics and physician at the Mayo Clinic, affirmed this consensus and recognized the distinction between the scientific question and the value question:

"I think we can now also say that the question of the beginning of life—when life begins—is no longer a question for theological or philosophical dispute. It is an established scientific fact. Theologians and philosophers may go on to debate the meaning of life or the purpose of life, but it is an established fact that all life, including human life, begins at the moment of conception." *Id.* at 31-32.

Dr. Gordon further observed:

"I have never ever seen in my own scientific reading, long before I became concerned with issues of life of this nature, that anyone has ever argued that life did not begin at the moment of conception and that it was a human conception if it resulted from the fertilization of the human egg by a human sperm. As far as I know, these have never been argued against." *Id.* at 52.

Dr. Micheline Matthews-Roth, a principal research associate in the Department of Medicine at the Harvard Medical School, after reviewing the scientific literature on the question of when the life of a human being begins, concluded her statement with these words:

"So, therefore, it is scientifically correct to say that an individual human life begins at conception, when egg and sperm join to form the zygote, and that this developing human always is a member of our species in all stages of its life." *Id.* at 41-42.

The scientific consensus on the biological fact of the beginning of each human life has existed ever since the medical and scientific communities became aware of the process of conception in the mid-ninteenth century. In 1859 a committee of the American Medical Association unanimously reported its objection to the widespread unscientific belief "that the foetus is not alive till after the period of quickening." The committee unanimously recommended a resolution for the Association to protect against all abortions as an "unwarrantable destruction of human life," except when performed to preserve the life of the mother. 12 American Medical Association, *The Transactions of*

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[8] Various possible biological nuances on this fact do not detract from the scientific facts relevant to this subcommittee's findings. One witness testified that cases in which twins arise from a single embryo suggest that the individual has not yet been "stably constituted" until the point when twinning occurs. Hearings on S. 158 (May 20 transcript at 19) (testimony of Dr. Clifford Grobstein). But even in such exceptional cases of "homozygous" (twins, there is a being in existence from conception who is alive and human. That we can describe the formation of twins merely emphasizes that even at the earliest stages after conception we can have scientific knowledge of the existence of distinct, individual human beings.

The same witness also described the experimental process of the fusion of nonhuman embryos. *Id.* But such experiments have never been successfully performed on human beings, and even in other species, such as mice, fusion cannot be performed except within minutes of conception. Hearings on S. 158 (April 23 transcript at 22) (testimony of Dr. Lejeune).

the American Medical Association 75-78 (1859). The committee emphasized that the true nature of abortion was not a "simple offense against public morality and decency," nor an "attempt upon the life of the mother" but rather the destruction of her child. The committee therefore called upon the Association to recommend to governors and legislators of the states that they protect human life, by law, from the time of conception. During the second half of the nineteenth century, following the formation of a consensus in the medical and scientific community on the beginning of each human life, the overwhelming majority of the states came to protect the lives of unborn children from the time of conception rather than the time of quickening. *See* Byrn, *An Amnerican Tragedy: The Supreme Court on Abortion*, 41 Fordham L. Rev. 807, 827-33 (1973).

Until recent years, no serious challenge was made to the straightforward scientific fact that the life of a human being begins at conception. As recently as 1963, Planned Parenthood Federation of America, now a strong proponent of legalized abortion in Congress and before this subcommittee, published a pamphlet entitled *Plan Your Children for Health and Happiness*, which acknowledged: "An abortion requires an operation. It kills the life of a baby after it has begun."

The biological consensus that conception marks the begining of the life of a human being has recently been confirmed by the process of creating a new human life outside the mother: the "test-tube baby." *See Hearings on S. 158* (April 23 transcript at 22-23) (testimony of Dr. Lejeune).

It may at first seem difficult to reconcile the existence of such a broad consensus with the testimony of some witnesses opposing S. 158 before this subcommittee who emphatically denied that it is possible to determine when a human life begins. If the facts are so clear, it is crucial to understand how, for example, one noted professor of genetics from Yale University School of Medicine could say that he knows of no scientific evidence that shows when actual human life exists.[9]

Such statements appear on the surface to present a direct contradiction to the biological evidence discussed above. The explanation of this apparent contradiction lies in the existence of the two distinct questions identified above, the scientific question and the value question. We must consider not only whether unborn children are human beings but also whether to accord their lives intrinsic worth a value equal to those of other human beings. The two questions are separate and distinct. It is a scientific question whether an unborn child is a human being, in the sense of a living member of the human species. It is a value question whether the life of an unborn child has intrinsic worth and equal value with other human beings.

Those witnesses who testified that science cannot say whether unborn children are human beings were speaking in every instance to the value question rather than the scientific question. No witness raised any evidence to refute the biological fact that from the moment of human concept there exists a distinct individual being who is alive and is of the human species. No witness challenged the scientific consensus that unborn children are "human beings," insofar as the term is used to mean living beings of the human species.

Instead, these witnesses invoked their value preferences to redefine the term "human being." The customary meaning of "human being" is an individual being who is human, *i.e.*, of the human species. This usage is that of the medical and scientific writers quoted above and of all the medical textbooks to which the Subcommittee has been referred; of Doctors Lejeune, Gordon, and Matthews-Roth, who testified before the Subcommittee; of the American Medical Association in 1859; and of Planned Parenthood in 1963. In this sense a "human being" is something that can be identified by science. Whether a living being is human is thus, in the words of Dr. Lejeune, a matter of "plain experimental evidence." *Hearings on S. 158* (April 23 transcript at 25). Disregarding the customary scientific definition of human being, some witnesses sought to make "human being" and "humanness" into undefined concepts that vary according to one's values. They took the view that each person may define as "human" only those beings whose lives that person wants to value. Because they did not wish to accord intrinsic worth to the lives of unborn children, they refused to call them "human beings," regardless of the scientific evidence.

This technique of argument has been openly advocated by one commentator who writes that "[w]hether the fetus is or is not a human being is a matter of definition, not fact; and we can define any way we wish." Hardin, *Abortion—or Compulsory Pregnancy?* 30 J. of Marriage & the Family 246, 250 (1968). This line of argument does not refute the consensus answer to the scientific question; instead it evades the scientific question by focusing solely on the value question. By adopting this line of argument, some witnesses appearing before the Subcommittee, notably Dr. Rosenberg, were able to testify that they knew of no scientific evidence showing when actual human life exists. That he was speaking only to the value question is evident from his explanation that "science, per se, doesn't deal with the complex quality called 'humanness' any more than it does with such equally complex concepts as love, faith, or trust." Hearings on S. 158 (April 24 transcript at 25).

A careful examination reveals the true nature of this line of argument. By redefining "human being" according to one's value preferences, one never has to admit believing that some human lives are unworthy of protection. Conveniently one can bury the value judgment that some human lives are not worth protecting beneath the statement that they are not human beings at all. An editorial in the journal of the California Medical Association has explained why this line of argument appeals to those who reject the traditional ethic of the sanctity of human life, which accords intrinsic worth and equal value to all human lives:

"Since the old ethic has not yet been fully displaced it has been necessary to separate the idea of abortion from the idea of killing, which continues to be socially abhorrent. The result has been a curious avoidance of the scientific fact, which everyone really knows, that human life begins at conception and is continuous whether intra- or extra-uterine until death. The very considerable semantic gymnastics which are required to rationalize abortion as anything but taking a human life would be ludicrous if they were not often put forth under socially impeccable auspices." A New Ethic for Medicine and Society, 113 California Medicine 67, 68 (1970).

The Subcommittee rejects as misleading semantic efforts to manipulate the English language and to redefine "human being" according to particular value preferences; instead we adhere to the customary meaning of "human being" as including every living member of the human species. S. 158 embodies the Subcommittee's finding, in accordance with the overwhelming consensus of scientific authority, that the life of a human being begins at conception. Our analysis of the leading works on embryology and fetal development indicates that witnesses who disputed that the life of a human being begins at conception reflect not scientific judgment, but rather the value preference of certain members of the scientific community[10] against protecting the life of unborn human beings.[11]

If the United States government is to give reasonable consideration to the abortion issue it must start from the fact that unborn children are human beings. The hearings before this subcommittee show that this fact is not seriously in doubt; it is questioned only by means of efforts to redefine "human being" in a purely subjective manner. No governmental body that approaches the abortion question with honesty can accept semantic gymnastics that obscure the real issue. Accordingly, we turn next to the real issue in dispute, whether to accord intrinsic worth and equal value to all human lives regardless of stage or condition.

V. THE VALUE QUESTION: SHOULD WE VALUE ALL HUMAN LIVES EQUALLY?

The answer to the scientific question casts the value question in clear relief. Unborn children are human beings. But should our nation value all human lives equally? Scientific evidence is not releveant to this ques-

[9] Hearings on S. 158 (April 24 transcript at 24) (testimony of Dr. Leon Rosenberg).

[10] A recent survey by a disinterested insurance company found that the two groups in society most favorable toward abortion were the scientific and medical community and the legal profession. While 65 percent of the general public believe that abortion is immoral, only 25 percent of doctors and other scientists and only 25 percent of lawyers express such a belief. "The Connecticut Mutual Life Report on American Values in the 80s" 219 (1981).

[11] Practical realities sometimes make it impossible for pro-abortion doctors to evade the fact that unborn children are living human beings. The Philadelphia Inquirer, in its Today magazine section on Sunday, August 2, 1981, ran a cover story by Liz Jeffries and Rick Edmonds entitled "Abortion: The Dreaded Complication." The "complication" described in the article, and so dreaded by abortionist doctors, is that some babies will survive an abortion procedure and be born alive. The article describes one instance in which a live two and one-half pound baby boy survived an abortion procedure: "Dismayed, the second nurse . . . deposited it . . . on the stainless steel drainboard of a sink in the maternity unit's Dirty Utility Room—a large closet where bedpans are emptied and dirty linens stored. . . .'[The patient's physician] told me to leave it where it was,' the head nurse testified later, 'just to watch it for a few minutes, that it would probably die in a few minutes.'" Id. at 14.

The Subcommittee is appalled that some in the medical profession show such disdain for the value of a human life. But such tragic events do make it impossible to ignore that the unborn children being aborted today are human beings. Other medical realities further confirm this fact. For example, babies within their mothers' wombs can now be treated to alleviate various disorders. The doctors treating them do not try to redefine them as nonhuman. When doctors or scientists deny in selected contexts that unborn children are human beings, their statements should be recognized as evasions of facts by those for whom the facts are inconvenient.

tion. The answer is a matter of ethical judgment.

Deeply engrained in American society and American constitutional history is the ethic of the sanctity of innocent human life. The sanctity-of-life ethic recognizes each human life as having intrinsic worth simply by virtue of its being human. If, as a society, we reject this ethic, we must inevitably adopt some other standard for deciding which human lives are of value and are worthy of protection. Because the standards some use to make such decisions turn on various qualities by which they define which lives are worthy of protection, the alternative to the sanctity-of-life ethic is ofen termed the "quality-of-life ethic," A sharp division exists today between those who affirm the sanctity-of-life ethic and those who reject it in favor of the quality-of-life ethic. The Supreme Court has never purported to decide which ethic our Constitution mandates for valuing the lives of human beings before birth. Nevertheless, deciding which ethic should apply is fundamental to resolving the abortion issue under the Constitution.

A few proponents of abortion have conceded that the real issue at stake is the intrinsic value of human life. The California Medical Association journal California Medicine, for example, has recognized the relationship between the rejection of the sanctity-of-life ethic and the advocacy of abortion:

"In defiance of the long held Western ethic of intrinsic and equal value for every human life regardless of its stage, condition or status, abortion is becoming accepted by society as moral, right, and even necessary." A New Ethic for Medicine and Society, 113 California Medicine 67, 68 (1970). Similarly, some witnesses who appeared before the Subcommittee to oppose S. 158 tacitly rejected the sanctity of human life. For example, one witness stated that "[a]t some point as the amazing chain of events that results in a fertilized egg becoming a human being unfolds, we acquire the basis for those attributes that make us humans, but precisely when I cannot say." Hearings on S. *1958* (May 20 transcript at 24) (testimony of Dr. James Neel). By this view, only after a developing member of the human race has acquired certain attributes or qualities is he or she accorded value as a "human being."

Advocates of a quality-of-life ethic vary in the qualities they choose as a standard for which human lives to value. The common element of every "quality of life" view, however, is a denial of the intrinsic worth of all human life, along with an attempt to define what qualities must be present in a human being before its life is to be valued. Although the scientific witnesses who adopted the quality-of-life ethic did not state explicitly the theoretical basis for this ethic, it has been the subject of frequent commentary in modern literature on medical ethics. A review of this literature helps in examining this alternative to the sanctity-of-life ethic.

A clear, straightforward statement of the quality-of-life ethic is found in an article by religion professor George H. Ball, *What Happens at Conception?* Christianity and Crisis 274 (Oct. 19, 1981). Professor Ball asserts that "mere biological membership in the species *homo sapiens* does not make one a human being." *Id.* at 286. The quality that Professor Ball requires before he will recognize a being as human is "consciousness of self." He summarizes his quality-of-life standard with these words: "Until a living being can take conscious management of life and its direction, it remains an animal." *Id.*

Professor Ball shows more willingness than many others to follow his theory to its logical conclusion: "Thus, shocking as it may seem, a newly born infant is not a human being." *Id.*

Candidly, Professor Ball artculates what so many other advocates of a quality-of-life ethic leave to inference. He rejects the customary biological definition of the term "human being." Individuals such as the newborn, who are human beings by any ordinary usage of language, are not human beings in his lexicon. Instead, "human beings" are only those whose lives have a certain quality, a quality which he specifies to be "consciousness of self." Professor Ball does not deny the biological facts of human life; he denies that all human lives have intrinsic worth and equal value.

In another instructive example, Professors Raymond S. Duff and A. G. M. Campbell of the Yale Medical School make clear the opposition between the sanctity-of-life ethic and the quality-of-life ethic. The professors describe the death of certain handicapped infants by starvation, or other deliberate forms of denial of normal care, as a "management option." Duff & Campbell, *Moral and Ethical Dilemmas in the Special-Care Nursery*, 289 New Eng. J. of Med. 890 (1973). Laws against killing such handicapped infants by inattention, they conclude, "should be changed." *Id.* at 894. The quality-of-life ethic is superior to the sanctity-of-life ethic:

"Recently, both lay and professional persons have expressed increasing concern about the quality of life for these severely impaired survivors and their families. Many pediatricians and others are distressed with the long-term results of pressing on and on to save life at all costs and in all circumstances. Eliot Slater stated, 'If this is one of the consequences of the sanctity-of-life ethic, perhaps our formulation of the principle should be revised.' " *Id.* at 890 (footnotes omitted).

Professors Duff and Campbell also expressed a willingness to redefine especially unfortunate newborn human beings as not human beings at all. According to them, "Such very defective individuals were considered to have little or no hope of achieving meaningful 'humanhood.' For example, they have little or no capacity to love or be loved." *Id.* at 892 (footnote omitted).

This subcommittee rejects the notion that our definition of human being should depend on who is loved or unloved, wanted or unwanted. Though human suffering often accompanies many unfortunate cases of mental and physical handicap, it cannot be allowed to obscure the fact that such unfortunate individuals are indeed human beings. Attempts to redefine "human being" in such cases merely obscure the ethical and moral issues that underlie any public abortion policy.

Our constitutional history leaves no doubt which ethic is written into our fundamental law. The Declaration of Independence expressly affirms the sanctity of human life:

"We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain inalienable rights, that among these are life, liberty, and the pursuit of happiness."

The proponents of the fourteenth amendment argued for the amendment on the basis of these principles. Congressman John A. Bingham of Ohio, who drafted the first section of the fourteenth amendment, stated after the adoption of the Joint Resolution of Congress proposing this amendment:

"Before that great law [of the United States,] the only question to be asked of the creature claiming its protection is this: Is he a man? Every man is entitled to the protection of American law, because its divine spirit of equality declares that all men are created equal." *Cong. Globe*, 40th Cong., 1st Sess. 542 (1867).

Similarly, Abraham Lincoln emphasized the importance of holding to the concept of the sanctity of human life and of never denying the inalienable value of every human being.

"I should like to know if taking this old Declaration of Independence, which declares that all men are equal upon principle and making exceptions to it where will it stop. If one man says it does not mean a negro, why not another say it does not mean some other man? If that declaration is not the truth, let us get the Statute book, in which we find it and tear it out! . . . let us stick to it then . . . let us stand firmly by it then." Speech during the Lincoln-Douglas senatorial campaign (July 10, 1858), *reprinted in* 2 *The Collected Words of Abraham Lincoln* 484, 500-01 (R. Basler ed. 1953) (footnote omitted).

As the framers planned it, all human beings were to fall within the ambit of the amendment's protection. Congressman Bingham spoke of the rights guaranteed by the amendment as applying to "any human being." *Cong. Globe*, 39th Cong., 1st Sess. 1089 (1866). Bingham also said the amendment would protect the rights of "common humanity." *Cong. Globe*, 40th Cong., 2d Sess. 514 (1868). Senator Jacob M. Howard of Michigan, who sponsored the amendment in the Senate, regarded it as applicable to any member of the human "race." *Cong. Globe*, 39th Cong., 1st Sess. 2766 (1866). Echoing the familiar phrases of the Declaration, these men sought to give added legal protection to rights that the founders of our republic had declared fundamental, paramount among which is the right to life. The fourteenth amendment stands upon the principle that all human life has intrinsic worth and equal value. To sacrifice the sanctity-of-life ethic is thus to abrogate the fourteenth amendment.

The Supreme Court itself has strongly implied support for the sanctity-of-life ethic, by holding that "person" must include all living human beings:

"We start from the premise that illegitimate children are not "nonpersons." They are humans, live, and have their being." *Levy* v. *Louisiana*, 391 U.S. 68, 70 (1968). In its 1973 abortion decision, the Supreme Court did not consider whether unborn children fit within this definition of "person." Because it found itself unable to resolve the question of when human life begins, the Court did not face this question. If, in a case arising as a result of S. 158, the Supreme Court should accept this subcommittee's finding that unborn children are living human beings, the Court would then be squarely presented with the question whether the *Levy* definition of human personhood applies equally to the unborn.

Supreme Court justices have strongly affirmed the principle of the sanctity of human life in cases arising in the context of capital punishment. Justice Brennan refers to our society as "a society that . . . strongly affirms the sanctity of life . . ." *Furman* v. *Georgia*, 408 U.S. 238, 286 (1972) (Brennan, J., concurring). This ethic accords supreme value to the life of each human being simply by virtue of its humanity. "The State, even as it punishes,

must treat its members with respect for their intrinsic worth as human beings." *Id.* at 270. Such punishment, he observes, "may reflect the attitude that the person punished is not entitled to recognition as a fellow human being." *Id.* at 273.

The sanctity-of-life ethic affirmed in these statements, we believe, is a concept at least as important in the context of abortion as in the context of capital punishment. The Subcommittee does not express any view on whether, under our Constitution, a convicted criminal may be punished by forfeiting his life. We merely observe that the sanctity-of-life ethic demands the utmost respect for the value of innocent lives.

It is true, of course, that the Justices did not make similar observations in the 1973 abortion decision. Once again, it is crucial to note, however, that they also professed not to know whether the unborn were living human beings. Views of Supreme Court Justices can certainly change as the Justices acquire a deeper understanding of the facts on which constitutional rules must operate. For instance, the Court itself has said that the interpretation of the eighth amendment "is not fastened to the obsolete but may acquire meaning as public opinion becomes enlightened by a humane justice." *Weems* v. *United States*, 217 U.S. 349, 378 (1910). In like fashion, the fourteenth amendment's protection of life can certainly acquire meaning as scientific facts concerning the beginning of human life enlighten public opinion and as Congress affirms the principle of the sanctity of life.

It is instructive to note that the highest court of West Germany accorded constitutional protection to unborn children precisely because the court affirmed the principle of the sanctity of human life. The "Basic Law," or the Bonn constitution, of West Germany guarantees the "right to life." The court explained this guarantee as a reaction against the Nazi regime's idea of "Destruction of Life Unworthy to Live" and as an "affirmation of the fundamental value of human life. . . ." Therefore, the court concluded:

"The development process thus begun is a continuous one which manifests no sharp caesuras and does not permit any precise delimitation of the various developmental stages of the human life. It does not end with birth either; the phenomena of consciousness specific to human personality, for instance, do not appear until some time after birth. Therefore the protection of Article 2, paragraph 2, sentence 1, of the Basic Law may not be limited either to the "completed" human being after birth nor to the independently viable *nasciturus*. The right to life is guaranteed to everyone who "lives;" no distinction can be made between individual stages of the developing life before birth or between prenatal and postnatal life.

"(c) In countering the objection that 'everyone' in common parlance and in legal terminology generally denotes a 'completed' human person, [and] that, therefore, a purely verbal interpretation militates against the inclusion of the prenatal life in the range of efficacy of Article 2, paragraph 2, sentence 1, of the Basic Law, it must be emphasized that in any event the sense and purpose of this constitutional provision require that the protection of life be also extended to the developing life. The safeguarding of human existence against transgressions of the State would be incomplete if it did not also comprise the preliminary phase of the 'completed life,' the prenatal life." Decision of February 25, 1975, [1975] 39 BVerfGE 1.

The West German court recognized the dangers that can follow when a society rejects the idea that all human lives have intrinsic worth. If American law comes to reject the principle of the sanctity of human life, there will be no secure protection for the lives of those, born or unborn, who are weakest and most vulnerable. Some judges have already expressed a belief that the life of a physically or mentally handicapped individual is of less value than the life of other persons. Even before *Roe* v. *Wade* a federal judge found that the state interest is "virtually nil" in protecting the life of an unborn child who is "likely to be born a mental or physical cripple." *Abele* v. *Markle*, 342 F. Supp. 800, 804 (D. Conn. 1972). To kill such a child before birth, the Judge believed, would be a "therapeutic" measure. *Id.* Similarly, another federal judge has belittled the value of the life of any unborn child who is "defective" or "intensely unwanted by its future parents." *Doe* v. *Scott*, 321 F. Supp. 1385, 1391 (N.D. Ill. 1971).

Fortunately, federal courts have not carried such reasoning to its logical conclusion. So far they have not ruled that newborn babies who are physically or mentally handicapped and unwanted by their parents are somehow less than human. A Nobel Prize-winning scientist and proponent of the quality-of-life ethic, however, has made just such a suggestion:

"If a child were not declared alive until three days after birth, then all parents could be allowed the choice . . . . The doctor could allow the child to die if the parents so chose and save a lot of misery and suffering." Interview with James D. Watson, *Children from the Laboratory*, 1 Prism 12, 13 (1973).

Because it affirms the Constitution, the Subcommittee cannot accept any legal rule that would allow judges, scientists, or medical professors to decide that some human lives are not worth living. We must instead affirm the intrinsic worth of *all* human life. We find that the fourteenth amendment embodies the sanctity of human life and that today the government must affirm this ethic by recognizing the "personhood" of all human beings. Earlier we found, based upon scientific examination, that the life of each human being begins at conception. Now, basing our decision not upon science but upon the values embodied in our Constitution, we affirm the sanctity of all human life. Science can tell us whether a being is alive and a member of the human species. It cannot tell us whether to accord value to that being. The government of any society that accords intrinsic worth to all human life must make *both* a factual determination recognizing the existence of all human beings *and* a value decision affirming the worth of human life.

VI. LEGAL EFFECT OF S. 158

The provisions of section two of S. 158 follow necessarily from the findings of S. 158 and of this subcommittee: first, that unborn children are human beings, and, second, that the lives of all human beings have intrinsic worth and equal value. The sanctity-of-life ethic embodied in the fourteenth amendment requires that all human beings be recognized as persons for purposes of the protection of life secured by the fourteenth amendment. The ethic embodied in this amendment does not allow government to deny the value of any human life on grounds of race, sex, age, health, defect, or condition of dependency. Unborn children, because they are human beings, must therefore be persons entitled to the fourteenth amendment's protection of life. Section two of S. 158 enforces the amendment's protection of life by guaranteeing that that protection applies to all human beings, including unborn children.

The first effect of S. 158 is to require the Supreme Court to reconsider its holding in *Roe* v. *Wade* that unborn children are not persons entitled to protection of their lives under the fourteenth amendment. With the findings of S. 158, the Court faces a fundamentally different issue than it faced in *Roe* v. *Wade*. In that case it addressed the personhood issue without purporting to know whether unborn children are human beings and without considering whether all human lives are to be accorded intrinsic worth and equal value under our Constitution. Now, the findings of S. 158 would appear to bring the question of the personhood of unborn children within the holding of *Levy* v. *Louisiana*, in which the Court stated that individuals who are "humans, live, and have their being" cannot be "nonpersons." 391 U.S. 68, 70 (1968). Upon review of S. 158, it will be for the Supreme Court to resolve the inconsistency between *Levy* and *Roe* and to make the ultimate constitutional decision whether unborn children are persons entitled to protection of the fourteenth amendment right to life.

The second legal effect of S. 158 will be to require the Supreme Court to reconsider its 1973 holding that found the right of privacy to include abortion and that permitted abortion on demand throughout the term of pregnancy. In *Roe* v. *Wade*, the court observed that any decision of the abortion issue must be "consistent with the relative weights of the respective interests involved . . . ." 410 U.S. at 165. The findings of S. 158 pose a question concerning the respective interests involved in abortion, but that question is fundamentally different from the question the Court addressed in *Roe* v. *Wade*. The Court never considered whether the interest in having an abortion outweighs the interest in the life of a human being whose life is accorded intrinsic worth. The congressional findings in S. 158 will require the Court to reexamine whether the respective interests involved in an abortion can justify a judicial policy of abortion on demand. In *Roe* v. *Wade* the Court already stated:

"If the suggestion of personhood is established, the appellant's case, of course, collapses, for the fetus' right to life would then ge guaranteed specifically by the Amendment." 410 U.S. at 156–57.

If the Supreme Court follows this reasoning, upon enactment of S. 158 into law, states will be able to protect unborn children by laws similar to those widely enforced before the Supreme Court struck down anti-abortion laws in 1973. S. 158 also expresses the incontrovertible principle of constitutional law that states have authority to protect the lives of those they rationally regard as human beings. Whatever the scope of the right to privacy may be, it cannot include a right to kill a human being.

The third legal effect of S. 158 is that no state will be able to deprive an unborn child of life without due process of law. Under Supreme Court precedent, states could thus perform or fund abortions only when necessary to protect compelling state interests. Protection of the life of the mother would

surely be interpreted as one such compelling state interest. *See Roe* v. *Wade*, 410 U.S. at 173 (Rehnquist, J., dissenting). Other difficult cases will be resolved by the courts on a case-by-case basis. It seems apparent, however, that in light of S. 158 no state could fund or perform abortions on demand.

What S. 158 will not do is also important to recognize. First, S. 158 establishes no criminal penalties; the passage of S. 158 will not make abortion a crime.

Second, while S. 158 will prevent states from funding or performing abortions on demand, it will not automatically prevent the performance of abortions by private means. The fourteenth amendment only provides that no *state* shall deprive any person of life without due process of law. *See Martinez* v. *California*, 444 U.S. 277, 284 (1980). The amendment does not directly affect private action; therefore S. 158 will not directly affect the performance of abortions by private clinics. A state's failure to act to protect unborn children against privately performed abortions, moreover, would not likely be deemed state action. *See Jackson* v. *Metropolitan Edison Co.*, 419 U.S. 345 (1974); *Reitman* v. *Mulkey*, 387 U.S. 369, 381 (1967) (equal protection clause applies to private action only when the state has acted affirmatively to "encourage and involve the State in private discrimination"); *Burton* v. *Wilmington Parking Authority*, 365 U.S. 715, 721-22 (1961) ("private conduct abridging individual rights does no violence to the Equal Protection Clause unless to some significant extent the State in any of its manifestations has been found to have become involved in it").

Consequently, abortions will become illegal in the wake of S. 158 only if state legislatures choose to make them illegal. It is incorrect to state that S. 158 will make abortion "murder." S. 158 will not make abortion murder because it does not even make abortion a crime. Further, states are not likely to make abortion murder, since before 1973 all state anti-abortion laws established abortion either as a lesser degree of homicide or as a crime against the person designated only as "abortion," with lesser penalties. This subcommittee regrets that the widespread journalistic use of the term "murder" in connection with S. 158 has engendered unwarranted emotionalism on this topic; such reports reflect a misunderstanding of this bill.

The third thing S. 158 will not do is allow states to outlaw any forms of contraception. S. 158 allows states to protect unborn children only after they have come into existence at conception. Contraceptives, by definition, prevent conception. They do not terminate the life of any living human being. Furthermore, drugs and devices that do act to perform abortions after conception will not be prohibited following enactment of S. 158 unless states so legislate.

Fourth, S. 158 will not require state legislatures to categorize abortion as murder. State legislatures will have discretion, within limits of reason, to set penalties for abortion as for any other crime. They may consider mitigating circumstances for the crime of abortion, just as for any other degree of homicide or any other crime. States, furthermore, may make exceptions from an abortion statute where there is a compelling state interest for doing so. Such an interest would certainly exist in a case where an abortion was necessary to save the life of the mother, assuming that in such cases all practicable means are taken to preserve the life of the child. Here, as before, other difficult cases will have to be resolved by the courts on a case-by-case basis.

VII. CONSTITUTIONALITY OF S. 158

Congress has constitutional power to enact S. 158 despite the holding of *Roe* v. *Wade* that unborn children are not persons and there is a right to abort them. The findings of S. 158 that unborn children are human beings as a matter of biological fact and that the sanctity-of-life ethic is central to our Constitution create a fundamentally different question of constitutional law than the Supreme Court faced in *Roe* v. *Wade*. The factual question whether unborn children are human beings is central to deciding whether their lives are protected by a constitutional amendment that is intended to protect all human beings. The value decision of whether to accord intrinsic worth and equal value to all human life is also central to the enforcement of the fourteenth amendment's protection of life. The Supreme Court's *Roe* v. *Wade* opinion found the judiciary unable to address the first question, whether unborn children are human beings. It did not therefore address the question whether the lives of unborn human beings are to be accorded intrinsic worth and equal value along with other human lives. When the Supreme Court faces these two congressional determinations in the course of reviewing the constitutionality of S. 158, it will therefore face a constitutional question far different from that decided in *Roe* v. *Wade*.

Congress has the authority and, indeed, the duty to address questions of fact and value that are central to the interpretation and enforcement of constitutional provisions. The task of interpreting the Constitution in the context of specific cases is ultimately for the Supreme Court. But when the Supreme Court has professed an inability to address underlying questions that are fundamental to the interpretation of a constitutional provision, Congress is entirely justified in expressing its view on such questions, subject to Supreme Court review. Those who argue that Congress cannot address the questions of when a human life begins and what value to accord human life and unborn children are in effect arguing that no branch of the federal government can address these questions. Such an argument would mean that, even if unborn children are human beings, even if the Constitution accords intrinsic worth and equal value to all human lives, nevertheless no branch of government could recognize such facts and protect unborn children. Such a result would be absurd. Government cannot be powerless to recognize facts and make value decisions essential to the enforcement of a right so fundamental as the right to life.

The purpose of this legislation is not to impair the Supreme Court's power to review the constitutionality of legislation, but to exercise the authority of Congress to disagree with the result of an earlier Supreme Court decision based on an investigation of facts and on a decision concerning values that the Supreme Court has declined to address. The Supreme Court retains full power to review the constitutionality of S. 158, and the Subcommittee believes that the bill *should* be reviewed by the Supreme Court. A primary purpose of S. 158 is precisely to produce a new consideration by the Supreme Court of its abortion decision in light of both the biological facts concerning unborn human life and the principle that all human life is of intrinsic worth and equal value. If the Supreme Court finds the determinations of Congress to be persuasive, it will change its constitutional decision as to the availability of abortion on demand. If the Supreme Court finds Congress's determinations unsubstantiated and unpersuasive, it can refuse to follow them. In either case, the Supreme Court will have an opportunity to interpret S. 158 in light of the Constitution.

Some critics of S. 158 argue that even if *Roe* v. *Wade* was wrongly decided and ought to be overruled, S. 158 is unconstitutional because Congress must act in conformity with Supreme Court decisions until the Court itself chooses to overrule them. This criticism rests on a profound misapprehension of the doctrine of judicial review espoused in *Marbury* v. *Madison* 5 U.S. (1 Cranch) 137 (1803). Under *Marbury*, the Supreme Court, presented with a proper case, must rule in accordance with its own interpretation of the Constitution rather than with a contrary congressional interpretation, because the Justices have taken an oath to uphold the Constitution. As Chief Justice Marshall stated in *Marbury*, automatic judicial deference to a legislative interpretation of the Constitution would constitute an implicit violation of the Justices' oath of office; the Justices would thereby "close their eyes on the constitution, and see only the law." 5 U.S. (Cranch) at 178. It does not follow, however, that once the Court has interpreted a provision of the Constitution members of Congress must automatically defer to the judicial interpretation. Indeed, members of Congress take the same oath that the Justices take to uphold the Constitution. Confronted with a proposed law that is consistent with his own honest construction of the Constitution and with his view of sound policy, but that conflicts with what he regards as an erroneous Supreme Court decision, a member of Congress has at least the right and perhaps the duty to vote for the bill. To do otherwise would be to close his eyes on the Constitution and see only the case. Through its power to issue judgments that are binding on the parties to litigation, the Supreme Court will as a practical matter generally have the final word in any dispute over constitutional interpretation. But this does not preclude the possibility of a responsible dialogue between Congress and the Court.

As an attempt to influence the Supreme Court to change a constitutional decision, S. 158 calls to mind Abraham Lincoln's approach to the Supreme Court's *Dred Scott* decision of 1857. President Lincoln observed in his first inaugural address that for any erroneous Supreme Court decision there is "the chance that it may be over-ruled, and never become a precedent for other cases . . ." [12]

Throughout his vigorous campaign against the *Dred Scott* decision, Abraham Lincoln emphasized an approach that would influence the Supreme Court to reverse its decision:

"We propose so resisting it as to have it reversed if we can, and a new judicial rule established upon this subject." [13]

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[12] First Inaugural Address (March 4, 1861), reprinted in 4 "The Collected Works of Abraham Lincoln" 262, 268 (R. Basler ed. 1953).

[13] Speech during the Lincoln-Douglas senatorial campaign (October 13, 1958), reprinted in 3 "The Collected Works of Abraham Lincoln" 245, 255 (R. Basler ed. 1953).

In taking this position, Lincoln acknowledged the role of the Supreme Court in reviewing the constitutionality of legislation:

"I do not forget the position assumed by some, that constitutional questions are to be decided by the Supreme Court . . . [and that such decisions] are also entitled to very high respect and consideration, in all parallel [*sic*] cases, by all other departments of the government."[14]

To influence the Supreme Court without denying its proper role within our constitutional structure, Lincoln argued that the *Dred Scott* decision should be opposed as a

"Political rule which shall be binding . . . on the members of Congress or the President to favor no measure that does not actually concur with the principles of that decision."[15]

Rather, he advocated:

"If I were in Congress, and a vote should come up on a question whether slavery should be prohibited in a new territory, in spite of that Dred Scott decision, I would vote that it should."[16]

When Congress votes for a measure contrary to a Supreme Court decision which congressman feel is erroneously decided, the Supreme Court upon review of that statutory measure will have an opportunity to reverse its earlier decision.

Commentators have sought to define the proper limits of this approach by Congress toward decisions it considers erroneous. The distinguished scholar of constitutional law at Columbia University, Herbert Wechsler, has commented on Lincoln's idea of pursuing the "chance" that an erroneous ruling "may be over-ruled" by the Supreme Court. Wechsler states: "When that chance has been exploited and has run its course, with reaffirmation rather than reversal of decision, has not the time arrived when its acceptance is demanded, without insisting on repeated litigation?" Wechsler, *The Courts and the Constitution*, 65 Colum. L. Rev. 1001, 1008 (1965). S. 158 is not inconsistent with this view of the limits on Congress' role. The Supreme Court has yet to reexamine its abortion decision of 1973, and certainly it has never reexamined it in light of the biological facts concerning the humanity of unborn children and the importance of the principle of the sanctity of human life. The Court deserves a chance to reconsider its decision before Congress and the states proceed to enact a constitutional amendment reversing *Roe* v. *Wade*.

If the Supreme Court considers Congress's finding in S. 158 that unborn children are human beings, and if the Court considers the principle that all human lives are of intrinsic worth and equal value, then the Court should uphold S. 158 and change its earlier decision that legal abortion on demand is required by the Constitution. Both the explicit wording and plain intent of the fourteenth amendment and the Supreme Court's decisions concerning Congress's power to enforce the fourteenth amendment support S. 158. The framers of the fourteenth amendment, as shown at page 16, *supra*, intended it to be universal in its application and to apply to "any human being." *Cong. Globe*, 39th Cong., 1st Sess. 1089 (1866) (remarks of Congressman Bingham). The fourteenth amendment does not qualify the term "person" or limit protection to a certain class or race or type of human being. It speaks in absolutes and declares unequivocally that no state shall deny *any* person *life*, liberty or property without due process of law. In the hearings held by the Subcommittee, no legislative history whatsoever was cited by any of the witnesses to indicate that the framers of the fourteenth amendment intended the term "person" to be a restrictive term including fewer than all human beings. Any suggestion that some human beings can be "nonpersons" under the law simply echoes the holding of *Dred Scott* v. *Sanford*, 60 U.S. (19 How.) 393 (1857) a decision the fourteenth amendment was intended to reverse.

It is true, of course, that Congress did not debate the question of abortion during its consideration of the fourteenth amendment. Some of the witnesses who appeared before the Subcommittee to testify against S. 158 indicated that this absence of debate was dispositive regarding the intent of the framers. It is no less true, however, that the architects of our fourteenth amendment liberties did not address the right of privacy, or whether the due process clause prohibited the states from outlawing abortion, pornography, prayer in the public schools, searches and seizures of illicit drugs in the glove compartments of automobiles, and countless other activities that the courts have held to be under the aegis of the fourteenth amendment. As Justice Marshall observed, this is a Constitution we are contruing, a document which lays down general principles that are applicable to human affairs in every stage of our historical development:

"A constitution, to contain an accurate detail of all the subdivisions of which its great powers will admit, and of all the means by which they may be carried into execution, would partake of the prolixity of a legal code, and could scarcely be embraced by the human mind. It would probably never be understood by the public. Its nature, therefore, requires, that only its great outlines should be marked, its important objects designated, and the minor ingredients which compose those objects be deduced from the nature of the objects themselves. That this idea was entertained by the framers of the American Constitution, is not only to be inferred from the nature of the instrument but from the language. * * * we must never forget, that it is *a constitution* we are expounding." *McCulloch* v. *Maryland* 17 U.S. (4 Wheat.) 316, 407 (1819).

To interpret the word "person" in its narrowest sense, and to insist that it does not encompass prenatal life because the authors of the fourteenth amendment neglected to debate the issue of abortion (which the states were then regulating to the apparent satisfaction of the framers of the amendment) makes no more sense than to argue that infants or senior citizens are not "persons" within the meaning of the amendment because the framers never discussed infanticide or euthanasia. Although the principal immediate motive of the framers was to protect the rights of ex-slaves, the fourteenth amendment, courts have long recognized, protects the right of other classes of human beings.

At the time Congress was debating the fourteenth amendment and the states were ratifying the amendment, it was widely known that the life of a human being begins at conception. During the period from 1848 to 1876 almost all the states changed the common law standard, which had protected the unborn child only from the point of quickening, the time the mother first perceived the movement of the child. The new statutes "explicitly accepted the * * * assertions" of leaders of the American Medical Association that "interruption of gestation at any point *in* a pregnancy should be a crime . . . ." J. Mohr, *Abortion in America* 200 (1978). *See hearings on S. 158* (June 10 transcript at 84-85) (testimony of Professor Joseph Witherspoon); *Hearings on S. 158* (June 1 transcript at 108-10) (testimony of Professor Victor Rosenblum). In the mid-nineteenth century, doctors had learned that the unborn child was a distinct living being even prior to quickening. Statutes protecting the unborn child from the moment of conception resulted from the American Medical Association's campaign for strict anti-abortion laws, a campaign undertaken in response to advances in the knowledge of embryology. The AMA successfully sought to persuade states to protect every unborn child because abortion was the "unwarrantable destruction of human life." 12 American Medical Association, *The Transactions of the American Medical Association* 75, 78 (1859). As Professor Rosenblum pointed out in his testimony before the Subcommittee:

"Since the 14th Amendment with its broad protection of the lives of all persons was ratified by State legislatures while these very same legislatures, persuaded by newly-discovered scientific and medical evidence, were extending the protection of the criminal law to encompass *all* the unborn from the time of conception or fertilization, it is a fair assumption that the unborn were not excluded from those "persons" covered by the Amendment." *Hearings on S. 158* (June 1 transcript at 111) (emphasis and quotation marks added to conform to written statement).

To understand the views of the framers of the fourteenth amendment with regard to the personhood of unborn children we must not confine our search to a survey of the criminal laws. These legislators were children of their culture, of thousands of years of a Judaeo-Christian civilization in which protection of human life had been "an almost absolute value in history." Noonan, "An Almost Absolute Value in History," in *The Morality of Abortion* 1 (J. Noonan ed. 1970).

Ancient civilizations differed in their views on the value of human life and, consequently, on their views of abortion. The oath of Hippocrates, which we trace to ancient Greece, and which, until recently, set the standard for the medical profession, affirms the value of all human life. It required physicians entering the practice of medicine to swear that they "will not give to a woman an abortive remedy."[17]

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[14] First Inaugural Address (March 4, 1861), reprinted in 4 "The Collected Works of Abraham Lincoln" 262, 268 (R. Basler ed. 1953).

[15] Speech during the Lincoln-Douglas senatorial campaign (October 13, 1858), reprinted in 3 "The Collected Works of Abraham Lincoln" 245, 255 (R. Basler ed. 1953).

[16] Speech during the Lincoln-Douglas senatorial campaign (July 10, 1858), reprinted in 2 "The Collected Works of Abraham Lincoln" 484, 495 (R. Basler ed. 1953) Lincoln's view was consistent with that of Andrew Jackson in his message of 1832 vetoing the Act to recharter the Bank of the United States: "The authority of the Supreme Court must not, therefore, be permitted to control the Congress or the Executive when acting in their legislative capacities, but to have only such influence as the force of their reasoning may deserve." 3 "Messages and Papers of the Presidents" 1139, 1145 (J. Richardson ed. 1897).

[17] L. Edelstein, "The Hippocratic Oath: Text, Translation, and Interpretation" 3 (1943).

On the other hand, the Romans, with some exceptions,[18] not only allowed abortion but practiced it extensively. A reason is that the Roman government imposed a narrow definition of citizenship and permitted a general disregard for the value of human life in non-citizens. The result was widespread practice of slavery, infanticide, killing for sport, torture and other forms of barbarity, along with abortion.

The principle of the intrinsic value of human life entered the Western world as the new Judeo-Christian ethic clashed with this Roman and pagan view which awarded rights only to select individuals.[19]

Significantly, the earliest Christian writing outside the New Testament, the *Didache (Teaching of the Twelve Apostles)*, clearly prohibits abortion and infanticide, stating that, "You shall not slay the child by abortions. You shall not kill what is generated" and this teaching accords with that of other leading Christians of the time.[20]

The triumph of this Judeo-Christian sanctity-of-life ethic established in Western civilization a principle of protecting all individuals, not merely a select category of persons defined arbitrarily by the state. When nineteenth-century American legislators passed laws protecting unborn children from the moment of conception they acted from the same recognition of this principle that had led them to ratify the fourteenth amendment. At any rate, no statute that enforces the fourteenth amendment would violate the Constitution merely by defending the sanctity of life. That principle undergirds the amendment and a defense of it is a defense of the Constitution.

The constitutionality of S. 158 is further supported by Supreme Court opinions concerning the power of Congress to enforce the fourteenth amendment. Not only the majority opinions, but also minority opinions taking a more restrictive view of this congressional power, support the constitutionality of S. 158. Supreme Court decisions recognize broad power in Congress under section 5 of the fourteenth amendment to "enforce, by appropriate legislation, the provisions of this article." The Court has upheld the power of Congress to make findings relevant to the enforcement of fourteenth and fifteenth amendment rights, and to enforce those amendments consistent with such findings. *See South Carolina* v. *Katzenbach*, 383 U.S. 301, 333-34 (1966). Even when Congress has made no relevant findings, the Court has upheld the power of Congress to expand the substantive scope of a fourteenth amendment right beyond the Court's previous interpretation. *Katzenbach* v. *Morgan*, 384 U.S. 641, 648-49 (1966). In *Katzenbach* v. *Morgan* the court found broad authority in Congress to interpret the provisions of the fourteenth amendment independent of the interpretations of the judicial branch, whenever Congress acts to "expand" fourteenth amendment rights. *Id.* at 648-49.

As it faces the problem of abortion, Congress has before it a uniquely appropriate occasion for exercising this power to find facts and make judgments relevant to the interpretation of fourteenth amendment rights. The Supreme Court's professed inability to address and resolve the question whether unborn children are human beings has left a gap in the knowledge necessary for the federal government to enforce the fourteenth amendment right to life. The congressional findings in S. 158 concerning the facts and value of human life in unborn children can now fill this gap and allow a thoroughly informed decision by both the legislative and the judicial branches concerning the power of states to protect unborn children.[21]

Former Solicitor General Robert Bork testified before the Subcommittee that S. 158 was consistent with the *Katzenbach* v. *Morgan* decision but that *Katzenbach* was wrongly decided. *Hearings on S. 158* (June 1 transcript at 10-11). Even if one takes a narrower view than that of the *Katzenbach* v. *Morgan* opinion of Congress's power to enforce the fourteenth amendment, S. 158 is still constitutional. Justice Harlan dissented from *Katzenbach* v. *Morgan* and outlined a narrow enforcement power for Congress. But even the terms of Justice Harlan's theory allow a role for Congress in cases such as S. 158:

"To the extent 'legislative facts' are relevant to a judicial determination, Congress is well equipped to investigate them, and such determinations are of course entitled to due respect." 384 U.S. at 668 (Harlan, J., dissenting). S. 158 sets forth "legislative facts" relevant to the issue of abortion in its determination that unborn children are human beings. If the Supreme Court defers to this finding, as Justice Harlan would seem to suggest it should, the Court will have to find that the fourteenth amendment protects the lives of unborn children unless the Court denies that their lives have intrinsic worth and equal value. Another matter the Court should take into consideration is the finding of S. 158 concerning the importance of the sanctity of human life and protection afforded all human life by the fourteenth amendment.[22] Both these findings of S. 158, considered in tandem, will require a reevaluation of the Supreme Court's *Roe* v. *Wade* decision.

Such an exercise of Congress's enforcement power accords with former Solicitor General Bork's view that "the justices may be persuaded to a different view of a subject by the informed opinion of the legislature. At the very least, a deliberate judgment by Congress on constitutional matters is a powerful brief laid before the Court. A constitutional role of even such limited dimensions is not to be despised." R. Bork, *Constitutionality of the President's Busing Proposals*, 5-6 (American Enterprise Institute 1972). Here Bork expresses substantially the same view as Abraham Lincoln's, that Congress can affirm a principle at odds with a prior Supreme Court decision that is contrary to the Constitution, and so perhaps influence the Court to overrule that decision. Members of Congress have a duty to cast their votes according to their own honest view of the Constitution. If that view is at odds with a Supreme Court decision, it is appropriate to give the Court the opportunity to conform its decision to the Constitution. S. 158 does not seek to evade judicial review; it invites judicial review. The purpose of S. 158 will be best fulfilled if the Supreme Court considers on its merits each statement of fact and value made in the bill, and then tenders a constitutional judgment accordingly.

It is crucial to note, therefore, that the constitutionality of S. 158 does *not* depend on one's view of *Katzenbach* v. *Morgan* and

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[18] The second-century Greco-Roman gynecologist Soranus noted that the physicians of his day were divided into two camps. One party followed Hippocrates whom Soranus quoted as saying, " 'I will give to no one an abortive.' " This party believed that "it is the specific task of medicine to guard and preserve what has been engendered by nature." The other party, among whom Soranus included himself, allowed abortion but only under certain limited conditions:

"The other party prescribes abortives, but with discrimination, that is, they do not prescribe them when a person wishes to destroy the embryo because of adultery or out of consideration for youthful beauty; but only to prevent subsequent danger in parturition if the uterus is small and not capable of accommodating the complete development, or if the uterus at its orifice has knobby swellings and fissures, or if some similar difficulty is involved."

"SORANUS GYNECOLOGY." 1.60 at p. 63 (O. Temkin trans. 1956). These limitations on abortion were more honored in theory than in practice and Soranus had to warn his ideal midwife that "she must not be greedy for money, lest she give an abortive wickedly for payment." *Id.* 1.4 at p. 7.

[19] See Lactantius, "The Divine Institutes" 6.20 in 49 "The Fathers of the Church" 450-55 (M. McDonald trans. 1964) for a typical early Christian critique of the inhumanity of Roman values. Lactantius enumerates the ways in which the Romans degrade humanity. Beginning first with the Roman games he declares:

"For, although a man be condemned deservedly, whoever reckons it a pleasure for him to be strangled in his sight defiles his own conscience, just as surely as if he were a spectator and participant of a murder which is performed secretly. They call these games, however, in which human blood is spilled. So far has humanity departed from men that, when they kill the very life of men, they think that they are playing, but they are more harmful than all those whose blood they use for their pleasure." *Id.* at 451. After concluding his discussion of the public killing that characterized the games, Lactantius then turns to the Romans' brutal attitudes towards infants, attitudes that promoted infanticide and abortion:

"It is always wrong to kill a man whom God has intended to be a sacrosanct creature. Let no one, then, think that it is to be conceded even, that newly born children may be done away with, an especially great impiety! God breaths souls into them for life, not for death. Yet men, lest they stain their hands with that which is a crime, deny light not given by them to souls still fresh and simple. Does someone think that they will be sparing of a stranger's blood who are not of their own? These are without any question criminal and unjust." *Id.* at 452.

Some Romans sought to assuage their consciences by not actually killing an unwanted infant, leaving it out to die by exposure instead. They rationalized that if the gods wished to save the infant they would then do so just as they saved Oedipus in the myth. Lactantius castigates this practice as more cruel, if possible, than simple murder:

"What of those whom a false piety forces to expose? Are they able to be judged innocent who cast their own members as prey for dogs and kill whatever is in them more cruelly than if they had strangled it?" *Id.* at 452-53.

[20] "Didache" 2.2. In the first few centuries after Jesus, the Christian writers who mentioned abortion opposed it. Included in their number were Clement of Alexandria, Tertullian, Cyprian, John Chrysostom, Jerome, and Augustine. *See* "Noonan," *supra*, at 11-18.

[21] For a discussion of Supreme Court respect for congressional judgments on matters of "value" rather than "fact," *see* footnote 22, *infra*.

[22] Professor Archibald Cox, who in his testimony before the subcommittee suggested a narrow reading of Katzenbach in the context of S. 158, earlier suggested a broader reading of the decision: ". . . Congress has power under section 5 of the fourteenth amendment to extend the practical application of the amendment's broad constitutional guarantees upon its own findings of fact, characterizations, and resolution of questions of proportion and degree." Cox, "The Role of Congress in Constitutional Determinations" 40 CINN. L. REV. 199, 238 (1971) (emphasis added). The question of the sanctity of all human life involves more than the compilation of raw data; whether to regard all biological members of the human species as "human beings" would seem to be the sort of characterization, or resolution of a question of proportion and degree, which Cox's earlier view would suggest Congress has the power to make under section 5.

the scope of Congress's power to enforce the fourteenth amendment. The Subcommittee does not take the position that Congress has a plenary power under the enforcement clause of the fourteenth amendment to create new rights or refashion the substantive content of constitutional rights. No matter how narrow one believes Congress's power should be, it is not inappropriate for Congress to make factual findings and value decisions on questions fundamental to the interpretation of the fourteenth amendment, when the Supreme Court has declared its own inability to address those questions. Congress's attempt with S. 158 at influencing the Supreme Court to reexamine *Roe* v. *Wade* in light of congressional findings is *the most responsible* means to address an erroneous Supreme Court decision, a means President Lincoln clearly recognized. A constitutional amendment will be necessary only if the Supreme Court in reviewing S. 158, refuses to modify the result imposed by *Roe* v. *Wade*.

Finally, Congress should reject the view that S. 158 would "establish a religion because it affirms the moral principle of the sanctity of human life. The signers of the Declaration of Independence and the framers of the fourteenth amendment obviously believed that the sanctity of human life is a principle *embodied* in our governmental order, not a principle in violation of that order. Indeed, the Supreme Court has expressly held that legislative concerning abortion does not violate the establishment clause merely because it "happens to coincide or harmonize with the tenets of some or all religions." *Harris* v. *McRae*, 448 U.S. 297, 319 (1980) (quoting *McGowan* v. *Maryland*, 366 U.S. 420, 442 (1961)).

The assertion of some witnesses before the Subcommittee that citizens may not bring their religious beliefs to bear on public policy questions is an affront not only to well-established constitutional principles, but also to the right of religious believers to participate in the political process. *See, e.g., Hearings on S. 158* (June 12 transcript at 42-43, 46-47) (testimony of Rev. William Thompson); *id.* at 56 (testimony of Rabbi Henry Siegman); *id.* at 87-90 (testimony of Rev. Paul Simmons). The Supreme Court has aptly observed:

"Adherents of particular faiths and individual churches frequently take strong positions on public issues including * * * vigorous advocacy of legal or constitutional positions. Of course, churches as much as secular bodies and private citizens have that right." *Walz* v. *Tax Commission*, 397 U.S. 664, 670 (1970). When the subject matter of legislation concerns a legitimate sphere of government activity—and protecting human life is the *most* clearly legitimate and basic sphere of government activity—citizens and legislators have a right to advocate such legislation for religious as well as secular motives.

VIII. WITHDRAWAL OF JURISDICTION OF LOWER FEDERAL COURTS

Section 4 of S. 158 withdraws lower federal court jurisdiction to grant declaratory or injunctive relief in certain types of abortion cases. It expressly leaves the jurisdiction of the Supreme Court intact. The intent of this provision is to make state courts the original forum for injunction and declaratory judgment cases concerning abortion, and to ensure that the Supreme Court will have the benefit of the views of the state courts when it exercises its ultimate power of appellate review over decisions of the highest state courts involving questions of federal law.

This allocation of jurisdiction between state and federal courts in abortion cases serves important interests in the federal system. Until 1973 the states had power to determine, at least in the first instance, what protection should be extended to unborn children. Because S. 158 recognizes unborn children as living human persons, the Supreme Court should once again allow states to make legislative determinations to protect unborn children. State action to protect unborn children is likely, however, to encounter legal challenges. In any such challenges, state courts should have the initial opportunity to resolve relevant issues without interference from lower federal court injunctions or declaratory judgements. State courts are best suited to interpret state statutes in a way that carries out the will of the legislature and yet conforms to the requirements of the Constitution.

Reserving such issues to state courts in the first instance will not jeopardize constitutional rights, because, under article VI of the Constitution (the supremacy clause), state courts are bound by the Constitution just like federal courts.[23] The Supreme Court, moreover, will retain its power of appellate review over questions of constitutional interpretation. Its deliberations should benefit from the opportunity to consider the views of state courts on matters traditionally resolved under state law.

This withdrawal of lower federal court jurisdiction is consistent with the Constitution and with Supreme Court precedent. The power of Congress to limit the jurisdiction of lower federal courts had been sustained in every Supreme Court decision in which the issue was presented, and the Court has endorsed this power in the broadest terms. *See, e.g., Palmore v. United States*, 411 U.S. 389, 400-01 (1973) (Congress has the sole power of creating inferior federal courts and of "withholding jurisdiction from them in the exact degrees and character which to Congress may seem proper for the public good," quoting *Cary* v. *Curtis*, 44 U.S. (3 How.) 236, 245 (1845).); *Sheldon* v. *Sill*, 49 U.S. (8 How.) 441, 449 (1850) (". . . Congress may withhold from any court of its creation jurisdiction of any of the enumerated controversies.").

Clear precedent exists for Congressional legislation removing a particular class of controversies from the federal courts. The Norris-La Guardia Act, 29 U.S.C. §§ 101-115, for example, withdrew from the federal courts jurisdiction to issue injunctions in labor disputes. In *Lauf* v. *E. G. Shinner & Co.*, 303 U.S. 323, 330 (1938), the Supreme Court recognized the constitutionality of the Act. The withdrawal of jurisdiction in S. 158 is equally appropriate as a means to ensure state judicial review of state anti-abortion statutes.

[23] This analysis assumes that state court systems can provide speedy adjudication of suits for unjunctive and declaratory relief, with speedy review by means of interlocutory appeals if necessary. Speedy adjudication is of particular concern in the context of abortions, since an abortion delayed is an abortion denied, and an abortion performed is a human life irrevocably ended. If any states fail to provide such speedy review, it might be held under the reasoning of *Battaglia* v. *General Motors Corp.*, 169 F. 2d 254 (2d Cir.), *cert. denied*, 335 U.S. 887 (1948) that lower federal court jurisdiction was constitutionally required with respect to that particular state. As to other states the jurisdictional limitation would still be valid.

IX. AMENDMENTS ADOPTED BY THE SUBCOMMITTEE ON SEPARATION OF POWERS

Prior to making its favorable recommendation on S. 158 the Subcommittee on Separation of Powers amended the bill in several respects in response to suggestions of both supporters and opponents of the bill.

Section 1(a). This section as amended now reflects in clear and concise form the facts summarized at pages 7 to 132 of this report. The words "a significant likelihood" have been deleted because no evidence presented at the Subcommittee's hearings cast any doubt on the biological fact that conception marks the beginning of the life of a human being. Challenges to this finding by witnesses at the hearings were not challenges to the biological facts; they were either (1) attempts to redefine "human being" as including less than every member of the human species, or (2) denials that science can help decide which human beings to accord value to as persons. Both arguments concern the value given to human life, not the fact of the existence of a living human being.

The Subcommittee's decision on questions of value is reflected separately in section 1(b).

The Subcommittee has deleted the words "actual human life" because they are redundant. Once the life of a human being has begun, it constitutes a human life, not a potential human life.

Section 1(a) as revised substitutes the phrase "the life of each human being begins at conception" for the phrase "human life exists from conception" to make clear that the unborn child is an individual human being and not a form of "life" comparable to a sperm cell, an unfertilized ovum or a piece of fingernail tissue. Some witnesses suggested that the original language was ambiguous in this respect. *See e.g., Hearings on S. 158* (May 20 transcript at 18) (testimony of Dr. Clifford Grobstein).

Section 1(b). The Subcommittee amended the original language which had stated that the fourteenth amendment to the Constitution of the United States "was intended to protect all human beings." It now reads simply that the amendment "protects all human beings." Senator Baucus proposed that the language concerning the intent of the framers of the Constitution be omitted entirely, on the ground that the Congressional debates on the fourteenth amendment did not include discussions of abortion. Senator Hatch proposed a substitute amendment in the form of the present language, which the Subcommittee accepted on the ground that it substantially restates the original language. The Constitution protects all those whom its framers intended it to protect, and the purpose of the fourteenth amendment was to eliminate the constitutional regime in which some human beings were legally an inferior class not entitled to the rights enjoyed by other human beings. *See* pp. 16, 23-25, *supra*. Section 1(b) recognizes that under the fourteenth amendment no class of human beings can be regarded as "nonpersons."

Section 2. This section is similar to the third paragraph of section 1 of the original bill. The only changes are as follows:

(1) The Subcommittee has substituted the word "recognizes" for "declares" and "shall be deemed" and "shall include" to make it clear that Congress is not making unborn children into human beings; it is recognizing that they are in fact human beings. Congress is not defining human life, it is recog-

nizing human life. The only matter of definition involved is that S. 158 adopts the customary meaning of "human beings" as including every living member of the human species.

(2) The Subcommittee has inserted the word "each" before "human life" to emphasize that the bill deals with individuals, not protoplasm or life in an amorphous sense. See the discussion of this issue in connection with section 1(a) above.

Section 3. This section is new. It states an alternative theory supporting the result the bill seeks to achieve.

Most constitutional scholars agree that *Roe* was wrongly decided, and that the states can prohibit abortion without violating any provision of the Constitution. Sections 1(a) and 1(b) of S. 158 afford states a justification to protect unborn children because the unborn are entitled to the fourteenth amendment right to life. Section 3 provides that even if the Supreme Court rejects Congress's findings in sections 1(a) and 1(b), the states can still legislate concerning abortion because they have authority under the Constitution to protect human life, a power that the states have exercised throughout our history. The power to protect human beings extends to those individuals whom the state rationally regards as human beings. The hearings before the Subcommittee leave no doubt that it is rational to regard unborn children as human beings.

Section 3 is severable. Thus if the Court were to decide that Congress is constitutionally empowered to find facts with which the Court will inform its own judgments, but is constitutionally forbidden even to express its opinions on questions of law, the Court might "strike down" section 3; but it should still give sections 1 and 2 the full force to which they would otherwise be entitled.

Section 4. This language, similar to that of section 2 of the original bill comprises the limitation on jurisdiction of the lower federal courts to injunctive relief in abortion-related cases. The Subcommittee amended the section to make it clear that nothing in the section is intended to deny jurisdiction to the Supreme Court.

Section 5. This section is similar to one originally proposed in H.R. 3225, the House counterpart to S. 158. It does two things: first, by providing immediate Supreme Court review of lower court decrees, it prevents a situation in which the validity of the bill could be in doubt for years. Second, it makes clear that the bill is not a congressional "challenge" to the Court's authority: S. 158 does not oppose judicial review; rather, it invites immediate judicial review.

Mr. President, the full text of the bill appears at this point in the RECORD.

S. 26

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Congress finds that the life of each human being begins at conception.

(b) The Congress further finds that the Fourteenth Amendment to the Constitution of the United States protects all human beings.

SEC. 2. Upon the basis of these findings, and in the exercise of the powers of Congress, including its power under section 5 of the Fourteenth Amendment to the Constitution of the United States, the Congress hereby recognizes that for the purpose of enforcing the obligation of the States under the Fourteenth Amendment not to deprive persons of life without due process of law, each human life exists from conception, without regard to race, sex, age, health, defect, or condition of dependency, and for this purpose "person" includes all human beings.

SEC. 3. Congress further recognizes that each State has a compelling interest, independent of the status of unborn children under the Fourteenth Admendment, in protecting the lives of those within the State's jurisdiction whom the State rationally regards as human beings.

SEC. 4. Notwithstanding any other provision of law, no inferior Federal court ordained and established by Congress under Article III of the Constitution of the United States shall have jurisdiction to issue any restraining order, temporary or permanent injunction, or declaratory judgment in any case involving or arising from any State law or municipal ordinance that—

(1) protects the rights of human persons between conception and birth, or

(2) prohibits, limits, or regulates—

(A) the performance of abortions, or

(B) the provision at public expense of funds, facilities, personnel, or other assistance for the performance of abortions,

except that nothing in this section shall deprive the Supreme Court of the United States of the authority to render appropriate relief in any case.

SEC. 5. Any party shall have the right to appeal to the Supreme Court of the United States from an interlocutory or final judgment, decree, or order of any court of the United States regarding the enforcement of this Act, or of any State law or municipal ordinance that protects the rights of human beings between conception and birth, or which adjudicates the constitutionality of this Act, or of any such law or ordinance. The Supreme Court shall advance on its docket and expedite the disposition of any such appeal.

SEC. 6. If any provision of this act or the application thereof to any person or circumstance is judicially determined to be invalid, the validity of the remainder of the Act and the application of such provision to other persons and circumstances shall not be affected by such determination.

By Mr. MOYNIHAN (for himself, Mr. MATHIAS, Mr. BUMPERS, Mr. BURDICK, Mr. CRANSTON, Mr. GLENN, Mr. HATFIELD, Mr. HEINZ, Mr. JACKSON, Mr. LEAHY, Mr. LEVIN, Mr. PELL, Mr. PRYOR, Mr. RANDOLPH, Mr. SARBANES, Mr. METZENBAUM, and Mr. KENNEDY):

S. 27. A bill to provide for the conservation, rehabilitation, and improvement of natural and cultural resources located on public or Indian lands, and for other purposes; to the Committee on Energy and Natural Resources.

AMERICAN CONSERVATION CORPS

Mr. MOYNIHAN. Mr. President, Senator MATHIAS and I are pleased to again introduce, with Senators BUMPERS, BURDICK, CRANSTON, GLENN, HATFIELD, HEINZ, JACKSON, LEAHY, LEVIN, PELL, PRYOR, RANDOLPH, SARBANES, METZENBAUM, and KENNEDY legislation to create an American Conservation Corps (ACC). A companion measure is being introduced in the House by my distinguished friend Congressman JOHN SEIBERLING and a bipartisan group of more than 100 cosponsors.

The bill we are introducing today is almost identical to one that passed the House twice during the 97th Congress. Although the Senate was unable to take this legislation up in the final hours of the last Congress, I am confident that we can act quickly on this measure and have thousands of young people across the Nation performing valuable conservation work by spring time.

The idea of putting unemployed youths to work preserving our natural heritage is not new. Franklin D. Roosevelt's Civilian Conservation Corps (CCC) employed 3 million young men over its 9-year lifetime and performed conservation work valued at more than $1.5 billion. Many of the CCC's projects still serve us today, eloquent testimony to the quality and quantity of the Corps' work.

I would also point out that youth conservation efforts have always enjoyed bipartisan support, for there is recognition by both parties that alleviating youth unemployment and conserving our natural and cultural resources are important national priorities. Indeed, the CCC was one of the few New Deal initiatives that enjoyed the enthusiastic support of Alf Landon and the Republican Party in 1936. I believe that, after close scrutiny, the current administration will find the ACC worthy of its unqualified support.

The twin problems the CCC so splendidly addressed—youth unemployment and the deterioration of our natural resources—are with us again today.

Teenage unemployment stands at 24.5 percent, and more than half of all black teenagers are out of work. Economic recovery does not appear imminent. At the same time, we are faced with a formidable and ever-increasing backlog of desperately needed conservation work on our public lands. What better way to attack these problems than through a new CCC?

Let me briefly explain what our bill will do. It will create an American Conservation Corps to carry out conservation and rehabilitation projects on Federal, State, local, and Indian lands. The ACC will be composed of unemployed youths between the ages of 16 and 25—15 and 21 for summer programs. The bill contains no employment quotas, although special consideration shall be given to disadvantaged youths.

The ACC will be administered by the Secretary of the Interior in cooperation with the Secretaries of Agriculture and Labor. At least 35 percent of the funds authorized will go to the States for State programs, with 25 percent each going to the Departments of

the Interior and Agriculture, 5 percent to Indian tribes, and 10 percent to other agencies and for special projects. States will be required to put up a 15-percent match.

The program will be funded with a percentage of the revenues generated from various leasing and permitting activities of the Departments of the Interior and Agriculture. The bill authorizes funding of $50 million for fiscal year 1983 and $250 million annually from 1984 through 1989. Funding, of course, would be subject to annual appropriations.

Typical projects to be undertaken by the ACC include forestry and soil conservation, urban revitalization, and erosion and flood control. The pay? Minimum wage. The number of youths given the opportunity to work hard and gain self-respect? Between 70,000 and 100,000 each year.

The track record of past youth conservation programs strongly suggests that the ACC will be a success. For instance, the Young Adult Conservation Corps, a forerunner of the corps we propose, returned $1.20 in appraised conservation work for each $1 expended. Now this figure does not include the benefits realized by putting previously unemployed young people to work. While the value of such benefits may be difficult to quantify, I would suggest that any program that not only pays for itself but that may also reduce juvenile crime and drug abuse and instill a work ethic in heretofore unemployed young people is a program we simply cannot afford to be without.

I want to stress that what we are proposing is emphatically not a leaf-raking program. The California Conservation Corps, a praiseworthy State youth conservation effort, attracts thousands of recruits each year with the promise of "hard work, low pay, and miserable working conditions." I can guarantee that the work done by the ACC will be just as hard and the rewards just as satisfying. It will be cost effective and it will work. And it is deserving of broad, bipartisan support.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 27

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "American Conservation Corps Act of 1983".

CONGRESSIONAL FINDINGS AND PURPOSE

SEC. 2. (a) FINDINGS.—The Congress finds that—

(1) public lands, resources, and facilities, including parks rangelands, wildlife refuges, forests, water resources, fishery facilities, historic and cultural sites, and urban and community resources, have become subject to increasing public use and resource production demands;

(2) the conditions of many of these lands, resources, and facilities has deteriorated as a result of these increasing uses and demands and as a result of the inability of Government agencies to adequately staff and fund the maintenance necessary to arrest the deterioration;

(3) public land management agencies have a responsibility to assure that public lands and resources are managed—

(A) to assure continued productivity,

(B) to protect public health and safety, and

(C) to assure their wise and economic conservation, maintenance, and use;

(4) a program designed to systematically guide and enhance the conservation, rehabilitation, and improvement of our public lands, resources, and facilities is urgently needed; and

(5) youth conservation programs have proven highly successful and cost effective in providing training and jobs for unemployed youth and in assisting land management agencies at all levels of government to reduce the backlog of neglected public land conservation, rehabilitation and improvement projects and to carry out other public land resource management work.

(b) PURPOSE.—It is the purpose of this Act to—

(1) reduce the backlog of conservation, rehabilitation, and improvement work on the public lands, prevent the further deterioration of public lands and resources and facilities, conserve energy and restore and maintain community lands, resources, and facilities;

(2) establish an American Conservation Corps to carry out a program to improve, restore, maintain, and conserve public lands and resources in the most cost-effective manner;

(3) use such program to assist State and local governments in carrying out needed public land and resource conservation, rehabilitation, and improvement projects;

(4) provide for implementation of the program in such manner as will foster conservation and the wise use of natural and cultural resources through the establishment of working relationships among the Federal, State, and local governments, Indian tribes, and other public and private organizations; and

(5) use this program to increase (by training and other means) employment opportunities for young men and women especially those who are economically, socially, physically, or educationally disadvantaged and who may not otherwise be productively employed.

DEFINITIONS

SEC. 3. For purposes of this Act:

(1) The term "Secretary" means the Secretary of the Interior, except where otherwise expressly provided.

(2) The terms "public lands" and "publicly owned lands" mean any lands and waters (or interest therein) owned or administered by the United States or by any agency or instrumentality of a State or local government.

(3) The term "program" means the public lands conservation, rehabilitation, and improvement program established under this Act.

(4) The term "program agency" means any Federal agency or instrumentality with responsibility for the management of any public or Indian lands, any State agency designated by the Governor to manage the program in that State, and the governing body of any Indian tribe.

(5) The term "Indian tribe" means any Indian tribe, band, nation, or other group which is recognized as an Indian tribe by the Secretary. Such term also includes any Native village corporation, regional corporation, and Native group established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1701 et seq.).

(6) The term "Indian" means a person who is a member of an Indian tribe.

(7) The term "Indian lands" means any real property owned by an Indian tribe, any real property held in trust by the United States for individual Indians or Indian tribes, and any real property held by individual Indians or Indian tribes which is subject to restrictions on alienation imposed by the United States.

(8) The term "employment security service" means the agency in each of the several States with responsibility for the administration of unemployment and employment programs, and the oversight of local labor conditions.

(9) The term "chief administrator" means the head of any program agency as that term is defined in paragraph (4).

(10) The term "enrollee" means any individual enrolled in the American Conservation Corps in accordance with section 5.

(11) The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territories of the Pacific Islands.

PUBLIC LANDS CONSERVATION, REHABILITATION, AND IMPROVEMENT PROGRAM

SEC. 4. (a) ESTABLISHMENT AND ADMINISTRATION OF PROGRAM.—Not later than ninety days after the enactment of this Act, the Secretary, in cooperation with the Secretary of Agriculture and after consultation with the Secretary of Labor, shall establish and administer a public lands conservation, rehabilitation, and improvement program to carry out the purposes of this Act. Under such program, the Secretary shall provide assistance to program agencies for the establishment and operation of residential and nonresidential American Conservation Corps centers and for the implementation by the American Conservation Corps of projects designed to carry out such purposes.

(b) PROJECTS INCLUDED.—The program established under this section may include, but shall not be limited to, projects such as—

(1) forestry, nursery, and silvicultural operations;

(2) wildlife habitat conservation, rehabilitation, and improvement;

(3) rangeland conservation, rehabilitation, and improvement;

(4) recreational area development, maintenance, and improvement;

(5) urban revitalization;

(6) historical and cultural site preservation and maintenance;

(7) fish culture and habitat maintenance and improvement and other fishery assistance;

(8) road and trail maintenance and improvement;

(9) erosion, flood, drought, and storm damage assistance and control;

(10) stream, lake, and waterfront harbor and port improvement, and pollution control;

(11) insect, disease, rodent, and fire prevention, and control;

(12) improvement of abandoned railroad bed and right-of-way;

(13) energy conservation projects and renewable resource enhancement;

(14) recovery of biomass from public lands, particularly forestlands; and

(15) reclamation and improvement of strip-minded lands.

(c) PREFERENCE FOR CERTAIN PROJECTS.—The program shall provide a preference for those projects which—

(1) will provide long-term benefits to the public;

(2) will provide meaningful work experience to the enrollee involved;

(3) will be labor intensive; and

(4) can be planned and initiated promptly.

(d) LIMITATION TO PUBLIC LANDS.—Projects to be carried out under the program shall be limited to projects on public lands or Indian lands except where a project involving other lands will provide a documented public benefit and reimbursement will be provided to the program agency for that portion of the total costs of the program which does not provide a public benefit. Notwithstanding any other provision of law, any reimbursement referred to in the preceding sentence shall be retained by the program agency and shall be used by the agency for purposes of carrying out other projects under the program.

(e) CONSISTENCY.—The Secretary and the chief administrators of other program agencies shall assure that projects selected under this Act for conservation, rehabilitation, or improvement of any public lands are consistent with the provisions of law relating to the management and administration of such lands and with all other applicable provisions of law.

(f) CONSERVATION CENTERS.—(1) Each program agency may apply to the Secretary for approval of conservation centers to carry out projects under this Act.

(2) Applications for approval of conservation centers shall be submitted to the Secretary in such manner as the Secretary may prescribe. Each application shall contain, in such detail as the Secretary deems necessary—

(A) a comprehensive description of the objectives and performance goals for the conservation center and a description of the types of projects to be carried out, including a description of the types and duration of training (including work experience) to be provided;

(B) a description of the facilities and equipment to be available for use in the center;

(C) an estimate of the number of enrollees and crew leaders necessary for the proposed projects, the length of time for which the services of such personnel will be required, and the services which will be required for their support;

(D) a plan for managing the conservation center, supplying the necessary equipment and material, and administering the payroll; and

(E) such other information as the Secretary shall prescribe.

(3) In approving conservation centers, the Secretary shall give due consideration to the cost and means of transportation available between the center and the homes of the enrollees who may be assigned to those centers. The location and type of conservation centers shall be selected in such manner as will increase the enrollment of economically, socially, physically, and educationally disadvantaged youths, and of youths from areas of high unemployment.

(g) LOCAL GOVERNMENT PARTICIPATION.—Any State carrying out a program under this Act shall provide a mechanism under which local governments in the State may be approved by the State to participate in the program and to carry out projects in accordance with the requirements of this Act.

(h) AGREEMENTS.—Program agencies may enter into contracts and other appropriate arrangements with local government agencies and nonprofit organizations for the management of conservation centers under the program.

(i) JOINT PROJECTS.—The Secretary is authorized to develop jointly with the Secretary of Labor regulations designed to allow, where appropriate, joint projects in which activities supported by funds authorized under this Act are coordinated with activities supported by funds authorized under employment and training statutes administered by the Department of Labor (including the Job Training Partnership Act). Such regulations shall provide standards for approval of joint projects which meet both the purposes of this Act and the purposes of such employment and training statutes under which funds are available to support the activities proposed for approval. Such regulations shall also establish a single mechanism for approval of joint projects developed at the State or local level.

ENROLLMENT, FUNDING, AND MANAGEMENT

SEC. 5. (a) ENROLLMENT IN PROGRAM.—(1) Enrollment in the American Conservation Corps shall be limited to individuals who, at the time of enrollment, are—

(A) unemployed;

(B) not less than sixteen or more than twenty-five years of age (except that programs limited to the months of June, July, and August may include individuals not less than fifteen years and not more than twenty-one years of age at the time of their enrollment); and

(C) citizens or lawful permanent residents of the United States or lawfully admitted alien parolees or refugees.

(2) Except in the case of a program limited to the months of June, July, and August, individuals who at the time of applying for enrollment have attained age sixteen but not attained age nineteen, and who are no longer enrolled in any secondary school shall not be enrolled unless they give adequate written assurances, under criteria to be established by the Secretary, that they did not leave school for the express purpose of enrolling.

(3) The selection of enrollers to serve in the American Conservation Corps in any conservation center shall be the responsibility of the chief administrator of the program agency. Enrollees shall be selected from those qualified persons who have—

(A) applied to, or been recruited by, the program agency, a State employment security service, an administrative entity under the Job Training Partnership Act, community or community-based non-profit organization, the sponsor of an Indian program, or the sponsor of a migrant or seasonal farmworker program; and

(B) been screened for eligibility and referred to the program agency by the State employment security service.

(4) In the recruitment and selection of enrollees, special consideration shall be given to both—

(A) economically, socially, physically, and educationally disadvantaged youths, and

(B) youths residing in areas, both rural and urban, which have substantial unemployment.

(5)(A) Except for a program limited to the months of June, July, and August, any qualified individual selected for enrollment may be enrolled for a period not to exceed twenty-four months. When the term of enrollment does not consist of one continuous twenty-four-month term, the total of shorter terms may not exceed twenty-four months.

(B) No individual may remain enrolled in the American Conservation Corps after that individual has attained the age of twenty-six.

(b) SERVICES, FACILITIES, SUPPLIES, ET CETERA.—The program agency shall provide such quarters, board, medical care, transportation, and other services, facilities, supplies, and equipment as the Secretary deems necessary for conservation centers. Whenever possible, the Secretary shall make arrangements with the Secretary of Defense to have such logistical support provided by a military installation near the proposed center, including the provision of temporary tent centers where needed. The Secretary shall establish basic standards of health, nutrition, sanitation, and safety for all conservation centers, and shall assure that such standards are enforced.

(c) CONSERVATION CENTER MANAGEMENT.—Every conservation center shall have sufficient supervisory staff appointed by the chief administrator which may include enrollees who have displayed exceptional leadership qualities.

(d) FUNDING.—(1) The Secretary may award grants to, or enter into agreements with, program agencies for the funding and operation of conservation centers approved by the Secretary under this Act.

(2) The Secretary shall not make any grant to, or enter into any agreement with any program agency for the funding of any conservation center under this Act unless such agency certifies that projects carried out by the conservation center will not—

(A) result in the displacement of any individual currently employed (either directly or under contract with any private contractor) by the program agency concerned (including partial displacement through reduction of nonovertime hours, wages, or employment benefits);

(B) result in the employment of any individual when any other person is in a layoff status from the same or substantially equivalent job within the jurisdiction of the program agency concerned; or

(C) impair existing contracts for services.

(3) Of the sums appropriated to carry out this Act for any fiscal year—

(A) not less than 35 per centum shall be made available by the Secretary for expenditure by State program agencies;

(B) not less than 25 per centum shall be made available by the Secretary for expenditure pursuant to agreements with the Secretary of Agriculture;

(C) not less than 25 per centum shall be made available by the Secretary for expenditure by program agencies within the Department of the Interior;

(D) not less than 5 per centum shall be made available by the Secretary for expenditure by the governing bodies of participating Indian tribes; and

(E) the remaining amount shall be made available by the Secretary for expenditure by other Federal program agencies and for

demonstration projects or projects of special merit carried out by any program agency or by any nonprofit organization or local government which is undertaking or proposing to undertake projects consistent with the purposes of this Act.

10 per centum of the amount disbursed to State agencies under subparagraph (A) (or to local governments within the State where paragraph (4) applies) shall be divided equally among the States and 90 per centum of such amount shall be distributed among such States proportionately according to the total youth population of such States between the ages of fifteen and twenty-five (as determined on the basis of the most recent census). Any State receiving funds under subparagraph (A) for the operation of any conservation center shall be required to provide not less than 15 per centum of the cost of operation of such center. Any State receiving funds under subparagraph (A) for any fiscal year shall provide not less than 10 per centum of such funds to local governments approved by the State under section 4(g) to carry out projects under this Act unless no such local government in that State is approved before the end of such fiscal year. In any case where no such local government is approved before the end of such fiscal year, such 10 per centum may be expended by the State in accordance with this Act.

(4) If, at the commencement of any fiscal year, any State does not have a program agency designated by the Governor to manage the program in that State, then during such fiscal year each local government within such State may establish a program agency to carry out the program within the political subdivision which is under the jurisdiction of such local government. In any such case, the State share (or a reasonable portion thereof) for such State may be made available by the Secretary for expenditure by such local government program agencies to carry out the porgram within such political subdivisions. Such local government program agencies shall be in all respects subject to the same requirements as State program agencies. Where more than one local government within a State has established a program agency under this subsection, the Secretary shall allocate funds between such agencies in such manner as he deems equitable.

(5) Payments under grants under this section may be made in advance or by way of reimbursement and at such intervals and on such conditions as the Secretary finds necessary.

(6)(A) There is authorized to be appropriated to the Secretary for purposes of carrying out this Act $50,000,000 for the fiscal year 1983, and the amount determined under subparagraph (B) for each of the fiscal years 1984 through 1989 from so much of the following amounts as would otherwise be credited to miscellaneous receipts in the Treasury—

(i) all franchise fees estimated to be collected for the fiscal year concerned by the Secretary and Secretary of Agriculture; and

(ii) all receipts estimated to be due and payable to the United States for the fiscal year concerned from (I) permit fees (including fees for special use permits) imposed by the Secretary or the Secretary of Agriculture, (II) sales of timber by the Secretary or the Secretary of Agriculture, and (III) leasing activities of the Secretary and the Secretary of Agriculture other than leasing activities under the Mineral Leasing Act of 1920 (30 U.S.C. 181 et seq.) or under the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.).

Such sums shall remain available until expended. Appropriations under this section shall be made without fiscal year limitation.

(B) The amount authorized to be appropriated under subparagraph (A) for each of the fiscal years 1984 through 1989 shall be $250,000,000 plus a percentage increase for each fiscal year based upon the percentage increase in the Consumer Price Index published by the Bureau of Labor Statistics. The increase for each such fiscal year shall be a percentage of $250,000,000 (plus unappropriated balances). Such percentage for any fiscal year shall be equal to the percentage increase of—

(i) the Consumer Price Index for the last calendar year ending prior to such fiscal year, over

(ii) the Consumer Price Index for the calendar year 1982.

(7) No authority under this Act to enter into contracts or to make payments shall be effective except to the extent and in such amounts as provided in advance in appropriations Acts. Any provision of this Act which, directly or indirectly, authorizes the enactment of new budget authority shall be effective only for fiscal years beginning after September 30, 1982.

(8) Funds provided under this Act shall only be used for activities which are in addition to those which would otherwise be carried out in the area in the absence of such funds.

FEDERAL EMPLOYEE STATUS

SEC. 6. (a) IN GENERAL.—Except as otherwise specifically provided in the following paragraphs, enrollees and crew leaders shall not be deemed Federal employees and shall not be subject to the provisions of law relating to Federal employment:

(1) For purposes of the Internal Revenue Code of 1954 and title II of the Social Security Act, enrollees and crew leaders shall be deemed employees of the United States and any service performed by any person as an enrollee shall be deemed to be performed in the employ of the United States.

(2) For purposes of subchapter I of chapter 81 of title 5, United States Code, relating to the compensation of Federal employees for work injuries, enrollees and crew leaders shall be deemed civil employees of the United States within the meaning of the term "employee" as defined in section 8101 of title 5, United States Code, and the provisions of that subchapter shall apply, except—

(A) the term "performance of duty" shall not include any act of an enrollee member or crew leader while absent from his or her assigned post of duty, except while participating in an activity authorized by or under the direction and supervision by or under the direction and supervision of the Secretary or the conservation center supervisory staff (including an activity while on pass or during travel to or from such post of duty); and

(B) compensation for disability shall not begin to accrue until the day following the date on which the injured enrollee's or crew leader's employment is terminated.

(3) For purposes of chapter 171 of title 28, United States Code, relating to tort claims procedure, enrollees and crew leaders shall be deemed employees of the United States within the meaning of the term "employee of the Government" as defined in section 2671 of title 28, United States Code.

(4) For purposes of section 5911 of title 5, United States Code, relating to allowances for quarters, enrollees and crew leaders shall be deemed employees of the United States within the meaning of the term "employee" as defined in that section.

(b) AMENDMENT OF TITLE 5.—Section 8332(b) of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragrpah (11);

(2) by striking out the period at the end of paragraph (12) and inserting in lieu thereof "; and"; and

(3) by adding after paragraph (12) the following new paragraph:

"(13) service as an enrollee or crew leader only if the enrollee or crew leader in the American Conservation Corps later becomes subject to this subchapter.".

USE OF VOLUNTEERS

SEC. 7. (a) Where any program agency has authority to use volunteer services in carrying out functions of the agency, such agency may use volunteer services for purposes of assisting projects related to conservation centers established under this Act and may expend funds made available for those purposes to the agency, including funds made available under this Act, to provide for services or costs incidental to the utilization of such volunteers, including transportation, supplies, lodging, subsistence, recruiting, training, and supervision.

(b)(1) The Secretary may recruit, without regard to the civil service classification laws, rules or regulations, the services of individuals contributed without compensation as volunteers for aiding or in facilitating the activities administered by the Secretary through the Bureau of Land Management.

(2) In accepting such services, the Secretary—

(A) shall not permit the use of volunteers in hazardous duty or law enforcement work, or in policymaking processes or to displace any employee, enrollee, crew leader, or other participant under this Act; and

(B) may provide for services or costs incidental to the utilization of volunteers, including transportation, supplies, lodging, subsistence, recruiting, training, and supervision.

(3) Volunteers under this subsection shall not be deemed employees of the United States except for the purposes of the tort claims provisions of title 28, United States Code, and subchapter I of chapter 81 of title 5, United States Code, relating to compensation for work injuries.

SPECIAL RESPONSIBILITIES OF THE SECRETARY

SEC. 8. (a) PAY.—The Secretary shall establish standards for—

(1) rates of pay for enrollees which shall be not less than the wage required by section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1));

(2) rates of pay for crew leaders which shall be at a wage comparable to the compensation in effect for grades GS-3 to GS-7; and

(3) reasonable hours and conditions of employment.

(b) COORDINATION.—The Secretary and the chief administrators of other program agencies carrying out programs under this Act shall coordinate the programs with related Federal, State, local, and private activities.

(c) MILITARY EXEMPTION STUDY.—The Secretary, in consultation with the Secretary of Defense, shall conduct a study to determine the feasibility and desirability of allowing enrollees who have completed a two-year enrollment in the program to be exempt from training and service under the Military

Selective Service Act (50 U.S.C. App. 456). A report containing the results of the study shall be submitted to Congress not later than one year after the enactment of this Act.

EDUCATION, GUIDANCE, AND PLACEMENT

SEC. 9. (a) ACADEMIC CREDIT.—Whenever possible, the Secretary shall make arrangements for the award of academic credit by educational institutions and agencies to enrollees for competencies developed from work experience under this Act.

(b) STUDY.--Program agencies may provide training and educational materials and services for enrollees and may enter into arrangements with academic institutions for academic study by enrollees during nonworking hours to upgrade literacy skills, obtain equivalency diplomas or college degrees, or enhance employable skills. Whenever possible, an enrollee seeking study or training not provided at his or her conservation center shall be offered assignment to a conservation center providing such study or training.

(c) CERTIFICATION.—The program agencies shall provide certification of the training skills acquired by enrollees who have participated in the program.

(d) GUIDANCE AND PLACEMENT.—The program agency shall provide such job guidance and placement information and assistance for enrollees as may be necessary. Such assistance shall be provided in coordination with appropriate State, local, and private agencies and organizations.

EVALUATION AND PILOT PROJECTS

SEC. 10. (a) RESEARCH AND EVALUATION.—The Secretary shall provide for research and evaluation to—

(1) determine costs and benefits, tangible and otherwise, of work performed under this Act and of training and employable skills and other benefits gained by enrollees, and

(2) identify options for improving program productivity and youth benefits, including improved alternatives for: organization, subjects, sponsorship, and funding of work projects; recruitment and personnel policies; siting and functions of conservation centers; work and training regimes for youth of various origins and needs; and cooperative arrangements with programs, persons, and institutions not covered under this Act.

(b) DEMONSTRATIONS.—The Secretary may authorize pilot or experimental projects to demonstrate or test new or alternative arrangements or subjects of work and training for programs under this Act, which may include alternatives identified under subsection (a)(2).

(c) CCC SITES.—The Secretary, in consultation with the Secretary of Agriculture, shall study sites at which Civilian Conservation Corps activities were undertaken for purposes of determining suitable location and means to commorate the Civilian Conservation Corps. Not later than one year after the date of the enactment of this act, the Secretary shall submit a report to the Congress containing the results of the study carried out under this section. The report shall include cost estimates and recommendations for any legislative action.

ANNUAL REPORT

SEC. 11. The Secretary shall prepare and submit to the President and to the Congress at least once each year a report detailing the activities carried out under this Act. Such report shall be submitted not later than December 31 of each year following the date of enactment of this Act. The report shall describe (1) conservation work procedures, accomplishments and benefits; (2) the extent to which youth who are economically, socially, physically or educationally disadvantaged have been enrolled in and benefited by the program (3) other youth benefits; and (4) problems and opportunities encountered in carrying out the Act which require attention. The Secretary shall include in such report such recommendations as he considers appropriate.

LABOR MARKET INFORMATION

SEC. 12. The Secretary of Labor shall make available to the Secretary and to any program agency under the Act such labor market information as is appropriate for use in carrying out the purposes of this Act.

EMPLOYEE APPEAL RIGHTS

SEC. 13. (a) In the case of—

(1) the displacement of a Federal employee or the failure to reemploy a Federal employee in a layoff status, contrary to a certification under section 5(d)(2) (A) or (B) of this Act, or

(2) the displacement of a Federal employee by reason of the use of one or more volunteers under section 7(b)(2)(A) of this Act,

such employee is entitled to appeal such action to the Merit Systems Protection Board under section 7701 of title 5, United States Code.

(b) In the case of—

(1) the displacement of any other individual employed (either directly or under contract with any private contractor) by a program agency or grantee, or the failure to reemploy an employee in layoff status, contrary to a certification under section 205(d)(2) (A) or (B) of this Act, or

(2) the displacement of such individual by reason the use of one or more volunteers under section 7(b)(2)(A) of this Act,

the requirements contained in section 144 of the Job Training Partnership Act (Public Law 97-300) shall apply, and such individual shall be deemed an interested person for purposes of the application of such requirements.

(c) For purposes of this section, the term "displacement" includes, but is not limited to, any partial displacement through reduction of nonovertime hours, wages, or employment benefits.

AMERICAN CONSERVATION CORPS

Mr. MATHIAS. Mr. President, the most urgent problem facing the Nation today is jobs. Where have they gone? When will they come back? Why has this desperate situation come about? The Nation demands action now. High sounding speeches and political posturing are useless in the face of a problem whose dimensions are eroding the spirit of our people. It is high time for the Senate to act. Although Maryland's unemployment rate, as a whole, is below the national average, two counties, Garrett and Somerset, have unemployment rates over 17 percent and six Maryland counties have rates over 11 percent. If Maryland is below the national average with these kinds of unemployment figures, consider the plight of the people of Michigan where unemployment stands at 17.6 percent. We cannot sit back and let a bad situation get worse. We must come to grips with this monster. We must put this country back to work.

As part of what must be a total effort to restore our economy, once again I am joining with Senator MOYNIHAN and others to introduce legislation to create the American Conservation Corps, a program to provide employment and training opportunities for young men and women. Unemployed young people would work on projects accomplishing the conservation, rehabilitation, and improvement of our deteriorating natural and cultural resources.

This program reflects the spirit of the old, but not forgotten, Civilian Conserviation Corps (CCC), perhaps the most popular and successful public works program this country has ever undertaken. With overall unemployment now at 10.8 percent, and minority youth unemployment over 50 percent, it is not hard to draw a parallel to the 1930's when the CCC was in full swing. The CCC put 2½ million people to work on much needed public projects all across the country. The benefits to the Nation are still evident today.

President Reagan says he does not believe in Federal job creation programs. Yet each time he visits Camp David he enjoys the fruits of the CCC's labors. He need only look around him as he enjoys the beauty of Camp David and the Catoctin Mountains to see that the concepts embodied in this measure are a proven success.

Actually, it is with mixed emotions that I am reintroducing this measure because I had hoped that this vital legislation would have passed the Senate in the 97th Congress. Last June, the House of Representatives passed H.R. 4861, a bill almost identical to this legislation, by a resounding margin that reflected true bipartisan support. Senator MOYNIHAN and I introduced its Senate counterpart, S. 2061, on February 3, 1982, and hearings were held by the Energy and Natural Resources Subcommittee on Public Lands and Reserved Water in September. Regrettably the Senate took no further action, which is why we are reintroducing this legislation today. The need for this program has never been greater. In fact, the need grows greater with each passing day. It seeks to correct major problems facing our country today.

First, the bill directly addresses the deteriorating condition of our public lands and parks by establishing residential and nonresidential conservation centers to upgrade the country's natural and cultural resources. Millions of acres of public rangeland are in substandard condition, and millions more are experiencing severe soil erosion. Furthermore, national, State, and city parks are suffering from the effects of vastly increased public use, while the manpower and funds to deal

with these effects are not forthcoming due to tightened budgets throughout all levels of government. Much needs to be done, especially in the conservation field. Activities such as reforestation, erosion and flood control, reclamation of strip-mined lands, and rangeland management would be promoted by enactment of this legislation.

Projects authorized under the bill would not, however, be limited to rural areas. Our towns and cities would also benefit through programs for harbor and port improvement, for repair and maintenance of city parks and community facilities, and for energy conservation. Priority would be given to projects which would provide satisfying work experience to the enrollees and long-term benefits to the public.

The beauty of this legislation is that while it addresses many of our environmental problems, it also addresses one of our most serious social problems—youth unemployment. We all know the depressing figures, but stark as these numbers are, they cannot convey the human dimensions to this terrible problem.

This legislation seeks to alleviate this deplorable situation by providing up to 100,000 meaningful jobs annually on needed projects for young people aged 16 to 25. Special consideration is to be given to economically, socially, and educationally disadvantaged youths, and to youths living in areas, both rural and urban, which have substantial unemployment. In addition, the program agencies, whether Federal, State, local or tribal governmental bodies or nonprofit organizations, would provide job guidance and placement information and assistance for enrollees. Program agencies are also authorized to provide certification of the skills acquired by the enrollees and to enter into arrangements with academic institutions to upgrade participants' literacy and employability during nonworking hours.

These provisions were inserted as part of a deliberate effort to benefit from experience with prior conservation corps programs. The Youth Conservation Corps (YCC) and the Young Adult Conservation Corps (YACC) were criticized for lacking such provisions.

I am convinced that this legislation will be cost effective. Based on studies done on the YCC and the YACC, it is estimated that each program dollar expended will return more than $1 in vital conservation work. Of course, these figures do not reflect the gain in human terms to the enrollees, nor the benefits of reduced welfare and unemployment costs to our national and local economies. Furthermore, activities such as reforestation will increase our capital assets, thus returning even more money to the Treasury and ultimately to the taxpayer.

It is a hard work program that is based heavily on cost-effective work for urgent urban and rural resources protection and productivity. The addition of skill training and postcorps placement make sure that it is not a dead-end program.

This bill is not the final answer to youth unemployment. Other efforts are desperately needed, but passage of this legislation can play a significant role in easing a tragic situation. Furthermore, passage of the American Conservation Corps will send ringing a message to the American people; namely, that the Congress is willing and able to deal with our unemployment problem.

AMERICAN CONSERVATION CORPS

Mr. HATFIELD. Mr. President, it is indeed an honor and a pleasure today to join with my distinguished colleagues, Mr. MATHIAS and Mr. MOYNIHAN, in cosponsoring legislation to establish the American Conservation Corps.

There can hardly be found a period in history when such legislation is needed more. One only has to look at the current unemployment statistics to quickly realize that the Federal Government must make an effort to help our young people find the jobs they so desperately need and want.

Past programs such as the Youth Conservation Corps and the Young Adult Conservation Corps have done much in providing jobs for our young men and women and at the same time providing high priority conservation projects. Unfortunately, budget cutbacks have all but decimated these programs, while at the same time the teenage unemployment rate continues to escalate.

During the depression years, the Civilian Conservation Corps provided massive public works programs that have benefited every State in one form or another. In my State this program resulted in many public works projects including, but not limited to, the construction of Timberline Lodge on Mount Hood and campgrounds and trails around Multnomah Falls. This work experience was extremely valuable to many young people and many of them went on to rewarding careers in the private sector after World War II. The comradery that existed for the CCC participants, in many cases carries on today.

Mr. President, among the employment programs that were successful in the Northwest, the Young Adult Conservation Corps is one of the best. In its short 5-year history (fiscal year 1978–82) this labor intensive work program showed a solid 75-percent enrollee placement record, a clear indicator that efforts to instill a work ethic and strengthen individual resolve and independence had been highly successful. During the life of the program, approximately 9,396 youth were served in Oregon. The corps accomplished critical natural resource work that continue to strengthen Oregon's economy and add to the gross national product through improved recreational facilities and campgrounds, fish and wildlife habitat, watersheds, rangelands, and timber stands. Some examples are:

The reconstruction of campgrounds and trails around Multnomah Falls—originally built by the CCC's—many that would have had to be closed due to a lack of maintenance funds.

Wyeth Campground—Columbia Gorge, Mount Hood National Forest; a new campground mainly constructed by enrollees to meet the recreational needs of east of the gorge.

Forty-five miles of horse trails on the Sisters Range District, Deschutes National Forest.

Superior seed orchard—a joint State/Federal program to develop superior tree seedlings for reforestation in Oregon. All labor intensive work was accomplished by the YACC.

Reconstruction of many miles of trails and construction of foot bridges.

Planting of several thousand acres of seedlings.

The list of accomplishments totals over $37.4 million and the phase out of the YACC will nearly eliminate the work done on the backlog of conservation work on public lands.

In addition, Oregon received many benefits from title 10 of the Public Works and Economic Development Act of 1965 (Public Law 94-487) during the time that the program was activated in 1975 through 1977. During the time that this program was activated, nearly 4,000 persons were employed in the rural areas in Oregon and Washington. It is estimated that the value of the work accomplished during that period exceeded $40 million. This program accomplished a good deal of conservation work in such areas as recreation construction, rehabilitation, and maintenance, range improvements, revegetation, fish and wildlife habitat improvement and reforestation. Many other conservation projects were included in this comprehensive program.

Mr. President, the American Conservation Corps program would provide the types of employment opportunities our young men and women want and need and at the same time show Congress intention in providing conservation improvement work that is sorely needed. The program would be funded through a variety of Federal revenues generated from various permitting and leasing activities and be administered through the Department of the Interior with cooperation from the Department of Agriculture. The program would be available to unemployed youth between the ages of 16 and 25 for the year-round program and for youths between the ages of 16

and 21 for the summer program. Special provisions are added for youth that come from areas of high unemployment and are disadvantaged.

Youth employment programs have done much not only for the youth in my State but for young people everywhere. This program recommits the Federal Government's intent to help young people develop work habits in a healthy environment and at the same time giving all Americans the kind of recreational and environmental settings they desire. I encourage my Senate colleagues to support this important legislation and hope that the Energy and Natural Resources Committee can and will move quickly to send this bill back to the full Senate for final passage.

By Mr. BOREN:

S. 28. A bill to avoid the double taxation of foreign-source export income, and for other purposes; to the Committee on Finance.

EXPORT SALES CORPORATION ACT OF 1983

● Mr. BOREN. Mr. President, today I am introducing the Export Sales Corporation Act of 1983. This legislation will create an export incentive designed to preserve the benefits of the Domestic Sales Corporation (DISC) while resolving many of the problems that have plagued DISC internationally since its inception. This bill is also designed to encourage small exporters, from the agricultural sector and elsewhere, to use these new provisions by allowing them to share in an Export Sales Corporation (ESC) in a joint exporting effort.

The necessity of preserving the export incentives of DISC becomes rather compelling when you consider that the position of the United States in international trade has weakened dramatically during the last several years. We are now in a foot race with the Federal Republic of Germany for the position of leading exporter, with Germany ahead for most every year back to 1975. The United States presently holds approximately an 18.2 percent share of world merchandise trade, Germany around 18.7 percent, Japan approximately 15 percent, up from 10 percent in early 1980. France and the United Kingdom are hovering around 10 percent.

It should be noted, however, that the United States, as of the third quarter of 1982, had merchandise exports equal to 6.7 percent of GNP, declining from 7 percent in the second quarter and down sharply from 7.3 percent in the first quarter. Some estimate that the trade deficit for 1982 will exceed $42 billion.

Although the United States in past years has made some progress in fostering exports, reversals have occurred, and the prognosis is for a gradually worsening trade position.

Quoting from the 1982 joint economic report:

> The United States is in the midst of a gradual shift toward greater involvement in the world economy. In the past decade, the importance of the trade component of our GNP has more than doubled. Until early 1981, U.S. exports had grown rapidly for several years and appeared to be regaining some of the world share of manufactured goods that had been lost earlier in the 1970's. High interest rates and the overvalued dollar have since reversed that progress. The result has been large and increasing trade deficits which contributed heavily to the recession.
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> Export orders of major U.S. firms have gone down by about 40 percent while imports of goods such as steel and European autos have risen even though U.S. demand is weak.
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> The low growth rate of recent exports contrasted sharply with the 18 percent to 27 percent annual increases in the preceding three years.
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> It is against this background that some trade experts are beginning to say that the dollar is more overvalued than it was when we went to flexible exchange rates in 1971 and devalued again in 1973. These trends coupled with a decline in relative productivity and international competitiveness must be closely monitored.

Due to America's interdependence within the world economy, exports have become an increasingly important variable in our own domestic economy: 20 percent of industrial production is now exported; 40 percent of all agricultural production goes to exports; almost 14 percent of employment in manufacturing industries is related to exporting, according to 1980 figures, which signifies an increase from just over 10 percent in 1977. Every $1 billion in exports supports 30,000 U.S. jobs.

Incongruously, at this time of increased competition and fears of even greater problems for exports, there are proposals to reduce our most significant incentive for exports, the Domestic International Sales Corporation provision in the tax law. These provisions were instituted in 1971 and nearly emasculated in 1976. Still, today, they can be said to have helped those exporters who were patient enough and trusting enough to try to take advantage of them.

DISC has made a significant contribution to U.S. export growth. Increased exports attributable to DISC grew from $1.9 billion in 1972 to over $9 billion in 1980. Since the enactment of DISC, U.S. nominal exports have increased from $43 billion in 1971, to $220 billion in 1980.

The incentive provided by DISC, has resulted in an increase in exports, over what they otherwise would have been, estimated to range between $6.2 billion and $9.4 billion. This represents an increase of about 36 percent over 1979. If we use the accepted formula, that every $1 billion in exports supports 30,000 jobs, we discover that DISC theoretically supports from 186,000 to 282,000 jobs, which would not exist had DISC not been in place.

DISC exports of manufactured goods grew to $94 billion, representing a 28-percent increase over 1979. Two-thirds of all manufactured exports utilize the benefits of DISC.

The agricultural sector has been the principal user of DISC. In 1980, the most recent year for which statistics are available, over 20.2 percent of total gross receipts from DISC sales were attributable to sales of agricultural products, food and kindred products, and leather and tobacco products. Approximately 27.1 percent were attributable to sales of agricultural products alone.

DISC tax-deferred income on sales of agricultural products, food, leather, and tobacco was in excess of $300 million in 1980.

According to the Treasury Department, if DISC had been eliminated, exports of nonmanufactured products—mainly agricultural commodities, but not including food and kindred products, leather, and tobacco products—would have been reduced by $400 to $600 million in 1980.

Demand for agricultural products on world markets is especially responsive to price changes because identical products are supplied by many countries. Price increases, which must result from an elimination of DISC, will result in decreased competitiveness of U.S. agricultural products in foreign markets.

According to a recent Price Waterhouse study prepared for the U.S. Chamber of Commerce, the Business Roundtable, the National Association of Manufacturers, the Emergency Committee for American Trade, the Special Committee for U.S. Exports, the National Foreign Trade Council, and the American Business Conference,

> The DISC provisions increase U.S. export sales by between $1.5 and $7.0 billion at little or no cost to the Treasury. In fact, under a reasonable set of assumptions, DISC may actually increase both output and total Treasury receipts at a time of low capacity utilization and high unemployment in the U.S. economy.

At best, DISC provides for a less than 8 percentage point reduction in the nominal 46 percent marginal corporate tax rate; it is complicated; and the provisions have never had a ring of permanency to them. Smaller exporters have had difficulty with the complexity of the provisions.

GATT CONSIDERATIONS

On December 8, 1981, the GATT Council adopted a panel report that apparently determined that DISC is an illegal export subsidy under article XVI of the General Agreement on

Tariffs and Trade. At the same time, the territorial tax practices of Belgium, France, and the Netherlands were determined to be legal. Certain understandings intended to protect DISC were woven into the GATT Council determination at the insistence of the United States, but it is arguable that these will not ultimately save the DISC. Upon GATT Council adoption of the DISC panel report, GATT procedures permit our trading partners to press the DISC issue at a time of their own choosing. Any one of them could unilaterally assert the illegality of DISC, ask the GATT Council to advise us to amend our laws to make them compatible with the GATT, and upon our refusal to do so, request authority from the GATT Council to impose retaliatory tariffs or quotas across the board or selectively against U.S. exports into their market.

On March 28, 1982, the Canadians chose to press the issue at a meeting of the GATT Subsidies Code Committee. The Canadians asserted that GATT article XVI.1 requires countries to send the GATT a written description of all subsidies but that the United States had not included DISC in its notice. The United States responded that DISC is not a subsidy.

In reaction to this, the European Communities requested the GATT Council, on May 7, 1982, to advise the United States to "take appropriate action without delay to bring the DISC legislation into conformity with the provisions of the GATT." Furthermore, the EC requested the Council to keep the DISC issue on its agenda "with a view to any appropriate follow-up," that is, retaliation.

Last July, the European Community outlined its plans for retaliation against DISC by requesting compensation from the United States equivalent to the damages they contend DISC has caused in the sum of $2.3 billion. Today's meeting of the GATT Council may reignite this dilemma.

The administration, to its strong credit, has done the best it can with a very difficult situation. They have not and will not concede that DISC is inconsistent with our international obligations. Nonetheless, the likelihood of countervailing action against DISC exports is increasing. A proposal such as this, which resolves the issues of dispute while preserving the export incentive, would seem to be indisposable at this particular time.

OTHER COUNTRY'S PRACTICES VERSUS DISC

In comparison, other countries have been much more straightforward and, one might say, effective in their tax incentives for exports. Many of our trading partners utilize the territorial approach to taxing foreign operations, that is, they only tax domestic earnings of a company. They exempt from taxation the earnings of a foreign subsidiary or, in some instances, a foreign branch. What is more, the transfer pricing rules and enforcement of those rules are by no means as strict as ours.

It is extremely difficult to pinpoint foreign tax rates and practices applicable to exports because studies of the tax rates are ordinarily derived from statutory rates, which may or may not reflect the true state of affairs; because integrated tax systems—where the corporate and shareholder taxes are melded together in some fashion—necessitate arbitrary assumptions as to dividend payout rates; because actual practices in some countries vary widely from the published rules; and because the rates, statutes, regulations, and practices are continually changing. Notwithstanding these difficulties, it can be safely asserted that the United States has one of the highest effective tax rates on export income. It reportedly has the highest effective rate with the possible exception of West Germany; and West Germany's rate is problematical given its integration system. The U.S. effective tax rate on exports, according to a 1977 study, was 27.4 percent as compared with 8.7 percent in France, 12.2 percent in the United Kingdom and 17.9 percent in Japan. Of even more significance is the relationship between the effective rate on export income versus the effective rate on domestic income, since the difference determines where investment income will flow. In Japan, for example, domestic income bears an effective rate of 29.2 percent and export income an effective rate of 17.9 percent. In France, domestic income bears an effective rate of 34.3 percent and export income an effective rate of 8.7 percent.

A recent draft study summarized some of the foreign tax practices as follows:

> It is generally believed if all forms of subsidization are analyzed—non-tax as well as tax—that, overall, other countries subsidize their exports to a greater degree than the U.S. Looking at tax rules alone, however, it might be assumed, based on descriptions of statutory provisions and rates, that certain other countries do not foster export performance to a remarkable degree. In fact, this is not the case. When actual foreign practices are drawn into the light, it is evident that every country, in one fashion or another, concourages exports by means of the structure and application of its tax laws. Each of the countries examined encourages exports in this way to a greater degree than the U.S. Also, with respect to each, a close examination of actual practices leads to the conclusion that taxation of exports is generally at an even lower rate than heretofore supposed.
>
> Countries foster exports with tax laws and practices in widely varying ways. As a general rule, the number of overt "subsidies" in domestic tax rules has been reduced in recent years, but a number still remain. It is more common for favorable provisions to appear as foreign tax provisions in a country's internal tax laws. The territorial tax systems used by the Netherlands and France are obvious examples. Omissions in the coverage-tightening provisions of subpart F-type laws in the case of Japan and Germany are less obvious examples. One frequently encountered aspect is an approach to pricing rules that permits an allocation out of a large percentage of export profits. Based on the most recent developments, it would be an overstatement to say that foreign countries are moving in the direction of a more stringent enforcement of arm's-length pricing rules. In 1979, the OECD Council adopted a recommendation on the determination of transfer prices between associate enterprises. To date, only one country, Italy, has enacted new provisions or finally promulgated new rules tightening enforcement in this area. Another aspect which is often overlooked is the treatment of export expenses. There are, in fact, two principal variables in intercompany pricing rules: supplier markup and supplier cost. It is obvious that if a markup of 8 percent over supplier's cost is required as a result of statutory provisions, regulations, or audit practice, less foreign-source income will be available for low-tax treatment than if a 4-percent markup were allowed. Less obvious but more important is the effect of allowing a low figure for the supplier's cost—usually by permitting the supplier to avoid allocating overhead cost as expenses to exports. No country examined appears to be actively pursuing this point.

In the United States, as of the time of the 1977 study, domestic income bore an effective rate of 36.7 percent and export income an effective rate of 27.4 percent. Many sectors of the domestic economy, after the tax law changes made by the Economic Recovery Tax Act of 1981, presently bear an effective rate significantly lower than that applicable to exports of merchandise and undoubtedly lower than that applicable to services which are exported. This observation is supported by the study of taxation of income from business investment contained in the President's recent economic report.

It is noteworthy that the new ACRS rules do not solve an exporter's problems. Based on a recent study, replacing old depreciation rules with ACRS reduced the effective rate of taxation on a typical manufacture-for-export project from 20.8 percent to 17.1 percent. Repeal of DISC today would increase the effective tax rate to 24.1 percent. In other words, the exporter's effective tax rate would be about one-fifth higher than it was before ACRS and before repeal. Also, ACRS does nothing for exports of services and little or nothing for short-lived, high technology items.

REVENUE LOSS CONSIDERATIONS

In spite of the obvious need for continued and even greater support of exports, it is not suggested that the present dollar-of-tax-revenue level of support be increased. The battle against budget deficits is critical and must be won. Exporters realize that inflation is one of the secrets to the success of our principal competitors. Inflation can be viewed as a continual

devaluation of tax items such as depreciation. High interest rates are also decried by exporters, since they lead to an overvaluation of the dollar and inevitably to resistance to the sale of our exports abroad. In addition, high interest rates make trade financing more expensive.

The present proposal will hold static revenue estimates at a par with present revenue estimates with DISC. DISC is presently projected to cost $1.1 billion in 1983. The present proposal would cost the same amount. The cost and, it follows, the benefits for exports and the economy can then be increased by measured increments over a period of time.

It must be said, however, that the feedback effect of this Export Sales Corporation proposal—which can be substantiated by solid economic analysis—are two-thirds to 100 percent.

EXPORT SALES CORPORATION PROPOSAL

In view of all of these considerations, it is proposed that Congress enact an Export Sales Corporation (ESC) provision in order to make our export tax rules GATT-legal while holding the revenue cost constant. Also, without any revenue cost, we can make some minor changes to encourage exports by smaller exporters.

DISC should not be repealed, since I and others remain convinced that it is and always has been a legal trade practice. The ESC provisions should simply be laid alongside the existing provisions. Since most exporters will want to use the new provisions, the propriety of DISC under the GATT and the new Subsidies Code will become moot.

The Export Sales Corporation would operate as a subsidiary through which the U.S. exporter would make export sales or perform export services. Its scope would be basically the same as the present DISC. The pricing rules would generally be the same.

The GATT legality problem would be solved by providing for the establishment of ESC's in a U.S. territory or a foreign country that imposes taxes. The ESC would then stand in the same shoes as similar companies utilized by Japanese, Dutch, French, and English exporters. While the DISC is viewed by some as an illegal trade subsidy, the ESC, under GATT precedents, would be a permissable means of avoiding double taxation of foreign income.

Smaller exporters have been discouraged from using DISC for a variety of reasons, primarily its complexity and cost. For years I have argued that smaller businesses deserve to be included in, not excluded from, the field of international trade. Therefore, I have made sure that the provisions of the Export Sales Corporation Act will permit smaller exporters to take advantage of the benefits available.

This act will allow smaller firms, with exports of less than $100,000, to receive a higher dividends received deduction at no additional revenue cost. It will also permit them to utilize a domestic corporation that would be deemed foreign provided that some economic processes take place outside the United States. Also, the Treasury Department is given the authority to promulgate regulations permitting unrelated shareholders to participate in exporting through an ESC on what I would describe as a patronage basis—with the benefits accruing to the shareholders on the basis of the volume of exports run through the ESC. Lastly, the act will direct the Treasury Department to publish a revised handbook for exporters highlighting the uses of an ESC for smaller exporters.

These provisions will enable smaller exporters to help themselves by expanding their export operations. This will be particularly important for small agricultural exporters at a time when the additional income exports can provide is needed so badly.

The revenue cost is held constant by deeming 100 percent of the income of the ESC to be distributed back to the U.S. shareholders and applying a 26-percent dividends-received deduction. With ESC, 26 percent of export profits would not be taxed. The result for the Treasury is the same as with DISC.

The 26-percent figure is simply the percentage required to hold the revenue cost at the present level. Based on the most recent Treasury Department data, this figure was derived as follows:

ESTIMATED REVENUE COST OF EXPORT SALES CORPORATION PROPOSAL FOR VARIOUS DEEMED DIVIDENDS RECEIVED DEDUCTIONS APPLICABLE TO SMALL VERSUS LARGE EXPORT SALES CORPORATIONS, 1983–1986

[Dollars in millions]

	Small ESC's	Large ESC's	Total revenue cost				Increase in total revenue cost over present law			
			1983	1984	1985	1986	1983	1984	1985	1986
Present law			$1,110	$1,060	$1,040	$1,070				
Dividends received deduction percent	40	20	843	871	930	998	−$267	−$189	−$110	−$72
	40	22	924	954	1,020	1,095	−186	−106	−20	25
	40	24	1,005	1,038	1,110	1,191	−105	−22	70	121
	40	26	1,086	1,122	1,200	1,287	−24	62	160	217
	40	28	1,167	1,206	1,289	1,383	57	146	249	313
	40	30	1,249	1,290	1,379	1,480	139	230	339	410
	40	40	1,655	1,710	1,827	1,961	545	650	787	891
	60	60	2,482	2,565	2,741	2,941	1,372	1,505	1,701	1,871
	100	100	4,137	4,275	4,569	4,902	3,027	3,215	3,529	3,832
Break-even dividends received deduction percentage for large ESC's							26.58	24.52	22.44	21.49

With provisions for an Export Sales Corporation the United States would be on the same plane as its competitors. Then, if it is thought to be desirable, mutually effective rules on subjects such as transfer pricing can be negotiated through international forums.

The Export Sales Corporation provisions might also be more cost effective than existing provisions because they are simpler, they can be more readily used by smaller exporters, and they will be seen to be more lasting in nature.

Export Sales Corporations will allow the United States to neutralize many of the disadvantages we are now confronted with internationally, thereby enhancing the competitiveness of American exports in international markets. I believe that improving our international competitiveness is the ultimate goal of this legislation and am convinced that enactment of this bill would be a very significant step toward regaining American prominence in international markets.●

By Mr. GRASSLEY:

S. 29. A bill to strengthen law enforcement in the areas of child exploitation and pornography, and for other purposes; to the Committee on the Judiciary.

CHILD PROTECTION ACT OF 1983

Mr. GRASSLEY. Mr. President, in recognition of the Supreme Court's recent decision in the case of *New York* v. *Ferber*, No. 81-55, slip op. (July 2, 1982), I am introducing a bill to more effectively combat child pornography. I note for the record that the legislation that I offer today is identical to an amendment that was passed in October to the Violent Crime and Drug Enforcement Act of 1982.

Current Federal law prohibits the use of children in pornographic depictions only if the materials meet the difficult and confusing standard of legal obscenity. Last July the Supreme

Court decided that where our children are involved, the regulation of pornography need not comport with the legal definition of obscenity. Hence this amendment would remove the requirement of legal obscenity from child pornography statutes thus making it easier to prosecute offenders and protect our children.

In Ferber the Court held that the obscenity standard developed in Miller against California does not apply to a photographic or other depiction of children actually engaging in sexual conduct. Abandoning the Miller standard as a definition of child pornography was predicated upon the Court's recognition that a State has a compelling interest in protecting the physical and psychological well-being of minors. The Court held that child pornography constitutes a category of material—like obscenity—which is outside the protection of the first amendment.

Specifically, in addition to eliminating the requirement that child pornography statutes comport with the legal definition of obscenity as enunciated in the case of Miller, I am removing the commercial-purpose limitation of this provision. Utilization of the applicable statute, 18 U.S.C. 2252, by enforcement officials has been limited by the fact that the statute covers the distribution of child pornography materials only for commercial purposes.

However, many of the individuals who distribute materials covered by the statute do so by trade or exchange, without any commercial purpose. If 18 U.S.C. 2252 is to be rendered more useful as a prosecutorial vehicle, the words "for the purpose of sale or distribution for sale" should be deleted from subsections (a)(1) and (a)(2), and the words "for sale" should be deleted from subsection (a)(2) following the words "knowingly sells or distributes." Additionally we are striking the "pecuniary profit" provision from section 2253 of title 18, section 3.

No discussion of this amendment would be complete without noting how harmful the use of children in pornographic materials is to the physiological, emotional and mental health of the child. It should be noted that because the child's actions are reduced to a recording, there is a permanent record of the child's participation and the harm to the child is intensified by circulation.

According to one study by the Academy of Child Psychiatry, sexually exploited chidren are unable to develop healthy affectionate relationships in later life, have sexual dysfunctions, and tend to become sexual abusers as adults. Another report by the Illinois Legislative Investigatory Commission emphasizes that sexual molestation by adults is often involved in the production of child sexual performances. Justice O'Conner, in her concurring opinion, summed up the Supreme Court decision when she wrote that:

A 12-year-old child photographed while masturbating surely suffers the same psychological harm whether the community labels the photograph "edifying" or "tasteless". The audience's appreciation of the depiction is simply irrelevant to New York's asserted interest in protecting children from psychological, emotional, and mental harm.

Mr. President, at stake is the emotional and physical health of minors. We must protect our children. I urge all of my colleagues to support this amendment.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 29

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Child Protection Act of 1983".

SEC. . (a) Section 2252 of title 18, United States Code, is amended—

(1) in subsection (a)(1) by striking out, "for the purpose of sale or distribution for sale, any obscene" and inserting in lieu thereof "any"; and

(2) in subsection (a)(2) by striking out "for the purpose of sale or distribution for sale, or knowingly sells or distributes for sale, any obscene" and inserting in lieu thereof "sells, or distributes any".

(b) Section 2253 (3) of title 18, United States Code, is amended by striking out, "for pecuniary profit".

By Mr. MATHIAS:

S. 30. A bill to amend the Internal Revenue Code of 1954 to provide that individual income tax rates not be adjusted to reflect increases in the Consumer Price Index; to the Committee on Finance.

REPEAL TAX INDEXING

Mr. MATHIAS. Mr. President, today I introduce a bill repealing the provision of the Economic Recovery Tax Act of 1981 that indexes income taxes to the rate of inflation.

Eighteen months ago I voted against that tax bill—the only Senate Republican to do so. At the time, I said that I supported important parts of the President's package, especially the incentives it gives for the accumulation of capital that we need to regain our economic vigor and increase our productivity.

But in the end I urged that we reject the package in spite of its merits. My reason was its dangerous, even reckless, provision to index the tax tables to the Consumer Price Index.

The provision would not kick in until 1985, but it is already casting a long, cold shadow. The experts predict that indexing will add tens of billions of dollars to our already runaway 1985 tax deficit. By 1990, if we retain the indexing provision, we will look back nostalgically at the "good old days" of 1983 when we had a deficit of "only" $200 billion—a deficit that Senator LAXALT has called a little terrifying.

I agree with the Senator from Nevada.

Not only will indexing taxes to inflation contribute to the deficit, but it will also plant a fatal seed in the internal revenue system. It institutionalizes inflation. While the Nation's current economic troubles have tamed inflation for the time being, we have not killed the beast.

The indexing provision is designed to correct one of the unfair aspects of our graduated income tax system—bracket creep. This occurs when inflation-induced cost-of-living wage increases push taxpayers into higher tax brackets. So even though these taxpayers have not had an increase in real buying power, the Government still takes a bigger bite out of their paychecks. Indexing would end that, but in ending an inequity it would give rise to a nightmare.

In theory, an indexing provision sounds fair. Without it, Congress can raise taxes without having to face the political consequences of voting for a tax increase. In fact, a Congressional Budget Office study indicates that, over the past 15 years, overall tax rates have been roughly equal to what they would have been under indexing. But rather than automatically and imprecisely cutting across the board, our tax cuts have been targeted to advance budgetary policies as well as to balance inflation. Indexing would eliminate that flexibility.

This lack of flexibility is aggravated by automatic escalators built into many expenditures. Congress has indexed many long-term contracts, military and civil service salaries, social security, Government pensions, and other entitlements to the imprecise and always increasing Consumer Price Index. So after 1985 we will have an impossible situation, with Government revenue ratcheting down at the same time these built-in cost-of-living increases automatically ratchet up Federal outlays. We will bind future Presidents and Congresses into a shrinking fiscal straitjacket.

Business Week has written that:

Evidence that indexation hurts rather than helps the price level is becoming so pervasive as to cause some of its erstwhile proponents to change their minds. . . . [I]ndexing is losing its support among economists.

I hope that this "pervasive" evidence will change minds in Congress and in the White House as well.

Indexing taxes to the rate of inflation was not President Reagan's idea. He only accepted indexing as part of the compromise tax package. I urge the President to cast off this hairshirt. Otherwise he will endanger the al-

ready fragile prospects for economic recovery.

Because we need the flexibility, because we may well need the revenue, and because we cannot afford to hide from the underlying problems, I urge the repeal of the indexing provisions of the 1981 tax bill.

I ask unanimous consent that the text of the bill be printed at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 30

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

(a) REPEAL OF INDEXATION.—Subsection (f) of section 1 of the Internal Revenue Code of 1954 (relating to adjustments in tax tables so that inflation will not result in tax increases) is hereby repealed.

(b) DEFINITION OF ZERO BRACKET AMOUNT.—Subsection (d) of section 63 of such Code (defining zero bracket amount) is amended to read as follows:

"(d) ZERO BRACKET AMOUNT.—For purposes of this subtitle, the term 'zero bracket amount' means—

"(1) $3,200 in the case of—

"(A) a joint return under section 6013, or

"(B) a surviving spouse (as defined in section 2 (a)),

"(2) $2,200, in the case of an individual who is not married and who is not a surviving spouse (as so defined),

"(3) $1,600 in the case of a married individual filing a separate return, or

"(4) zero in any other case.".

(c) PERSONAL EXEMPTIONS.—Section 151 of such Code (relating to allowance of deductions for personal exemptions), as amended by section 104(c) of the Economic Recovery Tax Act of 1981, is amended—

(1) by striking out "the exemption amount" each place it appears and inserting in lieu thereof "$1,000"; and

(2) by striking out subsection (f).

(d) RETURN REQUIREMENTS.—

(1) AMENDMENTS TO SECTION 6012.—

(A) Clause (i) of section 6012(a)(1)(A) of such Code, as amended by section 104(d) of the Economic Recovery Tax Act of 1981, is amended by striking out "the sum of the exemption amount plus the zero bracket amount applicable to such individual" and inserting in lieu thereof "$3,300".

(B) Clause (ii) of section 6012(a)(1)(A) of such Code, as amended by section 104(d) of the Economic Recovery Tax Act of 1981, is amended by striking out "the sum of the exemption amount plus the zero bracket amount applicable to such individual" and inserting in lieu thereof "$4,400".

(C) Clause (iii) of section 6012(a)(1)(A) of such Code, as amended by section 104(d) of the Economic Recovery Tax Act of 1981, is amended by striking out "the sum of twice the exemption amount plus the zero bracket amount applicable to a joint return" and inserting in lieu thereof "$5,400".

(D) Paragraph (1) of section 6012(a) of such Code, as amended by section 104(d) of the Economic Recovery Tax Act of 1981, is amended by striking out "the exemption amount" each place it appears and inserting in lieu thereof "$1,000".

(E) Paragraph (1) of section 6012(a) of such Code, as amended by section 104(d) of the Economic Recovery Tax Act of 1981, is amended by striking out subparagraph (D).

(2) AMENDMENTS TO SECTION 6013.—Subparagraph (A) of section 6013(b)(3) of such Code is amended—

(A) by striking out "the exemption amount" each place it appears and inserting in lieu thereof "$1,000",

(B) by striking out "twice the exemption amount" each place it appears and inserting in lieu thereof "$2,000", and

(C) by striking out the last sentence thereof.

(e) EFFECTIVE DATE.—The amendments made by this Act shall apply with respect to taxable years beginning after December 31, 1984.

By Mr. ROTH (for himself and Mr. EAGLETON):

S. 35. A bill to establish a Commission on More Effective Government, with the declared objective of improving the quality of Government in the United States and of restoring public confidence in Government at all levels; to the Committee on Governmental Affairs.

COMMISSION ON MORE EFFECTIVE GOVERNMENT

● Mr. ROTH. Mr. President, our Nation today faces challenges as broad and as deep as at any time in our history. Economic recovery, international strength and revitalization of our intergovernmental system are issues that will test the very fiber of our democratic form of Government.

Now that these challenges are upon us, however, many question whether our public institutions are up to the tests. Our massive bureaucracy is hidebound and inflexible in the face of changing policy needs. Our public management systems too frequently reward sloth rather than personal initiative and dedication. The politics of consensus that for so long were the hallmark of our system in the last 20 years have unravelled under the pressures of interest group politics and partisan bickering.

Mr. President, it is no mystery why our people are so disillusioned with Government today; why public confidence in public officials is so low. Yet if we are to help this country realize its full potential as is our duty as elected officials we must make a conscious effort to begin to restore this public confidence.

We need to develop an organizational structure that is fluid enough to address evolving policy problems in a timely fashion. We should seek ways to use management strategies to reduce waste in Government and to reward the work of dedicated public employees. We must renew the consensus approach in public affairs that gives our leadership renewed direction.

The legislation that Senator EAGLETON and I are introducing today will help realize these goals. Our proposal will create a bipartisan Citizens' Commission on More Effective Government. Over a 2-year period this panel will formulate a blueprint for improving governmental performance at the Federal level and throughout the intergovernmental system. The 18-member group will consist of distinguished Americans from government and from private life who will bring to the discussion the breadth of experience and good commonsense that we need to confront these major governmental issues.

At the end of its work the Commission will direct its recommendations to the Congress and the President for consideration and action. The legislation stipulates that after the Commission ceases to exist a skeletal staff from the Commission shall work with the Office of Management and Budget to encourage implementation of the Commission's recommendations. The General Accounting Office will play a role in monitoring the effect of the Commission's work.

This legislation is modeled after the very successful Hoover Commissions of the 1940's and 1950's. Like these earlier efforts, our Citizens' Commission will serve as a focal point for developing the coalition of public support needed for the acceptance of meaningful change.

I am encouraged by the growing support for such a sweeping review of governmental organization and management. In the House of Representatives last year Congressman Bolling had over 100 cosponsors for his version of the bill. In the Senate we passed the bill on December 7, 1981, with a bipartisan vote of 79 to 4. During Senate consideration of the proposal we received strong statements of support from President Reagan and from groups as diverse in interest as Common Cause and the National Association of Manufacturers. Several of the major intergovernmental public interest groups vocally backed our proposal. Unfortunately the legislation did not receive full consideration in the House and the bill was not enacted.

Clearly, however, the support for this commonsense approach is broad and, I think, sustained. The commission concept is one I have supported for many years. But at no time have I felt any stronger than I do now that this Commission is needed.

I commend my colleague from Missouri, Senator EAGLETON, for his leadership in this area. I look forward to working with him to move the legislation through our committee and through the Senate.

Nearly 30 years have passed since the last review of Government of this magnitude. Another such effort in the next 2 years will serve the dual purpose of generating citizen involvement in Government and developing the consensus among our leadership that will help to revitalize all of our public institutions.●

By Mr. BOREN (for himself, Mr. PRYOR, Mr. HEFLIN, Mr. HOLLINGS, Mr. RANDOLPH, Mr. PROXMIRE, Mr. SASSER, Mr. FORD, Mr. MELCHER, Mr. HUDDLESTON, Mr. ZORINSKY, Mr. PELL, and Mr. GLENN):

S. 39. A bill to amend the Internal Revenue Code of 1954 to repeal the withholding of tax on interest and dividencs; to the Committee on Finance.

REPEAL OF WITHHOLDING OF TAX ON INTEREST AND DIVIDENDS

Mr. BOREN. Mr. President, I am today introducing legislation to repeal the 10-percent withholding on dividends and interest that was passed last summer as part of the Tax Equity and Fiscal Responsibility Act (TEFRA). The reasons for eliminating this new law are abundantly clear.

First, and foremost, the imposition of a withholding tax on interest and dividends will act as a disincentive to savings and investment at a time when the Federal Government should be doing everything within its power to encourage savings and investment. In effect, we are sending the American people the wrong signal. We will be driving people away from corporate equities, bonds, and other savings mechanisms. Further, we will be lowering the real rate of return on some investments by denying investors the use of withheld funds. It has been estimated that upwards of $3 billion in savers' and investors' earnings otherwise attained through reinvestment and compounding will be lost to the private capital market. This is money that could go to finance home mortgages, job creation, or capital formation.

This law will also have a serious impact on our financial institutions. They must now design and put into operation withholding systems to deal with the vast array of investment and financial services they provide the public. I am not merely speaking of the cost of developing a computer program to actually compute the withholding. One must also take into consideration the time and effort involved in training employees to effectively deal with customer questions involving the new withholding system, not to mention the need to communicate with all customers how the new system will affect them. Citibank has estimated that the administrative costs of withholding for the private sector would be at least $1.5 billion per year and probably more. Further, these costs, of necessity would be passed on to depositors and investors in the form of lower interest payments, reduced dividends, extra service charges, and so forth.

One also cannot ignore the devastating impact withholding will have on the elderly and lower income families. The Treasury Department has attempted to get around this problem by proposing regulations that exempt older Americans and others who expect to have little tax liability. Yet, the fact of the matter is that by placing the burden on the individual to exempt himself from withholding, the tax brings many elderly people into the taxpaying system who have been out of it for years. Every time he opens up a savings account, buys a piece of stock, or puts money into a money market fund, he would be required to get and complete an additional form. Thus, this tax would not only put an impossible recordkeeping burden on financial institutions, but also on the average citizen. It is for this reason the American Association of Retired Persons (AARP) worked to try to defeat this provision last summer.

Finally, perhaps one of the most convincing arguments against the withholding involves the supposed revenue gains from implementing the program. According to the Treasury Department, approximately three-quarters of the first year's revenue gain comes from nothing more than acceleration of payments. In the original projections this amounted to fully $3 billion of the projected $4.3 billion in revenue gains. It would appear that the administrative costs required to implement the program would far outweigh the real revenue gain of $1.3 billion.

In conclusion, Mr. President, I would urge my distinguished colleagues to support the repeal of this unwise law. In an attempt to get at the small percentage of taxpayers who fail to report their interest and dividend income, Congress has enacted legislation which would penalize the nearly 90 percent of American taxpayers who have honestly paid their taxes all along. It seems abundantly clear that the enactment of the 10-percent withholding provision was a serious mistake.

Mr. PRYOR. Mr. President, I am pleased to join with Senator BOREN in sponsoring this bill to repeal the requirements on withholding of interest and dividend payments, due to go into effect on July 1. It is appropriate that this legislation be introduced on the first day of business of the new Congress because this is an issue that should be dealt with immediately.

Last summer when I cosponsored the Kasten-Hollings amendment to strike the withholding provision from the Tax Equity and Fiscal Responsibility Act, our margin of defeat was 47 to 50. I cannot help but believe that since that time Senators have had a chance to reflect on the unfortunate consequences that the withholding requirements will have on individual taxpayers and that many have concluded that our action was ill-advised.

The purpose of the original legislation was to increase compliance with the tax on interest and dividends, thereby increasing revenues by an estimated $1.3 billion. It seemed to me then and it seems to me now, however, that the burdens imposed by the law far outweigh any benefits that may—or may not—accrue to the Treasury, and my mail confirms that judgment overwhelmingly.

Many taxpayers need the use of this income during the year and have planned their finances around the payments. A woman from Hot Springs Village, Ark., wrote to say:

> I have been admonished to put all my life earnings into banks and savings and to just live off that interest which I have endeavored to do since my retirement in 1976.

A friend of mine who is a lawyer provides another example:

> Clients have deposited with me what we consider to be ample funds to pay principal and interest on mortgages as far away as 1993. We have made commitments for these funds. It requires all of the interest and principal to meet these commitments. Under our argeement the client pays the income tax on the earned interest during the regular course of business at tax paying time. What this legislation is doing is depriving us of funds necessary to pay this interest on mortgages at a time when we have to have the funds.

Many other constituents who are just barely scraping by—some with heavy medical expenses—tell me that they depend on their interest payments for groceries and utilities. Since overwithholding is very common in certain income ranges, these people will be deprived of much-needed income which would not in any case go toward their tax liability under the law.

Moreover, taxpayers who have worked hard to accumulate some savings will be deprived of income resulting from the compounding of interest and reinvestment of dividends.

One of the causes of poor U.S. productivity in recent years is our low national rate of savings, and I am afraid that in many instances the withholding rule may encourage people to spend rather than save.

I think it is important to remind ourselves that it is not just the well to do who have savings and dividends. One of my constituents writes:

> I don't think it is right that they will take 10 percent of our savings on our interest. I don't have much but it is mine and I worked for it. I am 81 years old and when I was coming up I worked for 25 cents a day and sometimes I got 50 cents a day. It takes a lot more to live now. At my age I could not get a job. I thought in my older years with what I have I could live a little better * * *

Even those taxpayers who are exempt from the withholding requirements must go to the trouble of filing for that exemption. My State has a high percentage of elderly residents, and many of them, especially those in rural areas, have great difficulty in

getting around. A constituent from Hot Springs points out:

To apply for an exemption, I have to fill out and file a government form with each financial institution where I have an account. Fortunately, I'm physically able to do so, but many of my friends are not. Does this mean that they'll lose the use of 10 percent of their earnings on interest and dividends? Many retired people depend on this money for their day to day expenses for food, medical bills and housing.

In addition, some citizens, especially the older ones, simply have trouble understanding the new law—who is exempt, what the effects will be on a family budget, how to file for an exemption, what savings alternatives are available, and so forth. Many of those who do not file a waiver will have to file an income tax form for the first time in many years to secure their refund for taxes not due. These consequences are clearly not in accordance with tax simplification efforts.

A common theme in my mail has been an indignant protest that those who have always paid all their taxes should not be penalized because some citizens have cheated Uncle Sam. Depositors and bankers alike feel that improved reporting requirements are sufficient and that the IRS could increase compliance without resorting to withholding on all accounts.

A final point I would like to make concerns the paperwork burden on financial institutions—particularly the small banks and S&L's. Lawmakers and regulation writers should try to remember that most of these institutions simply do not have the staffs and computers to handle the enormous paperwork demands which have been imposed by Washington in recent years, and the requirements of the new law have added one more straw to the camel's back.

For all these reasons, I hope that we will move quickly to reverse our action on the additional withholding of income before any more harm is done.

By Mr. GORTON (for himself, Mr. STEVENS, Mr. PACKWOOD, and Mr. INOUYE):

S. 47. A bill to improve the international ocean commerce transportation system of the United States; to the Committee on Commerce, Science, and Transportation.

SHIPPING ACT OF 1983

● Mr. GORTON. Mr. President, I am introducting a bill today to revise the Shipping Act of 1916 and to modernize U.S. regulation of international liner shipping. The purpose of the bill is to develop an efficient ocean transportation system through commercial means. It accomplishes this purpose in two ways: First, the bill strengthens the conference system as a method of insuring stability in the trade by reinstating the antitrust immunity originally provided by the Shipping Act of 1916; and second, it simplifies the Federal Maritime Commission's regulatory role by providing a swift and predictable review process for conference agreements. This new regulatory framework will benefit substantially both ocean liner carriers and the users of their services, our exporters and importers.

This bill is the product of several years of intensive work in both the House and the Senate. In the 96th Congress the Senate passed unanimously legislation similar in intent to this bill. In the 97th Congress the House passed legislation very similar to the bill I am introducing. The bill I am introducing today is similar to that reported by the Commerce Committee in the 97th Congress, but with the addition of technical changes which we learned, by working with the Members of the House, improve this legislation. My objective is to produce the best possible bill, because this is potentially the most significant maritime legislation in decades.

I would like to thank my distinguished colleague, Senator STEVENS, for the assistance he has given me. Hearings before the Merchant Marine Subcommittee are scheduled for the first week in February. Those hearings will include those who have opposed similar legislation in the past as well as those who have supported it. I am receptive to comments from U.S. and foreign maritime interests and from our importers and exporters.

The 1916 Shipping Act has two basic purposes, both of which this bill retains. First, it grants antitrust immunity for international liner conference agreements through which liner shipping operators may collectively establish rates and joint services. Second, it requires liner operators to conform to common carrier responsibilities by publishing tariffs that establish rates and services available to all shippers without unjust discrimination. The 1983 act would therefore track the 1916 act in its broad purposes.

Because of a series of judicial interpretations of the 1916 act over the past 15 years, the protection from the antitrust laws under that act have diminished dramatically. The scope of the antitrust immunity has narrowed and become tenuous. Antitrust analysis has also been injected directly into the standards used under the act to approve or disapprove agreements. Carriers have been suspended uncertainly between supposed antitrust immunity by statute and enormous antitrust exposure in fact. They have been required to prove that their actions would not violate the antitrust laws in order to obtain antitrust immunity. They have been discouraged from cooperating to achieve operating efficiencies under the same law Congress designed to encourage such activities.

This situation has produced two harmful effects on the industry. First, FMC regulation has become fraught with uncertainty and delay, which prevents carriers from carrying out their business plans promptly. Some proceedings have taken years to resolve. Conflicting views expressed by various executive branch agencies about acceptable conference practices, as well as shifting decisions by the FMC and the courts, have created confusion over the responsibilities of the conferences and the Government's regulation of conference activities. Second, carriers have been subject to multiple jeopardy for the same activities, because they face the prospect of civil penalties, reparation awards, and cancellation of their agreement, all under the Shipping Act, as well as criminal sanctions and treble damages under the antitrust laws. Our own carriers are most directly and fully exposed in this manner, although foreign carriers are not.

We need a new statutory framework, establishing a new regulatory philosphy, to allow shippers and carriers to conduct international trade in a stable, efficient, and fair manner. it must place a new emphasis on harmonizing U.S. policies and practices with those of our trading partners and on removing the handicaps which our laws impose on our own carriers. Domestic rules of competition work at home and fully justify recent deregulatory approaches; they have proven, however, not to work in international liner shipping.

The Shipping Act of 1983 addresses the principle difficulties facing carrier conferences under the 1916 act. First, it clarifies the scope of the antitrust immunity first granted by Congress in 1916 to conferences of carriers for the same basic activities as were authorized by the 1916 act. Second, all prohibited acts are subject to stiff penalties under the new bill, without simultaneous liability under the antitrust laws. Third, carriers may implement their agreements with minimal prior scrutiny. By eliminating the vague standards and the Svenska test, carriers will be able to "rationalize" their services by coordinating the supply of vessel capacity and the volume of cargo in a way that reduces per unit costs of transportation without wasteful delays. Fourth, conferences may offer intermodal through rates and services. These four elements of this bill are essential to foster an efficient and modern ocean transportation system and, alone, warrant substantial revision of the 1916 act.

I am proud to say, however, that this is not just a carrier bill; it is also designed to protect the consumer of shipping services. Fortunately, U.S. shippers, both exporters and importers, were very active and effective in insuring that a well-rounded approach was taken in formulating this bill.

The provisions of the 1916 act protect shippers; they also protect independent, nonconference carriers which, by preserving effective outsider competition, is another indirect way of protecting shippers. This bill retains virtually all of these protections from the 1916 act. Conferences must have open membership and cannot impose exit penalties on their members, so there can be no closed cartels. Carriers may not use deferred rebates, fighting ships, or engage in predatory practices that would stifle nonconference competition. Carriers have a common carrier obligation not to unjustly discriminate against shippers, not to rebate, and not to retaliate against shippers for using another carrier. Unfiled agreements are prohibited and subject to stiff penalties. This array of protections, not granted elsewhere in the world, is bedrock to our maritime regulatory approach here. The bill I am introducing today recodifies these and other protections for those who use the carriers and conferences.

The United States risks further isolation from the rest of the world if it fails to act on this bill. Imposing our antitrust policies in a marketplace traditionally free from such constraints further isolates our Nation from our trading partners. Without the ability to address these problems commercially, that is, without this legislation, the United States will be left out of the bilateral and multilateral approaches being undertaken right now by our trading partners. Without this legislation, market shares may be determined by Government fiat, without any service of price competition. With this legislation, however, market shares will more likely be determined by the forces of the market.

We have an opportunity to tell the world that, at least in international shipping. The United States is working to stem the tide that is taking the world ever closer to total regulation of commercial enterprise by governmental decrees and intergovernmental agreements. I do not believe that any of my distinguished colleagues wishes to allow this to happen when we, the largest trading Nation in the world, can decide to take a stand: America believes in fair trade and competition and in comity and smooth relations with our international trading partners. This legislation will give the world this message.●

Mr. STEVENS. Mr. President, I am pleased to rise in support of S. 47, a bill to reform the regulation by the United States of international ocean shipping. As the incoming chairman of the Merchant Marine Subcommittee of the Senate Commerce Committee, I want to advise the Senate that this legislation will receive my highest priority.

I look forward to working with Senator SLADE GORTON and Senator DANIEL INOUYE to achieve final passage of this critical measure. We have already scheduled a hearing to be held next week, February 2, and will move the bill out of committee as quickly as possible.

We have an excellent base on which to work due to last year's initiatives in both the Senate and House. I am eager to see that process move to successful completion.

● Mr. PACKWOOD. Mr. President, after the excellent progress made in pursuing the reform of regulation of international ocean liner shipping last Congress, the fight is not yet over. It should be indicative of the high priority which the Senate Commerce Committee places on this bill that it is introduced on the first day of the 98th Congress, it is sponsored by both Republicans and Democrats, is scheduled for the committee's first legislative hearing on February 2, and will very likely be the first piece of legislation which the committee reports out.

I look forward to working with Senator STEVENS, the Merchant Marine Subcommittee chairman, Senator GORTON, who led the fight for this legislation last year and will continue to play a critical role, and with Senator INOUYE, whose expertise and experience in the maritime area will continue to be essential to our collective effort to obtain final passage into law of this long-awaited reform.●

● Mr. INOUYE. Mr. President, as a cosponsor of the maritime regulatory reform legislation which is being introduced today, I wish to urge expeditious action by the Senate.

The need for its enactment is urgent; and the issues involved have been thoroughly examined in extensive hearings by the Senate over the last 4 years.

If the U.S. merchant fleet is to once again regain its place of leadership, we must begin by insuring that it can compete freely and equally for cargo which moves in our own trades. This legislation will help accomplish that objective.●

By Mr. STEVENS (for himself, Mr. MURKOWSKI, Mr. INOUYE, Mr. GOLDWATER, Mr. MCCLURE, Mr. NICKLES, Mr. SYMMS, Mr. HATCH, Mr. ANDREWS, Mr. JOHNSTON, and Mr. BAKER):

S. 49. A bill to reopen hunting and trapping lands in Alaska; to the Committee on Engery and Natural Resouces.

ALASKAN HUNTING AND TRAPPING LANDS

Mr. STEVENS. Mr. President, today we are reintroducing a bill designed to reopen to hunting and trapping lands that were closed by the Alaska National Interest Lands Conservation Act of 1980. The bill recognizes the rights and interests of sportsmen and will rectify the inequities created by the Alaska Lands Act. This legislation is of critical importance to Alaska, and I am pleased by the broad national support we are receiving from hunting and wildlife conservation organizations.

A prime example of this support is the endorsement through a resolution by the International Federation of Fish and Wildlife Agencies, perhaps the most representative organization in the world for professional fish and game managers. I am further encouraged by the interest demonstrated by my colleagues, especially those who worked with me on this issue in 1980. At that time, significant areas of Alaska were closed to hunting due to pressures by interest groups opposing oil, gas and other resource development in the State. In fact, a similar amendment was passed by the Senate in 1980 but was not included in the final compromise legislation due to entanglement with other Alaska lands bill issues.

The Alaska Lands Act added 43 million acres of new national parks and monuments to the 7.5 million acres of parks that existed in Alaska prior to 1980; 24.6 million acres of these new parks are closed to recreational hunting. These closed lands are roughly equal in size to the entire State of Indiana or New York, and represent more land closed to hunting than that of the lower 48 States combined. This limitation on hunting is without justification. The opening of a portion of these lands to hunting does not threaten the environment, wildlife populations, or the use of the parks by nonhunters.

The use of a portion of the parks by hunters will not interfere with the use of the parks by nonhunters. The two groups usually use different areas of the parks, and at different times of the year. Nonhunting visitation occurs chiefly in June, July and August, and is centered in the more popular tourist areas. Most hunting does not begin until September, and takes place in the more remote regions of the parks. The bill only reopens these more remote areas. Finally, it must be noted that these lands are currently being shared by both nonhunters and hunters. Subsistence hunting is still allowed on these lands under the 1980 act. Clearly, the parks are capable of being enjoyed by both hunters and nonhunters.

This measure will insure balanced management of wildlife, and avoid inordinate hunting pressures in certain regions due to arbitrary lines drawn in the Alaska lands bill. Wildlife populations would continue to be under the protection of the Alaska Department of Fish and Game, which is recognized worldwide as a model of effective wildlife management. This department feels it can be more effective if the Alaska lands bill is modified to respect traditional hunting and land use pat-

terns. Our amendment will insure that hunting areas are distinguished by drainages and local geological distinctions.

Those of us who are familiar with the outdoors know hunters and hunting organizations are very concerned about the environment. They contribute millions of dollars a year toward environmental causes, and have a deep appreciation for the lands they hunt. These lands have historically been prime hunting grounds without negative impact upon wildlife populations and habitat or other resource values.

This bill seeks the reclassification of 12 million acres from national park to national park preserve. The only difference between a national park and a national park preserve is that hunting is allowed in a preserve. The bill would not change the land management, nor allow any new mineral or oil development. What the bill does do is rectify the injustice done to hunters when the lands were closed to them in 1980.

Thousands of visitors travel to Alaska each year to experience the challenge of big game hunts. Thousands more in the State have historically hunted these areas, Therefore, it is not surprising that many hunting and conservation groups have expressed their support for the legislation through the wildlife legislative funds.

This bill was introduced last term to make Members of the Senate aware of this problem. Now this problem must be dealt with. The Federal parks are designed to be enjoyed by all Americans. But one small group of nonhunting visitors has been given the exclusive right to multimillion acre areas while thousands of sportsmen are being denied an opportunity to enjoy these vast lands. Opening these lands to hunting does not harm the land or its use by anyone, but it does recognize the interest of this Nation's sportsmen. The Alaskan lands are large enough to be shared by all, and now it is time to open these parks to the use and enjoyment of all Americans.

Mr. MURKOWSKI. Mr. President, I am joining my colleague from Alaska, Senator TED STEVENS, in introducing legislation to amend the Alaska National Interest Land Act of 1980. The "Alaskan Lands act" passed in the 96th Congress and we have had almost 2 years of experience with the statute. I was not a Member of the U.S. Senate when this body considered the act, but as an Alaskan, I remember vividly the heated debate over this issue. Many of the Members will recall the unusual legislative process by which this bill became law.

One of the issues that was largely overlooked and was not considered in a realistic perspective, was the issue of sports hunting. Sports hunting is recognized as a valuable tool of wildlife management employed and recognized by both the State and Federal Government. In fact, the Endangered Species Act, which recently passed the U.S. Senate by dropping certain language in the act, recognized that sports hunting should not be cast in a dark light.

The Alaskan Lands Act substantially reduced hunting opportunities in the State of Alaska. I do not believe Members of this body intended such action. When the D-2 legislation was considered the sports hunting issue became a victim of trying to solve a much bigger question. The Alaska Lands Act created approximately 26 million acres of national parks and 19 million acres of park preserves in Alaska. Those are in addition to the 7.6 million acres of parks that already were present in the State prior to the act. To put this in perspective, it is interesting to note that only 1.8 million acres of land are privately owned. In contrast, 76 million acres of Alaska are designated national wildlife refuges, or which 18.5 million acres is classified as wilderness. Twenty million acres in southcentral and southeast Alaska are national forest lands. Twenty-six rivers crisscrossing Alaska are designated as wild and scenic rivers. Eventually, when land conveyances are completed, and this process will take over 10 years, the Natives of Alaska will have 44 million acres as part of the Native Claims Settlement Act which passed in 1959 and directed that the approximately 104 million acres become State lands. One hundred and thirty-one million acres were placed in protective land status as a result of the Alaskan National Interest Lands Conservation Act of 1980. The figure does not include the lands controlled by the Bureau of Land Management and protected by the Federal Land Management Policy Act.

The only difference between a park and park preserve is that sports hunting is permitted in a park preserve. Let me put this situation in context. No new mining areas or new roads would be authorized as a result of our proposed legislation. The management of the lands would remain the responsibility of the National Park Service. The priorities for the areas would remain the same. This is to protect the areas for our generations yet to come.

It is not the situation that no hunting is allowed in the new parks. The Lands Act permitted subsistence hunting in the newly created parks and hunting is occurring. Wildlife management is a complex and detailed responsibility that is best handled on the local level through the State's department of fish and game. Our legislation will help resolve some of the areas of confusion between the Federal Government and State government for wildlife management. Our bill would return only the management of wildlife to the State of Alaska in the expansion of park preserves.

Park superintendents now report that they are unable with the limits on budget and personnel to effectively manage the vast areas created by the Lands Act. Poaching does occur on those lands. Part of this is happening because people are unaware they are in the new areas and in part because many of the areas precluded from sports hunting by the act were some of the best hunting in the State or the Nation. I am not condoning these actions but raising it as an illustration that by restoring the State management of wildlife, Federal resources could be better allocated to the chores that must be done to implement the Lands Act.

The amendment I am seeking with my colleagues from Alaska are specifically sports hunting amendments. We are not seeking additional changes to Alaskan National Interest Lands Conservation Act. This is an issue which the Senate should consider on its merits, not one burdened with other major issues and land use tradeoffs.

The amendments we are introducing today do not seek to open any of the park areas that were designated prior to the Lands Act. The areas we are addressing are areas which some Members will recognize the names. The areas that we seek to modify from the current park status to become a park preserve are: Lake Clark National Park and Park Preserve, Denali National Park and Park Preserve, Wrangell-St. Elias Park and Park Preserve, Gates of the Arctic National Park and Park Preserve, Glacier Bay National Park (expansion), Aniakchak National Park and Preserve, and the Kenai Fjords National Park.

Again, I state that the amendments we are seeking are limited and specifically targeted to opening areas to sports hunting. We are not changing land management or land management agencies. The National Park Service will still be in charge of the areas. Finally, let me say that this bill will provide members to express their commitment to sports hunting and the rights of sportsmen in this country.

By Mr. COHEN (for himself and Mr. MITCHELL):

S. 50. A bill to provide access to trade remedies to small businesses, and for other purposes; to the Committee on Finance.

SMALL BUSINESS AND AGRICULTURAL TRADE REMEDIES ACT OF 1983

Mr. COHEN. Mr. President, on behalf of myself and my colleague from Maine, Mr. MITCHELL, I rise to reintroduce the "Small Business and Agricultural Trade Remedies Act of 1983" which is designed to alleviate a host of problems that confront our

small businesses in seeking relief under our trade laws.

I introduced this bill on May 19, 1982, after chairing an oversight hearing which convinced me that our trade relief process is unavailable to many businesses because of the complexity of the process. Since my legislation was introduced, we have experienced the disappointment of a General Agreement on Tariffs and Trade (GATT) Ministerial meeting in Geneva that produced a meaningless resolution, and dampened hopes that strong GATT reforms will be negotiated on an international basis. This has increased protectionist sentiment in Congress, resulting in a large investment of time during the lameduck session addressing such issues as "Buy America" and domestic content.

I feel that in order to avoid another rise in protectionism, we must turn instead to responsible reforms that still recognize the frustrations faced by domestic industries. My legislation is designed to meet these needs by improving the trade relief process without violating any of our GATT obligations.

Small businesses—which are most vulnerable to the effects of foreign competition—too frequently find our trade remedies costly, complex, and ultimately illusory. In my experience as a Member of the House of Representatives and now as a Senator, I have seen time and time again Maine industries seeking relief from foreign imports, relief to which they are entitled under our trade laws. Time and time again, they have been denied relief because of bureaucratic indifference, lack of resources, or other reasons unrelated to the merits of a case.

Industries without legal and financial resources, and with little voice in trade policy, are clearly in need of assistance to deal with the complexities of the trade relief process. The bill I am introducing today has been carefully crafted with this objective in mind, while still fully honoring our international obligations under the General Agreement on Tariffs and Trade. Specifically, the legislation would: First, establish an office in the Department of Commerce to provide assistance during all phases of trade relief cases for small businesses, including reimbursement of a portion of reasonable costs; second, provide a horticultural fast-track system to shorten the time necessary to process cases involving perishable commodities; third, require the International Trade Commission to consider differing circumstances and resources of small businesses in documenting material injury determinations; fourth, require the President to give more weight to regional considerations when small businesses petition the Government under section 201 of the Trade Act of 1974; fifth, lower the standard in countervailing duty and antidumping cases for preliminary material injury determinations; and sixth, change the court of review for countervailing and antidumping cases.

In November 1981, I chaired a hearing of the Subcommittee on Oversight of Government Management to examine these problems in greater detail. At that hearing, testimony was offered from a wide variety of small businesses on their experience with the U.S. trade laws. This legislation is the fruit of these hearings and it is designed to resolve the most difficult problems facing small businesses seeking trade remedies: Access, speed, and cost.

The first problem facing any small business considering a trade remedy petition is cost. The trade remedies available to a would-be petitioner are complicated in the extreme and a tour through the process, at the hand of an experienced trade attorney, can easily run to $200 an hour. It is not at all unusual for costs associated with a trade remedy petition to run as high as $100,000 to $105,000.

At present, the Maine potato industry is in the process of filing a trade relief petition alleging unfair trade practices by Canada. With an annual budget of $80,000 to $100,000, the industry will be hard pressed to finance this case.

Another problem related to pursuing trade remedies is the simple collection of proper data. For example, although our trade laws allow for the filing of countervailing duty cases on a regional basis, the Federal Government does not collect its trade data region by region. The regional petitioner, therefore, must either collect this information himself, which, for most industries, is impossible, or use the information available from the importing country. At the hearing in November, many witnesses who were affected by Canadian imports testified that they had no choice but to use Canadian information in order to complete petitions alleging unfair trade practices by the Canadians.

Still another problem related to data collection is that there is an insufficient accounting for imported items as they pass through customs ports. Furthermore, the standards that the Federal Government uses to collect trade information frequently bear little, if any, relation to the practices of the industries from which they are collected.

In the case of small agricultural industries, the data collection problems are particularly acute. Since wide price fluctuations are commonplace in agricultural markets, it is almost impossible to sort out the effect of imports on our domestic agricultural markets. At one time, when the Maine potato industry sought to pursue trade remedies against Canadian imports, it was compelled to hire an economist to assist it. Even then, the economist concluded that, although the industry has been harmed by the imports, it was impossible to document the injury.

In sum, Mr. President, although the Trade Agreements Act of 1979 intended that the Commerce Department assist trade petitioners in gathering trade information that was not reasonably available to them and provided further that in determining whether information is reasonably available the Commerce Department takes into account the circumstances of each individual petitioner, the data is either not available in a usable form or not available at all. In fact, the International Trade Commission sends out a standard industry questionnaire to document injury determinations regardless of its relevance to a particular case.

A second important problem that afflicts small businesses is that the entire trade relief process is tailored for the benefit of large rather than small businesses. At the Tokyo Round of Multilateral Trade Negotiations, for example, the Private Sector Advisory Committees, which made recommendations about negotiating priorities for various sectors of the economy, were largely composed of representatives of large corporations. It is not surprising that given this representation the trade remedies are more suited to our larger industries.

For proof of the perspective of general U.S. trade policy, one need look no further than statistics on trade petitions. Of the 23 countervailing duty cases pending at the beginning of 1982, 17 were filed by representatives of steel companies and another was filed by a chemical company. Similarly, 10 of the 14 cases pending under our antidumping laws were steel cases and, of the remaining 4, one was filed by a representative of the high technology electronics industry.

Mr. President, the legislation I am introducing today would reach the problems I have just raised in several ways. It would create within the Department of Commerce a "Small Business Trade Assistance Office." This office would assist small businesses in any proceedings related to the administration of our trade laws. The office is intended to provide the flexibility and receptivity that has been lacking in the existing bureaucratic framework. The office is charged with tailoring its assistance to meet the needs of a particular industry and to adapt the kind of information that is appropriate to the situation. The simple existence of the office would build within the Commerce Department an expertise in dealing with small businesses that have been affected by imports. In this respect, my legislation would give effect to the congressional intent embodied in the Trade Agreements Act of 1979 where the Commerce Department as the "authority"

under the act was directed to "allocate adequate resources to countervailing duty investigations." Despite this directive, the Commerce Department expertise in assisting small businesses in these or any other kinds of remedial actions is sadly lacking.

The bill I am introducing would also provide financial assistance to small business petitioners. The Federal Government would defray the first $50,000 of the small business petitioner's reasonable costs and expenses. Any expenses incurred in excess of this amount would be shared equally by the Federal Government and the petitioner. This method of cost sharing would bring trade remedies within the reach of small businesses, while at the same time insuring that they have a financial stake in the proceedings that is sufficient to discourage frivolous claims.

My bill also provides for a horticultural fast track system for perishable commodities. If any industry filing a petition under section 201 of the Trade Act of 1974 markets perishable products, the petitioner may file with the Secretary of Agriculture to request emergency action. The Secretary of Agriculture would then have 14 days to make a determination that the imports are causing, or could cause, serious injury to the domestic industry. If the Secretary makes a favorable determination, he would then recommend action to the President. The President, in turn, would have the option to impose the relief he feels is appropriate. In the event that the President chose to recommend no relief, he would be required to provide his rationale for not taking action. This process would not jeopardize, in any way, the ITC 201 proceeding; they would, instead, go on simultaneously.

I believe that this provision is necessary to assist small horticultural industries which find it difficult to plan their next marketing season without a more immediate assessment of the import situation than is available under current law. Also, this provision has been carefully written so that an injury determination is made before any relief is imposed, in order to meet our GATT obligations.

Special provision for perishable commodities is not a new concept. The Trade Agreement Extension Act of 1951 contained a section giving the Department of Agriculture and the International Tariff Commission additional authority to meet the needs of perishable commodities.

One of the most burdensome parts of the trade remedy process is the material injury determination by the ITC for countervailing duty and antidumping cases. This legislation would add a section to mandate the special circumstances that should be considered for small businesses in the information-gathering process. Substitutions should be made wherever possible to coincide with industry practices. Again, the preliminary material injury determination has been found to be particularly cumbersome and this legislation would correct that factor by lowering the standard for this determination.

The existence of judicial review has made the trade relief process more complex by contributing to the need for excessive documentation of material. This provision addresses that factor by changing the court of review for countervailing duty and antidumping cases.

The legislation that I am introducing today also requires the President to consider regional impacts when ruling on the recommendations of the ITC in section 201 cases filed by small businesses. The President would have to consider the employment levels in a region, alternative job opportunities, and the ability of the industry to switch into alternative product lines. In addition, the President would be required to consider the impact that fluctuating exchange rates have on the small industry. The border States are the first to feel the effects of exchange rate fluctuations. I am not suggesting that exchange rate policy be changed in any way, but only that the impact on the industry be considered in making import relief determinations.

In recent years, the President has consistently overruled the recommendation of the International Trade Commission in section 201 cases. Out of 45 cases filed since the passage of the 1974 act, only 9 have resulted in import relief. I feel that this provision will improve the chances for small industries to get relief by mandating special consideration for them.

Mr. President, the legislation I am introducing today is fully consistent with the General Agreement on Tariffs and Trade and the statutes Congress has enacted to implement our trade policy. Through this legislation we will keep faith with the small businesses of American, which constitute the bulk of all businesses in our national economy. We will open to them the trade remedy process and, in so doing, will insure that they are not unfairly precluded from obtaining relief, when that relief is appropriate, by obstacles unrelated to the merits of their cases.

This legislation is long overdue, and I urge its prompt consideration.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 50

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Small Business and Agricultural Trade Remedies Act of 1983".

SEC. 2. FINDINGS.

The Congress finds that—

(1) since obtaining relief under existing domestic trade remedies is complex and expensive due to legal costs, documentation requirements for petitions, and judicial review, such remedies are unavailable to most small businesses;

(2) existing trade remedies are unavailable to producers of perishable commodities because of the length of the normal proceedings;

(3) more weight should be given to regional economic impact in proceedings under section 201 of the Trade Act of 1974.

SEC. 3. ESTABLISHMENT OF SMALL BUSINESS TRADE ASSISTANCE OFFICE.

(a) ESTABLISHMENT OF OFFICE.—The Secretary of Commerce shall establish within the Department of Commerce the Small Business Trade Assistance Office (hereinafter in this section referred to as the "Office").

(b) FUNCTIONS OF OFFICE.—

(1) IN GENERAL.—The Office shall assist small businesses in the preparation and participation in, any proceedings relating to the administration of the trade laws of the United States.

(2) INTERVENTION.—At the request of any person, the Office may intervene in any administrative proceeding under title VII of the Tariff Act of 1930 and shall have all rights under such title to which an interested party is entitled.

(3) ASSISTANCE IN PAYING REASONABLE PROCEEDING EXPENSES.—

(A) IN GENERAL.—The Office shall establish and maintain a system for paying reasonable expenses incurred in connection with any proceeding described in paragraph (1) by any small business which the Office determines to be in need of assistance in paying such expenses.

(B) LIMITATION ON AMOUNT.—With respect to any proceeding, awards for reasonable expenses under subparagraph (A) shall be made with respect to—

(i) 100 percent of such expenses to the extent not in excess of $50,000, and

(ii) 50 percent of the expenses to the extent in excess of $50,000.

(C) NO EXPENSES FOR FRIVOLOUS, ETC. ACTIONS.—No award shall be made under this paragraph with respect to any action which the office determines to be frivolous or for purposes of harassment or delay.

(D) REASONABLE EXPENSES.—For purposes of this subparagraph, the term "reasonable expenses" includes attorneys' fees and expenses for data collection.

(c) SMALL BUSINESS.—For purposes of this section, the term "small business" means—

(1) a small business concern (within the meaning of section 3 of the Small Business Act), or

(2) an association substantially all of the members of which are small business concerns (as so defined).

(d) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

(e) EFFECTIVE DATE.—The provisions of this section shall apply to fiscal years beginning after September 30, 1983.

SEC. 4. STANDARD FOR AFFIRMATIVE PRELIMINARY DETERMINATIONS.

(a) PRELIMINARY DETERMINATIONS BY COMMISSION.—Sections 703(a) and 733(a) of the

Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)) are each amended by striking out "reasonable" and inserting in lieu thereof "sufficient".

(b) CONFORMING AMENDMENTS.—The headings for sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)) are each amended by striking out "Reasonable" and inserting in lieu thereof "Sufficient".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to petitions filed, or investigations commenced, after the date of enactment of this Act.

SEC. 5. JUDICIAL REVIEW OF CERTAIN ACTIONS BY COURT OF APPEALS FOR THE FEDERAL CIRCUIT.

(a) IN GENERAL.—Paragraphs (1)(A), (1)(B), and (2)(A) of section 516A(a) of the Tariff Act of 1930 (19 U.S.C. 1561a(a)) are each amended by striking out all that follows "in which the matter arises" and inserting in lieu thereof "may appeal such determination to the Court of Appeals for the Federal Circuit, contesting any factual findings or legal conclusions upon which the determination is based.

(b) CONFORMING AMENDMENTS.—

(1) Section 516A of the Tariff Act of 1930 (19 U.S.C. 1516a) is amended—

(A) by striking out subsection (a)(3),

(B) by striking out "United States Court of International Trade or of the Court of Appeals for the Federal Circuit" in subsection (c)(1) and inserting in lieu thereof "Court of Appeals for the Federal Circuit",

(C) by striking out "the United States Court of International Trade" each place it appears in subsections (c)(2) and (d) and inserting in lieu thereof "the Court of Appeals for the Federal Circuit",

(D) by striking out "action" each place it appears in subsection (d) and inserting in lieu thereof "appeal", and

(E) by striking out "of the United States Court of International Trade or" in subsection (e).

(2) Each of the following provisions of title 28, United States Code, and any references to any to any such provision are repealed:

(A) Section 1581 (c) and subsections (d) through (j) are redesignated as subsections (c) through (i), respectively.

(B) Section 2631 (c) and subsections (d) through (j) are redesignated as subsections (c) through (i), respectively.

(C) Section 2632 (c) and subsection (d) is redesignated as subsection (c).

(D) Section 2635 (b) and subsections (c) through (d) are redesignated as subsections (b) and (c), respectively.

(E) Section 2636 (c) and subsections (e) through (i) are redesignated as subsections (c) through (g), respectively.

(F) Section 2636 (d).

(G) Section 2640 (b) and subsections (c) and (d) are redesignated as subsections (b) and (c), respectively.

(3) Section 1295 (a) of title 28, United States Code is amended by—

(A) striking out "and" at the end of paragraph (9);

(B) striking out the period at the end of paragraph (10) and inserting in lieu thereof "; and"; and

(C) adding at the end thereof the following:

"(11) of appeals described in section 516A of the Tariff Act of 1930. The provisions of such section of the Tariff Act shall apply to such appeal and, except to the extent it is inconsistent with such section, the Court of Appeals for the Federal Circuit may take such action on appeal as may be taken pursuant to this title.".

(4) Section 2631(j)(1) is amended—

(A) by inserting "and" at the end of subparagraph (A),

(B) by striking out subparagraph (B), and

(C) by redesignating subparagraph (C) as subparagraph (B).

(5) Section 2639(a)(1) is amended by striking out ", 516, or 516A" and inserting in lieu thereof "or 516".

(6) Section 2647 is amended—

(A) by striking out paragraph (2) and redesignating paragraphs (3) and (4) as paragraphs (2) and (3) respectively,

(B) by striking out "Third" in paragraph (2), as so redesignated, and inserting in lieu thereof "Second", and

(C) by amending paragraph (3), as so redesignated, to read as follows:

"(3) Third, a civil action commenced under section 516 of the Tariff Act of 1930.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to determinations made on or after the date of the enactment of this Act.

SEC. 6. FACTORS TAKEN INTO ACCOUNT TO DETERMINE MATERIAL INJURY.

(a) IN GENERAL.—Section 771(7) of the Tariff Act of 1930 (19 U.S.C. 1677) is amended by adding at the end thereof the following new subparagraph:

"(F) SPECIAL RULES FOR SMALL BUSINESSES.—In any case in which the petitioner is a small business (within the meaning of section 3(e)(3) of the Small Business Access to Trade Remedies Act of 1983), the Commission, in making any determination as to material injury, shall consider the separate circumstances of the petitioner, including the fact that information may or may not be available to different petitioners by reason of different resources or otherwise.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to petitions filed on or after the date of the enactment of this Act.

SEC. 7. REGIONAL IMPACT TO BE TAKEN INTO ACCOUNT.

(a) IN GENERAL.—Subsection (c) of section 202 of the Trade Act of 1974 (19 U.S.C. 2252) is amended—

(1) by striking out "and" at the end of paragraph (8);

(2) by striking out the period at the end of paragraph (9) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(10) in any case in which the petitioner is a small business (within the meaning of section 3(e)(3) of the Small Business Access to Trade Remedies Act of 1983)—

"(A) the general economic situation (including employment levels and opportunities) in the major geographic area (within the meaning of section 201(b)(3)(C)) in which the small business is located;

"(B) the impact of fluctuations in exchange rates on any industry in such major geographic area; and

"(C) the ability of any such small business to adjust by converting to alternative product lines.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to petitions filed on or after the date of the enactment of this Act.

SEC. 8. SPECIAL PROCEDURES FOR PERISHABLE PRODUCTS.

(a) IN GENERAL.—Chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et set.) is amended by adding at the end thereof the following new section:

"SEC. 204. SPECIAL RULES PERISHABLE PRODUCTS.

"(a) If a petition is filed under section 201 in connection with any perishable product, the petitioner may at any time file with the Secretary of Agriculture a petition under this section for emergency action.

"(b) Within 14 days after a petition has been filed under subsection (a), the Secretary of Agriculture shall make a determination as to whether there is reason to believe the perishable product is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or threat thereof, to the domestic industry producing a perishable product like or directly competitive with the imported product.

"(c)(1) If the Secretary of Agriculture makes an affirmative determination under subsection (b), he shall recommend to the President emergency action to be taken.

"(2) If the Secretary of Agriculture does not make an affirmative determination under subsection (b), he shall publish notice of his determination and notify the petitioner.

"(d) Within 7 days after receipt of any recommendation under subsection (c)(1), the President shall—

"(1) issue a proclamation ordering relief consisting of such actions as are described in section 203 and as he determines necessary, or

"(2) publish notice of his determination not to take action.

"(e) Action taken under subsection (d)(1) shall cease to apply—

"(1) upon a determination by the President to provide (or not to provide) relief in connection with a petition filed under section 201 with respect to the perishable product,

"(2) on the date the Commission makes a negative determination under section 201(b) with respect to such a petition, or

"(3) whenever the President determines such relief is no longer warranted as a result of changed circumstances.

"(f) Any petitioner may, after a negative determination under subsection (c)(2) or (d)(2), file another petition under this section with respect to such product—

"(1) within 90 days of such determination, or

"(2) at any earlier date in the case of changed circumstances.

"(g) For purposes of this section, the term 'perishable product' means—

"(1) fresh or chilled vegetables provided for in items 135.10 through 138.42 of the Tariff Schedules of the United States;

"(2) fresh mushrooms provided for in item 144.10 of such Schedules;

"(3) fresh fruit provided for in items 146.10, 146.20 146.30, 146.50 through 146.62, 146.90, 146.91, 147.03 through 147.33, 147.50 through 149.21, and 149.50 of such Schedules; and

"(4) fresh cut flowers provided for in items 192.17, 192.18, and 192.21 of such Schedules.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 1 of title II of the Trade Act of 1974 is amended by adding at the end thereof the following new item:

"Sec. 204. Special rules for perishable products.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to petitions filed after the date of the enactment of this act.

Mr. MITCHELL. Mr. President, I am pleased to join Senator COHEN in sponsoring the Small Business and Agricultural Trade Remedies Act of 1983. This legislation has the worthwhile objective of bringing within the reach of small businesses the various import relief options available under U.S. trade laws.

This issue has been of great concern to both Senator COHEN and myself. Last year, we each introduced legislation to improve the access of small firms to existing trade remedies. The bill we are introducing today incorporates the elements of each of these bills. Our purpose in proposing one bill is to provided a single vehicle to address this issue.

U.S. trade laws impose substantial costs, particularly legal and accounting fees, on firms seeking relief from imports. For many small firms, those costs have become prohibitive, effectively putting statutory relief from unfair trade practices out of their reach. Therefore, our bill is designed to improve the access of small and financially strained domestic firms to the antidumping and countervailing duty statutes.

Industries in my home State of Maine have confronted this problem directly as they have sought relief from unfair trade practices. The potato, fishing, and wood products industries are all feeling the effects of subsidized imports.

The New England fishing industry has a history of frustration in getting relief from subsidized Canadian imports. The nature and magnitude of Canadian subsidies to its fishing industry are well documented in several published reports. Thus, it is not surprising that the U.S. industry was successful in three separate petitions in convincing the Federal Government that it had to compete with subsidized imports. Unfortunately, in each of those occasions, the countervailing duty was waived.

As a result of many changes made by the 1979 Trade Act, including elimination of the discretionary waiver of countervailing duties, the current countervailing duty statute is much better suited to the concerns of the fishing industry. However, as a result of a continued high level of Canadian imports and the costs of the three unsuccessful efforts in seeking relief, the industry's financial resources are depleted. Even though the Canadian Government continues to subsidize its fishermen, our domestic industry does not know if it can bear the costs of what has become a very expensive procedure to obtain relief.

The potato industry has had similar problems. Imports of seed potatoes from Canada have more than tripled in recent years, seriously impairing the health of Maine's potato growers. Reports of government subsidies available to Canadian growers have been widely publicized, but the Maine industry has delayed seeking relief because of the cost and complexity of import relief cases.

The bill introduced today addresses the trade relief problems of small businesses in three ways. First, the Small Business Assistance Office is created. Second, changes are made to the statutes that grant relief from unfair trade practices. These revisions would directly reduce the cost of antidumping and countervailing duty cases to small businesses. Third, modifications are proposed to the existing "escape clause," under which firms can obtain temporary import relief without alleging unfair foreign trade practices.

The first section of our bill would create within the Department an independent office to advise and, in some cases, to argue at the agency level on behalf of domestic petitioners who, because of their financial condition, are unable to prosecute fully import relief cases. This office would also be authorized to reimburse small businesses for the legal and accounting fees these firms incur in prosecuting cases on their own.

Under current law both the Commerce Department and the ITC assist domestic petitioners by providing information that may be helpful to their cases. The Government may also self-initiate cases on behalf of domestic interests.

However, import relief cases involve substantial litigation in which advocacy as well as information is essential. Also, the self-initiation action has not been used significantly to assist small, financially pressed firms.

The second area covered by this bill is reform of the unfair trade practice statutes.

It is necessary to understand the important role played by the laws governing antidumping and countervailing duty actions, which are contained in title VII of the Tariff Act of 1930. The general goal of U.S. trade policy is to promote free trade. An open trading system will tend to produce the greatest economic benefits for all concerned. Trade patterns will largely be determined by the comparative advantages each country enjoys.

Certain actions by foreign governments and producers can substantially alter such trade patterns, however. Provision of subsidies by foreign governments or the sale of imports below their fair market value can give foreign products an unfair competitive advantage in U.S. markets. These trade-distorting actions not only result in lost sales and employment in the United States, but they undermine support for free trade.

The purpose of the antidumping and countervailing duty laws is not served if small firms in industries that are not well organized and do not have substantial financial resources to draw on are effectively denied import relief. In fact, in many cases the weak financial condition of the industry is directly related to the level of subsidized or dumped imports.

I believe that this problem can be solved by modifying the current antidumping and countervailing duty laws without changing the underlying policies adopted in the 1979 act.

Perhaps the most important reason for the increased costs is that, as a result of the 1979 act, antidumping and countervailing duty proceedings have become more litigious. This is largely a byproduct of desirable changes that have increased opportunities for domestic petitioners to participate in the proceedings and to seek judicial review of agency decisions. This legislation would preserve these advantages and yet reduce the overall costs of the process.

One part of this bill would change the standard for the ITC preliminary determination of injury. This determination is an important step in title VII cases. If the injury determination is negative, the entire investigation stops. On the other hand, positive determination is a necessary step in getting interim relief prior to the conclusion of the case.

The current standard requires the ITC to determine whether there is a "reasonable indication" of injury from imports. This bill would change the standard to one of "sufficient indication" of injury. Although this may appear to be a minor change in the wording of the statute, it would have a significant effect on this stage in the process.

The reason for the change is that the "reasonable indication" standard has resulted in exceedingly expensive preliminary determinations by the ITC. Often at this stage the ITC requires information from the domestic industry that is actually sufficient for making a final determination. Providing this information is an expensive burden on domestic firms. Also, substantial legal resources must be devoted to this stage of the proceedings.

I do not believe that Congress intended that the ITC preliminary determination be such a crucial stage, nor do I believe that our international agreements require it. In the 1979 act, Congress contemplated a more modest threshold, not the active investigation that it has now become. The language of the antidumping code and the subsidies code refers to "sufficient evidence" of injury. This phrase is intentionally broad, and the proposed change should be consistent with the intent of the code language.

Under the "sufficient indication" standard, the ITC could make preliminary determinations of injury if the petition from the domestic industry

contained information that, if proven, would demonstrate injury in accordance with statutory standards, and that the agency was at the time not aware of any conflicting information of sufficient force to demonstrate that those allegations were frivolous, fabricated, or plainly inaccurate.

Another section of the bill addresses the costs imposed by judicial review of agency determinations in title VII cases. One of the benefits of the recent changes is the greater access to the courts by domestic petitioners. Unfortunately, this has also increased the prospective costs of seeking import relief, thus discouraging some firms or industries from filing petitions. Over half of all final determinations are appealed to the courts, so the petitioner can expect significant costs after the agency proceedings are finished.

Our bill would assign responsibility of review to the Court of Appeals for the Federal Circuit. Currently, this responsibility rests with the U.S. Court of International Trade. This latter court is a trial court, so foreign parties are tempted to exploit the costly procedures available courts of original jurisdiction, even though the only purpose of judicial review is to judge the lawfulness of agency action. However, since U.S. Court of International Trade decisions are appealble, a domestic industry that won in the agency may have to defend the favorable decision twice under present law.

This change would make judicial review of title VII cases similar to review of other administrative proceedings. Most importantly, it would provide for more efficient judicial review at a lower cost.

A third change made by this bill to the antidumping and countervailing duty laws relates to the injury test. This provision would require the ITC to take into consideration the availability of information which the ITC uses in an injury determination. Many small enterprises do not have extensive records of their business activities. The law would be changed explicitly to require the ITC to allow reasonable substitutions of information by small businesses.

The final area addressed by this bill is the escape clause, as defined in section 201 of the Trade Act of 1974. Two specific changes are proposed. One would require the President to give more weight to regional economic considerations when considering an ITC recommendation on a section 201 case initiated by a small business.

The second change to section 201 is the establishment of a fast-track system for perishable products. Under this proposal, an industry that markets perishable products can request emergency action when filing a section 201 petition. The Secretary of Agriculture would have 14 days in which to recommend action to the President, who could then take some emergency measure. The fast-track system would not interfere with the regular section 201 proceedings. This innovation reflects the need for relief in the current marketing season for many producers of perishable products.

I believe that Senator COHEN and I have proposed a responsible solution to the problem of excessive costs of existing trade remedies. I look forward to working on this bill in the Senate Finance Committee.

By Mr. MATHIAS:

S. 31. A bill to amend title 17 of the United States Code with respect to home recording and video and audio recording devices and media, and for other purposes; to the Committee on the Judiciary.

S. 32. A bill to amend title 17 of the United States Code with respect to rental, lease, or lending of sound recordings; to the Committee on the Judiciary.

S. 33. A bill to amend title 17 of the United States Code with respect to rental, lease, or lending of motion pictures and other audiovisual works; to the Committee on the Judiciary.

HOME RECORDING AND COMMERCIAL RENTAL OF MOVIES AND RECORDS ACTS

Mr. MATHIAS. Mr. President, today I am introducing three bills that will have a direct bearing on the vitality of the creative process in this country.

The first bill deals with the video and audio recording of copyrighted works at home. The second and third bills address a different, but related, issue—the commercial rental of movies and records.

Article 1, section 8 of the Constitution enjoins Congress "to promote the progress of science and the useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries * * *." This compact, elegant clause has had a profound impact on the country's industrial, scientific, and cultural advancement.

The celebrated Betamax case has focussed renewed interest on this clause and its underlying copyright policies. In November 1981, the Ninth Circuit Court of Appeals held that video home taping of a copyrighted work constitutes an infringement of the copyright. The court also held that those who manufacture and distribute the taping equipment and cassettes are what is known in the trade as "contributory infringers." In other words, they make it possible for the infringement itself to happen, and they therefore share in the liability. Last summer, the Supreme Court agreed to review the case, and heard oral argument on it earlier this month. Although we await this ruling with great interest, I think we are safe in predicting that whatever the Court's decision, Congress will still have the job of fashioning a definitive, balanced, comprehensive, and finely tuned remedy.

The bills we introduce today are a modified version of the omnibus bill that we introduced last year. The first of the three—the home taping bill—would exempt home viewers and listeners from copyright liability while providing fair compensation for copyright owners who create the programing that people tape. Under our proposal, the manufacturers and importers of home recording devices and tapes would pay a reasonable royalty fee. At bottom, we think it is fair that the manufacturers and importers of taping equipment be required to compensate copyright owners, for without their creative genius the blank tapes and taping equipment would have almost no economic value.

Our new bill would place maximum reliance on the free market to establish fair royalty fees. It accomplishes this by encouraging a private negotiation between the parties to the home taping controversy. If agreement is not reached, the parties would be required to submit to binding arbitration, the results of which would be subject to public comment, review by the Registrar of Copyrights, and judicial review. This new approach is an equitable way to resolve the problem. More importantly, the ultimate beneficiaries of our bill will be American consumers, who want and are entitled to continued access to high-quality audio and video entertainment.

In addition to the home taping bill, we are introducing two bills that correspond to the fair marketing provision of last year's bill. Because of a current gap in the copyright law, stores can rent video cassettes, tapes, or phonograph records without authorization from the copyright holder. Under the provisions of the two rental bills, the copyright owners would retain some control over their work through the chain of distribution until it reached the hands of the final consumer. In this way, the copyright owner would be able to share in the rental fees if the retail outlet decides to rent rather than sell the material. Again, free market negotiations between the copyright owners and retailers will insure a square deal for all parties, and the consumer will be the big winner—with continued access to high quality, recent release material.

All three bills are true to our long tradition of giving encouragement to creative people. Many years ago Dr. Samuel Johnson, a moralist and philosopher, as well as an author, said: "No man but a blockhead ever wrote except for money."

If as thoughful and experienced a man as Dr. Johnson recognized the importance to creative writers and scholars of the prospect of accumulating a kind of property right in their works

as an incentive to work and ambition, it should underscore the interest of society which benefits from creative work.

Much has changed since Samuel Johnson's day. New technologies for capturing and storing and communicating the works of intellectual and artistic effort have developed. But these are only new ways of doing old things, and the basic rules of behavior spelled out by Dr. Johnson are still in force. So, if copyrights serve the greater interests of society, failing to protect the rights created by such instruments is not excused by the fact that new technologies have made the protection of these rights more difficult. The very ingenuity of our age that has produced these remarkable technologies should be able to devise the laws to accommodate them.

These bills may, therefore, be a pioneering legal effort: They cope with new technologies about which the law has been silent. It is time for us to develop the law in parallel with the miracles of space age communication, and this matter gives us the opportunity to begin that exciting and innovative, if belated, effort.

I ask unanimous consent that the text of the bills be printed at this point in the RECORD and that a section-by-section summary of the Home Recording Act be printed immediately following that measure.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 31

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Home Recording Act of 1983."

SECTION 1. Congress hereby finds and declares that—

(a) "to promote the Progress of Science and Useful Arts," the Constitution of the United States empowers the Congress to give authors and inventors for a limited time "the exclusive Right to their respective Writings and Discoveries";

(b) the copyright system has helped make the United States a dynamic force in art and culture;

(c) this system benefits both the creators of intellectual property and the consuming public—the creators by providing fair compensation and thereby the incentive to create new works, and the consumers by assuring a rich and ever-increasing variety of works from which to choose;

(d) copyright owners should receive fair compensation for their creative endeavors and the use of their property;

(e) home recording devices and media are designed, used and promoted to the public for the purpose of reproducing copyrighted material;

(f) the reproduction of copyrighted musical works, sound recordings and motion pictures and other audiovisual works by means of home recording devices and media infringes on the exclusive rights granted to copyright owners under section 106(1) of title 17, United States Code;

(g) nonetheless, individuals who make audio and video recordings in the home for private use should be relieved of any and all liability for such infringement;

(h) to ensure that the public continues to enjoy uninterrupted access to this copyrighted material, a compulsory license will be established for importers and manufacturers of recording devices and media who commercially benefit from such infringement; and

(i) the terms and rates of fair compensation shall be negotiated by importers and manufacturers of recording devices and media and copyright owners or, failing agreement, shall be determined by compulsory binding arbitration: *Provided, however,* That no system of compensation will impose a direct liability on the individual who uses recording devices and media in the home for private purposes.

SEC. 2. Chapter 1 of title 17 of the United States Code is amended by inserting at the end thereof the following new section:

"§ 119. Limitation on liability: Video recording

"(a) HOME VIDEO RECORDING.—Notwithstanding the provisions of section 106(1), an individual who makes a single video recording of a motion picture or other audiovisual work in his or her private home is exempt from any liability for infringement of copyright if the video recording is for the private use of that individual or members of his or her immediate household.

"(b) COMPULSORY LICENSE FOR VIDEO RECORDING DEVICES AND MEDIA.—

"(1) AVAILABILITY OF COMPULSORY LICENSE.—Notwithstanding the provisions of section 106(1), the importation into and distribution in the United States, and the manufacture and distribution in the United States, of any video recording device or video recording medium shall be subject to compulsory licensing if the importer or manufacturer of the device or medium records the notice, and deposits the statement of account and total royalty fees, specified by this clause.

"(A) The importer or manufacturer shall, at least one month before the distribution in the United States of any video recording device or any video recording medium or within sixty days after the effective date of this Act, whichever is later, record with the Register of Copyrights (hereinafter 'the Register') a notice including a statement of its identity and address and a description of any trade or business names, trademarks, or like indicia that it uses in connection with the importation, manufacture or distribution of video recording devices or video recording media in the United States, and thereafter, from time to time, such further information as the Register shall prescribe by regulation to carry out the purpose of this clause.

"(B) The importer or manufacturer shall deposit with the Register, at such times, for such periods, and in accordance with such requirements as the Register shall prescribe by regulation, a statement of account, covering the pertinent period next preceding, specifying the number of video recording devices or amount of video recording media imported into or manufactured in the United States during such period, and the number or amount distributed in the United States during such period, together with such other information, and in such form, content and manner, as the Register shall from time to time prescribe by regulation. In the case of all statements of account deposited after the obligation to pay royalty fees becomes effective pursuant to voluntary negotiation under subsection (c)(2)(F) of this section, or pursuant to compulsory arbitration under subsection (c)(3)(I) or (c)(4)(C) of this section, the statement shall be accompanied by the total royalty fee for the period covered by the statement, computed in accordance with such regulations as the Register shall from time to time prescribe.

"(2) INFRINGEMENT.—Notwithstanding the provisions of clause (1) of this subsection, the importation into and distribution in the United States, or the manufacture and distribution in the United States, of any video recording device or video recording medium is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506, 509, and 511, if the notice, statement of account, or total royalty fee specified by clause (1) of this subsection has not been recorded or deposited and such failure was willful or repeated, or if the statement of account or total royalty fee does not materially comply with the requirements of clause (1) or any regulations prescribed thereunder.

"(3) DEPOSIT OF ROYALTY FEES.—The Register shall receive all fees deposited under this section and, after deducting reasonable administrative costs, shall deposit the balance in the Treasury of the United States, in such manner as the Secretary of the Treasury shall direct. All funds held by the Secretary of the Treasury shall be invested in interest-bearing United States securities for later distribution with interest by the Copyright Royalty Tribunal (hereinafter 'the Tribunal') as provided by this title. The Register shall promptly submit to the Tribunal a compilation of all statements of account covering the pertinent periods by clause (1) of this subsection. The Register and the Secretary of the Treasury shall maintain separate and distinct accounts and records for fees deposited pursuant to section 120, and for the securities and interest pertaining respectively thereto.

"(4) COPYRIGHT OWNERS ENTITLED TO ROYALTY FEES.—The royalty fees thus deposited in connection with video recording devices and media shall, in accordance with the procedures specified in clause (5) of this subsection, be distributed to the owners of copyright in motion pictures and other audiovisual works included in television transmissions during the period to which such fees pertain.

"(5) DISTRIBUTION OF ROYALTY FEES.—The royalty fees thus deposited shall be distributed in accordance with the following procedures:

"(A) During such month that the Tribunal shall establish in each year following the year in which this Act takes effect, every person claiming to be entitled to compulsory license fees under clause (4) of this subsection shall file a claim with the Tribunal for fees covered by all statements of account for periods during the preceding year in accordance with requirements that the Tribunal shall prescribe by regulation. Notwithstanding any provision of the antitrust laws, for purposes of this clause any claimants may agree among themselves as to the proportionate division of compulsory licensing fees among them, may lump their claims together and file them jointly or as a single claim, or may designate a common agent to receive payment on their behalf.

"(B) After the first day of the month following that established for the filing of claims under paragraph (A) of this clause, in each year following the year in which

this Act takes effect, the Tribunal shall determine whether there exists a controversy concerning the distribution of royalty fees. If the Tribunal determines that no such controversy exists, it shall, after deducting its reasonable administrative costs under this subsection, distribute such fees to the copyright owners entitled, or to their designated agents. If the Tribunal finds the existence of a controversy, it shall, pursuant to chapter 8 of this title, conduct a proceeding to determine the distribution of royalty fees.

"(C) During the pendency of any proceeding under this subsection, the Tribunal shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall have discretion to proceed to distribute any amounts that are not in controversy.

"(c) DETERMINATION OF ROYALTY FEES.—

"(1) METHODS FOR DETERMINING ROYALTY FEES.—The terms and rates of royalty fees payable under subsection (b)(1) of this section shall be determined either in accordance with the voluntary negotiation procedure specified in clause (2) of this subsection or in accordance with the compulsory arbitration procedure specified in clauses (3) through (5) of this subsection.

"(2)(A) VOLUNTARY NEGOTIATION.—Not later than five days after the effective date of this Act, and on the commencement of every three-year adjustment under clause (6) of this subsection, the Register shall cause notice to be published in the Federal Register of the initiation of voluntary negotiation proceedings for the purpose of determining the terms and rates of royalty fees to be paid by manufacturers and importers of video recording devices and video recording media under subsection (b)(1) of this section.

"(B) Copyright owners who claim to be entitled to royalty fees under subsection (b)(4) of this section and organizations representing such copyright owners may submit to the Register the names of those individuals that are authorized to negotiate and agree to royalty fees on behalf of such copyright owners, together with such further information as the Register may request. All the individuals whose names have been submitted to the Register within ten days after publication of the notice initiating negotiation proceedings shall constitute the bargaining panel, and the Register shall promptly cause their names and any other relevant information to be published in the Federal Register. The panel constituted in accordance with this paragraph shall be the sole bargaining agent of all copyright owners entitled to royalty fees under subsection (b)(4) of this section, and shall have the exclusive right to negotiate and agree to the terms and rates of such fees until a new bargaining panel is constituted in accordance with clause (6) of this subsection. The panel shall have the power to determine its own rules of procedure not inconsistent with this section.

"(C) Importers and manufacturers of video recording devices and video recording media shall negotiate in good faith with the panel of copyright owners constituted in accordance with paragraph (B) of this clause in an effort to reach voluntary agreements for the payment of royalty fees. Notwithstanding any provision of the antitrust laws, any such importers and manufacturers, and any group thereof, and the panel of copyright owners, may at any time negotiate and agree to the terms and rates of royalty fees, and may designate common agents to negotiate, agree to or pay such fees. The parties to each negotiation proceeding shall bear the entire cost thereof.

"(D) Voluntary agreements negotiated under this clause may (i) distinguish among different kinds of video recording devices or video recording media and (ii) exempt from royalty fees particular devices or media, if any, that are agreed to be designed, promoted, and, in fact, used substantially all the time for purposes other than making video recordings by individuals in private homes: *Provided*, That such purposes are lawful under this title.

"(E) Voluntary agreements negotiated at any time in acordance with this clause shall be given effect in lieu of and shall supersede any determination of an arbitration proceeding pursuant to clauses (3) or (4) of this subsection, or of a court pursuant to clause (5) of this subsection, and shall be binding upon all importers and manufacturers that are parties thereto and upon all copyright owners entitled to royalty fees under subsection (b)(4) of this section: *Provided*, That—

"(i) such agreements are accepted unanimously by the panel of copyright owners constituted in accordance with paragraph (B) of this clause; and

"(ii) copies of such agreements are filed in the Copyright Office within thirty days of execution in accordance with regulations that the Register shall prescribe.

"(F) The obligation to pay the royalty fees established under a voluntary agreement which has been filed with the Copyright Office in accordance with this clause shall become effective on the date specified therein, and shall remain in effect until superseded in accordance with clause (6) of this subsection.

"(3)(A) COMPULSORY ARBITRATION.—Not later than four months after the effective date of this Act and on the commencement of every three-year adjustment under clauses (6) of this subsection, the Register shall cause notice to be published in the Federal Register of the initiation of arbitration proceedings for the purpose of determining reasonable terms and rates of royalty fees to be paid under subsection (b)(1) of this section by manufacturers and importers of video recording devices or video recording media who are not parties to a voluntary agreement filed with the Copyright Office in accordance with clause (2) of this subsection, unless, the Register determines that such voluntary agreements have been accepted by all such importers and manufacturers. Such notice shall include the names and qualifications of potential arbitrators chosen by the Register from a list of available arbitrators obtained from the American Arbitration Association or such similar organization as the Register shall select.

"(B) Not later then ten days after publication of the notice initiating an arbitration proceeding, and in accordance with procedures to be specified by the Register, one arbitrator shall be selected from the published list by copyright owners who claim to be entitled to royalty fees under subsection (b)(4) of this section and one arbitrator shall be selected from the published list by importers and manufacturers of devices and media who are not parties to a voluntary agreement filed with the copyright office in accordance with clause (2) of this subsection, and the two arbitrators so selected shall within ten days after their selection choose a third abitrator from the same list, who shall serve as chairperson of the arbitrators. If either group fails to agree upon the selection of an arbitrator, or if the arbitrators selected by such groups fail to agree upon the selection of a chairperson, the Register shall promptly select the arbitrator or chairperson, respectively. The arbitrators so selected shall constitute an Arbitration Board.

"(C) The Arbitration Board shall conduct an arbitration proceeding in accordance with such procedures, not inconsistent with law, as it shall adopt, and may conduct separate proceedings with respect to devices and media if warranted under the circumstances. The Board shall act on the basis of a fully documented written record. Any copyright owner who claims to be entitled to royalty fees under subsection (b)(4) of this section, and any importer or manufacturer of devices or media who is not party to a voluntary agreement filed with the copyright office in accordance with clause (2) of this subsection, may submit relevant information and proposals to the Board: *Provided*, That the parties to the proceeding shall bear the entire cost thereof in such manner and proportion as the Board shall direct.

"(D) In determining royalty fees under this clause, the Arbitration Board shall consider, in addition to all other relevant factors, the following criteria:

"(i) The rates and terms established for similar devices or media in comparable circumstances under voluntary agreements filed with the copyright office in accordance with clause (2) of this subsection;

"(ii) The value to an individual of the right to reproduce copyrighted works pursuant to subsection (a) of this section;

"(iii) The compensation received by copyright owners from other pertinent forms of exploitation in the United States of their motion pictures and other audiovisual works;

"(iv) The projected impact of royalty fees on consumers and the benefits derived by consumers from the use and availability of video recording devices or media;

"(v) The benefits derived by importers and manufacturers of video recording devices or media from the distribution in the United States of those products;

"(vi) The projected impact of home video recording on copyright owners;

"(vii) The projected effect of royalty fees on the structure and financial condition of the motion picture and audiovisual production industries and the video recording device or media importing and manufacturing industries;

"(viii) The relative roles of copyright owners and importers and manufacturers of video recording devices or media with respect to creative and technological contribution to the development of motion pictures and other audiovisual works;

"(ix) The objective of maximizing the creation of new motion pictures and other audiovisual works;

"(x) Reasonable estimates of the amount of video recording devices or media used in the United States during a relevant period for purposes other than making video recordings by individuals in private homes: *Provided*, That such purposes are lawful under this title.

"(E) Any determination by the Arbitration Board may (i) distinguish among different kinds of video recording devices or video recording media and (ii) exempt from royalty fees particular recording devices or media, if any, that are found to be designed, promoted, and, in fact, used substantially all the time for purposes other than making video recordings by individuals in private

homes: *Provided*, That such purposes are lawful under this title.

"(F) Not later than six months after publication of the notice initiating an arbitration proceeding, the Arbitration Board shall report its determination concerning the rates and terms of royalty fees to the Register. Such report shall be accompanied by the written record, and shall set forth the various facts that the Board found relevant to its determination and the reasons why its determination is consistent with the criteria enumerated in paragraph (D) of this clause.

"(G) The Register shall promptly cause the report of the Arbitration Board to be published in the Federal Register, and shall publicize it in such manner as the Register deems appropriate in order to afford any interested person an opportunity to comment thereon. The Register shall also make the report and the accompanying record available for public inspection.

"(H) After considering the written comments that are received from any interested person within thirty days after publication of the report of the Arbitration Board in the Federal Register, and not later than sixty days after such publication, the Register shall confirm the rates and terms of the royalty fees determined by the Board, and shall cause the same to be published in the Federal Register, unless the Register decides that the determination is manifestly inconsistent with the criteria set forth in paragraph (D) of this clause or was procured by fraud or misconduct, in which case the Register shall proceed as provided by clause (4) of this subsection. The rates and terms of the royalty fees confirmed by the Register shall be binding on all importers and manufacturers of video recording devices or video recording media, as the case may be, who are not parties to a voluntary agreement filed with the copyright office in accordance with clause (2) of this Subsection and upon all copyright owners are entitled to royalty fees under subsection (b)(4) of this section.

"(I) The obligation to pay the royalty fees established under a determination of the Arbitration Board which is confirmed by the Register in accordance with this clause shall become effective on the date when the Register's decision is published in the Federal Register under paragraph (H) of this clause, and shall remain in effect until superseded in accordance with clauses (2) or (6) of this subsection, or modified in accordance with clause (5) of this subsection.

"(4)(A) FURTHER ARBITRATION PROCEEDINGS.—If the Register decides not to confirm a determination of the Arbitration Board pursuant to clause (3) of this subsection, or if the court vacates a decision of the Register pursuant to clause (5) of this subsection, the Register shall promptly cause notice to be published in the Federal Register of the initiation of a new arbitration proceeding, and the procedure specified in clause (3) of this subsection shall be repeated, subject to the provisions of this clause, until a subsequent determination of the Arbitration Board is confirmed: *Provided*, That, notwithstanding the publication of the notice required by this paragraph, the conduct of the new arbitration proceeding shall be suspended pending judicial review of the Register's decision not to confirm the previous determination of the Arbitration Board.

"(B) The notice initiating a new arbitration proceeding under paragraph (A) of this clause shall specify the rates and terms of the royalty fees established by the Arbitration Board in its previous proceeding. Subject to the provisions of paragraph (C) of this clause, such rates and terms shall be binding on an interim basis on all importers and manufacturers of video recording devices or video recording media, as the case may be, who are not parties to a voluntary agreement filed with the Copyright Office in accordance with clause (2) of this subsection, and upon all copyright owners who are entitled to royalty fees under subsection (b)(4) of this section. Any fees deposited under subsection (b)(1) of this section in accordance with the previous determination of the Arbitration Board shall remain on deposit until a subsequent determination is confirmed by the Register under clause (3) of this subsection: *Provided*, That the Register shall have discretion, in confirming the subsequent determination, to make provision for the repayment of any excess fees, and for the payment of any underpaid fees, and the interest pertaining respectively thereto, in accordance with the subsequent determination.

"(C) The obligation to pay the royalty fees established under a determination of the Arbitration Board which is given effect by virtue of this clause pending subsequent confirmation shall become effective on an interim basis on the date when the Register's decision is published in the Federal Register under paragraph (A) of this clause, and shall remain in effect until superseded in accordance with clauses (2), (3) or (6) of this subsection, or modified in accordance with clause (5) of this subsection.

"(5) JUDICIAL REVIEW.—Any decision of the Register confirming or denying a determination of the Arbitration Board under clause (3) of this subsection may be appealed to the United States Court of Appeals for the District of Columbia Circuit by any aggrieved person within thirty days after its publication in the Federal Register. The pendency of an appeal under this clause shall not relieve importers and manufacturers of video recording devices and video recording media of the obligation under subsection (b)(1) of this section to record the notice, and deposit the statement of account and total royalty fees, specified by that clause. The court shall have jurisdiction to modify or vacate the decision of the Register only if it finds, on the basis of the record before the Register and the statutory criteria set forth in clause (3)(D) of this subsection, that the Register acted in an arbitrary manner in confirming or denying the determination of the Board. If the court modifies the Register's decision, the court shall have jurisdiction to order the repayment of any excess fees deposited under subsection (b)(1) of this section, and to order the payment of any underpaid fees, and the interest pertaining respectively thereto, in accordance with its final judgment. If the court vacates the Register's decision, there shall be further arbitration proceedings in accordance with clause (4) of this subsection.

"(6) ADJUSTMENT.—The initial procedure specified in clauses (2) through (5) of this subsection shall be repeated commencing on the third anniversary of the effective date of this Act and at three-year intervals thereafter: *Provided*, That the Register shall have discretion to initiate an arbitration proceeding in accordance with clause (3) of this subsection at such other times as the Register deems fit in order to determine the terms and rates of royalty fees payable by any person who commences business as an importer or manufacturer of video recording devices or video recording media at any time during the three-year interval specified by this clause in the absence of applicable rates and terms established for similar devices or media in comparable circumstances under clause (2) through (5) of this subsection.

"(d) DEFINITIONS.—As used in this section, the following terms and their variant forms mean the following:

"A 'video recording' is a copy of a motion picture or other audiovisual work that has been reproduced directly from a television transmission.

"A 'video recording device' is any machine or device of a kind designed, used or promoted for making video recordings by individuals in private homes.

"A 'video recording medium' is any material object, now known or later developed, in any form commonly distributed for use in private homes (such as video cassettes), in which a motion picture or other audiovisual work can be fixed by use of a video recording device. A video recording medium does not include a material object that embodies a motion picture or other audiovisual work at the time it is first distributed by the importer or manufacturer, unless the motion picture or other audiovisual work has been so embodied in order to avoid the obligations of subsection (b) of this section.

"A 'television transmission' is a transmission by a broadcast station, cable system, multipoint distribution service, subscription television service, direct broadcast satellite, or other means of transmission that are intended for reception in private homes.".

SEC. 3. Chapter 1 of title 17 of the United States Code is amended by inserting at the end thereof the following new section:

"§ 120. Limitation on liability: Audio recording

"(a) HOME AUDIO RECORDING.—Notwithstanding the provisions of section 106(1), an individual who makes a single audio recording of a musical work or sound recording in his or her private home is exempt from any liability for infringement of copyright if the recording is for the private use of that individual or members of his or her immediate household.

"(b) COMPULSORY LICENSE FOR AUDIO RECORDING DEVICES AND MEDIA.—

"(1) AVAILABILITY OF COMPULSORY LICENSE.—Notwithstanding the provisions of section 106(1), the importation into and distribution in the United States, and the manufacture and distribution in the United States, of any audio recording device or audio recording medium shall be subject to compulsory licensing if the importer or manufacturer of the device or medium records the notice, and deposits the statement of account and total royalty fees, specified by this clause.

"(A) The importer or manufacturer shall, at least one month before the distribution in the United States of any audio recording device or any audio recording medium or within sixty days after the effective date of this Act, whichever is later, record with the Register of Copyrights (hereinafter 'the Register') a notice including a statement of its identity and address and a description of any trade or business names, trademarks, or like indicia that it uses in connection with the importation, manufacture or distribution of audio recording devices or audio recording media in the United States, and thereafter, from time to time, such further information as the Register shall prescribe by regulation to carry out the purpose of this clause.

"(B) The importer or manufacturer shall deposit with the Register, at such times, for

such periods, and in accordance with such requirements as the Register shall prescribe by regulation, a statement of account, covering the pertinent period next preceding, specifying the number of audio recording devices or amount of audio recording media imported into or manufactured in the United States during such period, and the number or amount distributed in the United States during such period, together with such other information, and in such form, content and manner, as the Register shall from time to time prescribe by regulation. In the case of all statements of account deposited after the obligation to pay royalty fees become effective pursuant to voluntary negotiation under subsection (c)(2)(F) of this subsection, or pursuant to compulsory arbitration under subsection (c)(3)(I) or (c)(4)(C) of this section, the statement shall be accompanied by the total royalty fee for the period covered by the statement, computed in accordance with such regulations as the Register shall from time to time prescribe.

"(2) INFRINGEMENT.—Notwithstanding the provisions of clause (1) of this subsection, the importation into and distribution in the United States, or the manufacture and distribution in the United States, of any audio recording device or audio recording medium is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506, 509, and 511, if the notice, statement of account, or total royalty fee specified by clause (1) of this subsection has not been recorded or deposited and such failure was wilfull or repeated, or if the statement of account or total royalty fee does not materially comply with the requirements of clause (1) or any regulations prescribed thereunder.

"(3) DEPOSIT OF ROYALTY FEES.—The Register shall receive all fees deposited under this section and, after deducting reasonable administrative costs, shall deposit the balance in the Treasury of the United States, in such manner as the Secretary of the Treasury shall direct. All funds held by the Secretary of the Treasury shall be invested in interest-bearing United States securities for later distribution with interest by the Copyright Royalty Tribunal (hereinafter 'the Tribunal') as provided by this title. The Register shall promptly submit to the Tribunal a compilation of all statements of account covering the pertinent periods provided by clause (1) of this subsection. The Register and the Secretary of the Treasury shall maintain separate and distinct accounts and records for fees deposited pursuant to this section, and for fees deposited pursuant to section 119, and for the securities and interest pertaining respectively thereto.

"(4) COPYRIGHT OWNERS ENTITLED TO ROYALTY FEES.—The royalty fees thus deposited in connection with audio recording devices and media shall, in accordance with the procedures specified in clause (5) of this subsection, be distributed to the owners of copyright in musical works and sound recordings included in radio or television transmissions, or distributed to the public in the form of phonorecords, during the period to which such fees pertain.

"(5) DISTRIBUTION OF ROYALTY FEES.—The royalty fees thus deposited shall be distributed in accordance with the following procedures:

"(A) During such month that the Tribunal shall establish in each year following the year in which this Act takes effect, every person claiming to be entitled to compulsory license fees under clause (4) of this subsection shall file a claim with the Tribunal for fees covered by all statements of account for periods during the preceding year in accordance with requirements that the Tribunal shall prescribe by regulation. Notwithstanding any provision of the antitrust laws, for purposes of this clause any claimants may agree among themselves as to the proportionate division of compulsory licensing fees among them, may lump their claims together and file them jointly or as a single claim, or may designate a common agent to receive payment on their behalf.

"(B) After the first day of the month following that established for the filing of claims under paragraph (A) of this clause, in each year following the year in which this Act takes effect, the Tribunal shall determine whether there exists a controversy concerning the distribution of royalty fees. If the Tribunal determines that no such controversy exists, it shall, after deducting its reasonable administrative costs under this subsection, distribute such fees to the copyright owners entitled, or to their designated agents. If the Tribunal finds the existence of a controversy, it shall, pursuant to chapter 8 of this title, conduct a proceeding to determine the distribution of royalty fees.

"(C) During the pendency of any proceeding under this subsection, the Tribunal shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall have discretion to proceed to distribute any amounts that are not in controversy.

"(c) DETERMINATION OF ROYALTY FEES.—

"(1) METHODS FOR DETERMINING ROYALTY FEES.—The terms and rates of royalty fees payable under subsection (b)(1) of this section shall be determined either in accordance with the voluntary negotiation procedure specified in clause (2) of this subsection or in accordance with the compulsory arbitration procedure specified in clauses (3) through (5) of this subsection.

"(2)(A) VOLUNTARY NEGOTIATION.—Not later than five days after the effective date of this Act, and on the commencement of every three-year adjustment period under clause (6) of this subsection, the Register shall cause notice to be published in the Federal Register of the initiation of voluntary negotiation proceedings for the purpose of determining the terms and rates of royalty fees to be paid by manufacturers and importers of audio recording devices and audio recording media under subsection (b)(1) of this section.

"(B) Copyright owners who claim to be entitled to royalty fees under subsection (b)(4) of this section may submit to the Register the names of those individuals that are authorized to negotiate and agree to royalty fees on behalf of such copyright owners, together with such further information as the Register may request. All the individuals whose names have been submitted to the Register within ten days after publication of the notice initiating negotiation proceedings shall constitute the bargaining panel, and the Register shall promptly cause their names and any other relevant information to be published in the Federal Register. The panel constituted in accordance with this paragraph shall be the sole bargaining agent of all copyright owners entitled to royalty fees under subsection (b)(4) of this section, and shall have the exclusive right to negotiate and agree to the terms and rates of such fees until a new bargaining panel is constituted in accordance with clause (6) of this subsection. The panel shall have the power to determine its own rules of procedure not inconsistent with this section.

"(C) Importers and manufacturers of audio recording devices and audio recording media shall negotiate in good faith with the panel of copyright owners constituted in * * * Notwithstanding any provision of the antitrust laws, any such importers and manufacturers, and any group thereof, and the panel of copyright owners, may at any time negotiate and agree to the terms and rates of royalty fees, and may designate common agents to negotiate, agree to, or pay such fees. The parties to each negotiation proceeding shall bear the entire cost thereof.

"(D) Voluntary agreements negotiated under this clause may (i) distinguish among different kinds of audio recording devices or audio recording media and (ii) exempt from royalty fees particular devices or media, if any, that are agreed to be designed, promoted, and, in fact, used substantially all the time for purposes other than making audio recordings by individuals in private homes: *Provided*, That such purposes are lawful under this title.

"(E) Voluntary agreements negotiated at any time in accordance with this clause shall be given effect in lieu of and shall supersede any determination of an arbitration proceeding pursuant to clauses (3) or (4) of this subsection, or of a court pursuant to clause (5) of this subsection, and shall be binding upon all importers and manufacturers that are parties thereto and upon all copyright owners entitled to royalty fees under subsection (b)(4) of this section: *Provided*, That—

"(i) such agreements are accepted unanimously by the panel of copyright owners constituted in accordance with paragraph (B) of this clause; and

"(ii) copies of such agreements are filed in the Copyright Office within thirty days of execution in accordance with regulations that the Register shall prescribe.

"(F) The obligation to pay the royalty fees established under a voluntary agreement which is filed with the Copyright Office in accordance with this clause shall become effective on the date specified therein, and shall remain in effect until superseded in accordance with clause (6) of this subsection.

"(3)(A) COMPULSORY ARBITRATION.—Not later than four months after the effective date of this Act, and on the commencement of every three-year adjustment under clause (6) of this subsection, the Register shall cause notice to be published in the Federal Register of the initiation of arbitration proceedings for the purpose of determining reasonable terms and rates of royalty fees to be paid under subsection (b)(1) of this section by manufacturers and importers of audio recording devices or audio recording media who are not parties to a voluntary agreement filed with the Copyright Office in accordance with clause (2) of this subsection, unless the Register determines that such voluntary agreements have been accepted by all such importers and manufacturers. Such notice shall include the names and qualifications of potential arbitrators chosen by the Register from a list of available arbitrators obtained from the American Arbitration Association or such similar organization as the Register shall select.

"(B) Not later than ten days after publication of the notice initiating an arbitration proceeding, and in accordance with prece-

dures to be specified by the Register, one arbitrator shall be selected from the published list by copyright owners who claim to be entitled to royalty fees under subsection (b)(4) of this section and one arbitrator shall be selected from the published list by importers and manufacturers of devices and media who are not parties to a voluntary agreement filed with the Copyright Office in accordance with clause (2) of this subsection, and the two arbitrators so selected shall within ten days after their selection choose a third arbitrator from the same list, who shall serve as chairperson of the arbitrators. If either group fails to agree upon the selection of an arbitrator, or if the arbitrators selected by such groups fail to agree upon the selection of a chairperson, the Register shall promptly select the arbitrator or chairperson, respectively. The arbitrators so selected shall constitute an Arbitration Board.

"(C) The Arbitration Board shall conduct an arbitration proceeding in accordance with such procedures, not inconsistent with law, as it shall adopt, and may conduct separate proceedings with respect to devices and media if warranted under the circumstances. The Board shall act on the basis of a fully documented written record. Any copyright owner who claims to be entitled to royalty fees under subsection (b)(4) of this section, and any importer or manufacturer who is not party to a voluntary agreement, filed with the Copyright Office in accordance with clause (2) of this subsection may submit relevant information and proposals to the Board: *Provided*, That the parties to the proceeding shall bear the entire cost thereof in such manner and proportion as the Board shall direct.

"(D) In determining royalty fees under this clause, the Arbitration Board shall consider, in addition to all other relevant factors, the following criteria:

"(i) The rates and terms established for similar devices or media in comparable circumstances under voluntary agreements filed with the Copyright Office in accordance with clause (2) of this subsection;

"(ii) The value to an individual of the right to reproduce copyrighted works pursuant to subsection (a) of this section;

"(iii) The compensation received by copyright owners from other pertinent forms of exploitation in the United States of their sound recordings and musical works;

"(iv) The projected impact of royalty fees on consumers and the benefits derived by consumers from the use and availability of audio recording devices or media;

"(v) The benefits derived by importers and manufacturers of audio recording devices or media from the distribution in the United States of those products;

"(vi) The projected impact of home audio recording on copyright owners;

"(vii) The projected effect of royalty fees on the structure and financial condition of the music and recording industries and the audio recording device or media importing and manufacturing industries;

"(viii) The relative roles of copyright owners and importers and manufacturers of audio recording devices or media with respect to creative and technological contribution to the development of sound recordings and musical works;

"(ix) The objective of maximizing the creation of new sound recordings and musical works;

"(x) Reasonable estimates of the amount of audio recording devices or media used in the United States during a relevant period for purposes other than making audio recordings by individuals in private homes: *Provided*, That such purposes are lawful under this title.

"(E) Any determination by the Arbitration Board may (i) distinguish among different kinds of audio recording devices or audio recording media and (ii) exempt from royalty fees particular devices or media, if any, that are found to be designed, promoted, and, in fact, used substantially all the time for purposes other than making audio recordings by individuals in private homes: *Provided*, That such purposes are lawful under this title.

"(F) Not later than six months after publication of the notice initiating an arbitration proceeding, the Arbitration Board shall report its determination concerning the terms and rates of royalty fees to the Register. Such report shall be accompanied by the written record, and shall set forth the various facts that the Board found relevant to its determination and the reasons why its determination is consistent with the criteria enumerated in paragraph (D) of this clause.

"(G) The Register shall promptly cause the report of the Arbitration Board to be published in the Federal Register, and shall publicize it in such other manner as the Register deems appropriate in order to afford any interested person an opportunity to comment thereon. The Register shall also make the report and the accompanying record available for public inspection.

"(H) After considering the written comments that are received from any interested person within thirty days after publication of the report of the Arbitration Board in the Federal Register, and not later than sixty days after such publication, the Register shall confirm the rates and terms of the royalty fees determined by the Board, and shall cause the same to be published in the Federal Register, unless the Register decides that the determination is manifestly inconsistent with the criteria set forth in paragraph (D) of this clause or was procured by fraud or misconduct, in which case the Register shall proceed as provided by clause (4) of this subsection. The rates and terms of the royalty fees confirmed by the Register shall be binding on all importers and manufacturers of audio recording devices or audio recording media, as the case may be, who are not parties to a voluntary agreement filed with the copyright office in accordance with clause (2) of this subsection, and upon all copyright owners who are entitled to royalty fees under subsection (b)(4) of this section.

"(I) The obligation to pay the royalty fees established under a determination of the Arbitration Board which is confirmed by the Register in accordance with this clause shall become effective on the date when the Register's decision is published in the Federal Register under paragraph (H) of this clause, and shall remain in effect until superseded in accordance with clauses (2) or (6) of this subsection, or modified in accordance with clause (5) of this subsection.

"(4)(A) FURTHER ARBITRATION PROCEEDINGS.—If the Register decides not to confirm a determination of the Arbitration Board pursuant to clause (3) of this subsection, or if the court vacates the decision of the Register pursuant to clause (5) of this subsection, the Register shall promptly cause notice to be published in the Federal Register of the initiation of a new arbitration proceeding, and the procedure specified in clause (3) of this subsection shall be repeated, subject to the provisions of this clause, until a subsequent determination of the Arbitration Board is confirmed: *Provided*, That, notwithstanding the publication of the notice required by this paragraph, the conduct of the new arbitration proceeding shall be suspended pending judicial review of the Register's decision not to confirm the previous determination of the Arbitration Board.

"(B) The notice initiating a new arbitration proceeding under paragraph (A) of this clause shall specify the rates and terms of the royalty fees established by the Arbitration Board in its previous proceeding. Subject to the provisions of paragraph (C) of this clause, such rates and terms shall be binding on an interim basis on all importers and manufacturers of audio recording devices or audio recording media, as the case may be, who are not parties to a voluntary agreement filed with the copyright office in accordance with clause (2) of this subsection, and upon all copyright owners who are entitled to royalty fees under subsection (b)(4) of this section. Any fees deposited under subsection (b)(1) of this section in accordance with the previous determination of the Arbitration Board shall remain on deposit until a subsequent determination is confirmed by the Register under clause (3) of this subsection: *Provided*, That the Register shall have discretion, in confirming the subsequent determination, to make provision for the repayment of any excess fees, and for the payment of any unpaid fees, and the interest pertaining respectively thereto, in accordance with the subsequent determination.

"(C) The obligation to pay the royalty fees established under a determination of the Arbitration Board which is given effect by virtue of this clause pending subsequent confirmation shall become effective on an interim basis on the date when the Register's decision is published in the Federal Register under paragraph (A) of this clause, and shall remain in effect until superseded in accordance with clauses (2), (3) or (6) of this subsection, or modified in accordance with clause (5) of this subsection.

"(5) JUDICIAL REVIEW.—Any decision of the Register confirming or denying a determination of the Arbitration Board under clause (3) of this subsection may be appealed to the United States Court of Appeals for the District of Columbia Circuit by any aggrieved person within thirty days after its publication in the Federal Register. The pendency of an appeal under this clause shall not relieve importers and manufacturers of audio recording devices and audio recording media of the obligation under subsection (b)(1) of this section to record the notice, and deposit the statement of account and total royalty fees, specified by that clause. The court shall have jurisdiction to modify or vacate the decision of the Register only if it finds, on the basis of the record before the Register and the statutory criteria set forth in clause (3)(D) of this subsection, that the Register acted in an arbitrary manner in confirming or denying the determination of the Board. If the court modifies the Register's decision, the court shall have jurisdiction to order the repayment of any excess fees deposited under subsection (b)(1) of this section, and to order the payment of any underpaid fees, and the interest pertaining respectively thereto, in accordance with its final judgment. If the court vacates the Register's decision, there shall be further arbitration proceedings in accordance with clause (4) of this subsection.

"(6) ADJUSTMENT.—The initial procedure specified in clauses (2) through (5) of this subsection shall be repeated commencing on the third anniversary of the effective date of this Act and at three-year intervals thereafter: *Provided,* That the Register shall have discretion to initiate an arbitration proceeding in accordance with clause (3) of this subsection at such other times as the Register deems fit in order to determine the terms and rates of royalty fees payable by any person who commences business as an importer or manufacturer of audio recording devices or audio recording media at any time during the three-year interval specified by this clause in the absence of applicable rates and terms established for similar devices or media in comparable circumstances under clauses (2) through (5) of this subsection.

"(d) DEFINITIONS.—As used in this section, the following terms and their variant forms mean the following:

"An 'audio recording' is a phonorecord or aurally perceptible copy (without accompanying visual images) of a musical work or sound recording that has been reproduced directly from a radio or television transmission or from a phonorecord that has been lawfully made and distributed to the public.

"An 'audio recording device' is any machine or device of a kind designed, used, or promoted for making audio recordings by individuals in private homes.

"An 'audio recording medium' is any material object, now known or later developed, in any form commonly distributed for use in private homes (such as tape cassettes, cartridges, or reels), in which a musical work or sound recording can be fixed by use of an audio recording device. An audio recording medium does not include a material object that embodies a sound recording at the time it is first distributed by the importer or manufacturer, unless the sound recording has been so embodied in order to avoid the obligations of subsection (b) of this section.

"A 'radio transmission' and a 'television transmission' are transmissions by a broadcast station, cable system, multipoint distribution service, subscription service, direct broadcast satellite, or other means of transmission that are intended for reception in private homes.".

SEC. 4. Chapter 5 of title 17 of the United States Code is amended by inserting at the end thereof the following new section:

"§ 511. Additional remedy for infringing importation or manufacture, and distribution, of audio or video recording devices and media

"In any action filed pursuant to sections 119(b)(2) or 120(b)(2), the court may decree that, in addition to any other remedies provided by this title, for a period not to exceed ninety days, the importer or manufacturer shall be deprived of the benefit of a compulsory license under sections 119(b)(1) or 120(b)(1). In the absence of such license by reason of such decree, any importation into and distribution in the United States, or any manufacture and distribution in the United States, of audio or video recording devices or media by such party is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506, 509, and this section.".

SEC. 5. Chapter 8 of title 17 of the United States Code is amended as follows:

(a) Section 801(b)(3) is amended by deleting the phrase "and 116," and substituting in lieu thereof the phrase "116, 119, and 120,".

(b) Section 804(d) is amended by deleting the phrase "or 116," and substituting in lieu thereof "116, 119, or 120,".

(c) The second sentence of section 809 is amended by deleting the phrase "or 116," and substituting in lieu thereof the phrase "116, 119, or 120,".

SEC. 6. SUPPLEMENTARY AND TRANSITIONAL PROVISIONS.—

(a) This Act becomes effective on its enactment.

(b) Section 501(a) of title 17 is amended by deleting "118" and substituting in lieu thereof "120".

(c) The table of sections for chapter 1 of title 17 of the United States Code is amended by inserting after the item relating to section 118 the following:

"119. Limitation on liability: Video recording.
"120. Limitation on liability: Audio recording.".

(d) The table of sections for chapter 5 of title 17 of the United States Code is amended by inserting after the item relating to section 510, the following:

"511. Additional remedy for infringing importation or manufacture, and distribution, of audio or video recording devices and media.".

SECTION-BY-SECTION SUMMARY OF THE HOME RECORDING ACT OF 1983

HOME RECORDING EXEMPTION [§§ 119(a) AND 120(a)]

Any individual who makes a recording of an audiovisual work, sound recording or musical work in the home for private use would be exempt from copyright infringement liability.

COMPULSORY LICENSE [§§ 119(b)(1) AND 120(b)(1)]

The bill affords importers and manufacturers of video and audio recording devices (equipment) and media (blank tapes) a license to distribute their products in the United States. The license would apply to (1) recording devices designed, used or promoted for home taping and (2) recording media of a kind commonly sold for use in private homes, e.g., blank cassettes, cartridges or reels. Prerecorded video and audio tapes would not be subject to royalty fees.

DETERMINATION OF ROYALTY FEES [§§ 119(C)(1) AND 120(C)(1)]

The terms and rates of royalty fees would be determined either (1) pursuant to voluntary negotiation between importers and manufacturers and copyright owners of (2) for those that have not entered into a voluntary agreement, pursuant to compulsory binding arbitration. The results of the arbitration would be subject to public comment, review by the Register of Copyrights, and judicial review.

VOLUNTARY NEGOTIATION [§§ 119(C)(2) AND 120(C)(2)]

Shortly after the effective date of the Act, copyright owners would submit to the Register names of individuals authorized to negotiate home taping royalty fees. All the names submitted within a specified period would become members of a bargaining panel, which would negotiate royalty fees on behalf of all copyright owners. Importers and manufacturers of devices and media would be encouraged to negotiate—singly or jointly—with the copyright owners' panel.

The negotiators could make provision for non-infringing uses by exempting from royalty fees particular devices or media, and by distinguishing among different kinds of recording devices and media.

Any voluntary agreement negotiated at any time between any importer or manufacturer and the copyright owners' panel would be given effect if it is accepted unanimously by the copyright owners' panel. Such agreements would be binding on all copyright owners, but only on the importers or manufacturers that actually agree to be bound.

COMPULSORY ARBITRATION [§§ 119(C)(3) AND 120(C)(3)]

If voluntary agreements are not reached by all importers and manufacturers within four months after the effective date of the Act, the Register would initiate arbitration proceedings by publishing a list of potential arbitrators selected from the American Arbitration Association (or a similar organization). Importers and manufacturers on the one hand and copyright owners on the other hand, acting as a group, would each select one arbitrator from the list, and the two arbitrators so selected would name a third arbitrator to serve as chairperson. The three arbitrators would constitute an Arbitration Board. If either group fails to select an arbitrator, or if the arbitrators selected by each group fail to select a chairperson, the Register would select the arbitrator or chairperson.

The Arbitration Board would promptly conduct evidentiary proceedings to determine video and audio royalty fees. There could be separate proceedings for devices and media. Any importer or manufacturer who is not party to a voluntary agreement, and any copyright owner, would be permitted to participate in the proceedings, and such parties would pay for the entire cost of the proceedings.

In making its determination, the Arbitration Board would be guided by certain statutory criteria.[1] In addition, the Board could make provision for noninfringing uses by exempting from royalty fees particular devices or media, and by distinguishing among different kinds of recording devices and media.

The Arbitration Board would report its determination(s) to the Register within six months, and the Register would publish the Board's report for public comment by any interested person. After considering the public comments, and not later than two months after publication of the Board's report, the Register would confirm the royalty fees established by the Board and would publish them in the Federal Register unless they were manifestly inconsistent with the statutory criteria or were procured by fraud or misconduct. If confirmed by the Register, the royalty fees established by the Board would be binding on all importers and manufactures who are not parties to a voluntary agreement and on all copyright owners entitled to such fees.

FURTHER ARBITRATION PROCEEDINGS [§§ 119(C)(4) AND 120(C)(4)]

If the Register decides not to confirm the royalty fees established by the Arbitration

[1] The statutory criteria would include: the rates and terms established for comparable circumstances under voluntary agreements; use of devices or media for purposes other than home recording; the value of the copyrighted works; the compensation received by copyright owners from other pertinent forms of exploitation of their works; the impact of royalty fees on consumers and the benefits derived by consumers from devices and media; the benefits derived by manufacturers and importers from distribution of their products; the impact of home recording on copyright owners; and the roles of the parties and effect of royalty fees with respect to creative development.

Board, there would be further arbitration proceedings to determine royalty fees, and such proceedings would be repeated until a determination of the Board could be confirmed by the Register. Pending further arbitration proceedings, or judicial review, the terms and rates established by the initial arbitration proceeding would take effect on an interim basis. The Register or the court would provide for the repayment of excess fees or the payment of underpaid fees in accordance with the final decision.

JUDICIAL REVIEW [§§ 119(C)(5) AND 120(C)(5)]

Any aggrieved person could appeal to the Court of Appeals for the D.C. Circuit any decision of the Register confirming or denying a determination of the Arbitration Board.

ADJUSTMENT OF ROYALTY FEES [§§ 119(C)(6) AND 120(C)(6)]

Voluntary negotiation and compulsory arbitration would be repeated on the third anniversary of the effective date of the Act and at three-year intervals thereafter. However, the Register would have discretion to initiate a new arbitration proceeding at any time to determine the royalty fees payable by any person who commences business as an importer or manufacturer of recording devices or media during the three-year interval and is unable to reach voluntary agreement.

DEPOSIT OF ROYALTY FEES [§§ 119(b)(3) AND 120(b)(3)]

Importers and manufacturers would file a notice and statement of account, and deposit royalty fees with the Copyright Office. The obligation to pay royalty fees would become effective on the date determined by voluntary agreement or, for those that have not entered into a voluntary agreement, not later than 60 days after the conclusion of the first arbitration proceeding. After deducting reasonable administrative expenses from the royalty fees deposited, the Register would transfer the fees to the U.S. Treasury for deposit in interest-bearing U.S. securities pending subsequent distribution with interest to copyright owners.

Importers and manufacturers who will fully, repeatedly or materially fail to comply with the compulsory license would be subject to copyright infringement liability for the distribution of their products. In any infringement action, the court could deprive the importer or manufacturer of its compulsory license for up to 90 days.

COPYRIGHT OWNERS ENTITLED TO ROYALTY FEES [§§ 119(b)(4) AND 120(b)(4)]

Any owner of copyright in an audiovisual work that was transmitted over television, and any owner of copyright in a musical work or a sound recording that was transmitted over radio or television or sold in the form of records or tapes, during the pertinent period, would be entitled to claim royalty fees.

DISTRIBUTION OF ROYALTY FEES [§§ 119(b)(5) AND 120(b)(5)]

Copyright owners would file claims with the Copyright Royalty Tribunal for royalty fees. If the Tribunal determines that there is no controversy concerning the distribution of fees, it would distribute them (after deducting its reasonable administrative costs) in accordance with claims filed with it. In the event of a controversy, however, the Tribunal would conduct an evidentiary proceeding to determine the distribution of fees subject to dispute. In the meantime, the Tribunal would distribute any uncontested fees.

S. 32

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Record Rental Amendment of 1983".

SEC. 2. Section 109(a) of chapter 1 of title 17 of the United States Code is amended by replacing the period at the end thereof with a colon and inserting thereafter the following:

"Provided, however, That, unless authorized by the copyright owner, the owner of a particular phonorecord of a sound recording may not, for purposes of direct or indirect commercial advantage, dispose of the possession of that phonorecord by rental, lease, or lending, or by any other activity or practice in the nature of rental, lease, or lending.".

SEC. 3. This Amendment becomes effective upon its enactment.

S. 33

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Consumer Video Sales/Rental Amendment of 1983".

SEC. 2. Section 109(a) of chapter 1 of title 17 of the United States Code is amended by replacing the period at the end thereof with a colon and inserting thereafter the following:

"Provided, however, That, unless authorized by the copyright owner, the owner of a particular copy of a motion picture or other audiovisual work may not, for purposes of direct or indirect commercial advantage, dispose of the possession of that copy by rental, lease, or lending, or by any other activity or practice in the nature of rental, lease, or lending.".

SEC. 3. This Amendment becomes effective upon its enactment.

By Mr. ANDREWS (for himself and Mr. BURDICK):

S. 34. A bill to amend the Internal Revenue Code of 1954 to exempt income derived by charitable organizations from conducting certain games of chance from the tax imposed on unrelated business income; to the Committee on Finance.

CHARITABLE ORGANIZATION INCOME

Mr. ANDREWS. Mr. President, Senator BURDICK and I are introducing today a bill that would amend section 513(F) of the Internal Revenue Code.

The bill would make clear congressional intent as to the tax exempt status of charitable organization income. In making this intent clearer, it would allow such organizations in North Dakota the ability to use gambling as a source of revenue.

As background, the North Dakota legislation drafted a law which became effective in July 1981 permitting charitable organizations the right to conduct games of chance and to use the revenue for the charitable purposes of the organizations.

A conflict has arisen since the implementation of that provision. The District Director of the Internal Revenue Service in St. Paul now claims that the income is actually unrelated business income and therefore subject to taxation. Clearly, that reasoning would subject charitable organizations in North Dakota to substantial hardship and would effectively void the very purpose of the North Dakota gambling laws.

Therefore, I feel it is necessary to clarify the sections of the code relating to unrelated business income of charitable organizations and gambling income. The clarification would permit such organizations in North Dakota the right to conduct the games of chance and the right to continue to use all of the gambling revenues for charitable purposes.

In today's economy, when far less revenues are received through individual donations, it is essential that charitable organizations continue their basic goals without a loss of income. We in Congress must then do everything in our power to see that the laws or interpretations of the laws do not hinder the very charitable purpose under which such organizations are formed.

Mr. BURDICK. Mr. President, I am today introducing with my colleague from North Dakota, Senator ANDREWS, legislation which would clarify congressional intent with regard to the tax exempt status of certain income received by charitable organizations.

On July 1, 1981, a North Dakota law became effective which allows civic, charitable, and other public spirited organizations in the State to use raffles and certain other games of chance as a source of revenue. In the past year and a half, with the dramatic cuts in Federal funding of many public services, these organizations have literally been saved by the new revenues generated through gaming activities. A sampling of the 400 affected organizations includes public broadcasting stations, Red River Human Services, the Multiple Sclerosis Society, and the March of Dimes.

Last June the District Director of the Internal Revenue Service in St. Paul, Minn., issued a letter which indicated that the income from the gaming activity is subject to tax under the unrelated business provision of the IRS code. It is my understanding that the Congress enacted the unrelated income provision in 1950 to prevent tax-exempt groups from competing unfairly with taxpaying businesses. It is clear from reading the legislative history of this provision that the Congress intended to tax the nonprofit organizations only when they entered into a business venture which was in competition with a for-profit business. Since there is no taxpaying business in North Dakota which participates or has the legal authority to participate in gaming, the unrelated income provision is irrelevant and clearly does not apply. In addition, the North Dakota

State Tax Commissioner has stated that the State will not tax the earnings unless the Federal Government chooses to do so. The services performed by the 400 participating organizations in North Dakota are essential to the welfare of many North Dakotans, and to tax them at rates of up to 50 percent seems unfair and counterproductive.

You may recall, Mr. President, that the Senate adopted, and the House conferees agreed to, an amendment to the fiscal year 1983 continuing resolution which prohibits the IRS from taxing the proceedings received by charitable organizations in North Dakota from gaming activities. This action will expire on October 1, 1983, and we are introducing this legislation to permanently clarify for the IRS that this is the intent of Congress.

I ask that the text of the bill be printed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 34

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCOME OF CHARITABLE ORGANIZATIONS WITH RESPECT TO CERTAIN GAMES OF CHANCE.

(a) IN GENERAL.—Subsection (f) of section 513 of the Internal Revenue Code of 1954 (relating to definition of unrelated trade or business) is amended to read as follows:

"(f) CERTAIN GAMES OF CHANCE.—

"(1) IN GENERAL.—The term 'unrelated trade or business' does not include any trade or business which consists of conducting a game of chance the conducting of which—

"(A) is not an activity ordinarily carried out on a commercial basis, and

"(E) does not violate any State or local law.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) GAME OF CHANCE.—The term 'game of chance' includes bingo, raffles, pull-tabs, punchboards, sports-pools, and twenty-one.

"(B) BINGO.—The term 'bingo' means any game of bingo of a type in which usually—

"(i) the wagers are placed,

"(ii) the winners are determined, and

"(iii) the distribution of prizes or other property is made,

in the presence of all persons placing wagers in such game.

"(C) RAFFLE.—The term 'raffle' means a game in which individuals purchase chances to win a prize, other than cash, and in which the winner or winners are selected by drawing a number or numbers from a container holding numbers corresponding to all the chances sold.

"(D) PULL-TAB.—The term 'pull-tab' means a game in which an individual purchases a single-folded or banded ticket or card which contains a concealed number or symbol which must match a number or symbol on a publicly posted display in order for the purchaser to win a prize.

"(E) PUNCHBOARD.—The term 'punchboard' means a game in which an individual purchases the right to punch or draw from a board with uniform holes or receptacles a slip or paper which contains a concealed number or symbol which must match a number or symbol on a publicly posted display in order for the purchaser to win a prize.

"(F) SPORTS-POOL.—The term 'sports-pool' means a game in which—

"(i) an individual purchases a square on a board which—

"(I) is subdivided into 100 such squares, each of which is sold prior to the beginning of a sporting contest, and

"(II) contains vertical and horizontal matrices of randomly assigned numbers which remain concealed until the end of such sporting contest, and

"(ii) the winner of such game is the individual who purchases the square which lies at the intersection of the vertical matrix containing the number which corresponds to the score of one contestant in such sporting contest and the horizontal matrix containing the number which corresponds to the score of the other such contestant.

"(G) TWENTY-ONE.—The term 'twenty-one' means a card game in which an individual bets that the cards he obtains (by the deal) will have a total face value which is higher than the total face value of the cards dealt to the dealer without exceeding twenty-one.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to games of chance conducted after June 30, 1981.

By Mr. COCHRAN (for himself, Mr. HUDDLESTON, Mr. PRYOR, Mr. MATTINGLY, Mr. HEFLIN, Mr. THURMOND, and Mr. NUNN):

S. 36. A bill to authorize special payment-in-kind land conservation programs, to provide authority for activities to develop and expand markets for U.S. agricultural commodities, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

AGRICULTURAL ACT OF 1983

Mr. COCHRAN. Mr. President, Senator HUDDLESTON and I are reintroducing a bill which will assure the effectiveness of the domestic payment-in-kind program and provide the administration with additional tools to bolster our export sales by utilizing surplus stocks.

I am pleased that Senators PRYOR, THURMOND, HEFLIN, MATTINGLY, and NUNN are joining us as cosponsors of this bill.

Because of the second record harvest in a row creating large surpluses and low prices, I announced plans, on November 10, 1982, to introduce legislation which would strengthen our ability to reduce production and expand sales through a bonus program utilizing surplus stocks.

On December 3, 1982, Senator HUDDLESTON and I introduced S. 3074, the Agricultural Act of 1982. This bill included expanded authority for the operation of a domestic PIK program, as well as authority for an export bonus program, and donation measures.

A hearing on S. 3074 was held by the Subcommittee on Agricultural Production Marketing, and Stabilization of Prices on December 9, 1982. Testimony was received from Secretary Block, farmers, farm organizations, and others. That same day President Reagan announced his support of a PIK program for the 1983 crop year.

Subcommittee markup on S. 3074 was held on December 13, 1982. The subcommittee favorably reported the bill with amendments, to the full committee.

On December 13, 1982, the full Committee on Agriculture, Nutrition, and Forestry met to consider the subcommittee's recommendation. The committee agreed, with strong bipartisan support, to report S. 3074, with amendments.

Unfortunately, sufficient time was not available at the end of the 97th Congress for the bill to be fully considered. When it became clear that the bill would not pass, I along with a number of other Senators urged the administration to go ahead and implement the payment-in-kind program consistent with any authority the Secretary may have to do so. I am pleased that this has been done. I am also pleased that an export bonus plan similar to the initiative contained in the bill has been implemented as witnessed by the recent sale of wheat flour to Egypt.

The purpose of reintroducing this bill as reported is to clarify the authority available to the Secretary to implement these programs and to add the strong support of Congress to the resolve that actions are needed to put American agriculture back on its feet.

Mr. President, the bill being introduced today is a balanced approach to resolving the problem of large surpluses and depressed prices; addressing both the supply and demand side of the problem.

A summary of the major provisions is as follows:

First. Authorizes a payment-in-kind (PIK) land diversion and conservation program for 1983 and 1984 crops of wheat, feed grains, upland cotton, rice, and other nonconserving crops—excluding sugar cane, sugar beets, tobacco, and peanuts. Under the PIK program—

Payments would not be subject to current law restrictions on the resale of CCC stocks or payment limitations;

Producers would be required to divert acreage from production to conservation uses and to comply with other terms specified by the Secretary;

Payments would be made to producers by CCC by delivery of commodities, warehouse receipts, cash, or by other methods determined by the Secretary;

The value of commodities received by producers could not be less than 75 percent of the basic county loan rate for the commodity involved;

Commodities received by producers could not be put under the annual commodity loan programs;

Not more than 50 percent of the eligible acreage for a crop in a county can be diverted in any one year;

All producers of a crop, for which a PIK is authorized for 1983, will have the opportunity to participate on an equal basis in the program;

Adjustments in program yields are authorized for producers who practice double-cropping;

Consolidation of farm acreage bases is allowed;

Normal marketings are protected; and

Protections are provided for tenants and sharecroppers.

Second. Provides that commodities may be tendered at no cost to exporters, users, and foreign nations to encourage foreign market development for U.S. commodities and to help recapture markets lost because of unfair competition by our competitors. Under the export PIK program—domestic users are provided equal treatment relative to foreign purchasers and users in cases where domestic users may be disadvantaged as a result of the program; CCC will use qualified stocks to encourage increased use of the commodity and products produced thereof and avoid displacing usual marketings of the United States; and CCC will take reasonable precautions to prevent resale or transshipment of commodities.

Third. Expands current authority—to donate stocks of dairy products to needy persons in foreign countries—to include donations of other CCC agricultural commodities and products thereof, and authorizes the use of CCC commodities under titles I and III of Public Law 480, in addition to programed levels.

Fourth. Encourages the Secretary of Agriculture to donate or sell abroad at least 50,000 metric tons of CCC dairy products in each of fiscal years 1983–85.

Fifth. Allows the CCC to sell extra long staple cotton to maintain and expand export and domestic markets for such cotton.

Sixth. The Secretary is encouraged to make available eligible products from CCC stocks directly to processors who contract with school lunch authorities.

In more detail the bill provides for the following:

TITLE I—SPECIAL PAYMENT-IN-KIND LAND CONSERVATION PROGRAM

SPECIAL PAYMENT-IN-KIND LAND CONSERVATION PROGRAM

Section 101 adds a new section 501, effective for the 1983 and 1984 crops, to the Agricultural Act of 1949.

New section 501(a) provides that, notwithstanding any other provisions of the Agricultural Act of 1949, for the 1983 and 1984 crops of wheat, feed grains, upland cotton, rice, and other nonconserving commodities designated by the Secretary—excluding sugarcane, sugar beets, tobacco, and peanuts—the Secretary may formulate and carry out a special payment-in-kind land conservation program to encourage producers to reduce production of agricultural commodities and promote conservation. Under the program, producers who divert farm acreage from the production of agricultural commodities and devote the diverted acreage to conservation uses, subject to any terms and conditions determined appropriate by the Secretary, would receive in-kind payments from the Secretary. This section also clarifies that payments made under the program for the diversion of wheat, feed grain, upland cotton, and rice acreage would not be subject to the restrictions on the resale of CCC stocks when a farmer-owned reserve program is in effect or to any other provisions of law that are applicable to any of the annual programs for the 1983 and 1984 crops of these commodities.

New section 501(b) provides that, in order to be eligible for a payment under this section, a producer who participates in the program for any crop must divert from production to conservation uses, in a manner consistent with requirements established by the Secretary, the acreage of cropland on the farm that the producer agrees to place in the program for that crop and must comply with other terms and conditions specified by the Secretary.

New section 501(c) directs the Secretary to limit the total acreage diverted from production for a particular crop under the program in any county so as to minimize any adverse effect of the program on the economy of the county or any local community located therein. In determining the total acreage to be diverted, however, the Secretary is further directed to insure that not more than 50 percent of the acreage of any commodity in a county eligible for diversion under the acreage reduction provisions of the Agricultural Act of 1949, including the program authorized in this section, is diverted from production in any year.

New section 501(d)(1) requires that in-kind payments shall be made for acreage on a farm diverted from production for a particular crop and devoted to conservation uses under the program. The payment would be offered to producers in an amount of the commodity involved equal to the number of acres so diverted from production times a percentage of the program yield for the farm for the commodity involved as the Secretary determines is appropriate to insure adequate participation in the program for the particular crop.

New section 501(d)(2) provides that as an alternative to the procedure in paragraph (1), in order to encourage adequate participation under the program the Secretary is authorized to determine the amounts of a commodity payable to producers under the program through the submission of bids by producers or by any other process that the Secretary determines appropriate. For the 1983 crops, however, the Secretary must offer all eligible producers of a particular crop the opportunity to participate in the program on an equal basis before any bidding procedure can be used to determine producer participation for a commodity.

New section 501(d)(3) requires the Secretary to make equitable adjustments, in payments under this section in cases where a producer practices double cropping, and where participation in this program for one commodity reduces the acreage that may be planted to the second commodity. The purpose of the adjustments under this subsection would be to account for the reduction in the second commodity.

New section 501(d)(4) provides that where practicable, the Secretary may allow the consolidation of base acreages among farms for a commodity involved in the program to encourage participation in the program. This provision would, for example, permit a producer with two farms having the same amount of corn base acreage on each farm to make the required diversion under the program on a single farm.

New section 501(e) provides for the method of payment to be used by the Commodity Credit Corporation under this program. Payment would be made first, by the Commodity Credit Corporation by the delivery of the commodity involved to the producer at a warehouse or other similar facility located in the county in which the farm is located or such other location as agreed to by the Secretary and the producer; second, by the transfer of negotiable warehouse receipts; or third, by such other method determined to be appropriate by the Secretary, including sale of the commodity in commercial markets, in order to enable the producer to efficiently and expeditiously receive possession of the commodity or a cash payment, as determined by the Secretary, in lieu thereof. The Secretary is directed to take appropriate steps, as necessary, including the making of cash payments to insure that the value of the commodity received by a producer under the program, during the marketing year in which the commodity is received, is not less than 75 percent of the basic county loan rate for the particular commodity.

This subsection also requires the Secretary, to the extent feasible, to insure that payments are made to producers participating in this program on a schedule and under such terms and conditions as the Secretary determines will minimize any adverse effects of the program on the normal marketings of the commodity involved

and will not cause the market prices for the commodity to fall below levels that the Secretary determines to be fair and equitable.

This subsection further provides that commodities received by producers under the program may not be placed under loan or purchased under the annual commodity programs under the Agricultural Act of 1949. This same restriction also applies in the case of negotiable warehouse receipts or other evidences of ownership of the commodity received by producers under the program.

New section 501(f) provides that the requirements established by the Secretary, with respect to acreage to be devoted by a producer to conservation uses, shall insure protection of such acreage from weeds and wind and water erosion. The Secretary may permit, under terms and conditions prescribed by the Secretary, all or any part of the conservation acreage to be devoted to sweet sorghum, hay and grazing, or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, rye, or other commodity, if the Secretary determines that such production is needed to provide an adequate supply of such commodities, is not likely to increase the costs of the price support program, and will not affect farm income adversely.

New section 501(g) provides that a farm operator desiring to participate in this program for a crop shall execute an agreement with the Secretary providing for participation not later than a specific date as prescribed by the Secretary. The agreement may be terminated or modified by mutual agreement by the Secretary and the producers on the farm, if the Secretary determines that such action is necessary because of an emergency created by drought or other disaster or to prevent or alleviate a shortage in the supply of agricultural commodities.

New section 501(h) provides that the Secretary is authorized to make payments available to producers, who have failed to comply fully with the terms and conditions of the program, in such amounts as the Secretary determines to be equitable in relation to the seriousness of the failure.

New section 501(i) provides that the Secretary is authorized to issue regulations to carry out the provisions of this section.

New section 501(j) provides that the Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

New section 501(k) requires the Secretary to provide adequate safeguards under the program authorized by this section to protect the interests of tenants and sharecroppers, including provision for sharing payments on a fair and equitable basis.

New section 501(l) provides that the provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (relating to assignments of payments) are to apply to payments under this section.

New section 501(m) provides that the authority and program authorized under this section are in addition to, and not in place of, any authority granted to the Secretary or the Commodity Credit Corporation, under any other provisions of law.

TITLE II—EXPANSION OF MARKETS FOR, AND THE DISPOSITION OF, UNITED STATES AGRICULTURAL COMMODITIES

EXPANSION OF UNITED STATES AGRICULTUR.. MARKETS

Section 201 adds a new section 1209A to the Agriculture and Food Act of 1981.

New section 1209A(a) authorizes the Secretary of Agriculture, notwithstanding any other provision of law, to formulate and carry out an export expansion program under which commodities acquired by the Commodity Credit Corporation may be tendered at no cost to United States exporters, United States users, and foreign purchasers to encourage development, maintenance, and expansion of markets for United States agricultural commodities and the products thereof.

New section 1209A(b) provides that in carrying out the program authorized by this section, the Secretary is to—

First, take such action as may be necessary to ensure that the program provides equal treatment to domestic and foreign purchasers and users of United States agricultural commodities in any case where the importation of a manufactured product made, in whole or in part, from a commodity made available for export under this section would place domestic users of the commodity at a competitive disadvantage;

Second, ensure insofar as possible that any use of Commodity Credit Corporation stocks for the purposes of the program authorized in section 1209A(a) be made in such manner as to encourage increased use and avoid displacing usual marketings of the United States; and

Third, take reasonable precautions to prevent the resale or transshipment to other nations, or use for other than domestic use in the nation to which stocks of the Commodity Credit Corporation are shipped, of the stocks of the Corporation made available to export participants in the program.

New section 1209A(c) requires the Secretary of Agriculture to carry out the program authorized by this section through the Commodity Credit Corporation.

New section 1209A(d) authorizes the Secretary of Agriculture to issue such regulations as the Secretary deems necessary to carry out this section.

New section 1209A(e) provides that the authority provided in section 1209A(a) shall be in addition to, and not in place of, any authority granted to the Secretary of Agriculture or the Commodity Credit Corporation under any other provision of law.

EXPANDED AUTHORITY FOR THE USE ABROAD OF COMMODITY CREDIT CORPORATION STOCKS

Section 202 amends section 416 of the Agricultural Act of 1949 to expand the authority of the Commodity Credit Corporation to use agricultural commodities acquired by the Corporation in foreign donation programs. Section 416 currently authorizes the donation of dairy products through foreign governments and public and nonprofit private humanitarian organizations for the assistance of needy persons outside the United States and the payment by the Commodity Credit Corporation of reprocessing, packaging, transporting, handling, and other charges, including the cost of overseas delivery, with respect to commodities so donated. Section 202 of the bill would expand this authority to include other agricultural commodities and products thereof.

Section 202 also amends section 416 to provide that agricultural commodities acquired by the Commodity Credit Corporation may also be used to increase the level of agricultrual exports under titles I and III of the Agricultural Trade Development and Assistance Act of 1954 consistent with the purposes of that Act, and shall be in addition to the level of assistance programed under that Act.

DISPOSITION OF DAIRY PRODUCTS

Section 203 encourages the Secretary of Agriculture to donate abroad, or to sell for export at the best price obtainable, at least 50,000 metric tons of dairy products owned by the Commodity Credit Corporation, during each of the fiscal years 1983 through 1985. Section 205 also requires the Secretary to report to Congress semiannually on the status of such donations and sales.

COMMODITY CREDIT CORPORATION SALES OF EXTRA LONG STAPLE COTTON

Section 204 amends section 407 of the Agricultural Act of 1949 to provide that notwithstanding any other provision of section 407, effective beginning 30 days after enactment of this provision, stocks of extra long staple cotton held by the Commodity Credit Corporation may be sold for unrestricted use at such price levels as the Secretary determines appropriate to maintain and expand export and domestic markets for such cotton. Generally, under the current provisions of section 407 of the Agricultural Act of 1949, the Commodity Credit Corporation may not sell any extra long staple cotton for unrestricted use at less than 15

percent above the current support price for cotton plus reasonable carrying charges. The provision in the bill would allow the Corporation to sell its stocks of extra long staple cotton at prices less than this level.

IMPROVED DISTRIBUTION OF SURPLUS AGRICULTURAL COMMODITIES

Section 205 amends section 1114(a) of the Agriculture and Food Act of 1981. Section 1114(a) provides that whenever Government stocks of commodities are acquired under the price support programs and are not likely to be sold by the Commodity Credit Corporation or otherwise used in programs of commodity sale or distribution, such commodities shall be made available without charge or credit to nutrition projects under the authority of the Older Americans Act of 1965, to child nutrition programs providing food service, and to food banks participating in the special nutrition projects established under section 211 of the Agricultural Act of 1980. Section 203 of the bill provides that whenever a commodity is made available without charge or credit under this authority, the Secretary of Agriculture shall encourage consumption thereof through agreements with private companies under which the commodity is processed into end products for use by eligible recipients, with the expense of the processing to be borne by the recipients.

Mr. President, I believe that this bill is a balanced approach to resolving the problem of large surpluses and depressed prices. I urge my colleagues to join me seeking passage at an early date.

Mr. President, I ask ananimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 36

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Agricultural Act of 1983".

TITLE I—SPECIAL PAYMENT-IN-KIND LAND CONSERVATION PROGRAMS

SEC. 101. Effective for the 1983 and 1984 crops, the Agricultural Act of 1949 is amended by adding at the end thereof a new title V as follows:

"TITLE V—SPECIAL PAYMENT-IN-KIND LAND CONSERVATION PROGRAM

"SEC. 501. Notwithstanding any other provision of this Act—

"(a) To encourage producers to reduce excessive production of agricultural commodities an promote soil and water conservation, the Secretary may formulate and carry out special payment-in-kind land conservation programs for the 1983 and 1984 crops. Under the programs, the Secretary shall make special payments in kind available to producers who divert farm acreage from the production of agricultural commodities and devote such acreage to conservation uses, subject to such terms and conditions as the Secretary determines appropriate. Payments under this section may be made available for the diversion of (1) wheat, feed grain, upland cotton, or rice acreage, without regard to section 110 of this Act and any other provision of law that is applicable to any of the annual programs for the 1983 and 1984 crops of such commodities, and (2) farm acreage devoted to other nonconserving commodities designated by the Secretary (excluding sugarcane, sugar beets, tobacco, and peanuts) for inclusion in a program.

"(b) To be eligible for a payment in kind, a producer who participates in the program for any crop—

"(1) must divert from production and devote to conservation uses, in accordance with requirements established by the Secretary, the acreage of cropland on the farm the producer agrees to place in the program for that crop; and

"(2) must comply with other terms and conditions specified by the Secretary.

"(c) The Secretary shall limit the total acreage diverted from production for a particular crop under a program in any county so as to minimize any adverse affect of the program on the economy of the county or any local community therein. In this connection, the secretary shall ensure that not more than 50 per centum of the acreage of any commodity eligible for diversion under this Act in any county is diverted from production in such county in any year.

"(d)(1) Payment shall be in kind for acreage on a farm diverted from production for a particular crop and devoted to conservaton uses under a program in amount of the commodity involved equal to the number of acres so diverted from production multiplied by a percentage of the program yield for the farm for the commodity involved, as established by the Secretary, that the Secretary determines appropriate to ensure adequate participation in the program for the crop involved.

"(2) Notwithstanding the provisions of paragraph (1) of this subsection, the Secretary may, to encourage adequate participation under a program, determine the amounts of a commodity payable to producers in accordance with agreements under the program through the submission of bids by producers in such manner as the Secretary may prescribe or such other means as the Secretary determines appropriate, except that, for the 1983 crops, prior to entering into any bidding procedure for a commodity, the Secretary shall offer all eligible producers of a particular crop the opportunity to participate in the program on a equal basis.

"(3) In cases in which a producer practices double cropping, and in which participation in a program for one commodity reduces the acreage that may be planted to the second commodity, the Secretary shall make equitable adjustments in the payment made under this section to account for the reduction in the production of the second commodity.

"(4) Where practicable, the Secretary may allow a producer to consolidate base acreages among farms to encourage participation in a program.

"(e) Payments shall be made by delivery by the Commodity Credit Corporation of the commodity involved to the producer at a warehouse or other similar facility located in the county in which the farm is located or such other location as agreed to by the Secretary and the producer, by the transfer of negotiable warehouse receipts, or by such other method determined by the Secretary as appropriate, including sale of the commodity in commercial markets, to enable the producer efficiently and expeditiously to receive possession of the commodity; or, in lieu thereof, a cash payment, as determined by the Secretary. The Secretary shall take such actions as may be necessary, including the making of cash payments, to ensure that the value of the commodity received by a producer under a program, during the marketing year in which the commodity is received, is not less than 75 percent of the basic county loan rate for the particular commodity. The Secretary shall, to the extent feasible, ensure that payments are made to producers participating in a program under this section on such schedule and under such terms and conditions as the Secretary determines will minimize any adverse effects of the program on the normal marketings of the commodity (to which the producer is entitled as payment) and will not cause the market prices for such commodity to fall below levels that the Secretary determines to be fair and equitable. Commodities received by producers under a program may not be placed under loan or purchased under the annual commodity programs under this Act, nor may negotiable warehouse receipts or other evidences of ownership of the commodity received by producers under the program be used in such annual commodity programs.

"(f) The requirements established by the Secretary under clause (1) of subsection (b) of this section, with respect to acreage to be devoted to conservation uses, shall ensure protection of such acreage from weeds and wind and water erosion. The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of such acreage to be devoted to sweet sorghum, hay and grazing, or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, rye, or other commodities, if the Secretary determines that such production is needed to provide an adequate supply of such commodities, is not likely to increase the cost of any price support program, and will not affect farm income adversely.

"(g) An operator of a farm desiring to participate in the program for a crop under this section shall execute an agreement with the Secretary providing for such participation not later than such date as the Secretary may prescribe. The Secretary may, by mutual agreement with the producers on the farm, terminate or modify any such agreement if the Secretary determines such action necessary because of an emergency created by drought or other disaster or to prevent or alleviate a shortage in the supply of agricultural commodities.

"(h) If a producer fails to comply fully with the terms and conditions of a program authorized by this section, the Secretary may, nevertheless, make payments in such amounts as the Secretary determines to be equitable in relation to the seriousness of the failure.

"(i) The Secretary may issue such regulations as the Secretary determines necessary to carry out the provisions of this section.

"(j) The Secretary shall carry out the programs authorized by this section through the Commodity Credit Corporation.

"(k) The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers, including provision for the sharing, on a fair and equitable basis, of payments made under this section.

"(1) The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (relating to assignments of payments) shall be applicable to payments made under this section.

"(m) The authority and programs under this section shall be in addition to, and not in place of, any authority granted to the Secretary or the Commodity Credit Corporation, or any program, established under any other provision of law.".

TILE II—EXPANSION OF MARKETS FOR UNITED STATES AGRICULTURAL COMMODITIES

EXPANSION OF UNITED STATES AGRICULTURAL EXPORT MARKETS

SEC. 201. The Agriculture and Food Act of 1981 is amended by inserting after section 1209 a new section as follows:

"EXPANSION OF UNITED STATES AGRICULTURAL EXPORT MARKETS THROUGH THE USE OF COMMODITIES ACQUIRED BY THE COMMODITY CREDIT CORPORATION

"SEC. 1209A. (a) Notwithstanding any other provision of law, the Secretary of Agriculture may formulate and carry out an export expansion program under which commodities acquired by the Commodity Credit Corporation are tendered at no cost to United States exporters and processors for export, and foreign purchasers, to encourage development, maintenance, and expansion of markets for United States agricultural commodities and the products thereof.

"(b) In carrying out the program authorized under this section, the Secretary of Agriculture shall—

"(1) take such action as may be necessary to ensure that the program provides equal treatment to domestic and foreign purchasers and users of United States agricultural commodities in any case where the importation into the United States of a manufactured product made, in whole or in part, from a commodity made available for export under this section would place domestic users of the commodity at a competitive disadvantage;

"(2) ensure insofar as possible that any use of Commodity Credit Corporation stocks for the purposes of the program authorized under this section be made in such manner as to encourage increased use, and avoid displacing usual marketings, of United States agricultural commodities and products thereof; and

"(3) take reasonable precautions to prevent the resale or transshipment to other nations, or use for other than domestic use in the nation to which stocks of the Commodity Credit Corporation are shipped, of the stocks of the Commodity Credit Corporation made available to export participants in the program.

"(c) The Secretary of Agriculture shall carry out the program authorized by this section through the Commodity Credit Corporation.

"(d) The Secretary of Agriculture may issue such regulations as the Secretary deems necessary to carry out this section.

"(e) The authority provided under this section shall be in addition to, and not in place of, any authority granted to the Secretary of Agriculture or the Commodity Credit Corporation under any other provision of law.".

AUTHORITY FOR THE USE ABROAD OF COMMODITY CREDIT CORPORATION STOCKS

SEC. 202. Section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431) is amended by striking out the last two sentences and inserting in lieu thereof the following: "Such dairy products and other agricultural commodities and products thereof acquired by the Commodity Credit Corporation also may be donated through foreign governments and public and nonprofit private humanitarian organizations for the assistance of needy persons outside the United States, and the Commodity Credit Corporation may pay, with respect to commodities and products thereof so donated, reprocessing, packaging, transporting, handling, and other charges, including the cost of overseas delivery. To ensure that any such donations for use outside the United States complement, and are coordinated with, other United States foreign assistance, such donations shall be coordinated through the mechanism designated by the President to Coordinate assistance under the Agricultural Trade Development and Assistance Act of 1954 and shall be in addition to the level of assistance programmed under that Act. Agricultural Commodities and products thereof acquired by the Commodity Credit Corporation may also be used to increase the level of agricultural exports under titles I and III of the Agricultural Trade Development and Assistance Act of 1954 consistent with the purposes of that Act and shall be in addition to the level of assistance programmed under that Act.".

DISPOSITION OF DAIRY PRODUCTS ABROAD

SEC. 203. Notwithstanding any other provision of law, the Secretary of Agriculture is encouraged to donate abroad, or sell for export at the best price obtainable, at least 50,000 metric tons of dairy products owned by the Commodity Credit Corporation, during each of the fiscal years 1983 through 1985. The Secretary shall report semiannually, through September 30, 1985, to Congress on the status of such donations or sales.

COMMODITY CREDIT CORPORATION SALES OF EXTRA LONG STAPLE COTTON

SEC. 204. Section 407 of the Agricultural Act of 1949 (7 U.S.C. 1427) is amended by adding at the end thereof the following new sentence: "Notwithstanding any other provision of this section, effective beginning thirty days after the enactment of this sentence, stocks of extra long staple cotton held by the Commodity Credit Corporation may be sold for unrestricted use at such price levels as the Secretary determines appropriate to maintain and expand export and domestic markets for such cotton.".

IMPROVED DISTRIBUTION OF SURPLUS AGRICULTURAL COMMODITIES

SEC. 205. Section 1114(a) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e) is amended by inserting immediately after the first sentence thereof the following new sentence: "Whenever a commodity is made available without charge or credit, the Secretary of Agriculture shall encourage consumption thereof through agreements with private companies under which the commodity is processed into end products for use by eligible recipients, with the expense of the processing to be borne by the recipients.".

● Mr. HUDDLESTON. Mr. President, I am pleased to join Senator COCHRAN in introducing the Agricultural Act of 1983. This legislation will provide a comprehensive statutory framework for the payment-in-kind land diversion program and provide authority for programs to develop markets for U.S. agricultural products.

The bill addresses critical needs of U.S. farmers, which must receive immediate attention if the farm economy is to be revitalized.

HISTORY OF THE BILL

Mr. President, the provisions of the bill are similar to those contained in S. 3074 (97th Congress), as reported by the Committee on Agriculture, Nutrition, and Forestry.

Senator COCHRAN and I jointly introduced S. 3074 on December 3, 1982. A hearing was held December 9, 1982, to receive testimony from the Secretary of Agriculture and many farm leaders on the farm situation and on S. 3074.

The testimony of the witnesses at the hearing was clear: Farmers are facing severe problems due to the continued weak demand for agricultural commodities, overproduction related to the failure of current programs to adjust supply, and the prospects for continued low agricultural prices as a result of the supply-demand imbalance.

The Agriculture Committee reported S. 3074 to the Senate on December 13, 1982, with several revisions. Because of a combination of circumstances, the Senate did not vote on that bill.

On January 11, the President announced a payment-in-kind land diversion program for the 1983 crops that generally conforms to title I of S. 3074.

However, the President's program does not contain all the necessary safeguards for farmers that will help to insure that the PIK program will work. Further, the export development provisions in title II of S. 3074 are not included in the administration's announced program. This bill includes the safeguards for farmers under the PIK program and the export provisions of S. 3074, as approved by the Agriculture Committee.

The provisions of this bill will not prevent the Secretary from operating a payment-in-kind program for the 1983 crops along the lines of the announced program. The bill, like S. 3074, is designed to expand the authority of the Secretary to operate payment-in-kind programs. Also, the bill clearly eliminates any confusion concerning the applicability of the $50,000 payment limitation and the Commodity Credit Corporation resale price restriction.

However, recognizing that the administration has already announced the terms of the payment-in-kind program for the 1983 crops, we should take care that we do not complicate the administration of the program. Making changes in the terms of the 1983 program at this time can cause delays in program signup and hinder farmers from making cost-effective planting decisions. Therefore, it may be that some of the provisions of the bill might not be able to be incorporated into the 1983 program contracts. I

stand ready to work with the administration to resolve any such problems with the bill.

SPECIAL PAYMENT-IN-KIND LAND CONSERVATION PROGRAM

The bill includes specific authority for the Secretary of Agriculture to carry out special payment-in-kind land conservation programs for each of the 1983 and 1984 crops. Wheat, feed grain, upland cotton, and rice producers will be eligible to participate in the programs. In addition, the Secretary of Agriculture will be authorized to designate other commodities for inclusion in the programs.

Payment-in-kind programs enable the Secretary to use excess stocks of agricultural products to encourage farmers to limit acreage plantings. Farmers devote farm acreage not needed to meet domestic and foreign demand for agricultural products to conservation uses. Using excess stocks of farm products in this way serves to limit cash outlays for the farm programs and draw down inventories of grain and cotton to more appropriate levels. By reducing carry-over stocks that tend to overhang the market and depress prices, American farmers receive better prices for their products.

Farmers who participate in the programs will receive payments in kind equal to the number of acres diverted from production, multiplied by a percentage of the normal farm yield for the commodity involved. Payment will be made by physical delivery of the crop involved, by transfer of negotiable warehouse receipts, by other methods the Secretary determines to be appropriate to enable producers to efficiently and expeditiously receive possession of the commodity, or in cash.

Further, the bill mandates that the value of the payment-in-kind commodities be not less that 75 percent of the county loan rate for the particular commodity. The Secretary can use a variety of program authorities to maintain that value, including cash payments to make up deficiency below the 75-percent floor.

EXPORT MARKET EXPANSION

The bill also contains provisions designed to expand markets for U.S. agricultural products, and facilitate the use of surplus commodities in those efforts.

The bill directs the Secretary of Agriculture to formulate and carry out a program that uses agricultural commodities acquired by the Commodity Credit Corporation to encourage additional export sales of U.S. agricultural products.

Such commodities could be tendered at no cost to U.S. exporters to encourage sales in areas of the world where exports can be made in addition to the usual export marketings of the United States. Also, under the program, the agricultural commodities could be used to encourage sales in markets where the addition of the Commodity Credit Corporation stocks of agricultural commodities to the quantities already moving in commerce will enable U.S. exporters to be competitive in price with the subsidized exports of other nations. By enabling our exporters to meet unfair competition caused by such subsidies, the program authorized by the bill will help preserve our share of international markets.

The bill requires the Secretary of Agriculture to insure that normal export sales of U.S. Agricultural products are not displaced. Further, the bill provides that U.S. processors of agricultural products can be compensated, using the stocks of commodities owned by the Commodity Credit Corporation, in any case where a U.S. processor is placed at an unfair competitive disadvantage by the use of the bonus CCC commodities by foreign processors who sell their processed products to the United States.

The bill will allow the efficient use of inventories of agricultural commodities that might otherwise prove to be burdensome in future years. The use of these stocks as a "bonus" for buying American agricultural products will expand export sales and improve the income of our farmers.

The bill also contains provisions authorizing the use of excess stocks of agricultural commodities in the Public Law 480 (food for peace) sales programs, The bill provides that commodities acquired by the Commodity Credit Corporation can be used to increase the level of agricultural exports shipped under titles I and III of Public Law 480. Using our abundant supplies for the food for peace program is far preferable to simply storing the commodities in Government warehouses.

The bill also expands the authority of the Secretary to donate surplus agricultural commodities and products owned by the Commodity Credit Corporation to assist needy persons outside the United States. Such commodities and products will be donated through foreign governments and public and nonprofit private humanitarian oraganizations. Under existing law, the Secretary's authority to donate commodities abroad is limited to dairy products. This provision of the bill will eliminate the cost of storing Commodity Credit Corporation stocks and foster good will toward the United States in many foreign nations.

CONCLUSION

This bill is designed to reduce agricultural surpluses and expand markets and uses for U.S. agricultural commodities. Its adoption will, I believe, be a major step forward in our effort to revitalize the U.S. agricultural economy. I urge my colleagues to join me in supporting this bill.●

By Mr. COCHRAN (for himself, Mr. NUNN, and Mr. DURENBERGER):

S. 37. A bill to temporarily reduce the duty on certain disposable surgical drapes and sterile gowns; to the Committee on Finance.

REDUCTION OF DUTY ON DISPOSABLE SURGICAL DRAPES AND STERILE GOWNS

Mr. COCHRAN. Mr. President, I am introducing today for myself and Senators NUNN and DURENBERGER a bill to amend the Tariff Schedules of the United States to provide a temporary reduction in the duties on disposable surgical drapes and sterile gowns made of bonded-fiber fabric.

This legislation is needed to remedy an inequity currently existing in the tariff schedules which applies a duty rate of 5.6 percent ad valorum to such gowns and drapes made of paper while applying a duty rate of 25.8 percent ad valorum and 14 percent ad valorum to identical gowns and drapes made of bonded-fiber fabric.

The rates on these bonded-fiber fabric products are not only 4 to 5 times greater than those on paper products, but are also 6 to 10 times the 1981 International Trade Commission average tariff collected for all free and dutiable imports of 3.4 percent.

The tariff reduction proposed by this bill is temporary and would be in effect until January 1, 1989. It is anticipated that a full 5-year period will provide time for the Kimberly-Clark Corp., the major beneficiary of this legislation, to assess the success and effectiveness of its capital investment in the manufacture of the polypropylene base sheet, used by the company in the production of disposable surgical drapes and sterile gowns.

Kimberly-Clark has spent more than $100 million for the construction of its mill in Corinth, Miss., which manufactures the polypropylene base sheet, employing 250 people. Kimberly-Clark is nearing completion of a $55 million expansion there which will add another 75 jobs. In addition, Kimberly-Clark has announced its plans to invest another $100 million in a second plant in La Grange, Ga., which will employ another 200 people.

Mr. President, an equalization in the tariff rates at 5.6 percent ad valorum on bonded-fiber fabric and paper disposable gowns and drapes would be equitable and just because these products are substantially identical. The bonded-fiber fabric gowns and drapes are 100 percent polyproplylene. The paper gowns and drapes, classified as reinforced paper and thus eligible for the lower 5.6 percent tariff rate, are 55 percent polyester and only 45 percent wood pulp. Since the chief component of both is manmade fiber, no rational basis exists for one fabric to be assessed a tariff four to five times greater than that on a substantially identi-

cal competing product. Further, this legislation is narrowly drawn so that it applies only to disposable surgical drapes and sterile gowns. The tariff equalization would not apply to industrial protective apparel, lab coats, or contamination gowns.

Kimberly-Clark's 100 percent polypropylene base sheet has demonstrated in laboratory testing such desirable characteristics as low lint, effective bacterial barrier properties, good fabric breathability and drapability, and minimal likelihood of supporting flame. This temporary tariff reduction will rectify an inequity in the tariff schedules and will enable smaller health care businesses like Kimberly-Clark's health care division to be more effective competitors.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 37

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subpart B of part 1 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting in numerical sequence the following new item:

"905.50	Bonded fiber fabric disposable gowns, sterilized or in immediate packings ready for sterilization, for use in performing surgical procedures, of man-made fibers (provided for in items 379.96 and 383.92, part 6F, schedule 3) and bonded fiber fabric disposable surgical drapes, of man-made fibers (provided for in item 389.62, part 7B, schedule 3).	5.6% ad. val.	26.5% ad. val.	On or before 1/1/89."

(b) The amendment made by this Act shall apply with respect to articles entered, or withdrawn from warehouse for consumption, after the date of enactment of this Act.

By Mr. NICKLES (for himself, Mr. NUNN, Mr. HATCH, Mr. KENNEDY, Mr. HELMS, Mr. EAST, Mr. SYMMS, Mrs. HAWKINS, Mr. DENTON, Mr. WARNER, and Mr. MATTINGLY):

S. 38. A bill entitled "The Longshoremen's and Harbor Workers' Compensation Act"; to the Committee on Labor and Human Resources.

LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT

Mr. NICKLES. Mr. President, today I am introducing S. 38, a bill to amend the Longshoremen's and Harbor Workers' Compensation Act. This bill is the same bill that passed the Senate unanimously in the 97th Congress. Last Congress, the Subcommittee on Labor of the Committee on Labor and Human Resources, of which I am the chairman, held 4 days of hearings on longshore. Witnesses representing a broad spectrum of interests presented their views at that time. This bill was negotiated over many months in the 97th Congress and strikes a balance among the needs of labor, management, and government. Further changes were negotiated in the House of Representatives but no final action was taken. I look forward to receiving a House-passed bill to determine if the competing interests remain balanced.

S. 38 addresses the concerns raised at the hearings last Congress. First, the amendments make the Longshoremen's Act insurable. Testimony received at the hearings indicated that many business concerns covered by the Longshore Act are unable to obtain insurance and must therefore self-insure. This program is unique in that it is a federally mandated workers' compensation program which is administered by the Department of Labor but paid for by the private sector. One of the main problems in obtaining insurance is that the current jurisdictional boundaries are unclear.

S. 38 addresses this problem by listing exceptions from coverage. Uncertainty as to the parameters resulted in increased coverage costs as insurers were uncertain as to which employees were covered by the State Workers' Compensation Program and which were under longshore. S. 38 helps eliminate this uncertainty.

Another problem in insuring the current act is a provision allowing unrelated death benefits. This type of coverage is a matter for life insurance, not workers' compensation, and is therefore eliminated in S. 38. Death benefits which are payable to survivors under the act currently do not contain a maximum limitation as do benefits for injured workers. As a result, survivors can receive more than the deceased could have received had he lived. This inequity is eliminated.

The current definition of "wage earning capacity" which includes potential future wage loss presents another insurance problem. Estimating these future wages has resulted in inequities for all parties. Therefore, this has been eliminated. Procedures to modify an award have been changed as well so that when future conditions become clear, then the claimant can have his wage loss adjusted to meet these conditions.

In addition, employers and insurance carriers must pay an annual assessment into a special fund which then pays for second injuries to a claimant. This concept of eliminating a deterrent to hiring an injured worker has broad support. The special fund assures that the employer is not liable for more than the injury which occurred while the employee was employed by the employer. Hearings indicated, however, that this special fund is not adequately protected and is being raided by questionable claims. Annual expenses from this fund have escalated from $23,000 in 1972 to $18 million in 1980. As a result, S. 38 establishes a conservation committee to protect this fund. Members of this committee are to be paid from these assessments to the fund and not by tax dollars. In this manner, those making the assessments into the fund are able to protect their payments.

Finally, one of the biggest obstacles of obtaining insurance has been the fact that benefits escalate each year according to changes in the national average weekly wage. This lack of certainty provides the largest obstacle in predicting future payouts. The fact that benefits should increase to counter inflation is not debated. To provide certainty, however, this annual escalation of benefits is capped at 5 percent.

Another troublesome aspect of current law is that settlement of survivor's benefit cases is not permitted. Also, current settlements may be approved by a deputy commissioner only if he finds that the settlement is in the best interest of the injured employee. This is true even if the injured employee agrees to the settlement. The bill authorizes settlements of survivors' claims as well as injured employees' claims for compensation and future medical benefits, if the parties so agree. Under S. 38, no settlement may be disapproved unless the deputy commissioner finds it to be inadequate or procured by duress. These amendments reduce unnecessary and costly litigation and speed up the delivery of compensation benefits. Under S. 38 when the parties agree to settle a claim, approval shall be granted by the deputy commissioner within 30 days.

Rehabilitation of an injured worker is one of the prime purposes of workers' compensation. Consistent with that purpose of returning an injured worker to the labor market, rehabilitation has been made mandatory. Under S. 38, refusal of vocational rehabilitation without adequate reason, unless it is unnecessary or unavailable, will result in suspension of compensation payments.

A number of changes have been made in section 7 which regulates medical care. Throughout, however, the right of the claimant to choose an attending physician has been retained as under current law.

In an effort to limit the opportunity for potential misuse of the process, the new sections require the secretary to refuse authorization for physicians for purposes of treatment where the particular medical provider has been indicted or convicted of criminal fraud or has violated federal regulations in connection with medical care programs such as medicaid or its equivalents. Exclusion from such a program

will also result in removal as well from the Secretary's authorized list. Exclusion may also result, after notice and hearing, if the physician makes a false statement in connection with any service provided under the act or submits a bill substantially in excess of the charges prevailing in the community or provides a service substantially in excess of the claimant's need. Those providers who are no longer authorized shall have their names published by the Secretary for distribution to the various districts.

Under the new amendment, the injured worker can make an initial choice of physician, but may not thereafter change physicians without the approval of the employer of carrier. Such approval is to be given, however, when the initial choice was of a general practitioner and a specialist's services are thereafter required.

Other potential areas of abuse were uncovered by the permanent subcommottee on investigations. These problems also are addressed in S. 38. For example, testimony at the hearings as well as evidence gathered from those charged with administering the act indicated that attempts have been made by some individuals to procure benefits through fraudulent means. Similarly, there is a significant body of evidence to indicate that employers and insurance carriers, on occasion, have denied benefits or substantially delayed their delivery through equally illegal methods. This section attempts to reduce the incentive to acquire or deny benefits through illegal means. Stringent penalties, including fines of up to $25,000 and jail terms not to exceed 3 years, have been introduced to replace the light level of punishment available under earlier law. The existence of these penalties should curb potential abuses of the system by all parties, resulting in the prompt disposition of all deserving claims.

Also, the Secretary of Labor is authorized to license persons representing claimants and may deny this right to a person who has been convicted of a crime in a State or Federal court, who gives substantially inaccurate information on an application for such a license, who solicits false testimony with respect to a claim, and for other similar reasons. This provision addresses the problems of certain persons soliciting employees covered by the act to file questionable claims.

Further, a disabled employee has the obligation to report to his employer not less that simiannually any earnings from employment. If he fails to report, when requested, or knowingly and willfully omits or understates any part of such earning, then that employee forfeits his right to compensation with respect to any period during which the employee was required to file a report. This provision is in response to the problem of a disabled employee receiving workers' compensation benefits while he has actually returned to gainful employment.

Current law prohibits discrimination against any person who files a claim under the Longshoremen's Act. On its face, this appears reasonable. It has resulted, however, in coercing an employer to retain an employee who has filed fraudulent claims to recover benefits. S. 38 removes this and allows both the discharge and the refusal to employ any person who has been adjudicated to have filed a fraudulent claim for compensation under the act.

Finally, amendments are made both to the notice provisions and the presumption section to address potential areas of abuse which were discussed at the hearings.

The amendments to the Longshoremen's and Harbor Workers' Compensation Act embodied in S. 38 are extensive. Every effort has been made to balance the competing interests in this important piece of legislation. I have today discussed the highlights of this often complex and technical bill. I appreciate the support received last Congress and look forward to having essential amendments to the Longshoremen's Act enacted into law this session.

Joining with me as principal cosponsors are Senator NUNN, Senator HATCH, Senator KENNEDY, Senator HELMS, Senator EAST, Senator SYMMS, Senator HAWKINS, Senator DENTON, Senator WARNER, and Senator MATTINGLY.

Mr. President, this bill is the same bill that passed last year. It is a bill that is certainly needed this year. I wish to compliment Senator NUNN, Senator HATCH, and Senator KENNEDY for their fine work in helping us work this bill out last year and, hopefully, we will be able to pass it quickly in both Houses this session.

Mr. NICKLES. Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 38

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Longshoremen's and Harbor Workers' Compensation Act Amendments of 1983".

(b) Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Longshoremen's and Harbor Workers' Compensation Act.

DEFINITIONS

SEC. 2. (a) Section 2(3) is amended to read as follows:

"(3) The term 'employee' means any person directly engaged in maritime employment, including any longshoreman or other person engaged in longshoring operations, and any harbor-worker including a ship repairman, shipbuilder, and ship-breaker, but such term does not include—

"(A) any ship repairman, shipbuilder, or ship-breaker engaged by employers described in section 2(4)(B)(iii);

"(B) employees exclusively performing office clerical, secretarial, security, or data processing work;

"(C) club, camp, restaurant, museum, retail outlet, and marina personnel;

"(D) personnel of suppliers, transporters, or vendors temporarily doing business on the premises of employers described in section 2(4)(A);

"(E) aquaculture workers;

"(F) any person engaged in operating an independently or cooperatively owned grain elevator and who is not engaged in the loading or unloading of a vessel;

"(G) any person employed to build or repair any recreational vessel under sixty-five feet in length;

"(H) a master or member of a crew of any vessel; or

"(I) any person engaged by a master to load or unload or repair any small vessel under eighteen tons net;

if employees described in clauses (A) through (G) are subject to coverage under a State workers' compensation law.".

(b) Section 2(4) is amended to read as follows:

"(4)(A) The term 'employer' means an employer any of whose employees are directly employed in maritime employment, in whole or in part, upon the navigable waters of the United States (including any adjoining pier, wharf, dry dock, terminal, building way, marine railway, or other adjoining area customarily used by an employer in loading, unloading, repairing, building, or breaking a vessel).

"(B) The term employer does not include—

"(i) clubs, camps, restaurants, museums, retail outlets, or marinas;

"(ii) aquaculture farms;

"(iii) employers or operations of employers who otherwise would be described by subparagraph (A) of this paragraph—

"(I) solely and exclusively because they are in the business of building, repairing, or dismantling—

"(aa) commercial barges under nine hundred lightship displacement tons but no other vessel which is one thousand six hundred tons gross or more;

"(bb) commercial tugboats, towboats, crew boats, supply boats, or fishing vessels under one thousand six hundred tons gross but no other vessel which is one thousand six hundred tons gross or more; or

"(cc) any recreational vessel under sixty-five feet in length but no other vessel which is sixty-five feet in length or more;

while upon any pier, wharf, building way, marine railway, graving dock, shop, or any other facility or area over land customarily used in ship repairing, shipbuilding, or shipbreaking; and

"(II) if the operations of employers described in subdivision (I) do not receive Federal maritime subsidies.".

(c) Section 2(13) is amended to read as follows:

"(13) The term 'wages' means the money rate at which the service rendered by an employee is compensated by an employer under the contract of hiring in force at the time of the injury, including the reasonable value of any advantage which is received from the employer and included for pur-

poses of any withholding of tax under subtitle C of the Internal Revenue Code of 1954 (relating to employment taxes). The term wages does not include fringe benefits, including but not limited to employer payments for or contributions to a retirement, pension, health and welfare, life insurance, training, social security or other employee or dependent benefit fund or trust for the employee's or dependent's benefit, or any other employee's dependent entitlement.".

COVERAGE

SEC. 3. Section 3(a) is amended to read as follows:

"(a) Compensation shall be payable under this Act in respect of disability or death of an employee, but only if the disability or death results from an injury occurring upon the navigable waters of the United States (including any pier, wharf, dry dock, terminal, building way, marine railway, or other adjoining area customarily used by the employer in loading, unloading, repairing, or building a vessel). No compensation shall be payable in respect of the disability or death of—

"(1) any employee described in section 2(3)(A) through (I) of this Act; or

"(2) an officer or employee of the United States or any agency thereof or any State or foreign government, or of any political subdivision thereof.".

(b) Section 3 is amended by adding the following new subsection:

"(c) Notwithstanding any other provision of law, any amounts paid by any employer for the same injury, disability, or death for which benefits are claimed under this Act pursuant to any other workers' compensation law or section 20 of the Act of March 4, 1915 (38 Stat. 1185, chapter 153; 46 U.S.C. 688) (relating to recovery for injury to or death of seamen) shall be credited against any liability imposed by this Act.".

EXCLUSIVENESS OF REMEDY AND THIRD PARTY LIABILITY

SEC. 4. (a) Section 5(a) is amended by inserting after the word "liability" the second time it appears the following: "including any liability imposed by or arising out of any other workers' compensation law or section 20 of the Act of March 4, 1915 (38 Stat. 1185, chapter 153; 46 U.S.C. 688)".

(b)(1) The third sentence of section 5(b) is amended to read as follows: "If such person was employed to provide ship building, repairing, or breaking services and such person's employer was the owner, owner pro hac vice, agent, operator, or charterer of the vessel, no such action shall be permitted, in whole or in part or directly or indirectly, against the injured person's employer (in any capacity, including as the vessel's owner, owner pro hac vice, agent, operator, or charterer) or against the employees of the employer.".

(2) Section 2(21) is amended by striking out "The" and inserting in lieu thereof "Unless the context requires otherwise, the".

(c) Section 5 is amended by adding at the end thereof the following new subsection:

"(c) In the event that the negligence of a third party causes injury to a person entitled to receive benefits under this chapter by virtue of section 4 of the Outer Continental Shelf Lands Act (43 U.S.C. 1333), then such person, or anyone otherwise entitled to recover damages by reason thereof, may bring an action against such third party in accordance with the provisions of section 33 of this Act. Nothing contained in this chapter, or in any otherwise applicable State law, shall preclude the enforcement according to its terms of any written agreement under which the employer has agreed to indemnify such third party in whole or in part with respect to such action.".

COMPENSATION

SEC. 5. (a) Section 6(b)(1) is amended to read as follows:

"(b)(1) Compensation for disability or death shall not exceed an amount equal to 200 per centum of the applicable national average weekly wage, as determined by the Secretary under subsection (b)(3).".

(b) Section 6 is amended—

(1) by striking out subsection (c) and redesignating subsection (d) (and any references thereto) as subsection (c); and

(2) by striking out "under this subsection" in subsection (c) (as redesignated) and inserting in lieu thereof "under subsection (b)(3)".

MEDICAL SERVICES AND SUPPLIES

SEC. 6. (a) The penultimate sentence of section 7(b) is amended by inserting before the period the following: "or where the charges exceed those prevailing within the community for the same or similar services".

(b) Section 7(c) is amended to read as follows:

"(c)(1)(A) The Secretary shall annually prepare a list of physicians in each compensation district who are not authorized to render medical care under this Act. The names of physicians contained on the list required under this subparagraph shall be made available to employees and employers in each compensation district through posting or in such form as the Secretary may prescribe.

"(B) The Secretary may refuse to authorize any physician who, in accordance with the provisions of subsection (j)(1) of this section, and shall refuse to authorize any physician who, in accordance with the provisions of subsection (j)(2) of this section, has been found ineligible to receive payments under this Act. A physician not authorized under this Act shall not be entitled to reimbursement for any service, appliance, or supply or to recover any amount with respect to any such service, appliance, or supply from any employee.

"(2) Whenever the employer or carrier acquires knowledge of the employee's injury, through written notice or otherwise as prescribed by the Act, the employer or carrier shall forthwith authorize medical treatment and care from a physician selected by an employee pursuant to subsection (b). An employee may not select a physician who is on the list required by paragraph (1) of this subsection. An employee may not change physicians after his initial choice unless the employer, carrier, or deputy commissioner has given prior consent for such change. Such consent shall be given in cases where an employee's initial choice was not of a specialist whose services are necessary for and appropriate to the proper care and treatment of the compensable injury or disease. In all other cases, consent may be given upon a showing of good cause for change.".

(c) Section 7(d) is amended to read as follows:

"(d) An employee shall not be entitled to recover any amount expended by him for medical or other treatment or services unless he shall have complied with subsections (b) and (c) and the applicable regulations or unless the employer shall have refused or neglected to furnish such services, or unless the nature of the injury required such treatment and services and the employer or his superintendent or foreman having knowledge of such injury shall have neglected to provide or authorize same; nor shall any claim for medical or surgical treatment be valid and enforceable against such employer, unless within twenty-one days following the first treatment the physician giving such treatment furnishes to the employer and the deputy commissioner a report of such injury or treatment, on a form prescribed by the Secretary. The Secretary may excuse the failure to furnish such report within the twenty-one-day period whenever he finds it to be in the interest of justice to do so. The Secretary may, upon application by a party in interest, make an award for the reasonable value of such medical or surgical treatment so obtained by the employee. If at any time the employee unreasonably refuses to submit to medical or surgical treatment, or to an examination by a physician selected by the employer, the Secretary or administrative law judge may, by order, suspend the payment of further compensation during such time as such refusal continues, and no compensation shall be paid at any time during the period of such suspension, unless the circumstances justified the refusal.".

(d) Section 7 is amended by adding at the end thereof the following new subsection:

"(j)(1) Notwithstanding any other provisions of this Act, no liability shall arise under this Act for a service, appliance, or supply furnished by an individual or entity where the Secretary determines under this subsection that a provider—

"(A) has knowingly and willfully made, or caused to be made, a false statement or representation of a material fact in connection with any services provided under this Act;

"(B) has submitted, or caused to be submitted, a bill or request for payment under this Act containing a charge which the Secretary finds to be substantially in excess of the charge for the service, appliance, or supply prevailing within the community unless the Secretary finds there is good cause for the bill or request containing the charge; or

"(C) has furnished a service, appliance, or supply which is determined by the Secretary to be substantially in excess of the need of the recipient thereof or to be of a quality which fails to meet professionally recognized standards.

"(2) Liability shall not arise for a service, appliance, or supply furnished by a provider—

"(A) indicted or convicted under a criminal statute (without regard to pending appeal thereof) for fraudulent activities or (as determined by regulation of the Secretary) related activities, in connection with a program under which payments are made to providers for similar services, appliances, or supplies; or

"(B) otherwise excluded from participation in a program under which payments are made to providers for similar services, appliances, or supplies.

"(3) A provider of a service, appliance, or supply shall provide to the Secretary such information and certification as the Secretary may require to assure that this subsection is enforced.

"(4)(A) A determination made by the Secretary under paragraphs (1) and (2) shall be effective—

"(i) in connection with any request for payment by a provider, upon notice consistent with paragraph (5); or

"(ii) in connection with a request for payment by anyone claiming benefits under this Act, only with respect to payment of expenses incurred after receipt of notice of the determination by such person.

"(B) A determination shall remain in effect until the Secretary finds and gives notice to the public that the basis for the determination has been removed, and that there is reasonable assurance that the basis for the determination will not reoccur.

"(5) The Secretary may make rules and regulations and establish procedures which are necessary or appropriate to carry out this subsection, including notice and opportunity for a hearing to the provider of a service, appliance, or supply, subject to a determination made by the Secretary under paragraphs (1) and (2) of this subsection.".

(e) Section 7 (as amended by subsection (d)) is further amended by adding at the end thereof the following new subsection:

"(k)(1) Nothing in this Act prevents an employee whose injury or disability has been established under this Act, from relying in good faith, on treatment by prayer or spiritual means alone, in accordance with the tenets and practice of a recognized church or religious denomination, by an accredited practitioner of such recognized church or religious denomination, and on nursing services rendered in accordance with such tenets and practice, without suffering loss or diminution of the compensation benefits under this Act. Nothing in this subsection shall be construed to except the employee from all physical examinations required by this Act.

"(2) If an employee refuses to submit to medical or surgical services solely because, in adherence to the tenets and practice of a recognized church or religious denomination, the employee relies upon prayer or spiritual means alone for healing, such employee shall not be considered to have unreasonably refused medical or surgical treatment under subsection (d) or to have unreasonably refused to undergo vocational rehabilitation under section 8(g)(3).".

COMPENSATION FOR DISABILITY

SEC. 7. (a) Section 8(a) is amended to read as follows:

"(a) Permanent total disability: In the case of total disability determined to be permanent, 66⅔ per centum of the average weekly wages of the employee shall be paid to the employee during the continuance of the disability, except that compensation paid to the injured employee shall be subject to section 6(b)(1) and shall be reduced by 50 per centum of the amount of old-age insurance benefits to which the employee is entitled under title II of the Social Security Act. Loss of both hands, both arms, both feet, both legs, both eyes, or any combination of two such body parts, shall constitute permanent total disability in the absence of conclusive proof to the contrary. In all other cases, permanent total disability shall be determined in accordance with the facts.".

(b) Section 8(c)(13) is amended to read as follows:

"(13) Loss of hearing:

"(A) Compensation for loss of hearing in one ear, fifty-two weeks.

"(B) Compensation for loss of hearing in both ears, two-hundred weeks.

"(C) An employer shall be liable to the employee only for the loss of hearing attributable to employment by the employer.

"(D) An audiogram shall be conclusive evidence of the amount of hearing loss sustained as of the date thereof, unless contrary audiograms made at that time are produced.

"(E) Within ninety days of the date of enactment of this Act, the Secretary shall promulgate regulations to define the term 'loss of hearing' in accordance with the American Medical Association Guides for the Evaluation of Permanent Impairment.".

(c) Section 8(c)(20) is amended by striking out "$3,500" and inserting in lieu thereof "$7,500".

(d) Section 8(c)(21) is amended to read as follows:

"(21) Other cases: In all other cases in this class of disability, the compensation shall be 66⅔ per centum of the difference between the average weekly wages of the employee and the employee's wage-earning capacity thereafter in the same employment or otherwise payable during the continuance of the partial disability.".

(e) Section 8(d) is amended by striking out paragraph (3) and redesignating paragraph (4) (and any references thereto) as paragraph (3).

(f) Section 8(f) is amended—

(1) by striking out "one hundred and four weeks" wherever it appears and inserting in lieu thereof "two hundred and eight weeks"; and

(2) by adding at the end thereof the following new paragraph:

"(3) Any request for second injury fund apportionment in accordance with section 8(f) must be presented to the deputy commissioner and the Conservator prior to consideration by an administrative law judge.".

(g) Subsections (g) through (i) of section 8 are amended to read as follows:

"(g) Compensation for employees undergoing vocational rehabilitation:

"(1) An employee who as a result of an injury is undergoing vocational rehabilitation for remunerative employment under the supervision of the deputy commissioner, pursuant to section 39(c), or with the approval of the employer, shall receive continued temporary total or partial compensation during the period of rehabilitation.

"(2) An award for permanent disability may not be entered before the deputy commissioner determines, or the employer and employee agree, that vocational rehabilitation is unnecessary or until after vocational rehabilitation has been completed.

"(3) If an employee unreasonably refuses to undergo vocational rehabilitation or to participate in a reasonable plan offered and financed by the employer to return the injured employee to work, the employee shall not be eligible to receive compensation payments that would otherwise be payable for the period of the refusal.

"(h) The wage-earning capacity of an injured employee in cases of disability shall be determined by his actual earnings if such actual earnings fairly and reasonably represent his wage-earning capacity: *Provided, however,* That if the employee has no actual earnings or his actual earnings do not fairly and reasonably represent his wage-earning capacity, the deputy commissioner may, in the interest of justice, fix such wage-earning capacity as shall be reasonable, having due regard to the nature of his injury, the degree of physical impairment, his usual employment, and any other factors or circumstances in the case which may affect his capacity to earn wages in his disabled condition.

"(i)(1) Whenever the parties to any claim for compensation, including survivors benefits, under this Act agree to a settlement, the deputy commissioner or administrative law judge shall approve the settlement within thirty days unless it is found to be inadequate or procured by duress. No liability of any employer, carrier, or both for disability or death benefits shall be discharged unless the application for settlement is approved by the deputy commissioner or administrative law judge. If the parties to the settlement are represented by counsel, then agreements shall be deemed approved unless specifically disapproved within thirty days after submission for approval.

"(2) If the deputy commissioner disapproves an application for settlement under paragraph (1), the deputy commissioner shall issue a written statement within 30 days containing the reasons for disapproval. Any party to the settlement may request a hearing before an administrative law judge in the manner prescribed by this Act. Following such hearing, an order shall be issued approving, rejecting, or modifying the deputy commissioner's decision. If the parties to the settlement are represented by counsel, then agreements shall be deemed approved unless specifically disapproved within thirty days after submission for approval.

"(3) A settlement approved under this section shall discharge the liability of the employer, carrier, or both. Such settlement may include future medical benefits if the parties so agree and the deputy commissioner approves. Settlements may be agreed upon at any stage of the proceeding including after entry of a final compensation order.".

(h) Section 8 is amended by adding at the end thereof the following new subsection:

"(j)(1) The employer may inform a disabled employee of his obligation to report to the employer not less than semiannually any earnings from employment or self-employment, on such forms as the Secretary shall specify in regulations.

"(2) An employee who—

"(A) fails to report the employee's earnings under paragraph (1) when requested, or

"(B) knowingly and willfully omits or understates any part of such earnings,

and who is determined by the deputy commissioner to have violated clause (A) or (B) of this paragraph, forfeits his right to compensation with respect to any period during which the employee was required to file such report.

"(3) Compensation forfeited under this subsection, if already paid, shall be recovered by a deduction from the compensation payable to the employee in any amount and on such schedule as determined by the deputy commissioner.".

COMPENSATION FOR DEATH

SEC. 8. (a) The matter preceding the colon in section 9 is amended to read as follows:

"SEC. 9. If the injury causes death, the compensation therefore shall be known as a death benefit and shall be payable in the amount and to or for the benefit of the persons following".

(b) Section 9(a) is amended by striking out "$1,000" and inserting in lieu thereof "$3,000".

(c) Section 9(e) is amended to read as follows:

"(e) In computing death benefits, the average weekly wages of the deceased shall not be less than the national average weekly wage as prescribed in section 6(b), except that the total weekly benefits shall not exceed the lesser of the average weekly wages of the deceased or the benefit which

the deceased employee would have been eligible to receive under section 6(b)(1).".

DETERMINATION OF PAY

SEC. 9. Section 10(f) is amended to read as follows:

"(f) Effective October 1 of each year following the date of enactment of this Act, the compensation or death benefits payable for permanent total disability or death arising out of injuries subject to this Act shall be increased—

"(1) by a percentage equal to the percentage (if any) by which the applicable national weekly wage for the period beginning on such October 1, as determined under section 6(b), exceeds the applicable national average weekly wage, as so determined, for the period beginning with the preceding October 1; or

"(2) by 5 per centum, whichever percentage is less.".

NOTICE OF INJURY OR DEATH

SEC. 10. (a) Section 12(a) is amended to read as follows:

"(a) Notice of an injury or death in respect of which compensation is payable under this Act shall be given within thirty days after the date of such injury or death, or thirty days after the employee or beneficiary is aware or by reason of medical advice should have been aware of a relationship between the injury or death and the employment. Such notice shall be given (1) to the deputy commissioner in the compensation district in which the injury or death occurred, and (2) to the employer. Each employer shall designate those agents or other responsible officials, including first line supervisors, to receive such notice, in accordance with regulations prescribed by the Secretary and shall notify his employees of such designation in a manner prescribed by the Secretary in regulations.".

(b) Section 12(d) is amended by deleting "(or his agent in charge of the business in the place where the injury occurred)" and inserting in lieu thereof the following: "(or his agent or agents or other responsible official or officials designated by the employer as designated under subsection (a))".

PAYMENT OF COMPENSATION

SEC. 11. (a) Section 14(b) is amended by striking out "employer" and inserting in lieu thereof "employer's agent or agents as designated under section 12(a)".

(b) Section 14 is amended by striking out subsection (j) and by redesignating subsections (k) and (l) (and any references thereto) as subsections (j) and (k), respectively.

PRESUMPTIONS

SEC. 12. Section 20 is amended as follows:

(1) by inserting before the period in subsection (b) a comma and the following: "except when the agent or agents or other responsible official or officials designated by the employer in section 12 (a) and (d) have not received actual or constructive notice", and

(2) by adding at the end of the section the following new sentence: "The mere existence of a physical impairment is insufficient to establish a claim under this Act.".

REVIEW OF COMPENSATION ORDER

SEC. 13. Section 21 is amended by adding the following new paragraph at the end of subsection (b):

"(5) Notwithstanding paragraphs (1) through (4), upon application of the Chairman of the Board, the Secretary may designate up to four Department of Labor administrative law judges to temporarily serve on the Board. Any party aggrieved by the decisions of a panel or division of the Benefits Review Board may, within thirty days after the decision, petition the entire Board (permanent plus temporary members) for a rehearing en banc. Upon affirmative vote of the majority of the Board sitting en banc, the petition shall be granted. If a petition for a rehearing en banc is granted, and the vote of the Board sitting en banc results in a tie, the decision of the panel or division of the Board shall be affirmed. The Benefits Review Board shall amend its Rules of Practice to conform with this paragraph. Temporary members shall be compensated at the same rate of compensation as they were receiving prior to such temporary designation. Except when sitting en banc, and for the purpose of carrying out its adjudicative functions under this Act, two members of the Board shall constitute a quorum of a panel or division and official adjudicative action can be taken only on the affirmative vote of at least two members of a division or panel.".

MODIFICATIONS OF AWARDS

SEC. 14. Section 22 is amended by striking all after "the deputy commissioner may" through "rejection of a claim".

FEES FOR SERVICES

SEC. 15. (a) Section 28(a) is amended to read as follows:

"(a) A claim for legal services or for any other services provided to or on account of a person with respect to a claim for or award of compensation under this Act is not valid unless approved by the deputy commissioner, an administrative law judge, the Board, or a court which is reviewing an order of an administrative law judge.".

(b) Section 28(e) is amended to read as follows:

"(e) A person who receives a fee, gratuity, or other consideration on account of services rendered as a representative of a claimant, unless the consideration is approved by the deputy commissioner, administrative law judge, Board, or court, or who makes it a business to solicit employment for a lawyer, or for himself, with respect to a claim or award for compensation under this Act, shall, upon conviction thereof, for each offense be punished by a fine of not more than $1,000 or be imprisoned for not more than one year, or both.".

REPORTS

SEC. 16. (a) Section 30(a) is amended—

(1) by inserting after the word "injury" a comma and the following: "which would cause loss of one or more shifts of work", and

(2) by adding at the end thereof the following new sentence: "Notwithstanding the requirements of this section, each employer shall keep a record of each and every injury regardless of whether such injury results in the loss of one or more shifts of work.".

(b) Section 30(e) is amended to read as follows:

"(e) Any employer, insurance carrier, or self-insured employer who willfully fails or refuses to send any report required by this section shall be subject to a civil penalty not to exceed $25,000 for each such failure or refusal.".

PENALTY FOR MISREPRESENTATION—PROSECUTION OF CLAIMS

SEC. 17. Section 31 is amended to read as follows:

PENALTY FOR MISREPRESENTATION—PROSECUTION OF CLAIMS

"SEC. 31. (a)(1) A person who willfully makes a false statement or representation for the purpose of obtaining a benefit or payment under this Act shall be guilty of a felony, and on conviction thereof shall be punished by a fine not to exceed $25,000, by imprisonment not to exceed three years, or both.

"(2) The United States attorney for the district in which the injury is alleged to have occurred shall make every reasonable effort to promptly investigate each complaint made under this subsection.

"(b)(1) A person may not prosecute or defend a claim other than his own under this Act other than a claimant, an attorney, a representative licensed by the Secretary, or an employee designated by an employer or carrier.

"(2) A person may not prosecute or defend a claim other than his own under this Act if the person—

"(A) is convicted of or pleads guilty to a crime in a State or Federal court;

"(B) gives false or substantially inaccurate information in an application for a license to prosecute or defend a claim under this Act;

"(C) conceals or attempts to conceal material facts with respect to a claim under this Act;

"(D) solicits or procures false testimony with respect to a claim under this Act; or

"(E) misappropriates funds or documents entrusted to the person with respect to a claim under this Act.

"(3) The Secretary shall issue such rules and regulations as are necessary to carry out this subsection.

"(c) A person including, but not limited to, an employer, his duly authorized agent, or an employee of an insurance carrier who willfully makes a false statement or representation for the purpose of denying or terminating benefits to an injured employee, or his dependents pursuant to section 9 if the injury results in death, shall be punished by a fine not to exceed $25,000, by imprisonment not to exceed three years, or by both.".

SECURITY FOR COMPENSATION

SEC. 18. Section 32(a)(2) is amended by inserting "based on the employer's financial condition, the employer's previous record of payments, and other relevant factors," after "in an amount determined by the Secretary,".

COMPENSATION FOR INJURIES WHERE THIRD PERSONS ARE LIABLE

SEC. 19. (a) Section 33(b) is amended to read as follows:

"(b) Acceptance of such compensation under an award in a compensation order filed by the deputy commissioner, an administrative law judge, or Board shall operate as an assignment to the employer of all rights of the person entitled to compensation to recover damages against such third person unless such person shall commence an action against such third person within six months after such award. For the purpose of this subsection, the term 'award' with respect to a compensation order means a formal order issued by the deputy commissioner, an administrative law judge, or Board; if the employer fails to commence an action against such third person within a reasonable time after the cause of action is assigned under this section, the right to bring such action shall revert to the person entitled to compensation.".

(b) Section 33(f) is amended to read as follows:

"(f)(1) If a person entitled to compensation under the Act institutes proceedings

within the period described in subsection (b), the employer shall be required to pay, as compensation under this Act, a sum equal to the excess of the amount which the deputy commissioner, an administrative law judge, or Board determines is payable on account of the injury or death above the amount recovered in the proceedings against a third person.

"(2) Any amount recovered by the person entitled to compensation on account of the proceedings by judgment or settlement, whether or not the settlement is approved by the employer in accordance with subsection (g), shall be distributed as follows:

"(A) The person entitled to compensation shall pay to the employer an amount equal to the sum of—

"(i) the cost of all benefits furnished to the person by the employer under section 7; and

"(ii) all other amounts payable as compensation or benefits under this Act.

"(B) The person entitled to compensation or the person's representative shall retain the amount remaining after the payment required by subparagraph (A).".

(c) Section 33(g) is amended to read as follows:

"(g)(1) If the person entitled to compensation (or the person's representative) enters into a settlement with a third person referred to in subsection (a) for an amount less than the compensation to which the person (or the person's representative) would be entitled under this Act, the employer shall be liable for compensation as determined under subsection (f) only if written approval of the settlement is obtained from the employer and the employer's carrier, before the settlement is executed, and by the person entitled to compensation (or the person's representative). The approval shall be made on a form provided by the Secretary and shall be filed in the office of the deputy commissioner within thirty days after the settlement is entered into.

"(2) If no written approval of the settlement is obtained and filed as required by paragraph (1), or if the employee fails to notify the employer of any settlement obtained from or judgment rendered against a third person, all rights to compensation and medical benefits under this Act shall be terminated, regardless of whether the employer or the employer's insurer has made payments or acknowledged entitlement to benefits under this Act.

"(3) Payments by the special fund established under section 44 shall be a lien upon the proceeds of any settlement obtained from or judgment rendered against a third person referred to under subsection (a). Notwithstanding any other provision of law, such lien shall be enforceable against the employee, regardless of whether the Conservator on behalf of the special fund has agreed to or has received actual notice of the settlement or judgment.".

ANNUAL REPORT

SEC. 20. The Act is amended by inserting the following new section after section 42:

"ANNUAL REPORT

"SEC. 43. The Secretary shall make to Congress at the beginning of each regular session a report of the administration of this Act for the preceding fiscal year, including a detailed statement of receipts of and expenditures from the funds established in sections 44 and 45, together with such recommendations as the Secretary deems advisable.".

SPECIAL FUND CONSERVATION COMMITTEE—FUND CONSERVATOR

SEC. 21. Section 45 is amended to read as follows:

"SPECIAL FUND CONSERVATION COMMITTEE—FUND CONSERVATOR

"SEC. 45. (a)(1) There is established the Special Fund Conservation Committee (hereinafter in this section referred to as the 'Conservation Committee'). The Conservation Committee shall be responsible for protecting the financial integrity of the special fund established under section 44 (hereinafter in this section referred to as the 'special fund') by insuring that all distributions from the special fund are made in accordance with this Act.

"(2)(A) The Conservation Committee shall be composed of five members appointed by the Secretary, who shall be representatives of carriers authorized under section 32, including self-insurers and representatives of employers.

"(B) The terms of office of the members of the Conservation Committee shall be three years, except that of the members first appointed, one member shall be appointed for a term of one year, two members shall be appointed for a term of two years, and two members shall be appointed for a term of three years, as determined by the Secretary at the time of appointment.

"(C) A vacancy on the Committee shall be filled in the manner in which the original appointment was made. A member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of the term. A member may serve after the expiration of the member's term until the member's successor has taken office.

"(D) Members of the Conservation Committee shall serve without pay and may not be reimbursed for any travel or transportation expenses.

"(E) The Chairman shall be elected by the members of the Conservation Committee.

"(F) The Conservation Committee shall meet at the call of the Chairman or a majority of its members.

"(G) Upon request of the Conservation Committee, the Secretary shall provide such administrative services as the Committee shall require.

"(3)(A) The Conservation Committee may secure, directly from the Secretary of Labor, the Secretary of the Treasury, the Board, and a deputy commissioner, information necessary to enable it to carry out this section, including copies of all official records and reports. Upon request of the Chairman of the Conservation Committee, the appropriate Secretary, the Chairman of the Board, or the deputy commissioner shall furnish the information to the Committee.

"(B) The Conservation Committee may provide (by contract) for the auditing of the account of the special fund. The Conservation Committee may secure directly from the Comptroller General of the United States information derived from an audit conducted pursuant to section 44(g). Upon request of the Chairman of the Conservation Committee, the Comptroller General shall furnish the information to the Conservation Committee.

"(4) The Conservation Committee may establish such policies and procedures as may be necessary to carry out this section.

"(5) The Conservation Committee shall transmit to the Secretary of Labor, the Secretary of the Treasury, and to each House of Congress a report, not later than one year after the date of enactment of this Act, and each year thereafter. The report shall contain a detailed statement of the findings and conclusions of the Conservation Committee with regard to the financial integrity of the special fund, together with its recommendations for such legislative and administrative actions as it considers appropriate.

"(b)(1)(A) To carry out its responsibilities under this section, the Conservation Committee shall appoint a Fund Conservator (hereinafter in this section referred to as the 'Conservator').

"(B) The Conservation Committee may authorize the Conservator to take any action which the Conservation Committee is authorized to take under this section.

"(2)(A) The Secretary shall cause notice to be given to the Conservator whenever a payment from the special fund is ordered by the Secretary or whenever an administrative or judicial proceeding in which a party to the proceeding seeks to establish a liability of the special fund is scheduled to convene. A proceeding on an application for apportionment under section 8(f) of this Act may not be convened less than thirty days after notice of the proceeding has been given to the Conservator, unless the Conservator waives the limitation in writing to the Secretary.

"(B) Except as provided in subparagraph (C), the Conservator shall be a party in an administrative or judicial proceeding in which a party to the proceeding seeks to establish a liability of the special fund. The Conservator shall have the same rights in the proceeding as any other party, including the right to participate in a settlement of a claim brought against the fund.

"(C) The Conservator may withdraw as a party from a proceeding described in subparagraph (B), after giving written notice to the Secretary and the officer or judge presiding over the proceeding, if the Conservator determines that there is a substantial likelihood that the liability of the fund will be established in the proceeding.

"(D) The Conservator may participate as a party in a case where the liability of the special fund is already established and a proceeding is convened to establish the amount of the liability, including a proceeding to review a compensation award under section 22.

"(E) The functions and responsibilities of the Conservator established under subparagraphs (B) through (D) shall extend to all proceedings described in such subparagraphs which are pending on the date of enactment of this Act.

"(3)(A) When medical questions or questions relating to the vocational rehabilitation of a claimant are raised in a case in which the Conservator is a party pursuant to paragraph (2), the Conservator may order an examination or evaluation of the claimant in the proceeding by a physician whose services have been procured by the Conservator under paragraph (5)(B)(ii).

"(B) If a claimant refuses to comply with an order under subparagraph (A), the proceeding relating to the claimant's case shall be suspended and, in appropriate cases, the Secretary may suspend benefits, unless the physician or other individual who would be responsible for administering the examination or evaluation determines that the administration of the examination or evaluation would constitute a risk to the health of the claimant.

"(4)(A) Subject to such rules as the Conservation Committee may prescribe and to subparagraph (B), the Conservator may ap-

point and fix the pay of such professional and clerical personnel as the Conservator considers appropriate.

"(B) The staff of the Conservator may be appointed without regard to the provisions of title 5, United States Code (governing appointments in the competitive service), and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title (relating to classification and General Schedule pay rates).

"(5)(A) Subject to such rules as the Conservation Committee may prescribe, the Conservator may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

"(B) Subject to such rules as the Conservation Committee may prescribe, the Conservator may procure the services of—

"(i) counsel, subject to subparagraph (C), to represent the interests of the special fund in an administrative or judicial proceeding described in paragraph (2); and

"(ii) medical, vocational, and other experts and witnesses to defend a claim against the special fund.

"(C) The Conservator shall establish standards for the selection of a counsel under subparagraph (A) which will ensure the selection of individuals who are specially qualified to serve by virtue of their education, training, or experience, including experience in the field of worker's compensation law.

"(c) All administrative expenses incurred by the Conservation Committee and the Conservator under this section shall be paid from the special fund.".

APPROPRIATION

SEC. 22. Section 46 is repealed.

AVAILABILITY OF APPROPRIATIONS

SEC. 23. Section 47 is repealed.

DISCRIMINATION AGAINST EMPLOYEES WHO BRING PROCEEDINGS

SEC. 24. (a) Section 49 is amended by inserting after the first sentence the following new sentence: "The discharge or refusal to employ a person who has been adjudicated to have filed a fraudulent claim for compensation is not a violation of this section.".

(b) The second sentence of section 49 is amended—

(1) by striking out "$100" and inserting in lieu thereof "$1,000"; and

(2) by striking out "$1,000" and inserting in lieu thereof "$5,000".

EFFECTIVE DATE

SEC. 25. The provisions of this Act and the amendments made by this Act shall be effective for an injury, disability, or death which occurs or commences on or after the date of enactment of this Act, except that (1) there shall be no liability for deaths from causes other than the injury, as provided in sections 8(d)(3) and 9 of the Longshoremen's and Harbor Workers' Compensation Act, as amended by Public Law 92-576, for any such deaths occurring on or after the date of enactment of this Act, and (2) the amendments made by section 14 of this Act relating to the modification of awards shall not apply to payments of compensation under the Black Lung Benefits Act (30 U.S.C. 901 et seq.).

● Mr. NUNN. Mr. President, I again rise as cosponsor and in full support of the legislation which Senator NICKLES today introduces, S. 38, the Longshoremen's and Harbor Workers' Compensation Act Amendments of 1938. I joined Senator NICKLES in introducing S. 1182, the original version of this bill, before the Senate on May 14, 1981, in an attempt to fairly and effectively remedy serious and proven shortcomings in our present system of workmen's compensation for waterfront workers. That legislation, with the approval of the Senate Labor Committee, passed the Senate unanimously on July 27, 1982 in final form identical to the bill Senator NICKLES today introduces. S. 1182 was then referred to the House Subcommittee on Labor Standards of the Committee on Education and Labor but, unfortunately was never reported out of that subcommittee during the recently concluded 97th Congress. I commend Senator NICKLES, as chairman of the Senate Labor Subcommittee, as well as his staff, for the many long hours they have spent in working to secure the bill's passage in the previous Congress as well as their efforts in again promptly raising this issue early in this session.

S. 38, the product of their efforts, is a comprehensive revision of the current provisions of the Federal Longshoremen's and Harbor Workers' Act. The act has come under increasingly strong criticism in recent years for the extremely high-insurance costs which the act has generated as opposed to costs under other workmen's compensation systems. In the light of those criticisms, the reforms suggested in S. 38 are undoubtedly long overdue.

My own particular interests in this bill stem from my work as ranking minority member and former chairman of the Permanent Subcommittee on Investigations. In that capacity, I had the occasion to become especially familiar with the problems of the American waterfront and, moreover, factual evidence which I believe in part demonstrates the need for the provisions of S. 38.

Under my direction, the subcommittee staff conducted an extensive investigation of corruption in American waterfront industries. Our witness interviewing and evidence gathering concentrated in ports on the eastern seaboard, particularly New York and Miami, and culminated in 5 days of public hearings before the subcommittee in February 1981. Those hearings included testimony which detailed the ease with which the act could be fraudulently manipulated at the expense of the honest longshoreman, his employer, as well as the American consumer. We heard of the skyrocketing costs of insurance and workmen's compensation claims under the act on the New York/New Jersey waterfront. Those costs were the direct result of a fraudulent claims racket which flourished under the statutory loopholes in the current act. During the course of the hearings, we learned that the astronomical costs of claims filed under the act has indeed driven some stevedoring companies out of business, had rendered others literally uninsurable, and posed a continuing threat to the economic survival of many more.

As a result of such testimony, Senator RUDMAN and I, at the close of the hearings, strongly recommended that the Longshoremen's and Harbor Workers' Act be amended to prevent future abuse and restore cost levels under the act to reasonable and fair levels.

In addition we called for significant changes in the Federal Criminal Code to combat the pervasive pattern of corruption on the waterfront that the hearings revealed. These reforms were embodied in S. 1785, the Labor-Management Racketeering Act of 1982, which unanimously passed the Senate on July 28, 1982, as well as on December 19, 1982, as an amendment to H.R. 1029, but failed to be considered by the House in the last Congress. As with the longshore amendments, Senator NICKLES worked with me in supporting that legislation intended to prevent the infiltration of our Nation's unions and employee benefit plans by corrupt officials. I look forward to his continued support in this Congress in again working for the passage of the Labor-Management Racketeering Act.

S. 38, the bill which we introduce today, is one way in which Congress can effectively act to eliminate the type of abuse we saw in our waterfront hearings. Although the bill includes comprehensive revisions of the entire Longshoremen's and Harbor Worker's Compensation Act, there are several sections directly responsive to problems confronted in our hearings. The need for each of those sections was specifically and amply established by the testimony and evidence produced at our hearings.

One such feature of the bill is revision in the procedures for physician selection, designation of ineligible physicians by the Secretary, examinations and reexaminations of questioned claimants and other medical evaluations designed to insure payment for valid claims only. By requiring monitoring of periodic medical reports and providing for debarment of participating physicians by the Secretary, the bill will serve to insure the integrity of the treating physician.

In another area, our hearings identified the automatic presumption of validity for any claim filed now in the act as one of the main factors contributing to the success of the fraudulent claims racket. Time and again we heard that the presumption, sometimes triggered by the mere existence of a physical injury, presented a nearly insurmountable hurdle for an employer who attempts to dispute the validity of an apparently fraudulent claim. The bill will apply the presumption on a far more selective basis, by

specifically providing that the mere existence of a physical impairment alone is insufficient to establish a claim and the accompanying presumption.

The bill also raises the criminal penalty for misrepresentation in the submission of a claim from a misdemeanor to a felony punishable by up to 3 years imprisonment, a fine of $25,000, or both. Again this change was specifically and repeatedly recommended and justified during the course of our hearings.

Lastly, the bill amends the current antidiscrimination section of the act to prevent the levy of a penalty against any employer who dismisses an employee for the filing of a claim shown to have been fraudulent. As the act now stands, such as employer is subject to a penalty of up to $1,000 and reimbursement of lost wages of the employee. No distinction is currently made between the dismissal of an employee who had filed a valid claim and one who had filed an obviously fraudulent claim. The unfairness to the employer of the present provision is obvious.

In addition to sections dealing directly with the problem of fraud, S. 38 offers a number of other legislative revisions of the act which our hearings did not specifically deal with. Both the Senate Labor Subcommittee, as well as the full Senate Committee on Labor and Human Resources, gave careful review and consideration to those proposals during the last Congress. Based on that careful review, a bill identical to that now before us received appropriate and well-reasoned committee approval.

The facts are clear that significant and disturbing problems exist as a result of certain current provisions of the Longshoremen's and Harbor Workers' Act. I believe that S. 38 is a fair and well-reasoned response to those problems. The Senate should act quickly to again approve this legislation as a clear signal to the House of the need for its early consideration of the bill.

Mr. President, in closing I wish to personally thank Senator NICKLES for taking a lead in this area and for his fine and persistent efforts on this most important issue.●

By Mr. METZENBAUM (for himself and Mr. THURMOND):

S. 40. A bill to require the divorcement of motor fuel service stations from operation by certain producers and refiners of motor fuels, and for other purposes; to the Committee on the Judiciary.

SMALL BUSINESS MOTOR FUEL MARKETER PRESERVATION ACT

Mr. METZENBAUM. Mr President, today I am pleased to reintroduce along with Senator THURMOND the Small Business Motor Fuel Marketer Preservation Act. This bill is identical to one which was favorably reported last Congress by the Judiciary Committee on a vote of 9 to 6. The bill would give this Nation's independent gasoline dealers and opportunity to compete on an equitable basis in the retail marketing of gasoline. Frankly, Mr. President, prompt passage of this measure may be the difference between the survival or the demise of these beleaguered small businesses.

Independent service station dealers are in trouble. Their numbers are shrinking at an alarming pace. And there seems no end in sight.

It is no accident that these independent businesses are struggling for their existence. They are up against major oil companies that already control 93 percent of domestic crude oil, 90 percent of crude oil pipelines, 80 percent of the Nation's refining capacity, 75 percent of the Nation's finished product pipeline capacity. Now the majors want to move in a big way into marketing as well.

Day by day, the oil companies are using their vast financial power to eliminate competition from independent gasoline dealers. Retailing used to be the area in which we saw the greatest amount of competition, because of the role played by the independent dealers. But increasingly, as the numbers starkly demonstrate, the big oil companies have been driving out the independents. And the tactics that have sometimes been used cannot be described as fair and reasonable.

While some dealers may have failed because of poor management and changing market conditions, many appear to have been the victims of unfair pricing and marketing practices by the major integrated oil companies that continue unabated today. Hearings during the last two Congresses revealed a vast array of tactics used by the major integrated refiners against these small and independent businesses. Such tactics, according to extensive testimony from present and former dealers, have included excessive rent increases, abrupt changes in credit terms, delays in credit card processing, subsidization by refiners of their own directly operated stations, refusals to provide routine maintenance service to dealers, reduced gasoline allocation to the independents when supplies are short, and unreasonable quotas when the market is flooded.

It is clear that the major integrated refiners have reaped the benefits of such economic eviction techniques. At the same time that independent dealerships have been declining by the tens of thousands, integrated refiners have more than doubled their sales of gasoline through stations that they themselves owned and operated.

This structural change did not occur because big refiners are somehow more adept than independent business persons at running service stations. I doubt that corporate franchises are as efficient as the individual businessmen and women whose life's savings are tied up in their businesses. I seriously doubt that independent dealers are closing their businesses because of any failure to do their jobs. What we have seen instead is the devastating market impact that can take place when powerful companies change the rules of the free enterprise system.

Such tactics by the major integrated refiners cannot be permitted to continue unchecked. We must attempt to restore the ability of the small, independent gasoline dealers to compete in the marketplace.

The legislation we are proposing today will restore the competitiveness of small businesses engaged in gasoline marketing in part by eliminating the incentives that lead to such inequitable practices by the major refiners. The approach is essentially twofold.

First, under the divorcement provisions, the major integrated refiners would be barred from direct operation of retail outlets. With the institution of the divorcement provisions, oil companies would no longer have any incentives to drive their independent dealers out of business. Since the companies would not be able to operate the retail outlets themselves, they would have to depend on the independent dealers for the marketing of their gasoline.

Second, the legislation would permit dealers to purchase gasoline from any source in the event that the contract supplier cannot meet demand, an option refiners attempt to deny lessee dealers today. A more detailed description of the legislation's provisions is included below.

The legislative approach is a moderate one. It does not strip the major oil companies of their right to own retail outlets. It simply precludes them from operating such outlets. It permits dealers to purchase gasoline from any source only if adequate supplies are not available on competitive terms from their contract supplier.

With minimal disruption and at no cost to the taxpayer, changes will be made to the structure of the retail gasoline marketplace that will serve the interests of both the small independent gasoline marketer and the American consumer. Small and independent business people like these are the backbone of our free enterprise system. They are proud men and women, who create jobs and provide services for their communities—hard-working people who frequently have their life's savings tied up in their service station businesses. We simply cannot stand by and see them deprived of their livelihoods through no fault of their own. I urge my colleagues to join me in this important effort to

bring some urgently needed relief to these hard-pressed businesses.

SUMMARY OF PROVISIONS

1. DIVORCEMENT

Effective 1 year after date of enactment, major integrated refiners would be prohibited from directly operating any retail motor fuel service station. There would be no restriction on continued ownership of gas stations; they could be leased to dealers or otherwise operated by independent marketers while the refiners continue to hold the properties.

Refiners which have total refining capacity of less than 175,000 barrels per day or which produce less than 30 percent of their own crude oil would be exempt from the divorcement provision. This definition of small and independent refiners parallels the standards established in the Emergency Petroleum Allocation Act.

OPEN SUPPLY

Effective 1 year after date of enactment, it would be unlawful for anyone to interfere with the right of a dealer to purchase, store, or sell motor fuel products obtained from anyone else. Agreements providing that a dealer shall buy products only from a particular supplier would be permitted only if they specify the dealer's right to purchase the product elsewhere if it is not available from the regular supplier upon terms and conditions reasonably comparable to those available to the dealer from other sources. Dealers operating stations bearing a refiner's trade name or trademark must provide point-of-sale notice to customers if product being sold was not obtained from the brandname supplier.

3. INFORMATION REQUIRED

Within 3 months after date of enactment, refiners would be required to provide the following information to the Federal Trade Commission: First, total amount of crude oil produced; and second total amount of crude oil refined. The FTC would be required to establish regulations for annual reports. To the extent that the information sought is available from other agencies of the Government, the Commission would waive reporting requirements.

4. ENFORCEMENT

Responsibility for enforcement would be given to the FTC. In addition, individuals would be able to bring civil actions against anyone who fails to comply with the act.

I ask unanimous consent that the full text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 40

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Small Business Motor Fuel Marketer Preservation Act."

DIVORCEMENT OF MOTOR FUEL SERVICE STATIONS; LIMITATION ON RETAIL SALES OF MOTOR FUEL BY REFINERS

SEC. 2. (a) Notwithstanding any other provision of law, it shall be unlawful for any refiner, other than an independent refiner or small refiner, to operate any motor fuel service station in the United States.

(b)(1)(A) Notwithstanding any other provision of law, it shall be unlawful for any person to restrain, interfere with, or in any way prevent the purchasing from another, the storing, or the selling of motor fuel by any dealer.

(B) Subparagraph (A) shall not apply with respect to any provision of any contract or agreement to the extent that the provision requires the purchasing of any motor fuel by any dealer exclusively from any refiner or distributor, but only if such provision provides that such dealer may purchase such motor fuel from any other person if such motor fuel is not readily available from such refiner or distributor upon terms and conditions reasonably comparable to those available to the dealer from such other person.

(2) Notwithstanding any other provision of law, it shall be unlawful for any dealer, at a motor fuel service station displaying a trademark, trade name, service mark, or other identifying symbol or name owned by a refiner, to sell motor fuel which is not provided by such refiner without providing reasonable notice at the point of sale to each purchaser of such motor fuel that such motor fuel is not refined by such refiner.

(c)(1) Not later than ninety days after the date of the enactment of this Act, and annually thereafter, each refiner shall provide in writing to the Federal Trade Commission—

(A) the number of barrels of crude oil produced during the preceding calendar year by the refiner, and

(B) the number of barrels of crude oil refined during the preceding calendar year by the refiner.

(2) Not later than ninety days after the date of the enactment of this Act each refiner shall provide in writing to the Federal Trade Commission the information described in paragraph (1) with respect to calendar year 1978.

(3) The Federal Trade Commission shall not require from any person information referred to in the preceding provisions of this subsection to the extent that the Commission is able to obtain such information from agencies or departments of the United States.

(d) For purposes of this section:

(1)(A) The term "producer" means any person who is engaged in the production of crude oil or who owns crude oil when it is produced.

(B) Such term includes any related person with respect to such person.

(2)(A) The term "refiner" means—

(i) any person engaged in the refining of motor fuel, and

(ii) any producer for whom refining of crude oil produced by such producer, or owned by such producer when such crude oil is produced, is performed under contract.

(B) Such term includes, when used in connection with any person described in clause (i) or (ii) of subparagraph (A), and related person with respect to such person.

(3) The term "independent refiner" means a refiner who obtained, directly or indirectly, in calendar year 1978, more than 70 per centum of the refiner's refinery input of domestic and imported crude oil from producers who are not related persons referred to in paragraph (2)(B).

(4) The term "small refiner" means a refiner whose total refinery capacity does not exceed one hundred and seventy-five thousand barrels per day.

(5) The term "supplier" means any person who sells motor fuel to motor fuel service stations or other independent wholesale purchasers.

(6) The term "independent wholesale purchaser" means any purchaser of motor fuel who sells the motor fuel at retail or distributes the motor fuel for sale at retail, but does not include any purchaser related to the person selling the motor fuel to the purchaser.

(7) The term "related person" means, with respect to any other person—

(A) a person who holds a significant ownership interest in such other person;

(B) a person in whom such other person holds a significant ownership interest; and

(C) a person in whom a third person holds a significant ownership interest while holding a significant ownership interest in such other person.

(8) The term "significant ownership interest" means—

(A) with respect to any corporation, the single largest share in value of the outstanding stock of such corporation,

(B) with respect to a partnership, the single largest share in the profits or capital of such partnership, and

(C) with respect to an estate or trust, the single largest share of the beneficial interests in such estate or trust.

For purposes of determining significant ownership interest, an interest owned by or for a corporation, partnership, trust, or estate, or held by a voting trust, shall be considered as owned directly both by itself and proportionately by its shareholders, partners, or beneficiaries, as the case may be.

(9) The term "motor fuel" means gasoline, diesel fuel, alcohol, and any mixture of any of the foregoing, suitable for use as a fuel in self-propelled vehicles designed primarily for use on public streets, roads, and highways.

(10) The term "motor fuel service station" means any facility at which motor fuel is sold at retail.

(11) The term "sell at retail" means to sell to the general public for ultimate consumption.

(12)(A) Except as provided in subparagraph (B), the term "dealer", means a person who occupies as a retailer a motor fuel service station.

(B)(i) When used in subsection (b)(2), the term "dealer" means, with respect to a refiner, a person described in subparagraph (A) who occupies the motor fuel service station under lease or rental agreement with the refiner.

(ii) Notwithstanding clause (i), a person described in such subparagraph shall not be considered a dealer if the lease or rental agreement is with a refiner in connection with whom such person is a related person referred to in paragraph (2)(B).

(13) The term "operate" means, when used in connection with a motor fuel service station, to engage at such station in the business of selling motor fuel at retail through any—

(A) employee,

(B) commissioned agent,

(C) person operating such station pursuant to a contract with a refiner, or

(D) person acting on behalf of the refiner or under the refiner's supervision,

whose duties include the sale of such motor fuel.

(14) The term "person" includes one or more individuals, partnerships, associations, corporations, legal representatives, joint-stock companies, trustees and receivers in bankruptcy and reorganization, common law trusts, and any organized group, whether or not incorporated.

(15) The term "United States" means, when used in a geographic sense, the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Northern Mariana Islands, Guam, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(e) It shall be the duty of the Federal Trade Commission to commence a civil action for appropriate relief, including a permanent or temporary injunction, whenever any person violates any provision of subsection (a) or (b). Any action under this paragraph may be brought in the district court of the United States for the district in which the defendant is located, or resides, or is doing business, and such court shall have jurisdiction to restrain such violation and to require compliance.

(f)(1) If any person fails to comply with the requirements of this section, any other person directly affected by such failure may maintain a civil action against such person failing to comply with such requirements for damages and appropriate equitable relief, including temporary and permanent injunctive relief. If the plaintiff prevails in any action under this section, the plaintiff shall be entitled to reasonable attorney and expert witness fees to be paid by the defendant, except that in any case in which the court determines that only nominal damages are to be awarded to the plaintiff, the court may, in its discretion, determine not to direct that such fees be paid by the defendant.

(2) Such action may be brought, without regard to the amount in controversy, in the district court of the United States in any judicial district in which the principal place of business of such person is located or in which such person is doing business.

(g) Subsections (a) and (b) of this section shall take effect one year after the date of the enactment of this Act.

REGULATIONS

SEC. 3. (a) The Federal Trade Commission shall prescribe by regulation the annual date by which the information described in seection 2(c)(1) of this Act is required to be provided under such section before the end of the sixty-day period beginning on the date of the enactment of this Act.

(b) The Federal Trade Commission shall prescribe any other initial regulations required by the provisions of section 2 before the end of the one-hundred-and-eighty-day period beginning on the date of the enactment of this Act.

By Mr. BAKER (for Mr. DURENBERGER) (for himself, Mr. SASSER, Mr. BAKER, Mr. DOMENICI, Mr. ROTH, Mr. BRADLEY, Mr. PRYOR, Mr. PERCY, Mr. STAFFORD, Mr. TSONGAS, Mr. DIXON, Mr. FORD, Mr. ANDREWS, Mr. D'AMATO, Mr. MATTINGLY, Mr. SPECTER, Mr. HUDDLESTON, Mr. GRASSLEY, Mr. SARBANES, Mr. MCCLURE, Mr. BOSCHWITZ, Mr. GORTON, Mr. GARN, Mr. PELL, Mr. WILSON, Mr. WEICKER, Mr. STEVENS, Mr. NUNN, Mr. COCHRAN, Mr. RIEGLE, Mr. BAUCUS, Mr. SYMMS, Mr. LONG, Mr. RUDMAN, Mr. ABDNOR, Mr. MITCHELL, Mr. DANFORTH, Mr. COHEN, Mrs. KASSEBAUM, Mr. HOLLINGS, Mr. WALLOP, Mr. JEPSEN, Mr. BURDICK, Mr. MATHIAS, Mr. MOYNIHAN, Mr. KENNEDY, Mr. DODD, Mr. LUGAR, Mr. INOUYE, Mr. HART, Mr. HEFLIN, Mr. TOWER, Mr. QUAYLE, Mr. THURMOND, Mr. DENTON, Mr. JACKSON, Mr. JOHNSTON, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mrs. HAWKINS, Mr. ZORINSKY, Mr. BENTSEN, Mr. TRIBLE, Mr. CHAFEE, Mr. GLENN, and Mr. RANDOLPH):

S. 41. A bill to extend the revenue-sharing program for local governments through fiscal year 1986; to the Committee on Finance.

GENERAL REVENUE SHARING PROGRAM

● Mr. DURENBERGER. Mr. President, today I am joined by 65 other Senators in introducing a simple reauthorization of the general revenue sharing program. It is a 3-year extension at the current funding level of $4.6 billion and employs the existing allocation formulas.

Small as this program is, comprising only about 5.5 percent of total Federal grant dollars in fiscal year 1981, general revenue sharing has provided over the past decade the very lifeblood of many local governments. Of the 500-odd cities recently surveyed by the National League of Cities, two-thirds said that revenue sharing equaled more that 5 percent of their locally raised revenue; one-quarter of the cities set the figure at 10 percent. Over 40 percent of all small cities receive no other form of Federal aid.

To understand the irreplaceable benefits of general revenue sharing, look at its relationship to the rest of the Federal grant-in-aid system, past and present. In 1981, for example, we pumped over $90 billion in Federal assistance through the network of arteries that connects Washington to 50 State capitals, thousands of city halls, and other seats of local government. This network exists in the form of grants—over 350 categorical grants to State and local governments. And in spite of the massive volume of Federal aid, many of the noble social purposes for which the money was targeted were considered undernourished, and many State and local governments were suffering increasing fiscal stress.

The problem was—and continues to be—a pervasive hardening of those intergovernmental arteries: An overgrown lattice of obstructive Federal mandates, regulations, and inflexible requirements preventing Federal assistance from achieving its objective. The affliction has been worsening since the early 1960's. Congress continued to pump more and more money through the system; with Federal money comes Federal policy, and in hopes of increasing the system's effectiveness we increased the control from Washington. It did not work. It did succeed in making the system even more sclerotic. In a sense, Mr. President, the treatment was as bad as the illness.

President Reagan entered office in 1981 committed to rectifying this situation. Early on, he recommended block grants to free up the cumbersome and restrictive funding programs. He offered a New Federalism intiative that would cut many of the Federal strings that connect Washington to State and local governments. As this 98th Congress convenes we must face the grant issue squarely, and indeed we have a major task before us. But in even the most radical surgery one must take care not to excise healthy and essential tissue. An important intergovernmental program has remained healthy and must not be sacrificed. That program is general revenue sharing.

Revenue sharing got its start as part of an earlier President's New Federalism initiative. When Congress adopted the general revenue sharing program under the State and Local Fiscal Assistance Act of 1972, it represented the cornerstone of President Nixon's New Federalism. Modest at the beginning, the program had the potential to reorient the intergovernmental system over the long run. But as Watergate erupted and was followed by the energy crisis of the mid-1970's, efforts to reinvigorate our Federal system fell out of vogue. The problems, however, did not go away.

Between 1977 and 1981, the system of Federal assistance to State and local governments took a 180-degree turn from the basic reforms begun in 1972. More and more categorical grants were created; thousands of new pages were added to the Federal Register to implement new directives. Billions more Federal dollars were pumped through the intergovernmental arteries, and yet fiscal stress on State and local governments continued to increase.

Through it all, general revenue sharing stood the test of time. While other block grants became less efficient through recategorization, revenue sharing maintained its efficient simplicity. And although its funding level has not increased in more than 6 inflationary years, many local governments find revenue sharing funds more essential today than ever before. That is a tribute to the program's effective-

ness and to our State and local officials who have shown that they can use these Federal resources wisely. It would be tragically ironic to eliminate the program at this time.

Now, Mr. President, some will use the fact that so many local governments find revenue sharing indispensable as evidence that this type of program breeds dependence on Federal funds rather than providing benign assistance. I must agree that I find such local reliance on Washington a very troublesome phenomenon—one that appears to be on the increase. However, those who use it as an argument against general revenue sharing misconstrue the problem suffered by local governments that leads to the dependence in the first place: The archaic fiscal relationship between those local units and their State governments. That relationship makes it impossible for many local governments to raise sufficient own-source revenues, and often the State-local intergovernmental transfers designed to compensate for restricted local tax bases and limited political authority are inadequate to meet local needs. States generally have refused to deal with this fundamental problem; Congress reaction has been the 20-year development of the direct Federal-local aid pipeline, of which revenue sharing is but a part.

Until States answer the need to reform the State-local fiscal relationship, local officials will continue coming to Washington for the help they can find nowhere else. Until local governments are given the political and fiscal tools to provide for their own needs, Congress will rightly remain in the business of making direct intergovernmental transfers to local governments. Like it or not, it is a responsibility Congress cannot shirk. But by the same token, the States should no longer be permitted to shirk their responsibility for fiscal reform that would make this Federal presence unnecessary.

If the inadequacy of local fiscal systems is the reason Washington is sending money directly to local governments—and I believe it is the only justification for doing so—that does not imply that Congress must attach a plethora of strings to control in minute detail the way that money is spent. Rather, it makes sense for Congress simply to provide the needed fiscal assistance and then step aside, letting local officials use the funding where it is most needed.

This is what recommends the general revenue sharing program so highly. The program provides fiscal aid to local governments with a minimum of redtape and distorting Federal intervention. Originally, revenue-sharing funds had to be used for capital expenditures and for eight specific operating and maintenance categories. However, in the 1976 reauthorization of the program these requirements were removed, allowing the funds to be used for any purpose that is a legal use of the recipient government's own funds under its State and local laws.

In addition, general revenue sharing is an "entitlement," which means that governments need not apply in order to receive the funds. Eligible governments need only return a simple form, which they have automatically received, certifying that the funds will be spent in accordance with the law.

At the same time it provides flexibility, the program insures that national interests are protected. Congress included in the original revenue-sharing law a comprehensive provision protecting civil rights. Recipient governments are prohibited from discriminating on the basis of race, color, national origin, religion, sex, handicap, or age in any program supported by revenue-sharing funds. Further, if the funds are used to finance more than 25 percent of a construction project, or a construction project costing over $2,000, the recipient government must insure compliance with the Davis-Bacon Act, which establishes standards for labor practices and prevailing wage rates.

I am introducing a simple reauthorization of general revenue sharing recognizing fully that the existing program is flawed and in need of improvement. Two major problems stand out: First, the revenue sharing concept originally was intended as a way to share Federal income tax revenues, and share them with State and local governments alike; the present system does neither. Rather than being funded from an earmarked trust fund consisting of a fixed portion of the Federal income tax, the existing program relies on advanced authorizations for a short period and is funded by an appropriation from general revenues. Moreover in 1980, State governments were eliminated from the revenue-sharing program. They should be put back in.

Second, the allocation formula is badly in need of an overhaul. As presently constructed its use of per capita income and tax effort overallocates Federal assistance to States with substantial natural resource wealth and the ability to export large portions of their tax burden. In addition, the maximum and minimum constraints in the formula obstruct Congress original intention to more precisely target the money to distressed local governments.

I know that many of the supporters of general revenue sharing privately acknowledge the program's flaws but are reluctant to discuss them publicly for fear of undermining congressional support for the concept. This excessive caution threatens to backfire. Revenue sharing is strong enough in its basic design to face up to legitimate criticism. In the long run, it is the failure to address these very real problems that will erode support for the program, not an honest—albeit difficult—accounting for them now.

I expect many of the cosponsors of the bill I am introducing to offer their own bills, either making changes in the areas of concern to them or even revamping the program entirely. I welcome this opportunity to review the program indepth. It is important, though, to find a vehicle early in this new Congress to demonstrate strong Senate support for the concept of revenue sharing before we become entangled in the effort to make adjustments. It is important to send both the House of Representatives and the President a clear signal that the current program, flawed as it may be, will be the minimally acceptable alternative to the Senate. The bill that I introduce today with its cosponsors does this emphatically. Whatever else we may do with the system of Federal grants, it should be clear that the Senate will reserve room in the budget for revenue sharing.

I am happy to see that so many of my colleagues share my sentiment concerning this vital Federal program. The list of cosponsors reveals neither a partisan nor an ideological pattern. In addition, the Senator from Pennsylvania (Mr. HEINZ), has indicated that he will hold hearings in the Finance Committee's Subcommittee on Revenue Sharing in the early months of this new Congress. I would like to convey my appreciation to the Senator, and I commend him for the wisdom of his decision. Local officials must be given adequate time to incorporate Congress' decision on general revenue sharing into the budget preparations.

Moreover, Mr. President, I am most gratified that the Representative from New York, Mr. HORTON, is already ahead of us on this in the House. On January 6, Mr. HORTON introduced a similar reauthorization bill, H.R. 616. I might add that Mr. HORTON is the ranking minority member of the House Committee on Government Operations, which has jurisdiction over general revenue sharing. This early action in the House complements our own work on this issue, further ensuring the preservation of revenue sharing.

As proposals are made to broaden and improve the general revenue-sharing program I intend to take up the challenge of correcting the flaws I referred to earlier. And, with the proper leadership from the administration, it is conceivable that the concept of revenue-sharing may serve as the core of a broader New Federalism program.

Mr. President, I believe the support shown here for a simple reauthorization has made a powerful statement. We have made the point that, while

there may well be room to improve the system or broaden it into a more comprehensive New Federalism initiative, the existing general revenue sharing program remains the bottom line.

Thank you, Mr. President.

I ask unanimous consent that the text of the bill be printed in full in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 41

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) paragraph (1) of section 6701(a) of title 31, United States Code, is amended by striking out "October 1, 1981, and October 1, 1982" and inserting in lieu thereof "October 1 of 1983, 1984, 1985".

(b) Paragraph (3) of section 6711(a) of such title is amended by striking out "1983" and inserting in lieu thereof "1986".

(c) The amendments made by this Act shall take effect on October 1, 1983.●

Mr. DOMENICI. Mr. President the general revenue sharing program will expire on September 30, 1983, unless it is reauthorized by this Congress. I believe it is important to express my support for the continuation of this valuable program. I commend the Senator from Minnesota (Mr. DURENBERGER) for taking the early lead in this effort.

The legislation introduced today is a simple reauthorization of the general revenue sharing program at the current funding level of $4.6 billion per year. I strongly support this type of Federal-aid program which passes funds directly to local governments without unnecessary Federal strings attached.

The American public should know that there is strong support in Congress for the reauthorization of the general revenue sharing program. It is cost effective, holds down regressive local taxes and provides for vitally needed local services.

For example, in my home State of New Mexico, general revenue sharing has enabled the city of Albuquerque—of which I had the honor of serving as mayor—to hire and maintain additional police officers, build new correctional facilities, and improve the city's water systems. In some of the rural areas of New Mexico, such as Harding County, the funds have been used to purchase road equipment. Revenue sharing supports essential services throughout my State.

General revenue sharing provides important fiscal assistance to over 39,000 local governments. Funding for other grant programs has had to be restrained in recent years. Local revenues have been adversely affected by the recession. Loss of Federal general revenue sharing funds would mean tax increases and service cutbacks. At this time it is important we assure local governments that this source of fiscal assistance will continue.

As the Senator from Minnesota has suggested, the program needs to be reviewed and perhaps considered in the context of a more comprehensive New Federalism policy. I hope that as we examine possibilities for grant consolidation and simplification, we can find ways to convert more Federal financial assistance to States and localities into the type of flexible, noncategorical payments exemplified by general revenue sharing.

As chairman of the Senate Budget Committee, I cannot at this time make a commitment to specific program funding levels. During the next several weeks the Budget Committee, and then the Senate as a whole, will be working on overall budget targets which may or may not affect funding levels for this program.

I am pleased to join Senator DURENBERGER and 54 of my colleagues in supporting this important piece of legislation and I look forward to its prompt reenactment.

Mr. BRADLEY. Mr. President, I am pleased to join Senator DURENBERGER in introducing the extension of general revenue sharing. I believe reauthorization of this program merits extremely high priority on the agenda of the 98th Congress. This program has been a vital component of intergovernmental assistance since its inception in 1972, and Congress should continue it at no less than the current funding level.

As the Senate begins its consideration of general revenue sharing's reauthorization, it is instructive to look at the conditions which gave rise to the original program and to review the program in light of present needs.

The central philosophical argument offered on behalf of general revenue sharing in 1972 was that decisionmaking should be decentralized. The growth in Federal aid in the two decades following World War II came mainly in the form of categorical grants directed at specific kinds of problems, which gave the Federal Government the preeminent role in deciding how grant funds would be spent. The New Federalism of the early 1970's sought to reduce the Federal decisionmaking role by placing greater reliance on broader and less conditional Federal grants. The interest in decentralization resulted in both the development of general revenue sharing and the consolidation of a number of individual programs into block grants, such as those in law enforcement, job training, community development, and social services.

In 1983, decentralization continues to be regarded by many as a legitimate and desirable objective. And general revenue sharing should continue to be the centerpiece of our decentralized intergovernmental grant network. Indeed, I believe that localities have a greater need for general revenue sharing in 1983 than they did in 1972. This efficient intergovernmental program helps communities provide essential services, and given the significant reductions in Federal categorical grant programs over the past few years, retaining the flexibility inherent in the GRS program is now more important than ever to local governments as they adjust their budget plans to the realities of declining Federal aid.

Mr. President, 3 years ago, during the last reauthorization debate on general revenue sharing, I recommended that the Congress expand the program to provide additional resources to communities and States in need. Specifically, I recommended, first, that a countercyclical revenue-sharing program be enacted to provide additional resources to State and local governments during times of high unemployment, and second, that a targeted assistance program be enacted to provide assistance to local governments experiencing serious fiscal strain. Unfortunately, the 96th Congress did not adopt these proposals. Had we done so some of our hardest hit communities would have had timely help to deal with their severe economic problems. I believe that we should reconsider these proposals again in the coming months, given the serious fiscal plight of many States and local governments, including many communities in my home State of New Jersey.

Mr. President, the economic and political conditions in the country have changed in a number of important ways since general revenue sharing was originally enacted in 1972. Categorical grant programs have been cut back, and the high levels of unemployment have significantly reduced the capacity of many State and local governments to provide an adequate level of services. We may want to reformulate the program in light of these present and anticipated economic and political realities. I look forward to working with my colleagues on this vital issue.

Mr. LEAHY. Mr. President, I am pleased to join today as cosponsor of S. 41, which will reauthorize the general revenue sharing program for 3 years at the current funding level of $4.6 billion and will employ the same allocation formulas as the present program.

I have been a strong supporter of revenue sharing since its inception. This program embodies the best in Federal-State cooperation.

Revenue sharing allows Federal assistance to local governments with maximum flexibility on its use, permitting recipients to determine the programs and activities where the money is most needed. Furthermore, the program is cost effective as it has been shown to have the lowest admin-

istrative cost of any Federal grant program.

In my home State of Vermont, many communities have become dependent upon the use of Federal revenue-sharing funds in the operation of local government activities. Vital services such as police, fire, health care, and public works are supported at the local level with Federal revenue-sharing funds.

If we take away this effective program, these communities will either have to further cut back already reduced services or significantly increase burdensome and regressive local property taxes. It is essential to the health and well-being of people in Vermont and throughout the Nation that the general revenue-sharing program be continued.

Mr. ABDNOR. Mr. President, I am pleased to join so many of my colleagues on this important legislation.

Years ago, the Congress saw the wisdom of handing back to State and local governments a sizable amount of Federal funds. By devoting this money to areas of local or statewide interest, Federal funds can be used in ways that are more efficient and practical otherwise than would be achieved from spending at the Federal levels.

The result of allowing State and local influence on spending is a bigger rate of return on taxpayers' investment and greater benefits to the citizens.

My own State of South Dakota is one of unique circumstances. Half of the population resides in rural areas—and a large share resides in towns of less than 2,500 persons. Clearly, many Federal programs which are designed for effectiveness in urban areas will not be fruitful in my State.

Because of the prolonged agricultural recession, the public sector in South Dakota is experiencing revenue shortfalls. If Federal general revenue-sharing were to be curtailed, added budget strains could present grave financing problems.

As a proponent of sound fiscal management and effective use of tax revenues, I give this legislation my full support. State and local governments deserve the assistance of the Federal Government in providing flexible aid which leads to a strong partnership among governments at all levels.

Mr. FORD. Mr. President, I am pleased to be an original cosponsor of legislation that reauthorizes the general revenue-sharing program for a 3-year period at current funding levels of $4.6 billion annually.

At this time of unprecedented budget deficits, when Congress is consumed with efforts to reduce Government spending, many people have suggested eliminating or reducing funding for general revenue sharing in order to realize cost savings. But, it is precisely in these circumstances—when trying to cut costs by making severe reductions in spending on various domestic programs—that the importance of general revenue sharing becomes most apparent. Too much of our budget cutting in recent year has had the effect of producing greater fiscal pressures at the State and local level. Congress has converted categorical grant programs to block grants at reduced funding levels and put greater pressure on local governments to operate these programs with reduced resources. We have maintained a myriad of Federal requirements and obligations on local governments while withdrawing the funds needed to achieve compliance. The only way many local governments can survive these changes is with general revenue-sharing funds. These funds give local governments the flexibility to respond to the genuine needs of their citizens. While the Federal Government has withdrawn from the scene, these local governments have the responsibility and can see firsthand the needs of the people. General revenue sharing enables local governments to respond to those needs in the most efficient manner.

As a former Kentucky Governor, I realize from personal experience the crucial role this program plays in providing essential services to the people. What was true 8 years ago when I was Governor is even more true today. All across the Nation, State, and local governments are facing tremendous fiscal pressures. This pressure results not only from the retreat of Federal involvement, but also the shrinking tax base that has resulted from the recession. And, at this most critical time, when State and local governments are pressed to cut services and raise taxes to operate, Congress has diminished their revenue-raising ability by raising consumption taxes, thereby displacing the traditional means by which States have raised revenue. The resulting fiscal pressure at the State level is transferred to the local government level where revenue-sharing funds are used.

Over the last few months, I have received many letters from mayors and county judge executives across the State of Kentucky urging support for a continuation and, if possible, an increase in general revenue-sharing funds. They cite the relatively greater importance this program plays today because of the reduction in Federal categorical grant programs. Most of them emphasize the importance of these funds in helping them meet the emergency needs of their citizens. General revenue sharing enables local governments to provide such public services as police protection, ambulance services, waste management, and assistance to people with particular emergency needs.

Mr. President, the Reagan administration has been very supportive of the concept of returning decisionmaking to the local level. The general revenue-sharing program must be recognized for what it is—the near embodiment of the President's New Federalism proposal. It is the returning of allocation power to the local level in the most efficient way possible. While I have some disagreement with the specifics of the administration's New Federalism proposals, I readily endorse the concept of making fiscal decisions at the level of government closest to the people. It is very simply the most efficient use of tax dollars. It is fair and equitable. It gives local governments the latitude and flexibility to respond to real needs without the waste that sometimes results from formula allocations and entitlements.

Mr. President, I am pleased to add my name as a cosponsor of this legislation.

Mr. SARBANES. Mr. President, I am pleased to join my colleagues in introducing a bill to reauthorize the general revenue-sharing program. This program which is so important to local governments across the Nation, will expire on September 30, 1983, unless Congress moves to reauthorize it. It is a program that has had, and continues to have, strong bipartisan support, as indicated by the list of cosponsors. The introduction of this legislation on the first day of the session should send a reassuring message to county and city officials that many of us in the Senate are committed to carry forward the partnership between the Federal and local governments.

Revenue sharing in the past has provided general fiscal assistance to local governments enabling them to meet the needs of their citizens. Cities and counties have been especially hard hit during this recession and period of high unemployment. The cost of running a local government has increased, yet the financial ability to meet these needs has greatly diminished because of cutbacks in Federal programs, high unemployment, and a greater plea for help from families in communities devastated by the economy.

The Baltimore Sun of December 30, 1982, cited a recent National League of Cities report that surveyed 79 cities and found that more than half will have deficits in fiscal 1982, almost half have had to reduce their staffs, and more employee reductions were expected in 1983. Seventy-one percent of the 79 cities increased user fees, 32 percent raised property taxes, and 13 percent increased sales taxes. Even with all of these changes by the local governments, only 10 percent of the cities were able to make up for the loss of Federal cuts proposed and enacted by the Reagan administration. The National League of Cities report also found that only 25 percent of the cities were willing to compensate for

reductions in the general revenue-sharing program.

Although the general revenue-sharing program is a relatively small part of the Federal budget, it is a very important component of local budgets. In Maryland during fiscal year 1981, this program provided $84.7 million to the 23 counties and Baltimore city, and $6.6 million to the municipalities. This aid has enabled many local governments to more adequately meet the needs of their community and its citizens in fire and police protection, education, public health, social programs, and public works.

It is imperative that the Congress reauthorize the general revenue-sharing program. Our communities will be facing even harder times in the next year with more Federal program cuts expected, high unemployment projected to continue, and recovery not yet in sight. We must continue the Federal-local government partnership and insure that our communities will be able to meet the basic needs of our citizens. I urge my colleagues to strongly support the authorization of the general revenue-sharing program.

Mr. SASSER. Mr. President, I rise on this, the first day of legislative action by the 98th Congress, to state my support for S. 41, a bill to reauthorize the general revenue-sharing program. I believe it is important that action to extend the life of revenue sharing be taken immediately since the Reagan administration is already formulating its budget recommendations for 1984. Congress will receive these recommendations early this year.

Revenue sharing is essential to the well-being and vitality of our Nation's local governments. For many small- and medium-sized communities, revenue sharing is the primary source of Federal aid. For larger communities, revenue sharing is critical if adequate services are to be maintained.

Revenue sharing is a "no strings attached" program that allows local officials to use the funds where they are most needed. Too often, redtape associated with many other Federal programs creates overhead costs that reduce the usefulness of grant funds to cities and counties.

Over the past 10 years, Tennessee local governments have received more than $700 million in local general revenue-sharing funds. The loss of this funding would mean service reductions in important areas such as police and fire protection, highway maintenance, and education.

The bill before us provides for a simple reauthorization of revenue sharing for 3 years at the current funding level of $4.6 billion. The allocation formulas are the same as those now in effect.

I am pleased to note that such a large bipartisan group of Senators have signed on this bill as cosponsors. We need to give local officials this signal of our support for a program that is critical to their future. I commend my colleague, Senator DAVID DURENBERGER, for introducing this important legislation on the first legislative day of the 98th Congress. As the ranking Democrat on the Subcommittee on Intergovernmental Relations, which Senator DURENBERGER chairs, I am pleased to work with him in gaining reenactment of general revenue sharing.

Mr. President, general revenue sharing is a well-established program that has been in place for the past 10 years. At this crossroads period for local finance it is important that we in the Senate support this renewal. We cannot turn our backs on the fiscal plight of local governments and truly meet our obligation to represent their interests at the national level.

Mr. PERCY. Mr. President, I am today joining with Senator DURENBERGER and over 50 of our colleagues in introducing legislation which would reauthorize the general revenue sharing program for 3 years at the current funding level of $4.6 billion annually. The existing allocation formulas would remain in place under our bill.

It was on March 9, 1967, that the distinguished majority leader, HOWARD BAKER, and I put the first bill in that provided for the sharing of Federal tax revenues with the States. It was not until 1972 that we were able to enact a 5-year program to share $30 billion in Federal revenues with State and local governments. I participated in the great debates we had then about allocation formulas and what was the proper ratio between rural and urban distribution of the funds. Since that time, we have reauthorized the general revenue sharing program on two subsequent occasions, in 1976 and 1980.

Revenue sharing funds are allocated according to the formulas and data factors proscribed in the act. Population, per capita income, tax collections, and local tax liabilities are all taken into consideration. These funds become available each year through the annual congressional appropriations process. Relatively few Federal strings are attached to the expenditure of these funds by recipient governments.

Mr. President, earlier this month I met in Springfield, Ill., with the Federal Legislation Task Force created by the Illinois Municipal League to marshall support for this legislation. We discussed the need for continuing the program and the hardship which would befall local governments in my State if the program were to be halted in the current economic environment. Local governments across the country are facing a financial crisis. I continue to believe that general revenue sharing represents the best means for assisting these governments. I have spent a great deal of time in determining whether the funds are being used by recipient governments wisely and for the most essential needs of their citizens. I am satisfied from all the evidence I have seen that these funds are being spent in a beneficial manner. Many improvements and services could not be undertaken without this assistance. In addition, revenue sharing has helped to stabilize taxes in many States and has helped hold down the expansion of regressive property taxes.

General revenue sharing returns money, power and decisionmaking to State and local units whose officials are most familiar with their own particular needs and problems. This program in many ways laid the foundation for the New Federalism concept which has found favor in recent years.

Since its inception the general revenue sharing program funnelled over $3.5 billion to more than 2,800 local units of government in Illinois. In my State, cities, townships, and counties receive these funds. Police protection, education, libraries, public welfare, hospitals, roads and transportation, airports, correctional institutions, park and recreation, housing rehabilitation, have been among the government functions receiving assistance.

Mr. President, I am committed to seeing the GRS program reauthorized. I urge my colleagues to support this measure and move it to early enactment.

Mr. COHEN. Mr. President, I am pleased to be among the original cosponsors of legislation to extend the authorization for the general revenue-sharing program. I know of no Federal program that has worked more effectively, and I commend Senator DURENBERGER for the early introduction of this bill.

The importance of strong local decisionmaking within our Federal system is the principle underlying the general revenue-sharing program. I feel that local officials are able to make wiser choices in a variety of areas in shaping programs to meet their own needs than can Members of Congress in Washington. President Reagan has found this principle so appealing that he has used it as the cornerstone for the New Federalism, which would further expand the power of State and local decisionmakers.

I can best illustrate the need for the continuation of general revenue sharing by describing the effectiveness of this program.

In sharp contrast to the chaotic system of categorical grants-in-aid with their strict and complex regulatory requirements, the general revenue-sharing program gives local officials wide flexibility while keeping ad-

ministrative costs low. Categorical grants require an overhead investment of 12 to 17 percent while general revenue sharing uses an average of one-twelfth of 1 percent of costs in overhead. And no bureaucracy has been created to administer this program—it uses 5 percent of the time of an Assistant Secretary of Treasury.

General revenue sharing is particularly important to small localities which cannot afford to hire expert legal counsel or to produce matching funds for categorical forms of assistance. It has been estimated that, for cities with under 25,000 in population, general revenue sharing represents 67 percent of the Federal funds received by these localities.

In the State of Maine, where localities depend on property taxes for over 99 percent of revenues, compared with 76 percent nationwide, GRS has provided substantial assistance. Since the program's inception, the 517 eligible governments have received a total of over $406 million to finance a variety of vital services. For example, in 1982, the city of Caribou spent $300,000 in GRS funds for such functions as elderly services, public works and recreation. The city of Lewiston was able to finance road repairs and construction and airport improvements and would expect to raise property taxes by at least 10 percent if the GRS program were to be eliminated. Again, in the town of Dexter, hard hit in recent years from mill closings, GRS funds have kept property tax increases to a minimum. I am sure that the Maine communities agree with the observations of the town manager of Dexter:

We have found that Federal revenue sharing is simple and fair. At this point, it is essential to us.

Mr. President, I believe that the general revenue-sharing program—with its low administrative cost and effective delivery of vital services—should serve as a model for efficiency in Government and I urge my colleagues to support swift reenactment of this program.

Mr. BOSCHWITZ. I am very pleased that my esteemed colleague, the senior Senator from Minnesota, is today introducing legislation to reauthorize general revenue sharing. I have long been a supporter of the idea of a "no strings attached" funding program for States and localities. Such programs allow these governments much-needed flexibility to respond to their own needs without having to comply with costly Government regulations. Revenue sharing is probaly the most efficient Government program and could well serve as a model for other programs such as block grants.

In light of the current economic difficulties which many States are experiencing, it is particularly important that we preserve the current funding level of $4.6 billion for 3 more years. Indeed, more than 40 percent of all small communities have no other source of Federal aid. Without revenue sharing, many would have to either cut services or increase taxes.

I urge my colleagues in the Senate to agree to swift passage of this measure. The current general revenue-sharing program is due to expire on September 30, 1983. The closer we get to that date without a reauthorization of the program, the more difficult it will be for States and local governments to make plans for the ensuing months and years. Therefore, I consider it one of the highest priorities of this 98th Congress to decisively pass a revenue-sharing measure at the earliest possible date.

Mr. LONG. I offer my full support for the bill introduced today to extend the general revenue-sharing program for an additional 3 years. Since the inception of revenue sharing in 1972, I have been strongly committed to the program's objectives and have supported each reauthorization of the program.

Revenue sharing has a proven record of success. In the decade since the start of the program, revenue sharing funds have been used by thousands of communities within this country to finance programs ranging from fire-fighting to street cleaning. A key aspect of the program is that it afford each recipient community the discretion to determine where its funds are used. As a result, revenue-sharing funds may be targeted for where they are needed most. The effectiveness of the program is without question.

The revenue-sharing program also operates as the major source of Federal funds for many communities. Small cities and towns, in particular, rely on revenue-sharing funds. Failure to reauthorize the revenue-sharing program would likely result in the reduction of local services and might compel many communities to raise local taxes. Failure to reauthorize the program would also be to disregard the program's history of successful operation.

I urge my colleagues to act quickly to approve the bill introduced today, as evidence of our continuing commitment to the revenue-sharing program.

Mr. BYRD (for Mr. HUDDLESTON). I am pleased to join as a cosponsor of this legislation to extend the general revenue-sharing program.

Since its inception in 1972, general revenue sharing has established itself as one of the most effective and successful Federal assistance programs. It permits localities to allocate Federal dollars to their highest priorities, at a fraction of the administrative costs generally associated with categorical grant programs.

At a time when other Federal programs are being curtailed, revenue sharing is essential to the future of our local governments, most of which lack sufficient revenue sources of their own to provide adequate levels of services. A survey released by the National League of Cities in November of last year showed that for 63 percent of towns with populations under 10,000, and 41 percent of towns with populations between 10,000 and 50,000, revenue sharing is the only Federal aid they receive.

The survey showed further that to offset a loss of general revenue-sharing funds, property taxes would have to increase about 25 percent in most cities, but as much as 45 percent in cities with under 10,000 population. In the largest cities, over 100,000, property taxes would have to go up about 15 percent. I think most of us would agree that such increases would not be feasible or desirable. That means local capital and operating budgets would likely be cut, resulting in further reductions of services to the public and layoffs in city work forces.

The current program may not be perfect, and I am certainly open to suggestions on how it might be improved. But, I think the introduction today of this simple extension is a strong indication of the widespread bipartisan support this program enjoys and an important first step toward getting this issue resolved early in the session in order to give localities as much time as possible to plan their own budgets.

● Mr. PRYOR. Mr. President, I am very pleased to announce my support and cosponsorship of the legislation being introduced today by Senators DURENBERGER, SASSER, and others to reauthorize the general revenue-sharing program.

General revenue sharing was created by the State and Local Fiscal Assistance Act of 1972 (Public Law 92-512) and was subsequently extended for 4 years in 1976 by the State and Local Fiscal Assistance Amendments (Public Law 94-488). Once again in 1980, with the enactment of the State and Local Fiscal Assistance Act Amendments of 1980 (Public Law 96-604), the general revenue-sharing program was reauthorized for 3 more years. However, authorization of this program will expire on September 30, 1983, unless it is reauthorized. I believe the general revenue-sharing program has been a tremendously important program providing State and local governments with valuable general purpose fiscal assistance. In fact, passage of revenue sharing marked a fundamental change in intergovernmental relations.

Continuation of the general revenue-sharing program is extremely important both in terms of fiscal impact and budgetary planning stability to State and local governments. As the program has withstood the test of time and been reauthorized, many local governments have increased their use

of the programs. In fact, according to a recent National League of Cities survey, over 40 percent of all small cities now receive no other Federal aid, and 80 percent of cities surveyed said they would be forced to cut services next year if the program were reduced or eliminated. In addition, 50 percent of such small cities said they felt they would be forced to raise taxes if revenue sharing is not continued.

The success of the revenue-sharing program in the State of Arkansas is widely acclaimed. The total amount of general revenue-sharing program funds received by all municipalities in the State of Arkansas was $43,441,575 in fiscal year 1981, $48,184,041 in fiscal year 1982, and will be approximately $46,413,653 in fiscal year 1983 if the program is reauthorized. I recently received a very persuasive letter from Mayor John Frazer of Warren, Ark., in support of reauthorization of revenue sharing. I ask unanimous consent that a copy of this letter be printed in the RECORD following my remarks.

Mr. President, I have been a consistent supporter of the revenue-sharing program and I strongly support continuation of the program. The legislation, which I am cosponsoring, is a simple reauthorization for 3 years at the current level of funding of $4.6 billion and will employ the same allocation formulas as the present program. I urge my colleagues to join me in calling for early hearings in the 98th Congress on this issue and in supporting the continuation of this vital program.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WARREN, ARK.,
December 10, 1982.

Hon. DAVID PRYOR,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: As the end of 1982 draws near, the attention of local governments turn to 1983 and annual budgets. The City of Warren is no exception. Realizing the many difficult problems to be faced by The Congress in 1983, it is the desire of the City of Warren to go on record early in favor of the continuation of the General Revenue Sharing Program.

You need not be informed that Revenue Sharing, as currently authorized, will expire at the conclusion of this federal fiscal year and with the tough decisions required to solve our economic problems, many will spot an easy target in Revenue Sharing to eliminate.

To demonstrate the essence of the Revenue Sharing question as it affects the City of Warren and I know most other municipalities, Revenue Sharing covers a full 15% of Warren's operating budget. In past years, the City of Warren utilized RS to make capital expenditures. Now RS is essential to maintain basic City services like police and fire protection. Rising costs have created this situation.

I realize that all levels of government must be more efficient and stick to basics. Most communities are doing just that. We're not broke but remove RS and a drastic financial condition will exist. Frills to be maintained are not the question, protection of life and property is.

Please support the continuation of General Revenue Sharing to local governments for the benefit of all our citizens. If you have questions concerning RS and the City of Warren, feel free to contact me.

Sincerely,

JOHN B. FRAZER,
Mayor.●

Mr. BENTSEN. Mr. President, I am pleased to join my colleague from Minnesota as an original cosponsor of S. 41, a bill reauthorizing the general revenue-sharing program. Although a relatively small component of the Federal grant in aid system, GRS has been a successful fiscal assistance tool for communities across the Nation.

Recent surveys by the National League of Cities suggest that during this period of economic sluggishness and diminished tax receipts, services in 80 percent of the cities surveyed would have to be reduced or eliminated if the Congress fails to reauthorize GRS. Half of the respondent cities are so dependent on GRS that they would be forced to raise taxes to offset the damage resulting from diminished GRS support.

In my own State of Texas, 33 cities completed the NLC survey revealing the following about the use of GRS funding and alternatives that would be pursued should the Congress fail to reauthorize the program. Approximately one-fifth of the municipalities received no Federal funding other than general revenue sharing. Nearly 40 percent have to impose additional property taxes of 16 percent more if GRS entitlements were no longer available. An estimated 70 percent of the cities earmark general revenue funds for capital improvements, and would be forced to defer or reduce capital expenditures if GRS were terminated. Since most of the scheduled capital improvements involve new construction or substantial renovation, the absence of funding would be felt immediately in the already hard pressed construction industry.

Mr. President, the general revenue-sharing program which has twice been reauthorized by the Congress since its enactment in 1972, represents the most effective kind of partnership between the Federal Government and local communities. It is through such a partnership that taxpayers have been able to exercise control over the expenditure of their Federal dollars based on an individual community's assessment of its own priorities. I urge my colleagues to join with the National League of Cities, the National Governor's Association and countless municipalities across this country in endorsing a continued role for general revenue sharing by supporting reauthorization.

● Mr. GLENN. Mr. President, I join my colleagues in supporting the reauthorization of the general revenue sharing (GRS) program. I am pleased to be a cosponsor of this measure because I strongly believe that we must sustain this program to insure that local services do not deteriorate during this time of national economic hardship. Unless we take action, the general revenue-sharing program will expire on September 30, 1983.

Because of the importance of GRS to our cities, it is critical that we in Congress signal our strong support for this worthwhile program. At a time of high unemployment and diminished local revenues we cannot in good conscience turn our backs on the needs of local government. The GRS program is a model of fairness and efficiency. Its distribution formula is fair, it has a minimum of redtape and burdensome regulation, and it is one of the least costly programs to administer—nearly every dollar goes into local services. Moreover, the flexibility of this program allows local officials to use funds where they are needed most.

The loss of the fiscal assistance provided by GRS would be sorely felt by local governments, especially in smaller cities. On the average GRS represents about 6¼ percent of the total of locally raised revenues and as much as 10 percent or more in some smaller cities. A shortfall of this magnitude could result in a substantial reduction of services in some cities. Such a loss could only be made up by hefty tax increases, fee increases of a combination of such increases and cuts in services. We cannot cut local governments adrift in the stormy seas of our current recession. Neither should we force them to make a choice between increasing taxes on struggling businesses and reducing services to citizens in critical need of assistance.●

● Mr. LAUTENBERG. Mr. President, I am pleased to join several of my colleagues in cosponsoring legislation to reauthorize the general revenue-sharing program.

Since its inception in 1972, the general revenue-sharing program has provided an important source of funding to local governments. In the last fiscal year, my home State of New Jersey received $149 million in aid under the program. While these funds may be a fraction of the total Federal grants-in-aid to local governments, this is not the time to allow the program to die.

The national recession has forced a reduction in revenues from local tax levies. Meanwhile, the burdens on local governments to provide social services to the unemployed and others have increased. Federal budget cuts have made matters worse, by shifting additional responsibilities to local governments. In New Jersey, the Eagleton Institute at Rutgers University has assessed the result: Local governments, bound by law to balance their budgets, are cutting back services, in some

cases, essential services like sanitation, police, and fire protection.

Local governments in New Jersey and other States need general revenue sharing. Without it, they would be faced with a Hobson's choice of cutting services even further, or raising local taxes. The latter alternative not only would further burden the local economy; it would sharpen the competitive disadvantage of those localities that have the least capacity to raise new revenues, because of lack of wealth or their economy's poor health. In other words, it would hurt the localities that hurt the most. That is not what we should be doing.

This does not mean that the general revenue-sharing program is perfect as it now stands. I believe there is work to be done to refine the funding formula to insure the fairest and most equitable allocation of funds. I believe that States like New Jersey do not receive their fair share under the existing formula. But there will be ample time to discuss that issue. First, however, we should begin work to insure the continuation of the general revenue-sharing program. For these reasons, I join my colleagues in cosponsoring this reauthorization bill.●

By Mr. BAKER (for Mr. KASTEN) (for himself, Mr. PERCY, Mr. GORTON, Mr. STAFFORD, Mr. HELMS, Mr. HATCH, Mr. LUGAR, Mr. GARN, Mr. NICKLES, Mr. QUAYLE, and Mr. GLENN):

S. 44. A bill to regulate interstate commerce by providing a uniform product liability law, and for other purposes; to the Committee on Commerce, Science, and Transportation.

PRODUCT LIABILITY ACT

Mr. BAKER. Mr. President, on behalf of Senator KASTEN and a number of cosponsors, today I introduce S. 44, the Product Liability Act. Mr. President, I ask unanimous consent that statements by Senators KASTEN and PERCY, an accompanying section-by-section analysis, and the text of S. 44 appear at this point in the RECORD as if read.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

● Mr. KASTEN. Mr. President, today I am introducing legislation to create uniform rules of law applicable to all cases brought by persons injured by a defective product. The Product Liability Act will benefit the economy and, in turn, benefit consumers by reducing the very substantial litigation costs brought about by the current product liability tort litigation system.

I am pleased to have Senators PERCY, GORTON, STAFFORD, HELMS, HATCH, LUGAR, GARN, NICKLES, QUAYLE, and GLENN as cosponsors of this legislation.

The bill introduced today is identical to S. 2631, which I introduced in the 97th Congress and which was reported from the Senate Commerce Committee on October 1, 1982. That bill and the one I introduce today has evolved from the work of the Federal Interagency Task Force on Product Liability in 1977, from hearings in the 96th Congress, from a series of staff draft proposals in 1981-82, and from full and complete hearings in the 97th Congress. Input was received from a wide variety of business groups, consumer organizations, and legal scholars, as well as from members of the Commerce Committee and administration officials. The result is a balanced bill, supported by the administration, which will give clarity and structure to an area of the law that has been riddled with conflicts and confusion.

Senate Report No. 97-670, filed by the Commerce Committee on December 1, 1982, with no dissenting views, explains in detail why each provision of the bill is necessary and addresses arguments made in opposition. It explains, for example, that plaintiffs will benefit substantially by provisions, such as the comparative negligence provisions; that consumers in general will benefit from cost savings associated with, for example, the product seller provision; and that manufacturers will benefit by clear and certain standards of responsibility in all product cases.

Product liability became a serious problem in the mid-1970's and it continues today. The uncertainty and instability in product liability laws has become a major problem not only for manufacturers and product sellers, but also for consumers. Conflicting product liability rules have made it extraordinarily difficult for consumers to know their legal rights and for manufacturers and product sellers to know their obligations. This has created expensive and burdensome legal costs which are passed on to consumers. The uncertainty has also created instability in the insurance market, which has been subject to sharp swings in cost. The product liability problem has created a serious burden on interstate commerce and Federal legislation is needed to address the source of the problem.

In 1977, a Federal Interagency Task Force on Product Liability identified the causes of the product liability problem. Of these causes, two principal causes were overly subjective insurance ratemaking procedures and uncertainties in the product liability system.

First, product liability insurance rates were being established on an overly subjective basis, with the result that rates for some product sellers and manufacturers skyrocketed. In fact, some companies, unable to secure affordable insurance, were forced to "go bare." The adverse effects of that are obvious—a valid claim may be unrecoverable and a single judgment may force a company out of business. In response to this, Congress enacted the Risk Retention Act of 1981. That act, which I sponsored, provides product sellers and manufacturers alternatives to commercial product liability insurance through the creation of risk retention or self-insurance groups or through purchasing groups, which may buy commercial insurance at favorable group rates. By providing a competitive alternative to commercial insurance, the act helps assure all of us that insurance rates and premiums will be set on a fair and equitable basis.

The second cause of the product liability problem identified by the task force was uncertainty in the tort litigation system. This problem continues unabated today. When a person brings a suit for injuries caused by a defective product, the liability of the manufacturer or product seller is determined by rules created by State courts. Each State, however, has its own unique rules of product liability law. As a result, the law varies from State to State and even within a single State; and is constantly subject to being restated or even reversed. This diversity and instability in the law is incompatible with the system in which products are manufactured, distributed, sold, and used nationwide, without regard to State boundaries. We have a modern interstate marketplace trapped in an outmoded, fragmented product liability tort litigation system.

The current product liability tort litigation system has undesirable consequences for consumers, manufacturers, product sellers, and insurers alike. Insurers, unable to predict or measure potential risks of their insureds, set high product liability insurance rates. Manufacturers have less incentive to develop new products or to improve the safety of old ones. The chaos in the law results in lengthy litigation over what rules apply in each case. In many cases, settlement without the expense of trial is delayed or refused, because parties cannot assess accurately the merits of their positions. In individual cases, legal costs for both parties exceed the amount received by an injured claimant. These costs and the costs of judicial resources are intolerable.

Individual States have not been able to respond to these problems. Experience shows that they are no closer to achieving a uniform set of rules than they were 5 years ago. No State statute defines fully the basic rules of liability in a product-related case. Further, no two States have enacted the same statute. If a response to the product liability dilemma is to be achieved, it must be through Federal action.

I believe that there is a growing consensus that Federal product liability legislation is needed to bring uniformity and certainty to the law and to stabilize what has become a serious burden on interstate commerce. In addressing this problem, I have developed a uniform product liability bill which I believe is fair and reasonable and which protects the interests of consumers, insurers, manufacturers, and product sellers. Consumers should have the right to recover if injured by faulty products. Manufacturers should have clear standards of responsibility under which they can know their obligations. I believe that this legislation will achieve these ends and will also reduce the legal costs associated with product liability claims which are ultimately borne by consumers.

This proposal has had a long and careful history, beginning with the development of a model Uniform Product Liability Act by the Department of Commerce in 1979. That model act was developed with substantial input from the public. Then, in the 96th Congress extensive hearings were held in the House on the topic of product liability. Out of those hearings evolved H.R. 7921, in the second session, which was a Federal Uniform Product Liability Act. In April 1981, I asked the staff of the Consumer Subcommittee to begin with H.R. 7921 and prepare a staff draft for consideration by the Commerce Committee. That draft was issued for public comment on October 15, 1982. The committee received over 2,000 pages of public comment and made substantial revisions in the draft, taking into consideration concerns of consumers, manufacturers, and product sellers. In March 1982, prior to the introduction of S. 2631, the subcommittee held 2 days of intensive hearings on the need to reform product liability law. Then, after I introduced S. 2631 on June 16, 1982, the subcommittee held 2 additional days of hearings on the bill. The subcommittee heard testimony from a number of organizations, including the Product Liability Alliance, the National Association of Wholesaler-Distributors, the National Association of Manufacturers, the National Machine Tool Builders Association, the Association of Trial Lawyers of America, the Consumer Federation of America, the National Consumers League, Public Citizen Congress Watch, and from legal scholars, small- and medium-size businesses and their associations.

On July 15, 1982, the administration endorsed the concept of Federal legislation providing uniform product liability standards. On September 9, 1982, after consideration by the Cabinet Council on Commerce and Trade, the administration expressed its support for the bill and urged prompt consideration by the full committee.

S. 44

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Product Liability Act".

DEFINITIONS

SEC. 2. As used in this Act—

(1) "claimant" means any person who brings a product liability action, and if such an action is brought through or on behalf of an estate, the term includes the claimant's decedent, or if such an action is brought through or on behalf of a minor, the term includes the claimant's parent or guardian;

(2) "clear and convincing evidence" is that measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established; the level of proof required to satisfy this standard is more than that required under preponderance of the evidence, but less than that required for proof beyond a reasonable doubt;

(3) "commerce" means trade, traffic, commerce, or transportation (A) between a place in a State and any place outside of that State; or (B) which affects trade, commerce, or transportation described in clause (A);

(4) "express warranty" means any affirmation of fact, promise, or description relating to a product;

(5) "harm" means (A) physical damage to property other than the product itself; (B) personal physical illness, injury, or death of the claimant; or (C) mental anguish or emotional harm of the claimant caused by the claimant's personal physical illness or injury; "harm" does not include commercial loss;

(6) "manufacturer" means (A) any person who is engaged in a business to design or formulate and to produce, create, make, or construct any product (or component part of a product), including a product seller, distributor, or retailer of products with respect to any product to the extent that such a product seller, distributor, or retailer designs or formulates and produces, creates, makes, or constructs the product before that product seller, distributor, or retailer sells the product; or (B) any product seller not described in clause (A) which holds itself out as a manufacturer to the user of the product;

(7) "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity);

(8) "practical technological feasibility" means the technical, medical, and scientific knowledge relating to the safety of a product which, at the time of production or manufacture of a product, was developed, available and capable of use in the manufacture of a product, and economically feasible for use by a manufacturer;

(9) "preponderance of the evidence" is that measure or degree of proof which, by the weight, credit, and value of the aggregate evidence on either side, establishes that it is more probable than not that a fact occurred or did not occur;

(10) "product" means any object, substance, mixture or raw material in a gaseous, liquid or solid state which is capable of delivery itself, or as an assembled whole in a mixed or combined state or as a component part or ingredient, which is produced for introduction into trade or commerce, which has intrinsic economic value, and which is intended for sale or lease to persons for commercial or personal use; "product" does not include human tissue or organs;

(11) "product seller" means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, installs, prepares, blends, packages, labels, markets, repairs, maintains, or otherwise is involved in placing a product in the stream of commerce; but does not include—

(A) a seller of real property;

(B) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(C) any person who—

(i) acts in only a financial capacity with respect to the sale of a product; and

(ii) leases a product under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor;

(12) "product user" means any person, including the claimant's employer, who owns, operates, or has control of a product;

(13) "reasonably anticipated conduct" means the conduct which would be expected of a reasonably prudent person who is likely to use or become exposed to the product in the same or similar circumstances; and

(14) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

PREEMPTION OF OTHER LAWS

SEC. 3. (a) This Act governs any civil action brought against a manufacturer or product seller for loss or damage caused by a product, including any action which before the effective date of this Act would have been based on: (1) strict or absolute liability in tort; (2) negligence or gross negligence; (3) breach of express or implied warranty; (4) failure to discharge a duty to warn or instruct; or (5) any other theory that is the basis for an award for damages for loss or damage caused by a product. Any civil action brought against a manufacturer or product seller for harm caused by a product is a product liability action.

(b) No person may recover for any loss or damage caused by a product except to the extent that the loss or damage constitutes harm. A civil action for loss or damage caused to a product itself or for commercial loss is not a product liability action, and shall be governed by applicable commercial or contract law.

(c) This Act supersedes any State law regarding matters governed by this Act.

(d) The district courts of the United States shall not have jurisdiction over any civil action arising under this Act, based on sections 1331 or 1337 of title 28, United States Code.

RESPONSIBILITY OF MANUFACTURERS

SEC. 4. (a) In any product liability action, a manufacturer is liable to a claimant if—

(1) the claimant establishes by a preponderance of the evidence that—

(A) the product was unreasonably dangerous in construction or manufacture, as defined in section 5(a);

(B) the product was unreasonably dangerous in design or formulation, as defined in section 5(b);

(C) the product was unreasonably dangerous because the manufacturer failed to provide adequate warnings or instructions about a danger connected with the product or about the proper use of the product, as defined in section 6; or

(D) the product was unreasonably dangerous because the product did not conform to an express warranty made by the manufacturer with respect to the product, as defined in section 7; and

(2) the claimant establishes by a preponderance of the evidence that the unreasonably dangerous aspect of the product was a proximate cause of the harm complained of by the claimant.

(b) The claimant must introduce sufficient evidence to allow a reasonable person, by a preponderance of the evidence, to make the determinations specified in subsection (a).

(c)(1) A claimant may not establish any fact necessary to make the determinations described in subsection (a) by showing that the identical issue of fact was determined adversely to the manufacturer in another action by another claimant unless both actions were based on harm caused by the same event in which two or more persons were harmed.

(2) A manufacturer may not establish any fact necessary to make the determinations described in subsection (a) by showing that the identical issue of fact was determined adversely to another claimant in another action against that manufacturer unless both actions were based on harm caused by the same event in which two or more persons were harmed and the claimant is the same as or is in privity with the claimant in the other action.

PRODUCT CONSTRUCTION AND DESIGN

SEC. 5. (a) A product is unreasonably dangerous in construction or manufacture if, when the product left the control of the manufacturer, it deviated in a material way—

(1) from the design specifications, formula, or performance standards of the manufacturer; or

(2) from otherwise identical units manufactured to the same manufacturing specification or formula.

(b) A product is unreasonably dangerous in design or formulation if, at the earlier of the time of manufacture or Government certification of the product, a reasonably prudent manufacturer in the same or similar circumstances would not have used the design or formulation that the manufacturer used. A product is not unreasonably dangerous in design or formulation unless—

(1) the manufacturer knew or, based on knowledge which was reasonably accepted in the scientific, technical, or medical community for the existence of the danger which caused the claimant's harm, should have known about the danger which allegedly caused the claimant's harm; and

(2) a means to eliminate the danger that caused the harm was within practical technological feasibility.

(c) A product is not unreasonably dangerous in design or formulation if the harm was caused by an unavoidably dangerous aspect of a product. As used in this paragraph, an "unavoidably dangerous aspect" means that aspect of a product which could not, in light of knowledge which was reasonably accepted in the scientific, technical, or medical community at the time of manufacture, have been eliminated without seriously impairing the effectiveness with which the product performs its intended function or the desirability, economic and otherwise, of the product to the person who uses or consumes it.

(d) A product is not unreasonably dangerous in design or formulation if the harm was caused by an unsafe aspect of a product which was an inherent characteristic of the product and which would be recognized by the ordinary person who uses or consumes the product with the ordinary knowledge common to the community.

(e) An alternative design or formulation is evidence that a product was unreasonably dangerous in design or formulation only if the claimant establishes that, at the time of the manufacture of the product—

(1) the manufacturer knew or, based on knowledge which was reasonably accepted in the scientific, technical, or medical community for the existence of the alternative design, should have known about the alternative design; and

(2) the alternative design or formulation would have—

(A) utilized only science and technology which was reasonably accepted in the scientific, technical, or medical community and which was within practical technological feasibility;

(B) prevented the claimant's harm and provided equivalent or better overall safety than the chosen design or formula. The overall safety of the alternative design or formula is better than the chosen design or formula if the hazards it eliminates are greater than any new hazards it creates for any persons and for any uses; and

(C) been desirable, functionally, economically, and otherwise, to the person who uses or consumes it.

PRODUCT WARNINGS OR INSTRUCTIONS

SEC. 6. (a) A product is unreasonably dangerous because of the failure of the manufacturer to provide warnings or instructions about a danger connected with the product or about the proper use of the product if—

(1) necessary warnings or instructions were not provided, under subsection (b); or

(2) post-manufacture warnings or instructions were not provided, under subsection (c).

(b) A product is unreasonably dangerous for lack of necessary warnings or instructions if the claimant establishes by a preponderance of the evidence that at the time the product was sold—

(1) the manufacturer knew or, based on knowledge which was reasonably accepted in the scientific, technical, or medical community for the existence of the danger which caused the claimant's harm, should have known about the danger which allegedly caused the claimant's harm;

(2) the manufacturer failed to provide the warnings or instructions that a reasonably prudent manufacturer in the same or similar circumstances would have provided with respect to the danger which caused the harm alleged by the claimant, given the likelihood that the product would cause harm of the type alleged by the claimant and given the seriousness of that harm;

(3) the manufacturer failed to provide those warnings or instructions to the claimant or to another person in accordance with subsection (d)(1); and

(4) those warnings or instructions, if provided, would have led a reasonably prudent product user either to decline to use the product or to use it in a manner so as to avoid harm of the type alleged by the claimant.

(c)(1) A product is unreasonably dangerous for lack of post-manufacture warnings or instructions if the claimant establishes by a preponderance of the evidence that—

(A) after the product was manufactured, the manufacturer knew or, based on knowledge which was reasonably accepted in the scientific, technical, or medical community for the existence of the danger which caused the claimant's harm, should have known about the danger which allegedly caused the claimant's harm; and

(B) post-manufacture warnings or instructions would have been provided by a reasonably prudent manufacturer in the same or similar circumstances, given the likelihood that the product would cause harm of the type alleged by the claimant and given the seriousness of that harm.

(2) A product is not unreasonably dangerous under this subsection if the manufacturer made reasonable efforts to provide post-manufacture warnings or instructions to a product user or to another person, in accordance with subsection (d)(1).

(d)(1) A product is not unreasonably dangerous for lack of either necessary or post-manufacture warnings or instructions if those warnings or instructions were provided to—

(A) a person, including an employer, who could reasonably have been expected to assure that action would be taken to avoid the harm or that the risk of harm would be explained to the actual product user, except where those warnings or instructions could be readily attached by a reasonably prudent manufacturer to the product itself in a form which could reach the claimant;

(B) the using or supervising expert, where the product involved is one which may be legally used only by or under the supervision of a class of experts. For purposes of this clause, warnings or instructions are considered provided to the using or supervising expert where the manufacturer employed means reasonably calculated to make them available to the expert, and this does not require actual, personal notice to the expert; or

(C) the manufacturer's immediate buyer—

(i) where the product was sold as a component or material to be incorporated into another product and the claimant was exposed to the component or material after it was incorporated or converted into another product;

(ii) where the product was used in a workplace and there was no practical, feasible means of transmitting warnings or instructions directly to the claimant; or

(iii) where the claimant was not an employee of the manufacturer's immediate buyer and there was no practical, feasible means of transmitting the warnings or instructions to the claimant.

(2) A product is not unreasonably dangerous for lack of warnings or instructions regarding—

(A) dangers that are obvious. As used in this clause, "dangers that are obvious" are those of which a reasonably prudent product user or a person identified in paragraph (1), if applicable, would have been aware without a warning or instruction and dangers which were a matter of common knowledge to persons in the same or similar position as the claimant;

(B) the consequences of product misuse, as defined in section 10(a)(2), or use contrary to warnings or instructions available to the user or to a person identified in paragraph (1), if applicable; or

(C) the consequences of alterations or modifications, as defined in section 10(b)(2),

of the product which do not constitute reasonably anticipated conduct.

PRODUCT EXPRESS WARRANTY

SEC. 7. (a) A product is unreasonably dangerous because it did not conform to an express warranty if—

(1) the manufacturer made an express warranty about a material fact relating to the safe performance of the product;

(2) this express warranty proved to be untrue; and

(3) the failure of the product to conform to the warranty caused the harm.

As used in this subsection, "material fact" means any specific characteristic or quality of the product, but does not include a general opinion about, or general praise of, the product or its quality.

(b) A product may be unreasonably dangerous for failure to conform to an express warranty although the manufacturer did not engage in negligent or fraudulent conduct in making the express warranty.

RESPONSIBILITY OF PRODUCT SELLERS

SEC. 8. (a) In any product liability action, a product seller other than a manufacturer is liable to a claimant, if the claimant establishes by a preponderance of the evidence that—

(1)(A) the individual product unit which allegedly caused the harm complained of was sold by the defendant;

(B) the product seller failed to exercise reasonable care with respect to the product; and

(C) such failure to exercise reasonable care was a proximate cause of the claimant's harm; or

(2)(A) the product seller made an express warranty, independent of any express warranty made by a manufacturer as to the same product, about a material fact directly relating to the safe performance of the product;

(B) this express warranty proved to be untrue; and

(C) the failure of the product to conform to the warranty caused the harm.

(b) The claimant must introduce sufficient evidence to allow a reasonable person, by a preponderance of the evidence, to make the determinations specified in subsection (a).

(c)(1) A claimant may not establish any fact necessary to make the determinations described in subsection (a) by showing that the identical issue of fact was determined adversely to the product seller in another action brought by another claimant, unless both actions were based on harm caused by the same event in which two or more persons were harmed.

(2) A product seller may not establish any fact necessary to make the determinations described in subsection (a) by showing that the identical issue of fact was determined adversely to another claimant in another action against that product seller, unless both actions were based on harm caused by the same event in which two or more persons were harmed and the claimant is the same as or is in privity with the claimant in the other action.

(d)(1) In determining whether a product seller is subject to liability under subsection (a)(1), the trier of fact may consider the effect of the conduct of the seller with respect to the construction, inspection, or condition of the product, and any failure of the seller to transmit adequate warnings or instructions about the dangers and proper use of the product.

(2) A product seller shall not be liable under this Act where there was no reasonable opportunity to inspect the product in a manner which would or should, in the exercise of reasonable care, have revealed the aspect of the product which allegedly rendered it unreasonably dangerous.

(e) A product seller is liable for harm to the claimant caused by a product in the same manner as the manufacturer of the product if—

(1) the manufacturer is not subject to service of process under the laws of the State in which the action is brought; or

(2) the court determines that the claimant would be unable to enforce a judgment against the manufacturer.

COMPARATIVE RESPONSIBILITY

SEC. 9. (a) All claims under this Act shall be governed by the principles of comparative responsibility. Comparative responsibility attributed to the claimant's conduct under section 10(c) shall not bar recovery in a product liability action, but shall reduce any damages awarded to the claimant in an amount proportionate to the responsibility of the claimant.

(b) In any product liability action involving a claim of comparative responsibility, the court, unless otherwise agreed by all parties, shall instruct the jury to answer special interrogatories (or, if there is no jury, the court shall make findings) indicating (1) the amount of damages each claimant would be entitled to recover if comparative responsibility were disregarded and (2) the percentage of total responsibility for the claimant's harm to be allocated to each defendant, to any third-party defendant, and to conduct defined in section 10. For purposes of this paragraph, the court may determine that two or more persons are to be treated as a single person.

(c) The court shall enter judgment against each party determined to be liable in proportion to its percentage of responsibility for the claimant's harm, as determined under subsection (b)(2), unless section 11(a) requires a different result.

(d) If a claimant has not been able to collect on a judgment in a product liability action, and if the claimant makes a motion within 1 year after the judgment is entered, the court shall determine whether any part of the obligation allocated to a person who is a party to the action is not collectable from such a person. Any amount of obligation which the court determines is uncollectable from that person shall be reallocated to the other persons who are parties to the action and to whom responsibility was allocated and to the claimant according to the respective percentages of their responsibility, as determined under subsection (b)(2).

MISUSE, ALTERATION, CONTRIBUTORY NEGLIGENCE OR ASSUMPTION OF THE RISK

SEC. 10. (a)(1) If a manufacturer or product seller proves by a preponderance of the evidence that misuse of a product by any person other than the defendant manufacturer or product seller and other than the claimant has caused the claimant's harm, the determination in section 9(b)(2) shall reflect the percentage of total responsibility for the claimant's harm allocable to misuse. Under this subsection, the trier of fact may determine that the harm caused by the product occurred solely because of misuse of the product.

(2) For purposes of this Act, misuse shall be considered to occur when a product is used for a purpose or in a manner which is not consistent with the warnings or instructions available to the user, or which is not consistent with reasonable practice of users of the product, or when a product user fails adequately to train another person in the safe use of the product, or otherwise provide for the safe use of the product, and that lack of training or the failure otherwise to provide for the safe use of the product was a cause of the claimant's harm.

(b)(1) If a manufacturer or product seller proves by a preponderance of the evidence that an alteration or modification of the product by any person other than the defendant manufacturer or product seller and other than the claimant has caused the claimant's harm, the determination in section 9(b)(2) shall reflect the percentage of total responsibility for the claimants' harm allocable to alteration or modification. Under this subsection, the trier of fact may determine that the harm arose solely because of the product alteration or modification. The determination in section 9(b)(2) shall not be made if—

(A) the alteration or modification was in accordance with instructions or specifications of the manufacturer or product seller;

(B) the alteration or modification was made with the express consent of the manufacturer or product seller; or

(C) the alteration or modification was reasonably anticipated conduct, and the manufacturer or product seller failed to provide adequate warnings or instructions with respect to that alteration or modification.

(2) For purposes of this Act, alteration or modification shall be considered to occur—

(A) when a person other than the manufacturer or product seller changes the design, construction, or formula of the product, or changes or removes warnings, instructions, or safety devices that accompanied or were displayed on the product; or

(B) when a product user fails to observe the routine care and maintenance necessary for a product and that failure was the cause of the claimant's harm.

(3) Ordinary wear and tear of a product shall not be considered to be alteration or modification of a product under this subsection.

(c)(1) If a manufacturer or product seller proves by a preponderance of the evidence that the conduct of the claimant involving negligence, contributory negligence, or assumption of risk has caused the claimant's harm, the determination in section 9(b)(2) shall reflect the percentage of total responsibility for the clamaint's harm allocable to the claimant. Under this subsection, the trier of fact may determine that the harm arose solely because of the conduct of the claimant.

(2) For purposes of this Act, conduct of the claimant involving negligence, contributory negligence, or assumption of risk shall be considered to occur—

(A) when the claimant, while using the product, was injured by a defective condition that would have been apparent, without inspection, to an ordinary reasonably prudent person;

(B) when the claimant knew about the product's defective condition, and voluntarily used the product or voluntarily assumed the risk of harm from the product; or

(C) when the claimant misused, altered, or modified the product, as those terms are defined in subsections (a)(2) and (b)(2).

EFFECT OF WORKERS' COMPENSATION BENEFITS

SEC. 11. (a) In any product liability action in which damages are sought for harm for which the person injured is entitled to compensation under any State or Federal workers' compensation law, and in which (1) the

sum of the amount paid as workers' compensation benefits for that harm and the present value of all workers' compensation benefits to which the employee is or would be entitled for the harm is greater than (2) the sum of the amount proportionate to conduct defined in section 10, the court shall enter judgment against the defendant or defendants determined to be liable in an amount equal to the amount of total damages to the claimant, as determined under section 9(b)(1), less the amount of workers' compensation benefits, as determined under this subsection. If a person eligible to file a claim for workers' compensation benefits has not filed such a claim, or either he or his employer has failed to exhaust their remedies under an applicable workers' compensation law, any product liability action brought by the claimant shall be dismissed without prejudice until those remedies are exhausted. The determination of workers' compensation benefits by the trier of fact in a product liability action shall have no binding effect on and shall not be used as evidence in any other proceeding.

(b) Unless the manufacturer or product seller has expressly agreed to indemnify or hold an employer harmless for harm to an employee caused by a product—

(1) the employer shall have no right of subrogation, contribution, implied indemnity or lien against the manufacturer or product seller if the harm is one for which a product liability action may be brought under this Act; and

(2) the workers' compensation insurance carrier of the employer shall have no right of subrogation against the manufacturer or product seller.

(c) In any product liability action in which damages are sought for harm for which the person injured is entitled to compensation under any State or Federal workers' compensation law, no third party tortfeasor may maintain any action for implied indemnity or contribution against the employer or any coemployee of the person who was injured.

(d) No person entitled to file a claim for benefits pursuant to applicable State or Federal workers' compensation laws or who would have been entitled to file such a claim, or any other person whose claim would be derivative from such a claim, shall be allowed to recover in any action other than a workers' compensation claim against a present or former employer or workers' compensation insurer of the employer or any coemployee for harm caused by a product.

TIME LIMITATION ON LIABILITY

SEC. 12. (a)(1) If any product is a capital good, no claim alleging unsafe design or formulation as provided in section 5(b), or failure to give adequate warnings or instructions as provided in section 6(a), may be brought for harm caused by such a product more than 25 years from the date of delivery of the product to its first purchaser or lessee who was not engaged in the business of selling or leasing the product or using the product as a component in the manufacture of another product.

(2) As used in this subsection, "capital good" means any product, other than a motor vehicle, or any component of any such product, if it is also of a character subject to allowance for depreciation under the Internal Revenue Code of 1954, as amended, and was—

(A) used in a trade or business;

(B) held for the production of income; or

(C) sold, leased, or donated to a governmental or private entity for the production of goods, for training, for demonstration, or other similar purposes.

(b) Subsection (a) is not applicable if—

(1) the manufacturer or product seller intentionally misrepresented facts about the product or fraudulently concealed information about the product, and that conduct was a substantial cause of the claimant's harm;

(2) the harm of the claimant was caused by the cumulative effect of prolonged exposure to a defective product; or

(3) the harm, caused within the period referred to in subsection (a), did not manifest itself until after the expiration of that period.

(c) Nothing in subsection (a) shall affect the right of any person who is subject to liability for harm under this Act to seek and obtain contribution or indemnity from any other person who is responsible for that harm.

PUNITIVE DAMAGES

SEC. 13. (a)(1) Punitive damages may be awarded to any claimant who establishes by clear and convincing evidence that the harm suffered was the result of the reckless disregard of the manufacturer or product seller for the safety of product users, consumers, or persons who might be harmed by the product. Punitive damages may not be awarded in the absence of a compensatory award.

(2) As used in this subsection, "reckless disregard" means conduct manifesting a conscious, flagrant indifference to the safety of those persons who might be harmed by a product and constituting an extreme departure from accepted practice. A negligent choice among alternative product designs or warnings, when made in the ordinary course of business, does not by itself constitute "reckless disregard".

(b) The trier of fact, in determining under subsection (a) whether punitive damages should be awarded, shall consider—

(1) the manufacturer's or product seller's awareness of the likelihood that serious harm would arise from the sale or manufacture of a product;

(2) the conduct of the manufacturer or product seller upon discovery that the product caused harm or was related to harm caused to users or others, including whether upon confirmation of the problem the manufacturer or product seller took appropriate steps to reduce the risk of harm;

(3) the duration of the conduct and any concealment of it by the manufacturer or product seller; and

(4) whether the harm suffered by the claimant was partly the result of the claimant's own negligent conduct.

(c) If the trier of fact determines under subsection (a) that punitive damages should be awarded to a claimant, the court shall determine the amount of those damages. In making that determination, the court shall consider—

(1) all relevant evidence relating to the factors set forth in subsection (b);

(2) the profitability of the conduct to the manufacturer or product seller; and

(3) the total effect of other punishment imposed upon the manufacturer or product seller as a result of the misconduct, including punitive damage awards to persons similarly situated to the claimant and the severity of other penalties to which the manufacturer or product seller has been or may be subjected.

(d) Notwithstanding the provisions of section 14, a manufacturer or product seller may introduce relevant evidence of post-manufacturing improvements in defense of punitive damages.

SUBSEQUENT REMEDIAL MEASURES

SEC. 14. (a) Except as provided in subsection (b), evidence of any measure taken after an event, which if taken previously would have made the event less likely to occur, is not admissible.

(b) This section does not require the exclusion of evidence of a subsequent measure in an action alleging a product was unreasonably dangerous in design or formulation, if offered to impeach a witness for the manufacturer or product seller who has expressly denied the feasibility of such a measure.

SEPARABILITY CLAUSE

SEC. 15. If any provision of this Act or the application of it to any person or circumstance is held invalid, the remainder of this Act and the application of the provision to any other person or circumstance shall not be affected by that invalidation.

EFFECTIVE DATE

SEC. 16. (a) This Act shall be effective 60 days after the date of its enactment, and shall apply to all product liability actions commenced on or after that date, including any action in which the harm or the conduct which caused the harm occurred before the effective date.

(b) If any provision of this Act would shorten the period during which a manufacturer is exposed to liability under this Act, the claimant may, notwithstanding the otherwise applicable time period in section 12, bring any such action within 1 year after the effective date of this Act.

SECTION-BY-SECTION—PRODUCT LIABILITY ACT—S. 44

SECTION 1—TITLE

This section of the bill provides that the legislation may be cited as the Product Liability Act.

SECTION 2—DEFINITIONS

Several terms used in the legislation are defined in this section. Most importantly, (1) a "manufacturer" includes not only a person engaged in a business to design or formulate and to produce, create, make, or construct a product, but also a product seller which either holds itself out as a manufacturer or acts as a manufacturer with respect to a given product; (2) a "product seller" is any person selling, leasing, installing or packaging a product or otherwise placing it in commerce, but this term excludes sellers of real property, professionals, and certain financial entites; and (3) "reasonably anticipated conduct" is defined as conduct expected of a reasonably prudent person.

SECTION 3—PREEMPTION OF OTHER LAWS

This section defines "product liability action" governed by this Act as any civil action brought against a manufacturer or product seller for harm caused by a product, without regard to state law theories of strict liability in tort, negligence, breach of warranty, failure to warn or instruct, or misrepresentation, which previously governed such an action. State law is superseded to the extent the Act addresses an issue. Civil actions for harm to a product itself or for commercial loss are not product liability actions. Purely economic harms have traditionally been a matter of commercial law,

not tort law. The Act does not expand the jurisdiction of the federal courts.

SECTION 4—RESPONSIBILITY OF MANUFACTURERS

This section provides that in any product liability action, a manufacturer is liable if the claimant establishes by a preponderance of the evidence that the product is unreasonably dangerous in construction, in design, because of a failure to provide adequate warnings or instructions, or because the product did not conform to an express warranty. In addition, a claimant must show that the unreasonably dangerous aspect of the product was a proximate cause of the harm complained of by the manufacturer.

SECTION 5—PRODUCT CONSTRUCTION AND DESIGN

A product may be unreasonably dangerous in construction or manufacture if it deviated from the manufacturer's design specifications, formula or performance standards or from otherwise identical units manufactured to the same manufacturing specification or formula. A manufacturer is, then, strictly liable for mismanufactured products if the deviation in the product caused the claimant's harm.

A product may be unreasonably dangerous in design or formulation if a reasonably prudent manufacturer would not have used the design or formulation. A claimant must show that the manufacturer knew or should have known about the danger which caused the claimant's harm and that there was a means to eliminate that danger. Where an alternative design or formulation is offered as part of the claimant's case, it must be one about which the manufacturer knew or should have known and one which used technology which was reasonably accepted in the scientific, technical or medical community. Manufacturers are not liable for unavoidably dangerous aspects of a product. For example, the risks of rabies vaccine injections are unavoidable because they cannot be eliminated without impairing the vaccine's benefits.

SECTION 6—PRODUCT WARNINGS OR INSTRUCTIONS

A product may be unreasonably dangerous because of a failure to provide adequate warnings or instructions if (1) the manufacturer knew, or should have known of the existence of the danger which caused the claimant's harm, (2) a reasonably prudent manufacturer would have provided the warnings or instructions which the claimant alleges would have been adequate, (3) the manufacturer did not provide such warnings or instructions, and (4) the warnings or instructions would have prevented harm to a reasonably prudent product user. In addition, the manufacturer may be responsible for failure to warn if, after the product was made, the manufacturer discovered or should have discovered the danger which caused the claimant's harm and failed to provide post-manufacture warnings to the claimant as a reasonably prudent manufacturer would have done.

Warnings or instructions must be given to a product user unless they were provided to certain classes of persons who could be expected to pass the warning on to the users. A manufacturer is not liable for failure to warn about obvious dangers, consequences of misuse, alteration or modification.

SECTION 7—PRODUCT EXPRESS WARRANTY

A manufacturer is strictly liable for breach of express product warranties where the breach of the warranty caused the claimant's harm.

SECTION 8—RESPONSIBILITY OF PRODUCT SELLERS

This section provides that a product seller is liable if, by a preponderance of the evidence, the seller's own lack of reasonable care in handling the product or the seller's own breach of an express product warranty was a proximate cause of the claimant's harm. Thus, the seller is responsible only for his own fault. Where, however, the manufacturer is not subject to service of process or is determined to be judgment-proof, the seller may be responsible for harms attributable to the manufacturer. This section will reduce litigation costs by taking the seller out of suits in which he is not responsible. At the same time, it permits recovery by the claimant if the responsible manufacturer cannot be served.

SECTION 9—COMPARATIVE RESPONSIBILITY

Under this section, the comparative responsibility of third party defendants and the claimant (due to contributory negligence or assumption of risk) does not bar recovery, but reduces compensatory damages awarded to the claimant by an amount proportionate to the claimant's responsibility. This comports with the purpose of the Act which is to place incentives for risk prevention on those best able to implement that goal.

SECTION 10—MISUSE, ALTERATION, CONTRIBUTORY NEGLIGENCE, OR ASSUMPTION OF THE RISK

Under this section, if a manufacturer or product seller establishes by a preponderance of the evidence that a misuse or alteration of a product caused the claimant's harm, damages shall be reduced or apportioned to the extent that the misuse or alteration was a cause of the harm. A product alteration will not lead to a reduction in damages if it was in accordance with manufacturer or seller instructions; if it was performed with the manufacturer's or seller's consent; or if it was reasonably anticipated and the manufacturer or the seller failed to provide a warning against that alteration. This section ensures that responsibility for harm is not placed on those who did not cause the harm. In doing so, it places incentives for risk prevention on those best able to do so.

SECTION 11—EFFECT OF WORKERS' COMPENSATION BENEFITS

Under this section, damages shall be reduced by the amount paid to the claimant under any state or federal workers' compensation law and the present value of any such benefits to which the claimant will be entitled in the future. Unless the manufacturer or product seller has expressly agreed to indemnify an employer, the employer would have no right of subrogation, contribution, indemnity or lien against the manufacturer or product seller, and the workers' compensation insurance carrier of the employer shall have no right of subrogation against the manufacturer or product seller.

SECTION 12—TIME LIMITATION ON LIABILITY

If a product is a capital good, no claim alleging unsafe design of failure to warn in a product liability action may be brought for harm caused by the product more than 25 years after delivery to the first buyer or lessee not engaged in the business of selling and leasing the product or using the product as a component in the manufacture of another product. Capital good is defined as a product used in trade or business or held for the production of income.

These limitations on liability are not applicable if (1) the product seller intentionally misrepresented or fraudulently concealed information about the product; (2) the claimant's harm was caused by the cumulative effect of prolonged exposure to the product; or (3) the harm did not manifest itself until after the time limitation. Thus, claims for certain harms, such as harms from drugs, which do not manifest themselves until many years after product use, would not be barred by this section.

SECTION 13—PUNITIVE DAMAGES

Punitive damages may be awarded to any claimant who receives compensatory damages and who establishes by clear and convincing evidence that the harm suffered was the result of the reckless disregard of the manufacturer or product seller for the safety of product users.

Reckless disregard means conduct manifesting a conscious, flagrant, indifference to the safety of persons who might be harmed by a product and constituting an extreme departure from accepted practice.

Following a determination by the trier of fact that punitive damages should be awarded, the judge would determine the amount of damages. This provision ensures that potential abuses which may occur in multiple product liability exposure are avoided.

SECTION 14—SUBSEQUENT REMEDIAL MEASURES

Evidence of corrective measures taken by a manufacturer or product seller after a harm has occurred would not be admissible in court to prove liability. This preserves the incentive for manufacturers and product sellers to improve their products.

SECTION 15—SEPARABILITY CLAUSE

A determination that a provision of the Act is invalid or that the application of it to any person or circumstance is invalid will not affect the remainder of the Act.

SECTION 16—EFFECTIVE DATE.

This Act will apply to all actions commenced on or after the effective date, including any action in which harm or the conduct which caused the harm occurred before the effective date.●

THE PRODUCT LIABILITY ACT

Mr. PERCY. Mr. President, I congratulate the Senator from Wisconsin (Mr. KASTEN) for his creativity and perseverance in the important area of product liability reform, and I am pleased to join him, for the second successive Congress, as a cosponsor of his bill to establish a uniform product liability law in this country.

The need for commonsense and upiformity in this area of law is greater than ever before. Economic conditions in this country today require that we remove unreasonable and unnecessary obtacles to the revitalization of business and industry, and the creation of new jobs.

Since the report on product liability problems was issued by the Commerce Department task force in 1977, we have known that a Federal response to a problem national in its scope was urgently needed. In meetings I have had around the State of Illinois since that time, interested groups and individuals have underscored the task force's findings by recounting their own personal

experiences with the product liability crisis. The most alarming stories involved businesses which were totally unable to obtain product liability insurance coverage even though they had never had an unfavorable judgment entered against them. Others verified the skyrocketing costs of such insurance if it could be obtained. It was clear that product liability insurance was becoming unavailable to some and unaffordable to others.

Since early 1978, I have supported one or more proposals to ease the crisis, including the Risk Retention Act—now law—which gave product sellers and manufacturers the option of forming self-insurance groups or other special groups for the purpose of buying commercial insurance at favorable rates.

The Kasten legislation addresses another of the major problems experienced by businesses and consumers alike: the conflicting product liability rules throughout the 50 States which have made it so much more difficult, if not impossible, for manufacturers and product sellers to know precisely what their obligations are, and for consumers to know their rights. The uncertainty and chaos engendered by this situation have had several undesirable consequences including lengthy and expensive court cases, higher insurance rates and, most disturbing of all, a disincentive to new product development. In an industrialized nation with complex production and delivery systems which cross State lines, it is unthinkable to retain an archaic and balkanized system of 50 sets of product liability laws.

It is my hope that early consideration and passage of S. 44 will put these difficulties behind us and remove yet another obstacle to our economic revitalization. I look forward to working with Senator KASTEN on behalf of his timely and necessary legislation, and to the bill's speedy enactment.

By Mr. PACKWOOD (for himself, Mr. STEVENS, Mr. GORTON, Mr. KASTEN, and Mr. HOLLINGS):

S. 46. A bill to consolidate and reenact certain of the marine safety and seaman's welfare laws of the United States; to the Committee on Commerce, Science, and Transportation.

MARINE SAFETY AND SEAMAN'S WELFARE

Mr. PACKWOOD. Mr. President, on June 22, 1982, I introduced, together with Senators TED STEVENS and SLADE GORTON, S. 2660, a bill to consolidate and reenact certain marine safety and seamen's welfare laws. The bill, as introduced, is the product of a 20-year effort by the Coast Guard.* S. 2660 was referred in the 97th Congress to the Committee on Commerce, Science, and Transportation. With regard to specific provisions, the committee sought and received public comment from many companies, labor, and individuals in the maritime, inland waterways, and fisheries industries.

At the time of introduction, I requested that the Congressional Research Service (CRS) conduct an analysis of S. 2660 through a comparison with the affected chapters of title 46 of the United States Code. That work was reflected in a subsequent committee staff draft, which also incorporated many of the public's comments. That new staff draft was substantially different than S. 2660, as introduced. On November 22, 1982, the staff draft, in the form of a side-by-side comparison with current law in title 46, was released as a Commerce Committee Print.

I am pleased to report that significant interest has already been expressed by the maritime community in the form of constructive comment and criticism. In response to detailed analysis and comment by maritime interests, a number of changes have been made to the staff draft and are reflected in S. 46.

Today I am introducing, together with Senators STEVENS, GORTON, KASTEN, and HOLLINGS, the most current version of S. 46. This bill, through a bipartisan effort and in cooperation with labor and industry, embodies a thorough reorganization and clarification of various sections of title 46. We are looking forward to swift passage and implementation of this legislation so as to permit the proper enforcement of comprehensible marine safety and seaman's welfare laws in the United States.

It is anticipated that the companion bill will be introduced in the House of Representatives. We will receive constructive public comment in order to expedite final passage of this long-overdue legislation.

The purpose of S. 46 is to restate, without substantive changes of a controversial nature, the existing laws enforced by the U.S. Coast Guard governing commercial shipping and recreational boating, principally contained in title 46, U.S. Code—"Shipping." In order to better understand the need for S. 46, one must look to its genesis in the numerous related yet unorganized laws that date back as many as 100 years and are found throughout title 46.

The more recently enacted legislation was designed to remedy specific problems, and often was designed without regard to the scope and format of the existing law. Terminology has not always been consistent. Amendments to older laws have not always conformed with statutes enacted in the interim.

A simple, but most spectacular, example of the type of situation to be improved is that of the classes of vessel subject to inspection and safety regulation. A minimum of 13 sections of the U.S. Code must be consulted to ascertain the various types of vessel subject to the general "inspection" authority of the Coast Guard. Each makes a slightly different use of terms, some with language which cannot be taken at face value because it is collaterally qualified by some other nonreferenced law. This bill attempts to remedy this problem by providing definitions, by making a complete and simultaneous statement of the classes of vessel to be regulated in the same general manner, and by gathering the exceptions to the general rule in one place. Special legislation which have developed almost separate systems for certain classes of vessel has been restated so as to complement the basic legislative intent.

Another factor which has led to consideration of the need for restating existing law is the radical change that has come over the very form of the executive departments over the last 50 years. The United States Code format has necessitated some substitutions of language to reflect these effects and the fact is that there is often a great difference between the sections of the United States Code cited as sources for the statements in the present bill, and the statutes as actually enacted. This problem of "collateral changes" without direct amendment of the statutes themselves pervades the entire body of law under consideration.

Most of the statutes to be replaced stem from the revised statutes and statutes at large enacted prior to 1946. As a consequence, Government agencies and officials specified therein no longer endure and transfers of functions have been made collaterally by reorganization plans and reorganization acts without verbal amendment to the enacted statutes. Archaic terms such as "collector of customs," "board of local inspectors," and "Bureau of Marine Inspection and Navigation" still endure unaffected by direct amendment of acts of Congress. The result is a hodgepodge with an element of uncertainty touching each section of the law. This uncertainty cannot be resolved without ascertaining the original language, which antedates even the first edition of the United States Code. The threads of shifting authority must then be followed through various executive reorganization plans to determine where the powers are vested and where the duties reside.

S. 46 universally vests all authority in the "Secretary of the department in

* Congress has repeatedly failed to enact this and similar legislation due to disagreement among competing interests. This marked lack of success can be traced back to as early as 1929.

which the Coast Guard is operating," and provides authority to the Secretary to delegate and allow for subdelegation. In all instances in which field action will clearly be taken under delegated authority, this bill speaks of "designated official," rather than creating several classes of Government officers.

A frequent assertion made both by Government and industry is that laws such as those regulating vessel safety and the merchant seaman should be modernized and improved. The difficulty has been, however, that given the results of the rather irrational and piecemeal development of legislation, every effort directed to improvement of specific laws has resulted in unforeseen difficulties due to conflicts with overlooked provisions of other laws.

We believe that reordering concepts and clarifying responsibilities will produce a body of law which might later be substantively improved. This bill rearranges statutory material so that the subject matter is reflected in chapter and subchapter groupings. It also eliminates independent statements that cut across several categories of interest. It is clear that the bill will reduce the volume of language needed to produce the same results, provided easier access to a single source in the law, and hopefully lead to a reorganization and reduction of the regulations now encrusting the statutory body.

● Mr. HOLLINGS. Mr. President, I want to join Senator PACKWOOD as a cosponsor of this bill to revise title 46 of the United States Code concerning marine safety and seamen's welfare. Long before I arrived in the Senate 16 years ago, the Coast Guard and Congress have been trying to revamp these antiquated, confusing, and overlapping statutes. Many of the laws go all the way back to the days of ironmen and wooden ships. It would be a great contribution to the body of maritime law if we could successfully bring this important part of title 46 into the late 20th century.

We have every reason to be optimistic about this bill's chance to become law by the end of the year. The legislation has already received the benefit of thoughtful comment from all sectors of the affected maritime industries. Its immediate predecessor, S. 2660, was introduced in June 1982 and was revised in an annotated staff draft which was widely circulated in the fall. At the same time the House Merchant Marine and Fisheries Committee held hearings to air additional views. The support for such a modernization has been universal. The bill introduced today reflects many of the comments we received last year, as well as some of the changes in law that occurred in the final stages of the 97th Congress.

At present many of these statutes cannot be understood by the average person—not even by the average lawyer. Only those with vast expertise and experience with the multiplicity of court and regulatory decisions can fathom their meaning. That should not be.

Undoubtedly, there will be some areas of disagreement. But I anticipate a responsible, sincere effort by all involved to accommodate the concerns of others. The fundamental thrust of this legislation is to express existing law in a readable, well organized, and rational way.●

By Mr. PACKWOOD:

S. 48. A bill to amend subtitle IV of title 49, United States Code, to remove restrictions on intermodal ownership, and for other purposes; to the Committee on Commerce, Science, and Transportation.

TRANSPORTATION IMPROVEMENT ACT OF 1983

Mr. PACKWOOD. Mr. President, today I am introducing legislation to create an independent regulatory agency called the National Transportation Commission. On January 1, 1985, the new Commission would assume all of the functions of the Interstate Commerce Commission (ICC), the Federal Maritime Commission (FMC), and the Civil Aeronautics Board (CAB), which existed in these agencies as of December 31, 1984. The legislation also eliminates existing statutory restrictions against common ownership and control of different types of carriers.

The provisions contained in this legislation are not new. In fact, the recommendation to consolidate the ICC, the FMC, and the CAB has been made in numerous transportation reports over the years. The recommendation was made most recently by the congressionally chartered National Transportation Policy Study Commission in its 1979 report on improving the national transportation policy. In 1971, the President's Ash Council report recommended that the agencies be consolidated, as did the 1961 Doyle report, which was sponsored by the Senate Commerce Committee. Similarly, the recommendation to eliminate the statutory restrictions on common ownership of carriers was contained in both the National Transportation Policy Study Commission's report and the Doyle report.

Despite the frequency with which these recommendations have been made, to the best of my knowledge, Congress has never focused attention on them. I believe that the time has finally come to fully examine these recommendations. Such an examination seems especially timely in view of the many recent and anticipated changes in the statutes that govern the responsibilities of these agencies. Further, Congress has an ongoing duty to insure that Federal agencies act in an effective manner without unduly imposing costs, paperwork, and other burdens on those interest groups with which they deal. Also, Congress should be at the forefront of emerging concepts and technologies, such as those associated with intermodal transportation.

My purpose in introducing this legislation today is to finally get these recommendations on the table and to talk about them. In this regard, I want to make it clear that I am not wed to the provisions of this legislation; instead I believe the provisions should be viewed as a starting point for discussion. Further, I want to encourage individuals and groups to work with me in flushing out and developing the concepts behind them.

I am including with this statement a section-by-section analysis of the legislation. I would also ask unanimous consent that the legislation be printed in its entirety in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS OF THE "TRANSPORTATION IMPROVEMENT ACT OF 1983"

Section 1

This section states that the Act may be cited as the "Transportation Improvement Act of 1983."

TITLE I. OWNERSHIP AND CONTROL

Section 101

This section states the findings and purpose of Title I. It provides that removing discriminatory restrictions on intermodal ownership is essential to a more competitive, efficient, less costly, and energy conserving freight transportation system. It also states specific findings regarding the effect that removing such restrictions will have on the growth of intermodal transportation and the consequent production of savings for shippers.

Section 102

This section repeals section 11321 of title 49 of the United States Code, which prohibits a rail or pipeline carrier from acquiring control of a domestic water carrier with which it could or does compete, unless that carrier affirmatively demonstrates that the acquisition will serve the public interest and that intermodal competition will not be impaired. Under section 11321, such carriers are also prohibited altogether from acquiring any water carrier operating through the Panama Canal.

With the repeal of section 11321, the Interstate Commerce Commission would still have to approve the acquisition of a water carrier by a rail or pipeline carrier; however it would limit its determination to whether the acquisition was in the public interest. This public interest standard encompasses, among other things, questions of competition and efficiency.

Section 103

This section repeals section 11323 of title 49 of the United States Code, which prohibits freight forwarders from acquiring control of any rail, motor, or water carrier. This change would put freight forwarders on the same footing as those other carriers, all of which are now permitted to acquire freight forwarders. With the repeal of section

11323, the Interstate Commerce Commission would still be required to approve an acquisition by a freight forwarder. The standard it would use in making its determination was whether the acquisition was in the public interest.

Section 104

This section amends section 11343(d)(1) of title 49 of the United States Code to eliminate the requirement that the Interstate Commerce Commission approve the merger or acquisition of two or more small motor carriers, (carriers whose aggregate annual gross revenues do not exceed $2 million) if one of the carriers is affiliated with a rail carrier. This change would permit smaller motor carriers to combine together without Commission approval, regardless of who they are affiliated with.

Section 105

This section amends section 11344(c) of title 49 of the United States Code to eliminate the requirement that the Interstate Commerce Commission approve the acquisition of a motor carrier by a rail carrier only if it finds that the acquisition "will enable the rail carrier to use motor carrier transportation to public advantage in its operations, and will not unreasonably restrain competition." With this change, the Commission would still have to approve such acquisitions; however, its determination would be limited to whether the acquisition was in the public interest. The public interest standard includes, among other things, questions of competition and efficiency.

Section 106

This section amends section 10505(g) of title 49 of the United States Code to make a conforming change.

Section 107

This section establishes the effective date for the changes made by the Act as the first day of the first month after the Act is enacted.

TITLE II. NATIONAL TRANSPORTATION COMMISSION

Section 201

This section provides that Title II may be cited as the "National Transportation Commission Organization Act of 1983."

Section 202

This section states the findings and purpose of Title II. It provides that establishing a consolidated transportation regulatory agency will promote the development of a national transportation system, increase intermodal transportation, and decrease paperwork and other regulatory burdens for all parties concerned.

Section 203

This section includes the definitions used in the Act. It defines "Commission" as the "National Transportation Commission."

Section 204

This section provides for establishment of the National Transportation Commission as an independent entity on September 1, 1984.

Section 205

This section provides for the membership and responsibilities of the new Commission. It states that the Commission shall be composed of five members appointed by the President, and confirmed by the Senate. The members are required to be knowledgeable in the areas of transportation, regulatory policy, or management. The President shall designate one of the members as Chairman. The Chairman is made responsible for administering the Commission. The Commission is authorized to establish such administrative rules as are necessary to carry out its functions.

Section 206

This section provides that the Chairman may appoint such officers and employees as may be necessary to carry out the functions of the Commission. The Commission is also authorized to make use of experts and consultants.

Section 207

This section provides for the transfer to the Commission of the functions performed by the Interstate Commerce Commission (ICC), the Federal Maritime Commission (FMC), and the Civil Aeronautics Board (CAB). There is a transitional period provided for during which all or some of these functions may be transferred. By January 1, 1985, all functions that have not been previously transferred and that exist in these agencies on December 31, 1984, must be transferred to the Commission. The ICC, the FMC, and the CAB are abolished on January 1, 1985.

Section 208

This section provides for the transfer to the Commission of the personnel who are employed in connection with the various functions transferred from the Interstate Commerce Commission, Federal Maritime Commission, and Civil Aeronautics Board.

Section 209

This section provides for the incidental disposition of such things as personnel, assets, and unexpended appropriations, as may be necessary to carry out the Title.

Section 210

This section includes the savings provisions. It provides that all orders, rules, certificates, and other similar items that are in effect at the ICC, FMC, and CAB at the time of transfer, shall continue in effect until changed by the Commission in accordance with applicable law. Similar provision is made for ongoing agency and court proceedings.

Section 211

This section provides that any reference in the law to the ICC, FMC, and CAB shall be considered to refer to the Commission.

Section 212

This section authorizes use by the Commission of the employees of the ICC, FMC, and CAB on a transitional basis.

Section 213

This section provides a separability clause.

Section 214

This section provides that the members of the Commission may be nominated and appointed before September 1, 1984. Further, funds appropriated to the ICC, FMC, and CAB may be used to pay transitional expenses associated with the establishment of the Commission or the transfer of functions.

S. 48

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Transportation Improvement Act of 1983."

TITLE I—OWNERSHIP AND CONTROL

FINDINGS AND PURPOSE

SEC. 101. (a) The Congress finds that removing discriminatory restrictions on intermodal ownership is essential to a more competitive, efficient, less costly, and energy conserving freight transportation system. Removing restrictions on the formation of multimodal transportation companies will—

(1) allow intermodal transportation to grow in markets where it can contribute to a higher degree of economic and physical integration among intercity freight transportation modes;

(2) encourage additional freight competition and technological innovation resulting in increased equipment utilization, operating efficiency, and cost savings;

(3) produce savings to shippers through better and faster through service, less paperwork, and a greater variety of rate-and-service offerings;

(4) result in more efficient and reliable traffic routing, with resultant cost and service advantages to shippers and carriers;

(5) promote the growth of containerization, thereby reducing handling costs, damage and theft costs, time required to complete modal transfers of cargo, and the incidence of unbalanced, energy-wasting empty backhauls;

(6) eliminate barriers to growth of trailer- or container-on-railroad-flatcar (TOFC/COFC) service; and

(7) provide more opportunity to substitute motor carriers for short haul and noneconomic rail branchline service, so as to achieve substantial service benefits and cost savings in freight transportation.

(b) It is the purpose of the Congress in this title to treat all modes equitably and to encourage a more integrated and efficient transportation system, so as to provide better, more energy conserving, and less costly service to shippers and consumers. These objectives may be achieved by eliminating regulatory barriers to the formation of intermodal transportation companies.

LIMITATION ON OWNERSHIP OF CERTAIN WATER CARRIERS

SEC. 102. (a) Section 11321 of title 49, United States Code, is repealed.

(b) The section analysis of chapter 113 of title 49, United States Code, is amended by amending the item relating to section 11321 to read as follows: "11321. Repealed.".

LIMITATION ON OWNERSHIP OF OTHER CARRIERS BY FREIGHT FORWARDERS

SEC. 103. (a) Section 11323 of title 49, United States Code, is repealed.

(b) The section analysis of chapter 113 of title 49, United States Code, is amended by amending the item relating to section 11323 to read as follows: "11323. Repealed.".

CONSOLIDATION, MERGER AND ACQUISITION OF CONTROL

SEC. 104. Section 11343(d)(1) of title 49, United States Code, is amended by striking the second sentence.

CONSOLIDATION, MERGER AND ACQUISITION OF CONTROL; GENERAL CONDITIONS OF APPROVAL

SEC. 105. Section 11344(c) of title 49, United States Code, is amended by striking the fourth sentence.

CONFORMING AMENDMENT

SEC. 106. Section 10505(g) of title 49, United States Code, is amended by striking "(1) to authorize intermodal ownership that is otherwise prohibited by this title, or (2)".

APPLICABILITY

SEC. 107. The amendments made by this title shall not apply to any application for consolidation, merger, or acquisition of control that is filed with the Interstate Commerce Commission before the first day of the first month after the date of enactment of this Act. Consideration and approval of

any such application shall be governed by the applicable law in effect on the day before the date of enactment of this Act.

TITLE II—NATIONAL TRANSPORTATION COMMISSION

SHORT TITLE

SEC. 201. This title may be cited as the "National Transportation Commission Organization Act of 1983".

FINDINGS AND PURPOSE

SEC. 202. (a) The Congress finds that—

(1) it is in the national interest to promote the development and improvement of transportation by various modes on an equitable basis;

(2) a national transportation system will enhance interstate and foreign commerce by facilitating the movement of goods along more direct routes;

(3) increased intermodal transportation will result in more economical and energy-efficient carriage of goods for carriers and shippers, thereby benefitting consumers of goods and services who ultimately bear the burdens of increased transportation costs;

(4) existing regulatory structures are inadequate for development of an efficient national transportation system;

(5) establishment of a single governmental entity with responsibility for overseeing transportation will produce decisions, rules and regulations derived after consideration of all factors relating to transportation in its various modes; and

(6) establishment of such a single governmental entity will produce cost savings, reduced paperwork, and diminished regulatory burdens for the Federal Government, State and local governments, businesses and individuals.

(b) It is the purpose of this title to establish a National Transportation Commission and to consolidate the regulation of surface, air and water transportation in the National Transportation Commission.

DEFINITIONS

SEC. 203. As used in this title, the term—

(1) "Commission" means the National Transportation Commission established in section 204 of this title;

(2) "function" includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program;

(3) "office" includes any office, institute, council, unit, organizational entity, or component thereof; and

(4) "perform" of "performance", when used in relation to a function, includes the exercise of power, authority, rights, and privileges.

ESTABLISHMENT OF THE COMMISSION

Sec. 204. On September 1, 1984, there is established the National Transportation Commission, which is an independent establishment of the United States Government.

MEMBERSHIP AND RESPONSIBILITIES OF THE COMMISSION

Sec. 205. (a)(1) The Commission is composed of 5 members appointed by the President, by and with the advice and consent of the Senate. The members appointed under this subsection shall be selected from among individuals who, by reason of their background, education, training or experience, are knowledgeable in the areas of transportation, regulatory policy and procedures, or management. Not more than 3 members may be appointed from the same political party.

(2) The President shall designate one of the members as Chairman.

(3) The Chairman of the Commission is compensated at the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code. The other members of the Commission are compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(b) The term of each member of the Commission is 5 years and begins when the term of the predecessor of that member ends. An individual appointed to fill a vacancy occurring before the expiration of the term for which that individual's predecessor was appointed is appointed for the remainder of that term. When the term of office of a member ends, the member may continue to serve until a successor is appointed and qualified. The terms of the members first taking office shall expire (as designated by the President at the time of appointment) as follows: one at the end of one year, one at the end of two years, one at the end of three years, one at the end of four years, and one at the end of five years. The President may remove a member for inefficiency, neglect of duty, or malfeasance in office.

(c) A member of the Commission may not have a pecuniary interest in, hold an official relation to, or own stock in or bonds of, a carrier providing transportation by any mode and may not engage in another business, vocation, or employment.

(d) A vacancy in the membership of the Commission does not impair the right of the remaining members to exercise all of the powers of the Commission. The Commission may designate a member to act as Chairman during any period in which there is no Chairman designated by the President.

(e) Subject to the general policies, decisions, findings, and determinations of the Commission, the Chairman is responsible for administering the Commission. The Chairman may delegate the powers granted under this subsection to an officer, employee, or administrative unit of the Commission. The Chairman shall—

(1) appoint and supervise the officers and employees of the Commission (other than regular and full time employees in the immediate offices of another member), in accordance with section 206 of this title;

(2) appoint (with the approval of the Commission) the heads of major administrative units;

(3) distribute Commission business among officers, employees and administrative units of the Commission;

(4) prepare requests for appropriations for the Commission and, with the prior approval of the Commission, submit those requests to the President and Congress; and

(5) supervise the expenditure of funds allocated by the Commission for major programs and purposes.

(f)(1) The Commission may, in accordance with applicable provisions of title 5, United States Code, establish such procedural and administrative rules as are necessary to the exercise of its functions. The Commission shall comply with all procedures specifically prescribed by applicable statutes, and shall not establish any procedural and administrative rules under this subsection which would be inconsistent with such prescribed procedures. Until changed by the Commission, any procedural and administrative rules applicable to particular functions transferred under this title shall continue in effect with respect to such functions.

(2) The Commission may conduct proceedings, and shall do so in a manner conducive to the proper dispatch of business and the ends of justice.

(g) The Commission shall have a seal that shall be judicially recognized.

(h) The expenses of the Commission shall be paid after presentation and approval by the Chairman of itemized vouchers.

EMPLOYEES OF THE COMMISSION

SEC. 206. (a) The Chairman of the Commission may appoint and fix the compensation of such officers and employees as may be necessary to carry out the functions of the Commission, including attorneys to provide legal aid and service to the Commission and its members, to represent the public interest in investigations and proceedings of the Commission, and to represent the Commission in any case in court. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the civil service laws and their compensation fixed in accordance with title 5, United States Code.

(b) The Commission may, as provided in appropriation Acts, obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code, and may compensate such experts and consultants at rates not to exceed the daily rate prescribed for GS-18 of the General Schedule under section 5332 of title 5, United States Code.

TRANSFERS OF FUNCTIONS

SEC. 207. (a) On or after September 1, 1984, the Chairman of the Interstate Commerce Commission, the Chairman of the Federal Maritime Commission and the Chairman of the Civil Aeronautics Board may transfer to the Commission any functions—

(1) which exist under any provision of law in the Interstate Commerce Commission, the Federal Maritime Commission, or the Civil Aeronautics Board as of the date of transfer of any such function; and

(2) as such Chairmen jointly determine to be appropriate to effectuate the purposes of this Act.

Any transfer under this subsection shall only occur after consultation with the Commission.

(b) On January 1, 1985, there are transferred to the Commission all functions of the Interstate Commerce Commission, the Federal Maritime Commission, and the Civil Aeronautics Board under any provision of law—

(1) which have not been transferred pursuant to subsection (a) of this section; and

(2) which existed in those entities on December 31, 1984.

(c) On January 1, 1985, the Interstate Commerce Commission, the Federal Maritime Commission, and the Civil Aeronautics Board shall cease to exist.

(d) In carrying out any function transferred by this section, the Commission, or any officer or employee of the Commission, may exercise any authority relating to such function which is by law (including appropriation Acts) available to the entity from which such function is transferred. The actions of the Commission in performing such a function shall have the same force and effect as when exercised by such an entity.

TRANSFER AND ALLOCATION OF APPROPRIATIONS AND PERSONNEL

SEC. 208. (a) Except as otherwise provided in this title, whenever any function is transferred under section 207 of this title, there are simultaneously transferred to the Commission for appropriate allocation the personnel employed in connection with, and the assets, liabilities, contracts, property,

paper, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with, any such function, including all Senior Executive Service and GS-16, GS-17 and GS-18 positions, subject to section 202 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c). Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(b) The transfer pursuant to this title of any full-time personnel (except any special Government employees) and part-time personnel holding permanent positions shall not cause any employee who continues in the same position after the transfer to be reduced in grade or compensation, except in accordance with applicable civil service laws under title 5, United State Code.

(c) Any person who—

(1) on the day before the date of transfer of a function (pursuant to section 207 of this title), held a position in connection with such function which was compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code; and

(2) without a break in service, is appointed in the Commission to a new position having duties comparable to the duties performed immediately before such appointment;

shall, for the duration of the service of that person in such new position, continue to be compensated in the new position at not less than the rate provided for the previous position.

(d) Offices established directly by statute or reorganization plan in the Interstate Commerce Commission, the Federal Maritime Commission or the Civil Aeronautics Board, the incumbents of which are appointed by the President by and with the advice and consent of the Senate, shall terminate on January 1, 1985.

INCIDENTAL TRANSFERS

SEC. 209. Whenever the Director of the Office of Management and Budget shall provide, the Director shall, in consultation with the Commission, make such determinations as may be necessary with regard to the functions, offices, or portions thereof transferred by this title. The Director, in consultation with the Commission, shall make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, paper, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, offices, or portions thereof, as may be necessary to carry out the provisions of this title. The director shall provide for the termination of the fuctions and responsibilities of all entities terminated as a result of the enactment of this title, and for such further measures and dispositions as may be necessary to effectuate the purposes of this title.

SAVINGS PROVISIONS

SEC. 210. (a) All orders, determinations, rules, regulations, permits, grants, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the Interstate Commerce Commission, the Federal Maritime Commission, or the Civil Aeronautics Board, or any official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this title; and

(2) which are in effect at the time of transfer of the function (pursuant to section 207 of this title) under which any such order, determination, rule, regulation, permit, grant, contract, certificate, license, or privilege was issued, made, granted, or allowed to become effective;

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with applicable law.

(b)(1) The provisions of this title shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, or certificate pending on the date of transfer (pursuant to section 207 of this title) of the function to which the proceeding relates before the Interstate Commerce Commission, the Federal Maritime Commission, or the Civil Aeronautics Board, or any component thereof. Such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this title had not been enacted. Orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Commission, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent as such proceeding could have been discontinued or modified if this title had not been enacted.

(2) The Commission may promulgate regulations providing for the orderly transfer to the Commission of proceedings continued under paragraph (1) of this subsection.

(c)(1) Except as provided in this subsection—

(A) the provisions of this title shall not affect suits commenced before the date of transfer, pursuant to section 207 of this title, of any function to which such suit relates;

(B) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this title had not been enacted.

(2) If the Interstate Commerce Commission, the Federal Maritime Commission, or the Civil Aeronautics Board, or any officer thereof in that officer's official capacity, is a party to a suit before the date of transfer (pursuant to section 207 of this title) of any function to which such suit relates, such suit shall be continued with the Commission or other appropriate officer of the Commission substituted or added as a party.

(d) No suit, action, or other proceeding commenced by or against any officer (in that officer's official capacity) of the Interstate Commerce Commission, the Federal Maritime Commission, or the Civil Aeronautics Board shall abate due to the enactment of this title. No cause of action by or against the Interstate Commerce Commission, the Federal Maritime Commission, or the Civil Aeronautics Board, or by or against any officer of such an entity in that officer's official capacity, shall abate due to the enactment of this title.

(e) Order and actions of the Commission in the exercise of functions transferred under this title shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the Interstate Commerce Commission, the Federal Maritime Commission, or the Civil Aeronautics Board, or any part of such entities, exercising such functions immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this title shall apply to the exercise of such a function by the Commission.

REFERENCE

SEC. 211. With respect to any functions transferred by this title and exercised after the date of transfer (pursuant to section 207 of this title) of any such function, reference in any other Federal law to the Interstate Commerce Commission, the Federal Maritime Commission, or the Civil Aeronautics Board, any function performed by such entities, or officer or office of such entities shall be considered to refer to the Commission, function, or other official or component of the Commission, as appropritate

TRANSITION

SEC. 212. With the consent of the Chairman of the Interstate Commerce Commission, the Federal Maritime Commission, or the Civil Aeronautics Board, as appropriate, the Commission may utilize the services of such officers, employees, and other personnel of such entities from which functions have been transferred under section 207 of this title for such period of time as may reasonably be necessary to facilitate the orderly transfer of functions under this title.

SEPARABILITY

SEC. 213. If any provision of this title or the application of any such provision to any person or circumstance is held invalid, the remainder of this title or the application of such a provision to other persons or circumstances shall not be affected by such invalidation.

EFFECTIVE DATE

SEC. 214. (a) The members provided for in section 205 of this title may, before September 1, 1984, be nominated and appointed in the manner provided in such section.

(b) Funds available under any provision of law to the Interstate Commerce Commission, the Federal Maritime Commission, or the Civil Aeronautics Board (or any officer or component thereof) may be used to pay—

(1) the compensation and expenses of any officer appointed pursuant to this title; and

(2) other transitional and planning expenses associated with the establishment of the Commission or transfer of functions or offices to the Commission.

Such funds may be used until such time as funds for such purposes are otherwise available.

By Mr. CRANSTON:

S. 51. A bill to require persons who manufacture cigarettes or little cigars for sale or distribution in commerce to meet performance standards prescribed by the Consumer Product Safety Commission, and for other purposes; to the Committee on Commerce, Science, and Transportation.

CIGARETTE SAFETY ACT

Mr. CRANSTON. Mr. President, most people do not realize that year after year cigarette fires are the No. 1 cause of residential fire deaths in the United States. This growing tragedy lies hidden for a very simple reason: Cigarette fires cause death and de-

struction without fanfare, without making the headlines in our daily newspapers. Because large numbers of lives usually are not lost in any one location at any one time, it is difficult to grasp fully the widespread devastation in terms of lost family members and damaged property that these fires cause.

According to the U.S. Fire Administration, cigarettes caused more than 35 percent of all residential fire deaths in 1981. Cigarettes ignited 63,518 homes, caused $305 million in property damages, injured 3,819 people and killed 2,144 others. Yet these numbers tell only a partial story. Most of the fire statistics rely upon the voluntary participation of local fire departments, working through their State fire marshal, in reporting fire incidents. Roughly 40 percent of the Nation's fire departments, encompassing only one-half the population, participate in the national reporting system which is coordinated by the U.S. Fire Administration. We can assume that many deaths, injuries, and property damage go unreported.

In reintroducing the Cigarette Safety Act, I recognize there is a simple step Congress can and should take to address the leading cause of residential fires. My bill would give the Consumer Product Safety Commission the authority it is now specifically denied to develop a mandatory performance test of a cigarette's tendency to ignite upholstered furniture and mattresses.

A cigarette will self-extinguish when dropped onto a surface if its burn rate is below a certain threshold. A number of factors contribute to the burn rate: Tobacco packing density, cigarette circumference, moisture content of the tobacco, porosity and thickness of the cigarette paper, and various chemicals oftentimes added to either or both the tobacco and the wrapping paper which promote continuous burning. Although we do no know everything about the relative interactions of these factors, we do know there are cigarettes now on the market which have a lower tendency to ignite upholstery and that the manufacturers are selling these cigarettes at the same price and with the same consumer acceptance with which they sell other brands.

The National Bureau of Standards and the U.S. Testing Co., an independent laboratory, have each concluded there are at least two commercial brands that are relatively safe: More, made by the R. J. Reynolds Tobacco Co., and Nat Sherman's, a specialty cigarette brand made in New York City. The manufacturing of these cigarettes suggests that the production of a safer cigarette is economically feasible and provides a good basis for expanding research and development of the idea.

Prevented from dealing directly with the source of one of the Nation's leading fire hazards—the cigarette—the Consumer Product Safety Commission has instead been forced to focus on making upholstered furniture and bedding resistant to cigarette burns. Furniture has an average life of 30 years. It is readily apparent that it would take decades before we could even make a dent in reducing significantly the fire hazard posed by cigarettes if we continue to deal with the problem in such a circuitous way. Fireproofing cigarettes is far easier, cheaper, and more effective than attempting to fireproof everything they might be dropped on accidentally.

I commend and encourage educational efforts alerting the public to the dangers of carelessly dropping ignited cigarettes. As the statistics show, however, cigarette fires continue to cause a disproportionate number of fatalities. More education combined with the manufacturing of less hazardous cigarettes, would go a long way toward reducing this serious fire hazard.

This is not an antismoking bill. It is legislation directed at a proven safety hazard.

Support for fire safe cigarettes continues to grow. Such diverse groups as the American Medical Association, Sears, Roebuck & Co., the American Burn Association, and the California State Fire Marshal have expressed support for the idea. Last year five State legislatures considered bills calling for fire safe cigarettes, and this year at least six more States will discuss similar legislation.

More and more people are recognizing that cigarette fires pose a serious safety hazard and are an unacceptable risk, especially insofar as a solution is clearly within reach. I commend the many State efforts to grapple with the problem. However, cigarette fires are not confined to any region of this country. It is a national problem that demands a national solution. I urge my colleagues to join with me in working to reduce this major fire danger by supporting this legislation.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 51

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Cigarette Safety Act".

DEFINITIONS

SEC. 2. For purposes of this Act, the term—

(1) "cigarette", "commerce," "United States", and "little cigar" have the meanings prescribed in paragraphs (1), (2), (3), and (7), respectively, of section 3 of the Federal Cigarette Labeling and Advertising Act;

(2) "sale or distribution" includes distribution of samples or any other distribution not for sale;

(3) "Commission" means the Consumer Product Safety Commisson; and

(4) "cigarette safety standard" means any performance standard or cigarette safety rule promulgated by the Commission.

FINDINGS

SEC. 3. (a) The Congress finds that—

(1) the United States Fire Administration has determined that the careless use of smoking materials is the leading cause of fire-related death and injury in residences in the United States;

(2) fires caused by cigarettes and the careless use of smoking materials in the United States annually—

(A) kill approximately two thousand one hundred forty-four people,

(B) injure approximately three thousand eight hundred nineteen people, and

(C) result in property damage amounting to approximately $305,000,000;

(3) laboratory experiments have shown that a cigarette will burn continuously for approximately twenty to forty-five minutes when placed on a flat surface and that there is a reasonable period of time for which a burning cigarette must remain in contact with fabrics before a fire will result;

(4) as presently made, cigarettes and little cigars are a dangerous ignition source which present an unreasonable risk of injury; and

(5) it is feasible and practical to produce cigarettes and little cigars which do not present an unreasonable risk of injury.

(b) The Congress declares it to be the policy of the United States—

(1) to reduce the loss of life and property in the United States by requiring that cigarettes and little cigars manufactured for sale or distribution in commerce be processed to ensure that such cigarettes or little cigars—

(A) if ignited, will stop burning within a time period designated by the Commission, if such cigarettes or little cigars are not smoked during such period, or

(B) meet some other performance standard promulgated by the Commission to ensure that such cigarettes or cigars do not ignite smoldering upholstered furniture and mattress fires; and

(2) that such processing be accomplished without the addition of any toxic elements to a cigarette or little cigar.

RULEMAKING

SEC. 4. (a)(1) The Commission shall promulgate, within twenty-four months after the date of enactment of this Act, final consumer product safety standards for cigarettes and little cigars which set performance standards ensuring that such cigarettes and little cigars have a minimum capacity for igniting smoldering upholstered furniture and mattress fires.

(2) Performance standards for cigarettes and little cigars shall be developed by the Commission based on objective studies, including studies conducted by the Bureau of Standards of the Department of Commerce.

(b) The Commission shall commence the proceedings for the development of the cigarette safety standards under this Act by the publication in the Federal Register of an advance notice of proposed rulemaking which shall—

(1) state that Congress has declared that a safety standard for cigarettes and little cigars is necessary and that such standard shall be promulgated by the Commission; and

(2) invite interested persons to present their views concerning such standards, orally or in writing, during a period of not less than thirty days immediately following publication of such notice.

(c) Within twelve months after publication of the notice required by subsection (b), the Commission shall publish in the Federal Register general notice of proposed rulemaking under section 553(b) of title 5, United States Code. Such general notice of proposed rulemaking shall include the terms and substance of the proposed cigarette safety standard.

(d) Within 12 months after publication of the notice required by subsection (b), the Commission shall promulgate the standard after there has been an opportunity for interested persons to orally present their views.

(c)(1) The final rule promulgating the cigarette safety standard shall specify the date such standard is to take effect, not to exceed forty-eight months after the date of enactment of this Act. If the Commission finds by the eighteenth month after the date of enactment of this Act that is is unable to issue the rule within this specified time period it shall prepare and transmit a report to the Committee on Commerce, Science and Transportation of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives, outlining the reasons for the extension and designating the additional time period required, not to exceed one year, to issue a rule, and the Commission shall issue a notice of extension in the Federal Register.

(2) For purposes of this Act, the rulemaking provisions of sections 7 and 9 of the Consumer Product Safety Act, shall not apply, and notwithstanding any other provision of law, the Commission shall not be required to make findings pursuant to these sections.

(3) The Commission may by rule prohibit a manufacturer of cigarettes or little cigars from stockpiling such products to which the standard promulgated pursuant to this section applies. For purposes of this paragraph, the term "stockpiling" means manufacturing or importing a product between the date of promulgation of such consumer product safety standard and its effective date at a rate greater than the rate at which such products were produced or imported during the one year period immediately preceding the date of enactment of this Act.

JUDICIAL REVIEW

SEC. 5. (a) Any person who is adversely affected or aggrieved by the standard promulgated pusuant to this Act may, at any time prior to the sixtieth day after the Commission promulgates the final rule, file a petition with the United States Court of Appeals for the circuit in which such person resides or has his principal place of business for a judicial review of this rule. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commission. The Commission shall file in the court the record of the proceedings on which the Commission based its final rule as provided in section 2112 of title 28, United States Code.

(b) If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there was no opportunity to adduce such evidence in the proceeding before the Commission, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Commission in a hearing or in such other manner, and upon such terms and conditions, as the court deems proper. The Commission may modify its findings as to the facts, or make new findings, by reason of the additional evidence so taken, and it shall file such modified or new findings, and its recommendations, if any, for the modification of the final rule.

(c) Upon the filing of the petition under this section, the court shall have jurisdiction to review the final rule of the Commission, as modified, in accordance with chapter 7 of title 5, United States Code. If the court ordered additional evidence to be taken under subsection (b) of this section, the court shall also review the Commission's final rule to determine if, on the basis of the entire record before the court pursuant to subsections (a) and (b) of this section, it is supported by substantial evidence. If the court finds the final rule is not so supported, the court may require its modification or reversal

(d) The judgment of the court affirming, setting aside or modifying, in whole or in part, the Commission's final rule shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28, United States Code.

(e) Section 11 of the Consumer Product Safety Act does not apply to judical review of the Commission's final cigarette safety standard.

REMEDIES

SEC. 6. The cigarette safety standards, as promulgated in a final rule, shall be deemed to be a Consumer Product Safety Standard as defined under section 3 of the Consumer Product Safety Act, and shall be subject to all remedial and penalty provisions of the Consumer Product Safety Act.

CONFORMING AMENDMENTS

SEC. 7. Section 3(a)(1)(B) of the Consumer Product Safety Act is amended by adding after the word "products" the following: "except that cigarettes and little cigars are deemed to be consumer products for the purposes of regulating them as an ignition source".

AUTHORIZATION OF APPROPRIATIONS

SEC. 8. For each of the first three years beginning after the date of enactment of this Act, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

CRIME CONTROL

Mr. SPECTER. Mr. President, I rise today to introduce a series of bills relating to crime control. Two of these bills were included in the package that passed the 97th Congress in the closing days of the special session and were regrettably, in my opinion, pocket-vetoed by the President on January 14.

The package consisted of seven separate bills, and it was generally agreed that six of those bills would have been signed had they not been accompanied by a bill establishing a drug coordinator. That bill was opposed by the Department of Justice on the stated ground that it introduced an unnecessary layer of bureaucracy.

Behind that stated objection was concern that there would be a potential incursion by a drug coordinator on a number of Federal agencies, which amounted, simply stated, to a turf battle.

Be that as it may, there were extended efforts to try to resolve the differences of opinion. The President graciously convened a meeting of the sponsors of the crime legislation in the White House on January 7.

At that meeting the idea was explored of amending the drug coordinator bill to follow the model of the Director of Central Intelligence, who has supervisory authority over other Federal agencies, including, for example, the Department of Defense in certain data collection.

The thought was that sufficient assurances could be obtained from the congressional leadership so that the package could be signed, and then an amendment could be offered to amend the provisions on the drug coordinator.

Following the meeting on January 7, there were extensive discussions, and while a compromise was agreeable in many quarters, in the final analysis the Department of Justice declined to pursue the matter further. Thus ultimately the President did not have the option of looking at an agreed-upon amendment so that he might sign the package and await the action of the 98th Congress on that amendment.

With the situation in its current posture, it is necessary to pursue these matters again; the matter of crime control is of overwhelming importance. It requires our prompt attention and I know that the Congress—the Senate and the House of Representatives—is prepared to give it that attention.

By Mr. SPECTER:

S. 52. A bill to combat violent and major crime by establishing a Federal offense for continuing a career of robberies or burglaries while armed and providing a mandatory sentence of life imprisonment; to the Committee on the Judiciary.

ARMED CAREER CRIMINAL ACT OF 1983

Mr. SPECTER. Mr. President, I now introduce the Armed Career Criminal Act of 1983, designated by prearrangement as S. 52, which would for the first time involve the Federal Government in the war on street crime. This bill provides, in essence, that when anyone has been convicted of two or more armed robberies or burglaries and is charged with a subsequent robbery or burglary with a firearm, then that person is subject to prosecution in the Federal courts with a mandatory 15-year minimum.

This bill created some controversy because it provides that there be concurrence by the local prosecutor with the U.S. attorney. Questions were raised whether this could conceivably involve some constitutional issue. Although the constitutional question

was posed, there is no authority suggesting that there is any real constitutional problem or a derogation of the power of the Executive under article 2 of the U.S. Constitution.

In an area where crime control is conditionally left to the States and legislation is fashioned to give some control or authority to the Federal Government in addition to what it now possesses, it hardly seems to me that there is any serious constitutional issue when the new authority given to the Federal Government is not plenary or full but requires the concurrence of the local prosecutor. It is a realistic provision to have the acquiescence of the local prosecutor. This is a point that had been raised by the National District Attorneys Association when the ultimate and exclusive determination was vested in the Attorney General.

The reality is that there are enough of these career criminal cases to go around. While there might be some spectacularly publicized case which might conceivably be a source of some competition, that, too, is not realistic. And I say this with some substantial experience as a district attorney in a big city, having been so in Philadelphia for some 8 years. These cases are not a matter of competition between the U.S. attorney or the local prosecutor, because there are, simply stated, enough to go around.

The Armed Career Criminal Act of 1983 would make the commission of an armed robbery or armed burglary a Federal offense when the perpetrator has previously been convicted of a series of felony robberies or burglaries. Specifically, the statute provides that a person, already twice convicted of felony robberies or burglaries, may be tried in Federal court if that person is subsequently charged with a third robbery or burglary committed with a firearm. Upon conviction, the repeat offender must be sentenced to a term of at least 15 years without probation or early parole. The Federal Government's assistance in bringing these particularly dangerous criminals to justice will be a great help to law enforcement without unduly burdening Federal resources.

In the last Congress, I introduced this bill in essentially the same form as today. Both the Senate and the House of Representatives passed it as part of a larger package of anticrime measures. It failed to become law for want of the President's signature. It is my hope that with prompt action we can retake the ground lost in our fight against crime and recapture our legislative momentum on these vital issues.

The tragic experience in this Nation has been that the State court systems have not handled street crime, in large measure because of lengthy delays, plea bargaining, and inadequate sentencing. My experience as district attorney of Philadelphia and the experience of many other law enforcement officials in this country has been that a relatively small number of career criminals commit a very large percentage of robberies and burglaries, which are among the most vicious forms of street crime.

Mr. President, I ask unanimous consent that a relatively brief memorandum in support of the Armed Career Criminal Act be printed in the RECORD.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

VIOLENT CRIME HAS REACHED INTOLERABLE LEVELS

Over the past two decades, Americans have suffered a grave and worsening epidemic of violent crime. From 1966-80, the number of major offenses per year increased more than twofold. The increasing number of offenses could not be explained by population growth. The crime rate—major crime per thousand population—also increased greatly over this period. The annual increase in the major crime rate usually exceeded the increase in the inflation rate and many years exceeded 10 percent.

Although the increases in the major crime rate moderated in the mid-1970's in the period between 1978 and 1980 they have risen again sharply. The rate for all major crimes was up 10 percent in 1980 compared to 1979 and in 1979 rose nearly 10 percent over 1978. The rate of violent crime increased even more. Burglary is now so common it affects approximately one household in every 14 each year. That means, on the average, one burglary for every street in America.

PERSONAL INJURIES AND FINANCIAL LOSSES OF CRIME VICTIMS ARE SUBSTANTIAL

The violent crime epidemic causes immeasurable physical injury to innocent individuals. For example, one out of three robbery victims sustains injury. Damage and loss to property annually amounts to more than $8 billion. Annual losses from burglary alone are estimated at more than $3 billion. Of all the money and personal property taken by robbers and burglars, more than 75 percent is never recovered.

COSTS OF CRIME AGGRAVATE INFLATION

Financial losses arising directly from crimes like robbery and burglary and from private expenditures attempting to avoid and insure against them add significantly to increases in the price of goods and services which must be paid by consumers. Thus, the economic losses from the crime epidemic fall not only on the immediate victims but on all Americans.

TRADE AND COMMERCE AND DAMAGED

The epidemic of violent crime adversely affects commerce. Robberies of banks, stores, homes, and travelers directly interfere with interstate commerce by impeding the free flow of funds, goods, services, and people. Burglaries increase insurance rates, depreciate real estate, accelerate the decline of neighborhoods, and otherwise indirectly interfere with interstate commerce. Both offenses increase the cost of operating businesses. Many stores close rather than continuing to be robbed and burglarized. The damage to the local community and to the local economy cannot be measured but is substantial. Interstate commerce and the national economy are also affected adversely.

ROBBERIES AND BURGLARIES ARE THE MOST DAMAGING CRIMES TO SOCIETY

Robberies and burglaries occur with far greater frequency than other violent felonies, affect many more people, and cause the greatest losses. A person is 40 times more likely to be a victim of burglary and 7 times more likely to be a victim of robbery than of rape.

Robberies involve physical violence, or the threat thereof, being deliberately directed against innocent individuals. Burglaries involve invasion of their homes or workplaces, violation of their privacy, and loss of their most personal and valued possessions. Often—30 percent of robberies—these offenses result in physical injuries; usually—90 precent for robberies—they result in significant financial loss; always they inflict psychological injury. Such crimes force people to live not in freedom but in fear.

MOST ROBBERIES AND BURGLARIES ARE COMMITTED BY CAREER CRIMINALS

A high percentage of robberies and burglaries are comitted by a limited number of repeat offenders. Many commit scores of effenses. Some studies estimate that the majority of these offenses are committed by career criminals. Career criminals often have no lawful employment; their fulltime occupation is crime for profit and many commit crimes on a daily basis.

In New York City, for example, studies showed that only 1,100 recidivists were probably responsible for most of the 100,000 robberies each year. Another study showed that only 49 imprisoned robbbers admitted committing 10,000 felonies over 20 years. A third study showed that only 6 percent of those born in 1945 who committed crimes were responsible for 80 percent of the offenses of their age group. Various studies also indicate that for every time a career criminal is arrested for robbery or burglary, he has probably committed 10 to 20 such crimes. Career criminals commit robberies and burglaries interchangeably.

MANY ARE HEROIN ADDICTS

Many career robbers and burglars are addicts. One study revealed that only 243 heroin addicts committed 500,000 felonies over 11 years. Moreover, the study demonstrated that the frequency of their offenses was far greater when they were actually on the drugs. Many committed a felony nearly every day.

Interstate trafficking in heroin and other dangerous drugs is primarily a Federal enforcement responsibility.

MANY USE FIREARMS

The most dangerous robbers and burgiars are those who place in jeopardy the life and limb of their victims by the use of firearms. Nearly half of all robberies involve guns.

These firearms circulate in interstate commerce. Most of these deadly weapons were illegally imported into or illegally distributed throughout the United States. Many of these firearms are cheap handguns known as "Saturday night specials" which have no lawful use and are carried in violation of law. The interstate trafficking in handguns is primarily a Federal enforcement responsibility.

CRIMINAL CONSPIRACIES ARE COMMON

Career robbers and burglars often combine into criminal groups or gangs. Nearly half of all robberies involve multiple perpetrators.

ROBBERIES AND BURGLARIES ARE IN INTERSTATE COMMERCE

Such criminals often cross jurisdictional and State lines to commit their offenses. Moreover, they often distribute their stolen goods across State lines through professional fences.

SOME LOCAL LAW ENFORCEMENT AGENCIES ARE OVERBURDENED

Traditionally, enforcement of laws against most kinds of robberies and burglaries has been primarily the responsibility of State and local government. However, in some large urban jurisdictions, the criminal justice systems are so severely overloaded as to be incapable of effectively deterring or punishing career criminals. Courts are often badly congested and a large backlog of pending cases often prevents prompt trials, resulting in more crimes by defendants on bail and decreasing the deterrent effect on others. These pressures, combined with prison overcrowding, also may encourage excessive plea bargaining and unduly short sentences. Consequently, career criminals remain at liberty to continue their crime sprees.

Where the justice system is overwhelmed by the volume of crime and cases, the results are disastrous. For example, in New York City, there were 539,000 felony complaints in 1979. Arrests were made in only 105,000 cases, 1 in 5. Of those arrested in 16,000—less than 1 in 5—were indicted and 12,000 were convicted. Thus, only 1 in 10 arrests resulted in a finding of guilt. Of 12,000 convicted, only 4,000 were sentenced to imprisonment. That is only about 4 percent of those arrested.

Two hundred thirty-five recidivist robbers arrested in New York City in 1980 had an average of 12 prior adult arrests. They were believed responsible for up to 25,000 robberies. Despite such records, their average time spent in prison on prior crimes was only 6 months.

THE FEDERAL GOVERNMENT SHOULD SUPPLEMENT STATE ENFORCEMENT IN SUCH JURISDICTIONS

The capacity of Federal prosecutors and courts to safeguard the public in jurisdictions overwhelmed by violent crime by expeditiously convicting and removing such repeat robbers and burglars who use guns from society is well established and their resources are sufficient to enforce the proposed act. The Federal courts normally try criminal cases within 4 months compared to many cities which have trial delays or 1 year or more. Federal judges sentence serious offenders to far longer terms than State judges in some jurisdictions. For example, the average sentence for bank robbery imposed by Federal judges is 15 years; in New York City the typical sentence for robbery is only a few years. Federal investigative resources would not be required since the arrests would be made by local police on the basis of evidence they had secured.

THE CONSTITUTIONAL RIGHTS OF CITIZENS REQUIRE FEDERAL ENFORCEMENT

The epidemic of robberies and burglaries violates the Federal constitutional rights of the victims. The U.S. Government has a legal responsibility to protect the people from domestic enemies, insure domestic tranquility, guarantee the right not to be deprived of life or property except by due process of law, and safeguard interstate commerce. Therefore, the Federal Government should assist in those jurisdictions which cannot combat the violent crime epidemic on their own.

SUPPLEMENTAL FEDERAL ENFORCEMENT IS CONSISTENT WITH THE CONSTITUTION AND ESTABLISHED NOTIONS OF FEDERALISM

Career robbers and burglars who use firearms usually acquired them through interstate commerce, often dispose of stolen goods across State lines, often cross State lines to commit offenses, are frequently addicted to heroin which moves in interstate commerce, and directly disrupt interstate commerce. Therefore, such career robbers and burglars are properly the subject of Federal enforcement under the commerce clause of the Constitution. Where the States have not been able to remove them from society, it is as appropriate for the Federal Government to do so as to prosecute organized criminals and drug traffickers who also violate State statutes.

CONSTITUTIONALITY OF A FEDERAL CAREER CRIMINAL LIFE SENTENCE ACT

This memorandum considers the constitutionality of a Federal statute that would make it a Federal crime to commit a third violation of State robbery or burglary statutes and use or possess a firearm.

I. CONSTITUTION

Under the Constitution, the national government is one of enumerated powers. Powers not accorded it by the Constitution are reserved to the States and to the people. U.S. Const. Amend. X. Authority over most criminal conduct has been exercised by the states under the power reserved to them by the Constitution to protect public health and safety, "the police power."

Congress, however, has broad powers to reach criminal activity involving interstate commerce. The Federal bank robbery statute is based on these powers. The Racketeer Influenced and Corrupt Organizations Act is another example.

The leading Supreme Court case analyzing the authority of Congress to invoke the commerce clause as authority to punish activity that, like many robberies and burglaries, is intrastate in character, is Perez v. United States, 402 U.S. 146 (1971). Perez involved the Federal anti-loansharking law, 18 U.S.C. §§ 891-896, which prohibits "any extension of credit with respect to which it is the understanding of the creditor and the debtor at the time it is made that delay in making repayment . . . could result in the use of violence or other criminal means to cause harm to the person, reputation, or property of any person." The Supreme Court sustained the application of the statute to a loansharking transaction that was purely intrastate in character. The Court indicated that Congress may regulate activities: (1) using interstate commerce, (2) involving the instruments of interstate commerce, or (3) affecting interstate commerce. Where the activity is one "affecting" commerce, the question is whether the regulated activity falls within a class that Congress could legitimately conclude to have an effect upon interstate commerce and Congress is allowed considerable leeway in defining the class of activities that it is regulating. If that question is answered affirmatively, the inquiry must stop. Whether a particular act involved in prosecution involves an interstate connection is irrelevant.

The constitutional authority for a federal statute against career criminals arises from the commerce clause. Compared with loansharking analyzed in *Peres*, repeated commission of robbery and burglary offenses involving firearms is a class of activities that Congress could reasonably conclude the "affect" interstate commerce because:

1. Robberies and burglaries of stores directly interfere with interstate commerce by increasing the cost of operating businesses.

2. Robberies and burglaries deter travel.

3. Robberies and burglaries funnel stolen goods into interstate fencing operations.

4. They are often inspired by addiction to illegal drugs shipped in interstate or foreign commerce, purchased in violation of federal laws, and marketed by organized crime on an international scale.

5. Firearms used in robberies and burglaries have either been shipped in interstate commerce or assembled of elements shipped in interstate commerce.

II. PENALTY

A proposal that would use prior state convictions to enhance federal sentencing is also constitutionally permissible. Such a proposal is analogous to the Dangerous Special Drug Offender sentencing statute, 21 U.S.C. § 849, which permits enhanced sentencing for persons found to have been previously convicted in State or federal courts for two or more drug trafficking offenses. This statute has been upheld against an assertion that it violated the double jeopardy clause. *United States* v. *Sterra*, 297 F. 2d 531 (2d Cir. 1961), cert. denied 369 U.S. 853 (1952).

The requirement of a sentence of 15 years to life imprisonment without parole or suspension also involves no constitutional infirmity. The Supreme Court has recently upheld a state recidivist statute that mandated a life sentence following a third felony, despite the contention that imposition of a life sentence for three larceny offenses involving a total of slightly more than $200 was a violation of the cruel and unusual punishment clause of the Eighth Amendment. *Rummel* v. *Estelle*, 445 U.S. 263 (1980).

FACT SHEET

1. In 1980 there were more than 500,000 robberies and 3 million burglaries. Robberies rose more than 30 percent from 1978 to 1980. Bank robberies rose 50 percent in the same period. Street robberies also rose nearly 50 percent. Burglaries rose more than 20 percent from 1978 to 1980. Nighttime residential burglaries rose 15 percent between 1979 and 1980. Daytime residential burglaries increased more than 20 percent.

2. The crime rate for both offenses also increased dramatically. The robbery rate increased 24 percent from 1978 to 1980. The burglary rate increased more than 11 percent in the same period.

3. Burglary affects one in every 14 households each year. Overall, crime touches one in every three households. Annual losses for all crime exceed $8 billion. Burglary alone is responsible for more than $3.3 billion of the losses. Robberies resulted in losses exceeding $300 million per year with the average loss for street robberies of $400. Of all money and property taken in robberies and burglaries, less than one-fourth have ever been recovered.

4. An American is 40 times more likely to be a victim of burglary than of rape; a person is 7 times more likely to be a victim of robbery than of rape. There are more than three times as many rapes as murders.

5. Half of all robberies involve the use of firearms. One-third of the robberies result in physical injury. Nearly half the robberies involve multiple perpetrators.

6. Eighty percent of those arrested for burglary had a prior record of adult arrests. Fifty-eight percent had a prior burglary arrest. Forty-seven percent had prior drug

arrests. Forty-four percent were on parole, probation or bail at the time of their arrest.

7. A typical group of 100 persons convicted of robbery would have committed 490 armed robberies, 310 assualts, 720 burglaries, 70 auto thefts, 100 forgeries and 3,400 drug sales in the previous year of street time.

8. Forty-five states have habitual criminal statutes providing increased terms of imprisonment. Twenty-eight of the statutes provide for a life sentence. Twenty-one states supply statistics on use of these statutes, reporting a total of nearly 2,000 prisoners serving sentences under these acts. Of this number, fewer than 100 were serving life sentences.

9. Various studies show that forty-nine imprisoned robbers committed 10,000 felonies and that 243 heroin addicts committed half a million felonies and that a typical career criminal commits 200 felonies a year—160 related to drugs and 40 that are not. New York City, 1979: 539,000 felony complaints, 105,000 arrests, 16,000 indictments, 12,000 convictions, 4,000 sentenced to prison.

Mr. SPECTER. Mr. President, I ask unanimous consent that the armed career criminal bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 52

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as "The Armed Career Criminal Act of 1983".

SEC. 2. Chapter 103 of title 18, United States Code, is amended by adding at the end thereof the following section:

"§ 2118. Armed Career Criminals

"(a) Any person who while in possession of any firearm commits, or conspires or attempts to commit robbery or burglary in violation of the felony statutes of the State in which such offense occurs or of the United States—

"(1) may be prosecuted for such offense in the courts of the United States if such person has previously been twice convicted of robbery or burglary, or an attempt or conspiracy to commit such an offense, in violation of the felony statutes of any State or of the United States; and

"(2) shall, if found guilty pursuant to this section, and upon proof of the requisite prior convictions to the court at or before sentencing, be sentenced to a term of imprisonment of not less than fifteen years nor more than life and may be fined not more than $10,000.

"(b) Notwithstanding any other provision of law: (1) any person charged pursuant to this section shall be admitted to bail pending trial or appeal as provided in section 3148 of title 18, United States Code; (2) the prior convictions of any person charged hereunder need not be alleged in the indictment nor shall proof thereof be required at trial to establish the jurisdiction of the court or the elements of the offense; (3) any person convicted under this section shall not be granted probation nor shall the term of imprisonment imposed under paragraph (a), or any portion thereof, be suspended; and (4) any person convicted under this section shall not be released on parole prior to the expiration of the full term of imprisonment imposed under paragraph (a).

"(c) For purposes of this section—

"(1) 'United States' includes the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States;

"(2) 'felony' means any of offense punishable by a term of imprisonment exceeding one year; and

"(3) 'firearm' has the meaning set forth in section 921 of title 18, United States Code.

"(d) Except as expressly provided herein, no provision of this section shall operate to the exclusion of any other Federal, State, or local law, nor shall any provision be construed to invalidate any other provision of Federal, State, or local law.

"(e) Ordinarily, armed robbery and armed burglary cases against career criminals should be prosecuted in state court. However, in some circumstances such prosecutions by state authorities may face undue obstacles. Therefore, any such case lodged in the office of the local prosecutor may be received and considered for federal indictment by the federal prosecuting authority, but only upon request or with the concurrence of the local prosecuting authority.". Any such case presented by a federal investigative agency to the federal prosecuting authority, however, may be received at the sole discretion of the federal prosecuting authority. Regardless of the origin of the case, the decision whether to seek a grand jury indictment shall be in the sole discretion of the federal prosecuting authority.".

SEC. 3. The table of sections for chapter 103 of title 19, United States Code, is amended by adding at the end thereof the following new item:

"2118. Armed Career Criminals."

SEC. 4. (a) It is the intent of Congress that any person prosecuted pursuant to this Act be tried expeditiously and that any appeal arising from a prosecution under this Act be treated as an expedited appeal.

(b) This section shall not create any right enforceable at law or in equity in any person, nor shall the court have jurisdiction to determine whether or not any of the procedures or standards set forth in Section 2(e) or this section have been followed.

By Mr. SPECTER (for himself, Mr. BIDEN, Mr. MATHIAS, Mr. HEFLIN, Mr. KENNEDY, and Mr. BAUCUS):

S. 53. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968; to the Committee on the Judiciary.

S. 53—JUSTICE ASSISTANCE ACT OF 1983

Mr. SPECTER. Mr. President, today I reintroduce a bill, which has a reserved number of S. 53, entitled the Justice Assistance Act of 1983. This bill redesigns and reauthorizes Federal criminal justice assistance to aid State and local law enforcement efforts. As recognized by the Attorney General's Task Force on Violent Crime, and well appreciated by those serving in law enforcement and by the American people, crime is a national problem that gravely threatens this country's welfare.

The subcommittee of the Senate Committee on the Judiciary with jurisdiction over Federal assistance to State and local law enforcement held extensive hearings into this entire area last Congress. I look forward to working with my colleagues in what I hope will be a revived, bipartisan effort to serve the Nation's vital interest in a renewed and reauthorized criminal justice assistance effort.

The anticrime proposal I introduce today fully recognizes the predominately State and local nature of law enforcement with express guarantees of their sovereignty and explicit limitation on the Federal authority involved. In addition, the bill envisions only a minimum of administrative and management structure. Indeed, the bill eliminates the Office of Justice Assistance, Research and Statistics and the Law Enforcement Assistance Administration.

In their place I call for a streamlined Office of Justice Assistance and reauthorization of the National Institute of Justice and Bureau of Justice Statistics to fulfill the Federal Government's proper role in assisting local law enforcement—that of financing research, collecting statistics, and funding demonstration projects for promising, innovative approaches to fighting crime. In addition, in light of the inextricable limitations and conflicting demands on the resources of local and State governments, this bill establishes a small fund to assist local communities to implement the acknowledged programs of proven effectiveness that have been developed over the past decade. The mechanism for delivering this assistance is intended to insure local commitment and institutionalization of the project by gradually increasing the contribution made by the local community to the program and decreasing that of the Federal Government. I am confident that this will insure maximum effectiveness for the limited Federal investment.

In addition, this bill creates authority for emergency criminal justice assistance to States and localities faced with a criminal justice disaster. Such authority is sorely needed. Although none of us wish to see such a program invoked, as the Attorney General's task force recognized, the Federal Government should have such resources at the ready so as not to lose precious time responding in compelling circumstances.

This bill seeks a new set of solutions to the bureaucratic problems that have plagued OJARS and were, in large part, responsible for the demise of LEAA.

In seeking to realize every economy and maximum the effectiveness of the Federal participation in its proper assistance role I have been able to formulate a program without a prohibitive price tag. Indeed, the authorization included in this bill is only $150 million a year for efforts Congress had, not so many years ago, authorized over $1 billion a year to accom-

plish. In order to achieve this economy I have structured a program that does away with State block grants and their cumbersome regulatory framework. In this way, all applicants, including States, will be allowed direct access to the competitive application process.

Finally, after careful consideration, I have concluded that the problems of juvenile delinquency are best confronted by a separate and coordinated office of juvenile justice. The Juvenile Justice and Delinquency Prevention Act, which was last amended in 1980 and reauthorized through 1984, continues to provide a sound framework for such activities and should be retained.

I urge my colleagues to join me and the other cosponsors, the Senator from Delaware (Mr. BIDEN), the Senator from Maryland (Mr. MATHIAS), the Senator from Alabama (Mr. HEFLIN), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Montana (Mr. BAUCUS) in an expedited consideration of this measure so that we may act before the current authorizations of the Federal research and statistics program expire at the end of this year.

Mr. President, I ask unanimous consent that the full text of a bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 53

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Justice Assistance Act of 1983".

TITLE I—AMENDMENTS TO OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968

DECLARATION AND PURPOSE

SEC. 2. The declaration and purpose contained in title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3701) is amended to read as follows:

"DECLARATION AND PURPOSE

"The Congress finds and declares that the high incidence of crime in the United States is detrimental to the general welfare of the Nation and its citizens, and that criminal justice efforts must be better coordinated and intensified, and made more effective and equitable at all levels.

"Congress further finds that there is an urgent need to encourage basic and applied research, to gather and disseminate accurate and comprehensive justice statistics, and to evaluate methods of preventing and reducing crime.

"Congress further finds that although crime is essentially a local problem that must be dealt with by State and local government, the financial and technical resources of the Federal Government should be made available to assist in the development of innovative and effective National, State, and local efforts.

"Congress further finds that the future welfare of the Nation and the well-being of its citizens depend on the establishment and maintenance of viable and effective justice systems which require systematic and sustained action by Federal, State, and local governments; and continuing efforts at all levels to streamline programs and upgrade the functioning of agencies responsible for planning, implementing, and evaluating efforts to improve justice systems.

"It is, therefore, the declared policy of the Congress to aid in strengthening and improving justice systems by providing assistance with maximum certainty and effectiveness and minimum delay and waste. It is the purpose of this title to authorize funds and technical assistance (1) to be used to strengthen justice systems; (2) to develop and fund new methods and programs to enhance the effectiveness of justice systems; (3) to support the development of National, State, and local priorities and programs to meet the problems confronting justice systems; (4) to reduce court congestion and trial delay; (5) to support community and neighborhood anti-crime efforts; (6) to improve and modernize correctional systems and encourage rehabilitation; (7) to encourage the undertaking of promising, innovative projects and programs to combat crime; (8) to encourage research directed toward the improvement of justice systems and new methods for the prevention and reduction of crime and the detection, apprehension, and rehabilitation of criminals; (9) to encourage the collection and analysis of statistical information concerning justice systems and the development and operation of justice information systems; (10) to develop and implement programs assisting victims, jurors, and witnesses; and (11) to support law enforcement-related personnel development and training efforts.

"It is further the policy of the Congress that the Federal assistance made available under this title not be utilized to reduce the amount of State and local financial support for justice activities below the level of such support prior to the availability of such assistance.".

OFFICE OF JUSTICE ASSISTANCE

SEC. 3. (a) Part A of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711-3713) is amended in the heading to such part by striking out "Law Enforcement Assistance Administration" and inserting in lieu thereof "Office of Justice Assistance".

(b) Section 101 of part A of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711) is amended to read as follows:

"ESTABLISHMENT OF OFFICE OF JUSTICE ASSISTANCE

"SEC. 101. (a) There is established within the Department of Justice under the general authority of the Attorney General an Office of Justice Assistance (hereinafter referred to in this part as the 'Office').

"(b) The Office shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate. The Director may appoint Deputy Directors to assist in the direction of the Office. The Director shall have final authority over all grants, cooperative agreements, and contracts awarded by the Office. The Director shall have primary authority over administrative functions as may be necessary to carry out the provisions of this title. The Director shall not engage in any employment other than that of serving as Director, nor shall the Director hold any office in, or in any capacity for, any organization, agency, or institution with which the Office makes any contract or other arrangement under this title.".

(c) Section 102 of part A of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3712) is amended—

(1) by striking out "Administrator" each place it appears and inserting in lieu thereof "Director",

(2) in paragraph (1) by—

(A) striking out "States and units of local government" and inserting in lieu thereof "applicants", and

(B) striking out "D" and inserting in lieu thereof "D and E",

(3) by amending paragraph (2) to read as follows:

"(2) recognize national priorities for programs and award and allocate funds and technical assistance consistent with parts D and E;",

(4) in paragraph (4) by striking out "Administration" and inserting in lieu thereof "office", and

(5) in paragraph (8) by striking out "H" and inserting in lieu thereof "G".

(6) in the heading for such section by striking out "administrator" and inserting in lieu thereof "director".

(d) Part A of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711-3713) is amended by striking out section 103.

NATIONAL INSTITUTE OF JUSTICE

SEC. 4. (a) Section 202 of part B of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3722) is amended—

(1) by striking subsection (b) and inserting in lieu thereof the following:

"(b) The Institute shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall have had experience in justice research. The Director may appoint Deputy Directors to assist in the direction of the Institute. The Director shall have final authority over all grants, cooperative agreements, and contracts awarded by the Institute. The Director shall have primary authority over administrative functions as may be necessary to carry out the provisions of this title. The Director shall not engage in any employment other than that of serving as Director; nor shall the Director hold any office in, or act in any capacity for any organization, agency, or institution with which the Institute makes any contract or other arrangement under this title.",

(2) in subsection (c)—

(A) in paragraph (2) (A) by striking out ", including programs authorized by section 103 of this title",

(B) by striking out paragraph (9),

(C) in paragraph (10) by striking out "as national priority grants under part E and discretionary grants under part F; and", and inserting in lieu thereof "under parts D and E;",

(D) by redesignating paragraphs (10) and (11) as paragraphs (9) and (10) respectively;

(E) by striking out the period at the end of paragraph (10) as redesignated and inserting in lieu thereof "; and", and

(F) by adding at the end of such subsection the following new paragraph:

"(11) provide financial assistance to encourage replication, coordination, and sharing among State and local justice agencies and public and private nonprofit organizations regarding successful programs or projects and useful information resulting from multiyear and short-term research and development activities authorized under this part.", and

(3) in subsection (d)(5) by striking out "H" and inserting in lieu thereof "G".

(b) Part B of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3724) is amended by striking out section 204.

BUREAU OF JUSTICE STATISTICS

SEC. 5. (a) Section 301 of part C of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3731) is amended in the first sentence by adding after "and to support the development of" the following: "both".

(b) Section 302 of part C of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3732) is amended—

(1) in subsection (a) by inserting before "Bureau" the word "the", and

(2) by striking subsection (b) and inserting in lieu thereof the following:

"(b) The Bureau shall be headed by a Director who shall be appointed by the President, with the advice and consent of the Senate. The Director shall be experienced in statistical and information programs. The Director may appoint Deputy Directors to assist in the direction of the Bureau. The Director shall have final authority over all grants, cooperative agreements, and contracts awarded by the Bureau. The Director shall have primary authority over administrative functions as may be necessary to carry out the provisions of this title. The Director shall not engage in any employment other than that of serving as Director; nor shall the Director hold any office in, or in any capacity for, and organization, agency, or institution with which the Bureau makes any contract or other arrangement under this title.", and

(3) by amending subsection (c)—

"(13) provide financial and technical assistance to States and units of local government relating to collection, analysis, or dissemination of justice statistics and development of justice information systems which produce statistical and operational data;",

(B) in paragraph (16) by amending such paragraph to read as follows:

"(16) insure conformance with security and privacy regulations issued pursuant to section 716 and assist in the development of guidelines for statistics, privacy and security, and information policy;",

(C) in paragraph (17) by striking out "H" and inserting in lieu thereof "G" and redesignating paragraph (17) of such subsection as paragraph (16),

"FEDERAL SHARE

"SEC. 402. (a) Financial awards under this part shall be made for a period of up to four years. The Federal share of project or program costs for grants of specified duration shall be in accordance with the following formula:

"(1) Four year grants—not to exceed 90 per centum in the first year, 75 per centum in the second year, 50 per centum in the third year, and 25 per centum in the fourth year.

"(2) Three year grants—not to exceed 75 per centum in the first year, 50 per centum in the second year, and 25 per centum in the third year.

"(3) Two year grants—not to exceed 50 per centum in the first year and 25 per centum in the second year.

"(4) One year grant—not to exceed 50 per centum.

"USES

"SEC. 403. (a) The Director of the Office of Justice Assistance is authorized to make grants providing assistance to implement programs and projects that address critical problems of violent and serious offenses and which programs are certified by the Director as having proven a success on the basis of objective, empirical, or statistical information or evaluation in accordance with criteria developed by the Office of Justice Assistance. In making grants under this part, the Director shall consider geographic distribution in order to benefit all sections of the country and no State shall receive more than five percent of the total dollar amount of grants awarded under this part annually. The Director shall give priority to programs and projects that—

"(1) identify and process within justice systems persons with a history of serious criminal conduct;

"(2) provide programs that address the problems of serious and violent offenses committed by juveniles;

"(3) combat arson;

"(4) disrupt illicit commerce in stolen goods and property;

"(5) effectively investigate and bring to trial white-collar crime, organized crime, public corruption crimes and fraud against the Government;

"(6) provide community and neighborhood programs that enable citizens and police to undertake initiatives to prevent and control neighborhood crime;

"(7) provide programs to speed the trial of criminal cases, reform sentencing practices and procedures, improve the efficiency of the jury system, and improve the processing of cases involving the mentally incompetent and pleas of mental incapacity;

"(8) provide training, management, and technical assistance to justice personnel;

"(9) coordinate the activities of components of the criminal justice system;

"(10) develop and implement programs which provide assistance (other than compensation) to jurors, witnesses, and victims of crime;

"(11) provide programs which address offenses committed against the elderly;

"(12) provide programs which identify and meet the needs of drug-dependent offenders;

"(13) provide alternatives to pretrial detention, jail, and prison for persons who pose no danger to the community;

"(14) provide programs which alleviate prison and jail overcrowding; and

"(15) provide programs that address critical problems of crime, such as drug trafficking, and have been certified by the Director of the Office, after consultation with the Director of the Institute, as having proven successful, based on available objective, empirical or statistical data, information, or evaluation.

"(b) The Director of the Office of Justice Assistance shall annually establish funding priorities and selection criteria for assistance after first providing notice and an opportunity for public comment. In establishing such priorities and criteria, the Director shall specify the amount of assistance available for each national priority initiative selected for replication using Federal assistance.

"APPLICATIONS

"SEC. 404. (a) No grant may be made pursuant to this part unless an application has been submitted to the Director in accordance with criteria established by the Office of Justice Assistance. Awards shall be given to those applicants that most clearly satisfy the funding priorities and selection criteria as established by the Office of Justice Assistance.

"(b) Applications must include a commitment and evidence of ability to fulfill the applicant's share of project or program costs over the term of the grant by cash match and evidence a commitment to continuing the project or program beyond the term of the grant.

"(c) At least 30 per centum of the funds reserved and set aside for this part shall be allocated to private nonprofit organizations and neighborhood and community-based groups for the purposes specified in this part.".

NATIONAL PRIORITY GRANTS

SEC. 7. Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3701 et seq.) is amended by striking out part E.

DISCRETIONARY GRANTS

SEC. 8. (a) Sections 601, 602, and 603 of part F of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3761-3763) are amended to read as follows:

"PURPOSE

"SEC. 501. The purpose of this part is to provide additional Federal financial assistance to States, units of local government, combinations of such units, and private nonprofit organizations for purposes of—

"(1) undertaking educational and training programs for criminal justice personnel;

"(2) providing technical assistance to States and local units of governments;

"(3) undertaking projects which are national or multi-State in scope, which address the purposes specified in section 401, and which have not received sufficient funds under part D; and

"(4) providing financial assistance for demonstration programs which, in view of previous research or experience, are likely to be a success in more than one jurisdiction and are not likely to be funded with moneys from other sources.

"PERCENTAGE OF APPROPRIATION FOR DISCRETIONARY GRANT PROGRAM

"SEC. 502. Of the total amount appropriated for part D and this part in any fiscal year—

"(1) 10 per centum shall be reserved and set aside for this part in a special discretionary fund for us by the Office in making grants to carry out the purposes specified in paragraphs (1), (2), and (3) of section 501; and

"(2) 10 per centum shall be reserved and set aside for this part in a special discretionary fund for use by the Office in making grants to carry out the purpose specified in paragraph (4) of section 501.

The Director shall ensure that recipients of grants to carry out the purposes specified in paragraphs (1), (2), and (3) of section 501 included private nonprofit organizations. Grants under this part may be made for amounts up to 100 per centum of the costs of the programs or projects contained in the approved application. The National Institute of Justice shall review the types of programs described in section 501 of part E of this title for the purpose of identifying programs of proven success, and the Director of the National Institute of Justice shall consult with the Director of the Office of Justice Assistance in such matters.

"PROCEDURE FOR ESTABLISHING FUNDING AND SELECTION CRITERIA

"SEC. 503. The Director of the Office of Justice Assistance shall annually establish funding priorities and selection criteria for

assistance after first providing notice and an opportunity for public comment.".

(b) Section 604 of part F of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3764) is amended by striking out "Administration" each place it appears and inserting in lieu thereof "Office".

(c) Section 605 of part F of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3765) is amended—

(1) by striking out "Administration" each place it appears and inserting in lieu thereof "Office of Justice Assistance,

(2) by striking out the third sentence, and

(3) by striking out "each type of section 402 eligible jurisdiction" and inserting in lieu thereof "State their needs. In making grants under this part, the Director shall consider geographic distribution in order to benefit all sections of the country.".

(d) Section 606 of part F of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3766) is amended—

(1) by striking out "Administration" each place it appears and inserting in lieu thereof "Office of Justice Assistance", and

(2) in the last sentence by striking out "602(1)" and inserting in lieu thereof "502".

(e) The heading for part F of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3761-3766) is amended by striking out "PART F" and inserting in lieu thereof "PART E".

(f) Part E of title I, as so redesignated, is amended by redesignating sections 604, 605, and 606 as sections 504, 505, and 506 respectively.

TRAINING AND MANPOWER DEVELOPMENT

SEC. 9. (a) Part G of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3701-3775) is amended—

(1) by striking out sections 701, 702, and 703,

(2) in section 705 by striking out "Administration" each place it appears and inserting in lieu thereof "Office", and

(3) by redesignating sections 704 and 705 as sections 601 and 602, respectively.

(b) The heading for part G of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3771-3775) is amended by striking out "PART G" and inserting in lieu thereof "PART F".

ADMINISTRATIVE PROVISIONS

SEC. 10. (a) Part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3781 et seq.) is amended by striking out section 801 and inserting in lieu thereof the following:

"ESTABLISHMENT OF JUSTICE ASSISTANCE BOARD

"SEC. 801. (a) There is established a Justice Assistance Board (hereafter referred to as the 'Board'). The Board shall consist of—

"(1) fifteen voting members who shall be appointed by the President; and

"(2) the Director of the Office of Justice Assistance, the Director of the National Institute of Justice, the Director of the Bureau of Justice Statistics, and the Administrator of the Office of Juvenile Justice and Delinquency Prevention, who shall be nonvoting, ex officio members; and

"(3) two nonvoting, coordinating members from the National Advisory Committee for Juvenile Justice and Delinquency Prevention.

"(b) Members shall represent the public interest and shall be knowledgeable and experienced in the justice systems; such as law enforcement personnel, prosecutors, public and defense attorneys, judges, court administrators, probation and correctional personnel, researchers and scholars, representatives of public and private nonprofit and voluntary organizations, including those which offer programs of assistance to victims of crime, representatives of neighborhood and community-based groups and representatives of local and State governments. Five members shall be experienced in the types of programs and services provided by the Office of Justice Assistance; five members shall be experienced in the types of programs and services provided by the National Institute of Justice; and five members shall be experienced in the types of programs and services provided by the Bureau of Justice Statistics.

"(c)(1) Voting members of the Board shall be appointed for 3-year terms, except that in order to provide for continuity in its operations and to establish staggered groups of vacancies, five members of the initial Board shall be appointed for 4-year terms, five members of the initial Board shall be appointed for 3-year terms, and five members of the initial Board shall be appointed for 2-year terms.

"(2) The initial appointment of members shall be made not later than ninety days after the effective date of the Justice Assistance Act of 1982. Vacancies among Board members shall be filled within ninety days of the vacancy. Any member appointed to fill a vacancy occurring before the scheduled expiration of a term shall be appointed for the remainder of such term. Members shall be eligible for reappointment, but shall serve consecutively no more than two terms or six years, whichever is less. Members once appointed, may not be removed prior to the expiration of their term except for cause.

"(d) The Board shall elect from among its voting members a Chair and Vice Chair. The Board shall select from among its voting members two representatives to serve as nonvoting coordinating members on the National Advisory Committee of Juvenile Justice and Delinquency Prevention.

"(e) The Board shall meet at the call of the Chair, but not less frequently than quarterly. Notice of all Board meetings shall be published. Eight voting members of the Board shall constitute a quorum.

"(f) The Board shall—

"(1) recommend funding priorities and selection criteria to be used in determining the award and allocation of funds through the Office of Justice Assistance, the National Institute of Justice, and the Bureau of Justice Statistics;

"(2) recommend such policies and program priorities as it deems advisable;

"(3) review and evaluate the activities of the Office of Justice Assistance, the National Institute of Justice, and the Bureau of Justice Statistics and make such recommendations as it considers necessary or appropriate;

"(4) in the event of vacancies, recommend to the President at least three candidates for the positions of Director of the Office of Justice Assistance, Director of the National Institute of Justice and Director of the Board of Justice Statistics;

"(5) review and evaluate Federal policies and priorities in justice assistance, research, and statistics; and

"(6) coordinate its activities with the National Advisory Committee for Juvenile Justice and Delinquency Prevention and the Coordinating Council on Juvenile Justice and Delinquency Prevention.

"(g) Beginning January 1, 1984, the Board shall submit an annual report to the President and to the Congress not later than April 1 of each year and may submit such interim reports as it considers advisable to the President and to the Congress. Each annual report shall describe the activities of the Board during the preceding fiscal year and shall contain such findings and recommendations as the Board considers necessary or appropriate.

"(h) The head of each Federal Agency shall make available to the Board such information and other assistance as it may require to carry out its responsibilities. The Board shall not have any authority to procure any temporary or intermittent services of any personnel under section 3109 of title 5, United States Code, or under any other provision of law.

"(i)(1) Members of the Board shall, while engaged in the actual performance of the duties vested in the Board, be entitled to receive compensation at a rate not to exceed the daily rate specified for grade GS-18 of the General Schedule in section 5332 of title 5, United States Code, including traveltime.

"(2) Members of the Board shall be entitled to reimbursement for travel expenses, including per diem in lieu of subsistence, while serving away from their place of residence or regular place of business, in the same manner as the expenses are authorized by section 5703 of title 5, United States Code, for persons in the Federal Government service employed intermittently.".

(b) Section 802 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3782) is amended—

(1) in subsection (a) by striking out "The Office of Justice Assistance, Research, and Statistics, the Law Enforcement Assistance Administration," and inserting in lieu thereof "The Office of Justice Assistance, the Office of Juvenile Justice and Delinquency Prevention,", and

(2) in subsection (b)—

(A) by striking out "Law Enforcement Assistance Adminstration" and "Law Enforcement Assistance Administration" each place they appear and inserting in lieu thereof "Office of Justice Assistance",

(B) by inserting "the Office of Juvenile Justice and Delinquency Prevention," after "Bureau of Justice Statistics,",

(C) by striking out "parts D, E, and F" and inserting in lieu thereof "parts D and E",

(D) by striking out the second sentence,

(E) by amending the third sentence to read as follows: "In conducting evaluations described in this subsection, the Office of Justice Assistance, with the assistance and expertise of the National Institute of Justice, shall, when practical, compare the effectiveness of programs conducted by similar applicants and different applicants.", and

(F) by striking out "administration" and inserting in lieu thereof "Office".

(c) Section 803 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3783) is amended—

(1) by striking out "Law Enforcement Assistance Administration" each place it appears and inserting in lieu thereof "Office of Justice Assistance",

(2) by inserting "the Office of Juvenile Justice and Delinquency Prevention," after "Bureau of Justice Statistics," each place it appears, and

(3) in subsection (c) by striking out "Administration," and inserting in lieu thereof "Office,".

(d) Section 804 of part H of title I of the Omnibus Crime Control and Safe Streets

Act of 1968 (42 U.S.C. 3784) is amended by striking out "Law Enforcement Assistance Administration" and inserting in lieu thereof "Office of Justice Assistance".

(e) Section 805 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3785) is amended—

(1) by striking out "Office of Justice Assistance, Research, and Statistics, the Law Enforcement Assistance Administration," each place it appears and inserting in lieu thereof "Office of Justice Assistance,",

(2) by inserting "the Office of Juvenile Justice and Delinquency Prevention," before "or the National Institute of Justice" each place it appears,

(3) in subsection (a) by striking out "section 803, 804, or 815(c)(2)(G)" and inserting in lieu thereof "section 702, 793, or 712(c)(2)(G)", and

(4) in subsection (b) by inserting "the Office of Juvenile Justice and Delinquency Prevention" before "or the Bureau of Justice Statistics".

(f) Sections 806 and 807 of part P of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3786-3787) are each amended—

(1) by striking out "Office of Justice Assistance, Research, and Statistics,", and

(2) by striking out ", and the Law Enforcement Assistance Administration" and inserting in lieu thereof "the Office of Juvenile Justice and Delinquency Prevention, and the Office of Justice Assistance".

(g) Sections 810 and 811 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3788-3789) are amended—

(1) by striking out "Office of Justice Assistance, Research, and Statistics," each place it appears,

(2) by striking out ", and the Law Enforcement Assistance Administration" and inserting in lieu thereof "the Office of Juvenile Justice and Delinquency Prevention, and the Office of Justice Assistance".

(h) Section 812 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789a) is amended by striking out "Director of the Office of Justice Assistance, Research, and Statistics, the Administrator of the Law Enforcement Assistance Administrator," and inserting in lieu thereof "Director of the Office of Justice Assistance, the Administrator of the Office of Juvenile Justice and Delinquency Prevention,".

(i) Section 813 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789b) is amended in subsections (a) and (b)—

(1) by striking out "Office of Justice Assistance, Research, and Statistics" each place it appears and inserting in lieu thereof "Office of Juvenile Justice and Delinquency Prevention", and

(2) by striking out "Law Enforcement Assistance Administration" and inserting in lieu thereof "Office of Justice Assistance".

(j) Section 814 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789C) is amended—

(1) in subsections (a) and (b)—

(A) by striking out "Office of Justice Assistance, Research, and Statistics," and inserting in lieu thereof "Office of Juvenile Justice and Delinquency Prevention", and

(B) by striking out "Law Enforcement Assistance Administration" and inserting in lieu thereof "Office of Justice Assistance", and

(2) in subsection (c) by striking out "Administration" and inserting in lieu thereof "Office".

(k) Section 915 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789d) is amended—

(1) by striking out "Office of Justice Assistance, Research, and Statistics" each place it appears and inserting in lieu thereof "Office of Juvenile Justice and Delinquency Prevention", and

(2) in subsection (b) by striking out "or the Law Enforcement Assistance Administration" and inserting in lieu thereof "the Office of Juvenile Justice and Delinquency Prevention, or the Office of Justice Assistance".

(l) Section 816 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789e) is amended to read as follows:

"REPORT TO PRESIDENT AND CONGRESS

"SEC. 816. Not later than April 1 of each year, the Director of the Office of Justice Assistance, the Director of the National Institute of Justice, and the Director of the Bureau of Justice Statistics shall each submit a report to the President and to the Congress on their activities under this title during the preceding fiscal year.".

(m) Section 817 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789f) is amended—

(1) by striking out "Office of Justice, Research, and Statistics" each place it appears and inserting in lieu thereof "Office of Juvenile Justice and Delinquency Prevention, the National Institute of Justice, the Bureau of Justice Statistics, and the Office of Justice Assistance",

(2) in subsection (d) by striking out "section 815(c)" each place it appears and inserting in lieu thereof "section 712(c)", and

(3) in subsection (f)—

(A) by striking out "Law Enforcement Assistance Administration" and inserting in lieu thereof "Office of Justice Assistance", and

(B) by striking out "Administrator" each place it appears and inserting in lieu thereof "Director".

(n) Section 818 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789g) is amended by striking out "Office of Justice Assistance, Research, and Statistics" each place it appears and inserting in lieu thereof "Office of Juvenile Justice and Delinquency Prevention, the National Institute of Justice, the Bureau of Justice Statistics, and the Office of Justice Assistance".

(o) Section 819 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789h) is amended—

(1) by striking out "Office of Justice Assistance, Research, and Statistics," and inserting in lieu thereof "Office of Juvenile Justice and Delinquency Prevention,", and

(2) by striking out "Law Enforcement Assistance Administration" and inserting in lieu thereof "Office of Justice Assistance".

(p) Section 820(a) of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789i(a)) is amended by striking out "Administration" and inserting in lieu thereof "Office".

(q) Section 823 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789l) is amended by striking out "Administration" and inserting in lieu thereof "Office".

(r) Section 826 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789o) is amended—

(1) by striking out "council" each place it appears,

(2) by striking out "Law Enforcement Assistance Administration" and inserting in lieu thereof "Office of Justice Assistance", and

(3) by striking out "Administration" each place it appears and inserting in lieu thereof "Office".

(s) The heading for part H of title I of the Omnibus Crime Control and State Streets Act of 1968 (42 U.S.C. 3781-3789o) is amended by striking out "Part H" and inserting in lieu thereof "Part G".

(t) Part G, as so redesignated, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3781-3789o) is amended by redesignating sections 801, 802, 803, 804, 805, 806, 807, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, and 827 as sections 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, and 725 respectively.

(u) Part G, as so redesignated, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3781-3789c) is amended by striking out sections 808 and 809.

(v) Part G, as so redesignated, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3781-3789c) is amended by adding at the end thereof the following new sections:

"REPAYMENT

"SEC. 726. (a) If Federal financial assistance provided under this part is used by the recipient of such assistance for any purpose other than the purpose for which it is provided, then such recipient shall promptly repay to the United States an amount equal to the value of such assistance.

"(b) The Director shall bring a civil action in an appropriate United States district court to recover any amount required to be repaid under subsection (a).".

DEFINITIONS

SEC. 11. (a) Section 901 of part I of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791) is amended by striking out "Administration" each place it appears and inserting in lieu thereof "Office".

(b) Section 901(a)(4) of part I of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(a)(4)) is amended—

(1) by inserting "renovation, repairs, remodeling," after "acquisition," and

(2) by striking out ", but does not include renovation, repairs, or remodeling".

(c) The heading for part I of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791) is amended by striking out "Part I" and inserting in lieu thereof "Part H".

(d) Part H, as so redesignated, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791) is amended by redesignating section 901 as section 801.

FUNDING

SEC. 12. (a) Section 1001 of part J of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1001. (a) There is authorized to be appropriated to carry out the functions of the Office of Justice Assistance, parts D and E of this title, $100,000,000 for each of the fiscal years 1984, 1985, 1986, and 1987.

"(b) There is authorized to be appropriated to carry out the functions of the Na-

tional Institute of Justice 25,000,000 for each of the fiscal years 1984, 1985, 1986, and 1987.

"(c) There is authorized to be appropriated to carry out the functions of the Bureau of Justice Statistics $25,000,000 for each of the fiscal years 1984, 1985, 1986, and 1987.

"(d) There are authorized to be appropriated for each of the fiscal years 1984, 1985, 1986, and 1987 such sums as may be necessary to carry out the purposes of part K of this title.".

(b) Part J of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793-3793b) is amended by striking out sections 1002 and 1003 and inserting in lieu thereof the following new section:

"PROHIBITION ON USE OF FUNDS

"SEC. 1002. Notwithstanding any other provision of law, no funds appropriated under this section for parts D and F of this title may be expended for programs or projects involving the resolution of civil disputes or may be transferred or reprogramed for carrying out any activity which is not authorized under such parts.".

(c) The heading for part J of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793-3793b) is amended by striking out "Part J" and inserting in lieu thereof "Part I".

(d) Part I, as so redesignated, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C 3793-3793b) is amended by redesignating sections 1001 and 1002 as sections 901 and 902, respectively.

CRIMINAL PENALTIES

SEC. 13. (a) Section 1101 of part K of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3795) is amended by striking out "Law Enforcement Assistance Administration" and inserting in lieu thereof "Office of Justice Assistance".

(b) Section 1103 of part K of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3795-3795b) is amended by striking out "Law Enforcement Assistance Administration" and inserting in lieu thereof "Office of Justice Assistance".

(c) The heading for part K of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3795-3795b) is amended by striking out "Part K" and inserting in lieu thereof "Part H".

(d) Part H, as so redesignated, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3795-3795b) is amended by redesignating sections 1101, 1102, and 1103 as sections 1001, 1002, and 1003, respectively.

PUBLIC SAFETY OFFICERS' DEATH BENEFITS

SEC. 14. (a) Sections 1201 and 1204 of part I of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797-3797c) are amended by striking out "Administration" each place it appears and inserting in lieu thereof "Office".

(b) The heading for part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797-3797c) is amended by striking out "Part L" and inserting in lieu thereof "Part K".

(c) Park K, as so redesignated, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797-3797c) is amended by redesignating sections 1201, 1202, 1203, and 1204 as sections 1101, 1102, 1103, and 1104, respectively.

SEC. 15. (a) Section 1301 of part M of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3799(a)) is amended—

(1) by adding "(1)" after "(a)",

(2) by adding at the end of subsection (a) following new paragraph:

"(2) All orders, determinations, rules, regulations, and instructions issued under this title which are in effect on the date of the enactment of the Justice Assistance Act of 1983 shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked by the President, the Attorney General, the Director of the Bureau of Justice Statistics, the Director of the National Institute of Justice, the Administrator of the Office of Juvenile Justice and Delinquency Prevention, or the Director of the Office of Justice Assistance with respect to their functions under this title or by operation of law.",

(3) by striking out subsection (j), and

(4) by redesignating subsection (k) as subsection (j).

(b) The heading for part M of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3799) is amended by striking out "Part M" and inserting in lieu thereof "Part L".

(c) Part L, as so redesignated, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3799) is amended by redesignating section 1301 as section 1201.

TABLE OF CONTENTS

SEC. 16. The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3701-3799) is amended—

(1) by amending the item relating to part A to read as follows:

"Part A—Office of Justice Assistance"

(2) by striking out the item relating to section 103,

(3) by adding at the end of the items relating to part D the following new item:

"Sec. 406. State office.".

and

(4) by amending the items relating to parts E, F, G, H, I, J, L, and M, to read as follows:

"Part E—Discretionary Grants

"Sec. 501. Purpose.
"Sec. 502. Percentage of appropriation for discretionary grant program.
"Sec. 503. Procedure for establishing discretionary programs.
"Sec. 504. Application requirements.
"Sec. 505. Criteria for award.

"Part F—Training and Manpower Development

"Sec. 601. Federal Bureau of Investigation training of State and local criminal justice personnel.
"Sec. 602. Criminal justice education program.

"Part G—Administrative Provisions

"Sec. 701. Establishment of Justice Assistance Board.
"Sec. 702. Consultation; establishment of rules and regulations.
"Sec. 703. Notice and hearing on denial or termination of grant.
"Sec. 704. Finality of determinations.
"Sec. 705. Appellate court review.
"Sec. 706. Delegation of functions.
"Sec. 707. Subpena power; authority to hold hearings.
"Sec. 708. Employment of hearing officers.
"Sec. 709. Authority to use available services.
"Sec. 710. Consultation with other Federal, State, and local officials.
"Sec. 711. Reimbursement authority.
"Sec. 712. Services of experts and consultants; advisory committees.
"Sec. 713. Prohibition of Federal control over State and local criminal justice agencies.
"Sec. 714. Report to President and Congress.
"Sec. 715. Recordkeeping requirement.
"Sec. 716. Confidentiality of information.
"Sec. 717. Authority to accept voluntary services.
"Sec. 718. Administration of juvenile delinquency programs.
"Sec. 719. Prohibition on land acquisition.
"Sec. 720. Prohibition on use of CIA services.
"Sec. 721. Indian liability waiver.
"Sec. 722. District of Columbia matching fund act.
"Sec. 723. Limitation on civil justice matters.
"Sec. 724. Reimbursement for unused equipment.
"Sec. 725. Staff support; coordination of activities.
"Sec. 726. Repayment.
"Sec. 727. Prison industry enhancement.

"Part H—Definitions

"Sec. 801. Definitions.

"Part I—Funding

"Sec. 901. Authorization of appropriations.
"Sec. 902. Prohibition on use of funds.

"Part J—Criminal Penalties

"Sec. 1001. Misuse of Federal assistance.
"Sec. 1002. Falsification or concealment of facts.
"Sec. 1003. Conspiracy to commit offense against United States.

"Part K—Public Safety Officers' Death Benefits

"Sec. 1101. Payments.
"Sec. 1102. Limitations.
"Sec. 1103. Definitions.
"Sec. 1104. Administrative provisions.

"Part I—Transition—Effective Date—Repealer

"Sec. 1201. Continuation of rules, authorities, and proceedings.".

REFERENCES IN OTHER LAWS

SEC. 17. (a) Any reference to the Law Enforcement Assistance Administration, or to the Administrator of the Law Enforcement Assistance Administration, in any law other than this Act and the Omnibus Crime Control and Safe Streets Act of 1958, applicable to activities, functions, powers, and duties that after the date of the enactment of this Act are carried out by the Office of Justice Assistance shall be deemed to be a reference to the Office of Justice Assistance, or to the Director of the Office of Justice Assistance, as the case may be.

(b) Any reference to the Office of Justice Assistance, Research, and Statistics, or to the Director of the Office of Justice Assistance, Research, and Statistics, in any law other than this Act and the Omnibus Crime Control and Safe Streets Act of 1968, applicable to activities, functions, powers, and duties that after the date of the enactment of this Act are carried out by the Office of Justice of Assistance, Bureau of Justice Statistics, the National Institute of Justice, or the Office of Juvenile Justice Delinquency Prevention shall be deemed to be a reference to the Office of Justice Assistance, Bureau of Justice Statistics, National Institute of Justice, or Office of Juvenile Justice Delinquency Prevention, Director of the Office of Justice Assistance or to the Director of the Bureau of Justice Statistics, the

Director of the National Institute of Justice, or the Administrator of the Office of Juvenile Justice and Delinquency Prevention, as the case may be.

TECHNICAL AMENDMENTS TO OTHER LAWS

SEC. 18. (a) Section 5314 of title 5, United States Code is amended by striking out "Director, Office of Justice Assistance, Research, and Statistics.".

(b) Section 5315 of title 5, United States Code, is amended—

(1) by striking out "Administrator of Law Enforcement Assistance.", and

(2) by adding at the end thereof the following new item:

"Director, Office of Justice Assistance.".

(c) Section 1761 of title 18, United States Code, is amended—(1) in subsection (c) by striking out "seven pilot projects designated by the Administrator of the Law Enforcement Assistance Administration" and inserting in lieu thereof "20 projects designated by the Director of the Office of Justice Assistance".

"(d) The provisions of subsection (c) creating exemptions to Federal restrictions on marketability of prison made goods shall not apply unless—

"(1) representatives of local union central bodies or similar labor union organizations have been consulted prior to the initiation of any project qualifying of any exemption created by this section; and

"(2) such paid inmate employment will not result in the displacement of employed workers, or be applied in skills, crafts, or trades in which there is a surplus of available gainful labor in the locality, or impair existing contracts for services.".

EFFECTIVE DATE

SEC. 19. Except as provided in subsection (b), this title and the amendments made by this title shall take effect on the date of the enactment of this Act.

TITLE II—EMERGENCY FEDERAL LAW ENFORCEMENT ASSISTANCE

APPLICATION

SEC. 1. (a) In the event that a crime problem of serious and epidemic proportions exists throughout a State or a part of a State, a State (on behalf of itself or another appropriate unit of government) may submit an application under this section for Federal law enforcement assistance.

(b) An application for assistance under this section shall be submitted in writing by the chief executive officer of a State to the Attorney General, in a form prescribed by rules issued by the Attorney General. The Attorney General shall, after consultation with appropriate members of the Federal law enforcement community, approve or disapprove such application not later than ten days after receiving such application.

(c) Federal law enforcement assistance may be provided if such assistance is necessary to provide an adequate response to a crime problem described in subsection (a). In determining whether to approve or disapprove an application for assistance under this section, the Attorney General shall consider—

(1) the nature and extent of the crime problem throughout a State or in any part of a State,

(2) the emergency or extraordinary circumstances which produced the problem,

(3) the availability of State and local criminal justice resources to resolve the problem,

(4) the cost associated with the increased Federal presence,

(5) the need to avoid unnecessary Federal involvement and intervention in matters primarily of State and local concern, and

(6) any assistance which the State or other appropriate unit of government has received, or could receive, under any provision of title I of the Omnibus Crime Control and Safe Streets Act of 1969.

DEFINITIONS

SEC. 2. For purposes of this title—

(1) the term "Federal law enforcement assistance" means funds, equipment, training, intelligence information, and personnel,

(2) the term "Federal law enforcement community" means the heads of the following departments or agencies:

(A) the Federal Bureau of Investigation,

(B) the Drug Enforcement Administration,

(C) the Criminal Division of the Department of Justice,

(D) the Internal Revenue Service,

(E) the Customs Service,

(F) the Immigration and Naturalization Service,

(G) the United States Marshals Service,

(H) the National Park Service,

(I) the United States Postal Service,

(J) the Secret Service,

(K) the Coast Guard,

(L) the Bureau of Alcohol, Tobacco, and Firearms, and

(M) other Federal agencies with specific statutory authority to investigate violations of Federal criminal laws, and

(3) the term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, or the Commonwealth of the Northern Mariana Islands.

LIMITATION ON AUTHORITY

SEC. 3. (a) Nothing in this title authorizes the use of Federal law enforcement personnel to investigate violations of criminal law other than violations with respect to which investigation is authorized by other provisions of law.

(b) Nothing in this title shall be construed to authorize the Attorney General or the Federal law enforcement community to exercise any direction, supervision, or control over any police force or other criminal justice agency of an applicant for Federal law enforcement assistance.

(c) No funds provided under this title may be used to supplant State or local funds that would otherwise be made available for such purposes.

(d) Nothing in this title shall be construed to limit any authority to provide emergency assistance otherwise provided by law.

PROHIBITION OF DISCRIMINATION

SEC. 4. (a) No person in any State shall, on the ground of race, color, religion, national origin, or sex, be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in connection with any activity for which Federal law enforcement assistance is provided under this title.

(b) Paragraph (3) and paragraph (4) of section 712(c) of part G of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (as so redesignated by section 109 of this Act) shall apply with respect to a violation of subsection (a), except that the terms "this section" and "paragraph (1)", as such terms appear in such paragraphs, shall be deemed to be references to subsection (a) of this section, and a reference to the Office of Juvenile Justice and Delinquency Prevention, the National Institute of Justice, the Bureau of Justice Statistics, and the Office of Justice Assistance in such paragraphs shall be deemed to be a reference to the Attorney General.

CONFIDENTIALITY OF INFORMATION

SEC. 5. Section 715 of part G of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (as so redesignated by section 109 of this Act) shall apply with respect to—

(1) information furnished under this title,

(2) criminal history information collected, stored, or disseminated with the support of Federal law enforcement assistance provided under this title, and

(3) criminal intelligence systems operating with the support of Federal law enforcement assistance provided under this title,

except that the terms "this title" and "this section", as such terms appear in such section 715, shall be deemed to be references to this title and this section, respectively, of this Act, and a reference to the Office of Juvenile Justice and Delinquency Prevention, the National Institute of Justice, the Bureau of Justice Statistics, and the Office of Justice Assistance in such section 715 shall be deemed to be a reference to the Attorney General.

PROHIBITION OF LAND ACQUISITION

SEC. 6. No funds provided under this title shall be used for land acquisition.

REPAYMENT

SEC. 7. (a) If Federal law enforcement assistance provided under this title is used by the recipient of such assistance in violation of section 204 or for any purpose other than the purpose for which it is provided, then such recipient shall promptly repay to the Attorney General an amount equal to the value of such assistance.

(b) The Attorney General may bring a civil action in an appropriate United States district court to recover any amount required to be repaid under subsection (a).

RECORDKEEPING REQUIREMENT

SEC. 8. (a) Each recipient of Federal law enforcement assistance provided under this title shall keep such records as the Attorney General may prescribe to facilitate an effective audit.

(b) The Attorney General and the Comptroller General of the United States shall have access, for the purpose of audit and examination, to any books, documents, and records of recipients of Federal law enforcement assistance provided under this title which, in the opinion of the Attorney General or the Comptroller General, are related to the receipt or use of such assistance.

REPORT TO CONGRESS

SEC. 9. Not later than April 1 of each year, the Attorney General shall submit to the President, and to the Congress a report describing Federal law enforcement assistance provided under this title during the preceding fiscal year.

LIMITATION ON CIVIL JUSTICE MATTERS

SEC. 10. Federal law enforcement assistance provided under this title may not be used with respect to civil justice matters except to the extent that such civil justice matters bear directly and substantially upon criminal justice matters or are inextricably intertwined with criminal justice matters.

ISSUANCE OF RULES

SEC. 11. The Attorney General, after consultation with appropriate members of the law enforcement community and with State

and local officials, shall issue rules to carry out this title.

AUTHORIZATION OF APPROPRIATIONS

SEC. 12. (a) There is authorized to be appropriated $20,000,000 for each fiscal year ending after September 30, 1982, to provide under this title Federal law enforcement assistance other than funds.

(b) There are authorized to be appropriated for each fiscal year ending after September 30, 1982, such sums as may be necessary to provide under this title Federal law enforcement assistance in the form of funds.

EFFECTIVE DATE

SEC. 13. This title shall take effect on the date of the enactment of this Act.

By Mr. SPECTER (for himself and Mr. HEINZ):

S. 54. A bill to provide for the restructuring of the United States Bankruptcy Courts; to the Committee on the Judiciary.

S. 54—BANKRUPTCY REFORM

Mr. SPECTER. Mr. President, I now send to the desk a bankruptcy reform bill designated by prearrangement as S. 54.

I am pleased to introduce, together with my colleague from Pennsylvania (Mr. HEINZ), legislation in response to the June 28, 1983, decision of the U.S. Supreme Court in Northern Pipeline Construction Co. against Marathon Pipeline Co. In that case, the Supreme Court ruled that the delegation of jurisdiction granted the bankruptcy courts in the Bankruptcy Reform Act of 1978 was unconstitutional because it "impermissably removed most, if not all, of 'the essential attributes of the judicial power' from the article III district courts, and has vested those attributes in a nonarticle III adjunct."

The Court, in recognition of the havoc raised by the sudden invalidation of the bankruptcy courts, ruled that its decision would only be applied prospectively to avoid imposing "substantial injustice and hardship upon those litigants who relied upon the act's vesting jurisdiction in the bankruptcy courts."

The Court stayed its judgment until October 4, 1982, and stated: "This limited stay will afford Congress an opportunity to reconstitute the bankruptcy courts or to adopt other valid means of adjudication without impairing the interim administration of the bankruptcy laws."

When Congress failed to act by October 4, the Court, at the Government's request, extended the stay to allow Congress one more opportunity to act.

That stay expired on December 24 and the Court refused to enter an additional stay. As a result, practitioners and judges alike report delay and uncertainty have become bywords in many of the Nation's bankruptcy courts. This uncertainty and delay particularly threaten thousands of pending chapter 11 business reorganizations, where financing may now become unavailable to those companies struggling to survive by utilizing chapter 11. As a result, millions of dollars and thousands of jobs may be lost.

Congress is the only body which can solve this crisis, and it is incumbent upon us to act expeditiously and resolutely to restructure our bankruptcy courts.

The bill I am today introducing poses a practical and expedient solution to the problem articulated by the Supreme Court and will, at the same time, retain the specialized bankruptcy forum created by Congress in 1978.

My bill authorizes the appointment of 29 article III judges, to be apportioned among the 12 Federal circuits, to determine those bankruptcy-related matters that require the exercise of the judicial power of the United States. It also provides that the bulk of bankruptcy matters continue to be resolved by special Federal bankruptcy judges.

The Judicial Conference reports that less than 5 percent of the caseload handled by the 227 Federal bankruptcy judges since 1979 have involved resolution of State and Federal issues ancillary to bankruptcy. Approximately two full-time judges per circuit should, in the view of experts I consulted, be sufficient to determine these complex bankruptcy-related matters.

For example, if a company which files for bankruptcy is involved in litigation over other issues—contracts, products liability, security claims—the matter would be assigned to one of the article III judges. All other routine matters would go to a bankruptcy judge. If other claims arose in the course of a proceeding, the case would be referred to an article III judge who could then utilize the bankruptcy judge as a special master on the bankruptcy issues.

This proposal to appoint only 29 new article III judges to hear bankruptcy-related matters corrects the constitutional infirmity identified by the Supreme Court with the least disruption of current court organization.

We cannot allow the crisis in the bankruptcy courts to continue by our inaction. Each day that we do so, we neglect our constitutionally mandated responsibilities.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 54

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be cited as the "Bankruptcy Court Reform Act of 1983".

SEC. 2. Title 28 of the United States Code is amended by inserting after chapter 5 the following new chapter:

"CHAPTER 6—BANKRUPTCY COURTS

"§ 151. Creation and Composition of Bankruptcy Courts

"(a) There shall be in each judicial circuit a bankruptcy court which shall be a court of record known as the United States Bankruptcy Court for the circuit.

"(b) Each bankruptcy court shall consist of—

"(1) two 'Senior Bankruptcy Judges' for the circuit in regular active service and such additional judges as designated and assigned to a circuit in accordance with section 152(b) of this title; and

(2) one or more 'District Bankruptcy Judges' for each judicial district in the circuit in regular active service.

"§ 152. Appointment of Bankruptcy Judges

"(a) The President shall appoint, by and with the advice and consent of the Senate, two Senior Bankruptcy Judges for each federal circuit.

"(b) The President shall appoint, by and with the advice and consent of the Senate, five Senior Bankruptcy Judges who shall be available for services in any circuit upon assignment by the Chief Justice of the United States Supreme Court.

"(c) The President shall appoint, by and with the advice and consent of the Senate, one or more bankruptcy judges for the several judicial districts in numbers not to exceed the following:

"Districts

	Judges
Alabama:	
Northern	4
Middle	2
Southern	2
Alaska	1
Arizona	4
Arkansas:	
Eastern	1
Western	1
California:	
Northern	7
Eastern	4
Central	12
Southern	3
Colorado	4
Connecticut	2
Delaware	1
District of Columbia	1
Florida:	
Northern	1
Middle	2
Southern	3
Georgia:	
Northern	4
Middle	2
Southern	1
Hawaii	1
Idaho	1
Illinois:	
Northern	8
Central	2
Southern	1
Indiana:	
Northern	2
Southern	4
Iowa:	
Northern	1
Southern	1
Kansas	3
Kentucky:	
Eastern	1
Western	2
Louisiana:	
Eastern	2
Middle	1
Western	2
Maine	2

Maryland	2
Massachusetts	4
Michigan:	
Eastern	4
Western	2
Minnesota	4
Mississippi:	
Northern	1
Southern	2
Missouri:	
Eastern	3
Western	3
Montana	1
Nebraska	1
Nevada	2
New Hampshire	1
New Jersey	5
New Mexico	1
New York:	
Northern	2
Southern	7
Eastern	6
Western	3
North Carolina:	
Eastern	2
Western	1
Middle	2
North Dakota	1
Ohio:	
Northern	8
Southern	7
Oklahoma:	
Northern	1
Eastern	1
Western	2
Oregon	4
Pennsylvania:	
Eastern	3
Middle	2
Western	3
Puerto Rico	2
Rhode Island	1
South Carolina	1
South Dakota	1
Tennessee:	
Eastern	2
Middle	2
Western	2
Texas:	
Northern	3
Southern	3
Eastern	1
Western	2
Utah	2
Vermont	1
Virginia:	
Eastern	3
Western	2
Washington:	
Eastern	1
Western	4
West Virginia:	
Northern	1
Southern	1
Wisconsin:	
Eastern	3
Western	1
Wyoming	1

In each instance, the President shall give due consideration to the recommended nominee or nominees of the Judicial Council of the Circuit within which an appointment is made.

"§ 153. Tenure of Bankruptcy Judges

"(a) Each Senior Bankruptcy Judge shall hold office during good behavior.

"(b) Each District Bankruptcy Judge shall hold office for a term of 14 years, but may continue to perform the duties of his office until his successor takes office, unless such office has been eliminated.

"(c) Removal of a District Bankruptcy Judge during the term for which he is appointed shall be only for incompetency, misconduct, neglect of duty, or physical or mental disability. Removal shall be by the judicial council of the circuit or circuits in which the District Bankruptcy Judge serves, but removal may not occur unless a majority of all the judges of such circuit council or councils concur in the order of removal. Before any order of removal may be entered, a full specification of the charges shall be furnished to the District Bankruptcy Judge, and he shall be accorded an opportunity to be heard on the charges. Any cause for removal of any District Bankruptcy Judge coming to the knowledge of the Director of the Administrative Office of the United States Courts shall be reported by him to the chief judge of the circuit or circuits in which he serves, and a copy of the report shall at the same time be transmitted to the circuit council or councils and to the District Bankruptcy Judge.

"§ 154. Residence of Bankruptcy Judges

"(a) Each Senior Bankruptcy Judge shall reside in the circuit in which he serves.

"(b) Each District Bankruptcy Judge shall reside in the district or one of the districts for which he is appointed, or within 20 miles of his official station.

"(c) If the public interest and the nature of the business of a Bankruptcy Court require that a District Bankruptcy Judge should maintain his abode at or near a particular part of the district the judicial council of the circuit may so declare and may make an appropriate order. If the Bankruptcy judges of such a district are unable to agree as to which of them shall maintain his abode at or near the place or within the area specified in such an order; the judicial council of the circuit may decide which of them shall do so.

"§ 155. Salaries of Bankruptcy Judges

"(a) Each Senior Bankruptcy Judge who shall receive a salary at an annual rate of $69,500, subject to adjustment under section 225 of the Federal Salary Act of 1967 (2 U.S.C. 351-361) and section 461 of this title.

"(b) Each District Bankruptcy Judge shall receive a salary at an annual rate of $50,000, subject to adjustment under section 225 of the Federal Salary Act of 1967 (2 U.S.C. 351-361), and section 461 of this title.

"§ 156. Times and places of holding court

"(a) Each bankruptcy court may establish by local rule the designated places of holding court and the schedules of court sessions.

"(b) The bankruptcy court at each designated place shall be deemed to be in continuous session on all business days throughout the year.

"(c) Bankruptcy court may he held at any place within the circuit served, in any case, on order of the bankruptcy court, for the convenience of the parties, on such notice as the bankruptcy court orders.

"§ 157. Chief judges

"The Senior Bankruptcy Judge of the circuit who is senior in commission shall act as the chief judge of the United States Bankruptcy Court for the Circuit.".

SEC. 3. Chapter 83 of title 28, United States Code, is amended by inserting after section 1292 the following new section:

"§ 1293. Bankruptcy appeals

"The courts of appeals shall have jurisdiction of appeals from a final judgment, order, or decree of a United States bankruptcy courts.".

SEC. 4. Title 28 of the United States Code is amended by inserting after chapter 89 the following new chapter:

"CHAPTER 90—BANKRUPTCY COURTS

"§ 1471. Jurisdiction

"(a) Except as provided in subsection (b) of this section, the bankruptcy courts shall have original and exclusive jurisdiction of all cases under title 11.

"(b) Notwithstanding any Act of Congress that confers exclusive jurisdiction on a court or courts other than the bankruptcy courts, the bankruptcy courts, in accordance with the provision of section 2 of this chapter, shall have original but not exclusive jurisdiction of all civil proceedings arising under title 11 or arising in or related to cases under title 11.

"(c) Subsection (b) of this section does not prevent a bankruptcy court, in the interest of justice, from abstaining from hearing a particular proceeding arising under title 11 or arising in or related to a case under title 11. Such abstention, or a decision not to abstain, is not reviewable by appeal or otherwise.

"(d) The bankruptcy court in which a case under title 11 is pending shall have exclusive jurisdiction of all of the property, wherever located, of the debtor, as of the commencement of the case.

"§ 1472. Assumption of Jurisdiction

"(a) Proceedings, arising under title 11 in which there exists, at the time of filing, an ancillary pending matter related to the title 11 proceeding or in which the petitioner reasonably anticipates the commencement of an ancillary proceeding related to the title 11 proceeding, shall be assigned to the appropriate Senior Bankruptcy Judge who shall assume jurisdiction of the title 11 proceeding and any related proceedings, except as otherwise provided in Section 1471 of this title.

"(b) Proceedings, arising under title 11 in which no ancillary proceeding related to the title 11 proceeding is pending or is reasonably anticipated by the petitioner, shall be assigned to the appropriate District Bankruptcy Judge who shall assume jurisdiction of the proceeding, except as otherwise provided by Section 1471 of this title.

"(c) Whenever an ancillary proceeding related to a title 11 proceeding pending before a District Bankruptcy Judge is brought before the bankruptcy court, the title 11 proceeding shall be transferred to the appropriate Senior Bankruptcy Judge who shall assume jurisdiction of the title 11 proceeding and related ancillary proceedings, except as otherwise provided in section 1471 of this title.

"If the parties to such ancillary proceeding consent to the entry of judgment by the District Bankruptcy Judge or the judgment is entered upon default, in accordance with Rule 55 of the Federal Rules of Civil Procedure, the title 11 proceeding and related ancillary proceedings shall be remanded to the District Bankruptcy Judge. A party shall be deemed to consent to entry of judgment by the District Bankruptcy Judge unless he provides notice that a proposed rather than final judgment should be entered. Such notice shall be presented in the first pleading or motion made by the party in the proceeding. A party who has not so notified the District Bankruptcy Judge may not later attach the judgment on the grounds that it should have been entered by a Senior Bankruptcy Judge.

"(d) Notwithstanding the other provisions of this section, for any title 11 proceeding, transferred under subsection (c) of this section, from a District Bankruptcy Judge to a Senior Bankruptcy Judge, the Senior Judge

receiving such proceeding may request that the District Bankruptcy Judge submit findings, conclusions, and a proposed judgment to the Senior Bankruptcy Judge. The Senior Bankruptcy Judge may hold a hearing, may receive such evidence as appropriate, and may accept, reject, or modify, in whole or in part, the findings, conclusions, or proposed judgment. At the conclusion of the review, the Senior Bankruptcy Judge shall enter an appropriate judgment.

"(e) The judicial councils of the various Federal judicial circuits shall, in accordance with powers conferred under section 332(d) of title 28 of the United States Code, under the supervision of the Judicial Conference of the United States, acting through the Director of the Administrative Office of the United States Courts, take necessary action to insure that appropriate rules for the implementation of the provisions of this section are adopted by the bankruptcy courts.".

SEC. 5. The Judicial Conference of the United States shall promulgate rules to provide for the orderly disposition of bankruptcy matters pending the implementation of the provisions of this Act.

SEC. 6. Sections 404, 405(b), 405(c), and 409 of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2683), are repealed.

By Mr. BAKER (for Mr. GOLDWATER) (for himself, Mr. PACKWOOD, Mrs. KASSEBAUM, Mr. STEVENS, Mr. KASTEN, Mr. HOLLINGS, Mr. FORD, Mr. RIEGLE, Mr. EXON, and Mr. HEFLIN):

S. 55. A bill to amend the Communications Act of 1934 in order to encourage and develop marketplace competition in the provision of certain broadcast services and to provide certain deregulation of such broadcast services, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE BROADCAST DEREGULATION ACT OF 1983

● Mr. GOLDWATER. Mr. President, the bill I introduce today, the Broadcast Deregulation Act of 1983, provides for deregulation of the radio broadcast industry. It also establishes a renewal procedure for both radio and television licensees, including the elimination of the comparative renewal process. Finally, the bill establishes a congressional policy of encouragement by the Federal Communications Commission (FCC) of new, additional, and competitive services.

During the 96th Congress, the Commerce Committee held extensive hearings on telecommunications legislation. Those hearings made it clear that a general consensus existed in the industry and in government that broadcasting and other competitive communications services should be deregulated. This belief has been the basis upon which we moved numerous bills in the last Congress, making substantial amendments to the Communications Act of 1934. Removal of unnecessary Government regulations allows marketplace forces to operate more cheaply and efficiently.

Toward that end, S. 270, the Radio Deregulation Act of 1981, was introduced on January 27, 1981, by Senator Jack Schmitt of New Mexico, and I introduced S. 601, the Television Licensing and Renewal Act of 1981, on March 3, 1981. Nineteen Senators joined as cosponsors of S. 270, and 15 Senators joined as cosponsors of S. 601.

The Subcommittee on Communications held 2 days of hearings on S. 270 on February 26 and 27, 1981, and took testimony from 18 witnesses, both pro and con. Additionally, the subcommittee held hearings on March 23 and 30, 1981, on S. 601, and took testimony from 18 witnesses. Generally, the testimony was extremely supportive of the legislation.

Mr. President, as you know, S. 270 and S. 601 were incorporated into the Budget Reconciliation package which was passed by the Senate in the summer of 1981. Senator PACKWOOD was particularly instrumental in working for their inclusion in the budget, and helping win their successful passage on the Senate floor.

After conference with the House of Representatives on the communications issues—which included S. 270 and S. 601—the following broadcast measures were included in the budget bill (Public Law 97-35):

First. A 7-year license term for radio stations;

Second. A 5-year license term for television stations;

Third. Permission for the FCC to use a lottery system to grant initial licenses; and

Fourth. No license fees.

On this last point, Senator PACKWOOD insisted during the conference that the fee schedule was absolutely linked to deregulation, and there would be fees approved without the deregulation package intact. I concurred wholeheartedly.

President Reagan signed these provisions into law on August 13, 1981. For the first time in 47 years, the broadcasting industry was given regulatory relief.

Shortly thereafter, S. 1629 was introduced on September 16, 1981 by Senator Cannon, with myself and Senators PACKWOOD, HOLLINGS, and Schmitt as cosponsors.

The substance of the bill was a restatement of the radio deregulation provisions in Senator Schmitt's bill, S. 270, and the television renewal provisions in my bill, S. 601. In addition, there are established a congressional policy that new and additional services are desirable and should be encouraged.

S. 1629 was successfully reported by the Commerce Committee on December 10, 1981 by a vote of 17 to 0. Then, on March 31, 1982, the bill passed the Senate by voice vote. Mr. President, that bill never got a negative vote in the Senate in the 97th Congress. Unfortunately, other than the provision contained in the 1981 Budget Reconciliation, the House of Representatives did not act on S. 1629 or any other broadcast legislation during the last Congress.

The effort to deregulate broadcasting must continue, which is why I am reintroducing this bill today. S. 55 is virtually identical to S. 1629.

The FCC has taken significant steps to deregulate radio. However, those steps do not go as far as this bill, nor is there any certainty to the FCC's action inasmuch as that decision remains on appeal to the U.S. Court of Appeals in the District of Columbia. It is clear that the most effective way to insure timely and orderly deregulation is through statutory action.

Since 1934, the number of radio broadcast stations has increased more than fifteenfold from 583 to over 9,000. There is a plethora of radio service available to almost all of the American public today. In most major cities, there is extensive competition among radio stations. For example, the FCC's 1981 figures show that 17 markets have 30 or more stations; 46 markets have 20 stations or more; and 137 markets have at least 10 radio stations. Moreover, radio stations must compete with other news, information, and entertainment sources, including television, pay TV, cable, films, records, magazines, and newspapers. The FCC's study further showed that there is sufficient competition, even in rural and semirural areas.

As for the substantive regulations which are to be eliminated by S. 55, the FCC's data clearly shows that radio broadcasters are substantially exceeding basic informational programing guidelines; they are airing fewer commercials per hour than the guidelines; there is a sufficient array of formats to satisfy most listeners; submission of program logs is unnecessary; and ascertainment of the needs and interests of the community will be done anyway.

The renewal procedure in the bill focuses upon the licensee's record of performance rather than promises from a challenger. By barring competing applications, the expensive, time-consuming, and arbitrary comparative hearings can be eliminated. This comparative procedure was adopted originally to provide a "competitive spur" to broadcasters. The theory was that broadcaster would be encouraged to maximize their programing efforts if their licenses could be challenged at renewal.

While there have been few successful challenges to broadcasters' licenses, the uncertainty created by this threat has made it more difficult for diligent broadcasters to serve their communities. Furthermore, the real competitive spur to the broadcaster no longer comes from potential challeng-

ers to the renewal of his license. Broadcasters are now competing against the diversity of video programing made possible by the expansion of cable in urban markets, and the increasing use of new technologies.

If radio and television broadcast licensees are to be expected to provide quality programing service to the public, they must be able to rely upon the knowledge that they will not be subjected to expensive, time-consuming comparative hearings as a result of a mere promise from another applicant to do a better job. It is increased competition that will guarantee the essential program quality.

This bill also establishes a schedule of fees designed to collect, by service, total amounts of money which are equal to or less than the budget estimate for each service. Services for this purpose are defined as Mass Media, Common Carrier, Equipment Approval, and Private Radio. The fee schedule reflects the committee's effort to insure a reasonable relationship between fees for any given service and the cost of regulation. The provisions limit total collections by the FCC in any fiscal year to 50 percent of the amount authorized to be appropriated. The FCC may, on an annual basis, increase or decrease the amounts of the fees. Increases or decreases shall apply on a pro rata basis to all categories of charges, and they are not subject to judicial review. This fee schedule does not vary significantly from that contained in last Congress S. 1377, the Senate's Budget Reconciliation bill.

During conference with the House, the Senate insisted that the fee schedule was absolutely linked to radio and television deregulation, and that there would be no fees without the deregulation package intact. Since only partial radio and television deregulation was agreed to at conference, the fee schedule was dropped.

Finally, as with S. 270, S. 601, and S. 1629, S. 55 is totally consistent with the Reagan administration's and the Senate's goal of reduction in Government spending, and elimination of unnecessary and burdensome regulations.

Mr. President, the time for meaningful deregulation of the broadcast industry is long overdue. I am hopeful that this bill will be favorably reported by the Commerce Committee at the earliest opportunity, and then favorably passed by the Senate immediately thereafter. By passing this bill, we can again send a message to the House that we are very serious about meaningful broadcast deregulation. We must convince the Members of that body that enactment of this bill is in the public interest.

Mr. President, I invite my colleagues to join in cosponsoring this bill and I ask unanimous consent that this bill and a summary describing it, be printed in their entirety in the RECORD, following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 55

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Broadcast Deregulation Act of 1983".

DECLARATION OF POLICY

SEC. 2. It is the policy of the Congress that the Federal Communications Commission shall—

(1) encourage the development of competitive and diverse sources of broadcast programing and the introduction of new and additional services to consumers; and

(2) review all rules, regulations, and policies directly or indirectly applicable to broadcast licensees and eliminate those that are not necessary, or those which limit competition.

RADIO BROADCAST DEREGULATION

SEC. 3. Part I of title III of the Communications Act of 1934 is amended by inserting at the end thereof the following new section:

"RADIO BROADCAST DEREGULATION

"SEC. 332. Subject to any other applicable Federal law, the Commission is prohibited from requiring, by rule, regulation, or otherwise, radio broadcast station licensees to—

"(1) provide news, public affairs, locally produced, or any other programs;

"(2) adhere to a particular programing format;

"(3) maintain program logs;

"(4) ascertain the problems, needs, and interests of its service area; and

"(5) restrict the amount, length, frequency, or scheduling of commercial matter.".

RENEWAL PROCEDURE; COMPETITIVE SERVICES

SEC. 4. Section 309 of the Communications Act of 1934 is amended by adding at the end thereof the following new subsections:

"(j) In any case in which a broadcast station licensee submits an application to the Commission for renewal of a license, the Commission shall grant the application if it finds that—

"(1) the operation of the station has been free of serious violations of this Act and the rules and regulations promulgated thereunder; and

"(2) with respect to television broadcast stations the licensee, during the preceding term of its license, substantially met the problems, needs, and interests of the residents of its service area in its program service.

"(k) In acting upon any application for the renewal of any broadcast station license which is filed by a licensee with the Commission under section 308, the Commission shall not have authority to consider the application of any other person for the facilities for which renewal is sought. The provisions of this subsection shall not apply to any application of any other person filed prior to January 26, 1983.

"(1) Consistent with sound spectrum management, the Commission shall, to the maximum feasible extent, encourage the introduction of new and additional services by new applicants, existing licensees, or other persons. In any proceeding in which new or additional services are proposed, such services shall be presumed to be in the public interest whenever the Commission finds that such services are technically feasible without causing significant technical degradation to or interference with radio transmissions by other licensees.".

FEES

SEC. 5. The Communications Act of 1934 is amended by inserting after section 6 the following new section:

"CHARGES

"SEC. 7. (a) The Commission shall assess charges for the services listed in this subsection at the rates listed or at such modified rates as it shall establish pursuant to the provisions of subsection (b) of this section.

"Schedule of Charges:

	Rates
Private radio services:	
Marine coast stations—new, modifications, renewals	$60
Operational fixed microwave stations—new, modifications, renewals	60
Aviation (ground stations)—new, modifications, renewals	30
Land (mobile radio)—new, modifications, renewals	30
Equipment approval services:	
Type certification:	
Receivers (except TV receivers)	200
All others (including TV receivers)	650
Type acceptance:	
Approval of subscription TV systems	2,000
All others	325
Type approval:	
Ship (radio telegraph) automatic alarm systems	6,500
Broadcast equipment required to be approved under FCC rules	3,250
Ship and lifeboat transmitters	3,250
All others	1,300
Mass media services:	
Commercial TV stations—new and major change construction permits:	
Application fee	1,200
Hearing charge	6,000
Grant fee (3 × annual fee)	
Commercial radio stations—new and major change construction permits:	
Application fee	375
Hearing charge	6,000
Grant fee (3 × annual fee)	
Directional antenna license fee	375
Translators and low power TV stations—new and major change construction permits:	
Application fee:	
Top 150 markets	250
Remaining markets	150
Hearing charge	6,000
Grant fee	150
Annual fee—commercial TV stations:	
Top 20 markets	9,000
21-40 markets	8,100
41-60 markets	7,200
61-80 markets	6,300
81-100 markets	5,400
101-120 markets	4,500
121-140 markets	3,600
141-160 markets	2,700
161-180 markets	1,800
181-balance	900
Annual fee—commercial radio stations:	
Class B and C—FM, greater than 5000W—AM	1,250

Class A—FM, 1000W to 5000W—AM	600
Less than 1000W—AM	200
Annual fee—low power TV stations	150
Subscription TV stations—application fee	3,000
Station assignment and transfer fees:	
Application fee—TV stations	1,250
Application fee—radio stations	600
Hearing charges	6,000
Cable television relay service:	
Construction permit	300
Renewals	60
Common carrier service:	
Domestic public land mobile stations (base, dispatch, control, and repeater stations):	
Initial construction permits, assignments, transfers	200
Renewals and modifications	20
Air-ground station initial construction permits, renewals, and modifications	20
Cellular systems:	
Initial construction permits	900
Assignments and transfers	900
License fee	2,750
Renewals and modifications	45
Annual fee per mobile unit	3
Rural radio service (central office, interoffice or relay facilities):	
Initial construction permits, assignments, transfers	90
Renewals and modifications	20
Offshore radio service:	
Initial construction permits, assignments, and transfers	90
Renewals and modifications	20
Local television or point to point microwave radio service:	
Construction permits, renewals and modifications of construction permits	135
Assignments and transfers of control (per station)	45
International fixed public radio service—public and control stations:	
Initial construction permits, assignments, transfers	450
Renewals and modifications	325
Satellite services:	
Transmit earth stations:	
Initial station authorization	1,350
Assignments and transfers of station authorization	450
All other applications	90
Receive only Earth station:	
Initial station authorization	675
All other applications	90
Application for authority to construct a space station	1,800
Application for authority to launch and operate a space station	18,000
Multipoint distribution service:	
Construction permits, renewals and modifications of construction permits	135
Assignments and transfers of control (per station)	45
Initial license (first license or license adding new frequency)	1,350
Section 214 applications—	
Applications for overseas cable construction (per nautical route mile)	5
Application for domestic cable construction (per route mile)	4
Application to install or acquire carrier equipment (per channel mile)	4
Tariff filings:	
Filing fee	250
Special permission filing	200
Telephone equipment registration	135
Digital electronic message service:	
Construction permits, renewals and modifications of construction permits	135
Assignments and transfers of control (per station)	45
Initial license (first license or license adding new frequency)	135

The Schedule of Charges established under this subsection shall be implemented not later than 180 days after the date of enactment of this subsection.

"(b)(1) The Commission may on an annual basis increase or decrease the amounts of the charges established in subsection (a). Increases or decreases shall apply on a pro rata basis to all categories of charges and shall be in the same proportion as the cumulative charges in the Commission's total budget appropriations for the preceding 2 fiscal years.

"(2) Increases or decreases made pursuant to this subsection shall be adopted as a part of the Commission's rules and regulations.

"(3) Increases or decreases made pursuant to this subsection shall not be subject to judicial review.

"(c) The Commission shall prescribe appropriate rules and regulations to carry out the provisions of this section.

"(d) The Commission is authorized to prescribe by regulation an additional charge which may be assessed as a penalty for late payment of charges required by subsection (a). Such penalty shall not exceed 25 percent of the amount of the charge which was late.

"(e)(1) The charges established in this section shall not be applicable to any governmental body.

"(2) The Commission is authorized to waive or delay payment of any fee established in this section if it determines that the public interest would be served by such action.

"(f) Moneys received from charges established pursuant to this section shall be placed in the general fund of the Treasury to reimburse the United States for amounts appropriated for use by the Commission in carrying out its functions under this Act.

"(g) The authority to collect the charges established under this section shall be concurrent with the authorization of appropriations under section 6 of this Act.

"(h) The total amount of fees collected under this subsection in any fiscal year shall not exceed 50 percent of the sums appropriated pursuant to the authorization of appropriations contained in section 6 of this Act.".

SUMMARY OF S. 55

1. The Federal Communications Commission (FCC) shall encourage the development of new and diverse sources of broadcast programing.

2. The FCC shall eliminate unnecessary broadcast rules and regulations.

3. Radio stations are not required to:

(a) provide news, public affairs, locally produced, or any other programs;

(b) adhere to any programing format;

(c) maintain program logs;

(d) ascertain the problems, needs, and interest of its service area; and

(e) restrict the amount, length, frequency, or scheduling of commercial matter.

4. The FCC shall renew a broadcast (radio or TV) license if it finds that:

(a) the operation of the station has been free of serious violations of the Communications Act and the rules and regulations promulgated thereunder; and

(b) with respect to television stations only, the licensee substantially met the problems, needs, and interests of the residents of its service area in its program service.

5. No competing applications shall be considered by the FCC at renewal time for both radio and television licensees.

6. The FCC shall encourage new and additional services, and such services shall be presumed to be in the public interest if they are found to be technically feasible without causing significant technical degradation to, or interference with, other radio transmissions.

7. The bill establishes a schedule of service fees which will allow the FCC to collect up to 50% of its authorization level in any fiscal year.●

By Mr. SPECTER:

S. 56. A bill to amend the United States Code to provide an insanity defense and post-acquittal commitment procedure; to the Committee on the Judiciary.

S. 56—RESTRICTING AND LIMITING THE INSANITY DEFENSE IN FEDERAL COURTS

Mr. SPECTER. Mr. President, I send to the desk a bill restricting and limiting the insanity defense in Federal courts.

The verdict handed down last summer in the Hinckley case raised concerns about the validity of the insanity defense as applied in the Federal system.

Those concerns remain to be addressed by the Senate. The public is still waiting for legislation correcting what are accurately perceived to be serious flaws in the application of the insanity defense in Federal court. By acting expeditiously to enact legislation, we can improve the Federal criminal justice system and can do much to restore the public's respect for law and our system of government.

The bill I am today introducing provides an affirmative defense of insanity for the defendant who can demonstrate by clear and convincing evidence that as a result of a severe mental disease or defect, he lacked capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of the law.

By establishing insanity as an affirmative defense that excuses a defendant of criminal responsibility, we can consitutionally place upon the defendant the burden not only of going forward, but of persuasion. Although the Federal courts have, since the 1895 decision of Justice Harlan in *Davis* v. *United States*, 160 U.S. 469 (1895), imposed upon the Government the

burden of proof once the issue of the defendant's sanity is raised, they have done so not as matter of constitutional law, but as a supervisory rule applicable only in the Federal courts. This is apparent from two subsequent Supreme Court decisions upholding State law from constitutional attack.

In 1952, the Supreme Court upheld an Oregon statute that not only placed the burden of proving his insanity defense on the defendant but required the defendant to provide his insanity beyond a reasonable doubt, a much more exacting standard than the one I propose. *Leland* v. *Oregon*, 343 U.S. 790 (1952). Notwithstanding the doubts entertained by commentators, this case has never been overruled. Cf. *Rivera* v. *Delaware*, 429 U.S. 877 (1979) (dismissal of case in which appellant challenged continuing validity of Leland against Oregon for not raising substantial Federal question).

More recently, in 1977 the Supreme Court held in *Patterson* v. *New York*, 432 U.S. 197 (1977), that New York laws placing the burden on the defendant to establish the analogous affirmative defense of extreme emotional disturbance in order to reduce a crime from murder to manslaughter did not offend the Constitution's guarantee of due process. Justice White, writing for the majority, expressly declined to adopt "as a constitutional imperative, operative countrywide, that a State must disprove beyond a reasonable doubt every fact constituting any and all affirmative defenses related to the culpability of an accused." 432 U.S. at 210.

The time has come for Congress to change Federal law and legislatively allocate the burden of proof on the insanity defense to the defendant. Both the Oregon and New York cases to which I referred lend support to this approach as do the statutes of approximately half the States. See note, "Constitutional Limitations on Allocating the Burden of Proof of Insanity to the Defendant in Murder Cases," 56 B.U.L. Rev. 499, 503-505 (1976).

In addition, this bill requires that the defendant establish his affirmative defense of insanity by clear and convincing evidence. The prosecution in a criminal case is entitled to proceed as if the traditional rules governing the inference of intent from conduct and the inference that a person ordinarily intends the natural and probable consequences of his actions apply. As Chief Justice Burger observed:

> The function of the standard of proof, as that concept is embodied in the Due Process Clause and in the realm of factfinding, is to "instruct the fact finder concerning the degree of confidence our society thinks he should have in the correctness of factual conclusions for a particular type of adjudication." In re Winship, 397 U.S. 358, 370 (1970) (Harlan J., concurring). The standard serves to allocate the risk of error between the litigants and to indicate the relative importance attached to the ultimate decision. (*Addition* v. *Texas*, slip op. 4 (U.S. April 30, 1979)).

It is appropriate to require the defendant to prove in an after-the-fact presentation of such an abstract and obtuse defense as insanity that a high probability exists that he was insane at the time of his conduct. Accordingly, this bill places on the defendant the burden of meeting a standard of proof by "clear and convincing evidence." This standard is the middle ground between the traditional standard of proof "by a preponderance" used in civil cases and the more exacting standard of proof "beyond a reasonable doubt," which the prosecution must meet in criminal cases.

The bill also provides that expert witnesses shall not be permitted to offer opinions on the ultimate question of the guilt or innocence of the defendant. This comports fully with the position recently articulated by the American Psychiatric Association:

> [T]he psychiatrist's first obligation and expertise in the courtroom is to "do psychiatry" . . . to present medical information and opinion about the defendant's mental state and motivation and to explain in detail the reason for his medical-psychiatric conclusions. When, however, "ultimate issue" questions are formulated by the law and put to the expert witness who must then say "yea" or "nay", then the expert witness is required to make a leap in logic. He no longer addresses himself to medical concepts but instead must infer or intuit what is in fact unspeakable, namely, the probable relationship between medical concepts and legal or moral constructs such as free will. These impermissable leaps in logic made by expert witnesses confuse the jury. (APA Statement on the Insanity Defense at 18-19).

Finally, this bill addresses the postacquittal commitment procedures for defendants found not guilty by reason of insanity.

In hearings held last Congress by the Subcommittee on Criminal Law and the Committee on the Judiciary, we focused on the need for Federal authority to fulfill the Federal Government's responsibility to the public in the wake of an acquittal by reason of insanity. The current absence of Federal commitment authority makes it possible for a Federal defendant acquitted of a violent crime on account of insanity to walk out of the courtroom and threaten the public safety, again. The Department of Justice informed me that this is more than a theoretical possibility and that in 1981 a Federal defendant acquitted of murder by reason of insanity escaped not only criminal punishment but civil commitment. By providing such commitment authority we remedy a serious failing of our Federal criminal justice system.

Our chief concern in this regard is that we insure a long-term continuation of court jurisdiction over the Federal defendant acquitted by reason of insanity in order to insure that he is treated, incapacitated while a threat to society, and is carefully monitored and reintegrated into society.

Postacquittal authority is most readily justifiable constitutionally when the jury returns a special verdict of not guilty by reason of insanity after a trial in which defendant bore the burden of proof on this issue. Such a finding can then serve to justify the inference that the defendant continues to suffer from a mental disability requiring care when, because of his acquittal, he may continue to present a threat to the safety of others although beyond the reach of the criminal law. In this setting the Federal defendant excused from criminal responsibility on the basis of insanity can be required to submit to examination and treatment to control his violent behavior.

The legislation I propose today includes new procedures that will protect the public from dangerous Federal defendants acquitted by reason of insanity by establishing procedures to insure that such defendants will be committed to care and treatment so long as they continue to create a substantisl risk to the community.

Finally, I would like to commend the American Psychiatric Association for their thoughtful study of the insanity defense, which was recently released. The association identified and forthrightly addressed fundamental questions concerning the place of the insanity defense in American jurisprudence, the role of the psychiatrists in the legal system and the procedures for postacquittal commitment and reintegration. I ask unanimous consent that the APA statement on the insanity defense be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

AMERICAN PSYCHIATRIC ASSOCIATION STATEMENT ON THE INSANITY DEFENSE

INTRODUCTION

Long before there was psychiatry, there was the insanity defense. The idea that the insane should not be punished for otherwise criminal acts began to develop in the twelfth century as part of the more general idea that criminal punishment should be imposed only on persons who were morally blameworthy. In the thirteenth century, Bracton, the first medieval jurist to deal with the subject of insanity and crime stated, "For a crime is not committed unless the will to harm be present." The earliest documented case of a jury acquittal on grounds of unsound mind occurred in 1505.[1]

In his treatise on the "History of the Pleas of the Crown" published posthumously in 1736, England's Lord Mathew Hale explained that the insanity defense was rooted in the fundamental moral assumptions of the criminal law: [2]

Footnotes at end of article.

Man in naturally endowed with these two great faculties, understanding and liberty of will * * * The consent of the will is that which renders human actions either commendable or culpable. * * * (I)t follows that, where there is a total defect of the understanding, there is no free act of the will. * * *

It is thus a long-standing premise of the criminal law that unless a defendant intentionally chooses to commit a crime, he is not morally blameworthy, and he should not be punished. By singling out certain defendants as either lacking free will or, alternatively, lacking sufficient understanding of what they do, the insanity defense becomes the exception that proves the rule. In the law's moral paradigm, other criminal defendants, those who do not receive an insanity defense, are thus found blameworthy.

Despite these general premises in the criminal law, many questions have persisted about the insanity defense such as how best to define criminal insanity (what the legal test should be) and also what should happen to criminal defendants once they are found "insane." The history of the insanity defense has been one of periodic revisions of standards, public debate, and contention. This has been the case especially when the insanity defense is highlighted by a case involving a defendant who has attempted to harm a well-known person.

The modern formulation of the insanity defense derives from the "rules" stated by the House of Lords in Daniel M'Naghten's case (1843). M'Naghten was indicted for having shot in error Edward Drummond, secretary to Robert Peel, the Prime Minister of England whom he had meant to kill. The thrust of the medical testimony was that M'Naghten was suffering from what today would be described as delusions of persecution sympotomatic of paranoid schizophrenia. The jury returned a verdict of not guilty by reason of insanity. This verdict became the subject of considerable popular alarm and was regarded with particular concern by Queen Victoria. As a result, the House of Lords asked the judges of that body to give an advisory opinion regarding the answers to five questions "on the law governing such cases." The combined answers to two of these questions have come to be known as M'Naghten's Rules.

(T)o establish a defense on the ground of insanity, it must be clearly proved that, at the time of the committing of the act, the party accused was labouring under such a defect of reason, from disease of the mind, as not to know the nature and quality of the act he was doing; or if he did know it, that he did not know he was doing what was wrong.

M'Naghten quickly became the prevailing approach to the insanity defense in England and in the United States, even though this formulation was often criticized because of its emphasis on the defendant's lack of intellectual or cognitive understanding of what he was doing as the sole justification for legal insanity. M'Naghten's case was followed by a public response not unlike that of the public's response to the John Hinckley case.

Ye people of England exult and be glad For, ye're now at the will of the merciless mad. . . . For crime is no crime—when the mind is unsettled. ("The Times," 1843) [3]

Over the last 150 years, legal formulations for insanity other than M'Naghten have, from time to time, been adopted in certain jurisdictions, e.g., the "irresistible impulse" formulation.[4] Judge David Bazelon was midwife to the "product of mental illness" test for insanity employed in the District of Columbia from 1954 through 1972.[5] The "product of mental illness" test was, however, originally formulated in New Hampshire in 1869.[6]

The alternative formulation for the insanity defense best known besides M'Naghten is that proposed by the drafters of the Model Penal Code during the 1950s, the so-called ALI (American Law Institute) test. Section 4.01 of the Model Penal Code provides:

A person is not responsible for criminal conduct if at the time of such conduct as a result of mental disease or defect he lacks substantial capacity either to appreciate the criminality (wrongfulness) of his conduct or to conform his conduct to the requirements of law.

This was the test employed in the Hinckley case.

The ALI (Model Penal Code) approach to insanity differs from M'Naghten in three respects. First, ALI substitutes the concept of "appreciation" for that of cognitive understanding in the definition of insanity, thus apparently introducing an affective, more emotional, more personalized approach for evaluating the nature of a defendant's knowledge or understanding. Second, the ALI definition for insanity does not insist upon a defendant's total lack of appreciation (knowledge) of the nature of his conduct but instead that he only "lacks substantial capacity." Finally, ALI, like the "irresistible impulse" test, incorporates a so-called volitional approach to insanity, thus adding as an independent criterion for insanity the defendant's ability (or inability) to control his actions.

Through court rulings, the ALI approach to criminal insanity has been adopted in all federal jurisdictions. It has been adopted by legislation or judicial ruling in about half the states. Some variation of M'Naghten is the exclusive test of insanity in about one-third of the states. A handful of states (6) supplement M'Naghten with some variation of the "irresistible impulse" test. Only New Hampshire continues to use the "product of mental illness" test. Two states, Montana and Idaho, have abolished the insanity defense in recent years, or at least that form of the defense that requires the defendant to meet one of the above-mentioned special legal tests or formulations for insanity.

Interestingly, the United States Supreme Court has never ruled whether the availability for defendants of an insanity defense is constitutionally compelled. Nor has the legislature of the United States (the Congress) yet adopted one or another of the traditional insanity defense formulations for use in the federal courts. Earlier in the twentieth century, three state courts (Washington, Mississippi, and Louisiana) ruled that recognition of the insanity defense was constitutionally required.

Despite the attention given to the insanity defense by legal scholars and the continuing debates about the role that psychiatry should play in the administration of defense, it should be noted that successful invocation of the defense is rare (probably involving a fraction of 1 percent of all felony cases).[7,8] While philosophically important for the criminal law, the insanity defense is empirically unimportant. Making changes in the insanity defense will hardly be the panacea for reducing crime.

Historically defendants who were found insane also did not usually regain their freedom. Instead, they often spent many years, if not their whole lifetimes, locked away in institutions for the criminally insane. Empirical information also suggests that despite the prominence given the insanity defense through well publicized trials, the majority of such successful defenses (rather than being awarded by juries after criminal trials) occur, instead, by concurrence between the prosecution and defense. Thus in many instances the insanity defense functions in a noncontroversial manner to divert mentally ill offenders from the criminal justice system to the mental health system.

As has recently been summarized by persons testifying before Congress in the wake of the John Hinckley verdict, there is also a great deal that is empirically unknown and not very well studied about the insanity defense. For example, contrary to popular belief, what little evidence there is suggests that the insanity defense is not solely or exclusively a defense of the rich.[9] Nor is it a defense that is confined to defendants who are accused only of violent crimes.

During the last ten years, interest in abolishing modifying the insanity defense has been renewed because of several factors. Public officials speaking for a growing conservative consensus and a public understandably disturbed by the failures of the entire criminal justice system, have championed the cause that the insanity defense is one more indication that the country is "soft on crime." Thus in 1973 President Nixon called for the abolition of the insanity defense noting that this proposal was "the most significant feature of the Administration's proposed criminal code."

A 1981 Attorney General's Task Force on Violent Crime proposed federal legislation to create a verdict of "guilty but mentally ill," similar to legislation that had been passed in a few states such as Illinois and Michigan.

The hardening of American attitudes about crime has not been, however, the only cause for concern about the insanity defense. Over the last decade, as a consequence of some civil libertarian type court rulings that insanity acquittees may not be subjected to procedures for confinement that are more restrictive than those used for civil patients who have not committed criminal acts, the insanity defense became a more attractive alternative for defendants to plead. As noted by Stone, over the last decade and for the first time in history, a successful plea of insanity had "real bite." [10] Modern psychiatric treatment, particularly the use of antipsychotic drugs, furthermore permits the seeming restoration of sanity for many defendants, even if it cannot be known with certainty whether such acquittees still remain dangerous.

The consequence of the aforementioned trends has been the rapid release from hospitals for a segment of insanity acquittees in some states. In Michigan, following the McQuillan [11] decision, 55.6 percent of not guilty by reason of insanity patients were discharged following a 60-day diagnostic commitment.[12] In contrast over ninety percent of insanity acquittees are hospitalized in Illinois after the 30 day diagnostic hearing, with their average length of hospitalization being 39 months. Once their release is approved by the court, it is almost always under the condition of participation in a mandatory court-ordered outpatient program. The exodus of insanity acquittees in some states has alarmed both the public and the psychiatric profession which traditionally has been expected to play some continuing role in the social control of per-

sons found not guilty by reason of insanity. The public's perception that a successful plea of insanity is a good way to "beat the rap" contributes to a belief that the criminal insanity defense is not only fundamentally unfair ("for after all, he did do it") but also that insanity is a dangerous doctrine.

THE HINCKLEY VERDICT

The ruling of the District of Columbia jury in the John Hinckley case catalyzed many of the above and related issues concerning the insanity defense and its administration. Following the Hinckley verdict, some twenty bills were under discussion or were introduced in the Congress that would codify, for the first time, a federal approach towards insanity and also restrict the defense. The debate has focused on the wording of the insanity defense, its potential abolition, and on post-trial mechanisms for containing the insane. The Reagan administration has proposed, in effect, to abolish the traditional insanity defense and to substitute instead a "mens rea" approach. A person would be found not guilty by reason of insanity only if the person lacked "mens rea," the required mental state that is part of the definition of a crime. Another approach proposes a limited M'Naghten-type criterion to define insanity.

Other debates have focused upon procedural issues in the law of insanity. In Mr. Hinckley's case, as is presently the case in about half the states, the government had the burden of persuasion to prove the defendant's sanity beyond a reasonable doubt. The other states include insanity among the so-called "affirmative defenses," placing the burden of proving insanity upon the defendant rather than making the government prove sanity. One proposed change of the insanity defense is to shift the burden of proof to the defendant, rather than to the state.

Another focus of discussion, both prior to and following Mr. Hinckley's case, has been on the nature and quality of psychiatric testimony in insanity trials. In particular, there has been criticism of psychiatric testimony about whether defendants meet (or fail to meet) the relevant legal test for insanity in a given jurisdiction. To some extent the public appears confused by the so-called "battle of the experts." Unfortunately, public criticism about the "battle of the experts" fails to recognize or acknowledge advances in psychiatric nosology and diagnosis that indicate a high degree of diagnostic reliability for psychiatry—in the realm of 80 percent or so—so long, that is as psychiatric testimony is restricted to medical and scientific, and not legal or moral issues.[13] Sanity is, of course, a legal issue, not a medical one. The "battle of the experts" is also to a certain extent foreordained by the structure of the adversary system. Experts often disagree in many types of criminal and civil trials. For example, other medical experts may disagree on the interpretation of X-Rays, engineers on structural issues, and economists on market concentration issues. American jurisprudence requires that each side (defense and prosecution) makes the best case it can in the search for the just outcome.

THE APA POSITION

Should the insanity defense be abolished?

The American Psychiatric Association speaking as citizens as well as psychiatrists believes that the insanity defense should be retained in some form. The insanity defense rests upon one of the fundamental premises of the criminal law, that punishment for wrongful deeds should be predicated upon moral culpability. However, within the framework of English and American law, defendants who lack the ability (the capacity) to rationally control their behavior do not possess free will. They cannot be said to have "chosen to do wrong." Therefore, they should not be punished or handled similarly to all other criminal defendants. Retention of the insanity defense is essential to the moral integrity of the criminal law.

The aforementioned points do not, of course, mean that the insanity defense is necessarily "good for psychiatry," "good for all criminals" who invoke the plea, or even always "good for the public." In fact, the opposite may be the case. Psychiatrists, indeed even some psychiatric patients, might be less stigmatized, less susceptible to criticism by the media and the public were the insanity defense to be abolished. Thus the Association's view that the insanity defense should not now be abolished is not one that it takes out of self interest. Only a minority of psychiatrists testify in criminal trials. Members of the American Psychiatric Association, however, recognize the importance of the insanity defense for the criminal law, as well as its importance for genuinely mentally ill defendants who on moral and medical grounds require psychiatric treatment (in addition to restraint), rather than receiving solely custody and punishment.

To the extent that changes need to be made in the insanity defense, the Association, therefore, recommends consideration of some of the ideas discussed below concerning the legal definition of insanity, the burden of proof, the role that psychiatrists can or should play within the insanity defense, and the post-verdict disposition of persons found insane.

Should a guilty but mentally ill verdict be adopted in the law to either supplement or take the place of the traditional insanity defense?

While some psychiatrists believe that the "guilty but mentally ill" verdict has merit for dealing with problems posed by the insanity defense, the American Psychiatric Association is extremely skeptical of this approach. Nine states are currently experimenting with a guilty but mentally ill verdict or its equivalent. They permit a guilty but mentally ill verdict as an alternative choice for jurors to the traditional insanity defense. Were, however, guilty but mentally ill to be the only verdict possible (besides guilt or innocence), this would be the abolitionist position in disguise. The idea of moral blameworthiness would be diminished within the law. This does not seem right.

There are also problems with guilty but mentally ill as an alternative choice to the traditional insanity defense. Guilty but mentally ill offers a "compromise" for the jury. Persons who might otherwise have qualified for an insanity verdict may instead be siphoned into a category of guilty but mentally ill. Thus some defendants who might otherwise be found not guilty through an insanity defense will be found guilty but mentally ill instead.

The guilty but mentally ill approach may become the "easy way out." Jurias may avoid grappling with the difficult moral issues inherent in adjudicating guilt or innocence, jurors instead settling conveniently on guilty but mentally ill. The deliberations of jurors in deciding cases are, however, vital to set societal standards and to give meaning to societal ideas about responsibility and nonresponsibility. An important symbolic function of the criminal law is lost through the guilty but mentally ill approach.

There are other problems with "guilty but mentally ill." Providing mental health treatment for persons in jails and prisons has, over the years, proved a refractory problem.[14] Yet the guilty but mentally ill approach makes sense only if meaningful mental health treatment is subsequently given defendants following such a verdict. In times of financial stress, the likelihood that meaningful treatment for persons guilty but mentally ill will be mandated and paid for by state legislatures is, however, slight. This has been the outcome in Michigan (the state that first embarked upon the guilty but mentally ill approach) where even though they have been found guilty but mentally ill, felons have received no more treatment than they would have prior to the new law.

Alternatively, whatever limited funds are available for the treatment of mentally ill inmates may be devoted to guilty but mentally ill defendants, ignoring the treatment needs of other mentally ill but conventionally sentenced prisoners who require mental health treatment in prison.

The guilty but mentally ill plea may cause important moral, legal, psychiatric, and pragmatic problems to receive a whitewash without fundamental progress being made. We note that under conventional sentencing procedures already in place, judges may presently order mental health treatment for offenders in need of it. Furthermore, a jury verdict is an awkward device for making dispositional decisions concerning a person's need for mental health treatment.

Should the legal standards now in use concerning the insanity defense be modified?

While the American Psychiatric Association is not opposed to state legislatures (or the U.S. Congress) making statutory changes in the language of insanity, we also note that the exact wording of the insanity defense has never, through scientific studies or the case approach, been shown to be the major determinant of whether a defendant is acquitted by reason of insanity.[7] Substantive standards for insanity provide instructions for the jury (or other legal decisionmakers) concerning the legal standard for insanity which a defendant must meet. There is no perfect correlation, however, between legal insanity standards and psychiatric or mental states that defendants exhibit and which psychiatrists describe. For example, while some legal scholars and practitioners believe that using the word "appreciate" (rather than "knowing" or "understanding") expands the insanity dialogue to include a broader and more comprehensive view of human behavior and thinking, this may not necessarily be so. Of much greater practical significance is whether the standard employed is interpreted by individual trial judges to permit or not permit psychiatric testimony concerning the broad range of mental functioning of possible relevance for a jury's deliberation. But this matter is not easily legislated.

The above commentary does not mean that given the present state of psychiatric knowledge psychiatrists cannot present meaningful testimony relevant to determining a defendant's understanding or appreciation of his act. Many psychiatrists, however, believe that psychiatric information relevant to determining whether a defendant understood the nature of his act, and whether he appreciated its wrongfulness, is

more reliable and has a stronger scientific basis than, for example, does psychiatric information relevant to whether a defendant was able to control his behavior. The line between an irresistible impulse and an impulse not resisted is probably no sharper than that between twilight and dusk. Psychiatry is a deterministic discipline that views all human behavior as, to a good extent, "caused." The concept of volition is the subject of some disagreement among psychiatrists. Many psychiatrists therefore believe that psychiatric testimony (particularly that of a conclusory nature) about volition is more likely to produce confusion for jurors than is psychiatric testimony relevant to a defendant's appreciation or understanding.

Another major consideration in articulating standards for the insanity defense is the definition of mental disease or defect. Definitions of mental disease or defect sometimes, but not always, accompany insanity defense standards. Under Durham,[5] the "product of mental illness" approach, a series of legal cases in the District of Columbia, suggested that (for purposes of criminal insanity) "sociopathy" or other personality disorders could be "productive" of insanity. It was assumed by the law that such disorders could impair behavior control. But this is generally not the experience of psychiatry. Allowing insanity acquittals in cases involving persons who manifest primarily "personality disorders" such as antisocial personality disorder (sociopathy) does not accord with modern psychiatric knowledge or psychiatric beliefs concerning the extent to which such persons do have control over their behavior. Persons with antisocial personality disorders should, at least for heuristic reasons, be held accountable for their behavior. The American Psychiatric Association, therefore, suggests that any revision of the insanity defense standards should indicate that mental disorders potentially leading to exculpation must be serious. Such disorders should usually be of the severity (if not always of the quality) of conditions that psychiatrists diagnose as psychoses.

The following standard recently proposed by Bonnie,[15] is one which the American Psychiatric Association believes does permit relevant psychiatric testimony to be brought to bear on the great majority of cases where criminal responsibility is at issue:

A person charged with a criminal defense should be found not guilty by reason of insanity if it is shown that as a result of mental disease or mental retardation he was unable to appreciate the wrongfulness of his conduct at the time of the offense.

As used in this standard, the terms mental disease or mental retardation include only those severely abnormal mental conditions that grossly and demonstrably impair a person's perception or understanding of reality and that are not attributable primarily to the voluntary ingestion of alcohol or other psychoactive substances.

In practice there is considerable overlap between a psychotic person's defective understanding or appreciation and his ability to control his behavior. Most psychotic persons who fails a volitional test for insanity will also fail a cognitive-type test when such a test is applied to their behavior, thus rendering the volitional test superfluous in judging them.

Should the burden of proof in insanity cases always rest with the prosecution?

The case of John Hinckley brought renewed attention to who has the burden of proof in insanity cases. In the Hinckley case, the state had the burden to prove Mr. Hinckley's sanity beyond a reasonable doubt. This was a considerable burden for the state to overcome. Legal scholars believe that who bears the burden of proof in a legal case is a matter of considerable import. This is especially so when what is to be proven is inherently uncertain. And if anything can be agreed upon about criminal insanity, it is that insanity is a matter of some uncertainty.

At present about half of the states and all the Federal Courts require that once a defendant introduces into the proceeding any evidence of insanity, that the state then bears the burden to prove the defendant was instead sane. An equal number of states and the District of Columbia, however, assign the burden of proof to the defendant who must then prove his insanity by "a preponderance of the evidence" or by an even higher standard of proof.

The American Psychiatric Association is exceedingly reluctant to take a position about assigning the burden of proof in insanity cases. This matter is clearly one for legislative judgment. For public policy, the issue is, in part, whether the rights of the individual or the rights of the state are to be given more or less weight in criminal insanity trials, or as is sometimes stated, which types of errors do we deem more or less tolerable in insanity trials. Given the inherent uncertainties involved in psychiatric testimony regarding the insanity defense plus ever present problems relating abstract legal principles to controversies of such emotion, who bears the burden of proof in insanity trials may be quite important. This is particularly so when what must be proved must also be proved "beyond a reasonable doubt." As suggested by the U.S. Supreme Court in the *Addington* case,[16] psychiatric evidence is usually not sufficiently clear-cut to prove or disprove many legal facts "beyond a reasonable doubt."

It is commonly believed that the likely effect of assigning the burden of proof (burden of persuasion) to defendants rather than to the state in insanity trials will be to decrease the number of such successful defenses. This matter clearly requires further empirical study.

Should psychiatric testimony be limited to statements of mental condition?

This area for potential reform of the insanity defense is one of the most controversial. Some proposals would limit psychiatric testimony in insanity defense trials to statements of mental condition, i.e., to statements of conventional psychiatric diagnoses, to provision of accounts of how and why the defendant acted as he did at the time of the commission of the act, to explanations in medical and psychological terms about how the act was affected or influenced by the person's mental illness. However, under this approach, psychiatrists would not be permitted to testify about so-called "ultimate issues" such as whether or not the defendant was, in their judgment, "sane" or "insane," "responsible"' or not, etc. A further limitation upon psychiatric "ultimate issue" testimony would be to restrict the psychiastrist from testifying about whether a defendant did or did not meet the particular legal test for insanity at issue. Thus the law could prevent psychiatrists from testifying in a conclusory fashion whether the defendant "lacked substantial capacity to conform his behavior to the requirments of law," "lacked substantial capacity to appreciate the criminality of his act," was not able to distinguish "right from wrong" at the time of the act, etc.

The American Psychiatric Association is not opposed to legislatures restricting psychiatric testimony about the aforementioned ultimate legal issues concerning the insanity defense. We adopt this position because it is clear that psychiatrists are experts in medicine, not the law. As such the psychiatrist's first obligation and expertise in the courtroom is to "do psychiatry," i.e., to present medical information and opinion about the defendant's mental state and motivation and to explain in detail the reason for his medical-psychiatric conclusions. When, however, "ultimate issue" questions are formulated by the law and put to the expert witness who must then say "yea" or "nay," then the expert witness is required to make a leap in logic. He no longer addresses himself to medical concepts but instead must infer or intuit what is in fact unspeakable, namely, the probable relationship between medical concepts and legal or moral constructs such as free will. These impermissible leaps in logic made by expert witnesses confuse the jury.[17] Juries thus find themselves listening to conclusory and seemingly contradictory psychiatric testimony that defendants are either "sane" or "insane" or that they do or do not meet the relevant legal test for insanity. This state of affairs does considerable injustice to psychiatry and, we believe, possibly to criminal defendants. These psychiatric disagreements about technical, legal, and/or moral matters cause less than fully understanding juries or the public to conclude that psychiatrists cannot agree. In fact, in many criminal insanity trials both prosecution and defense psychiatrists do agree about the nature and even the extent of mental disorder exhibited by the defendant at the time of the act.

Psychiatrists, of course, must be permitted to testify fully about the defendant's psychiatric diagnosis, mental state and motivation (in clinical and commonsense terms) at the time of the alleged act so as to permit the jury or judge to reach the ultimate conclusion about which they and only they are expert. Determining whether a criminal defendant was legally insane is a matter for legal fact-finders, not for experts.

What should be done with defendants following not guilty by reason of insanity verdicts?

This is the area for reform where the American Psychiatric Association believes that the most significant changes can and should be made in the present administration of the insanity defense. We believe that neither the law, the public, psychiatry, or the victims of violence have been well served by the general approach and reform of the last ten years, which has obscured the quasi-criminal nature of the insanity defense and of the status of insanity acquittees.

The American Psychiatric Association is particularly concerned about insanity acquittals of persons charged with violent crime. In our view it is a mistake to analogize such insanity acquittees as fully equivalent to civil committees who, when all has been said and done, have not usually already demonstrated their clearcut potential for dangerous behavior because they have not yet committed a highly dangerous act.

Because mental illness frequently affects the patient's ability to seek or accept treatment, we believe that civil commitment, as a system of detention and treatment, should be predicated on the severity of the patient's illness and/or in some instances on the mental patient's potential for perpetrating future violence against others. The usual civil committee has not, however, committed nor will he commit in the future a major crime. Most mentally ill persons are not violent.[18] By contrast, the "dangerousness" of insanity acquittees who have perpetrated violence has already been demonstrated. Their future dangerousness need not be inferred; it may be assumed, at least for a reasonable period of time. The American Psychiatric Association is therefore quite skeptical about procedures now implemented in many states requiring periodic decisionmaking by mental health professionals (or by others) concerning a requirement that insanity acquittees who have committed previous violent offenses be repetitively adjudicated as "dangerous," thereupon provoking their release once future dangerousness cannot be clearly demonstrated in accord with the standard of proof required.

While there are no easy solutions to these problems, the following are some potential alternatives for the future.

First, the law should recognize that the nature of inhospital psychiatric intervention has changed over the last decade. Greater emphasis is now placed upon psychopharmacological management of the hospitalized person. Such treatment, while clearly helpful in reducing the overt signs and symptoms of mental illness, does not necessarily mean, however, that "cure" has been achieved—nor that a patent's "nondangerousness" is assured. Continuing, even compelled, psychiatric treatment is often required for this population once the patient is released from the hospital.

Although some insanity acquittees will recover in such facilities, there can be no public guarantee. The presumption should therefore be that after initial hospitalization a long period of conditional release with careful supervision and outpatient treatment will be necessary to protect the public and to complete the appropriate treatment programs. Unfortunately, however, many jurisdictions have neither the trained personnel nor appropriate outpatient facilities and resources to provide for such close management of previously violent persons who are conditionally released. Where statutes provide for conditional release and judges allow it without these necessary resources, the public is subjected to great risk and the insanity acquittee is deprived of an opportunity for a necessary phase of treatment.

At any hearing that might order the conditional release of an insanity acquittee, the following questions must be answered affirmatively. Has a coherent and well structured plan of supervision, management, and treatment been put into place? Is this plan highly likely to guarantee public safety while maximizing the chances for rehabilitation of the insanity acquittee? Are the necessary staff and resources available to implement the plan? Is there in place a procedure to reconfine the insanity acquittee who fails to meet the expectations of the plan?

For some acquittee contingent release is not possible because of the risk to society, the lack of resources, or other relevant legal considerations. Yet because psychiatry has no more to offer the acquittee, continued confinement cannot be justified on therapeutic or psychiatric grounds. When there exists no realistic therapeutic justification for confinement, the psychiatric facility becomes a prison. The American Psychiatric Association believes this hypocrisy must be confronted and remedied. One appropriate alternative is to transfer the locus of responsibility and confinement for such acquittees to a nontreatment facility that can provide the necessary security.

The American Psychiatric Association believes that the decision to release an insanity acquittee should not be made solely by psychiatrists or solely on the basis of psychiatric testimony about the patient's mental condition or predictions of future dangerousness. While this may not be the only model, such decisions should instead be made by a group similar in composition to a parole board. In this respect, the American Psychiatric Association is impressed with a model program presently in operation in the State of Oregon under the aegis of a Psychiatric Security Review Board.[19, 20] In Oregon a multidisciplinary board is given jurisdiction over insantity acquittees. The board retains control of the insanity acquittee for a period of time as long as the criminal sentence that might have been awarded were the person to have been found guilty of the act. Confinement and release decisions for acquittees are made by an experienced body that is not naive about the nature of violent behavior committed by mental patients and that allows a quasi-criminal approach for managing such persons. Psychiatrists participate in the work of the Oregon board, but they do not have primary responsibility. The Association believed that this is as it should be since the decision to confine and release persons who have done violence to society involves more than psychiatric considerations. The interest of society, the interest of the criminal justice system, and the interest of those who have been or might be victimized by violence must also be addressed in confinement and release decisions.

In line with the above views, the American Psychiatric Association suggests the following guidelines for legislation dealing with the disposition of violent insantity acquittees.

1. Special legislation should be designed for those persons charged with violent offenses who have been found not guilty by reason of insanity.

2. Confinement and release decisions should be made by a board constituted so as to include psychiatrists by including other professions representing the criminal justice system and akin to a parole board.

3. Release should be conditional upon having a treatment supervison plan in place with the necessary resources available to implement it.

4. The board having jurisdiction over released insanity acquittees should have clear authority to reconfine.

5. When psychiatric treatment within a hospital setting has obtained the maximal treatment benefit possible but the board believes that for other reasons confinement is still necessary, the insanity acquittee should be transferred to the most appropriate nonhospital facility.

In general, the American Psychiatric Association favors legislation to identify insanity acquittees who have committed violent acts as a special group of persons who, because of the important societal interests involved, should not be handled similarly to other civil committees.

Although efforts to treat mentally disordered offenders have met with limited success we should nevertheless also increase our commitment to developing and implementing new treatment approaches for those adjudicated insane. These are practical as well as humanistic reasons for making this recommendation. A certain number of those who plead insanity will, whatever their disposition, eventually be released to society. To whatever extent their sanity is restored or their capacity to adhere to proper conduct is enhanced the public will receive that much more protection from crime.

FOOTNOTES

[1] Robitscher J, Haynes AK: In defense of the insanity defense. Emory Law Journal 31:9-60, 1982.

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[3] Cited in Sutcliffe and After (Editorial). The Lancet, 1(8232): 1241-42, June 6, 1981.

[4] See e.g., Weiner BA: Not guilty by reason of insanity: a sane approach. Chicago-Kent Law Review 56:1057-1085, 1980; Smith v. United States, 36 F.2d 548, 549 (D.C. Cir. 1929).

[5] Durham v. United States, 214 F.2d 862 (D.C. Cir. 1954).

[6] State v. Pike, 49 N.H. 399 (1869); State v. Jones, 50 N.H. 369 (1871).

[7] Pasewark RA: Insanity plea: a review of the research literature. The Journal of Psychiatry & Law 9:357-401, 1981.

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[12] Criss ML, Racine DR: Impact of change in legal standard for those adjudicated not guilty by reason of insanity 1975-1979. The Bulletin of the American Academy of Psychiatry and the Law VIII:261-271, 1980.

[13] See e.g., Spitzer RL, forman J, Nee J: DSM-III Field Trials: I. Initial interrater diagnostic reliability. American Journal of Psychiatry 136:815-817, 1979.

[14] Roth LH: Correctional psychiatry, Ch. 28 in Modern Legal Medicine, Psychiatry and Forensic Science. Edited by Curran W, McGarry AL, Petty C. Philadelphia, F.A. Davis, 1980, pp.677-719.

[15] Bonnie RJ: A model statute on the insanity defense. Available from Institute of Law, Psychiatry and Public Policy, University of Virginia, Charlottesville, VA (1982).

[16] Addington v. Texas, 99 S. Ct. 1804, 1811 (1979).

[17] Shah SA: Some interactions of law and mental health in the handling of social deviance. Catholic University Law Review 23(4):674-719, 1974.

[18] Rabkin JG: Criminal behavior of discharged mental patients: a critical appraisal of the research. Psychological Bulletin 86:1-27, 1979.

[19] Rogers JL: 1981 Oregon legislation relating to the insanity defense and the Psychiatric Security Review Board. Willamette Law Review 18:23-48, 1982.

[20] Bloom JL, Bloom JD: Disposition of insanity defense cases in Oregon. The Bulletin of the American Academy of Psychiatry and the Law 9(2):93-99, 1981.

Mr. SPECTER. Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 56

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this bill shall be known as "The Insanity Defense Reform Act of 1983".

SEC. 2. Chapter 1 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 16. Insanity Defense

"(a) AFFIRMATIVE DEFENSE.—It shall be an affirmative defense to a prosecution under any Federal statute that, at the time of the conduct alleged to constitute the offense, the defendant as a result of severe mental disease or defect lacked the capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law.

"(b) BURDEN OF PROOF.—The defendant has the burden of proving the affirmative defense of insanity by clear and convincing evidence.

"(c) EXPERT TESTIMONY.—Expert witnesses shall not be permitted to offer opinions on the ultimate legal issue, whether the defendant as a result of severe mental disease or defect lacked the capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law, which question, being one of guilt or innocence, is reserved to the trier of fact.

"(d) DEFINITION.—As used in this section, severe mental 'disease or defect' includes only those abnormal mental conditions that grossly and demonstrably impair a person's perception or understanding of reality and that are not attributable primarily to the voluntary ingestion of alcohol or other psychiatric substances.".

SEC. 3. Chapter 313 of title 18, United States Code, is amended by adding at the end thereof the following new sections:

"§ 4249. Determination of the existence of insanity at the time of the offense

"(a) MOTION FOR PRETRIAL PSYCHIATRIC OR PSYCHOLOGICAL EXAMINATION.—Upon filing of a notice, as provided in Rule 12.2 of the Federal Rules of Criminal Procedure, the court, upon motion of the attorney for the Government, may order that a psychiatric or psychological examination of the defendant be conducted, and that a psychiatric or psychological report be filed with the court, pursuant to the provisions of section 4251 (b) and (c).

"(b) SPECIAL VERDICT.—If the issue of insanity is raised by notice as provided in Rule 12.2 of the Federal Rules of Criminal Procedure on motion of the defendant or of the attorney for the Government, or on the court's own motion, the jury shall be instructed to find, or, in the event of a nonjury trial, the court shall find the defendant—

"(1) guilty;

"(2) not guilty; or

"(3) not guilty by reason of insanity.

"§ 4250. Hospitalization of a person found not guilty by reason of insanity

"(a) DETERMINATION OF PRESENT MENTAL CONDITION OF ACQUITTED PERSON.—If a person is found not guilty by reason of insanity at the time of the offense charged, he shall be committed to a suitable facility until such time as he is eligible for release pursuant to subsection (e) of this section.

"(b) PSYCHIATRIC OR PSYCHOLOGICAL EXAMINATION AND REPORT.—Prior to the date of the disposition hearing, the court shall order that a psychiatric or psychological report be filed with the court, pursuant to the provisions of sections 4251 (b) and (c).

"(c) HEARING.—A hearing shall be conducted in accordance with the provisions of section 4251(d) and shall take place not later than forty days following entry of the special verdict.

"(d) BURDEN OF PROOF.—In the hearing a person found not guilty by reason of insanity of an offense involving bodily injury to another person or involving a substantial risk of such injury has the burden of proving by clear and convincing evidence that his release would not create a substantial risk of bodily injury to another person as a result of his present mental disease or defect. With respect to any other offense, the Government has the burden of proving by a preponderance of the evidence that release would create a substantial risk of such bodily injury to another person.

"(e) DETERMINATION AND DISPOSITION.—If, after the hearing, the court finds by the standard specified in subsection (d) of this section that the person's release would create a substantial risk of bodily injury to another person as a result of his present mental disease or defect, the court shall commit the person to the custody of the Attorney General. The Attorney General shall release the person to the appropriate official of the State in which the person is domiciled or was tried if such State will assume responsibility for his custody, care, and treatment. The Attorney General shall make all reasonable efforts to cause such State to assume such responsibility. If, notwithstanding such efforts, neither such State will assume such responsibility, the Attorney Geneal shall hospitalize the person for treatment in a suitable facility until—

"(1) such a State will assume such responsibility; or

"(2) the person's mental condition is such that his release, or his conditional release under a prescribed regimen of medical, psychiatric, or psychological care or treatment, would not create a substantial risk of bodily injury to another person. The Attorney General shall continue periodically to exert all reasonable efforts to cause such a State to assume such responsibility for the person's custody, care, and treatment.

"(f) DISCHARGE.—When the director of the facility in which an acquitted person is hospitalized pursuant to subsection (e) determines that the person has recovered from his mental disease or defect to such an extent that his release, or his conditional release under a prescribed regimen of medical, psychiatric, or psychological care or treatment, would no longer create a substantial risk of bodily injury to another person, he shall promptly file a certificate to that effect with the clerk of the court that ordered the commitment. The clerk shall send a copy of the certificate to the person's counsel and to the attorney for the Government. The court, on the motion of the attorney for the Government or on its own motion, shall hold a hearing, in accordance with the provisions of section 4250(d), to determine whether he should be released.

"If, after a hearing, pursuant to this subsection or section 4251(i), the court finds by the standard specified in subsection (d) that the person has recovered from his mental disease or defect to such an extent that—

"(1) his release would no longer create a substantial risk of bodily injury to another person, the court shall order that he be immediately discharged; or

"(2) his conditional release under a prescribed regimen of medical, psychiatric, or psychological care or treatment would no longer create a substantial risk of bodily injury to another person, the court shall—

"(A) order that he be conditionally discharged under a prescribed regimen of medical, psychiatric, or psychological care or treatment that has been prepared for him and that has been found by the court to be appropriate; and

"(B) order, as an explicit condition of release, that he comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment.

The court at any time may, after a hearing employing the same criteria, modify or eliminate the regimen of medical, psychiatric, or psychological care or treatment.

"(g) REVOCATION OF CONDITIONAL DISCHARGE.—The director of a medical facility responsible for administering a regimen imposed on an acquitted person conditionally discharged under subsection (f) shall notify the Attorney General and the court having a jurisdiction over the person of any failure of the person to comply with the regimen. Upon such notice, or upon other probable cause to believe that the person has failed to comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment, the person may be arrested, and, upon arrest, shall be taken without unnecessary delay before the court having jurisdiction over him. The court shall, after a hearing, determine whether the person should be remanded to a suitable facility on the ground that, in light of his failure to comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment, his continued release would create a substantial risk of bodily injury to another person.

"§ 4251. General provisions

"(a) DEFINITIONS.—As used in this Act—

"(1) 'Rehabilitation program' includes—

"(A) basic educational training that will assist the individual in understanding the society to which he will return and that will assist him in understanding the magnitude of his offense and its impact on society;

"(B) vocational training that will assist the individual in contributing to, and in participating in, the society to which he will return;

"(C) drug, alcohol, and other treatment programs that will assist the individual in overcoming his psychological or physical dependence; and

"(D) organized physical sports and recreation programs.

"(2) 'Suitable facility' means a facility that is suitable to provide care or treatment given the nature of the offense and the characteristics of the defendant.

"(b) PSYCHIATRIC OR PSYCHOLOGICAL EXAMINATION.—A psychiatric or psychological examination ordered pursuant to this Act shall be conducted by a licensed or certified psychiatrist or clinical psychologist, or, if the court finds it appropriate, by more than one such examiner. Each examiner shall be—

"(1) designated by the court if the examination is ordered under section 4249; or

"(2) designated by the court and, upon the request of the defendant, an additional examiner may be selected by the defendant, if the examination is ordered under section 4250.

"For purposes of an examination pursuant to an order under section 4249, the court may commit the person to be examined for a reasonable period, but not to exceed thirty days, and under section 4250, for a reasonable period, but not to exceed forty-five days, to the custody of the Attorney General for placement in a suitable facility. Unless impracticable, the psychiatric or psychological examination shall be conducted in the suitable facility closest to the court. The director

of the facility may apply for a reasonable extension, but not to exceed fifteen days under section 4249, or to exceed thirty days under section 4250, upon a showing of good cause that the additional time is necessary to observe and evaluate the defendant.

"(c) PSYCHIATRIC OR PSYCHOLOGICAL REPORTS.—A psychiatric or psychological report ordered pursuant to this Act shall be prepared by the examiner designated to conduct the psychiatric or psychological examination, shall be filed with the court with copies provided to counsel for the person examined and to the attorney for the Government, and shall include—

"(1) the person's history and present symptoms;

"(2) a description of the psychiatric, psychological, and medical tests that were employed and their results;

"(3) the examiner's findings; and

"(4) the examiner's opinions as to diagnosis, prognosis and if the examination is ordered under section 4250, whether the person is suffering from a mental disease or defect as a result of which his release would create a substantial risk of bodily injury to another person.

"(d) HEARING.—At a hearing ordered pursuant to this Act the person whose mental condition is the subject of the hearing shall be represented by counsel and, if he is financially unable to obtain adequate representation, counsel shall be appointed for him pursuant to section 3006A. The person shall be afforded an opportunity to testify, to present evidence to subpoena witnesses on his behalf, and to confront and cross-examine witnesses who appear at the hearing.

"(e) PERIODIC REPORT AND INFORMATION REQUIREMENTS.—

"(1) The director of the facility in which a person is hospitalized pursuant to section 4250 shall prepare annual reports concerning the mental condition of the person and containing recommendations concerning the need for his continued hospitalization. The reports shall be submitted to the court that ordered the person's commitment to the facility and copies of the reports shall be submitted to such other persons as the court may direct.

"(2) The director of the facility in which a person is hospitalized pursuant to section 4250 shall inform such person of any rehabilitation programs that are available for persons hospitalized in that facility.

"(f) VIDEOTAPE RECORD.—Upon written request of defense counsel, the court may order a videotape record made of the defendant's testimony or interview upon which the periodic report is based pursuant to subsection (e). Such videotape record shall be submitted to the court along with the periodic report.

"(g) ADMISSIBILITY OF A DEFENDANT'S STATEMENT AT TRIAL.—A statement made by the defendant during the course of a psychiatric or psychological examination pursuant to section 4249 is not admissible as evidence against the accused on the issue of guilt or punishment in any criminal proceeding, unless the defendant otherwise waived his privilege against self-incrimination, but is admissible on the issue whether the defendant suffers from a mental disease or defect.

"(h) HABEAS CORPUS UNIMPAIRED.—Nothing contained in this Act precludes a person who is committed pursuant to its provisions from establishing by writ of habeas corpus the illegality of his detention.

"(i) DISCHARGE.—Regardless of whether the director of the facility in which a person is hospitalized has filed a certificate pursuant to section 4250(f), a person hospitalized, counsel for the person or his legal guardian may, at any time during such person's hospitalization file with the court that ordered the commitment a motion for a hearing to determine whether the person should be discharged from such facility. Such motion shall be granted and the court shall hold a hearing in accordance with the provisions of section 4250(f) and 4251(d), unless such motion is filed within one hundred and eighty days of a court determination that the person should continue to be hospitalized. A copy of the motion shall be sent to the director of the facility in which the person is hospitalized and to the attorney for the Government.

"(j) AUTHORITY AND RESPONSIBILITY OF THE ATTORNEY GENERAL.—The Attorney General—

"(1) may contract with a State, a political subdivision, a locality, or a private agency for the confinement, hospitalization, care, or treatment of, or the provision of services to, a person committed to his custody pursuant to this Act;

"(2) may apply for the civil commitment, pursuant to State law, of a person committed to this custody pursuant to this Act;

"(3) shall, before placing a person in a facility pursuant to the provisions of this Act consider the suitability of the facility's rehabilitation programs in meeting the needs of the person;

"(4) shall consult with the Secretary of the Department of Health and Human Services in the general implementation of the provisions of the provisions of this Act and in the establishment of standards for facilities used in the implementation of this Act.

"(k) This Act does not apply to a prosecution under an Act of Congress applicable exclusively to the District of Columbia or the Uniform Code of Military Justice.".

By Mr. SPECTER:

S. 57. A bill to amend title 18 of the United States Code relating to the sexual exploitation of children; to the Committee on the Judiciary.

S. 57—CHILD PORNOGRAPHY

Mr. SPECTER. Mr. President, 5 years ago, congressional hearings indicated that child pornography had become a multimillion dollar industry, victimizing thousands of children. Congress responded by outlawing the production of child pornography and the distribution for sale of obscene materials which pornographically depicted children.

Last summer the Supreme Court ruled in New York against Ferber that the compelling State interest in safeguarding the physical and psychological well-being of minors constitutionally justified the prohibition of nonobscene pornography involving children.

I applaud the Supreme Court and concur that the child pornographer's first amendment guarantee of free speech is not violated when he is prohibited from sexually exploiting a child.

My interest in, and commitment to, fighting the child pornographer grew from a series of hearings on the sexual exploitation of children which began in November of 1981 before the Subcommittee on Juvenile Justice. Although it is clear that Federal efforts to enforce existing laws have decreased the availability of child pornography, testimony at those hearings indicated that the Federal law is not tough enough to protect the thousands of our children who continue to fall victim to pornographers and exploiters.

Father Bruce Ritter who directs a runaway shelter in Times Square testified that thousands of runaways in New York City are "recruited, if not openly abducted, by the organized child prostitution and pornography industries which, in New York at least, are estimated to earn close to $1 billion each year."

In contrast, figures supplied by the Department of Justice and the Postal Service show a small number of Federal arrests and convictions of child pornographers. From May 1977 to April 1982, 43 persons have been convicted under all available obscenity statutes for distribution of obscene material depicting minors. Less than half of these convictions were for violations of the laws specifically focusing on child pornography, which carry penalties exceeding those imposed by the general obscenity laws. As of April 29, 1982, the 20 persons who were convicted under these tougher child pornography laws had received sentences ranging from a $500 fine with a suspended sentence to a $25,000 fine with a 20-year sentence.

Testimony at the subcommittee hearings offered one key explanation for the limited Federal success in attacking the child pornography industry—Federal law currently reaches only distribution of child pornography for sale. As Charles P. Nelson, Assistant Chief Postal Inspector, Office of Criminal Investigations for the U.S. Postal Service, testified:

The bulk of the child pornography is noncommercial. This activity is not in violation of the Federal child pornography statutes. These statutes require a commercial transaction in connection with the manufacture or distribution of the material before a violation exists.

The result of this commercial limitation is far-reaching. Dana E. Caro of the Criminal Investigation Division of the Federal Bureau of Investigation testified that:

[T]he FBI has determined that a clandestine subculture exists in the United States which is functioning in violation of the child pornography and sexual exploitation of children statutes. This culture is involved in recruiting and transporting minors for sexual exploitation and investigation has revealed that this culture is very difficult to penetrate. It has been determined that the largest percentage of child pornography available in the United States today was originally produced for the selfgratification of the members of this culture and was not necessarily produced for any commercial purpose. Pedophiles maintain correspondence and exchange sexual explicit photo-

graphs with other members of this subculture and often establish contact with each other through "swinger" type magazines and newspapers which act as mail forwarding services for the readers. FBI investigations have revealed the commercial photographers and major distributors pose as members of this subculture and obtain free of charge the sexually explicit photographs of minor children. As a result, many of the photographs taken for private use and obtained by these commercial photographers and pornographic distributors subsequently appear in child pornography magazines which have wide commercial distribution. Neither the child posing for the picture nor the photographer receive any payment from these commercial photograhers or major distributors. Therefore, the FBI's effectiveness in combatting child pornography and the sexual exploitation of children at the grass roots has been seriously imparied by the pecuniary interest requirement contained in title 18, U.S. Code, section 2251 and 2252.

Last Congress I introduced S. 2856 to reflect the testimony of the law enforcement commuity. The bill I am introducing today incorporates and expands the major provisions of S. 2856 and makes any interstate distribution of child pornography or any distribution of child pornography through the mails a Federal crime.

My bill also amends the 1977 law to bring it into accord with the Supreme Court's July 2, 1982, decision in *Ferber:* It makes unlawful the distribution of any photographs which sexually exploit children under age 18. In addition, this bill provides for tougher penalties—fines would increase from $10,000 to $75,000 for a first offense and from $15,000 to $150,000 for a second offense. Given the testimony we have heard, it is apparent that the current statutory penalties are insufficient to take the profit out of child pornography. The elevated fines I propose are intended to correct this shortcoming, as well. Finally, to bolster the enforcement effort, this bill would amend the Racketeer Influenced and Corrupt Organization Act to include child pornography among "RICO" offenses.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 57

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Sexual Exploitation of Children Act of 1983".

SEC. 2. The Congress hereby finds that—

(1) child pornography has developed into a highly organized, multimillion dollar industry which operates on a nationwide scale;

(2) thousands of children including large numbers of runaway and homeless youth are exploited in the production and distribution of pornographic materials; and

(3) the use of children as subjects of pornographic materials is harmful to the physiological, emotional, and mental health of the individual child and to society.

SEC. 3. Chapter 110 of title 18, United States Code, is amended to read as follows:

"CHAPTER 110—SEXUAL EXPLOITATION OF CHILDREN

"Sec. 2251. Definitions for chapter.
"Sec. 2252. Sexual exploitation of children.
"Sec. 2253. Certain activities relating to material involving the sexual exploitation of minors.
"Sec. 2254. Defense.

"§ 2251. Definitions for chapter

"For the purposes of this chapter, the term—

"(1) 'minor' means any person under the age of eighteen years;

"(2) 'sexually explicit conduct' means actual or simulated—

"(A) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

"(B) bestiality;

"(C) sado-masochistic abuse (for the purpose of sexual stimulation);

"(D) masturbation; or

"(E) lewd exhibition of the genitals or public area of any person;

"(3) 'simulated' means the explicit depiction of any conduct described in clause (2) of this section which creates the appearance of such conduct and which exhibits any uncovered portion of the genitals or buttocks;

"(4) 'producing' means producing, directing, manufacturing, issuing, publishing, or advertising; and

"(5) 'visual or print medium' means any film, photograph, negative, slide, book, magazine, or other visual or print medium.

"§ 2252. Sexual exploitation of children

"(a) Any person who knowingly employs, uses, persuades, induces, entices, or coerces any minor to engage in, or who has a minor assist any other person to engage in, any sexually explicit conduct for the purpose of producing any visual or print medium depicting such conduct, shall be punished as provided under subsection (c), if such person knows or has reason to know that such visual or print medium will be transported in interstate or foreign commerce or mailed, or if such visual or print medium has actually been transported in interstate or foreign commerce or mailed.

"(b) Any parent, legal guardian, or person having custody or control of a minor who knowingly permits such minor to engage in, or to assist any other person to engage in, sexually explicit conduct for the purpose of producing any visual or print medium depicting such conduct shall be punished as provided under subsection (c) of this section, if such parent, legal guardian, or person knows or has reason to know that such visual or print medium will be transported in interstate or foreign commerce or mailed or if such visual or print medium has actually been transported in interstate or foreign commerce or mailed.

"(c) Any person who violates this section shall be fined not more than $75,000 or imprisoned not more than 10 years, or both, but, if such person has a prior conviction under this section, such person shall be fined not more than $150,000 or imprisoned not less than 2 years nor more than 15 years, or both.

"§ 2253. Certain activities relating to material involving the sexual exploitation of minors

"(a) Any person who—

"(1) knowingly transports or ships in interstate or foreign commerce or mails any visual or print medium, if—

"(A) the producing of such visual or print medium involves the use of a minor engaging in sexually explicit conduct; and

"(B) such visual or print medium depicts such conduct; or

"(2) knowingly receives any visual or print medium that has been transported or shipped in interstate or foreign commerce or mailed, if—

"(A) the producing of such visual or print medium involves the use of a minor engaging in sexually explicit conduct; and

"(B) such visual or print medium depicts such conduct;

shall be punished as provided in subsection (b) of this section.

"(b) Any person who violates this section shall be fined not more than $75,000 or imprisoned not more than 10 years, or both, but, if such person has a prior conviction under this section, such person shall be fined not more than $150,000 or imprisoned not less than two years nor more than 15 years, or both.

"§ 2254. Defense

"In any prosecution brought under this chapter for the production or distribution of a visual or print medium depicting sexually explicit conduct as defined in section 2251 (1)(2)(D) or (E), it shall be an affirmative defense that the medium, when taken as a whole, possesses serious literary, artistic, scientific, social, or educational value.".

SEC. 4. Section 1961 of title 18, United States Code, is amended in clause (1)(B) by inserting after "section 1955 (relating to the prohibition of illegal gambling businesses)," the following: "sections 2252 and 2253 (relating to the sexual exploitation of children),".

SEC. 5. Section 1964 of title 18, United States Code, is amended in subsection (c) by striking out "his business or" and inserting in lieu thereof "his person, business, or".

By Mr. SPECTER:

S. 58. A bill to authorize incarceration in Federal prisons of convicts sentenced to life imprisonment under the habitual criminal statute of a State; to the Committee on the Judiciary.

S. 58—INCARCERATION UNDER HABITUAL OFFENDER STATUTES

Mr. SPECTER. Mr. President, I now send to the desk two bills which are meant to supplement the Armed Career Criminal Act of 1983, which I just introduced.

The first of these bills, S. 58, grants the Attorney General authority to incarcerate in Federal facilities persons convicted and sentenced to life imprisonment in State courts under their habitual offender statutes.

Permitting these persons to be transferred to Federal prisons will encourage more prosecutions under State career-criminal statutes. These statutes normally allow judges to sentence habitual offenders for significant periods in order to keep them from engaging in further criminal activity. Often, local district attorneys have task forces specially created to target career criminals. Unfortunately how-

ever, long-term incarceration of these criminals is nearly impossible due to already crowded State prison conditions. Prisoners are sometimes set free early to make room for the continuing stream of newly convicted persons.

By holding persons sentenced to life imprisonment under a State's career criminal statute, the Federal Government is reducing the burden of overcrowding caused by prisoners serving long sentences.

Recent statistics show that the State prison population continues to increase at an alarming rate. Since 1975 the total U.S. prison population grew by only 1.2 percent. In the first 9 months of 1982, the State prison population exploded with a 10.4-percent rate of increase over 1981 prison population figures. Over the same 9-month period, the Federal prison population increased only 4.5 percent, much of that attributed to unsentenced prisoners under the jurisdiction of the U.S. Immigration and Naturalization Service.

The States need help from the Federal Government to reduce overcrowded conditions. This bill provides this assistance by allowing special targeting efforts to be directed at career criminals.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 58

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) Congress finds that—

(1) career criminals commit a large percentage of the violent and major felonies afflicting society, causing immeasurable physical injury to innocent persons and damage, destruction, or loss to their property estimated at billions of dollars annually, thereby terrorizing law-abiding citizens, disrupting the community, and undermining respect for law;

(2) the continuing criminal activity of career criminals adversely affects interstate commerce;

(3) despite prior convictions for serious offenses, many repeat offenders are placed on probation or sentenced to unduly short terms of imprisonment by State judges, to the detriment of public safety;

(4) many repeat offenders cannot reasonably be rehabilitated and, unless incarcerated for life, will commit further felonies;

(5) many States have "habitual criminal" statutes providing for life sentences for repeat offenders, upon subsequent felony convictions;

(6) many State prison systems are severely overcrowded, understaffed, and unable to confine convicts sentenced to life imprisonment under such statutes in a safe, secure, and humane manner;

(7) State judges may be deterred by the lack of sufficient prison space, staff, and funding from imposing life sentences for repeat offenders as provided by State law, and the legislatures in those States without habitual criminal statutes may be dissuaded by such considerations from enacting such statutes;

(8) the interests of justice and public safety would be served if State authorities felt free to impose life sentences for repeat major offenders unrestrained by such considerations;

(9) the Federal Bureau of Prisons sometimes has empty cells available and can make additional space available by consolidating inmates, consistent with suitable standards, and ultimately can open additional institutions and cells, without great cost or delay, in certain Federal facilities, including abandoned military facilities and Public Health Service Hospitals; and

(10) the Federal Bureau of Prisons has an outstanding record in safely, effectively, and humanely confining inmates sentenced to life imprisonment.

(b) The Congress declares that the purpose of this Act is to remove undue restraints on States imposing life sentences on repeat major offenders by authorizing the Federal Government to assume custody of prisoners sentenced under State habitual criminal statutes to imprisonment for life, without cost to the State.

SEC. 2. (a) Upon request by a State pursuant to section 3, the Federal Bureau of Prisons of the Department of Justice shall promptly arrange and accept custody of convicts who are sentenced to life imprisonment under the habitual criminal statutes of a State, to the extent that space is or can be made readily available in the Federal prison system. The Federal Bureau of Prisons shall confine such convicts until certification to the Attorney General by appropriate authorities of the State that the sentence of a transferred prisoners has been terminated by parole, pardon, or otherwise as provided by State law, or, absent such certification, for the natural life of the prisoner.

(b) This Act shall apply only to the incarceration of persons sentenced to imprisonment for life under the State habitual criminal statutes after the date of enactment.

SEC. 3. (a) All applications for Federal incarceration under this Act shall be subject to approval by the Attorney General of the United States and shall include a certification by the State that the prisoner to be transferred has been sentenced to life imprisonment under a State habitual offender statute.

(b) The Attorney General shall have the authority to review the nature and circumstances of the offenses committed by any prisoner who is proposed for transfer and the existing capacities of the State prison system from which transfer is sought. The Attorney General may reject any application for Federal incarceration based upon such considerations and upon the availability of space in the Federal prison system. The decisions of the Attorney General under this subsection shall not be subject to review by Federal or State courts.

By Mr. SPECTER:

S. 59. A bill to require States to assure that prisoners have a marketable job skill and basic literacy before releasing them on parole; to the Committee on the Judiciary.

S. 59—CRIMINAL REHABILITATION

Mr. SPECTER. Mr. President, I now send to the desk a bill designated as S. 59, dealing with the issue of rehabilitation.

Imposing tough sentences on tough criminals and particularly, imposing a sentence of between 15 years and life for those who are career criminals requires that at the same time a realistic effort be made at rehabilitation where possible.

My experience as district attorney of Philadelphia, when I had occasion to visit all of the prisons of Pennsylvania, and later as U.S. Senator where I have continued to visit prisons in Pennsylvania, showed me that convicts are routinely released as functional illiterates without a trade. It is not surprising that many of these convicts return to the streets and commit more crimes.

This bill requires that States make a good faith effort to see to it that those released after a term of imprisonment of 2 years or more are able to read and write and have a basic skill. In this way they will be able to earn their way on the outside without resorting to a life of crime.

The Chief Justice of the U.S. Supreme Court has continuously emphasized the need for making education and vocational training available to prisoners. In his year end report for 1982, the Chief Justice Burger states:

[E]very correctional institution must be made a combined educational and production institution—a school and factory with fences. . . . Not all, but many prison inmates can be motivated by training and by being active in productive work to help pay for the costs of incarceration.

Without an education and training in a marketable vocation, the prison inmate stands little chance to lead a productive, law-abiding life.

I ask unanimous consent that this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 59

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the prison authority of a State shall have an obligation to provide prisoners with a marketable job skill and basic literacy, and that the parole authority shall not release a prisoner sentenced under the law of the States to a term of two years or more prior to the expiration of his sentence unless the State has met such obligation.

(b) On or before one hundred and eighty days before the effective date of this Act, the Attorney General of the United States shall, after consultation with the State Prison Vocational Skills Advisory Council, promulgate such regulations as are necessary to carry out the purposes of this Act including a determination of what constitutes a "marketable job skill and basic literacy".

Sec. 2. (a) Notwithstanding any other provision of Federal law, any State desiring to receive any grant, contract, award, or other assistance paid for from Federal funds for use in its prison programs, shall certify to the Attorney General that it is in compliance with the provisions of this Act.

(b) Except as provided in subsection (c), any State which fails to comply with this Act shall be ineligible to receive any Federal funds for its prison programs until such time as the State can certify to the Attorney General that it is in compliance with the provisions of this Act.

(c)(1) If the Attorney General determines that a State has made a good faith effort to comply with the provisions of this Act, the Attorney General may grant such State probationary status for one year during which time the State shall be eligible for any Federal funds for prison programs, notwithstanding subsection (a).

(2) No State shall be eligible for probationary status under paragraph (1) for more than two years.

SEC. 3. (a) There is established the State Prison Vocational Skills Advisory Council (hereinafter in this Act referred to as the "Council") which shall advise the Attorney General of the United States regarding regulations necessary to carry out the provisions of this Act. The Council shall be composed of—

(1) the Associate Attorney General, who shall serve as its chairman;

(2) the Director of the Federal Bureau of Prisons;

(3) the Under Secretary of Labor; and

(4) six representatives from State and local prison systems, each from a different State, to be selected by the Attorney General.

(b) It shall be the duty of the Council to advise the Attorney General in formulating regulations as provided in section 1(b).

SEC. 4. Nothing in this Act shall be—

(1) construed to reflect the intent of Congress to invalidate or modify any State law except insofar as it may be directly inconsistent with this Act, or

(2) construed as creating any right in any State prisoner.

SEC. 5. This Act shall become effective one year after the date of the enactment of this Act.

By Mrs. KASSEBAUM:

S. 60. A bill to amend the Natural Gas Policy Act of 1978, and for other purposes; to the Committee on Energy and Natural Resources.

NATURAL GAS POLICY ACT AMENDMENTS

Mrs. KASSEBAUM. Mr. President, today I am offering the legislation dealing with the natural gas situation which I first introduced last November. It is unfortunate that this legislation is still necessary, but the fact is that natural gas consumers face a continuing crisis. Natural gas rates march upward in a time of surplus, with no end in sight for many regions of the country. In this time of economic distress, the burden of artificially inflated gas prices has spread beyond the poor, currently touching the middle class as well. These prices continue to serve as an impediment to the economic recovery on which we appear to be poised. Only the comparative mildness of the winter so far has prevented this problem from resulting in a large loss of life among those who can no longer afford to pay their natural gas bills.

Natural gas consumers were understandably disappointed when the Senate failed to take any substantive action during the lameduck session on the problems underlying recent price increases. Well-intentioned efforts on the part of a few Senators resulted in additional funds being made available for low-income weatherization and related activities. I believe, however, that consumers deserve better than that—they deserve fair gas prices, not a handout. The Senate did pass a resolution, Senate Resolution 515, which obliquely admitted the role of certain contract clauses in the recent price escalations and called upon FERC and the companies themselves to take action to change such provisions. If we agree on that much, why didn't the Senate have the collective will to do something of a binding nature to correct the situation? Once again, I believe that the citizens of America deserve better from their elected representatives.

Likewise, little has happened since the lameduck session to aid gas consumers. Recent actions taken by FERC have, at best, resulted in a draw. FERC has clearly recognized the role that take-or-pay clauses with high-percentage-take requirements play in artificially supporting prices in times of falling demand. In a policy statement, which does not have the force of law, FERC has stated that in future contracts prepayment penalties associated with take requirements above 75 percent may not qualify for rate-base treatment. A FERC administrative law judge likewise found in the Columbia case that an excessive reliance on high-percentage-take-or-pay clauses had unnecessarily resulted in a final price for that pipeline's gas which was pricing some of its best customers out of the market. Unfortunately, both of these actions have left the existing take-or-pay obligations of pipelines intact. As FERC has clearly recognized the problem and has taken the position that it does not have the authority to alter these existing obligations, congressional action is clearly called for.

Balanced against the above actions by FERC, which may result in some moderation of future contracting practices, we have the so-called gathering decision which will certainly result in increased costs being passed along to consumers. The effects of this ruling that certain production-related costs may be collected by the producer in addition to their regulated price for gas will begin to be felt in consumers' bills in a few months. The fact that this decision may be completely justified by existing law merely demonstrates again that Congress should act to attack the problems facing all natural gas consumers, residential as well as commercial and industrial.

The market conditions prompting the development of my legislation are well known. My bill proposes several steps for addressing these concerns, as outlined below.

First, it attacks the problem of take-or-pay obligations by specifically granting FERC the authority to modify these obligations in cases where they are found to restrict materially the ability of a pipeline to purchase available supplies of low-cost gas. My bill also adds imprudence to the list of factors contained in section 601 of the NGPA which permits FERC to disallow the pass-through of purchased gas costs. In an additional attempt to stimulate the purchase of low-cost gas, FERC would be directed to adopt an incentive rate-of-return procedure for use in pipeline rate-making cases.

As well as dealing with the take-or-pay contract situation, my bill freezes the wellhead ceiling prices set by the Natural Gas Policy Act at their October 1, 1982, levels for a 2-year period. Gas which currently has no ceiling price specified for it and which is produced from a well the surface drilling of which began after October 1, 1982, would remain free of any ceiling price restriction. I believe that this freeze is necessary to give some measure of near-term relief to the beleaguered consumer and to give my other proposals an opportunity to work. It is my hope, that at the end of the 2-year freeze, the action of moderating the operation of the onerous take-or-pay requirements will have obviated the need for the freeze.

In the final analysis, it is irrelevant to consumers who is to blame for the current spiraling gas costs. I renew my plea for what is important—a return to the goal of adequate and affordable natural gas supplies which lead to the enactment of the NGPA in the first place. I welcome the support of my colleagues in my attempt to restore some measure of sanity to the natural gas marketplace.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 60

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subtitle A of title I of the Natural Gas Policy Act of 1978 is amended by adding at the end thereof the following:

"SEC. 111. PRICE FREEZE ON NATURAL GAS.

"(a) PRICE FREEZE.—Notwithstanding any other provision of law, the maximum lawful price applicable to any category of first sale of any natural gas in effect on October 1, 1982, shall continue to be the maximum lawful price for that gas for the period starting October 1, 1982, through January 1, 1985. Any first sale of natural gas which has a price lower than the maximum lawful price in effect on October 1, 1982, may increase by the lesser of the rate provided in the contract for such sale or the annual in-

flation ajdustment factor as determined in section 101 (a) (1) but may not exceed the maximum lawful price in effect on October 1, 1982, during the freeze period.

"(b) PRICE FREEZE ON NATURAL GAS NOT COVERED BY WELLHEAD PRICE CONTROLS.—Notwithstanding provision of law, the maximum lawful price for the period commencing October 1, 1982, and ending January 1, 1985, for any first sale of any category of natural gas for which a ceiling price is not specified on October 1, 1982, under this title and from a well the surface drilling of which began by October 1, 1982, shall be the contract prices specified for deliveries of such natural gas on October 1, 1982, or if there was no contract price specified for deliveries of such natural gas on such date, the maximum lawful price shall be the price paid for comparable natural gas.

"(c) EXPIRATION OF PRICE FREEZE.—Following the expiration of the price freeze imposed by this section, the maximum lawful price for any first sale of natural gas for which a ceiling price is specified on October 1, 1982, shall increase from the October 1, 1982 level at the rate specified by this Act for that category of natural gas.".

(b) The table of contents for subtitle A of title I of the Natural Gas Policy Act of 1978 is amended by adding at the end thereof the following:

"Sec. 111. Price freeze on natural gas.".

SEC. 2. (a) Section 121 of subtitle B of title I of the Natural Gas Policy Act of 1978 is amended—

(1) in the matter before clause (1) of subsection (a) by striking out "January 1, 1985" and inserting in lieu thereof "January 1, 1987"; and

(2) in subsection (c), by striking out "July 1, 1987" and inserting in lieu thereof "July 1, 1989".

(b) Section 122 of such Act is amended—

(1) by striking out subsection (b)(1) and inserting in lieu thereof the following:

"(1) may not take effect earlier than July 1, 1987, nor later than June 30, 1989; and"; and

(2) in subsection (c), by striking out "May 31, 1985" both places it appears and inserting in lieu thereof "May 31, 1987".

(c) Section 123(a) of such Act is amended by striking out "On or before January 1, 1984, and on or before January 1, 1985," and inserting in lieu thereof "on or before January 1, 1986, and on or before January 1, 1987,".

SEC. 3. (a) Subsection (c)(2) of section 601 of title VI of the Natural Gas Policy Act of 1978 is amended (1) by inserting "imprudence," immediately after "abuse," and (2) by adding at the end of subsection (c)(2) the following: "Whenever the Commission determines, upon its own motion or the petition of any party, that—

"(i)(I) Any amount paid with respect to any purchase of natural gas is excessive due to fraud, abuse, imprudence, or similar grounds under this paragraph, or

"(II) any rate or charge collected by any natural gas company in connection with any transportation or sale of natural gas is unreasonable or unjust under section 4 or 5 of the Natural Gas Act; and

"(ii) such rate, charge, or amount paid is the result of any contract between a pipeline company and a producer which contains a provision which the Commission determines prevents the pipeline company from responding to the demands of customers or other market forces by requiring the purchaser to pay for a minimum daily contract quantity of gas whether or not such gas is taken,

the Commission shall have the authority to take such appropriate action as it may deem necessary including the rescession annulment or modification of such contract provisions.".

(b) The Federal Energy Regulatory Commission shall take such action as may be necessary, within the 90-day period following the date of the enactment of this Act, to devise and put into effect an incentive rate of return applicable to proceedings under the Natural Gas Act to stimulate the purchase of the maximum amount of lower-cost gas which is consistent with gas availability and the need for a steady supply.

By Mr. SASSER (for himself, Mr. ABDNOR, Mr. BINGAMAN, Mr. BOREN, Mr. BOSCHWITZ, Mr. BRADLEY, Mr. CHAFEE, Mr. CRANSTON, Mr. DECONCINI, Mr. DIXON, Mr. DOMENICI, Mr. DURENBERGER, Mr. EAGLETON, Mr. EXON, Mr. EAST, Mr. GORTON, Mr. HART, Mr. HOLLINGS, Mr. HUDDLESTON, Mr. HUMPHREY, Mr. JOHNSTON, Mr. LEVIN, Mr. LUGAR, Mr. MATHIAS, Mr. MOYNIHAN, Mr. MURKOWSKI, Mr. PELL, Mr. PERCY, Mr. PRYOR, Mr. RANDOLPH, Mr. RIEGLE, Mr. SARBANES, Mr. SPECTER, Mr. STAFFORD, Mr. STENNIS, Mr. DANFORTH, and Mr. ZORINSKY):

S. 62. A bill to provide for the issuance of a commemorative stamp to honor the dedication of the Vietnam Veterans Memorial; to the Committee on Governmental Affairs.

THE VIETNAM VETERANS MEMORIAL COMMEMORATIVE STAMP ACT OF 1983

● Mr. SASSER. Mr. President, one of the most significant developments in current American history came last year with the occasion for, and the ability of, the American people to reconcile and remember the experience of its veterans who served in, fought in, and died in, the war in Vietnam.

Today I want to ask my colleagues to join with me in commemorating what I believe, and what many Americans believe to be the catalyst for this development: The Vietnam Veterans Memorial in Constitution Gardens in Washington, D.C. I am introducing S. 62, legislation calling upon the U.S. Postal Service to issue a commemorative stamp honoring this special memorial.

I introduced a similar bill during the 97th Congress and over half of the Senate cosponsored it. It was my hope then that the Postal Service would have a commemorative stamp honoring the memorial ready for the memorial's dedication on November 13, 1982. The process of recommendation, consideration, approval, and issuance takes some time, however, and the Postal Service has a systematic schedule for accomplishing all of this. So, there really was no time to launch and complete the process in 1982; let us hope that we can do this during the 98th Congress.

A word about the subject of the proposed commemorative stamp: No one who has taken the time to visit the Vietnam Veterans Memorial has been unmoved or unaffected by it.

Each day it touches thousands of people, just as thousands of people actually touch the memorial.

In this regard, it is unique, and it deserves the kind of commemoration I seek today.

I ask my colleagues to join me in sponsoring this legislation and, in doing so, join me in the hope that the process of embracing and remembering those who have been overlooked because of, or in spite of, their duty to their country in Vietnam will serve to help us heal other wounds and divisions within our society.

Prompt consideration of this legislation and the proposal embodied within it by the U.S. Postal Service, will be another step in this process.

Mr. President, I ask unanimous consent that the full text of S. 62 be printed immediately following the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 62

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Postal Service shall issue, during the calendar year 1983, a commemorative postage stamp to honor the dedication of the Vietnam Veterans Memorial in Washington, D.C.

SEC. 2. The stamp shall be issued in the denomination applicable to first-class mail up to one ounce in weight and shall bear a design that the United States Postal Service considers appropriate.●

Mr. MOYNIHAN. Mr. President, I rise today to offer my support for the Vietnam Veterans Memorial Stamp Act of 1983. This bill, of which I am a cosponsor, calls upon the U.S. Postal Service to issue a first class commemorative stamp in honor of Vietnam veterans—in my estimation, a most appropriate and timely act.

The dedication of the Vietnam Veterans Memorial on November 4, 1982, provided Vietnam veterans recognition long overdue. A painfully tragic consequence of the Vietnam War was the neglect shown by this Nation for its servicemen. I trust, however, that the opening of this memorial signifies the end of that era of neglect and will give rise to a new awareness of the important contributions of Vietnam veterans. These men and women deserve the same degree of respect and status bestowed upon other American war veterans in years past. We owe them nothing less.

I suspect the dedication of the Vietnam Veterans Memorial also was an occasion for personal reflection—a

time both to renew old acquaintances and to remember friends no longer with us. Thus, the dedication of the memorial served a twofold purpose: As a symbolic gesture of a great nation reaching out to embrace the men and women who served their country so nobly, and as an opportunity for the reunion of thousands of individuals who shared common experiences during the war.

It is now for us to continue the national healing process begun by the dedication of the memorial. The issuance of a commemorative stamp in honor of Vietnam veterans is altogether fitting, for with it, we once again demonstrate our deep appreciation for those who sacrificed so much for this Nation. I urge my fellow colleagues to join me in support of this worthy legislation.

By Mr. CRANSTON (for himself and Mr. TSONGAS):

S. 63. A bill to amend the Uniform Time Act of 1966 to provide that daylight saving time commence each year on the first Sunday in March rather than the last Sunday in April; to the Committee on Commerce, Science, and Transportation.

EXTENSION OF DAYLIGHT SAVING TIME

Mr. CRANSTON. Mr. President, Senator TSONGAS and I are today introducing a bill to extend daylight saving time by approximately 2 months, commencing on the first Sunday of the first March after the bill is enacted.

This measure would save us an estimated 100,000 barrels of oil per day for 2 months, or approximately 5.6 million barrels of oil each year. In addition to, and as a result of, this huge energy savings, our bill would save more than $165 million or more for American consumers, at current oil prices.

Under present law, daylight saving time goes into effect on the last Sunday of April each year, and ends 6 months later, on the last Sunday in October.

Under our bill, daylight saving time would begin on the first Sunday in March each year and continue until the last Sunday in October. Our bill also includes several provisions to totally avoid any possible adverse effects of extending daylight saving time. It would preserve the option of exemption from daylight saving time currently enjoyed by various States and also would give the FCC power to grant certain broadcasting exemptions to AM only radio stations that might otherwise lose their right to broadcast during the beginning of the profitable commuter hours if sunrise occurs later, since some stations are authorized to broadcast only after sunrise. It is, by the way, the same bill that passed the House in the 97th Congress.

I would like to share some history of the daylight saving issue with my colleagues.

In 1973, Congress passed the Emergency Daylight Saving Time Energy Conservation Act authorizing a 2-year experiment with year-round DST beginning in January 1974.

Because that approach continued daylight saving time through the winter months, requiring children to go to school in the dark, there was considerable opposition to it.

During October of that year, in response to concerns expressed by both the general public and the Department of Transportation, this act was repealed. It was subsequently replaced by Public Law 93-434, to provide for 8 months of daylight saving time beginning with the last Sunday in February—a week earlier than our bill—and ending the last Sunday in October, as our bill does. That law, like our bill, enabled us to use available daylight more efficiently. It did not require children to go to school in the dark.

Studies done by the Department of Transportation have supported the concept of 8 months of daylight saving time.

Public Law 93-434 expired in April 1975, returning us to a 6-month daylight saving time, although in the 94th Congress, the Senate passed by a vote of 70 to 23 S. 2391, providing for daylight saving time on a 7-month basis.

The House of Representatives failed to enact the 7-month plan and it died at the end of the 94th Congress.

Similar legislation was introduced in the 96th Congress but did not receive hearings because the Department of Transportation was late in indicating its support for the bill.

In the 97th Congress, one House of the Congress again took favorable action on this issue. On October 28, 1981, during the first session, the House of Representatives passed H.R. 4437 by a vote of 243 to 165. The bill was identical to the one we are introducing today.

The length of the daylight hours we derive from the Sun results from the constant tilt of the Earth as it revolves around the Sun. This tilt causes the length of day and night to change, causing the seasons.

On March 20—the vernal equinox—and September 21—and autumnal equinox—the light just reaches from one pole to the other. The Sun is directly overhead at the Equator and days and nights are equal all over the globe.

The vernal equinox begins spring in the Northern Hemisphere, just as the autumnal equinox begins fall.

The daylight hours then increase in length from March 20 until June 21—the summer solstice—when the North Pole is most tilted toward the Sun. June 21—our traditional first day of summer—is the longest day of the year.

The days then shorten until the winter solstice—December 22—when the light of the Sun falls well short of the North Pole.

Mr. President, our legislation errs on the side of caution. It does not change the ending date for daylight saving time, which this year will be October 30, at all. Nor would it move the starting day for daylight saving time all the way to February 10, when equivalent light conditions will exist.

Rather it changes the starting date to the first Sunday in March—this year that would be on March 6. The ending date with equivalent daylight hours would be October 5, well before daylight saving time will end under existing law.

Unfortunately, the Senate did not take similar action. Five bills extending daylight saving time were introduced in the Senate and on June 23, 1981, a hearing on three of them was held before the Senate Committee on Commerce, Science, and Transportation. Although the testimony received was entirely favorable, the committee did not report this important energy-saving legislation. I hope the situation will be different this year.

Mr. President, this is a sensible, painless, and cost-free way to cut energy demand in order to reduce our dependence on imported oil. We believe it should be considered promptly and adopted promptly.

Our current law makes no scientific sense. Schoolchildren need no more early morning or late afternoon light in the spring than they do in the fall.

Under present law, using 1983 as an example, daylight saving time will commence on April 24 and end on October 30. But on April 24, the daylight hours are far longer than on October 30.

The equivalent day to April 24 is August 20. That is, on April 24 and August 20, 1983, the daylight will be the same length.

That is because April 24 is 34 days after the vernal equinox—March 20—and August 20 is 34 days before the autumnal equinox—September 23.

By the same token, the equivalent day for October 30—39 days after the autumnal equinox—is February 10—39 days before the vernal equinox. Again the time between sunrise and sunset of February 10 will be as long as on October 30.

This bill to extend daylight savings time enjoys broad public support. As an editorial from the Washington Post points out, opinion polls show the public heavily favoring the concept by a 2-to-1 margin.

The Department of Transportation is also on record as supporting the extension of daylight saving time from 6 to 8 months. The administration told

Congress in July 1981, that the move should produce a reduction in energy use, traffic fatalities, and violent crime.

Chairman OTTINGER of the House Energy Conservation and Power Subcommittee pointed out that the successfully passed House version of our legislation would not only save 100,000 barrels of oil a day but would also result in approximately 200 fewer traffic deaths a year and help reduce violent crime 10 to 13 percent by extending the hours of daylight.

Mr. President, I ask unanimous consent that the editorial I referred to earlier from the Washington Post be included at this point in my remarks.

Their being no objection, the editorial was ordered to be printed in the RECORD, as follows:

CLOCK-WATCHING ON CAPITOL HILL

Do cows really care what time the clock says when they're being milked, or is it a case of the milker caring more than the milkee? Every other year or so, Congress considers legislation to allow more than the current 6 months of daylight saving time—and every time the farmers and their cows are cited as reasons not to give up another minute of standard time. But this year, the House has passed a bill—a perfectly reasonable modification of the current arrangement—that would extend daylight saving time for an additional 2 months every year by starting it on the first Sunday in March instead of the last Sunday in April.

Supporters of this change note that having another hour of daylight in the afternoons of March and April would not only allow more time for outdoor work and recreation, but would also result in some energy savings because less electricity would be used. In urban ares, the light at the end of the day is also popular with people who don't particularly enjoy going home from work in the twilight or dark.

The change would make sunrise an hour later, but by March this wouldn't put schoolchildren out the door in the dark, except possibly in the westernmost sections of each time zone, and only then for a matter of days. Backers of the bill also say the change in March would not result in any increase in traffic fatalities for schoolchildren. And any state could exempt itself from daylight saving time for the whole summer.

Whether more daylight in the afternoon would actually save approximately 100,000 barrels of oil a day, as claimed, is difficult to know without a trial, but 243 Members of the House voted to give the change a try. They may have seen opinion polls, cited by backer of the bill, that show the public favoring the change by a 2-to-1 margin. Or they may have recognized this year's bill as the most sensible one on a subject that by now is wasting more congressional time than it should. With Senate approval, a harmless, popular change could take effect next year.

Mr. President, I understand that an identical bill will shortly be introduced in the House. I hope the other body will take the same kind of positive action it did in 1981. And similarly, I hope that hearings will be held promptly here in the Senate on this legislation and that this bill will promptly be adopted. I now ask unanimous consent that the bill be printed in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 63

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Energy Conservation Daylight Saving Act of 1983".

SEC. 2. The Congress hereby finds—

(1) that various studies of governmental and nongovernmental agencies indicate that daylight saving time over an expanded period would produce a significant energy saving in electrical power consumption;

(2) that daylight saving time may yield energy savings in other areas besides electrical power consumption;

(3) that daylight saving time over an expended period could serve as an incentive for further energy conservation by individuals, companies, and the various governmental entities at all levels of government, and that such energy conservation efforts could lead to greatly expanded energy savings; and

(4) that the use of daylight saving time over an expanded period could have other beneficial effects on the public interest, including the reduction of crime, improved traffic safety, more daylight outdoor playtime for the children and youth of our Nation, greater utilization of parks and recreation areas, expanded economic opportunity through extension of daylight hours to peak shopping hours and through extension of domestic office hours to periods of greater overlap with the European Economic Community.

SEC. 3. (a) Section 3(a) of the Uniform Time Act of 1966 (15 U.S.C. 260a(a)) is amended by striking out "last Sunday of April" and inserting in lieu thereof "first Sunday of March."

(b) Any law in effect on the date of the enactment of this Act—

(1) adopted pursuant to section 3(a)(2) of the Uniform Time Act of 1966 by a State with parts thereof in more than one time zone, or

(2) adopted pursuant to section 3(a)(1) of such Act by a State that lies entirely within one time zone, shall be held and considered to remain in effect as the exercise by that State of the exemption permitted by such Act unless that State, by law, provides that such exemption shall not apply.

SEC. 4. Notwithstanding any other law or any regulation issued under any such law, the Federal Communications Commission shall, consistent with any existing treaty or other agreement, make such adjustment by general rules, or by interim action pending such general rules, with respect to hours of operation of daytime standard amplitude modulation broadcast stations, as may be consistent with the public interest, including the public's interest in receiving interference-free service. Such general rules, or interim action, may include variances with respect to operating power and other technical operating characteristics. Subsequent to the adoption of such general rules, they may be varied with respect to particular stations and areas because of the exigencies in each case.

SEC. 5. This Act shall take effect on the date of the enactment of this Act, except that if the date of enactment occurs in any calendar year after March 1, this Act shall take effect on the first day of the following calendar year.

By Mr. DANFORTH (for himself and Mr. EAGLETON):

S. 64. A bill to establish the Irish Wilderness in Mark Twain National Forest, Mo.; to the Committee on Energy and Natural Resources.

THE IRISH WILDERNESS

● Mr. DANFORTH. Mr. President, last year my colleague from Missouri and I introduced, and the Senate passed, S. 1964, a bill to include the Irish Wilderness in Missouri in the National Wilderness Preservation System. A companion bill, creating the Paddy Creek Wilderness Area in Missouri, also passed the Senate and was enacted into law. But in the last days of the 97th Congress, the House of Representatives, on an extremely close vote, rejected the rule providing for consideration of S. 1964. Today the Senators from Missouri again affirm their unwavering desire to protect the Irish Wilderness for future generations.

The Irish Wilderness comprises 17,562 acres in southern Missouri near the Arkansas border. Completely contained within the Mark Twain National Forest, the area is called the Irish Wilderness not because of our desire to have it so preserved, but because the area's own history has led to that name. A young Irish priest, Father John Hogan, settled the area in 1858. Deeply affected by the suffering and poverty he saw among his fellow immigrants in the railroad camps around St. Louis, he led a group of about 40 families to the wilderness of southern Missouri, where they bought Government land for 12½ cents an acre. The settlers were wiped out by marauders during the Civil War, but the name remained.

Indeed, the Ancient Order of Hibernians in America is one of many groups supporting preservation of the Irish Wilderness, citing it as "a significant Irish-American cultural and historic resource." And even today, Father Hogan's words provide the most moving description of the area's beauty:

> The quiet solitariness of the place seemed to inspire devotion. Nowhere could the human soul so profoundly worship as in the depths of that leafy forest, beneath the swaying branches of the lofty oaks and pines, where solitude and the heart of man united in praise and wonder of the Great Creator.

Although the original stands of pine and oak were cut down at the end of the 19th century, the basic forest cover has returned, and with each passing year more closely resembles the virgin forest. The wide range of Ozark wildlife, diverse topography, and proximity to the free-flowing and unspoiled Eleven Point River—itself

set aside as a national scenic river area—make the Irish Wilderness unique in Missouri and the Nation.

Opposition to wilderness designation stems from the belief that commercial deposits of lead and zinc may lie underneath the area. Indeed, southern Missouri is extremely rich in such lead deposits. But the Irish Wilderness is itself a precious natural resource, and mining should not be allowed to despoil the area until and unless the Nation's need for lead becomes so critical that it outweighs the wilderness values.

Designation of the Irish Wilderness has received virtually unanimous support from the newspapers of Missouri, Mr. President, and I ask unanimous consent that a selection of editorials appear at the conclusion of my remarks.

I am hopeful that the Senate will act speedily to reaffirm its action of last year and send this legislation to the House, so that we can insure that the Irish Wilderness remains unscathed for the enjoyment of generations to come.

Mr. President, I ask unanimous consent that a copy of the bill and certain articles be printed at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Kansas City Times, Nov. 23, 1982]

SAVING MISSOURI'S WILDS

While the odds may be against a consideration of the Missouri wilderness plan during the short lame-duck session of Congress, the state delegation on Capitol Hill should do everything possible to bring it to a final vote this year. Very little land is involved—17,562 acres in the Irish Wilderness and another 6,888 acres in Paddy Creek area in Texas County—and the federal government already owns it all.

Both tracts are worthy of protection and that status has been under discussion for years. Last month the Senate finally approved the preservation plan, which had attracted strong bipartisan support led by Missouri's two senators, Thomas F. Eagleton, Democrat, and John C. Danforth, Republican. Now it's up to the House but, unless something happens quickly, Congress will have to start from scratch in 1983.

It would be a waste of time and effort. The facts are already well-known and the beauty of both areas is beyond dispute. The only sticking point is the possibility that lead deposits might lie beneath the forests and bluffs and misty hollows. But even if they do, and no one can be sure, there are still areas on private property and inside Mark Twain National Forest that should be explored first.

Even a wilderness designation would not lock up the unscarred scenic beauty forever. What Congress gives, it can later take away. If at some distant date, mining there should prove essential, the action could be reversed to permit the exploratory drilling to go forward. That might become necessary or it might not. In the meantime, the Irish Wilderness and Paddy Creek, two of the loveliest pieces of pristine real estate left in Missouri, would remain in their natural state.

Two Missouri Democrats, Rep. Harold Volkmer and Rep. William Clay, have cosponsored the necessary legislation in the House and they are pushing for final action this year. But they will need help if the job is to be done. And they need it now, before it's too late.

[From the Kansas City Star, Feb. 11, 1981]

IRISH WILDERNESS

The Irish Wilderness in southeast Missouri is one of the few unspoiled areas left in this state. By definition, that makes it an attractive plum for those who want to cut, graze and rip up the land on the last virgin acre left on earth. In many ways the Irish Wilderness is typical of the Ozark beauty—rolling, wooded hillsides, steep valleys and abundant wildlife—that once covered a vast region of America.

Because of its unusual beauty and diversity, pressures have been mounting for more than a decade to include the Irish Wilderness in the U.S. Wilderness Preservation System. Other than the necessary congressional decision, no serious problems are posed. The public already owns the land, which is a part of Mark Twain National Forest. A federal environmental impact study is underway and it should be completed before the end of this year.

While it is impossible to predict the outcome of that report, it is expected the scales will weigh heavily on the side of preservation because of the unique features of that region. In the meantime, the St. Joe Minerals Corp., a New York firm, is seeking a permit to prospect. If one should be granted, other companies are expected to join the parade.

In a state of almost 70,000 square miles, it is difficult to see why the Irish Wilderness, which contains only 17,500 acres, cannot be left as it is. The case for prospecting, or tearing up the land if you prefer, is further weakened by the fact that few minerals have ever been discovered in that region. Nothing should be done until the impact statement is ready. After that, it would take overwhelming evidence to the contrary to show why the Irish Wilderness should be opened for unlimited exploitation—and in the process be destroyed.

[From the St. Louis Post-Dispatch, May 30, 1982]

SAVING THE IRISH WILDERNESS

Congressional efforts to preserve the Irish Wilderness in southern Missouri have set off a classic confrontation between exploiters and environmentalist, dividing the state's congressional delegation and federal agencies. Nevertheless, since Missouri's two senators are cosponsoring a bill giving federal wilderness designation to the area, the measure seems assured of consideration by the full Senate. It should be passed.

The 17,562-acre site lies within the Mark Twain National Forest in Oregon County. The U.S. Department of Agriculture has said that the Irish Wilderness deserves federal protection against mining and timbering even more than four other areas already designated as federal wilderness. The U.S. Forest Service, however, wants to let lead companies make test borings. In backing the preservation measure, Sen. Danforth is opposed to the Reagan administration, which also objects to immediate wilderness designation. And while Reps. Volkmer of Hannibal and Clay of St. Louis support a wilderness bill, Reps. Bailey of Willow Springs and Emerson of DeSoto, the region's two congressmen, are lobbying against it. Oregon County officials plainly prefer economic development.

The local desire for economic activity and more jobs is surely understandable, but there already is considerable mining near the Irish Wilderness, and there is no dire national need for more lead. There is far greater need to preserve for coming generations as much as possible of their natural heritage. Once opened to mining, the Irish Wilderness would be lost for the future. Congress ought to decide the issue on the side of conservation.

[From the St. Louis Globe Democrat]

OZARK WINTER

(By Leonard Hall)

A lot of water has flowed down the Eleven Point River in our southern Ozarks since we first proposed in 1946 that Missouri create in this area her first national wilderness.

The proposal was made in "The Living Wilderness," magazine of the Wilderness Society, and the area was that section of the Mark Twain Forest known as the Irish Wilderness. As defined today, this embraces some 17,500 forested acres in Oregon County, bordered on the west by the Eleven Point River—now a wild and scenic national river.

The Irish Wilderness has a romantic history dating back to the 1850s. During those years a young Catholic priest named Father John Hogan secured a tract of land where he proposed to homestead a group of poor Irish immigrants who worked as laborers on the rail lines running out of St. Louis. But the Civil War started before the settlement was well established and the area was overrun by outlaws who raided and robbed and killed, eventually driving the settlers from their land. In the end nothing remained but the name Irish Wilderness and a small post office or two.

We came to know the Wilderness well in the days when we floated the Eleven Point, "putting in" at the old Turner's Mill with its unique under-shot water wheel.

The Ozark highland is itself unique; perhaps the oldest land on our continent with much of it unglaciated and above the oceans for most of its two and a half billion years.

Unlike the St. Francois range with its pre-Cambrian granites and rhyolites, here we have limestones, dolomites and sedimentary shales formed beneath oceans and ancient rivers. Topographic maps show a rugged terrain of steep ridges and hollows running southwesterly toward the river and drained by White's Creek and deep hollows.

Because of its central location and extreme age, the Irish Wilderness boasts a rich and varied flora. Here are found good stands of oak and pine timber, a rich shrubbery understory and countless wildflowers. Some of all these are natives which evolved here. Others have moved in through the long centuries from north, south, east and west.

Missouri conservationists have long urged that the Irish Wilderness be preserved as perhaps our finest example of the Ozarks in a natural state. It is true that, as with all our original forest, the area has been logged, but today it is making a fine comeback. Several months ago Sens. Eagleton and Danforth co-sponsored Senate Bill 1285 designating 17,500 acres of the Irish Wilderness as a unit of the National Wilderness Preservation System. Now Rep. Richard

Gephardt of St. Louis has announced his intention to introduce similar legislation in the House of Representatives.

Today the Irish Wilderness Protective Association, a group including most of Missouri's leading conservationists, has been formed to work for passage of the legislation. It is hoped that all other conservation groups will join in the effort.

[From the Columbia Daily Tribune, Columbia, Mo., Nov. 20, 1982]

MISSOURI WILDERNESS AREAS

NOW IS THE TIME TO GET FEDERAL PROTECTION

The debate about the Irish Wilderness and Paddy Creek areas has been going on for years. Finally, on the last day of the recent session of Congress, the U.S. Senate approved the designation of these lands as protected wilderness areas. This came about because of the strong support of both Missouri senators, Tom Eagleton and Jack Danforth. Good for them.

Now the issue moves to the House of Representatives, and the chances for getting the wilderness designation finally passed seem better than ever in the short, lame-duck session to begin soon.

But it's not assured. The question is before the House Interior Committee, where a close vote is expected. Now is the time for anyone who is interested in this issue to contact his congressman.

The primary opposition to the wilderness designations comes from timber and mineral interests who want to extract natural resources from the areas. But the supporters of protection point out, there is plenty of other timber and mineral land. At present, the two areas are not at all critical to the nation's supply. If the need does become critical later, a decision can always be made to mine or cut. You can get the lead out later, but you can't recreate the wilderness if it is destroyed.

If the wilderness designation is made, federal caretakers of the land would be prohibited from selling rights for timber or minerals. Any later decision to permit these activities would only be done with input from the public and Congress and probably would never have to be done at all.

I hope Missouri's congressmen will tell their colleagues on the interior committee and in the House at large that they favor the wilderness designations. If we don't act to protect deserving wild areas, we will lose many of them, often needlessly.

[From the Springfield Daily News]

AH, WILDERNESS!

THE IRISH IN US SAYS PRESERVE IT

The Preservation People and the Development People probably will meet head-on again next year over the fabled Irish Wilderness of south central Missouri.

Sen. Jack Danforth said this week he plans to reintroduce a bill when the new Congress convenes in January to designate the Irish Wilderness in Oregon County as part of the National Wilderness Preservation System. The last Congress adjourned—much to the Missouri Republican's (and our) regret—before a similar bill could be acted upon in 1978.

The Irish Wilderness—named for the Irish who settled the area in the mid 19th Century—is a land of rare beauty, a place to behold, a virtually untouched parcel to be preserved for all.

A 17,500-acre, almost roadless tract in an undeveloped national forest area, the Wilderness lies in the drainage area of two of our state's most scenic rivers, the Eleven Point and the Current.

Its bucolic beauty lies in its deep hollows, its dense forests, its cave-pocked bluffs, its meandering clear streams, its abundant animal life.

As Sen. Danforth points out, the Irish Wilderness also is steeped in history, folklore and legend. "Many stories are told of courageous settlers, backwood stills and marauding guerillas that frequented the area during the Civil War," adds the senator.

The war to win the Wilderness is not over.

Opposition to the Wilderness preservation proposed in Danforth's bill undoubtedly will be heavy and quite vocal. Timber interests already have entered the battle, pointing out quite correctly that wilderness areas cannot be lumbered. But, explains Danforth, only one-half of one percent of all commercially available timber in Missouri lies within the Irish Wilderness.

The major controversy, however, apparently concerns the possibility that commercially valuable lead deposits might be discovered in the Wilderness—despite the fact that there is no evidence extant that valuable minerals are located there.

What the timber and mineral interests seem to ignore is the fact that Congress can remove a wilderness designation if public interest so demands.

"In other words," says Sen. Danforth, "areas preserved in their natural state always can be developed later."

What should never be forgotten by Missourians, by Ozarkers in particular, is that once an area is developed, it can never return to its natural state.

In our opinion, the assets far outweigh the liabilities in any argument over the Irish Wilderness.

It should be preserved.

S. 64

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Irish Wilderness Act of 1983".

SEC. 2. (a) In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131-1136), certain lands in the Mark Twain National Forest, Missouri, which comprise approximately seventeen thousand five hundred sixty-two acres, as generally depicted on a map entitled "Irish Wilderness—Proposed," dated December 1981, are hereby designated as wilderness and shall be known as the Irish Wilderness.

(b) Subject to valid existing rights, the wilderness area designated under subsection (a) shall be administered by the Secretary of Agriculture (hereinafter in this Act referred to as the "Secretary") in accordance with the provisions of the Wilderness Act of 1964 (16 U.S.C. 1131-1136) governing areas designated by that Act as wilderness except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

(c) As soon as practicable after the date of the enactment of this Act, the Secretary shall submit a map and legal description of the wilderness area designated by subsection (a) to the Committee on Energy and Natural Resources of the Senate and the Committees on Agriculture and Interior and Insular Affairs of the House of Representatives. Such map and legal description shall have the same force and effect as if included in this Act, except that any clerical or typographical error in such map or legal description may be corrected. The Secretary shall place such map and legal description on file, and make them available for public inspection, in the Office of the Chief of the Forest Service, Department of Agriculture.●

● Mr. EAGLETON. Mr. President, I am very pleased to join my colleague, Senator DANFORTH, in sponsoring the Irish Wilderness bill again this year.

Since 1973, Congress has been working on designating these 17,562 acres of Missouri Mark Twain National Forest lands. Last year, the Senate passed the Irish Wilderness bill. The House, however, defeated a rule request to bring the Irish Wilderness bill to a vote during the final days of the lameduck session.

The bill would preserve the Irish Wilderness which is rich in human and natural history. The area was named for an Irish immigrant priest, Father John Hogan, who in 1858 established a settlement in the beautiful wooded area now called the Irish Wilderness. This became the home of many who had been forced to leave Ireland only to find similar poverty and discrimination in the labor camps around St. Louis.

Missouri has been quite lucky. While wilderness legislation has shrunk and disappeared from many of our States, Missourians have fought to preserve some of its best geology, ecology, and natural beauty in its wilderness areas. Wilderness, in Missouri, passed in past sessions of Congress—including last year—are Paddy Creek, Piney Creek, Bell Mountain, Rockpile Mountain, Devils Backbone, Hercules Glades, and Mingo Wilderness. Irish will be the last area to complete Missouri's wilderness system. I am very hopeful that the bill will be passed this year.

Presently, the Department of Interior is considering an appeal filed by the Sierra Club Legal Defense Fund on behalf of the Missouri Wilderness Coalition and the National Audubon Society regarding the Forest Service decision to allow exploratory drilling in the Irish Wilderness. There are four exploratory mining permits pending at this time. So, the threat of mining in the Irish Wilderness is at hand.

Recently the Joplin Globe printed an editorial in support of wilderness:

> In six wilderness areas, covering nearly 50,000 acres, no barbed wire fences divide virgin forests and tall grass prairies. The sounds of wildlife are not drowned out by the echo of power saws or hydraulic mining equipment. There are no neon-lighted hotdog stands in the heart of glades. Nor is the native beauty of the land scarred by roads or utility poles.

Irish Wilderness deserves the same protection as other Missouri wilderness areas. Future generations should have the opportunity to walk in the pristine beauty of Irish Wilderness.●

By Mr. RANDOLPH:

S. 65. A bill to extend the Appalachian Regional Development Act to provide transitional assistance to the Appalachian region; to the Committee on Environment and Public Works.

APPALACHIAN TRANSITION ASSISTANCE ACT OF 1983

● Mr. RANDOLPH. Mr. President, today I introduce the Appalachian Transition Assistance Act of 1983. This measure extends for 4 years the area development programs of the Appalachian Regional Commission and for 7 years its highway construction program. The bill is virtually identical to that which I proposed last year and which was passed in modified form by both the Senate and the House of Representatives although it was not enacted into law.

Title I of the bill provides the legislative authority for the Appalachian Regional Commission to implement the finish-up program developed by the 13 Governors of the region during 1981. This program recognizes that while much has been accomplished since establishment of the Commission in 1965 there remain many unfilled needs if we are to be successful in bringing this important region into the mainstream of American economic life.

Even though we failed to enact authorizing legislation to implement the Governors' finish-up program, the Appalachian Regional Commission in the past year has adjusted its activities so that they are generally consistent with this proposal. Since we last considered this subject, the Senate has confirmed Winifred Pizzano as Federal Cochairman of the Commission. Under her leadership and that of Gov. William Winter of Mississippi, the new States' cochairman, I am confident that the Commission will continue the pattern established in 1981 to focus its reduced resources on localities and activities of greatest need.

It is important, however, that new authorizing legislation be enacted by the Congress. The act should contain the intentions and directions of the Congress with respect to the finish-up program. In addition a multiyear authorization period is essential so that the program can be planned and carried out in an orderly fashion.

Title II of this bill recognizes an innovative step taken to supplement and enhance work of the Appalachian Regional Commission. In recent days the Appalachian Foundation has been incorporated to seek funding from the private sector for investment in a variety of projects in the Appalachian region. Miss Pizzano and the regions Governors have developed the concept of the Foundation as a parallel institution to the Commission and to largely function in the areas that are beyond the scope of the Commission's legal mandate. Title II of the bill acknowledges the need and purposes of the Foundation and is intended to give congressional endorsement and support to its work.

Mr. President, all parts of our country are suffering from a severe recession. The impact has been more severe in many sections of Appalachia than in other parts of our Nation. This situation demonstrates again the fragility of the region's economy, particularly those sections where so much is dependent on a single industry. Hardship, privation, and joblessness are extensive among the region's 20 million residents. In the past 17 years we have made headway, but it is obvious that we have not yet reached our objective of reducing the impact of sharp fluctuations in the economic cycle.

Mr. President, I have examined carefully current conditions in the Appalachian region, comprised of the entire State of West Virginia and portions of 12 other States. In the last quarter of 1982 a total of 1,182,425 people, or 13 percent of its labor force, were unemployed. This is 30 percent greater than the national rate.

Last October, the most recent month for which detailed unemployment figures are available, 149 Appalachian counties had unemployment rates exceeding 15 percent. Figures are even more discouraging in individual cases, including some counties where unemployment exceeds 30 percent.

In the crucial coal mining industry, jobs are disappearing rapidly as coal production stagnated during the past 12 months. In the State of West Virginia alone, 14,000 coal mining jobs were lost during a 12-month period.

In addition to the economic difficulties of the region, we are beginning to receive reports on the human impact of the recession. Intolerable strains are being placed on families. Medical care is deteriorating and the infant mortality rate is climbing.

The lesson is obvious. More than ever before programs like that of the Appalachian Regional Commission are needed. We cannot abandon this effort to improve the lives of some of our Nation's most disadvantaged people. We must continue to work toward a strengthened, diversified economy in Appalachia.

For the past 2 years the President has asked the Congress to end the Appalachian program. I have strongly resisted any such action and will do so again this year, should the President be so unwise as to repeat his proposal.

I am gratified that during each session of the 97th Congress funds were appropriated to carry on with this work although at a less-than-desirable level dictated by restrained overall Government spending.

I am particularly pleased that last year my colleagues on the Committee on Environment and Public Works agreed to legislation to reauthorize the Appalachian Regional Development Act for 1 year to begin implementing the finish-up program. It is significant, I believe, that that bill passed the Senate without dissent. I am appreciative of the support of Senators in behalf of the citizens of Appalachia and look forward to working with them again in the 98th Congress to provide a multiyear authorization so that the most urgent and critical needs of the region can be dealt with on a rational, orderly basis.

Mr. President, I ask that the text of the Appalachian Transition Act of 1983 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 65

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Appalachian Transition Assistance Act of 1983".

TITLE I—APPALACHIAN REGIONAL DEVELOPMENT ACT AMENDMENTS

SEC. 101. Section 2 of the Appalachian Regional Development Act of 1965 is amended as follows:

(1) The sixth sentence of subsection (a) is amended to read as follows: "The public investments made in the region under this Act shall be concentrated in areas where there is a significant potential for future growth and where the expected return on public dollars invested will be the greatest, in severely distressed and underdeveloped counties lacking resources for basic services, and in areas without access to sufficient health services."

(2) Section 2 is amended by adding the following new subsection:

"(c) The Congress finds that substantial progress has been made toward the achievement of the purposes of the Act but that there are still significant deficiencies to be remedied in order to bring the region closer to a fair share in the Nation's prosperity. The Congress also recognizes, however, that considerations of the national economy, consequent limits on Federal resources and competing national interests require an assumption of greater responsibilities by the States. It is, therefore, also the purpose of this Act to provide for an orderly transition from the special assistance of this Act and other Federal programs to increase State, local and private investment in regional development and to provide assistance to narrow certain critical remaining gaps and assure that maximum advantage is derived from investments already made under the Appalachian program in the region.".

SEC. 102. Subsection (b) of section 105 of the Appalachian Regional Development Act of 1965 is amended to read as follows: "To carry out this section there are hereby authorized to be appropriated to the Commission, to be available until expended, for the two-year period ending September 30, 1984, not to exceed $5,800,000 (of which not to exceed $900,000 shall be available for expenses of the Federal Cochairman, his alternate and his staff); for the two-year period ending September 30, 1986, not to exceed $5,800,000 (of which not to exceed $900,000 shall be available for expenses of the Federal Cochairman, his alternate, and his staff); and for the fiscal year ending September 30, 1987, not to exceed $2,900,000 (or which not

to exceed $450,000 shall be available for expenses of the Federal Cochairman, his alternate, and his staff).".

SEC. 103. Paragraph (7) of section 106 of the Appalachian Regional Development Act of 1965 is amended by striking out "1982" and inserting in lieu thereof "1987".

SEC. 104. Section 201 of the Appalachian Regional Development Act of 1965 is amended as follows:

(1) Subsection (a) of such section is amended by striking "three thousand and twenty-five miles" and inserting in lieu thereof "two thousand three hundred fifty-one miles" and by striking "one thousand four hundred miles" and inserting in lieu thereof "nine hundred thirty-five miles".

(2) Subsection (g) of such section is amended by striking out the period at the end thereof and inserting in lieu thereof a semicolon and the following: "$215,000,000 for fiscal year 1983; $234,000,000 for fiscal year 1984; $250,000,000 for fiscal year 1985; and $270,000,000 for fiscal year 1986; $289,000,000 for fiscal year 1987; $312,000,000 for fiscal year 1988; $337,000,000 for fiscal year 1989; and $364,000,000 for fiscal year 1990.".

(3) Subsection (h)(1) of such section is amended by striking out "70 per centum" and inserting in lieu thereof "80 per centum" and by adding at the end thereof the following new sentence: "Projects approved after March 31, 1979, may be adjusted to receive a Federal share not greater than 80 per centum.".

SEC. 105. Subsection (c) of section 214 of the Appalachian Regional Development Act of 1965 is amended in the first sentence by striking "December 31, 1980" and inserting in lieu thereof "October 1, 1987".

SEC. 106. Title II of the Appalachian Regional Development Act is amended by adding the following new section:

"SEC. 215. After September 30, 1982, the Commission is authorized, subject to section 224 and other provisions of the Act, to make grants to States and public and nonprofit entities for projects which will assist in the creation or retention of permanent private sector jobs, the upgrading of the region's manpower, or the attraction of private investment; or will provide special assistance to severely distressed and underdeveloped counties which lack financial resources for improving basic services; or will assist in achieving the goals of providing reasonable access to primary health care for every resident of the region, providing adequate health manpower, or reducing infant mortality.".

SEC. 107. Section 224 of the Appalachian Regional Development Act is amended by adding the following new subsections:

"(d) Except for development highways under section 201 and for local development district support, research and technical assistance under section 302, no project shall be approved after September 30, 1982, for assistance under the Appalachian Regional Development Act with funds authorized under the Appalachian Transition Assistance Act unless the Commission determines such project—

"(i) is necessary for a related private sector commitment which assures the direct creation or retention of jobs in the region, or which assures a specific private investment that will meet a high priority objective substantially enhancing the economic development potential of an area;

"(ii) will upgrade manpower for jobs in the region through training relevant to the current regional job market;

"(iii) is for the planning, design and engineering, construction, renovation, necessary site or facilities acquisition, equipment or startup operations assistance to assure proper installation, operation and maintenance of a facility to provide safe drinking water, affordable waste disposal or other similar basic service, in a county designated by the Commission as severely distressed or underdeveloped on the basis of such factors as per capita income, unemployment, percentage of population below the national poverty level, and infant mortality; or

"(iv) is for organizational costs, renovation, equipment, planning and management technical assistance, startup, and not to exceed one year of operations (and, in the case of primary care projects, for construction, including engineering, design, site or facility acquisition) necessary for the provision of primary health care, infant mortality reduction, or recruitment of health manpower in an area determined by the Commission to lack adequate primary health care resources, to have an unusually high rate of infant mortality (considering average infant mortality rate for the three-year period 1977 through 1979 in comparison with 150 per centum of the national average rate and other factors) or in a county with a health manpower shortage area designated by the Department of Health and Human Services.

"(e) Notwithstanding any other provision of this Act, grants under this Act with funds authorized under the Appalachian Transition Assistance Act shall not, after September 30, 1982, exceed 50 per centum of the costs of any project approved under this Act (except projects under section 201), but such grants may increase the Federal contribution to any project, notwithstanding limitations in other Federal laws, to such percentage as the Commission determines within limitations in this Act.

"(f) No funds authorized under the Appalachian Transition Assistance Act shall be approved under this Act for projects (1) in connection with libraries, cultural centers, or recreation facilities; (2) for the consruction of schools, hospitals, or government office buildings; (3) for community centers or social services facilities (except as provided in subsection (d) (iii) and (iv) of this section); or (4) for operations, except costs for startup and first year of operations.".

SEC. 108. Section 401 of the Appalachian Regional Development Act of 1965 is amended by adding at the end thereof the following: "In addition to the appropriations authorized in section 105 for administrative expenses, and in section 201(g) for the Appalachian development highway system and local access roads, there is authorized to be appropriated to the President, to be available until expended, to carry out his Act: $166,000,000 for the two-fiscal-year period ending September 30, 1984; $158,000,000 for the two-fiscal-year period ending September 30, 1986; and $75,000,000 for the fiscal year ending September 30, 1987."

SEC. 109. Section 405 of the Appalachian Regional Development Act of 1965 is amendedd by striking "October 1, 1982" and inserting in lieu thereof "October 1, 1987".

SEC. 110. Sections 203, 204, 206, 208, 212, and 213 of the Appalachian Regional Development Act are repealed.

TITLE II—RECOGNITION OF THE APPALACHIAN FOUNDATION

SEC. 201. The Congress finds and declares that—

(a) in 1965, the Congress found that the Appalachian Region lagged behind the rest of the Nation in economic growth and its people had not shared properly in the Nation's prosperity;

(b) the Appalachian Regional Commission was created by Act of Congress to assist the Region in promoting economic development and meeting its special problems;

(c) while substantial progress has been made, especially with respect to essential public facilities, much remains to be accomplished in the areas of health, education and other public services;

(d) in 1981, the Congress directed the Commission to develop and report to Congress a plan for the orderly phase-out of its activities;

(e) on December 31, 1981, the Appalachian Regional Commission submitted a comprehensive Finish-Up program to the Congress detailing great progress in the Region since 1965, while recognizing that many difficult problems remain, and setting out a program to address those problems;

(f) Title I of this bill provides the legislative authority to begin implementation of the Governors' program;

(g) the Governors of the 13 Appalachian States have created and sponsored the Appalachian Foundation to bring new investment to the entire region;

(h) the purposes of the Appalachian Foundation are to build on the economic momentum created by the Federal investments in the Region; to increase the private sector funds coming into the Region from corporations, foundations, and individuals; to strengthen and expand non-profit services in the Region; and to catalyze public-private partnership solutions to urgent Regional problems;

(i) the Appalachian Foundation is intended to supplement the activities of the Appalachian Regional Commission, particularly in areas outside the Commission's statutory authority, by assembling funds from the private sector and directing their expenditures in the Region; and

(j) the Appalachian Foundation is incorporated under the laws of the State of Virginia and is governed by a Board of Directors made up of the 13 Appalachian Governors and representatives of the private sector.

SEC. 202. Therefore, on the basis of the findings of section 201, the Congress recognizes the organization known as the Appalachian Foundation, a public foundation: *Provided*, however, that the Appalachian Foundation shall not claim Congressional approval or Federal Government Authorization for any of its activities; and, *Provided* further, that the Appalachian Foundation shall maintain status as an organization exempt from taxation as provided in the Internal Revenue Code, and if the Appalachian Foundation fails to maintain such status, the recognition hereby granted shall expire.●

By Mr. BAKER for Mr. GOLDWATER:

S. 66. A bill to amend the Communications Act of 1934; to the Committee on Commerce, Science, and Transportation.

THE CABLE TELECOMMUNICATIONS ACT OF 1983

● Mr. GOLDWATER. Mr. President, introduction on March 4, 1982, of S. 2172, the Cable Telecommunications Act of 1982, represented the culmina-

tion of a process that bagan in 1979 when I introduced legislation that contained similar provisions. Extensive hearings were held on that bill but no action was taken in the 96th Congress.

In 1981, the Commerce Committee considered a number of communications bills that were passed by the Senate. Among those was S. 898, which contained several cable provisions. However, no hearings had been held on those particular sections in S. 898. Therefore, during the floor debates on that bill, I objected to those provisions because of the commitments I had made that there would be no cable legislation without hearings. I also made it clear that I was not objecting to the substance of the cable provisions in S. 898. My amendment to delete those provisions was successful, and they were stricken from the bill.

Shortly thereafter, the Commerce Committee held two field hearings on cable. The first was in Seattle, Wash., on January 18, 1982, chaired by Senator PACKWOOD, and attended by Senator GORTON. The Committee heard testimony from 10 witnesses. The second was in Albuquerque, N. Mex., on February 16, 1982, and was chaired by Senator SCHMITT. He heard from 10 witnesses as well. In addition, statements were received for the record from 18 other parties. Much of the evidence accumulated during those hearings helped to formulate some of the provisions in S. 2172.

That bill was the result of many months of study on the issues and was the first time that a comprehensive bill had been introduced on cable. Hearings were held before the Subcommittee on Communications on April 26, 27, and 28, 1982, and we heard testimony from 54 witnesses, and received statements from scores of others. Ater reviewing all of the testimony and meeting with representatives of the cities and the cable industry, S. 2172 was revised. Those revisions were incorporated into a substitute bill which was favorably reported by the Commerce Committee on July 22, 1982, by a vote of 13 to 3.

Unfortunately, there was simply not time to bring S. 2172 to the full Senate for a vote before adjournment of the 97th Congress. However, when that fact was evident, I announced my intention to reintroduce a cable bill at the beginning of the 98th Congress. This bill fulfills my pledge.

Mr. President, this bill, the Cable Telecommunications Act of 1983, establishes a new title in the Comunications Act of 1934 for cable telecommunications, and it is virtually identical to S. 2172, which was the first comprehensive bill ever to be introduced on the subject. The bill creates a jurisdictional framework which apportions the regulatory authority between the Federal, State, and local governments, and establishes a national policy for the provision of cable. Finally, S. 66 addresses the specific issues of ownership, access channels, rate regulation, franchise fees, renewals and extensions, protection of subscriber privacy, criminal and civil liability, and jurisdiction.

Last year, many city officials opposed S. 2172. In an effort to reach an agreement, I asked the cable industry and the cities to attempt to resolve their differences. I understand that the National League of Cities (NLC) and the National Cable Television Association (NCTA) are presently engaged in negotiations to accomplish that purpose. Those meetings conclude the end of this month and I hope they are successful.

If they are able to resolve their differences—or at least, most of them—in a manner which is consistent with the fundamental principles embodied in this bill, and with the overall communications policies of the Commerce Committee, I shall make every effort to incorporate those resolutions into this legislation. But I cannot and will not wait until these groups conclude their meetings, take the provisions to their respective boards for approval, and then announce their respective decisions. Even under the best scenario, that would mean delaying legislation until the middle or end of March, which is too long. But I stress again that I will be more than receptive to any changes in my bill at any point in the legislative process to reflect mutual agreement between the NLC and the NCTA.

Finally, Mr. President, I would like to take this opportunity to congratulate my colleague, Senator HOLLINGS, on his elevation to ranking member of the Commerce Committee, and his continuation as ranking member of the Subcommittee on Communications. I look forward to working closely with Senator HOLLINGS on this bill and the other communications bills which will be introduced in this Congress. Senator HOLLINGS has a great deal of expertise and experience in communications policy matters, and I have profited greatly through the years from his advice and counsel.

I sincerely hope that we are able to achieve bipartisan support for this legislation in the months ahead. I am confident that Senator HOLLINGS and I, and the other members of the Communications Subcommittee, will be able to work together toward that end, so that cable legislation can be a reality this year. It is my firm belief that we need to establish a national policy for cable this year if that industry is to ever realize its full potential. If we do not get legislation soon—this year—the current patchwork system of Federal, State, and local regulation of cable will be too firmly entrenched to undo.

Mr. President, there will be ample opportunity for public comment on S. 66, as there was on S. 2172. The Subcommittee on Communications will hold hearings on this bill on February 16 and 17, 1983.

Mr. President, I invite my colleagues to join in cosponsoring this bill.

Mr. President, I ask unanimous consent that this bill and a summary describing it be printed in their entirety in the RECORD, following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 66

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Cable Telecommunications Act of 1983".

The Communications Act of 1934 is amended by inserting immediately after title V the following new title:

"TITLE VI—CABLE TELECOMMUNICATIONS ACT

"FINDINGS

"SEC. 601. The Congress hereby finds that—

"(1) cable systems are engaged in interstate commerce through the origination, transmission, distribution, and dissemination of broadband telecommunications services;

"(2) the provision of cable telecommunications is of concern to governmental entities; and

"(3) a uniform national policy for cable can serve to eliminate and prevent conflicting regulations in order to allow unhampered growth and development of cable as a competitive medium which will be responsive to and serve the needs and interests of the public.

"PURPOSES

"SEC. 602. The purposes of this Act are to—

"(1) establish a national policy concerning cable telecommunications and to encourage a competitive environment for the growth and development of cable telecommunications;

"(2) establish guidelines for the exercise of Federal, State, and local regulatory authority; and

"(3) allow cable systems to compete in the marketplace on an equal basis with other providers of telecommunications services to the public.

"DEFINITIONS

"SEC. 603. For purposes of this title, the term—

"(1) 'basic service' means the provision of retransmission of broadcast signals which is distributed by coaxial cable or any other closed transmission medium;

"(2) 'basic telephone service' means service provided through a switched network capable of providing two-way voice grade communications;

"(3) 'broadband telecommunications' means any receipt or transmission of electromagnetic signals over coaxial cable or any other closed transmission medium;

"(4) 'broadcasting' means telecommunications by radio intended to be received by the public, directly or by the intermediary of relay stations;

"(5) 'cable channel' or 'channel' means that portion of the electromagnetic frequency spectrum used in a cable system for the propagation of an electromagnetic signal;

"(6) 'cable operator' or 'cable system operator' means any person or persons, or an agent or employee thereof, that operates a cable system, or that directly or indirectly owns a significant interest in any cable system, or that otherwise controls or is responsible for, through any arrangement, the management and operation of such a cable system;

"(7) 'cable service' means the provision by a channel programer of one-way programing on a per channel, per program, or other basis which is distributed by coaxial cable or any other closed transmission medium, but such term shall not include basic service or public, educational, or governmental service;

"(8) 'cable subscriber' means any person who receives or transmits electromagnetic signals distributed or disseminated by a cable operator or a channel programer over a cable system;

"(9) 'cable system' means a facility or combination of facilities under the ownership or control of any person or persons, which consist of a primary control center used to receive and retransmit, or to originate broadband telecommunications service over one or more coaxial cables, or other closed transmission media, from the primary control center to a point of reception at the premises of a cable subscriber, but such term does not include: (A) a facility or combination of facilities that serves only to retransmit the television signals of television broadcast stations; (B) a facility or combination of facilities that serves only subscribers in one or more multiple unit dwellings under common ownership, control, or management; or (C) a common carrier subject to the provisions of title II of this Act whenever such carrier transmits broadband telecommunications services;

"(10) 'channel programer' or 'programer' means any person having an agreement to provide basic service, public, educational, or governmental service, or cable service to a cable system operator, or any person who leases, rents, or is otherwise authorized to use the facilities of a cable system for the provision of basic service, public, educational, or governmental service, or cable service, and such term shall include a cable system operator to the extent that such operator, or person or persons under common ownership or control with such operator, is engaged in the provision of such service;

"(11) 'closed transmission medium' or 'closed transmission media' means media having the capacity to transmit electromagnetic signals over a common transmission path such as coaxial cable, optical fiber, wire, waveguide, or other such signal conductor or device;

"(12) 'information' means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or other symbols;

"(13) 'law' means any regulation, rule, order, standard, policy, requirement, procedure, or restriction;

"(14) 'person' means an individual, partnership, association, joint stock company, trust, corporation or any governmental authority;

"(15) 'public, educational, or governmental service' means the provision by a channel programer of public, educational, or governmental programing, on a noncommercial basis, which is distributed by coaxial cable or any other closed transmission medium, but such term shall not include basic service;

"(16) 'telecommunications' means the transmission of information by electromagnetic means, with or without benefit of any closed transmission medium, including all instrumentalities, facilities, apparatus, and services (including the collection, storage, forwarding, switching, and delivery of such information) essential to such transmission;

"(17) 'telecommunications service' means the offering of telecommunications facilities, or of telecommunications by means of such facilities but such term shall not include basic service, public, educational, or governmental service, or cable service; and

"(18) 'United States' means the several States and territories, the District of Columbia, and the possessions of the United States.

"STATEMENT OF AUTHORITY

"SEC. 604. The provisions of this title shall apply as follows:

"(1) The Commission shall have jurisdiction and exercise authority with respect to broadband telecommunications in accordance with the provisions of this Act and other applicable provisions of law.

"(2) Nothing in this Act shall be construed as prohibiting any State or political subdivision or agency thereof, or franchising authority, from awarding, in accordance with the provisions of this Act, cable franchises within its jurisdiction.

"OWNERSHIP OR CONTROL OF CABLE SYSTEMS

"SEC. 605. (a)(1) Except in the case of the antitrust laws of the United States and to the extent otherwise provided in subsections (b) and (c) of this section, no executive agency of the United States, including the Commission, shall have the authority to prohibit, directly or indirectly, the ownership of cable systems by any person by reason of that person's ownership of any other media interests, including broadcast, cable, newspaper, programing service, or other printed or electronic information service.

"(2) No State or political subdivision or agency thereof, or franchising authority, shall have the authority to prohibit, directly or indirectly, the ownership of cable systems by any person by reason of that person's ownership of any other media interests, including broadcast, cable, newspaper, programing service, or other printed or electronic information service.

"(b)(1) Notwithstanding the provisions of subsection (a) of this section, for the purpose of ensuring fair and equitable treatment of United States cable enterprises seeking access to markets in a foreign country, the Commission shall have authority to conduct inquiries applicable to foreign persons from that country seeking access to domestic markets in the United States in connection with the construction, ownership and operation of cable enterprises as to whether such United States cable enterprises are permitted fair and equitable access to such foreign markets.

"(2) The Commission shall submit any information obtained through such inquiries to the United States Trade Representative to assist the Trade Representative in his identification and analysis of acts, policies or practices which constitute significant barriers to, or distortions of, United States exports of services.

"(3) For purposes of this subsection, the term 'foreign persons' includes any individual who is not a citizen of the United States, any subsidiary (although established under the laws of the United States or any State thereof) of a corporation or other business entity which was established under the laws of a foreign country, any corporation or other business entity established under the laws of a foreign country, or any corporation or other business entity established under the laws of the United States or any State thereof, if 25 percent or more of the capital stock or equivalent ownership is owned or controlled by an individual who is not a citizen of the United States or by a corporation or other business entity established under the laws of a foreign country, or any subsidiary of a corporation or other business entity established under the laws of a foreign country.

"(c) Notwithstanding the provisions of subsection (a) of this section, a State or political subdivision or agency thereof, or franchising authority, may not acquire an ownership interest in any cable system, unless such State, subdivision, agency, or authority acquires such ownership or interest at not less than fair market value based upon the ongoing business value of the system, including goodwill. In any case in which any such State, subdivision, agency, or authority has or acquires any such ownership or interest, such State, subdivision, agency, or authority shall, in no case, own or control, directly or indirectly, the content of any of the programing on such cable system except as provided in subsections (b) and (e) of section 606.

"ACCESS CHANNELS

"SEC. 606. (a) Each cable system having 20 or more television broadcast channels (120 MHz or more of bandwidth) shall dedicate or set aside access channels for use by public, educational, or governmental programers in accordance with subsection (b) of this section.

"(b) Any cable system operator subject to subsection (a) of this section, shall dedicate or set aside for access, from available channels, 10 percent of such available channels for use by public, educational, or governmental channel programers.

"(c) For purposes of this section, the term 'available channels' means channels actually and technically available for use by the cable operator and not subject to other use requirements imposed by the Commission.

"(d)(1) The obligation to provide access channels imposed under this section shall cease upon determination by the Commission that there are reasonably available alternatives for persons desiring to provide public, educational, or governmental programing service to the public in a particular geographic area or market.

"(2) In determining whether there are reasonably available alternatives in the relevant area or market, the Commission shall consider—

"(A) the number and size of other providers of such programing service;

"(B) the extent to which such programing service is available from other providers;

"(C) the ability of such other providers to make such programing service readily available at comparable rates, terms, and conditions; and

"(D) other indicators of the extent of competition.

"(e)(1) The franchisor is authorized to establish rules and procedures for the use of the channels set aside or dedicated pursuant to subsection (b) of this section.

"(2) Notwithstanding the provisions of paragraph (1) of this subsection, until such time as there is demand for each channel

full time for its designated use, public, educational, or governmental programing may be combined by the cable system operator on one or more channels, and to the extent time is available on such channels, they may be used by the cable system operator for the provision of other services.

"(f) Nothing in this section shall be construed as prohibiting a cable system operator from making available, in his sole discretion, additional channels to public, educational, or governmental programers.

"(g)(1) In any case in which a cable franchise was awarded pursuant to a franchise agreement prior to January 26, 1983, by any State or political subdivision or agency thereof, or franchising authority, and that agreement provides for a percent of channels for use by public, educational, or governmental channel programers to be dedicated or set aside for access which is in excess of the 10 percent required under subsection (b) of this section, nothing in the provisions of subsections (a) and (b) of this section shall be construed as requiring the modification of such franchise agreement in order to bring such agreement into conformity with such subsections. Except as otherwise provided in accordance with subsection (d) of this section, in no case shall any such agreement be modified, on or after the effective date of this title, so as to provide for the dedication or set aside for access of such channels at a percent less than that provided for in subsection (b) of this section or greater than that provided for in such agreement as of the effective date of this title.

"(2) If the term of any franchise agreement referred to in paragraph (1) of this subsection is renewed or otherwise extended on or after the effective date of this title, the provisions of subsections (a) and (b) of this section shall be applicable to such franchise agreement.

"REGULATION OF RATES AND SERVICES

"SEC. 607. (a)(1) Each State or political subdivision or agency thereof, or franchising authority, is authorized to establish, fix, or otherwise restrict the rates charged by cable operators for the use of channels for the provision of basic service, and public, educational, or governmental service, and charged to subscribers by cable operators for such basic service, and such public, educational, or governmental service.

"(2) The authority to establish, fix, or otherwise restrict the rates charged to subscribers for the provision of basic service set forth in subsection (a) of this section shall cease upon determination by the Commission that there are reasonably available alternatives to basic service programing in the particular geographic area or market.

"(3) In determining whether there are reasonably available alternatives in the relevant area or market, the Commission shall consider—

"(A) the number and size of other providers of such programing service;

"(B) the extent to which such programing service is available from other providers;

"(C) the ability of such other providers to make such programing service readily available at comparable rates, terms, and conditions; and

"(D) other indicators of the extent of competition.

"(b) No executive agency of the United States, including the Commission, and no State or political subdivision or agency thereof, or franchising authority, shall have authority to regulate or restrict the provision of or nature of cable services offered over a cable system.

"(c) No executive agency of the United States, including the Commission, and no State or political subdivision or agency thereof, or franchising authority, shall have authority to regulate or restrict the provision of or nature of telecommunications facilities offered by or telecommunications services offered over a cable system, except with respect to the provision of basic telephone service.

"FRANCHISE FEES

"SEC. 608. (a) The Commission shall establish a reasonable ceiling for the fees to be paid to a State or political subdivision or agency thereof, or franchising authority, by operators of cable systems receiving franchises from such State, subdivision, agency, or authority and, periodically upon its own motion or upon petition, may review the appropriateness of such ceiling and make adjustments thereto. The Commission shall establish such ceiling so as to permit only the recovery by such State, subdivision, agency, or authority of the reasonable cost of regulation of such cable system.

"(b) The Commission may waive the franchise fee ceiling established in subsection (a) if, upon a reasonable showing, the franchisor can demonstrate that the reasonable cost of regulation exceeds such ceiling and that such waiver will not interfere with the effectuation of Federal goals and policies established pursuant to this title.

"(c) The Commission shall prescribe procedures necessary to carry out the provisions of this section within the 180-day period following the effective date of its enactment.

"RENEWALS AND EXTENSIONS

"SEC. 609. (a) In any case in which a cable system operator submits an application to the franchisor for the renewal or other extension of such operator's franchise authorization, the franchisor shall grant such renewal or other extension if it finds that—

"(1) the cable system operator has substantially complied with the material terms of such franchise and with applicable law;

"(2) there has been no material change in the legal, technical, or financial qualifications of the cable system operator that would substantially impair the continued provision of service by such operator; and

"(3) the services and facilities to be provided by such operator are reasonable in light of the size, nature, needs, and interests of the community to be served, the age and status of the existing system, the current availability of facilities and services in communities of comparable size and characteristics, and the costs of construction and operation of cable facilities.

"(b) Nothing in this Act shall be construed as prohibiting the filing of competing applications for cable franchises, or as prohibiting the award of multiple cable franchises by a State or political subdivision or agency thereof, or franchising authority.

"PROTECTION OF SUBSCRIBER PRIVACY

"SEC. 610. (a) No person or governmental authority shall intercept or receive broadband telecommunications unless specifically authorized to do so by a cable system operator, channel programer, or originator of broadband telecommunications or as may otherwise be specifically authorized by Federal law.

"(b) In order to safeguard the right to privacy and security of broadband telecommunications, such broadband telecommunications shall be deemed to be a 'wire communication' within the meaning of section 2510(1) of title 18 of the United States Code.

"(c) In the event that there may be any difference between the provisions of this section and chapter 119 of title 18 of the United States Code, or any regulations promulgated thereunder, it is the intent of the Congress that such chapter 119 shall be controlling.

"(d)(1) Except as provided in paragraph (2) of this subsection, no cable operator, channel programer, or originator of broadband telecommunications may use the cable system to collect personally identifiable information with respect to a cable subscriber, except upon the prior written consent of that subscriber.

"(2) The provisions of paragraph (1) of this subsection shall not apply to the collection of information solely for billing purposes or to monitor whether there is unauthorized reception of cable telecommunications.

"(3) A cable operator, channel programer, or originator of broadband telecommunications shall ensure that any such information is destroyed when the information is no longer used or to be used for the purposes for which it was collected.

"(e) No cable operator, channel programer, or originator of broadband telecommunications shall disclose personally identifiable information obtained pursuant to subsection (d) of this section with respect to a cable subscriber, or personally identifiable information with respect to the services provided to or received by a particular cable subscriber by way of a cable system, except upon the prior written consent of the subscriber, or pursuant to a lawful court order authorizing such disclosure.

"(f) If a court shall authorize or order disclosure, the cable subscriber shall be notified of such order by the person to whom such order may be directed, within a reasonable period of time before the disclosure is made, but in no event less than 14 calendar days.

"(g) Each cable operator shall, at the time of entering into an agreement to provide cable telecommunications, and regularly thereafter, inform every subscriber of the rights of the subscriber under this section. Such information shall include a description of the nature of the information to be maintained by the cable operator, channel programer, or originator of broadband telecommunications, and the location and availability of such information.

"(h) A cable subscriber shall have access to all personally identifiable information regarding that subscriber which is collected and maintained by a cable operator, channel programer, or originator of broadband telecommunications. Such information shall be available to the subscriber at reasonable times and at a place designated by the cable operator, channel programer, or originator of broadband telecommunications.

"(i) Any cable subscriber whose privacy is violated in contravention of this section, shall be entitled to recover civil damages as authorized and in the manner set forth in section 2520 of title 18 of the United States Code. This remedy shall be in addition to any other remedy available to such subscriber.

"CRIMINAL AND CIVIL LIABILITY

"SEC. 611. Nothing in this title shall be deemed to affect the criminal or civil liability of channel programers pursuant to the law of libel, slander, obscenity, incitement, invasions of privacy, false or misleading ad-

vertising, or other similar laws, except that cable operators shall not incur such liability for any program carried on any public, educational, or governmental channel referred to in subsection (b) of section 606, or for any program required by law to be carried on any other channel.".

EXCLUSIVE JURISDICTION

SEC. 2. (a) Except to the extent otherwise specifically provided in title VI of the Communications Act of 1934, as added by the first section of this Act, the Federal Government shall have exclusive jurisdiction over broadband telecommunications regarding matters covered by or otherwise within the purview of such title.

(b) Any law of any State or political subdivision or agency thereof, or franchising authority, in effect on the effective date of title VI of the Communications Act of 1934, as added by the first section of this Act, which is in conflict with the provision of subsection (a) of this section relating to the exclusive jurisdiction of the Federal Government, shall be deemed superseded, as of the effective date of such title, and shall thereafter be null and void and of no effect.

NEW AND ADDITIONAL SERVICES

SEC. 3. Title I of the Communications Act of 1934 is amended by inserting after section 6 the following new section:

"NEW AND ADDITIONAL SERVICES

"SEC. 7. (a) Consistent with sound spectrum management, the Commission shall, to the maximum feasible extent, encourage the introduction of new and additional services by new applicants, existing licensees, or other persons. In any proceeding in which new or additional services are proposed, such services shall be presumed to be in the public interest whenever the Commission finds that such services are technically feasible without causing significant technical degradation to or interference with radio transmissions by other licensees.

"(b) Any person may file with the Commission a petition to establish or an application to offer a new or additional service.

"(c) The Commission must determine whether the new or additional service proposed in a petition or application is in the public interest within 180 days after such petition or application is filed. If the Commission initiates its own proceeding for a new or additional service, such proceeding must be completed within 180 days after it is initiated.".

EFFECTIVE DATE

SEC. 4. The provisions of this Act and the amendments made thereby shall take effect on the date of the enactment of this Act, except that, in the case of any franchise agreement in effect prior to the date of the enactment of this Act, the parties thereto shall have the 90-day period following such date of enactment within which to bring such agreement into compliance with the provisions of this Act and the amendments made thereby.

REDESIGNATION

SEC. 5. The existing title VI of the Communications Act of 1934 is redesignated as title VII, and sections 601 through 609 are redesignated as sections 701 through 709, respectively.

SUMMARY OF S. 66

1. The purposes of this bill are to establish a national policy concerning cable; to establish guidelines for the exercise of regulatory authority; and to allow cable to compete equally in the marketplace.

2. Basic service is defined as the retransmission of broadcast signals.

3. Public, educational, or governmental (PEG) service is defined as PEG programing, but not basic service.

4. Cable service is defined as one-way programing, but not basic service or PEG service.

5. Telecommunications service is defined as the offering of information by electromagnetic means, but not basic service, PEG service, or cable service.

6. The Federal Communications Commission (FCC) shall have jurisdiction over cable.

7. States, subdivisions, etc. are granted the authority to award cable franchises.

8. The bill prohibits Federal, state, or local regulation or restriction of ownership by any person by reason of that person's ownership of any other media interests.

9. The FCC has authority to conduct inquiries concerning foreign ownership of cable, and it shall submit any information it obtains of trade barriers to the U.S. Trade Representative.

10. Municipal ownership is allowed; municipal acquisition is permitted but only at fair market value, and if there is no control over programing content.

11. Cable systems with 20 or more channels must set aside, from available channels (not subject to other use requirements) 10 percent for use by public, educational, or governmental programers.

12. The franchisor may establish rules for the use of the public, educational, or governmental channels.

13. Programing may be combined by the cable operator on fewer channels until sufficient demand develops, and unused channels may be used by the cable operator until there is a demand.

14. The access channel obligation shall cease when there are reasonably available alternatives for PEG service.

15. The cable operator may make available, in his sole discretion, additional channels to public, educational, or governmental programers.

16. Any access provision in a franchise agreement in existence on January 26, 1983, which exceeds the 10 percent set aside for public, educational, or governmental programers, is grandfathered for the life of the franchise agreement.

17. Each state, subdivision, etc., may regulate the rates charged by cable operators for the use of channels for basic service and PEG service, or charged to subscribers for those basic services and PEG services.

18. The authority to regulate rates for basic service shall cease when there are reasonably available alternatives for basic service.

19. No entity (Federal, state, or local) shall have authority to regulate or restrict the provision of or nature of cable services offered over a cable system.

20. No entity (Federal, state, or local) shall have authority to regulate or restrict the provision of or nature of telecommunications facilities offered by or telecommunications services offered over a cable system, except for the provision of basic telephone service.

21. The FCC shall establish a reasonable franchise fee ceiling paid by cable operators, and the fee is designed to permit only the recovery of the reasonable cost of regulation of the cable system.

22. The franchisor shall grant a renewal or extension to the cable operator if it finds that: (a) the operator has substantially complied with the material terms of the franchise and with other laws; (b) there has been no material change in the legal, technical, or financial qualifications of the operator which would impair service; and (c) the services and facilities to be provided are reasonable.

23. There is a specific grant of authority to states, cities, etc. to accept competing applications for cable franchises, and to award multiple cable franchises.

24. The cable system cannot be used to collect personally identifiable information about a subscriber, and no cable operator shall disclose personally identifiable information about a subscriber without prior written subscriber consent or court order.

25. Channel programers remain subject to criminal and civil liability for libel, slander, etc., but cable operators are not liable for programs carried on any of the access channels, or for programs required by law to be carried.

26. The Federal government shall have exclusive jurisdiction over cable regarding matters covered by this Act, and any state or local law which is in conflict is superseded, null and void, and of no effect.

27. The FCC shall encourage new and additional services and such services will be presumed to be in the public interest if they are technically feasible.

28. The parties to a franchise agreement have 90 days from the date of enactment to bring the agreement into compliance with this Act.●

By Mr. LONG (for himself, Mr. PROXMIRE, and Mr. SPECTER):

S. 70. A bill to delete the provisions of the Internal Revenue Code of 1954 which treat Members of Congress separately with respect to living expense deductions; to the Committee on Finance.

TAX TREATMENT OF MEMBERS OF CONGRESS

Mr. LONG. Mr. President, today Senators PROXMIRE, SPECTER, and I are introducing legislation which will eliminate from the Internal Revenue Code all special provisions relating to deductions claimed by Members of Congress. This legislation will permit Members to be subject to the same tax rules that govern all other taxpayers.

The bill would eliminate the irrebuttable presumption in the Internal Revenue Code that a Member's principal place of business for Federal tax purposes is located in the State or district he or she represents. Under this statutory fiction, a Member of Congress is considered to be away from home for tax purposes when he is in Washington, even if Washington is where he does most of his work and spends most of his time. This entitles him to deduct up to $3,000 in Washington expenses on the theory that the Washington expenses are for business travel. There is no businessman in the country who gets to deduct the cost of living at home, within commuting distance of the office where he does most of his work. The only reason that Members of Congress can deduct this type of personal living expense is because of this special Members-only

rule. That is wrong, and it should be corrected.

This bill would have no effect on a Member's legal residence for purposes of State income taxes, voter registration, or other similar questions. It would simply mean that Members of Congress would be governed by the rules applicable to other taxpayers whose jobs require a division of time between two distant locations. Under these rules, a taxpayer may not deduct expenses for living near his principal post of duty or principal place of business. On the other hand, a taxpayer may deduct all reasonable expenses for travel, meals, and lodging incurred while the taxpayer is away from his principal post of duty or principal place of business.

I should point out that a taxpayer can have only one principal place of business for Federal tax purposes. This was an issue in the late 1940's and early 1950's, and the concern then that a Member of Congress might be treated as having two principal places of business, and thus be denied any deductions for traveling expenses, was at least part of the reason the Congress chose to specify a Member's State or district as his only principal place of business. Today, however, the law is clear that a taxpayer cannot have two such places at the same time.

The location of the principal place of business of a Member of Congress would be determined by all the facts and circumstances. Without prejudging the question for all Members, I would suppose that Washington would be seen as the principal post of duty or place of business for many Members of Congress—even though their legal domicile would be elsewhere. If Washington is treated as a Member's principal post of duty, then his expenses for personal meals and a personal home in the Washington area would not be allowed. His expenses for travel away from Washington would be deductible business expenses, without any dollar cap but subject to the general rule that only reasonable expenses are deductible.

The heart of this proposal is the elimination of references in the tax law to the deductions of Members of Congress. It would not permit Members of Congress to receive better treatment or to suffer worse treatment than taxpayers at large. It simply provides equal treatment.

By Mr. MATTINGLY:

S. 77. A bill to expand the export sales of agricultural commodities produced in the United States through the use of commodities acquired by the Commodity Credit Corporation; to the Committee on Agriculture, Nutrition, and Forestry.

EXPORT ENHANCEMENT ACT OF 1983

Mr. MATTINGLY. Mr. President, I am today reintroducing a measure to enhance the export sales of American farm commodities and value-added food products derived from such commodities. A majority of my colleagues supported a similar effort in the waning hours of the 97th Congress, but due to the extremely limited time we were unable to secure unanimous consent prior to adjournment.

As I pointed out in December, the financially depressed producers of food and fiber in this country must be quickly afforded some relief from the unfair and predatory subsidy tactics of many foreign nations. These practices have magnified our farm producers woes by artificially denying a fair share of the world market to U.S. products. The effects of the foreign subsidies are most blatantly apparent when one looks at the export markets for U.S. broilers, chicken parts, and eggs.

For the period January to May 1982 U.S. poultry, meat, and egg exports had fallen some 28 percent from the same period a year earlier. Major markets accounting for a decline in whole broilers during this period were Egypt, which imported 21,417 metric tons during January-May 1981, but only 963 tons in 1982; Iraq with 18,008 in 1981 and zero during January-March in 1982; and Venezuela with January-May 1981 purchases of 10,583 tons versus 2,507 in the 1982 period.

With the aid of direct and export subsidies the European Community and Brazil have been able to unfairly capture large segments of the world market for whole chickens and table eggs. For example, the European Community now accounts for more than 53 percent of total exports of whole chickens to the Middle East market. Brazil entered this market for the first time in 1975 and now accounts for 38 percent of total export sales while America's nonsubsidized products have slipped to less than a 6-percent share. The negative impact on U.S. farm income and balance of trade in this example is repeated in many other areas where our producers have lost markets to subsidized foreign competition.

A more comprehensive bill has been introduced dealing with this problem by my distinguished colleagues, Senator COCHRAN of Mississippi and Senator HUDDLESTON of Kentucky, who both serve on the Agriculture Committee. I am delighted to join those gentlemen and a number of other Senators as an original cosponsor of the bill and I will work for its speedy consideration and passage. However, I feel compelled to introduce this measure as a somewhat more streamlined and targeted alternative which would be available in the event our other efforts were to be delayed for any reason.

Mr. President, time is of the absolute essence in this vital matter. Every moment of delay only serves to encourage the subsidizing predators to expand their activities. As a participant in the GATT Conference in Geneva last November, I am convinced that the only recourse available is for the Congress to take strong, effective, and immediate action which will allow the Secretary of Agriculture to help U.S. producers compete on a more equal basis against the unfair tactics of our trading partners. We must convince them that we really mean business before they will sit down at the bargaining table to seriously negotiate free and fair trade practices.

By Mr. MATTINGLY:

S. 78. A bill to provide that benefits under title II of the Social Security Act may be paid to aliens only after they have been lawfully admitted to the United States for permanent residence, and to impose further restrictions on the right of any alien in a foreign country to receive such benefits; to the Committee on Finance.

SOCIAL SECURITY SYSTEM LOOPHOLES

Mr. MATTINGLY. Mr. President, today I introduce legislation which would correct one of the many flaws in the social security system. It is a loophole in our system which amounts to hundreds of millions of dollars a year. Such drains upon the social security system are unconscionable.

The problem is windfall benefits to aliens. These people work for a brief time in the United States, only to leave the United States to retire and live in a foreign country. The high U.S. standard of living is reflected in the benefits of the social security system. These people leave the United States and often acquire new dependents that were never a part of the alien's family as he or she worked in the United States and then draws, year after year, social security benefits.

Currently the system is strained by over 160,000 aliens in over 200 foreign countries. Oftentimes, not only do these people receive benefits of many times over what they have contributed to the system, but they also engage in fraudulent practices to increase their benefits; so-called "adoption" of grandparents, and not reporting deaths. It is simply unfair for the U.S. taxpayer to support these citizens of other countries with huge benefits.

This bill would still allow aliens to receive all that they have contributed to the system as well as fair interest. Many people are under the mistaken impression that that is what the social security system does now. However, most beneficiaries receive all the money they have contributed to the system in real dollars within 2 years after retiring.

The social security system was intended to provide a basic benefit in retirement to U.S. workers. It was not meant as an extension of our foreign

aid program. This bill would not interfere with current treaties between the United States and other countries. Every worker would still receive not only all of his moneys contributed to the system but interest on his funds. What is more, at any time the alien could become a U.S. citizen, and thereby receive the full range of social security benefits. But the world's most generous pension system can no longer afford to be supporting people who are not even citizens of its country.

This bill would also end the problem of aliens leaving the United States to marry more dependents for the U.S. taxpayer. Many people are now marrying in a foreign country and having large families, secure in the thought that the generous U.S. system will not only support them indefinitely but their spouse and however many children they should desire or be able to have. This is again a patent abuse of our system.

There are many other things which should be done. There are other areas of the social security system which have been used fraudulently to take the U.S. taxpayer for a ride. I urge passage of this bill so that this one free ride can end.

By Mr. CRANSTON:

S. 84. A bill to authorize the establishment of the Desert Pupfish National Wildlife Refuge in the State of Nevada; to the Committee on Energy and National Resources.

DESERT PUPFISH NATIONAL WILDLIFE REFUGE

Mr. CRANSTON. Mr. President, I rise to introduce for appropriate reference, a bill to authorize the establishment of the Desert Pupfish National Wildlife Refuge, to protect some of the few remaining desert pupfish. This legislation is similar to measures I introduced in the 92d through 97th Congresses.

The Ash Meadows area of Nevada has been the home of the several species of pupfish for at least 20,000 years. During this time, the pupfish have adapted from the cold water, postglacial lakes which covered the Western United States following the last ice age to a totally different and inhospitable environment, which is typified by Devil's Hole—where the water is high in mineral content, low in oxygen, and 92° in temperature.

Yet the desert pupfish may not survive another decade unless steps are taken to preserve their unique habitat. The pumping of water for agriculture and other development activities threaten their existence.

Saving the remaining species and subspecies of this endangered fish, along with the protection of their habitat, is of importance not only for the maintenance of nature's diversity, but because of their tremendous value for studies of genetic evolution. Already man's needless indifference has permitted the extinction of several subspecies, and two others, which live in the Ash Meadows area, are on the brink of extinction.

In addition to the unique desert pupfish found in the Ash Meadows area, botanical research conducted by Dr. Janice C. Beatley of the Laboratory of Nuclear Medicine and Radiation Biology of the University of California at Los Angeles, assistant professor of botany, James L. Reveal, of the University of Maryland, and others, has revealed unique species of plants growing in the Ash Meadows area

Some of these plants were found only in this area; most of them are entirely different from plants in surrounding areas of Nevada and California. If a Desert Pupfish National Wildlife Refuge were established, not only would the desert pupfish be rescued from extinction but these unique species of plants would be preserved.

The desert region which I propose as the site of the Desert Pupfish National Wildlife Refuge includes a 40-acre parcel of hillside which is part of Death Valley National Monument, but separated by almost 20 miles of desert from the main body of the monument. The 40 acres were included in the national monument in 1952, because of a deep limestone chasm in the side of the hill at the bottom of which is a small warm water spring. It is called Devils Hole, and is surrounded by two chain link fences.

Outside of the fences the Park Service has erected a sign which reads as follows:

"DEVILS HOLE

"In the small pool at the bottom of this limestone cavern lives the entire population of Cyprinodon diabolis, one type of desert pupfish. These fish live in what is probably the most restricted environment of any animal in the world."

I sincerely hope that my colleagues will join with me in this effort to save the tiny desert pupfish from total extinction.

Mr. President, I ask unanimous consent that the full text of my bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 84

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in order to preserve and protect several species of desert pupfish, and to interpret their evolution in areas of their natural environment, for the benefit and education of the people of the United States, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to establish the Desert Pupfish National Wildlife Refuge (hereinafter referred to as the "refuge") in the State of Nevada. The refuge shall contain certain lands in Ash Meadows, Nevada, comprising approximately forty thousand acres as depicted on a map entitled "Ash Meadows, Nevada-California", dated January 1981.

SEC. 2. Within the boundary of the refuge, the Secretary may acquire lands, waters, and interests therein by donation, purchase with donated or appropriated funds, or exchange. Lands, waters, and interests therein owned by the State or Nevada, or any political subdivision thereof, may be acquired only with the consent of such owner. When the Secretary determines that lands, waters, and interests therein have been acquired sufficient to constitute an efficiently administrable unit for the purposes of this Act, he shall establish the refuge by publication of notice to that effect in the Federal Register. Pending such establishment and thereafter, the Secretary shall administer the lands, waters, and interests therein within the boundary of the refuge in accordance with the provisions of this Act.

SEC. 3. Effective upon establishment of the refuge pursuant to section 2, the Devil's Hole portion of Death Valley National Monument, which was added to the Death Valley National Monument by Proclamation Numbered 2961 of January 17, 1952 (66 Stat. c 18), is abolished, as such, and the lands, waters, and interests therein are made a part of the refuge established pursuant to this Act. Any funds available for the Devil's Hole portion of Death Valley National Monument on the date of such establishment shall be available for the purposes of the refuge established pursuant to this Act.

SEC. 4. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. DIXON (for himself and Mr. DODD):

S. 85. A bill to provide for the public financing of general elections for the U.S. Senate, to the Committee on Rules and Administration.

PUBLIC FINANCING OF SENATE CAMPAIGNS

● Mr. DIXON. Mr. President, in the 1982 elections we saw hundreds of millions of dollars raised and expended in congressional campaigns. Public concern over this development has grown in proportion to the dollars spent.

In response to this concern, I offered a bill in the last session calling for financing of Senate general elections with public matching funds.

Today, Senator DODD and I reintroduce that bill. It is essential that we address the vital issue of campaign finance reform.

Other proposals have been offered in recent years. Because of the success of public financing in the election of American Presidents, the idea of similar financing for congressional candidates will eventually become a reality. Senator DODD and I are convinced that for this to happen sooner is far better than later.

Let me describe briefly, Mr. President, how this bill, which would be strictly voluntary for Senate candidates, would work in my home State of Illinois.

A candidate choosing to participate in Illinois would, with certain exceptions, be limited to a total maximum expenditure of $1,490,500 in the gener-

al election. This figure is arrived at through a formula using a base of $250,000 plus 15 cents multiplied by the voting age population of a State.

A candidate in Illinois would receive dollar-for-dollar matching funds for contributions up to $100 from individuals. In other words, the candidate would raise $745,250 from individuals and receive the same amount in matching funds.

If, on the other hand, the candidate receives, for example, $50,000 in contributions from party and political action committees, the matching funds mechanism would not be triggered. In Illinois, the candidate would have to raise only $720,250 from individuals. This amount, coupled with $720,250 in matching funds and the $50,000 from party and political action committees, would bring the candidate up to the $1,490,500 spending limit.

In Senator DODD's State of Connecticut, the candidate choosing to participate would be limited to a total expenditure of $599,950 based on the bill's formula. The candidate could raise $299,975 in individual contributions, which in turn would be matched by a similar amount in public funds.

I would like to reiterate, Mr. President, that this entire program is voluntary. A candidate can refuse public matching funds and his or her authorized committee can raise and spend as much money as it feels necessary.

But I feel the plan contained in this bill contains these positive elements: It encourages active participation by a broader spectrum of individual contributors, and it places a cap on expenditures by candidates opting for public financing. Both of these developments would result in favorably strengthening the electoral process through increased public involvement and reviving public confidence in the integrity of the workings of our Government. Our States, our Nation, and our citizens will all benefit.

It is my intention, Mr. President, to work assiduously for the adoption of this legislation. My distinguished colleague, Senator MATHIAS, chairman of the Committee on Rules and Administration, has scheduled timely hearings on this matter. I will be seeking support from everyone interested in the earnest hope that public financing for Senate elections will become as much a permanent fixture in American politics and Government as it now is in Presidential elections.

I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 85

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Senate General Election Reform Act of 1983".

SEC. 2. The Federal Election Campaign Act of 1971 is amended by adding at the end thereof the following new subchapter:

"Subchapter III—Public Financing of Senate General Election Campaigns

"DEFINITIONS

"SEC. 501. For purposes of this subchapter—

"(1) the definitions set forth in section 301 of this Act apply to this subchapter;

"(2) 'general election' means any regularly scheduled or special election held for the purpose of electing a candidate to the United States Senate;

"(3) 'eligible candidate' means a candidate who is eligible, under section 502, for payments under this subchapter;

"(4) 'account' means the Senate General Election Campaign Account maintained by the Secretary of the Treasury in the Presidential Election Campaign Fund established by section 9006(a) of the Internal Revenue Code of 1954; and

"(5) 'authorized committee' means, with respect to any candidate for election to the United States Senate, any political committee which is authorized in writing by such candidate to accept contributions or to make expenditures on behalf of such candidate to further the election of such candidate.

"ELIGIBILITY FOR PAYMENTS

"SEC. 502. (a) To be eligible to receive payments under this subchapter, a candidate shall agree—

"(1) to obtain and to furnish to the Commission any evidence it may request about the campaign expenditures and contributions of such candidate;

"(2) to keep and to furnish to the Commission any records, books, and other information it may request; and

"(3) to an audit and examination by the Commission under section 507 and to pay any amounts required under such section.

"(b) To be eligible to receive payments under this subchapter, a candidate shall certify to the Commission that—

"(1) the candidate and the authorized committees of such candidate will not make campaign expenditures greater than the limitations set forth in section 315(j) of this Act;

"(2) no contributions will be accepted by the candidate or the authorized committees of such candidate in violation of section 315(a) of this Act;

"(3) the candidate is seeking election to the United States Senate, and such candidate and the authorized committees of such candidate have received contributions for that campaign in a total amount of not less than the smaller of—

"(A) 20 percent of the amount of expenditures the candidate may make in connection with the campaign under section 315(j) of this Act, or

"(B) $200,000; and

"(4) at least two candidates have qualified for the election ballot for election to the same seat in the United States Senate under the law of the State involved.

"(c) Agreements, certifications, and declarations under this section shall be filed with the Commission at the time required by the Commission.

"ENTITLEMENT TO PAYMENTS

"SEC. 503. (a) Every candidate who meets the eligibility requirements in section 502 is entitled to payments for use in such candidate's general election campaign in an amount equal to the amount of contributions such candidate and the authorized committees of such candidate receive for that campaign.

"(b) A candidate entitled to payments under subsection (a) shall be entitled to—

"(1) an initial payment in an amount equal to the contributions certified under section 502(b)(3); and

"(2) additional payments to be paid in—

"(A) multiples of $10,000 under section 506, if, with respect to each such payment, the eligible candidate and the authorized committees of such candidate have received contributions aggregating $10,000; and

"(B) a final payment under section 506 (designated as such by the candidate involved) of the balance of the entitlement of the candidate under this section.

"(c) In determining the amount of contributions received by a candidate and the authorized committees of such candidate for the purposes of subsection (a) of this section and section 502(b)(3)—

"(1) no contribution received by the candidate or any of the authorized committees of such candidate as a subscription, loan, advance, deposit, or as a contribution of products or services, shall be taken into account;

"(2) no contribution received from a political committee or any other organization shall be taken into account;

"(3) no contribution received from any individual shall be taken into account to the extent that such contribution exceeds $100 when added to the amount of all other contributions made by that individual to or for the benefit of such candidate in connection with the general election campaign of such candidate;

"(4) no contribution received from any individual who resides in a State other than the State in which the election is held shall be taken into account to the extent that such contribution when added to all other contributions received from such individuals exceeds 20 percent of the aggregate of contributions otherwise taken into account;

"(5) no contribution (A) which is received before September 1 of the year immediately preceding the year in which any general election is held and (B) which is not maintained in a separate account until the date on which such candidate qualifies under the law of the appropriate State for election, shall be taken into account;

"(6) no contribution maintained in such a separate account shall be used to make any expenditure until the date on which the candidate qualifies under the law of the appropriate State for election to the Senate; and

"(7) no contribution received after the date on which the election is held shall be taken into account.

"(d) Notwithstanding the provisions of subsection (a), no candidate is entitled to the payment of any amount under this section which, when added to the total amount of contributions received by such candidate and the authorized committees of such candidate and any other payments made to the candidate under this subchapter for such candidate's general election campaign, exceeds the amount of the expenditures limitation applicable to such candidate for that campaign under section 315(j)(1) of this Act.

"WAIVER OF OVERALL EXPENDITURE LIMITATION; ADDITIONAL PUBLIC FINANCING FOR CERTAIN CANDIDATES

"SEC. 504. (a)(1) Not later than the date on which a candidate qualifies under the law of the appropriate State for election to

the Senate of the United States, or 90 days before the date of any general election, whichever is earlier, each candidate for election to the Senate of the United States shall file with the Commission a declaration of whether such candidate intends to make expenditures in excess of the limitations on expenditures under section 315(j) of this Act.

"(2) Not later than 60 days before the date of such general election, each candidate who has reason to believe that he may make expenditures in excess of such limitations shall notify the Commission to that effect, unless such candidate filed with the Commission a timely declaration that he intended to exceed such limitations, as provided in paragraph (1).

"(3) Each candidate for election to the Senate of the United States shall notify the Commission and each other candidate for the same election within 48 hours after such candidate, or any of the authorized committees of such candidate—

"(A) makes any expenditure, or incurs any obligation to make an expenditure, in excess of the limitation on expenditures contained in section 315(j) of this Act; or

"(B) receives any contribution which, when added to the total amount of contributions received by such candidate and the authorized committees of such candidate, exceeds the amount of the limitation on expenditures contained in section 315(j)(1) of this Act.

"(4) The Commission is authorized to determine, upon its own initiative or upon the request of any candidate for election to the Senate of the United States, whether any candidate has made expenditures or incurred obligations to make expenditures in excess of the limitations contained in section 315(j) of the Act, or has received contributions in excess of the limitation contained in section 315(j)(1) of this Act.

"(b) The limitation on expenditures contained in section 315(j)(1) of this Act shall not apply to any candidate for election to the Senate of the United States if any other candidate in the same election—

"(1) fails to file with the Commission a timely declaration as provided in paragraph (1) of subsection (a); or

"(2) files with the Commission a notice as provided in paragraph (2) of subsection (a); or

"(3) is required to notify the Commission in connection with the making of expenditures or the receipt of contributions as provided in paragraph (3) of subsection (a).

"(c)(1) Any person who makes independent expenditures, as defined in section 301(17) of this Act, or incurs costs of communication, required to be reported under section 301(9)(B)(iii) of this Act, shall notify the Commission not later than 48 hours after such person first makes such independent expenditures or incurs such costs of communication aggregating more than $5,000, and thereafter shall so notify the Commission each time such person makes any additional independent expenditure, or incurs any such additional costs of communication, aggregating $5,000 or more.

"(2) If, with respect to an election, independent expenditures, as defined in section 301(17) of this Act, are made, or costs of communication, required to be reported under section 301(9)(B)(iii) of this Act, are incurred, aggregating more than one-third of the limitation on expenditures in section 315(j)(1) of this Act, the Commission shall, with respect to such election, suspend the limitation on expenditures established in such section 315(j)(1) at the request of any candidate in such election who is eligible to receive payments under section 502, and who has received the benefit of no more than one-third of such independent expenditures or costs of communication.

"(d)(1) The provisions of section 503(d) shall not apply to a candidate who elects to receive payments under this subchapter if the expenditure limitation contained in section 315(j)(1) of this Act is made inapplicable to such candidate under subsection (a), (b), or (c) of this section.

"(2) The additional amount to which a candidate is entitled under this subsection shall be based only upon the amount of contributions received after the date on which such expenditure limitation is made inapplicable, except that any contribution which is received from an individual after the date on which the limitation on expenditures is made inapplicable shall be considered as a contribution from an individual who has not previously made a contribution to such candidate.

"(3) The additional amount to which a candidate is entitled under this subsection shall not exceed 50 percent of the amount of the expenditure limitation under section 315(j)(1) of this Act which would otherwise apply to such candidate.

"CERTIFICATIONS BY COMMISSION

"SEC. 505. (a) No later than 48 hours after a candidate files a request with the Commission to receive payments under section 506, the Commission shall certify the eligibility of such candidate to the Secretary of the Treasury for payment in full of the amount to which such candidate is entitled. The request referred to in the preceding sentence shall contain—

"(1) such information and be made in accordance with such procedures as the Commission may provide by regulation; and

"(2) a verification signed by the candidate and the treasurer of the principal campaign committee of such candidate stating that the information furnished in support of the request, to the best of their knowledge, is correct and fully satisfies the requirements of this subchapter.

"(b) Initial certifications by the Commission under subsection (a), and all determinations made by it under this subchapter, shall be final and conclusive, except to the extent that they are subject to examination and audit by the Commission under section 507 and judicial review under section 511.

"(c) Any candidate who knowingly and willfully submits false information to the Commission under this section shall be punished as provided in section 512.

"PAYMENTS TO ELIGIBLE CANDIDATES

"SEC. 506. (a) The Secretary of the Treasury shall maintain in the Presidential Election Campaign Fund established by section 9006(a) of the Internal Revenue Code of 1954, in addition to any other accounts he maintains under such section, a separate account to be known as the Senate General Election Campaign Account. The Secretary shall deposit into the account, for use by candidates eligible for payments under this subchapter, the amount available after the Secretary determines that amounts in the fund necessary for payments under subtitle H of the Internal Revenue Code of 1954 are adequate. The moneys in the account shall remain available without fiscal year limitation.

"(b) Upon receipt of a certification from the Commission under section 505, the Secretary of the Treasury shall pay the amount certified by such Commission out of the account to the candidate to whom the certification relates.

"(c) Payments received under this section shall be used only to defray election campaign expenses incurred with respect to the period beginning on the day after the date on which the candidate qualifies for the election ballot under the law of the State involved, and ending on the date of the election, or the date on which the candidate withdraws from the campaign or otherwise ceases actively to seek election, whichever occurs first. Such payments shall not be used (1) to repay any loan to any person, or (2) to make any payments, directly or indirectly, to such candidate or to any member of the immediate family (as defined in section 315(j)) of such candidate.

"(d)(1) If the Secretary of the Treasury determines that the moneys in the account are not, or may not be, sufficient to pay the full amount of entitlement to all candidates eligible to receive payments, he shall reduce the amount to which each candidate is entitled under section 503 by a percentage equal to the percentage obtained by dividing (A) the amount of money remaining in the account at the time of such determination by (B) the total amount which all candidates eligible to receive payments are entitled to receive under section 503. If additional candidates become eligible under section 502 after the Secretary determines there are insufficient moneys in the account, he shall make any further reductions in the amounts payable to all eligible candidates necessary to carry out the purposes of this subsection. The Secretary shall, by registered mail, notify the Commission and each eligible candidate of the reduction in the amount to which that candidate is entitled under section 503.

"(2) If, as a result of such reduction, payments have been made under this section in excess of the amount to which such candidate is entitled, that candidate is liable for repayment to the account of the excess pursuant to procedures the Commission shall prescribe by regulation.

"EXAMINATION AND AUDITS; REPAYMENTS

"SEC. 507. (a) After each Federal election, the Commission shall conduct a thorough examination and audit of the campaign expenditures of all candidates for Federal office who received payments under this subchapter for use in campaigns relating to that election.

"(b)(1) If the Commission determines that any payment made to an eligible candidate under section 506 was in excess of the aggregate amount of the payments to which such candidate was entitled, the Commission shall notify such candidate, and such candidate shall pay to the Secretary of the Treasury an amount equal to the excess amount. If the Commission determines that any portion of the payments made to a candidate under section 506 to be used in such candidate's general election campaign was not used to make expenditures in connection with such campaign, the Commission shall notify the candidate of such determination and such candidate shall pay to the Secretary an amount equal to the amount of the unexpended portion. In making its determination under the preceding sentence, the Commission shall consider all amounts received as contributions to have been expended before any amounts received under this subchapter are expended.

"(2) If the Commission determines that any amount of any payment made to a can-

didate under section 506 was used for any purpose other than to defray campaign expenditures, it shall notify the candidate of the amount so used, and the candidate shall pay to the Secretary of the Treasury an amount equal to such amount.

"(3) No payment shall be required from a candidate under this subsection in excess of the total amount of all payments received by the candidate under section 506 in connection with the campaign with respect to which the event occurred which caused the candidate to have to make a payment under this subsection.

"(c) No notification shall be made by the Commission under subsection (b) with respect to a campaign more than 18 months after the day of the election to which the campaign related.

"(d) All payments received by the Secretary under subsection (b) shall be deposited by him in the account.

"OTHER POWERS AND DUTIES OF THE COMMISSION

"SEC. 508. (a) The Commission is authorized to conduct examinations and audits, in addition to the examinations and audits under sections 505 and 507, to conduct investigations, and to require the keeping and submission of any books, records, or other information necessary to carry out the functions and duties imposed on it by this subchapter.

"(b) The Commission shall consult from time to time with the Secretary of the Senate, the Clerk of the House of Representatives, the Federal Communications Commission, and other Federal officers charged with the administration of laws relating to Federal elections, in order to develop as much consistency and coordination with the administration of those other laws as the provisions of this subchapter permit. The Commission shall use the same or comparable data as that used in the administration of such other election laws whenever possible.

"REPORTS TO CONGRESS

"SEC. 509. (a) The Commission shall, as soon as practicable after the close of each calendar year, submit a full report to the Senate setting forth—

"(1) the expenditures incurred by each candidate, and the authorized committees of such candidate, who received any payment under section 506 in connection with an election;

"(2) the amounts certified by it under section 505 for payment to that candidate; and

"(3) the amount of payments, if any, required from that candidate under section 507, and the reasons for each payment required.

Each report submitted pursuant to this section shall be printed as a Senate document.

"(b) The Commission shall submit, not later than March 1 of each year immediately following a year in which any Federal election is held, a special report to the Senate setting forth—

"(1) the amounts certified by it under section 505 of this subchapter and sections 9005, 9008, and 9036 of the Internal Revenue Code of 1954 for payments from the Presidential Election Campaign Fund;

"(2) the amount of money remaining in the fund at the end of the calendar year in which any Federal election is held;

"(3) an estimate of the amount of money which will be transferred to such fund during each of the four calendar years immediately following the year in which any Federal election is held; and

"(4) an estimate, to the extent practicable, of the amount of money necessary to make all payments to which eligible candidates and the national committees of each political party will be entitled with respect to the next two Federal elections to be held.

"PARTICIPATION BY COMMISSION IN JUDICIAL PROCEEDINGS

"SEC. 510. (a) The Commission is authorized to appear in and defend against any action filed under section 511, either by attorneys employed in its office or by counsel whom it may appoint without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation it may fix without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title.

"(b) The Commission is authorized to appear, through attorneys and counsel described in subsection (a), in the district courts and other appropriate courts of the United States to seek recovery of any amounts determined to be payable to the Secretary of the Treasury as a result of any examination and audit made pursuant to section 507.

"(c) The Commission is authorized to petition the courts of the United States for declaratory or injunctive relief concerning any civil matter arising under this subchapter, through attorneys and counsel described in subsection (a). Upon application of the Commission, an action brought pursuant to this subsection shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28, United States Code, and any appeal from the determination of such court shall lie to the Supreme Court of the United States. Judges designated to hear the case shall assign the case for hearing at the earliest practicable date, participate in the hearing and determination thereof, and cause the case to be in every way expedited.

"(d) The Commission is authorized on behalf of the United States to appeal from, and to petition the Supreme Court of the United States for certiorari to review judgments or decrees entered with respect to actions in which it appears pursuant to the authority provided in this section.

"JUDICIAL REVIEW

"SEC. 511. (a) Any certification, determination, or other action by the Commission made or taken pursuant to the provisions of this subchapter shall be subject to review by the United States Court of Appeals for the District of Columbia Circuit upon petition filed in such court by any interested person. Any petition filed pursuant to this section shall be filed within thirty days after such certification, determination, or other action by the Commission.

"(b)(1) The Commission, the national committee of any political party, and any individual eligible to vote for a candidate for the office of Senator of the United States are authorized to institute an action under this section, including an action for declaratory judgment or injunctive relief, as may be appropriate to implement or construe any provision of this subchapter.

"(2) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this subsection and shall exercise such jurisdiction without regard to whether a person asserting rights under the provisions of this subsection shall have exhausted administrative or other remedies provided at law. Such proceedings shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28, United States Code, and any appeal shall lie to the Supreme Court of the United States. Judges designated to hear the case shall assign the case for hearing at the earliest practicable date, participate in the hearing and determination thereof, and cause the case to be in every way expedited.

"PENALTY FOR VIOLATIONS

"SEC. 512. Violation of any provision of this subchapter is punishable by a fine of not more than $10,000, or imprisonment for not more than 5 years, or both.".

LIMITATIONS ON EXPENDITURES IN SENATE GENERAL ELECTION CAMPAIGNS

SEC. 3. (a) Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end thereof the following:

"(i) For purposes of this section expenditures made on behalf of any candidate (as determined under section 315(b)(2)(B)) for the office of Senator of the United States shall be considered to be expenditures made by such candidate.

"(j)(1) Except as otherwise provided in section 504 of this Act, a candidate who receives payments for use in his general election campaign for the office of Senator of the United States, pursuant to section 506 of this Act may not make expenditures in such campaign in excess of $250,000, plus 15 cents multiplied by the voting age population, as certified under subsection (e), of the State in which the election is held.

"(2) For purposes of the limitation on expenditures contained in paragraph (1), only that percentage of an expenditure by a candidate or the authorized political committees of such candidate for broadcasting time which represents the cost to such candidate or committees of transmitting the material broadcast to the State in which such candidate is seeking election shall be taken into account.

"(3) A candidate who receives payments under section 506 of this Act for use in his general election campaign for the office of Senator of the United States may not make expenditures in such campaign from his personal funds or from the personal funds of his immediate family in excess of $35,000. For the purposes of this subsection, the term 'immediate family' means a candidate's spouse, and any child, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate, and the spouses of such persons.".

(b) Section 315(c)(1) is amended by striking out "subsection (b) of this section and subsection (d) of this section" and inserting in lieu thereof "subsections (b), (d) and (j) of this section".

(c) Section 315(c)(2)(B) of such Act (2 U.S.C. 441a(c)(2)(B)) is amended by inserting before the period a comma and "except that with respect to the limitation established by subsection (j) the term 'base period' means the calendar year of 1982".

EFFECTIVE DATE

SEC. 4. The amendments made by this Act apply to any campaign for election to the United States Senate for which the election is held more than 180 days after the date of enactment of this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 5. There is authorized to be appropriated to the Federal Election Commission the sum of $900,000 for purposes of carrying out the provisions of this Act during the fiscal year 1984.●

By Mr. PELL:

S. 86. A bill to provide for daylight saving time on an expanded basis; to the Committee on Commerce, Science, and Transportation.

THE DAYLIGHT SAVING TIME EXTENSION ACT OF 1983

Mr. PELL. Mr. President, I am introducing legislation today that would amend the Uniform Time Act of 1966 to provide for the observance of daylight saving time for an 8-month period beginning the first Sunday in March and extending through the last Sunday in October.

The legislation I propose today is similar to S. 2510 introduced during the 97th Congress and would advance daylight saving time by a 2-month period. Under the current law, daylight saving time is observed from the last Sunday in April to the last Sunday in October.

During the energy emergency of the early 1970's, I introduced similar legislation to extend the daylight saving time on a year-round basis as one way to help ease the energy crunch. I was especially pleased that legislation to extend daylight saving time was enacted—Public Law 93-434—on an experimental basis in 1973 for a 2-year period in response to the energy emergency.

Mr. President, while the immediate concerns associated with energy shortages have abated, the importance of continuing vigorous nationwide energy conservation efforts remains crucial for us all.

One of the most immediate benefits of a daylight saving time extension include the energy savings that would result from a reduced demand by residential consumers for electricity. Studies by the Department of Transportation suggest that an extension of daylight saving time would reduce the demand for electricity between 1 and 2 percent nationally. This reduction in demand would mean an energy savings of approximately 100,000 barrels of oil equivalent per day during the 2-month extension.

Beyond the immediate reduction in nationwide demand for electricity, the expanded period of daylight saving time, along with the continuation of the 55-mile-per-hour speed limit, would remind us of our need to conserve energy and reduce the Nation's dependency on imported oil.

Mr. President, the benefits of an expanded daylight saving time extend beyond the important energy conservation area. There would be additional immediate and noticeable effects on the quality of life for all Americans. These direct benefits include reductions in most categories of street crime, reductions in traffic accidents, and fatalities.

The National Highway Transportation Safety Administration, for example, predicted there would be 200 fewer traffic fatalities per year if the observance of daylight saving time was extended to include March and April.

In this regard, and in response to the considerable concern over the matter of schoolchildren waiting for schoolbuses in the early morning hours, studies by the Department of Transportation and the National Bureau of Standards have indicated that based upon the daylight saving time experience in the midseventies, there were no school age fatality increases during the months of March and April 1974.

The National Safety Council and the Department of Transportation further indicated that under extended daylight saving time in March and April, school age children would not be subject to greater involvement in accidents than the general population in any period of the day.

Another key benefit of the 2 additional months of daylight would be a nationwide reduction in most categories of street crime—a problem rapidly reaching epidemic proportions in our Nation. Statistics indicate that robbery, muggings, and other forms of violent crime are most frequently committed during the early evening hours. With the extra hour of daylight, at a time when most of the work force would be en route home, criminals would be less apt to threaten these individuals returning to their families.

This position is strongly supported by a study conducted by the Law Enforcement Assistance Administration following the 2-year experiment with year-round daylight saving time. The study revealed reductions in violent crime of 10 to 13 percent in the Washington metropolitan area. The analysis showed considerably less violent crime for the daylight saving time periods when compared to similar periods of standard time.

Mr. President, I believe it is clear that the benefits of extending daylight saving time for the 2-month period far outweigh the continuation of the present 6-month period. The legislation I propose would impose no additional burden on the American taxpayer and require no further intrusion by the Federal Government in our daily lives. Furthermore, this legislation protects those States who opposed any expanded daylight saving time by continuing the authority for any State to exempt itself from the provisions of the bill.

In my opinion, an extension of daylight saving time would be beneficial to all Americans through significant reductions in crime, traffic accidents, and energy consumption. I hope my colleagues will support legislation to extend daylight saving time for the 2-month period including March and April.

I ask unanimous consent, Mr. President, that the text of the legislation I am proposing today be printed in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 86

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Daylight Saving Time Expansion Act of 1983".

SEC. 2. The Congress hereby finds—

(1) that various studies of governmental and nongovernmental agencies indicate that daylight saving time over an expanded period would produce a significant energy saving in electrical power consumption;

(2) that daylight saving time may yield energy savings in other areas besides electrical power consumption;

(3) that daylight saving time over an expanded period could serve as an incentive for further energy conservation by individuals, companies, and the various governmental entities at all levels of government, and that such energy conservation efforts could lead to greatly expanded energy savings; and

(4) that the use of daylight saving time over an expanded period could have other beneficial effects on the public interest, including the reduction of crime, improved traffic safety, more daylight outdoor playtime for the children and youth of our Nation, greater utilization of parks and recreation areas, expanded economic opportunity through extension of daylight hours to peak shopping hours and through extension of domestic office hours to periods of greater overlap with the European Economic Community.

SEC. 3. (a) Section 3(a) of the Uniform Time Act of 1966 (15 U.S.C. 260a(a)) is amended by striking out "last Sunday of April" and inserting in lieu thereof "first Sunday of March".

(b) Any law in effect on the date of the enactment of this Act—

(1) adopted pursuant to section 3(a)(2) of the Uniform Time Act of 1966 by a State with parts thereof in more than one time zone, or

(2) adopted pursuant to section 3(a)(1) of such Act by a State that lies entirely within one time zone,

shall be held and considered to remain in effect as the exercise by that State of the exemption permitted by such Act unless that state, by law, provides that such exemption shall not apply.

SEC. 4. Notwithstanding any other law or any regulation issued under any such law, the Federal Communications Commission shall, consistent with any existing treaty or other agreement, make such adjustment by general rules, or by interim action pending such general rules, with respect to hours of operation of daytime standard amplitude modulation broadcast stations, as may be consistent with the public interest, including the public's interest in receiving interference-free service. Such general rules, or interim action, may include variances with respect to operating power and other technical operating characteristics. Subsequent to the adoption of such general rules, they may be varied with respect to particular stations and areas because of the exigencies in each case.

SEC. 5. This Act shall take effect on the date of the enactment of this Act, except

that if the date of enactment occurs in any calendar year after March 1, this Act shall take effect on the first day of the following calendar year.

By Mr. JEPSEN:

S. 87. A bill to amend part B of title IV of the Higher Education Act of 1965 to provide that the guaranteed student loan program be available only to students having need for such assistance; to the Committee on Labor and Human Resources.

GUARANTEED STUDENT LOAN ASSISTANCE AMENDMENTS OF 1983

Mr. JEPSEN. Mr. President, today I am introducing a bill to amend the Higher Education Act of 1965 to provide that the guaranteed student loan program be available to those students who have and can prove a need for that assistance. This legislation is identical to a bill I introduced in the 2d session of the 97th Congress. As you will recall, my proposal will treat all students applying for guaranteed student loans in the same manner—equally. Specifically, applicants would be required to qualify for assistance under a uniform needs basis applied to all students. In addition, students would become subject to the same uniform methodology of need analysis currently approved and used for other title IV programs. Finally, this would eliminate the current cutoff point for needs analysis which is at a $30,000 income for the student's parents.

My proposal has strong support from the Iowa College Aid Commission and from educational institutions in the State. Permit me once again to use the example which I used in October. It clearly demonstrates the necessity of this legislation.

Under current Department of Education rules, if a student is receiving need-based Federal aid under the supplementary educational opportunity grant, national direct student loan, or college work study programs, the school must use the same need analysis system to determine the student's eligibility for a guaranteed student loan. This system is the uniform methodology—ACT or CSS—which currently is in use for the campus-based programs, institutional financial aid, and for the State scholarship and grant programs. The uniform methodology takes into consideration family assets and many other factors that are not considered in the Federal schedule of family contributions. Under the Department's rules, the schools may use the Federal schedule of family contributions—see Federal Register, May 3, 1982—to establish eligibility for any student who is not receiving Federal campus-based aid.

The inequity develops because the uniform methodology is more restrictive and produces a higher level of family contribution in general than does the Federal needs test. As an example, a family of four with one student in college and income of $40,000 and net assets of $40,000 would be expected to contribute about $6,000 under the uniform methodology. If judged under the Federal needs test this family would be expected to contribute $4,670.

Several of the college financial aid officers have stated that they find families at the $35,000 to $40,000 income level who are eligible for the need-based Pell grants, supplementary educational opportunity grant, national direct student loan, and college work study but are not eligible to borrow under the guaranteed student loan program. On the other hand, they report, it is not unusual at the higher cost college to find families with adjusted gross incomes of $60,000 or higher who are eligible for a guaranteed student loan but who would not qualify for campus-based aid.

This situation is clearly unfair to all concerned: the student, parents, and educational institutions. Let us move quickly to put all on an equal footing.

Mr. President, I ask unanimous consent that a copy of my bill appear in the RECORD immediately following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 87

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Guaranteed Student Loan Assistance Amendments of 1983".

NEEDS BASIS FOR THE GUARANTEED STUDENT LOAN PROGRAM

SEC. 2. (a) Section 428(a)(2)(B) of the Higher Education Act of 1965 is amended to read as follows:

"(B) For the purpose of clause (iii) of subparagraph (A) a student shall qualify for a portion of an interest payment under paragraph (1) if the eligible institution has provided the lender with a statement evidencing a determination of need for a loan and the amount of such need.".

(b) Section 428(a)(2)(F) of such Act is repealed.

EFFECTIVE DATE

SEC. 3. The amendments made by this Act shall take effect October 1, 1983.

By Mr. JEPSEN:

S. 88. A bill to secure the right of individuals to the free exercise of religion guaranteed by the first amendment of the Constitution; to the Committee on the Judiciary.

VOLUNTARY PRAYER AND RELIGIOUS MEDITATION ACT OF 1983

Mr. JEPSEN. Mr. President, today I am reintroducing the Voluntary Prayer and Religious Meditation Act. The purpose of this bill is to insure and protect the right to the free exercise of religious expression as guaranteed under the first amendment to the Constitution of the United States.

It is designed to reverse 20 years of Supreme Court decisions and subsequent case law regarding the constitutionality of State-sponsored religious exercises in the public schools.

My bill focuses on the first amendment, specifically the "free exercise" clause.

As you know, the first amendment states that Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.

Based upon the establishment clause, the Supreme Court has prohibited State involvement in school prayer or other religious activity.

But, Mr. President, as I noted in my remarks on July 17, 1981. On this subject:

Our forefathers framed the Constitution to insure that all Americans enjoyed the freedom of worship and the free exercise of prayer. However, in 1962, the U.S. Supreme Court ruled that both nondenominational prayer and Bible reading without comment conflicted with the first amendment prohibiting the establishing of religion. At the time of the decision, 26 States permitted Bible reading in schools and 13 permitted the recitation of the Lord's Prayer.

Mr. President, I note for the record that since the Senate's inception in the late 1700's, this Chamber has begun each day's activities by asking God's blessing. Yet, throughout this country, public school children are being denied that privilege.

This bill reinstates the individual's right to the free exercise of religion. It is based on the free exercise clause of the U.S. Constitution, which for some reason or other, the Supreme Court decided to either ignore or make subordinate to the establishment clause.

This bill directly confronts both the religious freedom and establishment clause issues. Specifically, my bill allows a parent or guardian representing a student who is being denied the right to participate in religious exercises, the right to bring a civil action in Federal or State district court.

Mr. President, as I reintroduce this legislation and commend its merits to my colleagues, I am more convinced than ever before that religious freedom must be preserved in order to protect our political freedoms.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 88

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Voluntary Prayer and Religious Meditation Act of 1981".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) America is a Nation founded on freedom;

(2) essential to freedom is the free exercise of the inalienable rights guaranteed to all by our Creator;

(3) in order to preserve such rights it is equally essential that the Constitution be broadly interpreted in matters of individual freedoms; and

(4) the free exercise of religious expression whether public or private is a fundamental freedom which should not be benignly denied in order to protect other freedoms equally fundamental.

(b) In order to secure the right of individuals to the free exercise of religion guaranteed by the first amendment of the Constitution, the Congress pursuant to its authority under the necessary and proper clause of section 8, article I of the Constitution, enacts the provisions of this title.

DEFINITION

SEC. 3. As used in this title—

(1) the term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands; and

(2) the term "voluntary prayer or religious meditation" includes individual prayer and devotional reading from religious literature initiated by members of the group, provided that any person so desiring is excused from participating in such prayer and devotional reading.

VOLUNTARY SCHOOL PRAYER AND RELIGIOUS MEDITATION RIGHT PROTECTED

SEC. 4. (a) Each individual shall have the right to participate in the free exercise of voluntary prayer or religious meditation in any public building or in any building which is supported in whole or in part through the expenditure of Federal funds.

(b) No department or agency of the United States, of any State, or of any political subdivision of a State, shall abridge the right of free exercise of voluntary prayer or religious meditation in any public bulding or any building which is supported in whole or in part through the expenditure of public funds.

CIVIL ACTIONS AUTHORIZED; JURISDICTION AND RELIEF

SEC. 5. (a) Any individual aggrieved by violation of this title may bring a civil action in the appropriate district court of the United States, or in any State court of competent jurisdiction, for damages or for such equitable relief as may be appropriate, or both.

(b) The district courts of the United States shall have jurisdiction of actions brought under this section without regard to the amount in controversy.

(c) Each district court of the United States, and each State court of competent jurisdiction, shall provide such equitable relief, including injunctive relief, as may be appropriate to carry out the provisions of this title.

(d)(1) It shall be the duty of the chief judge of the district (or in his absence, the acting chief judge) in which the case is pending immediately to designate a judge in such district to hear and determine the case. In the event that no judge in the district is available to hear and determine the case, the chief judge of the district, or the acting chief judge, as the case may be, shall certify this fact to the chief judge of the circuit (or in his absence, the acting chief judge), who shall then designate a district or circuit judge of the circuit to hear and determine the case.

(2) It shall be the duty of the judge designated pursuant to this subsection to assign the case for hearing within thirty days of filing with the court. A hearing of the case must be held within one hundred and eighty days upon the proper filing of the case with the court.

SAVINGS PROVISION

SEC. 6. The provisions of this title shall supersede all the provisions of the Federal law that are inconsistent with the provisions of this title.

By Mr. HATCH:

S. 89. A bill to amend the Saccharin Study and Labeling Act; to the Committee on Labor and Human Resources.

SACCHARIN STUDY AND LABELING ACT AMENDMENT OF 1983

Mr. HATCH. Mr. President, I am pleased to introduce the Saccharin Study and Labeling Act Amendment of 1983. This bill extends for 24 months the existing congressionally mandated policy permitting the use of the artificial sweetener saccharin including the placement of warning labels on products containing saccharin. It also enables further study of the substance.

In the original Saccharin Study and Labeling Act, we made a commitment to examine the saccharin issue, and a large portion of this work has been completed. The preliminary results of an epidemiological study done by the National Cancer Institute and the Food and Drug Administration were announced in December 1979. The results can be interpreted to show that no increase in the risk of cancer can be linked to saccharin use. Nonetheless, let it be made clear that my endorsement of the extension of the moratorium is not to be interpreted as an endorsement of the view that studies to date have proven saccharin is safe for human consumption. Nor can any firm conclusion be drawn that saccharin is not safe. In this swirling pool of uncertainty, we must recognize that many people, including diabetics and others on specific diets, need a no-calorie or low-calorie substitute for sugar and that at the present time saccharin is the only noncaloric substance available for the full range of food products.

Further research is presently being conducted by the National Center for Toxicological Research and the International Research and Development Corporation. Among other things, they are examining questions raised in previous studies, particularly the relevance of past research findings on animals. We may all be assured that if these or any studies indicate the need to take action, the FDA already has the power to act to protect the public interest. The admirable record of FDA Commissioner, Dr. Arthur Hull Hayes, is reassurance that FDA would do so, and with dispatch.

In the meantime, industry should continue its effort to develop an alternative to saccharin. I am aware that such substitutes are in various stages of development. However, none are currently available for all uses, and none are likely to be made available before the expiration of the proposed extension of the moratorium.

Although an important issue in and of itself, the saccharin controversy is one illustration of the inflexible and inconsistent nature of our food safety laws. The National Academy of Sciences' review of these laws concluded that, * * * although complex in itself, the law is inadequate to meet changing and increasing problems of food safety." I am dedicated, along with my esteemed colleague Senator KENNEDY, to seeing the needed legislative examination and revision take place, so that ultimately saccharin can be considered within the framework of a working law, rather than on a product-by-product basis, as is now the case.

Therefore, I urge prompt consideration of the Saccharin Study and Labeling Act Amendment of 1983. Until alternatives are identified and become practical and available marketplace alternatives, or until saccharin is proven to be unsafe, we should all be allowed to make our own personal judgments whether or not we want to use it.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 89

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Saccharin Study and Labeling Act Amendment of 1983".

SEC. 2. Section 3 of the Saccharin Study and Labeling Act is amended by striking out "twenty-four months after the date of enactment of the Saccharin Study and Labeling Act Amendment of 1981" and inserting in lieu thereof "twenty-four months after the date of enactment of the Saccharin Study and Labeling Act Amendment of 1983".

By Mr. JEPSEN:

S. 90. A bill to amend the Internal Revenue Code of 1954 to allow the taxpayer the choice of a tax credit or a deduction for each household which includes a dependent person who is at least 65 years old; to the Committee on Finance.

HOME HEALTH CARE

Mr. JEPSEN. Mr. President, over the past few years we have seen a tremendous increase in the cost of health care in this country, As a result of these increases, there has been a call for different types of legislation to control health care costs in general and hospital costs in particular.

I believe that one of the most important steps we in Congress can take to help control health care costs is to encourage the use of home health care. Today, I am reintroducing a proposal I first introduced in the 97th Congress,

the Home Health Care Tax Incentive Act.

As you know, there has been some controversy over the cost-effectiveness of home health care. I should point out, however, that there does seem to be agreement that home health care is cheaper than a hospital or nursing home for many, if not most, people. The possible increased costs arise because more people can benefit from home health care than can currently be helped.

This seems to be a strange twist of logic. What we are saying is that even though home health care is cheaper and the elderly are better off in a home setting than an institutional setting, we will not promote home health care because we can help more people.

Before continuing, Mr. President, I should point out that I am not convinced that even by making these services available to more people we will necessarily be increasing the cost to the Federal Government. I believe there is so much to be saved that any increase realized by expansion will be offset by the savings achieved by getting people into the home and out of nursing homes or hospitals.

Now people should realize that home health care is not for everyone. Clearly there are people who could not benefit from home health care. But there is ample evidence that there are large numbers of people who are in nursing homes or hospitals who could more adequately be cared for at home—if the necessary services were available.

Some people might argue that these services are not available so what good does it do to talk about home health care. I do not accept this argument. In my home State of Iowa, there is an excellent home health care system. In fact, there is at least one home health care agency in all 99 counties in Iowa. The dedicated and highly skilled individuals who work in these agencies are providing an invaluable service to the elderly, disabled, and homebound of their areas. We in Washington should be doing everything in our power to make their services available to more and more people.

I realize, Mr. President, that not all States are as fortunate as Iowa, but I do believe that the services are available for the vast majority of the people in this country.

My bill, which provides a tax credit or tax deduction to a taxpayer who maintains a home with an elderly relative is an important step in the fight to increase Federal support for home health care. I believe we in Congress are going to have to realize the importance of home health care and begin taking steps to promote it.

As most of my colleagues know, the medicare program is facing a severe financial shortfall in the not-too-distant future. In fact, because of interfund borrowing to help the social security retirement trust fund, the shortfall may come sooner than many people had planned.

One way we can avoid this problem is to encourage the use of home health care services. My bill will provide a financial incentive for people to provide services in the home. Other Senators have also introduced legislation which will help insure that those services are available. I urge all my colleagues to take a serious look at home health care and support my bill when it comes before the Senate for debate and vote.

Mr. President, I ask unanimous consent that a copy of my bill appear in the RECORD immediately following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 90

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits against tax) is amended by inserting before section 45 the following new section:

"SEC. 44F. ELDERLY DEPENDENTS.

"(a) GENERAL RULE.—In the case of an individual who maintains a household which includes as a member a dependent who, as of the close of such individual's taxable year, has attained the age of 65, there shall be allowed, as a credit against the tax imposed by this chapter for the taxable year, a credit of $250.

"(b) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under a section of this subpart having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, and 43.

"(c) SPECIAL RULES.—For purposes of this section, the special rules set forth in paragraphs (1), (2), (3), and (4) of section 44A(f) shall apply with respect to the credit allowed by subsection (a).".

(b) Part VII of subchapter B of chapter 1 of such Code (relating to additional itemized deductions for individuals) is amended by redesignating section 221 as section 222 and by inserting after section 220 the following new section:

"SEC. 221. ELDERLY DEPENDENTS.

"(a) ALLOWANCE OF DEDUCTION.—In the case of an individual who maintains a household which includes as a member a dependent who, as of the close of such individual's taxable year, has attained the age of 65, there shall be allowed a deduction of $1,000.

"(b) SPECIAL RULES.—Paragraphs (1), (2), (3), and (4) of section 44A(f) shall apply with respect to the deduction allowed by subsection (a).

"(c) ELECTION TO TAKE CREDIT IN LIEU OF DEDUCTION.—This section shall not apply in the case of a taxpayer who, for the taxable year, elects to take the credit against tax provided by section 44F (relating to elderly dependents). The election shall be made in such manner and at such time as the Secretary shall prescribe.".

(c)(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting immediately after the item relating to section 44C the following new item:

"Sec. 44F. Elderly dependents.".

(2) The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 221. Elderly dependents.

"Sec. 222. Cross references.".

(3) Section 6096(b) of such Code (relating to designation of income tax payment to Presidential Election Campaign Fund) is amended by striking out "and 44E" and inserting in lieu thereof "section 44E, and section 44F".

(d) The amendments made by this Act shall apply with respect to taxable years beginning after December 31, 1983.

By Mr. JEPSEN:

S. 91. A bill to direct the Secretary of the Army, acting through the Chief of Engineers, to carry out a waters resources development project on, and along, a certain segment of the Des Moines River, Iowa.

DES MOINES RIVER RECREATION AND GREENBELT AREA

Mr. JEPSEN. Mr. President, it is my pleasure to once again introduce a bill to create a recreation and greenbelt area along the Des Moines River in central Iowa.

This area includes almost 35,000 acres of land, stretching 169 miles along the Des Moines River in Marion, Polk, Dallas, Boone, and Webster Counties. Adjacent counties will also receive benefit from this much needed project.

I feel it important to note that existing Federal lands will be used in this project with some additional purchases. These purchases will be voluntary; no land will be condemned under this legislation.

The legislation provides for an advisory committee, including Federal, State, and local officials.

The benefits from an area such as this are many. It will provide educational opportunities for young and old, and places for families to go to enjoy and learn about nature.

The area will also provide an ideal wildlife habitat and a place where trees, wild flowers, and other indigenous vegetation can grow for future generations to enjoy.

In closing, the Des Moines River Recreational and Greenbelt Area will provide a unique opportunity for people in a State which has no sizable national park or similar facility.

I urge my colleagues to support this worthwhile effort.

Mr. President, I ask unanimous consent that a copy of my bill appear in the RECORD immediately following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 91

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a)(1) the Secretary of the Army (hereafter in this Act referred to as the "Secretary"), acting through the Chief of Engineers, shall, after consultation with an advisory committee described in paragraph (2), carry out a water resources project for the development, operation, and maintenance of a recreation and greenbelt area on, and along the Des Moines River, Iowa, between the point at which the Des Moines River is intersected by United States Highway 20 to the point downstream at which relocated United States Highway 92 intersects the Des Moines River. Subject to subsections (b) and (c) of this section, such project shall include, but not be limited to—

(A) the construction, operation, and maintenance of recreational facilities and streambank stabilization structures;

(B) the operation and maintenance of all structures constructed before the date of enactment of this Act (other than any such structure operated and maintained by any person under a permit or agreement with the Secretary) within the area described in the Des Moines Recreational River and Greenbelt map and on file with the Committee on Environment and Public Works of the Senate;

(C) such tree plantings, trails, vegetation, wildlife protection and development, and other activities as will enhance the natural environment for recreational purposes; and

(D) the prohibition or limitation by the Secretary of the killing, wounding, or capturing at any time of any wild bird or animal in such areas as may be directed by the Secretary. The Secretary is empowered to enforce clause (D) of the preceding sentence and any rule or regulation promulgated pursuant thereto. The Secretary may delegate such enforcement authority to such Federal, State, and local agencies as the Secretary deems appropriate to accomplish the purposes of this section.

(2) The advisory committee referred to in paragraph (1) is a committee constituted of individuals appointed by the Governor of Iowa, by the board of supervisors of affected counties in Iowa, by the mayor of the city of Des Moines, and by the mayor of each incorporated municipality within whose boundaries a portion of such recreation area lies, and of three officers or employees of the Corps of Engineers designated by the Secretary.

(b) The construction and maintenance of structures and plant and husbandry activities referred to in subsection (a) of this section shall be conditioned upon the ownership by the United States of the land or interests therein necessary for such purposes.

(c) In carrying out the project described in subsection (a) of this section, the Secretary may acquire by purchase, donation, exchange, or otherwise such land and interest therein as the Secretary determines are necessary to carry out such project. If the Secretary purchases any land or interest therein from any State or local agency, he shall not pay more than the original cost paid by such State or local agency for such land or interest therein. No land or interest therein may be acquired by the United States to carry out such project without the consent of the owner and nothing herein shall constitute an additional restriction by an owner upon the use of any land or any interest therein which is not owned by the United States.

(d) Notwithstanding any other provision of law, the Federal share of the project to be carried out pursuant to this section shall be 100 per centum of the cost of the project.

(e) There are authorized to be appropriated to carry out this section $6,000,000.

By Mr. HATCH:

S. 93. A bill to repeal the provisions of the Federal Food, Drug, and Cosmetic Act which prohibit the use in labeling or advertising of representations concerning the approval of drugs and devices under such act; to the Committee on Labor and Human Resources.

FDA APPROVAL STATUS AMENDMENT OF 1983

Mr. HATCH. Mr. President, today I am introducing the FDA approval status amendment of 1983.

This legislation would permit the labeling or advertising of marketed drugs and devices in a manner that would identify them as approved under the Food, Drug, and Cosmetic Act.

Presently, under section 301(l) of the Food, Drug, and Cosmetic Act, drug or device labeling and advertisements are prohibited from indicating the FDA's approval to market the product. Repeal of section 301(l) would permit drug manufacturers to give pharmacists, health practitioners and consumers a way of knowing which pharmacy products do or do not have FDA's stamp of approval.

In the past, determining whether a particular prescription drug has been approved by the FDA has been a perplexing and too often a difficult task for pharmacists. It ought to be reasonable to assume that every marketed drug is approved by the FDA, because of FDA's rigid surveillance requirements for premarket approval. Yet, the truth is that many nonapproved drugs and devices are readily available and are often sold unknowingly in reputable pharmacies.

Existing mechanisms, like the new drug code (NDC) or abbreviated new drug application (ANDA) designation do not serve as an indication of approval because these numbers only identify the product and firm and have nothing to do with approval of the product.

In summary, this legislation is on the side of both the public and responsible pharmacists by permitting labeling and advertising of market drugs and devices, to effectively reflect FDA's approval of the product. Both the FDA and the National Association of Retail Druggists support this legislation to amend the FDA Act. I ask my colleagues' support for this bill. It is important yet noncontroversial.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 93

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Food and Drug Administration Approval Status Amendment of 1983".

SEC. 2. Section 301(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(1)) is repealed.

By Mr. JEPSEN:

S. 94. A bill to establish a soil tilth center at Iowa State University; to the Committee on Agriculture, Nutrition, and Forestry.

ESTABLISHMENT OF SOIL TILTH CENTER

Mr. JEPSEN. Mr. President, new statistics are beginning to reveal that the deterioration of agricultural land quality, coupled with loss of land quantity, could be so great in the next few years that what once seemed like this country's almost infinite ability to produce food and fiber for the world may become limited.

My home State of Iowa produces 20 percent of the Nation's corn crop and nearly 15 percent of the soybean crop. The average annual soil loss per acre is nearly 10 tons—twice the level at which topsoil and nutrients can be replaced through natural processes.

While erosion levels have increased, the money necessary for adequate soil conservation research has declined. Thus, while the USDA has gathered data proving the extent of erosion loss, it lacks research facilities capable to develop the necessary technology to halt that loss.

The bill I am introducing today, to establish a soil tilth center at Iowa State University in Ames, Iowa, will require the center to conduct research related to the development of practices that can help maintain and improve the soil tilth.

Soil tilth is a qualitative term used to describe the condition of the soil related to plant growth and water movement. Good soil tilth helps to prevent erosion, while poor soil tilth frequently reduces crop yields by preventing plants from utilizing all the nutrients and moisture available in the soil.

Soil tilth deterioration is a major factor in a number of problems. Scientists at such a center would be able to study the following areas:

The effects of intensive intertilled crop production upon soil tilth, soil structure, soil characteristics, and productive capacity;

The effect of intensive grain production upon the seedbed environment;

The potential loss of productive capacity, soil tilth deterioration, and soil and water losses due to intensive corn and soybean production;

The impact of improved management and cultural practices on nonpoint source pollution from corn and soybean land, as well as studying the more effective use of plant nutrients and soil moisture; and

Alternative tillage systems that will result in improved soil tilth for continued crop production, reduce reliance on chemical pesticides, reduce energy requirements, and maintain or improve crop yields.

Our midwestern farmlands, the lands which allowed the Midwest to earn the label, the "breadbasket" of the world, must be preserved and improved so that our future food and fiber needs can be efficiently produced. As early as 1959, leading soil scientists and the Congress recommended, in Senate Document 59, that a soil tilth center should be established at a land-grant university in the Corn Belt. The report suggested that:

> More information is badly needed to determine the effect of contour listing, level terraces, and other conservation practices on runoff and sediment yield.

The report continued that:

> The relation of the structural attributes of the soil to water intake, soil and water losses, tillage practices, and crop production have particular significance in this area, where the intensive intertilled cropping patterns leave the land exposed to erosion during critical periods.

The report concluded that:

> If scientists could develop practical methods of exerting a real control over the tilth of soils, many critical problems of farm and watershed conservation could be met with less costly measures than are now available . . . at the present time, progress in research on soil tilth is seriously hampered by lack of a basic understanding of the nature of the forces involved in holding soil particles together is a stable crumb structure.

Mr. President, research at the soil tilth center would result in new technology that would be available immediately for application on farms and other areas through the Soil Conservation Service and the Extension Service.

The center would be national in scope, with particular emphasis on midwest corn and soybean soils. Iowa has the largest amount of intertilled acres of any State in the United States, and its soils are therefore most representative of such midwest soils. Specifically, the center would fulfill research needs for the Corn Belt and the eastern Great Plains. Senate Document 59 agreed that the facilities needed to conduct the proposed research in such a soil tilth center should include: Offices, laboratories, greenhouses, plant-growth rooms, soil bins, a machinery shop, storage area, and a location for field plot experiments.

These highly specialized facilities exceed the present financial capabilities of existing individual State research units. Construction costs for such a facility are estimated at $12.5 million. Scientists from the USDA's Science and Education Administration soil and water management unit at Ames near the university are already working on a related soil and tillage problem, and would be able to provide a nucleus for building a strong tilth research program.

Mr. President, when soil conservation hearings were held on behalf of the Senate Agriculture Committee last summer in Iowa, many soil conservation experts testified that increased research needs are a top priority. In addition, my office recently sent a questionnaire to several thousand Iowa farmers, asking them which of several conservation policy options they preferred. Over 70 percent of the questionnaires tallied to date have agreed that an expanded research program to develop more effective soil and water conservation measures is a top priority.

Even though the United States has the best technology in the world, the best fertilizers, herbicides, and the most modern equipment, the basic and most important ingredient for providing abundant food to feed a hungry world is good soil.

The construction and operation of the soil tilth center that I am proposing today will be a significant step toward preserving our Nation's good top soil.

Mr. President, I ask unanimous consent that a copy of my bill appear in the RECORD immediately following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 94

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of Agriculture shall establish a soil tilth center (hereinafter referred to as "the center") at Iowa State University in Ames, Iowa.

(b) The purpose of the center shall be—

(1) to develop the technology needed to preserve and improve the usefulness and productivity of agricultural lands in the United States; and

(2) to conduct research concerned with—

(A) the basic understanding of the complex interactions of the physical, chemical, and biological factors of soil tilth; and

(B) the development of practices that can be used to maintain and improve soil tilth.

(c) There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act, including the construction of the center and the conduct of research at the center. Of the amounts authorized pursuant to the preceding sentence, not more than $12,500,000 may be appropriated for the construction of the center.

By Mr. FORD:

S. 97. A bill to amend the Railroad Unemployment Insurance Act to provide supplemental unemployment benefits to certain employees with less than 10 years of service; to the Committe on Labor and Human Resources.

SUPPLEMENTAL UNEMPLOYMENT BENEFITS FOR CERTAIN RAILROAD EMPLOYEES

Mr. FORD. Mr. President, on behalf of myself, Senator DIXON, Senator HEINZ, Senator HATCH, Senator HUDDLESTON, Senator RIEGLE, Senator LEVIN, Senator BURDICK, Senator SARBANES, Senator MELCHER, and Senator GLENN, I am today introducing legislation to amend the Railroad Unemployment Insurance Act to provide supplemental benefits to certain railroad employees with less than 10 years of service. This bill is a simplified version of the amendment Senator DIXON and Senator HEINZ joined with me in introducing in the last Congress to extend Federal supplemental compensation benefits to these workers. Currently, these workers are entitled to only a basic 26 weeks of unemployment benefits because Congress unintentionally eliminated the 13 weeks of extended benefits for these workers with provisions in the Omnibus Budget Reconciliation Act of 1981.

Unlike our previous amendment, the former maximum 10 weeks of benefits is now automatic and the duration of benefits is no longer tied to the insured unemployment rate (IUR). Estimates by the Congressional Budget Office indicate that the IUR will be at 5.5 percent through the end of March 1983, and at 5.4 percent for the period of April 1 through June 30, 1983. Because the maximum number of weeks of benefits awarded under the original Federal supplemental compensation program was based on an IUR of 4.5 percent, and CBO estimates that IUR will not fall below 5.4 percent before the expiration of this bill on June 30, 1983, we have simplified our bill to automatically provide the maximum number of weeks of benefits for all eligible railroad workers with less than 10 years service. However, no benefits will be paid after June 30, 1983.

In the meantime, these unemployed workers who have exhausted their benefits are facing the prospect of continued unemployment during a time when the national unemployment rate is a staggering 10.8 percent.

Congress has recognized the hardship facing unemployed workers in the general economy who find it impossible to return to work in these times of record high unemployment. For those workers in the general economy who have exhausted their basic 26 weeks of benefits, and their 13 weeks of extended benefits, Congress originally

provided up to 10 weeks of Federal supplemental benefits, and included in the motor fuels tax legislation up to an additional 6 weeks of supplemental benefits. In establishing and expanding the Federal supplemental compensation program, Congress recognized that in these times of high unemployment, those workers who had exhausted their regular benefits under the Federal-State unemployment benefit system, had an urgent need for supplemental benefits.

Mr. President, railroad workers with less than 10 years of service, who have exhausted their basic benefits under the Railroad Unemployment Insurance Act, have no less urgent a need for supplemental benefits. In fact, it could be argued that since these railroad workers lost their 13 weeks extended benefits, they have an even greater need for supplemental benefits.

The bill we are introducing today addresses this need. It is a simplified version of the amendment Senator DIXON, Senator HEINZ, and I offered last Congress to the continuing resolution, which failed by only one vote. This bill will provide railroad workers with less than 10 years of service, who meet certain eligibility requirements, an automatic 10 weeks, 50 days, of Federal supplemental compensation. These benefits will be payable only through June 30, 1983, the end of the benefit year as provided under the Railroad Unemployment Insurance Act.

Mr. President, railroad workers with less than 10 years of service, who have exhausted their basic benefits have been overlooked by Congress. They have the same need as workers in the general economy. Congress has twice recognized that need and has acted to assist those workers by providing Federal supplemental benefits. We must also provide supplemental benefits to unemployed railroad workers with less than 10 years of service. I hope we will be able to move expeditiously on this matter and I urge my colleagues to join me in supporting this legislation.

Mr. HEINZ. Mr. President, the legislation that Senator FORD and I are introducing today is designed to address a fundamental inequity in prior congressional action to provide supplemental unemployment benefits to unemployed workers which has had serious consequences for those railroad workers who have lost their jobs in the course of our current recession. Simply put, every other worker eligible for unemployment benefits is eligible for supplemental benefits, based on insured unemployment rates in individual States. However, railroad workers with less than 10 years seniority can only receive a maximum of 26 weeks of benefits.

Unemployed railroad workers are not covered by the regular unemployment system. Their benefits are paid by the Railroad Retirement Board through a special unemployment account. In past recessions, unemployed railroad workers received extended benefits when the national trigger was "on." However, in the 1981 Economic Recovery Tax Act, the national trigger was eliminated, and extended benefits became payable on a State-by-State basis. In effect, elimination of the national trigger meant that unemployed railroad workers would not receive any further relief, no matter now severe the recession.

Because unemployed railroad workers are covered by the Railroad Retirement Board program, railroad workers received no relief from the two supplemental benefit amendments approved during the 97th Congress.

Over 70,000 railroad workers have been laid off since this recession began. Food bills and mortgages, school tuition and car payments, and doctor's bills and rent payments continue to come due. Unemployed railroad workers are continuing to exhaust their benefits. They are in desperate need of the relief this legislation will provide.

When the economy does begin to recover, railroads are going to require these trained workers back on the job. If workers are forced to uproot their families, leave their homes, and seek work in another part of the country, the economic recovery will not be vigorous in the hardest hit sections of our Nation where it is needed the most.

Until the economy gets moving again, we will need legislation to help our unemployed workers to meet their needs during this period. The Congress has already provided relief for other workers in the Nation. The time is past due to extend the same relief to workers in the railroad industry.

Mr. President, our legislation is not complex. It provides for 10 weeks of supplemental benefits to unemployed railroad workers with less than 10 years seniority. The benefits will be paid by the Railroad Retirement Board. Our legislation proposes that general revenues be provided to the board to meet the costs of the supplemental benefits and administration. The Labor Department estimates the cost of the program, which expires on June 30, 1983, at $125 million.

I urge my colleagues to give this legislation their careful consideration.

By Mr. BOSCHWITZ:

S. 98. A bill to amend the Internal Revenue Code of 1954 to provide for the establishment of enterprise zones; to the Committee on Finance.

ENTERPRISE ZONE EMPLOYMENT AND DEVELOPMENT ACT

Mr. BOSCHWITZ. Mr. President, today I am introducing S. 98, the Enterprise Zone Employment and Development Act, legislation which I believe responsibly deals with the problems of joblessness by enlisting the help of the private sector.

I am introducing this legislation with both a sense of optimism and a sense of resolve. I am optimistic because last night the President of the United States called upon the Congress to enact enterprise zone legislation as one of his top priorities in the 98th Congress. I am resolved because of my commitment to the concept of enterprise zones and my belief that the concept will work.

Since I first introduced this bill in the Senate over 2 years ago, the response has been excellent. Of course, not everyone has supported each and every provision, but most have eagerly welcomed the concept.

Each year the bill has been refined with the help of business groups, local governments, and urban groups. And each year the bill has improved. Last year the Senate Finance Committee reported enterprise zone legislation that incorporated most of the key elements of the legislation that 28 of my colleagues cosponsored.

I believe that the bill reported by the Finance Committee is a good piece of legislation, but I view that bill as only the starting point. My legislation adds an important new incentive to encourage investors to invest in small businesses that locate in enterprise zones. We should also explore other incentives—such as a "capital gains rollover" for investing in enterprise zone businesses, coordination with jobs training programs, incentives for investment by community investment groups, employee stock ownership incentives, and other incentives.

In simple terms, the supporters of enterprise zones view the problem of joblessness like this: There are no jobs because there are not enough opportunities in the areas that need them the most. Enterprise zones would encourage job creation through a Federal/local package of tax breaks and other incentives for businesses which locate in a designated zone.

There are many problems faced by businesses wishing to locate in enterprise zones that cannot be corrected by the Federal Government alone. Such problems as crime, weak infrastructure support, and city taxes remain barriers to business development. These serve as a double whammy when you consider that a prospective business already faces the

usual problems of tax burdens, startup capital and technical expertise.

The legislation addresses these problems by combining incentives provided by the Federal Government with those of local governments. That an area shows signs of high-unemployment, poverty, or outmigration, is not enough to qualify for an enterprise zone designation. The local government must also assemble a package of tax and other incentives that meet the particular problems of the area. Moreover, the award of an enterprise zone will be granted on a competitive basis to test local commitment. That could include any number of things, such as improved infrastructure support, reduction of local taxes, relaxation of local regulations, managerial assistance, and technical help.

These local contributions are then matched by Federal tax breaks, such as the elimination of capital gains taxes for business investment in the area, significant reductions in income taxes, and tax credits for wages paid to previously unemployed workers. This local/Federal package addresses the problems that all small business face, as well as the particular problems of a business located in a depressed area.

This legislation is aimed primarily at small businesses because they create the vast majority of new jobs. In the past 10 years nearly 20 percent of new private-sector employment has come from businesses with 20 or fewer employees. Eighty percent of new jobs have been created by businesses with less than 100 employees.

My faith in business goes deeper than statistics. My experience as a businessman has shown me that small businesses offer an increased opportunity for rapid advancement when compared with larger corporations. People at the lower end of the wage scale are not so easily lost in the shuffle. The small businessman is far more involved with the lives of his employees. A worker's qualities, problems, family, and ambitions do not easily escape the boss' notice. Getting in on the ground floor of a small business is a very effective method of advancement, but most importantly, it is a stark contrast from welfare.

But, to get in on the ground floor, a small business must first have a foundation—and that foundation is startup capital. My legislation includes a provision to generate that startup capital by giving investors an incentive—called equity expensing—to purchase stock in an enterprise zone business. "Equity expensing" works much like an Individual Retirement Account, IRA. An investor can expense—write-off—up to $100,000 a year of the amount paid to buy stock in an enterprise zone small business having a net worth of less than $2 million. Like an IRA, the investor must pay tax when he gets his investment back—in this case by selling the stock. Because "equity expensing" only defers taxes, it is a strong incentive to keep the capital invested, as well as an incentive to make the initial investment. Combined with the other incentives in the bill, small businesses will have good reasons to locate in an enterprise zone.

Our Nation long ago accepted the responsibility of taking care of those who cannot take care of themselves. We have spent a lot of money doing just that. Unfortunately, we have not been as wise as we have been generous in meeting this responsibility. Today, our social welfare obligations cost the Government nearly half of the Federal budget. One economist estimates that if we would just give to the poor all the money we spend on programs for them, we would raise all Americans above the poverty level.

Clearly we need a new approach in assisting our poor and jobless. The current antipoverty programs do provide crucial services but they do not, on their own, appear to achieve any lasting good. They are for the most part stopgap policies that address the symptoms but not the causes of poverty. They have failed to provide any meaningful opportunity for advancement.

In fact, the present system has trapped many of our poor in a self-perpetuating cycle of poverty. Instead of offering the poor a chance to pull themselves and their families out of poverty, the present programs unwittingly trap recipients in a self-perpetuating quagmire of poverty from which even the most enterprising have trouble emerging.

The answer is not spending more Government money. The answer is jobs—jobs in the private sector. Although that remedy is easily prescribed, the method toward that cure is not. One means is through enterprise zones, a concept that deals with joblessness by enlisting the help of the private sector.

I do not contend that enacting enterprise zone legislation alone will bring the unemployment rate from its current level of over 10 percent, down to 6 percent. But it can and should be part of the solution.

I urge my colleagues to study this legislation carefully and join me in enacting enterprise zone legislation early this year.

At this point, Mr. President, I ask unanimous consent that a factsheet and a more detailed explanation of the background on enterprise zones be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BACKGROUND ON THE ENTERPRISE ZONE EMPLOYMENT AND DEVELOPMENT ACT OF 1983

I. DESIGNATION

Designation must be requested by both local and state governments, approved by HUD in consultation with Agriculture, Commerce, Labor, Treasury, OMB, SBA, and in the case of Indian reservations, Interior.

Designation "period" begins January 1, 1984 and goes for 3 years, maximum of 25 approved per year.

At least one-third of the zones must be in rural areas.

HUD, by regulations, will prescribe what is in the plan.

Once approved, the EZ designation is in effect for 24 years (most of the tax provisions phase out in years 21-24).

Areas must have 4,000 population if in SMSA; 2,500 otherwise and be UDAG eligible.

Area must have one of the following: (1) average unemployment 1½ times the national average in the previous 12 months; (2) 20 percent or more of the population at or below the poverty level; (3) 70 percent or more of the population have incomes below 80 percent of the area media income; and (4) population decline of at least 20 percent between 1970 and 1980.

Preference will be given to plans with the strongest and highest quality contribution (taking into account the area's and state's fiscal situation), to plans which stimulate primarily new economic activity and minimize unnecessary tax losses, to plans with substantial private commitments (such as for job training) and those which best exhibit other factors to be determined by the Secretary of HUD to be consistent with the intent of EZs and important to minimizing unnecessary loss of tax revenues.

II. 10 PERCENT TAX CREDIT FOR EMPLOYERS

Employers can take a 10 percent tax credit on wages paid to employees.

Wages are defined as the amount in excess of what was paid to the individual employee in the 12 months prior to zone designation (so that if an employee earned $10,000 in the previous year and earned $12,000 in the first year of zone designation, the credit to the employer will be 10 percent of $2,000. For new employees, the credit can be applied to the full wages, up to the maximum).

The maximum wage to which the credit can be applied is 2½ times the FUTA wage base (2.5 x $6,000 = $15,000).

Employees are defined as individuals, 90 percent of whose work is directly related to the EZ business and 50 percent of whose work is physically within the zone.

Employers cannot take the credit for employees already under the Targeted Jobs Tax Credit or Work Incentive Program.

Wages to which the credit is applied are reduced by the amount of other tax credits taken (such as the 50 percent tax credit described below, if applicable to that employee).

The employer's deduction for wages is reduced by the amount of credit taken.

The credit is available throughout the zone designation period and phases out in years 21-24 (7½% in year 21, 5% in year 22, 2½% in year 23, 0 in the 24th year).

III. EMPLOYERS' 50 PERCENT TAX CREDIT ON WAGES PAID TO DISADVANTAGED EMPLOYEES

Employers can take a 50 percent tax credit on wages paid to certain employees.

Employees are defined as individuals hired after the date of EZ designation and one of the following:

Economically disadvantaged (income in previous 6 months equal to or less than the dollar amount of AFDC plus Food Stamps available to unemployed persons in that state).

AFDC, SSI, General Assistant recipients and persons who would have been eligible for those benefits had they applied.

Employees must be certified as being one of the above by employment service agencies.

The employer must have the certificate or request the certificate on or before the date the individual is hired.

The credit applies to the full wage paid the employee each year, no maximum on wages.

The credit is 50 percent for the first 3 years the employee works, 40 percent for the 4th year, 30 percent for the fifth year, 20 percent for the 6th year, 10 percent for the 7th year, then 0.

The employer must pay back all of the credit taken if the employee is "terminated" within the first 270 days the employee worked whether or not consecutive) or within the first 270 calendar days after the day in which the employee completes 90 days of work.

The employer does not have to pay back the credit if termination is due to misconduct (as determined by the State Unemployment Compensation law) or a substantial reduction in the trade or business of the employer, or if employee quits or becomes disabled.

The available credit is reduced by 25 percent in the 21st year of zone designation, 50 percent in the 22nd, 75 percent in the 23rd, 100 percent thereafter.

IV. ADDITIONAL INVESTMENT TAX CREDIT (ITC)

An EZ business gets an additional 5 percent ITC for investing in zone personal property (3-year and 5-year property under ACRS) and an additional 10 percent for new zone construction (newly constructed or rehabilitated buildings, including rental property).

The additional ITC is available only if the property is (1) predominantly used in the zone; (2) purchased after designation as a zone; and (3) is not acquired from relatives or related corporations.

The amount of additional ITC reduces the basis in the asset thus increasing the gain when sold. A portion of the ITC is recaptured if the property is sold. A portion of the ITC is recaptured if the property is sold before the end of its "useful life"—like other ITC law.

V. CAPITAL GAINS TAX ELIMINATION

No capital gains tax is imposed on the sale of property acquired after the EZ designation and used in EZ business.

Property defined as: (1) tangible personal property used predominantly in EZ business; (2) real property located in the EZ and used predominantly in active conduct of EZ business; or (3) any interest in a business that has been an EZ business for at least 3 years, or for such part of 3 years as the business has been in existence or the zone has been designated. (This section is meant to discourage businesses in other areas from moving to EZs—they couldn't take advantage of capital gains tax elimination for 3 years, but new businesses could).

EZ business is one with substantially all tangible assets in the zone and 80 percent of gross receipts attributable to active conduct of trade or business.

This provision remains in effect until first sale of property after EZ ceases to exist.

VI. MINIMUM TAX EXCLUSION

Minimum tax shall not apply to capital gains income for EZ property.

VII. CARRYFORWARD PERIOD

Period extended to life of the zone or 15 years, whichever is longer (would apply to businesses that start up in year 10 or beyond).

VIII. SMALL ISSUE INDUSTRIAL DEVELOPMENT BONDS

Current IDB law limits the deduction for depreciation under ACRS for IDB-financed property and eliminates small issue IDBs in 1987. The bill removes the limits on depreciation, and retains IDB financing for EZ property, even in 1987.

IX. EQUITY EXPENSING

Investors can expense (write-off) up to $100,000 a year of the amount paid to purchase stock originally issued by an EZ business.

A zone business must meet the 80 percent gross receipts test above, and have a net worth of less than $2,000,000 (including related corporations).

Equity expensing only defers taxes—when the stock is sold, the investor must include the amount initially expensed (written-off) as income. If the stock is sold within 3 years of the purchase date, the investor must pay a penalty.

If the business ceases to be a qualified EZ business within four years from the date the stock was purchased, the investor must include the amount initially expensed (written-off) as income and pay a penalty. This discourages "sham" businesses set up in EZ's just to get the tax benefits.

There is no tax on the capital gain when the stock is sold. Only the amount initially expensed (written-off) is taxed as ordinary income.

X. TAX SIMPLIFICATION

Sense of Congress that IRS should in every way possible simplify the administration and enforcement.

XI REGULATORY FLEXIBILITY

For purposes of the Regulatory Flexibility Act (relating to simplifying regulations for small businesses) an EZ business is a small business.

XII. WAIVER OR MODIFICATION OF REGS

Upon written request of local and state governments, an agency (federal) may waive or modify their regulations.

Agency shall weigh the extent to which the proposed change is likely to further job creation, community development or economic revitalization within the zone against the effect the change is likely to have on the underlying purposes of the applicable statutes, and approve the waiver or modification whenever the first consideration (job creation, etc.) outweighs the second.

The agency shall not approve the waiver or modification if it constitutes a violation of explicit, applicable statutory requirements or is likely to endanger the public health or safety including (but not limited to) subjecting any employee to dangerous or oppressive working conditions.

Cannot waive or modify any rule designed to protect any person or group against discrimination because of race, color, religion, sex or marital status, national origin, age or handicap.

Agencies will decide whether to approve the requested change within 90 days.

Agencies may request public comment on proposed change, but are not required to (they must under current law) but do have to publish the final change in the Federal Register.

XIII. FOREIGN TRADE ZONES

EZ applications as Foreign Trade Zones will be on a priority basis and processing will be expedited.

FACTSHEET—ENTERPRISE ZONE EMPLOYMENT AND DEVELOPMENT ACT, INTRODUCED JANUARY 26, 1983

A. AREA REQUIREMENTS

1. State and local government jointly must request designation of the area.

2. Area's population must be at least 4,000 if located within Standard Metropolitan Statistical Area of at least 50,000; area population must be 2,500 for other areas; Indian reservations are exempt from population requirements.

3. Area must be UDAG (including pockets-of-poverty) eligible.

4. Area must meet one of the following criteria:

a. unemployment over past year of at least one-half times the national average;

b. at least 20 percent of the population at or below the poverty level;

c. 70 percent of residents have income below 80 percent of the area median income;

d. population decline of at least 20 percent between 1970 and 1980.

5. Must submit a plan to HUD detailing local and state efforts to reduce various burdens borne by employers and employees

B. DESIGNATION BY HUD

1. Up to 25 zones per year for 3 years;

2. preference will be given to areas showing the greatest distress, which have the greatest community support and which submit the best plans (including economic incentives given by state, county and local governments);

3. at least one-third of the zones designated must be in rural areas.

C. BENEFITS AVAILABLE TO BUSINESS AND INVESTORS IN IT

1. An investor can expense (write-off) up to $100,000 a year paid to purchase stock in a zone small business with net worth of up to $2 million;

2. 10 percent tax credit for the increase in wages paid to all zone employees each year, up to a wage of $15,000 (full amount for new employee);

3. additional 50 percent tax credit for all wages paid to disadvantaged employees who work in zone;

4. elimination of the capital gains tax for all the new businesses and investors in them;

5. a package of local and state benefits as designed by each area when they bid to get Enterprise Zone designation;

6. extension of loss carryover to life of zone designation (24 years);

7. property financed by tax-exempt bonds (IDBs) is not subject to restrictions on depreciation, i.e., the property can be depreciated under normal accelerated depreciation rules.

D. REDUCED REGULATORY BURDEN

1. At the request of state and local government, a federal agency may waive or modify non-statutory regulations;

2. does not apply to regulations which protect civil rights or the health or safety of employees.

S. 98

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1954 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Enterprise Zone Employment and Development Act of 1983".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

TITLE I—DESIGNATION OF ENTERPRISE ZONES

SEC. 101. DESIGNATION OF ZONES.

(a) GENERAL RULE.—Chapter 80 (relating to general rules) is amended by adding at the end thereof the following new subchapter:

"Subchapter C—Designation of Enterprise Zones

"Sec. 7871. Designation.

"SEC. 7871. DESIGNATION.

"(a) DESIGNATION OF ZONES.—

"(1) ENTERPRISE ZONE DEFINED.—For purposes of this title, the term 'enterprise zone' means any area—

"(A) which is nominated by one or more local governments and the State or States in which it is located for designation as an enterprise zone (hereinafter in this section referred to as a 'nominated area'), and

"(B) which the Secretary of Housing and Urban Development, after consultation with—

"(i) the Secretaries of Agriculture, Commerce, Labor and the Treasury, the Director of the Office of Management and Budget, and the Administrator of the Small Business Administration, and

"(ii) in the case of an area on an Indian reservation, the Secretary of the Interior,

designates as an enterprise zone.

"(2) LIMITATIONS ON DESIGNATION.—

"(A) PUBLICATION OF REGULATIONS.—Before designating any area as an enterprise zone, the Secretary of Housing and Urban Development shall prescribe by regulation, after consultation with the officials described in paragraph (1)(B)—

"(i) the procedures for nominating an area under paragraph (1)(A),

"(ii) the parameters relating to the size and population characteristics of an enterprise zone, and

"(iii) the manner in which nominated areas will be compared based on the criteria specified in subsection (d) and the other factors specified in subsection (e).

"(B) TIME LIMITATIONS.—The Secretary of Housing and Urban Development may designate nominated areas as enterprise zones only during the 36-month period beginning on the later of—

"(i) the first day of the first month following the month in which the effective date of the regulations described in subparagraph (A) occurs, or

"(ii) January 1, 1984.

"(C) NUMBER OF DESIGNATIONS.—

"(i) IN GENERAL.—The Secretary of Housing and Urban Development may not designate more than 25 nominated areas as enterprise zones during—

"(I) the 12-month period beginning with the first day of the 36-month period described in subparagraph (B), and

"(II) each of the two following 12-month periods.

"(ii) MINIMUM DESIGNATION IN RURAL AREAS.—Of the areas designated under clause (i), at least one-third (but not in each 12-month period) must be areas—

"(I) which are within a local government jurisdiction or jurisdictions with a population of less than 50,000 (as determined under the most recent census data available) and which are determined by the Secretary of Housing and Urban Development, after consultation with the Secretary of Commerce, to be rural areas; or

"(II) which are outside of a standard metropolitan statistical area (within the meaning of section 103A(l)(4)(B)).

"(D) PROCEDURAL RULES.—The Secretary of Housing and Urban Development shall not make any designation under paragraph (1) unless—

"(i) the local government and the State in which the nominated area is located have the authority—

"(I) to nominate such area for designation as an enterprise zone,

"(II) to make the State and local commitments under subsection (d), and

"(III) to provide assurances satisfactory to the Secretary of Housing and Urban Development that such commitments will be fulfilled,

"(ii) a nomination therefor is submitted in such manner and in such form, and contains such information, as the Secretary of Housing and Urban Development shall by regulations prescribe,

"(iii) the Secretary of Housing and Urban Development determines that any information furnished is reasonably accurate, and

"(iv) the Secretary of Housing and Urban Development determines that no portion of the area nominated is already included in an enterprise zone or in an area otherwise nominated to be an enterprise zone.

"(3) NOMINATION PROCESS FOR INDIAN RESERVATIONS.—In the case of a nominated area on an Indian reservation, the reservation governing body (as determined by the Secretary of the Interior) shall be deemed to be both the State and local government with respect to such area.

"(b) PERIOD FOR WHICH DESIGNATION IS IN EFFECT.—

"(1) IN GENERAL.—Any designation of an area as an enterprise zone shall remain in effect during the period beginning on the date of the designation and ending on the earliest of—

"(A) December 31 of the 24th calendar year following the calendar year in which such date occurs,

"(B) the date designated by the approving State and local governments as set forth in their nomination application, or

"(C) the date the Secretary of Housing and Urban Development revokes such designation under paragraph (2).

"(2) REVOCATION OF DESIGNATION.—The Secretary of Housing and Urban Development, after consultation with the officials described in subsection (a)(1)(B), may revoke the designation of an area if the Secretary of Housing and Urban Development determines that the local government or the State in which it is located is not complying substantially with the State and local commitments described in subsection (d).

"(c) AREA, ELIGIBILITY, ETC. REQUIREMENTS.—

"(1) IN GENERAL.—The Secretary of Housing and Urban Development may make a designation of any nominated area under subsection (a)(1) only if it meets the requirements of paragraphs (2), (3), and (4).

"(2) AREA REQUIREMENTS.—A nominated area meets the requirements of this paragraph if—

"(A) the area is within the jurisdiction of the local government,

"(B) the boundary of the area is continuous, and

"(C) the area—

"(i) has a population, as determined by the most recent census data available, of at least—

"(I) 4,000 if any portion of such area (other than a rural area described in subsection (b)(2)(C)(ii)(I)) is located within a standard metropolitan statistical area (within the meaning of section 103A (1)(4)(B)) with a population of 50,000 or greater, or

"(II) 2,500 in any other case, or

"(ii) is entirely within an Indian reservation (as determined by the Secretary of the Interior).

"(3) ELIGIBILITY REQUIREMENTS.—A nominated area meets the requirements of this paragraph if the Secretary of Housing and Urban Development determines that—

"(A) the area is one of pervasive poverty, unemployment, and general distress, and

"(B) the area is located wholly within an area which meets the requirements for Federal assistance under section 119 of the Housing and Community Development Act of 1974, as in effect on the date of the enactment of this section.

"(4) UNEMPLOYMENT, POVERTY, ETC. REQUIREMENTS.—A nominated area meets the requirements of this paragraph if—

"(A) the annual average unemployment rate (as determined by the most recent data available from the Bureau of Labor Statistics) was at least 1½ times the national average for the period to which such data relates,

"(B) the poverty rate (as determined by the most recent census data available) for each census tract, minor civil division, or census county division within the area was at least 20 percent for the period to which such data relates,

"(C) at least 70 percent of the households living in the area have incomes below 80 percent of the median income of households of the local government (determined in the same manner as under section 119(b)(2) of the Housing and Community Development Act of 1974), or

"(D) the population of the area decreased by 20 percent or more between 1970 and 1980 (as determined by the most recent census data available).

"(d) REQUIRED STATE AND LOCAL COMMITMENTS.—

"(1) IN GENERAL.—No nominated area shall be designated as an enterprise zone unless the local government and the State in which it is located agree in writing that, during any period during which the area is an enterprise zone, such governments will follow a course of action designed to reduce the various burdens borne by employers or employees in such area.

"(2) COURSE OF ACTION.—A course of action under paragraph (1) may be implemented by both such governments and private nongovernmental entities, may be funded from

proceeds of any Federal program, and may include, but is not limited to—

"(A) a reduction of tax rates or fees applying within the enterprise zone,

"(B) an increase in the level or efficiency of local services within the enterprise zone (particularly through experimentation with providing such services by nongovernmental entities),

"(C) actions to reduce, remove, simplify, or streamline governmental requirements applying within the enterprise zone, and

"(D) involvement in the program by private entities, organizations, neighborhood associations, and community groups, particularly those within the nominated area, including a commitment from such private entities to provide jobs and job training for, and technical, financial, or other assistance to, employers, employees, and residents of the nominated area.

"(e) PRIORITY OF DESIGNATION.—In choosing nominated areas for designation, the Secretary of Housing and Urban Development shall give special preference to the areas with respect to which the strongest and highest quality contributions described in subsection (d)(2) have been promised as part of the course of action, taking into consideration the fiscal ability of the nominating State and local governments to provide tax relief. The Secretary shall also give preference to—

"(1) the nominated areas with respect to which the strongest and highest quality contributions other than those described in subsection (d)(2) have been promised as part of the course of action,

"(2) the nominated areas with respect to which the nominating State and local governments have provided the most effective and enforceable guarantees that the proposed course of action under subsection (d) will actually be carried out during the period of the enterprise zone designation,

"(3) the nominated areas with high levels of poverty, unemployment, and general distress, particularly the areas—

"(A) which are near areas with concentrations of disadvantaged workers or long-term unemployed individuals, and

"(B) with respect to which there is a strong likelihood that residents of the area described in subparagraph (A) will receive jobs if the area is designated as an enterprise zone,

"(4) the nominated areas the size and location of which—

"(A) will primarily stimulate new economic activity, and

"(B) minimize unnecessary tax losses to the Federal Government,

"(5) the nominated areas with respect to which private entities have made the most substantial commitments in additional resources and contributions, including the creation of new or expanded business activities, and

"(6) the nominated areas which best exhibit such other factors determined by the Secretary of Housing and Urban Development as are—

"(A) consistent with the intent of the enterprise zone program, and

"(B) important to minimizing the unnecessary loss of tax revenues to the Federal Government.

"(f) DEFINITIONS.—For purposes of this section—

"(1) GOVERNMENTS.—If more than one government seeks to nominate an area as an enterprise zone, any reference to, or requirement of, this section shall apply to all such governments.

"(2) STATE.—The term 'State' shall also include Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands and any other possession of the United States.

"(3) LOCAL GOVERNMENT.—The term 'local government' means—

"(A) any county, city, town, township, parish, village, or other general purpose political subdivision of a State,

"(B) any combination of political subdivisions described in subparagraph (A) recognized by the Secretary of Housing and Urban Development, and

"(C) the District of Columbia.".

(b) CONFORMING AMENDMENT.—The table of subchapters for chapter 80 is amended by adding at the end thereof the following new item:

"Subchapter C—Designation of Enterprise Zones".

SEC. 102. INTERACTION WITH OTHER FEDERAL PROGRAMS.

(a) TAX REDUCTIONS.—Any reduction of taxes under any required program of State and local commitment under section 7871(d) of the Internal Revenue Code of 1954 shall be disregarded in determining the eligibility of a State or local government for, or the amount or extent of, any assistance or benefits under any law of the United States.

(b) COORDINATION WITH RELOCATION ASSISTANCE.—The designation of an enterprise zone under section 7871 of the Internal Revenue Code of 1954 shall not—

(1) constitute approval of a Federal or federally assisted program or project (within the meaning of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601)), or

(2) entitle any person displaced from real property located in such zone to any rights or any benefits under such Act.

TITLE II—FEDERAL INCOME TAX INCENTIVES

SUBTITLE A—CREDIT FOR EMPLOYERS

SEC. 201. CREDIT FOR ENTERPRISE ZONE EMPLOYERS.

(a) CREDIT FOR INCREASED ENTERPRISE ZONE EMPLOYMENT AND EMPLOYMENT OF DISADVANTAGED.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowable) is amended by inserting immediately before section 45 the following new section:

"SEC. 44I. CREDIT FOR ENTERPRISE ZONE EMPLOYMENT.

"(a) IN GENERAL.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) 10 percent of the qualified increased employment expenditures of the taxpayer for the taxable year, and

"(2) the economically disadvantaged credit amount of the taxpayer for such taxable year.

"(b) LIMITATION BASED ON AMOUNT OF TAX.—

"(1) IN GENERAL.—The credit allowed by subsection (a) for a taxable year shall not exceed the tax imposed by this chapter for such taxable year, reduced by the sum of the credits allowable under any section of this subpart having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, and 43. For purposes of the preceding sentence, the term 'tax imposed by this chapter' shall not include any tax treated as not imposed by this chapter under the last sentence of section 53(a).

"(2) CARRYBACK AND CARRYOVER OF UNUSED CREDIT.—

"(A) ALLOWANCE OF CREDIT.—If the amount of the credit determined under this section for any taxable year exceeds the limitation provided by paragraph (1) for such taxable year (hereinafter in this paragraph referred to as the 'unused credit year'), such excess shall be—

"(i) an enterprise zone employment credit carryback to each of the 3 taxable years preceding the unused credit year, and

"(ii) an enterprise zone employment credit carryover to each of the 15 taxable years following the unused credit year,

and shall be added to the amount allowable as a credit by this section for such years. If any portion of such excess is a carryback to a taxable year beginning before January 1, 1984, this section shall be deemed to have been in effect for such taxable year for purposes of allowing such carryback as a credit under this section. The entire amount of the unused credit for an unused credit year shall be carried to the earliest of the 18 taxable years to which (by reason of clauses (i) and (ii)) such credit may be carried, and then to each of the other 17 taxable years to the extent that, because of the limitation contained in subparagraph (B), such unused credit may not be added for a prior taxable year to which such unused credit may be carried.

"(B) LIMITATION.—The amount of the unused credit which may be added under subparagraph (A) for any preceding or succeeding taxable year shall not exceed the amount by which the limitation provided by paragraph (1) for such taxable year exceeds the sum of—

"(i) the credit allowable under this section for such taxable year, and

"(ii) the amounts which, by reason of this paragraph, are added to the amount allowable for such taxable year and which are attributable to taxable years preceding the unused credit year.

"(C) SPECIAL RULE IF PERIOD OF ZONE EXTENDS MORE THAN 15 YEARS.—If the number of taxable years during the period—

"(i) beginning with the taxable year after the unused credit year, and

"(ii) ending with the taxable year in which the designation of the enterprise zone to which the credit under subsection (a) relates expires under section 7871,

exceeds 15, then subparagraph (A) shall be applied by substituting such number for '15', such number plus 3 for '18', and such number plus 2 for '17'.

"(c) QUALIFIED INCREASED EMPLOYMENT EXPENDITURES DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified increased employment expenditures' means the excess of—

"(A) the qualified wages paid or incurred by the employer during the taxable year to qualified employees with respect to all enterprise zones, over

"(B) the base period wages of the employer with respect to all such zones.

"(2) LIMITATIONS AS TO QUALIFIED WAGES TAKEN INTO ACCOUNT.—

"(A) DOLLAR AMOUNT.—The amount of any qualified wages taken into account under paragraph (1) for any taxable year with respect to any qualified employee may not exceed 2.5 times the dollar limitation in effect under section 3306(b)(1) for the calendar year with or within which such taxable year ends.

"(B) APPLICATION WITH ECONOMICALLY DISADVANTAGED CREDIT AMOUNT.—Qualified wages shall not be taken into account under

paragraph (1) if such wages are taken into account in determining the economically disadvantaged credit amount under subsection (d).

"(3) BASE PERIOD WAGES.—

"(A) IN GENERAL.—The term 'base period wages' means, with respect to any enterprise zone, the amount of wages paid to employees during the 12-month period preceding the date on which the enterprise zone was designated as such under section 7871 which would have been qualified wages paid to qualified employees if such designation had been in effect for such period.

"(B) RULES OF SPECIAL APPLICATION.—For purposes of subparagraph (A)—

"(i) subsection (f)(1) shall be applied by substituting '12-month period' for 'taxable year' each place it appears, and

"(ii) the dollar limitation taken into account under paragraph (2) in computing qualified wages shall be the amount in effect for the taxable year for which the amount of the credit under subsection (a) is being computed.

"(d) ECONOMICALLY DISADVANTAGED CREDIT AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—The term 'economically disadvantaged credit amount' means the sum of the applicable percentage of qualified wages paid to each qualified economically disadvantaged individual.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means, with respect to any qualified economically disadvantaged individual, the percentage determined in accordance with the following table:

"If the qualified wages are paid for services performed:	The applicable percentage is:
Within 36 months of the starting date	50
More than 36 months but less than 49 months after such date	40
More than 48 months but less than 61 months after such date	30
More than 60 months but less than 73 months after such date	20
More than 72 months but less than 85 months after such date	10
More than 84 months after such date	0

"(3) STARTING DATE; BREAKS IN SERVICE.—For purposes of this subsection—

"(A) STARTING DATE.—The term 'starting date' means the day on which the qualified economically disadvantaged individual begins work for the employer within an enterprise zone.

"(B) BREAKS IN SERVICE.—The periods described in the table under paragraph (2) (other than the first such period) shall be extended by any period of time during which the individual is unemployed.

"(e) QUALIFIED WAGES DEFINED.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'qualified wages' has the meaning given to the term 'wages' by subsection (b) of section 3306 (determined without regard to any dollar limitation contained in such section).

"(2) REDUCTION FOR CERTAIN FEDERALLY FUNDED PAYMENTS.—For purposes of this section, the wages paid or incurred by an employer for any period shall not include the amount of any federally funded payments the employer receives or is entitled to receive for on-the-job training of such individual for such period.

"(3) SPECIAL RULES FOR AGRICULTURAL AND RAILWAY LABOR.—Under regulations prescribed by the Secretary, rules similar to the rules of section 51(h) shall apply with respect to services described in subparagraphs (A) and (B) of section 51(h)(1).

"(f) QUALIFIED EMPLOYEE DEFINED.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified employee' means an individual—

"(A) at least 90 percent of whose services for the employer during the taxable year are directly related to the conduct of the employer's trade or business located in an enterprise zone, and

"(B) who performs at least 50 percent of his services for the employer during the taxable year in an enterprise zone.

"(2) EXCEPTION FOR INDIVIDUALS WITH RESPECT TO WHOM CREDIT IS ALLOWED UNDER SECTION 44B.—The term 'qualified employee' shall not include an individual with respect to whom any credit is allowed the employer for the taxable year under section 44B (relating to credit for employment of certain new employees).

"(g) QUALIFIED ECONOMICALLY DISADVANTAGED INDIVIDUAL.—

"(1) For purposes of this section, the term 'qualified economically disadvantaged individual' means an individual—

"(A) who is a qualified employee,

"(B) who is hired by the employer during the period a designation under section 7871 is in effect for the area in which the services which qualify such individual as a qualified employee are performed, and

"(C) who is certified as—

"(i) an economically disadvantaged individual,

"(ii) an eligible work incentive employee (within the meaning of section 51(d)(9)), or

"(iii) a general assistance recipient (within the meaning of section 51(d)(6)).

"(2) ECONOMICALLY DISADVANTAGED INDIVIDUAL.—For purposes of paragraph (1)—

"(A) IN GENERAL.—The term 'economically disadvantaged individual' means any individual who is certified by the designated local agency as being a member of a family that had a combined family income (including the cash value of food stamps) during the 6 months preceding the month in which such determination occurs that, on an annual basis, was equal to or less than the sum of—

"(i) the highest amount which would ordinarily be paid to a family of the same size without any income or resources in the form of payments for aid to families with dependent children under the State plan approved under part A of title IV of the Social Security Act for the State in which such individual resides, plus

"(ii) the highest cash value of the food stamps to which a family of the same size without any income or resources would be entitled if it were being paid aid to families with dependent children under such State plan in the amount determined under clause (i).

Any such determination shall be valid for the 45-day period beginning on the date such determination is made.

"(B) SPECIAL RULE FOR FAMILIES WITH ONLY 1 INDIVIDUAL.—For purposes of clause (i) of subparagraph (A), in the case of a family consisting of only one individual, the 'highest amount which would ordinarily be paid' to such family under the State's plan approved under part A of title IV of the Social Security Act shall be an amount determined by the designated local agency on the basis of a reasonable relationship to the amounts payable under such plan to families consisting of two or more persons.

"(3) CERTIFICATION.—Certification of an individual as an individual described in paragraph (1)(C) shall be made in the same manner as certification under section 51.

"(h) SPECIAL RULES.—For purposes of this section—

"(1) APPLICATION TO CERTAIN ENTITIES, ETC.—Under regulations prescribed by the Secretary, rules similar to the rules of section 52 (other than subsection (b) thereof) and section 44F(f)(3) shall apply.

"(2) PERIODS OF LESS THAN A YEAR.—If designation of an area as an enterprise zone under section 7871 occurs, expires, or is revoked on a date other than the first or last day of the taxable year of the taxpayer, or in the case of a short taxable year—

"(A) the limitation specified in subsection (c)(2)(A), and the base period wages determined under subsection (c)(3), shall be adjusted on a pro rata basis (based upon the number of days), and

"(B) the reduction specified in subsection (e)(2) and the 90 percent and 50 percent tests set forth in subsection (f)(1), shall be determined by reference to the portion of the taxable year during which the designation of the area as an enterprise zone is in effect.

"(i) PHASEOUT OF CREDIT.—In determining the amount of the credit for the taxable year under subsection (a) with respect to qualified wages paid or incurred for services performed in an enterprise zone—

"(1) the following percentages shall be substituted for '10 percent' in subsection (a)(1):

"(A) 7.5 percent in the earlier of—

"(i) the taxable year which includes the date which is 21 years after the date on which such enterprise zone was designated under section 7871, or

"(ii) the taxable year which includes the date which is 4 years before the date (if any) on which such enterprise zone ceases to be a zone under section 7871(b)(1)(B),

"(B) 5 percent in the next succeeding taxable year,

"(C) 2.5 percent in the second next succeeding taxable year, and

"(D) zero thereafter, and

"(2) the amount determined under subsection (a)(2) shall be reduced by—

"(A) 25 percent in the case of the taxable year described in paragraph (1)(A),

"(B) 50 percent in the next succeeding taxable year,

"(C) 75 percent in the second next succeeding taxable year, and

"(D) 100 percent thereafter.

"(j) EARLY TERMINATION OF EMPLOYMENT BY EMPLOYER IN CASE OF QUALIFIED ECONOMICALLY DISADVANTAGED INDIVIDUALS, ETC.—

"(1) GENERAL RULE.—Under regulations prescribed by the Secretary, if the employment of any qualified economically disadvantaged individual with respect to whom qualified wages are taken into account under subsection (a) is terminated by the taxpayer at any time during the 270-day period beginning on the date such individual begins work for the employer, the tax under this chapter for the taxable year in which such employment is terminated shall be increased by an amount (determined under such regulations) equal to the credit allowed under subsection (a) for such taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to such employee.

"(2) SUBSECTION NOT TO APPLY IN CERTAIN CASES.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to—

"(i) a termination of employment of an employee who voluntarily leaves the employment of the employer,

"(ii) a termination of employment of an individual who, before the close of the period referred to in paragraph (1), becomes disabled to perform the services of such employment, unless such disability is removed before the close of such period and the employer fails to offer reemployment to such individual,

"(iii) a termination of employment of an individual, if it is determined under the applicable State unemployment compensation law that the termination was due to the misconduct of such individual, or

"(iv) a termination of employment of an individual due to a substantial reduction in the trade or business operations of the employer.

"(B) CHANGE IN FORM OF BUSINESS, ETC.—For purposes of paragraph (1), the employment relationship between the employer and an employee shall not be treated as terminated—

"(i) by a transaction to which section 381(a) applies, if the employee continues to be employed by the acquiring corporation, or

"(ii) by reason of a mere change in the form of conducting the trade or business of the taxpayer, if the employee continues to be employed in such trade or business and the employer retains a substantial interest in such trade or business.

"(3) SPECIAL RULE.—Any increase in tax under paragraph (1) shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit allowable under subpart A.".

(b) NO DEDUCTION ALLOWED.—

(1) IN GENERAL.—Section 280C (relating to disallowance of deductions for that portion of wages for which credit is claimed under section 40 or 44B) is amended—

(A) by adding at the end thereof the following new subsection:

"(c) RULE FOR SECTION 44I CREDITS.—No deduction shall be allowed for that portion of the wages or salaries paid or incurred for the taxable year which is equal to the amount of the credit allowable under section 44I (relating to the employment credit for enterprise zone businesses). This subsection shall be applied under a rule similar to the rule under the last sentence of subsection (b).''; and

(B) by striking out "or 44B" in the heading and inserting in lieu thereof ", 44B, or 44I".

(2) CONFORMING AMENDMENT.—The table of sections for part IX of subchapter B of chapter 1 is amended by striking out "or 44B" in the item relating to section 280C and inserting in lieu thereof ", 44B, or 44I".

(c) TECHNICAL AMENDMENTS RELATED TO CARRYOVER AND CARRYBACK OF CREDITS.—

(1) CARRYOVER OF CREDIT.—

(A) Subparagraph (B) of section 55(c)(3) (relating to carryover and carryback of certain credits) is amended—

(i) by striking out "or 44F" in clause (i) and inserting in lieu thereof "44F, or 44I", and

(ii) by inserting "44I(b)(1)," after "44F(g)(1)," in clause (ii).

(B) Subsection (c) of section 381 (relating to items of the distributor or transferor corporation) is amended by adding at the end thereof the following new paragraph:

"(30) CREDIT UNDER SECTION 44I.—The acquiring corporation shall take into account (to the extent proper to carry out the purposes of this section and section 44I, and under such regulations as may be prescribed by the Secretary) the items required to be taken into account for purposes of section 44I in respect to the distributor or transferor corporation."

(C) Section 383 (relating to special limitations on unused credits and capital losses), as in effect for taxable years to which the amendments made by the Tax Reform Act of 1976 apply, is amended—

(i) by inserting "to any unused credit of the corporation under section 44I(b)(2)," after "44G(b)(2),", and

(ii) by inserting "ENTERPRISE ZONE EMPLOYMENT CREDITS," after "EMPLOYEE STOCK OWNERSHIP CREDITS," in the section heading.

(D) Section 383 (as in effect on the day before the amendments made by the Tax Reform Act of 1976) is amended—

(i) by inserting "to any unused credit of the corporation which could otherwise be carried forward under section 44I(b)(2)," after "44G(b)(2),", and

(ii) by inserting "ENTERPRISE ZONE EMPLOYMENT CREDITS," after "EMPLOYEE STOCK OWNERSHIP CREDITS," in the section heading.

(E) The table of sections for part V of subchapter C of chapter 1 is amended by inserting "enterprise zone employment credits," after "employee stock ownership credits," in the item relating to section 383.

(2) CARRYBACK OF CREDIT.—

(A) Subparagraph (C) of section 6511(d)(4) (defining credit carryback) is amended by striking out "and employee stock ownership credit carryback" and inserting in lieu thereof "employee stock ownership credit carryback, and enterprise zone employment credit carryback".

(B) Section 6411 (relating to quick refunds in respect of tentative carryback adjustments) is amended—

(i) by striking out "or unused employee stock ownership credit" each place it appears and inserting in lieu thereof "unused employee stock ownership credit, or unused enterprise zone employment credit carryback";

(ii) by inserting ", by an enterprise zone employment credit carryback provided by section 44I(b)(2)," after "by an employee stock ownership credit carryback provided by section 44G(b)(2)" in the first sentence of subsection (a);

(iii) by striking out "or employee stock ownership credit carryback from" each place it appears and inserting in lieu thereof "employee stock ownership credit carryback, or enterprise zone employment credit carryback from"; and

(iv) by striking out "research and experimental credit carryback)" in the second sentence of subsection (a) and inserting in lieu thereof "research and experimental credit carryback, or in the case of an enterprise zone employment credit carryback, to an investment credit carryback, a new employee credit carryback, a research and experimental credit carryback, or an employee stock ownership credit carryback)".

(d) OTHER TECHNICAL AND CLERICAL AMENDMENTS.—

(1) Subsection (b) of section 6096 (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out "and 44H" and inserting in lieu thereof "44H and 44I".

(2) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting before the item relating to section 45 the following new item:

"Sec. 44I. Credit for enterprise zone employment.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1983.

Subtitle B—Credits for Investment in Tangible Property in Enterprise Zones

SEC. 211. INVESTMENT TAX CREDIT FOR ENTERPRISE ZONE PROPERTY.

(a) SECTION 38 PROPERTY.—Paragraph (1) of section 48(a) (defining section 38 property) is amended by striking out "or" at the end of subparagraph (F), by striking out the period at the end of subparagraph (G) and inserting in lieu thereof "; or", and by adding after subparagraph (G) the following new subparagraph:

"(H) enterprise zone property (within the meaning of subsection (r)) which is not otherwise section 38 property.".

(b) AMOUNT OF CREDIT.—

(1) IN GENERAL.—Subparagraph (A) of section 46(a)(2) (relating to amount of investment tax credit) is amended by striking out "and" at the end of clause (iii), by striking out the period at the end of clause (iv) and inserting in lieu thereof ", and", and by adding at the end thereof the following new clause:

"(v) in the case of qualified enterprise zone property, the enterprise zone percentage.".

(2) ENTERPRISE ZONE PERCENTAGE DEFINED.—Paragraph (2) of section 46(a) is amended by adding at the end thereof the following new subparagraph:

"(G) ENTERPRISE ZONE PERCENTAGE.—

"(i) IN GENERAL.—For purposes of this paragraph—

"In the case of qualified enterprise zone expenditures with respect to:	The enterprise zone percentage is:
Zone personal property (within the meaning of section 48(r)(2))	5
New zone construction property (within the meaning of section 48(r)(3))	10

"(ii) PHASEOUT OF CREDIT AS ENTERPRISE ZONE ENDS.—Clause (i) shall be applied by substituting the following percentages for 5 percent and 10 percent, respectively:

"(I) For the taxable year described in section 44I(i)(1)(A), 3.75 and 7.5.

"(II) For the next succeeding taxable year, 2.5 and 5.

"(III) For the second next succeeding taxable year, 1.25 and 2.5.

"(IV) For any subsequent taxable year, zero.".

(3) ORDERING RULES.—That portion of paragraph (7) of section 46(a) (relating to special rules in the case of energy property) which precedes subparagraph (B) is amended to read as follows:

"(7) SPECIAL RULES IN THE CASE OF ENERGY PROPERTY OR ENTERPRISE ZONE PROPERTY.—Under regulations prescribed by the Secretary—

"(A) IN GENERAL.—This subsection and subsection (b) shall be applied separately—

"(i) first with respect to so much of the credit allowed by section 38 as is not attributable to the energy percentage or the enterprise zone percentage,

"(ii) second with respect to so much of the credit allowed by section 38 as is attributable to the application of the energy percentage to energy property, and

"(iii) third with respect to so much of the credit allowed by section 38 as is attributable to the application of the enterprise zone percentage to enterprise zone property.".

(4) CONFORMING AMENDMENT.—Section 48(o) (defining certain credits) is amended

by adding at the end thereof the following new paragraph:

"(9) ENTERPRISE ZONE CREDIT.—The term 'enterprise zone credit' means that portion of the credit allowable by section 38 which is attributable to the enterprise zone percentage.".

(c) DEFINITIONS AND TRANSITIONAL RULES.—Section 48 (relating to definitions and special rules) is amended by redesignating subsection (r) as subsection (s) and by inserting after subsection (q) the following new subsection:

"(r) ENTERPRISE ZONE PROPERTY.—

"(1) The term 'enterprise zone property' means property—

"(A) which is—

"(i) zone personal property, or

"(ii) new zone construction property,

"(B) not acquired (directly or indirectly) by the taxpayer from a person who is related to the taxpayer (within the meaning of section 168(e)(4)(D)), and

"(C) acquired and first placed in service by the taxpayer in an enterprise zone during the period the designation as a zone is in effect under section 7871.

"(2) ZONE PERSONAL PROPERTY DEFINED.—The term 'zone personal property' means property which is—

"(A) 3-year property;

"(B) 5-year property;

"(C) 10-year property; and

"(D) 15-year public utility property,

which is used by the taxpayer predominantly in the active conduct of a trade or business within an enterprise zone. Property shall not be treated as 'zone personal property' if it is used or located outside the enterprise zone on any regular basis.

"(3) NEW ZONE CONSTRUCTION PROPERTY DEFINED.—The term 'new zone construction property' means 15-year real property, which is—

"(A) located in an enterprise zone,

"(B) used by the taxpayer predominantly in the active conduct of a trade or business within an enterprise zone, and

"(C) either—

"(i) the construction, reconstruction, rehabilitation, renovation, expansion, or erection of which is completed by the taxpayer during the period the designation as a zone is in effect under section 7871, or

"(ii) acquired during such period if the original use of such property commences with the taxpayer and commences during such period.

In applying section 46(c)(1)(A) in the case of property described in clause (i), there shall be taken into account only that portion of the basis which is properly attributable to construction or erection during such period.

"(4) REAL ESTATE RENTAL.—For purposes of this section, ownership of residential, commercial or industrial real property within an enterprise zone for rental shall be treated as the active conduct of a trade or business in an enterprise zone.

"(5) DEFINITIONS.—For purposes of this subsection, the terms '3-year property', '5-year property', '10-year property', '15-year real property', and '15-year public utility property' have the meanings given such terms by section 168(c)(2).".

(d) LODGING TO QUALIFY.—Paragraph (3) of section 48(a) (relating to property used for lodging) is amended—

(1) by striking out "and" at the end of subparagraph (C),

(2) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", and", and

(3) by adding at the end thereof the following new subparagraph:

"(E) new zone construction property.".

(e) RECAPTURE.—Subsection (a) of section 47 (relating to certain dispositions, etc., of section 38 property) is amended by adding at the end thereof the following new paragraph:

"(9) SPECIAL RULES FOR ENTERPRISE ZONE PROPERTY.—

"(A) IN GENERAL.—If, during any taxable year, property with respect to which the taxpayer claimed an enterprise zone credit—

"(i) is disposed of, or

"(ii) in the case of zone personal property—

"(I) otherwise ceases to be section 38 property with respect to the taxpayer, or

"(II) is removed from the enterprise zone, converted or otherwise ceases to be enterprise zone property (other than by the expiration or revocation of the designation as an enterprise zone),

the tax under this chapter for such taxable year shall be increased by the amount described in subparagraph (B).

"(B) AMOUNT OF INCREASE.—The increase in tax under subparagraph (A) shall equal the aggregate decrease in the credits allowed under section 38 by reason of section 46(a)(2)(A)(v) for all prior taxable years which would have resulted solely from reducing the expenditures taken into account with respect to the property by an amount which bears the same ratio to such expenditures as the number of taxable years that the property was held by the taxpayer bears to the applicable recovery period for earnings and profits under section 312(k).".

(f) BASIS ADJUSTMENT TO REFLECT INVESTMENT CREDIT.—

(1) IN GENERAL.—Paragraph (3) of section 48(q) (relating to basis adjustment to section 38 property) is amended to read as follows:

"(3) SPECIAL RULE FOR QUALIFIED REHABILITATION AND ENTERPRISE ZONE EXPENDITURES.—In the case of any credit determined under section 46(a)(2) for—

"(A) any qualified rehabilitation expenditure in connection with a qualified rehabilitated building other than a certified historic structure, or

"(B) any expenditure in connection with new zone construction property (within the meaning of section 48(r)(3)),

paragraphs (1) and (2) shall be applied without regard to the phrase '50 percent of'.".

(2) CONFORMING AMENDMENT.—The heading for subsection (c) of section 196 (relating to deductions for certain unused investment credits) is amended by striking out "rehabilitated buildings" and inserting in lieu thereof "rehabilitation and enterprise zone expenditures.".

(g) INVESTMENT CREDIT CARRYOVER PERIOD EXTENDED.—Paragraph (1) of section 46(b) (relating to carryover and carryback of unused credits) is amended by adding at the end thereof the following new sentence: "If the number of taxable years during the period beginning with the taxable year following the unused credit year and ending with the taxable year in which the designation of the enterprise zone to which the unused credit relates expires under section 7871 exceeds 15, then the preceding sentence shall be applied by substituting such number for '15', such number plus 3 for '18', and such number plus 2 for '17'.

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after December 31, 1983, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1954.

Subtitle C—Reduction in Capital Gain Tax Rates

SEC. 221. CORPORATIONS.

(a) GENERAL RULE.—Subsection (a) of section 1201 (relating to alternative tax for corporations) is amended by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) a tax of 28 percent of the excess (if any) of—

"(A) the net capital gain for the taxable year, over

"(B) the qualified enterprise zone capital gain.".

(b) DEFINITION OF QUALIFIED ENTERPRISE ZONE CAPITAL GAIN.—Section 1201 is amended by redesignating subsections (b) and (c) as subsections (c) and (d) and by inserting after subsection (a) the following new subsection:

"(b) QUALIFIED ENTERPRISE ZONE CAPITAL GAIN.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified enterprise zone capital gain' means gain which is—

"(A) described in section 1222(3),

"(B) attributable to the sale or exchange of qualified property, and

"(C) property allocable only to periods during which the property is qualified property.

"(2) LIMITATIONS.—The term 'qualified enterprise zone capital gain' does not include any gain attributable to the sale or exchange of an interest in a qualified business to the extent attributable to—

"(A) any property contributed to the qualified business within the previous 12 months,

"(B) any interest in any business which is not a qualified business, or

"(C) any other intangible property to the extent not properly allocable to the active conduct of a trade or business within an enterprise zone.

"(3) DEFINITIONS.—

"(A) The term 'qualified property' means—

"(i) any tangible personal property used by the taxpayer predominantly in an enterprise zone in the active conduct of a trade or business within such enterprise zone,

"(ii) any real property located in an enterprise zone used by the taxpayer predominantly in the active conduct of a trade or business within such enterprise zone, and

"(iii) any interest in a corporation, partnership, or other entity if, for the three most recent taxable years of such entity ending before the date of disposition of such interest, such entity was a qualified business.

"(B) QUALIFIED BUSINESS.—The term 'qualified business' means any person—

"(i) which is actively engaged in the conduct of a trade or business within an enterprise zone during the period described in subparagraph (A)(iii),

"(ii) with respect to which at least 80 percent of such person's gross receipts for the taxable year are attributable to the active conduct of a trade or business within an enterprise zone, and

"(iii) with substantially all of its tangible assets located within an enterprise zone.

"(C) REAL ESTATE RENTAL.—For purposes of this section, ownership of residential, commercial or industrial real property within an enterprise zone for rental shall be treated as the active conduct of a trade or business in an enterprise zone.

"(D) PROPERTY REMAINS QUALIFIED AFTER ZONE DESIGNATION CEASES TO APPLY.—

"(i) IN GENERAL.—The treatment of property as qualified property under subparagraph (A) shall not terminate when the designation of the enterprise zone in which the property is located or used expires or is revoked.

"(ii) EXCEPTIONS.—Clause (i) shall not apply after the first sale or exchange of property occurring after the designation expires or is revoked.".

SEC. 222. TAXPAYERS OTHER THAN CORPORATIONS.

Subsection (a) of section 1202 (relating to deduction for capital gains) is amended to read as follows:

"(a) DEDUCTION ALLOWED.—

"(1) IN GENERAL.—If for any taxable year a taxpayer other than a corporation has a net capital gain, there shall be allowed as a deduction from gross income an amount equal to the sum of—

"(A) 100 percent of the lesser of—

"(i) the net capital gain, or

"(ii) the qualified enterprise zone capital gain (as defined in section 1201(b)), plus

"(B) 60 percent of the excess (if any) of—

"(i) the net capital gain, over

"(ii) the amount of the net capital gain taken into account under subparagraph (A).".

SEC. 223. MINIMUM TAX.

Paragraph (9) of section 57(a) (relating to tax preference for capital gains) is amended by adding at the end thereof the following new subparagraph:

"(E) For purposes of this paragraph, gain attributable to qualified enterprise zone capital gain (within the meaning of section 1201(b)) shall not be taken into account.".

SEC. 224. EFFECTIVE DATE.

The amendments made by this part shall apply to sales or exchanges after December 31, 1983.

Subtitle D—Rules Relating to Industrial Development Bonds

SEC. 231. INDUSTRIAL DEVELOPMENT BONDS.

(a) LIMITATION ON ACCELERATED COST RECOVERY DEDUCTION NOT TO APPLY TO ENTERPRISE ZONE PROPERTY.—Subparagraph (C) of section 168(f)(12) (relating to limitations on property financed with tax-exempt bonds) is amended—

(1) by striking out "or" at the end of clause (iii),

(2) by striking out the period at the end of clause (iv) and inserting in lieu thereof ", or", and

(3) by adding at the end thereof the following new clause:

"(v) as enterprise zone property (within the meaning of section 48(r)).".

(b) TERMINATION OF SMALL ISSUE EXEMPTION NOT TO APPLY.—Subparagraph (N) of section 103(b)(6) (relating to termination of small issue exemption after December 31, 1986) is amended by adding at the end thereof the following new sentence: "This subparagraph shall not apply to any obligation which is part of an issue substantially all of the proceeds of which are used to finance facilities within an enterprise zone if such facilities are placed in service while the designation as such a zone is in effect under section 7871.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 1983, in taxable years ending after such date.

Subtitle E—Deduction for Enterprise Stock

SEC. 241. ENTERPRISE STOCK.

(a) DEDUCTION FOR ENTERPRISE STOCK.—Subchapter O (relating to gain or loss on disposition of property) of chapter 1 is amended by adding at the end thereof the following new part X:

"PART X. DEDUCTION FOR ENTERPRISE STOCK.

"SEC. 1121. DEDUCTION FOR ENTERPRISE STOCK.

"(a) GENERAL RULE.—A taxpayer may elect (in accordance with regulations prescribed by the Secretary) to deduct amounts paid during the taxable year to a qualified issuer for the purchase of enterprise stock upon the original issuance of such stock by the qualified issuer.

"(b) MAXIMUM DEDUCTION.—For any taxable year, the aggregate amount deductible under subsection (a) by a taxpayer and its related persons shall not exceed $100,000. To the extent that a taxpayer pays more than such amount for the purchase of enterprise stock in any taxable year, the maximum deduction shall be allocated pro rata among such stock in accordance with the purchase price of each share.

"(c) BASIS ADJUSTMENT.—For purposes of this subtitle, if a taxpayer makes the election provided in subsection (a), the basis of the enterprise stock in the taxpayer's hands with respect to which the election is made shall be reduced (but not below zero) by the Section 1121 adjustment amount. The "Section 1121 adjustment amount" shall be the lesser of—

"(1) the amount paid for such instrument, or

"(2) the amount of the deduction allocated to such instrument pursuant to subsection (b).

"(d) DISPOSITIONS BY THE ELECTING TAXPAYER.—"(1) If enterprise stock with respect to which an election under subsection (a) is made is disposed of by the electing taxpayer, any gain from such disposition up to the amount of the deduction taken pursuant to subsection (a) with respect to such stock shall be treated as ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle.

"(2) In the event of a disposition described in paragraph (1) involving enterprise stock held by the electing taxpayer for a period of less than three years from the date of purchase by such taxpayer, there is imposed upon such taxpayer a tax equal to the enterprise stock recapture amount. The "enterprise stock recapture amount" is an amount equal to the interest that would be owing if interest at the rate prescribed by Section 6621 is computed from the date of purchase of the enterprise stock disposed of until the date of such disposal on the amount (determined in accordance with regulations prescribed by the Secretary) of the reduction of the income taxes of the taxpayer imposed by this subtitle resulting from the deduction taken pursuant to subsection (a) on such stock.

"(3) If the qualified issuer of enterprise stock with respect to which a taxpayer makes an election under subsection (a) ceases to meet the requirements of subsection (f)(2)(A), (C) and (D) with respect to the taxable year of the qualified issuer in which the enterprise stock is issued or any one of its subsequent four taxable years, then—

"(A) the taxpayer must recognize as ordinary income an amount equal to the Section 1121 adjustment amount with respect to the enterprise stock as to which the election was made, and

"(B) there is imposed upon the taxpayer a tax equal to an amount equal to the interest that would be owing if interest at the rate prescribed by Section 6621 is computed for the holding period on the amount (determined in accordance with regulations prescribed by the Secretary) of the reduction in the income taxes of the taxpayer imposed by this subtitle resulting from the deduction taken pursuant to subsection (a) on such stock. The "holding period" shall be the period commencing from the date of the purchase of the enterprise stock until the earlier of:

"(i) the date of issuance by the qualified issuer or a related person thereto of securities that are subject to regulation by the Securities and Exchange Commission, or

"(ii) the end of the taxable year of the qualifed issuer in which the qualified issuer ceases to meet the requirements of subsection (f)(2)(A) or (D). The basis of the enterprise stock with respect to which the taxpayer is required to recognize income pursuant to subsection (d)(3)(A) shall be increased by an amount equal to the Section 1121 adjustment amount as to such stock.

"(e) AMOUNTS PAID.—For the purposes of subsection (a), an amount will be treated as paid during the taxable year if the amount is either:

"(1) paid during the taxable year, or

"(2) paid prior to the time prescribed by law for the filing of the taxpayer's tax return for such taxable year (including extensions thereof) with respect to an enterprise stock as to which the taxpayer is subject to a binding contract to purchase on the last day of the taxable year.

"(f) DEFINITIONS.—

"(1) ENTERPRISE STOCK.—The term "enterprise stock" shall mean shares of common stock issued by a qualifed issuer—

"(A) which are purchased from the qualified issuer or its selling agent on the original issuance thereof by the qualified issuer, and

"(B) the proceeds from the issuance of which are used by the qualified issuer in the conduct of a qualified business as described in Section 1201(b).

"(2) QUALIFIED ISSUER.—The term 'qualified issuer' means a corporation, other than an S corportion, that at the time of its issuance of the enterprise stock,

"(A) satisfies the following:

"(i) is actively engaged in the conduct of a trade or business within an enterprise zone,

"(ii) at least 80 percent of such person's gross receipts for the taxable year are attributable to the active conduct of a trade or business within an enterprise zone, and

"(iii) substantially all of its tangible assets are located within an enterprise zone;

"(B) in combination with its related persons,

"(i) does not have a net worth exceeding $2,000,000, and

"(ii) will not immediately after receipt of payment for the enterprise stock being issued, have a net worth exceeding $2,000,000;

"(C) which, has currently or has had within the five most recent taxable years

"(i) no securities outstanding that are subject to regulations by the Security and Exchange Commission; and

"(ii) no related person who has such securities outstanding.

"(D) which during the period of its five most recent taxable years ending before the date on which enterprise stock were issued, derived more than 50 percent of its aggregate gross receipts from sources other than

royalties, rents (other than rents from real estate described in Section 1201(b)(3)(C), dividents, interest, annuities and sales and exchanges of stocks or securities.

"(3) REGULATED SECURITIES.—For purposes of subsection (f)(2)(C), a 'security subject to regulation by the Securities and Exchange Commission' is a security—

"(A) registered on a national securities exchange under Section 12(b) of the Securities Exchange Act of 1934; or

"(B) registered or required to be registered under Section 12(g) of such Act (or which would be required to be so registered except for the exemptions provided in Section 12(g)(2)).

"(4) RELATED PERSON.—A person will be a 'related person' as to a taxpayer for purposes of subsection (b) or to a qualifed issuer if the person is—

"(A) a member of the same controlled group of corporations (within the meaning of Section 1563(a)), except that 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in Section 1563(a)(1)).

"(B) a member of a group of trades or businesses which are under common control, as determined under regulations prescribed by the Secretary which are based on principles similar to the principles which apply under paragraph (A), or

"(C) a spouse of the taxpayer.

"(g) SPECIAL PROVISIONS.—

"(1) Limitations on amount of deduction. If—

"(A) any enterprise stock is issued in exchange for property,

"(B) the basis of such stock in the hands of the taxpayer is determined by reference to the basis in its hands of such property, and

"(C) the adjusted basis (for determining the deduction) of such property immediately before the exchange exceeded its fair market value at such time,

then both the deduction to which the taxpayer is entitled under subsection (a) and the adjusted basis of such stock shall be reduced by an amount equal to the excess described in subparagraph (C).

"(2) A purchase does not include any transaction in which enterprise stock is acquired by a taxpayer in a transaction described in Sections 351, 361 or 371(a) to the extent that the basis of the enterprise stock received by the taxpayer is determined by reference to the basis of the property exchanged.".

(b) CONFORMING AMENDMENT.—The table of sections for subchapter O of chapter 1 is amended by inserting the following new item immediately after part IX thereof:

"X. Deduction for enterprise stock .... 1121".

Subtitle F—Sense of the Congress With Respect to Tax Simplification

SEC. 251. TAX SIMPLIFICATION.

It is the sense of the Congress that the Secretary of the Treasury should in every way possible simplify the administration and enforcement of any provision of the Internal Revenue Code of 1954 added to, or amended by, this Act.

TITLE III—REGULATORY FLEXIBILITY

SEC. 301. DEFINITION OF SMALL ENTITIES IN ENTERPRISE ZONES FOR PURPOSES OF ANALYSIS OF REGULATORY FUNCTIONS.

Section 601 of title 5, United States Code, is amended by—

(1) striking out "and" at the end of paragraph (5); and

(2) striking out paragraph (6) and inserting in lieu thereof the following:

"(6) the term 'small entity' means—

"(A) a small business, small organization or small governmental jurisdiction within the meaning of paragraphs (3), (4), and (5) of this section, respectively; and

"(B) any qualified business; any governments which designated and approved an area which has been designated as an enterprise zone (within the meaning of section 7871 of the Internal Revenue Code of 1954) to the extent any rule pertains to the carrying out of projects, activities or undertakings within such zone; and any not-for-profit enterprise carrying out a significant portion of its activities within such a zone; and

"(7) the term 'qualified business' means any person, corporation or other entity—

"(A) which is engaged in the active conduct of a trade or business within an enterprise zone (within the meaning of section 7871 of the Internal Revenue Code of 1954); and

"(B) for whom at least 50 percent of its employees are qualified employees (within the meaning of section 44I(f) of such Code).".

SEC. 302. WAIVER OR MODIFICATION OF AGENCY RULES IN ENTERPRISE ZONES.

(a) Chapter 6 of title 5, United States Code, is amended by redesignating sections 611 and 612 as sections 612 and 613, respectively, and inserting the following new section immediately after section 610:

"SEC. 611. WAIVER OR MODIFICATION OF AGENCY RULES IN ENTERPRISE ZONES.

"(a) Upon the written request of the governments which designated and approved an area which has been designated as an enterprise zone under section 7871 of the Internal Revenue Code of 1954, an agency is authorized, in order to further the job creation, community development, or economic revitalization objectives of the zone, to waive or modify all or part of any rule which it has authority to promulgate, as such rule pertains to the carrying out of projects, activities or undertakings within the zone.

"(b) Nothing in this section shall authorize an agency to waive or modify any rule adopted to carry out a statute or Executive order which prohibits, or the purpose of which is to protect persons against, discrimination on the basis of race, color, religion, sex, marital status, national origin, age, or handicap.

"(c) A request under subsection (a) shall specify the rule or rules to be waived or modified and the change proposed, and shall briefly describe why the change would promote the achievement of the job creation, community development or economic revitalization objectives of the enterprise zone. If a request is made to an agency other than the Department of Housing and Urban Development, the requesting governments shall send a copy of the request to the Secretary of Housing and Urban Development at the time the request is made.

"(d) In considering a request, the agency shall weigh the extent to which the proposed change is likely to further job creation, community development or economic revitalization within the enterprise zone against the effect the change is likely to have on the underlying purposes of applicable statutes in the geographic area which would be affected by the change. The agency shall approve the request whenever it finds, in its discretion, that the public interest which the proposed change would serve in furthering such job creation, community development or economic revitalization outweighs the public interest which continuation of the rule unchanged would serve in furthering such underlying purposes. The agency shall not approve any request to waive or modify a rule if that waiver or modification would—

"(1) directly violate a statutory requirement (including any requirement of the Act of March 3, 1931 (46 Stat. 1494; 40 U.S.C. 276a-5) (commonly known as the Davis-Bacon Act) or of the Fair Labor Standards Act of 1938 (52 Stat. 1060; 29 U.S.C. 201 et seq.)); or

"(2) be likely to present a significant risk to the public health, including environmental health or safety, such as a rule with respect to occupational safety or health, or environmental pollution.

"(e) If a request is disapproved, the agency shall inform the requesting governments in writing of the reasons therefor and shall, to the maximum extent possible, work with such governments to develop an alternative, consistent with the standards contained in subsection (d).

"(f) Agencies shall discharge their responsibilities under this section in an expeditious manner, and shall make a determination on requests not later than 90 days after their receipt.

"(g) A waiver or modification of a rule under subsection (a) shall not be considered to be a rule, rulemaking, or regulation under chapter 5 of this title. To facilitate reaching its decision on any requested waiver or modification, the agency may seek the views of interested parties and, if these views are to be sought, determine how they should be obtained and to what extent, if any, they should be taken into account in considering the request. The agency shall publish a notice in the Federal Register stating any waiver or modification of a rule under this section.

"(h) In the event that an agency proposes to amend a rule for which a waiver or modification under this section is in effect, the agency shall not change the waiver or modification to impose additional requirements unless it determines, consistent with standards contained in subsection (d), that such action is necessary.

"(i) No waiver or modification of a rule under this section shall remain in effect for a longer period than the period for which the enterprise zone designation remains in effect for the area in which the waiver or modification applies.

"(j) For purposes of this section, the term 'rule' means (1) any rule as defined in section 511(4) of this title or (2) any rulemaking conducted on the record after opportunity for an agency hearing pursuant to sections 556 and 557 of this title.".

(b) The table of sections for such chapter is amended by redesignating "Sec. 611." and "Sec. 612." as "Sec. 612." and "Sec. 613.", respectively, and inserting the following new item immediately after "Sec. 610.":

"Sec. 611. Waiver or modification of agency rules in enterprise zones.".

(c) Section 601(2) of such title is amended by inserting "(except for purposes of section 611)" immediately before "means".

(d) Section 613 of such title, as redesignated by subsection (a) of this section, is amended by—

(1) inserting "(except section 611)" immediately after "chapter" in subsection (a); and

(2) inserting "as defined in section 601(2)" immediately before the period at the end of the first sentence of subsection (b).

SEC. 303. COORDINATION OF HOUSING AND URBAN DEPARTMENT PROGRAMS IN ENTERPRISE ZONES.

Section 3 of the Department of Housing and Urban Development Act is amended by adding at the end thereof the following new subsection:

"(d) The Secretary of Housing and Urban Development shall—

"(1) promote the coordination of all programs under his jurisdiction which are carried on within an enterprise zone designated pursuant to section 7871 of the Internal Revenue Code of 1954;

"(2) expedite, to the greatest extent possible, the consideration of applications for programs referred to in paragraph (1) through the consolidation of forms or otherwise; and

"(3) provide, whenever possible, for the consolidation of periodic reports required under programs referred to in paragraph (1) into one summary report submitted at such intervals as may be designated by the Secretary.".

TITLE IV—ESTABLISHMENT OF FOREIGN-TRADE ZONES IN ENTERPRISE ZONES

SEC. 401. FOREIGN-TRADE ZONE PREFERENCES.

(a) PREFERENCE IN ESTABLISHMENT OF FOREIGN-TRADE ZONES IN REVITALIZATION AREAS.—In processing applications for the establishment of foreign-trade zones pursuant to an Act entitled "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes", approved June 18, 1934 (48 Stat. 998), the Foreign-Trade Zone Board shall consider on a priority basis and expedite, to the maximum extent possible, the processing of any application involving the establishment of a foreign-trade zone within an enterprise zone designated pursuant to section 7871 of the Internal Revenue Code of 1954.

(b) APPLICATION PROCEDURE.—In processing applications for the establishment of ports of entry pursuant to an Act entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, nineteen hundred and fifteen, and for other purposes", approved August 1, 1914 (38 Stat. 609), the Secretary of the Treasury shall consider on a priority basis and expedite, to the maximum extent possible, the processing of any application involving the establishment of a port of entry which is necessary to permit the establishment of a foreign-trade zone within an enterprise zone.

(c) APPLICATION EVALUATION.—In evaluating applications for the establishment of foreign-trade zones and ports of entry in connection with enterprise zones, the Foreign-Trade Zone Board and the Secretary of the Treasury shall approve the applications to the maximum extent practicable, consistent with their respective statutory responsibilities.

By Mr. SASSER (for himself and Mr. INOUYE):

S. 99. A bill to amend the Agricultural Act of 1949 to provide credit assistance to farmers, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

EMERGENCY FARM STABILIZATION ACT OF 1983

● Mr. SASSER. The American farmer and the farming industry have always been the foundation of our economy. Yet, over the past few years we have seen the farm sector rocked by high interest rates and low market prices. These factors have led to near depression conditions in the farm economy. Net farm income sank to $19 billion for 1982, down from $25.1 billion in 1981 and $40.1 billion in 1980. We have not seen such dismal figures, nor have we seen so many continual years of decline in farm income since the Great Depression.

Unfortunately, it is not likely that these grim statistics will improve much during this year. Experts are already projecting that net farm income for this year, after inventory adjustment, will not be much higher than 1982. Prices received by farmers are not likely to improve unless there is a significant increase both in demand for food here and abroad as well as a corresponding reduction in production. If farm income remains around the $19 billion level, farmers are again likely to have just barely enough money to pay the interest on a national farm debt likely to again top $200 billion.

As this last figure illustrates, the continuation of this disheartening trend suggests that once again, many farmers will no longer be able to afford the loans they rely upon to provide operating expenses. Indeed, the U.S. Department of Agriculture Economic Research Service projects that for 1983, debt restructuring, loan extensions and renewals by private banks for some farmers will slow even further from the pace of the last 2 years, leaving many farmers delinquent on their loans.

The situation is not much brighter for those farm borrowers under the Farmers Home Administration. During the last fiscal year 8,227 FmHA borrowers nationwide discontinued operations as agricultural producers. In my own State of Tennessee, 160 FmHA borrowers left farming in fiscal year 1982. Many of those who left the farming industry did so because they were foreclosed upon.

With sadness I point out that this trend of foreclosures has not abated in the new fiscal year. During the first 2 months of fiscal year 1983, 1,049 FmHA borrowers discontinued operations nationwide. Of these, 146 were foreclosed upon, 460 had to liquidate their operations, and 224 completed bankruptcy proceedings. In Tennessee for this same time period 28 FmHA borrowers discontinued farming. There were 16 foreclosures, and 11 liquidations in Tennessee. Those who liquidate their operations are not getting the funds they need to operate their farms. Their bills come due and to meet them, they sell off their property. While this is not technically a foreclosure it still represents a farmer going out of production.

Clearly, something needs to be done to shore up the farming industry. The Department of Agriculture already has numerous tools available to combat this situation but it has failed to use many of them. My home State is a chilling case in point. For fiscal year 1982 the FmHA granted a mere 15 percent of the requests for deferrals of operating and real estate loans. This compares with a national approval rate well over 50 percent. Such shocking discrepancies only add fuel to the fear of foreclosure fever within the Department of Agriculture felt by many Tennesseans.

I am today introducing legislation that would directly address this problem. S. 99, the Emergency Farm Stabilization Act of 1983, directs that there will be a 2-year moratorium on foreclosures on FmHA borrowers who qualify for such treatment under the act.

Such a provision takes on added significance when one realizes the increasing importance of the FmHA in farm financing. FmHA borrowers currently number about 271,000 and represent 11 percent of this Nation's 2.4 million farmers. FmHA's share of all farm lending has increased from 6 percent in 1978 to almost 13 percent as of January 1, 1982. During this same time period, FmHA's loan portfolio has more than doubled from $10 billion to $24 billion.

At the end of November 1982, 24 percent of all active FmHA borrowers, some 64,303 farmers, were delinquent on their loans. S. 99 seeks to forestall the massive foreclosures these figures suggest is possible.

In addition, this bill calls upon the Secretary to make use of the economic emergency loan program to help our Nation's farmers survive this current crisis. Last year the Secretary refused to release the emergency loan money he had the authority to disperse under this program.

His refusal was astounding in light of the economic emergency in the farming sector. Interest expenses alone reached $23.1 billion for American farmers in 1982. Total farm debt for the year amounted to $215 billion based on USDA estimates, setting yet another negative record for the farming industry. Finally, a 1982 survey conducted by American Banker Association member banks indicates that 85 percent of these banks reported deterioration in the financial condition of their farm borrowers between 1981 and 1982.

The economic emergency loan program was established to combat just this sort of emergency. And it is a program that works well. According to an evaluation done by the Department of Agriculture in 1981, farmers would

have been forced out of their livelihood and agricultural lenders would have been in serious trouble without the EE program. The study concluded that the EE program effectively accomplished its basic objective, assisting farmers in staying solvent during a period of economic pressures.

This is the type of assistance that American farmers are again in need of. The economic plight of our Nation's farmers demands that we take the steps set forth in S. 99.

I urge my colleagues to come to the aid of the American farmer and give this bill their prompt consideration and support. I ask unanimous consent that the full text of S. 99 be included in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 99

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Emergency Farm Credit Assistance Act of 1983".

EMERGENCY LOANS

SEC. 2. Effective only for the fiscal year ending September 30, 1983, and notwithstanding any other provision of law, the Secretary of Agriculture shall guarantee economic emergency loans under the Emergency Agricultural Credit Adjustment Act of 1978 (7 U.S.C. 1946 note) that will cause contracts of insurance and guarantees of loans made under such Act by such date to equal $600,000,000.

LOAN MORATORIUM

SEC. 3. (a) Notwithstanding any other provision of law and in addition to any other authority that the Secretary of Agriculture may have to defer payments of principal and interest on loans and to forego foreclosure on loans, the Secretary shall permit, at the request of the borrower, the deferral of principal and interest on any outstanding loan made by the Secretary under title III of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) or any other law administered by the Farmers Home Administration, and shall forego foreclosure of any such loan, upon a showing by the borrower that due to circumstances beyond the borrower's control, the borrower is unable to continue making payments of such principal and interest when due without unduly impairing the standard of living of the borrower. The Secretary shall permit interest that accrues during the deferral period on any loan deferred under this section to bear no interest during or after such period, except that, if the security instrument securing such loan is foreclosed such interest as is included in the purchase price at such foreclosure shall become part of the principal and draw interest from the date of foreclosure at the rate prescribed by law.

(b) This section shall expire two years after the date of the enactment of this Act.●

By Mr. BOSCHWITZ:

S. 100. A bill to assure that actions taken by foreign countries do not impact severely on domestic agricultural exports and agriculture, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE AGRICULTURAL FREE AND FAIR TRADE ACT OF 1983

Mr. BOSCHWITZ. Mr. President, today I am introducing the Agricultural Free and Fair Trade Act of 1983. The bill has two major purposes: First, restore and maintain free and fair international markets for agricultural products; and second, to strengthen our country's market development efforts for agricultural products.

Only about 10 percent of world agricultural production finds its way onto the world market.

Most of the food produced in the world is consumed in the markets in the countries where it is produced. Indeed, 90 percent, or perhaps even more than that, is consumed in the country where it is produced. Of course, in some countries, they have to import food, but many other countries are net exporters of food.

Because the United States is the largest surplus food producer, we are normally the single largest factor in the international marketplace, though we are now being challenged by the European Economic Community.

If we take the lead, a free marketplace could indeed become a reality on a continuing basis. That is the intent of this act.

Since only 10 percent of the world's food production enters the international marketplace, if world food production rises by 2 percent or economic conditions cause consumption to drop by 2 percent, this represents 20 percent of the foodstuffs available for world trade. Clearly, events around the world can have a tremendous impact on commodity prices and farm income here in the United States, and other countries impacted, of course, by the world market. So by an increase or decrease of 2 percent in world food production, an enormous impact takes place on the world food market that sets prices far beyond the scope of just that one market.

International markets for agricultural products have been on the downswing for over 2 years. Last year, U.S. agricultural exports declined by over 10 percent in value compared to the previous year. This was the first such decline in over a decade. The picture for the coming year is equally bleak. Indications are that exports will decline an additional 5 percent, the first time that exports have declined for 2 successive years in over 15 years.

Declining exports have contributed to increased stocks and CCC inventories which, in turn, have depressed commodity prices, increased farm program costs and stagnated farm income. This is because U.S. agriculture tends to absorb most of the shocks resulting from downswings in international markets. When the markets are tight, U.S. exports tend to rise more rapidly than competitor exports, commodity prices strengthen and U.S. stocks and CCC inventories are reduced.

Mr. President, we are really the great repository for food in the world. We have the storage facilities. So when there is a surplus on the international market, other countries have a tendency to go into subsidization for the purpose of clearing their bins, what bins they have.

Very often these countries will decide how much it would cost to create more storage facilities and instead take that money and subsidize their exports on the world market. We have not done that historically, and as a result our bins get fuller and we become the exporter of last resort. The same happens, therefore, when there is increasing demand on the world market. Suddenly there is a larger demand upon us because we have the goods in storage.

The factors which assure that the United States gains relative to its competitors when the market is on the upswing, as I say, likewise assure that the United States loses relative to its competitors when the market is on the downswing.

Another aspect of the international trade picture in agriculture, Mr. President, is that other countries get involved in bilateral agreements—agreements made on a government-to-government basis—with importing countries. These agreements run counter to the principles of free and fair trade and assure that competitor export volumes are less affected than the U.S. export volume by market upswings and downswings. In addition, many of our competitors shield their farm sectors from changing conditions of international trade, and this is accomplished by reliance on trade-distorting mechanisms which restrict imports, subsidize exports, or both. We are not only the victims of other countries not storing, but when times get tough they raise barriers against exports which we would otherwise enjoy.

Some countries have a policy of exporting everything they do not need domestically. They do this regardless of conditions in the world market. Most of these countries do not have adequate, or any in some instances, storage capacity. That shifts the adjustment burden onto the United States because we have enough storage capacity.

We also have an inclination not to get involved in these types of trade wars.

Since the U.S. farm sector is not shielded from changing trade conditions, U.S. farmers are directly affected by variables which are constantly shifting and shaping the nature of the international trading environment. Included among these variables are ex-

change rate movements, worldwide economic growth, high interest rates, and competitor export subsidies and other trade distorting mechanisms.

For all these reasons, U.S. agriculture is particularly sensitive to and adversely affected by downswings in international agricultural trade. If the Secretary of Agriculture is able to act quickly and decisively to counteract a deteriorating export situation, he will be able to mitigate its impact on the U.S. agricultural economy and can work to eliminate agricultural protectionism around the world. The Agricultural Export Enhancement Act strengthens the Secretary of Agriculture's ability to deal effectively with the international agricultural trading environment. This is accomplished through a variety of measures designed to give the Secretary complete flexibility in addressing: Excessive U.S. carryover and stocks; high interest rates on borrowing; competitor export subsidies; exchange rate movements; and any international economic condition which impacts adversely on U.S. agricultural exports.

In general, these measures address and counteract any decline in U.S. exports or buildup in U.S. stocks and CCC inventories that arises due to the actions of other countries. The bill mandates that the Secretary take appropriate action to enhance agricultural exports whenever carryover stocks are projected to exceed a specified target level. The objective is to minimize the effects that depressed international markets have on the U.S. farm sector and to offset any single factor which is exacerbating the effects that such markets tend to have on the U.S. farm sector. For these reasons, the measures are intended to be operational only under a very special set of circumstances.

The second major purpose of the bill is to strengthen our market development efforts. This will help provide a Basis for long-term growth in U.S. agricultural exports.

Currently, the Foreign Agricultural Service (FAS) of USDA operates what I believe is the most cost-effective program of export promotion run by any agency of the U.S. Government. By working with cooperator organizations which provide matching funds, FAS has formed a partnership with groups in the private sector. This joint endeavor helps to insure that the projects undertaken will improve the export posture for the individual commodity involved as well as furthering our country's overall export goals.

The problem with market development work is that it is a slow process which often does not produce immediate results. It takes time, for instance, to persuade farmers in another country that they can increase their incomes by feeding their livestock U.S. grown feedgrains and soybean meal. Fortunately, experience has shown that other countries do respond and increase their imports from us because of these programs. Since the money is spent today, though, and the benefits are not seen until sometime in the future, the market development program has had a hard time maintaining an adequate funding level. In fact, in real terms, the program level for market development in fiscal year 1983 is about $20 million below what it was in fiscal year 1971.

In my view, when the world economy is stagnant, it is no time to relax on our market development efforts. The Free and Fair Trade Act will return the market development funding to the same real level it held a decade ago. It also requires that increased emphasis be placed on the promotion of value-added products and the opening of new Agricultural Trade Offices (ATO's) overseas.

In conclusion, Mr. President, I want to say that this bill is timely and much needed. It can help to get our agricultural exports out of the doldrums and set the farm economy on the path to prosperity.

In the near future I will be holding hearings in the Subcommittee on Foreign Agricultural Policy on this bill. I sincerely hope that the bill will be expeditiously passed by Congress and I look forward to working with my colleagues to attain that goal.

By Mr. DECONCINI (for himself, Mr. THURMOND, and Mr. HATCH):

S. 101. A bill to amend title 18 to limit the application of the exclusionary rule; to the Committee on the Judiciary.

LIMITING APPLICATION OF THE EXCLUSIONARY RULE

● Mr. DECONCINI. Mr. President, I am introducing today a bill to amend title 18 of the United States Code by adding a new section 3505, to chapter 223 to limit the application of the fourth amendment exclusionary rule in Federal court proceedings. The bill will provide that evidence obtained as a result of a search and seizure and which is otherwise admissible shall not be excluded in a proceeding in a court of the United States if the search and seizure was undertaken in a reasonable, good-faith belief that it was in conformity with the fourth amendment or, if to exclude such evidence would constitute a grave miscarriage of justice. This bill is very similar to the bill modifying the exclusionary rule offered by Senator THURMOND, differing only from Senator THURMOND's bill, S. 2231, by adding the additional clause preventing the exclusion of evidence if a grave miscarriage of justice would result from its exclusion. I am pleased that Senator HATCH and Senator THURMOND, the authors of the other bills specifically dealing with modifying the exclusionary rule, have joined me in cosponsoring this bill.

The exclusionary rule is a judicially created rule under which evidence is barred from introduction at a proceeding such as a criminal trial if the evidence is determined to have been obtained as a result of a search or seizure that violated the first clause of the fourth amendment. The rule is of comparatively recent vintage and was not even applied by the Supreme Court in the context of the fourth amendment until 1914, 123 years after the fourth amendment was adopted; it has only been held applicable to State criminal proceedings for the past 20 years.

There are no constitutional or statutory provisions which specifically set limits on what is meant by an "unreasonable" search or seizure. Instead the law in this area is an amalgam of cases dealing with a vast range of issues relating to the undertaking of searches and seizures. Yet courts continue to apply the rule even as they continue to develop the law of search and seizures. The heart of the present problem in application of the rule is that it has been expanded gradually by the courts to apply in situations in which the rule cannot possibly serve its primary purpose of deterring police misconduct. In my experience as a former prosecutor, I have seen this distortion of the rule's purpose result in grave injustice as well as a substantial cost to our society as law enforcement officers and private citizens alike have lost faith in our criminal justice system. I have seen, as the Supreme Court has stated, that the rule "deflects the truthfinding process and often frees the guilty."

This bill is intended to enhance the operation of the Federal criminal justice system by allowing courts greater access to all reliable evidence relevant in determining the guilt or innocence of the defendant, and to promote renewed respect for that system as a search for the truth in the minds of our citizens. It is intended to aid the courts in that search for the truth and in criminal cases, where the police have reasonably tried to apply the complex law of search and seizure, insure that the guilty are convicted and the innocent are acquitted.

This bill will not eliminate the exclusionary rule. Rather it will eliminate the disproportionate application of the rule, and the disrespect for the law that that application engenders. We must allow the courts to grant a remedy for the violation of fourth amendment rights which matches the seriousness of the violation. I therefore ask my distinguished colleagues to grant their full support for this important measure.

Our system of justice was established with the determination of truth as its primary goal. Under this system the State has the burden of proving the guilt or innocence of the accused. The assumption is that through the examination of all of the evidence gathered by the State the court will be led to a decision which is as close to the truth as humanly possible. These basic principles of justice were greatly compromised with the adoption of the exclusionary rule. The Supreme Court first suggested possible judicial action as a means to curtail continued abuses of authority by law enforcement agencies 96 years ago in *Boyd* v. *United States*, 116 U.S. 616 (1886). This resulted in the Court later instituting the so-called exclusionary rule, in lieu of any constitutional sanction, in *Weeks* v. *United States*, 232 U.S. 383 (1914). This judicially mandated doctrine was intended to serve as a deterrent to abusive Federal law enforcement practices. The rule, also referred to as the Weeks Doctrine or the Suppression Doctrine, was subsequently extended to encompass the States in *Mapp* v. *Ohio*, 367 U.S. 643 (1961).

Let me again emphasize that the exclusionary rule is a concept of judicial origin, created supposedly to protect the rights guaranteed by the 4th, 5th, 6th, and 14th amendments to the Constitution of the United States. The exclusionary rule is not an obligatory element of the fourth amendment, but merely the means which the Court in Weeks chose to adopt to enforce the guarantees of the fourth amendment. The Court reasoned that exclusion was the only sanction or remedy that would effectively compel respect for and secure police compliance with the rights guaranteed by the fourth amendment. An analysis of recent Court decisions clearly indicates that this is not the view held by the majority of Justices on the current Court. As stated in a past decision of the Court with respect to the exclusionary rule, "The rule is calculated to prevent, not repair. Its purpose is to deter—to compel respect for the constitutional guaranty in the only effectively available way—by removing the incentive to disregard it." *Elkins* v. *United States*, 364 U.S. at 217 (1960).

From its inception, the exclusionary rule has drawn extensive criticism for the flaws in logic and operation inherent in the premise on which the rule is based: deterrence. The logic of this deterrence theory was severely questioned nearly 30 years ago, when Justice Jackson noted:

> That the rule of exclusion and the reversal results in the escape of a guilty person is more capable of demonstration than that it deters invasions of right by the police. The case made, so far as the police are concerned, when they announce that they have arrested their man. Rejection of the evidence does nothing to punish the wrongdoing official, while it may, and likely will, remedy against one lawbreaker because he has been pursued by another. It protects one against whom incriminating evidence is discovered, but does nothing to protect innocent persons who are the victims of illegal but fruitless searches. The disciplinary or educational, effect of the court's releasing the defendant for police misbehavior is so indirect as to be no more than a mild deterrent at best. *Irvine* v. *California*, 347 U.S. 128, 135 (1954).

Later, 10 years after the rule had been applied to the States, Dallin Oaks did an exhaustive study in search of the so-called deterrent effect. His conclusion is just as valid another 12 years later—

> Today, more than fifty years after the exclusionary rule was adopted for the federal courts and almost a decade after it was imposed upon the state courts, there is still no convincing evidence to verify the factual premise of deterrence upon which the rule is based or to determine the limits of its effectiveness. 37 Univ. of Chicago L. Rev. 665, 672 (1970).

The Attorney General's Task Force on Violent Crime recently faulted the exclusionary rule with "barring evidence of the truth, however important, if there is any investigative error, however unintended or trivial." Task Force final report, page 55.

Many of the cases to which the rule is applied involve unintentional violations of the fourth amendment protections, such as technical errors in the filing or serving of the search warrant. It is impossible to deter actions which are either unintentional or performed with the belief that they are in compliance with the standards required by the fourth amendment. Justice Cardozo summarized the rule's flaws in authoring a unanimous opinion for the New York Court of Appeals, in *People* v. *Defore*, 244 U.S. 13 (1926).

> The criminal is to go free because the constable has blundered.

Rather than subsiding, the criticisms of the exclusionary rule have augmented in recent years, particularly since the 1961 decision in Mapp. This is perhaps a reflection of Justice Holmes' statement that "The life of the law is not logic; it is experience."

Efforts to repeal the rule have been thwarted in the past by the widely held misconception that the rule is constitutionally mandated and that its repeal is somehow tantamount to a repeal of the fourth amendment. However, the Court itself recognizes that:

> The rule is a judicially created remedy designed to safeguard Fourth Amendment rights generally through its deterrent effect, rather than a personal constitutional right of the party aggrieved. (*U.S.* v. *Colandra*, 414 U.S. at 348 (1974).)

The costs of the exclusionary rule were recognized in *Stone* v. *Powell*, 49 L.Ed. 2d 1067 (1976):

> (1) The focus of the trial, and the attention of the participants therein, is diverted from the ultimate question of guilt or innocence that should be the central concern in a criminal proceeding (i.e., it deflects the truthfinding process and often frees the guilty).
>
> (2) The evidence excluded is typically reliable and extremely probative.
>
> (3) The concept of proportionality is often offended. "The disparity in particular cases between the error committed by the police officer and the windfall afforded a guilty defendant by application of the rule is contrary to the idea of proportionality that is essential to the concept of justice." This in turn may generate disrespect for the law and the administration of justice.

The list of critics and criticisms grows steadily and becomes increasingly more persuasive with every assertion that the rule releases "countless guilty criminals" (Chief Justice Burger, 403 U.S. at 416).

The bill which I join my colleagues in introducing today will solve many of the problems created by the exclusionary rule by assuring that evidence will not be excluded when the officers were acting in the good faith belief that they were adhering to constitutional standards in their investigation. Moreover the bill includes a provision explicitly stating that evidence will not be suppressed if the result would be a "grave miscarriage of justice." This provision is similar to the Scottish doctrines on this subject which have worked admirably. Accordingly, I encourage my colleagues to join this effort to correct many of the injustices of the suppression doctrine.

I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 101

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 223 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 3505. Limitation of the Exclusionary Rule

"Except as specifically provided by statute, evidence which is obtained as a result of a search or seizure and which is otherwise admissible shall not be excluded in a proceeding in a court of the United States if the search or seizure was undertaken in a reasonable, good faith belief that it was in conformity with the Fourth Amendment to the Constitution of the United States or if to exclude such evidence would constitute a grave miscarriage of justice. A showing that evidence was obtained pursuant to and within the scope of a warrant constitutes prima facie evidence of such a reasonable good faith belief, unless the warrant was obtained through intentional and material misrepresentation.".

(b) The table of sections of chapter 223 of title 18 is amended by adding at the end thereof the following item:

"3505. Limitation of the Exclusionary Rule.".●

By Mr. PELL (for himself, Mr. CHAFEE, and Mr. MOYNIHAN):

S. 102. A bill to require the Administrator of General Services to notify

States of the availability of surplus real property and to convey at reduced cost certain surplus real property for public park or public recreational use to State and local governments; to the Committee on Governmental Affairs.

ACQUISITION OF SURPLUS FEDERAL PROPERTY BY STATE AND LOCAL GOVERNMENTS

Mr. PELL. Mr. President, today I am introducing legislation to allow State and local governments to continue to acquire surplus Federal lands for park and recreational purposes. This legislation is sponsored by my friend and colleague, Senator CHAFEE, with whom I introduced S. 3080 near the end of the 97th Congress, in response to the Government's attempt to auction off property in Rhode Island which has long been sought by local officials for parks and recreational areas. These lands, including the beautiful Beavertail Point and Fort Wetherill in Jamestown, R.I., are surrounded by existing State park lands and Narragansett Bay. Commercial development of these sites, and dozens of others in State after State, is just as inappropriate as condominium development in the middle of Yellowstone Park.

Over the years the American people have enjoyed State parks that were developed through the acquisition of surplus Federal lands. This longstanding policy reflected the view that as our cities and suburbs relentlessly expand, the open spaces needed for recreation are inevitably swallowed up—often forever. Unless we preserve these open spaces while they are still available, we will have none to preserve. This policy was wisely accelerated by the Congress acting in concert with the Nixon and Ford administrations under what became known as the legacy of parks program.

This policy of encouraging expansion of State and local recreational areas was frozen in its tracks last February as the result of Executive Order 12348, signed by the President on February 25, 1982. This order directed the General Services Administration and the President's Property Review Board to complete appraisals on surplus properties and begin the process of auctioning them at fair market value for private development. The Executive order has initiated what could turn out to be the biggest Federal land sale since frontier days. So far, 2.7 million acres have been designated for public auction. Ultimately, 35 million acres—an area about the size of Iowa, might be sold.

This fire sale of surplus lands is intended, of course, to contribute to the reduction of the Federal debt. I do not quarrel with the administration's contention that there are many properties which the Government has held for years which are naturally suited for commercial or residential development and which would produce a significant amount of revenue for the Treasury if sold at fair market value. The sale of these kind of properties will help to spur jobs in the private sector and relieve the Government from the cost of maintaining a large inventory of unneeded property. At the same time, it would be shortsighted and foolish to conduct a fire sale of surplus lands and in so doing give up valuable natural resources which, once sold, will be lost forever.

I believe we must act immediately to protect potential parks and recreational areas endangered by the administration's policy. Legislation is needed to identify specific environmental criteria ensuring that surplus lands naturally suited for parks are offered to State and local agencies before being auctioned for private development. The bill I am introducing today requires notification to the Governor as soon as real property in the State is placed in the surplus category.

Following notification, State governments may initiate an evaluation process to determine if the surplus land is suitable for park and recreational purposes. This process requires input from local communities and the opportunity for public comment and hearings. Upon completion of the evaluation, the State may petition the Interior Department to designate the land for public park and recreational use. Such designation is automatic if the State has complied with all requirements for evaluating the surplus property. Upon receiving a designation from the Interior Department, the General Services Administration is required, within 180 days, to convey the surplus land to the State or local government at up to 100 percent public benefit discount. Any property conveyed in this manner must be retained for park use in perpetuity.

To address the problem of property already designated for surplus and in danger of imminent sale for private development, my bill contains a provision allowing the State to evaluate the land for potential park use before GSA can proceed with sale of the property.

My legislation will insure that there is ample opportunity to evaluate the most appropriate use for surplus property before the land is put on the auction block for private development. Moreover, it will preserve for future generations valuable public resources which are in danger of being permanently lost to imminent public sale.

Prompt action is necessary to prevent irreparable losses of valuable assets in many States and I intend to ask for hearings to be scheduled on this legislation as soon as possible. I am pleased that Congressman JAMES H. SCHEUER has agreed to introduce this legislation in the House and hopeful of early action on the problem in that body as well.

I ask that the text of my bill be printed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 102

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(a)) is amended—

(1) by inserting "(1)" before "Except", and

(2) by adding at the end thereof the following new paragraph:

"(2)(A) Notwithstanding any other provision of law, the Administrator shall notify the chief executive officer of each State in which surplus real property is located that such property is available for disposition under the provisions of this Act. Such notification required by the first sentence shall be made each time—

"(i) the Administrator designates or redesignates such real property as surplus real property; or

"(ii) proceedings to dispose of such real property under the provisions of this Act other than subsection (k)(3) are suspended.

"(B) No such surplus real property shall be made available for disposition by the Administrator if within thirty calendar days of the date of the notice described in subparagraph (A), the chief executive officer of the State notifies the Administrator of the intention of the State to submit a plan of use pursuant to the provisions of paragraph (3) of subsection (k) of this section.

"(C) The term 'State', as used in this paragraph, includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.".

SEC. 2. Subsection (k) of section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(k)) is amended—

(1) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively, and

(2) by inserting after paragraph (2) the following new paragraph:

"(3)(A) Notwithstanding any other provision of law, the Administrator shall convey to any State, political subdivision, instrumentality, or municipality, at the park and recreational value, all of the right, title, and interest of the United States in and to any surplus real property, including buildings, fixtures, and equipment situated thereon, within one hundred and eighty calendar days after the date of notification by the Secretary of the Interior of a designation of such property as suitable for public park or public recreational use pursuant to subparagraph (B).

"(B) The Secretary of the Interior shall designate any surplus real property as suitable for public park or public recreational use within ninety calendar days after the date on which the Secretary receives a plan for such use, submitted by any State, political subdivision, instrumentality, or municipality within which such property is located.

"(C) Any plan of public park or public recreational use required by subparagraph (B) shall be, or be a part of, a detailed State plan designating Federal surplus real property within such State for public park or public recreational use. The contents of

such plan shall be approved according to State law by the chief executive officer of the State after the consideration of such factors as—

"(i) the proximity of such property to existing park and recreational properties,

"(ii) the suitability of the property for public park or public benefit use,

"(iii) the compatibility of such use to the existing use of surrounding properties,

"(iv) the ownership of the property prior to Federal ownership,

"(v) the previous designation of such property by the Secretary of the Interior as a habitat for threatened or endangered species, and

"(vi) the current inclusion of or the eligibility for inclusion of such property on the National Historic Register.

No such plan shall be approved and submitted pursuant to subparagraph (B) until ninety calendar days after the date on which general notice of the proposed plan has been published and interested persons have been given at least thirty calendar days during which to submit comments. Such plan must be submitted to the Secretary of the Interior within one hundred and eighty days after the date on which the chief executive officer of the State notifies the Administrator pursuant to the provisions of paragraph (2)(B) of subsection (a) of this section.

"(D) In fixing the park and recreational value of property to be conveyed under subparagraph (A), the Administrator may discount such value up to 100 per centum, but in no event shall such value, after the discount, exceed 50 per centum of the highest and best use value of such property.

"(E) The deed of conveyance of any surplus real property disposed of under this paragraph shall provide that all of such property shall be used and maintained in perpetuity for the purpose for which it was conveyed, and that in the event such property ceases to be used or maintained for such purpose during such period, all or any portion of such property shall in its then existing condition, at the option of the United States, revert to the United States.

"(F) Notwithstanding any provision of this paragraph or any other law, the Secretary of the Interior may designate, absent the submission of a State plan, any surplus real property as suitable for public park or public recreational use.".

Sec. 3. (a) The amendments made by this Act shall be effective on the date of enactment of this Act.

(b) For purposes of the amendments made by section 1 of this Act, any real property designated as surplus real property by the Administrator of General Services pursuant to the provisions of the Federal Property and Administrative Services Act of 1949 as of the date of enactment of this Act shall be considered as originally designated as surplus real property by the Administrator on the date of enactment of this Act.

By Mr. BOREN:

S. 103. A bill to amend the Highway Revenue Act of 1982 to repeal the increase in the highway use tax; to the Committee on Finance.

HEAVY VEHICLE USE TAX REPEAL

● Mr. BOREN. Mr. President, I am introducing today, legislation that will repeal the tremendous increase in the heavy vehicle use tax that was a part of the Highway Revenue Act of 1982, H.R. 6211. As my colleagues will remember, Congress passed this legislation during the last hectic days of the lameduck session right before Christmas. This legislation was passed without the careful scrutiny that it deserved especially in light of the added burden to our Nation's truckers.

I do not believe that most Members understood the extreme impact on our Nation's truckers when we passed this huge increase in heavy vehicle use taxes. Prior law set the maximum use tax on the heaviest trucks at $240 per year. Although the legislation that finally passed raised the maximum tax to $1,900, which is less than the original Department of Transportation proposal of a maximum tax of $2,700, I believe even this much of an increase is too burdensome. An increase in tax from $240 per year to $1,900 per year amounts to almost an 800-percent increase. And this is only the use tax. This does not even take into account the increase in the fuels tax from 4 to 9 cents per gallon and the increase in excise taxes on truck tires.

In the rush to create jobs and fix our Nation's highways and bridges, which we can all agree needs to be done, I believe that we have created a situation where vast numbers of our Nation's truckers will not be able to continue operating profitably. It is an unrealistic assumption to believe that all these increased taxes can be passed through to the shippers via rate increases. Such huge increases will certainly force the shippers to look for alternatives for moving their goods.

Mr. President, I do not believe that Congress willingly chose to force many truckers out of business in our efforts to rebuild our network of roads and bridges. The 5-cent-a-gallon increase in fuel tax sounded good for raising several billion dollars to do this. However, I do not believe that most of my colleagues knew what a tremendous burden we would be placing on this segment of our Nation's work force.

Unfortunately, by passing this legislation, we have also put a large financial burden on our shippers, especially farmers and small businesses who are already economically hard hit.

Mr. President, passage of this bill will still allow us to raise substantial amounts for the highway trust fund because of the tax increases that would remain in effect. We would still be able to carry out our objective of repairing and maintaining our roads and bridges, but at the same time, we would not be forcing our truckers out of business.

I urge my colleagues to support the passage of this bill.●

By Mr. DECONCINI:

S. 104. A bill to repeal the withholding of tax from interest and dividends, to require statements to be filed by the taxpayer with respect to interest, dividends, and patronage dividends, and to advance by 2 years the effective date for the partial exclusion of interest; to the Committee on Finance.

SMALL SAVERS AND INVESTORS REGULATORY RELIEF AND INCENTIVE ACT OF 1983

● Mr. DECONCINI. Mr. President, I am today introducing the Small Savers and Investors Regulatory Relief and Incentive Act of 1983. This legislation would repeal the withholding on interest and dividends mandated in Public Law 97-248, the Tax Equity and Fiscal Responsibility Act of 1982, or TEFRA, and advance the effective date of the expanded interest exclusion provided in the Economic Recovery Tax Act of 1981 (ERTA) to January 1, 1983. These changes have in common the same general objective—to promote savings and capital formation. In light of prevailing economic conditions, I can think of no higher priority. Enlarging the pool of savings is absolutely essential if we are to underwrite the modernization and restructuring of this country's system of production.

My bill will help to meet this need by removing the disincentives inherent in withholding on interest and dividends while at the same time increasing the after-tax value of such earnings.

Now, Mr. President, I opposed withholding on interest and dividends when it was suggested as a "revenue enhancer" and incorporated in TEFRA last year. I thought it was a bad idea then and I still do. The best that can be said for it is that it represents an exercise in overkill with respect to a relatively minor problem in tax administration. An IRS study, published in July 1981, indicates that 96.7 percent of dividends and interest subject to reporting was indeed reported. The increased paperwork, cost, and intrusiveness stemming from this provision are hard to justify with such minor gains in compliance.

What is more, the burden of the withholding requirement will inevitably fall most heavily on the elderly. According to Statistics of Income 1978, an IRS publication, almost half of the interest received by individuals in this country—46 percent, to be exact—goes to persons 65 and older. Moreover, almost three-quarters of this age group, according to the same analysis, had incomes of less than $15,000. True, TEFRA did establish a procedure for securing an exemption from withholding for selected groups, including the poor and the elderly. But to qualify, the taxpayer would have to file a separate exemption certificate for each account he might have. Thus, he would have to file separate certificates with his credit union, bank savings and loan, and so forth. The financial institutions involved would then have to process the resulting mass of paperwork accurately and in a timely

manner before the exemptions would become effective. The process would also have to be repeated every year.

It is a safe bet that, even if everything went well from a purely administrative point of view, this procedure will not work very well. For one thing, elderly and low-income persons are, by and large, unaccustomed to dealing with the complexities of tax administration. Indeed, most of us have more than enough trouble with form 1040. As a consequence, withholding against the incomes of such groups will almost certainly work a genuine and unwarranted hardship. To ask senior citizens and the poor to acquire a new bureaucratic routine to avoid this drain on their already limited if not meager resources is hard to square with my concept of elemental fairness. And, judging by the volume of mail I am getting from my constituents on this issue, most of those affected feel the same way.

Withholding—and especially overwithholding, which is likely in a majority of cases—on investment income obviously reduces the funds available for reinvestment. This is not only a cost to the taxpayer but a significant impedement to the kind of capital formation that restoration of economic growth and stability will require.

Mr. President, the second component of this bill, section 3, more directly addresses the capital formation question. Fortunately, there now exists a broad consensus of this issue. It borders on the impossible to find anyone in public life who does not favor the promotion of greater savings and investment. It is clear that refurbishment of our productive infrastructure is one of the keys to curing the economic trauma we are now experiencing. It is also clear that the problem will not solve itself. It requires a coordinated policy.

This country has had no real growth now for 3 years. Unemployment stands at 10.8 percent. Industrial production fell 10 months out of 12 last year and is 16.3 points below the average for 1981, not, as you may recall, a particularly good year. Significantly, with the exception of defense procurements, output of business equipment declined last month another 0.3 percent. The U.S. trade deficit for the first 11 months of last year was over $30 billion. Interest rates are at historically unprecedented real levels and continue to depress normal economic activity by business and consumer sectors alike.

All these ills, Mr. President—and many more that could be cited—are rooted in one degree or another in our failure as a nation to maintain, modernize, and expand our capital base, both human and material. The way out is to expand our capital base, both human and material. The way out is to expand the funds available for the necessary investments. One of the major incentives for savings and investment—the all-savers certificates—expired December 31. I do not believe it is wise to permit this to happen without taking steps to offset its negative effects on the capital formation process. That is why I am proposing in this legislation to move the partial exclusion of interest scheduled to take effect under ERTA in 1985 to the current taxable year. This provision, it will be recalled, permits the exclusion of up to 15 percent of the lesser of $3,000, $6,000 on joint returns, or net interest received by the taxpayer after qualified interest expenses have been deducted.

Mr. President, I hope that the Senate will have an opportunity to act on this legislation early on in this session and ask that it be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 104

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the Small Savers and Investors Regulatory Relief and Incentive Act of 1983.

SEC. 2. REPEAL OF WITHHOLDING OF TAX FROM INTEREST AND DIVIDENDS.

(a) IN GENERAL.—

(1) subtitle A of title III of the Tax Equity and Fiscal Responsibility Act of 1982 (relating to withholding of tax from interest and dividends) is hereby repealed, and

(2) the Internal Revenue Code of 1954 shall be applied as if such subtitle A (and the amendments made by such subtitle) had not been enacted.

(b) CONFORMING AMENDMENTS.—Section 6049 of the Internal Revenue Code of 1954 (relating to returns regarding payments of interest) is amended—

(1) in subsection (a)—

(A) by inserting "or" at the end of paragraph (1),

(B) by striking out "or" at the end of paragraph (2),

(C) by striking out paragraph (3), and

(D) by striking out "tax deducted and withheld,",

(2) in subsection (b)(2)—

(A) by striking out subparagraph (C),

(B) by redesignating subparagraph (D) as subparagraph (C), and striking out "not described in subparagraph (C) of this paragraph", and

(C) by redesignating subparagraph (E) as subparagraph (D),

(3) in subsection (b)(3) by striking out "paragraph 2(D)" each place it appears and inserting in lieu thereof "paragraph 2(C)",

(4) in subsection (c)(1)—

(A) by inserting "and" at the end of subparagraph (A),

(B) by striking out ", and" at the end of subparagraph (B) and inserting in lieu thereof a period, and

(C) by striking out subparagraph (C), and

(5) in subsection (c) by adding at the end thereof the following new paragraph:

"(4) Duplicate statement to be included in return of person with respect to whom information is furnished.—A duplicate of the statement required to be furnished to a person under paragraph (1) shall be included with the return of the person receiving such statement for the taxable year which ends with or within the calendar year to which the statement relates.".

SEC. 3. STATEMENTS TO BE FILED BY TAXPAYER.

(a) DIVIDENDS.—Section 6042 of the Internal Revenue Code of 1954 (relating to returns regarding payments of dividends) is amended by adding at the end thereof the following new subsection:

"(e) DUPLICATE STATEMENT TO BE INCLUDED IN RETURN OF PERSON WITH RESPECT TO WHOM INFORMATION IS FURNISHED.—A duplicate of the statement required to be furnished to a person under subsection (c) shall be included with the return of the person receiving such statement for the taxable year which ends with or within the calendar year to which the statement relates.".

(b) PATRONAGE DIVIDENDS.—Section 6044 of such Code (relating to returns regarding payment of patronage dividends) is amended by adding at the end thereof the following new subsection:

"(f) DUPLICATE STATEMENT TO BE INCLUDED IN RETURN OF PERSON WITH RESPECT TO WHOM INFORMATION IS FURNISHED.—A duplicate of the statement required to be furnished to a person under subsection (e) shall be included with the return of the person receiving such statement for the taxable year which ends with or within the calendar year to which the statement relates.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1982.

SEC. 4. ADVANCE EFFECTIVE DATE OF PARTIAL EXCLUSION OF INTEREST.

Paragraph (1) of section 302(d) of the Economic Recovery Act of 1981 (Public Law 97-34) is amended by striking out "December 31, 1984" and inserting in lieu thereof "December 31, 1982".●

By Mr. THURMOND (for himself, Mr. BIDEN, Mr. ROBERT C. BYRD, Mr. ZORINSKY, Mr. HOLLINGS, Mr. NICKLES, Mr. DOMENICI, Mr. COCHRAN, Mr. KASTEN, Mr. ABDNOR, Mr. EAST, Mr. BOREN, Mr. GOLDWATER, Mr. DOLE, Mr. HUDDLESTON, Mr. NUNN, Mr. D'AMATO, Mr. GRASSLEY, Mr. HEINZ, Mr. SYMMS, Mr. DECONCINI, Mr. TOWER, Mr. BAUCUS, Mr. HUMPHREY, Mr. BURDICK, Mr. CHILES, Mr. LONG, Mr. PRESSLER, Mr. GARN, Mr. HATFIELD, Mr. JEPSEN, Mr. QUAYLE, Mr. TRIBLE, Mr. COHEN, Mr. BAKER, Mr. HATCH, Mr. RUDMAN, Mr. MURKOWSKI, and Mr. SIMPSON):

S. 105. A bill to define the affirmative defense of insanity and to provide a procedure for the commitment of offenders suffering from a mental disease or defect, and for other purposes; to the Committee on the Judiciary.

Mr. THURMOND. Mr. President, today I am introducing a bill to define the affirmative defense of insanity and to establish uniform and comprehensive procedures for the civil commitment of Federal offenders suffering from a mental disease or defect.

This bill is identical to S. 2902 introduced in the 97th Congress on September 14, 1982, by myself and a number of my colleagues to deal with perceived deficiencies in the current definition of the Federal insanity defense, in the allocation of the burden of proving the defense, and in the absence of a general Federal commitment procedure for a person found to have been insane at the time of the Federal crime.

In sponsoring this measure, I am joined by Senator BIDEN, the ranking minority member of the Committee on the Judiciary. In addition, not only have some nine members of the Committee on the Judiciary again joined me in this effort, but most of those who, including Senators COCHRAN, HATCH, PRESSLER, NUNN, QUAYLE, SYMMS, and ZORINSKY, introduced legislation on this subject last Congress, are cosponsoring this bill.

The issue of the insanity defense is one that cries out for legislative reform. Unfortunate as the verdict was in the attempted assassination of the President of the United States, it did serve to focus the attention of the Nation and this Congress on the serious shortcomings of the insanity test presently applied by the Federal courts. People throughout this country, from every walk of life and of every political persuasion, have called for a change in the law.

Congress has never enacted legislation defining the test to be used for insanity in Federal criminal cases. Nor has Congress ever spelled out procedures to be applied once the defense is raised. The development of the insanity defense has, therefore, been left to the Federal courts.

The foundation for the insanity defense was laid over a century ago by the British courts seeking to deal with mentally deranged defendants in a legally rational manner. The first articulated rule for defining insanity in the context of a criminal prosecution was established in England in the case of Daniel M'Naghten in 1843:

> Every man is to be presumed to be sane . . . To establish a defense on the ground of insanity, it must be clearly proved that, at the time of the committing the act, the party accused was labouring under such defect of reason, from disease of the mind, as not to know the nature and quality of the act he was doing; or if he did know it, that he did not know he was doing what was wrong.

This rule became the dominant test of insanity defense used in the United States for many years.

However, the M'Naghten rule, or "right-wrong test" as it is often called, has been gradually but steadily broadened by the American courts. In 1897, the notion of "irresistible impulse" was added to the M'Naghten rule to excuse criminal behavior by defendants even if they could discern right from wrong, as long as they were unable to control their actions because of some form of mental illness.

In 1954, the Durham rule was established which extended the insanity defense even further to forgive unlawful acts which were the "product" of a mental disease or defect. After wrestling with the vague Durham rule "products test" for almost 20 years, the Federal courts adopted the governing standard used in the Hinckley case, and which the American Law Institute sets forth in the Model Penal Code.

This formulation, commonly referred to as the ALI test, includes both cognitive and control criteria in framing the insanity defense. The test provides:

> A person is not responsible for criminal conduct if at the time of such conduct as a result of mental disease or defect he lacks substantial capacity either to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of the law.

The drafters of this provision, therefore, expanded the defense to cover not only the inability of a person to distinguish right from wrong with respect to his acts, but to accord independent significance to the inability to control behavior, thus adopting the irresistible impulse notion. In addition, by its "substantial capacity" formulation, the American Law Institute recommended explicit recognition of a vague and blurred line between the sane and the insane.

A survey made by the Congressional Research Service in the 97th Congress shows that 23 States apply some version of the M'Naghten test, although 6 of those States have supplemented the test with the "irresistible impulse" concept. Twenty-five States and the District of Columbia have adopted a formulation of the ALI test, which is also the basic test applied in the Federal courts. Two States have utilized what is commonly referred to as a mens rea approach and seven States have created an alternative verdict of "guilty but mentally ill."

A factor equally important as the test used to legally define insanity is the assignment of the burden of proof. In a criminal trial, the prosecution has the burden of proving all the essential elements of the crime charged. Burden of proof is composed of two parts: the burden of production of evidence and the burden of persuasion of the trier of fact. The burden of production of evidence only requires that a party raise the issue and produce enough evidence to reasonably place a fact at issue, while the burden of persuasion requires that enough evidence be introduced to persuade the judge or jury of the actual existence of that fact by the appropriate legal standard.

The prosecution's burden of proof does not automatically extend to the sanity of the defendant. Instead, the defendant is deemed to be sane at the time he committed the crime. However, the defendant may interject the insanity defense into the trial by raising the issue and introducing evidence at trial to place his sanity at issue.

Once the defendant's sanity becomes an issue, the burden of persuasion becomes important. There are two views as to who should carry this burden: Some jurisdictions place a burden of persuasion beyond a reasonable doubt on the prosecution once the insanity defense is appropriately placed at issue, while other jurisdictions, labeling "insanity" an affirmative defense, require the defendant to not only raise the issue but carry the burden of proving his insanity by an appropriate standard, such as by a preponderance of the evidence.

The States are evenly split between the two views of the burden of proof allocation. In 25 States and in the Federal courts, the prosecution bears the burden of disproving the elements of the insanity defense—that is proving sanity—beyond a reasonable doubt. Twenty-five States and the District of Columbia place the burden of proof on the defendant. Nineteen States require the level of proof to be "by a preponderance of the evidence," while three States require "beyond a reasonable doubt." Four other States have proof levels ranging from "to the satisfaction of the jury" to "by a reasonable certainty."

Mr. President, I have outlined the confused history of the modern insanity defense and provided background information on the sharply different practices used in the allocation of the burden of proof to provide a context and framework for examining the issues raised by the insanity defense. Primarily these issues are defining the test to be used to determine insanity, the burden of persuasion as to mental condition, and the proper disposition of offenders shown to be suffering from a mental disease or defect.

The legislation that I am proposing today has evolved from the hearings held by the Subcommittee on Criminal Law and by the full Judiciary Committee in the last part of the 97th Congress.

The hearings held by the Committee on the Judiciary were, of course, a response to the public outcry over the verdict in the Hinckley trial, but, more importantly, served to examine the various legislative proposals pending before the committee. By the conclusion of the 97th Congress hearings, nine bills had been introduced and referred to the Senate Judiciary Committee, including measures introduced by Senators COCHRAN, HATCH, NUNN, QUAYLE, SPECTER, SYMMS, and ZORINSKY. Seven days of hearings were held relative to the insanity defense. Three hearings were held by the Subcommittee on Criminal Law, and four were

held by the full committee. A total of 42 witnesses appeared at these hearings, including the Attorney General of the United States, legal scholars, psychiatrists and psychologists, prosecution and defense attorneys, and representatives of interested organizations, such as the Judicial Conference of the United States and mental health groups. Especially helpful was testimony from some of the jurors who participated in the trial of John Hinckley. At that hearing, it was made clear that the jurors did not feel that they could properly assess the criminal responsibility of a defendant under the ALI formulation of the insanity defense used by the Federal courts. The jurors expressed their frustration with the control test—or volitional prong of the ALI rule—which exculpates the defendant if he cannot "conform his conduct to the requirements of the law." Further, the jurors disclosed their dismay with the requirement of the law that the prosecution, once the insanity defense has been raised, be required to prove the sanity of the defendant beyond a reasonable doubt. It was suggested at that hearing and in subsequent hearings that the prosecution should not have to bear the burden of proving the sanity of the defendant.

Mr. President, I am confident that the hearings on the subject of the insanity defense are thorough and complete. They should be available shortly in published form. I hope my colleagues will conclude, as I have, that the hearings will provide a more than adequate basis for consideration of this important bill without undue delay.

The bill introduced today represents, I believe, a consensus view among those Senators on the committee, as well as those Senators who introduced their own legislative proposals last Congress. This bill narrows the insanity defense to the degree that only those individuals who have no comprehension of what they are doing or have no understanding of the consequences of their acts, will be able to successfully assert the defense.

This particular formulation of the insanity defense focuses on the cognitive ability of a defendant to perceive what he is doing and to know that his actions are wrong. The bill rejects any notion that a defendant should be excused from criminal liability because he could not conform his conduct to the requirements of the law or because he had an irresistible impulse to commit the act.

The last point is one that cannot be overemphasized. The volitional ability of a person to control his behavior or resist impulses is simply not contemplated under this insanity defense. It is, I submit, impossible to distinguish between offenders who were undeterrable and those who were merely undeterred, or between the impulse that was irresistible and the impulse resisted. Therefore, this formulation of the insanity defense does not recognize a volitional or control test.

Another important aspect of this test which deserves comment is the ability of a defendant to distinguish right from wrong with respect to his acts. This test is meant to be an objective inquiry into the cognitive ability of the individual to know whether he was doing right or wrong. The motivations for the criminal acts are irrelevant. For instance, religious or political reasons given for criminal behavior will not excuse the conduct even though the defendant may have felt that his actions were, somehow, justified.

The bill also addresses the burden of proof issue. It provides that the defendant has the burden of proving the defense of insanity by clear and convincing evidence. As a result, the prosecution no longer has to show that the defendant is sane once he has asserted the defense of insanity. The use of the clear and convincing standard requires that the defendant prove his insanity by evidence greater than a preponderance but less than beyond a reasonable doubt.

The bill also addresses an important, yet overlooked, area of the law—the civil commitment of mentally ill persons in need of medical care and treatment. Today, there is no means by which the Federal Government can institutionalize insane and dangerous persons who have committed violent and criminal acts. The Federal Government has had to rely on the benevolence of the States to commit dangerously ill persons. This bill will remedy that obvious defect in our laws.

Mr. President, there are other significant improvements made by this bill explained in a section-by-section analysis to be inserted in the record, but these remarks highlight the three major points of the legislation. In closing, let me remind my colleagues that the first duty of a government is to protect innocent and law-abiding persons from the bullies and predators of the world. We must insure that criminals who deliberately plan and carry out brutal acts of violence with full knowledge of the nature and wrongfulness of their conduct will be morally condemned by the community and held appropriately accountable for their acts.

The citizens of this Nation are watching the Congress to see whether we respond to their demands for a change in the laws governing the insanity defense. This bill meets those demands.

Mr. President, I ask unanimous consent that a copy of the bill and a section-by-section analysis be placed in the CONGRESSIONAL RECORD immediately following my remarks. I also ask unanimous consent that the record remain open for the purpose of adding further original cosponsors until the close of business today.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS

I. INTRODUCTION

The bill amends various provisions of title 18, United States Code, and of the Federal Rules of Criminal Procedure, relating to the procedures to be followed in Federal courts with respect to offenders who are or have been suffering from a mental disease or defect. Among the matters provided for by these amendments are the determination of mental competency to stand trial, the determination of the existence of insanity at the time of the offense, to limit the scope of a separate insanity defense, and the post-trial hospitalization of defendants suffering from a mental disease or defect.

II. SECTION-BY-SECTION ANALYSIS

Section 1 states the affirmative defense of insanity under Federal statute in subsection (a) ". . . the defendant, as a result of mental disease or defect, lacked entirely—(1) the ability to understand the nature and quality of his acts; or (2) the ability to distinguish right from wrong with respect to his acts". The bill further states that this is the sole and exclusive test for insanity by providing, "mental disease or defect does not otherwise constitute a defense. In section (b) the bill establishes that the defendant has the burden of proving the insanity defense by "clear and convincing" evidence. This standard is greater than a preponderance of the evidence but less than beyond a reasonable doubt.

Section 2 of the bill amends Rule 12.2 of the Federal Rules of Criminal Procedure to conform with chapter 313 of title 18 as amended by this bill.

Section 3 provides a comprehensive amendment of current chapter 313 of chapter 18, United States Code. Proposed 18 U.S.C. 4241 deals with the determination of mental competency to stand trial; 18 U.S.C. 4242 relates to the determination of the existence of insanity at the time of the offense; 18 U.S.C. 4243 provides for the hospitalization of a person found not guilty only by reason of insanity; 18 U.S.C. 4244 deals with the hospitalization of a convicted person who is suffering from a mental disease or defect; 18 U.S.C. 4245 covers the hospitalization of an imprisoned person who suffers from a mental disease or defect; 18 U.S.C. 4246 deals with the situation of such a person who is scheduled to be released; and 18 U.S.C. 4247 contains general provisions for chapter 313. These sections are discussed below:

18 U.S.C. 4241, Determination of Mental Competency to Stand Trial, contains six subsections which deal exclusively with the determination of the mental competency of the defendant to stand trial or to enter a plea. Subsection (a) permits either the defendant or the government to move for a hearing to determine the defendant's mental competency, and requires the court to order a hearing if there is reasonable cause to believe that a mental disease or defect renders the defendant unable to understand the proceedings or to assist in his defense. Subsection (b) permits the court to

order a psychiatric or psychological examination of the defendant prior to the hearing. Subsection (c) requires that the hearing be conducted pursuant to the provisions of section 4247(d). Subsection (d) provides that a defendant found by a preponderance of the evidence to be mentally incompetent shall be hospitalized for treatment in a suitable facility for a reasonable period of time to determine whether there is a substantial probability that he will attain the capacity to permit the trial to proceed. If the defendant appears unlikely to improve sufficiently, he is to be treated in accordance with the provisions of section 4246. Subsection (e) provides for the discharge from the hospital of a defendant who has recovered sufficiently to stand trial. Subsection (f) specifies that a court finding of competency to stand trial shall not prejudice the defendant in raising the issue of his insanity as a defense to the crime charged and shall not be admissible as evidence at trail. (See S. Rept. No. 97-307, pp. 1191-1197.)

18 U.S.C. 4242, Determination of the Existence of Insanity at the Time of the Offense, provides for an examination of a defendant who intends to rely on such a defense and sets forth the types of verdict to be rendered in such cases.

Subsection (a) provides for the psychiatric or psychological examination of a defendant who files a notice of intent to rely on the defense set forth in Section 1 of the bill. Subsection (b) specifies that in a case involving such a defense the trier of fact is to return a verdict of guilty, or not guilty, or not guilty only by reason of insanity.

18 U.S.C. 4243, Hospitalization of a Person Found not Guilty Only by Reason of Insanity, sets out the procedure to be followed when a person is found not guilty only by reason of insanity at the time of the offense. Subsection (a) requires that such a person be committed to a suitable facility until he is eligible for release pursuant to subsection (e). Subsection (b) requires that the person undergo a psychiatric or psychological study, while subsection (c) mandates a hearing on his present mental condition within 40 days following the verdict. Subsection (d) provides that in such hearing, the person found not guilty only by reason of insanity has the burden of proving by clear and convincing evidence that his release would not create a substantial risk of bodily injury to another person or serious damage to property of another. Subsection (e) provides that if, after hearing, the person fails to prove that his release would not create a substantial risk of bodily injury to another person or serious damage to the property of another person due to present mental disease or defect, he shall be committed to the custody of the Attorney General for treatment, preferably in a State facility. Subsection (f) provides for the absolute or conditional release of such a person pursuant to a medical certification and a court finding that such release will no longer create a substantial risk to the person or property of others. Subsection (g) permits revocation of a conditional release order if such a risk is created anew by the person's failure to comply with the conditions of release.

18 U.S.C. 4244, Hospitalization of a Convicted Person Suffering from Mental Disease or Defect, sets forth procedures to be followed when there is reasonable cause to believe that a recently-convicted defendant may be suffering from a mental disease or defect and in need of care or treatment in a suitable facility. Subsection (a) permits the court, shortly after a guilty verdict and before sentencing, on motion of the defendant or the government or on its own motion, to order a hearing on the defendant's present mental condition if there is reasonable cause to believe he is suffering from a mental disease or defect for the treatment of which he is in need of custody for care or treatment in a suitable facility. Under subsection (b), the court may order a psychiatric or psychological examination of the defendant. If, after a hearing provided for by subsection (c), the court determines by a preponderance of the evidence pursuant to subsection (d) that the standard set forth in subsection (a) has been met, the defendant is to be committed to the custody of the Attorney General for hospitalization in a suitable facility in lieu of being imprisoned. Subsection (e) permits the discharge and final sentencing of a hospitalized defendant when the director of the facility certifies that the defendant is no longer in need of custody for care and treatment. (See S. Rept. No. 97-307, pp. 1204-1206.)

18 U.S.C. 4245, Hospitalization of an Imprisoned Person Suffering from Mental Disease or Defect, deals with the hospitalization of an imprisoned person who is suffering from a mental disease or defect for which he is in need of custody for care and treatment, if the person objects to being hospitalized. Unlike current Federal law, subsection (a) provides that, when a defendant who is imprisoned objects to being transferred to a suitable facility for care and treatment of a mental disease or defect, the court shall, on the government's motion, order a hearing on the defendant's present mental condition if there is reasonable cause to believe that the defendant may be suffering from a mental disease or defect for the treatment of which he is in need of custody for care and treatment in a suitable facility. Subsections (b) and (c), respectively, provide for the psychiatric or psychological examination of the defendant, and for the conduct of the hearing. Subsection (d) provides that a defendant who is found to be suffering from a mental disease or defect and in need of custody for care and treatment shall be hospitalized in a suitable facility until he is no longer in such need, or until his prison sentence expires. Subsection (e) provides for the defendant's discharge from the hospital and return to prison upon the certification by the director of the facility that he is no longer in need of custody for care and treatment. (See S. Rept. No. 97-307, pp. 1206-1208.)

18 U.S.C. 4246, Hospitalization of a Person Due for Release but Suffering from Mental Disease or Defect, covers those circumstances where State authorities will not institute civil commitment proceedings against a hospitalized defendant whose Federal sentence is about to expire, who is mentally incompetent to stand trial, or against whom all criminal charges have been dropped solely for reasons related to his mental condition, and who is presently mentally ill. Subsection (a) requires the court to order a hearing if the director of the facility in which the person is hospitalized certifies that he is presently suffering from a mental disease or defect as a result of which his release would create a substantial risk of bodily injury to another person or serious damage to property of another, and that suitable arrangements for State custody and care of the person are not available. Subsections (b) and (c), respectively, provide for the psychiatric or psychological examination of the person and for the conduct of the hearing. Subsection (d) provides that if the facts certified are found by the court by a preponderance of the evidence, the person is to be committed to the custody of the Attorney General for treatment, preferably in a State facility. Subsection (e) provides for the absolute or conditional release of such a person pursuant to a medical certification and a court finding that such release will no longer create a substantial risk to the person or property of others. Subsection (f) permits revocation of a conditional release order if such a risk is created anew by the person's failure to comply with the conditions of release. Subsection (g) deals with mentally ill persons who have been hospitalized and against whom all charges have been dismissed for reasons not related to their mental condition. If the director of the hospital certifies that the release of such a person would create a substantial risk of bodily injury to another person or serious damage to property of another, the Attorney General is required to release the person to appropriate State officials for the institution of State civil commitment proceedings. If the appropriate State will not assume responsibility, and so informs the Attorney General, the person must be released. (See S. Rept. No. 97-307, pp. 1209-1212.)

18 U.S.C. 4247, General Provisions for Chapter 313, contains a definition of terms used in chapter 313, as well as other provisions generally applicable to sections 4241-4246. Subsection (a) defines the terms "rehabilitation program" and "suitable facility." Subsections (b) and (c), respectively, set forth requirements for court-ordered psychiatric or psychological examinations and reports. Subsection (d) enumerates the rights a person has at a hearing to determine his mental condition. Subsection (e) pertains to reports by mental facilities, and contains a requirement that a hospitalized person be informed of the availability of rehabilitation programs. Subsection (f) permits the court to order and examine a videotape record of a defendant's testimony or interview which forms a basis of a periodic report of his mental condition. Subsection (g) concerns the admissibility in evidence of statements made by a defendant during the course of a psychiatric or psychological examination. Subsections (h) and (i), respectively, preserve the availability of the writ of habeas corpus, and permit a hospitalized person to move for a hearing to determine whether he should be released. Subsection (j) sets forth the authority and responsibility of the Attorney General under chapter 313. Subsection (k) provides that chapter 313 does not apply to a prosecution under an Act of Congress applicable exclusively to the District of Columbia or the Uniform Code of Military Justice. (See S. Rept. No. 97-307, pp. 1212-1213.)

S. 105

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) Chapter 1 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 16. Insanity defense

"(a) AFFIRMATIVE DEFENSE.—It shall be an affirmative defense to a prosecution under any Federal statute that, at the time of the commission of the acts constituting the offense, the defendant, as a result of mental disease or defect, lacked entirely—

"(1) the ability to understand the nature and quality of his acts; or

"(2) the ability to distinguish right from wrong with respect to his acts.

Mental disease or defect does not otherwise constitute a defense.

"(b) BURDEN OF PROOF.—The defendant has the burden of proving the defense of insanity by clear and convincing evidence.".

SEC. 2. Rule 12.2 of the Federal Rules of Criminal Procedure is amended—

(a) by amending the title of the rule to read "Rule 12.2 Notice of Insanity Defense or Expert Testimony of Defendant's Mental Condition";

(b) by amending subdivision (b) to read as follows:

"(b) EXPERT TESTIMONY OF DEFENDANT'S MENTAL CONDITION.—If a defendant intends to introduce expert testimony relating to a mental disease or defect or any other mental condition bearing upon the issue of guilt, he shall, within the time provided for the filing of pretrial motions or at such later time as the court may direct, notify the attorney for the Government in writing of such intention and file a copy of such notice with the clerk. The court may for cause shown allow late filing of the notice or grant additional time to the parties to prepare for trial or make such other order as may be appropriate."; and

(c) by deleting "by a psychiatrist designated for this purpose in the order of the court" in subdivision (c) and inserting in lieu thereof "pursuant to 18 U.S.C. 4242".

SEC. 3. Chapter 313 of title 18, United States Code, is amended to read as follows:

"CHAPTER 313—OFFENDERS WITH MENTAL DISEASE OR DEFECT

"Sec.
"4241. Determination of mental competency to stand trial
"4242. Determination of the existence of insanity at the time of the offense.
"4243. Hospitalization of a person found not guilty only by reason of insanity.
"4244. Hospitalization of a convicted person suffering from mental disease or defect.
"4245. Hospitalization of an imprisoned person suffering from mental disease or defect.
"4246. Hospitalization of a person due for release but suffering from mental disease or defect.
"4247. General provisions for chapter 313.

"§ 4241. Determination of mental competency to stand trial

"(a) MOTION TO DETERMINE COMPETENCY OF DEFENDANT.—At any time after the commencement of a prosecution for an offense and prior to the sentencing of the defendant, the defendant or the attorney for the Government may file a motion for a hearing to determine the mental competency of the defendant. The court shall grant the motion, or shall order such a hearing on its own motion, if there is reasonable cause to believe that the defendant may presently be suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense.

"(b) PSYCHIATRIC OR PSYCHOLOGICAL EXAMINATION AND REPORT.—Prior to the date of the hearing, the court may order that a psychiatric or psychological examination of the defendant be conducted, and that a psychiatric or psychological report be filed with the court, pursuant to the provisions of section 4247 (b) and (c).

"(c) HEARING.—The hearing shall be conducted pursuant to the provisions of section 4247(d).

"(d) DETERMINATION AND DISPOSITION.—If, after the hearing, the court finds by a preponderance of the evidence that the defendant is presently suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense, the court shall commit the defendant to the custody of the Attorney General. The Attorney General shall hospitalize the defendant for treatment in a suitable mental hospital, or in another facility designated by the court as suitable—

"(1) for such a reasonable period of time, not to exceed four months, as is necessary to determine whether there is a substantial probability that in the foreseeable future he will attain the capacity to permit the trial to proceed; and

"(2) for an additional reasonable period of time until—

"(A) his mental condition is so improved that trial may proceed, if the court finds that there is a substantial probability that within such additional period of time he will attain the capacity to permit the trial to proceed; or

"(B) the pending charges against him are disposed of according to law;

whichever is earlier.

If, at the end of the time period specified, it is determined that the defendant's mental condition has not so improved as to permit the trial to proceed, the defendant is subject to the provisions of section 4246.

"(e) DISCHARGE.—When the director of the facility in which the defendant is hospitalized pursuant to subsection (d) determines that the defendant has recovered to such an extent that he is able to understand the nature and consequences of the proceedings against him and to assist properly in his defense, he shall promptly file a certificate to that effect with the clerk of the court that ordered the commitment. The clerk shall send a copy of the certificate to the defendant's counsel and to the attorney for the Government. The court shall hold a hearing, conducted pursuant to the provisions of section 4247(d), to determine the competency of the defendant. If, after the hearing, the court finds by a preponderance of evidence that the defendant has recovered to such an extent that he is able to understand the nature and consequences of the proceedings against him and to assist properly in his defense, the court shall order his immediate discharge from the facility in which he is hospitalized and shall set the date for trial.

"(f) ADMISSIBILITY OF FINDING OF COMPETENCY.—A finding by the court that the defendant is mentally competent to stand trial shall not prejudice the defendant in raising the issue of his insanity as a defense to the offense charged, and shall not be admissible as evidence in a trial for the offense charged.

"§ 4242. Determination of the existence of insanity at the time of the offense

"(a) MOTION FOR PRETRIAL PSYCHIATRIC OR PSYCHOLOGICAL EXAMINATION.—Upon filing of a notice, as provided in rule 12.2 of the Federal Rules of Criminal Procedure, the court, upon motion of the attorney for the Government, may order that a psychiatric or psychological examination of the defendant be conducted, and that a psychiatric or psychological report be filed with the court, pursuant to the provisions of section 4247 (b) and (c).

"(b) SPECIAL VERDICT.—If the issue of insanity is raised by notice as provided in rule 12.2 of the Federal Rules of Criminal Procedure on motion of the defendant or of the attorney for the Government, or on the court's own motion, the jury shall be instructed to find, or, in the event of a nonjury trial, the court shall find the defendant—

"(1) guilty;

"(2) not guilty; or

"(3) not guilty only by reason of insanity.

"§ 4243. Hospitalization of a person found not guilty only by reason of insanity

"(a) DETERMINATION OF PRESENT MENTAL CONDITION OF ACQUITTED PERSON.—If a person is found not guilty only by reason of insanity at the time of the offense charged, he shall be committed to a suitable facility until such time as he is eligible for release pursuant to subsection (e).

"(b) PSYCHIATRIC OR PSYCHOLOGICAL EXAMINATION AND REPORT.—Prior to the date of the hearing, pursuant to subsection (c), the court shall order that a psychiatric or psychological report be filed with the court, pursuant to the provisions of section 4247 (b) and (c).

"(c) HEARING.—A hearing shall be conducted pursuant to the provisions of section 4247(d) and shall take place not later than forty days following the special verdict.

"(d) BURDEN OF PROOF.—In a hearing pursuant to subsection (c) of this section, a person found not guilty only by reason of insanity of an offense involving bodily injury to, or serious damage to the property of, another person, or involving a substantial risk of such injury or damage, has the burden of proving by clear and convincing evidence that his release would not create a substantial risk of bodily injury to, or serious damage to the property of, another person due to a present mental disease or defect. With respect to any other offense, the person has the burden of such proof by a preponderance of the evidence.

"(e) DETERMINATION AND DISPOSITION.—If, after a hearing, the court fails to find by the standard specified in subsection (d) of this section that the person's release would not create a substantial risk of bodily injury to, or serious damage to the property of, another person due to a present mental disease or defect, the court shall commit the person to the custody of the Attorney General. The Attorney General shall release the person to the appropriate official of the State in which the person is domiciled or was tried if such State will assume responsibility for his custody, care, and treatment. The Attorney General shall make all reasonable efforts to cause such State to assume such responsibility. If, notwithstanding such efforts, neither such State will assume such responsibility, the Attorney General shall hospitalize the person for treatment in a suitable facility until—

"(1) such a State will assume such responsibility; or

"(2) the person's mental condition is such that his release, or his conditional release under a prescribed regimen of medical, psychiatric, or psychological care or treatment, would not create a substantial risk of bodily injury to another person or serious damage to property of another; whichever is earlier. The Attorney General shall continue periodically to exert all reasonable efforts to cause such a State to assume such responsi-

bility for the person's custody, care, and treatment.

"(f) DISCHARGE.—When the director of the facility in which an acquitted person is hospitalized pursuant to subsection (e) determines that the person has recovered from his mental disease or defect to such an extent that his release, or his conditional release under a prescribed regimen of medical, psychiatric, or psychological care or treatment, would no longer create a substantial risk of bodily injury to another person or serious damage to property of another, he shall promptly file a certificate to that effect with the clerk of the court that ordered the commitment. The clerk shall send a copy of the certificate to the person's counsel and to the attorney for the Government. The court, on the motion of the attorney for the Government or on its own motion, shall hold a hearing, conducted pursuant to the provisions of section 4247(d), to determine whether he should be released. If, after the hearing, the court finds by the standard specified in subsection (d) that the person has recovered from his mental disease or defect to such an extent that—

"(1) his release would no longer create a substantial risk of bodily injury to another person or serious damage to property of another, the court shall order that he be immediately discharged; or

"(2) his conditional release under a prescribed regimen of medical, psychiatric, or psychological care or treatment would no longer create a substantial risk of bodily injury to another person or serious damage to property of another, the court shall—

"(A) order that he be conditionally discharged under a prescribed regimen of medical, psychiatric, or psychological care or treatment that has been prepared for him, that has been certified to the court as appropriate by the director of the facility in which he is committed, and that has been found by the court to be appropriate; and

"(B) order, as an explicit condition of release, that he comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment.

The court at any time may, after a hearing employing the same criteria, modify or eliminate the regimen of medical, psychiatric, or psychological care or treatment.

"(g) REVOCATION OF CONDITIONAL DISCHARGE.—The director of a medical facility responsible for administering a regimen imposed on an acquitted person conditionally discharged under subsection (f) shall notify the Attorney General and the court having jurisdiction over the person of any failure of the person to comply with the regimen. Upon such notice, or upon other probable cause to believe that the person has failed to comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment, the person may be arrested, and, upon arrest, shall be taken without unnecessary delay before the court having jurisdiction over him. The court shall, after a hearing, determine whether the person should be remanded to a suitable facility on the ground that, in light of his failure to comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment, his continued release would create a substantial risk of bodily injury to another person or serious damage to property of another.

"§ 4244. Hospitalization of a convicted person suffering from mental disease or defect

"(a) MOTION TO DETERMINE PRESENT MENTAL CONDITION OF CONVICTED DEFENDANT.—A defendant found guilty of an offense, or the attorney for the Government, may, within ten days after the defendant is found guilty, and prior to the time the defendant is sentenced, file a motion for a hearing on the present mental condition of the defendant if the motion is supported by substantial information indicating that the defendant may presently be suffering from a mental disease or defect for the treatment of which he is in need of custody for care or treatment in a suitable facility. The court shall grant the motion, or at any time prior to the sentencing of the defendant shall order such a hearing on its own motion, if it is of the opinion that there is reasonable cause to believe that the defendant may presently be suffering from a mental disease or defect for the treatment of which he is in need of custody for care or treatment in a suitable facility.

"(b) PSYCHIATRIC OR PSYCHOLOGICAL EXAMINATION AND REPORT.—Prior to the date of the hearing, the court may order that a psychiatric or psychological examination of the defendant be conducted, and that a psychiatric or psychological report be filed with the court, pursuant to the provisions of section 4247 (b) and (c). In addition to the information required to be included in the psychiatric or psychological report pursuant to the provisions of section 4247(c), if the report includes an opinion by the examiners that the defendant is presently suffering from a mental disease or defect but that it is not such as to require his custody for care or treatment in a suitable facility, the report shall also include an opinion by the examiner concerning the sentencing alternatives available under chapter 227 of this title that could best accord the defendant the kind of treatment he does need.

"(c) HEARING.—The hearing shall be conducted pursuant to the provisions of section 427(d).

"(d) DETERMINATION AND DISPOSITION.—If, after the hearing, the court finds by preponderance of the evidence that the defendant is presently suffering from a mental disease or defect and that he should, in lieu of being sentenced to imprisonment, be committed to a suitable facility for care or treatment, the court shall commit the defendant to the custody of the Attorney General. The Attorney General shall hospitalize the defendant for care or treatment in a suitable facility. Such a commitment shall be treated for administrative purposes as a provisional sentence of imprisonment for the maximum term authorized for the offense committed.

"(e) DISCHARGE.—When the director of the facility in which the defendant is hospitalized pursuant to subsection (d) determines that the defendant has recovered from his mental disease or defect to such an extent that he is no longer in need of custody for care or treatment in such a facility, he shall promptly file a certificate to that effect with the clerk of the court that ordered the commitment. The clerk shall send a copy of the certificate to the defendant's counsel and to the attorney for the Government. If, at the time of the filing of the certificate, the provisional sentence imposed pursuant to subsection (d) has not expired, the court shall proceed finally to sentence the defendant in accordance with the sentencing alternatives and procedures available under chapter 227.

"§ 4245. Hospitalization of an imprisoned person suffering from mental disease or defect

"(a) MOTION TO DETERMINE PRESENT MENTAL CONDITION OF IMPRISONED DEFENDANT.—If a defendant serving a sentence of imprisonment objects either in writing or through his attorney to being transferred to a suitable facility for care or treatment, an attorney for the Government, at the request of the director of the facility in which the defendant is imprisoned, may file a motion with the court for the district in which the facility is located for a hearing on the present mental condition of the defendant. The court shall grant the motion if there is reasonable cause to believe that the defendant may presently be suffering from a mental disease or defect for the treatment of which he is in need of custody for care or treatment in a suitable facility. A motion filed under this subsection shall stay the release of the defendant pending completion of procedures contained in this section.

"(b) PSYCHIATRIC OR PSYCHOLOGICAL EXAMINATION AND REPORT.—Prior to the date of the hearing, the court may order that a psychiatric or psychological examination of the defendant be conducted, and that a psychiatric or psychological report be filed with the court, pursuant to the provisions of section 4247 (b) and (c).

"(c) HEARING.—The hearing shall be conducted pursuant to the provisions of section 4247 (d).

"(d) DETERMINATION AND DISPOSITION.—If, after the hearing, the court finds by a preponderance of the evidence that the defendant is presently suffering from a mental disease or defect for the treatment of which he is in need of custody for care or treatment in a suitable facility, the court shall commit the defendant to the custody of the Attorney General. The Attorney General shall hospitalize the defendant for treatment in a suitable facility until he is no longer in need of such custody for care or treatment or until the expiration of his sentence of imprisonment, whichever occurs earlier.

"(e) DISCHARGE.—When the director of the facility in which the defendant is hospitalized pursuant to subsection (d) determines that the defendant has recovered from his mental disease or defect to such an extent that he is no longer in need of custody for care or treatment in such a facility, he shall promptly file a certificate to that effect with the clerk of the court that ordered the commitment. The clerk shall send a copy of the certificate to the defendant's counsel and to the attorney for the Government. If, at the time of the filing of the certificate, the term of imprisonment imposed upon the defendant has not expired, the court shall order that the defendant be reimprisoned until the date of his release.

"§ 4246. Hospitalization of a person due for release but suffering from mental disease or defect

"(a) INSTITUTION OF PROCEEDING.—If the director of a facility in which a person is hospitalized certifies that a person whose sentence is about to expire, or who has been committed to the custody of the Attorney General pursuant to section 4241(d), or against whom all criminal charges have been dismissed solely for reasons related to the mental condition of the person, is presently suffering from a mental disease or defect as a result of which his release would create a substantial risk of bodily injury to another person or serious damage to property of another, and that suitable arrangements for State custody and care of the person are not available, he shall transmit the certificate to the clerk of the court for the district in which the person is confined. The clerk shall send a copy of the certificate to the person's counsel, and to the attorney for the Government, and, if the

person was committed pursuant to section 4241(d), to the clerk of the court that ordered the commitment. The court shall order a hearing to determine whether the person is presently suffering from a mental disease or defect as a result of which his release would create a substantial risk of bodily injury to another person or serious damage to property of another. A certificate filed under this subsection shall stay the release of the person pending completion of procedures contained in this section.

"(b) PSYCHIATRIC OR PSYCHOLOGICAL EXAMINATION AND REPORT.—Prior to the date of the hearing, the court may order that a psychiatric or psychological examination of the defendant be conducted, and that a psychiatric or psychological report be filed with the court, pursuant to the provisions of section 4247 (b) and (c).

"(c) HEARING.—The hearing shall be conducted pursuant to the provisions of section 4247(d).

"(d) DETERMINATION AND DISPOSITION.—If, after the hearing, the court finds by clear and convincing evidence that the person is presently suffering from a mental disease or defect as a result of which his release would create a substantial risk of bodily injury to another person or serious damage to property of another, the court shall commit the person to the custody of the Attorney General. The Attorney General shall release the person to the appropriate official of the State in which the person is domiciled or was tried if such State will assume responsibility for his custody, care, and treatment. The Attorney General shall make all reasonable efforts to cause such a State to assume such responsibility. If, notwithstanding such efforts, neither such State will assume such responsibility, the Attorney General shall hospitalize the person for treatment in a suitable facility, until—

"(1) such a State will assume such responsibility; or

"(2) the person's mental condition is such that his release, or his conditional release under a prescribed regimen of medical, psychiatric, or psychological care or treatment would not create a substantial risk of bodily injury to another person or serious damage to property of another;

whichever is earlier. The Attorney General shall continue periodically to exert all reasonable efforts to cause such a State to assume such responsibility for the person's custody, care, and treatment.

"(e) DISCHARGE.—When the director of the facility in which a person is hospitalized pursuant to subsection (d) determines that the person has recovered from his mental disease or defect to such an extent that his release would no longer create a substantial risk of bodily injury to another person or serious damage to property of another, he shall promptly file a certificate to that effect with the clerk of the court that ordered the commitment. The clerk shall send a copy of the certificate to the person's counsel and to the attorney for the Government. The court, on the motion of the attorney for the Government or on its own motion, shall hold a hearing, conducted pursuant to the provisions of section 4247(d), to determine whether he should be released. If, after the hearing, the court finds by a preponderance of the evidence that the person has recovered from his mental disease or defect to such an extent that—

"(1) his release would no longer create a substantial risk of bodily injury to another person or serious damage to property of another, the court shall order that he be immediately discharged; or

"(2) his conditional release under a prescribed regimen of medical, psychiatric, or psychological care or treatment would no longer create a substantial risk of bodily injury to another person or serious damage to property of another, the court shall—

"(A) order that he be conditionally discharged under a prescribed regimen of medical, psychiatric, or psychological care or treatment that has been prepared for him, that has been certified to the court as appropriate by the director of the facility in which he is committed, and that has been found by the court to be appropriate; and

"(B) order, as an explicit condition of release, that he comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment.

The court at any time may, after a hearing employing the same criteria, modify or eliminate the regimen of medical, psychiatric, or psychological care or treatment.

"(f) REVOCATION OF CONDITIONAL DISCHARGE.—The director of a medical facility responsible for administering a regimen imposed on a person conditionally discharged under subsection (e) shall notify the Attorney General and the court having jurisdiction over the person of any failure of the person to comply with the regimen. Upon such notice, or upon other probable cause to believe that the person has failed to comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment, the person may be arrested, and, upon arrest, shall be taken without unnecessary delay before the court having jurisdiction over him. The court shall, after a hearing, determine whether the person should be remanded to a suitable facility on the ground that, in light of his failure to comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment, his continued release would create a substantial risk of bodily injury to another person or serious damage to property of another.

"(g) RELEASE TO STATE OF CERTAIN PERSONS.—If the director of a facility in which a person is hospitalized pursuant to this subchapter certifies to the Attorney General that a person, against whom all charges have been dismissed for reasons not related to the mental condition of the person, is presently suffering from a mental disease or defect as a result of which his release would create a substantial risk of bodily injury to another person or serious damage to property of another, the Attorney General shall release the person to the appropriate official of the State in which the person is domiciled or was tried for the purpose of institution of State proceedings for civil commitment. If neither such State will assume such responsibility, the Attorney General shall release the person upon receipt of notice from the State that it will not assume such responsibility, but not later than 10 days after certification by the director of the facility.

"§ 4247. General provisions for chapter 313

"(a) DEFINITIONS.—As used in this chapter—

"(1) 'rehabilitation program' includes—

"(A) basic educational training that will assist the individual in understanding the society to which he will return and that will assist him in understanding the magnitude of his offense and its impact on society;

"(B) vocational training that will assist the individual in contributing to, and in participating in, the society to which he will return;

"(C) drug, alcohol, and other treatment programs that will assist the individual in overcoming his psychological or physical dependence; and

"(D) organized physical sports and recreation programs; and

"(2) 'suitable facility' means a facility that is suitable to provide care or treatment given the nature of the offense and the characteristics of the defendant.

"(b) PSYCHIATRIC OR PSYCHOLOGICAL EXAMINATION.—A psychiatric or psychological examination ordered pursuant to this chapter shall be conducted by a licensed or certified psychiatrist or clinical psychologist, or, if the court finds it appropriate, by more than one such examiner. Each examiner shall be—

"(1) designated by the court if the examination is ordered under section 4241, 4242, 4243, or 4244; or

"(2) designated by the court, and upon the request of the defendant, an additional examiner may be selected by the defendant, if the examination is ordered under section 4245 or 4246.

For the purposes of an examination pursuant to an order under section 4241, 4244, or 4245, the court may commit the person to be examined for a reasonable period, but not to exceed thirty days, and under section 4242, 4243, or 4246, for a reasonable period, but not to exceed forty-five days, to the custody of the Attorney General for placement in a suitable facility. Unless impracticable, the psychiatric or psychological examination shall be conducted in the suitable facility closest to the court. The Director of the facility may apply for a reasonable extension, but not to exceed fifteen days under section 4241, 4244, or 4245, and not to exceed thirty days under section 4242, 4243, or 4246, upon a showing of good cause that the additional time is necessary to observe and evaluate the defendant.

"(c) PSYCHIATRIC OR PSYCHOLOGICAL REPORTS.—A psychiatric or psychological report ordered pursuant to this chapter shall be prepared by the examiner designated to conduct the psychiatric or psychological examination, shall be filed with the court with copies provided to the counsel for the person examined and to the attorney for the Government, and shall include—

"(1) the person's history and present symptoms;

"(2) a description of the psychiatric, psychological, and medical tests that were employed and their results;

"(3) the examiner's findings; and

"(4) the examiner's opinions as to diagnosis, prognosis, and—

"(A) if the examination is ordered under section 4241, whether the person is suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense;

"(B) if the examination is ordered under section 4242, whether, at the time of the commission of the acts constituting the offense, the person, as a result of mental disease or defect, lacked entirely the ability to understand the nature and quality of his acts or the ability to distinguish right from wrong with respect to his acts;

"(C) if the examination is ordered under section 4243 or 4246, whether the person is suffering from a mental disease or defect as a result of which his release would create a substantial risk of bodily injury to another

person or serious damage to property of another;

"(D) if the examination is ordered under section 4244 or 4245, whether the person is suffering from a mental disease or defect as a result of which he is in need of custody for care or treatment in a suitable facility.

"(d) HEARING.—At a hearing ordered pursuant to this chapter the person whose mental condition is the subject of the hearing shall be represented by counsel and, if he is financially unable to obtain adequate representation, counsel shall be appointed for him pursuant to section 3006A. The person shall be afforded an opportunity to testify, to present evidence, to subpoena witnesses on his behalf, and to confront and cross-examine witnesses who appear at the hearing.

"(e) PERIODIC REPORT AND INFORMATION REQUIREMENTS.—(1) The director of the facility in which a person is hospitalized pursuant to—

"(A) section 4241 shall prepare semiannual reports; or

"(B) section 4243, 4244, 4245, or 4246 shall prepare annual reports; concerning the mental condition of the person and containing recommendations concerning the need for his continued hospitalization. The reports shall be submitted to the court that ordered the person's commitment to the facility and copies of the reports shall be submitted to such other persons as the court may direct.

"(2) The director of the facility in which a person is hospitalized pursuant to section 4241, 4243, 4244, 4245, or 4246 shall inform such person of any rehabilitation programs that are available for persons hospitalized in that facility.

"(f) VIDEOTAPE RECORD.—Upon written request of defense counsel, the court may order a videotape record made of the defendant's testimony or interview upon which the periodic report is based pursuant to subsection (e). Such videotape record shall be submitted to the court along with the periodic report.

"(g) ADMISSIBILITY OF A DEFENDANT'S STATEMENT AT TRIAL.—A statement made by the defendant during the course of a psychiatric or psychological examination pursuant to section 4241 or 4242 is not admissible as evidence against the accused on the issue of guilt or punishment in any criminal proceeding, unless the defendant waived his privilege against self-incrimination, but is admissible on the issue whether the defendant suffers from a mental disease or defect.

"(h) HABEAS CORPUS UNIMPAIRED.—Nothing contained in section 4243 or 4246 precludes a person who is committed under either of such sections from establishing by writ of habeas corpus the illegality of his detention.

"(i) DISCHARGE.—Regardless of whether the director of the facility in which a person is hospitalized has filed a certificate pursuant to the provisions of subsection (e) of section 4241, 4243, 4244, 4245, or 4246, counsel for the person or his legal guardian may, at any time during such person's hospitalization, file with the court that ordered the commitment a motion for a hearing to determine whether the person should be discharged from such facility, but no such motion may be filed within one hundred and eighty days of a court determination that the person should continue to be hospitalized. A copy of the motion shall be sent to the director of the facility in which the person is hospitalized and to the attorney for the Government.

"(j) AUTHORITY AND RESPONSIBILITY OF THE ATTORNEY GENERAL.—The Attorney General—

"(A) may contract with a State, a political subdivision, a locality, or a private agency for the confinement, hospitalization, care, or treatment of, or the provision of services to, a person committed to his custody pursuant to this chapter;

"(B) may apply for the civil commitment, pursuant to State law, of a person committed to his custody pursuant to section 4243 or 4246;

"(C) shall, before placing a person in a facility pursuant to the provisions of section 4241, 4243, 4244, 4245, or 4246, consider the suitability of the facility's rehabilitation programs in meeting the needs of the person; and

"(D) shall consult with the Secretary of the Department of Health and Human Services in the general implementation of the provisions of this chapter and in the establishment of standards for facilities used in the implementation of this chapter.

"(k) This chapter does not apply to a prosecution under an Act of Congress applicable exclusively to the District of Columbia or the Uniform Code of Military Justice.".

(b) The item relating to chapter 313 in the chapter analysis of part III of title 18, United States Code, is amended to read as follows:

"313. Offenders with mental disease or defect.".

Mr. THURMOND. Mr. President, the following Senators are cosponsors of this bill: Messrs. BIDEN, BYRD, ZORINSKY, HOLLINGS, NICKLES, DOMENICI, COCHRAN, KASTEN, ABDNOR, EAST, BOREN, GOLDWATER, DOLE, HUDDLESTON, NUNN, D'AMATO, GRASSLEY, HEINZ, SYMMS, DECONCINI, TOWER, BAUCUS, HUMPHREY, BURDICK, CHILES, LONG, PRESSLER, GARN, HATFIELD, JEPSEN, QUAYLE, TRIBLE, COHEN, BAKER, HATCH, RUDMAN, MURKOWSKI, and SIMPSON.

By Mr. LONG (for himself, Mr. BAKER, Mr. CHILES, Mr. CRANSTON, Mr. DOLE, and Mr. MOYNIHAN):

S.J. Res. 1. Joint resolution proposing an amendment to the Constitution of the United States with respect to fixing the compensation of Members of the Congress; to the Committee on the Judiciary.

COMPENSATION OF MEMBERS OF CONGRESS

Mr. LONG. Mr. President, on behalf of myself and Messrs. BAKER, CHILES, CRANSTON, DOLE, and MOYNIHAN, I introduce a proposed constitutional amendment establishing a commission to fix the salaries of Members of Congress.

Mr. BAKER. Mr. President, I point out that this will be Senate Joint Resolution 1, I believe. Is that correct?

The PRESIDENT pro tempore. That is correct.

Mr. BAKER. Mr. President, I am most pleased to join with my good friend and distinguished colleague from Louisiana, Senator LONG in sponsoring this measure. I will not belabor this issue, except to say that I have often remarked that there is a fundamental conflict of interest, in a manner of speaking, between the responsibility of the Senate to fix its own salary and compensation on the one hand and its receipt of that salary and compensation on the other.

If there has been an enduring theme on this issue throughout my legislative career, it is that Congress is institutionally incapable of setting its own salaries. Each year I attempt to turn that belief into legislative action; each year I attempt to avoid the counterproductive, no-win battles which engulf our pay issues.

The debate over congressional pay has been going on since the Constitutional Convention nearly 200 years ago. It must end.

The commission which will be established pursuant to the measure I am cosponsoring with Senator LONG will be composed of individuals from the private sector, appointed by the President, who are impartial and knowledgeable in compensation matters. These individuals will take the politics, finally, out of this issue.

I am pleased that Senator LONG has given his attention and dedication and leadership to this issue. I want to personally thank him for this contribution, and I look forward to working with him in order to pass this measure as soon as possible.

Mr. LONG. Mr. President, today, Senators BAKER, CHILES, CRANSTON, DOLE, MOYNIHAN, and I are introducing a constitutional amendment to establish a special presidentially appointed commission with the exclusive authority to set salaries for Members of Congress.

The beginning of this new Congress is the time to resolve the question of who should determine salaries for Members of Congress. Previously, Congress has passed several laws establishing procedures to set Members pay. Not one of these statutes has been successful in providing an impartial mechanism which seems fair to the American people.

The primary reason for this failure is that none of these previous laws recognizes a central fact. It is a direct, undisputable conflict of interest for Members to vote on their own salary levels. Under this constitutional amendment, the President would appoint a nine-member Commission with the authority to set congressional salaries.

Private citizens would serve 6-year terms on this Commission. The terms of the commissioners would be staggered. Their appointment would not require Senate confirmation.

On July 1 of each election year, the Commission would determine salaries of all Members of Congress including Delegates and Resident Commissioners in the House of Representatives. Salaries for congressional officers, the

Speaker of the House of Representatives, and the majority and minority leaders of both Houses, would be set by the Commission at the same time. These salary levels would go into effect when the Members of the new Congress take the oath of office in January of the following year and remain in effect during both sessions of the Congress.

The Commission would have the authority to decrease, increase, or recommend no change in Members salaries. Congress would not be permitted to either approve, modify, reject of interfere with the implementation of the Commission's decisions. This constitutional amendment mandates that Members be paid at the rate set by the Commission. A separate vote by the Congress would not be required to appropriate funds for congressional salaries.

Commissioners would be paid per diem, as well as travel and transportation expenses. The amendment contains a permanent appropriation to fund the expenses of the Commission.

Over the past several years, Congress has taken great steps to set stringent rules governing the official conduct of Members and defining conflicts of interest. This amendment will eliminate the greatest conflict of interest of them all. Members of Congress will no longer have any greater ability than members of the public to set the salary for their own jobs.

Several problems in addition to this conflict of interest have resulted from the current method of determining salaries. Public opinion polls consistently reveal that the public holds Congress in strikingly low esteem. Our image cannot be enhanced if we can unwrap the strings of the public purse and decide how much we have earned. We believe that this public criticism of congressional salary increases has been aimed at the level of our wages.

In addition, it is unproductive to allow this issue to continue to dominate Senate floor debate, committee time, and personal thoughts of Members. The many lengthy debates we have had over congressional salaries traditionally have been short on facts and long on political rhetoric. In the 97th Congress alone, we had countless hours of debate and eight votes on the pay issue. Most importantly, salary debates have diverted our attention from more important issues which must be addressed by the Congress.

We believe this constitutional amendment is the best solution to this continuing problem. We urge the Congress to pass the joint resolution as soon as possible and send the amendment to the State legislatures for ratification.

Mr. President, I ask unaminous consent that the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 1

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

That the following article is proposed as an amendment to the Constitution of the United States:

"ARTICLE —

"SECTION 1. On July 1 of each even-numbered year, the commission established by section 2 shall fix the annual rate of pay payable to each Senator, Member of the House of Representatives, Delegate to the House of Representatives, and Resident Commissioner in the House of Representatives, the President pro tempore of the Senate, the Speaker of the House of Representatives, the majority leader of the Senate, the minority leader of the Senate, the majority leader of the House of Representatives, and the minority leader of the House of Representatives. The annual rate of pay fixed on any such July 1 for a position under the first sentence shall take effect at noon on the third day of January in the first calendar year after such July 1 and shall be payable to any person holding such position until such rate of pay is revised by the commission under such sentence and the revised rate of pay takes effect.

"SEC. 2. There is established a commission to carry out the first sentence of section 1. The commission shall be composed of nine members appointed from private life by the President. The members shall be impartial and knowledgeable in compensation matters. The President shall designate one member of the commission to serve as Chairman. Except as provided in the sixth and seventh sentence of this section, the term of the members of the commission shall be six years. A member of the commission appointed to a vacancy arising before the expiration of a term shall serve for the remainder of such term. Of the members first appointed to the commission under this section, (A) three members shall be appointed for a term of six years; (B) three members shall be appointed for a term of eight years; and (C) three members shall be appointed for a term of ten years. The President shall appoint the first members of the commission on February 1 of the first even-numbered year beginning after the date on which this Article becomes valid.

"SEC. 3. Each member of the commission established by section 2 shall be entitled to per diem, travel, and transportation expenses under the same terms and conditions as are applicable to an employee of the Government.

"SEC. 4. There are appropriated for each fiscal period of the Government from sums in the Treasury not otherwise appropriated such sums as may be necessary for the commission established by section 2 to carry out the duties of such commission under section 1.

"SEC. 5. This Article shall be valid only if it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification.".

By Mr. KENNEDY (for himself, Mr. HATFIELD, Mr. BAUCUS, Mr. BIDEN, Mr. BINGAMAN, Mr. BRADLEY, Mr. BURDICK, Mr. BUMPERS, Mr. BYRD, Mr. CRANSTON, Mr. DODD, Mr. EAGLETON, Mr. GLENN, Mr. HART, Mr. HOLLINGS, Mr. HUDDLESTON, Mr. INOUYE, Mr. LEAHY, Mr. LAUTENBERG, Mr. LEVIN, Mr. MATSUNAGA, Mr. MELCHER, Mr. METZENBAUM, Mr. MITCHELL, Mr. MOYNIHAN, Mr. PELL, Mr. PRYOR, Mr. RIEGLE, Mr. SARBANES, Mr. STAFFORD, Mr. TSONGAS, and Mr. WEICKER):

S.J. Res. 2. Joint resolution calling for a mutual and verifiable freeze and reduction in nuclear weapons; to the Committee on Foreign Relations.

NUCLEAR WEAPONS FREEZE AND REDUCTIONS

Mr. KENNEDY. Mr. President, I am proud to join with Senator MARK HATFIELD of Oregon in introducing a Senate resolution calling for a comprehensive nuclear weapons freeze with the Soviet Union, followed by substantial reductions in the nuclear arsenals on both sides.

Our resolution, designated Senate Joint Resolution 2, has gained significant new support over the past year and is now sponsored by one-third of the Senate. Representatives EDWARD MARKEY and SILVIO CONTE are sponsoring an identical resolution, House Joint Resolution 2, in the House of Representatives.

A nuclear weapons freeze may well be our last best hope to halt the nuclear arms race and reduce the danger of nuclear war. After 2 years in office, the Government of the United States has never been in greater disarray on nuclear arms control policy. The confusion and intransigence of the administration has divided our Nation, confused our allies, and given propaganda windfalls to our adversaries.

The United States and the Soviet Union are rapidly approaching the point of no return in nuclear escalation; it is time for both sides to take immediate and concrete steps to reduce the risk of nuclear war. And the most important step of all is to begin with a comprehensive freeze that stops the nuclear arms race in its tracks and prevents further nuclear escalation.

Over the past year, hundreds of town meetings, city councils, and State legislatures have added their voices to the nationwide call to halt the nuclear arms race. Last November, the nuclear weapons freeze received broad support at the polls in every section of the country. In effect, the election was a nationwide referendum on nuclear arms control, and the freeze received an impressive victory. I regard this vote as a national mandate for a nuclear weapons freeze and a clear message to the Reagan administration to change its course on nuclear arms control and propose a freeze to the Soviet Union.

Together, the United States and the Soviet Union now possess the equivalent of 1 million Hiroshima bombs. This stockpile equals 4 tons of TNT for every man, woman, and child presently living on this planet. The two great powers are bristling with weapons that could kill more people, burn more buildings, and sack more cities, than in all the conflicts from the beginning of history. The Earth itself is an endangered species. Despite all our bombs and all our missiles, we stand essentially defenseless upon a stage on which the human drama could be closed in the flashing of a fireball.

Yet many in the administration continue to treat the possibility of nuclear exchange as an acceptable option. An official of the National Security Council foresees a 40-percent probability of such a conflict. He is all too typical of those in high places who seem all too ready for nuclear war. The Deputy Under Secretary of Defense has even said that all we need to survive is a shovel to dig a hole, a door and a pile of dirt on top to keep the fallout out.

We should reject the argument that 20 or 40 or 100 million Americans killed ever can be a tolerable rate of casualties in a so-called limited nuclear exchange. We should reject Secretary of Defense Weinberger's new strategic doctrine for winning a protracted nuclear conflict.

We should reject the loose talk from high officials about firing a nuclear warning shot during a European crisis. They have no right to make that nuclear gamble, because there is no such thing as a limited nuclear war.

As an American, I believe in a national defense second to none. But I also believe that the endless nuclear arms spiral adds nothing to our national security.

A nuclear weapons freeze has the clear advantage of bypassing endless, irresolvable arguments about which side is ahead. Too often, we find that inequality is in the eye of the beholder. In fact, both sides today are at essential nuclear parity. Each side, even after absorbing a first strike, can destroy the other many times over. The United States can make the Soviet rubble bounce all the way from Moscow to Vladivostok, and the Soviets can make our rubble bounce all the way from the Potomac to the Pacific.

A freeze will not reduce, but increase, our national security. It will halt the development of more powerful Soviet rockets and block the further deployment of existing weapons. It will prevent one side from perfecting its capacity for a first strike against the other. The result will be substantial reduction in the fear of any first strike.

The administration opposes a nuclear weapons freeze. But there is a basic flaw in their START proposal: It does not stop the nuclear arms race.

Instead, their plan channels that arms race in a new direction. It permits the continued testing, production, and deployment of the MX missile, the Trident II missile, the cruise missile, the B-1 bomber, the Stealth bomber, and other advanced nuclear weapons. Indeed, the administration's proposal creates a loophole big enough to fly a fleet of bombers through, with each plane carrying more destructive force than all the bombs dropped in World War II.

While the United States builds more, the Soviet Union will not be standing idle.

The Soviets will match us missile for missile, bomb for bomb, and every step on the way down the road to a nuclear Armageddon. We do not have to be Isaac Newtons to understand the first law of the nuclear arms race—every action on one side will be matched by an opposite reaction on the other side.

We must free our diplomacy from the dangerous myth that more megatons mean better bargaining chips. We must reject the absurd theory that we can have fewer nuclear bombs tomorrow, if only we build more nuclear bombs today. The administration calls this a negotiating strategy: I call it voodoo arms control.

In his farewell address, a far-sighted Republican, President Dwight Eisenhower, warned the American people that "In holding scientific research and discovery in respect, we must also be alert to the equal and opposite danger that public policy could itself become the captive of a scientific-technological elite." Some experts who oppose the nuclear freeze make the elitist argument that it is wrong to invite the public into a debate where only experts should be allowed to tread. We should reply to them that arms control is too important to be left to those in either political party who have perpetuated the arms race. No professional elite in our democracy deserves a monopoly on what is the ultimate issue of personal survival for 200 million Americans and countless millions more around the globe. While negotiators have been debating the nuclear version of how many angels can dance on the head of a pin—which is, precisely how high can each side make the rubble bounce?—concerned citizens in the real world, in every region of our country, are asking the Government to halt the madness and put forth a sane alternative to break the deadlock.

I urge the administration to make the nuclear weapons freeze the policy of our Government, and I urge the Senate to adopt this resolution we are introducing today.

Mr. President, I ask unanimous consent that the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 2

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

Whereas the greatest challenge facing the Earth is to prevent the occurrence of nuclear war by accident or design;

Whereas the nuclear arms race is dangerously increasing the risk of a holocaust that would be humanity's final war; and

Whereas a mutual and verifiable freeze followed by reductions in nuclear warheads, missiles, and other delivery systems is needed to halt the nuclear arms race and to reduce the risk of nuclear war: Now, therefore, be it

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled, That (1) as an immediate arms control objective, the United States and the Soviet Union should—

(a) pursue an immediate and complete halt to the nuclear arms race;

(b) decide when and how to achieve a mutual verifiable freeze on the testing, production, and further deployment of nuclear warheads, missiles, and other delivery systems; and

(c) give special attention to destabilizing weapons whose deployment would make such a freeze more difficult to achieve.

(2) Proceeding from the freeze, the United States and the Soviet Union should pursue major, mutual, and verifiable reductions in nuclear warheads, missiles, and other delivery systems, through annual percentages or equally effective means, in a manner that enhances stability.

Mr. HATFIELD. Mr. President, it is with great pride and hope that I stand once again with my friend and colleague, Senator KENNEDY, to reintroduce the nuclear freeze resolution. I will keep my remarks brief as we will have ample opportunity to debate the specifics of this resolution in the near future.

I feel deeply fortunate to be associated with this revolution in thought which has swept our Nation and, indeed, the world. For the first time in the history of nuclear terror, control is shifting away from the secretive cult of strategists, engineers, and scientists and other so-called experts who have held the globe hostage to their theories, back into the hands of the people. Whether they be doctors or lawyers or housewives, the people of this Nation are saying loud and clear that they have had enough. They are saying that they will not abdicate responsibility for their lives and the lives of their children to a faceless technology with a momentum of its own. Let us do all we can to maintain the professional, constructive and bipartisan approach that has characterized this movement since its begining.

Mr. President, I would also hope that we will be able to vote—up or down—on the resolution this year in the Senate. There has been ample time to study and debate the wisdom

of challenging the Soviet Union to a mutual and verifiable halt to the nuclear arms. Let us now determine where each and every Member of this body stands on the question. A historic opportunity stands before us. I look forward to standing shoulder to shoulder with Senator KENNEDY to do whatever is necessary to see that this resolution is adopted and implemented.

● Mr. LAUTENBERG. Mr. President, I am pleased to join with Senator KENNEDY, Senator HATFIELD, and my other distinguished colleagues in sponsoring the nuclear weapons freeze and reductions resolution. As the election last November clearly indicated, the American people want the nuclear arms buildup to stop on both sides, and they want it to stop now. This is one of the first resolutions I have sponsored in this Congress and it will certainly be one of the most important.

World peace and stability are threatened by the nuclear arms buildup, the wild talk about limited nuclear war, and the lack of progress in negotiations to limit nuclear arms. The people of the United States and the world are scared. The United States should actively seek to bring the arms race to a halt through agreement with the Soviets on a mutual and verifiable freeze on nuclear arms production. This is a very important first step. It would not eliminate nuclear weapons, but it would stop the implementation of increasingly dangerous new technologies, brake the escalating arms race, and give us a chance to negotiate reductions.

Both the United States and the Soviet Union have sufficient destructive power. The only compelling reason left for maintaining a nuclear capability is to deter the other side from ever using theirs. Recognizing that fact, we must take the necessary steps toward nuclear-arms reduction. That arms race endangers our existence and drains our economy at a time when domestic and human needs are being neglected. A mutual, verifiable freeze would be an important first step toward arms reduction, and it is a step we should take now.●

Mr. PELL. Mr. President, I am pleased to join in reintroducing the nuclear weapons freeze and reductions resolution in the Senate.

Last year, I was an original sponsor of this resolution. Last summer, I joined with the Senator from California (Mr. CRANSTON) in sponsoring a nuclear freeze amendment in the Committee on Foreign Relations, of which I am ranking Democratic member.

The extensive hearings conducted last year by the committee reinforced my view that an agreed nuclear freeze would be a fundamentally important way to curb the nuclear arms race and reduce the terrible threat of nuclear war.

In little more than a year, the American public has become aware of the potential offered by the nuclear freeze concept—and has embraced that concept. Last fall, voters in 9 of 10 States, as well as the District of Columbia, endorsed the nuclear freeze. Pollster Lou Harris disclosed earlier this month that 76 percent of Americans polled in the second week of January favor negotiation of a nuclear freeze with the Soviets.

Unfortunately, recent administration actions have served to reinforce the fears now abroad in the land that we may be edging closer to nuclear war. Many do not believe that this administration is serious about arms control. Evidence to support that belief can be seen in the lack of obvious progress—perhaps even a lack of commitment to succeed— in current arms negotiation and in the continued brutalizing of the understaffed, underfunded, and adrift Arms Control and Disarmament Agency.

At this point, many are convinced that the President would rather risk war than give arms control a chance through serious negotiations with the Soviets.

The resolution being introduced today with strong bipartisan support merits the most careful consideration by the administration. The resolution calls upon the United States and the Soviet Union to pursue a mutual, verifiable freeze on nuclear weapons to be followed by major, mutual, and verifiable reductions. It could be consistent with the administration's own professed desire for substantial reductions.

I hope that the administration will at last treat the freeze seriously as a sensible first step toward a meaningful arms control regime. If the administration remains obdurate, however, I hope the Congress will take charge in charting a reasonable course toward arms control that includes, as a first goal, the achievement of a nuclear freeze.

For nearly 2 years, Congress has waited for the administration to demonstrate a commitment toward even its own kind of arms control. The time for waiting is past.

Now is the time to bring an end to the nuclear arms race and then to move ahead with reductions and other measures to insure that nuclear weapons will never again be used. As temporary custodians of our wondrous country and planet, we owe it to our children, our grandchildren, and their children to pass on the precious heritage that we have been so fortunate to inherit.

Mr. SARBANES. Mr. President, I am pleased to join in introducing Senate Joint Resolution 2 calling for a mutual and verifiable freeze on nuclear weapons. It is the successor to Senate Joint Resolution 163, introduced in the 97th Congress. The reasons for it are clear: The continuing, indeed escalating, nuclear arms race increases the possibility of nuclear attack, whether accidental or deliberate, and it is urgent that responsible steps be taken to minimize the possibility of that disaster.

Senate Joint Resolution 2 is concise and straightforward, and it is important to dispel the distortion and misinformation which has too often characterized its discussion. First, the resolution calls equally upon the Soviet Union and our own Nation to take prompt steps toward achieving a "mutual and verifiable freeze on the testing, production and further deployment of nuclear warheads, missiles, and other delivery systems," with particular emphasis on destablizing weapons which would make the freeze more difficult to achieve and thereby aggravate the nuclear arms race. Second, the resolution recognizes that the freeze is not a definitive solution to the arms race, nor should it be considered as such. It should rather be regarded as an immediate objective in the long-term strategic arms control policy, for it would serve as an interim step while longer range, more comprehensive arms control and reduction agreements are negotiated. Finally, the resolution does indeed look beyond a mutual and verifiable freeze to the future, calling upon the two major nuclear powers to seek mutual and verifiable reductions in nuclear arms in such ways as to minimize the risk of destabilizing factors which could set off a nuclear confrontation. Senate Joint Resolution 2 represents a responsible commonsense approach to the urgent challenge of bringing the nuclear arms race under control, and it deserves the careful consideration and approval of the Senate.

By Mr. HATCH (for himself, Mr. NICKLES, Mr. BOSCHWITZ, Mr. DENTON, Mr. ZORINSKY, Mr. HUMPHREY, and Mr. EAGLETON):

S.J. Res. 3. Joint resolution to amend the Constitution to establish legislative authority in Congress and the States with respect to abortion; to the Committee on the Judiciary.

THE HUMAN LIFE FEDERALISM AMENDMENT

Mr. HATCH. Mr. President, I am pleased today to propose an amendment to the Constitution—the human life federalism amendment—that would overturn the infamous decision of the U.S. Supreme Court in *Roe* v. *Wade*, 410 U.S. 113 (1973). This amendment would restore to the representative branches of government the authority to legislate with respect to the practice of abortion.

During the 97th Congress, the Constitution Subcommittee held 9 days of hearings during which it considered the testimony of 74 of the leading

minds in America on the subject of abortion and the human life federalism amendment. On December 16, 1981, the Subcommittee on the Constitution approved the human life federalism amendment by a unanimous 4 to zero vote. On March 10, 1982, the Senate Judiciary Committee favorably reported the resolution by a vote of 10 to 7.

The testimony presented in these exhaustive hearings by highly qualified individuals in their respective fields is a great contribution to this legislative process of the utmost legal significance. I commend to each of my colleagues the views of these witnesses which informed the Judiciary Committee's decision to approve the human life federalism amendment.

ROE V. WADE

In Roe against Wade, the Court found that the due process clause of the 14th amendment contained a guarantee of a "right to privacy" that was broad enough to encompass a woman's decision "whether or not to terminate pregnancy." Because the right to personal privacy was a "fundamental right," it could be limited only by some "compelling State interest." While such an interest could not be based upon the inclusion of unborn human life within the term "person" in the 14th amendment—with respect to which there may be no deprivation of life without due process of law—the Court nevertheless found some measure of State interest in protecting maternal health and in preserving the "potential life" of the fetus.

In seeking to give expression to these interests, as well as protecting the newly discovered constitutional right to terminate one's pregnancy, the Court summarized its holding in the following manner:

(a) For the stage prior to approximately the end of the first trimester of pregnancy, the abortion decision and its effectuation must be left to the medical judgment of the pregnant woman's attending physician.

(b) For the stage subsequent to viability, the State in promoting its interest in the health of the mother may, if it chooses, regulate the abortion procedure in ways that are reasonably related to maternal health.

(c) For the stage subsequent to viability, the State in promoting its interest in the potentiality of human life may, if it chooses, regulate and even proscribe abortion except where it is necessary, in appropriate medical judgment, for the preservation of the life or health of the mother. 410 U.S. at 164-5.

The scope of the abortion right set forth by the Court in Roe against Wade on January 22, 1973, just 10 years ago, was broader than that existing at the time in every one of the 50 States of the Union.

Prior to Roe against Wade, 31 States had statutes that totally protected human life from conception. Of the 19 that permitted abortion under limited circumstances, all 19 permitted abortions where necessary to save the life of the mother, 6 permitted abortions in cases of rape, 5 in cases of incest, and 4 in cases where there was a likelihood that a child would be born with a substantial deformity. In only four States was abortion on demand permitted and in each of these there were temporal limits to such a right. The most liberal provision existed in the State of Massachusetts which permitted abortions without restrictions until the sixth month of pregnancy.

Whatever one's perceptions about abortion, it is difficult to argue with the proposition that Roe has created a regime of abortion on demand, a national policy of abortion without restrictions of any significant kind. It is this status quo that would be overturned by the proposed constitutional amendment.

During the first trimester of the pregnancy, the plenary right to abortion is express. During that period, there is absolutely no governmental authority to intervene in the woman's decision to abort. During the second trimester, a Government interest in abortion does arise—the interest in protecting and preserving maternal health. This interest may be expressed through governmental requirements that such abortions be performed within hospitals, clinics, or other facilities licensed to perform abortions.

There remains an absence of governmental authority, however, to do anything more than insure the safeness of the procedures of abortion. There are no protections whatsoever for the unborn fetus during this stage of the pregnancy.

During the final trimester of abortion—or approximately at that point at which the fetus reaches "viability"—a potential interest arises in protecting the fetus. The Government finally is in an apparent position to protect the life of the fetus.

The Court, however, limited even this authority with an exception—and it is an exception that consumes the rule. During even the third trimester of pregnancy, the right to abortion existed where necessary to protect the life or health of the mother. The critical element here was the health of the mother.

According to the Court in the companion case of *Doe* v. *Bolton*, 410 U.S. 179 (1973), whether or not the health of the mother necessitated an abortion was a medical judgment to be made "in the light of all factors—physical, emotional, psychological, and the women's age—relevant to her well-being."

In other words, to quote Prof. John Noonan of the University of California Law School, the absolute right to abortion was curbed during the final trimester only by "the necessity of a physician's finding that she needed an abortion." Noonan, "A Private Choice" (New York: MacMillian, 1979), 12. It would be a rare physician who would be incapable of defending an abortion decision on the grounds that, in his best medical judgment, the "well-being" of the mother demanded it.

The abortion right then is a virtually unrestricted right under Roe and Doe. Any significant restrictions on this right are illusory. To quote Professor Noonan again:

For the nine months of life within the womb the child was at the gravida's (pregnant woman's) disposal—with two restrictions: She must find a licensed clinic after month three; and after her child was viable, she must find an abortionist who believed she needed an abortion. Id. at 12.

No substantial barriers of any kind exist today in the United States for a woman to obtain an abortion for any reason during any stage of her pregnancy.

JURISPRUDENCE OF ROE

Apart from the national policy of abortion that it spawned, the Roe decision has been criticized broadly as an exercise in jurisprudence by observers of varying political persuasions and varying perspectives on abortion. In dissent in the Roe and Doe cases, Justice White observed:

I find nothing in the language or history of the Constitution to support the Court's judgment. The Court simply fashions and announces a new constitutional right for pregnant mothers and, with scarcely any reason or authority for its action, invests that right with sufficient substance to override most existing State abortion statutes. 410 U.S. at 221.

Justice Rehnquist added in an accompanying dissent:

The decision here to break the term of pregnancy into three distinct terms and to outline the permissible restrictions the State may impose in each one, for example, partakes more of judicial legislation than it does of a determination of the intent of the drafters of the Fourteenth Amendment * * * To reach its result the Court necessarily has had to find within the scope of the Fourteenth Amendment a right that was apparently completely unknown to the drafters of the Amendment. 410 U.S. at 174.

Prof. Archibald Cox, the former Solicitor General of the United States, remarked of the Roe decision:

The failure to confront the issue in principled terms leaves the opinion to read like a set of hospital rules and regulations * * * Neither historian, nor layman, nor lawyer will be persuaded that all the prescriptions of Justice Blackmun are part of the Constitution. Cox, *The Role of the Supreme Court in American Government* (New York: Oxford University Press, 1976). 113-114.

Prof. John Hart Ely of the Harvard Law School, while taking care to divorce himself from critics of the substantive policy expressed in Roe, concluded:

It is, nevertheless, a very bad decision. * * * It is bad because it is bad constitutional law, or rather because it is not constitutional law and gives almost no sense of an obligation to try to be. Ely, *The Wages of*

Crying Wolf: A Comment on Roe v. *Wade* 82, Yale Law Journal 920, 947 (1973).

Alexander Bickel, professor at the Yale Law School, described decision as akin to a "model statute" and expressed bewilderment at how such a responsibility had come to be vested in the Court:

One is left to ask why. The Court never said. It refused the discipline to which its function is properly subject. * * * Roe is derived not from Herbert Spencer's Social Statics, but from fashionable notions of progress * * * this will not do. Bickel, *The Morality of Consent* (New Haven: Yale University Press, 1975), 28.

Prof. Charles Rice of the Notre Dame Law School described the decision as "the most outrageous decision ever handed down by the Court in its entire history"; Prof. Richard Epstein of the University of Chicago Law School referred to Roe as "comprehensive legislation," without "principled grounds"; Prof. Robert Byrn of the Fordham Law School attacked the decision as resting upon "multiple and profound misapprehension of law and history"; Dean Harry Wellington of the Yale Law School viewed Roe as "Pickwickian" and "without mandate"; and Prof. Joseph Witherspoon of the University of Texas Law School described the decision as "unquestionably the most erroneous decision in the history of constitutional adjudication by the Supreme Court." Professor Noonan concluded his analysis of the abortion case by stating:

The liberty established has no foundation in the Constitution of the United States. It was established by an act of raw judicial power. Its establishment was illegitimate and unprincipled, the imposition of the personal beliefs of seven justices on the men and women of fifty States. The continuation of the liberty is a continuing affront to constitutional government in this country. Noonan at 189.

OVERTURNING SUPREME COURT

Justice White in his Roe dissent aptly characterized the majority decision when he observed:

The upshot is that the people and the legislatures of the fifty States are constitutionally disentitled to weigh the relative importance of the continued existence and development of the fetus on the one hand against the spectrum of possible impacts on the mother on the other hand.

It is the result that the proposed amendment is intended to overcome. The proposed amendment would restore to the States—the authority to legislate with respect to abortion. While I would personally favor an amendment that would impose a duty upon the States to prohibit most abortions, I must stress that this is not the objective of the present amendment. It is not necessary that there be this duty in order to overcome the Roe and Doe decisions. It is necessary only that the State no longer be totally limited in their ability to act in restricting or regulating or prohibiting abortion because of some presumed constitutional right to abortion.

There is no such constitutional right to abortion, in my view. It has never existed and there is nothing in the proposed measure that would concede that such a right has ever existed. I recognize, however, that, under our structure of Government, it is the duty of the Court to "say what the law is," *Marbury* v. *Madison*, 1 Cranch 137 (1803). For better or worse, the Court has spoken on the issue of abortion in Roe and Doe; it has articulated a constitutional right to abortion emanating from the 14th amendment. There is no alternative now other than a constitutional amendment to overcome this result—except to wait for the slim possibility that the Court may some day admit its error and overturn on its own the abortion cases.

There is certainly ample precedent for such a constitutional response to a Supreme Court decision. The 11th amendment to the Constitution, prohibiting the Federal judicial power to be exercised in suits by citizens of a State against another State, came in direct response to an action of the Supreme Court in accepting jurisdiction over such a case. *Chisholm* v. *Georgia*, 2 U.S. 419 (1973).

The 14th amendment, in circumstances not dissimilar from the present case, was proposed to the Constitution following the infamous decision of the Supreme Court in the Dred Scott case finding that black individuals were nonpersons under the Constitution. 60 U.S. 393 (1857).

The 16th amendment, permitting the imposition of a Federal income tax, was later enacted in response to a Supreme Court decision finding an unapportioned—by State—tax to be in violation of article I of the Constitution. *Pollock* v. *Farmer's Loan and Trust Co.*, 157 U.S. 429 (1895); 158 U.S. 601 (1895).

Finally, the 26th amendment, according 18-year-olds the right to vote in Federal and State elections, was proposed following the Court's decision that the Congress lacked authority to impose such an obligation statutorily upon the States. *Oregon* v. *Mitchall*, 400 U.S. 112 (1970).

In addition, serious efforts at constitutional amendment were made in response to Court decisions on the subjects of child labor laws, *Hammer* v. *Dagenhart*, 247 U.S. 251 (1918), later overruled in *United States* v. *Darby*, 312 U.S. 100 (1941); and State legislative apportionment requirements, *Baker* v. *Carr*, 369 U.S. 186 (1962).

PROGENY OF ROE

It was not simply the abortion right that was created in Roe and Doe that is the object of the proposed amendment. However indefensible these decisions as matters of policy and jurisprudence, they have been distorted further by a series of subsequent decisions clarifying the scope of this right. Each of them have come in response to post-Roe efforts by the States to accord some measure of protection to unborn human life, or to estabish some procedure to insure that the woman's abortion decision was a deliberate, carefully considered one. In virtually every instance, the Supreme Court has struck down these exercises.

In *Planned Parenthood* v. *Danforth*, 428 U.S. 52 (1976), the Supreme Court held that spousal consent statutes, which required the consent to an abortion by the father of a fetus, were unconstitutional. See also *Coe* v. *Gerstein*, 376 F. Supp. 901 (1976). The Court in Danforth also held that so-called informed consent statues, which required a physician to obtain the written consent of a woman after apprising her of the dangers of abortion and possible alternatives, were constitutional only if the requirements were closely related to maternal health and not unnecessarily burdensome upon the abortion right. See also *Freiman* v. *Ashcroft*, 584 F. 2d 247, affirmed 99 S. Ct. 1416. (1979).

In *Belotti* v. *Baird*, 442 U.S. 633 (1979), the Court held that, while parental consent statutes requiring minors to obtain the consent of their parents prior to having an abortion were not unconstitutional per se, the State must also provide alternative procedures for obtaining an abortion in the event that parental consent is not forthcoming or if the minor does not want to request such consent. See also *Planned Parenthood* v. *Danforth*, 428 U.S. 52 (1976).

In *H.L.* v. *Matheson*, 101 S. Ct. 1164 (1981), however, the Court upheld a Utah State statute prohibiting physicians, under narrowly defined circumstances, from performing an abortion on unemancipated minors without parental notification. The statute was drawn extremely narrowly to require such notification. "If possible" and to apply only if the minor is living with and dependent upon her parents and has made no showing or claim or unusual maturity.

In *Colautti* v. *Franklin*, 439 U.S. 379 (1979), the Court ruled that fetal protection statutes were generally unconstitutional by reason of being vague and overly broad. Such statutes, in one manner or another, impose an obligation upon a performing doctor to make reasonable efforts to save the life of an aborted fetus. In Colautti, the Court found that such statutes were permissible only with respect to viable fetuses—who by definition were least in need of such protection—and that they must contain precise standards for determining such viability. See also *Planned Parenthood* v. *Danforth*, 429 U.S. 52 (1976).

Thus, even at the latest stages of pregnancy, the Court refused to find a

significant interest in the life of the fetus that could be balanced against the apparently unrestricted right of the woman to terminate her pregnancy at will. It is the progeny of Roe and Doe, as much as Roe and Doe themselves, toward which my proposed amendment is directed. It is these cases which make clear the lengths to which some on the Court are prepared to go in defense of the abortion right.

FEDERALISM AMENDMENT

The proposed amendment would read in its entirety:

A right to abortion is not secured by this Constitution. The Congress and the several States shall have concurrent power to restrict and prohibit abortion: Provided, That a provision of a law of a State which is more restrictive than a conflicting provision of a law of Congress shall govern.

In removing the abortion controversy from the Federal judicial branch, the proposed amendment would place the debate within those institutions of Government far better equipped to deal with the issue. By its very nature, the judiciary is the wrong forum to resolve the enormously difficult problem of abortion. Because they cannot control the specific types of cases that come before them, and because they are limited in their ability to fashion compromise solutions to difficult issue, the courts are entirely the wrong place within which to argue about abortion.

The all or nothing legalization of abortion-on-demand or Roe and Doe has done nothing but exacerbate the tensions already created by the abortion controversy. Unlike most legislative solutions in which some element of deference is paid to major political or social or occupational groupings, the abortion decisions involved a small group of seven individuals who totally ignored the passionately held views of a large number of the American people. They did this not in response to the unequivocal demands of the operative document of our Nation, but in the course of a decision whose jurisprudence and whose textual and historical foundation in the Constitution is at least as suspect as the policies that it fostered.

Let me be clear about what I am saying. I personally believe that abortion is an all or nothing issue. I am irreconciliably opposed to abortion. I believe that abortion involves the taking of a human life. It is morally, ethically and—I believe constitutionally wrong. Should this amendment become part of the Constitution, I would be among those seeking the most restricted State laws with respect to abortion. When a greater consensus exists in this country on the repugnance of abortion—which consensus I believe will be promoted by this amendment—I will be among those seeking a direct constitutional prohibition on abortion.

That consensus, unfortunately, does not exist yet today. The abortion issue, if it is to be elevated into an issue of constitutional proportions, should be elevated only through the normal consensus-building procedure of the article V amendment process rather than through the process of judicial reinterpretation.

For the present, I believe that it is important to reenfranchise all the people in fashioning a solution to the abortion controversy. That can only be done by placing this issue back within the representative branch of State government where it should have remained all along. I would expect that the result would be difficult legislative compromises, bitter sessions of negotiation and give-take, and solutions not entirely satisfactory to any single group or individual, including myself.

Although I would expect to continue personal efforts to secure a total abolition of abortion in this country, I know that I would be able to tolerate a regime that permitted some abortions much better if it were the result of the clear will of the citizenry speaking through their State representatives than where it has been the result of a small elite imposing their own personal views through the pretext of constitutional interpretation.

LEGISLATIVE OPTIONS

Because the proposed amendment would only provide authority to the State legislatures to act on the issue of abortion—without dictating particular legislative outcomes or policies—I would hope that all of my colleagues who can distinguish between abortion and run-of-the-mill medical operations would consider supporting it. Nothing is mandated by this amendment. It does not get involved with any issues relating to "when human life begins." It does not read in "rape" or "incest" or 'medical necessity" exceptions into the Constitution. It does not require any particular treatment of contraceptives—which would not be covered by the amendment—or abortifacients or IUD's. No questions of tort law or criminal law or insurance law are inadvertently raised.

All that the proposed amendment would do is to "deconstitutionalize" the issue of abortion. There would no longer be a constitutional right or guarantee of abortion. The States, it is true, could act under the proposed amendment to totally prohibit abortion, or prohibit abortions in all but narrowly limited or defined circumstances. I would personally support this. But, if they chose, they could undertake far less extensive reforms. They could, for example—

First, choose only to limit the circumstances of late pregnancies alone;

Second, choose only to impose obligations upon physicians to save the lives of fetuses capable of surviving an abortion;

Third, place limitation upon the experimental and medical research use of fetuses;

Fourth, require that women contemplating abortion be fully apprised of the risks of abortion and alternatives to abortion;

Fifth, require some form of parental consent of abortions performed upon minors;

Sixth, require some form of spousal consent to abortions performed upon a woman;

Seventh, establish some minimum waiting period before an abortion could occur or require some form of professional consultation prior to an abortion;

Eighth, establish rights of refusal to perform abortions in physicians or nurses, or in entire hospitals; and

Ninth, limit public advertising by abortion clinics and by abortion services.

The States, if they chose, could further decide to do nothing about abortion. That, too, would be within their discretion under the proposed amendment.

MISCELLANEOUS ASPECTS

Let me briefly summarize some of the technical aspects of the proposed amendment from my own perspective, and that were brought out in the course of the 9 days of hearings by the Subcommittee on the Constitution during the 97th Congress on the proposed human life federalism amendment.

The right to abortion referred to in the first sentence is a right that apparently was derived in Roe from the due process clause of the 14th amendment. There is some suggestion even in Roe though that the right may be derived from elsewhere in the Constitution—from the ninth amendment, for example. There is confusion on this point. The purpose of the proposed amendment is to abrogate this right whatever its alleged constitutional basis. The concept of the right to abortion is a clear and well understood term and, according to Prof. Lynn Wardle of the J. Reuben Clark Law School at Brigham Young University, has been expressly used in at least 84 Federal court decisions since the Roe and Doe cases, including at least one decision of the Supreme Court. *Connecticut* v. *Menillo*, 423 U.S. 9, 10 (1975). As Professor Wardle testified last year,

The phrase "right to abortion" is used as shorthand for the constitutional right created in Roe and its progeny, the right of a woman to choose whether or not to have an abortion free from State restrictions.

As the title of the proposed joint resolution makes explicit, the intent of the proposed amendment is to overturn Roe against Wade, and other decisions of the Supreme Court relating to abortion, and to restore the ability

of Congress or the States to legislate with respect to abortion.

The right to legislate with respect to abortion would, of course, be restricted by other general provisions of the Constitution unrelated to any right to abortion. It would be a clear violation of the equal protection clause, for example, for a State to distinguish between women on the basis of race or ethnic background in permitting or restricting abortions.

The concept of concurrent power to legislate with respect to abortions is not dissimilar to the concept of concurrent power given Congress and the States to enforce the 18th amendment relating to the manufacture, sale, or transportation of intoxicating beverages. There would be separate and independent—not joint—power in Congress and the States to exercise their territorial limits. *National Prohibition Cases*, 253 U.S. 350 (1920).

The question of whether a Federal law enacted under the proposed amendment would conflict with a State law is largely one of statutory construction that cannot be approached mechanically. Similarly, what is more or less restrictive in the way of placing limits upon abortion is a matter that cannot be summarized through formulas.

The basic premise of the amendment, however, is this. The Congress would be empowered to establish minimum national standards with respect to abortion, if it chose. Under the supremacy clause of the Constitution, a Federal enactment would take precedence over a State enactment in the case of irreconcilable conflict. See for example, *State* v. *Gauthier*, 118 A. 380 (1922); *State* v. *Ligaarden*, 230 N.W. 729 (1930); *State* v. *Lucia*, 157 A. 61 (1931).

The latter clause of the second sentence, however, would alter this general rule of preemption to the extent that a State enactment was more restrictive of abortion than a congressional enactment.

In some respects, the differences between the more traditional constitutional amendments relating to abortion and the immediate amendment are not as great at first glance. Even a proposed amendment that directly prohibited abortion would not be self-enforcing. It would require Federal and State enabling legislation. Given that the judiciary would—properly—be reluctant to force a coequal legislative branch of government to pass legislation, there would likely be a major element of discretion deposed in the legislative branches of Government under even a direct human life amendment.

Finally, I would note that, because it is a Constitution that we are amending, not a legal code, I have placed a priority on making clear the principle that is being pursued, not on insuring that each and every opportunity for possible circumvention is forestalled. I am not sure that this is possible. In this respect, I quote again from Professor Noonan:

> The Constitution is not addressed to persons of bad will, but to persons—judges, legislators, officeholders, citizens—who want to abide by its provisions. Therefore, it is neither necessary nor desirable to draft with an eye to silly, sophistical, or evasive interpretations. No language can be made foolproof. There is no language that cannot be distorted by evil men or inverted by clever men. It is not hard to show the vulnerability of any form of words to ingenious and insympathetic interpretation. As the Constitution is not addressed to the wicked or the foolish, so it is not addressed to the sophistical. The Constitution, and any amendment to it, speak to the understanding of those who with good will seek to comprehend the purposes of its framers. *Noonan* at 182.

CONCLUSION

Let me conclude by saying to those who would argue that this amendment represents a concession to, or a compromise with, a morally indefensible policy. I do not believe that this is true. Not only would the proposed amendment overturn Roe against Wade, but it would, agruably, go further by clarifying that Congress, as well as the States, possesses authority with respect to abortion. It would restore the status quo prior to the Roe decision—and then some.

While I would personally prefer that we go further, there can be absolutely no doubt in anyone's mind that there is not currently the kind of consensus for this action—either in the country or in Congress—that would permit this to be done. Nor is such a consensus imminent. The longer that abortion on demand continues, the more acceptable that it becomes, the more that it becomes institutionalized. I do not believe that we can permit this to happen.

Once, however, we can establish in the Constitution the principle that abortion is not an ordinary, routine medical operation. I believe that we can begin to reeducate all the American people to the cruel realities of abortion. Acceptance of this principle in the organic law of our land will better enable us to carry on education and information efforts.

The longer that the status quo—unrestricted abortion—continues to be the law of the land, the greater the number of citizens who will grow up in this country oblivious to any other reality, the greater the number of citizens who will forget that there was a time at which abortion was condemned unanimously by the States. Not during the Middle Ages, not during the era of the Founding Fathers, not during the industrial revolution, but during the entirety of our Nation's history through the 1950's and the 1960's and up until January 22, 1973.

The law is, in fact, a teacher. We must give it that opportunity before it is too late, before the lesson goes permanently unlearned.

I urge the support of my colleagues for the proposed amendment—not only those who share the full extent of my concern about abortion, but those as well who are uneasy at any aspect or structure that has been erected by the Supreme Court, those who are hesitant at the process by which the abortion revolution has been wrought, and those who recognize the social divisions that have been caused this country by a Court that ignored the strengths of the democratic, representative processes of government in resolving differences among citizens.

I ask unanimous consent that the full text of the joint resolution appear at this point in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 3

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"ARTICLE —

"A right to abortion is not secured by this Constitution. The Congress and the several States shall have concurrent power to restrict and prohibit abortion: *Provided*, That a provision of a law of a State which is more restrictive than a conflicting provision of a law of Congress shall govern.".

By Mr. BAKER (for Mr. GARN) (for himself, Mr. ABDNOR, Mr. DANFORTH, Mr. DECONCINI, Mr. EAGLETON, Mr. EAST, Mr. FORD, Mr. GRASSLEY, Mr. HATCH, Mr. HATFIELD, Mr. HELMS, Mr. JEPSEN, Mr. LUGAR, Mr. MCCLURE, Mr. NICKLES, Mr. PRESSLER, Mr. PROXMIRE, Mr. RANDOLPH, and Mr. ZORINSKY):

S.J. Res. 4. Joint resolution proposing an amendment to the Constitution of the United States for the protection of unborn children and for other persons; to the Committee on the Judiciary.

INTRODUCTION OF HUMAN LIFE AMENDMENT TO THE CONSTITUTION

Mr. GARN. Mr. President, I am pleased to again this year reintroduce an amendment to the Constitution to protect human life. This is the same amendment I introduced in the 95th, 96th, and 97th Congresses. During the 97th Congress, 30 Senators cosponsored the resolution. We anticipate a similar showing of support again this year.

Last Saturday marked the 10th anniversary of the Supreme Court's abortion decisions. As Senator James Buckley wrote at that time:

> In the course of its deliberations, the Court found it necessary to concede a series of premises . . . that have to do with the conditions under which human beings, born or unborn, may be said to possess fundamental rights. . . . Thus, . . . to be created human is no longer a guarantee that one will be possessed of inalienable rights in the sight of the law. The Court has extended to government, it would seem, the power to decide the terms and conditions under which membership in good standing in the human race is determined.

Although such a conclusion might have seemed to some at the time to be overstated, our experience since then, including subsequent Court decisions, and the recent "Bloomington baby" incident, suggest that it was all too accurate.

With that in mind, I am disturbed by the outrageous claims made by many proponents of abortion about the result of any prohibition of abortion. To hear them tell it, the enactment of any human life amendment will result in women being put in jail for having miscarriages, the requirement that the decision to have a baby be "between you, your husband, and your Senator," forcing someone's religion on everybody else, subverting a woman's "right to control her own body"; we even hear extreme references to "coerced maternity."

I think it is important to reassure people on these points.

The American Center for Bioethics recently completed a study of case law under the abortion statutes which were in effect for 150 years or so until 1973 to see if claims that prohibitions on abortion would result in murder charges or prison sentences had any basis in fact. It was felt that past experience would be a reliable guide, given the dependence of our legal system on precedent. This was the center's conclusion:

> No evidence was found to support the proposition that women were prosecuted for undergoing or soliciting abortions. The charge that spontaneous miscarriages could result in criminal prosecutions is similarly unsupportable. There are no documented instances of prosecution of such women for murder or any other species of homicide; nor is there evidence that states that had provisions enabling them to prosecute women for procuring abortions ever applied those laws. . . . In short, women were not prosecuted for abortion. Abortionists were. . . . It is unlikely that enforcement of future criminal sanctions on abortion would deviate substantially from past enforcement patterns.

The passage of an amendment such as the one before us would no more "coerce maternity" than current laws against murdering one's mother-in-law "coerce son-in-lawhood." Nobody in Congress has presumed to force a woman to become pregnant, to prohibit the use of contraceptives, or to otherwise regulate the kind of behavior which results in pregnancy. Everyone agrees that these are areas in which husbands and wives should properly be in control. Those are not the questions. The crucial fact is too often overlooked by those who make such claims is that once a woman becomes pregnant, she already has a baby. The question then must be what kind of protection we are going to give this other, separate, living human being.

The Supreme Court entirely disregarded this fact, but that does not justify our doing so. Medical and biological science teaches unequivocally that a new life begins at conception, not at birth. After all, the remarkable thing about Louise Brown, the first test-tube baby, was not the circumstances of her birth, but the circumstances of her conception. Her beginning was most definitely not at birth, and the same is true for all of us.

Abortion is an issue that will not go away, and one reason it will not go away is the continuing insight into fetal life that new medical research provides. Hardly a month goes by without the publication of an important study of life before birth or new information on the advances in prenatal surgery. Prenatal medicine can detect and treat several forms of fetal distress and some genetic problems. Some time ago, a tiny boy had brain surgery 6 times in the 9 weeks before he was born to drain the dangerous levels of fluid in the brain that results from hydrocephalus. Doctors have been able to diagnose and treat the inability of a preborn baby to assimilate essential vitamins, and those likely to be born prematurely can receive drugs that accelerate the maturation of the lungs. Other drugs are available to correct irregular heart rhythms of the unborn, and blood transfusions have been given to fetuses.

As columnist George Will has said before, these developments should "raise troubling thoughts in a nation in which abortion is the most frequently performed operation, a nation in which last year 1.5 million abortions ended about one-third of all pregnancies." Unfortunately, our moral sensibilities are not keeping pace with our scientific advances. In fact, our moral sense seems to react inversely to our scientific knowledge. The more we know about the preborn human, the less care we take to protect him or her.

As for the claim in newspaper advertisements last year that "the decision to have a baby could be between you, your husband, and your Senator"—I can see how that might apply to my wife and her Senator, but I am hard pressed to see its relevance anywhere else, especially given the strange nature of privacy as defined by the Supreme Court in the abortion situation. "Privacy," according to the Court, exists between a woman and her doctor—not to mention the additional medical, administrative, and welfare personnel who may be involved. The husband or natural father is excluded from the privacy; he is, in the words of a later decision—*Planned Parenthood* v. *Danforth*, 1976—only a third party. Apparently the recently discovered abortion right has become so precious that all other values must be sacrificed to preserve it, including the marital relationship, a father's right to have children and to protect them, and a parent's right to be informed about the acts of his minor children, for which he is held legally responsible anyway.

There is also the argument that any law prohibiting abortion would amount to an unconstitutional establishment of religion. Many appear to believe that the only possible reasons for opposing abortion on demand are religious, and thus invalid. It is obviously misguided to assert that the Government establishes a religion simply because it holds to a particular value which is endorsed by a religion. For example, both the right of individuals to own private property and the right of governments to collect taxes are explicitly affirmed in scriptural texts of some religions, but no one contends that for this reason laws protecting private property or providing for the collection of taxes represent an establishment of those churches. There are secular reasons, of course, for governments to do these things, and there are also definite secular arguments in favor of protecting developing human life, provided one assumes that any human life has value.

There are those among us who insist that the "right to choose" is paramount, even over a right to life. Aside from the obvious fact that the right to choose is meaningless until the right to life has been guaranteed, there must be some sort of limit on the type of behavior that can be justified by some all-encompassing right to choose. Those same pro choice advocates do not defend the right to choose the wanton killing of seals, whales, rabbits, or puppy dogs, nor do I. Laws against this sort of behavior are not based on JAKE GARN'S whims, but upon what our civilization has generally understood to be humane, civilized bulwarks against barbarism. Certainly human beings, at whatever stage of their biological development, deserve at least the same kind of protection.

One vigorous proabortionist, a Leo Pfeffer, has been quite frank about sizing up the Court's action in Roe against Wade and other cases. He said:

> The nine judges on the Supreme Court, being immune to political reprisal, since they serve for life, may be performing a significant though quite controversial function; they may be compelling the people to accept what the judges think is good for

them but which they would not accept from elected legislators.

Certainly our responsibility to uphold the Constitution is no less than that of the Supreme Court. As Prof. John Hart Ely has said, Roe against Wade was not constitutional law, "and gives almost no sense of an obligation to try to be." In my readings of the Constitution I have never found an all-encompassing right to abortion, nor any reference to what may or may not be done during each trimester of a pregnancy. I have always understood that it was the function of the Constitution to protect what Jefferson called those "inalienable" rights, first and foremost of which is life. I do not see how it can at the same time be construed to sanction the wholesale destruction of human life that is taking place in our society today at the rate of about 1.5 million lives per year. I believe it is our responsibility in Congress to respond. Abraham Lincoln said once that

> If I were in Congress, and a vote should come up on a question of whether slavery should be prohibited in a new territory, in spite of that Dred Scott decision, I would vote that it should.

Our response to the similar denial of basic human rights which we are now facing should be no less, and I urge the support of my colleagues for this amendment.

Mr. President, I ask unanimous consent that the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 4

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"ARTICLE —

"SECTION 1. With respect to the right to life, the word 'person', as used in this article and in the fifth and fourteenth articles of amendment to the Constitution of the United States, applies to all human beings, irrespective of age, health, function, or condition of dependency, including their unborn offspring at every stage of their biological development.

"SECTION 2. No unborn person shall be deprived of life by any person: *Provided, however,* That nothing in this article shall prohibit a law permitting only those medical procedures required to prevent the death of the mother.

"SECTION 3. Congress and the several States shall have the power to enforce this article by appropriate legislation within their respective jurisdictions.".

A DECADE OF DISRESPECT

Mr. ABDNOR. Mr. President, there is an old saying to the effect that the U.S. Supreme Court is right, not because it is right, but because it is final.

This past week marks the 10th anniversary of a U.S. Supreme Court decision which many of us consider tragically wrong. The Roe against Wade decision which, in effect, decreed abortion on demand, has given the deliberate taking of human life unparalleled respectability and unwarranted acceptance. Those who once shuddered at Adolf Hitler's slaughter of innocent human life, scoff at those of us who decry the slaughter of innocent life which may not yet be capable of sustaining itself outside the womb, but life nonetheless.

The Supreme Court was wrong in handing down this decision in 1973. The decision is still wrong in 1983. As a recent article in the Wall Street Journal states:

> Whatever one thinks of the morality of abortion, the Supreme Court's decision 10 years ago was mistaken and time has only emphasized the gravity of the mistake.

I commend this article to the attention of my colleagues.

It is time the Congress moved to correct this mistake and restore respect for life—all life.

Mr. President, I ask unanimous consent to have this article I referred to printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Jan. 17, 1983]

10 YEARS AFTER THE ABORTION DECISION

(By Terry Eastland)

Ten years ago this week the Supreme Court ruled that a woman has an almost unrestrictable right to seek an abortion. Roe v. Wade began a decade of controversies, the most recent of which arise from congressional attempts to reverse or modify the decision. Whatever one may think of these recent efforts—and I am yet to be persuaded by any of them—and whatever one may think of the morality of abortion, the court's decision 10 years ago was mistaken. That was clear then, and time has only served to emphasize the mistake and to indicate its gravity.

Roe v. Wade boils down to this: A woman has a constitutionally protected right to seek an abortion. It is an absolute right during the first three months of pregnancy. After that, and up to the point of "viability"—which the court defined as the fetus' "capability of meaningful life"—the right may be limited only by the state's interest in protecting the health of the mother. After viability, which the court reckoned to occur at the seven-month mark of a pregnancy, the right may be limited and even proscribed by the state's interest in "the potentiality of human life," unless abortion is necessary to preserve the life or health of the woman.

Note the word "health." Inasmuch as the court, in a companion case to Roe, recognized a very broad definition of "health," including the pregnant woman's "emotional well-being," the right to an abortion could easily be exercised in the third trimester of pregnancy. Thus the abortion right announced by the court on Jan. 22, 1973, was virtually unlimited.

NUMEROUS PROBLEMS

A wide range of scholars holding both pro- and anti-abortion beliefs quickly pointed out the numerous problems with Roe v. Wade. These included mistakes in history, science and law. But the essential difficulty was, as it remains today, that Roe v. Wade imposed on the nation a view of the abortion issue lacking constitutional warrant.

A right to abortion obviously can't be found in the Constitution. Neither can it reasonably be concluded from a principled interpretation of the Constitution. The court thought the right might inhere in the 14th Amendment, but it can lie there only on a reading of individual liberty and the family that has only the slightest legal precedent and flies in the face of American legal and social history.

To be sure, the court did recognize that if the unborn were a person, it would deserve 14th Amendment protection, and the abortion liberty would be significantly circumscribed. But the court combed through the Constitution to conclude that the word "person" in that document nowhere has "pre-natal application." Turning to the experts in medicine, philosophy and theology, the court said that because they could not reach a consensus as to when life begins, then neither could it, and, thus, neither could the citizens of any state acting through their legislature.

This act of "raw judicial power," as Justice White called it in his vigorous dissent, prevented the states from balancing concern for the mother and concern for the unborn in the many other ways that are clearly possible and which the citizens of the various states then clearly preferred. In 1973, a small number of states permitted abortions of pregnancies involving rape, incest or fetal deformity, and a very few allowed abortions for no reason. All of these states, however, set limits on late-term abortions. No state permitted a right to abortion so expansive as the one protected by the court.

Without clearly adverting to what it surely must have known it was doing, the court gave the green light to abortion for almost any reason, including none at all. Roe v. Wade thus was an affront not merely to those who hold that the unborn deserve the fullest protection. It was also an affront to those many Americans who do not consider themselves part of the "pro-life" movement but who deeply believe that abortion involves more serious ethical considerations than social embarrassment, dislike of children, lost wages, career planning and the "wrong" sex of the unborn child.

Since 1973, the nature of the court's decision has become even clearer. Its essentially legislative character is indicated by the stream of litigants who have gone to the court in 1976, 1977, 1979, 1981 and now again this year asking for clarification and testing the decision's limits. And the fact that it violates the view many people still have of abortion ethics is indicated by the several efforts to hedge the implications of Roe v. Wade (such as the Hyde amendment prohibiting federal funding of abortion), some of which have been successful.

With the fetus' status as a human being in limbo, the court said it could not be a constitutionally protected person. The most it would say was that fetuses beyond the 28th week have "potential life"—a curious phrase, inasmuch as some fetuses of even lesser age have had actual life. They have

survived outside the womb; miraculously, some have survived despite efforts to abort them.

A case for including the unborn among those covered by the 14th Amendment is at least as plausible as the court's argument that the right to abortion is secured by the Constitution. Protection of the unborn has a more distinguished historical and legal pedigree in this nation than does the liberty to abort. Interestingly, during the latter half of the 19th century, when most states moved to prohibit abortion except when the mother's life was endangered, there was no serious organized opposition arguing for the constitutional right to abortion that the court discovered in 1973. Indeed, women's groups did not oppose the anti-abortion movement.

Even so, the safest conclusion of law and history is that neither the abortion liberty nor the right to life of the unborn is secured beyond doubt by the Constitution. Faced with this, the court should have deferred to the states and thus to the judgments of citizens as expressed through their legislatures. As Oliver Wendell Holmes once said, wisely, the 14th Amendment does not give the justices "carte blanche to embody [their] economic on moral beliefs in its prohibitions." In Roe v. Wade, however, the court read its own moral beliefs into the Constitution to create the abortion liberty and then proceeded to act like a legislature in setting forth the condition of its exercise.

A FALLIBLE INSTITUTION

One of the most serious consequences of the court's decision touches the deepest foundations of our society. Our system of law depends on respect for individual life, a value rooted in the Judeo-Christian ethic. The court's decision in Roe v. Wade cannot easily be reconciled with that value. Indeed, it points the way toward a future in which respect for human life becomes, like beauty, merely relative. The court teaches through its decisions, and there is some evidence—one thinks of the "Infant Doe" case in Bloomington last year—to suggest that the people are now more disposed to place relative values on human life.

Today it is fashionable for some to criticize those who say the Supreme Court is wrong. All too frequently defense of a court decision seems to become a statement of the court's infallibility, and too often it is said that the Constitution is what the court says it is. But, as Lincoln once remarked, a decision by the court is not a "thus sayeth the Lord"; the judiciary, like the other two branches of our government, is a fallible institution.

To be sure, it may not be clear what the next step beyond criticism of the court should be—whether legislation, a constitutional amendment, a packing of the court, a withdrawal of jurisdiction—and some steps are wiser than others. But it is certain that whatever step is taken cannot be taken unless those who believe the court was wrong in a given instance speak up when they have the chance. And 10 years ago, in Roe v. Wade, the court was wrong—seriously wrong.

By Mr. THURMOND (for himself, Mr. HATCH, Mr. DECONCINI, Mr. DOLE, Mr. HEFLIN, Mr. GRASSLEY, Mr. DENTON, Mr. BURDICK, Mr. LUGAR, Mr. EAST, Mr. PROXMIRE, Mr. GARN, Mr. BENTSEN, Mr. RUDMAN, Mr. ZORINSKY, Mr. ABDNOR, Mr. STENNIS, Mr. D'AMATO, Mr. SYMMS, Mr. KASTEN, Mr. PRESSLER, Mr. NICKLES, Mr. MURKOWSKI, Mr. HUMPHREY, Mrs. HAWKINS, Mr. QUAYLE, Mr. JEPSEN, and Mr. TRIBLE):

S.J. Res. 5. Joint resolution proposing an amendment to the Constitution relating to Federal budget procedures; to the Committee on the Judiciary.

CONSTITUTIONAL AMENDMENT RELATING TO FEDERAL BUDGET PROCEDURES

Mr. THURMOND. Mr. President, I am reintroducing today the proposed Balanced Budget/Tax Limitation constitutional amendment. During the 97th Congress, this amendment became the first such amendment in the history of the Nation to earn the approval of a House of Congress. On August 4, 1982, the direct predecessor of this amendment—Senate Joint Resolution 58—was proposed as the 27th amendment to the U.S. Constitution by a Senate vote of 69 to 31. Less than 2 months later, a similar measure was considered by the full House of Representatives and secured the support of a clear majority of the body, although it fell short of the requisite two-thirds vote.

I am confident that the forthcoming Congress will see continued momentum on part of the proposed amendment. With fiscal year 1984 budget deficits likely to be in the vicinity of $200 billion, and with 31 States having applied to Congress for a constitutional convention on the subject of a balanced budget amendment, I believe that the need for such an amendment is at least as compelling today as it was during the last Congress.

The recent fiscal history of the Federal Government is, by now, all too well known:

Congress has balanced the Federal budget only once in the past quarter century;

The level of these annual budget deficits has grown enormously over this period of time. The eight largest peacetime deficits in the history of the Nation have been incurred during the past decade alone.

The total national debt of the United States has soared over $1 trillion merely a year ago, and is now approaching $1.25 trillion. Fully three-quarters of the total national debt incurred by this country in its entire history has been incurred during this brief period.

Federal spending, which first surpassed $100 billion in the latter years of the Kennedy administration, 20 years ago, and which first surpassed $200 billion only 13 years ago, and $300 billion only 8 years ago, is now likely to surpass $800 billion by a considerable margin. At the same time that this Nation is enduring record deficits, we are also enduring record levels of Federal taxation, because of this unrestrained Federal spending.

While it used to be said that Federal deficits were not such a bad thing—because "we owed it to ourselves"—and could even be useful by "stimulating" the economy, it is clear today to virtually every reasonable observer, of whatever political or philosophical persuasion, that deficit spending has consequences—detrimental and unfortunate consequences. As a result of a quarter-century of virtually unchecked deficit spending, this Nation is suffering today from historically unprecedented levels of unemployment, levels of inflation that have been in double digits for most of the past decade, catastrophically high interest rates, and continuingly declining levels of national investment and productivity. The standard of living, after taxes and after inflation, has actually declined for the majority of American households over the past decade.

Mr. President, these are the consequences of a fiscal system in which there is a virtual absence of serious fiscal restraints upon the ability of the National Government to spend money. These are the consequences of a fiscal system in which there is an illusion that we can continue to live beyond our means indefinitely without having to concern ourselves about any time of reckoning or accounting. These are the consequences of a fiscal system in which there is every encouragement of the spending impulse in elected representatives, and every discouragement of the impulse to avoid placing new burdens upon those who must inevitably pay for this spending, whether it be in the form of higher taxes, higher rates of interest, unemployment, or diminished productivity.

I believe that there is a growing consensus in this country that perceives these problems. This is a perception that is shared, increasingly, by Democrats and Republicans, liberals and conservatives, Keynesians, and supply-siders, and traditionalists, and believers in classical theories of economy. Our economy is in bad shape, and it is in bad shape because we have been mortgaging our Nation's economic future with more than a generation of deficits, more than a generation of living beyond our economic means.

What then is the solution? In my own view, I believe that the proposed constitutional amendment is absolutely necessary. I believe that, despite my view, that a constitutional amendment ought to be a final recourse. If there is an alternative nonconstitutional solution that promised success, I would prefer it to an amendment.

There is no alternative solution. We have experimented repeatedly with statutory approaches, including approaches such as the Byrd-Grassley amendment to require a balanced Federal budget in fiscal year 1981 and subsequent years, and continued fine

tuning of the Budget Control and Impoundment Act of 1974. While I believe that the Budget Act has not been without contribution, I certainly do not believe that it offers any significant promise in getting us out of our present economic rut. Indeed, the effective period of the Budget Act has almost perfectly coincided with that period of the most unconstrained budget growth.

A constitutional amendment to require a balanced budget is necessary because our fiscal predicament today is a deeply rooted one within our fiscal system. There are institutional problems that make it difficult for even the most fiscally responsible Members of Congress to conduct themselves in a fiscally responsible manner. A constitutional amendment rather than a statute is necessary because only an amendment can afford the sort of external constraint upon the spending tendencies of Members of Congress that is required. There must be an outside limitation, not simply a self-imposed limitation in the form of a simple statute or budget resolution.

The proposed amendment—in the same manner as Senate Joint Resolution 58—addresses the institutional problems of our present fiscal system. It addresses the inherent bias toward spending in our fiscal system that has proven so intractable and unyielding. In a nutshell, this spending bias arises from the fact that Members of Congress are free to vote for new spending initiatives without, at the same time, having to vote for new tax initiatives. In other words, Members of Congress can vote to support the programs of the spending interests, and reap the political benefits of such spending—in the form of electoral support, for example—without having to place themselves on record in behalf of higher taxes to pay for such spending. There are no countervailing political disadvantages in the form of tax votes that would overcome the political advantages stemming from the prospending votes.

This spending bias arises from two important elements of our fiscal system: First, the unlimited availability to Members of Congress of deficit spending; and second, the accessibility each year to Members of increased revenues derived from so-called tax bracket creep or tax-flation.

Because of the unlimited availability of deficit spending, Members of Congress are free to respond favorably to the spending groups without having to vote for the necessary new taxes to pay for their new programs. Rather, Congress can merely indulge in new deficit spending. The consequences of such deficits come only in future years—in such forms as inflation and interest rates—and are rarely attributed to the Members who voted for the earlier deficits. In other words, Members reap the benefit of the prospending vote and avoid totally the need for the protaxing vote. It is a case of Members eating their cake, and having it as well.

A similar situation arises with respect to the second element of the spending bias—the accessibility each year of increased revenues to Congress as a result of "bracket creep." What this means is that Members of Congress are free to vote for new spending and again can avoid having to vote for higher taxing because larger amounts of revenues are automatically available. In the absence of congressional action of any sort, our present tax system insures that new revenues will be available to Congress each year even in the absence of an explicit tax vote.

The principle purpose of the proposed amendment is to overcome this spending bias by establishing as a precondition for new spending the requirement that Congress either go on record—by a 3 to 5 vote—in favor of deficit spending, or—by a majority vote—in favor of the necessary revenues to account for such new spending. The proposed amendment is not designed to "read economic policy into the Constitution," as is commonly suggested, but is designed to inject a new element of accountability and honesty into the budget process by requiring Members of Congress to go on record on these matters. Under the proposed amendment, Members can continue to support higher levels of spending, taxing, and deficit, but only if they are equally willing to go on record in behalf of such propositions. No longer will they be able to accrue political benefits by supporting spending measures without having to concern themselves about the accompanying necessity of new revenue measures, or least the explicit need to go on record as favoring increased levels of deficit.

The proposed amendment is one that is consistent with sound constitutional principles, as well as sound economic principles. It does not attempt to write into the Constitution any particular theory of economy; it does not attempt to inject the Constitution into the day to day budgetary decisions of Congress; it does not embed permanently into the Constitution any particular levels of spending or taxing; and it does not memorialize into the Constitution arbitrary levels of numbers; or arcane economic terms. All that the proposed amendment attempts to do is to create an economic environment within which responsible fiscal decisionmaking can take place. It does not insure that we will always see the Federal Government acting in a responsible, frugal manner; it does insure, however, that there is at least a reasonable possibility of this taking place.

Let me strongly suggest to my colleagues that they look at the Senate report prepared last year on Senate Joint Resolution 58 with respect to the detailed economic and constitutional case for the proposed amendment. I believe that the report contains a compelling argument for this amendment at the same time that it attempts to address the most recurrent criticisms that have been raised about it.

I would note that the amendment that I introducing today is identical to the amendment approved last year by the Senate—including the floor amendments offered by Senator DOMENICI and Senator CHILES—except that a floor amendment added last year relating to procedures for raising the national debt is omitted. While I would hope that this issue would be given careful consideration during the committee process during the forthcoming Congress, this provision was deleted for a number of reasons. Included among these are the continued opposition of virtually every outside organization that has supported the constitutional amendment effort—including the National Tax Limitation Committee, the National Taxpayer's Union, and the Chamber of Commerce—the opposition of the House leadership in the amendment effort, remaining technical difficulties with the floor amendment, and, finally, the fact that the majority of support for the floor amendment last year came from those Members opposed to the constitutional amendment while the majority of opposition to the floor amendment came from those Members who supported the constitutional amendment.

Mr. President, let me briefly summarize the provisions of the proposed amendment and again refer my colleagues to the Committee Report (No. 97-151) for a more extensive discussion.

SECTION 1

This section would require Congress, prior to the outset of each fiscal year, to prepare a budget in which proposed levels of outlays do not exceed proposed levels of receipts unless a specific level of deficit is approved by a vote of three-fifths of the Members belonging to each House of Congress. Such a budget could be amended or altered at any time during the fiscal year, although subject to the same procedures and limitations as the original budget. Congress and the President would be responsible for insuring that the actual level of budget outlays does not exceed the proposed level of outlays.

SECTION 2

This section establishes the formula by which the maximum level of budget receipts is established for the proposed budget put together prior to each fiscal year. This formula is de-

signed to insure that the balanced budget requirement of section 1 is not satisfied by spending and taxing levels that increase inexorably as a share of the economy. This maximum level of budget receipts could be exceeded, however, any time that a majority of the Members of each House of Congress are prepared to go on record in behalf of increased levels of taxes.

SECTION 3

This section establishes a waiver of the basic requirements of section 1 and 2 in the event of declarations of war by the Congress.

SECTION 4

This section is a standard definitional section that clarifies that the intent of the proposed amendment is to define "receipts" and "outlays" for purposes of the amendment in the broadest possible manner.

SECTION 5

This section establishes the effective date of the provisions of the amendment as the second fiscal year beginning after its ratification.

SECTION 6

This section clarifies that Congress is empowered to "enforce and implement" the provisions of the proposed amendment by "appropriate legislation".

Mr. President, let me conclude by setting forth three basic premises that I and my colleagues have borne in mind in developing the proposed constitutional amendment—in particular I refer to Senator HATCH and Senator DECONCINI in this regard, the chairman and ranking minority member of the Subcommittee on the Constitution. First, there are admittedly gaps in the proposed amendment that will have to be filled by enacting legislation. The purpose of the proposed amendment is to set forth in the Constitution a basic principle of government; it is not to write into it a detailed statute defining terms and defining specific procedures. Second, as with any other constitutional provision, I would expect that Members of Congress and other Government officers would abide by the clear spirit and intent of the proposed amendment. While a determined and willful Congress will always have opportunities to circumvent its provisions—as with most other constitutional provisions—I would anticipate that Congress will attempt to abide by both the plain language and the broad policies that are reflected in the amendment. Finally, none of the proponents of the amendment view it as a panacea to our Nation's economic problems and we have not attempted to sell it as such. The amendment will not, single-handedly, turn our economy around or restore a sense of fiscal responsiblity to the deliberations of Congress; what it will do, however, is to allow the possibility that more responsible policies will emerge from an environment within which Members of Congress are more directly accountable to their constituents for the implications of the budgetary decisions.

Mr. President, I take pride in reintroducing the proposed amendment and strongly encourage all of my colleagues to join me in this action. The time is long overdue that Congress respond to the clear desire of the great majority of the American people, of whatever professional, economic, racial, or ethnic background. I ask unanimous consent that the entire text of the proposed amendment be placed in the RECORD at this point.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 5

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

"ARTICLE —

"SECTION 1. Prior to each fiscal year, the Congress shall adopt a statement of receipts and outlays for that year in which total outlays are no greater than total receipts. The Congress may amend such statement provided revised outlays are no greater than revised receipts. Whenever three-fifths of the whole number of both Houses shall deem it necessary, Congress in such statement may provide for a specific excess of outlays over receipts by a vote directed solely to that subject. The Congress and the President shall, pursuant to legislation or through exercise of their powers under the first and second articles, ensure that actual outlays do not exceed the outlays set forth in such statement.

"SECTION 2. Total receipts for any fiscal year set forth in the statement adopted pursuant to this article shall not increase by a rate greater than the rate of increase in national income in the year or years ending not less than six months nor more than twelve months before such fiscal year, unless a majority of the whole number of both Houses of Congress shall have passed a bill directed solely to approving specific additional receipts and such bill has become law.

"SECTION 3. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect.

"SECTION 4. Total receipts shall include all receipts of the United States except those derived from borrowing and total outlays shall include all outlays of the United States except those for repayment of debt principal.

"SECTION 5. This article shall take effect for the second fiscal year beginning after its ratification.

"SECTION 6. The Congress shall enforce and implement this article by appropriate legislation.".

Mr. HATCH. Mr. President, in a historic vote last year on August 4, the U.S. Senate by a two-thirds vote proposed an amendment to the Constitution relating to a balanced Federal budget. Proposal of this amendment followed many days of hearings in the Senate Judiciary Committee, many months of negotiations and compromises inside and outside of Congress, and many years of work and effort by Members of Congress, interested outside organizations, academics, and citizens from every conceivable background.

The proposed amendment (S.J. Res. 58) represented a response to the nearly three dozen separate amendments that had been introduced by our colleagues during recent Congresses and referred to the Judiciary Committee. It also represented a response to the 31 States that have applied for a Constitutional Convention on this subject, as well as the estimated 80 percent of the public who favor a constitutional requirement of a balanced budget for the Federal Government.

With a deficit looming over the fiscal year 1983 budget in the neighborhood of $200 billion, I certainly do not believe that there is any less compelling need for a constitutional amendment than there was during the last Congress. Indeed, the difficulties that Congress has had in coming to the grips with a deficit of this magnitude reaffirm my belief that there are institutional, structural problems with our present system that can only be corrected through constitutional change.

The result of decades of regular deficit spending, as well as of a decade in which the magnitude of these deficits has steadily peaked at higher and higher plateaus, is that inflation continues at unacceptably high levels, the number of unemployed Americans grows without surcease, the competitiveness of American industry continues to decline, and the tax burden upon the productive taxpayer continues to grow heavier.

Perhaps most importantly, the standard of living for the average American has remained stagnant for more than a decade. There has been virtually no real growth in median income during the period, with a majority of American families having less real aftertax spending power today than 10 years ago.

THE PREMISES OF THE AMENDMENT

A constitutional amendment is critically necessary at this time to effect a permanent measure of fiscal responsibility by Congress. It is necessary because our root problem is not primarily the fact that there are too many Members of this body who do not understand the relationships between their actions and the state of the American economy. Although this number remains high, at least as critical is the fact that all of our legislators operate in an institutional envi-

ronment which encourages deficits, which encourages high levels of spending, and which encourages high level taxation. The proposed amendment is aimed at a.tering this institutional environment.

The proposed amendment is not designed primarily as an economic amendment; it is primarily an amendment that affects the political and institutional processes by which our Government determines economic policy. It avoids dictating or specifying particular economic results or outcomes.

The major premises of the amendment are twofold: First, it rests upon the assumption that the political and legislative processes ought to be entrusted to make specific economic and fiscal decisions. Second, it rests upon the assumption that the political and legislative processes cannot presently be entrusted to make these decisions in a fair manner because of political biases that exist within our system that favor higher levels of spending and higher levels of taxation.

This amendment seeks to eliminate these biases and establish a more neutral budget-making environment. It does not seek to establish alternative biases—biases that I would personally favor—in behalf of reduced levels of spending and taxes. It is the primary objective of the amendment that the product of our budget process—and no specific budget process is written into the Constitution—will more fairly reflect public sentiment on spending and taxing, that is likely to result under this amendment. It is not likely to result, and has not resulted, under the present system largely because of the structural biases that exist within the present system.

What are these biases to which I refer and to which the amendment is addressed? There are two major ones that I would identify.

First, there is an inherent bias in our present economic process in behalf of higher levels of taxation. This results from the interplay of our tax system with either inflation or real economic growth. Because of this phenomenon of tax bracket creep, the Federal Government is insured an ever-growing proportion of the national income. In the absence of any congressional action, revenues grow, from year to year, as a percentage of the economy. The public sector grows increasingly large, while the private sector is correspondingly diminished. Congress is required to take affirmative action if revenues are not to increase as a share of the national income.

Second, there is an inherent bias in our present economic process in behalf of higher levels of spending. This bias exists because of the political advantages to be gained from supporting spending programs and the lack of countervailing political advantages—even the political disadvantages—gained from opposing them. Because spending interests tend to be visible, articulate, and intense in focusing their attentions upon individual spending bills that are likely to accrue to their benefit, and because they are able to reward or punish legislators with their electoral support or nonsupport, it is to the advantage of such legislators to be sensitive and responsive to their concerns.

There is normally no similar constituency in opposition to such spending programs. Those who would logically be most concerned about higher levels of expenditures—the taxpayers—are diffused, unorganized, and politically inarticulate. They have no lobbying organizations as do the spending interests. Even if they are able to perceive the nature of their self-interest on a given piece of legislation, it is virtually impossible for them to focus on any given program with the same intensity and passion of a beneficiary spending group. While such group may stand to gain millions or even billions of dollars for their relatively small constituencies, the individual taxpayer stands to lose nothing more than a few cents or a few dollars apiece on any single program. It is only when these programs are aggregated that the taxpayer begins to feel the impact of such spending.

At the present time, the political advantages gained through support for a particular program are not offset by any political disadvantages which would result from votes to reduce spending for other programs or from votes to increase taxes. The virtually unlimited access to deficit spending and the absence of any effective spending ceiling precludes the former, while the "tax bracket creep" phenomenon avoids the latter.

It is the primary objective of the proposed amendment to insure, for the first time, that such political disadvantages inevitably attach to votes to increase spending, but only by voting to cut other spending programs or by voting explicitly to increase taxes.

PROVISIONS OF THE AMENDMENT

How does the proposed constitutional amendment seek to dilute these biases? Let me briefly analyze the amendment section by section. The proposed amendment is identical to that which passed the Senate last year with the exception of one floor amendment which the floor leaders believe could be improved through further refinement.

Section 1 of the amendment would establish, as a constitutional norm, that the Government not spend more dollars than it has available. By requiring that Congress adopt a balanced Federal budget at the planning stage of the budget process, it seeks to reestablish the traditional linkage between revenues and expenditures—or what Profs. James Buchanan and Richard Wagner have referred to as our "unwritten constitution." Spending dollars would have to be matched by tax dollars. The political cost-benefit equation that is biased toward spending, when deficits are the norm, would no longer prevail.

Under section 1, however, Congress could choose to incur deficits at any time upon a vote of three-fifths of the Members of each House duly chosen and sworn. If such a supermajority is convinced that Congress must run deficit budgets in order to meet emergencies or respond to changing economic circumstances, Congress may deviate from the balanced budget norm that is established by this section. Such a deficit budget, however—and the precise deficit level must be specified—would be adopted by an explicit rollcall vote on a resolution directed solely to establishing some level of deficit; it could not be obscured by placing the balanced budget waiver in a popular pork barrel bill of some sort.

The fact that the waiver vote, particularly if it is to provide for a substantial deficit level, will occur at the planning stage of the budget process insures that it will not be considered in the emergency circumstances that normally characterize votes on waiving the statutory debt ceiling. The vote will assume more of an unambiguous character with those inclined toward large deficits supporting the waiver and those not so inclined opposing it; there will be no overhanging threat of Government shutdown or collapse upon the defeat of a given level of deficit, or of any deficit at all.

Both Congress and the President would be required to enforce the basic obligations of this provision through exercise of their constitutional authorities.

Section 2 of the amendment states that receipts, as a proportion of the national income—and any aggregate index could be substituted so long as it remained reasonably related to national economic performance—are not to increase from year to year in the absence of specific votes to that effect by a constitutional majority of each House of Congress, and Presidential approval. Absolute levels of revenues could, of course, continue to rise with levels of inflation or real economic growth, but revenues as a proportion of the economy would be restrained.

The bias in our system in behalf of higher taxes would be eliminated. Congress could no longer acquiesce in a tax increase by the simple act of doing nothing. They could no longer reap the political effects of, and dissipate, popular tax reduction sentiment by occasionally approving tax reductions that did nothing but compensate partially for the hidden, automatic,

and silent tax increases of "tax bracket creep." The burden would be upon Congress to approve, by an express vote, tax increases, rather than upon them to disapprove tax increases. A more neutral decisionmaking process would be established. Nothing would prevent Congress from approving tax increases, but they would have to be done aboveboard.

It is important to recognize the critical relationship between sections 1 and 2. Section 1 establishes the general balanced budget norm, while section 2 establishes that the budget will not be established at levels that consume ever-higher proportions of the national product, in the absence of clear congressional expression. The conjunction of these two sections also establishes what is in effect a spending limitation. In the absence of a congressional decision to increase taxes as a proportion of the national income, the balanced budget requirement of section 1 would operate to insure that spending would similarly remain stable as a proportion of the national income. The result would be a spending limitation, albeit an indirect spending limitation.

This spending ceiling—indeed any spending ceiling—would have the immensely desirable effect of altering the so-called concentrated benefit-dispersed cost bias in behalf of higher levels of spending that was earlier referred to. The entire psychology of the congressional spending process would be altered. Under the present system, each of the spending interests competes with the taxpayer to raise the total ante in the Federal Treasury. As a result of the "concentrated-benefit" phenomenon, spending interests more often than not prevail. Under a system, however, in which spending ceiling is established, these same spending interests would suddenly be competing with each other in order to insure themselves a certain proportion of a fixed ante in the Federal Treasury. The spending interests would not only have to convince Congress that their pet program merited funding at a certain level, but for the first time, would have to establish, in addition, the priority of their program. A fixed spending ceiling would require that Congress think in terms of budget priorities; an element of competition among the spenders would be introduced into the budgetary process.

Section 3 of the amendment would allow Congress, by a simple majority vote to waive the provisions of section I with respect to any single year in which a declaration of war was in effect. This would eliminate the anomaly by which a simple majority could declare war but might find themselves with insufficient funds to pursue the war for want of a three-fifths majority.

Section 4 of the amendment is a definitional section that clarifies the intent to define outlays and receipts in the broadest possible manner. The exceptions in the definitions for these terms are consistent with traditional budget and accounting procedures.

Section 5 of the amendment establishes as the effective date the outset of the second fiscal year beginning after its ratification.

Section 6 would empower Congress to "enforce and implement" the amendment through appropriate legislation.

For a far more detailed analysis of the proposed amendment, I would recommend the Report prepared last Congress by the Judiciary Committee on Senate Joint Resolution 58 (Senate Rept. No. 97-151). I believe that this report is complemented by the legislative history appearing at pages 17991, 17995-17997 of last year's CONGRESSIONAL RECORD which reflect several of the amendments offered on the floor which were adopted.

SUMMARY

Thus, the proposed amendment is a combination balanced budget-tax limitation-spending limitation. It is a balanced budget amendment through the express provisions of section 1. It is a tax limitation amendment through section 2 which prohibits increases in revenues as a proportion of national income without a vote; it is also a tax limitation amendment in the sense that it eliminates the "indirect tax" of deficit spending, a tax that is reflected either in future inflation or future interest costs. Finally, it is a spending limitation as a result of the conjunction of sections 1 and 2.

Yet this is all achieved through an amendment that strikes me as being more in the nature of a constitutional amendment than many of the more explicit spending and tax reduction amendments. The amendment is succinct, relatively easy to understand, free of essentially arbitrary numbers, and relatively free of arcane economic jargon. Most importantly, its purpose is that of a constitutional amendment—it seeks to perfect our legislative processes so that the democratic will may be more accurately reflected in an area-budget decisionmaking—where such democratic input is most essential. It seeks to do this by ridding the budget process of opportunities for illusion and concealment, and enhancing levels of political accountability. Section 1 addresses the illusion that there is such a thing as a free lunch, that Congress can spend dollars that it does not have without cost. Section 2 addresses the dishonesty of increasing the tax burden upon the citizenry covertly, and through inaction. As one witness has testified about this amendment, its primary contribution is that it "increases the flow of economic information in the political marketplace."

In passing, I would like to say just a few words about a criticism that has commonly been made against constitutional amendments generally on this subject matter.

It has often been suggested that such amendments can be relatively easily circumvented if desired. This results, we are told, from the fact that no amendment in this area can hope to fully contemplate the variety of fiscal monetary and regulatory arrangements that can be entered into by the legislative branch. No amendment can be precise enough to define economic terms with sufficient precision to preclude opportunities of circumventing the spirit of an amendment in this area.

In response, I would suggest that most amendments—or statutes—of human contrivance can also be undermined or distorted by human contrivance. Some of us might suggest that this has already occurred with respect to earlier amendments that were probably considered airtight by their drafters. If there is a will to ignore even a constitutional amendment, I have little doubt that an ingenious Congress or administration can probably do this. The value of a constitutional amendment, despite this fact, is that it elevates to constitutional status a broad principle of government—that of fiscal responsibility and accountability. It thereby serves as a permanent beacon by which Congress and the President can—and must—judge their programs and policies.

Congress, it seems to me, is expected always to act in accordance with both the terms of the Constitution and the spirit of the Constitution. While it is not always easy to enforce this responsibility against either Congress or the President, it nevertheless remains their responsibility. It is not simply the judicial branch that has responsibility for interpreting the Constitution; the legislative branch has a concurrent responsibility to do this.

I am frankly uncomfortable with the attitude that we ought not to propose a constitutional amendment because it is capable of circumvention. I am confident that the public will be capable of identifying those Members of the House and the Senate who will perpetually be seeking ways to circumvent. If circumvented, it will certainly not be the first constitutional amendment to be circumvented; if circumvented it will still be justified as an exercise in placing in the organic law of our land an enduring and permanent principle of sound and honest economic policy.

Mr. President, more than 175 years ago, our third President, Thomas Jefferson, remarked: "Of all the perils facing the Nation, public debt is the greatest of the dangers to be feared."

I believe that time has proved him to be correct. The experiences of civili-

zation since Jefferson's day has also confirmed the direct and intimate relationships between economic stability and political stability. As this Nation approaches the bicentennial of its Constitution, it is critical that that Constitution recognize the growing and fundamental nature of our Nation's economic dilemma.

Mr. EAST. Mr. President, I am proud to be an original cosponsor of the balanced budget amendment that is being introduced today. In the 97th Congress, I cosponsored Senate Joint Resolution 58 and supported efforts to gain early passage of that balanced budget proposal.

When Senate Joint Resolution 58 was debated in the Senate, I voted against the many amendments that would have weakened the proposal, but, together with a majority of the Senate, I voted for the Armstrong amendment, because it strengthened Senate Joint Resolution 58. The Armstrong amendment added a provision that would establish a permanent limit on the Federal public debt which could only be increased by a vote of three-fifths of the whole number of both Houses of Congress.

Because the proposal that was finally approved by the Senate last Congress had the added credibility and specificity of the Armstrong amendment, I think that is the proposal that would be most effective in controlling the problem of fiscal irresponsibility in the Federal Government. Since I was part of the majority that supported the Armstrong amendment, I wish that amendment had been included in the proposal that is being introduced today.

Nonetheless, the proposal being introduced today is a workable approach to creating a mechanism that would result in balanced budgets. I disagree with any who might argue that this proposal is unworkable because of vagueness. I mention the Armstrong amendment only because the Senate might consider adding it to this proposal later if it wishes to plug all possible loopholes and answer any possible argument that this proposal does not have teeth in it.

Mr. President, in closing, I wish to repeat that I am proud to be an original cosponsor of the proposal being introduced today. As in the 97th Congress, I shall support the effort to secure early passage of a strong balanced-budget amendment.

By Mr. GRASSLEY:

S.J. Res. 6. Joint resolution to urge the Committees on the Budget of both the Senate and the House of Representatives to strive to the maximum to apply the freeze concept across-the-board during the upcoming budgetary process; pursuant to the order of August 4, 1977, referred jointly to the Committee on the Budget and the Committee on Governmental Affairs.

FEDERAL BUDGET FREEZE

Mr. GRASSLEY. Mr. President, today I am introducing a joint resolution, along with and in close consultation with Representative NEWT GINGRICH, of Georgia—which resolution he is introducing in the other body at this time—for the purpose of freezing the Federal budget for 1984 at the 1983 level.

The resolution would urge the Budget Committees of both the Senate and the House to apply the freeze concept across-the-board for fiscal year 1984.

A Federal budget freeze is a course of action which I intend to pursue as a member of the Senate Budget Committee. I have pursued a total freeze or a modified freeze for 3 years, now, beginning with a call to freeze Federal pay and pension levels when I first became a member of the Senate Budget Committee in 1981.

Last night, in addressing a joint session of the House and the Senate, the President of the United States proposed what I and several other Members of Congress had hoped he would propose—in fact, we had urged him to propose—a Federal spending freeze.

It would have been difficult, indeed, to have sent Congress a budget which did not narrow large projected deficits in a fair and evenhanded manner.

The President's budget is a good beginning in that direction. But a spending freeze cannot and will not be perceived as fair unless it applies to the defense budget as well.

A freeze must be across-the-board, or it is no freeze at all.

The President's budget must reduce defense spending more. Under the President's proposal, defense would increase, in nominal terms, by 14 percent next year. Domestic spending would increase by only 2 percent.

This disparity is indefensible. There must be more balance if progress is to be made and if the sacrifice is to be perceived as fair, and that perception is necessary for achieving the successes of the President's budget.

According to the Congressional Budget Office, Federal deficits will leap to $312 billion by 1987—soaking up $1¼ trillion of red ink over the next 5 years.

It is not enough to simply hold spending to the rate of inflation. There should be a closer relationship, a very close relationship, between the growth of the budget and the real growth of the economy. Put another way, there should be a close relationship between the growth of our budget and the growth of Federal taxes coming into the Federal Treasury that supports that expenditure.

If the President's budget were enacted, deficits would still be uncontrollably large, mainly due to defense spending. His 1984 budget would reduce spending by only $30 to $35 billion, rather than the $43 billion estimated by OMB.

That would still leave a deficit of over $180 billion in 1984. This is just not enough in the way of restraint.

The budget resolution agreed to by Congress last year set the spending increase for fiscal year 1983 at 6.5 percent. The rate of Federal spending, however, actually increased by 9 percent, or twice the rate of inflation.

On the other hand, let me say, as a compliment to the President's leadership, that that 9-percent growth is down from the 17-percent growth that was inherited from the previous administration.

The $20 billion difference between the target set by the budget resolution and actual outlays for the year we are in today is fully 10 percent of this year's deficit. That gap is totally unacceptable.

Mr. President, I believe the Nation has finally accepted the concept of a budget freeze, as the only viable alternative to multibillion dollar deficits. I would only caution that the freeze must be made across-the-board. Such fairness is the precondition for any successful budget freeze proposal.

This resolution I offer today reflects the desire to combine fairness with much-needed spending restraint. It calls for the general concept of a budget freeze to be applied to this year's budget in an across-the-board manner.

It is not a specific proposal to freeze spending. Rather it is a vehicle whose purpose is to unite various freeze proposals under a common flag.

This resolution can and must serve as the basis for building a consensus on limiting spending and substantially lowering current and future deficits.

I urge my colleagues to take a careful look at this resolution, particularly in light of what the President has now proposed. Now is the time for concerted action to cool off the overheated Federal spending machine.

I yield back the remainder of my time.

By Mr. HEFLIN:

S.J. Res. 7. Joint resolution proposing an amendment to the Constitution altering Federal budget procedures; to the Committee on the Judiciary.

CONSTITUTIONAL AMENDMENT ALTERING FEDERAL BUDGET PROCEDURES

Mr. HEFLIN. Mr. President, today I am introducing a Senate Joint Resolution which contains a proposed constitutional amendment to require the Federal Government to achieve and maintain a balanced budget. Legislation very similar to this passed the Senate on August 4, 1982, by a vote of 69 to 31. However, because the proposed amendment was not approved

by both Houses of Congress, I am reintroducing this legislation and urging the Senate to consider it expeditiously. The merits of this particular legislation, as well as the need for a constitutional amendment requiring a balanced budget, have been debated at great lengths in this Chamber, and I shall therefore be brief in my remarks.

Last August, in a historic action, the Senate approved the balance-the-budget amendment and therefore voted to restore efficiency, fairness and fiscal responsibility to our Government. A message went out from this body to the American people that there was occurring in Government a genuine shift away from a policy of uncontrolled deficit Federal spending to one of fiscal restraint. We, in this body, must not allow the promise of that time to die, and I urge my colleagues, in the same spirit of unity displayed then, to take up this legislation early in the 98th Congress.

Our country is currently in the midst of an economic crisis that displays few indications of easing. High interest rates continue to stifle economic growth and productivity, and every week over 500 businesses permanently close their doors. Last year, there were more business failures than any year since 1932. Most appallingly and most tragically, 12 million Americans are without jobs and in my home State of Alabama, the unemployment rate recently hit 15 percent. The root cause of these economic problems is the massive Federal deficit that continues to grow with each new fiscal year. In 1981, the Federal deficit was $57.9 billion. In 1982, the Federal deficit hit $110.7 billion—more than doubling the deficit for 1981. The Congressional Budget Office recently stated that the deficit for 1983 will be at least $155 billion, and many leading economists believe that figure to be closer to $200 billion. Congress recently approved raising the ceiling on Federal borrowing to $1.29 trillion. Compounding the effect of these increases in the size of the Federal budget is the fact that tax receipts to offset them have not kept up. Thus, more and more of the Federal budget must be funded through deficit spending.

The proposal requiring a balanced budget is certainly not an instant cure-all for these economic problems. However, the amendment would reassert constitutional limitations upon deficit spending that existed as a part of our "unwritten Constitution" throughout most of our Nation's history. It is clear from year after year of billion-dollar deficits that the conventional congressional budgetary process is no longer working. I am convinced that the Congress of the United States simply does not have the willpower to cut Government spending and balance the Federal budget without a constitutional amendment requiring it to do so. The source of this failure is the structural bias within our political system that causes higher levels of spending, taxing, and deficits than are wanted by the American people. This spending bias is yet to be corrected by internal reform, even though a majority of the Members of Congress believe that large deficits and excessive Government spending severely damage the economy.

The people of our Nation, after years of listening to vague promises from their elected officials, have lost faith in the ability of Congress to do what is necessary to turn the economy around. The failure of Congress to act decisively on the amendment during the 97th Congress merely reinforces this perception. I believe an amendment requiring a balanced budget will do much to restore the American people's confidence in their Government and their economy, and reimpose the spending constraints that our Founding Fathers originally assumed.

Senate Joint Resolution 58, adopted last year by the Senate, was the result of countless hours of careful scrutiny and study by many Members of this body and their staffs, as well as a number of outside experts. The legislation I am introducing today retains most of the language from Senate Joint Resolution 58, with some needed additions. Section 1 of the proposed amendment requires a three-fifths vote of each House of Congress before the Federal Government can engage in deficit spending. This requirement establishes the norm that spending will not exceed receipts in any fiscal year. If the Government is going to spend money for whatever purpose, it should and must have the money in hand to pay for the goods and services required. Under this section, Congress would be required to adopt an initial budget prior to each fiscal year, and this budget would be subject to the limitations established in this section.

There has been added to section 1 language which was offered as an amendment to Senate Joint Resolution 58 by Senator RANDOLPH, Senator DENTON, and me, allowing for an exception to the requirements of the amendment in the event of a threat to the national security of the United States. Section 3 of the proposed constitutional amendment authorizes Congress to waive any of the requirements imposed upon it by the amendment in a year in which a declaration of war is in effect. While this exception to the general requirements of the amendment is necessary, in my judgment, it does not go far enough; for there may be times when our Nation is facing a threat to its national security short of war. Congress must be given the necessary flexibility to respond rapidly when such national emergencies arise. Indeed, there have been at least 183 instances in which American troops were deployed abroad without a formal declaration of war. The language I have added to section 1 would insure the Congress' ability to respond to emergencies of this type in a timely way, and with the resources necessary to deal with that emergency.

The language of this exception has been crafted in a manner designed to safeguard against its misuse. First, a budget must be adopted by the Congress prior to each fiscal year. Second, if, after the adoption of the budget, there arises a threat to the national security of the United States and is declared so by a joint resolution adopted by a majority vote of the whole number of both Houses of Congress, only then can Congress provide for additional outlays for the defense of the Nation in order to finance a response to the threat to national security.

Section 2 retains the language of Senate Joint Resolution 58 and operates in conjunction with section 1 to insure a balanced budget. Under this section, a spending ceiling is established, requiring Congress to adopt a level of receipts for each fiscal year that represents a proportion of the national economy no greater than that for the prior year. Therefore, revenues could not grow at a rate exceeding the growth of national income. Congress would not be entitled to spend at increased levels resulting from inflated tax revenues. This spending ceiling could only be overcome by a vote of a majority of the whole number of both Houses of Congress.

Section 3 also retains the language of Senate Joint Resolution 58 and authorizes Congress to waive the requirements imposed upon it by this amendment for a fiscal year in which a declaration of war in is effect.

Section 4 is a definitional section also retaining the language of Senate Joint Resolution 58. This section defines the terms "receipts" and "outlays" in the broadest possible sense so as to reflect the intent of this amendment to fully cover Government spending.

Section 5 states that there will be no further increases in the national debt except upon a three-fifths majority vote of both Houses of Congress. This language was offered as an amendment to Senate Joint Resolution 58 by Senators ARMSTRONG and BOREN, and adopted to that bill. In my judgment, this section adds needed specificity to the constitutional amendment.

Section 5 also contains an exception in the case of a threat to our national security. If additional outlays are approved for the defense of the Nation under the threat to national security provisions of section 1, Congress may increase the amount of the public debt by a joint resolution approved by a majority vote of both Houses. However, the public debt may only be in-

creased under this section to the extent of the additional outlays.

Finally, section 6 establishes the effective date of the amendment as the second fiscal year following its ratification.

Mr. President, there is strong bipartisan support for this amendment in both Houses of Congress. A balanced budget will be the measure to insure the American people that they can look forward once again to a sound economy. It is the vehicle by which we can begin to solve our economic problems and prevent their reoccurrence and restore the confidence of the American people in their Government and their country's future. I urge my colleagues to support the passage of this amendment, one of the most significant additions to the Constitution since the Bill of Rights.

Mr. President, I ask unanimous consent that the joint resolution that I send to the desk now be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 7

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

"ARTICLE —

"SECTION 1. Prior to each fiscal year, the Congress shall adopt a statement of receipts and outlays for that year in which total outlays are no greater than total receipts. The Congress may amend such statement provided revised outlays are not greater than revised receipts. Whenever three-fifths of the whole number of both Houses shall deem it necessary, Congress in such statement may provide for a specific excess of outlays over receipts by a vote directed solely to that subject, except that if Congress, after the adoption of the statement of receipts and outlays, should find the Nation with an unforeseen and imminent threat to the national security and so declare by a joint resolution adopted by a majority of the whole number of both Houses of Congress, the Congress may then, by a majority vote of the whole number of both Houses of Congress, provide for such additional outlays for the defense of the Nation as are necessary to finance the military response to the emergency which would cause the total outlays set forth for such year in such statement to be greater than the receipts set forth for such year in such statement. The Congress and the President shall ensure that actual outlays do not exceed the outlays set forth in such statement.

"SECTION 2. Total receipts for any fiscal year set forth in the statement adopted pursuant to this article shall not increase by a rate greater than the rate of increase in national income in the last calendar year ending before such fiscal year, unless a majority of the whole number of both Houses of Congress shall have passed a bill directed solely to approving specific additional receipts and such bill has become law.

"SECTION 3. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect.

"SECTION 4. Total receipts shall include all receipts of the United States except those derived for borrowing and total outlays shall include all outlays of the United States except those for repayment of debt principal.

"SECTION 5. On and after the date this article takes effect, the amount of Federal public debt limit as of such date shall become permanent and there shall be no increase in such amount unless three-fifths of the whole number of both Houses of Congress shall have passed a bill approving such increase and such bill has become law; however, a joint resolution approved by the whole number of both houses shall be sufficient to increase the amount of the Federal Public Debt if additional outlays are approved for the defense of the Nation under the threat to national security provisions of section 1, but only to the amount of such additional outlays."

"SECTION 6. This article shall take effect for the second fiscal year beginning after its ratification."

By Mr. HELMS (for himself and Mr. EAST):

S.J. Res. 8. Joint resolution to amend the Constitution of the United States to guarantee the right to life; read the first time.

RIGHT TO LIFE

Mr. HELMS. Mr. President, the highest level of moral culture is that at which the people of a nation recognize and protect the sanctity of innocent human life. All nations in which freedom and justice have governed the affairs of the people have upheld this principle, giving it the highest priority in their laws and customs. Indeed, this principle is the bedrock of Western civilization—the one principle, above all others, which has distinguished free and democratic systems from the barbaric regimes of the past and the totalitarian systems today.

It is for this reason that abortion—the taking of innocent human life—has, until very recent times, been viewed as violative of this basic principle of the Western tradition. And it is no mere coincidence that the modern practice of abortion first appeared as a policy of government in Nazi and Communist dictatorships, where contempt for the dignity of human life is widely demonstrated.

Two hundred years ago, a great nation was founded on principles of human rights—the right of life, liberty, and the pursuit of happiness. These are the lofty principles which appear in one of the most important documents in history, the Declaration of Independence of the United States of America. Ten years ago, a dark shadow was cast over this document when the highest tribunal in the land, the Supreme Court, ruled that an unborn child in the womb is not a person entitled to the right to life. The decision has thrown America into a moral crisis.

Between 1867 and 1970, a number of States adopted liberalized abortion laws. During 1971, 30 State legislatures considered repealing their respective statutes, and every State rejected such proposals. In 1972, Connecticut adopted a more restrictive law, and the New York Legislature repealed its liberal statute—an act which was subsequently vetoed by Governor Rockefeller. Also in 1972, Michigan and North Dakota rejected liberalized abortion by wide margins in popular referendums. Clearly, the American public had refused to continue to accept liberlized abortion and perhaps had even decided that the earlier acceptance of such laws had been premature. However, in 1973, the Supreme Court removed consideration of the issues involved in this national abortion debate from the States and the public by its rulings in Roe against Wade and Doe against Bolton.

THE SUPREME COURT ABORTION CASES

In Roe against Wade, the Supreme Court invalidated a Texas statute which prohibited abortions except those necessary to save the life of the mother. In its companion decision, Doe against Bolton, the Court similarly invalidated as too restrictive a liberal Georgia statute based upon the Model Penal Code of the America Law Institute. The Georgia statute permitted abortion in circumstances where:

(1) A continuation of the pregnancy would endanger the life of the pregnant woman or would seriously and permanently injure her health; or

(2) The fetus would very likely be born with a grave, permanent, and irremediable mental or physical defect; or

(3) The pregnancy resulted from forcible or statutory rape.

The Court ruled that the ability of the State to regulate abortion depends upon the stage of pregnancy at which such action is taken. During the first 3 months of pregnancy, a State may not interfere with the abortion decision of the woman and her physician. During the next 3 months the State may adopt regulations regarding the abortion procedure, but only in ways related to maternal health. Only during the final 3 months of pregnancy may the State regulate abortion except when such action would interfere with the health of the mother.

The Court then made such distinctions meaningless, as a practical matter, by defining the health of the mother to include her "psychological as well as physical well-being" and by further instructing that the medical judgment of the woman and her physician be made in light of the physical, emotional, psychological, familial, and age factors relevant to the well-being of the mother. In short, the Court's definition of health resulted in abor-

tion on demand being elevated to a constitutional right.

The Court based its decision on the recently articulated constitutional right of privacy. In the majority opinion, Justice Blackmun wrote:

This right of privacy, whether it be founded in the Fourteenth Amendment's concept of personal liberty and restrictions upon state action, as we feel it is, or . . . in the Ninth Amendment's reservation of rights to the people, is broad enough to encompass a woman's decision whether or not to terminate her pregnacy.

However, aside from the issue of the woman's right to privacy, the other constitutional issue raised in the abortion cases related to the life of the unborn child and its constitutional protection. In determining the constitutional standing of the unborn child, the Court laid great emphasis upon the fact that "no case could be cited that holds that a fetus is a person within the meaning of the 14th amendment." It was further impressed by the use of the word "person" in the Constitution, finding that "it has application only postnatally" and by its view of prevailing abortion practices during the 19th century. One analysis of the Court's reasoning outlined its holding and commented as follows:

Since the text of the Constitution itself does not define unborn as persons; and since American anti-abortion laws were once less restrictive than they became in the latter half of the nineteenth century; and since the courts have not before clearly upheld Fourteenth Amendment rights for the unborn—they do not have such rights.

Curious reasoning for the modern Supreme Court. Has it hesitated, in the areas of civil rights, busing, apportionment and any number of others, to find "rights" not explicitly mentioned in the Constitution; "rights" consistently abridged by any other court? The modern, activist Supreme Court has not hestitated to do all these things.

In part the Court reached its decision denying constitutional protection to the unborn upon its refusal to deal with the issue of the biological humanity of the unborn child. The Court maintained that—

We need not resolve the difficult question of when life begins. When those trained in the respective disciplines of medicine, philosophy, and theology are unable to arrive at any consensus . . .

Doctors, philosophers, and theologians, however, are generally agreed that "to be willing to kill what for all we know could be a person is to be willing to kill it if it is a person." This is the essential conclusion of the Supreme Court's abortion cases and as such it foreshadows danger for other groups of human beings whose humanity may at a future time be questioned by some advocates.

THE NEW LIBERTY UNDER THE 14TH AMENDMENT

The 14th amendment states that—

No State shall deny any person life, liberty, or property without due process of law.

For the past 50 years, the Supreme Court has been broadly interpreting the word liberty contained in that amendment to include the liberties guaranteed by the Bill of Rights. Through the so-called doctrine of incorporation, the Court has taken it upon itself to incorporate nearly all of the Bill of Rights into the word liberty of the due process clause of the 14th amendment. In this manner, the Court has succeeded in nationalizing the Bill of Rights so as to make its provisions applicable to the States.

What is disturbing about the doctrine of incorporation is that it not only undermines federalism and the grand design of the Bill of Rights, but it also permits the Court, on its own authority, to interpret the word "liberty" in any manner that it chooses. The Court has advanced beyond the stage of interpreting the word "liberty" in light of the liberties guaranteed by the Bill of Rights to the point where it is not fabricating new liberties not contained in the Constitution.

In the abortion cases, seven Justices on the Court argued that the word "liberty" in the due process clause establishes a right of privacy and that this includes the right to have an abortion. The basis for this interpretation of the word "liberty" cannot be inferred from the language of the Constitution. It cannot be inferred from the legislative history of the 14th amendment. It cannot be attributed to the social customs of the American people. The abortion decisions, as a member of the Court itself declares, are simply an exercise in "raw judicial power."

JUDICIAL CITATION NOT INTERPRETATION

The Justices themselves openly admitted that this new right of privacy was a judicial creation. Justice Blackmun wrote:

The Constitution does not explicitly mention any right of privacy.

Justice Douglas stated that—

There is no mention of privacy in our Bill of Rights.

Justice Stewart maintained:

There is no constitutional right of privacy, as such.

In his dissenting opinion, Justice White states:

The Court simply fashions and announces a new constitutional right for pregnant mothers.

Justice Rehnquist also dissented, saying:

I have difficulty in concluding, as the Court does, that the right of "privacy" is involved in this case . . . Nor is the "privacy" which the Court finds here even a distant relative of the freedom from searches and seizures protected by the Fourth Amendment to the Constitution which the Court has referred to as embodying a right to privacy.

Many who support this type of judicial activism do so by maintaining that the Constitution is a living document and that the Court must be permitted to interpret it with the widest possible flexibility. To this proposition I respond by agreeing with Senator Sam Ervin that—

When they say the Constitution is a living document, they really mean that the Constitution is dead, and that activist justices as its executors may dispose of its remains as they please. I submit that if the Constitution is, indeed, a living document, its words are binding on those who pledge themselves by oath or affirmation to support it.

One essential problem confronting an activist judiciary is when to stop, once it is admitted that any activity can be viewed as a liberty under the 14th amendment. Did the framers and ratifiers of the 14th amendment intend to deny personhood to the unborn? Such an interpretation flies in the face of the facts. There is not an ounce of evidence to support such an interpretation. Indeed the widespread adoption of State laws regulating and prohibiting abortion and the later judicial interpretations of these statutes as intending to protect the lives of unborn children suggest that the framers of the 14th amendment felt that the provisions of that amendment were consistent with such legislation.

FOURTEENTH AMENDMENT PROTECTS HUMAN BEINGS

The Roe against Wade and Doe against Bolton decisions are not the first time in American legal history that a Supreme Court ruling opposed the social and moral customs of a majority in American society. It was little more than a century ago that the Supreme Court handed down the decision of Dred Scott against Sanford. Arrogating to itself the awesome power of deciding who is a person in our society, the Court ruled that the free descendants of slaves could never be citizens and that slaves were not even persons under the law.

Not every member of the Court accepted this legal fiction; and Justice Benjamin Curtis deeply resented the attempt by the Court to impose an interpretation of the Constitution that was derived from nonlegal considerations. He stated that:

Political reasons have not the requisite certainty to afford rules of judicial interpretation. They are different in the same men at different times . . . we are under the government of individual men, who for the time being have power to deduce what the Constitution is, according to their own views of what it ought to mean.

After much bloodshed and death, the Dred Scott case was finally reversed by the 14th amendment. No one would have dreamed in 1868 that the life and liberty guaranteed to all persons by the due process clause of the 14th amendment meant the right to have an abortion. Similarly, no one would have imagined that an amendment designed to protect an oppressed

minority in 1868 would be used in 1973 to remove another minority from the protection of the law.

Prof. Joseph Witherspoon has observed that the intended reach of the 13th and 14th amendments would include the unborn child:

The legislative history of these two amendments fully demonstrates that the central purpose of their framers was, indeed, to protect every class of human beings, including unborn children, with respect to their rights to life, liberty, and the pursuit of happiness. They intended to establish a definition or concept of human beings based upon biological reality and common sense or scientific truth. In their view, whoever is a human being in fact is a human being or person in law protected by these two amendments.

The concept of person used in the Due Process and Equal Protection Clauses and the concept of human being embodied implicitly in the Thirteenth Amendment were precisely chosen or focused upon by these framers for the purpose of establishing this definition of the concept of person or human being, the two terms being thereafter wholly interchangeable with each other. It was their purpose by this definition to take away the power that had been exercised by legislatures, courts, chief executives, and administrative agencies in the past of treating or defining as a nonhuman being one who is a human being in fact or reality and by this sophisticated technique of legal devaluation divesting that human being of legislative and constitutional protections designed for human beings.

Clearly the intent of these amendments is to protect those who are human beings in reality against the attempts to define away their personhood through legal abstraction or other techniques. The legislators who adopted these amendments had uncontradicated evidence before them that the fetus was indeed a human being. In 1868, the very year in which the 14th amendment was submitted to the States for ratification, Dr. Horatio Storer wrote in his book, "Criminal Abortion," that—

Physicians have now arrived at the unanimous opinion, that the foetus in utero is alive from the very moment of conception . . . (T)he willful killing of a human being, at any stage of its existence, is murder . . . (A)bortion is, in reality, a crime against the infant, its mother, the family circle, and society.

Moreover, the abortion cases are not only a subversion of the Constitution, they are also a subversion of our demcratic system of government. They represent the Court's disregard for the customs of the American people and its willingness to impose its own view of wise social policy upon the people of this country, the States, and even the Congress. Abortion is not a social custom of the American people, nor has it ever been. The right to an abortion has never been held to be contained within the concept of ordered liberty implicit in the American tradition of justice.

THE RADICALISM OF THE ABORTION DECISIONS AND THEIR AFTERMATH

Justice Byron White, in his dissent to the abortion decisions, described the Court's action as "raw judicial power." An analysis of the firmly established precedents overturned and the method used by the Court in accomplishing this end makes clear the full force of Justice White's statement. The sweeping language of the abortion decisions means that human life has less protection in the United States today than in any country in the Western World.

Western man has opposed abortion as far back as 1728 B.C., when the Code of Hammurabi was promulgated. The Oath of Hippocrites, which we trace to ancient Greece, requires the doctor who is entering the practice of medicine to swear that, "I will not give to a woman a pessary to produce abortion." The Mosaic Law of the Old Testament exacts a severe punishment for someone who injures a pregnant woman and causes her to lose her child. The contemporary writings of the early Christian communities, such as the Teaching of 12 Apostles, states that—

You shall not slay the child by abortions. You shall not kill what is generated.

Early Christian writers such as Clement of Alexandria, Tertullian, Cyprian, John Chrysostom, Jerome, and Augustine all condemned abortion.

Although historically there has not always been universal agreement regarding the necessity to protect unborn human life from abortion, there has definitely been an emerging moral imperative to do so beginning with the codes of Hammurabi, Moses, and Hippocrites. True, the Greco-Roman world was not unfamiliar with abortion. But neither was it unfamiliar with slavery, infanticide, torture, tyranny, and other similar perversions of human nature. With the emergence of the Judeo-Christian view of the nature, value and equality of each person, society strongly embraced the notion that the unborn person in the womb must be protected. Prof. John Noonan, in his comprehensive analysis of the history of abortion describes this attempt to protect unborn human life as "an almost absolute value in history." It is not an exaggeration to view the historical development of society's treatment of abortion as one toward greater protection of the child as society's understanding of medicine and biology as well as its regard for the value and equality of each individual increased.

Significant contemporary moral theologians continue this tradition of opposition to abortion.

For example, Karl Barth in his "Church Dogmatics" for the Evangelical Church writes:

The unborn child is from the very first a child. It is still developing and has no independent life. But it is a man and not a thing, not a mere part of the mother's body. . . . He who detroys germinating life kills a man.

And Rev. Dietrich Bonhoeffer defended the sanctity of human life amidst the turmoil of Nazi Germany in his book, "Ethics":

Destruction of the embryo in the mother's womb is a violation of the right to live which God has bestowed upon this nascent life. To raise the question whether we are here concerned already with a human being or not is merely to confuse the issue. The simple fact is that God certainly intended to create a human being and that this nascente human being has been deliberately deprived of his life. And that is nothing but murder.

In his opinion, Justice Blackmun analyzed English common law and statutory law as well as American case law and statutory law. Detailed and comprehensive critiques of Mr. Justice Blackmun's reading of history have been made by many constitutional scholars and I do not intend to repeat them at length here. The underlining thrust of the Court's argument is that abortion was a right in England beginning with the 14th century and in America during the 19th century and as such is so fundamentally established by social and legal custom as to be somehow contained in the Constitution. After a lengthy examination of the Court's reasoning, Robert Destro, writing in the California Law Review, states that abortion "was never a right recognized by the common law, it cannot be considered to be a ninth amendment right retained by the people. The newly created right to procure an abortion is the creature of the substantive due process arguments and erroneous interpretations of history relied upon by the Court in Roe; it is not a right which may be characterized as 'so rooted in the traditions and conscience of our people to be ranked as fundamental.'" Elsewhere, Mr. Destro writes:

The cases do not support the Court's interpretation. The Court's uncritical acceptance of an advocate's interpretation of the common law only served to confuse the issues and to rest an important constitutional holding on an erroneous historical foundation.

EARLY AMERICAN STATUS

The first modern statute in Anglo-American law prohibiting abortion was the English Act of 1803. The first American statutes against abortion appeared in the early 19th century: Alabama, 1841; Arkansas, 1838; Connecticut, 1821; Illinois, 1827; Indiana, 1835; Iowa, 1839; the Kingdom of Hawaii, 1850; Maine, 1840; Massachusetts, 1845; New Hampshire, 1848; New York, 1828; Vermont, 1846; Virginia, 1848. By the end of the 19th century, almost every State had adopted statutes regulating abortion. Although it as alleged

by Justice Blackmun in his opinion in Wade that the primary reason for such regulation was the protection of the mother, a close examination leads one to agree with Prof. Robert Byrn "that a major purpose—of these statutes—was the protection of unborn children without regard to age." Among these early statutes, the one adopted by Colorado was not untypical. In 1872, the Supreme Court of Colorado held that its abortion statute was "intended specially to protect the mother and her unborn child from operations calculated and directed to the destruction of the one and the inevitable injury of the other."

Many of these early statutes were adopted as a result of the reform activity of medical societies eager to see the law reflect medical knowledge concerning the unborn child. In 1859, the American Medical Association spoke out against abortion as the "unwarrantable destruction of human life." In 1867, the New York Medical Society condemned abortion as "murder" regardless of the stage of gestation when the operation was performed.

On January 22, 1973, the people of all 50 States had statutes in force that regulated abortion. All of them, either in whole or in part, have suddenly become violations of the Constitution. A decision of the Court declaring an end to freedom of the press or the free election of the people's representatives would have as much basis in our legal heritage as the abortion decisions.

Some of the most notable constitutional scholars of the country have expressed shock and dismay regarding the reasoning employed by the Court in the abortion decisions. Prof. John Noonan of the University of California, Berkeley, has stated that—

> Nothing in long-established precedent, nothing in the traditions of our people, nothing in history justified the majority's interpretation of liberty.

John Hart Ely, professor of constitutional law at the Harvard Law School, has declared that Roe against Wade is a "very bad decision. It is bad because it is bad constitutional law, or rather because it is not constitutional law and gives almost no sense of an obligation to try to be." Prof. Harry Wellington, Phelps professor of law at the Yale Law School, rightly insists that the Supreme Court had "no such mandate" from the Constitution to establish this peculiar "concept of liberty in the 14th amendment." Prof. Charles Rice of the Notre Dame Law School has stated that Roe against Wade is "the most outrageous decision ever handed down by the Court in its entire history."

Prof. Robert Byrn of the Fordham University Law School is of the view that the Court's decision was premised on "multiple and profound misapprehensions of law and history." And Prof. Archibald Cox of the Harvard Law School finds that the Court failed "to lift the ruling above the level of a political judgment." Prof. Joseph Witherspoon of the University of Texas Law School has stated that the abortion cases "are unquestionably the most erroneous decisions in the history of constitutional adjudication by the Supreme Court."

DANFORTH CASE A DANGER TO FAMILIES

The abortion cases have also had a profound and radical influence upon decisions of the Federal and State courts in such areas as the marital relationship, parental rights, State and local public welfare programs, and the congressional appropriation power.

In Planned Parenthood of Missouri against Danforth, the Supreme Court struck down as unconstitutional a Missouri law which required that the consent of the husband be obtained before his wife could undergo an abortion unless the operation was necessary to save her life and that the consent of an unmarried minor's parents be obtained before she could receive an abortion. The Court made clear that it considered Danforth "a logical and anticipated corollary to Roe against Wade and Doe against Bolton."

In deciding that the State may not constitutionally require the consent of the spouse or a parent as a legal condition for obtaining an abortion, the Court in effect ruled that the right of the mother to abort her child is superior to that of the child's right to life, the right of the father to protect his child and that of the State to protect human life. Indeed, the decision in Danforth would suggest that the right of the woman to take the life of her unborn child through abortion is a constitutionally superior right to any other interest or combination of interests. Prof. Francis Canavan summarized the Court's holding as follows:

> The only admissible object of public policy, in the Court's jurisprudence, is protection of the mother's untrammeled right to decide on the life or death of her child. The law may show no bias in favor of life, even if the male parent wants to preserve it, but must zealously safeguard the female parent's right to kill it. But this legal indifference is a speciaos neutrality: a legal system that refuses to have, or is not allowed to have, a bias in favor of life winds up with a bias against it.

The Court's decision, however, reached beyond the issue of abortion and signaled a radical departure from traditional notions regarding the nature of the family. It marked the beginning of what could become a grave assault upon existing legal protection of marriage and the family.

The family as an independent institution within society, which in the past the State has sought to protect, simply was ignored by the Court in dealing with an issue which could only have a dramatic effect upon that relationship. In the Court's review, "(n)othing was involved but a conflict between individuals: wife against husband, unmarried minor against parent." Citing Eisenstadt against Baird, the Court stated that:

> The marital couple is not an independent entity with a mind and heart of its own, but an association of two individuals each with a separate intellectual and emotional makeup. If the right of privacy means anything, it is the right of the individual, married or single, to be free from unwarranted governmental intrusion into matters so fundamentally affecting a person as the decision whether to bear or beget a child.

This new constitutional standard leaves great doubt as to the constitutionality of much of the existing State regulation designed for the protection of the family. Indeed it is not unreasonable after Danforth to wonder whether the family does have continued legal existence, at least in those situations where an individual's action is sought to be limited to preserve the family unit. The treatment of marriage by the Court reflects a philosophy on the part of the Justices which views society as fundamentally atomistic. The radical autonomy and individualism of each citizen has displaced every other social institution except the power of the State.

The Court's opinion in Danforth, however, leaves unclear whether the right of the mother to bear her child is of equal superiority to her right of abortion. By substantially weakening the right of those who have traditionally protected the right to life in society, the Court's decision in Danforth when viewed in light of its prior holding on the abortion issue amounts to a questionable victory for individual liberty. In Roe against Wade, Justice Blackmun wrote:

> Appellants and some *amici* argue that the woman's right is absolute and that she is entitled to terminate her pregnancy at whatever time, in whatever way, and for whatever reason she alone chooses. With this we do not agree . . . In fact, it is not clear to us that the claim asserted by some *amici* that one has an unlimited right to do with one's body as one pleases bears a close relationship to the right of privacy previously articulated in the Court's decision. The Court has refused to recognize an unlimited right to this kind in the past . . . *Buck* v. *Bell*, 272 U.S. 200 (1937).

The case relied upon by the Court in maintaining that the individual's freedom to control her own body is not an absolute right involved a young girl named Carrie Buck whom the State required to be sterilized under a law requiring the mandatory sterilization of mentally defective persons. The Supreme Court ruled that the State could require the girl's sterilization while Justice Oliver Wendell Holmes observed that in her family's situation "(t)hree generations of imbeciles are enough." The Court's reliance upon Buck surprised many constitutional scholars who thought that the opin-

ion's viability as constitutional principle had long ago ended. This revival of the constitutionality of a State's use of coercive methods of birth control to implement a eugenics policy and reduce its public welfare expenditures perhaps foreshadows increased attempts by the State to mandate population controls.

The Court's opinion on Danforth results in the contradictory situation where the husband's objection to this wife's intended abortion is of no legal significance due to the current constitutional holding that the husband does not possess an interest in his unborn child and the child does not possess a right to life. Yet, in the situation where the husband does not agree with his wife's refusal to permit a blood transfusion to save the unborn child's life, he may petition the Court to order such a transfusion on the basis of his interest in the child and supposedly also on the child's right to life.

A NEW ABORTION MENTALITY

Since the Roe and Doe decisions in early 1973, there have been, according to conservative estimates, in excess of 12 million abortions in the United States. In several of our leading cities the number of abortions performed annually exceeds the number of live births.

One major consequence of the abortion cases is that the practice of abortion has shifted from one used essentially as a last resort, in the so-called hard cases, to primary means of family planning. In fact, certain studies indicate that abortion on demand will replace other methods of family planning. For example, a study of the abortion trends at Harlem Hospital Center in New York City by members of its own obstetrics and gynecology department found that in the years of 1962 through 1969, the number of abortions declined from 1,581 in 1962 to only 507 in 1969, the year before the implementation of the liberalized New York abortion statute. During the same time period, the number of family planning visits made by residents of the area increased from none in 1962 to 15,982 in 1969. The study itself concluded that "as family planning services expanded in our hospital and area, the number and severity of abortion cases declined significantly."

Another study of abortion in Hawaii, the first State to adopt abortion on demand, found that most of the women obtaining abortions under the new statute "were using it as a primary means of birth control, rather than as a backup to failed birth control." this dramatic upsurge in the number of abortions indicates the emergence of a new abortion mentality. Elsewhere, it has been suggested that this "abortion mentality is a dangerous communicable disease—one that spreads throughout a country once the abortion laws have been liberalized." The symptoms of this social disorder consist of a swift increase in the abortion rate, the acceptance of abortion as a commonplace medical procedure of no more gravity than other means of family planning, and finally the subsequent decline in respect for human life. This new abortion epidemic is nothing less than "a revolution against the judgment of generations."

Prof. John Noonan has outlined the principal consequences of the abortion cases as follows:

First, the subversion of the structure of the family in that a father now has no protectable legal interest in its unborn offspring; second, the mandated public funding of abortion: so it is unlikely that a national health bill can be enacted, which constitutionally excludes abortion from the surgical services to be federally financed; and third, and worst of all, the unmaking of human beings, the acceptance of the principle that the law can say who is not a human being. All of our constitutional liberties are nothing if we can be defined out of the human species.

THREE PROPOSALS

Given the erroneous abortion rulings of the Supreme Court and deleterious effects of legalized abortion in American society, the question arises as to what remedy should Congress employ to right this wrong. Under our Constitution Congress has various powers which can be used to provide a check on the judiciary and to correct judicial abuses. Two of the best known are proposing constitutional amendments and enforcing the 14th amendment. Mr. President, I am today introducing two constitutional amendments and one bill which take advantage of these powers granted Congress under the Constitution.

The first of the two constitutional amendments is known as the paramount human life amendment. It is identical to Senate Joint Resolution 19 which I introduced in the last Congress.

The second constitutional amendment is known as the unity amendment because it has received widespread support by all segments of the prolife movement. It is identical to Senate Joint Resolution 137 which I introduced in the last Congress.

The bill I am today introducing is known as the human life bill—S. 158 in the 97th Congress. Extensive hearings were held on it during the last Congress and it was favorably reported by the Judiciary Subcommittee on Separation of Powers.

Mr. President, I am introducing all three of these measures today so that the Senate in the 98th Congress can have a variety of measures to consider and discuss for ending the tragedy of Roe against Wade. I would expect to see Senate action on these measures at an appropriate time.

CONSTITUTIONAL AMENDMENTS

The essential error of Roe against Wade was its failure to recognize the unborn as persons under the Constitution. Thus, if a constitutional amendment is used to correct Roe, it should contain a recognition of legal personhood for the unborn. Both my amendments effect such a recognition.

The Supreme Court itself directs us to this point in Roe against Wade where the Court states:

The appellee and certain amici argue that the fetus is a "person" within the language and meaning of the Fourteenth Amendment. In support of this they outline at length and in detail the well-known facts of fetal development. If this suggestion of personhood is established, the appellant's case, of course, collapses, for the fetus' right to life is then guaranteed specifically by the amendment.

If personhood is established by a constitutional amendment, then the Supreme Court itself admits that the right to life of the unborn child will be protected.

PARAMOUNT HUMAN LIFE AMENDMENT

The paramount human life amendment is only one sentence as follows:

The paramount right to life is vested in each human being from the moment of fertilization without regard to age, health, or condition of dependency.

This amendment clearly states the fundamental character of the right to life.

Once the principle of the primacy of life of every human being has been established, the problem will arise of the so-called hard cases in which pregnancy places the life of the mother in danger. Today, such cases exist as medical rarities. Although convincing evidence indicates that abortion is no longer medically required in these cases, it would be unfortunate to amend the Constitution in such a way that a doctor attempting to care for his patients is placed in legal jeopardy. It would also be unfortunate to amend the Constitution in such a way that an exception clause to provide for these hard cases would allow widespread abuse under the cover of law.

This amendment contains no specific exception clause because such a clause is not strictly necessary. As the amendment is presently drafted, the difficult cases can be handled under traditional concepts of due process and equal protection of the laws.

State criminal laws have long recognized the legal principles of self-defense and necessity or choice of evils without their specific incorporation into the Constitution. Certainly, they form a part of the American legal tradition which predates the Constitution itself. At times these doctrines have been held to be contained within the due process clause of the Constitution; but the silence of the Constitution on these principles has not detracted from their vitality. There is no reason

to suppose that a similar resolution of the problem of procedures to save the life of the mother would not be developed by the States.

Although this amendment definitely prohibits abortions in every case where the mother's life is not at stake, it is not intended to invalidate future laws in the States which permit procedures to save the life of the mother.

This amendment leaves the difficult cases to be determined by an even-handed application by the courts and State legislatures of constitutional principles applying to all human beings. It establishes the basic life principle, that the destruction of the child in the womb is a violation of every human being's constitutional right to life. The amendment would, however, insure equal protection. Nor is it intended to prevent State legislatures and courts reviewing State laws from continuing to regard abortions to save the life of the mother as a matter of self-defense and therefore legally justifiable according to the general principles of self-defense that apply to all human beings. The amendment takes cognizance of substantive due process as it has been developed in Anglo-Saxon jurisprudence. Although the amendment does not encourage exceptions, it admits to exceptions in the light of legal precedents, such as "the doctrine of necessity," established in rare and unusual circumstances.

Not every abortion, of course, results in the death of the child; controversies are in the papers daily about the efforts or lack of efforts to insure the survivability of such children outside the womb. For example, a survey of major medical centers by the Washington Post discloses that premature babies weighing under 2 pounds at birth now have over a 60-percent chance of survival.

The University of Colorado Medical Center reports that 66 percent of the babies born there at 27 to 28 weeks of age are surviving as compared with 2 years ago when the survival rate was only 10 percent.

Dr. Watson Bowes, chief of obstetrics and gynecology at the Colorado Center attributes this development to a change in attitude on the part of doctors caring for these infants. In the past, he said:

> We felt there was so little chance of a baby (so small) surviving that we didn't put any effort into it. These were cases that we felt we were going to (in effect) abort. (Today,) we are being more aggressive. We're doing things for these tiny, little babies that we've always done for the bigger babies.

Reports from other hospitals confirm that this apparent breakthrough in survival rates for premature infants is not the result of new developments in medical technology, but "because obstetricians are beginning to realize that they can survive, and are expending the same effort to save these tiny babies that they expend to save an infant born at full term." Although this study is certainly not conclusive, it does strongly suggest that the medical evidence relied upon by the Supreme Court in its abortion cases is now out of date.

Indeed, this new ability to save such premature babies leads to the further question of whether the abortion procedure must terminate a pregnancy by causing the death of the child. Dr. Andre Hellegers, director of the Kennedy Institute for the Study of Human Reproduction and Bio-Ethics, raises the central question regarding later term abortions:

> In the process of abortion do you subsume that the mother has a right to the death of the fetus; or is abortion only to be seen as a process of separating the mother and the fetus in the resolution of a conflict of interest.

This amendment would be consistent with State laws permitting the premature termination of a pregnancy where the life of the unborn child is not threatened by such a procedure.

An exception clause contained in this amendment to provide for the legalization of abortion in the case of rape is both unnecessary and unenforceable. After the proper and normal medical treatment for rape has been obtained, the possibility of pregnancy is virtually nonexistent. And even when the woman has not received treatment a number of medical studies of pregnancy resulting from untreated rape found that such pregnancies are exceedingly rare. Studies of the actual number of pregnancies resulting from rape in several American cities indicate that, as a practical matter, the problem does not exist. A 1969 study of pregnancies resulting from rape in Buffalo, N.Y., found that there were no pregnancies from confirmed rape in over 30 years. A study of 3,500 cases of rape in Minnesota also reported no resulting pregnancies. Dr. Carolyn Gerster observes that there are two irrefutable arguments against making an exception in the case of rape:

> (1) Pregnancy from reported, medically treated rape is zero—rendering the exception clause unnecessary. (2) Unreported rape—after all evidence of penetration has disappeared and without corroborating witnesses—cannot be proved rendering the law unenforceable.

Hopefully as a consequence of this prohibition of abortion in cases of rape, victims will be encouraged to seek medical attention and report offenses, thus reducing the great number of estimated cases which go unreported. Hopefully too, this increased attention will lead to improvements in society's treatment of the rape victim. A society which promotes justice as well as compassion, will support more severe penalties for the rapist and more humane treatment for his victim rather than encourage the killing of the innocent child conceived during the criminal act of another.

Mr. President, I ask unanimous consent that the full text of the joint resolution (the paramount human life amendment) appear at this point in the RECORD.

There being no objection, the joint resolutions was ordered to be printed in the RECORD, as follows:

S.J. RES. 8

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as a part of the Constitution only if ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"ARTICLE —

"The paramount right to life is vested in each human being from the moment of fertilization without regard to age, health, or condition of dependency.".

By Mr. HELMS (for himself, Mr. EAST, and Mr. NICKLES):

S.J. Res. 9. Joint resolution to amend the Constitution of the United States to protect the right to life; read the first time.

UNITY RIGHT TO LIFE

Mr. HELMS. Mr. President, the so-called unity human life amendment contains the same underlying principle as the paramount human life amendment but is more specific in its terms. It is as follows:

SECTION 1. The right to life is the paramount and most fundamental right of a person.

SECTION 2. With respect to the right to life guaranteed to persons by the 5th and 14th articles of amendment to the Constitution, the word "person" applies to all human beings, irrespective of age, health, function, or condition of dependency, including their unborn offspring at every stage of their biological development including fertilization.

SECTION 3. No unborn person shall be deprived of life by any person: *Provided, however,* That nothing in this article shall prohibit a law allowing justification to be shown for only those medical procedures required to prevent the death of either the pregnant woman or her unborn offspring, as long as such law requires every reasonable effort be made to preserve the life of each.

SECTION 4. Congress and the several States shall have power to enforce this article by appropriate legislation.

Unlike the paramount human life amendment, this amendment expressly contains language concerning exceptions to the general principle proscribing abortion. It makes explicit what would be implicit under the paramount amendment.

Furthermore, this amendment is more specific with regard to recognizing personhood for the unborn under the Constitution. It also contains a provision affirmatively granting en-

forcement powers to Congress and the States.

Mr. President, I ask unanimous consent that the full text of the joint resolution—the unity human life amendment—be printed at this point in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 9

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as a part of the Constitution only if ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"ARTICLE —

"SECTION 1. The right to life is the paramount and most fundamental right of a person.

"SECTION 2. With respect to the right to life guaranteed to persons by the fifth and fourteenth articles of amendment to the Constitution, the word 'person' applies to all human beings, irrespective of age, health, function, or condition of dependency, including their unborn offspring at every stage of their biological development including fertilization.

"SECTION 3. No unborn person shall be deprived of life by any person: *Provided, however,* That nothing in this article shall prohibit a law allowing justification to be shown for only those medical procedures required to prevent the death of either the pregnant woman or her unborn offspring, as long as such law requires every reasonable effort be made to preserve the life of each.

"SECTION 4. Congress and the several States shall have power to enforce this article by appropriate legislation.".

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. 190. A bill to direct the Secretary of Labor to identify and address the unique needs of immigrants in the United States taking into account that immigrants are concentrated in a select number of identifiable cities, and for other purposes; to the Committee on Labor and Human Resources.

S. 191. A bill to direct the Secretary of Education to identify and address the unique needs of immigrants in the United States taking into account that immigrants are concentrated in a select number of identifiable cities, and for other purposes; to the Committee on Labor and Human Resources.

EMPLOYMENT AND EDUCATIONAL NEEDS OF IMMIGRANTS

● Mr. INOUYE. Mr. President, today I am introducing two bills which, if enacted, would direct the Departments of Labor and Education to conduct a thorough study of their efforts to address the unique employment and educational needs of our Nation's immigrants.

All of the evidence that I have seen clearly suggests that within our Nation there are highly ascertainable pockets of "high immigrant impact" in which these future citizens tend to reside. In fact, I understand that 10 cities presently receive nearly 40 percent of all immigrants and that 6 States account for nearly 70 percent of the total immigrant population. If one focuses upon Southeast Asian refugees, which is the predominant refugee population, 10 States possess approximately 71.6 percent of these future citizens. Further, there is every indication that future immigrants will continue to gravitate toward the same locations. As a result, as a provision of the Health Services and Centers Amendments of 1978, we had a particular provision included that directed the Department of Health and Human Services to focus on its present efforts to insure high quality health services and to report back to the Congress any legislative recommendations that they might have. That report was indeed a most significant document and it clearly stated that these individuals do in fact have a number of unique problems that can be satisfactorily addressed if they are done so in a reasonable and timely fashion.

Accordingly, I feel that it is now time to direct both the Departments of Labor and Education to complete work on similar documents in their jurisdiction.

Mr. President, I request unanimous consent that the text of these bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 190

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Labor Gateway City Act of 1983".

SEC. 2. The Congress finds that—

(1) our Nation's immigration policies are established by the Federal Government and are not under the control of State or local officials;

(2) the report issued pursuant to the Health Services and Centers Amendments of 1978 indicated that there are identifiable areas of high concentrations of immigrants, and ten cities which represent only about 10 per centum of the total United States population currently are receiving nearly 40 per centum of all immigrants, and six States account for almost 70 per centum of the immigrants;

(3) there is every indication that future immigrants and refugees will also settle in these same cities and States;

(4) immigration accounts for 12 per centum of the actual growth in the labor force each year; and

(5) such report also indicated that the immigrants did indeed have very real and often unique problems that can impose a significant burden on the local public health authorities and that cultural and language barriers were extremely important.

SEC. 3. (a) The Secretary of Labor shall conduct a thorough study to identify and assess efforts to be made by the Department of Labor to respond to the unique employment needs of immigrants in the United States.

(b) In carrying out the study required by this Act, the Secretary shall consult with the Commissioner of Immigration and Naturalization, with leaders in industry in the cities having high concentrations of immigrants, with elected officials from cities having high concentrations of immigrants, and with representatives of immigrants.

SEC. 4. The Secretary of Labor shall prepare and submit to the Congress not later than one year after the date of enactment of this Act a report on the study required by this Act, together with such recommendations, including recommendations for legislation, as the Secretary determines will address the needs of immigrants in cities having high concentrations of immigrants.

S. 191

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Education Gateway City Act of 1983".

SEC. 2. The Congress finds that—

(1) our Nation's immigration policies are established by the Federal Government and are not under the control of State or local officials;

(2) the report issued pursuant to the Health Services and Centers Amendments of 1978 indicated that there are identifiable areas of high concentrations of immigrants, and ten cities which represent only about 10 per centum of the total United States population currently are receiving nearly 40 per centum of all immigrants, and six States account for almost 70 per centum of the immigrants;

(3) there is every indication that future immigrants and refugees will also settle in these same cities and States; and

(4) such report also indicated that these future citizens did indeed have very real and often unique problems that can impose a significant burden on the local public health authorities and that cultural and language barriers were extremely important.

SEC. 3. (a) The Secretary of Education shall conduct a thorough study to identify and assess efforts to be made by the Department of Education to respond to the unique education needs of immigrants in the United States.

(b) In carrying out the study required by this Act, the Secretary shall consult with the Commissioner of Immigration and Naturalization, with leaders in industry in the cities having high concentrations of immigrants, with elected officials from cities having high concentrations of immigrants, and with representatives of immigrants.

SEC. 4. The Secretary of Education shall prepare and submit to the Congress not later than one year after the date of enactment of this Act a report on the study required by this Act, together with such recommendations, including recommendations for legislation, as the Secretary determines will address the needs of immigrants in cities having high concentrations of immigrants.●

By Mr. INOUYE (for himself and Mr. RANDOLPH):

S. 192. A bill to amend statutes relating to the talking books program to include mentally handicapped individuals, and for other purposes; to the Committee on Rules and Administration.

TALKING BOOKS PROGRAM

● Mr. INOUYE. Mr. President, today I am introducing legislation on behalf of Senator RANDOLPH and myself to amend the statute governing the Library of Congress "Talking Books" program, in order to insure that those individuals who suffer from mental, as well as physical impairments, will be entitled to utilize these important resources.

I was sincerely disappointed to learn during the last Congress that the Library of Congress felt it necessary to differentiate between physical and emotional causes of reading impairment. However, since this apparently is the case, I feel that it is now appropriate to modify the underlying authorization statute in order to insure that there will no longer be any legislative barriers for those with emotional handicaps who desire to further improve themselves.

Mr. President, I request unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 192

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the first section of the Act entitled "An Act to provide books for the adult blind", approved March 3, 1931, as amended (2 U.S.C. 135a-135b) is amended—

(1) by inserting "or mentally" after "physically" each place it appears; and

(2) by inserting "or mental" after "physical".

(b) Section 2 of such Act is amended by inserting "or mentally" after "physically".

SEC. 2. Subsection (a) of the first section of the Act entitled "An Act to establish in the Library of Congress a library of musical scores and other instructional materials to further educational, vocational, and cultural opportunities in the field of music for blind persons", approved October 9, 1962 (2 U.S.C. 135a-1) is amended by inserting "or mentally" after "physically" each place it appears.●

By Mr. INOUYE:

S. 193. A bill to recognize the organization known as the National Academies of Practice; to the Committee on the Judiciary.

ACADEMIES OF PRACTICE

● Mr. INOUYE. Mr. President, today I am intoducing legislation to provide for a Federal charter for the National Academies of Practice as the official adviser to the Federal Government on matters relating to the professional practice of health care in our Nation.

The National Academies of Practice (NAP) is eventually to be comprised of eight semiautonomous academies representing the major health fields of our Nation: dentistry, medicine, nursing, optometry, osteopathy, podiatry, psychology, and social work. Membership in this prestigious organization is contingent upon election as a distinguished practitioner in one of eight academies, as an individual who has made a significant and enduring contribution to practice in the eyes of one's peers. These distinguished practitioners will, of necessity, have transcended the day-to-day difficulties of practicing their skills. Not only will they possess significant clinical skills, but at the same time, possess broad exposure within their discipline and true appreciation for the many complexities of our Nation's health care system. Collectively, they should indeed serve our Nation well with their policy expertise.

The National Academies of Practice was incorporated in the District of Columbia in January 1981 and has already established academies in psychology and social work. Founding committees have also been established for comparable academies of medicine, optometry, and podiatry. Within the year, I fully expect that all eight academies will be functioning.

My proposal is modeled after that enacted by the Congress in recognizing the distinguished National Academy of Sciences to serve as our official adviser on matters of science and technology. I feel that history has shown that this approach has served us well and in my judgment, the time has now come to provide similar formal recognition for our Nation's health care practitioners.

Mr. President, I look forward to working closely with the National Academies of Practice and request unanimous consent that the board membership roster, as well as the text of this bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BOARD MEMBERSHIP ROSTER

James E. Boucher, O.D., Wyoming; Morris F. Collen, M.D., California; Nicholas A. Cummings, Ph.D., Litt.D., California; Ronald Fox, Ph.D., Ohio; Herbert Freudenberger, Ph.D., New York; Mary Gottesfeld, M.S.S., New York; Robert A. Harper, Ph.D., District of Columbia; Florence Lieberman, D.S.W., New York; Robert H. Moser, M.D., Pennsylvania; and Chris E. Vance, D.P.M., Washington.

S. 193

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

CHARTER

SECTION 1. The National Academies of Practice organized and incorporated under the laws of the District of Columbia, is hereby recognized as such and is granted a charter.

POWERS

SEC. 2. The National Academies of Practice (hereinafter referred to as the "corporation") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State or States in which it is incorporated and subject to the laws of such State or States.

PURPOSES OF CORPORATION

SEC. 3. The purposes of the corporation shall be to honor persons who have made significant contributions to the practice of applied psychology, dentistry, medicine, nursing, optometry, osteopathy, podiatry, social work, and other health care professions, and to improve the practices in these professions by disseminating information about new techniques and procedures.

SERVICE OF PROCESS

SEC. 4. With respect to service of process, the corporation shall comply with the laws of the States in which it is incorporated and those States in which it carries on its activities in furtherance of its corporate purposes.

MEMBERSHIP

SEC. 5. Eligibility for membership in the corporation and the rights and privileges of members shall be as provided in the bylaws of the corporation.

BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES

SEC. 6. The board of directors of the corporation and the responsibilities thereof shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State or States in which it is incorporated.

OFFICERS OF CORPORATION

SEC. 7. The officers of the corporation, and the election of such officers shall be as is provided in the articles of incorporation of the corporation and in conformity with the laws of the State or States wherein it is incorporated.

RESTRICTIONS

SEC. 8. (a) No part of the income or assets of the corporation shall inure to any member, officer, or director of the corporation or be distributed to any such person during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(b) The corporation shall not make any loan to any officer, director, or employee of the corporation.

(c) The corporation and any officer and director of the corporation, acting as such officer or director, shall not contribute to, support or otherwise participate in any political activity or in any manner attempt ot influence legislation.

(d) The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

(e) The corporation shall not claim congressional approval or Federal Government authority for any of its activities.

LIABILITY

SEC. 9. The corporation shall be liable for the acts of its officers and agents when acting within the scope of their authority.

BOOKS AND RECORDS; INSPECTION

SEC. 10. The corporation shall keep correct and complete books and records of ac-

count and shall keep minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors. The Corporation shall keep at its principal office a record of the names and addresses of all members having the right of vote. All books and records of such corporation may be inspected by any member having the right to vote, or by any agent or attorney of such member, for any proper purpose, at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law.

AUDIT OF FINANCIAL TRANSACTIONS

SEC. 11. The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end thereof the following:

"(57) National Academies of Practice."

ANNUAL REPORT

SEC. 12. The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as is the report of the audit required by section 11 of this Act. The report shall not be printed as a public document.

RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER

SEC. 13. The right to alter, amend, or repeal this Act is expressly reserved to the Congress.

DEFINITION OF "STATE"

SEC. 14. For purposes of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

TAX-EXEMPT STATUS

SEC. 15. The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code. If the corporation fails to maintain such status, the charter granted hereby shall expire.

TERMINATION

SEC. 16. If the corporation shall fail to comply with any of the restrictions or provisions of this Act the charter granted hereby shall expire.●

By Mr. INOUYE.

S. 197. A bill to direct the Secretary of the Department of Transportation to conduct an independent study to determine the adequacy of certain industry practices and Federal Aviation Administration rules and regulations, and for other purposes; to the Committee on Commerce, Science, and Transportation.

AIR QUALITY IN AIRLINE CABINS

● Mr. INOUYE. Mr. President, today, I am introducing a bill to direct the Secretary of Transportation to conduct an independent study to determine the adequacy of certain airline industry practices and Federal Aviation Administration (FAA) rules and regulations pertaining to air quality in airline cabins.

Last year, I introduced a similar bill, S. 1770, on which a day of hearings was held in the Senate Commerce Committee—the first ever by a congressional committee. A comprehensive record on this subject was compiled, and I would urge my colleagues who travel frequently by air to give their close attention to this subject. It is believed by many that the industry does not maintain healthy conditions in cabins and thereby exposes passenges and crews unnecessarily to disease.

The measure would direct a study of:

First. The quantity of fresh air per occupant and the overquality of air on board aircraft;

Second. The quantity and quality of humidification;

Third. Air contamination limits;

Fourth. Emergency breathing equipment, including toxic fume protective breathing equipment;

Fifth. Measures, procedures, and capabilities for extinguishing fires and removal of smoke and toxic fumes within the same pressurization limits;

Sixth. Safety pressurization and the means for collecting and disseminating a data base of medical statistics relating to air travel in an effort to assess the adequacy of aircraft systems design, regulations, standards, and practices from a health and safety standpoint and for the purpose of issuing appropriate FAA administrative advisory circulars and airworthiness directives to correct any deficiencies disclosed.

The hearing conducted on May 20, 1982, in the Subcommittee on Aviation yielded strong, though not conclusive, evidence that cabin air quality is not as good as it should be and may, in fact, have an adverse affect on the health of travelers and crews who are captive audiences for the duration of a flight.

Thus far, there has been inadequate study of this issue in spite of a growing interest in air quality in aircraft. If air quality is not as good as it should be, then one must inquire into whether poor quality has any adverse health effects, and the gravity of such effects, and the measures to correct any deficiencies.

To assure the credibility of such a study, it should be undertaken with the input of all parties including disinterested experts who have no financial or political stake in this issue.

I urge that this bill be passed to insure that we can secure a healthy workplace for cabin crews and the best possible conditions for the traveling public.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 197

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of the Department of Transportation shall, in the interest of health and safety, and in the interest of promoting and maintaining a superior United States aviation industry, direct the Administrator of the Federal Aviation Administration to conduct an independent study to determine whether industry practices and standards, Federal Aviation Administration rules, regulations, and minimum standards are nondiscriminatory and at least in conformance and parity with nonaviation standards, practices, and regulations (including de facto circumstances) concerning the following, for all passengers and crew aboard civil aircraft. Special and objective considerations to be given to both positive and negative aspects of the uniqueness of the aviation environment:

(1) quantity of fresh air per occupant and overall quality of air on board;

(2) quantity and quality of humidification;

(3) air contamination limits;

(4) emergency breathing equipment, including toxic fume-protective breathing equipment;

(5) measures, procedures, and capabilities for extinguishing fires and the removal of smoke and toxic fumes within safe pressurization limits;

(6)(a) safe pressurization, considering the broad range of cardiopulmonary health of the traveling public; dissemination of information to the medical profession and the general public of current pressurization limits and practices to assure valid medical advice concerning the health effects of air travel; and

(b) collection and dissemination by the aviation industry, the Federal Aviation Administration, and/or any other private or governmental organization of a data base of medical statistics relating to air travel, in an effort to assess the adequacy of aircraft systems, design, regulations, standards and practices from a health and safety standpoint, and for the purpose of issuing Federal Aviation Administration administrative advisory circulars and airworthiness directive to correct any deficiencies disclosed.

(b) The Administrator of the Federal Aviation Administration shall complete the study required by subsection (a) and submit a report of the results thereof to Congress not later than six months after the date of enactment of this Act.

(c) In conducting the study required by subsection (a)(1) thru (6)(b) the Administrator shall utilize all available studies, recommendations, data, current technology, and state of the art which are relevant to such study.

(d) There are authorized to be appropriated $500,000 for the fiscal year commencing October 1, 1983, to carry out the study authorized by this Act.●

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. 198. A bill to amend title 5, United States Code, to provide payments under certain Federal employee health benefit plans for community mental health care services; to the Committee on Government Affairs.

COMMUNITY MENTAL HEALTH CARE SERVICES

● Mr. INOUYE. Mr. President, today I am introducing legislation that would amend the Federal employee health benefit program in order to insure that if mental health services are to be made available, that those delivered in a community mental health center would be directly reimbursable.

Under the present provisions of our Federal employee health benefit program, mental health services provided by physicians and clinical psychologists are already reimbursable as well as those provided by psychiatric nurses in certain medically underserved areas on a special experimental basis.

Mr. President, I request unanimous consent that the test of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 198

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8901 of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (8);

(2) by striking out the period at the end of paragraph (9) and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following new paragraphs:

"(10) 'community mental health center services'—

"(A) means the following items and services provided to a patient by a community mental health center by an employee of such center:

"(i) professional services provided by a mental health specialist;

"(ii) such supportive services as the Office determines to be appropriate, furnished under the supervision of a mental health specialist;

"(iii) drugs and biologicals which cannot be self-administered, as determined in accordance with regulations prescribed by the Office, and which are furnished by the center (or prescribed by an employee of the center) under the supervision of a mental health specialist;

"(B) does not include any service described in subparagraph (A)(i) or (A)(ii) unless such service—

"(i) in the case of an individual who is an outpatient, is reasonable and necessary in order to prevent the institutionalization of such individual, to prevent such individual from being unable to carry out activities which are generally accepted as being necessary for independent functioning in society, or to prevent such individual from being a danger to himself of others; or

"(ii) in the case of an individual who is an inpatient, is reasonable and necessary in order to diagnose or treat a mental condition which necessitates diagnosis or treatment on an inpatient basis, and can be reasonably expected to improve, or prevent the deterioration of, such condition;

"(11) 'community mental health center' means a public or voluntary community-based nonprofit facility which—

"(A) meets the definition of a community mental health center under section 101 of the Mental Health Systems Act;

"(B) maintains clinical records on all patients;

"(C) has bylaws in effect with respect to its staff which require that all services be rendered under the supervision of a mental health specialist; and

"(D) has in effect a utilization review plan which provides for a multidiscipline utilization review committee composed of mental health specialists to ensure that the services provided by the community mental health center are community mental health care services;

"(12) 'mental health specialist' means a psychiatrist, a clinical psychologist, a clinical social worker, or a psychiatric nurse specialist;

"(13) 'psychiatrist' means a physician who—

"(A) is described in paragraph (1) of section 1861(r) of the Social Security Act; and

"(B)(i) is certified by the American Board of Psychiatry and Neurology; or

"(ii) has successfully completed not less than three years of graduate medical training in psychiatry approved by the Director of the Office of Personnel Management;

"(14) 'clinical psychologist' means an individual who—

"(A) is licensed or certified for private practice of psychology by the State in which the individual practices psychology;

"(B)(i) has been awarded a doctorate degree in psychology by an institution of higher education that is accredited by a nationally recognized regional accrediting agency or association; or

"(ii) in the case of any individual who was licensed or certified as described in subparagraph (A) of this paragraph before January 1, 1978, has been awarded a master's degree in psychology and is listed in a national register of providers of mental health services specializing in psychology which national register is recognized by the Secretary of Health and Human Services; and

"(C) has not less than two years of supervised experience in providing health care service including at least one year of such experience after the date of the award of the degree referred to in the applicable clause of subparagraph (B) of this paragraph;

"(15) 'clinical social worker' means an individual who—

"(A) has been awarded a master's or doctorate degree in social work;

"(B) has performed at least two years of supervised clinical social work after the date of the award of such degree; and

"(C)(i) is licensed or certified as a clinical social worker by the State in which the individual practices social work; or

"(ii) in the case of a clinical social worker who practices in a State that does not license or certify clinical social workers, is listed in any national register of clinical social workers recognized by the Secretary of Health and Human Services; and

"(16) 'psychiatric nurse specialist' means an individual who—

"(A) is licensed as a nurse by the State in which the individual practices nursing;

"(B) has been awarded a master's or higher degree with a specialization in psychiatric nursing or a related specialty by an institution of higher education accredited by a nationally recognized regional accrediting agency or association; and

"(c) is certified as a psychiatric nurse by a national professional nurse organization recognized by the Secretary of Health and Human Services; and

"(17) 'State' includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, the government of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.".

SEC. 2. The first sentence of section 9802 (k) of title 5, United States Code, is amended—

(1) by inserting "or for community mental health center services," after "as applicable,"; and

(2) by striking out "optometrist without" and inserting in lieu thereof a comma and "optometrist or a Community mental health center without".

SEC. 3. Section 8904 of title 5, United States Code, is amended—

(1) by adding at the end of paragraph (1) the following new item:

"(G) Community mental health center services benefits."; and

(2) by adding at the end of paragraph (2) the following new item:

"(G) Community mental health center services.".

SEC. 4. The amendments made by this Act shall take effect with respect to contracts entered into on or after the date of the enactment of this Act.●

By Mr. INOUYE:

S. 200. A bill to direct the Secretary of the Army to determine the validity of the claims of certain Filipinos who assert that they performed military service on behalf of the United States during World War II, and for other purposes; to the Committee on Armed Services.

MILITARY SERVICE CLAIMS

● Mr. INOUYE. Mr. President, today I am reintroducing a bill to direct the Secretary of the Army to determine the validity of the claims of certain Filipinos who assert that they performed military service on behalf of the United States during World War II, and for other purposes.

During the course of World War II many Filipinos, guerrillas, and active servicemen fought on behalf of U.S. interests. In 1948 the U.S. Government struck from official U.S. Army records the names of thousands of Filipinos who served during this time, denying these individuals the rights, benefits, and privileges they so richly deserve.

The legislation I am proposing today would permit these "excluded veterans" to submit their claims to the proper authorities for reevaluation—resolution—on a case-by-case basis. Upon submission of sufficient documentation of service with the U.S. Army or organized guerrilla forces, these individuals should be duly recognized as veterans and entitled to benefits and assistance from the U.S. Government.

The removal of their names from official Army records was an injustice to these individuals who helped the United States during World War II. For some, this bill is too late since death has taken its toll. However, the enactment of this legislation would confirm our commitment to these Filipinos who fought so hard to maintain U.S. freedom.

Mr. President, I request unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) any person who claims to have performed military service with or for the United States Army in the Philippine Islands during World War II and is not recognized, for any purpose, as having performed active service in or on behalf of the Armed Forces of the United States may file an application, in such form as the Secretary of the Army (hereinafter in this Act referred to as the "Secretary") shall prescribe, to have the Secretary determine, on the basis of all information and evidence presented to him by such person and on the basis of all other information and evidence available to the Secretary, whether such person should be considered as having performed active service in or for the Armed Forces of the United States.

(b) If the Secretary determines, in the case of any person who files an application under this Act, that such person—

(1) served in the organized military forces of the Government of the Commonwealth of the Philippines while such forces were in the service of the Armed Forces of the United States, including among such military forces organized guerrilla forces under commanders appointed, designated, or subsequently recognized by the Commander in Chief, Southwest Pacific Area, or other competent authority in the Army of the United States;

(2) was awarded the Purple Heart or other medal or decoration of the Armed Forces of the United States in connection with the performance of military service on behalf of the Armed Forces of the United States; or

(3) was induced into the United States Armed Forces in the Far East (USAFFE) before the outbreak of World War II, performed military service for or on behalf of the United States in the Philippine Islands during World War II, reported to the United States military control during the liberation of the Philippine Islands, and subsequently, without his consent, had his name and records erroneously deleted or otherwise erroneously removed from the official records of the Armed Forces of the United States;

the Secretary shall issue to such person an appropriate certificate of service which shall entitle such person to the same rights and benefits under the laws of the United States as other persons who performed substantially the same type of military service in the Philippine Islands during World War II and who, on the day before the date of enactment of this Act, were entitled to such rights and benefits by virtue of such service.

SEC. 2. No person shall be eligible for a certificate of service under this Act if the Secretary determines that such person was discharged from military service described in subsection (b) of the first section under conditions other than honorable.

SEC. 3. As used in this Act the term "World War II" means the period beginning on December 7, 1941, and ending on December 31, 1946.

SEC. 4. The Secretary may not consider any application received more than two years after the date of enactment of this Act.

SEC. 5. The Secretary shall issue such regulations as he deems necessary and appropriate to carry out effectively and equitably the provision of this Act.

SEC. 6. No benefits shall accrue to any person for any period prior to the date of enactment of this Act as a result of the enactment of this Act.●

By Mr. INOUYE:

S. 201. A bill to authorize reduced postage rates for certain mail matter sent to Members of Congress; to the Committee on Governmental Affairs.

POSTAGE RATE REDUCTION

● Mr. INOUYE. Mr. President, I rise today to reintroduce a bill to provide for the issuance of a special 1-cent postage stamp to be used for correspondence with Members of Congress.

Mr. President, ours is a democratic government—a representative government and thus, by definition, one dependent on the continuing operation of a two-way communication system between the people of this country and their elected representatives.

Each Member of the Congress is directly responsible to those people in his State or district whom he represents. He must not only keep communication channels open but, more importantly, he must be responsive to the concerns he receives through these channels. The most practical means of transmitting these constituent concerns is through the mail. It is most difficult for many of us to imagine ourselves in a situation where the desire to express an opinion is frustrated because we must think twice about spending money on a postage stamp. Unfortunately, we must face the fact that many of our Nation's citizens are forced to consider the purchase of a 20-cent postage stamp for the purpose of expressing a grievance, or opinion or idea, as something beyond their means.

The issuance of a 1-cent stamp for this purpose would effectively remove this prohibition and allow all citizens to apprise their Representatives and Senators of their individual thoughts and position on the issues facing our Nation. This measure would amend the Postal Reform Act of 1970 to provide for the issuance of these 1-cent stamps to be sold at U.S. post offices. The bill also authorizes appropriations necessary to account for the difference in postal revenue resulting from the sale of 1-cent stamps as opposed to prevailing postage rates for mail matter addressed to Congressmen which does not exceed 4 ounces in weight.

Recognizing the necessity of open communication between elected officials and the people, Congress adopted the franking system allowing congressional communication between elected officials to constituents. We have neglected, however, to provide our constituents with a convenient and affordable means of access to their Senators and Congressmen. It is difficult to overstate the importance of this concept of individual expression. Each and every citizen has the right and the responsibility to participate in the democratic system, through both the ballot box and through correspondence with their representatives between elections.

Because the effective operation of our political system is dependent upon open communication, I am hopeful that this bill will receive the early approval of the Congress.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 201

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 32 of title 39, United States Code, is amended by adding at the end thereof the following new section:

"§ 3219. Mail matter sent to Members of Congress

"(a) Any person may send any piece of mail matter, not exceeding four ounces in weight, for postage of 1 cent to (1) any Member of the Senate representing the State, and (2) the Member of the House of Representatives representing the district, in which such person resides, if that person uses a special stamp issued by the Postal Service for any such matter. The Postal Service shall issue special 1-cent stamps to be used in sending such matter, and such stamps shall only be sold at post offices.

"(b) For the purposes of this section—

"(1) 'district' includes Puerto Rico and the District of Columbia;

"(2) 'Member of the House of Representatives' includes a Representative, Delegate, and Resident Commissioner; and

"(3) a Member of the House of Representatives elected at large from a State having more than one district shall be considered a Member elected from each district of that State.".

(b) The analysis of such chapter is amended by adding immediately below item 3218 the following new item:

"3219. Mail matter sent to Members of Congress.".

(c) Section 2401(c) of such title is amended by inserting after "3217" a comma and "3219".

(d) This Act is effective January 1, 1983.●

By Mr. INOUYE (for himself, Mr. MATSUNAGA, and Mr. THURMOND):

S. 202. A bill to amend chapter 67 of title 10, United States Code, to grant eligibility for retired pay to certain reservists who did not perform active duty before August 16, 1945, and for other purposes; to the Committee on Armed Services.

RESERVIST RETIRED PAY

● Mr. INOUYE. Mr. President, regulations currently governing retirement pay for reservists do not provide benefits for those who did not serve on active duty before August 16, 1945, the end of World War II. Although these regulations are designed to insure that only the most deserving reservists are compensated for their sacrifice to our

Nation, I believe that they are unnecessarily restrictive in that no benefits are provided to those who came to the aid of our country during the Berlin crisis, the Korean war, the Cuban missile crisis, and the Vietnam war, or who served for an extended period of time following the end of World War II. These men and women have performed services for our country fully as valuable as those rendered by activated reservists who served during World War II.

The legislation I am reintroducing today recognizes the contribution made by these individuals and corrects the current inequity in the law by granting them eligibility for retirement benefits. I urge that my colleagues in the U.S. Senate join me in rewarding these reservists for the service they rendered to the United States in its times of need.

Mr. President, I request unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 202

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 67 of title 10, United States Code, is amended as follows:

(1) Section 1331(c) is amended as follows:

"(c) No person who before August 16, 1945, was a Reserve of an armed force, or a member of the Army without component or other category covered by section 1332(a)(1) of this title except a regular component, is eligible for retired pay under this chapter unless he performed—

"(1) active duty after April 5, 1917, and before November 12, 1918, or after September 8, 1940, and before January 1, 1947;

"(2) active duty (other than for training) after June 26, 1950, and before July 28, 1953, after August 13, 1961, and before May 31, 1963, or after August 4, 1964, and before March 28, 1973; or

"(3) at least twenty years of service (computed under section 1332 of this title) after August 15, 1945.".

(2) Section 1332(b) is amended by adding the following new clause after clause (7):

"(8) Service before August 16, 1945, if eligibility for retired pay is based on section 1331(c)(3) of this title.".

(3) Section 1333 is amended—

(A) by striking out "For; and inserting in lieu thereof "(a) Except as provided in subsection (b), for"; and

(B) by adding the following new subsection:

"(b) Service before August 16, 1945, may not be counted under subsection (a) if eligibility for retired pay is based on section 1331(c)(3) of this title.".●

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. 203. A bill to amend title 10, United States Code, to authorize former members of the Armed Forces who are totally disabled as the result of a service-connected disability to travel on military aircraft in the same manner and to the same extent as retired members of the Armed Forces are permitted to travel on such aircraft; to the Committee on Armed Services.

MILITARY AIRCRAFT TRAVEL PRIVILEGES

● Mr. INOUYE. Mr. President, today I am reintroducing a bill which is of great importance to a group of patriotic Americans. This legislation is designed to extend space-available travel privileges on military aircraft to those who have been totally disabled in the service of our country.

Currently, retired members of the Armed Forces are permitted to travel on a space-available basis on unscheduled military flights within the continental United States and on scheduled overseas flights operated by the military airlift command. My bill would provide the same benefits for 100-percent, service-connected disabled veterans.

Surely we owe these heroic men and women who have given so much for our country a debt of gratitude. Of course, we can never repay them for the sacrifice they have made on behalf of all of us but we can surely try to make their lives more pleasant and fulfilling. One way in which we can help is to extend military travel privileges to these distinguished American veterans. I have received numerous letters from all over the country attesting to the importance attached to this issue by veterans. Therefore, I ask that my colleagues show their concern and join me in saying "thank you" by supporting this legislation.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 203

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 53 (relating to miscellaneous right and benefits) of title 10, United States Code, is amended by adding at the end thereof a new section as follows:

"§ 1032. Travel privileges on military aircraft for certain former members of the armed forces

"A former member of the armed forces who is entitled to compensation from the Veterans' Administration for a service-connected disability rated total in degree by the Veterans' Administration is entitled, in the same manner and to the same extent as are retired members of the armed forces, to travel on a space-available basis on unscheduled military flights within the continental United States and on scheduled overseas flights operated by the Military Airlift Command.".

SEC. 2. The table of sections at the beginning of chapter 53 of title 10, United States Code, is amended by adding at the end thereof a new item as follows:

"1032. Travel privileges on military aircraft for certain former members of the armed forces.".

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. 204. A bill to amend title 10 of the United States Code relating to retention in active status of certain officers; to the Committee on Armed Services.

RESERVE OFFICERS

● Mr. INOUYE. Mr. President, a situation has been called to my attention which I believe requires congressional action. Under the law presently in force, the Secretary of the Army may retain in an active status any consenting Reserve officer in the Medical Corps, the Dental Corps, the Chaplaincy, the Army Nurse Corps, or the Army Medical Specialist Corps, until that officer reaches 60 years of age. Officers not included in the enumerated branches of the Army must retire when they satisfy the mandatory retirement requirements. In my judgment, this provision results in a significant loss of talent and taxpayer dollars. There are many situations in which Reserve officers continue to serve after they fulfill the conditions for mandatory retirement. Even though they want to give of their time and talent, even though thousands of taxpayers' dollars have gone toward training them, and even though the Army itself would like to continue to utilize their services, the law forces these officers to retire.

The bill which I am reintroducing today would amend title 10 of the United States Code to allow the Secretary of the Army to retain a consenting Reserve officer in active status, regardless of his branch of service, until he reaches 60 years of age. Enactment of this bill will not result in an increase in the budgetary requirements of the Department of Defense. Therefore, I believe that this measure, which can offer so much at such a small cost, is deserving of the support of the Congress.

Mr. President, I request unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 204

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of section 3855 of title 10, United States Code, is amended by striking out everything after "reserve officer" down through the period and inserting in lieu thereof "until the date on which such officer becomes sixty years of age.".

By Mr. INOUYE:

S. 208. A bill to amend the Hazardous Materials Transportation Act to prohibit the transportation of hazardous waste for the purposes of disposal abroad; to the Committee on Commerce, Science, and Transportation.

HAZARDOUS MATERIALS TRANSPORTATION

● Mr. INOUYE. Mr. President, today I am introducing legislation to prohibit the transportation of hazardous wastes for the purpose of disposal or dumping abroad. This bill amends the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.) to add a new section governing the export of hazardous waste whereby:

The Secretary of Transportation shall issue regulations with respect to the transportation in commerce of hazardous waste under which no hazardous waste may be handled, packaged, labeled, or transported for the purpose of storage, dumping, or disposal outside the United States, except for the purpose of recycling or reprocessing such waste by a commercial or government entity recognized by the Secretary as a reliable processor of such waste.

Although this bill aims at controlling the export of hazardous wastes, it does not seek an outright ban on such shipments. Indeed, the bill recognizes the fact that there are several legitimate reasons for exporting hazardous materials, namely scientific testing, reprocessing, and recycling. The legislation accommodates these commercial waste streams and requires only that the Secretary of Transportation keep records on the nature and the quantity of hazardous wastes transported for shipment abroad.

The focus of my bill is those wastes which are being exported primarily to avoid the stringent requirements which govern the disposal of hazardous materials in the United States. There have been several incidents over the past few years where American companies have sought to export wastes in order to dump them in somebody else's backyard. Such attempts reflect poorly on the United States and harm our foreign policy interests. They also threaten to undermine our long-term commerical interests and international trade. Mr. President, I ask unanimous consent that various articles highlighting the severity of this problem be printed in the RECORD immediately following my remarks.

The United States should be setting an example in the area of hazardous waste management, and we have made great progress in developing laws and programs to safeguard the public interest. However, there are still no meaningful controls over the export of hazardous wastes, and I trust that my colleagues will join with me in rectifying this important problem.

Under our present laws, we are leaving ourselves open to recreating a Minamata, Love Canal, or Times Beach in another country. Except for PCB's and dioxin, which are regulated under the Toxic Substances Control Act and the Resource Conservation and Recovery Act, it is impossible for the U.S. Government to stop the transshipment of hazardous wastes even if these wastes pose a threat to the health and environment of the recipient country. By adopting this bill, we will be able to avoid such embarrassments as the recent attempt by an American company to send industrial wastes to Sierra Leone and the arrest of an American citizen for receiving and dumping hazardous wastes from the United States in Mexico. As the Permanent Secretary of the Bahamian Ministry of Health said in response to an attempt by a U.S. company to export wastes to the Bahamas: "Why should we inherit someone else's problems?"

The time has come for the United States to take a firm stand on the transportation of hazardous wastes bound for export. I commend this bill to my colleagues and ask unanimous consent that it be printed in the RECORD, along with various articles on the subject.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SIERRA LEONE REJECTS INDUSTRIAL WASTE

[AN] Plans by a U.S. firm to ship chemical wastes to west Africa have been stymied by the unexpected furor caused by discovery of the arrangement.

Last November two representatives of the Nedlog Technical Group Inc., of Aravada, Colorado, offered Sierra Leone President Siaka Stevens up to $25 million for the freedom to dispose of toxic wastes shipped from the United States in his country. Nedlog's plans called for the transfer of more than one million tons of hazardous material per year to Sierra Leone and two other unnamed countries.

The story of the dumping proposal was made public in New York Times and Washington Post stories on January 25 and 26.

Stevens has since denied that the deal will take place, although Nedlog officials claim that they have not heard from the Sierra Leone government since their initial contact last year.

The U.S. State Department became aware of Nedlog's plan last October, when company representatives sought its advice while investigating the likely reactions to the waste-dumping proposal by various developing nations. A joint task force from the departments of State and Commerce along with the Environmental Protection Agency (EPA) was then set up, and an unnamed member of that group leaked the story on his own to the newspapers—a leak apparently regarded with favor by others on the task force frustrated by their lack of legal jurisdiction over such exports.

Nedlog was fairly open about its plans. Other companies, however, have been wary of formalizing industrial waste disposal schemes. The Senegalese ambassador to the U.S. for example, recalls being felt out privately on the subject several times by corporate representatives.

"I have personally been approached by businessmen during the course of receptions and what not," the ambassador told Africa News. "They tell how it can be used as fertilizer, and that it won't contain any nuclear wastes. They paint it kind of rosy. But I tell them to write me a letter, put it in writing, and they never do."

No U.S. regulations now govern the export of toxic chemicals to other countries. New EPA guidelines, which may take effect later this year, if approved, would require that corporations notify the State Department of any plans to export hazardous wastes. This will allow American embassies to notify their host countries of the specific dangers of the chemicals.

A considerable number of Third World nations have little or no access to scientific data about the hazards of modern industrial wastes, many of which are only now being investigated in the developed countries themselves.

The notification requirements will also permit the U.S. government to publicize any dumping plans, creating the possibility that public pressure will be brought to bear on the corporations and countries involved, as in the Nedlog case.

U.S. government agencies appear to be united in their opposition to overseas chemical waste-dumping schemes, primarily because of the foreign relations fallout that would occur. "This is one issue that everyone who's been involved thinks is a bad idea," said a State Department spokesperson.

In an effort to uncover similar dumping plans, State has cabled all its embassies in Africa and Latin America, asking them to relay any information on such corporate activity.

Before the disclosure of the chemical dumping proposals in the U.S. press there had been no public awareness of Nedlog's plans in the African countries involved. "These things are not for the ordinary minds in the street," Sylvanus Corker, head of the press section at the Liberian Embassy, told Africa News. And even high officials in the countries involved had been unaware of the proposal.

Discovery of the Nedlog plan, accompanied by rumors of several other corporate dumping schemes, caused a flurry of activity by African opposition groups located in the U.S. Letters, telegrams and photocopies of the articles appearing in the American press were sent to key people back in Africa. Ted Roberts, an expatriate who publishes a newsletter about Sierra Leone from Washington, D.C., claims that he alone sent out over 150 letters to prominent citizens at home, asking them to intervene.

A coalition of Sierra Leoneans studying in this country held a demonstration against the dumping scheme at their embassy in Washington on February 11.

This activity of Africans in the United States, combined with the reprinting of the story in the International Herald Tribune, swelled a wave of protest against the waste imports in Africa, too. The Nigerian Senate urged President Shagari to take diplomatic steps to prevent the dumping, fearing that Nigerian territorial waters could be harmed by a spill of toxic waste. Scathing editorials opposing the plan appeared in Nigerian and Ghanaian newspapers. And student protests at Sierra Leone's Njala University, which began over complaints about poor living conditions a few days before Nedlog's plan became public, became centered on the waste-disposal issue, say opposition leaders.

Several African statesmen said to have been considering the waste-dumping arrangements with U.S. corporations issued quick denials following the protests. Liberian President Tolbert stressed that he had rejected such a deal out of hand, and he is reported to have flown to Freetown, the Sierra Leone capital, to pressure Stevens against accepting the waste proposal.

Stevens initially responded to the Tribune article on the Nedlog arrangement with a January 29 statement that no deal had been

concluded, pending his receipt of a final proposal from the company in mid-March. Pressure continued to mount, however, and on February 11—after a meeting with John Lineham, the U.S. ambassador to his country—Stevens held a nationally-televised news conference at which he said acceptance of the chemicals would be "foolhardy" in light of the dangers they represent.

Both Sierra Leone and Liberian opposition groups remain skeptical that their nations' leaders have completely closed the door to such toxic chemical deals. Citing Sierra Leone's acute need for foreign exchange to pay for the upcoming Organization of African Unity summit that it will host this summer, Ted Roberts says, "Stevens is such a desperate man that I don't doubt he'll sign such a deal."

Foday Sefay, a member of the Sierra Leone Revolutionary Committee, headquartered in Washington, D.C., says his group will keep up pressure against the deal to "push as far as we can go to make sure it doesn't happen."

"We've made it a habit based on our experience not to believe what the government says," a Liberian member of the Committee of Concerned Africans, also based in D.C., told Africa News.

The current attention focused on the Nedlog proposal to Sierra Leone may squelch that deal, but future attempts to export industrial wastes seem inevitable. Calculating that 10-14% of all industrial wastes could be classified as hazardous, a recent EPA study estimates that between 35 and 50 million tons (wet) of toxic wastes are produced in the U.S. annually.

The cost of disposing of hazardous waste in the U.S. already averages $70.1 per ton, and the price tag for legal disposal is expected to soar as the public—alarmed over such horror stories as Love Canal—refuses to countenance the creation of new dump sites.

Said one State Department official: "These companies are going to be out searching the world for a place to dump these chemicals."

[From the Washington Post, Jan. 26, 1980]

U.S. Fights Export of Hazardous Waste

(By Bill Richards)

Federal officials, worried about a possible anti-American backlash, are seeking to halt plans by a Colorado firm to export hazardous waste to Sierra Leone in return for a payment to that country of up to $25 million.

The State Department, which learned of the plan in October, has sent at least two cables to U.S. officials in Sierra Leone instructing them to inform the government there about the potential dangers from the waste. One of the cables warned that the plan could lead Africans to condemn the United States for "dumping its wastes in the black man's backyard."

A number of countries along the coast of West Africa and elsewhere have been approached recently by U.S. firms seeking permission to dump hazardous waste, according to industry sources. The sources said they knew of such proposals in Nigeria, Liberia, Senegal, Sierra Leone and in Chile in South America.

One Philadelphia landfill owner, David Ehrlich, told The Washington Post yesterday that he has obtained permission to dump hazardous material in an African coastal country—he declined to name the country but said it was not Sierra Leone—and planned to begin dumping within several months. State Department officials said they were not aware of the plan.

The United States has no policy governing the export of hazardous waste. The Environmental Protection Agency has asked for regulations to require companies exporting hazardous waste to notify federal authorities.

In the Sierra Leone case, Godfrey Harris, a Los Angeles consultant to the Nedlog Technology Group Inc. of Arvada, Colo., said he and Nedlog Vice President James R. Wolfe approached Sierra Leone President Shiaka Stevens this past fall and offered "up to $25 million" for permission to dispose of the waste in Stevens' country.

Harris, a former State Department employe, said in a telephone interview yesterday that the company submitted two memos to Sierra Leone officials outlining the plan. He said Nedlog planned to ship "all forms of hazardous waste except radioactive waste" to the country.

The payment of up to $25 million was offered to Stevens, he said, "in lieu of fees or taxes. It was to be more or less of a license."

Stevens' reaction to the offer, Harris said, "was one of great interest, but also one of mature political caution."

Other western African nations, such as Liberia, have already gone on record as opposing efforts by U.S. firms to transport hazardous waste to the region. However, Harris said Nedlog is negotiating for waste-processing and disposal sites with several other countries, including Chile.

Wolfe said yesterday that his firm is primarily involved in developing technology to recover minerals from mining and smelting waste. He said the Colorado company has been involved in recycling and recovery projects in Missouri and Arizona.

Nedlog was formed three years ago in conjunction with the Roldiva Corp., a Pittsburgh company connected with the Mellon family. Wolfe said the two are no longer connected.

Sierra Leone, said Wolfe, is "just one of a half-dozen countries we are looking at." He said his company plans to export a million tons of hazardous waste annually for processing and dumping abroad. Wolfe said his firm already has contracts for waste recovery and disposal with two U.S. mining firms.

According to Wolfe, the $25 million figure, which was used by Nedlog in its offer to Sierra Leone, was a "maximum figure—it could run considerably less." Wolfe declined to identify the source of the funding, which was offered to the African country as an advance payment.

Under the plan, Nedlog would ship waste of an undetermined nature to the Sierra Leone port of Pepal, about 30 miles northwest of the capital of Freetown. The port is equipped with unloading facilities and a rail line leading into the interior, he said.

Wolfe said that his firm has been primarily involved with processing western mining waste. But he declined to say what kind of hazardous material it planned to ship to Sierra Leone.

Other waste disposal industry sources said yesterday that the African west coast has become a prime target for disposing of U.S. waste since federal and state regulators have begun to crack down on disposal here.

Several sources citied proposed hazardous waste regulations by the Environmental Protection Agency which require firms seeking permits for hazardous waste disposal to put up multimillion-dollar bonds.

"We are getting ourselves in a bind," said Ehrlich, the Pennsylvania landfill owner. "We are producing millions of gallons of toxic waste, and there is no place left to put it. Everyone either dumps it illegally or stores it waiting for some answer to come along."

Ehrlich said he recently obtained permission from one country along the African west coast, which he declined to identify, to set up a processing and disposal operation for chemical waste from the United States

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[Feb. 10, 1980]

Toxic Wastes May Find Way to Haitian Sites

(By Dan Weissman)

Toxic wastes that are viewed with such alarm in this country may some day be shipped to special dumps on the western shore of Haiti.

In a still confidential plan, James Joyce, the embattled former Democratic chairman of Camden County, has been working for some months to develop a toxic waste disposal facility in Haiti, and it is believed he is working with the government of the island nation.

Joyce, who was sentenced to two to three years in prison for a conviction of jury tampering in state court two years ago, is currently free while his case is under appeal. According to persons familiar with Joyce's operation, he is in Haiti promoting the toxic waste landfill.

An official of the Haitian ministry, which would have to license such a venture, said in a telephone interview no formal proposal has been submitted. But the official said there has been some pursuit of the proposal in the United States.

Two Haitian government officials in this country each confirmed they "had heard something about" the plan.

According to reliable reports, Joyce is seeking final approval from the Haitian government for specific disposal sites.

Although Joyce has not been available for comment, the venture was outlined and confirmed by numerous persons to whom Joyce has made his plans known.

One of them was his close friend and former political ally, State Sen. Joseph Maressa (D-Camden), who said, "Jimmy was up here about a month ago with some Haitian government officials to say he's developing land and stuff on the western shore of Haiti for a landfill for toxic and hazardous wastes."

However, Maressa stressed, "I have absolutely nothing to do with it."

Joyce and the Haitian government officials, sources said, spent much of their time in this country reviewing available technology for the handling and disposal of the toxic wastes that are coming under increasingly stern review in states like New Jersey. It was, however, unclear whether any pitch is being made for financing by Joyce, who has been back and forth between this country and Haiti for about a year.

An official of a South Jersey engineering firm that deals with toxic waste disposal methods confirmed that he met with Joyce and two Haitian government officials about a month ago to "go over the technology in the field."

In the wake of concerns about potential "chemical time bombs." New Jersey, along with other states has toughened its stance on the disposal of chemical wastes. The state has sought to exercise more controls over the handling of toxic substances and has established new penalties for illegal dumping.

Only last week Gov. Brendan Byrne signed into law legislation to increase * * * illegal dumpers of chemical wastes. Moreover, * * * makes persons caught at such dumping liable for prison terms of up to five years for a first violation.

Environmental Protection Commissioner Jerry F. English said the uncontrolled dumping of hazardous wastes is New Jersey's most serious environmental problem and, along with the Governor, she advocates tighter controls and regulations.

However, Byrne administration officials said they were unfamiliar with the proposal being pursued by Joyce in Haiti, and there was no formal comment.

Chemical industry officials also said they were unfamiliar with the proposal.

Attorney Theodore Schwartz, who represents a New Jersey firm that has been thwarted in its attempts to develop a modern disposal area for processed chemical wastes in Bordentown, near Trenton, said the reports of the Haitian proposal were "fascinating."

Schwartz said the difficulties of finding both disposal methods and sites for the hazardous residue of a wide range of technological processes is not limited only to the United States. He said pharmaceutical firms in Puerto Rico are also faced with difficult disposal problems.

He indicated the development of a disposal area in Haiti would help resolve the problems in both the United States and Puerto Rico, a Caribbean neighbor of Haiti.

However, other industry officials cautioned they would withhold comment or judgment on the plan of which they all said they have not heard.

One official said, "It takes an incredible amount of money. It takes millions, maybe tens of millions, even if Haiti doesn't care what is being done. The costs are in the processing and moving it."

There was no comment from the federal government on the feasibility of the plan to use Haiti, an impoverished 11,000 square-mile island republic that is roughly one and a half times the size of New Jersey.

[From the Washington Star, Apr. 21, 1980]

D.C. Plans to Ship Sludge to Haiti; State Department Fears Image Problem

(By Michael Isikoff)

Perplexed for years about where to dump the area's massive quantities of sewage sludge, District officials are set to negotiate a contract which they think could be the ideal solution—shipping the mud-like substance to the Caribbean nation of Haiti.

The idea, however, is being viewed skeptically at the State Department, where officials worry that it could turn into an international public relations problem.

District officials will begin neogtiations next week with a New York company, Stewart Environmental Systems, Inc., for a multi-million dollar contract to ship the sludge to the impoverished tropical country.

Thousands of tons of sludge from the Blue Plains Sewage Treatment Plant would be shipped by ocean tanker and deposited on a deserted stretch of land near a tiny fishing village on the Haitian northwest coast.

"Just the image of this—sending the wastes of the nation's Captial to the most densely populated and poorest country in the Americas—is something that is not very appealing," said one State Department official. "It's something that is bound to cause a lot of public resentment and criticism in the Third World."

The idea, however, has excited several top District and area officials who see it as a potential perfect solution to years of political bickering over what to do with the area's waste products. A D.C. "evaluation team" set up to review 24 recently submitted proposals to dispose of Blue Plains sludge recommended the Stewart plan as among the "most promising."

"For one thing, it would get the sludge out of the city and we've got to find a way to dispose of the stuff," said one District official familiar with proposal. "It's very attractive, providing everything they've said is valid.

"Our reaction is that this is a great idea and we've urged them to do everything possible to award the contract," adds Robert S. McGarry, general manager of the Washington Suburban Sanitary Commission. "It sounds like something that could be mutually beneficial. It has the potential of solving the Blue Plains sludge problem. I don't think it's strange at all."

Documents the company has submitted to the District suggest the project has been actively encouraged by the top officials of the Haitian government, including the country's president for life, Jean-Claude "Baby Doc" Duvalier.

To lobby Duvalier, the company—a subsidiary of the Stewart Capital Corp., a New York-based oil and gas leasing corporation—has retained an influential New York law firm of Christy & Viener, which represents several major multinational corporations in Haiti.

The company maintains the project would mean a substantial economic shot in the arm for the depressed Haitian economy. To handle the sludge, Stewart has proposed constructing a $5.5 million deep water terminal on about 500 acres of barren land about 15 kilometers south of the village of Anse Rouge. Adjacent to the terminal, it would build a huge composting facility that would turn the Washington sludge into fertilizer for a vast reforestation project.

The plan includes planting hundreds of "farms" of Leucaena trees in Haiti that could then be cut down and marketed as charcoal, a principal source of cooking fuel in the country, according to Stewart's president, Barnard D. Van Kleeck III.

Haiti's ambassador to the U.S., Serge Charles, said he was unaware of the sludge proposal until Friday, when Van Kleeck visited the embassy and briefed him. After the briefing, Charles said the plan seemed to make economic sense.

"If I accept prima facie what they tell me, it should be real good," the ambassador said.

The arid site for the reforestation project is the area of the country, the ambassador said, that has produced the vast hordes of Haitian "boat people" who have recently been arriving in record numbers in Florida.

Despite the support for the project, there are still several question marks among District and State Department officials, who were recently asked to review the proposal by the District government.

Chief among them is the question of political stability. The Duvalier regime has long been viewed as among the most repressive of Caribbean dictatorships, partly causing the refugee exodus.

The fear of political turmoil recently prompted McGarry to recommend that as a "backup" the District also award another contract to Dano Resource Recover Inc. of Alexandria, which has proposed building a composting facility right at Blue Plains. Dano last year was awarded a five-year, $20 million contract to barge Blue Plains sludge to King George, Va., but as unable to deliver when the state refused to grant the necessary permits.

But Van Kleeck, who said he discussed his sludge composting plan with Duvalier in Haiti last week, insisted the fear of political revolution was groundless. "In my opinion, there has been a tremendous amount of progress in Haiti under President Duvalier. The country is an isle of tranquility in a sea of chaos," he said.

[From the Washington Post, July 29, 1980]

Antigua Weighs Offer on D.C. Sludge

(By Eugene Robinson)

A New York firm that tried and failed earlier this year to work out a deal to ship District of Columbia sewage sludge to Haiti for use as fertilizer is now trying to arrange to ship the material to the small Caribbean island of Antigua.

"All they did is switch islands," said William B. Johnson, acting director of the D.C. Department of Environmental Services, of the plan currently being negotiated by Stewart Environmental Systems Inc.

Johnson said the city favors the plan as the most promising of about two dozen proposals submitted for disposal of most of the estimated 2,200 tons of sludge that will eventually be produced each day at the Blue Plains sewage treatment plant in far Southwest Washington.

Bernard D. Van Kleeck III, president of the Stewart firm, said in a telephone interview yesterday that the treated sludge would be odorless and free of dangerous bacteria when it arrived on Antigua's shores.

He said the firm had received from the Antiguan government a letter expressing interest in the project, which would allow the Stewart firm to build a plant to convert the sludge into fertilizer and then lease land for agricultural projects.

However, Lester Bird, vice premier of Antigua—which is a semi-independent protectorate of Great Britain—left a meeting of the island's parliament yesterday afternoon to relay word through a spokesman in New York that the deal is not yet final.

"He [Bird] said that we are looking at the proposal but there are no signed agreements," Lloyd Jacobs of the Antigua Department of Tourism and Trade told a reporter after reaching Bird by telephone in Antigua. "The cabinet has not yet acted," Jacobs said.

Van Kleeck said that politically active D.C. attorney Robert B. Washington, Jr., chairman of the Democratic State Committee, has been involved on behalf of the Stewart firm in the negotiations with Antigua. Washington declined to comment. Also involved, Van Kleeck said, is former senator Joseph Tydings, a member of the same law firm. Tydings could not be reached for comment.

Johnson emphasized that the city had not yet signed a contract with the Stewart firm. However, he said, the proposal is attractive because it means the sludge would leave the metropolitan area immediately.

Under the plan the sludge would be put on barges at Blue Plains, then trans-shipped to tankers for the cruise down through the Leeward Islands to Antigua, a roughly circular chunk of land 10 miles in diameter situated north of Guadeloupe.

Earlier this year the Stewart firm tried to arrange a similar deal to ship the sludge to

Haiti. However, the deal fell through because of fears by Haitian officials that the sludge would not be adequately treated.

Potential benefits to any jurisdiction that would accept the sludge would include the opportunity to put barren lands to productive use by using the material as fertilizer, Van Kleeck said. He said his firm's operation also would provide more jobs.

Sludge produced at Blue Plains has been a continual source of annoyance for District officials. Currently, in a temporary arrangement, the sludge is placed in trenches in Montgomery and Prince Georges counties. But the District is under federal court order to find a more permanent way to dispose of it.

Last week the city signed a five-year contract with an Alexandria firm, Dano Resource Recovery Inc., to dispose of 900 tons of sludge a day beginning next year.

But the 900 tons specified in Dano's contract leaves unaccounted for about 500 tons a day being generated by the suburban jurisdictions that also use Blue Plains.

[From the Washington Star, Sept. 13, 1980]

AREA SLUDGE TRIP CANCELLED IN WAKE OF ANTIGUA PROTEST

(By Michael Isikoff)

A proposed Caribbean cruise for sewage sludge from the Washington area has been canceled in the wake of a turbulent political storm that swept the tiny resort island of Antiqua.

The planned voyage—in which thousands of tons of treated District of Columbia sludge would have been transported to Antigua for use as fertilizer—was picked up as a political issue by an opposition political party to attack the government of the semi-independent British protectorate, according to Antiguan government officials.

Leaders of the opposition Progressive Labor Movement sharply criticized the Antiguan government for considering the sludge proposal, charging that it would pose grave environmental hazards to the island's ground water, officials said.

A newspaper with links to the PLM trumpeted the alleged dangers in front-page headlines.

And on the eve of cabinet debate, a radio station broadcast a report suggesting that the presence of the sludge would cause brain damage to the island's residents.

When the cabinet took up the proposal recently, it was summarily turned down despite a personal lobbying effort by Robert B. Washington, chairman of the D.C. Democratic State Committee and lawyer for Stewart Environmental Systems Inc., the company that proposed the project.

"We just got caught in the middle of a partisan political battle," said Washington's law partner, former Maryland Sen. Joseph Tydings, who has also been pushing the project for Stewart Environmental.

Antigua's rejection is the second setback to Stewart's hopes of shipping the smelly black liquid from the District's Blue Plains Sewage Treatment Plant to the sunny Caribbean.

Earlier this year, the company submitted a proposal to the District government to ship the sludge by barge and ocean tanker to Haiti where it would be composted and used as a fertilizer in a vast reforestation scheme.

But the plan was soon rejected by the Haitian government of Jean Claude "Baby Doc" Duvalier, and the company quickly came back with Antigua as an alternate site.

The idea of shipping Blue Plains sludge out of the country has tantalized area officials, who have been bickering for years over trying to find a suitable location to dispose of the area's biological and chemical wastes.

Most of the approximately 1,300 tons of sludge being produced daily at Blue Plains is land-trenched in Montgomery and Prince Georges counties, but the District is under court order to find a more environmentally sound and permanent solution.

This year the District signed a five-year contract with Dano Resource Recovery Inc. of Alexandria to dispose of up to 900 tons per day by composing the substance at a plant at Blue Plains. But that still leaves at least 400 tons of sludge which suburban area governments must dispose of under current agreements.

Don Vogt, head of project and planning for the Washington Suburban Sanitary Commission, said that if Stewart's Caribbean solution had proved successful, it could possibly have averted the need for WSSC to build a controversial sludge composting plant in Calverton.

The Calverton plant has drawn fierce opposition from nearby Prince Georges County residents.

Rejection of the Antigua scheme will simply mean that WSSC will proceed with construction of the Calverton plant and another newly proposed compositing facility at Dickerson in northwest Montgomery County.

In recent interviews, Tydings and Washington insisted that their sludge plan had been "blown out of proportion" by the PLM and, in fact, posed no threat to the island's environment.

The sludge would have been aerobically treated at storage tankers in Piney Point, Md., and on the ocean tanker that transported it to the island they said. Moreover, they said the project could have brought vast economic benefits to the island, involving a $27 million investment by Stewart that would have made the company the largest employer on the island.

But Tydings said the company has not given up hope. "We have to regroup," he said. "One of things we may now do is launch a strong educational program to try and bring the cabinet around."

But Lloyd Jacobs of the Antigua Department of Tourism and Trade said he doubted that such a project could ever get approved anywhere in the Caribbean.

The Caribbean is an "embattled area," he said, in which left-wing groups supported by Castro's Cuba and the Soviet Union are attempting to subvert governments throughout the area.

"Your've got to be careful not to give your enemies a weapon that they can use against you." Jacobs said, "If this proposal ever went through, the Communists can say, 'Look, we're willing to build roads and hospitals for you, but look at what the Americans give you—crap.' "

[From the New York Times, Jan. 18, 1981]

COMPANY SEEKING TO SHIP TOXIC WASTE TO BAHAMAS

WASHINGTON, Jan. 18.—The State Department has notified the Government of the Bahamas that a Birmingham, Ala., company is negotiating a contract with a Bahamian concern to dispose of toxic chemical wastes in that country, a department official said Jan. 9.

An agreement between the Alabama company, Ashvins U.S.A. Inc., and an undisclosed Bahamian company would mark the first time a developing country had accepted shipment of hazardous wastes from the United States. Last November, Sierra Leone, in Western Africa, decided to refuse toxic waste shipments from a Colorado company after the State Department told of the hazard.

Ashvins, which handles chemical waste from paint manufacturers, pesticide companies and metal-plating concerns, filed for incorporation last Nov. 16, and strict Federal controls of toxic wastes went into effect on Nov. 19. Company officials said that Ashvins was seeking waste disposal sites abroad because the domestic controversy over toxic-waste disposal had hampered the Environmental Protection Agency in approving domestic disposal sites.

CONCERN ABOUT STORAGE PLANS

Federal officials in Alabama had earlier expressed concern about the company's plans to store the toxic material in Alabama while it was awaiting disposal.

Sue Patterson, an official of the department's office of environment and health, said that the issue had foreign policy implications beyond concern over the environment and public health. Unlike such developed nations as Japan, West Germany and Canada, most developing nations do not have waste-recycling capabilities to deal with shipments from abroad, she said. The countries receiving the wastes for disposal must balance their need for foreign exchange against the potential dangers of the material, she explained.

Mrs. Patterson said the department notified the Bahamian Government of Ashvin's disposal plans on Dec. 29, after Donald King, director of the office, met with an Ashvins official to discuss the company's plans and the nature of the material to be transported.

COMPANY VOLUNTEERED INFORMATION

"There's no legal requirement for anybody to contact us," said Mrs. Patterson, noting that the concern had volunteered the information to the department. "They may have thought that if we said it looks all right to us, it may have been easier to sell the idea abroad."

She added that the department had no power to stop the shipment of hazardous wastes.

According to John Smith, an Ashvins spokesman, the company is still in the negotiating stage with the Bahamian company and is also talking to other companies in the Caribbean area. Department officials said that they had been notified only about negotiations concerning the Bahamas.

"It's a solid business, although some people don't want to accept that," Mr. Smith said. "It's not a shady business," he said, adding that the Bahamas "won't be used as a dumping ground."

BAHAMIAN APPROVAL IN DOUBT

Even if Ashvin and the unidentified company reach an agreement, there is doubt that the deal would be approved by the Bahamian Government.

Reached at his office in Nassau, the Bahamian capital, Harold Munnings, Permanent Secretary of the Ministry of Health said, "I don't believe my Government would entertain any such proposal."

Mr. Munnings said that the State Department communication had not reached his office, but that he expected to act in an advisory capacity to the Government on the matter. He noted that the Bahamas, with

an economy heavily dependent on tourism, did not have any waste-recycling facilities.

[From Science, Jan. 23, 1981]

WHITE SANDS, WARM WINDS, AND . . . TOXIC WASTES?

The Bahamas and other Latin-American countries could become the dumping ground for American chemical trash, which a company in Alabama plans to collect and export. But the Birmingham-based firm, Ashvins, Inc., has run into a barrelful of problems causing delay.

The State Department, concerned that shipping wastes to less-developed countries could prove to be embarrassing to the United States, has already met with the Bahamian ambassador to the U.S., to notify him of Ashvins' plans. The department has also cabled U.S. embassies in Nicaragua, Honduras, El Salvador, and Guatamala that waste exports may be coming their way via Ashvins.

The company applied for permission to begin collecting waste just before stricted federal controls on hazardous wastes went into effect last November. Ashvins already has contracts with several American companies to collect chemical waste and is negotiating with a private Bahamian company to accept shipment, according to Ashvins spokesman, John M. Smith.

The policy of the Bahamian government, however, has been to refuse hazardous wastes from other countries, said a top Bahamian health official. The Bahamas already has chemcial dumps on the island of Grand Bahama for their own petroleum and chemical industries. But Permanent Secretary of the Ministry of Health, Harold Munnings, said that it was unlikely he would recommend that foreign waste be allowed into the country. "Why should we inherit someone else's problem?" he said in a telephone interview.

Company spokesman Smith said that, despite the numerous problems, the firm is determined to forge ahead. He said that critics have called Ashvins "a shady operation, but it's a business venture like anything else. People get spooked when you mention hazardous wastes." But, in response to a question, Smith said that none of Ashvins' officers has a background in handling waste. Nor does the company have a technical expert on staff. Smith said the firm has contracted with laboratory and engineering firms to handle technical problems.

Before Ashvins can export the waste, it will first have to get Environmental Protection Agency (EPA) approval to begin collection in the U.S. The main point of contention between EPA and Ashvins is whether the firm was "in existence," according to EPA criteria, before 19 November, when the stricter controls went into effect. The company, which filed its application 16 November, argues that they met the agency's requirements.

EPA attorney, David Engle, said that Ashvins' application needs, for example, to list what type and what quantity of wastes the company will handle. Smith said that Ashvins will not handle anything radioactive, explosive, or bacterial. But that still leaves an enormous list of more than 400 hazardous and toxic wastes.

If Ashvins is finally permitted to collect wastes, it can then begin exporting. The U.S. government has no authority to ban shipment outside its borders. Under the current system of monitoring such exports, the State Department largely relies on information from EPA and then alerts the foreign government involved.

Director of the State Department's office of environment and health, Donald King, said that exports of hazardous wastes can pose sensitive problems for the United States. For almost a year, the State Department, EPA, and other agencies have been considering a proposal to require an export license for waste, but the government has yet to adopt a stricter policy.

King says that he favors the idea of export licenses, but that the State Department "has managed all right under the current system."

S. 208

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.) is amended by inserting after section 106 (49 U.S.C. 1805) the following new section:

"EXPORTING OF HAZARDOUS WASTE

"SEC. 106A. (a) PROHIBITION.—The Secretary shall issue regulations with respect to the transportation in commerce of hazardous waste under which no hazardous waste may be handled, packaged, labeled, or transported, for the purpose of storage, disposal, or dumping, outside of the United States, except for the purpose of recycling or reprocessing of such waste by a commercial or government entity recognized by the Secretary as a reliable processor of such waste.

"(b) COORDINATION.—In developing such regulations, the Secretary shall cooperate with the Secretary of State and the Secretary of Commerce to ensure that regulations are developed which protect the long term commercial and foreign policy interests of the United States. The Secretary shall also cooperate with the Administrator of the Environmental Protection Agency to ensure that the Secretary's definition of hazardous waste coincides to the extent appropriate with the definition of hazardous waste under the Solid Waste Disposal Act.

"(c) RECORDS.—The Secretary shall maintain accurate and complete records of all materials transported in commerce for export, including the point of origin, the destination, the port of exit and the point of entry abroad. The Secretary may enact whatever notification requirements are required to keep such records and enforce the ban on the transportation of hazardous waste in commerce for disposal abroad provided under this section.

"(d) REQUIREMENTS.—No person may transport in commerce hazardous waste for the purpose of exporting such waste unless he is registered with the Secretary under the provisions of this title, conforms to the rules established for the transportation of hazardous materials under this title, and complies with the regulations under this section for transporting hazardous waste intended for export.".●

By Mr. INOUYE (for himself, Mr. DECONCINI, Mr. GOLDWATER, Mr. LEAHY, Mr. MATSUNAGA, Mr. PELL, Mr. RANDOLPH, Mr. RIEGLE, Mr. SYMMS, Mr. TSONGAS, and Mr. WARNER):

S. 209. A bill to amend the Controlled Substances Act to establish a temporary program under which heroin would be made available through qualified hospital pharmacies for the relief of pain of cancer patients; to the Committee on Labor and Human Resources.

CANCER PAIN RELIEF

● Mr. INOUYE. Mr. President, today I am introducing legislation, along with Senators DECONCINI, GOLDWATER, LEAHY, MATSUNAGA, PELL, RANDOLPH, RIEGLE, SYMMS, TSONGAS, and WARNER, which is directed to relieving the suffering of a small but significant number of our citizens; patients who are terminally ill with cancer and whose pain has not been effectively mitigated with currently available medications.

For many years, the thought of cancer and its accompanying pain have sent chills of fear through all of us; likewise, the thought of heroin and its addictive qualities produces similar fears. Now, however, in my judgment we are in a position where we can make a logical and thoughtful decision to legalize the therapeutic use of heroin for the terminally ill cancer patient suffering intractable pain while at the same time safeguarding against the diversion of the drug into illicit channels.

The legislation I introduce today is supported by thousands of Americans and is identical to that which was cosponsored by 21 of my colleagues during the 97th Congress. Furthermore, I am pleased to report that to a great extent, it reflects the current evolution and thinking of our Nation's health-care system as evidenced by the editorial in the January 14, 1982, issue of the prestigious New England Journal of Medicine which urged more flexibility in the use of addictive drugs in the treatment of pain. This thinking is also present in an official statement made by the American Psychiatric Association which endorses the "principle that the effectiveness of relief of pain in terminal cancer patients should take priority over a concern about 'addiction' of the terminal cancer patient and should take priority over a concern about medication diversion to addicts." The need for this legislation is dramatic. Although over the past two decades a great deal of progress has been made in treating cancer, this year an estimated 815,000 Americans will be diagnosed as having cancer, and over 400,000 will die from this disease. Most of these individuals will have received competent and compassionate medical care, and adequate relief of pain. Unfortunately, the reality is also that a certain number of cancer patients do not obtain relief of pain from the currently available analgesic medication—even the strongest narcotics. It has been estimated that about 20 percent of terminal cancer patients suffer significant pain. Of this 20 percent, it has been estimated that 10 percent do not obtain relief with presently prescribed medications.

In human terms, these percentages mean that as many as 8,000 Americans may die in agony this year because of the intractable pain associated with terminal cancer. I have been assured by my medical colleagues that in many cases this pain can be alleviated with the therapeutic use of heroin, making the last months, weeks, or days of these patients more bearable. These dying patients are not now given the option of dying with dignity because of our Nation's continued and overriding fear of the term "heroin." In my judgment, this fear alone has prevented us, the lawmakers of our Nation, from making clear and rational decisions regarding the limited use of this long proven and already available substance.

Heroin has been proven effective with a number of patients in relieving pain. Research completed at Georgetown University's Vincent T. Lombardi Cancer Research Center has found heroin to be an effective analgesic for the control of cancer-related pain. In particular, it has been reported to be more potent than morphine in relieving cancer pain. Less than half of the dose of heroin produces the same pain relief as a dose of morphine. In the terminal phase of cancer, many patients cannot take medication by mouth, and may require injections. As the disease progresses, individuals may require higher doses at more frequent intervals, to provide relief. This is when it would be desirable to have the option of using heroin in treating pain, since heroin is more potent and more soluable than morphine salts, and an effective dose can be administered in considerably smaller volumes. Thus, doctors have informed me that it is less painful to have such an injection—an important consideration in the emaciated patient with little tissue mass remaining. Further, the onset of action of the heroin is also more rapid than morphine because of its solubility, giving relief of pain and a sense of well-being sooner. It is most unfortunate that the use of heroin for these patients has not been allowed up to this date. This legislation will enable physicians to treat the dying cancer patient who suffers from intractable pain with a proven, effective medication.

The time has now come to address the issue of why the heroin should not be readily available as a therapeutic medication for our Nation's physicians in very specific situations when we have dying cancer patients who are suffering extreme pain. William Buckley has described our irrational maintenance of the prohibition against such uses of heroin in very real terms. As he pointed out:

> The irony is that anybody in a major city can acquire the knowledge necessary to buy heroin from a dirty little drug pimp, but licensed doctors may not administer the identical drug to men and women—and children—literally dying from excruciating pain.

I am most pleased to report that our colleagues on the House Subcommittee on Health and the Environment held hearings on a similar bill on September 4, 1980. At that time, a number of practicing physicians and others asked that the Federal controls on heroin be eased to permit the prescription of heroin for patients for whom more conventional pain killers were inadequate. It was further pointed out that in Great Britain, heroin has been used for many years for these patients and that it has been shown to be particularly effective for those 10 percent of terminal cancer patients who require injected medication. British physicians consider heroin to be an indispensable potent narcotic analgesic in the treatment of advanced cancer. Use of heroin in specific situations is also permitted in Belgium, New Zealand, China, and many other civilized nations.

The bill I am introducing today will give a very high priority to relief from intractable pain for terminal cancer patients. It authorizes the Secretary of the Department of Health and Human Services to establish demonstration programs which will permit the use of heroin by terminally ill cancer patients only, when suffering from pain which is not effectively treated with currently available analgesic medications.

My bill has more than adequate safeguards to prevent the drug from being introduced to the general public. For example, a diagnosis must first be made by the attending physician that his or her patient is ill with cancer and is suffering from pain which is not being effectively treated with other available analgesic medications. This diagnosis must be reviewed and approved by a medical review board of the hospital which will dispense the heroin. The heroin used in the program will be from that supply now confiscated under current laws. The Secretary of Health and Human Services is further authorized to establish additional regulations for the safe use and storage of the heroin, to prevent its diversion into illicit channels. This program will be in force for a 5-year period and periodic reporting is required of the Secretary on the activities under the bill.

I strongly believe that this proposal will provide substantial benefits to those who are in intractable pain from terminal cancer and I am hopeful that my colleagues on the Senate Labor and Human Resources Committee will give this measure their prompt and most serious consideration.

Mr. President, I ask unanimous consent that the text of this bill and attached relevant articles be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Jan. 14, 1982]

GREATER USE OF PAIN-KILLERS IS URGED BY MEDICAL JOURNAL

BOSTON.—Hospitalized patients endure too much day-to-day pain because doctors and nurses are needlessly stingy with narcotics, an editorial in the prestigious New England Journal of Medicine said today.

Hospital staffers should get rid of their unrealistic fear that patients will become addicted or suffer harmful side effects from pain-killers and increase doses if necessary, wrote Dr. Marcia Angell, deputy editor of the medical journal.

"Few things a doctor does are more important than relieving pain," she wrote. "Yet the treatment of severe pain in hospitalized patients is regularly and systematically inadequate.

"Pain is soul-destroying. No patient should have to endure intense pain unnecessarily. The quality of mercy is essential to the practice of medicine; here, of all places, it should not be strained."

Angell said one study showed that 73 percent of patients undergoing treatment for pain continued to experience moderate-to-severe discomfort despite medication.

"The desire to protect patients from becoming insidiously drawn into a state of addiction distorts both our sense of priorities and our scientific judgment," she said.

Angell wrote that addiction is "exceedingly unlikely," and happens in probably no more than 0.1 percent of the time.

APA TRUSTEES ENDORSE ASSEMBLY STATEMENT SUPPORTING CANCER PAIN RELIEF

The American Psychiatric Association Board of Trustees, at its December 1980 meeting, has officially endorsed the following statement, unanimously approved by its APA Assembly on October 26, 1980, as follows:

Endorse the principle that the effectiveness of relief of pain in terminal cancer patients should take priority over a concern about "addiction" of the terminal cancer patient and should take priority over a concern about medication diversion to addicts.

The Assembly Action Paper, introducing the above, states:

1. Subject: Use of Addictive Medications in the Terminally Ill.

2. Problem: Recently Congress has been considering legislation that would allow the use of heroin with the terminally ill cancer patient (H.R. 7334, "Madigan" Bill). It is estimated that 40 to 50 percent of the terminal cancer patients experience severe, constant pain, and for a portion of those patients intravenous heroin is reported to be the most effective available analgesic, with no adverse medical effect especially when employed near term.

Psychiatry has a general interest in this issue because of our focus on the whole patient and because of the interrelations of anxiety and depression in the management of pain. Psychiatry is specifically drawn into this issue because opponents of the use of addictive medications in the terminal cancer patient have made arguments about addicting the terminal cancer patient and have made arguments about diversion of addictive medications from legitimate uses to uses by addicts. These arguments should be answered to the effect that medication tolerance—even if it should develop in the termi-

nal cancer patient—does not adversely affect the patient's medical condition and does not constitute "addiction." Secondly, while we share concerns about illegal diversions, such concerns should be separately and effectively addressed and not take precedence over meaningful relief of the suffering from terminal cancer.

[From the Washington Star, Apr. 22, 1980]

A CRUSADE AGAINST PAIN

(By William F. Buckley, Jr.)

Might we defer for just a moment consideration of the proposal that Congressman John Anderson be given his own navy with which to fight Iran—and bring up an unrelated subject? The purpose of these paragraphs is to celebrate the lonely work of Mrs. Judith Quatilebaum. She is engaged in the grisly work of contemplating the terrible pain that accompanies some deaths by cancer, and attempting to bring a little relief from that pain to the hopeless.

To that end she launched a few years ago the National Committee on the Treatment of Intractable Pain (address: Box 34571, Washington, 20034). The committee has one simple objective: to permit the use of heroin for patients dying of terminal cancer and facing pain so acute as to defy the administrations of morphine, which is the staple pain-killer.

Now for understandable reasons, the federal government is reluctant to authorize any use of heroin—on the grounds that some of it might get out on the streets. The irony is that anybody in a major city can acquire the knowledge necessary to buy heroin from a dirty little drug pimp, but licensed doctors may not administer the identical drug to men and women—and children—literally dying from excruciating pain.

So what does the government do about the call of Mrs. Quatilebaum's distinguished committee to sponsor a revision of the law? You guessed it. The question is turned over to a research team, to make recommendations. Anyone studying the rococo title of that brigade would guess that it would never get around to doing anything about it.

The question is in the hands of: Dr. Seymour Perry, Associate Director for Medical Applications of Research, Chairman of the Interagency Committee on New Therapies for Pain and Discomfort, National Institute of Health, Bethesda, Md. Oh yes, Zip Code 20014.

The Perry group is supposed to research the question whether we might not find a synthetic drug that has the same impact as heroin, but not its addictive danger. Bully. But if one applied the same rules governing the Perry group to the energy crisis, we would suspend the use of all existing automobiles until we developed one that would take us 100 miles per gallon. There are tens of thousands of human beings dying of insufferable pain every year while the Perry team moans about looking for substitutes.

Moreover, the Perry group appears to be uninterested in pursuing with Mrs. Quatilebaum's committee the question of the usefulness of heroin. Dr. Perry approvingly quoted an English researcher writing for the 1977 issue of Pain to the effect that oral doses of heroin didn't produce satisfactory results.

When Mrs. Q. replied that the very same report, in its conclusions, revalidated the usefulness of heroin, Dr. Perry declined to reply. Dr. Twycross, an English expert on the subject (in England, with one statement in 1955, Winston Churchill demolished the prohibitionists' attempt to ape American laws; 38 countries authorize heroin for the terminally sick) concluded, "when injections are necessary, diamorphine (heroin) is undoubtedly the best and safest of all the potent narcotic analgesics and is indispensable in the care of a proportion of patients with advanced cancer.

Why hasn't Congress done something about it? Mrs. Q. and her committee, on which there are distinguished representatives including doctors, theologians and psychoanalysts, saved Congress the trouble of drafting the necessary legislation. They retained Kenneth Lazarus, a Washington lawyer and former counsel to President Ford, to write model legislation.

It is appalling to report that no congressman seems to have got around to introducing the necessary bill. One hates to put it that way, but people dying of agony in the hospital don't as a rule get out of bed to vote, and that may have something to do with that awful indifference to other people's pain that is a birthmark of most human beings.

But not of Judith Quatilebaum, whose name, though difficult to spell, will stay in the memory of those who in the future will be eased out of their misery by the drug she seeks doggedly to make available, guided by the biblical injunction: For I was hungry, and ye gave me meat; I was thirsty, and ye gave me drink; I was a stranger, and ye took me in.

NATIONAL CANCER INSTITUTE STUDY REPORTED BY SCIENCE MAGAZINE—HEROIN CONSIDERABLY MORE EFFECTIVE

HEROIN AND CANCER PAIN

Heroin hasn't been used to relieve pain in U.S. cancer patients since 1924 because of fear that patients would become addicted to it. However, the favorable experience of the British in using heroin to relieve cancer pain prompted William T. Beaver and Philip S. Schein of Georgetown University's cancer research center to conduct a scientific trial to see exactly how heroin stacks up against morphine in easing cancer pain. (Because morphine is a less potent narcotic than heroin, it is available to U.S. cancer patients.)

Forty-eight cancer patients with moderate to severe pain received single injections of morphine and single injections of heroin. Neither the nurse-observer nor the patients knew which drug was being given at any particular time. The patients then rated each drug for pain relief. They rated heroin to be two and a half times more potent than morphine, Beaver and Schein reported in New Orleans at the recent annual meeting of the American Society for Clinical Pharmacology, and Therapeutics. What's more, none of the patients experienced euphoria after getting heroin or morphine. Thus, heroin appears to be no more addictive to cancer patients than is morphine and considerably more effective in relieving pain.

(Note: Results of this Georgetown study were also presented at the 17th Annual Meeting of the American Society of Clinical Oncologists in Washington, D.C., on May 1, 1981, and published in Clinical Pharmacology and Therapeutics, February 1981.)

S. 209

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Congress finds and declares that—

(1) a significant number of terminally ill cancer patients suffer from pain which is not effectively treated by currently available analgesic medications;

(2) heroin has proven efficacy as a pain-killing drug for such patients; and

(3) it is appropriate to establish a temporary program to provide, through qualified hospital pharmacies, heroin for the relief of pain of cancer patients.

(b) The Controlled Substances Act is amended by adding at the end thereof the following new part:

"PART 4—TEMPORARY HEROIN PROGRAM

"SEC. 801. (a) Effective October 1, 1983, the Secretary of Health and Human Services (hereinafter in this section referred to as the 'Secretary') shall establish a program under which heroin confiscated in the enforcement of this title and title III shall be made available to pharmacies of qualified hospitals for dispensing for the relief of pain to individuals with cancer.

"(b) Heroin may be made available under the program established under subsection (a) only upon application of a qualified hospital. The application shall—

"(1) be in such form and submitted in such manner as the Secretary may prescribe; and

"(2) contain assurances satisfactory to the Secretary that—

"(A) the applicant meets such special requirements as the Secretary may prescribe respecting the storage and dispensing of heroin; and

"(B) heroin provided under the program established under this section—

"(i) will be dispensed through the pharmacy of the applicant upon the written order of a physician registered under section 302 to dispense controlled substances in schedule II; and

"(ii) will be dispensed only for the relief of pain to individuals with cancer who are diagnosed in accordance with subsection (c). Requirements prescribed by the Secretary under paragraph (2)(A) shall be designed to protect against the diversion of heroin distributed under the program established under this section into illicit channels without placing undue restrictions on the abilities of hospitals to participate in the program.

"(c) A diagnosis that an individual is ill with cancer and is suffering from pain which is not effectively treated with currently available analgesic medications shall be made before heroin is dispensed for the individual and shall be made as follows:

"(1) The diagnosis shall be initially made by the attending physician of such individual.

"(2) The diagnosis of the attending physician must be reviewed and approved by the medical review board of the hospital which will dispense the heroin.

"(d) If the Secretary determines that the amount of heroin confiscated in the enforcement of this title and title III is not sufficient to meet the applications of qualified hospitals under this section, the Secretary may, notwithstanding section 1002(a) of the Controlled Substances Import and Export Act, import opium for the purpose of manufacturing additional heroin to be distributed under the program established under this section.

"(e) This title, title III, and the Federal Food, Drug, and Cosmetic Act shall not apply with respect to—

"(1) the importing of opium,

"(2) the manufacture of heroin, and

"(3) the distribution and dispensing of heroin,

in accordance with this section and the program established under this section.

"(f) Not later than three months after the date of the enactment of this section, and every three months thereafter until the program required by subsection (a) is established, the Secretary shall report to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives on the activities undertaken to establish and implement such program. One year after such program is established and annually therafter while such program is in effect, the Secretary shall report to such committees on the activities under such program during the period for which the report is submitted.

"(g) For purposes of the program established under subsection (a), qualified hospital is a hospital which is registered under section 302 to dispense a controlled substance in schedule II.

"(h) The program established under subsection (a) shall terminate sixty months after the date on which the program is established.".

SEC. 2. (a) Paragraph (b) of schedule I in section 202(c) of the Controlled Substances Act is amended by striking out clause (10) and redesignating clauses (11) through (22) as clauses (10) through (21), respectively.

(b) Paragraph (b) of schedule II in such section is amended by adding at the end thereof the following:

"(22) Heroin.".

SEC. 3. The Director of the National Cancer Institute shall apply to the Secretary of Health and Human Services under subsection (i) of section 505 of the Federal Food, Drug, and Cosmetic Act for an exemption from the provisions of subsections (a) through (h) of such section in order that the Director may conduct or sponsor an investigation of the safety and effectiveness of heroin for the treatment of pain of cancer patients. After submitting such application, the Director shall take such action as may be prescribed by the Secretary in order to secure such exemption and conduct or sponsor such investigation.●

By Mr. DECONCINI:

S. 211. To provide for the establishment of a national cemetery in Maricopa County, Ariz.; to the Committee on Veterans' Affairs.

MARICOPA COUNTY, ARIZ., NATIONAL CEMETERY

● Mr. DECONCINI. Mr. President, on behalf of myself and Senator GOLDWATER, I am introducing today a bill to establish a national veterans' cemetery at the site of the Arizona State Cemetery, located 17 miles north of Phoenix at Cave Creek and Pinnacle Peak Roads.

The initial legislation which led to the establishment of what was to become the National Cemetery System was enacted in 1862 and was intended to provide places of burial for soldiers who died in military service during the Civil War. By 1870, 62 national cemeteries had been established in close proximity to Civil War battlefields and hospital sites. Although the National Cemetery System has been expanded through the years to include 109 cemetery sites, the vast majority are located in the East and South. For instance, Virginia has 14 national cemeteries, excluding Arlington, while many Western States have none.

Originally, the National Cemetery System was administered by the Department of the Army. However, jurisdiction for the cemeteries was transferred to the Veterans' Administration in 1973 upon enactment of Public Law 93-94. It is important to note that one provision of that act directed the Administrator to conduct a comprehensive study on a number of issues relating to national cemeteries, one of which was the concept of establishing regional cemeteries. As you know, that concept was ultimately adopted as VA policy. While the VA has attempted to redress the imbalance in the location of our national cemeteries, the fact remains that a disproportionate few are located in the West.

It is my firm belief that every veteran who has served his country honorably has the right to burial in a national cemetery within reasonable proximity to his/her domicile. Statistics indicate that survivors are adverse to burial sites beyond a 75-mile radius of their residence. Yet the closest cemetery available for interment of Arizona veterans is located in Riverside, Calif.—a distance of approximately 300 miles from Phoenix, where half of the Arizona population resides.

In the absence of a national cemetery in Arizona with available burial space, the Arizona Veterans' Memorial Cemetery Board of Directors, along with the American Legion, the Disabled American Veterans, and the Veterans of Foreign Wars, worked tirelessly to insure the establishment of a State veterans' cemetery so Arizona veterans could be buried near loved ones. As a result of their efforts, the State of Arizona, on June 27, 1976, authorized and later appropriated moneys for the development of a parcel of land in Maricopa County to be used for a veterans' cemetery. The site contains 836.34 acres which will accommodate burial space for up to 500,000 veterans.

The initial phase of the cemetery plan was completed in early 1979, and the first three interments took place on March 14, 1979. As of December 31, 1982, 2,150 veterans and their dependents have been buried at this site.

After enactment of the Veterans' State cemetery grant program in 1978, Public Law 95-476, the State of Arizona applied for Federal assistance for its cemetery program. I was extremely gratified when in May 1981, the Veterans' Administration released a grant award in the amount of $104,125 to cover the Federal share of the costs involved in the construction of the administration building at the State cemetery. It is anticipated that Federal participation in this program will increase as the cemetery site is further developed.

Despite this Federal assistance, both Senator GOLDWATER and I, as well as all of the veterans of Arizona, believe that this cemetery should be incorporated as part of the National Cemetery System, and I urge my colleagues on the Senate Veterans' Affairs Committee to give this legislation their favorable consideration. If this cemetery is established as a national cemetery, it will become one of the largest in the system both in terms of land area that is available and the number of interments that can be accommodated. It will also help to redress the imbalance in the distribution of our national cemeteries throughout the Nation.

I ask unanimous consent that the test of this bill appear in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 211

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Administrator of Veterans' Affairs shall (1) establish a national cemetery in Maricopa County, Arizona, on the site of and coextensive with the cemetery known as the Veterans Memorial Cemetery of Arizona located near Cave Creek Road in such county, and consisting of 640 acres, more or less, and (2) acquire the land of such Veterans Memorial Cemetery of Arizona by donation, purchase, condemnation, exchange of lands in the United States public domain, or otherwise.

SEC. 2. The Secretary of the Interior, in consultation with the Administrator of Veterans' Affairs, is authorized to transfer to the Administrator of Veterans' Affairs such lands in the United States public domain as may be necessary to permit the Administrator of Veterans' Affairs to carry out the provisions of the first section of this Act.

SEC. 3. The national cemetery established under authority of this Act shall become part of the National Cemetery System and shall be administered in accordance with the provisions of chapter 24 of title 38, United States Code.

SEC. 4. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.●

By Mr. PRESSLER (for himself, Mr. WARNER, Mr. SASSER, Mr. INOUYE, Mr. HOLLINGS, Mr. HEFLIN, Mr. RIEGLE, Mr. FORD, Mr. LONG, Mr. EXON, Mr. JOHNSTON, Mr. HUDDLESTON, Mr. LEAHY, and Mrs. HAWKINS):

S. 212. A bill to authorize funds for the U.S. Travel and Tourism Administration; to the Committee on Commerce, Science, and Transportation.

U.S. TRAVEL AND TOURISM ADMINISTRATION

Mr. PRESSLER. Mr. President, I am pleased to introduce today, for myself and a number of my collegues, reauthorization legislation for the U.S. Travel and Tourism Administration (USTTA).

This agency was created during the last Congress by Public Law 97-63, the National Tourism Policy Act. Al-

though the agency's predecessor, the U.S. Travel Service, had a troubled history, I am pleased to say that Congress and the administration joined in supporting the National Tourism Policy Act, thereby giving this function a new lease on life. I am firmly committed to seeing that the work which went into the National Tourism Policy Act does indeed serve as a new beginning for the very necessary function of selling the United States as a travel destination.

It is with this commitment in mind that I am offering this legislation today. My bill will provide a 3-year authorization for the USTTA at the following levels:

$13,000,000 for fiscal year 1984.
$14,000,000 for fiscal year 1985.
$15,000,000 for fiscal year 1986.

In addition to the fact that this agency carries out a critical function in regard to reducing our international trade deficit in the travel account, there is another reason why I am proposing a $4.9 million increase over the 1983 appropriation.

This reason has to do with the funding history of the agency, and the level of expenditures of our principal trade competitors in this field. In 1979, the appropriation for the U.S. Travel Service was $13.5 million. Since that time, the funding level has been steadily slipping until it hit a low of $7.6 million last year. Despite a modest increase to $8.1 million for the current fiscal year, the agency is still being funded at a level far below what is needed to enable it to carry out a full and effective program pursuant to the National Tourism Policy Act. And if inflation is taken into account, the current funding level is actually only about one-third of what it was in 1979 in terms of actual spending power.

The other factor I mentioned is the fact that almost every nation with whom we compete for international tourism expenditures is outspending us and outmarketing us. The figures for 1981 show us, for instance, that the United Kingdom spent $41 million, France spent $39 million, Canada spent $29 million, the Bahamas spent $20 million, Mexico spent $20 million, and West Germany spent $16 million. And these figures have continued to rise, not fall. All these nations have realized the economic importance of travel and tourism to their economies. Why the United States continues to fail to see this industry's huge contribution to the economy is beyond me. However, what I do know is that this failure has cost us billions of dollars. Our share of the international tourism market has fallen from 13 percent in 1976 to 10.6 percent in 1982. While this may not seem like a large decline on a percentage basis, in terms of dollars, we are talking about a loss of $11 billion in trade revenue over the period. And it should be remembered that this $11 billion figure represents more than just an offset to our trade deficit. Had this additional $11 billion come into the American economy it would have created tens of thousands of jobs and generated approximately $1.6 billion in Federal, State, and local tax revenues.

I want to stress the fact that these figures I've just used only represent what we've lost over the period. The $11 billion in receipts represents what our income would have been had the 1976 status quo been maintained. However, it seems to me to be against the American spirit to aim only for the status quo and not to struggle for improvement. Our share of this market should be expanding; we should be actively pursuing a greater portion of this very lucrative, job-producing travel market. That is why I am proposing today that we get back on track regarding our efforts to sell America. We are working with the most attractive travel destination in the world, and with just a modest increase in effort, I am convinced we could sharply reduce our trade deficit, increase employment, and lower the Federal budget deficit. And all this could be done through the expansion of what is a very clean, desirable industry.

At this point, I think a few more comments are in order regarding the economic importance of the travel and tourism industry. I am including in the record as part of my statement a breakdown by State of tourism-related employment, total expenditures, and tax revenue. The figures are for 1979, but I should point out that the industry has shown remarkable resistance to the types of recession-related calamities which have befallen other sectors. The traditionally rapid growth in the travel industry has certainly been moderated over the past several years, but I can assure all my colleagues that the figures I am including have increased since 1979 and still reflect the great importance of this industry in each of their States.

The last point I want to make about the USTTA budget is that unless there is an increase in funding, the agency will not be able to carry out the type of geographically comprehensive program Congress would like to see. If funding is severely limited, the USTTA will only be able to concentrate on promoting the larger domestic markets which draw most of the international travelers. The unfortunate effect of this is that the program discriminates against rural areas of the Nation. There are many potential attractions for foreign visitors in America's heartland, but these attractions will remain unknown and unpublicized abroad unless the USTTA actively promotes them. Naturally, being from South Dakota, I am well aware of what rural America has to offer and what the foreign traveler is missing if he concentrates only on the large urban areas. For this reason, I would like to see Congress give the USTTA the means with which to vigorously market attractions in the interior of the United States. The bill my colleagues and I are introducing today will go a long way toward achieving that goal if it is enacted.

I want to thank all those who are supporting me in the effort, and I would like to invite the rest of my colleagues to join me in working to maximize the economic and other benefits to this Nation which can accrue from increasing the number of international travelers who choose the United States as a destination.

I ask unanimous consent that the breakdown by State be printed in the RECORD.

There being no objection, the breakdown by State was ordered to be printed in the RECORD, as follows:

1979 U.S. TRAVEL—GENERATED EXPENDITURES, EMPLOYMENT, AND TAXES

[Dollars are in millions, direct employment is in thousands; combines the categories of public and automobile transportation, lodging, food, entertainment and recreation, incidental purchases and travel arrangements]

	Domestic travel expenditures	Direct employment	Payroll	Federal, State, local travel tax revenues
Alabama	$1,092.4	37.1	$224.4	$103.2
Alaska	550.9	11.3	142.5	66.8
Arizona	2,257.7	68.3	466.9	232.5
Arkansas	1,26.1	44.7	240.1	106.5
California	19,128.2	473.8	4,474.2	2,246.6
Colorado	2,908.1	96.7	478.6	345.2
Connecticut	1,805.6	40.8	371.0	249.9
Delaware	363.0	15.2	101.5	47.3
Florida	10,797.5	316.4	2,374.9	952.1
Georgia	3,586.2	97.1	723.0	348.7
Hawaii	1,912.0	58.7	538.0	202.4
Idaho	703.0	29.3	153.5	67.0
Illinois	4,619.5	122.4	1,091.5	570.8
Indiana	2,133.0	70.1	464.4	229.4
Iowa	1,364.3	52.4	285.6	130.0
Kansas	1,279.7	42.3	254.8	122.8
Kentucky	1,767.3	49.2	318.5	165.8
Louisiana	2,424.0	69.8	618.8	248.5
Maine	936.6	34.1	198.9	85.8
Maryland	2,131.2	67.7	541.2	288.7
Massachusetts	3,327.2	90.4	765.9	432.2
Michigan	4,738.0	138.3	1,006.5	556.1
Minnesota	3,357.4	114.4	735.1	411.7
Mississippi	861.7	29.1	166.2	79.9
Missouri	3,270.1	96.6	694.4	376.6
Montana	545.2	21.6	109.9	38.4
Nebraska	923.1	35.1	190.1	98.1
Nevada	2,690.8	73.2	634.6	215.8
New Hampshire	868.1	30.1	174.8	61.7
New Jersey	3,759.1	104.4	932.5	454.8
New Mexico	986.5	34.9	209.3	85.9
New York	9,487.8	237.7	2,281.3	1,465.7
North Carolina	3,041.5	97.7	601.6	273.7
North Dakota	527.4	17.7	98.4	49.4
Ohio	4,859.6	137.3	1,029.0	552.7
Oklahoma	1,505.5	59.8	393.8	161.2
Oregon	1,530.6	61.1	414.2	158.3
Pennsylvania	5,612.7	177.7	1,270.1	696.4
Rhode Island	327.5	11.3	79.0	44.6
South Carolina	1,572.8	65.1	373.0	166.9
South Dakota	388.1	15.2	75.3	35.5
Tennessee	2,055.4	68.1	425.9	196.5
Texas	8,676.1	240.6	1,858.0	850.0
Utah	949.4	37.7	211.9	102.0
Vermont	879.4	38.2	199.4	84.3
Virginia	2,733.1	83.9	572.5	254.0
Washington	2,208.1	65.1	509.7	233.4
West Virginia	684.7	30.1	181.4	68.9
Wisconsin	2,864.5	109.3	606.2	298.2
Wyoming	607.8	20.7	120.0	51.1
District of Columbia	767.7	24.7	258.3	135.2
Total	140,739.5	4,164.5	31,340.6	15,499.2

Note: Details may not add to totals due to rounding.
Source: U.S. Travel Data Center.

● Mr. SASSER. Mr. President, I rise today to commend my colleague, Senator PRESSLER, for his introduction of S. 212, which provides for a 3-year authorization of funds for the U.S. Travel and Tourism Administration. I am proud to be an original cosponsor of this measure.

It is imperative that this country have a strong U.S. Travel and Tourism Administration (USTTA). Our share of the international tourism market has declined considerably in recent years. Indeed, if we had the same share of the international tourism market that we had in 1976 over the last several years, we would have added some $11 billion surplus to our trade balance. This, moreover, would have generated some $1.6 billion in additional Federal, State, and local tax revenue over the years.

Every State in the Union has a strong interest in a growing tourism economy. Indeed, tourism in Tennessee adds some $2 billion to the State's economy. And with rising unemployment in my State, we can not afford to ignore the job potential of a vigorous tourism sector.

Mr. President, the investment that this Government makes in national tourism promotion is too small. Indeed, the national tourism budget of Singapore in 1981 was more than three times the budget of the U.S. Travel and Tourism Administration. We must have a growing national tourism promotion effort if we are going to increase our share of the international tourism market. S. 212 will enable us to achieve that goal. I urge speedy passage of this most important legislation.●

By Mr. TSONGAS (for himself, Mr. PACKWOOD, Mr. KENNEDY, Mr. MATHIAS, Mr. BYRD, Mr. BIDEN, Mr. LEAHY, Mr. DECONCINI, Mr. METZENBAUM, Mr. BAUCUS, Mr. SARBANES, Mr. SPECTER, Mr. DODD, Mr. WEICKER, Mrs. KASSEBAUM, Mr. RANDOLPH, Mr. PERCY, Mr. DURENBERGER, Mr. HATFIELD, Mr. PROXMIRE, Mr. MOYNIHAN, Mr. COHEN, Mr. PELL, Mr. BRADLEY, Mr. CRANSTON, Mr. DANFORTH, Mr. STEVENS, Mr. HEINZ, Mr. EAGLETON, Mr. GLENN, Mr. GORTON, Mr. HART, Mr. HOLLINGS, Mr. INOUYE, Mr. JACKSON, Mr. LEVIN, Mr. MELCHER, Mr. RIEGLE, Mr. BENTSEN, Mr. ROTH, Mr. HUDDLESTON, Mr. BOREN, Mr. DIXON, Mr. BUMPERS, Mr. MATSUNAGA, Mr. MITCHELL, Mr. MURKOWSKI, Mr. ANDREWS, Mr. STAFFORD, Mr. CHAFEE, Mr. BURDICK, Mr. BOSCHWITZ, Mr. BINGAMAN, Mr. LAUTENBERG, and Mr. JOHNSTON).

S.J. Res. 10. A joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for women and men; to the Committee on the Judiciary.

EQUAL RIGHTS AMENDMENT

Mr. TSONGAS. Mr. President, today I, along with Senator PACKWOOD, Senator KENNEDY, Senator MATHIAS, and 51 others of my colleagues, one having been added this morning, am reintroducing a resolution adding an equal rights amendment to the Constitution of the United States.

I must say that I have very strange feelings about this. I feel like I am existing in some kind of a time warp. This is an appropriate speech to have been given 20 or 30 years ago and in some ways it is a tragedy, Mr. President, that this kind of action is necessary in 1983.

It is in fact, in my mind, a disgrace that ratification remains a hope and not a reality.

Yet here we are again just as 234 Members of the House of Representatives were there on January 3 to continue a process that began in 1923, almost 20 years before I was born.

Sixty years, Mr. President, 60 years of debate, 60 years of misunderstanding, 60 years of hard-fought battles, some won and some lost, over a simple straightforward text of 24 words, 24 words that would embody in the fundamental framework of our Constitution the principle that equal treatment under the law shall not be abridged on grounds of sex—no more, no less—quite simple.

The case for ERA remains as clear, convincing, and incontrovertible as it was six decades ago. Despite the jams, despite the progress, despite the dedicated striving, being born female in America still constitutes a clear and present danger to the full attainment and the full development of an individual's character.

I happen to be the father of three daughters. I had one of them with me this morning. I just do not quite understand why we should be in a situation where my children should have any kind of inhibitions placed on their own potential. If I had three sons, which I did not, that would not be the case. And, from a personal point of view, I hope that this thing would be passed once and for all so we can get on to other things.

If you are a working woman, you need ERA because you earn only 59 cents for every $1 earned by a male counterpart.

If you are a female college student, you need ERA because the median income of graduates is $8,000 more each year for men than women.

If you are a businesswoman, you need ERA because not a single Fortune 500 company has a female CEO (chief executive officer).

If you are a wife and mother, you need ERA because divorce, property, and retirement laws still undervalue the worth of your work and service.

ERA is necessary because thousands of Federal, State, and local statutes—by law—treat American citizens differently depending upon their sex. ERA is necessary because millions of American women are learning in the real world of the current recession just what sociologists mean when they write about the feminization of poverty. ERA is necessary because without it, more than one-half of our population will lack the fundamental guarantee of equal treatment under the law that should be an American birthright.

Many of the opponents of ERA protests that their disagreement is based on tactics, not principle. They claim to favor a statutory approach rather than a constitutional one. I do not wish to question their motives, Mr. President, but one has to wonder about the genuine resolve of those who say that they support thousands of individual, unconnected protections, but not a single overriding guarantee.

I believe ERA is essential because it would, for the first time, grant women full status as equal citizens under the Constitution and establish a standard for eliminating discrimination based on sex. Only a constitutional amendment can adequately assure equal rights to the women and men of this Nation. It is the only insurance that women will have fair and equal opportunities in employment, education, benefit and retirement plans, marriage, and divorce.

A statute-by-statute, piecemeal approach to ending sex discrimination, whether at the Federal or State level, has not worked. Title VII of the Civil Rights Act, title IX of the education amendments and Equal Pay Act are laws most often cited as providing equal opportunities for women. The experience of the past 21 years has shown, unfortunately, that these statutes have not resulted in desired changes in the patterns and practices of discrimination. The current laws are simply not enough. Moreover, equal employment laws can be repealed at any time.

Further, the U.S. Civil Rights Commission has identified over 800 sections of Federal laws which set sex based standards. Thousands more such examples exist in State laws.

It is also clear that existing constitutional guarantees will not mandate the changes that are needed. Judicial interpretation has allowed sex bias to survive. For example, those challenging sex discrimination in the courts have found the 5th and 14th amendments unreliable and inadequate as a remedy for sex discrimination. Further, the U.S. Supreme Court has failed to apply the same strict standard in sex discrimination cases that it

has mandated for weighing racial discrimination.

It is time, it is long past time, Mr. President, for the Congress to act to correct these shortcomings. If we do, we will be doing no more than honoring the wishes of the overwhelming majority of our constituents. Every poll of public opinion shows that to be the case. The elected representatives of 35 States have taken that position in their legislatures.

Organizational support for ERA is also strong. Over 500 organizations representing more than 50 million Americans have endorsed the ERA. These include major labor unions, church and civil rights groups, legal, educational and medical associations, and all major women's groups. Indeed, the ERA was supported in the platforms of both major parties for four decades, until the Republican Party reneged in 1980.

The need for ERA was great in 1923, when it was first introduced in Congress. The need was great in 1972, when Congress first approved it. The need is still as great.

Mr. President, I think the time will come when Americans will look back on this period and wonder what all the fuss was about, why something that made such eminent good sense, that seemed so normal, would have been the subject of such controversy that, in many respects, it would have been a kind of barometer of our time. It is my hope that the amendment will be cosponsored by two-thirds of the Senate. We are well on our way there. It is my hope that the States will ratify it, that we can put this issue behind us; that when my three daughters are adults, they will look on this as an issue of ancient history.

Mr. President, I ask unanimous consent that the text of the ERA resolution be printed at this point. I also ask unanimous consent that supporting material including a list of organizations supporting ERA, letters of support, a column by Judy Mann in the Washington Post on January 5, and an article in the Chicago Tribune on September 7, 1982, be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S.J. RES. 10

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled two-thirds of each House concurring therein, That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"ARTICLE

"SECTION 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

"SEC. 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

"SEC. 3. This amendment shall take effect two years after the date of ratification.".

UNANIMOUS RESOLUTION

The Leadership Conference on Civil Rights, a coalition of one hundred and sixty-five national organizations on January 23, 1983 reaffirms its unflagging commitment to the ERA: to passage of the ERA in the United States Congress and to ratification in the fifty States.

THE NATIONAL FEDERATION OF BUSINESS AND PROFESSIONAL WOMEN'S CLUBS, INC., OF THE UNITED STATES OF AMERICA,
Pauline, S.C., January 21, 1983.

Hon. PAUL TSONGAS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TSONGAS: As President of the National Federation of Business and Professional Women's Clubs, Inc. (BPW), I would like to take this opportunity to thank you for your continuing efforts on behalf of the Equal Rights Amendment. BPW has actively worked for passage and ratification of the Equal Rights Amendment since 1937. We believe that equal justice will only be achieved when women have full constitutional protection.

The mission of BPW, the oldest and largest organization for working women in the United States, is to promote full participation, equity and economic self-sufficiency for working women. BPW represents over 155,000 members nationwide, organized into 3,500 clubs with at least one club in every Congressional District in the United States.

Your strong commitment to the Equal Rights Amendment helps us to realize our mission. Again, thank you for your dedication and cooperation on this important issue.

Sincerely,

JERI S. LIBNER,
National President.

AMERICAN ASSOCIATION OF UNIVERSITY WOMEN,
Washington, D.C., January 19, 1983.

Hon. PAUL TSONGAS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TSONGAS: The ratification of the Equal Rights Amendment has been the top priority of the American Association of University Women since introduced at a national convention in 1975. We advocated its reintroduction in the 97th Congress after it was defeated on June 30, 1982. As a national organization founded in 1881 to work for equity for women in every facet of American society, we reassert our commitment in January, 1983, in this 98th session of Congress, to the constitutional amendment which will recognize women as equal partners in American life.

The majority of Americans are in favor of ERA and we believe that ultimately, the will of the American people will triumph and that ratification is assured. To indicate the wide national support for the Equal Rights Amendment on behalf of the 190,000 college-educated women members of AAUW in every state of the Union. I endorse and commend your efforts on behalf of equity for the women of this nation. We will work for ratification unceasingly to ensure equality for over half the U.S. population.

Sincerely,

MARY PURCELL,
President.

AMERICAN NURSES' ASSOCIATION, INC.,
Kansas City, Mo., January 20, 1983.

Hon. PAUL E. TSONGAS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TSONGAS: The American Nurses' Association, representing the nation's registered nurses, appreciates your efforts to afford equal rights to women in the United States. In particular, we commend you on your intention to re-introduce the Equal Rights Amendment in the 98th Congress.

Please know that the American Nurses' Association continues its unequivocal support of the Equal Rights Amendment. We stand ready to assist you in any way in your endeavor to ensure equal rights to women and all persons discriminated against in our society.

I hope you will not hesitate to let me know whenever we can be of any assistance.

Sincerely,

DEBORAH SMITH,
Director,
Department of Government Relations.

THE DISTRICT OF COLUMBIA,
Washington, D.C., January 26, 1983.

Hon. PAUL E. TSONGAS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TSONGAS: I wish to join many other individuals and organizations in support of your effort to reintroduce and enact the Equal Rights Amendment. The process of amending the Constitution is by no means easy or swift. Indeed, it has been more than sixty years since an ERA amendment was first introduced in the Congress and nine years since it was first passed. Although the ultimate goal of ratification has not been achieved, I believe the impact on the nation has been significant.

January 26, 1983 is an important day, not only because it is the date of reintroduction of the amendment but as a symbol of commitment to enacting the amendment into law.

Progress has been made. Previous attempts to ratify the ERA have succeeded in raising the consciousness and sensitivity of Americans to the need for equal treatment for all women. By nature, change is slow to occur. Without continuous pressure and struggle it does not occur. Therefore, I agree with you that we must not give up now, but increase the pressure.

The Equal Rights Amendment should be made the hallmark of this nation's resolve to rid once and for all any distinction or classification of a person because of their sex. The ERA, more than any other act can accomplish this goal. That is why it is vital. That is why it must be ratified.

There are many lessons one can glean from the civil rights movement which may be applicable to the equal rights movement. What stands out clearly is that the discrimination is not based on the worth of the individual but on the superficial grounds of pigmentation or chromosonal makeup. The civil rights movement will continue, as must the equal rights movement, until we remove the artificial distinctions and bases of discrimination. It will take time and it will be frustrating but with each bit of progress, we will be able to look back on the pain of the

struggle with pride and look forward, encouraged, to the challenge ahead.

I will work with you for ratification of the ERA.

Sincerely,

MARION BARRY, Jr.,
Mayor.

GENERAL FEDERATION OF WOMEN'S CLUBS,
Washington, D.C., January 21, 1983.

Senator PAUL TSONGAS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TSONGAS: As International President of the General Federation of Women's Clubs (GFWC), I would like to inform you of the resolution adopted by the GFWC in 1944 concerning "Equal Rights and Responsibilities for Women," and of a second resolution adopted by our membership in 1958 entitled "Equal Pay for Equal Work." Both these resolutions clearly state our support for the ERA.

EQUAL PAY FOR EQUAL WORK (CONVENTION 1958, AMENDED 1976)

Whereas, Women constitute 40 percent of the nation's total labor force and are employed in nearly every type of paid occupation and profession, frequently at wage and salary scales lower than those paid to men for comparable services; therefore

Resolved, That the General Federation of Women's Clubs urges its members to aid in creating an employer attitude toward eliminating wage and salary scales with differentials based on sex.

EQUAL RIGHTS AND RESPONSIBILITIES FOR WOMEN (CONVENTION 1944, REAFFIRMED 1950, AMENDED 1967)

Whereas, The Constitution of the United States does not guarantee equality of status for women, except with regard to the right to vote, and will guarantee equality of other rights only when an amendment for the purpose is included therein; therefore

Resolved, That the General Federation of Women's Clubs reafirms its support of the Equal Rights Amendment which would provide that equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex.

The GFWC represents 500,000 members in the United States alone. As the world's largest and oldest non-denominational, nonpartisan, international service organization of volunteer women, we felt it our duty to inform you of our position regarding the Equal Rights Amendment.

Sincerely,

JUANITA M. BRYANT,
GFWC International President.

AMERICAN ASSOCIATION OF UNIVERSITY WOMEN,
Washington, D.C., January 20, 1983.

Senator PAUL TSONGAS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TSONGAS: The Massachusetts Division of the American Association of University Women, along with the other 50 divisions of AAUW, holds ERA as its number one legislative priority.

The Equal Rights Amendment provides a guide to correct the inequities in our society which have closed avenues of opportunity to over half the population. If women are truly to achieve their potential, to make their needs known and to work along with men to resolve the problems of society, we must be guaranteed equality.

As president of the Massachusetts State Division of AAUW, I applaud the reintroduction of ERA in Congress and urge its passage in Congress and the states to correct the glaring gap in the U.S. Constitution that does not recognize the equality of women among all citizens.

Sincerely,

HARRIET S. BRAGG,
President, Massachusetts Division.

MASSACHUSETTS CAUCUS OF WOMEN LEGISLATORS,
Boston, Mass., January 24, 1983.

Hon. PAUL E. TSONGAS,
JFK Federal Building,
Boston, Mass.

"Equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex."

DEAR SENATOR TSONGAS: The Equal Rights Amendment represents the most basic of human rights and freedoms which should extend to all people regardless of sex. It affirms the right of the individual in our society to be free from role or sex stereotyping and allows for the individual pursuit of goals and interests without discrimination.

The fact is the original U.S. constitution of 1787, which was founded upon English common law, did not include women or slaves, both were "property" under common law, owned by husbands or by masters without individual rights under the law. The courts have failed to interpret the 14th amendment to include all women. In fact, women have but one constitutional right—the right to vote—for which a constitutional amendment was necessary.

Today, there is a record number of working women who struggle to support their families. Women earn 59¢ for every $1 earned by a man doing similar work. A female head-of-household earns less than ⅔ of what a male head-of-household earns, and this gap is widening. Over 800 sex-biased laws in the U.S. Code discriminate against women, and result in assigning women, solely on the basis of sex, to a subordinate role.

Women are discriminated against, on the basis of sex, in the work place, in schools, in the courts and in the marketplace. Women are not second class citizens and should not be treated as such. The Equal Rights Amendment ensures full equality for all citizens of the United States and should be part of the U.S. Constitution.

We stand ready to assist you and your colleagues in the fight for women's equality.

Sincerely,

MASSACHUSETTS CAUCUS OF WOMEN LEGISLATORS.

A STATEMENT FROM REV. DR. JAMES A. NASH, EXECUTIVE DIRECTOR, MASSACHUSETTS COUNCIL OF CHURCHES

America's failure to adopt a federal Equal Rights Amendment does not diminish the legitimacy of the cause; nor should it discourage us from continuing to pursue this worthwhile goal. The Massachusetts Council of Churches has supported the ERA since 1976. I heartily endorse a refile of the ERA.

The role of government is not to mirror the imperfections of a society, but to reflect a vision of justice which will inspire individuals to the highest standards of fairness, restrain institutions from abuses of power, and protect the disenfranchised.

Women all-to-often have been a beleaguered majority in our society, who have been dependents upon unpredictable privileges rather than independent claimants of equal rights under the law.

Passage of a federal Equal Rights Amendment will provide a constitutional guarantee for women to enter all arenas as persons of equal worth, equal responsibilities, and equal rights.

The ERA is more than a sign, it is the substance of our new understanding of the role and status of women in American society. I urge its adoption at the earliest possible time.

USSA AND NSEF,
Washington, D.C., January 24, 1983.

Senator PAUL TSONGAS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TSONGAS: The United States Student Association, representing nearly three million college and university students across the country, and the National Student Educational Fund supports the reintroduction of the Equal Rights Amendment.

The benefits of the Equal Rights Amendment are innumerable. Despite civil rights legislation women are losing ground. Sex equity laws in education have been weakened, enforcement neglected, and regulations rewritten.

Affirmative action policies have been undermined. Wage differentials, occupational segregation, and employment discrimination flourishes. Women face discrimination in the areas of education, jobs training, insurance benefits, pensions and social security benefits contributing to the "feminization of poverty."

The Equal Rights Amendment will provide for the formulation of a national policy setting a standard for the elimination of discrimination based on gender.

Until the Equal Rights Amendment is passed over fifty-one percent of the country's population will not have equal rights under the United States Constitution.

The United States Student Association and the National Student Educational Fund supports the reintroduction and eventual ratification of the amendment ensuring sex equity.

Sincerely,

JANICE FINE,
President, USSA,
MARIBETH OAKES,
Women's Leadership Network Project, NSEF.

GIRLS CLUBS OF AMERICA, INC.,
New York, N.Y., January 21, 1982.

Hon. PAUL TSONGAS,
Russell Office Building,
Washington, D.C.

DEAR SENATOR TSONGAS: As President of our National Board, and a resident of Massachusetts, I am writing to inform you of Girls Clubs of America's support for the Equal Rights Amendment. We understand that you plan to introduce the ERA in the 98th Congress on January 25, 1983, and thought it would be helpful to reaffirm our position at this time. As a national advocacy and direct service organization serving over 200,000 school-age girls through 250 professionally-staffed neighborhood centers, we have expressed our support officially through action by our legislative Council in past years. Our most recent action was passage by the Board of Directors on October 2, 1982, of the following resolution:

"Whereas the need for advocacy of equal rights exists in every state in the nation, be it resolved that Girls Clubs of America will

schedule future meetings in all states, and will use these meetings as occasions to emphasize its strong support of equal rights."

At our next Council meeting in April, 1983, we shall act on a resolution supporting current efforts to pass and ratify the ERA.

Sincerely,

MARY-JANE W. SPRAGUE,
President, National Board.

MORMONS FOR ERA,
Arlington, Va., January 12, 1983.

Senator PAUL E. TSONGAS,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR TSONGAS: Mormons for ERA are in full support of the Equal Rights Amendment and thank you for your plans to introduce it into the U.S. Senate. We will continue to work hard for passage of the amendment. We will also continue to expose the Mormon efforts that defeated it on the first round.

Senator Orrin Hatch, Chair of the Senate Subcommittee on Constitution, said on August 20, 1982, in the Salt Lake City Deseret News regarding ERA, "No member of Congress will have a greater ability to defeat the ERA than I."

One of the chief Mormon arguments against ERA was, "we do not need ERA because we have Title IX, etc." Rex E. Lee, Solicitor General, and author of an anti-ERA book, recently declined to appeal a Title IX case regarding the University of Richmond. Women's athletic programs have suffered a huge loss as the result of his refusal to appeal.

More and more Mormons are realizing that people making statements that they are with us on the E and the R, but just not the A, are just not with us at all. Everyday more of Brother Hatch's and Brother Lee's Mormon brothers and sisters realize the need for ERA.

The 1,200 MERA members and more than 20,000 closet sympathizers thank you for your efforts.

Sincerely,

ALICE ALLRED POTTMYER,
President.

UNITED CHURCH OF CHRIST,
OFFICE FOR CHURCH IN SOCIETY,
Washington, D.C., January 19, 1983.

Hon. PAUL E. TSONGAS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TSONGAS: On behalf of the Office for Church in Society of the United Church of Christ, I would like to express appreciation for your continued support and sponsorship of the Equal Rights Amendment. This issue is vitally important to many members of our denomination as well as to millions of Americans.

Thank you.

Sincerely,

CONSTANCE STREET,
Policy Advocate.

[From the Washington Post, Jan. 5, 1983]

ERA AGAIN

(By Judy Mann)

In a rather brilliant political move, the Democratic-controlled House of Representatives made its first order of business the reintroduction of the Equal Rights Amendment. HJ Res. 1, as the joint resolution will be known, spells serious trouble for Republicans, who are having enough trouble with women voters without the Democrats lobbing ERA at them.

After spending a year rooting that the gender gap showing up in the polls would disappear like Kohoutek, the Republicans got the bad news in a 12-page memo prepared by Ronald H. Hinckley, a special assistant in the White House Office of Planning and Evaluation. He concluded that women have a far lower opinion of President Reagan than men do, that a gender gap had helped Democrats in the November election and that it "could prove dangerous for Republicans in 1984."

Hinckley, like other analysts, blamed the gender gap on a number of factors, including the way women perceived their self-interests to be served, their judgment of political morality, their economic vulnerabilities, and the perception of Reagan's economic, budgetary, foreign and defense policies. Hinckley also singled out the "tremendous increase" in families headed by women, an economically vulnerable group particularly alienated from Reagan, "whose image and policies they find personally threatening."

There was no specific mention of the ERA in the Hinckley report. But unlike his advisers, who have steadfastly played down the importance of ERA as well as the gender gap, Reagan acknowledged in an interview in U.S. News and World Report last October that it has been costly. Asked about what was causing the gender gap, Reagan replied:

"I have a hunch that part of it's been inspired by the ERA movement. I had very few opportunities to talk with some of those people. My belief that a constitutional amendment was not the best solution to their problem—they translated that into prejudice against women."

The ERA was introduced in the House on Monday with 222 sponsors. "They were not hard to get," says Judy Goldsmith, president of the National Organization for Women. "There were a number of politicians who looked at what happened in November and said there's a message coming through. There's clearly a growth of women as a political force in this country we'd better pay attention to."

ERA needs 290 votes to be passed in the House, and 67 in the Senate, where it is going to be introduced on the first legislative work day by Sens. Paul Tsongas (D-Mass.) and Robert Packwood (R-Ore.). It will be referred to the subcommittee on the constitution, which is chaired by Orrin Hatch (R-Utah), who opposes ERA. Hearings are supposed to be held in the House this year, and if the amendment should pass there, its fate would be up to the Republican-controlled Senate.

ERA's proponents are not the political neophytes who fought the good fight in the '70s. "We know what to do this time," says Goldsmith. "We know that the focus of it has to be economic."

And economic conditions are such that women can be expected to respond to the economic arguments in favor of ERA as never before. Polls have repeatedly shown that support for ERA is greatest among working women, a group that has become politicized by what they find when they enter the work force. Women are now being hit by unemployment at a slightly higher rate than men. Working women whose husbands have been laid off in steel and auto factories are finding that their salaries are keeping the family off welfare. Other women are having to go to work to support their families in hard times.

Women may not yet have equality in the Constitution, but they have an equal voice at the polls, and they have demonstrated the will to use it. Politicians need only to look to Michigan, where an outspoken ERA opponent was soundly defeated by the women's vote in the race for governor, to see how costly highly visible opposition to the amendment can be. For the Republican Party, which took ERA out of its platform in 1980, the treatment of the amendment in Congress is likely to become the most highly visible symbol of what the party under Reagan's leadership has to offer women voters. If the Republicans defeat the amendment, the party can expect to find itself facing a gender gulf instead of a gender gap.

[From the Chicago Tribune, Sept. 7, 1982]

ERA THE SECOND TIME AROUND

(By Senator PAUL E. TSONGAS)

Supporters of the Equal Rights Amendment might consider this slogan as their new rallying cry: "Remember Raleigh."

It was in that North Carolina city where the 10-year drive for ERA ratification hit a stonewall in early June. In the closing weeks before the June 30 deadline for ratification, with the ERA still three states short of passage, its supporters appealed particularly to Illinois, Florida and North Carolina for approval.

The North Carolina Senate spoke first. Although a Louis Harris poll showed that North Carolina voters favored the ERA by 61 to 30 percent, the Senate dumped the proposal in a series of parliamentary moves that took less than five minutes.

Aggrieved at the cold shoulder that greeted them in North Carolina and several other states, the pro-ERA forces have resolved to stop appealing for their rights and to start replacing shoulders. The president of the National Organization for Women (NOW), Eleanor Smeal, put it this way: "We're not going to be the cheerleaders on the sidelines anymore. We're going to seek the power."

For starters, the National Women's Political Caucus has targeted 12 state legislators, all key ERA obstructionists, for defeat at the polls in November. That is the kind of language the legislators understand, provided there is clout behind the words. ERA supporters obviously have the clout. There cause is generating an outpouring of money and volunteers. NOW alone has almost 200,000 members and has been raising a million dollars a month on behalf of the ERA.

The ERA, as the polls consistently show, is not a radical proposal, but the expression of a deep current in mainstream America. It states, simply "Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex."

Once the pro-ERA movement translates its public support fully into electoral results, its success is assured.

As ERA supporters work toward their goal, they may have an influence far beyond an amendment to the Constitution. As they clean house from Raleigh to Washington, they likely will affect other issues: women's concerns like child care and job counseling for "displaced" homemakers, widows and divorcees; nuclear arms control; and human rights, among others.

In this way, the delay in ratification of the ERA may appear in retrospect to have been a blessing for a host of progressive causes. If the pro-ERA movement succeeds in unseating lawmakers who have frustrated their cause for a decade, they may render

America a greater service then even they now imagine.

ERA SUPPORTERS

Steelworkers Union;
United Auto Workers;
Graphic Arts International Union;
Amalgamated Transit Union;
Machinists Union;
United Mine Workers;
Bakery, Confectionery and Tobacco Workers International Union;
Brotherhood of Railway and Airline Clerks Union;
United Farmworkers, AFL-CIO;
International Union of Electrical Workers, AFL-CIO;
Food and Beverage Trades Department, AFL-CIO;
United Food and Commercial Workers International Union;
National Association of Letter Carriers;
Department for Professional Employees, AFL-CIO;
Actors Equity Association;
American Federation of Television and Radio Artists;
American Guild of Musical Artists;
Association of Theatrical Press Agents and Managers;
International Alliance of Theatrical State Employees and Moving Picture Machine Operators;
International Federation of Professional and Technical Engineers;
National Association of Broadcast Employees and Technicians;
Seafarers International Union;
Industrial Union Department, AFL-CIO;
International Union of Bricklayers and Allied Craftsmen;
Amalgamated Clothing and Textile Workers Union;
American Federation of Government Employees;
American Federation of Teachers;
American Federation of State, County and Municipal Employees;
Service Employees International, AFL-CIO;
Federation of Organizations for Professional Women;
Building Trades Union;
Screen Actors Guild;
Federally Employed Women;
Communication Workers of America;
Oil, Chemical and Atomic Workers International Union;
Friends Committee on National Legislation;
Zonta International;
D.C. Chapter, National Lawyers Guild;
American College of Nurse Midwives;
Nurses Association of the American College of Obstetricians and Gynecologists;
American Public Health Association;
National Student Nurses Association;
American Baptist Church of the U.S.A.;
United Presbyterian Church;
Newspaper Guild;
American Association of School Administrators;
American Association of University Professors;
American Council of Railroad Women;
American Council on Education;
American Home Economics Association;
American Jewish Congress;
American Psychological Association;
American Psychiatric Association;
American Women in Radio and TV;
Association for Intercollegiate Athletics for Women;
Association for Women in Science;
Association of American Colleges;
Catholics for a Free Choice;
Coal Employment Project;
Coalition of Women's Art Organizations;
Colleges and University Personnel Association;
Common Cause;
Displaced Homemakers Network, Inc.;
Equity Policy Center;
Federal Women's Interagency Board;
Girl Scouts of the U.S.A.;
Leadership Conference of Women Religious;
Mexican American Women's National Association;
National Association for Women Deans, Administrators and Counselors;
National Association for Girls and Women in Sports;
National Coalition for Women and Girls in Education;
Association of Flight Attendants, AFL-CIO;
International Ladies' Garment Workers' Union;
National Women's Law Center;
Women's Legal Defense Fund;
Massachusetts Women's Political Caucus;
American Nurses Association;
Business and Professional Women's Clubs, Inc.;
American Association of University Women;
League of Women Voters of the United States;
National Organization of Women;
National Education Association;
National Association for the Advancement of Colored People (NAACP);
United States Student Association;
Massachusetts Council of Churches;
Massachusetts Caucus of Women Legislators;
United Church of Christ;
National Womens Political Caucus;
Mormons for ERA;
General Federation of Women's Clubs;
National Women's Party;
Girls Clubs of America;
Planned Parenthood;
Mayor's Office, Washington, D.C.;
D.C. Commission for Women;
Democratic National Committee;
Capitol Hill Women's Political Caucus;
National Council of Jewish Women;
American Veteran's Committee;
Women and Health Roundtable;
Women's Equity Action League;
The Woman Activist;
Women's Campaign Fund;
B'Nai B'Rith Women;
Jewish War Veterans Women's Auxiliary;
Priests for Equality;
St. John's International Alliance;
General Assembly of the Unitarian Universalist Association;
National Commission on Working Women;
National Association of Social Workers;
National Council for Social Studies;
National Federation of Temple Sisters;
National Network of Asian and Pacific Islander Women;
National Women's Conference Committee;
National Women's Congress on Alcohol and Drug Problems;
National Women's Health Network;
National Women's Law Center;
National Women's Party;
Network: A Catholic Social Justice Organization;
North American Indian Women's Association;
Older Women's League;
Pensions Rights Center;
Project on Equal Education Rights (PEER);
Resource Center on Sex Equality;
U.S. Women's Health Coalition;
Wider Opportunities for Women;
Women's International League for Peace and Freedom;
Women's Education Fund;
YWCA of the U.S.A.—National Board;
Women in Communications, Inc.

Mr. TSONGAS. Mr. President, the letters of support come from the Leadership Conference on Civil Rights (165 organizations), from the Business and Professional Women's Clubs, from the American Association of University Women, the American Nurses' Association, General Federation of Women's Clubs, the Massachusetts AAUW, the Massachusetts Caucus of Women Legislators, the Massachusetts Council of Churches, the United States Student Association, Girls Clubs of America, and the United Church of Christ.

I will read into the RECORD the unanimous resolution of the Leadership Conference on Civil Rights:

The Leadership Conference on Civil Rights, a coalition of 165 national organizations, on January 23, 1983, reaffirms its unflagging commitment to the ERA: To passage of the ERA in the U.S. Congress and to ratification in the 50 States.

The letters of support and list of supporters come from more than 130 organizations. I will not take the Senate's time to read them here, but they are in the RECORD and I recommend that Members of the Senate and their staffs look at the list, because it represents mainstream America. The overall and overwhelming support for the ERA among our fellow countrymen and countrywomen is so strong that it is rather logical that this cross section of organizations should have taken a strong stand in support.

I would only say that my own inclination is for the House to move first, that we should have this amendment passed out of the Senate sometime in 1984 so that people will have to be on record as to their views in that election year. If 1984 is the kind of year I think it is going to be, the State legislatures should then have the opportunity to ratify the ERA as quickly as possible and, hopefully, 1985 would be the year in which we finally put this issue to rest and get on with the rest of the business of this country, except this time with the full participation and equality of women.

Mr. President, I yield to the Senator from Oregon who has been my cosponsor and who has done such a good job in putting this all together.

The PRESIDING OFFICER. Does the Senator yield back his time,

Mr. TSONGAS. Mr. President, I reserve the remainder of my time, but I do not expect to use it unless the Senator from Oregon says something out-

rageous and I feel compelled to respond.

Mr. PACKWOOD. Mr. President, as the Senator from Massachusetts has indicated, we start today with 55 cosponsors. In addition, I have had other Senators indicate to me that they will vote for the equal rights amendments, although they are not now cosponsors. I am sure that the Senate will be faced with this issue, if not immediately, very soon in this session because I expect the House of Representatives will pass it and send it to the Senate.

Mr. President, today I am proud to recommence in the Senate the effort to insure equal rights for women and men. Fifty-three Senators join my colleague from Massachusetts, Senator TSONGAS, and me in reintroducing the equal rights amendment. Already, on January 3, the ERA was reintroduced in the House of Representatives with 221 cosponsors. It is a matter of time, not lack of dedication or principle, before the ERA becomes an integral part of the law of our land.

The equal rights amendment is a fundamental statement of our democratic ideals. But, unfortunately, history demonstrates that fundamental rights have often been achieved only by virtue of long-term concerted efforts. The Magna Carta and our bill of rights are themselves the result of persistent struggles to guarantee basic rights and freedom from abuse by the Government. The more recent civil rights movement and the struggle for women's suffrage are poignant reminders that equal rights have not been readily granted to blacks or women. Difficult though the course, however, the goals have been achieved: 60 years of tenacity and courage by women and men led to the adoption in 1920 of the 19th amendment granting women the right to vote. Three years later, ERA was first introduced in the Congress. From 1923, ERA was introduced every year until it passed both Houses in 1972. Then, between 1972 and 1982, 35 States, representing 72 percent of the U.S. population, ratified ERA.

The struggle has been long, but it has also endured. And it will continue with courage, diligence, and persistence until ERA is a reality. Women and men committed to equal justice will not rest until the equal rights amendment is adopted as part of the U.S. Constitution.

Women's role in our society has changed. The clock will not turn back. The women of this country, and the men who care, will not tolerate a return to the time when women were relegated to the sidelines of our society, when blatant discrimination and barriers to equal opportunities deprived women of the chance to reach their full potential—whether in the home or in a career.

Much progress has been made in recent years toward ending discrimination against women. The Equal Pay and Equal Credit Acts, the Civil Rights Act forbidding discrimination in employment and title IX insuring equality in education, are great achievements. But they are a piecemeal approach to an enormous problem. As laws directed to specified subjects, they cannot address comprehensively the many kinds of discrimination women face every day. A constitutional amendment is the clarion call, a simple statement of equality for all.

The American Bar Association explained the need for ERA this way:

> No ordinary statute can provide the bedrock protection assured by a constitutional amendment. No court decision can provide that protection, for the courts can interpret, but they may not amend the Constitution.

Equal protection and opportunity for women should not be subject to the capriciousness of politics. Equality is a basic constitutional right that must be guaranteed all Americans. It is a self-evident principle of simple justice. ERA would not prevent anyone, man or woman, from living the kind of life they want. It would not force anyone, man or woman, to live according to rules dictated by others. ERA is the only permanent insurance that all of us can have an equal chance.

No time limit can be placed on the pursuit of equality and justice for all Americans. Opponents of ERA must realize that those of us who seek true equality for all people will never allow the equal rights amendment to die. We will not give up the struggle. We will not give in. We will continue until all Americans, and especially the 51.4 percent who are female, are truly "We, the People."

Mr. President, it is very clear that the equal rights amendment is one day going to pass. If there is anything inexorable about history, it is that it will pass. I hope it will pass in this Congress. I think it is clear now that the mood in the country probably is to ratify the equal rights amendment.

If you look at the history of civil liberties in this country, or even take it back further if you want to look at it from the standpoint of the Anglo-Saxon world, you can start with the Magna Carta. The Magna Carta was a very limited expansion of civil liberties, very limited. But at least it was written, and it set down in a covenant certain obligations and rights of the Government, as represented by the king and the nobles in those days, and certain limitations on the Government. From that time, 1215, to the English Bill of Rights in 1689, what was experienced was an expansion of liberty in Great Britain a little bit at a time. With the exception of a few court decisions, the expansion came through acts of Parliament passed every 30, 40, or 50 years in response to some kind of a tyrannical act, usually by the king—though during the period of Oliver Cromwell certain tyrannical acts were committed by the Government after they beheaded the king.

All of the rights in England rest solely on the majority votes of Parliament. They can be reversed any time. But because England has an extraordinary history and heritage of the protection of civil liberties, they are not reversed by a majority vote in Parliament.

We took all of the liberties of England and wrote them into our Constitution and our Bill of Rights. In addition, because of some of the abuses we had suffered as a colony, we added our first amendment about freedom of speech, press, assembly, the right to petition Congress, and the fact that there should be no established religion in this country. All of those first amendment liberties are greater than similar liberties enjoyed in Great Britain today.

But we made a difference. We said that the liberties that we wanted to protect are so critical that we will write them into our Constitution so they cannot be abridged by the Government. They cannot be overturned by a majority vote in the House and the Senate, they can be changed only by an amendment to the Constitution requiring two-thirds vote of both Chambers and ratification by three-quarters of the States.

To give an example of how dear some of those liberties were to our founders, we will take, for example, freedom of the press.

At the time of the drafting of the Constitution and the Bill of Rights there were only eight daily newspapers in this country, four in Pennsylvania, three in New York, and one in South Carolina. That was all. There were a few weeklies. A very dear method of communication, and yet our founders regarded it as so privileged they put it beyond any government control.

If you look at the history of our country from the Bill of Rights in 1791 onward, there are some expansions of new liberties—on occasion by the Court, on occasion by amendment. But really, the history from 1791 onward is not so much the expansion of new liberties as the extension of the existing liberties to other classes of people who were not previously covered.

At the time of the adoption of our Constitution and the Bill of Rights, those liberties were pretty much reserved to white male adults who owned real property. Over the ensuing almost two centuries, those rights have been expanded so that they cover blacks and other minorities, so that they cover aliens legally in this country.

Yet they have not been fully expanded to cover women. Granted, we have given them the right to vote, but that is not the same as extending the full panoply of liberties enjoyed by the other citizens of this country to women.

The march of history is inevitable. We will one day do it. One day the expression "We, the people" will mean women and men in this country. There has been an extraordinary change in society. Women have gone to work in the marketplace in extraordinary numbers and percentages. They always worked at home. Anybody who ever used the expression "Are you a housewife, or do you work?" does not know what a housewife does. They simply worked at home, however, not for pay.

They have gone into the marketplace and they are not going back. Many of our contemporaries would be amazed to realize that half of the students in most of the law schools today are women. Thirty to thirty-five percent of the students in medical schools are women. When they graduate from those schools they are not going to go back to menial occupations.

To understand the irritation or aggravation of some women, you need to talk only to a 33- or 34-year-old lawyer, a female, in a significant firm, who tries cases against men every day. She is a partner in the firm and makes an extraordinary salary, but she cannot go to the principal establishment club in the town to have lunch with her partners because it is a male-only club.

Those barriers, too, will fall.

So today as we introduce the equal rights amendment, it is not, as far as I am concerned, with any sense of foreboding or discouragement. Ten years ago we passed the equal rights amendment in Congress, In the last decade, although we failed very slightly of gaining the requisite number of States for ratification, we have made immense strides in the area of women's rights. We will make them again in the next decade, partially helped by what I am convinced will be the relatively easy ratification of this amendment. The decade of the seventies and the opposition to this amendment is behind us. As you look at the election results from the past election, it is very clear that some of those legislatures that turned down ratification have changed.

So I would simply say in conclusion I would hope that we would have a chance to vote relatively soon on this amendment and send it on its way to the States. It is going to pass. Diehard, deepseated opposition will not stop it.

Mr. President, I would like to yield to my colleague from Oregon on my time. He has a statement. When he is done, I would like to yield to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I thank my colleague for yielding.

Mr. President, it was a great disappointment to me, and to millions of others, when the June 30, 1982 deadline expired, and the equal rights amendment failed to be ratified; 35 States had approved the constitutional amendment; only three more were needed.

Regrettably, unsubstantiated fears tended to dominate discussions of the ERA, with the consequence that the heart of the issue was buried.

The amendment will not die, however. Today I join my colleagues in the reintroduction of the ERA. If passage of the resolution occurs, which requires a two-thirds majority in both Houses, the States will again have the opportunity to consider the amendment; 38 States must ratify.

While I do not intend to make light of the strong feelings that opponents have about the amendment—indeed there is room for rational debate on the potential impact and interpretation of the amendment—I do believe that many of the expressed fears are unfounded. Ratification of the ERA will surely not mean, as some opponents proclaim, the demise or belittlement of motherhood, womanhood and family life. Neither will it rob women of legal protection against rape, prohibit the use of sex-segregated restrooms, require that both spouses pay 50 percent of the marital expenses, or remove sovereign authority from the States by transferring it to the Federal Government.

Rather, ratification of the ERA would establish a necessary guarantee, under the law, that equal opportunity shall not be denied on the basis of sex. While some progress has been made in recent years, women still are subject to discrimination in hiring, in promotion, in education, in pay scales, in social security, in credit, in insurance, in family law. They still are confined in many States by legislation that limits their opportunities under the pretext of protecting them. The problem of achieving equal statutes for women in our national life remains unsolved.

There is little debate about the general intent of the proposed amendment. Essentially, it requires that the Federal Government and all State and local governments treat each person, male and female, as an individual. It applies only to governmental action; it does not affect private action or the purely private social relationships between men and women. By eliminating gender-based classifications in the law which specifically deny equality of rights, every Federal or State law which makes a discriminatory distinction would be invalid under the equal rights amendment.

Both proponents and opponents of the amendment agree that proper interpretation of the ERA would result in the elimination of the use of sex as the sole factor in determining, for example, who in a divorce action would be awarded custody of a child; who would have responsibility for family support; or who would be subject to jury duty.

Public schools could not require higher admissions standards for persons of one sex than the other; courts could not impose longer jail sentences on convicted criminals of one sex. Thus certain responsibilities and protections which have been or are now extended to members of one sex, but not to members of the other sex, would have to be either extended to everyone or eliminated entirely.

Controversy has, in the main, centered on three questions: First, is there room in the law for reasonable distinctions in the treatment of men and women; second, is a constitutional amendment the proper vehicle for improving the legal status of women in our Nation; and three, what are its effects in such areas as privacy?

Perhaps the most effective counteraction to the claims of the ERA's opponents is the actual experience of those States, 16 in number, which have adopted a State ERA.

Rape laws have not been invalidated by State ERA's. No laws providing for separate toilets have been overturned. No laws prohibiting homosexual marriages have been invalidated. Women have not lost their right to be supported by their husbands. In fact, support within a marriage has never been guaranteed by law, but has been a matter of custom.

Reports from all States assert that women have not lost rights, but have gained them, with fairer decisions at divorce to homemakers, to children, and to husbands, with the improvement of opportunities for credit, housing, and employment. Many States are in the process of revising their laws to bring them into alinement with ERA requirements.

As a cosponsor of the constitutional amendment when it was presented to the Senate in 1972 and again a decade later, I strongly endorse the intent of the ERA. It is long past time that America grants equality to women under the law. Failure to ratify the ERA is a severe setback for women, and society as a whole.

Mr. President, I would like to make one or two additional observations.

It is a great honor to join my very extraordinary colleague, an extraordinary Senator, in this effort. As one of the original cosponsors of ERA and a supporter of the extension of the deadline of the ERA amendment, he and I have been united in our efforts in behalf of this very important cause.

Mr. President, I shall, in cosponsorship with my colleague from Oregon, Senator PACKWOOD, be introducing the women's equity package legislation that I have introduced for a number of years past.

I want it clearly understood that in no way does that substitute or in any way does that diminish the importance of passing this amendment and having this amendment ratified. In fact, it is because it is necessary to go the legislative route that we have this constitutional amendment in place today.

My colleague has given us a very excellent thumbnail sketch of the history of the rights of people which have been expanded and extended over the years in democratic societies such as England and America. Let me say for those who tend to demean and cast as an unimportant event the reintroduction of this amendment, that even today one of the major industries of this country totally discriminates in their rates charged for insurance as between male and female.

They have perpetrated upon this country a myth that women outlive men. The studies that were made that indicate that 85 percent of the women live the equal length of men, or men in the amount of 85 percent of the population live equal time as women, would be out of date today because of the growing presence of women in many of the areas of labor and economic pursuit that men engage to which women have had a lack of entry in the past.

So what I want to emphasize is that the importance of this amendment is no less today than it was when it was originally introduced. In fact, I think the importance is even greater. The fact remains that women are discriminated against in many areas of our society. I need not list them all here. They are in my statement and they have been made a part of the record by the people who are cosponsoring this amendment.

It has not been that many years ago when as Governor of my State I appointed the first woman to the circuit court. Our State has been a rather progressive State in many areas of social advancement, social legislation, and yet I can recall, as the Senator from Oregon, my colleague (Mr. PACKWOOD) recalls, because he was part of our State government at the time, the furor that was raised in certain areas of his professional association with the bar, members of the legal profession and others as well—what in the world was a woman doing on the circuit court of our State?

That has not been that many years ago, even within a progressive State, so I think you can understand my concern in seeing that this amendment is introduced. I happily join my colleague (Mr. PACKWOOD) and his chief cosponsor (Mr. TSONGAS) in this effort. I am very hopeful that our other colleagues will join us; that we will act on this quickly—we do not need any extended debate or great numbers of hearings; we have had this before us for quite some time now—that it pass the House, and the States take this up and hopefully this time we will have the required number of States to adopt this amendment as part of our Constitution.

I extend my deep appreciation to my colleague for the leadership he has given in this matter.

Mr. PACKWOOD. I thank my distinguished colleague from Oregon.

We were musing just a few minutes ago that we have been back-to-back together in battle for almost 35 years. I knew him when he was in high school, he was my teacher in college, and I had the opportunity of working on his campaign when he ran for the legislature in 1950. There has been no one who has been a stronger ally, a better friend or greater teacher, and I am indebted to all he has meant to me.

I yield to the Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank the distinguished Senator from Oregon for yielding to me at this time.

I am pleased to join as an original cosponsor with my distinguished colleagues in support of the reintroduction of the equal rights amendment.

First introduced in the U.S. Congress in 1923, the men and women supporters of the ERA have had a long and, unfortunately to this point, unsuccessful battle to gain equal constitutional rights. I, however, am proud to say that the Commonwealth of Pennsylvania was, in 1971, the first State to add an equal rights amendment to its constitution. When the ERA was passed in Congress in March of 1972, the ERA was ratified by the Commonwealth of Pennsylvania in September of 1972. We in Pennsylvania believe that equal rights must be guaranteed for all regardless of sex.

From my own observations of the beneficial and longlasting effects of the ERA in Pennsylvania, I believe it is time for the U.S. Senate to reaffirm its support for the ERA.

The arguments are compelling.

In Pennsylvania, for example, the ERA has been the catalyst for the alteration of over 700 State laws which heretofore discriminated against men and women. The State police were required to lower their height standards so that women could qualify as police officers. Pennsylvania divorce law now requires that alimony be determined by need and dependency; before the ERA, alimony was predicated on gender and this meant that husbands paid alimony to wives regardless of economic circumstances. As can be seen from my examples, the Pennsylvania ERA has benefited both men and women. That is what ERA is about: preventing discrimination whether it is against men or women.

The most virulent form of sex discrimination is against women and it is most prevalent in employment. Women play an increasingly vital role in the American labor force. As of December 1982, women comprised 43.7 percent of the employed workers in America. Yet, to this day, women earn, on the average, 59 cents for every dollar earned by a man. I firmly believe that women workers are long overdue the recognition as full fledged contributors to our economic well-being and as such they must be guaranteed equal wages for equal work. The ERA is vital to attaining this goal.

It is also those women who choose to become homemakers, who raise our children, keep our homes and provide sustenance for their families, that will benefit from the ERA. The constitutional amendment that will ban discrimination based on sex will help repeal those archaic laws that allow women, upon marrying, to become legal nonentities with little or no property rights.

The ERA is also for our children. In Pennsylvania, the ERA was used to successfully eliminate arbitrary limits placed on young girls for their participation in recreational, educational, and sports events. The Federal ERA will go much further than our present laws in allowing young boys and girls equal opportunity in the classroom, on the playing field, and as they enter the work force. This will be a legacy we can all be proud to leave.

The pivotal argument for the ERA is that it will become part of the U.S. Constitution. It will establish a national standard for the elimination of discrimination based on sex. It will stand as a statement of our belief as a country that discrimination based on the immutable fact of a person's gender will not be allowed.

I urge my colleagues to join with me to pass the equal rights amendment.

Mr. PACKWOOD. Mr. President, how much time do I have left?

The PRESIDING OFFICER. One minute thirty-three seconds.

Mr. PACKWOOD. I should simply like to acknowledge the presence in the gallery of many, many, many representatives of women's organizations who have worked with us in the past and will be working with us again, and I can assure you as positively as I have felt since I have been here——

The PRESIDING OFFICER. The Chair points out to the good Senator from Oregon that it is against Senate rules to recognize those in the gallery.

Mr. PACKWOOD. I have many good friends in this building, and I simply say to them, if they can hear me, that we will have victory on this amendment. I am as sure of that as anything

I have been sure of since I have been in politics.

I now yield to my friend and colleague from Pennsylvania.

Mr. HEINZ. I thank the Senator from Oregon for yielding.

Mr. President, I commend my good friend from Massachusetts and my good friend from Oregon for introducing this measure today. I rise in cosponsorship of the measure.

I recollect that on many occasions I have had the opportunity to cosponsor it. It is one of the shortest constitutional amendments that has ever been proposed. It is also one of the most important that has ever been proposed. I hope that this Congress will see us move ahead and do our duty on this amendment.

Mr. HEINZ. Today the equal rights amendment remains one of our Nation's most important pieces of unfinished business. I have stood with the drive for passage of the ERA since it began 11 years ago, and I remain committed to its enactment.

As Chairman of the Special Committee on Aging, I am especially concerned about the need for the equal rights amendment for elderly women. Many Americans face difficult times in the later years of their lives. However, the consequences of lifetime of discrimination is devastating for older women. Nearly three-fourths of Americans over 65 below the poverty level are women. In addition, more women than men over 65 have income levels very near the official poverty level.

Inadequacies in retirement benefits is a pressing problem for elderly women, especially widows, divorced or never married women. Because retirement benefits are based on an individual's earnings and work history, women receive inequitable benefits. Generally, there are three reasons why women's benefits are lower than men's. First, women tend to have interrupted work schedules due to childrearing; second, they earn less than men; third, women work in job fields which have poor pension coverage. As a result of these factors, women are often ineligible for social security and employee pension benefits or they qualify only for low benefits based on their own earnings. Furthermore, some working women are forced to receive lower benefits because the social security system provides a lower total family benefit to two-earner couples than to one-earner couples with the same covered earnings.

The current social security system is designed to give married homemakers benefits based on their husband's earnings. Under this system, the economic value and contributions a women has made as a homemaker are totally ignored. In addition, under employee pension plans, dependent spouses do not qualify for any benefits. Although the social security system does provide better protection for elderly women than private plans, there are still inequities built into each program. Only through passage of the ERA can we begin to correct these wrongs.

I am proud as the senior Senator from Pennsylvania to know that women in Pennsylvania do have the guarantees of an equal rights amendment. Since its adoption in 1971, my own State's equal rights amendment has been an effective instrument in helping Pennsylvania women fight discrimination. Pennsylvania's equal rights amendment eliminates invalid distinctions based on sex by mandating the equal treatment of men and women.

Although the State equal rights amendment has guaranteed the legal status of women in Pennsylvania, we need an equally strong instrument on the Federal level to insure that the elderly women of our country are also protected against present inequities.

I am convinced that a Federal equal rights amendment is necessary to establish a national policy for the elimination of sex discrimination in the United States. A constitutional amendment is the only guarantee that women will have fair and equal opportunities in education, employment, benefit and pension plans, as single women during marriage, divorce, and through old age.

According to statistics, women make up 52 percent of the job force in America. Yet, women are paid only 60 cents to every dollar paid to men. Most women are at the lower end of the pay scale in such jobs as waitresses, salesclerks, and secretaries. Men, however, are employed in about 250 various occupations, many with the benefits of good pay and promotion. Even women with college degrees earn less on the average than men with only eighth grade educations. This 60 cent wage gap symbolizes the economic injustice suffered by the American women. The need for the ERA is now compelling.

An overwhelming majority of Americans—75 percent—support equal rights under the law for women. I believe that the American people demand legal recognition of what society has already recognized—that men and women must share equal opportunities and must be treated equally.

The reintroduction of the ERA is only the first step. We must renew the fight for passage for the ERA. It is the right fight and we cannot quit until the job is done.

Mr. PACKWOOD. I yield to the Senator from Maryland.

Mr. SARBANES. Mr. President, I am pleased today to join my colleagues in the 98th Congress in reintroducing the equal rights amendment; the text of the equal rights amendment is clear, eloquent, and direct: the "equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex." The ERA is based on the fundamental proposition that sex should not be a factor in determining the legal rights of women or of men, and rooted in the basic concern of society with the individual, and with the right of each individual to develop his or her own potential. All of our citizens should be able to share equally in the rights and responsibilities of citizenship under the law.

The need for the equal rights amendment is no less urgent today than when it was first introduced in 1923 and when the ratification process was begun in 1972. As a longtime supporter of the ERA, I was privileged to serve during the 92d Congress on the subcommittee of the House Committee on the Judiciary which set the equal rights amendment on the path toward congressional approval and near-adoption nearly 12 years ago. I note that my own State of Maryland was one of the first to ratify the ERA following its approval by Congress in 1972, and 1 of only 16 States to have included an equal rights provision in its own constitution. While the equal rights amendment failed to achieve ratification by the requisite 38 States—falling only 3 short—it remains an urgent item on our national agenda. I agree with the distinguished Senator from Oregon that this time it will go all the way through and become a part of our Constitution.

The adoption of the ERA is necessary to establish a national policy on equal rights and to set a standard for the elimination of discrimination based on sex. Existing laws have not provided adequate enforcement and have not resulted in changes in the patterns and practice of discrimination. The statute-by-statute, piecemeal approach to the elimination of sex discrimination simply does not work. Equality under the law must become a reality for all Americans, and the force of a constitutional amendment is the only insurance that women will have fair and equal opportunities in all aspects of their lives.

Support for the equal rights amendment remains strong among the American people. This support is reflected in Congress. The ERA has already been reintroduced in the House of Representatives on January 3, the first day the House was in session, with 217 cosponsors. The amendment was designated House Joint Resolution 1 by Speaker O'NEILL, reflecting the strong commitment of the leadership of that body to passage of the equal rights amendment. Last year, 54 Senators joined in reintroducing the ERA in the 97th Congress following the expiration of the deadline for ratification, and it is my hope that many

more will join in doing so today and in the weeks ahead.

Despite the improvement in some areas over the past decade, women continue to suffer substantial discrimination, especially in employment, education, and with respect to property rights. These problems are exacerbated by outdated Federal and State laws and by inadequacies in our society to address this discrimination. This arbitrary denial of equality is not only a loss to those individuals who suffer from it, but a tremendous loss to a society which denies itself the full benefits of each individual's potential. Our Nation can ill-afford to let languish the abilities of any of its citizens, women or men. It is therefore imperative that we go forward with the effort, begun nearly 60 years ago, to achieve passage and ratification of the equal rights amendment.

Mr. STEVENS. Mr. President, I am pleased to join my colleagues in reintroducing the equal rights amendment. I voted for passage of the amendment when it was before Congress in 1972 and I supported the extension of the ratification period in 1978.

Alaska was one of the first States to ratify the amendment when it was sent to the States in 1972. Alaska's constitution assures equality for women, and that is a big factor in my support for the ERA. Equal protection under the law should be extended to women in every State by having those rights guaranteed by our U.S. Constitution.

The role of women in our society is changing dramatically. For a number of reasons, especially economic ones, more women are employed outside the home than ever before in U.S. history. For instance, in 1940, only 14 percent of married women were in the paid work force. Today, more than 50 percent of married women hold paid jobs. In 1981, 46 million women, more than half of all females 16 and older, held paid jobs. And yet women still suffer from discrimination, particularly in the employment area. Statistics show that employed women are paid only 60 cents for every dollar paid to men. Men with high school degrees continue to make more than women with college degrees. Experts predict that the percentage of American women in the work force will continue to grow. As a matter of fact, in the last 10 years women accounted for 60 percent of the net growth of the labor force.

The equal rights amendment maintains the strong support of the American people. A 1981 Gallup poll showed that the equal rights amendment is supported by 63 percent of those polled. This same poll showed that women and men support the amendment to the same degree (63 percent). Cutting across income level, years of education, party affiliations and regional ties, polls show that support for the ERA spans the spectrum of American society.

While I will vigorously continue to support this constitutional amendment, I will also work toward reform of those laws currently enacted which discriminate against women, and I urge my colleagues to join me in this endeavor.

Mr. CRANSTON. Mr. President, I am proud to join today with 53 of my colleagues in introducing the equal rights amendment. I was an original cosponsor of the amendment approved by the Congress in 1972. My commitment to ERA has not diminished since then. Nor has the need for ERA diminished.

Mr. President, the issue addressed by the equal rights amendment is one that goes to the very core of our national commitment to equality of rights for all of our citizens. The equal rights amendment simply and plainly provides that equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex. It would give constitutional force to the basic principle that government at all levels should treat women and men as individuals having equal rights under the law. It would extend to the women of this Nation clear and full status of equal citizenship under the Constitution.

The history of the struggle for women to enjoy equal rights under the laws of this Nation amply demonstrates how difficult attainment of this simple justice has been. It has been only 62 years since the women of this Nation were granted the right to vote and that struggle took 72 years.

It has been almost 60 years since the equal rights amendment was first introduced in the Congress. There are those who believe that the equal rights amendment is dead. They are wrong. There can be no time limit placed on the pursuit of equality and justice. The vast majority of Americans support ratification of the equal rights amendment. Today, with the reintroduction of the equal rights amendment, we continue the effort to achieve completion of the great and important task of securing constitutional recognition of the rights of women—and men—to be free from invidious discrimination based on sex.

HISTORY OF ERA

Mr. President, I would like to take a moment to review the history of the equal rights amendment. It was first introduced in the Congress in 1923. Over the years, it has been the subject of many hearings and intensive debate. Forty-nine years after it was first introduced, it was approved by both Houses of Congress—the House of Represenatives in an overwhelming vote of 354 to 24 on October 12, 1971; and the Senate by a vote of 84 to 8 on March 22, 1972. Within 48 hours, 6 States ratified the amendment; within 3 months the total had grown to 20. By 1978, 35 States, representing 75 percent of the country's population, had ratified the equal rights amendment.

Ratification by three additional States was necessary to achieve the three-fourths required by the Constitution for the amendment to become law. However, by the end of 1978, the ratification period of 7 years, as originally provided by Congress, was drawing to an end. Recognizing the importance of the debate on the ERA and the continuing need for its ratification, Congress, after extensive debate, extended the deadline for ratification from March 22, 1979 to June 30, 1982—a 3-year, 3-month, and 8-day extension—to allow the remaining 15 nonratifying States additional time to consider this important measure.

As my colleagues know, the June 30, 1982, deadline passed without ratification by the necessary 38 States. Ratification was blocked in key States by a handful of individuals determined to thwart the amendment and the will of the vast majority of Americans who favor ERA. The widespread, documented support for ERA was ignored.

The opponents of ERA believed, mistakenly, that ERA would die after June 30. Today's reintroduction of ERA refutes that notion.

THE NEED FOR ERA

Mr. President, although we have made tremendous progress in the past 10 years in promoting equality under the law for women, ERA is needed today as much as ever. Measured by any standard, sex discrimination has not been erased in our society. Discrimination and denial of equal opportunities because of gender continue to plague women.

The devastating consequences of persistent discrimination against women are amply demonstrated by the economic status of women. Women today earn, on the average, only 59 cents for every comparable dollar earned by men. In fact, the disparity between the wages of men and women has been growing, not declining. In the 1950's, full-time female workers earned 64 percent of what similarly situated male employees earned. A woman with a college education earns less on the average today than a man with an eighth-grade education.

Although many employment barriers facing women have been broken down, most women still face occupational segregation into the lowest-paying, least-valued jobs with few opportunities for advancement. State laws restricting the hours women can work and prohibiting women from working in certain occupations, although of dubious legality under Fed-

eral EEO legislation, continue on the books.

The staggering percentage of women living in poverty reflects the impact of this persistent employment discrimination. Two out of three poor adults in this Nation are women. More than half of the total number of poor families are headed by women. Indeed, just as the statistics indicate that the disparity between the wages of men and women has grown, recent studies indicate that families headed by women are experiencing a steady decline in their economic status. Although the total number of poor families in America changed little between 1969 and 1978, the composition of these families has shifted dramatically. The number of poor families headed by men dropped from 3.2 to 2.6 million, while the number of poor families headed by women increased by one-third, from 1.8 to 2.7 million. The impact that job discrimination has on these statistics is illustrated by data indicating that if women were paid the wages similarly qualified men earn, about half of the families now living in poverty would not be poor.

Discrimination in employment represents only one facet of the problems that confront women in our society. A patchwork of State laws exist which set different rules for women and men in areas such as ownership of property and marital rights. State laws and legal presumptions that discriminate against women upon the dissolution of marriage also continue to exist. For example, in some States today, a wife's services to her husband's business are presumed to be gratuitous; as a result, in these States courts will deny a wife's claims for property rights based on the time and effort she has contributed to her husband's business.

The consequences of a lifetime of discrimination is particularly devastating for older women. Single women—either never married, widowed, or divorced—comprise nearly three-fourths of our Nation's elderly who are living in poverty. The income protections for old age that individuals receive from pensions, insurance plans, or social security are often not available to women, or when they are, the costs are often higher or the benefits are lower for women than for men.

Women who have been full-time homemakers experience perhaps the greatest inequities in old age. For example, the economic value and contribution of a woman's work as a homemaker is ignored in the social security system. Since she is not credited with any retirement benefits in her own right, a homemaker's eligibility to receive social security is tied to her husband's benefits, limited to 50 percent of his basic benefits, and commences only after he retires. For a divorced homemaker, this means that if her former husband chooses to work beyond retirement age, she receives no benefits during that period; if he chooses to retire early, her benefits are reduced.

Similar inequities exist under various private and other public pension programs. Working women also continue to face discrimination through the use of sex-based actuarial tables to compute retirement benefits and premiums.

The list goes on. The fact is that discrimination on the basis of sex continues in our society. Without a constitutional amendment, it is likely to continue as a pervasive, negative force that hinders the ability for women to participate fully in our society and will retard the full realization of the human potential of women as well as the enormous economic contributions they can make.

WHY A CONSTITUTIONAL AMENDMENT IS NEEDED

Mr. President, there has been much debate in the past decade over the need for an amendment to the Constitution in order to insure women equality of rights before the law. There are those who argue that the goal of equal treatment can be attained through statutory and regulatory reforms or through the adoption of equal rights amendments to State constitutions. Others suggest that adequate protections already exist under the equal protection clause of the 14th amendment. Although much has been achieved in the past 10 years through legislative, administrative, and judicial actions to break down barriers denying women equal opportunities, those effects have inherent limitations.

First, statutory changes and administrative enforcement of legislative protections are transitory in nature and can be diminished or withdrawn as the political tides in particular jurisdictions ebb and flow. The fundamental right to equality is too precious to be subjected to this type of seesawing. The efforts of the Reagan administration to curtail enforcement of existing Federal EEO requirements and undermine programs such as title IX amply demonstrate the vulnerability of legislative and administrative protections. Only through a constitutional amendment can the women of this Nation be guaranteed equal justice under the law.

Second, reliance on a State-by-State approach to dealing with the problems of discrimination on the basis of sex would result in a piecemeal approach, with some States actively carrying out the commitment to equal rights while others lag far behind. A woman moving from one State to another would face the prospect of conflicting approaches and resulting legal entanglements.

More fundamentally, to abandon a constitutional amendment and to relegate the fight for equal rights to the State level would be to denigrate the quest for equal justice for women to a lesser status than other basic civil rights. Our Constitution embodies the basic principles upon which our Nation is governed. Discrimination on the basis of gender, no less than other forms of discrimination prohibited by the Constitution, denies individuals equality under our laws. Only a national commitment embodied by a constitutional amendment will suffice to eradicate sex discrimination.

Finally, it is sometimes argued that the rights of women are adequately protected by the equal protection clause of the 14th amendment which, if properly interpreted, would nullify laws which treat men and women differently without rational basis. Although the recent decision last year by the U.S. Supreme Court in Mississippi University for Women against Hogan, striking down a State law restricting admission to a nursing school on the basis of sex, is encouraging, review of other cases decided the past decade involving sex-based classifications indicates the unevenness and uncertain protection against sex bias afforded by the 14th amendment. The Supreme Court appears to have settled upon a middle tier standard of review for sex-based classifications—one requiring more than simply a rational basis but less than the strict scrutiny required when certain fundamental rights, such as voting or the right to travel, are infringed or where classifications based upon factors such as race or national origin are involved. Although this approach has been of value in some respects, the dissenting opinions of some of the Justices are indicative of the difficulties in relying upon the 14th amendment as the basis for eliminating sex-based discrimination. Moreover, there has been considerable difficulty and confusion among the lower cours in interpreting the Supreme Court's analysis of gender-bias claims under the 14th amendment. Conflicting lower court interpretations of the standard for review of sex-based classification continue to delay and deter efforts to eliminate sex discrimination.

NEW LEGISLATIVE INITIATIVES

Mr. President, the struggle to achieve equal rights for women through statutory, regulatory, administrative, and judicial efforts should continue. Significant advancements have been achieved through these routes, and I am proud throughout my service in the Senate to have been deeply involved in legislative efforts to combat sex discrimination and eliminate the barriers that prevent women from enjoying full and equal status in this country. I was a principal author of the provisions of the Equal Employment Opportunity Act Amendments of 1972 which extended to Federal employees protection against discrimina-

tion in employment on the basis of sex, among other factors. I cosponsored the 1978 legislation, Public Law 95-555, to provide that employers covered by title VII be prohibited from discriminating against pregnant employees and cosponsored legislation enacted in 1974 which, among other things, prohibits sex discrimination in all Federal mortgage loans, insurance, or guaranty programs as well as any mortgage that is either regulated by or passed through a federally related agency. I authored legislation enacted in 1978 to provide assistance to displaced homemakers seeking employment and training, and was the principal sponsor of the domestic violence legislation considered by the Senate in the 95th and 96th Congresses.

Mr. President, I will continue these legislative efforts to help resolve the problems facing women in this country, and I am today introducing several bills directly focusing on issues of major concern to women. First, I am reintroducing as S. 3 the proposed Social Security Equity Act of 1983, a measure which would establish earnings sharing in the social security system as a means of eliminating the inadequate and inequitable treatment of women. Six of the 15 members of the National Commission on Social Security Reform identified the earnings sharing concept as the most promising approach to resolving the discriminatory treatment of women under social security. Second, I am reintroducing S. 4, the proposed Child Care Assistance Act of 1983, a comprehensive proposal to provide assistance to working families who are unable to secure adequate, affordable child care services. Lack of adequate child care has been described by the U.S. Commission on Civil Rights as a major factor restricting economic opportunities for women and keeping women and children in poverty. Third, I am reintroducing the legislation I have sponsored during the last several Congresses to extend medicaid coverage on a uniform basis to low-income pregnant women. This legislation, S. 7, would resolve the inequitable situation in many States under which a woman becomes eligible for medicaid coverage after her first child is born, but is not eligible during the critical prenatal, delivery, and postnatal period of her first pregnancy when, to a major extent, the future health of her child is determined, or where coverage is denied to a low-income woman because her husband resides in the home. I am also introducing a broader measure, S. 6, the proposed Maternal and Child Health Act, which would cover these pregnant women and would further extend and improve medicaid coverage of low-income children and pregnant women. Finally, I am introducing legislation, S. 11, which includes provisions establishing a Veterans' Administration advisory committee to focus on the needs of women veterans as well as provisions that would provide a basis for eligible women veterans to receive outpatient care from private providers at VA expense for the treatment of non-service-connected gender-related conditions—care that the GAO found last year is not available on a uniform basis throughout the VA.

These and other legislative efforts should be made. But as we work in specific areas to achieve equity, it is essential to remember that equality of rights without regard to sex must be made a constitutionally secured right, like other basic civil rights enjoyed by Americans. Nothing short of a constitutional amendment will provide the women of this Nation with a secure guarantee of equal status and dignity under the law.

ERA—MYTH VS. REALITY

Mr. President, perhaps one of the most distressing problems that has plagued the ERA has been the misinformation and distortions used in the campaigns to block ratification. A striking example of this misinformation is illustrated by a poll conducted in the State of Utah, asking voters whether they approve of the following language: "Equality of rights under the law shall not be abridged by the United States or any State on account of sex." That language was approved by nearly a 2 to 1 margin among those questioned.

Yet, when the same voters were asked whether they favor or oppose ratification of the equal rights amendment, many who favored the equal rights language stated their opposition to ratification of ERA. These conflicting responses can only be interpreted as representing a fundamental lack of understanding about what ERA actually would provide.

The campaign against ERA has played upon this lack of understanding and raised various specters of bizarre practices following ratification of ERA—unisex bathrooms, elimination of child support and alimony laws, and broad expansion of Government intervention into family life.

The simple answer to these allegations is to look at the 16 States which have adopted equal rights amendments to their State constitutions. None of the abuses that the opponents of ERA have alleged would arise under ERA have materialized in those States.

CONCLUSION

Mr. President, the supporters of ERA must not delude themselves that ratification of ERA will come easily, particularly given the hostility of the Reagan administration and its allies in the Congress toward the rights of women.

On the other hand, we are not starting from scratch. Tremendous progress has been made in the past decade toward guaranteeing women and men equal status and dignity under the law. Women have made tremendous strides and hold important policymaking positions at every level of government, in every sector of our society. The vast majority of Americans now favor ERA. Every poll, every survey—even in the nonratifying States—shows this overwhelming support among the American people for ERA.

Women will continue to make progress and make invaluable contributions to this Nation. There is no way that the opponents of ERA can turn back the clock. The women of this country—and their supporters—will not tolerate a return to an era when blatant discrimination and barriers to equal opportunities relegated women to the sidelines of our society. In 1960, only 37 percent of all workers were women. That figure has since climbed to over 50 percent. In the past 10 years women have accounted for over 60 percent of the net growth in our labor force; and in the labor-scarce years ahead that demographic trends suggest, women will play an increasingly more important role in the labor market. It is estimated that in the next decade, two-thirds of new labor market entrants will be women. This tidal change in the composition of our work force is enriching the world of work and the fabric of our society. It will continue to do so and will rise to its full potential if the equal rights amendment is ratified.

We cannot, as a Nation, as a society committed to equal opportunities for all individuals, allow discrimination based upon sex to rob us of the contributions and the talents of women. Ratification of the equal rights amendment represents a clear commitment to equal rights for all individuals and a sound investment in the future of our society.

Mr. LEAHY. Mr. President, the long battle over equal rights for women has been a struggle marked by many ironies. Those who opposed the equal rights amendment argued that women did not need the protection of ERA. What they needed was protection from equality. You heard that patience would produce legislation equalizing the quality of justice for men and women, but you also heard that equal rights and obligations for each sex were not really good for society. You heard that women were better off at home, and you heard it from a woman attorney who spent years in airplanes and on the road to make her point.

The equal rights amendment was defeated because a minority of Americans were able to sell just enough of the message that no woman should stray very far from traditional roles. They were able to sell the notion that

any woman in a closely knit family could not aspire to be treated as the legal equal of the men in the family or in the country.

The equal rights amendment cannot change who any one of us is, or what kind of person we will become. It will not change the nature of love or intimacy, nor will redress the estrangements between people of either sex that so often accompany modern life.

The equal rights amendment is about none of these things. It is about simple justice. For the fact is that we live in a society with generations of official bias against women. The results of that discrimination are clearer than ever in hard times, when both men and women face a superhuman struggle to make ends meet, but when women's struggles are made even harder by deeply ingrained inequality on the job.

I hope and expect that the second struggle for the equal rights amendment that begins today will be less over mythology and more about respect, less over women in combat and more about paychecks, less about the loss of intimacy and more about the true human potential of both sexes.

This century has seen the greatest concerted effort ever made by a single society to root out racial and religious discrimination, and that effort is far from over. The same society cannot, and will not, ignore as deeply rooted an evil as sex discrimination, nor will it be bullied into believing that with equality of rights, flee the uniqueness and diversity of spirit that men and women each bring to life.

I believe that this Congress will adopt and the Nation will ratify the equal rights amendment. Its passage will not transform our society overnight, but it will provide women and men with the dignity, enshrined in law, to work hard together toward that transformation.

Mr. GORTON. Mr. President, it is indeed unfortunate that we must introduce this measure once again, for these words should now be a part of our Constitution. I am confident, however, that if we persevere, we will succeed.

The need for the equal rights amendment is as great today as it has ever been. As the United States Commission on Civil Rights has noted:

> Measured by any standard, women continue to be disadvantaged by gender-based laws and practices, despite the enactment of equal opportunity laws.

Moreover, the support for the ERA is as strong as ever. In a recent poll conducted for the Seattle Post-Intelligencer, 70 percent of those surveyed agreed that the ERA was needed.

What strikes me about that poll is that it was conducted in a State which has had a State equal rights amendment since 1972. If the horrors which the opponents of the ERA claim will result from its passage are real, why is there such strong support in a State which has lived with an ERA? The answer is clear. Those who have lived with an ERA know they have nothing to fear from the passage of a Federal ERA.

I hope that in the course of this renewed ratification effort those of us who support the ERA will do a better job of educating the public of its consequences and dispelling the unfortunate myths which have muddied the debate for so many years. For I am convinced that the logic of the ERA is so compelling that those who understand it cannot help but support it.

Mr. COHEN. Mr. President, this year marks the 60th anniversary of the introduction of the equal rights amendment in the Congress. The first equal rights amendment, which was introduced in 1923 by Senator Charles Curtis and Representative Daniel Anthony, stipulated that "Men and women shall have equal rights throughout the United States and every place subject to its jurisdiction."

Today, history will record another introduction of the same idea, that "Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex." Once again we will repeat the words of Elizabeth Cady Stanton and Susan B. Anthony, that "Men, their rights and nothing more; women, their rights and nothing less."

Lord Macauley once described our Constitution as "all sail and no anchor." I disagree with him, but I fear that we may find his description applicable to the fight for equal opportunities and equal rights for women. I believe that the Constitution is the anchor to the laws of the land. Perhaps more than that, it is the Constitution that charts where our laws should point. Without the ERA, whatever laws are passed to further the equality of women in every aspect of American society will be all sail and no anchor.

Since 1972, when Congress approved the ERA, there have been many changes in the laws of the land, passed by Congress and State legislatures, or mandated by the courts. Yet, there is nothing in the Constitution to secure these laws. A persistent argument against the ERA has been that the amendment was unnecessary, that the rights which it would grant have been or are being granted by judicial decision and statute. Others have argued that expanded interpretations of the 14th amendment would guarantee the rights to women which the ERA would guarantee.

Perhaps the perception of legal necessity for ratification of the ERA has diminished since 1972. Yet, what if we discover the changes made over the last 10 years are like Lord Macauley's sails? Where will they take us when the tack changes?

We must remember that despite changes in the law, what we seek through the ratification of the ERA is the guarantee of fundamental rights, and the anchor for those laws.

In 1978, I worked for an extension of the deadline for the ratification of the ERA. My compromise won additional time for the process—until June of 1982. I believe the need for the ERA is no less urgent today, and I hope that we will someday see it in place as the 27th amendment to the Constitution.

Since this is a congressional question rather than a judicial one at this point, I think we should place this issue in a larger time frame of our history as a nation.

In one of Abigail Adams' letters to her husband John, she encouraged him to modify the British laws and customs that dictated the near total subordination of a woman's status and identity to that of the man. She asked him to "remember the ladies."

Well, something happened on the way to the convention. Neither Adams, nor Jefferson, nor Madison, nor Hamilton seemed to remember the ladies; they were not included in the Constitution, and women have been struggling for nearly 200 years to secure the basic rights that are guaranteed to men, ones that we accept as self-evident truths.

It is written in the Declaration of Independence that we hold these truths to be self-evident—that all men are created equal. Well, we have learned through the painful experiences of history, including a bloody Civil War, that not all men were created equal in the eyes of the law and it took the 13th and 14th amendments to declare that the color of one's skin was not a rational or fair determination of one's rights.

Today, we have many laws that seek to eliminate an irrational or prejudicial bias against women. There are many more that remain. I submit that the 27th amendment to the Constitution will be no more redundant for women than the 13th and 14th amendments were for ethnic or racial minorities. I maintain this is much more than a symbolic gesture, but if it were only symbolic it would be no less important. Our lives, our values, our social conscience are strongly influenced by symbols.

The thrust of the amendment is to allow each person to achieve the highest level of his or her potential. Nothing could be more fundamental than allowing each individual the opportunity to reach as high as his or her talent will allow.

The heart of the matter is that not just for years, not just for generations, but for centuries, women have been regarded as being less than deserving of

full and equal rights and responsibilities in our societies.

By the wonderful mysteries of birth, by an uncalculated fusion of chromosomes, a majority of the citizens in our society, regardless of physical or intellectual ability, regardless of their potential for social contributions, are granted different rights, are stereotyped and suffer greater prejudices.

In weighing the equity of a policy that we are given the choice of pursuing, I believe we must consider the centuries of discriminatory policies which over the years have denied women a separate legal existence if they were married, and denied them the right to equal participation and responsibility in our society.

Without passage of a constitutional amendment, we will continue to perpetuate serious inequalities and revive some which have not been prohibited. Women will not achieve equality under the law.

Over 50 years ago, women fought for and won another basic right—the right to vote. Now, nearly 60 years since the first introduction of the ERA, women deserve nothing less than full equality of rights in the Constitution.

Mr. KENNEDY. Mr. President, I welcome this opportunity to cosponsor the equal rights amendment, and to reaffirm my strong commitment to making ERA part of the Constitution of the United States.

Today marks the starting line of a new crusade to pass and to ratify equal rights. For too long, the minority whose skin is not white and the majority who are women have been relegated to the position of second-class citizens and have been denied equality—which is the right of all Americans. I will not rest or retreat until our Nation at long last holds this truth to be self-evident—that not only all men, but all people, are created equal.

The ERA is more than a symbol; it can become the mandate for the Federal Government and for every State to insure equality in both the law and the life of this land. The need for ERA has never been greater. An administration that pays lip service to equality opposes ERA and implements policies that inflict special wrongs on women. The President has cut back on job training for women in nontraditional occupations; he has slashed Pell grants and student loans that help poor and middle class women obtain a decent education; he has reduced child care and other basic services that women need in order to work; and he has refused to order adequate enforcement of title IX. The record of the administration cannot be erased by token appointments of women to Cabinet positions and day care tax credits that more than half the working women are too poor to take advantage of.

In the Old Testament, the Book of Leviticus described an earlier time when women in the workplace earned 30 shekels for every 50 earned by men. Two thousand five hundred years have passed since that verse was written, but women have barely progressed at all on the issue of pay equity.

The problem lies not only in wage patterns but in barriers that still exist which block women from entering high paying jobs traditionally held by men. Today, women represent only 5 to 10 percent of our skilled professionals. Women are entitled to equal pay not only for equal work, but also for work of comparable worth, and not only for today's jobs but for the jobs of the future.

The facts of discrimination in health care are as shocking as those in employment. Women in America are the predominant consumers of health care services. Yet when it comes to health care, they are second-class citizens. For the inadequate coverage women receive, they pay as much as 50 percent more than their male coworkers for the identical plan and twice as much for a plan including maternity benefits.

The economic condition of older women in this country is a tragedy. Most women are not covered by private pension plans and few ever receive any benefits. Current law provides scant protection of those whose husbands contribute to pension plans. I intend to take a leadership role to correct these inequities.

Continued discrimination against women in our society demands the equal rights amendment. But that cannot be the end of the effort; it is only an essential beginning. The full and equal participation of women should mean something beyond a place in the world that men have made. The inequality of women is not just a national problem; equality for women can contribute to different and better solutions in every area of national endeavor.

The traditional values and priorities of women can be a source of strength; they can enlarge our vision for our country; they can improve the ways in which all of us—men and women alike—will govern and live.

The road to ratification will not be an easy one. But the extraordinary importance of the effort gives us the strength to see the struggle through to the final victory that will come. We will do what is necessary to achieve our objective of equal rights, so that at last ERA will take its rightful place in the Constitution of the United States.

Mr. WEICKER. Mr. President, I am proud to join with a majority of my colleagues in reintroducing the equal rights amendment for ratification by the 98th Congress and the 50 States.

Last night, our President spoke of "the very key to our success" being "our ability, foremost among nations, to preserve our lasting values by making change work for us rather than against us." How true those words are. They are one of the best arguments I can think of for ratifying the equal rights amendment to the Constitution. For how can the state of our Union be said to be strong when more than half of its citizens are denied equal rights under law? And what could be more in keeping with our "lasting values" than the simple statement that "equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex"?

The President went on to say that "our commitment to fairness means that we must assure legal and economic equity for women and eliminate, once and for all, all traces of unjust discrimination against women from the United States Code"—and certainly we are committed to doing that. But the fact remains that the best way to do that is through the equal rights amendment. And if we want to erase all similar traces of discrimination in the laws of the 50 States, then the best way to do it—the quickest and most comprehensive way to do it—is through the equal rights amendment. Not some "50 States project" which attacks the problems piecemeal.

And if, as the President pledges, we will not tolerate discrimination in the areas of pay and pensions and the like, then the biggest and best first step in that direction is the equal rights amendment.

The Constitution is a superb document, almost without equal in the history of the world. But if posterity has discovered a fault with it, surely it is that it does not speak for women. Not long ago, an article in the Connecticut Bar Journal pointed out that—

> When the Federal Constitution was drafted and ratified, women were in an entirely different, and much inferior, social and legal category than men. * * * No word, sentence, clause or article of this remarkable political document in any degree changed the second-class legal (and social) position of American women. It is fair to say, therefore, that the constitutions of the United States, and of the States subsequently admitted to the Union, were written by *men* to ratify a social and political compact among *men*, designed to establish a form of government wholly controlled and administered by *men*. (Emphasis added.)

Times have changed. The social and legal status of women have changed. But the laws upon which all of us rely for the protection of our rights as Americans do not uniformly reflect these changes. And so they are working against us, rather than for us.

Some ERA opponents point to the equal protection clause of the 14th amendment as sufficient to nullify

every law that makes distinctions based on sex. However, history has shown the Supreme Court hesitant to strike down classifications by sex with any consistency. In fact, it was not until 1971 that the Court first relied upon the 14th amendment to strike down any kind of a law that discriminated on the basis of sex.

In 1973, the Supreme Court recognized that historically blacks and women had suffered many of the same indignities and forms of discrimination. It wrote:

> Our statute books gradually became laden with gross stereotype distinctions between the sexes and indeed, throughout much of the 19th century, the position of women in our society was, in many respects, comparable to that of blacks under the pre-Civil War slave code. Neither slaves nor women could hold office, serve on juries, bring suit in their own names, and married women traditionally were denied the legal capacity to hold and convey property or to serve as legal guardians of their own children.

Mr. President, we needed the 13th amendment to abolish slavery in this country. Today we need the equal rights amendment to rid our laws and practices of those vestiges of discrimination against women.

We need it, because there simply is no substitute. Court decisions have fallen short of the job and so have the civil rights statutes passed by Congress.

The equal rights amendment is the only practical solution and that is our side's secret weapon. Speaking of the fight for women's suffrage, Susan B. Anthony said, "Failure is impossible." The same is true of the drive to ratify the ERA. Anything so ultimately fair and just, anything so much in keeping with our lasting values as a nation, must ultimately come into being. The fight for it has been long and hard. No doubt it will be longer and harder before it is done. But we must all take heart in the fact that "failure is impossible."

I urge my colleagues to swiftly pass this amendment and all my fellow citizens to apply a full-court press for its ratification by the States.

Mr. MOYNIHAN. Mr. President, I rise today to join 53 of my Senate colleagues in reintroducing the equal rights amendment. I rise mindful of a strong sense of duty to right a great wrong, and mindful also of the place occupied by the ERA in the context of the prolonged struggle women in America have pursued for equal rights and equal opportunities.

I may perhaps be more conversant with that history than others, for I rise as the Senator from what may legitimately be termed the birthground of the women's rights movement.

I speak, of course, of Seneca Falls and Waterloo, N.Y. In July 1848 a group of five women met at the home of Jane and Richard Hunt in Waterloo. There, Elizabeth Cady Stanton of Seneca Falls, Mary Ann McClintock of Waterloo, Martha Coffin Wright of nearby Auburn, Lucretia Coffin Mott of Philadelphia, and Ms. Hunt planned the first Women's Rights Convention and later wrote the "declaration of sentiments." Modeled on the Declaration of Independence, the declaration of sentiments proclaimed women's equality with men and decried the inferior status women were accorded. It was endorsed at the Seneca Falls convention, held on July 19 and 20, 1848.

The only controversial measure raised at that convention was to extend the right to vote to women. It would be 72 years before the Nation heeded Elizabeth Cady Stanton's call for votes for women. Such was the pace at which our political institutions responded to what was arguably the largest mass movement in American history. There were, I must confess, moments in which I thought it would take Congress nearly as long to commemorate the events at Seneca Falls. Happily, however, it took but 10 months to enact legislation I proposed in February 1980 to establish a Women's Rights Historic Park at Seneca Falls and Waterloo as part of our national park system.

In 1923 Seneca Falls hosted another Women's Rights Convention. That year, Alice Paul, courageous and unheralded campaigner for women's rights—she is not even deemed to merit inclusion in Harvard University's three-volume work, "Notable American Women!"—wrote the equal rights amendment that we introduce today. At the 1923 convention the National Women's Party, which Ms. Paul founded in 1913, endorsed it. Thus did they carry on the work begun in Seneca Falls in 1848. Votes for women, they knew, are only a step toward full equality for women.

I might also take the opportunity that the moment presents to say that in 1923 what was meeting in Seneca Falls was a convention of the National Women's Party. That party endures to this day and had not just the fortitude but the great good sense to decline the offer of the Architect of the Capitol to remove it from its place on Constitution Avenue in order that there could be more of the Hart Building there than there is now. The ladies declined, happily, and at least we have their building—actually Albert Gallatin's original home—to look at if we can avoid the wide shroud that encompasses that.

In 1923 Senator Charles Curtis and Representative Daniel R. Anthony, nephew of Susan B., introduced Alice Paul's equal rights amendment in Congress. It was reintroduced in every session until Congress passed it in 1972. The ERA's supporters did not despair during 49 years waiting for the Congress to pass it, we did not despair during 10 years waiting for the States to ratify and we did not despair when the ERA fell three States short of ratification. We are here today to reaffirm with the introduction of Senate Joint Resolution 10—and House Joint Resolution 1 in the House—our unswerving dedication to insuring that the equal rights amendment becomes a part of the supreme law of the land, despite any temporary setbacks we may suffer in the process.

Today is a day to celebrate our dedication to equal rights for every American, and to pledge our best and unending fight to protect those rights. We will not rest until Congress and the States affirm that women share with men an equality before the law, and the vision of Alice Paul is at long last fulfilled.

Mr. METZENBAUM. Mr. President, we are today reintroducing the equal rights amendment, a measure that by any reasonable standard of fairness and equity should already be a part of the Constitution of the United States.

The ERA is a straightforward statement of principle. "Equality of rights under the law," it reads, "shall not be denied or abridged by the United States or by any State on account of sex."

I am very much aware that the meaning of the ERA has been grossly distorted in the minds of some Americans by a cynical disinformation campaign.

The ERA does not mean co-ed restrooms.

It does not mean that young women will be sent into battle.

And, the ERA does not by any stretch of the imagination constitute a threat to the integrity of our basic institutions. To the contrary, by reaffirming the intrinsic worth of all people, the ERA will ultimately strengthen our institutions, the family included.

The ERA, Mr. President, is a matter of equity.

Women, who comprise 51 percent of our population, hold only 6 percent of the management jobs in our economy.

For every dollar earned by a male worker, a working woman still gets only 59 cents.

And today, well over half of the married women in America are in the work force. For younger women, that figure is much higher.

It is a fact, Mr. President, that sex discrimination is a tangible reality in our country today.

And it is also a fact that a constitutional remedy is the best and most effective way to bring sex discrimination to an end.

The courts, for example, cannot be relied upon to provide full legal protections for women. Sexual discrimination has never been reviewed with the strict scrutiny reserved for racial or

ethnic classifications under the equal protection clause of the 14th amendment. And it is a truism that enforcement or rights through the courts is a costly, lengthy, and difficult process.

A piecemeal approach to equality, as suggested by the Reagan administration, relies on the enactment of numerous statutes and regulations to protect various aspects of women's rights. It is unworkable and unfair.

This approach could never be comprehensive. It is subject over and over again to the lengthy and arduous legislative process with regard to every single issue involving women's rights.

In addition, statutory rights do not have the permanence of constitutional rights. They are easier to repeal—just as the present administration is trying right now to repeal equal credit and affirmative action regulations, to remove enforcement procedures for equal employment laws, and to dilute the equal education laws.

Mr. President, the bottom line is that the U.S. Constitution is the body of law which contains the basic rights and protections afforded to all citizens. If we do not formally affirm the right of women to be treated equally under the law, we are in fact providing a subtle stamp of approval for discrimination against women. No public statement, no promise, no report, no assurance that women have equal rights will ever be credible in this country unless and until we are willing to formally include these rights in the basic law of the land.

It is clear to me that we need the ERA—we need it because it is right.

I believe that a large majority of the American people concur in that judgment.

And I am confident that this time, the ERA will succeed.

Mr. PELL. Mr. President, I join my colleagues today to address the primary women's issue of our time: The struggle to achieve a constitutional guarantee of equal rights for women.

The equal rights amendment to the Constitution of the United States is not dead and it is not dying.

This day marks the beginning of a new chapter of our drive to enact the equal rights amendment as the 23d amendment to the Constitution of the United States. Through our Nation's unshakable support of the ERA, and the growing involvement of women in politics, I know that our renewed campaign to enact the equal rights amendment will be swift, sure, and successful. Our Nation is watching us as we reintroduce the ERA today, and I know that our fellow citizens will share the confidence that I feel as they see the strength and depth of continued support for the ERA in Congress.

Because the ERA requires ratification by the States, it is appropriate for me to note at this point that the House of Representatives of the State of Rhode Island has petitioned the Congress to enact an equal rights amendment. Rhode Island stands ready once again to ratify the equal rights amendment. I ask unanimous consent that the petition of the Rhode Island House of Representatives be included in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PELL. For too long, sex discrimination has been an integral part of the laws, customs, and practices of our society. Until the ERA is again passed by the Congress, and this time ratified by 38 States, we will be a Nation divided between those who enjoy constitutional protection of all their rights and those who have less than full protection.

We have only to look at Congress, the Cabinet, and the highest echelons of corporate America to be reminded vividly of the barriers that still prevent women from fully realizing their potential, and from making the full contribution that they can to our national well-being.

The continuing differentials in wage scales between women and men and the continuing inequities in positions of employment remind each one of us personally, daily, that every woman, every family, and every American suffers from sex discrimination.

It is time, and past time, for our Nation to shed the baggage of this discrimination and move into a new era.

It is time for all of us to take advantage of the vast talents that over half of our vast population possesses.

It is time for all of us to join to make the ERA part of the Constitution.

EXHIBIT 1

STATE OF RHODE ISLAND IN GENERAL ASSEMBLY

January session, A.D. 1983.

House resolution: Memorializing Congress to enact an equal rights amendment for ratification by the States in their general elections.

Introduced by: Representatives Drapeau, Maigret, DeLuca, Teitz, Donnelly.

Date introduced: January 14, 1983.

Referred to: Read and passed.

Resolved, That this house of representatives of the state of Rhode Island and Providence Plantations hereby respectfully memorializes the congress of the United States to enact an equal rights amendment for ratification by the states in their general elections; and be it further

Resolved, That the secretary of state be and she hereby is authorized and directed to transmit duly certified copies of this resolution to the Rhode Island delegation in the congress of the United States.

Mr. BURDICK. Mr. President, it is with great pleasure that I again join many of my colleagues in introducing an amendment to the U.S. Constitution which guarantees that equality of rights under the law shall not be denied or abridged on account of sex.

In the past, I devoted special attention to the North Dakota farm wife, who is generally a coequal partner with her husband in sharing the work and making the decisions which make their farm operation a success. Yet she faces discrimination in such basic matters as obtaining credit.

In addition to the farm wife, consider the homemaker, the working woman, the mother, the woman on welfare, and woman whose husband has abandoned his family, the woman who wants to reenter the work world after years outside the workingforce. Now, more than ever before, women are seeking to become a part of a society that has previously been dominated by men. And women are asking questions about their rights, and solutions to their problems. And they are turning to us, as lawmakers. And we must respond.

Passing the ERA is a step fundamental to the social advancement of this country. The laws of this Nation need to recognize the equality of all citizens, women and men. Until this advancement is incorporated into the Constitution, we cannot really expect to overcome outdated and illogical beliefs which are at the heart of women's discriminated position in our society.

Passage of the ERA is needed today more than ever before. More women are working. More women are of vital financial support to their family's stability. More women are heads of households.

Women received the right to vote in 1920. The first equal rights amendment was introduced just 3 years after that. It has been introduced in some form in nearly every Congress since 1923. The ERA is truly an idea whose time has come, whose cause in just, and which will prevail.

Though it was not passed by the requisite number of States since it was first approved in 1972, I am confident that a second ERA will be passed by Congress and accepted by these United States as integral to their social being.

Mr. BINGAMAN. Mr. President, I am pleased that one of my first acts as a Senator is to cosponsor the reintroduction of the equal rights amendment.

It is distressing that the rights of any American should be subject to erosion. That the rights of more than half of all Americans, represented by women, have long been open to discriminatory inroads should be a matter of concern to us all.

New Mexico has had an equal rights amendment, approved by the vote of its people, in its State constitution since 1973. Hopefully now, this reintroduced national amendments, supported by a great majority of Americans, will become part of our National

Constitution and that women's rights will be assured in this country.

Mr. HOLLINGS. Mr. President, I am honored to join my many colleagues today in reintroducing the equal rights amendment. Necessarily, I will keep my statement brief and simply highlight the reasons for my strong support for, and commitment to, the expeditious and favorable consideration of this vital matter during the 98th Congress.

Though ratification by the requisite 38 States fell just three States short last year, we are proud of our commitment and of our efforts in obtaining for women what is necessary and just. We must remind ourselves, however, of the difficulty the women of this Nation had in obtaining the right to vote and we must not give up the fight. When the 15th amendment to the Constitution was passed and ratified, women, who were some of the most vigorous supporters of abolition, were left behind. They had to carry the fight for another 50 years before they, too, gained the right to vote. Women at that time and now do not seek special treatment; they seek basic justice and freedom. They seek only equal rights as individuals and citizens under law. As those who before tried and persevered, so must we here today persist until we gain the basic rights for all the citizens of our Nation.

As a father, I have watched with great pleasure as my children, sons and daughters, have grown to their majority. As any parent in this body, I have taken great pride in them and have done my best to love, nurture, educate, and in general prepare them for what the future holds. But I did not raise my daughters to accept the mantle of limited citizenship. I want for my daughters the same as I want for my sons; the opportunity to rise to the highest level their ability will take them.

Unfortunately, this opportunity does not now exist. Women in this country suffer inequality in economic opportunities. Today, nearly 60 percent of America's women work outside the home. Yet, it is a fact that women are paid less and promoted less. In my State alone, women are paid about three-fifths to two-thirds what men make. And it is with much regret that I point out that women with college educations earn less than men with 9th- and 10th-grade educations. With more and more women beginning to work outside the home—estimated by some to reach 90 percent by the year 2000—this startling and blatant discrimination will only become worse unless we do something to bring about change.

The vehicle for this change is the equal rights amendment. It is the most powerful tool to obtain equal pay and equal opportunity for the women of this Nation. Admittedly, much progress has been made since the equal rights amendment passed Congress in 1972 and was sent to the States for ratification. Much of this significant progress came in anticipation of the passage of the amendment. And these are accomplishments in which the whole Nation should be proud. But the truth remains that there is much to be accomplished. Today, the preservation of fundamental rights is dependent on legislation, executive action, and interpretation by the courts. The unfinished work must be completed. The full rights of citizenship must be accorded to the majority of Americans. We must make the equal rights amendment a part of the U.S. Constitution, and I pledge my continuing support in gaining its passage and ratification.

● Mr. GLENN. Mr. President, I rise to confirm my continued support for constitutionally mandated equal rights for women by again cosponsoring the equal rights amendment.

As a simple and brief statement of commitment to equality for all persons, the ERA was first written by Alice Paul in 1923. Since that time, while great strides have been made, we must not be wholly satisfied with past accomplishments but instead must surge forward to an even fuller realization of the goal of equality. Presently we lack legislation that explicitly cements equal treatment for men and women under State and Federal laws, and we can no longer tolerate such omissions.

Despite the gains that have been made in the last 50 years, discrimination still persists in all facets of American life. Consider that women's wages are, on the average, 60 percent of their male counterparts. Women college graduates often earn less than men with only an eighth grade education. For too many of our families living in poverty are families headed by women breadwinners. Indeed, at the present rate, the National Advisory Council on Economic Opportunities estimates that by the year 2000 virtually all of our poverty-ridden families will be headed by women. Such inequities can no longer be ignored.

Without the constitutional guarantee, equal rights for women can never fully be guaranteed. I therefore urge my colleagues to join me in support for the equal rights amendment to the Constitution.●

Mr. BENTSEN. Mr. President, I am pleased to join with so many of my Senate colleagues in the effort to make equal rights for men and women an indisputable part of the law of our land.

Last year the clock ran out on the ERA amendment with only three more States needed for ratification. That was considered a victory for opponents of this amendment—despite the fact that 35 States, representing more than 72 percent of the population of this country, voted for ratification. I am confident, however, that this time around we will see the ERA adopted as the 27th amendment to the American Constitution.

Every public opinion poll shows us that there is broad support in this country for the concept of equal rights, and certainly the notion of equality for all our people has become a fundamental part of our evolving American experience. With the equal rights amendment we have the opportunity to state unequivocally that gender must not be a cause for discrimination. We have a chance to correct past patterns of inequity that have denied millions of American women an equal opportunity to serve and succeed and compete in our society.

Unfortunately, Mr. President, much of the previous dialog on the equal rights amendment focused on phoney issues like unisex restroom facilities and alleged strains on traditional family values that might arise from passage of this legislation. Those of us who support equal rights must be prepared to answer the question: Why do we need this amendment?

I think the issue is clear and compelling. We need it because there are still State and Federal laws on the books that limit employment opportunities for women. We need it because there are State laws that define different rights for husbands and wives with respect to their children, their property, and third parties. We need it because millions of American homemakers can be deprived of economic security upon divorce or widowhood. We need it because our social security system fails to recognize the value of work in the home. We need it because many of our pension provisions work to the disadvantage of older women who are retired employees. And I believe we also need the equal rights amendment as a signal of assurance to the women of America that discrimination—whether it be written or tacit—will no longer be tolerated in this country.

I recognize that there are voices that claim we do not need the equal rights amendment because we already have the 14th amendment to the Constitution which provides a basis for handling sex discrimination suits. Mr. President, there is very little merit to this argument.

The 14th amendment was passed more than a century ago as part of the effort to abolish slavery and extend civil rights to blacks. It was passed at a time when Susan B. Anthony was making the point that:

> The women of this Nation in 1876 have greater cause for discontent, rebellion, and revolution than the men of 1776.

The 14th amendment may be the best available vehicle for sex discrimi-

nation suits, but the protection it provides is uncertain and uneven at best. Moreover, the standards developed by the Supreme Court to judge claims of sex bias under the 14th amendment are unclear.

Passage of the ERA will eliminate this ambiguity and give the courts two major sources of guidance for interpretation: The extensive legislative history of the amendment, and the experience of those States that have added equal rights provisions to their State constitutions.

Mr. President, passage of the equal rights amendment is clearly desirable. I believe it is also necessary if we are to provide a sound basis for judging claims of bias and discrimination on the basis of sex.

I urge my colleagues to join me in the effort to assure equality and justice, opportunity and security to every man and woman in America.

● Mr. DECONCINI. Mr. President, a constitutional amendment which guarantees equal rights under the law to all persons regardless of sex is long overdue. I personally find it difficult to understand the controversy that has swirled around this issue. It is a simple matter: In a society of laws, which the United States is, all citizens must have equal standing. Anything less is simply unacceptable. I fear that too many well-meaning individuals have lost sight of the simple and profound elegance of the proposition, and have gone looking for demons and dragons. There are none. The equal rights amendment is what it says—nothing more, nothing less. We are all equal, that is all.

No one would disagree with the notion that the United States has long been moving toward equality of rights without the ERA. Indeed, great strides have been made. The reason for this is that our entire society is suffused with the concept of equality. But, having said that, we must also acknowledge that there are still great obstacles to overcome. Nowhere are the discrepancies between the sexes more glaring than in employment wages.

The Equal Pay Act passed by the 88th Congress became effective June 11, 1964. Since that time, women have lost, not gained, ground in the battle for equal pay. In 1960, women comprised 33.3 percent of the work force and earned 60.8 percent of what men earned. In 1980, with women comprising 42.4 percent of the work force, they earn only 60.2 percent of male wages. These figures are a national embarrassment.

While many argue that the wage gap is largely attributable to women concentrating in low paying fields and lacking seniority, a recent Labor Department report disputes these claims. In March of this year, the Labor Department released a report on the weekly earnings of men and women compared in 100 occupations. This report reveals that women are earning substantially less than men within the same occupations. Within the legal profession, for example, a profession I share with 60 of my colleagues, women comprise 22 percent of all lawyers yet they earn only 71 percent of what their male colleagues earn. In a profession dedicated to upholding the laws of this country we have not done a very admirable job.

Sixty percent of all retail sales clerks in this country are women, yet they earn only 67 percent of what their male counterparts earn. Thirty-seven percent of all bank officers are women, yet they only earn 60 percent of what male bank officers earn. The list is profoundly discouraging. In fact, there is not a single profession in this country cataloged by the Labor Department in which women earn more than or the same as men. In the nursing profession, where women compromise 90.9 percent of the work force, we find the smallest wage gap. But even here women earn only 94.7 percent of what men earn. I ask unanimous consent to insert in the RECORD, at the end of my statement, the complete study done by the department of Labor entitled "1981 Weekly Earning of Men and Women compared in 100 occupations."

As the father of two daughters and a son, I am disturbed that in the land of equal opportunity, equality may still depend upon sex. I am disturbed that we have not yet ratified a constitutional amendment to insure that all American citizens have equality of rights under the law. It is not enough to support equal pay but not equal rights. Only through the mechanism of a constitutional amendment will these rights truly exist.

Today, we need to renew our commitment to pass the equal rights amendment. We cannot allow yesterday's disappointment to deter us. Rather, we must rededicate ourselves to insuring that this amendment becomes part of the Constitution.

There being no objection, the study was ordered to be printed in the RECORD, as follows:

1981 WEEKLY EARNINGS OF MEN AND WOMEN COMPARED IN 100 OCCUPATIONS

Engineering occupations dominated the list of the 20 highest wage and salary occupations for men in 1981, while occupations often found in the public sector were prominent among the top 20 for women, the U.S. Department of Labor's Bureau of Labor Statistics reported today.

These finding are from an analysis of usual weekly earnings as reported in a survey of households—the Current Population Survey (CPS). The earning are for wage and salary workers employed full time (35 hours a week or more); the rankings thus exclude self-employed persons (for example, many physicians and attorneys).

Seven out of the 20 best paying occupations among men in 1981 were in the engineering field. (See table 1.) Median usual weekly earnings ranged from $507 for civil engineers to $619 for aerospece engineers. Salaried lawyers ($574) and physicians ($561) were in the upper half of the top 20 ranking. Also included among the top 20 were a number of technical occupations—economists ($580), computer systems analysts ($546), airplane pilots ($530), operations and systems researchers and analysts ($515)—and administrative occupations—sales managers ($566), college and university administrators ($552), elementary and secondary school administrators ($520), and bank officers and financial managers ($514).

Occupations in the education field ranked among the 20 highest-paying for women. Median usual weekly earnings of women elementary and secondary school administrators were $363; vocational and educational counselors earned on average $336 a week; and secondary school teachers had median weekly earnings of $321. (See table 2.) Other public sector occupations in the top 20 for women were postal clerks ($382) and public adminstration official and administrators ($337). Many of the best-paying occupations for women were the same or similar to those appearing in the men's ranking, for example, operations and systems researchers and analysts ($422), lawyers ($407), physicians, dentists, and related practitioners ($401), engineers ($371), health administrators ($357), and personnel and labor relations workers ($330). However, the earning of women were generally much lower than those of men, even within these occupations. For example, the ratio of women's earnings to men's earnings was 71 percent for lawyers and 81 percent for physicians. The ratio was highest among postal clerks where women earned about 94 percent as much as men. (See tables 1 and 2.)

Table 3, in addition to presenting the median usual weekly earnings for men and women in over 100 detailed occupations, also shows the ratio of women's to men's earnings in each occupation and the percentage of women in each occupation. The data contained in this table will be analyzed further in a forthcoming article in the Monthly Labor Review.

A NOTE ON THE DATA

The data on median usual weekly earnings published in this release are based on information obtained monthly from one-fourth of the households in the Current Population Survey (CPS). Summary data on earnings from the CPS are now published on a quarterly basis. However, because of sampling variability, earnings data for very detailed occupations cannot be published quarterly and are aggregated into annual averages.

While much more reliable than quarterly averages, the annual averages are still subject to problems of sampling variability. This is why median weekly earnings for either men or women are not shown in this release for occupations where they make up less than 50,000 of the full-time wage and salary employment. Even with this restriction, the occupations for which data are shown account for nearly 95 percent of the full-time wage and salary employment level in 1981.

In addition to the problems of sampling variability, the earnings data from the CPS are also subject to problems of response error or bias. Special tests have indicated a slight tendency to under-report earnings in household surveys such as the CPS. General information on the statistical reliability and other aspects of the earnings data derived

from the CPS can be found in BLS Bulletin 2113, Technical Description of the Quarterly Data on Weekly Earnings From the Current Population Surveys, U.S. Department of Labor, Bureau of Labor Statistics, January 1982.

TABLE 1.—*Occupations with highest median weekly earnings for men employed full time in wage and salary work,[1] 1981 annual averages.*

Occupation [2] Title:	Male earnings
Aerospace and astronautical engineers	$619
Stock and bond sales agents	589
Chemical engineers	583
Economists	580
Lawyers	574
Sales managers, except retail trade	566
Physicians, medical and osteopathic	561
Electrical and electronics engineers	555
School administrators, college and university	552
Industrial engineers	549
Mechanical engineers	547
Computer systems analysts	546
Health administrators	545
Engineers, n.e.c	530
Airplane pilots	530
School administrators, elementary and secondary	520
Operations and systems researchers and analysts	515
Bank officers and financial managers	514
Personnel and labor relations workers	514
Civil engineers	507

[1] Excludes any earnings from self-employment.
[2] Occupations listed are those in which male employment was 50,000 or more in 1981.

TABLE 2.—*Occupations with highest median weekly earnings for women employed full time in wage and salary work,[1] 1981 annual average.*

Occupation [2] Title:	Female earnings
Operations and systems researchers and analysts	$422
Computer systems analysts	420
Lawyers	407
Physicians, dentists and related practitioners	401
Social scientists	391
Teachers, college and university	389
Postal clerks	382
Engineers	371
Ticket, station and express agents	370
School administrators, elementary and secondary	363
Life and physical scientists	363
Health administrators	357
Public administration officials and administrators, n.e.c	337
Vocational and educational counselors	336
Registered nurses	331
Personnel and labor relations workers	330
Computer programmers	329
Editors and reporters	324
Secondary school teachers	321
Librarians	318

[1] Excludes any earnings from self-employment.
[2] Occupations listed are those in which female employment was 50,000 or more in 1981.

TABLE 3.—MEDIAN WEEKLY EARNINGS OF WAGE AND SALARY WORKERS EMPLOYED FULL TIME IN OCCUPATIONS WITH TOTAL EMPLOYMENT OF 50,000 OR MORE BY SEX,[1] 1981 ANNUAL AVERAGES

[Numbers in thousands]

Occupation	Total, both sexes		Men		Women		Ratio, female/male earnings × 100	Percent female workers
	Total employed	Weekly earnings	Total employed	Weekly earnings	Total employed	Weekly earnings		
Total [2]	72,491	$289	43,888	$347	28,603	$224	64.7	39.5
Professional, technical, and kindred workers	12,870	377	7,358	439	5,512	316	71.8	42.8
Accountants	960	379	579	433	381	308	71.2	39.7
Architects	60	428	57	432	3			5.0
Computer specialists	583	454	429	488	154	355	72.8	26.4
Computer programmers	345	422	247	447	98	329	73.6	28.4
Computer systems analysts	199	519	149	546	50	420	76.9	25.1
Engineers	1,459	540	1,392	547	68	371	67.8	4.7
Aeronautical and astronautical engineers	83	614	81	619	1			1.2
Chemical engineers	64	575	59	583	5			7.8
Civil engineers	186	505	182	507	4			2.1
Electrical and electronic engineers	368	549	355	555	13			3.5
Industrial engineers	222	530	194	549	28			12.6
Machanical engineers	239	540	233	547	6			2.5
Engineers, n.e.c	226	527	219	530	7			3.1
Foresters and conservationists	60	331	53	341	7			11.7
Lawyers and judges	299	550	237	579	62	410	70.7	20.7
Lawyers	279	546	219	574	60	407	71.0	21.5
Librarians, archivists, and curators	146	323	25		121	319		82.9
Librarians	136	320	20		115	318		84.6
Life and physical scientists	277	474	219	512	58	363	70.9	20.9
Biological scientists	53	423	33		19			35.8
Chemists	132	467	104	492	28			21.2
Operations and systems researchers and analysts	212	485	160	515	52	422	82.0	24.5
Personnel and labor relations workers	419	402	215	514	204	330	64.3	48.7
Physicians, dentists, and related practitioners	314	468	242	495	73	401	80.9	23.2
Pharmacists	98	463	74	471	25			25.5
Physicians, medical and osteopathic	189	501	148	561	41			21.7
Nurses, dieticians, and therapists	1,168	327	106	344	1,062	326	94.7	90.9
Registered nurses	924	332	39		885	331		95.8
Therapists	199	305	65	335	134	293	87.5	67.3
Health technologists and technicians	511	287	161	324	350	273	84.2	68.5
Clinical laboratory technologists and technicians	232	295	55	324	177	286	88.1	76.3
Radiologic technologists and technicians	82	290	31		52	268		63.4
Health technologists, n.e.c	155	268	72	317	83	240	75.7	53.5
Religious workers	268	284	244	286	25			9.3
Clergy	231	284	220	285	10			4.3
Social scientists	238	461	158	522	81	391	74.9	34.0
Economists	133	536	98	580	36			27.1
Psychologists	77	394	38		40			51.9
Social and recreation workers	454	295	185	339	269	273	80.4	59.3
Social workers	357	309	141	358	216	286	79.9	60.5
Recreation workers	97	226	44		52	186		53.6
Teachers, college and university	438	444	310	485	128	389	80.3	29.2
Teachers, except college and university	2,624	333	864	384	1,760	311	80.9	67.1
Adult education teachers	54	394	38		15			27.8
Elementary school teachers	1,244	322	221	379	1,022	311	82.2	82.2
Prekindergarten and kindergarten teachers	143	262	4		138	264		96.5
Secondary school teachers	1,115	351	571	387	545	321	82.9	48.9
Teachers, except college and university, n.e.c	69	312	29		40			58.0
Engineering and science technicians	1,056	348	868	371	188	279	75.3	17.8
Chemical technicians	106	352	76	384	29			27.4
Drafters	319	343	259	364	60	277	76.2	18.8
Electrical and electronic engineering technicians	259	387	235	397	25			9.7
Surveyors	80	310	80	311	0			.0
Engineering and science technicians, n.e.c	224	344	174	383	50	277	72.2	22.3
Technicians, except health, engineering, science	172	375	128	437	43			25.0
Airplane pilots	53	530	53	530	0			.0

TABLE 3.—MEDIAN WEEKLY EARNINGS OF WAGE AND SALARY WORKERS EMPLOYED FULL TIME IN OCCUPATIONS WITH TOTAL EMPLOYMENT OF 50,000 OR MORE BY SEX,[1] 1981 ANNUAL AVERAGES—Continued

[Numbers in thousands]

Occupation	Total, both sexes		Men		Women		Ratio, female/male earnings × 100	Percent female workers
	Total employed	Weekly earnings	Total employed	Weekly earnings	Total employed	Weekly earnings		
Radio operators	56	$233	23	...	33	...	...	58.9
Vocational and educational counselors	156	388	77	$451	79	$336	74.5	50.6
Writers, artists, and entertainers	791	350	525	387	266	302	78.2	33.6
Athletes and kindred workers	59	254	44	...	15	...	...	25.4
Designers	176	421	134	448	42	...	...	23.9
Editors and reporters	158	351	86	382	72	324	85.0	45.6
Painters and sculptors	100	297	55	329	45	...	...	45.0
Photographers	52	309	47	...	6	...	...	11.5
Public relations men and publicity writers	100	402	56	465	44	...	...	44.0
Writers, artists and entertainers, n.e.c.	66	363	42	...	23	...	...	34.8
Research workers, not specified	157	362	96	437	61	307	70.3	38.9
Managers and administrators, except farm	7,864	407	5,630	466	2,235	283	60.8	28.4
Bank officers and financial managers	658	411	417	514	240	310	60.2	36.5
Buyers, wholesale and retail trade	139	316	73	400	66	250	62.3	47.5
Credit and collection managers	60	351	36	...	24	...	...	40.0
Health administrators	200	431	102	545	98	357	65.5	49.0
Inspectors, except construction, public administration	104	380	93	388	10	...	...	9.6
Managers and superintendents, building	96	278	46	...	50	226	...	52.1
Office managers, n.e.c.	444	313	140	423	304	277	65.5	68.5
Officials and administrators, public administration, n.e.c	443	441	324	484	120	337	69.6	27.1
Officials of lodges, societies, and unions	106	429	79	501	27	...	...	25.5
Purchasing agents and buyers, n.e.c.	260	390	182	453	78	285	62.9	30.0
Restaurant, cafeteria and bar managers	393	275	227	312	166	223	71.6	42.2
Sales managers and department heads, retail trade	330	300	204	380	126	216	57.0	38.2
Sales managers, except retail trade	353	540	307	566	46	...	...	13.0
School administrators, college	129	491	88	552	41	...	...	31.8
School administrators, elementary and secondary	262	475	176	520	85	363	69.9	32.4
Managers and administrators, n.e.c.	3,713	431	2,984	481	729	281	58.5	19.6
Sales workers	3,601	306	2,412	366	1,189	190	52.0	33.0
Advertising agents and sales workers	100	334	50	418	50	258	61.7	50.0
Insurance agents, brokers, and underwriters	399	341	285	402	115	270	67.1	28.8
Real estate agents and brokers	218	326	100	390	118	277	70.9	54.1
Stock and bond sales agents	123	535	101	589	21	...	...	17.1
Sales representatives, manufacturing industries	369	434	310	473	59	306	64.7	16.0
Sales representatives, wholesale trade	768	396	686	407	82	303	74.3	10.7
Sales clerks, retail trade	1,032	178	410	229	622	154	67.4	60.3
Sales workers except clerks, retail trade	379	288	334	305	44	...	...	11.6
Sales workers, services and construction	169	332	112	397	56	235	59.1	33.1
Clerical and kindred workers	14,066	233	3,032	328	11,034	220	67.0	78.4
Bank tellers	464	189	28	...	436	188	...	94.0
Billing clerks	123	216	19	...	105	209	...	85.4
Bookkeepers	1,290	227	121	320	1,169	222	69.4	90.6
Cashiers	712	168	106	180	606	166	92.0	85.1
Clerical supervisors, n.e.c.	227	331	71	460	156	291	63.4	68.7
Collectors, bill and account	76	233	26	...	50	215	...	65.8
Counter clerks, except food	252	201	59	240	192	195	81.3	76.2
Dispatchers and starters, vehicle	106	327	65	385	41	...	...	38.7
Estimators and investigators, n.e.c.	477	319	219	394	258	256	65.0	54.1
Expediters and production controllers	248	328	148	366	100	275	75.2	40.3
File clerks	230	192	37	...	192	189	...	83.5
Insurance adjusters, examiners, and investigators	183	270	75	356	107	230	64.7	58.5
Library attendants and assistants	61	203	9	...	52	197	...	85.2
Mail carriers, post office	222	406	196	408	26	...	...	11.7
Mail handlers, except post office	138	222	70	245	67	202	82.3	48.5
Messangers and office helpers	60	198	47	...	13	...	...	21.7
Office machine operators	844	238	227	324	616	223	68.8	73.0
Computer and peripheral equipment operators	506	260	185	342	320	232	67.8	63.2
Key punch operators	212	223	11	...	201	222	...	94.8
Payroll and timekeeping clerks	203	247	40	...	163	237	...	80.3
Postal clerks	256	400	172	407	84	382	93.9	32.8
Receptionists	458	200	9	...	449	199	...	98.0
Secretaries	3,199	230	21	...	3,178	229	...	99.3
Secretaries, legal	159	260	1	...	158	260	...	99.4
Secretaries medical	71	218	0	...	71	218	...	100.0
Secretaries, n.e.c.	2,969	229	20	...	2,949	228	...	99.3
Shipping and receiving clerks	480	247	376	263	104	205	78.2	21.7
Statistical clerks	333	242	71	326	261	227	69.7	78.4
Stenographers	55	275	7	...	48	...	...	87.3
Stock clerks and storekeepers	461	264	305	304	156	217	71.6	33.8
Teacher aides, except school monitors	168	167	6	...	163	166	...	97.0
Telephone operators	261	240	20	...	241	239	...	92.3
Ticket, station, and express agents	132	407	78	419	54	370	88.3	40.9
Typists	801	213	29	...	772	211	...	96.4
Miscellaneous clerical workers	997	233	184	325	813	222	68.3	81.5
Not specified clerical workers	336	227	70	292	267	217	74.6	79.5
Craft and kindred workers	10,558	352	9,963	360	595	239	66.5	5.6
Bakers	76	234	56	264	20	...	...	26.3
Brickmasons and stonemasons	87	401	87	401	0	...	...	0.0
Bulldozer operators	90	327	90	329	1	...	...	1.1
Carpenters	699	325	689	326	10	...	...	1.4
Compositors and typesetters	142	274	98	311	44	...	...	31.0
Crane, derrick, and hoist operators	136	402	136	402	0	...	...	.0
Decorators and window dressers	66	210	22	...	43	...	...	65.2
Electricians	591	419	581	420	10	...	...	1.7
Electric power line and cable installers and repairers	122	409	121	410	1	...	...	.8
Excavating, grading, road mach. operators; exc. bulldozer	269	337	268	337	2	...	...	.7
Blue-collar work supervisors, n.e.c.	1,772	394	1,587	409	186	262	64.2	10.5
Inspectors, n.e.c.	131	370	119	383	12	...	...	9.2
Job and die setters, metal	95	358	92	360	4	...	...	4.2
Machinists	532	356	512	360	19	...	...	3.6
Mechanics and repairers	2,888	326	2,827	328	60	275	83.9	2.1
Air conditioning, heating and refrigeration mechanics	166	335	166	335	1	...	...	.6
Aircraft mechanics	121	427	116	429	5	...	...	4.1
Automobile body repairers	137	295	136	294	1	...	...	.7
Automobile mechanics	813	285	808	286	6	...	...	.7
Data processing machine repairers	95	395	88	401	7	...	...	7.4
Heavy equipment, mechanics, including diesel	958	346	942	348	16	...	...	1.7
Household appliance, accessory installers and mechanics	96	309	90	315	5	...	...	5.2
Office machine repairers	71	327	66	331	4	...	...	5.6

TABLE 3.—MEDIAN WEEKLY EARNINGS OF WAGE AND SALARY WORKERS EMPLOYED FULL TIME IN OCCUPATIONS WITH TOTAL EMPLOYMENT OF 50,000 OR MORE BY SEX,[1] 1981 ANNUAL AVERAGES—Continued

[Numbers in thousands]

Occupation	Total, both sexes		Men		Women		Ratio, female/male earnings × 100	Percent female workers
	Total employed	Weekly earnings	Total employed	Weekly earnings	Total employed	Weekly earnings		
Radio and television repairers	83	$336	80	$344	4			4.8
Railroad car shop mechanics	57	405	56	405	1			1.8
Miscellaneous mechanics and repairers	193	323	187	325	6			3.1
Millwrights	105	443	105	443	0			.0
Molders, metal	52	253	42		10			19.2
Painters, construction and maintenance	258	271	248	275	10			3.9
Plumbers and pipe fitters	377	404	376	404	0			.0
Printing press operators	156	320	139	329	17			10.9
Roofers and slaters	78	267	77	266	1			1.3
Sheetmetal workers and tinsmiths	140	381	135	385	5			3.6
Stationary engineers	180	375	178	375	3			1.7
Structural metal craft workers	77	455	77	455	0			.0
Telephone installers and repairers	316	412	284	417	32			10.1
Telephone line installers and repairers	75	387	71	384	4			5.3
Tool and die makers	164	433	159	436	5			3.0
Operatives, except transport	9,440	242	5,775	298	3,664	$187	62.9	38.8
Assemblers	1,088	236	515	297	573	205	69.0	52.7
Bottling and canning operatives	51	279	31		20			39.2
Checkers, examiners, and inspectors; manufacturing	782	265	358	348	423	219	63.1	54.1
Clothing ironers and pressers	87	164	20		67	153		77.0
Cutting operatives, n.e.c	259	226	180	252	79	185	73.3	30.5
Drillers, earth	51	393	50	393	0			0
Filers, polishers, sanders, and buffers	111	223	73	246	38			34.2
Furnace tenders, smelters, and pourers	62	374	60	376	2			3.2
Garage workers and gas station attendants	217	179	204	181	12			5.5
Laundry and dry cleaning operatives, n.e.c	126	166	38		88	151		69.8
Meat cutters and butchers, except manufacturing	150	316	141	325	10			6.7
Meat cutters and butchers, manufacturing	88	251	62	287	26			29.5
Mine operatives, n.e.c	265	413	260	413	5			1.9
Mixing operatives	79	283	77	287	3			3.8
Packers and wrappers, except meat and produce	493	204	190	226	303	193	85.4	61.5
Painters, manufactured articles	146	269	124	282	22			15.1
Photographic process workers	69	230	33		36			52.2
Precision machine operatives	339	301	296	317	42			12.4
Drill press operatives	56	267	44		12			21.4
Grinding machine operatives	129	312	115	325	14			10.9
Lathe and milling machine operatives	100	322	95	327	5			5.0
Precision machine operatives, n.e.c	54	258	43		11			20.4
Punch and stamping press operatives	105	292	72	316	33			31.4
Sawyers	118	204	107	208	10			8.5
Sewers and stitchers	734	157	24		710	156		96.7
Shoemaking machine operatives	71	154	20		52	147		73.2
Furnace tenders and stokers, except metal	82	342	81	342	1			1.2
Textile operatives	261	200	101	229	161	186	81.3	61.7
Spinners, twisters, and winders	83	207	26		57	189		68.7
Textile Operatives, n.e.c	123	194	54	219	69	180	82.1	56.1
Welders and flame cutters	678	334	643	338	35			5.2
Winding operatives, n.e.c	56	237	31		25			44.6
Machine operatives, miscellaneous specified	1,261	273	908	309	353	206	66.8	28.0
Machine operatives, not specified	328	251	241	281	87	202	71.9	26.5
Miscellaneous operatives	724	232	480	262	244	185	70.5	33.7
Not specified operatives	150	271	101	311	48			32.0
Transport equipment operatives	2,792	303	2,656	307	136	237	77.2	4.9
Bus drivers	173	298	124	331	48			27.7
Delivery and route workers	446	274	421	280	25			5.6
Fork lift and tow motor operatives	373	284	352	284	21			5.6
Taxicab drivers and chauffeurs	112	240	104	246	8			7.1
Truck drivers	1,560	314	1,528	315	32			2.1
Nonfarm laborers	3,227	238	2,893	244	335	193	79.3	10.4
Carpenters' helpers	50	223	50	223	0			.0
Construction laborers, except carpenters' helpers	654	250	642	252	11			1.7
Freight and material handlers	641	259	579	266	62	207	78.0	9.7
Garbage collectors	62	189	60	189	2			3.2
Gardeners and groundskeepers, except farm	349	200	332	202	16			4.6
Timber cutting and logging workers	55	246	55	246	0			.0
Stock handlers	522	212	372	228	149	185	81.2	28.5
Vehicle washers and equipment cleaners	124	220	103	220	21			16.9
Warehouse laborers, n.e.c	267	267	253	270	15			5.6
Miscellaneous laborers	168	2j97	155	308	12			7.1
Not specified laborers	241	245	215	246	26			10.8
Farm workers	729	176	641	180	88	146	81.1	12.1
Farm laborers, wage workers	701	174	614	178	86	146	82.3	12.3
Service workers, except private household	6,990	196	3,475	238	3,515	170	71.3	50.3
Cleaning service workers	1,651	200	1,106	222	544	168	75.6	32.9
Lodging quarters cleaners, except private	99	142	5		94	141		94.9
Building interior cleaners, n.e.c	559	184	253	213	306	168	79.2	54.7
Janitors and sextons	993	219	848	225	145	188	83.6	14.6
Food service workers	1,987	162	770	186	1,216	148	79.7	61.2
Bartenders	170	195	94	212	76	179	84.4	44.7
Waiter's assistants	70	143	57	144	13			18.6
Cooks, except private household	764	171	375	202	389	148	73.4	50.9
Dishwashers	105	135	73	136	32			30.5
Food counter and fountain workers	107	141	15		91	140		85.0
Waiters	532	150	79	200	453	144	72.0	85.1
Food service workers, n.e.c., except private household	239	165	76	178	163	160	90.0	68.2
Health service workers	1,415	188	178	216	1,237	185	85.4	87.4
Dental assistants	97	183	3		95	182		97.9
Health aides, except nursing	220	209	38		182	201		82.7
Nursing aides, orderlies and attendants	832	172	130	203	701	167	82.2	84.3
Practical nurses	263	227	6		256	227		97.3
Personal service workers	624	191	207	224	417	179	80.0	66.8
Attendants, recreation and amusement	88	182	49		39			44.3
Child care workers, except private household	83	151	11		72	145		86.7
Hairdressers and cosmetologists	191	179	29		163	172		85.3
Housekeepers, except private household	96	219	32		64	205		66.7
Protective service workers	1,313	315	1,214	322	100	226	70.3	7.6
Firefighters	218	362	216	364	3			1.4
Guards	500	232	436	236	64	214	90.7	12.8
Police and detectives	508	363	481	368	27			5.3

TABLE 3.—MEDIAN WEEKLY EARNINGS OF WAGE AND SALARY WORKERS EMPLOYED FULL TIME IN OCCUPATIONS WITH TOTAL EMPLOYMENT OF 50,000 OR MORE BY SEX,[1] 1981 ANNUAL AVERAGES—Continued

[Numbers in thousands]

Occupation	Total, both sexes		Men		Women		Ratio, female/male earnings×100	Percent female workers
	Total employed	Weekly earnings	Total employed	Weekly earnings	Total employed	Weekly earnings		
Sheriffs and bailiffs	70	$324	66	$325	4			5.7
Private household workers	315	107	17		298	$104		94.6
Child care workers, private household	148	80	4		144	79		97.3
Maids and servants, private household	110	126	9		101	124		91.8

[1] Excludes any earnings from self-employment.
[2] Data for "Total" refer to all full-time workers, including those in occupations not shown.

Note: Earnings not shown where base is less than 50,000.●

● Mr. CHAFEE. Mr. President, today marks the beginning of a new effort to gain ratification of the equal rights amendment. This effort will not stop until ratification is achieved. Many of us experienced great disappointment over the failure of a final few States to ratify this much-needed measure. It was painful to come so close, yet see ratification fail in the end. At the same time, the enormous support which the amendment received means that we, as a nation, are ready to grant men and women equal protection under the law.

Final ratification of the ERA will prove to be a mark of this Nation's civility and maturity. We will be making a huge step forward when the amendment is finally part of the Constitution, and we should not despair of the time and effort the struggle has taken. History shows such accomplishments have not always been achieved with grace or with ease, as witnessed by the battle to grant women the right to vote, or that which was necessary to provide members of minority groups with basic civil rights. This country was torn over making those decisions—yet we made them because they were the right thing to do. That is why I have no doubt this country will ultimately ratify the ERA; it is the right thing to do.

The merits of the equal rights amendment have been thoroughly debated. In the absence of this amendment, discrimination continues to exist in education, in employment, in the granting of credit and insurance, and in the receipt of benefits.

We have shown that State action is not enough. Indeed, the very suggestion that an issue as basic as "equality of rights under the law"—for this is what the ERA addresses—is a State or local matter reflects a misunderstanding of the principles on which this country has been—and ought to be—based. Just as the United States could not, in the end, leave the abolition of slavery to the States, or the right of women to vote, so we must enshrine in the Constitution—our ultimate document of law—a prohibition on discrimination based upon gender.

The ERA is an amendment for men as well as for women. It will benefit both by helping to eradicate distortions and biases in the law, as well as discriminatory practices which continue to exist.

It is time to move forward and reaffirm our commitment to equality under the law through passage and ratification of the equal rights amendment.●

● Mr. MITCHELL. Mr. President, I am pleased to join my colleagues, Senators TSONGAS and PACKWOOD, in reintroducing the equal rights amendment. I am disappointed, but not disheartened, that the amendment failed to be ratified by the requisite 38 States by the June 30, 1982 deadline. For the fight to secure equal protection under the law for women, while it may be a long and arduous one, is a fight that will continue to be waged until it is won.

The amendment we are introducing today is identical to that which passed this body more than a decade ago. It states, quite simply, that: "Equality of rights under the law shall not be denied or abridged by the United States or any State on account of sex."

What could be more fundamental? Particularly in a democratic society, such as ours, which prides itself on equality and justice for all its citizens.

Opponents of the equal rights amendment, including President Reagan, argue that a constitutional amendment is not necessary and that current statutes can address sex-biased discrimination. This simply is not true.

If the opponents of the equal rights amendment are correct, that is, if current statutes are sufficient why do women in this country earn on the average 59 cents for every dollar earned by men?

Why do retired women receive approximately half as much as retired men under social security and other pensions?

Why do certain professions which are dominated by women, such as nursing, rank among the lowest paid of all professions, regardless of the number of years of education or training?

Although considerable progress has been made in eliminating sex discrimination through such laws as title VII of the Civil Rights Act and title IX of the education amendments and Equal Pay Act, it is clear that certain fundamental wrongs which exist in our society can only be addressed through a constitutional amendment.

The issue is not unisex bathrooms or whether the family will continue to exist as we know it. The issue is equality under the law.

I would like to think that it would not be necessary to reintroduce the equal rights amendment. It obviously is; so we are here today. And we will continue to stand up and speak out in support of this amendment until equality for the more than 51 percent of our population who are women becomes a reality.

It took women 70 years to obtain the fundamental right to vote. Let us hope that it does not take as long to pass and ratify the equal rights amendment.●

● Mr. MURKOWSKI. Mr. President, it is today my pleasure to join with my colleagues in the reintroduction of the equal rights amendment. It is said by many that the ERA is an idea whose time has come.

Public opinion polls show that most Americans support the principle of equal rights for women. Well, I hope we are able to find out in the very near future whether these statements are true, as I believe they are. There is no public opinion poll so persuasive as an election, and if the ERA's time has come then I believe it will be, as it should be, ratified.

There are those who say that the first ERA's failure to be ratified by the 1982 deadline signaled a reluctance by the American public to accept the principles for which the ERA stands. They say that American women, along with American men, do not need explicit constitutional protections in order to guarantee that full and equal participation in the rights and privileges of American citizenship are not eroded by sexual discrimination. The best way to put these arguments to rest is to submit the ERA to the American public. And I hope that the Congress will do so rapidly.

A word of caution. It appears to me that the ERA died in 1982 at least in part because of confusion about its effect. It became identified with permissive social trends that in the long run amounted to no more than fads.

ERA became a national referendum on the value of the American family instead of a focus for discussion of the changing nature of the modern American family.

The facts speak for themselves: Women make up over 51 percent of the population; there are tens of millions of women in our work force, and their number grows daily; the majority of American children are growing up in homes where the mother is a wage earner, and in some instances is the only wage earner in the family.

So let us let the facts speak for themselves. I would hope that the renewed national debate on the ERA will be characterized on both sides by balance and reason, not stridency and intimidation. At stake is one of the most precious gifts we can give to future generations of American men and women: Equality under the law. Let us endow this constitutional debate with the respect it merits.●

EQUAL RIGHTS AMENDMENT

● Mr. LAUTENBERG. Mr. President, today I join with the majority of my colleagues in sponsoring the reintroduction of the equal rights amendment. It is disappointing that over 10 years after its initial passage in Congress, and almost 50 years after its original introduction here, we must reintroduce the amendment. But today an ERA is still necessary. Equality of the sexes is still not guaranteed by the Constitution, nor can we yet assume that the sexes will be treated equally without that guarantee. We have made insufficient progress toward equality over these long years.

Women continue to suffer unequal treatment under law. Women's efforts both in the labor force and in the home continue to be undervalued and undercompensated. The situation is worse for women who depend on Federal programs that have been cut, or who depend on programs such as social security which are based on outmoded notions of the roles of men and women. Increasingly, women are joining the ranks of the poor, the underemployed, and the unemployed. The continuing discrimination against women in the job market, in training and education, and in our laws, must be corrected.

The passage of the ERA is a first step in eliminating inequality. It is at once a promise of equality, and the beginning of its fulfillment. Our constituents, in my home State of New Jersey and across the country, have demonstrated their strong support. I am proud to sponsor this resolution and to commit myself to the struggle for equal rights.●

Mr. RANDOLPH. Mr. President, it is a privilege and a responsibility to join with Senators TSONGAS, PACKWOOD, and other able colleagues in reaffirming our strong commitment to the assurance of equal rights for women by reintroducing the equal rights amendment, in the hope that it will be made a part of the Constitution of the United States.

Six months ago, on the 14th of July, we stood together to reintroduce this amendment and express our continued commitment to its goals. We who had supported the equal rights amendment were undeniably disappointed by the unsuccessful ratification effort that ended on June 30. However, although disappointed, we were not discouraged, as shown by the Congress immediate reintroduction of the amendment. Regrettably, no further action was taken on the equal rights amendment in the 97th Congress, making it necessary to introduce new legislation in the 98th Congress. Today, we are more determined than ever to see its passage and ultimate ratification.

As we pledge our unremitting support for this proposed amendment to our Constitution, it is helpful to look back to the dedicated women in our Nation's history, whose efforts have paved the way for our endeavors.

On August 26, 1920, the 19th amendment, giving women the right to vote, became a part of the U.S. Constitution. West Virginia ratified the amendment on March 10, 1920.

The enfranchisement of women to participate in the political life of our country was only the first major step of many. Today women seeking equal opportunity hold positions in all levels of business and government.

I recall what Franklin Delano Roosevelt did on the day he was inaugurated in 1933. He nominated the first woman in the history of our Nation, Frances Perkins, to become Secretary of Labor. Was it a gesture? No. This truly wonderful woman served in that capacity for more than 12 years. This was the recognition and foresight of a gallant President of the United States in 1933.

Earlier this week, I met with two Presidential nominees, Margaret Heckler, President Reagan's choice for the position of Secretary of the Department of Health and Human Services, and Elizabeth Dole, the President's nominee for the position of Secretary of Transportation. Once again, a President has recognized the talents and abilities of two very capable women by nominating them to serve as members of his Cabinet, in addition to his earlier appointment of Justice Sandra Day O'Connor, as the first woman to serve on the Supreme Court. These appointments are very positive indeed. However, we must take care not to let them mask the fact that this administration is opposed to the equal rights amendment, while women are still the victims of substantial discrimination, especially in employment and education, throughout our country.

We know that women have properly found their way to the world of industry and office jobs, however, they continue to encounter a broad gamut of inequities in the number and kind of jobs open to them, the wages paid, and the opportunities for advancement. Today it is estimated that employed women are paid only 64 cents to every dollar paid to men for like work. A constitutional amendment is the only insurance that women of all races will have fair and equal opportunities in employment, in education, benefits and retirement plans, and credit eligibility.

The proposed equal rights amendment was first introduced in 1923. But, it was not until March 22, 1972, that it was passed by both the Senate and the House, thus sending it to the States for ratification. Our State of West Virginia ratified the amendment on April 22, 1972. I look back to the former Senator Birch Bayh as a champion of our cause in this earlier period when we were fighting this legislative battle to pass the amendment and refer it to the States. We must now continue the battle to assure equal justice for women as well as for men under our system of law.

As I close my remarks, I would like to share this short story from our Nation's history with you.

In 1854 there were three women employed as copyists in the U.S. Patent Office. In the following year, when they were soon to be dismissed, a Member of the House of Representatives wrote to the Secretary of the Interior on their behalf. The Secretary replied:

> There is every disposition on my part to do anything for the lady in question except to retain her, or any of the other females who work in the rooms of the patent office. I have no objections to the employment of females in performance of such duties as they are competent to discharge, but there is such obvious impropriety in the mixing of sexes within the walls of a public office that I have determined to arrest the practice.

The lady in question lost her job. But, she went on to distinguish herself a few years later in a job situation considered exclusively male. The lady's name was Clara Barton. Her work on the Civil War battlefields and as founder of the American Red Cross made her one of the most illustrious women in our Nation's history.

Mr. LEVIN. Mr. President, I am proud to join my colleagues in cosponsoring legislation to reintroduce the equal rights amendment for ratification by Congress and the States. The purpose of this amendment is plain. It will simply guarantee women, who comprise more than half of our country's population, equality under the law. When the deadline for ratification of the amendment passed on June 30, 1982, we were only three States short of achieving that goal. With

equal rights for all Americans within our grasp, we must continue the fight for passage of the ERA.

While women in America have made substantial progress in achieving equal participation in the workplace, in the country's educational institutions, and in securing property rights, there is still a noticeable gap in the opportunities available to men and women. For example, although the number of women entering the job market has increased 30 percent since 1971, women still earn only 59 percent of what men earn. This differential in wages earned by men and women is particularly disturbing in light of the increasing number of working women who are heading households in this country.

Regulatory changes alone will not guarantee equal opportunities for men and women. We must provide a clear legislative mandate. I hope the Congress will reaffirm its commitment to equal rights by adopting this amendment.

Mrs. KASSEBAUM. Mr. President, I am pleased to join my colleagues today in the reintroduction of the equal rights amendment. The ERA was first introduced in Congress over 60 years ago by two Kansans—Senator Charles Curtis and Representative Daniel Anthony. I am proud to maintain the tradition of commitment to equal treatment of men and women demonstrated by these two elected officials from my home State.

Although we have made remarkable progress toward eliminating the legal barriers to equality, a fundamental statement of our national commitment to this goal has eluded us. Unfortunately, the quality of the debate over equal rights has not always been the best. It is my sincere hope that, as we renew our efforts, we can shape the discussion in a way which avoids the exaggerations of past debates.

Even as we continue efforts on behalf of the ERA, it is important that we build upon the progress which has already been made. The battle over the equal rights amendment has raised the level of political sophistication and involvement of women across the Nation. These women are a potent force for designing constructive responses to a wide range of equity issues.

I have confidence in the ability of our Nation to continue moving forward. The advances which women have made are not transitory. Having increasingly enjoyed the benefits of a national pool of talent encompassing both men and women, we can ill afford to reverse direction. The equal rights amendment represents a true economic, legal, and social partnership between men and women. It is a goal well worth seeking as we join together to meet the challenges of today and the future.

Mr. MATHIAS. Mr. President, today I join 53 of my colleagues in introducing a resolution to add the equal rights amendment to the U.S. Constitution. Most of us have been committed to the passage and ratification of the ERA since early in our political careers. I have been working for a constitutional amendment guaranteeing equality under the law ever since I entered Congress more than 20 years ago. I did not think then that in 1983 I would still be fighting for the realization of a goal so simple, so straightforward, and so consistent with our Nation's basic values and principles.

The fight must continue because women still suffer serious inequities in employment, education, and domestic relations. Despite broadened opportunities for women in school and in the workplace, they still lag far behind men. Although women have made unparalleled gains in the professions in the last 10 years, on the whole they remain segregated in low-paying jobs with little chance of advancement. In every field, women are poorly represented on the top levels of management and administration. This is true even in the so-called female professions. In public education, for example, although the majority of teachers are women, most principals are male, and only 1 percent of public school supervisors are female. Whatever their occupation, women suffer from the invidious wage gap, and consistently earn less than their male counterparts.

These inequities in employment contribute to the growing phenomenon of the feminization of poverty. Women—particularly single heads of households and the elderly—account for an alarming percentage of our Nation's poor. In addition to obstacles to job advancement, they encounter inequities in workers' compensation, retirement and pension plans, social security, health care, and employee benefits of all kinds. Working mothers face the added discriminatory effects of a society unresponsive to their special needs as workers. These women need adequate day care facilities and flexible work patterns such as realistic part-time employment with adequate pay and benefits, flex-time and job-sharing. As long as these services are not provided, as long as women continue to face discrimination in the workplace, and as long as the number of women living below the poverty level continues to increase, no one can seriously say that women have achieved equal rights under the law, and that the ERA would therefore be a constitutional redundancy.

We in Congress can address some of these specific inequities through individual statutes. We will soon have that opportunity, when we look into social security reform and the Women's Economic Equity Act in the coming months. Over the years, Congress has passed laws to eliminate particular forms of gender-based discrimination, enacting statutes such as the Equal Credit Opportunity Act, the Pregnancy Disability Act, title IX of the education amendments, the Equal Pay Act and title VII of the Civil Rights Act. Each represents a legislative victory and an important step forward in the achievement of full rights for American women.

Unfortunately, the indifferent enforcement of some of these statutes and related regulations greatly diminishes their effectiveness. The number of suits brought by the Government under these laws has decreased markedly in recent years. Moreover, regulations can be easily repealed by administrative fiat. Statutes can be reversed by a simple majority vote of Congress. Title IX, in fact, has been the object of such attacks by the administration and Congress in the last 2 years. The very uncertainty and vulnerability of protecting equal rights by statute and regulation is a compelling argument for the equal rights amendment.

But, even if these laws were aggressively enforced, and even if Congress could not reverse them, it would still be unsatisfactory to protect equal rights by statute alone. Women should not have to fight for their rights on a piecemeal, issue-by-issue basis. They should not have to appeal, repeatedly, on a series of individual issues, to a Congress which will vary from year to year in its responsiveness. This is an inefficient way of achieving equal rights and does not give the promise of security that a constitutional amendment would provide.

Those who have looked to the Supreme Court to provide equal rights for men and women through the equal protection clause of the 14th amendment have been repeatedly disappointed. The Court has yet to hand down a decision stating that gender-based distinctions, like those based on race, are inherently suspect under the 14th amendment. The Court has been inconsistent in its findings and in the standard of review it has used in deciding sex-discrimination cases. As a result, lower Federal and State courts have found it difficlut to discern how the High Court intends such claims to be adjudicated. A national equal rights amendment would provide courts throughout the land with a consistent standard of review in sex discrimination cases.

State as well as Federal law must be freed of invidious gender distinction. Sixteen States, including my own State of Maryland, have already made the ERA part of their State constitutions. These ERA States have found that, rather than denigrating the role of homemaker or unraveling the fabric of family life, the ERA has provided

women, particularly homemakers, with rights and protections they have never before enjoyed. By eliminating once and for all the old common law notion that the wife is merely the property of her husband, with no property or legal rights of her own, State ERA's have provided increased economic security to all married women. Under the ERA, marriage is considered a legal and economic partnership, in which the husband and wife share joint ownership of all marital property, and the contributions of the homemaker are seen as having real economic value. Thus, the ERA is a benefit to all women, regardless of marital status or occupational preference.

I am confident that the 1980's will be the decade that the equal rights amendment will become the law of the land. I stand with many of my other colleagues ready to fight until it does. The ERA will be a priority for the 98th Congress, in the Senate Judiciary Committee and the Congress at large. The equal rights amendment is wholly in keeping with all that our Nation stands for, and its ratification is long overdue. I agree with the constitutional scholar William Van Alstyne, who recently wrote,

The Constitution is a poorer document without this amendment, just as it was once weaker in having no 14th Amendment and, in the beginning, no Bill of Rights at all.

● Mr. HART. Mr. President, 60 years ago, on December 10, 1923, the first equal rights amendment was introduced in the U.S. Senate. It took until 1972 for it to pass both Houses. And, in June 1982, ratification efforts fell three short of the requisite 38 States. It is time to get the job done. Today we reaffirm our commitment to pursue the full realization of our country's most cherished principle: equal rights for all Americans.

Women made dramatic progress in the 1970's—frequently against overwhelming odds—in securing political and legal rights. Ironically, some of these hard-won gains are now being used as evidence that constitutional protection of the rights of women is, somehow, no longer necessary.

Precisely the opposite is true. We need the equal rights amendment to protect what has already been won—by insuring it will never be lost again. Much has been accomplished, but there is much more to be done.

In the past 30 years, the number of women in the labor force doubled, while the number of men increased by one-quarter. Currently, adult women make up about 45 percent of the total labor force. But, at the same time, there has been little change in the ratios of women's earnings to men's earnings. In 1955 women working full-time earned, on the average, 64 percent of what men earned; in 1981, women's earnings dropped to 59 percent of what men earned.

Occupational segregation is a large contributor to the disparity between the earnings of men and women. When women work in traditionally female classifications doing work which requires the same or greater skill, knowledge, education, experience, and responsibility as the tasks performed by men at different jobs, they are denied equal pay.

Sex discrimination still exists in our country. It prohibits women from full participation in our society. And, it denies society the opportunity to benefit from women's enormous economic contribution.

Mr. President, opponents of the ERA must realize those of us who seek true equality for all people will see the equal rights amendment through to ratification. We will never give up. We will never give in. We will succeed in including all Americans in the phrase "We the people."●

● Mr. BIDEN. Mr. President, it is my pleasure to rise today to express my support for the equal rights amendment.

Mr. President, throughout the past 10 years, opponents of the equal rights amendment have managed to wage an impressive campaign of intimidation in order to insure that the necessary 38 States would not ratify the ERA prior to the June 30, 1982, deadline. Visions of unisex toilets, young girls in foxholes dodging bullets—not to mention lecherous male soldiers—and homosexual marriages danced through many people's heads.

And on June 30 of this past year, Mr. President, opponents of the ERA held a party to celebrate the so-called death of ERA. They were convinced the issue of equal rights for women was dead; and they gathered to sweep its ashes under the carpet. Well, I always hate to be the bearer of bad news, Mr. President, but in this case I will make an exception. The equal rights amendment is very much alive, as alive as the ideal it represents: Equal justice under law. And do you know what? The American people are not satisfied with leaving ERA as a mere representation of that great ideal; they are insisting that we make the ERA a living embodiment of that ideal by enshrining it in our Constitution. And so we will.

Mr. President, a number of my colleagues have spoken and will speak on the equal rights amendment, and the various reasons its passage is so important. But I will be specific, if I may. I will address my comments to the equal rights amendment and the criminal justice system.

Did you know, Mr. President, that in some States a man finding his wife in the act of adultery may kill her on the spot and face a reduced charge of manslaughter? If the situation were reversed, however, and his wife had found him in a similar situation, she would not have the heat of passion defense available to her and would have to face trial on charges of murder.

Did you know, Mr. President, that several States punish prostitutes but do not punish those who seek out and pay for their services?

Did you know, Mr. President, that the Mann Act prohibits transporting females across State lines for any immoral purpose but does not protect males in the same manner.

Did you know, Mr. President, that 25 States have no statutory rape laws protecting young boys?

Were you aware, Mr. President, that many States have no law recognizing the possibility that forcible rape can be committed by a husband against his wife, regardless of the circumstances and the degree of coercion involved?

Are you further aware, Mr. President, that many States still mandate intermediate sentences for women, while providing for minimum and maximum sentences for men? This is done in the belief that women are more amenable to rehabilitation than men. What this leads to, however, are situations in which women must serve either much longer or much shorter sentences than men for the same offense.

Finally, Mr. President, did you know that the U.S. Civil Rights Commission, in a report issued in December 1978, concluded that women in prison generally receive far less vocational training and job placement assistance than men; and that the training offered in women's prisons tends to be sex-stereotyped, tracking women into lower paying, more traditional jobs?

In each of the aforementioned cases, Mr. President, Federal and State laws have the effect of discriminating against one or the other of the sexes. And in each of these cases, Mr. President, the equal rights amendment could result in the elimination of the discrimination, sometimes merely by changing one or two words in the law in order to make it "sex-neutral." Let me cite two examples.

The Mann Act could be made to protect both sexes against interstate transport for "immoral purposes" simply by changing the word "women" to "persons."

Prostitution laws can be made to hold members of both sexes accountable for their actions by treating both prostitutes and patrons in a sex-neutral manner. I might point out at this time, Mr. President, that no State operating with its own ERA has acted to legalize prostitution and that all of the States, with the exception of Alaska, now operate under a sex-neutral prostitution statute.

Mr. President, it is simply not enough to claim that existing law al-

ready gives sufficient protection against sex discrimination. As we have seen, many existing laws actually embody such discrimination.

I might also add, Mr. President, that laws can be repealed at any time. Equal treatment under law is an ideal that must not be subject to the whim and caprice of 50 percent plus one of any legislative body acting to satisfy some temporary popular sentiment.

Nor is it enough, Mr. President, to claim that the Constitution already provides sufficient protection against sex discrimination. In a recent opinion, Mr. Justice Powell wrote: "The Court has never viewed sex as inherently suspect or as comparable to radical or ethnic classification for the purpose of equal protection statutes."

Let us further remember, Mr. President, that it took a half century following passage of the 14th amendment to grant women one of the most basic American rights of all: The right to vote. Remember, too, that for years after passage of the 14th amendment, many States still had laws prohibiting a woman from owning property and from holding certain Federal jobs. The history of the 14th amendment with regard to equal protection of the sexes is, at best, uneven.

Mr. President, I am looking forward with great anticipation to Senate action on the ERA. The American people, by an overwhelming majority, want their representatives in Congress to take positive action on this great commitment to equal justice. Let us listen to the people and take that action.●

● Mr. BAUCUS. Mr. President, today I am proud to join my colleagues in introducing the equal rights amendment.

Opponents of the equal rights amendment say that they do not understand why it is being reintroduced. After all, they argue, the measure already has been presented to the States, and it failed to win ratification. Why then do not those of us who support the ERA just accept defeat and channel our efforts elsewhere?

The answer is that the same injustices and inequities that prompted the original introduction of the equal rights amendment still exist. And their existence is even more intolerable now than it was a decade ago.

To appreciate the need for immediate enactment of the ERA, all we have to do is look realistically at today's social and economic situation. In ever increasing numbers, women are choosing to join the Nation's work force or are being compelled to do so by economic conditions. In ever increasing numbers, the jobs held by women are the only means of support for their children and their families. More women than ever before are being forced to assume the role of working mother and head of single-parent households.

If this Nation can demand that women make sacrifices equal to those made by men—if we can demand that women should have equal responsibility and work equally hard to make ends meet—how can we in good conscience deny women equal rights under the law?

Even in brighter economic times, I enthusiastically supported adoption of the equal rights amendment because I believe this country has an overriding moral obligation to give specific constitutional recognition to the equal rights of women. But today, when it has become so clear that the efforts of women are essential to the future well-being of this Nation, a rejection of the equal rights amendment is absolutely unconscionable.

In the harsh light of today's social and economic realities, a rejection of the equal rights amendment can only be seen as the crassest form of hypocrisy.●

By Mrs. KASSEBAUM (for herself and Mr. GLENN):

S.J. Res. 12. A joint resolution relative to arms control negotiations; to the Committee on Foreign Relations.

STRATEGIC ARMS CONTROL

Mrs. KASSEBAUM. Mr. President, it has been 10 years since any strategic arms control treaty between the United States and the U.S.S.R. entered into force. Negotiations for a Comprehensive Test Ban Treaty have been suspended while attempts are being made to improve the unratified Threshold Test Ban and Peaceful Nuclear Explosion Treaties. Clearly, no agreement in the START or INF talks in Geneva is imminent.

Under two SALT agreements, the United States and Soviet nuclear arsenals have expanded. In 1982, the number of underground warhead tests in the United States have exceeded the number of such tests in any year since 1970. The promises that the American and Soviet negotiators to the Limited Test Ban Treaty of 1963 and to the Non-Proliferation Treaty of 1968 made to work toward the discontinuance of all nuclear tests seem faint, distant and even unrealistic in the present context.

Clearly, if the goals established by President Reagan's START and zero-zero option proposals are to be approached, the nuclear arms control process needs new life breathed into it.

At the present, both sides seem deeply rutted in essentially their original position with little more than cosmetic offers being made from the Soviet side primarily for their international political effect. Action must be taken to break the deadlock.

In an effort to provide the needed impetus, I am introducing a resolution to suggest what we believe to be a proposal that will advance arms control in its own right and which will constitute a substantial confidence building gesture on which to build progress toward the objectives of START, the zero-zero option and a Comprehensive Test Ban Treaty. I am honored to have Senator GLENN as a cosponsor of this resolution.

In brief summary, this resolution would require advance notification of all tests of nuclear warheads and of ICBM's, a limited quota of all such tests for each year, and a serious effort to eventually ratchet down the number of these tests until both sides reach zero.

Mr. President, the arms control process has recently received much more verbiage than results. I believe that this proposal, when implemented, will do much to establish the needed momentum.

Mr. President, I ask unanimous consent to have printed in the RECORD the entire text of the joint resolution, which I will send to the desk.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 12

Whereas the United States is committed in the Limited Test Ban Treaty of 1963 and in the Non-Proliferation Treaty of 1968 to seek to achieve the discontinuance of all explosions of nuclear weapons for all time;

Whereas intervening arms control agreements have failed to halt the vertical proliferation of nuclear weapons and their testing;

Whereas the United States conducted more tests of nuclear explosive devices in 1982 than in any year since 1970 and Soviet testing has not appreciably declined;

Whereas no U.S.-U.S.S.R. arms control treaty has entered into force for ten years;

Whereas negotiations for a Comprehensive Test Ban Treaty have been suspended;

Whereas the deteriorating state of U.S.-U.S.S.R. relations complicates the achievement of an arms control treaty while, at the same time, increases the need for such an agreement;

Whereas the gradual mutual elimination, by stages, of the testing of nuclear explosive devices and of land-based intercontinental ballistic missiles would re-establish momentum toward the reduction of nuclear arms, would serve as a meaningful, reciprocal, confidence-building gesture, and would enhance the evolution of more reliable verification: Now, therefore, be it

Resolved by the Senate and the House of Representatives of the United States in Congress assembled, That the United States should propose that negotiations begin on a priority basis, with the Soviet Union on a Advance Notification and Test Reduction Treaty that would—

(1) Require long-term advance notification to the other party of all tests of nuclear explosive devices and all flight tests of land-based intercontinental missiles;

(2) Limit each party to an agreed upon number of all such tests each year;

(3) Seek to provide that the allowed number of all such tests be reduced, each year, to a zero level by the end of an agreed upon period of time.

By Mr. MOYNIHAN (for himself, Mr. LUGAR, Mr. HOLLINGS, Mr. STAFFORD, Mr. RIEGLE, Mr. KENNEDY, Mr. BENTSEN, Mr. DIXON, Mr. DECONCINI, Mr. BUMPERS, Mr. GRASSLEY, Mr. FORD, Mr. GORTON, Mr. MATTINGLY, Mr. MATSUNAGA, Mr. STENNIS, Mr. MCCLURE, Mr. NUNN, Mr. ZORINSKY, Mr. RANDOLPH, Mr. TSONGAS, Mr. SARBANES, Mr. HUDDLESTON, Mr. D'AMATO, Mrs. HAWKINS, Mr. COCHRAN, Mr. RANDOLPH, Mr. QUAYLE, and Mr. GARN):

S.J. Res. 15. Joint resolution designating the month of March 1983 as National Eye Donor Month; to the Committee on the Judiciary.

NATIONAL EYE DONOR MONTH

Mr. MOYNIHAN. Mr. President, I take great pleasure today in introducing this joint resolution that would designate the month of March 1983 as "National Eye Donor Month."

Since the first eye bank was established in 1944, eye banks in the United States have helped thousands of children and adults. Today there are 85 eye banks in the country, operating under the umbrella of the Eye Bank Association of America. An estimated 30,000 people each year have their sight severely impaired by corneal disease or injury. Sight often can be restored by means of a corneal transplant operation—an operation that only can be performed following the donation, at death, of a human cornea. The corneal transplant was the first successful organ transplant and even now its success rate is much higher than that of other organs. This operation has become practically a surgical commonplace. Yet the supply of this precious tissue has never quite kept up with the need. Surely this is not because of any unwillingness on the part of people to make this gift, but simply because the public is not fully aware of the need.

In order to make people aware of the need, a broad public education program is necessary. The publicity surrounding the national proclamation of March as Eye Donor Month would constitute an important contribution to this educational effort. Not only would increased public awareness enable greater numbers to have their sight restored by donor tissue, but a vital contribution to research into the causes of other blinding diseases can be made by the specific studies that would be possible if eye donations become routine.

All those who are involved with eye donation programs deserve our commendation. For their goal—bringing sight to sightless—is surely a noble one. Mr. President, I urge my colleagues to join me in support of this legislation and I ask unanimous consent that the resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 15

Whereas eye banks in the United States have grown from a single institution in 1944 to eighty in 1982;

Whereas over fifteen thousand children and adults in the United States have benefited as a direct result of efforts made by eye banks;

Whereas eye banks have sought to encourage research into the prevention and treatment of eye disease and injury in the United States; and

Whereas increased national awareness of benefits rendered through eye donation may add impetus to efforts to expand research activities, and benefit those persons affected by blinding diseases: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of March 1983 is designated as "National Eye Donor Month", and the President is authorized and requested to issue a proclamation calling on all citizens to join in recognizing this humanitarian cause with appropriate activity.

By Mr. D'AMATO (for himself, Mr. EXON, Mr. LUGAR, Mr. MOYNIHAN, Mr. BUMPERS, Mr. ARMSTRONG, Mr. DECONCINI, Mr. RIEGLE, Mr. STEVENS, Mr. LEAHY, Mr. HEINZ, Mr. LEVIN, Mr. PERCY, and Mr. PRESSLER):

S.J. Res. 16. Joint resolution to provide for the designation of the 65th anniversary of the renewal of Lithuanian independence, February 16, 1983, as "Lithuanian Independence Day"; to the Committee on the Judiciary.

THE 65TH ANNIVERSARY OF LITHUANIAN INDEPENDENCE

● Mr. D'AMATO. Mr. President, on February 16, 1983, we commemorate the 65th anniversary of the establishment of the Independent Democratic Republic of Lithuania by the Lithuanian National Council. The roots of independence grow deep in the soil of this Baltic nation. In 1251, Mindaugus the Great brought the Lithuanian principalities together to form a unified and independent kingdom. Despite unceasing attempts to invade their little kingdom by the neighboring Teutonic knights and Russians, the people of Lithuania persevered. Under the leadership of Grand Duke Gediminas the kingdom expanded rapidly. As a result, Lithuania remained an independent state for more than five centuries. In 1795, the kingdom was divided between Prussia and Russia. Subsequently, the Lithuanians were denied the political independence which they had fought fervently to maintain. Under Russian czarist rule, the people were subjected to the harsh policy of russification designed to deprive them of their own culture. Sparked by the revolt which took place in Russia during 1905, the seeds of nationalism and independence in Lithuania began to mature. Once again throughout World War I, the nationalist movement continued to grow in strength and led to the formation of the Lithuanian National Council in September 1917. The following year, the Council issued a declaration of independence at Viltains in February, and thereafter a government was shortly formed. Despite efforts by the Bolsheviks to dominate the Republic, the nationalist government continues to rule. Finally, the Soviets, recognizing the strong sentiment of nationalism within the Republic, signed a peace treaty with Lithuania in July 1920. The treaty declared in part, that:

In conformity with the right declared by the Russian Soviet Federated Socialist Republic that all peoples have the right to free self-determination, Russia recognizes without any reserve the sovereignty and independence of the State of Lithuania with all juridical consequences resulting from such recognition, and voluntarily and forever renounces all sovereign rights possessed by Russia over the Lithuanian people.

Shortly after the start of World War II, the Soviets secured permission to station troops in Lithuania in exchange for the transfer of certain territories which had been seized from Poland. On June 15, 1940, an invading force of more than 300,000 Soviet troops entered Lithuania. This blatent act of aggression by the Communist regime of Joseph Stalin brought to a tragic end the independence and prosperity which Lithuanians had enjoyed during the 22 years which followed the issuance of the declaration of independence in 1918. In August of 1940, the Communist leadership of the Soviet Union illegally annexed the free and independent country of Lithuania. Since the incorporation, which the United States does not recognize, the freedom-loving people of Lithuania have been subjected to some of the most brutal forms of oppression instituted by the Kremlin.

Under Stalin, Khrushchev, Brezhnev, and the new party chief, former KGB Director Yuri Andropov, thousands of Lithuanians have been slaughtered, deported, exiled, imprisoned in slave labor camps or committed to psychiatric institutions. Meanwhile the Soviet Government has enthusiastically joined in support of such important documents on human rights as the U.N. Universal Declaration on Human Rights and the Helsinki Final Act.

In addition, these ruthless dictators have continued to follow the policy of Russification first implemented by Czarist Russia. Accordingly, they have attempted to eliminate every vestige of Lithuanian culture and national identity including the native language, religion, art, and music. Despite Soviet denial of even the most basic of human rights, the people of Lithuania have struggled heroically in their efforts to break the chains of Soviet

domination. Their steadfast belief in the principles of independence and their deep rooted desire for freedom have enabled Lithuanians to endure Communist oppression. The free spirit of the Lithuanian people will not be broken. Their search for self-determination will continue.

On February 16, Lithuanians throughout the world, including the more than 832,000 Lithuanian-Americans living in our Nation, will join in solidarity with their countrymen in observance of Lithuanian independence. In light of our Nation's dedication to the principle of independence and commitment to protection of civil liberties, it is appropriate that we join with members of the Lithuanian community in observing the 65th anniversary of Lithuanian Independence Day. It is imperative that the United States send a clear and strong sign of moral support to the 3.2 million Lithuanians living under Soviet tyranny and that our Government continue to champion the cause of independence for Lithuania.

Therefore, Mr. President, I introduce the following resolution requesting the President to designate February 16, 1983, as "Lithuanian Independence Day" and urge my colleagues to join me in voicing support for the struggling people of Lithuania and outrage over continued Soviet hegemony in the Baltic region.

Mr. President, I ask unanimous consent that this Senate joint resolution be printed in its entirety in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 16

Whereas this year marks the 65th anniversary of the establishment of the Independent Democratic Republic of Lithuania by the Lithuanian National Council on February 16, 1918;

Whereas the United States does not recognize the illegal incorporation of the free and independent Republic of Lithuania into the Union of Soviet Socialist Republics;

Whereas the United States continues to provide accreditation to the Charge d'Affaires of the Republic of Lithuania;

Whereas the United States remains firmly committed to the principle of self-determination as contained in the Helsinki Final Act, an agreement to which the Soviet Union is a signator.

Whereas the people of the Republic of Lithuania have struggled heroically to break the chains of Soviet domination;

Whereas it is appropriate that the people of the United States, who so strongly cherish the principles of independence and self-determination effectively denied the Lithuanian people by the Communist regime of the Soviet Union, join with the people of the Republic of Lithuania to demonstrate our common desire to advance the cause of freedom,

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled, That the 65th anniversary of the renewal of Lithuanian independence, February 16, 1983, is designated as "Lithuanian Independence Day" and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe that day with appropriate ceremonies and activities.●

● Mr. MOYNIHAN. Mr. President, I rise today to urge the Senate to support this joint resolution designating February 16, 1983, the 65th anniversary of the establishment of the Democratic Republic of Lithuania, as "Lithuanian Independence Day." It is essential that Congress express its continuing condemnation of the illegal and ever more ruthless military occupation of Lithuania by the Soviet Union.

Despite more than 40 years of Soviet domination, the Lithuanian people's determination to regain their freedom is undiminished. Americans, like free people everywhere, must not forget that our own freedom and independence will never be permanently secure so long as there are captive nations in the world, so long as there are peoples forbidden to choose their own governments. We cannot allow the Soviets to think we are not aware of the undying desire of the Lithuanian people to be free. We dare not let the Lithuanian people think we do not care.

Unanimous adoption of the resolution offered today would be an appropriate, if all too small, token of American solidarity with the Lithuanian people's aspirations for freedom. Furthermore, adoption of this measure would send a needed message to the Soviet Union, that we in the United States will never recognize the forceful incorporation of independent nations into the Soviet empire.

Continued Soviet policies of aggression—their unprovoked invasion into Afghanistan in 1979 and their installation of a military government in Poland in 1981—make it imperative that we in Congress take this opportunity, as well as every other opportunity, to reaffirm our commitment to the principles of individual liberty, human rights, and self-determination. We are compelled to do this in the hopes that our efforts will insure that these sacred principles—cornerstones of our own American Republic—will one day be enjoyed by the people of Lithuania and by oppressed peoples everywhere.

I urge the Senate to adopt the resolution before us today.●

By Mr. PRYOR (for himself, Mr. BAUCUS, Mr. BOREN, Mr. BURDICK, Mr. CHAFEE, Mr. DECONCINI, Mr. FORD, Mr. GLENN, Mr. HUDDLESTON, Mr. JACKSON, Mr. LEVIN, Mr. MATSUNAGA, Mr. METZENBAUM, Mr. PELL, Mr. PROXMIRE, Mr. RANDOLPH, and Mr. STAFFORD).

S.J. Res. 17. Joint resolution proposing an amendment to the Constitution to provide for the direct popular election of the President and Vice President of the United States; to the Committee on the Judiciary.

DIRECT POPULAR ELECTION OF THE PRESIDENT AND VICE PRESIDENT

● Mr. PRYOR. Mr. President, today I am introducing a proposed amendment to the Constitution to provide for the direct popular election of the President and Vice President. The time is long overdue to address the realities of our election process, and we need to seek now to correct our outdated and potentially dangerous electoral college system. As the 98th Congress draws to a close in the fall of 1984, our Nation will once again be selecting a President and Vice President. Unless we take action, we will have again chosen the leaders of this country not by popular vote of the people but by the antiquated system that was devised to suit the needs of a very different Nation almost 200 years ago—a system which leaves open the possibility of a constitutional crisis with each Presidential election.

Our country stands for equality and "one man, one vote," yet under the electoral college system, all votes are not equal and many votes are negated or counted for an opponent. The electoral college system is not equitable to all Americans and does not provide our country with the best selection method for our two highest national officials.

The present electoral college system can elect a President who has fewer popular votes than his opponent. This has happened three times in our history:

In 1824 Andrew Jackson received more electoral votes and popular votes than John Quincy Adams, however, the election went to the House of Representatives and John Quincy Adams was elected.

In 1876 Samuel J. Tilden received a majority of more than 250,000 popular votes over Rutherford B. Hayes, but the returns from four States were contested. An electoral commission created by Congress to settle the dispute decided the contested returns in favor of Rutherford Hayes, however, and he won the election.

In 1888, although Grover Cleveland received a popular plurality of approximately 100,000 votes over Benjamin Harrison, he obtained only 168 electoral votes, and Benjamin Harrison with 233 electoral votes was elected President.

There have also been instances when the mere shift of the popular vote in one or two States would have given the election to the candidate who had not received the greatest total number of popular votes:

In 1960, a change of approximately 4,500 votes in Illinois and 23,000 votes in Texas would have given the election to Richard Nixon rather than John Kennedy.

In 1976, if less than 10,000 voters in Ohio and Hawaii had voted for Gerald Ford rather than Jimmy Carter, Gerald Ford would have carried both States, giving him a bare majority of 270 in the electoral college. Jimmy Carter would have received 1,670,000 more popular votes than Gerald Ford and still lost the election.

Other inequities also exist in the electoral college system which would be corrected by the adoption of direct popular election.

The entire electoral vote of a State is awarded to the winner of the popular vote, whether the margin of victory is 1 or 1 million votes. In two States with equal electoral votes, one candidate who received 85 percent of the popular vote in one State would only receive as many electoral votes as a candidate in the other State who won 51 percent of the popular vote. With direct popular election, all of the votes which are cast are counted and credited to each candidate. This method reflects the true margin of victory for each candidate.

Popular votes which are cast for the losing candidate are canceled out and cast for the winner. Since all the electoral votes of a State are cast for the winner of the popular vote, those votes which are cast for the losing candidate are in effect canceled and credited to the winning candidate. Under direct election, all the votes which are cast are credited to the candidate who won those votes.

Electoral votes assigned to each State remain the same regardless of the voter turnout. Thus, candidates would receive an equal number of electoral votes from two similar States even though 2 million more voters may have cast their ballots in one of the States. Under direct election, this inequity would be corrected. All the votes which are cast would be counted, correctly reflecting the strength of support in a given State.

The method of selecting a President in the event no candidate received an electoral majority is undemocratic. If the election goes to the House of Representatives, each State has one vote—determined by a poll of the delegation's members. The candidate receiving a majority of a delegation's votes receives the vote, but in the event there is a tie, the State loses its vote completely. Under direct election, if no candidate receives 40 percent of the popular vote, the two leading pairs of candidates would take part in a runoff election, voted on by the people, with the pair winning the largest number of popular votes being elected.

Currently a candidate could be elected by winning the electoral vote in only the most populous States regardless of the outcome in the rest of the country. The electoral vote from just these few States would be enough to give a candidate an electoral majority in the electoral college and the Presidency. The President should be the representative of all the country and elected by all the people. Under the method of direct election, a candidate would necessarily require the votes which are cast from across the country to win the highest number of popular votes cast.

Because the number of a State's electoral votes is determined by its congressional allotment, there is a lag in the distribution of electoral votes because reapportionment only occurs once every decade after the census is taken. Thus, a candidate could win with a combination of States in 1980 and lose with the same combination in 1984.

The President and Vice President are the only representatives which are not directly elected by the people. All other such Federal, State, and local representatives are chosen by direct election. The 17th amendment to the Constitution in 1913 providing for the direct election of U.S. Senators affirmed each citizen's right to elect his or her own representatives.

If we examine the reasons why the electoral college came into existence, we find that the electoral system was a compromise between advocates of popular election and those who favored the executive to be chosen by the legislative branch. The question was whether the public had the necessary information to cast an informed vote. The electoral college was devised to suit the conditions which existed in 1787. At that time, approximately 97 percent of the people lived in rural areas—on farms and plantations and in log cabins; only 5 cities had a population over 10,000. It took from 3 to 6 days to travel from Boston to New York, and in many parts of the country roads were almost nonexistent. Mail and word of mouth were the principal means of communications. Newspapers, usually weekly, had small circulations and contained primarily local news. The electoral system was a compromise which took into account the difficulties in communication and transportation, the desire to have an informed electorate, and the desire to bring the election closer to the people if direct election was not possible.

Today the situation is quite different. While the electoral college may have been proper in its time, almost two centuries ago, the country has matured greatly in the intervening years. Today citizens are capable of making informed judgments and casting their votes individually. We must look to our time and provide the best method of selecting our President and Vice President that we can devise. This is in keeping with the intent of the Founding Fathers. Direct election will give every man and woman in every State of our Union an equal voice in the election of our two highest officials. Direct election will also do away with the inefficient and potentially dangerous electoral college. There is truth in the argument that if the electoral college truly represents the vote, it is not needed; and if it does not truly reflect the vote, it subverts the decision of the Nation regarding who its national leaders should be.

Proposing an amendment to the Constitution is not an endeavor which should be taken lightly, rather only when the issue is of the utmost importance. We need only to remember the last Presidential election and the concern which was expressed when it appeared that a strong candidacy of Representative John Anderson might throw the election into the House of Representatives. A far more disastrous possibility in a close election would have been the election by electoral vote of a candidate not receiving the majority of the popular vote. We survived the election without the occurrence of either constitutional crisis. Now is the time to take necessary action of referring to the States an amendment to the Constitution which will assure that all future Presidential elections will reflect the votes cast by the people. The citizens of our respective States have elected the Members of this body to serve as their representatives in the U.S. Senate, and I believe that they should have the right to elect their President and Vice President to lead this Nation.

Mr. President, I ask unanimous consent that the text of the resolution be printed in the RECORD following my remarks.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 17

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"ARTICLE —

"SECTION 1. The people of the several States and the District constituting the seat of Government of the United States shall elect the President and Vice President. Each elector shall cast a single vote for two persons who shall have consented to the joining of their names as candidates for the offices of President and Vice President. No candidate shall consent to the joinder of his name with that of more than one other person.

"SEC. 2. The electors of President and Vice President in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature, except that for electors of President and Vice President the legislature of any State may prescribe less restrictive residence qualifications and for electors of President

and Vice President the Congress may establish uniform residence qualifications.

"SEC. 3. The persons joined as candidates for President and Vice President having the greatest number of votes shall be elected President and Vice President, if such number be at least 40 per centum of the whole number of votes cast.

"If, after any such election, none of the persons joined as candidates for President and Vice President is elected pursuant to the preceding paragraph, a runoff election shall be held in which the choice of President and Vice President shall be made from the two pairs of persons joined as candidates for President and Vice President who received the highest numbers of votes cast in the election. The pair of persons joined as candidates for President and Vice President receiving the greater number of votes in such runoff election shall be elected President and Vice President.

"SEC. 4. The times, places, and manner of holding such elections and entitlement to inclusion on the ballot shall be prescribed in each State by the legislature thereof; but the Congress may at any time by law make or alter such regulations. The days for such elections shall be determined by Congress and shall be uniform throughout the United States. The Congress shall prescribe by law the times, places, and manner in which the results of such elections shall be ascertained and declared. No such election, other than a runoff election, shall be held later than the first Tuesday after the first Monday in November, and the results thereof shall be declared no later than the thirtieth day after the date on which the election occurs.

"SEC. 5. The Congress may by law provide for the case of the death, inability, or withdrawal of any candidate for President or Vice President before a President and Vice President have been elected, and for the case of the death of both the President-elect and Vice President-elect.

"SEC. 6. Sections 1 through 4 of this article shall take effect two years after the ratification of this article.

"SEC. 7. The Congress shall have power to enforce this article by appropriate legislation.".●

By Mr. JEPSEN (for himself, Mr. EAGLETON, Mr. DENTON, Mr. ABDNOR, Mr. TSONGAS, Mr. TOWER, Mr. MATTINGLY, Mr. COCHRAN, Mr. LUGAR, Mrs. HAWKINS, and Mr. RANDOLPH):

S.J. Res. 18. Joint resolution designating September 22, 1983, as "American Business Women's Day"; to the Committee on the Judiciary.

AMERICAN BUSINESS WOMEN'S DAY

Mr. JEPSEN. Mr. President, today I am reintroducing a resolution which designates September 22 as "American Business Women's Day." On December 10, 1982, this resolution, cosponsored by 31 of my distinguished colleagues, unanimously passed in this Chamber. Unfortunately, the House was not able to act on this legislation prior to the adjournment of the 97th Congress.

In my opinion, women should be recognized for their outstanding accomplishments and contributions in the business world. Therefore I am seeking passage of this resolution.

During World War II many women entered the work force to fill the jobs that men had left vacant. Thus, by the end of the war, 37 percent of the work force in America was female. By 1970 the number had increased to 43 percent, and in 1980 the number of women in the work force had almost doubled since the war and reached 65 percent.

All women, including the millions of unsalaried homemakers, women working 18-hour days on the farm, and the women serving as directors of major corporations are all making an important contribution to the betterment of this country. Although recognition does not solve the problems women face in the working world, it is a step toward addressing their concerns.

Mr. President, I ask unanimous consent that the text of this resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 18

Whereas there are forty-three million working women integrally involved in determining the direction of both the private and public sectors of our Nation;

Whereas American businesswomen hold active, responsible, decisionmaking roles at all levels of business, and thus influence the direction of our Nation; and

Whereas the Congress recognizes the important contributions of American businesswomen to our Nation's continuing vitality: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That September 22, 1983, is designated "American Business Women's Day". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that day with appropriate ceremonies and activities.

By Mr. INOUYE:

H.J. Res. 19. Joint resolution to authorize and request the President to designate the period August 26, 1983, through August 30, 1983, as "National Psychology Days"; to the Committee on the Judiciary.

NATIONAL PSYCHOLOGY DAYS

● Mr. INOUYE. Mr. President, today I am introducing legislation to proclaim the period August 26, 1983, through August 30, 1983, as "National Psychology Days."

We have chosen this period because it coincides with the 91st Annual Convention of the American Psychological Association which is scheduled to be held in Anaheim, Calif.

The American Psychological Association represents approximately 72,450 psychologists and affiliates throughout the Nation and Canada, and is organized into 40 separate divisions reflecting the breadth of interest and expertise within organized psychology. The bylaws of the association expressly state that its objectives "shall be to advance psychology as a science and profession and as a means of promoting human welfare by the encouragement of psychology in all of its branches in the broadest and most liberal manner * * *." The current president of the association is Dr. Max Siegel of Boca Raton, Fla., who for many years was a professor at CUNY Brooklyn College and an eminent private practitioner.

Mr. President, I request unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 19

Whereas the American Psychological Association convention provides a forum for the Nation's outstanding behavioral scientists and psychological practitioners to disseminate their findings and expertise, to the ultimate benefit of our residents and the quality of life of our Nation;

Whereas psychological inquiry increases our knowledge of human behavior and enhances people's understanding of themselves and others; and the American Psychological Association pursues such knowledge and encourages its utilizatioin in the best interests of society; and

Whereas, the American Psychological Association and various State affiliates encourage high standards of education, competence, achievement, and ethical conduct for psychologists; improvement and growth of the field of psychology; and the application of psychological research to the promotion of human welfare: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating the period August 26, 1983, through August 30, 1983, as "National Psychology Days", and calling upon the people of the United States to observe the period with appropriate programs, ceremonies, and activities.●

By Mr. INOUYE:

S.J. Res. 20. Joint resolution to authorize and request the President to designate March 27, 1983, as "National Recovery Room Nurses Day"; to the Committee on the Judiciary.

NATIONAL RECOVERY ROOM NURSES DAY

● Mr. INOUYE. Mr. President, today I am introducing a Senate joint resolution to proclaim March 27, 1983 as "National Recovery Room Nurses Day."

Last session, the U.S. Senate adopted this proposal unanimously; however, our colleagues in the House of Representatives did not act upon a similar bill. Hopefully, this session both Houses of Congress will report their respective bills favorably and these dedicated professionals will receive the honor and recognition that they so richly deserve.

The American Society of Post Anesthesia Nurses, which was chartered in 1980, is the professional association of recovery room nurses, who are em-

ployed in over 5,000 hospital recovery rooms across the Nation.

An individual who works in a recovery room must be a highly skilled professional. These nurses provide direct care to patients immediately following anesthesia and surgery and must be technically competent and continually engaged in updating and improving their knowledge of the latest in sophisticated nursing and medical technology. He or she must also be a caring person, actually involved in patient teaching, comforting patients in pain, supporting their families in times of stress, and facilitating the patient's early recovery from the effects of anesthesia and surgery.

There is no question in my mind that our Nation's professional nurses are the backbone of our health care system and that without them we would not have the outstanding track record that every one of us cherishes when our loved ones become ill and must be admitted to a hospital.

Accordingly, the time has now come for the Congress of the United States to bestow upon these dedicated individuals the public recognition that they so richly deserve.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 20

Whereas the immediate postanesthetic period is the most critical in a patients' recovery;

Whereas the primary focus of the American Society of Post Anesthesia Nurses is the education of its membership, with a goal of excellence in the care of patients who have undergone surgery and the administration of anesthetic agents;

Whereas the postanesthesia recovery nurse is skilled in basic and sophisticated life support and monitoring techniques;

Whereas the availability of professional skilled nursing personnel has been demonstrated to reduce the incidence of post-operative complications and mortality;

Whereas the postanesthesia recovery nurse provides safety and comfort to the patient who is unable to meet his or her own physical needs; and

Whereas the postanesthesia recovery nurse, in a single day, must care for patients who range in age from a few hours to one hundred years or more, and must treat each with calm, personalized, professional care: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating March 27, 1983, as "National Recovery Room Nurses Day" and calling upon the people of the United States to observe the day with appropriate programs, ceremonies, and activities.●

By Mr. DECONCINI (for himself, Mr. METZENBAUM, Mr. BURDICK, Mrs. HAWKINS, Mr. SASSER, Mr. STENNIS, Mr. PRYOR, Mr. D'AMATO, Mr. PELL, Mr. GOLDWATER, Mr. RANDOLPH, Mr. ANDREWS, Mr. HUDDLESTON, Mr. DURENBERGER, Mr. STAFFORD, Mr. MATSUNAGA, Mr. GORTON, Mr. JEPSEN, Mr. LAXALT, Mr. ROTH, Mr. BUMPERS, Mr. MATTINGLY, Mr. BAUCUS, Mr. KENNEDY, Mr. MATHIAS, Mr. RIEGLE, Mr. CRANSTON, Mr. PROXMIRE, Mr. QUAYLE, Mr. HEINZ, Mr. EAGLETON, Mr. MURKOWSKI, and Mr. HEFLIN):

S.J. Res. 21. Joint resolution to designate April 1983 as "National Child Abuse Prevention Month"; to the Committee on the Judiciary.

NATIONAL CHILD ABUSE PREVENTION MONTH

● Mr. DECONCINI. Mr. President, child abuse is a serious threat to the family in America. Increased unemployment has contributed to a problem that already afflicts more than 2 million children annually resulting in more than 5,000 deaths a year. A number of studies cited in the Chicago Tribune, the Los Angeles Times, the Wall Street Journal and other newspapers indicate that there is a direct link between joblessness and increased child abuse.

An important step in combating this problem is awareness. Therefore, I am introducing legislation to authorize the President to proclaim the month of April 1983 as "National Child Abuse Prevention Month." I would also like to take this opportunity to recognize the efforts of a number of organizations, including Parents Anonymous, the National Exchange Club Foundation for the Prevention of Child Abuse, and other members of the National Child Abuse Coalition for their efforts to prevent child abuse, and working with abused children and abusing parents to keep this plague from spreading to new generations.

By proclaiming April 1983 as "National Child Abuse Prevention Month" we are recognizing the serious nature of this threat to the stability of the American family and we are committing ourselves to combating it.

Mr. President, I ask unanimous consent that the text of the resolution be printed in the RECORD at this point.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 21

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of April 1983 is designated as "National Child Abuse Prevention Month" and the President is authorized and requested to issue a proclamation calling upon all Government agencies and the people of the United States to observe such month with appropriate programs, ceremonies, and activities.●

By Mr. DECONCINI:

S.J. Res. 22. Joint resolution proposing an amendment to the Constitution altering Federal budget procedures; to the Committee on the Judiciary.

FEDERAL BUDGET PROCEDURES

● Mr. DECONCINI. Mr. President, as I have done in each of the past two Congresses, it is my privilege to introduce as Senate Joint Resolution 22, a constitutional amendment intended to create the norm of a balanced budget and which will also place a brake on runaway growth by the Federal Government by the inclusion of a spending limitation formula as well.

Last year, efforts to place into the highest law of our land the principle of a balanced budget came close to fruition. The Senate, on August 4, 1982, adopted Senate Joint Resolution 58, popularly known as the balanced budget/spending limitation amendment, by a vote of 69–31. It thus became the first such amendment addressing fiscal responsibility to be passed by a House of Congress. The amendment had strong bipartisan support and the support of the administration. Regrettably, the House of Representatives, following the discharge of a similar measure from their Committee on the Judiciary, failed to adopt the amendment. When the measure did reach the House floor late in the regular session, it received well over a majority of the votes, but fell short of the required two-thirds necessary to adopt a constitutional amendment.

The amendment I am introducing today is similar to the language of Senate Joint Resolution 58 that the Senate adopted last year, but with three notable differences. First, the role of the President in the budget process is clarified by requiring him to submit to Congress a statement of projected receipts and outlays for each year. If the statement has a deficit, the President must indicate why such is the case. In short, the President need not submit a balanced budget, but if he does not, there must be an explanation. The inclusion of this principle in amendment is a direct result of the work done last year by Senators FORD and EXON, when they attempted to add similar language to Senate Joint Resolution 58. I acknowledge my appreciation for their contribution.

The second addition I have made to my amendment owes its lineage to Senator HEFLIN of Alabama. This language would create an exception to the requirement that receipts equal outlays unless three-fifths of each House agrees otherwise. Specifically, the exception provides that if Congress, after the adoption of the statement of receipts and outlays, should find the Nation in an unforeseen and imminent condition of military emergency and so declare by a concurrent resolution adopted by a majority of the whole number of both Houses of

Congress, the Congress may then, by a majority vote of the whole number of both Houses of Congress, provide for an additional amount of outlays for the defense of the Nation which would cause the total outlays set forth for such year in such statement to be greater than the receipts set forth for such year in such statement. Although I believe that the necessary three-fifths vote to create an unbalanced budgetary statement could be achieved in most cases, I feel the Heflin exception has merit and will make it all the more certain that we will be able to defend ourselves should the need arise.

Third, and finally, I have dropped from the resolution I am introducing today, a provision that was added to Senate Joint Resolution 58 on the Senate floor by an extemely close vote. I am referring to the Boren/Armstrong amendment which precluded an increase in the amount of the debt ceiling unless three-fifths of Congess voted it. I feel this makes the amendment unduly restrictive and inflexible. I share the concerns of my distinguished colleagues who authored the amendment and I look forward to hearings on this aspect of the constitutional amendment to further explicate the meaning and ramifications of their language. I shall certainly support it at a later time if I am convinced its merits exceed the potential for unintended rigidity and harm to the economy. Beyond these three changes, the resolution is identical to that which the Senate adopted last year. That amendment, crafted after many days of deliberation by my fellow members of the Constitution Subcommittee, represented a compromise, consensus approach, that withstood virtually every criticism directed toward it. Although there were vociferous critics of that amendment, I felt that most of them displayed a lack of understanding the amendment, how it worked, and what it would do. Usually, after explaining the amendment carefuly to an audience, I found that the criticisms or misunderstandings were fully answered. As the distinguished jurist Learned Hand once said,

One cannot win a debate from an opponent who is not handicapped by a knowledge of the facts.

Such was the case last year, but proponents of this measure must redouble our efforts to educate, and thus win over, our brethren who now labor under misconceptions about what the amendment does.

Now is the point where I could launch into a detailed review of the number of years we have gone without a balanced budget; or a discussion of the enormous Federal budget, the huge deficits, the problems these cause to economy and so forth. I shall not dwell on these points but, rather, refer interested persons to the debates of preceding August 4, 1982. Suffice it to say that the budget picture is worsening, deficits continue to leap out of control, and our national debt—the legacy we leave our children—has reached a point that is inconceivable to all but a mathematician.

I support a constitutional amendment to create a balanced budget norm with spending limitations, because I feel it is only by placing into the highest charter of our Nation the principles embodied by this resolution, that we will return the country to a sound economic footing. From that will come the ability to maintain our defense and the social net upon which so many people in our country and the world depend. As the world careens on the edge of the abyss of worldwide economic collapse, let us demonstrate to the people of the United States that their Congress will heed their pleas for a sound fiscal policy, that we will restrain our natural instincts to spend and spend and let the future generations pick up the tab. We must control our deficits to avoid going over the economic deepend and taking the rest of the world with us.

I intend to work closely again this year with my distinguished able friend and colleague the chairman of the Constitution Subcommittee, Senator HATCH, and with Chairman THURMOND of the Judiciary Committee, who has been fighting the battle for fiscal restraint for three decades. We are all fully committed to doing our part to return the Nation to a sound fiscal posture. It will be an honor to work with my colleagues in this effort.

I ask unanimous consent that the text of the resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 22

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

"ARTICLE —

"SECTION 1. Prior to each fiscal year, the President shall transmit to Congress a recommended statement of receipts and outlays for that year. If outlays are greater than receipts the President shall include a statement specifying the reasons why total outlays for such fiscal year should exceed total receipts for such fiscal year.

"SECTION 2. Prior to each fiscal year, the Congress shall adopt a statement of receipts and outlays for that year in which total outlays are no greater than total receipts. The Congress may amend such statement provided revised outlays are no greater than revised receipts. Whenever three-fifths of the whole number of both Houses shall deem it necessary, Congress in such statement may provide for a specific excess of outlays over receipts by a vote directed solely to that subject, except that if Congress, after the adoption of the statement of receipts and outlays, should find the Nation in an unforeseen and imminent condition of military emergency and so declare by a concurrent resolution adopted by a majority of the whole number of both Houses of Congress, the Congress may then, by a majority vote of the whole number of both Houses of Congress, provide for an additional amount of outlays for the defense of the Nation which would cause the total outlays set forth for such year in such statement to be greater than receipts set forth for such year in such statement. The Congress and the President shall, pursuant to legislation or through exercise of their powers under the first and second articles, ensure that actual outlays do not exceed the outlays set forth in such statement.

"SECTION 3. Total receipts for any fiscal year set forth in the statement adopted pursuant to this article shall not increase by a rate greater than the rate greater than the rate of increase in national income in the year or years ending not less than six months nor more than twelve months before such fiscal year, unless a majority of the whole number of both Houses of Congress shall have passed a bill directly solely to approving specific additional receipts and such bill has become law.

"SECTION 4. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect.

"SECTION 5. Total receipts shall include all receipts of the United States except those derived from borrowing and total outlays shall include all outlays of the United States except those for repayment of debt principal.

"SECTION 6. The Congress shall enforce and implement this article by appropriate legislation.

"SECTION 7. This article shall take effect for the second fiscal year beginning after its ratification.".●

By Mr. DECONCINI (for himself and Mr. DANFORTH):

S.J. Res. 23. Joint resolution proposing an amendment to the Constitution of the United States with respect to the number of terms of office which Members of the Senate and the House of Representatives may serve; to the Committee on the Judiciary.

LIMITATION OF CONGRESSIONAL TERMS

● Mr. DECONCINI. Mr. President, today I introduce Senate Joint Resolution 23, a constitutional amendment to limit congressional terms.

Limitation of congressional terms is not a new concept; it was debated by the Continental Congress over 200 years ago. That body adopted a limit of 3 years service in any 6-year period. The question of limitation and length of terms has arisen in each U.S. Congress. The necessity for a constitutional amendment limiting congressional terms is as great today as it was when I introduced the amendment in three previous Congresses.

The Founding Fathers' concern for corruption and misuse of power resulted in the development of a system of

checks and balances. Congress was created as a check against the power of the Executive with the Federal courts providing further constraints on the exercise of power. This diffusion of power insures that no individual or branch of government will dominate and destroy our liberty. Further diffusion through this amendment will provide an additional safeguard against the inappropriate accumulation of power and provide for more opportunities for everyone to participate in the political process.

Certainly any change in the delicate balance of power provided for in the Constitution must be approached with extreme caution. I urge every Member of this Chamber to consult the record of the hearings conducted by the Constitution Subcommittee on Joint Resolution 27 and Senate Joint Resolution 28 in the 95th Congress. An unbiased reading of those hearings will show that this proposed amendment will bring the congressional structure more in line with the ideals of representative democracy and balanced power.

I ask unanimous consent that the full text of my statement accompanying the amendment at the beginning of the 95th Congress be inserted in the RECORD at this point. I further request that the text of the amendment be printed as well.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR DENNIS DECONCINI

Mr. President, I rise today to introduce a Joint Resolution proposing an amendment to the Constitution of the United States. I am joined in the endeavor by my friend and colleague from Missouri, Mr. Danforth.

The amendment I propose limits the terms of service for members of the United States Senate and House of Representatives.

The Constitution of the United States, which has served to bind this Nation together for two centuries, should not be tampered with for inconsequential reasons. It should not be the vehicle for transitory policy decisions. Our Constitution was a document forged to provide a large, sprawling, heterogenous society with a flexible framework within which diverse elements could resolve matters of national concern.

The Constitution should remain neutral in terms of policy. Its function and purpose is to define the parameters and rules within which our society struggles with the issues of the day. The amendment I propose does not violate this conception of our Constitution.

Limiting the terms of service of legislators will strengthen the representative nature of our two legislative bodies. In taking this action, I want to make it quite clear that I am not casting, directly or indirectly, aspersions on any member of the Senate or House of Representatives. My action is founded in personal philosophy regarding the nature of government and the proper role of legislators.

The Constitution as it was originally written did not specify a maximum length of service for members of the House and Senate or the President. In practice, this has allowed individuals to occupy Senate and House seats for unlimited periods of time. I cannot argue that this has brought us bad government. Nor would I try to make any case which disparaged the superb leadership which both Houses of the legislature have provided the Nation.

The argument I will make in support of my amendment is essentially philosophical. I believe the amendment will further perfect a system of govenment so well rooted in the nature and character of the American people that it has survived and prospered under the most adverse of circumstances; a system of government that stands as a symbol throughout history and across the globe of man's ability to govern himself; and a system of government that has preserved personal freedom not just for one generation or two but for eight generations.

The amendment would limit each person to two terms of service as a United States Senator plus an additional two years of an unexpired term to which the individual may have been appointed. No person would be allowed, thus, to serve more than a total of fourteen years.

The amendment would limit each person to seven terms of service, as a Member of the House of Representatives plus an additional year of an unexpired term to which the individual may have been appointed. No person would be allowed to serve more than a total of fifteen years.

The numbers may be different, but the objectives of my amendment are the same as those that led to the adoption of the Twenty-second Amendment to the Constitution. As a people, we have decided that no person should serve as President for more than ten years. In ratifying that amendment, we recognized that we were condemning no individual; rather, we were perfecting the fundamental law that governs us.

There are differences between the office of President and the offices of Representative or Senator. It is understandable why we sought, first, to deal with the office of President. For the person who holds that office commands an awesome power; power that any democracy must view skeptically and cautiously. Recent events, unfortunately, have demonstrated how that power can be abused. But now that we have disposed of that question, we need to turn our attention to the legislature.

It was the purpose of the framers of the Constitution to insure that all Americans were represented equally and fairly in the House of Representatives. In the Senate, representation was to be by State—but, again, equally and fairly. The Seventeenth Amendment to the Constitution has not changed this; and a multitude of Supreme Court decisions have reaffirmed the rights of Americans to be represented equally.

Yet, in ways unforeseen by the Founding Fathers, the absence of any limitation on service in the legislature has worked against equal and fair representation. The imperative to organize each Chamber in a reasonable and responsible fashion has over the decades evolved into what is now known as the "seniority" system. Under this rule, responsibilities within the committee structure of the two Houses are allocated on the basis of length of tenure in office.

In recent years, there have been abundant attacks on the seniority system, some sincere, some self-serving, and some merely the result of personal antipathies. My own view is that it is pernicious, but not necessarily for many of the reasons often cited. I believe that the men and women who have served as chairmen of our legislative committees have served well; they have often provided us with an independent source of National leadership. In most cases, they have exercised their power with moderation, and in the pursuit of national, not personal interests. My own brief experience in this body confirms that experience, and I feel compelled to underscore again that the position I am taking is totally independent of my strong positive personal feelings towards my colleagues.

However, the seniority system does tend to diminish the equal representation of individuals and States that is so close to the heart of the meaning of democracy, and which the men at the Philadelphia Convention were so anxious to preserve. Under it, we do not stand as equals. Therefore, the States and the people we represent do not stand as equals.

Every member of this body clearly understands that to be chairman, for example, of a standing committee confers immense benefits. Not only does it bring personal power and prestige; it enables that person to insure that the people he represents will receive benefits out of proportion to a purely rational allocation of federal resources. It puts at the disposal of the chairman vast staff resources that practically insure his success in passing legislation of interest to him and his constituents.

Each of us, at one time or another, has witnessed or been involved in an election in which that was a central issue. Incumbents have appealed for votes on the grounds that their seniority insured that more of the federal dollar would be spent in their State or district than would otherwise be true. Or, that seniority would allow the incumbent to pass legislation that a new member could not conceivably be expected to shepherd through the complex legislative process. And in most instances, these are not vacuous or idle boasts; the nature of the seniority system makes them true. The question at issue is whether it should be thus; whether longevity of tenure in office should be the criterion for legislative success and constituent service; and whether this is the best a democracy can offer.

Our constituents complain—and we complain—about the Federal bureaucracy. It is entrenched. It is unresponsive. It is practically immune to change. We often ask of these professional civil servants whether they exist to serve us, or us they? At the same time that we launch these verbal assaults, we are anxious to perpetuate an entrenched, institutionalized legislature. What is the difference between a professional bureaucracy and a "professionalized" legislature?

Neither the delegates to the 1789 constitutional convention nor the American public today believes that we are best served by a professional legislature. But that is precisely the system we have created. We should not be career legislators; nor should we make a career of the legislature. The theory of democracy demands that as many members of the society as possible should be given the opportunity to serve. In some of the early Greek experiments with democracy, community service was demanded; in some cases, public offices were routinely rotated.

Because of the size and complexity of American society, we have moved away from direct democracy to representative democracy. Even though it is impossible for all citizens to participate in public service, we ought to insure that as many individuals as

possible have the opportunity for such service. Limiting the number of years any single individual can serve would be an important step in that direction.

It is not sufficient to answer that if the electorate wanted change it would mandate a change by its vote. None of us is so politically naive that we do not understand the advantages of incumbency. The extent and nature of these advantages vary from region to region, but they exist everywhere. Political party officials are often well aware of the advantages of seniority; and they will work diligently to insure the continued success of the incumbent.

In those States or districts where competition is keenest, the reward for the earnest practice of democracy is self-defeating. We espouse the virtures of party and intraparty competition for public office; yet, the Senators and Representatives from regions where this occurs usually find themselves perpetually doomed to the bottom of seniority lists.

All power is subject to abuse, even the power of Senators and Congressmen. I am loathe to quote Lord Acton's dictum about the corrupting nature of power because I do not believe that any member of this Chamber or of the House of Representatives has been corrupted by power. It is the possibility that exists; and it is that possibility that we must guard against.

Our Constitutional structure with its delicate checks and balances rests on the prudent assumption that men are corruptible and that power may be misused. This is a healthy skepticism; one that keeps us constantly aware of how fragile freedom really is. We have placed the power of the Congress as a check against the power of the Executive with the Federal Courts occupying the third point on the triad. In diffusing power among different groups and persons, we have tried to insure that no individual will dominate the government and destroy our liberty.

To be true to our commitment that shared power is responsible power, we need to address ourselves to the subtler dimensions of the problem. The Twenty-second Amendment to the Constitution removes an inherent contradiction in our system by limiting the terms a President can serve. That same contradiction persists in the unlimited terms for legislators. True, the potential for damage is less; the principle, however, is nonetheless valid.

Adoption of the amendment I propose should be viewed from two different perspectives. First, it would eliminate present disparities between Senators and Representatives based upon length of tenure. It would place each State, each district, and each citizen on a more nearly equal footing. Simultaneously, it would add an additional safeguard against the possible abuse of power.

The second perspective is the one I would emphasize. It is the positive side of the amendment. By limiting the length of service in the legislature, we will be embracing the idea that new people should be constantly and consciously brought into the system; we will be endorsing the notion that each generation should have the opportunity to be governed by men and women of that generation. I know we are all committed to the youth of today as the hope for tomorrow. That youth should be encouraged to serve the Nation; it is our responsibility to insure that as few barriers as possible stand in the way.

Two thousand years ago, Plato rejected democracy because he believed the decisions of government should not be made by amateurs. He said we needed philosopher-kings to guide us—divinely annointed experts who clearly saw truth. I reject that view because in the realm of politics there is no truth as such. The best we can do is seek modes of compromise and accommodation so we can live together fruitfully and in harmony. The legislature is the bar of the people; the forum in which we continue the great experiment in self-government. This is not an exercise that requires any special expertise; it requires commitment to the values of democracy.

In the act of creating an institutional structure which insures maximum participation, we will have reaffirmed our faith in the representative nature of our political institutions. We will have reaffirmed our faith that the laws which govern this great land should be made by men and women who truly represent and reflect the attitudes, values, and mores of each new generation of Americans.

S.J. RES. 23

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years after its submission for ratification:

"ARTICLE —

"SECTION 1. No person shall be elected to the Senate for more than two full terms. No person shall be elected to the House of Representatives for more than seven full terms.

"SECTION 2. Notwithstanding the provisions of section 1 of this article, any person may serve not more than fourteen years as a Senator or not more than fifteen years as a Representative.

"SECTION 3. For purposes of determining eligibility for election under section 1 of this article, no election occurring before the date this article is ratified shall be taken into account. For purposes of determining years of service under section 2 of this article, no service of any part of a term of office by a Senator or a Representative elected to such term before the date this article is ratified shall be taken into account.".●

AMENDMENTS SUBMITTED FOR PRINTING

SOCIAL SECURITY AMENDMENTS OF 1983

AMENDMENT NO. 1

(Ordered to be printed and referred to the Committee on Finance.)

Mr. DOLE (for himself, Mr. ARMSTRONG, Mr. LAXALT, and Mr. DANFORTH) submitted an amendment intended to be proposed by them to the bill (S. 1) to implement the consensus recommendations of the National Commission on Social Security Reform.

(The amendment submitted by Mr. DOLE appears elsewhere in today's RECORD.)

SENATE CONCURRENT RESOLUTION 2—CABINET STATUS FOR THE ADMINISTRATOR OF VETERANS' AFFAIRS

Mr. CRANSTON (for himself, Mr. SIMPSON, Mr. RANDOLPH, Mr. MATSUNAGA, Mr. DECONCINI, Mr. MITCHELL, and Mr. DENTON) submitted the following concurrent resolution; which was referred to the Committee on Veterans' Affairs:

S. CON. RES. 2

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) The Nation has a historic and deeply-rooted commitment to providing benefits and services to those who served in the Armed Forces;

(2) This commitment must be continued and maintained, both to fulfill moral obligations to those who served in the past and to assure those now in the Armed Forces and potential service men and women that the Nation's obligations to those who serve will always be honored;

(3) The Veterans' Administration is the principal Federal entity responsible for veterans' benefits and programs;

(4) The Administrator of Veterans' Affairs is the principal Executive Branch official responsible for the administration of such benefits and programs and for seeking the coordination of veterans programs administered by other Federal departments and agencies;

(5) The Veterans' Administration has a potential population of beneficiaries totalling nearly 30 million veterans and over 66 million survivors and dependents;

(6) The Veterans' Administration will distribute over $13 billion in income maintenance payments and approximately $1.7 billion in education, training, and rehabilitation assistance payments in fiscal year 1983; operates one of the Federal Government's two major home loan guaranty programs, with over 4 million loans currently guaranteed; administers the largest direct insurance program in the nation; operates 108 national cemeteries and provides burial assistance for nearly 350,000 deceased veterans annually;

(7) The Veterans' Administration operates the largest centrally-administered health-care system—consisting of, among other facilities, 172 hospitals, 226 outpatient clinics, and 97 nursing home care units—in the United States;

(8) The Veterans' Administration health-care system serves as the primary back-up to the medical resources of the Department of Defense in time of war or national emergency involving the use of the Armed Forces in armed conflict;

(9) In terms of share of the annual Federal budget, the Veterans' Administration ranks sixth among Federal departments and agencies, and among Federal departments and agencies only the Department of Defense employs more personnel;

(10) There is a need for greater coordination between the Veterans' Administration and other Federal entities administering veterans programs and between the Veterans' Administration and other Federal entities providing similar benefits to individuals on a basis other than their status as veterans;

(11) By virtue of the Veterans' Administration not being included in the President's

Cabinet, the Administrator of Veterans' Affairs generally is not included in Cabinet meetings and deliberations and generally does not have the ready access to the President and senior advisors on the President's staff that Cabinet members have;

(12) As a consequence, Presidential decisions affecting veterans and the Veterans' Administration are made from time to time without an understanding of their full impact on veterans and on the Veterans' Administration's ability to carry out its statutory missions; and

(13) That, therefore, the Administrator of Veterans' Affairs should be designated by the President as a member of, and full participant in all activities of, the Cabinet and as the President's principal advisor on all matters relating to veterans and their dependents.

Mr. CRANSTON. Mr. President, I am today introducing for myself and the distinguished chairman of the Veterans' Affairs Committee (Mr. SIMPSON) and five other committee members, Senators RANDOLPH, MATSUNAGA, DECONCINI, MITCHELL, and DENTON, Senate Concurrent Resolution 2, a measure that would express the sense of Congress with respect to the role of the Administrator of Veterans' Affairs—specifically that the Administrator should be designated a member of the Cabinet, should fully participate in Cabinet meetings, and should be the principal adviser to the President on all matters relating to veterans and their dependents.

Mr. President, for over 50 years, the Veterans' Administration has been the principal Federal agency with responsibility for providing benefits and services to veterans and their survivors. The agency's principal mission is described concisely and eloquently in the words of Abraham Lincoln in his second inaugural address—"to care for him who shall have borne the battle and for his widow, and his orphan." It is through the VA that the United States meets its historical commitment to provide health care and compensation to veterans disabled during their service, assistance to the survivors of those who made the ultimate sacrifice, and readjustment assistance to all those who serve honorably in the Armed Forces during periods of war.

Mr. President, because of the VA's special responsibility for meeting veterans' needs, it serves very important national defense functions. Major commitments made by the Nation to its veterans are directly fulfilled through the VA. If the Federal Government, through the VA, is seen as being unwilling or unable to honor commitments made to those who have served the Nation in the past, it is unlikely that the Armed Forces will be able to attract or retain the men and women needed to maintain the All-Volunteer Force. Honoring such commitments faithfully and effectively, therefore, is not only a moral obligation but an important action in support of the All-Volunteer Force.

Through its health-care system, the VA serves a further, tangible national defense function. VA hospital and medical resources are the first backup to the health-care resources of the Department of Defense in time of war or other national emergency involving military conflict. This logical and important role of the VA was codified last year in Public Law 97-174. Should the need arise, the VA must be ready to provide critically needed assistance to DOD, the health-care resources of which would be totally inadequate to care for large numbers of casualties.

Mr. President, for more than 50 years, the VA has been the principal Federal agency with responsibility for providing benefits and services to veterans. Today, there are nearly 30 million veterans and about 66 million dependents or survivors of veterans. Among Federal departments and agencies, only DOD has more employees than the VA, and the VA's budget—around $25 billion—ranks sixth among Federal departments and agencies. The VA operates the largest centrally managed health-care system in the United States and administers the largest direct insurance program in the country. The VA will be distributing over $13 billion in income maintenance payments and approximately $1.7 billion in education, training, and rehabilitation assistance payments in fiscal year 1983; operates one of the Federal Government's two major home loan guaranty programs with over 4 million loans currently guaranteed; and operates 108 national cemeteries, and provides burial assistance for nearly 350,000 deceased veterans annually.

In light of the VA's size and importance, the agency and its programs should be accorded appropriate recognition status, and treatment within the executive branch. Too often, this has not been the case.

In the past, the VA has frequently been relegated to a relatively insignificant role within the executive branch, with the Administrator having little or no access to the President or other top officials in the White House. This was particularly true with respect to the former VA Administrator Robert Nimmo, who was often precluded from meaningful participation in matters affecting the VA, particularly budget matters. For example, in September 1981, 2 months after Mr. Nimmo took office, the President, with no advance consultation with the Administrator, decided to submit revisions of the fiscal year 1982 budget for the VA, reducing certain major VA accounts, such as the medical care account and medical and prosthetics research accounts, to levels substantially below those that the President had earlier agreed to in the context of the First Concurrent Resolution on the Budget for Fiscal Year 1982. In fact, as far as I am aware, Mr. Nimmo did not even meet with President Reagan until very late in his tenure as Administrator.

Mr. President, I am pleased that the current Administrator, Harry Walters, appears to be committed to reversing this situation; he met with the President shortly before his confirmation hearing and has pledged his strong intention to maintain his access to top officials in the White House. However, the VA Administrator's access to the President and the White House should not rise or fall on the basis of the aggressiveness and other personal qualities of the Administrator. It should flow from the status of the position of the Administrator and the importance of the VA mission.

To preclude the recurrence of the relegation of the VA to a relatively insignificant role within the executive branch, with the Administrator having little or no access to the President or other top officials in the White House, the VA should be elevated to Cabinet-level status. Such a step would insure that the head of the VA would participate in top administration discussions and decisions which in turn should result in greater coordination and sharing of expertise between the VA and other Government departments. It would mean greater recognition of the impact of general governmental decisions on the VA's ability to fulfill its mission.

It is also important to keep in mind that the Administrator of Veterans' Affairs has important statutory responsibilities, under section 220 of title 38, United States Code, for seeking to achieve the maximum feasible effectiveness and coordination of all Federal programs and activities affecting veterans—including those conducted by the Department of Labor and other agencies, as well as by the VA. The Administrator is also charged in that same provision with actively promoting the effective implementation and enforcement of all laws and regulations providing for special consideration, emphasis, or preference for veterans. These responsibilities need to be carried out far more effectively and aggressively than they have been in the past. Cabinet-status for the head of the VA would promote needed interaction with the heads of executive branch departments.

Mr. President, I also want to point out that this provision would not mandate the designation of the Administrator as a Cabinet member. The Cabinet consists of executive branch department heads and certain other officials designated by the President. Neither the Cabinet nor its membership were established by the Congress. Thus, I believe it preferable at this time, in striking an appropriate bal-

ance between the prerogatives of the President and the Congress, to exercise congressional restraint with respect to the composition of the Cabinet. Legislation mandating a specific official's membership or participation in the Cabinet should, I believe, be considered an extraordinary remedy to be pursued only as a last resort.

However, I consider it entirely appropriate for the Congress to make its view known regarding the advisability and desirability of elevating a particular official to Cabinet membership. In the case of the Administrator of Veterans' Affairs, I believe that a very strong, clear case exists for the Congress to express such a view.

Our resolution would express congressional policy with respect to this important matter, and I urge each of my colleagues to give this resolution their support.

SENATE CONCURRENT RESOLUTION 3—RELATING TO FOREIGN CURRENCY DEPOSITS

Mr. HELMS submitted the following concurrent resolution; which was referred to the Committee on Banking, Housing, and Urban Affairs:

S. CON. RES. 3

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that domestic branches of United States banks should be permitted to hold foreign currency deposits of United States citizens.

SENATE CONCURRENT RESOLUTION 4—RELATING TO A STUDY OF MERCHANT SEAMEN HEALTH CARE

Mr. INOUYE submitted the following concurrent resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. CON. RES. 4

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that it is in our national interest that a comprehensive review now be conducted by the General Accounting Office (GAO) regarding the importance of ensuring that our Nation's merchant seamen once again have ready access to high quality health care.

● Mr. INOUYE. Mr. President, during our deliberations on the fiscal year 1983 further continuing appropriations bill, Public Law 97-377, we directed the General Accounting Office (GAO) to conduct a comprehensive review of the appropriateness of reinstating the entitlement for health care services for our Nation's U.S. merchant seamen. Since 1798, these individuals have been entitled to these important care which history has demonstrated was very definitely in our national interest. These dedicated seamen are oftentimes exposed to rare and unique diseases or viruses which simply are not known to most health care providers in our Nation. In the most classical sense they truly represent a public health responsibility.

During our deliberations on the 1981 Budget Reconciliation Act, Public Law 97-35, we made the decision to eliminate this basic entitlement and further to transfer the entire system of U.S. Public Health hospitals and clinics to various local authorities. In so doing, in one swoop we totally eliminated a program that has served our Nation well for over 200 years. Today it is impossible to merely reinstate the former system—the structural facilities and many of the dedicated U.S. Public Health Service personnel simply no longer exist. However, I feel that it is very important for us to take another look at this issue and explore in depth the real long-range consequences of our action. In my judgment, a very good case can be made that we should once again reinstate some form of health care benefits for these individuals. Our Nation's merchant marine—and our Nation's very national security—depends upon these men and women. There is a clear Federal interest. Accordingly, I was most pleased that the conferees agreed with my view that a comprehensive report be conducted and I look forward to reviewing its recommendations very carefully.●

SENATE RESOLUTION 13—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. STAFFORD, from the Committee on Environment and Public Works reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 13

Resolved, That, in carrying out its powers, duties, and functions, under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Environment and Public Works is authorized from March 1, 1983, through February 29, 1984, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $2,448,885, of which amount (1) not to exceed $10,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $3,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 1984.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

SENATE RESOLUTION 14—RESOLUTION RELATING TO PRIORITIES IN DECIDING CERTAIN POINTS OF ORDER

Mr. BYRD submitted the following resolution; which was ordered to lie over under the rule:

S. RES. 14

Resolved, That paragraph 4 of rule XVI of the Standing Rules of the Senate is amended—

(1) by inserting "(a)" after "4."; and

(2) by adding at the end of such paragraph the following new subparagraph:

"(b) If a point of order is made by any Senator against an amendment to a general appropriations bill on the ground that such amendment proposes general legislation or proposes a limitation or restriction not authorized by law and is to take effect or cease to be effective upon the happening of a contingency, it shall not be in order to raise the defense of germaneness unless there is House legislative language on that subject contained in the bill.".

SENATE RESOLUTION 15—RESOLUTION RELATING TO PRIORITIES IN DECIDING CERTAIN POINTS OF ORDER

Mr. BYRD submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 15

Resolved, That paragraph 4 of rule XVI of the Standing Rules of the Senate is amended—

(1) by inserting "(a)" after "4."; and

(2) by adding at the end of such paragraph the following new subparagraph:

"(b) If a point of order is made by any Senator against an amendment to a general appropriations bill on the ground that such amendment proposes general legislation or proposes a limitation or restriction not authorized by law and is to take effect or cease to be effective upon the happening of a contingency, it shall not be in order to raise the defense of germaneness unless there is House legislative language on that subject contained in the bill.".

SENATE RESOLUTION 16—AFFIRMING FISCAL RESPONSIBILITY

Mr. MATTINGLY submitted the following resolution; which was referred to the Committee on the Budget:

S. RES. 16

Whereas, the prospects are that the Nation will continue to experience continuing high Federal deficits—projected in the range of $200,000,000,000 for the next three fiscal years or more;

Whereas, continuing high Federal deficits will jeopardize economic recovery and sap the economic vitality of the Nation;

Whereas, continuing high Federal deficits generate uncertainty about the Government's ability to control Federal spending which will depress financial markets and impair the performance of the economy;

Whereas, continuing high Federal deficits will drain the limited pool of capital necessary to finance private investment for new plants, homes, and small businesses to provide jobs;

Whereas, chronic high Federal deficits can be progressively reduced under the existing tax program in which revenues to the Treasury will steadily increase and a freeze on Federal spending is adopted;

Whereas, a freeze on Federal spending would send a strong positive signal to the financial markets that Congress intends to control Federal spending and to make economic recovery the Nation's number one priority;

Whereas, a freeze on Federal spending means that each functional account within the Federal budget would have established as its ceiling that level approved by the Congress for Fiscal Year 1983 until the Federal budget was in balance, with the exception of interest on the national debt (Function 900) and those accounts involving entitlements to allow for addition of new annuitants as they become eligible;

Whereas, a freeze on Federal spending will permit the Executive and Legislative branches to assure that national priorities are provided for;

Whereas, a freeze on Federal spending does not preclude the expenditure of prior year budget authority already enacted by Congress for essential programs for national defense and thereby maintains the momentum initiated in Fiscal Years 1981 and 1982 for strengthening our national defense;

Whereas, a freeze on Federal spending would suspend temporarily all cost-of-living adjustments until the Federal budget was in balance, but would provide for the addition of new annuitants eligible for entitlement programs;

Whereas, a freeze on Federal spending retains the Congress' ability to act in emergency situations, such as flood and diseases control or national defense;

Whereas, a freeze on Federal spending allows for legislative and administrative actions to rearrange spending priorities within functional accounts in the Federal budget; Now, therefore, be it.

Resolved, That it is the sense of the Senate to affirm its commitment to fiscal responsibility and restraint and to encourage the Budget Committee of the Senate to consider in detail the option of a freeze on Federal spending at Fiscal Year 1983 levels in developing Concurrent Budget Resolutions for Fiscal Years 1984, 1985, and 1986.

Mr. MATTINGLY. Mr. President, Federal spending remains out of control and, as a result, deficits are at an intolerable level. If we do not act, outlays are projected to near the $1 trillion per year mark by 1985. Regardless of what anyone says, we have not cut Federal spending. We have only cut the rate of growth.

To address the problem of ballooning Federal outlays, I recently wrote President Reagan encouraging him to propose an across-the-board freeze on Federal spending. Today, I rise to introduce Senate Resolution 16, to request the Senate Budget Committee to do likewise when drafting the first concurrent budget resolution for fiscal year 1984.

Freezing fiscal year 1984 spending at the 1983 level is a fair, workable, and fiscally sound approach to addressing the problem of runaway Federal spending.

Under the across the board freeze on Federal spending, those who rely on Federal assistance would not receive less than current benefits provide. A freeze is not a cut. A freeze is a freeze—across-the-board. Nonetheless, such an approach will allow Federal outlays to catch up with Federal revenues and achieve a balanced budget in 1986 without raising taxes.

While I frowned on freezing defense spending, such a move becomes more tolerable if during the applicable period cost-of-living adjustments are held in check and the eligility requirements for all entitlement programs are reviewed. Again, no individual relying on assistance from the Federal Government will be denied the current benefits during an across-the-board freeze on the Federal budget. Nevertheless, freezing the Federal budget will still allow the shifting of budget priorities within functional accounts by Congress.

Of course, this legislation is not meant to be the final word on freezing the budget. I am aware of similar proposals from other Members of the Congress. I look forward to working with those Members to achieve the best possible legislation for all interests involved.

Mr. President, we must act now. The Federal Government is currently spending over $2 billion per day. Even economic growth by itself will not dissipate the deficit and bring Federal economic house in order. Addressing the spending side of the ledger is the only solution. However, addressing the problem of runaway Federal spending must be done in a fair and workable manner. An across-the-broad freeze on Federal spending at fiscal year 1983 levels is such.

SENATE RESOLUTION 17—REFERRING A BILL TO THE UNITED STATES COURT OF CLAIMS

Mr. SYMMS (for himself and Mr. MCCLURE) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 17

Resolved, That the bill, S. 80, entitled, "A bill for the relief of Aetna Insurance Company, and other insurance companies" now pending in the Senate, together with all accompanying papers, is referred to the Chief Commissioner of the United States Court of Claims pursuant to section 1492 of title 28, United States Code, for further proceedings in accordance with the provisions of section 2509 of title 28, United States Code.

SENATE RESOLUTION 18—RELATING TO BUDGET AUTHORITY FOR THE DAIRY INDEMNITY PROGRAM

Mr. INOUYE submitted the following resolution; which was referred to the Committee on Appropriations and to the Committee on the Budget, jointly, pursuant to the order of January 30, 1975:

S. RES. 18

Resolved, That the Senate disapproves the proposed deferral of budget authority (Deferral No. D83-36) for the making of indemnity payments to dairy farmers and manufacturers of dairy products under the Act entitled "An Act to provide indemnity payments to dairy farmers", approved August 13, 1968 (7 U.S.C. 450j et seq.) set forth in the special message transmitted by the President to the Congress on January 6, 1983, under section 1013 of the Impoundment Control Act of 1974.

● Mr. INOUYE. Mr. President, last December, both Houses of Congress approved the conference report on H.R. 7072, the agriculture appropriations bill for fiscal year 1983. Contained in that legislation was $7 million for the dairy indemnity program to cover losses incurred by dairy farmers who, through no fault of their own, had their milk withheld from commercial markets because of pesticide contamination. President Reagan signed this bill into law on December 18, 1982, and most of us agreed that after a year of hearings, markups, and debate in committee and on the Senate floor, it was a job well done.

It was thus with shock and dismay that I learned earlier this month of the administration's proposal to defer the budget authority for various important agricultural programs which we approved only 10 weeks ago. Of particular concern to me is the dairy indemnity program and the livelihood of dairy farmers on the Island of Oahu in the State of Hawaii. For much of 1982, these farmers were unable to sell their milk because their cattle ate feed contaminated by the pesticide heptachlor. Their losses may well approach $8 million because in the middle of the crisis, the Food and Drug Administration on advice from the Environmental Protection Agency, lowered the action level for heptachlor from 0.3 to 0.1 parts per million. This step meant that some of the milk had to be kept off the market for an even longer period of time than originally anticipated. Hawaii's dairy farmers are small businessmen who are ill-equipped to survive such large losses. They need help now, and the Congress

agreed last month that Federal assistance is both proper and necessary.

The administration's deferral notice, No. D83-36, notes that "a number of legal questions regarding eligibility would have to be resolved before any claims could be approved for payment." It further states that "recourse is being sought by several damaged parties through the courts," the implication being that some farmers may not need the money because of successful lawsuits. I take strong exception to both of these arguments and trust that they will not be accepted by my colleagues at face value.

Mr. President, the fact that no claims have been certified for payment does not mean that Hawaiian milk is ineligible for indemnification. Indeed, I was informed by the Acting Administrator of the Agricultural Stabilization and Conservation Service on August 24, 1982, that "We have reviewed all available information concerning the milk indemnity claims filed for losses due to milk contamination by heptachlor in Hawaii. We have determined that this contaminated milk is eligible for indemnification under the DIP." Furthermore, the fact that the USDA has not yet made any payments does not mean that farmers do not need these payments. They do—and now. Any additional delays will cause several dairy farmers in Hawaii irreparable financial harm.

Regarding the lawsuits pending against the people who supplied the tainted raw materials used to make the cattle feed, these cases could take years to litigate. Yet there is a clear provision in the regulations governing the dairy indemnity program which states:

> In the event that a farmer receives an indemnity payment under this subpart, and such farmer is later compensated for the same by the person (or the representative or successor in interest of such person) responsible for such loss, the indemnity payment shall be refunded to the Department of Agriculture: *Provided* that the amount of such refund shall not exceed the amount of other compensation received by the farmer (7 CFR 760.9(b)).

This clause recognizes that subsequent compensation from non-Federal sources is possible. It is there to insure that farmers do not go bankrupt while waiting for relief from other agencies, courts, or charities. Hawaiian dairy farmers are bound by this regulation to reimburse the Government for the amount of their indemnification if in fact some of their lawsuits prove successful. Pending lawsuits are not good reasons for deferring the funds we appropriated nor for withholding money from people who really need it.

Mr. President, I trust that my colleagues will agree with me that this deferral is ill-conceived and ill-timed. I strongly urge them to join me in disapproving this deferral for the sake of those small farmers in Hawaii who have been hit by both the current recession and the unfortunate contamination of their milk by heptachlor. I ask unanimous consent that the full text of the USDA's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE,
Washington, D.C., August 24, 1982.

Hon. DANIEL K. INOUYE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR INOUYE: This is in further response to your letter concerning the eligibility of certain Hawaiian dairy farmers for assistance under the Dairy Indemnity Program (DIP).

We have reviewed all available information concerning the milk indemnity claims filed for losses due to milk contamination by heptachlor in Hawaii. We have determined that this contaminated milk is eligible for indemnification under the DIP.

At the present time, there is $162,285 of appropriated funds available to make payments under the DIP. The regulations governing the program which are found at 7 CFR Part 760, provided that "Payment of indemnity claims filed after June 22, 1979, will be contingent upon availability of funds to the U.S. Department of Agriculture (USDA) to pay such claims."

We hope this will answer your questions concerning the eligibility of certain Hawaiian dairy farmers for assistance under the DIP. Thank you for your interest in this matter.

Sincerely,

C. H. LEGGETT,
Acting Administrator.●

NOTICES OF HEARINGS

SUBCOMMITTEE ON AGRICULTURAL PRODUCTION, MARKETING, AND STABILIZATION OF PRICES

Mr. COCHRAN. Mr. President, I wish to announce that hearings on S. 36 and the payment-in-kind program recently announced by Secretary of Agriculture John Block have been scheduled before the Senate Agriculture Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices.

In December, the subcommittee held hearings on the concept of such a program, and these hearings next week will focus on the program details as developed by USDA.

The hearing will be held on Thursday, February 3, beginning at 9:30 a.m. in room SD-138.

Anyone wishing further information should contact Denise Alexander of the Agriculture Committee staff at 224-2035.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BAKER. I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet during the session of the Senate, Wednesday, January 26, at 10 a.m., to hold an organizational meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BAKER. I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, Thursday, January 27, in order to consider and act on the committee budget.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, January 27, in order to receive testimony concerning organized crime.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ROTH (for himself, Mr. BOSCHWITZ, Mr. BUMPERS, Mr. DIXON, Mr. DURENBERGER, Mr. EAST, Mr. FORD, Mr. HEINZ, Mr. HELMS, Mr. MURKOWSKI, Mr. NICKLES, Mr. NUNN, Mr. PERCY, Mr. SPECTER, Mr. STAFFORD, Mr. THURMOND, and Mr. TSONGAS):

S.J. Res. 11. Joint resolution entitled "National Safety in the Workplace Week"; to the Committee on the Judiciary.

NATIONAL SAFETY IN THE WORKPLACE WEEK

● Mr. ROTH. Mr. President, today I am offering a Senate joint resolution entitled "National Safety in the Workplace Week," along with 16 cosponsors (Mr. BOSCHWITZ, Mr. BUMPERS, Mr. DIXON, Mr. DURENBERGER, Mr. EAST, Mr. FORD, Mr. HEINZ, Mr. HELMS, Mr. MURKOWSKI, Mr. NUNN, Mr. PERCY, Mr. SPECTER, Mr. STAFFORD, Mr. THURMOND, Mr. NICKLES, and Mr. TSONGAS). I submit this joint resolution in honor of the American Society of Safety Engineers for their work in promoting occupational safety. The society is made up of 18,000 safety professionals which represent virtually all of the major companies and industries in the United States. The American Society of Safety Engineers is a national individual professional society whose goals are to promote the growth and development of, and establish and maintain the standard of the safety profession. In order to accomplish these goals, the society is active in promoting and conducting research, and developing and providing educational programs dealing with occupational safety.

This resolution would establish the week of June 26, 1983 through July 2, 1983 as "National Safety in the Workplace Week," as a commemoration of the 71st anniversary of the American Society of Safety Engineers.

I am hopeful that the Senate will join me, with their support of this res-

olution, and the continuing efforts of the society toward a safer working environment for engineers.●

By Mr. LEVIN (for himself, Mr. SPECTER, Mr. BYRD, Mr. DIXON, Mr. BRADLEY, Mr. MOYNIHAN, Mr. SARBANES, Mr. PROXMIRE, Mr. PACKWOOD, Mr. KENNEDY, Mr. ROTH, Mr. THURMOND, and Mr. RIEGLE):

S. 106. A bill to amend the Tax Equity and Fiscal Responsibility Act of 1982 to extend the Federal Supplemental Compensation Act of 1982 beyond March 31, 1983; to the Committee on Finance.

EXTENSION OF THE FEDERAL UNEMPLOYMENT COMPENSATION PROGRAM

Mr. LEVIN. Mr. President, today Senators SPECTER, BYRD, DIXON, BRADLEY, MOYNIHAN, SARBANES, PROXMIRE, PACKWOOD, KENNEDY, ROTH, THURMOND, RIEGLE, and I are introducing legislation to extend Federal unemployment benefits beyond the current March 31 deadline so that this program extends through all of fiscal year 1983, ending on September 30. This program provides between 8 and 16 weeks of Federal unemployment benefits to individuals who have exhausted the first 26 weeks of State unemployment benefits and the 13 weeks of extended benefits for which some States also qualify.

Extension of the March 31 deadline would enable individuals who will have received some, but not all, of the benefits as of March 31 that they are entitled to under the current program to now receive their full allotment. In my State of Michigan that means that if an individual had received 14 of the possible 16 weeks of Federal benefits as of March 31, they will receive the remaining 2 weeks beyond the March 31 date. It will also mean that individuals who exhaust their first 39 weeks of unemployment benefits after March 31 will still have the additional 16 weeks of Federal benefits to fall back on.

I am pleased to see that last night in the state of the Union address, President Reagan also indicated his support for extending these benefits.

The case for this legislation is as simple as it is tragic. When we enacted the most recent extension of Federal unemployment benefits in December as a result of an amendment offered by Senator SPECTER and myself, Senator DOMENICI said in supporting the amendment:

> As the Senators know well, the unemployment rate is now at 10.8 percent and about 12 million Americans are unemployed. Many thousands of workers are exhausting their unemployment benefits. The amendment before us addresses this acute program.

Since that time, the number of unemployed in the Nation has increased, and in my home State of Michigan unemployment has increased by another 30,000 people to 17.6 percent.

By March 31, the unemployment rate will be approximately where it is now, if it has not already exceeded the 11 percent mark. The administration is projecting a painstakingly slow recovery, which in the beginning will have only the slightest effect on reducing the unemployment rate below these intolerable levels.

What this all adds up to is that we needed a Federal unemployment benefit program in December; we need it in January; and we will need it after March 31, certainly at least until the end of the fiscal year. At that point we can look at what, if any, recovery has materialized, and during this time we can see the current formulas need to be updated. But for now, we have no choice but to extend the program. While I am concerned about the estimated $2.4 billion which this extension of the program will cost. But I am more concerned that those of our citizens who are among the hardest hit by this depression will not survive to see any recovery.

That is why the Congress must not delay in enacting the legislation which we are introducing today. It is my hope that the same bipartisan coalition which enable the Levin-Specter-Dole-Domenici-Byrd-Dixon, et al., amendment to pass in December will rally behind this legislation and give it the support it merits.

I ask unanimous consent that the text of this legislation be included in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 106

Be it enacted by the Senate and the House of Representatives of the United States of America in the Congress assembled, That (a) Section 602(f) of the Tax Equity and Fiscal Responsibility Act of 1982 is amended—

(1) in paragraph (2), by striking out "March 31, 1983" and inserting in lieu thereof "September 30, 1983".

(b) The amendment made by subsection (a) shall become effective on the date of enactment of this Act.

Mr. BYRD. Mr. President, I rise to announce my support of the legislation introduced today by the very distinguished Senator from Michigan (Senator LEVIN) of which I am pleased to be a cosponsor.

Mr. President, we currently are experiencing what can only be termed an unemployment crisis in this Nation. We have over 12 million persons unemployed, between 6 and 7 million who have been forced to work part time because they cannot find full-time work, and over 1.5 million persons who have become so discouraged in their search for work that they simply have given up looking and left the labor force. Every day as we pick up the newspaper or watch the evening news, we are greeted with the sad stories of what this has done to families across the Nation—the trauma of losing homes because mortgages cannot be paid; of losing farms that have been passed down from generation to generation for 100 years; of child and spouse abuse and family breakup. These unemployed workers, the vast majority of whom have been conscientious, hard-working members of the American work force, want to work. They are psychologically devastated as well as financially devastated by unemployment which in our current economic status seems inescapable to many.

In periods of economic downturn in the past, when unemployment has risen—although not nearly to the same catastrophic highs we are seeing today—the Congress has felt an obligation to provide assistance to those whose lives have been disrupted by loss of their livelihood. I am troubled by the fact that the current administration demonstrated no such concern throughout 1981 and 1982, and I am sad to say that the 97th Congress was able to take only inadequate steps in the face of the administration's opposition or indifference to help these people. With Democratic leadership, the Congress did, finally, in September of last year, establish a temporary supplemental compensation program to provide up to 10 additional weeks of benefits in the States hardest hit, so that a maximum of 49 weeks of benefits was available in States with the highest unemployment. Again as a result of a Democratic initiative, up to 6 additional weeks of benefits were added in December.

But the entire supplemental compensation program expires on March 31, at a time when even the administration projects that unemployment will remain far in excess of 10 percent of the work force. At that time, all but 12 to 15 States will drop back to the 26 weeks of basic benefits—many of these States having unemployment in excess of 10 percent. The other 12 to 15 States—some with unemployment in the range of 15 percent, including my own State of West Virginia—will be eligible for a maximum of 39 weeks of benefits.

This is absolutely an intolerable situation. We must not allow such a precipitous decline in the number of weeks of benefits available in States with high unemployment. Fairness demands that we aid those who have been the victims of our economic calamity.

Within the next 2 to 3 weeks, several task forces of Senate Democrats will be working diligently to design specific proposals for providing assistance to those who are unemployed, to immediately put as many of our jobless workers back to work as we possibly can, and to refloat our shipwrecked econo-

my. One of the areas to which they will give close attention will be unemployment insurance, where Democrats will be offering a new proposal. We intended to work closely with the House leadership in this effort.

In the meantime, we must not allow there to be any question in the minds of unemployed workers and their families from coast to coast as to whether we will act to prevent a reduction in benefits while the recession continues to rage. It is for that reason that I am joining in consponsoring the legislation offered by the distinguished Senator from Michigan, (Senator LEVIN). He, I, and many other Senate Democrats have been fighting for a full year to repair a tattered unemployment insurance system. I am elated to see that we have finally succeeded in getting not only the attention but the support of the President for this essential task.

● Mr. BRADLEY. Mr. President, I am pleased to join Senator LEVIN in introducing legislation to extend the Federal supplemental compensation program through the end of this fiscal year. Under current law, this program is due to expire on March 31, 1983.

In September, despite initial objections of the President, we enacted the Federal supplemental compensation program to provide an additional 6 to 10 weeks of unemployment benefits beyond the existing levels. In December, we expanded the duration of coverage by an extra 2 to 6 weeks; in other words, instead of 6 to 10 weeks of additional benefits, an unemployed individual would be eligible for 8 to 16 weeks of benefits.

In my home State of New Jersey, since the inception of the program, almost 100,000 people have received up to 14 weeks of extended unemployment benefits. Over 25,000 are still collecting extended benefits. Contrary to the views of some people in the administration, these people need no special incentives to look for work. The jobs simply are not there. The unemployed in my State deserve this extra protection, given the size and duration of the recession.

Mr. President, I believe that the case for extending the program beyond the March 31 deadline is compelling. The long anticipated economic recovery has simply not materialized. On March 31, we will still have over 12 million Americans out of work; in fact, given the President's budget proposals for next year, there may still be over 12 million people out of work at the end of 1983. It is incumbent upon all of us to aid the people hardest hit by the economic policies of this administration. I, therefore, urge my colleagues to support extension of this vital program.●

Mr. SPECTER. Mr. President, I rise today to join my colleague, the distinguished Senator from Michigan, Mr. LEVIN, in introducing legislation to extend Federal unemployment benefits, so that the program provides between 8 and 16 weeks of Federal unemployment benefits insurance to those who have exhausted the first 26 weeks of State unemployment benefits and the 13 weeks of extended benefits for which several States qualify.

The urgent need for this timely legislation may be demonstrated by a casual glance at our unacceptably high rate of unemployment, which I understand was 10.8 percent for December 1982. This figure is an understatement, since it does not take into account those who are not actively seeking employment, for whatever reason. Even if economic recovery were to begin immediately, the present rate of unemployment would not subside greatly and certainly not enough to ease the suffering of hundreds of thousands of jobless Americans who are nearing the end of their compensation payments. In the Commonwealth of Pennsylvania, the level of unemployment is a staggering 12.9 percent, which increased from 12.1 percent last month. This is the highest level in my State since the Great Depression, with an estimated 715,000 Pennsylvanians out of work.

This past December, when the Senate extended Federal supplemental compensation, there was widespread acknowledgement of not only the pressing need for the extension, but also of the mind-boggling magnitude of the problem we now faced. Since neither the dimension of our unemployment crisis nor the consensus regarding the need for immediate attention has diminished, I urge my colleagues to join the Senator from Michigan and myself in supporting this bill.

As President Reagan noted in his state of the Union address last night, the extension of unemployment compensation is a key ingredient of our crucial task to provide stable and permanent jobs. This legislation does not change existing benefits, and for the sake of the Nation's jobless, especially those facing the March 31, 1983, deadline, I urge my colleagues to expedite passage of this benefits extension.

● Mr. RIEGLE. Mr. President, I am pleased to join as a cosponsor of this bill introduced by my good friend and fellow colleague from Michigan. This bill, which extends the duration of the Federal supplemental compensation (FSC) program through September 30, 1983, constitutes an essential piece of legislation for millions of unemployed workers ravaged by this administration's economic policies.

The FSC program was initiated last September as part of the Tax Equity and Fiscal Responsibility Act. It provides additional weeks of unemployment compensation for those unemployed workers who find themselves in dire straits because they have exhausted all other unemployment benefits. This program's adoption occurred only after a tough struggle against White House and Republican opposition to any supplemental benefit program for the long-term unemployed.

The need for the FSC program had become painfully obvious last summer even to many of those who had supported this administration's program slashing budget. When this program was enacted, the national unemployment rate was 9.6 percent and hundreds of thousands of workers had begun to exhaust their unemployment benefits. Depression conditions and an unemployment rate of 14.5 percent plagued my own State of Michigan. Thousands of workers faced the bleak prospect of no financial resources once their unemployment checks ran out. Moreover, these long-term unemployed suffered through the emotional trauma of heightened family tensions, higher divorce rates, and increased suicide rates, and juvenile delinquency.

While the need to aid these individuals was obvious, only a temporary program was enacted since the administration painted a rosy picture of economic recovery by the spring. The Reagan administration told the American public that the unemployment rate would decrease to 8.7 percent by the end of March, thereby making continuation of the FSC program unnecessary after that date. Contrary to these rosy forecasts, unemployment and its devastating effects have become worse—much worse. While the national unemployment rate has reached 10.8 percent, Michigan's rate has jumped to a shocking 17.6 percent. My own hometown of Flint suffers the dubious distinction of the city with the highest unemployment rate in the Nation: 26.5 percent.

Even the administration now admits that the unemployment rate will not decrease appreciably this year. The continuing need for a supplemental benefit program is obvious. Since the creation of the FSC program, over 95,000 Michigan unemployed workers and their families as well as hundreds of thousands of others nationwide have been able to survive because of these FSC benefits. Other unemployed workers now receiving regular and extended benefits will exhaust them after March 31. Without an extension of the FSC program, hundreds of thousands of these unemployed workers and their families will find themselves without assistance in the midst of continuing depression like conditions. I strongly urge my colleagues in the Senate to support this urgently needed extension which will aid those workers who have suffered through futile job searches and growing financial obligations.

While this bill is a positive step, it represents only part of the answer to

the unemployment compensation problems that exist today. Several flaws in the extended benefit unemployment compensation program require change. We must change that program's trigger rates as well as the method of computing the insured unemployment rate (IUR). We must alter the unemployment trust fund repayment scheme which places an onerous burden on those States which have been forced to borrow from the Federal Government in order to continue paying unemployment benefits.

Furthermore, we must address the plight of an increasing number of unemployed workers who have lost their homes through mortgage foreclosure and whose health has deteriorated without the benefit of work-related health insurance. These people need our help now. They cannot wait for an economic recovery that the Reagan administration has promised too many times without result. The proposed legislation provides a first step in the right direction.●

By Mr. THURMOND (for himself, Mr. RANDOLPH, Mr. PRYOR, and Mr. PELL):

S. 107. A bill to establish the Veterans' Administration as an executive department; to the Committee on Governmental Affairs.

ESTABLISHMENT OF THE VETERANS' ADMINISTRATION AS AN EXECUTIVE DEPARTMENT

Mr. THURMOND. Mr. President, today I am introducing legislation to upgrade the Veterans' Administration to a Cabinet level department and to provide for a Secretary of Veterans' Affairs within the President's Cabinet.

The VA, with a budget of nearly $25 billion and over 220,000 employees, administers programs for over 30 million veterans plus their dependents and survivors. The VA is clearly the largest independent agency in the Federal Government, and employs more personnel than any other Federal agency or department except the Department of Defense and the Postal Service.

Mr. President, together with their dependents and survivors, veterans represent almost one half of the total population of this country. The programs of the VA touch practically every facet of life and every family in America. These programs include the largest health care medical system in the world, a multibillion dollar compensation and pension program, a GI home loan guaranty program, burial benefits, education and training programs, and a multibillion dollar insurance system.

In addition to having the awesome responsibility for administering these diverse programs, the Administrator of Veterans' Affairs must address some unique issues which further emphasize the extreme importance of his position. Providing effective and innovative readjustment programs for our Vietnam era veterans remains an important domestic issue facing our country today. Additionally, we are faced with meeting the demands placed upon our hospital and health care system by an aging veterans population. Today there are approximately 3 million veterans who are age 65 or older and this number is expected to increase to approximately 8 million in 1995.

Mr. President, the responsibilities of the Administrator were expanded significantly only last year when the "Veterans' Administration and Department of Defense Health Resources Sharing and Emergency Operations Act" established the VA as a backup medical care provider to the Department of Defense during a period of war or national emergency involving U.S. Armed Forces in armed conflict. So today the VA is expected to be prepared to assume a very critical role in time of war.

Mr. President, I have believed for many years that the Veterans' Administration should be an executive department, and I have offered legislation to effect this change on several occasions. In a time of high budget deficts and great pressures to restrain the growth of Federal spending, it is especially important that an agency of the size and importance of the Veterans' Administration be closely involved in Government planning at the highest level. I therefore send a bill to the desk to establish a cabinet level Department of Veterans' Affairs and ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 107

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, establishment of Veterans' Administration as an executive department.

SECTION 1. (a) The independent establishment in the executive branch of the Government known as the Veterans' Administration is hereby redesignated as the Department of Veterans' Affairs and shall be an executive department in the executive branch of the Government.

(b) The positions of the Administrator of Veterans' Affairs and the Deputy Administrator of Veterans' Affairs are hereby redesignated as the Secretary of Veterans' Affairs and the Deputy Secretary of Veterans' Affairs, respectively.

AMENDMENTS TO TITLE 38, UNITED STATES CODE

SEC. 2. (a) Title 38, United States Code, is amended by striking out "Veterans' Administration" and "Administrator" each place they appear in such title and inserting in lieu thereof "Department" and "Secretary", respectively.

(b)(1) Section 101 of such title is amended by adding at the end thereof the following:

"(32) The term 'Department' means the Department of Veterans' Affairs.".

(2)(A) Section 201 of such title is amended to read as follows:

"§ 201. Department of Veterans' Affairs an executive department

"The Department of Veterans' Affairs is an executive Department in the executive branch of the Government, especially created for or concerned in the administration of laws relating to the relief and other benefits provided by law for veterans, their dependents, and their beneficiaries.".

(B) The item relating to such section in the table of sections at the beginning of chapter 3 of such title is amended to read as follows:

"210. Department of Veterans' Affairs an executive department.".

OTHER AMENDMENTS

SEC. 3. (a) Section 19(d)(1) of title 3, United States Code, is amended by inserting before the period at the end thereof the following: ", Secretary of Veterans' Affairs".

(b) Section 101 of title 5, United States Code, is amended by adding at the end thereof the following:

"The Department of Veterans' Affairs.".

(c) Section 5312 of title 5, United States Code, is amended by, adding at the end thereof the following:

"Secretary of Veterans' Affairs.".

(d) Section 5313 of title 5, United States Code, is amended by striking out "striking out "Administrator" the third place it appear and inserting in lieu thereof "Deputy Secretary".

(e) Section 5314 of title 5, United States Code, is amended by striking out the following:

"Deputy Administrator of Veterans' Affairs.".

(f) Section 5315 of title 5, United States Code, is amended by striking out "Veterans' Administration" and inserting in lieu thereof "Department of Veterans' Affairs".

(g) Section 5316 of title 5, United States Code, is amended—

(1) by striking out "Associate Deputy Administrator of Veterans' Affairs" and inserting in lieu thereof "Associate Deputy Secretary of Veterans' Affairs"; and

(2) by striking out "Veterans' Administration" after "Chief Benefits Director,", after "General Counsel of the," and after "Director, National Cemetery System," and inserting in lieu thereof "Department of Veterans' Affairs".

SEC. 4. (a) All orders, determinations, rules, regulations, permits, grants, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, by the Administrator of Veterans' Affairs, or by a court of competent jurisdiction, in the performance of functions vested in the Administrator, and

(2) which are in effect at the time this Act takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) The provisions of this Act shall not affect any proceedings or any application for any license, permit, certificate, or financial assistance pending before the Veterans' Administration at the time this Act takes effect, but such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act

had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(c) The provisions of this Act shall not affect suits commenced prior to the date this Act takes effect, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(d) No suit, action, or other proceeding commenced by or against the Veterans' Administration or by or against any individual in the official capacity of such individual as an officer of the Veterans' Administration, shall abate by reason of the enactment of this Act.

REFERENCE

SEC. 5. Any reference to the Veterans' Administration or to the Administrator of Veterans' Affairs in any law, rule, regulation, certificate, directive, instruction, or other official paper in effect after the effective date of this Act shall be deemed to be a reference to the Department of Veterans' Affairs or to the Secretary of Veterans' Affairs, respectively.

EFFECTIVE DATE

SEC. 6. This Act shall take effect at such time as may be specified by the President by Executive order, but such time may not be later than six months after the date of the enactment of this Act.

Mr. THURMOND. Mr. President, cosponsors of this bill are Messrs. RANDOLPH, PRYOR, and PELL.

I ask unanimous consent that the RECORD remain open until the close of business today for the purpose of adding further original cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. GRASSLEY:

S. 108. A bill to amend the Internal Revenue Code of 1954. To encourage contributions of equipment to postsecondary vocational education programs and to allow a credit to employers for vocational education courses taught by an employee without compensation and for temporary employment of full-time vocational educational instructors; to the Committee on Finance.

JOB TRAINING

Mr. GRASSLEY. Mr. President, today I am reintroducing legislation which will strengthen the partnership between business and our educational institutions in providing needed job training for our work force. I first sponsored this legislation in the closing weeks of the 97th Congress, however, we adjourned before any action could be taken on this measure. I am hopeful that my bill will receive prompt consideration by this body in the weeks ahead.

We are well aware our Nation is going through a time of fundamental economic change characterized by the decline of older manufacturing industries and the rapid growth of high technology and service industries. However, in the debate over how to generate economic growth and strengthen the competitiveness of U.S. industry, one critical factor needs to be more fully addressed—improving the American work force. To date, public incentives overwhelmingly favor capital and technology investments over worker training as a route to improved productivity. In fact, in 1981 the annual expenditure on training by American firms was $300 per worker, versus $3,300 per worker in capital investment. Even as the Nation relies primarily on increased capital investment and technological innovation for achieving productivity gains, advanced technologies and complex machines require highly skilled workers. Indeed, investment in American workers is crucial to our economic renewal. In order to get the 12 million currently unemployed Americans back to work, and to provide for a growing and changing work force, the Nation's public and private training programs should be encouraged at the Federal, State, and local levels.

An important key in training and retraining our work force is the community college and technical institute system across the country. Community colleges alone train over 11 million workers annually. These institutions, which offer more than 1,400 different occupational specialty and technician programs, boast a job placement rate of nearly 90 percent. Because these schools have the ability to change their course offerings and alter training programs to meet local labor needs, they have a limitless potential for assistance. They offer low-cost, high-quality training which is easily accessible to local residents. Members of the business community have a direct hand in college policymaking because the schools are intimately tied with local businesses through their administrative structure. Local industry also participates through advisory committees for each occupational program offered by the community college. The legislation which I am introducing today would further strengthen this partnership and aid our community colleges and technical institutes in becoming even more effective. My bill would encourage the donation of equipment for vocational training and provide incentives for the exchange of knowledge between industry and faculty.

Technical programs often rely on expensive equipment which quickly becomes obsolete in this age of exploding technology. However, the need to train workers on equipment they will operate in the private sector is self-evident. Much equipment in our community colleges has fallen far behind the state-of-the-art, particularly in the fields of microprocessing, computer-assisted design and manufacturing and numerical control machining. Many States, mired in budgetary pressures of their own, have been unable to make the commitment to meet the equipment needs of their community colleges. I know that in the State of Iowa, funds for upgrading equipment were zeroed out in last year's budget. Funding for fiscal year 1983 will not go far among the 20 colleges and technical institutes in the State, particularly when many schools have tremendous needs merely for the repair and maintenance of their old equipment. Furthermore, many colleges have found it impossible to expand into emerging job fields of robotics, laser optics and other technologies because of the shortage of funds to initiate such programs. My legislation would offer tax incentives to industry to help underwrite the expense of modernizing training programs by donating technical equipment. Current law provides a tax deduction of the basis and one-half the unrealized appreciation—not to exceed twice basis—of equipment donated to educational institutions if used for research. My bill expands the same deduction to apply to the donation of equipment used for vocational training. Although it would be a relatively small investment by the Federal Government, benefits to these institutions would be significant.

The second part of my bill encourages the lending of industry employees to educational institutions to teach vocational educational courses. Community colleges are finding it increasingly more difficult to compete with private industry in attracting and maintaining qualified technical instructors. Some colleges rely on part-time instructors who are often local practitioners, however, industry needs incentives to make greater use of this tool. My bill allows a $100 corporate tax credit for every vocational training course taught by a qualified employee of that corporation, up to five courses a year per employee. These incentives would encourage industry to contribute needed technical instruction that colleges are currently unable to provide, particularly in highly specialized technologies. In addition, this legislation contains a similar tax credit for industry to create work opportunities for community college faculty members in order to upgrade their skills. A $100 tax credit would be provided for the temporary employment of a qualified vocational educational instructor by a corporation, stimulating the sharing of current technology and expertise in the private sector. Although not a comprehensive approach to our national skills shortage, I feel my legislation would offer immediate assistance to one of our best delivery systems for

job training. I urge my colleagues to join me in cosponsoring this measure.

Mr. President, I ask unanimous consent that the bill and section-by-section analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 108

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONTRIBUTIONS OF PROPERTY USED IN VOCATIONAL EDUCATION PROGRAMS.

(a) IN GENERAL.—Subsection (e) of section 170 of the Internal Revenue Code of 1954 (relating to certain contributions of ordinary income and capital gain property) is amended by adding at the end thereof the following new paragraph:

"(5) SPECIAL RULE FOR CONTRIBUTIONS OF PROPERTY USED IN CERTAIN VOCATIONAL EDUCATION PROGRAMS.—

"(A) LIMIT OR REDUCTION.—In the case of a postsecondary vocational education contribution, the reduction under paragraph (1)(A) shall be no greater than the amount determined under paragraph (3)(B).

"(B) POSTSECONDARY VOCATIONAL EDUCATION CONTRIBUTION.—For purposes of this paragraph, the term 'postsecondary vocational education contribution' means a charitable contribution of tangible personal property but only if—

"(i) such contribution is to a public community college or public technical institute (within the meaning of section 742(b) of the Higher Education Act of 1965 (20 U.S.C. 1132e-1)) or any other institution of higher education (within the meaning of section 1201(a) of such Act (20 U.S.C. 1141)),

"(ii) substantially all of the use of such property by the donee is for training students enrolled in a postsecondary vocational education program offered by the donee,

"(iii) such property is not transferred by the donee in exchange for money, other property, or services, and

"(iv) the taxpayer receives from the donee a written statement representing that the donee's use and disposition of such property will be in accordance with the provisions of clauses (ii) and (iii).

"(C) POSTSECONDARY VOCATIONAL EDUCATION PROGRAM.—For purposes of this paragraph, the term 'postsecondary vocational education program' means an organized education program which—

"(i) is a 2-year program in engineering, mathematics, or the physical or biological sciences, designed to prepare a student to work as a technician or at the semiprofessional level in engineering, scientific, or other technological fields requiring the understanding and application of basic engineering, scientific, or mathematical principles of knowledge, or

"(ii) is directly related to the preparation of individuals for paid or unpaid employment or for a career which does not require a baccalaureate or advanced degree.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after December 31, 1982.

SEC. 2. POSTSECONDARY VOCATIONAL EDUCATION INSTRUCTION CREDIT.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable against tax) is amended by inserting after section 44G the following new section:

"SEC. 44H. VOCATIONAL EDUCATION INSTRUCTION CREDIT.

"(a) IN GENERAL.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) the product of—

"(A) $100, multiplied by

"(B) the number of postsecondary vocational education courses taught by qualified teaching employees of the taxpayer during the taxable year, plus

"(2) the product of—

"(A) $100, multiplied by

"(B) the number of qualified vocational education instructors who were employed by the taxpayer during the taxable year.

"(b) LIMITATIONS.—

"(1) LIMITATION ON THE NUMBER OF COURSES TAUGHT PER EMPLOYEE.—No more than 5 postsecondary vocational education courses taught by the same qualified teaching employee may be taken into account under subsection (a)(1)(B).

"(2) LIMITATION BASED ON AMOUNT OF TAX.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the credit allowed by subsection (a) for any taxable year shall not exceed the amount of the tax imposed by this chapter for the taxable year reduced by the sum of the credits allowable for the taxable year under a section of this part having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, and 43. For purposes of the preceding sentence, the term 'tax imposed by this chapter' shall not include any tax treated as not imposed by this chapter under the last sentence of section 53(a).

"(B) SPECIAL RULE FOR PASSTHROUGH OF CREDIT.—In the case of an individual who—

"(i) owns an interest in an unincorporated trade or business,

"(ii) is a partner in a partnership,

"(iii) is a beneficiary of an estate or trust, or

"(iv) is a shareholder in an electing small business corporation (within the meaning of section 1371(b)),

the credit allowed by subsection (a) for any taxable year shall not exceed the lesser of the amount determined under subparagraph (A) for the taxable year or an amount (separately computed with respect to such person's interest in such trade or business or entity) equal to the amount of tax attributable to that portion of a person's taxable income which is allowable or apportionable to the person's interest in such trade, business, or entity.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) POSTSECONDARY VOCATIONAL EDUCATION COURSES.—The term 'postsecondary vocational education course' means any course of instruction which—

"(A) is offered by an institution of higher education as part of an organized education program that—

"(i) is a 2-year program in engineering, mathematics, or the physical or biological sciences, designed to prepare a student to work as a technician or at the semiprofessional level in engineering, scientific, or other technological fields requiring the understanding and application of basic engineering, scientific, or mathematical principles of knowledge, or

"(ii) is directly related to the preparation of individuals for paid or unpaid employment or for a career which does not require a baccalaureate or advanced degree.

"(B) consists of a period of instruction which is at least equivalent to a course of instruction that provides 3 hours of instruction per week during an academic semester, and

"(C) has been completed before the close of the taxable year.

"(2) QUALIFIED VOCATIONAL EDUCATION INSTRUCTOR.—The term 'qualified vocational education instructor' means an individual who—

"(A) was employed by the taxpayer on a full-time basis for at least 3 months but not more than 12 months during the 2-year period ending at the close of the taxable year,

"(B) prior to such employment, taught postsecondary vocational education courses on a full-time basis at an institution of higher education,

"(C) is teaching such courses on a full-time basis at an institution of higher education at the close of such taxable year, and

"(D) is not employed by the taxpayer at the close of the taxable year.

"(3) QUALIFIED TEACHING EMPLOYEE.—The term 'qualified teaching employee' means an individual who—

"(A) taught at least one postsecondary vocational education course on a part-time basis at an institution of higher education during the taxable year,

"(B) is a full-time employee of the taxpayer for the entire taxable year,

"(C) does not receive any compensation from such institution of higher education, and

"(D) was not a qualified vocational education instructor at any time during the taxable year.

"(4) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given such term in section 1201(a) of the Higher Education Act of 1965.

"(5) ALLOCATION.—

"(A) CONTROLLED GROUP OF CORPORATIONS.—In determining the amount of the credit under this section—

"(i) all members of the same controlled group of corporations shall be treated as a single taxpayer, and

"(ii) the credit (if any) allowable by this section to each such member with respect to any qualified teaching employee or qualified vocational education instructor shall be in proportion to the member's share of the wages paid for the taxable year to such qualified teaching employee or qualified vocational education instructor.

"(B) COMMON CONTROL.—Under regulations prescribed by the Secretary, in determining the amount of credit under this section—

"(i) all trades or businesses (whether or not incorporated) which are under common control shall be treated as a single taxpayer, and

"(ii) the credit (if any) allowable by this section to each such trade or business with respect to any qualified teaching employee or qualified vocational education instructor shall be in proportion to such trade or business' share of the wages paid for the taxable year to such qualified teaching employee or qualified vocational education instructor with respect to whom the credit is allowable.

The regulations prescribed under this subparagraph shall be based on principles similar to the principles which apply in the case of subparagraph (A).

"(C) PASSTHROUGH IN THE CASE OF SUBCHAPTER S CORPORATIONS, ETC.—Under regulations prescribed by the Secretary, rules similar to

the rules of subsections (d) and (e) of section 52 shall apply.

"(D) ALLOCATION IN THE CASE OF PARTNERSHIPS.—In the case of partnerships, the credit shall be allocated among partners under regulations prescribed by the Secretary.

"(6) CONTROLLED GROUP OF CORPORATIONS.—The term 'controlled group of corporations' has the same meaning given to such term by section 1563(a), except that—

"(A) 'more that 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a)(1), and

"(B) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

"(7) DOUBLE BENEFIT.—Any credit allowable under this section for the taxable year with respect to any employee of the taxpayer shall be in addition to any deduction under this chapter which is allowable to the taxpayer for such taxable year with respect to compensation paid to such employee.".

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 44G the following new item:

"Sec. 44H. Vocational education instruction credit.".

(2) Section 6096(b) of such Code (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out "and 44G" and inserting in lieu thereof "44G, and 44H".

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall apply to taxable years beginning after December 31, 1982.

SECTION-BY-SECTION ANALYSIS

I. Amends Sec. 170(e) of the IRS code to allow a corporation to deduct the basis and one-half unrealized appreciation not to exceed twice bases of equipment donated to two and four year colleges, technical institutes and universities to be used for vocational training. Current law permits the same deduction for donated equipment to higher educational institutions if the donated equipment is used only for research or research training purposes. This provision extends this beneficial tax treatment to equipment donated for vocational training as defined by the . . .

Unlike the research equipment donation provision, this amendment eliminates the requirement that the equipment is less than two years old.

Donated property under this provision cannot be transferred in exchange for services.

This provision is effective for all contributions made after December 31, 1982.

II. Amends Sec. 174 of the IRS code to allow a $100 corporate tax credit for each vocational training course taught by a qualified employee of the corporation at a college, technical school or university. A corporation may only claim a credit for 5 courses taught by an eligible employee.

III. Amends Sec. 174 of the IRS code to allow corporations a $100 tax credit for their employment of any vocational education instructor from a college, technical institute or university on a temporary basis. For a corporation to claim the credit, an instructor must be employed for a minimum of three months and a maximum of one year. The corporation could not claim the credit if the instructor did not return to his previous teaching position at the educational institution.

By Mr. SASSER (for himself, Mr. BAUCUS, Mr. PRYOR, Mr. BUMPERS, Mr. MELCHER, Mr. BOREN, Mr. ZORINSKY, Mr. NUNN, Mr. SPECTER, and Mr. MATSUNAGA):

S. 109. A bill to amend title 18 of the United States Code to prohibit the robbery of a controlled substance from a pharmacy; to the Committee on the Judiciary.

PHARMACY CRIME

● Mr. SASSER. Mr. President, I rise today to offer legislation, similar to that I introduced in the 97th Congress, which would bring the resources of Federal law enforcement to bear on the problem of pharmacy crime. Joining me as cosponsors are Senators BAUCUS, PRYOR, BUMPERS, MELCHER, BOREN, ZORINSKY, NUNN, MATSUNAGA, and SPECTER.

The bill which I am introducing makes the theft of a controlled substance from a pharmacy a Federal crime punishable by up to 10 years in prison, a $5,000 fine, or both.

The need for this legislation has long been recognized and there has been a continuing effort to enact these provisions into law. During the debate on the Criminal Code Reform Act in the 95th Congress, the Senate unanimously adopted an amendment dealing with pharmacy crime. Similar provisions were adopted in the reported version of the Criminal Code Reform Act in the 96th Congress. Finally, the Senate last year passed pharmacy crime provisions identical to the bill I am introducing today. Unfortunately, these provisions, contained in H.R. 3963, were dropped in conference.

I do not believe we should delay this legislation any longer. The legislative record is well established—and so is the need.

The robbery of a controlled substance from a pharmacy sets up as the victim of a crime a small business, a pharmacist, a customer or all three. In 1980, I held hearings in the Senate Small Business Committee at which the problem of pharmacy crime was discussed. I heard from pharmacists who live in fear. They have been victims and their customers have been victims. And the situation is getting worse.

In 1973, there were 737 robberies of pharmacies to obtain controlled substances. By 1981 that number had grown to 1,908—an increase of 160 percent. The total number of thefts of controlled substances from pharmacies since 1973 is 11,786. In addition, Justice Department figures show that 1 in 5 of these robberies resulted in death or injury—a total of approximately 2,357 pharmacists, employees, or customers.

These statistics alone are alarming enough. But the real issue is that the Federal Government does not have enough enforcement power to control the theft of drugs from pharmacies. Presently the Federal Government controls who may prescribe drugs and under what circumstances those drugs may be prescribed. The Federal Government sets the penalties for illegal drug use and possession. And the Federal Government decides what drugs are enrolled in schedules I through IV. But the Federal Government has no jurisdiction to assist the pharmacist when he is robbed of scheduled drugs.

This gap in Federal jurisdiction leads to some ironic and manifestly ridiculous situations. For instance, it is a Federal crime to obtain controlled substances from a pharmacy using a forged prescription; it is not a Federal crime to obtain those same substances using a gun instead. It is a Federal crime if a pharmacist does not report the theft of a controlled substance to the Drug Enforcement Administration; the theft of the drug itself is not a Federal crime.

Mr. President, this is an absurd situation. When drug stores are robbed the criminal is not looking for cash. He is looking for drugs. Drugs that are controlled by Federal law. Drugs that will be sold on our streets and compound an already serious national drug problem.

In view of the strong legislative record in the Senate on the issue of pharmacy crime, we are hopeful that this bill may be enacted early in the 98th Congress.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 109

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 103 of title 18, United States Code, is amended by adding immediately after section 2117 the following new section:

"§ 2118. Robbery of a pharmacy

"(a) Whoever takes property from a pharmacy or a person registered with the Drug Enforcement Administration under section 302 of the Controlled Substances Act (21 U.S.C. 822) by force or violence, or by intimidation, shall be imprisoned for not more than ten years, or fined not more than $5,000, or both.

"(b) For purposes of this section, the term 'property' means a controlled substance, consisting of a narcotic, amphetamine, or barbituate that is listed in Schedules I through IV established by section 202 of the Controlled Substances Act (21 U.S.C. 812).".

(b) The analysis for chapter 103 of title 18 of the United States Code is amended by adding at the end thereof the following: "2118. Robbery of a pharmacy.".●

By Mr. HUDDLESTON:

S. 110. A bill to amend the Internal Revenue Code of 1954 to eliminate withholding of tax from interest and dividends; to the Committee on Finance.

WITHHOLDING REPEAL

● Mr. HUDDLESTON. Mr. President, I am today introducing a bill which would repeal the 10-percent withholding on dividends and interest that was passed last summer as a part of the Tax Equity and Fiscal Responsibility Act.

I voted against this provision when it was passed because I could see no sound justification for it. Since that time it has become increasingly clear that the provision is far more counterproductive than we thought at the time.

The public will pay because of overwithholding of income taxes, which is certain to occur as a result of this new withholding. Statistics indicate Government already overwithholds on more than three-quarters of individual tax returns. What this means is that we have legislated a new program which requires taxpayers to give a no-interest loan to the Federal Government. This is not only unfair, it is also bad economic policy.

The average saver also gets hit in the pocketbook because this "revenue raiser" will reduce his or her real savings. Interest paid on interest bearing accounts is compounded on the basis of some time period, such as daily. In effect, this means that interest will earn additional interest for the saver. However, because of the withholding, some of this earning power will be drained away and the saver will experience a net reduction in overall earned interest over a period of time.

Even though there is an exemption for senior citizens, there is little doubt that the impact of this unfair "revenue raiser" will still fall heavily upon them. Many will not know that they can be exempted by filing for the exemption. Many who will know about it will find it inconvenient to file for every account they may have, or will not be compelled to do so because they do not realize they will suffer a net loss of income.

As with so many provisions in our too complicated Tax Code, the few well-informed will find ways to reduce or eliminate this added tax cost to them while the great majority will reluctantly pay the increased price. Those who are knowledgeable will cut back on their estimated tax payments and still stay within the 80-percent requirement. Others will decrease the withholding on their payroll deductions. Still others will open several accounts to keep their earned interest below the $150 minimum requirement. These manipulations will mean that the Treasury will earn far less than they anticipated with this provision.

The expanded withholding will impose substantial additional costs on financial institutions and other complying organizations. In essence, an administration which promised the reduce Government regulation and paperwork has secured legislation which will generate a substantial amount of unnecessary paperwork and regulation.

For a long time we have known that excessive paperwork and regulation results in additional costs to the businesses which are required by law to comply. This particular provision will not be an exception to what we have learned in the past. Although I am certain that every effort will be made to keep the costs to a minimum, they will occur and they will be passd on to the public in the form of higher interest rates and service charges. Again, it is the general public which will pay more.

There is also an added cost on the Government side because the U.S. Treasury will have to implement and administer the new program. The additional processing which will be required is certain to be significant, thereby reducing the net effect of the "revenue raiser."

When the administration pushed for the huge tax reduction bill in 1981, it did so in order to increase savings which would in turn supply the necessary funds that businesses need to invest in new productive capacity.

Unfortunately, this "revenue raiser" is a total repudiation of the policy because it is a direct disincentive to save. Simple logic should tell us that with saving at an all-time low, we should be provided incentives to save rather than trying to discourage them.

Mr. President, the Tax Equity and Fiscal Responsibility Act of 1982 which the administration pushed through Congress was the wrong kind of "revenue raiser" at the wrong time. I am introducing this bill today because I believe that this particular provision must be undone, and will do everything in my power to bring its repeal.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 110

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subtitle A of title III of the Tax Equity and Fiscal Responsibility Act of 1982, and the amendments made by such subtitle, are hereby repealed.

(b)(1) The provisions of subsection (a) shall apply to all payments of interest, dividends, and patronage dividends to which the provisions repealed by subsection (a), and the amendments made by such provisions, would have applied.

(2) The Internal Revenue Code of 1954 shall be applied and administered as if the provisions repealed by subsection (a), and the amendments made by such provisions, had not been enacted.

(c) Section 6049 of the Internal Revenue Code of 1954 (relating to returns regarding payments of interest) is amended—

(1) in subsection (a)—

(A) by inserting "or" at the end of paragraph (1),

(B) by striking out "or" at the end of paragraph (2),

(C) by striking out paragraph (3), and

(D) by striking out "tax deducted and withheld.",

(2) in subsection (b)(2)—

(A) by striking out subparagraph (C),

(B) by redesignating subparagraph (D) as subparagraph (C), and striking out "not described in subparagraph (C) of this paragraph", and

(C) by redesignating subparagraph (E) as subparagraph (D),

(3) in subsection (b)(3) by striking out "paragraph 2(D)" each place it appears and inserting in lieu thereof "paragraph 2(C)", and

(4) in subsection (c)(1)—

(A) by inserting "and" at the end of subparagraph (A),

(B) by striking out ", and" at the end of subparagraph (B) and inserting in lieu thereof a period, and

(C) by striking out subparagraph (C).●

By Mr. HATCH:

S. 111. A bill to amend the Internal Revenue Code of 1954 to increase the amount allowed to be deducted each taxable year for expenses incurred in connection with the elimination of architectural and transportation barriers for the handicapped and elderly from $25,000 to $50,000, and to make permanent the allowance of such deduction; to the Committee on Finance.

TAX DEDUCTION FOR THE HANDICAPPED

Mr. HATCH. Mr. President, today I am introducing a bill to amend the Internal Revenue Code of 1954 to provide a tax deduction for expenditures to remove architectural and transportation barriers for the handicapped and elderly of our Nation.

My bill proposes to allow tax deductions for individuals and businesses who make transportation and buildings accessible to handicapped and elderly persons. Although former statutes previously allowed such a deduction, the provisions expired last year. In addition, this tax break was capped at $25,000 when it was created in 1976 and should be adjusted to $50,000 to account for inflation. Since the need for renovation of structures, construction of new facilities plus purchases of new adaptable vehicles will continue indefinately, I recommend that this deduction be authorized on a permanent basis.

During the 97th Congress, I cosponsored Senate Concurrent Resolution 4 along with several other colleagues. This resolution proclaimed 1981 as the International Year of the Disabled. This session, I am also cosponsoring

Senator DOLE's resolution declaring 1983-92 as the International Decade of the Disabled. Both of these resolutions are helpful to handicapped individuals in that they promote public awareness of the special needs of disabled persons and encourage elimination of attitudinal barriers. However, I want to go one step further and facilitate private sector involvement in the elimination of architectural and transportation barriers. Such legislation has the potential to further promote the successful mainstreaming of our Nation's 35 million handicapped and 36 million elderly Americans.

Our effort to remove barriers for our handicapped and elderly citizens is also closely related to another of my top priorities: improved home health care. Home health care and a way to finance needed technology to eliminate barriers are twin complementary paths to assuring no handicapped or elderly person is needlessly institutionalized or kept from their maximum potential.

Last fall, Congressman DOUG WALGREN and I chaired a joint hearing on technology and handicapped people. One of the witnesses eloquently described the problems that handicapped and elderly people face because of inadequate tax incentives. At this time, I would like to share with you portions of her testimony:

I am a severely disabled individual, and technology plays an important role in my personal life. However, I continue to have many difficulties in obtaining appropriate technology, and more significantly, in knowing how I can finance that technology.

I will use myself as an example: I am going to need to use an accessible van for the rest of my life; however, although I am now earning a fair salary, I spend a substantial portion of it on my personal care needs. I don't know how I will be able to purchase my next van. The van I purchased in 1979 would now cost $18,000 to $20,000. In another five years, God knows how much it will cost.

My wheelchair was purchased while I was on State benefits. By the time I need to buy a new wheelchair, it will probably cost between $8,000 and $10,000. My savings are quite minimal because I have such high personal use expenses.

Now, let us look at the elderly. I am so distressed that the elderly are not benefiting from technology. One of their primary problems is that they do not identify as being disabled.

Well, if they had no disabilities, their needs would not be much different from the nondisabled person. The reality is that the technology which exists is not used widely by elderly persons.

How many of you have mothers and fathers who are now elderly and have problems walking up and down stairs, getting in and out of their homes or bathrooms, walking down the street?

How many of these people have had ramps built into their homes, had lifts installed on stairs, or are using motorized wheelchairs which they could use themselves? How many times have you or a relative said, "I would take Aunt Emily in if I was just younger, but I can't lift any more; I'm not as strong as I used to be?"

Well, brute strength is wonderful, but not many of us have it, and if we do, we don't have it for long. How many millions of dollars could be saved if elderly persons were not forced to see themselves as sick, helpless cripples but rather as persons who are acquiring disabilities that would have limited effects on their lives if they could benefit from technology?

What distresses me is that although technology has advanced, it is not benefiting the people who need it so desperately in order to lead equal lives. We are not asking for luxuries. Technology has allowed many Americans to live more luxurious lives. We are asking for basics: to go to the bathroom by ourselves, to get on and off a bus by ourselves, to be able to obtain a job, to be able to live lives free from fear of whether we will have to live in a nursing home, to live free of fear about how we will pay for our next wheelchair, to live free of fear that we have to institutionalize a loved one because we can no longer physically take care of that individual.

I hope that we as Members of Congress will have the foresight to listen to the request of our handicapped and elderly constituents. We must help them help themselves. A tax deduction to encourage elimination of architectural and transportation barriers is a small price to pay if it will provide independence for some of our 70 million elderly and handicapped American citizens. I encourage all of you to support my bill and assist in this endeavor.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 111

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (c) of section 190 of the Internal Revenue Code of 1954 (relating to expenditures to remove architectural and transportation barriers to the handicapped and elderly) is amended by striking out "$25,000" and inserting in lieu thereof "$50,000".

(b) Subsection (c) of section 2122 of the Tax Reform Act of 1976 (90 Stat. 1915) is amended by striking out ", and before January 1, 1983".

(c) The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1982.

By Mr. HATCH (for himself and Mr. STAFFORD):

S. 112. A bill to make certain technical amendments to improve implementation of the Education Consolidation and Improvement Act of 1981, and for other purposes; to the Committee on Labor and Human Resources.

TECHNICAL AMENDMENTS TO THE EDUCATION CONSOLIDATION AND IMPROVEMENT ACT OF 1981

Mr. HATCH. Mr. President, my esteemed colleague ROBERT T. STAFFORD and I are today introducing a set of technical amendments to the Education Consolidation and Improvement Act of 1981, popularly known as the elementary and secondary education block grants. These amendments, under the designation of H.R. 7336, were originally drafted through a cooperative effort between the House and Senate during last year's postelection session. The bill passed both Houses and was sent to the President on January 3 of this year. However, he allowed the bill to die by a pocket veto for several reasons. The urgency of many provisions of this legislation have compelled us to confer again with our colleagues on the House side and we have arrived at a good and worthwhile compromise, one which preserves the most important program improvements to the Education Consolidation and Improvement Act, while answering the administration's principal objections to H.R. 7336. I am pleased to announce that Representative GOODLING is introducing identical legislation today in the House.

When the Education Consolidation and Improvement Act was passed in the spring and summer of last year, it replaced more than 30 separate complex categorical programs. It provided a block grant which returned to State and local education agencies the discretion and flexibility which had been increasingly choked by the luxuriant growth of Federal program requirements and regulations. It also significantly streamlined the delivery of services to disadvantaged children, formerly included under the Elementary and Secondary Education Act of 1965. The bill we are today introducing is a much better bill. In particular, several vital sections restore to local districts the options and flexibility they had to meet local needs under the old Elementary and Secondary Education Act. Originally we had recognized the importance of providing this flexibility but the intention was inadvertently lost in the drafting of the Education Consolidation and Improvement Act of 1981.

Other sections of the bill provide needed clarification of other critical matters. The bill spells out which sections of the General Education Provisions Act apply to the Education Consolidation and Improvement Act, and it sets out procedures for State certification of chapter II applications while safeguarding local discretion to use chapter II funds according to local needs and circumstances.

Among the provisions the administration had earlier objected to is section (1)(B), addressed to the chapter I program for migrant children. The administration is currently engaged in a review of this program's regulations and has advanced some reasonable proposals that deserve consideration.

We object, however, to the proposal to alter the eligibility requirements for the program by classifying only those

children who interrupt their schooling by a move during the school year as "currently migratory." We find this restriction to be unfair and impractical. Characteristically, a migrant child's progression through school is especially difficult because of low social and economic status; unstable family situations; the severance of ties to friends, relatives, and classmates; the necessity of readjusting to new communities, new schools, new curricula and teachers; the difficulty of transferring records promptly from school to school; and, often, the child's imperfect grasp of English. Obviously, these factors do not depend on whether a child's family moves a week before classes start or a week after. Indeed many of them are inherent in the migrant environment generally and would persist even if the child were able to remain stationary for a year or two with a relative while the parents follow the seasonal migrant labor markets.

Applying this proposed standard would be not only arbitrary but also administratively difficult. The dates when school years begin and end vary considerably across the Nation. There would be numerous problems of verifying the exact date of departure and arrival. There would be questions of qualification. For example, would students who leave a district where school has already started and move to one where it has yet to begin qualify? Would students who leave a district where school is still in session and arrive in one where it has just ended quality?

In addition, the administration's proposal would restrict eligibility to children of those whose "primary" employment is in migrant agriculture or fishing. Even though the child's parents may be involved in migrant work or fishing only a few months during the work season they may move their children once or more, affecting the children's schooling. This has just as much an adverse impact on the child as the moves of those who spend most of their time in migrant agriculture.

Further, the requirement for verification of this data would add substantially to the bureaucratic and paperwork burdens of the local and State migratory education programs. And if detailed verification is sought it would be extremely difficult to obtain from the numerous employers for which a worker may labor during the season, more or less anonymously.

For all of these reasons, we have felt it necessary to include statutory language preserving the present definition of "currently migratory child."

Mr. President, this legislation makes a number of corrections urgently requested by our State and local educators for the administration of this year's Federal funds. It is supported by a wide range of interested organizations; it received a favorable vote in the last Congress in substantially the same form; and it is my hope that it will again see prompt and positive action in the Senate early in this session.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 112

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

STATE PROGRAM DESIGN

SECTION 1. Section 555(b) of the Education Consolidation and Improvement Act of 1981 (Public Law 97-35) (hereafter in this Act referred to as "the Act") is amended to read as follows:

"(b) PROGRAM DESIGN.—State agency programs shall be designed to serve migratory children of migratory agricultural workers or of migratory fishermen, handicapped children, and neglected and delinquent children (as described in subparts 1, 2, and 3, respectively, of part B of title I of the Elementary and Secondary Education Act of 1965) in accordance with section 554(a)(2) and the other applicable requirements of this chapter. The Secretary shall continue to use the definition of 'currently migratory child' which was in effect on June 30, 1982, in regulations prescribed under subpart 1 of part B of title I of the Elementary and Secondary Education Act of 1965.".

APPLICATIONS

SEC. 2. (a) Section 556(b) of the Act is amended by inserting "or" at the end of paragraph (1)(A) and by striking out "or" at the end of paragraph (1)(B) and by striking out paragraph (1)(C).

(b) Section 556 of the Act is amended by adding at the end thereof the following:

"(c) EXEMPTION FROM TARGETING.—The requirements of subsection (b)(1) shall not apply in the case of a local educational agency with a total enrollment of less than 1,000 children, but this subsection shall not be construed to exempt such an agency from the requirement to serve those children who have the greatest need for special assistance.".

FLEXIBILITY TO CONTINUE TITLE I-TYPE EXPENDITURES

SEC. 3. Section 556 of the Act is further amended by adding at the end thereof the following new subsection:

"(d) LOCAL EDUCATIONAL AGENCY DISCRETION.—Notwithstanding subsection (b)(1) of this section, a local educational agency shall have discretion to make educational decisions which are consistent with achieving the purposes of this chapter as set forth in this subsection, as follows:

"(1) A local educational agency may designate any school attendance area in which at least 25 percent of the children are from low-income families as an eligible school attendance area for any fiscal year if, in each school attendance area in which projects assisted under this title were carried out in the preceding fiscal year, the aggregate amount expended in the current fiscal year under this subtitle and under a State program (which meets the requirements of section 131(c) of the Elementary and Secondary Education Act of 1965) equals or exceeds the amount expended from those sources in that area in such preceding fiscal year.

"(2) A local educational agency may, with the approval of the State educational agency, designate as eligible (and serve) school attendance areas with substantially higher numbers or percentages of educationally deprived children before school attendance areas with higher concentrations of children from low-income families, but this provision shall not permit the provision of services to more school attendance areas than could otherwise be served. A State educational agency shall approve such a proposal only if the State educational agency finds that the proposal will not substantially impair the delivery of compensatory education services to educationally deprived children from low-income families in project areas served by the local educational agency.

"(3) Funds received under this chapter may be used for educationally deprived children who are in a school which is not located in an eligible school attendance area when the proportion of children from low income families in average daily attendance in such school is substantially equal to the proportion of such children in an eligible school attendance area of such agency.

"(4) If an eligible school attendance area or eligible school was so designated in accordance with section 556(b)(1)(A) in either of two preceding fiscal years, it may continue to be so designated for a single additional fiscal year even though it does not qualify in accordance with section 556(b)(1)(A).

"(5) With approval of the State educational agency, eligible school attendance areas or eligible schools which have higher proportions of children from low income families may be skipped if they are receiving, from non-Federal funds, services of the same nature and scope as would otherwise be provided under this chapter, but (A) the number of children attending private elementary and secondary schools who receive services under this chapter shall be determined without regard to non-Federal compensatory education funds which serve eligible children in public elementary and secondary schools, and (B) children attending private elementary and secondary schools who receive assistance under this chapter shall be identified in accordance with this section and without regard to skipping public school attendance areas or schools under this paragraph.

"(6) A child who, in any previous year, was identified as being in greatest need of assistance, and who continues to be educationally deprived, but who is no longer identified as being in greatest need of assistance, may participate in a program or project assisted under this title for the current year.

"(7) Educationally deprived children who begin participation in a program or project assisted under this chapter who, in the same school year, are transferred to a school attendance area or a school not receiving funds under this chapter, may continue to participate in a program or project funded under this chapter for the remainder of such year.

"(8) The Secretary shall issue regulations permitting local educational agencies to skip educationally deprived children in greatest need of assistance in providing services under this subtitle if such children are receiving, from non-Federal sources, services of the same nature and scope as would otherwise be provided under this subtitle.

"(9) In the case of any school serving an attendance area that is eligible to receive

services under this chapter and in which not less than 75 percent of the children are from low-income families, funds received under this chapter may be used for a project designed to upgrade the entire educational program in that school in the same manner and only to the same extent as permitted under section 133(b) of the Elementary and Secondary Education Act of 1965 (but without regard to paragraph (4) of such section).

"(10) Public school personnel paid entirely by funds made available under this chapter may be assigned limited, rotating, supervisory duties which are assigned to similarly situated personnel who are not paid with such funds, and such duties need not be limited to classroom instruction or to the benefit of children participating in programs or projects funded under this chapter. Such duties may not exceed the same proportion of total time as is the case with similarly situated personnel at the same school site, or 10 percent of the total time, whichever is less."

AREAS FOR SERVICES TO PRIVATE SCHOOL CHILDREN

SEC. 4. Section 557(a) of the Act is amended by inserting "(1)," immediately after "556(b)".

APPLICATION OF NONSUPPLANTING RULE TO STATES

SEC. 5. Section 558(b) of the act is amended—

(1) by inserting "State educational agency or other State agency in operating its State level programs or a" before "local educational agency" in the first sentence; and

(2) by striking out "a local educational agency shall not be required" in the second sentence and inserting in lieu thereof "no State educational agency, other State agency, or local educational agency shall be required".

EXCLUSIONS OF SPECIAL PROGRAM FUNDS

SEC. 6. Section 558(d) of the Act is amended—

(1) by striking out "if such programs are consistent with the purposes of this chapter" and inserting in lieu thereof "including compensatory education for educationally deprived children (which meets the requirements of section 131(c) of the Elementary and Secondary Education Act of 1965)"; and

(2) by adding at the end thereof the following new sentence:

"For the purpose of determining compliance with the requirements of subsection (c), a local educational agency may exclude State and local funds expended for—

"(1) bilingual education for children of limited English proficiency,

"(2) special education for handicapped children or children with specific learning disabilities, and

"(3) certain State phase-in programs as described in section 131(d) of the Elementary and Secondary Education Act of 1965.".

OVERLAP IN COUNTY BOUNDARIES

SEC. 7. Section 558(e) of the Act is amended by striking out "In any State" and inserting in lieu thereof "Notwithstanding section 111(a)(3)(C) of the Elementary and Secondary Education Act of 1965, in any State".

PHASEOUT AND TRANSITION EXPENSES

SEC. 8. Section 562(c) of the Act is amended by adding at the end thereof the following: "Until September 30, 1983, such funds may also be used to assist in phasing out programs described in section 561(a) and in promoting an orderly transition to operations under this chapter.".

STATE ALLOTMENTS

SEC. 9. The first sentence of section 563(a) is amended by striking out "not to exceed".

AUDIT REQUIREMENT OF SMALL LEA'S

SEC. 10. Section 564(a) of the Act is amended by inserting after paragraph (7) the following new sentence: "Notwithstanding section 1745 of this Act, local educational agencies receiving less than an average $5,000 each year under this chapter shall be audited at least once each five years.".

REQUIREMENT FOR STATE CERTIFICATION OF LEA APPLICATIONS

SEC. 11. Section 566(a) of the Act is amended by striking out everything preceding paragraph (1) and inserting in lieu thereof the following:

"SEC. 566. (a) A local educational agency may receive its allocation of funds under this chapter for any year for which its application to the State educational agency has been certified to meet the requirements of this subsection. The State educational agency shall certify any such application if such application—".

SCHOOL LEVEL PROGRAMS

SEC. 12. Section 573(a) of the Act is amended by striking out "chapter" in the first sentence and inserting in lieu thereof "subchapter".

STATE RULEMAKING

SEC. 13. Section 591 of the Act is amended by adding at the end thereof the following new subsection:

"(d) Nothing in this subtitle shall be interpreted (1) to authorize State regulations, issued pursuant to procedures as established by State law, applicable to local educational agency programs or projects funded under this subtitle, except as related to State audit and financial responsibilities, or (2) to encourage, preempt, or prohibit regulations issued pursuant to State law which are not in conflict with the provisions of this subtitle. The imposition of any State rule or policy relating to the administration and operation of programs funded by this subtitle (including those based on State interpretation of any Federal law, regulation, or guideline) shall be identified as a State imposed requirement.".

WITHHOLDING OF PAYMENTS

SEC. 14. Section 592(a) of the Act is amended—

(1) by striking out "on the record" in the first sentence; and

(2) by adding at the end thereof the following new sentence: "A transcript or recording shall be made of any hearing conducted under this subsection and shall be available for inspection by any person.".

JUDICIAL REVIEW

SEC. 15. Section 593(b) of the Act is amended by inserting "and a local educational agency" after "A State educational agency".

APPLICATION OF GEPA

SEC. 16. (a) Section 596 of the Act is amended to read as follows:

"APPLICATION OF OTHER LAWS

"SEC. 596. (a) Except as otherwise specifically provided by this section, the General Education Provisions Act shall apply to the programs authorized by this subtitle.

"(b) The following provisions of the General Education Provisions Act shall be superseded by the specified provisions of this subtitle with respect to the programs authorized by this subtitle:

"(1) Section 408(a)(1) of the General Education Provisions Act is superseded by section 591(a) of this subtitle.

"(2) Section 426(a) of such Act is superseded by section 591(b) of this subtitle.

"(3) Section 427 of such Act is superseded by section 556(b)(3) of this subtitle.

"(4) Section 430 of such Act is superseded by section 556(a) and 564(b) of this subtitle.

"(5) Section 431A of such Act is superseded by section 558(a) of this subtitle.

"(6) Section 453 of such Act is superseded by section 592 of this subtitle.

"(7) Section 455 of such Act is superseded by section 593 of this subtitle with respect to judicial review of withholding of payments.

"(c) Sections 434, 435, and 436 of the General Education Provisions Act, except to the extent that such sections relate to fiscal control and fund accounting procedures, shall not apply to the programs authorized by this subtitle and shall not be construed to authorize the Secretary to require any reports or take any actions not specifically authorized by this subtitle.".

(b) Section 406A of the General Education Provisions Act as added by the Education Amendments of 1974 (relating to responsibility of States to furnish information) is repealed.

CONFORMING AND TECHNICAL AMENDMENTS TO TITLE I ESEA

SEC. 17. (a) Title I of the Elementary and Secondary Education Act of 1965 is amended—

(1) in section 142(a)—

(A) by striking out "subpart 3 of part A, other than sections 122, 123, and 126(d) thereof" in paragraph (3) and inserting in lieu thereof "section 556 (other than subsection (b)(1)) and section 558 (other than subsection (c)) of the Education Consolidation and Improvement Act of 1981"; and

(B) by striking out "parent advisory councils established in accordance with regulations of the Commissioner (consistent with the requirements of section 125(a))" in paragraph (4) and inserting in lieu thereof "parents and teachers of children participating in such programs and projects;"; and

(2) in sections 147 and 152(a), by striking out "subpart 3 of part A, other than sections 122, 123, 125, 126(d), and 126(e) thereof" and inserting in lieu thereof "section 556 (other than subsection (b)(1)) and section 558 (other than subsection (c)) of the Education Consolidation and Improvement Act of 1981".

(b) The amendments made by subsection (a) shall apply only with respect to funds for use under the Education Consolidation and Improvement Act of 1981.

CONFORMING AMENDMENT

SEC. 18. Section 565(a) of the Act is amended by striking out "nonpublic" and inserting in lieu thereof "private, nonprofit".

SEC. 19. (a) Section 505(a)(1) of the Omnibus Education Reconciliation Act of 1981 is amended by striking out "section 2" the second place it appears and inserting in lieu thereof "section 7".

(b) Section 3(d)(2)(E) of the Act of September 30, 1950 (Public Law 874, 81st Congress) is amended—

(1) by inserting "or 1984" after "fiscal year 1983" in clause (ii); and

(2) by striking out "1984" in clause (iii) and inserting in lieu thereof "1985".

EFFECTIVE DATE

SEC. 20. (a) Except as provided in subsection (b), the amendments made by this Act to the Education Consolidation and Improvement Act of 1981 and title I of the Elementary and Secondary Education Act of 1965 shall be effective July 1, 1983.

(b) With respect to the period beginning July 1, 1982, and ending June 30, 1983, no recipient of funds under the Education Consolidation and Improvement Act of 1981 shall be held to have expended such funds in violation of the requirements of such Act if such funds are expended either in accordance with such Act as in effect prior to the date of enactment of this Act or in accordance with such Act as amended by this Act.

● Mr. STAFFORD. Mr. President, today I am pleased to join with the distinguished chairman of the Labor and Human Resources Committee, Mr. HATCH, in introducing legislation making certain technical amendments to improve implementation of the Education Consolidation and Improvement Act of 1981.

As my colleagues know, ECIA represents a major accomplishment in education law. It simplifies and makes more flexible the administration of the popular title I, now chapter I, program. Furthermore, it created the most extensive consolidation of education programs enacted since the passage of the Elementary and Secondary Education Act of 1965. From the reviews ECIA is getting from the field, Congress can pride itself in a job well done.

ECIA was a product of deliberations in 1981, during our consideration of the Omnibus Reconciliation Act. In the circumstances of that time, certain provisions in title I of ESEA which provided for program flexibility were dropped inadvertently in creating chapter I. Also, certain ambiguities and confusion were created regarding congressional intent as it affected chapters I and II.

Therefore, Senator HATCH and I joined with our colleagues here in the Senate, particularly Senator PELL, and with members of the House Education and Labor Committee to expedite passage of these technical amendments late in the 97th Congress. That legislation, H.R. 7336, passed both the House and this body, but after the sine die adjournment of the 97th Congress, the President vetoed this bill.

Not having had the opportunity to consider the President's veto, we nonetheless feel it necessary to reintroduce these technical amendments to allay the uncertainties many school districts have regarding the operation of chapter I and chapter II.

The bill we are introducing today also proposes two other changes. First, it would prevent the Department of Education's unilateral attempt to change the definition of "currently migrant" child for migrant education programs. Second, it corrects a technical error in the Reconciliation Act and moves back the phaseout of section 3(b) payments under the impact aid law to fiscal year 1985.●

By Mr. ABDNOR (for himself and Mr. MELCHER):

S. 113. A bill to amend the Internal Revenue Code of 1954 to repeal the highway use tax on heavy trucks and to increase the tax on diesel fuel used in heavy trucks; to the Committee on Finance.

THE HIGHWAY TAX EQUITY ACT OF 1983

Mr. ABDNOR. Mr. President, today I am introducing the Highway Tax Equity Act of 1983. The Senator from Montana, Senator MELCHER, joins me in cosponsoring this bill, and I am hoping to find other Senators who will agree that this is proper legislation and will be joining with me later on in cosponsoring it.

As we are all painfully aware, this past December, the 97th Congress in its lameduck session debated and passed the Surface Transportation Assistance Act of 1982. While I joined with 51 of my colleagues in this Chamber to pass this historic piece of legislation, I made it clearly known that my support was for the act's ends not its means.

Our highways—literally the circulatory system of this Nation—are in desperate need of repair and reconstruction. In my judgment, as responsible legislators we had to do something. My publicly expressed reservations regarding the act's methods of tax assessment and collection were outweighed by the risk of jeopardizing further this Nation's tremendous investment in roads and bridges.

We all understand that legislating is a highly dynamic process and I now offer legislation to correct what I consider to be a fundamental inequity of the current law. I am referring specifically to the heavy vehicle user fee. By current law the previous $162 heavy vehicle user fee for an 80,000 pound truck is scheduled eventually to rise to $1,900.

The inequity of this provision is that the heavy vehicle user fee is no user fee at all—the tax is not a function of highway use; all heavy trucks will pay the same user fee whether their use is 5,000 miles or 500,000 miles.

Annual mileage is an indicator of business activity and therefore better reflects a trucker's ability to pay. The combination of trucking deregulation and a deep and prolonged economic recession has made for truckers even the thought of writing out a check to the IRS for $475 every 3 months especially unpalatable.

While largely maintaining total revenue collections, the Highway Tax Equity Act of 1983 effectively shifts to the diesel tax collection of the revenue that would have been assessed through the heavy vehicle user fee.

The heavy vehicle user fee, when fully implemented in 1985, would have yielded $1.159 billion according to the Department of Transportation. Raising the diesel fuel tax an additional 2 cents per gallon on April 1, 1983, and 3 cents on April 1, 1984, as provided in my bill, will generate approximately $870 million, and possibly more if we experience a strong economic recovery.

In addition, the taxation and collection of revenues would occur sooner than under the recently passed Surface Transportation Assistance Act of 1982, and with the trend toward lower fuel prices, the effect on the trucking industry will be minimized.

Secretary Lewis stated during consideration of the Senate bill that he would support a maximum $1,200 heavy truck user fee, and the Senate adopted this provision with my support. In the conference committee, however, the heavy truck provision was raised to $1,900.

My bill, by phasing in an additional increase in the diesel fuel tax, would generate approximately $245 million more than $1,200 heavy truck user fee schedule would have raised for the trust fund.

The past 2 years have not been easy ones for those Members that were most responsible for the 1982 act, and it should be clear that I am not trying to undo what they have accomplished.

This bill does not let the truckers off the hook, so to speak. They will pay for the damage for which they are responsible on our roads and bridges, but I believe we can accomplish that goal without imposing unfair charges upon a great share of the industry.

I urge my colleagues to support enactment of the Highway Tax Equity Act of 1983.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 113

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPEAL OF THE HIGHWAY USE TAX.

(a) IN GENERAL.—Subchapter D of chapter 32 of the Internal Revenue Code of 1954 (relating to the tax on the use of certain vehicles) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 6156 of such Code (relating to installment payment of highway use tax) is hereby repealed.

(2) The table of subchapters of chapter 36 of such Code is amended by striking out the item relating to subchapter D.

(3) The table of sections of subchapter A of chapter 62 of such Code is amended by striking out the item relating to section 6156.

(4) Paragraph (2) of section 6601 of such Code (relating to installment payments) is amended—

(A) by striking out ", 6156 (a),", and
(B) by striking out ", 6156 (b),".

SEC. 2. INCREASE IN DIESEL FUEL TAX.

(a) INCREASE IN 1983.—

(1) IN GENERAL.—Paragraph (1) of section 4041(a) of the Internal Revenue Code of 1954 (relating to diesel fuel) is amended by striking out "9 cents" and inserting in lieu thereof "11 cents".

(2) GASAHOL.—Paragraph (1) of section 4041(k) of such Code (relating to fuels containing alcohol) is amended to read as follows:

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, in the case of the sale or use of any liquid fuel at least 10 percent of which consists of alcohol (as defined in section 4081(c)(3))—

"(A) subsection (a)(1) shall be applied by substituting '6 cents' for '11 cents' each place it appears,

"(B) subsection (a)(2) shall be applied by substituting '4 cents' for '9 cents' each place it appears, and

"(C) no tax shall be imposed by subsection (c).".

(b) INCREASE IN 1984.—

(1) IN GENERAL.—Paragraph (1) of section 4041(a) of such Code, as amended by subsection (a)(1), is further amended by striking out "11 cents" and inserting in lieu thereof "14 cents".

(2) GASAHOL.—Subparagraph (A) of section 4041(k) of such Code, as amended by subsection (a)(2), is further amended—

(A) by striking out "6 cents" and inserting in lieu thereof "9 cents", and

(B) by striking out "11 cents" and inserting in lieu thereof "14 cents".

(c) INCOME TAX CREDIT FOR DIESEL FUEL USED IN AUTOMOBILES AND LIGHT TRUCKS.—

(1) IN GENERAL.—Section 6427 of such Code (relating to fuels not used for taxable purposes) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) DIESEL FUEL USED IN AUTOMOBILES AND LIGHT TRUCKS.—Except as provided in subsection (i), if a tax is imposed by section 4041(a)(1) on the sale or use of fuel and such fuel is used in a highway vehicle which has a gross vehicle weight rating in excess of 10,000 pounds, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the excess of—

"(1) the amount of such tax, over

"(2) the sum of—

"(A) 9 cents, multiplied by

"(B) the number of gallons of such fuel.".

(2) CONFORMING AMENDMENT.—Subsection (g) of section 6427 of such Code (relating to time for filing claims) is amended—

(A) by striking out "or (f)" in paragraph (1) and inserting in lieu thereof "(f), or (k)",

(B) by striking out "and (e)" in paragraph (2)(A)(i) and inserting in lieu thereof "(e), and (k)".

SEC. 3. EFFECTIVE DATES.

(a) HIGHWAY USE TAX REPEAL.—the amendments made by section 1 shall take effect on July 1, 1983.

(b) INCREASED IN DIESEL FUEL TAX.—

(1) IN GENERAL.—The amendments made by subsections (a) and (c) of section 2 shall take effect on April 1, 1983.

(2) INCREASE IN 1984.—The amendments made by section 2(b) shall take effect on April 1, 1984.

By Mrs. KASSEBAUM:

S. 114. A bill for the relief of Carlos Mebrano Gatson; to the Committee on the Judiciary.

CARLOS MEBRANO GATSON

Mrs. KASSEBAUM. Mr. President, today I am reintroducing a private bill on behalf of Carlos Gatson of Pasay City, the Philippines.

I first introduced this private bill on February 22, 1982, and it was referred to the Senate Committee on the Judiciary. Following favorable consideration by that committee, it was approved by the full Senate. It is unfortunate that the House did not have ample time in the closing hours of the 97th Congress to consider my legislation. Carlos Gatson is the natural father of Teresita Brown of Derby, Kans. Mrs. Brown's parents were not legally married until 1975. Because Teresita had passed her 18th birthday by that time, Mr. Gatson is not recognized by immigration law as her parent. If Teresita's mother were alive and the beneficiary of an approved petition, Mr. Gatson would also be permitted to join her in coming to this country. Unfortunately, Teresita's mother died in 1979. Mrs. Brown and her husband continue to support Mr. Gatson and are most anxious to have him spend his last years with them.

I hope that prompt action can be taken on this bill.

By Mr. PRESSLER:

S. 115. A bill entitled "The Tax Revision Act of 1983"; to the Committee on Finance.

TAX REVISION ACT OF 1983

Mr. PRESSLER. Mr. President, today, I am introducing legislation which would repeal two provisions of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA). These two provisions, if allowed to stand, will cause serious problems for American taxpayers.

The first section of my bill would repeal the tip income reporting requirements. I have consistently opposed these requirements and because this legislation has already taken effect, its early repeal is necessary.

I believe that taxpayer compliance is certainly important. However, any law which is based on assumed rather than actual income sets a dangerous precedent in our Nation's tax laws. The 1982 law does exactly that by assuming that all waiters and waitresses make at least 8-percent tips for their service.

To the many American who reside in our Nation's larger cities, 8 pecent would appear to be a very low figure. For them and for my colleagues who live at least part of the year in Washington, 15 to 20 percent is the norm. However, in small, rural States like South Dakota, waiters and waitresses receive much less than that. In fact, South Dakota restaurant employees estimating that their tips are closer to 4 to 5 percent clearly shows the danger of the current law. I believe that the IRS could develop a more acceptable manner of increasing compliance without taxing honest taxpayers for money they have not received.

Another provision of TEFRA which I opposed during its original passage is the provision dealing with withholding on dividend and interest income. I believed then and I continue to believe that this provision is a terrible burden on our small savers and financial institutions alike.

I have heard from numerous savers in South Dakota who will be adversely affected by the withholding law. While exemptions are provided for elderly and low-income individuals, these exemptions will generate reams of paperwork and redtape for those Americans who are least equipped to deal with these problems. In addition, for the small rural banks we have in South Dakota, the new law will mean dramatically increased costs. I find it ironic that a Congress which recently passed major deregulation legislation to help our faltering financial institutions is slapping them with increased redtape and cost with the other hand.

Reporting of taxable income has been estimated at 89 percent for interest income and 85 percent for dividend income. These figures come from the IRS itself. Reporting could be improved sufficiently by tougher enforcement on the part of the IRS without the elaborate and costly withholding law passed last year.

The idea of withholding on dividend and interest income has kicked around the Congress for several years and I believe it was passed, like the tip income reporting requirements, only because it was attached to the tax equity bill. I hope that my colleagues will join me in revising the TEFRA law before it causes serious hardship to already hard-pressed American taxpayers.

By Mr. PRESSLER:

S. 116. A bill to require the President to take certain actions to obtain relief from subsidized agricultural imports and from nontariff trade barriers imposed by foreign countries against agricultural goods produced in the United States; to the Committee on Finance.

FAIR INTERNATIONAL TRADE ACT OF 1983

Mr. PRESSLER. Mr. President, today I am introducing legislation to require the President to take certain actions to obtain relief from nontariff barriers imposed by foreign nations against our agricultural products and from the unfair export subsidies on agricultural products used by certain foreign nations.

The bill would require one of two actions to be taken whenever unfair trade policies are employed: First, im-

position of trade restrictions on all products imported into the United States from the offending country, equal to the losses caused by its retrictions on U.S. products; or second, implementation of trade restrictions on imports from nations using export subsidies, equal to U.S. losses caused by the subsidy.

Currently, Japan and the European Economic Community (EEC) restrict the importation of several U.S. agricultural products, while we permit their products to freely enter the United States. The EEC also uses an export subsidy program to compete unfairly for foreign agricultural markets. As a result of these policies and other factors, the total value of U.S. farm exports declined for the first time in over a decade in 1981 and 1982.

For example, Japan's trade restrictions include a 76-percent markup on Japanese food agency sales of U.S. wheat to Japanese flour millers. The Japanese protectionist system for wheat is outlined by the following chart:

Price per bushel received by South Dakota wheat farmer	$3.58
West coast export price	4.64
Landing price in Japan	5.50
Price charged by the Japanese Government to Japanese flour mills (grain trade is controlled by government monopoly)	9.50

In addition to substantially marking up, or taxing, the price of United States wheat, the Japanese restrict meat imports with quotas, government buying programs, and domestic pricing markups to make imported meat extremely expensive to Japanese consumers. Japan sets a general beef import quota each year and that quota was reduced from 134,000 metric tons in 1980 to 126,000 metric tons in 1981. A quasi-governmental agency, the Livestock Industry Promotion Corporation (LIPC), controls 90 percent of Japan's beef purchases. The LIPC has approved only 20 U.S. meat processing plants to export meat to Japan. The United States has over 6,000 federally inspected plants that could export meat. The Japanese price markup system more than doubles the cost of the beef to the consumer. The following chart illustrates the markup system:

Charges against U.S. beef entering Japan

Actual import cost and transportation (pound)	$3.74
Japanese customs duty (25 percent)	.94
Import expenses	.23
Wholesale markup	1.11
Retail markup	1.51
Consumer cost at the market (pound)	7.53

The EEC also has a number of nontariff barriers on U.S. agricultural products. In addition, they provide export subsidies for many agricultural products, such as wheat and dairy products. About 60 percent of the cost of the EEC dairy program is used for export subsidies and wheat exports are subsidized at around $2 per bushel. These subsidies allow them to compete unfairly on the international market.

Since the GATT talks in Geneva last November, it has become clear that the United States must take bold action to try to reduce or eliminate these unfair trade policies. The legislation I am introducing today would give the President a tool with which he could retaliate against these unfair trade practices. This legislation is an effort to gain the attention of the Japanese and the EEC, to show them that we are serious about eliminating nontariff barriers and export subsidies to free trade. I also want to make sure that agriculture is not left out in any future trade legislation or negotiations. The bill is not an attempt to create a protectionist atmosphere or give the United States an unfair advantage, but rather to persuade foreign countries to eliminate their unfair trade barriers and to work toward free trade.

Mr. President, I urge my colleagues to join me in support of this legislation and I ask unanimous consent that the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 116

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Agricultural Trade Reciprocity Act of 1983".

SEC. 2. FINDINGS; STATEMENT OF PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) trade in agricultural goods is a vital part of the United States economy;

(2) many countries are increasingly imposing nontariff trade barriers on the importation of American agricultural goods and subsidizing the export of agricultural goods in order to sell such goods in the United States at a price that is lower than the price at which goods produced in the United States are sold;

(3) such barriers and subsidies include, but are not limited to, the market domination of national monopolies and cartels, quotas, discriminatory restrictions on licensing and foreign exchange, local content requirements, minimum export requirements, discriminatory health, safety, testing, grading, or environmental standards, discriminatory tax policies, export restitutions or subsidies and other discriminatory restrictions;

(4) the effect of such barriers and subsidies has been to discriminate against American agricultural goods and to deny the benefits of trade on a reciprocal basis; and

(5) such discrimination—

(A) results in a less open trading system and a distortion of the market system, and

(B) works to the disadvantage of all countries, particularly countries (including the United States) which adhere to a free market system.

(b) PURPOSE.—It is the purpose of this Act to encourage—

(1) adherence to the principles of the existing international trading system, and

(2) the operation and development of a fair and open international trading system by promoting the principles of reciprocal market access for agricultural goods.

SEC. 3. AMENDMENTS TO THE TRADE ACT OF 1974.

(a) IMPOSITION OF RECIPROCAL TRADE RESTRICTIONS AND SUBSIDIES.—Chapter 1 of title III of the Trade Act of 1974 (19 U.S.C. 2411, et seq.) is amended by adding at the end thereof the following new section:

"SEC. 307. IMPOSITION OF RECIPROCAL TRADE RESTRICTIONS AND SUBSIDIES.

"(a) DETERMINATION BY THE PRESIDENT.—

"(1) INITIAL DETERMINATION.—Within 120 days after the date of enactment of the Agricultural Trade Reciprocity Act of 1983, the President shall determine which foreign countries or instrumentalities, if any, are—

"(A) imposing nontariff trade barriers against agricultural exports of the United States that burden or restrict United States commerce or impair the growth of markets in that foreign country for agricultural exports of the United States, or

"(B) subsidizing agricultural exports in order to unfairly compete with agricultural goods produced in the United States.

"(2) SUBSEQUENT DETERMINATIONS.—At any time after the 120-day period described in paragraph (1), the President may make a determination under this subsection that any foreign country or instrumentality is—

"(A) imposing a nontariff trade barrier described in paragraph (1)(A), or

"(B) providing a subsidy described in paragraph (1)(B).

"(b) ACTION ON PETITIONS AND RESOLUTIONS.—

"(1) FILING OF PETITIONS.—Any interested person may file with the United States Trade Representative a petition that sets forth allegations that a foreign country or instrumentality is—

"(A) imposing a nontariff barrier described in subsection (a)(1)(A), or

"(B) providing a subsidy described in subsection (a)(1)(B).

"(2) ACTION BY TRADE REPRESENTATIVE.—Upon the filing of a petition under paragraph (1), the United States Trade Representative shall, within 60 days after the filing of such petition, determine on the record, after an opportunity for a hearing, whether the allegations set forth in the petition are true. The United States Trade Representative shall inform the President of any determination made pursuant to this subsection that any such allegations are true. If unable to make a determination within such 60-day period, the United States Trade Representative may extend such 60-day period by an additional period of 30 days if the Trade Representative notifies the parties involved of the extension and the reasons therefor.

"(c) IMPOSITION OF RECIPROCAL TRADE RESTRICTIONS.—

"(1) IN GENERAL.—Notwithstanding any trade agreement in effect between the United States and any foreign country, if the President determines under subsection (a), or the United States Trade Representative determines under subsection (b), that such foreign country or an instrumentality of such foreign country is imposing nontariff trade barriers described in subsection (a)(1)(A) or is providing subsidies described in subsection (a)(1)(B), the President shall, within 60 days after such determination impose trade restrictions on the importation of products of such foreign country into the

United States which will have an economic effect equivalent to—

"(A) such nontariff trade barriers imposed by that foreign country or instrumentality, or

"(B) such subsidies.

"(2) CONTINUANCE OF TRADE RESTRICTIONS.—Any trade restrictions imposed under paragraph (1) with respect to a foreign country shall remain in effect until the President, in consultation with the United States Trade Representative, determines that the foreign country or instrumentality has removed any nontariff trade barrier or ceased to provide any subsidy determined to exist pursuant to subsection (a) or (b).

"(d) RESPONSIBILITIES OF TRADE REPRESENTATIVE.—The United States Trade Representative shall—

"(1) issue regulations concerning the filing of petitions under subsection (b);

"(2) keep any person filing a petition under subsection (b) regularly informed of all determinations and developments concerning the petition; and

"(3) submit a report semiannually to the House of Representatives and the Senate describing the petitions filed under subsection (b) and the determinations made (and the reasons therefor) pursuant to the filing of the petitions.

"(e) PUBLICATION IN FEDERAL REGISTER.—

"(1) PRESIDENTIAL DETERMINATIONS AND ACTIONS.—The President shall publish in the Federal Register each determination made pursuant to subsection (a) and all actions taken pursuant to subsection (c).

"(2) DETERMINATIONS BY THE UNITED STATES TRADE REPRESENTATIVE.—The United States Trade Representative shall publish in the Federal Register each determination made pursuant to subsection (b).

"(3) IDENTIFICATION OF BARRIERS AND SUBSIDIES.—The publication under this subsection of any determination made with respect to a foreign country or instrumentality under subsection (a) or (b) shall specify—

"(A) the nontariff trade barrier imposed by such foreign country or instrumentality, or

"(B) the subsidy provided by such foreign country or instrumentality,

which is the basis for such determination.

"(f) REPORT TO CONGRESS.—The President shall report to the Congress the results of all determinations made pursuant to subsection (a) and all actions taken pursuant to subsection (c).

"(g) JUDICIAL REVIEW.—Any determination of the United States Trade Representative under subsection (b) shall be subject to appeal and review as a final agency action in accordance with chapter 7 of title 5, United States Code.

"(h) DEFINITION.—For purposes of this Act—

"(1) AGRICULTURAL GOODS.—The term 'agricultural goods' means any raw or processed agricultural product, including, but not limited to—

"(A) meat or meat byproduct,

"(B) poultry,

"(C) grain,

"(D) rice,

"(E) oilseeds,

"(F) citrus fruit and citrus fruit products, and

"(G) timber and timber products.

"(2) AGRICULTURAL EXPORTS.—The term 'agricultural export' means, with respect to any country, any agricultural goods exported from such country.".

(b) CONFORMING AMENDMENT.—The table of contents of the Trade Act of 1974 is amended by inserting immediately after the item relating to section 306 the following new item:

"Sec. 307. Imposition of reciprocal trade restrictions.".

By Mr. CHILES (for himself and Mr. NUNN):

S. 117. A bill to improve the effectiveness and efficiency of Federal law enforcement efforts; to the Committee on the Judiciary.

CRIME CONTROL ACT OF 1983

● Mr. CHILES. Mr. President, I am pleased to join with Senator NUNN in introducing an important piece of legislation, the Crime Control Act of 1983. Its passage would be of invaluable assistance in our efforts to bring violent crime under control.

Violent crime has become a critical problem across the Nation and in Florida in particular, where the multibillion-dollar international drug smuggling industry has mushroomed. One major characteristic of drug trafficking is its use of violence. In fact, Drug Enforcement Agency officials estimate that over half of the murders committed in the Miami area are drug related. When you add together violence and large-scale drug smuggling, you get organized crime.

It is unrealistic to expect local law enforcement agencies to be able to cope with this situation by themselves. The drug smugglers are well-organized, very well financed, and worldwide in their operations, crossing State as well as national boundaries. Only through coordinated activity, spearheaded by the Federal Government, can the people who control these activities be brought to justice. This usually calls for sophisticated investigations; lengthy grand jury proceedings; and costly commitments of time, people, and facilities. Unless we have the laws in place which will facilitate these coordinated law enforcement activities, we will be hard pressed to contain organized crime let alone turn the tide against it.

Back in late 1978 and early 1979, the Senate Permanent Subcommittee on Investigations began extensive investigations of the illegal drug trade, investigations which culminated in a series of hearings focusing on the drug traffic in south Florida. These hearings revealed not only the alarming quantity of the traffic: they also showed that the traffic was controlled by organized crime rings which are able to use the enormous profits made on drug sales to get their way. Those who can be corrupted are bought off, and those who cannot be corrupted are simply eliminated by hired killers. The men at the top of the crime rings, the money men, could not be reached because they put layers of people between them and the actual drugs and violence. They moved their narcotics profits out of the country, laundered them in off-shore banking havens, and then brought them back and used them to compete against legitimate businesses, or else to buy up everything in sight. A real estate economist showed that drug money was actually driving up the rate of inflation, especially in the real estate market. The findings we made in these hearings, as well as in other hearings and investigations by other committees, made it possible to outline the strategy for an attack on crime and drug smuggling.

The strategy we have worked on for the past several years called for an attack on drugs and crime on several different fronts. First, we needed to do something to cut off the flow of drugs into the United States. Second, we needed to have the tools to attack the criminal organizations that controlled the drug traffic. Third, we needed to make sure that we had penalties in place to assure that those drug dealers and criminals who are arrested come to justice. Fortunately, we have made progress on the first front to some extent. In 1981, Congress passed two important measures that should help curb the international drug flow. The first was my bill which lifted the restriction on the use of American foreign aid for crop eradication programs overseas, on drug crops in the countries where they are grown. Colombia, for example, used some of the moneys available through this new law to buy equipment which was instrumental in a massive drug eradication campaign. The recent filing of the State Department's environmental impact statement indicating the relative safety of paraquat spraying with proper usage promises further progress under this law. The other proposal which I am proud to be identified with was an amendment to the posse comitatus laws, an amendment which allowed the military to pass on information it picks up about the location of drug smuggling planes and ships to law enforcement authorities. Only 2 months after this provision became law, military participation—including the use of an AWAC plane—helped in the seizure of over 6 million pounds of marihuana. This law is continuing to bear fruit in the Caribbean today. On the second front, breaking up the criminal organizations, we have seen some more signs of progress. An amendment to the Tax Reform Act of 1976 became law last year which allows the IRS to assist other Federal enforcement officials in breaking up sophisticated organized crime operations. More remains to be done, however, on this second front of our attack on crime. Certain provisions in the legislation we are proposing today will help us fight organized crime by getting to the money men at the top of the rackets.

As I mentioned earlier, sophisticated investigations are essential if we are to

crack open the nerve center of organized criminal activities. The bill we are introducing today will enhance the efficiency of those investigations. Moreover, we need to strengthen deterrents against the use of violence and contract killings, especially when they are employed by organized crime as a tool to carry out its objectives.

First, the bill would directly attack the use of violence as a method of intimidation and control. It would enable Federal law enforcement officials to become involved in contract murder cases. This is especially important, given the fact that organized crime operates across State lines, and uses such killings as a way to enforce discipline and to intimidate people. Federal involvement will help State and local law enforcement authorities in dealing with this situation.

Second, the bill would help make sure that criminals who are arrested will in fact come to trial. Large-scale drug dealers operate immensely profitable businesses. They think nothing of posting a large bond and then never showing up in court, when the alternative they face is a long jail sentence. The bill provides for bail reform. It enables a Federal court, in making its bail determination, to consider the danger to the community involved in the release of a defendant pending trial. It also reverses the presumption of bailability for those arrested on drug charges who have prior drug convictions.

Third, the bill provides for increased mandatory penalties for persons who use firearms or other dangerous weapons in the course of felonious acts.

Fourth, the bill changes the Federal habeas corpus statute with regard to State prisoners. It strengthens the notion of finality for a State conviction obtained fairly and justly. It assures that habeas petitions are considered while cases are relatively fresh.

Mr. President, we all recognize that law enforcement is primarily a State and local government responsibility, but it is unfair and unrealistic to expect local law enforcement officials to fight large-scale, organized crime by themselves. It is our duty to help in this particular fight on a Federal level. I believe that this bill enables us to meet this duty.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 117

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Crime Control Act of 1983".

TITLE I—ORGANIZED CRIME ENFORCEMENT

SEC. 101. (a) Title 18, United States Code, is amended by adding a new section 1118, as follows:

"§ 1118. Contract murder

"(a) DEFINITIONS.—As used in this chapter—

"(1) 'contract murder' means a murder, attempted murder, or assault which violates the laws of the State where the prohibited acts were committed or commissioned, and which was commissioned, committed, or attempted to be commissioned or committed by any person offering, providing, agreeing to provide, threatening to cease providing, or soliciting, receiving, or agreeing to receive anything of value;

"(2) 'commission or commissioned' means offering, planning, instructing, ordering, coercing, or otherwise initiating or being instrumental in a contract murder or attempted contract murder;

"(3) 'anything of value' means anything tangible or intangible the offering party agrees to provide or the receiving party agrees to receive in exchange for committing or attempting to commit a contract murder as defined in this chapter, and may include, but is not limited to, tangible items such as money, land, or position, or intangible items such as gaining favor, anticipation of rewards for services performed, or other similar items;

"(4) 'superior' means any person exerting direct or indirect responsibility, authority, control, or influence over another person; and

"(5) 'subordinate' means any person who is directly or indirectly responsible to or under the authority, control, or influence of another person.

"(b) COMMISSIONING, OR COMMITTING A CONTRACT MURDER, ATTEMPTED CONTRACT MURDER, OR CONTRACT ASSAULT.—(1) Any person who offers, provides, agrees to provide, threatens to cease providing, solicits, receives, or agrees to receive, anything of value as consideration for the commission of a murder, attempted murder, or assault which violates the laws of the State in which the prohibited acts were committed or commissioned shall be fined not more than $10,000 or imprisoned for not more than ten years, or both; and if personal injury results, shall be fined not more than $50,000 or imprisoned for not more than twenty years, or both; and if death results, shall be fined not more than $100,000 or be imprisoned for any term of years or for life, or both.

"(2) In any prosecution under this section, if it is shown that there was present—

"(A) a direct or indirect contact or communication between two or more persons involving an offer, agreeement, or solicitation to commit a contract murder, or

"(B) a direct or indirect contact or communication between a superior and a subordinate involving an offer, agreement, or solicitation to commit a contract murder,

then there is prima facie evidence that the prohibited acts described in subsection (b)(1) were committed and commissioned for anything of value.

"(3) Any person who uses actual or threatened force, violence or fear, or any person who uses his reputation for being a person who uses force and violence, to coerce or attempt to coerce another person to commit a murder, attempted murder, or assault in violation of the law of the State in which the prohibited acts were committed or commissioned shall be in violation of this section and shall be subject to the penalties set forth in subsection (b)(1).

"(c) ATTORNEY GENERAL GUIDELINES.—The Attorney General shall, by regulation, designate criteria for Federal participation in the investigation and prosecution of contract murders as defined in this section. These criteria shall be used solely for the purpose of providing comity with State and local authorities and to preserve and coordinate the limited resources of the Federal Government, and in no way shall limit the authority of the Federal Government to investigate and prosecute violations of this section.

"(d) EFFECT ON EXISTING FEDERAL COOPERATION WITH STATE AND LOCAL AUTHORITIES.—Nothing in this section shall compromise or otherwise affect the ability of Federal officials to assist State and local officials upon request.

"(e) EFFECT ON STATE LAWS.—This chapter shall not preempt any field of law with respect to State legislation which would be permissible in the absence of this section. No law would be permissible in the absence of this section. No law of any State which would be valid in the absence of this section and no officer, agency, or instrumentality of any State may be deprived by virtue of this section of any jurisdiction over any offense over which it would have jurisdiction in the absence of this section.".

(b) The analysis of chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"1118. Contract murder.".

SEC. 102. Section 1114 of title 18, United States Code, is amended by adding after "Department of Justice," the following: "any attorney, agent, or employee of the United States Government employed to investigate or prosecute violations of Federal criminal statutes, or any officer or employee of any department or agency within the Intelligence Community (as defined in section 4-207 of Executive Order 12036 of January 24, 1978, or successor orders),".

SEC. 103. (a) Chapter 7 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§115. Protection of families of Federal officers

"Any person who assaults, maims, kidnaps, murders or threatens to assault, maim, kidnap or murder the spouse, parent, brother, sister, child, ward, or other relative by blood or marriage, of any person designated in section 1114 of this title, with intent to impede, intimidate, interfere with, or retaliate against, the designated person while engaged in or on account of the performance of his official duties, shall be fined not more than $10,000 or imprisoned not more than ten years, or both. If a dangerous weapon is used in the commission of the offense, he shall be fined not more than $20,000 or imprisoned not more than fifteen years, or both. If personal injury results, he shall be fined not more than $50,000 or imprisoned for not more than twenty years, or both. If death results, he shall be imprisoned for any term of years or for life.".

(b) The analysis of chapter 7 of title 18, United States Code, is amended by adding at the end thereof the following:

"115. Protection of families of Federal officers.".

SEC. 104. Section 1503 of title 18, United States Code, is amended to read as follows:

"§ 1503. Influencing or injuring officer, juror, witness, potential witness, or informant

"Any person who corruptly, or by threats or force, or by any threatening letter or communication, endeavors to influence, intimidate, or impede any witness, potential witness, or informant in any court, grand jury, or other proceeding of the United States or before any United States commissioner or other committing magistrate, or any grand or petit juror, or officer in or of any court of the United States, or officer who may be serving at any examination or other proceeding before any United States commissioner or other committing magistrate, in the discharge of his duty; or who injures any party, witness, potential witness, or informant in his person or property on account of his attending, having attended, or his potential participation in such court, grand jury, or other proceeding or examination before such officer, commissioner, or other committing magistrate, or on account of his testifying, having testified, being a potential witness to, or providing information on any matter pending therein; or who injures any such grand or petit juror in his person or property on account of any verdict or indictment assented to by him, or on account of his being or having been such juror; or who injures any such officer, commissioner, or other committing magistrate in his person or property on account of the performance of his official duties; or who corruptly or by threats or force, or by any threatening letter or communication, influences, obstructs, or impedes, or endeavors to influence, obstruct, or impede the due administration of justice, or who corruptly or by threats or force or by any threatening letter or communication endeavors to influence, intimidate or impede any witness, potential witness or informant with intent to hinder, delay or prevent the communication to a law enforcement officer of information relating to an offense or possible offense, shall be fined not more than $10,000 or imprisoned not more than ten years, or both.".

SEC. 105. Section 552(b)(7)(D) of title 5, United States Code, is amended by inserting ", or tend to disclose," after "disclose".

SEC. 106. Subsection (b) of rule 35 of the Federal Rules of Criminal Procedure is amended by adding at the end thereof the following new paragraph:

"The court may also reduce a sentence at any time upon the application of the Attorney General, or any Department of Justice attorney specially designated by the Attorney General, when a convicted defendant provides substantial assistance in the identification, investigation, indictment, arrest, or conviction of any of the defendant's accomplices, accessories, coconspirators, principals, or other persons engaged in criminal conduct. Any such motion may be filed and heard on an ex parte motion in camera. The judge hearing such motion may reduce the sentence of the defendant if he finds that the defendant rendered such substantial assistance.".

SEC. 107. Section 2518(1)(e) of title 18, United States Code, is amended by adding ", providing that any information as to previous applications which might compromise a current or pending case or investigation shall be reviewed by the judge in camera" after "each such application".

SEC. 108. (a) Chapter 119 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 2521. Limitations on disclosures to protect ongoing criminal investigations

"(a) If the disclosure of any information contained in the affidavits, application, orders, or accompanying documents required by this chapter would tend to disclose the existence of other pending investigations or wire interceptions, a Federal district court judge may seal, use in camera proceedings, or other procedures to insure that the portion or portions of such documents which may disclose an ongoing criminal investigation or wire intercept are not disclosed. In making his decision, the judge shall consider the legal rights of any party receiving or requesting access to such documents and whether or not the portion or portions concerning ongoing criminal investigations, or wire intercepts are essential to protect any statutory or constitutional right claimed by such party.

"(b) The Attorney General or any attorney specially designated by him may make application to a Federal district court judge to seal, hold in camera proceedings, or use other appropriate procedures to protect the confidentiality of information relating to ongoing criminal investigations or wire intercepts as described in subsection 2521(a) of this title.".

(b) The analysis at the beginning of chapter 119 of title 18, United States Code, is amended by adding at the end thereof:

"2521. Limitations on disclosures to protect ongoing criminal investigations.".

SEC. 109. (a) Rule 6(e)(3)(A) of the Federal Rules of Criminal Procedure is amended by adding at the end thereof the following:

"(iii) a State or local law enforcement official duly authorized as an agent of the grand jury, where such an official is assisting an attorney for the Government in the enforcement of Federal criminal law.".

(b) Rule 6(e)(3)(B) of the Federal Rules of Criminal Procedure is amended by striking out "subparagraphs (A)(ii) and (A)(iii)" and inserting in lieu thereof "subparagraph (A)(ii)".

TITLE II—BAIL REFORM

SEC. 201. Part D of title II of the Controlled Substances Act (21 U.S.C. 841) is amended by adding at the end thereof the following new sections:

"RELEASE CONDITIONS

"SEC. 413. (a) In setting conditions of release under section 3146(a) of title 18, United States Code, for any person charged with an offense under section 401(a) of this title or section 1010(a) of title III with respect to a controlled substance in schedule I which is a narcotic drug or a controlled substance in schedule II, or charged under section 406 of this title with attempting or conspiring to commit an offense under section 401(a) of this title relating to an opiate, or charged under section 1013 of title III with attempting or conspiring to commit an offense under section 1010(a) of title III relating to a controlled substance in schedule I which is a narcotic drug or a controlled substance in schedule II, the judicial officer shall, in addition to determining which conditions will reasonably assure the appearance of such person for trial, consider which conditions will reasonably assure the safety of the community, the personal safety of persons in the community, including witnesses to the offense, and the prevention of similar offenses in the future by such person.

"(b) For purposes of this section and section 414, 'judicial officer' means any person or court authorized pursuant to section 3041 of title 18, United States Code, or the Federal Rules of Criminal Procedure, to admit to bail or otherwise to release a person before trial or sentencing or pending appeal, in a court of the United States and any judge of the Superior Court of the District of Columbia.

"DENIAL OF RELEASE PRIOR TO TRIAL

"SEC. 414. (a) Notwithstanding the provisions of section 3146 of title 18, United States Code, a judicial officer shall deny release of a person charged with a violation of section 401(a) of this title or section 1010 (a) of title III with respect to a controlled substance in schedule I which is a narcotic drug or a controlled substance in schedule II, or charged under section 406 of this title with attempting or conspiring to commit an offense under section 401(a) relating to a controlled substance in schedule I which is a narcotic drug or a controlled substance in schedule II, or charged under section 1013 of title III with attempting or conspiring to commit an offense under section 1010(a) of title III relating to a controlled substance in schedule I which is a narcotic drug or a controlled substance in schedule II, who–

"(1) has previously been convicted of an offense under any provision of Federal, State, or foreign law, relating to a controlled substance in schedule I which is a narcotic drug or a controlled substance in schedule II which is punishable by a term of imprisonment of more than one year;

"(2) at the time of the alleged violation, is on parole, probation, or other conditional release in connection with a conviction for a pending charge of an offense under Federal or State law that is punishable by a term of imprisonment of more than one year;

"(3) is not a citizen of the United States and who is not lawfully admitted for permanent residence, as defined in section 101(a)(20) of the Immigration and Nationality Act;

"(4) was arrested while in possession of a passport or other document of identity and nationality which incorrectly identifies such person or belongs to some other person; or

"(5) has been convicted of having been a fugitive from justice, an escapee, or for willfully failing to appear before any court or judicial officer under Federal or State law.

"(b) No person described in subsection (a) of this section shall be denied release unless the judicial officer—

"(1) holds a hearing in accordance with the provisions of subsection (c) of this section; and

"(2) finds that—

"(A) there is clear and convincing evidence that such person is a person described in paragraph (1), (2), (3), (4), or (5) of subsection (a) of this section; and

"(B) on the basis of information presented to the judicial officer, there is a substantial probability that the person committed the offense for which he is present before such judicial officer.

Notwithstanding the requirements of subsection (a) of this section, a judicial officer may grant release to such a person who has not been previously convicted of a felony under Federal, State, or foreign law relating to a controlled substance in schedule I or a controlled substance in schedule II if such judicial officer finds special mitigating factors for granting release and he records such factors in writing as part of the court proceedings.

"(c) The following procedures shall apply to any hearing held pursuant to this section:

"(1) Whenever the person seeking release is before the judicial officer, such hearing may be initiated on oral motion of the United States attorney.

"(2) Whenever the person has been released pursuant to section 3146 of title 18, United States Code, and it subsequently appears that such person may be subject to an order denying release under this section, the United States attorney may initiate a hearing by ex parte written motion. Upon such motion the judicial officer may issue a warrant for the arrest of the person.

"(3) The hearing shall be held immediately after such person is brought before the judicial officer for such hearing, unless such person or the United States attorney moves for a continuance. A continuance granted on motion of such person shall not exceed five calendar days, unless there are extenuating circumstances. A continuance or motion of the United States attorney shall be granted upon good cause shown and shall not exceed three calendar days. Such person may be detained pending the hearing.

"(4) Such person shall be entitled to representation by counsel and shall be entitled to present information, to testify, and to present witnesses in his own behalf.

"(5) Information stated in, or offered in connection with, any order entered pursuant to this section need not conform to the rules pertaining to the admissibility of evidence in a court of law.

"(6) Testimony of such person given during such hearing shall not be admissible on the issue of guilt in any other judicial proceeding, but such testimony shall be admissible in proceedings under sections 3150 and 3151 of title 18, United States Code, in perjury proceedings, and for the purpose of impeachment in any subsequent proceedings.

"(7) Appeals from any order denying release may be taken pursuant to section 3147 of title 18, United States Code. The United States may appeal from any order granting release under this section.

"(d) The case of a person denied release pursuant to this section shall be placed on an expedited calendar and, consistent with the sound administration of justice, his trial shall be given priority.".

SEC. 202. The table of contents at the beginning of the Controlled Substances Act is amended by adding at the end of the listing for part D of title II the following:

"Sec. 413. Release conditions.
"Sec. 414. Denial of release prior to trial.".

TITLE III—SENTENCING

SEC. 301. Chapter 227 of title 18, United States Code, is amended by adding at the end thereof a new section 3579, as follows:

"§ 3579. Increased penalties for violent offenders

"(a) Notwithstanding any penalties in any other Act of Congress prescribing penalties for offenses against the United States, and in addition to those penalties, where a crime is carried out through the use, or threatened use, of violence, or with the use of a dangerous weapon or destructive device, the court may also sentence the defendant to pay a fine of not more than $25,000 or to imprisonment for not more than five years, or both; and if a dangerous weapon or destructive device is used, to pay a fine of not more than $50,000 or to imprisonment for not more than ten years, or both; and if serious bodily injury or death results, to pay a fine of not more than $100,000 or to imprisonment for any term of years or to life imprisonment, or both.

"(b) As used in this section—

"(1) 'dangerous weapon' means (A) a firearm; (B) a destructive device; or (C) any other weapon, device, instrument, material, or substance, whether animate or inanimate, that is used or is intended to be used and is capable of producing death or serious bodily injury;

"(2) 'destructive device' means an explosive, an incendiary material, a poisonous or infectious material in a form that can readily be used to cause serious bodily injury, or a material that can be used to cause a nuclear incident as defined in section 11(q) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(q)); and includes a bomb, grenade, mine, rocket, missile, or similar device containing an explosive, an incendiary material, or a material that can be used as a chemical, biological, or radiological weapon; and

"(3) 'serious bodily injury' means bodily injury which involves (A) a substantial risk of death; (B) unconsciousness; (C) extreme physical pain; (D) protracted and obvious disfigurement; or (E) protracted loss or impairment of the function of a bodily member, organ, or mental faculty.".

SEC. 302. The analysis at the beginning of chapter 227 of title 18, United States Code, is amended by adding at the end thereof:

"3579. Increased penalties for violent offenders.".

SEC. 303. Section 1010 of the Controlled Substances Import and Export Act (21 U.S.C. 960) is amended—

(1) in the first sentence of subsection (b)(2) by adding "except as provided in paragraph (3) of this subsection" before "schedule I or II"; and

(2) by adding after paragraph (2) of subsection (b) the following new paragraph:

"(3) In the case of a violation of subsection (a) involving a quantity of marihuana exceeding one thousand pounds, such person shall be sentenced to a term of imprisonment of not more than fifteen years, and in addition, may be fined not more than $125,000.".

TITLE IV—HABEAS CORPUS REFORM

SEC. 401. Section 636(b)(1)(B) of title 28, United States Code, is amended to read as follows:

"(B) a judge may also designate a magistrate to conduct hearings, including evidentiary hearings, except evidentiary hearings in cases brought pursuant to section 2254 of this title, and to submit to a judge of the court proposed findings of fact and recommendations for the disposition, by a judge of the court, of any motion excepted in subparagraph (A), of applications for post-trial relief made by individuals convicted of criminal offenses in a United States district court.".

SEC. 402. Section 2244 of title 28, United States Code, is amended by adding at the end thereof the following new subsections:

"(d) In a habeas corpus proceeding brought in behalf of a person in custody pursuant to the judgment of a State court, if the Federal question presented was not properly presented under State law in the State court proceedings both at trial and on direct appeal, or properly presented in a collateral proceeding and disposed of exclusively on the merits, the claim may not be considered or determined by a judge or court of the United States, unless the petitioner establishes that the alleged violation of the Federal right was prejudicial to the petitioner as to his guilt or punishment and that—

"(1) the Federal right asserted did not exist at the time of the trial and that right has been determined to be retroactive in its application;

"(2) the State court procedures precluded the petitioner from asserting the right sought to be litigated;

"(3) the prosecutorial authorities or a judicial officer suppressed evidence from the petitioner or his attorney which prevented the claim from being raised and disposed of; or

"(4) material and controlling facts upon which the claim is predicated were not known to petitioner or his attorney and could not have been ascertained by the exercise of reasonable diligence.

"(e) No petition filed in behalf of a person in custody pursuant to the judgment of a State court shall be considered or determined by a judge or court of the United States if it is not filed within three years from the date the State court judgment and sentence became final under State law, unless the Federal right asserted did not exist at the time of the State court trial and that right has been determined to be retroactive, in which case the petition may be entertained within three years from the date said right was determined to exist.".

SEC. 403. Section 2254(d) of title 28, United States Code, is amended to read as follows:

"(d) In any proceeding instituted in a Federal court by an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court, a determination after a hearing on the merits of a factual issue, made by a State court of competent jurisdiction in a proceeding to which the applicant for the writ and the State or an officer or agent thereof were parties, evidenced by a written finding, written opinion, or other reliable and adequate written indicia, shall not be redetermined or relitigated by a judge or court of the United States, unless—

"(1) the applicant shall establish or it shall otherwise appear, or the respondent shall admit—

"(A) that the merits of the factual dispute were not resolved in the State court hearing;

"(B) that the factfinding procedure employed by the State court was not adequate to afford a full and fair hearing;

"(C) that the material facts could not be developed at the State court hearing;

"(D) that the State court lacked jurisdiction of the subject matter or over the person of the applicant in the State court proceeding; or

"(E) that the applicant was an indigent and the State court, in deprivation of his constitutional right, failed to appoint counsel to represent him in the State court proceeding; or

"(2) the Federal court viewing that part of the record of the State court proceeding in which the determination of such factual issue was made, pertinent to a determination of the sufficiency of the evidence to support such factual determination, in the light most favorable to the prosecution concludes that a rational trier of fact could not have made such a finding.

No evidentiary hearing may be conducted in the Federal court when the State court records demonstrate the factual issue was litigated and determined, unless the existence of one of more of the circumstances set forth in paragraphs (1) through (6) is shown by the applicant.".●

● Mr. NUNN. Mr. President, I first wish to thank my friend and colleague from the State of Florida for his outstanding leadership in introducing the Crime Control Act of 1983. I have joined him as an original cosponsor of this bill just as I joined him as an original cosponsor when this bill was introduced in the 97th Congress as the Crime Control Act of 1982. We have worked on the component parts of this legislation for several years. There are no new proposals here this morning.

Mr. President, in the last Congress many of us in the Senate introduced tough legislation designed to deal with such nationwide problems as organized crime, narcotics trafficking, juvenile justice, arson, and sentencing reform. Many of these proposals passed the Senate in the Violent Crime and Drug Enforcement Improvement Act of 1982, which was introduced by Senators THURMOND and BIDEN, and which Senator CHILES and I cosponsored. Several of these proposals were passed by the House as amendments to H.R. 3963 in the final hours of the 97th Congress. However, these important measures were vetoed by President Reagan on January 14, 1983.

We all agree that Congress must do something to stem the rising tide of violent crime now sweeping this country. Crime continues to be a worsening problem. Statistics compiled and published by the FBI reveal that violent crime is running rampant in every section of the country. The FBI statistics indicate that, over the past 30 years, the number of murders in the United States has increased by 370 percent. In 1980, crime was up nationwide by 10 percent.

One significant result of this alarming increase is the paralyzing effect it is having on the American people. They are virtually being held prisoner in their own homes by criminals who operate in the streets with impunity and with little or no fear of arrest or punishment. And this is particularly true for those who live in the inner cities—our older citizens, our minority groups. Increasingly they are, indeed, prisoners in their own country. A 5-minute drive through this very city will reveal the stunning truth: Honest citizens have had to bolt iron bars over their own windows and doors for protection against crime. We seem to have reached a complete reversal in our society. The lawabiding citizens lock themselves behind bars and the criminals freely roam our streets. It is as if an invading army had conquered our cities.

We must remember that well over 90 percent of all crime committed in the United States falls within the jurisdiction of State and local law enforcement. It is estimated by the FBI that on the average, a murder is committed in the United States every 24 minutes. A house is burglarized every 10 seconds and a woman is raped every 7 minutes in the United States. Based on these figures, it can be estimated that in terms of human suffering over 42,000 people were killed, over 150,000 women were raped and over 6 million homes burglarized during the 97th Congress. By and large, these crimes are beyond our direct reach here on the floor of the U.S. Senate. But they are not beyond the reach of our constituents who are the victims of this criminal activity.

At the same time organized crime flourished as an interstate network of criminal activity which, in some areas of our country, control entire industries. The illegal narcotics trade now does as much business in the United States as Exxon, our largest U.S. corporation. These problems—organized crime and drug trafficking—are problems we can and must directly address. And as we do, we will see that we have had an impact on burglaries and certainly we will have an impact on murders and many other crimes that are occurring. Organized crime and drug traffickers spawn much of the violent crime which now infects our streets. A recent study, for example, found that 237 addicts were responsible for over 500,000 crimes over an 11-year period—about 1 crime every other day per addict. And most of these crimes were related to their drug use.

We can address this problem by taking action in several areas. Specifically, we can address the areas of bail and sentencing for drug-related crime; we can address organized crime by improving our Federal law enforcement system; we can address the overcrowding and abuse of our Federal court system through habeas corpus reform. That is a part of this package. These are measures which many of us have already agreed upon. These are measures on which Senator CHILES and I introduced legislation in the 97th Congress.

Senator CHILES and I are today offering one piece of legislation which combines our efforts in these areas. In this bill we specifically address bail reform in narcotics cases, sentencing reform in narcotics cases, organized crime control and habeas corpus reform. Our proposals are well known to all of our colleagues and are not controversial or the subject of much debate. We offer this legislation in the belief that, while we cannot all agree on the specifics of Criminal Code reform, we can at least agree on these basic steps to improve our Federal efforts against crime.

This is not a partisan question, Mr. President. This is a bipartisan question that affects all of our constituents. Certainly while we are struggling over many controversial items in many diverse areas, we should pause for a moment and try to come together on a very important package of criminal law reform that, indeed, can begin to turn the tide against the crime wave which today continues to afflict our people.●

By Mr. HATCH (for himself, Mr. THURMOND, Mr. DECONCINI, Mr. MATHIAS, Mr. LEAHY, Mr. KENNEDY, Mr. BAUCUS, and Mr. LAXALT):

S. 118. A bill to provide for the establishment of a Commission on the Bicentennial of the Constitution; to the Committee on the Judiciary.

BICENTENNIAL OF THE CONSTITUTION

Mr. HATCH. Mr. President, just a few years ago, our Nation joyously commemorated the signing of a document which declared the independence of the American colonies. The hope of independence, however, was little more than that, an amorphous hope, until the pioneering geniuses of America forged another document which crystalized from the vague hopes of the Nation the enduring principles of governance that have preserved our liberties for nearly two centuries. We are now approaching the bicentennial of the approval in convention of that culminating document of liberty, the Constitution.

Accordingly, I rise to call upon my colleagues to consider the establishment of a Federal Commission to coordinate the commemoration of the most important historical event in our Republic's past. To provide a focus for that endeavor, I am honored to introduce, together with leading members of the Senate Judiciary Committee, a bill to create such a Commission. My colleagues will undoubtedly recognize this bill as virtually identical to the legislation that was approved unanimously by the Senate last year.

The House of Representatives also has great interest in such a project, as indicated by over 120 cosponsores garnered in the last few weeks of the 97th Congress for a bill similar to what passed the Senate. With time to complete the legislative process in this new 98th Congress, I am confident that we will successfully culminate this effort to properly reflect upon the origins of our Nation.

As I mentioned earlier, just a few short years ago our Nation paused to reflect on 200 years of independence. The culminating moment of that celebration came on July 4, 1976, when we commemorated the production of the great document, the Declaration of Independence, that enunciated the intent of the American people to be free. We are all familiar with the aspirational language of that document:

> We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness.

With this elevating affirmation of purpose, the former colonies of Britain in the new world embarked on a course that would produce the United States of America. A war, a loosely bound confederation of sovereign States, and 11 difficult years came between the aspirations of the Declaration and the contract between the people and the States to carry out its noble objectives.

These two documents, the Declaration and the Constitution, launched the free peoples of America upon a course of self-government—a course we have learned is fraught with responsibilities and obligations as well as opportunities and liberties. In the words of Abraham Lincoln:

All this is not the result of an accident. It has a philosophical cause. Without the Constitution and the union, we could not have attained the result; but even these, are not the primary cause of our great prosperity. There is something back of these, entwining itself more closely about the human heart. That something, is the principle of "Liberty to all"—the principle that clears the path for all—gives hope to all—and, by consequence, enterprise and industry to all.

The expression of that principle, in our Declaration of Independence, was most happy and fortunate.

("Fragment on the Constitution", Lincoln, A., quoted in "The Living Constitution," Padover, Saul, pg. 65.)

As Lincoln realized, the Declaration expressed the goal, the motivating philosophy; the Constitution created the structure to "attain the result." In one sense, the Declaration was the "end," the Constitution the "means" of the American experiment in self-rule.

I mention these two documents and their common goal because we have committed vast national resources recently to commemorating the inauguration of our independence with the signing of the "ends" document. Soon the bicentennial of the signing of the "means" document will be upon us. Today, I would propose that we establish a commission to coordinate the commemoration of the bicentennial of the events leading to approval of the Constitution in 1787.

Let me outline briefly the elements that we found to be important to the process of commemoration:

First, we recognize that a commemoration must be true to the Constitution in that it should recognize an active role for the States. Washington cannot be the focus of all activity.

Second, we recognize that a commemoration must be true to the Constitution in that it should recognize an active role for the private sector. Already private organizations have done a great deal to develop interest in the bicentennial and to outline a wide variety of means by which our Nation can give honor to our Constitution. The Government cannot be the focus of all activity.

Third, while the fireworks and glamour of our Revolutionary Bicentennial were impressive, I would hope that a commemoration would encourage among the people a deeper understanding of what the Constitution is all about. There is a need for celebration, but there is also a need for reflection.

Fourth, we hope that the diversity of understanding that exists in this country about the Constitution and its provisions will be reflected in its commemoration. There will be no "party line" on what is most important about the Constitution.

In just a few moments I would like to trace with you briefly the primary events that gave us the Constitution. As I mentioned earlier the Declaration set forth the aspirations of the American people to establish a government of liberty. At the time, those two words, "government" and "liberty" were mutually exclusive. The world only knew powerful central governments which required citizens, or more accurately, subjects, to give all fealty to a sovereign leader or group of leaders. The struggle to find a form of government that protected, rather than abridged, liberty really began in 1776.

The surrender of General Cornwallis at the battle of Yorktown in 1782 only allowed the inhabitants of America to begin their internal struggle to find the proper mode of self-government. The ill-fated first attempt created the Articles of Confederation. Numerous unresolved disputes between the States disclosed very early that a confederation would not guarantee either a lasting government or lasting liberty. One such dispute, however, between Maryland and Virginia over navigation and jurisdiction of the Potomac River provided the impetus for a new National Government.

To resolve the dispute, each State appointed a set of commissioners to discuss the issues. At the invitation of George Washington, they met in Mount Vernon and, in addition to resolving their waterway disagreement, recommended that a convention of all the States be convened "to take into consideration the trade of the United States" and "consider how far a uniform system in their commercial regulations may be necessary to their common interest and their permanent harmony * * *." Attendance at the trade convention in Annapolis, Md., was disappointing. The five States that met, however, proposed that a convention of all the States be held in Philadelphia on the second Monday in May 1787 to correct as many weaknesses in the existing system of government as possible.

The potentially sweeping implications of a nationwide convention to "revise" the Government met with stiff opposition. Several States feared a return to a "tyrannical" central control reminiscent of the British Monarchy. The Continental Congress was also concerned about a possible erosion of what little power they possessed to rule the Nation. Despite such obstacles, after some hesitancy, the Congress permitted a national convention in Philadelphia for the "sole purpose of revising the Articles of Confederation and reporting to Congress and the several legislatures such alterations and provisions therein as shall when agreed to in Congress and confirmed by the States render the Federal Constitution adequate to the exigencies of Government and the preservation of the Union."

With specific instructions not to revise anything more than the Articles of Confederation, all the States, except notably Rhode Island, sent delegations to Philadelphia. The historic significance of that convention became apparent when William Randolph of Virginia proposed a new form of government. Three coequal branches of government, the famed system of checks and balances, was the hallmark of that proposal. Needless to say, intense debate ensued. A proposal to preserve the Articles of Confederation was narrowly defeated.

The success of this bold move to fashion a new government hung in the balance. It was threatened from the outside by England and Spain who each could use any failure at self-government as an excuse to reclaim lost territories and reestablish their reputation of world supremacy. It was also threatened from the inside by parochial apprehensions that the large States might dominate the smaller in any unified government. Perhaps the apparent insolubility of these dilemmas prompted Benjamin Franklin, not known for his dedication to the religious institutions of his day, to move that the sessions open every morning with prayer.

Finally, on July 5, the delegates arrived at the "great compromise" of the convention. Each State was allowed equal representation in the "upper" house of the legislature while proportional representation was preserved in the "lower" house. This broke the impasse and prophesied that the convention would indeed arrive at a proposal for a government "of the people, by the people, and for the people."

Ratification by the States, however, would be another matter. The debates in the States were, for the most part, close and hotly contested. Pennsylvania ratified by a margin of 23, Massachusetts by a margin of 19, New Hampshire by a margin of 11. Although New Hampshire was the ninth State to ratify which satisfied the terms of the document, the Nation realized that the new government was doomed without the concurrence of Virginia and New York.

In Virginia, the voices of well-known patriots such as Patrick Henry, George Mason, and "Light Horse" Harry Lee rose up against the document. John Marshall, James Madison, and William Randoph defended the wisdom of the convention's product. By the narrow margin of 10 votes out of 168, Marshall, Madison, and Randolph prevailed. A month later, Alexander Hamilton secured a similar victory in New York by only a 3-vote margin. This sealed the victory for, in the words of George Washington, "that precious depository of American happiness, the Constitution of the United States."

This history is familiar to us all. As the findings of this bill state, however, "the maintenance of the common principles that animate our republic depend upon a knowledge and understanding of their roots and origins."

Mr. MATHIAS. Mr. President, I am pleased to join Senator HATCH in introducing S. 118, a bill to establish a Commission to commemorate the bicentennial of the Constitution. I have been sponsoring legislation since the 94th Congress to create a Bicentennial Commission. At the end of the 97th Congress, I worked with Senator HATCH and others in achieving successful Senate passage of S. 2671, a bill nearly identical to S. 118. In the coming months, we will work again for Senate approval of this vital legislation, and are confident that a similar bill being introduced in the House will receive prompt and favorable consideration.

A significant and thoughtful constitutional bicentennial observance is of major importance to out Nation. In recent years, this country has suffered increasingly from civic apathy and "constitutional illiteracy." The steady decline in the number of Americans exercising their right to vote is a clear indication that large segments of the population need a refresher course in participatory democracy and, I fear, the significance of the Constitution itself. I am reminded of a survey conducted by a seventh grade bicentennial study class just before the American Revolutionary Bicentennial. Of almost 3,000 adults questioned, less than half could identify a famous quotation from the Declaration of Independence. One actually attributed it to Edgar Allan Poe, others thought it came from the Bible, the Boy Scout Oath, Patrick Henry, Abraham Lincoln, or John Kennedy.

I tremble to think what a similar survey would reveal of our Nation's knowledge of the Constitution. That is why S. 118 is so important. The constitutional bicentennial period will give us an opportunity to raise the level of the American consciousness about the content and meaning of the Constitution. It will be a time to celebrate the Constitution as a living, vibrant document, not some arcane vestige of a past outgrown. The bicentennial will provide us with an opportunity to remind the citizens of this Nation that the Constitution belongs to all Americans, regardless of race, age, or wealth; it protects equally the descendants of the earliest settlers and the children of our most recent immigrants. The Constitution is the source of our most cherished rights and liberties, but it is not a self-executing contract. It has to be implemented day by day by the men and women of the United States of America. But, we cannot implement the provisions of the Constitution unless we understand them and the underlying principles which animated the framers. Issues present themselves which demand resolution against the framework of the Constitution. We will be inadequate to the job of resolving those issues unless we know as much about the Constitution as the delegates to the convention who wrote it.

Mr. President, I believe that S. 118 is an appropriate vehicle for a thoughtful and effective commemoration of the bicentennial of the Constitution. If enacted, this legislation will help insure a commemoration that goes far beyond mere fanfare and a prosaic review of historical events. S. 118 will establish a Commission made up of individuals who have demonstrated historical and constitutional scholarship, as well as civic responsibility and commitment to public service.

The membership of the Commission will reflect the tripartite system of Government established by the U.S. Constitution. In celebrating the birthday of the Constitution we are, after all, celebrating the birth of the three branches of our Government as well. The Commission will oversee events commemorating not only the drafting and ratification of the Constitution, in 1787, but events central to the creation of our constitutional Government which occurred in 1789. The first Congress was officially organized on April 6, 1789, and, later that year, Congress first debated and passed the package of amendments that became the Bill of Rights. George Washington was inaugurated on April 30, 1789. The Departments of Treasury, State, and War were created in 1789 and the first Cabinet Secretaries, Attorney General, and Postmaster General were appointed. The Federal Judiciary Act was passed on September 24, 1789, and the Justices of the Supreme Court were confirmed soon thereafter.

The Commission created by S. 118 is essentially a central coordinating body which will encourage and direct State, local, and private initiative and participation in a dignified and substantive celebration of the constitutional bicentennial. S. 118 does authorize the Commission itself to undertake a "limited number" of worthy projects, however, its primary and fundamental focus will be to act as a clearinghouse or central repository for bicentennial information, and as a coordinator of the many diverse activities taking place across the country. In this role, the Commission will prove an invaluable resource to those in the private sector and State and local governments planning bicentennial events.

Many private groups and organizations have expressed interest in the bicentennial observance; several have already started planning, and a few are even implementing specific commemorative projects. Representatives of a number of these organizations testified before the Constitution Subcommittee on September 17, 1981. Others have gotten in touch with my office and, I'm sure, the offices of my colleagues, urging us to enact legislation creating a Bicentennial Commission without delay. These groups have been unanimous in declaring that a Federal presence is urgently needed.

At the 1981 subcommittee hearing, Marna Tucker, Maryland lawyer and chairman of the ABA's Commission on Public Understanding About the Law, stated:

> Despite the most concerted efforts of the private sector, the challenge of promoting constitutional literacy can never be adequately addressed without Federal leadership. Such leadership is particularly and uniquely appropriate in this endeavor, for the Constitution is the law of the entire land and not the law of the particular states or the particular constituencies.

The existence of a national coordinating body created by the Federal Government is not only appropriate but essential to the success of the bicentennial celebration. On an organizational level, the Commission will enable diverse groups to see their endeavors in a broader context. Ideas and materials can be shared to the mutual benefit of the participants, and, at the same time, duplication of effort can be avoided. On a more practical level, the existence of a congressionally mandated Commission will lend these projects credibility and legitimacy as they seek private funds to support their efforts.

In my view, the $300,000 authorized annually by S. 118 is a modest figure. It is considerably lower than amounts spent on comparable activities in the past, and notably less than the authorization figures in earlier constitutional bicentennial bills. S. 118 will encourage the spirit of voluntarism among big corporations interested in sponsoring bicentennial events. These corporations are unlikely to commit their resources to bicentennial activities in the absence of a clear Federal interest—that is why we need a Commission. At the same time, small private organizations and local governments may have difficulty in determining what funds are available and how to

go about obtaining them without the help of a central Commission.

The bicentennial of the Constitution is less than 5 years away. We have already lost valuable time. We cannot delay any longer. We must start planning now. Therefore, I urge you to support S. 118, so that we can be sure to provide this Nation with a meaningful celebration of what William Gladstone called, "the most wonderful work ever struck off at a given time by the brain and purpose of man."

By Mr. HATCH (for himself, Mr. THURMOND, and Mr. DECONCINI):

S. 119. A bill to provide procedures for calling Federal constitutional conventions under article V for the purpose of proposing amendments to the U.S. Constitution; to the Committee on the Judiciary.

CONSTITUTIONAL CONVENTION PROCEDURES

Mr. HATCH. Mr. President, article V of the U.S. Constitution provides that constitutional amendments may be proposed in either of two ways. The first—the means by which every successful amendment to the Constitution has been proposed—requires the agreement of two-thirds of each House of Congress. The second requires the agreement of a convention called by Congress in response to the applications of two-thirds of the State legislatures. Ratification of amendments proposed through either method is to be done either by the legislatures, or by conventions, in three-fourths of the States, depending upon the determination of Congress.

Largely as a result of the fact that the convention method of constitutional revision has never been successfully employed, there are substantial questions that relate to it:

What constitutes a valid application to the Congress?

What procedures must a State follow in submitting an application?

Must the precise language of the proposed amendment be included within the application?

How similar must the language be in applications of various States in order to allow them to be aggregated?

How long does an application remain valid? May such applications be rescinded by the States?

What is the extent of congressional power to review applications? What is the extent of congressional power to restrict the deliberations of the convention?

What is the extent of State power to restrict the deliberations of the convention?

How is the convention to be organized? How are the States to be represented at the convention?

May Congress refuse to submit the product of a convention to the States for ratification?

How are constitutional convention-proposed amendments to be ratified by the States?

With respect to most of these questions, there is very little constitutional guidance. The relevant language of article V states simply:

The Congress "on the application of the legislatures of two-thirds of the several states, shall call a convention for proposing amendments." Nor are there useful precedents in view of the fact that there has never been a constitutional convention under article V. Each of the questions involved in this, the alternative means of amending the Constitution, is therefore a threshold question.

OBJECTIVES OF ACT

Article I, section 8, clause 18 of the Constitution invests authority in Congress to—

Make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States.

This provision clearly authorizes the Congress to pass legislation that would give effect to the convention method of constitutional alteration. This would be a direct function of its article V authority to "call" a convention pursuant to applications of two-thirds of the States.

I am introducing legislation, the Constitutional Convention Implementation Act, which would fill in the interstices of article V. It is similar to legislation which I have introduced during the previous two Congresses, and which was unanimously approved by the Subcommttee on the Constitution during the 97th Congress. It is particularly important that this body act on this, or similar legislation, in view of the fact that at least 31 State legislatures have already purported to submit applications to Congress for the convening of a constitutional convention on the subject of a balanced budget amendment. I would only hope that this act, however, could be considered separately from the merits of this or any other specific amendment effort.

The Constitutional Convention Implementation Act is designed to establish what are basically neutral procedures to guide the conduct of constitutional conventions generally. While the imminence of a convention on the matter of a balanced budget has clearly created the urgency for this legislation, the act is designed neither to facilitate nor obstruct the eventual achievement of a balanced budget amendment, or any other constitutional amendment. The purpose of this legislation is primarily to insure that Congress has clear standards and criteria by which to judge convention applications before it, and that any convention that takes place under article V is conducted in an orderly and nonchaotic manner.

One must look to the policy underlying the establishment of the convention form of amendment in order to construct an appropriate procedures bill. Even a cursory analysis of the original Constitutional Convention (convened under the auspices of the Articles of Confederation) makes clear that the final provisions of article V resulted from a compromise between those delegates who sought to invest proposal authority solely in Congress and those who sought to invest it solely in the State legislature. The two modes of initiating amendments were viewed as essentially equivalent alternatives, each of which was to serve as a check upon the intransigence of either the National Legislature or the State legislature in the matter of proposing constitutional revision.

In view of this fundamental purpose, I believe that legislation giving effect to the convention method of amendment should be such that resort to its use will not render the Constitution "too mutable" (the Federalist No. 43) while at the same time insuring that it will not be rendered null and void because it remains too cumbersome a method. The amendment process should never be one that can be successfully employed with great ease, yet neither should it be a process totally incapable of being used to alter the Constitution. The requirement that State convention applications relate to the same general subject or subjects serves to insure the existence of some real consensus among the States with respect to the need for constitutional revision in some relatively circumscribed area.

PROVISIONS OF ACT

I would like to briefly discuss the provisions of this act and explain their justification. I should add at the outset my debt to the efforts of our former colleague, Senator Sam Ervin. While my bill differs in a number of respects from legislation that Senator Ervin successfully shepherded through the Senate in 1971 and 1973, its basic structure is closely related to that measure. That legislation was approved unanimously on one occasion by this body, and by a voice vote on the other occasion.

Section I of my bill states that its short title is the "Constitutional Convention Implementation Act of 1983."

CONVENTION APPLICATIONS

Section 2 specifies the manner in which States are to make applications for a constitutional convention. It states simply that the legislature shall specify within its application for a convention, the "general subject" of the amendment or amendments to be proposed. The objective of this standard is to insure that two-thirds of the States have a sufficiently similar purpose to warrant the aggregation of their applications.

The purpose of the application process is to determine that there exists some form of consensus among the States on the matter of a relatively well-defined area of amendment. This consensus cannot fairly be said to be in evidence if aggregation is to be permitted of applications that are, at best, only incidentally related.

On the other hand, it cannot be reasonably expected that identical, or even nearly identical, language be employed in petitions that ought to be aggregated. Such a requirement is highly unrealistic with respect to 50 diverse State legislative bodies; the imposition of such a rigid rule would effectively render the alternative method of amendment provided in article V useless. Further, to the extent that a petition was required to be precise, either with respect to the specific amendment sought, or the specific language sought, there would be little use for the convention itself. To limit the convention to the consideration of a single, meticulously worded amendment is to make the convention a farce. In order for the convention to be a meaningful part of the article V process, it must have some leeway within which to exercise its legitimate discretion.

LIMITED CONVENTIONS

That this discretion, however, is not without its limits is the subject of section 2(b), and, indeed, is the basic theme of the Constitutional Convention Implementation Act. This section states that the procedures provided in the act are to be followed only in the case applications for what are commonly referred to as "limited" conventions. Such conventions are defined for the purposes of this act as conventions designed to consider one or more specific predefined areas of amendments to the Constitution of the United States. Implicit in this section is the recognition that the States may call for the convening of either limited or general conventions; it is, however, simply with respect to the former that the terms of this act apply.

A general convention would be one in which the States petitioned for a convention, not with any specific or limited purposes in mind, but for the purpose of making whatever revisions were deemed necessary or desirable by the convention itself. It is this sort of convention that poses such great concerns to most observers, including myself. I am far from confident that a contemporary general convention could do much to improve upon the work of Madison, Hamilton, and Mason. While there is no way that Congress, through passage of a simple statute, could preclude the States from requesting a general convention—this is their right under article V—neither is Congress precluded from clarifying that the States are fully within their rights in seeking a limited convention.

There is academic dispute as to the possibilities of a limited constitutional convention. Prof. Charles Black of the Yale Law School, for example, believes that the constitutional convention is a free agent, sovereign and without limitations. According to this theory, the convention represents the premier assembly of the people, and is therefore supreme to all other Government branches and agencies. It cannot be limited in the scope of its deliberations, whatever the limited nature of the grievances that brought the convention into being.

I would disagree with this interpretation. The constitutional convention, while clearly a unique and separate element of the Government—a temporary new branch of the Government—a new branch of the Government, so to speak—is subject to the same limitations and checks and balances as the other, permanent branches of the Government. A constitutional convention, as its name clearly implies, is a constitutional entity; it is appointed under the terms of the Constitution and subject to all of the express and implied limitations imposed by that document. As observed by Professor Jameson in his classic work on constitutional conventions:

> The convention's principal features is that it is subaltern—it is evoked by the side and at the call of a Government preexisting and intended to survive it, for the purpose of administering to its special needs. It never supplants the existing organization. It never governs. Though called to look into and recommend improvement in the fundamental laws, it enacts neither them nor the statute law; and it performs no act of administration.

The Federal constitutional convention is an instrument of the Government, and acts properly only when it acts in conformity to its authorized powers.

There is nothing in the language of article V to suggest that the convention method of amendment cannot be limited to a single area of amendment. The symmetry between the competing processes of constitutional amendment is emphasized by Madison in the Federalist No. 43 in discussing the objectives of article V:

> That useful alterations will be suggested by experience, could not be foreseen. It was requisite therefore that a mode for introducing them should be provided. The mode preferred by the convention seems to be stamped with every mark of propriety. It guards equally against that extreme facility which would render the Constitution too mutable; and that extreme difficulty which might perpetuate its discovered faults. It moreover equally enables the general and the State governments to originate the amendment of errors as they may be pointed out by the experience on one side or on the other.

It was clearly contemplated that the article V primarily anticipated specific amendment or amendments, rather than general revisions, and that no distinction was to be drawn between the competing methods of amendment in this respect.

To enable Congress to propose specific constitutional amendments while allowing the States only to propose general constitutional revision is to confer markedly unequal powers of amendment upon these governments, an intention contradicted by the unanimous weight of documentary evidence. If the States are to have no ability to control the actions of a convention in the form of their convention applications, then there will be strong disincentives for them to seek such conventions. In the absence of broad-based dissatisfaction with the existing constitutional system, why should they want to risk the possibility of a convention acting beyond the scope of their application? Why, in seeking to originate the "amendment of errors" described by Madison, should the States have to risk total revision of the constitutional system?

It is anomalous that in seeking to correct what might be a narrow defect in the system that the States should have to place the entire system in jeopardy. What better means could there be to perpetuate the discovered faults of the system? What better means could there be to place the convention system of amendment in an unequivalent position to the congressional system of amendment? What better means could there be to completely discourage any and all resort to the convention means of constitutional amendment?

As Prof. William Van Alstyne has remarked:

> I find it perfectly remarkable that some have argued for a construction of article V which not only limits the power of State legislatures to have a convention, but would limit that power to its least expected, least appropriate, most difficult (and yet most dangerous) use.

It is the States, not Congress, that ought to properly have the ability to limit the scope of the convention, through their convention applications. While Congress, under section 6 of the Constitutional Implementation Act, is empowered to specify in its call for the convention the scope of permissible deliberations, it is performing basically an administrative, nondiscretionary function in doing so; it is simply translating the State applications into formal convention call.

APPLICATION PROCEDURES

Section 3(a) of the act specified that the procedures to be followed in making a convention application are those adopted by the States themselves. Although a State is free to adopt procedures uniquely applicable to the convention application process—as the State of Illinois, for exam-

ple, has done with respect to the amendment ratification process—it is anticipated that most States will follow procedures that govern the adoption of simple statutes or resolutions.

Section 3(b) provides further that questions concerning the extent to which States have acted in compliance with their own rules of procedure are also to be determined by the State legislatures themselves. While recognizing that, in pursuit of their authority under article V, the States are acting in quasi-Federal capacity rather than in a purely State role, *Leser* v. *Garnett* (258 U.S. 130, 137 (1922)), it would nevertheless be incongruous for any body to determine whether or not there has been procedural regularity in a State legislative action other than the legislature itself.

In *Field* v. *Clark* (143 U.S. 649 (1882)), the Supreme Court held that the procedural requirements of the legislative process were presumed to have been satisfied when legislation was formally certified by the appropriate legislative officers. Rather than intruding Congress or the courts into these matters, there is no reason why this traditional rule ought not continue to apply with respect to convention application actions. There is no compelling reason why article V should require sacrifice by State legislatures of their inherent right to regulate their own proceedings.

Whatever the procedures in the State legislatures, such actions are to be considered valid without the assent of the Governor of the State. Thus, the term "legislatures" in article V is treated in the same manner, for the purposes of convention applications, as it has traditionally been treated for the purposes of amendment ratification, *Hollingworth* v. *Virginia* (3 Dall. 376 (1878)); *Hawke* v. *Smith* (253 U.S. 221 (1920)).

TRANSMISSION OF APPLICATIONS

Section 4 of the act specifies the means by which the States are to transmit their applications for a convention to Congress. Section 4(a) states that, within 30 days of the adoption by a State of an application, the appropriate official is to transmit copies to the President of the Senate and the Speaker of the House of Representatives.

Section 4(b) directs the States to include within their applications: The title of the resolution, the date of adoption, and an official certification. In addition, States are encouraged, but not required, to list in the application other pending State applications which are felt to relate to substantially the same subject. While such a listing is not to be considered conclusive with respect to Congress, it is nevertheless considered that such a listing will be useful to Congress in carrying out its responsibilities in aggregating applications.

Section 4(c) requires each House to establish a public record of each State application, and to notify each State legislature of the fact of each application. Through internal procedures to be determined by each House, Congress would be charged with making an initial decision on whether or not to aggregate applications within the 10-day period following each new application. The criteria would be whether or not the applications referenced the same "general subject or subjects."

These initial decisions, however, would not be binding. Under article V, Congress would not be compelled to make its final decision on aggregation of applications until that point at which it was required to make a decision with respect to an actual convention call. The requirement of an ongoing effort at determining the aggregation question is designed primarily to limit opportunities for political manipulation at this point of the application process, as well as to allow States which are not aggregated in what they consider the proper manner to amend their convention applications.

As observed earlier, it is the objective of the "same general subject or subjects" standard to insure the existence of some real consensus among the States with respect to the need for constitutional revision in some relatively circumscribed area. At the same time, in order not to interfere with the legitimate freedom of action of a convention, there ought not to be the requirement of extreme precision, either in the text or in the subject-matter. The language contained in the bill is designed to draw some rough balance between these considerations.

In order to insure that the consensus for a constitutional amendment remains a relatively contemporaneous one, *Dillon* v. *Gloss*, (256 U.S. 368 (1921)), section 5(a) states that an application shall be effective for no longer than a 7-year period, with shorter effective periods contained within the body of an application to be respected. The court in Dillon stated that:

> Proposal and ratification are not related as unrelated acts but as succeeding steps in a single endeavor, the natural inference being that they are not to be widely separated in time . . . We do not find anything in article V which suggests that an amendment once proposed is to be open for ratification for all time, or that ratification in some of the states may be separated from that in others by many years and yet be effective.

Similarly, State convention applications and the calling of a constitutional convention are not unrelated acts, but necessary, succeeding steps in a single endeavor. There should be a reasonable relationship in time, between these actions, *Coleman* v. *Miller*, (307 U.S. 433 (1938)). There is the same need to avoid staleness of applications to Congress as there is to avoid staleness of amendment proposals to the States.

In view of the fact that every amendment proposed by Congress, except one, since the 18th amendment, has contained a 7-year time limitation, either in the body or in the enacting clause, it has been decided to use this same period for determining effectiveness of applications.

Language has also been included in this section which maintains the effectiveness, for minimum of 4 years, of those applications which have been submitted to Congress within the previous 10-year period, notwithstanding the expiration of the regular 7-year period. This provision is designed to insure that those applications, submitted in recent years which have not had the statutory guidance of procedures legislation, are kept temporarily effective for a short transitional period.

Section 5(b) authorizes States to withdraw their applications at any time prior to the time that there are a sufficient number of valid applications before Congress to enable it to call a convention. There would seem to be no valid policy reason for denying them this right. Indeed, in order to insure that the amendment process reflects the notion of contemporaneous consensus, it is vital that the States should not be dragooned unwillingly into an artificial consensus because of an inability to rethink earlier application decisions.

CALLING OF THE CONVENTION

Section 6 of the Constitutional Convention Implementation Act relates to the actual calling by Congress of the convention. It provides that, upon receipt in each House of that application putting two-thirds of the States in agreement on the need for some particular amendment or amendments, it is the duty of that House to call for convening of a Federal constitutional convention on the general subject or subjects. Congress is to designate the time and place of the meeting of the convention, and set forth the general subject of the amendment or amendments for consideration. The convention is to be convened not later than 8 months following the adoption by Congress of its resolutions.

Despite some misconceptions on this point, it is obligatory that Congress call a convention upon the receipt of valid applications by two-thirds of the States. Alexander Hamilton observed in the Federalist No. 85 that—

> The national rulers, whenever nine states concur, will have no option upon the subject. By the fifth article of the plan, the Congress will be obliged "on the application of the legislatures of two-thirds of the states to call a convention for proposing amendments" . . . the words of this article are peremptory. The Congress "shall call a

convention." Noting in this particular is left to the discretion of that body.

James Madison, in a 1789 letter, remarked further—

It is to be observed however that the question concerning a general convention will not belong to the Federal legislature. If two-thirds of the States apply for one, Congress cannot refuse to call it.

CONVENTION DELEGATES

Section 7 relates to the selection of delegates to the constitutional convention. The language is taken nearly verbatim from article II, section 1, paragraph 2 of the Constitution concerning the selection of Presidential electors. The Great Compromise between the larger and the smaller States is carried over into the selection of convention delegates with each State being entitled to that number of delegates equal to the combined number of its Senators and Representatives in Congress. The States are given a free hand in selecting their delegates in whatever (constitutional) manner they deem appropriate.

If the experience of the electoral college is at all relevant—and I believe that it is—each of the States will no doubt introduce some means of popular election for the delegate positions. I would be personally opposed to any other manner of selection, although I do not believe that it is the business of this body to specify particular procedures for the States.

While there are those who would prefer to see a delegate selection system more precisely based upon population, I see no reason not to extend smaller States that slight disproportionate influence in the proposal of amendments through the convention system that they currently enjoy in the proposal of amendments through the congressional system. The apportionment procedure in section 7 is the method of delegate selection that most closely conforms to the basis for congressional representation and which would most closely aline the alternative systems of proposing amendments.

Section 7 also excludes Members of Congress, the very embodiment of the national influence, from serving as convention delegates and confers the same immunity from arrest upon convention delegates, for the duration of the convention, that article I, section 6 of the Constitution confers upon Members of Congress.

CONVENING OF CONVENTION

Section 8 directs each delegate to the convention to subscribe to an oath by which he commits himself, during the conduct of the convention, to comply with the Constitution of the United States.

Administering the oath of office to the delegates would be the senior chief judge of the highest courts of the States. Rather than having the Vice President, or Chief Justice of the United States, fill this function, it is my belief that what is basically a State convention should remain that and not run any unnecessary risks, however remote, of being influenced by national officials. I emphasize again the basic purpose for including the convention method of amendment in article V—the need for the States to be able to amend the Constitution in the face of an intransigent national Government.

CONVENTION PROCEDURES

Section 8 states that the convention itself is to have responsibility for drawing up its own rules of procedures, rather than Congress, except that there is to be no unit-rule voting procedure. No Federal funds may be appropriated specifically for the payment of the expenses of the convention, except that the Administrator of the General Services Administration is authorized to provide facilities for the convention, and incur whatever incidental expenses are necessarily related to this provision of facilities. At the request of the convention, the Federal Government is also permitted to provide sundry technical information and assistance to the convention.

Section 9 provides that the convention is to maintain a daily verbatim record of proceedings, analogous to the CONGRESSIONAL RECORD. All records of official proceedings are to be transmitted by the convention to the National Archives within 30 days following termination of the proceedings of the convention. This section also requires the termination of the convention within 6 months of its convening unless Congress agrees to extend it at the convention's request.

Section 10 again underscores the premise of this act that a limited convention may properly be called. It restates what is already implicit in the act that a convention called under its terms may not propose amendments of a general subject different from that stated in the convention's charter—the resolution approved by Congress. The convention exercises no legitimate governmental authority beyond that granted by the States through Congress. The convention thus is morally obliged to limit its considerations to the subjects set forth in the State applications; I believe further that it is appropriate for Congress to establish a legal obligation to this same effect.

SUBMISSION OF AMENDMENTS TO STATES

Section 11 concerns the procedures through which the convention product is submitted to the States for ratification. Within 30 days after the completion of the convention, its presiding officer is to transmit the exact text of any proposed amendments to Congress. The officers of each House, within 30 more days of continuous session, are to transmit the amendments to the General Services Administration who, in turn, is to submit the amendments to the States. The amendments are to be accompanied by a congressional resolution specifying, pursuant to article V, the mode of ratification—whether it is to be ratified by the State legislatures or by special ratifying conventions within each of the States.

Congress may refuse to transmit an amendment and resolution to the States only if it makes the determination that the amendment relates to or includes a general subject which differs from, or was not included as one of the general subjects within the scope of the convention's authority. The objective is to provide some remedy for a failure by the convention to honor the limitations on its authority to propose amendments to the Constitution. Congress has no power whatsoever to refuse to submit an amendment because of disagreement with its substantive merits. Nor is it empowered to refuse to submit an amendment because of what it perceives as procedural irregularities in the proceedings of the convention. Convention procedure is not within the ambit of congressional concern; checks upon procedural abuse must come from the States themselves in the form of the ratification process. Because this check also exists with respect to conventions acting in an ultra vires manner, it is hoped that Congress will resolve any doubts as to whether or not the convention acted within the scope of its authority in favor of an affirmative finding.

RATIFICATION OF AMENDMENTS

Section 12 of the act, borrowing language directly from article V, states simply that amendments proposed by "limited" constitutional conventions are to become part of the Constitution when ratified in accordance with the terms of article V—by three-fourths of the States in a timely and proper manner. Certified copies of the ratification documents are to be forwarded by the States to the General Services Administration, although the ratification itself becomes effective once action is completed within the State legislature, *Dillon* v. *Gloss*, (256 U.S. 368, 376 (1921)).

Section 13 expressly holds that the States are free to reconsider and reverse their ratification decisions, at least until that point at which an amendment has been ratified by three-fourths of the States. Thus, any State may ratify a proposed amendment after having previously rejected it, or may rescind an earlier ratification of a proposed amendment. It is again my view that the most reliable determination of the existence—or lack thereof—of a contemporaneous consensus can be made if the States are free to reconsider and rethink their ratification decisions until that point at which three-fourths of the States are

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in agreement in support of amendment, or until that point that a reasonable period of time has passed for ratification. My views on the matter of rescission of ratifications are discussed at far greater length in the CONGRESSIONAL RECORD of October 4, 1978, at pages 33351-33352.

Section 14 imposes upon the General Services Administration the duty to proclaim the final ratification of an amendment once it is in receipt of certifications of ratification from three-fourths of the States. As section 16 clarifies, however, this is an administrative duty of a symbolic nature, not one with an impact upon the actual effectiveness of an amendment. Under article V—and section 16—the amendment becomes part of the Constitution at the moment the final State has ratified, or on any date specified in the body of the amendment itself.

JUDICIAL REVIEW

Finally, section 15 relates to the role of the judicial branch in the constitutional convention process. It establishes two express situations in which an allegedly aggrieved State may bring a direct action in the Supreme Court, pursuant to article III, section 2 of the Constitution. The first involves cases in which a State disputes any determination or finding by Congress, or the failure of Congress to make a determination or finding, with respect to its section 6 responsibilities. Section 6 requires Congress to "call" a convention upon determining the existence of valid applications for such a convention from two-thirds of the States.

The second situation involves cases in which Congress actions, with respect to its section 11 responsibilities, are questioned. Section 11 requires Congress to submit amendments proposed by the convention to the States unless it determines that the convention acted on subject matter outside the purview of its authority.

Section 15(c) expressly states that these two actions may not be inclusive with respect to the right to a Supreme Court hearing, and that nothing in the act is intended to preclude such review as is otherwise provided by the Constitution or any other law of the United States. Section 15 further requires suit to be brought within 60 days of a claim against the Secretary of the Senate, the Clerk of the House, the General Services Administrator, or any other party as may be necessary to afford the relief sought.

Thus, the act would reject that version of the so-called "political questions" doctrine that suggests that all interpretative matters deriving from article V are to be resolved by Congress solely at its discretion. I find it ironic that so many individuals who have been so sympathetic to the advance of judicial activism in recent years are also those who would deny the Federal courts, particularly the Supreme Court, their constitutional obligation to interpret the plain language of that document. My views on the political questions doctrine are explained more thoroughly in the CONGRESSIONAL RECORD of October 4, 1978, at pages 33351-33352.

CONCLUSION

Mr. President, the convention method of constitutional amendment has been defended and described as an essential component of our Constitution by such statesmen as James Madison, Alexander Hamilton, George Washington, Benjamin Franklin, and Abraham Lincoln. While no amendment has ever been ratified that has been proposed through this method, it has nevertheless exerted its influence in indirect ways. The 17th amendment to the Constitution, for example—providing for the direct election of U.S. Senators—was proposed by Congress in 1912 in response to an effort in the States to call a convention on this subject. Other convention efforts on such matters as Federal tax limitation and State legislative apportionment have also evoked a significant congressional response. It is clear, too, that the present balanced budget movement is having an impact upon national public policy.

It is necessary in order to insure some measure of symmetry in the alternative amendment processes under article V to establish clearcut procedures for resort to the convention method. While the absence of legislation such as the Constitutional Convention Implementation Act will not preclude the States from exercising their right to call a convention, it will insure that the amendment process will become bogged down in constant litigation, partisan political decisions, and constitutional uncertainty. The effect of this can only be to undermine the integrity of our constitutional system. In the process, also, we will erode one of the basic institutions for preserving some semblance of balance between the National and the State Governments. As observed by Alexander Hamilton:

The most powerful obstacle to the Members of Congress betraying the interest of their constituents is the State legislatures themselves, who will be standing bodies of observation, possessing the confidence of the people, jealous of Federal encroachments, and armed with every power to check the first essays at treachery.

While there is not one who respects more than I do the achievement of the Founding Fathers, nor anyone who would place a greater burden of proof upon those who propose to alter the Constitution, I would nevertheless agree with Prof. Malcolm Eiselen who stated:

To assume, as many apparently do, that a second convention could alter the Constitution only for the worse . . . is an unwarrantable libel upon the creative statesmanship and political sagacity of the American people.

The purpose of the Constitutional Convention Implementation Act is to prevent both Congress and the constitutional convention from acting outside the scope of each of their proper authority. It is designed to insure that the States, in the event that Congress remains intransigent with respect to some issue of constitutional controversy, are able to circumvent Congress and act on their own to remedy such a situation. It is designed also to insure that the States—and Congress—are not forced to surrender totally their sovereignty to the convention. It is designed to insure that the same matrix of constitutional checks and balances is applicable to the constitutional convention as to the other permanent institutions within our governmental system.

There can be no runaway convention unless, ultimately, the dissatisfaction of the people are so broad and pervasive that it is a runaway convention that they expressly desire. The best way that Congress can work to insure that this never becomes the case is to allow the people and the States to work their will under established procedures when their grievances are more narrow and more limited, rather than allowing them to fester as a result of contrived procedural irregularities. It is occasionally sobering to some of my colleagues, yet it is true, that ultimately it is the citizenry, not Congress, that is the responsible party in our political system.

Mr. President, I ask unanimous consent that the text of the bill and several articles be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

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Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Constitutional Convention Implementation Act of 1983".

APPLICATIONS FOR CONSTITUTIONAL CONVENTION

SEC. 2. (a) The legislature of a State, in making application to the Congress for a constitutional convention under article V of the Constitution of the United States, for the purpose of proposing one or more specific amendments, shall adopt a resolution pursuant to this Act stating, in substance, that the legislature requests the calling of a convention for the purpose of proposing one or more specific amendments to the Constitution of the United States and stating the general subject of the amendment or amendments to be proposed.

(b) The procedures provided by this Act are required to be used whenever application is made to the Congress, under article V of the Constitution of the United States, for the calling of any convention for the purposes of proposing one or more specific amendments to the Constitution of the United States, each applying State stating in the terms of its application the general

subject of the amendment or amendments to be proposed. This Act is not intended to apply to applications requesting a convention for any other purpose under article V of the Constitution.

APPLICATION PROCEDURE

SEC. 3. (a) The rules of procedure governing the adoption or withdrawal of a resolution pursuant to section 2 and section 5 of this Act are determinable by the State legislature except that the assent of the Governor shall be unnecessary.

(b) Questions concerning compliance with the rules governing the adoption or withdrawal of a State resolution cognizable under this Act are determinable by the State legislature.

TRANSMITTAL OF APPLICATIONS

SEC. 4. (a) Within thirty days after the adoption by the legislature of a State of a resolution to apply for the calling of a constitutional convention, the secretary of state of the State, or, if there be no such officer, the person who is charged by the State law with such function, shall transmit to the Congress of the United States two copies of the application, one addressed to the President of the Senate and one to the Speaker of the House of Representatives.

(b) Each copy of the application so made by any state shall contain—

(1) the title of the resolution, the exact text of the resolution signed by the presiding officer of each house of the State legislature, the date on which the legislature adopted the resolution, and a certificate of the secretary of state of the State, or such other person as is charged by the State law with such function, certifying that the application accurately sets forth the text of the resolution; and

(2) to the extent practicable, and if desired, a list of all State applications in effect on the date of adoption whose subject or subjects are substantially the same as the subject or subjects set forth in the application.

(c) Within ten days after receipt of a copy of any such application, the President of the Senate and Speaker of the House of Representatives shall report to the House of which he is presiding officer, identifying the State making application, the general subject of the application, and the number of States then having made application on such subject. The President of the Senate and Speaker of the House of Representatives shall jointly cause copies of such application to be sent to the presiding officer of each house of the legislature of every other State and to each Member of the Senate and House of Representatives of the Congress of the United States.

EFFECTIVE PERIOD OF APPLICATION

SEC. 5. (a) An application submitted to the Congress by a State, unless sooner withdrawn by the State legislature, shall remain effective for the lesser of the period specified in such application by the State legislature or for a period of seven calendar years after the date it is received by the Congress, except that whenever within a period of seven calendar years two-thirds or more of the several States have each submitted an application calling for a constitutional convention on the same general subject all such applications shall remain in effect until the Congress has taken action on a concurrent resolution, pursuant to section 6 of this Act, calling for a constitutional convention. An application which has not been before the Congress for more than ten years on the effective date of this Act shall be effective for either the period specified in the first sentence of this section or for four years from the effective date of this Act, whichever is greater.

(b) A State may withdraw its application calling for a constitutional convention by adopting and transmitting to the Congress a resolution of withdrawal in conformity with the procedures specified in sections 3 and 4 of this Act, except that no such withdrawal shall be effective as to any valid application made for a constitutional convention upon any subject after the date on which two-thirds or more of the State legislatures have valid applications pending before the Congress seeking amendments on the same general subjects.

CALLING OF A CONSTITUTIONAL CONVENTION

SEC. 6. (a) It shall be the duty of the Secretary of the Senate and the Clerk of the House of Representatives to maintain a record of all applications received by the President of the Senate and Speaker of the House of Representatives from States for the calling of a constitutional convention upon each general subject. Whenever applications made by two-thirds or more of the States with respect to the same general subject have been received, the Secretary and the Clerk shall so report within five days, in writing to the officer to whom those applications were transmitted, and such officer within five days thereupon shall announce on the floor of the House of which he is an officer the substance of such report. It shall then be the duty of such House to determine that there are in effect valid applications made by two-thirds of the States with respect to the same general subject. If either House of the Congress determines, upon a consideration of any such report or of a concurrent resolution agreed to by the other House of the Congress, that there are in effect valid applications made by two-thirds or more of the States for the calling of a constitutional convention upon the same general subject, it shall be the duty of that House, within 45 calendar days following the report of the Clerk and the Secretary, to agree to a concurrent resolution calling for the convening of a Federal constitutional convention upon that general subject. Each such concurrent resolution shall (1) designate the place and time of meeting of the convention, and (2) set forth the general subject of the amendment or amendments for the consideration of which the convention is called. A copy of each such concurrent resolution agreed to by both Houses of the Congress shall be transmitted forthwith to the Governor and to the presiding officer of each house of the legislature of each State.

(b) The convention shall be convened not later than eight months after adoption of the resolution.

DELEGATES

SEC. 7. (a) Each State shall appoint in such manner as the legislature thereof may direct, a number of delegates, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress. No Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed as delegate. Any vacancy occurring in a State delegation shall be filled by appointment of the legislature of that State.

(b) The secretary of state of each State, or, if there be no such officer, the person charged by State law to perform such function, shall certify to the President of the Senate and the Speaker of the House of Representatives the name of each delegate elected or appointed by the legislature of the State pursuant to this section.

(c) Delegates shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at a session of the convention, and in going to and returning from the same; and for any speech or debate in the convention they shall not be questioned in any other place.

CONVENING THE CONVENTION

SEC. 8. (a) Of those persons serving as chief justices of the highest courts of the States, the person who is senior in years of service as such a chief justice shall convene the constitutional convention. He shall administer the oath of office of the delegates to the convention and shall preside until the delegates elect a presiding office who shall preside thereafter. Before taking his seat each delegate shall subscribe to an oath by which he shall be committed during the conduct of the convention to comply with the Constitution of the United States. Further proceedings of the convention shall be conducted in accordance with such rules, not inconsistent with this Act as the convention may adopt.

(b) No Federal funds may be appropriated specifically for the purposes of payment of the expenses of the convention. The convention shall be responsible for apportioning its costs among the States.

(c) The Administrator of General Services shall provide such facilities, and the Congress and each executive department, agency, or authority of the United States shall provide such information and assistance as the convention may require, upon written request made by the elected presiding officer of the convention.

PROCEDURES OF THE CONVENTION

SEC. 9. (a) In voting on any question before the convention, including the proposal of amendments, each delegate shall have one vote.

(b) The convention shall keep a daily verbatim record of its proceedings and publish the same. The vote of the delegates on any question shall be entered on the record.

(c) The convention shall terminate its proceedings within six months after convening unless the period is extended by concurrent resolution of the Congress of the United States upon request from the convention.

(d) Within thirty days after the termination of the proceedings of the convention, the presiding officer shall transmit to the Archivist of the United States all records of official proceedings of the convention.

PROPOSAL OF AMENDMENTS

SEC. 10. No convention called under this Act may propose any amendment or amendments of a general subject different from that stated in the concurrent resolution calling the convention.

APPROVAL BY THE CONGRESS AND TRANSMITTAL TO THE STATES FOR RATIFICATION

SEC. 11. (a) The presiding officer of the convention shall, within thirty days after the termination of its proceedings, submit to the Congress the exact text of any amendment or amendments agreed upon by the convention.

(b) Whenever a constitutional convention called under this Act has transmitted to the Congress a proposed amendment to the Constitution, the President of the Senate and the Speaker of the House of Representatives, acting jointly, shall transmit such amendment to the Administrator of Gener-

al Services upon the expiration of the first period of thirty days of continous session of the Congress following the date of receipt of such amendment. Within that period both Houses of the Congress may agree to a concurrent resolution stating that the Congress does not direct the submission of such proposed amendment to the States because such proposed amendment relates to or includes a general subject which differs from or was not included as one of the general subjects named or described in the concurrent resolution of the Congress by which the convention was called. Such resolution shall be transmitted to the legislatures of the States and the Administrator of General Services.

(c) For the purposes of subsection 11(b), (i) the continuity of a session of the Congess shall be broken only by an adjournment of the Congress sine die, and (ii) the days on which either House is not in session because of an adjournment of more than three days to a day certain shall be excluded in the computation of the period of thirty days.

(d) Upon receipt of any such proposed amendment to the Constitution, the Administrator shall transmit forthwith to each of the several States a duly certified copy thereof, and a copy of any concurrent resolution agreed to by both Houses of the Congress which prescribes the mode in which such amendment shall be ratified, unless the Administrator has also received a concurrent resolution pursuant to subsection 11(b) stating that Congress does not direct the submission of such proposed amendment to the States. Such concurrent resolution may also prescribe the time within which such amendment shall be ratified in the event that the amendment itself contains no such provision. In no case shall such a resolution prescribe a period for ratification of less than four years.

RATIFICATION OF PROPOSED AMENDMENTS

SEC. 12. (a) Any amendment proposed by the convention and submitted to the States in accordance with the provisions of this Act shall be valid for all intents and purposes as part of the Constitution of the United States when duly ratified by three-fourths of the States in the manner and within the time specified consistent with the provisions of article V of the Constitution of the United States.

(b) The secretary of state of the State, or if there be no such officer, the person who is charged by State law with such function, shall transmit a certified copy of the State action ratifying any proposed amendment to the Administrator of General Services.

RESCISSION OF RATIFICATIONS

SEC. 13. (a) Any State may rescind its ratification of a proposed amendment by the same processes by which it ratified the proposed amendment, unless specified otherwise by such State, except that no State may rescind when there are existing valid ratifications of such amendment by three-fourths of the States.

(b) Any State may ratify a proposed amendment even though it previously may have rejected the same proposal.

PROCLAMATION OF CONSTITUTIONAL AMENDMENTS

SEC. 14. The administrator of General Services, when three-fourths of the several States have ratified a proposed amendment to the Constitution of the United States, shall issue a proclamation that the amendment is a part of the Constitution of the United States.

JUDICAL REVIEW

SEC. 15. (a) Any State aggrieved by any determination or finding, or by any failure of Congress to make a determination or finding within the periods provided, under section 6 or section 11 of this Act may bring an action in the Supreme Court of the United States against the Secretary of the Senate and the Clerk of the House of Representatives or, where appropriate, the Administrator of General Services, and such other parties as may be necessary to afford the relief sought. Such an action shall be given priority on the Court's docket.

(b) Every claim arising under this Act shall be barred unless suit is filed thereon within sixty days after such claim first arises.

(c) The right to review by the Supreme Court provided under subsection (a) does not limit or restrict the right to judicial review of any other determination or decision made under this Act of such review as is otherwise provided by the Constitution or any other law of the United States.

EFFECTIVE DATE OF AMENDMENTS

SEC. 16. An amendment proposed to the Constitution of the United States shall be effective from the date specified therein or, if no date is specified, then on the date on which the last State necessary to constitute three-fourths of the States of the United States, as provided for in article V, has ratified the same.

By Mr. DOLE:

S. 120. A bill to extend for 2 years the allowance of the deduction for eliminating architectural and transportation barriers to the handicapped and elderly; to the Committee on Finance.

ELIMINATING ARCHITECTURAL BARRIERS FOR THE HANDICAPPED

Mr. DOLE. Mr. President, I am glad to have the opportunity today to introduce legislation to reinstate the deduction for expenses incurred when removing certain accessibility by disabled persons. This provision of the Internal Revenue Code expired on December 31, 1982, and we ought to consider the merits of reinstating it or expanding upon it if appropriate. This bill, by continuing the architectural barriers deduction through December 31, 1984, gives us an opportunity to address these questions.

I would note that in December the Senate approved an amendment to the gas tax bill that would have continued the deduction for 1 more year. Unfortunately, that amendment was not agreed to by the House conferees on the gas tax bill, and the deduction did expire at the end of 1982. It is important to keep alive the issue of providing income tax incentives to promote accessibility to existing facilities, and this legislation ought to receive careful attention from the 98th Congress.

Mr. President, in the last Congress I introduced legislation that woud have increased the amount of the architectural barriers deduction to $100,000 and made the deduction permanent. The present bill simply continues the old deduction for 2 years, so that we can obtain further evidence as to the effectiveness of the provision and the desirability of expanding it.

Tax incentives to encourage the removal of architectural barriers are not a new idea. In 1976 I introduced the legislation that provided the deduction which expired at the end of 1982. The existence of this proposal is a clear indication of the problems the disabled face in our society. Problems due to inaccessible design are among the most frustrating and needless. In this decade there is no reason why facilities cannot be designed to accommodate the mobility limitations of the handicapped. This legislation is a means to bridge the gap between what is and what ought to be.

Government facilities already are required to be accessible if they are constructed or renovated after 1968. Despite an imperfect record of compliance with this rule, considerable progress has been made. The present legislation deal with a comparable problem in connection with private facilities, by giving individual enterprises an incentive to take steps on their own to remove barriers.

Handicapped groups have been consistently enthusiastic about this approach to the problem of architectural barriers in the private sector, and their support is much appreciated. I look forward to working with them in this Congress and receiving their input as to the effectiveness of the architectural barriers deduction. If there is a flaw in the concept, we ought to work together to strengthen this legislation.

Mr. President, this law since it was passed in 1976 has represented significant progress in dealing with the problem of accessibility for disabled persons. There has been some disappointment: In many ways, response to the provision, based on the limited evidence available, has been somewhat less than expected. Still, it is a sound first step—we do need to face the issue of continuing the law or expanding on it, an issue that I regret got lost in the shuffle during the hectic postelection session of the 97th Congress.

I would hope that this legislation can lead to increased employment and greater participation in society by handicapped individuals. It is difficult for the disabled to seek gainful employment when they are denied access to transportation systems and buildings. It is my hope that this bill will carry forward efforts to integrate the disabled into all walks of life so that they can make the greater contribution to the world around us of which they are surely capable.

By Mr. ROTH (for himself, Mr. COHEN, Mr. HEINZ, and Mr. MATTINGLY):

S. 121. A bill to establish as a executive department of the Government of

the United States a Department of Trade, and for other purposes; to the Committee on Governmental Affairs.

TRADE REORGANIZATION ACT OF 1983

Mr. ROTH. Mr. President, today I am introducing, on behalf of myself and Senators COHEN, HEINZ, and MATTINGLY, a bill to establish a Department of Trade. I believe it is time we launch a major effort to consolidate our nonagricultural trade responsibilities into a single executive branch agency whose Secretary will make trade expansion and international competitiveness principal national goals. It is time we put our house in order to provide jobs for Americans through trade.

This reorganization cannot wait. Our international trade picture grows bleaker and bleaker with each passing year. We pile deficit upon deficit, seriously retard GNP growth and deprive our workers of jobs—all because we have fallen behind in the trade race.

In 1982, the United States imported $44 billion more than we exported. This trade deficit is expected to soar to $75 or $80 billion in 1983. Those billions in deficit mean thousands upon thousands of lost job opportunities and could slow down national economic growth by as much as 2 percentage points. Preliminary figures estimate a 1982 decrease in GNP of 1.8 percent, or $27 billion. Certainly, our trade deficit contributed to that decline and will continue to do so until we turn the situation around.

I have strongly advanced the establishment of a trade department for many years. Despite reorganizations undertaken during previous administrations, bits and pieces of our foreign trade apparatus are still scattered around the Federal Government. Vital functions have been moved from agency to agency, but no clear mandate has surfaced to make trade and economic growth through exporting prime national objectives.

Our most recent reordering of trade-related functions—reorganization plan No. 3 of 1979—resulted only in chaos. It divided responsibilities between two main agencies, the U.S. Trade Representative's Office and the Department of Commerce, and created a two-headed monster. No one, least of all our own traders, knows who in this Federal Government is responsible for trade.

As things now stand, U.S. trade policy is no policy at all. Instead, it is little more than a swamp of ineffective and conflicting ad hoc responses to an ever-growing list of foreign unfair trade practices. I am not criticizing the individuals who head our trade agencies now. Secretary of Commerce Baldrige and U.S. Trade Representative Brock are especially able men who have tried to promote our trade objectives in spite of the organizational structure in which they are forced to operate. Unfortunately, despite their best efforts, they are still saddled with an unworkable system, a system of institutionalized bureaucratic in-fighting.

Right now, on paper, trade action shifts from agency to agency, depending on the stage of the policy process in which we find ourselves. Commerce is responsible for the analysis of our global competitiveness in general and in specific sectors of U.S. business. Its Bureau of Industrial Economics, Bureau of Economic Analysis and offices for productivity, technology and innovation are supposed to provide the concrete analytical base from which trade policy decisions are made. These policy decisions are then coordinated through another entity, the U.S. Trade Representative's office. And the same USTR is also responsible for our negotiations, both in international fora such as the General Agreement on Tariffs and Trade (GATT) and in bilateral discussions. When those negotiations are finally complete, the action goes back to Commerce for day-to-day operations. This split creates serious confusion, duplication, and waste, and a loss of valuable time, trade opportunities, and jobs.

For example, the current Joint Committee on Commerce and Trade organized to address trade problems between the United States and Mexico is chaired by both the Commerce Department and the U.S. Trade Representative. At a time when our trade problems are flying thick and fast, we find ourselves needing to stop and ask, "Just who's in charge here?"

Moreover, as a result of the current structure, there is no single strong voice pushing our trade objectives above all else. Whenever a question arises that puts trade against other policy goals, trade loses.

For example, when the Carter administration imposed an embargo on the export of grain to the Soviet Union to retaliate against that country's invasion of Afghanistan, our farmers were devastated by the long-term loss of foreign market share. When, again for foreign policy reasons, the current administration banned the export of goods by U.S. firms and their overseas subsidiaries for use in the Soviet gas pipeline, our trade interests were sacrified. As a result of the sanctions, the United States is now viewed as the supplier of last resort, and once-strong industries such as construction equipment, are suffering.

Our experience with Japan is yet another example of sacrifices we make in trade in order to achieve other objectives. For years, we have lost valuable market opportunities in that country because of Japan's high tariffs and other import barriers. Our farmers have repeatedly pleaded with administration after administration to seek removal, by internationally recognized legal means, of Japan's import quotas on a range of agricultural products. For one policy reason or another, however, we do not take Japan to the GATT. We have not even begun the time-consuming process of GATT consultation, complaint, dispute settlement and resolution necessary to achieve clear access to Japan's agricultural market once and for all.

With a single spokesman to push our trade objectives above all else, I am convinced we could obtain the executive branch mandate to use the tools at our disposal and remove the unfair practices of Japan, as well as those of the European Community.

We do not have a strong enough voice now.

Moreover, the current proliferation of executive branch trade-related coordinating bodies has created sheer pandemonium. In addition to the Trade Policy Committee, chaired by USTR and provided for in the Trade Expansion Act of 1962, we have the Cabinet Council on Commerce and Trade, chaired by the President, and run by the Secretary of Commerce. Add to this the Senior Intergovernmental Group for International Economic Policy, headed by the Secretary of Treasury, and numerous subgroups, task forces, and subcommittees all duplicating one another's work, and we have mass confusion.

With so many coordinating mechanisms and agencies with an interest in trade, one would assume there would be good executive branch thinking and analysis regarding our long-term competitiveness. Unfortunately, there is not.

While countries, like Japan, are already staking out their territory for the nineties, we have not even gotten our act together for the eighties. We are increasingly faced with foreign government planning and ownership of key industries, yet we have no organizational structure with which to address those challenges.

I am not suggesting we adopt any form of managed industrial policy or a system designed to pick winners and losers in industry and agriculture, but unless we begin to do some forward-looking analysis of where we expect to be 5 or 10 years down the road, we will fall farther and farther behind in the race to compete.

The Department of Trade would help us address some of today's more pressing trade and related problems. While the Department will not, in and of itself correct the balance-of-trade deficit or restore the dollar to its proper value, it will establish a better framework for dealing with these and other problems. The creation of a Department of Trade, as I envision it, would signal to our trading partners, once and for all, that we are serious

about trade, serious about exporting, and serious about championing our international rights.

The United States has played patsy to foreign protectionism long enough. It is time to start fighting back—not with idle threats or narrow and self-defeating protectionist measures of our own, but with a genuine commitment to making this country a leader in world trade.

Trade consolidation would be a clear sign that foreign governments can no longer shop around among our agencies to find the group most sympathetic to foreign views.

The Department of Trade I am proposing today would consolidate all nonagricultural trade and investment analysis, policymaking, negotiation, and implementation functions into one agency. By so doing, we would reduce duplication and contradiction in the executive branch's trade policymaking process. We would insure followthrough on negotiations and guarantee our rights in domestic and foreign markets were aggressively pursued. We would have one strong voice in the Cabinet and the White House to articulate and act on our trade—and investment—related priorities.

The Department of Trade would have the following key elements:

First, it would combine the Office of the U.S. Trade Representative with the international trade and investment functions of the Commerce Department. Commerce's International Trade Administration, with its responsibilities for administering trade laws, export development trade, and investment policymaking would thus be included in the new Department of Trade.

Second, the Department would encompass Commerce's functions involving industry analysis, productivity, and technological innovation. In this increasingly interdependent world, we must treat all our economic sectors as part of an overall global strategy. Every industry, every firm, every worker is affected by trade in one way or another, and our organizational structure must reflect this interaction of domestic and international forces.

I would want this new department to go even further in analyzing the long-term prospects for various U.S. sectors. While the Commerce Department has begun the process of analyzing industries—notably the petrochemical industry—and their ability to meet long-term international competitive challenges, I would want to see that effort expanded and applied to all segments of our economy. Only then will we have the information necessary to meet the challenges posed by aggressive trading partners overseas.

Third, the Secretary of Trade would perform two major functions—in effect, wear two hats. One hat would be that of the Secretary, a Cabinet-level official, capable of speaking out for our trade interests in debates among departments.

The other hat would be that of an interagency coordinator for trade matters. Just as we have coordinators for domestic policy, economic matters, and national security, we need a coordinator for trade.

To carry out this function, the Secretary of Trade would act as Vice Chairman of an Interagency Policy Committee, to be chaired by the President. This Committee, with members from the Departments of State, Treasury, Labor, and Agriculture, would have the final word on all trade questions.

It is critical that the Secretary of Trade have this central role and serve as the President's chief spokesman on trade. We must have this strong voice operating with direct access to the White House to insure our export and import goals become a matter of national concern.

Fourth, overall responsibility for agricultural trade matters would remain with the Secretary of Agriculture. In cases that could affect trade in agricultural products, however, my legislation would require that the Secretaries of Trade and Agriculture consult closely. It would further mandate that, in international negotiations and consultations involving agricultural commodities produced in significant quantities in the United States, the Secretary of Agriculture would vice-chair the U.S. delegations. This would guarantee that our producers of wheat, for example, would be strongly represented in talks affecting their markets and production decisions.

During the multilateral trade negotiations conducted in the seventies under the auspices of GATT, I pressed strongly for our farmers' increased access to European and Japanese markets. I was disappointed by the results of our agricultural agreements and continue to be disappointed by our efforts today.

As evidenced by November's ministerial-level meeting of GATT contracting parties, our farmers keep getting the short end of the stick. Numerous meetings in Brussels and Washington with the European Community and in Tokyo with the Japanese have not changed the outlook for our farmers.

A Secretary of Trade, acting in close coordination with our Secretary of Agriculture, would have the institutional underpinning and strength to make greater inroads into foreign markets.

To further cement this relationship between the two departments, my legislation would provide for an agricultural liaison in the Department of Trade. This liaison would insure that key agricultural trade matters were brought to the attention of the Secretary of Trade and that the interests of industry and agriculture were carefully weighed before any actions that could affect either sector were taken.

Last, the Secretary of Trade would serve as the Chairman of the Boards of the Export-Import Bank of the United States and the Overseas Private Investment Corporation.

By their financing and insurance decisions, these entities effectively make policy every day. The Secretary of Trade must have a strong voice in the decisions of these Boards, particularly to provide the consistency we now lack.

Mr. President, I am introducing this legislation today as a responsible and positive response to growing international trade barriers. A change is needed now. We can no longer wait to organize to address our trade policy needs, for the longer we wait, the further behind we will fall and the fewer jobs will become available to American workers.

What we need is not protectionism, but fairness. The time has come to recognize that we are in a trade war, and we badly need a battle plan—a plan to protect our rights and take advantage of our opportunities in international trade.

Since this administration, like those before it, has been reluctant to use the limited tools available to protect U.S. trade, Congress must create new tools and must make it clear that it expects them to be used. The creation of a department that puts trade first above all else would be a step in that direction.

We must serve notice to the rest of the world that when nations deny us free access to their markets, we will retaliate in kind. The day of unilateral free trade, courtesy of the United States, is over.

I would invite all those who have an interest in the organization of government to promote our trade objectives to contact me with their views and suggestions. Over the years, I have consulted with a wide range of farm, manufacturing, labor, and public sector groups, and I would like that process to continue, particularly as this legislation makes its way through my Governmental Affairs Committee.

To insure quick action on reorganization, I have scheduled a hearing in the Governmental Affairs Committee for March 1.

Mr. President, I think it is time to get the ball rolling.

I ask unanimous consent that the text of this legislation be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 121

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this

Act may be cited as the " Trade Reorganization Act of 1983".

FINDINGS

SEC. 2. The Congress finds and declares that—

(1) the expansion of United States participation in international trade through aggressive promotion and marketing of American goods and services is a principal national goal;

(2) the economy of the United States is so inextricably linked with the international economic system that all domestic economic sectors are influenced by the dynamics of global trade and investment;

(3) the expansion of United States participation in international trade and investment will improve the general welfare of the people of the United States by increasing demand for America products and services, creating jobs, and increasing the gross national product;

(4) business, labor, and all levels of government must join efforts to place the highest priority on developing methods and policies to achieve the goal described in paragraph (1), and the achievement of such goal is dependent on a marked improvement in the capability of United States businesses to compete in foreign markets;

(5) the Federal Government can enhance the capability of United States businesses to compete in foreign markets by acting to (A) reduce political and economic barriers to sales and investments by such businesses, (B) promote American goods and services in foreign countries, (C) encourage aggressive participation by the private sector in the international marketplace, and (D) develop policies to enhance productivity and long-term technological growth;

(6) effective and efficient Government action to enhance the capability of United States businesses to compete in foreign markets requires coordination of the development and implementation of Government policies relating to the international trade and investment interests of the United States;

(7) effective and efficient Government action with respect to international trade and investment further requires the employment of a corps of personnel consisting of individuals who, like the personnel of the governments of present and potential United States trading partners, are highly experienced and educated in international trade and investment operations and negotiations;

(8) the present organizational stucture of Government administration of international trade and investment activities is so diffuse that inconsistent and contradictory policies and actions result;

(9) such inconsistent and contradictory policies and actions discourage experienced Government personnel from career service in international trade and investment activities; and

(10) the consolidation of Government functions relating to international trade and investment, including functions relating to technical analysis, policymaking, international negotiation, and operational responsibilities, into a Department of International Trade will provide the needed coordination of Government activity in international trade and investment and will encourage the retention of the highly experienced personnel necessary for such coordination to be effective.

DEFINITIONS

SEC. 3. As used in this Act, unless otherwise provided or indicated by the context—

(1) the term "Department" means the Department of Trade;

(2) the term "Secretary" means the Secretary of Trade;

(3) the term "Deputy Secretary" means a Deputy Secretary of Trade;

(4) the term "Assistant Secretary" means an Assistant Secretary of Trade;

(5) the term "department" has the same meaning as the term "executive department" in section 101 of title 5, United States Code;

(6) the term "agency" has the same meaning as section 551(1) of such title; and

(7) the term "function" includes any duty, obligation, power, authority, responsiblity, right, privilege, activity, or program.

ESTABLISHMENT OF DEPARTMENT

SEC. 4. (a) The Department of Trade is established as an executive department of the Government. The Department shall be administered by a Secretary of Trade, who shall be appointed by the President, by and with the advice and consent of the Senate. The Secretary shall have the rank and status of Ambassador Extraordinary and Plenipotentiary with respect to trade and investment matters.

(b) There shall be in the Department two Deputy Secretaries of Trade, who shall be appointed by the President, by and with the advice and consent of the Senate. Each Deputy Secretary shall have the rank and status of Ambassador and shall perform such functions as the Secretary may prescribe. The Secretary shall designate one of the Deputy Secretaries as the United States Representative to the General Agreement on Tariffs and Trade.

(c) There shall be in the Department four Assistant Secretaries of Trade and a General Counsel, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall perform such functions as the Secretary may prescribe.

(d) There shall be in the Department a Chief Textile Negotiator, who shall be appointed by the Secretary, and who shall have the rank and status of Ambassador.

(e) There shall be in the Department an Inspector General appointed in accordance with the Inspector General Act of 1978 (as amended by section 13(f) of this Act).

(f) There shall be in the Department an Agricultural Advisor. The Agricultural Advisor shall be appointed by the Secretary, and shall—

(1) be the principal advisor to the Secretary with respect to programs and activities of the Department relating to agriculture;

(2) coordinate the programs and activities of the Department relating to agriculture;

(3) act as the liaison between officers and employees of the Department and officers and employees of the Department of Agriculture; and

(4) perform such additional functions as the Secretary shall prescribe.

(g) The Secretary shall prescribe the order by which the officers of the Department described in subsections (b), (c), (d), (e), and (f) shall act for, and exercise the powers of, the Secretary during the absence or disability of the Secretary or in the event of a vacancy in the Office of the Secretary.

FUNCTIONS

SEC. 5. (a) The Secretary shall—

(1) exercise leadership, under the direction of the President, in international trade and investment matters;

(2) develop and coordinate the policies of the United States for the promotion of beneficial international trade relationships with respect to industrial and agricultural products, services, and raw materials;

(3) negotiate agreements relating to the international trade of the United States and assert and protect the rights of the United States under such agreements;

(4) seek fair and equitable international trade relationships which do not discriminate against the commerce of the United States;

(5) protect American industry, agriculture, and labor from unfair or injurious foreign competition;

(6) develop, in cooperation with appropriate departments and agencies of the Government, trade monitoring systems that encourage and permit timely reaction and adjustment to increased volumes of imports and global competition;

(7) seek and promote new trade and commercial opportunities in foreign countries for American industrial products, and, in consultation with the Secretary of Agriculture, seek and promote such opportunities for agricultural products;

(8) assist small businesses in developing export markets;

(9) assist in financing international trade between the United States and foreign countries;

(10) develop, in cooperation with other appropriate departments and agencies of the Government, long-range programs to promote American international economic policy interests;

(11) secure reliable access at competitive prices to supplies of raw materials which are produced in foreign countries;

(12) develop and implement the policies of the United States concerning foreign investment;

(13) mobilize and facilitate the participation of American private capital and skills in the development of the economic and social progress of friendly developing countries and areas;

(14) administer export controls as provided by the Congress;

(15) promote and undertake the development, collection, analysis, and dissemination of economic and other information relating to domestic and international trade and investment and to the activities of the Secretary and the Department;

(16) consult and cooperate with other departments and agencies in gathering information regarding the status of international trade and investment in which the United States or other countries may be participants; and

(17) consult and cooperate with State and local governments and other interested parties on international trade and investment matters of interest to such governments and parties, and, when appropriate, hold informal public hearings.

(b) In carrying out the functions of the Secretary, the Secretary shall consult, exchange information, and carry on joint planning, research, and other activities with the Secretary of Agriculture, the Secretary of Commerce, the Secretary of State, the Secretary of the Treasury, and the heads os such other departments and agencies as the Secretary considers appropriate.

(c)(1) The Secretary shall consult with the Secretary of Agriculture or his designee on all matters which potentially involve international trade in agricultural products.

(2) If an international meeting for negotiation or consultation includes discussion of international trade in agricultural commodities which are produced in significant quan-

tities in the United States, the Secretary or his delegate shall be Chairman of the United States delegation to such meeting and the Secretary of Agriculture or his delegate shall be Vice Chairman.

(d) The Secretary shall jointly study, with the Secretary of Agriculture, the Secretary of Commerce, the Secretary of State, the Secretary of the Treasury, and the heads of such other departments or agencies as the Secretary considers appropriate, how Federal policies and programs can ensure that international trade and investment systems most effectively serve both national and international economic needs. The Secretary shall include in the annual report required by section 10 of this Act a description of the studies and activities conducted under this subsection and any recommendations for legislation which the Secretary considers appropriate.

TRANSFERS TO THE DEPARTMENT OF TRADE

SEC. 6. (a) There are transferred to the Secretary all functions of the United States Trade Representative and the Office of the United States Trade Representative in the Executive Office of the President.

(b)(1)(A) There are transferred to the Secretary all functions of the Secretary of Commerce or the Department of Commerce with respect to or being administered through the Under Secretary of Commerce for International Trade, the Under Secretary of Commerce for Economic Affairs, the Under Secretary of Commerce for Travel and Tourism, the Assistant Secretary of Commerce for International Economic Policy, the Assistant Secretary of Commerce for Productivity, Technology, and Innovation, the Assistant Secretary of Commerce for Trade Administration, the Assistant Secretary of Commerce for Communication and Information, the Assistant Secretary of Commerce for Trade Development, the Chief Economist of the Department of Commerce, the Director of the Bureau of Economic Analysis of the Department of Commerce, and the Director of the Bureau of Industrial Economics of the Department of Commerce.

(B) There are transferred to the Secretary all functions of the Under Secretary of Commerce for International Trade, the Under Secretary of Commerce for Economic Affairs, the Under Secretary of Commerce for Travel and Tourism, the Assistant Secretary of Commerce for International Economic Policy, the Assistant Secretary of Commerce for Productivity, Technology, and Innovation, the Assistant Secretary of Commerce for Trade Administration, the Assistant Secretary of Commerce for Communications and Information, the Assistant Secretary of Commerce for Trade Development, the Chief Economist of the Department of Commerce, the Director of the Bureau of Economic Analysis of the Department of Commerce, and the Director of the Bureau of Industrial Economics of the Department of Commerce.

(2) There are transferred to the Secretary all functions of the Secretary of Commerce, the Department of Commerce, and officers and components of such Department relating to—

(A) commercial affairs and business activities, including export promotion;

(B) international investment policy;

(C) negotiation and implementation of bilateral and multilateral commercial agreements and trade agreements with foreign countries, including commodity agreements;

(D) export promotion;

(E) foreign investment;

(F) export administration;

(G) international commerce, including East-West trade and the administration of quotas or special tariff treatment;

(H) foreign trade zones; and

(I) the administration of all laws designed to protect the United States against unfair competition in international trade and investment.

(3) There are transferred to the Secretary all functions of the Secretary of Commerce under the Trade Fair Act of 1959.

(c) The Export-Import Bank of the United States is transferred to the Department.

ESTABLISHMENT OF THE TRADE POLICY COMMITTEE

SEC. 7. (a) Section 242(a) of the Trade Expansion Act of 1962 (19 U.S.C. 1872 (a)) is amended to read as follows:

"(a) There is established in the Executive Office of the President a Trade Policy Committee (hereafter in this section referred to as the 'Committee'). The Committee shall assist the President in carrying out the functions vested in the President by this title and sections 201, 202, and 203 of the Trade Act of 1974. The Committee shall be composed of the President, who shall be Chairman, the Secretary of Trade, who shall be Vice Chairman, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Labor, the Secretary of State, and the Secretary of the Treasury. The Committee shall meet at such times and with respect to such matters as the President shall direct. The Committee may invite the head of any department or agency not represented on the Committee to participate in its activities when matters of interest to such department or agency are under consideration.".

(b) Section 242(b) of such Act (19 U.S.C. 1872 (b)) is amended by striking out "organization" and inserting in lieu thereof "Committee".

(c)(1) The first sentence of section 242 (c) of such Act (19 U.S.C. 1872 (c)) is amended to read as follows: "The Committee shall, to the maximum extent practicable, draw upon the resources of the departments represented in the Committee, as well as such other departments and agencies as it may determine, including the United States International Trade Commission.

(2) The second sentence of such section is amended by striking out "organization" each place it appears and inserting in lieu thereof "Committee".

(d) Section 242 of such Act (19 U.S.C. 1872) is further amended by adding at the end thereof the following new subsections:

"(d) In carrying out its functions, the Committee shall obtain advice from any appropriate department or agency of the Government regarding the impact of Government international trade and investment policy on such matters as inflation in the United States economy, United States resource supply, national security and defense, and Government antitrust policies and activities.

"(e)(1) There is established a subcommittee of the Committee which shall be known as the Trade Negotiating Subcommittee. The Trade Negotiating Subcommittee shall advise the Secretary of Trade concerning the management of negotiations relating to international trade and investment.

"(2) The Trade Negotiating Subcommittee shall be composed of a Deputy Secretary of Trade (as designed by the Secretary of Trade), who shall be Chairman, and an officer of the Department of Agriculture, the Department of Commerce, the Department of Labor, the Department of State, and the Department of the Treasury, each of whom shall be appointed by the head of the respective Department.

"(f)(1) The Chairman of the Committee, with the advice of the Committee, may establish, on a permanent or temporary basis, additional subcommittees of the Committee, including trade policy review groups and trade policy staff committees.

"(2) Any subcommittee established pursuant to this subsection shall be composed of representatives of such departments or agencies as the Chairman shall designate, and the head of each such department or agency shall appoint as members of such subcommittee such officers or employees of the department or agency as he considers appropriate.

"(g) The President shall provide such staff and support to the Committee and its subcommittees as may be necessary to enable the Committee and its subcommittees to carry out their functions.

"(h) As Vice Chairman of the Committee, the Secretary of Trade shall be the President's Chief spokesman on trade and shall report directly to the President on all trade policy matters.".

(e) The section heading for section 242 of such Act is amended to read as follows:

"§ 242. Trade Policy Committee; subcommittees".

ADMINISTRATIVE PROVISIONS

SEC. 8. (a) In addition to the authority contained in any other Act authorizing functions transferred to the Secretary by this Act, the Secretary is authorized, subject to the civil service and classification laws, to select, appoint, employ, and fix the compensation of such officers and employees, including investigators, attorneys, and hearing examiners, as are necessary to carry out the provisions of this Act, and to prescribe the authority and duties of such officers and employees.

(b) The Secretary may obtain services as authorized by section 3109 of title 5, United States Code, at rates not to exceed $100 per day for individuals unless otherwise specified in an appropriation Act.

(c) In addition to the authority to delegate and redelegate functions contained in any other Act authorizing functions transferred to the Secretary by this Act, the Secretary may delegate his functions to such officers and employees of the Department as he may designate, and may authorize such successive redelegations of such functions as he may find appropriate.

(d) The Secretary may make such rules and regulations as may be necessary or appropriate to administer and manage the functions of the Secretary or the Department.

(e)(1) The Secretary is authorized to establish a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as the Secretary shall find to be desirable in the interest of economy and efficiency in the Department, includng such services as—

(A) a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its components;

(B) central messenger, mail, telephone, and other communications services;

(C) office space, central services for document reproduction, and for graphics and visual aids; and

(D) a central library service.

(2) The capital of the fund shall consist of any appropriations made for the purpose of providing working capital and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the Secretary may transfer to the fund, less the related liabilities and unpaid obligations. Such funds shall be reimbursed in advance from avilable funds of agencies and offices in the Department, or from other sources, for supplies and services at rates which will approximate the expense of operation, including the accural of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from sale or exchange of property and receipts in payment for loss or damage to property owned by the fund. There shall be covered into the United States Treasury as miscellaneous receipts any surplus of the fund (all assets, liabilities, and prior losses considered) above the amounts transferred or appropriated to establish and maintain such fund. There shall be transferred to the fund the stocks of supplies, equipment, other assets, liabilities, and unpaid obligations relating to the services which the Secretary determines, with the approval of the Director of the Office of Management and Budget, will be performed.

(f) The Secretary shall cause a seal of office to be made for the Department of such design as the Secretary shall approve, and judicial notice shall be taken of such seal.

(g)(1) The Secretary is authorized to accept, hold, administer, and utilize gifts and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts and bequests of money and the proceeds from sales of other property received as gifts or bequests shall be deposited in the Treasury in a separate fund and shall be disbursed upon order of the Secretary. Property accepted pursuant to this paragraph, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift or bequest.

(2) For the purpose of Federal income, estate, and gift taxes, property accepted under paragraph (1) shall be considered as a gift or bequest to or for use of the United States.

(3) Upon the request of the Secretary, the Secretary of the Treasury may invest and reinvest in securities of the United States or in securities guaranteed as to principal and interest by the United States any moneys contained in the fund provided for in paragraph (1). Income accruing from such securities, and from any other property held by the Secretary purusant to paragraph (1), shall be deposited to the credit of the fund, and shall be disbursed upon order of the Secretary.

(h) The Secretary is authorized to appoint, without regard to the classification and civil service laws, such advisory committees as may be appropriate to assist the Department in the performance of its functions.

(i)(1) Subject to the provisions of the Federal Property and Administrative Services Act of 1949, the Secretary is authorized to make, enter into, and perform such contracts, grants, leases, cooperative agreements, or other similar transactions with Federal or other public agencies (including State and local governments) and private organizations and persons, and to make such payments, by way of advance or reimbursement, as the Secretary may determine necessary or appropriate to carry out functions of the Secretary or the Department.

(2) Notwithstanding any other provision of this Act, no authority to enter into contracts or to make payments under this Act shall be effective except to such extent or in such amounts as are provided in advance under appropriation Acts. This subsection shall not apply with respect to the authority granted under subsection (g) of this section.

(j)(1) The Secretary is authorized, upon the written request of any person, or any State, territory, possession, or political subdivision thereof, to (A) make special statistical studies relating to international trade and investment, (B) prepare from the records of the Department special statistical compilations, and (C) furnish transcripts of such studies and compilations of the Department upon the payment of the actual cost of such study or compilation by the person or body requesting such work.

(2) All moneys received by the Department in payment for any study or compilation prepared under paragraph (1) shall be deposited in a separate account to be administered under the direction of the Secretary. Such moneys may be used, in the discretion of the Secretary, for the ordinary expenses incidental to the preparation of any such study or compilation or to secure in connection therewith the services of persons who are not officers or employees of the United States, to such extent or in such amount as are provided in advance in appropriation Acts.

(k)(1) The Secretary is authorized to enter into contracts with educational institutions, public or private agencies or organizations, or persons for the conduct of research into any aspect of the problems related to the programs of the Department which are authorized by statute.

(2) The Secretary shall require a showing that any institution, agency, organization, or person with which the Secretary expects to enter into any contract pursuant to this subsection have the capability of doing effective work. The Secretary shall furnish such advice and assistance to any such institution, agency, organization, or person as the Secretary determines will best carry out the functions of the Department, participate in coordinating all research initiated under this subsection, and indicate the lines of inquiry for research which the Secretary considers most important. The Secretary shall encourage, and assist in the establishment and maintenance of, cooperation by and between all institutions, agencies, organizations, or persons with which the Secretary enters into contracts under this subsection, and between such institutions agencies, organizations, and persons and other research organizations, the Department, and other Federal departments and agencies.

(3) The Secretary may disseminate in the form of reports or publications to public or private agencies or organizations, or individuals such information as the Secretary finds pertinent on the research carried out pursuant to this section.

(4) This subsection does not modify or repeal any provision of law administered by the Department which authorizes contracts for research.

ANNUAL REPORT

SEC. 9. The Secretary shall, as soon as practicable after the end of each fiscal year, prepare and transmit a written report to the President on the activities of the Department during such fiscal year, including activities under section 5(d) of this Act. The President shall submit such report to the Congress.

TRANSFER MATTERS

SEC. 10. (a) The personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from available or to be made available, in connection with the functions, offices, and agencies transferred by this Act, are, subject to section 1531 of title 31, United States Code, correspondingly transferred to the Department or the Agency for appropriate allocation.

(b) The transfer of personnel pursuant to subsection (a) of this section shall be without reduction in classification or compensation for one year after such transfer.

(c) Any person who, on the day preceding the effective date of this Act, held a position compensated in accordance with the Executive Schedule, and who, without a break in service, is appointed in the Department or the Agency to a position having duties comparable to those performed immediately preceding his appointment shall continue to be compensated in his new postion at not less than the rate provided for his previous position, for the duration of his service in his new position.

(d) In the exercise of the functions transferred under this Act, the Secretary shall have the same authority as was exercised by the head of the department or agency exercising such functions immediately preceding their transfer, and the actions of the Secretary , as the case may be, in exercising such functions shall have the same force and effect as when exercised by the head of the department or agency from whom such functions are transferred.

(e)(1) The Director of the Office of Management and Budget, at such time or times as the Director shall provide, may make such determinations as may be necessary with regard to the functions, offices, agencies, or portions thereof, transferred by this Act, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, offices, agencies, or portions thereof, as may be necessary to carry out the provisions of this Act. The Director shall provide for such further measures and dispositions as may be necessary to effectuate the purposes of this Act, and for the termination of the offices and agencies specified in section 13.

(2) After consultation with the Director of the Office of Personnel Management, the Director of the Office of Management and Budget is authorized, at such time as the Director of the Office of Management and Budget provides, to make such determinations as may be necessary with regard to the transfer of positions within the Senior Executive Service in connection with functions, offices, and agencies transferred by this Act.

SAVINGS PROVISIONS

SEC. 11. (a) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective in the ex-

ercise of functions which are transferred under this Act by (A) any department or agency, any functions of which are transferred by this Act, or (B) any court of competent jurisdiction; and

(2) which are in effect at the time this Act takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the President, the Secretary as the case may be, by any court of competent jurisdiction, or by operation of law.

(b) The provisions of this Act shall not affect any proceedings pending at the time this Act takes effect before any department or agency or component thereof, the functions of which are transferred by this Act; but such proceedings, to the extent that they relate to functions so transferred, shall be continued before the Department or the Agency, as the case may be. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or repealed by the Secretary or the Administrator, as the case may be, by a court of competent jurisdiction, or by operation of law.

(c) Except as provided in subection (e)—

(1) the provisions of this Act shall not affect actions commenced prior to the date this Act takes effect, and

(2) in all such actions proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this Act had not been enacted.

(d) No action or other proceeding commenced by or against any officer in his official capacity as an officer for any department or agency from whom functions are transferred by this Act shall abate by reason of the enactment of this Act. No cause of action by or against any department or agency from which functions are transferred by this Act, or by or against any officer thereof in his official capacity shall abate by reason of the enactment of this Act. Causes of action and actions with respect to a function, office, or agency transferred by this Act, or other proceedings may be asserted by or against the United States or an official of the Department or the Agency, as may be appropriate, and, in an action pending when this Act takes effect, the court may at any time, on its own motion or that of any party, enter an order which will give effect to the provisions of this subsection.

(e) If before the date on which this Act takes effect, any department, office, or agency, or any officer thereof in his official capacity, is a party to an action, and under this Act—

(1) such office or agency is transferred to the Department or the Agency; or

(2) any function of such department, office, agency, or officer is transferred to the Secretary ,

such action shall be continued with the Secretary or other appropriate official of the Department, or the Administrator or other appropriate official of the Agency, as the case may be, substituted or added as a party.

(f) Orders and actions of the Secretary in the exercise of the functions transferred under this Act shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the head of the department, office, or agency in exercising such functions immediately preceding their transfer. Any statutory requirements relating to notice, hearings, actions upon the record, or administrative review that apply to any functions transferred by this Act shall apply to the exercise of such functions by the Secretary or the Administrator.

(g) With respect to any function transferred by this Act and exercised after the effective date of this Act, reference in any other Federal law to any department, office, or agency, or any officer thereof, the functions of which are so transferred, shall be deemed to mean the Secretary or the Administrator, as the case may be.

TERMINATION

SEC. 12. The following offices and agencies are terminated:

(1) The Office of the United States Trade Representative.

(2) The International trade Administration of the Department of Commerce.

(3) The Bureau of Industrial Economics of the Department of Commerce.

(4) The Bureau of Economic Analysis of the Department of Commerce.

(5) The United States Travel and Tourism Administration.

(6) The National Telecommunications and Information Administration.

CONFORMING AMENDMENTS

SEC. 13. (a) Section 19(d)(1) of title 3, United States Code, is amended by inserting before the period a comma and "Secretary of Trade".

(b) Section 101 of title 5, United States Code, is amended by adding at the end thereof the following:

"The Department of Trade.".

(c)(1) Section 5312 of title 5, United States Code, is amended by striking out the item relating to the Special Representative for Trade Negotiations and by adding at the end thereof the following:

"Secretary of Trade.".

(2) Section 5313 of such title is amended by adding at the end thereof the following new item:

"Deputy Secretaries of Trade (2).".

(3) Section 5314 of such title is amended by striking out the item relating to the Deputy Special Representatives for Trade Negotiations.

(4) Section 5315 of such title is amended—

(A) by striking out the item relating to the Assistant Secretaries of Commerce and inserting in lieu thereof the following:

"Assistant Secretaries of Commerce (4)"; and

(B) by adding at the end thereof the following:

"Assistant Secretaries of Trade (4).

"General Counsel, Department of Trade.

"Chief Textile Negotiator of the United States, Department of Trade.

"Inspector General, Department of Trade.

"Agricultural Advisor, Department of Trade.".

(5) Section 5316 of such title (as amended by section 8(j) of this Act) is further amended by striking out the item relating to the National Export Expansion Coordinator of the Department of Commerce.

(d)(1) The first sentence of section 231 of the Foreign Assistance Act of 1961 (22 U.S.C. 2191) is amended by striking out "Secretary of State" and inserting in lieu thereof "Secretary of Trade".

(2) The first paragraph of section 233(b) of such Act (22 U.S.C. 2193(b)) is amended to read as follows:

"All powers of the Corporation shall vest in and be exercised by or under the authority of its Board of Directors ('the Board') which shall consist of fifteen Directors, including the Chairman, with eight Directors constituting a quorum for the transaction of business. The Secretary of Trade shall be Chairman of the Board, ex officio. The Director of the United States International Development Cooperation Agency shall be Vice Chairman of the Board, ex officio. Eight additional Directors (other than the President of the Corporation, appointed pursuant to subsection (c), who shall serve as a Director, ex officio) shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and shall not be officials or employees of the Government of the United States. At least two of the eight Directors appointed under the preceding sentence shall be experienced in small business, one in organized labor, and one in cooperatives. Each such Director shall be appointed for a term of no more than three years. The terms of no more than three such Directors shall expire in any one year. Such Directors shall serve until their successors are appointed and qualified and may be reappointed.".

(3) The second paragraph of section 233 (b) of such Act (22 U.S.C. 2193(b)) is amended by inserting "four" before "Directors".

(e)(1) Section 3(a) of the Export-Import Bank Act of 1945 (12 U.S.C. 635a(a)) is amended to read as follows:

"(a) The Export-Import Bank of the United States is established as an independent agency within the Department of Trade.".

(2) Section 3(b) of such Act (12 U.S.C. 635a (b)) is amended by inserting after the first sentence the following new sentence: "The President of the Bank shall report to the Secretary of Trade.".

(3) The first sentence of section 3(c) of such Act (12 U.S.C. 635a(c)) is amended to read as follows: "There shall be a Board of Directors of the Bank consisting of the Secretary of Trade, who shall serve as Chairman, the President of the Export-Import Bank of the United States, who shall serve as Vice Chairman, the First Vice President of the Bank, and two additional persons appointed by the President of the United States by and with the advice and consent of the Senate.".

(f) The Inspector General Act of 1978 is amended—

(1) by inserting "the Department of Trade," after "Urban Development," in section 2(1);

(2) by redesignating subparagraphs (E) through (N) of section 9(a)(1) as subparagraphs (F) through (O), respectively;

(3) by inserting after subparagraph (D) of section 9(a)(1) the following:

"(E) of the Department of Trade, all functions of the Inspector General of the Department of Commerce or of the Office of Inspector General of the Department of Commerce relating to the functions and agencies transferred by paragraphs (1), (2), and (3) of section 6(b) of the Trade Reorganization Act of 1983;";

(4) by inserting " Trade," after "Urban Development," in section 11(1); and

(5) by inserting " Trade," after "Urban Development," in section 11(2).

(g) The fourth paragraph of section 101 (a) of the National Security Act of 1947 (50 U.S.C. 402(a)) is amended—

(1) by redesignating clauses (5), (6), and (7) as clauses (6), (7), and (8), respectively; and

(2) by inserting after clause (4) the following new clause:

"(5) the Secretary of Trade;".

(h) Section 7 of the Trade Fair Act of 1959 (19 U.S.C. 1756) is amended to read as follows:

"SEC. 7. (a) Except as provided in subsection (b), the Secretary of Trade may prescribe such regulations as may be necessary or appropriate to carry out the provisions of this Act.

"(b) The Secretary of the Treasury may prescribe such regulations as may be necessary or appropriate to carry out the provisions of this Act with respect to internal revenue tax laws.".

(i)(1) Chapter 4 of title I of the Trade Act of 1974 is amended to read as follows:

"CHAPTER 4—REPRESENTATION IN TRADE NEGOTIATIONS

"SEC. 141. FUNCTIONS OF THE SECRETARY OF THE TRADE.

"The Secretary of Trade shall—

"(1) be the chief representative of the United States for each trade negotiation under this title or section 301;

"(2) report directly to the President and the Congress, and be responsible to the President and the Congress for the administration of trade agreements programs under this Act, the Trade Expansion act of 1962, and section 350 of the Tariff Act of 1930;

"(3) advise the President and Congress with respect to nontariff barriers to international trade, international commodity agreements, and other matters which are related to the trade agreements programs;

"(4) be responsible for making reports to Congress with respect to the matter set forth in paragraphs (1) and (2); and

"(5) be responsible for such other functions as the President may direct.".

(2) The table of contents in the first section of the Trade Act of 1974 is amended by striking out the items relating to chapter 4 and section 141 and inserting in lieu thereof the following:

"CHAPTER 4—REPRESENTATION IN TRADE NEGOTIATIONS

"SEC. 141. FUNCTIONS OF THE SECRETARY OF TRADE.".

SEPARABILITY

SEC. 14. If any provision of this Act and the amendments made by this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act, and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE; INITIAL APPOINTMENT OF OFFICERS

SEC. 15. (a) This Act and the amendments made by this Act shall take effect ninety days after the date on which the Secretary first takes office, or on such prior date after enactment of this Act as the President shall prescribe and publish in the Federal Register.

(b) Notwithstanding subsection (a), any of the officers provided for in this Act may be appointed in the manner provided for in this Act at any time after the date of enactment of this Act. Any such officer shall be compensated from the date such officer first takes office at the rates provided for in this Act. Such compensation and related expenses of any such officer shall be paid from funds available for the functions to be transferred to the Department pursuant to this Act.

INTERIM APPOINTMENTS

SEC. 16. (a) If one or more officers required by this Act to be appointed by and with the advice and consent of the Senate has entered upon office on the effective date of this Act and notwithstanding any other provision of law, the President may designate an officer in the executive branch to act in such office for one hundred and twenty days or until the office is filled as provided in this Act, whichever occurs first.

(b) Any officer acting in an office due to a designation by the President under subsection (a) shall receive compensation at the rate prescribed for such office.

Mr. COHEN. Mr. President, I am pleased to join in cosponsoring this important legislation to create a Department of Trade, and I commend Senator ROTH for his introduction of this bill.

The international trading system has become increasingly important to American interests both economically and politically. The United States is now the world's largest trading nation with an annual export-import trade of $507 billion, compared with $35 billion in 1960. Our exports of goods and services now account for 12.2 percent of our gross national product, growing from 6.4 percent in 1970. Agricultural exports alone account for over $43 billion annually. These figures illustrate the growing importance of trade to our economic health—in fact, many American jobs depend on it.

At the same time, trade considerations are playing more and more of a role in our international political relationships. Our interests with Japan are shaped to a large extent by trade issues, and our Government's reaction to the recent breakdown in the textile negotiations between the United States and China further illustrates the role of trade in policy formation.

In spite of this dramatic increase in the importance of trade, our trade bureaucracy does not reflect the evolving role of trade policy. We are the only major trading nation that does not have the organizational framework necessary for adequate policy development, and I believe this has contributed to our loss of competitiveness.

Small industries are especially bewildered by the bureaucratic maze that characterizes our trade functions. It is no wonder that industries do not know where to turn for import relief of export promotion assistance when no less than 25 agencies of the Federal Government are involved in trade policy.

The current organizational structure authorizes the U.S. Special Trade Representative to guide overall policy for unfair trading practices, including enforcement of countervailing duty and antidumping cases. At the same time, however, the Commerce Department is responsible for conducting the investigations for countervailing duty and antidumping petitioners. This leaves a great deal of uncertainty as to the exact role each agency is to play in policymaking.

Senator ROTH's bill would address this problem and many others by establishing a Department of Trade to administer all nonagricultural trade functions, including international trade negotiations, countervailing duty and antidumping cases, and export promotion. I believe that it would improve trade policy while keeping the trade bureaucracy a reasonable size.

I would like to clarify one point for the record. Although I support Senator ROTH's reorganization effort, I am also a strong supporter of the Office of Strategic Trade Act which would remove export control functions from the Department of Commerce. The existence of a Department of Trade would not in my mind erase the need for export control policy to be handled by an independent office.

Mr. President, our trade deficit last year was another record of well over $40 billion and is expected to go even higher this year. I urge my colleagues—both to improve our economic well-being and to strengthen our trade policy—to support passage of this legislation.

By Mr. DURENBERGER:

S. 122. A bill to repeal certain sections of Public Law 97-252 that restrict access of draft nonregistrants to Federal educational assistance; to the Committee on Labor and Human Resources.

FEDERAL EDUCATION ASSISTANCE

Mr. DURENBERGER. Mr. President, last May the Senate adopted an amendment to the armed services authorizations bill denying Federal education assistance to persons who do not register with the Selective Service System. At that time, I argued against the amendment, the only person to do so. Despite my arguments, the amendment passed handily. Today, I am introducing a bill to repeal that action.

Many people may question why I would oppose a denial of Federal benefits to those who do not obey the law. After all, I vote for the resumption of selective service registration, and I continue to support it as a needed underpinning to our all-volunteer military. Just as important, registration is the law, and has been so since 1973 when the Selective Service Act was modified to abolish the peacetime draft while continuing registration. Why should anybody therefore oppose a denial of Federal aid to those who break the law, particularly at a time when other Americans see their Federal benefits being decreased?

My answer is that I don't believe that linking student aid to registration is a sound way to enforce and administer the law. To the contrary, it raises

some very fundamental questions about Government, and it has the potential to create far more problems than it is designed to solve.

First, we should not forget that the existing law already contains severe penalties for a failure to register with the Selective Service System. Those convicted of a deliberate act of evasion can be penalized by up to 5 years' imprisonment and a fine of up to $10,000. These penalties are sufficiently stiff to punish those who break the law and to deter those who might consider breaking it. Any further punishment seems to me to be a case of judicial overkill.

Second, and more important, let me repeat two words which I just mentioned: "convicted" and "judicial." Quite properly, the Selective Service Act provides for penalties when a conviction has been sustained by proper judicial authorities. But the amendment which we adopted last May involves penalties regardless of whether a court has sustained a conviction. In other words, Congress has put itself in the position of legislatively determining guilt and setting penalties without the benefit of a court trial. Congress is not the judiciary branch. When it passes legislation like last May's amendment, however, it gets into a very questionable area involving fundamental constitutional questions. It acts as judge and jury, setting automatic penalties which are based on paperwork rather than jurisprudence.

Third, the amendment last May reversed the traditional approach to the burden of proof. Normally, of course, we require that the Government take the lead in establishing a person's guilt before a penalty is assessed. This is a very basic protection in our legal system. But the law now requires that people must show that they have obeyed the law if they are to avoid a cut-off in student aid. In other words, a penalty will be set unless a person can show proof of compliance with the law, putting the burden of proof on the individual rather than on the Government, where it belongs.

Fourth, in doing all this, we are creating an administrative nightmare both for students who have registered with the Selective Service System and for colleges and universities. Before an application for title IV education assistance can be made, a student must show evidence of registration to a college administrator. This in itself can delay the loan application process, with potential hardships for worthy applicants who must wait for the Government to provide them with documents. Just as important, this requirement puts college administrators in a de facto police role, and it will create further paperwork requirements for people who are already staggering under a huge load which has largely been created by the Federal Government.

Finally, Mr. President, the amendment adopted last May creates an artificial distinction among a common class of people. People who deliberately break the same law should be subject to the same penalties. Yet we will put a double penalty on those nonregistrants who depend on education assistance, while others—the wealthy, or those who are not students—are subject only to the penalties laid out in the Selective Service Act. The effect is clearly discriminatory and illogical.

Consider the fact that there are far more people who have failed to register than people who have been caught, convicted, and penalized. Ironically, in fact, most of those convicted thus far have been people with the courage to practice civil disobedience—people who have willingly stood trial and accepted the consequences rather than registering after the Government has caught up with them. Those who practice civil disobedience stand by their principles while standing by the law, a practice in the moral tradition of Socrates, Thoreau, Gandhi, and Martin Luther King.

But the majority of those who have not registered do not have this kind of courage. Most of them know that the odds favor their never being caught. It is impossible to say what percentage of them depend on Federal education assistance. Yet it will only be that percentage—however small—who will suffer any penalty for their actions. The rest of them will effectively get off scot-free.

I understand that the House is now considering a resolution which would extend a cutoff in benefits to any nonregistrant who applies for any federally funded program. If this should pass—and I hope it does not—it will still distinguish among a common class of lawbreakers. It will not simply single out students, but it also will not have any effect on the wealthy. I simply cannot understand why those who are most blessed by this society should be penalized any less than others for a failure to obey the law. Yet that is the effect of our action last May, and it would be the effect of the resolution introduced in the House on January 6 of this year.

Mr. President, let me reemphasize that I have no tolerance for those who flout the law or ignore a fundamental duty of citizenship. I support registration. I do not view it as intrusive or threatening to civil liberties. I am proud that my sons have registered. I believe that we should continue to punish those who deliberately violate the law. But I must conclude that our action last May was hasty, ill-advised, and disproportionate. I therefore urge its repeal.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 122

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1113 of Public Law 97-252 is repealed in its entirety.

Subsequent sections of Public Law 97-252 are renumbered accordingly.

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. 123. A bill to amend titles XVIII and XIX of the Social Security Act to provide that clinical psychologist services shall be covered under part B of medicare and shall be a required service under medicaid; to the Committee on Finance.

CLINICAL PSYCHOLOGY SERVICES UNDER MEDICARE AND MEDICAID

● Mr. INOUYE. Mr. President, today I am introducing legislation to amend our medicare and medicaid programs to provide for the direct access of clinical psychology services. For nearly a decade now, I have been working closely with members of the psychological profession in order to insure that their services will be directly reimbursable under our various Federal health benefit programs. Under both the Department of Defense civilian health and medical program of the uniformed services (CHAMPUS) and the Federal employees' health benefit program, we have been successful in insuring full parity. Unfortunately, however, we have not had similar success in our efforts to amend the Social Security Act. The Department of Health and Human Services has conducted a 3-year medicare reimbursement experiment in the State of Colorado and in August 1978 formal hearings were held by the Senate Finance Committee in which the views of consumers, the mental health community, and the administration were solicited. There can be no question but that there still remains considerable confusion and controversy surrounding the very basic question of who should be reimbursed for providing what type of care, and under what conditions. Nevertheless, I personally feel that the time has come for us to accord the psychological profession true parity with their medical colleagues.

The bill which I am introducing today on behalf of Senator MATSUNAGA and myself would provide direct access to the services of clinical psychologists under medicare. It would also modify the present 50-50 percent mental health copayment requirement so that the traditional 80-20 percent figure is used instead. It would also raise the dollar limit from the present $500 to $1,000. Finally, it would make clinical psychological services a mandated benefit under medicaid.

Mr. President, I request unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 123

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1861(s)(2) of the Social Security Act is amended—

(1) by striking out "and" at the end of subparagraph (G);

(2) by adding "and" at the end of subparagraph (H); and

(3) by adding at the end thereof the following new subparagraph:

"(I) clinical psychologist services;".

(b) Section 1861 of such Act is amended by adding at the end thereof the following new subsection:

"Clinical Psychologist Services

"(ee)(1) The term 'clinical psychologist services' means services performed by a clinical psychologist (as defined in paragraph (2)) which he is legally authorized to perform under State law (or the State regulatory mechanism provided by State law) of the State in which such services are performed, whether or not he is under the supervision of, or associated with, a physician or other health care provider.

"(2) The term 'clinical psychologist' means an individual who (A) is licensed or certified at the independent practice level of psychology by the State in which he so practices, (B) possesses a doctorate degree in psychology from a regionally accredited educational institution, or for those individuals who were licensed or certified prior to January 1, 1978, possess a master's degree in psychology and are listed in a national register of mental health service providers in psychology which the Secretary of the Department of Health and Human Services deems appropriate, and (C) possesses two years of supervised experience in health service, at least one year of which is postdegree.".

(c) Section 1833 (c) of such Act is amended by striking out all that follows "purposes of subsections (a) and (b)" and inserting in lieu thereof "no more than $1,000".

SEC. 2. (a) Section 1905(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (17);

(2) by redesignating paragraph (18) as paragraph (19); and

(3) by inserting after paragraph (17) the following new paragraph;

"(18) clinical psychologist services (as defined in section 1861(ee)); and".

(b) Section 1902(a) of such Act is amended—

(1) by striking out "paragraphs (1) through (5) and (17)" in paragraph (10)(A) and inserting in lieu thereof "paragraphs (1) through (5), (17), and (18)";

(2) by striking out "paragraphs (1) through (5) and (17)" in paragraph (10)(C)(iv) and inserting in lieu thereof "paragraphs (1) through (5), (17), and (18)"; and

(3) by striking out "paragraphs numbered (1) through (17)" in paragraph (10)(C)(iv) and inserting in lieu thereof "paragraphs numbered (1) through (18)".

SEC. 3. (a) The amendments made by the first section of this Act shall be effective with respect to services performed on or after the first day of the first month which begins more than sixty days after the date of the enactment of this Act.

(b)(1) Except as provided under paragraph (2), the amendments made by section 2 shall be effective with respect to payments under title XIX of the Social Security Act for the calendar quarters beginning more than sixty days after the date of the enactment of this Act.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by section 2, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.●

By Mr. ZORINSKY:

S. 124. A bill to amend the Agricultural Act of 1949 to provide emergency relief for farmers, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

EMERGENCY FARM RELIEF ACT OF 1983

Mr. ZORINSKY. Mr. President, I am today following up on my efforts last year to provide relief to hard-pressed farmers. I am reintroducing a bill with some revisions—the Emergency Farm Relief Act of 1983, S. 2583, which was introduced last May.

In the Senate Agriculture Committee, we have tried to send a signal to the administration concerning the need to act under the authority of existing farm statutes. As the farm economic crisis has worsened during 1982, the legislation that I introduced last year has even more appeal today.

The administration has belatedly announced a payment-in-kind program. After asking for congressional sanction for such a program, it discovered it already had the authority to administer it. The legislation that I am introducing would not interfere with a PIK program should it be continued in 1984.

The price support and land diversion program it provides would in fact, make the PIK programs more acceptable to farmers who would have greater incentive to participate. The higher price support loans for wheat, feed grains, cotton, and rice it provides would make participation in the PIK program more attractive. Moreover, in the year ahead it would help assure market prices would increase by establishing a price floor under these commodities as they move from a market-insulated position to the open market.

My colleagues will recall that I tried to amend the Senate farm bill enacted in 1981 to raise by a modest amount price supports for wheat, feed grains, cotton, and milk. Throughout the writing of the 1981 farm bill, we labored under the threat of a Presidential veto. I reminded the Senate when legislation was introduced last May that the administration had ample authority to end the farm depression. Here is what could happen if existing authority is implemented.

First, a monetary policy to reduce the rate of interest farmers must pay to obtain credit for necessary production items. In nominating persons for positions on the Federal Reserve Board that will become open in 1984, the President will insure that agricultural interests are provided fair representation on the Board.

Second, increased price support loan rates for wheat, feed grains, upland cotton, and rice.

Third, the implementation of an aggressive agricultural export development program.

Fourth, providing loan guarantees to finance the construction of facilities to produce fuel alcohol from grain.

Fifth, permitting FmHA farm borrowers to defer making payments on the loans.

Sixth, declaring a moratorium of FmHA farm foreclosures.

Seventh, permitting FmHA farm borrowers to reamortize or reschedule their loans.

Eighth, the immediate nationwide implementation of the FmHA economic emergency loan program.

All of these actions could be taken under existing farm statutes. And if acted on would have measurably contributed to, first, returning profitability to farming; second, stopping equity loss; third, strengthening the overall economy through farmers regaining purchasing power; and fourth, insuring the future of a family farm system of agriculture.

All the statistics point to the parallels between 1983 and the Depression years. As in the 1930's, when farm parity plummeted, parity has dropped more than 30 points to 54 percent, with little hope of improvement in 1983. As in the 1930's when real farm income plummeted to $7 billion, farm income has declined 40 percent in the last 2 years with an additional sharp decline a likely possibility in 1983. While 30 years ago farm debt was only $12 billion, it is now over $200 billion.

I am encouraged by what appears to be a better understanding of the farm economic dilemma by House Members from urban districts and Senate Members from predominantly urban States. If agriculture can be made profitable, economic conditions of related small businesses and factories will also improve. Our farm problem is a national problem.

The challenge to the Congress is to act responsibly in the face of depression-level economic conditions in agriculture and the inaction of the administration to deal aggressively in trying to improve the agricultural economic situation.

Current programs and policies are not adequate to meet the challenge of this major and ever worsening farm crisis.

Mr. President, I ask that the summary of the bill and the text of the bill, which follow, be inserted in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 124

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, with the following table of contents, may be cited as the "Emergency Farm Relief Act of 1983".

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TITLE I—CROPLAND CONSERVATION AND ACREAGE LIMITATION PROGRAMS FOR 1984 AND 1985 CROPS

SUBTITLE A—CROPLAND CONSERVATION PROGRAM

SEC. 101. Effective only for the 1984 and 1985 crops, Title I of the Agriculture Act of 1949 is amended by inserting after section 107C the following new section:

"CROPLAND CONSERVATION PROGRAM

"SEC. 107D. Notwithstanding any other provision of law—

"(a)(1) The Secretary shall proclaim a national cropland conservation program for each of the 1984 and 1985 crops of wheat, feed grains, upland cotton, and rice.

"(2) Under the program proclaimed under paragraph (1), a producer of a commodity covered by the program who participates in the program—

"(A) may not produce the commodity on more than—

"(i) 80 per centum of the portion of the producer's land normally planted to the commodity, as determined by the Secretary and as adjusted as deemed necessary by the Secretary to be fair and reasonable among producers; or

"(ii) such greater per centum of the portion of the producer's land normally planted to the commodity than the per centum prescribed in clause (i) as the Secretary may establish with respect to the commodity after taking into consideration the estimated quantity and quality of the stocks of the commodity in the United States that would be available for the period covered by the program to ensure the maintenace of adequate but not excessive stocks in the United States, to provide a continuous and stable supply of the commodity needed in the United States and in foreign countries, and for purposes of national security; and

"(B) shall devote the balance of the acreage on the portion of the producer's land normally planted to the commodity to such conservation uses as the Secretary may by regulation prescribe.

The regulations issued by the Secretary with respect to acreage required to be devoted to conservation uses shall ensure protection of such acreage from weeds and wind and water erosion. The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of such acreage to be devoted to sweet sorghum, hay and grazing or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, rye, or other commodity, if the Secretary determines that such production is needed to provide an adequate supply of such commodities, is not likely to increase the cost of any price support program, and will not affect farm income adversely. In determining the amount of land to be devoted to conservation uses with respect to land that has been farmed under summer fallow practices, as defined by the Secretary, the Secretary shall consider the effects of soil erosion and such other factors as the Secretary considers appropriate. Any land devoted to conservation use may be used for wildlife food plots or wildlife habitat in conformity with standards established by the Secretary in consultation with wildlife agencies. The Secretary may pay an appropriate share of the cost of practices designed to carry out the purposes of the foregoing sentence. The Secretary may provide for an additional payment on such acreage in an amount determined by the Secretary to be appropriate in relation to the benefit to the general public if the producer agrees to permit, without other compensation, access to all or such portion of the farm as the Secretary may prescribe, by the general public, for hunting, trapping, fishing, and hiking, subject to applicable State and Federal regulations.

"(b)(1) The Secretary shall proclaim the program required under subsection (a) no later than June 1 of the calendar year preceding the calendar year in which the commodities covered by the program are harvested.

"(2) No later than July 1 following the proclamation of the program, the Secretary shall conduct a referendum, by secret ballot, among producers who will produce and harvest commodities covered by the program proclaimed under subsection (a), to determine whether the producers are in favor of or opposed to the program. The Secretary shall announce the results of the referendum within thirty days after the date on which it is held.

"(c) If more than 45 per centum of the producers voting in the referendum held under subsection (b) disapprove the program proclaimed under subsection (a), the Secretary shall announce that the program will not be in effect with respect to commodities covered by the program.

"(d)(1) If 55 per centum of the producers voting in the referendum held under subsection (b) approve the program proclaimed under subsection (a)—

"(A) the level of loans and purchases for commodities covered by the program shall be not less than—

"(i) $4.35 per bushel for wheat;

"(ii) $3.00 per bushel for corn;

"(iii) 71 cents per pound for upland cotton; and

"(iv) $9.00 per hundredweight for rice;

"(B) the established prices for commodities covered by the program shall not be less than—

"(i) $4.71 per bushel for wheat;

"(ii) $3.28 per bushel for corn;

"(iii) 83 cents per pound for upland cotton; and

"(iv) $11.00 per hundredweight for rice; and

"(C) a producer who does not comply with subsection (a)(2) may not be eligible, during the calendar year in which the commodity is harvested and during the immediately succeeding calendar year, for loans, purchases, payments, or other benefits under this Act or the Commodity Credit Corporation Charter Act.

"(2) The Secretary may provide by regulation for exceptions to paragraph (1)(C) for a producer who is able to establish to the satisfaction of the Secretary that the producer unintentionally or unknowingly did not comply with subsection (a)(2).

"(3) An operator of a farm desiring to participate in the program conducted under this section shall execute an agreement with the Secretary providing for such participation not later than such date as the Secretary may prescribe. The Secretary may, by mutual agreement with the producers on the farm, terminate or modify any such agreement if the Secretary determines such action necessary because of an emergency created by drought or other disaster or to prevent or alleviate a shortage in the supply of agricultural commodities.

"(e) The Secretary shall issue such regulations as may be necessary to carry out this section.".

SUBTITLE B—ACREAGE LIMITATION PROGRAM

WHEAT

SEC. 111. Effective for the 1984 and 1985 crops of wheat, section 107B of the Agricultural Act of 1949 (7 U.S.C. 1445b-1) is amended by—

(1) in subsection (c)(3), striking out "subsection (e)(2)" each place it appears and inserting in lieu thereof "subsection (e)(1)(B)";

(2) in subsection (e)—

(A) amending paragraph (1)(A) to read as follows:

"(1)(A) If producers disapprove a national cropland conservation program proclaimed for a crop of commodities under section 107C and the Secretary determines that the carryover of wheat at the beginning of the marketing year that begins in the calendar year of the disapproval exceeds 5 per centum of the quantity of wheat consumed worldwide during the one-year period preceding the marketing year, then the Secre-

tary shall establish an acreage limitation program for each of the 1984 and 1985 crops of wheat. The Secretary shall announce any such wheat acreage limitation program not later than August 15 prior to the calendar year in which the crops is harvested.";

(B) striking out paragraph (1)(B);

(C) in paragraph (2)—

(i) in the first sentence—

(I) striking out "paragraph (1) of this subsection" and inserting in lieu thereof "subparagraph (A)"; and

(II) inserting "of not less than 20 per centum" after "reduction";

(ii) in the third sentence, striking out "paragraph" and inserting in lieu thereof "subparagraph";

(iii) striking out the sixth sentence;

(iv) in the seventh sentence—

(I) striking out "(A)" and inserting in lieu thereof "(i)"; and

(II) striking out "(B)" and inserting in lieu thereof "(ii)";

(v) in the ninth sentence, striking out "paragraph (1) of this subsection" and inserting in lieu thereof "subparagraph (A)";

(vi) adding at the end thereof the following new sentence: "If an acreage limitation program is announced under subparagraph (A) for a crop of wheat, the Secretary shall make available loans and purchases for the crop under subsection (a) at a level that is equal to 105 per centum of the level that would have been established for the crop under such subsection but for the operation of this sentence."; and

(vii) redesignating such paragraph as subparagraph (B);

(D) striking out paragraph (3) and inserting in lieu thereof the following new subparagraph:

"(C) If an acreage limitation program is announced under subparagraph (A) for a crop of wheat, a producer may enter into an agreement with the Secretary under which—

"(i) the producer shall agree to withdraw from production (in addition to the acreage withdrawn from production under subparagraph (B)) and devote to conservation uses, in accordance with regulations issued by the Secretary, 15 per centum of the applicable acreage base established under subparagraph (B); and

"(ii) the Secretary shall agree to make available (in lieu of amounts made available under the last sentence of subparagraph (B)) loans and purchase to the producer for the crop under subsection (a) at a level that is equal to 115 per centum of the level that would have been established for the crop under subsection (a) (without regard to the last sentence of subparagraph (B)) but for the operation of this subparagraph.";

(E) in paragraph (4)—

(i) in the first sentence, striking out "paragraphs (2) and (3) of this subsection" and inserting in lieu thereof "subparagraphs (B) and (C)";

(ii) in the second sentence, striking out ", hay and grazing";

(iii) inserting after the second sentence the following: "The Secretary shall permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of such acreage to be devoted to hay and grazing.";

(iv) in the last sentence, striking out "or set-aside"; and

(v) redesignating such paragraph as subparagraph (D);

(F) in paragraph (5)—

(i) in the first sentence, striking out "or set-aside";

(ii) striking out the sixth through tenth sentences; and

(iii) redesignating such paragraph as paragraph (2);

(G) in paragraph (6)—

(i) in the first sentence, striking out ", set-aside acreage,"; and

(ii) redesignating such paragraph as paragraph (3); and

(H) redesignating paragraph (7) as paragraph (4); and

(3) in subsection (k), striking out "subsection (e)(2)" and all that follows through the end thereof and inserting in lieu thereof "subsection (e)(1)(A).".

FEED GRAINS

SEC. 112. Effective for the 1984 and 1985 crops of feed grains, section 105B of the Agricultural Act of 1949 (7 U.S.C. 1444d) is amended by—

(1) in subsection (c)(3), striking out "subsection (e)(2)" each place it appears and inserting in lieu thereof "subsection (e)(1)(b)";

(2) in subsection (e)—

(A) amending paragraph (1)(A) to read as follows:

"(1)(A) If producers disapprove a national cropland conservation program proclaimed for a crop of commodities under section 107C and the Secretary determines that the carryover of feed grains at the beginning of the marketing year that begins in the calendar year of the disapproval exceeds 18 per centum of the quantity of feed grains used domestically and for export by the United States during the one-year period preceding the marketing year, then the Secretary shall establish a acreage limitation program for each of the 1984 and 1985 crops of feed grains. The Secretary shall announce any such feed grain acreage limitation program not later than November 15 prior to the calendar year in which the crop is harvested.";

(B) striking out paragraph (1)(B);

(C) in paragraph (2)—

(i) in the first sentence—

(I) striking out "paragraph (1) of this subsection" and inserting in lieu thereof "subparagraph (A)"; and

(II) inserting "of not less than 20 per centum" after "reduction";

(ii) in the third sentence, striking out "paragraph" and inserting in lieu thereof "subparagraph";

(iii) in the fourth sentence, striking out "paragraph" and inserting in lieu thereof "subparagraph";

(iv) striking out the seventh sentence;

(v) in the eighth sentence—

(I) striking out "(A)" and inserting in lieu thereof "(i)"; and

(II) striking out "(B)" and inserting in lieu thereof "(ii)";

(vi) in the tenth sentence, striking out "paragraph (1) of the subsection" and inserting in lieu thereof "subparagraph (A)";

(vii) adding at the end thereof the following new sentence: "If an acreage limitation program is announced under subparagraph (A) for a crop of feed grains, the Secretary shall make available loans and purchases for the crop under subsection (a) at levels that are equal to 105 per centum of the level that would have been established for the crop under such subsection but for the operation of this sentence."; and

(viii) redesignating such paragraph as subparagraph (B);

(D) striking out paragraph (3) and inserting in lieu thereof the following new subparagraph:

"(C) If an acreage limitation program is announced under subparagraph (A) for a crop of feed grains, a producer may enter into an agreement with the Secretary under which—

"(i) the producer shall agree to withdraw from production (in addition to the acreage withdrawn from production under subparagraph (B)) and devote to conservation uses, in accordance with regulations issued by the Secretary, 10 per centum of the applicable acreage base established under subparagraph (B); and

"(ii) the Secretary shall agree to make available (in lieu of amounts made available under the last sentence of subparagraph (B)) loans and purchases to the producer for the crop under subsection (a) at a level that is equal to 110 per centum of the level that would have been established for the crop under subsection (a) (without regard to the last sentence of subparagraph (B)) but for the operation of this subparagraph.";

(E) in paragraph (4)—

(i) striking out "paragraphs (2) and (3) of this subsection" and inserting in lieu thereof "subparagraphs (B) and (C)"; and

(ii) redesignating such paragraph as subparagraph (D);

(F) in paragraph (5)—

(i) in the first sentence, striking out "or set-aside";

(ii) striking out the sixth through eleventh sentences; and

(iii) redesignating such paragraph as paragraph (2);

(G) in paragraph (6)—

(i) in the first sentence, striking out ", set-aside acreage,"; and

(ii) redesignating such paragraph as paragraph (3); and

(H) redesignating paragraph (7) as paragraph (4); and

(3) in subsection (k), striking out "subsection (e)(2)" and all that follows through the end thereof and inserting in lieu thereof "subsection (e)(1)(A).".

UPLAND COTTON

SEC. 113. Effective for the 1984 and 1985 crops of upland cotton, section 103(g)(9)(A) of the Agricultural Act of 1949 (7 U.S.C. 1444(g)(9)(A)) is amended by—

(1) inserting "(i)" after the subparagraph designation;

(2) in the first sentence, striking out "the Secretary may" and all that follows through the end thereof and inserting in lieu thereof the following: "if producers disapprove a national cropland conservation program proclaimed for a crop of commodities under section 107C and the Secretary determines that the carryover of upland cotton at the beginning of the marketing year which begins in the calendar year of the disapproval exceeds 4,200,000 bales, then the Secretary shall establish an acreage limitation program for each of the 1984 and 1985 crops.";

(3) in the second sentence, inserting "of not less than 20 per centum" after "reduction";

(4) in the fourth sentence, striking out "subparagraph" and inserting in lieu thereof "clause";

(5) in the seventh sentence—

(A) striking out "(i)" and inserting in lieu thereof "(I)"; and

(B) striking out "(ii)" and inserting in lieu thereof "(II)";

(6) in the tenth sentence, striking out "paragraph" and inserting in lieu thereof "subparagraph";

(7) in the last sentence, striking out "paragraph" and inserting in lieu thereof "subparagraph";

(8) adding at the end thereof the following new sentence: "If an acreage limitation program is announced under this clause for a crop of upland cotton, the Secretary shall make available loans for the crop under paragraph (1) at a level that is equal to 110 per centum of the level that would have been established for the crop under such paragraph but for the operation of this sentence."; and

(9) adding at the end thereof the following new clause:

"(ii) If an acreage limitation program is announced under clause (i) for a crop of upland cotton, a producer may enter into an agreement with the Secretary under which—

"(I) the producer shall agree to withdraw from production (in addition to the acreage withdrawn from production under clause (i)) and devote to conservation uses, in accordance with regulations issued by the Secretary, 10 per centum of the applicable acreage base established under clause (i); and

"(II) the Secretary shall agree to make available (in lieu of amounts made available under the last sentence of clause (i)) loans to the producer for the crop under paragraph (1) at a level that is equal to 120 per centum of the level that would have been established for the crop under paragraph (1) (without regard to the last sentence of clause (i)) but for the operation of this clause.".

SUBTITLE C—MISCELLANEOUS CONFORMING AMENDMENTS

SEC. 121. (a) Effective for the 1984 and 1985 crops of wheat, feed grains, upland cotton, and rice, section 1101(4) of the Agriculture and Food Act of 1981 (7 U.S.C. 1308(4)) is amended by striking out "a set-aside or" and inserting in lieu thereof "an".

(b) Section 113 of the Agricultural Act of 1949 (7 U.S.C. 1445h) is repealed.

(c) Section 1001 of the Food and Agriculture Act of 1977 (7 U.S.C. 1309) is repealed.

TITLE II—FARM STORAGE FACILITY LOAN PROGRAM

SEC. 201. The second sentence of section 4(h) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b(h)) is amended by inserting, before the period, a colon and the following: "*And provided further*, That the Corporation shall guarantee loans made by legally organized lending institutions to grain growers for the construction or purchase of facilities for the storage of grain harvested by the growers, except that no more than 90 per centum of the amount of principal and interest of any loan may be guaranteed and no more than $250,000,000 of the principal and interest may be guaranteed in the aggregate in any fiscal year".

TITLE III—BARTER OF AGRICULTURAL COMMODITIES FOR STRATEGIC AND CRITICAL MATERIALS AND PETROLEUM PRODUCTS

BARTER OF AGRICULTURAL COMMODITIES

SEC. 301. Section 4(h) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b(h)) is amended by—

(1) in the third sentence—

(A) striking out "is authorized," and inserting in lieu thereof "shall, to the maximum extent practicable, in consultation with the Secretary of State, and"; and

(B) striking out "to";

(2) in the sixth sentence, striking out "Secretary of the Treasury" and inserting in lieu thereof "Administrator of General Services"; and

(3) inserting after the sixth sentence the following new sentences: "If the volume of petroleum products stored in the Strategic Petroleum Reserve is less than the level prescribed under section 154 of the Energy Policy and Conservation Act (42 U.S.C. 6234), the Corporation shall, to the maximum extent practicable, with the approval of the Secretary of Agriculture, and in consultation with the Secretary of Energy and the Secretary of State, accept petroleum products produced abroad in exchange for agricultural commodities acquired by the Corporation and shall transfer the petroleum products, without reimbursement, to the Secretary of Energy to be placed in the Reserve. In effecting exchanges under the preceding sentence, normal commercial trade channels shall be used insofar as practicable.".

REPORT

SEC. 302. No later than ninety days after the date of the enactment of this Act, the Secretary of Agriculture shall submit to Congress a report that contains a description of the status of programs, being carried out under section 4(h) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b(h)) and other provisions of law, that relate to the barter or exchange of commodities owned by the Commodity Credit Corporation for materials and products produced in foreign countries.

TITLE IV—EMERGENCY AGRICULTURAL CREDIT

SEC. 401. (a) The first sentence of section 202 of the Emergency Agricultural Credit Adjustment Act of 1978 (7 U.S.C. prec. 1961 note) is amended by striking out "may" and inserting in lieu thereof "shall".

(b) Section 211 of the Emergency Agricultural Credit Adjustment Act of 1978 (7 U.S.C. prec. 1961 note) is amended by—

(1) striking out "September 30, 1982" and inserting in lieu thereof "September 30, 1985"; and

(2) immediately after "$600,000,000", inserting a comma and "except that, in fiscal year 1983, such $600,000,000 shall be in addition to the total amount of money borrowed under contracts of guarantee entered into under the authorization provided in the Act of December 18, 1982 (Public Law 97-370, 96 Stat. 1799)".

(c) The first sentence of section 329 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1970) is amended by striking out "30 per centum" and inserting in lieu thereof "20 per centum".

TITLE V—AGRICULTURAL EXPORTS

AGRICULTURAL EXPORT CREDIT REVOLVING FUND

SEC. 501. It is the sense of Congress that in fiscal year 1983 not less than $1,000,000,000 should be made available to the agricultural export credit revolving fund established under section 4(d) of the Food for Peace Act of 1966 (7 U.S.C. 1707a(d)).

GRAIN SALES TO UNION OF SOVIET SOCIALIST REPUBLICS

SEC. 502. It is the sense of Congress that, as soon as practicable after the date of the enactment of this Act, the President should take action to initiate negotiations with the Government of the Union of Soviet Socialist Republics to conclude a multiyear agreement under which such Government would purchase grain produced in the United States.

TITLE VI—WHITE HOUSE CONFERENCE ON AGRICULTURE

SEC. 601. (a) It is the sense of Congress that the President should—

(1) convene a White House Conference on Agriculture, no later than one year after the date of the enactment of this Act, to study current problems in the agricultural sector of the economy and to develop recommendations for legislation and administrative action regarding short-term and long-term solutions to such problems; and

(2) appoint members of the White House Conference on Agriculture from among—

(A) heads of organizations comprised of producers of agricultural commodities,

(B) representatives of the banking industry,

(C) representatives of businesses that provide services, or produce goods, used by producers of agricultural commodities,

(D) heads of organizations representing the interests of consumers, and

(E) producers of agricultural commodities.

(b) If the President convenes a White House Conference on Agriculture, the Conference shall submit a report to the President and to Congress, no later than one year after the members of the Conference are first appointed, containing the recommendations developed through the Conference, as provided in subsection (a) of this section.

PROVISIONS OF THE ACT

The Emergency Farm Relief Act of 1983 offers these specific provisions to deal reasonably and within the bounds of prudent federal spending constraints, with the problems posed by today's depressed agricultural economy:

1. Producers of feed grains, wheat, cotton and rice who choose to participate in the 1984 reduced acreage program would be eligible for an increase in the price support loan for 1984 crops to $4.35 per bushel for wheat, $3.00 per bushel for corn (with milo supported in relation to the feed value equivalent to corn), $.71 per pound for cotton, and $9.00 per cwt. for rice.

Again, let me stress that the reduced acreage program does not conflict with a PIK program in 1984. This first-step acreage reduction program would have as an incentive higher price support loan rates which will reduce exposure to budget outlays for target price payments. However, because of continuing inflated costs of production, this legislation calls for an increase in these payments to $4.71 per bushel for wheat, $3.28 per bushel for corn (with the payment set in relation to the feed value equivalent to corn), $.83 for cotton and $11.00 for rice.

In order to be eligible for these increased loan and target price payments, producers would be required to reduce acreage by 20 percent. This would lessen demands on the federal budget, since it is cheaper to avoid producing additional units of commodities that are already in surplus supply, rather than making outlays—price supports, storage, or otherwise—after the commodities have been produced. The continuation of the PIK program in 1984 would be consistent with the objective of reducing carryover stocks. This legislation is designed to reduce the production of all of these crops for the two remaining years of the 1981 farm bill.

2. A nationwide referendum would be held in July on whether farmers will lay aside 20 percent of their cropland for conservation purposes. Not included in the referendum would be crop acres under the marketing order or allotment. An affirmative vote of 55 percent of the farmers participating would be required for approval. As indicated, if the referendum passed, loan rates would increase to $4.35 per bushel for wheat, $3.00 per bushel for corn, $.71 per lb.

for cotton, and $9.00 per cwt. for rice. Failure to comply, if the referendum is approved, would mean denial of access to farm programs for 1984 and 1985. Target price eligibility is dependent also on reducing acreage 20 percent.

3. If the referendum should be defeated, the Secretary of Agriculture would be required to establish a voluntary set-aside program when carryover reached certain levels:

For wheat, if domestic carryover grew to more than 5 percent of world wheat utilization, a minimum 20 percent acreage set-aside program would be implemented, and farmers would receive a 5 percent increase over the loan rate set in the 1981 farm bill, as amended. Farmers would also have the option to set aside an additional 15 percent of the previous year's plantings in return for a 15 percent increase in the established wheat loan. The set-aside acreage could be devoted to haying and grazing.

For feed grains, if domestic carryover grew to more than 18 percent of total domestic and export use, a minimum 20 percent set-aside program would be implemented, and farmers would receive a 5 percent loan increase over the loan rate set in the 1981 farm bill, as amended. Farmers would have the option to set-aside an additional 10 percent of the previous year's plantings in return for a 10 percent increase in the loan rate.

For cotton, if total domestic carryover stocks of upland cotton at the end of the marketing year exceeded 4.4 million bales, the Secretary of Agriculture would provide for a minimum 20 percent set-aside, and farmers would receive an increase of 10 percent in loan rates set in the 1981 farm bill. Farmers would have the option to set aside 30 percent of acreage, in which case the loan rate would be increased by 20 percent.

4. The bill expresses the sense of the Congress that one billion dollars be made available for the Agricultural Credit Revolving Fund, and expresses also the sense of the Congress that the Administration take immediate action to begin negotiations with the governments of the U.S.S.R. and the Peoples Republic of China for multi-year trade agreements.

5. The bill provides for government guarantees up to $250 million in loans for construction of on-farm storage facilities. This would make storage available for 500-600 million bushels of grain.

6. The bill changes the criteria for eligibility to receive FmHA disaster loans to a 20 percent loss on individual farms. The present eligibility requirement of 30 percent for an entire county ignores individual farm losses and denies many farmers with heavy losses any assistance under the program.

7. Use of the Economic Emergency Loan Program is mandated, retaining the current $600 million cap. The program would be extended until September 30, 1985.

8. The President is directed to call a White House Conference on Agriculture to provide a forum for in-depth and long-range examination of agriculture's problems, solutions and future potential.

9. The Secretary of Agriculture is directed to survey and expedite bartering of U.S. government-owned agricultural commodities for strategic materials.

COST

It is difficult to estimate the cost of such a program as authorized in this legislation. But common sense dictates that in the face of CCC costs of storing grain at 26½ cents to 40 cents per bushel, there has to be an end to producing crops we don't need. We have 1,771 million bushels of ending wheat stocks going into 1983, 1,310 million bushels of which is in farmer-owned reserves. We have 3.647 million bushels of ending corn stocks going into 1983, 2,515 million bushels of which is in farmer-owned reserves.

These stocks are costly in terms of paying storage costs and they are hanging over the market resulting in the farmers' inability to meet their costs. It will be even more costly for the nation if farmers, who through no fault of their own, are driven into forced liquidation.

Admittedly, driving human and physical productive resources out of farming will reduce production. But in the interest of our nation's future agriculture productive capabilities, it will be much less costly to save our efficient family farm system than it will be to restore our productive capability after we have lost it.

By Mr. INOUYE (for himself, Mr. HOLLINGS, Mr. HEFLIN, Mr. LONG, and Mr. SARBANES):

S. 125. A bill to authorize appropriations for the maritime construction differential subsidy for fiscal year 1984, to promote a strong U.S. merchant marine, and for other purposes; to the Committee on Commerce, Science, and Tranportation.

MARITIME CONSTRUCTION

Mr. INOUYE. Mr. President, the history of the U.S. merchant marine since World War II has been one of steady decline. At the end of World War II our merchant fleet was unrivaled; today it ranks 11th. The Soviet Union ranks second, behind Greece. According to some of the latest statistics I have seen:

In 1950 we had 33 percent of the world's merchant fleet; today only 3 percent.

Ninety-six percent of all U.S. international ocean trade is carried by foreign-flag vessels, only 4 percent of the tonnage coming in and out of the United States is carried in U.S. ships.

The Soviet merchant fleet, with 2,500 vessels, carries more U.S. cargo than our ships do.

Sixty-eight of seventy-one of our strategic minerals are imported over long ocean routes from countries such as South Africa and Malaysia, and even from the Soviet Union. Less than 1 percent of the mineral volume is carried by U.S.-flag, U.S.-built ships.

With just 40 registered bulk cargo carriers—ships essential to military sealift and the transport of strategic minerals—the United States today lags behind 22 other nations. The U.S.S.R. has over 600 bulk carriers.

Of six U.S. shipyards building merchant vessels, four will complete their last commercial orders by the end of 1983; the remaining two yards have a backlog of only four vessels.

Compared with 91 merchant vessels ordered from U.S. shipbuilders in 1972-73, only 13 were ordered in 1980-81, and four in 1982.

As an article in the recent edition of Leaders magazine, by Edward J. Campbell, chairman of the Shipbuilders Council of America, states: "The administration's maritime policy announced in 1982 will not result in the resurrection of our merchant fleet." Regrettably, Mr. Campbell's assessment is shared by many experts in the maritime industry and many of us in Congress who have a special responsibility for the U.S. merchant marine. I would like to quote from his comments:

Not a single merchant vessel will be constructed or converted in U.S. shipyards as a result of this policy. In fact, it will instead encourage U.S. shipowners to use their profits to finance the construction or acquisition of foreign-built ships.

Free trade is the euphemism often used to explain and justify our failure to adopt a coherent U.S. maritime policy. But free trade in this context is a myth. In shipbuilding, there is no such thing as free trade because it is too much a matter of economic survival and national security. At least that's how virtually every nation on Earth—except the United States—looks at it.

Despite the naval shipbuilding program, there is no way for U.S. commerical shipbuilding, or a shipyard defense mobilization base, to survive, unless Congress and the administration face up to the hard-nosed political and economic realities of today's trade on the high seas. Without such a turnaround, this generation may preside over the demise of an industry which is as old as the Nation itself.

All other nations engaged in maritime trade heavily subsidize their export trade and commercial shipbuilding through various protectionist devices. While the United States ponders, economic warfare is being waged against our Nation on the high seas.

Mr. President, when the administration discontinued the construction differential subsidy (CDS) program it not only seriously affected our commercial shipbuilding industry, it created a serious dilemma for our subsidized fleet. Simply stated: "This fleet has replacement obligations and must be updated and modernized." Without CDS it is impossible for that segment to build in U.S. shipyards and remain competitive. On the other hand, if subsidized operators build foreign they cannot receive operating subsidy (ODS).

The administration's answer to this was temporary permission to build foreign and continued eligibility to recieve ODS. Congress reluctantly went along with this solution, and enacted temporary authority which has now expired. During the time it was in effect, however, contracts for the construction of 36 merchant vessels and the reconstruction of another 13 ships in foreign shipyards were approved by the Maritime Administration.

While I understand the administration will once again put forth this proposal, I have seen no evidence of any recommendations to promote the U.S. commercial shipyards and to enable U.S. subsidized operators to meet their replacement obligations by building and reconstructing in our yards.

In addition to eliminating the CDS program, the administration has adamantly refused to raise the statutory ceiling of $12 billion on the highly successful title XI ship construction loan guarantee program which is administered at no cost to the Government. Simply stated, the title XI program helps build ships in U.S. shipyards, and has never cost the Government a penny.

Mr. President, we must recognize what every other shipbuilding country in the world recognizes. The price of entry includes Government assistance in one form or another. The CDS program is not without its faults, and there may be more efficient ways for the Government to promote commercial shipbuilding in U.S. yards, so that our merchant fleet may be expanded and modernized.

But we must begin actively exploring alternatives. Temporary authority to build foreign is not an alternative, it is an escape from reality.

The Congress has been waiting over 2 years for an alternative proposal from the administration and it has not been forthcoming. In the interest of national security and a strong merchant marine, I do not believe we can delay any longer.

Accordingly, I am introducing legislation for myself. Senator HOLLINGS, Senator HEFLIN, Senator LONG, and Senator SARBANES which would provide $200 million for CDS for fiscal 1984, and raise the statutory ceiling of the title XI program to $15 billion.

We would hope that if the administration has a more effective proposal to accomplish the objectives we all seek, it would submit them in time for Congress to act for fiscal year 1984. In the meantime, we should not "throw the baby out with the bath water."

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 125

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is authorized to be appropriated without fiscal year limitation as the appropriation Act may provide for the use of the Department of Transportation, for the fiscal year 1984, not to exceed $200,000,000 for acquisition, construction or reconstruction of vessels and construction-differential subsidy and cost of national defense features incident to the construction, reconstruction, or reconditioning of ships.

SEC. 2. Section 1103(f) of the Merchant Marine Act, 1936 (46 U.S.C. 1273(f)), is amended by striking "$12,000,000,000" and substituting "$15,000,000,000".

By Mr. HUMPHREY (for himself and Mr. HATCH):

S. 126. A bill to remedy alcohol and drug abuse; to the Committee on Labor and Human Resources.

ALCOHOL AND DRUG ABUSE AMENDMENTS OF 1983

● Mr. HUMPHREY. Mr. President, I am pleased today to introduce S. 126 and ask the Senate for early consideration of this important legislation. During the 97th Congress the Senate Subcommittee on Alocholism and Drug Abuse held extensive hearings to evaluate the impact of the problems of alcohol and drug abuse on our society. The subcommittee addressed such issues as alcohol and drug abuse in the workplace, the effects of alcohol and drugs on driving as well as the efforts of the Federal Government in research and prevention programs in the area of alcohol and drug abuse.

Through this process the subcommittee has continued to educate itself and the public on the devastation caused annually by alcohol and drug abuse. One recent study conducted by the Alcohol Drug Abuse and Mental Health Administration estimates that the cost to the U.S. economy of alcohol and drug abuse in 1977 was in excess of $65 billion. Needless to say, that rather astounding number does not take into account the pain, suffering, and family disruption that can never be assigned a monetary value.

To address some of these concerns I introduced S. 2365 in the 97th Congress to reauthorize the programs of the National Institute on Alcohol Abuse and Alcoholism and the National Institute on Drug Abuse. That bill was passed by the Senate and after extensive consultation with the House on the Senate bill and the companion House measure, a compromise agreement was reached on legislation to reauthorize the Institutes.

Unfortunately, as is sometimes the case, in the crush of business during the lameduck session this important piece of legislation was not enacted. It is my hope and that of all of us who have been involved in drafting this legislation that it can be quickly passed to insure that the Institutes on Alcohol Abuse and Alcoholism and Drug Abuse can be reauthorized to continue their important work in fighting this serious national tragedy. I am pleased to support this legislation because I believe it will provide a major contribution to this Nation's efforts to combat the problems of alcohol and drug abuse. The legislation provides for a continued and enhanced commitment to alcohol and drug research which should encourage current researchers in the field and attract new ones. In addition, the legislation places a high priority not only on new data collected on the health consequences of alcohol and drug use and abuse but also on widespread dissemination of up-to-date findings. Research can have great impact on improving our lives only if the results are widely known and it is an important mission of the Institutes to insure that this is accomplished.

Finally, there is some effort in this legislation to streamline reporting requirements to insure that Congress and the public have the information they need at regular intervals without excessive, costly reporting.

I would like to thank all my colleagues on the Subcommittee on Alcoholism and Drug Abuse for their diligence and cooperation in working out this consolidated legislation and their continuing efforts to combat alcohol and drug abuse in our society. I look forward to continuing this important work with my colleagues in the 98th Congress.

I ask unanimous consent that immediately following my statement be printed the statement of my colleague and the distinguished chairman of the Labor and Human Resources Committee, Senator HATCH.

Following the statement of Senator HATCH, I ask unanimous consent that the full text of the bill be printed in the RECORD.●

● Mr. HATCH. Mr. President. I am pleased to be a principal cosponsor of the Alcohol and Drug Abuse Amendments of 1982 which reauthorizes Federal alcohol and drug abuse research programs. I commend Senator HUMPHREY for his dedicated leadership as chairman of the Alcohol and Drug Abuse Subcommitee. In developing this legislation, he is responsible for preserving and upgrading the valuable work of two vital research organizations, the National Institute on Drug Abuse and the National Institute on Alcoholism and Alcohol Abuse. This bill is a credit to Senator HUMPHREY, and to his subcommittee staff for their superb work on this legislation.

In supporting this bill, we in the Congress are putting teeth into our commitment to fight the evils of alcoholism, alcohol abuse and drug abuse. Not only is our economy drained by their enormous costs, but we as a society are physically, spiritually and emotionally jeopardized by these diseases. This bill effectively does something about it, efficiently targetting Federal support for research in alcohol, drug abuse, and mental health. Concurrently, the bill directs the Institutes to upgrade their efforts to rapidly disseminate their findings to State, local, and private organizations.

Mr. President, this legislation reinforces the message that prevention efforts in alcohol, drug abuse and mental health must be encouraged and strengthened. Benjamin Franklin's proverb about an ounce of prevention being worth a pound of cure is too often largely forgotten. Federal efforts, in particular, too often tackle health problems only after a disease has arrived. We need to place greater legislative emphasis on prevention.

In this era of limited Federal resources, such disease prevention activities reduce the number of those who need treatment, doing so without costing the Government a great deal of money. Through this legislation, we can pursue this course and give both moral and institutional support to the Alcohol, Drug Abuse and Mental Health Administration.

In additional, this bill targets more drug research on the hazardous effects of marihuana, especially on the youth of our country. Emphasis is placed on finding out more about the so-called motivational syndrome. In order to effectively solve the substance abuse problems now afflicting us, parents and professionals need to know more about this insidious and enervating syndrome.

Obvious, I believe this is important legislation, and I encourage my colleagues to join us as cosponsors.●

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 126

SHORT TITLE; STATEMENT OF POLICY

SECTION 1. (a) This Act may be cited as the "Alcohol and Drug Abuse Amendments of 1983".

(b) It is the policy of the United States and the purpose of this Act to provide leadership in the national effort to reduce the incidence of alcoholism and alcohol-related problems and drug abuse through—

(1) a continued Federal commitment to research into the behavioral and biomedical etiology, the treatment, and the mental and physical health and social and economic consequences of alcohol abuse and alcoholism and drug abuse;

(2) a commitment to—

(A) extensive dissemination to States, units of local government, community organizations, and private groups of the most recent information and research findings with respect to alcohol abuse and alcoholism and drug abuse, including information with respect to the application of research findings; and

(B) the accomplishment of such dissemination through up-to-date publications, demonstrations, educational programs, and other appropriate means;

(3) the provision of technical assistance to research personnel; services personnel, and prevention personnel in the field of alcohol abuse and alcoholism and drug abuse;

(4) The development and encouragement of prevention programs designed to combat the spread of alcoholism, alcohol abuse, drug abuse, and the abuse of other legal and illegal substances;

(5) the development and encouragement of effective occupational prevention and treatment programs within Government and in cooperation with the private sector; and

(6) the provision of a Federal response to alcohol abuse and alcoholism and drug abuse which encourages the greatest participation by the private sector, both financially and otherwise, and concentrates on carrying out functions relating to alcohol abuse and alcoholism and drug abuse which are truly national in scope.

THE ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION AND THE NATIONAL INSTITUTE OF MENTAL HEALTH, THE NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM, AND THE NATIONAL INSTITUTE ON DRUG ABUSE

SEC. 2. (a)(1) Title V of the Public Health Service Act is transferred to the end of the Public Health Service Act and redesignated as title XXI and sections 501 through 515 are redesignated as sections 2101 through 2115, respectively.

(2) Sections 217(c), 217(d), and 384 of the Public Health Service Act (42 US.C. 218 and 278) are each amended by striking out "501" and inserting in lieu thereof "2101".

(b)(1) The Public Health Service Act is amended by inserting after title IV a new title designated as follows:

"TITLE V—ADMINISTRATION AND COORDINATION OF THE NATIONAL INSTITUTE OF MENTAL HEALTH, THE NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM, AND THE NATIONAL INSTITUTE ON DRUG ABUSE

"PART A—ADMINISTRATION AND INSTITUTES".

(2) Section 201 of the Act of May 14, 1974 (42 U.S.C. 3511) is transferred to title V of the Public Health Service Act established by paragraph (1), redesignated as section 501, and amended—

(A) by striking out "of Health, Education, and Welfare" each place it occurs;

(B) in subsection (c), by striking out "of the Public Health Service Act";

(C) by amending subsection (d) to read as follows:

"(d) To educate the public with respect to the health hazards of alcoholism, alcohol abuse and drug abuse, the Administrator shall take such actions as may be necessary to ensure the widespread dissemination of current publications of the National Institute on Alcohol Abuse and Alcoholism and the National Institute on Drug Abuse relating to the most recent research findings with respect to such health hazards.";

(D) by adding at the end the following:

"(e)(1) There shall be in the Administration an Associate Administrator for Prevention to whom the Administrator shall delegate the function of promoting the prevention research programs of the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse and coordinating such programs between the institutes and between the institutes and other public and private entities.

"(2) On or before January 1, 1984, and annually thereafter, the Administrator, acting through the Associate Administrator for Prevention, shall submit to the Congress a report describing the prevention activities (including preventive medicine and health promotion) undertaken by the Administration, the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse. The report shall include a detailed statement of the expenditures made for the activities reported on and the personnel used in connection with such activities.

"(f) The Administrator shall establish a process for the prompt and appropriate response to information provided the Administrator respecting (1) scientific fraud in connection with projects for which funds have been made available under this Act, and (2) incidences of violations of the rights of human subjects of research for which funds have been made available under this title. The process shall include procedures for the receiving of reports of such information from recipients of funds under this title and taking appropriate action with respect to such fraud and violations.".

(3) Section 101 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act 1970 is transferred to title V of the Public Health Service Act, inserted after the section 501 inserted by paragraph (2), redesignated as section 502, and amended—

(A) in subsection (a)—

(i) by striking out "this Act" the first time it occurs and inserting in lieu thereof "this section",

(ii) by striking out "assigned to the Secretary of Health and Human Services (hereafter in this Act referred to as the 'Secretary')" and inserting in lieu thereof "relating to alcohol abuse and alcoholism assigned to the Secretary", and

(iii) by striking out "of the Public Health Service Act", and

(B) by amending the section heading to read as follows:

"NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM".

(4) Section 501 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act is transferred to title V of the Public Health Service Act, inserted after the section 502 inserted by paragraph (3), redesignated as section 503, and amended—

(A) in subsection (a)—

(i) by inserting "SEC. 503." before "(a)",

(ii) by striking out "this title" and inserting in lieu thereof "this section",

(iii) by striking out "of the Secretary of Health and Human Services (hereinafter in this title referred to as the 'Secretary') with respect to drug abuse prevention functions" and inserting in lieu thereof "relating to drug abuse assigned to the Secretary by this Act", and

(iv) by striking out "of the Public Health Service Act".

(B) by striking out "(hereinafter in this title referred to as the 'Director')" in subsection (b)(1), and

(C) by striking out the section heading

"§ 501. Establishment of Institute."

and inserting in lieu thereof the following:

"NATIONAL INSTITUTE ON DRUG ABUSE".

(5) Subsection (a) of section 406 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act is transferred to section 503 (as so redesignated), inserted after subsection (d), and redesignated as subsection (e).

(6) Section 455 of the Public Health Service Act is inserted in title V of the Public Health Service Act after the section 503 inserted by paragraph (4) of this subsection and redesignated as section 504.

(7) The following sections are inserted in title V of the Public Health Service Act after the section 504 inserted by paragraph (6):

"REPORTS ON ALCOHOLISM, ALCOHOL ABUSE, AND DRUG ABUSE

"SEC. 505. (a) The Secretary shall submit to Congress on or before January 15, 1984, and every three years thereafter a report—

"(1) containing current information on the health consequences of using alcoholic beverages,

"(2) containing a description of current research findings made with respect to alcohol abuse and alcoholism, and

"(3) containing such recommendations for legislation and administrative action as the Secretary may deem appropriate.

"(b) The Secretary shall submit to Congress on or before January 15, 1984, and every three years thereafter a report—

"(1) describing the health consequences and extent of drug abuse in the United States;

"(2) describing current research findings made with respect to drug abuse, including current findings on the health effects of marihuana and the addictive property of tobacco; and

"(3) containing such recommendations for legislation and administrative action as the Secretary may deem appropriate.

"PEER REVIEW

"SEC. 506. (a) The Secretary, after consultation with the Directors of the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse shall by regulation require appropriate technical and scientific peer review of biomedical and behavioral research and development grants, cooperative agreements, and contracts to be administered through the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse.

"(b) Regulations promulgated under subsection (a) shall require that the review of grants, cooperative agreements, and contracts required by the regulations be conducted—

"(1) in a manner consistent with the system for scientific peer review applicable on the date of the enactment of this section to grants, cooperative agreements, and contracts under this Act for biomedical and behavioral research, and

"(2) to the extent practical, by peer review groups performing such review on or before such date.

"(c) The members of any peer review group established under such regulations shall be individuals who by virtue of their training or experience are eminently qualified to perform the review functions of the group and not more than one-fourth of the members of any peer review group established under such regulations shall be officers or employees of the United States.

"(d) The Administrator of the Administration shall establish procedures for periodic, technical, and scientific peer review of research at the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse. Such procedures shall require that—

"(1) the reviewing entity be provided a written description of the research to be reviewed; and

"(2) the reviewing entity provide the advisory council of the institute involved with such description and the results of the review by the entity.".

(8) The following heading is inserted in title V of the Public Health Service Act after the section 506 inserted by paragraph (7):

"PART B—RESEARCH

"Subpart 1—Alcohol Abuse and Alcoholism".

(9) Sections 501, 503, and 504 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 are transferred to the subpart 1 of part B of title V of the Public Health Service Act established by paragraph (8), redesignated as sections 510, 511, and 512, respectively, and amended as follows:

(A) Section 510 (as so redesignated) is amended—

(i) by striking out "the Institute" in subsection (a) and inserting in lieu thereof "the National Institute of Alcohol Abuse and Alcoholism (hereinafter in this subpart referred to as the 'Institute')",

(ii) by striking out "make available through publications and other appropriate means" in subsection (b)(1) and inserting in lieu thereof "disseminate through publications and other appropriate means (including the development of curriculum materials)",

(iii) by striking out "; and such Council shall give" and all that follows in subsection (b)(3) and inserting in lieu thereof the following: ", giving special consideration to projects relating to—

"(A) the relationship between alcohol abuse and domestic violence,

"(B) the effects of alcohol use during pregnancy,

"(C) the impact of alcoholism and alcohol abuse on the family, the workplace, and systems for the delivery of health services,

"(D) the relationship between the abuse of alcohol and other drugs,

"(E) the effect on the incidence of alcohol abuse and alcoholism of social pressures, legal requirements respecting the use of alcoholic beverages, the cost of such beverages, and the economic status and education of users of such beverages,

"(F) the interrelationship between alcohol use and other health problems, and

"(G) the comparison of the cost and effectiveness of various treatment methods for alcoholism and alcohol abuse and the effectiveness of prevention and intervention programs for alcoholism and alcohol abuse.",

(iv) by inserting "or the impact of alcohol abuse on other health problems" before the semicolon in subsection (b)(5), and

(v) by amending the section heading to read as follows:

"ALCOHOL ABUSE AND ALCOHOLISM RESEARCH".

(B) Section 511 (as so redesignated) is amended—

(i) by striking out the last sentence of subsection (a),

(ii) by striking out the second sentence of subsection (b),

(iii) by striking out "of the Public Health Service Act (42 U.S.C. 292a)" in subsection (b), and

(iv) by striking out subsection (c).

(C) Section 512 (as so redesignated) is amended to read as follows:

"AUTHORIZATIONS OF APPROPRIATIONS

"SEC. 512. There are authorized to be appropriated to carry out this subpart $33,480,000 for fiscal year 1983 and $45,776,000 for fiscal year 1984. Of the funds appropriated under this section for any fiscal year, not more than 35 percent may be obligated for grants under section 511.".

(10) The following heading is inserted in title V of the Public Health Service Act after the section 512 inserted by paragraph (9):

"Subpart 2—Drug Abuse Research".

(11) Section 503 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act is transferred to the subpart 2 of part B of title V established by paragraph (10), redesignated as section 515, and amended—

(A) by striking out "The Director" the first time it occurs in subsection (a) and inserting in lieu thereof "The Director of the National Institute of Drug Abuse",

(B) by amending subsection (b) to read as follows:

"(b) In carrying out the activities described in subsection (a), the Secretary, acting through the Institute, may—

"(1) collect and disseminate through publications and other appropriate means, including the development of curriculum materials, information as to, and the practical application of, the research and other activities under this section,

"(2) make grants or enter into contracts with individuals and public and nonprofit entities for the purpose of determining the causes of drug abuse in a particular area, and

"(3) make grants to and enter into contracts with individuals and public and private nonprofit entities for research respecting improved drug maintenance and detoxification techniques and programs.",

(C) by amending subsection (c) to read as follows:

"(c) For the purposes of subsections (a) and (b), there are authorized to be appropriated $47,374,000 for fiscal year 1983 and $56,175,000 for fiscal year 1984.",

(D) by striking out the section heading and inserting in lieu thereof the following:

"DRUG ABUSE RESEARCH"

and

(E) by inserting before "(a)" in subsection (a) the following: "SEC. 515.".

(12) The following headings are inserted in title V of the Public Health Service Act after the section 515 inserted by paragraph (11):

"PART C—MISCELLANEOUS PROVISIONS RELATING TO ALCOHOL ABUSE AND ALCOHOLISM AND DRUG ABUSE

"Subpart 1—Provisions Relating to Alcohol Abuse and Alcoholism".

(13) Sections 301, 201, 321, and 333 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 are transferred to the part C of title V established by paragraph (12), redesignated as sections 520, 521, 522, and 523, respectively, and amended as follows:

(A) Section 520 (as so redesignated) is amended—

(i) by striking out "the Institute" in subsection (a) and inserting in lieu thereof "the National Institute of Alcohol Abuse and Alcoholism",

(ii) by striking out "section 321" in subsection (a)(4) and inserting in lieu thereof "section 522", and

(iii) by striking out "under this Act and under the Drug Abuse Prevention, Treatment, and Rehabilitation Act" and inserting in lieu thereof "under this title".

(B) Section 521 (as so redesignated) is amended—

(i) by striking out "section 413(b) of the Drug Abuse Prevention, Treatment, and Rehabilitation Act" in subsection (b)(4) and inserting in lieu thereof "section 525",

(ii) by striking out "title" in subsection (d) and inserting in lieu thereof "section", and

(iii) by striking out subsection (e).

(C) Section 522 (as so redesignated) is amended by striking out "of the Public Health Service Act" in subsection (a).

(14) The following heading is inserted in part C of title V of the Public Health Service Act after section 523 (as so redesignated):

"Subpart 2—Provisions Relating to Drug Abuse".

(15) Section 502 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act is transferred to title V of the Public Health Service Act, inserted after the heading inserted by paragraph (14), redesignated as section 524, and amended—

(A) by striking out "The Director" in subsection (a) and inserting in lieu thereof "The Director of the National Institute on Drug Abuse",

(B) by striking out ", to promote the purposes of this Act," in subsection (b)(2),

(C) by striking out "section 407" in subsection (d) and inserting in lieu thereof "section 526",

(D) by striking out "under this Act and under the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970" in subsection (d) and inserting in lieu thereof "under this title",

(E) by striking out the section heading and inserting in lieu thereof:

"TECHNICAL ASSISTANCE TO STATE AND LOCAL AGENCIES",

and

(F) by inserting before "(a)" in subsection (a) the following: "SEC. 524.".

(16)(A) Section 413 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act is transferred to title V of the Public Health Service Act, inserted after the section 524 inserted by paragraph (15), redesignated as section 525, and amended—

(i) by striking out the section heading and inserting in lieu thereof:

"DRUG ABUSE AMONG GOVERNMENT AND OTHER EMPLOYEES";

(ii) by inserting before "(a)" the following: "SEC. 525."; and

(iii) by striking out "section 201(b) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970" in subsection (b)(4) and inserting in lieu thereof "section 521".

(B) Sections 407 and 408 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act are transferred to title V of the Public Health Service Act, inserted after the section 525 inserted by subparagraph (A), redesignated as sections 526 and 527 and amended as follows:

(i) Section 526 (as so redesignated) is amended—

(I) by striking out the section heading and inserting in lieu thereof:

"ADMISSION OF DRUG ABUSERS TO PRIVATE AND PUBLIC HOSPITALS";

and

(II) by inserting before "(a)" in subsection (a) the following: "SEC. 526.".

(ii) Section 527 (as so redesignated) is amended—

(I) by striking out the section heading and inserting in lieu thereof:

"CONFIDENTIALITY OF PATIENT RECORDS";

(II) by inserting before "(a)" in subsection (a) the following: "SEC. 527."; and

(III) by striking out "of Health and Human Services" in subsection (g).

(c)(1) Sections 102, 103, and 502 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 are repealed.

(2) Sections 405 and 504 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act are repealed.

(d) Title V of the Medical Facilities Construction and Modernization Amendments of 1970 (Public Law 91-296) is repealed.

ALCOHOL AND DRUG ABUSE AND MENTAL HEALTH REPORTS BY THE SECRETARY

SEC. 3. (a) The Secretary of Health and Human Services shall submit to the Congress, on or before January 15, 1984, a report describing the extent to which Federal and State programs, departments, and agencies are concerned and are dealing effectively with—

(1) the problems of alcohol abuse and alcoholism,

(2) the problems of drug abuse, and

(3) mental illness.

(b) The report required by subsection (a) shall include information with respect to the services provided for alcohol abuse, alcoholism, drug abuse, and mental health under part B of title XIX of the Public Health Service Act. To obtain information respecting such services, the Secretary shall work with appropriate national organizations to ensure that State and local governments use compatible means of collecting data respecting such services so that uniform national data with respect to the provision of such services will be available to the States and to the Secretary.

(c) In compiling data for the report required by subsection (a), the Secretary may not require any State to submit any information which is not required under section 1916(a) of the Public Health Service Act.

DRUG ABUSE STRATEGY REPORT

SEC. 4. (a) Section 305 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act (21 U.S.C. 1165) is amended to read as follows:

"§ 305. Report

"The President shall submit to the Congress, on or before August 1, 1984, and every two years thereafter, a written report describing the strategy. The report shall specify the objectives, nature, and results of the strategy and shall contain an accounting of funds expended under title II.".

(b) Section 207 of such Act (21 U.S.C. 1117) is repealed.

MISCELLANEOUS

SEC. 5. (a)(1) Section 311(c)(4) of the comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (42 U.S.C. 4577(c)(4)) is amended by inserting "(including Native Hawaiians and Native American Pacific Islanders)" after "Native Americans".

(2) Section 18(b)(10) of the Comprehensive Alcohol Abuse And Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1979 (42 U.S.C. 4541 note) is amended by inserting "Native Hawaiians, Native American Pacific Islanders," after "Alaskan Natives,".

(3) Section 410(d) of the Drug Abuse Prevention, Treatment, and Rehabilitation Act (21 U.S.C. 1177(d)) is amended by striking out "native Americans" and inserting in lieu thereof Native Americans (including Native Hawaiians and Native American Pacific Islanders)".

(b) Section 475(a) of the Public Health Service Act (42 U.S.C. 2891-4(a)) is amended (1) by striking out "the Directors of the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse and", and (2) by striking out ", the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse," in paragraph (2).

By Mr. MATHIAS (for himself and Mr. HEFLIN):

S. 127. A bill to revise the first section of the Clayton Act to expand the scope of the antitrust laws, and for other purposes; to the Committee on the Judiciary.

UNFAIR FOREIGN COMPETITION

Mr. MATHIAS. Mr. President, today Senator HEFLIN and I introduce a bill that would help end one of the most pernicious and widespread unfair international trade practices that now victimizes U.S. workers and industry—dumping.

The United States is blessed with an energetic population, bountiful raw materials, and a vast continental market which have helped us become the world's leading industrial power. Yet economic problems continue to plague us. One of the underlying causes of our current distress is our deteriorating balance of trade.

Over the years, through our continuing negotiating efforts, including multilateral trade negotiations, the United States has reduced many of its barriers to international trade, and in return our trading partners have made similar reductions in theirs. These reductions in the long run promote production, create jobs, and encourage efficient allocation of resources on a worldwide scale. And, also in the long run, they ought to help reduce our trade deficit. As long as our foreign competitors play fairly by the rules, I think American workers and industry can more than hold their own in world trade, to the benefit of our workers, business, and the American consumer.

However, with this reduction of restrictions on international trade, we have got to insure that no one takes advantage of what may be our vulnerability. I think it is commonly recognized that foreign competition has not always been fair competition. Goods manufactured abroad are often sold in this country too cheaply—below their marginal cost of production or below their price in their home market. In either case, this is dumping; it is unfair; and it has caused massive dislocations in U.S. industries—both unemployment and bankrupticies.

One of the bulwarks against this predatory behavior from abroad should be the Revenue Act of 1916, but it has not worked. Under this law the unemployed workers or the injured businesses have to show that the importers of the dumped goods specifically wanted to injure them before they could collect. Intent to injure is such a difficult test that this law has never been successfully used in the 66 years it has been on the books. As a result, no American company or union has ever collected damages. Clearly, we lack a coherent, enforceable policy toward dumping. Foreign businesses and their U.S. importers need to know what conduct our laws forbid, and the injured U.S. parties must be able to

collect damages swiftly and enjoin further dumping when it occurs.

For this reason, I am introducing the unfair foreign competition bill, to amend the antitrust laws to include dumping within the behavior prohibited by those laws. Dumping is one of the worst anticompetitive acts, and I think we should give both the antitrust division and the injured American companies the right to sue for treble damages by including dumping under our antitrust laws.

The unfair foreign competition bill would eliminate the need to show intent to injure. All that would have to be shown is that the imported goods are knowingly being sold at below production cost or below the sale price in the home market. With this clear-cut and easily enforceable standard, the displaced worker and injured U.S. business will have a quick remedy in court. In practice, I think the bill's greatest virtue will be its deterrent effect. Knowing that they will be hit hard—with injunctions and treble damages—the foreign dumpers will think twice before they dump their goods in the United States.

I held hearings on my bill in the 96th Congress, and in the 97th Congress, Senator SPECTER and I held hearings on both of our bills. I think we have built a persuasive record for action in the 98th Congress. The dumping problem has gotten even worse in the past 4 years, and I urge my colleagues to join me in this effort to build a big "Dumpers Keep Out" sign that we can plant in our front yard for all to see.

I ask unanimous consent that the text of my bill appear in the RECORD immediately following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 127

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Unfair Foreign Competition Act of 1983".

SEC. 2. The first paragraph of the first section of the Clayton Act (15 U.S.C. 12) is amended by inserting "section 801 of the Act of September 8, 1916, entitled 'An Act to increase the revenue, and for other purposes' (15 U.S.C. 72);" after "nineteen hundred and thirteen;".

SEC. 3. Section 801 of the Act of September 8, 1916, entitled "An Act to increase the revenue, and for other purposes" (15 U.S.C. 72) is amended—

(1) by striking out the first sentence and inserting in lieu thereof the following:

"(a) It is unlawful for any person importing or assisting in importing any articles from any foreign country into the United States knowingly and purposely to import such articles into the United States or to sell or cause such articles to be imported or sold within the United States, at a price substantially less than (1) the actual market value or wholesale price of such articles, at the time their importation into the United States, in the principal markets of the country of their production or of other foreign countries to which they are commonly exported, after adding to such market value or wholesale price, freight, duty, and other charges and expenses necessarily incident to the importation and sale thereof in the United States; or (2) where no home or third country market exists, the constructed value of such articles as determined by the standards set forth in section 773(e) of the Trade Agreements Act of 1979 (19 U.S.C. 1677b(e)), if—

"(A) the sale of such articles at such price would (i) cause material injury to an industry or labor in any line of commerce in any section of the United States, (ii) prevent, in whole or in part, the establishment of an industry in the United States, or (iii) restrain or monopolize any part of trade and commerce in such articles in the United States; and

"(B) such injury, prevention, restraint, or monopoly results therefrom.";

(2) by inserting the subsection designation "(b)" before the second paragraph of such section, and by striking out "$5,000" and inserting in lieu thereof "$50,000";

(3) by inserting in subsection designation "(c)" before the third paragraph of such section;

(4) by inserting before the last paragraph of such section the following:

"(d) Whenever it appears to the court before which any proceeding under this Act is pending that the ends of justice require that other parties should be brought before the court, the court may cause them to be summoned, whether they reside in the district in which the court is held or not, and subpenas to that end may be served in any district by the marshal thereof.

"(e) If a defendant in any proceeding brought under subsection (c) of this section in any court of the United States fails to comply with any discovery order, or other order or decree, of such court, the court shall have power to enjoin the further importation into the United States, or distribution in interstate commerce within the United States, by such defendant of articles which are the same as, or similar to, those articles which are alleged in such proceeding to have been sold or imported in violation of the provisions of subsection (a) of this section, until such time as the defendant complies with such order or decree."; and

(5) by inserting the subsection designation "(f)" before the last paragraph of such section.

By Mr. ROTH:

S. 128. A bill entitled "The Equal Opportunity Retirement Act of 1983; to the Committee on Finance.

THE EQUAL OPPORTUNITY RETIREMENT ACT OF 1983

Mr. ROTH. Mr President, I am introducing legislation to permit a nonworking spouse to establish and contribute up to $2,000 per year to his or her individual retirement account.

This legislation will establish for the first time a full and equal opportunity to provide expanded retirement security for housewives, the one large group of Americans still not eligible for full pension plan protection.

In 1974, Congress enacted a private pension reform law, which included a provision to provide tax incentives for the first time to encourage retirement savings for workers not covered by established pension plans.

Today, employed individuals can establish individual retirement accounts regardless of whether they are covered by a qualified pension plan or not. They can take an annual tax deduction for retirement savings of the lesser of 100 percent of earned income or $2,000.

Married and single women have the opportunity to establish IRA's if they are working and have earned income. But, under current law, a housewife who performs household work valued at $10,000 or more per year is only entitled to a $250 spousal IRA deduction. This deduction is only permitted if her working husband establishes his own IRA.

Although more and more women are working, many married women are not in the labor force and thus not eligible for full retirement protection.

Social security is the main source of retirement security for the vast majority of elderly women, and social security is not entirely adequate to provide a decent standard of living for millions of our senior citizens. Indeed, more than two out of every three poor persons over the age of 65 are women.

Because women are concentrated in low-paying and part-time jobs and because of interruptions for raising children, average social security and pension benefits are considerably lower for women. Since she has had no earned income or earnings coverage under social security, a housewife must depend entirely on her spouse's benefits. And if she is widowed early in life or divorced, she could receive very meager benefits or no benefits at all.

Therefore, I believe Congress should provide an opportunity for housewives to supplement social security to insure a decent standard of living for their old age.

Besides providing greater retirement protection, my legislation would increase the total amount of savings in the economy. This would make more funds available for mortgages, consumer and business loans and stimulate construction and other economic activity.

This legislation is primarily intended to help the millions of housewives who have little or no retirement protection and security. It will provide a tax incentive to promote savings in our economy, and it will enable husbands and wives to better provide for their own retirement and lessen their dependence on the Government.

Mr. President, I ask unanimous consent to have the text of the bill printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 128

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) Section 219(b)(4)(A)(i) of the Internal Revenue Code of 1954 (relating to certain divorced individuals) is amended to read as follows:

"(i) $2,000, or".

(b) Section 219(c)(2)(A)(i) of such Code (relating to special rules for married individuals) is amended to read as follows:

"(i) $4,000, or".

(c) The amendments made by this section apply to taxable years beginning after December 31, 1983.

By Mr. D'AMATO (for himself and Mr. MOYNIHAN):

S. 129. A bill to make certain land owned by the United States in the State of New York part of the Green Mountain National Forest; to the Committee on Agriculture, Nutrition, and Forestry.

HECTOR LAND USE AREA

● Mr. D'AMATO. Mr. President, today I rise to introduce a bill to make the Hector land use area, owned by the United States and located in the State of New York, part of the Green Mountain National Forest. This valuable tract of land serves many purposes, from providing grazing rights and lumber to local residents and enabling them to use its fine recreational facilities, to offering a unique habitat for local wildlife and protecting the upstream sources of water to meet the local health needs of residents. Recently, there has been discussion concerning the possible sale of the area by the U.S. Department of Agriculture. This bill would preclude such an action.

The Hector land use area is the only unit administered by the Forest Service in New York State. At the present time, there is a dispute as to whether or not the Government has the authority to sell this land without congressional approval. This bill would require that the land be treated as would any other portion of the Forest Service and review by the Congress be made concerning any proposal to dispose of the land. I believe that it is in the public interest that such a review by their elected officials be undertaken.

New York's citizens have a right to be the prime benefactors of the use of this land. It would be unconscionable to strip New York of its sole portion of the U.S. Forest Service's lands. I am proud to sponsor this measure.●

● Mr. MOYNIHAN. Mr. President, I rise today to urge the support of my colleagues for a bill I am introducing with Senator D'AMATO that would incorporate the Hector land use area of New York into the Green Mountain National Forest.

On August 10 of last year, the Department of Agriculture declared its intent to sell as excess New York State's only Federal forest land, the Hector land use area of Schuyler and Seneca Counties. I believe—as do other members of the New York congressional delegation—that these 13,232 acres should be retained as Federal forest land, open to use by the public. The Hector area is the U.S. Forest Service's sole presence in New York and the Department of Agriculture's sale of the land would unfairly hurt the people of the State of New York by letting this land pass from Federal control.

The Hector area is a year-round recreation area that provides a respite from the urban lifestyle of many New Yorkers. It is used as campgrounds for New York and Northeast U.S. residents, and has some of the finest riding trails in the State. It is heavily used every season of the year, yet requires only a minimum investment from the Federal Government.

Cornell University and Syracuse University's New York State School of Forestry and Environmental Services, both near Hector, use the area for multiple academic purposes. Forestry research conducted in the area has led to benefits for forest land throughtout the country. Grazing privileges are granted to local central New York farmers as well. Such nonrecreational uses help alleviate the cost to the Federal Government of maintaining the lands.

But Hector should not be considered primarily as a remunerative piece of property. It should be treasured for the benefits and pleasures it brings to so many New Yorkers and other Americans who use the land for all its many purposes.

Mr. President, I ask unanimous consent that a detailed description of the Hector land use area and a letter supporting the maintenance of Federal control written by Daniel A. Poole, president of the Wildlife Management Institute, be printed in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WILDLIFE MANAGEMENT INSTITUTE,
Washington, D.C., December 6, 1982.

Mr. JOHN E. THARP,
District Ranger, Green Mountain National Forest, Hector Land Use Area, Che-Que-Gue Corp. Building, Montour Falls, N.Y.

DEAR MR. THARP: The Institute recently learned of the Forest Service's decision to consider selling the Hector Land Use Area. Our understanding is that the Department of Agriculture does have the authority to make this consideration and that this recent initiative has been spurred by the asset management program. While we appreciate the Forest Service's prudent management and review of its liabilities and assets, we would object to any action that would shift the Hector Land Use Area from its present availability for resource deveolpment, management and public use.

The Hector area, at 13,232 acres, is the largest parcel of public land in central New York. It provides many benefits to the citizens of New York State. The area is a model for land management that presents well-managed systems for grazing of cattle, a variety of timber production goals, wildlife management, and outdoor recreation.

Given the current benefits from the Hector area we fail to see how its disposal could benefit the public more than the present use. This is most graphically demonstrated by the origin of the area. Originally, more that 100 farms comprised the now federal ownership. Each was abandoned as the landowners found that the glacial soils are generally poor and require careful management to prevent erosion. To adjust for this submarginal land abandonment the lands were purchased for reclamation by the federal government through the National Industrial Recovery Act of 1933, the Emergency Reliev Act of 1935, and Title III of the Bankhead-Jones Farm Tenant Act of 1937.

The present management of the area has maintained and improved the 4,990 acres of fenced pastures through a cooperative agreement with a local grazing association, given local universities and county schools an area for development of conservation education programs, a recreational area and provided a local timber and fuelwood supply from the area's 6,025 acres of woodland. The two latter programs have helped maintain the area's wildlife and forest management objectives. In fact, we find that the Hectcr area has a degree of self-sufficiency that most Forest Service lands cannot obtain.

In addition, 23,200 visitor days in 1981 reflect the public's use of the area for fishing, hunting, horseback riding, camping, hiking and wildlife observation. These activities are enhanced by the cooperative wildlife improvement program with the State of New York and the Forest Service's own wildlife management program. Both of these have succeeded in providing a high degree of vegetative diversity, thus wildlife species richness, to the area.

The federal government's original attainment of Hector was for reclamation and to demonstrate good land management. The Forest Service has succeeded with these goals, creating a multiple-use area that is truly yielding multiple benefits. The area is an asset to the State of New York and especially to the Forest Service. It is not a liability that should be considered for liquidation.

It is our contention that the Hector Land Use Area not be considered for sale but rather it be considered for inclusion as a ranger district of the Green Mountain National Forest.

These remarks have been coordinated with Gordon C. Robertson, the Institute's Northeast Representative.

Please include these comments in any public review process that will determine the future of the Hector Land Use Area.

Sincerely,

DANIEL A. POOLE,
President.

HECTOR LAND USE AREA

AREA DESCRIPTION

The Hector Land Use Area is located in Seneca and Schuyler Counties in the Finger Lakes Region of New York State. The area is generally bounded by four New York Highways: 96, 414, 79, and 224. The area is accessible by one of these four highways; then via a grid of north-south and east-west gravel roads, which cross the unit at one mile intervals.

Land ownership is somewhat broken with scattered parcels of private land occuring within the unit. Federally owned lands comprise 13,232 acres.

The nearest population center is the City of Ithaca, 15 miles to the southeast. The administrative office for the unit is located in the Town of Montour Falls, 7 miles south of the unit.

Topography is gently rolling as the area occurs on a plateau between Seneca and Cayuga Lakes, the two largest of the Finger Lakes. Elevations range from 1,000 to 1,800 feet, a maximum relief of 800 feet.

The area has been intensely glaciated. Existing landscape is the result of the last glacial advance during the Wisconsin Period, about 10,000-25,000 years ago. Soils are generally acid, fine texture, and in many areas, have a basal till or hardpan layer. Because of the hardpan, water does not quickly penetrate into the soil, resulting in the wet depressions and basins. Droughty conditions exist in the summer in shallow soil along the steeper sideslopes.

A past history of farming is revealed in the vegetation covering the unit. Thirty three individually fenced pastures encompass 4,990 acres or 37 percent of the area, 2,217 acres, 17.8 percent of the area, are in old fields which vary from grassy openings to thickets of shrubs and scattered small trees. The remaining area is forested. One thousand acres, 7.6 percent, are conifer plantations, the remaining 5,025 acres or 37.9 percent, are hardwood or mixed hardwood and conifer stands.

Climate in the Hector Area is strongly influenced by the prevailing wind from the west. During the summer the wind comes from the southwest, bringing with it warm, humid weather. The weather becomes more pleasant in the fall as the wind direction gradually changes to the northwest, bringing the cold dry air masses common in the winter. The weather is occasionally modified by oceanic storms, causing cool, cloudy, wet weather. During the winter, snow squalls occasionally result from air masses absorbing moisture as they pass over the Great Lakes.

Temperatures average a monthly maximum of 77° F in July and drop to an average monthly minimum of 13° F in January. A 130 day frost-free growing season extends from mid-May to the first of October.

Annual precipitation averages 34 inches. Average annual snowfall is 75 inches. Snow covers the ground from mid-December to mid-March. Due to mild winters, snow depths seldom remain more than 12-15 inches, and during some winters, bare ground may be briefly seen.

Greatest storm hazard present is heavy snowfall, although local areas may be affected by high winds and lightning during summer thunderstorms.

Freezing rain during the winter may damage utility lines and crop trees as well as making highway travel hazardous.

HISTORY AND LAND STATUS

The Hector Land Use Area originated in the 1930's as a sub-marginal land adjustment project purchased primarily under authority of the National Industrial Recovery Act of 1933, the Emergency Relief Act of 1935, and Title III of the Bankhead-Jones Farm Tenant Act of 1937.

It is estimated that more than 100 farms were included in the 13,259 acre purchase. Lands at that time were seriously eroded due to poor farm practices.

From 1938 to 1954, the area was managed by the Soil Conservation Service as a project for public grazing and other land use developments, including reforestation. The Hector Grazing Association was formed in 1946 to facilitate grazing on the public lands. This association is still in existence today.

From 1954-1957, the land was placed under management of the U.S. Forest Service in Upper Darby, Pennsylvania. In 1957, management of the area was assigned to the Green Mountain National Forest, located in Vermont. Grazing and reforestation continued to dominate management activities on the land until 1961.

In 1961, a professional forester was assigned as the unit manager with a title of Forester in Charge. A multiple use program was initiated following an evaluation by the Forest Supervisor, staff, and the Forester in Charge.

In the following 21 years, a wildlife habitat improvement program has taken place in cooperation with the New York Department of Environmental Conservation; the recreation program and use has steadily increased; timber management activity, although modest in scale, has intensified; and grazing use, through cooperation with the Hector Grazing Association, has been improved. In the past five years, the Hector Land Use Area has proven to be of significant value for environmental education. A large nearby population and the unit's intensive management and physical resources provide a sound base for outdoor education efforts. Current educational programs are designed for school children, college students, and the general public.

In 1978, the Forester in Charge was designated as a District Ranger. For administrative purposes, the Hector Land Use Area is considered similar to a National Forest Ranger District. However, lands at Hector do not have the same status as National Forest System lands and the U.S. Forest Service management authority is somewhat limited on these lands.

PRESENT MANAGEMENT SITUATION

Over the years the Hector Land Use Area lands have been restored to productivity as directed and now serve as a visible demonstration of good land management. They are the only federal lands in New York State that are administered for multiple wild land uses. As such they provide not only a unique land use and management demonstration but they provide opportunities for endeavors that help support the local economy plus extensive opportunities for outdoor public recreation. The available resources are already committed to general public use and local residents. Many user groups and individuals have helped in constructing and maintaining the various facilities they now use.

The Area contains nearly 7,000 acres of commercial forest land. These forests are valuable for fuelwood, lumber and other forest products and are also important for wildlife cover and various forms of outdoor recreation including hunting. Some 1,700 acres of wildlife openings are managed within the forested area. Also, 200,000 board feet of timber are harvested annually. The commercial fuelwood market is good. In addition, nearly 200 fuelwood permits were sold to local residents in fiscal year 1982.

Grazing is permitted on 4,648 acres under a Grazing Agreement between the Forest Service and the Hector Cooperative Grazing Association, Inc. Since 1961, the 100 member association has assumed the major responsibility for the maintenance and improvement of the land. Thirty-three pastures are maintained within 76 miles of fence with 30 corrals and 46 stockwater ponds.

The Area is very popular with recreationists. Use during 1981 was 23,200 visitor days, compared to 17,706 in 1978. These activities include camping and picnicking at existing developed sites; hunting, fishing, hiking, horseback riding and cross country skiing. Some hiking is on the Area's 25 mile trail system including the 12 mile Interloken Trail System, (now, a National Recreation Trail) and 13 miles of additional trails. These trails are a part of the Finger Lake Trail System which is popular in the area.

There is also no current mineral activity in the Area, but the entire federal ownership is covered by federal oil and gas leases.

The Area has become a focal point for environmental and conservation education activities and is used regularly by schools and other conservation and educational agencies and groups.

THE RESOURCES

Soil

The soil, more than any other factor, has influenced the development of the physical, economic, and social history of the unit. In the past, limiting soil factors caused the "Hill Farms" to be less and less competitive with farms on better soils. The overall landscape is very gentle, which combined with medium to fine textured soils and the widespread presence of a basal till hardpan layer (from which a fragipan may form), creates land conditions requiring careful management. Several soil characteristics in particular affect management activities. Soils are very wet once frost leaves from March to June. Internal permeability of most of the soils is very slow, primarily due to fine texture, but also because of the presence of basal till, which is essentially impermeable to water. The long, smooth, gentle slopes accumulate a large amount of run-off (especially when the soils are saturated about the basal till) creating an erosion hazard. Nearly all soils are silt-loam soils containing a large content of clay and silt.

Chemical characteristics of the soil also affect their management. Typically the soils are quite acid. Phosphorus is uniformly insufficient. Liming and application of phosphorus fertilizers are needed to produce good crop yields.

Water

The Unit lies astride a plateau known as the "Hector Backbone." About half of the land drains to the east toward Cayuga Lake and half to the west toward Seneca Lake. These are the two largest Finger Lakes (about 40 miles long and two to three miles wide). The 13,232 acres in the Unit are intermingled with an equivalent amount of private land which means that the Forest Service manages only about half of the watershed area. Average annual precipitation is 34 inches. Estimated water yield for the unit is 26,000 acre feet. Most streams are intermittent since the unit is at the top of the watershed and only extends an average of four miles from east to west. There are no natural bodies of water, but 46 livestock ponds have been constructed on the pastures and 27 wildlife ponds built throughout the remainder of the unit. These ponds average one-half to one acre in size. The wildlife ponds are visited by many recreationists for fishing, nature study, or for strolling and relaxation.

There are public water supplies at Blueberry Patch Campground and Potomac

Group Campground in the form of drilled wells with hand pump. Each is about 100 feet deep. One spring located off Picnic Area Road is under special use permit to supply a residence.

Vegetation

The Hector Unit consists of 13,232 acres; 5,025 acres are composed of hardwood timber stands, primarily of red oak, white oak, red maple, white ash, basswood and hickories. The remaining 8,207 acres were in farm lands prior to the 1930's when the land was purchased. Today there are some 4,990 acres in pastures with grass cover, about 1,000 acres of conifer plantations, particularly red pine, Japanese larch, white spruce and jack pine. The balance of 2,200 acres consists of old fields, some of which are primarily goldenrod and low shrubs, such as hawthorn and gray dogwood, with other areas rapidly filling aspen, white pine and other tree species.

There is a great diversity of hardwood and softwood tree species as mentioned above. In addition, among the species are the following: black walnut, hophornbeam, arrowhead, sugar maple, black cherry, black locust, chestnut oak, apple, multiflora rose, elm, witchhazel, beech, Norway spruce, boneset, wild cranberry, blueberry, raspberry, may apple, lilac, teasel, partridge berry, service berry, pin cherry, healall, maple-leaved viburnum, blackberried elder, chicory, and burdock. Primary species within pastures are birdsfoot trefoil, white clover, red clover, timothy, orchard grass, bluegrass, redtop, and fescue.

Fire

Fire potential is highest in May when the snow has melted and before green-up occurs. Periods of high winds usually occur during this time and areas of dead grass and weeds are available as fuel. Most of the fires at Hector cause little damage due to the lack of heavy fuels. Because of light fuels and rapid spreading nature of the fire, high temperature fires are a rarity and vegetation, especially trees, is not killed.

Prescribed buring was used on the Hector Area in 1982 for blueberry management and wildlife improvement.

Responsibility for fire suppression is assigned to adjacent towns based on a Cooperative Agreement between the Forest Service and the towns involved. This agreement was revised in the summer of 1978. In situations where a fire develops on the Hector Area, the Forest Service would secure help from the town in which the fire occurred and would pay suppression costs.

Minerals

There is no known past history of mineral exploration on the Hector Area including sand or gravel removal. However, each deed to the federal lands includes a statement that all gold and silver is reserved to the State of New York. There has never been any evidence of gold and silver found on the Unit.

In 1971, a representative of the oil and gas industry obtained BLM oil and gas leases for the entire Hector Unit. However, no activity or exploration has taken place as yet. There are currently no other mineral activities on the area. There is a possibility that gravel deposits are available on the southern end of the area.

There has been some oil and gas drilling within 20 miles of the Hector Area, and it is very possible that similar exploration could take place on the area within the next 10 years.

Recreation

The basic reason people visit the Hector Area is to seek an atmosphere of solitude yet be able to find enough facilities and activities to satisfy their needs. For example, visitors to Blueberry Patch Campground often say that they enjoy both the smallness and simplified development of the site and the large amount of undeveloped land surrounding it. They say it is difficult to find situations similar to this in Central New York. Similarly, families with smaller children who like to catch panfish in the ponds at Hector cannot find this pursuit readily available elsewhere since most public fishing is in the large lakes and streams. By the same token, those on horseback are hard pressed to find areas where there are trails, gravel roads, and fields in desirable combinations to satisfy their riding pleasures. State Parks to the east and west of the area are designed for high density use, as are private developments. The Hector program complements rather than competes with these areas, by providing something different.

The majority of visitors to the area come from within 40 miles. However, there are people vacationing in the summer and deer hunters in the fall who live more than 100 miles away.

Blueberry Patch is designed for family camping to accommodate both small camping vehicles and tents. This site is very popular as attested by over 3,300 visitor-days use in 1981. Potomac Group Campground is designed for walk-in tent camping and picnicking and use in 1981 was 3,700 visitor-days. Both sites have tables, vault toilets, fire rings, and drilled wells with hand pumps. The Backbone Trailhead is designed primarily for use by horsemen who camp overnight.

The 25-mile trail system is composed of the main Interloken Trail (12 miles), which joins the Finger Lakes Trail on the southern end of the area. The Finger Lakes Trail crosses New York State and joins the Appalachian Trail in eastern New York. There are six side loop trails connecting with the Interloken Trail so visitors can make short trips of one to three miles.

Fishing is a popular recreational activity at the ponds as attested by the number of people seen fishing and the pathways around ponds having fish in them. Many of those fishing are families with small children.

Timber

Prior to the 1930's, the Hector Unit was comprised of a number of farms. Many of the farmers had sold a large percentage of the merchantable sawlogs from their woodlots prior to government purchase. These woodlots were cut without regard to good silvicultural practices, leaving stands in poor condition. Even after government purchase, stands were cut with little concern for silviculture until 1961 when a forester was assigned to the Unit. Therefore, these hardwood stands have been under professional management for only about 19 years. Some 1,000 acres of conifers were planted under the direction of SCS from 1938 to the early 1940's. From 1961 to 1974 timber harvest was confined to harwood sawlogs at the rate of approximately 50 thousand board feet per year since no market for other products existed. In 1974, a market developed for red pine poles used in construction of cabins by local individuals. This resulted in the sale of 50 thousand board feet of red pine in 1981 which provided a means of commercial thinning of plantations. Over the last 17 years from 50 to 200 acres have been precommercially thinned in hardwood stands each year.

The major forest type of the Unit is Appalachian mixed hardwoods (see Silvicultural Systems for the major forest types of the United States, Forest Service, U.S.D.A., Ag Handbook 445). Species composition includes a large proportion of northern red oak and white oak, sugar maple and hickories. There is some representation of aspen, white pine, eastern hemlock, American beech and black cherry scattered throughout most stands. A limited amount of black walnut is also found in some stands. The regenerative potential of many of the hardwood species is very high. Most sprout vigorously when small. Species classified as very shade tolerant are American beech, eastern hemlock and sugar maple. Intermediate in shade tolerance are oaks, hickories and white ash. These intermediates will not reproduce and survive under a closed canopy. Intermediates, particularly the mast producing oaks and hickories, are very important to wildlife. Therefore, it is desirable to use silvicultural systems to provide future stands which contain a sizable component of these species.

Wildlife

The Hector Unit was covered with unbroken forest until the late 1700's when settlers cleared the land to raise crops and livestock. 1887 market the peak of farming in central New York, and by 1925, much of the farmland was being abandoned. As former fields became forested, the resulting vegetation provided a variety of wildlife cover and food. Wildlife species steadily increased as the habitat became suitable for them.

When the Hector Unit was purchased by the government during the 1930's about 9,500 acres, or 75 percent of the unit, was in open fields. The management decision at that time of purchase was to develop pastures on 5,000 acres, plant 1,000 acres to conifers and allow natural succession to occur on 3,500 acres. Over the past 40 years, these 3,500 acres of open fields have gradually become covered with forbs, shrubs, and trees. Over much of the area, invasion of trees has caused the disappearance of shrubs and forbs, resulting in a decline in the quality and variety of wildlife food and cover. Around 2,200 acres of the original 3,500 acres still have shrubs or forbs on them; the remainder are now mixed hardwood and conifer stands.

Since 1963, debrushing, by hand and by machine, has been used to encourage sprouting of browse plants and to maintain openings on 50-90 acres per year.

Big game species include the white-tailed deer and the turkey. The turkey is a relative newcomer to the area, having expanded into the unit 5-6 years ago, presumably from Connecticut Hill to the south. Many of the existing stands are approaching sawtimber size and several of the oak-hickory stands within the unit are producing mast, which may partially explain why turkey find the area attractive. An estimated 2-5 turkeys are harvested each year within the unit.

Once farmland was abandoned, white-tail deer numbers began to increase as the habitat became suitable. One winter deer yard is known to exist within the southwestern portion of the unit, although most deer winter in areas to the west. These wintering areas are used during periods of deep snows, but generally, winter snow depths within the unit permit free movement by the animals during most winters.

Small game species include ruffed grouse, ring-necked pheasant, woodcock, cottontail rabbit, gray squirrel, woodchuck, Canada goose, and several species of ducks. Snowshoe hare were introduced a few years ago, but did not increase. A few individuals may still be found within the unit.

Waterfowl habitat is extremely limited in Schuyler County and Seneca County. Hector is no exception—a few areas have wood duck production and an occasional mallard may raise a brood within the unit, but otherwise the existing ponds are either too deep and small or too accessible for waterfowl production.

Furbearers include red and gray fox, raccoon, oppossum, coyote, and mink. No beaver are known to occur within the Unit. Most of the fur harvest involves fox, muskrat, and raccoon. The area provides some of the better red fox habitat in Schuyler County.

The great diversity of vegetation within the Hector Unit has resulted in habitat suitable for a large number of nongame bird species. However, due to the relatively young forest stands, species requiring mature to overmature forests and large snags are not found in large numbers. Species present include: eastern chipmunk, voles, shrews, star-nose moles, bats, flying squirrels, jumping mice, raptors (hawks and owls), warblers, vireos, flycatchers, nuthatches, and sparrows.

The raptor population is high and is quite noticable around the many open areas.

The New York State Department of Environmental Conservation has constructed 25 ponds through a cooperative wildlife agreement between the state and the U.S. Forest Service. This agreement was signed in 1959. The ponds average 0.5 acres in size and most are less than seven feet deep. Most of the ponds have been stocked with bullheads and sunfish. Three of the ponds are stocked with trout. Many ponds at Hector experience a least partial die-off of fish during most winters.

No wildlife species classified as endangered or threatened under Public Law 93-205, the Endangered Species Act of 1973, are known to occur within this planning unit.●

By Mr. COCHRAN (for himself and Mr. NUNN):

S. 130. A bill to amend the Consolidated Farm and Rural Development Act to provide credit assistance to farmers, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE AGRICULTURAL CREDIT IMPROVEMENT ACT OF 1983

Mr. COCHRAN. Mr. President, I am pleased that Senator NUNN is joining me in introducing a bill entitled "The Agricultural Credit Improvement Act of 1983".

Much attention is being paid to our efforts to reduce surpluses and strengthen farm prices. During this time I have become increasingly concerned that unless some attention is given to our farm credit situation that many of our farmers will not be around to enjoy the higher prices when the surpluses are brought under control and prices strengthened.

I have been arguing that a balanced approach is needed to assure that agriculture is put back on a sound financial footing. This includes the reduction of surplus stocks, maintaining our market shares overseas and a plan which provides farmers some hope of recovering from the severe debt load which has accumulated because of the combination of low prices in recent times and crop failures during the 1970's.

The total farm debt was only $54.4 billion in 1971. By 1975 this has increased to $81.6 billion. By 1982 the farm debt was $201.7 billion. Preliminary numbers indicate that the total farm debt this year is $215 billion.

Unfortunately net farm income to service this debt has actually gone down. For example, in 1975 farmers had $24.5 billion in income to service a debt load of $81.6 billion. Farm income in 1982 was $19 billion to service a debt load of over $200 billion.

During this time Farmers Home has become more and more an important source of credit for farmers. This came about because of the difficulties that farmers found themselves in because of poor crops in some years and low prices during others. As the lender of last resort FmHA filled the need to help keep many farmers in business.

However, I believe that some adjustments need to be made now in order for FmHA to provide farmers an opportunity to regain a sound financial position during these very difficult times.

The bill being introduced today takes a step in that direction. It contains five points which can be summarized as follows:

One, increase the loan limit on direct operating loans made by the Farmers Home Administration from $100,000 to $300,000.

Two, provide farmers that had a disaster since 1979 with the eligibility for subsequent loans through 1984 with a limitation of $500,000.

Three, make it clear that it is the intent of Congress that the Farmers Home Administration work with farmers to defer, reamortize, reschedule, and consolidate loans to avoid involuntary liquidation in cases where an individual farmer has a chance of recovering.

Four, provide authority for the Farmers Home Administration to reschedule and reamortize operating loans over a 15-year period rather than the current 7-year limit.

Five, require that any loan rescheduled or reamortized carry an interest rate which is the lower of the interest rate on FmHA operation loans.

Mr. President, the current limitation of $100,000 on direct operating loans made by FmHA is out of date and eliminates many farmers that are in need of financial assistance. I am concerned that unless this limit is increased to $300,000 that many farmers that are in the family farmer category will be forced out of production because sufficient credit cannot be obtained.

To help farmers recover from a loss due to crop failure the Farmers Home Administration makes disaster loans available on the amount of the loss. Prior to 1980 farmers were eligible to receive subsequent loans for up to 5 years in an effort to recover from the disaster.

Legislative changes were made in 1980 which allowed farmers receiving a disaster loan prior to December 15, 1979 to remain eligible to receive subsequent loans for up to 5 years with no ceiling on the amount. However, those farmers obtaining a disaster loan after December 15, 1979 were eligible for two subsequent loans with limitations of $1.5 million for 1980, $1 million for 1981 and $0.5 million for 1982. Under current law these farmers are not eligible for subsequent loans during 1983 and 1984 while those farmers who had a disaster loan on or before December 15, 1979, would continue to be eligible.

Because of the poor weather conditions in many parts of the country since 1979, I believe that the need exists for these farmers to receive subsequent loans to improve their chances of recovery. This bill provides the authority for the Secretary to make these loans.

Specifically, this bill would provide subsequent loans, for those farmers obtaining a disaster loan since December 15, 1979, at the current limitation of $500,000 imposed on these loans for 1982.

Due to very difficult economic conditions in agriculture about 25 percent of the FmHA loans are delinquent. It is going to take a special effort on the part of the Farmers Home Administration to minimize the number of involuntary foreclosures until the surpluses can be reduced and prices strenthened.

This bill reemphasizes the intent of Congress that the administration utilize its full authority to defer, reschedule, reamortize, and consolidate loans to avoid involuntary foreclosures in cases where it is determined that a farmer has a chance to recover.

One of the major obstacles to a farmer being able to recover is the extremely high annual loan repayment when a farmer is faced with not only paying back his current operating loan, but perhaps other loans obtained because of previous disasters. To help FmHA rescheduled or reamortized loans for 12,000 borrowers last year. Often this still leaves farmers in a cash flow problem. To help alleviate this problem this bill allows the Secretary to reschedule or reamortize loans for up to 15 years rather than the existing 7-year limitation. Also to give the farmers the benefit on interest rates. The bill provides that the interest rate on these reschedule or reamortized loans be the lower of the in-

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 132

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as "The Antiterrorist Petroleum Acquisition Act of 1982".

SEC. 2. (a)(1) The Congress finds that—

(A) the Government of Iran remains entirely responsible for one of the most notorious acts of international terrorism, the holding of American hostages for four hundred and forty-four days;

(B) the Government of Iran, led by the Ayatollah Khomeini, has exhibited blatant disregard for the sanctity of human life and liberty as evidenced by the deaths and torture of Iranian men, women, and children;

(C) the Government of Iran has failed to heed the calls of peace and remains engaged in a state of war with Iraq;

(D) the Government of Iran has sought to finance its war with Iraq by increasing its oil exports; and

(E) the United States Government purchased one million eight hundred thousand barrels of Iranian crude oil during the week ending April 24, 1982, the second anniversary of the aborted rescue mission in which eight American servicemen lost their lives in a courageous effort to free their fellow Americans.

(2) The Congress further finds that—

(A) the Government of Libya, led by Colonel Khaddafi, has been similarly financing its acquisition of Russian military equipment, the training of terrorists, and the aggression against Chad and the Sudan through the export of oil;

(B) As recently as March of last year, the United States purchased a quarter of a million barrels of oil a day from Libya, at the price of $10,000,000 each day.

(b) The purpose of this Act is to prevent the financing of terrorist activities of the regimes of Iran and Libya as a consequence of efforts to rapidly fill the Strategic Petroleum Reserve.

SEC. 3. Section 160(a) of the Energy Policy and Conservation Act (Public Law 94-163; 42 U.S.C. 6240) is amended by adding at the end thereof the following: "No petroleum product produced from Iran or Libya may be acquired by purchase, exchange, or otherwise under this section."●

By Mr. D'AMATO:

S. 133. A bill to establish a Federal annuity program to compensate participants in private pension plans which terminate before July 1, 1974, for nonforfeitable pension benefits which were lost by reason of the termination, and for other purposes; to the Committee on Labor and Human Resources.

TERMINATED PENSIONERS SURVIVAL ACT

● Mr. D'AMATO. Mr. President, a man or woman who has worked throughout an entire lifetime should retire with dignity. A man or a woman who has been promised and may have contributed to a retirement plan should not spend his or her retired life unable to afford the necessities of life.

I come before you today to speak on behalf of those hardworking Americans who through no fault of their own have retired or will retire penniless. I would like to read a letter from one "pension loser," Mr. Michael Fletutor of Hudson, N.Y., whose situation is by no means unique:

I worked for Gifford-Wood Inc. from October 1, 1940 until 1972, or for 32 years. I had vested rights, but received nothing . . . I belonged to the United Steel Workers Union, Local 3487 of Hudson, New York.

The Gifford-Wood Comapny Inc. of Hudson, New York was used as an example for the United States Congress—the pension law was passed, but we were not included in the plan.

If you can help us, "God Bless You." Thank you. Please respond. Any help you can offer would be much appreciated.

Mr. Fletutor is not alone. There are over 60,000 whose lives have been shattered by lost pensions. They built their hopes and dreams for a decent retirement on the promise of a pension—a pension which they had earned. That promise was broken. I am shocked that this situation has been implicitly sanctioned by the Federal Government.

Congress saw the need to protect pensioners from the plight which these Americans have suffered when it enacted the Employee Retirement Security Act of 1974 (ERISA). However, the pension insurance program under ERISA does not apply to these people. It is indeed astounding that these same Americans who exposed the flagrant injustices of the pension system as it existed prior to 1974 were not covered by the act.

Today I am reintroducing legislation which will help these older Americans make ends meet. This legislation, the Terminated Pensioners' Survival Act will give these workers who built America hope. It will help them pay the food, gas, and electric bills. In short, it will help them survive. This bill will provide annually $75 for every year a "pension loser" worked toward his or her pension which was later terminated. For example, a person who worked 20 years for one company would receive $1,500 a year. The payments which they will receive are small in comparison to the amounts which these individuals contributed to their plans and what these plans would have paid out had they remained solvent.

This important piece of legislation provides compensation to those Americans who gave their blood and sweat to their employers and country, only to be told that they could not have what rightfully belonged to them. This is not a partisan issue. Republicans and Democrats alike can support this legislation knowing full well that there are "pension losers" in every State who are leading meager existences. The U.S. Department of Labor has estimated that over 13,000 pension plans terminated between the years of 1942 and 1974 without paying out promised benefits. The companies associated with these plans include Art Metal (New York), Studebaker-Packard (Michigan and Indiana), Hazel Atlas Glass (West Virginia and Pennsylvania), Black, Sivalls and Bryson Steel (Oklahoma), and SCOA Industries (Wisconsin). There are many, many more.

This proposal takes into account the current Federal budget. Unlike much legislation, the Terminated Pensioners' Survival Act has built-in limitations both as to the number of recipients and the size of Federal expenditures. The qualified beneficiaries are a finite group which can only decrease with time. The annual cost of benefits paid out through this program will be, at its highest point, approximately $33 million at the end of the century.

Mr. President, I am shocked that these older Americans have been stripped of what they had earned. I am shocked that these older American workers are being treated like second-class citizens. I am shocked that we have allowed this situation to continue. I implore my colleagues to take action on this vital bill. Because of the advanced age of many of the "pension losers" we must take immediate action. Many of these people are desperate. Each day we delay prolongs their misery. This legislation offers them the hope that, at last, Congress will recognize and rectify this past injustice.

Mr. President, I ask unanimous consent that my bill be printed in its entirety in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 133

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Terminated Pensioners' Survival Act".

DEFINITIONS

SEC. 2. For purposes of this Act—

(1) The terms "State" and "United States" have the meanings set forth for such terms in paragraph (10) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002).

(2) The terms "participant", "beneficiary", "nonforfeitable", and "defined benefit plan" have the meanings set forth in paragraphs (7), (8), (19), and (35), respectively, of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002).

(3) The term "early terminated plan" means a defined benefit plan—

(A) which is described in subsection (a) of section 4 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1003) and is not described in subsection (b) of that section, and

(B) the termination date of which (as determined by Secretary of Labor) was before July 1, 1974.

(4) The term "qualified participant" means an individual who—

(A) was a participant in an early terminated plan,

(B) had immediately before the termination a nonforfeitable benefit under the plan, and

(C) has not received payment in full of such benefit by reason of the termination of the plan.

(5) The term "qualified spouse" means an individual who is the widow (within the meaning of section 216(c) of the Social Security Act (42 U.S.C. 416(c)) or the widower (within the meaning of section 216(g) of such Act (42 U.S.C. 416(g)) of a qualified participant.

ENTITLEMENT TO ANNUITY

SEC. 3. (a) A qualified participant who is alive on the effective date set forth in section 13 is entitled, subject to subsection (d), and upon approval under this Act of a claim therefor, to an annuity computed under section 4(a).

(b) A qualified spouse who is alive on the effective date set forth in section 13 is entitled, subject to subsection (d), and upon approval under this Act of a claim therefor, to an annuity computed under section 4(b).

(c)(1)(A) The annuity of a qualified participant commences on the day after the later of—

(i) the effective date set forth in section 13, or

(ii) the date on which the qualified participant attains sixty-five years of age.

(B) The annuity of a qualified participant and the right thereto terminate at the end of the last calendar month preceding the day on which the qualified participant dies.

(2)(A) The annuity of a qualified spouse of a qualified participant commences on the latest of—

(i) the effective date set forth in section 13,

(ii) the first day of the month in which the qualified participant dies, or

(iii) if the qualified participant dies before attaining 65 years of age, the first day of the month in which the qualified participant would have attained such age but for the qualified participant's death.

(B) The annuity of a qualified spouse and the right thereto terminate at the end of the last calendar month preceding the day on which the qualified spouse dies.

(d) Entitlements to annuities under this section shall take effect only to such extent or in such amounts as are provided in advance in appropriation Acts.

COMPUTATION OF ANNUITY

SEC. 4. (a) The annuity computed under this subsection (relating to a qualified participant) in connection with any early terminated plan is equal to—

(1) the product of $75 and the number of years of service of the qualified participant under the plan, reduced by

(2) the amount of nonforfeitable pension benefits under the plan (if any)—

(A) to which the qualified participant is entitled, and

(B) which remain payable as of the effective date set forth in section 13 or any later date.

(b) The annuity computed under this subsection (relating to the qualified spouse of a qualified participant) in connection with an early terminated plan is equal to the greater of—

(1) 50 percent of the amount determined under paragraph (1) of subsection (a) in connection with such qualified participant, reduced by

(2) the amount of nonforfeitable pension benefits under the plan (if any)—

(A) to which the qualified spouse is entitled, and

(B) which remain payable as of such date or any later date.

CLAIM REQUIREMENTS

SEC. 5. (a) Claims for annuities under this Act shall be in such form as the Secretary of Labor shall by regulation prescribe.

(b) Claim forms shall be made available to the public by the Social Security Administration in local offices of the Administration, and completed claim forms may be filed at such local offices. The Administration shall promptly forward any such completed claim forms to the Secretary of Labor. The Secretary of Labor shall provide the Administration with claim forms necessary to carry out this subsection.

(c)(1) Claims for annuities under this Act which meet the requirements of subsection (a) and of paragraph (2) of this subsection shall be approved by the Secretary.

(2)(A) A claim meets the requirements of this paragraph if the claim includes evidence sufficient to establish that the claimant is a qualified participant or qualified spouse.

(B) Evidence which may be relevant for purposes of subparagraph (A) includes, but is not limited to—

(i) employment and payroll records of the applicable employer who, alone or together with others, maintained the early terminated plan,

(ii) documents and records of the early terminated plan,

(iii) relevant correspondence, and

(iv) affidavits.

(C) In considering claims for annuities under this Act, the Secretary of Labor shall consider, on the request of a claimant or the claimant's representative, in addition to any other relevant evidence—

(i) a comparison of employment and payroll records which were maintained under chapter 21 of the Internal Revenue Code of 1954 (relating to Federal Insurance Contributions Act) or under the Social Security Act (42 U.S.C. 301 et seq.) with records maintained by the Internal Revenue Service relating to the qualification status of trusts forming part of a stock bonus, pension, or profit-sharing plan under part I of subchapter D of chapter 1 of the Internal Revenue Code of 1954 (relating to pension, profit-sharing, stock bonus plans, etc.), and

(ii) records maintained under the Welfare and Pension Plans Disclosure Act of 1958.

ADMINISTRATIVE APPEALS

SEC. 6. (a)(1) The Secretary of Labor shall send any individual whose claim under this Act is denied by the Secretary a written notice of the denial. Such notice shall include the reason for the denial and shall set forth the procedures required to be followed in order to obtain review under this Act.

(2) Any such individual whose claim is denied is entitled to—

(A) a reasonable time, but not less than thirty days after receipt of the written notice of denial described in paragraph (1), to request a review and to furnish affidavits and other documentary evidence in support of the request;

(B) be represented by an attorney or other representative; and

(C) unless a hearing is undertaken under subsection (b), a written decision and the specific reasons therefor at the earliest practicable date.

(b)(1) The Secretary may, and, upon the request (made within fifteen days after receipt of the notice referred to in subsection (a)(1)) of any individual entitled to such notice, shall, provide by regulation for a hearing which shall be before an administrative law judge appointed under section 3105 of title 5, United States Code, or any other employee of the Department of Labor designated by the Secretary (hereinafter in this subsection referred to as the "presiding official") and which may be in lieu of or in addition to the review requested under subsection (a). Any such hearing shall be conducted in accordance with the requirements of this subsection and sections 554 and 555 of title 5, United States Code.

(2) The presiding official shall, on the basis of evidence presented at the hearing, affirm, modify, or reverse any earlier applicable findings of fact and decision under this Act.

(3) In the course of any such hearing, the presiding official may administer oaths and affirmations, examine witnesses, and receive evidence. Evidence may be received at any such hearing even though inadmissible under rules of evidence applicable to court procedure.

(4)(A) For the purpose of any such hearing, the presiding official may issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence which relates to any matter under investigation or in question before such official.

(B) The attendance of witnesses and production of evidence at the designated place of the hearing may be required from any place in the United States or in any territory or possession thereof.

(C) Subpenas issued by the presiding official shall be served by anyone authorized by such official—

(i) by delivering a copy thereof to the individual named therein, or

(ii) by registered mail or by certified mail addressed to such individual or at such individual's last dwelling place or principal place of business.

(D) A verified return by the individual so serving the subpena setting forth the manner of service or, in the case of service by registered mail or by certified mail, the return post office receipt therefor signed by the individual so served shall be proof of service.

(E) Witnesses so subpenaed shall be paid the same fees and mileage as are paid witnesses in the district courts of the United States.

(5) In the case of contumacy by, or refusal to obey a subpena duly served upon, any person, any district court of the United States for the judicial district in which the person charged with contumacy or refusal to obey is found or resides or transacts business, upon application by the Secretary, shall have jurisdiction to issue an order requiring the person to appear and give testimony, or to appear and produce evidence, or both. Any failure to obey such order of the court may be punished by the court as contempt thereof.

(c)(1) The findings and decisions of the presiding official under subsection (a) or (b) shall be binding upon all individuals involved.

(2) No finding of fact or decision of the presiding official shall be reviewed by any person, tribunal, or governmental agency except as provided in section 7.

(3) No action against the United States, the Secretary of Labor, or any officer or employee thereof shall be brought under section 1331 or 1346 of title 28, United States Code, to recover on any claim arising under this Act.

terest rate on the existing loan or the current interest rate.

Mr. President, I believe that these changes will go a long way in improving the credit situation in agriculture and I urge my colleagues to join me in this effort.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 130

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Farm Credit Improvement Act of 1983".

LIMITATION ON OPERATING LOANS

SEC. 2. Clause (1) of section 313 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1943 (1)) is amended by striking out "$100,000" and inserting in lieu thereof "$300,000".

CONSOLIDATION AND RESCHEDULING OF OPERATING LOANS

SEC. 3. (a) The second sentence of section 316(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1946 (b)) is amended by striking out "seven years" and inserting in lieu thereof "fifteen years".

(b) The fifth sentence of section 316(b) of such Act is amended to read as follows: "The interest rate on such consolidated or rescheduled loans, other than guaranteed loans, shall be the lower of (1) the rate charged under the prior loans so consolidated or rescheduled, (2) or the rate being charged for loans made under this subtitle at the time of the consolidation or rescheduling".

EXTENSION OF TIME FOR ADDITIONAL EMERGENCY LOANS

SEC. 4. (a) Notwithstanding section 330 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1971), subsequent loans to continue a farming, ranching, or acquaculture operation may be made under subtitle C of such Act on an annual basis—

(1) in the case of borrowers who have outstanding loans approved by the Secretary of Agriculture under such subtitle after December 15, 1979, and before October 1, 1981, for not to exceed four additional years; and

(2) in the case of borrowers who have outstanding loans approved by the Secretary of Agriculture under such subtitle after September 30, 1981, and before October 1, 1982, for not to exceed three additional years.

(b) subsequent loans made pursuant to the authority of subsection (a) shall be subject to the limits on loans and rates of interest established under section 324 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1964).

FARM CREDIT ASSISTANCE

SEC. 5. It is the sense of the Congress that the Secretary of Agriculture should exercise, to the maximum extent practicable, any authority that the Secretary may have to defer principal and interest on, forego foreclosure on, consolidate or reschedule, or provide other forms of credit assistance for any outstanding loans made, insured, or held by the Secretary under the consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.), or under the provisions of any other law administered by the Farmers Home Administration, upon a showing by the borrower that due to circumstances beyond the borrower's control the borrower is temporarily unable to continue making payments on such loans when due without unduly impairing the standard of living of the borrower.

By Mr. SASSER (for himself, Mr. SARBANES, Mr. PELL, Mr. BRADLEY, Mr. INOUYE, and Mr. TSONGAS):

S. 131. A bill to require the Economic Regulatory Administration of the Department of Energy to complete the investigation of all oil overcharge cases pending within the administration; to the Committee on Energy and Natural Resources.

INVESTIGATION OF OIL OVERCHARGE CASES

● Mr. SASSER. Mr. President, I would like to call to the attention of my colleagues a matter that has been of continuing concern to me—the Department of Energy's ongoing oil overcharge investigation. I mention this issue because I believe that there has been and continues to be a concerted and systemic attempt by the administration to place these investigations on the back burner. In light of the administration's desire to dismantle the Department of Energy, pending oil overcharge investigations may well be terminated.

Many may recall that, last year about this same time, Rayburn Hanzlik, the Department of Energy's chief enforcement officer, indicated that "* * * we will be able by the end of September to have most, if not all, of the major cases settled." Now, 1 year and a proposed DOE reorganization later, the Department of Energy, through the auspices of the Economic Regulatory Administration, is still dragging its heels in these cases. Mr. President, this attempt to sweep these investigations under an administrative rug is a travesty of justice and a grave affront to the American people.

To date, 21 of the major refiners have entered into consent settlements with the Department of Energy. While the total amount of overcharge funds involved in these settlements is approximately $2.3 billion, the cash refunds to customers represented a mere 7 percent. Only $25 million of these funds have been set aside for low income energy assistance. Cash payments and price rollbacks collectively account for only 11 percent of the total amount involved in these settlements.

Mr. President, at this point in my remarks, I would like to include a chart which indicates the remedies involved in those cases that have been settled. The major refiners involved in these settlements were: Kerr-McGee Corp.; Cities Services Co.; Phillips Petroleum Co.; Getty Oil Co.; Standard Oil Co. (Indiana); Sun Co., Inc.; Amerada Hess Corp.; Commonwealth Oil Refining Co., Inc.; The Coastal Corp.; Tosco Corp.; Koch Industries, Inc.; Ashland Oil, Inc.; Standard Oil Co. of California; Farmland Industries; American Petrofina, Inc.; Union Oil Co.; Conoco, Inc.; Champlin Petroleum Co.; and SOHIO.

Remedies:	*Millions*
Cash refunds	185.9
Price rollbacks	80.7
Bank reductions	808.3
Crude purchases	22.0
Investments	100.0
Escrow accounts	226.0
Strategic petroleum reserve	51.0
Research and development	910.0

Mr. President, when these cases began over a year ago, there were over a thousand cases to be reviewed. Since that time, more than 210 of these cases have been dropped with no charge, administrative, civil, or otherwise, having been filed; 660 cases, including cases involving eight major refiners, remain to be settled. Yet over half of the Economic Regulatory Administration's staff has been either shifted or dropped from these investigations.

Mr. President, the inability or apparent unwillingness of the Department of Energy to aggressively pursue an end to these investigations is an affront to the American people. The over $5 billion in pricing violations were not figments of the American people's imagination. Those who were adversely affected by the pricing violations deserve compensation. Those who were responsible for the alleged overcharges deserve to be penalized for their actions.

Notwithstanding the apparent stall in the progress of these investigations, I do not believe that we should allow these investigations simply to wind down. The proposed reorganization of the Department of Energy makes the need for the thorough and expeditious completion of these investigations even more evident.

Mr. President, today I am introducing legislation which I believe is necessary to insure the thorough completion of these investigations. The amendment that I am proposing would prevent the proposed DOE dismantlement from sounding the death knell to the ongoing oil overcharge investigation. This amendment specifically adds an additional subsection to section 206 of the Department of Energy Organization Act. The amendment provides a 2-year time limit for the completion of all pending cases, and further provides that the Department of Energy shall provide quarterly schedules to the appropriate committees of jurisdiction regarding progress in these cases. I believe that this legislation is vital for the continuity of the oil overcharge investigation. I urge my colleagues to support me in this effort.

Mr. President, I ask unanimous consent that the full text of S. 131 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 131

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 206 of the Department of Energy Organization Act is amended by adding at the end thereof the following:

"(c)(1) The Economic Regulatory Administration shall complete the investigation of all oil overcharge cases pending in the Administration as of January 1, 1983 within two years of the date of enactment of this section. This section shall not apply to any investigation initiated after Jan. 1, 1983.

"(2) During the two-year period provided in paragraph (1), the Administration shall establish a schedule for the prosecution of all oil overcharge cases, including those initiated after January 1, 1983, and shall make such schedule available to the Committee on Governmental Affairs of the Senate, and other committees of jurisdiction on a quarterly basis.".●

Mr. NUNN. Mr. President, I am pleased to have this opportunity to join with Senator COCHRAN in the introduction of the Agriculture Credit Improvement Act of 1983.

I do not think it is any exaggeration to say that agriculture today is facing its most difficult challenge since the Great Depression. Farm income in 1982, if you measure it in constant dollars, is the lowest it has been since the U.S. Department of Agriculture started keeping books in the year 1910.

Our current farm problems have many causes. Excess production, weakened demand both domestically and abroad, and exorbitant production costs are among them.

Certainly high on everyone's list of problems which must be addressed is the emerging credit crisis which many farmers now face.

Total farm debt has increased by over 400 percent since 1971. For the first time in the history of American agriculture, the interest paid on farm loans exceeded tht total net farm income in 1982.

Only 5 years ago the Farmers Home Administration financed less than 10 percent of all farm loans. Today as much as 35 percent of the total farm debt loan is carried by FmHA.

In Georgia approximately 9,200 farmers are financed by FmHA. Because of the disastrous economic and weather conditions we have experienced since 1977 over 50 percent of these borrowers are in some stage of delinquency in repaying these loans—most through no fault of their own.

I believe that it is essential that the Agriculture Credit Improvement Act of 1983 is approved to give FmHA in Georgia and other agricultual States the flexibility to deal with the current credit crisis.

Without this legislation many farmers will not be able to obtain the financing necessary for the 1983 crop year. The provisions of this bill will allow FmHA officials to work with FmHA borrowers on a case-by-case basis to reschedule, consolidate, stretch out, and reamortize loans to avoid involuntary liquidation where a farmer has a reasonable chance of recovery. This bill will also increase the present $100,000 limit on operating loans to $300,000 to prevent many family-size farmers from being prohibited from any source of loan funds. Finally, the bill will give those farmers who have received past FmHA disaster loans access to subsequent operating loans under the disaster lending program for 1983 and 1984 at a loan level not to exceed $500,000.

Mr. President, I want to commend Senator COCHRAN for his leadership on this important legislation. Also, I would like to thank members of the Georgia Agricultural Advisory Committee, coordinated by Dean William Flatt of the University of Georgia College of Agriculture who has provided valuable input to me on this and other agriculture issues.

Georgia Commissioner of Agriculture Tommy Irvin, Georgia Farm Bureau President Bob Nash, and other key agriculture leaders in Georgia have made a major contribution to legislative initiatives such as this bill through their participation in the advisory committee.

The recommendations of the advisory committee's credit subcommittee, chaired by Fred Greer of Citizens & Southern National Bank were most helpful in the formulation of this bill.

Mr. President, I urge the Senate Agriculture Committee to address this serious credit problem as soon as possible in the week ahead.

By Mr. SASSER:

S. 132. A bill to amend the Energy Policy and Conservation Act to prohibit the purchase of Iranian and Libyan oil to fill the strategic petroleum reserve, and for other purposes; to the Committee on Energy and Natural Resources.

ANTITERRORIST PETROLEUM ACQUISITION ACT

● Mr. SASSER. Mr. President, today I am reintroducing legislation concerning the strategic petroleum reserve. This legislation would prevent American purchasers of Iranian and Libyan oil to fill the strategic petroleum reserve. It is not enough that we abhor, in principle, acts of terrorist aggression and violence. We can and must place an economic clamp on terrorism wherever it may exist.

There were valuable lessons which accompanied the OPEC oil situation of the 1970's. No longer could the United States take for granted the ready availability of foreign sources of oil. No longer could we be assured of across-the-board honesty and fair dealing in the petroleum market. In short, it became increasingly apparent that the United States would have to assume control of its own energy future.

Mr. President, the strategic petroleum reserve was established as a mechanism by which we could insure the adequacy of our Nation's emergency petroleum reserve. The strategic petroleum reserve was intended to insure that the United States would never again fall victim to the kind of economic and political blackmail that was associated with the OPEC oil crisis of the 1970's.

Mr. President, I believe that past actions and policies of the Department of Energy run counter to the best interests of the United States. The Defense Fuel Supply Center recently stated that it intends to purchase "the best oil at the best price."

Mr. President, I do not believe that the "best oil" includes that from Iran and Libya.

Mr. President, I do not believe that the "best price" should be achieved at the expense of world peace and global security.

Iran and Libya have been responsible for the most reprehensible acts of terrorism in recent times. The Iranian abduction of 52 Americans and the Libyan Government's aggression in Chad and the Sudan are bleak chapters in recent international history.

At present, Iran and Libya are actively engaged in efforts to sell their oil substantially below market prices. While Iranian and Libyan oil, currently priced at $31.20 and $32.15 a barrel respectively, appear to represent a "good deal," these prices, in fact, are no more than downpayments on terrorism.

Since the early 1970's, the United States has purchased some 44 million barrels from Iran and Libya. This represents 20 percent of the total amount of oil under contract to fill the strategic petroleum reserve. Last year, the United States spent $53.1 million on Iranian oil alone. Ironically, this acquisition occurred on the second anniversary marking the aborted rescue of 52 American hostages.

Mr. President, I believe that a point has been reached at which we ought to recognize the international consequences of purchasing oil from Iran and Libya. These so-called good deals will have a profound effect on world security. These "bargains" are no more than attempts by Iran and Libya to finance their acts of terrorist aggression at world expense.

Mr. President, I urge my colleagues to send a resounding message to Iran and Libya, and other terrorist nations as well, that the United States shall not now or ever conduct business with terrorists.

Mr. President, I ask unanimous consent that the full text of S. 132 be printed in the RECORD.

JUDICIAL REVIEW

SEC. 7. (a) Any individual, after any final decision made after a hearing under section 6(b), irrespective of the amount in controversy, may obtain a review of the decision by a civil action commenced within sixty days after the mailing to the individual of notice of such decision or within such further time as the Secretary of Labor may allow.

(b) Any action commenced under this section shall be brought in—

(1) the district court of the United States for the judicial district in which the plaintiff resides, or in the judicial district in which is located the plaintiff's principal place of business, or

(2) if the plaintiff does not reside within any such judicial district and the plaintiff's principal place of business is not located in any such district, in the United States District Court for the District of Columbia.

(c) As part of any answer by the Secretary of Labor, the Secretary shall file a certified copy of the transcript of the record, including the evidence upon which the findings and decision complained of are based.

(d) The court shall enter, upon the pleadings and transcript of the record a judgment affirming, modifying, or reversing the decision, with or without remanding the case for a rehearing.

(e) The findings under section 6(b) as to any fact, if supported by substantial evidence, shall be conclusive. In any case in which a claim has been denied because of failure of the claimant to submit proof in conformity with any regulation prescribed under section 4, the court shall review only the question of conformity with such regulations and the validity of the regulations.

(f)(1) The court shall, on the motion of the Secretary made before the Secretary files the Secretary's answer, remand the case to the Secretary for further action by the Secretary. The court may, at any time, on good cause shown, order additional evidence to be taken before the Secretary.

(2) The Secretary shall, after the case is remanded, and after hearing such additional evidence if so ordered—

(A) modify or affirm the earlier findings of fact or decision, or both, under section 6(b), and

(B) file with the court any such additional and modified findings of fact and decision, and a transcript of the additional record and testimony upon which the Secretary's action in modifying or affirming was based.

(3) Any such additional or modified finding of fact or decision shall be reviewable only to the extent provided for review of the original finding of fact or decision.

(g) The judgment of the court shall be final except that it shall be subject to review in the same manner as a judgment in other civil actions.

(h) Any action instituted in accordance with this section shall survive notwithstanding any change in the person occupying the office of Secretary or any vacancy in such office.

PAYMENT OF ANNUITIES

SEC. 8. (a)(1) Each annuity is stated as an annual amount, one-twelfth of which, fixed to the nearest dollar, constitutes the monthly rate payable during the month after the month or other period for which it had accrued.

(2) Any individual whose claim for an annuity under this Act is approved after the date on which the annuity commences under paragraph (1)(A) or (2)(A) of section 3(c) shall be paid the total amount of the annuity payments for months before the date on which the claim is approved in the form of a lump-sum payment.

(b) Upon a final decision under section 6, or upon the final judgment of any court of competent jurisdiction under section 7, that any individual is entitled to one or more annuity payments under this Act—

(1) the Secretary of Labor shall certify to the Secretary of the Treasury—

(A) the name, address, and social security account number of the individual so entitled to receive such payments,

(B) the amount of such payments, and

(C) the time at which such payments should be made, and

(2) the Secretary of the Treasury, through the Division of Disbursement of the Department of the Treasury, shall make such payments—

(A) in accordance with the certification of the Secretary of Labor, and

(B) to the extent practicable, together with any payments of benefits made to the individual under the Social Security Act through such Division.

(c)(1) The Secretary of the Treasury shall promptly notify the Secretary of Labor of each annuity under this Act which terminates.

(2) The Secretary of the Treasury shall transmit quarterly to the Secretary of Labor a report setting forth the following information in connection with the last quarter:

(A) the number of annuities in pay status as of the end of the last quarter;

(B) the number of annuities which terminated during the last quarter; and

(C) the total amount paid as annuity payments under this Act during the last quarter.

(d)(1) Payment due an individual mentally incompetent or under other legal disability may be made to the person who is constituted guardian or other fiduciary by the law of the State of residence of the claimant or is otherwise legally vested with the care of the claimant or the claimant's estate. If a guardian or other fiduciary of the individual under legal disability has not been appointed under the law of the State of residence of the claimant, payment may be made to any person who is responsible for the care of the claimant, and the payment bars recovery by any other person.

(2) Determinations under paragraph (1) shall be made by the Secretary of Labor and certified to the Secretary of the Treasury.

(e)(1) Payments under this Act which would otherwise be made to a person under this Act shall be made (in whole or in part) to another person if and to the extent expressly provided for in the terms of any court decree of divorce, annulment, or legal separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of divorce, annulment, or legal separation. Any payment under this paragraph to a person bars recovery by any other person.

(2) Paragraph (1) shall only apply to payments made by the Secretary of the Treasury under this Act after the date of receipt by both the Secretary of the Treasury and the Secretary of Labor of written notice of such decree, order, or agreement, and such additional information and documentation as the Secretary of Labor may prescribe.

(3) As used in this subsection, the term "court" means any court of any State.

(f)(1) Amounts payable under this Act are not assignable, either in law or equity, or subject to execution, levy, attachment, garnishment, or other legal process, except as otherwise may be provided by Federal law.

(2) Recovery of payments under this Act may not be made from an individual in any case in which the Secretary of Labor determines that the individual is without fault and recovery would be against equity and good conscience.

INTERAGENCY COORDINATION AND COOPERATION

SEC. 9. (a) The Secretary of Labor may make such arrangements or agreements with other departments, agencies, or establishments of the United States for cooperation or mutual assistance in the performance of their respective functions under this Act as are necessary and appropriate to avoid unnecessary expense and duplication of functions.

(b) The Secretary of Labor may use, as appropriate, on a reimbursable or other basis, the facilities or services of any department, agency, or establishment of the United States or of any State or political subdivision thereof, including the services of any of its employees, with the lawful consent of such department, agency, or establishment.

(c)(1) Each department, agency, or establishment of the United States shall cooperate with the Secretary of Labor and, to the extent necessary and appropriate, provide such information and facilities as the Secretary may request for his assistance in the performance of the Secretary's functions under this Act.

(2) The Secretary of Health and Human Services shall provide the Secretary of Labor with such records, determined by the Secretary of Labor to be necessary to carry out the purposes of this Act, as the Secretary of Labor may request.

(3) Section 6103(j) of the Internal Revenue Code of 1954 (relating to statistical use of returns and return information) is amended—

(A) by redesignating paragraph (4) as paragraph (5); and

(B) by inserting after paragraph (3) the following new paragraph:

"(4) DEPARTMENT OF LABOR.—Returns and return information shall be open to inspection by or disclosure to officers and employees of the Department of Labor whose official duties require such inspection or disclosure for the purpose of, but only to the extent necessary in, considering such returns and return information pursuant to section 5(c)(2)(C) of the Terminated Employee Pension Restoration Act of 1980. Such inspection or disclosure shall be permitted only upon written request which sets forth the specific reason or reasons why such inspection or disclosure is necessary and which is signed by the head of the bureau or office of the Department of Labor requesting the inspection or disclosure.".

DELEGATION OF POWERS AND DUTIES

SEC. 10. The Secretary of Labor may delegate to any officer or employee of the Department of Labor designated by the Secretary any of the powers and duties conferred upon the Secretary by this Act to the extent necessary to effectively carry out the purposes of this Act.

REGULATIONS

SEC. 11. The Secretary of Labor shall, before the effective date set forth in section 13, prescribe the initial regulations necessary to carry out the provisions of this Act. Regulations under this Act shall be prescribed by the Secretary of Labor in consultation, as appropriate, with the Secretary of

the Treasury and the Secretary of Health and Human Services.

AUTHORIZATION OF APPROPRIATIONS

SEC. 12. (a) There is authorized to be appropriated for the fiscal year beginning October 1, 1981, to the Department of Labor such sums as are necessary for the purpose of carrying out its functions under this Act (including reimbursable expenses incurred by any other department, agency, or instrumentality of the United States or of any State or political subdivision thereof).

(b) There are authorized to be appropriated to the Department of the Treasury for the purpose of making annuity payments under this Act such sums as are necessary to make such payments beginning with the fiscal year beginning on October 1, 1981, and continuing until the last such payment is made.

EFFECTIVE DATE

SEC. 13. The preceding provisions of this Act (other than sections 11 and 12) shall take effect 180 days after the date of the enactment of the Act.●

By Mr. D'AMATO:

S. 134. A bill to amend the Internal Revenue Code of 1954 to permit certain cooperative housing corporations to replace conventional financing with tax exempt financing; to the Committee on Finance.

FINANCING OF COOPERATIVE HOUSING CORPORATIONS

● Mr. D'AMATO. Mr. President, I am today introducing legislation to permit the refinancing of publically assisted low- and moderate-income cooperative housing. This refinancing of impeding balloon payment would involve the use of tax-exempt bonds granted by local housing authorities. Current law already permits tax-exempt financing for new residential construction and for substantially rehabilitated older housing.

Similar financing options should also be available, however, to refinance the balloon payments of conventional mortgages in cases where the local community has demonstrated a genuine commitment to such developments through the granting of local tax abatement. If such relief is not granted, rents will rise more than 37 percent for a predominently elderly, low- and middle-income population. This will force the relocation of many long-standing residents and will cause severe hardship and a disruption in their lives.

In my State, I have nine such cooperative apartments. They were constructed between 1939 and 1950 and were originally financed with conventional mortgages of between 4.3 and 8.5 percent. The tenants in these 13,542 units can simply not afford the additional costs of refinancing their balloon payments at today's conventional mortgage rates. They must be helped. The required legislation, however, has negligible revenue implications.

Mr. President, I ask unanimous consent that the text of this legislation be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 134

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) paragraph (10) of section 103A(l) of the Internal Revenue Code of 1954 (relating to other definitions and special rules relating to mortgage subsidy bonds) is amended by redesignating subparagraph (C) as subparagraph (D) and by inserting after subparagraph (B) the following new subparagraph:

"(C) CERTAIN REFINANCINGS PERMITTED.—

"(i) IN GENERAL.—If substantially all of the proceeds of an issue are used to replace mortgages on buildings owned by qualified cooperative housing corporations, subsections (e) and (h), and subparagraph (A) of subsection (j)(1), shall not apply to such issue.

"(ii) QUALIFIED COOPERATIVE HOUSING CORPORATION.—For purposes of clause (i), the term 'qualified cooperative housing corporation' means any cooperative housing corporation if—

"(I) all buildings owned by the corporation were constructed before 1972,

"(II) State law restricts the amount of earnings of the corporation,

"(III) some portion of the real property taxes on most of the buildings owned by the corporation were abated for at least the 10 years after the construction of said buildings, and

"(IV) the resale price of stock in the corporation is limited by a formula."

(b) The amendments made by this Act shall apply to obligations issued after the date of the enactment of this Act.●

By Mr. MATTINGLY:

S. 135. A bill to prohibit permanently the issuance of regulations on the taxation of fringe benefits; to the Committee on Finance.

TAXATION OF FRINGE BENEFITS

● Mr. MATTINGLY. Mr. President, I rise today to introduce S. 135, which will prohibit the Internal Revenue Service from issuing regulations regarding the taxation of fringe benefits indefinitely.

In the 97th Congress, I was successful in having an amendment attached to the Economic Recovery Tax Act of 1981, which extended a temporary moratorium on this subject until December 31, 1983. That day is quickly approaching and with its arrival the opening of a so-called can of worms is conceivable. For example, if an individual parked on a lot owned by an employer, the value of free parking could amount to taxable income. If an individual worked in a store and received an employee discount, that employee could conceivably be required to pay income tax on the amount of the discount. An individual could be required to pay income tax on the amount of employer paid civic organization dues, or the cost of a company picnic or Christmas party could be considered taxable income to participating employees. As you can see, the list of such examples is endless.

Working men and women of America already pay too much tax. Just last year, Congress saw fit to increase the tax on cigarettes, airline fares, phone bills, and health insurance benefits, to mention only a few. I am proud of my vote against the tax increases on these items.

Without enactment of this proposal, the Internal Revenue Service will be putting its hand further into the back pockets of the working men and women of this country.

I would like to point out that enactment of this legislation would not cause a net revenue loss. It would only prevent the Congress from further increasing the already too high tax liability.

Last year, Senator JEPSEN and I, along with 62 other Senators from both political parties, wrote Secretary of the Treasury Regan requesting that he halt the publication of such regulations. In response to that effort, Secretary Regan decided that "no regulations or rulings altering the tax treatment of fringe benefits will be issued by the Treasury prior to July 1, 1982." I was pleased by his decision. However, I remind my colleagues that this period of safeguard has passed and we need to send the administration another signal that we will not stand idly by and let regulations be issued which will have the effect of taxing fringe benefits. I therefore urge all my colleagues to join with me in cosponsoring S. 135.●

By Mr. D'AMATO:

S. 136. A bill to amend the Internal Revenue Code of 1954 to lower the limitation on defined benefit plans established for policemen and firemen; to the Committee on Finance.

LIMITATION ON DEFINED BENEFIT PLANS

● Mr. D'AMATO. Mr. President, I am today introducing legislation to correct an inequity in section 235(e) of the Tax Equity and Fiscal Responsibility Act of 1982. This provision requires that pension payments under qualified defined benefit plans be limited to $75,000, actuarily reduced for those who retire before age 55. This actuarial reduction limits a pension for someone who retires at age 40 to $26,741. Procedural safeguards are included in this section for those who retire due to disability and for those whose benefits are the result of collective bargaining.

Unfortunately, the 32,000 police officers and firefighters covered under the New York State qualified pension plan are unprotected by these safeguards. Benefits have been set without collective bargaining since 1974. Twenty-three thousand members of this plan are eligible to retire at half pay after 20 years of service. A recent analysis by the deputy comptroller of New

York State revealed that there are currently 1,000 active members of the plan—3.4 percent of the total membership—whose retirement benefits would exceed allowable limits should they choose early retirement. The first of these individuals is eligible for retirement in a few months.

This places my State in an extremely unenviable position. To pay the full benefits due these police officers and firefighters would violate the 1982 tax law. This, of course, could lead to the disqualification, by the Internal Revenue Service, of the entire New York State pension plan. On the other hand, to limit pension benefits to the amounts specified in TEFRA, and thus deny retirees the payments which they have anticipated and to which they are entitled, would violate article 5, section 7 of the State constitution. Neither of these options is satisfactory.

The solution to this dilemma which I am today proposing would provide our Nation's police officers and firefighters with a slightly higher early retirement benefit than that allowed under TEFRA. This would be done by applying normal age 62 retirement benefit limitations to police officers and firefighters at age 55. Actuarial reduction for early retirement would still be required. Thus, the maximum allowable benefits at age 40, following 20 years of service, would become $32,089. It is only fair that those public servants who lay their lives on the line for us every day of the year should not be denied the full retirement benefits which they have earned and on which they have based their plans for the future.

This change, which would cost the Federal Government nothing, should be given the highest priority. The new pension limits take effect in New York on April 1, 1983. We should not risk the disqualification of an entire State-qualified pension plan.

Mr. President, I ask unanimous consent that this legislation be printed in the RECORD in full following my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 136

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LIMITATION ON BENEFITS UNDER POLICE AND FIREMEN'S PENSION PLANS.

Paragraph (2) of section 415(b) of the Internal Revenue Code of 1954 (relating to annual benefit) is amended by adding at the end thereof the following new subparagraphs:

"(F) SPECIAL LIMITATION FOR QUALIFIED POLICE OR FIREMEN'S PENSION PLANS.—In applying subparagraph (C) with respect to a participant in a qualified police or firemen's plan, '55' shall be substituted for '62' each place it appears.

"(G) QUALIFIED POLICE OR FIREMEN'S PLAN DEFINED.—For purposes of this paragraph, the term 'qualified police or firemen's plan' means a defined benefit plan—

"(i) which is maintained by a State, or political subdivision thereof, for the benefit of all full-time employees of any police department or fire department that is organized and operated by such State or political subdivision to provide police protection, firefighting services, or emergency medical services for any area within the jurisdiction of such State or political subdivision,

"(ii) under which benefits are determined solely by reference to the length of service of the employee in—

"(I) such a police or fire department, or

"(II) the armed forces of the United States, and

"(iii) which requires, as a condition of participation of any employee in the plan, that the sum of—

"(I) the number of years such employee was employed on a full-time basis by such State or political subdivision in such a police or fire department, plus

"(II) the number of years such employee served in the armed forces of the United States (to the extent such years are taken into account under the plan),

equals or exceeds 20 years.".

SEC. 2. EFFECTIVE DATE.

The amendment made by section 1 shall take effect as if it had been included in section 235 of the Tax Equity and Fiscal Responsibility Act of 1982.●

By Mr. ROTH (for himself, Mr. MITCHELL, Mr. SASSER, Mr. DURENBERGER, Mr. DANFORTH, Mr. HEFLIN, Mr. DODD, Mr. TSONGAS, Mr. MELCHER, Mr. ABDNOR, Mr. PACKWOOD, Mr. D'AMATO, Mr. STAFFORD, Mr. COCHRAN, Mr. LEVIN, Mr. TRIBLE, Mr. RIEGLE, Mr. WALLOP, Mr. CRANSTON, Mr. MURKOWSKI, Mr. PELL, and Mr. HUDDLESTON):

S. 137. A bill to amend the Internal Revenue Code of 1954 to continue to allow mortgage bonds to be issued; to the Committee on Finance.

HOUSING FINANCE OPPORTUNITY ACT OF 1983

● Mr. ROTH. Mr. President, I am introducing legislation today, the Housing Finance Opportunity Act of 1983, which will eliminate the sunset provision for mortgage revenue bonds. Senators MITCHELL, SASSER, DURENBERGER, DANFORTH, HEFLIN, DODD, TSONGAS, MELCHER, ABDNOR, PACKWOOD, D'AMATO, STAFFORD, COCHRAN, LEVIN, TRIBLE, RIEGLE, WALLOP, CRANSTON, MURKOWSKI, PELL, and HUDDLESTON are joining with me in offering this legislation.

Without this legislation the authority for States and localities to issue tax-exempt bonds to create capital to finance single-family mortgages will expire on December 31, 1983. The legislation we are introducing today simply allows for the continuation of this valuable program.

The Chairman of the Federal National Mortgage Association, Mr. David O. Maxwell, has stated that more than $1 trillion will be needed to meet the Nation's home financing needs in the eighties based on projections of mortgage originations of $180 to $200 billion a year. The advent of banking deregulation raises questions on how the mortgage credit needs, especially for low- and moderate-income buyers and the 1½ million first-time home buyers entering the marketplace each year will be met. The mortgage revenue bond program—which is targeted toward just this segment of the population—can help meet this mortgage credit need. In addition the inherent flexibility in the program, which has been utilized in nearly every State, enables States and localities to respond to their particular housing demands.

Mortgage revenue bonds have proven their value to the housing industry and home buying public. During 1982 the Council of State Housing Agencies estimates that single family mortgage revenue bond volume was $8.3 billion, an amount which will finance approximately 150,000 homes. It is likely that the thousands of people utilizing this program would have been unable to purchase homes without the advantage of mortgage revenue bond financing. Additionally, it is estimated that approximately 80,000 jobs and several hundred million in tax revenues were generated through the program.

The program's effectiveness can be demonstrated clearly through the experience of the single family mortgage program in my own State of Delaware. In the past 3 years the Delaware State Housing Authority has assisted more than 3,500 low- and moderate-income Delaware families through mortgage revenue bond financing. According to the authority their typical borrower is 28 years old, married with one child, with an income of $19,300 and is purchasing a $41,600 home. This accomplishment was made possible in spite of the worst downturn in the history of the housing industry. I think we must provide for the continuation of the mortgage revenue bond program. The legislation we are introducing has the support of a number of public interest groups, and I would ask that a letter I have received from them in support of our effort be inserted in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JANUARY 24, 1983.

Hon. WILLIAM V. ROTH,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR ROTH: The undersigned organizations support your efforts to gather support for legislation to eliminate the December 31, 1983 "sunset" on the issuance of single family mortgage revenue bonds.

State and local governments have effectively used mortgage revenue bonds to meet local and national housing needs. These

bonds reduce the cost of single family homeownership for low and moderate income families by lowering mortgage interest rates and by allowing smaller downpayments than required by conventional lenders. Although interest rates have decreased somewhat we believe the availability of the mortgage revenue bond program must continue especially in light of the very realistic possibility that interest rates will again shoot upward.

Mortgage revenue bonds contribute to the creation of jobs in the construction industry. The Council of State Housing Agencies has estimated that the construction of new housing units directly financed with 1982 mortgage revenue bond proceeds have created 76,000 to 89,000 new jobs, resulting in an additional payment of $1.4 billion to $1.6 billion in wages. Further, it has been estimated that $640 million to $740 million in taxes was generated as a result of the construction of these new units, of which $550 million to $640 million was payable to the Federal Treasury.

We believe the elimination of the sunset is one of the most important issues before the Congress this year. We look forward to working with you to maintain the Mortgage Revenue Bond Program, ensure the continued viability of the American housing industry, and provide decent and affordable housing for all.

Sincerely,

City of Oakland, California; National Association of Housing and Redevelopment Officials; National Governors' Association; Association of Local Housing Finance Agencies; Council of State Housing Agencies; National Association of Realtors; Public Securities Association; Council of State Community Affairs Agency; National Conference of State Legislatures; United States Conference of Mayors; American Institute of Architects; National Association of Home Builders; National Lumber and Building Materials Dealers Association.

Mr. ROTH. Mr. President, I urge my colleagues to join in supporting the continuation of the mortgage revenue bond program through the elimination of the sunset provision.●

● Mr. DURENBERGER. Mr. President, the legislation we introduce this morning would repeal the sunset provision applicable to mortgage revenue bonds.

When this sunset provision was enacted in the Ullman omnibus tax bill of 1980, several questions had been raised about the effectiveness and efficiency of mortgage revenue bonds. Since then, with minor modification, mortgage recenue bonds have provided one of the few bright spots in the entire housing area. In my State of Minnesota alone, mortgage revenue bonds sold in the last 2 years will finance 1,900 mortgage loans.

Even more important, the benefit of these mortgages has been focused on low and moderate income Minnesotans, those most hurt by the affordability gap caused by stubbornly high interest rates. Much of the new housing built in Minnesota during that last 2 years resulted from mortgage revenue bond financing. As a consequence, mortgage revenue bond financing has been an important job creator as well as a source of shelter for those who most need help. Nationally, the proceeds of mortgage revenue bonds are estimated to have financed 150,000 units of housing in 1982 and created 80,000 jobs.

The original sunset provision governing mortgage revenue bonds was part of legislation that placed several restrictions on the use of MRB's. Some of these restrictions were necessary to close loopholes being used by a very small percentage of those involved in MRB financing. However, many of those changes created unintentional paperwork problems and serious issuing problems for legitimate users of mortgage revenue bonds. It took several months of detailed review and the involvement of many, many concerned groups to accomplish even the modest alterations needed to make MRB financing viable as intended.

The point in reviewing this recent history of MRB legislation and regulation is to emphasize that the program has been handcuffed for most of the last 2 years. Even with one hand tied behind its back the program has managed to achieve significant results. It would be wasteful and counterproductive to eliminate this program just as it is reaching full stride, and at a time when our housing industry could be a leader in revitalizing our economy.

At a time when direct Federal aid to new housing construction is being substantially diminished in an effort to reduct the deficit, it would be foolhardy to shut down a proven program that helps provide housing at reasonable, affordable rates for low and moderate income Americans.

I urge my colleagues to support this measure.●

● Mr. MITCHELL. Mr. President, I am pleased to join Senator ROTH in introducing legislation, the Housing Finance Opportunity Act of 1983, which will eliminate the December 31, 1983 sunset provision of the Mortgage Revenue Bond Tax Act.

This legislation is urgently needed to keep in place a proven program which provides both jobs and housing at a minimal cost to the Federal Treasury. The Nation is currently in the midst of its deepest recession since the end of World War II. Only last week it was announced that the gross national product had dropped in the last quarter of 1982 at the rate of 2.8 percent per annum. For all of 1982 the GNP dropped 1.8 percent. Unemployment is currently running at 10.8 percent of the work force: 12 million workers cannot find jobs. In addition 1,600,000 workers have given up trying to find work and another 2,200,000 workers have had to settle for part-time employment even though they desire full-time work.

The situation among construction workers is even worse. In 1982 the average unemployment rate was 18.8 percent while in a related industry, lumber, the seasonably adjusted unemployment rate for December was 17.7 percent. The housing statistics are equally dismal. Only 1 million new single family homes were constructed last year, down 18 percent from 1980. The commercial home mortgage interest rate went higher than 17 percent in 1982 and averaged 16.5 percent for the year. With these rates, low and middle income buyers were effectively squeezed out of the market.

Amidst all of this gloom there was one source of light—the mortgage revenue bond program. It is estimated that 150,000 units of housing were financed by mortgage revenue bonds in 1982 alone; 80,000 jobs were generated directly through bond proceeds utilized in the construction of new housing units. This program provided financing for over 10 percent of all the new single family housing production in 1982 and has assisted nearly 1 of every 3 first time home buyers.

Nearly every State has utilized the mortgage revenue bond program. For the State of Maine, this program is a key component in the State's overall housing plans. With commercial interest rates running at 18 percent during parts of 1982, less than 20 percent of the State's population could even afford a moderate $35,000 mortgage without paying an excessive portion of their income for mortgage principal and interest. Even with rates down to 12 percent, fully two-thirds of Maine's population still could not afford such a moderate mortgage. In contrast, as recently as a decade ago 80 percent of the State population could afford an average mortgage.

Given this situation, and the cutbacks by the administration in its other housing programs, mortgage revenue bonds are virtually the only show in town for low- and middle-income home buyers in Maine. Through use of the mortgage revenue bond program, these home buyers can obtain mortgages at rates approximately 25 percent below conventional home mortgage interest rates with a downpayment requirement of 5 percent versus 20 to 25 percent in conventional loans.

Maine has adopted the mortgage revenue bond program to suit its needs. One of the major advantages of mortgage revenue bonds is that they provide each State and locality with the flexibility to respond to its local housing situation with a minimum of Federal intervention and with a minimum drain on the U.S. Treasury. It is this flexibility which explains why 47 States and Puerto Rico have utilized this program.

Mr. President, I began this presentation today with a recitation of the distressing economic statistics which quantify the human suffering which has been brought about by this terrible recession. I believe that these figures fully justify increased activity by the U.S. Government in the areas of jobs and housing. Before enacting my new programs for jobs and housing, however, we must insure that those programs like mortgage revenue bonds which have been proven to be successful are allowed to continue. The Housing Finance Opportunity Act of 1983, by eliminating permanently the sunset provision for mortgage revenue bonds, will guarantee the continuation of this most valuable program. This is a bill which Senators from both parties can and have endorsed. I intend to work closely with Senator ROTH and other sponsors of this bill to insure its speedy passage.●

● Mr. SASSER. Mr. President, I am pleased to join today with Senator ROTH and others as an original cosponsor of S. 137, a bill to remove the sunset provision of the Mortgage Subsidy Bond Tax Act of 1980.

The mortgage bond program now has an established track record of quality performance as a delivery system for first-time homebuyers. In Tennessee alone, since the program began, the Tennessee Housing Development Agency has provided over $590 million in mortgage loans, creating a total economic activity of $1.4 billion for the State. This includes $8 million per year in local property tax; Federal personal and corporate income tax of $61 million; $224 million in building materials; 13,790 jobs; $112 million in construction labor; $121 million in contractors and professional fees; $134 million in land development; and $17 million in State sales and privilege tax. This success story has been repeated in States all across the country.

In 1982 alone, mortgage bond volume nationally is estimated at $8.3 billion, meaning that approximately 150,000 units of housing were financed through this program alone—at minimal initial cost to the Treasury and with tax revenues through production in the hundreds of millions of dollars, as reflected in the Tennessee figures. In many areas, the mortgage bond program was virtually the only mortgage delivery system still functioning during the worst months of the housing depression; with recovery still slow, sporadic and uncertain in this battered industry, it would be a gross miscalculation to allow the program to expire.

It is important to point out that the mortgage bond program has undergone almost 3 years of legislative and regulatory finetuning to bring it to its present-day efficiency. After the Mortgage Subsidy Bond Tax Act of 1980 virtually ground the program to a halt with its vague and conflicting requirements, I introduced legislation to make the necessary technical corrections; this bill, S. 1348, was cosponsored by 41 Members of the Senate in the last Congress. Many of the recommended changes have been put into effect since that time, both by regulation and by an amendment to the 1981 tax bill. These improvements have allowed the mortgage bond program to function with greater effectiveness over the years, as reflected by the vote of confidence from the many members of the Senate Finance Committee who are cosponsoring this bill to eliminate the sunset provision.

I want to commend Senator ROTH, the prime sponsor, for his leadership role in making a productive and carefully wrought mortgage bond program available for future first-time home buyers and for State and local governments struggling to meet the housing needs of their low- and moderate-income residents. I urge my colleagues to support this important legislation, and ask unanimous consent that a letter from the Tennessee Housing Development Agency be included in the RECORD at this point. It amply demonstrates the achievements of the mortgage bond program in Tennessee and is a good example of the potential benefits of the program for the rest of the country.

I ask unanimous consent to have printed in the RECORD a letter from the Tennessee Housing Development Agency.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

TENNESSEE HOUSING
DEVELOPMENT AGENCY,
Nashville, Tenn., December 22, 1982.

Attention: John Callahan.
Senator JIM SASSER,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR SASSER: I want to take this opportunity to thank you for your efforts to make the use of mortgage revenue bonds by state and local governments more workable.

THDA has provided $590,900,000 in mortgage loans which have created a total economic activity of $1.4 billion for Tennessee. This includes $8 million per year in local property tax; federal personal and corporate income tax of $61 million; $224 million in building materials; 13,790 jobs; $112 million in construction labor; $121 million in contractors and professional fees; $134 million in land development; and $17 million in state sales and privilege tax.

An Ad Hoc Committee on Housing in Tennessee has been formed to formulate a state housing policy. This committee consists of representatives of the Tennessee Mortgage Bankers Association, the Tennessee Society of Architects, Tennessee Association of Realtors, Tennessee Society of Housing & Redevelopment Authorities, The Apartment Council of Tennessee, Homebuilders Association of Tennessee, Tennessee Building Material Association, Tennessee Federation of Housing Counselors, Tennessee Housing Coalition, and the Tennessee Savings & Loan League. The Ad Hoc Committee has elected to support legislation which will abolish or set back the December 31, 1983 sunset of the use of mortgage revenue bonds.

We again ask that you take the lead to support legislation which abolishes this sunset date so that the many benefits which accure to Tennesseans from mortgage revenue bond programs will continue.

Sincerely,

E. V. KING.●

By Mr. PRESSLER:

S. 138. A bill to amend the Highway Revenue Act of 1982 to repeal the increase in the highway use tax and to amend the Internal Revenue Code of 1954 to increase the tax on diesel fuel; to the Committee on Finance.

REPEAL OF HIGHWAY USE TAX AND INCREASE IN DIESEL FUEL TAX

Mr. PRESSLER. Mr. President, as a result of the recently enacted Surface Transportation Assistance Act of 1982 (Public Law 97-424), heavy user fees will increase by almost 700 percent for trucks weighing over 33,000 pounds GVW. I am introducing legislation today which will repeal the scheduled increase in heavy user fees, while generating the same amount of revenue by implementing an increase in diesel tax as follows:

[In cents per gallon]

Date	Marginal increase	Total
Jan. 1, 1984: Raise diesel tax	1	1
Jan. 1, 1985: Raise diesel tax	3	4
Jan. 1, 1986: No increase		4
Jan. 1, 1987: No increase		4
Jan. 1, 1988: No increase		4

Under present law, the scheduled increase in heavy user fees resembles more of a tax on "existence" than a tax on "use." We must raise funds that will rebuild our highways, but we must do so in a way that will allow smaller trucking firms to stay in business and compete on a more equitable basis.

Small truckers will be hardest hit as a result of the additional user fees. They are least able to benefit from the increased uniform weights and measurements legislation because they generally lack the capital funds necessary to "retool" their trucks. Many truckers in my home State of South Dakota, for example, have only one or two trucks and drive them less than 25,000 miles per year. But they are forced to pay the same "user fee" as large commercial haulers who run trucks as much as 300,000 miles per year. This type of inequity makes it impossible for the small operator to compete with the large haulers.

Because approximately 90 percent of all the diesel fuel affected by this tax is consumed by trucks, this is an effective, fair way to assess a tax according to "use." Trucks that use the highways the most will pay the most tax.

But, because it will be gradually implemented on a "pay as you go" basis, and because it will more closely reflect the actual amount of vehicle use, it will be much easier for the trucking industry to absorb.

In addition to the previously stated advantages of this tax alternative, it will also help keep consumer prices and freight costs down. It will be much easier to administer, and will greatly reduce compliance costs involved in collecting the tax. It makes it much more difficult to escape paying the tax and is much less confusing to the taxpayer.

I believe this legislation represents a more equitable solution to a very complex problem. I strongly urge my fellow colleagues to join me in supporting this important legislation. I firmly believe that it represents a realistically equitable and workable compromise to a very complex problem.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 138

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPEAL OF INCREASE IN HIGHWAY USE TAX.

(a) IN GENERAL.—Subsections (a) and (g) of section 513 of the Highway Revenue Act of 1982 are repealed.

(b) CONFORMING AMENDMENT.—Subsection (f) of section 513 of the Highway Revenue Act of 1982 is amended to read as follows:

"(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 1984.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The provisions of this section shall apply to all taxable years and periods to which the provisions repealed by subsection (a), and the amendments made by those provisions, would have applied.

(2) APPLICATION OF INTERNAL REVENUE CODE OF 1954.—The Internal Revenue Code of 1954 shall be applied and administered as if the provisions repealed by this section, and the amendments made by those provisions, had not been enacted.

SEC. 2. INCREASE IN DIESEL FUEL TAX.

(a) INCREASE IN TAX.—Subsection (a) of section 4041 of the Internal Revenue Code of 1954 (relating to tax on diesel fuel and special motor fuel is amended—

(1) by striking out "9 cents" in paragraph (1) and inserting in lieu thereof "13 cents", and

(2) by adding at the end thereof the following new paragraph:

"(3) TEMPORARY RATES FOR DIESEL FUEL.—In the case of any sale or use—

"(A) after April 1, 1982, and before January 1, 1984, paragraph (1) shall be applied by substituting '9 cents' for '13 cents', and

"(B) after December 31, 1983, and before January 1, 1985, paragraph (1) shall be applied by substituting '10 cents' for '13 cents'.".

(b) CONFORMING AMENDMENT.—

(1) Subparagraph (A) of section 4041(k)(1) of such Code (relating to fuels containing alcohol is amended to read as follows:

"(A) the rate of tax under subsection (a) shall be reduced by 5 cents, and".

(2) Paragraph (2) of section 9503(e) of such Code (relating to transfers to mass transit account) is amended to read as follows:

"(2) TRANSFERS TO MASS TRANSIT ACCOUNT.—The Secretary of the Treasury shall transfer to the Mass Transit Account—

"(A) one-ninth of the amounts appropriated to the Highway Trust Fund under subsection (b) which are attributable to taxes under subsection 4081 imposed after March 31, 1983, and

"(B) one-cent for each gallon of fuel with respect to which a tax is imposed under section 4041 after March 31, 1983, and amounts are appropriated to the Highway Trust Fund under subsection (b) with respect to such tax.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 1983.

By Mr. HATCH (for himself and Mr. THURMOND):

S. 139. A bill to provide for civil rights in public schools; to the Committee on the Judiciary.

PUBLIC SCHOOL CIVIL RIGHTS ACT OF 1983

Mr. HATCH. Mr. President, last Congress I introduced a bill to provide adequate civil rights in our public schools. The Subcommittee on the Constitution unanimously approved the bill. In the months since then, the ordering of forced busing of students to achieve some opaque and arbitrary racial "balance" has continued without restraint. Mr. President, the civil rights of our students are a matter of such vital importance, and the inequity inherent in busing as a remedy for racial discrimination is of such a degree, that this issue demands address and redress.

This situation is accurately reflected by Mr. David Armor, who commented before the Constitution Subcommittee in May of 1981:

I think we have to get rid of remedies that in fact are not remedies at all and that simply make the problem worse.

I think the time is right for us to end this form of discrimination that masquerades as a remedy and instead devote our energies to enhanced educational opportunities. Accordingly, I am today introducing a bill to enforce constitutional guarantees that individual rights shall not be abridged on the basis of race, color, or national origin.

Many Senators may express feelings of regret that we must again soon reconsider this topic. I can understand and empathize with those feelings. After all, this problem, assigning students to public schools on the basis of race, was supposed to be solved in 1954 by the momentous Supreme Court decision of *Brown* v. *Board of Education*, 347 U.S. 483. Again the Senate thought it had prohibited the consideration of race when assigning students to public schools in 1964 when it enacted the Civil Rights Act. Therefore, when we are still striving to convince judicial policymakers decades later that students should be allowed to attend schools without regard for race or color, I can understand why the task would become frustrating. Nonetheless the basic constitutional principle that race should not determine what schools our students may attend must not be abridged.

This principle was clearly enunciated by the venerable Justice John Marshall Harlan in his dissent to the Plessy against Ferguson case. Plessy upheld a Louisiana statute requiring "equal but separate accommodations for the white and colored races" in passenger trains, 163 U.S. 540, 551 (1896). Justice Harlan dissented with the thought that "our Constitution is color-blind," (Id. at 559). These few words captured the essence of our 14th amendment prohibition against deprivation of life, liberty, or property without due process of law and against denial of equal protection of laws.

Harlan's dissent laid the foundation for the Court's ruling in the Brown case 58 years later. In Brown the Court found that—

The Constitution of the United States, in its present form, forbids, so far as civil and political rights are concerned, discrimination by the General Government or by the States against any citizen because of his race, 347 U.S. at 499.

In other words, race and color were not to play any role whatsoever in decisions relative to school district boundaries and school attendance. Race was not to be used in assessing the rights of "any citizen"; certainly racial assessments were not to benefit one group at the expense of another.

It is ironic that the Brown Court mentioned one of the same phenomenons that social scientists are today citing in their condemnation of busing: the stigma of inferiority associated with the victims of racial separation. The Brown Court explained the significance of this stigma when it said:

To separate students from others of similar age and qualifications solely because of their race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone.

I bring up this language because Congress is trying to do today the same thing that Brown tried to do in 1954; Congress is trying to end racial discrimination and make our educational legislation sound. Unfortunately, our current busing policy is actually nurturing racial discrimination and its stigma of inferiority. This was made clear to me by the testimony of the witnesses before the Constitution Subcommittee's hearings on school busing.

Brown was not the only case that established the principle that the 14th amendment prohibited States from taking cognizance of race. The *Loving* case, 388 U.S. 1 (1967), for instance, struck down a Virginia statute prohib-

iting interracial marriage. The Court clearly stated that classifying marriage rights on the basis of race was "unsupportable." The *Anderson* case, 375 U.S. 399 (1964), declared unconstitutional any racial designation of candidates on an election ballot. In *Evans*, 396 U.S. 435 (1970), the Court clarified that provisions in a will leaving property to a city for a public park which the will expressly stipulated could never be used by blacks could not be honored. Each of these cases understood and carried out the intent of the case that the 14th amendment forbid consideration of racial classifications of any kind in administering societal programs.

Congress has attempted to statutorily implement the Brown decision. The most notable attempt was, of course, the Civil Rights Act of 1964. Title IV of the act contains several provisions designed to make national education policy colorblind. Section 401(b) defined "desegregation" as:

The assignment of students to public schools and within such school without regard to their race, color, religion, or national origin, but "desegregation" shall not mean the assignment of students to public schools in order to overcome racial balance.

The second part of this section was authored by Congressman Cramer of Florida. He explained clearly that the provision was necessary to prevent de facto segregation, or chance segregation caused by housing patterns and adherence to the neighborhood school concept, from becoming the object of congressionally approved desegregation schemes. Cramer, and the 88th Congress, equated the terms de facto segregation and the racial imbalance (110 CONGRESSIONAL RECORD 1508).

The Senate version of the Civil Rights Act added two more amendments to insure that congressional policy would not be misconstrued to countenance any assignment of students to schools on the basis of race (section 407 of the act). The section authorizing the Attorney General to bring school desegregation suits, states that—

Nothing herein shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another in order to achieve such racial balance. 42 U.S.C 2000c-6(a).

Moreover section 410 clarified that—

Nothing in this title shall prohibit classification and assignment for reasons other than race, color, religion, or national origin. 42 U.S.C. 2000c-9.

Both Senate amendments were drafted and approved to prevent de facto segregation, as opposed to de jure or legally enforced segregation, from becoming a justification for the extreme remedy of busing, or assigning students to schools on the basis of race.

Senator Hubert Humphrey of Minnesota, floor manager for the bill in the Senate, explained that these amendments were intended to make doubly clear that title IV did not authorize the Attorney General to correct racial imbalance and in general—

To soothe fears that title IV might be read to empower the Federal Government to order the busing of children around a city in order to achieve a certain racial balance or mix in schools. 110 Cong. Rec. 12714.

Senator Humphrey stated that he was relying on the recent decision in *Bell* v. *School of Gary*, 324 F. 2nd. 209 (1963), in stating that Federal officials were not required to correct segregation unless it had been enforced by past laws.

This provision was included in the Civil Rights Act to expressly note that racial discrimination was not to be identified solely through use of numerical or statistical evidence rather than through some demonstration of wrongful intent by some individual or group of individuals. Unfortunately, the courts have disregarded this express language and instead relied upon evidence of racial imbalances within schools as proof of unlawful discrimination. Rather than placing the burden upon those alleging discrimination to demonstrate some identifiable act of discrimination, the courts have instead allowed discrimination to be adduced by evidence that some ideal racial proportion has not been achieved.

Harmful intent to discriminate was replaced with statistics that showed, for whatever reason, that more of one race than another were in a particular school or classroom. The defendant, therefore, not only had to demonstrate an absence of a corrupt state of mind, but had to show an affirmative commitment to a racially balanced institution. Treating individuals without regard to race was no longer enough, the defendant had to consider race at least to the degree that the court found proper. The problem, of course, is that no defendant could be sure in advance of adjudication if his notion of racial balance would be the same as the court's. Meantime, students had to be classed again according to race.

This is not the intent of the Constitution or Congress. Instead of considering each child in a school district only as a student, Federal courts classify students according to race. When the numerical ratio between the classes is unsatisfactory according to some subjective notion of racial balance, some black students or some white students are legally required to be hauled to a distant school simply because they are black or white. This is precisely the injustice that Brown and the Civil Rights Act intended to terminate. Prior to Brown, some students were legally required to be hauled to a distant school simply because of their race. It is a tragedy that we are still fighting to secure civil rights for our public school students.

Some commentators on this problem will undoubtedly note that the situation today is different than it was before Brown, that assigning students to schools on the basis of race is necessary to eradicate the vestiges of past legal segregation. To that my response is clear: We are not going to put an end to racial discrimination by perpetuating distinctions based on race. School busing is nothing more than assigning students to schools on the basis of race. I repeat, Mr. President, we will never end discrimination by discriminating.

The hearings in the Constitution Subcommittee have substantiated the ill effects of a discriminatory school-busing policy. The subcommittee's hearings have demonstrated that past unconstitutional segregation—racial segregation enforced by law—is not a significant cause of existing racial imbalances in public schools.

Whatever the cause of racial imbalances in public schools, the assignment of students to public schools on the basis of race—busing—results only in more segregation by inducing large numbers of families to migrate from the school systems being subjected to busing mandates or to seek alternatives to public school education. For example, according to Constitution Subcommittee witness David Armor, between 1976 and 1980 Los Angeles lost nearly one-half of its students through a combination of demographic decline and racial "flight" from Federal "desegregation" decrees. Busing not only is not the solution, it actually aggravates the problem.

Since assignment of students to public schools on the basis of race cannot be justified as a means of preventing or undoing racial discrimination by school authorities, such assignment is itself an unjustifiable practice of racial discrimination in violation of the 14th amendment.

Mr. President, I might add that there is a very apparent remedy for the kind of unconstitutional segregation prohibited by Brown. If a school authority has legally enforced a policy of racial segregation through school district reorganization, school closings, or other acts of State government, a court could always issue an injunction suspending all implementation of the segregative law or policy. Where such injunctions are not scrupulously obeyed, a court could institute contempt of court proceedings to secure compliance with its order.

My proposed bill will enforce constitutional guarantees that individual rights shall not be abridged on the basis of race, color, or national origin. The first three sections of the bill declare that forced busing has caused a

greater separation of the races, instead of improving relations between the races.

Busing has caused more friction, caused more disruption in education, and caused more chaos in community relations than existed before it was instituted. In addition, these sections state the Constitution Subcommittee's findings that busing violates constitutional guarantees against discrimination on the basis of race.

The operative provision of my bill would utilize Congress authority under article III, section 1, to withdraw the jurisdiction of lower Federal courts to issue any order requiring the assignment of students to schools on the basis of race or which has the effect of excluding any student from any public school on the basis of race.

Article III of the Constitution vests the judicial power of the United States in "one Supreme Court, and in such inferior courts as the Congress may from time to time establish." An uninterrupted chain of Supreme Court holdings have explained that this provision of the Constitution gives Congress "plenary control over the jurisdiction of the Federal courts." *Bro. of Railroad Trainmen* v. *Toledo, P&W RR. Co.*, 321 U.S. 50, 63 (1944). Just a few examples of Supreme Court explanation of this article will suffice to establish the soundness of this bill's action:

> For, the Power which Congress possess to create courts of inferior jurisdiction, necessarily implied the power to limit the jurisdiction of those courts. *U.S.* v. *Hudson*, 7 Cranch 32, 33 (1812).
>
> In the doctrine so often ruled in this court, that the judicial power of the United States, although it has its origin in the Constitution, is (except in enumerated instances and applicable exclusively to this court) dependent for its distribution and organization, and for the modes of its exercise, entirely upon the action of Congress, who possess the sole power of creating tribunals (inferior to the Supreme Court) for the exercise of the judicial power, and of investing them with jurisdiction either limited, concurrent, or exclusive, and of withholding jurisdiction from them in the exact degrees and character which to Congress may seem proper for the public good. *Cary* v. *Curtis*, 3 Howard 236 (1845).
>
> The subordinate judicial tribunals of the United States can exercise only such jurisdiction, civil and criminal, as may be authorized by acts of Congress. *Kentucky* v. *Powers*, 201 U.S. 1, 24 (1905).
>
> The decision with respect to inferior federal court, as well as the task of defining their jurisdiction, was left to the discretion of Congress. That body was not constitutionally required to create inferior Art. III Courts to hear and decide cases within the judicial power of the United States, including those criminal cases arising under the laws of the United States. Nor, if inferior courts were created, was it required to invest them with all the jurisdiction it was authorized to bestow under Article III . . . Congress plainly understood this, for until 1875, Congress refrained from providing the lower federal courts with general federal question jurisdiction. Until that time the State courts provided the only forum for vindicating many important federal claims. *Palmore* v. *U.S.* 411 U.S. 389 (1973).

This summary of the article III powers of Congress could be expanded to include statements by Chief Justice John Marshall, Chief Justice Stone, or Chief Justice Earl Warren and the message would always be the same. Regardless of whether constitutional issues or property issues or Federal question issues are at stake, there is no constitutional right to have a claim adjudicated in Federal courts. See *Allen* v. *McCurry*, 101 S. Crt. 411 (1981). Instead Congress may decide to grant State courts, bound as they are by the supremacy clause and subject to Supreme Court review, exclusive original jurisdiction to hear and decide certain kinds of cases. In fact, this is precisely the intent of the "may from time to time ordain and establish" language of the Constitution. To give greater insight into this power of Congress, I will include at the close of this statement the testimony given by Harvard Law Prof. Paul Bator at Constitution Subcommittee hearings.

My legislation is also based on section 5 of the 14th amendment. That section specifically grants Congress the power "to enforce, by appropriate legislation, the provisions of" the amendment. By specific language, this constitutional provision grants Congress authority to legislate remedies for violations of equal protection.

The section does, however, place Congress in a leading role in the selection of remedies for violations of the 14th amendment. Therefore, it is entirely proper for Congress to determine that assignment of students to public schools on the basis of race is not an appropriate or effective remedy for unconstitutional segregation. The manner in which Congress would choose under this bill to limit this counterproductive remedy, if indeed this could be called a remedy at all, is to withdraw the jurisdiction of lower Federal courts to issue orders that would assign students to schools on the basis of race.

This bill implements Congress article III authority to withdraw the jurisdiction of lower Federal courts to order busing. Those courts may still entertain lawsuits alleging racial discrimination and may use any remedy, including those mentioned in section 3 of this bill, but they may not employ busing. This bill does not, however, limit or affect in the slightest the power of the State courts or the Supreme Court on appeal to use whatever remedies they may deem appropriate. This provision should insure that the policy enunciated by Brown and incorporated into the Civil Rights Act is implemented in Federal courts, this is, race is not to be a factor in school assignments.

In some instances, the Supreme Court already has found egregious constitutional violations and imposed as "a last resort" an order assigning students to schools on the basis of race. See *Swann* v. *Charlotte*, 402 U.S. 1 (1971). The bill does not automatically vacate existing busing orders. Instead, it authorizes school board authorities or other individuals subject to such orders to reopen these cases and subject them to a new standard. If the court cannot make four conclusive findings based on clear and convincing evidence, that party will be entitled to relief from the order. The four findings will require the court to reconsider its former rulings in light of the policies of this bill as expressed by the findings sections.

Unless the court can make the findings under the difficult evidentiary burden of "clear and convincing evidence," the order will be vacated. The four findings are: First, the act which caused the order to be instituted intentionally caused, and in the absence of continuance of the order, will continue intentionally to cause, students to be excluded from public schools on the basis of race; in making this finding the court must look for evidence of wrongful intent, not merely a showing that some amorphous notion of racial balance was not achieved; second, the totality of circumstances have not changed; in making this finding the court should determine whether the passage of time and the effect of this act have provided relief from intentional segregation; third, no other remedy, including those in this bill, would halt the intentional segregation and make busing unnecessary; and fourth, the economic, social, and educational benefits of the order have clearly outweighed the economic, social, and educational costs of the order.

Mr. President, I would hasten to add that this new standard for reopening cases which have imposed busing would not amount to a balancing of constitutional rights. Constitutional rights, of course, must not be made subject to a balancing test. We are not, however, discussing constitutional violations, but the appropriate remedy for an established violation. Once a violation is found, Congress may provide standards to help the courts find the best remedy. Those standards may include weighing the costs of the remedy against its benefits. A remedy which is no remedy at all but an egregious violation in its own right should not be tolerated. Assigning students to schools on the basis of race is just that—more of a constitutional violation than a constitutional remedy.

Section 6 of this proposed legislation details this bill's answer to a point raised by University of Virginia Law School Prof. Laurens Walker:

Under title 28 of the United States Code, section 1441, defendants in State court actions would have the opportunity to remove school desegregation cases from the State courts to the Federal courts. Hence it might be argued that, as a practical matter, if this legislation were enacted the combination of this general removal stature and the proposed legislation would eliminate the busing remedy throughout our court system.

It is not this bill's intent to eliminate State courts' authority in school busing cases, and section 6 of this bill prevents their circumvention.

Perhaps I can help explain this proposed legislation by succinctly stating what this bill does not do: This bill does not forbid discrimination suits in Federal courts, but does circumscribe a single remedy; this bill does not forbid State courts from ordering busing if they deem that an appropriate remedy; this bill does not permit litigants to avoid State-ordered busing remedies by moving their case to inferior Federal courts where such remedies would be forbidden. Thus, pursuant to principles of federalism, States—through their court systems—would retain discretion to remedy discrimination as they see fit. They would retain discretion even to order busing, which in my opinion would be a mistake. Nonetheless, the State courts are a more proper forum for busing debates and mandates than are the Federal courts. If any court is going to use this extreme remedy, it ought to be a court which is intimately associated with the community to be affected, recognizing, of course, that even State courts are ultimately accountable to the Constitution and the review of the Supreme Court.

This bill, Mr. President, should provide the lasting solution necessary to deliver public schools from the torments of racial discrimination. As long as we attempt to frustrate the clear policy of Brown and the Civil Rights Act by treating individuals under the Constitution with anything other than a colorblind standard, we will continue to experience upheavals such as have rocked many of our cities and States over the past few years. In conclusion, I would like to include a statement delivered by Prof. Lino Graglia at our hearings on the subject of schoolbusing and the 14th amendment. Professor Graglia provides deep insight into the character of the constitutional turmoil occasioned by misguided rulings that classify students on the basis of race.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 139

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Public School Civil Rights Act of 1983".

SEC. 2. The Congress finds that—

(1) the assignment of students to public schools on the basis of or with regard to race, color, or national origin by inferior Federal courts—

(A) violates constitutional and legal guarantees that individuals shall not be denied equal protection of the law;

(B) violates constitutional and legal guarantees that individual rights shall not be abridged on the basis of race, color, or national origin;

(C) has failed to demonstrate educational benefits commensurate with the disruption caused by such assignment;

(D) has failed to demonstrate social benefits commensurate with the disruption caused by such assignment;

(E) has contributed to a significant deterioration of public schools in the districts subject to such orders regarding assignment by inducing large numbers of families to migrate away from such districts;

(F) has contributed to the deterioration of public education by removing the neighborhood school as the focus of such education;

(G) has disrupted the education of countless schoolchildren who must endure lengthy transportation to and from school each day, and, as a result, must often forgo participation in extracurricular activities occurring after school;

(H) has eroded community commitment to public schools and public education;

(I) interferes with the right of parents to make decisions regarding the education of their children;

(J) disrupts racial harmony by characterizing and classifying students on the basis of race or color and assigning them to schools on such basis;

(K) diverts significant amounts of financial resources away from direct improvement of the quality of education;

(L) usurps the responsibilities and traditional functions of State and local authorities to provide an educational system meeting the distinct needs of the community; and

(M) undermines public respect for the Government and its system of administering law and justice;

(2) past unconstitutional segregation, such as racial segregation enforced by law, is not a significant cause of existing racial imbalances in public schools,

(3) since assignment of students to public schools on the basis of or with regard to race cannot be justified as a means of preventing or undoing racial discrimination by school authorities, such assignment is itself an unjustifiable practice of racial discrimination by the Government in violation of the fourteenth amendment; and

(4) whatever the basic cause of racial imbalance in the public schools, assignment of students to public schools on the basis of or with regard to race, color, or national origin results in more segregation of the races by inducing large numbers of families to migrate away from school systems subject to such assignment or by inducing large numbers of familes to seek alternatives to public school education.

SEC. 3. (a) The Congress finds the remedies listed in subsection (b) are available for unconstitutional segregation exclusive of court orders which assign students to public schools on the basis of or with regard to race, color, or national origin, finding that such orders themselves have the effect of excluding students from public schools on the basis of or with regard to race, color, or national origin.

(b) The remedies which the Congress finds are available are—

(1) legal injunctions suspending all implementation of a segregative law or other racially discriminatory Government action;

(2) contempt of court proceedings where such injunctions are not scrupulously obeyed;

(3) programs without coercion or numerical quotas of specific grounds based on racial balance that permit students to voluntarily transfer to other schools within the school district where they reside; and

(4) other local initiatives and plans to improve education for all students without regard to race, color, or national origin.

SEC. 4. The Congress, pursuant to its authority and powers granted under article III of the Constitution, and under section 5 of the fourteenth amendment to the Constitution, enacts the provisions of this Act in order to protect public school students against discrimination on the basis of or with regard to race, color, or national origin.

SEC. 5. Section 1343 of title 28, United States Code, is amended by designating the current language as section (a) and adding at the end thereof the following:

"(b)(1) Notwithstanding any other provision of law, no inferior court established by Congress shall have jurisdiction to issue any order requiring the assignment or transportation of any student to public elementary or secondary schools on the basis of or with regard to race, color, or national origin or to issue any order which excludes any student from any public school on the basis of or with regard to race, color, or national origin.

"(2) In the case of court orders entered prior to the date of this Act that require the assignment of transportation of any student to a public elementary or secondary school on the basis of or with regard to race, color, or national origin or which excludes any student from any school on the basis of or with regard to race, color, or national origin, any individual or school board or other school authority subject to such an order shall be entitled to seek relief from such order in any court and unless that court can make conclusive findings based on clear and convincing evidence that—

"(1) the acts that gave rise to the existing court order intentionally and specifically caused, and in the absence of the order would continue intentionally and specifically to cause, students to be assigned to or excluded from public schools on the basis of or with regard to race, color, or national origin; for purposes of this finding, these 'acts that gave rise to the existing court order and intentionally and specifically caused, and in the absence of the order would continue intentionally and specifically to cause, students to be assigned to or excluded from public schools on the basis of race, color, or national origin' (including but not limited to school district reorganization, school boundary line changes, school construction, and school closings) shall not include legitimate efforts to employ public education resources to meet public education needs without regard to race, creed, or national origin,

"(2) the totality of circumstances have not changed since issuance of the order to warrant reconsideration of the order,

"(3) no other remedy, including those mentioned herein, would preclude the intentional and specific segregation, and

"(4) the economic, social, and educational benefits of the order have clearly out-

weighed the economic, social, and educational costs of the order,

then such plaintiffs shall be entitled to relief which is consistent with the provisions of this subsection and the Public School Civil Rights Act of 1981 from such order.".

SEC. 5. Chapter 89 of title 28 of the United States Code (relating to district courts' removal of cases from State courts) is amended by adding after section 1455(c) the following new subsection:

"(d) A civil action in any State court seeking a judgment for any relief described in this Act may not be removed to any district court of the United States.".

By Mr. HATCH:

S. 140. A bill to amend title VIII of the act commonly called the Civil Rights Act of 1968 to revise the procedures for the enforcement of fair housing, and for other purposes; to the Committee on the Judiciary.

EQUAL ACCESS TO HOUSING ACT

Mr. HATCH. Mr. President, I am introducing legislation today—the Equal Access to Housing Act—that would enhance the ability of the Federal Government to enforce title VIII of the Civil Rights Act of 1968. Title VIII is designed to protect individuals from discrimination in the sale or rental of housing because of race, color, religion, sex, or national origin. The Equal Access to Housing Act would reaffirm more strongly than ever before this Nation's commitment to the elimination of discriminatory housing policies. At the same time, it would avoid many of the problems contained in legislation to amend title VII rejected by this body during the 96th Congress.

Last night in his state of the Union address, President Reagan stated that "Effective enforcement of our Nation's fair housing laws is also essential to insuring equal opportunity." This legislation would significantly improve current enforcement procedures and standards in harmony with the President's statement.

The proposed act would effect a number of important changes in the 1968 law. Included among these are the following:

ADMINISTRATION

Primary administrative authority for the act would be transferred from the Department of Housing and Urban Development to the Department of Justice. While the Justice Department already has major responsibilities in enforcing title VIII, the proposed act would concentrate all administrative responsibilities in the Department.

The experience of HUD in enforcing the act over a period of years has demonstrated a fundamental conflict between its obligation to fairly administer the law and its primary mission to set national housing policy. Enforcement of title VIII is, first and foremost, a matter of insuring compliance with the law; too often, it has been used by HUD as an instrument of social engineering policy.

The Justice Department is not only in a better position to avoid this conflict—in part, because it is independent of the various constituencies that have attached to HUD—but also possesses far more expertise in the enforcement of civil rights laws than does HUD. I am confident that the proposed transfer of administration will bring a new clarity of purpose to the act while better enabling both the Justice Department and HUD to carry out their primary policy responsibilities.

ENFORCEMENT

Under present law, an allegedly aggrieved individual—one whose rights under title VIII have been violated—can either institute a civil action in the appropriate Federal or State court, or can file a complaint with the Secretary of HUD. If, after a HUD investigation of such complaint, the Secretary finds reasonable cause to believe that a violation of title VIII has occurred, the Secretary is limited to resolving the complaint through informal methods of conference, conciliation, and persuasion. There is no power in the Secretary to take further action. The Attorney General, after appropriate investigation, may institute a court action only in pattern and practice cases and in certain other limited cases involving issues of general public importance.

The Equal Access to Housing Act would add teeth to this enforcement mechanism. In the process, it would address one of the major criticisms of the original law.

Not only would an allegedly aggrieved individual be able to pursue an independent civil action—with new authority in the Attorney General to intervene in such actions on his behalf—but the Attorney General would be authorized to initiate actions on behalf of such individual. For the first time, an aggrieved person would have access to the resources of Government in pursuing complaints of title VIII violations.

The proposed act would encourage the use of Federal magistrates in actions brought under its provisions in an effort to expedite such cases, while retaining the basic elements of due process that are guaranteed by our laws and Constitution.

The Equal Access to Housing Act, however, attempts to insure that such adversarial litigation will be a last, not a first, step in the process of resolving complaints. It does this by establishing a new conciliation process in the Justice Department designed to resolve controversies informally. At any time after the filing of a charge, the Attorney General may attempt conciliation. Such conciliation may culminate in an agreement, including one providing for binding arbitration among the parties, or it may lead to a decision by the Attorney General either to dismiss the charge or to initiate an action on behalf of the individual filing the charge.

As the Secretary is required to do under present law, the Attorney General would be required to refer all charges of title VIII violations to certified State housing discrimination agencies where they are in existence. Certified agencies are those which administer laws providing rights and remedies which are reasonably equivalent to the rights and remedies provided by Federal law.

HANDICAPPED PERSONS

The proposed measure would extend the protections of title VIII, for the first time, to handicapped individuals. Because of the differing nature of such discrimination, however, from other forms of discrimination, it is necessary to define in far greater detail what constitutes a discriminatory housing practice in this context. The act is clear in defining handicap in such a way as to exclude alcoholics and drug addicts, and others whose impairment would represent a direct threat to the safety or property of others.

APPRAISERS

Although HUD has chosen to interpret the act in the past to include coverage of real estate appraisers, the proposed measure would make this explicit. Discriminatory practices by property appraisers would constitute violations of title VIII.

DISCRIMINATION

The Equal Access to Housing Act would clarify that the standard of proof in identifying discrimination under title VIII is an intent standard. While I believe that the present language of the act, as well as its legislative history, indicate clearly that this is already the appropriate standard, there is a conflict on this issue among the Federal circuits, some of which have substituted an "effects" or "disparate impact" standard. The Supreme Court, although never interpreting the specific provisions of title VIII in this regard, has made clear that violations of the 14th amendment require proof of a discriminatory intent or purpose, *Arlington Heights* v. *Metropolitan Housing Corporation*, 429 U.S. 252 (1977); *Washington* v. *Davis*, 426 U.S. 229 (1976).

With respect to this extremely important issue, I would call the attention of my colleagues to my statement of December 1, 1980—S15191—in which I discuss this issue in some detail. At this point, however, I would only like to observe that use of the effects test for identifying discrimination carries with it tremendous potential for involving the Federal Government in zoning and land-use affairs that have always been the prerogative

of State and local governments. Already, use of the effects test by HUD and the Civil Rights Division of the Justice Department has been the basis by which they have sought to impose their own notions of proper racial balance upon communities which have had no intent or purpose of discriminating against protected groups.

The intent test for identifying discrimination, allows courts to consider the totality of circumstances, including evidence of racially disparate effects. Unlike the pure effects test, however, the use of statistical evidence is not dispositive in and of itself in determining violations of title VIII and the burden of proof remains fully with the plaintiff.

Mr. President, the proposed bill makes a number of other changes that I believe to be positive changes in the present law: It would enable the Attorney General to pursue an injunction or temporary restraining order where prompt judicial action is necessary, it would limit the use of testers to those instances in which such a practice was necessary to confirm an alleged violation of the act; it would establish a legislative veto over rules and regulations promulgated under the authority to title VIII; and it would clarify the definition of aggrieved person in such a way to limit standing to individuals who are bona fide renters or purchasers.

I believe that the Equal Access to Housing Act draws the proper balance between the need to create a more effective enforcement mechanism under title VIII and the equally important need to protect the due process rights of local communities and individual realtors, home-sellers, and landlords. I do not believe that the legislation rejected by this body during the 96th Congress achieved this balance.

On the one hand, the person who suffers discrimination in housing will, for the first time, be able to draw upon the resources of the Federal and State governments. On the other hand, the respondent will, in fact, have his day in court—not simply his day before a HUD administration law tribunal. In addition, he will be assured that, before he is labeled a civil rights violator, there will have been some evidence of a discriminatory intent on his part, not simply evidence that his apartment building or his subdivision lacked the right proportion of white, black, yellow, red, and brown faces.

The individual who is denied an apartment because of his skin color or a home because of his ethnic background will, in short, have more and stronger protections than he has ever had before. He will have access to the full resources of the Federal and State governments when he is treated, not as an individual, but as a member of some collective group, in his pursuit of a dwelling. At the same time, some of the so-called public interest groups, which have little to do beyond harassing small businessmen and communities, and some of the more creative and innovative minds in the bureaucracy who wish to remake America in their image, may have a more difficult time of it all. That is the way it ought to be, in my opinion.

I ask unanimous consent that the text of the proposed Equal Access to Housing Act be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 140

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Equal Access to Housing Act of 1983".

SHORT TITLE FOR 1968 ACT

SEC. 2. The Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes" (Public Law 90-284, approved April 11, 1968) is amended by inserting immediately after the comma at the end of the enacting clause, the following: "That this Act may be cited as the 'Civil Rights Act of 1968'.".

SHORT TITLE FOR TITLE VIII

SEC. 3. Title VIII of the Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes" (Public Law 90-284, approved April 11, 1968) is amended by inserting immediately after the title's catchline the following:

"SHORT TITLE

"SEC. 800. This title may be cited as the 'Equal Access to Housing Act'.".

AMENDMENTS TO POLICY SECTION

SEC. 4. (a) Section 801 of the Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes" (Public Law 90-284, approved April 11, 1968) is amended by striking out "for fair housing" and inserting in lieu thereof "for equal access to housing".

(b) Section 801 of such Act is amended by adding at the end thereof the following: "Such a policy means that individuals shall not be denied access to housing which they desire and can afford, because of race, color, religion, sex, handicap, or national origin. Such policy does not mean that any particular proportion of individuals of a particular race, color, religion, sex, handicap, or national origin will be assured housing within housing units, neighborhoods, or communities except as such proportions are the natural result of free housing choice.".

AMENDMENTS TO DEFINITIONS SECTION

SEC. 5. Section 802 of the Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes" (Public Law 90-284, approved April 11, 1968) is amended by—

(a) striking out subsection (a) and inserting in lieu thereof the following:

"(a) 'Attorney General' means the United States Attorney General."; and

(b) adding at the end the following:

"(h) 'Handicap' means, with respect to a person, a physical impairment which substantially limits the capacity to see, hear, or walk unaided or the capacity to live completely unattended. Such term does not include any alcohol, drug abuse, or any other impairment which would be a threat to the safety or the property of others.

"(i) 'Aggrieved person' includes any person whose bona fide attempt or bona fide offer to purchase, sell, lease, or rent, or whose bona fide attempt to obtain financing for a dwelling has been denied on the basis of race, color, religion, sex, handicap, or national origin, or made subject to terms of purchase, sale, lease, rental, or acquisition which discriminate on any such basis.".

DISCRIMINATORY HOUSING PRACTICE AMENDMENTS

SEC. 6. (a) Section 804(e) of such Act is amended by striking out the words "For profit, to" and inserting in lieu thereof "To".

(b) Section 804 of the Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes" (Public Law 90-284) is amended by adding at the end the following:

"(f)(1) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny a dwelling to any person because of such handicap of a prospective buyer or renter or of a person or persons to be occupying a dwelling with such buyer or renter unless such handicap would prevent a prospective dwelling occupant from conforming to such rules, policies, and practices as are permitted by paragraph (2) of this subsection.

"(2) To discriminate against any person in the terms or conditions of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of a handicap. For purposes of this subsection, (A) discrimination shall include: (i) refusal to permit reasonable modifications of premises occupied, or to be occupied by persons with a handicap where such modifications are necessary to afford such handicapped persons access to premises substantially equal to that of nonhandicapped persons: *Provided, however,* That with respect to such premises, such handicapped persons have agreed to return them to their original condition if requested to do so by the landlord; or (ii) refusal to make reasonable accommodations in existing policies, practices, services, or facilities when such accommodations are necessary to afford handicapped persons enjoyment of dwellings substantially equal to that of nonhandicapped persons; but (B) discrimination shall not include (i) refusal to make alterations in premises at the expense of sellers, landlords, owners, brokers, building managers, or persons acting on their behalf; (ii) refusal to make modifications of existing policies, practices, services or facilities where such modifications would result in unreasonable inconvenience to other persons; or (iii) refusal to allow modifications of dwellings which would alter the marketability or appearance of a dwelling or the manner in which a dwelling or its environs has been, or is intended to be, used.".

(c) Subsections (c), (d), and (e) of section 804 and section 806 of such Act are each amended by inserting "handicap", immediately after "sex", each place it appears.

(d) Section 805 of such Act is amended by adding at the end thereof the following: "It shall also be unlawful for any person or other entity whose business includes the appraising of real property to discriminate in the estimation of the property value on the basis of race, color, religion, sex, handicap, or national origin. It shall not be unlawful

for such a person or other entity to take into consideration or to report to the person for whom the appraisal is being done all factors relevant to the appraiser's estimate of the fair market value of the property: *Provided*, That such factors are not used by the appraiser for the purpose of discriminating or denying rights guaranteed by this title.".

(e) Section 807 of such Act is amended by adding at the end the following: "Nothing in this title shall prohibit any action unless such action is taken with the intent or purpose of discriminating against a person on account of race, color, religion, sex, handicap, or national origin.".

ROLE OF THE ATTORNEY GENERAL

SEC. 7. Section 808 of the Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes" (Public Law 90-284, approved April 11, 1968) is amended—

(1) in subsection (a) by striking out "Secretary of Housing and Urban Development" and inserting in lieu thereof "Attorney General";

(2) by striking out subsection (b);

(3) by redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively;

(4) in subsection (b) as redesignated by this section by striking out—

(A) "Secretary" each place it appears and inserting in lieu thereof "Attorney General";

(B) "Department of Housing and Urban Development" each place it appears and inserting in lieu thereof "Department of Justice";

(C) "sections 3105, 3344, 5362, and 7521 of title 5 of the United States Code" and inserting in lieu thereof "law"; and

(D) "5362" and inserting in lieu thereof "5372";

(5) in subsection (c) as redesignated by this section, by striking out "Secretary" and inserting in lieu thereof "Attorney General";

(6) in subsection (d) as redesignated by this section, by striking out "Secretary of Housing and Urban Development" and inserting in lieu thereof "Attorney General"; and

(7) by adding at the end the following:

"(e)(1) Simultaneously with the promulgation of any regulation or rule issued for the purpose of compliance with this title, the Attorney General shall transmit a copy thereof to the Committees on the Judiciary of the House of Representatives and the Senate. Such rule or regulation, other than an emergency rule, shall become effective at the end of the first period of sixty calendar days of continuous session of Congress, unless between the date of transmittal and the end of the sixty-day period, either House of Congress passes a resolution stating in substance that that House does not approve of the proposed rule or regulation.

"(2) Either House of Congress may adopt a resolution directing agency reconsideration of a rule other than an emergency rule. If such resolution is adopted within sixty calendar days of continuous session of Congress after the date the rule was transmitted to Congress, the rule shall not go into effect. The agency shall reconsider the rule and take such action as they deem appropriate.".

EDUCATION AND CONCILIATION

SEC. 8. Section 809 of the Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes" (Public Law 90-284, approved April 11, 1968) is amended by—

(1) striking out "Secretary" each place it appears and inserting in lieu thereof "Attorney General";

(2) striking out "Secretary's" and inserting in lieu thereof "Attorney General's"; and

(3) adding at the end thereof the following sentence: "Nothing in this section shall authorize any payment of funds to any organization or entity formed by or pursuant to any agreements entered into under this section.".

ENFORCEMENT CHANGES

SEC. 9. The Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes" (Public Law 90-284, approved April 11, 1968) is amended by—

(1) redesignating sections 815 through 819 as sections 816 through 820, respectively; and

(2) striking out sections 810 through 815 and inserting in lieu thereof the following:

"PRELIMINARY MATTERS OF ENFORCEMENT

"SEC. 810. (a) Whenever an aggrieved person, or the United States Attorney General on the Attorney General's own initiative, files a charge alleging a discriminatory housing practice, the Attorney General shall serve a notice of the alleged discriminatory housing practice on the party charged (hereinafter in this title referred to as the 'respondent') within ten days after such filing, and shall make an investigation thereof. Upon receipt of such charge, the Attorney General shall serve notice upon the aggrieved person acknowledging receipt of the charge and advising the aggrieved person of the time limits and alternative means of enforcement provided under this title. Such charge shall be in writing, under oath or affirmation, and shall contain such information and be in such form as the Attorney General may require, including detailed information regarding: (1) specific discriminatory practices alleged; (2) the dates of such alleged practices; (3) the names of parties involved; and (4) other relevant facts. An aggrieved person shall file a charge under this section with the Attorney General not later than six months after the alleged discriminatory housing practice occurred or terminated.

"(b)(1) In connection with any investigation of such charge, the Attorney General shall, at reasonable times, have access to, and the right to copy, any information that is reasonably necessary for the furtherance of the investigation. The Attorney General may issue subpoenas to compel such access to or the production of such information, or the appearance of persons, and may issue interrogatories, to the same extent and subject to the same limitations as would apply if the subpoenas or interrogatories were issued or served in aid of a civil action in the United States district court for the district in which the investigation is taking place. The Attorney General may administer oaths.

"(2) Upon written application to the Attorney General, a respondent shall be entitled to the issuance of a reasonable number of subpoenas and interrogatories by and in the name of the Attorney General to the same extent and subject to the same limitations as subpoenas issued by the Attorney General under paragraph (1) of this subsection.

"(3) Witnesses summoned by subpoena of the Attorney General under this title shall be entitled to the same witness and mileage fees as are witnesses in proceedings in United States district courts.

"(4) The Attorney General or other party at whose request a subpoena is issued under this title may enforce such subpoena in appropriate proceedings in the United States district court for the district in which the person to whom the subpoena was addressed resides, was served, or transacts business.

"(5) Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents, or other evidence in such person's power to do so, in obedience to the subpoena or lawful order of the Attorney General under this title, shall be fined not more than $1,000. Any person who, with intent thereby to mislead the Attorney General, shall make or cause to be made any false entry or statement of fact in any report, account, record, or other document produced pursuant to the Attorney General's subpoena or other order, or shall willfully neglect or fail to make or cause to be made full, true, and correct entries in such reports, accounts, records, or other documents, or shall willfully mutilate, alter, or by any other means falsify any documentary evidence, shall be fined not more than $1,000.

"STATE ENFORCEMENT

"SEC. 811. (a) Whenever a charge alleges a discriminatory housing practice within the jurisdiction of a State or local public agency certified by the Attorney General under this subsection, the Attorney General shall, within twenty days after receiving such charge and before taking any action with respect to such charge, refer such charge to such agency. The Attorney General shall notify all parties involved of the referral to such agency. The Attorney General shall, after that referral is made, take no further action with respect to such charge unless the Attorney General determines that such agency no longer qualifies for certification. Wherever a State or local law provides rights and remedies which are reasonably equivalent to the rights and remedies provided by this title, the Attorney General shall certify the appropriate State or local agency administering such law. Any State or local agency may submit a written request for certification to the Attorney General. Unless the Attorney General offers a written objection within ninety days after such submission, such State or local agency shall be deemed certified within the meaning of this title. If the Attorney General objects within the prescribed ninety-day period, he shall provide the State or local agency with an explanation for his decision and such decision shall be subject to review by the appropriate United States district court.

"(b) The Attorney General shall not require, as a condition of such certification, that the State or local law enforcement agency agree, to waive, its exclusive authority over charges alleging discriminatory housing practices.

"CONCILIATION PROCESS

"SEC. 812. (a) If the Attorney General concludes, on the basis of a preliminary investigation of a charge, that prompt judicial action is necessary to carry out the purposes of this title, he may seek appropriate temporary or preliminary relief pending final disposition of such charge. Any temporary restraining order or other order granting preliminary or temporary relief shall be issued in accordance with rule 65 of the Federal Rules of Civil Procedure.

"(b) At any time after the filing of a charge, the Attorney General shall endeavor to resolve such charge by conciliation. If

the respondent refuses to participate in the conciliation process, the Attorney General may grant to the aggrieved person not more than $1,000 for legal fees and other expenses of initiating a civil action under this title against such respondent. Nothing said or done in the course of the conciliation process may be made public or used as evidence in a subsequent proceeding under this title without the written consent of the persons concerned. Any employee of the Attorney General who makes public any information in violation of the immediately preceding sentence shall be fined not more than $1,000. The conciliation process may result in a conciliation agreement. Such agreement may provide for binding arbitration of the dispute arising from the complaint or may award appropriate specific relief to the aggrieved person including damages of not more than $1,000. The Attorney General may issue such orders as are necessary to enforce any conciliation agreement, including, if the Attorney General has determined that there has been a breach of such agreement, an order that the breaching party pay to the other party not more than $1,000.

"(c)(1) If the Attorney General determines, after an investigation and after initiation of the conciliation process under this section, that reasonable cause exists to believe a charge is true, the Attorney General shall file an appropriate civil action under section 814(b) of this title. Such determination in the case of a charge filed by an aggrieved person may not be made later than six months after the date of the filing of such charge.

"(2) After each investigation under this section, the Attorney General shall provide to each party a copy of the report of such investigation.

"(d) The Attorney General shall not employ the services of any person or organization, or provide direct or indirect assistance to any person or organization, to make an offer to purchase, rent, or obtain financing for a dwelling that is not a bona fide offer, except where such action is undertaken for the purpose of verifying a violation of this title which the Attorney General has reason to believe has occurred.

"PRIVATE ENFORCEMENT

"SEC. 813. (a)(1) An aggrieved person may commence a civil action in an appropriate United States district court or State court at any time not later than six months after the alleged discriminatory housing practice occurred or terminated.

"(2) The Attorney General may, upon timely application, intervene in such civil action, if he personally certifies that the case is of general public importance.

"(b) Any court, upon application by an aggrieved person or a respondent, may, in such circumstances as it deems just, appoint an attorney for such party and may authorize the commencement or continuation of the action without the payment of fees, costs, or security.

"(c) In a civil action under this section, a court may award such relief as may be appropriate, including money damages, equitable and declaratory relief, and punitive damages not to exceed $1,000.

"(d) It is the sense of the Congress that, except in cases in which a municipality or State is involved, the use of United States magistrates should be encouraged to the maximum extent feasible in order to expedite litigation under this section.

"ATTORNEY GENERAL ENFORCEMENT

"SEC. 814. (a) Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights granted by this title, or that any group of persons has been denied any of the rights granted by this title and such denial raises an issue of general public importance, the Attorney General may bring a civil action in an appropriate United States district court.

"(b) The Attorney General may bring a civil action in an appropriate United States district court to remedy any discriminatory housing practice with respect to which the Attorney General has made a finding that reasonable cause exists under section 812(c)(1) of this title.

"(c) The court may award such relief in any civil action under this section as is authorized in section 813(c) of this title in cases brought under that section.

"(d) The filing of a civil action pursuant to a charge filed by an aggrieved person under this title by the Attorney General or by any State or local agency shall preclude the filing of a civil action under this title growing out of the same discriminatory housing practice by such aggrieved person. The filing of a civil action under this title by an aggrieved person shall preclude the filing of a civil action under this title growing out of the same discriminatory housing practice by the Attorney General or by any State or local agency pursuant to a charge filed by such aggrieved person.

"(e) It is the sense of the Congress that, except in cases in which a municipality or State is involved, the use of United States magistrates should be encouraged to the maximum extent feasible in order to expedite litigation under this section.

"ANCILLARY AND PROCEDURAL MATTERS

"SEC. 815. (a) In any action or proceeding under this title, the court may allow a prevailing party (other than the United States with respect to attorney fees) reasonable attorney and expert witness fees as part of the costs. The United States shall be liable for such costs the same as a private person. Such costs may also be awarded upon the entry of any interlocutory order which determines substantial rights of the parties.

"(b) Any court in which a proceeding is instituted under this title shall assign the case for hearing at the earliest practicable date and cause the case in every way to be expedited.

"(c) Any sale, encumbrance, or lease executed before the issuance of any order under this title, and involving a bona fide purchaser, encumbrancer, or tenant without actual notice of the existence of the filing of a charge or civil action under this title shall not be affected by such court order.

"(d) Any court having jurisdiction of an action brought under this title which enters a temporary restraining order or other order providing permanent or temporary relief sought by the Attorney General may, in such circumstances as it deems just, if a violation of this title is not ultimately found, enter an order providing reimbursement from the United States to the defendant for unavoidable economic losses incurred during the time that the temporary restraining order or preliminary or temporary relief was in effect which were a direct result of such temporary restraining order or preliminary or temporary relief.".

COOPERATION WITH STATE AND LOCAL AGENCIES

SEC. 10. Section 817 as redesignated by section 9 of this Act is amended by striking out "Secretary" each place it appears and inserting in lieu thereof "Attorney General".

CONFORMING AMENDMENT TO TITLE IX OF 1968 CIVIL RIGHTS ACT

SEC. 11. Section 901 of the Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes" (Public Law 90-284, approved April 11, 1968) is amended by inserting ", handicap (as defined in section 802 of this Act)," immediately after "sex" each place it appears.

By Mr. HATCH (for himself and Mr. THURMOND):

S. 141. A bill to provide a special defense to the liability of political subdivisions of States under section 1979 of the Revised Statutes (42 U.S.C. 1983) relating to civil actions for the deprivation of rights; to the Committee on the Judiciary.

MUNICIPAL LIABILITY

Mr. HATCH. Mr. President, during the post-Civil War Reconstruction era, the 42d Congress passed the Civil Rights Act of 1871 to protect persons from the deprivation, under the color of State law, "of any rights, privileges, or immunities secured by the Constitution of the United States." The Revised Statutes of the United States enacted in 1874, contained a remedial provision, now 42 U.S.C. 1983, for securing these rights. I am in strong agreement with the intent of these laws—to guarantee to every American the rights secured by the Constitution and laws providing for equal rights. Indeed, I feel one of our most sacred obligations is to insure the constitutional rights of all our citizens.

However, in two cases decided in recent years the Supreme Court significantly broadened the interpretation of section 1983 in ways that have little or nothing to do with anyone's constitutional rights, but will wreak havoc in the ability of our State and local governments to perform important services to the public.

In the case of *Maine* v. *Thiboutot*, 448 U.S. 1 (1980), the Court expressly ruled, for the first time ever, that the phrase "and laws" was intended by Congress to provide a section 1983 remedy for deprivations of rights secured by any law of the United States. Civil actions may now be brought against State and local officials under 42 U.S.C 1983 based on violations of laws which have no relevance whatsoever to deprivations of constitutional or statutory equal rights.

In *Owen* v. *City of Independence*, 445 U.S. 622 (1980), the Court held that local governmental entities may not assert the good faith of their agents as a defense to liability under section 1983 suits. In other words, a local government may be liable in damages for violating a constitutional right that was unknown when the event occurred.

The burdens imposed by these holdings will be onerous. At the very least, our crowded courts will become even

more crowded; our tax dollars will increasingly be spent in damage suits instead of providing needed services. Further, our State and local governments will be paranoid to the point of paralysis lest their action or inaction be later interpreted as unconstitutional and thus subject to costly damage suits.

The Court has been careful to point out in many of its section 1983 cases, including Owen and Thiboutot, that Congress could, if it chose to do so, modify the statute or limit its application to certain types of statutes. Although the Supreme Court has been far from unimaginative in its section 1983 decisions over the last 20 years, its most recent interpretation of congressional silence compels us to let our voice be heard on this matter.

Mr. President, because the Court's recent rulings, in the cases of Maine against Thiboutot and Owen against City of Independence, involve areas of the law which are better left to Congress than to judicial activism, I wish to introduce some relatively simple, yet important amendments to 42 U.S.C. 1983. I want to emphasize that my amendments will not compromise the intent of section 1983—to provide persons with a remedy for violations of rights secured by the Constitution and laws providing for equal rights.

MAINE VERSUS THIBOUTOT

The Thiboutots were recipients of AFDC benefits administered by the Maine Department of Human Services. The amount paid to the family was calculated on the number of dependents of Mr. Thiboutot—three children from a previous marriage—rather than on the number of dependents he and his present wife claimed. Their petition for a reassessment of the benefits was based on amounts due them as parents of eight children. The Superior Court of Maine, in an order affirmed by the Supreme Judicial Court of Maine, required the agency to make the requested changes and adopt new policies for similar cases. The supreme judicial court also awarded attorney's fees, 405 A.d 230 (Me. 1979); on appeal, the Supreme Court of the United States affirmed.

The Court observed that the debate over the "scanty legislative history" of section 1983 did not result in a definitive answer on the intended scope of section 1983. Justice Brennan, writing for the majority of the Court, interpreted the "plain language" of section 1983 as providing a broad base for claims arising not only out of violations of constitutional rights, but also out of statutory rights unrelated to equal rights. Such claims are not limited to constitutional rights or equal rights created by statute, reasons Justice Brennan, because the section merely states "and laws" and "Congress attached no modifiers" to explain what type of laws were intended to be covered by the section.

The result is that a cause of action under section 1983 may now rest on the violation or deprivation of any rights secured by any statute. In other words, a disgruntled citizen, feeling that an official deprived him or her of some benefit under a program provide for by Federal law, may sue that official for damages under section 1983. Prior to this decision, section 1983 cases only involved rights secured by the Constitution and statutes which provided for equal rights. Now the Court has transformed this remedy into a catchall cause of action for the redress of any infringement of statutory rights.

In his dissenting opinion. Justice Powell, joined by the Chief Justice and Justice Rehnquist, stated that he "legislative history alone refutes the Court's interpretation of section 1983," and, further, that "until today this court never had held that section 1983 encompasses all purely statutory claims."

CONSEQUENCES OF THIBOUTOT

Even if we assume that the Court's interpretation of legislative history and legal precedent are correct, an assumption that is questionable at best, the devastating effect of the decision in Thiboutot on our State and local governments would necessitate our action.

Commenting on the ruling in Thiboutot, the Wall Street Journal said that the decision:

> Couldn't do more harm if it were deliberately designed to subvert the federal system and bankrupt cities from coast to coast.

I do not think this statement is too far off the mark.

Justice Powell illustrates the new areas likely to be affected by the Court's extension of liability. I include the appendix to his opinion at this point because of the importance of understanding the extent to which this holding will intrude into the performance of State and local government activities.

Note the wide range of programs included in the list:

> A small sample of statutes that arguably could give rise to § 1983 actions after today may illustrate the nature of the "civil rights" created by the Court's decision. The relevant enactments typically fall into one of three categories: (A) regulatory programs in which States are encouraged to participate, either by establishing their own plans of regulation that meet conditions set out in federal statutes, or by entering into cooperative agreements with federal officials; (B) resource management programs that may be administered by cooperative agreements between federal and state agencies; and (C) grant programs in which federal agencies either subsidize state and local activities or provide matching funds for state or local welfare plans that meet federal standards.
>
> A. JOINT REGULATORY ENDEAVORS
>
> 1. Federal Insecticide, Fungicide, and Rodenticide Act, 86 Stat. 973 (1972), as amended, 7 U.S.C. §§ 136 et seq.; see, e.g., 7 U.S.C. §§ 136u, 136v.
>
> 2. Federal Noxious Weed Act of 1974, 88 Stat. 2148 (1975), 7 U.S.C. §§ 2801-2813; see 7 U.S.C. § 2808.
>
> 3. Historic Sites, Buildings, and Antiquities Act, 49 Stat. 666 (1935), as amended, 16 U.S.C. §§ 461-467; see 16 U.S.C. § 462(e).
>
> 4. Fish and Wildlife Coordination Act, 48 Stat. 401 (1934), as amended, 16 U.S.C. § 661-666c; see 16 U.S.C. § 661.
>
> 5. Anadromous Fish Conservation Act, 79 Stat. 1125 (1965), as amended, 16 U.S.C. § 757a-757d; see 16 U.S.C. § 757a(e).
>
> 6. Wild Free-Roaming Horses and Burros Act, 85 Stat. 649 (1971), as amended, 16 U.S.C. §§ 1331-1340; see 16 U.S.C. § 1336.
>
> 7. Marine Mammal Protection Act of 1972, 86 Stat. 1027, as amended, U.S.C. §§ 1361-1407; see 16 U.S.C. § 1379.
>
> 8. Wagner-Peyser National Employment System Act, 48 Stat. 113 (1933), 29 U.S.C. §§ 49 et seq; see 29 U.S.C. § 49g (employment of farm laborers).
>
> 9. Surface Mining Control and Reclamation Act of 1977, 91 Stat. 447, 30 U.S.C. §§ 1201-1328; see 30 U.S.C. § 1253.
>
> 10. Interstate Commerce Act Amendments of 1935, 49 Stat. 548, as amended, 49 U.S.C. § 11502(a)(2) (enforcement of highway transportation law).
>
> B. RESOURCE MANAGEMENT
>
> 1. Laws involving the administration and management of national parks and scenic areas: e.g., Act of May 15, 1965, § 6, 79 Stat. 111, 16 U.S.C. § 281e (Nez Perce National Historical Park); Act of Sept. 21, 1959, § 3, 73 Stat. 591, 16 U.S.C. § 410u (Minute Man National Historical Park); Act of Oct. 20, 1972, § 4, 86 Stat. 1302, 16 U.S.C. § 460bb-3(b) (Muir Woods National Monument).
>
> 2. Laws involving the administration of forest lands: e.g., Act of March 1, 1911, § 2, 36 Stat. 961, 16 U.S.C. §§ 563; Act of Aug. 29, 1935, ch. 808, 49 Stat. 963, 16 U.S.C. §§ 567a-567b.
>
> 3. Laws involving the construction and management of water projects: e.g., Water Supply Act of 1958, § 301, 72 Stat. 319, 43 U.S.C. § 390b; Boulder Canyon Project Act, §§ 4, 8, 45 Stat. 1058, 1062 (1928), as amended 43 U.S.C. §§ 617c, 617g; Rivers and Harbors Act of 1899, § 9, 30 Stat. 1151, 33 U.S.C. § 401.
>
> 4. National Trails System Act, 82 Stat. 919 (1968), as amended, 16 U.S.C. §§ 1241-1249; see 16 U.S.C. § 1246(h).
>
> 5. Outer Continental Shelf Lands Act Amendment of 1978, § 208, 92 Stat. 652, 43 U.S.C. § 1345 (oil leasing).
>
> C. GRANT PROGRAMS
>
> In addition to the familiar welfare, unemployment, and medical assistance programs established by the Social Security Act, these may include:
>
> 1. Food Stamp Act of 1964, 78 Stat. 703, as amended, 7 U.S.C. § 2011-2025; see, e.g., 7 U.S.C. § 2020e-2020(g).
>
> 2. Small Business Investment Act of 1958, § 602(d)(1), 72 Stat. 698, as amended, 15 U.S.C. § 636(d).
>
> 3. Education Amendments of 1978, 92 Stat. 2153, as amended, 20 U.S.C. §§ 2701 et seq.; see, e.g., 20 U.S.C. §§ 2734, 2902.
>
> 4. Federal-Aid Highway legislation, e.g., 21 U.S.C. §§ 128, 131.
>
> 5. Comprehensive Employment and Training Act Amendments of 1978, 92 Stat. 1909,

29 U.S.C. §§ 801 et seq.; see, e.g., 29 U.S.C. §§ 823, 824.

6. United States Housing Act of 1937, as added, 88 Stat. 653 (1974), as amended, 42 U.S.C. § 1437 et seq.; see, e.g., 42 U.S.C. §§ 1437d(c), 1437j.

7. National School Lunch Act, 60 Stat. 230 (1946), as amended, 42 U.S.C. §§ 1751 et seq.; see, e.g., 42 U.S.C. § 1758.

8. Public Works and Economic Development Act of 1965. 79 Stat. 552, as amended, 42 U.S.C. §§ 3121 et seq.; see, e.g., 42 U.S.C. §§ 3132, 3151a, 3243.

9. Justice System Improvement Act of 1979, 93 Stat. 1167, 42 U.S.C. §§ 3701-3797; see, e.g., 42 U.S.C. §§ 3742, 3744(c).

10. Juvenile Justice and Delinquency Prevention Act of 1974, 88 Stat. 1109, as amended, 42 U.S.C. §§ 5601 et seq.; see, e.g., 42 U.S.C. § 5633.

11. Energy Conservation and Production Act of 1976, 90 Stat. 1125, as amended, 42 U.S.C. §§ 6801 et seq.; see, e.g., 42 U.S.C. §§ 6805, 6836.

12. Developmentally Disabled Assistance and Bill of Rights Act, 89 Stat. 486 (1975), as amended, 42 U.S.C. §§ 6001 et seq.; see, e.g., §§ 6011, 6063.

13. Urban Mass Transportation Act of 1964, 78 Stat. 302, as amended, 49 U.S.C. §§ 1601 et seq.; see, e.g., §§ 1602, 1604(g)(m).

Now, "virtually every * * * program, together with the State officials who administer [them] becomes subject to Federal judicial oversight at the behest of a single citizen, even if such a dramatic expansion of Federal court jurisdiction never would have been countenanced when these programs were adopted." See *Chapman* v. *Huston Welfare Rights Org.*, 441 U.S. 600, 645 (1978), (concurring opinion, Justice Powell).

Ironically, with the expenses of increased litigation and court-ordered spending that will accompany this decision, local governments will be less able to implement Federal programs than they were before the ruling in Thiboutot. In addition, as if this expanded liability was not enough to invite a deluge of litigation, the Court opened the floodgates further by ruling that attorney's fees are available in any section 1983 action. Thus, there is even more incentive to initiate litigation.

This is not to say that a person should be without remedy when truly deprived; on the contrary, causes of action are provided for by many statutes. When necessary, Congress, not the Courts, should create specific statutory rights such as the remedies included in many of the programs listed by Justice Powell. However, the use of section 1983 as an all-inclusive remedy is not appropriate. Justice Powell summed up the effect of the Thiboutot decision:

No one can predict the extent to which litigation from today's decision will harass state and local officials; nor can one foresee the number of new filings in our already over-burdened courts. But no one can doubt that these consequences will be substantial.

As we all know, our local governments face the problem of providing services to the public with limited budgets. Our State and local governments are already strapped. Why should we leave them in a tighter straitjacket?

PROPOSED AMENDMENT

My amendment to section 1983 would add the words "and by any law providing for equal rights" in the place of the ambiguous and broad "and laws" language. The text would then read:

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any state or territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and by any law providing for equal rights of citizens or of all persons within the jurisdiction of the United States, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

This wording would provide that section 1983 actions be based on deprivations of those rights secured by the Constitution and by those laws which provide for equal rights. Thus, State and local governments would not face the harassment that is sure to follow the decision in Thiboutot, while, at the same time, the civil rights of individuals will be protected as Congress originally intended.

OWEN VERSUS CITY OF INDEPENDENCE

In this decision, a dismissed city police chief sued the city, city manager, and city council for violating his due process rights. The Supreme Court, reversing the court of appeals, held that the city was liable to the police chief because its ordinance allowing his summary dismissal was unconstitutional and contravened the Court's holdings in *Roth* v. *Board of Regents*, 408 U.S. 564 (1972) and *Perry* v. *Sindermann*, 408 U.S. 593 (1972). These decisions had been handed down after the actions taken by the city of Independence. Therefore, the district court had allowed a good faith defense because the city and its officials could not have anticipated the Supreme Court's future interpretations of constitutional law. The Supreme Court, however, disallowed the good faith defense and held the city liable even though it had no way of predicting the Court's actions. The Court reasoned that since Congress was silent on municipal immunity, no immunity was intended.

Justice Powell, joined by the Chief Justice, Justice Rehnquist, and Justice Stewart, stated in dissent:

This strict liability approach inexplicably departs from this court's prior decisions under section 1983 and runs counter to the concerns of the 42d Congress when it enacted the statute. The court's ruling also ignores the vast weight of common-law precedent as well as the current state of municipal immunity.

The dissenters also noted that—

Municipalities . . . have gone in two short years from absolute immunity under section 1983 to strict liability.

CONSEQUENCES OF OWEN

Again, even if we accept the questionable use of legislative history and legal precedent, the policy considerations of this ruling force us to act. The ruling is not only unfair in holding a city responsible for violating a right which first came into existence after the city acted, but it is also detrimental in shackling local governments with the need to predict future Federal court decisions. In this ruling, the Court has administered what could be, for many of our local governments, a fatal dose of municipal immobilization.

While the Court could find no reason for any immunity for local governments, it has given numerous reasons for immunity to government officials such as judges, police officers, school board members, prison officials, and prosecutors. In Owen, the Court stated that—

We concluded that overriding considerations of public policy nonetheless demanded that the official be given a measure of protection from personal liability

The Court's justification for individual immunity was—

That the threat of personal monetary liability will introduce an unwarranted and unconscionable consideration into the decision making process, thus paralyzing the governing official's decisiveness and destorting his judgment on matters of public policy.

Justice Harlan also listed reasons for granting immunity to Government officials:

Officials of government should be free to exercise their duties unembarrassed by the fear of damage suits in respect of acts done in the course of those duties—suits which would consume time and energies which would otherwise be devoted to government service . . . *Barr* v. *Matteo*, 360 U.S. 564.

The Court stated that these considerations did not apply when the damage award comes from the public treasury instead of the official's pocket.

With such reasoning, the Court must assume that our State and local governments are guided by irresponsible individuals who would be prudent with their own money but would not flinch at the risk of depleting the public treasury. This type of official is not characteristic of the men and women I have associated with, in Utah and throughout the country, who take seriously their trust over the taxpayer's money. State and local leaders like these will be forced to continually look over their shoulder and into the mind of the Federal judiciary to determine future decisions—lest ruinous judgments threaten municipal solvency. Each decision will be made with constant consideration of section 1983 liability, and officials will no doubt feel

the pressure of accountability to citizens and colleagues for costly judgments. Also, small towns, where retained counsel is an unaffordable luxury, will now be forced to cut back on services to try to protect themselves by retaining counsel. Do all these concerns not represent, "an unwarrranted and unconscionable consideration into the decisionmaking process?" Since a municipality's actions are essentially the actions of its chief officials and since most of our local officials are conscientious in their stewardship over public funds, I see little logic in distinguishing between the actions of the municipality and the acts of the individual officials: therefore, the dire effects that the Court sees in a lack of immunity for an individual official also apply to the lack of municipal immunity.

The Court also reasoned that the municipality's liability for constitutional violations is a proper concern of its officials. I certainly agree that the constitutional rights of individuals should be of the utmost concern in the decisions of municipalities and that they should be liable for violations of existing constitutional rights, but I do not agree that municipalities should be immobilized by rights that have not been invented yet. I do not think that the Supreme Court itself could predict future constitutional rights—in the Owen case, for example, four justices found no constitutional violation while five found that there was a violation. Local governments will need more than counsel, they will need a crystal ball.

Furthermore, the doctrine of separation of powers provides that some Government decisions should be insulated from review by the courts. A costly damage judgment or court-ordered spending, where officials have acted in good faith, represents a needless intrusion into municipal decisionmaking. As Justice Powell noted in Owen:

> The allocation of public resources and the operational policies of the government itself are activities that lie peculiarly within the competence of the executive and legislative bodies. When charting those policies, a local official should not have to gauge his employer's possible liability under section 1983 if he incorrectly—though reasonably and in good faith—forecasts the course of constitutional law. Excessive judicial intrusion into such decisions can only distort municipal decision-making and discredit the courts. Qualified immunity would provide presumptive protection for discretionary acts, while still leaving the municipality liable for bad faith or unreasonable constitutional deprivations.

Another problem, as Justice Powell pointed out, is that the Court's decision in this case is completely out of step with the prevailing situation of the law of municipal immunity in the States. Most States have some form of immunity, the most common being a qualified immunity. Only five States practice the form of blanket immunity introduced by the Court in Owen.

Finally, Judge Learned Hand once observed:

> To submit all officials, the innocent as well as the guilty to the burden of a trial and to the inevitable danger of its outcome, would dampen the ardor of all but the most resolute, or the most irresponsible, in the unflinching discharge of their duties. Again and again, the public interest calls for action which may turn out to be founded on a mistake, in the face of which an official may later find himself hard put to it to satisfy a jury of his good faith. There must indeed be a means of punishing public officers who have been truant at their duties; but that is quite another matter from exposing such as have been honestly mistaken to suit by anyone who has suffered from their errors. As is so often the case, the answer must be found in a balance between the evils inevitable in either alternative. In this instance it has been thought in the end better to leave unredressed the wrongs done by dishonest officers than to subject those who try to do their duty to the constant dread of retaliation. *Gegoire* v. *Biddle*, 177F. 2d 579, 581. Quoted in *Barr* v. *Matteo*.

PROPOSED AMENDMENT

In its Owen decision, the Court provides for municipal liability because Congress had not provided for municipal immunity. The second amendment which I propose today will provide that municipalities and other political subdivisions of States shall have a good faith defense in section 1983 actions. This new section on the liability of political subdivisions will read:

> No civil action may be brought against a political subdivision of a State under this section if the political subdivision acted in good faith with a reasonable belief that the actions of the political subdivision were not in violation of any rights, privileges, or immunities secured by the Constitution or by laws providing for equal rights of citizens or persons.

Section 1983 will continue to allow recovery when there has been an intentional or bad faith violation by the municipality, or, in other words, when officials "knew or should have known that their conduct violated the constitutional norm." (*Procunier* v. *Navarette*, 434 U.S., a 562.) Municipalities will be protected when they have acted in good faith. This amendment strikes an equitable balance between two very important considerations—the constitutional rights of individuals and the ability of local governments to serve all the people.

ATTORNEY'S FEE

Section 2 of the legislation reversing Owen would enact equally important changes in the way that attorney fees are awarded in section 1983 suits. This issue is closely related to the elimination of the "good faith" defense in its implications for the financial solvency of municipal governments.

The Civil Rights Attorneys' Fees Awards Act of 1976, now codified in 42 U.S.C. 1988, was enacted for the laudatory goal of providing poor people with the opportunity to attract competent counsel to remedy violations of their constitutional rights. The Fees Act provides that the prevailing party will be awarded reasonable attorneys' fees in actions under several civil rights statutes, the most important of which is 42 U.S.C. 1983. Suits brought under section 1983 have dramatically increased in recent years and now represent a substantial portion of the suits brought in Federal Courts. But the damage awards recovered by prevailing plaintiffs in these cases are often not enough to attract an attorney on a contingent fee basis, and often the plaintiffs are poor. Thus, the 1976 Fees Act was intended by Congress to increase the enforcement of individual civil rights by providing incentive for attorneys to represent individuals who otherwise could not afford to pay for the attorney's services in these civil rights suits. I applaud the overall goal of the Fees Act, and I feel that in the years since its enactment it has aided many impecunious individuals in enforcing their civil rights. To that extent, the Fees Act has been very beneficial.

CRITICISMS OF THE APPLICATION OF THE FEES ACT

However, the application of the Fees Act has not been without substantial criticism, and I believe much of this criticism is warranted. Justice Sandra D. O'Connor, before she became a member of the Supreme Court, wrote in a William and Mary Law Review article that the burden of section 1983 litigation could be beneficially reduced,

> By limiting or disallowing recovery of attorney's fees. Such a move . . . would be welcomed by State courts, as well as State legislatures and executive officers.

I am aware of several State attorneys general, who are usually considered quite liberal, but who have expressed the view that the Fees Act has resulted in such burdens and inequities that it should be repealed. Virtually all major State and local government organizations have called for changes in the way attorneys' fees are awarded under section 1988. Many local government officials to whom I have spoken have expressed concern about the substantial fee awards they have already paid, the increasing amounts of money that are being diverted from public services to legal defense, and their view that a number of these suits are simply being brought to collect attorneys' fees.

A few examples of some fee awards and results of the Fees Act will help in understanding the concern over the Fees Act. For example, according to a committee report by the Lawyers' Committee for Civil Rights Under Law—Report No. 39, October 1980—courts are increasingly applying a "multiplier" or "bonus" after deter-

mining a "lodestar" amount by multiplying the hours spent by a reasonable hourly rate in determining the amount of the fee award. In *Keith* v. *Volpe*, 86 F.R.D. 565 (C.D. Cal. 1980), the court applied a multiplier of 3.5 to reasonable hourly rates of from $25 to $117.50, for effective hourly rates of from $87.50 to $411.25. In another case listed by the report hourly rates of from $50 to $75 were doubled, for effective hourly rates of from $100 to $150. In *Copeland* v. *Marshall*, 594 F. 2d 244 (1978) (a non-1983 sex discrimination suit), a large Washington, D.C., law firm, who had appeared pro bono, received attorneys' fees of $160,000 where they obtained $33,000 in back pay. The Dissent characterized the majority's fee computation as being "up, up, and away."

In *Regina* v. *Dalsheim* (S.D. N.Y. 78 Civ. 1677), the court rejected the prisoner's numerous challenges to the condition of the prison hospital. The court did direct the prison to install an electric buzzer over the prisoner's bed, and, in light of that relief, the court awarded $13,383.22 in attorney's fees. In *Oniskor, Logan and Dock* v. *Milliken*, No. C-79-0142, U.S.D.C., Utah 1980, each of three mentally ill prison inmates received $500 while their three lawyers received approximately $22,000 in fees. According to the attorney general of Utah, David Wilkinson, in one case 45 hours of editing and proofreading were compensated at approximately $75 per hour, and in one case even the dog kennel expenses of one expert witness were compensated.

Many State and local government officials are upset because courts routinely award fees to organizations which are already publicly funded, and thus taxpayer funds are being used to pay such organizations twice to do the same thing—that is, represent poor people who cannot afford legal counsel. But the ultimate twist occurred in the case of the *Seattle School District* v. *State of Washington*, CA 9 No. 79-4643, where a municipal corporation of the State of Washington brought a successful action against the State. The district court refused to grant them fees, reasoning that the litigation had already been publicly funded, but the Ninth Circuit reversed and awarded attorneys' fees to the school district. Thus, this litigation will be funded three times out of the public treasury: Once to support the school district, once to support the State, and once more to pay attorneys' fees to the school district's attorneys.

I will discuss some of the other criticisms States and municipalities have with the application of the Fees Act when I describe my proposed amendments, but I would like to mention an exchange during a recent oral argument before the Supreme Court in *Parrat* v. *Taylor* (argued Mar. 2, 1981) in which several Justices seemed to recognize the claim being made by State and local officials that many of these suits are simply being undertaken to collect attorneys' fees. In that case, a prisoner sued under section 1983 because a prison had lost a hobby kit of his valued at $22.50. Justice Stevens inquired why the plaintiff had sued under section 1983 and had come all the way to the Supreme Court when remedies existed under State law which would have easily returned his $22.50. Plaintiff's counsel replied that he could not have gotten a jury trial. Justice Stevens countered by asking if he really needed a jury trial and was it not something else; namely, attorney's fees. Plaintiff's counsel responded that that might have entered into the decision. Justice Marshall stated that the only difference, then, between what he could recover under section 1983 and the State procedure was attorney's fees.

AVAILABLE STATISTICS

Over the last several years there has been an explosion of civil rights suits and, in particular, civil rights suits brought under section 1983. In 1961, according to the administrative office of the U.S. courts, 270 civil rights cases were brought in Federal courts. This figure and those following exclude cases in which the United States was a party. Unfortunately, statistics are not available on specifically the number of section 1983 cases brought in Federal courts, but, in practice, the vast majority of these cases are suits against State and local governments, virtually all of which allege a section 1983 claim. By 1976 the number of these suits had leaped to 10,585; in addition, 6,958 State prisoners suits were brought—all of which would be section 1983 suits; habeas corpus suits are not included in this figure. During 1981 the number of civil rights suits brought in Federal court had increased to 13,534, plus 15,639 State prisoners suits. Between 1976 and 1981 the number of civil rights suits brought in Federal court—still excluding suits in which the United States was a party—per year increased from 17,543 to 29,173, a 66-percent increase.

Thus, a very conservative estimate would indicate that 23,000 suits were brought alleging section 1983 claims against State and local governments or officials in 1981 along. Some would estimate the number to be closer to 26,000. An extremely large amount of taxpayer money must be spent to merely defend States and municipalities in these suits. It plaintiffs prevail in any significant portion of these suits, the cost to the public treasuries of our States and local governments for the payment of attorney's fees awards pursuant to the Fees Act will be tremendous. From these figures alone it is obvious, particularly in light of the strained financial condition of many States and localities, that we cannot afford to encourage the bringing of questionable suits, or burden public treasuries by overcompensating attorneys bringing these cases.

The National Association of Attorneys General submitted a survey to the Constitution Subcommittee which demonstrates the impact of the Fees Act. While States have generally not kept statistics on Fees Act awards and many of the States could not afford to divert the resources needed to respond to the survey, the data for the States which were able to respond to the survey, is typical of the experience of the other States, according to the National Association of Attorneys General. It should be kept in mind that these figures only represent Fees Act cases against States; they do not include the numerous suits which may have been brought against municipalities within the State. The following are some of the findings of the survey:

Ohio has over 600 Fees Act cases pending against it. In addition, Ohio has paid over $270,000 in attorneys' fees under the Fees Act.

The State of Washington has over 95 cases pending against it and has paid over $400,000 in attorneys' fees. Also, Washington reports that it is facing pending fee requests potentially exceeding $4,500,000.

New York has currently pending fees requests exceeding $2,000,000.

Massachusetts has paid over $400,000 in attorneys' fees.

Hawaii reports it has paid $428,000 in attorneys' fees and $15,386,000 in program costs as a result of judgments.

Florida has paid $778,090 in attorneys' fees while it only paid $211,042 in damages during the same period. In other words, the State of Florida has paid 269 percent more in fees to the lawyer than it has in damages to the individual harmed by the Government conduct.

Tennessee has over 200 cases pending against it and estimates litigation costs exceeding $1,000,000 in two cases only.

Again, according to the National Association of Attorneys General, the experience of these States is typical of the other States.

A survey by the National Institute of Municipal Law Officers gives some sense of the liability municipalities are facing from section 1983 litigation. The survey revealed that there were over $4.78 billion in pending damage claims under section 1983 against a sampling of 200 cities. This figure is somewhat misleading since damage claims are generally greatly inflated, but even if an extremely small percentage of the damages claimed were awarded and if this was extended to the approximately 17,000 cities nationwide, the financial liability would be tremendous. NIMLO's figures did not

include attorneys' fees, which are often higher than the damage award.

Some opponents of changes in the Fees Act have suggested that a study be undertaken to determine whether the Fees Act is creating a burden for State and local governments. In my opinion, the available statistics—not to mention the expressed concerns of numerous State and local government officials—establish that the current application of the Fees Act is resulting in substantial burdens, some of which are not necessary to fulfill the basic purposes of the Fees Act. In any event, the amendments I am proposing, as I will show, are reasonable and necessary improvements in the awarding of fees under section 1988.

PROPOSED AMENDMENTS

There are approximately 100 statutes, like section 1988, which provide for fee shifting. But none of these other fee-shifting statutes involve such enormous numbers of suits, and in many of these other statutes the fees are not awarded out of public treasuries, as is the case with section 1988. Neither, to my knowledge, have these other fee-shifting statutes aroused the kind of opposition and concern that section 1988 has. For these reasons amendments modifying fee shifting under section 1988 are fully justified.

Before discussing the changes I am proposing, I want to clearly indicate what these provisions would not change: A prevailing plaintiff will still recover attorneys' fees which will compensate his attorney at the prevailing market rate, and no plaintiff need fear having to pay the other party's fees, even if he loses the case, as long as his claim is not frivolous or groundless. These amendments do not drastically change the awarding of attorneys' fees under section 1988. In fact, several State and local government groups have suggested that these amendments should go much further than they do. These changes will only discourage the bringing of nonmeritorious claims or suits.

In my opinion, we will be doing ourselves a great disservice if this issue is framed in terms of being either for or against civil rights. Clearly, it is of utmost importance that individuals have a practical remedy for violations of their civil rights. If we were to pay attorneys incredible amounts of money to bring civil rights cases, we would insure that every conceivable civil rights complaint, and probably a lot that cannot be conceived, would be brought. But such a course would be clearly not in the best interest of the taxpayers who fund these fee awards and would be very detrimental to the ability of State and local governments to serve the public.

As was stated repeatedly in the Senate floor debates, the purpose of the Fees Act was not to create a lucrative civil rights bar. The purpose was to enable poor persons to assert their constitutional rights by providing reasonable attorneys' fees if they won their case.

THE DUAL STANDARD

Section 2(a) of this amendment deals with the standard to be used to determine whether the prevailing party should recover fees. The language of section 1988 makes no distinction between prevailing defendants and prevailing plaintiffs; however, the legislative history of the Fees Act makes it clear that the so-called dual standard is to apply. The dual standard provides that plaintiffs are to be routinely awarded fees when they prevail, but the defendants are not to recover fees when they win, according to the House report,

if the action is not brought in bad faith.—H. Rept. 94-1558, 7 (1976).

The dual standard, particularly with the incredible number of lawyers in our country today, creates a tremendous incentive to bring these suits: The lawyer knows that if he can prevail on any part of his claim, he will be awarded his attorney's fees and possibly a bonus on top of that. According to testimony at hearings which I have chaired, this situation is resulting in numerous frivolous and questionable suits being brought which are costly to defend against even when the Government wins. In a letter to the Constitution Subcommittee, the attorney general of Louisiana stated that:

Frivolous lawsuits can be time consuming. Over 40 hours were spent obtaining a routine motion to dismiss in one of the latest instances of groundless litigation handled by this office.

Some State and local government officials have suggested that a fairer approach, and one which would deter frivolous suits, would be to allow plaintiffs and defendants to recover equally.

The legislative history of the 1976 Fees Act pointed out clearly, and correctly, I think, the need for the dual standard: If the persons seeking to enforce their civil rights were faced with paying their opponents attorneys' fees if they simply did not win the case, the Fees Act would create a greater disincentive to bring these civil rights suits than the situation it attempted to remedy. The amendment that I am proposing would clarify that the standards enunciated by the Supreme Court in *Christiansburg Garment Co.* v. *Equal Employment Opportunity Commission*, 434 U.S. 412, (1978) were to apply to prevailing defendants in claims covered under section 1988. The Christiansburg Garment standard would provide some deterrent by forcing the plaintiffs to pay the defendant's attorneys' fees if the suit was frivolous or groundless. In fact, the standard has been applied in other civil rights fee statutes, and has been cited in some section 1988 cases, but I feel it is important that Congress make it clear that while meritorious civil rights suits are encouraged, those who would file frivolous suits at taxpayer's expenses do so at the risk of paying the other party's attorneys' fees. Two of the four witnesses on the civil rights/plaintiffs panel at the Constitution Subcommittee's March 1 hearing on attorneys' fees even agreed that this change was warranted.

THE USE OF PENDENT JURISDICTION

Section 2(b) modifies the awarding of fees where the plaintiff prevails on a claim not covered under section 1988 but there is a pendent claim covered under section 1988 which the court does not decide. The use of pendent jurisdiction allows creative attorney's to recover fees for claims not covered under section 1988 and turns section 1988 into a general fee-shifting statute.

Currently, when a plaintiff prevails on the basis of a claim which does not provide for attorneys' fees but is joined to a claim which is covered under section 1988, the plaintiff will recover fees for the entire suit despite the fact that the court did not reach the claim covered by section 1988 and despite the fact that the claim may have no merit. In these situations, the standard used to determine whether the section 1988 claim may be joined to a valid State claim, for example, is that it is not "obviously frivolous" or "wholly insubstantial." Justice Rehnquist characterized this standard as permitting joinder of claims whenever the "plaintiff is able to plead his claim with a straight face." *Hagans* v. *Lavine*, 415 U.S. 528, 536-37 (1974).

In these situations the courts, following the sound judicial rule that constitutional questions should not be decided if the case can be resolved on other grounds, will decide the case on the valid State claim. Prof. Arthur Wolf, who was a special counsel to one of the leaders in the House's passage of the Fees Act, former Congressman Robert Drinan, has written that joinder of claims—

Will provide the basis for applying the 1976 Fees Awards Act in an ever-widening circle of litigation, especially in those lawsuits where the defendants are persons acting under color of state law, it is not improbable to suggest that with a little bit of creative thinking many (and maybe most) suits involving state action will be covered by the Fees Act.—2 Western New England Law Review 193, 249.

I believe, despite a footnote in the House report to the contrary, that Congress did not intend, in enacting the Fees Act, to provide attorney's fees from the public treasury to creative attorneys in any suit against State or local governments regardless of whether it pertains to civil rights or not. Even if this was the intention of Congress in 1976, I believe this policy

is unwise and should be changed. Some groups have suggested that this problem be corrected by providing that no fees may be awarded unless the plaintiff specifically prevails on the claim covered by section 1988. But that approach would hamper judicial economy in situations in which there was in fact a valid State or Federal claim not covered under section 1988 and a valid section 1988 claim, because the plaintiff would be likely to bring two separate actions to insure he recovered fees he was entitled to, or the court would have to decide a constitutional claim which was not necessary for it to decide.

The change I propose would direct the judge, in these situations, to make a determination as to whether it would have been rational to have brought the section 1988 claim as a separate suit. One court has, contrary to the legislative history of the Fees Act, denied fees in this situation, stating that—

> This court sees no basis for awarding fees when the fee triggering statute plays no role but that of allowing attorney fees. *Tatro* v. *State of Texas*, 516 F. Supp. 968, 984 (N.D. Tex. 1981).

If the court determined that the claim covered under section 1988 had sufficient merit to have been reasonably brought as a separate suit, attorneys' fees will be awarded even though the plaintiff prevailed on a non-1988 claim. The judge would not have to determine whether the plaintiff prevailed on the section 1988 claim, and the decision would not require extensive analysis in the vast majority of cases. I want to emphasize that this proposal will not require the court to decide any additional constitutional questions.

While this amendment would require an additional determination by the court, I feel it is more than justified by the two alternatives—leaving the situation as it exists now or not allowing fees unless the court makes a final determination on the claim covered under section 1988. The latter course would probably severely hamper judicial economy, while the former is too burdensome on State and local governments. This proposal should not burden the plaintiff since he simply has to determine whether he is joining the section 1988 claim because it has merit or because he is trying to use it to collect fees.

ENCOURAGING SETTLEMENTS

Section 2(c) would deny fees to a party that has rejected a settlement offer which was as favorable to the party as the relief ultimately granted by the court. I have been told by plaintiffs' attorneys that State and local governments often refuse to settle, and thus drag out litigation, where it is clear that the government is in the wrong; on the other hand, defendants' attorneys have advised me that plaintiffs' counsel refuse to settle knowing they will be racking up attorneys' fees if they continue to litigate the case. Whichever of these views is correct, if either is, the settlement provision I have suggested would be beneficial to both parties. The provision would provide great incentive to the defendants to offer reasonable settlements to the plaintiffs, resulting in a quick and fair resolution of the dispute to the benefit of the plaintiff and resulting in a reduction of the terrible congestion that now exists in our courts. After accepting the settlement, the plaintiff would be considered to have prevailed in the action and the attorneys' fees for work up to that point would be awarded. State and local governments would know that if they offered a reasonable settlement they could protect themselves against large, and possibly crippling, fee judgments and could also protect themselves against attorneys who would try to run up the fees.

It has been argued that this proposal would place the entire risk upon the plaintiff's attorney and would "place the attorney and his client in a conflict—the attorney may feel compelled to encourage the plaintiff to accept a less than adequate settlement, rather than risk denial of fees for litigating to a judgment." But this argument ignores the fact that there presently exists a substantial risk and a conflict of interest for the plaintiff's attorney—presently the attorney can settle and receive his fees up to that point or he can go ahead with the suit and risk not winning and thus recover no fees. In addition, the argument fails to account for the present overly strong incentive which exists for defendants to settle these cases. As has been illustrated earlier, the fees in these cases often far exceed the damages awarded to the plaintiff. Robert Corbin, attorney general of Arizona, stated that:

> The potential burden of having to pay attorneys' fees often affects the states' or defendants' ability to litigate or defend a case fully in trial or on appeal. Therefore, it is not uncommon, in a close case, for the defendant to capitulate early in order to minimize the attorneys' fees liability.

While this amendment may increase the risk upon the attorney and the conflict with his client, the increase is a matter of degree and not of kind. Consideration by the attorney of his potential fee is currently injected throughout the litigation by the Fees Act itself. I feel that the benefits of the proposed settlement provision far outweigh the costs: First, the plaintiffs, often the forgotten figure in this issue, will get a quick resolution of their claim rather than having to possibly wait years; second, court congestion from these cases will be reduced and the notion that each of these disputes must go through the grossly inefficient process of full litigation will be lessened; third, local governments will be able to protect themselves from costly fee judgments; and fourth, the attorney will recover his fees for his efforts up to the settlement and can still recover fees for the entire suit should the defendant's offer not be reasonable and he later prevails.

In addition, the amendment further reduces the risk upon the plaintiff's attorney by providing the court some discretion to award fees anyway in these situations where it finds substantial justification for declining the settlement; for example, an intervening change in the law or the necessity to go through discovery might be rational reasons to reject an early settlement offer.

THE CATALYST THEORY

Currently a plaintiff will be held to be a prevailing party and entitled to recover fees even if the claim has been mooted if the court finds that the suit was a catalyst for the change of policy which rendered the claim moot. Section 2(d) would clarify that the pendency of the litigation had to be a material factor in the Government's decision to change the policy which moots the suit. This standard is, in fact, being currently applied by most courts. See, for example, *Morrison* v. *Ayoob*, 627 F.2d 669 (3d Cir. 1980), cert. denied, 449 U.S. 1102 (1981). But some courts' strong emphasis on chronology—that is, the fact that the plaintiffs' case was pending when the Government changed the policy which mooted the litigation—as establishing that the suit was a catalyst for the Government's action has led many local governments to fear making changes and improvements in its policy lest it become liable for fees in a pending suit. For example, the city of Tarpon Springs, Fla., stated in a letter to Congressman BILL MCCOLLUM which was forwarded to me:

> Furthermore, a city can be involved in revising its policies and subsequently be served with lawsuits such as those discussed above. The city would then be subjected to a claim that in part the program for improving practices continued because of the lawsuit. This is the exact situation in the City of Tarpon Springs, where prior to the litigation, the City of Tarpon Springs engaged consultants and otherwise had established a planned program to improve personnel practices, employment, recreation, and many other municipal services. This type of strategy and tactic has the effect of encouraging public officials to do absolutely nothing and take their chances with lengthy litigation. (Letter of September 14, 1981)

These suits do often act as catalysts in pointing out policies which need to be changed and which the Government does subsequently change as a result of the pendency of the litigation. In these situations awards of attorneys' fees are totally appropriate. Section 2(d) is needed to insure that planned improvements are not delayed

in order to prevent an adverse judgment.

DETERMINING A REASONABLE FEE

Section 2(e) simply provides that a prevailing party eligible for attorneys' fees will be compensated by determining a reasonable market rate and multiplying this by the number of hours which were reasonably spent on the issues in which the plaintiff prevailed. Typically the hourly rate for an attorney who handles these types of cases would be his usual hourly rate. If this is not appropriate, the market rate or a reasonable hourly rate for that type of litigation should be used. In addition, the hourly rate should be the attorney's current hourly rate to take into account the impact of inflation on suits which have been pending for a long period of time. The plaintiff's attorney's hourly rate should also include a limited—for example, 20 percent—factor to account for the contingent nature of these cases.

Section 2(f) requires the attorney to submit a statement detailing the precise nature of the work done during each increment of time. From this the court will determine the number of hours reasonably necessary to further the client's interests on the claims in which the plaintiff prevailed. Duplicative work should not be compensated; in other words, taxpayer funds should not be used to pay four or five attorneys a high hourly rate to sit around and listen to depositions or, as one witness at the hearings indicated, to read Newsweek during the trial.

Subsection (e) clarifies that only claims in which the plaintiff prevailed will be compensated. Currently the circuits are split on this issue. Probably the majority hold that if, for example, a plaintiff alleges five separate claims and the court finds that he only prevailed on one of those claims, attorney's fees will be awarded for the entire litigation despite the fact that the Government won the vast majority of the claims. This result is anomalous since if the plaintiff only alleged the four claims that failed, he would have received no fees at all. For example, in *Eckerhart* v. *Hensley*, 475 F. Supp. 908 (W.D.MO. 1979), according to the attorney general of Missouri, John Ashcroft, Missouri prevailed on the vast majority of substantive issues. Yet the court refused to reduce attorneys' fees and awarded fees of $133,332.25 and expenses of $15,177.40.

The approach I am proposing would provide fees to the plaintiff's attorney even on claims the plaintiff did not win if the attorney could show that the particular work was interrelated with claims in which the plaintiff prevailed upon; for example, evidence gathered for a losing claim may very well be interrelated to claims in which the plaintiff prevailed. But the court should be careful not to award fees for work done specifically on losing claims. This will reduce the incentive to join questionable claims where the plaintiff knows he has a claim which he will prevail upon. It should be remembered that awarding fees on claims not prevailed upon does not benefit the plaintiff. In fact, poor people in general lose in these situations because awarding fees on claims not prevailed upon is one of the factors which leads to fee awards far in excess of the relief granted to the plaintiff himself. Moreover, there have been several cases in which the Government didn't upgrade prison facilities, for example, because of a lack of funds. After a large attorney fee has been awarded in a suit, the Government unit has far less money to devote to needed services than the problem which prompted the suit in the first place.

Finally, I am proposing in subsection (e) to eliminate the use of multipliers or bonuses on top a fee which represents a reasonable hourly rate multiplied by the number of hours worked, a rate which everyone except lawyers would agree was more than adequate. Earlier in this statement I gave examples of some of the huge fee awards which result from the use of multipliers; these awards result in incentives to take even highly questionable cases in hopes of recovering a large fee award. Since courts now usually award bonuses because of the contingent nature of the case, the awarding of bonuses also results in another anomalous situation where a small fee award is given for obvious, egregious violations of a person's civil rights, but a huge fee may be awarded in situations where it was not at all clear that the State or local government even violated anyone's civil rights. I am aware that multipliers, resulting in incredible fee awards are given in complex antitrust suits, for example, but section 1988 can be distinguished because the fees are awarded directly from the public treasuries of State and local governments and the fact that the Fees Act has generated unprecedented criticism and burdens, as I pointed out earlier. Whether or not multipliers are justified in antitrust suits where the attorneys are probably making well over $100 an hour already is not for us to decide here.

If the suggestions of the civil rights and plaintiffs' attorneys were followed with respect to contingency multipliers, cases with little chance of success but which are successful would be awarded fees to cover work done on similar cases which were not successful. For example, some cases have awarded a multiplier of three on top of a reasonable rate. This means the attorney is being paid for two other similar cases which failed; thus the attorney could continue to bring cases with little chance of prevailing and effectively recover fees for all the hours he worked on any of these cases. Carried to its logical conclusion, a more direct approach, but hardly advisable, would be to pay the plaintiff's attorney by the hour directly out of the public treasury for any case he brought. As I suggested earlier, a small contingent factor should be figured into the attorney's reasonable hourly rate to account for the fact that he only gets paid if he wins, but the contingent multiplier rationale some courts are applying is clearly harmful to State and local governments.

I would be remiss if I did not acknowledge the fact that the governments sometimes cause their own problems with attorneys' fees. For example, Fletcher Farrington, a plaintiffs' attorney from Savannah, Ga., testified that a county commission rejected plaintiff's offer to settle in one case where the settlement offer was for $8,000 and the court ended up awarding $74,000 in damages and $24,000 in attorney's fees. I certainly have no sympathy for defendants in situations like this and, while Congress has no authority to limit fees paid by the Government unit to defend itself, I hope that the public will hold those officials accountable who stubbornly increase the cost of defending the Government unit and also increase unnecessary the awards to plaintiffs.

CONCLUSION

Evidently tired of waiting for Congress to break its silence on the intended scope of 42 U.S.C. 1983, the Supreme Court has rendered decisions in Maine against Thiboutot and Owens against City of Independence which will severely impair the ability of our local governments to serve the people, while doing little for individual constitutional rights. These rulings require that Congress let its voice be heard. Justice Rehnquist foresaw such a need in his dissenting opinion in Monell against City of New York Department of Social Services:

> Only Congress, which has the benefit of the advice of every segment of this diverse nation, is equipped to consider the results of such a drastic change in the law. It seems all but inevitable that it will find it necessary to do so after today's decision. *Monell* v. *City of New York Department of Social Services*, 436 U.S. 658, 715 (1978) (dissenting opinions).

The measure that I am introducing today to overturn Owen, relating to the "good faith" defense of municipalities, was approved during the last Congress by the Subcommittee on the Constitution. Senator DECONCINI, the ranking minority member of the subcommittee, deserves great credit for his efforts in behalf of this measure. I am hopeful that further consideration can be given during the forthcoming Congress to both of these measures so that we can avoid what are likely to be

the onerous consequences of the recent rulings in Owen and Thiboutot.

I ask unanimous consent that the text of the two proposed bills be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 141

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1979 of the Revised Statutes (42 U.S.C. 1983) is amended by inserting "(a)" before "Every" and by adding at the end thereof the following new subsection:

"(b) In any action brought under this section, damages shall not be awarded against any government entity if the court finds that the officials thereof were acting in good faith."

SEC. 2. The Revised Statutes are amended by adding after section 722 (42 U.S.C. 1988) the following new section:

"LIMITATIONS ON AWARDS OF ATTORNEY'S FEES AND OTHER COSTS

"SEC. 722A. (a) Attorney's fees should be awarded to the prevailing plaintiff in any action pursuant to section 722 (42 U.S.C. 1988) unless special circumstances would render such an award unjust. Attorney's fees should be awarded to the prevailing defendant if the court finds that the plaintiff's claim was frivolous, unreasonable, or groundless, or that the plaintiff continued to litigate after it clearly became so, even though there was no subjective bad faith.

"(b) Where a party has prevailed on a pendent claim or federal statutory claim not covered under section 722 (42 U.S.C. 1988) but which is joined under the Federal Rules of Civil Procedure to a claim that is under such section, the court may only award attorney's fees if it finds that the claim covered under section 722 of the Revised Statutes (42 U.S.C. 1988) has sufficient merit to have justified a reasonable person to have brought such claim as a separate suit.

"(c) No fee shall be awarded under section 722 of the Revised Statutes (42 U.S.C. 1988) as compensation for that part of litigation subsequent to a declined offer of settlement when such offer was as substantially favorable to the prevailing party as the relief ultimately awarded by the court.

"(d) No attorney's fees may be awarded under section 722 of the Revised Statutes (42 U.S.C. 1988) where the court finds the claims to be moot due to a change in government policy if the court finds that the pendency of the litigation was not a material factor for such change.

"(e) The amount of fees awarded under section 722 of the Revised Statutes (42 U.S.C. 1988) shall be based upon a reasonable market rate for time reasonably spent on the claims in which the plaintiff prevailed or which qualify for fees under subsection (b). No awards based on bonuses or multipliers may be made by the court in any award under section 722 of the Revised Statutes (42 U.S.C. 1988).

"(f) A party seeking an award of fees and other expenses under section 722 of the Revised Statutes (42 U.S.C. 1988) shall, within 30 days of final judgment in the action, subject to modification by agreement of the parties or by court order, submit to the court an application for fees and other expenses which shows that the party is a prevailing party and is eligible to receive an award under this section. The application shall state the amount of fees and other expenses sought, including an itemized statement from any attorney or expert witness representing or appearing on behalf of the party, stating the actual time expanded, the precise nature of the work done during each increment of time expended, and the rate at which fees and other expenses were computed.

By Mr. CRANSTON:

S. 142. A bill to amend the Wild and Scenic Rivers Act by designating a segment of the Tuolumne River in California as a component of the National Wild and Scenic Rivers System; to the Committee on Energy and Natural Resources.

TUOLUMNE RIVER

Mr. CRANSTON. Mr. President, I introduce for appropriate reference a bill to designate 83 miles of the Tuolumne River in California as a component of the National Wild and Scenic Rivers System.

In 1975 Congress enacted legislation I sponsored directing the Departments of the Interior and Agriculture to study a 92 mile stretch of the Tuolumne for possible inclusion in the National Wild and Scenic Rivers System. After extensive study, the Departments found that 83 miles of the Tuolumne possessed outstanding natural, scenic, recreation, geologic, fish and wildlife, historic, and cultural values. The Departments recommended that these 83 miles be added to the National Rivers System. In 1979 President Carter concurred and forwarded the recommendation to the Congress. The President's favorable recommendation triggered a 3-year protection period during which time no Federal action could be taken to diminish the wild and scenic values of the Tuolumne River. This included moratorium on licensing hydroelectric projects on the river. Unfortunately, the protection expired in October 1982 without any congressional review of the administration's wild river proposal for the Tuolumne.

Now the city and county of San Francisco—Hetch Hetchy Water and Power Department—and the Turlock and Modesto Irrigation Districts are proceeding with their joint proposal to construct a series of three dams and two powerhouses known as the Clavey-Wards Ferry project on the Tuolumne and its tributaries. These projects would produce hydroelectric power for which the Turlock and Modesto Irrigation Districts are the most likely recipients. The Federal Energy Regulatory Commission is currently processing their applications for preliminary permits.

Mr. President, I believe that Congress should give this issue the consideration it deserves, conduct a thorough review of the various alternatives for the river, and complete the process it initiated when it directed the wild and scenic river study of the Tuolumne. Congress should not let the decision regarding the future of the Tuolumne River to be made by default. The river is far too important nationally to permit this to happen. The Tuolumne clearly qualifies for wild river designation. Its headwaters are in Yosemite National Park and some 54 of the 83 miles recommended for designation traverse the park. The river also is a prime fishery spot for rainbow and brown trout and is ranked as a class 1 boating river.

Moreover, there is substantial support in California for wild river designation of the Tuolumne River. The State of California—the California Resources Agency, the departments of fish and game, water resources, and boating and waterways—are on record in favor of addition to the Federal Wild and Scenic Rivers System. The cities of Berkeley and San Jose which operate family summer camps on the tributaries of the Tuolumne River support designation. San Francisco Planning & Urban Research, an association of downtown businesses; the California Native Plant Society; and the California Academy of Sciences are among others actively seeking permanent protection of the Tuolumne River.

Mr. President, I am introducing this legislation today for the express purpose of obtaining congressional hearings on the 1979 recommendation of the Departments of Interior and Agriculture that the Tuolumne River be included in the national rivers system. I hope this can be accomplished in the near future before irreversible decisions on the Tuolumne's fate are made by FERC.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 142

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 3(a) of the Wild and Scenic Rivers Act, as amended (16 U.S.C. 1274(a)), is further amended by adding the following new paragraph:

( ) TUOLUMNE, CALIFORNIA.—The main stem from its sources on Mount Dana and Mount Lyell in Yosemite National Park to Don Pedro Reservoir, as generally depicted on the map entitled "Proposed Boundary Tuolumne Wild and Scenic River", May 1979; to be administered by the Secretary of the Interior.

By Mr. CRANSTON:

S. 143. A bill to authorize the Twenty-nine Palms Band of Luiseno Mission Indians to lease for 99 years certain lands held in trust for such band; to the Select Committee on Indian Affairs.

TWENTY-NINE PALMS BAND OF LUISENO MISSION INDIANS

Mr. CRANSTON. Mr. President, I am today reintroducing legislation to authorize the addition of the Twenty-nine Palms Band of Luiseno Mission Indians to the list of those tribes permitted to lease trust lands for 99 years.

Conventionally, Indian trust land may be leased for periods of up to 25 years with an option to renew for an additional 25 years. In the past exceptions to this practice have been authorized by statute on a case-by-case basis primarily to facilitate commercial development for the benefit of the leasing tribe. It is such an exception that this legislation would create.

The southern portion of the Twenty-nine Palms Reservation, arid and unsuitable for either agrarian enterprise or human habitation, is adjacent to the Valley Sanitation District. The Valley Sanitation District treatment facility must expand to meet the demands for waste disposal of the city of Indio, but is limited by the nonavailability of space in the area it serves.

The tribe wants to lease to the Valley Sanitary District an otherwise nonproductive parcel of land adjacent to the VSD facility, thereby converting an unused and nonproduction area into a revenue-producing project. The tribe plans to use the proceeds from this enterprise for much needed housing and business development. However, both parties agree that such a facility should have the semipermanency a 99-year lease would afford. Hence, the need for this legislation.

I strongly support providing this opportunity to permit beneficial use of the meager resources of this reservation to provide revenue for development of the reservation, and for the benefit of the neighboring community as well.

I am advised that the Secretary of Interior supports this legislation.

During the 97th Congress, a companion bill to the legislation I proposed last year passed the House. Unfortunately, the Senate did not act on this noncontroversial measure before adjournment.

Mr. President, I urge early adoption of this bill.

By Mr. DANFORTH (for himself, Mr. BENTSEN, Mr. ANDREWS, Mr. BOREN, Mr. BRADLEY, Mr. CHAFEE, Mr. CHILES, Mr. COHEN, Mr. CRANSTON, Mr. D'AMATO, Mr. DECONCINI, Mr. DOLE, Mr. GLENN, Mr. GRASSLEY, Mr. HART, Mr. HEINZ, Mr. HOLLINGS, Mr. INOUYE, Mr. KASTEN, Mr. MATTINGLY, Mr. MELCHER, Mr. MITCHELL, Mr. MOYNIHAN, Mr. PRESSLER, Mr. PROXMIRE, Mr. RANDOLPH, Mr. RIEGLE, Mr. ROTH, Mr. SIMPSON, Mr. SYMMS, Mr. TSONGAS, and Mr. PERCY):

S. 144. A bill to insure the continued expansion of reciprocal market opportunities in trade, trade in services, and investment for the United States, and for other purposes; to the Committee on Finance.

RECIPROCAL TRADE AND INVESTMENT ACT

Mr. DANFORTH. Mr. President, I am pleased to be joined today by Senator LLOYD BENTSEN and an impressive group of our Senate colleagues in introducing the Reciprocal Trade and Investment Act.

This legislation is the product of extensive consultations within the Congress and discussions with the administration, labor, and the private sector. Although based on the original language and concepts contained in S. 2094, introduced in February of last year, the legislation contains major provisions based on bills introduced in the 97th Congress by Senators BENTSEN, ROTH, CHAFEE, BRADLEY, HEINZ, HART, and INOUYE.

Although some of these bills employed the term and the concept of reciprocity more emphatically than others, they shared a common denominator; namely, that the United States must do more to expand its access opportunities in markets overseas. I believe the sponsors of the legislation under consideration share a conviction that the United States must seek nothing more, and nothing less, than the opportunity to compete on an equal footing in world markets. In its current form, the Reciprocal Trade and Investment Act was twice approved and reported out of the Finance Committee in the 97th Congress.

The result is a bill that should serve to further the objectives we all share; namely, the maintenance and expansion of market opportunities abroad for U.S. exports of goods and services, and for foreign investment of the United States. The legislation builds on the broad concept of reciprocity of market access that is fundamental to U.S. trade policy. It strengthens enforcement of the legal rights of the United States under existing trade agreements and it sets the stage for the expansion of those international rights through the negotiation of agreements in the service and investment areas. Finally, the bill addresses itself to the problems encountered by high technology industries as a result of Government intervention that distorts international trade in such high growth sectors.

Overall, the bill is designed to liberalize international trade and to curb protectionist pressures in the United States by demonstrating that we will enforce our rights under international agreements. The idea is to close the credibility gap created when we consistently refuse to take protectionist action in spite of the widespread perception that we are the only country practicing what everyone else preaches; namely, free trade.

Specifically, the bill provides for:

First. A systematic procedure whereby the administration would identify and analyze key barriers to U.S. trade in products, services, and investment.

The required annual report to Congress would include major foreign barriers and distortions to U.S. exports of products (including agricultural commodities), services, and investment, including estimates of their impact on the U.S. economy and efforts to achieve their elimination.

It is my expectation, and that of others involved in the evolution of this bill, that the annual reports will be used by this and subsequent administrations to identify the most onerous barriers to U.S. trade and investment and thereby set comprehensive market enhancement priorities for U.S. trade policy.

In this regard, we would expect the administration to go beyond its current role as recipient of petitions under section 301 of the Trade Act and to make use of the provisions for self-initiated 301 cases, as well as the bill's negotiating authority to broaden the scope of existing international agreements.

Second. Section 301 of the Trade Act of 1974 would be amended to broaden its scope and to clarify and enhance Presidential authority to retaliate against foreign unfair trade practices.

In this regard, unfair trade practices for which relief is available under U.S. law would be broadened to cover performance requirements and other trade-distorting barriers to investment, as well as violations of intellectual property rights.

Foreign barriers not removed through negotiation or enforcement of the GATT (General Agreement on Tariffs and Trade) could be offset by the United States through withdrawal of prior U.S. concessions, imposition of duties, and other restrictions available under present law as clarified by this legislation. Of particular interest is the clarification of the President's authority to impose fees and restrictions on foreign services or suppliers of those services. While the role of regulatory agencies is recognized with respect to trade in services, I am firmly convinced that the Congress never intended regulatory agencies to make trade policy.

Finally, where U.S. retaliatory options are not currently available to the President, he would be given new authority to propose legislation which would enjoy accelerated consideration by the Congress.

Third. The legislation provides for major negotiations to achieve international agreements that encourage fair

and open trade in services, investment flows, and high technology.

Knowing that other Senators intend to speak in some detail regarding negotiations in the services and high technology sectors, I would like to address the investment portion of the legislation. In fact, barriers to foreign direct investment have major implications for international trade in both products and services.

In developed and developing countries alike, restrictions on foreign investment are being put into place which severely distort access opportunities. The impact on international trade has never been measured and should be of immense concern in the development of U.S. trade policy. The United States has always maintained a liberal investment policy, to the benefit of our economy as well as to those of foreign investors. The administration must be prepared to move forward with all due speed to reach bilateral and multilateral agreements with our trading partners—designed to reduce, eliminate, or prevent restrictions on the flow of investment throughout the world.

Mr. President, taken as a whole, the Reciprocal Trade and Investment Act is designed to increase American exports and export-related jobs through stronger enforcement and expansion of domestic and international rules dealing with foreign unfair trade practices. It is intended to move us beyond the largely rhetorical approach that now characterizes our efforts to achieve greater market access abroad, into a straightforward mechanism for sorting through and dealing with these foreign actions.

If enacted in this form, I believe that the legislation will achieve its purpose. I will, however, be willing to consider any reasonable modifications that my colleagues may choose to raise in the course of Senate consideration.

ENDORSEMENTS

The Reciprocal Trade and Investment Act enjoys the support of a diverse group of business and agricultural organizations. Mr. President, I ask unanimous consent that a partial list of the organizations be placed in the RECORD:

Aerospace Industries Association of America.
American Electronics Association (AEA).
American Farm Bureau (AFB).
American Trucking Associations (ATA).
Business Round Table.
California-Arizona Citrus League.
California Almond Growers.
Chamber of Commerce.
Chemical Manufacturers Association (CMA).
Cling Peach Advisory Board.
Coalition of Service Industries.
Computer and Business Equipment Manufacturers Association (CBEMA).
Electronic Industries Association (Communication Division).
Emergency Committee for American Trade (ECAT).
International Anti-Counterfeiting Coalition.
Millers National Federation.
National Agricultural Chemical Association (NACA).
National Association of Manufacturers (NAM).
National Cattlemen's Association (NCA).
National Council of Farmer Cooperatives (NCFC).
National Foreign Trade Council (NFTC).
The National Grange.
Poultry and Egg Institute.
Scientific Apparatus Makers Association (SAMA).
Semiconductor Industry Association (SIA).
Sun-Diamond Growers of California.
Tanners' Council of America (TCA).

THE NEED FOR RECIPROCITY LEGISLATION

Mr. President, in closing, I would like to reiterate some of the comments I made in February of 1982 when I originally introduced the Reciprocal Trade and Investment Act:

Since the last round of multilateral trade negotiations and the passage of the Trade Agreements Act of 1979, American policy has largely consisted of reacting to a flood of imports. I do not denigrate the importance of this effort, yet, in the process, attempts to expand market access for America-produced goods have proceeded in an ad hoc manner at best.

It is time for us to embark on a comprehensive effort to assure fair treatment for American exports in foreign markets. The Reciprocal Trade and Investment Act is designed to do just that.

The U.S. balance of trade in merchandise went into deficit in 1971 for the first time in more than three-quarters of a century. Last year, that deficit reached close to $40 billion, including significant bilateral deficits with a number of our major trading partners.

These deficits, in and of themselves, are not the problem. The problem is the extent to which these deficits result from inequitable market access between the United States and its trading partners rather than the market forces of comparative advantage and exchange rates.

Through the GATT system, the industrialized world has benefited from over 30 years of relative peace in international trade, along with the gradual reduction of traditional tariff and nontariff barriers to imports. The two fundamental principles of the GATT—the mutual extension of national and most-favored-nation treatment—remain essential elements in the GATT's formula for success.

The United States has, since the inception of the GATT, taken the leadership role in lowering international barriers to trade. Pushing and cajoling our trading partners into accepting each new liberalizing guideline, America has taken pains to employ the GATT's dispute settlement provisions. We have been in the forefront of any negotiations aimed at the reduction of tariff and nontariff barriers.

This leadership role has prompted the United States to set domestic policies relating to trade that are in conformity with GATT and to hope for similar action from our trading partners. The result is an American market with comparatively few import barriers while foreign markets are protected by a wide variety of restrictions. This has put us in a weak position to bargain for mutual concessions by other countries, for there are few American import restrictions left to trade away for market access abroad.

Of our major developed trading partners, Japan retains the most severe barriers to competitive American exports. Protection of the Japanese market is maintained in a variety of ways—some clearly illegal, some not. But regardless of whether these impediments are formal or informal, legal or illegal, the fact is, they work. Moreover, it is clear even to the casual observer of American driving, viewing, and listening habits that Japan has ample access to our market in areas where Japanese firms are competitive.

Our largest single trading partner, Canada, continues to focus its attention on the investment and service areas for its "Canadianization" efforts. Although not traditionally considered under the general GATT framework, these barriers are not only harmful in and of themselves, but also have a significant impact on trade in goods. Investment restrictions imposed by the Foreign Investment Review Agency (FIRA), discriminatory tax practices and similar Government policies have already begun to impede our access to their market.

Finally, the European Communities give one the impression that they are ever on the lookout for new ways of closing their markets. These efforts have been directed at Japan for some time and may well affect our exports in the future. Meanwhile, we are still groping for the means to deal with the impact of EC agricultural export subsidies on competitive U.S. exports to third markets.

The problems we face with respect to market access abroad are equally, if not more, severe in the case of developing nations. Many of these nations continue to benefit from developed country MFN concessions in the past 30 years without being accountable in GATT for reducing their own barriers. Of particular concern are barriers to trade and investment maintained by the Newly Industrialized Countries (NIC's) such as Mexico (not even a GATT member), and Korea and Brazil, which have no desire to "graduate" from their LDC status in GATT terms.

It cannot be surprising then, that many believe the GATT, however essential it is, is not alone sufficient to provide the basis of truly free international trade. It has become clear that national and MFN treatment are inadequate in some circumstances to provide the benefits of the system to the United States, when our market access is so disproportionately greater than others.

Further, while the GATT may work well to combat many traditional barriers to merchandise trade, it still fails to address some of the more sophisticated impediments found in the world today.

For example, the GATT offers no guidance whatever with regard to the free flow of investment and services, an integral part of international trade in today's world. Barriers in these sectors, such as performance requirements, continue to grow abroad in the absence of any firm international guidelines.

Therefore, while the GATT may be necessary to maintain equilibrium in the international trading system, it is by no means sufficient to achieve equitable access for U.S. trade and investment.

Mr. President, the bill under consideration today is designed to set the course for American trade policy that will accomplish our market access objectives by building upon and expanding the international trading system as we know it.

To achieve this goal, the United States must be prepared to force the issue. The Reciprocal Trade and Investment Act is a clear mandate for the administration to seek equitable market access abroad for competitive American products, services, and investment, backed up by a credible threat to redress restrictions on American exports through the imposition of offsetting measures.

I will be the first to admit that this act is not a panacea for all of our economic woes. It does, however, fill a gap in our trade policy. If enacted, it will focus our Government's attention on those "generic" barriers to U.S. trade and investment that place limits on our full export potential. The bill strengthens the administration's hand without forcing it, and offers an opportunity for us to move forward in the search for innovative solutions to expand markets for U.S. exports. Moreover, it not only reaffirms, but also seeks to extend existing rules governing international trade.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

Mr. MOYNIHAN. Mr. President, will the Senator yield?

Mr. DANFORTH. Yes.

Mr. MOYNIHAN. Mr. President, will the Senator do me the honor of putting me down as a cosponsor of that particular measure, which I very much support?

Mr. DANFORTH. Certainly. I appreciate the Senator's comments. I ask unanimous consent that the Senator from New York (Mr. MOYNIHAN) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DANFORTH. I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 144

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF TRADE ACT OF 1974.

(a) SHORT TITLE.—This Act may be cited as the "Reciprocal Trade and Investment Act of 1982".

(b) AMENDMENT OF TRADE ACT OF 1974.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Trade Act of 1974.

SEC. 2. STATEMENT OF PURPOSES.

The purposes of this Act are—

(1) to foster the economic growth of, and full employment in, the United States by expanding competitive United States exports through the achievement of commercial opportunities in foreign markets substantially equivalent to those accorded by the United States;

(2) to improve the ability of the President—

(A) to identify and to analyze barriers to (and restrictions on) United States trade and investment, and

(B) to achieve the elimination of such barriers and restrictions;

(3) to encourage the expansion of international trade in services through the negotiation of agreements (both bilateral and multilateral) which reduce or eliminate barriers to international trade in services; and

(4) to enhance the free flow of foreign direct investment through the negotiation of agreements (both bilateral and multilateral) which reduce or eliminate the trade distortive effects of certain investment-related measures.

SEC. 3. ANALYSIS OF FOREIGN TRADE BARRIERS.

(a) IN GENERAL.—Title I (19 U.S.C. 2111 et seq.) is amended by adding at the end thereof the following new chapter:

"CHAPTER 8—BARRIERS TO MARKET ACCESS

"SEC. 181. ACTIONS CONCERNING BARRIERS TO MARKET ACCESS.

"(a) NATIONAL TRADE ESTIMATES.—

"(1) IN GENERAL.—Not later than the date on which the initial report is required under subsection (b)(1), the United States Trade Representative, through the interagency trade organization established pursuant to section 242(a) of the Trade Expansion Act of 1962, shall—

"(A) identify and analyze acts, policies, or practices which constitute significant barriers to, or distortions of—

"(i) United States exports of goods (including agricultural commodities) or services, and

"(ii) foreign direct investment by United States persons, especially if such investment has implications for trade in goods or services; and

"(B) make an estimate of the trade-distorting impact on United States commerce of any act, policy, or practice identified under subparagraph (A).

"(2) CERTAIN FACTORS TAKEN INTO ACCOUNT IN MAKING ANALYSIS AND ESTIMATE.—In making any analysis or estimate under paragraph (1), the Trade Representative shall take into account—

"(A) the relative impact of the act, policy, or practice on United States commerce;

"(B) the availability of information to document prices, market shares, and other matters necessary to demonstrate the effects of the act, policy, or practice;

"(C) the extent to which such act, policy, or practice is subject to international agreements to which the United States is a party; and

"(D) any advice given through appropriate committees established pursuant to section 135.

"(3) ANNUAL REVISIONS AND UPDATES.—The Trade Representative shall annually revise and update the analysis and estimate under paragraph (1).

"(b) REPORT TO CONGRESS.—

"(1) IN GENERAL.—On or before the date which is one year after the date of the enactment of the Reciprocal Trade and Investment Act of 1982, and each year thereafter, the Trade Representative shall submit the analysis and estimate under subsection (a) to the Committee on Finance of the Senate and to the Committee on Ways and Means of the House of Representatives.

"(2) REPORTS TO INCLUDE INFORMATION WITH RESPECT TO ACTION BEING TAKEN.—The Trade Representative shall include in each report submitted under paragraph (1) information with respect to any action taken, or the reasons for no action, to eliminate any act, policy, or practice identified under subsection (a).

"(3) CONSULTATION WITH CONGRESS ON TRADE POLICY PRIORITIES.—The Trade Representative shall keep the committees described in paragraph (1) currently informed with respect to trade policy priorities for the purposes of expanding market opportunities.

"(c) ASSISTANCE OF OTHER AGENCIES.—

"(1) FURNISHING OF INFORMATION.—The head of each department or agency of the executive branch of the Government, including any independent agency, is authorized and directed to furnish to the Trade Representative or to the appropriate agency, upon request, such data, reports, and other information as is necessary for the Trade Representative to carry out his functions under this section.

"(2) RESTRICTIONS ON RELEASE OR USE OF INFORMATION.—Nothing in this subsection shall authorize the release of information to, or the use of information by, the Trade Representative in a manner inconsistent with law or any procedure established pursuant thereto.

"(3) PERSONNEL AND SERVICES.—The head of any department, agency, or instrumentality of the United States may detail such personnel and may furnish such services, with or without reimbursement, as the Trade Representative may request to assist in carrying out his functions.".

(b) CONFORMING AMENDMENT.—The table of contents for title I is amended by adding at the end thereof the following:

"CHAPTER 8—BARRIERS TO MARKET ACCESS

"Sec. 181. Actions concerning barriers to market access.".

SEC. 4. AMENDMENTS TO TITLE III OF THE TRADE ACT OF 1974.

(a) PRESIDENTIAL ACTION IN THE CASE OF UNFAIR TRADE PRACTICES.—Section 301(a) (19 U.S.C. 2411(a)) is amended to read as follows:

"(a) DETERMINATIONS REQUIRING ACTION.—

"(1) IN GENERAL.—If the President determines that action by the United States is appropriate—

"(A) to enforce the rights of the United States under any trade agreement; or

"(B) to respond to any act, policy, or practice of a foreign country or instrumentality that—

"(i) is inconsistent with the provisions of, or otherwise denies benefits to the United States under, any trade agreement, or

"(ii) is unjustifiable, unreasonable, or discriminatory and burdens or restricts United States commerce;

the President shall take all appropriate and feasible action within his power to enforce such rights or to obtain the elimination of such act, policy, or practice.

"(2) SCOPE OF ACTION.—The President may exercise his authority under this section with respect to any goods or sector—

"(A) on a nondiscriminatory basis or solely against the foreign country or instrumentality involved, and

"(B) without regard to whether or not such goods or sector were involved in the act, policy, or practice identified under paragraph (1).".

(b) OTHER ACTION BY PRESIDENT.—Section 301(b) (19 U.S.C. 2411(b)) is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) in paragraph (2)—

(A) by inserting "notwithstanding any other provision of law," before "impose";

(B) by striking out "products" and inserting in lieu thereof "goods"; and

(C) by striking out the period and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following:

"(3) propose legislation where necessary and appropriate to carry out the objectives of subsection (a).

Any legislation proposed under paragraph (3) shall be treated as an implementing bill pursuant to the provisions of section 151, except that, for purposes of section 151(c)(1), no trade agreement shall be required and the day on which the implementing bill is submitted shall be treated as the day on which the trade agreement is submitted. The President shall notify Congress, and publish notice in the Federal Register, of his intention to propose legislation under paragraph (3) at least 90 days before the implementing bill is submitted.".

(c) INITIATION OF INVESTIGATIONS BY OR ON MOTION OF TRADE REPRESENTATIVE.—

(1) IN GENERAL.—Section 302 (19 U.S.C. 2412) is amended to read as follows:

"SEC. 302. INITIATION OF INVESTIGATIONS BY UNITED STATES TRADE REPRESENTATIVE.

"(a) FILING OF PETITION.—

"(1) IN GENERAL.—Any interested person may file a petition with the United States Trade Representative (hereinafter in this chapter referred to as the 'Trade Representative') requesting the President to take action under section 301 and setting forth the allegations in support of the request.

"(2) REVIEW OF ALLEGATIONS.—The Trade Representative shall review the allegations in the petition and, not later than 45 days after the date on which he received the petition, shall determine whether to initiate an investigation.

"(b) DETERMINATIONS REGARDING PETITIONS.—

"(1) NEGATIVE DETERMINATION.—If the Trade Representative determines not to initiate an investigation with respect to a petition, he shall inform the petitioner of the reasons therefor and shall publish notice of the determination, together with a summary of such reasons, in the Federal Register.

"(2) AFFIRMATIVE DETERMINATION.—If the Trade Representative determines to initiate an investigation with respect to a petition, he shall initiate an investigation regarding the issues raised. The Trade Representative shall publish a summary of the petition in the Federal Register and shall, as soon as possible, provide opportunity for the presentation of views concerning the issues, including a public hearing—

"(A) within the 30-day period after the date of the determination (or on a date after such period if agreed to by the petitioner) if a public hearing within such period is requested in the petition; or

"(B) at such other time if a timely request therefor is made by the petitioner.

"(c) DETERMINATION TO INITIATE BY MOTION OF TRADE REPRESENTATIVE.—

"(1) DETERMINATION TO INITIATE.—If the Trade Representative determines with respect to any matter that an investigation should be initiated in order to advise the President concerning the exercise of the President's authority under section 301, the Trade Representative shall publish such determination in the Federal Register and such determination shall be treated as an affirmative determination under subsection (b)(2).

"(2) CONSULTATION BEFORE INITIATION.—The Trade Representative shall, before making any determination under paragraph (1), consult with appropriate committees established pursuant to section 135.".

(2) CONFORMING AMENDMENTS.—

(A) Section 141(d) is amended—

(i) by striking out "and" at the end of paragraph (6),

(ii) by striking out the period at the end of paragraph (7) and inserting in lieu thereof a semicolon and "and", and

(iii) by adding at the end thereof the following new paragraph:

"(8) provide, where authorized by law, copies of documents to persons at cost, except that any funds so received shall be credited to, and be available for use from, the account from which expenditures relating thereto were made.".

(B) Section 303 (19 U.S.C. 2413) is amended—

(i) by striking out "with respect to a petition";

(ii) by inserting "or the determination of the Trade Representative under section 302(c)(1)" after "in the petition"; and

(iii) by inserting "(if any)" after "petitioner".

(C) Section 304 (19 U.S.C. 2414) is amended by striking out "issues raised in the petition" and inserting in lieu thereof "matters under investigation" in paragraph (1) of subsection (a).

(D) The item relating to section 302 in the table of contents is amended to read as follows:

"Sec. 302. Initiation of investigations by United States Trade Representative.".

(d) EXTENSION OF TIME FOR REQUESTS FOR CONSULTATIONS.—Section 303 (19 U.S.C. 2413) is amended—

(1) by inserting "(a) IN GENERAL.—" before "On"; and

(2) by adding at the end thereof the following new subsection:

"(b) DELAY OF REQUEST FOR CONSULTATIONS FOR UP TO 90 DAYS.—

"(1) IN GENERAL.—Notwithstanding the provisions of subsection (a)—

"(A) the United States Trade Representative may delay for up to 90 days any request for consultations under subsection (a) for the purpose of verifying or improving the petition to ensure an adequate basis for consultation, and

"(B) if such consultations are delayed by reason of subparagraph (A), each time limitation under section 304 shall be extended for the period of such delay.

"(2) NOTICE AND REPORT.—The Trade Representative shall—

"(A) publish notice of any delay under paragraph (1) in the Federal Register, and

"(B) report to Congress on the reasons for such delay in the report required by section 306.".

(e) DEFINITIONS.—

(1) COMMERCE DEFINED.—Paragraph (1) of section 301(d) (19 U.S.C. 301(d)) is amended to read as follows:

"(1) DEFINITION OF COMMERCE.—The term 'commerce' includes, but is not limited to—

"(A) services associated with international trade, whether or not such services are related to specific goods, and

"(B) foreign direct investment by United States persons with implications for trade in goods or services.".

(2) UNREASONABLE, UNJUSTIFIABLE, AND DISCRIMINATORY DEFINED.—Section 301(d) (19 U.S.C. 2411(d)) is amended by adding at the end thereof the following new paragraphs:

"(3) DEFINITION OF UNREASONABLE.—The term 'unreasonable' means any act, policy, or practice which, while not necessarily in violation of or inconsistent with the international legal rights of the United States, is otherwise deemed to be unfair and inequitable. The term includes, but is not limited to, any act, policy, or practice which denies fair and equitable—

"(A) market opportunities;

"(B) opportunities for the establishment of an enterprise; or

"(C) provision of adequate protection of intellectual property rights.

"(4) DEFINITION OF UNJUSTIFIABLE.—

"(A) IN GENERAL.—The term 'unjustifiable' means any act, policy, or practice which is in violation of, or inconsistent with, the international legal rights of the United States.

"(B) CERTAIN ACTIONS INCLUDED.—The term 'unjustifiable' includes, but is not limited to, any act, policy, or practice described in subparagraph (A) which denies national or most-favored-nation treatment, the right of establishment, or protection of intellectual property rights.

"(5) DEFINITION OF DISCRIMINATORY.—The term 'discriminatory' includes where appropriate any act, policy, or practice which denies national or most-favored-nation treatment to United States goods, services, or investment.".

(3) CONFORMING AMENDMENT.—Section 301(d) (19 U.S.C. 2411(d)) is amended by striking out the heading and inserting in lieu thereof:

"(d) DEFINITIONS; SPECIAL RULE FOR VESSEL CONSTRUCTION SUBSIDIES.—For purposes of this section—".

(f) AMENDMENTS TO SECTION 305.—Section 305 of the Trade Act of 1974 (19 U.S.C. 2415) is amended by adding at the end thereof the following new subsection:

"(c) CERTAIN BUSINESS INFORMATION NOT MADE AVAILABLE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), and notwithstanding any other provision of law (including section 552 of title 5, United States Code), no information requested and received by the Trade Representative in aid of any investigation under this chapter shall be made available to any person if—

"(A) the person providing such information certifies that—

"(i) such information is business confidential,

"(ii) the disclosure of such information would endanger trade secrets or profitability, and

"(iii) such information is not generally available;

"(B) the Trade Representative determines that such certification is well-founded; and

"(C) to the extent required in regulations prescribed by the Trade Representative, the person providing such information provides an adequate nonconfidential summary of such information.

"(2) USE OF INFORMATION.—The Trade Representative may—

"(A) use such information, or make such information available (in his own discretion) to any employee of the Federal Government for use, in any investigation under this chapter, or

"(B) may make such information available to any other person in a form which cannot be associated with, or otherwise identify, the person providing the information.".

SEC. 5. NEGOTIATING OBJECTIVES WITH RESPECT TO INTERNATIONAL TRADE IN SERVICES AND INVESTMENT AND HIGH TECHNOLOGY INDUSTRIES.

(a) NEGOTIATING OBJECTIVES.—

(1) IN GENERAL.—Chapter 1 of title I is amended by inserting immediately after section 104 the following new section:

"SEC. 104A. NEGOTIATING OBJECTIVES WITH RESPECT TO TRADE IN SERVICES, FOREIGN DIRECT INVESTMENT, AND HIGH TECHNOLOGY PRODUCTS.

"(a) TRADE IN SERVICES.—Principal United States negotiating objectives under section 102 shall be—

"(1) to reduce or to eliminate barriers to, or other distortions of, international trade in services (particularly United States service sector trade in foreign markets), including barriers that deny national treatment and the rights of establishment and operation in such markets; and

"(2) to develop internationally agreed rules, including dispute settlement procedures, which—

"(A) are consistent with the commercial policies of the United States, and

"(B) will reduce or eliminate such barriers or distortions and help ensure open international trade in services.

"(b) FOREIGN DIRECT INVESTMENT.—Principal United States negotiating objectives under section 102 shall be—

"(1) to reduce or to eliminate artificial or trade-distorting barriers to foreign direct investment, to expand the principle of national treatment, and to reduce unreasonable barriers to establishment; and

"(2) to develop internationally agreed rules, including dispute settlement procedures, which—

"(A) will help ensure a free flow of foreign direct investment, and

"(B) will reduce or eliminate the trade distortive effects of certain investment related measures.

"(c) HIGH TECHNOLOGY PRODUCTS.—Principal United States negotiating objectives shall be—

"(1) to obtain and preserve the maximum openness with respect to international trade and investment in high technology products and related services;

"(2) to obtain the elimination or reduction of, or compensation for, the significantly distorting effects of, foreign government acts, policies, or practices identified in section 181, with particular consideration given to the nature and extent of foreign government intervention affecting United States exports of high technology products or investments in high technology industries, including—

"(A) foreign industrial policies which distort international trade or investment;

"(B) measures which deny national treatment or otherwise discriminate in favor of domestic high technology industries;

"(C) measures which impair access to domestic markets for key commodity products; and

"(D) measures which facilitate or encourage anticompetitive market practices or structures;

"(3) to obtain commitments that official policy of foreign countries or instrumentalities will not discourage government or private procurement of foreign high technology products and related services;

"(4) to obtain the reduction or elimination of all tariffs on, and other barriers to, United States exports of high technology products and related services;

"(5) to obtain commitments to foster national treatment;

"(6) to obtain commitments to—

"(A) foster the pursuit of joint scientific cooperation between companies, institutions or governmental entities of the United States and those of the trading partners of the United States in areas of mutual interest through such measures as financial participation and technical and personnel exchanges, and

"(B) ensure that access by all participants to the results of any such cooperative efforts should not be impaired; and

"(7) to provide effective minimum safeguards for the acquisition and enforcement of intellectual property rights and the property value of proprietary data.

"(d) DEFINITION OF BARRIERS AND OTHER DISTORTIONS.—For purposes of subsection (a), the term 'barriers to, or other distortions of, international trade in services' includes, but is not limited to—

"(1) barriers to the right of establishment in foreign markets, and

"(2) restrictions on the operation of enterprises in foreign markets, including—

"(A) direct or indirect restrictions on the transfer of information into, or out of, the country or instrumentality concerned, and

"(B) restrictions on the use of data processing facilities within or outside of such country or instrumentality.".

(2) CONFORMING AMENDMENT.—The table of contents for chapter 1 of title I is amended by inserting after the item relating to section 104 the following new item:

"Sec. 104A. Negotiating objectives with respect to trade in services, foreign direct investment, and high technology products.".

SEC. 6. PROVISIONS RELATING TO INTERNATIONAL TRADE IN SERVICES.

(a) COORDINATION OF UNITED STATES POLICIES.—

(1) IN GENERAL.—The United States Trade Representative, through the interagency trade organization established pursuant to section 242(a) of the Trade Expansion Act of 1962 or any subcommittee thereof, shall, in conformance with other provisions of law, develop (and coordinate the implementation of) United States policies concerning trade in services.

(2) FEDERAL AGENCIES.—In order to encourage effective development and coordination of United States policies on trade in services, each department or agency of the United States responsible for the regulation of any service sector industry shall, as appropriate, advise and work with the United States Trade Representative concerning matters that have come to the department's or agency's attention with respect to—

(A) the treatment afforded United States service sector interests in foreign markets, or

(B) allegations of unfair practices by foreign governments or companies in a service sector.

(3) NO ALTERATION OF EXISTING AUTHORITY.—Nothing in this section shall be construed to alter any existing authority or responsibility with respect to any specific service sector.

(b) SERVICE INDUSTRIES DEVELOPMENT PROGRAM.—

(1) IN GENERAL.—The Secretary of Commerce is authorized to establish a service industries development program. Such program shall be designed to—

(A) promote the competitiveness of United States service firms and American employees through appropriate economic policies;

(B) promote actively the use and sale of United States services abroad and develop trade opportunities for United States service firms;

(C) develop a data base for policymaking pertaining to services;

(D) collect and analyze, in consultation with appropriate agencies, information pertaining to the international operations and competitiveness of United States service industries, including information with respect to—

(i) United States regulation of service industries;

(ii) tax treatment of services, with particular emphasis on the effect of United States taxation on the international competitiveness of United States firms and exports;

(iii) antitrust policies as such policies affect the competitiveness of United States firms;

(iv) treatment of services in international agreements of the United States; and

(v) adequacy of current United States export promotion activities in the service sector;

(E) provide, together with other appropriate agencies, staff support for negotiations on service-related issues by the United States Trade Representative and the domestic implementation of service-related agreements;

(F) collect such statistical information on the domestic service sector as may be necessary for the development of governmental policies toward the service sector;

(G) conduct sectoral studies of domestic service industries;

(H) collect comparative international information on service industries and policies of foreign governments toward services;

(I) develop policies to strengthen the export competitiveness of domestic service industries;

(J) conduct a program of research and analysis of service-related issues and problems, including forecasts and industrial strategies; and

(K) provide statistical, analytical, and policy information to State and local governments and service industries.

(2) AVAILABILITY OF FUNDS.—The Secretary of Commerce shall carry out the program under this subsection from funds otherwise made available to him which may be used for such purposes.

(c) COORDINATION WITH STATES.—

(1) STATEMENT OF POLICY.—It is the policy of Congress that the President shall, as he deems appropriate—

(A) consult with State governments on issues of trade policy affecting the regulatory authority of non-federal governments, or their procurement of goods and services; and

(B) establish one or more intergovernmental policy advisory committees on trade which shall serve as a principal forum in which State and local governments may consult with the Federal Government with respect to the matters described in subparagraph (A).

(2) ESTABLISHMENT OF NON-FEDERAL GOVERNMENTAL TRADE ADVISORY COMMITTEES.—Section 135 (19 U.S.C. 2155) is amended—

(A) by inserting "and the non-Federal governmental sector" after "private sector" in subsection (a),

(B) by adding at the end of subsection (c) the following new paragraph:

"(3) The President—

"(A) may establish policy advisory committees representing non-Federal governmental interests to provide, where the President finds it necessary, policy advice—

"(i) on matters referred to in subsection (a), and

"(ii) with respect to implementation of trade agreements, and

"(B) shall include as members of committees established under paragraph (2) representatives of non-Federal governmental interests where he finds such inclusion appropriate after consultation by the Trade Representative with such representatives.";

(C) by inserting "or non-Federal government" after "private" each place it appears in subsections (g) and (j);

(D) by inserting "government," before "labor" in subsection (j); and

(E) by adding at the end thereof the following new subsection:

"(m) NON-FEDERAL GOVERNMENT DEFINED.—The term 'non-Federal government' means—

"(1) any State, territory or possession of the United States, or the District of Columbia, or any political subdivision thereof, or

"(2) any agency or instrumentality of any entity described in paragraph (1).";" and

(F) by inserting "or Public" after "Private" in the heading thereof.

(3) CONFORMING AMENDMENTS.—

(A) Section 104(c) (19 U.S.C. 2114(c)) is amended by inserting "or non-Federal governmental" after "private".

(B) Sections 303 (19 U.S.C. 2413) and 304(b)(2) (19 U.S.C. 2414(b)(2)) are each amended by striking out "private sector".

(C) The table of sections for chapter 3 of title I is amended by inserting "and public" after "private" in the item relating to section 135.

SEC. 7. NEGOTIATING AUTHORITY WITH RESPECT TO FOREIGN DIRECT INVESTMENT.

Paragraph (3) of section 102(g) (19 U.S.C. 2112(g)(3)) is amended to read as follows:

"(3) the term 'international trade' includes—

"(A) trade in both goods and services, and

"(B) foreign direct investment by United States persons, especially if such investment has implications for trade in goods and services.".

SEC. 8. NEGOTIATION OF AGREEMENTS CONCERNING HIGH TECHNOLOGY INDUSTRIES.

(a) AUTHORIZATION TO ENTER INTO AGREEMENTS.—The President may enter into such bilateral or multilateral agreements as may be necessary or appropriate to achieve the objectives of this section and the negotiating objectives under section 104A(c) of the Trade Act of 1974.

(b) MODIFICATION OR CONTINUANCE OF DUTIES.—

(1) IN GENERAL.—Chapter 2 of title I is amended by inserting at the end thereof the following new section:

"SEC. 128. MODIFICATION AND CONTINUANCE OF TREATMENT WITH RESPECT TO DUTIES ON HIGH TECHNOLOGY PRODUCTS.

"(a) In order to carry out any agreement concluded as a result of the negotiating objectives under section 104A(c), the President may proclaim, subject to the provisions of chapter 3—

"(1) such modification, elimination, or continuance of any existing duty, duty-free, or excise treatment, or

"(2) such additional duties,

as he deems appropriate.

"(b) The President shall exercise his authority under subsection (a) only with respect to the following items listed in the Tariff Schedules of the United States (19 U.S.C. 1202):

"(1) Accounting, computing, and other data processing machines provided for in item 676.15.

"(2) Data processing machines provided for in item 676.30.

"(3) Transistors provided for in item 687.70.

"(4) Monolithic integrated circuits provided for in item 687.74.

"(5) Integrated circuits provided for in item 687.77.

"(6) Electronic components provided for in item 687.81.

"(c) TERMINATION.—The President may exercise his authority under this section only during the 5-year period beginning on the date of the enactment of the Reciprocal Trade and Investment Act of 1982.".

(2) CONFORMING AMENDMENT.—The table of contents of chapter 1 of title I is amended by adding at the end thereof the following new item:

"Sec. 128. Modification and continuance of treatment with respect to duties on high technology products.".

Mr. HEINZ. Mr. President, the reciprocity bill we introduce today represents the painstaking work product of Senator DANFORTH, myself, and other members of the Senate Committee on Finance. My purpose in addressing the Senate this afternoon is to urge all our colleagues to support the rapid enactment of this bill, which so unfortunately failed to pass in the 97th Congress. It's enactment now is more important and timely than ever in view of the failure of the GATT Ministerial to achieve our most basic objectives.

The GATT Ministerial was intended to succesfully address the alarming growth of interventionist and protectionist acts foreign governments in international trade. Yet despite heroic efforts by Ambassador Brock, his staff and other agency personnel, it is hard to view the Ministerial as anything other than a disappointment. Not because immediate agreement was not reached. Not because we failed to achieve all our objectives. But rather because our trading partners showed so little interest in making the institution GATT, work to deal with the problems of the 1980's.

As Ambassador Brock knows so well, the world marketplace is changing rapidly: New actors—the newly industrializing countries—are flexing their muscles. New sectors, such as services and high technology, are growing in significance. Barriers to other nation's markets hamper our growth. Growing protectionism threatens everyone's growth.

Coping with these changes demands a dynamic and resilient institution. And it is that challenge that GATT has so conspicuously failed to meet.

More than a year ago I called for a new Bretton Woods Conference to tackle this problem and develop a new institution better equipped to deal with today's world. I was pleased to note both administration officials and private sector experts have recently issued this same call.

A new Bretton Woods, however, is probably far away. In the short term we have to try to solve these problems through existing channels—unilateral, bilateral, and multilateral. That urgent challenge will constitute the Finance Committee's trade agenda for this year.

Some of those problems—restoring our export competitiveness through an expanded Eximbank and an export control program that maintains our companies' credibility as suppliers—are in the jurisdiction of the Banking Committee, where work has already begun. Still others, such as increasing the funds available to the International Monetary Fund to ease the international debt crisis, will involve the collective work of many Senators and Congressmen.

To the Finance Committee, however, falls the responsibility of developing approaches to two problems. First, the failure to instill greater discipline in the GATT, and second, a trade policy strategy for both our contracting industries faced with increased foreign competition, fair and unfair, and our growth industries, such as high technology, who also face increased competition.

With respect to greater international discipline, we already have an ap-

propriate vehicle—the reciprocity bill Senator DANFORTH, I, and others are introducing today. This bill, which is similar to the version reported by the Finance Committee last year, is a combination of separate bills introduced last year by myself and others. This version incorporates most of the provisions of my bill of last year, and I am pleased to add my name in support of it.

The purpose of reciprocity legislation is, very simply, to give our administration more leverage in opening other nations' doors and in persuading them to accept GATT disciplines.

During the multilateral trade negotiations in the late 1970's, we made substantial tariff concessions, largely in return for agreement by others to accept increased discipline over their behavior in the international marketplace. The MTN talks adopted a Subsidies Code, an Antidumping Code, a Standards Code, a Government Procurement Code, and a number of other measures designed to codify appropriate international economic behavior and to regularize the process of settling disputes between GATT members. Accession to these codes represented promises to behave and to operate generally according to free market principles.

Since then, however, we have witnessed a world increasingly beset by violations of those very standards. Subsidies and sales below cost are multiplying—the most recent and dramatic example being the over 150 complaints filed by the domestic steel industry last year, complaints which in terms of tonnage and value were largely affirmed by the Commerce Department and the International Trade Commission.

Barriers to U.S. exports are also multiplying. Only yesterday, for example, I learned that the Government of Taiwan has completely banned imports of soda ash since early last year, in violation of both general and specific trade agreements with us. We have had a similar soda ash problem with Japan.

Indeed, it has been the Japanese that have been the primary culprits in the race to close markets, using everything from outright quotas, such as for citrus and beef, to tariffs, such as for tobacco and chocolate, to more subtle inspection and testing procedures, which is exemplified by the bizarre story of the aluminum baseball bat industry, which is well known to most Senators. Currently, in the high technology sector the Japanese are pursuing the same kind of anticompetitive policy that has served them so well—and us so poorly—for so long. Essentially they are protecting their industries while we have a comparative advantage, and then opening the doors to competition only when they are ready to beat the competition. This is not the free market by anyone's definition.

Reciprocity legislation is intended to clarify present law with respect to the President's authority to seek improved market access and to retaliate if it is denied; to broaden the law to clearly cover services and investment issues as well as certain high-technology matters; to create retaliatory authority that is flexible and centralized in the Executive Office of the President; and to increase the likelihood that authority would actually be used by clarifying it and increasing the reporting burden on the President, so that he would either have to act or explain why he was not acting. In all such circumstances the authority provided is discretionary.

It is the point about increasing the likelihood that the authority will be used that is most important. Having observed our trade negotiating practices for some time, I have come to the sad conclusion that our negotiators over the years have lost credibility, in large part due to our failure in making threats that were purely rhetorical and that we were ill prepared to carry out. Our trade relations with Japan have entered into a depressing cycle of emotionally charged threats from our side, followed by conciliatory talk and symbolic actions from their side, without either of us ever really joining the issues.

Very simply, Mr. President, we have to prove we are serious. Now, we could provide that proof with some sort of arbitrary, tit-for-tat legislation that would not solve any problems but might make us feel better for a while. A better approach, in my judgment, is the enactment of this modest, restrained, discretionary approach, which gives the President more tools and, at the same time, carefully increases the likelihood that he will use them.

Some may argue that because the bill is discretionary, it is too weak. Although it does contain a number of provisions from my original bill (S. 2071), such as the use of so-called fast track section 151 procedures to approve certain Presidential retaliatory actions, and clarification of the President's authority to direct independent regulatory agencies to implement his retaliatory actions, as well as a number of high technology provisions that Senator HART and I proposed last year; I, too, believe it could be strengthened further, and I will be working with Senator DANFORTH and other members of the committee to that end. I would also urge those who opposed this bill last year on these grounds to do likewise and work to make it better. This is a responsible, carefully considered and drafted bill. It can use improvement, and I am willing to support such changes. But to oppose it simply because it is not perfect is a self-defeating approach which will only prolong our inability to fight effectively against others' trade barriers.

I am also pleased to note, Mr. President, that President Reagan in his state of the Union address last night commented, albeit indirectly, on this legislation. He said:

> I will ask for new negotiating authority to remove barriers and get more of our products into foreign markets.

That authority, Mr. President, is contained in this bill, and I am delighted the President has so publicly recognized the need for it. I now look forward to rapid action in the Finance Committee and in the Senate itself on the bill.

● Mr. BENTSEN. Mr. President, I take pleasure in joining Senator DANFORTH as an original cosponsor of the Reciprocal Trade and Investment Act of 1983. This legislation when enacted will be a positive and constructive force for improving U.S. exports through the use of international mechanisms.

Mr. President, I know that these days the use of international mechanisms is not held in high esteem. Like many Members, I am skeptical of the results of the General Agreement on Tariffs and Trade (GATT) ministerial meeting held in Geneva last November. However, GATT is the only institution in the world that embodies generally accepted rules by fair international trade. But in order for those rules to have life, it is necessary for us to use and improve GATT procedures.

Under current law, the United States is unable effectively to use the GATT procedures. Time limits provided in current law often result in ill-prepared U.S. cases. Those limits must be extended somewhat. Current law is much too vague about the objectives of U.S. policy in disputes settlement. This bill will clarify those objectives. And U.S. law does not provide an institutional mechanism for deciding those cases which will have the greatest advantage for our exports. This law establishes that institutional mechanism and sets as its goal the practical resolution within GATT if possible, and outside it if not, of export problems of U.S. businesses.

In addition, the bill begins the difficult process of establishing a new international consensus in those fields of trade which have not previously been the subject of international regulation. Many of the products of these fields do not even go through the customs filter which each country has at its borders. These are services, investment, high technology, and international patent protection. We must begin to build international consensus in these areas as soon as possible, because as our economy adjusts to the changing winds of international com-

petition, we will only be able to supply adequate new jobs to our people by maintaining leadership in the fields of services, high technology, and other related industries. This bill makes a positive contribution toward building that consensus. In the alternative, it provides carefully limited means for assuring U.S. access abroad in the absence of an international agreement.

Mr. President, I recognize the disappointment of Members with the situation in international trade today. I feel that frustration deeply, for I have worked to build U.S. exports and the international trade system for many years now, both as chairman of the Joint Economic Committee and as the ranking Democratic member of the International Trade Subcommittee of the Finance Committee. There have been many setbacks and few victories. But the system of fair and free international trade is the margin of success for our economy. More than one-quarter of our manufactured products are the subject of international trade, nearly 8 percent of our GNP is devoted to trade. We can never give up in the fight for a free and fair system even though, under current circumstances, a much tougher policy will have to apply. I urge Members seriously to consider this bill and look forward to early hearings and its favorable consideration.●

● Mr. GLENN. Mr. President, I join with Senator DANFORTH today in cosponsoring the Reciprocal Trade and Investment Act. The purpose of this legislation is to increase American exports and export-related jobs through stronger enforcement and expansion of rules dealing with foreign unfair trade practices.

Specifically, the bill directs the administration to report annually to Congress on major foreign barriers to U.S. exports of products, services and investments. These reports are to include estimates of the impact of these barriers on the U.S. economy and actions to eliminate them.

The bill clarifies authority to offset foreign barriers not removed by negotiation or enforcement of the GATT through withdrawal of prior U.S. concessions, imposition of duties and other restrictions available under current law. It broadens the definition of unfair trade practices for which relief is available to include performance requirements, barriers to investment and violations of intellectual property rights. Finally, the bill calls for negotiations to achieve international agreements that encourage fair and open trade in services, investment and high technology.

Our competitive position in the world economy has deteriorated in recent years because we failed to develop a foreign trade policy responsive to the changing context of international trade. In an effort to rectify that situation, Congress has acted on a number of proposals to improve America's competitiveness. In the Economic Recovery Act, we voted a number of tax proposals to improve capital formation, encourage research and development and facilitate the operation of American firms in overseas markets. In addition, we passed legislation to encourage joint ventures in the formation of export trading companies. More recently, congressional committees have turned long-overdue attention to export disincentives in service trade. These efforts to improve American export competitiveness will prove futile, however, unless American firms are guaranteed the same access to foreign markets that we provide to our trading partners.

Just as our actions to promote exports underscore our realization that the conditions of world trade have changed, so must our trading partners recognize that the global economy is dramatically different from what it was 35 years ago. At that time the dominance of American industry was unchallenged and America led—and in large measure financed—the free world's recovery from World War II. By way of generous economic assistance, special preferences for developing nations and repeated tariff reductions, we led the development of the free world market. Since then the economies of Western Europe and Japan have risen from the ashes of war to positions of leadership in industrial production. South Korea, Taiwan, Mexico, and Brazil have made impressive strides on the road to economic development and challenge American producers in many sectors of our domestic market.

The trade policies that underlie these successful development programs stand in stark contrast to the American model and their implementation has altered the evolution of world trade. While we have worked to advance the goals of fair trade and open markets, many of our trading partners have subsidized exports and established barriers to competitive American imports. As a result, many American businessmen and workers are losing confidence in the good faith of our trading partners and in the authority of GATT. It is time now to adjust the practices of foreign trade to the new realities of the global market.

The procedures proposed in this bill are a step in that direction. They tell our trading partners that our markets will not be fair game until the game is fair. Just as our Federal Government has a commitment to insure that competition among firms in our domestic market is fair, so does it have a responsibility to insure that American firms are not unfairly disadvantaged in world markets as a result of their commitment to free enterprise. Just as we can no longer afford to be the world's policemen, neither can we afford to be its only willing customer for goods and services. The successful modernization of our basic industries, the employment of skilled American workers and the full expression of our service sector's creativity can no longer await the cessation of unfair foreign trade practices and the realization of fair and equal trade investment opportunities. In short, we can no longer afford to pursue the ideal of free trade unless our trading partners are willing to reciprocate.

The bill provides procedures to insure that the spirit of trade liberalization is matched by actual results in world markets. It outlines clearly to our trading partners that countries which expect to embrace trade and investment opportunities in the United States must be prepared to meet us with equally open arms. In light of the failure of the recent GATT Ministerial Conference to address the problems of agricultural export subsidies and barriers to trade in services and investment the timely passage of this legislation is all the more urgent. I urge my colleagues to join us in support of this measure.●

Mr. CRANSTON. Mr. President, I am pleased to join today as a cosponsor of the Reciprocal Trade and Investment Act of 1983. I believe this measure, which I also cosponsored in the last Congress, is an important initiative which offers prudent remedies to many of the problems confronting our vital service and high technology industries.

As an original cosponsor of S. 2356, the High Technology Trade Act of 1982, I was pleased that the Senate Finance Committee acted last year on the Reciprocal Trade and Investment Act, which incorporates many of the provisions and furthers the aims of S. 2358.

As reported last year by the Senate Finance Committee, and as reintroduced today, the Reciprocal Trade and Investment Act offers a careful balance of proposals designed to enhance the stability of two industries which must remain at the forefront of American industrial expansion in the decades ahead—high technology and the American service industries.

I am a firm believer in the principles of free trade. The growth and maintenance of an open world economy for trade and investment is a common interest of all nations. But it is essential that this trade and investment go forward with a reasonable measure of equity. As we stated in the congressional findings section of the High Technology Trade Act, however:

International competition in high technology product is increasingly characterized by a high degree of government intervention through central planning, joint establishment of industrial objectives, subsidization, anticompetitive practices tolerated or fos-

tered by government policy, non-tariff and tariff barriers, investment performance requirements, access to preferential financing, and sponsorship of limited-access joint research projects.

I do not believe the adoption of blatantly protectionist measures is the appropriate response to this situation. But I also do not believe that the U.S. Government should adopt a laissez-faire attitude in the face of unfair foreign competition. I think it is particularly important for the Federal Government to take affirmative, remedial action when industries at the vanguard of American economic growth are threatened.

The Reciprocal Trade and Investment Act offers a carefully crafted series of proposals which establish negotiating objectives, insure that executive branch research and recommendations on trade barriers will be coordinated, and provide negotiating authority and access to fast track legislative remedies where needed. It would be simplistic to shy away from these reasonable proposals as protectionist. For this legislation is, in its essence, an agenda setter. Its passage would set forth for our trade competitors, for the American business community and for Federal policymakers a clear set of concerns and objectives to pursue and the authority to do so. This statement of congressional concern can only be constructive to each of the parties involved in the process of improving our international trade relationships.

I was disappointed that it was not possible to obtain final Senate action on the Reciprocal Trade and Investment Act in the final days of last year's Congress. I pledge my support for timely action here in the Senate to see this legislation enacted in the new Congress.

By Mr. MITCHELL (for himself, Mr. STAFFORD, Mr. MOYNIHAN, Mr. DODD, Mr. RUDMAN, Mr. LEAHY, Mr. BAUCUS, Mr. PROXMIRE, Mr. KASTEN, Mr. HART, Mr. HUMPHREY, Mr. PELL, Mr. HOLLINGS, Mr. TSONGAS, and Mr. KENNEDY):

S. 145. A bill to amend the Clean Air Act to better protect against interstate transport of pollutants, to control existing and new sources of acid deposition, and for other purposes; to the Committee on Environment and Public Works.

ACID RAIN BILL

● Mr. MITCHELL. Mr. President, I am today introducing comprehensive legislation to deal with the growing environmental threat of acid rain. This bill requires a 10 million ton reduction in sulfur dioxide emissions within 10 years after enactment. It is virtually identical to the legislation I introduced for Senate consideration on October 6, 1981.

I propose the bill today for two principal reasons:

First, and most important, I am convinced that a reduction of this magnitude is necessary to adequately protect the aquatic resources of the eastern United States. The evidence to support the necessity for enactment of a 10 million ton sulfur reduction strategy remains compelling and, in fact has increased since I first introduced acid rain legislation in 1981.

Second, I introduce this bill on the first legislative day of the 98th Congress to demonstrate my continuing strong commitment to the enactment of an effective acid rain control program this year.

When I introduced S. 1706 in the 97th Congress there was a large body of scientific evidence to document the environmental damage caused by acid precipitation.

Fish kills, increasing acidity levels in lakes and streams, and inability of fish to reproduce had already been clearly documented in many areas of the East.

Other warning signals that had already been observed included forest dieback, reduced crop yields, and damage to buildings.

Available scientific knowledge as to the adverse impacts of acid precipitation on our resources led the National Academy of Sciences, the most prestigious independent scientific body in this country, to conclude in September 1981 that:

Emissions of sulfur and nitrogen oxides at current or accelerated rates, in the face of clear evidence of serious hazard to human health and to the biosphere, will be extremely risky from a long-term economic standpoint as well as from the standpoint of biosphere protection.

Of the options presently available only the control of emissions of sulfur and nitrogen oxides can significantly reduce the rate of deterioration of sensitive freshwater ecosystems * * * In the most seriously affected area * * * this would mean a reduction of 50 percent in deposited hydrogen ions. Control of SO_2 from new electrical generating plants alone would be insufficient to accomplish this, and thus restrictions on older plants must be considered.

Since 1981, additional information that has become available has strengthened my conviction that we must act now to control acid rain.

The Office of Technology Assessment has estimated that 27 States in the Eastern United States contain areas sensitive to acid rain, encompassing 245,000 square miles, and including 17,000 lakes and 117,000 miles of streams; 55 percent of these lakes and 42 percent of these stream miles are estimated to be either at risk from or already altered by acid deposition.

A team of EPA scientists have estimated that significantly larger portions of the United States are vulnerable to acid rain damage than previously believed. Based on measurements of the akalinity of water samples, it is estimated that portions of the South, Southeast, and mountain areas of the West are highly sensitive to acid deposition. Many of these areas are now receiving rainfall considered very acidic relative to normal rain.

The first field studies of the effects of acid rain on crops have been completed at Brookhaven National Laboratory. Soybeans, the crop studied, showed a 10-percent decrease in yield when exposed to rainfall with a pH of 4.1 compared to the yield of soybeans exposed to normal rainfall, which has a pH of 5.6.

It has been estimated by researchers at the Brookhaven National Laboratory that about 2 percent of the deaths annually in this country and Canada might be attributable to atmospheric sulfur particles. While this study is not conclusive, it suggests the possibility that the sulfur particles causing acid precipitation also are harmful to human health, an impact not previously anticipated.

Knowledge about the impact of acid rain on forests has increased significantly. For example, in the high elevation forests of the Green Mountains of Vermont, approximately 50 percent of the red spruce have died over the past 15 years. The scientists who have been involved in this study have stated that "acid deposition is a plausible contributing stress in the spruce dieback phenomenon. At present there are very few clues which point to any other mechanisms."

A study of the Pine Barrens in southern New Jersey has shown "widespread, substantial, and sustained decreases in growth rate which began during the last two or three decades in pitch pine and shortleaf pine." The researchers concluded that acid deposition is a stress related to the growth rate decline.

A West German researcher has come to even more startling conclusions. Prof. Bernard Ulrich, who has studied the effect of air pollution on forests since 1966, told the 1982 Stockholm Conference on the Acidification of the Environment that he "believes no forest ecosystem, even forests (with limestone soils that can neutralize some of the acid deposition) can withstand the present air pollution without serious damage. Dead forests, until now restricted to Czechoslovakia, Poland, East Germany, will become apparent also in West Germany. In the long run, trees will not get older than 30 to 40 or 50 years even under optimum soil conditions."

According to the experts in attendance at the Stockholm Conference,

forest damage in an estimated 2½ million acres of central Europe "seems to be related to (among others) the direct effects of gaseous pollutants and soil improvements, and toxicity arising from very large amounts of wet and dry deposition."

The documented impacts of acid rain damage obviously have far-reaching economic ramifications. Even under very optimistic assumptions, the water resource base of an entire region of the country is at risk. This necessarily affects in a major way the tourism and fishing industries.

The Office of Technology Assessment estimates that over 21 million people spent approximately $6.3 billion on fishing-related activities in lakes and streams in the Eastern United States in 1980. These estimates include: Travel, food, lodging, fees, and light equipment. Inclusion of other water-related recreational activities, and loss to commerical fishing activities, would significantly increase the potential loss to the economy of the East from acid rain damage to water resources.

Damage to crops from acid rain adds yet another dimension to the price tag of acid rain impacts. Dr. Orie Loucks estimates that the total cost to this country of acid deposition damage to crops and fisheries between now and the year 2000 would be on the order of $15 to $25 billion.

The Office of Technology Assessment estimates that agriculture and related services provided employment for approximately 3 million people, or 4 percent of total employment in the East, and directly produced about $35 billion, or 3.1 percent of the region's total income.

If it is confirmed that acid rain does in fact reduce forest growth and result in tree dieback, the economic impact becomes staggering.

According to the Office of Technology Assessment forestry is estimated to have employed about 1 million people in the Eastern United States in 1980, about 1.5 percent of the region's total, and to have produced approximately $20 billion, or 1.8 percent of regional income.

Mr. President, the stakes are high in the acid rain debate. There is a growing recognition throughout this country and the world that acid rain is an actual threat to our water resources and a potential threat to our entire ecosystem.

The 1982 Stockholm Conference on Acidification of the Environment, attended by 27 countries and international organizations, concluded that "The acidification problem is serious and, even if deposition remains stable, deterioration of soil and water will continue and may increase unless additional control measures are implemented and existing control policies are strengthened."

Only the United States and British Governments continue to argue that controls should be delayed until more research is completed.

The position of the U.S. Government stands in direct contradiction to the consensus of the scientific community, the majority of Western European nations, and our past leadership in the environmental field.

The U.S. Congress, and in particular this body, has always acted to address an environmental problem when action has been needed at the Federal level. We have been leaders. Such an opportunity presents itself now. It is my hope that we will once again provide such leadership, to assure that further losses to our water resources are prevented, and potential losses to our agriculture and forest resources are not realized.

Mr. President, I ask unanimous consent that a description of the bill be printed following my statement, as well as the full text of the bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DESCRIPTION OF ACID RAIN LEGISLATION INTRODUCED BY SENATOR GEORGE J. MITCHELL

ACID RAIN REGION

1. A 31-State acid rain mitigation region, consisting of all States east of or bordering on the Mississippi River, is established.

2. The Environmental Protection Agency shall conduct a study of the long-range transport of air pollutants in the regions of the continental United States not included in the acid rain region, and report the results of the study to the Congress within two years after enactment.

SULFUR REDUCTION STRATEGY

1. Sulfur dioxide emissions in the acid rain region shall be ten million tons below 1980 levels within ten years after enactment.

Sources which will achieve sulfur reductions through fuel switching must be in compliance with their mandated reductions six years after enactment. Sources which will comply through installation of control technology or installation of replacement capacity must in compliance ten years after enactment.

2. During and after the reduction period, increases in the emission rates of sulfur dioxide and nitrogen oxides from existing and new sources must be offset by reductions from sources within the acid rain region.

3. The ten million ton reduction is to be apportioned among the 31-States. Each State's sulfur reduction share is to be determined by the amount of sulfur dioxide being emitted at a rate in excess of 1.2 lbs. per million Btu in each State relative to the total amount of sulfur dioxide being emitted in the region at a rate greater than 1.2 lbs per million Btu.

4. The mandated reductions are to be planned for and accomplished according to the following schedule:

The Governor of each State in the 31-State acid rain region shall submit to the federal Environmental Protection Agency for approval of a plan to achieve its required sulfur reduction.

The EPA Administrator shall approve within six months each State's plan if it is adequate to achieve the mandated reduction within the specified time.

If a State does not submit a plan to achieve its mandated reductions, or its plan is disapproved by the Administrator, a fallback cleanup strategy will go into affect in that State.

The owner of operator of each fossil-fuel burning electric generating facility located in that State must comply with an emission limitation at all of its facilities in the region which is equivalent to an average of 1.2 lbs. of sulfur dioxide per million Btu among those facilities.

18 months after State plans are submitted (four years after enactment), sources subject to sulfur reduction requirements must state whether they will achieve reductions through fuel switching or the installation of technology, which may be either retrofit of an existing source or the installation of replacement capacity for a retiring source.

Within 24 additional months (six years after enactment) sources subject to sulfur reduction requirements must either switch fuel or enter into binding contractual commitments for control technology.

Within ten years after enactment, conventional retrofit technology must be in operation.

5. In addition to all conventional methods of compliance currently authorized by the Clean Air Act such as installation of control technology and fuel switching, the following methods of emissions reduction are authorized: least emissions dispatch, early retirement of sources, energy conservation, interstate trading of emission reductions, and precombustion cleaning of fuels.

S. 145

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Acid Deposition Control Act".

SEC. 2. Title I of the Clean Air Act is amended by adding the following new part:

"PART E—INTERSTATE TRANSPORT AND ACID PRECURSOR REDUCTION

"FINDINGS AND PURPOSES

"SEC. 180. (a) The Congress finds that:

"(1) the long-range transport of pollutants and their transformation products is an interstate and international problem;

"(2) current levels of emissions of air pollutants from existing sources as well as increased emissions from new existing sources threaten public health and welfare and the environment in States and countries other than those in which emitted;

"(3) reduction of total regional atmospheric loading of pollutants such as sulfur oxides and nitrogen oxides will enhance protection of public health and welfare and the environment;

"(4) more effective regulation of the interstate transport of air pollutants is needed in order to protect the health and welfare of the citizens of downwind States and the economic growth opportunities of downwind States; and

"(5) in particular,

"(A) the deposition of acid compounds from the astmosphere is causing and contributing to widespread long-term ecosystem degradation;

"(B) the principal source of the acid compounds in the atmosphere, and their precursors, is the combustion of fossil fuels;

"(C) the problem of acid deposition is of national and international significance and cannot be addressed adequately without Federal intervention;

"(D) control strategies and technology for precursors to acid deposition exist now that are economically feasible; and

"(E) current and future generations of Americans will be more adversely affected by delayed action, so that efforts to remedy the problem should commerce now.

"(b) The purposes of this part are to:

"(1) protect public health and welfare and the environment from any actual or potential adverse effect caused by ambient concentrations or deposition of air pollutants, including the products of atmospheric transformation of pollutants; and

"(2) preserve the rights and responsibilities of States to protect the public health and welfare and the environment of their citizens from air pollution originating in other States.

"ESTABLISHMENT OF REGION

"SEC. 181. (a) There is hereby established a long-range transport corridor, hereafter referred to as the "acid deposition impact region," consisting of the States of Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia.

"(b) The Administrator shall conduct a study of air pollution problems associated with long-range transport of pollutants in the portions of the continental United States not included in (a) of this section. Not later than two years after the enactment of this section, the Administrator shall report to the Congress the results of such study.

"ACID PRECURSOR CONTROLS

"SEC. 182. (a) Emissions of sulfur dioxide and of oxides of nitrogen from stationary sources in the acid deposition impact region established under section 181(a) of this Act shall not be allowed to increase over the total actual emissions of each pollutant in such region as of January 1, 1981. No major stationary source in operation in such region before January 1, 1981 or which began operation in such region after January 1, 1981 shall increase its actual rate of emissions of sulfur dioxide or oxides of nitrogen over that experienced by such source during the calendar year 1980, unless there has been identified for such source in accordance with section 185 of this Act a simultaneous net reduction in emissions of such pollutant at one or more points in such region in excess of the proposed increase in emission rate, and not otherwise required by a State implementation plan under section 110 of this Act or under section 183 or 184 of this part.

"(b) There shall be achieved a reduction in annual emissions of sulfur dioxide in the acid deposition impact region established under section 181(a) of this Act of 10,000,000 tons from the total actual annual level of such emissions between January 1, 1980, and December 31, 1980. Such reduction shall be achieved pursuant to a phased reduction and completed no later than ten years after the enactment of this part.

"STATE SULFUR DIOXIDE REDUCTION REQUIREMENTS

"SEC. 183. (a)(1) Each State shall be required to achieve within its borders a reduction in annual sulfur dioxide emissions equal to that fraction of 10,000,000 tons which is the ratio of all the actual utility emissions in such State in excess of 1.2 pounds of sulfur dioxide per million British thermal units to the total in all States in the region of all the actual utility emissions in excess of 1.2 pounds of sulfur dioxide per million British thermal units.

"(2) The Governors of any two or more States within the region may by agreement reallot among agreeing States the reductions required under (a)(1) provided that the total reductions equal the total required under (a)(1).

"(b)(1) Not later than two years after the enactment of this part, each State shall adopt enforceable measures to achieve the reduction in sulfur dioxide emissions required by subsection (a) of this section, including emission limitations and schedules for compliance for sources within such State and other means of emission reduction in accordance with section 185 of this Act. The Governor of such State shall submit such measures to the Administrator for review in accordance with paragraph (2) of this subsection, and to the Governors of all other States in the acid deposition impact region for comment.

"(2) The Administrator shall approve within six months such measures submitted under paragraph (1) of this subsection if, taking into consideration the comments of Governors of other States in such region, the Administrator finds that such measures (A) contain enforceable requirements for continuous emission reduction, (B) contain requirements for monitoring by the source and enforcement agencies to assure that the emission limitations are being met, and (C) are adequate to achieve the reduction in sulfur dioxide emissions for such State required by this section within the time specified in section 182(b) of this Act.

"(3) Not later than four years after the enactment of this part, each major stationary source subject to an emission limitation established under this subsection shall notify the Governor of the State in which it is located of its intended method of compliance. The Governor shall submit such notifications to the Administrator.

"(4) Each emission limitation, schedule for compliance or other measure adopted and approved under this subsection shall be deemed a requirement of the State implementation plan approved or promulgated for such State under section 110 of this Act.

"(c)(1) Not later than six years after the enactment of this part, each major stationary source which pursuant to subsection (b)(3) of this section or section 184 states that it will comply with an emission limitation established under subsection (b) of this section or section 184 through the use of fuel substitution shall be in compliance with such emission limitation.

"(2)(A) Not later than six years after the enactment of this part, each major stationary source which pursuant to subsection (b)(3) or section 184 states that it will comply with an emission limitation established under subsection (b) of this section or section 184 through the installation of a technological system of continuous emission reduction or the replacement of existing facilities with new facilities with substantially lower emissions, shall enter into binding contractual commitments to acquire, install, or construct such system or facilities.

"(B) Not later than ten years after the enactment of this part, each major stationary source subject to this paragraph shall be in compliance with an emission limitation established under subsection (b) of this section or section 184.

"MAJOR STATIONARY SOURCE SULFUR DIOXIDE REDUCTION REQUIREMENTS

"SEC. 184. In any State in the acid deposition impact region established by section 181(a) of the Act which has not in accordance with section 183(b)(1) of this Act adopted measures to achieve the reduction required by section 183(a) of this Act within two years after enactment, or which has not had such measures approved by the Administrator under section 183(b)(2) of this Act within two years and four months after enactment of this Act, the owner or operator of each fossil-fuel-burning electric generating facility which is a major stationary source which is not subject to section 111(a) and which emitted at an annual rate equal to or greater than 1.2 pounds of sulfur dioxide per million Btu during 1980 shall comply with an emission limitation or limitations for all such facilities owned or operated by the same entity equivalent to an average among such facilities of 1.2 pounds of sulfur per million British thermal units on a thirty-day average. The owner or operator of each such facility shall submit to the Administrator a plan and schedule of compliance for achieving such emission limitation or equivalent emission reduction in accordance with section 185 of this Act, not later than three years after the enactment of this part. The Administrator shall approve such plan and schedule for compliance if it (A) contains enforceable requirements for continuous emission reduction, (B) contains requirements for monitoring by the source and enforcement agencies to assure that the emission limitations are being met, and (C) will achieve the emission reduction required by this section at the earliest practicable date, but no later than the deadlines established under section 183. Failure of such owner or operator to submit such approvable plan and schedule within three years after enactment of this part, failure to comply with the plan and schedule of compliance, and failure to achieve the emission reduction required by this section at the earliest practicable date, but no later than the deadlines established under section 183 shall be violations of emission limitations for the purposes of sections 113, 120, and 304 of this Act.

"ENFORCEABLE EMISSION REDUCTION PROGRAMS

"SEC. 185. (a) For the purposes of maintaining the limitation on emissions required by section 182(a) of this Act or attaining emission reductions required by section 182(b), 183, or 184 of this Act, the following methods or programs for net emission reduction may be used, in addition to enforceable continuous emission reduction measures, by a State or the owner or operator of a source, if emission limitations under such methods or programs are enforceable by the Federal Government, States other than those in which the emissions occur, and citizens under section 304 of this Act:

"(1) least emissions dispatch to meet electric generating demand at existing generating capacity;

"(2) retirement of major stationary sources at an earlier date than provided in schedules on file with the Federal Energy Regulatory Commission, the Internal Revenue Service, or State utility regulatory agencies;

"(3) investments in energy conservation where reductions in emissions can be identified with such investments;

"(4) trading of emission reduction requirements and actual reductions on a State or regional basis, for which States and the Ad-

ministrator are authorized to establish emission reduction banks or brokerage institutions to facilitate such trading; and

"(5) precombustion cleaning of fuels.

"(b) A State or the owner or operator of a source required to achieve emission reductions under section 182, 183, or 184 of this Act may substitute reduction in emissions of oxides of nitrogen for required reductions in emissions of sulfur dioxide, at a rate of two units by weight of oxides of nitrogen for each unit of sulfur dioxide.".

SEC. 3. Section 110(1)(2)(E) of the Clean Air Act is amended by inserting after "visibility," the following: "or (III) contribute to atmospheric loadings of pollutants or their transformation products which may reasonably be anticipated to cause or contribute to an adverse effect on public health or welfare or the environment in any other State or foreign country.".●

● Mr. HUMPHREY. Mr. President, I am pleased to cosponsor the bill of the Senator from Maine, Mr. MITCHELL.

In my State of New Hampshire, we know that up to three out of every four stream miles and lakes are at risk from acid rain. We know that some of these lakes and streams have already been altered. And we know that some of our valuable forest species, especially the red spruce, have died off in alarming numbers in the past decade.

The cause of the damage to our lakes is acid rain. The cause of the damage to our streams is acid rain. And the cause of this damage to our forests is very probably acid rain.

That acid rain is causing damage is a virtually undisputed certainty. What we cannot state with precision is how great or long lasting these injuries are or will be.

I believe this bill to be a good answer to the acid rain problem as the dimensions are now known. But in the next several months, we will be receiving several new pieces of information. The National Academy of Sciences will be issuing its new report—its second on the subject—and literature on forest losses in Germany and Czechoslovakia will become available. If this and other information indicates that the problem is more severe than is now believed or that the solutions required are somewhat different than those proposed here, I believe we should all feel free to adjust the legislative proposals accordingly.

Senator MITCHELL's proposal during the last Congress was a valuable first step. The bill which we are introducing today is a refinement of that earlier proposal and a valuable second step. What we must now be prepared to do, should it become necessary, is take yet another step down the difficult road toward solving an environmental problem of massive proportions.●

● Mr. MOYNIHAN. Mr. President, I rise today to join my distinguished colleague from Maine in reintroducing legislation designed to control one of our Nation's most alarming environmental problems—acid rain. In October 1981, I introduced similar legislation, calling for an 8.2-million-ton reduction in sulfur dioxide emissions in the Eastern United States over a 10-year period. Last July, the Senate Committee on Environment and Public Works, of which I am a member, approved an amendment to the pending reauthorization of the Clean Air Act providing for a major acid rain control program. The committee amendment directed an 8-million-ton reduction in sulfur dioxide emissions by January 1, 1995. The 97th Congress ended, however, without full Senate consideration of the committee's adopted clean air bill.

The more we learn about the acid rain problem, the more we must be concerned. The evidence is growing—if we do not act, and do not act soon, we run the risk of causing irreversible damage to our environment. When sulfur dioxide and nitrogen oxide emissions are released into the atmosphere, they can be transported hundreds, even thousands, of miles by prevailing winds. These pollutants then return to Earth in a process that acidifies rain, snow, and other forms of precipitation.

There is only one "plausible explanation for acid deposition," in the judgment of a report released in September 1981 by the National Research Council. The Council confirms that sulfur dioxide and nitrogen oxide emissions from manmade sources, such as powerplants, motor vehicles, and industrial, commercial, and residential boilers are the cause.

While the matter of acid rain concerns me as a New Yorker—New York being one of several States dramatically affected by the acid rain phenomenon—I should say that the effects of acid rain threaten the environment of a good part of North America. We are talking about 22 million tons of annual sulfur dioxide emissions in the Eastern half of the United States alone. There are over 200 lakes and ponds in the Adirondack Mountains in New York that have lost all aquatic life. There are thousands of such lakes in Canada.

Thousands of additional acres of pond water are endangered. Heavy metal concentrations in acidified waters are killing fish and threatening human health where vital water supplies become involved. Buildings and statues are eroding under the corrosive effect of acid precipitation. Soil nutrients are subject to accelerated leaching. We are now even aware that these pollutants can sometimes filter to Earth without a rainfall—drifting down from the sky in the form of fine particulates which can lodge in the lungs and jeopardize human health.

Mr. President, as a member of the Senate Environment and Public Works Committee, I am particularly sensitive to the grave danger posed by acid rain. I am also a Senator with some experience in matters of international significance and I must say that the question of acid rain deeply troubles our neighbors to the north, Canada. Canada has some million square kilometers of "acid-sensitive terrain" within its borders, according to the National Reserch Council. And the Canadians are not incorrect in pointing out that a large portion of the pollutants falling on that terrain is generated from sources within the United States. While it is true that emissions from Canadian sources also travel to the United States, the Canadians are acting to limit their emissions.

In fact, acid rain is recognized as an environmental threat in many parts of the world. In 1979, 34 countries signed the Convention on Long-Range Transboundary Air Pollution, an international agreement negotiated by the United Nations Economic Commission for Europe. Twenty-one of these nations met recently at the 1982 Stockholm Conference on Acidification of the Environment. Once a conclave likely to address only acidification of lakes in Scandinavia, much of the conference was devoted to discussions of Prof. Bernard Ulrich research on "crown dieback" in the great Black Forest. Ulrich has linked the dieback to acid deposition. The experts attending the Stockholm meeting concluded that "forest damage in an estimated 1 million hectares of Central Europe seems to be related to (among others) the direct effects of gaseous pollutants and soil impoverishment, and toxicity arising from very large amounts of wet and dry deposition." The evidence obviously being persuasive, the West German Government has announced a policy of reducing sulfur dioxide emissions in that country by 50 percent.

In our country, much attention is being given to the research of Hubert Vogelmann of the University of Vermont. Dr. Vogelmann has been studying the Camels Hump section of Vermont's Green Mountains, finding that, since 1965, nearly 50 percent of the area's spruce trees have died. The University of Vermont researchers have ruled out most of the normal causes of tree mortality, such as disease, insects, climatic changes, or long-term population cycles. Writing in the November 1982 issues of Nature, Dr. Vogelmann concludes:

> The puzzle obviously still has many missing pieces, but bit by bit, the emerging picture shows acid rain to be damaging to forests of many kinds. In some regions, such as Camels Hump, it could be a killer.

It is time for our Nation to take appropriate action to control acid rain. We might not know all there is to know on the subject of acid precipitation, but we can recognize, clearly, that there is imminent danger. I sponsored the Acid Precipitation Act of 1980 which established an interagency task force to coordinate an acid pre-

cipitation assessment program. Thus, I understand the need for continued, even accelerated, research into the subject. However, I feel we know enough now to begin our effort at controlling the causes of acid precipitation. As the National Research Council notes:

Continued emissions of sulfur and nitrogen oxides at current or accelerated rates, in face of clear evidence of serious hazard to human health and to the bioshpere, will be extremely risky from a long-term economic standpoint as well as from the standpoint of biosphere protection.

This Nation, through its Congress, has acted responsibly to cleanse the air we breathe and free our atmosphere of devastating pollution. But the structure of existing law, specifically the Clean Air Act, is not adequate to deal effectively with the problem of acid rain. The provisions of that act were designed to protect ground-level air quality. They are not appropriate controls for pollutants that have traveled many miles across State boundaries to their destination.

We pursued the issue with seriousness and diligence in the 97th Congress. The Senate Committee on Environment and Public Works held 4 days of hearings and two technical inquires on the subject of acid rain. Over 2,500 pages of testimony were gathered. We learned from our witnesses where there was agreement and where there was disagreement. One of the more interesting exchanges occurring on May 25, 1982, when the committee was hearing from a broad array of scientific witnesses who were describing the processes involved in the transformation and transport of pollutants involved in acid deposition. There was general agreement of five propositions:

First, oxides in sulfur and nitrogen are somtimes transported hundreds of miles.

Second, oxides of sulfur and nitrogen can be, and often are, transformed during their transportation into acid or acid-forming compounds.

Third, the use of so-called tall stacks (stacks taller than 450 feet) causes the long-range transport of SO_2 and NO_x to be greater than it otherwise would be.

Fourth, air masses in the region composed of Mid-western States generally move eastward and northward into a region comprising the Adirondacks and New England.

Fifth, the conversion of oxides of sulfur and oxides of nitrogen found in air masses of midwestern origin does in fact occur, although there may be some doubt as to whether this is at a linear or nonlinear rate.

Having reviewed the testimony presented, the committee realized the need for action. Starting from the acid rain bills introduced in October 1981, we went on to fashion a reasoned and reasonable compromise. On July 22, 1982, the committee adopted an acid rain amendment calling for a 36-percent reduction in sulfur dioxide emissions in the Eastern United States by January 1, 1995.

The acid rain bill we introduce today will bring to the attention of this Congress the unfinished work of the last. We must continue our discussions in earnest, for it should be our objective to have this Congress adopt a meaningful acid rain control program. The work of the 97th Congress provides us with the appropriate foundation to do just that.●

By Mr. MITCHELL (for himself, Mr. COHEN, Mr. MATHIAS, Mr. HEFLIN, and Mr. SARBANES):

S. 146. A bill to exempt certain fishing vessels from FUTA; to the Committee on Finance.

TAX ON CERTAIN FISHING VESSELS

● Mr. MITCHELL. Mr. President, a commercial fisherman in the State of Maine is, by definition, self-employed.

He considers himself to be self-employed, and the owner of the vessel on which he fishes considers him self-employed. They both know that fishermen do not receive the fixed salary that employees traditionally receive. Instead, fishermen receive what is called a "share of the catch," or proceeds from a share of the catch.

If a fishing vessel returns to port with an empty hold, the crewmembers take home no pay, because there is no catch to share. In some instances, a crewmember actually loses money because he must shoulder a share of the vessel's overhead costs. Such costs must be absorbed when a fishing trip is unsuccessful.

About 13 years ago, the Internal Revenue Service (IRS) conducted an industrywide audit of Maine's fishing industry. Once this audit was complete, it became apparent that the IRS considered fishing crewmen—in Maine, called sternman—to be employees of the vessel owners, and not self-employed persons. IRS demanded, and in many cases received, back social security and income tax payments from audited fishing vessel owners.

Though many vessel owners complied with the demands of the IRS, neither they nor their crewmembers agreed with the IRS policy. In the 1976 Tax Reform Act, the Congress sided with the fishing industry, and against the IRS. Owners of fishing vessels that are manned by a share-paid crew of 10 or less were exempted from withholding social security (FICA) taxes and Federal income taxes on their crewmembers.

When the 1976 Tax Reform Act was enacted, the Maine fishing industry was not concerned about the Federal Unemployment Tax Act (FUTA) because most of the vessels affected by the IRS policy were under 10 net tons in size. Under FUTA, vessels under 10 net tons were already exempted from paying unemployment taxes on their crewmembers.

Since the United States adopted the 200-mile limit, many fishermen in Maine and other States found it more economical to move to larger vessels. Many vessels now exceed the 10-net-ton limitation and are consequently facing greater financial and administrative burdens due to the FUTA tax liability, even though the program is not well suited for their situation.

My bill provides that owners of fishing vessels exceeding 10 net tons that are manned by a share-paid crew of 10 or less, will be permanently exempted from paying Federal unemployment taxes.

I first introduced my bill March 24, 1981, in the 97th Congress. Since that time, the Congress has seen fit to exempt vessel owners from unemployment taxes for years 1981 and 1982. Without further congressional action for taxable year 1983 and the years beyond, vessel owners will be in the difficult position of treating their crew members as self-employed persons for social security and income tax purposes, and employees for purposes of FUTA.

This inconsistency should not be permitted. Passage of the bill I am reintroducing today will lay this issue to rest.

Mr. President, I ask that the text of my legislation appear in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 146

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any other provisions of law, Section 3306(c) of the Internal Revenue Code of 1954 (as amended by Section 822 of the Economic Recovery Tax Act of 1981 and Section 203 of the Miscellaneous Revenue Act of 1982) shall be effective with respect to taxable years beginning after December 31, 1982.●

Mr. COHEN. Mr. President, I join Senator MITCHELL in introducing a bill which, although negligible in cost, would constitute a great benefit to my home State of Maine and to the fishing industry generally.

This legislation would provide a permanent exemption from the Federal Unemployment Tax Act (FUTA) to those boatowners who are engaged in the halibut or salmon trade or whose vessels are over 10 net tons.

The issue which this legislation addresses is not new, but would end a long effort to correct a very unfair interpretation of tax law as it impacts an historically independent and proud group of working people—commercial fishermen.

In 1975, while serving as a Member of the House of Representatives, I introduced the Sternman's Exemption Act which became a part of the Tax Reform Act of 1976. At that time, the Internal Revenue Service was enforcing an agency ruling which held that

certain fishermen, known as sternmen, could not be considered independent workers but were employees of the boatowners with whom they happen to work.

This view of the relationship of the sternmen and the boatowners could not have been further from the truth. Indeed, it was a classic case of a large Federal agency bending the facts to fit its rules.

For decades, Maine sternmen and boatowners had worked with the understanding that the sternman was an independent contractor. Their relationship was born of both practicality and the independent nature of these individuals. The sternman's competency is respected by the boatowner to the point that he is expected to be able to take control in an emergency situation, and, sometimes, fish the boat should the owner become temporarily disabled.

The advent of the IRS, with its novel rulings, into this field placed a great strain on the resources of the independent boatowners in the State of Maine and elsewhere. It forced some to the brink of bankruptcy and others to pursue the very dangerous practice of going out in their boats alone.

The Sternman Exemption Act corrected this intolerable state of affairs and allowed those fishermen who are paid a share of the catch and who work on vessels with crews of 10 individuals or less to be exempt from the tax imposed by the Federal Insurance Contribution Act (FICA). In addition, the remuneration received by those fishing boat crewmembers, whose services were exempted for purposes of FICA, were no longer considered to be "wages" for purposes of income tax withholding and those individuals were considered to be self-employed for purposes of the Self-Employment Contributions Act.

Under current law, if crewmembers meet these criteria, boatowners are exempt from social security or income tax withholding requirements.

The legislation that I am introducing today, besides giving further congressional recognition to the the practice of hiring fishermen as independent contractors, will bring the FUTA into conformity with the other tax acts which I have mentioned. The legislation does not penalize those individuals who wish to work as employees on fishing boats, but it provides those who do not with an opportunity to prove that they are self-employed and to retain their professional independence.

Mr. President, as I have said, the issue which this bill addresses is not new. In 1978, S. 3080, an identical bill, was the subject of hearings in the Senate Finance Committee and, in 1980, as 1194, another identical bill, was considered by the Subcommittee on Taxation and Debt Management of the Finance Committee. No further action was taken on either of these bills.

The first bright spot in this effort appeared in 1981, when another identical bill, S. 791, introduced by Senator MITCHELL, Senator MATHIAS, and Senator HEFLIN, passed the Senate. The language of that legislation would have applied the FUTA tax exemption to wages paid after December 31, 1980. Unfortunately, the conference agreement on the bill made the FUTA exemption effective only for the tax year 1981.

In October of last year, the Miscellaneous Revenue Act of 1982 provided another temporary extension of the FUTA exemption for tax year 1982.

Since January 1, of this year, many commercial fishing vessel owners and operators are, once again, subject to inappropriate FUTA withholding requirement burdens for the wages of their crewmen who are considered to be self-employed, independent contractors for the purposes of all other employment taxes.

The legislation that I am introducing today would correct this inequity and would complete the reestablishment of a working relationship that has served independent boatowners and fishermen well in my State for decades.

By Mr. LEVIN:

S. 147. A bill to create jobs in the public sector for individuals who have exhausted their eligibility for unemployment compensation benefits; to the Committee on Finance.

EMERGENCY EMPLOYMENT ACT OF 1983

Mr. LEVIN. Mr. President, I am introducing legislation today which will give jobs and hope to some individuals who have exhausted all of their unemployment benefits. This legislation is designed to provide approximately 250,000 jobs for people who have fallen off the end of the unemployment compensation system at the same time that it enables States and localities to begin the infrastructure repairs which are needed and might otherwise go undone.

The $3 billion appropriated under this proposal can serve States, localities and rural areas for the repair and rehabilitation of roads and streets, public buildings, parks and playgrounds, as well as for forestry, energy conservation, and installation of graded ramps for the handicapped, among other projects. It will be allocated to areas of high unemployment and provide individuals with jobs for up to 6 months. The Secretary of Labor would be required to notify those units which are recipients of funds within 30 days after this legislation is enacted.

Let me make clear what this program is and is not. It is not an economic recovery program. We still must work to reduce the deficits that are projected for the years to come and which could stifle economic growth. We must still have a money-supply policy which allows real interest rates to decline further so that a recovery in the housing and auto industries is more that anemic. We must still have an adequately funded job training program to enable displaced workers to adjust to the new economic environment. And we must still have a trade policy which allows our goods and services to compete fairly abroad so that jobs can be generated back here at home.

But what this program does is provide jobs for some of those most in need in areas which are among the most depressed, and with the goal of improving public services and facilities.

This legislation attempts to balance the need to keep the deficit under control while at the same time putting a dent in the numbers of unemployed. A program putting 3 million people to work in public jobs could cost over $30 billion and still leave 9 million people out of work. With budget deficits exceeding $200 billion a distinct and frightening possibility, we cannot afford to have the Government become the employer of all the unemployed. But saying that the Government cannot do everything does not mean that it should abdicate its responsibility for doing anything.

If we focus our job creation efforts on those who have exhausted their unemployment benefits and who are still out of work, then we can make significant inroads into at least one segment of the unemployed. As of now, approximately 3,000 people in Michigan are exhausting Federal unemployment benefits each week. Since this legislation targets money to areas of very high unemployment, Michigan should get its fair share of the 250,000 jobs created by this bill to meet the need for helping those who have exhausted their unemployment benefits.

I ask my colleagues to consider this legislation. It is a pragmatic and balanced response to an urgent need of today.

I ask unanimous consent that the text of this legislation be inserted in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 147

Be it enacted by the Senate and the House of Representatives of the United States of America in the Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Emergency Employment Act of 1983."

ELIGIBILITY

SEC. 2. (a)(1) Individuals employed under this Act—

(A) shall be certified by the State employment service as unemployed at the time of such certification and for at least fifteen of the twenty-six weeks immediately prior to such certification, and as having exhausted their eligibility for unemployment compensation benefits, in accordance with criteria established by the Secretary of Labor.

(B) shall be paid at a rate which shall not be less than the highest of (i) the minimum wage under section 6(a)(1) of the Fair Labor Standards Act of 1938, (ii) the minimum wage under the applicable State or local minimum wage law, or (iii) the prevailing rates of pay for individuals employed in similar occupations by the same employer, but in no case shall the Federal contribution to such wage exceed $10,000 per annum; and

(C) subject to paragraph (1)(A), shall be provided benefits and employment conditions comparable to the benefits and conditions provided to others employed in similar occupations by the same employer.

(2)(A) No currently employer worker shall be displaced by any individual employed under this Act, including partial displacement such as a reduction in the hours of overtime work, wages, or employment benefits.

(B) Not more than 15 per centum of funds appropriated under this Act to any eligible entity may be used for the cost of administration.

EMPLOYMENT PROJECTS

(b)(1) Individuals employed under this act shall engage in temporary employment for not more than six months in repair, maintenance, and rehabilitation of public facilities and in the conservation, rehabilitation, and improvement of public lands. Such employment shall be in one or more of the following areas:

(A) road and street repair,

(B) bridge painting and repair,

(C) repair and rehabilitation of public buildings,

(D) repair and rehabilitation of water systems,

(E) erosion, flood, drought, and storm damage assistance and control,

(F) removal of refuse from drainage ditches, illegal dumping sites, and other public areas,

(G) park and playground rehabilitation,

(H) installation and repair of drainage pipes and catch basins in areas subject to flooding,

(I) stream, lake, and waterfront harbor and port improvement and pollution control,

(J) forestry, nursery, and silvicultural operations,

(K) fish culture and habitat maintenance and improvement,

(L) rangeland conservation, rehabilitation, and improvement,

(M) installation of graded ramps for the handicapped, and

(N) energy conservation.

(c) Funds appropriated under this Act shall be allocated as follows:

(1)(A) Eighty-three per centum of the funds available under this Act shall be allocated among eligible entities which, during the three months preceding the date of allocation for which satisfactory data are available, had an average rate of unemployment in excess of 10 per centum.

(B) In making such allocation, the Secretary shall allocate 50 per centum of the funds under this paragraph on the basis of the relative number of unemployed persons, 25 per centum of such funds on the relative number of unemployed persons residing in areas of substantial unemployment (determined in accordance with section 4(3) of the Job Training Partnership Act), and 25 per centum of such funds on the basis of the relative excess number of unemployed persons (in excess of 5.0 of the labor force).

(2) Five per centum of the funds available under this Act shall be allocated in the manner prescribed in paragraph (1)(B), among States which are not eligible for an allocation under paragraph (1) for the purposes of serving units of general local government which are not eligible entities but which, during the three months most recently preceding the date of allocation for which satisfactory data are available, had an average rate of unemployment in excess of 10 per centum.

(3) Two per centum of the funds available under this heading shall be allocated among Native American tribes, bands, and groups for use in meeting the need for employment and training and related services of such tribes, bands, and groups.

(4)(A) The remainder of the funds available under this Act shall be allocated, in the manner prescribed in paragraph (1)(B), among eligible entities which are not eligible for an allocation under paragraph (1) for the purpose of serving a locality—

(i) which has had a large scale loss of jobs caused by the closing of a facility, mass layoffs, natural disasters, or similar circumstances, or

(ii) which has experienced a sudden or severe economic dislocation.

(B) In the case of an eligible entity serving two or more localities, the eligible entity shall take into consideration the severity of unemployment in each such locality.

DEFINITIONS

(d)(1) For the purposes of this Act, an eligible entity is:

(A) a unit of local government with a population equaling or exceeding fifty thousand persons, or a consortium including such a unit and other units of general local government;

(B) a concentrated employment program grantee (serving a rural area); or

(C) a State.

(2) A State shall not qualify as an eligible entity with respect to an area served by another eligible entity. A larger unit of local government shall not qualify as an eligible entity with respect to an area served by a smaller such unit.

(3) For the purposes of this Act, the term "State" means each of several States, the District of Columbia, Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(e) The Secretary of Labor shall notify recipients within thirty days after the date of enactment of this Act.

(f) The Comptroller General, the Secretary of Labor, and the Inspector General of the Department of Labor shall have the authority with respect to the funds available under this Act as is contained in sections 163, 164, 165 (a) and (b) and 166 of the Job Training Partnership Act with respect to the funds available under this Act. The fiscal control and fund accounting procedures applicable to funds made available under that Act shall also apply to funds available under this Act.

(g) The Secretary of Labor shall promulgate such rules and regulations as may be necessary to carry out the purposes of this Act.

(h) There shall be appropriated to the Department of Labor $3,000,000,000 for the purpose of providing employment in accordance with the provisions of this Act.

(i) This Act shall be effective on the date of enactment.

By Mr. SASSER (for himself, Mr. INOUYE, and Mr. HUDDLESTON):

S. 148. A bill to amend the Internal Revenue Code of 1954 to allow a credit against tax for contributions and payments to sheltered workshops; to the Committee on Finance.

SHELTERED WORKSHOP TAX CREDIT ACT OF 1983

● Mr. SASSER. Mr. President, I rise to introduce the Sheltered Workshop Tax Credit Act of 1983, S. 148. I reintroduce this legislation in order to help the American business community and sheltered workshops throughout the country form a close working relationship that will help sheltered workshops grow and expand in the years ahead.

Before I briefly describe this legislation, let me first say a few words about sheltered workshops, what they are, why they are needed and why this legislation is necessary.

Sheltered workshops and rehabilitation centers represent, quite simply, some of the finest examples of community caring and self-help that exist today. They are beacons of hope for thousands of handicapped individuals whose indomitable spirit is helping them become productive members of our society. These institutions extend a helping hand and a healthy hope to the handicapped. They are workplaces which respect the individual dignity of handicapped individuals.

The 4,700 workshops and rehabilitation centers throughout this Nation are more than just places of work; they are places of caring, compassion, and love. They are places where the individual self-worth of handicapped Americans is renewed on a daily basis.

The success of sheltered workshops is not merely a statistical measure, however. It is measured by the day-to-day work that they do in providing training and rehabilitation for the handicapped.

Sheltered workshops and regional centers have had a phenomenal growth in this country. In 1961, there were 541 workshops which served about 30,000 individuals. Now we have 4,700 workshops and they employ some 195,445 workers.

In Tennessee alone there are more than 100 workshops and rehabilitation centers working with handicapped individuals day in and day out.

But I do not have to remind my colleagues that times often remain difficult for the handicapped. Our country is still being rocked by high unemployment, high interest rates, and a lack of economic growth. The handicapped and those less able to cope with diffi-

cult times are suffering disproportionately, especially in the wake of a declining Federal commitment to the handicapped.

It is imperative, therefore, that we seek alternative ways of keeping sheltered workshops and rehabilitation centers thriving in the years ahead. That is why I am reintroducing the Sheltered Workshop Tax Credit Act. This legislation will provide a permanent business tax credit for contributions to sheltered workshops effective January 1, 1983.

It will permit businesses to contribute up to $5,000,000 per corporation to these centers and reduce their tax liability on a dollar-for-dollar basis. It will permit small and large businesses to get the maximum benefit for their contributions to a sheltered workshop.

With this legislation, workshops and rehabilitation centers would be able to increase their fundraising activities at the local level.

I am pleased to note, Mr. President, that S. 148 has already been endorsed by Goodwill Industries of America and the National Easter Seal Society. The concepts embodied in this bill also have the support of the National Association for Rehabilitation Facilities, the General Council of Workshops for the Blind, and the Association for Retarded Citizens.

I would also like to commend my distinguished colleagues, Senator INOUYE and Senator HUDDLESTON, for their cosponsorship of S. 148.

Mr. President, I ask unanimous consent that immediately following my remarks, a summary of S. 148, the Sheltered Workshop Tax Credit Act of 1983, appear along with the full text of S. 148, the Sheltered Workshop Tax Credit Act of 1983.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF SHELTERED WORKSHOP TAX CREDIT ACT OF 1983

The bill provides for an income tax credit of up to $5,000,000 for contributions to sheltered workshops. There are 4,700 sheltered workshops in the country which assist some 195,445 workers.

The credit is not refundable. It is only good to the extent that the taxpayer has taxable income.

The bill provides for a 3 year carry-back and a 15 year carry-forward for the tax credit so that the credit can be spread over a number of years. Thus, for example, a corporation could take a $2 million credit in one year and then allocate the remaining $3 million over the remaining time.

The bill provides that the credit may not be used by a "paper" or "shell" corporation that is controlled by another corporation which has made the maximum contribution. Only one credit may be used by a controlled group of corporations.

A business taxpayer may not use this credit and also take a deduction as a charitable contribution for the same contribution.

The tax credit is only good for contributions to "sheltered workshops" certified by the Department of Labor or workshops administered by State and local governments.

The bill would take effect on January 1, 1983.

S. 148

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting immediately before section 45 the following new section:

"SEC. 44I. CREDIT FOR PAYMENTS TO SHELTERED WORKSHOPS.

"(a) IN GENERAL.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the aggregate amount of charitable contributions (within the meaning of section 170(c)) of the taxpayer to a qualified sheltered workshop.

"(b) LIMITATIONS.—

"(1) MAXIMUM DOLLAR AMOUNT.—The amount of the credit allowed under subsection (a) with respect to any taxpayer shall not exceed $5,000,000.

"(2) LIABILITY FOR TAX.—

"(A) IN GENERAL.—The credit allowed by subsection (a) for any taxable year shall not exceed an amount equal to the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowed under a section of this subpart having a lower number or letter designation than this section, other than credits allowable by sections 31, 39, and 43. For purposes of the preceding sentence, the term 'tax imposed by this chapter' shall not include any tax treated as not imposed by this chapter under the last sentence of section 53 (a).

"(B) CARRYBACK AND CARRYOVER OF UNUSED CREDIT.—

"(i) ALLOWANCE OF CREDIT.—If the amount of the credit determined under this section for any taxable year exceeds the limitation provided under subparagraph (A) for such taxable year (hereinafter in this paragraph referred to as the 'unused credit year'), such excess shall be—

"(I) a sheltered workshop credit carryback to each of the 3 taxable years preceding the unused credit year, and

"(II) a sheltered workshop credit carryover to each of the 15 taxable years following the unused credit year.

and shall be added to the amount allowable as a credit by this section for such years. If any portion of such excess is a carryback to a taxable year beginning before January 1, 1983, this section shall be deemed to have been in effect for such taxable year for purposes of allowing such carryback as a credit under this section. The entire amount of the unused credit for an unused credit year shall be carried to the earliest of the 18 taxable years to which (by reason of subclauses (I) and (II)) such credit may be carried, and then to each of the other 17 taxable years to the extent that, because of the limitation contained in clause (ii), such unused credit may not be added for a prior taxable year to which such unused credit may be carried.

"(ii) LIMITATION.—The amount of the unused credit which may be added under clause (i) for any preceding or succeeding taxable year shall not exceed the amount by which the limitation provided under subparagraph (A) for such taxable year exceeds the sum of—

"(I) the credit allowable under this section for such taxable year, and

"(II) the amounts which, by reason of this paragraph, are added to the amount allowable for such taxable year and which are attributable to taxable years preceding the unused credit year.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) QUALIFIED SHELTERED WORKSHOP.—The term 'qualified sheltered workshop' means a sheltered workshop which—

"(A) is certified by the Department of Labor to provide for the employment of handicapped persons at special minimum wages pursuant to section 14(c) of the Fair Labor Standards Act of 1938, or

"(B) which is administered by a State or local government.

"(2) AGGREGATION OF EXPENDITURES.—

"(A) CONTROLLED GROUP OF CORPORATIONS.—In determining the amount of the credit under this section—

"(i) all members of the same controlled group of corporations shall be treated as a single taxpayer, and

"(ii) the credit (if any) allowable by this section to each such member shall be its proportionate share of the payments giving rise to the credit.

"(B) COMMON CONTROL.—Under regulations prescribed by the Secretary, in determining the amount of the credit under this section—

"(i) all trades or businesses (whether or not incorporated) which are under common control shall be treated as a single taxpayer, and

"(ii) the credit (if any) allowable by this section to each such person shall be its proportionate share of the increase in qualified research expenses giving rise to the credit.

The regulations prescribed under this subparagraph shall be based on principles similar to the principles which apply in the case of subparagraph (A).

"(3) ALLOCATIONS.—

"(A) PASSTHROUGH IN THE CASE OF THE SUBCHAPTERS CORPORATIONS, ETC.—Under regulations prescribed by the Secretary, rules similar to the rules of subsections (d) and (e) of section 52 shall apply.

"(B) ALLOCATION IN THE CASE OF PARTNERSHIPS.—In the case of partnerships, the credit shall be allocated among partners under regulations prescribed by the Secretary.

"(d) DENIAL OF DOUBLE BENEFIT.—No deduction or credit shall be allowed under any other provision of this chapter with respect to any amount for which a credit is allowed under subsection (a).".

(b)(1) Subparagraph (B) of section 55 (c)(3) of the Internal Revenue Code of 1954 (relating to credits) is amended—

(A) by striking out "or 44F" in clause (i) and inserting in lieu thereof "44F, or 44I", and

(B) by inserting "44I(b)(2)(A)," after "44F (g)(1)," in clause (ii).

(2) Subsection (c) of section 381 of such Code (relating to items of the distributor or transferor corporation) is amended by adding at the end thereof the following new paragraph:

"(31) CREDIT UNDER SECTION 44I.—The acquiring corporation shall take into account (to the extent proper to carry out the purposes of this section and section 44I, and under such regulations as may be prescribed by the Secretary) the items required to be taken into account for purposes of section 44I in respect of the distributor or transferor corporation.".

(3)(A) Section 383 of such Code (relating to special limitations on unused investment credits, work incentive program credits, new employee credits, alcohol fuel credits, foreign taxes, and capital losses), as in effect for taxable years beginning with and after the first taxable year to which the amendments made by the Tax Reform Act of 1976 apply, is amended—

(i) by inserting "to any unused credit of the corporation under section 44I (b)(2)(B)," after "44G(b)(2),", and

(ii) by inserting "sheltered workshop credits," after "employee stock ownership credits," in the section heading.

(B) Section 383 of such Code (as in effect on the day before the date of the enactment of the Tax Reform Act of 1976) is amended—

(i) by inserting "to any unused credit of the corporation which could otherwise be carried forward under section 44I(b)(2)(B)," after "44G(b)(2),", and

(ii) by inserting "sheltered workshop credits," after "employee stock ownership credits," in the section heading.

(C) The table of sections for part V of subchapter C of chapter 1 is amended by inserting "sheltered workshop credits," after "employee stock ownership credits," in the item relating to section 383.

(4) Subparagraph (C) of section 6511(d)(4) of such Code (defining credit carryback) is amended by striking out "and employee stock ownership credit carryback" and inserting in lieu thereof "employee stock ownership credit carryback, and sheltered workshop credit carryback".

(5) Section 6411 of such Code (relating to quick refunds in respect of tentative carryback adjustments) is amended—

(A) by striking out "or unused employee stock ownership credit" each place it appears and inserting in lieu thereof "unused employee stock ownership credit, or unused sheltered workshop credit";

(B) by inserting "by a sheltered workshop credit carryback provided by section 44I(b)(2)" after "by an employee stock ownership credit carryback provided in section 44G(b)(2)," in the first sentence of subsection (a);

(C) by striking out "or an employee stock ownership credit carryback from" each place it appears and inserting in lieu thereof "an employee stock ownership credit carryback, or a sheltered workshop credit carryback from"; and

(D) by striking out "research and experimental credit carryback)" in the second sentence of subsection (a) and inserting in lieu thereof "research and experimental credit carryback, or, in the case of a sheltered workshop credit carryback, to an investment credit carryback, a new employee credit carryback, a research and experimental credit carryback, or an employee stock ownership credit carryback".

(c)(1) Subsection (b) of section 6096 of such Code (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out "and 44H" and inserting in lieu thereof "44H, and 44I".

(2) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 44H the following new item:

"SEC. 44I. CREDIT FOR PAYMENTS TO SHELTERED WORKSHOPS.".

(d) The amendments made by this section shall apply to taxable years beginning after December 31, 1982.●

By Mr. GRASSLEY:

S. 149. A bill for the relief of Adel Shervin; to the Committee on the Judiciary.

ADEL SHERVIN

Mr. GRASSLEY. Mr. President, today I am introducing a bill for the relief of Dr. Adel Shervin, an Iranian physician currently residing in Iowa. Dr. Shervin is practicing medicine in Mason City, where he is greatly needed for his expertise in obstetrics and gynecology at Park Clinic. Dr. Shervin received the degree of doctor of medicine from Tabriz University, Iran, in July 1973. He successfully passed the examination given by the Educational Council for Foreign Medical Graduates on January 24, 1973, and was awarded Certificate No. 190 586 8. In addition, he has passed his oral examinations and is now board certified.

Dr. Shervin interned at Pahlavi Hospital, Tabriz, Iran, and was then admitted to the United States as an intern in the obstetrics and gynecology department at the Greater Baltimore Medical Center from July 1, 1975, to June 30, 1976. He served his second year of internship at the Franklin Square Hospital in Baltimore, Md., from July 7, 1976, to February 23, 1977.

Dr. Shervin then left the United States and returned to Iran. He was readmitted to the United States on September 23, 1977. From July 1, 1979, to June 30, 1980, he was chief resident in obstetrics and gynecology at Maryland General Hospital. Shortly before his visa was due to expire, Dr. Shervin made arrangements to return to Iran. His wife and children had already returned to Iran as Dr. Shervin's father-in-law had suffered a heart attack and his wife desired to be near her father. Dr. Shervin had made all arrangements necessary to return to Iran and contacted his father by telephone to inform him of the date and time of his arrival. At that time, his father advised him to remain in the United States. The political situation there had deteriorated to such an extent that a former professor of Shervin's had been murdered outside of an Iranian hospital. This assassination was due to the fact that his professor had been trained in the United States and had a long association with U.S. medical schools. Dr. Shervin also learned that a close personal friend of his, also a physician, had recently been murdered. As with the professor, that friend had close ties with the United States. Based upon his father's wishes, Dr. Shervin remained in the United States.

The only solution to Dr. Shervin's problem is passage of private legislation. Claiming political asylum could well result in endangering the family members who are still in Iran. His sister-in-law has already been arrested and imprisoned by the Khomeni government.

Dr. Shervin is a wonderful asset to his community and this country. To force him to return to Iran and face a probable prison sentence or even death would be a tragedy. The information cited above clearly demonstrates his plight and I urge rapid consideration of this legislation.

By Mr. JEPSEN:

S. 150. A bill to amend the Internal Revenue Code of 1954 and title IV of the Higher Education Act of 1965 to establish the collection of student loans in default; to the Committee on Finance.

COLLECTION OF STUDENT LOANS IN DEFAULT ACT OF 1982

Mr. JEPSEN. Mr. President, I rise to introduce a bill to prohibit persons from receiving income tax refunds if they are delinquent or in default on student loans guaranteed by the Federal Government. That money would be used instead as a payment toward the outstanding part of their debt owed to the Federal Government. I point out that the State of Iowa passed similar legislation last year.

While I firmly believe that the only proper function of the Internal Revenue Service is the collection of taxes, I also find it unconscionable to refund money to individuals who actually owe money to the Federal Government. It is time that the Government follow the dictates of commonsense and not pay out money to these people. In this time of budgetary crisis, that is what the people deserve and what the people expect.

Those who have borrowed money under the guaranteed student loan program have entered into what should be a binding agreement, their failure to live up to that agreement is giving this worthy program a bad name and reputation which it does not deserve. Those who are ultimately penalized by this bad name are future students, the future of this great country.

It is time that borrowers live up to their responsibilities. I firmly believe that this proposal will send the necessary signal to them that the Federal Government means business.

Mr. President, I ask unanimous consent that a copy of my bill appear in the RECORD immediately following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 150

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Collection of Student Loans in Default Act of 1982".

AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1954

SEC. 2. (a) Subchapter A of chapter 64 of the Internal Revenue Code of 1954 (relating to general provisions on collections) is amended by adding at the end thereof the following new section:

"SEC. 6306. COLLECTION OF STUDENT LOANS IN DEFAULT.

"(a) NOTICE.—

"(1) IN GENERAL.—Not later than January 15 of each calendar year, the Secretary shall give written notice to each individual with respect to whom any loan has been referred under section 432A of the Higher Education Act of 1965 to the Secretary for collection.

"(2) CONTENTS OF NOTICE.—Each notice given under paragraph (1) shall contain—

"(A) an explanation of the provisions of this section,

"(B) the dollar amount which the individual is required to pay, and

"(C) instructions for paying such amount.

"(3) AMOUNT OF REQUIRED PAYMENT.—The amount specified under paragraph (2)(B) shall be an amount equal to the amount specified by the Secretary of Education under section 432A of the Higher Education Act of 1965.

"(4) FORM, ETC.—The notice under this subsection shall be in such form as the Secretary may by regulation prescribe and shall be sent by mail to the individual's last known address or shall be left at the dwelling or usual place of business of such individual.

"(b) PAYMENT OF AMOUNT OWING.—Any amount to be collected from an individual under this section shall be paid—

"(1) in connection with the filing of his return of tax imposed by chapter 1 for his taxable year which includes December 31 of the calendar year preceding the calendar year in which the notice under subsection (a) is sent, or

"(2) if—

"(A) an extension is granted in the time prescribed by law for filing such return, or

"(B) no such return is required to be filed for such year,

in such manner as the Secretary shall by regulations prescribe.

"(c) FAILURE TO PAY AMOUNT OWING.—

"(1) IN GENERAL.—In the case of an individual who fails to pay the full amount required to be paid on or before the time prescribed by law for filing the return of tax imposed by chapter 1 for the taxable year specified in such notice, the Secretary shall assess and collect such amount in the same manner, with the same powers, and subject to the same limitations as if such amount were a tax imposed by subtitle C the collection of which would be jeopardized by delay.

"(2) AMOUNT REQUIRED TO BE PAID.—For purposes of paragraph (1), the amount required to be paid is the amount specified in the notice under subsection (a).

"(d) SPECIAL RULES.—

"(1) APPLICATION TO FISCAL YEAR TAXPAYERS.—In the case of an individual whose taxable year is not a calendar year—

"(A) the notice under subsection (a) shall be provided not later than 15 days after the close of such taxable year, and

"(B) the dollar amount specified in such notice shall be the dollar amount owing on the loan on the last day of such taxable year, as provided by the Secretary of Education at the request of the Secretary.

"(2) REVIEW OF ASSESSMENTS AND COLLECTIONS.—Subsection (b) of section 6305 shall apply to assessments and collections under subsection (c) of this section.

"(3) NOTIFICATION OF SECRETARY OF EDUCATION OF AMOUNTS COLLECTED.—The Secretary shall, not less often than monthly, notify the Secretary of Education of the amount collected by reason of this section with respect to any loan to any individual.

"(4) TRANSFERS OF AMOUNTS COLLECTED.—The Secretary shall transfer to the Secretary of Education, at the end of each calendar quarter, the aggregate amount of payments on loans referred for collection under this section which are held by a State agency or nonprofit private institution or organization with which the Secretary of Education has an agreement under section 428(b) of the Higher Education Act of 1965 or by an eligible lender in a State described in section 435(g)(1) (D) or (F) of that Act.".

(b) The table of sections for such subchapter A is amended by adding at the end thereof the following new item:

"Sec. 6306. Collection of student loans in default.".

(c) Subsection (a) of section 6402 of the Internal Revenue Code of 1954 (relating to authority to make credits or refunds) is amended by inserting after "internal revenue tax", the following: "or amount owing under section 6303".

AMENDMENTS TO THE HIGHER EDUCATION ACT OF 1965

SEC. 3. Part B of title IV of the Higher Education Act of 1965 is amended by inserting after section 432 the following new section:

"REFERRAL OF CERTAIN DEFAULTED STUDENT LOANS FOR COLLECTION

"SEC. 432A. (a)(1) The Secretary shall at the end of each calendar quarter prepare and transmit to the Secretary of the Treasury a list of each borrower who has defaulted on a loan which—

"(A) is made, insured, or guaranteed under this part; and

"(B) is subject to the provisions of this section.

"(2) A loan is subject to the provisions of this section if—

"(A) the loan is in default and has been in default for at least 6 months at the time the transmittal is made; and

"(B)(i) the United States has obtained an assignment of the note or other written evidence of the loan; or

"(ii) the note or other written evidence of the loan is held by a State or nonprofit private institution or organization with which the Secretary has an agreement under section 428(b) or by an eligible lender in a State described in section 435(g)(1) (D) or (F) and the amount of the unpaid principal amount and accrued interest of the loan has been determined by a court order or by an order of an administrative process established under State law.

"(b) Notwithstanding any other provision of law, the transmittal required by this section shall include—

"(1) the name and last known address of each borrower of a loan subject to this section,

"(2) the amount of the unpaid principal and accrued interest of each such loan, and

"(3) the name of the holder of each such loan.

"(c)(1) From amounts transferred by the Secretary of the Treasury under section 6303 of the Internal Revenue Code of 1954, the Secretary shall, in accordance with the guaranty agreement entered into pursuant to section 428(c)(2) of this Act—

"(A) retain such portion of the payments made to the Secretary by the Secretary of the Treasury as the Secretary determines represent his equitable share of repayment of loans subject to the guaranty agreement, and

"(B) pay to the State or nonprofit private institution or organization with which the Secretary has an agreement under section 428(b) the remainder of the amount of payments attributable to the repayment of loans subject to the guaranty agreement.

Amounts retained by the Secretary under the provisions of clause (A) of this paragraph shall be paid into the General Fund of the Treasury.

"(2) From the remainder of the amounts transferred by the Secretary of the Treasury under such section 6306 after complying with paragraph (1) of this subsection, the Secretary shall pay to eligible lenders in a State described in section 435(g)(1) (D) or (F) such portion of the repayments of loans held by such eligible lenders as the Secretary determines, pursuant to regulations established by him, are owed to such lenders. Amounts remaining from the repayment of such loans after complying with the first sentence of this paragraph shall be paid into the General Fund of the Treasury.

"(d) Each State and nonprofit private institution or organization with which the Secretary has an agreement under section 428(b) and each eligible lender in a State described in section 435(g)(1) (D) or (F) shall prepare and submit to the Secretary such information as may be necessary for the Secretary to comply with the provisions of this section.".

EFFECTIVE DATE

SEC. 4. The amendments made by this Act shall take effect for the first calendar quarter beginning after December 30, 1983 and for each calendar quarter thereafter.

By Mr. PROXMIRE:

S. 151. A bill to amend the Federal Election Campaign Act of 1971 to limit contributions by nonparty multicandidate political committees in election campaigns for the United States Senate, to provide for financing of general election campaigns for the United States Senate, and for other purposes; to the Committee on Rules and Administration.

CLEAN CAMPAIGN ACT OF 1983

Mr. PROXMIRE. Mr. President, I am introducing legislation to reform the Nation's campaign laws regarding election to the U.S. Senate. This legislation would limit campaign spending, would provide matching public funds to qualified candidates, and would limit the influence of political action committees.

In the last election, congressional candidates collected and spent about $300 million. In one Senate race, the two candidates spent over $13 million, for a job which pays about $60,000 a year.

Alone, these sums are startling. But if you examine the trends, the figures become even more troubling. In 1972, congressional candidates collected about $62.2 million, compared to $300 million 10 years later. Campaign spending jumped nearly 400 percent during the decade, while the Con-

sumer Price Index was increasing about 133 percent. Campaign spending more than doubled over the past decade, even after adjusting for inflation.

Some have argued that this flood of money pouring into congressional campaigns is nothing to worry about. They point out that those who make and sell cosmetics spend far more for advertising than do congressional candidates while running for national office.

I find this argument disingenuous. Choice is the essence of an election: One candidate wins, the other returns to his law practice or whatever. Citizens should make this choice after informing themselves about the issues facing the country. Providing such information is, or should be, the major purpose of a campaign. After the election, the winning candidate must make another series of choices about which policies will best resolve those same issues to the satisfaction of his constituents. I believe the outrageous amounts of money being spent on congressional races are undermining both of these processes, processes which are fundamental to a democracy.

Take the first process—informing the voters before the election. Who can seriously state that the voters now are twice as well-informed as they were a decade ago? Yet candidates now spend more than twice as much on campaigning. I believe that a good case can be made for the opposite conclusion—candidates are now doing a poorer job of informing the voters.

Many television commercials which aired during the last election either made no attempt to inform the voter or, much worse, deliberately misled him. Remember the short commercial where the candidate stood on a knoll, the wind ruffling his hair. He looked seriously into the distance, while a mellifluous-voiced announcer told the voters that the candidate was a good family man and a patriot. I am all for families and patriotism, but neither tells the voter anything about what the candidate proposes to do regarding the economy.

Some candidates used another type of commercial to distort the record of their opponents. These commercials took a vote out of context or purposely told only part of the truth. This type of commercial seemed to backfire last year, thanks to the good sense of the voter. If some of these commercials had to pass the same loose standard for accuracy that we impose on the makers of aspirin, for example, they would have never got on the air.

We have reached the point in political campaigning where a candidate's most important decision is not necessarily his stand on the issues, but his choice of a media adviser.

Media-based campaigns are costly, which helps explain the rapid rise of campaign costs. Political campaign committees (PAC's) have been eager to help candidates meet these increasing costs. In 1972, PAC's contributed about $8.5 million to congressional candidates, about 14 percent of the total spent. By 1982, PAC's contributed perhaps $80 million, or about 27 percent of the total.

PAC money is not free; it has strings attached. PAC's represent specific economic or ideological interests. Campaign contributions help open doors, help to advance special interests rather than the public interest.

Senator BOB DOLE has said, "When these PAC's give money they expect something in return other than good government." He is right.

We do have to keep in mind the rights of individuals and organizations to approach the Government. The first amendment to the Constitution, in addition to protecting free speech, religion, assembly, and the press, also prohibits Congress from abridging the right to petition the Government for a redress of grievances.

I do not object to a political action committee having the right to present its case before Congress, or to exercise its right of free speech, or its right of making a campaign contribution as a reflection of its political choice.

But, I do object to the steady, relentless, election-after-election increase in both the volume of PAC special interest contributions, and the proportion they represent of all contributions. The public interest is losing out.

How do we define public interest? Perhaps it is impossible to craft a definition based on issues or policies. Nonetheless, we can agree that the special interest generally is an organized entity narrow in scope with an identifiable group of potential beneficiaries.

We are fast approaching the time when American politics is little more than the sum of the special interest organizations.

For example, let me ask the Members of the Senate, how many times have they met with constituents who have actively sought a specific reduction in Government spending for a particular program or project as opposed to special consideration for their own worthy cause? From my own experience it does not happen more than once in a hundred times, or less. Instead, we are besieged with those who ask that their tax burden be reduced, or their allocation of resources be increased, or a tax expenditure created, or a grant offered.

The average taxpayer, perhaps not sharing these concerns, usually is not organized enough or does not command enough resources to make his countercase to his Member of Congress.

And, therein lies the danger of the political action campaign contribution process.

I am afraid that the unspoken and unheard interest of a majority of Americans is being lost in the louder, more politically attuned voice of organized special interests.

One of our former colleagues, Walter Mondale, recently said:

> You know and I know that these rivers and oceans of special interest money are pressing and compromising our Government—shattering public trust and paralyzing the capacity of the American people to serve the public interest.

Mr. President, I accepted no campaign contributions for my last two campaigns in 1976 and 1982. In earlier campaigns, in 1970 and before, I did accept contributions. Believe me, I find it much easier to represent all the people of Wisconsin without having to raise a campaign war chest. Let us not kid ourselves. Campaign contributions do lead to an implied obligation. The American people realize this fact of political life.

Most Americans are cynical about Congress as an institution and little wonder, given the campaign financing system we tolerate. We have an opportunity to act now, to reform this system, before serious scandals erupt.

In the Wall Street Journal a business representative recently described, quite well, the risks inherent in the existing arrangement:

> The nation's capital is awash with cash. It sloshes, ebbs and flows, through the K street canyon of corporations, trade associations, union headquarters and exquisitely appointed suites of special-interest law firms, around the embassies of Kalorama Road, through the pale drawing rooms of Georgetown, past the White House and, defying all laws of gravity, alternately seeps and gurgles its way uphill to the Capitol.

To control this danger, I have introduced reform legislation which contains three major provisions. First, my bill sets a strict limit on how much can be spent in a general election—a base of $600,000 plus $0.05 for each voting-age resident of the State. Second, it provides for matching Federal funds for candidates who are able to collect a threshold amount from small contributors. Public funding, using the voluntary tax-checkoff approach, is the best way I know to assert the general interest over the number of special interests. Finally, the bill limits the amount of contributions a candidate can accept from PAC's to 30 percent of the spending limit. This provision would also reduce the influence of special interests.

Mr. President, I urge the Senate to act this year and approve campaign reform legislation.

By Mr. JEPSEN:

S. 152. A bill to amend the Internal Revenue Code of 1954 to provide an

investment tax credit for certain soil and water conservation expenditures; to the Committee on Finance.

SOIL AND WATER CONSERVATION INCENTIVES ACT OF 1983

Mr. JEPSEN. Mr. President, today I am introducing some much-needed legislation, the Soil and Water Conservation Incentives Act of 1983. This act would allow private landowners and operators to claim a 10-percent investment tax credit when they invest their own money in installing and maintaining conservation practices on their lands.

Much has been said in the last few years about the critical need to insure adequate soil and water conservation practices on our Nation's farm and rangelands. New statistics reveal a loss of a staggering 2 billion tons of cropland topsoil per year. It is possible that the loss of agricultural land quality, coupled with agricultural land quantity, could be so great within the next few years that what once seemed like an infinite capacity to produce food and fiber may no longer be possible.

We all know that the basic and most important ingredient for providing abundant food for a hungry world is good soil.

I have been able to learn about soil erosion firsthand. My State of Iowa contributes more funds and services to soil and water conservation districts than any other State in the country. At the same time, Iowa is one of our largest crop-producing States and loses more cropland to erosion than any other State—10 tons per acre per year. Understanding Iowa's problem makes it clear why soil erosion has serious and significant national implications.

Mr. President, our farmers have a special feeling about the land. They are enthusiastic and interested in conserving and protecting that land and its soil. But the fact is, it takes an extra special effort for a farmer to conserve his land for future generations. Soil conservation pays off over a number of years, but in the short-term, especially in today's market, when most farmers have to worry about going under, paying for soil conservation can be an economic burden. Sam Rayburn, former Speaker of the House of Representatives, once said that the one thing besides people he claimed to know was land. The one thing I claim to know, besides land and people in general, is a special category of people, farmers, and I know that a soil conservation tax credit is one of several measures which will make widespread use of conservation practices a reality in today's economy.

As chairman of the Senate Agriculture Subcommittee on Soil and Water Conservation, my goal is to restore vitality in our conservation efforts by adopting adequate incentives to successfully promote widespread voluntary participation. In my opinion, the conservation tax credit takes the right step in this direction.

The popularity of the soil and water conservation tax credit is unquestionable. When the Senate Agriculture Committee held soil and water conservation hearings last summer in Iowa, nearly every person who testified gave support for the conservation tax credit.

I also sent a questionnaire on conservation policy options to the food producers in my State. Eighty-five percent of those who responded supported a conservation investment tax credit.

In addition, every farm and conservation group I have contacted wholeheartedly supports the concept. One of the biggest advantages to the conservation tax credit incentive is that it does not increase the Federal budget.

Another bonus is that tax credits should have a particular appeal to absentee landowners who generally have little incentive to conserve soil and water. While there are no concrete statistics regarding the conservation activities of absentee landowners, many conservationists believe the absentee landowner does not conserve the soil at the same rate as a farmer who owns, operates, and lives on his land. The tax credit would provide the necessary incentive.

The Soil and Water Conservation Incentives Act of 1983 is practical legislation. It builds on the section of the Tax Code, 175, which allows farmowners or operators to deduct the land management and conservation expenditures already listed in the code. My bill would allow for a choice of either a full tax deduction the year the structure is installed or a 10-percent investment tax credit the first year, with deductions that year and thereafter on a standard depreciation schedule. For example, a farmer uses his own money to install an erosion control structure at a cost of $2,000. My bill will allow him to:

First, deduct the $2,000 from his gross income that taxable year; or

Second, take a $200 tax credit—10 percent—off his tax liability that taxable year with deductions thereafter amounting to the full cost of the structure over the span of its appreciable life.

Mr. President, in order to meet national needs for food and fiber and maintain a favorable balance of trade, it is essential that productive land and water resources, owned and operated by our Nation's food producers, be conserved and managed in a way that allows for long-term quality and productivity of the land. Because the cost of conservation measures cannot be easily recovered in the marketplace, there must be financial incentives for the private landowner. The investment tax credit will help accomplish this goal.

As one of my fellow Iowans remarked to me last summer, "oil can be replaced by another form of energy, but nothing known to mankind can replace our soil." I could not say it better, and I am very hopeful that my fellow Senators who are concerned, as I am, about soil and water conservation and its effect on the long-range productivity of our farm and rangelands, will support the Soil and Water Conservation Incentives Act of 1983.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD immediately following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 152

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Soil and Water Conservation Incentives Act of 1983".

SEC. 2. FINDINGS; DECLARATION OF POLICY.

(a) FINDINGS.—The Congress finds and declares that—

(1) in order to meet national needs for food and fiber, and to maintain a favorable balance of trade, it is essential that the productive land and water resources of the Nation be used and treated in a manner which provides for sustained production and environmental stability;

(2) the management and use of the Nation's productive soils and waters are in the hands of private landowners and operators, and the actions of such persons with respect to such management and use determine the long-term quality and productivity of the Nation's land; and

(3) the cost of conservation measures cannot be readily recovered in the market place, which places an unfair burden on private producers for providing a public benefit and which often makes the production of food and fiber economically unsound for the producer.

(b) POLICY.—It is the policy of Congress that the Federal Government should provide financial incentives, in the form of investment tax credits, to encourage private landowners and operators to conserve and manage land and water within their capabilities and to treat such land and water in a manner which provides for sustained production and the prevention of environmental deterioration.

SEC. 3. INVESTMENT CREDIT FOR SOIL AND WATER CONSERVATION EXPENDITURES.

(a) IN GENERAL.—Paragraph (1) of section 48(a) of the Internal Revenue Code of 1954 (defining section 38 property) is amended—

(1) by striking out the period at the end of subparagraph (G) and inserting ", or"; and

(2) by inserting after subparagraph (G) the following new subparagraph:

"(H) in the case of soil and water conservation expenditures (within the meaning of section 175(c)), that portion of such expenditures for the taxable year (other than that portion attributable to property which otherwise qualifies as section 38 property) which the taxpayer does not elect under section 175 to treat as expenses which are not chargeable to capital account.".

(b) CONFORMING AMENDMENT.—The last sentence of paragraph (1) of section 48(a) of such Code is amended—

(1) by inserting "or (H)" after "subparagraph (F)"; and

(2) by inserting ", or 7 years, respectively" after "growing period".

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall apply to taxable years beginning after December 31, 1982.

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. 153. A bill to amend title 38, United States Code, to provide that the Administrator of Veterans' Affairs may furnish outpatient dental services and treatment for non-service-connected disability to any war veteran who has a service-connected disability of 80 per centum or more; to the Committee on Veterans' Affairs.

VETERANS' DENTAL CARE

● Mr. INOUYE. Mr. President, I am introducing today, legislation which would provide for outpatient dental care of any war veteran who is 80 percent or more disabled as a result of his military service. Veterans will be eligible for this care even if their dental problems are unrelated to their service injuries.

Legislation passed by the 91st Congress provides medical and outpatient care for veterans of all wars who were totally and permanently disabled by service-related injuries. This law, Public Law 91-102, was designed to care for the medical needs that would arise during their lives, but would be unrelated to their military wounds. It, however, specially forbids payment for outpatient dental care. My bill seeks to fill the gap left by Public Law 91-102.

According to one estimate, 175,000 veterans would be eligible for dental care if this bill is passed. Currently, these men get free care only if their problems are directly related to their service disability. But, as the Disabled American Veterans noted when they urged me to introduce this measure, many veterans live on limited, fixed incomes. Dental costs are rising along with everything else in these inflationary times, and an increasing number are being forced to go without proper dental care because they cannot afford it.

Until 1973, blind, paraplegic veterans were eligible for outpatient dental services. But the regulation permitting that was rescinded in 1973, much to the dismay of the severely disabled veterans who were its beneficiaries. Even now, veterans who attend school or undergo on-the-job training and spend time at a VA hospital are eligible for dental treatment without regard to their degree of disability. But many veterans do not want to, or cannot, be admitted to our overcrowded and understaffed veterans hospitals.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 153

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 612(b)(1) of title 38, United States Code, is amended—

(1) by striking out "or" at the end of clause (G);

(2) by striking out the period at the end of clause (H) and inserting in lieu thereof a semicolon and "or"; and

(3) by adding at the end thereof the following:

"(5) from which a veteran of any war who has a service-connected disability rated as 80 per centum or more is suffering.".●

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. 154. A bill to amend title 38, United States Code, to authorize the Administrator of Veterans' Affairs to provide incentive special pay for certain dentists in the Department of Medicine and Surgery of the Veterans' Administration; to the Committee on Veterans' Affairs.

INCENTIVE PAY FOR DENTISTS IN VETERANS' ADMINISTRATION

● Mr. INOUYE. Mr. President, today I am introducing legislation, on behalf of Senator MATSUNAGA and myself, to provide for special incentive pay for those dentists in the Veterans' Administration who have received advanced professional certification/specialty board certification.

Our proposal would authorize and direct the Veternas' Administration to provide for the same $2,500 bonus as Veterans' Administration physicians presently receive, when a member of the dental profession has passed his or her national specialty boards. This accomplishment is indeed a fine tribute to the practitioner's professional competence and the esteem for which he or she is held by his or her colleagues.

In all candor, we were surprised to recently learn that the Veterans' Administration dentists are not already treated in a manner compatible with their Veterans' Administration physician colleagues.

Mr. President, I ask unanimous consent that various background materials provided me by the American Dental Association be printed in the RECORD, as well as the text of the bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CERTIFICATION AND EXAMINATION DATA

[Accumulative data]

Founding date	Dental public health, 1950	Endodontics, 1964	Oral pathology, 1948	O. & M. surgery, 1946	Orthodontics, 1929	Pedodontics, 1942	Periodontics, 1940	Prosthodontics, 1946
Date of ADA recognition	1951	1964	1950	1947	1950	1948	1948	1948
Number certified without examination	12	34	7	15	98	15	88	69
Number certified by examination to Jan. 1, 1981	145	541	223	2,764	1,581	373	516	660
Total certified to Jan. 1, 1981	157	575	230	2,779	1,679	338	604	279
Number decreased, dropped or placed on inactive roll to Jan. 1, 1981	57	75	22	351	545	41	180	148
Number of diplomates, Jan. 1, 1981	100	500	[1] 212	2,428	1,134	347	424	581
1980 data:								
Number of diplomates, Jan. 1, 1980	100	479	200	2,310	1,123	317	401	565
Number certified in 1980	3	29	8	144	38	33	24	20
Number deceased, dropped or placed on inactive roll	3	8	0	26	27	3	1	4
Number of applications received	7	65	16	186	198	136	107	51
Number of acceptable applications received	6	65	16	172	193	136	107	51
Number of unacceptable applications received	1	0	0	14	5	0	0	0

[1] Includes 4 diplomates dropped from active status in 1979.

ELIGIBILITY REQUIREMENTS

Professional	Dental public health	Endodontics	Oral pathology	O. & M. surgery	Orthodontics	Pedodontics	Periodontics	Prosthodontics
ADA or NDA membership	No	No	No	No	No	No	No	No
Specialty society membership	No	No	No	No	No	No	No	No
Education: Years of advanced education in addition to DDS or DMD degree	2	2	2	3	2	2	2	2 [1]

ELIGIBILITY REQUIREMENTS—Continued

Professional	Dental public health	Endodontics	Oral pathology	O. & M. surgery	Orthodontics	Pedodontics	Periodontics	Prosthodontics
Experience: Total years of specialty experience including advanced education	6 [2]	5	5	5	5 [3]	5	5	5
Exclusive practice of specialty	Yes	Yes	No	Yes	No	Yes	Yes	Yes.
Other: Citizenship	Any	Any	Any	Any	Any	Any	Any	Any.
Affiliate certificates for noncitizens	No	No	Yes	Yes	Yes	No	No	Yes.
State licensure	No	Yes	No	No	Yes	No	No	No.

[1] 3 years of advanced training for certification in maxillofacial prosthetics.
[2] A total of 7 calendar years of experience and/or education shall have elapsed subsequent to graduation from dental school before a candidate is eligible for examination.
[3] Does not include years of advanced education.

DEFINITIONS OF SPECIAL AREAS OF DENTAL PRACTICE AS APPROVED BY THE COUNCIL ON DENTAL EDUCATION, AMERICAN DENTAL ASSOCIATION, MAY 1976

It is recognized there are overlapping responsibilities among the recognized areas of dental practice. However, as a matter of principle, a specialist shall not provide routinely procedures that are beyond the scope of his specialty.

DENTAL PUBLIC HEALTH

Dental public health is the science and art of preventing and controlling dental diseases and promoting dental health through organized community efforts. It is that form of dental practice which serves the community as a patient rather than the individual. It is concerned with the dental health education of the public, with applied dental research, and with the administration of group dental care programs as well as the prevention and control of dental diseases on a community basis.

ENDODONTICS

Endodontics is that branch of dentistry that deals with diagnosis and treatment of oral conditions which arise as a result of pathoses of the dental pulp. Its study encompasses related basic and clinical sciences including the biology of the normal pulp and supporting structures, etiology, diagnosis, prevention and treatment of diseases and injuries of the pulp and periradicular tissues. (Revised May 1977).

ORAL PATHOLOGY

Oral pathology is that branch of science which deals with the nature of the diseases affecting the oral and adjacent regions, through study of its causes, its processes and its effects, together with the associated alterations or oral structure and function. The practice of oral pathology shall include the development and application of this knowledge through the use of clinical, microscopic, radiographic, biochemical or other such laboratory examinations or procedures as may be required to establish a diagnosis and/or gain other information necessary to maintain the health of the patient, or to correct the result of structural or functional changes produced by alterations from the normal.

ORAL AND MAXILLOFACIAL SURGERY

Oral and maxillofacial surgery is that part of dental practice which deals with diagnosis, the surgical and adjunctive treatment of diseases, injuries and defects of the oral and maxillofacial region. (Revised May 1978)

ORTHODONTICS

Orthodontics is that area of dentistry concerned with the supervision, guidance and correction of the growing or mature dentofacial structures, including those conditions that require movement of teeth or correction of malrelationships and malformations of their related structures and the adjustment of relationships between and among teeth and facial bones by the application of forces and/or the stimulation and redirection of functional forces within the craniofacial complex.

Major responsibilities of orthodontic practice include the diagnosis, prevention, interception and treatment of all forms of malocclusion of the teeth and associated alterations in their surrounding structures; the design, application, and control of functional and corrective appliances; and the guidance of the dentition and its supporting structures to attain and maintain optimum occlusal relations in physiologic and esthetic harmony among facial and cranial structures. (Revised, December 1980)

PEDODONTICS

The specialty of pedodontics is the practice and teaching of comprehensive preventive and therapeutic oral health care of children from birth through adolescence. It shall be construed to include care for special patients beyond the age of adolescence who demonstrate mental, physical and/or emotional problems.

PERIODONTICS

Periodontics is that branch of dentistry which deals with the diagnosis and treatment of disease of the supporting and surrounding tissues of the teeth. The maintenance of the health of these structures and tissues, achieved through periodontal treatment procedures, is also considered to be the responsibility of the periodontist. The scope shall be limited to preclude permanent restorative dentistry. (Revised, May, 1980)

PROSTHODONTICS

Prosthodontics is that branch of dentistry pertaining to the restoration and maintenance of oral functions, comfort, appearance and health of the patient by the restoration of natural teeth and/or the replacement of missing teeth and contiguous oral and maxillofacial tissues with artificial substitutes.

S. 154

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4118 of title 38, United States Code, is amended—

(1) in subsection (c) (2)—

(A) by redesignating clause (C) as clause (D); and

(B) by inserting after clause (B) the following new clause:

"(C) For board certification in a specialty, $2,500.";

(2) in subsection (c) (4)—

(A) by redesignating clause (C) as clause (D); and

(B) by inserting after clause (B) the following new clause:

"(C) For board certification in a specialty, $1,875."; and

(3) in subsection (d)—

(A) by striking out "(c) (2) (C)" and inserting in lieu thereof "(c) (2) (D)"; and

(B) by striking out "(c) (4) (C)" and inserting in lieu thereof "(c) (4) (D)".●

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. 155. A bill to amend subchapter I of chapter 73 of title 38, United States Code, to provide for the payment of incentive special pay to Veterans' Administration psychologists who obtain certain board certification in a professional specialty; to the Committee on Veterans' Affairs.

INCENTIVE PAY FOR VETERANS' ADMINISTRATION PSYCHOLOGISTS

● Mr. INOUYE. Mr. President, today, on behalf of Senator MATSUNAGA and myself, I am introducing legislation to amend the Veterans' Administration incentive pay provisions in order to provide our Nation's psychologists the same professional opportunities that we have accorded their physician colleagues.

Our proposal would authorize and direct the Veterans' Administration to provide for the same $2,500 bonus as the Veterans' Administration physicians presently receive, when a member of the psychological profession has passed his or her national specialty boards.

To be eligible today to sit for the American Board of Professional Psychology, Inc.'s diploma, a psychologist must have been awarded a doctoral degree in psychology from a college or university which meets the standards of the American Psychological Association and must have completed 5 years of qualifying experience, 4 years of which must have been postdoctoral. I understand that the actual examination involves both a detailed work sample and an oral examination by one's professional peers. Further, I understand that currently less than 8 percent of all eligible psychologists ever achieve this distinction.

In our judgment, it would very much be in the best interests of our Veterans' Administration to actively encourage professional development by its health care practitioners of all disciplines and, accordingly, we would strongly urge our colleagues on the Veterans' Affairs Committee to give our proposal every consideration.

During the last legislative session, Senator MATSUNAGA and I introduced similar legislation and, at that time, received a report from the Veterans' Administration that although our pro-

posal would only cost the administration $212,500 during the first year and a total of $2,062,000 after 5 years, the Veterans' Administration could not support it. Unfortunately, I am afraid that this reflects a basic institutional bias against nonphysician health care providers. Hopefully, this session, we will obtain a more favorable report. We have also made a modification in our original proposal to now allow the administrator of the Veterans' Administration to provide for the payment of incentive special pay bonuses when a psychologist has obtained an additional advanced academic degree, such as a masters in public health. In our judgment, it is very much in the best interest of our Nation's veterans that those serving them continue to possess the most up-to-date knowledge available, and we are confident that our Nation's schools of public health are well equipped and have an excellent track record in providing this type of advanced training.

Mr. President, I request unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 155

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subchapter I of chapter 73 of title 38, United States Code, is amended—

(1) by redesignating section 4119 as section 4120; and

(2) by inserting after section 4118 the following new section:

"§ 4119. Incentive special pay for psychologists

"(a) The Administrator may pay incentive special pay to any psychologist appointed under this chapter who—

"(1) executes an agreement with the Administrator to complete a specified period of service in the Department of Medicine and Surgery; and either

"(2) is awarded a diploma as a Diplomate in Clinical Psychology or as a Diplomate in Counseling Psychology by the American Board of Professional Psychology, or

"(3) obtains an additional advanced academic degree, such as a Masters in Public Health (MPH), which the Administrator feels is in the best interest of the Veterans Administration.

"(b)(1) The amount of incentive special pay which the Administrator may pay under this section to any psychologist may not exceed—

"(A) $2,500 per annum in the case of any full-time psychologist; and

"(B) a proportional amount of $1,500 per annum in the case of any part-time psychologist as provided under paragraph (2) of this paragraph.

"(2) The proportional amount of the incentive special pay payable under paragraph (1)(B) of this subsection shall be calculate on the basis of the ratio which the part-time employment of such psychologist in the Department of Medicine and Surgery bears to full-time employment.

"(c)(1) Any agreement entered into by a pyschologist under subsection (a)(1) of this section shall specify a period of one year of service in the Department of Medicine and Surgery or such longer period of service, not exceeding four years, as the psychologist requests. Any psychologist who entered into an agreement under this section and has not failed to refund any amount which such psychologist became obligated to refund under any such agreement shall be eligible to enter into a subsequent agreement under this section.

"(2)(A) Any such agreement shall provide that the psychologist, in the event that such psychologist voluntarily, or because of misconduct, fails to complete at least one year of service, or such longer period of service as provided for in the first sentence of paragraph (1) of this subsection, pursuant to such agreement, shall be required to refund the total amount received under this section, unless the Chief Medical Director determines, in accordance with regulations prescribed under subsection (f) of this section, that such failure is necessitated by circumstances beyond the control of the psychologist.

"(B) Any such agreement shall specify the terms under which the Veterans' Administration and the psychologist may elect to terminate such agreement.

"(3) Any psychologist who enters into an agreement under this section is eligible to receive incentive special pay beginning on the date on which the agreement is entered into, or the date on which the psychologist becomes employed, whichever date is later.

"(d) Any amount of incentive special pay payable under this section shall be paid in biweekly installments.

"(e)(1) Except as provided in paragraph (2) of this subsection, any additional compensation provided as incentive special pay under this section shall not be considered as basic pay for the purposes of section 5551, 5552, or 5595 of title 5, chapter 81 of such title, or any other provision of law creating an entitlement to benefits based on basic pay.

"(2) Additional compensation paid as incentive special pay under this section to any full-time employee shall be included in basic pay for the purposes of chapter 83 of title 5. Notwithstanding the preceding sentence, special pay paid to any full-time employee shall be included in average pay, as defined in section 8331 (4) of such title, for the purposes of computing an annuity under such chapter only if—

"(A) the annuity is paid under section 8337 of such title or under subsection (d) or (e) of section 8341 of such title; or

"(B) The employee has completed not less than 15 years of full-time service in the Department of Medicine and Surgery (except that, regardless of the length of such employee's service, no incentive special pay may be included by reason of this clause in average pay in computing an annuity that commences before October 1, 1985, and only one-half of any incentive special pay paid after the effective date of this section may be included by reason of this clause in average pay in computing an annuity that commences on or after October 1, 1985, but before October 1, 1990).

"(3) Any additional compensation provided as incentive special pay under this section shall be considered as annual pay for the purposes of chapter 87 of title 5, relating to life insurance for Federal employees.

"(f) The Administrator shall prescribe such regulations as he considers necessary to carry out this section.".

(b) The table of sections at the beginning of such chapter is amended by striking out the item relating to section 4119 and inserting in lieu thereof the following:

"4119. Incentive special pay for psychologists.
"4120. Relationship between this subchapter and other provisions of law.".

SEC. 2. The amendments made by this Act shall take effect October 1, 1983.●

By Mr. INOUYE:

S. 156. A bill to amend the Internal Revenue Code of 1954 to modify the third-year tax cut for individuals with taxable incomes over $50,000; to the Committee on Finance.

MODIFICATION OF THIRD YEAR TAX CUT

● Mr. INOUYE. Mr. President, today I am introducing legislation to suspend implementation of further tax cuts contained in the Economic Recovery Tax Act of 1981 as they apply to individuals with taxable incomes of more than $50,000.

At the time of its passage, the 25-percent across-the-board tax cuts contained in the administration's economic recovery act were to have fueled the renewed growth of our Nation's economy. Instead, we are now approaching implementation of the final year of these graduated cuts with the knowledge that they have served only to exacerbate the Federal deficit crisis and increasingly shift the relative distribution of the tax burden away from upper-income taxpayers and toward lower- to middle-income taxpayers. Additionally, in order to compensate for Federal revenues lost principally to the rich, last year's tax equity program contained tax increases on gasoline and tobacco which will again impose disproportionate burdens upon those least able to bear them.

While a total suspension of the scheduled tax cuts would, of course, have the most effect upon the Federal deficit, such a total suspension would also have the effect of locking in the unfairness already worked upon the majority of persons in our Nation. In order to mitigate this unfairness, I believe that the suspension of further tax cuts should, at this time, only take effect with respect to those who have already most benefited from the administration's largess.

Mr. President, I request unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 156

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MODIFICATION OF THIRD-YEAR TAX CUT.

Section 1 of the Internal Revenue Code of 1954 (relating to tax imposed) is amended by adding at the end thereof the following new subsection:

"(g) FURTHER ADJUSTMENTS IN TAX TABLES.—In the case of taxable years begin-

ning after December 31, 1982, for taxpayers with taxable incomes which exceed $50,000 ($100,000 in the case of individuals filing a joint return under section 6013), in lieu of the rates in the tables prescribed under paragraphs (2) and (3) of subsections (a), (b), (c), (d), and (e), the rates shall be the rates in effect as if the reductions attributable to a 10-percent reduction effective on July 1, 1983 do not apply.".

SEC. 2. CONFORMING AMENDMENT.

Clause (ii) of section 3402 (a)(3)(B) of the Internal Revenue Code of 1954 (relating to income tax collected at source) is amended by inserting before the period a comma and "except as to taxpayers with taxable incomes which exceed $50,000 ($100,000 in the case of married taxpayers)".

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall apply to taxable years beginning after December 31, 1982.●

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. 157. A bill to amend title 10, United States Code, to provide vision care services under CHAMPUS; to the Committee on Armed Services.

UNIFORMED SERVICES VISION CARE PROGRAM

● Mr. INOUYE. Mr. President, today I am introducing legislation that would provide for a comprehensive and preventive vision care program for members of the uniformed services and their dependents by removing the present legislative restrictions under the civilian health and medical program of the uniformed services (CHAMPUS).

Presently, CHAMPUS provides health insurance coverage for approximately 7.9 million dependents of active duty, retired, and deceased military personnel.

Under my proposal, eye examinations, including, but not limited to, preventive and diagnostic services, when performed by a doctor of optometry, osteopathy, or medicine, will be authorized for reimbursement. In cases that are deemed appropriate, lenses and eyeglass frames will also be provided.

During our deliberations on the fiscal year 1980 Department of Defense appropriations bill, we decided to remove our prior Appropriations Committee restriction on optometry services. We did this primarily in recognition that all the available evidence now indicated that eye/vision disorders comprise the second most chronic health condition in our Nation. Given the pressing need to retain highly trained personnel in the armed services, it was our considered judgment that "skimping" in eye/vision care as a means of controlling costs, simply no longer made any sense. Unfortunately, however, it now becomes evident to me that it is also necessary to modify the basic CHAMPUS authorization act to accomplish our purpose.

During our Senate Appropriations Committee deliberations, I was particularly distressed to learn that at this time it has been estimated that only 50 percent of the U.S. population who require some form of vision care service actually receive them. The American Optometric Association estimates that this figure can be broken down demographically as follows: 25 percent of Americans under age 20; 40 percent between ages 20 to 30; 50 percent between ages 30 to 40; 70 percent of those aged 40 to 50; 85 percent of those aged 50 to 60; and 95 percent of those over 60.

Furthermore, apparently 46 percent of the U.S. population aged 18 to 44 wear corrective lenses, and over 51 percent of our total population wear corrective lenses. Undoubtedly, the proportions are not significantly different from our active duty personnel or their families. Of special interest, 90 percent of the vision care services required are considered to be within the scope of the Optometrists Practicing Act.

In my judgment, it is now time for the Congress to commit ourselves to providing high quality health care to all our active duty personnel and their dependents. Without question, this must include ready access to eye/vision care, and especially the preventive examinations. For too long now, we have only talked about the importance of preventive services; the time has now come to provide them.

Mr. President, I strongly feel that the time has come to insure that those receiving health care under CHAMPUS will be entitled to the same services that they could receive if they were able to go to an on-base facility. Further, we must begin to recognize that if we are ever to curtail our Nation's ever-escalating health care costs, we must give greater priority to preventive health care.

Mr. President, I request unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 157

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1079(a)(3) of title 10, United States Code, is amended to read as follows:

"(3) eye examinations and vision care services, including preventive, diagnostic, and treatment services, may be provided only by a doctor of optometry, osteopathy, or medicine;".

SEC. 2. The amendment made by this Act shall take effect October 1, 1983.●

By Mr. INOUYE:

S. 158. A bill to amend title 10, United States Code, to eliminate the restrictions on the types of medical care that the uniformed services may provide, directly or by contract, to dependents of members of the uniformed services; to the Committee on Armed Services.

CHAMPUS

● Mr. INOUYE. Mr. President, today, I am introducing legislation which would amend the basic authorization statute of the civilian health and medical program of the uniformed services (CHAMPUS) in order to remove all present legislative restrictions on the type of health benefit package which the Department of Defense may wish to provide to eligible beneficiaries.

For financial reasons, it currently is not possible for the Department of Defense to provide every CHAMPUS beneficiary with a totally comprehensive health care benefit. However, I strongly feel that we should provide the Department with maximum possible administrative flexibility so that CHAMPUS can continuously modify its program in order to respond to either changing demands of the beneficiary population or changes in the way that health care is delivered across our Nation. If my proposal is enacted into public law, the Department will still have to live within its budgetary constraints; however, I would fully expect that over time we will see a number of new and important health care initiatives being made available to CHAMPUS beneficiaries.

Mr. President, it is time that the Congress of the United States insure that the health care benefits available to CHAMPUS beneficiaries will no longer differ drastically merely because the beneficiary may not live geographically near a military facility.

Mr. President, I request unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 158

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (a) of section 1076 of title 10, United States Code, is amended to read as follows:

"(a) Any dependent of a member of the uniformed services who—

"(1) is on active duty for a period of more than 30 days; or

"(2) died while on such duty,

is entitled, upon request, to medical and dental care in facilities of the uniformed services, subject to the availability of space and facilities and the capabilities of the medical and dental staff.".

(b) Subsection (b) of such section is amended by striking out "the medical and dental care prescribed by section 1077 of this title" and inserting in lieu thereof "medical and dental care".

SEC. 2. Section 1077 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out "(a) Only the following types of health care may be provided under section 1076 of this title:" and inserting in lieu thereof "The types of health care that may be provided under section 1076 of this title include:";

(B) by striking out clause (10) and inserting in lieu thereof the following:

"(10) Dental care.";

(C) by striking out clauses (11) and (12);

(D) by redesignating clause (13) as clause (11); and

(E) by striking out clause (14) and inserting in lieu thereof the following:

"(12) Durable equipment, such as wheelchairs, iron lungs, and hospital beds."; and

(2) by striking out subsection (b).

SEC. 3. The second sentence of section 1079(a) of title 10, United States Code, is amended to read as follows: "The medical care authorized to be provided under contracts entered into under this section include—

"(1) the types of health care authorized to be provided dependents under section 1076 of this title;

"(2) under joint regulations to be prescribed by the Secretary of Defense and the Secretary of Health and Human Services, the services of Christian Science practitioners and nurses and services obtained in Christian Service sanatoriums; and

"(3) durable equipment, such as wheelchairs, iron lungs, and hospital beds.".

SEC. 3. The amendments made by this Act shall take effect October 1, 1983.●

By Mr. INOUYE:

S. 159. A bill to amend section 1086(c) of title 10, United States Code, to provide for payment under the CHAMPUS program of certain health care expenses incurred by certain members and former members of the uniformed services and their dependents to the extent that such expenses are not payable under medicare; to the Committee on Armed Services.

CHAMPUS AND MEDICARE

● Mr. INOUYE. Mr. President, today I am introducing legislation to provide for continuing coverage under the Department of Defense civilian health and medical program of the uniformed services (CHAMPUS) for those retirees who reach the age of eligibility for medicare.

Under our current law, when an individual CHAMPUS beneficiary becomes eligible for coverage under medicare, he or she automatically loses his or her CHAMPUS entitlement. This is not common practice in the private sector and I understand it can be especially traumatic for those families who live overseas. My proposal would make CHAMPUS a second payor to medicare and only require the department to cover those services not covered by medicare.

During the last Congress, legislation was enacted by the Senate Veterans' Affairs Committee which addressed this problem for those CHAMPUS eligibles who derive their entitlement under the CHAMPVA program. I understand that this constitutes approximately 5 percent of the total CHAMPUS beneficiary population. Essentially, their eligibility for CHAMPUS becomes reinstituted once any part of their medicare coverage is exhausted. My bill would provide similar entitlement for the remaining 95 percent of the CHAMPUS population and, further, provide that CHAMPUS will cover expenses that might be in excess of those covered by medicare.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 159

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1086(c) of title 10, United States Code, is amended by striking out the last sentence.

(b) Section 1086(d) of such title is amended—

(1) by inserting "in full" after "is not payable"; and

(2) by adding at the end thereof the following new sentence: "Upon any such certification, benefits shall be payable under any plan covered by this section in an amount equal to the difference between the deficiency resulting from the failure of the other plan to pay the particular benefit in full and an appropriate charge under subsection (b) of this section.".

SEC. 2. Subsection (d) of section 613 of title 38, United States Code, is repealed.

SEC. 3. The Amendments made by this Act shall take effect with respect to claims for health benefits arising after the date of enactment of this Act.●

By Mr. INOUYE:

S. 160. A bill to amend title XVIII of the Social Security Act to require that medicare providers also participate in the civilian health and medical program of the uniformed services (CHAMPUS); to the Committee on Finance.

MEDICARE AND CHAMPUS

● Mr. INOUYE. Mr. President, I am presently introducing legislation which would provide that those practitioners who formally participate in our medicare program would also be required to actively participate in the Department of Defense civilian health and medical program of the uniformed services (CHAMPUS).

Mr. President, my primary intention in introducing this legislation is to bring to the attention of my colleagues the necessity of beginning to address the problem of escalating health care costs in a comprehensive fashion. The CHAMPUS program is vitally important to the dependents of active duty military personnel. In my judgment, it is very well administered. However, in reality, it is really but a very small health care program and simply stated it does not have the economic "clout" of our medicare and medicaid programs in negotiating with providers.

Mr. President, we must encourage the health authorities within both the Department of Defense and the Department of Health and Human Services to work collaboratively. To do so, however, we must also provide them with the necessary administrative flexibility to develop reasonable programs.

Mr. President, I request unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 160

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1866(a)(1) of the Social Security Act is amended—

(1) by striking out "and" at the end of subparagraph (D);

(2) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof ", and"; and

(3) by adding at the end thereof the following new subparagraph:

"(F) to participate in providing medical care under plans contracted for under sections 1079 and 1086 of title 10, United States Code.".

(b) The amendments made by subsection (a) shall become effective on January 1, 1983.●

By Mr. INOUYE:

S. 161. A bill to amend title 10 of the United States Code to provide that reimbursement to providers of medical services may be made under the CHAMPUS program in accordance with medicare reimbursement principles; to the Committee on Armed Services.

CHAMPUS

● Mr. INOUYE. Mr. President, today I am introducing legislation to authorize the Department of Defense to work collaboratively with the Department of Health and Human Services in order to effectively and aggressively address the very real problem of ever-escalating health care costs. Currently, some 7.9 million dependents of active duty, retired and deceased military personnel are eligible for coverage under the civilian health and medical program of the uniformed services (CHAMPUS). The CHAMPUS budget for fiscal year 1983 will be approximately $1.199 billion, and there is reason to expect that unless the Department is exceptionally vigilant, that once again a reprograming request will be forthcoming for additional funds this fiscal year. Only 5 years ago, in fiscal year 1978, for example, the CHAMPUS budget was $556 million. If one compares fiscal year 1981 with fiscal year 1982, CHAMPUS reported an overall increase of some 33 percent. This simply cannot continue much further.

Without question, the most significant component of this escalation can be attributed to hospital care. The fiscal year 1980 data indicated that approximately 83 percent of CHAMPUS program costs are accounted for by hospital services and professional inpatient care. I do not pretend to suggest that there are any easy solutions

to our Department of Defense health care problems; however, I am convinced that we will only begin to make significant progress once we begin to conceptualize this problem from the frame of reference that the Federal Government is a major purchaser of health care. This is not an exclusive problem of the Department of Defense; it is our problem as well. We must encourage the Federal Government to utilize all of its health care expertise, regardless of in which department that expertise may lie. My proposal would allow the Department of Defense to work closely with the health care experts within the Department of Health and Human Services. It would not require the Department of Defense to adopt every policy that its counterpart may propose—in many ways, the Department of Defense has truly unique responsibilities and resources. However, we would be providing them with much-needed administrative flexibility.

Mr. President, I request unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 161

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1079 of title 10, United States Code is amended by adding at the end thereof the following new subsection:

"(i)(1) The amount to be paid to any provider of services (as defined in paragraph (2)) for services provided under a plan contracted for under subsection (a) may be determined under joint regulations to be prescribed by the Secretary of Defense and the Secretary of Health and Human Services which provide that the amount of such payments shall be determined to the extent practicable in accordance with the same reimbursement rules as apply to payments to providers of services of the same type under title XVIII of the Social Security Act.

"(2) For purposes of paragraph (1) the term 'provider of services' means any hospital, skilled nursing facility, comprehensive outpatient rehabilitation facility, home health agency, or any other institutional facility providing services for which payment may be made under a plan contracted for under subsection (a).".

(b) Section 1086(f) of title 10, United States Code is amended by inserting "(1)" after "(f)" and by adding at the end thereof the following new paragraph:

"(2) The provisions of section 1079(i) of this title may apply, under joint regulations prescribed by the Secretary of Defense and the Secretary of Health and Human Services, to payments for services by a provider of services (as defined in section 1079(i)(2)) under a plan contracted for under subsection (a).".●

By Mr. INOUYE:

S. 162. A bill to amend title 10, United States Code, to authorize the Secretary of Defense to conduct studies and demonstration projects to develop incentives for economy in the administration of the civilian health and medical program of the uniformed services while maintaining or improving the quality of health and medical care available under such program; to the Committee on Armed Services.

CHAMPUS STUDIES AND DEMONSTRATION PROJECTS

● Mr. INOUYE. Mr. President, today I am introducing legislation that would provide the civilian health and medical program of the uniformed services (CHAMPUS) with broad legislative authority to conduct appropriate studies and demonstration projects.

For some time now, as a member of the Senate Defense Appropriations Subcommittee, I have been concerned that we have not provided the Department of Defense with sufficient administrative flexibility to develop as comprehensive and as cost-effective a health-care program for our military personnel and their dependents as they deserve.

There is no question in my mind that the real strength and, in fact, the very backbone of our Armed Forces is not the sophisticated military hardware that is discussed daily in the national media, but instead is the men and women of our Nation who have chosen to spend precious years of their own lives serving our country in the military.

The CHAMPUS program, in particular, represents a very tangible commitment by the Congress of the United States to the health and well-being of these dedicated citizens.

In the private sector, it would be viewed as a most important employee benefit. Through CHAMPUS, approximately 7.9 million dependents of retired, active duty, or deceased military personnel obtain payment for those health-care services that they have received through the private sector.

Over the years it has been my personnel observation that in many areas, and especially in mental health, CHAMPUS has been in the forefront in developing health benefit plans that are reasonable, cost effective, and truly responsive to beneficiary needs.

Yet, again and again, it has also come to my attention that unlike the private sector, the Department of Defense does not have sufficient administrative flexibility to truly "test out" alternative or innovative health-care approaches that eventually might very well turn out to be even more appropriate for our changing times.

For example, in 1979 the then-Surgeon General of the United States issued his report "Healthy People." In this far-reaching document it was expressly stated that of the 10 leading causes of death in our Nation today, at least 7 could be substantially reduced if persons at risk would improve just five habits: Diet, smoking, lack of exercise, alcohol abuse, and use of antihypertensive medications.

I cannot help but believe that these statistics also have major implications for our Nation's military families and, accordingly, that we would be well served if the Department would consider paying for appropriate "wellness-oriented" programs.

Similarly, I also feel that the time has come for CHAMPUS to begin reimbursing for a limited "biofeedback package"—this innovative approach essentially substitutes patient learning for surgical intervention or drug reliance.

Perhaps, given the nontraditional nature of this approach, CHAMPUS should make this option available at first in only limited geographical regions of our Nation, so that an accurate estimate of its potential cost savings can be developed.

Yet, I understand that the Department simply does not have the legislative authority to conduct such a "phased-in" approach, no matter how logical it may seem.

Everyone of us in the Congress is rapidly becoming aware of the extent to which the basic costs of health care in this Nation have continued to escalate faster than almost any other segment of our economy.

Thus, it should come as no surprise that, even in the Defense Department's budget, this has become a major issue.

For example, in fiscal year 1978, the total budget for CHAMPUS was approximately $556.3 million; in fiscal year 1983, we appropriated slightly more than $1 billion.

Partly in response to these fiscal pressures, our committee has felt that it is now especially important that CHAMPUS take a closer look at possible alternative modes of delivering health care.

For example, during our deliberations on the fiscal year 1981 appropriations bill (Public Law 96-527), our committee decided to direct CHAMPUS to take a careful look at the possibility of making prepaid, health maintenance organizations (HMO's) readily available to their beneficiaries.

We did so, fully aware not only of the expected cost savings involved, but also of the fact that all other Federal employees, as well as all private sector employees working in firms with 25 employees or more, already have HMO's as a legislatively mandated option.

It is my understanding that the Department is presently conducting a 3-year pilot program and that they will be presenting the Congress with a comprehensive report at the appropriate time.

Similarly, during our deliberations on the Department's fiscal year 1982 appropriations bill (Public Law 97-114), our committee again directed CHAMPUS to take a careful look at

the possibility of establishing a new benefit; this time, a pilot dental care program.

Unfortunately, we were unable to retain this directive during our House-Senate conference; however, I fully expect that eventually we will be successful.

Yet, if the Department possessed the type of administrative flexibility that I am proposing today, I cannot help but feel that these important decisions would be based on sounder financial- and utilization-oriented data than is possible today.

Simply stated, Mr. President, given our national economy, we simply can no longer afford not to take a closer look at truly cost-effective approaches—whether we are talking about modifications in the delivery system, or the benefit package itself.

At the same time, we must continue to strive to provide our Department of Defense personnel and their dependents with the most comprehensive health care benefit program possible.

Mr. President, I request unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 162

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 55 of title 10, United States Code is amended by adding at the end thereof the following new section:

"§ 1090. Studies and demonstration projects relating to the delivery of health and medical care

"(a) The Secretary of Defense, after consulting with the Secretary of Health and Human Services, shall carry on studies and demonstration projects and develop recommendations to be submitted to Congress from time to time relating to health care services provided under this title. Notwithstanding any other provisions of law, the Secretary of Defense may conduct studies and demonstration projects relating to sections 1079, 1080, and 1086 of this Act. Such studies and demonstration projects may include, but are not limited to: (1) methods of payment for health and medical care services, (2) cost-sharing by eligible beneficiaries, (3) methods of encouraging efficient and economical delivery of health and medical care services, (4) innovative approaches to delivery and financing of health and medical care services, (5) alternative approaches to reimbursement for the administrative charges of health care plans, and (6) prepayment for medical care services provided to maintain the health of a defined population.

"(b) The Secretary of Defense may enter into contracts with public or private agencies, institutions, and organizations to develop and conduct studies and demonstration projects under subsection (a).

"(c) The Secretary of Defense may obtain the advice and recommendations of such advisory committees as the Secretary considers appropriate. Each such committee consulted by the Secretary under this subsection shall evaluate the proposed study or demonstration project as to the soundness of the objectives of such study or demonstration project, the likelihood of obtaining productive results based on such study or demonstration project, the resources required to conduct such study or demonstration project, and the relationship of such study or demonstration project to other ongoing or completed studies and demonstration projects.".

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following:

"1090. Studies and demonstration projects relating to the delivery of health and medical care.".

SEC. 2. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of section 1090 of title 10, United States Code, as added by the first section of this Act.

SEC. 3. This Act becomes effective October 1, 1983.●

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. 163. A bill to amend title XII of the Public Health Service Act to provide for demonstration programs relating to emergency health care for children; to the Committee on Armed Services.

EMERGENCY HEALTH CARE DEMONSTRATIONS FOR CHILDREN

● Mr. INOUYE. Mr. President, today I am introducing legislation that would amend our Nation's emergency medical services programs to insure that special priority will be given to the development of demonstration projects addressing the many unique needs of our Nation's children. There is no question in my mind that our emergency medical services programs have demonstrated their extraordinary cost effectiveness to date; however, various statistics have come to my attention that suggest that insufficient attention has been placed on the needs of our Nation's children and youth. For example, of all patients receiving care in our Nation's hospital emergency departments, 20 to 35 percent are children or adolescents. Further, on weekends and especially at nights, children may account for more than 40 percent of all visits. Nearly 18 million children receive emergency medical services annually. Unfortunately, the American Hospital Association's statistics state that nearly 100,000 children are permanently crippled by trauma each year and as much as 55 percent of all deaths up to the age of 15 are due to injuries. From discussions that I have had with various professionals, both from the nursing profession and the medical profession, there would appear to be a consensus among our Nation's health care practitioners that children do indeed have unique psychological and physical needs.

In developing this legislation, I have been working closely with the American Academy of Pediatrics and the Hawaii Emergency Medical Services program in particular. I have been especially heartened by their ability to develop considerable grassroots support within the medical profession for this proposal. Above everything else, there seems to be unanimous agreement that children are not simply "miniature adults" and that special pediatric experience and technology is absolutely mandatory. Accordingly, I urge my colleagues in the Senate Labor and Human Resources Committee to give expeditious attention to this particular proposal.

Mr. President, I request unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 163

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Emergency Child Health Services Act of 1983".

SEC. 2. (a) Title XII of the Public Health Service Act is amended by adding at the end thereof the following new section:

"EMERGENCY MEDICAL SERVICES FOR CHILDREN

"SEC. 1203. (a) The Secretary may make grants to and enter into contracts with eligible entities for demonstration programs for the expansion and improvement of emergency medical services systems to provide emergency medical services for children. No eligible entity may receive a grant or enter into a contract for a demonstration program under this section unless such demonstration program under this section unless such demonstration program is conducted in connection with an emergency medical services system.

"(b)(1) No grant or contract may be made under this section unless an application therefore has been submitted to, and approved by, the Secretary. Such an application shall be in such form and be submitted in such manner as the Secretary shall by regulation prescribe. Such application shall provide assurances satisfactory to the Secretary that the applicant will make such reports and provide such other information respecting the grant or contract as the Secretary may require.

"(2) The Secretary may not approve an application for a grant or contract under this section for a demonstration program unless the application contains a full description of the program and provides assurances, satisfactory to the Secretary, that the program will be conducted as follows:

"(A) The program will provide emergency medical services for children, including services to respond to trauma, accidental injuries and child abuse, poisonings, infectious diseases, respiratory difficulties, dehydration, and other life-threatening pediatric medical emergencies.

"(B) The program will provide for the participation, in an advisory capacity, of concerned medical professionals and other interested groups.

"(C) The program will provide for information programs relating to prevention of pediatric emergencies.

"(D) The program will provide that trained personnel, including paramedics, are available to meet the needs of pediatric patients receiving services under the program.

"(E) The program will provide that pediatric specialty facilities utilize biomedical

communication systems, and that communities that do not have such specialty facilities are included in a communication system to facilitate emergency communication by physicians in such communities regarding pediatric patients.

"(F) The program will provide for the coordination of emergency transportation of high-risk pediatric patients to regional specialty facilities.

"(G) The program will assure that sufficient emergency facilities and critical care units for pediatric patients are available, including poison control centers.

"(H) The program will provide for the transfer of pediatric patients to acute care facilities or other facilities that will provide long-term care and rehabilitation.

"(I) The program will provide for the review and evaluation of pediatric services provided under the program, including appropriate methods for evaluating the cost-effectiveness of the program and the quality of care and services provided under the program.

"(c) The Secretary shall determine the amount of any grant or contract made under this section. Payments under such grants and contracts may be made in advance on the basis of estimates or by way of reimbursement, with necessary adjustments on account of underpayments or overpayments, and in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of such grants and contracts.

"(d)(1) Each recipient of a grant or contract under this section shall keep such records as the Secretary shall prescribe, including records that fully disclose the amount and disposition by such recipient of the proceeds of such grant or contract, the total cost of the undertaking in connection with which such grant or contract was made, the amount of the portion of the cost of the undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(2) The Secretary and the Comptroller General of the United States, or their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, and records of the recipient of grants or contracts under this section that are pertinent to such grants or contracts.

"(e) The Secretary may provide technical assistance to eligible entities with respect to programs assisted under this section.

"(f) The Secretary shall evaluate the demonstration programs supported under this section and shall submit to the Congress, not later than January 1, 1987, a report concerning such demonstration programs. The report shall include—

"(1) the results of such demonstration programs;

"(2) the Secretary's evaluation of such programs, including the cost-effectiveness of such programs, the quality of care provided under such programs, and the effect of different geographic settings on the results of such programs; and

"(3) any recommendations the Secretary may have with respect to such programs.

"(g) For purposes of this section—

"(1) the term 'eligible entity' means—

"(A) a State,

"(B) a unit of general local government,

"(C) a public entity administering a compact or other regional arrangement or consortium, or

"(D) any other public entity and any nonprofit private entity.

"(2) the term 'emergency medical services system' means a system which provides for the arrangement of personnel, facilities, and equipment for the effective and coordinated delivery in an appropriate geographical area of health care services under emergency conditions (occurring either as a result of the patient's condition or of natural disasters or similar situations) and which is administered by a public or nonprofit private entity which has the authority and the resources to provide effective administration of the system; and

"(3) the term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

"(h) To carry out this section there are authorized to be appropriated $10,000,000 for the fiscal year ending September 30, 1984, $10,000,000 for the fiscal year ending September 30, 1985, and $20,000,000 for the fiscal year ending September 30, 1986.".●

By Mr. INOUYE:

S. 164. A bill to make scholarships available to provide clinical psychologists for Indians; to the Committee on Labor and Human Resources.

PSYCHOLOGISTS IN THE INDIAN HEALTH SCHOLARSHIP PROGRAM

● Mr. INOUYE. Mr. President, today, I am introducing legislation to expressly insure that the Indian health scholarship program will be authorized to provide much needed scholarships for Indians who desire to become clinical psychologists.

My bill merely codifies the current departmental regulations and maintains the Department's flexibility to allocate scholarships according to demonstrated need.

Mr. President, I request that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 164

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 338G of the Public Health Service Act (42 U.S.C. 254(r)) is amended by inserting "clinical psychologists," after "pharmacists,".●

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. 165. A bill to specify that health maintenance organizations may provide the services of clinical psychologists; to the Committee on Labor and Human Resources.

HEALTH MAINTENANCE ORGANIZATIONS AND CLINICAL PSYCHOLOGISTS

● Mr. INOUYE. Mr. President, today I am introducing legislation on behalf of Senator MATSUNAGA and myself, to amend the Health Maintenance Organization (HMO) legislation in order to insure that our Nation's clinical psychologists will be able to participate as independent professionals in HMO's.

Under current law, "short-term—not to exceed 20 visits—outpatient evaluative and crisis intervention mental health services" are expressly included in the basic health services that must be provided by HMO's. The implementing department regulations recognize clinical psychologists as bona fide providers under the broad authority provided for "other health professionals—as the case may be—licensed to provide such services." Our amendment merely codifies current practice and in no way alters the current requirements imposed upon HMO's.

Mr. President, to be considered a clinical psychologist the practitioner must obtain a doctorate degree in psychology—a procedure that generally takes 5½ years of graduate training, including 1 year of supervised clinical internship—and also be licensed/certified in the State where he or she wishes to practice. Currently there are approximately 32,000 licensed health care psychologists in our Nation, but I understand that only 400 of these individuals practice in HMO's. The profession of psychology is formally recognized by a number of our Federal health programs including the Department of Defense CHAMPUS program, the Federal Employees' Health Benefit Act, and the Federal workers' compensation program. On the State level, over 35 States, representing 85 percent of our population have now enacted "freedom of choice" legislation which requires that private insurance companies that offer mental health benefits allow the consumer the right of selecting a clinical psychologist if he or she so desires. In our judgment, the time has come to formally recognize this profession under the HMO Act as well.

Mr. President, I request unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 165

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) paragraphs (1) and (2) of section 1302 of the Public Health Service Act are amended by inserting "clinical psychologist," after "podiatrist," each place it appears.

(b) Paragraph (4) of such section is amended by striking out "and podiatrists" and inserting in lieu thereof "podiatrists, and clinical psychologists".

(c) Paragraph (5) of such section is amended by inserting "clinical psychology," after "optometry." ●

By Mr. INOUYE:

S. 166. A bill to amend title XVIII of the Social Security Act to provide that services furnished by a clinical psychologist shall be reimbursable under medicare when furnished by a health maintenance organization to a member of that organization; to the Committee on Finance.

CLINICAL PSYCHOLOGISTS; SERVICES

● Mr. INOUYE. Mr. President, in enacting the Tax Equity and Fiscal Responsibility Act of 1982 (Public Law 97-248), we included one provision that I feel was especially noteworthy. Specifically, in adopting language to provide for medicare coverage of health maintenance organizations (HMO's), we agreed that within individual HMO's, nurse practitioners, and physician assistants would be authorized to function autonomously for the purposes of medicare reimbursement, if this were within the scope of their State practice act and the HMO administrator. Mr. President, today I am introducing a bill that would provide the same type of professional recognition for our Nation's clinical psychologists.

Currently, I understand that there are approximately 400 clinical psychologists employed in HMO's. Clinical psychologists are doctoral level practitioners who possess on the average, 5½ years of graduate level study—including at least 1 year of supervised clinical experience. These individuals are licensed in all 50 States and the District of Columbia to practice autonomously. For nearly a decade now, I have been working with my colleagues on the Senate Finance Committee to modify and expand the coverage of mental health services under medicare. In August 1978, formal hearings were held on this possibility. At these hearings, reports were presented describing the probable consequences of directly reimbursing clinical psychologists. There clearly was considerable disagreement among the various mental health professions as to what types of mental health services were effective and, further, what types of practitioners should be authorized to provide care and under what conditions. For good reason, our colleagues on the Finance Committee have moved cautiously in recommending an increased mental health benefit package. However, since those hearings, we have received additional relevant information. Under the Department of Defense Civilian Health and Medical Program of the Uniformed Services (CHAMPUS), clinical psychologists have been deemed independent providers since fiscal year 1976. To my knowledge, there has been no evidence that such direct reimbursement has resulted in decreased quality of care. Further, our experience with CHAMPUS has clearly demonstrated that psychologists are able to develop an effective and aggressive peer review system.

Mr. President, in my judgment, the time has come to amend the medicare statute to insure that within closed systems, such as HMO's, clinical psychologists will be able to function autonomously. My proposal will not lead to excessive utilization of psychological care; the very structure of an HMO precludes this.

Mr. President, I request unanimous consent that the text of this bill be printed in the RECORD along with a letter I recently received from Dr. Carolyne Davis, Administrator of the Health Care Financing Administration.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 166

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1861(s)(2)(H) of the Social Security Act is amended to read as follows:

"(H)(i) services furnished pursuant to a contract under section 1876 to a member of an eligible organization by a clinical psychologist (as defined in subsection (ee)) or by a physician assistant or nurse practitioner (as defined in subsection (aa)(3)), and (ii) such services and supplies furnished as an incident to the services described in clause (i) to such a member as would otherwise be covered under this title if furnished by a physician or as an incident to a physician's service;".

(b) Section 1861 of such Act is amended by adding at the end thereof the following new subsection:

"CLINICAL PSYCHOLOGIST

"(ee) The term 'clinical psychologist' means an individual who (1) is licensed or certified at the independent practice level of psychology by the State in which he so practices, (2) possesses a doctorate degree in psychology from a regionally accredited educational institution, or in the case of an individual who was licensed or certified prior to January 1, 1978, possesses a master's degree in psychology and is listed in a national register of mental health service providers in psychology which the Secretary deems appropriate, and (3) possesses two years of supervised experience in health service, at least one year of which is postdegree.".

(c) The amendments made by subsections (a) and (b) shall be effective with respect to services furnished or or after the date of the enactment of this Act.

DEPARTMENT OF HEALTH AND HUMAN SERVICES, HEALTH CARE FINANCING ADMINISTRATION,
Washington, D.C., January 7, 1983

Hon. DANIEL K. INOUYE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR INOUYE: This is in reply to your letter regarding the effect of section 114(b) of the Tax Equity and Fiscal Responsibility Act of 1982 on the status of nurse practitioners (NPs) and physician assistants (PAs) who furnish services in health maintenance organizations (HMOs) to Medicare beneficiaries.

We are in substantial agreement with your interpretation and that of the Senate Legislative Counsel that section 114(b) permits NPs and PAs to function as autonomous health care professionals within an HMO which has a contract to provide services to Medicare beneficiaries. We agree that, under the amendment, these NPs and PAs may have their professional services covered as such, rather than being limited to those services they perform "incident to" a physician's service, as under prior law.

There is one qualification we should add, however. The law permits, but does not require, an HMO to so utilize such NPs and PAs. In other words, where an HMO chooses to continue to limit NPs and PAs to furnishing only "incident to" services under the direct, personal supervision of physicians, the organization may do so. Similarly, where an HMO chooses to permit these NPs and PAs to furnish medical services only under the indirect supervision of a physician, similar to the arrangement found in rural health clinics, the HMO may do so. Finally, where the HMO permits these NPs and PAs to furnish some services independent of physician supervision, but restricts them from furnishing others unless under the supervision (direct or indirect) of a physician, this may also be done.

These policies would comply with the Medicare regulations (42 CFR 405.2005(a)(5)) which state that, in cases where an item or service may be provided by more than one type of practitioner, the HMO may select the type of practitioner to be used. We believe that this flexibility has permitted HMOs to utilize their resources in the most efficient manner, and with a minimum of interference, so as to achieve economies which serve the best interests of both the Medicare program and its beneficiaries.

With regard to your request that we expedite this provision, we have interpreted the provision as being effective upon enactment, and have informally notified HMOs of its terms. We will be issuing formal instructions as soon as possible.

Sincerely yours,

CAROLYNE K. DAVIS, *Ph. D.*●

By Mr. INOUYE:

S. 167. A bill to provide optional medicaid coverage for individuals who would have qualified for AFDC but for amendments to the earned income disregard and related provisions; to the Committee on Finance.

HEALTH CARE FOR POOR AMERICAN CHILDREN

● Mr. INOUYE. Mr. President, with the cooperation and active support of the American Academy of Pediatrics, I commend to your attention today a proposal to promote adequate health care among thousands of poor American children—and at negligible cost to the Government.

Both the problem and the solution are quite straightforward: Some States, because of recently enacted budget cuts, have tightened their medicaid eligibility requirements by reducing levels for aid to families with dependent children (AFDC). Innocent children, as is all too often the case, are caught in the crunch. They are in essence losing needed health care coverage because their parents have lost eligibility for both case assistance and medicaid.

I propose to amend the law so that States receive the option, nothing more, to specifically continue medicaid coverage of the affected children from these families. My proposal would not, in any way, obligate States to restore cash assistance or medicaid coverage to parents involved.

Estimates offered earlier this year by the Congressional Budget Office in-

dicate that costs associated with passage of such a medicaid amendment would be negligible at most. Yet the health care benefits to so many poor children across the country could prove substantial indeed.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 167

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 135. (a) Section 1902(e) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(3)(A) A State may treat, for purposes of the State's plan approved under this title, as an individual receiving aid or assistance under the plan of the State approved under part A of title IV, an individual who would be eligible for such aid or assistance under such plan but for any or all of the limitations or requirements described in subparagraph (B) (including, at the option of a state, the limitation of such eligible individuals to children), if the individual meets such alternative requirements as the state may provide for under subparagraph (C).".●

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. 168. A bill to specifically include native Hawaiians within a group of underserved populations for the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970; to the Committee on Labor and Human Resources.

ALCOHOL ABUSE TREATMENT PROGRAM

● Mr. INOUYE. Mr. President, today I am pleased to be introducing legislation on behalf of Senator MATSUNAGA and myself, that would amend the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 to specifically include native Hawaiians and other native American Pacific Islanders within the designation of underserved native American populations.

The problem of alcoholism and alcohol abuse is nationwide. A study conducted by the National Institute of Alcohol Abuse and Alcoholism shows that within the age group of 25 to 64 years of age, deaths attributed to excessive alcohol abuse are the fourth largest, exceeded only by heart disease, cancer, and stroke. In earlier sessions, legislation was enacted to establish a National Commission to Examine Alcoholism and propose ways to combat this pressing social problem. I was personally most pleased that the Commission had decided to include the unique needs of the native Hawaiian population in its 2-year study.

Native Hawaiians, as a group, have serious economic, educational, and health-related problems which have often been overlooked by Federal programs targeted to meet the needs of native American populations. Further, in a study conducted by the Department of Health of the State of Hawaii, as of 1970 life expectancy for Hawaiians was an average of 67.6 years as compared to the statewide mean of 74.2 years. In 1975, mortality for all major causes of death was the highest among native Hawaiians.

The importance of now focusing upon native Hawaiians as a population with special needs is reflected in a communication that I received from Gov. George Ariyoshi of the State of Hawaii, who strongly supports this type of legislation. He shared with me the findings of a 1979 Hawaii State Survey on Substance Abuse, which studied a target group of various ethnic backgrounds. This study revealed that for ages 12 and above, 52.8 percent of those surveyed are current alcohol users, of this number, 8.2 percent report having family problems, and 4.9 percent report having legal problems as a result of their alcohol abuse.

Of this identified State target of approximately 18,000 persons who were targeted to be in need of alcohol treatment services due to reported consumption of 1 or more ounces of pure ethanol daily and who also had one or more reported problems due to alcohol use, 22.6 percent were native Hawaiians. They were the second largest group in need of services in this target population.

Not only are many native Hawaiians in need of some form of alcohol treatment, but few are actually being served in existing treatment facilities. Only 2.5 percent of that target population in need of services sought treatment in an alcohol facility and only 4.5 percent sought help somewhere else for their alcohol problem.

Mr. President, it is apparent in the various statistics that I have shared with this body today, that alcohol abuse and alcoholism is a national problem among our native American communities and, native Hawaiians, like other native American groups have their own unique problems that exacerbate this social problem. The State of Hawaii has a unique population of various ethnic groups, it sits on a group of islands in the midst of a large ocean which separates it from the rest of the Nation, and the problems of its native population have, too often, been overlooked or ignored.

During the 97th Congress, the Senate passed S. 2365, the Alcohol Abuse and Alcoholism and Drug Abuse Amendments of 1982, which included the provision that we are again proposing today. Unfortunately, although the conferees concurred, there was not sufficient time during the postelection session to act upon the conference report. Hopefully, we will be successful this session.

Mr. President, I request unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 168

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraph (3) of section 311(a) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (42 U.S.C. 4577) (relating to grants for entities providing treatment to underserved populations) is amended by inserting "Native Hawaiians (as defined in section 813(3) of the Economic Opportunity Act of 1974)," after "Native Americans,".●

By Mr. INOUYE:

S. 169. A bill to transfer the National Institute of Mental Health to the National Institutes of Health; to the Committee on Labor and Human Resources.

NATIONAL INSTITUTE OF MENTAL HEALTH

● Mr. INOUYE. Mr. President, today I am introducing legislation which would transfer the National Institute of Mental Health (NIMH) to the National Institutes of Health (NIH). This proposal is one that I am fully aware is still considered to be quite controversial within both the scientific and practitioner elements of the mental health community.

When I originally proposed such a transfer, I had two primary objectives in mind. First, and most important, I felt that it would be an excellent step toward eliminating the most unfortunate stigma that mental health still possesses in our society. There is no question in my mind that we must aggressively strive for integrating our Nation's mental health programs—both research and service delivery—into the mainstream of our other health care programs. We should insure that those scientists who specialize in mental health related research and have ready access to the views and resources of their colleagues in the other biobehavioral specialties.

The National Institutes of Health is, and for a long time to come will remain, our premier scientific governmental entity. When any of us thinks of the NIH, we immediately conjure up ideas of the highest professional expertise, of Nobel Prizes, of the future of mankind. Why then, I asked myself, are our mental health scientists not accorded the same prestige and public recognition? Why is it that at the highest Federal policy level we have made the conscious decision to treat mental health so differently than physical health? Why don't we take seriously the ever-increasing evidence—both scientific and clinical—that emotional and physical health are interrelated, that both the behavioral and the biochemical experience

which we possess must be integrated? The answer that kept coming to my mind is that once again, the stigma and "fuzziness" of mental health care frightens every one of us. Only by integrating these two at the highest policy levels, will our society, and our Nation's mental health community, ever be truly well served.

The second consideration that I originally had in introducing this proposal was that it was then quite evident that those scientific endeavors outside NIH would receive far greater than their fair share of the proposed budgetary reductions, including reductions in staff. Every year, we have increased the appropriations for NIH, but NIMH does not do nearly as well. By placing NIMH within NIH, I felt and still feel that we will set in place an institutional process that will serve those who truly need mental health care in the future.

During the past Congress, our Appropriations Committee specifically addressed the matter of where NIMH should be located in some detail. I will not pretend to speak for the whole committee, but I know that a number of us sincerely believe that the time has now come for all concerned to work for truly integrating our Nation's research and clinical capabilities. Change is always unsettling, but we must proceed on the course that will in the long run be in the best interest of our citizenry.

Mr. President, I request unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 169

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the second and third sentences of subsection (a) of section 455 of the Public Health Service Act are redesignated as paragraph (2) of such section.

(b) The first sentence of section 455(a) of such Act is amended to read as follows:

"(1) There is established, as a division of the National Institutes of Health, the National Institute of Mental Health (hereinafter in this part referred to as the 'Institute') to administer the programs and authorities of the Secretary with respect to mental health.".●

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. 170. A bill to require that skilled nursing facilities furnishing services under the medicare and medicaid programs be adequately equipped with wheelchairs and other appropriated equipment and supplies; to the Committee on Finance.

NURSING FACILITIES EQUIPMENT AND SUPPLIES

● Mr. INOUYE. Mr. President, today I am reintroducing legislation designed to improve the services provided at our nursing homes. This bill requires that those homes which furnish services under medicare and medicaid programs be adequately equipped with wheelchairs and other appropriate equipment and supplies.

Nursing homes are an essential service to our elderly, who often have no other place to live. Unfortunately, the quality of nursing homes throughout our country varies; many can rightly be depicted as crimes against humanity. There is evidence, in many of these homes, that the physical facilities are totally inadequate.

More specifically, in many nursing homes now receiving medicare and medicaid reimbursements, patients are confined to beds due to a severe lack of wheelchairs and other equipment. Such physical limitation proves to be extremely frustrating and debilitating to the convalescent elderly. However, studies have shown remarkable improvement in nursing home patients when physical mobility and activities are encouraged and supplied.

I urge my fellow colleagues to join with me in alleviating this sorry situation of the elderly, confined members of our society. Although my bill does not allow for beneficial therapy, at least physical mobility through the availability of wheelchairs and other such equipment, would be improved. We must not forget the needs of our elderly, infirm patients.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 170

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1861(j) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (14),

(2) by inserting "and" at the end of paragraph (15), and

(3) by inserting after paragraph (15) the following new paragraph:

"(16) is adequately equipped (as determined under regulations of the Secretary) with wheelchairs and other appropriate equipment and supplies;".

SEC. 2. The amendments made by this Act shall become effective on the first day of the first month which begins more than 90 days after the date of enactment of this Act, and the Secretary of Health and Human Services shall, prior to such date, promulgate and have published in the Federal Register, the regulations which are referred to in section 1861(j)(16) of the Social Security Act (as added by this Act).●

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. 171. A bill to require the Secretary of Health and Human Services to prepare and transmit to the Congress a special report on the health care needs of native Hawaiians and other native American Pacific islanders; to the Committee on Labor and Human Resources.

NATIVE HAWAIIAN AND NATIVE AMERICAN PACIFIC ISLANDERS HEALTH CARE NEEDS ACT OF 1983

● Mr. INOUYE. Mr. President, today I am pleased to be introducing legislation on behalf of Senator MATSUNAGA and myself which would amend the Public Health Service Act to direct the Department of Health and Human Services to conduct a formal review of the unique physical health and mental health needs of our Nation's native Hawaiians and other native American Pacific islanders (NAPI). The results of this study would be submitted to Congress no later than 1 year from the date of enactment of this legislation. This study is modeled after legislation introduced in the 95th Congress, Public Law 95-262, which included language that provided for a study to be conducted by the Department of Health, Education, and Welfare to review the primary health care needs of the American Indian-Alaska Native population.

In all fairness, Mr. President, we must fulfill our Federal responsibility to these native American people. As a nation, we have thus far been extremely lax in our responsibility.

Native Hawaiians, like other native American groups, have their own unique physical and mental problems. For example, studies conducted by the Department of Health in the State of Hawaii show that as of 1979, life expectancy at birth is shortest for Hawaiians, being an average of 67.6 years as compared with the 74.2 mean age for the total State population. In 1975, mortality for all major causes of death was highest among native Hawaiians. Hawaiians comprised only 13 percent of the State's adult population, yet they accounted for 28 percent of all deaths occurring from heart disease, 35 percent of all deaths occurring from strokes, and 22 percent of all deaths occurring from cancer. According to a study conducted by members of the epidemiology program of the Cancer Center of Hawaii and the Hawaii Tumor Registry of the State Department of Health, the incidence of cancer among native Hawaiians is higher than that of any other ethnic group residing in the State of Hawaii. Further, young Hawaiians comprised 20 percent of the State population of their age group, yet they accounted for 27 percent of the suicides in 1975. Deaths among infant and newborn native Hawaiians was 30 percent as opposed to the 17 percent estimated for that year.

In looking at the leading chronic illnesses for 1976, we found that 12 percent of the State of Hawaii was affected by high blood pressure, yet of this percentage 23 percent were of native Hawaiian ancestry. Hawaiians had a greater prevalence of asthma, arthritis, heart disease, and diabetes. Statis-

tics from the Hawaii affiliate of the American Diabetes Association reflected that approximately 20,000 out of Hawaii's estimated 45,000 cases of diabetes went undiagnosed.

The 1979 Hawaii State survey on substance abuse revealed that for ages 12 years and above 53 percent of the native Hawaiian population surveyed were current alcohol users. Many reported having family and legal problems as a result of their alcohol use. It was also determined that Hawaiians comprised 23 percent of the target group in need of alcohol treatment services. To compound this problem, very few native Hawaiians in need of treatment are actually receiving services in existing treatment facilities. Only 2.5 percent of the population in need of services sought treatment in a specified facility and only 4.5 percent sought help elsewhere for their problem. Needless to say, there is a relationship between alcohol abuse and mental health problems among native Hawaiians.

This study would be the first step in the direction of addressing the pressing problems of these populations. The information gained from this report, in my judgment, would be valuable and would provide the basis for us to formulate policies to properly address the physical and mental health care needs of native Hawaiians and other native American Pacific island people.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 171

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Native Hawaiian and Native American Pacific Islanders Health Care Needs Act of 1983".

SEC. 2. The Congress finds and declares that—

(1) the United States Government has a unique responsibility to promote the health and welfare of native Hawaiians and other native American Pacific Islanders;

(2) there is reason for concern about the health status of native Hawaiians and other native American Pacific Islanders;

(3) in 1979, the average life expectancy of native Hawaiians at birth was almost seven years less than the average life expectancy of the entire population of Hawaii;

(4) in 1975, the mortality rate for all major causes of death was higher among native Hawaiians than among members of any other ethnic group in Hawaii;

(5) the infant mortality rate among native Hawaiians is 30 per centum, as compared to a 17 per centum mortality rate for all infants in Hawaii;

(6) in 1976, native Hawaiians had a higher incidence of high blood pressure, asthma, diabetes, arthritis, and heart diseases than the members of any other ethnic group in Hawaii;

(7) in 1975, although young native Hawaiians comprised only 20 per centum of the number of young residents of Hawaii, young native Hawaiians comprised 27 per centum of the number of young residents of Hawaii who committed suicide; and

(8) information is needed concerning the physical and mental health care needs of native Hawaiians and other native American Pacific Islanders and the types of physical and mental health care assistance which would be effective to improve the health and welfare of native Hawaiians and other native American Pacific Islanders.

SEC. 3. (a) Within one year after the date of enactment of this Act, the Secretary of Health and Human Services (hereafter referred to in this Act as the "Secretary") shall prepare and transmit to Congress a special report on the physical and mental health care needs of native Hawaiians and other native American Pacific Islanders.

(b) The report required by this section shall contain—

(1) an assessment of the access of, and barriers to, native Hawaiians and other native American Pacific Islanders in receiving physical and mental health care services;

(2) an assessment of the physical and mental health care needs of native Hawaiians and other native American Pacific Islanders; and

(3) specific recommendations for the development of a national strategy to address such needs.

(c) In preparing the report required by this section, the Secretary shall consult with the Commissioner of the Administration for Native Americans, the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, the Director of the Indian Health Service, leaders in the field of health care, and representatives of native Hawaiians and other native American Pacific Islanders.

SEC. 4. For purposes of this Act, the term "native Hawaiian" means any individual any of whose ancestors were natives of the area which consists of the Hawaiian Islands prior to 1778.●

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. 172. A bill to amend title 5 of the United States Code to provide payments under Government health plans for services of nurses not performed in connection with a physician; to the Committee on Governmental Affairs.

PROFESSIONAL NURSING SERVICES

● Mr. INOUYE. Mr. President, today I am introducing legislation to amend the Federal employee health benefit program to provide that professional nursing services will be a mandated benefit regardless of whether or not there is actual physician involvement.

In my judgment, for too long a time now, we have assumed that our Nation's health care programs should reimburse services provided by physicians and treat nursing services as if they were merely incidental to those of a physician. Accordingly, we do in fact have a mechanism for reimbursing nursing services, but that is by "masking" services as if they were in fact provided by a physician or clearly labeling them as incidental to a physician.

I personally do not feel that this is an appropriate recognition for the many skills of our Nation's professional nurses nor do I feel that it has been a cost-effective manner in insuring quality care. Accordingly, my proposal today would rectify that situation and allow our Nation's professional nurses to bill appropriately for the care that they provide.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 172

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (k) of section 8902 of title 5, United States Code, is amended by striking out "or optometrist" each place it appears and inserting in lieu thereof ", optometrist, or nurse".

SEC. 2. The amendment made by the first section of this Act shall apply to contracts entered into on or after the date of the enactment of this Act.●

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. 173. A bill to amend titles XVIII and XIX of the Social Security Act to provide that professional nurse services shall be covered under part B of medicare and shall be a required service under medicaid; to the Committee on Finance.

PROFESSIONAL NURSING SERVICES

● Mr. INOUYE. Mr. President, today I am introducing legislation to amend the Social Security Act to provide that professional nursing services will be a mandated benefit regardless of whether or not there is actual physician involvement.

In my judgment, for too long a time now, we have assumed that our Nation's health care programs should reimburse services provided by physicians and treat nursing services as if they were merely incidental to those of a physician. Accordingly, we do in fact have a mechanism for reimbursing nursing services, but that is by "masking" services as if they were in fact provided by a physician or clearly labeling them as incidental to a physician.

I personally do not feel that this is an appropriate recognition for the many skills of our Nation's professional nurses nor do I feel that it has been a cost-effective manner in insuring quality care. Accordingly, my proposal today would rectify that situation and allow our Nation's professional nurses to bill appropriately for the care that they provide.

Mr. President, I request unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 173

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1861(s)(2) of the Social Security Act is amended—

(1) by striking out "and" at the end of subparagraph (G);

(2) by adding "and" at the end of subparagraph (H); and

(3) by adding at the end thereof the following new subparagraph:

"(I) professional nurse services;".

(b) Section 1861 of such Act is amended by adding at the end thereof the following new subsection:

"PROFESSIONAL NURSE SERVICES

"(ee)(1) The term 'professional nurse services' means services performed by or under the direct supervision of a professional nurse (as defined in paragraph (2)) which he is legally authorized to perform under State law (or the State regulatory mechanism provided by State law) of the State in which such services are performed, whether or not he is under the supervision of, or associated with, a physician or other health care provider.

"(2) The term 'professional nurse' means an individual who is a registered nurse and is licensed to practice nursing in the State in which the professional nurse services are performed.".

SEC. 2. (a) Section 1905(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (17);

(2) by redesignating paragraph (18) as paragraph (19); and

(3) by inserting after paragraph (17) the following new paragraph:

"(18) professional nurse services (as defined in section 1861(ee)); and".

(b) Section 1902(a) of such Act is amended—

(1) by striking out "paragraphs (1) through (5) and (17)" in paragraph (10)(A) and inserting in lieu thereof "paragraphs (1) through (5), (17), and (18)";

(2) by striking out "paragraphs (1) through (5) and (17)" in paragraph (10)(C)(iv) and inserting in lieu thereof "paragraphs (1) through (5), (17), and (18)"; and

(3) by striking out "paragraphs numbered (1) through (17)" in paragraph (10)(C)(iv) and inserting in lieu thereof "paragraphs numbered (1) through (18)".

SEC. 3. (a) The amendments made by the first section of this Act shall be effective with respect to services performed on or after the first day of the first month which begins more than 60 days after the date of the enactment of this Act.

(b)(1) Except as provided under paragraph (2), the amendments made by section 2 shall be effective with respect to payments under title XIX of the Social Security Act for calendar quarters beginning more than 60 days after the date of the enactment of this Act.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by section 2, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.●

By Mr. INOUYE:

S. 174. A bill to amend titles XVIII and XIX of the Social Security Act to provide that pediatric nurse practitioner services shall be covered under part B of medicare and shall be a required service under medicaid; to the Committee on Finance.

PEDIATRIC NURSE PRACTITIONER SERVICES

● Mr. INOUYE. Mr. President, today I am introducing legislation which would provide, on a special 5-year experimental basis, for the direct reimbursement of pediatric nurse practitioner services under both medicare and medicaid.

I understand that there are currently only 4,000 nurse practitioners nationwide who specialize in pediatrics and further that by the year 1990, we can expect that this number will only increase to approximately 9,500. I further understand that current estimates are that up to 90 percent of the pediatric primary care services currently being provided by physicians can safely and appropriately be delegated to these individuals. If this were to occur, we can expect a cost savings of from $500 million to $1.5 billion, or 19 to 49 percent of the total primary care provider costs. It is perhaps unfortunate, but nevertheless still true, that nurse practitioner salaries today are approximately one-fifth of that of their medical counterparts.

Under the provisions of my bill, these individuals would have an opportunity to truly demonstrate that their care is cost effective and desired by the citizenry. I would fully expect that we will see high quality prenatal care, immunizations, nutritional care, early childhood screening for vision and hearing defects, and mental health care being highlighted. It is perhaps most fitting to indicate here that it was in fact that pediatric nurse practitioners who originally began the nurse practitioner movement a number of years ago. Mr. President, my proposal will not bankrupt our medicare and medicaid systems. All of the objective evidence that I have reviewed indicates that only the highest quality health care will be provided. The services of pediatric nurse practitioners are identifiable and quantifiable. My proposal will provide us with excellent basic information on which to continue to develop reimbursement policies for medicare and medicaid.

Mr. President, I request unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 174

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1861(s)(2) of the Social Security Act is amended—

(1) by striking out "and" at the end of subparagraph (G);

(2) by adding "and" at the end of subparagraph (H); and

(3) by adding at the end thereof the following new subparagraph:

"(I) pediatric nurse practitioner services;".

(b) Section 1861 of such Act is amended by inserting after subsection (aa) the following new subsection:

"PEDIATRIC NURSE PRACTITIONER SERVICES

"(bb)(1) The term 'pediatric nurse practitioner services' means services performed by a pediatric nurse practitioner (as defined in paragraph (2)) which he is legally authorized to perform under State law (or the State regulatory mechanism provided by State law) of the State in which such services are performed, whether or not he is under the supervision of, or associated with, a physician or other health care provider.

"(2) The term 'pediatric nurse practitioner' means an individual who—

"(A) is a registered nurse and is licensed to practice nursing in the State in which the pediatric nurse practitioner services are performed; and

"(B)(i) holds a master's degree in pediatric nursing or a related field from an accredited educational institution, or

"(ii) is certified as a pediatric nurse practitioner by the duly recognized professional nurses association.".

SEC. 2. (a) Section 1905(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (17);

(2) by redesignating paragraph (18) as paragraph (19); and

(3) by inserting after paragraph (17) the following new paragraph:

"(18) pediatric nurse practitioner services (as defined in section 1861(bb)); and".

(b) Section 1902 (a) of such Act is amended—

(1) in paragraph (10)(A), by striking out "paragraphs (1) through (5) and (17)" and inserting in lieu thereof "paragraphs (1) through (5), (17), and (18)";

(2) in paragraph (10)(C)(iv), by striking out "paragraphs (1) through (5) and (17) of section 1905(a) or the care and services listed in any 7 of the paragraphs numbered (1) through (17)" and inserting in lieu thereof "paragraphs (1) through (5), (17), and (18) of section 1905(a) or the care and services listed in any 7 of the paragraphs numbered (1) through (18)".

SEC. 3. (a) The amendments made by the first section of this Act shall be effective with respect to services performed—

(1) on or after the first day of the first month which begins more than 60 days after the date of the enactment of this Act; and

(2) before January 1, 1988.

(b)(1) Except as provided under paragraph (2), the amendments made by section 2 shall be effective with respect to payments under title XIX of the Social Security Act for calendar quarters beginning—

(A) more than 60 days after the date of the enactment of this Act; and

(B) before January 1, 1988.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by section 2, the

State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.●

By Mr. DECONCINI (for himself and Mr. THURMOND):

S. 175. A bill to amend title 17 of the United States Code to exempt the private noncommercial recording of copyrighted works on video recorders from copyright infringement; to the Committee on the Judiciary.

VIDEO RECORDER COPYRIGHT INFRINGEMENT

● Mr. DECONCINI. Mr. President, together with the distinguished chairman of the Judiciary Committee, Senator THURMOND, I am introducing a bill to amend the copyright law to provide an exemption for certain types of video recording for noncommercial purposes.

On October 19, 1982, the Ninth Circuit Court of Appeals ruled in Universal City Studios, Inc. against Sony Corp. of America that off-the-air copying of telecasts of copyrighted audiovisual materials by owners of video tape recorders in their own homes for private noncommercial use constitutes an infringement of copyright. Immediately after this decision was announced, I introduced in the 97th Congress a bill, S. 1758, which is identical to the bill I am introducing today. My interest then, as it remains today, is to exempt from liability the individual who purchases or has already purchased a video cassette recorder for the purpose of recording television programs off the air in order to schedule his television watching at his own convenience.

When Congress debated the copyright law revisions in 1976, the video recorder industry was at an experimental stage and not much was known about the problems that would arise. In the interval since those debates, 5 million Americans have obtained video recorders. Ninth Circuit Court of Appeals decision would limit the use of these machines to commercially prerecorded tapes and to video tapes created by individuals with camera equipment which they may choose to purchase. Ironically, one of the leaders in the manufacture of prerecorded tapes is the lead plaintiff in the original lawsuit.

Congress now has enough information available to it to make an informed change in the copyright law to accommodate the new technology. Extensive hearings were held in the 97th Congress. The Judiciary Committee heard from knowledgeable witnesses representing most parties interested in this legislation. The consensus of this diverse group was that Congress should act to exempt from copyright liability the individual who uses his video recorder to schedule his television watching at his own convenience.

The bill I introduce today will exempt the video recording of copyrighted works for noncommercial use from copyright infringement charges. My amendment adds a new section 119 to chapter 1 of title 17 that will allow an individual to record television programs off the air for personal use and pleasure. It will not allow these recordings to be used commercially. Enactment would remove the present cloud of illegality on everyone who manufactures, sells, now owns or will buy, or who even makes advertisements for a video recorder. I hope that Congress will act quickly to remove this technical liability from those individuals who now find themselves breaking a law in a manner never contemplated by Congress when the 1976 law was enacted.

Mr. President, I ask unanimous consent that this legislation be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 175

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 1 of title 17 of the United States Code is amended by inserting at the end thereof the following new section:

"§ 119. Limitation on exclusive rights: Exemption for certain video recordings

"Notwithstanding the provisions of section 106, it is not an infringement of copyright for an individual to record copyrighted works on a video recorder if—

"(1) the recording is made for a private use; and

"(2) the recording is not used in a commercial nature.".

SEC. 2. The table of sections for chapter 1 of title 17 of the United States Code is amended by inserting after the item relating to section 118 the following:

"119. LIMITATION ON EXCLUSIVE RIGHTS: EXEMPTION FOR CERTAIN VIDEO RECORDINGS.".●

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. 176. A bill to amend titles XVIII and XIX of the Social Security Act to provide that gerontological nurse practitioner services shall be covered under part B of medicare and shall be a required service under medicaid; to the Committee on Finance.

GERONTOLOGICAL NURSE PRACTITIONER SERVICES

● Mr. INOUYE. Mr. President, today I am introducing legislation which would amend our Nation's medicare law in order to provide for the independent reimbursement of those services that are rendered by professional gerontological nurse practitioners. Reimbursement of gerontological nurse practitioners should be provided whether they are self-employed, employed within an organized nursing service, such as a nursing home, or employed within a multidisciplinary agency that lacks an organized nursing service organization.

The population of America is growing increasingly older, with more than 10 percent of all people now age 65 or older. The aged person, likely to have one or more chronic diseases, is in need of long-term health care. Long-term care demands more of the human service known as nursing than any other profession. Most of the known needs of medicare beneficiaries for primary health care services can be provided by qualified registered nurses.

Gerontological nurse practitioners are registered nurses who have received specialized education that prepares them to assume responsibility for delivery of primary care to older adults. Studies of the role of nurse practitioners conclude that care provided by these professionals is comparable in outcome to care given by physicians, rates high in consumer satisfaction, and is cost effective. Care rendered by nurse practitioners has been applauded because of the priority placed on patient education, fostering self-care strategies, illness prevention, and health maintenance. Nursing services are intrinsically therapeutic in and of themselves and thereby, capable of restoring patients to optimal health or enabling them to adapt to chronic illness, disability, or terminal disease.

The first meaningful contact between patients in underserved areas and the health care system most often involves a public health nurse or nurse practitioner. For most patients the nurse practitioner sees, assesses, and treats with no direct physician involvement. Requirement of a physician's signature or so-called supervision is unnecessary and very costly.

The present structure makes hiring practitioners an economic liability for health care administrators. The provisions within the medicare reimbursement program are restrictive and prevent the delivery of needed health care services to persons who reside in rural areas of this country. Nurses in private practice in underserved areas have been forced to shut down needed facilities because of the inability to qualify for third-party funds.

Patients who need and want nursing services must make out-of-pocket payments in addition to paying high insurance premiums. If people are to have access to health care services, nurses must be recognized as providers of health care whose services are reimbursed through health insurance provisions of the medicare law.

Mr. President, there really is very little question that during the next decade, the provision of high-quality health care services to our Nation's elderly will become a major public

policy consideration. I am also optimistic that during our deliberations, we will continue to rely more and more on the clinical expertise of our Nation's nurse practitioners. Under the Department of Defense civilian health and medical program of the uniformed services (CHAMPUS) all categories of nurse practitioners have been deemed independent and autonomous providers since fiscal year 1982. Admittedly, this has only been a short period of time; however, to date, I have heard nothing but compliments regarding their care.

Mr. President, I request unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 176

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1861(s)(2) of the Social Security Act is amended—

(1) by striking out "and" at the end of subparagraph (G);

(2) by adding "and" at the end of subparagraph (H); and

(3) by adding at the end thereof the following new subparagraph:

"(I) gerontological nurse practitioner services;".

(b) Section 1861 of such Act is amended by adding at the end thereof the following new subsection:

"GERONTOLOGICAL NURSE PRACTITIONER SERVICES

"(ee)(1) The term 'gerontological nurse practitioner services' means services performed by a gerontological nurse practitioner (as defined in paragraph (2)) which he is legally authorized to perform under State law (or the State regulatory mechanism provided by State law) of the State in which such services are performed, whether or not he is under the supervision of, or associated with, a physician or other health care provider.

"(2) The term 'gerontological nurse practitioner' means an individual who—

"(A) is a registered nurse and is licensed to practice nursing in the State in which the gerontological nurse practitioner services are performed; and

"(B)(i) holds a master's degree in gerontological nursing or a related field from an accredited educational institution, or

"(ii) is certified as a gerontological nurse practitioner by the duly recognized professional nurses association.".

SEC. 2. (a) Section 1905(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (17);

(2) by redesignating paragraph (18) as paragraph (19); and

(3) by inserting after paragraph (17) the following new paragraph:

"(18) gerontological nurse practitioner services (as defined in section 1861(ee)); and".

(b) Section 1902(a) of such Act is amended—

(1) by striking out "paragraphs (1) through (5) and (17)" in paragraph (10)(A) and inserting in lieu thereof "paragraphs (1) through (5), (17), and (18)";

(2) by striking out "paragraphs (1) through (5) and (17)" in paragraph (10)(C)(iv) and inserting in lieu thereof "paragraphs (1) through (5), (17), and (18)"; and

(3) by striking out "paragraphs numbered (1) through (17)" in paragraph (10)(C)(iv) and inserting in lieu thereof "paragraphs numbered (1) through (18)".

SEC. 3. (a) Section 1861(j)(4) of the Social Security Act is amended by striking out "and" at the end of clause (A) and by inserting before the semicolon the following: ", and (C) provides that a gerontological nurse practitioner (as defined in subsection (ee)(2)) shall be available, on at least a consultant basis, to assure that necessary gerontological nursing services are furnished to patients".

(b) The first sentence of section 1905(c) of such Act is amended by striking out "and" at the end of clause (3) and by inserting before the period the following: ", and (5) provides that a gerontological nurse practitioner (as defined in section 1861(ee)(2)) shall be available, on at least a consultant basis, to assure that necessary gerontological nursing services are furnished to patients".

SEC. 4. (a) The amendments made by the first section of this Act shall be effective with respect to services performed on or after the first day of the first month which begins more than 60 days after the date of the enactment of this Act.

(b)(1) Except as provided under paragraph (2), the amendments made by section 2 shall be effective with respect to payments under title XIX of the Social Security Act for calendar quarters beginning more than 60 days after the date of the enactment of this Act.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by section 2, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

(c) The amendments made by section 3 shall become effective on the first day of the first month which begins more than 60 days after the date of the enactment of this Act.●

By Mr. INOUYE:

S. 177. A bill to amend title XVIII of the Social Security Act to provide for coverage under medicare of services performed by a nurse-midwife; to the Committee on Finance.

NURSE-MIDWIFE SERVICES

● Mr. INOUYE. Mr. President, today I am introducing legislation which would provide for increased access to the services of certified nurse-midwives by our Nation's disabled under the medicare program.

To date, there are approximately 2,200 nurse-midwives in the United States and I understand that every year this number increases by nearly 220. Most nurse-midwives practice in association with institutions such as hospitals, clinics, and birthing centers. A small number, however, offer home birth services. Mr. President, since October 1978, the Department of Defense, under its civilian health and medical program for the uniformed services (CHAMPUS), has authorized the direct payment to certified nurse-midwives. Some 7.9 million military dependents and retirees are eligible for health benefits under CHAMPUS.

Further, as a provision of Public Law 96-179, on a special experimental basis extending from January 1980 to December 1984, if a health insurance contract under provisions of the Federal employees health benefit program provides for payment for a particular service only when rendered by a physician, the plan must also provide reimbursement if the service is provided by any other category of health practitioner—including certified nurse-midwives—who are licensed under applicable State statute when 25 percent or more of the State's population is located in a formally designated primary medical care manpower shortage area. It is my understanding that as a result of this provision, Federal employees in 10 designated States presently have direct access to certified nurse-midwife services. The General Accounting Office (GAO) has recently informed me that presently 91.5 percent of the enrollees under the Federal employees health benefit program are with plans that provide for nurse-midwife benefits.

Finally, as a provision of the Omnibus Reconciliation Act of 1980, Public Law 96-499, certified nurse-midwives have received direct recognition under our Nation's medicaid program. Specifically, the law now states that services furnished by a nurse-midwife which he or she is legally authorized to perform under State law, whether or not he or she is under the supervision of or associated with a physician or other health care provider, shall be directly reimbursed. My proposal would amend our Nation's medicare program with language identical to that of our medicaid program. In this effort, I am most pleased to have the active support of the National March of Dimes.

The first step toward becoming a professional nurse-midwife in the United States is to study nursing and then practice nursing in the field of maternal and infant health for at least 1 year. The future nurse-midwife then applies to a nurse-midwife reeducational program. Although all of these programs are associated with major universities, some are part of a master's degree program and others grant a certificate rather than a degree. Both kinds of programs offer nurse-midwifery education which prepares the student nurse-midwife for clinical practice. Students in the master's program also receive further education in public health or nursing. Students

who successfully complete their educational programs are then eligible to take the American College of Nurse-Midwives' certification exam. Those who pass the examination are certified as nurse-midwives-CNM's. All nurse-midwife programs are credited by the Division of Accreditation of the American College of Nurse-Midwives.

Mr. President, in my judgment, there is no question that our Nation's certified nurse-midwives are extraordinarily competent professionals who have demonstrated both educational proficiency and clinical excellence. In fact, the report released by the Graduate Medical Education National Advisory Committee indicated that nurse-midwives may very well be doing 5 percent of all normal deliveries in the United States by the year 1990. Further, we should, during this era of cost-consciousness, consider the influence that nurse-midwives have had on the cost of health care, to both the consumer and the Nation. Although I have been unable to obtain extensive data, that which I have reviewed suggest that nurse-midwifery is considerably less expensive than traditional obstetrical care.

For example, in Washington, D.C., in 1981, the cost of prenatal, delivery, and post partum care with the nurse-midwife service was $800 for clients planning to deliver in the hospital. This includes prenatal care, labor management and delivery, post partum care, a 2-week, 6-week, 6-month, and 1-year checkup, and 3 post partum classes. Physician's fees varied from $800 to $1,200 and included prenatal care, labor and delivery management, post partum care, and a 6-week checkup. Hospital costs for nurse-midwifery clients who spend 6 hours or less in a hospital after delivery are around $600. Clients who stay the traditional 3 days will pay close to $1,000 in hospital costs. I might note that the average salary of a nurse-midwife in clinical practice today is $25,000 a year. OB-GYN's earned an average of $105,000 in 1981. In essence, Mr. President, the bill that I am introducing today would provide our Nation's disabled with the option of selecting the services of a certified nurse-midwife if they so desire. In no way would my proposal prevent such a program beneficiary from utilizing the services of a physician if she so desired.

The Department of Health and Human Services recently informed me that there are approximately 1,000 births each year for which medicare claims have been submitted. Clearly, to authorize the direct reimbursement of certified nurse-midwives under this program will not in itself save the Federal Government a substantial amount of money. However, as all of us are aware, it is often the medicare standards that are used by the Department in establishing its rules and regulations even in developing administrative policies. For example, currently Federal regulations require that clinics wishing to bill under medicaid must now be administered by physicians due to the provisions of the medicare law. By according certified nurse-midwives parity within medicare, these types of outdated prohibitions will finally be satisfactorily addressed.

Mr. President, I request unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 177

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1861(s)(2) of the Social Security act is amended—

(1) by striking out "and" at the end of subparagraph (G);

(2) by adding "and" at the end of subparagraph (H); and

(3) by adding at the end thereof the following new subparagraph:

"(I) nurse-midwife services;".

(b) Section 1861 of such Act is amended by adding at the end thereof the following new subsection:

"NURSE-MIDWIFE SERVICES

"(ee)(1) The term 'nurse-midwife services' means services furnished by a nurse-midwife (as defined in paragraph (2)) which he is legally authorized to perform under State law (or the State regulatory mechanism provided by State law), whether or not he is under the supervision of, or associated with, a physician or other health care provider.

"(2) The term 'nurse-midwife' means a registered nurse who has successfully completed a program of study and clinical experience meeting guidelines prescribed by the Secretary, or has been certified by an organization recognized by the Secretary, and performs services in the area of management of the care of mothers and babies (throughout the maternity cycle) which he is legally authorized to perform in the State in which he performs such services.".

(c)(1) Section 1905(a)(17) of such Act is amended by striking out "as defined in subsection (m)" and inserting in lieu thereof "as defined in section 1861(ee)(2)".

(2) Section 1905 of such Act is amended by striking out subsection (m).

SEC. 2. The amendments made by this Act shall be effective with respect to services performed on or after the first day of the first month which begins more than sixty days after the date of the enactment of this Act.●

By Mr. INOUYE:

S. 178. A bill to amend title 5 of the United States Code to provide payments under Government health plans for services of nurse-midwives not performed in connection with a physician; to the Committee on Governmental Affairs.

NURSE-MIDWIFE SERVICES

● Mr. INOUYE. Mr. President, today I am introducing legislation that would provide for increased access to the services of certified nurse-midwives by our Nation's Federal employees under the Federal Employees Health Benefit Act.

To date, there are approximately 2,200 nurse-midwives in the United States and I understand that every year this number increases by nearly 220. Most nurse-midwives practice in association with institutions such as hospitals, clinics, and birthing centers. A small number, however, offer home birth services. Mr. President, since October 1978, the Department of Defense, under its civilian health and medical program of the uniformed services (CHAMPUS), has authorized the direct payment to certified nurse-midwives. Some 7.9 million dependents of active duty, retired, and deceased military personnel are eligible for health benefits under CHAMPUS.

Further, as a provision of Public Law 96-179, on a special experimental basis extending from January 1980 to December 1984, if a health insurance contract under provisions of the Federal employees health benefit program provides for payment for a particular service only when rendered by a physician, the plan must also provide reimbursement if the service is provided by any other category of health practitioner—including certified nurse-midwives—who are licensed under applicable State statute when 25 percent or more of the State's population is located in a formally designated primary medical care manpower shortage area. It is my understanding that as a result of this provision, Federal employees in 10 designated States presently have direct access to certified nurse-midwife services. In fact, the General Accounting Office (GAO) recently informed me that currently 91.5 percent of Federal employee enrollees have enrolled in plans with access to nurse-midwifery care.

Finally, as a provision of the Omnibus Reconciliation Act of 1980, Public Law 96-499, enacted in the 97th Congress, certified nurse-midwives have received direct recognition under our Nation's medicaid program. Specifically, the law now states that services furnished by a nurse-midwife which he or she is legally authorized to perform under State law, whether or not he or she is under the supervision of, associated with, a physician or other health care provider, shall be directly reimbursed.

My proposal would extend the coverage of nurse-midwife services to all Government employees. In this effort, I am most pleased to have the active support of the National March of Dimes.

The first step toward becoming a professional nurse-midwife in the United States is to study nursing and then practice nursing in the field of maternal and infant health for at least 1 year. The future nurse-midwife then applies to a nurse-midwife reeduca-

tional program. Although all of those programs are associated with major universities, some are part of a master's degree program and others grant a certificate rather than a degree. Both kinds of programs offer nurse-midwifery education which prepares the student nurse-midwife for clinical practice. Students in the master's program also receive further education in public health or nursing. Students who successfully complete their educational programs are then eligible to take the American College of Nurse-Midwives' certification exam. Those who pass the examination are certified as nurse-midwives-CNMS. All nurse-midwife programs are credited by the Division of Accreditation of the American College of Nurse-Midwives.

Mr. President, in my judgment, there is no question that our Nation's certified nurse-midwives are extraordinarily competent professionals who have demonstrated both educational proficiency and clinical excellence. In fact, the report released by the Graduate Medical Education National Advisory Committee indicated that nurse-midwives may very well be doing 5 percent of all normal deliveries in the United States by the year 1990. Further, we should, during this era of cost consciousness, consider the influence that nurse-midwives have had on the cost of health care, to both the consumer and the Nation. Although I have been unable to obtain extensive data, that which I have reviewed suggests that nurse-midwifery is considerably less expensive than traditional obstetrical care.

For example, 2 years ago in Washington, D.C., the cost of prenatal, delivery, and post partum care with the nurse-midwife service was $800 for clients planning to deliver in the hospital. This includes prenatal care, labor management and delivery, post partum care, a 2-week, 6-week, 6-month, and 1-year checkup, and three post partum classes. Physician's fees varied from $800 to $1,200 and included prenatal care, labor, and delivery management, post partum care, and a 6-week checkup. Hospital costs for nurse-midwifery clients who spend 6 hours or less in a hospital after delivery are around $600. Clients who stay the traditional 3 days will pay close to $1,000 in hospital costs. I might note that the average salary of a nurse-midwife in clinical practice today is $25,000. By contrast, the most recent figures available regarding the median income of obstetrician/gynecologists in 1981 was $105,000. Additional data that I have reviewed suggests that by extensively utilizing the nurse-midwifery services, the Federal Government may be able to save approximately 60 percent of the costs of "birthing care."

In essence, Mr. President, the bill that I am proposing today would provide our Nation's disabled and Federal employees with the option of selecting the services of a certified nurse-midwife if they so desire. In no way would my proposal prevent such a program beneficiary from utilizing the services of a physician if she so desired.

Mr. President, I request unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 178

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (k) of section 8902 of title 5, United States Code, is amended by striking out "or obstetrician" each place it appears and inserting in lieu thereof ", obstetrician, or nurse-midwife".

(b) Section 8901 of such title is amended—

(1) by striking out "and" at the end of paragraph (8),

(2) by striking out the period at the end of paragraph (9) and inserting in lieu thereof "; and", and

(3) by adding at the end thereof the following new paragraph:

"(10) 'nurse-midwife' has the same meaning given to such term by section 1905 (m) of the Social Security Act.".

SEC. 2. The amendments made by the first section of this Act shall apply to contracts entered into on or after the date of the enactment of this Act.●

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. 179. A bill to amend titles XVIII and XIX of the Social Security Act to provide that psychiatric nurse specialist services shall be covered under part B of medicare and shall be a required service under medicaid; to the Committee on Finance.

PSYCHIATRIC NURSE SPECIALIST SERVICES

● Mr. INOUYE. Mr. President, today I am introducing legislation to amend our Nation's medicare and medicaid programs in order to accord full professional parity to our psychiatric nurses.

In my judgment, these dedicated individuals are truly competent to provide autonomous care. Currently, the Department of Defense's civilian health and medical program of the uniformed services (CHAMPUS), which has some 7.9 million beneficiaries, recognizes psychiatric nurses as autonomous providers and their certified nurse-midwife colleagues are now a mandated benefit under medicaid.

Further, within health maintenance organizations (HMO's) all categories of nurse practitioners are now eligible for purposes of medicare for autonomous providership.

Mr. President, my proposal is quite straightforward. It would raise the current dollar limitation under medicare for mental health care to $1,000. It would insure that psychiatric nurses would be deemed autonomous providers, and finally, it would make their services a mandated benefit under our Nation's medicaid program.

Mr. President, I request unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 179

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1861(s)(2) of the Social Security Act is amended—

(1) by striking out "and" at the end of subparagraph (G);

(2) by adding "and" at the end of subparagraph (H); and

(3) by adding at the end thereof the following new subparagraph:

"(I) psychiatric nurse specialist services;".

(b) Section 1861 of such Act is amended by adding at the end thereof the following new subsection:

"PSYCHIATRIC NURSE SPECIALIST SERVICES

"(ee)(1) The term 'psychiatric nurse specialist services' means services performed by a psychiatric nurse specialist (as defined in paragraph (2)) which he is legally authorized to perform under State law (or the State regulatory mechanism provided by State law) of the State in which such services are performed, whether or not he is under the supervision of, or associated with, a physician or other health care provider.

"(2) The term 'psychiatric nurse specialist' means an individual who (A) is licensed to practice nursing by the State in which the individual practices nursing, (B) possesses a master's degree or higher degree in psychiatric nursing or a related field from an accredited educational institution, and (C) is certified as a psychiatric nurse by a duly recognized national professional nurse organization.".

(c) Section 1833(c) of such Act is amended by striking out all that follows "purpose of subsections (a) and (b)" and inserting in lieu thereof "no more than $1,000".

SEC. 2. (a) Section 1905(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (17);

(2) by redesignating paragraph (18) as paragraph (19); and

(3) by inserting after paragraph (17) the following new paragraph:

"(18) psychiatric nurse specialist services (as defined in section 1861(ee)); and".

(b) Section 1902(a) of such Act is amended—

(1) by striking out "paragraphs (1) through (5) and (17)" in paragraph (10)(A) and inserting in lieu thereof "paragraphs (1) through (5), (17), and (18)";

(2) by striking out "paragraphs (1) through (5) and (17)" in paragraph (10)(C)(iv) and inserting in lieu thereof "paragraphs (1) through (5), (17), and (18)"; and

(3) by striking out "paragraphs numbered (1) through (17)" in paragraph (10)(C)(iv) and inserting in lieu thereof "paragraphs numbered (1) through (18)".

SEC. 3. (a) The amendments made by the first section of this Act shall be effective with respect to services performed on or after the first day of the first month which begins more than sixty days after the date of the enactment of this Act.

(b)(1) Except as provided under paragraph (2), the amendments made by section 2 shall

be effective with respect to payments under title XIX of the Social Security Act for calendar quarters beginning more than sixty days after the date of the enactment of this Act.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by section 2, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.●

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. 180. A bill to amend titles XVIII and XIX of the Social Security Act to provide that clinical social worker services shall be covered under part B of medicare and shall be a required service under medicaid; to the Committee on Finance.

CLINICAL SOCIAL WORKER SERVICES

Mr. INOUYE. Mr. President, slightly more than 6 years ago, in May 1976, during the 94th Congress, I introduced my original proposal on behalf of the National Association of Social Workers and the Federation of Clinical Social Workers. I am personally pleased by the extent to which the Congress is aware of the contribution that 85,000 social workers provide in the delivery of health care in our Nation.

Social workers are the dominant providers of care today in the mental health facilities around the Nation. They provide more than 42 percent of the mental health treatment in community mental health centers. They also make up nearly one-third of the executive directors of community mental health centers.

In the 96th Congress, significant progress was made. In the Department of Defense appropriations bill for fiscal year 1981, we included a provision for a pilot demonstration project for direct reimbursement to clinical social workers for their mental health services under the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS). Since then, after 2 years of demonstration, we have decided to accord clinical social workers full independent status under CHAMPUS.

In the Omnibus Reconciliation Act of 1980, a provision was included to carry out demonstration projects to determine the administrative, financial, and other aspects of making the services of clinical social workers more generally available as part of the benefits included under title 18 of the Social Security Act. I understand that the Department has now begun to implement this important study.

Other legislation that I am introducing in this Congress provides for reimbursement of the services that social workers provide in mental health treatment, but in all candor, mental health is only one area of the vast amount of services that social workers of this Nation provide. The ability of people to live effectively in society is often hampered by the lack of resources, and problems that range from personal all the way to social unrest. The growing complexity of our society has greatly increased the need for social workers to assist individuals, families, groups, and communities to solve their problems.

There are three basic areas in which social workers are utilized and by which they approach their work—casework, group work, and community organization. During their training, social workers can now also specialize in social institutions, a field which encompasses health and education, or in social problems such as poverty.

Caseworkers deal with individuals and families in order to understand their personal problems and assist them in obtaining the appropriate resources, services, education, or job training that they require. In group settings, social workers help people to better understand themselves and others in order to achieve some productive goal. Social workers organize and implement activities for children, teenagers, adults, older persons, and other groups in community centers, hospitals, nursing homes, and correctional facilities.

Finally, in community work, social workers coordinate the efforts of various political, civic, religious, business, and union organizations in an effort to solve social problems such as crime, housing, poverty, and so forth, through community action. Social workers often coordinate existing services, organize fundraisers for community welfare activities, and aid in developing new community services.

While most social workers do deal directly with individuals, groups, or families, a substantial number are directors and administrators who hire and train personnel, make budget decisions, evaluate agency problems, supervise staff, and serve as spokespersons for the agencies' clients. Others are employed as university professors, research workers, or consultants. Others are employed by community agencies and planning bodies of government, voluntary agencies, and other private organizations. In essence, social workers apply their training and expertise in a variety of settings. Although many work for agencies or institutions, many are in private practice and provide valuable counseling.

I am especially pleased to report that a growing number of social workers now specialize in the field of aging. They plan and evaluate services for the elderly, and help them deal with financial and other changes brought on by retirement. In nursing homes, they help patients and their families adjust to illness and the need for institutionalization and health care services.

With our ever-changing society, we need today, even more than ever before, to make use of diverse qualifications of our Nation's social workers. The type of diverse services that the social workers provide is invaluable and I submit, should be made more available to the recipients of our social security program. The restrictions that exist today on the delivery of social worker services make it difficult, if not impossible, for our Nation's aged, poor, and disabled to receive not only quality mental health care, but also other services for which they are eligible. Finally, I am firmly convinced that with the rising cost of health care, it will be only by taking into account the psychosocial components involved that we can ever hope to remedy this situation.

Mr. President, in our Nation's social workers we have an invaluable resource that, in my judgment, we have just begun to tap. It is with this thought in mind today that I am genuinely excited about the opportunities before us. Formal independent Federal recognition is long overdue for our Nation's social workers and, accordingly, I am both proud and pleased to be introducing this legislation today.

Mr. President, I request unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 180

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1861(s)(2) of the Social Security Act is amended—

(1) by striking out "and" at the end of subparagraph (G);

(2) by adding "and" at the end of subparagraph (H); and

(3) by adding at the end thereof the following new subparagraph:

"(I) clinical social worker services;".

(b) Section 1861 of such Act is amended by adding at the end thereof the following new subsection:

"CLINICAL SOCIAL WORKER SERVICES

"(ee)(1) The term 'clinical social worker services' means services performed by a clinical social worker (as defined in paragraph (2)) which he is legally authorized to perform under State law (or the State regulatory mechanism provided by State law) of the State in which such services are performed, whether or not he is under the supervision of, or associated with, a physician or other health care provider.

"(2) The term 'clinical social worker' means an individual who—

"(A)(i) possesses a master's or doctor's degree in social work,

"(ii) after obtaining such degree has performed at least two years of supervised clinical social work, and

"(iii) is licensed or certified as a clinical social worker in the State in which the clinical social worker services are performed, or in those States which do not provide for licensure or certification, is listed in a national register of social workers who, by education and experience, qualify as health care providers in clinical social work.".

(c) Section 1833(c) of such Act is amended by striking out all that follows "purposes of subsections (a) and (b)" and inserting in lieu thereof "no more than $1,000".

SEC. 2. (a) Section 1905(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (17);

(2) by redesignating paragraph (18) as paragraph (19); and

(3) by inserting after paragraph (17) the following new paragraph:

"(18) clinical social worker services (as defined in section 1861(ee)); and".

(b) Section 1902(a) of such Act is amended—

(1) by striking out "paragraphs (1) through (5) and (17)" in paragraph (10)(A) and inserting in lieu thereof "paragraphs (1) through (5), (17), and (18)";

(2) by striking out "paragraphs (1) through (5) and (17)" in paragraph (10)(C)(iv) and inserting in lieu thereof "paragraphs (1) through (5), (17), and (18)"; and

(3) by striking out "paragraphs numbered (1) through (17)" in paragraph (10)(C)(iv) and inserting in lieu thereof "paragraphs numbered (1) through (18)".

SEC. 3. (a) The amendments made by the first section of this Act shall be effective with respect to services performed on or after the first day of the first month which begins more than sixty days after the date of the enactment of this Act.

(b)(1) Except as provided under paragraph (2), the amendments made by section 2 shall be effective with respect to payments under title XIX of the Social Security Act for calendar quarters beginning more than sixty days after the date of enactment of this Act.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by section 2, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. 181. A bill to amend titles XVII and XIX of the Social Security Act to provide more adequate coverage of the services of mental health specialists under the medicare supplemental benefits program and under medicaid programs; to the Committee on Finance.

MENTAL HEALTH SPECIALISTS

● Mr. INOUYE. Mr. President, today I am introducing legislation that would amend our Nation's medicare and medicaid programs under the Social Security Act in order to insure that qualified mental health providers/specialists will be directly reimbursable under these programs.

For some time now, I have introduced legislation on behalf of each of our traditional mental health disciplines in order to insure that their highest level of practitioner would be directly reimbursable without any Federal requirement of physician supervision or referral.

In August 1978, the Senate Finance Committee held extensive public hearings on this matter for the first time in 7 years. Essentially, the mental health provision of the Social Security Act has not been modified since the original enactment. In my judgment, there is a very real need both to increase the scope of benefits and also given the unique nature of mental health symptoms and especially their "subjectiveness" an equally pressing need to insure that only high quality practitioners will be reimbursed. In this regard, I am especially pleased that the Department of Defense's CHAMPUS program is now directly reimbursing each of the four traditional mental health disciplines. I am confident that when my colleagues on the Senate Finance Committee consider this bill, that the evidence that we have accumulated under the CHAMPUS program will be extremely helpful to them in their deliberations.

At this time, my proposal would essentially accomplish two purposes. First, it would make mental health benefits a mandated benefit and would reimburse up to $1,000 per year of professional services. In so doing, I have also recommended that we modify the current 50-50 copayment mechanism to the more traditional 80-20 copayment mechanism that is in fact in place for physical medicine. By so doing, I feel that we will significantly reduce the present discrimination that does exist in the current law, but also allow ourselves the opportunity to phasein this increased benefit in a timely fashion. Eventually, I am confident that with appropriate utilization review procedures, there will no longer be a need for any overall limitations on this mental health benefit package.

The second major purpose that I hope to accomplish in introducing this legislation is to legislatively define at the Federal level the type of educational requirements that are necessary for each of the four traditional mental health disciplines to have obtained in order to practice independently. Accordingly, in my proposal, I have in some detail spelled out proposed definitions of clinical pyschologists, clinical social workers, psychiatric nurse specialists, and pyschiatrists. By adopting these educational requirements, as well as State licensure and/or certification, I am confident that we will be able to insure that only qualified practitioners will become reimbursable.

Finally, the issue was raised during the public hearings in August 1978, that by increasing the availability of mental health services to our Nation's social security recipients should reduce the overall cost of our Nation's health care programs. The CHAMPUS data suggests that this relationship is not as straightforward as we had originally expected. However, I do believe that the time has come to take the next legislative steps. For too long a time now, mental health coverage has been relegated to "second-class status" probably primarily due to its nonobjective and somewhat fuzzy nature. Hopefully, as we continue our public deliberations on our Nation's mental health programs, the current stigma will diminish significantly.

Mr. President, I request unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 181

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the first sentence of section 1861(r) of the Social Security Act is amended by inserting, immediately before the period at the end thereof, the following: ", or (6) except for the purposes of section 1814(a) other than (a)(2)(A), section 1835 except (a)(2) and (b)(1), and subsections (j), (k), (m), and (o) of this section, a mental health specialist, but (unless clause (1) of this subsection also applies to him) only with respect to functions which he is legally authorized to perform as such in the State in which he performs them".

(b) Section 1861 of such Act is further amended by adding at the end thereof the following new subsection:

"MENTAL HEALTH SPECIALIST

"(ee)(1) The term 'mental health specialist' means an individual who is a clinical psychologist (as defined in paragraph (2)), a clinical social worker (as defined in paragraph (3)), a psychiatric nurse specialist (as defined in paragraph (4)), or a psychiatrist (as defined in paragraph (5)).

"(2) The term 'clinical psychologist' means an individual who (A) is licensed or certified at the independent practice level of psychology by the State in which he so practices, (B) possesses a doctorate degree in psychology from a regionally accredited educational institution, or for those individuals who were licensed or certified prior to January 1, 1978, possess a master's degree in psychology and are listed in a national register of mental health service providers in psychology which the Secretary of the Department of Health and Human Services deems appropriate, and (C) possesses two years of supervised experience in health service, at least one year of which is postdegree.

"(3) The term 'clinical social worker' means an individual who (A) possesses a master's or doctor's degree in social work, (B) after obtaining such degree has performed at least two years of supervised clinical social work, and (C) is licensed or certi-

fied as such in the State in which he practices, or if such State does not license or certify clinical social workers, is listed in a national register of social workers who, by education and experience, qualify as health care providers in clinical social work.

"(4) The term 'psychiatric nurse specialist' means an individual who (A) is licensed to practice nursing by the State in which the individual practices nursing, (B) possesses a master's degree or higher degree in psychiatric nursing or a related field from an accredited educational institution, and (C) is certified as a psychiatric nurse by a duly recognized national professional nurse organization.

"(5) The term 'psychiatrist' means a physician who (A) is described in clause (1) of section 1861(r), and (B) is board certified by the American Board of Psychiatry and Neurology or has successfully completed a minimum of three years of approved graduate medical training in psychiatry.".

(c) Section 1833(c) of such Act is amended by striking out all that follows "purposes of subsections (a) and (b)" and inserting in lieu thereof "no more than $1,000".

(d) The amendments made by subsections (a) and (b) of this section shall be effective in the case of services furnished after the date of enactment of this Act, and the amendment made by subsection (c) shall be applicable in the case of services furnished in any calendar year after calendar year 1982.

SEC. 2. (a) Section 1905(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (17),

(2) by redesignating paragraph (18) as pargraph (19), and

(3) by inserting immediately after paragraph (17) the following new paragraph:

"(18) services of a mental health specialist (as defined in section 1861(ee)); and".

(b) Section 1902(a) of such Act is amended—

(1) by striking out "paragraphs (1) through (5) and (17)" in paragraph (10)(A) and inserting in lieu thereof "paragraphs (1) through (5), (17), and (18)";

(2) by striking out "paragraphs (1) through (5) and (17)" in paragraph (10)(C)(iv) and inserting in lieu thereof "paragraphs (1) through (5), (17), and (18)"; and

(3) by striking out "paragraphs numbered (1) through (17)" in paragraph (10)(C)(iv) and inserting in lieu thereof "paragraphs numbered (1) through (18)".

SEC. 3. (a) The amendments made by the first section of this Act shall be effective with respect to services performed on or after the first day of the first month which begins more than 60 days after the date of the enactment of this Act.

(b)(1) Except as provided under paragraph (2), the amendments made by section 2 shall be effective with respect to payments under title XIX of the Social Security Act for calendar quarters beginning more than sixty days after the date of the enactment of this Act.

(2) In the case of a State plan for medical Assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by section 2, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.●

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. 182. A bill to amend title 5, United States Code, to provide payments under certain Federal employee health benefits plans for services of mental health specialists; to the Committee on Governmental Affairs.

MENTAL HEALTH SPECIALISTS

● Mr. INOUYE. Mr. President, today I am introducing legislation that would amend the Federal employee health benefit program in order to insure that if mental health services are to be made available, that those delivered by a qualified "mental health specialist" would be directly reimbursable.

Under the present provisions of our Federal employee health benefit program, mental health services provided by physicians and clinical psychologists are already reimbursable as well as those provided by psychiatric nurses in certain medically underserved areas on a special experimental basis. In my judgment, the time has come to more appropriately delineate the qualifications of mental health care providers and to allow our Federal employees ready access to choose the practitioner of their choice.

Mr. President, I request unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 182

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8901 of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (8);

(2) by striking out the period at the end of paragraph (9) and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following new paragraphs:

"(10) 'mental health specialist' means a psychiatrist, a clinical psychologist, a clinical social worker, or a psychiatric nurse specialist;

"(11) 'psychiatrist' means a physician who—

"(A) is described in paragraph (1) of section 1861(r) of the Social Security Act; and

"(B)(i) is certified by the American Board of Psychiatry and Neurology; or

"(ii) has successfully completed not less than three years of graduate medical training in psychiatry approved by the Director of the Office of Personnel Management;

"(12) 'clinical psychologist' means an individual who—

"(A) is licensed or certified for private practice of psychology by the State in which the individual practices psychology;

"(B)(i) has been awarded a doctorate degree in psychology by an institution of higher education that is accredited by a nationally recognized regional accrediting agency or association; or

"(ii) in the case of any individual who was licensed or certified as described in subparagraph (A) of this paragraph before January 1, 1978, has been awarded a master's degree in psychology and is listed in a national register of providers of mental health services specializing in psychology which national register is recognized by the Secretary of Health and Human Services; and

"(C) has not less than two years of supervised experience in providing health care service including at least one year of such experience after the date of the award of the degree referred to in the applicable clause of subparagraph (B) of this paragraph;

"(13) 'clinical social worker' means an individual who—

"(A) has been awarded a master's or doctorate degree in social work;

"(B) has performed at least two years of supervised clinical social work after the date of the award of such degree; and

"(C)(i) is licensed or certified as a clinical social worker by the State in which the individual practices social work; or

"(ii) in the case of a clinical social worker who practices in a State that does not license or certify clinical social workers, is listed in any national register of clinical social workers recognized by the Secretary of Health and Human Services; and

"(14) 'psychiatric nurse specialist' means an individual who—

"(A) is licensed as a nurse by the State in which the individual practices nursing;

"(B) has been awarded a master's or higher degree with a specialization in psychiatric nursing or a related specialty by an institution of higher education accredited by a nationally recognized regional accrediting agency or association; and

"(C) is certified as a psychiatric nurse by a national professional nurse organization recognized by the Secretary of Health and Human Services; and

"(15) 'State' includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, the government of the Northern Mariana Islands, and the trust Territory of the Pacific Islands.".

SEC. 2. Section 8902(k) of title 5, United States Code, is amended by striking out "or optometrist" each place it appears and inserting in lieu thereof in each such place ", optometrist, or mental health specialist".

SEC. 3. Section 8904 of title 5, United States Code, is amended—

(1) by adding at the end of paragraph (1) the following new item:

"(G) Mental health benefits."; and

(2) by adding at the end of paragraph (2) the following new item:

"(G) Mental health services.".

SEC. 4. The amendments made by this Act shall take effect with respect to contracts entered into on or after the date of the enactment of this Act.●

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. 183. A bill to amend titles XVIII and XIX of the Social Security Act to provide that community mental health center services shall be covered under part B of medicare and shall be a required service under medicaid; to the Committee on Finance.

COMMUNITY MENTAL HEALTH CENTER SERVICES

● Mr. INOUYE. Mr. President, today I am introducing legislation on behalf of Senator MATSUNAGA and myself that would amend our Nation's Social Security Act in order to insure that appropriate mental health centers will be directly reimbursable under both the medicare and medicaid programs.

Since our medicare and medicaid laws were first enacted in 1965, the scope of the mental health benefits has not been amended. During this 18 years of experience that we have had in administering the programs, there have, however, been a number of other substantive changes that the Congress felt were appropriate.

There no longer can be any question that our Nation's mental health professionals made major strides in both defining the practicalities of what are, in fact, mental health services and identifying those target populations which would benefit from mental health expertise. Unfortunately, however, as the Senate Finance Committee's hearings in August of 1978 clearly demonstrated, there is no unity within the mental health professions nor the consumers of the mental health services as to what types of services or what providers should be reimbursed under the Social Security Act. Accordingly, Senator MATSUNAGA and I are today introducing legislation that we feel is a reasonable attempt to address both the issues that have not yet been resolved and at the same time, provide for an increased benefit package under the Social Security Act.

The first major policy that we are addressing in this legislation is that, in fact, our Nation's community mental health centers should be directly reimbursable under the Social Security Act. As evidenced by the recommendations of the President's Commission on Mental Health, the network of community mental health centers that has evolved over the past decade has a long and glorious history of being truly responsive to the needs of our Nation's consumers. Accordingly, we are now confident that they do have the professional and the administrative integrity needed to participate in social security programs.

Along with specifically focusing upon utilizing community mental health centers as an appropriate entity for providing mental health services, we have also adopted the recommendation of the President's Commission on Mental Health that each of the four traditional mental health disciplines should be directly reimbursed for those services that they provide within the scope of their own State licensing or certification acts. At the same time, we strongly feel that it is important to provide for interdisciplinary peer review within each mental health center. Accordingly, we have attempted to amend the presently medically oriented social security regulations with a more dynamically oriented approach that reflects the realities of mental health treatment by requiring:

First, that each of the four disciplines shall be able to bill for their professional services, and;

Second, that interdisciplinary peer review mechanisms will be in place to ensure that the services are safe, effective, and appropriate.

We are quite confident that each of these four traditional disciplines has the ability to refer to another type of practitioner when he or she feels that such additional expertise would be appropriate. I would also like to note that we have spelled our specific legislative criteria for defining each of the four disciplines which is the highest level of training offered by each one.

In deciding that community mental health centers should be reimbursed for their services, we were faced with the dilemma that there are different types of services that, in fact, such centers provide. Our proposal, as indicated earlier, would allow each of the four mental health disciplines to be reimbursed for "their professional services" by which we mean consumers would be able to receive visits for drugs, psychological testing, and individual or family or group psychotherapy. We have specifically authorized reimbursement for up to 15 visits per year, per patient, and upon approval by an interdisciplinary review committee, an additional 30 visits. There are, however, a number of services such as day care, dance therapy, recreational therapy, occupational therapy, psychodrama, and so forth, that we, in all candor, question as to whether these should be reimbursed on a fee-for-service basis. Accordingly, our proposal would direct the Secretary of the Department of Health and Human Services to spell out in regulations what types of supportive services should be provided, and under what conditions. We feel that this is the type of administrative decision that the Secretary should make after consultation with the appropriate professional disciplines.

I sincerely hope that the Senate Finance Committee will be able to hold hearings this year on the scope of mental health benefits under the Social Security Act and at that time, the committee will look very closely at the possibility of reimbursing community mental health centers. From all the information that I have reviewed, we will not be able to contain our ever-escalating cost of physical health care unless we aggressively make available the appropriate delivery of mental health services. There seems very little doubt that well over half of the current visits being made to our physical health care system are really made by individuals who have emotional, rather than organic etiology for their physical symptoms. This I can assure you is an extraordinarily expensive way of not meeting real and pressing needs.

Mr. President, I request unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 183

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1832(a)(2) of the Social Security Act is amended—

(1) by striking out "and" at the end of subparagraph (E);

(2) by striking out the period at the end of subparagraph (F) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new subparagraph:

"(G) community mental health center services, subject to the limitations in section 1861(ee).".

(b) Section 1833(c) of such Act is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B);

(2) by inserting "(1)" after "(c)"; and

(3) by adding at the end thereof the following new paragraph:

"(2) In making the determination under paragraph (1), there shall not be included any expenses incurred by an individual for community mental health center services with respect to which payment is authorized to be made on his behalf under this part.".

(c) Section 1861 of such Act is amended by adding at the end thereof the following new subsection:

"COMMUNITY MENTAL HEALTH CENTER SERVICES

"(ee)(1)(A) The term 'community mental health center services' means the following items and services provided to a patient by a community mental health center (as defined in paragraph (2)) by an employee of such center:

"(i) Professional services provided by a mental health specialist (as defined in paragraph (3)).

"(ii) Supportive services provided by such center to its patients as the Secretary determines to be appropriate, furnished under the supervision of a mental health specialist.

"(iii) drugs and biologicals which cannot, as determined in accordance with regulations, be self-administered, and which are furnished by the center (or prescribed by an employee of the center) under the supervision of a mental health specialist.

"(B) No service shall be considered to be a community mental health center service for purposes of subparagraph (A) unless such service—

"(i) in the case of an individual who is an outpatient, is reasonable and necessary in order to prevent the institutionalization of such individual, to prevent such individual from being unable to carry out activities in society which are generally accepted as being necessary for independent functioning; or to prevent such individual from being a danger to himself or others; or

"(ii) in the case of an individual who is an inpatient, is reasonable and necessary in order to diagnose or treat a mental condition which necessitates diagnosis or treat-

ment on an inpatient basis, and can be reasonably expected to improve, or prevent the deterioration of, such condition.

"(2) The term 'community mental health center' means a public or voluntary community-based nonprofit facility which—

"(A) meets the definition of a community mental health center under section 101 of the Mental Health Systems Act;

"(B) maintains clinicial records on all patients;

"(C) has bylaws in effect with respect to its staff which require that all services be rendered under the supervision of a mental health specialist; and

"(D) has in effect a utilization review plan for pusposes of making determination required under paragraph (4), which provides for a multidiscipline utilization review committee composed of mental health specialists.

"(3)(A) The term 'mental health specialist' means an individual who is—

"(i) a clinical psychologist (as defined in subparagraph (B));

"(ii) a clinical social worker (as defined in subparagraph (C));

"(iii) a psychiatric nurse specialist (as defined in subparagraph (D)); or

"(iv) a psychiatrist (as defined in subparagraph (E)).

"(B) The term 'clinical psychologist' means an individual who—

"(i) is licensed or certified at the independent practice level of psychology by the State in which he so practices;

"(ii) possesses a doctorate degree in psychology from a regionally accredited educational institution, or for those individuals who were licensed or certified prior to January 2, 1978, possess a master's degree in psychology and is listed in a national register of mental health service providers in psychology which the Secretary deems appropriate; and

"(iii) possesses two years of supervised experience in health service, at least one year of which is post degree.

"(C) The term 'clinical social worker' means an individual who—

"(i)(I) possesses a master's or doctor's degree in social work,

"(II) after obtaining such degree has performed at least two years of supervised clinical social work, and

"(III) is licensed or certified as a clinical social worker in the State in which the individual performs the community mental health center services; or

"(ii) is listed in a national register of social workers who, by education and experience, qualify as health care providers in clinical social work.

"(D) The term 'psychiatric nurse specialist' means an individual who—

"(i) is licensed to practice nursing by the State in which the individual practices nursing;

"(ii) possesses a master's degree or higher degree in psychiatric nursing or a related field from an accredited educational institution; and

"(iii) is certified as a psychiatric nurse by a duly recognized national professional nurse organization.

"(E) The term 'psychiatrist' means a physician who—

"(i) is described in clause (1) of section 1861(r); and

"(ii) is board certified by the American Board of Psychiatry and Neurology or has successfully completed a minimum of three years of approved graduate medical training in psychiatry.

"(4)(A) Except as provided in subparagraph (B), the number of visits for services of a mental health specialist for which payment may be made under this part as community mental health center services shall not exceed 15 visits in any calendar year for any individual.

"(B) Payment may be made for community mental health center services under this part for up to 30 visits for services of a mental health specialist, in addition to the visits for which payment is authorized under subparagraph (A), if such additional visits are approved by the utilization review committee of the facility providing such services as being medically or psychologically necessary.".

(d) Section 1861(u) of such Act is amended by inserting "community mental health center," after "hospice program,".

(e) Section 1864(a) of such Act is amended—

(1) by striking out "or a comprehensive outpatient rehabilitation facility as defined in section 1861(cc)(2)" and inserting in lieu thereof ", a comprehensive outpatient rehabilitation facility as defined in section 1861(cc)(2), or a community mental health center as defined in section 1861(ee)(2)"; and

(2) by inserting "community mental health center," after "comprehensive outpatient rehabilitation facility," each place it appears.

SEC. 2. (a) Section 1905(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of the paragraph (17);

(2) by redesignating paragraph (18) as paragraph (19); and

(3) by inserting after paragraph (17) the following new paragraph:

"(18) community mental health center services (as defined in section 1861(ee)), subject to the same limitations with respect to numbers of visits for any individual as apply under title XVIII to individuals eligible for benefits under that title; and".

(b) Section 1902(a) of such Act is amended—

(1) by striking out "paragraphs (1) through (5) and (17)" in paragraph (10)(A) and inserting in lieu thereof "paragraphs (1) through (5), (17), and (18)";

(2) by striking out "paragraphs (1) through (5) and (17)" in paragraphs (10)(C)(iv) and inserting in lieu thereof "paragraphs (1) through (5), (17), and (18)"; and

(3) by striking out "paragraphs numbered (1) through (17)" in paragraph (10)(C)(iv) and inserting in lieu thereof "paragraphs numbered (1) through (18)".

SEC. 3. (a) The amendments made by the first section of this Act shall be effective with respect to services performed on or after the first day of the first month which begins more than 60 days after the date of the enactment of this Act.

(b)(1) Except as provided under paragraph (2), the amendments made by section 2 shall be effective with respect to payments under title XIX of the Social Security Act for calendar quarters beginning more than 60 days after the date of the enactment of this Act.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires state legislation in order for the plan to meet the additional requirements imposed by the amendments made by section 2, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.●

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. 184. A bill to establish the position of Associate Director for Minority Concerns in the National Institute on Alcohol Abuse and Alcoholism; to the Committee on Labor and Human Resources.

S. 185. A bill to establish the position of Associate Director for Minority Concerns in the National Institute on Drug Abuse; to the Committee on Labor and Human Resources.

NATIONAL INSTITUTE ON DRUG ABUSE

● Mr. INOUYE. Mr. President, today I am introducing legislation that would provide for the establishment of an Associate Director for Minority Concerns within the National Institute on Alcohol Abuse and Alcoholism and within the National Institute on drug Abuse.

During our deliberations on the Reauthorization Act for these Institutes during the 96th Congress, the Senate unanimously accepted a floor amendment which I offered that would have established Associate Directors for underserved populations with broad-ranging policy, training, research, and treatment mandates.

Unfortunately, during the subsequent conference deliberations these Associate Director positions were deleted. However, during our deliberations on the Mental Health Systems Act, the third Institute within the Alcohol, Drug Abuse, and Mental Health Administration, my proposal for an Associate Director for Minority Concerns was accepted both in the U.S. Senate and the House of Representatives.

Accordingly, the conferees did retain the position and I have drafted these two proposals in keeping with the mental health systems conference agreement. Generally, the Associate Director for Minority Concerns shall develop and coordinate prevention, treatment, research, and administrative policies and programs to insure increased emphasis in the alcoholism and/or drug abuse related needs of minority populations.

In so doing, needed demonstration programs and projects will be authorized and a long-term strategy will be developed to increase the representation of minority populations in the appropriate research and training programs.

There is no question that our Nation's minorities traditionally and unfortunately presently still possess a disproportionate percentage of alcoholism and drug abuse related symptoms. Hopefully, by targeting the spe-

cific populations and developing innovative appropriate approaches, we will at long last be able to address these needs satisfactorily. Incidentally, the Alcoholism, Drug Abuse, and Mental Health Administration submitted an indepth report on its minority training efforts and although I personally felt that they have come a long way, I remained impressed by the extent to which there is yet more to be done.

Mr. President, I request unanimous consent that the text of my bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 184

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 101 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 is amended by adding at the end thereof the following new subsection:

"(e)(1) The Director shall designate an Associate Director for Minority Concerns.

"(2) The Secretary, acting through the Associate Director for Minority Concerns, shall—

"(A) develop and coordinate prevention, treatment, research, and administrative policies and programs to assure increased emphasis on the needs of minorities for the prevention and treatment of alcoholism and alcohol abuse and related problems;

"(B) support programs and projects relating to the delivery of services to minorities for the prevention and treatment of alcoholism and alcohol abuse and related problems, including demonstration programs and projects;

"(C) develop a plan to increase the representation of minorities in service delivery and manpower programs for the prevention and treatment of alcoholism and alcohol abuse and related problems;

"(D) support programs of basic and applied social and behavioral research on the problems of minorities relating to alcoholism and alcohol abuse;

"(E) study the effects of discrimination by institutions against alcoholics and alcohol abusers;

"(F) develop systems to assist minority individuals who are a alcoholics or alcohol abusers in adapting to, and coping with, the effects of discrimination;

"(G) support and develop research, demonstration, and training programs designed to eliminate institutional discrimination against alcoholics and alcohol abusers; and

"(H) provide increased emphasis on the concerns of minorities in training programs, service delivery programs, and research activities of the Institute.".

(b) The amendment made by subsection (a) shall take effect on the date of the enactment of this Act or October 1, 1983, whichever occurs later.

S. 185

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 501 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act is amended by adding at the end thereof the following new subsection:

"(e)(1) The Director shall designate an Associate Director for Minority Concerns.

"(2) The Secretary, acting through the Associate Director for Minority Concerns, shall—

"(A) develop and coordinate prevention, treatment, Research, and administrative policies and programs to assure increased emphasis on the needs of minorities for the prevention and treatment of drug abuse and related problems;

"(B) support programs and projects relating to the delivery of services to minorities for the prevention and treatment of drug abuse and related problems, including demonstration programs and projects;

"(C) develop a plan to increase the representation of minorities in service delivery and manpower programs for the prevention and treatment of drug abuse and related problems;

"(D) support programs of basic and applied social and behavioral research on the problems of minorities relating to drug abuse;

"(E) study the effects of discrimination by institutions against drug abusers;

"(F) develop systems to assist minority individuals who are drug abusers in adapting to, and coping with, the effects of discrimination;

"(G) support and develop research, demonstration, and training programs designed to eliminate institutional descrimination against drug abusers; and

"(H) provide increased emphasis on the concerns of minorities in training programs, Service delivery programs, and research activities of the Institute.".

(b) The amendment made by subsection (a) shall take effect on the date of the enactment of this Act or October 1, 1983, whichever occurs later.●

By Mr. INOUYE:

S. 186. A bill to require that imports of fresh ginger root meet all the requirements imposed on domestic fresh ginger root; to the Committee on Agriculture, Nutrition, and Forestry.

GINGER ROOT IMPORTS

● Mr. INOUYE. Mr. President, today I am reintroducing legislation which would insure that imported fresh ginger root is of the same quality as fresh ginger produced in the United States.

Hawaii's production of fresh ginger root, also known as Jamaica ginger or awapuhi pake in the Hawaiian Islands, is subject to stringent standards which insure a product of the highest quality. These standards are imposed by the State of Hawaii and are designed to protect consumers of ginger from inferior products.

Imported fresh ginger root is not subject to these standards, thus the consumer cannot be sure of receiving the same high quality as the Hawaiian product. In addition, the standards which apply to Hawaiian-grown ginger place it at a disadvantage with imported crops.

It is ironic that the regulations which Hawaii adopted to protect consumers by insuring a product of high quality are hurting the ability of domestic sugar to compete with imports.

I want to make clear that this measure is not in any way intended to prohibit or even necessarily decrease the amount of imported fresh ginger root. The only purpose is to insure that the imported product is of the same high quality as the domestic product. This will protect the consuming public while allowing domestic producers to compete on an equitable basis.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 186

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8e of the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, is further amended by inserting "fresh ginger root," after "filberts,".●

By Mr. INOUYE:

S. 187. A bill to authorize the sale of certain fish in the State of Hawaii; to the Committee on Commerce, Science, and Transportation.

HAWAIIAN FISHING

● Mr. INOUYE. Mr. President, today I am reintroducing legislation to help canners in the State of Hawaii obtain a sufficient volume of competitively priced tuna to run a viable business.

Under existing Federal law, the Nicholson Act (46 U.S.C. 251) prohibits foreign-flag vessels from landing fish in the United States if these fish are caught by foreign-flag vessels on the high seas. The only exception is for fish landed in the United States pursuant to a treaty or convention to which the United States is a party. Unfortunately, such a treaty is not in effect with the relevant Asian countries, and the Hawaiian Tuna Packers cannot supplement its American-caught tuna with foreign-caught tuna to provide an adequate supply of raw fish for its cannery.

The Hawaiian cannery presently employs 420 people, with a payroll of over $5 million a year. In addition, it purchases approximately $2 million worth of fish from Hawaiian fishermen and is the only major market for the catch not sold at the daily fresh fish auction. The economic contribution of the cannery is even greater when one considers the taxes paid and materials purchased in Hawaii.

The bill I am introducing would help provide an adequate supply of tuna by allowing Asian fishing vessels to land their catch in Hawaii. Asian fishing vessels catch about 536,000 short tons of tuna in the Pacific Ocean each year. Two Japanese fleets, gillnetters and sashimi longliners, operate near Hawaii and could provide about 15,500 tons of albacore annually. This fish would supplement, not compete with, the tuna supplied by American fishermen working out of Hawaii. The sashimi longliners would be pleased to

sell their albacore, which is less desirable in Japan than other species of tuna, in Hawaii rather than ship it all the way back to their home ports. The State of Hawaii would, of course, be pleased by the economic benefits that would accrue to the State's population by having a viable cannery in Honolulu.

Mr. President, I trust that the Senate will take favorable action on this legislation and I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 187

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of section 4311 of the Revised Statutes of the United States, as amended (46 U.S.C. 251), Japanese-flag vessels shall be permitted to land tuna in the State of Hawaii.●

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. 189. A bill to limit the costs resulting from acts of negligence in health care and to improve the level of health care services in the United States, and for other purposes; to the Committee on Labor and Human Resources.

HEALTH CARE PROTECTION

● Mr. INOUYE. Mr. President, during both the 96th and 97th Congresses, I introduced legislation which I entitled the Health Care Protection Act, which would, if enacted, have established for the first time, uniform Federal standards for a network of health care malpractice screening panels across the Nation. As I indicated at that time, that particular bill was an outgrowth of earlier legislation which I introduced in 1975 during the midst of our medical malpractice insurance crisis.

My primary intent in introducing this bill was to share with my colleagues the results of efforts that former Senator Jacob Javits and I had undertaken in conjunction with the Department of Justice. It was my hope that the bill would become a catalyst for continued public debate on the medical malpractice insurance crisis, as it was our judgment that the fundamental problems that existed in 1975 have not been significantly modified. Unfortunately, since the introduction of the Health Care Protection Act, additional information has come to my attention to show that we were in fact correct.

For example, according to a study published by the National Association of Insurance Commissioners, the average award during the period from July 1975 to December 1978 increased by 70 percent, from $26,565 to $45,187 with awards of $1 million or more increasing from 1 in every 1,000 paid claims in 1975 to 3 in every 1,000 paid claims in 1978. That is, whereas there were 5 awards of $1 million or more in 1975, there were 23 in 1978. The National Association of Insurance Commissioners further noted that the average indemnity for very serious nonfatal injuries increased from $213,000 to $349,000 during this time.

Since September 1980, when I originally introduced the Health Care Protection Act, I have received a number of suggestions from journalists, attorneys, and health care practitioners. Accordingly, I have modified my earlier proposal somewhat in five specific areas. First, I have required that each State will specifically spell out those professions that will be deemed to provide health services for the purposes of their panels. Also, the membership of the screening panels shall be directed to include at least one lay person or consumer and I deleted any reference to membership in political parties. I have also required that the screening panel or division must render their decision in a timely fashion, that is, within 30 days, following their hearing, unless there are extraordinary circumstances and that the statute of limitations shall be tolled for 60 days following the date of their ultimate decision.

Finally, I would like to note that the issue of whether or not the panel's or division's ultimate conclusion should be made part of the record in a de novo trial was specifically raised. In all candor, I am not confident that either approach is necessarily appropriate and thus, would urge my colleagues to explore this matter in particular during the subsequent hearings. At this time, I request unanimous consent that my earlier remarks, which included relevant articles, be printed in the RECORD, as well as the text of the bill.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

[From the CONGRESSIONAL RECORD, Sept. 25, 1980]

By Mr. INOUYE:

S. 3161. A bill to limit the costs resulting from acts of negligence in health care and to improve the level of health care services in the United States, and for other purposes; to the Committee on Labor and Human Resources.

HEALTH CARE PROTECTION ACT

Mr. INOUYE. Mr. President, today I am introducing legislation which, if enacted, would establish for the first time, uniform Federal standards for a network of health care malpractice screening panels across our Nation. The Health Care Protection Act of 1980 is an outgrowth of earlier legislation that I introduced back in 1975 during the midst of our medical malpractice insurance crisis. My original proposal was essentially a workers compensation, no-fault approach. It attempted to isolate and deal separately with two, often emotionally charged, issues of practitioner competence and patient compensation. At that time, my colleague, Senator KENNEDY, joined with me in proposing various alternative approaches, including another bill which proffered a screening panel approach.

During the past 5 years, in my judgment, we have come a long way in determining what should be the appropriate role for the Federal Government in the many complex issues that are often unfortunately grouped together under the general label of "medical malpractice." For example, we have recognized that there are many different types of health care practitioners with different responsibilities, levels of professional training, and modes of practice. Further, we have begun to appreciate the extent to which the emotional trauma that generally accompanies the classic medical malpractice suit is beneficial for neither the unfortunate patient nor the practitioner, regardless of the ultimate outcome of the trial. We have also come to publicly admit that the delivery of health care is still largely an art, rather than a precise science, and that although in retrospect it is oftentimes tempting to second-guess the practitioner, no one is well served by that approach.

Since 1975, a growing number of State legislatures, and even courts, have experimented with different approaches depending upon their own unique circumstances and philosophical orientations. Admittedly, for the past several years now, the malpractice crisis seems to have abated. And a number of my colleagues may wonder why today I still feel that it is important to address this issue. However, the answer is quite simple. From all that I have seen and read, we have not satisfactorily addressed the fundamental causes behind our earlier crisis. Accordingly, rather than being truly resolved, these highly complex issues are merely dormant. I am afraid that it will not be long before another emotionally charged crisis evolves, and this time it may well be more disruptive than before.

Mr. President, I ask unanimous consent that a reporting from the February 1980, issue of the National Law Journal be printed in the RECORD at this juncture.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

"IS ANOTHER CRISIS LOOMING?

"(By Stu Chapman)

"A new medical malpractice crisis could be brewing in the nation's courts.

"After a lull in litigation following the crisis of 1975, insurance carriers are reporting a dramatic increase in the number of liability claims filed against physicians. The increase in claims, accompanied by huge awards for plaintiffs, has prompted some of the nation's major insurance carriers to hike premiums for doctors.

"The St. Paul Fire and Marine Insurance Co., the largest medical malpractice carrier in the country, reports that malpractice claims against its physician subscribers rose 12 percent in 1978. The number of claims filed had dipped by as much as 11 percent during the previous two years.

"In Chicago, the Illinois State Medical Society said that more medical malpractice claims were filed in Cook County in September 1979 than in any month since November 1975.

"SUING POPULAR AGAIN

"Suing the doctor is popular again for a number of reasons.

"First, legislative efforts in many states to limit personal injury claims have undergone constitutional challenges. If the new malpractice laws have not been weakened, they

apparently look less forbidding to attorneys than they did several years ago.

"At the same time, court decisions have been expanding physician liability, particularly concerning birth defects and injuries. For example, two New York cases held physicians liable for the lifelong special costs of caring for defective children if the doctors failed to warn the prospective parents of possible genetic risks.

" 'The hair-raising verdicts are getting worse—particularly in New York,' said Don Fager, assistant treasurer of Medical Liability Mutual Insurance Co., the physician-owned company set up by the Medical Society of the State of New York. 'It used to be that we didn't get those million-dollar verdicts but now we get them routinely, and the publicity that accompanies them only whets the public's appetite for more.'

"MILLION-DOLLAR CASES

"Million-Dollar cases are becoming more commonplace, figures show. Jury Verdict Research Inc. shows 23 million-dollar cases in 1977 and 1978 compared to only a few for all preceding years combined.

"If the new groundswell of claims continues, it is not expected to have as widespread an impact, however, as the crisis that swamped physicians five years ago. The biggest difference: physician-owned insurance companies that can guarantee the availability of insurance for doctors and that are taking a tougher stand in fighting claims that might be marginal.

"The impact of the new doctor-owned companies on litigation can be seen in figures from the National Association of Insurance Commissioners. Its survey of claims closed between July 1, 1976, and June 30, 1978, showed a big jump in the number of cases going to court. The study shows 16 percent of the cases going to trial compared to only 5 percent previously. And the doctor-owned companies are proving to be tough opponents in court—winning 90 percent of their cases compared to 80 percent a few years ago."

Mr. INOUYE. Mr. President, in December 1978, then-Attorney General Griffin Bell announced the Department of Justice's intention to propose legislation establishing minimum standards for procedures to resolve malpractice claims. At that time, the Attorney General stated, in part, that—

"Medical malpractice problems are high on our agenda. These problems have reached troubling proportions in several ways: the cost of medical care is substantially increased; inflation is fueled; and expense and delay in litigation are exacerbated. The cost of malpractice insurance adds considerably to the cost of medical services to the people of the country. Last year, the nation's hospitals alone spent approximately $1.2 billion for malpractice insurance. This represents a six-fold increase over the past five years. The malpractice costs by themselves add approximately $5 per day for every person who requires hospitalization. Moreover, existing litigation procedures do not always assure that meritorious claims are compensated or that physicians and hospitals are adequately protected against unmeritorious claims.

"In an effort to get at this problem, we will send to the Congress a proposal to improve the process for resolving medical malpractice claims. The experience of several states shows that patients, doctors, and hospitals all benefit from a system that provides screening of malpractice claims and which is tied to improved professional discipline procedures.

"The use of screening panels provides a means of weeding out unfounded claims and encouraging prompt and fair settlement of those which are meritorious. We are going to propose national minimum standards for procedures to resolve malpractice claims. Within those national standards, the states would be free to shape individual systems to fit local needs and conditions. We believe this proposal would have a substantial effect in both reducing the cost and improving the quality of medical care."

In June 1979, after consultation with the Attorney General, Senator JAVITS and I shared a working draft of the proposed legislation with the 50 State Governors, requesting their review and comment. Again, since the earlier pressures no longer existed, there was considerable disagreement about whether the Federal Government ought to become involved at all. The other issues that they raised were also extremely helpful and I have tried to incorporate them wherever possible. Unfortunately, since Griffin Bell's departure from the Department of Justice, the administration's enthusiasm for aggressively addressing the malpractice issue has naturally cooled. However, the need is still pressing and I feel that it is appropriate to continue the dialog.

The cost of health care in our Nation has skyrocketed beyond belief and continues to escalate faster than almost any other segment of our economy. Before we can ever hope to enact a comprehensive national health insurance program, we must first address the issue of medical malpractice. In 1975, there were 20,000 medical malpractice claims, three-quarters of which arose from incidents that occurred within our Nation's hospitals. For the in-hospital claims that went the full route to a jury settlement, the average award was $350,000. It is estimated that our Nation's health care providers and hospitals presently pay over $1.25 billion a year in medical malpractice insurance premiums, yet only about 20 pecent of this sum reached the pockets of malpractice victims. Further, it is estimated that there are between $2 billion and $7 billion a year of needless testing and procedures being performed merely because our Nation's health care providers feel that they must practice what is known as defensive medicine.

Some 25 States established malpractice panels during the mid-1970's. The screening-panel approach has worked especially well in the State of Hawaii, where 80 percent of the medical malpractice cases since 1976 have been settled out of court. Our Medical Claims Conciliation Panel has the support of lawyers, physicians, insurance companies, and claimants. More specifically, interviews with Hawaii physicians revealed that 94 percent felt that the panels were helpful in resolving malpractice cases; 90 percent of the attorneys using the screening panels felt the same. In fact, the Pacific Business News heralded this procedure as curbing our State's medical malpractice insurance rates.

The bill that I am introducing today proposes a basic framework and economic incentive for our various State legislatures to develop their own malpractice screening panel programs. There are certain fundamental public policy value judgments inherent in my proposal that should be highlighted at this time. First, that malpractice is not limited only to the medical profession, but is the concern of all health care practitioners. Second, that a multidisciplinary screening approach should be utilized. Third, that all relevant information should be systematically collected and made public, and not hidden behind claims of privilege. And finally, that our malpractice insurance system should be reconceived to place far greater emphasis on compensating the unfortunate victim, rather than on pouring resources into courtroom clashes, claims administration, and insurer overhead.

My proposal is voluntary in nature. I have spelled out a number of specific standards which I feel would best serve the interests of all of the parties involved. I have authorized up to $25 million to be made available on a continuing basis for the Department of Justice to actively encourage States to comply. I proposed a mechanism for systematically collecting important data on malpractice claims, and in the future, when we have sufficient experience, I may very well make additional legislative recommendations. It is my expectation that eventually every State will adopt this screening-panel approach. Eventually, I hope that a truly no-fault approach patterned after our workers compensation laws can be developed, built upon the network of malpractice screening panels already in place, in order to insure that those who deserve compensation receive it, and that those practitioners who do not live up to appropriate standards are identified and properly limited in the scope of their practice.

Mr. President, I ask unanimous consent that the bill and its summary be included in the RECORD.

There being no objection, the bill and the summary were ordered to be printed in the RECORD, as follows:

S. 3161

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Health Care Protection Act of 1980".

SEC. 2. CONGRESSIONAL FINDINGS AND STATEMENT OF PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the health care professions and industry serve needs vital to the continuing health and welfare of the American people and form a vital part of commerce between the States;

(2) every person needs ready and economical access to medical and other health care services for full participation in American society and for full exercise of individual rights;

(3) the health care professions and industry apply national standards of health care to State and regional needs and circumstances;

(4) the need to compensate persons injured by avoidable acts of health care negligence or malpractice and the resultant costs of malpractice insurance significantly increase the costs of medical and other health care services and products;

(5) divergent systems for insuring against, and for litigating and compensating, health care malpractice claims further raise the cost of needed malpractice insurance and prevent speedy compensation of injured persons;

(6) a large majority of the cost of premiums paid for malpractice insurance goes to investigating or trying malpractice claims in State courts, while less than one-third of the premium amounts are now used to compensate persons injured by malpractice;

(7) many more incidents of health care malpractice occur than result in a claim for damages, and many valid claims for compensation are prevented because of the high

costs of trial; conversely, many claims of malpractice are unjustified but result in settlements or awards for damages out of sympathy for the physical condition of the claimant;

(8) these added costs of insurance protection, and the risk of liability for compensation, burden both the health care providers and their patients, further raising the cost of health care goods and services;

(9) these costs also increase the costs to the United States Government of carrying out its programs for aiding the people and the States in meeting health care needs, and affect the extent to which the United States may be financially liable for health care services afforded by its own officers or employees, including the military services and veterans and public health care programs;

(10) failure to compensate adequately persons injured by health care malpractice adversely affects the general health and welfare of the people of the United States and burdens commerce between the States;

(11) many States have experimented successfully with nonjudicial malpractice claims systems using screening panels to reduce the costs of processing malpractice claims;

(12) early examination of claims regarding health care malpractice, before they reach court, by malpractice screening panels organized by the States according to uniform Federal standards will aid materially in reaching just and timely resolutions of those claims at which lower administrative and litigation costs than those now experienced under the existing system of direct tort litigation and malpractice insurance;

(13) members of the public and responsible public officials of the States are entitled to be informed in all instances in which health care malpractice is found by a State screening panel or court, in order to protect against the task of further malpractice and to minimize the necessary cost of insurance protection;

(14) a small percentage of the health care providers account for a disporportionately high percentage of all malpractice claims, and an even higher percentage of insurance payments to persons injured by health care malpractice; and

(15) because insurance premiums are usually set for an entire specialty group in a given region, these high-risk providers do not bear a financial burden proportionate to the amount of injury they cause, so there is not an effective financial incentive for the safe practice of medicine and other health care specialties.

(b) STATEMENT OF PURPOSE.—The purpose of this Act is to provide minimum Federal standards for the creation by each State of health care malpractice screening panels and procedures that will reduce the costs to the public and to the health care professions of malpractice, and will provide full and expeditious compensation to the victims of health care malpractice.

SEC. 3. UNIFORM STANDARDS FOR COMPENSATION FOR HEALTH CARE MALPRACTICE.

(a) STATE PROGRAM FOR COMPENSATION.—Each State shall be encouraged to establish within four years of the date of enactment of this Act a program for compensation and reduction of health care malpractice that complies with the standards set forth in this Act. The State may establish the program by legislative, executive, or judicial action, as authorized by the laws and constitution of the State.

(b) ATTORNEY GENERAL REGULATIONS.—The Attorney General shall have authority to promulgate regulations for the interpretation and implementation of this Act. Without limiting the foregoing, within one year of the date of enactment of this Act, the Attorney General shall issue regulations concerning certification of State programs established under this Act and for the payments under section 8 to support State programs.

SEC. 4. MALPRACTICE SCREENING PANELS.

(a) ESTABLISHMENT.—Each State shall be encouraged to establish one or more malpractice screening panels to hear all claims of health care malpractice by persons in the State who are licensed or certified by the State to provide health care services or who provide health care services for which State law requires a license or certification. If the State establishes more than one screening panel, the jurisdiction of the panels may be divided by geographic area within the State or by health care specialty.

(b) MEMBERSHIP AND APPOINTMENT.—(1) A malpractice screening panel shall have at least three members, chosen and appointed under the laws or constitution of the State. A State may require that a panel sit as a single body or may authorize the panel to sit in smaller divisions of at least three members. Each panel, and each division before which a claim is heard shall include at least one licensed or certified health care professional and at least one person admitted to practice law in the courts of the State, and may include such other members as the State shall provide. The State may annex a panel to a court of the State. The State shall specify the method of selection and assignment of members of the panels, and of any division thereof, in a manner that assures that each panel and division thereof will afford a full and fair hearing to all parties to any claim brought before it. The panel shall not be composed entirely of members of the same political party or persuasion, and shall be selected without regard to the sex, race, religion, or national origin of any person.

(2) The State shall provide that any member or employee of a screening panel is immune from suit for defamation, libel, or slander, arising from the performance of his official duties with the panel, unless malice or actual knowledge of the falsity of a defamatory statement is proved.

(c) JURISDICTION AND RULES OF PROCEDURE.—The State program shall be encouraged to provide for the following:

(1) Each panel shall have original and exclusive jurisdiction within the State, or such area of the State or health care specialty as State law shall provide, to hear and decide any claim for damages resulting from injury or death incurred as a consequence of health care malpractice by an individual, group, or organization that is required to be licensed or certified by the State in order to provide health care goods or services in that State.

(2) Except as provided in subsection (j) or as provided for claims against the United States, every claim within the jurisdiction of a panel shall be filed with, heard, and decided by the panel.

(3) The existence or absence of requisite injury, causation negligence, malpractice, or any other element of a claim, or defense to a claim, shall be determined under the law of the State, but the State shall authorize each panel and the person who appoints the panel to establish rules of procedure for fair and expedited hearing and decision of claims. All such rules of procedure shall be published and made available to the public.

(d) CLAIM AND ANSWER.—Each State shall be encouraged to provide that a claim for damages resulting from injury or death incurred as a consequence of health care malpractice shall be filed with a malpractice screening panel within the State in which the malpractice allegedly occured. The State shall specify the procedure for filing a claim, including a procedure for transfer to the appropriate panel of a claim improperly filed with a court or with the wrong panel, and shall require that a copy of the claim and any accompanying documents be served at the time the claim is filed on each person alleged to have caused the injury, each of whom shall be named as a defendant. The State shall require that each defendant answer the claim in timely fashion and completely. The State shall provide that a filed claim fully describe the alleged malpractice that gave rise to the claim and the nature and extent of the injury that resulted and the manner in which it took place, list the names of all liable persons and decided their role in the malpractice, and list the names of all expert witnesses who will be called in support of the claim, including therewith their qualifications.

(e) SCREENING AND PRELIMINARY INVESTIGATION.—The panel or division of the panel to which the claim is assigned shall promptly review each claim and answer. If in the course of its review the panel or division determines that particular evidence will be needed to decide the claim, the panel or division shall notify the claimant and each defendant, and provide them an opportunity to provide the evidence at or before the hearing on the claim. The panel may, on its own motion, engage expert consultants or witnesses during review or at a hearing, and their testimony or reports shall be admitted into evidence.

(f) DISCOVERY.—This panel or division may permit discovery and motion practice prior to the hearing required by subsection (g) only as specially provided by State law for malpractice screening panels. The panel shall not permit discovery that will burden unduly the claimant, the defendant, or any third party, in light of the size and nature of the claim, or that will delay unduly the resolution of the claim.

(g) HEARING.—The panel or division shall, within one hundred and eighty days of the date on which a claim is filed, conduct a hearing on the claim. One continuance, not to exceed ninety days, may be granted any party upon a showing that extraordinary circumstances not within that party's control warrant delay in the interests of justice. At the hearing, each party may be represented by counsel. The claimant shall be required to put on all evidence supporting his claim, and each defendant shall be required to put on all evidence rebutting or defending against that claim. Notwithstanding the rules of evidence applicable in the State's courts, the panel or division may hear and consider any relevant and material evidence, but a State may establish and publish rules or procedures preventing the introduction of irrelevant, unprobative, or unduly repetitious evidence. A State may establish and publish such separate procedures for the conduct of panel hearings as comport with the due process of law and with this section. A panel or division shall be authorized to compel the appearance of witnesses and the production of documents or other evidence.

(h) PANEL OR DIVISION DECISION.—After hearing all the evidence presented by the claimant and each defendant, the panel or division shall decide whether or not the

malpractice was proved, and, if it was proved, whether the injury resulted from proved malpractice of one or more of the defendants. The decision shall be in writing and shall include a written statement of the findings of fact and conclusions of law on which the panel or division based its decision and determined any award under subsection (i).

(i) AWARDS OF DAMAGES.—If a panel or division finds compensable injury resulting from health care malpractice by one or more named defendants, it shall determine the amount of damages owed under State law by each liable defendant to the claimant, and shall enter an order to pay an award in that amount. An award by a panel is due upon entry of the award, but a State may provide for judicial enforcement of an award that is not paid promptly. In court proceedings to enforce an order to pay an award, the only issue shall be whether payment has been made according to the terms of the order. The decision of a panel or division shall not be open for review, except to review an allegation of unlawful conflict of interest by a member of the panel or division that entered the decision, or of fraud. A State shall provide that, notwithstanding any other provision of law but subject to any State law limiting the amount of recoverable damages—

(1) a panel or division may provide that any award for continuing or prospective damages of $100,000 or more be made in the form of suitable annual or other periodic payments as actual damages are incurred;

(2) a panel or division may provide that any award for damages of $200,000 or more may be satisfied by establishing a trust fund or purchasing an annuity for the life of each person to whom the award is made, or during continuance of the compensable injury or disability, with reversionary interest in the persons liable for the award; and

(3) the timing and amounts of periodic payments or of payments from a trust fund or annuity shall be such as to avoid hardship to, and assure full compensation of, the person or persons to whom the award is made, as determined by the panel or division thereof.

(j) TRIAL DE NOVO IN STATE COURT.—(1) Each State shall provide that any party to a claim decided by a panel or division shall be entitled to trial de novo on the claim before a State court of appropriate jurisdiction on motion filed within sixty days of the panel's or division's decision. The decision of the panel or division and its written statement and order to pay in award shall be admissible as evidence in such trial on motion of any party to the panel or division hearing. Any right of trial by jury shall be preserved. If a trial de novo is held at the request of a party, that may be liable for all cost of trial and for reasonable attorney's fees to opposing parties if, after final judgment in the State court, that party has not substantially prevailed in the action.

(2) A party has substantially prevailed in a trial de novo if—

(A) the party was a defendant at the panel or division hearing and is found by the court not to be liable in damages, or to be liable for damages in an amount at least 20 percent or $6,000 (whichever is higher) less than the defendant's liability as established by the panel or division; or

(B) the party was the claimant at the panel or division and the court awards damages in an amount at least 20 percent or $6,000 (whichever is higher) greater than the amount awarded to that claimant by the panel or division.

(k) REPORT OF FINDINGS OR MALPRACTICE OR NEGLIGENCE.—(1) The State shall require that if a penal, division, or court finds health care malpractice by one or more named defendants, or if a settlement agreement is filed with a penal or division before decision, the panel, division, or court shall within thirty days report its decision, or notice of the settlement, to the State Insurance Commissioner together with its written statement, verdict, or opinion and any order of award made in the case. The panel or court shall within the same time make a similar report to the State licensing or certification board or professional conduct body, if any, with jurisdiction over the licensed or certified health care profession or industry concerned.

(2) The State Insurance Commissioner shall make all such reports available for public inspection by any person, shall take such further action with respect to the report of malpractice as State law authorizes, and shall promptly notify each insurance company or association offering malpractice insurance for the licensed or certified profession or business within the State of the terms of the panel's or court's decision, including the name of each person found to have committed professional malpractice, the nature of his liability, and the amount of any award.

(3) The State shall provide that insurance companies or associations are authorized to adjust their rates for persons who are held liable by a penal, division, or court for malpractice, or who have entered into two or more settlements within the preceding three years that require payments to claimants in malpractice actions.

(l) SETTLEMENT BEFORE DECISION OR AWARD.—The parties to a claim filed with, but not yet decided by, a panel may enter into a settlement agreement at any time. A written copy of the agreement shall be filed with the panel. Any such settlement shall not provide for attorney's fees in excess of the amount authorized under section 5 of this Act. Upon receiving a copy of the agreement, the panel shall close its file on the claim and shall forward notice of the settlement as provided in subsection (k).

(m) FILING CLAIM TOLLS STATUTE OF LIMITATION.—The State shall provide that a statute of limitation pertaining to a claim relating to malpractice is tolled from the date on which the claim is filed under subsection (d) to the date of the panel's or division's decision.

SEC. 5. AWARD OR ATTORNEYS' FEES IN MALPRACTICE ACTIONS.

(a) Each State shall provide that in any action or claim filed under this act with the panel in which the claimant receives an award of damages, the amount of payments to the claimant's attorney shall not exceed the sum of—

(1) one-third of the amount of an award of less than $100,000;

(2) one-quarter of the amount of an award between $100,000 and $200,000;

(3) 20 percent of the amount of an award between $200,000 and $300,000; and

(4) 15 percent of the amount of an award in excess of $300,000.

(b) Each State shall provide that where a panel or division orders payment of an award of damages in accordance with the methods set forth in paragraph (1), (2) or (3) of section 4(i), payments of any contingent fee to the claimant's attorney shall be made out of the periodic payments therein provided for and shall in no instance be a larger fraction of such periodic payment than the proportion borne by the total fee payable under subsection (a) of this section to the total amount of damages awarded.

(c)(1) This section does not require that fees for malpractice claims be contingent fees, nor does it authorize the award of fees against a liable party except where authorized by section 4(j) or under State law.

(2) If an attorney accepts payment in excess of the amount provided by this section, he shall forfeit three times the amount of the excess, plus costs of recovery, to the State in any civil action for recovery brought by the State in any Federal district court within the State. The Federal district courts shall have original and exclusive jurisdiction of such actions for recovery.

SEC. 6. HEALTH CARE FACILITY RISK MANAGEMENT PROGRAMS.

(a) DEVELOPMENT OF PROGRAM.—Within two years of the date of enactment of this Act, each State shall be encouraged to develop a program to require each licensed hospital, out-patient facility other than the office of an individual practitioner, and residential health-care organization or facility, within the State to employ a risk management program consistent with the standards of this section. Each Federal health-care institution in a State shall comply with the State program approved by the Attorney General of the United States under section 7. A State risk management program shall be consistent with State law, which shall meet the minimum requirements set forth in subsection (b).

(b) MINIMUM REQUIREMENTS.—

(1) REPORTING.—The State shall require that each licensed hospital or residential health care organization adopt procedures for identifying and reporting to a risk management committee or office approved by the State all known or suspected incidents of malpractice by that hospital or organization, or by the staff of the hospital or organization, or persons using facilities with the permission of the hospital or organization and for identifying the causes of such incidents and suspected incidents.

(2) INVESTIGATION AND PREVENTION.—Each approved risk management committee or office shall prepare a case file on each reported incident as soon as it is reported, and investigate the merits of any likely claim while evidence is fresh and the reports of witnesses are readily available. The case files and reports of investigations shall be made available to the patient and hospital or licensed organization. The reports shall be reviewed by the hospital or licensed organization to identify actions which can be taken to reduce the risk of further incidents of the same nature.

"(c) JOINT COMMITTEES AND OFFICES.—Two or more licensed hospitals or residential health care organizations may jointly establish or use the same approval risk management committee or office, and approved committees or offices may exchange information concerning risk experience, prevention, and management, except that such committees or offices shall not be used for the exchange of price information in a manner forbidden by the antitrust laws of the United States, to fix prices for health care or insurance services, or to divide markets in a manner forbidden by the antitrust laws of the United States.

SEC. 7. CERTIFICATION OF QUALIFYING PROGRAM.

"(a) The Governor of the State shall certify to the Attorney General of the United States within two years of the date of enactment of this Act whether the State has

adopted a program which in the opinion of the Governor is in compliance with the provisions of this Act. The Governor shall attach to the certification copies of all relevant State laws, rules, procedures, and regulations which are a part of the State program.

"(b) The Attorney General shall examine each certification within sixty days of receipt, and approve the certification if it is in substantial compliance with this Act. If in his opinion a State program is not substantially in compliance, the Attorney General shall within fifteen days notify the Governor accordingly and shall recommend revisions which would bring the State program into compliance.

"(c) If within four years following the date of enactment of this Act the Attorney General is of the opinion that the program of a State does not substantially comply with the requirements of this Act, the Attorney General shall report that noncompliance to the Speaker of the House of Representatives, to the President pro tempore of the Senate, and to the President of the United States, together with his recommendations.

SEC. 8. PAYMENTS TO STATES WITH COMPLYING PROGRAMS.

(a) PAYMENTS BY ATTORNEY GENERAL.—The Attorney General shall, within ninety days of approving a State program certified by the Governor, pay to that State the amount specified in subsection (d). Payment shall be made in a single installment to the State officer, agency, or organization authorized by State law to receive it.

(b) FINANCIAL DEVELOPMENT OF STATE PROGRAM.—Payments made under subsection (a) shall be used by the receiving State to support and pay the costs of establishing the screening panel or panels established by it in compliance with section 4 and the costs of developing and submitting the State program required by section 7. Any amount of the payment not required to support the panel or panels or to reimburse the State for the costs of the program may be used by the State to—

(1) identify the causes of health care malpractice incidents within the State and develop means or programs to prevent or reduce the severity and frequency of avoidable injuries to patients;

(2) review the structure, authority, and operations of approved State malpractice claims plans, risk-management committees, professional standards review organizations, professional licensing bodies, and professional conduct bodies for licensed or certified health care professional and industries, and to develop or implement needed improvements; and

(3) develop or offer courses or materials on recognized standards for the safe and approved practice of any licensed or certified health care profession or industry within the State, and relating to ways in which the risks of avoidable injury to patients may be reduced and the standards of practice improved.

(c) REPORT OF GOVERNOR.—The Governor shall, within one year of the date of enactment of this Act, report to the Attorney General on the State's use of any payment received under subsection (a), and shall provide to the Attorney General upon request the results or reports of State actions funded under subsection (b).

(d) AMOUNT OF PAYMENTS.—The Attorney General shall allocate among the States the funds appropriated to make payments under this section as follows:

(1) The Attorney General shall allocate $250,000 to each State described in subsection (a). He shall allocate the remainder of the funds among the States according to state population.

(2) If a State has not submitted a certified program within thirty months after the date of enactment of this Act that complies with this Act, the Attorney General shall notify the Governor of the State that unless a program that is in compliance with this Act is certified within six months, the State's allocation will be terminated.

(3) If after six months from notification under paragraph (2) the State has not certified a program to the Attorney General, or if a certified State program is disapproved by the Attorney General as not in compliance with the requirements of this Act, the amount allocated to the State under paragraph (1) shall be reallocated as provided in paragraph (4).

(4) Unused funds subject to reallocation pursuant to paragraph (3) shall be reallocated and paid to those States which the Attorney General determines in his discretion are most in need of additional funds to support State programs adopted in compliance with this Act. In reallocating funds, the Attorney General shall consider all relevant circumstances, including—

(A) a high incidence of malpractice claims within the State;

(B) unique or unusual types of claims requiring exceptional expense to the State;

(C) long distances or other geographical barriers within the State which increase travel and administrative costs;

(D) particular claims involving unusual problems of proof or presenting new issues of scientific facts or professional standards;

(E) particular claims or patterns of claims involving similar or related injuries to a large number of persons similarly situated; and

(F) special litigation or management needs occasioned in order to comply with existing State law or State constitutional requirements.

(5) Unused funds subject to reallocation pursuant to paragraph (3) may also be allocated by the Attorney General to any State, or to the Federal Justice Research Program, for the purpose of assisting in the development or implementation of an initial or modified State program, or for studies of the operations or existing programs within a State. The results of any such study shall be reported to the Attorney General.

(6) Any decision by the Attorney General that a State program is not in compliance with this Act, or that funds allocated to a State shall revert, or to reallocate reverted funds, shall be final and not subject to judicial review.

SEC. 9. AUTHORIZATION.

There are authorized to be appropriated to the Department of Justice $25,000,000 for Fiscal Year 1981 and each succeeding Fiscal Year to carry out the purposes of this Act, which shall remain available until expended.

SEC. 10. DEFINITIONS.

For purposes of this Act—

(1) "malpractice" means malpractice, or professional negligence, by an individual or group that provides health care services or goods and that is required by State law to be licensed or certified to provide such services or goods within the State;

(2) "panel" means a malpractice screening panel established pursuant to section 4;

(3) "division" means a division of a malpractice screening panel that is authorized to hear and decide malpractice claims pursuant to this Act; and

(4) "State Insurance Commission" means the officer or agency of State government charged with licensing or regulating the business of providing insurance against claims of malpractice within the State.

SUMMARY: THE HEALTH CARE PROTECTION ACT OF 1980

The Health Care Protection Act of 1980 ("the Act") provides financial incentives for States to establish health care malpractice screening panels in accordance with uniform federal standards. The Act also limits the size of attorney fees which can be awarded in a malpractice case, and introduces federal standards for health care facility risk management programs across the United States. It is intended to control the rising costs—in money and personal suffering—of malpractice disputes by providing uniform nationwide standards for fair, affordable and expedited review of malpractice damage claims. At the same time, the Act will improve the incentives for safer practice within the licensed health care professions and industries.

1. Scope. The Act covers all licensed and certified health care professions and industries. It is not limited to traditional "medical malpractice". Its scope includes all claims for damages resulting from injuries incurred as a result of malpractice or other negligent delivery of health care goods or services by any covered individual, group or organization.

2. Timing. Each state will be encouraged to: (a) establish a screening panel system for handling malpractice claims; (b) adopt a prescribed schedule of limits on attorney fees in malpractice cases; and (c) implement risk management programs which comply with the standards of the Act. An initial report would be due in two years from the date of enactment, and the Attorney General would authorize federal assistance payments to those states whose reports indicate that they have complying programs. The Attorney General would provide advice and assistance to the states, upon request, in developing or revising state programs to comply with the standards of the Act.

3. Uniform standards for malpractice screening panels. Each state would establish, under state law, one or more malpractice screening panel(s), which could be given specific jurisdiction according to state geography or health care specialty. Each panel would have three (3) or more members, with at least one licensed or certified health care professional and at least one member of the state bar on each panel or division before which a claim is heard.

All claims for damages resulting from health care malpractice or professional negligence would be heard and decided by the state panel using expedited procedures, within 180 days of the time a claim is filed. The state's statute of limitations would be tolled during that time. Any party dissatisfied with the panel's decision would be entitled to a full trial in the state's courts, at which the panel's written decision and award could be introduced into evidence. If a party took advantage of the right to a trial de novo and still failed to substantially improve his position (by the larger of $6,000 or 20 percent) over the panel's decision, the trial court could require the party to pay all costs of the trial including his opponent's attorney fees. Panel and court awards for future damages could be satisfied under the

Act by requiring the responsible party to set up an annuity or trust fund, or to make periodic payments as damages are incurred, rather than through a lump-sum payment which might give rise to a windfall profit later.

Panel and court findings that malpractice or professional negligence has occurred would be reported to the state insurance commissioner and the state professional licensing board. Such reports would also eventually be made available to the public. Insurance companies offering malpractice coverage would be authorized to charge higher premiums to persons or organizations with a history of frequent malpractice settlements or liability.

4. Uniform standards for the award of attorney fees in malpractice actions. The Act also establishes federal standards which set the maximum amount of contingency fees payable to attorneys in malpractice cases. An attorney could collect no more than one-third of the first $100,000 of any judgment, and would be limited to a progressively declining share of each additional $100,000 increment. An attorney who accepted a higher fee would be liable to the state for treble damages in an action in federal district court.

5. Health care facility risk management programs. Under the Act, each state would within two years develop a program requiring all residential health care facilities to employ an approved risk management program. These programs would identify report and investigate all known or suspected incidents of malpractice or negligence in a covered facility, and would require covered facilities and organizations to take positive steps to investigate and prevent future instances of malpractice or negligence.

6. Payments to States with complying plans. A total of $25 million would be authorized annually to fund state activities under the Act and would be allocated among the states by the Attorney General. Three years following its enactment, the Act would authorize the Attorney General to provide payments to only those states whose programs comply with the federal requirements. Funds not required for development costs could be used for studies and information development on state malpractice problems.

S. 189

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Health Care Protection Act of 1983".

SEC. 2. CONGRESSIONAL FINDINGS AND STATEMENT OF PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the health care professions and the health care industry serve needs vital to the continuing health and welfare of the American people and form a vital part of commerce between the States;

(2) every person needs ready and economical access to medical and other health care services for full participation in American society and for full exercise of individual rights;

(3) the health care professions and the health care industry apply national standards of health care to State and regional needs and circumstances;

(4) the need to compensate persons injured by avoidable acts of health care negligence or malpractice and the resultant costs of malpractice insurance significantly increase the costs of medical and other health care services and products;

(5) divergent systems for insuring against, and for litigating and compensating, health care malpractice claims further raise the cost of needed malpractice insurance and prevent speedy compensation of injured persons;

(6) a large majority of the cost of premiums paid for malpractice insurance goes to investigating or litigating malpractice claims in State courts, while less than one-third of the premium costs are used to compensate persons injured by malpractice;

(7) many more incidents of health care malpractice occur than result in a claim for damages, and many valid claims for compensation are prevented because of the high costs of trial; conversely, many claims of malpractice are unjustified but result in settlements or awards for damages out of sympathy for the physical condition of the claimant;

(8) the costs of insurance protection against malpractice, and the risk of liability for compensation, burden both the health care providers and their patients and raise the cost of health care goods and services;

(9) the costs and risks referred to in paragraph (8) also increase the costs to the United States Government of carrying out its programs for aiding the people and the States in meeting health care needs, and affect the extent to which the United States may be financially liable for health care services afforded by its own officers or employees, including the military services and veterans and public health care programs;

(10) failure to compensate adequately persons injured by health care malpractice adversely affects the general health and welfare of the people of the United States and burdens commerce between the States;

(11) many States have experimented successfully with nonjudicial malpractice claims systems using screening panels to reduce the costs of processing malpractice claims;

(12) the examination, prior to litigation, of claims regarding health care malpractice by malpractice screening panels organized by the States according to uniform Federal standards will aid materially in reaching just and timely resolutions of such claims at much lower administrative and litigation costs than the costs now incurred under the existing system of direct tort litigation and malpractice insurance;

(13) members of the public and responsible public officials of the States are entitled to be informed in all instances in which health care malpractice is found by a malpractice screening panel or a court, in order to protect against the risk of further malpractice and to minimize the necessary costs of insurance protection;

(14) a small percentage of the health care providers account for a disproportionately high percentage of all malpractice claims, and an even higher percentage of insurance payments to persons injured by health care malpractice; and

(15) because insurance premiums are usually set for an entire specialty group in a given region, the high-risk health care providers do not bear a financial burden proportionate to the amount of injury such providers cause, and therefore no effective financial incentive exists for the safe practice of medicine and other health care specialties.

(b) STATEMENT OF PURPOSE.—The purpose of this Act is to provide minimum Federal standards for the creation by each State of health care malpractice screening panels and procedures that will reduce the costs to the public and to the health care professions of malpractice, and will provide full and expeditious compensation to the victims of health care malpractice.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) "malpractice" means malpractice, or professional negligence, by an individual or group that provides health care services or goods and that is required by State law to be licensed or certified to provide such services or goods within the State;

(2) "panel" means a malpractice screening panel established pursuant to section 5;

(3) "division" means a division of a malpractice screening panel that is authorized to hear and decide malpractice claims pursuant to this Act;

(4) "State insurance commissioner" means the officer or agency of State government charged with licensing or regulating the business of providing insurance against claims of malpractice within the State; and

(5) "State program" means the State program for compensation of and reduction of health care malpractice described in section 4.

SEC. 4. UNIFORM STANDARDS FOR COMPENSATION FOR HEALTH CARE MALPRACTICE.

(a) STATE PROGRAM FOR COMPENSATION.—Each State shall be encouraged to establish, within four years after the date of enactment of this Act, a program for compensation and reduction of health care malpractice that complies with the provisions of this Act, and that consists of the establishment of malpractice screening panels in accordance with section 5 and the establishment of a State health care facility risk management program in accordance with section 7. The State may establish the State program by legislative, executive, or judicial action, as authorized by the laws and constitution of the State.

(b) ATTORNEY GENERAL REGULATIONS.—The Attorney General shall have authority to promulgate regulations for the interpretation and implementation of this Act. Within one year after the date of enactment of this Act, the Attorney General shall issue regulations concerning the certification of State programs in accordance with section 8 of this Act and for payments to States under section 9 of this Act.

SEC. 5. MALPRACTICE SCREENING PANELS.

(a) ESTABLISHMENT.—Each State shall be encouraged to establish one or more malpractice screening panels to hear all claims of health care malpractice against persons in the State who are licensed or certified by the State to provide health care services or who provide health care services for which State law requires a license or certification. Each State shall, after consultation with the Attorney General, publish a list of the health care professions that are so licensed or certified and the health care professions of which members provide health care services so licensed or certified. If the State establishes more than one panel, the jurisdiction of the panels may be divided by geographic area within the State or by health care specialty.

(b) MEMBERSHIP AND APPOINTMENT.—(1) A malpractice screening panel shall have at least three members, chosen and appointed under the laws or constitution of the State. A State may require that a panel sit as a single body or may authorize the panel to sit in smaller divisions of at least three members. Each panel, and each division

before which a claim is heard, shall include at least one licensed or certified health care professional, one person admitted to practice law in the courts of the State, and one layperson who represents consumers and is not affiliated with a health care practitioner or health service institution, and may include such other members as the State shall provide. The State may annex a panel to a court of the State. The State shall specify the method of selection and assignment of members of each panel and any division thereof in a manner that assures that each panel and division will afford a full and fair hearing to all parties to any claim brought before it. The members of each panel shall be selected without regard to gender, race, religion, or national origin.

(2) The State shall provide that any member or employee of a panel or division is immune from suit for defamation, libel, or slander, arising from the performance of his official duties with the panel or division, unless malice or actual knowledge of the falsity of a defamatory statement is proved.

(c) JURISDICTION AND RULES OF PROCEDURE.—The State shall be encouraged to provide for the following:

(1) Each panel shall have original and exclusive jurisdiction within the State, or such area of the State or health care specialty as State law shall provide, to hear and decide any claim for damages resulting from injury or death incurred as a consequence of health care malpractice by an individual, group, or organization that is required to be licensed or certified by the State in order to provide health care goods or services in that State.

(2) Except as provided in subsection (j) or as provided for claims against the United States, every claim within the jurisdiction of a panel shall be filed with, heard, and decided by, the panel.

(3) The existence or absence of requisite injury, causation, negligence, malpractice, or any other element of a claim, or defense to a claim, shall be determined under the law of the State, but the State shall authorize each panel and the person who appoints the panel to establish rules of procedure for fair and expedited hearing and decision of claims. All such rules of procedure shall be published and made available to the public.

(d) CLAIM AND ANSWER.—Each State shall be encouraged to provide that a claim for damages resulting from injury or death incurred as a consequence of health care malpractice shall be filed with a panel within the State in which the malpractice allegedly occurred. The State shall specify the procedure for filing a claim, including a procedure for transfer to the appropriate panel of a claim improperly filed with a court or with the wrong panel, and shall require that a copy of the claim and any accompanying documents be served at the time the claim is filed on each person alleged to have caused the injury, each of whom shall be named as a defendant. The State shall require that each defendant answer the claim in timely fashion and completely. The State shall provide that a filed claim (1) fully describe the alleged malpractice that gave rise to the claim, the nature and extent of the injury that resulted, and the manner in which the injury took place, (2) list the names of all persons who may be liable for the malpractice and describe each person's role in the malpractice, and (3) list the names of all expert witnesses who will be called in support of the claim, including their qualifications.

(e) SCREENING AND PRELIMINARY INVESTIGATION.—The panel or division to which the claim is assigned shall promptly review each claim and answer. If in the course of its review the panel or division determines that particular evidence will be needed to decide the claim, the panel or division shall notify the claimant and each defendant, and provide the claimant and defendants an opportunity to provide the evidence at or before the hearing on the claim. The panel or division may, on its own motion, engage expert consultants or witnesses during review or at a hearing, and the testimony or reports of such consultants or witnesses shall be admitted into evidence.

(f) DISCOVERY.—The panel or division may permit discovery and motion practice prior to the hearing required by subsection (g) only as specifically provided by State law for malpractice screening panels. The panel or division shall not permit discovery that, in relation to the size and nature of the claim, will burden unduly the claimant, the defendant, or any third party, or that will delay unduly the resolution of the claim.

(g) HEARING.—The panel or division shall, within one hundred and eighty days after the date on which a claim is filed, conduct a hearing on the claim. One continuance, not to exceed ninety days, may be granted to any party upon a showing that extraordinary circumstances which are not within that party's control warrant delay in the interests of justice. At the hearing, each party may be represented by counsel. The claimant shall be required to present all evidence supporting the claim, and each defendant shall be required to present all evidence rebutting or defending against that claim. Notwithstanding the rules of evidence applicable in the State's courts, the panel or division may hear and consider any relevant and material evidence, except that a State may establish and publish rules or procedures preventing the introduction of irrelevant, unprobative, or unduly repetitious evidence. A State may establish and publish such procedures for the conduct of panel hearings as comport with the due process of law and with this section. A panel or division shall be authorized to compel the appearance of witnesses and the production of documents or other evidence.

(h) PANEL OR DIVISION DECISION.—After hearing all the evidence presented by the claimant and each defendant, the panel or division shall decide whether or not the malpractice was proved, and, if the malpractice was proved, whether the injury resulted from proved malpractice of one or more of the defendants. Within thirty days after the conclusion of the hearing of the evidence (unless a delay is necessary due to extraordinary circumstances), the panel or division shall transmit a written decision to the claimant and each of the defendants. The decision shall include a statement of the findings of fact and conclusions of law on which the panel or division based its decision and determined any award under subsection (i).

(i) AWARDS OF DAMAGES.—If a panel or division finds compensable injury resulting from health care malpractice by one or more defendants, the panel or division shall determine the amount of damages owed under State law to the claimant by each liable defendant, and shall enter an order against each such defendant to pay an award in that amount. An award by a panel or division is due upon entry of the award, and a State may provide for judicial enforcement of an award that is not paid promptly. In court proceedings to enforce an order to pay an award, the only issue shall be whether payment has been made according to the terms of the order. The decision of a panel or division shall not be subject to review, except to review an allegation of fraud or of unlawful conflict of interest by a member of the panel or division that made the decision. A State shall provide that, notwithstanding any other provision of law but subject to any State law limiting the amount of recoverable damages—

(1) a panel or division may provide that any award for continuing or prospective damages of $100,000 or more be made in the form of suitable annual or other periodic payments as actual damages are incurred;

(2) a panel or division may provide that any award for damages of $200,000 or more may be satisfied by establishing a trust fund or purchasing an annuity for the life of each person to whom the award is made or during the continuance of the compensable injury or disability, with a reversionary interest in the persons liable for the award; and

(3) the timing and amounts of periodic payments or of payments from a trust fund or annuity shall be such as to avoid hardship to, and assure full compensation of, each person to whom the award is made, as determined by the panel or division.

(j) TRIAL DE NOVO IN STATE COURT.—(1) Each State shall provide that any party to a claim decided by a panel or division shall be entitled to trial de novo on the claim before a State court of appropriate jurisdiction on motion filed within sixty days after the party receives the panel's or division's decision under subsection (h). The decision of the panel or division and its written statement and order to pay an award shall be admissible as evidence in such trial on motion of any party to the panel or division hearing. Any right of trial by jury shall be preserved. If a trial de novo is held at the request of a party, that party may be liable for all costs of trial and for reasonable attorney's fees to opposing parties if, after final judgment in the State court, that party has not substantially prevailed in the action.

(2) For purposes of paragraph (1), a party has substantially prevailed in a trial de novo if—

(A) the party was a defendant at the panel or division hearing and is found by the court not to be liable for damages, or to be liable for damages in an amount which is less than the amount of the defendant's liability (as established by the panel or division) by an amount which is equal to 20 per centum of the amount of such liability or $6,000, whichever is greater; or

(B) the party was the claimant at the panel or division hearing, and the court awards damages to that claimant in an amount which exceeds the amount awarded to that claimant by the panel or division by an amount which is equal to 20 per centum of the amount awarded to the claimant by the panel or division or $6,000, whichever is greater.

(k) SETTLEMENT BEFORE DECISION OR AWARD.—The parties to a claim filed with a panel or division may enter into a settlement agreement at any time prior to the date on which the panel or division transmits a decision under subsection (h) with respect to the claim. A written copy of the agreement shall be filed with the panel or division. Any such settlement shall not provide for attorney's fees in excess of the amount authorized under section 7. Upon receiving a copy of the agreement, the panel shall close its file on the claim and shall

transmit the report with respect to the settlement agreement required under subsection (l).

(l) REPORT OF FINDINGS OF MALPRACTICE OR NEGLIGENCE.—(1) The State shall require that—

(A) if a panel, division, or court finds, in making a determination with respect to a claim, that one or more defendants has committed health care malpractice, or

(B) if a settlement agreement is filed with a panel or division under subsection (k),

the panel, division, or court shall, within thirty days after the panel, division, or court makes such finding or such settlement agreement is filed under subsection (k), transmit a report with respect to such finding or settlement agreement to the State insurance commissioner and the State licensing or certification board or professional conduct body, if any, with jurisdiction over the licensed or certified health care profession or industry of each defendant for which a finding of malpractice has been made or who is involved in such settlement agreement.

(2) The report required by paragraph (1) shall include—

(A) the written statement of the panel or division under subsection (h) with respect to the claim, or the verdict or opinion of the court with respect to the claim, as the case may be;

(B) any order of award of the panel, division, or court with respect to the claim; and

(C) a copy of any settlement agreement filed under subsection (k).

(3) The State insurance commissioner shall make each report received under paragraph (1) available for public inspection by any person, shall take such further action with respect to the report of malpractice as State law authorizes, and shall promptly notify each insurance company or association offering malpractice insurance for the licensed or certified profession or business within the State of—

(A) the panel's, division's, or court's finding of malpractice, including the name of each person found to have committed malpractice, the nature of the person's liability, and the amount of any award; and

(B) the terms of any settlement agreement entered into under subsection (k).

(4) The State shall provide that insurance companies or associations are authorized to adjust their rates for persons who are held liable by a panel, division, or court for malpractice, or who have entered into two or more settlement agreements under subsection (k) that require payments to claimants for malpractice within a three year period prior to the date on which any such person applies for malpractice insurance.

(m) FILING CLAIM TOLLS STATUTE OF LIMITATION.—The State shall provide that a statute of limitation pertaining to a claim relating to malpractice is tolled from the date on which the claim is filed under subsection (d) to the date sixty days after the date on which the panel or division transmits a decision under subsection (h).

SEC. 6. AWARD OF ATTORNEYS' FEES IN MALPRACTICE ACTIONS.

(a) Each State shall provide that in any action or claim filed under this Act in which the claimant receives an award of damages, the amount of payments to the claimant's attorney shall not exceed—

(1) one-third of the amount of an award of less than $100,000;

(2) one-quarter of the amount of an award between $100,000 and $200,000;

(3) 20 per centum of the amount of an award between $200,000 and $300,000; or

(4) 15 per centum of the amount of an award in excess of $300,000.

(b) Each State shall provide that where a panel or division orders payment of an award of damages in accordance with the methods set forth in paragraph (1), (2), or (3) of section 5(i), payments of any contingent fee to the claimant's attorney shall be made out of the periodic payments therein provided for and shall in no instance be a larger fraction of such periodic payment than the proportion borne by the total fee payable under subsection (a) of this section to the total amount of damages awarded.

(c)(1) This section does not require that fees for malpractice claims be contingent fees, nor does it authorize the award of fees against a liable party except where authorized by section 5(j) or under State law.

(2) If an attorney accepts payment in excess of the amount provided by this section, he shall forfeit three times the amount of the excess, plus costs of recovery, to the State in any civil action for recovery brought by the State in any Federal district court within the State. The Federal district courts shall have original and exclusive jurisdiction of such actions for recovery.

SEC. 7. HEALTH CARE FACILITY RISK MANAGEMENT PROGRAMS.

(a) DEVELOPMENT OF PROGRAM.—Each State shall be encouraged to develop a program to require each licensed hospital, outpatient facility other than the office of an individual practitioner, and residential health care organization or facility within the State to employ a risk management program consistent with the provisions of this section. Each Federal health care institution in a State shall comply with the State program approved by the Attorney General of the United States under section 8. A State health care facility risk management program shall be consistent with State law and shall meet the minimum requirements set forth in subsection (b).

(b) MINIMUM REQUIREMENTS.—(1) The State health care facility risk management program shall require that each licensed hospital or residential health care organization or facility adopt procedures for—

(A) identifying and reporting to a risk management committee or office approved by the State all known or suspected incidents of malpractice by that hospital, organization, or facility, by the staff of the hospital, organization, or facility, or by persons using facilities with the permission of the hospital, organization, or facility; and

(B) identifying the causes of such incidents and suspected incidents.

(2) Each risk management committee or office approved by the State shall prepare a case file on each incident of malpractice as soon as such incident is reported, and shall investigate the merits of any likely claim of malpractice while the evidence and the reports of witnesses with respect to such claim are readily available. The case files and reports of investigations shall be made available to the patient and to the hospital or residential health care organization or facility. The reports shall be reviewed by the hospital, organization, or facility to identify actions which can be taken to reduce the risk of further incidents of the same nature.

(c) ADDITIONAL PROVISIONS.—Two or more licensed hospitals or residential health care organizations or facilities may jointly establish or use the same risk management committee or office if such committee or office has been approved by the State. Risk management committees or offices approved by the State may exchange information concerning risk experience, prevention, and management, except that such committees or offices shall not be used—

(1) for the exchange of price information in a manner forbidden by the antitrust laws of the United States;

(2) to fix prices for health care or insurance services; or

(3) to divide markets in a manner forbidden by the antitrust laws of the United States.

SEC. 8. CERTIFICATION OF QUALIFYING PROGRAM.

(a) CERTIFICATION REQUIRED.—Within two years after the date of enactment of this Act, the Governor of the State shall certify to the Attorney General of the United States whether the State has adopted a State program which in the opinion of the Governor is in compliance with the provisions of this Act. The Governor shall attach to the certification copies of all relevant State laws, rules, procedures, and regulations which are a part of the State program.

(b) EVALUATION OF CERTIFICATION.—The Attorney General shall examine each certification within sixty days after its receipt, and shall approve the certification if the certification demonstrates that the State is in substantial compliance with this Act. If the Attorney General determines that a State program is not substantially in compliance with this Act, the Attorney General shall, within fifteen days after making such determination, notify the Governor of such determination and shall recommend revisions which would bring the State program into compliance with the provisions of this Act.

(c) TERMINATION OF ALLOCATION.—If, within 30 months after the date of enactment of this Act, a State has not submitted a certification described in subsection (a) to the Attorney General, or if a State has submitted a certification described in such subsection to the Attorney General and such certification has not been approved by the Attorney General, the Attorney General shall notify the Governor of the State that the State's allocation under section 9(d) shall be terminated unless, within 6 months after the Attorney General transmits such notice, the State submits a certification described in subsection (a) to the Attorney General and the Attorney General approves such certification.

(d) ACTION IN THE EVENT OF NONCERTIFICATION.—If, within four years after the date of enactment of this Act, a State program of one or more States has not been approved under subsection (b), the Attorney General shall transmit a report with respect to such State programs to the Speaker of the House of Representatives, the President pro tempore of the Senate, and the President of the United States. The report shall include the recommendations of the Attorney General with respect to such State programs.

(e) ACTION IN THE EVENT OF NONCOMPLIANCE.—If the Attorney General determines at any time that a State program which has been approved under subsection (b) no longer complies with this Act, the Attorney General shall notify the Governor of the State of such determination, and that the State shall repay to the United States any amount paid to the State under section 9(a) which has not been used by the State prior to the date on which the State receives notice of the Attorney General's determination. The State shall make such repayment within 60 days after receiving such notice.

SEC. 9. PAYMENTS TO STATES WITH COMPLYING PROGRAMS.

(a) PAYMENTS BY ATTORNEY GENERAL.—Within ninety days after approving a certification of a State under section 8(b), the Attorney General shall pay to that State the amount specified in subsection (d). Payment shall be made in a single installment to the State officer, agency, or organization authorized by State law to receive such payment.

(b) USE OF PAYMENTS.—Payments made under subsection (a) shall be used by the State to support and pay the costs of establishing and operating one or more malpractice screening panels under section 5 and to reimburse the State for the costs of developing and submitting the State program. Any amount of a payment made under subsection (a) which is not used in accordance with the preceding sentence may be used by the State to—

(1) identify the causes of health care malpractice incidents within the State and develop means and programs to prevent or reduce the severity and frequency of avoidable injuries to patients;

(2) review the structure, authority, and operations of approved State malpractice claims plans, risk-management committees, professional standards review organizations, professional licensing bodies, and professional conduct bodies for licensed or certified health care professionals and industries, and develop or implement needed improvements in such plans, committees, organizations, and bodies; and

(3) develop or offer courses or materials relating to—

(A) recognized standards for the safe and approved practice of any licensed or certified health care profession or industry within the State; and

(B) means by which the risks of avoidable injury to patients may be reduced and the standards of health care practice improved.

(c) REPORT OF GOVERNOR.—Within one year after the date on which a State receives a payment under subsection (a), the Governor of the State shall report to the Attorney General on the State's use of such payment. Upon request, the Governor of any such State shall provide the Attorney General with the description of any State activity carried out under subsection (b).

(d) AMOUNT OF PAYMENTS.—The Attorney General shall allocate among the States the amounts appropriated to make payments under this section as follows:

(1) The Attorney General shall allocate $250,000 from the amounts appropriated to carry out this Act to each State, except that if—

(A) the amount appropriated to carry out this Act is less than $12,500,000, the Attorney General shall proportionately reduce the amount allocated to each State; and

(B) if the amount appropriated to carry out this Act exceeds $12,500,000, the Attorney General shall allocate to each State, from the amount which equals the difference between the amount appropriated to carry out this Act and $12,500,000, an amount which bears the same ratio to the total amount of such difference as the population of the State bears to the population of all States.

(2) If, under section 8(c), a State's allocation under this Act is terminated, or if, under section 8(e), a State is required to repay to the United States any amount, the amount of such terminated allocation or repayment shall be reallocated by the Attorney General in accordance with paragraph (3).

(3) Except as provided in paragraph (4), amounts which are subject to reallocation pursuant to paragraph (2) shall be reallocated and paid to States which the Attorney General determines, in the Attorney General's discretion, are most in need of additional funds to support the State program. In reallocating amounts under this paragraph, the Attorney General shall consider all relevant circumstances, including—

(A) a high incidence of malpractice claims within a State;

(B) unique or unusual types of claims requiring exceptional expense to a State;

(C) long distances or other geographical barriers within a State which increase travel and administrative costs for the State program;

(D) particular claims in a State involving unusual problems of proof or presenting new issues of scientific fact or professional standards;

(E) particular claims or patterns of claims in a State involving similar or related injuries to a large number of persons similarly situated; and

(F) special litigation or management needs which occur in order to comply with existing State law or State constitutional requirements.

(4) Amounts subject to reallocation pursuant to paragraph (2) may also be allocated and paid by the Attorney General to any State for the purpose of assisting in the development or implementation of a modified State program, or for studies of the operations of the State program. The results of any such study shall be reported to the Attorney General.

SEC. 10. JUDICIAL REVIEW.

Any decision by the Attorney General—

(1) that a State program is not in compliance with this Act,

(2) to terminate the allocation of a State under this Act,

(3) to require a State to repay funds provided under this Act, or

(4) to reallocate funds under this Act,

shall be final and not subject to judicial review.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of Justice $25,000,000 for fiscal year 1984 and each succeeding fiscal year to carry out the purposes of this Act. Funds appropriated to carry out this Act for a fiscal year shall remain available until expended.●

ADDITIONAL STATEMENTS

JUDGE W. BREVARD HAND AND THE ALABAMA PRAYER CASE: A PROFILE IN COURAGE

● Mr. HELMS. Mr. President, our Nation has reached a new milestone in the cause for religious liberty and limited constitutional government. In the case of Jaffree against Board of School Commissioners of Mobile County, decided on January 14, 1983, Federal District Judge W. Brevard Hand held that the Federal courts have no jurisdiction over cases involving prayer in the public schools of Alabama. If the decision is upheld, the States would be free, as they always were until a few years ago, to determine for themselves the nature of church-state relations within their jurisdictions, and the Federal Government would once again be prohibited from dictating such policies.

Mr. President, the significance of Judge Hand's courageous decision is so far reaching as to suggest that we may be entering a new era of American constitutional development. In a carefully reasoned and remarkably eloquent opinion that is destined to go down in the annals of legal history as a landmark decision, Judge Hand has amassed a mountain of evidence to demonstrate the tragic flaws of the original prayer case in 1962. Forcefully challenging the Supreme Court's interpretation of the establishment clause, Judge Hand has shown beyond peradventure that the Court has totally misunderstood and misconstrued the purpose and meaning of the first amendment for the past 30 years or more.

The first amendment provides, in part, that "Congress shall make no law respecting the Establishment of Religion." As Judge Hand amply demonstrates, this provision was intended by our forefathers to protect not only each individual from the establishment of a national religion by the Federal Government, but also to guarantee to each State that it would continue under the new Constitution to determine the course of church-state relations within its boundaries, according to its own State constitution and State bill of rights. By applying the establishment clause to the States, the Supreme Court has subverted one of the fundamental objectives of the 1st amendment. That the Court has also misread the 14th amendment by incorporating the prohibition against a national religious establishment into the due process clause is equally clear from a reading of Judge Hand's enlightening opinion.

Not the least important aspect of the opinion is that it also demonstrates the unconstitutionality of the application of the first eight amendments in the Bill of Rights to the States, the so-called doctrine of incorporation which has become the great wellspring of Federal judicial power in modern America.

Senators who read the Jaffree case will likewise be surprised to encounter a vast storehouse of information about our formative era, facts that have never before appeared in a Supreme Court decision dealing with the question of religious establishment. Especially noteworthy in this regard is Judge Hand's persuasive argument that the framers of our Constitution, including James Madison, who drafted the first amendment, commonly believed that the concept of religious establishment meant only the imposition of a particular religious sect, and that government support and encour-

agement for religion generally was altogether fitting and proper.

Indeed, Presidents Washington, Adams, and Madison all issued Thanksgiving Day prayer proclamations while they were in office. Only Jefferson refused—but on the constitutional ground that the whole matter of religion and church-state relations was so obviously reserved to the States that he had no authority, as a Federal official, to enter the field.

Mr. President, the Jaffree decision also represents a long overdue repudiation of judicial supremacy from within the lower echelons of the Federal judiciary itself. Judge Hand has challenged the infallibility of the Supreme Court, and in so doing has delivered an opinion that will serve as a constant reminder that our judges take an oath to uphold the supremacy of the Constitution, not the supremacy of the Supreme Court or its interpretation of the Constitution. While members of the Supreme Court have not infrequently maintained, as Justice Frankfurter put it, that "the ultimate touchstone of constitutionality is the Constitution itself, and not what we have said about it," I can think of no prior instance where a lower Federal judge has directly and deliberately confronted a line of precedent of this magnitude. The Jaffree holding is thus a tribute not only to Judge Hand's learning and scholarship, but also to his personal courage.

It is not to derogate from the importance and originality of Judge Hand's contribution to note further that one of our Nation's leading constitutional scholars, whom I am pleased to say is a former member of my staff, played a key role in this case. As Judge Hand generously acknowledges in his opinion, much of the credit for this dramatic new understanding of our Constitution in the Jaffree case actually goes to James McClellan, whose mastery of constitutional law and history is known to many of us here in the Senate—and particularly to this Senator.

Dr. McClellan was called as an expert witness to testify in this case, and his numerous writings on the Constitution were used extensively by Judge Hand in arriving at a decision. Acknowledging his indebtedness to Dr. McClellan and other courageous scholars, Judge Hand said, "If this opinion will accomplish its intent, which is to take us back to our original roots, then much of the credit for the vision lies with Prof. James McClellan," whose work has "proven invaluable to the court in this opinion."

Until recently, Dr. McClellan was chief counsel to the Subcommittee on Separation of Powers, which is chaired by my distinguished colleague from North Carolina, Mr. EAST. He is now the director of the Center for Judicial Studies, a newly established and much needed legal and educational foundation here in the Nation's Capital that is dedicated to judicial and constitutional reform. If the Jaffree case is an augury of things to come, then it seems certain that we shall be hearing more from the Center for Judicial Studies in the days ahead.

Mr. President, Judge Hand's historic decision will surely be appealed, and the final outcome of the case is yet uncertain. But we now have a precedent that fully supports what a number of constitutional scholars and Members of Congress have known for years—that the Supreme Court has simply erred in its reading of history. As we are reminded by Judge Hand:

> Amendment through judicial fiat is both unconstitutional and illegal. Amendment through judicial fiat breeds disrespect for the law, and it undermines the very basic notion that this country is governed by laws and not by men. . . . Let us have faith in the rightness of our charter and the patience to persevere in adhering to its principles. If we do so then all will have an input into change and not just a few.

Mr. President, these are sobering thoughts that warrant our closest reflection. It is my sincere hope and expectation that the Supreme Court will exhibit the same intellectual honesty and commitment to truth that Judge Hand has shown, and will, on the basis of his powerful opinion, come to recognize the terrible mistake it has made. It is also my profound hope that Senators and all other interested Americans will study Judge Hand's opinion carefully and objectively.

Mr. President, toward this end, I ask unanimous consent that Judge W. Brevard Hand's opinion and footnotes in the case of Jaffree against Board of School Commissioners of Mobile County be printed in the RECORD at the conclusion of my remarks.

The opinion follows:

[Civil action No. 82-0554-H in the U.S. District Court for the Southern District of Alabama, Southern Division]

MEMORANDUM OPINION

Ishmael Jaffree; Jamael Aakki Jaffree, Makeba Green, and Chioke Saleem Jaffree, infants, by and through their best of friend and father, Ishmael Jaffree, Plaintiffs,

vs.

The Board of School Commissioners of Mobile County; Dan C. Alexander, Dr. Norman Berger, Hiram Bosarge, Norman G. Cox, Ruth F. Drago, and Dr. Robert Gilliard, in their official capacities as members of the Board of School Commissioners of Mobile County; Dr. Abe L. Hammons, in his official capacity as Superintendent of the Board of Education of Mobile County; Annie Bell Phillips, individually and in her official capacity as principal of Morningside Elementary School; Julia Green, Individually and in her official capacity as a teacher at Morningside Elementary School; Betty Lee, individually and in her official capacity as principal of E. R. Dickson Elementary School; Charlene Boyd, individually and in her official capacity as a teacher at E. R. Dickson Elementary School; Emma Reed, individually and in her official capacity as principal of Craighead Elementary School; Pixie Alexander, individually and in her official capacity as a teacher at Craighead Elementary School, Defendants.

PRELUSION

(If in the opinion of the People, the distribution or modification of the Constitutional powers be in any particular wrong, let it be corrected by an amendment in the way in which the Constitution designates. But let there be no change by usurpation; for though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed. The precedent must always greatly overbalance in permanent evil any partial or transient benefit which the use can at any time yield.—Farewell Address by George Washington, reprinted in R. Berger, *Government by Judiciary* 299 (1977).)

Ishmael Jaffree, on behalf of his three (3) minor children, seeks declaratory and injunctive relief. In the original complaint Mr. Jaffree sought a declaration from the Court that certain prayer activities initiated by his children's public school teachers violated the establishment clause of the first amendment to the United States Constitution. He sought to have these prayer activities enjoined.

A trial was held on the merits on November 15-18, 1982. After hearing the testimony of witnesses, considering the exhibits, discovery, stipulations, pleadings, briefs, and legal arguments of the parties, the Court enters the following findings of fact and conclusions of law.

I. FINDINGS OF FACT

Ishmael Jaffree is a citizen of the United States, a resident of Mobile County, Alabama, and has three (3) minor children attending public schools in Mobile County, Alabama: Jamael Aakki Jaffree, Makeba Green and Chioke Saleem Jaffree.

Defendants. Annie Bell Phillips (principal) and Julia Green (teacher) are employed at Morningside Elementary School, where Jamael Aakki Jaffree attended school during the 1981-82 school year. Defendants Betty Lee (principal) and Charlene Boyd (teacher) are employed at E.R. Dickson Elementary School where Chioke Saleem Jaffree attended during the 1981-82 school year. Defendants, Emma Reed (principal) and Pixie Alexander (teacher) are employed at Craighead Elementary School where Makeba Green attended school during the 1981-82 school year. Each of these defendants is sued individually and in their official capacity. Each of the schools is part of the system of public education in Mobile County, Alabama.

Dan Alexander, Dr. Norman Berger, Hiram Bosarge, Norman Cox, Ruth F. Drago and Dr. Robert Gilliard are members of the Board of School Commissioners of Mobile County, Alabama. As commissioners, each of these defendants collectively is charged by the laws of the State of Alabama with administering the system of public instruction for Mobile County, Alabama. These defendants are sued only in their official capacity.

Dr. Abe L. Hammons is the Superintendent of Education for Mobile County, Alabama. Defendant Hammons has direct su-

In this typewritten opinion the Court has opted to place its footnotes at the conclusion of the opinion, but in so doing does not intend to depricate the significance thereof to the opinion rendered. The publisher may or will opt to place the footnotes at the conclusion of each page.

pervisory responsibilities over all principals, teachers and other employees of the Mobile County Public School System. This defendant is sued only in his official capacity.

Defendant Boyd, as early as September 16, 1981, led her class at E. R. Dickson in singing the following phrase:

God is great, God is good,
Let us thank Him for our food,
Bow our heads we all are fed,
Give us Lord our daily bread.
Amen!

The recitation of this phrase continued on a daily basis throughout the 1981-82 school year.

Defendant Boyd was made aware on September 16, 1981 that the minor plaintiff, Chioke Jaffree, did not want to participate in the singing of the phrase referenced above or be exposed to any other type of religious observances. On March 5, 1982, during a parent-teacher conference, Ms. Boyd was told by Chioke's father that he did not want his son exposed to religious activity in his classroom and that, in Mr. Jaffree's opinion, the activity was unlawful. Again, on March 11, 1982, Ms. Boyd received a handwritten letter from Mr. Jaffree which again advised her that leading her class in chanting the referenced phrase was unlawful. This letter further advised Ms. Boyd that if the practice was not discontinued that he would take further administrative and judicial steps to see that it was.

Finally, Ms. Boyd was made aware of the contents of a letter drafted by Mr. Jaffree, dated May 10, 1982, which had been sent to Superintendent Hammons complaining about the prayer activity in Ms. Boyd's classroom. Notwithstanding Mr. Jaffree's protestations, the recitation of the prayer continued.

Defendant Lee learned on March 8, 1982, that Mr. Jaffree had complained about the prayer activities which were being conducted in defendant Boyd's classroom. Ms. Lee directly spoke with Mr. Jaffree on March 11, 1982, and learned from him that he was opposed to the prayer activities in Ms. Boyd's class and that he felt the same to be unconstitutional. On the same day, Ms. Lee called Mr. Larry Newton, Deputy Superintendent, who informed her that the prayer activity in Ms. Boyd's class could continue on a "strictly voluntary basis."

Defendant Pixie Alexander has led her class at Craighead in reciting the following phrase:

God is great, God is good,
Let us thank Him for our food.

Further, defendant Pixie Alexander had her class recite the following, which is known as the Lord's Prayer:

"Our Father, which art in heaven, hallowed be Thy name. Thy kingdom come. Thy will be done on earth as it is in heaven. Give us this day our daily bread and forgive us our debts as we forgive our debtors. And lead us not into temptation but deliver us from evil for thine is the kingdom and the power and the glory forever. Amen."

The recitation of these phrases continued on a daily basis throughout the 1981-82 school year.

Defendant Pixie Alexander learned on May 24, 1982, that Mr. Jaffree had complained, through a letter dated May 10, 1982, to defendant Hammons, about her leading her class in the above-referenced prayer activity. After Ms. Alexander learned of Mr. Jaffree's May 10, 1982 letter, she continued to lead her class in reciting the referenced phrases.

Ms. Green admitted that she frequently leads her class in singing the following song:

For health and strength and daily food,
We praise Thy name, Oh Lord.

This activity continued throughout the school year, despite the fact that Ms. Green had knowledge that plaintiff did not want his child exposed to the above-mentioned song. *See* defendant Green's response to plaintiffs' Interrogatories Nos. 21, 22, 50 and 51.

Upon learning of the plaintiffs' concern over prayer activity in their schools, defendants Reed and Phillips consulted with teachers involved, however, neither defendant advised or instructed the defendant teachers to discontinue the complained of activity.

Prior to the 1981-82 school year, defendants Reed, Phillips, Boyd, and to a lesser extent, Green, each knew the Board of School Commissioners of Mobile County had a policy regarding religious activity in public schools. However, not one of the teachers sought or received advice from the board or the superintendent prior to the plaintiffs' initial complaint regarding whether their classroom prayer activities were consistent with the policy.

The policy on religious instruction adopted by the Board of School Commissioners of Mobile County reads as follows:

"Religious Instruction

"Schools shall comply with all existing state and federal laws as these laws pertain to religious practices and the teaching of religion. This policy shall not be interpreted to prohibit teaching about the various religions of the world, the influence of the Judeo-Christian faith on our society, and the values and ideals of the American way of life."

School attendance is compulsory in the State of Alabama. Alabama Code § 16-28-3 (1975).

The complaint in this case was later amended to include allegations against Governor Fob James and various state officials. The claims against the state officials were severed, Fed. R. Civ. P. 21, and they are the subject of a separate order which the Court entered today.

This recitation of the findings of fact is not intended to be an all-inclusive statement of the facts as they were produced in this case. Because of the following opinion the Court is of the impression that the facts above-recited constitute a sufficient recitation for deciding this case. However, in the event there is a disagreement with the conclusions reached by this Court, the court does not desire to be precluded from a further recitation of appropriate fact as may be essential to further conclusions in the case. Examples of what the Court alludes to is the factual bases for consideration of the questions of freedom of speech, whether or not secular humanism is in fact a religion, and the propriety of the free exercise of religion.

II. CONCLUSIONS OF LAW

A. Subject-matter jurisdiction

This action is brought under 42 U.S.C. § 1983.[1] The complaint alleges that the subject-matter jurisdiction of the Court "is evoked pursuant to Title 28, Sections 1343 (3) and (4), and sections 2201 and 2202 of the United States Code." *See* Complaint at 2 (filed May 28, 1982). Neither of the two amended complaints add anything to this jurisdictional allegation.[2]

The complaint alleges that rights guaranteed to the plaintiffs under the first and fourteenth amendments have been violated.[3] The subject-matter jurisdiction of a federal court over a claim arising under 42 U.S.C. § 1983 rests upon 28 U.S.C. § 1343(3). While the complaint does not allege that subject-matter jurisdiction is vested in the court under the general, federal-question jurisdictional statute, 28 U.S.C. § 1331, certainly subject-matter jurisdiction is vested under that provision since a federal district court has "original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States," 28 U.S.C. § 1331, exclusive of the amount-in-controversy. Thus, the Court concludes that it has subject-matter jurisdiction over the claims alleged by the plaintiffs.[4]

B. School-prayer precedent

The United States Supreme Court has previously addressed itself in many cases to the practice of prayer and religious services in the public schools. As courts are wont to say, this court does not write upon a clean slate when it addresses the issue of school prayer.

Viewed historically, three decisions have lately provided general rules for school prayer. In *Engel* v. *Vitale*, 370 U.S. 421 (1962), *Abington* v. *Schempp*, 374 U.S. 203 (1963), and *Murray* v. *Curlett*, 374 U.S. 203 (1963), the Supreme Court established the basic considerations. As stated, the rule is that "[t]he First Amendment has erected a wall between church and state. That wall must be kept high and impregnable. We could not approve the slightest breach." *Everson* v. *Board of Education*, 330 U.S. 1, 18 (1947) (per Black, J.).

In *Engel* v. *Vitale* parents of public school students filed suit to compel the board of education to discontinue the use of an official prayer in the public schools. The prayer was asserted to be contrary to the beliefs, religions, or religious practices of the complaining parents and their children. In *Engel* the board of education, acting in its official capacity under state law, directed the principals to cause the following prayer to be said aloud by each class at the beginning of the day in each homeroom: "Almighty God, we acknowledge our dependence upon Thee, and we beg Thy blessings upon us, our parents, our teachers and our Country." 370 U.S. at 422. This prayer was adopted by the school board because it believed the prayer would help instill the proper moral and spiritual training needed by the students.

The parents argued that the school board violated the establishment clause of the first amendment when it directed that this prayer be recited in the public schools. The first amendment provides, in relevant part, that "Congress shall make no law respecting an establishment or religion, or prohibiting the free exercise thereof . . . ." U.S. Const. amend. I. The Supreme Court found "that by using its public school system to encourage recitation of the Regent's prayer, the State of New York ha[d] adopted a practice wholly inconsistent with the Establishment Clause." *Id.* at 422. The Court found this prayer to be a religious activity. The prayer constituted "a solemn avowal of devine faith and supplication for the blessing of the Almighty. The nature of such prayer has always been religious . . . ." *Id.* at 424-25. The Court noted that "[i]t [wa]s a matter of history that this very practice of establishing governmentally composed prayers for religious services was one of the reasons which caused many of our early colonists to leave England and seek religious freedom in

America." *Id.* at 425. Therefore, according to the Court, the prayer "breached[d] the constitutional wall of separation between Church and State." *Id.*

Citing historical documents, the Court observed that "[b]y the time of the adoption of the Constitution, our history shows that there was a widespread awareness among many Americans of the danger of a union of Church and State. These people knew, some of them from bitter personal experience, that one of the greatest dangers to the freedom of the individual to worship in his own way lay in the Government's placing its official stamp of approval upon one particular kind of prayer or one particular form of religious services. . . . The First Amendment was added to the Constitution to stand as a guarantee that neither the power nor the prestige of the Federal Government would be used to control, support, or influence the kinds of prayer the American people can say—that the people's religions must not be subjected to the pressures of government or change each time a new political administration is elected to office. Under the Amendment's prohibition against governmental establishment of religion, *as reinforced by the prohibitions of the Fourteenth Amendment, government in this country, be it state or federal,* is without power to prescribe by law any particular form of prayer which is to be used as an official prayer in carrying on any program of governmentally sponsored religious activity." *Id.* at 429-30 (emphasis added).

The assertion by the Court that the establishment clause of the first amendment applied to the states was unaccompanied by any citation to authority. This conclusion was reached supposedly upon its examination of historical documents.

In dissent, Mr. Justice Stewart argued that the majority in *Engel* misinterpreted the first amendment. As Mr. Justice Stewart saw it, an official religion was not established by letting those who wanted to say a prayer say it. To the contrary, Mr. Justice Stewart thought "that to deny the wish of those school children to join in reciting this prayer is to deny them the opportunity of sharing in the spiritual heritage of our Nation." *Id.* at 445. As Mr. Justice Stewart saw the problem, our country is steeped in a history of religious tradition. That religious tradition is reflected in countless practices common in our institutions and governmental officials. For instance, the United States Supreme Court has always opened each day's session with the prayer "God save the United States and this Honorable Court." *Id.* at 446. Each President of the United States has, upon assuming office, swore an oath to God to properly execute his presidential duties. Our national anthem, "The Star-Spangled Banner," contains these verses:

Blest with the victory and peace, may the heav'n rescued land
Praise the Pow'r that hath made and preserved us a nation!
Then conquor we must, when our cause it is just,
And this be our motto "In God is our Trust."

Id. at 449. The Pledge of Allegiance to the Flag contains the words "one Nation *under God,* indivisible, with liberty and justice for all." *Id.* (emphasis in original). Congress added this in 1954. Mr. Justice Stewart believed that the Regent's prayer in New York had done no more than "to recognize and to follow the deeply enriched and highly cherished spiritual traditions of our Nation—traditions which came down to us from those who almost two hundred years ago avowed their 'firm Reliance on the Protection of divine Providence' when they proclaimed the freedom and independence of this brave new world." *Id.* at 450.

Following the decision by the Supreme Court in *Engel,* the Court decided *Abington* v. *Schempp* and *Murray* v. *Curlett.* In *Abington,* a state law in Pennsylvania required that [a]t least ten verses from the Holy Bible shall be read, without comment, at the opening of each public school on each school day. Any child shall be excused from such Bible reading, or attending such Bible reading, upon the written request of his parent or guardian." 374 U.S. 205. The Schempp family, husband and wife and two of their three children, brought suit to enjoin enforcement of this statute. The Schempps contended that their rights under the fourteenth amendment of the United States Constitution were being violated.

Each morning at the Abington Senior High School between 8:15 a.m. and 8:30 a.m., while students were attending their homerooms, selected students would read ten verses from the Holy Bible. These Bible readings were broadcast to each room in the school building. Following the Bible readings the Lord's Prayer was recited. As with the Bible readings, the Lord's Prayer was broadcast throughout the building. Following the Bible readings and the Lord's Prayer, a flag salute was performed. Participation in the opening exercises, as directed by the Pennsylvania statute, was voluntary.

No prefatory statement, no questions, no comments, and no explanations were made at or during the exercises. Students and parents were advised that any student could absent himself from the classroom or, should he elect to remain, not participate in the exercises.

In *Murray* v. *Curlett,* the Board of School Commissioners of Baltimore City adopted a rule which "provided for the holding of opening exercises in the schools of the city, consisting primarily of 'reading, without comment, of a chapter in the Holy Bible and/or the use of the Lord's Prayer.' " 374 U.S. 211. An athiest, Mrs. Madalyn Murray, objected to the Bible reading and the recitation of the Lord's Prayer. After receiving the objection the board specifically provided that the Bible reading and the use of the Lord's Prayer should be conducted without comment and that any child could be excused from participating in the opening exercises or from attending them upon the written request of his parent or guardian.

Because of the similarity of the issues in both the *Abington* case and the *Murray* case the Supreme Court consolidated both cases on appeal and decided them together. The Court recognized that "[i]t is true that religion has been closely identified with our history and government. . . . 'The history of man is inseparable from the history of religion. And . . . since the beginning of that history many people have devoutely believed that "More things are wrought by prayer than this world dreams of." ' " *Abington School District* v. *Schempp,* 374 U.S., at 212-13 (quoting *Zorach* v. *Clauson,* 343 U.S. 306, 313 (1952)). Notwithstanding this recognition by the Court that the early history of this country, together with the history of man, was inseparable from religion the Court found the Bible reading and the recitation of the Lord's Prayer to be an unconstitutional abridgement of the first amendment prohibition that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof . . . ." U.S. Const. amend. I.

The Court noted that the first amendment prohibited more than govenmental preference of one religion over another. Rather, the first amendment was intended " 'to create a complete and permanent separation of the spheres of religious activity in civil authority by comprehensively forbidding every form of public aid or support for religion.' " *Id.* at 217 (quoting *Everson* v. *Board of Education,* 330 U.S. 31-2 (1947)). The Court reviewed several of its precedents which touched on the establishment of religion, and concluded that " '[t]here cannot be the slightest doubt that the First Amendment reflects the philosophy that Church and State should be separated. And so far as interference with the "free exercise" of religion and an "establishment" of religion are concerned the separation must be complete and unequivocal'. The First Amendment within the scope of its coverge permits no exception; the prohibition is absolute." *Id.* at 219-20 (quoting *Zorach* v. *Clauson,* 343 U.S. 306, 312 (1952)). The Court in *Abington* reasoned from its own precedent rather than independently reviewing the historical foundation of the first and the fourteenth amendments. The Court held that the Bible reading and the recitation of the Lord's Prayer in both cases were religious exercises. The "rights," *Id.* at 224, of the plaintiffs were being violated. The religious character of the Bible reading and the recitation of the Lord's Prayer were not mitigated by the fact that students were allowed to absent themselves from their homerooms upon request of their parents. "The breach of neutrality that is today a trickling stream may all too soon become a raging torrent. . . ." *Id.* at 225.

The principles enunciated in *Engel* v. *Vitale, Abington* v. *Schempp,* and *Murray* v. *Curlett* have been distilled to this. "To pass muster under the Establishment Clause, the governmental activity must, first, reflect a clearly secular governmental purpose; second, have a primary effect that neither advances nor inhibits religion; and third, avoid excessive government entanglement with religion. *Committee for Public Education & Religious Liberty* v. *Nyquist,* 413 U.S. 756, 773, 93 S. Ct. 2955, 2965, 37 L. Ed. 2d 948 (1973)." *Hall* v. *Board of School Commissioners,* 656 F. 2d 999, 1002 (5th Cir. 1981). "If a statute [or official administrative directive] violates *any* of these three principles, it must be struck down under the Establishment Clause." *Stone* v. *Graham,* 101 S. Ct. 192, 193 (1980) (holding that a Kentucky statute requiring posting of copy of Ten Commandments on walls of each public school classroom in state had preeminent purpose which was plainly religious in nature, and statute was thus violative of establishment clause and that avowed secular purpose was not sufficient to avoid conflict with first amendment; emphasis added).

Indeed, in this circuit, prayer in public schools is per se unconstitutional. "Prayer is an address of entreaty, supplication, praise, or thanksgiving directed to some sacred or divine spirit, being, or object. That it may contemplate some wholly secular objective cannot alter the inherently religious character of the exercise." *Karen B.* v. *Treen,* 653 F. 2d 897, 901 (5th Cir. 1981).

In sum, under present rulings the use of officially-authorized prayers or Bible readings for motivational purposes constitutes a direct violation of the establishment clause. Through a series of decisions, the courts

have held that the establishment clause was designed to avoid any official sponsorship or approval of religious beliefs. Even though a practice may not be coercive, active support of a particular belief raises the danger, under the rationale of the Court, that state-approved religious views may be eventually established.

Although a given prayer or practice may not favor any one sect, the principle of neutrality in religious matters is violated under these decisions by any program which places tacit government approval upon religious views or practices. While the purpose of the program might the be neutral or secular, the effect of the program or practice is to give government aid in support of the advancement of religious beliefs. Thus the programs are held invalid without any consideration as to whether they excessively entangle the state in religious affairs.

In contrast, the Supreme Court has permitted the use of the Bible in a literature course where the literary aspects of the Bible are emphasized over its religious contents. *Abington School District* v. *Schempp*, 374 U.S. 203, 225 (1963). So long as the study does not amount to prayer or the advancement of religious beliefs, a teacher may discuss the literary aspects of the Bible in a secular course of study. Finally, the Supreme Court permits religious references in official ceremonies, including some school exercises, on the basis that these references are part of our secularized traditions and thus will not advance religion. *Engel* v. *Vitale*, 370 U.S. 421, 435 n.21 (1962).

In the face of this precedent the defendants argue that school prayers as they are employed are constitutional. The historical argument which they advance takes two tacks. First, the defendants urge that the first amendment to the U.S. Constitution was intended only to prohibit the *federal government* from establishing a *national* religion. Read in its proper historical context, the defendants contend that the first amendment has no application to the states. The intent of the drafters and adoptors of the first amendment was to prevent the establishment of a national church or religion, and to prevent any single religious sect or denomination from obtaining a preferred position under the auspices of the federal government.

The corollary of this historical intent, according to the defendants, was to allow the states the freedom to address the establishment of religions as an individual prerogative of each state. Stated differently, the election by a state to establish a religion within its boundaries was intended by the framers of the Constitution to be a power reserved to the several states.

Second, the defendants argue that whatever prohibitions were initially placed upon the federal government by the first amendment that those prohibitions were not incorporated against the states when the fourteenth amendment became law on July 19, 1968. The defendants have introduced the Court to a mass of historical documentation which all point to the intent of the Thirty-ninth Congress to narrowly restrict the scope of the fourteenth amendment. In particular, these historical documents, according to the defendants, clearly demonstrate that the first amendment was never intended to be incorporated through the fourteenth amendment to apply against the states. The Court shall examine each historical argument in turn.

In the alternative, the defendant-intervenors argue that if the first amendment does bar the states from establishing a religion then the Mobile County schools have established or are permitting secular humanism, *see infra* note 41 (discussion of secular humanism), to be advanced in the curriculum and, being a religion, it must be purged also. Such a purge, maintain the defendant-intervenors, is nigh impossible because such teachings have become so entwined in every phase of the curriculum that it is like a pervasive cancer. If this must continue, say the defendant-intervenors, the only tenable alternative is for the public schools to allow the alternative religious views to be presented so that the students might better make more meaningful choices.

C. First amendment as forbidding absolute separation [5]

"'[T]he real object of the [F]irst amendment was not to countenance, much less to advance Mohammedanism, or Judaism, or infidelity, by prostrating Christianity, but to exclude all rivalry among *Christian* sects and to prevent any *national* ecclesiastical establishment which would give to an hierarchy the exclusive patronage of the *national* government.'" [6] The establishment clause was intended to apply only to the federal government. Indeed when the Constitution was being framed in Philadelphia in 1787 many thought a bill of rights was unnecessary. It was recognized by all that the federal government was the government of enumerated rights. Rights not specifically delegated to the federal government were assumed by all to be reserved to the states. Anti-Federalists, however, insisted upon a Bill of Rights as additional protection against federal encroachment upon the rights of the states and individual liberties. Excerpted testimony of James McClellan at 5-6 (trial testimony).

The federalists, who were the proponents of the Constitution, acceded to the demand of the Anti-Federalists for a Bill of Rights since, in the opinion of all, nothing in the Bill of Rights changed the terms of the original understanding of the federal convention. It was thought by all that the Bill of Rights simply made express what was already understood by the convention: namely, the federal government was a government of limited authority and that authority did not include matters of civil liberty such as freedom of speech, freedom of the press, and freedom of religion. *Id.* at 8-13.

The prohibition in the first amendment against the establishment of religion gave the states, by implication, full authority to determine church-state relations within their respective jurisdictions. "Thus the establishment clause actually had a dual purpose: to guarantee to each *individual* that Congress would not impose a national religion, and to each *state* that it was free to define the meaning of religious establishment under its own state constitution and laws. The federal government, in other words, simply had no authority over the states respecting the matter of church-state relations." [7]

At the beginning of the Revolution established churches existed in nine of the colonies. Maryland, Virginia, North Carolina, South Carolina, and Georgia all shared Anglicanism as the established religion common to those colonies. *See* McClellan, *supra* note 6, at 300. Congregationalism was the established religion in Massachusetts, New Hampshire, and Connecticut. New York, on the other hand, allowed for the establishment of Protestant religions.[8] Three basic paterns of church-state relations dominated in the late eighteenth century. In most of New England there was the quasi-establishment of a specific Protestant sect. Only in Rhode Island and Virginia were all religious sects disestablished. "But all of the states still retained the Christian religion as the foundation stone of their social, civil and political institutions. Not even Rhode Island and Virginia renounced Christianity, and both states continued to respect and ackowledge the Christian religion in their system of laws." [9] At the time the Constitution was adopted ten of the fourteen states refused to prefer one Protestant sect over another. Nonetheless, these states placed Protestants in a preferred status over Catholics, Jews, and Dissenters.[10]

"The pattern of church-state relations in new states entering the Union after 1789 did not differ substantially from that in the original fourteen. By 1860—and the situation did not radically change for the next three quarters of a century—the quasi-establishment of a specific Protestant sect had everywhere been rejected; quasi-establishment of the Protestant religion was abandoned in most but not all of the states; and the quasi-establishment of the Christian religion still remained in some areas. A new pattern of church-state relations, the multiple or quasi-establishment of all religions in general, i.e., giving all religious sects a preferred status over disbelievers (the No Preference Doctrine) became widespread throughout most of the Union. Thus at the turn of the century, for example, no person who denied the existence of God could hold office in such states as Arkansas, Mississippi, Texas, North Carolina, or South Carolina." [11]

The first amendment in large part was a guarantee to the states which insured that the states would be able to continue whatever church-state relationship existed in 1791. Excerpted testimony of James McClellan at 13 (from trial).

D. Washington, Madison, Adams, and Jefferson

The drafters of the first amendment understood the first amendment to prohibit the federal government only from establishing a national religion. Anything short of the outright establishment of a national religion was not seen as violative of the first amendment. For example, the federal government was free to promote various Christian religions and expend monies in an effort to see that those religions flourished. This was not seen as violating the establishment clause. R. Cord. *Separation of Church and State* 15 (1982).

The intent of the framers of the first amendment can be understood by examining the legislative proposals offered contemporaneously with the debate and adoption of the first amendment. For instance, one of the earliest acts of the first House of Representatives was to elect a chaplain. James Madison was a member of the congressional committee who recommend the chaplain system. On May 1, 1789 the House elected as chaplain, the Reverend William Linn. $500.00 was appropriated from the federal treasury to pay his salary. Even though the first amendment did not become part of the Constitution until 1791, had James Madison believed in the absolute separation of

Church and State as some historians have attributed to him, James Madision would certainly have objected on this principle alone to the election of a chaplain.[12] At the Constitutional Convention on June 28, 1787 Dr. Benjamin Franklin suggested that a morning prayer might speed progress during the debates. Franklin told the Convention and its President, George Washington, that he had lived a long time. The longer he lived the more persuaded he was "*that God Governs in the affairs of men.*"[13] Franklin "therefore beg[ged] leave to move—that henceforth prayers imploring the assistance of Heaven, and its blessings on our deliberations, be held in this Assembly every morning before we proceed to business, and that one or more of the clergy of this City be requested to officiate in that Service . . ."[14] Franklin's motion was not adopted for political reasons. Alexander Hamilton and others thought that the motion might have been proper at the beginning of the convention but that if the motion were adopted during the convention the public might believe that the convention was near failure. For this reason, which was wholly political, the issue was resolved by adjournment without any vote being taken.[15]

Presidential proclamations, endorsed by Congressman James Madison when Washington was President, dealing with Thanksgiving, fasting, and prayer are all important in understanding Madison's views on the proper role between church and state.[16] Congress proposed a joint resolution on September 24, 1789, which was intended to allow the people of the United States an opportunity to thank Almighty God for the many blessings which he had poured down upon them. The resolution requested that President George Washington recommend to the citizens of the United States a day of public thanksgiving and prayer. Congress intended that the people should thank Almighty God for affording them an opportunity to establish this country.[17] This proclamation was submitted to the President the very day after Congress had voted to recommend to the states the final text of what was to become the first amendment to the United States Constitution.[18] As President, Madison issued four prayer proclamations. Excerpted testimony of James McClellan at 19.

Thomas Jefferson is often cited along with James Madison as a person who was absolutely committed to the separation of church and state. The historical record, however, does not bear out this conclusion.

While Jefferson undoubtedly believed that the church and the state should be separate, his actions in public life demonstrate that he did not espouse the absolute separation evidenced in the modern decisions by the United States Supreme Court. For example, on October 31, 1803, President Jefferson proposed to the United States Senate a treaty with the Kaskaskia Indians which provided that federal money was to be used to support a Catholic priest and to build a church for the ministry of the Kaskaskia Indians. The treaty was ratified on December 23, 1803. As Professor Cord points out in his book,[19] President Jefferson could have avoided the explicit appropriation of funds to support a Catholic priest and a Catholic church by simply leaving a lump sum in the Kaskaskia treaty which could have been used for that purpose. However, President Jefferson was not at all reluctant—for ought that appears on the historical record—to specifically appropriate money for a Catholic mission.

Unlike Presidents Washington, Madison, and Adams, when Jefferson was President he broke with the tradition of issuing executive religious proclamations. In Jefferson's view the establishment clause and the federal division of power between the national government and the states foreclosed executive religious proclamations. While refusing to issue executive religious proclamations, President Jefferson recognized that "no power to prescribe any religious exercise, or to assume authority in religious discipline, has been delegated to the General Government. It must then rest with the States, as far as it can be in any human authority."[20] Thus, of the first four Presidents, all of whom were close to the adoption of the Federal Constitution and the first amendment, only President Jefferson did not issue executive religious proclamations, and only President Jefferson thought that executive religious proclamations were not constitutional.

But even President Jefferson signed into law bills which provided federal funds for the propagation of the gospel among the Indians.[21] Based upon this historical record Professor Cord concludes that Jefferson, even as President, did not interpret the establishment clause to require complete independence from religion in government.

In sum, while both Madison and Jefferson led the fight in Virginia for the separation of church and state, both believed that the first amendment only forbade the establishment of a state religion by the *national* government. "Jefferson was neither at the Constitutional Convention nor in the House of Representatives that framed the First Amendment. The two Presidents who were at the Convention, Washington and Madison, and the President who framed the initial draft of the First Amendment in the House of Representatives, James Madison, issued Thanksgiving Proclamations."[22] The Court agrees with the studied conclusions of Dr. Cord that "it should be clear that the traditional interpretation of Madison and Jefferson is historically faulty if not virtually unfounded . . ."[23]

One thing which becomes abundantly clear after reviewing the historical record is that the founding fathers of this country and the framers of what became the first amendment never intended the establishment clause to erect an absolute wall of separation between the federal government and religion. Through the chaplain system, the money appropriated for the education of Indians, and the Thanksgiving proclamations, the federal government participated in secular Christian activities. From the beginning of our country, the high an impregnable wall which Mr. Justice Black referred to in *Everson* v. *Board of Education*, 330 U.S. 1, 18 (1947), was not as high and impregnable as Justice Black's revisionary literary flourish would lead one to believe.

Yet, despite all of this historical evidence, only last month the Supreme Court wrote that the purpose of the first amendment is "twofold: to foreclose state interference with the practice of religious faiths, and to foreclose the establishment of a state religion familiar in other Eighteenth Century systems. Religion and government, each insulated from the other, could then coexist. *Jefferson's idea of a 'wall,' see Reynolds v. United States*, 98 U.S. (8 Otto), 145, 164 (1878), *quoting* Reply from Thomas Jefferson to an address by a committee of the Danbury Baptist Association (January 1, 1802), *reprinted in* 8 Works of Thomas Jefferson 113 (Washington ed. 1861), *was a useful figurative illustration* to emphasize the concept of separateness. Some limited and incidental entanglement between church and state authority is inevitable in a complex modern society, *see, e.g., Lemon v. Kurtzman*, 403 U.S. 602, 614 (1971); *Walz v. Tax Commission*, 397 U.S. 664, 670 (1970), *but the concept of a 'wall' of separation is a signpost.*" *Larkin* v. *Grendel's Den, Inc.*, 51 U.S.L.W. 4025, 4027 (U.S. Dec. 13, 1982) (No. 81-878) (emphasis added). Enough is enough. Figurative illustrations should not serve as a basis for deciding constitutional issues.

For this Court, Professor Robert Cord, *see supra* note 5, irrefutably establishes that Thomas Jefferson's address to the Danbury Baptist Association cannot be relied upon to support the conclusion that Jefferson believed in a *wall* between church and state. "By this phrase Jefferson could only have meant that the 'wall of separation' was erected 'between Church and State' in regard to possible federal action such as a law establishing a national religion or prohibiting the free exercise of worship." *Id.* at 115. Overall the conduct of Thomas Jefferson was consistent with the conclusion that he believed, like all the other drafters of the Constitution and the Bill of Rights, that the states were free to establish religions as they saw fit.[24]

E. First amendment as applied to the States

As has been seen up to this point the establishment clause, as ratified in 1791, was intended only to prohibit the federal government from establishing a national religion. The function of the establishment clause was two fold. First, it guaranteed to each individual that Congress would not impose a national religion. Second, the establishment clause guaranteed to each state that the states were free to define the meaning of religious establishment under their own constitutions and laws.

The historical record clearly establishes that when the fourteenth amendment was ratified in 1868 that its ratification did not incorporate the first amendment against the states. The debates in Congress at the time the fourteenth amendment was being drafted, the re-election speeches of the various members of Congress shortly after the passage by Congress of the fourteenth amendment, the contemporaneous newspaper stories reporting the effect and substance of the fourteenth amendment, and the legislative debates in the various state legislatures when they considered ratification of the fourteenth amendment indicate that the amendment was not intended to apply the establishment clause against the states because the fourteenth amendment was not intended to incorporate the federal Bill of Rights (the first eight amendments) against the states.

At the beginning the Court should acknowledge its indebtedness to professor Charles Fairman, then a professor of law in Political Science at Stanford University, for the scholarly article which he published in 1949.[25] Professor Fairman examined in detail the historical evidence which Mr. Justice Black relied upon in *Adamson* v. *California*, 332 U.S. 46, 47 (1947), where Mr. Justice Black concluded that the historical events that culminated in the adoption of the fourteenth amendment demonstrated persuasively that one of the chief objects of the fourteenth amendment was to make the Bill of Rights applicable to the states.[26]

1. Debates

The paramount consideration in defining the scope of any constitutional provision or legislative enactment is to ascertain the intent of the legislature. The intention of the legislature may be evidenced by statements of the leading proponents.[27] If statements of the leading proponents are found, those statements are to be regarded as good as if they were written into the enactment. "The intention of the lawmaker is the law." *Hawaii* v. *Mankichi*, 190 U.S. 197, 212 (1903).

"Looking back, what evidence [i]s there . . . to sustain the view that Section 1 was intended to incorporate Amendments I to VIII? [C]ongressman Bingham . . . did a good deal of talking about 'immortal bill of rights' and one spoke of 'cruel and unusual punishments.' Senator Howard, explaining the new privileges and immunities clause, said that it included the privileges and immunities of Article IV, Section 2—'whatever they may be'—and also "the personal rights guarantied [*sic*] and secured by the first eight amendments . . . ." That is all. The rest of the evidence bore in the opposite direction, or was indifferent. Yet one reads in Justice Black's footnotes that, [*Adamson* v. *California*, 332 U.S. 46, 72 n.5 (1947)].

A comprehensive analysis of the historical origins of the Fourteenth Amendment, Flack, The Adoption of the Fourteenth Amendment (1908), 94, concludes that "Congress, the House and the Senate, had the following objects and motives in view for submitting the first section of the Fourteenth Amendment to the States for ratification:

"1. To make the Bill of Rights (the first eight Amendments) binding upon, or applicable to, the States.

"2. To give validity to the Civil Rights Bill.

"3. To declare who were citizens of the United States.

"We have been examining the same materials as did Flack, and have quoted far more extensively than he. How can he on that record reach the conclusion that Congress proposed by Section 1 to incorporate Amendments I to VIII?" Fairman, *Does the Fourteenth Amendment Incorporate the Bill of Rights*, 2 Stan. L. Rev. at 65-66 (1949). Professor Flack explained that the incorporation was based upon remarks of Congressman Bingham and Senator Howard at the time the Thirty-ninth Congress voted upon the fourteenth amendment. Only those two said anything which could be construed as suggesting the result reached by Justice Black and the modern Supreme Court decisions.

Throughout the debates in the House over the meaning of the fourteenth amendment Professor Fairman shows convincingly that Congressman Bingham had no clear concept of what exactly would be accomplished by the passage of the fourteenth amendment. The explanations offered by Congressman Bingham to his colleagues were inconsistent and contradictory.[28]

Together with Congressman Bingham's statements which suggested incorporation were remarks by Senator Howard. Senator Howard spoke with more preciseness than Congressman Bingham. Thus, his interpretation carries much greater weight than that of Congressman Bingham. Yet, because of the circumstances under which he spoke, his statements are subject to question when held out as representative of the majority viewpoint. By sheer chance Senator Howard acted as spokesman for the joint committee when explaining the purpose of the fourteenth amendment to the Senate. The joint committee had been chaired by Senator Fessenden. Chairman Fessenden became sick suddenly and Senator Howard thus became the spokesman for the Joint Committee. "Up to this point [Senator Howard's] participation in the debates on the Civil Rights Bill and the several aspects of the Amendment had been negligible. Poles removed from Chairman Fessenden, who 'abhorred' extreme radicals, Howard . . . was 'one of the most . . . reckless of the radicals,' who had 'served consistently in the vanguard of the extreme Negrophiles.' " Professor Rauol Berger notes with some sarcasm that it is odd that a radical such as Senator Howard should be taken as speaking authoritatively for a committee in which the conservatives outnumbered the radicals and where there was a strong difference of opinion between the radicals and the conservatives. R. Berger, *supra* note 26, at 147.[29]

On May 23, 1866, Senator Howard rose in the Senate, referred to the illness of Fessenden, and stated that he would "present 'the views and the motives which influenced the committee, so far as I understand [them].' After reading the privileges and immunities listed in *Corfield v. Coryell*, [6 Fed. Cas. 546, No. 3230 (C.C.E.D. Pa. 1823),] he said, 'to these privileges and immunities . . . should be added the personal rights guaranteed and secured by the first eight amendments.' That is the sum and substance of Howard's contribution to the 'incorporation' issue." [30]

Raoul Berger notes in his analysis of the incorporation question that the remark of Senator Howard was tucked away in the middle of a long speech, that Howard was a last minute substitution for the majority chairman, that Howard was in the minority on the committee, and that after Howard was through speaking Senator Poland stated that the fourteenth amendment secured nothing beyond what was intended in the original privileges and immunities clause of Article IV Section 2. R. Berger, *supra* note 26, 148-49. Senator Doolittle followed Senator Poland with some additional remarks which were designed to reassure those whose votes had already been won in favor of passage of the fourteenth amendment that indeed the amendment was limited to known objectives, which objectives were not intended to encompass the federal Bill of Rights.

The scholarly analysis of Professors Fairman and Berger persuasively show that Mr. Justice Black misread the congressional debate surrounding the passage of the fourteenth amendment when he concluded that Congress intended to incorporate the federal Bill of Rights against the states. *See infra* p. 42-44 (discussion of Blaine Amendment). So far the Congress was concerned, after the passage of the fourteenth amendment the states were free to establish one Christian religion over another in the exercise of their prerogative to control the establishment of religions.

2. Popular Understanding

An examination of popular sentiment across the country reveals that the nation as a whole did not understand the adoption of the fourteenth amendment to incorporate the federal Bill of Rights against the states. Inferentially, that is to say that the people understood that each state was free to continue to support one Christian religion over another as the people of that state saw fit to do. The leading constitutional scholar upon whom Justice Black relied in *Adamson* v. *California*.

"Mr. Flack[,] examined a considerable number of Northern newspapers and reported (an admission against the thesis he was defending) the following observation: 'There does not seem to have been any statement at all as to whether the first eight Amendments were to be made applicable to the States or not . . .'

"Presumably this excluded the press reports of May 24 on Senator Howard's speech of the 23d: for the *New York Herald* and the *New York Times*, which Mr. Flack had before him, did quote in full the passage where it said that the personal rights guaranteed by the first eight amendments were among the 'privileges and immunities.'

"Other newspaper files have been examined in preparing the [article of Professor Fairman] and no instance has been found to vary what has been set out above." Fairman, *supra* note 25, at 68 (footnotes omitted).[31]

Charles Fairman quotes at length from the campaign speeches of five senators who, presumably, heard Senator Howard's speech of May 23, 1866. Not one of the senators mentioned anything about the Bill of Rights when commenting to the electorate about Section 1. Likewise, the five Republicans, including Congressman Bingham, never mentioned that the privileges and immunities clause would impose the federal Bill of Rights upon the states. Along with Professor Fairman, the Court takes the historical record to conclusively show that the general understanding of the nation at large, as illustrated by contemporaneous newspaper reports, demonstrates that the people of this country did not understand the fourteenth amendment to incorporate the establishment clause of the first amendment against the states.

3. Campaign Speeches

After the submission of the fourteenth amendment to the states on June 16, 1866 the members of the Thirty-ninth Congress began to busy themselves with the prospect of re-election in the fall. The statements which the members of Congress made during their campaign speeches are certainly relevant in ascertaining the intent of the Thirty-ninth Congress with regard to the scope and effect of the fourteenth amendment. All of these speeches were contemporaneous expressions of the intent of Congress. Professor Fairman provides many instances of speeches made on the campaign hustings. *See generally*, Fairman, *supra* note 25, at 68-78. None of the members of Congress indicated in their campaign speeches that the fourteenth amendment was intended to incorporate the federal Bill of Rights against the states. The general consensus with regard to the effect of the fourteenth amendment was that it covered the same ground as the Civil Rights Act of 1866. *Id.* at 72 (remarks of Senator Lyman Trumbull, the sponsor of the Civil Rights Bill).

4. State-Legislative Debates

The fourteenth amendment was submitted to the states for their ratification on June 16, 1866. By June, 1867, twelve legislatures had ratified the amendment. By July 28, 1868 the fourteenth amendment had been promulgated.

Professor Fairman combed the relevant legislative materials to see exactly what each state legislature thought the effect of the fourteenth amendment would be. Along with Fairman, the Court finds it important to note not only what was said but what was not said. Had the fourteenth amendment been understood to incorporate the federal

Bill of Rights against the states in many instances states would have been required to make radical changes. For instance, it was frequent in many states for people to be prosecuted for felonies without an indictment from a grand jury. It was equally common for a jury of less than twelve people to sit in judgment in a felony prosecution. Some states failed to preserve the right to a jury trial and suits at common law where the amount in controversy exceeded $20.00.

The Court will not repeat Professor Fairman's analysis in each state. Only a few states need to be highlighted to convey the popular understanding of the effect of the fourteenth amendment upon the right of states to establish a religion. In New Hampshire, only five months after the promulgation of the fourteenth amendment—in December, 1868—the Supreme Court of New Hampshire had occasion to interpret a provision of the state constitution which provided that the legislature could "authorize towns, parishes, and religious societies 'to make adequate provision . . . for the support and maintenance of public Protestant teachers of piety, religion, and morality.'" [32] Moreover, Article VI of the Bill of Rights from the New Hampshire Constitution encouraged "the public worship of the diety. . . ." The question before the Supreme Court of New Hampshire was whether certain parishioners of the First Unitarian Society of Christians in Dover could fire the preacher. The preacher had begun using text from Emerson interchangably with text from the Bible. While Wardens of the church supported the preacher, certain pew owners were outraged. The pew owners sought an injunction restraining the preacher from occupying the meeting house. The trial court granted relief.

On appeal, in a 276-page report neither the opinion of the court nor the dissent made a single reference to the fourteenth amendment. Both opinions, however, had much to say about New Hampshire's policy in ecclesiastical matters. The opinion of the court referred to the first amendment and quoted Story's *Commentaries:*

"[T]he whole power over the subject of religion is left exclusively to the State governments, to be acted upon according to their own sense of justice and the State constitutions. . . .

"Probably at the time of the adoption of the constitution of the amendment to it now under consideration, the general if not the universal sentiment in America was, that Christianity ought to receive encouragement from the state, so far as not incompatible with the private rights of conscience and the freedom of religious worship." Fairman, *supra* note 25, 87 (citations omitted).

As Professor Fairman notes: "[I]n December 1868—five months after the promulgation of the Fourteenth Amendment—the New Hampshire court regarded the matter of an establishment of religion as being still 'left exclusively to the State governments.'" *Id.*

The historical record shows without equivocation that none of the states envisioned the fourteenth amendment as applying the federal Bill of Rights against them through the fourteenth amendment. It is sufficient for purposes of this case for the Court to recognize, and the Court does so recognize, that the fourteenth amendment did not incorporate the establishment clause of the first amendment against the states.[33]

5. Supreme Court Decisions

Decisions by the United States Supreme Court rendered contemporaneously with the ratification of the fourteenth amendment indicate that the Court did not perceive the fourteenth amendment to incorporate the federal Bill of Rights against the states. In *Twitcheel* v. *Pennsylvania*, 74 U.S. (7 Wall.) 321 U.S. (1869), the Supreme Court held that the fifth and sixth amendments of the Constitution do not apply to the states. This holding was consistent with the earlier, well-known holding in *Barron* v. *Baltimore*, 32 U.S. (7 Peters) 243 (1833).

In *Barron* v. *Baltimore* the question presented to the court was whether the City of Baltimore was required to compensate Barron under the fifth amendment for the taking of his property for public purposes. When the City of Baltimore paved some streets, streams of water had been diverted in the vicinity of Barron's wharf. The water had deposited large amounts of sand around the wharf. The sand deposits made these waters too shallow for ocean-going ships to load and unload cargo at the wharf. Chief Justice John Marshal held that Barron's claim raised no appropriate federal question because the fifth amendment was a constitutional limitation applied only against the federal government.[34]

Another decision of the United States Supreme Court, decided in 1870, recognized that the federal Bill of Rights did not control the states.[35] After much deliberation over the question whether jury findings made in state court were reviewable in federal court, the Supreme Court noted that it was "admitted" that the limitations of the seventh amendment [36] did not apply to the states.

7. Blaine Amendment

The discussion up to this point has focused upon the incorporation of the federal Bill of Rights generally through the fourteenth amendment. Events which postdated the adoption of the fourteenth amendment show that the lawmakers of the Thirty-ninth Congress did not intend that the establishment clause would become binding upon the states with the ratification of the fourteenth amendment. "'[A] conclusive argument against the incorporation theory, at least as respects the religious provisions of the First Amendment, is the "Blaine Amendment" proposed in 1875.'" McClellan, *Christianity and the Common Law*, in Joseph Story and the American Constitution 118, 154 (1971) (quoting O'Brien, *Justice Reed and the First Amendment*, 116 (n.d.)). At the behest of President Grant, James Blaine of Maine introduced a resolution in the Senate in 1885 which read: "No State shall make any law respecting an establishment of religion or prohibiting the free exercise thereof." *Id.* at 154. (emphasis in original). Importantly, the Congress which considered the Blaine Amendment included twenty-three members of the Thirty-ninth Congress, the Congress which passed the fourteenth amendment.

"Not one of the several Representatives and Senators who spoke on the proposal even suggested that its provisions were implicit in the amendment ratified just seven years earlier." Congressman Banks, a member of the Thirty-ninth Congress, observed: "If the Constitution is amended so as to secure the object embraced in the principle part of this proposed amendment, it prohibits the States from exercising a power they now exercise." Senator Frelinghuysen of New Jersey urged the passage of the "House article," which "prohibits the States for the first time, from the establishment of religion, from prohibiting its free exercise." Senator Stevenson, in opposing the proposed amendment, referred to *Thomas Jefferson: "Friend as he* [Jefferson] *was of religious freedom, he would never have consented that the States . . . should be degraded and that the Government of the United States, a government of limited authority, a mere agent of the States with prescribed powers, should undertake to take possession of their schools and of their religion.*" Remarks of Randolph, Christiancy, Kernan, Whyte, Bogy, Easton, and Morton give confirmation to the belief that none of the legislators in 1875 thought the Fourteenth Amendment incorporated the religious provisions of the First. *Id.* (quoting O'Brien, *Justice Reed and the First Amendment* 116-17 (emphasis added)).

The Blaine Amendment, which failed in passage, is stark testimony to the fact that the adoptors of the fourteenth amendment never intended to incorporate the establishment clause of the first amendment against the states, a fact which Black ignored. This was understood by nearly all involved with the Thirty-ninth Congress to be the effect of the fourteenth amendment.

G. Proper interpretative prospective

The interpretation of the Constitution can be approached from two vantages. First, the Court can attempt to ascertain the intent of the adoptors, and after ascertaining that attempt apply the Constitution as the adoptors intended it to be applied. Second, the Court can treat the Constitution as a living document, chameleon-like in its complexion, which changes to suit the needs of the times and the whims of the interpreters. In the opinion of this Court, the only proper approach is to interpret the Constitution as its drafters and adoptors intended. The Constitution is, after all, the supreme law of the land. It contains provisions for amending it; if the country as a whole decided that the present text of the Constitution no longer satisfied contemporary needs then the only constitutional course is to amend the Constitution by following its formal, mandated procedures. Amendment through judicial fiat is both unconstitutional and illegal. Amendment through judicial fiat breeds disrespect for the law, and it undermines the very basic notion that this country is governed by laws and not by men. *See generally* Breast, *The Misconceived Quest for the Original Understanding*, 60 B.U.L. Rev. 204 (1980) (discussing various approaches to constitutional interpretation).

Let us have faith in the rightness of our charter and the patience to persevere in adhering to its principles. If we do so then all will have input into change and not just a few.

H. Stare Decisis

What is a court to do when faced with a direct challenge to settled precedent? [37] In most types of cases "it is more important that the applicable rule of law be settled than that it be settled right." *Burnet* v. *Coronado Oil & Gas Co.*, 385 U.S. 393, 406 (1932) (Brandeis, J., dissenting). This general rule holds even where the court is persuaded that it has made a serious error of interpretation in cases involving a statute.[38] However, in cases involving the federal constitution, where correction through legislative action is practically impossible, a court should be willing to examine earlier precedent and to overrule it if the court is persuaded that the earlier precedent was

wrongly decided. *Id.* at 407. "A judge looking at a constitutional decision may have compulsions to reverse past history and accept what was once written. But he remembers above all else that it is the Constitution which he swore to support and defend, not the gloss which his predecessors may have put on it." Douglas, *Stare Decisis*, 49 Colum. L. Rev. 735, 736 (1949).

Certainty in the law is important. Yet, a rigid adherence to stare decisis "would leave the resolution of every issue in constitutional law permanently at the mercy of the first Court to face the issue, without regard to the possibility that the relevant case was poorly prepared or that the judgment of the Court was simply ill-considered. The danger is particularly great where the court has moved too far in an activist direction; in such a situation, legislative correction of the error is liable to be virtually impossible." Maltz, *Commentary: Some Thoughts on the Death of Stare Decisis in Constitutional Law*, 1980 Wis. L. Rev. 476, 492 (1980).

"[T]he 'wall of separation between Church and State' that Mr. Jefferson built at the University [of Virginia] which he founded did not exclude religious education from the school. The difference between the generality of his statements on the separation of Church and State and the specificity of his conclusions on education are considerable. A rule of law should not be drawn from a figure of speech." *McCollum* v *Board of Education*, 333 U.S. 203, 247 (1948) (per Reed, J., dissenting).

"[T]he ultimate touchstone of constitutionality is the Constitution itself and not what we have said about it." *Graves* v. *O'Keefe*, 306 U.S. 466, 491-92 (1939) (Frankfurter, J., concurring). "By placing a premium on 'recent cases' rather than the language of the Constitution, the Court makes it dangerously simple for future Courts using the technique of interpretation to operate as a 'continuing Constitutional Convention,'" *Coleman* v. *Alabama*, 399 U.S. 1, 22-23 (1970) (Burger, C.J.). "Too much discussion of constitutional law is centered on the Court's decisions, with not enough regard for the text and history of the Constitution itself." R. Berger, *Government by Judiciary: The Transformation of the Fourteenth Amendment* 296 (1977).[39]

This Court's review of the relevant legislative history surrounding the adoption of both the first amendment and of the fourteenth amendment, together with the plain language of those amendments, leaves no doubt that those amendments were not intended to forbid religious prayers in the schools which the states and their political subdivisions mandate.

I. Summary

"Th[e] mountain of evidence has become so high, one may have lost sight of the few stones and pebbles that made up the theory that the Fourteenth Amendment incorporated Amendments I to VIII." Fairman, *supra* note 25, at 134. Suffice it to say that the few stones and pebbles provide precious little historical support for the view that the states were prohibited by the establishment clause of the first amendment from establishing a religion.[40]

More than any other provision of the Constitution, the interpretation by the United States Supreme Court of the establishment clause has been steeped in history. This Court's independent review of the relevant historical documents and its reading of the scholarly analysis convinces it that the United States Supreme Court has erred in its reading of history. Perhaps this opinion will be no more than a voice crying in the wilderness and this attempt to right that which this Court is persuaded is a misreading of history will come to nothing more than blowing in the hurricane, but be that as it may, this Court is persuaded as was Hamilton that "[e]very breach of the fundamental laws, though dictated by necessity impairs the sacred reverence which ought to be maintained in the breast of the rulers towards the constitution." R. Berger, *supra* note 26, at 299 (quoting Federalist No. 25 at 158).

Because the establishment clause of the first amendment to the United States Constitution does not prohibit the state from establishing a religion, the prayers offered by the teachers in this case are not unconstitutional. Therefore, the Court holds that the complaint fails to state a claim for which relief could be granted.

J. Conclusion

There are pebbles on the beach of history from which scholars and judges might attempt to support the conclusions that they are wont to reach. That is what Professors Flack, Crosskey and the more modern scholars have done in attempting to establish a beachhead, as did Justice Black, that there is a basis for their conclusions that Congress and the people intended to alter the direction of the country by incorporating the first eight amendments to the Constitution. However, in arriving at this conclusion, they, and each of them, have had to revise established principles of constitutional interpretation by the judiciary. Whether the judiciary, inadvertently, or eagerly, walked into this trap is not for discussion. The result is that the judiciary has, in fact, amended the Constitution to the consternation of the republic. As Washington pointed out in his Farewell Address, *see* p. i *supra*, this clearly is the avenue by which our government can, and ultimately will, be destroyed. We think we move in the right direction today, but in so doing we are denying to the people their right to express themselves. It is not what we, the judiciary want, it is what the people want translated into law pursuant to the plan established in the Constitution as the framers intended. This is the bedrock and genius of our republic. The mantle of office gives us no power to fix the moral direction that this nation will take. When we undertake such course we trample upon the law. In such instances the people have a right to complain. The Court loses its respect and our institution is brought low. This misdirection should be cured now before it is too late. We must give no future generation an excuse to use this same tactic to further their ends which they think proper under the then political climate as for instance as did Adolph Hitler when he used the court system to further his goals.

What is past is prologue. The framers of our Constitution fresh with recent history's teachings, knew full well the propriety of their decision to leave to the peoples of the several states the determination of matters religious. The wisdom of this decision becomes increasingly apparent as the courts wind their way through the maze they have created for themselves by amending the Constitution by judicial fiat to make the first amendment applicable to the states. Consistency no longer exists. Where you cannot recite the Lord's Prayer, you may sing his praises in God Bless America. Where you cannot post the Ten Commandments on the wall for those to read if they do choose, you can require the Pledge of Allegiance. Where you cannot acknowledge the authority of the Almighty in the Regent's prayer, you can acknowledge the existence of the Almighty in singing the verses of America and Battle Hymn of the Republic. It is no wonder that the people perceive that justice is myoptic, obtuse, and janus-like.

If the appellate courts disagree with this Court in its examination of history and conclusion of constitutional interpretation thereof, then this Court will look again at the record in this case and reach conclusions which it is not now forced to reach.[41]

III. ORDER

It is therefore ordered that the complaint in this case be dismissed with prejudice. Costs are taxed against the plaintiffs. Fed. R. Civ. P. 54(d).

Done this 14th day of January, 1983.

W. B. HAND,
Chief Judge.

FOOTNOTES

[1] 42 U.S.C. § 1983 provides: "Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress."

[2] Initially, it should be noted that neither 28 U.S.C. §§ 2201 nor 2202 afford any subject-matter jurisdiction to a federal court as the complaint alleges. These sections provide only a remedy. "The operation of the Declaratory Judgment Act is procedural only. By passage of the Act, Congress enlarged the range of remedies available in the federal courts but it did not extend their subject-matter jurisdiction. Thus there must be an independent basis of jurisdiction, under statutes equally applicable to actions for coercive relief, before a federal court may entertain a declaratory judgment action." 10 C. Wright and A. Miller, *Federal Practice and Procedure § 2766, 841 (1983) (footnotes omitted).*

Likewise, 28 U.S.C. § 1343(4) does not afford subject-matter jurisdiction to a federal court over claims brought under 42 U.S.C. § 1983. Section 1343(4) affords subject-matter jurisdiction to the federal court only over those claims which are brought under "any Act of Congress providing for the protection of civil rights. . . ." "Standing alone, § 1983 clearly provides no protection for civil rights since . . . §1983 does not provide any substantive rights at all." Chapman v. Houston Welfare Rights Organization, 441 U.S. 600, 618 (1979).

[3] In fact, the complaint alleges that "[t]his cause of action arises under the First and Fourteenth Amendments to the United States Constitution. . . ." *See* Complaint at 2. This Court has previously explained that no implied cause of action exists under either the first or fourteenth amendments, at least when the first amendment is applied to persons acting under color of state law. The very purpose for enacting 42 U.S.C. § 1983 was to provide a remedy to vindicate the rights afforded by the federal Bill of Rights when persons acting under the color of state law violated those rights. It would be incongruous to imply a remedy where Congress has expressly afforded a remedy. *See* Strong v. Demopolis City Board of Education, 515 F. Supp. 730, 732 n.l (S.D. Ala. 1981) (per Hand, J.).

[4] "[T]he existence of a claim for relief under § 1983 is 'jurisdictional' for purposes for invoking 28 U.S.C. § 1343, even though the existence of a meritorious constitutional claim is not similarily required in order to invoke jurisdiction under 28 U.S.C. § 1331. *See* Bell v. Hood, 327 U.S. 678, 682 (1946); Mt. Healthy [City School District v. Doule, 429 U.S. 274, 278-79 (1977).]" Monell v. Department of School Services, 436 U.S. 658, 716 (1978).

[5] At the start the Court should acknowledge its indebtedness to several constitutional scholars. If this opinion will accomplish its intent, which is to take us back to our original historical roots, then much of the credit for the vision lies with Professor James McClellan and Professor Robert L. Cord.

Their work and the historical sources cited in their work have proven invaluable to the Court in this opinion. *See* R. Cord, *Separation of Church and State: Historical Fact and Current Fiction* (1982); P. McGuigan & R. Rader, *A Blueprint for Judicial Reform* (eds. n.d.); J. McClellan, *Joseph Story and the American Constitution*, 118-159 (1971) (Christianity and the common law).

[6] McClellan, The *Making and the Unmaking of the Establishment Clause*, in *Blueprint for a Judicial Reform* 295 (P. McGuigan & R. Rader eds. n.d.) (quoting J. Story, III. *Commentaries on the Constitution* § 1871 (1833) (emphasis added)).

[7] *Id.*

[8] *Id.* at 300. Professor McClellan documents in great detail the political struggle which raged through the various colonies during the Revolution and afterwards to disestablish certain religions throughout the colonies. The establishment of one religion over another in the respective colonies was purely a political matter. The political strength of the various followers determined which religion was established. Like any other political decision, when the political strength of the minorities reached that of the majority, the state disestablished what had formerly been the majority religion. *See e.g., id.* at 301-308.

[9] *Id.* at 307.

[10] *Id.*

[11] *Id.* at 311. Professor McClellan cites numerous examples in which the states required adherence to a Christian religion. For instance, witnesses were considered competent to testify only if they affirmed a belief in the existence of a Christian God. *Id.*

[12] R. Cord, *supra* note 5, at 23.

[13] R. Cord, *supra* note 5, at 24 (quoting Debates in the Federal Convention of 1787 as reported by James Madison, *Documents Illustrative of the Formation of the Union of the American States* (Washington, D.C.: Government Printing Office, (1927) 295-96 (emphasis in original)).

[14] *Id.* at 24-25.

[15] *Id.*

[16] The views of James Madison are often cited by those who insist upon absolute separation between church and state. Madison was one of the drafters of the first amendment. An uncritical, cursory examination of some of Madison's writings would lead one to the conclusion that Madison favored absolute separation between church and state. However, to reach this conclusion is to misunderstand the views of Mr. Madison.

As Professor Cord explains in his book, Madison was concerned only that the federal government should not establish a national religion. Nondiscriminatory aid to religion and support for various Christian religions was not viewed by Madison as unlawful. *See* R. Cord, *supra* note 5, at 25-26 (examining drafts of the establishment clause submitted by Madison).

[17] Professor Cord explains in great detail the circumstances surrounding this presidential proclamation. *See* R. Cord, *supra* note 5, at 27-29.

[18] Professor Cord discusses in detail a document which Madison wrote late in his life known as the *Detached Memoranda*. Some historians have taken the *Detached Memoranda* as a blanket condemnation of religious proclamations issued by Presidents Jefferson, Madison, and Jackson. From this, some historians argue that James Madison believed that absolute separation was mandated by the establishment clause. The Supreme Court has relied upon the *Detached Memoranda* to justify its position of absolute separation in Abington School District v. *Schempp*, 374 U.S. 203, 225 (1963) ("[I]n the words of Madison, 'it is proper to take alarm at the first experiment on our liberties.'").

Professor Cord suggests that the *Detached Memoranda* reflected nothing more than a shift in Madison's views as he grew older. The *Detached Memoranda* was written long after Madison had left office and long after the first amendment had been drafted. R. Cord, *supra* note 5, 29-36.

The explanation of Professor Cord that Madison is an old man, no longer in office, who regreted some of his past actions, is, to the Court, reasonable. Not all historical facts can easily be squared. Professor Cord emphasizes his point by analogizing to something which former President Nixon might write upon reflecting on his tenure as president. It would be odd, hypothesizes Professor Cord, if Mr. Nixon were to publish a book in his later years which concluded that taping conversations, without all parties being aware of the recording, is morally wrong and clearly a flagrant violation of the constitutional right to privacy. It would be nonsense, in the view of Professor Cord, for a Nixon biographer to conclude that Richard Nixon believed that the surreptitious tapings of conversations in the Oval Office were immoral and unconstitutional. R. Cord, *supra* note 5, at 36. Similarily, it is faulty to judge what Madison believed to be the scope of the establishment clause at the time he drafted the clause by looking to views expressed late in his life when there are numerous expressions of his intent contemporaneous with the period in which the establishment clause was drafted.

[19] R. Cord, *supra* note 5, at 37-39.

[20] R. Cord, *supra* note 5, at 40 (quoting Letter to a Presbyterian Clergyman (1808)).

[21] Professor Cord chronicles the federal support provided to the Moravian Brethren at Bethlehem in Pennsylvania. The function of the Brethren was to civilize the Indians and to promote Christianity. First passed on July 27, 1787, the resolution supporting the Brethren was supported by every President, including Thomas Jefferson. The legislation supporting the Brethren was sectarian in character. Professor Cord reads this history to conclude that had this sort of interaction between church and state been thought to be unconstitutional then certainly the early Congresses and presidents would not have authorized expenditure of federal money. R. Cord, *supra* note 5, at 39-46.

[22] R. Cord, *supra* note 5, at 47.

[23] *Id.*

[24] Since the states were historically free to establish a religion it follows that some irritation by non-believers or those in the religious minority was a necessary consequence of establishment. The complaint alleges that "[a]ll of the minor Plaintiffs are exposed to ostracism from their peer group class members if they do not participate in these daily devotional activities." Complaint at 5. The children "all have suffered and continue to suffer severe emotional distress from being forced to participate, via peer group pressure, in devotional observances orchestrated by the defendants." *Id.* at 7. This psychological pressure naturally flows anytime a state takes an official position on an issue. It does not make an establishment unconstitutional. For example, laissez-faire industrialists feel coerced when a state adopts tough environmental laws. Unemployed workers feel pressure from peer groups when the unemployed worker takes advantage of a state labor law which allows him to cross a union picket line to break a strike. Someone, somewhere feels coerced or pressured anytime the state takes a position. The Constitution, however, does not protect people from feeling uncomfortable. A member of a religious minority will have to develop a thicker skin if a state establishment offends him. Tender years are no exception.

[25] Fairman, *does the Fourteenth Amendment Incorporate the Bill of Rights?* 2 Stan. L. Rev. 5 (1949).

[26] Mr. Justice Black spent nearly twenty years mulling over the criticisms leveled by Professor Charles Fairman. Finally, he had this to say: "What I wrote [in Adamson v. California, 332 U.S. 46, 47 (1947),] in 1947 was the product of years of study and research. My appraisal of the legislative history [which surrounded the adoption of the fourteenth amendment and upon which Mr. Fairman relied so heavily] followed 10 years of legislative experience as a Senator of the United States, not a bad way, I suspect, to learn the value of what is said in legislative debates, committee discussions, committee reports, and various other steps taken in the course of passage of bills, resolutions, and proposed constitutional amendments. My Brother Harlan's objections to my *Adamson* dissent history, like that of most of the objectors, relies most heavily on a criticism written by Professor Charles Fairman and published in the Stanford Law Review, 2 Stan. L. Rev. 5 (1949). I have read and studied this article extensively, including the historical references, and am compelled to add that in my view it has completely failed to refute the inferences and arguments that I suggested in my *Adamson* dissent. Professor Fairman's "history" relied very heavily what was "not" said in the state legislatures that passed on the Fourteenth Amendment. Instead of relying on this kind of negative pregnant, my legislative experience has convinced me that it is far wiser to rely on what "was" said, and most importantly, said by the men who actually sponsored the Amendment in the Congress. I know from my years in the United States Senate that it is to men like Congressman Bingham, who steered the amendment through the House, and Senator Howard, who introduced it in the Senate, that members of Congress look when they seek the real meaning of what is being offered. And they vote for or against a bill based on what the sponsors of that bill and those who oppose it tell them it means. The historical appendix to my "Adamson" dissent leave no doubt in my mind that both its sponsors and those who opposed it believed the Fourteenth Amendment made the first eight amendments of the Constitution (the Bill of Rights) applicable to the states." Duncan v. Louisiana, 391 U.S. 145, 165-66 (1968) (Black dissenting).

Charles Fairman "conclusively disproved Black's contention, at least, such as the weight of the opinion among distinterested observers." A. Bickel, *The Least Dangerous Branch* 102 (1962). Along with Alexander Bickel, Professor Raoul Berger agrees that Charles Fairman's analysis was right on the mark. R. Berger, *Government by Judiciary: The Transformation of the Fourteenth Amendment*, 137 n.11 (1977).

[27] For example, Professor Raoul Berger cites several cases which recite this common principle of construction. *See e.g.*, Wright v. Vinton Branch, 300 U.S. 440, 463 (1937); Wisconsin Railroad Commission v. C. B. & Q. RR. Co., 257 U.S. 563, 589 (1922). *See* R. Berger, *supra* note 26, at 136-37 & 137 n.13.

[28] Professor Fairman has quoted exhaustively from the Congressional Globe. The various speeches of Congressman Bingham made in support of the fourteenth amendment are quoted in detail. See Fairman, *Does the Fourteenth Amendment Incorporate the Bill of Rights?* 2 Stan. L. Rev. 5, 24-25 (1949).

The analysis of Professor Fairman is attacked vigorously by William Crosskey, then a professor of law at the University of Chicago Law School. Crosskey, *Charles Fairman, "Legislative History," and the Constitutional Limitations on State Authority* 22 U. Chi. L. Rev. 1 (1954). Crosskey quotes at length from the Bingham article and from the *Congressional Globe* in an effort to discredit the explanation offered the historical facts by Professor Bingham.

The debate between the two scholars was pitched. Much of Crosskey's analysis consisted of little more than *ad homineum* attacks on Professor Fairman. The attacks were answered in a reply article written by Professor Fairman. Fairman, *A Reply to Professor Crosskey*, 222 U. Chi. L. Rev. 144 (1954). After reading the original articles of both Fairman and Crosskey, the rebuttal of Fairman, and many other articles on the question, the Court is persuaded that the weight of the disinterested scholars supports the analysis of Professor Fairman. The work of Professor Crosskey impresses the Court as being designed to reach a result. Namely, Crosskey was interested in providing a constitutional basis to support the desegregation decision of the United States Supreme Court in Brown v. Board of Education, 347 U.S. 483 (1954). For instance, in an effort to explain a serious ambiguity in a Bingham speech, Professor Crosskey explains that the speech would make perfect sense if one assumes that Bingham had been reading directly from a text of the Constitution, that he had a copy of the document in his hand and that he was waving the copy while he spoke in Congress. "You're fudging, Professor Crosskey! You don't know that Bingham had been *reading* from the Constitution." Fairman, *A Reply to Professor Crosskey*, 22 U. Chi. L. Rev. 144, 152 (1949).

One scholar, Michael Kent Curtis, argues that Professor Raoul Berger has improperly analyzed the incorporation question by blindly following the lead of Charles Fairman and ignoring the work of William Crosskey. Curtis, *The Bill of Rights as a Limitation on State Authority: A Reply to Professor Berger*, 16 Wake Forest L. Rev. 45 (1980). No lesser a light than Henry M. Hart, Jr., then a professor of law at Harvard Law School, remarked that "[t]he Don Quixote of Chicago breaks far too many lances in his on-slaughts upon the windmills of constitutional history to permit detailed review of each adventure." Hart, Book Review, 67 Harv. L. Rev. 1456 (1954). While the comment was, strictly speaking, directed to a recently released book by Professor Crosskey, the thrust of the comment holds true for the scholarship of Professor Crosskey. Professor Henry Hart had little use for the typical analytical method employed by Professor Crosskey: slanderous, *ad homineum* attacks on those historical actors who supported views contrary to those which Professor Crosskey expected to find in a historical record. Professor Hart compared Professor Crosskey to Senator Joseph McCarthy from Wisconsin.

Id. at 1475 ("In the true hit-an-run style popularized by the Senator from the adjacent state to the north, [Wisconsin being north of Illinois] Professor Crosskey, having made th[e] ugly charge [that James Madison deliberately, not inadvertently, falsified some of his notes in 1836 to suit his own purposes at that time], promises to consider in a later volume whether it is true.") Professor Hart is of the general opinion that the scholarship of Professor Crosskey amounted to little more than "a confident tone, nice printing, and an abundance of notes and appendices referring to obscure documents and esoteric word meanings." *Id.* at 1486.

[28] R. Berger, *supra* note 26, at 147 (footnotes omitted).

[30] R. Berger, *supra* note 147-48 (quoting *Congressional Globe 2764-65).*

[31] Crosskey, *Charles Fairman, "'Legislative History'" and the Constitutional Limitations on State Authority,* 22 U. Chi. L. Rev. 1 (1954). In particular, Professor Crosskey is critical of the newspaper examination conducted by Professor Fairman. By Crosskey's count, Fairman and Flack together examined ten newspapers. *Id.* at 100-101. Crosskey points out that there were nearly 5,000 newspapers in circulation in 1870. Thus, if Flack and Fairman examined only ten of these newspapers then, concludes Cresskey, the two ignored a substantial source of evidence in their inquiry. Certainly, at the least, according to Crosskey, neither Flack nor Fairman are entitled to make any conclusions about what the newspapers of the day reflected as the popular understanding of the effect of the fourteenth amendment.

The court has studied the Crosskey criticism of Professor Fairman and rejects it. The work of the two scholars serves as the cornerstone for both camps in the debate vel non whether the fourteenth amendment was intended to incorporate the federal Bill of Rights. *Compare* R. Berger, *supra* note 26, 134-156 (rejecting incorporation of the federal Bill of Rights) *With* Curtis, *The Bill of Rights as a Limitation on State Authority: A Reply to Professor Berger,* 16 Wake Forest L. Rev. 45 (1980) (following Crosskey).

[32] C. Fairman, *supra* note 25 at 86 (quoting N.H. Const. art. 6 (1793)).

[33] It is always difficult to wade through the mass of historical research which has been done on both sides of the issue. For instance, while the defendant-intervenors introduced Professor Robert L. Cord's book, *Separation of Church and State: Historical Fact and Current Fiction* in support of the historical record upon which they are relying, Professor Cord concludes, in part, that a) the fourteenth amendment did incorporate the establishment clause against the states, *id.* at 101, and b) the Lord's Prayer, being distinctly Christian in character, or any other prayer which is readily identified with one religion rather than another is impermissible under the establishment clause, *id.* at 162-65.

The Court rejects the conclusion of Professor Cord that the fourteenth amendment incorporated the establishment clause against the states. Professor Cord uncritically adopted the analysis of the United States Supreme Court in reaching his conclusion. In only a footnote does Professor Cord refer to the scholarship of Professor Charles Fairman; then only does Professor Cord note that there has been some "controversy" surrounding the incorporation issue.

Assuming arguendo that the establishment clause had been incorporated against the states than Professor Cord would be correct in his conclusion that any activity which is religiously indentifiable would be barred. *See infra* note 41 for the Court's discussion regarding secular humanism.

[34] In Barron v. City of Baltimore the Court noted:

"But it is universally understood, it is a part of the history of the day, that the great revolution which established the Constitution of the United States was not effected without immense opposition. Serious fears were extensively entertained that those powers which the patriot statesmen who then watched over the interests of our country, deemed essential to union, and to the attainment of those invaluable objects for which union was sought, might be exercised in a manner dangerous to liberty. In almost every convention by which the Constitution was adopted, amendments to guard against the abuse of power were recommended. These amendments demanded security against the apprehended encroachments of the general government—not against those of the local governments.

"In compliance with a sentiment thus generally expressed, the quiet fears were thus extensively entertained, amendments were proposed by the required majority in congress, and adopted by the States, *These amendments contained no expression indicating an intention to apply them to the state governments.* This court cannot so apply them." Barron v. City of Baltimore, 32 U.S. (7 Pet.) 243, 250 (1883) (emphasis added).

[35] Justices of the Supreme Court of New York v. United States, 65 U.S. (9 Wall.) 274 (1870).

[36] In part the seventh amendment provides that "no fact tried by a jury, shall be otherwise reexamined in any Court of the United States, than according to the rules of the common law." U.S. Const. amend. VII.

[37] Abraham Lincoln once said, "'Stand with anybody that stands *right.* Stand with him while he is right and *part* with him when he does wrong.'" Jaffa, *In Defense of Political Philosophy,* 34 National Review 36 (1982) (emphasis in original).

[38] While stare decisis has more force in cases which determine the meaning of statutes as opposed to interpretating the Constitution, the Supreme Court has frequently reversed itself where it thinks an earlier decision involving the construction of a statute is in error. In Monell v. Department of Social Services, 436 U.S. 658 (1978), the Supreme Court identified four factors which it considers when faced with the question whether to overrule a prior decision which involves a statue. The factors are: 1) whether the decisions in question misconstrued the meaning of the statue as revealed in its legislative history; 2) whether overruling the decisions would be inconsistent with more recent expressions of congressional intent; 3) whether the decisions in question constituted a departure from prior decisions; and 4) whether overruling these decisions would frustrate legislative reliance on their holdings. *Id.* at 695-701.

[39] Mr. Justice Stevens recently addressed the problem whether a court should follow authority which it believes to have been incorrectly decided. In a case which involved the construction of a statute parents of Negro school children sued under the Civil Rights Act of 1866 (now 42 U.S.C. § 1982) for alleged discriminatory admission to private schools, which discrimination was based solely upon race. Runyon v. McCrary, 427 U.S. 160 (1976). The statute upon which the suit was based, 42 U.S.C. § 1981, was passed prior to the adoption of the fourteenth amendment. It provides in part that "[a]ll persons within the jurisdiction of the United States shall have the same right in every State . . . to make and enforce contracts . . . as enjoyed by white citizens . . . ." In *Runyon* two children were denied admission to private schools in Virginia solely because they were Negro. The Supreme Court held that section 1981 prohibits private, commercially-operated, nonsectarian schools from denying admission to prospective students solely because of race. Mr. Justice Stevens concurred in the opinion of the Court, but his thoughts on stare decisis are noteworthy.

Mr. Justice Stevens felt compelled to join the opinion of the Court based upon a prior decision of the Court, Jones v. Alfred H. Mayer Co. 392 U.S. 409 (1968). However, the language of the Civil Rights Act of 1866 and its historical setting left "no doubt in [Mr. Justice Stevens'] mind that the construction of [42 U.S.C. § 1982] would have amazed the legislators who voted for it." Runyon v. McCrary, 427 U.S. at 189. Given a clean slate Mr. Justice Stevens would have allowed private, commercially-operated, nonsectarian schools the right to deny admission to prospective students solely because of race. He would have reached this result not because he thought that it was socially preferable to the result reached by the Supreme Court, but simply because the intent of Congress and the legislative history surrounding the adoption of 42 U.S.C. § 1981 mandated such a result.

Where Mr. Justice Stevens was unwilling to dissent from his bretheren in a case involving statutory construction, this Court feels a stronger tug from the Constitution which it has sworn to support and to defend.

[40] Professor Fairman has summarized concisely in several pages all of the stones and pebbles which could conceivable be relied upon to support the conclusion that the fourteenth amendment intended to incorporate the federal Bill of Rights against the states. See Fairman, *supra* note 25, 134-35.

[41] One of the first of these considerations is whether the teachers and those students who desire to express the simple prayers have any rights to freedom of speech. Compare what the Court observed in the order which granted the preliminary injunction in the companion case, 82-0792-H, against the state on the first amendment right of students to pray at school. 544 F. Supp. at 732.33. The evidence in the case demonstrates that the school board took no active part in any decision made by the teachers to utilize the simple prayer that they have. The school board nor any of the official body of the school administration encouraged or discouraged these teachers from exercising their own will in the matter. Nor does the evidence indicate that those students who opted for this type of exercise were coerced into participating or not participating.

In dealing with matters religious the exercise of first amendment rights are highly circumscribed. The same does not appear to be true in dealing with first amendment rights in expressing one's opinions in all other matters whether they be expressions of moral concern or immoral concern.

The second major area that this Court must concern itself with should this judgment be reversed is that raised by the evidence produced by the intervenors dealing with other religious teachings now conducted in the public schools to which no attention has apparently been directed and to which objection has been lodged by the intervenors.

There are many religious efforts abounding in this country. Those who came to these shores to establish this present nation were principally governed by the Christian ethic. Other religions followed as the population grew and the ethnic backgrounds were difused. By and large, however, the Christian ethic is the predominant ethic in this nation today unless it has been supplanted by secular humanism. Delos McKown, witness for the plaintiff, expressed himself as believing that secular humanism has been more predominant through the years than we have imagined and indeed was more akin to the beliefs of George Washington, Thomas Jefferson, Benjamin Franklin, and others of that era. Delos McKown also testified that secular humanism is not a religion, though he ultimately waffled on this point. The reason that this can be important to the decision of this Court is that case law deals generally with removing the teachings of the Christian ethic from the scholastic effort but totally ignores the teaching of the secular humanist ethic. It was pointed out in the testimony that the curriculum in the public schools of Mobile County is rife with efforts at teaching or encouraging secular humanism—all without opposition from any other ethic—to such an extent that it becomes a brainwashing effort. If this Court is compelled to purge "God is great, God is good, we thank Him for our daily food" from the classroom, then this Court must also purge from the classroom those things that serve to teach that salvation is through one's self rather than through a diety. Indeed, the Supreme Court in Abington School District v. Schempp, 374 U.S. 203, 225 (1963) (quoting Zorach v. Clauson, 343 U.S. 305, 314) (1952), noted that "the State may not establish a "religion of secularism" in the sense of affirmatively opposing or showing hostility to a religion, thus preferring those who believe in no religion over those who do believe."

That secular humanism is a religion within the definition of that term which the "high wall" must exclude is supported by the finding in Torcaso v. Watkins, 367 U.S. 488, 495 n.11 (1961), which recognized that secular humanism is a religion in the traditional sense of the word and also in the statement of the 276 intellectuals who advocate the doctrine of secular religion as delineated in the *Humanist Manifesto I and II.* (Defendant-intervenors exhibit #10).

Textbooks which were admitted into evidence demonstrated many examples in the way this theory of religion is advanced. The intervenors maintain that their children are being so taught and that this Court must preclude the Mobile County School Board from continuing to advance such a religion or in the alternative to allow instruction in the schools that would give a child an opportunity to compare the ethics of each religion so as to make their own credibility or value choices. To this extent, this Court is impressed that the advocacy of the intervenors on the point of necessity makes them parties plaintiff and to this extent they should be realigned as such inasmuch as both object to the teaching of certain religions.

This Court is confronted with these two additional problems that must be resolved if the appellate courts adhere to their present course of interpretating history as did Mr. Justice Black. Should this happen then this Court will hunker down to the

task required by the appellate decisions. A blind adherence of Justice Black's absolutism will result in an engulfing flood of other cases addressed to the same point raised by intervenors. The Court will be called upon to determine whether each book or any statement therein advances secular humanism in a religious sense, a never-ending task. Already the involvment of this Court with determining state activities in such things as prison cases, occupies one-third of its docket. This Court can anticipate no less of a burgeoning docket brought about by this incursion into what is legitimately a state concern.

The founding fathers were far wiser than we. They were content to allow the peoples of the various states to handle these matters as they saw fit and were patient in permitting the procedure. They were not impatient to bring about a change because we think today that it is the proper course or to set about to justify by misinterpretation the original intent of the framers of the Constitution. We must remember that "He, who reigns within Himself, and rules passions, desires, and fears, is more a king" Milton, *Paradise Regained*. If we, who today rule, do not follow the teachings of history then surely the very weight of what we are about will bring down the house upon our head, and the public having rightly lost respect in the integrity of the institution, will ultimately bring about its change or even its demise.●

HENRY MAYER RETIRES

(By request of Mr. BAKER the following statement was ordered to be printed in the RECORD:)

● Mr. KASTEN. On Friday, December 17, 1982, Henry Mayer, president and managing director of the Milwaukee County Transit System, retired after 35 years of dedicated service to the people of Metropolitan Milwaukee. This was no ordinary retirement. Henry Mayer has been in the transportation business for a long time. He has watched mass transportation grow from the days of trolley cars to the modern, high-capacity buses in use today. His experience and management capabilities will be sorely missed.

There are few in the field of mass transportation who can speak with Henry Mayer's authority. He is well-known and highly respected among his colleagues throughout the country. He has spoken out on transportation issues and he has not been afraid to voice his opinions.

Henry Mayer represents all that is good about Milwaukee. He has been a hard worker and an honest man. He is a lifetime resident of the area and a graduate of Marquette University. His approach to solving problems, whether they be day-to-day or long term, is simple but pragmatic and realistic. He was quoted as saying, "Passengers want buses on time, a seat, safety, and a courteous driver. That is all they want." That is why Milwaukee has one of the best and most efficient public transportation systems in the country. He understood people's needs and wants.

As the Milwaukee area has grown, so has the transit system. Faced with the fact that the downtown Milwaukee area only accounts for 35 percent of the work force, the system has been designed and modified to provide service to almost 90 percent of the area residents.

Fifteen years ago Henry Mayer underwent a new type of medical operation—a kidney transplant. Twelve years later he was confined to a wheelchair because his hipbones had deteriorated. Seven years later both hipbones were replaced and he was freed from the wheelchair.

Henry Mayer has continued to work throughout his personal ordeals. But now, the time has come for him to step down after years of service to his community. He has admitted that the job is "not without stress."

Nobody likes to lose a good manager with the valuable experience and talents Henry Mayer possesses. His retirement causes us to look back at his accomplishments. The Milwaukee Transit System is considered one of the best run systems operating in the country, handling more than 100,000 riders per day. The success of the system can be measured by the small number of letters and calls received complaining about the service provided. With almost 2 million weekly riders, this type of accomplishment does not go unnoticed.

Without Henry Mayer, Milwaukee would not have the excellent transportation service we have all come to appreciate. It took foresight, persistence, and experience to develop this efficient system. Henry Mayer will be long remembered, hard to replace and dearly missed. We wish him a happy retirement and a long and healthy life.●

BLACKS IN AVIATION

● Mr. GOLDWATER. Mr. President, it was probably a year and a half ago that a Member of the House of Representatives called me, knowing of my deep interest in the Air and Space Museum, and told me that no display highlighting the accomplishments and achievements of black airmen existed at that wonderful museum. That oversight since has been corrected and, while it probably is not yet as encompassing as it will be eventually, it has awakened the interest of people in the accomplishment of black pilots and airmen whether in war or not.

I have flown with a lot of black pilots and I will tell you one thing, when you get up there in that sky, the color of your skin does not make a darn bit of difference. The proof of the pudding is in the qualities exhibited by individual airmen in terms of courage, flying skills, and leadership.

An important article appeared in the January issue of the Air Force magazine, written by William Schlitz, the senior editor, entitled "The Blacks in United States Aviation."

I ask unanimous consent that this article be printed in the CONGRESSIONAL RECORD following my remarks, and I urge my colleagues who are interested in aviation to read it. I think they will find it most interesting.

The article follows:

BLACKS IN U.S. AVIATION—THE PIONEERS

(Since the beginning of powered flight, black Americans have been steadfast in their detemination to overcome barriers of racial discrimination and economic privation to share in the wonders of flying. Here is a brief historical sketch of the early days.)

[By Willaim P. Schlitz]

It was 1917, and in an open field in rural East Texas nine-year-old Thomas Allen had come face to face with his future.

The sight of an airplane high above the southwest community was no longer a novelty, but to have one land in your backyard certainly was. The aircraft had been forced down with a broken propeller and was awaiting repair. Thrilled beyond measure, the black youngster had been posted to guard this precious machine against the meanderings of livestock.

But consciously or not, for Thomas Allen the stage had been set: Someday, he himself would fly.

The historic powered flight of the Wright brothers in 1903 had led to an era in which the Thomas Allens of America—both black and white—looked skyward. But participation by blacks in the dawning age of flight would not come easily. Racial discrimination, deeply embedded in American life, constituted an almost insurmountable barrier. Then, too, it was costly to fly—even to learn how—and blacks occupied the lower rungs of the economic ladder.

In the early aviation community there was even the widely held belief that black people lacked the aptitude to fly or, for that matter, master the technical skills associated with flying.

The record is clear, however, that while blacks for the most part were denied access to the white aviation world in the early years, they were imbued with the same spirit of adventure that was universal among the pioneer aviators. Despite the obstacles, they built and bought their own airplanes to learn to fly, acquired their own airfields, erected their own hangars, and sought training as mechanics.

Later, during aviation's formative period, the black aviation subculture produced its own folk heroes of flying—barnstormers, stunters, parachutists, balloonists, and the rest.

LEADING THE WAY

A man on a quest for equality and a woman who wouldn't take no for an answer when it came to learning to fly formed the vanguard of black Americans in aviation.

The man, the first U.S.-born black fighter pilot, would never fly for his native land.

Eugene Jacques Bullard, born in Columbus, Ga., in 1894, as a young man stowed away on a ship bound for France to escape bigotry. There, early in World War I, he fought as an infantryman with the Foreign Legion and was wounded at Verdun. Subsequently, he was given flight training and assigned to the Lafayette Flying Corps. At the front, the French poetically dubbed him the "Black Swallow of Death." With America's entry into the war, his application to join the American Air Service was turned down.

In all, the French awarded Bullard fifteen decorations, including the Croix de Guerre and the Legion of Honor. He made his home in Paris following the Armistice and joined the underground in World War II. Eventual-

ly, Bullard returned to the US and, after a series of menial jobs, died in 1961.

Bessie Coleman, born in 1893, was one of five children raised in Atlanta, Tex., by a mother who took in washing to support the family after abandonment by her husband. From the beginning, she was an achiever and, following high school, even managed a semester of college before finances ran out.

While living as a young woman in Chicago, Miss Coleman became obsessed with the objective of learning to fly. Two major obstacles prevented this: She was a woman and black. Backed by Robert S. Abbott, publisher of the black Chicago weekly *Defender*, she sailed for France. There, in a more liberal environment, she was admitted to flying school.

Back in the States, Bessie Coleman earned money performing around the country as a stunt flyer and parachutist. Her dream to establish a flying school for blacks ended with her death in a flying accident in 1926. But her determination to pursue a flying career set an example that lured following generations of blacks to aviation.

By organizing flying clubs, blacks in the 1930s learned to pool their resources to build and buy airplanes. Equally important, leaders began to emerge.

CENTERS OF BLACK AVIATION

Chicago and Los Angeles became early hubs of black aviation, most likely because growing numbers of blacks there had begun ascending the economic ladder. In the Windy City in 1931, John C. Robinson, one of the earliest black pilots, and a small group of aviation enthusiasts formed the Challenger Air Pilots Association, one of the first black flying clubs in the US.

The Challenger group, barred from established airports in the area, first set up shop at Robbins Airport at the black township of Robbins, Ill. There, they cleared the land, built a hangar, and began to acquire aircraft. Janet Bragg, a Challenger member and nurse by profession, bought the group's first aircraft.

Then, catastrophe struck. A violent windstorm demolished the Robbins hangar and the group's three aircraft. This setback brought Challenger operations temporarily to a halt, but, through the intercession of John Robinson, the group was allowed to relocate to Chicago's Harlem Airport. At the time, the airport was operated by a white, Fred Shumacher, who would prove to be a friend.

"Although we were assigned to the lower end of the field, we were still segregated," recalls Challenger charter member Harold Hurd. "They wanted to run us off, but Shumacher backed us up. He told them: 'At least these people pay their bills.' "

Mr. Hurd's own interest in aviation began early, and at age seventeen he and two friends began building an airplane from scratch in a garage they rented for $8 a month. But times were hard and when the trio fell behind in the rent, the black landlord locked them out.

FOUNDING THE CHALLENGER GROUP

The project, however, had aroused interest among the area's black and white aviation enthusiasts alike. More important, though, it led to friendships with John Robinson and Cornelius R. Coffey, another of the earliest black pilots, and ultimately to the founding of the Challenger group. This group was to have a profound influence on the development of black aviation in the Chicago area.

Cornelius R. Coffey and John C. Robinson were two auto mechanic friends who had become so interested in flying that they had pooled their money and bought an airplane. In a spirit of cooperation, a white, Charles Abbott, sold them the plane and taught them to fly it.

The two kept the aircraft at "Acres Airport," a onetime farm where a barn had been converted into a hangar and a farmhouse into bachelors quarters where Coffey and Robinson rented a room.

Since pilots were required to be mechanics as well, the two duly inquired by mail about formal instruction at the Curtiss-Wright Aeronautical School in Chicago. The response was favorable, and they began sending money orders as prepayment for a mechanic's course.

Eventually assigned to a class being formed, the two young blacks put the school's staff into a quandary when they showed up. "People attended the aeronautical school from southern states that were strictly segregated, and the staff thought our presence would be disruptive," remembers Mr. Coffey. "They tried to return our money, but when our white employer, Emil Mack, heard that, he was outraged. He promised to hire whatever legal help was necessary to press our case. With that kind of backing we stood firm," added Mr. Coffey.

The first few weeks "we took a lot of abuse," Mr. Coffey recalls. Observing this, a white instructor and former World War I pilot, Jack Snyder, called the class together and put his foot down, ending the harassment.

On graduation, Coffey and Robinson were told that the school's doors would never be closed to blacks and that "if we could get a large enough group together to make up a class, we'd be employed as assistant instructors," Mr. Coffey recalls. "And that's when the Challenger group of about thirty students signed up."

Subsequent to the stint at the Curtiss-Wright School, Mr. Coffey established his School of Aeronautics at Harlem Airport to offer flight instruction to Chicago's expanding black aviation community.

(Time has not slowed Mr. Coffey's pace. Today, he is an FAA-designated aircraft mechanic examiner as well as an aircraft safety inspector. He keeps his Piper Tripacer 22 in a hangar rented at Lewis University in Lockport, Ill., where he taught flying for six years.)

Besides Janet Bragg, the Challenger group had a number of other women aviators as members. Willa Brown, for example, was co-operator of the Coffey flying school. She went on to serve as an officer in the Civil Air Patrol and on FAA's Women's Advisory Board.

THE CALIFORNIA CONNECTION

Los Angeles rivaled Chicago as a center for black aviation in the 1930s. As early as 1929, a small group of aviation enthusiasts organized the Bessie Coleman Aero Club to promote airmindedness in the black community.

President of the Bessie Coleman Aero Club was William J. Powell, one of the nation's first licensed pilots. He was instrumental in mobilizing black business and community leaders to underwrite the club's first airplane—a Waco 9—named the *Oscar Depriest* after a Chicago congressman and early civil-rights activist. (Depriest was the first black elected to the U.S. Congress since Reconstruction. It was he who in 1932 appointed Benjamin O. Davis, Jr., as the only black in the Corps of Cadets at the United States Military Academy. Davis was the son of the only black officer serving throughout the nation's armed forces [other than several chaplains]. On graduation, Davis and his father would be the only two black line officers serving in the armed forces until World War II.)

In 1934, Powell published *Black Wings*, in which he described the pioneering achievements of the Los Angeles aero club. A visionary proponent of aviation, Powell appealed to black men and women to undertake careers in the field. Besides becoming pilots, Powell urged blacks to consider such other aviation professions as aircraft designer and airline entrepreneur.

While this was wildly optimistic, since even basic equalities would be a long time coming, it was heady and encouraging stuff for young people caught in a seemingly unending economic downturn.

Black aviation in Los Angeles achieved a measure of fame in 1932 with the transcontinental flight of James H. Banning and Thomas C. Allen. (The lad from East Texas, through sacrifice, perseverance, and true grit, had achieved his goal of becoming an aviator. He had also become a master aircraft mechanic.)

Banning and Allen belonged to the Bessie Coleman flying club, but its aircraft had been repossessed in the wake of the stock market crash.

So in a $400 airplane "put together from junk," remembered Mr. Allen, the two took off from Los Angeles bound for New York and a rumored $1,000 prize being offered to the first blacks to make the flight. At the outset they had a mere $100 in pocket for expenses and were christened the "Flying Hobos."

The succession of hops from airport to airport in traversing the "southern route" cross-country encompassed twenty-one days during which the intrepid duo logged a total of forty-one hours, twenty-seven minutes flying time.

A DEATH, A SUCCESS STORY

Banning was killed in an air crash at San Diego less than a year after the flight with Allen. Born in 1890, Banning had been denied flight training at schools in a number of cities because of his race. A white Army officer finally taught him to fly, and, when the U.S. Department of Commerce established licensing procedures in 1926, he became one of the first licensed black pilots.

Thomas Allen in his youth had migrated with his family from East Texas to Oklahoma City. There during his salad days he was drawn to the local airport. Finally, he struck a bargain with the white airport manager to work for lessons—weeks of chores for a few precious minutes of instruction.

Progress was steady, but Allen's solo was blocked by the manager's demand for a $500 security bond.

One day, as Mr. Allen relates it, the manager had temporarily left the airport. Several of the mechanics, none the better for alcohol, urged the seventeen-year-old to solo—and he did.

When the airport manager saw the aircraft—a war-surplus "Jenny"—wheeling about over the city, he stormed back in a rage, but was mollified by the mechanics, who told him: "Say, that's good advertising. If you can teach a Negro boy to fly, you can teach anyone," Mr. Allen recalls without rancor.

Aviation pioneer Allen cites several occasions during the transcontinental journey with Banning when whites assisted the

black aviators. For example, word of their landing in Wichita Falls, Tex., was duly published in the local newspaper. In noting the arrival of the "Black Birds," as he dubbed them, the white reporter who wrote the story mentioned the historic purpose of their trip. When a group of the curious then gathered at the airport, the reporter exhorted them to pass the hat to finance continuation of the venture.

Banning and Allen eventually arrived at Roosevelt Field on Long Island to a tumultuous welcome by the black and white communities alike and became the toast of New York. Nationwide, as well, blacks regarded the flight as symbolic of what black aviators could accomplish despite the barrier of bigotry.

The $1,000 award, however, went aglimmering. And on the subsequent return flight to the West Coast, their aircraft—the *Eagle Rock*—was destroyed near Pittsburgh while the pair was stunt flying to earn expense money. Unhurt, Banning and Allen returned to Los Angeles by bus, tickets courtesy of the Pittsburgh *Courier*.

In the Los Angeles area, small aircraft manufacturers struggled in the Depression years. Companies like Lockheed or Butler would fill an order for a handful of planes and then suspend operations until the next contract. An experienced mechanic, Mr. Allen moved from job to job to support himself and his flying.

With America's entry into World War II, Mr. Allen began a twenty-years stint with the Douglas Aircraft Co. Today he is retired but not inactive and is on the staff of the Space and Aviation Hall of Fame in Oklahoma City.

OTHER AIRWAYS, OTHER AVIATORS

In the 1930s, black stunt pilots and parachutists, backed up by daredevil motorcyclists on the ground, performed at numerous air shows around the country. The spectators, mostly black, thrilled to the performances of such stunt parachutists as Willie "Suicide" Jones and Dorothy Darby.

C. Alfred Anderson (who later became "Chief" Anderson, a flying instructor of Tuskegee Institute fame) and Dr. Albert E. Forsythe teamed up to pioneer long-distance flights. In July 1933, they became the first blacks to complete a round trip transcontinental flight—between Atlantic City, N.J., and Los Angeles.

The two topped this feat the following year with their Pan American aircraft tour that included the Bahamas, Virgin Islands, and West Indies. The venture was particularly daring because it required numerous landings and takeoffs in undeveloped and uncharted terrain. Despite the aviation pioneering and trail-blazing aspects of this aviation first, the adventuresome pair received scant attention from the nation's white press.

Another black aviation enterprise with an international flavor also went largely unreported in white newspapers. Though ultimately unsuccessful, it aroused considerable interest in the black community. John Robinson, president of Chicago's Challenger group, traveled to Ethiopia in 1935 to advise Emperor Haile Selassie on building an Ethiopian Air Force. Robinson recruited a number of pilots and technicians from the Chicago area to join him in East Africa. However, Italy invaded before the plan came to fruition, and Robinson narrowly escaped with his life.

FORECAST OF WAR

In the late 1930s, with war in Europe and the strong possibility of America being drawn into it, the Congress decided on a military buildup. One measure was to underwrite the Civilian Pilot Training (CPT) program in association with educational institutions and flying schools around the nation. The formal military flying cadet training program just couldn't be expanded quickly enough.

Meanwhile, Chicago's black aviators had organized the National Airmen's Association of America with Cornelius Coffey as president. It was the first serious effort at creating a national organization for black aviators.

One objective of the NAAA was to act as an agency to keep the nation's active and prospective black aviation enthusiasts informed on essential matters.

Another objective was to have historic national implications. In considering legislation setting up the CPT, the Congress had excluded black institutions. Furthermore, in planning its wartime emergency expansion, the Army Air Corps had made no provision whatever for incorporating blacks in its ranks.

This situation was noted by a black lobbyist for government employees, Edgar G. Brown, who also kept tabs on legislative matters pertaining to America's black community. Brown alerted the NAAA and urged it to dispatch representatives to Washington to confer with officials on these vital matters.

Toward this end, two NAAA pilots—Dale L. White and Chauncey E. Spencer—were tapped for a well-publicized flight from Chicago to Washington. The two arrived in Washington to learn that Brown had arranged a meeting with a little-known US Senator—Harry S. Truman. When Truman heard their objectives, he promised to help.

Other prominent public figures—among them Eleanor Roosevelt—rallied to the cause of the black aviators. This movement and pressure from other black organizations with political influence resulted in legislation that included black educational institutions under the CPT program. These were the roots that led ultimately to the formation of the all-black Army Air Forces squadrons that fought in Europe in World War II. While desegregation was still a long time coming, these events nevertheless constituted a major milestone in the nation's history.

Several black educational institutions—among them Tuskegee in Alabama and Howard University in Washington, D.C.—were funded under the CPT program. Among the commercial establishments was the Coffey flying school at Chicago's Harlem Airport.

THE END OF THE BEGINNING

By 1941, the pioneering phase for black aviators in the United States had ended. But while old stereotypes had been shattered, segregation persisted. However, considering the odds, progress had been made. For example, the number of licensed pilots had reached 102, a tenfold increase in one decade. Breakthroughs of this nature demonstrated the enduring interest of blacks in flight. And, moreover, the unquenchable desire to participate on a basis of full equality in civil and military aviation.

Air Force Magazine plans to publish in next month's issue the second installment in this depiction of black aviation in America. World War II generated a series of events and forces that led ultimately to desegregation of America's military services. This was another major national landmark that created an altered context in which blacks would find increasing entry into the broader spectrum of US society.

AIR AND SPACE MUSEUM'S "BLACK WINGS" EXHIBIT

A number of uncommonly distinguished Americans are featured in a new exhibit at the National Air and Space Museum in Washington, D.C.

The exhibit, entitled "Black Wings: The American Black in Aviation," reflects the participation and contributions of blacks dating from the earliest days of powered flight to the present.

The exhibit's subject matter was compiled by Museum curators Von Hardesty and Dominick Pisano.

In conjunction with the exhibit, the Museum plans a symposium on blacks in aviation in late February 1983 and publication of a Museum-sponsored book on the subject to coincide with the symposium.

Material provided by the Museum is the basis for two articles to run successively in the January and February issues of Air Force Magazine. The first, presented here, covers the early black aviation pioneers to the late 1930s. February's article will depict the founding of black military aviation at Tuskegee Institute up through the present black involvement in the nation's space program.

The two articles are not meant to be historically comprehensive. Rather, the objective is to offer a glimpse into a chapter of American aviation history that for too long has been overlooked.●

GIFFORD NIELSEN

● Mr. HATCH. Mr. President, recently I received a copy of the publication sent out by the Alumni Association of Brigham Young University and an article in it caught my eye. The article is about Gifford Nielsen, a young man who many of my colleagues may remember as an All-America quarterback at BYU in the 1970's. Today Gifford Nielsen plays for the Houston Oilers in the National Football League.

Normally such an article is read and then forgotten, yet this particular piece is not a story about the exploits of an NFL player on the field, but rather, it is about the standards of a young man as he enters a world that has earned a reputation for "fast living."

In today's world we are all seeking to find something good to use as an example. This is especially true with the young people growing up. Professional athletes in today's world play an important role in the "role modeling" concept of young men and women. They have become the idols of millions of these young people and it behooves them to accept this responsibility with a measure of seriousness. I know this from personal example. When I was a young man growing up I had the opportunity to meet and get to know Vernon Law. At that time Vernon was a young pitcher for the Pittsburgh Pirates. Later he was to go on and win the Cy Young Award in 1960, symbolic of the best pitcher in

major league baseball. He led his team to the world championship that year. The point is, as I got to know him I realized that he placed his personal values above any success he might achieve on the playing field. You can imagine the impact this had upon me, a young boy who felt that being a major league pitcher was just about the best job anybody could ever want. After these past 2 weeks, I am even more convinced that I was right about the point, and I think a few of my colleagues might agree.

Mr. President, as I read this article in BYU Today I remembered those feelings I had in my youth. I gave a copy of this article to my son. I wanted him to know that there were still men who had achieved success on the playing field who still felt that this achievement was secondary to the major objective in their lives. I commend Gifford Nielsen for trying to be an example to all of us who have grown to enjoy the game of professional football. I commend him for the time he takes with young people. Just last year he and Danny White, the quarterback of the Dallas Cowboys came to Washington to speak to a father-son outing. These are events which live in the hearts of young boys.

I ask that the previously mentioned article be printed in the RECORD.

The article follows:

[From BYU Today, December 1982]

GIFFORD NIELSEN

(By Lee Benson)

It was a hot late-summer night in 1978 in Dallas, Texas, and Gifford Nielsen, the quarterback, barely removed from his college days at BYU, was walking off the field in Texas Stadium.

One of his new Houston Oilers teammates sidled up along him. "You called a good game," said the teammate, ". . . for a good guy."

It had been Nielsen's first start as a pro, and it had gone well. Oilers 27, Dallas Cowboys 13. It was only a preseason game—officially an exhibition—but in Texas there ain't no such thing as exhibition football, especially when the two NFL teams in the state are figuring out braggin' rights.

Oilers coach Bum Phillips, thinking ahead, decided to use the rookie Nielsen all the way, giving veteran Dan Pastorini the night off. Phillips had met Nielsen less than a month previous, but he had a hunch this kid would stick. Not only that, he had a hunch he could handle a tough situation like meeting the Dallas Cowboys on their home range.

"Gifford Nielsen," said Phillips, "is the kind of person that can adapt to anything or anyplace or anybody. He just makes himself at home. That's a great quality for a quarterback and even a greater one for a human being."

Phillips didn't say that in a rush of gratitude immediately following the 1978 exhibition win over the Cowboys. He said it four years later, in October of 1982, from his Lousiana ranch as he polished his cowboy boots waiting for the NFL strike to be settled.

"It never did make any difference where Gifford came from, or what religion he was," drawled the coach; "he just came to Houston as Gifford Nielsen, and he stayed Gifford Nielsen. And everybody liked him, including me.

"It wouldn't have mattered if he'd gone to Brooklyn or Canada or wherever. He'd have been the same. He wouldn't have forced his views or himself on anybody and wouldn't have expected them to force anything on him."

And so it's been for BYU graduate Gifford Nielsen. Easy sledding. No rough roads. Every step a success. Every pass a completion. Nothing to it . . . or so it would seem.

But like Captain Quint said as he was chasing the great White, "Nothing's easy, is it?" And none other than Gifford Nielsen himself will verify that adage. He may have pulled it off like a pro—making the transition from a sheltered college life in Provo, Utah, to the fishbowl world that's called the NFL. But he didn't do it without work and planning.

"I knew, coming out of BYU, I could be in for a difficult situation," says Nielsen. "I knew I had my beliefs and knew they'd be different. I didn't want to compromise my personal values or my commitment to my church. That's more important to me than anything. But I wanted people to like me. That's a real challenge.

"I wanted to be liked for both personal and professional reasons. When I came up to the line of scrimmage, I wanted those guys on either side and behind me to want to play for me. I had to have them play for me. You can't be successful in football alone. And I wanted their friendship and acceptance."

With this in mind, Nielsen consciously made two important determinations his senior year at BYU:

(1) Football would never run his life. He would. Success on the playing field would not be the key to his happiness.

(2) He would devise his own game plan.

A long time before he ever arrived in San Angelo, Texas, for the first day of rookie camp in July 1978, Nielsen knew what he was going to do. He would pick out one of the other rookies in camp—preferrably a rather vocal, well-respected rookie—and tell him, at the earliest appropriate opportunity, what he believed in.

The discussion came soon enough. On the first day of camp, after practice, Gifford was asked by a teammate if he'd like to join a group for a night on the town.

Nielsen told that teammate, "You ought to know something . . ."

Then they were off, Nielsen talking, the teammate listening and after an hour or so there was somebody else in San Angelo, Texas, who knew exactly where Gifford Nielsen stood and what he believed in. Which was precisely what Nielsen needed.

"After that," he says, "I let that teammate be my spokesman."

The plan worked. Nielsen accompanied his teammates on the town that night, but he drank 7-Ups and if anybody asked him about it he couldn't even clear his throat before his confidant was already into the explanation.

"In my youth," Nielsen explains, "I'd been asked to compromise my values. I'd had what I considered to be pretty neat guys ask me to do things I didn't feel right about. I remember how they laughed. I knew the feeling of peer pressure and rejection.

"By design, I wanted to take as much of that pressure off as possible in the NFL—where peer pressure is as tough as you'll ever get."

After that first night on the town, Nielsen remembers being approached by several players. "They came up and asked me about my background, my school and my church," he said. "There was a sort of attitude that 'we've got a square guy on the team—what's the deal?' But it was all straightforward. Everybody knew where he stood. A week or two later, the veterans came in and they found out soon enough too. By then I had a lot of spokesmen."

So many, in fact, that on the first day of regular camp Nielsen was asked to go to the local watering hole by a veteran—a distinct honor for a first-year man in the NFL.

"I said, 'OK, you buy me 7-Ups,'" said Nielsen.

Under such amicable conditions, discussions about Nielsen's values and faith were amicable, too. "The more we talked, the more knowledgeable everybody became," recalls Nielsen. "Some of them were interested and wanted to know more. Some weren't and didn't. But I wasn't a mystery man. I'd throw a bad pass, say, in a game and the receiver would run by and say, 'I hope the rats eat your cracked wheat.'"

Gifford had grown up in an environment where having a year's supply of cracked wheat wasn't unusual. In Provo, Utah, food storage is a way of life, as are most tenets of the Mormon faith. The son of Stan and Lois Nielsen learned his parent's values well. He was never a child they needed to worry about.

Gifford made his way through Provo High as an accomplished athlete and scholar, meeting is future wife, Wendy Olsen, along the way. They were married after both had made it through a couple of years at BYU, just across the street from the high school.

At BYU, it was more of the same for Gifford. Athletically, he first distinguished himself as a member of BYU's basketball varsity before getting the urge to switch to football. In 1975 he was coach LaVell Edwards' third-string quarterback until the fourth game of the season, when he came off the bench to spark a 16-15 come-from-behind win over New Mexico that vaulted both Nielsen and the Cougars into conference and national prominence.

By 1977, his senior year, he was the nation's most heralded quarterback. A Heisman Trophy candidate to be sure. Only an early season knee injury dashed those hopes. Still, a career to look back on with pride. And in the classroom, nothing had suffered.

At the conclusion of his undergraduate days, Nielsen was honored by the NCAA as one of its Top 5 student-athletes. His reward was a $1,500 post-graduate scholarship.

The NFL offered a post-graduate award as well—by way of a third-round drafting courtesy of the Houston Oilers.

Now Stan and Lois Nielsen began to worry, if only slightly.

"We'd heard, of course, about the NFL and its lifestyle," says Stan Nielsen. "We naturally had concerns. But we knew we had a son who had the right kind of confidence in himself and in his beliefs. And we knew football wasn't the most important thing in his life."

They didn't know exactly what his game plan would be, but they were certain he'd have a good one.

"You've got to have a game plan. Whether it's a football game or any kind of situation in life," says Gifford. "You know every day you're going to be challenged one way or another. You should ask yourself before

you're put into a situation how you're going to react."

When Nielsen first reported to the Oilers, he had never been in Texas in his life—if you don't count touching down a time or two in the Dallas Airport—and he immediately noticed differences from Utah County. Like barbecue.

"Barbecue in Utah is different than barbecue in Texas, I can tell you that," he says. "And the chili is different too. They don't do anything small in Texas, just like they say."

In no time, Nielsen learned about important things, to Texans, anyway, like Willie Nelson and Bob Wills and the Western Swing and pointed boots and shirts with snaps and rodeos and how to say words like Amarillo—without the o, as in Amarilla.

Instead of shunning these intrusions, Gifford embraced them. He started wearing pointed boots, learned the words to "Good Hearted Woman" and got himself some of those Texas-size belt buckles. He became a good old boy.

Just as he accepted his environment, he was accepted by his environment. Without compromising his standards one iota, he was nevertheless an integral part of his new group.

Kyle Rote Jr., the noted soccer player, got to know Nielsen when both were playing professionally in Houston. Like Nielsen, Rote is a religious young man, with strong ideals and principles not generally in tune with the norm. He appreciates the challenge facing an athlete to stay true to his beliefs in spite of peer pressure.

He was immediately impressed at Nielsen's ability to avoid problems. "He's taken what could have been a liability and turned it into an asset," Rote said during an interview when he passed through Salt Lake City in 1979. "He has become the chaplain, so to speak, of the Oilers. They think he's their good-luck charm. They think they're having success because they've got a clean-living Mormon on their team. They wouldn't let him step out of line if he wanted to."

Nielsen agrees. "It's kind of a funny note," he says, "but also a serious one. I honestly couldn't take a drink, for example, if I wanted to. Everybody in the locker room would go crazy. They're all out to protect me. If it's a bad environment or a bad situation, I see them looking around to see where I am.

"When you get a reputation, you're stuck with it."

Since acquiring his reputation in the summer of '78, Nielsen has seen a lot of Texas, including too much of hospitals and benches. Injuries and great quarterbacks (Ken Stabler and Dan Pastorini) have delayed his career. Even now that he's the No. 1 quarterback for the Oilers, there are problems. Namely, the strike. Nielsen has a job but can't get to the office.

To say, then, that he's had it made since he became an Oiler isn't at all accurate. Just like it isn't accurate to say it was easy for Gifford Nielsen to become accepted by his NFL peers.

It's just looked that way.●

BLACK DIRECTOR PROVIDES A NEW DIRECTION

● Mr. CHILES. Mr. President, events that focused this Nation's attention on Miami in 1980 and again in late December 1982, dealt with the problems that exist between Miami's black community and its law enforcement agencies. However, a recent publication of BOLO, the official publication of the Dade County Police Benevolent Association, spotlighted the tremendous progress being made by the new director of the Dade County Correctional Facility to "open" the department to the press and the public.

Fred Crawford was a classic choice for the position of director of the Metro Dade Department of Corrections and Rehabilitation. Mr. Crawford, though born in Americus, Ga., in 1937, moved to St. Petersburg at an early age. He grew up in St. Petersburg and attended the local junior college there, Gibbs Junior College. He later became a police officer in the St. Petersburg Police Department. He was only one of five blacks to be employed by the city as an officer. During that 9-year period, Fred Crawford learned about the tension and stress that a street cop faces. That understanding serves him well as he serves in his present job. In 1971, Fred Crawford took a position with the Department of Justice, heading up their Southeastern office. He served in Miami as the head of the Community Relations Office. His efforts to help diffuse the tense situation in Miami during the post-1980 disturbances were noteworthy.

Mr. President, I ask unanimous consent that the article entitled "A New Director—A New Direction," be printed in the RECORD following my remarks.

The article follows:

A NEW DIRECTOR—A NEW DIRECTION

A new look has come to the Dade County Jail—potted plants, modular seating, a new dining room, birthday greetings, a basketball team. But more importantly, pride, recognition, and a change for the better. No, this isn't another rehabilitation program aimed at helping those individuals who have ended up in jail. These are changes and benefits that have come about entirely for the officers of the Dade County Department of Corrections and Rehabilitation. These officers and their working conditions have become the target for change; a change consisting of simple undertakings which have begun to instill a sense of pride among Dade County's Correctional Officers.

This revolution did not happen overnight. Change is often very difficult to accept and many obstacles and resistance made the job that much harder. But in the eyes of Correctional Officers who have been with the department for countless years, what once were only dreams are now becoming reality.

Although the changes have been seen, very few people know the story behind their coming about. What has been the source of this revolution within the Dade County Corrections Department?

Director Fred Crawford. The man behind the change, the catalyst of the revolution. He is what this story is all about.

June 1st marked the one year anniversary of Fred Crawford taking over as Director of the Metro Dade Department of Corrections and Rehabilitation. In the past year, more changes and advancements have taken place than in the entire history of the department. Partly through the efforts of this new director, Corrections is becoming more and more in the spotlight. Its role in the criminal justice system, which has long been ignored, is suddenly being given its due credit.

Fred Crawford was born on August 17, 1937 in Americus, Georgia. He moved to Florida at an early age and attended elementary, junior high and high school in the St. Petersburg area. While in high school, he did all the normal things a high school kid does; playing and lettering in football, basketball, baseball and track. Upon completion of high school, he attended Gibbs Junior College, the first Junior College for blacks in the state of Florida, because at the time, blacks were not allowed to go to white Junior Colleges. After completion at Gibbs, he attended the University of South Florida in Tampa, graduating with a degree in education, followed by advanced studies at New York University and the University of Georgia.

Director Crawford has worked at many different jobs leading up to his present position. In 1960, for example, he entered law enforcement by becoming a police officer for the City of St. Petersburg.

"I was working at General Electric when a new police chief came to town," Crawford said. "There had been blacks on the police force since 1950 but none had ever been promoted. One of the first things this new chief did was to promote one to sergeant and one to detective. I thought it was a very bold move at the time and I got the idea in my mind that I might go down to the department and apply."

"Then an incident happened that urged me to join. I worked the afternoon shift at GE and after work, a bunch of us would sit around on the street and talk. One day these two white police officers began harrassing us and chased us away for no reason whatsoever. Ironically, I had gone to school with one of the officers and he had never acted like that before. But now it seemed to me that since he had a badge and gun, he felt he could hassle anyone he saw."

"I got very angry," Crawford added. "I didn't see that as the way to do things, so I joined the police force. When I became an officer, I realized there was a lot more to it than just getting a badge and gun and I was going to prove it."

At the time of Crawford's joining, there were five black officers on the St. Petersburg Police Department. The duty they were assigned to each day seemed a little unusual to him.

"Wherever blacks lived, we were assigned to their area, no matter what part of town they lived in," he stated. "At that time, a black officer was only supposed to arrest a black man. But I'd be damned—and I got into trouble doing it—if I was going to see a guy run a stop sign and call a white officer to give him a citation. So I gave it to him myself and I was the first one of the department to do that."

After nine years as a police officer, Crawford moved on. In 1971, he moved to Miami after taking a position with the United States Department of Justice, heading up their Southeastern office. He became the supervisor of the Florida Field Team for Civil Rights Investigations and his job was to try and relieve tensions among blacks and whites during the time of school desegregation.

"Everyone knows what kind of problems came with desegregation and it was our job to bring people together, sit them down, talk things over and reason them out,"

Crawford remarked. "it was quite a job, as you can imagine."

In this position, he was also responsible for relieving tensions following the McDuffie riots.

He soon became very tired of the injustices one sees in a position such as his. A friend of his suggested he apply for the job as Director of Corrections and Rehabilitations for Dade County—he had worked in a mediator's position in Corrections—so he did. And subsequently, the job was his.

The task facing Crawford when he became Director of the Department was not an easy one. Corrections and Rehabilitation had been in limbo for close to a year after the retirement of the past director. Operationally, the department was carrying on, but no advances or plans for the future were being made. The jail was dangerously close to exploding due to the critical overcrowding. A lawsuit was pending in federal court filed on behalf of the inmates seeking relief to the overcrowded jail conditions. Officer morale had reach and all-time low. Turnover was increasing as more and more officers looked elsewhere for jobs.

Officer and inmate stress levels were dangerously high, evidenced by the number of officer-inmate and inmate-inmate assaults. A feeling of resentment and fear was beginning to surface as rumors regarding the arrival of the new director surfaced. Many officers were weary of the idea that the department was to be headed by an outsider who knew nothing of their department and its problems. Those in administration feared a shakeup if the director were to make replacements of his choice. No one knew anything about him or his background.

The first obstacle facing Crawford when he began his new position was battling the overcrowded conditions. He immediately began to meet with County and Federal officials in an attempt to find solutions. One of the causes of the overcrowding was blamed on the influx of Mariel refugees to our community. A significant number of the Jail's population was made up of criminals who were let out of Cuban jails. The County attempted unsuccessfully to make the federal government take responsibility for these refugees.

Immediate and long range plans were drawn up to reduce the overcrowding. The former Women's Jail was reactivated and named the Interim Central Detention Center, taking a maximum of 200 inmates. Modifications were made at the County Stockade which previously held only sentenced prisoners, to house unsentenced medium security inmates. The Stockade was able to average close to 500 unsentenced prisoners daily.

Arrangements were made with the federal government to transfer sentenced prisoners to some of their facilities. Inmates were transferred to Federal Correctional Institute in Tallahassee and Dade Correctional Institute in Homestead.

All of these programs were initiated upon instructions by Director Crawford. The population today is still over capacity but the federal court has not required the County to pay any of the fines which are still accruing, due to its efforts and plans to relieve the overcrowding.

While attempting to resolve the pressing federal lawsuit, Director Crawford still had the tremendous task of running the department itself. He had many meetings with those in charge and began to slowly make changes and improvements, gaining the respect and admiration of the officers.

"When I accepted the position of director, Corrections was basically what it is now," Crawford commented. "There were a lot of good people then and there are a lot of good people now. The officers have very good potential, which I don't think is being realized and I, for one, am guilty of not fully utilizing it either because it does take time."

One of the most personal things the Director has done is to individually recognize the officers. He has made it a point to know every officer's first name and to greet him in that manner. He has also done some special things that rate mentioning.

"I spent $200 on Christmas cards for the officers to show them that Administration was really behind them," Crawford said. "I didn't have enough money left over for postage so we put them in with their checks. The comments I got were, 'I've been here for 18 years and it's the first time this has ever happened. I really appreciate it.' "

"I also keep a particular file on officers' birthdays and send them birthday greetings signed by myself," he added. "I believe in this type of thing. Recognizing an officer and calling him by his first name gives him his individuality—he really feels like he's someone special. It's important to them and it's important to me."

The Director has also welcomed any officer to talk with him about their problems within the department and changes they would like to see.

"I believe this," he said. "When I was a police officer, we had a stupid rule that you had to wear your hat at all times. I'm 6'3" and my partner was 6'7". Can you imagine this poor guy driving around all day with his head ducked all the time? To me, that was ridiculous. So I think that to give an officer who has to drive a car all the time some input into what he drives, it's only right. Though you won't please everyone, you know that officer feels he was instrumental in making the decision. You see, it's their department."

One of the Director's foremost priorities is combating the stress level of Correctional Officers.

"I'm worried about the stress level that's associated with this job. It's tougher than that of a police officer, though you hear of police burnout, but never of correctional officer burnout," he remarked. "I read that on a scale of 1 to 30, police officers rank about Number 26 while correctional officers rank Number 5 (with air traffic controllers being Number 1). We most definitely have plans to combat this stress."

"One of the things I have in the budget this year are funds for providing employees with a counseling service," he added. "I believe that an employee's stress level is more than just what is built up on the job; it's also the problems he may have at home. If he has problems at home, they're going to carry over and affect his job."

Not only have officers benefitted because of this new director, but Dade County's citizens have as well. In the past year, the public has received an inside look at the jail and what goes on behind the bars. Director Crawford has helped open up the doors by inviting the media and the public inside.

"When I came here, there was a blackout on TV cameras and news media in the Jail," Crawford states. "I held that if this community is going to be made aware of one of its departments, you can't do it by shutting out the cameras. All they have to do is call and tell us when they're coming and we'll show them around. If the cameras show people sleeping on the floor, that's too bad. That's the way it is. And I'll be the first to say we have people on the floor but at least the place is clean."

In addition to the media having access to the Jail, the public is also welcome. The Jail averages two tours a day of grade schools, junior highs, senior highs, law enforcement trainees and anyone else who would like to see it. Different officers are picked to conduct the tours, from experienced ones to fairly new ones. They are told to tell it like it is and answer any and all questions as best as they can, and to show exactly what it's like to be in jail.

The Director feels this program can be very beneficial.

"We try to get them in here while they're young," he said. "Get the impression in their heads that this is not a country club—it's a jail."

"It also dispels a lot of fears the public has when they come in and see the jail for the first time. They can see for themselves what it's really like instead of relying on rumors," he added.

One change that has been of great interest to everyone in the Jail—both officers and inmates—is one that has come about because of all the other changes; a reduction in injuries.

"I've seen a change in relations between inmates and officers, which has resulted in a reduction in assaults on officers," Crawford said. "We very seldom have one any more though they do still exist. We won't fool ourselves there."

Director Crawford encourages officers to participate in sports and other departmental activities. He himself participates in any event and activity planned by the officers. For example, when officers in the department organized a basketball team, the director attended their games. When this same team went to the Police Olympics, he aided them in going.

"Most of our officers are young," Crawford said, "but we do have some older ones as well. We have got to stress to both young and old the importance of physical conditioning. A lot of our officers are not physically 'attuned', you might say. And to this end, I try and promote every sport and activity I can."

"Just recently our guys went up to Jacksonville for the Police Olympics and did very well," he added. "We won a gold medal in basketball and a couple of other medals. These are the sort of things we've got to get every officer interested in—for their own good."

"This job is more than just locking people up and making sure the court dockets are full. It's the officer's physical as well as mental well-being. And now I've got these guys who went to the Olympics coming back and feeling good about themselves, which is important to both them and their department."

Finally, when asked if he sees the P.B.A. and its policies as being a benefit to the officers or a hindrance to the Administration of Corrections, the Director answered:

"Would I be a dues-paying member and support the P.B.A. if I were against it?"

It should also be noted that when Crawford took over as Director, he immediately contacted the P.B.A. to begin meetings between management and labor every month, to air out problems either side may have. These meetings have proven to be very successful; since their inception, there has been only one grievance filed against the Corrections Department; and that dealt with parking. This has been one of the most effective

programs ever implemented in the history of that department.

* * * * *

Perhaps the Director's most shining accomplishment is the positive change in the officer's attitudes. Officers are beginning to feel pride in their department and their accomplishments. Morale, which was once so low, is suddenly on its way up. Officers have become individuals; they feel they're important and that perhaps they can now contribute something beneficial to the department. But more importantly, they suddenly want to contribute and be a part of it!

In many small ways, the Director has helped officers feel that they are needed. Changing working conditions, knowing their names, recognizing them on birthdays and holidays, participating in departmental events, seeking their advice and opinions.

Director Fred Crawford has come down off the pedestal that most department heads reach and has become one of the officers. In one year, the director has set the direction that the Department of Corrections and Rehabilitation will take for the future.●

THE B-1B

● Mr. GOLDWATER. Mr. President, a lot of noise, and that is all it amounts to, is being made about the size of the military budget. Indeed, quite a bit of thunder is coming from all over the place on cutting that budget. Now, you can cut that defense budget in half and it would not make much difference in the deficit. So, when people start talking about "let's stop this, let's stop that, let's not buy this or that because it's too expensive," I think any of us acquainted with the cost of armament would partially agree. We have been paying too much for too long. Unfortunately, these costs are frequently tied to the high rate of inflation, and, I must say, probably high profits during a period when profits were not looked at very close and, of course, there is always the extremely high cost of labor.

One of the main targets of those people who want to cut defense, naturally, is the B-1. It is the first modern bomber we have had in over 25 years, and now we have Members of the Congress who say: "Oh, we don't need it." I am not going to go into a comparison of the Soviet bomber fleet with ours even though their bombers should be recognized as formidable. I am just going to ask my colleagues to read a very fine article appearing in the January issue of Air Force Magazine entitled, "Finally the B-1B."

The article follows:

[From the Air Force Magazine, January 1983]

FINALLY—THE B-1B

(By Capt. Michael B. Perini, USAF)

Remember 1955? Dwight D. Eisenhower was President. Rock and roll music was just about to sweep the nation, led by the uninhibited performances of Elvis Presley. And the Department of the Air Force, only eight years old as a separate service, was flying a brandnew strategic bomber—the B-52 Stratofortress.

For twenty-eight years various versions of the B-52 have been on guard—forming the backbone of USAF's Strategic Air Command. Help is on the horizon, however, to replace the aging B-52 with a sleek new bomber—the B-1B.

The aircrew for the new strategic bomber will consist of the pilot, copilot, offensive systems operator, and defensive systems operator seated on ACES II ejection seats in a pressurized crew compartment. Access to the cockpit is through a downward-opening door and retractable ladder under the fuselage, aft of the nose wheel.

The aircrew convenience package incudes a hot cup and a chemical toilet. There are no bunk beds, but the crew can get up and stretch and move around. Crew members reported no fatigue problems after flying nonstop from Edwards AFB, Calif., to England, and eleven-hour and twenty-five-minute flight, in September 1982.

The aircraft, made principally of aluminum alloys and titanium, is hardened to withstand nuclear blast and overpressure. The structure of the B-1B is conventional, apart from the diffusion-bonded titanium wing carry-through and the boron-composite spine running from the wing box to add strength and stiffness to the aft fuselage. The B-1B has been modified from the B-1A (the original B-1) to increase maximum takeoff weight from 395,000 pounds to 477,000 pounds, primarily to accommodate a full complement of cruise missiles.

The fuselage, which blends, F-16 style, into the variable-sweep wing, is a large fuel tank with space left for the aircrew, a great deal of avionics, and three internal weapons bays.

A movable bulkhead separates forward and intermediate weapon bays, a modification introduced to accommodate the long AGM-86B cruise missile and to increase fuel capacity. The aircraft can carry a full range of nuclear and nonnuclear weapons loads weighing up to 125,000 pounds.

The Air Force is pursuing the development of a common rotary launcher for internal weapons carriage on strategic bombers, including the B-1B. The launcher could be used for nuclear bombs, SRAMs, and ALCMs, and will be compatible with future conventional weapons including the Medium-Range Air-to-Surface Missile (MRASM).

SIMILARITIES AND DIFFERENCES

Though eighty percent common with the B-1A, there are differences. The new version is the same length (147 feet long), is slower at higher altitudes, retains the low-altitude speed, is slightly heavier, carries a bigger payload and more fuel, and boasts a substantially reduced radar cross section. The bomber will have fixed engine inlets designed to optimize the aircraft's high-subsonic, low-altitude penetration mission. Below the cockpit are small canard surfaces, structural mode control vanes that improve low-level ride comfort for the crew and that greatly enhance aircraft fatigue life. Finally, the landing gear has been strengthened to handle heavier gross takeoff weights. (For a full technical description of the B-1, see "Jane's All the World's Aircraft Supplement," Air Force Magazine, December 1982 issue.)

The B-1A design was frozen early in the fly-by-wire era, and mechanical flight controls were specified for reliability. All control surfaces are operated electrohydraulically by rods, cables, pulleys, and bellcrank levers.

Both offensive and defensive electroncis systems are much improved over the original B-1A. The offensive avionics include an improved forward-looking/terrain-following radar, an improved data bus interface, a highly accurate inertial navigation system, a link to the Air Force Satellite Communication System, and much of the new Offensive Avionics System (OAS) package being installed in B-52Gs and Hs. The avionics suite provides the capability to accept future growth in mission requirements.

The heart of the defense avionics package is the ALQ-161 Defensive Avionics System. Made up of more than 100 "black boxes," this flexible, reprogrammable system detects and analyzes automatically the range of Soviet early-warning, ground-controlled intercept, and surveillance and multiple threat radars. The electronically steered phased-array antennas are mounted in the wing-glove leading edges and in the tail. The system consumes about 120 kilowatts of power in an "all-out" jamming mode. This is equivalent to about 120 microwave ovens cooking meals at once.

Another part of the defensive avionics system is the tail warning system and such expendable decoys as chaff and flares.

All the main system computers on the B-1B are identical and communicate over a standard military data bus called 1553B.

The Electrical Multiplex (EMUX) system will control power distribution to various subsystems—avionics equipment, landing gear, engine instruments, and fuel system. The EMUX will eliminate approximately 32,000 wire segments and more than eighty miles of wiring. The system will weigh two-thirds less than a conventional wire bundle arrangement.

Four 30,000-pound-thrust General Electric F101-GE-102 augmented turbofan engines will power the B-1B. More than twelve years and $600 million have been invested in testing and development. This includes 23,800 hours of factory and flight testing. The engine core is identical to that of the F101 DFE (Derivative Fighter Engine). The CFM56 high-bypass turbofan engine also shares much of this common core.

The engines can be easily started. The first crew member to the ladder flicks a switch on the nose gear that starts two auxiliary power units, each of which is located between two engines. The pilot or copilot can then throw four switches that will start the engines simultaneously. According to General Electric officials, the engine is virtually smokeless, with total emissions being significantly lower than those of most military engines.

"The Air Force is getting an engine that will be warranted, completely up to date using technology that is proven," said Ned Hope, Jr., general manager of GE's F101 Project Department at Evendale, Ohio.

ACQUIRING THE B-1B

The production schedule for this bomber is challenging. To under stand better the status of the program, we need to look briefly at its start almost thirteen years ago.

The original B-1A was the outcome of a succession of several Defense studies, begun in 1962, leading to the Advanced Manned Strategic Aircraft (AMSA) requirement in the mid-'60s for a bomber to replace the B-52. To meet the B-1A requirement, Rockwell International's Los Angeles Division (now North American Aircraft Operations) was given the contract for the B-1A air-

frame, and the General Electric Co. was awarded the F101 turbofan engine contract in June 1970.

Eventually, four aircraft were built and tested, with the first test flight in December 1974. The original B-1A program called for the procurement of 244 bombers, including prototypes, with full delivery by 1985. On June 30, 1977, however, President Carter canceled the production program but allowed the research and development phase to continue. His decision kept the door open for a possible restart.

With the election of Ronald Reagan and changed congressional and public attitudes toward national defense, the prospects for procuring a new strategic bomber increased. Congress acted quickly by authorizing the appropriating funding in the 1981 Defense Act for a new strategic multirole bomber, directing the Air Force to evaluate several alternatives and report back. The bill also stipulated that the bomber be operational prior to 1987 and be able to perform the missions of a nuclear weapons delivery platform, a cruise missile carrier, and a conventional bomber.

On October 2, 1981, President Reagan announced his decision on a strategic modernization program to include production of 100 B-1Bs. The new bomber would be a part of a major effort to modernize America's strategic forces. The President's program to modernize the bomber force also included retiring B-52Ds, modifying B-52G/H models to carry cruise missiles, outfitting existing KC-135 tankers with new engines to increase refueling capability, and continued research and development of an Advanced Technology Bomber (ATB).

But is the B-1B the answer? Can it penetrate? Senior Air Force officials believe that by the 1990s the B-52 will no longer be an effective long-range penetrator. Stated simply, being able to penetrate air defenses is a function of an aircraft's speed, altitude, radar cross section, ECM capability, evasive capability, and the depth of the air defenses/interception screen it must face on the way to the target.

Critics of the program have charged that the B-1B is an interim aircraft. In a recent interview with Air Force Magazine, Maj. Gen. William E. Thurman, Deputy for B-1B at Aeronautical Systems Division (ASD), addressed the issue: "It is not an interim bomber, nor will it be obsolete once it is built."

While smaller than the B-52, the B-1B can launch more quickly and operate from shorter runways than can the B-52. In addition, the aircraft's greater speed, automatic terrain-following capability, improved defensive avionics, and reduced radar cross section will give the B-1B a much greater penetration capability than its predecessor.

The decision to build the B-1B was based largely on the results of a Bomber Penetration Evaluation (BPE) conducted during the late '70s and the early '80s using a B-1A. The BPE showed that a combination of smart electronics, tactics, and human resources could defeat the advanced defenses that the Soviets were likely to field in the 1990s. These tests included computerized analysis and flight tests of the B-1A and its avionics systems against simulated known and predicted Soviet air defense systems.

"Acquiring the B-1B while continuing to pursue advanced technology is the most cost-effective approach," testified former USAF Chief of Staff Gen. Lew Allen, Jr., at a Senate hearing shortly after the President's announcement to build a new bomber.

"It will enable the United States to field a flexible and extremely capable bomber in the middle of this decade—a bomber that will be able to penetrate Soviet air defenses well into the 1990s and will perform as an effective element of our strategic forces for more than two decades. At the same time, it will allow the time necessary to pursue the development of an advanced technology bomber," he emphasized.

Using Stealth technology, the B-1B will be tough to track. The aircraft will have only 1/100th the radar cross section (RCS) of the B-52. This will allow the B-1B to employ fundamentally new electronic countermeasures techniques that cannot be used effectively by the B-52 because of its large RCS.

KEEPING COSTS DOWN

On January 20, 1982, USAF awarded Rockwell International's North American Aircraft Operations two contracts totaling more than $2.2 billion. The first is a full-scale development contract, valued at $1.317 billion, and requires Rockwell to finalize the B-1B design, modify two of the original B-1A bombers (second and fourth) at Edwards AFB, Calif., and conduct a flight-test program.

The second award is an $886 million production contract for building the first B-1B and obtaining long lead items for subsequent early production lots. Long lead items include strategic materials, such as titanium, and high demand parts and subsystems, such as connectors and specialized electronic components that must be ordered well in advance to meet production schedules.

A ceiling on the cost of the B-1B program has been set by Congress at $20.5 billion (FY '81 dollars). The $20.5 billion pays for research and development, 100 aircraft, initial supply of spare parts, B-1B-unique maintenance training equipment, logistics support equipment and technical order data, and the ability to carry Air-Launched Cruise Missiles.

In recent months, several audit groups have reported cost estimates ranging from $23.6 billion to $41 billion—all above the official Air Force figure. Air Force officials, however, remain firm and highly confident of their funding estimates.

Special safeguards have been implemented by DoD to assure that costs for the B-1B program do not exceed the $20.5 billion ceiling established by Congress. Some of the major safeguards include:

No changes in the acquisition program or major configuration changes without approval of the Deputy Secretary of Defense.

Using a minimum of invention and a maximum of "off-the-shelf" equipment from current aircraft programs.

Proceeding with a vigorous multiyear contracting program.

Both the Air Force and the contractors are overseeing this highly visible program very carefully. For example, new Management Action Centers have been established at Rockwell and ASD's B-1B Program Office at Wright-Patterson AFB, Ohio, to keep track of the acquisition and production programs. Furthermore, a biweekly "how goes it" meeting is held with the Secretary of Defense. At these meetings particular attention is paid to actual vs. planned expenditures, personnel requirements, potential changes in the airplane, and development and production status of each of the four associate contractors and the major subcontractors.

The business of the day-to-day monitoring of the B-1B program, however, is assigned to the B-1B Program Office. The role of this program office and its staff is unique. Instead of managing a single prime contractor as do other program offices, the B-1B program office acts as USAF's integrating contractor among the four associate contractors.

Rockwell International is responsible for the airframe and achieving aircraft design integrity. The Boeing Military Airplane Co. has the role of developing and producing the offensive avionics as well as integrating all avionics efforts and providing the controls and displays for the aircraft's defensive system. Eaton Corp.'s AIL Division is responsible for defensive avionics, and General Electric's Aircraft Group is producing the turbofan engine.

The B-1B Program Office also manages the B-1B development program, a concurrent production program, a flight-test program, and the support system development program. General Thurman says his staff is working hard to find ways to keep costs down. "We are even looking at aircraft support items—everything from wheel chocks to automatic test equipment already in the Air Force inventory and/or in commercial use to determine if they can be used as is, or modified and used, rather than developing something new simply to put a B-1B label on it.

"Of the 272 aircraft 'black boxes,' all but fifty-seven came from either off-the-shelf equipment or modifications of off-the-shelf equipment."

The B-1B Project Office is using the Automated Management System, the first program office to do so. This system provides real time data on virtually every aspect of the B-1B program. When fully operational this year, project office workers will be linked by computer with Rockwell North American Aircraft Operations.

NO SHOW STOPPERS

In addition to the four associate contractors, the program includes more than fifty major subcontractors and more than 3,000 suppliers and vendors. Over the full term of the program, Rockwell plans to place about $6 billion worth of work with them.

Rockwell estimates that 58,000 people will be working on the B-1B program at its peak. Of that number, 22,000 will be Rockwell employees in El Segundo and Palmdale, Calif.; Columbus, Ohio; and Tulsa, Okla.

Tooling, components, and such critical materials as titanium, steel, and aluminum, stored when the B-1A production program was canceled, are steadily being delivered to Rockwell facilities as well as to other major subcontractors throughout the US.

The production statistics as of November 15, 1982:

16,300 of 18,000 engineering drawings completed.

41,000 of 61,000 manufacturing orders released.

54,000 of 58,000 tool orders released.

16,000 new parts fabricated for the first two production aircraft.

In addition, six of twenty-two five-axis milling machines, which cut and grind metals in almost limitless configurations, are already in use.

To augment facilities and support equipment, Rockwell plans to initiate contracts for approximately $400 million over the next four years. About ninety percent was obligated in 1982, according to Rockwell officials.

Early last year, construction began on an $83 million, 950,000-square-foot final assembly complex at Palmdale, Calif. The new complex will support existing B-1B facilities at Palmdale, which Rockwell operates at nearby Air Force Plant 42.

"There are no show stoppers at this point," said Sam Iacobellis, Executive Vice President and B-1B Program Manager for Rockwell's North American Aircraft Operations. "The B-1B production program is well under way, and we are dedicated to meeting the cost and schedule requirement of our contract with the Air Force."

The Air Force seems to concur. In July 1982, it gave Rockwell "high marks" following an intensive Production Readiness Review (PRR) conducted by the Manufacturing Directorate of the B-1B Program Office. The PRR was designed to determine progress by Rockwell in meeting specifications, schedules, and cost requirements of the contract.

General Thurman said that he was pleased with the way the program was going: "The stewardship both on the program office side and with the associates indicate we are ahead of schedule and under costs. Commands like SAC and AFLC have been very temperate in their demands for newer items and capabilities for the aircraft. As a consequence, the B-1B program has now all aspects of being fully successful because of the entire team effort."

The highly concurrent production program for the bomber calls for engineering design review of the first B-1B to occur approximately four months after production start. Final design review should take place about a year later, with the first production B-1B rollout planned for October 1984. The aircraft's first flight is contractually scheduled for March 1985, but it is now expected to occur in December 1984 or earlier, according to Rockwell officials.

The first aircraft delivery to SAC will be in 1985, with the first fifteen aircraft in place by September 1986. The production level will build to a maximum planned rate of four aircraft per month with the 100th aircraft schedule for delivery by June 1988.

RUGGED TESTING

Though production of the B-1A was discontinued in June 1977, the research and development program continued until April 1981. The total program investment was more than $6 billion. These dollars bought years of testing, including more than 25,000 hours of wind-tunnel tests and 7,550 engine flight hours. In addition, highly loaded structures were subjected to fatigue testing equivalent to three lifetimes.

Prior to the flight of B-1A No. 4 to England in September 1982, the B-1A's total flight time was 1,895.2 hours. Early in the flight-test program, which began in December 1974, the B-1A proved its major design points, including low-level penetration at nearly the speed of sound. On October 5, 1978, the No. 2 B-1A achieved a top speed of Mach 2.22 in the program.

B-1A prototype No. 2 will again be flight-tested in April to evaluate many of the new B-1B design features for stability and control and for flutter and weapon systems test. B-1A aircraft No. 4, which will incorporate the remainder of B-1B improvements and be used for verification testing of the offensive and defensive avionics systems, will start flights in the summer of 1984. Verification testing on B-1B production aircraft No. 1 is scheduled for completion in mid-1986.

The development test program includes a two-team approach made up of members from SAC, the Air Force Flight Test Center at Edwards AFB, Calif., the contractors, and the B-1B program office.

"It's the most innovative and operationally oriented flight-test program ever. We are placing a tremendous amount of importance on planning. Every test hour is vital. For example, pilots will have available backup missions to complete if a problem occurs in the primary test mission," said Col. Mike Baran, Chief of Test and Deployment in the B-1B Program Office.

Though the B-1B program is going extremely well, there are still some things to watch—any slippage or reduction of authorized funding, erosion of political support, supply of strategic materials, and stability of the supplier and subcontractor base.

General Thurman remains optimistic. "Thirty years from now we'll look back and say that this weapon system was one of the finest investments we made in protecting our freedom."

The key, of course, will be the aircraft's flexibility to adapt to new technologies, tactics, and threats in tomorrow's world.●

CHANGES THAT INCREASE THE COST OF MANUFACTURED HOMES

● Mr. LUGAR. Mr. President, I bring to the attention of the Senate a matter which is of growing concern. As you know, the production of quality manufactured homes has been for many years an important part of the economy of the State of Indiana. We value highly the levels of employment and commerce which result from this production and the safe and desirable housing which it provides to thousands of Americans throughout the Nation.

One of the finest of these producers is Liberty Homes, Inc. based in Goshen, Ind., with plants in Pennsylvania, Oregon, Kansas, Georgia, Florida, Texas, and Wisconsin. Together with other manufacturers, the chairman of Liberty Homes, my good friend, Edward J. Hussey, has called my attention to possible changes to the manufactured housing and construction and safety standards. These changes may substantially increase the cost of manufactured homes which would eliminate the possibility of homeownership for thousands of Americans because manufactured homes are virtually the only new homes available to families earning less than $20,000.

The Department of Housing and Urban Development regulates the construction of manufactured housing with a preemptive code. This code has not been changed since 1976 and will probably be modified this year. Some of the potential changes are needed, but many of the proposed revisions will add cost to the production of a home. While many of the changes would only increase slightly, the aggregate of the proposals may add significantly to the cost of a manufactured home. One proposed set of revisions would increase the retail price of a single-wide manufactured home by almost $1,400 and increase the price of a multisection home by almost $2,200. These increases do not include the financing charges which would be added and do not include reengineering, design, and testing costs, required by the changes, all of which would be added to the cost of a home.

Such cost increases are especially troubling because manufactured homes are the only homes people of moderate means can afford. If manufactured home prices go up, there is no cheaper alternative for a family. If prices go up, potential home buyers are priced out of the market and will not be able to buy a home. For instance, using a traditional assumption that 25 percent of a family's income can be used for housing expenses, and if the price of a typical $20,000 manufactured home is raised by $500, through the imposition of the new regulations, about 1 million consumers will be priced out of the market. At a more liberal rate of 33 percent of gross income used for housing expense, and assuming a $500 increase in price, approximately 950,000 buyers are eliminated. We must be particularly sensitive to the affordability issue because manufactured homes are the low-cost houses of our country today. The average manufactured home sells for $20,000 in contrast to the average of $90,000 for a site-built home. Of all homes sold in the United States today, 85 percent of those under $25,000 are manufactured homes. Every increase in price is devastating to families who are trying to purchase their own homes.

On both humane and economic grounds, every effort must be made to maintain, and, where possible, lower the construction costs of housing. This is especially true for homes that are designed and produced for low- and moderate-income families as is so much of manufactured housing.

HUD should carefully review the cost impacts of construction code changes before proceeding further. Some change in the standards may indeed be desirable, but every change must be analyzed within the context of its cost impact. If we price homes out of the reach of the consumer, we have accomplished little.●

LEADERSHIP OF RICHARD LEIGHTY

● Mr. DOLE. Mr. President, I rise today to call attention not only to one of my favorite programs but to also honor a citizen of my State for his tremendous contribution in seeing that the benefits of this program have been utilized to the fullest in my State of Kansas.

I am referring to the Close Up program which, as you know, conducts excellent seminars on politics for young people and their teachers. For the past 10 years, I have been deeply involved in this program and have been most impressed by the excellent manner in which Close Up educates our young people about the political process.

Three years ago, I encouraged Close Up officials to develop a Kansas program. Since that time almost 250 Kansans have traveled to Washington to participate in Close Up. Hundreds more have become involved in a Close Up program conducted at the State level and through several interactive telecasts sponsored through the Close Up foundation.

I continually receive feedback from students and educators in my State who have developed a significant interest in the political process as a result of the Close Up program.

The Kansas program has developed because of the leadership of Richard Leighty, State social studies coordinator. Richard's personal interest and dedication have been the backbone of the successes of the Close Up program in my State. He has been tireless in pursuing and developing activities which have had an impact on hundreds of our young people and which are creating a whole new generation of interest in participation in our political process. Richard Leighty is to be commended for all he has done for the young people of my State.●

WISCONSIN CITIZENS HELP REDUCE THE NATIONAL DEBT

(By request of Mr. BAKER, the following statement was ordered to be printed in the RECORD:)

● Mr. KASTEN. Mr. President, recognition should be given to the citizens of Twin Lakes, Wis., for their contribution of $4,500 toward the reduction of our national debt.

In that unique way the American people have of attempting to solve their own problems, the citizens of this small Wisconsin town joined together in a common cause. They proclaimed last May 22 "National Debt Day" and combined the day's receipts of local businesses with the contributions of private individuals to aid our Nation in reducing its debt. It was with great pride that I personally presented the contribution of these citizens to Secretary of the Treasury Donald Regan on January 6, 1983.

While their contribution may seem small in comparison to the actual size of our Nation's debt, I believe it exemplifies not only the civic-mindedness of these particular citizens, but the public concern over this, our most pressing national problem. The actions of the people of Twin Lakes underscore the importance of halting these ever-increasing deficits. It is the responsibility of Congress to find a solution. This patriotic endeavor serves to remind us of that responsibility.

The citizens of Twin Lakes provide an excellent example of the American spirit at its best. I am proud to represent these people, and I believe they richly deserve our recognition and thanks.●

HONORING JOSEPH S. DOMINELLI

● Mr. D'AMATO. Mr. President, it is with special pride that I call to your attention the record and achievements of a truly exceptional New Yorker, Mr. Joseph S. Dominelli, who will soon retire as chief of police of the Rotterdam, N.Y., Police Department.

As a member of the Rotterdam police force for more than 35 years, Chief Dominelli has repeatedly demonstrated concern for the youth of his community, the problem of drug abuse and the future of his profession. He is recognized both nationally and internationally for his efforts in the law enforcement area and is considered an ardent supporter of the professional rights of policemen. Through his participation in the Policeman's Benevolent Association and other professional organizations, he played an instrumental role in establishing excellent communication between the police officers and the communities they served.

His illustrious career in law enforcement is highlighted by his participation as a former president of the New York Association of Chiefs of Police (1972-73) and as a past president of the 14,000-member International Association of Chiefs of Police (1979-80). Presently he is executive secretary of the New York State Chiefs Association and serves as a member of the executive committee of the International Association of Chiefs of Police. In addition, he is a charter member of the Northeastern Chiefs of Police Conference. Chief Dominelli's recognized position in law enforcement has provided him with the opportunity to meet with many prominent people, most notably, the Attorney General of the United States; the Director of the FBI; and Presidents Nixon, Ford, Carter, and Reagan. His deep concern for the issue of drug abuse earned him a post on a special Federal commission investigating narcotics trafficking. This position enabled him to meet personally with Pope John Paul II to discuss the drug problem and the Catholic Church's involvement in the issue.

Undeniably, Joe Dominelli is a man of exceptional character who has served his community, his State, and his nation with great honor. As a veteran of World War II, he was awarded both the Purple Heart and the Bronze Star for his valor and performance in that great struggle. In addition, he has received numerous professional awards and citations for his outstanding contributions to law enforcement. It is a tremendous honor for me to lend further recognition to this exceptional American and wish him every happiness and success in retirement. Truly, he is a credit to his profession and to his country.●

CONCLUSION OF MORNING BUSINESS

Mr. BAKER. Mr. President, has the time for the transaction of routine morning business expired?

The PRESIDING OFFICER. Time for transaction of routine morning business has expired.

RECESS

Mr. BAKER. Mr. President, I move, in accordance with the order previously entered, that the Senate now stand in recess until the hour of 12 noon on tomorrow.

The motion was agreed to; and, at 3:30 p.m., the Senate recessed until Thursday, January 27, 1983, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate January 26, 1983:

CONSUMER PRODUCT SAFETY COMMISSION

Terrence M. Scanlon, of the District of Columbia, to be a Commissioner of the Consumer Product Safety Commission for a term expiring October 26, 1989, vice R. David Pittle, resigned.

CORPORATION FOR PUBLIC BROADCASTING

Helen Marie Taylor, of Virginia, to be a Member of the Board of Directors of the Corporation for Public Broadcasting for a term expiring March 1, 1984, vice Gillian Martin Sorensen, term expired.

Richard Brookhiser, of New York, to be a Member of the Board of Directors of the Corporation for Public Broadcasting for a term expiring March 26, 1987, vice Michael R. Kelley, term expired.

Karl Eller, of Arizona, to be a Member of the Board of Directors of the Corporation for Public Broadcasting for a term expiring March 26, 1987, vice Clyde M. Reed, term expired.

Sharon P. Rockefeller, of West Virginia, to be a Member of the Board of Directors of the Corporation for Public Broadcasting for a term expiring March 26, 1987. (Reappointment.)

U.S. POSTAL SERVICE

John R. McKean, of California, to be a Governor of the U.S. Postal Service for the term expiring December 8, 1991, vice Timothy L. Jenkins, term expired.

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

Kenneth L. Adelman, of Virginia, to be Director of the U.S. Arms Control and Disarmament Agency, vice Eugene Victor Rostow, resigned.

IN THE AIR FORCE

Lt. Gen. Paul W. Myers, U.S. Air Force, (age 60), for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 1370.

IN THE AIR FORCE

The following-named officers for permanent promotion in the U.S. Air Force, under the appropriate provisions of chapter 36, title 10, United States Code, as amended, with dates of rank to be determined by the Secretary of the Air Force.

LINE OF THE AIR FORCE

To be lieutenant colonel

Bail, Philip G., Jr., xxx-xx-xxxx
Baranowski, Bronislaw F., xxx-xx-xxxx
Cantrell, Zell O., xxx-xx-xxxx
Clonch, Herbert L., xxx-xx-xxxx
Flynn, Richard W., xxx-xx-xxxx
Hill, Jerry P., xxx-xx-xxxx
Holmes, William T., Jr., xxx-xx-xxxx
Jolley, Richard H., xxx-xx-xxxx
Stepakof, Richard J., xxx-xx-xxxx
Wilson, Robert M., xxx-xx-xxxx
Wodarczyk, Ronald S., xxx-xx-xxxx
Zucchetti, Robert, xxx-xx-xxxx

Judge advocate

Babin, James C., xxx-xx-xxxx

To be major

Gordon, Michael R., xxx-xx-xxxx
Haas, Michael E., xxx-xx-xxxx
Lackey, William E., xxx-xx-xxxx
Newman, Carl G., xxx-xx-xxxx

Nurse corps

Mehargue, Susan L., xxx-xx-xxxx

EXTENSIONS OF REMARKS

REMARKS OF THE HONORABLE JOHN O. MARSH, JR., SECRETARY OF THE ARMY

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1983

● Mr. WHITEHURST. Mr. Speaker, on Saturday evening, January 22, 1983, it was my privilege to introduce my good friend and former college classmate and House colleague, Secretary of the Army John O. Marsh, Jr., on the occasion of his speech before the 15th annual banquet of the Douglas MacArthur chapter of the Association of the U.S. Army in Norfolk.

At that time, I pointed out that I am excited by the great forward strides being made by our Army these days, and I gave much of the credit to the Secretary, since I feel that it is his leadership which is a major factor in these positive developments. The Secretary's remarks follow, and I believe his words underscore the points I have made. I know that they were an inspiration to all who heard him that evening, and I am pleased to share them with my colleagues at this point in the RECORD. His comments transcend Army matters and should serve to give all of us a strong motivation to make every effort to keep our country on the path of leadership, honor, and freedom.

Thank you, Mr. Speaker.

REMARKS BY HON. JOHN O. MARSH, JR.

Entryway to the Hall of Heroes is the MacArthur Corridor.

MacArthur's father—First Lieutenant Arthur MacArthur won the Medal of Honor at age 18 at Missionary Ridge in the War Between the States.

Douglas MacArthur, his son, won the Medal in 1942 for his courageous defense of the Philippines.

Douglas MacArthur's mother—Mary Hardy—was from Norfolk, Virginia. His uncle—William Charles Hardy—had been a member of the VMI Corps of Cadets at the Battle of New Market.

MacArthur was Cadet First Captain at West Point from which he graduated in 1903.

He served in the Philippine insurrection and the Mexican Expedition in 1914. By World War I he had become a Brigadier General. Before that war ended, he was twice awarded the Distinguished Service Cross. Also the Distinguished Service Medal, 7 Silver Stars and two Purple Hearts for wounds.

Between World War I and World War II, he served as President of the American Olympic Committee. He was Superintendent of the United States Military Academy and Chief of Staff of the United States Army.

Many are not aware he retired from the United States Army in 1936 and then served as Marshall of the Philippine Army for the Philippine Commonwealth until being recalled to active duty shortly before Pearl Harbor.

His military career from that point forward is more famous to most Americans.

The escape from Corregidor by PT boat and his reoccupation of the Philippines as part of the Pacific Campaign as the War closed in the summer of 1945.

History will probably record that the genius that marked his military career also produced one of the greatest civilian administrators. This was reflected in the recovery of Japan and led to the emergence of not only a great Pacific power, but a key nation in the Free World community.

The adversaries which stemmed from the Korean War did not diminish the respect that America has for him as one of its greatest soldiers.

In May of 1962, in his famous address to the Corps of Cadets at West Point, he observed:

"Duty, honor, country. These three hallowed words reverently dictate what you ought to be, what you can be, and what you will be. They are your rallying point to build courage when courage seems to fail, to regain faith when there seems to be little cause for faith, to create hope when hope becomes forlorn. The code which those words perpetuate embraces the highest moral law and will stand the test of any ethics or philosophies ever promulgated for the uplift of mankind. Its requirements are to the things that are right and its restraints are from the things that are wrong."

General MacArthur was a student of history, and he was familiar with the grim realities of war.

We should look at realities today. The President in a recent radio address observed:

"There are some who still ask which nation is the true peacemaker—the United States or the Soviet Union? Well, let us ask them, which country has nearly 100,000 troops trying to occupy the once nonaligned nation of Afghanistan? Which country has tried to crush a spontaneous workers movement in Poland? And what country has engaged in the most massive arms buildup in history." (Radio Address to the Nation, April 17, 1982).

Let's look at Soviet realities:

The Soviet Union is a land-based power. Their land mass is Eurasia. The centerpiece of Soviet power is and continues to be the Soviet Army of more than 180 Divisions.

They have been realistic about their goals. One that is often overlooked was stated by Brezhnev in Prague in 1973 when he said:

"Our aim is to gain control of the two great treasure houses on which the West depends. The energy treasure house of the Persian Gulf, and the mineral treasure house of Central and Southern Africa."

Reality—There has been a substantial quantitative and qualitative improvement in the weapons of the Soviet Army.

President Reagan spoke to this when he said:

"The military balance which permitted us to maintain the peace is now threatened. If steps are not taken to modernize our defense, the United States will progessively lose the ability to deter the Soviet Union from employing force or threats of force against us and against our allies." (Radio Address to the Nation, April 17, 1982).

Reality—There are other aspects of Soviet strengths. They do have a navy for blue water projection. They do have a modern and capable air force.

Reality—Older short range ballistic missiles in Soviet units are being replaced by new missiles with greater ranges and improved accuracy. The introduction of the SS-20 allows them to reach many critical targets throughout Western Europe.

But, as we look at realities concerning the Soviet Union, not all of them are realities of strength—formidable though they may be. There are many realities of weakness. They are not ten feet tall.

Reality—Their economy is in trouble. It is almost stagnant. The massive dedication of manpower and resources to defense has brought their rate of industrial growth down to the longest level since World War II. Last year's growth was very small—less than two percent.

Reality—The Soviet Union is the largest importer of foods of any major nation in the world. This is because their agricultural economy is bankrupt.

Reality—A close look at the Soviet soldier indicates that he may be able to accomplish routine tasks well, but he is not expected—nor is he allowed—to show much individual initiative. He may not react quickly to unexpected and changing situations.

Reality—Dissatisfaction among minority groups, both in the Armed Forces and the population at large, is a continuing irritant to the Soviet regime. This problem could grow as the proportion of non-Slavic peoples increases.

Reality—Most of these weaknesses are systemic to the communist state.

The President has raised concerns about the military balance. What are some of the realities when you look at the United States Army?

Reality—We lack adequate airlift to move the Army and to deploy it in places where it might be called upon to go.

Reality—We also need more fast sealift to move the Army, particularly our heavy equipment such as armored vehicles.

Reality—There are shortages of equipment in many of our units of the Active, the National Guard and the Reserve, i.e.:

Reality—The pace of modernizaton is not fast enough;

Reality—We lack modern communications equipment in many of our units;

Reality—There is a shortage of trucks and other motor vehicles.

Let's now look at United States strengths for they are considerable.

Reality—Your Army is on the move. Last Fall I observed REFORGER exercises in Germany and saw our Army—Active, National Guard and Reserve—in the field. They did an outstanding job. I should point out that General Otis, a guest here this evening, will shortly assume command of the American Army in Europe.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Reality—The Army is in transition. A modernization program has begun and its impact is beginning to be felt. Readiness is increasing in all components—Active, National Guard and Reserve.

Reality—Manpower needs are being met and our ranks are being swelled by some of the ablest and finest young people this country produces.

Reality—The National Guard and the Reserve are key participants and partners in this progress, and this will continue.

Reality—We are strengthening and expanding Special Operations Forces. There is a quantum leap planned for the augmentation of Special Operations Forces in the Army.

Reality—The COHORT program, which seeks to develop a regimental system, has begun.

Reality—We are moving with the high tech light infantry division.

Reality—Non-commissioned officers are making their mark by providing vital leadership.

Reality—Our officer ranks are being filled by the Academy, OCS, and the ROTC with the kinds of leaders that will ensure high caliber and quality leadership for years to come.

Reality—New doctrine is being written and reorganization to accomplish doctrine is well underway.

I submit to you that those who look at the American Army today, either friend or foe, will perceive a force whose effectiveness is far greater than its numbers. This is the kind of deterrent that will prevent war and preserve peace.

I am reminded of that earlier Colonial symbol with the pine tree flag and the rattlesnake coiled around its base and the words "Don't tread on me."

One of our great strengths is the industrial and technological power we possess. The Soviets, on the other hand, lag badly with their small real economic growth. Our private sector resources give us a wealth of talent to develop new technology. So far we have been able to maintain a lead in this important area. It is important that our advantage not only be enhanced, but its benefits denied to the Soviets.

It is a reality that they are making a determined effort to acquire advanced technology either through normal trade arrangements or, if necessary, by pirating. Our protection of this technology is vitally important. In the long run this is a valuable defense asset and resource. Even though selective restrictions may impact in a limited way on some industries, the long range benefits to our defense posture more than offset them.

I am convinced that the strengthening of our conventional forces is the cornerstone of deterrence. A strong conventional force can make the danger of conventional or nuclear conflict more remote.

Therefore, when we speak in terms of reality, we must recognize that mutually we have certain tasks. AUSA has been enormously helpful to our Army, and I would like to call on your local chapter in helping with some of these tasks.

What are some of these tasks, as I see them:

First, I think there is an absolute priority that all of our citizens have a greater knowledge of the threat we face. Thomas Paine wrote, more than two centuries ago: "These are times that try men's souls." And these are also times that try men's souls.

Second, there must be a greater awareness in this country of the needs of the Army, the National Guard and the Reserves. An informed public opinion is a powerful force on behalf of our nation's defense.

Third, there must be a commitment to meet these needs, and the acceptance and accomplishment of tasks, regardless how difficult, until they are done. I am referring to needs of: Readiness; Modernization; Sustainability; and Deployment.

These are the sword and shield of our strength for deterrence.

Fourth, in a less material way, there must be a sense of purpose and priority in our day to day endeavors on behalf of our country.

Lastly, our goal must be the pursuit of excellence, personally and collectively, as we go about these tasks.

These are tasks that must be undertaken not for the Army, but for our country.

I would like to suggest the possibility of AUSA in cooperation with the Navy League, the Air Force Association, and other organizations, sponsoring in the Norfolk area, a seminar on national security—the purpose of which would be to achieve a greater understanding of the nature of the threat we face.

Let us remember that even though this Army may be in transition, there are some things that do not change.

The reality of past and present conflicts confirms there is no substitute for the well trained soldier who is:

Physically tough and mentally conditioned;

Possesses the individual skills for combat and survival;

We will always need leadership of NCO's and officers, who are professionally qualified and courageous. We have them.

What is at stake are values and value systems.

The questions of:

Whether Government shall be the servant, or the master of man;

Whether there shall be individual opportunity, and human dignity;

Whether there shall be personal freedom, and the pursuit of happiness;

Whether there will be economic opportunity and individual expression.

As you walk along the sunken gardens near Princes' Street in Edinburgh, Scotland, you see a stone tableau that has been placed as a monument to the Royal Scots Regiment. Upon it is engraved:

It is not for glory nor riches,
Neither is it for honours
That we fight. But it is for
The sake of liberty alone,
Which no true man loseth,
But at the cost of his life.

Just 17 years remain in this century. In those 17 years we will not just close out the 20th century and complete another hundred years, we will close out a thousand years of human history. We will end the second millennium since the birth of Christ and begin the third.

The millennium in which we live began in the depths of the Dark Ages when there was pain and suffering, when there was persecution and precious little liberty, hardly any learning, and not much human dignity.

In these thousand years, we've seen the invention of the printing press, the discovery of the New World, the Renaissance, the Declaration of Independence, the American Constitution, the Bill of Rights, and the establishment of a Republic that has given to its citizens the world's highest standard of living, and more individual liberties than have ever been experienced by any society of people in all of human history.

Anthropologists say that if you were to take all of man's life span on the planet Earth, and assigned to it a quantitative value of 24 hours, that the period from about 1650 down to about 1970 or 1980—those three centuries—those 300 years, would be a minute.

Now if three centuries are a minute, that means the next 17 years cannot be more than a second or two. Yet, in that second we're going to cast the die of the future of our society. And we will close not just the 20th Century, but we will end a thousand years of human history and begin the third millennium since the birth of Christ.

In the next 17 years, our challenge must be to ensure that the benefits of this great Republic endure a succeeding generation, that they survive into the third millennium.

That is not simply the task and the duty of the Army, and the Navy, and the Air Force, and the Marines—that is the task and the duty of every American citizen.

When Washington signed the Surrender Document at Yorktown, he caused to be written above his signature: "Done in the Trenches before Yorktown, 19 October 1781".

It is a poignant reminder that sometimes free men must go into the trenches for freedom.

On the flag of the United States Army are carried 167 battle streamers that bear testimony to the Army's dedication to this proposition.●

ANATOLY SHCHARANSKY—AN IMPRISONED BIRTHDAY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1983

● Mr. GILMAN. Mr. Speaker, last week, January 20, marked the 35th birthday of Anatoly Shcharansky. There was no happy birthday celebration for this Soviet Prisoner of Conscience, who has been starving himself on a hunger strike since Yom Kippur in a God-forsaken maximum security prison in the Soviet Union, where there is no love and no care.

Anatoly's only crime was to speak out about the Soviet's utter disregard for human rights. As a monitor of the Helsinki accords, Shcharansky spoke out for freedom, for truth, for the right to emigrate, and for the reunification of families. The Soviet officials accused him of treason and of being an agent of the United States despite President Carter's denial. The term treason in the Soviet Union encompasses many alleged crimes which are committed in the name of justice and freedom.

Since 1977, when Anatoly Shcharansky was jailed because of his outspoken defense of the right of Soviet Jews to emigrate from the Soviet Union, this Prisoner of Conscience was denied basic prisoner rights—the right to receive mail, to have visitors, and the right to communicate.

Anatoly's mother has been forbidden to visit her son in prison, and has been turned away from Chistopol Prison on several occasions after her long difficult trips in her vain attempts to visit with him. His devoted wife, Avital, was exiled from the Soviet Union the day after their marriage and she has not been able to see him since. Yet, Avital's spirits are steadfast as she proclaims:

He is very free—they can do what they want with him, but they can't break his spirit.

For months Shcharansky had refused all food despite the efforts of the Soviet prison authorities to coerce him into eating by forcing prisoners on hunger strikes to watch other prisoners eat, and by force feeding, Soviet prison officials deny even this prisoner's limited method of protest.

Just this week we received new, conflicting information regarding Anatoly's condition. In a published report to French Communist Party leader Georges Marchais, the Soviet Chairman, Yuri Andropov, maintained that:

Recently, he (Anatoly) had a visit with his mother and ended his hunger strike. His state of health is satisfactory and nothing endangers his life.

However, Ida Milgrom, Shcharansky's mother, in a recent telephone conversation with concerned French citizens, stated that she had not been allowed any visit with her son and had received a letter from him in which he informed her that he was still continuing his hunger strike and that he required hospital care.

To clarify the discrepancy in these reports, I have sent a letter to Chairman Andropov, requesting the Soviet Government to clarify the status of both Shcharansky's health and his hunger strike, and once again requested that the Soviets allow Anatoly to be released from prison and to be reunited with his dear wife, Avital, in Israel.

As we mark this unhappy 35th birthday of Anatoly, who is halfway around the world dying for this devotion to human rights, let us pledge not to forget him and his family, and the other Prisoners of Conscience who have given so much in their valiant fight in focusing world attention on their noble cause—the right to emigrate and to be reunited with their families. They speak out for the hundreds of other Soviet Prisoners of Conscience, and the thousands of Jews and other Soviet refuseniks who are being denied these basic human rights.

Unless the Soviet Government relents and releases Anatoly, we will soon be marking another sad anniversary on March 15—the sixth anniversary of Anatoly's arrest. I hope and pray that we will not have to meet on that day. Yet, we have unfortunately come to know how unbending and uncompassionate are these Soviet officials, who apparently prefer to impose a lifetime of imprisonment in their own land to permitting the blooming of a life in a free land. Under present circumstances, we can only assume that we will be meeting on the 15th of March to remember that Shcharansky anniversary as well and I urge my colleagues to join in that commemoration.

Let us not forget, and let us continue to work for Anatoly and for the thousands of others behind the Iron Curtain who are determined to find a new life of freedom. Avital Shcharansky's words about her husband apply to them all—"I can hear his voice, and his voice is strong." Let us resolve anew that they shall hear our words and let our voices be strong.●

A SIMPLE ADDITIONAL BRAKE LIGHT COULD DRAMATICALLY REDUCE REAR END AUTO COLLISIONS

HON. ANTHONY C. BEILENSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1983

● Mr. BEILENSON. Mr. Speaker, today I am introducing a bill which could help cut in half rear end automobile collisions at very little cost to the auto industry or the consumer.

The bill would require all car manufacturers to add a high-mounted rear brake light (stoplamp) on the centerline of each new car, beginning with the 1985 model year. Studies conducted for the National Highway Traffic Safety Administration (NHTSA) have demonstrated that such a light could cut rear end collisions by about 50 percent. This would prevent billions of dollars in property damage and thousands of deaths and injuries each year, at a minimal cost estimated at $5 to $15 per car.

NHTSA conducted field tests of a single, high-mounted stoplamp, using taxicabs in some studies and telephone company passenger cars in another. The results in reduced accident rates were so impressive that the telephone company has decided voluntarily to add the brake light to all its cars. The dramatic reduction in rear end collisions seems to result from the unambiguous nature of the highly visible signal, which is widely separated from turn signals and taillights.

NHTSA originally proposed regulations requiring the new stoplamp in 1981, and had planned to issue the final ruling in early 1982. If the agency proceeds in a timely fashion, this bill will not interfere with the existing rulemaking proceeding—its purpose is merely to insure that the rulemaking is completed. I urge my colleagues to join with me in supporting this simple, yet potentially lifesaving, measure.●

A MEMORIAL FROM THE MASSACHUSETTS HOUSE OF REPRESENTATIVES

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1983

● Mr. DONNELLY. Mr. Speaker, the health of the American maritime industry is important to our peacetime commerce and our wartime readiness. This administration came into office promising a maritime policy that would rejuvenate the industry, from our shipyards to our fleets to our ports. Two years into office, however, the administration has pursued a policy aimed entirely at rebuilding our merchant fleet in foreign shipyards.

The 97th Congress expired without completing action on the maritime authorization legislation that would have implemented a key provision of the administration's shortsighted policy, extending operating differential subsidies (ODS) to American-flagged shippers that build or repair their vessels in foreign shipyards.

When this issue was in conference between the House and the Senate, the House of Representatives of the Commonwealth of Massachusetts took note of this key issue. I would like to share their views with my colleagues:

THE COMMONWEALTH OF MASSACHUSETTS

IN THE YEAR ONE THOUSAND NINE HUNDRED AND EIGHTY-TWO

Resolutions memorializing Congress to support the House version of the bill preserving operating subsidies for American-built ships and not extending such subsidies for foreign-built ships.

Whereas, Massachusetts has a vital interest in shipbuilding; and

Whereas, Massachusetts relies on shipping as one of its major industries; and

Whereas, merchant ship construction has declined over 80 percent since 1972 and employment of skilled workers in the United States shipyards has declined by 50,000 over the last 10 years; and

Whereas, 28 percent of the United States shipyard workforce consists of minorities; and

Whereas, encouraging foreign construction of American flag ships is not a policy to be pursued at a time when employment is at disastrous low levels; and

Whereas, the Senate version of the maritime authorization bill for fiscal year 1983 would be the first step toward displacing the United States shipbuilding and shipping industries in favor of a foreign-owned, foreign-manned, and foreign-built United States commercial market; and

Whereas, the Senate version of the maritime authorization bill would have an adverse economic effect on Massachusetts in particular; and

Whereas, the House version of said bill will preserve the operating subsidies for American-built ships and not extend them to foreign-built ships and would have a beneficial effect upon the Commonwealth and the Nation as a whole; therefore be it

Resolved, That the Massachusetts House of Representatives hereby respectfully urges the Congress of the United States to adopt H.R. 5723, the House version of the maritime authorization bill; and be it further

Resolved, That copies of these resolutions be forwarded by the Clerk of the House of Representatives to the President of the United States, to the presiding officer of each branch of the Congress and to the Members thereof from this Commonwealth.

House of representatives, adopted, December 3, 1982.

THOMAS M. McGEE,
Speaker of the House.
WALLACE C. MILLS,
Clerk of the House.

Offered by: Representative Michael W. Morrissey.●

A MOVING EXPERIENCE: MEETING WITH SOVIET JEWS IN MOSCOW AND LENINGRAD

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1983

● Mr. LENT. Mr. Speaker, earlier this month, I had the privilege of participating in an experience which I wish every American could have.

In a trip to the Soviet Union, I had the opportunity to meet and talk with 17 Soviet Jews who are undergoing the cruelest sort of persecution, abuse, and harassment because they seek to emigrate to Israel. They are being denied this basic human right in violation of solemn international agreements entered into by the Government of the U.S.S.R. Yet, despite the persecution, they continue to seek the religious freedom they are denied.

My conversations with these courageous men and women were a highly moving experience. I shall never forget those men and women and their determination to continue their lonely struggle for freedom. The whole experience inside the police state called the Soviet Union gave me a far greater appreciation of the tremendous blessings we Americans enjoy in our free society.

Today, as retiring chairman of the 1982 Congressional Vigil for Soviet Jews, I made a report to the sponsors of this noble fight for human rights, the Union of Councils for Soviet Jews. This organization, whose president, Mrs. Lynn Singer, is an outstanding champion and indefatigable worker for Soviet Jewry, is holding its biennial congressional briefing in our capital today. Included in my report was an account of my meetings in the Soviet Union. In the hope that my experience may help encourage my colleagues to participate in the 1983 Congressional Vigil, headed by my good friend, Representative TIM WIRTH, I ask that my report be included in the CONGRESSIONAL RECORD at this point.

REPORT OF REPRESENTATIVE NORMAN F. LENT TO THE BIENNIAL CONGRESSIONAL BRIEFING OF THE UNION OF COUNCILS FOR SOVIET JEWS, JANUARY 26, 1983, WASHINGTON, D.C.

In early January, I had an opportunity to travel to the Soviet Union as a member of an American delegation of United States Representatives. Our ultimate destination was Athens, where our group represented the United States Congress at the 21st Inter Parliamentary Conference with our counterparts in the European Parliament.

The Chairman of our delegation, Representative Tom Lantos, arranged our flight schedule, however, to visit Russia and several other Eastern bloc European nations such as Hungary, Yugoslavia and Romania. It was an outstanding opportunity for me to actually travel behind the Iron Curtain to an area relatively few Americans ever see, no less experience.

A major reason our delegation was willing to travel to Liningrad and Moscow in the midst of winter was the opportunity it provided to meet with several Soviet Jewish dissidents who have been denied permission to leave the Soviet Union. Although I have served for the past year as Congressional Chairman of the Vigil for Soviet Jewry, a group of 165 Members of Congress who endeavor to focus attention on Soviet antisemitism which violates the Helsinki Treaty on Human Rights, I wanted to see the situation first hand and talk personally to the people involved.

We were able to arrange two group meetings—one in Leningrad and one in Moscow. Our group, headed by my good friend and colleague Tom Lantos, included Mrs. Lantos along with Representatives Jake Pickle and Don Bonker, Spencer Oliver of the Helsinki Commission, Ray Smith of the Department of State, and myself. Altogether, we met with 17 Soviet Jews. Although the meetings were both quietly arranged for evening hours, and we travelled to each meeting in an unmarked U.S. Embassy van, we were closely watched by Soviet security police from the time we left our hotel until we returned several hours later. But we were not interfered with and the Soviet Jews we met were more than willing to run the risk of physical abuse or loss of jobs in order to talk to us of their plight and to ask us to carry their appeal to all Americans. Their greatest fear, it seems, is that the Western world may forget them.

Our first meeting (January 9, 1983) took place on the 5th floor of a five story apartment house. A single electric bulb lit the entire staircase and our four man delegation, accompanied by several aides, had to grope our way, single file, up the stairs, to a small communal apartment, one of four located off the fifth floor landing. In each apartment, four families shared a small kitchen and bathroom—approximately 16 people in all! Into the living room of our host (I'd rather not give his name) crowded 11 Refuseniks who had been covertly assembled by a telephone "network". Each told us his or her own story. Although the details varied, each had applied for permission to leave the Soviet Union for Israel, a right "guaranteed" citizens of Russia by the terms of their own constitution, by the Universal Declaration of Human Rights of the United Nations, and the Helsinki Accords. All applications had either been denied or ignored, for periods ranging from one to ten years! One of the "Refuseniks", as they are called, had been recently roughed up by the police; another had recently returned from six months in a Siberian labor camp. We also received reports that seven other Leningrad Jews had recently had their telephones disconnected for "abuse".

Our second meeting, (January 10, 1983) during our two day visit in Moscow, was in a somewhat more conventional apartment house. It was equipped with a small elevator. Not all of the participants at this meeting were Refuseniks. Three of them were relatives of well-known Prisoners of Conscience: Elena Bonner, wife of Andrei Sakharov, a Russian scientist and Nobel Prize winner now living in exile in Gorki; Irina Orlova, whose husband is in Chistopol prison; and Leonard Shcharansky, the brother of Anatoly Shcharansky, the Soviet dissident best known for his efforts on behalf of Soviet Jews who was sentenced to prison six years ago on trumped up charges of being an American spy.

Mrs. Bonner told of her life, divided between Gorki and Moscow. Her husband's bungalow in Gorki is guarded at all times by Soviet military. The neighbors are afraid to speak to him. He did not receive a single New Year's greeting, although thousands of Americans sent him cards and personal letters.

Mrs. Orlova's main concern is that her husband's prison sentence will be renewed near its expiration, because he is an outspoken young prisoner at Chistopol.

Leonard Shcharansky's concern is that neither he nor his mother are permitted to see Anatoly in his prison cell at Chistopol. Although this prison is located some 1,000 kilometers from Moscow, both he and his mother have travelled there several times begging permission to see Anatoly to convince him to give up the hunger strike he has been on for several months. The director of the prison, after first promising an opportunity to visit, later reneged when the mother appeared. He gave as his reason that he had told Anatoly he could not see his mother unless he first gave up his hunger strike. The mother has been living in a hotel near the prison for weeks hoping that prison authorities will give her an opportunity to see her son before he starves.

These conditions would be both unbelievable and intolerable in America. Yet, I left the Soviet Union with the clear impression that the situation will change very slowly. But I also came out of that nightmarish land with a greater-than-ever determinaiton to continue to work for that change. Every Soviet Jew we talked with literally begged us to keep up the struggle to carry their story to every American; to keep working through organizations like the Union of Councils for Soviet Jews and its Congressional Vigil for Soviet Jews to press the leaders of the Soviet Union to stop oppressing, and persecuting, Soviet Jews, and to grant them the precious human right to practice the religion of their choice in the country of their choice!●

HUMANIZE ANIMAL TRAPPING

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1983

● Mr. LONG of Maryland. Mr. Speaker, once again I shall introduce my bill to humanize animal trapping.

My bill is not aimed at destroying the fur trade or at outlawing animal

trapping. It is aimed at the steel-jaw trap.

Why should we outlaw steel-jaw traps?

First, it is the humane thing to do. Humaneness is the quality of sympathy for other living things. It is that simple. We either have it or we do not. If we have it, we try to minimize the sufferings of other living things. Steel-jaw traps do not minimize the pain suffered by trapped animals. By holding animals in bone-crushing steel jaws until they die of shock and exposure, gnaw their own limbs off and escape, or are clubbed to death, these traps cause great suffering. We can and should attempt to do the humane thing. That means banning the steel-jaw trap.

Second, it would prevent wasting the lives of pets and nonfurbearing wildlife. Cats and dogs wind up in the traps. Owls and eagles are put on the endangered species lists and then allowed to be caught in the nondiscriminate trapping device. It does not make sense.

Third, humane alternatives exist. The Ezyonem trap is more humane, selective, safe and is cheaper than the steel-jaw leghold trap. Other useful trapping devices include box traps and leg snares. It is time these alternatives replaced the steel-jaw trap.

Fourth, a ban can be effective without hurting the animal pelt or trapping industries. Already 50 countries throughout the world and several States in the United States have outlawed the steel-jaw trap without economic hardship or animal, human health or agricultural problems. Florida, for instance, has recorded its highest harvest of furbearers—and a reduction of rabies cases—since banning the steel-jaw trap in 1973.

Finally, there is widespread public support for a ban on this barbaric device. A 1979 survey prepared for the U.S. Fish and Wildlife Service showed that 78 percent of all Americans opposed the steel-jaw trap. In addition, over 200,000 citizens have written in support of my efforts.

For these reasons, I shall press for action to ban the steel-jaw trap early in this session of Congress. I shall be asking for support for my bill in the coming weeks.●

WHERE TO CUT DEFENSE SPENDING

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1983

● Mr. STARK. Mr. Speaker, I hope that my colleagues will note the following, excellent article concerning defense spending which appeared in Newsweek magazine, December 20, 1982.

In the next few months we will be considering the President's budget proposal. With the threat of near $200 billion deficits, we cannot consider any budget without also considering possible cuts in spending. I believe this article will point out that there are enormous savings that can be made by cutting defense spending. Just because we are spending Government money on U.S. defense does not give us the right to spend that money foolishly on less than adequate weapons. If the average consumer would reject the quality of these items, as is evident from this article, why does the Government accept that quality, and indeed encourage it?

I would like my colleagues to judge for themselves.

WHERE TO CUT DEFENSE

BUDGET CUTS CAN ACTUALLY LEAVE AMERICA STRONGER—THE KEY IS CAREFUL ANALYSIS OF LONG-TERM U.S. STRATEGY

Karl von Clausewitz, the great 19th-century military theorist, liked to speak of the "fog of war": the clamor and confusion as massed men hurl themselves at each other, the smoke and rain that often obscure the field of battle, the fear that at times clouds all but the most obtuse minds. It is difficult to see war whole, even from the distance of command. "A general never knows anything with certainty, never sees his enemy clearly, never knows positively where he is," said Napoleon.

As with war itself, so with the annual defense budget of the United States. It is hard to see whole, even for those who write it. Preoccupied with their own shares of the budget, the individual armed services slight each other's needs. In terservice programs critical to national security, such as airlift and sealift, are always shortchanged. Congress often treats defense as just another public-works program—only bigger—with the decision to purchase one weapons system instead of another turning not on the relative merits of each, but rather on whose district will get the money and jobs.

CALAMITY

Perhaps worst of all, the military budget seems driven by a technological imperative. Costly but sophisticated weapons are outward signs of American military might and American political will and thus are necessary for their own sake or as bargaining chips in future arms negotiations. They precede the formulation of strategy and to some extent determine it. This is no mere academic problem. "If the strategy comes first," says Thomas Powers, author of "Thinking About the Next War," "then the nature of the Soviet-American military confrontation is something we have chosen deliberately, and we may be said to be in control of our own fate. But if the weapons come first, spawned by man's sheer technical inventiveness, then the confrontation, with all its attendant dangers, is something that has happened to us—a kind of natural calamity, like a hurricane, or a drought, or the beginning of a new ice age."

The strategy should come first, if only for budgetary reasons. John M. Collins, a retired Army colonel who is now a defense analyst at the Library of Congress, points out: "Until you have a strategy you do not know what forces are needed. And until you know that, you cannot spend $1.6 trillion intelligently."

POLICY

Ever since the cold war bisected Central Europe, the underlying aim of U.S. national-security policy has been containment of the Soviet Union within the sphere of influence it established following World War II. The principal strategic vehicles of the policy have been the U.S. nuclear deterrent and conventional armed forces operating in tandem with allies, through arrangements like NATO.

Until the late 1970s, that dual strategy worked reasonably well. Soviet military power made no conquests besides the suppression of revolts within the Eastern bloc itself, and even the successful ideological inroads—Cuba, for example—were few. On the other hand, the U.S. strategy has done little to deter aggression by other communist states, such as North Vietnam and North Korea. And recently both the nuclear deterrent and NATO's conventional forces in Europe began to lose their credibility. Theoretically vulnerable to attack from new Russian missiles, America's land-based Titans and Minutemen could no longer guarantee a successful retaliation in the event of a Soviet strike. The manned B-52 bombers, too, seemed less threatening if they had to fly into the teeth of massed Soviet air defenses. Only the ballistic-missile submarines remained invulnerable. But their missiles lacked the accuracy to be of value against hardened military targets, and there were grounds for doubting whether a U.S. president would authorize their use against civilian populations, knowing the terrible cost of Russian revenge.

At the same time, an unmistakable Soviet buildup of conventional forces was well underway. Although the number of Russian divisions forward deployed in Central Europe has remained constant at 30 since the 1968 invasion of Czechoslovakia, those divisions have been fleshed out by the addition of some 75,000 men. Those 30 Soviet divisions are augmented by 28 non-Soviet Warsaw Pact divisions. The number of tanks in the combined Warsaw Pact divisions has increased from 12,000 to 16,000 since 1964, and—more important—their quality has improved with the introduction of T-64 and T-72 tanks.

NERVOUS ALLIES

The NATO allies, with the conspicuous exception of the United States, did beef up defense budgets during the last decade. But by 1980 NATO forces readily available for service on the front still totaled just 27 divisions—740,000 troops. Some nervous Europeans, hearing American talk of "limited" nuclear war and suspecting that it meant war limited to them, began to wonder if some sort of accommodation with the Soviet Union, economic or political, might not be advisable. This was exactly the process of "Finlandization" that American policy had aimed to prevent.

After they took office two years ago, Ronald Reagan and his secretary of defense, Caspar Weinberger, surveyed the military landscape and decreed change. The money came first. During Jimmy Carter's administration, the Pentagon had won its first real budget gains after eight straight years of decline, and Reagan upped the ante to 7 percent real spending growth a year. The B-1 bomber, killed by Carter as part of the trade-off in which he agreed to the cruise missile, would now be revived. There would be a 600-ship Navy.

Then came the search for a strategy that would make maximum use of the money—

and justify the weapons. At the escalated level of nuclear war, the evolving strategy, designed by former Defense Secretaries James Schlesinger and Harold Brown and continued under Caspar Weinberger, went beyond traditional deterrence theory. Under the new doctrine, the United States should be able to fight a protracted nuclear war—and win. This means having less vulnerable intercontinental missiles, as well as an array of forward-based intermediate-range weapons like the Pershing II missile. The strategy, made possible by innovations in missile accuracy and communications systems, has raised fears that for the first time an American government finds the unthinkable thinkable. The Reagan administration does not "endorse the concept" of nuclear-war fighting, Weinberger insists—but, he asks, "what is the alternative to planning to prevail? . . . If there has to be a war, if all our deterrent efforts fail . . . I'm not going to plan to lose."

REFORM

At the same time, Weinberger is carrying out what he calls "the intellectual reform of our policy regarding conventional warfare." In recent years conventional strategy has called for the United States to maintain a "one and a half war" capability—meaning that U.S. forces should be prepared to fight, in concert with NATO allies, a full war of short duration in Central Europe and a smaller conflict somewhere like the Persian Gulf. Weinberger's intellectual reform contemplates fighting an all-out conventional war longer than the 30 days traditionally used as a U.S. planning objective. Even more ambitious, it envisions "horizontal escalation" in hostilities with the Soviet Union—counterattack at Soviet targets of value remote from the field of battle.

In theory, horizontal escalation finesses the difficulties of defeating a Soviet land army in the Middle East by relying on American maritime supremacy (enter the 600-ship Navy) to attack surrogate nations elsewhere. In practice, as former Defense Secretary Harold Brown points out, horizontal escalation would lack credibility as a deterrent even if the Navy had the ability to carry it out, because there is no target other than the Russian homeland that the Navy could attack that would be more valuable to the Soviets than the Persian Gulf oilfields are to the United States. "Cuba doesn't equate to Southwest Asia," says Brown. "If the Soviets attack the . . . oilfields, how much good does it do for us to relieve them of the burden of a $3 billion-a-year subsidy in Cuba?"

At bottom, all U.S. military strategy, and thus all major budgetary commitments for defense, must begin by confronting the harsh reality of geography: the United States is at a distinct disadvantage when it comes to leaning on other nations. Merely by massing its troops along one or another of its borders, the Soviet Union can influence events in all three of the areas most vital to U.S. interests—Western Europe, the Middle East and the Pacific environs of Japan and the Koreas. The United States, by contrast, is a maritime nation isolated by two vast oceans, yet with sea lanes and overseas interests to protect. In order to influence events in countries like West Germany or Saudi Arabia, it must be able to project power over thousands of miles, with all the attendant logistical problems.

Periodically there are cries for a scaling down of commitments overseas. Former CIA Director Stansfield Turner, writing with George Thibault in the magazine Foreign Affairs, said, "It is difficult to believe that the degree to which Europe has dominated our procurement of equipment, doctrine and training did not contribute heavily to our shortcomings" in Korea, Vietnam and the Iranian hostage-rescue mission. The Senate Appropriations Committee, noting that more than half the defense budget is devoted to the NATO commitment, recently voted to force the withdrawal of 23,000 American soldiers from Europe. It also cut back funding requests for the Rapid Deployment Force now being assembled to meet military contingencies in the Persian Gulf. In both cases the panel made plain its resentment over the allies' alleged unwillingness to shoulder a greater part of the burden of their own defense.

BATTLEFIELDS

But if the underlying aim of U.S. security policy is containment of Soviet expansionism, then the basic commitments to the defense of Europe, the Persian Gulf and Japan cannot be abandoned. "There is only one thing worse than fighting with allies," as Churchill said, "and that is fighting without them." In Europe the NATO countries provide more than 60 percent of allied ground-combat capability and about 55 percent of combat aircraft. Moreover, in an item that doesn't show up in the defense budget, West Germany supplies free real estate and facilities for American forces. In wartime, as former Under Secretary of Defense Robert Komer notes, West Germany "would even provide the battlefields."

Moreover, the allies are irreplaceable trading partners. America's international commerce, most of it with the industrial democracies and the oil producers, accounts for one-sixth of all domestic jobs and one-third of all profits. Forty percent of U.S. farm production is sold overseas. As a mercantile nation, the United States cannot afford the loss of markets that would follow an American withdrawal from overseas defense. Nor can the country afford to lose what Komer calls "perhaps our most important remaining strategic advantage over the U.S.S.R. . . . that we are blessed with many rich allies, while the Soviets have only a few poor ones." And the United States would not welcome the rise in West Germany and Japanese militarism that might follow a U.S. pullback. West Germany could even develop independent nuclear forces. As former National Security Council staffer Morton Halperin warns, "Massive German rearmament would dramatically increase the chances of war with the Soviet Union."

If the U.S. strategy of containment through alliances is to remain intact, there are certain inevitable consequences. For a start, the Weinberger policy of horizontal escalation should be dropped. Horizontal escalation fails the first test of deterence—reminding a potential enemy that aggression will cost more than it gains. It also undermines the alliances. By proposing to punish an aggressor elsewhere rather than confront it directly at the point of attack, horizontal escalation implicitly abandons potential battlefields like the Persian Gulf. The citizens, of Europe, whose lights were fading because they had lost Persian Gulf oil, would taken no cheer from the news that in retaliation U.S. Marines had captured Havana.

KILOTONS

The United States must also recognize the deterioration of nuclear weaponry's credibility as an option in the defense of allies. Europeans doubt—with good reason—that the United States would invite attack on its own cities by using nuclear weapons. Nor does anyone believe that the Europeans would beg for the use of tactical nuclear weapons on their own territories (in northern Germany, it is sometimes said, the towns are only a couple of kilotons apart). While America cannot now afford to give up the capacity to ride out a Soviet first strike and retaliate in full force, the solution to weaknesses in Western defenses is better conventional capabilities—not Weinberger's theory of protracted nuclear war.

Therefore, as a minimum first step. Congress should restore all of the funds it cut for redeploying U.S. troops closer to the forward defense positions on the East German border and for improving allied airfields. It should lift the ceiling it imposed on troop strength in Europe. And it should restore its 50 percent cut in funds to improve facilities in the Indian Ocean area. Cuts should not come from the budget for NATO readiness. The ax should fall elsewhere.

If the United States is ever to shake free from its dependence on nuclear weapons, it must begin looking for cuts in the strategic arsenal. Not doing so invites danger. As the respected Sen. Sam Nunn suggested not long ago, increasing the portion of the budget devoted to nuclear programs also increases the risk of a nuclear confrontation. Having slighted conventional forces, he said, "we will inadvertently decrease our options to protect vital interests without having to resort to the use of nuclear weapons."

The best-known candidate for elimination is the MX missile. The case in its favor has never been wholly persuasive. By itself, the 192,000-pound behemoth adds little or nothing to the nuclear deterrent; with its high accuracy and 10 warheads, it has more firepower than the U.S. strategy of maintaining retaliatory capability would require. It was the idea of a deceptive basing mode that originally made the MX a plausible replacement for the Minuteman III missiles. With deceptive basing—Carter's plan to shuffle 200 missiles among 4,600 shelters—now abandoned, the MX becomes expendable. Cutting it from the budget would save $14.9 billion by the end of fiscal 1987. Besides, there are reasons to suspect that its real reason for being is the Air Force's fear that the Navy, with multiwarhead missiles aboard near-invulnerable Trident submarines, would usurp the Air Force role as prime bearer of the nuclear deterrent. As one defense specialist on Capitol Hill notes, one of the MX's chief attractions to the Air Force is that it's "so big the sonofabitch won't fit in a Trident submarine."

In any case, it is time to rethink the larger question of whether the United States should continue to sink billions of dollars into preserving the land-based leg of the strategic triad. Just as Richard Nixon could get away with a trip to China when more liberal presidents could not, so a defense hard-liner like Ronald Reagan could make palatable a decision to live with a weakened land-based leg—what some proponents call an "isosceles triad" with two strong legs and one weak one.

On the other hand, the Trident submarine program, plagued by prodigious cost overruns, should be continued. Mobile and invisible, it is deceptive basing in practice, not just theory. Until the Soviet Union develops much better antisubmarine-warfare technology than it now has, this sea leg is by far the safest part of America's strategic triad. And the Trident II missile, which like the MX has the capacity to destroy hard-

ened Soviet targets, is scheduled to go into service in 1989.

BOMBER

The Lazarus-like B-1 bomber, killed once already by the Carter administration, can be earmarked for reburial. The case for manned strategic bombers remains strong—as Sen. John Tower, chairman of the Armed Services Committee, emphasizes, they can be recalled in the event of a mistaken order to proceed to target. But the B-1 is too expensive to make sense for the few years it would perform its primary function. The current long-range bomber is the venerable B-52, which is thought able to penetrate Soviet air defenses until the late 1980's. By the early 1990's, if not sooner, the new advanced-technology bomber (known as "Stealth" for its radar-evading abilities) should be in service. Why, then, spend at least $23 billion through fiscal 1987 on an interim airplane? One argument is that forcing the Soviets to modify their air defenses to defeat the B-1 will divert billions that would otherwise go to developing offensive weapons. But once they did so, the B-1 would be no more effective than B-52's equipped with cruise missiles.

Conventional-force reductions are harder to recommend—these forces have for so long been neglected. Some highly visible systems are overdesigned and overburdened with expensive technology, but to criticize complex weaponry across the board is to miss an important point: America's chief military advantage over the Soviet Union is precisely its technological supremacy. In an era when microelectronics are making it possible for opposing forces to clash without ever coming within visual range of one another, it makes no sense for the United States to give up its edge.

QUANTUM LEAP

At the same time, a certain skepticism about high technology is appropriate. One reason the Soviets consistently put more new weapons in the field than the United States is that, as John Collins notes, they settle for "incremental improvement," constantly updating weapons in actual use. The American tendency, on the other hand, is to strive for "the quantum leap forward." Typically, new systems come loaded with "bells and whistles"—Pentagon slang for technological frills—which often fail to work at first, leading to production delays and cost overruns. At that point, as Sen. Gary Hart likes to say, "better becomes the enemy of good." It also becomes the enemy of efficiency. Technology is giving each service the ability to perform the mission of another: increasingly, long-range aircraft are able to perform the same duties as aircraft carriers. But the services are so traditionbound that they don't adjust to the changing implications.

There are some troubled high-tech weapons under development that deserve a chance—if the bugs can be worked out of them. One is the Abrams (M-1) main battle tank, a "high risk" design that has given critics a field day. The tank proved "allergic" to dust, a commodity often found on battlefields. Its transmission failed so often that one Senate tank expert observed, "General Motors would have issued a recall notice for all of them." But since 1979 the Abrams has been performing much better, and it is now winning applause from allied tank experts. Another troubled system with a future is the F-18 fighter-bomber, which carries a total program cost of $40 billion—more than either the MX or the B-1. It was adopted by the Navy at least in part because the Navy didn't want to take an Air Force plane. Among the F-18's problems was the fact that in its attack mode the missiles it carried weighted it down so much that it could not achieve its specified range of 550 miles. But the most recent classified-test results indicate that the $22.5 million-per-copy airplane is now within striking distance of passing grades.

DEADLY FIRE

But the argument for building two new Nimitz-class nuclear-powered aircraft carriers is less than compelling. They are the centerpieces of Navy Secretary John Lehman's plans for a 600-ship fleet, but their strategic value doesn't justify their total cost of $7 billion—$4.7 billion by 1987—not to mention the additional $30 billion or so needed to deck out two carriers with full complements of aircraft and support ships. The task forces include four air wings over the life of the two carriers (total cost: $18.6 billion), four Aegis-class cruisers ($6.2 billion) and eight destroyers ($4.2 billion); some of these support craft might be necessary for other missions, but if the two carriers are canceled, several billions of dollars extra could be saved.

The main mission of the carriers, it appears, would be to provide platforms for airplanes to attack the Soviet land mass, which Sam Nunn dryly describes as "not a very well-thought-out strategy." As one congressional staff defense specialist says, "No admiral in his right mind is going to want to go tearing up [through the Arctic Circle] into the Kola Peninsula to bash hell out of it." The big ships would draw deadly fire from Soviet Backfire bombers carrying cruise missiles, and even if they survived, their bombers—only 35 per carrier—would be unlikely to penetrate Soviet air defenses in great numbers. Indeed, the vulnerability of Nimitz-class carriers to humiliatingly cheap missiles is a strong argument against building any more than the 13 the Navy now has. It is worth recalling that during the Iranian hostage crisis when a little gunboat diplomacy might have helped, the admirals declined to send a supercarrier into the Persian Gulf. Not wanting to lose it, they didn't use it.

Similar considerations apply to the Navy's plans to bring four vintage battleships out of mothballs. One, the New Jersey, will be commissioned this month, and another, the Iowa, should be available for sea duty late next year. The Navy should stop there. Equipped with cruise missiles for land attack, the main mission of the revitalized battleships apparently would be to strike at the Soviet heartland. They, like the carriers, would be in harm's way. Alternative possibilities are to deploy one battleship in the Caribbean, with air support based on land in Texas or Florida, and one in the western Pacific, with air cover out of South Korea, the Philippines or Okinawa. A carrier could then be relieved for Indian Ocean patrol. For this purpose, though, the battleships already reactivated are enough. Savings: $909.5 million.

Another candidate for removal from the Navy's budget is the fleet of 342 AV-8B Harrier jump jets now being purchased for the Marines. The Harrier is a short-takeoff-and-landing aircraft designed for close air support of ground troops from forward bases. It is a capable plane, but its duties could be handled by the attack version of the dual-mission F-18 fighter-bomber called the Hornet. The Marines could buy the F-18 in place of the AV-8B without any increase in F-18 orders, since the Navy's production plans include planes for reserve units and for the task forces planned for the two Nimitz-class supercarriers. It would save $4.5 billion by the end of fiscal 1987 and eliminate the need for the Marines to develop two quite different training and logistical systems. The Marines point out that the Harrier can do things the Hornet cannot, but there is nonetheless enough overlap to justify the cut. Besides, suggests former Pentagon analyst Russell Murray II, the real reason the Marines want the Harrier is to avoid a repeat of their experience in Korea, when the Air Force tried to take over Marine planes and convert them to deep interdiction missions. Murray says the Marines want "to tie their future aircraft so closely to their ground forces that it would simply be infeasible to transfer their control to the Air Force."

NO THREAT

Another capable aircraft that should be cut back is the F-15 long-range interceptor known as the Eagle. As part of a total buy of the 1,395 F-15s, the Air Force wants 144 for air defense of the continental United States against Soviet bombers—an almost nonexistent threat that is far less important than that posed by the Soviet ICBM's. The F-15 is indeed a hot plane—too hot, since its top speed of more than Mach 2.5 squanders fuel and is rarely if ever used by pilots—but it is not needed for continental air defense. Reducing the F-15 purchase by 108 aircraft would yield $2.4 billion in savings by fiscal 1987.

Even the Air Force has offered to stop buying the A-10 Thunderbolt, another attack plane intended for close support for ground troops. That job can, however, be handled by the Army's new AH-64 Apache helicopter. The A-10 has been kept alive mainly by New York Sen. Alfonse D'Amato; it is built in his state. Cutting it would produce a savings of $386.3 million over the Reagan budget cycle.

One deservedly criticized high-tech weapon is the DIVAD (for Division Air Defense) computer-operated, radar-guided antiaircraft gun, which was inspired by a Soviet antiaircraft gun captured during the Yom Kippur war of 1973. At a demonstration last February the DIVAD trained its sights on a drone Huey helicopter hovering nearby—and failed to fire. After repairs to a disconnected cable, the DIVAD fired—this time, directly into the ground 300 yards away. The Soviet version of the weapon doesn't perform well, either. Says one congressional staff specialist: "We have taken a relatively inexpensive, inaccurate Soviet weapon and turned it into a relatively very expensive, inaccurate American weapon." Canceling it would save $2.7 billion by fiscal 1987.

VIPER

An equally troubled weapon is the handheld Viper antitank gun—essentially a high-tech version of the bazooka. Its main problem is its ineffectiveness against the frontal armor of the new Soviet T-72 tanks. U.S. soldiers would have to let the T-72 go by and fire from behind—a questionable practice. The Marines have already rejected it. "You want something that hurts the enemy, not just pisses him off," says Sen. Warren Rudman, who calls the Viper "a turkey with characteristics of a cat, because it has nine lives." No senator "would hesitate to give soldiers the best weapon even at the highest cost," he adds. "But no one, starting with me, is going to give him the *worst* at the

highest cost." Canceling it would save $1 billion by fiscal 1987.

Further assorted savings:

The Army's Helicopter Improvement Program, an unnecessary interim retooling of the OH-58 Scout helicopter until a new Scout is in the field; $786.8 million saved.

Two-thirds of the production of the heat-seeking version of the air-to-surface Maverick missile, which is intended for night use in place of the optically guided Maverick. Any alert enemy who wants to divert the missile can easily do so, however—simply by setting fires to pull it off course. "It would probably get more pilots killed than would kill targets," says Anthony Battista of the House Armed Services Committee; $1.2 billion saved.

Half the civil-defense budget. This is not technically Pentagon money, but should be construed as national-security spending. Savings: $1.2 billion.

All told, these cuts would lower the defense budget by only $2.7 billion in the current fiscal year. But starting next year, the "bow wave" of spending will start to hit, set in motion by programs authorized last year and this. By the end of fiscal 1987 Newsweek's defense-budget cuts of $56.4 billion, plus the civil-defense savings, would total $57.6 billion, with minimal impact on national security. This would still represent a growth in spending higher than 5 percent annual real growth—the figure endorsed by the Joint Chiefs of Staff during the Carter administration. It will not, however, narrow the gap between expenditures and strategy. The Joint Chiefs of Staff will have to come up with a coherent way to integrate the four services into a single fighting force before that gap will fully close. Cuts along these lines should be made now, while there is still time. Otherwise, they will surely be made later, and they will come out of the basic operating funds for keeping American armed forces ready. That would harm national security.●

GORSUCH-CONGRESS SOAP OPERA

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1983

● Mr. HUBBARD. Mr. Speaker, Dennis Hill, a reporter for the Mayfield Messenger, Mayfield, Ky., has a column which appears regularly entitled "View From the Hill." I believe my colleagues will be interested in Mr. Hill's excellent comments and observations about the recent congressional activities concerning Environmental Protection Agency Administrator Anne Gorsuch. The column is as follows:

VIEW FROM THE HILL—GORSUCH-CONGRESS SOAP OPERA CONTINUES

(By Dennis Hill)

The legal hassle between the Congress and the administration is heating up. Rep. Elliott Levitas, D-Ga., has suggested that the House Judiciary Committee consider impeaching Attorney General William French Smith and U.S. Attorney Stanley Harris of the District of Columbia for refusing to prosecute Environmental Protection Agency Administrator Anne Gorsuch on contempt of Congress charges.

Levitas is the chairman of the Public Works investigations and oversight committee which supoenaed documents on 160 of the nation's worst hazardous waste disposal sights from the EPA. Gorsuch, on orders from the President, refused to turn the documents over to the subcommittee, citing executive privilege as her reason.

Congress then proceeded to do a little citing of its own and by a three to one margin slapped Gorsuch with contempt of Congress. She is the highest official ever charged in such a battle between the executive and legislative branches of government.

But the Justice Department refused to prosecute Gorsuch on the grounds that they believed Congress' action was unconstitutional. Levitas said the decision amounts to "flouting of the law and reflects a determination by both individuals not to take care that the law is faithfully executed."

House Judiciary Committee Chairman Peter Rodino, D-N.Y., (you may remember him from the televised impeachment proceedings against former President Richard Nixon), said a special prosecutor is needed since neither French or Harris intend to present the Gorsuch case immediately to the grand jury as required by law.

So the conflict between Gorsuch and the Congress is shaping up into what could be a landmark constitutional battle. Levitas said he does not want to see a constitutional confrontation between the two branches of government, but it may be necessary.

In order to deflate the contempt citation and keep it from going to the grand jury, the administration has filed suit in U.S. District Court charging that the contempt citation is unconstitutional. (I discussed in a previous column the falacy in this.)

Like Levitas, I'm sure no one is anxious for a constitutional confrontation such as this but there seems to be little choice. If the administration is allowed to effectively gut Congressional power at its own discretion, then our system of government is not functioning properly and the issue needs to be resolved.

In the meantime, there apparently aren't enough lawyers in the Justice Department to represent Gorsuch because White House Counsel Fred Fielding is investigating whether Gorsuch may hire outside attorneys at a cost of up to $70,000 to help defend her against the contempt citation.

Unidentified officials have said that the EPA plans to sign a contract with the Boston law firms of Ropes and Gray, whose lawyers would provide advice on constitutional law. That action is being taken in spite of the fact that the Justice Department is defending Gorsuch.

Maybe the question is not really whether the contempt citation is constitutional but whether the Justice Department can both prosecute and defend Gorsuch in what is in reality the same case.

It is apparent that a special prosecutor, outside the realm of the Justice Department, is essential. The very power and effectiveness of the Congress is being threatened. The question must also be resolved whether the Justice Department should enforce the laws or disregard them at their own discretion out of loyalty to their own branch of government.

Maybe with a special prosecutor representing the Congress and an outside law firm to defend Gorsuch, the Justice Department can wash its hands of the whole affair and let others take on their legal responsibilities. Maybe a constitutional amendment is in order that states the Justice Department only has to handle the cases it wants to.●

SUPPORT ANTI-TAMPERING LEGISLATION

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1983

● Mrs. COLLINS. Mr. Speaker, last year, the Nation was rocked by a series of over-the-counter product tampering incidents, which left five people dead and millions of Americans frightened. I am sure you believe as I do that consumers have the right to purchase products without feeling that they may be playing a deadly game of Russian roulette. Consumers would have been afforded a measure of relief had the President not vetoed the Contract Services for Drug Dependent Federal Offenders Act Amendments of 1981, which included the Federal Anti-Tampering Act. This act would have imposed criminal penalties for product adulteration.

Consequently, yesterday, I reintroduced legislation which will impose severe penalties on individuals who knowingly tamper with a product with the intent or possibility of harming or killing another person.

The most important difference between my bill and other antitampering measures is the provision by which those who tamper with a substance in an effort to discredit a retail store or manufacturer are also subject to criminal penalties.

I urge my colleagues to join in support of this legislation by calling my office to cosponsor.●

C. S. CARNEY, JR.

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1983

● Mr. JONES of Tennessee. Mr. Speaker, I rise today to pay tribute to Judge C. S. Carney of Lauderdale County in my district. Judge Carney has served on the Tennessee Court of Appeals since 1953 and was its presiding judge when he retired in 1977.

In addition to his public service in this important judicial post, Judge Carney has lent his support and involvement to many civic oriented endeavors. He was very active in his community of Ripley, Tenn., taking part in a number of efforts aimed at improving the city. In fact, he was the driving force behind many projects for the betterment of the city. He was also a participant in the Tennessee constitutional conventions of 1953 and 1977.

Judge Carney was recently honored by the Ripley Rotary Club for all of his active support of the city throughout his life. I would like to share with my colleagues the newspaper story that appeared in the Lauderdale County Enterprise on the occasion of that honor.

HAILED BY ROTARY

C. S. Carney, Jr., confined to his home at 114 West Jefferson, Ripley, by critical illness interrupting more than 35 years of perfect Rotary Club attendance, is being honored by fellow members of the Ripley Rotary Club with a $100 gift from the club, supplemented by many additional gifts from individual Rotarians, to Boys' Town in Madison County.

"Each year, Ripley Rotary Club continues to support several worth-while projects, including Boys' Town," president Phillip Jackson told the Ripley Club's luncheon meeting Tuesday.

"This year, the Board of Directors has decided to contribute on behalf of Ripley Rotary Club $100 to Boys' Town. In addition, we are encouraging each member to contribute privately to this worthwhile Rotary project.

"For several years, Judge C. S. Carney has supported Boys' Town both privately and as a Rotarian. This year, the Board of Directors feels it appropriate to send our contribution in honor of Judge Carney.

"Judge Carney's support of many worthwhile programs and projects are worthy of note; however, his 35 years of 100% attendance at Rotary in Ripley is especially outstanding.

"It is only now that Judge Carney's health has caused him to break this outstanding record. It is fitting and proper that we as fellow Rotarians pay tribute to this record and this man by honoring him and helping Boys' Town simultaneously.

"As president of Ripley Club, I encourage the club to use this means in the future to honor other club members who have similar records of achievement."

Jackson said the club would send with the gift this biographical information on Judge Carney:

"Judge C. S. Carney was born in Ripley, in a log house next door to the Methodist Church, on Dec. 12, 1909. He attended elementary school and was graduated from high school in Ripley.

He took a bachelor of arts degree in 1931 and a law degree in 1933 from Vanderbilt University in Nashville. He was high in his law class.

While attending law school, he studied law during the summers in the office of E. C. Bullock in Ripley. After his graduation, he joined the firm of Craig, Durham, and Carney in Ripley. He opened his own law office in January 1940.

In February 1943, he entered the Air Force. He was discharged as a sergeant in December 1944, after his election to the state legislature. He served two terms in the legislature, from 1945 to 1949.

"He was one of the founders of the Bank and Ripley where he has served as president and is now chairman of the board of directors.

"He has always been very civic-minded and has been a driving force behind many projects for the betterment of Ripley. He was instrumental in establishing Sugar Hill Lauderdale County Library and has served as a trustee for many years. He was instrumental in the establishment of the Lauderdale County Hospital. He spear-headed the drive to build the public swimming pool for Ripley and was chairman of the fund-raising drive to build Tiny Knee Stadium. He gave unstintingly of his time and money for any project which was good for the City of Ripley.

"He is a great supporter of Lambuth College and has served as a trustee since 1966.

"He served in the Constitutional Convention, of 1953 and 1977. He became a Judge on the Tennessee Court of Appeals in 1953 and was Presiding Judge of the Court of Appeals from 1970 to 1977, when he retired.

"He was instrumental in getting the Legislature to provide funds for the new Supreme Court Building in Jackson, completed just before his retirement in 1977.

"He re-entered private practice in 1977 in partnership with Robert C. Wilder.

"There is no place on earth the Judge would rather be than on the square in Ripley, Tennessee. In fact, he could never understand why anyone would want to take a vacation and leave Ripley.

"He says he still remembers when he left Ripley for a week while in high school, and someone got his place on the basketball team."●

TO ALLOW EXPANSION OF OUR WORK FORCE—DAY CARE TAX CREDITS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1983

● Mr. GILMAN. Mr. Speaker, today I am introducing a bill to amend the Internal Revenue Code to provide additional incentives for individuals to use, and for employers to provide, day care services.

Present law provides for a number of such incentives, including a tax credit for parents of between 20 and 30 percent of the first $2,400 ($4,800 in the case of more than one dependent) of day care expenses which may be applied against one's tax bill. However, many low-income families do not earn enough for the tax credit to be of any use to them, since it is not refundable—that is, if there is not a sufficient tax liability for the credit to offset, the credit is lost permanently. For this reason, I feel that it is important that the tax credit be made refundable, so that it can be as useful to lower-income as it is to upper-income parents. It is ironic that because of the operation of or tax code, it is less expensive for the relatively well-off to provide their children with day care facilities than it is for the less well-off to do so.

My bill also addresses the issue of providing sufficient facilities in which to care for children, by providing a special tax credit for firms which construct or equip day care centers. A 10-percent credit, over and above the existing investment tax credits, would be provided to a taxpayer for the expenses incurred in equipping a day care center. A 5-percent credit would be created for the cost of constructing such a center.

Mr. Speaker, in the 97th Congress, the other body passed a provision making the day care tax credit refundable. It is important that this House take the same steps. Moreover, we should use the tax-credit mechanism to help assure an abundant supply of day care facilities for our Nation's young people.

Mr. Speaker, I introduced substantially the same legislation last year. H.R. 5965 of the 97th Congress received the support of such diverse bodies as the Association of Junior Leagues, Inc., the Michigan Child Care Task Force, the California Governor's Advisory Committee on Child Development Programs, the Department of Social Welfare of the County of Sacramento, Calif., Arkansas Advocates for Children and Families, the Children's Defense Fund, and the National Association for Child Care Management.

I urge my colleagues to consider how much more productive our Nation could be if all who sought quality child care could afford it and find appropriate facilities. The incentives provided by this bill would bring us a long way toward that goal. I invite all of my colleagues to join in this effort by cosponsoring this legislation and I urge other national child care organizations to support our endeavors.

Mr. Speaker, I ask that a copy of this measure be printed in full at this point in the RECORD:

H.R. 983

A bill to amend the Internal Revenue Code of 1954 to make the credit for dependent care expenses a refundable credit and to allow an additional investment tax credit for dependent care center property

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled

SECTION. 1. CREDIT FOR DEPENDENT CARE EXPENSES MADE REFUNDABLE.

(a) IN GENERAL.—Subsection (b) of section 6401 of the Internal Revenue Code of 1954 (relating to excessive credits treated as overpayments) is amended—

(1) by inserting "44A (relating to expenses for household and dependent care services necessary for gainful employment)," after "lubricating oil),", and

(2) by inserting ", 44A," after "31, 39".

(b) TECHNICAL AMENDMENTS.—

(1) Section 44A of such Code (relating to expenses for household and dependent care services necessary for gainful employment) is amended by striking out subsection (b).

(2) Sections 44C(b)(5), 44D(b)(5), 44E(e)(1), 44F(g)(1), 44G(b)(1)(B), and 44H(d)(2) of such Code are each amended by inserting "44A," after "31, 39,".

(3) Subsection (a) of section 53 of such Code (relating to limitation based on amount of tax is amended by inserting "and" at the end of paragraph (5), by striking out ", and" at the end of paragraph (6) and inserting in lieu thereof a period, and by striking out paragraph (7).

(4) Paragraph (2) of section 55(f) of such Code (defining regular tax) is amended by inserting ", 44A," after "31, 39".

(5) Subsection (b) of section 6096 of such Code (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out "44A,".

SEC. 2. ADDITIONAL INVESTMENT TAX CREDIT FOR DEPENDENT CARE CENTER PROPERTY.

(a) IN GENERAL.—Subparagraph (A) of section 46(a)(2) of the Internal Revenue Code of 1954 (relating to amount of investment tax credit) is amended by striking out "and" at the end of clause (iii), by striking out the period at the end of clause (iv) and inserting in lieu thereof ", and", and by adding at the end thereof the following new clause:

"(v) in the case of dependent care center property, the dependent care percentage.".

(b) DEPENDENT CARE PERCENTAGE.—Paragraph (2) of section 46(a) of such Code (relating to amount of credit) is amended by adding at the end thereof the following:

"(G) DEPENDENT CARE PERCENTAGE.—For purposes of this paragraph—

"(i) IN GENERAL.—The dependent care percentage is—

"(I) 10 percent in the case of dependent care center property not described in subclause (II), and

"(II) 5 percent in the case of dependent care center property which (but for section 48(r)(1)) would not be section 38 property.

"(ii) REGULAR PERCENTAGE NOT TO APPLY TO PROPERTY NOT OTHERWISE SECTION 38 PROPERTY.—The regular percentage shall not apply to any dependent care center property to which subclause (II) of clause (i) applies.".

(c) DEPENDENT CARE CENTER PROPERTY DEFINED.—Section 48 of such Code (relating to definitions; special rules) is amended by redesignating subsection (r) as subsection (s) and by inserting after subsection (q) the following new subsection:

"(r) DEPENDENT CARE CENTER PROPERTY.—For purposes of this subpart—

"(1) TREATMENT AS SECTION 38 PROPERTY.—For the period beginning after December 31, 1982, dependent care center property shall be treated as meeting the requirements of paragraph (1) of subsection (a) (other than the penultimate sentence of such paragraph).

"(2) DEPENDENT CARE CENTER PROPERTY DEFINED.—The term 'dependent care center property' means property for use by a dependent care center if—

"(A) such center meets the requirements of subparagraphs (C) and (D) of section 44A(c)(2), and

"(B) more than 90 percent of the gross revenue of such center is from one or more of the following sources:

"(i) payments which are employment-related expenses (within the meaning of section 44A(c)(2)) for the care of a qualifying individual (within the meaning of section 44A(c)(1)) outside the taxpayer's household,

"(ii) amounts paid or incurred by an employer which are excludable from the gross income of an employee under section 129 (relating to dependent care assistance programs), and

"(iii) grants received from a State or political subdivision thereof, the District of Columbia, or an organization described in section 501(c) which is exempt from tax under section 501(a).".

SEC. 3. EFFECTIVE DATE.

(a) FOR SECTION 1.—The amendments made by section 1 shall apply to taxable years beginning after December 31, 1982.

(b) FOR SECTION 2.—The amendments made by section 2 shall apply to the period after December 31, 1982 (under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1954) in taxable years ending after such date.●

REPEAL WITHHOLDING OF INTEREST AND DIVIDENDS

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1983

● Mr. YOUNG of Florida. Mr. Speaker, today I am introducing legislation to repeal the 10-percent withholding of interest and dividends recently enacted in Public Law 97-248, the Tax Equity and Fiscal Responsbility Act of 1982. During consideration of that measure I supported a move to have a separate vote on this provision. Unfortunately that effort failed and we were denied an opportunity to vote against the withholding provision.

I have opposed the witholding of interest and dividends since President Carter first proposed it in 1980. My objections to the withholding provision are many. As money is taken out of people's bank accounts, the interest on those funds is also lost, at a projected cost of over $50 million per year. Further, a 1981 IRS study indicated that with information already reported by banks and businesses, the IRS could achieve a 96.3-percent voluntary compliance rate. Perhaps a better approach to improve compliance would be to improve the information reporting system—not to withhold interest and dividends. Finally, I am concerned about the effect of this provision on our elderly citizens. The complexity involved in applying for an exemption and the confusion surrounding this and other aspects of the provision have caused near panic and uncertainty in the hearts and minds of many.

Our tax system was designed to work through the good faith and voluntary cooperation of the taxpayers. It has proven successful for many years and can continue to do so. However, withholding provisions like the one I oppose add another layer of bureaucracy, continue to erode our current voluntary program, and tend to discourage savings. Although not always fair, the answer to the problems with our current tax structure does not lie in withholding interest and dividends, and I urge my colleagues in the Congress to join me in repealing this provision.●

REV. JOHN J. McMAHON: A LIFETIME OF SERVICE TO GOD AND COUNTRY

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1983

● Mr. DONNELLY. Mr. Speaker, Rev. John J. McMahon recently observed the 40th anniversary of his ordination as a priest in the Roman Catholic Church. Father McMahon's distiguished and tireless service to his faith and to his community has been an inspiration to all of us, who have been blessed with his friendship, his counsel, and his example.

Father McMahon is entering his 20th year of service to St. Mary's Parish in West Quincy, Mass. For the last 15 of those years, he has been the church's pastor.

Under Father McMahon's stewardship, St. Mary's Church and School have made vital contributions to the spiritual, social, and educational life of Quincy. But Father McMahon's service to his community has extended beyond the bounds of the parish.

He is an active force on the Quincy Housing Authority, where his concern for the welfare of his fellowman has translated into concrete results for the people of the city. His service also extends to the Morrisette Post of the American Legion, where he is honorary chaplain.

Hundreds of the people whose lives have been bettered by Father McMahon's ministry recently feted him on his 40th anniversary in the priesthood, testimony to the impact of his life of service.●

A TRIBUTE TO THE HONORABLE H. CURTIS MEANOR

HON. FRANK H. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1983

● Mr. GUARINI. Mr. Speaker, I would like to call to the attention of my colleagues that on February 1, 1983, the Honorable H. Curtis Meanor of the Federal District Court of New Jersey will step down from the bench to resume the private practice of law. Judge Meanor has served New Jersey and this country with distinction, both as a practitioner and as a jurist. One of the most outstanding graduates of New Jersey's State university, he received a bachelor's degree from Rutgers College in 1952 and a juris doctorate from Rutgers Law School in 1955. After completing law school, Judge Meanor served as law clerk to Federal District Judge Phillip Forman in Trenton. He then joined a law firm in

Jersey City in 1956, where he distinguished himself as a brilliant and forceful advocate. Judge Meanor temporarily left the firm in 1959 to serve as executive secretary to New Jersey Governor Robert Meyner. After a year with the Governor, Judge Meanor returned to the firm where he practiced from 1960 through 1969. He also served as an adjunct professor at Fordham Law School from 1964 to 1968.

H. Curtis Meanor's rise through the judicial system has been, in a word, meteoric. In 1969, he was appointed to the Essex County court, where he presided for 3 years. In July of 1972, he was appointed to the State superior court, law and chancery divisions. Judge Meanor was then elevated to the State's appellate division in September of 1973. A year later, he was nominated to the Federal District Court of New Jersey, with the unanimous certification of a review committee of the American Bar Association.

In his 9 years on the Federal bench, Judge Meanor has applied the laws of this country with precision and fairness. He has earned the highest esteem of both his colleagues on the bench and the members of the bar appearing before him, particularly for his expertise in patent and copyright law, Federal regulation of pharmaceutical products, and antitrust. The judge is especially well-regarded for his talents in achieving pragmatic solutions in complex civil matters, both on the bench and in his chambers. In addition, he has skillfully presided over some of the most important and difficult criminal trials ever conducted in the New Jersey Federal courts. It is my great pleasure to honor Judge Meanor today, to thank him for his service to the citizens of this country, and to wish him well in his new endeavors. We shall sorely miss his presence in the Federal court.

To commemorate this occasion, I have been requested by Judge Meanor's law clerks to read into the record the following resolution:

RESOLUTION

Whereas, the Honorable H. Curtis Meanor has served this country with distinction as a judge of the United States District Court for the District of New Jersey from September, 1974 to February, 1983; and

Whereas, Judge Meanor has ably presided over major civil and criminal cases in the course of his tenure, dispensing justice with both pragmatism and equanimity, in the highest tradition of American jurisprudence; and

Whereas, Judge Meanor has provided invaluable experience to his law clerks over the past nine years, enriching and inspiring them with his instruction, guidance, and friendship; and

Whereas, Judge Meanor will resign on February 1, 1983 in order to resume the private practice of law;

Now therefore, on behalf of the citizens of New Jersey and of the United States, the law clerks of Judge Meanor hereby offer this tribute to H. Curtis Meanor, both in recognition of his many judicial accomplishments and in heartfelt gratitude for the wisdom and personal warmth he has shared with us. Of all the lives H. Curtis Meanor has affected as a judge, he has touched none more intimately, nor more for the better, than ours. As he has wished us well in our own endeavors when we have departed from his chambers, so do we now wish him well as he does the same.●

SENATOR HOLLINGS' APPROACH TO BUDGET PROBLEMS

HON. KENT HANCE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1983

● Mr. HANCE. Mr. Speaker, I would like to insert into the RECORD a recent article that highlights one of my good friends, Senator ERNEST HOLLINGS of South Carolina. While I do not agree with everything the article proposes, I do believe that Senator HOLLINGS is one of the few people in Washington advocating a sensible, comprehensive approach to solving our Nation's budget problems.

The article follows:

[From the Rolling Stone, Nov. 25, 1982]

THE ROCK AND THE HARD PLACE—IF THE DEMS EXPECT TO WIN IN 1984, THEY MUST DO SOMETHING ABOUT THE ECONOMY RIGHT NOW

(By William Greider)

Now that the '82 elections are over, serious pundits will begin their earnest stargazing toward 1984, but I think there is a fundamental question that ought to come first: what's wrong with the Democrats?

During the campaign, their leading voices nodded reverently at the government's fiscal crisis, piously scolding Ronald Reagan and the Republicans for runaway deficits. Sadly, the Democrats were not terribly convincing. Each of their would-be presidential candidates offered his own list of budget cuts, but even taken together, they do not add up to a persuasive solution. Democrats, as is their nature, would rather talk about the distant future and their "new ideas" for rebuilding America—wonderful new programs for creating jobs, modernizing industry, reinventing prosperity.

Trouble is, when Democrats talk this way, many citizens instinctively put their hands over their wallets. New programs cost money, and Democrats usually wax fuzzy about who will pick up the check. The House Democratic Caucus, for instance, issued a general blueprint of "new ideas," titled "Rebuilding the Road to Opportunity." It outlined vast new investments in roads and education and basic research to rebuild industries and the nation's worn-out public infrastructure. After bowing before the altar of balanced budgets, the report observed matter-of-factly: "The question of how best to finance these programs will have to be resolved in the future." It makes one tremble for the U.S. Treasury.

If they were wise and bold, the leading players of Democratic politics would get together in the next few weeks and pound out a program for rescue and recovery. The right plan could staunch the hemorrhaging deficits in Ronald Reagan's budget, prime the economy for a robust recovery and begin rebuilding America's battered industrial base.

For starters, the Democrats could produce a dramatic list of at least, say, $80 billion in budget cuts and tax increases for each of the next three years—not enough to balance the budget but sufficient to break the curve of Reagan's runaway deficits. This $80 billion may sound outrageous, but it is, in fact, a plausible number. And finding it would allow the Democrats to launch their own program for economic recovery—$25 billion to $50 billion in new spending aimed at real investment and real jobs. Not in 1985, when one of them hopes to become the next president, but right now, when America needs help.

This is not idle fantasy. Such a grand Democratic compromise is realistic, and necessary. The Democrats do have visions, but why should we take them seriously as long as they duck the hard question: how are we going to pay all the bills?

The alternative to Democratic leadership, in any case, is truly frightening. The Reagan White House, by all accounts, intends to continue its head-in-the-sand approach to the budget crisis it created, blaming its own excesses on Democrats and ancient history. Congress will stalemate in partisan name-calling. And the country will not get well. It will limp along with a weak recovery from the recession, high unemployment, high interest rates, more bankruptcies. As long as the federal budget remains so wildly out of balance, the prospects for genuine recovery are nil.

Don't be misled by the stock-market rally or the recent decline in interest rates. Some politicians, as well as Wall Street traders, would like to believe the problem of federal deficits has gone away. They think that last summer's heroic bipartisan efforts to cut spending and restore revenue lost in 1981's outrageous tax giveaway were sufficient. But the leaders in Congress know the gloomy truth: they must wrestle again in 1983 with the same budget crisis they faced in 1982.

The latest authoritative budget estimates from Senate sources (which assume a solid recovery from the recession and modest reductions in unemployment and interest rates) reveal this scary picture: a federal deficit in the 1983 fiscal year of $180 billion. That is $20 billion worse than the previous estimate and $70 billion worse than Reagan's record deficit for fiscal 1982. In 1984, rather than shrinking, the deficit will rise to $205 billion. In 1985, it will climb to $220 billion. In the years beyond, it will get even worse. In sum, if Congress does nothing substantial to avert this disaster, the four years of Ronald Reagan's presidential budgets will accumulate something like $700 billion in additional federal debt—that's forty percent of all the national debt obligated since the first days of the republic. I repeat: it's scary.

While others proclaim their compassion for the unemployed and spin out grand visions for future jobs programs, there is one Democratic presidential candidate who wants to talk frankly about the here and now: Senator Ernest Hollings of South Carolina, the thinking man's dark horse for '84. Hollings' silver hair and soft Charleston accent mislead strangers; it takes awhile to appreciate that the corn-pone voice spits out hard nails. Hollings is smart, candid to a fault and a genuine hybrid Democrat—a southern hawk who now dares to cut the defense budget; a former governor, impatient with rhetoric, who built solid support

among blacks as an early advocate of liberal programs for education and nutrition. As a presidential candidate, Hollings has many liabilities, but the others might at least help themselves if they listened closely to what he is trying to tell the Democratic party.

Indeed, the Democrats are in a position to accomplish what is impossible for the Republicans. If they follow Hollings in asking sacrifices from all groups, a price that everyone must pay to help get the government back on track, they can make sure it really is fair. Democrats might even be believed on the question of fairness. Anything Republicans propose will look like more gouging.

But where would the Democrats find that plausible $80 billion? Senator Hollings has a list that adds up to $65 billion for 1984 and $105 billion for 1985. His colleagues could add some cuts here and take away somewhere else and still produce $80 billion in deficit reductions. Here is the framework:

Defense. Hollings would reduce the planned growth rate in defense spending to three percent a year (still generous, while virtually all other Federal spending would be frozen). This would save $13 billion 1984 and $26 billion in 1985. Other Democrats aruge that a reduction of $50 billion is possible without harming national security in the least, but any compromise has to be something that Democratic hawks will swallow. The consensus for defense increases is fast eroding, but Democrats are still scared to take it head-on, fearful they will be labeled again as wimpish peaceniks. That's why defense cuts will be easier to sell as part of a grand package of emergency cuts in which everyone gives up something precious.

Taxes. Hollings wants to cancel the third year of Reagan's cherished income-tax reduction and repeal the "indexing" of taxes against inflation—saving nearly $93 billion by 1985. Somebody's Federal taxes will have to be raised in 1983—count on it—so the argument is over whose taxes and how much. Other Democrats favor limiting the third-year tax reductions so they apply only to middle-income families and the poor, but that approach doesn't save much. Several are flirting with the idea of an energy tax—either on gasoline, to pay for road building, or on imported oil, to encourage conservation. That's an odious idea to ordinary consumers, but perhaps northern liberals can work a trade with oil-state conservatives: if Congress enacts a modest energy tax, raising $10 billion to $15 billion, then it should also recapture the same amount from the tax giveaways to the oil industry. Closing more loopholes on business taxes would save even more, and Democrats could easily find at least $30 billion in restored revenue.

Fiscal freeze. This is where most good Democrats scream and run. As a practical matter, however, they are not going to be able to restore much money to the domestic programs slashed in the last two years, beyond a little patchwork here and there. The real pain comes in Hollings' plan for a one-year freeze on cost-of-living increases for social security, Medicare and Medicaid, as well as for federal pay for civilian and military employees (Hollings exempts food stamps and disability aid on the grounds that those folks have already suffered deep cuts). After the one-year freeze, a modified version of annual increases would be adopted, protecting the elderly and others against inflation but not allowing them bonus dollars.

Democrats could make some honest promises to these constituencies: the social security system would be rescued from its temporary imbalance and, thus, protected from the more drastic benefits reductions the Republicans keep proposing. No one would lose his eligibility or current benefits.

"They have children and grandchildren, these senior citizens," Hollings said. "So long as they know they're not being cheated . . . if you talk honest economic sense to them, and politically it's done across the board, they'll go along."

The freeze would merely moderate the projected increases for entitlement programs over the next three years, now estimated at $85 billion by 1985. This offers a modest savings of $15 billion to $30 billion a year, depending on the depth of Democratic courage.

By shrinking the Reagan deficits, Democrats would create the preconditions for genuine economic recovery. If financial markets are convinced that the federal deficits really are under control, the threat of soaring interest rates as the economy picks up steam is greatly reduced. The Federal Reserve Board, assured that the budget is at last in responsible hands, could agree to continue relaxing the money supply.

The president would undoudtedly resist, particularly the defense cuts and the tax increases for business, but responsible GOP leaders in Congress might rush to cooperate. With a knowing wink from Howard Baker, the Republican Senate leader, Tip O'Neill could steamroller his rescue-and-recovery plan through Congress and confront the president with no choice but to acquiesce.

At the point, the Democrats could begin to talk seriouly about *their* programs for rebuilding America. And we would all begin to take their ideas seriously. A quick survey of what the Democrats are currently proposing suggests that, while their ideas still lack precision, a rough consensus is forming on the economic diagnosis. The nation is suffering from the decline of such basic industries as autos and steel (see "The UAW Fights for Survival," RS 374), and the fierce foreign competition for dominance of the emerging high-tech industries. The deep strain will not be eased by simply ending the recession. Ronald Reagan didn't cause these problems, and his lopsided version of *laissez faire* will not solve them. The Democrats propose to restore an activist federal government and a mild centrist version of national planning—prodding labor and industry toward long-term modernization, financing basic investment in research and education, while the next president (naturally, a Democrat) forces more equitable trading practices on our allies. None of these ideas, I should add, is really new; all have been employed before when the country was in distress.

The Democrats want to do what Democrats always do best—pour a lot of concrete and lay a lot of steel. Rebuilding the country's roads and bridges, harbors and railroads has to be done sooner or later, and it's the most direct way to create useful jobs now. This doesn't have to wait until 1985, and it needn't be in symbolic dribs and drabs. If they attend to the budget crisis first, the Democrats could enact a vast public-works program in 1983 and at least begin their industrial revitalization program. Let the president veto, if he dares.

This is possible because the Democrats really do seem to have learned a few lessons from their past excesses. For one thing, no one is now proposing any elaborate new programs that would merely send out government checks to distressed citizens. The era of expansionary welfare is gone, and it won't be back soon.

All of the Democrats are emphasizing less direct means of federal financing—loans and loan guarantees and interest-rate subsidies, rather than direct cash grants—to help cities and states build roads or help industries find the capital for modernization. This new approach has at least two important virtues: it stretches out the impact of federal dollars and provides a natural veto over bad ideas. While, in the past, it may have been tempting to follow the trail of federal funds toward whatever ill-conceived idea made sense in Washington, neither local governments nor private interests will borrow to invest in an unsound project if they actually have to pay the money back.

Using this approach, Democrats could actually launch as much as $50 billion worth of reconstruction projects—at an immediate cost of only $20 billion in new federal outlays. This would be enough to include some emergency legislation to save those on the brink—small-business bankruptcies, or farm foreclosures next spring—but the budget numbers are realistic. This is possible if Democrats, for once, would swallow the painful medicine first and demonstrate that they have discovered self-discipline.

Possible, of course, does not make it probable, especially when you're talking about the party that would rather fight than win.●

GILMAN SEEKS REPEAL OF WITHHOLDING OF INTEREST ON SAVINGS ACCOUNTS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1983

● Mr. GILMAN. Mr. Speaker, today I am reintroducing a measure which would diminish substantially the injustices of the Tax Equity and Fiscal Responsibility Act of 1982. I address the specific inequity of the provision imposing a 10-percent withholding requirement on income from interest and dividends, effective July 1, 1983. I propose to annul this unjust provision.

I expressed my dissatisfaction with this portion of the tax bill when the House of Representatives voted on the conference report. Considering the mounting disappointment of my constituents regarding this provision, I sense more deeply the need to legislate its repeal.

We must weigh the pros and cons of this specification as a revenue-promoting measure. The withholding requirement is proposed to contribute to general revenues $10.6 billion over the next 3 years. As impressive as this sum appears, the cost of executing this measure is $1 billion for startup and an additional $1 billion annually. Savings institutions must absorb this financial burden and will in turn pass these costs on to their customers.

The United States League of Savings Associations contends that the first

year's costs to the savings and loan industry alone will be $435 million, and the Securities Industry Association determines the brokerage industry's cost to be $40 million. These expenses will result in higher service charges and lower interest rates for our Nation's hard-working small savers.

The basic 10-percent withholding act will be just the first of several causes of outrage to American taxpayers created by this section of the Tax Equity and Fiscal Responsibility Act. The final clause of subpart A of title III of this act stipulates that the authority to withhold this portion of interest on savings and dividends "may be exercised on a case-by-case basis when the payor has attempted in good faith to comply with the withholding obligations but cannot do so without undue hardship." This provision means expending time and funds to define "undue hardship" and to evaluate individual cases according to this definition. It also means an even more inequitable, unbalanced, and subjective system of collection revenue, which will certainly be recognized and scorned by those hard-working taxpayers who are, finally, subjected to this penalty.

Difficulties exist even in cases where exemption appears just; that is, in cases involving the elderly and the poor. Those who paid $600 or less ($1,000 on a joint return) in the previous year would be exempt from withholding by filing an exemption certificate that will probably be available at most financial institutions next year. People have many different account relationships, and filing an exemption form for each account would become a vexatious process. Many people, particularly the elderly, might fail to realize their eligibility for exemption, have taxes needlessly withheld, and would need to file for a refund. It becomes clear that each administrative detail of this provision would require yet another compensatory one; the expenditure of time and funds would grow very cumbrous indeed.

Many of my constituents are small savers. These and many more are honest taxpayers, all of whom will be penalized by this proposed decrease in disposable income. With an 8-percent savings rate of available income in 1982, up from the 1979 low of 5 percent, we have taken a small step toward financial recovery. While we are attempting to stimulate continued national economic growth, the proposed action would only discourage individuals and small companies from reinvesting any of their available income. This move would add indignity to that discouragement in that it would imply dishonesty on the part of many devoted Americans. Even those excused from withholding would sense an invasion of privacy, for in filing for exemption they would have to reveal their tax liability to a third party. These negative implications, which would affect the vast majority of our constituents, should cause us to realize that although the goals of this withholding provision may be worthy, its detrimental effects would obliterate any recognition of economic progress.

This withholding tax is untimely and unjust. Accordingly, I encourage my colleagues to support its repeal by adopting my bill, and request that a full text of this bill be printed at this point in the RECORD for the enlightenment of my colleagues.

H.R. 984

A bill to repeal the withholding on interest and dividends enacted by the Tax Equity and Fiscal Responsibility Act of 1982

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subpart A of title III of the Tax Equity and Fiscal Responsibility Act of 1982 (relating to withholding on interest and dividends), and the amendments made by such subpart, are hereby repealed; and the Internal Revenue Code of 1954 shall be applied as if such subpart (and amendments) had never been enacted.●

SOME THOUGHTFUL SUGGESTIONS ON SAVING SOCIAL SECURITY

HON. CONNIE MACK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1983

● Mr. MACK. Mr. Speaker, a group of my constituents, the men's group of Holy Trinity Lutheran Church in Port Charlotte, Fla., a nonpartisan group of retirees, recently held a brainstorming session in an attempt to develop ways to save the social security system. Their suggestions are printed below.

I want to compliment them for their thoughtful and substantive suggestions. I also should like to compliment them for the fact that many of the suggestions involve sacrifices by all concerned, a contradiction of those who say that America's retirees are not willing to share in the sacrifices needed to restore the social security system to solvency.

Without necessarily endorsing any or all of the suggestions they have come up with, I heartily endorse their creativity and civic-mindedness; and insert at this point their specific list of suggestions:

RECOMMENDATIONS FOR AIDING SOCIAL SECURITY

1. Move Medicare/Medicaid to the general fund.
2. Increase beneficiaries cost of Medicare on a graduated scale, for those above the poverty level.
3. Bring all Federal employees into the system.
4. Stop cost-of-living adjustments for two or three years.
5. Revise method of computing C.O.L. adjustments.
6. Make an immediate reduction of benefits, a minimum of 10% for all over a minimum income level. (to be established)
7. Tax benefits for all above the poverty level and return these taxes to the Social Security System.
8. Create new temporary tariffs on imports, exports, liquor, beer, cigarettes, sports equipment and travel.
9. Prisoners being maintained at taxpayers' expense. Either eliminate their benefits or deduct a sufficient amount from benefits to help offset some of the cost of their incarceration.
10. Loans to countries around the world. Skim of 10% of all loans for U.S.A. benevolence. (Charity begins at home) Let that be the borrowing country's penalty for obtaining the loan.
11. Place more emphasis on inefficiencies within the Social Security System. i.e. Overpayments, payments to deceased, etc.
12. Put Social Security under a coalition of the top four or five insurance companies, removing it from the political arena.●

INNOVATION IN EDUCATION

HON. RAYMOND J. McGRATH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1983

● Mr. McGRATH. Mr. Speaker, I would like to call the attention of my colleagues to the efforts of a high school in my congressional district which is training students for employment in the private sector.

As my colleagues know, the unceasing flow of unskilled labor into the ranks of the unemployed has reached intolerably high levels. The problem is not just a lack of jobs, the problem is a lack of skilled workers for the jobs that are available. As technology advances, there will be an even greater need for workers who have the right skills.

Hempstead High School recognizes this problem and is doing something about it. The school has established liaisons with businesses in the area including Grumman Aerospace Corp.—the largest private industrial employer on Long Island—to develop training programs to provide students with marketable skills in the private sector. In many cases graduates from these programs are hired at entry-level positions with major firms.

These businesses are to be commended for their willingness to work with the high school in identifying future employment needs, setting school practicum qualifications and requirements, and providing internships within the business organization.

In addition, I think Hempstead High School should be commended for initiating this valuable training program for so many of its students.

I hope my colleagues will encourage high schools in their districts to enter into similar partnerships with local

businesses in order to train young people for meaningful employment in private enterprise. Our hope is to cultivate students who will become responsible, contributory members of society.●

JOINT UNITED STATES-SOVIET COMMUNICATIONS CENTER

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1983

● Mr. STARK. Mr. Speaker, on January 3, I introduced, along with my colleague Mr. DAVID DREIER, a bill to establish a joint United States-Soviet Communications Center. The Center, designed to provide for an additional channel of communication between the United States and the Soviet Union, would act as a supplement to the current United State-Soviet teleprinter hotline.

There has been a lot of talk recently about the existing "hotline" between Washington and the Kremlin, and the need to update this means of communication. President Reagan has expressed the need for modernizing the "hotline," and others have proposed various alternatives.

There is no question that this need exists. As our "hotline" becomes more outdated, our weaponry, and the means to use it, becomes more complex. The Pentagon is currently developing a new computer language so as to consolidate its nearly 1,000 complicated computer languages now in use. Ada, as the new language is called, is supposed to decrease the risk of computer failure and malfunction that could lead to nuclear catastrophy. But, as many experts point out, Ada is a long way from being error proof. The language is so complex that it could take years to work out all the flaws. And we, of course, do not want to rely on Ada until it is flawless.

This further reinforces our need to establish the joint Communications Center. Prof. Hylke Tromp, director of the Polemological Institute at the State University in Groningen, Netherlands, states that a nuclear war could start as a result of one of the following seven developments: First, a conscious decision by a major power to start a nuclear war; second, escalation of a conventional war; third, mechanical malfunction of a nuclear weapons system; fourth, an error by human or computers controlling the alert and firing systems; fifth, irrational behaviour by those controlling the weapons; sixth, proliferation to an irresponsible government; seventh, use by a terrorist group. Nos. 1 and 2 we have little control over, assuming that we would not be the ones to initiate or escalate a conflict. However, the entire rest of the list, with the possible exception of No. 6—once such action was taken—could be dealt with effectively and, I believe, successfully through the establishment of a joint communications center. In all instances a conflict could be avoided, or made less critical, by communicating the situation and the circumstances through the Communications Center. Situations that could easily turn into a crisis if the time consuming, complicated "hotline" were used, can be dealt with quickly and successfully by the Communications Center.

Of course this concept is not a panacea. I do not propose it as a substitute to other, ongoing arms control and arms reduction talks—only as a supplement. The greater the communication between the United States and the U.S.S.R., the lesser the risk of conflict. Avoiding nuclear conflict must be the single most important goal on any agenda, and the forum for the transfer of information in a crisis is a step in that direction.

If the Center is never used, except for the bureaucratic transfer of relatively unimportant information, it will have served its purpose. To act as a living link between our two nations to prevent nuclear war, the existence of the joint Communications Center may be all that is necessary to insure the health and security of us all.●

BYRNE DAIRY

HON. GEORGE C. WORTLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1983

● Mr. WORTLEY. Mr. Speaker, I would like to call much deserved attention to a concern in my district that is a shining example of courage and perseverance.

A model of courage because a man had the determination to start a business in the midst of the Great Depression. A model of perseverance because the business came out of the Depression and since then has become one of the largest independent dairy firms in central New York. It is a half century of growth that should not go unnoticed.

Matthew V. Byrne founded Byrne Dairy 50 years ago on January 15, 1933, despite the failing economy. Through both prosperous and lean years, Byrne Dairy grew into a most successful business venture. Matt Byrne succeeded because of his business sense and ambition, as well as dedication to quality products.

Today that same spirit prevails. Matt Byrne's successors have taken a good thing and made it better. Anyone living in central New York in the 1950's remembers a catchy radio advertisement jingle that seems to sum up the community's feelings: "Byrne Dairy Milk Is Mighty Fine."

I fully expect the next 50 years will be a continuation of the first 50. My congratulations to the Byrne family for their accomplishments over the last five decades and the achievements still to come.●

THE STATE OF THE UNION ADDRESS

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1983

● Mr. BROOMFIELD. Mr. Speaker, I am certain that my colleagues will join me in commending the President for a state of the Union address that was full of substance and hope for all Americans. Although President Reagan is making a few midcourse corrections, he is adhering to the basic principles which will get our great Nation moving forward again in spurring economic growth, initiating new domestic programs, and continuing America's efforts to strengthen its defenses.

His call for new economic growth incorporates bold initiatives during this challenging transition period. The comprehensive budget plan calls for a long-overdue freeze in Federal spending. Included will be plans to control the growth of the abused entitlement programs while taking special care to protect the truly needy. His efforts in this area are both fair and sweeping. The President will also accept the recommendations of the Secretary of Defense for additional savings which could be safely achieved without endangering our Nation's security.

I am pleased to see the administration's proposal to create a limited standby tax program in order to protect our Nation against high deficits in future years. As I have said all along, the President is sensitive to the problems created by slow economic growth and high unemployment in our Nation, and is instituting effective and prudent measures to remedy America's domestic ills. Of special importance is the proposed comprehensive employment bill and the multibillion-dollar Job Training Act. By extending for 6 months the Federal supplemental compensation program, the administration will assist many unemployed workers who have exhausted their regular and extended unemployment benefits. The President will present other proposals to reduce structural unemployment when the proposed employment act is submitted to Congress. I was gratified to see the President proposing new ways to promote free trade and increase the flow of American goods and services to other nations of the world. U.S. firms must be able to export American products thereby stimulating new production and employment of our country.

It is encouraging to note the President's commitment to a bipartisan policy for national security which is

based on the fundamental values of peace, freedom, and self-government. I agree with the President in challenging the Soviet Union to show its commitment to peace by actions, not just by words during this period of delicate arms reduction negotiations.

Also, the President is to be commended for the tone and thrust of his address, and for his efforts to gain bipartisan support for our Government's efforts during the difficult years ahead. I am confident that all of my colleagues on both sides of the aisle will join me in saluting the President's efforts and committing ourselves to a joint attack on the problems which trouble our Nation.●

SALUTE TO CAROL DiMATTEO

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1983

● Mr. EDGAR. Mr. Speaker, I wish to pay tribute to an outstanding community volunteer in my home district of Delaware County, Pa. Carol DiMatteo of Eddystone Borough has distinguished herself through a generous record of service to the young people of her community.

Mrs. DiMatteo has given her time and her hard work to the Eddystone Borough Recreation Board, the Eddystone Family Center, and the Parent Teachers Association of Eddystone Elementary School. All of these organizations seek to provide a healthy atmosphere for the young people of the borough, and all depend upon contributions of community support for their success.

In appreciation of the generous service provided by Mrs. DiMatteo to the youth of Eddystone Borough, her many friends and neighbors are saluting her with a banquet in her honor on February 5, 1983. I think it fitting that I join in the salute to Carol DiMatteo by making this tribute a part of the CONGRESSIONAL RECORD. I am proud to represent such a fine person in Congress.●

SPECIALTY STEEL FAIR TRADE ACT OF 1983

HON. STAN LUNDINE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1983

● Mr. LUNDINE. Mr. Speaker, today I am introducing in the House the Specialty Steel Fair Trade Act of 1983. This legislation is similar to legislation which I introduced in the 97th Congress along with Senator JOHN HEINZ. It is designed to address the serious problems being encountered by specialty steel firms in the United States as they try to deal with unfair trade practices being practiced by foreign specialty steel producers.

This proposal calls for the establishment of quantitative limitations on imports of specialty steel into the United States beginning 15 days after enactment and extending for a 5-year period. Congressional action is needed in this instance because the United States has failed through its trade policy and through the procedures established under existing law to provide remedies to our domestic producers from foreign illegal dumping and predatory pricing. Throughout 1982, to no avail, specialty steel producers have filed a series of unfair trade cases before the Department of Commerce, International Trade Commission, and the U.S. Trade Representative. These cases currently are mired in bureaucratic procedures. In the meantime, the viability of our domestic steel industry is severely eroding.

Time is running out on our domestic specialty steel producers. In 1982, several major specialty steel firms were forced to close. Others are currently teetering on the brink of closure. Unemployment in specialty steel is as high as 50 percent in some areas.

This gloomy outlook should not exist in the case of specialty steel. The Office of Technology Assessment has concluded that our specialty steel industry is modern, efficient, and internationally competitive. Specialty steel also remains an important industry associated with production of weapons and material for our military.

Since 1960, imports as a percentage of our domestic specialty steel market have increased from 2.6 percent to 19.1 percent. Over this period import penetration as a percentage of market share increased significantly during recessionary periods when foreign specialty steel products were sold at less than fair value. It was exceedingly difficult to recapture all of these markets when recessions ended because, in the meantime, domestic specialty steel producers had been driven out of the business.

Unless we promptly take action, our domestic specialty steel industry may disappear. Last November, President Reagan asked the International Trade Commission to undertake an expedited investigation of specialty steel imports and promised that steps would be taken in the interim to eliminate the threat to domestic specialty steel producers from unfair foreign practices. To date, while the investigation at the International Trade Commission has begun, a final decision to provide relief from this avenue may not occur until July. In the meantime, no interim measures have been instituted to provide some relief as was indicated last November by the President.

As a result, I believe Congress cannot sit idly by while more domestic specialty steel firms close because of unfair trade practices. Enactment of this legislation should not be viewed as unjustified protectionism. We must acknowledge that while the United States has continued to practice what we preach in terms of a pure free-trade philosophy, we have lost many, many markets to our international trading competitors who are utilizing specific strategies to advance the interests of their own domestic industries in the world marketplace. The U.S. specialty steel industry has been targeted for elimination by such foreign strategies. I urge you to support this legislation to save an industry critical to our industrial base and as one important step toward the evolution of a meaningful industrial strategy for our Nation.●

RECOGNIZING THE ROLE OF TRAPPERS AND FUR TRADERS

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1983

● Mr. YOUNG of Alaska. Mr. Speaker, last year, the Matanuska-Susitna Borough in south central Alaska received complaints about domestic animals being accidentally caught in traps set in the borough. As a result, an ordinance was proposed that would have banned trapping in the borough. However, after investigating the situation, listening to trappers and considering the importance of trapping to wildlife management and the economy of the State of Alaska, the borough not only rejected the ordinance but also passed a resolution commemorating the role played by trappers and fur traders in Alaska.

Although this may seem to be an insignificant local event, I think it is important in regard to the continued attempts by uninformed individuals and groups to ban trapping. The complaints are always the same: pets caught in traps, possible danger to children, lack of importance of trapping, and so forth. Unfortunately, unlike the case of the Matanuska-Susitna Borough, local and State governments often do not take the time to investigate these charges, to listen to trappers and discover how important trapping is. I commend this case to all those who would ban trapping without a second thought and insert Borough Resolution No. 83-103 in the RECORD:

MATANUSKA-SUSITNA BOROUGH: RESOLUTION SERIAL NO. 83-103

A resolution of the Assembly of the Matanuska-Susitna Borough recognizing the historic role trappers and fur traders have played throughout the development of the State of Alaska

Whereas, trappers and fur traders have been in Alaska prior to the turn of the century; and

Whereas, trappers and fur traders have traversed the length and width of Alaska contributing to the growth of the State of Alaska; and

Whereas, trappers and fur traders have contributed to the history of the State of Alaska;

Now therefore, be it resolved that the Assembly of the Matanuska-Susitna Borough recognize the historic roll trappers and fur traders have played throughout the development of the State of Alaska.

Passed and approved by the Borough Assembly of the Matanuska-Susitna Borough this 27th day of October, 1982.

EDNA B. ARMSTRONG,
Borough Mayor.●

FREEZE PRICES—NOT PEOPLE

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1983

● Mrs. COLLINS. Mr. Speaker, although the winter of 1982 has thus far been one of the mildest on record, thousands of people nationwide are caught up in the struggle of trying to pay for skyrocketing natural gas heating bills. Indeed, things have been so bad that a utility company in Illinois has created a separate fund and is encouraging private donations as a means of assisting those unable to meet the cost of home energy.

The dramatic increase in the price of natural gas has led to over 300,000 families being without heat this winter; their gas has been shut off because they cannot afford to pay bills which in some instances exceed 50 percent of last year's costs. USA Today recently featured an article revealing that some children in Chicago smell like barbeque because "they get their heat from a charcoal fire in the kitchen sink." The Chicago Sun-Times reported last Friday that, "Chicago's major supplier, the Natural Gas Pipeline Co., has asked for a $226-million increase which would raise the average customer's bill $42.28 a year starting March 1." This is particularly devastating because over 90 percent of the homes in Chicago are heated with gas.

Sadly, the Reagan administration continues to advocate acceleration of natural gas decontrol which would send prices soaring even higher in the face of decreased Federal funds for low-income energy assistance and weatherization programs.

Given such an insensitive response to a life-threatening situation, it is incumbent upon Congress to take necessary steps to bring some semblence of continuity in the natural gas market. That is why I am sharing with my colleagues a copy of the resolution (H. Con. Res. 29), I introduced yesterday which expresses the sense of Congress that comprehensive, coordinated efforts by appropriate legislative, administrative, and contracting entities should be undertaken to assure consumer relief in the natural gas market.

The resolution follows:

H. CON. RES. 29

Concurrent resolution expressing the sense of the Congress on natural gas prices

Whereas natural gas prices have increased approximately 700 percent in the last 10 years;

Whereas exorbitant natural gas prices have contributed to the Nation's severe economic crisis and the record breaking unemployment level of 12 million people;

Whereas an estimated 300,000 households in 1982 were shut off from heat and millions of others are finding it impossible to pay skyrocketing natural gas bills;

Whereas constantly rising natural gas prices have created a severe burden upon churches, schools, institutions, and small business, causing direct and indirect cutbacks in services to communities;

Whereas the decontrol of natural gas will add $2.5 billion to farm production expenses over the next 3 years;

Whereas President Reagan continues to advocate acceleration of natural gas decontrol which would send prices soaring even higher and decrease Federal moneys for energy assistance and weatherization programs; and

Whereas Congress has the responsibility to see to it that we freeze prices, not people: Now, therefore, be it—

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that comprehensive, coordinated efforts by appropriate legislative, administrative, and contracting entities should be undertaken to assure—

(1) That the decontrol of natural gas wellhead prices currently scheduled in 1985 does not occur, and no administrative action is taken that has the effect of decontrolling such prices;

(2) That wellhead price controls be made applicable to categories of natural gas which are exempt from control;

(3) That natural gas wellhead prices are reduced to the extent such prices are artificially high;

(4) That the use of contract provisions is eliminated in cases in which contract provisions, such as take-or-pay clauses and indefinite price escalators, artificially increase natural gas prices or restrict prudent decisionmaking in the marketplace;

(5) That pipelines and other natural gas companies which acquire natural gas for resale purchase the least expensive gas available, and justify increases in the prices they charge rather than pass through such increases automatically;

(6) That additional assistance is provided to individuals who are unable to pay the costs of residential hearing; and

(7) That weatherization activities are increased in order to reduce the costs of residential heating and to conserve energy.

I urge my colleagues to join in support of this resolution by calling my office to cosponsor.●

THE FAILING PRESIDENCY

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1983

● Mr. CLAY. Mr. Speaker, the distinguished newspaper, the New York Times cannot be considered a bastion of liberalism. It was therefore with a great sense of interest and concern with which I studied the following editorial which appeared on January 9, 1983, characterizing the failures of the President in terms of the economy, the environment, civil rights, and the poor.

The editorial deserves the careful consideration of my colleagues and will, hopefully receive the attention of the President.

[From the New York Times, Jan. 12, 1983]

THE FAILING PRESIDENCY

The stench of failure hangs over Ronald Reagan's White House. The people know it, judging by the opinion polls. Corporate titans know it and whisper disenchantment with a fellow conservative, Washington knows it when an Administration official calls the budgeting process "an unmitigated outrage" and when Mr. Reagan's closest friend in the Senate pronounces the President "as very close to set in concrete."

Mr. Reagan's loss of authority only halfway through his term should alarm all Americans. The economic nostrums he brought to office have not had the predicted effect. Only by recognizing his errors will he find better ideas. To rationalize the failure so far, or to blame his predecessors, the media and Congress, is to condemn the nation to two more years of destructive confusion.

By his own reckoning, Mr. Reagan became President for one basic reason: to restore the morale and power of America. By his own analysis, that meant above all "the rejuvenation of our economy" so that America could regain industrial strength, put all its people to work and defend its interests around the world.

But the economy totters, dragging down the West and eroding American influence everywhere. An ill-planned military buildup, which the recovery was to have made painless, now threatens to aggravate already huge deficits in future years. Instead of forcing the Russians to choose between guns and butter, Mr. Reagan is forcing that choice upon Americans. By putting missiles ahead of jobs and allowing the military to appear the enemy of prosperity, he is sapping more of America's strength than the Russians ever could.

This central failure should overshadow all partisan or philosophical contests. The Republican Administration has been cavalier about the environment, indifferent about civil rights, insensitive to the poor. Too many Democrats have been demagogic about trade restrictions and Social Security. But all factions share an obligation to force the President to lead in devising a new and credible plan for recovery.

Between the lines of his recent utterances, Mr. Reagan seems to concede some major misjudgments. The huge tax cut that he sold as a "supplyside" stimulus to investment is now necessary to "increase consumption," he says. The deficits he vowed to erase by 1983, then 1984, are now acknowledged to be growing and even desirable in the recessionary short run. And the Pentagon's "minimum essential" budget becomes daily more pliable.

What is lacking is any clear sense of direction. And when frustrated members of Congress advocate a mere "freeze" on spending, they only emulate Mr. Reagan's abdication and flight from hard choices.

How much deficit-spending does the President think is needed to assure economic growth in the months ahead? How would he then reduce the "intolerable" future deficits to protect recovery? The customary politics can help him choose among a combination of cuts in Social Security and military spending and increased taxation. But only a President can lead in defining a strategy. Only a leader can succeed as President.●

ECONOMIC POLICY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1983

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for January 26, 1983 into the CONGRESSIONAL RECORD:

ECONOMIC POLICY

The first question for economic policy makers in 1983 is whether we should combat inflation or fight recession. The question is not as simple as it may seem. Much depends on our getting the right answer.

It is a measure of our economic difficulty that, despite high unemployment, continued stagnation, and a sharp slowdown in the rate of inflation, the experts answer the question differently. Many of them believe that inflation is still our most serious problem, as it certainly was some months ago. These experts want to raise taxes, reduce spending, and slow the growth of the money supply, which are generally the right moves to make against inflation. Other experts, believing unemployment to be the most serious problem, want to goad the economy toward recovery by lowering taxes, increasing spending, and relaxing monetary policy. Thus, the divergent views of the economy's near future are (1) that there is an imminent danger of collapse into a depression, and (2) that there is an acute threat of resurgent inflation.

Before a remedy is proposed, the illness must be diagnosed. The trouble is that our economic doctors cannot even agree on the illness, much less a remedy.

My view lies somewhere near the middle of the spectrum, but perhaps more to the side of those who believe that recovery and expansion are the top priorities. Even so, there is plenty to worry about no matter which view is adopted, and in thinking that some stimulation of the economy is needed I recognize the clear danger that inflation may be ignited once again.

Although I am prepared to adjust my thinking as economic conditions change, I begin 1983 in favor of economic policies along the following broad lines:

First, we must keep short- and long-term interest rates moving down. The Federal Reserve, which has the primary responsibility for recovery and expansion in the present situation, should ease monetary policy. I would like to lower both taxes and interest rates, but I do not believe that we can do so simultaneously. To my way of thinking, we should choose the latter: lower interest rates are the single best source of aid for our battered economy, at least in the near term.

Second, we must tackle the problem of our enormous budget deficits head-on. We should probably accept the 1983 deficit as necessary to stimulate a lagging economy, and there is not too much we can do against it in any case. Such stimulative steps should not be allowed to carry over into the period of recovery, however, so we should begin to plan a major program to eliminate deficits in the out years—1984 and beyond. A tighter fiscal policy with lower deficits is the necessary companion of a more relaxed monetary policy. We should know by now that a realistic plan will be hard to formulate and even harder to implement, but we simply must get on with it. A realistic plan will be put in place only if we give due scrutiny to all spending and taxing programs—including the outsize increases in military spending and the tax cuts slated to take effect in the coming months.

Third, if the recovery is going to be a long, slow process—as I think it will be—then we must take steps to ensure that the burden does not fall disproportionately on the poor and the unemployed. It is obvious that budgetary caution cannot be cast aside when we consider such matters, but we should also keep in mind that the worst waste of all is the waste of human life. Some things, all of them of short-team expedience, just have to be done in order to protect the helpless. For example, the unemployment compensation and food stamp programs must be adequately funded. Large federal programs to create public service jobs probably do not represent a prudent expenditure of funds in light of budgetary realities, but training and education for a changing economy should be emphasized, and some public works are clearly in order.

Fourth, long-term economic growth depends upon productivity, which depends in turn upon technology, which depends in turn upon education. Increasing productivity is a multi-faceted problem, and it must become a major objective of economic policy. Emphasis has to be placed on capital investment, research and development, scientific education, and the augmentation of human skills. The federal government has a key role to play in the national effort to increase productivity.

I would add that we will not succeed in the long run if we try to protect our own markets from foreign competition. We must adjust to foreign competition, not fight it. It is also essential that we address the problem of the overvalued dollar. It is counter-productive and self-defeating to let the dollar reach such an overvalued condition. If we have evidence that other nations are manipulating the exchange rates against us, then we have to be prepared to intervene.

We must work harder to get cooperation and consultation among business, labor, and government. Events of the past few years should have taught us that there can be little sound economic policy if major actors on the economic scene are not involved in its formulation and implementation. Also, we should strive to improve cooperation and consultation among our fiscal policy makers (the President and Congress) and our monetary authority (the Federal Reserve). A good place to start would be a bipartisan agreement among the President, Congress, and the Federal Reserve to loosen monetary policy now as a prelude to a vigorous deficit-reduction program in 1984 and the years beyond.●

A TRIBUTE TO COUNCILMAN JOE SERNA

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1983

● Mr. MATSUI. Mr. Speaker, during the past two decades, citizen participation in the electoral process has declined, election after election. Our country has one of the worst records of voter turnout among the Western democracies. Millions of American adults have never voted; millions more vote only once in a great while.

For those reasons and more, I am proud to pay tribute to an outstanding effort that took place in Sacramento County, Calif., last year, which added thousands of participants to the electoral process during the 1982 election.

Sacramento City Councilman Joe Serna deserves the praise and the congratulations of all who are concerned about the decline in voting. Councilman Serna chaired one of the most successful voter registration efforts in California in the past decade.

The Sacramento Voter Education and Registration Project, initiated in June 1982, added 27,553 new voters to the rolls. And, thanks to the efforts of Joe Serna and staff headed by Nancy Akabori, an additional effort was made on election day to get these new voters and other voters to the polls.

Some 900 volunteers were mobilized on November 2, resulting in an exceptional countywide voter turnout. Statewide, the turnout was 69.8 percent, but in Sacramento County—thanks in large part to Joe Serna and his volunteers—we were able to boast of a 74.5 percent participation level, ranking our county among the best of all metropolitan counties in the State of California.

In appreciation for his outstanding efforts, the Harry S. Truman Club of Sacramento is paying tribute to Councilman Joe Serna. I am sure that all of my colleagues will join me in a similar expression of gratitude for the excellent public service performed by this outstanding civic leader in stimulating a great many citizens to perform one of the basic rights and obligations of citizenship.

We need more efforts like those of Joe Serna and his volunteers if we are to rebuild citizen involvement in the electoral process. It is with pride that I bring this achievement in Sacramento County to the attention of my colleagues.●

A TRIBUTE TO MARIE SEVELL

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1983

● Mr. RINALDO. Mr. Speaker, I welcome this opportunity to pay tribute to Mrs. Marie Sevell of Scotch Plains, N.J., who is being honored by the Phil Portnoy Association with its Humanitarian Award for her extraordinary work in raising funds for the handicapped, for the Kidney Foundation, and for helping to promote cultural affairs and recreation in New Jersey.

She is one of the founders of the Kidney Fund of New Jersey, a nonprofit organization dedicated to assisting in the care of men, women, and children with kidney diseases. The

money the foundation raises goes toward the acquisition of the very best dialysis equipment available, without which many kidney patients would not survive.

Through Marie Sevell's leadership and the work of other volunteers, the Kidney Foundation has aided hundreds of families and victims of kidney disease. Its work and fundraising have encouraged research into kidney diseases, and have enabled kidney sufferers to earn their own livelihood while receiving treatment.

Marie Sevell has excelled in other areas as well. Having grown up on a tobacco farm in Lenoir County, N.C., she never left her farm background far behind. She was a moving force behind the establishment of Ponderosa Farm in Scotch Plains. It is one of the last working farms in Union County, N.J., where young riders can develop their equestrian skills.

Hard work is something Marie Sevell has always enjoyed. At age 16, she drove a schoolbus transporting 65 children a day. She was involved in the 4-H Club, library, cheerleading, school newspaper, and made use of every opportunity to participate in school activities and assume a leadership role. Her enthusiasm for life and determination to serve others has not diminished over the years.

In addition to being a dedicated community worker, she is the devoted mother of six children—Christine, Gene, Kathleen, Michael, Donna, and Suzanne. With her husband, Norman "Dutch" Sevell, they form a closely knit family that shares the values that have made America great.

As the recipient of the Phil Portnoy Association's Humanitarian Award, Marie Sevell demonstrates those compassionate characteristics that distinguished previous winners: A sincere desire to help other people and the community.

I wholeheartedly join with the members of the Phil Portnoy Association in this well-deserved tribute to an outstanding American woman and humanitarian, Marie Sevell.●

THE SAN PEDRO BUSINESS AND PROFESSIONAL WOMEN'S CLUB—50 YEARS OLD AND STILL GOING STRONG

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1983

● Mr. ANDERSON. Mr. Speaker, today I rise to pay tribute to the San Pedro Business and Professional Women's Club of San Pedro which, on the 7th of February of this year, will be celebrating its 50th anniversary.

Organized in 1932 and chartered on February 7, 1933, by Ann Cook and Jean Haley, the San Pedro club, with its present membership of 58, today ranks first in the harbor district and is in the top 20 in membership in the entire State of California.

Among the objectives of the organization are raising the standards for women in business and promoting the interests of business and professional women. Through the group's activities, they strive to achieve a greater spirit of cooperation among business and professional women of the United States as well as extending them educational opportunities in industrial, scientific, and vocational activities.

These goals are exemplified by the San Pedro club's members. By participating in various community and fundraising activities such as the annual Fisherman's Fiesta, the members raise money to use for educational scholarships and to send club members to participate at district and State conferences and workshops. Furthermore, the San Pedro club consistently receives such awards as the Ivy Grace Chime Award for the club with the highest percentage of increased membership, the Legislation Award for the largest number of letters to political representatives, and the Political Education and Promotion Award which is given to the club with the highest per capita contribution. Added to these distinctions, in 1982 the club also received the Gertrude Baker Gong Award for the highest number of new members and the Foundation Award from the National Federation of Business and Professional Women's Club for 100 percent participation.

This is a truly distinguished and outstanding group. Mr. Speaker, I know you will join me and my wife Lee in wishing the club's president Jeanne Bonnot, as well as the entire membership of the San Pedro Business and Professional Women's Club, much continued success in the years ahead.●

REDSKINS UNITE WASHINGTON AREA COMMUNITY

HON. FRANK B. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1983

● Mr. WOLF. Mr. Speaker, our Nation's Capital is home to a divergence of people, ideas, and viewpoints and it is a rare moment when we find a common bond. In recent weeks, though, there has been a uniting force at work here which has brought the Washington area community together like nothing I have ever experienced in over 20 years of living here.

I am speaking, of course, about the Washington Redskins whose winning fortunes this pro football season are a tribute to the outstanding coaching staff headed by Joe Gibbs and the players themselves whose 100-percent team effort week after week has inspired us all.

We fans who call the Washington area home can all take pride in this team who has played with such class. We have shared in their accomplishments on the football field and found a sense of unity and togetherness in our hope for their success. I am especially proud to represent the 10th District of Virginia where Redskins Park is located and where so many Redskins players reside.

The Washington Redskins are a team of winners which deserves the respect of football fans across America. On behalf of northern Virginians, I want to thank this team for bringing our community together and for all those great moments this football season. We wish the Redskins the best of luck and onward to victory this Sunday in Superbowl XVII.

One final thought—Hail to the Redskins.●

TENNESSEE ERNIE FORD

HON. ROBERT E. BADHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1983

● Mr. BADHAM. Mr. Speaker, it is my privilege to rise today to pay tribute to one of American's best-known and most popular entertainers, Tennessee Ernie Ford, who will be honored on February 12, 1983, by the Costa Mesa, Calif., Chamber of Commerce, which will present him with its annual heart award for his many contributions to the handicapped, hospitalized, the military and to those who simply enjoy his music and his humor.

Since I have the honor to represent Costa Mesa in the House of Representatives, I am pleased that its chamber of commerce has selected Tennessee Ernie Ford for this year's honor. Over the years he has given his time and talents, without financial benefits, to bring humor and good will to countless Americans.

He was instrumental in the formation and served as chairman of the National Association for the Visually Handicapped, which started in San Francisco and is now headquartered in New York. Ernie donates his services and promotes this charitable organization, which manufactures and distributes large-type books for visually handicapped adults and children, as well as glasses and prescriptions.

Ernie Ford was born in east Tennessee, where he started as a local radio station announcer in 1937 for $10 a week. He studied voice in Cincinnati, was an announcer for stations in Atlanta, Knoxville and, after serving as a B-29 bombadier in World War II, in San Bernardino and Pasadena, Calif.

It was during this time that Tennessee Ernie hooked up with Cliffie Stone, one of the country's early band leaders in country music, who guided Ernie to stardom. The vehicle for launching Tennessee Ernie's sensational singing career was his recording of "Sixteen Tons," a song written by Merle Travis.

"Sixteen Tons" was recorded in 1955 and at the time was the fastest and biggest seller in the history of the recording business. It sold 1 million records in the first 3 weeks and 2 million in 9 weeks. The original recording has sold more than 4 million copies.

Shortly, it became apparent to millions of Americans that Ernie Ford has a magnificant bass voice, which enables him to sing anything from opera to hymns to pop and even rock. He is one of the best story tellers in the entertainment field today. He has specialized in religious music and his religious albums have sold more then 19 million copies, and he has continued to this day to close each of his performances with a religious song or group of songs.

After many highly successful years with his own shows on all three radio and TV networks, Tennessee Ernie Ford and his wife of more than 40 years, Betty, have taken up a lighter schedule, spending as much of their time as possible at their home in Portola Valley, Calif., at their hideways in Palm Springs and Idaho.

They have two sons, both married, and two grandchildren.

In spite of a reduced schedule, Tennessee Ernie Ford has kept busy with TV specials, advertising appearances and doing the sort of thing he will be doing on February 12, accepting the Heart Award from the Costa Mesa Chamber of Commerce for his contributions to all Americans through the medium of music and humor.

I would like to commend Tennessee Ernie Ford to this body as the best example of an American who, while a nationally recognized entertainment idol, has kept his feet solidly on the ground to serve us all and to do his part to make this a better country.●

LeROY ENGSTRAND DAY

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1983

● Mr. DUNCAN. Mr. Speaker, on January 24, "LeRoy Engstrand Day" was celebrated at the University of Tennessee in Knoxville to honor one of this Nation's outstanding athletes. I want to bring this tremendous swimmer to the attention of my colleagues and the American people.

Lee Engstrand has truly been a tremendous asset to the University of Tennessee swimming program. While representing the University of Tennessee, he has often been the winning edge in the team's winning of the meet.

For the last 4 years, Engstrand has been numbered among the ranks of All-American. He is the current NCAA champion in the 400-yard individual medley. LeRoy Engstrand is the American recordholder in the 200-yard individual medley. He was captain of the University of Tennessee swimming team this year, the Southeastern Conference Champions. He also was selected as the "Swimmer of the Year" in the Southeastern Conference as he was the first man in history to swim under the 1 minute 50 second barrier in the 200-yard individual medley.●

IN MEMORY OF NANCY HANKS

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1983

● Mr. DOWNEY of New York. Mr. Speaker, the cultural world is saddened by the recent death of the former chairman of the National Endowment for the Arts, Miss Nancy Hanks. After a lengthy illness, Miss Hanks passed away in a New York hospital on January 7 at the age of 55. The challenges she faced during her career were formidable but her victories were many. While she has received a plentitude of tributes from the cultural and political worlds, it is the body of her work in the arts that illuminates the memories we have of this outstanding woman.

During Nancy Hanks' professional life, she became a well known champion of the arts. After moving to Washington, D.C., in 1951, she became a protege of Nelson Rockefeller and her concern for the arts grew from her close work with the Rockefeller Brothers Fund. Her keen political insights and personal zeal quickly established Miss Hanks as one of the most well respected professional women in Washington. By forging a strong coalition of powerful politicians and various arts constituencies, Miss Hanks was able to score countless victories in her lifelong fight to protect and promote the arts in America.

In 1969, Nancy Hanks was appointed Chairman of the National Endowment for the Arts, the highest arts position in the Government. Her adept administration of the NEA achieved unprecedented levels of funding for the NEA. During her 8-year tenure as Chairman, the NEA budget grew tenfold. Under Miss Hanks' leadership and financial skill, the arts flourished across the country. After retiring in 1977, Nancy Hanks continued to be one of this Nation's staunchest advocates for the arts and she received numerous awards and honors for her efforts.

Through the work of Nancy Hanks, the arts have captured the focus of national awareness. Miss Hanks' efforts in the arts have touched the lives of millions. The enjoyment that Americans receive from the arts today and for generations to come is the legacy of Nancy Hanks.●

CHAPMAN POND

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1983

● Mr. GEJDENSON. Mr. Speaker, on a rainy Sunday afternoon in June, I had the rare opportunity to take part in a dedication ceremony of Chapman Pond, the Cynthia B. Carlson Nature Preserve in East Haddam, Conn.

This project is in my Second Congressional District. I was joined by 300 people from my district and from across the State. It was a proud moment for members of the nature conservancy and the cooperating organizations and agencies.

"Within the Connecticut environment, this preserve is recognized as the most important land conservation effort in Connecticut," according to Kent Olson of the nature conservancy.

The effort and support of agencies, individuals and groups made it possible to reach the goal of $700,000 to purchase and manage the Cynthia B. Carlson Nature Preserve.

The Eastern Connecticut Resource Conservation and Development Area had provided a grant of $160,000 from the USDA Soil Conservation Service early in the negotiations. Then during the dedication ceremonies, Philip Christensen, State conservationist, soil conservation service, announced an additional grant of $45,000, bringing the total to $205,000. Philip Christensen in his comments said, "We in the Soil Conservaton Service are proud to be a part of this very significant natural resource activity * * * and I pledge our support in making Chapman's Pond a complete and well managed wildlife area for public use and enjoyment." Pledges of $300,000 were received from the Connecticut River Gateway Commission, along with contributions of $179,800 from individuals.

The project was a joint undertaking of the conservancy and the East Haddam Land Trust (EHLT) in cooperation with the CT River Gateway Commission, the Middlesex Soil and Water Conservation District and the Eastern Connecticut RC&D Area. The property is located approximately 11 miles up river from Long Island Sound, it includes a 90-acre water surface which is connected to the Connecticut River by two channels. The remaining acreage consists of floodplain and wooded uplands. Some recreational uses will be permitted as long as they are compatible with the ecological integrity of the area.

Scientists have been calling Chapman's Pond a vital habitat for fish and

wildlife for years. The pond is a spawning ground for largemouth bass and northern pike. Most likely, every common species in Connecticut can be found there at one time or another. Additionally, many kinds of birds feed and roost there: Kingfishers, herons, egrets, hawks, vultures and swans. Osprey, listed as rare in this State, often visit the area, as does the bald eagle, which is on the U.S. Endangered Species List.●

RECOGNIZING MENTAL HEALTH COUNSELORS

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1983

● Mr. WALGREN. Mr. Speaker, today I am introducing a resolution which would designate March 20 through March 26, 1983, as "National Mental Health Counselors Week." I am introducing the bill on behalf of the American Mental Health Counselors Association, a division of the American Personnel and Guidance Association.

Thousands of mental health counselors assist individuals in communities throughout our country in dealing with a variety of personal and adjustment problems. As part of the health care team, mental health counselors provide direct services to clients in a variety of public and private settings. For too long we have overlooked the contribution of these professionals, in spite of the fact that they provide up to 50 percent of all direct counseling services. Through their national association and 37 State branches, mental health counselors are striving to improve the quality of mental health counseling in the Nation.

I am pleased to offer this resolution designating March 20, 1983 through March 26, 1983 as "National Mental Health Counselors Week."

The text of the resolution follows:

H.J. RES. 102

A joint resolution designating the week beginning March 20, 1983, as "National Mental Health Counselors Week"

Whereas mental health counselors work in a specialized field of counseling which emphasizes the developmental and adjustive nature of mental health services;

Whereas mental health counselors utilize individual and group counseling techniques oriented toward assisting individuals with methods of problem solving, personal and social development, decisionmaking, and the complex process of developing self-understanding and making life decisions;

Whereas mental health counselors work in conjunction with other helping professionals, such as psychiatrists, psychologists, and social workers to determine the most appropriate counseling for each client;

Whereas mental health counselors work in psychiatric hospitals, community mental health agencies, private clinics, college campuses, rehabilitation centers, and private practice, providing almost 50 percent of direct delivery of mental health services;

Whereas mental health counselors are individuals upon whom, by virtue of their education and extensive training, have been conferred Masters or Doctor of Philosophy degrees in mental health counseling or community mental health counseling; or similar degree titles having a focus on mental health; and

Whereas mental health counselors, after having earned such degrees, have performed at least two years of supervised clinical counseling, and are licensed or certified as such in the State of their residence, or are certified by the National Academy of Certified Clincial Mental Health Counselors: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning March 20, 1983, is designated "National Mental Health Counselors Week". The President is requested to issue a proclamation calling upon all government agencies and the people of the United States to observe that week with appropriate ceremonies and activities.●

ACTORS THEATER OF LOUISVILLE

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1983

● Mr. MAZZOLI. Mr. Speaker, as a Representative of Louisville and Jefferson County, I am proud to call to the attention of my colleagues the accomplishments of Actors Theater of Louisville, which has earned the applause and the acclaim of critics all over the country and the world for the quality of its theatrical productions.

Each year, Actors Theater of Louisville produces a festival of new American plays. During the 6 years of this festival, over 200 works by 140 playwrights have been introduced into American theater.

Because of the success this festival had enjoyed, the "Sixth Annual Festival of American Plays" was recently broadcast on public television. The documentary featured segments from nine plays presented during last spring's event and was produced by Clay Nixon, whose work during the fifth festival earned him a New York International Film and Television Award.

I am proud of the achievements of this theater located in my hometown, and as it prepares for the seventh annual festival this year, I wish Actors Theater and its talented and able and distinguished director, John Jory, continued success.●

FORTRAN: YOUR CHILD'S SECOND LANGUAGE

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1983

● Mr. GOODLING. Mr. Speaker, I would like to call your attention and the attention of my honorable colleagues to a bill which was introduced in this body on January 3—H.R. 30, the Emergency Mathematics and Science Education Act. This bill strikes at the heart of one of the fundamental challenges facing this Nation today—educating our youth to take charge of a high-technology workplace and world.

These are changing times—changing almost with the blink of an eye. The dawn of the computer age has overnight, it seems, transformed our perceptions of the world and of ourselves as profoundly and irrevocably as did the advent of radio, television, or the telephone. Information on virtually any subject can be broken down, analyzed, put back together again, translated and stored with a speed almost unfathomable to the human mind. And what we are witnessing today is merely the prelude to the evolution of a society in which basic literacy in computer language will be as vital to the home and the workplace as the written and spoken word.

Chairman PERKINS and I, along with other Members of the House, have introduced H.R. 30 to begin to address the fundamental problems we face in the international high-tech arena. Leadership at the Federal level is needed if we are to avoid falling further behind such countries as the Soviet Union, Japan, and West Germany—all of which are turning out scores of highly trained engineers and scientists each year, as your populace firmly grounded in math and science.

Competitiveness in international and domestic markets is not to be gained or retained by resting on our laurels. Unless the work force of tomorrow is trained to take the reins of a world of rapidly changing technology, we may find ourselves taking a backseat to other, more aggressive nations. From the standpoint of national security, we need defense personnel sufficiently literate in basic technical and scientific concepts to responsibly develop, maintain, and deploy highly sophisticated weapons systems.

I think that you can appreciate the need to move quickly and decisively on this issue. We simply, literally, cannot affort not to concentrate on raising our standards in math and science competency in this country. Only with an informed and skilled population can the United States hope to retain a competitive edge in the marketplace and to attain peace through the strength of educated leadership.

I caution, however, that simply throwing money at the problem will do nothing—it never has in the past. It will be up to local initiative to build on the cornerstone of H.R. 30 to meet the high-tech challenge of the coming decades.

In the elementary and secondary portion of the bill funds are distribut-

ed by formula to State educational agencies, which in turn must distribute 95 percent of these funds to local educational agencies. Local school districts can use the funds for in-service teacher training and development of plans to modernize and expand instructional programs in math and science. A total of $250 million has been authorized for the first year of the program.

The postsecondary portion of the bill creates a congressional scholarship program for students in the fourth year of college or students in graduate school. Students will be nominated by Members of Congress and selected on a merit basis. The students would have to express a commitment to pursue a career in teaching for 5 years or repay the scholarships. Funds would also be available for summer institutes for teachers in areas of shortage, for mathematics and science improvement in institutes of higher learning and for upgrading laboratory equipment and facilities. The legislation authorized $50 million in the first year for all of these postsecondary activities.

The bill, however, is only a beginning. As the ranking Republican member of the Subcommittee on Elementary, Secondary, and Vocational Education, I plan to offer amendments to the bill which would improve the targeting of funds and would institute State-determined performance criteria to insure that the limited Federal effort obtains positive results.

In closing, I urge your wholehearted support of this endeavor to plan effectively for America' future.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, January 27, 1983, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JANUARY 28

10:00 a.m.
Special on Aging
Business meeting, to consider the committee rules of procedure for the 98th Congress, committee budget for 1983, and to discuss committee agenda.
EF-100, Capitol

2:00 p.m.
Foreign Relations
Closed consultation with the Secretary of State on the current situation in the Middle East.
S-116, Capitol

JANUARY 31

10:00 a.m.
Judiciary
To resume hearings on the problem of organized crime in the United States.
1202 Dirksen Building

Joint Economic
To resume hearings in preparation of its forthcoming annual report.
6226 Dirksen Building

11:00 a.m.
Energy and Natural Resources
Business meeting, to consider the committee budget for 1983, the committee rules of procedure for the 98th Congress, and other organizational matters.
3110 Dirksen Building

FEBRUARY 1

10:00 a.m.
Armed Services
To hold hearings on U.S. military posture.
1318 Dirksen Building

Energy and Natural Resources
To hold hearings on proposed authorizations for fiscal year 1984 for the Department of Energy.
3110 Dirksen Building

Foreign Relations
International Economic Policy Subcommittee
To hold hearings on proposed solutions to worldwide economic problems.
4221 Dirksen Building

Judiciary
Business meeting, to consider pending committee business.
2228 Dirksen Building

11:00 a.m.
Select on Intelligence
Closed business meeting.
S-407, Capitol

2:00 p.m.
Foreign Relations
To hold hearings on the nomination of Lewis Arthur Tambs, of Arizona, to be Ambassador to Colombia.
4221 Dirksen Building

FEBRUARY 2

9:30 a.m.
Finance
Health Subcommittee
To hold hearings on a proposal to develop a medicare prospective payment system for hospitals, skilled nursing facilities, and other providers.
2221 Dirksen Building

Judiciary
Juvenile Justice Subcommittee
To hold joint hearings with the Committee on Labor and Human Resources' Subcommittee on Investigations and General Oversight on guidelines used by Federal agencies in child kidnaping cases.
5110 Dirksen Building

Labor and Human Resources
To hold oversight hearings on the activities of the Office of Inspector General, Department of Labor.
4232 Dirksen Building

Labor and Human Resources
Investigations and General Oversight Subcommittee
To hold joint hearings with the Committee on the Judiciary's Subcommittee on Juvenile Justice on guidelines used by Federal agencies in child kidnaping cases.
5110 Dirksen Building

Rules and Administration
To hold hearings on mass mailings and the use of postal patron mail.
301 Russell Building

10:00 a.m.
Budget
To hold hearings in preparation for reporting the first concurrent resolution on the fiscal year 1984 Congressional budget.
6202 Dirksen Building

Energy and Natural Resources
To hold hearings on proposed authorizations for fiscal year 1984 for the Department of the Interior.
3110 Dirksen Building

Foreign Relations
To hold hearings on Presidential certification on progress in El Salvador.
4221 Dirksen Building

Judiciary
Security and Terrorism Subcommittee
To hold oversight hearings on the activities of the Federal Bureau of Investigation, and on proposed authorizations for fiscal year 1984 for the FBI.
2228 Dirksen Building

Joint Economic
To continue hearings in preparation of its forthcoming annual report.
6226 Dirksen Building

10:30 a.m.
Select on Intelligence
Closed briefing on intelligence matters.
S-407, Capitol

1:30 p.m.
Finance
Health Subcommittee
To resume hearings on a proposal to develop a medicare prospective payment system for hospitals, skilled nursing facilities, and other providers.
2221 Dirksen Building

2:00 p.m.
Foreign Relations
To continue hearings on Presidential certification on progress in El Salvador.
4221 Dirksen Building

Joint Economic
To continue hearings in preparation of its forthcoming annual report.
6226 Dirksen Building

FEBRUARY 3

9:30 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the implementation of the Export Administration Act (Public Law 96-72), and the Department of Commerce's responsibilities under the act.
5302 Dirksen Building

Labor and Human Resources
To continue oversight hearings on the activities of the Office of Inspector General, Department of Labor.
4232 Dirksen Building

Small Business
To hold oversight hearings on the small business investment company program of the Small Business Administration.
424 Russell Building

10:00 a.m.
Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1984 congressional budget.
6202 Dirksen Building

Energy and Natural Resources
To hold hearings on proposed authorizations for fiscal year 1984 for the U.S. Forest Service, Department of Agriculture, and the U.S. Synthetic Fuels Corporation.
3110 Dirksen Building

Finance
To hold hearings on the administration's budget proposals for fiscal year 1984.
2221 Dirksen Building

Joint Economic
To continue hearings in preparation of its forthcoming annual report.
6226 Dirksen Building

2:00 p.m.
Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1984 congressional budget.
6202 Dirksen Building

Foreign Relations
To hold hearings on the Lebanon situation and proposed U.S. assistance.
4221 Dirksen Building

4:00 p.m.
Office of Technology Assesment
The Board to meet on organizational matters, and to consider new project proposals.
EF-100, Capitol

FEBRUARY 4

9:30 a.m.
Joint Economic
To hold hearings on the employment/unemployment situation for the month of January.
318 Russell Building

10:00 a.m.
Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1984 congressional budget.
6202 Dirksen Building

FEBRUARY 15

9:30 a.m.
Rules and Administration
To hold hearings on committee resolutions requesting funds for operating expenses for 1983.
301 Russell Building

10:00 a.m.
Budget
To resume hearings in preparation for reporting the first concurrent resolution on the fiscal year 1984 congressional budget.
6202 Dirksen Building

1:00 p.m.
Finance
To hold hearings on recommendations of the National Commission on Social Security Reform.
2221 Dirksen Building

FEBRUARY 16

9:30 a.m.
Rules and Administration
To continue hearings on committee resolutions requesting funds for operating expenses for 1983.
301 Russell Building

10:00 a.m.
Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1984 congressional budget.
6202 Dirksen Building

Veterans' Affairs
To hold hearings to review those items in the President's budget for fiscal year 1984 which fall within its legislative jurisdiction, and to consider recommendations which it will make thereon to the Budget Committee, receiving testimony from officials of the Veterans' Administration.
412 Russell Building

2:00 p.m.
Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1984 congressional budget.
6202 Dirksen Building

FEBRUARY 17

9:30 a.m.
Finance
Health Subcommittee
To continue hearings on a proposal to develop a medicare prospective payment system for hospitals, skilled nursing facilities, and other providers.
2221 Dirksen Building

Rules and Administration
To continue hearings on committee resolutions requesting funds for operating expenses for 1983.
301 Russell Building

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for the American Battle Monuments Commission, Army cemeterial expenses, and the Selective Service System.
1224 Dirksen Building

Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1984 congressional budget.
6202 Dirksen Building

1:30 p.m.
Finance
Health Subcommittee
To continue hearings on a proposal to develop a medicare prospective payment system for hospitals, skilled nursing facilities, and other providers.
2221 Dirksen Building

2:00 p.m.
Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1984 congressional budget.
6202 Dirksen Building

FEBRUARY 22

9:30 a.m.
Rules and Administration
Business meeting, to consider committee resolutions requesting funds for operating expenses for 1983, and proposed regulations for Senate mass mailings.
301 Russell Building

10:00 a.m.
Budget
To resume hearings in preparation for reporting the first concurrent resolution on the fiscal year 1984 congressional budget.
6202 Dirksen Building

Finance
To resume hearings on recommendations of the National Commission on Social Security Reform.
2221 Dirksen Building

FEBRUARY 23

10:00 a.m.
Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1984 congressional budget.
6202 Dirksen Building

Finance
To continue hearings on recommendations of the National Commission on Social Security Reform.
2221 Dirksen Building

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To hold oversight hearings on the implementation of vocational education programs.
4232 Dirksen Building

2:00 p.m.
Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1984 congressional budget.
6202 Dirksen Building

FEBRUARY 24

9:30 a.m.
Judiciary
Juvenile Justice Subcommittee
To hold hearings on the reauthorization of the Juvenile Justice and Delinquency Prevention Act (Public Law 93-415).
2228 Dirksen Building

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for the Office of Consumer Affairs, Consumer Information Center, and the Consumer Product Safety Commission.
1224 Dirksen Building

Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1984 congressional budget.
6202 Dirksen Building

Finance
To continue hearings on recommendations of the National Commission on Social Security Reform.
2221 Dirksen Building

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To continue oversight hearings on the implementation of vocational education programs.
4232 Dirksen Building

2:00 p.m.
Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1984 congressional budget.
6202 Dirksen Building

FEBRUARY 28

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings to review foreign assistance programs of the Department of State.
1114 Dirksen Building

MARCH 1

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for certain programs of the Department of State, focusing on international security assistance, international narcotics control, migration and refugee assistance, and antiterrorism.
S-126, Capitol
Budget
To resume hearings in preparation for reporting the first concurrent resolution on the fiscal year 1984 congressional budget.
6202 Dirksen Building
10:30 a.m.
Veterans' Affairs
To hold hearings to receive legislative recommendations for fiscal year 1984 from the Paralyzed Veterans of America, Military Order of the Purple Heart, and World War I Veterans.
318 Russell Building
2:00 p.m.
Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1984 congressional budget.
6202 Dirksen Building

MARCH 2

10:00 a.m.
Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1984 congressional budget.
6202 Dirksen Building

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To resume oversight hearings on the implementation of vocational education programs.
4232 Dirksen Building

Veterans' Affairs
Business meeting, to consider those items in the President's budget for fiscal year 1984 which fall within its legislative jurisdiction, and recommendations which it will make thereon to the Committee on the Budget.
412 Russell Building

2:00 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for the Peace Corps, and the Inter-American Foundation.
S-126, Capitol

Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1984 congressional budget.
6202 Dirksen Building

MARCH 3

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for certain programs of the Agency for International Development.
Budget S-126, Capitol
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1984 congressional budget.
6202 Dirksen Building
Judiciary
Agency Administration Subcommittee
To hold oversight hearings on the indemnification of and contributions to Government contractors.
5110 Dirksen Building
Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To continue oversight hearings on the implementation of vocational education programs.
4232 Dirksen Building
2:00 p.m.
Appropriations
Foreign Operations Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1984 for certain programs of the Agency for International Development.
Budget S-126, Capitol
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1984 congressional budget.
6202 Dirksen Building

MARCH 7

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for the U.S. Representative to the United Nations, and voluntary contributions to international organizations and programs of the United Nations.
1114 Dirksen Building

MARCH 8

10:00 a.m.
Appropriations
To hold hearings on proposed budget estimates for fiscal year 1984 for the Export-Import Bank of the United States.
1114 Dirksen Building
11:30 a.m.
Veterans' Affairs
To hold hearings to receive legislative recommendations for fiscal year 1984 from the Veterans of Foreign Wars.
318 Russell Building

MARCH 9

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings to review the current status of the multilateral development banks of the Department of the Treasury.
1114 Dirksen Building
Veterans' Affairs
To hold hearings on proposed legislation providing for veterans' health care services.
412 Russell Building

MARCH 10

9:30 a.m.
Labor and Human Resources
Labor Subcommittee
To hold oversight hearings on the implementation of the Employee Retirement Income Security Act.
4232 Dirksen Building
10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for certain programs under the subcommittee's jurisdiction.
S-126, Capitol
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for the Veterans' Administration.
1224 Dirksen Building
2:00 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for certain programs under the subcommitee's jurisdiction.
S-126, Capitol

MARCH 16

10:00 a.m.
Labor and Human Resources
Education, Arts and Humanities Subcommittee
To hold hearings on issues related to math and science education in elementary and secondary schools.
4232 Dirksen Building
Veterans' Affairs
To hold hearings on proposed legislation providing educational assistance for certain members of the Armed Forces.
412 Russell Building

MARCH 17

10:00 a.m.
Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To continue hearings on issues related to math and science education in elementary and secondary schools.
4232 Dirksen Building
10:30 a.m.
Veterans' Affairs
To hold hearings to receive legislative recommendations for fiscal year 1984 from AMVETS and the Blinded Veterans Association.
6226 Dirksen Building

MARCH 21

10:00 a.m.
Budget
Business meeting, to mark up the proposed first concurrent resolution on the fiscal year 1984 congressional budget.
6202 Dirksen Building

MARCH 22

10:00 a.m.
Budget
Business meeting, to continue markup of the proposed first concurrent resolution on the fiscal year 1984 congressional budget.
6202 Dirksen Building

MARCH 23

10:00 a.m.
Budget
Business meeting, to continue markup of the proposed first concurrent resolution on the fiscal year 1984 congressional budget.
6202 Dirksen Building
Veterans' Affairs
To hold oversight hearings to review the status of construction of certain veterans' facilities.
412 Russell Building

MARCH 24

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for the Office of Science and Technology Policy, and the Council on Environmental Quality.
1224 Dirksen Building
Budget
Business meeting, to continue markup of the proposed first concurrent resolution on the fiscal year 1984 congressional budget.
6202 Dirksen Building

APRIL 7

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for the Environmental Protection Agency.

APRIL 13

10:00 a.m.
Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To resume oversight hearings on the implementation of vocational education programs.
4232 Dirksen Building

APRIL 14

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for the National Science Foundation.
1224 Dirksen Building
Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To continue oversight hearings on the implementation of vocational education programs.
4232 Dirksen Building

APRIL 20

10:00 a.m.
Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To hold oversight hearings on the implementation of bilingual education programs by the Department of Education.
4232 Dirksen Building
Veterans' Affairs
Business meeting, to consider proposed legislation providing for certain veterans' health care services, and proposed legislation providing educational assistance for certain members of the Armed Forces.
412 Russell Building

APRIL 21

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for the National Aeronautics and Space Administration.
1224 Dirksen Building
Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To continue oversight hearings on the implementation of bilingual education programs by the Department of Education.
4232 Dirksen Building

APRIL 27

10:00 a.m.
Veterans' Affairs
To hold oversight hearings to review adverse health effects from exposure to radiation, and other related matters.
412 Russell Building

APRIL 28

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for the Federal Emergency Management Agency, and the Neighborhood Reinvestment Corporation.
1224 Dirksen Building

MAY 5

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for the Office of Revenue Sharing (New York City loan program), Federal Home Loan Bank Board, and the National Credit Union Administration.
1224 Dirksen Building

MAY 12

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for the Department of Housing and Urban Development.
1224 Dirksen Building

MAY 18

10:00 a.m.
Veterans' Affairs
To hold oversight hearings to review adverse health effects from exposure to agent orange, and other related matters.
412 Russell Building.

MAY 23

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for certain programs under the subcommittee's jurisdiction.
1224 Dirksen Building

MAY 24

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for certain programs under the subcommittee's jurisdiction.
1224 Dirksen Building

JUNE 8

10:00 a.m.
Veterans' Affairs
To hold hearings on proposed legislation providing for certain veterans' compensation.
412 Russell Building

JUNE 22

10:00 a.m.
Veterans' Affairs
To hold oversight hearings on certain health care services for veterans.
412 Russell Building

JUNE 29

10:00 a.m.
Veterans' Affairs
Business meeting, to consider proposed legislation providing for certain veterans' compensation.
412 Russell Building

JULY 13

10:00 a.m.
Veterans' Affairs
To hold oversight hearings to review certain health care and other services provided Vietnam veterans.
412 Russell Building

JULY 20

10:00 a.m.
Veterans' Affairs
To hold oversight hearings on the role of management in implementing automated data processing systems at multiple VA hospital sites.
412 Russell Building

CANCELLATIONS

FEBRUARY 15

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to receive legislative recommendations for fiscal year 1984 from the Disabled American Veterans.
345 Cannon Building

HOUSE OF REPRESENTATIVES—*Thursday, January 27, 1983*

The House met at 11 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We thank You, O God, for all the opportunities we have to learn from other people whose lives and experiences are different from our own. Help us to keep our hearts and minds open to the gifts that others may bring to us and we will understand more fully the broadness and majesty of Your kingdom. May we not try to limit Your creation by lack of appreciation for the diversity of the people of our land and world, but through learning and growing together in faith, we may see more clearly the fullness of Your love to us and the grace by which You nourish us each day. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

ARE AMERICAN BANKS OPEC PARTNERS

(Mr. ANNUNZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANNUNZIO. Mr. Speaker, on Monday, the oil ministers of the Organization of Petroleum Exporting Countries (OPEC) failed to come to an agreement to keep world oil prices high. While this should be good news, things are seldom as simple as they seem. Thanks to the past actions of many or our banks, OPEC's failure could actually do more harm than good.

In the last few months, several members of OPEC have ignored the production quotas and prices set by the cartel. Instead, these countries have been selling larger quantities of oil at lower prices in order to finance their huge national debts. The oil ministers had hoped to put an end to this competition by getting agreement on minimum oil prices.

This should be good news. Lower oil prices mean lower gasoline and heating costs, and lower prices for one of today's most important raw materials. It means fewer dollars leaving the country and an improved balance of trade. In short, lower oil prices should help get our economy moving.

Some American bankers do not see it that way, however. These bankers have loaned OPEC countries billions of dollars and were counting on high oil prices for the OPEC countries to be able to repay the loans. Lower oil prices mean that the OPEC countries have less money to repay these loans. According to the Washington Post, a $10 per barrel drop in the price of oil would lead to a $7 billion fall in Mexico's revenue. As a result, it would be unable to cover its debt. Nigeria, Canada, Venezuela, and Indonesia also face the same problem.

That problem becomes our problem since they owe billions of dollars to American banks. If Mexico alone could not pay the interest on just 20 percent of its loans, Chase Manhattan, Citibank, and Bank of America, would lose about $60 million each in interest this year. And that's only those three big banks. There are many more who made loans to OPEC countries.

Those banks will try to make up those potential losses by making more money from their American customers. The way to do that is obvious, and American consumers and businessmen will suffer the consequences—still higher interest rates and a shortage of credit. It is no wonder that banks are so interested in eliminating all usury laws and charging their customers sky high interest rates.

Once again, the American consumer and businessman is being put in a vice by American bankers. The good news that oil prices are coming down is offset by the bad news that our bankers want the price to remain high. If the price does go down, banks will raise their interest rates to make up the difference. I never thought there would come a day when American banks would join with OPEC for higher oil prices, but that day has come. It is a sad day for the rest of America.

PRESIDENT'S STATE OF UNION MESSAGE CALLS FOR ENACTMENT OF PORT DEVELOPMENT LEGISLATION

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BIAGGI. Mr. Speaker, I am delighted that the President called for bipartisan congressional action in enacting comprehensive port development legislation in his state of the Union message.

I will shortly introduce the Port Development and Navigation Improvement Act of 1983—similar to legislation I authored in the last Congress and the only such measure reported to the House.

When enacted, the bill will:

Promote a dramatic expansion of U.S. international trade—particularly in steam coal exports to Western Europe and Japan. This will drastically reduce their dependence on OPEC oil. With 1.7 trillion tons of estimated coal reserves, the United States should emerge as the Saudi Arabia of the world coal market;

Create thousands of new jobs in mining and equipment manufacture, transportation, construction, shipyards, and maritime employment in all regions of the country;

Promote economic recovery by revitalizing basic industries such as steel production and shipbuilding;

Rebuild our public service infrastructure through increased capital investment; and

Improve the productivity and competitiveness of U.S.-manufactured goods on the world market.

This bill is especially significant in light of the Nation's depressed economy.

HIGH TECHNOLOGY TRADE ACT OF 1983

(Mr. SHANNON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SHANNON. Mr. Speaker, today I am introducing the High Technology Trade Act of 1983, legislation which would have an important impact on the future of one of America's most significant growth industries. I do this for myself, for Mr. GIBBONS, chairman of the Trade Subcommittee, and for a number of my colleagues.

Americans are realizing that our Nation's economic future rests to a large extent on our ability to capitalize upon our current successes in the high tech area.

But today's successes should not distract us from tomorrow's dangers. We held that kind of complacent attitude in the past, and today our steel and auto industries are paying the price. Other nations are not only making major new commitments to high technology. They are also using a variety of tariff and nontariff barriers to un-

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

dermine America's high tech superiority.

It is time we showed our competitors that we do not intend to let our high tech strengths slip away. On the contrary, our intention is to give high technology the support it needs to become a keystone of the American economy well into the 21st century.

The High Technology Trade Act can help us achieve that goal. It responds very directly to the international trend away from free trade, a trend which could cause severe damage to our high tech sector.

Last fall's General Agreement on Tariffs and Trade Conference only reinforced our awareness that other nations seem determined to undercut America's ability to market goods abroad. The High Technology Trade Act addresses that intransigence head on. We cannot afford to let the Japanese and other countries erode an industry so essential to our future.

Unfortunately, our country has not yet developed a strong, consistent high technology trade policy. This bill would see to it that such a policy is created. Thousands and thousands of jobs are at stake.

Specifically, the bill takes four major steps:

It authorizes the President to negotiate high technology trade issues on both a bilateral and multilateral basis.

It affirms U.S. commitment to national treatment in trade and investment.

It takes the important step of establishing a system which will track practices which distort trade and investment flows, and which will offer proposed remedies to any problems that develop.

And finally, it expands the President's current authority under section 301 of the Trade Act of 1974 to cover investment.

My hope is that the High Technology Trade Act will become a major piece of an overall initiative to strengthen America's international trade position. Economic growth requires a willingness to look ahead. It means opening up markets for our products. This bill sets us on that course.

A section-by-section analysis follows:

SECTION-BY-SECTION ANALYSIS

SHORT TITLE

Section 1 states that the Act is entitled the "High Technology Trade Act of 1982."

FINDINGS AND PURPOSE

In Section 2 the Congress recognizes the importance to the national interest and the U.S. high technology industries of an open world economy for international trade in goods, services, information and investment. Congress finds that international competition in high technology products is increasingly characterized by various forms of government intervention. Congress recognizes that strong, innovative high technology industries are essential to the U.S. national security and defense, future economic development, and international competitiveness, and states that the U.S. should recognize the importance of providing them with a favorable domestic environment. Congress further finds that joint scientific cooperation between U.S. and foreign companies is in the national interest, and that the results of cooperative efforts should be available to all participants. The purposes of the Act are to obtain maximum openness for international trade in high technology goods, services, information and investment, and to strengthen the international trading system.

NEGOTIATING MANDATE

Section 3 authorizes the President to enter into bilateral or multilateral agreements which may include, nonexclusively, commitments by foreign governments not to discourage public or private procurement of foreign high technology products, services or information; commitments to reduce or eliminate tariff and nontariff barriers to high technology trade, including the acceleration of the tariff rates agreed to during the Tokyo Round of trade negotiations and the elimination of any tariffs of five percent ad valorem or equivalent or less; and commitments to provide national treatment. The President is further authorized to make commitments to change U.S. laws, regulations or policies as necessary and appropriate to ensure the competitiveness of U.S. high technology industries.

To carry out agreements negotiated under the Act, Section 3 authorizes the President to use existing procedures under the Trade Act of 1974 to affect duty treatment or to change U.S. law.

ADDITIONAL ACTIONS TO OBTAIN OPENNESS OF FOREIGN MARKET ACCESS

Section 4 directs the President to determine, on a continuing basis, whether any key country has failed to take sufficient actions to provide national treatment for U.S. high technology products and investments. The President is directed to promptly enter into consultations with any such country and, if consultations do not provide the means to obtain national treatment, promptly consider other action under existing laws and international agreements.

EFFECTS OF FOREIGN INDUSTRIAL POLICY

Section 5 directs the Secretary of Commerce, in consultation with the High Technology Industry Advisory Committee, to report annually to Congress on the extent to which any key country utilizes industrial policies or measures which have, or may have, substantially adverse effects on a U.S. high technology industry. This report is to contain an analysis of foreign government industrial policies and measures which are designed to enhance the competitiveness of, or increase the exports of, a foreign high technology industry, and which impair access to domestic markets, as well as subsidies, toleration of cooperations among firms, other anticompetitive activities, interference with the outward flow of nonstrategic technology, and other export-enhancing or import-inhibiting practices. The report to the Congress will also specify the steps the President is taking, or proposes, to remedy the adverse effects of such policies and measures on U.S. high technology industries.

Section 5 further directs the President to use existing authority, as necessary or appropriate, to eliminate or offset the effects of policies or measures which significantly distort trade or investment to the detriment of a high technology industry, or which may result in sales at less than fair value or the provisions of a subsidy, and which cause or threaten material injury to a U.S. high technology industry.

MONITORING OF KEY COUNTRIES

Section 6 directs the Secretary of Commerce to establish a mechanism to evaluate the competitive opportunities available in foreign markets, by monitoring high technology trade and investment patterns. Specifically, the analysis will address import, export and investment flows, prevailing competitive conditions, and the nature and extent of government intervention in key countries. This analysis is to be contained in a report to the President, published annually by the Secretary fo Commerce.

Section 6 further directs the U.S. Trade Representative and the Secretary of Commerce, after consulting with the High Technology Industry Advisory Committee, to report annually to the President any such measures which they consider to violate U.S. international agreements or to be unjustifiable, unreasonable or discriminatory and a burden or restriction on U.S. high technology trade, services or investment. In response, the President will consider action under existing U.S. laws and trade agreements to reduce or eliminate the measures.

Finally, Section 6 directs the Secretary of Commerce to establish a High Technology Industry Advisory Committee, and to consult with it regarding actions under the Act.

DEFINITIONS

Section 7 defines certain key terms. It specifies that in measuring the openness of foreign markets, structural barriers to U.S. trade and investment, structural advantages of foreign companies due to noncompetitive conditions, and the provision of national treatment among other factors, will be considered.

National treatment is defined as treatment no less favorable than that accorded to any national, in the areas of establishment, tax and financial incentives, nonstrategic public procurements, and internal regulations and procedures.

AMENDMENTS OF OTHER LAWS

Section 8 amends Section 301 of the Trade Act of 1974 by allowing the President to respond to foreign acts or policies which burden or restrict U.S. investment abroad, and by broadening the range of responses, permitting the President to restrict foreign direct investment in the U.S. in response to unfair foreign trade and investment practices.

POLAND GETS A LOAN DEFERAL, BUT AMERICAN FARMERS DO NOT—IT IS TIME FOR SOME FAIRNESS

Mr. DORGAN. Mr. Speaker, Congressman DASCHLE from South Dakota and I are reintroducing legislation today that would give help to some good, young family farmers in this country who are being pressured to quit farming by the Farmers Home Administration.

We introduced the same legislation last year and it was passed by the House, but it was taken out in the conference committee under the threat of a veto by the President.

Mr. Speaker, the people in this administration ought to be embarrassed by the lack of basic fairness in the U.S. Government actions that provides loan deferrals to the Communist Government of Poland, to the Governments of Mexico, and others while it turns a cold shoulder to some good, young family farmers who are losing all that they own.

When a foreign government gets in financial trouble, this country rushes to bail it out. That is true even with Communist governments. The U.S. Government rushes to make payments for debts that Poland owes because the bankers plead that it is in our national interest. I think they are confused.

If the United States, by public policy, will bail out the Communist Government of Poland with loan deferrals, why would it not support a loan deferral provision for good young family farmers who have demonstrated good management practices and who are behind in their payments to the Farmers Home Administration? These financial problems are not the fault of those good young farmers—they have been hit with low prices and high interest rates. If we lose these folks, we are losing agriculture's future and that will weaken this country.

I am going to push hard for this legislation this year. This Government of ours has rushed to bail out Lockheed, it rushed to bail out Chrysler, and in more recent months it has been bailing out Poland, Mexico and others. It is time for us to stand up and insist that our Government get its priorities right. The priorities ought to be with the American people, with the American worker—the farmer, the individual who struggles to make it. A loan deferral program for our good, young family farmers is in the best tradition of what this country is all about. It is giving a helping hand at the right time to those who need it.

Our family farmers and particularly the young ones have been hard hit by Government actions that interfere with their markets. When public policy pushes farmers to the edge of bankruptcy, it does not make good sense to pull the rug out from under them. It makes good sense to build a bridge for them so that they can make it across this economic depression in agriculture and continue in the future to be the entrepreneurs, the producers that make America strong.

Farmers should not have to change their name to Poland to get the same kind of treatment that this Government has been willing to extend to the Government of Poland—a little breathing room until things improve.

LEGISLATION TO PERFECT THE NEW MONEY MARKET DEPOSIT ACCOUNT

(Mr. BARNARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARNARD. Mr. Speaker, today I am reintroducing legislation to perfect the new money market deposit account authorized by the Garn-St Germain Depository Institutions Act of 1982. This legislation has allowed banks, thrifts, and credit unions to directly compete with the money market mutual funds for the first time. At a time when Congress is striving to create a level playing field among all institutions that offer financial services, this legislation goes a long way toward placing depository institutions on an equal footing with the money market funds.

Even under the new law, however, banks offering these new accounts must hold a portion of their customers' money in noninterest-bearing reserves. At a 10-percent annual interest rate, these reserves may force financial institutions to pay about 1.36 percent less than money market funds. In an industry where profit margins are measured in hundredths of a percent, 1.36 percent is a crucial difference.

Over two-thirds of the funds now held in the money market mutual funds come from institutional customers, who require unlimited transactions. For monetary control reasons, it is not practical to exempt these transaction balances from reserves. My bill offers another solution.

If the Federal Reserve paid interest on these reserves to the depository institutions, then funds deposited in the new money market accounts could be fully invested in interest-bearing assets. The interest paid on the reserves would reduce some of the cost to financial institutions and thus allow them to be truly competitive with mutual funds.

For most of the past 2 years, we have been warned that the $230 billion in money market mutual funds outside control of the Federal Reserve is endangering monetary stability. Allowing banks, thrifts, and credit unions to compete for these funds will bring a significant portion of this uncontrolled money back into normal channels.

Just as important is the question of meeting the financial needs of local communities.

In the past few years, literally billions of dollars that would have been deposited in local financial institutions and directed to local borrowers have instead been channeled into the money market mutual funds. From there, the money went into major money center banks.

Some of this money was lent to local banks, thrifts, or credit unions at higher interest rates, but much of it remained outside the local communities. As a result, local financial needs have not always been completely fulfilled.

If we allow local financial institutions to compete for all the customers of mutual funds, they will at least have the chance to keep this money in the community.

The Monetary Control Act of 1980 provides ample precedent for paying interest on special reserves. My legislation does not seek to give depository institutions any advantage over money market mutual funds. It does seek to allow them to match the features of the mutual funds at a relatively competitive cost. The real beneficiaries will be the consumers, who will be able to realize higher yields and choose from a broader range of options.

ANATOLY SHCHARANSKY'S DAY IN AN AMERICAN COURT

(Mrs. BOXER asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous matter.)

Mrs. BOXER. Mr. Speaker, the achievement of one's 35th birthday frequently marks the beginning of one's most productive work years. On January 20, 1983, Anatoly Shcharansky spent his 35th birthday in a Soviet prison, his only crime an unbending pride in his heritage and an unalterable desire to leave the Soviet Union and join his wife Avital in Israel.

He is not forgotten. His cause was taken up in San Francisco on January 23, 1983 by an International Tribunal of Inquiry called together to inquire into the imprisonment of Anatoly Shcharansky and his mistreatment by the Soviet Government.

The distinguished judges, Stanley Mosk and Frank Newman of the California Supreme Court and Lillian Sing of the San Francisco Municipal Court presided. Presenting the case against the Soviet Government were Profs. Alan Dershowitz and Irwin Cotler. The Tribunal found unimpeachable evidence of Mr. Shcharansky's innocence, evidence which should be shared with the world.

I trust that this House of Representatives will be a consistent voice of hope and freedom for those who are the victims of political repression.

My thanks to those who organized and participated in this board of inquiry: Prof. Alan Pollack, Sister Ann Gillen, Rabbi Sheldon Lewis, Earl Raab, Gina Pennestri, Regina Waldman, Phil Bronstein, Rabbi Doug Kahn, Morey Shapira, and David Waksberg are to be commended for this witness of justice.

I am inserting into the RECORD an article from the San Francisco Examiner of January 24, 1983, regarding the International Tribunal of Inquiry:

ANATOLY SHCHARANSKY'S DAY IN AN AMERICAN COURT

(By Don Lattin)

Soviet Jewish dissident Anatoly Shcharansky, who has served nearly six years of a 13-year prison term for "high treason," had his conviction overturned last night by a distinguished but powerless panel of California judges.

It is unlikely that Soviet officials will abide by the decision handed down by state Supreme Court Justice Stanley Mosk, former Justice Frank Newman and San Francisco Municipal Court Judge Lillian Sing.

The jurists comprised an "International Tribunal" formed to review the evidence from Shcharansky's July 1978 trial. The panel said Shcharansky had not received a fair trial. The proceedings, which had no international legal standing, were intended to focus public attention on the plight of the 35-year-old dissident.

About 350 people packed the Fort Mason Conference Building to hear three hours of testimony, including a plea by Shcharansky's wife, Avital, who flew in from Paris hours before the tribunal convened.

Shcharansky, whose four-month hunger strike to protest conditions of his imprisonment has reportedly left him in "very marginal" health, was represented by Irwin Cotler and Alan Dershowitz, who prepared an exhaustive brief on Shcharansky's case. They had attempted to represent him at his 1978 trial in Moscow.

Cotler, a professor of law at McGill University, and Dershowitz, a professor at Harvard Law School, based their arguments on legal protections guaranteed by the Soviet constitution and the international human rights provisions of the Helsinki Agreement.

Earlier in the day, a court processor tried to serve a summons and 800-page legal brief on the Soviet Consulate in San Francisco. After it was refused, the document was tossed over the fence into the consulate yard.

Mosk opened the proceedings by asking if anyone had come to represent the Soviets. Hearing no one, Mosk appointed a San Francisco attorney and former Soviet citizen—who spoke with a slight Russian accent and went by the name Mr. Boris—to represent the Soviet Union.

Boris began by asking the tribunal to throw out the case on the ground that the court had no jurisdiction in the matter.

"Each soverign state has a right under international law to determine its own internal affairs," he said.

Dershowitz argued that the Soviet Union protested the 1972 California trial of Angela Davis, and got involved in several other cases of alleged racist treatment of minority defendents in U.S. courts.

Mosk, who pointed out that the tribunal's legal power was only that of a "board of inquiry," took the jurisdictional argument under submission.

Shcharansky's attorneys outlined nine examples of how the Soviet Union allegedly violated its laws in denying the Jewish dissident's request to emigrate to Israel in 1973, violated his human and civil rights after he became a founding member of the committee for the Implemetation of the Helsinki Agreement; denied his right to a fair trial on charges of passing classified material to U.S. reporters; violated his religious freedom and subjected him to inhumane treatment during six years of imprisonment.

Cotler said in his opening argument that the Shcharansky affair was "a litany of prosecutions and persecutions for activities protected by the Soviet constitution."

Boris countered that he would show the tribunal that Sharansky's guilt "was fully established as it is understood by the Soviet judiciary."

"We are dealing with a society where the rights of individuals are not primary to the society," he said. "They are derived from the society and are therefore secondary."

International law, Boris argued, can only be applied to the individual "through the lens of different cultures and societies."

Professor Allen Pollack, a Russian history expert, testified that Jews have always been a favorite target of Soviet officials wanting to set an example for citizens.

The charge of passing classified information to Los Angeles Times reporter Robert Toth, Pollack said, was designed to discourage other Jewish "refusniks" from establishing contacts with Western correspondents.

Avital Shcharansky testified that Anatoly, a computer specialist who had written his master's thesis on using computers in chess games, never had access to classified information.

"They bought the computers in his school from the United States," she said.

Mrs. Shcharansky said her husband became friendly with Toth and other Western reporters after she emigrated to Israel and he became active in the Jewish emmigration movement.

"Anatoly felt himself very lonely and he played with the children of Robert Toth," she said.

Mrs. Shcharansky said her husband was denied the right to receive and send mail, or to be visited by his mother and brother in the Soviet Union.

MARTI COMMEMORATION

(Mr. SMITH of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Florida. Mr. Speaker, January 28 is the 130th anniversary of the birth of Jose Julian Marti. A poet, essayist, patriot, and martyr, Marti became the symbol of Cuba's struggle for liberation from Spain. His dedication to and sacrifice for a Cuba independent of foreign domination made his name synonymous with the cause of liberty throughout Latin America.

Marti's struggle for Cuban independence began at an early age. Because of his sympathy for Cuban patriots, Marti was imprisoned and deported from his beloved Cuba on several occasions. From exile, he continued to publish his essays and to express his ideals. His writings are considered responsible for helping to generate pro-Cuban sentiment in the United States in the late 19th century. In 1895, Marti returned to Cuba for the last time. Leading an army of Cuban patriots, he was killed in a battle with Spanish forces at Dos Rios.

Eighty-eight years after Marti's death, the Cuban people still lack the independence from foreign domination for which Marti died. The sentiments expressed in Marti's writing remain as timely and moving today as the day they first appeared.

The Cuban people have tasted freedom and will have it again. Jose Marti continues to be a symbol of this struggle for freedom, and I join Cubans everywhere in remembering this great man.

Mr. Speaker, may I also say that I subscribe wholeheartedly to the remarks of the gentlewoman from California (Mrs. BOXER) regarding the plight of Anatoly Shcharansky and Soviet Jewry.

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APPOINTMENT AS MEMBERS OF THE HOUSE OF REPRESENTATIVES PAGE BOARD

The SPEAKER. Pursuant to House Resolution 611, 97th Congress, as enacted into law by section 127 of Public Law 97-377, the Chair appoints as members of the House of Representatives Page Board the following Members of the House: Mr. MINISH of New Jersey and Mr. FAZIO of California.

APPOINTMENT AS MEMBER OF THE HOUSE OF REPRESENTATIVES PAGE BOARD

Mr. MICHEL. Mr. Speaker, pursuant to House Resolution 611, 97th Congress, as enacted into law by section 127 of Public Law 97-377, I appoint the gentleman from Indiana, Mr. MYERS, as a member of the House of Representatives Page Board.

SOCIAL SECURITY ISSUE NOT YET SETTLED

(Mr. PICKLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PICKLE. Mr. Speaker, the National Commission on Social Security Reform brought together widely divergent groups and philosophies on common answers to many of the problems facing social security. It has done a good job. But from press reports and from the President's national toast during the state of the Union speech, one might believe the issue was settled.

My friends, the opera is not over until the fat lady sings—and the National Commission report is just a beginning—a good starting place. We do not for a moment belittle the accomplishments of the Commission. But what we have is a report.

We must now examine it to make sure it provides sufficient funding in the short term. And we must recognize

right now that the Commission agreed we must do the long term, but they did not agree on how to go about it. This must be done.

These tasks and many others remain, as they must, with the Congress. It will take the fortitude and further help of the President, the Speaker, other leaders in the Congress, and each and every Member to pass a social security bill. But pass it we must—and we will—and it must be a balanced bill that answers both the short- and long-term needs of the program.

HAWKINS INTRODUCES JOBS BILL

(Mr. HAWKINS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

● Mr. HAWKINS. Mr. Speaker, I am today introducing, along with 20 of my colleagues on the Education and Labor Committee, the Community Renewal Employment Act, which will provide productive and essential jobs for nearly 1 million long-term unemployed individuals.

This bill is a vital first step in reversing the devastating level of unemployment. In the coming weeks, I will be proposing other components of a comprehensive employment strategy to address not only the immediate employment crisis, but to respond to the underlying causes of soaring joblessness. Failure to establish a national employment strategy has led to piecemeal, uncoordinated, bandaid approaches to a fundamental national responsibility.

Enactment of this job creation legislation is essential because past actions cutting domestic programs have left us with no available tools to provide interim jobs during a prolonged recession. The introduced bill is carefully designed to permit quick implementation, target resources to individuals and areas most in need, and assure that jobs created are in productive activities which will bring lasting benefits to the community.

The program provides grants to States and local governments for wages and associated labor costs for community improvement activities. Eligible grant recipients are States and units of local government with populations of 50,000 or more and rural concentrated employment programs. The bill establishes no new bureaucracy, but simply funds projects through existing local government agencies. Most communities have long-delayed maintenance and repair projects which could be quickly implemented. Moreover, local governments, faced with declining tax revenues and Federal budget reductions have been forced to cut back on activities essential to the public welfare, including public health and safety activities, which could be funded under this act. The bill also provides for an expedited application procedure and requires allocation of funds within 45 days to assure that jobs will be available shortly after enactment.

The act provides a targeted yet flexible application of resources. Allocation provisions assure that funds will be targeted primarily to those areas with unemployment at 9 percent or greater. Recognizing that jurisdictions with less than 9-percent unemployment will have pockets of severe unemployment, the bill also provides for 15 percent of the funds to go to those jurisdictions for employment in such depressed areas. Five percent of the funds will be allocated to States for responding to sudden and severe economic dislocations such as plant closings or natural disasters in areas otherwise ineligible to be direct recipients of funds. Finally, the Secretary of Labor is provided 5 percent of the funds to respond anywhere in the country to meet critical unemployment conditions.

The act assures that individuals employed in projects funded are those in greatest need. Eligibility is restricted to those long-term unemployed individuals who have been jobless for at least 15 out of the last 20 weeks with priority for those who have exhausted or are otherwise ineligible for unemployment benefits. For the last quarter of 1982, an estimated 4½ million individuals were counted as long-term unemployed. The act requires that potential participants must be certified as long-term unemployed by the Employment Service before they can be employed on project funded under the act.

There can be no suggestion that jobs funded under the Community Renewal Employment Act are "make work" jobs. The act specifies activities which are eligible for funding including road repair, repair and renovation of education facilities, erosion, flood, drought, and storm damage assistance and control, emergency food and shelter activities, disaster relief, child care and community health activities. Moreover, the act requires that grant recipients establish and maintain work records for each participant containing a documentary history of the experience and skills acquired by each participant and the major tasks completed by each participant. It is noteworthy that the activities authorized under this act would address the employment needs of women in contrast with heavy and light construction activities in public works programs which tend to be male-dominated jobs. As women comprise more than 40 percent of the unemployed, it is essential that jobs be created in services and activities which women are likely to be able to perform.

The act authorizes funding to provide jobs for 20 percent of the long-term unemployed. At current levels, the act would authorize the expenditure of approximately $10 billion. While this is a significant expenditure, it must be kept in mind that each 1 percent increase in unemployment adds $25 to $30 billion to the national deficit. By pegging the authorization level to the number of long-term unemployed, the act assures that the authorization level will decline when economic recovery reduces the level of unemployment.

Finally, it is important to state that this is a temporary job creation measure. Jobs are limited in duration to no more than 12 months, and recipients are required to provide job search opportunities to participants. Moreover, the act specifically authorizes funds for the Employment Service to provide labor market information and job search assistance to assist participants in finding regular unsubsidized employment as soon as possible.

As chairman of the Subcommittee on Employment Opportunities, it is my intention to move quickly to bring this legislation to the floor so that jobs may be made available as soon as possible. The latest administration projection forecasts continued high unemployment rising past 11 percent in the next several months. We cannot delay any longer providing jobs for increasingly desperate unemployed Americans.

The following is a summary of the major provisions of the Community Renewal Employment Act:

Summary of Provisions of Community Renewal Employment Act

Purpose: To provide employment opportunities to unemployed individuals in high unemployment areas through grants to local governments for labor costs associated with the repair, maintenance or rehabilitation of essential public facilities, the conservation, rehabilitation and improvement of public lands, and for public safety and health activities essential to the public welfare.

Eligible Areas: Units of general local government of 50,000 or more, rural concentrated employment programs, and states with respect to areas not otherwise eligible.

Eligible Participants: Individuals 16 and older who have been unemployed for 15 out of 20 weeks, with priority for those individuals who are not eligible for unemployment insurance benefits and to individuals who have been unemployed for the longest periods of time preceding the date of their selection.

Allocation: 73 percent is allocated to eligible areas with unemployment exceeding 9 percent for the preceding twelve month period; 15 percent is allocated to eligible areas which do not meet such unemployment criteria; 5 percent to states for high unemployment areas within the state which do not meet the population criteria, 2 percent to Indian tribes and 5 percent to the Secretary's discretion.

Eligible Activities: Repair, rehabilitation and maintenance of public facilities such as road repair, water systems, mass transportation systems, and education facilities; rehabilitation and conservation of public lands

and resources such as erosion, flood, drought and storm damage control, forestry operations and reclamation of public lands damaged by strip mining, etc.; and services such as health care, emergency food and shelter and child care.

Application Procedure: Eligible areas shall submit plans to the Secretary of Labor for funding within the state's allocation. The plan must be reviewed by the Economic Development District for the area or other appropriate agency. The plan shall be approved unless the Secretary determines within 30 days that it is in violation of the Act. Funds shall be allocated within 45 days.

Use of Funds: Not more than 25 percent of the funds may be used for the cost of administration, including supervision, and the acquisition of supplies, tools and equipment. The remainder of funds must be used for wages and benefits for participants.

Wages: Eligible participants shall be paid prevailing wages but at least minimum wage. Not more than annualized rate of $10,000 may be subsidized from federal funds, adjusted according to an area wage index. Wages may be supplemented up to $15,000.

Authorization: $5 billion for fiscal year 1983 and such amounts as necessary to serve 20 percent of the long-term unemployed individuals for succeeding fiscal years, estimated at $10 billion for fiscal year 1984.●

THE "W PARTICLE"

(Mr. STARK asked and was given permission to address the House for 1 minute and to revise and extend his remarks)

Mr. STARK. Mr. Speaker, it was announced yesterday, after 15 years of search and study, that a new subatomic particle, one of only four believed to exist, was discovered by physicists working in Switzerland. This discovery is a monumentous achievement, and will add to the worldwide knowledge and understanding of physics, and of the components of the universe.

All new discoveries such as this are important on an international front, and their existence furthers worldwide study. However, it concerns me that these experiments were done, and the subsequent discovery made, in Switzerland because the funds were not approved to further the research in this country. Although funds have since been appropriated, our research at the facility in Batavia, Ill., is years behind. I know that we will, with the talented scientists that our country possesses, catch up in our research. But I am concerned that a precedent may be being set here, with major scientific discoveries being made in Europe because in the United States is not funding its programs, adequately.

The discovery of the "W particle," as this new particle is called, is a giant step forward in the understanding of fusion energy. I know our Nation will put this discovery to great use, but I am fearful that we are entering an era where, without adequate U.S. Government scientific support, all important discoveries are destined to take place in Europe, Japan, and the Soviet Union. To lose our preeminence in the area of scientific research would be one of the greatest losses this country could imagine. We must reexamine the policies that are leading us in that direction. The gains far outweight the prices in ths type of research, and there is no excuse for this Nation to fall behind. I cannot stress enough our need to support continued scientific research at all levels and in all areas. In the future, let us continue to be the one the world looks to for the latest discoveries.

PREVENTING HUNGER AT HOME

(Mr. PANETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. PANETTA. Mr Speaker, today I am introducing with Congressman JEFFORDS and a bipartisan group of 92 other Members, a resolution expressing the sense of Congess that the Federal Government should maintain current efforts in Federal nutrition programs.

We are doing this because we believe it is a matter of national shame that hunger is on the rise in America. We are deeply concerned about increasing reports of malnutrition, infant mortality, long lines at soup kitchens, overcrowded emergency food centers—all happening in this country of ours. When growing numbers of families and children go hungry, our national conscience demands that we respond.

Despite the valiant and significant efforts of churches and other volunteer organizations in the United States, private efforts are simply unable to meet fully the ever-growing need for food created by reductions in nutrition assistance programs and by poor economic conditions. We believe that Federal nutrition programs, including school lunch, school breakfast, child care food, summer food, food stamps, and supplemental food program for women, infants and children (WIC), have been already cut severely—far beyond their share of the budget. In the last 2 years, they have been cut by more than $12 billion through 1985, with almost 4 million low-income families hurt as a consequence. Regardless of how one may feel about the merits of these cuts, no one can deny that they have not been severe, disproportionate and painful.

In spite of this, there persist reports that the President is considering even further cuts in these vital programs. The Congress last year rejected many of the administration's efforts to cut Federal nutrition benefits. We believe that Congress must resist further cuts in these programs once again. The time has come to stabilize these programs and maintain current efforts and responsibility in Federal nutrition programs to try and prevent increases in domestic hunger.

This resolution is introduced with the strong support and assistance of Bread for the World, whose members are providing food to our Nation's needy through soup kitchens and food banks throughout the country.

I urge my colleagues to join us in supporting this important resolution.

H. Con. Res. 40

Concurrent resolution expressing the sense of the Congress that the Federal Government should maintain current efforts in Federal nutrition programs to prevent increases in domestic hunger

Whereas Federal nutrition programs, including school lunch, school breakfast, child care food, summer food, special supplemental food program for women, infants and children (WIC), nutrition education and training, special milk, elderly nutrition, food stamps and commodity supplemental food programs have been effective in reducing hunger and malnutrition in the United States;

Whereas legislation enacted in the 97th Congress reduced funding for child nutrition and food stamps by 30 percent and 20 percent, respectively, resulting in significant reductions in participation and benefits for the needy;

Whereas current high levels of unemployment, underemployed and discouraged workers have greatly increased the number of low income families dependent on some kind of federal food assistance;

Whereas the valiant efforts of churches and other volunteer organizations in the United States are unable to meet fully the growing need for food created by reductions in nutrition programs and by poor economic conditions;

Whereas nutrition assistance to mothers and children at critical periods of growth represents a cost-effective way to reduce infant mortality and promote long-term health;

Whereas nutrition benefits through the school lunch program and other child nutrition programs significantly contribute to the health maintainence and learning potential of our nation's children;

Whereas nutrition programs for elderly people, including the food stamp program, can prolong health, allow for independent living and preserve the dignity of our Nation's senior citizens;

Whereas the food stamp program has provided emergency nutrition benefits to those without the means to obtain a nutritionally adequate diet and is often the only form of Federal assistance available to many unempolyed workers;

Whereas over the last six years, six food stamp laws have been enacted involving substantial limitations and modifications of the program that have created confusion and instability among both state administrators and recipients;

Whereas a Federal role in meeting the nutritional needs of low-income Ameicans is appropriate since the costs of obtaining an adequate diet do not vary significantly throughout the country; and

Whereas further reductions in the Federal Government's responsibility to provide adequate nutrition to the needy would cause increasing society: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) Funding for Federal nutrition programs including all child nutrition programs, elderly nutrition programs and food stamps should be protected from further budget cuts and should continue to respond effectively to the urgencies of rising unemployment and food prices.

(2) The supplemental food program for women, infants and children (WIC) should continue to be funded at the full level authorized by law.

(3) The Federal Government should maintain current efforts and responsibility in Federal nutrition programs to prevent increases in domestic hunger.

PILOT PROGRAM IN AIR FORCE FOR CRITICAL FAMILY HOUSING SHORTAGES

(Mr. STENHOLM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STENHOLM. Mr. Speaker, today, Mr. YOUNG of Alaska and I are introducing legislation that is being offered because of a compelling problem: In a number of areas around the United States, there is a severe shortfall of military family housing that cannot be met by the conventional approach to budgeting for military construction. There is a great need to move as quickly as possible to provide the family housing our military personnel need.

This legislation would initiate a pilot program within the Department of the Air Force that would both allow critical family housing shortages to be met and would give us the opportunity to have practical, empirical data in hand when we consider whether to make such a method of financing both a permanent option and more widely available. I would like to touch briefly on some of the salient points of this proposal.

This bill would allow the Secretary of the Air Force to enter into contracts for the leasing of housing facilities for periods of up to 30 years at no more than five separate locations. Up to 300 units could be leased at each location.

Generally, this legislation contemplates entering into an agreement with a developer to build housing units and to lease them to the Air Force over a number of years. Existing housing could be acquired on the same basis. Such leasing authority would be a novel approach within the United States, but not a radical departure from practices with which the military is already quite familiar. Right now, the military may enter into similar long-term lease arrangements overseas that last up to 10 years. This bill is based on current law allowing such overseas leases, with longer terms allowed to obtain favorable financing.

The leased facilities could be on or off military installations. The authority of 10 U.S.C. 2667 could be used to lease Government-owned land at nominal cost ($1), where it is available. It is anticipated that most leases would give the Federal Government the option to acquire the property at the end of the term for nominal consideration ($1). However, where the project is off a base, there is probable strong civilian demand in the future, and significantly lower rents can be obtained, the option might be foregone.

Both the opportunities presented by such a program and the need for such a new approach are apparent.

For example, in the 17th District of Texas, at Dyess Air Force Base, the waiting list for military family housing runs as long as 1 year. The problem for our Air Force families at Dyess is compounded by the fact that the occupancy rate for off-base apartments and mobile homes in the area is about 98 percent. In May of last year, some 855 families were caught in this housing crunch, representing both officers and enlisted personnel.

Out of adversity, however, ingenuity is often born. The officers at Dyess, along with officials from the city of Abilene and members of the Abilene Chamber of Commerce have worked together to form a planning committee—the Abilene/Dyess Housing, Omnibus Planning and Enterprise, or AD HOPE, Committee—to propose that 300 family units be privately financed and constructed, and then leased to and later acquired by the Air Force. A similar situation exists at Eielson Air Force Base in Alaska and a proposal is being generated regarding that base, also, for private financing of construction.

Both the Department of the Air Force and the Department of Defense are acutely interested in this approach to providing family housing. DOD has commissioned a study of this type of financing and the Air Force is providing analysis and assistance in preparing these specific base proposals.

I know there will be concern that a proposal such as this one could be considered to add to off-budget spending in future years. I believe my views on off-budget spending are well known: we are suffering today because of spending programs that were written into law years ago that we open ended and provided for unpredictable levels of spending for indefinite periods of time. But there is a difference between writing a blank check and entering into a leasing contract where you know in advance exactly what your outlays will be. A long-term leasing proposal such as this one will not compromise our ability to plan future budgets and can be quite cost effective in the long run. It will recognize, moreover, the immediate need to lower our deficits while still providing needed family housing that otherwise would not be built for several years down the line, if at all.

We also have here a chance to encourage the interest and involvement of local communities in Federal programs. I know personally that there is a close relationship between the city of Abilene and Dyess Air Force Base. Each is deeply interested in the future of the other and both are eager to form the type of partnership that this bill would allow. To encourage this type of mutually beneficial working relationship between a local community and the Federal Government is to promote a New Federalism at its best.

I would like to stress that this is an approach that will allow us to move quickly and with flexibility to meet severe shortages of family housing that currently exist, while we acquire a data base to use in considering future construction financing. Adequate mechanisms for congressional review are in place and possible legal questions that might relate to any specific construction project, such as the proposal to use tax-exempt bonds to finance the Dyess housing, can be better dealt with separately and, in fact, are already being pursued.

OMB FORCES VA TO IGNORE DIRECTIVE OF CONGRESS

(Mr. EDGAR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EDGAR. Mr. Speaker, for a number of years the Congress has been deeply concerned about the quality and the expense of delivering health care to veterans in the Commonwealth of Puerto Rico and the Virgin Islands on a contract basis. Several years ago, the VA contracted for the care of eligible veterans for both hospital and outpatient purposes, beyond the numbers provided for under the law then in force. As a result of this situation, the Congress bailed them out by amending title 38, United States Code, to grant the Administrator the authority to exceed the limitations in the law to prevent hardships on the veterans.

Since that time, we have extended the expiration date of this authority numerous times. By Public Law 97-251 we again extended this authority, but only for 1 year or until September 30, 1983. In the joint explanatory statement accompanying H.R. 6350, the Congress directed that the Veterans' Administration provide the Committees on Veterans' Affairs a comprehensive study, leading to a permanent approach to providing appropriate and cost-effective medical care in the Commonwealth of Puerto Rico and the Virgin Islands in order that we may

move toward a resolution of this problem as quickly as possible. The study and recommendations directed by the Congress were to include a plan for the provision of such care and, to the extent that new VA construction was involved, to prepare the needed projects for inclusion in the President's budget. The Committees on Veterans' Affairs discussed this study with appropriate officials of the VA in order to determine what reporting date would be reasonable and obtainable. The agreed upon date was December 1, 1982. However, on November 30, 1982, the day before the due date of the report, Chairman Montgomery received a letter from the Administrator of Veterans' Affairs notifying him that the VA would be unable to meet the due date for this report and that there would be a 45-day delay.

The report was finally received by the Committees on Veterans' Affairs of both bodies on January 21, 1983. While the body of the report is generally satisfactory, the rhetoric that the VA has been directed to include in their letter of transmittal and the executive summary renders it legislatively unacceptable and useless. There is no doubt that this rhetoric has been thrust upon the agency by the Office of Management and Budget and, in their usual manner, indicates that any recommendations made on the subject of health care of veterans in Puerto Rico and the Virgin Islands "must take into account a variety of considerations, including those inherent in the budget process. As such, this report does not constitute a request for funding or for any other legislative action. Nor does it necessarily represent the views of the agency or the administration."

Mr. Speaker, the President has flooded the media with the necessity of the Congress and the executive branch cooperating in legislative matters for the good of the Nation. I believe that such cooperation should be forthcoming. However, this cannot be a one-way street. This is particularly true when we are dealing with health care of veterans who have earned such care in the defense of this great Nation. It is time that President Reagan shows some leadership and control the performance of David Stockman and the Office of Management and Budget. The prevention of human suffering and maintenance of life itself will depend upon it in the case of veteans living in the Commonwealth of Puerto Rico and the Virgin Islands.

This rhetoric and its attendant roadblocks by those who ask for the cooperation of the Congress is frustrating, but I want to assure the veterans in Puerto Rico and the Virgin Islands that we will find a way to provide for their health care needs.

PROVIDING ADEQUATE HEALTH CARE SERVICES FOR VETERANS IN PUERTO RICO AND VIRGIN ISLANDS

(Mr. CORRADA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CORRADA. Mr. Speaker, I want to commend and thank my colleague from Pennsylvania (Mr. EDGAR) for his accurate statement and for taking the initiative of fighting to insure that adequate health care services be provided to the thousands of needy veterans in Puerto Rico and the Virgin Islands. I most certainly welcome his efforts in this up hill battle that I started years ago.

It has become apparent, from the report presented by the VA to Congress last Friday, that if we do not take a strong stance in securing proper medical attention for the veterans on these Islands, their needs will continue to be down played in some cases and totally ignored in others.

In the joint explanatory statement accompanying H.R. 6350, the Congress directed the VA to provide the Committee on Veterans' Affairs a comprehensive plan including any construction project the VA deems necessary to enable the VA to offer complete medical attention to the veterans in Puerto Rico and the Virgin Islands. In light of this very specific language, it is absurd to present to Congress a report which does not contain the views of the VA.

If Congress wanted an independent study, it would have asked for it. It is an insensitive act from the part of the VA to ignore the well-known and undisputed fact that the health care needs of the veterans in Puerto Rico overwhelm the limited VA facilities on the Island and to assume a hands-off position. A previous report presented to Congress by the VA on this issue in 1981 clearly portrays the health care needs of these men and women as well as does this new study.

MRS. IDA MAE BLASSINGAME WINS NATIONAL MEMBERSHIP CHAMPIONSHIP FOR U.S. CHAMBER OF COMMERCE

(Mr. FIELDS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FIELDS. Mr. Speaker, for the second year in a row Mrs. Ida Mae Blassingame of Jacinto City, Tex., has won the national membership championship for the U.S. Chamber of Commerce.

I would like to put this in perspective for the Members of the House. Just 3 years ago, Ida Mae's chapter, the North Channel Area Chamber of Commerce, had 396 members on its rolls. Today, because of the efforts of Ida Mae Blassingame and others, there are 1,513 members—Ida Mae adding 411 members by herself.

For the second straight year, Ida Mae swept all four categories of competition for the U.S. Chamber's national membership competition. This is unprecedented—no one has ever achieved this honor 2 years in a row. For her achievements, she is being honored January 29 in Houston, and at the U.S. Chamber's national convention here in Washington in early May.

The men and women who make up our local chambers of commerce are in the front lines today, as America fights for economic recovery—a fight we must and will win, thanks to the grassroots work of outstanding citizens like Ida Mae Blassingame.

The people of the Houston area salute Ida Mae. The U.S. Chamber honors her achievements. As her representative, I am grateful for her efforts on behalf of better business and more jobs for the people of the Eighth Congressional District of Texas.

SUPPORT FOR H.R. 500, TO REPEAL INTEREST AND DIVIDEND WITHHOLDING

(Mr. PETRI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PETRI. Mr. Speaker, without a doubt, the most controversial and objectionable aspect of last August's tax bill is the provision for withholding taxes on interest and dividends. This approach to tax policy was a bad idea when it was proposed by President Carter, and it is still a bad idea today.

Roughly three quarters of all taxpayers already have too much money withheld by the IRS from their wage income. They do not need or want more withheld.

If this provision stands, not only will money be taken out of people's accounts, but they will also lose the interest that would have been paid on those purloined accounts. I understand that the loss to consumers would be about $1.5 billion a year.

Accordingly, I support and intend to work for passage of H.R. 500, legislation to repeal interest and dividend withholding. We can well do without this odious withholding provision which in effect accuses America's savers of being tax cheats.

COMMUNICATION FROM HON. DAN GLICKMAN

The SPEAKER pro tempore (Mr. TORRES) laid before the House the following communication from the Honorable DAN GLICKMAN:

WASHINGTON, D.C., *January 26, 1983.*
Hon. THOMAS P. O'NEILL, Jr.,
Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: In compliance with Rule L(50) of the Rules of the House of Representatives, I am informing you that Mr. Patrick Garcia, one of my District Aides in Wichita, Kansas, has been served with a number of Deposition Subpoenaes from the United States District Court for the District of Kansas. The subpoenaes call for depositions to be taken in Wichita on Thursday, February 3; therefore, I do hope I will be able to have your advice on the question of compliance at the earliest possible time.

With best regards,

DAN GLICKMAN,
Member of Congress.

□ 1130

OIL EXCISE TAX IS ANATHEMA TO HAWAII

(Mr. AKAKA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. AKAKA. Mr. Speaker, in his state of the Union address Tuesday night, the President mentioned a four-part plan to increase economic growth and to reduce deficits. I, like all Members of this body, applaud this goal and will work to achieve it. However, his plan is faulty. Part four of his plan is a standby tax, featuring a 1-percent surcharge tax and an oil excise tax. I simply must disagree with the idea of imposing an oil excise tax.

If the purpose of such a tax is to repair the Nation's roads, highways and bridges, the imposition of an excise tax on gasoline and diesel fuels is warranted. However, the President made no mention of this oil excise tax being used for such purposes. He expressly stated that the oil excise tax is designed purely as a revenue-gathering measure. A revenue-gathering measure this would surely be, but one which places an extremely unfair burden on only a portion of our Nation's citizens and is not reinvested in our Nation's decaying infrastructure.

In Hawaii, we have no coal. We have no natural gas; at least, none suitable for use as an energy source. We have few alternatives to the use of oil for our energy needs. It has been estimated that fully 95 percent of Hawaii's energy needs are met by oil. Let me repeat that, 95 percent. We are hard at work on identifying and making use of alternative sources of energy. Biomass, windpower, solar, and ocean thermal energy conversion are several of the technologies which we are studying at this time. To date, however, none of them has reached the stage where they displace any significant amounts of oil.

Given our dependence on oil, the idea of an oil excise tax purely as a revenue-gathering measure is anathema to my State. A study has shown that, given an oil excise tax, the people of Hawaii would pay fully 151 percent of their equitable per capita burden. Residents of several other States would pay a similarly inequitable burden. The list of such States would include: Delaware, at 161 percent; Wyoming, at 169 percent; and Alaska, at 182 percent. Clearly, such an unfair burden should not be imposed on the peoples of these States.

I ask the members of the President's party to bring these figures to his attention. The people of Hawaii and, I am sure, the other States I have mentioned, stand ready to do their fair share to assist in reducing the incredible deficits brought about by the President's budgetary policies. But, only their fair share. This oil excise tax proposal is ill advised, unfair, inequitable, and should not remain in the President's plan.

ADJOURNMENT TO MONDAY, JANUARY 31, 1983

Mr. BONER of Tennessee. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 12 o'clock noon on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

RULES OF THE COMMITTEE ON RULES

(Mr. PEPPER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PEPPER. Mr. Speaker, rule XI, clause 2(a) of the House of Representatives in part directs each standing committee of the House to adopt written rules governing its procedure and requires publication of those rules in the CONGRESSIONAL RECORD not later than 30 days after a new Congress convenes; for this Congress that date occurs on February 2, 1983.

Pursuant to clause 2(a) of rule XI, I submit for printing the rules of the Committee on Rules for the present Congress, adopted at the committee's organizational meeting on January 26, 1983:

RULE 1—APPLICABILITY OF HOUSE RULES

The Rules of the House of Representatives are the rules of the Committee on Rules (hereafter in these rules referred to as the "Committee") so far as applicable, together with the rules contained herein.

RULE 2—SCHEDULING AND NOTICE OF MEETINGS AND HEARINGS

Regular meetings

(a)(1) The Committee shall regularly meet at 10:30 a.m. on Tuesday of each week when the House is in session.

(2) A Tuesday meeting of the Committee may be dispensed with if, in the judgment of the Chairman of the Committee (hereafter in these rules referred to as the "Chair"), there is no need for the meeting.

(3) Additional regular meetings and hearings of the Committee may be called by the Chair or by the filing of a written request, signed by a majority of the members of the Committee, with the Staff Director of the Committee.

Notice for regular meetings

(b) The Chair shall notify each member of the Committee of the agenda of each regular meeting or hearing of the Committee at least 48 hours before the time of the meeting or hearing and shall provide to each such member, at least 24 hours before the time of each regular meeting or hearing—

(1) for each bill or resolution scheduled on the agenda for consideration of a rule, a copy of (A) the bill or resolution, (B) any committee reports thereon, and (C) any letter requesting a rule for the bill or resolution; and

(2) for each other bill, resolution, report, or other matter on the agenda, a copy of (A) the bill, resolution, report, or materials relating to the other matter in question, and (B) any report on the bill, resolution, report, or other matter made by any subcommittee of the Committee.

Emergency meetings and hearings

(c)(1) The Chair may call an emergency meeting or hearing of the Committee at any time on any measure or matter which the Chair determines to be of an emergency nature; provided, however, that the Chair has made an effort to consult the Ranking Minority Member.

(2) As soon as possible after calling an emergency meeting or hearing of the Committee, the Chair shall notify each member of the Committee of the time and location of the meeting or hearing and shall particularly make an effort to consult the Ranking Minority Member of the Committee or, in such Member's absence, the next ranking minority party members of the Committee.

(3) To the extent feasible, the notice provided under paragraph (2) shall include the agenda for the emergency meeting or hearing and copies of available materials which would otherwise have been provided under subsection (b) if the emergency meeting or hearing was a regular meeting or hearing.

RULE 3—MEETING PROCEDURES

In general

(a)(1) Meetings and hearings of the Committee shall be called to order and presided over by the Chair or, in the Chair's absence, by the Ranking Majority Member of the Committee present as Acting Chair.

(2) Meetings and hearings of the Committee shal be open to the public unless closed in accordance with clause 2(g) of rule XI of the Rules of the House of Representatives.

(3) The five-minute rule shall be observed in the interrogation of each witness before the Committee until each member of the Committee has had an opportunity to question the witness.

(4) When a recommendation is made as to the kind of rule which should be granted for consideration of a bill or resolution, a copy of the language recommended shall be furnished to each member of the Committee at the beginning of the Committee meeting at which the rule is to be considered or as soon thereafter as the proposed language becomes available.

Voting

(b)(1) No measure or recommendation shall be reported, deferred, or tabled by the

Committee unless a majority of the members of the Committee is actually present.

(2) A rollcall vote of the Committee shall be provided on any question before the Committee upon the request of any member of the Committee.

(3) A record of the vote of each member of the Committee on each rollcall vote on any matter before the Committee shall be available for public inspection at the offices of the Committee.

(4) Notwithstanding subsection (f)(3), the members of the Committee, or one of its subcommittees, present at a meeting or hearing of the Committee or the subcommittee, respectively, may, by majority vote, limit the duration of debate, testimony, or Committee or subcommittee consideration with respect to any measure or matter before the Committee or subcommittee, respectively, or provide for such debate, testimony, or consideration to end at a time certain.

Media coverage of committee and subcommittee proceeedings

(c)(1) The Committee and each of its subcommittees may permit, by majority vote for each day of an open meeting or hearing of the Committee or of that subcommittee, respectively, the coverage of that meeting or hearing, in whole or in part, by television broadcast, radio broadcast, or still photography.

(2) Any media coverage under this subsection shall be subject to all the requirements and limitations set forth in clause 3 of rule XI of the Rules of the House of Representatives, and the provisions of subparagraphs (1) through (13) of paragraph (f) of such clause are hereby incorporated as part of the rules of the Committee applicable to such coverage.

Quorum

(d)(1) For the purpose of hearing testimony on requests for rules, five members of the Committee shall constitute a quorum.

(2) For the purpose of hearing and taking testimony on measures or matters of original jurisdiction before the Committee, three members of the Committee shall constitute a quorum.

(3) For the purpose of the Committee's ordering a measure or recommendation reported, closing any of its meetings or hearings to the public, sitting in executive session, or issuing a subpoena, a majority of the members of the Committee shall constitute a quorum.

Subpoenas and oaths

(e)(1) Pursuant to clause 2(m) of rule XI of the Rules of the House of Representatives, a subpoena may be authorized and issued by the Committee, on its own initiative or on behalf of a subcommittee thereof, in the conduct of any investigation or series of investigations or activities, only when authorized by a majority of the members voting, a majority being present.

(2) The Chair may authorize and issue subpoenas under such clause during any period in which the House has adjourned for a period of longer than three days.

(3) Authorized subpoenas shall be signed by the Chair or by any member designated by the Committee, and may be served by any person designated by the Chair or such member.

(4) The Chair, or any member of the Committee, may administer oaths to witnesses before the Committee.

Hearings on rules

(f) The following procedures shall apply, as determined by the Chair, acting on behalf of the Committee, in cooperation with the Ranking Minority Member of the Committee, to Committee meetings and hearings on rules:

(1) A measure or matter before the Committee which is determined to be non-controversial as to both type of rule and substantive content may be scheduled for consideration by the Committee without any hearing.

(2) A measure or matter before the Committee which is determined non-controversial as to substantive content but controversial as to type of rule may be the subject of a Committee hearing at which the principal proponents and opponents of the rule will be provided an opportunity to testify only as to the type of rule to be granted.

(3) A measure or matter before the Committee which is determined to be controversial as to substantive content by at least six members of the Committee will be the subject of a Committee hearing at which all interested Members of Congress who are proponents or opponents of the measure or matter will be provided a reasonable opportunity to testify.

General oversight responsibility

(g)(1) The committee shall review and study, on a continuing basis, the application, administration, execution, and effectiveness of those laws, or parts of laws, the subject matter of which is within its jurisdiction.

(2) Upon direction of the Chair, the Committee shall meet to discuss and formulate oversight plans for each new Congress, as described in clause 2(c) of rule X of the Rules of the House of Representatives.

RULE 4—SUBCOMMITTEES

Application of House and committee rules

(a)(1) As provided by clause 1(a)(2) of rule XI of the Rules of the House of Representatives, subcommittees of the committee are a part of the Committee and are subject to its authority and direction.

(2) Subcommittees of the Committee shall be subject (insofar as applicable) to the Rules of the House of Representatives and, except as provided in this rule, to the rules of the Committee.

Establishment and responsibilities of subcommittees

(b)(1) There shall be two subcommittees of the Committee as follows:

(A) Subcommittee on the Legislative Process, which shall have general responsibility for measures or matters related to relations between the Congress and the Executive branch.

(B) Subcommittee on Rules of the House, which shall have general responsibility for measures or matters related to relations between the two Houses of Congress, relations between the Congress and the Judiciary, and internal operations of the House.

In addition, each such subcommittee shall have specific responsibility for such other measures or matters as the Chair refers to it.

(2) Each subcommittee of the Committee shall review and study, on a continuing basis, the application, administration, execution, and effectiveness of those laws, or parts of laws, the subject matter of which is within its general responsibility.

Reference of measures and matters to subcommittees

(c)(1) In view of the unique procedural responsibilities of the Committee—

(A) no special order providing for the consideration of any bill or resolution shall be referred to a subcommittee of the Committee, and

(B) all other measures or matters shall be subject to consideration by the full Committee except for those measures or matters referred by the Chair to one or both subcommittees of the Committee.

(2) The Chair may refer a measure or matter, which is within the general responsibility of one of the subcommittees of the Committee, jointly or exclusively to the other subcommittee of the Committee where the Chair deems it appropriate.

(3) In referring any measure or matter to a subcommittee, the Chair may specify a date by which the subcommittee shall report thereon to the Committee.

(4) The Chair or a majority of the members of the Committee may re-call for full Committee consideration any measure or matter referred to a subcommittee of the Committee.

Subcommittee membership

(d) The size and ratio of each subcommittee shall be determined by the Committee at its organizational meeting at the beginning of each Congress. Members of the Committee shall be appointed to subcommittee by the Chair in accordance with the rules applicable to each party.

Subcommittee leadership

(e)(1) The majority party members of the Committee shall have the right, in order of full Committee seniority, to bid to be the chairman of one of the subcommittees of the Committee. Any such bid shall be subject to approval by secret ballot of a majority of the members of the majority party caucus of the Committee. If such members reject a member's bid to chair a subcommittee, the next most senior majority member of the Committee may bid for the chair as in the first instance.

(2) The Ranking Minority Member of the Committee shall designate one of the minority party members appointed to each subcommittee of the Committee to serve as ranking minority member for that subcommittee.

Subcommittee meetings and hearings

(f)(1) Each subcommittee of the Committee is authorized to meet, hold hearings, receive testimony, mark up legislation, and report to the full Committee on any measure or matter referred to it.

(2) No subcommittee of the Committee may, without the Chair's approval, meet or hold a hearing at the same time as a meeting or hearing of the full Committee is being held.

(3) The chair of each subcommittee shall schedule meetings and hearings of the subcommittee only after consultation with the Chair.

(4) A member of the Committee who is not a member of a particular subcommittee of the Committee may sit with the subcommittee during any of its meetings and hearings, but shall not have authority to vote, cannot be counted for a quorum, and cannot raise a point of order at the meeting or hearing.

Quorum

(g) A quorum of each subcommittee of the Committee shall consist of a majority of the members of the subcommittee for purposes of closing a meeting or hearing of the subcommittee to the public or for ordering a measure or recommendation reported to the full Committee. For all other purposes, one-third of the members of a subcommittee shall constitute a quorum. Any vacancy in

the membership of a subcommittee shall not affect the power of the remaining members to execute the functions of the subcommittee.

Records

(h) Each subcommittee of the Committee shall provide the full Committee with copies of such records of votes taken in the subcommittee and such other records with respect to the subcommittee as the Chair deems necessary for the Committee to comply with all rules and regulations of the House.

RULE 5—BUDGET AND TRAVEL

Budget

(a) The Chair, in consultation with other members of the Committee, shall prepare for each session of Congress a budget providing amounts for staff, necessary travel, investigation, and other expenses of the Committee and its subcommittees.

Travel

(b)(1) The Chair may authorize travel for any member and any staff member of the Committee in connection with activities or subject matters under the general jurisdiction of the Committee. Before such authorization is granted, there shall be submitted to the Chair in writing the following:

(A) The purpose of the travel.

(B) The dates during which the travel is to occur.

(C) The names of the States or countries to be visited and the length of time to be spent in each.

(D) The names of members and staff of the Committee for whom the authorization is sought.

(2) Members and staff of the Committee shall make a written report to the Chair on any travel they have conducted under this subsection, including a description of their itinerary, expenses, and activities, and of pertinent information gained as a result of such travel.

(3) Members and staff of the Committee performing authorized travel on official business shall be governed by applicable laws, resolutions, and regulations of the House and of the Committee on House Administration.

RULE 6—STAFF

In general

(a)(1) Except as otherwise provided in this rule, a Staff Director of the Committee, professional and clercial staff of the Committee, and investigating staff of the Committee compensated from funds provided by any expense resolution, shall be appointed, and may be removed, by the Chair and shall work under the general supervision and direction of the Chair.

(2) Except for any staff appointed by the ranking minority party member of a subcommittee (pursuant to subsection (c)) or by any other minority party member of the Committee (pursuant to subsection (b)), all professional and clerical staff provided to the minority party members of the Committee under paragraphs (a)(2) and (b)(2), respectively, of clause 6 of rule XI of the Rules of the House of Representatives, shall be appointed, and may be removed, by the Ranking Minority Member of the Committee and shall work under the general supervision and direction of such Member.

Associate staff

(b) Each member of the Committee is authorized to designate one person, whom the Chair shall appoint to the professional or clercial staff of the Committee and who shall work under the general supervision and direction of the member. The type of staff to which such a person is appointed shall be determined by the Chair, in the case of a person recommended by a majority party member, and shall be determined by the Ranking Minority Member of the Committee, in the case of a person recommended by a minority party member.

Subcommittee staff

(c)(1) The Chair and ranking minority member of each subcommittee of the Committee are each authorized to designate one person, whom the Chair shall appoint to the professional staff of the Committee and who shall work under the general supervision and direction of the Chair or the ranking minority member, respectively, of the subcommittee.

(2) The Chair may assign investigating staff of the Committee compensated from funds provided by any expense resolution to assist in work of a subcommittee of the Committee to the extent the Chair determines it to be appropriate, and any such staff to the extent so assigned shall work under the general supervision and direction of the Chair of the subcommittee.

Compensation of staff

(d)(1) Subject to paragraph (2), the Chair shall fix the compensation of all professional, clerical, and investigating staff of the Committee, as provided by clause 6(c) of rule XI of the Rules of the House of Representatives.

(2) Except upon the Chair's recommendation to the Committee, compensation paid to associate staff appointed under subsection (b) shall not exceed a maximum rate of pay per annum determined by the Committee at its organizational meeting at the start of each new Congress, except that such maximum rate of pay shall be subject to adjustment by the Chair within the term of a Congress in accordance with section 5 of the Federal Pay Comparability Act of 1970 (2 U.S.C. 60a-2)

Certification of staff

(e)(1) To the extent any staff member of the Committee or any of its subcommittees does not work under the supervision and direction of the Chair, the member of the Committee who supervises and directs the staff member's work shall file with the Staff Director of the Committee (not later than the tenth day of each month) a certification regarding the staff member's work for that member for the preceding calendar month.

(2) The certification required by paragraph (1) shall be in such form as the Chair may prescribe, shall identify each staff member by name, and shall state that the work engaged in by the staff member and the duties assigned to the staff member for the member of the Committee with respect to the month in question met the requirements of clause 6 of rule XI of the Rules of the House of Representatives.

(3) Any certification of staff of the Committee, or any of its subcommittees, made by the Chair in compliance with any provision of law or regulation shall be made (A) on the basis of the certifications filed under paragraph (1) to the extent the staff is not under the Chair's supervision and direction, and (B) on his own responsibility to the extent the staff is under the Chair's supervision and direction.

RULE 7—COMMITTEE ADMINISTRATION

Reporting

(a) Whenever the Committee authorizes the favorable reporting of a bill or resolution from the Committee—

(1) the Chair or Acting Chair shall report it to the House or designate a member of the Committee to do so, and

(2) in the case of a bill or resolution in which the Committee has original jurisdiction, the Chair shall allow, to the extent that the anticipated floor schedule permits, any member of the Committee a reasonable amount of time to submit views for inclusion in the Committee report on the bill or resolution.

Any such report shall contain all matters required by the Rules of the House of Representatives (or by any provision of law enacted as an exercise of the rulemaking power of the House) and such other information as the Chair deems appropriate.

Records

(b)(1) There shall be a transcript made of each regular meeting and hearing of the Committee, and the transcript may be printed if the Chair decides it is appropriate or if a majority of the members of the Committee requests such printing.

(2) The minutes of each executive meeting of the Committee shall be available to all Members of the House of Representatives in compliance with clause 2(e)(2) of rule XI of the Rules of the House of Representatives.

(3) The Committee shall keep a record of all actions of the Committee and of its subcommittees. The record shall contain all information required by clause 2(e)(1) of rule XI of the Rules of the House of Representatives and shall be available for public inspection at reasonable times in the offices of the Committee.

Calendars

(c)(1) The Committee shall maintain a Committee Calendar, which shall include all bills, resolutions, and other matters referred to or reported by the Committee and all bills, resolutions, and other matters reported by any other Committee on which a rule has been granted or formally requested. The Calendar shall contain (A) the number, a brief description, and the name of the principal sponsoring Member of each such bill or resolution, (B) the name of the committee or committees which reported such bill or resolution (in the case of measures on which a rule has been granted or formally requested), and (C) such further information as the Chair may direct. The Calendar shall be published periodically, but in no case less often than once in each session of Congress.

(2) The staff of the Committee shall furnish each member of the Committee with a list of all bills or resolutions on which a rule has been formally requested but not yet granted. The list shall be updated each week when the House is in session and shall contain (A) the number, a brief description, and the name of the principal sponsoring Member, of each such bill or resolution, (B) the name of the committee or committees which reported such bill or resolution and the dates of such reports, (C) the date on which a rule was formally requested, and (D) a description (if any) of the rule requested by each such committee.

(3) For purposes of paragraphs (1) and (2), a rule is considered as formally requested when the chairman of a committee which has reported a bill or resolution (or a member of such committee authorized to

act on the chairman's behalf) (A) has requested, in writing to the Chair, that a hearing be scheduled on a rule for the consideration of the bill or resolution, and (B) has supplied the Committee with an adequate number of copies of the bill or resolution, as reported, together with the final printed committee report thereon.

Other procedures

(d) The Chair may establish such other Committee procedures and take such actions as may be necessary to carry out these rules or to facilitate the effective operation of the Committee and its subcommittees.

RULE 8—AMENDMENTS TO COMMITTEE RULES

The rules of the Committee may be modified, amended, or repealed by a vote of a majority vote of its members, but only if written notice of the proposed change has been provided to each such member at least 48 hours before the time of the meeting at which the vote on the change occurs.

A TRIBUTE TO THE LATE GEORGE PAUL MILLER, FORMER CHAIRMAN OF THE HOUSE COMMITTEE ON SCIENCE AND ASTRONAUTICS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. STARK) is recognized for 30 minutes.

Mr. STARK. Mr. Speaker, on January 6, I informed the House of the December 29 death of our respected and beloved former colleague, George Miller of Alameda, Calif. January 15 would have been George's 92d birthday anniversary, but the years since he left the House in 1972 have been active years for George and I am pleased that I had a chance to know and work with him after his retirement from the House of Representatives.

George Paul Miller was born in San Francisco, Calif., on January 15, 1891. He attended public and private schools in the bay area and graduated from St. Mary's College in 1912. From 1912 until he entered the U.S. Army during World War I, George worked as a civil engineer. During World War I, he graduated from the school of fire for Field Artillery, Fort Sill, Okla., and then served as lieutenant in the 36th and 346th Field Artillery. From 1921 until 1925, George was a staff member of the U.S. Veterans Bureau and he then returned to his activities as a civil engineer. In 1928 he became a coowner of the Mack Travel Service of San Francisco. His long and distinguished legislative career commenced when he was elected to the California State Assembly in 1936. He served in the assembly until 1941 when he became the executive secretary to the California Division of Fish and Game. In 1944, George was elected to the 79th Congress and he served with distinction until 1972, having completed 28 years in this House. At his retirement he was chairman of the House Committee on Science and Astronautics, now the Science and Technology Committee.

His contributions to the development of the U.S. space program and scientific development generally are well known to those who served with him. As a California colleague pointed out when George retired, when he took over the Space Committee in 1961, "he was faced with a program about which there was much enthusiasm, but also about which little was known and much had yet to be invented. The task which faced the committee in drawing up the legislation to meet the goals which the Nation had set for itself in space exploration was extremely complex, but George Miller knew how to go about it. In the process he endeared himself not only to his constituents and the Nation, but to his peers and the members of his committee." And his efforts were recognized, for in 1967 he received the Robert H. Goddard Memorial Trophy, an honor that has also gone to Wernher von Braun, JOHN GLENN, and Lyndon B. Johnson, among others.

George Miller also spent many hours on issues as diverse as those that come before the Post Office and Civil Service Committee and the Armed Services Committee and the Committee on Merchant Marine and Fisheries, for he served well on all of those bodies. He was also a special adviser to the U.S. Ambassador to the United Nations on the Peaceful Uses of Outer Space.

George had a deep respect for and interest in things scientific. In his 80th year his curiosity took him to Antarctica and today there is a high plateau there named for him—the Miller Bluffs. The overhaul of the charter of the National Science Foundation was something George helped accomplish during his chairmanship, and he was active in the establishment of the Office of Technology Assessment. One of George's major disappointments, I think, was our failure to follow up on his pioneering efforts to gain adoption of the metric system in this country. But this is not a failure of his vision, but, rather our failure to heed his call for a change that he believed was necessary for the country's well-being.

When I sadly announced George's death to this House earlier this month, I quoted the fine statement of the gentleman from Florida (Mr. PEPPER). When George retired, the gentleman said:

We shall remember George Miller for what he has done here in those 28 meaningful years, but the fact that will linger longest in the hearts and minds of many of us is the man, George Miller, the modest man, the gracious, gallant gentleman, the kindly human being, the man who looked upon the world with kindness, the man who looked upon his fellow men with affection, who look toward the future with confidence, respecting always the great past, because he had made such a large contribution.

Indeed, running through the remarks made at the time of George's leavetaking from this House is the theme that George Miller was "a good and kindly gentleman," "a very fine and very warm friend and guide," and that he was a helpful and wise counselor to younger Members who came to him. It is clear from the record and from my dealings with George Miller that he was, above all, a good human being, and I think it is altogether fitting and proper that there is, today, on the lunar landscape, a plaque that bears the name of our departed colleague—George Miller.

My condolences go out to George's wife of many years, Esther, and the rest of his family. He lived a full and productive life and left much behind to testify to his worthwhile accomplishments.

I would like to enter into the RECORD at this point some portions of an outstanding history of the House Science and Technology Committee, written by our former colleague, Ken Hechler. This history, entitled "Toward the Endless Frontier," provides clear and detailed documentation of the great gains made in science and science legislation during Chairman Miller's tenure.

APOLLO 17 AND CHAIRMAN MILLER'S RETIREMENT

On December 19, 1972, the Apollo 17 astronauts completed their journey to the Moon—the sixth manned landing and the last of the Apollo series. Dr. Harrison H. Schmitt, a trained geologist, became the first astronaut-scientist to make the Moon landing; he later joined another former astronaut, John H. Glenn, in the U.S. Senate.

The end of the Apollo program almost coincided with the close of Chairman Miller's fruitful career, the last 11 years of which he served at the helm of the Science and Astronautics Committee. In the early years of his chairmanship, Miller was always compared favorably with his predecessor, Representative Overton Brooks, under whose chairmanship subcommittees automatically were held in tight rein. It was Chairman Miller's genergus delegation of authority to Manned Space Flight Subcommittee Chairman Teague that enabled the most heavily financed aspects of NASA's space prggram to succeed so admirably in the leadership and oversight received from Congress. In his own right, Chairman Miller pioneered in the establishment of the Science, Research and Development Subcommittee which came to its fullest flower under its first chairman, Congressman Daddario. Miller's deep interest in general science led to the broadening of the charter of the National Science Foundation, the legislation to establish the Office of Technology Assessment, and the movement toward converting the United States to the metric system.

In 1967, Chairman Miller was awarded the Robert H. Goddard memorial trophy for "his sustained leadership in the formulation and execution of national policy contributing immeasurably to the remarkable accomplishments of the U.S. space effort." Miller's adulation for Dr. Goddard, the acknowledged "father of American rocketry," is indicated by the fact that he arranged to

have Goddard's portrait displayed in the main committee room, 2318 Rayburn, although the portrait of Representative Overton Brooks, the first chairman of the committee, is conspicuously absent.

Through Chairman Miller's leadership, the Panel on Science and Technology, begun by Chairman Brooks, was expanded and strengthened. An additional scientific panel, the Research Management Advisory Panel, also worked closely with the Subcommittee on Science, Research and Development and helped broaden the dialogue between scientists and Members of Congress.

Representative Wayne N. Aspinall (Democrat of Colorado), who served for two years on the Science and Astronautics Committee and later became chairman of the Interior and Insular Affairs Committee, had this to say about his fellow chairman:

I have always found George Miller to be understanding and friendly, ready for a light remark when it was in order and for a serious one when it was in order.

Chairman Miller ran his committee in a quiet and conversational sort of fashion, never flamboyant, given to occasional flashes of petulance or anger but not by nature combative, always unhurried and full of frequently lengthy anecdotes. In 1971, when the House leadership decided to make the Science and Astronautics Committee a non-major committee to accommodate members who wanted the chance to serve on an additional committee, some of the higher ranked members like Congressman Karth were angry with Chairman Miller. Miller's defense was that the move was made to accommodate members and to prevent wholesale defections from the committee. In any event, Chairman Miller's agreement was characteristic of his general approach toward both the House leadership (a team-playing spirit of cooperation) and toward his own committee members (to favor and accommodate those committee members who were team players rather than mavericks).

His colleagues in the Congress respected Chairman Miller. They listened intently, and applauded vigorously as he interrupted debates on any issue to announce the latest successes in manned or unmanned space flight.

Chairman Miller pioneered in building strong relationships with leaders of science in other nations. He sponsored the establishment in 1971 of a new Subcommittee on International Cooperation in Science and Space. He traveled more extensively than any other committee member, and from Stockholm to Sydney, Rome to Romania, he was always eager to board a plane to deliver an address and cement relationships with those interested in scientific development abroad. At the age of 80, Chairman Miller made a special trip to the South Pole at the special invitation of the National Science Foundation. And he swelled with natural pride when the National Commission on Geographical Names in September 1972, designated an extensive range of high plateau in Antarctica as "Miller Bluffs."

Exactly one week after the Apollo 17 astronauts had splashed down to mark the end of the last manned flight to the Moon in the Apollo series, Chairman Miller wrote a farewell letter to NASA Administrator Fletcher. He observed:

The conclusion of the Apollo program leaves me with very mixed feelings indeed. As I look back over the years to 1959, when the American people committed themselves to the exploration of space, I am struck with a deep sense of quiet, profound pride at what we have accomplished, especially in manned space flight. • • •

The plethora of benefits of our program going directly to people today and to generations to come are, to me, immeasurable, but nonetheless real. And they are rooted in almost every discipline—medicine, geology, geodesy, astronomy, planetary physics—the list is much too long to enumerate. It is results such as these that vindicate and highlight the faith in the promise given to the American people at the very beginning of the space program in 1959. • • •

I depart from the Committee on Science and Astronautics with boundless pride and satisfaction with the signal success of the relationship between NASA and the Congress. I will watch in the years to come for even greater results that will undoubtedly come from that warm, cooperative effort.

GENERAL LEAVE

Mr. STARK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. GONZALEZ. Mr. Speaker, will the gentleman yield to me?

Mr. STARK. I am happy to yield to my distinguished colleague from Texas.

Mr. GONZALEZ. Mr. Speaker, I rise and thank the gentleman from California (Mr. STARK) for giving us this opportunity to evoke the memory of a truly great man and great American and a great Congressman.

George Miller was in the Congress when I came to be sworn in in 1962, and he was one of those that reached out a friendly, helping hand from what we then even considered a senior Member of the House.

I think one aspect of Congressman Miller's great rendering of service to America has not really been, through the years, emphasized or brought out.

George Miller was primarily an engineer with a tremendous scientific and scientifically trained and disciplined mind, as well as a skilled legislator. I think his skill as a legislator overshadowed his tremendous engineering intellect.

I had read of George Miller because I, myself, first studied engineering, went through engineering before I turned to the study of law and, therefore, have maintained a very intense interest in things, engineering, mechanical, and the like. I had read of George Miller mostly in scientific as well as in quasi-scientific periodicals because it was George Miller who was advancing and was a seminal, originating mind in this field of transportation known as your air cushion rail system which, unfortunately, the United States lost whatever leadership it initially had in its development to such countries, believe it or not, as France and Spain, where this type of locomotion is now not only fully developed but in use, where you have trains speeding at an average rate of 200 miles an hour, based on techniques and technology that former Congressman Miller had very much experimented with, initiated early in his career before I guess he even thought of going into a political venture.

On top of that as a legislator, I remember well he was in the advance of the constructive, creative type of thinking that separates the men from the boys in the political-legislative endeavor. I have always held that this type of endeavor in America is still in the process of the making.

In countries such as England, where you have a tradition of 1,000 years of government, the word "political professional," or a "professional politician," is a phrase of honor. In our country, unfortunately, the standard of success is what the size of our bank account is, what our pocketbook size is. We hold to the theory that if we are successful in business, if we are wealthy, affluent, we can be successful in anything. Of course, this is not true necessarily, as the English experience clearly shows us. There a man like Winston Churchill proudly was called a professional politician.

I feel in America we are learning slowly but surely that there are individuals who by attribute, training, background, are headed for this thing "public venture," and who train for it; and in this endeavor I think we are called upon to develop, if we do not have them, skills and education that would lead us to what I call this profession of legislative advocacy.

George Miller had that tremendously happy blending of the professional technician, technologist, scientist, who learned his mathematics in the deductive as well as the inductive process, and then his legislative or legal, because we cannot get away from the fact that this is lawmaking processes, and his lawmaking functions to which this great mind contributed much.

I express my sadness at his passing. I end up, as I started, thanking my distinguished colleague from California for giving us the opportunity for evoking the memory of a truly great Congressman and great American.

Mr. STARK. Mr. Speaker, I thank my distinguished colleague, the gentleman from Texas for his heartfelt words.

● Mr. BOLAND. Mr. Speaker, I learned with sadness of the death of our former colleague, George P. Miller of California. I appreciate the gentleman from Calfiornia, Mr. STARK, taking this time to allow us to pay tribute to one of the most distinguished Members to have served in the House of Representatives.

George Miller came to Congress as World War II was nearing its end. His

14 terms of service spanned some of the most challenging years in our country's history. He had a number of legislative interests but I believe that the work of which he was most proud, and for which he will be most remembered, was in connection with our space program. As chairman of the Committee on Space and Astronautics, George Miller was deeply involved in fashioning a program of space exploration which would adequately respond to the launching of sputnik by the Soviets. He was a man of vision who understood that the benefits of the space program were going to be measured in terms other than the distances spacecraft could travel or the number of satellites that could be launched.

I had the pleasure of working with Chairman Miller on legislation to implement the space effort of the United States. I admired his ability and his commitment to the issues in which he believed. He was a great American whose contributions to this country will not be forgotten.●

● Mr. ANNUNZIO. Mr Speaker, I rise to join my colleagues in paying tribute to the Honorable George P. Miller, who died on December 29, 1982. He was a man of exceptional ability not only in such subjects as oceanography and astronautics, but also a man with the perceptive ability to coordinate scientific programs without benefit of precedent, past guidelines, or studies to lead him.

George Miller, who retired at the close of the 92d Congress in 1972, was the chairman of the Committee on Science and Astronautics, now called the Science and Technology Committee. In the four terms I had the privilege to serve with him in the House, I observed with admiration the dedication, enthusiasm, and inspiring diligence of this outstanding legislator and it was with pride that I called him a friend. I missed him here in the Halls of Congress and he served the people of the Eighth District of California so well by playing a major role in the consideration and passage of many measures helpful to the people of his district and the best interests of his country.

Chairman Miller came to the House in 1945 following a career in the California State Legislature and, before that, as a civil engineer. As a leader in California politics, George Miller served as a member of the State land commission and as executive director of the California Division of Fish and Game.

Here in the Congress, George was a highly effective member of the Post Office and Civil Service Committee and a highly regarded member of the Armed Services Committee. Additionally, he served as chairman of the first Subcommittee on Oceanography, and as a member of the Merchant Marine and Fisheries Committee.

George Miller took over as chairman of the newly created Committee on Science and Astronautics in 1961. If ever there was a time that innovative creativity was called for, it was at the beginning stages of our space program. Though there was much enthusiasm for space projects, no people, no government, and no legislator had had any experience in organizing and administering public projects of such magnitude. It was George Miller who stepped into the breach and his leadership came to be recognized by the people of his State and Nation, as well as by his colleagues in the House, as one of unparalleled excellence.

Under George's leadership, the Committee on Science and Astronautics reviewed the out-of-date charter of the National Science Foundation, revised and modernized it, and succeeded in securing its approval as public law. The Foundation is now able to more rigorously apply the results of basic research to the social needs facing our country.

George Miller's committee also was responsible for development of the concept of an Office of Technology Assessment. Congress thus created for itself a new and sorely needed independent service institution within the legislative branch to insure a proper balance of power between the legislative and executive branches of our Government.

George was one of those infrequent figures in history who retired with the assurance that through his efforts mankind benefited. There is no tribute higher than this. Mrs. Annunzio and I extend to George P. Miller's wife Esther, his daughter Ann Miller Muir, and his grandchildren our deepest sympathy.●

● Mr. ANDERSON. Mr. Speaker, I would like to join my colleagues in paying tribute to our esteemed former Member, George Paul Miller of Alameda, Calif.

George Miller served his district in California from 1944 to 1972—28 long and productive years.

As a fellow Member from the State of California, I had the privilege of serving with George through the 91st and 92d Congresses. During those two Congresses that I got to know George, he had already established his well-deserved reputation as a leader in the development and continued success of the U.S. space program. I quickly learned to respect his wisdom and authority in the realm of U.S. space and science policies. And, I gladly followed the leadership position George maintained as chairman of the committee that we now know as Science and Technology.

George Miller's leadership in the field of U.S. space exploration was acknowledged in 1967 when he received the Robert H. Goddard Memorial Trophy.

Mr. Speaker, I conclude by saying that though I respected George for the leadership he exerted in the critical area of science policy, I was won over by George because of the kind and loving person that he was.

I cannot, however, say how I feel about our late friend any more eloquently than did the Honorable CLAUDE PEPPER on the occasion of George's retirement from the House. I believe that the remarks of the gentleman from Florida at that date back in 1972 are worth repeating. To wit:

We shall remember George Miller for what he has done here in those 28 meaningful years, but the fact that will linger longest in the hearts and minds of many of us is the man, George Miller, the modest man, the gracious, gallant gentleman, the kindly human being, the man who looked upon the world with kindness, the man who looked upon his fellow men with affection, who looked toward the future with confidence, respecting always the great past, because he had made such a large contribution.●

● Mr. WINN. Mr. Speaker, I rise to pay tribute to the memory of our late colleague, George Miller of California. I thank the gentleman from California (Mr. STARK) for taking this special order.

Mr. Speaker, when I first came to the Congress in 1967, I was appointed to the Committee on Science and Astronautics—now Science and Technology—and was privileged to serve under George Miller as my first chairman. At that point in time America was still several years away from landing on the Moon. George Miller was instrumental in seeing that tremendous task through to completion. In fact, he was awarded the Robert H. Goddard Memorial Trophy for his promotion of our space effort. This prestigious award had previously gone to other space poineers such as Werner van Braun and JOHN GLENN. This was the sort of recognition that, I believe, George Miller so rightly deserved.

It is not only for his congressional accomplishments that George Miller will be so fondly remembered. He was also an extremely gracious and kind human being. Although he and I were from different political parties, it made no difference at all as far as our personal relationship was concerned. As a freshman member of the Science Committee, I was treated with the same courtesy and respect as the more senior members. George Miller extended this same affection and respect to our committee staff. Christmas presents to the staff were always the rule—that is the type of man he was.

Mr. Speaker, George Miller always had the greatest confidence in the American effort, whether in space or other fields of endeavor. I know he was extremely proud of the continuing success of our space program. As we honor his memory here today we should recall the large part he played

in that success story. This Congress and the Nation, and we as individuals, are far better off having had George Miller as part of our lives and history.●

● Mr. EDWARDS of California. Mr. Speaker, I would like to thank my colleague, Mr. STARK, for arranging this special order.

I am deeply honored to pay tribute today to the memory of a very dear friend and former colleague, George Miller. I would also like to extend my sincere sympathy to the members of his family, especially his devoted wife, Esther.

On a personal level, I will always be grateful for the guidance and support George showed me when I was a new Member. Although his sound advice and assistance were consistent throughout the years we worked together, I will especially remember the generosity with which George shared his wisdom and experience when I needed it most.

But I was certainly not the only beneficiary of the counsel and hard work of George Miller. During his 28 years as a Member of this House, George was a sensitive and energetic guardian of the interests of the people of his native Alameda, Calif.

George Miller's legacy as a Member of Congress reaches much farther than the boundaries of his district, or the State of California. I am speaking now of his outstanding contribution to this Nation's space program in his capacity as Chair of the Committee on Science and Astronautics. His leadership and enthusiasm in the area of space exploration was remarkable, and the first Moon landing by U.S. astronauts is one prominent example of the achievement he envisioned for our Nation.

Mr. Speaker, the lengthy and distinguished term that George Miller enjoyed will be remembered by his friends, constituents, and colleagues alike. I am proud to have had the privilege of knowing and working with George, and I will miss him.●

● Mr. MONTGOMERY. Mr. Speaker, I want to join with my colleagues in this tribute to a former Member of this Chamber, George Miller, who died at his home in Alameda, Calif., on December 29, 1982.

I had the opportunity to serve with George until he left the House in 1972. He was well liked and a most respected Member of this Chamber.

George's 28 years as a Congressman proved he was a very able and respected representative of his California constituents. In addition, he was a member of the Post Office Committee and was chairman of the Merchant Marine and Fisheries Committee.

Perhaps George will be best remembered for his intense interest in this country's space program. He was chairman of the Science And Astronautics Committee and must be considered a leader in our country's space age exploration program.

The accomplishments of George Miller were many and though he is gone, the memory of his work for his constituents and for this Nation will remain as a lasting tribute.●

LEGISLATION TO PROVIDE ASSISTANCE TO DISABLED AND HANDICAPPED INDIVIDUALS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. BONER) is recognized for 20 minutes.

Mr. BONER of Tennessee. Mr. Speaker, this Sunday, January 30, marks the 101st anniversary of the birth of a very great American, Franklin Delano Roosevelt. President Roosevelt is, of course, respected by all Americans for his leadership during the Great Depression and World War II and for his vision and courage in making the Federal Government responsive to the economic and social needs of its citizens. President Roosevelt is also respected by a very special group of Americans for his courage and perseverance in overcoming his physical handicap.

Today, Representative BOB MATSUI, Representative HAROLD FORD, and I would like to mark the anniversary of President Roosevelt's birth by introducing several bills that will provide much-needed assistance to that very special group of Americans—the disabled and handicapped.

As many of our colleagues know, an unprecedented number of disabled persons are now living independent of institutions. Clearly, this phenomenon enhances the quality of life for these individuals, but it also increases the financial stress on them.

Fortunately, a second recent trend has led to greater employment opportunities for the disabled and handicapped, thus permitting them to make an economic contribution to society. Once considered unemployable, these individuals have increasingly been able to find jobs suited to both their talents and needs. Several factors have led to this much desired trend. One is the better medical care and rehabilitation services that have greatly extended the life expectancy of disabled individuals. Another is that industrial production has become increasingly automated, thereby requiring less physical labor. As a result, many more disabled individuals have found gainful employment than a decade ago. And with employment, they have gained confidence and renewed self-respect as participating members of our society.

Combined with these major societal trends are efforts to reduce personal reliance on public assistance. While this may be a commendable goal in itself, it is short-sighted for us to disregard several important facts as we consider budget-cutting proposals. The first is that disabled persons most often reenter the work force through new jobs at low-paying entry levels. Second, disabled persons face greater personal work-related expenses in keeping their jobs. And, third, they face formidable architectural barriers which limit accessibility to offices and buildings and thus to new job opportunities. Should we begin to curtail the availability of essential social services to these individuals, let us not fail to recognize the need for incentives so that disabled individuals can become more self-reliant. The bills we are introducing today are important first steps to achieving that goal.

It is my view that the most fundamental aspect of any approach to increase employment opportunities for disabled persons is to remove architectural barriers that impede their movement. One of the bills that Representatives MATSUI, FORD, and I are introducing today amends the Internal Revenue Code to provide for a tax deduction for expenses incurred in making publicly used, but privately owned, facilities accessible to the elderly and disabled. As many of our colleagues know, the tax code at one time included such a deduction. Unfortunately, this deduction, in the amount of $25,000, expired at the end of last year. The bill we are introducing today increases the allowable deduction to $100,000 and makes it available permanently.

By increasing the amount of the deduction, the bill provides an important incentive to individuals or corporations with several sites or extensive alterations to make. And, by making it permanent, the bill allows businessmen the leadtime for long-range planning.

The second measure we are introducing today is modeled on the double tax exemption that offsets an individual's expenses due to blindness or advancing age. Where these individuals are employed, they often have greater expenses because of extraordinary transportation costs and the need for special equipment and supplies to continue in their jobs. Our bill extends the double exemption to the disabled. They too incur greater work-related expenses and should be permitted to claim an additional exemption when they file their tax return. The double exemption, like improved accessibility, provides an important stimulus to reemployment. Since upward of $250,000 in productive personal earnings are taken from society every time a person becomes paralyzed and does not return to the workplace, it is incumbent on us to encourage and assist the disabled and handicapped in their effort to find gainful employment.

The third bill, which my friend BOB MATSUI is taking the lead in introducing, is similar to the first measure I described. Specifically, it also amends the Internal Revenue Code to provide that reasonable expenses incurred in making a principal residence accessible be treated as a deduction from income in which the expense is incurred. As many of our colleagues know, when a family member or income earner becomes disabled, the existing residence can be made accessible. In fact, the family often prefers to modify the home rather than purchase a new one. But, under existing law, the improvements necessary for accessibility are not tax deductible until the sale of the home, at which time there is a capital gains exclusion. The third bill which we are introducing will change this section of the tax code and provide a family with income relief when it is most needed.

We invite our colleagues to join us in securing passage of these important measures. Let us recall the leadership, dedication, and personal courage which President Roosevelt showed in overcoming his physical bisability. Like him, there are thousands of disabled Americans who aspire to become self-reliant. The assistance and incentives which we provide can make the difference as to whether these aspirations are attained and whether these individuals are encouraged to become full working members of our society.

□ 1145

PROTECTION OF FARMERS IN GRAIN ELEVATOR FAILURES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri (Mr. EMERSON) is recognized for 20 minutes.

Mr. EMERSON. Mr. Speaker, today I am reintroducing legislation along with 35 bipartisan cosponsors, which will protect farmers who have grain stored in elevators that go bankrupt.

We all know that grain elevator failures pose special and unique problems for farmers due to the inability of the courts to move quickly to distribute crops to farmers who have merely stored grain in those elevators without transferring title to the elevator operator. These lengthy court delays have meant economic disaster to hundreds of producers, since future agricultural production depends upon the ability of the farmers to sell this year's crop when market conditions offer the best possible return. A brief explanation of the bill follows:

First, provides for expedited abandonment of crops held by the insolvent elevator operator. Accomplishes this by imposing a 120-day time limit on the bankruptcy judge to make determination of grain ownership.

Second, requires bankruptcy courts to accept valid warehouse receipts and scale tickets, as proof of ownership.

Third, allows the farmer to demand reclamation for his crops up to 20 days after the filing of the bankruptcy petition. If the farmer makes a written claim for reclamation and the court denies reclamation, then the court shall secure such a claim with a lien.

Fourth, provides that all holders of a valid warehouse receipt shall share in the distribution of assets. Those not holding warehouse receipts shall share in the second tier of distribution.

During the last Congress, we came close to passing this legislation. In fact, it passed the other body on four separate occasions and enjoys the support of the American Farm Bureau Federation, American Soybean Association, National Association of Wheat Growers, National Farmers Union, American Agricultural Movement, National Governors Conference, National Association of State Departments of Agriculture, National Grange, National Council of Farmer Cooperatives, Farmland Industries, and many other organizations.

Further, I am pleased that the chairman of the House Agriculture Committee has formed an ad hoc subcommittee on this very matter and that I will have the privilege to be the ranking minority member. This subcommittee will review and develop legislation and make recommendations for full Agriculture Committee consideration. Since bankruptcy matters fall within the purview on the Judiciary Committee, our recommendations will then be referred to the House Judiciary Committee for its consideration and action.

I would urge my colleagues to cosponsor this measure, so that we can provide the badly needed protections our farmers deserve.

HIGH SCHOOL SENIOR DALE McCONKEY MOBILIZES COMMUNITY TO PROMOTE FREE ENTERPRISE SYSTEM IN AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. LEWIS) is recognized for 5 minutes.

Mr. LEWIS of Florida. Mr. Speaker, it is refreshing to see how one high school student can mobilize an entire community to promote the free enterprise system in America. Dale McConkey, a senior at Palm Beach Gardens High School in my district, is the bright and energetic young man behind this project.

He took the initiative in his home county to increase public awareness of the free enterprise system as a basic building block in our Nation's growth and development. At his request, the Board of Commissioners of Palm Beach County have officially declared January 23 through 29, 1983, as "Free Enterprise Week," and I wish to include in the CONGRESSIONAL RECORD a copy of the formal proclamation signed by all members of the Palm Beach County Board of Commissioners:

PROCLAMATION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLA., DECLARING JANUARY 23 THROUGH 29, 1983 AS FREE ENTERPRISE WEEK IN PALM BEACH COUNTY

Whereas, Free Enterprise is the freedom of private business to operate competitively for profit, with minimal governmental regulation; and

Whereas, perfect competition allowed America to develop its raw materials in an efficient and effective manner; and

Whereas, America's system of capitalism is symbolic of the personal freedoms the nation was rooted in; and

Whereas, in the spirit of capitalism, Dale McConkey has requested this Board to set aside a week in recognition of our capitalistic system as a part of his program in a national competition promoting Free Enterprise; and

Whereas, this Board finds that his request will benefit the citizens of Palm Beach County throughout the educational system;

Now, therefore, be it proclaimed by the Board of County Commissioners of Palm Beach County, Florida, assembled in regular session this 4th day of January 1983 that the week of January 23 through 29, 1983 is hereby declared as "Free Enterprise Week in Palm Beach County."

In recognition of one of the basic building blocks of America: the free enterprise economy.

Be it resolved, That this proclamation duly backed, ribboned and signed by the members of this Board be forwarded to Dale McConkey for use in his presentations to the several junior high schools in Palm Beach County.

The foregoing Proclamation was sponsored and moved for adoption by Commissioner Peggy Evatt, and upon an affirmative vote of the Board, the Chairman declared the Proclamation duly enacted.

Attest:

JOHN B. DUNKLE,
Clerk.

Approved as to form and legal sufficiency:
CHARLES F. SCHOECH,
County Attorney.

PEGGY B. EVATT,
KEN SPILLIAS,
DENNIS P. KOEHLER,
DOROTHY H. WILKEN,
BILL BAILEY,
As and constituting the Board of County Commissioners of Palm Beach County, Fla.

LEGISLATION INTRODUCED TO DEPOLITICIZE SOCIAL SECURITY

(Ms. OAKAR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. OAKAR. Mr. Speaker, it is clear that one of the first steps that must be taken to improve the system is to depoliticize social security. Today, I

am introducing two pieces of legislation that propose to do just that. The first bill removes social security from the unified budget and expands the Social Security Board of Trustees to include two public members. The second bill would establish the Social Security Administration as a separate independent agency.

First, keeping the trust funds within the unified budget perpetuates the dangerous illusion that social security expenditures are part and parcel of other Federal expenditures funded by general revenue taxes. It exposes the social security program to accounting manipulation by providing a mechanism to reduce budget deficits in other functional categories. It does nothing less than provide an open door to balance the budget on backs of the elderly. As Robert Ball, member of the National Commission on Social Security Reform stated in a Washington Post article May 22, 1982, removing social security from the unified budget would promote truth in budgeting and would help restore the faith of contributors in the promises of the program.

My proposal would remove the trust funds from the unified budget to insure that social security benefits are not used to provide a quick fix for an unbalanced budget.

Social security was not originally intended to be part of the unified budget. It was included for the first time in 1969 to provide an overall fiscal picture of Government revenues and demands for credit. Again, I will refer to a comment that Robert Ball made some years after he served as Commissioner of the Social Security Administration at the time the change was made, "this decision was probably the worst (decision) made in the development of social security."

Second, the board of trustees of the old age and survivors disability insurance (OASDI) trust funds is comprised of the Secretaries of the Departments of Health and Human Services, Labor, and Treasury as well as the Commissioner of Social Security. There is no public representation. All OASDI issues and facts are seen and interpreted through the eyes of the executive branch. The inclusion of at least two public members appointed on a bipartisan basis will allow for a wider spectrum of participation and thereby promote a more objective and less politicized interpretation of the demographic and economic assumptions utilized in determining the cost estimates for the program.

Mr. Speaker, this bill is complimented by a second piece of legislation that I am also introducing today which establishes the Social Security Administration as a separate, independent agency.

The Social Security Administration administers programs critical to the survival of our Nation's needy and elderly. Its budget is huge and its services crucial.

Presently, the Social Security Administration, under the Department of Health and Human Services, administers not only the social security cash benefits program, but also the supplemental security income (SSI) and aid to families with dependent children (AFDC). Thus, SSA's fiscal operation and the size of its staff are larger than those of the remainder of the Department of Health and Human Services combined. An independent agency is needed to provide for prudent, effective, and efficient operation as well as greater objectivity in the social security program's administration. An independent agency is further needed so that the 36 million beneficiaries will receive the specialized attention we intend for them.

Removing the social security system from the grasps of political manipulation is an important first step in restoring the confidence of the 36 million beneficiaries and future recipients. The National Commission on Social Security Reform also cited these proposals as necessary steps in improving the system. Mr. Speaker, the two bills I have introduced today, will accomplish a great deal with the support of this body. I will work hard to insure their passage and ask that my colleagues do the same. Now is the time to depoliticize social security.

ANNIVERSARY OF DEATH OF LYNDON BAINES JOHNSON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 30 minutes.

Mr. GONZALEZ. Mr. Speaker, the beginning of this week marked the anniversary of the death of a truly great Texan, a great President, and a great American—Lyndon Baines Johnson, who died on January 23, 1973.

At that time, the headlines announcing his passing were almost overshadowed by the headlines from Paris, France, where the announcement came that the North Vietnamese, the Communist regime represented there, and the American representative, Henry Kissinger, had arrived at a decision that would lead to a cease-fire or a truce in Vietnam. I recall vividly as if it were today that a few days after that, on the way to the LBJ home place on the banks of the Pedernales River in Texas, riding on the bus with the delegation that was going to assist by being present in representing the House of Representatives at the burial services on the ranch. It so happened that I sat on the bus ride from Austin, Tex., where the plane from Washington had landed, to Stonewall, Tex., or the LBJ ranch, as it was called actually.

By our standards in Texas it is hardly a ranch. It is really just a little farmhouse with not too much acreage in an area in which the land is not given for productive purposes other than maybe perhaps the orchards raising the peaches that seemed to be the main source of income in that area; or some slight cattle grazing, but nothing on the wholesale level at all.

□ 1200

It is rocky, hilly country. It is not given to the production of other farm products.

So on that cold and rainy day it was my lot to sit next to the then chairman of the Appropriations Committee, Hon. George Mahon.

While in Washington I have followed the custom of scanning the foreign press, that is, the French, the German, the English, and, above all, the Latin American, including the Mexican press and the Argentinian press, and whatever gatherings I could glean from those have always been very helpful, because at best, with our tremendous electronic, instantaneous transmission of the news, we really are still poorly informed in our country. So I read with a great deal of interest and with some concern the French press accounts of the agreement. We must remember again, even with our focus of attention, that we have a lack of knowledge of either the history or the traditions of that world in which we have found ourselves inextricably linked, with many, many American lives at stake, and the fact is that even to this day the greatest of cultural and even business ties still remain intact between what was then a portion of French Indochina and Paris or France. So France is a tremendous area for information of a most intimate kind and detailed kind, even to this day.

I was quite intrigued and concerned by the accounts of the French reporters and correspondents writing about the series of meetings that led to whatever the agreement turned out to be, and they all said that part of the reason, if not the main reason, for the agreement was the U.S. willingness to offer reparations. And this is the word they used, "reparations" for the damages caused by our armies in Vietnam. I knew full well that this had been the sticking point all along when President Johnson first initiated the attempts to settle with honor—and that is the expression which later became popular—and he had the most able man we have ever had in the history of our Diplomatic Corps, Averill Harriman, discussing this with the same representatives in Paris since 1968, but they had been unyielding on that point. That was the sticking point.

I was very much interested in knowing why the American press never once to this day reported a thing while

the European press was all saying, "reparations"—reparations. Reparations was the key—$3 billion, as one correspondent mentioned.

So I asked the chairman of the Appropriations Committee on that bus ride about this. I said, "What about this, Mr. Chairman?"

He said, "I don't know anything about it." He said, "whatever along that line happens would have to be approved by the Congress, and I think you, HENRY, as well as I, know what will happen."

I said, "Well, but is there any kind of information that has been given to the Congress by the administration, if any such thing, either by intimidation or by direct affirmation, has been committed or promised on the part of our negotiators?"

He said he did not know a thing about it. And the subject matter remained absolutely unknown, unmentioned, and unreported until a couple of years later when the House then created and organized the ad hoc committee or the Special Select Committee on the Missing in Action in Vietnam, of which I was named the ranking member or what was then designated as vice chairman.

The first difficulty of that committee was in getting the cooperation of the administration and Secretary of State Kissinger, and finally, after quite a bit of rancorous give and take, three members of the committee threatened to offer a motion to subpena the Secretary of State. I, along with a few others, felt that was unacceptable, and we then delegated one of the members of the then committee, who was in good communication with the administration and the then President, the Hon. Paul McCloskey from California, and through his negotiations we finally had communication. As I have said, since the mountain would not come to Mohammed, well, Mohammed or the Congress would go to the mountain.

The Secretary graciously agreed to receive us at breakfast in his office in the State Department building for a meeting there with the ad hoc committee to iron out what it was that separated us in our thinking. When we met, the Secretary was very gracious, and he pointed out that his reluctance was that the North Vietnamese had turned out to be treacherous as he put it, except that he used very strong and rather violent words in describing the treachery.

He had sat me at his right hand, and he turned around and asked me, "What question do you have?"

"Well," I said, "Mr. Secretary, I am quite surprised because as I understand it, we are the ones that are being charged with violating the understanding of Paris."

He said, "In what way?"

I said, "Well, I think you are familiar, as well as I am, with the fact that the North Vietnamese are saying that the United States has refused to pay for what we call reconstruction and what they call reparations."

He said, "Well, that's not true. They violated their terms by their invasion of the forces that were supposed to be stalemated and by their military persistence."

And I said, "Well, my question to you is, Did you or anybody else on the American side"—and I was very specific in the words that I used—"did you by codicil, side agreement, or memorandum in any way imply that the United States would be willing to render either reparations or reconstruction aid?"

He said, "Absolutely not. That's just not true. I have told the Congress, when I went to the Senate committee and the House committee to report on that, everything that the Congress would want to know about the agreements."

I was under the thinking that Lyndon Johnson had set the model, in my opinion, for an administrative President, for I believe that history will show that the most successful and the most able administrator as President has been Lyndon Johnson, since Franklin Roosevelt, barring none. And this is the one big thing on which I rate a modern-day President and on which rating so many of these late Presidents have so abysmally failed and failed the country as a result.

So I had all of this churning in my mind, having received that answer from Mr. Kissinger and knowing full well that Lyndon Johnson would never, as an administrator, have delegated his authority as President, in effect doing what we have ended up doing and having the first "prime minister" in the history of our country. Oh, yes, prime minister, let us say, de facto. But de jure, no, because we do not have that office in this country. But it is the same thing as what we expect of a Prime Minister in England. This is what two successive Presidents, President Nixon and President Ford, made of Mr. Kissinger. He was not just the Secretary of State, he was not just head of the National Security Council; he was indeed and in fact the deputy president. He was indeed and in fact to me the nearest thing to a prime minister that we will ever have in this country.

That would have been absolutely impossible under Lyndon Johnson. In the first place, Lyndon Johnson had too much of a sense of constitutional and political history and the fine, delicate balance between the three functions of our basic organs of government to have ever permitted that delegation of power. Mr. Kissinger was the result of this.

It was not until 1 year later that my very distinguished colleague, Lester Wolff, of New York, who was chairman of a colleagues' Ad Hoc Committee on Narcotics and International Trade, stumbled on something and asked me about this same question I had raised on reparations, because he was trying to negotiate visits into Vietnam, into Laos, and into Thailand in an effort to try to control what still is uncontrollable, and that is this immense narcotics traffic which had at one point inured to the Communist forces militarily and economically, and probably still does.

In any event, Lester Wolff then was ingenious. Instead of going to Kissinger, he picked up the phone and called Mr. Nixon in California, where he was then residing at his home, and Mr. Nixon very candidly said, "Yes, I wrote a letter in 1973 in which I pointed out we would be willing to offer up to $3 billion in reconstruction aid if the Congress would approve, because, naturally, I am very cognizant that I couldn't make that pledge unilaterally and it would have to have the approval of the Congress."

So it was Mr. Wolff who then had a front page story in the New York Times. Incidentally, he credited me with being the source of the information to begin with, although ironically that was never printed in the coverage of the wire dispatches in my home district.

I am saying all this in order to show the situation in the light of the New York Times editorial of yesterday or day before yesterday headed "Ready for Henry," meaning that President Reagan has so failed and is in such a desperate strait with respect to our international relations, particularly with reference to the Middle East, that it is now time to summon this "man on horseback" known as Henry Kissinger, and that he or somebody like him should be immediately summoned and sent over there. I think it reflects the tremendous metamorphosis or change that looks precipitous but actually has been gradually coming upon us with respect to our visions and our continuing affirmation and reaffirmation of the precipitory American democratic form of government in which we do not exalt and find the indispensable "man on horseback" or the "prime minister" that must extricate the country from this impossibility of the President's doing the task.

□ 1215

Constitutionally, historically, by precedent, foreign affairs has been, from the beginning, pretty much a matter in the domain of the executive branch. Even the constitutional treaty-making function of the Congress deposited in the Senate has, in

the three decades, been set aside through executive agreements, where today what would have been considered in the category in the nature of a treaty 50, 60, 70 years ago, is an executive agreement, escaping the scrutiny and approbation of even the Senate.

But the idea that a President such as Lyndon Johnson would have accepted that as a viable method of proper exercise of Presidential power would have been just as unthinkable as for him to have tried to take over as the dictator of our country and Government. So here, when we ponder at the time of the 10th anniversary of his death, I think we ought to emphasize that at this point this is the critical issue, if a President is unable, or appears to be, and gives a perception to a New York Times editorial writer that he is in such desperate straits and so incompetent as to have gotten the country in the predicament it is confronting now in the Middle East, but unmentioned south of us where I think the whirlpool is of such a nature today that we will be lucky if Mexico turns out to be our Poland and not our Afghanistan. These sound like very flamboyant words, and I pray to God that they are just that. But I am very much troubled when I see these editorials and these developments in the exercise of Presidential power by indirection through delegation. By way of a parenthetical statement, let me say that during the era of Mr. Henry Kissinger as "Prime Minister," he entered into four secret agreements with Israel alone, two of which only I know have ever been divulged, and one of them only after the great trying emergency period of the Iranians taking over as hostages our diplomatic corps, something unprecedented since the 12th century. And then it came to light that we had, through Mr. Kissinger, made an agreement that if Iran ever cut off the oil supply to Israel, we, the United States, were pledged to make it up. I think the record will show that we have not been called upon yet to do that because Israel was able to get other sources, like Mexico, Nigeria, and other places, but that agreement was never revealed publicly. Nowhere were there any kind of investigatory reporters, just as they are not reporting today many, many of the events that are transpiring in a similar manner, such as the agreement with China, for example, by Secretary Haig, and the President, I assume, being informed, although I do not know.

This week also we have the revelation that Mr. Haig had made some decisions without fully consulting or without the knowledge of the President. Now, where does this leave the Congress? Nobody is asking. I am saying that this is the time for the Congress to pause, to use this week as an initial period in which we evoke the history of what I consider to be a great man and a President who, incidentally, now is being not only lied about in so-called biographical endeavors but also very much distorted. But history is history; actions are actions. And all of the faults and all of the failings of a man will be written, as well as his triumphs and his abilities and his successes.

I say that this week it would be good to dwell upon the fact that one of the successes, if not the greatest achievement, during the Lyndon Johnson era was the flowering of the full administrative leadership of this vast army known as the American Government. Today it is sunk, demoralized, proceeding on the basis that no acceptable corporate organized activity would accept, on a hand-to-mouth, month-to-month continuing appropriation resolution since even the last Congress—even the last Congress. This would have been not only acceptable, it would have been unallowable, unpermitted, during the era of President Lyndon Johnson.

Let the record show that at least one voice in what appears to be a sea of vituperation toward this man rises in connection with these specific points. The American Congress has in other areas abdicated its responsibility, to the detriment of the public interest, that is, the greatest good of the greatest number, such as in the case of fiscal and monetary policy, in the case of the lack of jurisdiction and control or oversight of the Federal Reserve Board. The same thing is happening and has happened more ominously, let me say, in this other vast area, this great unknown, vast land that former Secretaries of State have described as foreign relations.

But today time will not allow for the element of error, particularly right now, with the Marines in Beirut, with an undetermined mission, what are they supposed to be doing there? Nobody knows for sure. Their duties are clearly not spelled out. The first week they were there, the French commander and the Italian commander called them over and the leaders met, the Marine leader and the others, and said, "Hey, we have got to get together, to find out what it is we are supposed to be doing here."

When the President was asked, "How long will the Marines be there?" he said, "I do not know. It depends upon the Lebanese Government."

Lyndon Johnson would have died a thousand deaths before ever permitting that.

THE ADMINISTRATION FINALLY LOOKS FOR ADVICE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, I saw an article in the New York Times last week with a very interesting message—the President, dismayed by all of the catastrophic news about future budget deficits, has decided that it is about time to look for advice from individuals outside of his administration. He is also hoping for a bipartisan agreement on the budget for fiscal year 1984. Although it is somewhat encouraging to learn that he finally admits that Reaganomics is a failure—at least we can now work toward putting a reasonable economic policy in place—I cannot help but be reminded of what damage this economic program has done to our country in the last 18 months.

As you know, this administration initially promised that we would have a balanced budget in fiscal year 1984 if its supply-side economic policy and the 3-year income tax cut was adopted by the Congress. When many of us who feared huge budget deficits questioned the advisability of enacting tax cuts before spending was under control, we were told that any delay in the enactment of the administration's new program would only frustrate the expected recovery. This administation was not willing at that time to listen to those who warned that the economic program would not work. Or that it would lead to tremendous deficits.

Unfortunately, history has shown that the "doomsday prophets" of 1981 have become the realists of today. Early in that year the President revealed that the fiscal year 1981 deficit would be high due to the actions of the past administration. However, he assured the American people that the situation would quickly improve as soon as his policies took effect. As it turned out, the $59.6 billion deficit of that year seems almost minuscule when compared to the figures we now face.

In the administration's budget proposal for fiscal year 1982, the budget deficit was estimated at $45 billion. The actual figure for that year was $110.7 billion—an error of 146 percent. This was also the first time in history that the deficit had gone over $100 billion.

However, this incredible miscalculation did not convince the administration that its economic program was unrealistic. Though the unemployment rate shot up from 7.4 percent in June 1981 to 9.5 percent—a 28-percent increase—just 1 year later, the administration was not convinced. The President was also not persuaded when this rate reached 10.8 percent in December 1982—an almost 50-percent increase from pre-Reaganomics days.

At last count 6.28 million Americans were collecting unemployment benefits. This is the highest number in history. What is even more alarming

about this figure is that, given the unemployment rate, it also indicates that 5.76 million unemployed Americans are not receiving any compensation whatsoever.

I am not sure that even the fact that housing starts last year were at their lowest level since 1946, or that personal income rose at its lowest rate in two decades, made a dent in this administration's unwavering loyalty to its economic policy.

No, what seems to have convinced the President that he needs some fresh advice are the budget deficit estimates for the next 5 years. In its original fiscal year 1983 budget, the administration estimated the deficit at $91.5 billion. The Congressional Budget Office now predicts that the real figure will be near $200 billion. It also estimates that for the four fiscal years 1984-87, the budget deficit will be $1 trillion—$322 billion in fiscal year 1987 alone.

As I find these figures virtually incomprehensible, I have done some quick calculations to try to express them in everyday terms. Each unemployed American could purchase an $83,084 home with $1 trillion. This sum would also pay for 166.67 million $6,000 automobiles.

It is unbelievable to me that the country had to get into an economic crisis of these proportions before the administration realized that it needed to change course. So while I am relieved that the President has finally decided to look for help, I cannot stop wondering about what shape the economy would be in if he had only welcomed this bipartisan exchange of views when we first offered it early in 1981.●

THE HOME TAPING CONTROVERSY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. EDWARDS) is recognized for 5 minutes.

● Mr. EDWARDS of California. Mr. Speaker, I am today introducing legislation designed to resolve fairly and responsibly the home taping controversy.

This year, in contrast to last, I am introducing three separate bills, each of which involves issues that were addressed together in the Home Recording Act of 1982.

I propose three bills, instead of one omnibus bill, this year because the issues raised in these measures address different concerns, each of which merits separate consideration by the Congress.

The first bill, the Home Recording Act of 1983, would provide an exemption from liability for individuals who tape video and audio programing for private use. It also would establish a mechanism for compensating copyright owners for this use of their property. The second and third bills, known respectively as the Consumer Video Sales-Rental Amendment of 1983 and Record Rental Amendment of 1983, would make clear that, under our copyright laws, prerecorded videocassettes and audio records and tapes may not be rented without first seeking the permission of the copyright owner.

Mr. Speaker, intellectual property is entitled to the same rights and privileges afforded more tangible forms of property. The copyright clause of the Constitution and the copyright laws enacted by Congress are premised on the belief that the compensation of creators for the use of their works is both fair and in the public interest in that it will stimulate the creation of new works for the public good.

Mr. Speaker, our copyright laws have been revised and rewritten over the last century in order to keep them responsive to our rapidly changing technology—be it satellite, cable television, or indeed, the printing press. It has been the responsibility of Congress to insure that our laws keep pace both in the sense of encouraging the developing of new technologies and in promoting future artistic achievements. The bills that I am introducing today are true to these twin goals: First, they encourage the development of new media, such as the home video recorder, that aid the communication of ideas, news, and entertainment; and second, they will insure that those who create intellectual property are fairly compensated for the exploitation of their works.

Mr. Speaker, I would like to describe briefly each of these bills.

The Home Recording Act of 1983 responds to the decision of the U.S. Circuit Court of Appeals for the Ninth Circuit which found that home taping of copyrighted video programing constituted copyright infringement. This bill would grant an exemption from liability for copyright infringement for individuals who tape such programing off-the-air for private use. In addition, it would grant an exemption to those who tape copyrighted musical works at home for their private use.

Although I stongly endorse an exemption from copyright infringement liability for individual consumers who tape at home, we must recognize that this is only a part of the solution to the home taping controversy. This exemption, if unaccompanied by a mechanism for compensating copyright owners whose creative works are taken by home tapers, would be unfair to those copyright owners and would disserve the public which depends upon and benefits from our copyright system. Moreover, constitutional scholars have confirmed that legislation designed simply to exempt home taping would violate the taping clause of the fifth amendment.

For these reasons, this proposal also would require that the manufacturers and importers of video and audio taping devices and blank tapes pay a copyright royalty fee to copyright owners. Simple fairness dictates that the manufacturers and importers pay these royalty fees because they profit most from home taping. Their machines would have little or no economic value if not for the programing and music produced by the American creative community.

Mr. Speaker, this bill differs from last year's legislation principally in that it relies upon the free market, instead of a government bureaucracy, to establish fair and reasonable royalty rates. Specifically, the bill encourages a private negotiation between the parties to the home taping controversy. A representative panel of all video copyright owners and a similar panel representing all audio copyright owners would be constituted to negotiate with manufacturers and importers of machines and tapes. Voluntary agreements entered into pursuant to this process would be binding on all copyright owners and each manufacturer or importer with whom they reached agreement. I am confident that the natural adversarial interests of the parties to the home taping controversy will insure a fair and reasonable outcome.

Those parties unable to conclude a voluntary agreement would be required to submit to a compulsory binding arbitration under the auspices of the Register of Copyrights. The arbitrated rates would then be open to public comments, confirmation by the Register of Copyrights, and judicial review.

The need for this legislation was made abundantly clear in testimony before the House and Senate Judiciary Committees last year. Virtually every segment of the creative community testified in support of this home taping legislation. Labor unions and guilds, whose members' livelihood depend upon the vitality of the U.S. entertainment industry, endorsed this legislation without exception. As to the consumer interest involved, Mr. Joseph Waz, Jr., then deputy director of the National Citizens Committee for Broadcasting, testified:

> Copyright is the mechanism by which we assure a continued flow of video productions to the marketplace. While it is desirable that as many Americans as possible should benefit from the wonders of video, it is unrealistic to think that these wonders emerge from an inexhaustible source. If video artists and producers do not perceive opportunities to benefit fairly from the use and employment of their products, they will be disinclined to create them.

Thus, Mr. Speaker, it is in the consumers' long-term best interest to es-

tablish a fair and reasonable system of compensation in order to insure access to the widest possible diversity of creative works.

Mr. Speaker, the principal argument made against this legislation last year was that copyright owners are not harmed by home taping. First, I would like to point out to my colleagues that copyright infringement springs from use, not demonstrable harm. As David Ladd, the Register of Copyrights, stated in a speech before the American Bar Association:

> Harm is not a separate element of the tort of copyright infringement; to establish a copyright infringement case, one need prove only ownership and copying. (That is often hard enough since proof of copying is frequently inferential.) Nonetheless, "harm," particularly palpable monetary damage, has wrongfully intruded itself into the calculus of liability.

Thus, there is no requirement, nor should there be such a requirement, under our system of copyright laws that the copyright owner prove economic harm in order to establish infringement. If harm were a necessary requisite to maintaining an infringement action, a copyright owner would have to stand by while the economic value of his property was drained away before he could sustain such a burden in a court of law.

Second, I believe that the U.S. entertainment industry clearly has established the present and future harm that it will experience if home taping is permitted to continue without compensating copyright owners.

Mr. Speaker, the motion picture business is fraught with high risks, large capital needs and undertainty. Eight out of ten films produced today do not recoup their investment from theatrical exhibition. Even more striking is the fact that 6 out of 10 films never recoup their total investment. A film such as "E.T." is an anomaly in the motion picture business. Those films that do eventually recoup their investment depend upon the viability of four distinct after-theater markets: prerecorded cassettes and discs; pay cable and pay television; network television; and syndicated television. It is these very markets which are most susceptible to VCR usage.

The most recent study concerning the taping habits of VCR users indicated that among the more than 3 million VCR owners in America at the time of the study, 75 percent "librarried" home-taped programs with the average number of videocassettes owned per household being 26.8. Moreover, the vast majority of VCR households, 86.6 percent, reported that they skipped commercials or erased them.

In light of the fact that by the end of this decade there will be 35 to 40 million VCR's imported into the United States, the present and future impact of these practices are clear and understandable: Those who invest in and own copyrighted films will be unable to rely on existing markets to recoup their investment when their products can be taken off the airwaves for free. Moreover, a significant loss of revenue to the producers of programs shown on television will result because advertisers will reduce their payments for commercial time since their commercials are systematically deleted by VCR users. Major advertisers such as Gillette, Coca-Cola, Frito-Lay, and TWA are on record expressing concern with this problem and are beginning to reevaluate their advertising budgets in light of this burgeoning technology.

Moreover, Mr. Speaker, the economic harm experienced by the music and recording industries as a direct result of home music taping in recent years is astounding. In testimony before the House Judiciary subcommittee, Dr. Alan Greenspan testified that the record industry is losing record sales of about $900 million each year because of home taping. As a result, record company profits are down; new releases have declined substantially; artist rosters have been cut; retail business is slack; and employment along the entire production and distribution chain is way down.

Mr. Speaker, I would like my colleagues to focus on the human harm involved in home taping. The American entertainment industry provides hundreds of thousands of jobs to the skilled men and women who make movies and television programs, and who write songs, perform music, and manufacture phonorecords. Uncompensated home taping is robbing them of their just rewards and their livelihoods.

In addition, I hope that my colleagues will consider the harm to every American, if the artistic community no longer has the financial wherewithal to support the efforts of unknown actors, directors, composers, and recording artists to refine their craft. It is a depressing prospect to imagine a future devoid of cultural diversity and experimentation because we failed to act responsibly to preserve the legal foundation on which the creative community sustains itself financially.

Mr. Speaker, the second bill that I am introducing today is the Consumer Video Sales-Rental Amendment of 1983. This legislation addresses an aspect of our copyright laws which needs clarification in light of the development of home video recorders. The so-called first sale doctrine of current law is said by some to permit a video retail outlet to rent a prerecorded videocassette of a motion picture for a fee without sharing the revenue derived from this transaction with the copyright owner.

My proposal would clarify the first-sale doctrine to establish explicitly a commercial lending right in the copyright owner so that he could share in the revenues produced in the rental market. This bill would have no impact whatsoever on the first-sale doctrine as it applies to the noncommercial use of audiovisual works by the ultimate consumer or in libraries.

Last year, many video retailers expressed the fear that if the first-sale doctrine were modified as I have suggested, the motion picture industry would eliminate all rentals of prerecorded video cassettes. It is clearly not the intention of this legislation to eliminate the rental market. Rather, it is in the interest of video retailers, consumers and the motion picture industry for a viable rental market for prerecorded video cassettes to coexist with a sales market for these products.

Mr. Speaker, simple fairness and equity commends this proposal to my colleagues. Rental, not sale, has become the principal means for distributing prerecorded video cassettes to the consuming public. Testimony before the House subcommittee indicates that retailers are renting prerecorded video cassettes 20 to 40 or more times, after having purchased them from the distributor at the wholesale price. Let me reemphasize that under current commercial practice the copyright owner does not share in a single dollar of revenue generated by the rental of his property.

Copyright owners when faced with this problem have taken the only action available to them. They have been forced to add a surcharge to the selling price of their films in order to partially recoup some of the revenues lost to the rental market and thus artificially raise the sale prices of prerecorded video cassettes. For example, some popular tapes retail for as much as $100 in the Washington area.

The effect has been to deny the consumer a real choice between renting or purchasing a movie at reasonable prices. It has been argued that consumers have no interest in purchasing these products. However, Mr. Speaker, a major motion picture studio recently lowered the price on one of its popular tapes to $39.95, and the response from the public was enormous. Unfortunately, the current video marketplace prevents the motion picture producers from lowering the sale price of its entire inventory of films and cartoons.

The immediate effect of my bill will be to bring the sales price of prerecorded video cassettes down to a reasonable level. In testimony before the House Judiciary Subcommittee, Steve Roberts of 20th Century-Fox and James P. Jimirro of Walt Disney Telecommunications testified that if the first-sale doctrine were modified as I have suggested, they would lower the sales price of their movies by as much as 50 percent.

Mr. Speaker, the benefits to consumers are self-evident. If my bill is enacted, consumers would have a real choice between rental and sale at reasonable prices. Moreover, to the extent that copyright owners are delaying or withholding movies from the marketplace, there no longer would be any incentive to do this.

The benefits of this proposal to video retailers are also very compelling. Testimony from last year indicated that thousands of video retailers have been unable to survive under current market conditions. One of the primary reasons that so many video retailers have gone out of business is the high inventory costs associated with maintaining a tape library. Under my bill, lower wholesale prices will alleviate this problem and video retailers will be able to exploit effectively a growing sales market for these products.

Mr. Speaker, the creative community will benefit under my proposal because they will share in the revenues produced from both the sale and rental of their products. Most importantly, by enacting this bill, Congress will be taking a positive step in promoting the underlying philosophy of our system of copyright laws that has insured a continued flow of quality and diverse entertainment to the marketplace.

Mr. Speaker, the third bill I am introducing today is the Record Rental Amendment of 1983.

This measure addresses the recent phenomenon of commercial record rentals. Today, there are over 200 stores in the country that rent records. In these stores, one can rent a record album for as little as 99 cents, buy a tape on which to copy the album, and then return the record to the rental store.

Put simply, these rental stores offer to the public a way of obtaining music without having to buy a record and without thereby paying a cent to the creator and copyright owner of that music. Record rental means lost royalties to recording artists, musicians, composers, and publishers and lost sales for retail record stores, distributors and manufacturers.

We need only look to Japan to understand the effect of record rentals. The retail record rental business made it first appearance in that country in June 1980. There are now almost 1,500 rental outlets in the country and 97.4 percent of their customers admit that they tape the records they rent. As a result, record sales by retail stores in the vicinity of rental outlets have fallen by 30 percent.

Record rentals are displacing record sales. This practice is unfair to recordmakers whose only source of income is from actual record sales. It is also unfair to the creative artists whose music is taken without any payment to them for their work. It is equally unfair to legitimate record retailers whose record prices include royalties for copyright owners and who cannot fairly compete with those who evade those royalty obligations. Finally, it is unfair to consumers who buy their records and have to pay more for them because other rent and tape them home. Rental stores should not be able to rent records again and again on a commercial basis and for profit—without any payment to the copyright owners and others who created the rented records.

If the law is not brought up to date, the growing rental problem will add to the $1 billion annual loss caused by home music taping—thereby further diminishing the incentive to invest time, effort, and money to create the records that fuel the entire music industry.

Finally, Mr. Speaker, it is important that my colleagues remember that the U.S. entertainment industry is an important national trade asset of significant and continuing value to the U.S. Treasury. In 1981, the U.S. film and television industry brought back to our country almost $1 billion in surplus balance of payments. I urge my colleagues to consider seriously this fact and realize that the legislation I am proposing today promotes a uniquely American industry which creates products that are admired throughout the world. I urge my colleagues to support these three bills and I would welcome their cosponsorship.●

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. EMERSON) to revise and extend their remarks and include extraneous material:)

Mr. EMERSON, for 20 minutes, today.

Mr. LEWIS of Florida, for 5 minutes, today.

Mr. EDWARDS of Alabama, for 60 minutes, January 31.

(The following Members (at the request of Mr. STARK) to revise and extend their remarks and include extraneous material:)

Mr. GONZALEZ, for 30 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. PEPPER, for 5 minutes, today.

Mr. EDWARDS of California, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. EMERSON) and to include extraneous matter:)

Mr. GOODLING.

Mr. COATS.

Mr. MORRISON of Washington.

Mr. PARRIS in two instances.

Mr. WHITTAKER.

Mr. ROGERS.

Mr. VANDER JAGT.

Mr. SHUMWAY.

Mr. SCHULZE.

Mr. YOUNG of Alaska.

Mr. CAMPBELL in two instances.

Mrs. SNOWE in two instances.

Mr. JEFFORDS.

Mr. PHILIP M. CRANE.

(The following Members (at the request of Mr. STARK) and to include extraneous matter:)

Mr. CORRADA in five instances.

Mr. STUDDS.

Mr. GUARINI.

Mr. APPLEGATE.

Mr. NELSON of Florida.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 24 minutes p.m.), under its previous order, the House adjourned until Monday, January 31, 1983, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

215. A letter from the Assistant Secretary of the Navy for Shipbuilding and Logistics, transmitting notice of the proposed conversion to contractor performance of the custodial services function at the Navy Shipyard, Mare Island, Calif., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

216. A letter from the Deputy Administrator, General Services Administration, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

217. A letter from the Deputy General Counsel, Federal Home Loan Mortgage Corporation, transmitting a report on the Corporation's activities under the Freedom of Information Act during calendar year 1982, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

218. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a report from the Army's Chief of Engineers on Chesapeake City Bridge, Maryland, pursuant to resolutions adopted by the Committees on Public Works of the U.S. Senate and House of Representatives; to the Committee on Public Works and Transportation.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolu-

tions were introduced and severally referred as follows:

[Omitted from the Record of January 26, 1983]

H.R. 984 was introduced by Mr. GILMAN.

[Introduced January 27, 1983]

By Mr. AKAKA:

H.R. 1008. A bill to compensate persons who served as enlisted members in the Philippine Scouts and the insular force of the U.S. Navy during World War II for the difference between their actual pay and allowances and pay and allowances authorized for other enlisted members of the Regular Army and the Regular Navy of corresponding grades and length of service; to the Committee on Armed Services.

H.R. 1009. A bill for the relief of certain natives of the Philippines who served in the U.S. Armed Forces during World War II; to the Committee on the Judiciary.

By Mr. UDALL (for himself, Mr. MARRIOTT, Mr. LELAND, Mr. CLINGER, Mr. LUJAN, Mr. MCNULTY, Mr. HUCKABY, Mr. BREAUX, Mr. PORTER, Mr. JONES of Oklahoma, Mr. ARCHER, Mr. KAZEN, Mr. WILSON, Mr. FUQUA, Mr. ANDREWS of Texas, Mr. SMITH of Florida, Mr. HUTTO, Mr. YOUNG of Missouri, Mr. STOKES, Mr. FASCELL, Mr. NELSON of Florida, Mr. YOUNG of Alaska, Mr. OWENS, Mr. LIVINGSTON, Mr. HANSEN of Utah, Mr. LEHMAN of Florida, Mr. BADHAM, Mr. GIBBONS, and Mr. LOEFFLER):

H.R. 1010. A bill to amend the Mineral Leasing Act of 1920 with respect to the movement of coal, including the movement of coal over public lands, and for other purposes; referred to the Committee on Interior and Insular Affairs, and concurrently to the Committee on Public Works and Transportation for a period ending not later than 30 calendar days following the date on which the Committee on Interior and Insular Affairs files its report in the House.

By Mr. AKAKA (for himself, Mr. FUQUA, Mr. FLIPPO, Mr. LOWERY of California, Mr. MCGRATH, Mr. LONG of Maryland, Mr. WALKER, Mr. SKEEN, Mr. SCHEUER, Mr. ALEXANDER, Mrs. BOGGS, Mr. MARKEY, Mrs. SCHNEIDER, Mr. MATSUI, Mr. MAVROULES, Mr. HOYER, Mr. LANTOS, Ms. OAKAR, Mr. WHITEHURST, Mr. GINGRICH, Mr. KRAMER, Mr. HANSEN of Idaho, Mr. BROWN of California, Mr. YOUNG of Missouri, Ms. FIEDLER, Mr. UDALL, Mr. LUJAN, Mr. WON PAT, Mr. BADHAM, Mr. FORSYTHE, Mr. WATKINS, Mr. KEMP, Mr. FISH, Mr. STOKES, Mr. BETHUNE, Mr. GORE, Mr. MORRISON of Washington, Mr. MINETA, Mr. BEVILL, Mr. SUNIA, Mr. LELAND, Mr. NELSON of Florida, Mr. MARRIOTT, Mr. SMITH of Florida, Mr. GARCIA, Mrs. BOXER, Mr. SPRATT, Mr. ROWLAND, Mr. CORRADA, Mr. MURPHY, and Mr. TALLON):

H.R. 1011. A bill to provide encouragement and necessary regulation for the commercial development of space; to the Committee on Science and Technology.

By Mr. AKAKA (for himself, Mr. MORRISON of Washington, Mr. YOUNG of Alaska, Mr. DENNY SMITH, Mr. WYDEN, Mr. PRITCHARD, Mr. FOLEY, Mr. BONKER, Mr. MARRIOTT, Mr. NIELSON of Utah, Mr. HANSEN of Utah, and Mr. CHANDLER):

H.R. 1012. A bill to grant the consent of the Congress to the Northwest Interstate Compact on Low-Level Radioactive Waste Management; jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

By Mr. BARNARD:

H.R. 1013. A bill to effectuate the congressional directive that accounts established under section 327 of the Garn-St Germain Depository Institutions Act of 1982 be directly equivalent and competitive with money market mutual funds; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BIAGGI:

H.R. 1014. A bill to establish a bipartisan national commission to study ways of improving Federal and State efforts to enforce child support obligations and recoup delinquent child support payments; jointly, to the Committees on the Judiciary and Ways and Means.

By Mr. BONER of Tennessee (for himself, Mr. MATSUI, and Mr. FORD of Tennessee):

H.R. 1015. A bill to amend section 151 of the Internal Revenue Code of 1954 to provide an additional exemption for disabled individuals who need assistance in the form of attendant care services or medical devices in order to be employed or whose disabilities are so severe that such assistance would not enable such individuals to be employed; to the Committee on Ways and Means.

H.R. 1016. A bill to amend the Internal Revenue Code of 1954 to increase the amount allowed to be deducted each taxable year for expenses incurred in connection with the elimination of architectural and transportation barriers for the handicapped and elderly from $25,000 to $100,000, and to make permanent the allowance of such deduction; to the Committee on Ways and Means.

By Mr. CORRADA:

H.R. 1017. A bill to provide financial assistance for the transportation of petroleum and petrochemical products and agricultural commodities between ports located in the continental United States and Puerto Rico; to the Committee on Merchant Marine and Fisheries.

H.R. 1018. A bill to amend title 38, United States Code, to provide a service pension for veterans of World War I who have annual incomes of less than $10,000 and for certain surviving spouses and dependent children of veterans of World War I; to the Committee on Veterans' Affairs.

H.R. 1019. A bill to amend title 38 of the United States Code to allow judicial review of decisions made by the Administrator of the Veterans' Administration; to the Committee on Veterans' Affairs.

By Mr. RANGEL:

H.R. 1020. A bill to prohibit the export or other transfer to the Republic of South Africa of nuclear material, equipment, and technology; to the Committee on Foreign Affairs.

By Mr. DANIEL B. CRANE:

H.R. 1021. A bill to amend title 18 of the United States Code to provide penalties for criminal killings of and assaults against civil Federal officers and employees; to the Committee on the Judiciary.

H.R. 1022. A bill to provide that each State must establish a workfare program, and require participation therein by all residents of the State who are receiving benefits or assistance under the aid to families with dependent children, fogd stamp, and public housing programs, as a condition of the State's eligibility for Federal assistance in connection with those programs; jointly, to the Committees on Agriculture, Banking, Finance and Urban Affairs, Education and Labor, and Ways and Means.

By Mr. DASCHLE:

H.R. 1023. A bill to repeal the withholding tax from interest and dividends; to the Committee on Ways and Means.

By Mr. DASCHLE (for himself and Mr. DORGAN):

H.R. 1024. A bill to direct the Secretary of Agriculture to forego foreclosure and defer payment with respect to certain loans of the Farmers Home Administration; to the Committee on Agriculture.

By Mr. DICKS (for himself, Mr. BARNES, Mr. DASCHLE, Mr. DYMALLY, Mr. FAZIO, Mr. FORSYTHE, Mr. FROST, Mr. HOWARD, Mr. HOYER, Mr. KOGOVSEK, Mr. LEHMAN of Florida, Mr. LONG of Maryland, Mr. MATSUI, Mr. MCDADE, Ms. MIKULSKI, Mr. MRAZEK, Mr. NEAL, Mr. NICHOLS, Mr. O'BRIEN, Mr. RATCHFORD, Mr. ROE, Mr. SWIFT, Mr. WALGREN, Mr. WEISS, Mr. WOLF, Mr. YATRON, and Mr. FOGLIETTA):

H.R. 1025. A bill to amend title 5 of the United States Code to require the Office of Personnel Management to provide Federal employees and annuitants an annual opportunity to transfer enrollments between health benefit plans; to the Committee on Post Office and Civil Service.

By Mr. DICKS (for himself, Mr. ADDABBO, Mr. BARNES, Mr. BENNETT, Mr. BONER of Tennessee, Mr. CLAY, Mr. FAZIO, Mr. FOGLIETTA, Mr. HALL of Ohio, Mr. HOWARD, Mr. HOYER, Mr. KOGOVSEK, Mr. LONG of Maryland, Mr. MATSUI, Ms. MIKULSKI, Mr. NICHOLS, Mr. NOWAK, Mr. PRICE, Mr. RATCHFORD, Mr. ROE, Mrs. SCHNEIDER, Mr. SPENCE, Mr. SWIFT, Mr. WOLF, Mr. YATES, Mr. YATRON, Mr. HANCE, Mr. LENT, and Mr. WEISS):

H.R. 1026. A bill to repeal section 278 of the Tax Equity and Fiscal Responsibility Act of 1982, which imposes the hospital insurance tax on Federal employment; to the Committee on Ways and Means.

By Mr. EDWARDS of California (for himself, Mr. MOORHEAD, Mrs. SCHROEDER, Mr. BEILENSON, Mr. BONER of Tennessee, Mr. DIXON, Mr. FAUNTROY, Mr. FORSYTHE, and Mr. STOKES):

H.R. 1027. A bill to amend title 17 of the United States Code with respect to rental, lease, or lending of sound recordings; to the Committee on the Judiciary.

By Mr. EDWARDS of California (for himself and Mr. MINETA):

H.R. 1028. A bill to amend title 17 of the United States Code to protect semiconductor chips and masks against unauthorized duplication, and for other purposes; to the Committee on the Judiciary.

By Mr. EDWARDS of California (for himself, Mr. MOORHEAD, Mrs. SCHROEDER, Mr. BEILENSON, Mr. DIXON, Mr. FAUNTROY, Mr. FORSYTHE, and Mr. STOKES):

H.R. 1029. A bill to amend title 17 of the United states Code with respect to rental, lease, or lending of motion pictures and other audiovisual works; to the Committee on the Judiciary.

By Mr. EDWARDS of California (for himself, Mr. MOORHEAD, Mrs. SCHROEDER, Mr. BEILENSON, Mr. BONER of Tennessee, Mr. DIXON, Mr. FAUNTROY, and Mr. FORSYTHE):

H.R. 1030. A bill to amend title 17 of the United States Code with respect to home recording and video and audio recording de-

vices and media, and for other purposes; to the Committee on the Judiciary.

By Mr. EMERSON (for himself, Mr. EVANS of Iowa, Mr. HUCKABY, Mr. COLEMAN of Missouri, Mr. MARLENEE, Mr. STENHOLM, Mr. STANGELAND, Mrs. SMITH of Nebraska, Mr. HANSEN of Idaho, Mr. ROBERTS, Mr. MORRISON of Washington, Mr. DENNY SMITH, Mr. MONTGOMERY, Mr. MCEWEN, Mr. DAUB, Mr. SIMON, Mr. HUBBARD, Mr. TAYLOR, Mr. DANIEL B. CRANE, Mr. HAMMERSCHMIDT, Mr. FROST, Mr. DORGAN, Mr. SENSENBRENNER, Mr. SKELTON, Mr. KEMP, Mr. WHITTAKER, Mr. CLAY, Mr. HILER, Mr. WHITTEN, Mr. DASCHLE, Mr. SKEEN, Mr. VOLKMER, Mr. MADIGAN, Mr. CHAPPIE, Mr. ENGLISH, Mr. FRANKLIN, and Mr. ALEXANDER):

H.R. 1031. A bill to amend the bankruptcy laws regarding farm produce storage facilities, and for other purposes; to the Committee on the Judiciary.

By Mr. FISH:

H.R. 1032. A bill to provide a penalty for the robbery or attempted robbery of any controlled substance from any pharmacy; to the Committee on the Judiciary.

H.R. 1033. A bill to amend title 18 of the United States Code to prohibit certain damage to, and theft of property used for religious purposes, and for other purposes; to the Committee on the Judiciary.

By Mr. GARCIA:

H.R. 1034. A bill to designate the birthday of Martin Luther King, Jr., a legal public holiday; to the Committee on Post Office and Civil Service.

By Mr. GOODLING:

H.R. 1035. A bill to make certain technical amendments to improve implementation of the Education Consolidation and Improvement Act of 1981, and for other purposes; to the Committee on Education and Labor.

By Mr. HAWKINS (for himself, Mr. PERKINS, Mr. FORD of Michigan, Mr. BURTON of California, Mr. GAYDOS, Mr. CLAY, Mr. BIAGGI, Mr. ANDREWS of North Carolina, Mr. SIMON, Mr. MILLER of California, Mr. MURPHY, Mr. WEISS, Mr. CORRADA, Mr. KILDEE, Mr. WILLIAMS of Montana, Mr. KOGOVSEK, Mr. WASHINGTON, Mr. MARTINEZ, Mr. OWENS, Mr. HARRISON, and Mr. BOUCHER):

H.R. 1036. A bill to provide employment opportunities to long-term unemployed individuals in high unemployment areas in projects to repair and renovate vitally needed community facilities, and for other purposes; to the Committee on Education and Labor.

By Mr. LEHMAN of Florida:

H.R. 1037. A bill to amend the Internal Revenue Code of 1954 to exclude from the gross income of each individual up to $500 of interest and dividends; to the Committee on Ways and Means.

H.R. 1038. A bill to allow a credit against Federal income taxes or a payment from the U.S. Treasury for State and local real property taxes or an equivalent portion of rent paid on their residences by individuals who have attained age 65; to the Committee on Ways and Means.

H.R. 1039. A bill to amend title II of the Social Security Act so as to liberalize the conditions governing eligibility of blind persons to receive disability insurance benefits thereunder; to the Committee on Ways and Means.

H.R. 1040. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

H.R. 1041. A bill to amend title XVIII of the Social Security Act to include, as a home health service, nutritional counseling provided by or under the supervision of a registered dietitian; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. MATSUI (for himself, Mr. BONER of Tennessee, and Mr. FORD of Tennessee):

H.R. 1042. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for the expense of altering or improving the principal residence of a taxpayer to remove or mitigate the effect of any architectural or other feature which limits the mobility of the taxpayer or a member of his family because such taxpayer or family member is disabled; to the Committee on Ways and Means.

By Mr. MITCHELL:

H.R. 1043. A bill to amend section 8(e) of the Small Business Act; to the Committee on Small Business.

By Ms. OAKAR (for herself, Mr. OBERSTAR, Mrs. COLLINS, Mr. FEIGHAN, Mrs. BOUQUARD, Mr. HATCHER, Mr. FORSYTHE, Mr. ROE, and Mr. ECKART):

H.R. 1044. A bill to amend titles II, VII, XI, XVI, XVIII, and XIX of the Social Security Act to provide for the improved administration of the old-age, survivors, and disability insurance program, the supplemental security income program, and the medicare program by a newly established independent Social Security Administration, and for other purposes; to the Committee on Ways and Means.

By Ms. OAKAR (for herself, Mr. OBERSTAR, Mrs. COLLINS, Mr. FEIGHAN, Mrs. BOUQUARD, Mr. HATCHER, Mr. FORSYTHE, Mr. KOGOVSEK, Mr. ROE, Mr. ECKART, Mr. FOGLIETTA, and Mr. WEAVER):

H.R. 1045. A bill to amend titles II and XVIII of the Social Security Act to remove the operations of the social security trust funds from the unified budget of the United States, and to authorize the appointment of two additional trustees to the boards of trustees of such trust funds; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. O'BRIEN (for himself and Mr. HYDE):

H.R. 1046. A bill to amend the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act of 1965; jointly, to the Committees on Public Works and Transportation, Banking, Finance and Urban Affairs, Education and Labor, and Small Business.

By Mr. PARRIS:

H.R. 1047. A bill to amend the Social Security Act to appropriate to the Federal old-age and survivors insurance trust fund the amount of certain rents, royalties, and other sums deposited in the Treasury of the United States pursuant to the Outer Continental Shelf Lands Act; to the Committee on Ways and Means.

By Mr. RITTER:

H.R. 1048. A bill to repeal the amendments made by the Tax Equity and Fiscal Responsibility Act of 1982 which impose withholding on interest and dividends; to the Committee on Ways and Means.

By Mr. ROSTENKOWSKI:

H.R. 1049. A bill to recognize the organization known as the Polish Legion of American Veterans; to the Committee on the Judiciary.

By Mr. SABO (for himself, Mr. GREEN, Mr. BEDELL, Mr. CARR, Mr. CONYERS, Mr. DELLUMS, Mr. DOWNEY of New York, Mr. EDWARDS of California, Mr. FORSYTHE, Mr. FRANK, Mr. GARCIA, Mr. GRAY, Mr. JACOBS, Mr. KASTENMEIER, Mr. KILDEE, Mr. MCKINNEY, Mr. MARKEY, Mr. MITCHELL, Mr. MORRISON of Connecticut, Mr. MRAZEK, Mr. OBERSTAR, Mr. OTTINGER, Mr. OWENS, Mrs. SCHROEDER, Mr. SHANNON, Mr. SIKORSKI, Mr. STOKES, Mr. STUDDS, Mr. UDALL, Mr. VENTO, Mr. WEISS, Mr. WOLPE, and Mr. WYDEN):

H.R. 1050. A bill to rescind funds appropriated for the Selective Service System; to the Committee on Appropriations.

By Mr. SCHULZE:

H.R. 1051. A bill to repeal the interest and dividend withholding enacted by the Tax Equity and Fiscal Responsibility Act of 1982; to the Committee on Ways and Means.

By Mr. SHANNON (for himself, Mr. GIBBONS, Mr. LUNDINE, Mr. GUARINI, Mr. BEILENSON, Mr. EDWARDS of California, Mr. DYMALLY, Mr. FAZIO, Mr. MATSUI, Mr. LANTOS, Mr. MINETA, Mr. BOLAND, Mr. NELSON of Florida, Mr. MOAKLEY, and Mr. PATTERSON):

H.R. 1052. A bill to authorize negotiations directed toward opening foreign markets to U.S. exports of high-technology products, and for other purposes; jointly, to the Committees on Foreign Affairs and Ways and Means.

By Mr. SHAW (for himself, Mr. FASCELL, Mr. BENNETT, Mr. CHAPPELL, Mr. FUQUA, Mr. HUTTO, Mr. IRELAND, Mr. MCCOLLUM, Mr. MICA, Mr. NELSON of Florida, Mr. YOUNG of Florida, Mr. LEHMAN of Florida, Mr. MACKAY, Mr. BILIRAKIS, Mr. MACK, Mr. LEWIS of Florida, Mr. GIBBONS, and Mr. SMITH of Florida):

H.R. 1053. A bill to amend chapter 207 of title 18 of the United States Code to provide explicitly for consideration of the sources of bail money and the risk to the safety of the public and other persons in proceedings for the consideration of release of criminal defendants in drug-related cases before trial under that chapter; to the Committee on the Judiciary.

By Mr. SHUMWAY:

H.R. 1054. A bill to authorize the Secretary of the Army to sell ammunition for use for avalanche-control purposes; to the Committee on Armed Services.

By Mr. SMITH of Florida:

H.R. 1055. A bill to place methaqualone in schedule I of the Controlled Substances Act; to the Committee on Energy and Commerce.

By Mr. SPENCE:

H.R. 1056. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for the cost of medically necessary custodial care provided to elderly individuals; to the Committee on Ways and Means.

By Mr. STENHOLM (for himself and Mr. YOUNG of Alaska):

H.R. 1057. A bill to authorize the Secretary of the Air Force to enter into certain contracts for the lease of family housing facilities for assignment to members of the Armed Forces; to the Committee on Armed Services;

By Mr. STUDDS:

H.R. 1058. A bill to amend the Internal Revenue Code o: 1954 to exclude certain service performed on fishing boats from cov-

erage for purposes for unemployment compensation; to the Committee on Ways and Means.

By Mr. VOLKMER:

H.R. 1059. A bill to allow the adjudication of claims against the United States for damages arising from the activities of the Army Corps of Engineers at the Clarence Cannon Dam project on the Salt River in the State of Missouri; to the Committee on The Judiciary.

By Mr. WASHINGTON:

H.R. 1060. A bill to provide employment opportunities to long-term unemployed individuals in high-unemployment areas in conjunction with job training in occupations and skilled trades which are essential to rebuilding or maintenance of the national infrastructure or which are necessary to or related to defense preparedness; to the Committee on Education and Labor.

H.R. 1061. A bill to extend the Federal Supplemental Compensation Act of 1982 and to increase the number of weeks for which compensation is payable under such act; to the Committee on Ways and Means.

By Mr. WEAVER:

H.R. 1062. A bill to authorize the Secretary of the Interior to convey, without consideration, certain lands in Lane County, Oreg.; to the Committee on Interior and Insular Affairs.

By Mr. WEISS:

H.R. 1063. A bill to amend title II of the Social Security Act to restore from age 16 to age 18 the age of a child at which certain benefits under such title are terminated; to the Committee on Ways and Means.

H.R. 1064. A bill to amend title II of the Social Security Act to eliminate the recently enacted limitations on lump-sum death benefits; to the Committee on Ways and Means.

H.R. 1065. A bill to amend title II of the Social Security Act to restore child's insurance benefits for postsecondary school students; to the Committee on Ways and Means.

H.R. 1066. A bill to amend title II of the Social Security Act to extend to future beneficiaries the restoration of minimum benefits recently enacted for existing beneficiaries; to the Committee on Ways and Means.

By Mr. WILLIAMS of Ohio (for himself and Mr. APPLEGATE):

H.R. 1067. A bill to repeal certain increases in highway taxes which were contained in the Highway Revenue Act of 1982, and for other purposes; to the Committee on Ways and Means.

By Mr. WHITTAKER:

H.R. 1068. A bill to repeal those provisions of the Tax Equity and Fiscal Responsibility Act of 1982 which impose withholding on interest and dividends; to the Committee on Ways and Means.

By Mr. WINN:

H.R. 1069. A bill to repeal the provisions of the Tax Equity and fiscal Responsibility Act of 1982 relating to withholding on interest and dividends; to the Committee on Ways and Means.

By Mr. YATRON:

H.R. 1070. A bill to amend the Tax Equity and Fiscal Responsibility Act of 1982 to repeal the provisions requiring withholding on dividends and interest; to the Committee on Ways and Means.

By Mr. YOUNG of Alaska:

H.R. 1071. A bill for the acquisition by the United States by exchange of certain native-owned lands or interest in lands in Alaska; to the Committee on Interior and Insular Affairs.

By Mr. CAMPBELL (for himself and Mr. FORD of Tennessee:

H.J. Res. 105. Joint resolution to designate September 21, 1983, as "National Historically Black Colleges Day"; to the Committee on Post Office and Civil Service.

By Mrs. SNOWE (for herself and Mr. MCKERNAN):

H.J. Res. 106. Joint resolution redesignating the Saint Croix Island National Monument in the State of Maine as the "Saint Croix Island International Historic Site"; to the Committee on Interior and Insular Affairs.

By Mr. SPENCE:

H.J. Res. 107. Joint resolution proposing an amendment to the Constitution of the United States relative to the balancing of the budget; to the Committee on the Judiciary.

By Mr. WINN (for himself and Mr. COELHO):

H. Con. Res. 39. Concurrent resolution expressing the sense of the Congress with respect to implementing the objectives of the United Nations Decade of Disabled Persons (1983-92); to the Committee on Foreign Affairs.

By Mr. PANETTA (for himself, Mr. JEFFORDS, Mr. WRIGHT, Mr. PERKINS, Mr. MILLER of California, Mrs. SCHNEIDER, Mr. DE LA GARZA, Mr. MAZZOLI, Mr. KOLTER, Mr. Oberstar, Mr. FAUNTROY, Mr. WIRTH, Mr. BONIOR of Michigan, Mr. MURPHY, Mr. FEIGHAN, Mr. MOAKLEY, Mr. WEISS, Mr. SABO, Mr. MARKEY, Mr. CROCKETT, Mr. STOKES, Mr. BOLAND, Ms. KAPTUR, Mr. COYNE, Mr. MCHUGH, Mr. MCNULTY, Mr. RODINO, Mr. FAZIO, Mr. WOLPE, Mr. WISE, Mr. EDWARDS of California, Mr. WALGREN, Mr. WORTLEY, Mr. DIXON, Mr. WILLIAMS of Montana, Mr. FOGLIETTA, Mrs. KENNELLY, Mr. FRANK, Mr. MURTHA, Mr. DURBIN, Mr. GEPHARDT, Mr. OLIN, Mr. DELLUMS, Mr. STARK, Mr. MORRISON of Connecticut, Mr. HERTEL of Michigan, Mrs. SCHROEDER, Mr. BURTON of California, Mr. TRAXLER, Mr. BROWN of California, Mr. LOWRY of Washington, Mr. GEJDENSON, Mr. WYDEN, Mr. HARRISON, Mr. RATCHFORD, Mr. WASHINGTON, Mr. LANTOS, Mr. ZABLOCKI, Mr. HORTON, Mr. MATSUI, Mr. GUARINI, Mr. OTTINGER, Mr. MINISH, Mr. LEHMAN of Florida, Mrs. HALL of Indiana, Mr. ALEXANDER, Mr. MAVROULES, Mr. VENTO, Mr. HALL of Ohio, Mr. Long of Louisiana, Mr. GLICKMAN, Mr. OWENS, Mr. KILDEE, Mr. RAHALL, Mr. NOWAK, Mr. SHANNON, Mr. STRATTON, Mr. LEVINE of California, Mr. DE LUGO, Mr. DOWNEY of New York, Mr. SMITH of New Jersey, Mr. BORSKI, Mr. KASTENMEIER, Mr. DORGAN, Mr. SIKORSKI, Mr. ASPIN, Mr. MITCHELL, Mr. GORE, Mr. DASCHLE, Mr. MOLLOHAN, Mr. CORRADA, Mrs. SNOWE, Mr. RANGEL, and Mr. LUNDINE):

H. Con. Res. 40. Concurrent resolution expressing the sense of the Congress that the Federal Government should maintain current efforts in Federal nutrition programs to prevent increases in domestic hunger; jointly, to the Committees on Agriculture and Education and Labor.

By Mr. FISH:

H. Res. 44. Resolution to recognize the successful resettlement of hundreds of unaccompanied Haitian children; to the Committee on Post Office and Civil Service.

By Mr. GUARINI (for himself, Mr. RODINO, Mr. GILMAN, Mr. FAUNTROY, Mr. BONIOR of Michigan, Mr. MURPHY, Mr. HOYER, Mr. ROE, Mr. FEIGHAN, Mr. SMITH of New Jersey, Mr. FOGLIETTA, Mr. LAGOMARSINO, Mr. SIMON, Mr. WALGREN, Mr. MARKEY, Mr. APPLEGATE, Mr. SMITH of Florida, Mr. FORSYTHE, Mr. FROST, Mrs. BOUQUARD, Mr. CONTE, Mr. CLINGER, Mr. FASCELL, Mr. LAFALCE, Mr. VANDERGRIFF, Mr. BOUCHER, Mr. DOWDY of Mississippi, Mr. BROWN of Colorado, Mr. DAUB, Mr. HALL of Ohio, Mr. ADDABBO, Mr. O'BRIEN, Mr. RATCHFORD, Mr. HOWARD, Mr. DWYER of New Jersey, Mr. FISH, Mr. DYMALLY, Mr. WOLPE, Mr. KASICH, Mr. EDGAR, Mr. GREEN, Mr. MATSUI, Mr. FRANK, Mr. KILDEE, Mr. LUNGREN, Mr. DANIEL, Mr. OTTINGER, Mr. SUNIA, Mr. WHITEHURST, Mr. OWENS, Mr. HORTON, Mr. HUGHES, Mr. ANDREWS of North Carolina, Mr. FAZIO, Mr. WORTLEY, Mr. AKAKA, Mr. ALEXANDER, Mr. CHANDLER, Mr. HYDE, Mr. PORTER, Mr. MAZZOLI, Mr. ANDERSON, Mr. LOWERY of California, Mr. GEJDENSON, and Mr. FLORIO):

H. Res. 45. Resolution urging the U.S. Postal Service to issue a postage stamp commemorating servicemen and servicewomen of the United States who, as a result of their service to the Nation during a time of military conflict, have been prisoners of wars or have been declared missing in action; to the Committee on Post Office and Civil Service.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mrs. BOXER:

H.R. 1072. A bill for the relief of Margot Hogan; to the Committee on the Judiciary.

By Mr. VOLKMER:

H.R. 1073. A bill for the relief of Betty Laswell; to the Committee on the Judiciary.

H.R. 1074. A bill for the relief of certain persons who suffered damages arising from the flood caused by the action of the U.S. Army Corps of Engineers on July 27, 1981, in lowering the top of a cofferdam on the Salt River in the State of Missouri; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 6: Mr. MCCOLLUM and Mr. HILLIS.

H.R. 9: Mr. HUTTO and Mr. IRELAND.

H.R. 120: Mr. TAUZIN and Mr. SCHEUER.

H.R. 485: Mr. MARRIOTT, Mr. BROWN of Colorado, Mr. MCCOLLUM, and Mrs. HOLT.

H.R. 500: Mr. BOSCO, Mrs. BOUQUARD, Mr. BRITT, Mr. CLARKE, Mr. GEKAS, Mr. HAWKINS, Mr. HEFNER, Mr. KOGOVSEK, Mr. LEACH of Iowa, Mr. NATCHER, Mr. NICHOLS, Mr. PURSELL, and Mr. WISE.

H.R. 701: Mr. HOPKINS.

H.R. 901: Mrs. KENNELLY.

H.J. Res. 1: Mr. BRITT.

SENATE—*Thursday, January 27, 1983*

(Legislative day of Tuesday, January 25, 1983)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

"God who gave us life gave us liberty. Can the liberties of a nation be secure when we have removed a conviction that these liberties are the gift of God?"

Almighty God of our fathers and mothers, these words of Thomas Jefferson, inscribed on his memorial, confront us with a reality which cannot be ignored. His question answers itself. The liberties of a nation cannot be secure when belief in God is abandoned. Help us to see the futility of the struggle to preserve liberty when faith in God is forsaken.

Heavenly Father, awaken us to the simple fact that if we try to govern without God we are a godless government. May we remember that trust in God was not incidental to our Founding Fathers—but that it was fundamental to their vision for our Republic. Grant us the wisdom to understand that to govern without God is to condemn our land to a godless destiny. May our response to Thomas Jefferson be all that he implies in his question. We pray this in the name of our Lord and Saviour, Jesus Christ. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. BAKER. I thank the Chair.

THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

REALLOCATION OF TIME

Mr. BAKER. Mr. President, I am advised the distinguished junior Senator from Iowa (Mr. GRASSLEY), who has a special order this morning, has no need for that time. I ask unanimous consent that that time allocated to Senator GRASSLEY may be transferred instead to me.

The PRESIDING OFFICER (Mr. CHAFEE). Without objection, it is so ordered.

Mr. BAKER. Mr. President, I may say for the benefit of the minority leader and other Senators I do not intend to use that time but I have had a request from at least one Senator and perhaps others that they would like additional time and I might use that time to meet their requirements.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, we have an order already entered for morning business to extend for not more than 2 hours today in which Senators may speak for 10 minutes each. At the conclusion of that time, Mr. President, I will ask the Senate, assuming the minority leader concurs in the request, and there is no objection, to proceed to the only item on today's Calendar of General Orders, Order No. 1, S. 61, by Mr. STAFFORD, a bill to designate a Nancy Hanks Center in the Old Post Office Building in Washington, and for other purposes. I am advised that the matter is not controversial.

There will be remarks, I believe, in connection with that measure. I would anticipate that the total time required to dispose of it will be something in the vicinity of 1 hour.

What that means, Mr. President, is if we use the entire 2 hours for morning business and 1 hour for that measure, and with the leadership time, we expect to recess at about 3:30 p.m.

Is there an order, Mr. President, for the Senate to convene on Monday? I believe there is.

The PRESIDING OFFICER. The majority leader is correct, at noon on Monday.

Mr. BAKER. I thank the Chair.

NOMINATION OF ELIZABETH DOLE TO BE SECRETARY OF TRANSPORTATION

Mr. BAKER. Mr. President, it is my hope that we can turn to the nomination of Elizabeth Dole to be Secretary of the Department of Transportation on Monday. I believe that nomination has not yet been reported, but I anticipate that it will be. If there in no objection to proceeding to its consideration on Monday under the rules of the Senate, it is my intention to ask the Senate to do so. I may say, however, that for a number of reasons it would not be my intention to ask the Senate to proceed to final disposition of that matter, at least not by rollcall vote, prior to 2 p.m. on Tuesday. So there is a distinct possibility that debate will occur on that nomination but final disposition would not be reached on Monday unless it can be done by voice vote.

If there is to be a record vote, and it is the usual practice of the Senate to have a record vote on this type of appointment, absent certain circumstances it would be the intention of the leadership to arrange the Senate schedule so that the vote would occur on Tuesday at 2 or 4 p.m., whatever time would suit the convenience of most Members.

THE DEATH OF COACH PAUL "BEAR" BRYANT

Mr. BAKER. Mr. President, yesterday, after learning by radio of the death of coach Paul "Bear" Bryant, I called a member of my staff and said, "Would you please prepare for me remarks in tribute—but not too much tribute—to Paul 'Bear' Bryant?" At that moment, just for a fleeting instant, I remembered that "Bear" Bryant and the Alabama crimson team so often embarrassed and so often humiliated the University of Tennessee football team.

But, I regained my composure and went back to the original proposal, indeed a proper one, to give me some suggestions on appropriate remarks at this time.

Mr. President, I rise to extend to the family of Paul Bryant my personal sympathy, and I am sure that of all Senators, on the passing of this great American. He was not only extraordinarily successful in his chosen profession, the field of collegiate athletics, but he was an example for all Americans, and particularly for young Americans.

His work with young people, his perseverance of the most important values and ideals, and his advice to young Americans in American sports and otherwise, stand as an appropriate testimonial to the contributions this man has made.

Those contributions go along with his record of 323 career victories and the national championships that his teams from the University of Alabama accumulated in the course of his career.

He was a tremendous American, Mr. President, and we will miss him.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I have no further need for my time under the standing order. I see the distinguished President pro tempore on his feet. Does he wish me to yield some of my time under the standing order?

Mr. THURMOND. Mr. President, I would be very pleased. Then I could get back to the committee where we are holding our first hearing on organized crime.

Mr. BAKER. Mr. President, I will be delighted to yield my remaining time under the standing order, if the minority leader has no objection. Does the minority leader have need for my remaining time?

Mr. BYRD. Mr. President, I doubt that I will.

Mr. BAKER. Mr. President, in that case, I am pleased to yield the remainder of my time to the distinguished President pro tempore.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. BAKER. Mr. President, before the Senator proceeds, I also see the junior Senator from Washington. It is my understanding from a notation given to me a moment ago that the Senator from Washington wishes to introduce a bill. Since we have morning business ordered, will the Senator be in a position to introduce his bill at that time?

Mr. GORTON. Mr. President, the Senator would be at that time if it is within the next 15 minutes or so.

Mr. BAKER. Let me do this, Mr. President, if I may. I ask unanimous consent that the Senator from Washington, as in morning business, may be recognized for the purpose of introducing a bill or making a statement after the expiration of the time of the standing order for the minority leader and prior to the recognition of Senators on special orders.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object, I will not object. As we all know, bills can only be introduced during morning business but the unanimous-consent request by the majority leader would comport with that. I wish he would include me in that request. I do have a bill I intend to introduce. It would repeal the withholding of taxes on interest and dividends. I should like to introduce mine also in that time.

Mr. BAKER. I include that in my request, Mr. President, that the minority leader may be recognized as in morning business for the purpose of introducing a bill as he describes it.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The minority leader is recognized.

Mr. BYRD. Mr President, I thank the Chair.

THE PRESIDENT'S STATE OF THE UNION MESSAGE

Mr. BYRD. Mr. President, the state of our Nation's economy is deeply troubled. We are in the grips of the deepest and most severe recession since World War II. Twelve million of our citizens are jobless. These citizens have lost not only their jobs but, in far too many cases, they are also losing their homes, their farms, their dignity, and their hopes for the future.

Our Nation desperately needs a change in course. We must act decisively to meet the human emergencies caused by this recession. We must put into place the fiscal and monetary policies which can turn the corner on this recession. And we must embark on a major cooperative effort by Government, business, and labor to meet the longer term challenges posed by the profound structural changes sweeping our economy.

I cannot accept the President's reported statement that ours is a service oriented and information society. That is fine to a degree; I want to see the service industries grow, but we must not let our vital basic industries go into oblivion. I am thinking of steel in particular. I do not agree with some of the reported statements, one of which was made by Secretary Regan a few days ago, to the effect that steelworkers who have lost their jobs may never get them back; that they can just forget about them; that Sears and McDonalds and others are employing more people.

I hope to see Sears and McDonalds and other such firms employ more people, but to tell the steelworkers of this country that they may just as well forget it is not the true American spirit and we cannot allow our Nation to become dependent upon other nations for steel. We must help our vital and basic industries. They are basic to the economy, and they are basic to the national security. The Federal Government has a responsibility for the Nation's defense and therefore has some responsibility and a definite role to play in rejuvenating these basic vital industries. I think that we do have to embark on a major effort to do just that.

I took heart from some of the proposals which President Reagan put forward Tuesday evening.

I am pleased that the President has decided to support an extension of unemployment insurance benefits, an extension which is sorely needed and which Democrats in the Senate have fought for in the past over the President's opposition. I am pleased that the President now sees the need for increased funding for job training programs for America's displaced workers, a program which we Senate Democrats largely designed and helped to enact into law certainly during the 97th Congress. Last December, Democrats in the Senate offered a jobs program which would have substantially increased funds for this vital program, an amendment which the President opposed at the time. I am pleased to find that he now is prepared to support more adequate funding for this vital program than has been his position in the past.

I am also pleased that President Reagan acknowledges the need to increase the numbers of public school teachers proficient in math and in science. This is an idea which Democrats have long supported and will continue to support.

I was glad to hear the President call for action to modernize our Nation's coal ports. I introduced major coal ports legislation during the last Congress and recently met with the President to urge his support for that vital program.

I am soon going to reintroduce the bill. I hope that it will be a bipartisanly supported bill. My staff is working with the staffs of some of the Members on the other side of the aisle to see if we cannot work out a bill which would be a bipartisan in nature and which would get on with the job of modernizing and deepening the Nation's coal ports. I look forward to working with the President in enacting it into law.

I listened to the President very carefully Tuesday night as he assessed the state of our Union and charted directions for its future course, but I was disappointed that overall he seems to have chosen to continue the failed economic policies which have brought such suffering in their wake.

For the basic economic policy to which President Reagan was wedded when he came into office and which has been declared a failure over and over again is still the administration's policy.

The President made it clear that he is still wedded to increasing defense spending by 14 percent—9 percent in real terms when one allows for inflation. We all share the President's commitment to protecting the Nation's security. We all have a firm commitment to a strong national defense, but not all of us support the massive increases which the President continues to insist upon. We must follow a more prudent course which allows defense spending to grow at a rate which we can more nearly afford and which is not financed on the backs of America's neediest citizens.

The President is still wedded to—and vehemently defending—the third installment of the tax cut which was enacted and which is tilted to favor the most affluent of our citizens and which only tips its hat to the poor and middle class. The President is still standing by the indexing of tax rates, which I voted against, and which will further bleed the Treasury dry of revenues it so desperately needs. Rather than modify this unfair and unwise tax policy, the President proposes that the Congress enact a stand-by income tax surcharge and an excise tax on oil, a tax which would mean higher home heating bills for millions of hard-pressed Americans who can ill afford them.

The President says that he will propose a "freeze" on Federal spending. The President has adopted the rhetoric of a spending freeze, but in fact he is proposing something quite different. As I read the fine print, the President's "freeze' is one which asks the elderly, the poor, the middle-class Americans, the veterans, the railroad retirees, and others to accept sacrifice, while continuing a massive defense buildup we cannot afford, which is bound to entail a considerable amount of waste, and he refuses to "freeze" the Kemp-Roth tax cut for high income people at the current level.

Parenthetically, may I say that the administration has not yet sent up the name of a nominee for Inspector General in the Defense Department, whose role it is to ferret out mismanagement and waste. Congress, last September, I believe, passed legislation to provide for an Inspector General in the Department of Defense. I hope the administration will soon send up that nomination.

The President says that he will ask for a 6-month freeze on cost-of-living benefit increases for social security beneficiaries, for the elderly and disabled poor who receive benefits under the supplemental security income program, and for veterans on disability and pension benefits. He proposes a 12-month freeze on pay for military and civilian Federal employees, and a 12-month freeze on military and civilian retirement benefits. He proposes to freeze the broad range of domestic nonentitlement programs at 1983 levels—programs which have already been cut to the bone, and which provide ever more desperately needed aid to those who are in want. These affect the citizens who already have sacrificed and who are being asked to sacrifice more.

These, then, are the basic elements of the President's budget program. It is a program which would leave this Nation with deficits of $189 billion in fiscal year 1984 and $194 billion in fiscal year 1985. Even in fiscal year 1988, the President projects a deficit of $117 billion.

If this is a nation "on the mend," as the President told us Tuesday evening, then I would hate to see one on the critical list. For the President has not offered us a credible, realistic, or fair and even-handed road to bringing Federal deficits under control, deficits whose unprecedented magnitude threaten even the weak and fragile recovery that economists are now beginning to predict. Instead, he offers a continuation of a deeply flawed program of massive, almost uncontrolled defense spending, unaffordable and unfair tax cuts that favor those who are already well-to-do, and sacrifice from the poor and middle-income American.

But the human side of the question is the one that, for me, is overriding.

Every morning and night for the past several weeks, the Nation's television viewers have been exposed to the true state of the Union.

The human state of what the President described as "this painful period" has been displayed. There we have seen the tents in Texas housing families who 2 years ago were members of the middle class in other cities in our country. There we see the reports of the increases in suicides, in battered spouses, and in battered children. There we see the interviews with the men and women barely holding on—with their fingernails—to their dignity.

As Senators, we hear more of this. We meet the real state of the Union in our mail pile, on the streets back home, and in visits with deeply concerned constituents.

Mr. President, the Nation may well be "on the mend," as the President said last night.

But an administration that still has not developed an understanding of what is fair and what is not, is not—I am sorry to say—likely to help it along the way very quickly.

Regretfully, this is an administration which thinks it is fair to delay for 6 months the few dollars in cost-of-living increase due a senior citizen receiving social security, veterans benefits, civilian, railroad, or military retirement benefits, at the same time it fights to protect a tax cut that will deliver $2,368 a year to those who earn $100,000 a year.

Regretfully, this is an administration which proposes a new program of catastrophic health insurance protection for senior citizens on the one hand, and proposes to pay for it by increasing cost-sharing deductibles for these very citizens at the same time.

This is an administration which proposes a new education savings account, an attractive idea on the surface, but a hollow promise for the increasing millions of Americans whose economic circumstances leave them too hard-pressed to even think of putting away savings for a rainy day or their children's future.

This is an administration which still apparently fails to understand the need for Government to help directly in putting our Nation's jobless back to work by creating programs which pay the unemployed to repair and improve the Nation's infrastructure and to deliver vital services in their local communities.

In the coming weeks and months, Senate Democrats will offer proposals of our own to address the challenges which confront this Nation. We will propose means of meeting the emergency human needs created by this recession and for turning around our troubled economy. We will offer proposals to help us meet the long-term economic challenges of international competition, regional economic imbalances, and the ever-accelerating pace of structural change in the American economy. We undertake this task in a constructive spirit. We welcome the opportunity to work with our colleagues on the other side of the aisle and with the President to put in place the policies and programs which are so sorely needed to restore this Nation's economic health.

We have done this in the past. We have not seen a great deal of bipartisanship during the past 2 years with respect to measures that were offered from this side of the aisle and which, in most cases, were summarily and perfunctorily voted down without debate on the merits.

So I welcome the prospect of bipartisanship in this regard, and I hope that amendments this side of the aisle will offer in the future will be considered on their merits and voted up or down on their merits.

(The remarks of Mr. BYRD relating to the introduction of legislation are printed under Statements on Introduced Bills and Joint Resolutions.)

RECOGNITION OF SENATOR THURMOND

The PRESIDING OFFICER. The Senator from South Carolina.

(The remarks of Mr. THURMOND in connection with the introduction of legislation relating to crime are printed under Statements on Introduced Bills and Joint Resolutions.)

(The remarks of Mr. GORTON, Mr. JACKSON, and Mr. HATFIELD at this point relating to the introduction of legislation are printed under Statements on Introduced Bills and Joint Resolutions.)

(The remarks of Mr. SPECTER relating to the introduction of legislation are printed under Statements on Introduced Bills and Joint Resolutions.)

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. There will now be a period for the transaction of routine morning business for not to exceed 2 hours.

EDWARD O. CARR, PRESIDENT, AMERICAN ASSOCIATION OF BLOOD BANKS

Mrs. HAWKINS. Mr. President, I would like to call to the attention of my colleagues a most distinguished Floridian who was recently elected president of the American Association of Blood Banks, Mr. Edward O. Carr, assumed the presidency of this 9,000 member medical association at its 35th annual meeting in Anaheim, Calif., on November 9, 1982.

Mr. Carr is executive director of the Central Florida Blood Bank, Inc. in Orlando and is also a past president of the Florida Association of Blood Banks.

The American Association of Blood Banks is the largest organization in the world devoted exclusively to blood banking. More than 2,300 hospital and community blood banks are members of the AABB, and almost 7,000 physicians, administrators, scientists, nurses, medical technologists, and donor recruiters also belong.

Mr. Carr has been active for many years in the AABB. He has also served previously as the association's vice president and has also been a member of its national committee on clearinghouse program which provides for the transfer of blood and blood credits between facilities across the country, thus assuring the most efficient and economical use of blood resources.

A graduate of Mississippi State University, Mr. Carr received his blood banking certification at the University of Alabama Medical Center in 1966.

Mr. Carr and his wife, June, reside in Orlando, Fla. They are the parents of two children, Todd, a senior at Florida State University in Tallahassee, and Kelly, a sophomore at Clemson University.

On behalf of the thousands of patients and blood donors in Florida and throughout the country that Mr. Carr has served so well, I want to congratulate him and wish him well in his service to the American Association of Blood Banks.

COMMEMORATING THE BIRTHDAY OF JOSE MARTI

Mrs. HAWKINS. Mr. President, I rise today to draw to the attention of the Senate and to commemorate the anniversary of the birth of a great man—Jose Marti. Marti, born some 130 years ago tomorrow, came to be known as the Apostle of the Cuban independence movement, and history has honored him as one of the great champions of freedom in the Americas, ranking with George Washington, Simon Bolivar, and Jose San Martin. Marti combined his zeal for freedom with a burning desire for democracy and a deep respect for the rights of the individual. In the depth and soundness of his philosophy, he has been compared to Thomas Jefferson.

The ideals held so dearly by Marti transcend national divisions and his efforts to see those lofty ideals transformed into reality would alone justify our honoring his anniversary today. There is, however, another reason for my tribute today. Jose Marti is the national hero of the Cuban American community, now living in exile in the United States. Marti himself lived for many years in the United States, in exile, as he struggled on behalf of the liberty of Cuba. So in this sense, Jose Marti's spirit lives today because his aspirations for a free and democratic Cuba remain unfulfilled. Cuba is today still an oppressed land, captive to the designs of a foreign power from the other hemisphere. When we remember Marti, we remember the aspirations of all people to live freely in their homeland, to be free of foreign domination, and to establish democracy for themselves, and their fellow citizens.

When we remember Marti, we think first of his role as the great leader of Cuba's struggle for independence. However, removed as we are from the issues and debates of the 19th century, we may be tempted to consign his genius to the debates of a bygone age. This would be a tragic mistake. Jose Marti spoke, wrote, and fought for ideas that are timeless, and the 74 volumes of his collected works are alive with messages which are of burning importance today.

The enduring message of Marti was expressed in this passage from his works:

> In truth, authority is degrading when it is not a trust and a mandate from those who are to obey it, because any other type of authority involves the abasement or diminishment of those who endure it, and only a man of mean and vulgar character will watch without bitterness the demeaning of other men. Satisfaction comes from seeing men free, even when they err, with the dignity of free thought and the beauty, the natural peace, that comes from its exercise.

Marti's devotion to democracy is of particular relevance to this body because his name has been attached to the proposed U.S. radio station for broadcasting accurate news and information to the people of Cuba. Jose Marti's reputation as a scrupulously accurate journalist, as well as a committed democrat, underscores the appropriateness and integrity of this long overdue U.S. policy action.

I am pleased that we can honor Jose Marti today here in the bastion of democracy—the U.S. Senate, and I hope that this body will act quickly and favorably on the proposal that carries the name of this brave and dedicated man.

GENOCIDE CONVENTION AND THE WORDS OF ANDREI SAKHAROV

Mr. PROXMIRE. Mr. President, 3 years ago this month, the great Soviet physicist and outspoken political dissident, Andrei Sakharov, was abducted from the streets of Moscow by the KGB. Since that time, the Soviets have proved unyielding on letting him return home, and Sakharov remains in exile today in the provincial town of Gorki.

In spite of his separation from other political dissidents and supporters in the West, Sakharov refuses to let the Soviet ploy silence him. Deprived of books, papers, and scientific contacts, he continues to defend human rights, criticize the nuclear arms race, and fearlessly challenge Soviet power.

"On Sakharov," a book edited by the recent Soviet emigré Alexander Babyonyshev, presents an interesting chronology of Sakharov's life. Through tributes from other dissidents, essays about Sakharov's scientific career, and letters and statements by Sakharov himself, a compelling and courageous biography unfolds. I would like to recount a passage from the book that I find particularly wise and moving. As Sakharov wrote in 1980:

> The ideology of human rights is probably the only one which can be combined with such diverse ideologies as communism, social democracy, religion, technocracy, and those ideologies which may be described as national and indigenous. It can also serve as a foothold for those who do not wish to be aligned with theoretical intricacies and dogma and who have tired of the abundance of ideologies, none of which have brought mankind simple happiness.
>
> The defense of human rights is a clear path toward the unification of people in our turbulent world and a path toward the relief of suffering.

We should applaud Sakharov's bravery and heed his message in defense of human rights. Eighty-five nations around the world have already taken one small but positive step in defense of one of the most fundamental human rights, the right to live. By ratifying the Genocide Convention, they have gone on record as opposing the elimination of any national, ethnical, racial or religious group. The United States, supposed champions of human rights, stands alone among the developed nations in its failure to ratify this non-partisan non-ideological document.

The treaty relies on public and international conscience through a code of conduct outlawing genocide and offers an international basis for nations to stand together against this heinous crime.

Let us follow the words of Sakharov and others who have spoken out

against human rights violations by casting our vote in favor of ratifying the Genocide Convention.

NOW LET US GET SERIOUS AT GENEVA

Mr. PROXMIRE. Mr. President, many Americans oppose the vigorous pursuit of negotiations with the U.S.S.R. to freeze and reduce nuclear weapons on the ground that we simply cannot trust the leaders of the Soviet Union to keep their word. Yesterday I called the attention of the Senate to a Newsweek article that appraised the prospects for our verification of such an agreement to assure us once we ratified the treaty that the U.S.S.R. was keeping their side of it. Today I ask my colleagues to consider a remarkable and brief summary by McGeorge Bundy of why we can and must vigorously negotiate and press hard for an agreement with the U.S.S.R. Mr. Bundy served as the special assistant for national security to both President Kennedy and President Johnson.

Mr. Bundy admits that:

No one without blood on his hands, lies in his throat and terrible secrets in his head has ever come to the very top in Communist Russia. (But) they govern a great nation, and we must never assign to the Soviet people as a whole the offenses of their rulers. We are stuck on the same small planet, sharing the same thermonuclear danger. This reality alone is enough to require a strong and persistent effort to do most serious business with this most unappealing regime.

I ask unanimous consent that the text of this statement from the January 9 Washington Post be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHAT IF THE CHARGES ARE TRUE?

(By McGeorge Bundy)

For 65 years now, Americans have been having a hard time with the dark side of the Soviet system. Are they such cheats and liars and murderers that we cannot do business with them? Are they merely ordinary despots with the ordinary habits of their breed? Or are they more sinned-against than sinning, so that the real enemies of Soviet-American harmony must be sought in our own ranks? All these views can be heard again as we contemplate the ugly evidence of yellow rain in Asia and the still-more ugly possibility of a Bulgarian connection. Perhaps it is time to recognize that all three of our traditional attitudes are wrong.

Let us begin by assuming the worst: that the people who lied about missiles in Cuba are lying about yellow rain, and that the people who wanted Trotsky dead could want a non-Polish pope and let their wants be known to others. The present evidence on yellow rain is strong, and on the Bulgarian connection weak, but I am only assuming the worst, not asserting it. I do not see how we can honestly tell ourselves that such assumptions are preposterous, and not at all because "we are just as bad." It is true that even in our deeply different society there has been clumsy assassination plotting, but it remains wholly implausible, that the presidents of that time ever ordered or approved such plots.

Soviet behavior in such matters is totally different from anything in our own gray past. Systematic deception, obsessive secrecy and ruthless political killing are all deeply rooted characteristics of the Soviet system. No one without blood on his hands, lies in his throat and terrible secrets in his head has ever come to the very top in Communist Russia. Moreover, the guilt becomes collective by its collective denial. Forty years later, these men still cannot face the truth about Katyn.

But it is a long and wholly unjustified jump from these realities to the conclusion that we cannot do business with such men. They govern a great nation, and we must never assign to the Soviet people as a whole the offenses of their rulers. We are stuck on the same small planet, sharing the same thermonuclear danger. This reality alone is enough to require a strong and persistent effort to do most serious business with this unappealing regime.

The most dangerous moment we have had with them, the Cuban missile crisis, was caused by terrible failures of perception on both sides, and its peaceful resolution was the consequence not only of determination and strength, but of intense communication. Arms control negotiations have a much more complex history, but the common testimony of American negotiators of all persuasions is that when we are serious, the Soviets can be, too.

In less apocalyptic matters, we can find similar lessons: for example, we know from nearly 30 years of Austrian freedom that these men can keep their word when they find it in their interest to do so. Even the most sinister assumptions about chemical warfare and plots to kill cannot change these realities or our own interest in building on them.

But should we simply ignore the yellow rain and the possible Bulgarian connection? Of course not. The energetic exposure of outrageous behavior is our very best way of raising its cost in the eyes of these highly realistic calculators. Private citizens can and should hold Soviet feet to the fire of truth, as groups like the Helsinki Watch have done with great skill in the field of human rights. Governments can and should press their concerns where they can, though their standard of evidence must be high.

There are sensitive questions as to which official should say what and about whom, but our own sense of what is fitting should govern the answers to such questions. Soviet touchiness is another reality, but the character of Soviet propaganda—which is just as much Andropov's doing as his own most solemn speech—allows us to adapt Adlai Stevenson's famous theorem: the time to stop telling the truth about these people will not come before they stop telling lies about us.

And now let's get serious in Geneva.

CHILD IMMUNIZATION

Mrs. HAWKINS. Mr. President, immunizing our children against infectious and life-threatening diseases has been one of the most successful health programs administered by this or any other government. Because of the strong Federal involvement in immunization programs, we have made tremendous progress in eliminating preventable childhood diseases—especially during the last 20 years. Measles and polio, once almost inevitable, have been nearly eliminated. Other diseases, such as mumps, pertussis, diphtheria, and rubella, are also on the decline. Recently, however, there have been threats to this progress. Proposed reductions in Federal funding and concern about adverse reactions to the pertussis vaccine and the inefficient use of Federal vaccine purchases have threatened our immunization program.

This is the 20th century. Up to now, this country has had an astonishing victory over disease. To allow these programs to decline would be barbaric. We cannot afford to send this country back into the 19th century—even though it might help the deficit. But can you imagine what a serious disease epidemic would do to our country? Millions of unvaccinated children would be crippled for life—or die.

My Subcommittee on Investigations and General Oversight held two hearings during the 97th Congress to review the status of the childhood immunization program and its future direction. Among the topics considered were the need for increased Federal funding for the program and the controversy surrounding the possible side effects of the pertussis vaccine. We also discussed the best way to achieve the most effective use of Federal and State expenditures for the purchase of children's vaccines.

These hearings clearly indicated that dramatic increases in the costs of vaccines result in fewer children immunized. Representatives from the Center for Disease Control in Atlanta testified that the price of the measles-mumps-rubella vaccine, or MMR, increased 44 percent last year. The price for the polio vaccine increased 20 percent. Over the last 5 years the price of these vaccines has nearly doubled—far in excess of the rate of inflation. Federal financial support absolutely must increase to meet those high prices.

The hearings also demonstrated a dangerous contradiction: Although the benefits of the pertussis vaccination far outweighed the risks, the acknowledged adverse reactions from the vaccine were so eroding public confidence that many frightened parents refused to vaccinate their children. We must restore public confidence in this vaccine. We must research and identify the categories of children who are most susceptible to an adverse reaction. We must intensify our efforts to find a vaccine for pertussis that is safer but as effective as the current vaccine.

Another issue highlighted during the subcommittee's hearings was the variation in the costs that States are paying for vaccines. Some pay double

the price charged to others. Now, the purpose behind the CDC's vaccine purchase program is to purchase vaccines at the lowest possible price. We must insure that the various State health contracting officers are aware of this service.

Mr. President, I have been very impressed and gratified by Secretary Schweiker's response to the concerns raised during these hearings. He has recommended additional Federal funding for child immunization programs and the Appropriations Committees did respond favorably to his recommendations.

I ask unanimous consent that correspondence between Secretary Schweiker and me on this issue be printed in the RECORD as if read.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE, COMMITTEE ON LABOR AND HUMAN RESOURCES, SUBCOMMITTEE ON INVESTIGATIONS AND GENERAL OVERSIGHT,
Washington, D.C., September 28, 1982.

Hon. RICHARD S. SCHWEIKER,
Secretary, U.S. Department of Health and Human Services, Washington, D.C.

DEAR MR. SECRETARY: I am writing to request your assistance on a matter of great importance with regard to this nation's childhood immunization program. Because of the strong involvement of your Department in immunization programs across the country, there has been a dramatic decline in the prevalence of seven preventable childhood diseases. I highly commend the efforts of the federal government which has provided financial and other assistance to state and local health agencies in order to protect our children against disease.

I am concerned, however, about the safety and efficacy of the pertussis vaccine. In March of this year, the Subcommittee on Investigations and General Oversight, which I chair, undertook a review of the status of the childhood immunization program and its future direction. In April, well after the Subcommittee began oversight of this program, a documentary aired on a local television network regarding adverse health effects associated with the pertussis component of the Diphtheria-Pertussis-Tetanus vaccine. I felt that it would be tragic if efforts to eliminate or control disease were to become hampered because the public's confidence was so eroded as to cause frightened segments of the population to reject the pertussis vaccine. For this reason, I expanded the scope of the hearing to include testimony on this issue.

At the hearing, which was held on May 7, 1982, the Subcommittee received testimony from officials of the Centers for Disease Control and the Food and Drug Administration, parents, legal counsel, physicians, and state health officials. Although there is widespread agreement in the scientific community that the benefits of pertussis vaccination far outweigh the risks associated with the vaccine, adverse reactions to the vaccine were acknowledged. The major issue regarding reactions to pertussis vaccine was noted to be the relationship between the vaccine and encephalopathy with resulting permanent neurologic damage. Hopes were expressed that an improved pertussis vaccine would be made available.

From the testimony presented at the hearing, the Subcommittee drew several conclusions. First, to combat the fear of adverse reactions to vaccine administration and to maintain high immunization rates, full public communication and health education is essential. The general public has a right to be given information about vaccines, even in areas of scientific and medical uncertainty. The issues must be presented to the public clearly, with candid disclosure of the risks as well as the benefits of vaccines. If a vaccination is not recommended for particular classes of individuals, that fact should be stated and those high risk individuals screened, if possible, to prevent administration of the vaccine to them. Parents should be fully informed and on the lookout for adverse reactions. Accurate and timely reporting and statistical gathering on adverse reactions is critical in order that a realistic picture of the problems associated with the use of a particular vaccine can be compiled. Risks from vaccines also warrant increased efforts to produce safer vaccines.

With regard to the pertussis vaccine, I believe that efforts in governmental, manufacturers' and investigators' laboratories must continue so that we better understand pertussis, the body's response to it and ways to make an equally or even more effective vaccine which has few or no side effects. For this reason, I introduced, on September 23, 1982, S. 2950, which calls for a study of pertussis and pertussis vaccines with the goal of reducing the risks to children of significant adverse reactions to pertussis vaccines, while maintaining or improving the effectiveness of such vaccines. I have attached a copy of the legislation.

Although I am fully prepared to press for passage of this legislation, I would prefer that the spirit and letter of S. 2950 be implemented administratively. I believe that the study provided for in S. 2950 can be undertaken pursuant to your authority under Section 301 of the Public Health Service Act. I would be most appreciative of your agreement to undertake this study, in conformance with the purposes, guidelines and mandates of the legislation, since I feel that the same goals can be achieved without the necessity of a legislative mandate.

We cannot afford revival of serious childhood epidemics. Public policy dictates that safe and effective immunization programs be implemented and maintained. I hope to receive a favorable response to this request soon, so that we can continue our efforts to protect our most valuable resource—our children. Thank you for your consideration of this matter.

Sincerely,

PAULA HAWKINS,
U.S. Senator.

DEPARTMENT OF HEALTH AND HUMAN SERVICES,
Washington, D.C., December 23, 1982.

Hon. PAULA HAWKINS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HAWKINS: Thank you for your letter regarding further evaluation of pertussis vaccines. We welcome the opportunity to address the issues outlined in S. 2950 without a specific legislative mandate. I firmly support the intent of the activities called for in S. 2950 and have asked Dr. Edward N. Brandt, Jr., Assistant Secretary for Health, to have the Interagency Group To Monitor Vaccine Development, Production, and Usage submit a report to me no later than May 15, 1983. I will then submit the report to you as soon as possible.

I share your view that the public in general, and parents in particular, should understand the risks as well as the benefits of vaccination. In May, Dr. William H. Foege, Director of the Centers for Disease Control, described for you the procedures we have developed to carry out this notification in the public sector. The forms we use are currently being revised. You will be furnished a set of the new forms when they become available in early 1983. In the private sector, the American Academy of Pediatrics, through its Committee on Infectious Diseases, has stressed the need for full discussion with parents.

Dr. Foege also described for you the system used to monitor adverse events following immunization in the public sector. The report you receive will include more detail on both this system and the notification ("important information") system and will also address the other issues in S. 2950.

The current epidemic of pertussis in Great Britain (their second in 5 years) underscores the need to continue using existing pertussis vaccines while we work to develop improved products.

I share with you the desire to ensure that the vaccines used in preventing diseases of childhood are as safe and effective as possible. I look forward to working with you and other members of Congress towards that goal.

Sincerely,

RICHARD S. SCHWEIKER,
Secretary.

The PRESIDING OFFICER (Mr. JEPSEN). The Chair recognizes the Senator from Rhode Island.

THE NUCLEAR FREEZE RESOLUTION

Mr. CHAFEE. Mr. President, yesterday, a resolution calling for efforts to negotiate a bilateral nuclear weapons freeze was reintroduced in the Senate. This is similar to the resolution that was introduced a year ago.

I am a cosponsor of that resolution and wish to explain my reasons for supporting the resolution.

I was an original cosponsor of this resolution last March when it was first introduced. At that time, Mr. President, I pointed out that I did not feel the effort to negotiate a bilateral freeze was the only potentially successful path to an arms control agreement. That remains my view. The freeze is not the only approach, by a long shot. Nevertheless, the freeze represents one of a number of potentially useful approaches to the problem of controlling the race in nuclear weapons.

Several important developments have occurred in the year since the freeze resolution was first introduced in this body. In a number of referendums, including one in my own State of Rhode Island, voters have expressed their approval of resolutions similar in intent to the one introduced yesterday.

Popular support for the freeze is a genuinely spontaneous manifestation

of growing public awareness of the dangers of the nuclear arms race and of the urgent necessity for arms control negotiations as a means of reducing these dangers.

We have also had a year of negotiating experience in Geneva concerning the intermediate-range nuclear forces (INF). These negotiations are now at a sensitive stage, as we approach the December deadline for initial deployment of the cruise and Pershing II missiles in Europe.

Last year, in cosponsoring the freeze resolution, I stated that support for this resolution is in no way intended to undermine or call into question our efforts in Geneva to negotiate concerning INF. I also stated that support for the freeze resolution should not be interpreted as calling into question our resolve to carry out our commitment to our NATO allies to proceed with whatever modernizations of our own forces are necessary, given Soviet missile deployments. We are particularly talking about the SS-20's—and in light of the negotiations taking place in Geneva.

This year, Mr. President, I believe it is even more important to reiterate this position. Having recently returned from a visit to Europe, I can report that our actions here in the Senate will be noticed in Europe and that it is very important that they not be misinterpreted as a lack of support for the NATO negotiating position and for our own negotiators.

I believe that the "zero option" which President Reagan has proposed, and which is the NATO position, calling for Soviet SS-20 missiles to be dismantled in exchange for the absence of deployments by NATO—namely, not proceeding with the cruise and the Pershing II missiles—is the right outcome. I do hope we are able to achieve this option, the zero option, which the President has proposed and is vigorously supporting.

Short of the zero option, it is my hope that some other form of negotiated agreement can be reached which reduces the numbers of American missiles which must be deployed in the next few years and which reduces the number of Soviet missiles already deployed. These negotiations are extremely important.

It would be most unfortunate if anything we do in the Senate were to be interpreted as undercutting the negotiations in Geneva or as reneging on our commitments to our NATO allies. It must therefore be stated clearly: the United States and its NATO allies are committed to deploying cruise and Pershing II missiles if negotiations fail to produce a "zero" outcome. Should such deployments be required, I will support them.

Similarly, the outcomes being pursued at the strategic arms talks, known as START, which entail reductions by both sides, are certainly laudable and worthy of support.

I believe these talks must also be carried forward diligently by both sides.

For my own part, I am pledged to continue to work for concrete, workable, and effective arms control proposals and to develop support for them on a broad and bipartisan basis. I hope that all my colleagues will join me in this quest, for I believe that the search for an arms control strategy which protects our own vital interests while curbing the arms race is the most important challenge facing every citizen of this Nation.

FAREWELL TO THE 4077TH

Mr. CRANSTON. Mr. President, it is with a certain sadness that I remind my colleagues that Monday, February 28, marks the final episode of the Emmy Award-winning television series, M*A*S*H.

Throughout its 11-year history, this program has won award after award for its innovative approach, for its consistent, fresh humor, and for its eloquent depiction of men and women trying to be human—and humane—in the midst of the most inhumane of conditions: war. Born at the close of our disastrous involvement in the Vietnam war, the M*A*S*H unit is set further back, in wartime Korea. But it could be anywhere in modern times where man is confronted with the insanity of war, where teamwork, courage, and compassion mean far more, in the long run, than ideology or national honor.

M*A*S*H reminded us, week after week, that while wartime may bring out the best in us, it can also bring out the worst, irrespective of which side one is on. Since the very function of the 4077th is to mend bodies to return them to further destruction, each episode is a vivid illustration of the waste and futility inherent in all warfare, cushioned though it is by the humor and horseplay so important in maintaining the M*A*S*H unit's sanity.

As a Californian, I am proud that my State is the one to have conceived and created M*A*S*H. I congratulate the producers, the writers, and the actors—everyone who worked so hard and with so much love to make this program one of the most memorable television experiences of the past decade.

CONCLUSION OF MORNING BUSINESS

Mr. BAKER. Mr. President, I see no Senator seeking recognition. I wonder if the Chair will inquire if there is further morning business to be transacted.

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, as I indicated earlier today, there is one matter on the Calendar of General Orders that can be dealt with, according to the notations I have at my desk.

I invite the attention of the minority leader to Calendar No. 1, S. 61, and inquire if he is prepared for the Senate to proceeed to the consideration of that item.

Mr. BYRD. Mr. President, there is no objection to waiving the 1-day rule. I understand there is no report accompanying the measure, so the 3-day rule would not apply. There is no objection, if the majority leader will be willing to say that no amendments to the bill will be in order.

Mr. BAKER. Yes.

NANCY HANKS CENTER

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1, S. 61.

I further ask unanimous consent that no amendment to that measure be in order.

I ask unanimous consent that the time for debate on this measure be not longer than 30 minutes, equally divided, with the control of time to be in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 61) to designate a "Nancy Hanks Center" in the "Old Post Office Building" in Washington, D.C., and for other purposes.

Mr. MOYNIHAN. Mr. President, my remarks at this moment will be brief, because I cannot suppose a more specific tribute to the memory of Nancy Hanks and a more concrete measure of the regard for her achievements than the fact that the very first bill to be reported in the 98th Congress and the very first bill to be passed by the Senate—as I have every expectation will be the case—is S. 61, reported unanimously by the Committee on Environment and Public Works, of which the senior Senator from Vermont (Mr. STAFFORD) is our respected chairman.

Mr. President, our distinguished and beloved majority leader observed that he would ask that there be 30 minutes of debate on this measure, equally divided. I simply observe that no division is possible. This body, I dare think, will be unanimous in its judgment, just as the committee was unanimous in its judgment.

We have here a bill which will create the "Nancy Hanks Center" and will do

so in the environs and including the Old Post Office Building on Pennsylvania Avenue, the Avenue of the Presidents. It will do so in honor of and in memory of a lady who served American Presidents with such great distinction and success, even as she served Governor Rockefeller of New York prior to that and in numerous efforts and enterprises both before and after.

Mr. President, it is a personal honor for me to speak in connection with this bill. It fell to me, 22 years ago, to draft the proposals that President Kennedy agreed to, establishing the Committee on Pennsylvania Avenue, which in time became a commission. We have worked 21 years in that effort, and it is now coming to some conclusion.

One of the first decisions that had to be made by that committee, headed by the distinguished American architect Nathaniel Owings—who this year was awarded the gold medal of the American Institute of Architects—was how to revitalize Pennsylvania Avenue as a matter of more than just urban design. It was a matter of political concern to President Kennedy that the Capital was floating out Connecticut Avenue and Massachusetts Avenue, in the manner of urban developments everywhere. But this city was designed to have this Capitol as its center, and to radiate from this Capitol as its center, and to radiate in particular along that great avenue, from here to the White House.

President Kennedy, in his inaugural parade, noticed that the city was sort of disappearing between here and the White House and that should this continue, something basic would be lost, not just to the design of the city but also to the symbolic arrangements of American Government which the design of this city was meant to embody.

We set to work, and one of the first issues that arose was with respect to the Old Post Office. The Federal Triangle was not finished when the Depression of the 1930's came. One of the few happy results of the 1930's Depression was that the Post Office was not torn down. Herein comes the role of Nancy Hanks, who very early on recognized that it should not be.

Was it discordant in design? Yes. Was it higher than allowed? To be sure. But was there anything like it in Washington? No, not at all. There are copies of it, things meant to be like it, elsewhere in the Nation, but this was the original, and it belonged on the avenue, not least because one of the things Americans come to their Capital to do is to see the view looking out over the Government buildings, from the White House to the Capitol. The only place you can do that today is at the top of the Washington Monument, where you have to squint through a little slit that might be more appropriate to an embattlement than to a memorial.

It happens that on the Old Post Office tower there is a spacious, attractive, marvelous viewing space that we are proposing the Park Service take over and run, as it runs the Washington Monument. The tower can fit four times the number of persons and get them there faster and give them, in some respects, a much more panoramic view of the city. It is right between the Capitol and the White House, where it should be.

Nancy Hanks' association with all these things was not central to her work, but it is symbolic of it. Her great achievement in the Nation was to head the National Endowment for the Arts, under President Nixon and President Ford. It is not generally recognized that it was under President Nixon that the support for the arts in the United States began to reach serious sums of money, significant sums, such that there would be consequences in that artistic community. This took place under Nancy Hanks with a measure of irresistible influence and the aid of her good friend Leonard Garment.

The appropriations for the arts endowment rose from $8 million, when she began, to $100 million when she left, and the United States entered the modern age as a government which supports the fine arts.

It is not much in vogue, Mr. President, to speak with pride about persons who have persuaded the Government to spend more money at just this moment. But Nancy Hanks never hesitated any more than her great friend and sponsor over the years, Nelson Rockefeller, hesitated to use public resources for public purposes.

One of the unanticipated consequences of her efforts, and a striking statistic, and the only one I will offer in this regard, is the increased audience for the dance in America. We have always been a people of symphony orchestras, we have always been a people much given to opera.

One of the bits of arcane information I bring to this Chamber is that Mozart's librettist, Da Ponte, emigrated to New York, the United States, toward the end of his life or in the middle of his life, and spent years as director of the New York Opera Company.

Opera is a long tradition with us. The man who did the libretto for Don Giovanni spent the last half of his life in New York City.

The dance is not that much an American tradition in the arts, but under the National Endowment from 1965 to 1980 the number of persons attending dance performances grew from 1 million to 16 million, quite an extraordinary change, and I might put it this way: in 1965, 80 percent of the dance companies and 80 percent of the audience for them were in New York City. By 1980, 80 percent of the audience and 80 percent of the companies were outside New York City.

I like to think of that as an advantage to us all. I would not think Nancy Hanks would be in the least hesitant to say that New York is where it came from, and that is all the credit and recognition we would ask.

She herself, of course, was born in Florida and raised in New Jersey. She attended Duke University, lived in Texas, worked for the longest while in New York.

She was the director of the Rockefeller Brothers Fund study "Prospect for America," published in 1965, which was a document surveying the whole of the Nation's interests, and doing so in an encyclopedic manner as, indeed, she was an encyclopedic person.

Her devotion to the arts was only the highest of her achievements, but by no means the only one, and it seems to me altogether appropriate that this first bill reported from a committee of the Senate and the first bill to be brought to the floor of the Senate should honor Nancy Hanks.

Mr. President, I thank the Chair for his courteous attention. I do not see other Senators wishing to speak. I believe the chairman of our committee will wish to have a statement in the RECORD, and I ask unanimous consent that the record be kept open for the remainder of the day for persons who might wish to do so. I know the chairman will want to indicate that the committee was unanimous in this recommendation, and although the bill appears as a bill with his name only on it, we would all wish to be associated with it.

The PRESIDING OFFICER. Without objection, it is so ordered.

● Mr. STAFFORD. Mr. President, on January 26 the Committee on Environment and Public Works reported an original bill to designate a "Nancy Hanks Center" at the Old Post Office Building in Washington. I want to state again that Senator MOYNIHAN and Senator RANDOLPH joined with me in sponsoring this measure in committee, which was unanimously reported from committee.

A number of our colleagues have cosponsored this legislation, including Senator HATFIELD, Senator PELL, Senator HOLLINGS, Senator TSONGAS, Senator COCHRAN, Senator HUDDLESTON, Senator BUMPERS, and Senator MATSUNAGA.

Those of our colleagues who knew Nancy Hanks were saddened by her death earlier this month. Almost immediately the thought occurred to many of her friends and former associates that the country should honor the memory of Nancy Hanks and especially recognize her outstanding public

service and her contributions to the arts.

Nancy Hanks served with great distinction as the second Chairman of the National Endowment for the Arts, from 1969 through most of 1977, a period including the terms of three Presidents. She provided strong leadership for the Arts Endowment at a very important point in the development of the agency.

Miss Hanks also was an early and effective advocate for the preservation and renovation of the Old Post Office and its use as the headquarters of Federal cultural agencies. She is gone before the entire project is complete, but the renovation is almost finished and dedication ceremonies are scheduled for early spring. It will soon be the home of Federal cultural agencies, including the National Endowment for the Arts, as well as a center of other cultural activities and commercial enterprises. The Old Post Office will truly be a building of mixed-use, a concept that she envisioned for this historic, monumental building.

It is, therefore, most appropriate that Nancy Hanks' memory be honored in this way—at the home of the agency she so ably led and at the building she so admired and fought to preserve. I am happy to be a party to this endeavor, and I commend the bill to all my colleagues.

Mr. President, I also want the record to reflect that the bill before the Senate today is substantially the same as the bill submitted to the Congress by President Reagan. I ask that the text of the letter from President Reagan to the President of the Senate and the Speaker of the House, dated January 26, 1983, be printed in the RECORD at the conclusion of my remarks.

The letter follows:

THE WHITE HOUSE,
January 26, 1983.

DEAR MR. SPEAKER: (DEAR MR. PRESIDENT:) I am forwarding for the consideration of the Congress a draft bill that would designate a "Nancy Hanks Center" in Washington, D.C.

Nancy Hanks served with great distinction as Chairman of the National Endowment for the Arts from 1969 to 1977. She provided wise leadership in defining a proper role for the Federal Government in the cultural life of the Nation and safeguarding the creative integrity of artists and arts institutions against Government interference.

The proposed Nancy Hanks Center would include the Old Post Office Building on Pennsylvania Avenue, the plaza adjoining the building and the public use spaces within the Old Post Office including the Pavilion and the clock-observation tower. This designation is particularly apt since the renovation of the Old Post Office, its occupancy this year by Federal cultural agencies and commercial enterprises and its exhibits are due in large measure to the foresightedness, persuasiveness, intellect, and vigor of Nancy Hanks. I believe that enactment of this legislation would serve the national interest by honoring one of its superb public servants in a permanent and meaningful way.

Sincerely,

RONALD REAGAN.●

Mr. STEVENS. Mr. President, as a member of the Interior Appropriations Subcommittee, I had the great pleasure of working closely with Nancy Hanks. Under her guidance, the National Endowment for the Arts grew to be the institution it is today, touching millions of Americans through thousands of grants to support arts projects across the country. Proof of her value was in her durability: unlike most, she survived a major change in administrations. Made Chairman of the Endowment during the Johnson years, Nancy stayed on through President's Nixon and Ford.

It will come as no surprise that I am particularly appreciative of Nancy's efforts to expand the range of NEA's grants to include organizations and communities of all sizes. Nancy was missionary in her zeal to "share the wealth" of developing the arts, and her dedication is rewarded by the numbers of Americans who have known the experience of participating in an arts festival, dance workshop, or symphony concert which was made possible through support from NEA.

I am pleased to be a cosponsor of this legislation to name the new home of the Endowments after Nancy Hanks. Her memory will bring the building great honor.

Mr. MOYNIHAN. Mr. President, I move third reading of the bill.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read a third time.

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I yield back all the time on our side. But, as I observed, there was and is a case of unanimity in the Senate here, and there being no other side, I presume to yield back all the time that remains.

The PRESIDING OFFICER. All time has been yielded back.

Mr. MOYNIHAN. Mr. President, I move the bill be passed.

The PRESIDING OFFICER. If there be no amendment, the question is, Shall the bill pass?

The bill (S. 61) was passed as follows:

S. 61

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress hereby finds and declares—

(1) Nancy Hanks served as Chairman of the National Endowment for the Arts from 1969 to 1977 and during that period presided with distinction over a substantial increase in support for the arts in the United States;

(2) She provided wise leadership in defining a proper role for the Federal Government in the cultural life of the nation, and safeguarding the creative integrity of artists and arts institutions against Government interference;

(3) Her wide-ranging interests in the arts, including architecture, led her to promote initiatives to improve the quality of Federal buildings and to work tirelessly to secure the preservation and renovation of the Old Post Office building as a headquarters for Federal cultural agencies and as a site for cultural and commercial activities that would enliven the building and its surroundings;

(4) The renovation of the Old Post Office Building, its occupancy in this year 1983 by Federal cultural agencies and commercial enterprises and its impending use for public performances and exhibits are due in large measure to the foresightedness, persuasiveness, intellect, and vigor of Nancy Hanks.

SEC. 2. There is hereby designated the "Nancy Hanks Center" in Washington, D.C., comprising the building located on the south side of Pennsylvania Avenue, Northwest, between Eleventh and Twelfth Streets which is known as and hereby designated the "Old Post Office Building," the plaza adjoining said building to the east and other immediately adjacent grounds, and the public use spaces within the Old Post Office Building, which include but are not limited to the commercial and performing areas known as the Pavilion and the clock-observation tower.

SEC. 3. (a) The Administrator of General Services, in consultation with the Chairman of the National Endowment for the Arts and the Chairman of the National Endowment for the Humanities, shall erect at suitable locations at the Nancy Hanks Center appropriate markers or displays commemorating the accomplishments of Nancy Hanks in the fields of government and culture and describing her actions and those of others, in Government and private life that led to the renovation and mixed-use development of the Old Post Office Building.

(b) The Administrator of General Services is authorized to expend for the purposes of subparagraph (a) of this section a sum not to exceed fifty thousand dollars available in any fiscal year out of revenues and collections deposited into the fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended, and any additional contributions of money provided to him by private individuals or organizations for these purposes within six months of enactment of this Act.

SEC. 4. The Administrator of General Services shall execute an agreement with the Secretary of the Interior providing for operation of the observation tower in the Old Post Office Building by the National Park Service and further providing, if necessary, for transfer to the National Park Service in fiscal year 1983 and each succeeding fiscal year, out of revenues and collections from the Old Post Office Building deposited

into the fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended, such sums as may be necessary to operate the observation tower.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the bill was passed, and I move to table the motion to reconsider.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, I thank the Chair for his kind cooperation in this matter, which means so much to so many of us.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEATH OF REPRESENTATIVE BENJAMIN S. ROSENTHAL OF NEW YORK

Mr. MOYNIHAN. Mr. President, on behalf of myself and Mr. D'AMATO, I send to the desk a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

A resolution (S. Res. 19) to express the profound sorrow of the Senate upon the death of Hon. Benjamin S. Rosenthal, late a Representative from the State of New York.

The PRESIDING OFFICER. Is there objection to the request of the Senator from New York?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MOYNIHAN. Mr President, I will detain the Senate only a short while in this matter. It is a formal expression by our body of the sorrow that we feel in the loss of a friend and colleague from the other body over so many years.

Mr. D'AMATO and I are especially grateful to the leadership of the Senate for allowing us the privilege of introducing the resolution.

Mr. President, the statement that we make today is one of a sense of loss and mourning and of respect. It is with particular thought to Representative Rosenthal's widow, Lila, that we take this action. She is in our thoughts at this moment, as she has been throughout the recent period.

It was remarked by the New York Times in a warm editorial, on the occasion of the memorial, about how many Members of the Congress, led by the Speaker himself, flew to Queens on a hard January morning for the final services that attended to the burial of our departed and dear friend. I was one of those and can attest to the sense of loss that was shared by us all.

Ben Rosenthal was a friend of a quarter century, a man who left an impression on the body he served so well and left a very powerful memory of public service behind. Most important of all, as that incomparable observer of American politics and those who profess it, David Broder, remarked not long after his death, in a column that no one could have read without remembering, Ben Rosenthal leaves behind a memory of the joy of battle. He said how we shall miss McCall of Oregon and Rosenthal of New York, two men from different ends of the country, wholly different views on many matters, but sharing in one thing—a joy in the conflict of ideas, in the struggle of interest, in the process of democracy and the freedom which it both guarantees and which it is intended to preserve.

He ended his column with the statement that we shall remember them in their laughter above the clash of battle.

That was very much both men, I am sure. It was very much Ben Rosenthal who had the experience of the long and the difficult, and which he knew to be irreversible. He was on the floor of the U.S. Congress not 9 days before he finally came to that which he knew well it would bring him, to death. He knew that word. He recognized it and accepted it.

He was sworn into the 98th Congress at the Georgetown University Hospital just a very short while before his passing. Not 3 days before that, he met his dear friend and another former member of the other body, Bob Drinan, a former member of the House who returned to academic pursuits at Georgetown University, who was faithful to his vows, as was Ben Rosenthal as well.

At the gravesite, we were reminiscing, and he spoke of the singular courage of the man in more somber circumstances that somehow permitted him even so a touch of the mocking and a deathless conviction on the values of life.

Mr. President, I am honored, as I say once more, and I would like to express my gratitude to the majority leader and the minority leader for allowing Senator D'AMATO and we this privilege of offering this resolution.

Mr. President, before moving that the Senate agree to the resolution, I ask unanimous consent to include in the RECORD, at this point, David Broder's column on Mr. Rosenthal and the eulogy spoken at the synagogue on the occasion of the burial service.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Jan. 16, 1983]

TWO MATTERS OF QUALITY

(By David S. Broder)

Two columns for the price of one today: the first on a problem that is all too prevalent, the second on two politicians embodying a quality that is all too rare.

The too-common problem is hardship in this time of economic recession. We all know it surrounds us, afflicts our communities and our fellow-citizens. But how many of us and how severely?

The answer to those questions is not a matter of pedantry but an essential prerequisite for framing intelligent national policy to target scarce dollars for maximum results.

Juanita Kreps, secretary of commerce in the Carter administration, and seven other distinguished economists have come out with a report showing that the methods the federal government now uses to measure economic hardship are "seriously deficient" for the job.

Those measures—principally the unemployment and poverty statistics—can seriously distort and disguise the scope and nature of the problem, exaggerating it at times and obscuring it at others.

For example, Kreps and her colleagues calculate that, in 1979, "more than half of those who were unemployed at some time . . . lived in households with total annual incomes in excess of $15,000." On the other hand, in 1981, "more than five million workers, who were never officially unemployed, lived in poverty."

Since the need to alleviate poverty is immediate, while the programs to reduce unemployment may well have to be long-term in scope, it is imperative to be able to measure these problems as precisely as possible—and to distinguish them from each other.

The statistics now available, according to Kreps and her colleagues, suggest that low wages and limited hours of employment caused more hardship, at least in 1979, than did unemployment.

But the need, they point out, is for data that is more current and geographically precise. "Basic hardship counts can now be calculated for the nation, for multi-state regions, and for the 10 most populous states," they point out, but not for the other 40 states and not for local labor markets.

The money it would take to improve and refine that data would be money well spent.

As for the quality that is too rare in politics, the one I'm thinking about is the combination of gentleness in personal dealings and absolute fearlessness in policy battles. The national supply of that quality was severely diminished by the deaths, just a few days apart, of Rep. Benjamin S. Rosenthal (D-N.Y.) and former Oregon Gov. Tom McCall (R), both victims of cancer.

Both of them were fierce fighters for the causes they believed in: consumerism in Rosenthal's case, environmentalism in McCall's. Both were instinctive civil libertarians, sensitive to any hint of bigotry or bullying. Their views of the outer world could not have been more opposite. McCall was a hawk from beginning to end of the Vietnam War, while Rosenthal was an early and passionate critic of the war.

What really made them stand out was their readiness to put aside any thought of political prudence and tackle the tough guys of their own parties when those antagonists were at the height of their power. Rosenthal did it with Lyndon Johnson, McCall with Richard Nixon and Spiro Agnew.

But off the stump, these were two of the gentlest gentlemen in politics. They had no pomp in their makeup. Both of them could walk away from a fight and come up laughing. They invited teasing, and could outdo anyone in parodying the way they sounded when they were in full flight of rhetorical battle.

They were, in their individual and inventive ways, obstreperous, but deliberately so, calculatingly, cunningly so. They devoted serious thought to devising the best techniques for needling their opponents or upsetting a gathering consensus. And because they loved that arena of political combat so well, they accomplished much more—and left more people mourning them—than those who are more decorous and detached.

Neither Ben Rosenthal nor Tom McCall ever forgot that the battling they so enjoyed depends, ultimately, on tolerance of dissent. More than most people in politics, they showed how to love their adversaries, for without their adversaries, there would be no one to sustain the quarrels they so dearly loved.

The sound of their voices raised in battle will be missed. And so will their laughter.

[From the Congressional Record, Jan. 25, 1983]

EULOGY FOR CONGRESSMAN BENJAMIN S. ROSENTHAL

(By Rabbi I. Usher Kirshblum)

"A prince and a great man fell" and is departing from us unto eternity. Congressman Benjamin Rosenthal, tall as he was from his neck down was even taller from his neck up. The mourners are by no means limited to the immediate members of his family. The citizens the of Borough of Queens, the City and State of New York, the Nation, Israel and the entire free world, have sustained an irreparable loss.

As I stand before you I can see Ben smiling at me quizzically and asking, "What am I doing in the Synagogue? This honor should be reserved for religious Jews." If religion is to be judged merely on the basis of one's observance then my beloved Ben would be absolutely right. But observance is just a holy means to an even holier and—the road which leads to the highest principles for which Judaism stands. By that standard I say, without any hesitation or mental reservation, Congressman Benjamin S. Rosenthal was a deeply religious man for he had built his entire life upon the highest principles of ethics, justice and morality.

It was in 1962 when I first met Ben at his office in Woodside. He was about to immerse himself in his first Congressional campaign. One issue plagued him. He knew that a large segment of his Congressional District was for that which he opposed. He sought guidance and advice. Who would have blamed him if he had compromised a little or hedged somewhat? But not Ben! He always followed the dictates of his conscience. He was prepared to lose the election but not his principles. He was elected by the narrowest of margins—just a few hundred votes. Think of it what a loss it would have been for our Country if this brilliant man were defeated because of his principles!

Throughout his career Ben never tried to guess what the people would want him to say or do but he felt that it was his duty not just to listen to his constituents but also to teach them right from wrong.

Ben was a champion of human rights. He was absolutely color blind, never able to distinguish between Jew and Christian, between Black and White. To him all were God's children created in His image. He looked afar, had great visions of a better and more peaceful world. But at the same time, he never lost sight of the little man in front of him who needed his help. He was most sensitive to the problems of the poor, the sick and the ill. Ben had a great love for Israel and its people but it was not a blind love. When he differed with some act or statement he did not rush with tongue or pen to criticize but confined his remarks to a very intimate group of friends. He had a deep concern for the Jews behind the Iron Curtain and he left no stone unturned until he rescued a number of them. At all times Ben walked in the footsteps of the Prophet, Micah, doing justly, loving mercy and walking humbly with his God.

Though completely dedicated to his calling, Ben served as a model for all politicians in his relationship with his family. He never allowed his career to interfere with the role that he loved most—a most caring son to his mother, Ceil, a most loving husband to his wife, Lila, a most devoted father to Debra and Edward, and most affectionate brother to his sister, Lola, and to Brian, who as his son by marriage and physician, was so close to him. His children were never resentful of his career. On the contrary, they were very proud of him because he never deprived them of his companionship. Tired as he was after a number of speaking engagements in New York he always rushed off to make the last shuttle to Washington.

Despite his illness Ben kept working almost to the very end. He did not miss an hour of the recent Lame Duck session. Though in great pain, he never complained but kept pushing and hoping to give more of himself in the coming days to his country and his people. After he was sworn in on Monday, God, in His merciful way, decided to grant Ben eternal sleep. Now free from pain, no longer to be tormented by the Angel of Death, he is going home for a complete rest. In a whisper Ben speaks to us,

Let me die working,
Still tackling plans unfinished, tasks undone,
Clean to its end, swift may my race be run.
No lagging steps, no faltering, no shirking,
Let me die working.
Let me die thinking,
Let me fare forth still with an open mind,
Fresh secrets to unfold, new truths to find.
My soul undimmed, alert, no questions blinking,
Let me die thinking.
Let me die laughing,
No sighing o'er past sins; they are forgiven.
Spilled on this earth are all the joys of heaven,
The wine of life, the cup of mirth still quaffing;
Let me die laughing.

S. HALL YOUNG.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 19) was agreed to, as follows:

S. RES. 19

Resolved, That the Senate has heard with profound sorrow the announcement of the death of the Honorable Benjamin S. Rosenthal, late a Representative from the State of New York.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate recesses today, it recess as a further mark of respect to the memory of the deceased.

Mr. MOYNIHAN. I thank the Chair.

Mr. BAKER. Mr. President, I thank the distinguished junior Senator from New York for bringing this matter to the attention of the Senate at this time and for addressing these very appropriate sentiments.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, there are certain other matters that can be dealt with, I believe, before we conclude the activities of the Senate today.

I point out again that when we passed Calendar Order No. 1, there is no other item on the calendar. I would remind Senators, however, that the leadership has requested committees to proceed as promptly as possible to report legislation to the floor so that we can utilize the time in this early part of the session to dispose of legislation as soon as possible.

REMOVAL OF INJUNCTION OF SECRECY AND REFERRAL OF TREATY TO COMMITTEE ON FOREIGN RELATIONS

Mr. BAKER. Mr. President, the request I am about to make has been cleared by the distinguished minority leader, I am told.

As in executive session, I ask unanimous consent that the injunction of secrecy be removed from an amendment to the 1972 Protocol to the 1928 Convention Concerning International Expositions (Treaty Doc. No. 98-1), transmitted to the Senate today by the President of the United States; and ask that the amendment be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

I transmit herewith an amendment to the Protocol of November 30, 1972 (TIAS 9948) to the Convention of November 22, 1928 concerning International Expositions (TIAS 6548, 6549) with a view to receiving the advice and consent of the Senate to its acceptance.

The purpose of the amendment is to permit France to commemorate the French Revolution in a universal exposition at Paris in 1989, and the United States and Spain to commemorate the discovery of the Americas in a two-site universal exposition at Chicago and Seville in 1992. The present

provisions of the Protocol do not permit the holding of a universal exposition in 1992 and another universal exposition only three years earlier in 1989. A minimum interval of seven years is required by the Protocol.

I submit herewith the Report of the Secretary of State on the amendment.

I strongly support the holding of a universal exposition to commemorate the discovery of the Americas and have previously designated Chicago as the site in the United States for that purpose. I recommend that the Senate give prompt consideration to the amendment and advice and consent to its acceptance.

RONALD REAGAN.

THE WHITE HOUSE, *January 27, 1983.*

EXTENSION OF TIME FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there be a further extension of time for the transaction of routine morning business, to extend not past the hour of 2:30 p.m., under the same terms and conditions as previously ordered.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE RECOGNITION OF SENATOR GRASSLEY ON MONDAY, JANUARY 31, 1983

Mr. BAKER. Mr. President, I ask unanimous consent that on Monday next after the recognition of the two leaders under the standing order, the distinguished junior Senator from Iowa (Mr. GRASSLEY) be recognized on a special order for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PERMISSION FOR COMMITTEES TO FILE REPORTS ON TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that committees may file reports between the hours of 10 a.m. and 5 p.m. on tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT OF RULE XXV OF THE STANDING RULES OF THE SENATE

Mr. BAKER. Mr. President, I send to the desk a resolution for myself and the distinguished minority leader and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

A resolution (S. Res. 20) to amend rule XXV of the Standing Rules of the Senate.

Resolved, That paragraph 2 of Rule XXV of the Standing Rules of Senate is amended by striking out:

"Armed Services ..... 17"

and inserting in lieu thereof:

"Armed Services ..... 18".

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. BYRD. Mr. President, I believe this merely comports with the action which has already been taken and is not, I say for the record, increasing the committee over a previous action.

Mr. BAKER. Mr. President, that is my understanding as well.

The PRESIDING OFFICER. Without objection, the resolution is agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RECORD OPEN UNTIL 5 P.M. TODAY

Mr. BAKER. Mr. President, I ask unanimous consent that the RECORD remain open until 5 p.m. today for the introduction of bills and resolutions, and the submission of statements by Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESOLUTIONS RELATING TO DEFENSE OF SENATE DEFENDANTS IN GRAHAM AND DAVIS CASES

Mr. BAKER. Mr. President, I have two Senate resolutions dealing with directions to the Senate legal counsel with respect to certain litigation. I would like to proceed to their consideration at this time, if the minority leader is agreeable.

Mr. BYRD. Yes, indeed.

Mr. BAKER. Mr. President, pursuant to Senate Resolution 477 of the 97th Congress, the Senate Legal Counsel is defending the Senate, the President of the Senate, and the Secretary of the Senate in an action by Members of the House of Representatives who are seeking to invalidate the Tax Equity and Fiscal Responsibility Act of 1982. The House plaintiffs contend that the act was passed in violation of the Origination Clause of the Constitution. On December 16, 1982, the U.S. District Court for the District of Columbia Circuit dismissed the complaint because the House plaintiffs lack standing and their grievance is with the Members of the House of Representatives who voted to pass the tax bill. The plaintiffs have now appealed to the U.S. Court of Appeals for the District of Columbia Circuit.

There are now two further lawsuits by individual taxpayers which claim that the act was passed in violation of the Origination Clause. These complaints also name Senate parties as defendants. The following resolutions will direct the Senate Legal Counsel to represent the Senate defendants in those cases.

DIRECTING THE SENATE LEGAL COUNSEL TO REPRESENT SENATE PARTIES IN ROBERT B. GRAHAM, SR. v. UNITED STATES OF AMERICA, ET AL.

Mr. BAKER. Mr. President, first, I send to the desk a resolution for myself and the distinguished minority leader with respect to the case of Robert B. Graham, Sr. against United States of America, et al., and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 21) to direct the Senate legal counsel to represent Senate parties in Robert B. Graham, Sr. v. United States of America, et al., Civil Action No. 82-5610.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 21) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 21

Whereas, in the case of Robert B. Graham, Sr. v. United States of America, et al., Civil Action No. 82-5610, pending in the United States District Court for the Eastern District of Pennsylvania, the constitutionality of the Tax Equity and Fiscal Responsibility Act of 1982, Public Law 97-248, has been challenged as having been enacted in violation of article I, section 7, Clause 1 of the United States Constitution;

Whereas, the complaint in this action names the United States Senate, the Honorable George Herbert Walker Bush, in his capacity as President of the Senate, and William F. Hildenbrand, Secretary of the Senate, as parties defendants;

Whereas, pursuant to section 703(a) and 704(a) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(a) and 288c(a) (Supp. V 1981), the Senate may direct its counsel to defend the Senate, its Members and officers, in civil actions relating to their official responsibilities: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to represent the United States Senate, the Honorable George Herbert Walker Bush, in his capacity as President of the Senate, and William F. Hildenbrand, Secretary of the Senate, in the case of Robert B. Graham, Sr. v. United States of America, et al.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DIRECTING THE SENATE LEGAL COUNSEL TO REPRESENT THE SENATE PARTIES IN CARL DAVIS v. THE UNITED STATES OF AMERICA, ET AL.

Mr. BAKER. Mr. President, I send another resolution to the desk for myself and the distinguished minority leader and ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 22) to direct the Senate Legal Counsel to represent the Senate parties in Carl Davis v. The United States of America, et al., Civil Action No. H-82-2862.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 22) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 22

Whereas, in the case of Carl Davis v. The United States of America, et al., Civil Action No. H-82-2862, pending in the United States District Court for the Southern District of Texas, the constitutionality of the Tax Equity and Fiscal Responsibility Act of 1982, Public Law 97-248, has been challenged as having been enacted in violation of Article I, Section 7, Clause 1 of the United States Constitution;

Whereas, the complaint in this action names the United States Senate, individual Members of the Senate, the Honorable George Herbert Walker Bush, President of the Senate, and William F. Hildenbrand, Secretary of the Senate, as parties defendants;

Whereas, pursuant to section 703(a) and 704(a) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(a) and 288c(a) (Supp. V 1981), the Senate may direct its counsel to defend the Senate, its Members and officers, in civil actions relating to their official responsibilities: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to represent the United States Senate, the individual Members who are named as defendants, the Honorable George Herbert Walker Bush, President of the Senate, and William F. Hildenbrand, Secretary of the Senate, in the case of Carl Davis v. The United States of America, et al.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I am advised the Senator from New Mexico (Mr. DOMENICI) is on his way to the floor to transact morning business. While we await his arrival, I suggest the absence of a quorum.

Before I do that, let me say I know of no other business to be transacted beyond that. As soon as the Senator from New Mexico completes his remarks and, if there are other Senators, they complete their remarks, it is the intention of the majority leader to ask the Senate to recess until Monday next according to the order previously entered. Until the Senator from New Mexico has arrived to make his remarks, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. DOMENICI relating to the introduction of legislation are printed under Statements on Introduced Bills and Joint Resolutions.)

CONGRATULATIONS TO DU PONT CO.

Mr. BAKER, Mr. President, I am pleased to bring to your attention and to the attention of my colleagues what I perceive as the beginning of a very heartening trend in wildlife conservation in this country.

The Du Pont Co. will contribute $50,000 this year to support and increase the U.S. Fish and Wildlife Service's propagation program for the American bald eagle, our national symbol.

The financial commitment to the U.S. Fish and Wildlife Service will enable the Interior Department agency to more than double the number of eaglets produced in captivity at its Patuxent Wildlife Research Center in Laurel, Md. The eagles are released in States where bald eagle numbers are low.

In a January 20 ceremony at the Patuxent Wildlife Research Center, Fish and Wildlife Service Director Robert Jantzen noted that Du Pont's support would be a lasting contribution toward the restoration of the bald eagle. It will make it possible for more of these majestic birds to exist, and it is hoped, to breed once again in places where their numbers had dwindled almost to the brink of extinction.

Speaking at the Patuxent Wildlife Research Center, Robert J. Richardson, exective vice president of Du Pont, said:

Du Pont feels privileged to be associated with the eagle program. The captive breeding techniques developed here have already made a significant contribution toward repopulating this endangered species.

The bald eagle program, conducted by the Fish and Wildlife Service at Patuxent, houses the world's largest captive breeding colony of American bald eagles. Young eaglets produced at the facility are returned to the wild in several States to restore depleted populations.

Since the pioneering effort began in the mid-1970's, the captive propagation program has produced 44 healthy eaglets for placement in Delaware, Georgia, Maine, New Jersey, New York, Ohio, Pennsylvania, Tennessee, and Virginia.

"Our support for this program will double the existing breeding colony and potentially triple the number of eaglets placed in the wild each year," Mr. Richardson said.

"We regard this as more than a grant," Richardson said. "It is a corporate commitment on behalf of wildlife conservation.

"We feel privileged to be part of the effort that will make it increasingly possible for Americans to have the thrill of seeing a bald eagle in flight."

Although a record 13 eaglets were produced in 1982, the Patuxent program still could not provide as many eaglets for release as were requested by State wildlife agencies. The Du Pont grant will be used to restore a number of large eagle enclosures and to add personnel to care for eagles. As a result, the captive breeding colony will be enlarged to include 12 pairs of breeding birds. Through husbandry techniques developed by Patuxent researchers to increase the rate of reproduction, such a breeding colony could potentially supply as many as 36 eaglets to the wild each year.

Patuxent is the largest wildlife research center in the world and is well known for pioneering research on the effects of contaminants on wildlife, studies of bird populations and habitat, and field research on endangered species such as the California condor, as well as for captive breeding of whooping cranes, Andean condors, bald eagles, and other endangered species.

Mr. President, I submit that both the Du Pont Co. and the U.S. Fish and Wildlife Service are to be commended for this farsighted and creative approach to wildlife conservation. We wish them every success in their restoration endeavors and we likewise offer our support and encouragement to other public and private interests to

explore ways to jointly promote conservation efforts in this land.

FACT FINDING TRIP TO THE SOVIET UNION

Mr. GRASSLEY. Mr. President, I ask unanimous consent that a report I recently submitted to the Senate Judiciary Committee regarding my trip to the Soviet Union be printed in the RECORD. I feel it contains important information that I now want to share with my colleagues.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

Re Fact finding trip to the Soviet Union
January 1–January 8, 1983
To Senate Judiciary Committee.
From Charles E. Grassley.

The primary purpose of this trip was to investigate the situation which Jews in general and refuseniks in specific, face in the Soviet Union. The trip was privately funded and included my wife Barbara and staff counsel, Ally Milder.

As I am sure members of the Committee are aware, Soviet Jewish emigration is at its lowest point since the movement was founded twelve years ago. Data indicates that only 2,670 Jews left the Soviet Union in 1982 as compared with a high of more than 51,000 in 1979. The severe decline in numbers along with heightened harassment of refuseniks and increased incidents of anti-Semitism prompted my visit. Additionally, questions have been raised regarding the status of Soviet Jews attempting to emigrate, i.e. whether they are bona fide refugees under the Refugee Act of 1980. I felt it necessary to explore the situation personally in order to obtain an accurate picture of the problem.

Visits with a number of Jews, both refuseniks and non-refuseniks, demonstrated to me that by and large those receiving permission to leave the Soviet Union fall under the definition of refugee contained in Section 201 of the Refugee Act. Additionally, it was not until I actually spoke with Russian citizens that I realized the extent of Soviet anti-Semitism and the problems those who attempt to practice their religion encounter.

Well educated, many refuseniks earned respectable wages as scientists and engineers—until they applied for visas. Treated as traitors, they are stripped of their professions, then imprisoned as "parasites" if they fail to secure the lowest paying jobs as janitors or elevator operators. Many survive only with outside assistance from sympathetic Westerners.

Oppression becomes pervasive, as refuseniks are subjected to constant KGB surveillance, as they're threatened and occasionally battered physically, as their homes are searched and as their phones are disconnected to impede the most basic communications with relatives and friends.

Illustrating the situation for those who have not applied for visas but face problems nonetheless is the story of one non-refusenik who reported that he graduated from the top of his class and should have easily secured a job in his chosen profession. During a series of job interviews, he repeatedly received positive feedback from prospective employers—until he was asked to produce an internal passport needed by all Russians for movement within the country. There, stamped prominently, was the word "Evrei" meaning "Jew." Suddenly, potential employers "remembered" that the opening for which they were still interviewing applicants had been filled. On the tenth interview, the young Russian landed a job after conveniently placing his thumb over the indicting term when asked to present his passport for inspection. His employer later attempted to issue a retroactive rejection, but was foiled because he had already signed government employment documents.

Illustrations were given of how difficult it is for Jews to advance in their professions. I listened to a story of how one man who was well respected at his workplace and in a managerial position found himself demoted both in position and salary though his responsibilities remained the same. Russians move up the ladder—Jews don't. Traditionally the universities were filled with Jewish students and professors. Not long ago 50 percent of the Moscow University Math Department students were Jews. today there is not one Jewish student in the department.

The situation continues to deteriorate. Recently 60 refusenik scientists were stripped of their degrees making it virtually impossible for them to continue in academic fields. Additionally a new and very disturbing wrinkle has appeared from Ovir (the Soviet Emigration Office). Many long-term refuseniks have been officially summoned to Ovir and received what is known as permanent refusals. Normally allowed to make applications every six months, these people have been told there is no point in reapplying as they will never receive permission to leave.

Jewish cultural activities have virtually come to a standstill due to constant KGB surveillance. Those who continue to maintain some form of Jewish identity such as teaching Hebrew or running cultural seminars risk serious consequences.

This harassment extends even to children as fifteen-year-old Emma Shifrin, a Moscow refusenik, was recently threatened with arrest by KGB officers who accused her of "spreading propaganda." (1983) 7 Alert no. 6 at 3.

Christian believers face similar problems if they attempt to actively follow religious practices. Though few are able to apply to emigrate, if they attempt to do so, they may suffer the same fate as the "Siberian Six" currently living in the basement of the American Embassy in Moscow. Their desperation was obvious during our visit on January 3, 1983. The only substantive promise I was able to make them was to write a letter to the Soviet Minister of Health requesting outside medical treatment for the mother, Augustina Vaschenko. The longer they remain in the Embassy the lower their spirits descend.

Recently there have been more and more instances across the globe of people leaving their countries for economic betterment claiming they are entitled to refugee status. Following this trip I am convinced more so now than ever before that this is not the case with Soviet Jews and they should continue to enjoy the full protection of the Refugee Act.

A question that has been raised in the past and will most certainly continue to be an issue regards resettlement of Soviet Jews to the United States rather than Israel. The Jewish Agency, the Israeli government's resettlement bureau, maintains that the decrease in Jewish emigration is largely due to the "drop out" rate of new emigrees, i.e. many are choosing to live in countries other than Israel.

I was repeatedly questioned by refuseniks about this problem. Many of the long-term activists are concerned about this, yet no one I spoke with indicated this was the reason for the decline of emigration. They stated it was merely the pretext given for justification of recent Soviet behavior.

The current position of the United States is aptly illustrated in the following passage which appears in House Judiciary Report No. 90-514 (August 1981):

"The United States does not accept the Israeli contention that the dropout rate significantly affects the willingness of the Soviet Union to allow Jews to leave. Both the United States and the Hebrew Immigrant Aid Society [HIAS] have stressed their commitment to allowing Soviet Jewish refugees in Austria freedom of choice in selecting third countries for resettlment . . . The arrival rate of Soviet Jews in Austria, by August 1981, declined to a level of approximately 400 persons per month—a drastic drop compared with figures for recent years. The decline generally is attributable to the deterioration in bilateral relations between the United States and the Soviet Union.

"Only 11,986 of 33,000 fiscal year 1981 Soviet refugee numbers had been used as of approximately August 11, 1981. The delegation, although deeply concerned about the Soviet Union's recent unresponsiveness to the desires of many of its Jewish citizens to leave, believes that the present situation is unrelated to American refugee policy. An amelioration of the present predicament of Soviet Jews may have to await developments in the broader foreign policy sphere."

House Judiciary Committee Report No. 94-675 (June 1982) regarding a study mission to Vienna and Rome reaffirms this view:

"The Embassy assessment of this situation tends to discount this rationale [the Israeli position] maintaining that the decrease [in Jewish emigration] is largely a result of bilateral U.S.-Soviet tensions brought about by the Soviet invasion of Afghanistan. The official U.S. government position remains one of giving the refugee the freedom of choice as to his destination once he arrives in Vienna."

Subsequent to the publication of Jewish Agency's policy, HIAS agreed to resettle only those Jews who had close relatives in the United States. This was done for a number of months but unfortunately emigration did not rise and in fact steadily decreased. HIAS has returned to its former practice of resettling those Jews who are interested in living in countries other than Israel.

I am of the firm belief that if any changes are contemplated regarding U.S. policy in the area of resettlement that they only be implemented following a full public discussion of all interested parties. I remain skeptical as to whether a change is appropriate, especially in light of the low emigration rate.

Though this current sad state of affairs may spawn a tendency toward negativism, the issue must remain at the forefront of American foreign policy. I intend to continually raise this issue with both American and Soviet government officials. I urge my colleagues to do the same. As proven in 1979, the Soviets will at times vastly liberalize emigration rights when they have a stake in such policies. Attempts to coordinate activities with other Western countries, especially in the areas of technology and grain trade, should be encouraged. Ad-

ditionally, the American business community should not be ignored. Sensitizing those who deal with the Soviet government is perhaps now the best leverage we have.

Finally, the problem of Soviet Jewish emigration must be raised in all negotiations with the Soviets, whether it be on arms control or cultural exchanges. If we as Americans recoil from solidarity with millions of oppressed people around the world we must confront the truth that we share the blame for their suffering and that our waning wills may ultimately assure our own undoing.

A DOUBLE SQUEEZE IS ON AT OUR COLLEGES

Mr. HOLLINGS. Mr. President, the other day there appeared in the Los Angeles Times a very informative article regarding the bleak future that private higher education faces in light of the policies of the Reagan administration. I call this article to the attention of my colleagues and ask unanimous consent, Mr. President, that it appear in full at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HOLLINGS. In her article, "A Double Squeeze is on at our Colleges," Julianne Still Thrift, executive director of the National Institute for Independent Colleges and Universities, correctly points out the shortcomings of the President's program. Regardless of the fact that Congress moderated the significant spending reductions the President requested in student financial assistance, the facts are now in and they indicate that students are turning their backs on the college of their choice and are opting for less expensive alternatives for education. The net result is that independent colleges and universities are bearing the brunt of enrollment declines. I, for one, find it very curious that this administration, which prides itself on seeking private initiatives and private sector solutions to problems rather than governmental ones, is devastating private education in such an unprecedented way.

Mr. President, no one needs to outline the many benefits that the independent colleges and universities have for so long provided our Nation. They are a unique and extremely valuable resource and their most beneficial contribution to our diversified system of higher education has served our Nation very well. It is my hope that Congress will continue to reject the administration's unwarranted spending reductions for student financial assistance. And, it is my hope that Congress will give scant attention to the several education initiatives the administration is considering. Ms. Thrift's article makes the case. It states very clearly the need for student financial assistance along the lines that Congress has seen fit to enact over the past several years. If this administration was serious about assisting students in their ambition to obtain an education, it would drop the publicity seeking proposals it has floated in recent weeks and concentrate on the working programs, improving on their administration so that the young people of this Nation would have true access to equal educational opportunity in all the Nation's colleges and universities.

EXHIBIT 1

[From the Los Angeles Times, Dec. 27, 1982]

A DOUBLE SQUEEZE IS ON AT OUR COLLEGES

(By Julianne Still Thrift)

The Reagan Administration has devised policies and proposed program cuts that are harmful to students—and to our diversified system of higher education.

Even though, with the help of Congress, our colleges and their students escaped the worst of the President's proposals this past year, much harm was done. We see the evidence of it now. And because of the abiding threat of further reductions in student aid—programs that already have suffered severe cuts under the Reagan Administration—students in large numbers are turning their backs on the college that they would like to attend.

Instead of going to the independent college or university whose environment and academic program responds to their needs and aspirations, many students are enrolling at publicly funded colleges in their home states. The reason is money. There is less grant money available now, and, if the President has his way, there will be far less next year. Students are shying away from assuming major loan burdens, especially with an ailing economy and diminishing career opportunities.

In recent years, more than 60% of the students in our independent colleges and universities have been receiving some form of federal student assistance. And these colleges, which have performed so well and are so crucial to our nation's pluralistic society, rely heavily on tuition income for their operating funds.

This academic year, we have seen that most of these colleges are suffering serious losses in freshman enrollment. There's a crucial irony in this; these institutions are a major ingredient of our heralded private sector—the sector that the Administration claims to support and expects to assume a larger role in an era of less government.

Yet full-time freshman enrollment at independent colleges is down more than 4% this year. The losses vary a good deal by geographic location and type of institution. Among the regions of the country, the Midwest and the Middle Atlantic states have been hardest hit. And, among the different types of institutions, "comprehensive colleges"—four-year schools with limited graduate programs—as well as the smaller, less selective, liberal-arts colleges have suffered the most.

What concerns me even more than the numbers are the kinds of students being affected. In the two-year span from 1979-80 to 1981-82, when our total private-college undergraduate enrollment rose more than 4%, we saw a 39% decline in student-aid recipients from families with incomes in the $6,000-$24,000 range.

In that period, with overall enrollment again on the rise, undergraduate recipients of student aid decreased from 60% of the enrollment to 56%. Pell Grants, which go to the neediest students, declined about 18%. Reliance on loans increased dramatically for students at independent colleges and universities.

In 1979-80 in the independent sector, proceeds from what are called "self-help" (loans, work and student savings) covered 31% of the average student budget. By 1981-82, that percentage had risen to more than 41%, which means an increase of about $1,000 per student.

At the same time, there was a major increase in institutional need-based aid—the resources that the colleges themselves pour into the student assistance pot. In 1981-82, 55% of students at private colleges and universities were getting help from this source, compared with 45% two years earlier. The average award went up from $1,196 to $1,424—a 19% rise.

It can be seen from these data that a double squeeze is on—a double squeeze that is adversely affecting our students and our colleges. If these trends are allowed to continue, *all* higher education (and our society as a whole) will be impoverished. The country needs these students—as graduates, not dropouts. Our country needs the independently controlled colleges that have been training them for citizenship and for productive lives.

CIVIL SERVICE SYSTEM ANNIVERSARY

Mr. HOLLINGS. Mr. President, today I want to recognize the dedication and accomplishments of a very undervalued group of people—America's civil servants. This month marks the 100th anniversary of the Federal civil service system, and it is fitting time for all of us to reflect on the considerable contributions that America's public employees have made to the Nation.

We all know, of course, that civil servants are under seige today—scorned by an administration and a philosophy that sees Government as the enemy. This administration is doing all it can to cut employees and destroy Government. It is ironic, is it not? For where would the vast majority of us be without Government and the services of dedicated Government workers? As a story I like to tell says, a veteran returning from Korea went to college on the GI bill; bought his house with an FHA loan; saw his kids born in a VA hospital; started a business with an SBA loan; got electricity from TVA; and, later, water from an EPA project. His parents retired to a farm on social security, got electricity from REA, and soil testing from USAD. When the father became ill, the family was saved from financial ruin by medicare, and a life was saved with a drug developed through NIH. His kids participated in the school-lunch program, learned physics from teachers trained in an NSF program, and went through college with guaranteed student loans. He drove to work on the interstate, and moored his boat in a channel dredged by Army Engineers. When floods hit, he took

Amtrak to Washington to apply for disaster relief, and spent some time in the Smithsonian museums. Then one day he wrote his Congressman an angry letter asking the Government to get off his back and complaining about paying taxes for all those programs created for ungrateful people.

And not only do we all rely on—and need—Government. The other thing is that most citizens who have dealt with Federal employees actually come away satisfied. That is the main finding of a recent Washington Post poll on the subject. Moreover, the Post also made another important observation. While politicians of all stripes attack the bureaucracy:

Many close observers of the Government's inner workings come away with a somewhat different verdict: that the bureaucracy, by and large, respects the limits of its authority; when it appears politically unresponseive, it is often because its political leadership does not understand how to lead.

Sure, Government could be improved, just like any other organization. And, sure, none of us like to pay taxes. But before we allow this administration to cripple Government, we ought to be candid about what we need from Government and what we get from it.

And make no mistake about it: this administration is crippling Government. Civil servants who point out improper administration actions or who disagree with industry positions find themselves transferred or fired. The bonus program that was designed to encourage and reward high performance in the senior executive service has been severely curtailed. And Government salaries, which 6 years ago were at par with private wages, as law requires, are not lagging by 13.9 percent. How can we recruit and retain high quality people under these circumstances? I realize the need to trim the Federal deficit, but it is unfair and ultimately self-defeating to try to balance it on the backs of Federal workers. The sacrifice America needs now is not the sacrificial burning of one part of the population, but rather a shared, across-the-board sacrifice by all to turn this economy around.

It is a further irony that we have never needed a competent American Government more than today. Our economy is in deep trouble, not only because of the Reagan recession but also because we have yet to meet the challenge posed by increasingly stiff foreign competition. The economic future belongs to those countries whose workers are the most technologically advanced, but this administration wants to cut funds for eduction. The economic future belongs to those countries in which Government, industry, and labor work together to prepare sound industrial growth programs, but this administration pursues its anti-Government strategy instead. Japan and West Germany—countries with active and highly trained Governments that work with business—are the economic success stories of our time. Yet this administration continues to ignore the lessons of their success, and at our peril. We need to learn how to compete internationally, and we cannot do that with a weakened and demoralized Government.

The performance of Government bureaucracy—just like the performance of business and labor—can and should be improved. But at the same time, all of us should stop making the civil service into our all-purpose whipping boy. Public employees, who do so much for all of us, deserve our gratitude—not this administation's contempt.

DEATH OF COACH PAUL W. "BEAR" BRYANT

Mr. DENTON. Mr. President, I was stunned and saddened yesterday to learn of the Death of Coach Paul W. "Bear" Bryant. He will live on in our memories because he did more than teach men how to be better athletes. He taught them how to be better men.

He was a man who, during his 38 years of coaching, had a remarkable effect upon the people with whom he came into contact.

One famous sportswriter said that, even if you have not met Bear Bryant, when he walks into the room he has the kind of face that makes you want to stand up and cheer.

In the January 24 edition of the New Republic magazine, writer Howell Raines, himself an Alabama alumnus, offered an article appropriately titled "Goodbye to the Bear." His observations certainly express what tens of thousands of Alabama fans must be feeling today. After tracing the Bear's rise to fame as head coach of the University of Alabama, he closed with the following:

But in Bear Bryant, with his big frame and crumpled face that looks like the relief map of a river system, Alabama at last had a hero of mythic scale. . . .

For that, many Alabamians will remember him fondly and miss him, and I count myself in their number. On December 29, I watched the broadcast of Bryant's last game. It was a victory just solid enough to arouse the hope that what is called "Alabama's winning tradition" can go on without him. But after twenty-five years in the stands, in front of television sets, and later, hunched over radios in distant cities where the signal from home was almost too faint to hear, I am tempted to announce my retirement as an Alabama fan. It can, after all, never be as good again. And believe me, to have been in the city of Tuscaloosa in October when you were young and full of Early Times and had a shining Alabama girl by your side—to have had all that and then to have seen those red shirts pour onto the field, and, then, coming behind them, with that inexorable big cat walk of his, the man himself, The Bear—that was very good indeed.

Bear Bryant leaves behind quite a legend: The winningest football coach in history. Breaking Amos Alonzo Stagg's old record of 314 wins on November 28, 1981, against Auburn, Bear's final tally at the close of his career reads 323-85-17. At Alabama his teams never had a losing season: they won five national championships, and participated in a record 24 consecutive bowl games.

Many newspaper and magazine articles, and television and radio programs, have chronicled the Bear's career. The front pages of today's Washington Post and New York Times, and the banner headline articles on both their sports sections are no exceptions. Mr. President, I ask unanimous consent that those articles be printed in their entirety immediately following my remarks.

Bear Bryant leaves behind many friends, and in my case there is a personal affiliation spanning two generations. Bear told me that my Uncle Troy gave him his first job (in Memphis, Tenn.), and then he growled about how low the pay was. That was, of course, before he started coaching. My uncle told me that Bear Bryant was his favorite and best friend, and when my Uncle Troy died of a heart attack Bear was a pallbearer at his funeral.

Bear Bryant leaves behind a fine family of his own: his wonderful wife Mary Harmon; a son, Paul Bryant, Jr.; his daughter, Mrs. John (Mae Martin) Tyson III; and five grandchildren. But his greatest achievement may be found in an even larger family. Sharing in that special group, in its proud and distinguished heritage, are his players and his staff, their mothers and fathers and children, their teachers and their pastors, and the fans who have been an essential part of his football teams.

For that larger family, Coach Bryant was not only father but also leader and teacher. His legend will live forever in their hearts. Paul William "Bear" Bryant: The Man—The Legend. All in all, a true American hero. On behalf of all Alabamians and all football fans everywhere, I say, "Thank you, Bear. It was very good indeed."

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Jan. 27, 1983]

BEAR BRYANT DEAD OF HEART ATTACK

Paul (Bear) Bryant, 69, the winningest college football coach of all time, died yesterday in a Tuscaloosa, Ala., hospital after a heart attack.

His death came less than a month after his last game as head coach at the University of Alabama, where he won five national championships. Bryant was hospitalized on Tuesday after complaining of chest pains.

[From the Washington Post, Jan. 27, 1983]

BRYANT "SET STANDARDS NOT EASILY ATTAINABLE"

(By Mark Asher and Dave Elfin)

One of the last people to see Paul (Bear) Bryant alive was Ray Perkins, his successor as football coach at the University of Alabama. News of Bryant's death a few hours later shocked Perkins, who had gone to Charlotte, N.C., after visiting Bryant at a hospital in Tuscaloosa, Ala., yesterday morning.

"I stopped by a few minutes before 9," Perkins said. "He said he was feeling good, and he was sitting on the side of his bed eating breakfast. The doctor said his vital signs were good. That's why I was so shocked."

Asked the one thing he will remember most about Bryant, whose 323 victories were more than any other college coach, Perkins answered the way many of Bryant's former players did:

"Being there and meaning an awful lot for a young man when he needed someone like that; and being there for a lot of other young men, too. That means more than winning all those games. I know that meant more to him, because he told me it did."

Steve Sloan, all-America quarterback at Alabama and now coach at Duke: "Coach Bryant was one of the greatest men of this century. Certainly his will to win will be a legacy for all athletes and people alike."

Marty Lyons, all-America defensive lineman in 1979 and now a member of the New York Jets' Sack Exchange: "I just owe the man a great deal of love and respect."

Richard Todd, New York Jets quarterback: "He should be best remembered for all the help he gave to a lot of people."

Lyons was so emotional, according to United Press International, he could hardly talk above a whisper.

Typical of the reaction from the coaching fraternity—not only from the 12 active coaches who had played for him—were comments by Joe Paterno of Penn State, last season's national champion, and John Merritt of Tennessee State, No. 4 in career victories.

"He was a monumental figure in intercollegiate athletics, a man who set standards not easily attainable by men," said Paterno, whose team's only loss last season was to Alabama.

Merritt: "Bear Bryant was one of a kind, and I think that when we go to try to find a replacement in our profession for him we're gonna find that there is none. There perhaps will never be one that can take his place. Bear Bryant is one of the true human beings who went about this earth doing good."

"The world today needs people to look up to," said Charley Thornton, assistant athletic director at Texas A&M and an assistant to Bryant for 18 years. "I think the whole nation lost a legend in the mold of John Wayne or George Patton . . . He taught you how to reach down and get that little something extra."

Woody Hayes still remembers the only time he coached against Bryant—his Ohio State team lost, 35-6, in the 1977 Sugar Bowl. "He beat my pants off," Hayes said. "He was a winner. He was honorable and he won with good, clean ballclubs."

[From the Washington Post, Jan. 27, 1983]

ALABAMA COACH DEAD OF HEART ATTACK

(By Bart Barnes)

Paul (Bear) Bryant, 69, who won more games than any other coach in the history of American college football, died yesterday at Druid City Hospital in Tuscaloosa, Ala., after a heart attack, less than a month after he retired from active coaching.

On Nov. 28, 1981, Bryant became the winningest coach in college history when Alabama beat Auburn, 28-17, for Bryant's 315th career victory, surpassing Amos Alonzo Stagg's record of 314 wins.

In an interview with The Washington Post that month, Bryant was asked what he would do when he retired from coaching. "I imagine I'll go straight to the graveyard," he said.

In a 38-year career, including 25 years at the University of Alabama, Bryant's lifetime record was 323-85-17. At Alabama he never had a losing season, and his teams won five national championships. Under Bryant, the Crimson Tide participated in a record 24 consecutive postseason bowl games.

Physicians said Bryant died after suffering a massive heart attack while being X-rayed at the hospital, where he had been admitted Tuesday after suffering chest pains. His personal physician, William Hill, said Bryant's heart stopped beating at 12:24 p.m. CST and immediate efforts were made to restore his heartbeat.

"We did put a pacemaker through his chest and were able to restore a weak heartbeat," Hill said. But he said Bryant was declared dead at about 1:30 p.m. Hill said Bryant had been on medication for mild heart trouble during the past few years.

Bryant's death came as a surprise; earlier in the day he had been reported in good spirits. "This morning he joked about going to Las Vegas," Hill said. "He said one thing he wanted to do was go back to Arkansas and do some duck hunting."

Alabama Gov. George Wallace ordered flags to be flown at half-mast throughout the state. He described Bryant as "a man among men who brought great fame and honor to Alabama."

And the White House released this statement from President Reagan: "Today we Americans lost a hero who always seemed larger than life. Paul (Bear) Bryant won more college football games than any other coach in history, and he made legends out of ordinary people.

"He was a hard, but loved taskmaster. Patriotic to the core, devoted to his players and inspired by a winning spirit that would not quit, Bear Bryant gave his country the gift of a life unsurpassed. In making the impossible seem easy, he lived what we strive to be."

A legend in the state of Alabama, Bryant's national image was that of a craggy-faced man with a houndstooth-checked hat and an accent straight from his native Moro, Ark., where he earned his nickname as a teen-ager by wrestling with a bear for a dollar at a country fair.

He played in the first football game he ever saw, persuading a shoemaker to attach cleats to his only pair of shoes. As a player, assistant coach and coach the game of football had dominated his life ever since.

But it became apparent to Bryant during the last season, in which Alabama went 8-4, including a victory over Illinois Dec. 29 in the Liberty Bowl, that he was losing his touch. When he announced his retirement on Dec. 14, he described himself as a "tired old man."

"We lost two games that we shouldn't have," said Bryant, adding that his players "deserve better coaching . . . there comes a time when you need to hang it up."

Bryant agreed to remain director of athletics at Alabama, but Ray Perkins, head coach of the New York Giants and one of Bryant's former players, was named to succeed him as head coach. In all, 44 of Bryant's former players or assistants became head college or professional coaches, including Jerry Claiborne at the University of Kentucky and Jackie Sherrill at Texas A&M, who last year became the highest-paid coach in college football history when he signed a $2 million contract.

Among the notable NFL players to have played under Bryant at Alabama were quarterbacks Ken Stabler, Joe Namath and Richard Todd.

Bryant was one of 11 children from a small town he described as "a little piece of bottom land on the Moro Creek about seven miles south of Fordyce." He played tackle at Fordyce High School and was recruited for Alabama. There, he became the "other end" opposite all-America Don Hutson on teams that went 23-3-2, won Alabama's first Southeastern Conference championship and beat Stanford in the 1935 Rose Bowl.

After six years as an assistant coach at Alabama and Vanderbilt and three years in the Navy, he became head coach at Maryland in 1945, where he was 6-2-1 in his only season. For the next eight years he coached at the University of Kentucky, where his teams were 60-23-5 and participated in four postseason bowl games.

While at Kentucky, Bryant was approached by George Preston Marshall, the Washington Redskins' late owner, about becoming head coach. In 1947, he agreed to take the job, subject to his wife's approval. When his wife, the former Mary Harmon Black, a one-time Alabama beauty queen, refused to accompany Bryant to Washington, he turned the job down.

In 1954, he went to Texas A&M, where, in the first of four seasons as head coach, Bryant had the only losing season of his career, 1-9. Jack Pardee was a player on that team, along with a number of other future professionals—John David Crow, Bobby Joe Conrad, Gene Stallings and Charlie Krueger. And for the following three seasons, Bryant's teams were 24-5-2 and won the Southwest Conference championship.

He was named head coach at Alabama in 1958, and over the next quarter compiled a record unmatched in American college football. One of the foremost figures nationally on the college football scene, he became something of a folk hero in Alabama. He was Southeastern Conference coach of the year in 1961, 1964, 1971, 1973, 1974, 1977 and 1979. In 1961, 1971, and 1973, he was national coach of the year.

"It was like when you were out in the field and you heard your mama calling you to dinner," Bryant said on the occasion of his return to Alabama. "Mama called."

At the time, Alabama's football program had fallen on hard times, and it needed rebuilding. It was only logical that Bryant, who had earned the nickname, "The Great Rehabilitator," would be summoned back to his alma mater.

But it was not until 1970, eight years after Wallace had made his futile stand in the schoolhouse door in an attempt to bar blacks from the University of Alabama, that

Bryant signed his first black player, Wilbur Jackson, now with the Redskins.

Bryant had said on Alabama television that he wanted no black players on his team, but he changed his views after a game with the University of Southern California. A black fullback named Sam Cunningham gained 230 yards against Alabama and scored three touchdowns.

"Tell you the truth, Sam Cunningham did more for integration at Alabama than anybody else, including Martin Luther King," Bryant said. "Come down here and ran all over my skinny little white boys."

It was then that Bryant began to recruit black players actively, and he had a stock answer when asked about his previous statements.

"At that time, that was the way I felt. But times have changed and I've matured and changed. people are people, and they can't be treated by the color of their skin."

"He treated me like everyone else," Jackson said of Bryant last night. "That's all I could ask . . . I enjoyed playing there. If I had it to do all over again, I'd do the same thing."

There will be a 10 a.m. memorial service for Bryant Friday in Tuscaloosa, with burial following in Birmingham. In addition to his wife, he is survived by two children, Paul Jr. and Mae Martin Tyson.

[From the Washington Post, Jan. 27, 1983]

THE MAN: PART LEGEND AND PART LEGERDEMAIN

(By Ken Denlinger)

Costa Mesa, Calif., Jan. 26.—Word came so fast today. Not having The Bear around to kick and caress any more seems a bit like the t and b in football all of a sudden taking a hike. The game simply isn't the same. Think of Rockne; thing of Lombardi. In time, we'll mention them after Paul William Bryant.

He was an enormous slice of everything inspirational and evil about sport, the grandest college football coach in terms of how he saw himself: a winner. Bear got to 323 victories (against 85 defeats and 17 ties) by being about as mean and cunning, adaptable, durable and lovable as the mind can comprehend.

"He isn't a football coach," Bum Phillips always said. "He's a people coach. Bigger than his sport. The John Wayne of football."

With Bryant, football was brutal and beautiful. He very likely ran off more great players at Kentucky and Texas A&M than most coaches ever recruit in a lifetime. He survived 38 years because he wouldn't let the game get ahead of him, winning more games in the '60s than he had in the '50s and then winning more games in the '70s than he had in the '60s.

Even with a cosmetic tuck last year, his face had the chiseled lines his legend demanded. And his voice was as no other, deep and ominous, each word seeming to have to scratch its way past a gang of tacklers.

Some thought retirement might be the only thing that could beat Bryant, and he died a month after he quit as 'Bama coach. The retirement timing was lousy for himself, what with a season that would end with four losses. It was exactly right for his successor, Ray Perkins, who would follow a legend but a recently tainted one at least.

Bryant never forgot his roots, or the fact that they were tied to about as sad a part of the country as there was: Moro, Ark. What he wore to play football as a youngster were his only shoes, to which a cobbler affixed cleats. He once thought the most glorious trip possible was to the nearest big town, Memphis. Sometimes, he'd hop a freight there.

What Bryant might do always made even hard men tremble. That's because what he had done, in the early '50's at A&M, had been about the ultimate in the survival of the football fittest.

"I was young and didn't know any other way," said Jack Pardee, one of those who endured that '54 boot camp in Junction, Tex., when Bryant became coach of the Aggies. "We went with about 115; we came back with about 26. We worked hard, played hard and enjoyed it. We were 1-9 that first year, lots of times suiting up 23 and 24 players; we were 7-2-1 the next year and 9-0-1 the next.

"He was a fair, honest man who got the most out of his players."

Bryant was one of the first coaches to bring sophisticated organization to football. There would be station after station scattered about the practice field, manned by one assistant and several players, with Bryant always overseeing everything from that infamous tower.

Players would get misplaced now and then, and when they scampered to the nearest group for help, the assistant there more than likely panicked himself and muttered: "Don't know where you're supposed to be, but get away from here."

Phillips remembered an early scene with Bryant at A&M. The coach was alone on the field before a workout, pacing, singing "Jesus Loves Me." Phillips approached him, looked around and mentioned that there were no footballs in sight.

No, snapped Bryant, and he wasn't about to go fetch 'em.

"That's when I learned the difference between a head coach and an assistant," Phillips said.

The night before his first game as Maryland coach in 1945, Bryant had dinner with George Preston Marshall and Don Hutson and told them how his nerves were dancing.

"If you're that bad before playing Guilford," he quoted Hutson as saying, "You better get out of the game."

Maryland won, 60-6.

Bryant left Kentucky to escape the suffocating basketball show of Adolph Rupp.

"They gave Adolph a Cadillac," he said after an all-sports dinner. "They gave me a cigarette lighter."

His first great quarterback, Babe Parilli, once had a serious thigh injury before the LSU game. A plaster-of-paris kind of jock was designed and Bryant summoned all his raging fire to demand of the offensive line that Parilli not be touched by a Tiger.

He wasn't.

In recent years, there got to be a Bryant cult that took special delight in his weekly television show. The old man's mind would drift off to what former player or friend he had seen at the game while the moderator, Charley Thornton, played the harried straight man.

Got those Commodores from Vandy comin' in next week, Thornton once chirped.

Thought they were here last night, Bear mumbled.

No, coach, those were the Beach Boys.

He always knew that players won games, and that a team never had too many great ones. A friend, Paul Gable, happened to be sitting by the recruiting book while waiting for an audience with Bryant during a recruiting trip. Casually, he flipped the book open to his position, fullback, and noticed 38 others the Tide was pitching.

Thornton called the night before Bryant made his retirement announcement and found his dear friend in a state of bafflement.

"Never guess what I'm doing right now," Bryant said. "I'm watching a women's basketball game (Tennessee vs. Louisiana Tech) on ESPN."

Bryant's final game was the Liberty Bowl last month, and it put a great deal of his career in perspective. That was his first bowl as Alabama coach, in the town of his boyhood dreams. Accused of being a racist because his first black player, Wilbur Jackson, still is active with the Redskins, Bryant shared a banquet spotlight with the coach who very likely will surpass his victory record, Grambling's Eddie Robinson.

At his final pregame press conference, Bryant was asked how, given the chance, he would have altered his life.

"I'd have tried to be a better Christian," he said.

The sideline was fiercely cold that night, and Bryant opted for a tannish golf-style cap during the game against Illinois instead of his trademark houndstooth. He moved as slowly as the tide, but his manner still moved an aid to call a never-seen reverse off a wishbone staple that ended in a touchdown.

And victory.

[From the New York Times, Jan. 27, 1983]

BRYANT RECALLED AS HELPFUL COACH

PLAYERS SAD AND SHOCKED

(By Thomas Rogers)

The world of football reacted with shock and sadness to the announcement of the sudden death of Bear Bryant yesterday. The players who had performed under the coach who won more college football games than anyone else in history felt the grief sharply. But many remembered him for the influence he had on their lives off the football field.

Ray Perkins, who played for Mr. Bryant and succeeded him as Alabama's coach last month, had visited the coach yesterday morning, hours before Mr. Bryant's death.

"I saw him this morning at 9 o'clock at the hospital before leaving Tuscaloosa," Perkins said by telephone from Charlotteville, N.C. "He was sitting up on the bed, having breakfast, feeling good and looking good and the doctor said his vital signs were good.

"So first of all I'm shocked. I'm very sad. The man's meant so much to me, not just as a coach but as a person. I don't know if there's another man who's been connected with football that's touched as many lives as he has."

Richard Todd, the Jets' quarterback who played under Bryant at Alabama in the mid-1970's, also expressed his shock. "He was a great man. To some people he had a gruff demeanor, but he had a warm spot for his players. I'll best remember him for the discipline he taught me. It has helped me with my career and will continue to. But he should be best remembered for all the help he gave to a lot of people."

Todd, who was speaking from Fort Lauderdale, Fla., visited Alabama when the coach was then using a wishbone offense. He told the coach he would like the team to switch to a prostyle offense, but Bryant replied: "We will not change our style for you." Todd enrolled at Alabama anyway.

Speaking from his home on Long Island, Marty Lyons of the Jets, who played on defense for Bryant in the 1970's, said: "I just owe the man a great deal of love and respect. It is a terribly sad day in my life. I can just hope and pray that he will be rewarded for all the things he had done for people, not just in football."

"He was a man's man," said Bob Fry, the Jets' defensive line coach who played tackle for Bryant from 1949 to 1952 at Kentucky and, like Lyons, was selected for Bryant's alltime team. "There was nothing phony or pretentious about him. He was very honest, very blunt and very understanding. He was not just a great coach, but a great man. I feel I lost a part of my life."

Preparing for the Super Bowl in Pasadena, Calif., four members of the Miami Dolphins commented after being informed on the coach's death. All played for Bryant in the 1970's.

"That's a shock," said Don McNeal, a starting cornerback. "I saw him during the strike. He took me over to his house and we spent some time together. He seemed to be the same old Coach Bryant. He was O.K., in good spirits. He was like a father figure to me. He would always help me out with my problems. That's a real tragedy."

Tony Nathan, a running back, said: "I hadn't seen him for a couple of years, but I really cared about the guy. It hurts. He gave me the opportunity to do what I wanted. I remember during homecoming of my sophomore year, the football players played some pranks on the fraternities. He called me into his office and said, 'Tony, I don't believe you would do something like that.' He really had faith in me. I appreciated that."

"I couldn't believe it when I heard it," said Bob Baumhower, the starting nose tackle. "He's the reason I'm here right where I am now. He helped me more than I could ever thank him for. I spent some time with him during the strike. We talked at great length. He looked the best I had ever seen. He was exercising, taking walks around a track. He had even cut down on his smoking. He seemed to be taking better care of himself. That's why this is such a shock. It's hard to believe he's gone, and right after he retired. That's why it's weird."

Dwight Stephenson, the starting center who was planning to visit Bryant in Tuscaloosa, Ala., after the Super Bowl, said, "He had a big impact on me in college and on my life."

"It's sad news," said Coach Don Shula of the Dolphins. "I only had the opportunity to meet him and be in his company a few times. He had that something special. I was a great admirer of him and his accomplishments. He was one of the people I really respected because of his accomplishments and the way he handled himself."

Terry Jones, a defensive tackle for the Green Bay Packers, found out about his former coach's death while taking a stroll yesterday in Tuscaloosa, where he lives. "I had heard on the radio that Coach Bryant only had chest pains and was resting comfortably in the hospital," he said. "Then I saw people walking around slowly, looking sad. When I heard what had happened, I was shocked. We lost a great man."

Many of the nation's coaches had difficulty believing he was dead.

"The death of Paul Bryant is a tremendous shock and is difficult to believe," said Joe Paterno of Penn State. "He almost appeared to be indestructible. He was a monumental figure in intercollegiate athletics, a man who set standards not easily attainable by men. He was a giant and we will miss him."

BEAR BRYANT THROUGH THE YEARS

Bear Bryant's career record in 38 years as a head coach. *—Denotes final No. 1 ranking in The Associated Press's poll of sportswriters and broadcasters, and in United Press International's poll of coaches. †—Denotes final No. 1 ranking in the A.P. poll. §—Denotes final No. 1 ranking in U.P.I. poll.

Year and team:	*Record*
1945—Maryland	6-2-1
1946—Kentucky	7-3-0
1947—Kentucky	8-3-0
1948—Kentucky	5-3-2
1949—Kentucky	9-3-0
1950—Kentucky	11-1-0
1951—Kentucky	8-4-0
1952—Kentucky	5-4-2
1953—Kentucky	7-2-1
1954—Texas A&M	1-9-0
1955—Texas A&M	7-2-1
1956—Texas A&M	9-0-1
1957—Texas A&M	8-3-0
1958—Alabama	5-4-1
1959—Alabama	7-2-2
1960—Alabama	8-1-2
1961—Alabama*	11-0-1
1962—Alabama	10-1-0
1963—Alabama	9-2-0
1964—Alabama*	10-1-0
1965—Alabama†	9-1-1
1966—Alabama	11-0-0
1967—Alabama	8-2-1
1968—Alabama	8-3-0
1969—Alabama	6-5-0
1970—Alabama	6-5-1
1971—Alabama	11-1-0
1972—Alabama	10-2-0
1973—Alabama§	11-1-0
1974—Alabama	11-1-0
1975—Alabama	11-1-0
1976—Alabama	9-3-0
1977—Alabama	11-1-0
1978—Alabama†	11-1-0
1979—Alabama*	12-0-0
1980—Alabama	10-2-0
1981—Alabama	9-2-1
1982—Alabama	8-4-0
Total	323-85-17

[From the New York Times, Jan. 27, 1983]

BEAR BRYANT DIES, COACHED MOST VICTORIES IN FOOTBALL

(By Joseph Durso)

Bear Bryant died of a heart attack yesterday in Tuscaloosa, Ala., only 37 days after he had retired as head football coach at the University of Alabama with the most victories in college football history.

Mr. Bryant, who was 69 years old, entered the Druid City Hospital in Tuscaloosa on Tuesday night, complaining of chest pains. Dr. William Hill, the attending physician, said that Mr. Bryant had suffered a massive heart attack at 1:24 P.M. while undergoing X-rays.

"He was in very good spirits," Dr. Hill said. "In the morning, he even joked about going to Las Vegas. And he said one thing he wanted to do was go back home to Arkansas and do some duck hunting."

Mr. Bryant created national headlines only a month ago when he ended his 38-year career as the most successful football coach on any American campus, and one of the most colorful. He quit with a record of 323 victories, 85 losses and 17 ties at four schools: Maryland, Kentucky, Texas A&M and, for the last 25 years, at his alma mater, Alabama. Six of his teams at Alabama were rated No. 1 nationally by the wire-service polls. And, when Alabama defeated Auburn, 28-17, on Nov. 28, 1981, for his 315th victory, he surpassed the record that had been set early in the century by Amos Alonzo Stagg.

IMPACT ON SPORT ASSURED

But, despite his decision to retire, his impact on the university was expected to continue because of two other decisions: He remained as athletic director, and his job as coach was assigned to one of his former players, Ray Perkins, who resigned as coach of the New York Giants to return to Alabama.

Mr. Bryant's impact on football everywhere was assured through the scores of men who had played or coached under "the Bear." In his time, he developed star quarterbacks such as Joe Namath, George Blanda, Babe Parilli, Ken Stabler, Steve Sloan and Richard Todd, now the quarterback of the New York Jets. More than 40 of his former players became head college coaches, including Jerry Claiborne at Kentucky, Howard Schnellenberger at Miami, Jackie Sherrill at Texas A&M, Pat Dye at Auburn and Sloan at Duke.

He also became instrumental in recruiting black athletes for Alabama. His first black player was Wilbur Jackson, a running back, in 1971. In his final season, 54 of the 128 football players at Alabama were black. Later, he remembered that he had wanted to recruit black football players at Kentucky, and said:

"They wouldn't let me. Then, at Alabama all those years, my hands were tied. To tell you the truth, Sam Cunningham did more for integration at Alabama than anybody else. He was a black running back for Southern Cal. Came down here in 1970 and ran all over my skinny little white boys. Scored three touchdowns."

LAST GAME IN LIBERTY BOWL

Two weeks after he announced his retirement as coach, the Bryant era ended on Dec. 29 when Alabama defeated Illinois in the Liberty Bowl, 21-15. It was the eighth victory of the season for Alabama after four defeats, the first time in 13 years the team had lost as many as four games. It was also his 29th bowl game, a record for a coach that included 24 straight at Alabama, and the last appearance in a stadium for the craggy-faced figure roaming the sidelines in the houndstooth hat.

Paul William Bryant was born Sept. 11, 1913, in Moro Bottom, Ark., which he described as "a little piece of bottom land on the Moro Creek, about seven miles south of Fordyce." He was one of 11 children in a poor family, and he remembered that he had an inferiority complex and "wasn't very smart in school, and lazy to boot."

But he was big, eventually growing to 6 feet 4 inches. And he recalled that he acquired his nickname as a teen-ager in high school when he accepted a dare to wrestle a bear.

HOW HE WON HIS NICKNAME

"It was outside the Lyric Theater," he said. "There was a poster out front with a picture of a bear, and a guy was offering a dollar a minute to anyone who would wrestle the bear. The guy who was supposed to wrestle the bear didn't show up, so they egged me on. They let me and my friends into the picture show free, and I wrestled this scrawny bear to the floor. I went around later to get my money, but the guy with the bear had flown the coop. All I got out of the whole thing was a nickname."

As a strapping and aggressive tackle on the Fordyce High School football team, Mr. Bryant lived up to his nickname by winning all-state honors. Then he was recruited for the University of Alabama by Hank Crisp, as assistant to Frank Thomas, and played right end. His principal assignment, he remembered, was doing the blocking while Don Hutson, the left end, was the star pass receiver who later was elected to the college football hall of fame. But they thrived, winning 23 games and losing only 3, and they defeated Stanford in the 1935 Rose Bowl game, 29-13.

After the class had graduated, Mr. Bryant stayed at Alabama as an assistant coach. Four years later, he switched to Vanderbilt as an assistant to Red Sanders. But two years after that, in 1941, he joined the Navy and served in World War II, part of the time as a football coach at the preflight school in North Carolina. He was discharged in 1945, in time to become head coach at Maryland, where he opened his long and sometimes stormy career.

AN INSTANT SUCCESS

He was an instant success, partly because he had taken the precaution of bringing along several good players from the Navy preflight team. In his first game Maryland whipped Guilford College, 60-6. That first season, Maryland won six games, lost two and tied one.

But he also was an instant center of controversy. He suspended a player for breaking training rules, was overruled by the school's president and promptly quit and took over as coach at Kentucky.

He stayed eight seasons, and his teams won 60 games and lost 23, appeared in four postseason games and won the school's only Southeastern Conference championship. The highlight was a 13-7 victory over Oklahoma in the Sugar Bowl in 1950 that broke a 31-game winning streak for Oklahoma.

After he left in 1954, he conceded that one problem had been a conflict of personalities with Adolph Rupp, the highly successful basketball coach.

CONFLICT WITH RUPP

"The trouble," he said, "was that we were too much alike. He wanted basketball to be No. 1, and I wanted football No. 1. In an environment like that, one of the other has to go."

The next stop was Texas A&M, where Mr. Bryant stayed four seasons with a record of 25 victories and 124 defeats and a Southwestern Conference title in 1956. He also developed John David Crow, a running back who won the Heisman Trophy as the nation's best player. But more controversy arose when the school was placed on probation for violating the rules on recruiting players, and Mr. Bryant acknowledged later that some of his players had been paid, though not by him.

Finally, he went "home" in 1958 to his alma mater, Alabama.

"It was like when you were out in the field, and you heard your mamma calling you to dinner," he said, explaining his joy at returning. "Mama called."

TEAM RANKED NO. 1 IN 1961

Alabama had won only four football games in three years. But in his first season, the Crimson Tide won five games and lost four. And in 1961, he received his first No. 1 ranking nationally. For the rest of his career, his teams averaged 8.5 victories a year and did not suffer a losing season.

Controversy followed him home, however. An article in The Saturday Evening Post said that he and Wally Butts, the coach at Georgia, had arranged to fix the result of a game in 1962. Alabama won the game, 35-0. Mr. Butts won a libel suit against the publisher, and Mr. Bryant won a substantial out-of-court settlement.

Although he acknowledged an obsession for winning, he was a forbidding figure when it came to training rules. Not even Namath escaped his discipline. In 1964, he removed Namath as quarterback for breaking training and kept him on the sidelines during the Sugar Bowl game. At other times, he also disciplined Lee Roy Jordan, Scott Hunter, John Hannah, Stabler, Sloan and even Perkins, the man who succeeded him as head coach.

Mr. Bryant was a tireless worker who customarily rose at 5 A.M. and did not stop until late in the evening. He often supervised practice sessions from a tower overlooking two fields, one covered with grass, the other with artifical turf. One of his quarterbacks, Steadman Shealy, once said: "There's something about him up in that tower that makes you want to run through a wall."

He was married to his college sweetheart, Mary Harmon Black, who had been a campus beauty queen when he played football at Alabama. They had two children, Paul William Jr. and May Martin Tyson, and four grandchildren.

His stature at Alabama was so great that his salary became something of a protocol problem. Eventually, it reached $120,000. But, for years, the university made an effort to keep the football coach's salary below that of the schools president. The president made $100,000 a year; Mr. Bryant was paid $99,999.99.

CIVIL SERVICE PENSION REFORM ACT OF 1982

Mr. STEVENS. Mr. President, toward the end of the last Congress, I introduced the bill, S. 2905, the Civil Service Pension Reform Act of 1982. The bill established a new three-tiered retirement program for new Federal employees. The program was integrated with the social security system. Due to its complexity, I asked the staff of the Subcommittee on Civil Service, Post Office and General Services to draft a detailed report of the bill, explaining its provisions and projecting its benefit levels and cost. This report has now been published in the form of a committee print by the subcommittee. I urge my colleagues in Congress and representatives of my friends in the Federal work force to obtain a copy of this report in order to familiarize themselves with this legislation.

I made a commitment to the Federal workers last year that I would not ask the Congress to consider this legislation until a significant number of them support it. I will make a further commitment to them that I will not reintroduce it until they support it. However, I urge them to study this proposal before passing judgment on it. I think they will find it quite attractive especially in light of the problems the current retirement system will be facing this year.

THE ABORTION ISSUE: A TEST OF CIVILITY

Mr. HELMS. Mr. President, this Senator is well aware that there are a variety of views on the issue of abortion. Many people, including friends of mine in North Carolina, sincerely hold positions on this issue different from my own. I fully recognize these differences, and I do not doubt for a moment that those who differ from me hold their views in complete good faith.

Abortion, like many other issues, is an issue over which reasonable men and women may differ. Wise counsel for us all in such cases is that we always remain civil and courteous toward one another and that, along with our respective deeply held convictions, we strive to be open to hear the arguments and reasoning offered by the other side. To this goal I am committed, and I know that my colleagues here in Congress are as well.

Mr. President, it is through this process of civil public debate that many difficult issues can be resolved for the common good. Two recent contributions to such debate, concerning this issue of abortion, were published on January 17, 1983, in the Wall Street Journal and the Washington Times. The Journal article was authored by Terry Eastland, the editor of the Virginian-Pilot, and the Times article was an interview with Dr. Bernard Nathanson, once a national advocate for legalized abortion who has now changed his position on the subject.

Mr. President, I recommend these articles to my colleagues in Congress and the public and ask unanimous consent that they be printed in the RECORD at this point.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Jan. 17, 1983]

TEN YEARS AFTER THE ABORTION DECISION

(By Terry Eastland)

Ten years ago this week the Supreme Court ruled that a woman has an almost unrestrictable right to seek an abortion. Roe v. Wade began a decade of controversies, the most recent of which arise from congressional attempts to reverse or modify the decision. Whatever one may think of these recent efforts—and I am yet to be persuaded by any of them—and whatever one may think of the morality of abortion, the court's decision 10 years ago was mistaken. That was clear then, and time has only served to emphasize the mistake and to indicate its gravity.

Roe v. Wade boils down to this: A woman has a constitutionally protected right to seek an abortion. It is an absolute right during the first three months of pregnancy. After that, and up to the point of "viability"—which the court defined as the fetus' "capability of meaningful life"—the right may be limited only by the state's interest in protecting the health of the mother.

After viability, which the court reckoned to occur at the seven-month mark of a pregnancy, the right may be limited and even proscribed by the state's interest in "the potentiality of human life," unless abortion is necessary to preserve the life or health of the woman.

Note the word "health." Inasmuch as the court, in a companion case to Roe, recognized a very broad definition of "health," including the pregnant woman's "emotional well-being," the right to an abortion could easily be exercised in the third trimester of pregnancy. Thus the abortion right announced by the court on Jan. 22, 1973, was virtually unlimited.

NUMEROUS PROBLEMS

A wide range of scholars holding both pro- and anti-abortion beliefs quickly pointed out the numerous problems with Roe v. Wade. These included mistakes in history, science and law. But the essential difficulty was, as it remains today, that Roe v. Wade imposed on the nation a view of the abortion issue lacking constitutional warrant.

A right to abortion obviously can't be found in the Constitution. Neither can it reasonably be concluded from a principled interpretation of the Constitution. The court thought the right might inhere in the 14th Amendment, but it can lie there only on a reading of individual liberty and the family that has only the slightest legal precedent and flies in the face of American legal and social history.

To be sure, the court did recognize that if the unborn were a person, it would deserve 14th Amendment protection, and the abortion liberty would be significantly circumscribed. But the court combed through the Constitution to conclude that the word "person" in that document nowhere has "pre-natal application." Turning to the experts in medicine, philosophy and theology, the court said that because they could not reach a consensus as to when life begins, then neither could it, and, thus, neither could the citizens of any state acting through their legislature.

This act of "raw judicial power," as Justice White called it in his vigorous dissent, prevented the states from balancing concern for the mother and concern for the unborn in the many other ways that are clearly possible and which the citizens of the various states then clearly preferred. In 1973, a small number of states permitted abortions of pregnancies involving rape, incest or fetal deformity, and a very few allowed abortions for no reason. All of these states, however, set limits on late-term abortions. No state permitted a right to abortion so expansive as the one protected by the court.

Without clearly adverting to what it surely must have known it was doing, the court gave the green light to abortion for almost any reasons, including none at all. Roe v. Wade thus was an affront not merely to those who hold that the unborn deserve the fullest protection. It was also an affront to those many Americans who do not consider themselves part of the "pro-life" movement but who deeply believe that abortion involves more serious ethical considerations than social embarrassment, dislike of children, lost wages, career planning and the "wrong" sex of the unborn child.

Since 1973, the nature of the court's decision has become even clearer. Its essentially legislative character is indicated by the stream of litigants who have gone to the court in 1976, 1977, 1979, 1981 and now again this year asking for clarification and testing the decision's limits. And the fact that it violates the view many people still have of abortion ethics is indicated by the serveral efforts to hedge the implications of Roe v. Wade (such as the Hyde amendment prohibiting federal funding of abortion), some of which have been successful.

With the fetus' status as a human being in limbo, the court said it could not be a constitutionally protected person. The most it would say was that fetuses beyond the 28th week have "potential life"—a curious phrase, inasmuch as some fetuses of even lesser age have had actual life. They have survived outside the womb; miraculously, some have survived despite efforts to abort them.

A case for including the unborn among those covered by the 14th Amendment is at least as plausible as the court's argument that the right to abortion is secured by the Constitution. Protection of the unborn has a more distinguished historical and legal pedigree in this nation than does the liberty to abort. Interestingly, during the latter half of the 19th century, when most states moved to prohibit abortion except when the mother's life was endangered, there was no serious organized opposition arguing for the constitutional right to abortion that the court discovered in 1973. Indeed, women's groups did not oppose the anti-abortion movement.

Even so, the safest conclusion of law and history is that neither the abortion liberty nor the right to life of the unborn is secured beyond doubt by the Constitution. Faced with this, the court should have deferred to the states and thus to the judgments of citizens as expressed through their legislatures. As Oliver Wendell Holmes once said, wisely, the 14th Amendment does not give the justices "carte blanche to embody [their] economic or moral beliefs in its prohibitions." In Roe v. Wade, however, the court read its own moral beliefs into the Constitution to create the abortion liberty and then proceeded to act like a legislature in setting forth the conditions of its exercise.

A FALLIBLE INSTITUTION

One of the most serious consequences of the court's decision touches the deepest foundations of our society. Our system of law depends on respect for individual life, a value rooted in the Judeo-Christian ethic. The court's decision in Roe v. Wade cannot easily be reconciled with that value. Indeed, it points the way toward a future in which respect for human life becomes, like beauty, merely relative. The court teaches through its decisions, and there is some evidence—one thinks of the "Infant Doe" case in Bloomington last year—to suggest that the people are now more disposed to place relative values on human life.

Today it is fashionable for some to criticize those who say the Supreme Court is wrong. All too frequently defense of a court decision seems to become a statement of the court's infallibility, and too often it is said that the Constitution is what the court says it is. But, as Lincoln once remarked, a decision by the court is not a "thus sayeth the Lord"; the judiciary, like the other two branches of our government, is a fallible institution.

To be sure, it may not be clear what the next step beyond criticism of the court should be—whether legislation, a constitutional amendment, a packing of the court, a withdrawal of jurisdiction—and some steps are wiser than others. But it is certain that whatever step is taken cannot be taken unless those who believe the court was wrong in a given instance speak up when they have the chance. And 10 years ago, in Roe v. Wade, the court was wrong—seriously wrong.

[From the Washington Times, Jan. 17, 1983]

QUESTIONS AND ANSWERS—ABORTION PIONEER NOW TOP PROLIFE ADVOCATE

PROLIFE ADVOCATE BERNARD NATHANSON ON NEW EVIDENCE CONDEMNING ABORTION

On Jan. 22, 1973, the Supreme Court handed down its decision in a pair of cases known collectively as Roe vs. Wade—the "abortion" decision which rocked the country and set off a decade of controversy. One of the principal advocates of the right to an abortion in the years leading up to that historic case was Dr. Bernard Nathanson, a founder of the National Abortion Rights Action League.

In the 10 years since Roe vs. Wade, Nathanson has changed his mind. Based on an ever-growing body of scientific data which he says demonstrates the "humanity" of the fetus from the moment of conception, Nathanson now believes that abortion is ethically wrong in all but a very limited class of cases. He is now an active pro-life advocate.

Washington Times writer Tom Diaz interviewed Nathanson by telephone last week.

Q. What was your role specifically in pro-abortion activities leading up to the 1973 Supreme Court decision in Roe v. Wade?

A. I was one of the original founders of the National Abortion Rights Action League, I and three other people—Lawrence Lader, Betty Friedan, and Carol Greitzer. We were the ones who, probably, were primarily responsible for overturning a number of laws in the United States, including the New York state statute in 1970.

Thereafter, I was politically active all over the country, speaking and working toward abolition of the state abortion laws, one by one. In February 1971, I established the largest abortion clinic in the world here in New York City, and ran that clinic for almost two years.

It was during that time that the major reliable statistics were compiled from my clinic on the safety of ambulatory abortions. These figures were obviously considered to a great extent by the Supreme Court in evaluating the safety of the procedure, and ultimately in determining the constitutionality of the laws. Our figures and statistics were quoted in the decision.

Q. You are reported to have changed your mind about the issue. Is that true, and if so, why?

A. Yes. I changed my mind because of advances in the field of fetology which have allowed us to understand the fetus much more completely and carefully than we ever did before. This has posed a very severe philosophical problem, in that you can't be operating on the fetus and giving it drugs to cure it, and at the same time destroying it. There's an antinomy there which is simply intolerable. In an ethical sense, it is intolerable.

Therefore I had to change my mind, and that change began about 1974 when fetology became an established medical discipline.

Q. Could you describe briefly what fetology is?

A. It's the study of the fetus. It's been made possible by the new technologies we have, including ultrasound, fetoscopy, amniocentesis, hysteroscopy, and electronic fetal heart monitoring—all of these new

techniques which have come onto the scene in the last ten years.

Q. It sounds as if you are describing a change in scientific understanding, and not a change in ethical or legal principle.

A. Well, the underlying ethical principles remain the same. But if one has a new perception of a previously rather murky technical challenge, then that perception must change based on one's ethical underpinning.

Q. Does that say that some of the key premises that the court made in 1973 were wrong?

A. No, I would say that some of the key premises of the court are now so outdated, now so anachronistic that the decision itself has been rendered an anachronism, and a rather violent one. The times, the new data, the new perceptions, and the new sciences cry out for a change in that decision.

Q. Has the medical profession adequately addressed the moral or ethical issues involved in abortion that arise out of this new scientific knowledge?

A. No, it really hasn't. There is a great reluctance on the part of the medical profession, and the obstetrical and gynecologic discipline in particular, to address these questions. But, there has been, I find, recently a certain increasing discomfort with the current state of affairs with respect to abortion in the obstetrical discipline.

We are now doing so much fetal medicine that obstetricians in general are becoming a little disgruntled, perhaps, with the status quo on abortion in this country.

Q. Is this also not true of some others in the medical profession, particularly nurses?

A. Oh, yes. There has been a concerted effort on the part of a number of nurses in various hospitals in San Francisco to stop working in abortion units now. They will not do it. Primarily because of this paradoxical, and almost agonizing antimony, as I've called it. Namely, that you can't continue to do what we are doing—increasing fetal surgery, increasing fetal medicine, and so on, and at the same time, in the very next room perhaps, in a hospital or in a doctor's office, be destroying this creature.

It simply doesn't, it simply can't, work.

Q. What do you say about the woman's right to control her body?

A. Well, you know that's fine. I think everybody should control their own body. But we do have very sound—new, by the way—data, which have demonstrated that the fetus is not part of a woman's body. It's an uneasy tenant for a period of nine months, but it is immunologically distinct, it is biologically distinct, and it is not in fact a part of a woman's body. It's not her appendix, or her kidney.

Q. At what point—

A. From the very beginning.

Q. The moment of conception?

A. Yes. I think theoretically from the moment of conception.

Q. Has your change of view had an impact in terms of your relationship with your friends or your colleagues?

A. When I first became active in the abortion arena 15 years ago on the other side, by colleagues ostracized me. It was terrible even to think then that we could have abortion on demand.

In the last few years, now that I've changed my mind and become active in the pro-life movement, my colleagues have again ostracized me. It's a familiar place, and it doesn't disturb me very much.

Q. What is your practice now?

A. Obstetrics and gynecology.

Q. Do you do any abortions?

A. No, I haven't done any abortion for years.

Q. Do you think there is any room for an exception?

A. Yes, I think if a woman's life is in imminent—and I'm talking of her physical life—is in imminent jeopardy as a result of the continuation of her pregnancy, then I believe she is entitled to defend her life. But, anything less than that is simply not justification for destroying the fetus.

Q. What have you been doing in the way of pro-life advocacy?

A. I have been literally travelling about the world speaking on the subject. We just got back from Spain, speaking in various cities there. I've been an advocate of the pro-life movement. Not a "leader," because that has political implications, and I do not belong to any political organizations in the pro-life movement.

So, I've been busy with this work, and I think it requires commitment of that sort.

Q. Do you favor any one of the different pro-life measures which have been proposed in the Congress?

A. No. The only thing I favor is some unity on the part of the pro-life movement in backing one or the other of these things. I think there has been some rather distressing dissension and disagreement in the movement itself in respect to which measure should be backed. And that has been self-defeating. The lack of unity has been rather devastating.

Q. In the country generally, how would you assess the relative strength and direction of the pro-life movement?

A. Before the economic situation developed here, with unemployment and the collapse of the economy, it was moving strongly in the direction of the pro-life movement, I believe, based on a great many new scientific developments, including those which women themselves had access to, such as ultrasound.

Ultrasound is being done more and more during pregnancy now, and women are actually seeing the fetus on the screen in very early stages.

Q. Could you briefly describe in laymen's terms what ultrasound is?

A. Ultrasound is just the beaming of high frequency through the abdominal wall. The echo is collected and a picture is made on a screen. There is something called "real time" ultrasound now, where the echoes are collected in a continuous manner, so that when one looks at the fetus it is actually moving on the screen as one would see a television photograph of it.

So women are seeing this at earlier and earlier times, and their husbands are seeing it. This experience bursts on people, and they become more aware of the humanity of the fetus and there has been—there had been up to the present economic collapse—an increasingly pro-life sentiment throughout the country.

I think that the issue is still alive, and it's an issue which will simply not go away as long as abortion is being practiced on a permissive basis in this country. There is a depth of commitment in the pro-life movement which may be unappreciated by the opposing camp. I do not think that this commitment is going to be dissipated or in any way diluted. But I think as scientific perceptions become more and more available to the general public, and as they become more and more refined in terms of technology, commitment will grow and become ever more pressing.

Q. As more people begin to realize what an abortion is?

A. Exactly. You've hit it exactly right—what we are actually doing in an abortion. As more and more people understand this, I think revulsion will begin to grow and gather.

Q. Has there not been also some more knowledge about the effects on the woman who has an abortion that we didn't know before?

A. Yes. The data are accumulating. We've only been doing it in this country for ten years. Ten year's time is not really adequate to assess possible damage in a long term sense, but even with the limited statistics and data we have now, I think there is evidence that for some women, at least, abortion can be physically a very distressing and very traumatic procedure. It may have long term portent.

Q. Are we talking about physical problems?

A. Physically, yes, in terms of the structure of the uterus, and the cervix, in terms of hormonology, and so forth.

Q. Is it a conservative political issue?

A. I don't know. Again, you know, you have people who are otherwise liberals, such as myself, who are violently pro-life, so I think again the pro-life movement spans the political spectrum as well.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting a nomination and a treaty which were referred to the Committee on Foreign Relations.

(The nomination and treaty received today are printed at the end of the Senate proceedings.)

ANNUAL REPORT ON TRAINING AND EMPLOYMENT OPPORTUNITIES—MESSAGE FROM THE PRESIDENT—PM 2

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

Pursuant to the requirements of Section 127(a) of the Comprehensive Employment and Training Act (CETA), as amended, I hereby transmit the 20th annual report pertaining to employment and occupational requirements, resources, use and training.

RONALD REAGAN.

THE WHITE HOUSE, *January 27, 1983.*

INTERNATIONAL RULES FOR PREVENTING COLLISIONS AT SEA—MESSAGE FROM THE PRESIDENT—PM 3

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which, pursuant to the provisions of Public Law 95-75 was referred to the Committee on Commerce, Science, and Transportation:

To the Congress of the United States:

Consistent with the International Navigational Rules Act of 1977 (Public Law 95-75; 33 U.S.C. 1602), I transmit herewith Amendments to the International Regulations for Preventing Collisions at Sea, 1972, adopted at London November 1981. The International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), done at London October 29, 1972, were signed by over 50 contracting parties to the International Maritime Organization (IMO). The 72 COLREGS entered into force worldwide on July 15, 1977, and replaced the 1960 Collision Regulations. During the past five years, the 72 COLREGS have served well to avert collisions at sea. Nevertheless, experience indicated that some clarifications were desirable. Consequently, rather than formulate new regulations, the Sub-Committee on Safety of Navigation of IMO's Maritime Safety Committee proposed a group of 55 amendments to clarify the existing regulations. While the amendments do have substance there are no major changes to the regulations. Many of the amendments relax lighting requirements, particularly for smaller vessels. Other amendments simply clarify wording.

The same year that the 72 COLREGS entered into force, the Secretary of Transportation formed the Rules of the Road Advisory Committee (RORAC).

The primary purpose of this committee was to formulate unified rules for our inland waters. Rule 1(b) of 72 COLREGS states:

"Nothing in these Rules shall interfere with the operation of special rules made by an appropriate authority for roadsteads, harbors, rivers, lakes or inland waterways connected with the high seas and navigable by seagoing vessels. *Such Special Rules shall conform as closely as possible to these Rules.*"

With this goal in mind, RORAC recommended that the rules be enacted into law by the Inland Navigational Rules Act of 1980 (Public Law 96-591). Four very important accomplishments of this Act were:

A. Our inland rules were modernized;

B. they were unified;

C. they were brought into conformity with 72 COLREGS; and

D. having anticipated the 55 amendments to 72 COLREGS, many of these amendments were written into our own rules.

Consequently, when the 72 COLREGS amendments become effective, our own rules will conform more closely to international regulations than they do at present. It is apparent from examining our rules closely, that RORAC and the Congress, in supporting the Inland Navigational Rules Act of 1980, fully supported the COLREGS amendments being submitted. It is of note that no country has deposited an objection with IMO to any of the 55 amendments, and none are anticipated.

In the absence of a duly enacted law to the contrary, I will proclaim that the amendments will enter into force for the United States on June 1, 1983.

RONALD REAGAN.

THE WHITE HOUSE, *January 27, 1983.*

MESSAGE FROM THE HOUSE

At 12:44 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that pursuant to the provisions of 15 U.S.C. 1024(a), the Speaker appoints as additional members of the Joint Economic Committee the following Members on the part of the House: Mr. WYLIE, Mrs. HOLT, Mr. LUNGREN, and Mrs. SNOWE.

The message also announced that pursuant to section 8002 of the Internal Revenue Code, the following members of the Committee on Ways and Means have been designated to serve on the Joint Committee on Taxation during the 98th Congress: Mr. ROSTENKOWSKI, Mr. GIBBONS, Mr. PICKLE, Mr. CONABLE, and Mr. DUNCAN.

The message further announced that pursuant to section 3(1) of Public Law 94-304, the Speaker appoints as members of the Commission on Security and Cooperation in Europe the following Members on the part of the House: Mr. FASCELL, chairman, Mr. YATES, Mr. WIRTH, Mr. MARKEY, Mr. RITTER, and Mr. SMITH of New Jersey.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-111. A communication from the District of Columbia Auditor transmitting, pursuant to law, a report entitled "Evaluation of D.C. Department of Transportation's Booting Program With Regard to Low Numbered License Plates"; to the Committee on Governmental Affairs.

EC-112. A communication from the Secretary of the U.S. Postal Rate Commission transmitting, pursuant to law, an opinion and recommended decision on bulk third-class rates; to the Committee on Governmental Affairs.

EC-113. A communication from the Assistant Secretary of Housing and Urban Development for Administration transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-114. A communication from the Administrator of the Panama Canal Commission transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-115. A communication from the Assistant Secretary of the Treasury for Administration transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-116. A communication from the Secretary of the Mississippi River Commission transmitting, pursuant to law, a report on activities of the Commission under the Government in the Sunshine Act; to the Committee on Governmental Affairs.

EC-117. A communication from the USPS Records Officer, U.S. Postal Service, transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-118. A communication from the Secretary of the U.S. Postal Rate Commission transmitting, pursuant to law, an opinion and recommended decision relative to uniform parcel size and weight limitations; to the Committee on Governmental Affairs.

EC-119. A communication from the Chairman of the Board of Governors, U.S. Postal Service, transmitting, pursuant to law, a report on activities under the Government in the Sunshine Act; to the Committee on Governmental Affairs.

EC-120. A communication from the Secretary of Education transmitting, pursuant to law, a report (revised) on the definition of Indian; to the Select Committee on Indian Affairs.

EC-121. A communication from the Acting Assistant Secretary for Indian Affairs, Department of the Interior, transmitting, pursuant to law, a plan for the use of judgment funds of the Yankton Sioux Tribe; to the Select Committee on Indian Affairs.

EC-122. A communication from the Chairman of the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research transmitting, pursuant to law, the annual report of the Commission; to the Committee on Labor and Human Resources.

EC-123. A communication from the Secretary of Health and Human Services transmitting, pursuant to law, a report entitled "Health, United States, 1982"; to the Committee on Labor and Human Resources.

EC-124. A communication from the Secretary of Education transmitting, pursuant to law, a report on the financing of public and private elementary and secondary education in the United States; to the Committee on Labor and Human Resources.

EC-125. A communication from the Chairman of the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research transmitting, pursuant to law, a report on the social and ethical issues of genetic engineering with human beings; to the Committee on Labor and Human Resources.

EC-126. A communication from the Administrator of the Veterans' Administration transmitting, pursuant to law, a report on the activities of the exchange of medical in-

formation program of the VA; to the Committee on Veterans Affairs.

EC-127. A communication from the President of the United States transmitting, pursuant to law, a statement of policy, appraisal of soil and water resources, and the Secretary of Agriculture's program for departmental conservation activities; to the Committee on Agriculture, Nutrition, and Forestry.

EC-128. A communication from the Director of the Office of Management and Budget transmitting, pursuant to law, a cumulative report on rescissions and deferrals, January 1, 1983; jointly, pursuant to the order of January 30, 1975, to the Committee on Appropriations and the Committee on the Budget.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROTH, from the Committee on Governmental Affairs, without amendment:

S. Res. 23. An original resolution authorizing expenditures by the Committee on Governmental Affairs; referred to the Committee on Rules and Administration.

By Mr. WEICKER, from the Committee on Small Business, without amendment:

S. Res. 24. An original resolution authorizing expenditures by the Committee on Small Business; referred to the Committee on Rules and Administration.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. LUGAR:

S. 213. A bill to amend title II of the Social Security Act to provide generally that benefits thereunder may be paid to aliens only after they have been lawfully admitted to the United States for permanent residence, and to improve further restrictions on the right of any alien in a foreign country to receive such benefits; to the Committee on Finance.

By Mr. GRASSLEY:

S. 214. A bill to permit a married individual filing a joint return to deduct certain payments made to an individual retirement plan established for the benefit of a working spouse; to the Committee on Finance.

By Mr. THURMOND (for himself, Mr. BIDEN, Mr. HATCH, Mr. KENNEDY, Mr. LAXALT, Mr. DECONCINI, Mr. DOLE, Mr. SIMPSON, Mr. EAST, Mr. GRASSLEY, Mr. DENTON, Mr. SPECTER, Mr. HEFLIN, Mr. CHILES, Mr. NUNN, Mr. ABDNOR, Mr. BOREN, Mr. BURDICK, Mr. COHEN, Mr. D'AMATO, Mr. DOMENICI, Mr. GARN, Mr. GOLDWATER, Mr. HATFIELD, Mr. HELMS, Mr. HOLLINGS, Mr. JEPSEN, Mr. KASTEN, Mr. MATTINGLY, Mr. MURKOWSKI, Mr. PRESSLER, Mr. QUAYLE, Mr. RUDMAN, Mr. STENNIS, Mr. SYMMS, Mr. TOWER, Mr. TRIBLE, Mr. ZORINSKY, and Mr. METZENBAUM):

S. 215. A bill to amend the Bail Reform Act of 1966 to permit consideration of danger to the community in setting pretrial release conditions, to expand the list of statutory release conditions, to establish a more appropriate basis for deciding on postconviction release, and for other purposes; to the Committee on the Judiciary.

By Mr. THURMOND (for himself, Mr. BIDEN, Mr. LEAHY, Mr. LAXALT, Mr. HATCH, Mr. KENNEDY, Mr. DOLE, Mr. DECONCINI, Mr. SIMPSON, Mr. GRASSLEY, Mr. DENTON, Mr. SPECTER, Mr. HEFLIN, Mr. BOREN, Mr. BOSCHWITZ, Mr. BURDICK, Mr. COHEN, Mr. D'AMATO, Mr. DOMENICI, Mr. GARN, Mr. GORTON, Mrs. HAWKINS, Mr. HOLLINGS, Mr. KASTEN, Mr. MATTINGLY, Mr. MELCHER, Mr. MOYNIHAN, Mr. NUNN, Mr. PELL, Mr. PRESSLER, Mr. PROXMIRE, Mr. QUAYLE, Mr. RUDMAN, Mr. STENNIS, Mr. SYMMS, Mr. ZORINSKY, Mr. METZENBAUM, and Mr. BYRD):

S. 216. A bill to amend title 18, United States Code, to combat, deter, and punish individuals who adulterate or otherwise tamper with food, drug, cosmetic, and other products with intent to cause personal injury, death, or other harm; to the Committee on the Judiciary.

By Mr. THURMOND (for himself, Mr. CHILES, Mr. HATCH, Mr. ZORINSKY, Mr. SIMPSON, Mr. GRASSLEY, Mr. DOMENICI, Mr. HELMS, Mr. GARN, and Mr. NUNN):

S. 217. A bill to reform procedures for collateral review of criminal judgments, and for other purposes; to the Committee on the Judiciary.

By Mr. THURMOND (for himself, Mr. DOMENICI, Mr. GARN, Mr. HATCH, and Mr. GRASSLEY):

S. 218. A bill to amend certain provisions of title 18, United States Code, relating to the procedures for interception of wire or oral communications; to the Committee on the Judiciary.

By Mr. THURMOND (for himself, Mr. BURDICK, Mr. GARN, Mr. HATCH, Mr. SIMPSON, Mr. ZORINSKY, and Mr. GRASSLEY):

S. 219. A bill to amend chapter 5 of title 18 of the United States Code, relating to arson in executing a scheme to defraud; to the Committee on the Judiciary.

By Mr. THURMOND:

S. 220. A bill to amend chapter 209 of title 18, United States Code, relating to extradition, and for other purposes; to the Committee on the Judiciary.

S. 221. A bill to temporarily suspend the duty on certain menthol feedstocks until June 30, 1986; to the Committee on Finance.

By Mr. BAKER (for Mr. KASTEN) (for himself, Mr. HEFLIN, Mr. HELMS, Mr. HUMPHREY, Mr. PROXMIRE, Mr. QUAYLE, Mrs. KASSEBAUM, Mrs. HAWKINS, Mr. EXON, Mr. BOREN, Mr. HUDDLESTON, Mr. EAST, Mr. HOLLINGS, Mr. JEPSEN, Mr. DECONCINI, Mr. RANDOLPH, Mr. TRIBLE, Mr. ZORINSKY, Mr. TSONGAS, Mr. GLENN, Mr. NICKLES, Mr. COCHRAN, and Mr. DENTON):

S. 222. A bill to repeal the withholding of tax from interest and dividends and to require statements to be filed by the taxpayer with respect to interest, dividends, and patronage dividends; to the Committee on Finance.

By Mr. HEINZ:

S. 223. A bill for the relief of Rosario L. Clarin; to the Committee on the Judiciary.

S. 224. A bill for the relief of Edmond Ing-Ming Ko, doctor of philosophy; to the Committee on the Judiciary.

S. 225. A bill for the relief of Francesco Bellizzi and Maria Bellizzi, husband and wife, and their children, Marco Bellizzi and Dina Bellizzi; to the Committee on the Judiciary.

S. 226. A bill for the relief of Augustine Chi-Kuen Au, doctor of dental surgery, and Adrienne Au, husband and wife; to the Committee on the Judiciary.

S. 227. A bill for the relief of Sin Fong Chang and Sau Wah Chang, husband and wife, and their children, Tung Fu Chang and Tung Yan Chang; to the Committee on the Judiciary.

S. 228. A bill for the relief of Nikola Markarian, Maral Markarian, Pakrad Markarian, Gayane Markarian, and Hera Markarian; to the Committee on the Judiciary.

S. 229. A bill for the relief of Maxine Ann Fricioni; to the Committee on the Judiciary.

By Mr. HEINZ (for himself and Mr. SYMMS):

S. 230. A bill to amend the Tariff Schedules of the United States to establish equal and equitable classification and duty rates for various cordage products of virtually identical characteristics; to the Committee on Finance.

By Mr. HEINZ:

S. 231. A bill for the relief of Remigio Aquino and his wife Ines Aquino; to the Committee on the Judiciary.

S. 232. A bill for the relief of William Kubrick; to the Committee on the Judiciary.

By Mr. COCHRAN:

S. 233. A bill for the relief of Kwok Tung Yu; to the Committee on the Judiciary.

S. 234. A bill for the relief of Rene Arevalo Guerrero; to the Committee on the Judiciary.

S. 235. A bill for the relief of Grady L. Lewis; to the Committee on the Judiciary.

S. 236. A bill for the relief of Thomas Hulmut Hofmann; to the Committee on the Judiciary.

By Mr. WALLOP:

S. 237. A bill to amend the Internal Revenue Code of 1954 to provide for the establishment of reserves for mining land reclamation and for the deduction of amounts added to such reserves; to the Committee on Finance.

S. 238. A bill for the relief of Prof. Ramarao Inguva; to the Committee on the Judiciary.

By Mr. JEPSEN (for himself and Mr. GRASSLEY):

S. 239. A bill to clarify the definition of abuse in the Natural Gas Policy Act of 1978; to the Committee on Energy and Natural Resources.

By Mr. BYRD:

S. 240. A bill to amend the Internal Revenue Code of 1954 to eliminate withholding of tax from interest and dividends; to the Committee on Finance.

By Mrs. HAWKINS:

S. 241. A bill to amend the Public Health Service Act to provide assistance to medical facilities in developing and establishing dependent care facilities for dependents of employees of such medical facilities, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. QUAYLE (for himself and Mr. HATCH):

S. 242. A bill to provide additional authorizations for labor intensive programs, to provide additional provisions for the dislocated workers program under title III of the Jobs Training Partnership Act, to promote employment and training for recipients of federally financed unemployment benefits, to provide procurement targeting in labor surplus areas, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. SPECTER:

S. 243. A bill to authorize the implementation of a project for the prevention of flood

damage on the west branch of the Susquehanna River at Lock Haven, Pa., and for other purposes; to the Committee on Environment and Public Works.

S. 244. A bill to authorize the implementation of a project for the prevention of flood damage on the Susquehanna River at Harrisburg, Pa., and for other purposes; to the Committee on Environment and Public Works.

S. 245. A bill to authorize implementation of a project for the prevention of flood damage in Wyoming Valley, Luzerne County, Pa., and for other purposes; to the Committee on Environment and Public Works.

S. 246. A bill to authorize the implementation of a project for the control of beach erosion at Presque Isle Peninsula, Pa., and for other purposes; to the Committee on Environment and Public Works.

By Mr. GORTON (for himself, Mr. JOHNSTON, Mr. HATFIELD, Mr. BAUCUS, Mr. GARN, Mr. INOUYE, Mr. MATSUNAGA and Mr. HATCH):

S. 247. A bill granting the consent of Congress to the Northwest Interstate Compact on low-level radioactive waste management; to the Committee on the Judiciary.

By Mr. DOMENICI (for himself, Mr. HEINZ, Mr. CHAFEE, Mr. GORTON, and Mr. DOLE):

S. 248. A bill to provide merit scholarships for students who are preparing to become elementary and secondary school teachers in mathematics and science, to provide experienced teacher awards to teachers of mathematics and science, to provide a block grant for the improvement of mathematics and science education in elementary and secondary schools of the States, to establish State commissions on excellence in mathematics and science, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. PACKWOOD (for himself, Mr. BENTSEN, Mr. SYMMS, Mr. BOREN, and Mr. DURENBERGER):

S. 249. A bill entitled the "Employee Educational Assistance Extension Act"; to the Committee on Finance.

By Mr. PROXMIRE (for himself, Mr. HART, Mr. NICKLES, and Mr. COCHRAN):

S. 250. A bill to abolish the Synthetic Fuels Corporation; to the Committee on Energy and Natural Resources.

By Mr. HELMS (for himself, Mr. ZORINSKY, Mrs. HAWKINS, Mr. WILSON, Mr. GRASSLEY, and Mr. COHEN):

S. 251. A bill to require the export sale of Commodity Credit Corporation-owned dairy products, expand markets for U.S. agricultural commodities, expand authority for the use abroad of Commodity Credit Corporation stocks, require the Secretary of Agriculture to report on the use of export subsidies by foreign nations, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. STEVENS:

S. 252. A bill for the relief of Antonio V. Matias; to the Committee on the Judiciary.

By Mr. PRESSLER:

S. 253. A bill to amend the Internal Revenue Code of 1954 to reduce the rate of tax imposed on certain petroleum products that are mixed with alcohol, and for other purposes; to the Committee on Finance.

By Mr. STEVENS (for himself, Mr. LONG, Mr. PACKWOOD, Mr. MURKOWSKI, and Mr. TRIBLE):

S. 254. A bill to provide for inclusion of capital construction funds for fishery processing facilities; to the Committee on Commerce, Science, and Transportation.

By Mr. GORTON (for himself and Mr. MITCHELL):

S. 255. A bill to amend the Uniform Time Act of 1966 to provide that daylight savings time shall begin each year on the last Sunday in March rather than the last Sunday in April and to require a study of the effects of this act by the Secretary of Transportation; to the Committee on Commerce, Science, and Transportation.

By Mr. RIEGLE:

S. 256. A bill for the relief of William Vojislav Rankovic, Stanislava Rankovic, husband and wife; and William Rankovic, Jr., and Natalie Rankovic, their children; to the Committee on the Judiciary.

S. 257. A bill for the relief of Samson Kossivi Kpadenou, doctor of medicine; to the Committee on the Judiciary.

S. 258. A bill for the relief of Roger Eric Lord; to the Committee on the Judiciary.

S. 259. A bill for the relief of Luzbella Y. Imasa, doctor of medicine; to the Committee on the Judiciary.

S. 260. A bill for the relief of Hun Sik Sanderson; to the Committee on the Judiciary.

S. 261. A bill for the relief of Yaeko Howell; to the Committee on the Judiciary.

S. 262. A bill for the relief of Eduardo Velesco Barlan, doctor of medicine, his wife, Senen Macalinao Barlan, and their daughter, Madelynn Gay Barlan; to the Committee on the Judiciary.

S. 263. A bill for the relief of Antonio Lacson Devera; to the Committee on the Judiciary.

S. 264. A bill for the relief of Jabbar Attou; to the Committee on the Judiciary.

By Mr. HOLLINGS (for himself, Mr. LONG and Mr. PRYOR):

S. 265. A bill to establish a Reconstruction Finance Corporation; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. CRANSTON (for himself and Mr. METZENBAUM):

S. 266. A bill to provide employment opportunities to long-term unemployed individuals in high unemployment areas in projects to repair and renovate vitally needed community facilities, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. JOHNSTON (for himself, Mr. BUMPERS, Mr. MURKOWSKI, Mr. BRADLEY, Mr. STEVENS, Mrs. HAWKINS, Mr. HUMPHREY, Mr. NICKLES, Mr. GOLDWATER, Mr. MATSUNAGA, Mr. WILSON, and Mr. DECONCINI):

S. 267. A bill entitled "The Coal Distribution and the Utilization Act of 1983"; to the Committee on Energy and Natural Resources.

By Mr. McCLURE:

S. 268. A bill to authorize the Secretary of the Interior to construct, operate, and maintain hydroelectric powerplants at various existing water projects, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. McCLURE (for himself and Mr. SYMMS):

S. 269. A bill to provide for the disposal of silver from the national defense stockpile through the issuance of silver coins; to the Committee on Banking, Housing, and Urban Affairs.

S. 270. A bill to provide for the disposal of silver from the national defense stockpile through the issuance of a special series of bonds which may be redeemed for silver, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Br Mr. McCLURE (for himself and Mr. WALLOP):

S. 271. A bill to amend the National Trails Systems Act by designating additional national scenic and historic trails, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. PRESSLER (for himself, Mr. WEICKER, Mr. NUNN, Mr. D'AMATO, Mr. GORTON, Mr. RUDMAN, Mr. DIXON, Mr. LEVIN, Mrs. HAWKINS, Mr. SPECTER, Mr. HUDDLESTON, Mr. SASSER, Mr. TSONGAS, and Mr. GLENN):

S. 272. A bill to improve small business access to Federal procurement information; to the Committee on Small Business.

By Mr. WEICKER:

S. 273. A bill to amend section 8(a)(1) of the Small Business Act; to the Committee on Small Business.

By Mr. GRASSLEY:

S.J. Res. 24. Joint resolution proposing an amendment to the Constitution of the United States with respect to the right to life; to the Committee on the Judiciary.

By Mr. COHEN (for himself and Mr. MITCHELL):

S.J. Res. 25. Joint resolution redesignating the St. Croix Island National Monument in the State of Maine as the "St. Croix Island International Historic Site"; to the Committee on Energy and Natural Resources.

SUBMISSION OR CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MOYNIHAN (for himself and Mr. D'AMATO):

S. Res. 19. Resolution to express the profound sorrow of the Senate upon the death of the Honorable Benjamin S. Rosenthal, late a representatives from the State of New York; considered and agreed to.

By Mr. BAKER (for Mr. TOWER):

S. Res. 20. Resolution to amend rule XXV of the Standing Rules of the Senate; considered and agreed to.

By Mr. BAKER (for himself and Mr. BYRD):

S. Res. 21. Resolution to direct the Senate Legal Counsel to represent Senate parties in Robert B. Graham, Sr. v. United States of America, et al., Civil Action No. 82-5610; considered and agreed to.

S. Res. 22. Resolution to direct the Senate Legal Counsel to represent the Senate parties in Carl Davis v. The United States of America, et. al., Civil Action No. H-82-2862; considered and agreed to.

By Mr. ROTH:

S. Res. 23. An original resolution authorizing expenditures by the Committee on Governmental Affairs; from the Committee on Governmental Affairs; to the Committee on Rules and Administration.

By Mr. WEICKER:

S. Res. 24. An original resolution authorizing expenditures by the Committee on Small Business; from the Committee on Small Business; to the Committee on Rules and Administration.

By Mr. SASSER (for himself, Mr. HEINZ, Mr. HUDDLESTON, Mr. BOSCHWITZ, Mr. ABDNOR, Mr. GORTON, Mr. LUGAR, Mr. GLENN, Mr. CHILES, Mr. METZENBAUM, Mr. PRYOR, Mr. D'AMATO, Mr. HOLLINGS, Mr. ANDREWS, and Mr. BAUCUS):

S. Con. Res. 5. Concurrent resolution expressing the sense of the Congress that the Railroad Retirement Board and representatives of railroad employees and carriers should explore new methods of financing the railroad retirement program; to the Committee on Labor and Human Resources.

By Mr. BOSCHWITZ (for himself, Mr. DANFORTH, Mr. HUDDLESTON, Mr. LEAHY, Mr. COHEN, Mr. EAGLETON, and Mr. JEPSEN):

S. Con. Res. 6. Concurrent resolution expressing the sense of the Congress that the Federal Government should maintain current efforts in Federal nutrition programs to prevent increases in domestic hunger; to the Committee on Appropriations.

ADDITIONAL COSPONSORS

S. 7

At the request of Mr. CRANSTON, the name of the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of S. 7, a bill to amend title XIX of the Social Security Act to extend medicaid eligibility to certain low-income pregnant women and newborn children.

S. 26

At the request of Mr. HELMS, the name of the Senator from Alabama (Mr. DENTON) was added as a cosponsor of S. 26, a bill to provide legal protection for unborn human beings and for other purposes.

S. 62

At the request of Mr. SASSER, the names of the Senator from California (Mr. WILSON), the Senator from Hawaii (Mr. INOUYE), and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of S. 62, a bill to provide for the issuance of a commemorative stamp to honor the dedication of the Vietnam Veterans Memorial.

S. 76

At the request of Mr. DOLE, the name of the Senator from Pennsylvania (Mr. HEINZ), and the Senator from Wyoming (Mr. WALLOP) were added as cosponsors of S. 76, a bill to increase the retirement age at which full benefits are paid.

S. 97

At the request of Mr. FORD, the names of the Senator from Illinois (Mr. DIXON), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Utah (Mr. HATCH), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Michigan (Mr. LEVIN), the Senator from North Dakota (Mr. BURDICK), the Senator from Maryland (Mr. SARBANES), the Senator from Montana (Mr. MELCHER), the Senator from Michigan (Mr. RIEGLE), the Senator from Ohio (Mr. GLENN), the Senator from Delaware (Mr. BIDEN), and the Senator from Alabama (Mr. HEFLIN) were added as cosponsors of S. 97, a bill to amend the Railroad Unemployment Insurance Act to provide supplemental unemployment benefits to certain employees with less than 10 years of service.

S. 105

At the request of Mr. THURMOND, the names of the Senator from Virginia (Mr. WARNER), and the Senator from Georgia (Mr. MATTINGLY) were added as cosponsors of S. 105, a bill to define the affirmative defense of insanity and to provide a procedure for the commitment of offenders suffering from a mental disease or defect, and for other purposes.

S. 137

At the request of Mr. ROTH, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 137, a bill to amend the Internal Revenue Code of 1954 to continue to allow mortgage bonds to be issued.

SENATE JOINT RESOLUTION 8

At the request of Mr. HELMS, the name of the Senator from Alabama (Mr. DENTON) was added as a cosponsor of Senate Joint Resolution 8, a joint resolution to amend the Constitution of the United States to guarantee the right to life.

SENATE JOINT RESOLUTION 9

At the request of Mr. HELMS, the name of the Senator from Alabama (Mr. DENTON) was added as a cosponsor of Senate Joint Resolution 9, a joint resolution to amend the Constitution of the United States to protect the right to life.

SENATE JOINT RESOLUTION 10

At the request of Mr. TSONGAS, the name of the Senator from California (Mr. WILSON) was added as a cosponsor of Senate Joint Resolution 10, a joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for women and men.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LUGAR:

S. 213. A bill to amend title II of the Social Security Act to provide generally that benefits thereunder may be paid to aliens only after they have been lawfully admitted to the United States for permanent residence, and to impose further restrictions on the right of any alien in a foreign country to receive such benefits; to the Committee on Finance.

BENEFITS PAID TO ALIENS

● Mr. LUGAR. Mr. President, today I am reintroducing legislation which would limit the amount of social security benefits which are paid to nonresident aliens. This bill offers an opportunity to adopt a simple, but important, reform which will provide savings which can be redirected to other aspects of the social security program. But just as important, this reform will send a reassuring message to Americans that while we are asking them to sacrifice for the secured future of social security by increasing taxes and delaying cost-of-living increases, Congress is serious about tightening up those aspects of the program which are fraught with abuse.

Mr. President, at the present time, U.S. taxpayers are paying about $1 billion each year in social security benefits to people living outside the United States. Some of these individuals are U.S. citizens, and that is reasonable enough. We have no wish to restrict the place where U.S. citizens choose to live. Approximately 70 percent of these recipients, however, are nonresident aliens, with no formal relationship or allegiance to the United States. These beneficiaries have worked for a period of time in the United States, and then returned to their home countries. Most nonresident alien recipients receive benefits many times greater than what they contributed to the social security system.

During the last Congress, I introduced this bill to limit social security benefits paid to nonresident aliens to the amount of their contributions to the system. This bill had 20 cosponsors from both sides of the aisle. Its companion measure in the House had 100 cosponsors. Public response for this initiative has been overwhelmingly favorable.

The GAO has reported cases in which thousands of dollars in benefits have been paid to people who have made very small contributions. Social Security Administration statistics show that among the beneficiary population as a whole, the proportion of retired or disabled workers is about 62 percent and the proportion of dependents and survivors is about 38 percent. Proportions for foreign beneficiaries, however, run 48 percent for retired or disabled recipients to 52 percent for dependents and survivors. In some cases, the proportion of dependents and survivors is even higher. In the Philippines, for example, the proportion of dependents and survivors is 71 percent. In Mexico, the proportion is 73 percent. In these cases, American social security dollars go not to retired workers themselves, but to dependents and survivors who may never even have visited this country. This disproportionate number of dependents and survivors among nonresident aliens is indicative of the magnitude of inequity and abuse which pervades this portion of the social security program.

Mr. President, we are sending nearly three-quarters of a billion dollars each year from the trust funds of our troubled social security system to nonresident aliens and their dependents. What we have created, in effect, is a massive foreign aid entitlement program. There is simply no justification for the continuation of this program in its current form. Non-U.S. citizens who do not live in this country have

no entitlement to the earnings of U.S. taxpayers.

For now, however, I have chosen the course of caution. The reform which is proposed in my bill is prospective only. It affects no benefits currently received by nonresident aliens. It indicates simply that while we are discussing where equity lies in terms of current beneficiaries, we ought to give clear indication that we do not intend to perpetuate this foreign aid entitlement program indefinitely in the future.

This proposal is a modest one which I hope will be incorporated into the Senate's social security reform bill this spring. This reform would not affect one single American citizen, either here or abroad. It would not affect any alien currently residing in the United States or in any of its territories. It would not affect any nonresident alien currently receiving benefits. It would not abrogate or in any way alter any existing or future treaties or totalization agreements which provide for reciprocity of social security or retirement programs.

My intent in introducing this bill is to give a clear signal to the American people that the Congress intends to protect those people for whom the social security system was created. I believe that most American citizens would be dumbfounded to learn that three-quarters of a billion dollars is paid each year to nonresident aliens, a majority of whom have never even worked in the United States.

Mr. President, the Congress will inevitably face difficult questions involving reforms to insure the soundness of the social security system. We owe it to the American people to show that we intend to take care of those Americans who have contributed to social security over their working lifetimes. For this reason, I hope that this bill will find favor among all Senators.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 213

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 202(t)(1) of the Social Security Act is amended to read as follows:

"(1)(A) Notwithstanding any other provision of this title (but subject to subparagraphs (B) through (F) of this paragraph), no monthly benefit shall be paid under this section or section 223 for any month to any individual who is not a citizen or national of the United States, if such individual—

"(i) has not been lawfully admitted to the United States for permanent residence, or

"(ii) is outside the United States;

and no monthly benefits shall be paid to any person for any month under this section or section 223 on the basis of the wages and self-employment income of an individual who (without regard to subparagraph (E)) is himself prevented by the preceding provisions of this subparagraph from receiving a benefit for that month.

"(B) Subparagraph (A)(i) shall not apply with respect to any individual within the United States if the benefit involved is payable to such individual as the dependent or survivor of a citizen or national of the United States, or as the dependent or survivor of an alien lawfully admitted to the United States for permanent residence.

"(C) Subparagraph (A)(ii) shall not apply with respect to any individual if (i) the benefit involved is payable to such individual as the dependent or survivor of a citizen or national of the United States who resides outside the United States and has attained age 50 (or who died outside the United States after attaining that age), and (ii) at the time such citizen or national attained age 50 the spousal, filial, parental, or other relationship which is required for such individual's entitlement to the benefit involved already existed.

"(D) For purposes of this paragraph, an individual shall be considered to be outside the United States in any month only if such month occurs—

"(i) after the sixth consecutive calendar month during all of which (as determined by the Secretary on the basis of information furnished to him by the Attorney General or information which otherwise comes to his attention) such individual is outside the United States, and

"(ii) prior to the first month thereafter during all of which such individual has been in the United States;

but in applying the preceding provisions of this subparagraph an individual who has been outside the United States for any period of 30 consecutive days shall be treated as remaining outside the United States until he has been in the United States for a period of 30 consecutive days.

"(E) An individual who is otherwise prevented by subparagraph (A) from receiving benefits under this title may nevertheless be paid such benefits, as though such subparagraph were inapplicable, until the total amount of such benefits equals the total amount of the taxes paid under sections 3101 and 1401 of the Internal Revenue Code of 1954 (or the corresponding provisions of prior law) with respect to the wages and self-employment income on which such benefits are based (or, in any case where on or more other persons are also being paid benefits by reason of this subparagraph on the basis of such wages and self-employment income, until the total amount of the benefits paid to such individual equals the portion of such taxes which is attributable under regulations of the Secretary to such individual's entitlement). After such benefits have been paid, such individual shall have no further entitlement to benefits based in whole or in part on the same wages and self-employment income.

"(F) For purposes of this paragraph, the term 'United States' (when used in either a geographical or political sense) means the States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States."

(b) Section 202(t)(2) of such Act is repealed.

(c) Section 202(t)(3) of such Act is amended to read as follows:

"(3) Paragraph (1), as modified by the amendments made to this subsection in 1982, shall not apply—

"(A) in any case where its application would be contrary to any treaty obligation of the United States in effect on the date of the enactment of such amendments, or

"(B) to individuals who are citizens or residents of a country with which the United States has concluded, or concludes in the future, an international social security agreement pursuant to section 233, unless otherwise provided by such agreement."

(d) Section 202(t)(4) of such Act is amended—

(1) by striking out subparagraphs (A) and (B);

(2) by redesignating subparagraphs (C), (D), and (E) as subparagraphs (A), (B), and (C); and

(3) by striking out the semicolon at the end of subparagraph (C) (as so redesignated) and all that follows and inserting in lieu thereof a period.

(e) The heading of section 202(t) of such Act is amended by adding at the end thereof the following: "; PROHIBITION AGAINST PAYMENT OF BENEFITS TO ALIENS NOT PERMANENT RESIDENTS".

SEC. 2. (a) Except as provided in subsections (b) and (c), the amendments made by the first section of this Act shall apply with respect to months after the month in which this Act is enacted.

(b) If any individual is (or upon application would be) entitled to a monthly benefit under section 202 or 223 or the Social Security Act for the month in which this Act is enacted on the basis of any person's wages and self-employment income, none of the amendments made by the first section of this Act shall apply with respect to such benefit or with respect to any other benefit which is or may become payable on the basis of such wages and self-employment income.

(c) Nothing in the amendments made by the first section of this Act shall be viewed as limiting or preventing the continued application of section 202(t)(3) of the Social Security Act, as it was in effect immediately prior to the date of the enactment of this Act, in any case to which it applied immediately prior to such date.●

By Mr. GRASSLEY:

S. 214. A bill to permit a married individual filing a joint return to deduct certain payments made to an individual retirement plan established for the benefit of a working spouse; to the Committee on Finance.

PAYMENTS TO CERTAIN IRA ACCOUNTS

● Mr. GRASSLEY. Mr. President, I rise to introduce a measure designed to enable nonworking spouses to enjoy full individual retirement account benefits. Nonworking spouses may only participate in IRA's if the working spouse establishes a spousal IRA for their mutual benefit. Increasing life expectancies and concern over the retirement security of our aging population, should prod us to examine the wisdom of denying nonworking spouses full IRA benefits. The bill I am introducing will give nonworking spouses parity with working individuals in establishing IRA's.

Under current law, individuals receiving compensation are permitted to exclude 100 percent of compensation up to $2,000 from their current income if such an amount is deposited in an individual retirement account. A married nonworking individual may participate in a spousal IRA if the working spouse elects to contribute an amount for the benefit of both spouses. The maximum amount which may be contributed to a spousal IRA is $2,250—up to 100 percent of compensation. A nonworking spouse receives one-half of the benefits from this IRA, but is not permitted to perpetuate the IRA if he or she is divorced or widowed and is not receiving compensation.

The retirement crisis is a pressing concern of the 98th Congress. Social security solvency will be an important issue for the first session of this Congress. As a larger percentage of the population joins the ranks of the aging, new retirement solutions will be needed. In my view, it is imperative that we enact tax incentives to encourage people to plan for their retirement. All Americans need to develop personal retirement alternatives to prevent exclusive reliance on social security benefits.

My legislation will permit a working spouse to set aside a full $2,000 contribution for a nonworking spouse in a spousal IRA. This will permit improved retirement planning for much of our population as well as acknowledge the contribution of homemakers in furthering the family as an economic unit. These uncompensated individuals make critical contributions to the family enterprise. In my home State of Iowa, farm wives are an integral part of the success of a family farm operation. The Internal Revenue Code should recognize this contribution and permit these individuals to participate in tax deferred retirement plans.

An added benefit of expanding IRA eligibility to nonworking spouses is the stimulus such action gives national savings. My bill expands the class of individuals eligible for an IRA account; thereby, increasing the number of dollars saved for a long period of time. This larger pool of savings increases the supply of money available for capital investment.

To conclude, this legislation is important because it provides retirement security for nonworking spouses and acknowledges their important contribution to the family unit. It encourages more Americans to actively plan for their retirement years. Finally, it stimulates capital formation. I urge my colleagues to consider cosponsoring this legislation and joining me in this important effort to expand IRA coverage to nonworking individuals.●

By Mr. THURMOND (for himself, Mr. BIDEN, Mr. HATCH, Mr. KENNEDY, Mr. LAXALT, Mr. DECONCINI, Mr. DOLE, Mr. SIMPSON, Mr. EAST, Mr. GRASSLEY, Mr. DENTON, Mr. SPECTER, Mr. HEFLIN, Mr. CHILES, Mr. NUNN, Mr. ABDNOR, Mr. BOREN, Mr. BURDICK, Mr. COHEN, Mr. D'AMATO, Mr. DOMENICI, Mr. GARN, Mr. GOLDWATER, Mr. HATFIELD, Mr. HELMS, Mr. HOLLINGS, Mr. JEPSEN, Mr. KASTEN, Mr. MATTINGLY, Mr. MURKOWSKI, Mr. PRESSLER, Mr. QUAYLE, Mr. RUDMAN, Mr. STENNIS, Mr. SYMMS, Mr. TOWER, Mr. TRIBE, Mr. ZORINSKY, and Mr. METZENBAUM):

S. 215. A bill to amend the Bail Reform Act of 1966 to permit consideration of danger to the community in setting pretrial release conditions, to expand the list of statutory release conditions, to establish a more appropriate basis for deciding on postconviction release, and for other purposes; to the Committee on the Judiciary.

By Mr. THURMOND (for himself, Mr. BIDEN, Mr. LEAHY, Mr. LAXALT, Mr. HATCH, Mr. KENNEDY, Mr. DOLE, Mr. DECONCINI, Mr. SIMPSON, Mr. GRASSLEY, Mr. DENTON, Mr. SPECTER, Mr. HEFLIN, Mr. BOREN, Mr. BOSCHWITZ, Mr. BURDICK, Mr. COHEN, Mr. D'AMATO, Mr. DOMENICI, Mr. GARN, Mr. GORTON, Mrs. HAWKINS, Mr. HOLLINGS, Mr. KASTEN, Mr. MATTINGLY, Mr. MELCHER, Mr. MOYNIHAN, Mr. NUNN, Mr. PELL, Mr. PRESSLER, Mr. PROXMIRE, Mr. QUAYLE, Mr. RUDMAN, Mr. STENNIS, Mr. SYMMS, Mr. ZORINSKY, Mr. METZENBAUM, and Mr. BYRD):

S. 216. A bill to amend title 18, United States Code, to combat, deter, and punish individuals who adulterate or otherwise tamper with food, drug, cosmetic, and other products with intent to cause personal injury, death, or other harm; to the Committee on the Judiciary.

By Mr. THURMOND (for himself, Mr. NUNN, Mr. CHILES, Mr. HATCH, Mr. ZORINSKY, Mr. SIMPSON, Mr. GRASSLEY, Mr. DOMENICI, Mr. HELMS, and Mr. GARN):

S. 217. A bill to reform procedures for collateral review of criminal, judgments, and for other purposes; to the Committee on the Judiciary.

By Mr. THURMOND (for himself, Mr. DOMENICI, Mr. GARN, Mr. HATCH, and Mr. GRASSLEY):

S. 218. A bill to amend certain provisions of title 18, United States Code, relating to the procedures for interception of wire or oral communications; to the Committee on the Judiciary.

By Mr. THURMOND (for himself, Mr. BURDICK, Mr. GARN, Mr. HATCH, Mr. SIMPSON, Mr. ZORINSKY, and Mr. GRASSLEY):

S. 219. A bill to amend chapter 5 of title 18 of the United States Code, relating to arson in executing a scheme to defraud; to the Committee on the Judiciary.

By Mr. THURMOND:

S. 220. A bill to amend chapter 209 of title 18, United States Code, relating to extradition, and for other purposes; to the Committee on the Judiciary.

CRIME PACKAGE

Mr. THURMOND. Mr. President; the crime rate in this country reached an unprecedented high in 1980 and has continued at that level, according to figures most recently released by the Federal Bureau of Investigation. The FBI's "Crime Clock" graphically illustrates our unfortunate plight. A violent crime occurs every 24 seconds. Robberies take place every 55 seconds and burglaries are committed at an astonishing rate of one every 8 seconds.

Not only is the incidence of crime great, but it generates an understandable fear among our citizens which virtually imprisons them in their homes. Public opinion polls indicate that, after the economy, crime is the issue of foremost concern to Americans. It is incumbent upon us as representatives of the people to address this intolerable situation without further delay.

In the last Congress, some important legislation, such as the Victims and Witness Protection Act and the Anti-Arson Act, was enacted in response to the crime problem. This body also passed, by a stunning vote of 95 to 1, the Violent Crime and Drug Enforcement Improvements Act. This bipartisan measure was endorsed by the administration and strongly supported by many distinguished and hard-working members of this body, including the ranking minority member, Senator BIDEN, also Senator LAXALT, Senator HATCH, Senator KENNEDY, Senator DECONCINI, and Senator HEFLIN. That bill dealt with those crime issues which are of greatest concern to our citizens, such as bail and sentencing reform. Unfortunately, similar progress was not achieved in the other body, but I am encouraged by indications of the willingness of the leadership there to process these measures in this Congress.

I am introducing today, on behalf of myself and a number of my colleagues, six crime bills. They relate to bail reform, product tampering, habeas corpus reform, emergency electronic surveillance, arson for profit, and extradition. Let me briefly describe them for the benefit of my colleagues.

The Bail Reform Act of 1983 is identical to title I of the Violent Crime and Drug Enforcement Improvements Act. It would amend the Bail Reform Act of 1966 to correct several fundamental deficiencies. First and foremost, it would permit Federal judicial officers

to consider the danger that a released defendant might pose to other persons in setting release conditions. Pretrial detention would also be authorized under limited circumstances with substantial due process guarantees for the defendant. The current inability of Federal judges to consider danger to the community is an affront to commonsense and creates an obvious, unacceptable danger to innocent citizens.

The Bail Reform Act of 1983 would also reverse the presumption in favor of releasing convicted defendants during postconviction proceedings and would authorize judges to refuse money offered as bond if its source, such as drug trafficking, would not guarantee the appearance of the defendant at trial. These changes should be made without further delay.

The second bill, the Federal Anti-Tampering Act, is identical to S. 3048, which this body passed during the last Congress. It would make it a Federal offense to engage in acts of tampering or adulteration, to attempt to do so, or to make false threats concerning such offenses. This legislation responds to the tragic Tylenol situation in Chicago and other copycat events. The penalties provided are substantial and should serve to deter egregious conduct of this nature. The bill will also permit the full investigative resources of the Federal Government to be brought to bear in these cases.

The third bill would make long overdue changes in Federal habeas corpus procedures in an attempt to impose some reasonable limitations on the endless litigation that often follows State and Federal criminal convictions. The writ of habeas corpus has unfortunately become a tool by which convicted criminals delay punishment, frustrate the judicial process, and circumvent the jurisdiction of State courts. The bill, which is based on an administration proposal, will protect against abuse, while preserving the rights of the accused.

The fourth bill, which is identical to S. 1640, as it was passed by this body in the 97th Congress, would provide uniform statutory procedures for the use of surreptitious entries to install court-authorized electronic eavesdropping devices. It would also provide for emergency interceptions of wire and oral communications in life-endangering situations. Current law limits emergency interceptions to national security and organized crime situations and should be expanded to cover other instances where there is an immediate danger of death or serious bodily injury. The bill would require a specific request for, and court authorization of, any surreptitious entry. This reflects the Justice Department's policy.

The fifth bill would increase the Federal penalties for arson offenses which are committed for profit. This type of offense has been increasingly associated with organized criminal activity and should be dealt with more severely than current law permits. This bill will provide an additional deterrent to a crime which profits greedy criminals at tragic expense to innocent citizens.

The last bill would make major revisions in Federal law relating to international extradition requests. Modern communications and travel have facilitated the flight of criminals to foreign countries. As a result, the number of extradition requests has increased substantially in the last decade. Current extradition laws, which date from the 1890's, are inadequate to deal with these requests. This bill would modernize and clarify those procedures, while protecting the rights of the person whose extradition is sought. The bill is based on a recommendation of the administration and is identical to S. 1940, which passed the Senate in the last Congress.

Mr. President, the six bills which I am introducing today have enjoyed widespread support in this body in the past and their passage is long overdue. As chairman of the Committee on the Judiciary, I fully intend to press for prompt action on these important measures. I welcome the support of my colleagues in this endeavor, so that the 98th Congress may be remembered for the passage of landmark crime-fighting legislation.

I ask unanimous consent that individual discussions relating to each of these measures and a copy of each bill be printed in the RECORD following my remarks.

BAIL REFORM ACT OF 1983

Mr. THURMOND. Mr. President, as chairman of the Committee on the Judiciary, I am pleased to be joined today by the ranking minority member, Senator BIDEN, as well as many other distinguished Members of this body, in introducing the Bail Reform Act of 1983. This bill is identical to title I of the Violent Crime and Drug Enforcement Improvements Act (S. 2572), which passed the Senate on September 30, 1982, by a vote of 95 to 1. In addition to wide bipartisan support in this body, it enjoyed the administration's endorsement.

Exhaustive hearings chaired by Senator HATCH during the 97th Congress and the indepth report of the committee demonstrated an urgent need for major revisions in the Bail Reform Act of 1966 to address the problems of crimes committed by persons released on bail and the failure of defendants to appear at trial. Under current law, in a noncapital case, a Federal judge generally may not order the pretrial detention of a dangerous defendant, nor may he impose conditions of release aimed at insuring community safety. This is an affront to commonsense and creates an obvious, unacceptable danger to innocent citizens.

Recently, according to the Department of Justice, a defendant charged with armed robbery was released after a Federal magistrate specifically cited his inability to consider the danger that his release might pose to the community. Four days later, the defendant and a partner robbed a nearby bank and shot a police officer. Clearly, this sort of intolerable situation must be corrected without further delay.

The Bail Reform Act of 1983 changes existing law in the following major respects to deter bail crime and failure to appear as required:

First, it would permit Federal judicial officers to consider the danger that a released defendant would pose to the community in setting conditions of his release. Where no conditions would assure the appearance of a defendant at trial or the safety of others, pretrial detention could be ordered after a hearing accompanied by substantial due process protections for the accused.

Second, the act would reverse the current presumption in favor of releasing persons who have been convicted and who are awaiting sentencing or appeal. Where guilt has been found beyond a reasonable doubt, a presumption against release is appropriate.

Third, procedures for the revocation of release for violation of conditions are provided. If there is probable cause to believe that the person has committed an offense while on release, a rebuttable presumption arises that no release conditions will assure community safety.

Fourth, temporary detention would be authorized for certain persons who have been arrested, such as parolees, to permit notification of an action by appropriate authorities.

Fifth, more realistic penalties for failure to appear at trial and additional penalties for crimes committed while on release are included. Existing penalties do not serve as a sufficient deterrent.

Finally, the act would permit a judge to refuse property offered to secure release if, because of its source, it would not reasonably assure the appearance of the defendant at trial. This is a particularly important change in connection with major drug traffickers because forfeited bond is merely a cost of doing business for them.

In addition to providing increased protection for the community, the Bail Reform Act of 1983 safeguards the rights of defendants in several significant respects. Under the existing system, it is apparent that a substantial number of dangerous Federal defendants are being detained through the imposition of high money bond. The danger that a defendant may pose to the community is thus being consid-

ered by judicial officers in a sub rosa manner.

The Committee on the Judiciary, and this body as a whole, concluded in the last Congress that a carefully drawn pretrial detention statute which would require the courts to address the issue of defendant dangerousness in a forthright and honest manner was needed. This straightforward approach, coupled with the right to counsel, the right to present witnesses, and other procedural guarantees, will ultimately provide fairer treatment for the accused and for society.

With the exception of the economy, no issue causes greater concern among our citizens than crime. Not only is the incidence of crime at an appalling level, but the fear that it generates keeps innocent Americans prisoners within their own homes. Public dissatisfaction with the "revolving door" that frees dangerous defendants prior to trial and during appeal is understandably overwhelming. The time for correcting this situation is long overdue. As chairman of the Committee on the Judiciary, I fully intend to press for early hearings and action on the Bail Reform Act of 1983.

There being no objection, the material was ordered to be printed in the RECORD as follows:

S. 215

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Bail Reform Act of 1983".

SEC. . (a) Sections 3141 through 3151 of title 18, United States Code, are repealed and the following new sections are inserted in lieu thereof:

"§ 3141. Release and detention authority generally

"(a) PENDING TRIAL.—A judicial officer who is authorized to order the arrest of a person pursuant to section 3041 of this title shall order that an arrested person who is brought before him be released or detained, pending judicial proceedings, pursuant to the provisions of this chapter.

"(b) PENDING SENTENCE OR APPEAL.—A judicial officer of a court of original jurisdiction over an offense, or a judicial officer of a Federal appellate court, shall order that, pending imposition or execution of sentence, or pending appeal of conviction or sentence, a person be released or detained pursuant to the provisions of this chapter.

"§ 3142. Release or detention of a defendant pending trial

"(a) IN GENERAL.—Upon the appearance before a judicial officer of a person charged with an offense, the judicial officer shall issue an order that, pending trial, the person be—

"(1) released on his personal recognizance or upon execution of an unsecured appearance bond, pursuant to the provisions of subsection (b);

"(2) released on a condition or combination of conditions pursuant to the provisions of subsection (c);

"(3) temporarily detained to permit revocation of conditional release, deportation, or exclusion pursuant to the provisions of subsection (d); or

"(4) detained pursuant to the provisions of subsection (e).

"(b) RELEASE ON PERSONAL RECOGNIZANCE OR UNSECURED APPEARANCE BOND.—The judicial officer shall order the pretrial release of the person on his personal recognizance, or upon execution of an unsecured appearance bond in an amount specified by the court, subject to the condition that the person not commit a Federal, State, or local crime during the period of his release, unless the judicial officer determines that such release will not reasonably assure the appearance of the person as required or will endanger the safety of any other person or the community.

"(c) RELEASE ON CONDITIONS.—If the judicial officer determines that the release described in subsection (b) will not reasonably assure the appearance of the person as required or will endanger the safety of any other person or the community, he shall order the pretrial release of the person—

"(1) subject to the condition that the person not commit a Federal, State, or local crime during the period of release; and

"(2) subject to the least restrictive further condition, or combination of conditions, that he determines will reasonably assure the appearance of the person as required and the safety of any other person and the community, which may include the condition that the person—

"(A) remain in the custody of a designated person, who agrees to supervise him and to report any violation of a release condition to the court, if the designated person is able reasonably to assure the judicial officer that the person will appear as required and will not pose a danger to the safety of any other person or the community;

"(B) maintain employment, or, if unemployed, actively seek employment;

"(C) maintain or commence an educational program;

"(D) abide by specified restrictions on his personal associations, place of abode, or travel;

"(E) avoid all contact with an alleged victim of the crime and with a potential witness who may testify concerning the offense;

"(F) report on a regular basis to a designated law enforcement agency, pretrial services agency, or other agency;

"(G) comply with a specified curfew;

"(H) refrain from possessing a firearm, destructive device, or other dangerous weapon;

"(I) refrain from excessive use of alcohol, or any use of a narcotic drug or other controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802), without a prescription by a licensed medical practitioner;

"(J) undergo available medical or psychiatric treatment, including treatment for drug or alcohol dependency, and remain in a specified institution if required for that purpose;

"(K) execute an agreement to forfeit upon failing to appear as required, such designated property, including money, as is reasonably necessary to assure the appearance of the person as required, and post with the court such indicia of ownership of the property or such percentage of the money as the judicial officer may specify;

"(L) execute a bail bond with solvent sureties in such amount as is reasonably necessary to assure the appearance of the person as required;

"(M) return to custody for specified hours following release for employment, schooling, or other limited purposes; and

"(N) satisfy any other condition that is reasonably necessary to assure the appearance of the person as required and to assure the safety of any other person and the community.

The judicial officer may not impose a financial condition that results in the pretrial detention of the person. The judicial officer may at any time amend his order to impose additional or different conditions of release.

"(d) TEMPORARY DETENTION TO PERMIT REVOCATION OF CONDITIONAL RELEASE, DEPORTATION, OR EXCLUSION.—If the judicial officer determines that—

"(1) the person—

"(A) is, and was at the time the offense was committed, on—

"(i) release pending trial for a felony under Federal, State, or local law;

"(ii) release pending imposition or execution of sentence, appeal of sentence or conviction, or completion of sentence, for any offense under Federal, State, or local law; or

"(iii) probation or parole for any offense under Federal, State, or local law; or

"(B) is not a citizen of the United States or lawfully admitted for permanent residence, as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)); and

"(2) the person may flee or pose a danger to any other person or the community;

he shall order the detention of the person, for a period of not more than ten days, excluding Saturdays, Sundays, and holidays, and direct the attorney for the Government to notify the appropriate court, probation or parole official, or State or local law enforcement official, or the appropriate official of the Immigration and Naturalization Service. If the official fails or declines to take the person into custody during that period, the person shall be treated in accordance with the other provisions of this section, notwithstanding the applicability of other provisions of law governing release pending trial or deportation or exclusion proceedings. If temporary detention is sought under paragraph (1)(B), the person has the burden of proving to the court that he is a citizen of the United States or is lawfully admitted for permanent residence.

"(e) DETENTION.—If, after a hearing pursuant to the provisions of subsection (f), the judicial officer finds that no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of any other person and the community, he shall order the detention of the person prior to trial. In a case described in (f)(1), a rebuttable presumption arises that no condition or combination of conditions will reasonably assure the safety of any other person and the community if the judge finds that—

"(1) the person has been convicted of a Federal offense that is described in subsection (f)(1), or of a State or local offense that would have been an offense described in subsection (f)(1) if a circumstance giving rise to Federal jurisdiction had existed;

"(2) the offense described in paragraph (1) was committed while the person was on release pending trial for a Federal, State, or local offense; and

"(3) a period of not more than five years has elapsed since the date of conviction, or the release of the person from imprisonment, for the offense described in paragraph (1), whichever is later.

Subject to rebuttal by the person, it shall be presumed that no condition or combination

of conditions will reasonably assure the appearance of the person as required and the safety of the community if the judicial officer finds that there is probable cause to believe that the person committed an offense for which a maximum term of imprisonment of ten years or more is prescribed in the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Import and Export Act (21 U.S.C. 951 et seq.), section 1 of the Act of September 15, 1980 (21 U.S.C. 955a), or an offense under 18 U.S.C. 924(c).

"(f) DETENTION HEARING.—The judicial officer shall hold a hearing to determine whether any condition or combination of conditions set forth in subsection (c) will reasonably assure the appearance of the person as required and the safety of any other person and the community in a case—

"(1) upon motion of the attorney for the Government, that involves—

"(A) a crime of violence;

"(B) an offense for which the maximum sentence is life imprisonment or death;

"(C) an offense for which a maximum term of imprisonment of ten years or more is prescribed in the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or section 1 of the Act of September 15, 1980 (21 U.S.C. 955a); or

"(D) any felony committed after the person had been convicted of two or more prior offenses described in subparagraphs (A) through (C), or two or more State or local offenses that would have been offenses described in subparagraphs (A) through (C) if a circumstance giving rise to Federal jurisdiction had existed; or

"(2) upon motion of the attorney for the Government or upon the judicial officers own motion, that involves—

"(A) a serious risk that the person will flee; or

"(B) a serious risk that the person will obstruct or attempt to obstruct justice, or threaten, injure, or intimidate, or attempt to threaten, injure, or intimidate, a prospective witness or juror.

The hearing shall be held immediately upon the person's first appearance before the judicial officer unless that person, or the attorney for the Government, seeks a continuance. Except for good cause, a continuance on motion of the person may not exceed five days, and a continuance on motion of the attorney for the Government may not exceed three days. During a continuance, the person shall be detained, and the judicial officer, on motion of the attorney for the Government or on his own motion, may order that, while in custody, a person who appears to be a narcotics addict receive a medical examination to determine whether he is an addict. At the hearing, the person has the right to be represented by counsel, and, if he is financially unable to obtain adequate representation, to have counsel appointed for him. The person shall be afforded an opportunity to testify, to present witnesses on his own behalf, to cross-examine witnesses who appear at the hearing, and to present information by proffer or otherwise. The rules concerning admissibility of evidence in criminal trials do not apply to the presentation and consideration of information at the hearing. The facts the judicial officer uses to support a finding pursuant to (e) that no condition or combination of conditions will reasonably assure the safety of any other person and the community shall be supported by clear and convincing evidence. The person may be detained pending completion of the hearing.

"(g) FACTORS TO BE CONSIDERED.—The judicial officer shall, in determining whether there are conditions of release that will reasonably assure the appearance of the person as required and the safety of any other person and the community, take into account the available information concerning—

"(1) the nature and circumstances of the offense charged, including whether the offense is a crime of violence or involves a narcotic drug;

"(2) the weight of the evidence against the person;

"(3) the history and characteristics of the person, including—

"(A) his character, physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past conduct, history relating to drug or alcohol abuse, criminal history, and record concerning appearance at court proceedings; and

"(B) whether, at the time of the current offense or arrest, he was on probation, on parole, or on other release pending trial, sentencing, appeal, or completion of sentence for an offense under Federal, State, or local law; and

"(4) the nature and seriousness of the danger to any person or the community that would be posed by the person's release. In considering the conditions of release described in subsection (c)(2)(K) or (c)(2)(L), the judicial officer may upon his own motion, or shall upon the motion of the Government, conduct an inquiry into the source of the property to be designated for potential forfeiture or offered as collateral to secure a bond, and shall decline to accept the designation, or the use as collateral, of property that, because of its source, will not reasonably assure the appearance of the person as required.

"(h) CONTENTS OF RELEASE ORDER.—In a release order issued pursuant to the provisions of subsection (b) or (c), the judicial officer shall—

"(1) include a written statement that sets forth all the conditions to which the release is subject, in a manner sufficiently clear and specific to serve as a guide for the person's conduct; and

"(2) advise the person of—

"(A) the penalties for violating a condition of release, including the penalties for committing an offense while on pretrial release;

"(B) the consequences of violating a condition of release, including the immediate issuance of a warrant for the person's arrest; and

"(C) the provisions of sections 1503 of this title (relating to intimidation of witnesses, jurors, and officers of the court), 1510 (relating to obstruction of criminal investigations), 1512 (tampering with a witness, victim, or an informant), and 1513 (retaliating against a witness; victim, or an informant).

"(i) CONTENTS OF DETENTION ORDER.—In a detention order issued pursuant to the provisions of subsection (e), the judicial officer—

"(1) shall include written findings of fact, and a written statement, or a written reference to the hearing record, concerning the reasons for the detention;

"(2) shall direct that the person be committed to the custody of the Attorney General for confinement in a corrections facility in accordance with regulations promulgated pursuant to the provisions of subsection (j); and

"(3) may recommend that the person receive special medical or similar treatment or attention, but the Attorney General shall not be bound by such a recommendation.

"(j) CUSTODY WHILE AWAITING TRIAL.—The Attorney General shall promulgate regulations governing custody of persons detained pending trial. The regulations shall provide that—

"(1) to the extent practicable, the person be confined—

"(A) in a facility located near the court in which the person will have to appear;

"(B) separate from persons awaiting or serving sentences or being held in custody pending appeal; and

"(C) separate from persons who are defendants in the same case;

"(2) the person be afforded reasonable opportunity for private consultation with his counsel and, to the extent practicable, for private visits with his family or other persons;

"(3) on order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility in which the person is confined shall deliver the person to the custody of a United States Marshal or other appropriate Federal law enforcement officer for the purpose of an appearance in connection with a court proceeding or for another official purpose; and

"(4) the person may be released temporarily, in the custody of a United States Marshal or other appropriate person, if necessary for preparation of the person's defense or for another compelling reason.

"(k) PRESUMPTION OF INNOCENCE.—Nothing in this section shall be construed as modifying or limiting the presumption of innocence.

"§ 3143. Release or detention of a defendant pending sentence or appeal

"(a) RELEASE OR DETENTION PENDING SENTENCE.—The judicial officer shall order that a person who has been found guilty of an offense and who is waiting imposition or execution of sentence, be detained, unless the judicial officer finds by clear and convincing evidence that the person is not likely to flee or pose a danger to the safety of any other person or the community if released pursuant to section 3142 (b) or (c). If the judicial officer makes such a finding, he shall order the release of the person in accordance with the provisions of section 3142 (b) or (c).

"(b) RELEASE OR DETENTION PENDING APPEAL BY THE DEFENDANT.—The judicial officer shall order that a person who has been found guilty of an offense and sentenced to a term of imprisonment, and who has filed an appeal or a petition for a writ of certiorari, be detained, unless the judicial officer finds—

"(1) by clear and convincing evidence that the person is not likely to flee or pose a danger to the safety of any other person or the community if released pursuant to section 3142 (b) or (c); and

"(2) that the appeal is not for purpose of delay and raises a substantial question of law or fact likely to result in reversal or an order for a new trial.

If the judicial officer makes such findings, he shall order the release of the person in accordance with the provisions of section 3142 (b) or (c).

"(c) RELEASE OR DETENTION PENDING APPEAL BY THE GOVERNMENT.—The judicial officer shall treat a defendant in a case in which an appeal has been taken by the United States pursuant to the provisions of section 3731 of this title, in accordance with

the provisions of section 3142, unless the defendant is otherwise subject to a release or detention order.

"§ 3144. Release or detention of a material witness

"If it appears from an affidavit filed by a party that the testimony of a person is material in a criminal proceeding, and if it is shown that it may become impracticable to secure the presence of the person by subpena, a judicial officer may order the arrest of the person and treat the person in accordance with the provisions of section 3142. No material witness may be detained because of inability to comply with any condition of release if the testimony of such witness can adequately be secured by deposition, and if further detention is not necessary to prevent a failure of justice. Release of a material witness may be delayed for a reasonable period of time until the deposition of the witness can be taken pursuant to the Federal Rules of Criminal Procedure.

"§ 3145. Review and appeal of a release or detention order

"(a) REVIEW OF A RELEASE ORDER.—If a person is ordered released by a magistrate, or by a person other than a judge of a court having original jurisdiction over the offense and other than a Federal appellate court—

"(1) the attorney for the Government may file, with the court having original jurisdiction over the offense, a motion for revocation of the order or amendment of the conditions of release; and

"(2) the person may file, with the court having original jurisdiction over the offense, a motion for amendment of the conditions of release.

The motion shall be determined promptly.

"(b) REVIEW OF A DETENTION ORDER.—If a person is ordered detained by a magistrate, or by a person other than a judge of a court having original jurisdiction over the offense and other than a Federal appellate court, the person may file, with the court having original jurisdiction over the offense, a motion for revocation or amendment of the order. The motion shall be determined promptly.

"(c) APPEAL FROM A RELEASE OR DETENTION ORDER.—An appeal from a release or detention order, or from a decision denying revocation or amendment of such an order, is governed by the provisions of section 1291 of title 28 and section 3731 of this title. The appeal shall be determined promptly.

"§ 3146. Penalty for failure to appear

"(a) OFFENSE.—A person commits an offense if, after having been released pursuant to this chapter—

"(1) he knowingly fails to appear before a court as required by the conditions of his release; or

"(2) he knowingly fails to surrender for service of sentence pursuant to a court order.

"(b) GRADING.—If the person was released—

"(1) in connection with a charge of, or while awaiting sentence, surrender for service of sentence, or appeal or certiorari after conviction, for—

"(A) an offense punishable by death, life imprisonment, or imprisonment for a term of fifteen years or more, he shall be fined not more than $25,000 or imprisoned for not more than ten years, or both;

"(B) an offense punishable by imprisonment for a term of five or more years, but less than fifteen years, he shall be fined not more than $10,000 or imprisoned for not more than five years, or both;

"(C) any other felony, he shall be fined not more than $5,000 or imprisoned not more than two years, or both; or

"(D) a misdemeanor, he shall be fined not more than $2,000 or imprisoned more than one year, or both; or

"(2) for appearance as a material witness, he shall be fined no more than $1,000 or imprisoned for not more than one year, or both.

A term of imprisonment imposed pursuant to this section shall be consecutive to the sentence of imprisonment for any other offense.

"(c) AFFIRMATIVE DEFENSE.—It is an affirmative defense to a prosecution under this section that uncontrollable circumstances prevented the person from appearing or surrendering, and that the person did not contribute to the creation of such circumstances in reckless disregard of the requirement that he appeared or surrender, and that the defendant appeared or surrendered as soon as such circumstances ceased to exist.

"(d) DECLARATION OF FORFEITURE.—If a person fails to appear before a court as required, and the person executed an appearance bond pursuant to section 3142(b) or is subject to the release condition set forth in section 3142(c)(2)(K), or (c)(2)(L), the judicial officer may, regardless of whether the person has been charged with an offense under this section, declare any property designated pursuant to that section to be forfeited to the United States.

"§ 3147. Penalty for an offense committed while on release

"A person convicted of an offense committed while released pursuant to this chapter shall be sentenced, in addition to the sentence prescribed for the offense to—

"(1) a term of imprisonment of not less than two years and not more than ten years if the offense is a felony; or

"(2) a term of imprisonment of not less than ninety days and not more than one year if the offense is a misdemeanor.

A term of imprisonment imposed pursuant to this section shall be consecutive to any other sentence of imprisonment.

"§ 3148. Sanctions for violation of a release condition

"(a) AVAILABLE SANCTIONS.—A person who has been released pursuant to the provisions of section 3142, and who has violated a condition of his release, is subject to a revocation of release, an order of detention, and a prosecution for contempt of court.

"(b) REVOCATION OF RELEASE.—The attorney for the Government may initiate a proceeding for revocation of an order of release by filing a motion with the district court. A judicial officer may issue a warrant for the arrest of a person charged with violating a condition of release, and the person shall be brought before a judicial officer in the district in which his arrest was ordered for a proceeding in accordance with this section. The judicial officer shall enter an order of revocation and detention if, after a hearing, the judicial officer—

"(1) finds that there is—

"(A) probable cause to believe that the person has committed a Federal, State, or local crime while on release; or

"(B) clear and convincing evidence that the person has violated any other condition of his release; and

"(2) finds that—

"(A) based on the factors set forth in section 3142(g), there is no condition or combination of conditions of release that will assure that the person will not flee or pose a danger to the safety of any other person or the community; or

"(B) the person is unlikely to abide by any condition or combination of conditions of release.

If there is probable cause to believe that, while on release, the person committed a Federal, State, or local felony, a rebuttable presumption arises that no condition or combination of conditions will assure that the person will not pose a danger to the safety of any other person or the community. If the judicial officer finds that there are conditions of release that will assure that the person will not flee or pose a danger to the safety of any other person or the community, and that the person will abide by such conditions, he shall treat the person in accordance with the provisions of section 3142 and may amend the conditions of release accordingly.

"(c) PROSECUTION FOR CONTEMPT.—The judge may commence a prosecution for contempt, pursuant to the provisions of section 401, if the person has violated a condition of his release.

"§ 3149. Surrender of an offender by a surety

"A person charged with an offense, who is released upon the execution of an appearance bond with a surety, may be arrested by the surety, and if so arrested, shall be delivered promptly to a United States marshal and brought before a judicial officer. The judicial officer shall determine in accordance with the provisions of section 3148(b) whether to revoke the release of the person, and may absolve the surety of responsibility to pay all or part of the bond in accordance with the provisions of rule 46 of the Federal Rules of Criminal Procedure. The person so committed shall be held in official detention until released pursuant to this chapter or another provision of law.

"§ 3150. Applicability to a case removed from a State court

"The provisions of this chapter apply to a criminal case removed to a Federal court from a State court.".

(b) Section 3154 of title 18, United States Code, is amended—

(1) in subsection (1), by striking out "and recommend appropriate release conditions for each such person" and inserting in lieu thereof "and, where appropriate, include a recommendation as to whether each such person should be released or detained and, if release is recommended, recommend appropriate conditions of release"; and

(2) in subsection (2), by striking out "section 3146(e) or section 3147" and inserting in lieu thereof "section 3145";

(c) Section 3156(a) of title 18, United States Code, is amended—

(1) by striking out "3146" and inserting in lieu thereof "3141";

(2) in paragraph (1)—

(A) by striking out "bail or otherwise" and inserting in lieu thereof "detain or"; and

(B) by deleting "and" at the end thereof;

(3) in paragraph (2), by striking out the period at the end and inserting in lieu thereof "; and";

(4) by adding after paragraph (2) the following new paragraphs:

"(3) The term 'felony' means an offense punishable by a maximum term of imprisonment of more than one year; and

"(4) The term 'crime of violence' means—

"(A) an offense that has as an element of the offense the use, attempted use, or

threatened use of physical force against the person or property of another; or

"(B) any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense."; and

(5) in subsection (b)(1), by striking out "bail or otherwise" and inserting in lieu thereof "detain or".

(d) The item relating to chapter 207 in the analysis of part II of title 18, United States Code, is amended to read as follows:

"207. Release and detention pending judicial proceedings ..... 3141".

(e)(1) The caption of chapter 207 is amended to read as follows:

"CHAPTER 207—RELEASE AND DETENTION PENDING JUDICIAL PROCEEDINGS".

(2) The section analysis for chapter 207 is amended by striking out the items relating to section 3141 through 3151 and inserting in lieu thereof the following:

"3141. Release and detention authority generally.
"3142. Release or detention of a defendant pending trial.
"3143. Release or detention of a defendant pending sentence or appeal.
"3144. Release or detention of a material witness.
"3145. Review and appeal of a release or detention order.
"3146. Penalty for failure to appear.
"3147. Penalty for an offense committed while on release.
"3148. Sanctions for violation of a release condition.
"3149. Surrender of an offender by a surety.
"3150. Applicability to a case removed from a State court.".

SEC. . Chapter 203 of title 18, United States Code, is amended as follows:

(a) The last sentence of section 3041 is amended by striking out "determining to hold the prisoner for trial" and inserting in lieu thereof "determining, pursuant to the provisions of section 3142 of this title, whether to detain or conditionally release the prisoner prior to trial".

(b) The second paragraph of section 3042 is amended by striking out "imprisoned or admitted to bail" and inserting in lieu thereof "detained or conditionally released pursuant to section 3142 of this title".

(c) Section 3043 is repealed.

(d) The following new section is added after section 3061:

"§ 3062. General arrest authority for violation of release conditions

"A law enforcement officer, who is authorized to arrest for an offense committed in his presence, may arrest a person who is released pursuant to chapter 207 if the officer has reasonable grounds to believe that the person is violating, in his presence, a condition imposed on the person pursuant to section 3142 (c)(2)(D), (c)(2)(E), (c)(2)(H), (c)(2)(I), or (c)(2)(M), or, if the violation involves a failure to remain in a specified institution as required, a condition imposed pursuant to section 3142(c)(2)(J).".

(e) The section analysis is amended—

(1) by amending the item relating to section 3043 to read as follows:

"3043. Repealed."; and

(2) by adding the following new item after the item relating to section 3061:

"3062. General arrest authority for violation of release conditions.".

SEC. . Section 3731 of title 18, United States Code, is amended by adding after the second paragraph the following new paragraph:

"An appeal by the United States shall lie to a court of appeals from a decision or order, entered by a district court of the United States, granting the release of a person charged with or convicted of an offense, or denying a motion for revocation of, or modification of the conditions of, a decision or order granting release.".

SEC. . The second paragraph of section 3772 of title 18, United States Code, is amended by striking out "bail" and inserting in lieu thereof "release pending appeal".

SEC. . Section 4282 of title 18, United States Code, is amended—

(a) by striking out "and not admitted to bail" and substituting "and detained pursuant to chapter 207"; and

(b) by striking out "and unable to make bail".

SEC. . Section 636 of title 28, United States Code, is amended by striking out "impose conditions of release under section 3146 of title 18" and inserting in lieu thereof "issue orders pursuant to section 3142 of title 18 concerning release or detention of persons pending trial".

SEC. . The Federal Rules of Criminal Procedure are amended as follows:

(a) Rule 5(c) is amended by striking out "shall admit the defendant to bail" and inserting in lieu thereof "shall detain or conditionally release the defendant".

(b) The second sentence of rule 15(a) is amended by striking out "committed for failure to give bail to appear to testify at a trial or hearing" and inserting in lieu thereof "detained pursuant to 18 U.S.C. § 3144".

(c) Rule 40(f) is amended to read as follows:

"(f) RELEASE OR DETENTION.—If a person was previously detained or conditionally released, pursuant to chapter 207 of title 18, United States Code, in another district where a warrant, information or indictment issued, the Federal magistrate shall take into account the decision previously made and the reasons set forth therefor, if any, but will not be bound by that decision. If the Federal magistrate amends the release or detention decision or alters the conditions of release, he shall set forth the reasons for his action in writing.".

(d) Rule 46 is amended—

(1) in subdivision (a), by striking out "3146, 3148, or 3149" and inserting in lieu thereof "3142 and 3144";

(2) in subdivision (c), by striking out "3148" and inserting in lieu thereof "3143";

(3) by amending subdivision (e)(2) to read as follows:

"(2) SETTING ASIDE.—The court may direct that a forfeiture be set aside in whole or in part, upon such conditions as the court may impose, if a person released upon execution of an appearance bond with a surety is subsequently surrendered by the surety into custody or if it otherwise appears that justice does not require the forfeiture."; and

(4) by adding the following new subdivision at the end thereof:

"(h) FORFEITURE OF PROPERTY.—Nothing in this rule or in chapter 207 of title 18, United States Code, shall prevent the court from disposing of any charge by entering an order directing forfeiture of property pursuant to 18 U.S.C. § 3142(c)(2)(K) if the value of the property is an amount that would be an appropriate sentence after conviction of the offense charged and if such forfeiture is authorized by statute or regulation.".

(e) Rule 54(b)(3) is amended by striking out "18 U.S.C. § 3043, and".

SEC. . Rule 9(c) of the Federal Rules of Appellate Procedure is amended by striking out "3148" and inserting in lieu thereof "3143", and following the word "community", inserting "and that the appeal is not for purpose of delay and raises a substantial question of law or fact likely to result in reversal or in an order for a new trial".

SECTION-BY-SECTION ANALYSIS OF THE BAIL REFORM ACT OF 1983

This bill substantially revises the Bail Reform Act of 1966 (18 U.S.C. 3146 et seq.) and is identical to Title I of S. 2572, the Violent Crime and Drug Enforcement Improvements Act, which passed the Senate on September 30, 1982, by a vote of 95 to 1. That Title was largely based on S. 1554, as reported by the Committee on the Judiciary in the 97th Congress (Senate Report No. 97-317, 97th Congress, 2nd Session (1982)). The purpose of this bill is to address such problems as the need to consider community safety in setting non-financial conditions of release, the need to expand the list of statutory release conditions, the need to permit the pretrial detention of defendants for whom no conditions of release will assure their appearance at trial or assure the safety of the community or of other persons, the need for a more appropriate basis for deciding on post-conviction release, the need to permit temporary detention of persons who are arrested while on a form of conditional release, and the need to provide procedures for revocation of release for violation of a condition of release.

The most fundamental part of this bill is its provision for pretrial detention based on defendant dangerousness. The Judiciary Committee's report on S. 1554 (Senate Report No. 97-317) contains an extensive discussion of the pretrial detention issue and should be consulted for a fuller discussion of this matter. Briefly, in determining that our bail laws must be amended to give the courts the authority to deny release to the minority of defendants who are so dangerous that no form of conditional release would be sufficient to reasonably assure the safety of the community or other persons, the Committee reached the following conclusions. First, as a general matter, considerations of defendant dangerousness should be placed on an equal footing with the currently permitted consideration of flight risk. Second, the commission of crimes by those released on bail is a serious problem that can and should be addressed in Federal law. Third, judges can, with an acceptable degree of accuracy, identify that minority of defendants who pose such a danger to others that no form of conditional release is appropriate. Fourth, pretrial detention based on dangerousness is not unconstitutional if appropriately limited in application and if available only in the framework of reasonable procedural safeguards. Fifth, it is likely that a substantial number of dangerous Federal defendants are now detained pending trial through the use of high money bond, and this practice, to the extent that it exists, may be effectively replaced by a carefully drawn pretrial detention statute that would not only permit the court to address the issue of defendant dangerousness squarely and honestly, but would also be fairer to defendants than the use of money bond to achieve detention of particularly dangerous defendants.

While the pretrial detention provisions and certain other aspects of this bill represent a departure from the Bail Reform Act of 1966, many of the improvements made by that Act have been retained.

The following is a brief section-by-section analysis of the bill. The section-by-section analysis in the Committee's report on S. 1554 can be consulted for a more in-depth description of most of these provisions.

Section 1 provides that this Act may be cited as the "Bail Reform Act of 1983".

Section 2(a) repeals current sections 3141 through 3151 of title 18 of the United States Code and inserts in their place new sections 3141 through 3150. Each of these new sections of title 18 is analyzed as follows:

Section 3141, Release and Detention Authority Generally, like current 18 U.S.C. 3141, specifies which judicial officers have the authority to order the release or detention of persons pending trial (subsection (a)) or pending sentence or appeal (subsection (b)). The authority set out in current law has, with only two minor modifications, been carried forward.

Section 3142, Release or Detention of a Defendant Pending Trial, makes several substantive changes in the basic provisions of the Bail Reform Act of 1966. That Act adopted the concept that in non-capital cases a person is to be ordered released under the minimum conditions reasonably required to assure his presence at trial. Danger to the community and the protection of society are not to be considered in making those release decisions under current law.

Considerable criticism has been leveled at the Bail Reform Act for its failure to recognize the problem of crimes committed by those on pretrial release. (See Senate Report No. 97-317 at 36-37.) The constraints of the current Bail Reform Act prevent the courts from imposing conditions of release geared toward assuring community safety, or from denying release to those defendants who pose an especially severe risk to others. It is intolerable that the law denies judges the tools to make honest and appropriate decisions regarding the release of such defendants. To address this problem, section 3142 departs from current law in two significant ways. First, it permits an assessment of a defendant's dangerousness in setting any conditions of release, a concept that has been widely supported. (See Senate Report No. 97-317, at 37.) Second, the courts are given the authority in limited circumstances to detain defendants for whom even the most stringent form of conditional release would be insufficient to reasonably assure community safety. (The need for pretrial detention is discussed at length in Senate Report No. 97-317 at 38-42.) The basic pretrial detention provisions of section 3142 are contained in subsections (e) and (f), and are discussed more fully below.

Subsection (a) of section 3142 provides that when a person charged with an offense is brought before a judicial officer, the judicial officer is to pursue one of four alternative courses of action set out in subsections (b) through (e).

Subsection (b) of section 3142 requires the judicial officer to release the person on his personal recognizance or upon execution of an unsecured appearance bond unless he determines that such release (1) will not reasonably assure the appearance of the person or (2) will endanger the safety of any other person or the community. As in current law, this is the favored form of release. However, unlike current law, this provision permits a consideration of defendant dangerousness. If released pursuant to this provision, the defendant is subject to the mandatory condition that he not commit another offense while on release.

Subsection (c) of section 3142 provides that if the judicial officer determines that release on personal recognizance or on an unsecured appearance bond will not give the necessary assurances, he is to release the person subject to (1) the mandatory condition that he not commit another offense while on release and (2) the least restrictive condition or combination of conditions that will give the required assurances concerning appearance and community safety. Except for financial conditions of release, which may be imposed only to assure the defendant's appearance, any of the discretionary conditions of release set out in subsection (c)(2) may be imposed to assure either appearance or community safety. These discretionary conditions carry forward those now listed in 18 U.S.C. 3146 and incorporate nine more. However, the judicial officer may not impose a financial condition that results in the pretrial detention of the accused. The purpose of this provision is to preclude the sub rosa use of money bond to detain dangerous defendants. However, its application does not necessarily require the release of a person who says he is unable to meet a financial condition of release which the judicial officer has determined is the only form of conditional release that will assure the person's future appearance. Under sections 3142 (e) and (f), the judicial officer would be authorized to order the defendant detained upon finding that no available condition of release would assure the defendant's appearance, if the requirements of those sections were met. The final sentence of section 3142(c) retains the current authority set forth in 18 U.S.C. 3146(e) for the court to amend the release order at any time.

Subsection (d) of section 3142 permits the judge to detain a defendant for a period of up to ten working days if the person was arrested while already on a form of conditional release, such as bail, probation, or parole, or if the person is neither a U.S. citizen nor an alien lawfully admitted for permanent residence, and the judicial officer determines that the person may flee or pose a danger to the community. The purpose of this provision is to allow the government time to notify the original releasing authorities or the appropriate Immigration and Naturalization Service official so that they may take whatever action may be appropriate in light of the defendant's arrest. This provision is based largely on a similar provision in the D.C. Code. (For a further discussion of this provision, see Senate Report No. 97-317 at 47-48.) The burden of proving citizenship or lawful permanent residence is on the defendant.

Subsections (e) and (f) of section 3142 set forth the findings and procedures that are required for an order of detention. The standard for an order of detention is contained in subsection (e), which provides that the judicial officer is to order the person detained if, after a hearing pursuant to subsection (f), he determines that no condition or combination of conditions of release will reasonably assure the appearance of the defendant as required and the safety of any other person and the community. The facts on which the finding of dangerousness is based must, under subsection (f), be supported by clear and convincing evidence. Thus, this subsection not only codifies existing authority to detain persons who are serious flight risks or who threaten witnesses or jurors, but also creates new authority to detain persons who pose especially serious dangers to community safety.

Generally, subsection (e) does not specify the kinds of information that will support the findings necessary to deny release. However, it does specify two sets of circumstances which, if established, create a rebuttable presumption that no form of conditional release will be adequate. The first is where the defendant has a recent history of having committed a serious offense while on release. The second is where the defendant is charged (and an appropriate probable cause determination is made) with either one of the most serious drug trafficking offenses or the use of a firearm in the commission of a felony (18 U.S.C. 924(c)). Further discussion of these rebuttable presumptions is to be found in Senate Report 97-317 at 49-50.

Subsection (f) of section 3142 describes, in paragraphs (1) and (2), the circumstances under which a detention hearing may be held. Under paragraph (1), upon the government's motion, a detention hearing may be held if the defendant is charged with (A) a crime of violence; (B) an offense punishable by death or life imprisonment; (C) a major drug trafficking offense; or (D) a felony committed after conviction of two or more prior serious offenses. Offenses (A) through (C) are essentially the same categories of offenses for which a pretrial detention hearing may be held under the D.C. Code.

S. 1554, as reported in the 97th Congress, would have permitted the judicial officer to initiate a detention hearing in felony cases where the defendant has a history of committing serious offenses. When S. 2572 was passed by the Senate, these provisions were amended to place the sole responsibility for initiating a detention hearing based on defendant dangerousness on the prosecution.

Subsection (f)(2) describes the cases in which a pretrial detention hearing may be held upon motion of the government or the judicial officer. The two types of cases, those involving either a serious risk that the defendant will flee or that he will obstruct justice or threaten or injure witnesses or jurors, reflect the scope of current case law authority permitting denial of release.

S. 1554, as reported in the 97th Congress, required a pretrial detention hearing in the circumstances described in subsections (f)(1)(A), (B), and (C). The advisability of this requirement was questioned because it would require a hearing even when the government and court agreed that detention was unnecessary and might result in the unnecessary expenditure of strained judicial and prosecutorial resources. The requirement is deleted in this bill, as it was in S. 2572.

The procedural requirements for the pretrial detention hearing are set forth in section 3142(f) and track those of the analogous provision in the D.C. Code. For a further discussion of this and other aspects of subsection (f), see Senate Report No. 97-317 at 50-53.

Subsection (g) of section 3142 enumerates the factors that are to be considered by the court in determining whether there are conditions of release that will reasonably assure the appearance of the person as required and the safety of other persons and the community. Most of these factors are drawn from current law. Subsection (g) also contains a new provision making clear the authority of the court to conduct a *"Nebbia"* hearing into the source of property used to

post bond. Experience has shown that money bond financed through the proceeds of crime is generally ineffective in assuring the defendant's appearance. This provision makes clear the authority of the court to inquire into the source of property used to post bond and requires the judicial officer to decline to accept the bond if he is not satisfied that its source will reasonably assure appearance. For a further discussion of subsection (g), see Senate Report No. 97-317 at 53-55.

Subsection (h) of section 3142 provides that in issuing an order of release under subsection (b) or (c), the judicial officer is to include a written statement setting forth all the conditions of release. He is also required to advise the person of the penalties for a violation of a condition of release and of federal offenses relating to intimidation of, or retaliation against, certain persons involved in the court process. A similar provision exists in current 18 U.S.C. 3146(c).

Subsection (i) of section 3142 requires that an order of detention include written findings of fact and a written statement of the reasons for the detention. The court's order must also direct that the person be committed to the Attorney General's custody for confinement in accordance with regulations promulgated under new subsection (j) and may include a non-binding recommendation to the Attorney General that the person receive special medical treatment.

Subsection (j) of section 3142 requires the Attorney General to promulgate regulations governing custody of persons detained pending trial. Those regulations must provide that the person be confined, to the extent practicable, in a facility near the court, and separate from convicted defendants and co-defendants. The regulations must also provide for reasonable opportunities for private consultation with counsel, private family visits where practicable, delivery of the person for court appearances, and authority for the person's temporary release in the custody of another for compelling reasons. Subsection (j) was added as an amendment to S. 2572 to clarify the appropriate allocation of authority between the court and the Attorney General concerning custody of the defendant awaiting trial.

Subsection (k) of section 3142 clarifies the fact that nothing in section 3142 is to be construed as a modification of or limitation on the presumption of innocence in federal criminal cases. It provides statutory recognition of the fact that the decision to detain a defendant prior to trial because of flight risk or dangerousness has no effect on the government's burden to prove a defendant's guilt at trial beyond a reasonable doubt. The presumption of innocence in the context of pretrial detention is discussed in Senate Report 97-317 at 18-23.

Section 3143, Release or Detention of a Defendant Pending Sentence or Appeal, makes several revisions in that portion of current 18 U.S.C. 3148 which concerns post-conviction release. The basic distinction between the existing provision and section 3143 is one of presumption. Under current 18 U.S.C. 3148, the judicial officer is instructed to treat a person who has already been convicted according to the release standards of 18 U.S.C. 3146 (relating to persons who have not been convicted), unless he has reason to believe that no condition or set of conditions of release will reasonably assure that the person will not flee or pose a danger to any other person or to the community.

The current presumption favoring post-conviction release should be eliminated. Once guilt of a crime has been established, there is no reason to favor release pending imposition of sentence or appeal. The conviction, which establishes the defendant's guilt of a crime beyond a reasonable doubt, is presumably correct in law. Also, release of a criminal defendant into the community after conviction may undermine the deterrent effect of the criminal law, especially in those situations where an appeal of the conviction may drag on for many months or even years.

Section 3143 separately treats release pending sentence, release pending appeal by the defendant, and release pending appeal by the government. With respect to release pending sentence, *subsection (a)* provides that a person convicted shall be detained unless the judicial officer finds by clear and convincing evidence that the person is not likely to flee or pose a danger to the safety of any other person or the community if released under section 3142 (b) or (c). Subsection (a) covers those awaiting the execution of sentence as well as its imposition.

Subsection (b) of section 3143 deals with release of a defendant who has filed an appeal or a petition for a writ of certiorari after being sentenced to imprisonment. Such person is also to be detained unless the judicial officer finds by clear and convincing evidence that the defendant is not likely to flee or pose a danger to the safety of any other person or the community if released. In addition, the court must find that the appeal is not taken for the purpose of delay and that it raises a substantial question of law or fact likely to result in reversal or an order for a new trial. Under current 18 U.S.C. 3148, release can be denied if it appears that the appeal is frivolous or taken for delay. Subsection (b) is based on the release pending appeal provisions of section 23-1325 of the D.C. Code.

Subsection (c) of section 3143 concerns release pending appeal by the government from an order of dismissal of an indictment or information, or suppression of evidence, pursuant to 18 U.S.C. 3731. Since these kinds of appeal involve situations where the defendant has not been convicted, the defendant is generally treated under section 3142, which governs release or detention pending trial. See Senate Report No. 97-317 at 56-57.

Section 3144, Release or Detention of a Material Witness, carries forward current 18 U.S.C. 3149, with two changes. First, section 3144 would permit the judicial officer to order the detention of the witness if there were no conditions of release that would assure his appearance. A witness could not be detained for inability to comply with a condition of release if his testimony could be adequately secured by deposition and if detention is not necessary to prevent a failure of justice. Currently, 18 U.S.C. 3419 ambiguously requires the conditional release of the witness in the same manner as for a defendant awaiting trial, yet the language of the statute recognizes that certain witnesses will be detained because of an inability to meet the conditions of release imposed by the judicial officer.

The other change grants the judicial officer not only the authority to set release conditions for a detained material witness, or, in an appropriate case, to order his detention pending his appearance at the criminal proceedings, but also to authorize the arrest of the witness in the first instance. It is anomalous that current law authorizes release conditions but, at the same time, does not authorize the initial arrest. For further discussion of this provision, see Senate Report 97-317 at 58.

Section 3145, Review and Appeal of a Release or Detention Order, sets forth the provisions for the review and appeal of release and detention orders. *Subsections (a) and (b)* provide for the review of release and detention orders by the court having original jurisdiction over the offense in situations in which the order is initially entered by a magistrate, or other court not having original jurisdiction over the offense (other than a Federal appellate court). *Subsection (c)* of section 3145 grants both the defendant and the government a right to appeal release or detention orders, or decisions denying the revocation or amendment of such orders.

Although based in part on current 18 U.S.C. 3147, section 3145 makes two substantive changes in present law. First, section 3145 permits review of all release and detention orders. Second, it permits the government to appeal release decisions. For further discussion of this provision, see Senate Report 97-317 at 59-60.

Section 3146, Penalty for Failure to Appear, basically continues 18 U.S.C. 3150, although the maximum penalties have been further graduated and increased to parallel more closely the penalties provided for the underlying offense with which the defendant was charged. This increase is designed to eliminate the defendant's incentive to limit his criminal liability to the less serious failure to appear offense by hiding until the passage of time undermines the government's case. This is often a problem in narcotics cases.

Subsection (a) of section 3146 provides that a person commits an offense if, after having been released pursuant to the provisions of chapter 207 of title 18, as amended by the bill: (1) he knowingly fails to appear before a court as required by the conditions of his release; or (2) he knowingly fails to surrender for service of sentence pursuant to a court order.

Subsection (b) provides the penalties for an offense under this section based on the penalties authorized for the underlying offense. It also requires that any term of imprisonment imposed under this section be consecutive to any other sentence of imprisonment.

Subsection (c) of section 3146 provides that it is an affirmative defense that uncontrollable circumstances prevented the defendant from appearing or surrendering, that the defendant did not contribute to the creation of such circumstances in reckless disregard of the requirement that he appear or surrender, and that the defendant appeared or surrendered as soon as such circumstances ceased to exist.

Subsection (d) of section 3146 emphasizes that, in addition to the penalties of fine and imprisonment provided for failure to appear, the court may also order the person to forfeit any bond or other property he has pledged to secure his release if he has failed to appear.

Section 3147, Penalty for an Offense Committed while on Release, is designed to deter those who would pose a risk to community safety by committing another offense when released under the provisions of this title and to punish those who indeed are convicted of another offense. Accordingly, this section prescribes a penalty in addition to any sentence ordered for an offense committed while on release. This additional penalty is a term of imprisonment of at least two years and not more than ten years if the offense committed while on release is a felony. If

the offense committed while on release is a misdemeanor, this additional penalty is at least 90 days and not more than one year. The additional term of imprisonment must be consecutive to any other sentence of imprisonment.

Section 3148, Sanctions for Violations of a Release Condition, provides, in *subsection (a),* for two distinct sanctions that are applicable to persons released pursuant to section 3142 who violate a condition of release—revocation of release and an order of detention, and a prosecution for contempt of court.

Subsection (b) of section 3148 sets out the procedure for revocation of release. Specific provisions for revocation of release are new to Federal bail law, although a similar provision exists in the D.C. Code. Generally, an order of revocation and detention will issue at this hearing if the court finds, first, that there is either probable cause to believe that the person has committed a Federal, State, or local crime while on release, which violates the mandatory condition imposed on all released persons, or clear and convincing evidence that the person has violated any other condition of his release; and, second, that either no condition or combination of conditions will assure that the person will not flee or pose a danger to the safety or any other person or the community, or that the person is unlikely to abide by any condition or combination of conditions of release.

Since the establishment of probable cause to believe that the defendant has committed a serious crime while on release constitutes compelling evidence that the defendant poses a danger to the community, when such probable cause is established, it is appropriate that the burden rest on the defendant to come forward with evidence indicating that this conclusion is not warranted in his case. Therefore, section 3148(b) provides that if there is probable cause to believe that the person has committed a Federal, State, or local felony while on release, a rebuttable presumption arises that no condition or combination of conditions will assure that the person will not pose a danger to the safety of any other person or the community.

Subsection (c), of section 3148 emphasizes that the court may impose contempt sanctions if the person has violated a condition of his release. This carries forward the provisions of current 18 U.S.C. 3151.

Section 3149, Surrender of an Offender by a Surety, except for minor word changes, is identical to current 18 U.S.C. 3142. This section provides that, if a person is released on an appearance bond with a surety, such person may be arrested by his surety and delivered to a United States marshal and brought before the court. The person so returned will be retained in custody until released.

Section 3150, Applicability to a Case Removed from a State Court, specifies that the release provisions of chapter 207 of title 18 of the United States Code, as amended by this title, are to apply to a case removed to a Federal court from a State court.

Subsections 102 (b) through (e) of the bill, in addition to making certain technical changes, add definitions of "felony" and "crime of violence" to 18 U.S.C. 3156(a).

Section 3 of this bill contains two technical amendments to 18 U.S.C. 3041 and 3042; deletes section 3043 (Security for Peace and Good Behavior), a provision little used and unnecessary in light of this bill's grant of authority to consider dangerousness in release decisions; and creates a new section 3062.

Section 3062 grants to a law enforcement officer who is authorized to make arrests for offenses committed in his presence the authority to arrest a person released under this Act if the officer has reasonable grounds to believe the person is violating certain release conditions in his presence. Since a violation of a release condition constitutes contempt, it is likely that officers have such authority currently. However, this provision will assure that law enforcement officers with arrest authority for offenses committed in their presence are made especially aware of the importance of arresting a person on release who is subject to one of the conditions that is aimed primarily at preventing further crimes by the defendant and assuring against harm to victims and witnesses.

Section 4 of this bill amends 18 U.S.C. 3731 to permit the government to appeal release decisions, in accordance with new 18 U.S.C. 3146(c).

Section 5 of this bill makes a conforming amendment to 18 U.S.C. 3772.

Section 6 of this bill makes a conforming amendment to 18 U.S.C. 4282.

Section 7 of this bill makes a conforming amendment to 28 U.S.C. 636.

Section 8 of this bill makes what are, for the most part technical or conforming amendments to the Federal Rules of Criminal Procedure. The amendment to Rule 46(e)(2) adds language emphasizing that a surety's surrender of a person into custody may be an appropriate basis for setting aside forfeiture of all or part of the bond. New Rule 46(h) makes it clear that, when authorized by statute or regulation, minor charges may be disposed of by ordering the forfeiture of collateral. This procedure is currently used to dispose of minor offenses, such as traffic violations, and permits those charged with such offenses to forgo appearing at an official proceeding if they so wish. (See Rule 4(a) of the Rules of Procedure for the Trial of Misdemeanors before the United States Magistrates.)

Section 9 of the bill amends Rule 9(c) of the Federal Rules of Appellate Procedure to provide that a convicted person seeking release pending appeal is to bear the burden of proof both with respect to the issues of his appearance and community safety and with respect to the merit of his appeal.

BAIL REFORM LEGISLATION

Mr. HATCH. Mr. President, violent crime continues to be one of the great tragedies of our age. In 1971, Americans could expect a violent crime to occur every 39 seconds, a rape every 13 minutes, and a murder every 30 minutes.[1] A decade later, the rate has accelerated to a violent crime every 24 seconds, a rape every 6 minutes, and a murder every 23 minutes.[2] No longer is crime something reported in newspapers that happens to someone else. A 1981 study by the Department of Justice found that 25 million American households—30 percent of the total—were touched by crime the previous year.[3] With danger to lawful citizens on the rise, Federal courts and Federal laws need to recognize more urgently the need to protect neighborhood safety.

Recent studies have revealed one particular set of laws that have worked to the direct detriment of community security. These studies have substantiated that many crimes are committed by individuals who have already been apprehended for commission of another crime, but are free to engage in further criminal activities due to low bail standards. The 1981 LAZAR Institute study substantiated that 16 percent of all defendants released in 12 jurisdictions were arrested for another offense while free on bail. Of these 30 percent that were arrested more than once and the average number of arrests before trial was 1.4.[4] A 1974 study in the District of Columbia revealed that 26 percent of all crime committed in the District was committed by individuals on some form of court-ordered release.[5] In all the Senate Report on the Bail Reform Act of 1981, Senate Report 97-317, discussed no fewer than 19 studies conducted over the last 15 years documenting the considerable problem of crime committed by individuals free on bail. Responding to these studies and the further evidence of need for change presented in Judiciary Committee hearings, "Bail Reform" J-97-56, the Senate approved 98 to 1 a bill to permit Federal judges to consider the security of the community when setting pretrial release conditions for arrested suspects. Unfortunately, this important criminal reform measure died in conference at the close of the 97th Congress.

Despite the alarming evidence only briefly summarized in the above statistics and reports, current Federal law, specifically the Bail Reform Act of 1966, only allows judges to consider conditions to assure that the suspect will appear for trial when setting bail. By failing to account for potential danger to the community to which the released suspect will return, Federal bail laws have contributed directly to the rise in criminal activity. Because the evidence of potential danger to communities from lax bail laws is overwhelming and the Senate has already acknowledged the need for reform by passing S. 2572 in the 97th Congress, I am pleased today to join with the chairman of the Senate Judiciary Committee and others to introduce the same bill that passed the Senate last year with the objective of giving judges authority to protect community security with sound bail practices.

HISTORY OF BAIL AND DANGER TO COMMUNITY CONSIDERATIONS

The history of bail requirements is a lengthy record of legal standards giving some consideration to society's right to self-defense when weighing conditions for pretrial release. The Statute of Westminster the First of 1275 included a list of violent offenses for which no bail was possible. This reflected an apparent understanding that persons charged with serious felo-

Footnotes at end of article.

nies pose a greater risk of injury or death to others with the community. This served for more than five centuries as the basic authority for bail.[6] English judges, however, were apparently not fully satisfied that those protections were adequate. They began setting bail for less serious offenses beyond the reach of most offenders. Parliament responded with a provision in the Bill of Rights in 1689 that "excessive [bail] ought not to be required." [7] This language became the basis for the Virginia Declaration of Rights which was offered as an amendment to the Constitution verbatim by James Madison in 1789.

Bail laws in the fledgling states carried over the English principle of recognizing the gravity of the offense in determining whether to make bail available to certain classes of dangerous offenders. The pivotal Judiciary Act of 1789 authorized the denial of bail in capital offenses. This same practice was followed in the statutes of the new States. This was particularly significant because six of the States imposed captial punishment for arson, rape, burglary, and robbery, in addition to murder; two other States authorized the death penalty for three of these four violent offenses; other States entrusted formulation of criminal law to the courts under the common law which prescribed capital punishment for most felonies.[8] Bail practice in the new States was fundamentally designed to prevent, at the discretion of the court, suspects in violent crimes from returning to the community in the period between arrest and trial.

Although the Bail Reform Act today still allows the court to detain the accused without bail in capital offenses, the death penalty no longer applies to the breadth of violent offenses it formerly encompassed. Although the definition of capital offenses has changed over the years, the reasons for the retreat from the death penalty are not relevant to the question of detaining a suspect pending trial. Capital punishment has come under attack because its deterrent effect is doubted and rehabilitation of criminals is more trusted. Neither of these factors addresses protection of the community against dangerous conduct by a defendant awaiting trial.

THE EIGHTH AMENDMENT

The eighth amendment, based as it is upon the English law precedents that denied bail to offenders in capital—at that time, violent—crimes, does not guarantee bail to all suspects under all conditions. Instead it explicitly states that bail shall not be excessive, with the implicit message that bail must first be warranted before the excessiveness ban would have any effect at all. To construe the eighth amendment to imply a right to bail in all cases would prohibit any form of pretrial detention. In other words, State laws enacted contemporaneous with the Constitution that permitted denial of bail for capital offenses would have been unconstitutional. Thus, finding an implied universal right to bail in the eighth amendment would run contrary to the historical context in which the Constitution was drafted, not to mention the clear meaning of the words of the eighth amendment.

In any event, the Supreme Court resolved any questions about a right to bail in Carlson against Landon: [9]

> The bail clause was lifted with slight changes from the English Bill of Rights Act. In England that clause has never been thought to accord a right to bail in all cases, but merely to provide that bail shall not be excessive in those cases where it is proper to grant bail. When this clause was carried over into our Bill of Rights, nothing was said that indicated any different concept. The Eighth Amendment has not prevented Congress from defining the classes of cases in which bail shall be allowed in this country. Thus in criminal cases bail is not compulsory where the punishment may be death. Indeed, the very language of the Amendment fails to say all arrests must be bailable.

Although bail may not be excessive, there is no absolute right to bail. Dangerousness of the defendant is not barred by the Constitution as a consideration in bail proceedings. On the contrary, as previously noted, the absence of a constitutional prohibition in light of the common practice of the time to restrict bail suggests credibly that the framers of the Constitution approved of bail policies to protect the community against recidivists.

THE BAIL REFORM ACT OF 1966

Despite these weighty historical precedents, Congress in 1966 restricted Federal courts' discretion to consider threats to the community when setting pretrial release conditions. Besides releasing individuals likely to commit other crimes, this leads to several unreasonable contradictions. For instance, the standards a court must use when setting bail may be determined by whether or not the wound inflicted by the prisoner is fatal. As discussed earlier, the court in capital offenses may consider the prospect of risk to the community, but in noncapital offenses may only consider likelihood of fight when setting bail. Therefore, the legal standard used to determine pretrial release conditions may depend on whether the victim in the case is still clinging to life when the defendant is brought before the court to request bail. In other words, the test of law allowing a dangerous suspect to return to the community is more dependent upon the death date of his last victim than considerations of community safety.

Another arbitrary result of the current bail law is that a criminal with a long list of convictions may find it easier to demonstrate that he will appear for trial than a first offender. Former U.S. attorney for the District of Columbia, Earl J. Silbert, makes this point persuasively:

> The utter absurdity of this result is best demonstrated by the argument defense lawyers routinely make and judges too often accept: The defendant should be released because his extensive record of criminal arrests and convictions for serious crimes without any charge of flight is persuasive proof that he appears in court as required. The logical extension of this argument is that the more crimes a defendant has committed, the stronger his argument for release.[10]

Without any consideration of dangerousness allowed by the current Bail Reform Act, a recidivist may actually content that his lengthy criminal record is good reason for his pretrial release.

The current law also puts judges in a very difficult position. A judge with a sense of duty to protect the innocent probably takes quietly into account a defendant's dangerousness by setting bail beyond his means. This puts the judge in the uncomfortable position of considering in fact matters he must ignore under the law. The "Interim Report of the State of New York Temporary Commission on Revision of the Penal and Criminal Code" commented on this situation in recommending a change of law:

> There is little doubt that the average judge will, regardless of the reasons given by him, deny bail to a defendant charged with forcible rape and having an unsavory record of sex crimes, no matter how certain he may be that the defendant will appear in court when required; nor is there any doubt that such practice . . . has the approval of the general public. . . . Upon the premise that in many instances preventive detention is in fact necessary for public protection and will inevitably be practiced even though not specifically authorized, the proposal realistically and implicitly recognizes danger to the community as a valid consideration in the determination of any bail application.[11]

Judges themselves have candidly commented on their policy of disregarding this unworkable law. Judge Tim Murphy formerly on the District of Columbia Court of General Sessions said before a House Committee that:

> An unreasonable law has the ultimate effect of forcing those who administer it to ignore it, calloused of the consequences, or else to make extreme rationalizations in circumventing it; this applies to judges. You cannot expect judges to follow the letter of a law that requires them to turn many dangerous criminals loose day after day.[12]

The other side of this dilemma for judges is that a conscientious judge could, within the letter of the law, find himself under popular attack for releasing repeating offenders. Whatever the strict legal test for pretrial release, however, danger to the community is, and always has been, a major consideration for arriving at the amount of bail. Federal judges should

be given the necessary discretion under the law to protect the community by the honest use of preventive detention, and not solely by setting a preposterously high bail figure obstensibly to prevent flight.

COURTS ALREADY PREDICT BEHAVIOR

Changing the Bail Reform Act of 1966 to grant Federal judges the discretion to use the peril a defendant may pose to the neighborhood as a criteria in pretrial release proceedings would remedy each of the problems just discussed. This would involve judges in weighing the potential for future violence based on the defendant's past record. These determinations, however, are not unusual for courts. The Bail Reform Act itself allows a judge to examine the suspect's proclivity for future violence when determining bail in a capital case. Moreover, the same bail law requires the courts to predict the potential for flight by the defendant in all instances of pretrial release. When balancing protection of the public against the first amendment right to hold a mass demonstration, the courts also must weigh the potential for violence. Thus, projecting potentialities and tendencies in the interest of public safety is not beyond the capability of the courts. The 1966 report of the President's Commission on Crime in the District of Columbia reinforced this principle:

> After considering the opposing arguments, the majority concludes that the courts are presently capable of identifying those defendants who pose so great a threat to the community that they should not be released, and that a constitutionally sound statute authorizing detention in certain cases can be drawn.[13]

It is important to recognize that when the court makes a determination about the likelihood of dangerous conduct between arrest and trial, it is not idly gazing into a nonexistent crystal ball, but instead examining a reliable record of past conduct. The current Bail Act, in effect, blacks out that aspect of the record most relevant to public safety, dangerousness of the defendant, and leaves the court to make its projection based solely on the risk that the suspect will not show for trial. The current law does not prevent courts from predicting, but only withdraws some of the record that would make the forecast reliable.

THE FIFTH AMENDMENT

The fifth amendment forbids any official restraints on liberty without "due process of law." If this were interpreted to mean that no individual could be detained before convicted, law enforcement officers would also be barred from apprehending any suspect to stand trial. Former Attorney General John N. Mitchell makes this point very forcibly:

> If such a pretrial presumption of innocense existed as a bar to detention of the dangerous before trial, it would also bar pretrial detention of those charged with capital offenses, those held on money bond and could even be extended to prevent police from arresting persons and taking them into custody on probable cause.[14]

Clearly the fifth amendment cannot be construed as an absolute ban on pretrial detention. The Supreme Court has provided a more reasonable reading of the amendment:

> The fact that liberty cannot be inhibited without due process does not mean that it can under no circumstances be inhibited.
>
> The requirements of due process are a function not only of the extent of the governmental restriction imposed, but also of the extent of the necessity for the restriction.[15]

Accordingly, the individual's liberty must be balanced against the society's reasons for restraint. In the case of conditions placed on pretrial liberty, there are two very reasonable explanations for the restriction: To insure the individual will appear to stand trial, and to protect the community. The Bail Act already accommodates the first, but, despite the overwhelming historical, legal, and sociological evidence, disregards the latter. The fifth amendment, however, cannot be construed as a bar to detention on the basis of dangerousness. Already the Supreme Court has upheld various forms of detention as a means of protection.[16]

As I mentioned earlier, this bill is virtually identical to the legislation that passed the Senate 98 to 1 in the 97th Congress. To summarize, this bill would accomplish the following:

First, it would permit Federal courts to consider the safety of other persons or of the community generally in making pretrial release decisions. The risk of flight is currently the only factor that may be considered by the court.

Second, if the court determines that simple pretrial release would not reasonably assure appearance at trial, or that it might endanger the safety of other persons or of the community, it may set conditions upon release. The list of discretionary release conditions is expanded from present law. A mandatory condition for every release is that the defendant must not commit any Federal, State, or local crime during the period of his release.

Third, if the court finds that no condition will reasonably assure trial appearance or the safety of the community, and if it further establishes a probable cause that the defendant committed the offense for which he has been arrested, it may order the pretrial detention of the accused party.

Fourth, only those individuals charged with (or who have a history of) commission of crimes of violence, serious drug offenses, or capital offenses would be subject to possible detention pretrial, unless the court or the U.S. attorney makes a specific motion to hold a hearing to consider pretrial release.

Fifth, a judge may not impose any financial condition of release that results in the pretrial detention of the person. This will preclude the judicial subterfuge of using extraordinarily high money bail to detain an individual who might pose a risk to community security. In the event of need to protect community safety, the judicial officer may convene a hearing to examine the evidence regarding pretrial release or detention.

Sixth, the presumption would be reversed with respect to whether or not to release a convicted person pending sentence or appeal. Under present law, the court is required to treat such an individual under the identical release standards as a nonconvicted individual, unless it has reason to believe that no condition of release will reasonably assure that the person will not flee or pose a danger to any other person or to the community. This presumption would be reversed with the convicted individual subject to release only if the court finds, by clear and convincing evidence, that he is not likely to flee or to pose a danger to any other persons or to the community.

Seventh, new sanctions would be established to deter individuals from violating release conditions.

Eighth, law enforcement officers would receive new authority to arrest individuals who violated certain release conditions.

This reform of our current bail laws is necessary to simply allow Federal judges to consider whether suspects might become a menace to public safety if released. It would provide courts with the discretion to reduce the alarming growth of crime committed by individuals free on bail. It would also eliminate subterfuge of setting high money bail to detain defendants who might pose a risk to community security.

Moreover it would honor a tradition reaching back to 1215 of protecting the community against the apprehended in connection with a violent crime. Finally, it would not be repugnant to either the eighth or fifth amendment, indeed using bail conditions to protect the public was not only a practice at the time of the drafting of those amendments but also a course of conduct supported by the Constitution until changed by Congress in 1966.

This vitally important criminal justice reform legislation will certainly be a matter given a high priority this year. Crime is not going to wait until the Senate has proper machinery in place to combat it; it will continue to take place at alarming rates.

FOOTNOTES

[1] "Crime in the United States, 1971, Uniform Crime Report," 30, Federal Bureau of Investigation, August 29, 1972.

[2] "Crime in the United States, 1981, Uniform Crime Report," 5, Federal Bureau of Investigation, August 29, 1982.

[3] "Households Touched by Crime," 1, Bureau of Justice Statistics Bulletin, NCJ—84406, September 1982. (The Bulletin explains that the "household was chosen as the unit of analysis because the effects of crime are not limited to the victim alone but are also felt by other members of his or her household.")

[4] S. Rep. 97-317, 97th Cong. 2nd Sess. (1981), at 30-35.

[5] Id.

[6] "The Constitution of the United States, Analysis and Interpretation," Congressional Research Service, 92nd Congress, Second Session, Document 92-82, Lester S. Jayson Supervising Editor. See Page 1247.

[7] Id. at 1247.

[8] Mitchell, John N., "Bail Reform and the Constitutionality of Pretrial Detention," 55 Virginia Law Review 1223 at 1128, 1969.

[9] *Carlson* v. *Landon*, 342 U.S. 524 (1952), at 545-6.

[10] Silbert, Earl J., "Pretrial Release of Dangerous Defendants."

[11] Interim Report of the State of New York Temporary Commission on Revision of the Penal and Criminal Code, Part A, Section B (1969).

[12] Hearings on Amendments to the Bail Reform Act before the Subcommittee on Constitutional Rights of the Senate Judiciary Committee, 91st Congress, 1st Session, at 220-221.

[13] "President's Commission on Crime in the District of Columbia" Report 595 (1966).

[14] Supra, Mitchell, at 1231-2.

[15] *Zemel* v. *Rusk*, 381 U.S. 1, at 14 (1965).

[16] *Greenwood* v. *U.S.*, 350 U.S. 366 (1956), allows detention of those incompetent to stand trial who may endanger safety. *Minnesota ex rel. Pearson* v. *Probate Court*, 309 U.S. 270 (1940), allowed detention of sexual psychopaths deemed dangerous.

Mr. SPECTER. Mr. President, I want to speak in support of the Bail Reform Act of 1983, introduced by Senator THURMOND, chairman of the Senate Committee on the Judiciary. His leadership on this issue is appreciated and as a member of the committee, he can count on my support for this measure.

The major feature of this bill is that preventive detention is permissible if the judge finds that no condition or combination of conditions will assure the person's appearance at trial or that the safety of any other person or the community will be endangered by the accused's release. Under current law, the judge is not permitted to assess whether the defendant constitutes a danger to the safety of other persons or to the community at large in considering whether to release the accused on bail.

Clearly there is a compelling need for the changes proposed in the Bail Reform Act. Many crimes and retaliatory acts against witnesses can be prevented by detaining persons a judge determines to be dangerous.

The American Bar Association supports this bill in concept. The Chief Justice of the U.S. Supreme Court has long stressed the need for giving trial judges greater flexibility in determining whether to order the release of persons accused of crime. In addition, the administration favors this bill. Recommendation No. 38 of the Attorney General's Task Force on Violent Crime calls for granting courts the authority to hold persons pending trial who are found by clear and convincing evidence to pose a threat of danger to any person or the community. The Department of Justice testified in support of a similar bill during the 97th Congress.

One aspect of the Bail Reform Act of 1983, however, troubles me. The trials of persons detailed should commence within 60 days of their confinement in order to protect the rights of the defendant who has yet been adjudicated guilty or not guilty. Due process requires that pretrial detention not be used to punish an accused. Rather, the legitimate Government interest is in preventing further dangerous acts by the detainee pending his expedited trial on criminal charges.

Past congressional hearings on the Speedy Trial Act discuss the need for granting high priority to trials for persons in pretrial detention. At those hearings Prof. Daniel J. Freed of Yale University Law School expressed the need for special treatment of persons held pending trial because of the extreme restriction of their freedom. The Court of Appeals for the Second Circuit reported that their guidelines already contain priority treatment of persons held awaiting trial.

Fairness and justice require that the court adjust its calendar to accommodate a speedy trial for persons being held pending a determination of their guilt or innocence.

At the proper time I may, again, introduce amendments to the Bail Reform Act that would require the trial for the accused start within 60 days from the date of confinement. Of course, a defendant may make motions for continuances if he is not prepared to proceed at the end of 60 days. Absent changed circumstances, the defendant will be detained during the extended period. In like fashion, the Government may make a motion to have the trial begin at some point beyond the 60 days. Where the Government is the moving party, however, the judge will be required to reexamine the need for continued confinement of the defendant after the expiration of the first 60 days.

This amendment will make the Bail Reform Act of 1983 an even better bill. The amendment does not place an unreasonable burden on the prosecution, nor does it weaken the court's ability to protect any other person or the community.

Mr. KENNEDY. Mr. President, I am pleased to join my colleagues in cosponsoring the Bail Reform Act of 1983. This bill contains far-reaching and essential reforms in Federal law relating to bail.

The bill would permit judges to consider the dangerousness of the defendant in establishing the conditions of bail release. The bill also makes important changes in the existing law on money bail. It prohibits the use of money bail as a means to assure a defendant's appearance at trial, and limits the amount of money bail to the defendant's ability to pay.

This bill confronts the reality of bail today and mandates real reforms. It requires actual consideration by judges of the two essential issues in any bail decision—whether the defendant poses a danger to the community and whether the defendant is likely to flee before trial. On the record, consideration of these factors will eliminate the unacceptable abuses that have become all too routine under present practice. Dangerous defendants would no longer be released into the community to rob and kill again. And defendants will no longer be jailed awaiting trial because they are too poor to meet the bail that has been set.

The reforms included in this measure were specifically endorsed today by Attorney General of the United States, William French Smith in his testimony before the Senate Judiciary Committee on the subject of organized crime.

This measure represents a gain for civil liberties, a gain for law enforcement, and a gain for the safety of communities across the Nation. I urge the Senate to act quickly to pass this important legislation.

FEDERAL ANTI-TAMPERING ACT

Mr. THURMOND. Mr. President, in response to recent incidents involving malicious tampering with consumer products, I am introducing today, on behalf of myself, the ranking minority Member, Senator BIDEN, and a large number of my colleagues, the Federal Anti-Tampering Act. This bill is identical to S. 3048 from the 97th Congress, which passed this body on December 16, 1982.

We are all sadly aware of several horrible events in recent months which have seriously undermined public confidence in the safety of consumer products, such as over-the-counter drugs. Certain persons with what is clearly criminal intent have tampered or threatened to tamper with these items by tainting them with highly poisonous or noxious substances. This has had various unfortunate results.

In Chicago, several persons died after taking Tylenol capsules filled with cyanide. Manufacturers have been forced to recall certain products at great expense and inconvenience to them, as well as to the consumer. The innocent public has become apprehensive about the safety of products found on grocery and drugstore shelves. "Copycats" have been encouraged by news reports of these incidents.

The full force of the law and the investigative resources of the Federal Government must be brought to bear

on this unjustifiable conduct and its devastating aftermath. Just as the Federal Government acts to protect the consumer from certain unscrupulous and dangerous products, so must it forcefully address these sorrowful incidents under the powers granted by the Commerce Clause of the Constitution. With this goal in mind, the bipartisan Federal Anti-Tampering Act would create new offenses in title 18 of the United States Code and would impose strong penalties aimed at deterring this type of criminal activity.

First, where there is an intent to kill or endanger any person or to damage a business reputation, it would be illegal to do any act which results in the adulteration of a food, drug, device, or cosmetic, or to tamper with a hazardous substance, personal care or household article. Attempts would also be punished.

Federal jurisdiction is sufficiently expansive to deal with the problem effectively, but is appropriately limited to certain cases involving or affecting interstate commerce. The penalties for a tampering or adulteration offense are rightfully substantial in this bill. The maximum generally is 20 years of imprisonment and/or $20,000. However, if personal injury or death results, the maximum penalty is life imprisonment.

The act is also intended to discourage false threats relating to tampering incidents which, in terms of potential damage and panic, can be similar to hijacking threats. It would make it a Federal offense to convey false information concerning an alleged attempt to commit a tampering offense, with willful and malicious intent and with knowledge that the information is false. The penalties for this offense are also graduated, based on the severity of the results. If personal injury or death follows, the maximum would be life imprisonment. Where false information causes sustained fear for personal safety, a recall, or prohibition on the sale of a product, or other serious disruption to the public, the maximum penalty is 20 years of imprisonment and/or $20,000. These penalties are based on a valuable amendment offered by Senator LEAHY in the last Congress.

Mr. President, I firmly believe that prompt and decisive action must be taken by the Federal Government to curtail these heinous incidents of product tampering. The American consumer has a right to feel secure from injury and death gratuitously inflicted by coldblooded criminals. The Federal Anti-Tampering Act is an appropriate exercise of Federal authority under the Constitution and will serve as an effective deterrent and protective measure.

Mr. President, I ask unanimous consent that the bill which I am introducing be printed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 216

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Anti-Tampering Act"

SEC. 2. Title 18, United States Code, is amended by adding the following new chapter:

"CHAPTER 56—ADULTERATION

"§ 1211. Malicious injury by adulterating a product

"(a) Whoever, with intent to injure, kill, or endanger the health or safety of any person, or with intent to cause damage or injury to the business reputation of an individual, partnership, corporation, association, or other business entity (1) does any act which results in a food, drug, device, or cosmetic being adulterated or attempts to do any such act or (2) tampers or attempts to tamper with any hazardous substance or any other article, product, or commodity of any kind or class which is produced or distributed for consumption by individuals or use by individuals for purposes of personal care or in the performance of service rendered within the household, if such act of adulteration or tampering occurs before the food, drug, device, cosmetic, hazardous substance or other article, product, or commodity is introduced or delivered for introduction into interstate commerce, while such item is in interstate commerce, while such item is hold for sale (whether or not the first sale) after shipment in interstate commerce, or if such act of adulteration or tampering otherwise affects interstate commerce, shall be punished by imprisonment for not more than twenty years or fined not more than $20,000, or both, or, if personal injury or death results to another, by imprisonment for any term of years or for life.

"(b) Whoever, with willful and malicious intent, imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would constitute a violation of subsection (a) shall be punished—

"(i) if personal injury or death results to another, by imprisonment for any terms of years or for life;

"(ii) if such conduct causes any person to be in sustained fear for his or another person's safety, causes any government agency or authority to direct a sale prohibition against, or recall of, any food, drug device, or cosmetic or causes any individual, partnership, corporation, or association to implement such prohibition or recall in response to such conduct, or causes other serious disruption to the public, by imprisonment for not more than twenty years or by a fine of not more than $20,000 or both.

"(c) As used in subsection (a), 'food', 'drug', 'device', 'cosmetic', and 'adulterated' shall have the meanings ascribed to those terms in the Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. 301-392); 'hazardous substance' shall have the meaning ascribed to that term in the Federal Hazardous Substances Act (15 U.S.C. 1261 (f)).".

SEC. 3. If any provision of this Act is held invalid, all valid provisions that are severable shall remain in effect. If a provision of this Act is held invalid in one or more of its applications, the provision shall remain in effect in all of its valid applications that are severable.

SEC. 4. The analysis of part I of title 18, United States Code, is amended by adding the following:

"56. Adulteration ..... 1211".

FINALITY OF CRIMINAL JUDGMENTS ACT

Mr. THURMOND. Mr. President, I am reintroducing today legislation—the Finality of Criminal Judgments Act—that would provide long overdue improvements in Federal procedures for the review of State criminal convictions. This legislation is identical to S. 2838 which I introduced during the 97th Congress along with the distinguished Senator from Florida (Mr. CHILES) and the distinguished Senator from Georgia (Mr. NUNN). The immediate legislation is the product of 2 days of hearings held by the Senate Judiciary Committee during the last Congress on S. 653 and S. 2216, predecessor legislation. This measure has been endorsed not only by the Attorney General, but by such organizations as the National Association of District Attorneys, the Association of State Attorneys General, and the Conference of State Supreme Court Justices. The Chief Justice of the United States, Warren Burger, has remarked:

> The administration of justice in this country is plagued and bogged down with lack of reasonable finality of judgments in criminal cases.

The Finality of Criminal Judgments Act would attempt to restore a balance between the interests of the States (and the public generally) in securing the finality of their criminal judgments, with the equally legitimate interests of the Federal Government in allowing convicted individuals the opportunity to challenge the constitutionality of particular State criminal procedures.

As a result of archaic Federal laws, and Federal court interpretations of these laws, this country has witnessed the development of a judicial process in which criminal cases are prolonged indefinitely without any final and dispositive determination of guilt or innocence. Resort by convicted individuals to repeated appeals and petitions of habeas corpus has not only made a mockery of the concept of swift and sure punishment, but has increasingly focused our criminal justice system on issues that are only marginally related to the fundamental question of guilt or innocence. In place of the search for truth—the traditional objective of the criminal justice system—we have seen the substitution of the search for the procedurally perfect trial.

In particular, the writ of habeas corpus has been abused beyond all recognition. This ancient writ—one that has traditionally been a cornerstone in our criminal justice foundation—has

become a tool by which criminals convicted in fair trials have been able to delay punishment and frustrate the judicial process. Our Federal court system today is so burdened by frivolous habeas corpus petitions that justice is being increasingly delayed not only in criminal cases but in virtually every kind of Federal case.

I would emphasize, however, that my concern about the abuse of habeas petitions is not primarily motivated by recognition of the burden that these place upon the Federal judiciary. The Federal judiciary must never be too overburdened to deal with legitimate habeas petitions submitted by individuals who may be wrongfully incarcerated by a State judgment. The Constitution itself refers explicitly to this guarantee (article I, section 9). Rather, what concerns me most is that the present deluge of habeas petitions is threatening the integrity of our Federal structure of government. A healthy system of federalism—in which powers are dispersed and divided among a national government and State governments—is as important to the protection of our individual freedoms as any other institution within our political and legal system. As Justice Lewis Powell has remarked in this respect:

> The present scope of habeas corpus tends to undermine the values inherent in our Federal system of government. To the extent that every State criminal judgment is to be subject indefinitely to broad and repetitious Federal oversight, we render the actions of State courts a serious disrespect in derogation of the constitutional balance between the two systems.

Where there are serious defects in the State criminal justice process, I would yield to no one in my belief that there ought to be ultimate recourse to another judicial forum. On the other hand, I believe that we are on the verge of a radical restructuring of our criminal justice system in which final State court judgments are often viewed as little more than preliminary judgments, preliminary to repeated efforts to secure creative and innovative new interpretations of the defendant's constitutional rights. Among other things, we have lost sight of the fact that, under our constitutional system, the State judiciary is obligated every bit as much as the Federal judiciary to abide by the policies and principles of the U.S. Constitution.

Mr. President, at this point in the RECORD, I would like to briefly outline the provisions of this extremely important legislation. If Congress is finally prepared to set an example for the States and restore the rule of reason that ought to prevail within our criminal justice system, reform of habeas corpus procedures is a necessary adjunct to such other necessary reforms as abolition of the exclusionary rule, bail reform, modification of the insanity defense, capital punishment, and sentencing reform. The provisions of the proposed legislation are as follows:

Section 1.—This section provides that the proposed legislation is to be known as the "Finality of Criminal Judgments Act".

Section 2.—This section would prohibit convicted individuals from raising in their habeas petitions issues that could have been raised properly in State criminal proceedings but were not. An exception to this general rule is established if the defendant suffered actual prejudice as a result of not being able to raise the issue through habeas corpus, and (1) the failure to raise the claim in State court resulted from unlawful State actions; (2) the issue related to a newly created Federal constitutional right that was deemed retroactive by the Supreme Court; or (3) the claim is based upon facts that could not reasonably have been known at an earlier period. Section 2 would also establish a general one year statute of limitation upon most habeas petitions.

Section 3.—This would amend present Federal law to invest in Federal circuit court judges exclusive authority to issue certificates of probable cause for appeal in habeas corpus procedings, as well as a similar certificate program for appeals by Federal prisoners in collateral relief proceedings. Such judges are in the best position to assess whether or not there is a reasonable possibility of reversal that would warrant such a certificate of appeal. Under present law, both district and circuit court judges are empowered to make this determination.

Section 4.—This section is a technical section that would make amendments to the Federal Appellate Rules to conform them with the changes made in section 3.

Section 5.—This section would establish the principle that writs of habeas corpus will not be granted in Federal court unless the applicant for such a writ has generally exhausted any remedies still available to him in the State court system. Further, an application may be denied on its substantive merits even though such exhaustion of State remedies has not taken place. Section 5 would also enhance the deference shown by Federal habeas corpus courts for determinations and findings made by State courts.

Section 6.—This section would enact a number of changes in Federal law necessary to ensure conformity with changes already enacted in earlier sections of the bill.

Mr. President, this brief synopsis of the "Finality of Criminal Judgments Act" does not, of course, begin to explore some of the complexities that are involved in this issue. The fundamental point, however, is that this legislation would establish a far more appropriate sense of balance in our criminal justice system, a balance between the interests of the State and the Federal courts, a balance between the rights of the individual and the rights of society, and a balance between the pursuit of the procedurally perfect trial and the fair trial.

I urge the support of my colleagues for this legislation as a critical first step in expediting the dispensation of justice in our criminal justice system.

I request unanimous consent that the entire text of this legislation be placed in the RECORD at this point.

There being no objection, the legislation was ordered to be printed in the RECORD, as follows:

S. 217

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Finality of Criminal Judgments Act".

SEC. 2. Section 2244 of title 28, United States Code, is amended by adding at the end thereof the following new subsections:

"(d) When a person in custody pursuant to the judgment of a State court fails to raise a claim in State proceedings at the time or in the manner required by State rules of procedure, the claim shall not be entertained in an application for a writ of habeas corpus unless actual prejudice resulted to the applicant from the alleged denial of the Federal right asserted and—

"(1) the failure to raise the claim properly or to have it heard in State proceedings was the result of State action in violation of the Constitution or laws of the United States;

"(2) the Federal right asserted was newly recognized by the Supreme Court subsequent to the procedural default and is retroactively applicable; or

"(3) the factual predicate of the claim could not have been discovered through the exercise of reasonable diligence prior to the procedural default.

"(e) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of the following times:

"(1) the time at which State remedies are exhausted;

"(2) the time at which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, where the applicant was prevented from filing by such State action;

"(3) the time at which the Federal right asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable; or

"(4) the time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.".

SEC. 3. Section 2253 of title 28, United States Code, is amended to read as follows:

"§ 2253. Appeal

"In a habeas corpus proceeding or a proceeding under section 2255 of this title before a circuit or district judge, the final order shall be subject to review, on appeal, by the court of appeals for the circuit where the proceeding is had.

"There shall be no right of appeal from such an order in a proceeding to test the validity of a warrant to remove, to another district or place for commitment or trail, a person charged with a criminal offense against the United States, or to test the validity of his detention pending removal proceedings.

"An appeal may not be taken to the court of appeals from the final order in a habeas corpus proceeding where the detention complained of arises out of process issued by a State court, or from the final order in a proceeding under section 2255 of this title, unless a circuit justice or judge issues a certificate of probable cause.".

SEC. 4. Federal Rule of Appellate Procedure 22 is amended to read as follows:

"Rule 22. Habeas Corpus and Section 2255 Proceedings

"(a) APPLICATION FOR AN ORIGINAL WRIT OF HABEAS CORPUS.—An application for a writ of habeas corpus shall be made to the appropriate district court. If application is made to a circuit judge, the application will ordinarily be transferred to the appropriate district court. If an application is made to or transferred to the district court and denied, renewal of the application before a circuit judge is not favored; the proper remedy is by appeal to the court of appeals from the order of the district court denying the writ.

"(b) NECESSITY OF CERTIFICATE OF PROBABLE CAUSE FOR APPEAL.—In a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court, and in a motion proceeding pursuant to section 2255 of title 28, United States Code, an appeal by the applicant or movant may not proceed unless a circuit judge issues a certificate of probable cause. If a request for a certificate of probable cause is addressed to the court of appeals, it shall be deemed addressed to the judges thereof and shall be considered by a circuit judge or judges as the court deems appropriate. If no express request for a certificate is filed, the notice of appeal shall be deemed to constitute a request addressed to the judges of the court of appeals. If an appeal is taken by a State or the government or its representative, a certificate of probable cause is not required.".

SEC. 5. Section 2254 of title 28, United States Code, is amended by redesignating subsections "(e)" and "(f)" as subsections "(f)" and "(g)" respectively, and is further amended—

(a) by amending subsection (b) to read as follows:

"(b) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that the applicant has exhausted the remedies available in the courts of the State, or that there is either an absence of available State corrective process or the existence of circumstances rendering such process ineffective to protect the rights of the applicant. An application may be denied on the merits notwithstanding the failure of the applicant to exhaust the remedies available in the courts of the State.";

(b) by adding a new subsection (d) reading as follows:

"(d) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that has been fully and fairly adjudicated in State proceedings."; and

(c) by redesignating subsection "(d)" as subsection "(e)," and amending it to read as follows:

"(e) In a proceeding instituted by an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court, a full and fair determination of a factual issue made in the case by a State court shall be presumed to be correct. The applicant shall have the burden of rebutting this presumption by clear and convincing evidence.".

SEC. 6. Section 2255 of title 28, United States Code, is amended by deleting the second paragraph and the penultimate paragraph thereof, and by adding at the end thereof the following new paragraphs:

"When a person fails to raise a claim at the time or in the manner required by Federal rules of procedure, the claim shall not be entertained in a motion under this section unless actual prejudice resulted to the movant from the alleged denial of the right asserted and—

"(1) the failure to raise the claim properly, or to have it heard, was the result of governmental action in violation of the Constitution or laws of the United States;

"(2) the right asserted was newly recognized by the Supreme Court subsequent to the procedural default and is retroactively applicable; or

"(3) the factual predicate of the claim could not have been discovered through the exercise of reasonable diligence prior to the procedural default.

"A two-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of the following times:

"(1) the time at which the judgment of conviction becomes final;

"(2) the time at which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, where the movant was prevented from making a motion by such governmental action;

"(3) the time at which the right asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable; or

"(4) the time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.".

● Mr. CHILES. Mr. President, today I am happy to cosponsor with Senator THURMOND the finality of Criminal Judgments Improvements Act which addresses the need for reform of the Federal habeas corpus law.

A recent poll disclosed that over 70 percent of the American people have little or no confidence in the ability of our courts to convict and sentence criminals. I believe that this lack of public confidence in our criminal justice system is well founded, and that reform of our courts is essential to the fight against crime. One important aspect of this court reform must be establishing finality in our criminal justice system, and that means doing something about the endless number of appeals a prisoner is able to file under today's Federal habeas corpus statutes.

Mr. President, a movement to reform our inadequate habeas laws has been growing nationwide. Attorneys general across the country have written and implored the Congress to act promptly to rectify this problem. Recently, Jim Smith, the attorney general of the State of Florida, sent a letter of support for habeas corpus reform. He joins the many others involved in our criminal justice system who have called on us to act to restore the writ of habeas corpus to its original purpose.

The bill that I cosponsor with Senator THURMOND was designed to address some of the problems in the current system. The purpose of the bill is to give greater respect to orderly State court procedures; to assure that habeas corpus cases are considered in a timely manner; and to instill the notion of finality of judgment into our State criminal justice systems.

I believe that the current state of affairs is harmful to the effective functioning of our courts. First of all, the easy availability of review after review is at odds with one of the most fundamental principles of our judicial system: the notion of finality. Habeas cases relitigate the facts and issues that were decided in the State courts. The current system operates in such a way as to suggest that a prisoner, duly convicted in a full and fair State proceeding, can challenge that conviction time and time again, for years or even decades after his State court conviction became final. Factual issues can end up being redetermined long after the crime was committed and the initial trial was held. In the meantime, evidence may have disappeared or key witnesses may no longer remember crucial details. The State is prejudiced by these long delays, and more importantly, the delays hurt the reliability of the fact-finding process. Needless to say, extensive Federal court review of State court convictions can create unnecessary friction between the State court system and the Federal courts.

This lack of finality hampers the justice system in other ways as well. It erodes the deterrence factor in swift and sure punishment of the guilty. It erodes public confidence in the courts and in the criminal justice system to deal with crime and, in turn, fosters fear. Furthermore, the sheer volume of petitions filed is a stain on the limited resources of our courts. When our prosecutors, defense attorneys and judges devote their time and efforts to reviewing and processing these petitions, we end up diluting the resources of the courts. We then add to the delay in bringing original criminal and civil cases to trial. Ironically, the flood of petitions may actually hurt those who have valid habeas claims.

I believe that if a person does not get a fair trial in the State courts, he should be entitled to one in the Federal courts. But I also believe that our criminal justice system cannot serve society if we allow any case to be reopened at any time, and on practically any grounds. These beliefs can be balanced. In today's system, however, they are not balanced. Senator THURMOND's and my bill which has just been introduced and S. 117, the Crime Control Act of 1983, which Senator NUNN and I introduced yesterday are attempts to strike a more equitable balance.

I would like to share a law review article written by Florida Attorney General Jim Smith for the most recent

issue of the Journal of Criminal Law and Criminology. It is a scholarly treatment of the problem at issue, Mr. President, and I ask unanimous consent that the entire article be reprinted in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Journal of Criminal Law & Criminology, 1982]

FEDERAL HABEAS CORPUS—A NEED FOR REFORM

(By Jim Smith*)

In 1963, the Supreme Court of the United States decided two cases involving the scope of federal habeas corpus relief to state prisoners under 28 U.S.C. sections 2244-2255.[1] The Court divided five-to-four in both cases and each contained sharp dissents.

In *Townsend v. Sain*, Justice Stewart in dissent observed that even under the test enunciated by the majority, the Court should have affirmed the appellate court's denial of relief. He stated his main concern, however, in the last paragraph of his opinion:

"To require a federal court now to hold a new trial of factual claims which were long ago fully and fairly determined in the courts of Illinois is, I think, to frustrate the fair and prompt administration of criminal justice, to disrespect the fundamental structure of our federal system, and to debase the Great Writ of Habeas Corpus . . ." [2]

In *Fay v. Noia*, the Court upheld the power of a federal court to grant habeas corpus relief notwithstanding the petitioner's decision not to appeal his conviction out of fear that if he were successful he might face retrial and a possible death sentence. Justice Brennan set forth the requirement that, in order to forfeit his right to a consideration of his federal claim, there had to be a "deliberate by-pass" of state court procedures by the applicant. This deliberate bypasss had to be "an intentional relinquishment or abandonment of a known right or privilege" by the applicant after consultation with competent counsel.[3] Justice Clark dissented because the decision dealt a "staggering blow" to the effective administration of criminal justice and jeopardized the finality of state convictions. He opined that "[a]fter today state judgments will be relegated to a judicial limbo, subject to federal collateral attack—as here—a score of years later despite a defendant's willful failure to appeal." [4] Justice Harlan in his lengthy dissent suggested that the majority opinion failed to understand the function of counsel and that the "effect [of the decision] on state procedural rules may be disastrous . . . ." [5]

The history of federal habeas corpus since 1963 has demonstrated that *Townsend* and *Fay* have not withstood the test of time and that the Justices who dissented in those cases perceived correctly the abuses which would result and the effect they would have upon the administration of justice. Indeed, the decision in *Wainright v. Sykes* [6] vindicated the position espoused by Justice Harlan in *Fay* and undercut the basic premise of *Townsend* that state courts were not competent to dispose of and protect the federal constitutional rights of persons tried in state courts.

Although recent Supreme Court decisions have constricted the scope of habeas corpus relief by strengthening the rule of *Wainright v. Sykes*,[7] and have recognized the legitimate need for finality in the administration of justice,[8] congressional reform of the habeas corpus act is essential to curb existing abuses. It was for this reason that, as Attorney General of the State of Florida, I proposed certain amendments to 28 U.S.C. sections 636(b)(1)(B), 2244, and 2254(d), filed last year as S. 653 and H.R. 3416.[9]

I. THE REVIEW BY FEDERAL MAGISTRATES OF STATE COURT CRIMINAL CONVICTIONS

Currently, 28 U.S.C. section 636(b)(1)(B) authorizes United States magistrates to conduct evidentiary hearings on habeas corpus applications for post-trial relief by individuals convicted in state court of criminal offenses. The magistrate submits to the judge proposed findings of fact and recommendations for disposition of the case, which the judge may accept or reject.

The proposed amendment to 28 U.S.C. section 636(b)(1)(B) contained in section 1 of H.R. 3416 would prohibit United States magistrates from conducting evidentiary hearings in state habeas corpus cases without consent of the parties. The states have no interest in how much authority Congress confers upon magistrates with respect to federal criminal proceedings. Some states are of the position, however, that magistrates should not have the authority to make findings of fact that, in practical effect, overrule decisions rendered by state trial judges and even state supreme courts. A federal district judge should overrule state decisions only if the judge's appointment comes under article III of the United States Constitution.

Although the Supreme Court has upheld Congress' power to authorize a magistrate to conduct evidentiary hearings, this does not mean that Congress must grant such authority or that the present law should not be overturned. If one views federal habeas corpus as an essential requisite to insuring the protection of individual freedoms, then it would seem that an experienced judicial officer should hear the disputed facts. If Congress were to eliminate the magistrates' role in conducting evidentiary hearings, leaving it up to federal judges alone to perform such a fact finding function, Congress would avoid duplicative evidentiary hearings and would prevent judges from merely "rubber stamping" the magistrate's factual findings. Under my proposal, federal magistrates would still handle all aspects of habeas corpus petitions except evidentiary hearings, over which a magistrate would have jurisdiction only if the parties consent to it.

II. THE FEDERAL LITIGATION OF ISSUES NOT PROPERLY RAISED IN STATE COURT PROCEEDINGS

The proposed amendment to 28 U.S.C. section 2244, contained in section 2 of H.R. 3416, codifies the Supreme Court's decision in *Wainwright v. Sykes* [10] that the federal courts will not consider issues not properly raised at the state level unless a petitioner demonstrates "cause and prejudice" for failure to comply with state court procedures. The requirement that a petitioner must raise his claims in the state courts, absent special circumstances, is the only approach consistent with traditional notions of federalism. It gives the state system an opportunity to correct constitutional errors and to resolve factual disputes while witnesses' memories are still keen. It also protects the defendants by ensuing that their rights are promptly vindicated at the trial or on direct appeal, rather than after many years of incarceration. Moreover, the *Wainwright* requirement is essential to the fair administration of justice because it prevents the defendant from "sandbagging" state courts by deliberately refusing to raise claims in state court so that they can later raise them for the first time in federal court. Finally, the proposed legislation also specifically defines the Supreme Court requirement of "cause."

Two decisions demonstrate the need for the proposed amendment to 28 U.S.C. section 2244. In *Holzapfel* v. *Wainwright*,[11] for example, defendant Holzapfel entered pleas of guilty in 1960 to the first degree murders of a judge and his wife. Holzapfel told the court that he made his plea freely, voluntarily, and with knowledge of the consequences which would follow. He acknowledged that his earlier confession before a county judge was an accurate statement of the events leading to the deaths, and the court accordingly made the confession part of the record.

Nine years later, Holzapfel petitioned a state court to vacate the judgments and sentences he received. He claimed (1) that his plea was involuntary, (2) that the government did not inform him of his right to appeal, (3) that he made his confession before intelligently waiving his right to counsel, and (4) that the trial court lacked jurisdiction over his case because the victims drowned in the Atlantic Ocean. The state court held an evidentiary hearing in 1970 and denied Holzapfel's motion. The appellate court subsequently affirmed the lower court's decision.[12]

In 1978, Holzapfel filed a second motion to vacate in the state trial court, reiterating his prior assertions and also claiming his court appointed counsel was ineffective. The state court held an additional evidentiary hearing on the newly raised claim in 1979 and again denied the defendant's motion. The state appellate court affirmed [13] In 1981, Holzapfel filed a petition for a writ of habeas corpus in federal district court. Holzapfel renewed the claims he had made earlier in state court, and at present this case still awaits disposition by the magistrate.

Under the proposed amendment to 28 U.S.C. section 2244(d), a petitioner would have to raise these claims in the initial state court proceedings or, alternatively, he would have to establish that neither he nor his attorney then had knowledge of the material and controlling facts upon which he is basing his claim and that they could not ascertain such facts by the exercise of due diligence.

Holzapfel, for example, had long been aware of the facts which gave rise to his claims. He should have raised these issues in the original state proceedings when the facts were readily ascertainable and when the state court could correct any legitimate errors. Since delay prejudices the state, Holzapfel should have to demonstrate why he could not have raised the issues in the original proceeding. If he cannot demonstrate such cause under the factors enumerated in this amendment, the federal court should bar his claim.[14]

In *Tyler* v. *Phelps*,[15] a Louisiana state court tried and convicted Gary Tyler of first degree murder and sentenced him to death. On direct appeal, Tyler attempted to raise the impropriety of a jury instruction to which his attorney had failed to object at trial. The state supreme court declined to entertain the argument because counsel had failed to comply with the state's "contemporaneous objection rule" which requires

Footnotes at end of article.

counsel to object at trial when the alleged error occurred.[16]

Tyler immediately filed a habeas petition in federal district court, claiming that the jury instruction made the state judgment and sentence constitutionally infirm. The federal district court denied relief because of Tyler's failure to object to the charge at trial and his failure to establish "cause" as required by *Wainwright* v. *Sykes*. The federal court rejected Tyler's claim of ineffective assistance of counsel as baseless.

On appeal, the fifth circuit noted that *Wainwright* v. *Sykes* had held that a petitioner must establish cause and prejudice but reversed the district court's order denying the writ of habeas corpus. The court decided that the Supreme Court's decision in *Mullaney* v. *Wilbur*[17] made the instruction in *Tyler* improper.[18] After finding that this charge prejudiced Tyler, the court decided that the ignorance of counsel was sufficient to satisfy the *Sykes* requirement of "cause."[19]

The court thus concluded in *Tyler* that oversight or ignorance of counsel satisfies the cause requirement and that failure to comply with the state's legitimate procedural rules did not preclude federal habeas corpus relief. The court did note that *Sykes* would still require denial of the writ if the state could prove that the defendant's counsel attempted to "sandbag" the trial judge or to build error into the record.

One thing the court failed to acknowledge, however, is that it is unlikely that any defense lawyer will ever admit that he deliberately attempted to take such actions. The state, therefore, will have great difficulty proving the subjective intent of defense counsel. As Justice Burger observed in *Estelle* v. *Williams*, "[i]t is not necessary, if indeed it were possible, for us to decide whether this [failure to object] was a defense tactic or simply indifference. . . ."[20] Under the test established by the panel in *Tyler*, the rule of *Wainwright* v. *Sykes* cannot protect the orderly procedure of state courts.[21]

The rule barring federal consideration of claims because of procedural defaults was supported by the recent Supreme Court decisions in *United States* v. *Frady*[22] and *Engle* v. *Isaac*.[23] In *Engle*, Justice O'Connor noted that "counsel might have overlooked or chosen to omit . . . [a] due process argument while pursuing other avenues of defense. . . ."[24] She also remarked that the constitutional guarantee of competent counsel "does not insure that defense counsel will recognize and raise every conceivable constitutional claim. . . ."[25]

Congress should establish an objective definition of what constitutes "cause" so as to end the continued confusion. Such a definition would prevent the lower federal courts from warping the *Sykes-Engle* doctrine in order to reach the merits of a case years after the trial when the "[p]assage of time, erosion of memory, and dispersion of witnesses . . . render retrial difficult, even impossible."[26]

III. A THREE YEAR STATUTE OF LIMITATIONS FOR HABEAS CORPUS PETITIONS

The proposed amendment to 28 U.S.C. section 2244 contained in section 2 of H.R. 3416 provides for a statute of limitations in habeas corpus cases. Such a provision is essential to ensuring finality of criminal judgments, since prisoners frequently wait many years to bring a habeas corpus action seeking to set aside a judgment and sentence. If the habeas petition raises an issue which the prisoner had not raised at the state level, and the record does not resolve it, the state is often incapable of refuting the prisoner's testimony and, as a consequence, the petitioner prevails. Such a system has hardly contributed to public confidence in the judicial system. The rules of habeas corpus cases do permit the dismissal of a petition on the equitable basis of laches. Yet, courts dismiss few cases on this ground. In any event, a trial on the issue of laches is as burdensome as a trial on the merits and accordingly affords no real relief from stale claims. The proposed three year statute of limitations would begin to run after the state court conviction and any direct appeal has become final.

Walker v. *Wainwright*[27] illustrates the need for a statute of limitations in habeas corpus cases. In *Walker*, the defendant raped a female child in 1937. Since a number of citizens had witnessed the rape, Walker entered a guilty plea and received a life sentence. In 1968, after revocation of his parole and his reincarceration, Walker filed a petition for writ of habeas corpus in federal court alleging that the state had not provided him with an attorney in the original trial and that the arresting officer had coerced him into pleading guilty. The federal court ordered an evidentiary hearing even though the records showed that Walker did have an attorney at the time he entered the plea and thirty years had passed since the entry of the plea.

Fortunately, the state located the sheriff who had arrested Walker. The sheriff was the only living witness to the events besides Walker, since both the defense lawyer and trial judge had died years earlier. At the hearing, the sheriff denied threatening Walker and testified that the charge was absurd because the state had numerous witnesses who caught Walker raping the child. The district judge denied the writ of habeas corpus, finding that Walker was not credible[28] and the fifth circuit affirmed the order.[29]

One year later, Walker filed a second petition for a writ of habeas corpus in which he alleged that his attorney in the original trial was ineffective. The state raised laches as an affirmative defense to an issuance of the writ, because trial counsel had died and, without his testimony, the state could not refute the defendant's testimony. The federal district judge held a second evidentiary hearing and, on the basis of Walker's uncontradicted testimony, granted the writ of habeas corpus. The court presumed that counsel had prejudiced Walker by pleading Walker guilty shortly after he agreed to represent him.

Due to the death of key witnesses, the state could not establish several possible explanations for Walker's guilty plea. The state could not prove that the trial judge had opposed the death penalty or that counsel had entered a guilty plea to avoid the possibility of a death sentence being returned by the jury.[30]

While the law allows dismissal of habeas corpus petitions on grounds of laches or inexcusable delay,[31] the federal courts have been quite reluctant to dismiss petitions for these reasons.[32] For example, *Paprskar* v. *Estelle*[33] reversed a district court's dismissal of a habeas petition on these grounds. Judge Coleman concurred specially in the reversal with the following observation:

"Of course, the Consitution is supreme and must be obeyed. I do not quarrel with that. I do find it to be painfully incongruous that he who defies all civilized notions of due process in the summary theft of human life is allowed, years after the event and years his conviction has become final, to raise all kinds of consitutional claims which, if they existed, could have been raised at trial or, at least, soon thereafter.

"The fault, of course, is not with the Great Writ. It lies in the manner in which it is allowed belatedly to be invoked. While Congress has commendally made some effort to limit jurisdiction for the entertainment of these eleventh hour attacks on state court convictions it is readily apparent to one regularly dealing with the subject that those efforts have not met with much success.

"Very few belated applications of habeas corpus claim that the petitioner is innocent. The fundamental purpose of the Writ has been distorted. The confidence of the general public in the ability of state courts to bring criminals to justice has been eroded. The deterrent effect of law prohibiting criminal conduct has been seriously damaged. The decisions say that the Writ may not be used as a second appeal, but from experience the outlaws know better. Instead of being a bulwark of freedom for the citizen it has been allowed to become a last, and too often a sure, refuge for those who have respected neither the law nor the Constitution.

"I would not limit the Writ, if I could, but I most assuredly would limit its application in situations such as we encounter in this case.

"As I do here, I must follow the law as it exists. I do not understand, however, that I am not allowed to mention serious defects in the law".[34]

Judge Coleman eloquently states the need for some type of statute of limitations to extinguish stale claims of prisoners that sometimes succeed, not because they are meritorious, but because the passage of time prevents the state from refuting the claims.

IV. STATE EVIDENTIARY HEARINGS

Section 3 of H.R. 3416 modifies 28 U.S.C. section 2254(d) to prevent federal courts from holding an evidentiary hearing on a factual dispute when a state court had already conducted an evidentiary hearing which fully and fairly resolved the merits of the issue. The Supreme Court and Congress agree that when a state court makes a finding of fact after a full and fair hearing, the Constitution does not guarantee another hearing in federal court.[35]

In *Townsend*, Chief Justice Warren decided that a federal district judge had the discretion to hold a new hearing even when the judge concludes that "the habeas applicant was afforded a full and fair hearing by the state court. . . ."[36] Justice Frankfurter, in his concurring opinion in *Brown* v. *Allen*,[37] recognized that there must be some guidelines governing the necessity of hearings in district courts because, without such rules, district judges would be "free to misuse the writ by either being too lax or too rigid in its employment."[38] The proposed amendment embodied in section 3 of H.R. 3416 provides not only that a federal court need not hold a duplicative hearing but that it *shall* not hold such a hearing if the appropriate factual determination was previously made. The amendment repeals subsections (6) and (7) of 28 U.S.C. section 2254(d) to eliminate a redundancy, since subsections (1), (2), and (3) of section 2254 (d) already incorporate the same concept. The amendment rewrites subsection (6) to codify the *Jackson* v. *Virginia*[39] standard of review of state factual findings.

Unfortunately, many federal courts apparently regard existing legislation as permissive and insist upon holding evidentiary hearings regardless of the care of the state courts. There is no rational reason for a second hearing to determine issues of fact if the state court procedures adequately develop the facts and resolve the issues. As Justice Frankfurter noted in *Brown*, where the state court records affirmatively show no violation of an accused's rights, "[i]t certainly would make only for *burdensome* and useless repetition of effort if the federal courts were to rehear the facts in such cases." [40] Additionally, Justice Stevens in his concurring opinion to *Jackson* voiced his complaint against the unproductive labor expended in an attempt to redetermine facts—a process which amounts to nothing more than second guessing the first fact-finder.[41] Of course, if the state court hearing was not a full and fair hearing, the federal district courts should intervene and determine the factual issues anew. Justice requires nothing more.[42]

Jurek v. *Estelle*,[43] illustrates the need for a limit on federal court discretion to hold evidentiary hearings in habeas cases. Jurek was indicted for the 1973 murder of a ten year old child. At his state court trial, Jurek filed a motion to suppress confessions that he had given to the authorities shortly after his arrest. Although the Texas trial court conducted a suppression hearing, Jurek elected not to testify. The Texas trial judge found that Jurek had given the confessions voluntarily. The judge also allowed the jury to determine the voluntariness, weight, and credibility of the confessions. The jury found Jurek guilty and sentenced him to death, whereupon Jurek instituted an appeal to the Texas Court of Criminal Appeals. Jurek raised several issues including the admissibility of his written confessions. The court found that the record supported the trial judge's finding that the confessions were voluntary, and affirmed the judgment and sentence.[44] The Supreme Court of the United States also affirmed the decision after upholding Texas' death penalty statute.[45]

Jurek then filed a petition for a writ of habeas corpus in federal district court, in which he again claimed that his confessions were involuntary and thus inadmissible. The federal district judge, after reviewing the state court records and other evidence presented by the parties, ruled against Jurek, who then appealed to the United States Court of Appeals for the Fifth Circuit. In 1979, in a two-to-one decision, the court held that "under all the circumstances, Jurek's confessions were involuntary." [46] The panel never addressed the ramifications of section 2254(d) nor was there any evidence that the state trial court did not conduct a full and fair hearing. It ordered a new trial and held that the state could not use the confessions given by Jurek in a subsequent trial.[47] Judge Coleman remarked in a vigorous dissent:

"We have never seen Jurek; we have not seen or heard any of the witnesses. The majority disagrees with the findings of all the judges and jurors who have done so and it follows its own notions of what the evidence should have established. In my opinion, such 'independent findings' are unjustified."[48]

The State of Texas filed a petition for rehearing en banc, which the court granted on June 5, 1979. On August 11, 1980, seven years after the crime, a sharply divided Court of Appeals rendered a forty-five page decision also reversing the district court's denial of the writ of habeas corpus.[49] A majority of the court found the first confession voluntary but the second confession involuntary.

This case illustrates the absolute need for a modification of section 2254(d). If federal courts are free to make an "independent determination" of questions of fact without regard to the findings made by the judges and juries who heard and saw the witnesses and notwithstanding the fact that the record support those findings, then one must wonder why the state courts should go through the trouble of holding hearings and whether the state can ever deem any judgment as final. [50]

Beach v. Backburn [51] also illustrates the need for section 3 of H.R. 3416, particularly as it changes the wording of subsection (2) from "material facts *were not* adequately developed" to "*could not be* adequately developed." Beach was under indictment for first-degree murder and armed robbery. At his trial, Beach moved to suppress a statement he had given to the authorities in Louisiana, after his arrest in North Carolina and return to Louisiana. A hearing showed that he received his *Miranda* warnings and waived his rights to counsel and to remain silent. He then made a written admission. Beach, who did not testify at the suppression hearing, was convicted and he appealed to the Louisians Supreme Court. On appeal, he claimed that the statement was inadmissible because he was misinformed as to when the court would appoint counsel for him. The Louisiana Supreme Court disagreed and concluded that the record of the hearing on the motion to suppress "fully support[s] the ruling that defendant understood his Fifth Amendment rights and voluntarily waived the same when he have the oral and written statements." [52]

After he lost his appeal in the state court, Beach filed for a writ of habeas corpus in federal district court. The petition claimed that his confession was involuntary because his treatment in North Carolina rendered him incompetent to waive his rights on arrival in Louisiana. The federal district court denied the petition without conducting an evidentiary hearing because there was no support in the record for Beach's claim of mistreatment in North Carolina. The Fifth Circuit reversed the federal district court and ordered an evidentiary hearing because the state courts did not determine the effect of the alleged mistreatment of Beach upon the voluntariness of his statement. [53]

This case demonstrates what occurs in most habeas corpus cases filed by state prisoners. They originally attack the admissibility of a statement and receive a hearing. The state court makes a finding upon the facts presented at that time and, as here, the defendant frequently does not testify. Years later—for Beach it was six years—the petitioner alleges the statement was inadmissible and presents a new version of the facts, even though he knew or could have known of these facts at the time of the initial hearing. Since the petitioner did not present his version of the facts at the original hearing, the state court finding, which is otherwise correct, will not support a summary dismissal under section 2254(d) as it is now written. In short, the state court prisoner can always allege "new" facts and thus force the court to hold a hearing, thereby burdening the court and the state—especially when there are few, if any, witnesses remaining who remember the facts and who can refute the defendant's allegations.

This is a weakness in existing law which Congress and the courts must address. Justice and finality demand that when the state court first affords a defendant an opportunity to present all known facts relevant to the disposition of an issue, he or she must present them at that time. Thus, the habeas corpus statute should provide that a federal court's review of a habeas corpus petition should defer to the state court findings if the defendant could have developed the material facts at the trial, even if he or she actually did not develop those facts at trial. As the Supreme Court commented in *Wainwright v. Sykes*, which involved an attack and a confession not challenged in the state courts:

"A defendant has been accused of a serious crime, and this [the state trial] is the time and place set for him to be tried by a jury of his peers and found either guilty or not guilty by that jury. *To the greatest extent possible all issues which bear on this charge should be determined in this proceeding:* the accused is in the courtroom, the jury is in the box, the judge is on the bench, and the witnesses, having been subpoenaed and duly sworn, await their turn to testify. Society's resources have been concentrated at that time and place in order to decide, within the limits of human fallibility, the question of guilt or innocence of one of its citizens. Any procedural rule which encourages the result that those proceedings be as free of error as possible is thoroughly desirable, and the contemporaneous-objection rule surely falls within this classification.

"We believe the adoption of the Francis rule in this situation will have the salutary effect of making the state trial on the merits the "main event," so to speak, rather than a "try out on the road" for what will later be the determinative federal habeas hearing. *There is nothing in the Constitution or in the language of § 2254 which requires that the state trial on the issue of guilt or innocence be devoted largely to the testimony of fact witnesses directed to the elements of the state crime, while only later will there occur in a federal habeas hearing a full airing of the federal constitutional claims which were not raised in the state proceedings.* If a criminal defendant thinks that an action of the state trial court is about to deprive him of a federal constitutional right there is every reason for his following state procedure in making known his objection." [54]

Section 2254(d) will be meaningless and never ensure the finality of criminal convictions so long as a defendant can avoid it by simply not presenting factual testimony that is available and which he could have presented.

Even Chief Justice Warren, in *Townsend v. Sain*, recognized that if the habeas petitioner could have developed facts but did not, the petitioner has no right to another plenary hearing. He said: "Where newly discovered evidence is alleged in a habeas application, *evidence which could not reasonably have been presented to the state trier of facts*, the federal court must grant an evidentiary hearing . . . *If, for any reason not attributable to the inexcusable neglect of petitioner*, evidence crucial to the adequate consideration of the constitutional claim was not developed at the state hearing, a federal hearing is compelled." [55]

When Congress enacted section 2254(d) to codify *Townsend*, it created problems by leaving out of the language of section 2254(d) the qualification of *Townsend*, to wit: whether the facts "could have been de-

veloped" rather than whether the "facts were not adequately developed at the state court hearing." [56] The proposed amendment to section 2254(d) corrects this deficiency and prevents the injustices discussed above.

V. CONCLUSION

Justice Jackson perceived the abuses that would flourish if the courts did not confine the scope of the writ of habeas corpus and noted in his concurrence to *Brown v. Allen*: "The writ has no enemies so deadly as those who sanction the abuse of it, whatever their intent." [57] In the same case, Justice Frankfurther cautioned that the writ had the potential for evil as well as for good and that abuse of the writ could undermine the orderly administration of justice.[58] In the last twenty years, both the expansion of the writ and the manner in which the inferior federal courts have utilized it to review *de novo* state court judgments have demonstrated the truth of those predictions.

The problem with federal habeas corpus today is not so much that federal courts want to continue "reviewing" state court judgments, but that they feel obliged to do so because of the language of section 2254, which has remained unchanged over the years. The United States Supreme Court, prone to adhering to *stare decisis*, is reluctant to redefine the scope of the writ. *Congress* is the appropriate body to define the limits of federal habeas corpus review of state court judgments. This legislative body must address the abuses and assist the Court by clarifying its intent. The Court is aware of the abuses and has attempted, within the limits of its proper function, to eliminate them. If the Congress does not recognize its responsibility, then Congress, not the Court, must take the blame for the lack of finality of judgments and the continuance of current abuses.

FOOTNOTES

*Attorney General, State of Florida. J. D. Stetson University College of Law, 1967; B.A. Florida State University, 1962.

[1] Fay v. Noia, 372 U.S. 391 (1963); Townsend v. Sain, 372 U.S. 293 (1963).

[2] 372 U.S. at 334.

[3] *Id.* at 439.

[4] *Id.* at 446 (Clark, J., dissenting).

[5] *Id.* at 471 (Harlan, J., dissenting).

[6] 433 U.S. 72 (1977). *See also* Stone v. Powell, 428 U.S. 465 (1976).

[7] Engle v. Isaac, 102 S. Ct. 1558 (1982).

[8] United States v. Frady, 102 S. Ct. 1584 (1982).

[9] H.R. 3416, 97th Cong., 1st Sess., 127 CONG. REC. H1791 (1980); S. 653, 97th Cong., 1st Sess., 127 CONG. REC. S1981 (1981). I explained the necessity for finality in the administration of justice in a memorandum to the House and Senate Judiciary Committees. J. Smith, Memorandum in support of S. 653 and H.R. 3416 Reforming Federal Habeas Corpus Procedures Concerning Challenges to State Criminal Convictions (June 12, 1981) (submitted to Senate and House Judiciary Committees).

[10] 443 U.S. at 72.

[11] No. 81-8038-Civ-JCP (S.D. Fla. filed 1982).

[12] Holzapfel v. State, 247 So. 2d 754 (Fla. Dist. Ct. App. 1971).

[13] Holzapfel v. State, 392 So. 2d 86 (Fla. Dist. Ct. App. 1980).

[14] This case also illustrates the need for the statute of limitations on habeas corpus actions. Two key witnesses, attorneys Hal Ives and Harry Hausen, died prior to the 1979 evidentiary hearing. Both attorneys could have testified as to the voluntariness of Holzapfel's confessions and guilty pleas. Holzapfel's assertion that now deceased law enforcement officials made promises to him is also difficult, if not impossible, to refute. Thus Holzapfel may be able to prevail not because his cause is meritorious, but because the state is unable at this late date to contradict his testimony. If Holzapfel is granted a new trial, it would be difficult to prove anew his guilt 26 years after the murders and 20 years after the entry of his plea.

[15] 622 F. 2d 172 (5th Cir. 1980).

[16] State v. Tyler, 342 So. 2d 574, 590 (La. 1977).

[17] 421 U.S. 684 (1975).

[18] 622 F. 2d at 172.

[19] *See* Cole v. Stevenson, 620 F. 2d 1055 (4th Cir.), *cert. denied*, 449 U.S. 1004 (1980).

[20] 425 U.S. 501, 512 n.9 (1978) (emphasis added).

[21] *See supra* note 9 and accompanying text. The fifth circuit, in Lumpkin v. Ricketts, 551 F.2d 680 (5th Cir. 1977), and the second circuit, in Indiviglio v. United States, 612 F.2d 624 (2d Cir. 1977), *cert. denied*, 445 U.S. 933 (1980), both perceived the analytical deficiencies of the *Tyler* decision. In *Indiviglio*, the second circuit followed *Lumpkin* v. *Ricketts* by stating that "a mere allegation of error by counsel is insufficient to establish 'cause' to excuse a procedural default." 612 F.2d at 631. The court decided that "the interests of finality in judgments required such a holding."

Significantly, on rehearing the *Tyler* case, the fifth circuit receded from its original position and held that *Sykes* barred consideration of Tyler's claim. 643 F.2d 1095 (5th Cir. 1980). In a subsequent case, the fifth circuit recognized that its later *Tyler* decision was the correct treatment of the habeas corpus issue and it cited with approval the *Indiviglio* decision. Washington v. Estelle, 648 F.2d 276 (1981).

[22] 102 S. Ct. 1584.

[23] 102 S. Ct. 1558.

[24] *Id.* at 1574.

[25] *Id.*

[26] *Id.* at 1571. *See also Hanna* v. *Wainwright*, No. 77-8401-Civ-CF (S.D. Fla. July 31, 1978) where the federal district court held a hearing on Hanna's fourth habeas petition, which raised an issue that Hanna had earlier decided not to appeal. The court should not have considered Hanna's habeas petition on its merits because of his deliberate bypass of state remedies. An inmate should have an obligation to pursue his state appeal so that any error in the state trial court can be remedied promptly. The district court ultimately denied Hanna's petition on the merits. *Id.*

In *Martin* v. *Wainwright*, 533 F.2d 270 (5th Cir. 1976), the fifth circuit affirmed the district court's denial on the merits of Martin's habeas petition, which raised an issue which Martin had not appealed in state court. Under the amendment proposed in section 2 of H.R. 3416, the district court would not have reached the merits of this petition because of Martin's failure to present the issue in a state appeal.

[27] Walker v. Wainwright, 430 F.2d 936 (5th Cir. 1970), *cert. denied*, 400 U.S. 999 (1971).

[28] Walker v. Wainwright, 350 F. Supp. 916 (M.D. Fla. 1970).

[29] 430 F.2d at 936.

[30] Several other cases illustrate the need for the statute of limitations section of H.R. 3416. In Griffith v. Wainwright, No. 79-6387-Civ-JLK (S.D. Fla. 1977), Griffith was convicted of second-degree murder. Ten years after his conviction was affirmed in the state courts, Griffith filed a petition for a writ of habeas corpus in federal district court. Griffith's petition raised seven grounds for relief, most of which were evidentiary in nature. The federal district court denied all seven claims Griffith raised in his petition. Griffith's appeal is now pending in the Fifth Circuit Court of Appeals, No. 80-5989.

When Griffith's case was before the state courts, he was aware of all the issues he subsequently raised in the habeas corpus petition. The proposed statute of limitations would bar such litigation of issues which could have been raised before state courts.

In Maxwell v. Wainwright, No. 77-371-Orl-Civ-Y (M.D. Fla. Dec. 6, 1977) Maxwell was convicted in 1964 of second-degree murder and assault with intent to commit murder. In 1981, Maxwell filed a habeas corpus petition in federal court claiming ineffective assistance of trial counsel. It was dismissed for failure to exhaust state remedies. In 1973, Maxwell was paroled, but in 1977 his parole was revoked. He then filed another habeas corpus petition again complaining of ineffective assistance of counsel at his 1964 trial. The court again dismissed, without prejudice, for failure to exhaust state remedies.

It is now seventeen years since Maxwell's conviction and he has never challenged the effectiveness of his trial counsel in state courts. The federal court, rather than dismissing his case without prejudice and thereby allowing Maxwell to refile his claims again, could have barred Maxwell's 1971 and 1977 petitions under the proposed statute of limitations. Because of the passage of time, there is little likelihood the state could now successfully retry Maxwell if he were to secure a reversal of his judgment.

In Scarborough v. State, No. 80-1082-Civ-T-M (M.D. Fla. filed 1979), the defendant pled guilty on November 16, 1970 to two counts of rape. In 1979, he filed for habeas corpus relief in federal district court. The court dismissed the petition so that Scarborough could pursue another remedy in state court. In early 1980, Scarborough then filed a motion in state court alleging his incompetence due to "mental fatigue." After Scarborough appealed from the denial of this motion, he again filed a petition for writ of habeas corpus in federal court. As a ground for relief, Scarborough alleged his incompetence at the time of his pleading.

In the interim between his initial pleading in 1970 and Scarborough's latest petition, the assistant state attorney who had handled his case passed away. Without the principal witness to Scarborough's demeanor at the time of his pleading, the state is prejudiced by the nine year delay. The proposed statute of limitations would bar this stale claim.

[31] 28 U.S.C. § 2254 (1976).

[32] *See e.g.*, Louis V. Blackburn, 630 F.2d 1105 (5th Cir. 1980); Jackson v. Estelle, 570 F.2d 546 (5th Cir. 1978); Hamilton v. Watkins, 436 F.2d 1323 (5th Cir. 1970).

[33] 612 F.2d 1003 (5th Cir.), *cert. denied*, 449 U.S. 885 (1980).

[34] *Id.* at 1008 (emphasis added).

[35] Townsend v. Sain, 372 U.S. at 312-13.

[36] *Id.* at 318.

[37] 344 U.S. 443, 497 (1953) (Frankfurter, J., concurring).

[38] *Id.* at 513.

[39] 443 U.S. 307 (1979). *Jackson* declares that an applicant is entitled to habeas corpus relief "if it is found that upon the record evidence adduced at the trial no rational trier of fact could have found proof of guilt beyond a reasonable doubt." *Id.* at 324.

[40] 344 U.S. at 504.

[41] 443 U.S. at 337 (Stevens, J., concurring).

[42] *See e.g.*, Allen v. McCurry, 449 U.S. 90 (1980); Townsend v. Sain, 372 U.S. 293 (1963).

[43] 593 F.2d 672 (5th Cir. 1979), *reh'g granted*, Jurek v. Estelle, 623 F.2d 929 (5th cir. 1980), *cert. denied*, Estelle v. Jurek, 450 U.S. 1001 (1981).

[44] Jurek v. State, 522 S.W.2d 934 (Tex. 1975).

[45] Jurek v. Texas, 428 U.S. 262 (1976).

[46] 593 F.2d at 676.

[47] *Id.* at 679.

[48] *Id.* at 686 (Coleman, J., dissenting).

[49] 623 F.2d at 929.

[50] See Montes v. Jenkins, 581 F.2d 609 (7th Cir. 1978), where the court effectively refused to give a state court's findings of fact the weight intended by 28 U.S.C. § 2254 and shifted the burden of showing sufficiency to the state. *See also* McQueen v. Swenson, 498 F.2d 207 (8th Cir. 1974).

[51] 631 F.2d 1168 (5th Cir. 1980).

[52] State v. Beach, 320 So.2d 143, 145 (La. 1975).

[53] 631 F.2d at 1168.

[54] 433 U.S. at 90 (emphasis added).

[55] 372 U.S. at 317 (citation omitted) (emphasis added).

[56] *Id.*

[57] 344 U.S. at 544 (Jackson, J., concurring).

[58] *Id.* at 512 (Frankfurter, J., concurring).●

ELECTRONIC SURVEILLANCE FOR LAW ENFORCEMENT

Mr. THURMOND. Mr. President, I am introducing today a bill to amend 18 U.S.C. 2510-2520 dealing with electronic surveillance, for law enforcement purposes, to provide uniform statutory procedures for the use of surreptitious entries to install court-authorized electronic eavesdropping devices. The bill also provides for emergency interceptions of wire and oral communications in life-endangering situations. The bill is identical to S. 1640 reported by the Committee on the Judiciary on March 8, 1982 (S. Rept. No. 97-319) and passed by the

Senate by a voice vote on March 25, 1982.

As to the first issue, this bill requires that, when a surreptitious entry is necessary for the installation of a court-ordered surveillance device, the applicant for the court order should so state in the application to the court, and the court order itself should authorize the entry.

In Dalia against United States, decided in 1979, the Supreme Court held that the fourth amendment does not prohibit per se a covert entry performed for the purpose of installing otherwise legal electronic bugging equipment and that Congress intended to confer power upon the courts to authorize covert entries ancillary to their responsibility to review and approve surveillance applications under current surveillance provisions. The Court held, further, that the fourth amendment does not require that an electronic survillance order include a specific authorization to enter covertly the premises described in the order. The Court repeatedly noted, however, that the manner in which these entries were executed would be subject to later judicial review as to their reasonableness.

Although the Supreme Court held that a specific covert entry provision was not a required part of an intercept order, it stated that the preferable approach would be for Government agents to make explicit to the authorizing court their expectation that some form of surretitious entry would be required to carry out the surveillance. The Court noted that this approach had been the policy of the Department of Justice for some time. Not only does the Department's policy require that the application for intercept order state that the use of a surreptitious entry is expected, but, also, requires that specific authorization for such entry must be included in the order of the court. The provisions of this legislation essentially incorporate the longstanding policy of the Department of Justice.

In addition, The National Commission for the Review of Federal and State Laws, Relating to Wiretapping and Electronic Surveillance recommended that current laws be amended to provide for specific court-authorized electronic surveillance.

In brief, the surreptitious entry provisions of this bill are conceded improvements to current surveillance laws.

Mr. President, the second part of the bill would expand current provisions to permit emergency electronic surveillance in situations involving the immediate danger of death or serious bodily injury, subject to the same conditions for emergency interceptions now permitted by 18 U.S.C. 2518(7). Current law permits emergency interceptions in situations which relate to conspiratorial activities characteristic of organized crime. In these situations, however, grounds must exist for obtaining a court order, and an application for such an order must be made within 48 hours after the interception has occurred.

In the past, when life-endangering situations have arisen, the Department of Justice and the Federal Bureau of Investigation have attempted to interpret the statutory exception relating to conspiratorial activities characteristic of organized crime as broadly as possible in order to save the life of the threatened victim or hostage, but this was done with some stretching, both of conscience and of statutory language. While a legal argument could possibly be made that either the activities fell within the exception or that there was no legitimate expectation of privacy on the part of the criminal, current law should be amended to expressly authorize such necessary investigative efforts.

Mr. President, if any person would like to pursue the subject further, I would refer them to the Judiciary Committee report on S. 1640 last Congress—Senate Report No. 97-319—and to the hearings before the Judiciary Subcommittee on Criminal Justice on S. 1717 conducted March 5, 1980—96th Congress, 2d session.

The bill follows:

S. 218

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2510 of title 18, United States Code, is amended—

(1) in paragraph (10), by striking out "and" at the end thereof;

(2) in paragraph (11), by striking out the period at the end thereof and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following:

"(12) 'surreptitious entry' means a physical entry upon a private place or premises to install, repair, reposition, replace, or remove any electronic, mechanical, or other device, and includes both covert entry and entry effected by means of a ruse or subterfuge.".

SEC. 2. Section 2518(1) of that title is amended—

(1) in paragraph (e), by striking out "and" at the end thereof;

(2) in paragraph (f), by striking out the period at the end thereof and inserting in lieu therof a simicolon and "and"; and

(3) by adding at the end thereof the following:

"(g) a statement whether surrreptitious entries are required to carry out the order.".

SEC. 3. Section 2518(4) of that title is amended—

(1) in paragraph (d), by striking out the "and" at the end thereof;

(2) in paragraph (e), by striking out the period at the end thereof and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following:

"(f) whether surreptitious entries are authorized or approved to carry out the order, and, if such entries are authorized or approved, the identity of the agency authorized to make the surreptitious entries.".

SEC. 4. Section 2518(7) of that title is amended—

(1) by amending paragraph (a) to read as follows:

"(a) an emergency situation exists that involves—

"(i) immediate danger of death or serious physical injury to any person,

"(ii) conspiratorial activities threatening the national security interest, or

"(iii) conspiratorial activities characteristic of organized crime,

that requires a wire or oral communication to be intercepted before an order authorizing such interception can, with due diligence, be obtained, and"; and

(2) by inserting a comma and "and may make any surreptitious entry required to effect such interception," immediately before "if an application for an order".

SEC. 5. Section 2519(1) of that title is amended—

(1) by inserting immediately after paragraph (e) the following:

"(f) the fact that surreptitious entries to carry out the order were authorized or approved;"; and

(2) by redesignating paragraphs (f) and (g) as paragraphs (g) and (h), respectively.

SEC. 6. Section 2519(2) of that title is amended in paragraph (a) by striking out "(g)" and by inserting in lieu thereof "(h)".

ARSON IN EXECUTING A SCHEME TO DEFRAUD

Mr. THURMOND. Mr. President, a major area of criminal activity, especially by organized crime, is the so-called arson-for-profit schemes. Last Congress, in response to the problems with arson fraud brought to light in previous hearings by the Senate Judiciary Subcommittee on Criminal Justice, I introduced a bill—S. 1386, 97th Congress, 1st session—to provide Federal criminal penalties for the more serious frauds of this type. I am today introducing the same measure to provide a vehicle to again focus our attention on one approach to help deal with the problem.

Mr. President, this legislation would make it a Federal crime punishable by a fine of $250,000 or imprisonment for not more than 10 years, or both, to engage in conduct in furtherance of a fraudulent scheme that affects interstate commerce and involves the obtaining of insurance proceeds of $100,000 or more by arson. This would supplement the provisions of the Anti-Arson Act enacted last Congress—Public Law 97-298—that added the crime of arson in the FBI major crime reports and provided a more flexible standard for application of current explosive statutes.

Every reasonable weapon against arson should be made available to the law enforcement community. As I noted last Congress, arson is a unique crime. It generally occurs with no eyewitnesses. Evidence of the crime is difficult to ascertain and often destroyed in the course of the fire. Investigative resources needed to determine the origin and cause of a fire are frequently beyond the capability of most juris-

dictions. Arson-for-profit cases go even further because they usually involve detailed planning and extensive cover-up activities. Losses from arson fraud are estimated at over $1.25 billion a year and increasing.

The Federal Bureau of Investigation has recognized the growth of arson fraud by organized crime and is devoting substantial resources to deal with these crimes. Unfortunately, the Federal law is not adequate to meet the problem. Hopefully, this bill would help fill this gap.

The bill follows:

S. 219

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 5 of title 19 of the United States Code is amended by adding at the end thereof a new section as follows:

§ 82. Arson in executing a scheme to defraud

"(a) Whoever, having devised or intending to devise a scheme or artifice to defraud or to obtain property of another by means of a false or fraudulent pretense, representation, or promise, engages in conduct with intent to execute such scheme or artifice and the scheme or artifice affects interstate commerce and involves the obtaining of insurance proceeds of $100,000 or more by arson shall be fined not more than $250,000 or imprisoned not more than ten years, or both.

"(b) As used in this section, 'arson' means the substantial damage of a building, dwelling, or structure by fire or explosion.".

Mr. THURMOND. Mr. President, I am reintroducing today a major administration-supported bill to modernize the international extradition procedures of the United States. This legislation has been under development for some 4 years under the leadership of both the Reagan and Carter administrations and was considered by the Senate as S. 1940 last Congress. The purpose is to modernize the conceded obsolete provisions of current law dealing with international extradition. Following hearings, in the 97th Congress, the Senate Committee on the Judiciary, on April 15, 1982, reported S. 1940 (S. Rept. No. 97-331), with several amendments to the Senate without a dissenting vote. The bill was then sequentially referred to the Senate Committee on Foreign Relations. On May 19, 1982, the Senate Committee on Foreign Relations reported the bill to the Senate with some suggestions for further improving the bill. (S. Rept. No. 97-475). It is this latter bill, S. 1940 with amendments agreeable to both Senate committees, that was passed by the Senate on August 19, 1982. The bill I am introducing today is the same bill that passed the Senate in August 1982, with only a few clarifying or organizational drafting changes.

Mr. President, the House of Representatives also made major strides last Congress in processing a companion bill—H.R. 6046. This measure was reported by the House Committee on the Judiciary (H. Rept. No. 97-627), but was not considered due to time constraints on the floor of the House in the final days of the Congress.

Mr. President, current extradition statutes have been on the books for more than a century without significant change. Officials responsible for administering extradition matters for the United States informed the committee in hearings that current provisions are increasingly inadequate to deal with modern problems in controlling international crime, including such serious areas as international illicit drug trafficking and terrorism.

Due to a relatively small number of cases in the past, minor inconveniences from deficiencies were a nuisance, but tolerable. Today, the number and complexity of cases have made such deficiencies a major problem.

Mr. President, it is unfortunate that we did not complete action on this legislation last Congress. It is time to modernize U.S. extradition laws to comport with the realities of international criminal activity. I hope we can act promptly.

A few of the highlights of the bill are:

Require the Attorney General to serve as complainant to extradition matters, thereby eliminating the possibility of a foreign government—or someone acting for a foreign government—instituting unjustified extradition proceedings.

Permit an arrest warrant to be issued when the location of the fugitive is not known, thereby facilitating law enforcement efforts in locating international fugitives.

Permit extradition proceedings to be commenced by means of a summons rather than an arrest warrant where the location of the fugitive is known and flight is unlikely.

Set standards and conditions for the release of the alleged fugitive in any stage of the proceeding, not just prior to the extradition hearing.

Keep the "political offense" issue as a matter for the courts, but define the term to clarify and strengthen the U.S. response to international terrorism.

Permit fugitives to be temporarily extradited to the United States for trial or sentencing.

Authorize the Attorney General to make all arrangements to take custody of fugitives found extraditable to the United States by foreign countries.

Mr. President, I ask unanimous consent that excerpts from both the Judiciary and Foreign Relations Committee reports on S. 1940 last Congress be inserted in the RECORD.

The excerpts and bill follow:

AMENDMENTS TO TITLE 18 OF THE UNITED STATES CODE RELATING TO INTERNATIONAL EXTRADITION

The Committee on the Judiciary, to which was referred the bill (S. 1940) to amend chapter 209 of title 18 of the United States Code, relating to international extradition, having considered the same, reports favorably thereon and recommends that the bill pass.

* * * * *

HISTORY OF THE LEGISLATION

Senator Thurmond introduced S. 1639 on September 18, 1981, to modernize the statutory provisions relating to international extradition. One day of hearings was held on October 14, 1981, during which the Committee heard from the Department of State, the Department of Justice, a distinguished professor, and a practicing attorney. The record was kept open for more than two and one-half months for other interested persons to submit written statements and comments for the record.[1] On December 11, 1981, Senator Thurmond introduced a clean bill—S. 1940—to incorporate several amendments suggested in the hearings, as well as to make a number of clarifying amendments. S. 1940 differs from S. 1639 in two significant respects. First, S. 1940 as introduced made it mandatory—rather than discretionary—for the Secretary of State to deny extradition when he is persuaded that the requesting State is seeking the person's extradition "for a political offense or an offense of a political character, or for the purpose of prosecuting or punishing the person for his political opinions". Second, as introduced, S. 1940 made it explicit in the statute that this determination would not be subject to judicial review.

This bill was the result of several years of study by the Departments of State and Justice in cooperation with the professional staff of the Senate Committee on the Judiciary. It was originally contemplated that the primary vehicle for modernizing the extradition laws of the United States would be the Federal criminal code legislation. Since the subject matter, however, can be easily separated out as a package, Senator Thurmond elected to follow a two track procedure in this instance; thus, identical provisions to this bill are also included as subchapter B of chapter 32 in the new title 18 in the criminal code bill (S. 1630) reported by the Committee on January 25, 1982. Legislation separate from the criminal code bill has the advantage of promoting early application of this important reform to an increasing case load involving international fugitives from justice.

STATEMENT IN GENERAL

Chapter 209 of current title 18 of the United States Code (18 U.S.C. 3181-3195) intitled "Extradition" covers both interstate rendition and international extradition. This bill would retain chapter 209 for interstate rendition provisions and create a new chapter 210 for international extradition laws.

International extradition is the process by which a person located in one nation is arrested and turned over to another nation for criminal trail or punishment. The new chapter 210 consists of eight sections. Sections 3191 through 3196 deal primarily with requests made to the United States by foreign governments and set forth the procedure for determining whether a person located in this country should be delivered up to a foreign power. Section 3197 deals with the return of a fugitive extradited to the United States from a foreign nation. Section

Footnotes at end of report.

3198 contains definitions and a provision on payment of the expenses incident to extradition. The proposed chapter replaces 18 U.S.C. 3181 and 3184-3195. Other Federal statutes on extradition, which include 18 U.S.C. 751, 752, and 1502, are not affected by this legislation.

The provisions of the proposed chapter substantially alter the present statutory law for several reasons.

First, many of the statutes on extradition have been in force without major alteration since 1882. Several have not been significantly changed since 1848. These antiquated provisions have proven increasingly inadequate in dealing with the modern problems in the international control of crime.

Second, there has been a marked increase in the number of extradition request received and made by the United States in recent years. Those requests have revealed problems in the extradition process. Moreover, the requests have generated a number of published court decisions on constitutional and legal issues involved in international extradition. The judicial interpretation of the law contained in these court decisions fills important gaps in the present statutory law, and should be reflected in any new extradition legislation.

Third, the United States has concluded new extradition treaties with many foreign countries in the past few years. The language of the present law is not adequate to fully implement some of the provisions of the new treaties, and therefore impedes fulfillment by the United States of its international obligations.

In summary, the following significant improvements in international extradition are accomplished by S. 1940:

(1) Permits the United States to secure a warrant for the arrest of a foreign fugitive even though the fugitive's whereabouts in the United States is unknown or even if he is not in the United States. This warrant can then be entered into the FBI's NCIC system so that if the fugitive attempts to enter the United States or is apprehended in the United States for other reasons, he can be identified and arrested immediately for extradition to the requesting country.

(2) Provides a statutory procedure for waiver of extradition. This feature protects a fugitive's rights while facilitating his removal to the requesting country in instances in which he is willing to voluntarily go to the requesting country without a formal extradition hearing.

(3) Permits both a fugitive and the United States on behalf of the requesting country to directly appeal adverse decisions by an extradition court. Under present law a fugitive can only attack an adverse decision through habeas corpus. The only option available to the United States acting on behalf of a requesting country is to refile the extradition complaint with another magistrate.[2]

(4) Clarifies the applicable standards for bail at all stages of an extradition case by adopting standards largely derived from Federal court cases.

(5) Establishes clear statutory procedures and standards applicable to all critical phases of the handling and litigation of a foreign extradition request.

(6) Makes the determination of whether the requesting country is seeking extradition of a person for a "political offense" a matter for the Secretary of State consistent with statutory guidelines and subject to judicial review in the courts of appeal.

(7) Limits access to United States courts in connection with foreign extradition requests to cases initiated by the Attorney General.

(8) Permits use of a summons instead of a warrant of arrest in appropriate cases.

(9) Codified the rights of a fugitive to legal representation and to a speedy determination of an extradition request.

(10) Simplifies and rationalizes the procedures for authenticating documents for use in extradition proceedings.

(11) Facilitates temporary extradition of fugitives to the United States.

PROVISIONS OF THE BILL AS REPORTED

SECTION 3191—EXTRADITION AUTHORITY IN GENERAL

1. Present Federal law

18 U.S.C. 3181 states that the present Federal laws authorizing the extradition of persons from the United States shall continue in force only if there is a treaty in force with the foreign nation requesting extradition. 18 U.S.C. 3184 requires that an extradition treaty be in force before any court can conclude that a person may lawfully be extradited to the foreign country involved. In addition, 18 U.S.C. 3186 by implication requires that a court find that the person sought is extraditable before the Secretary of State may order surrender to the foreign state. These provisions, read together, permit the United States to surrender a person to a foreign country only in accordance with an applicable treaty in force between the United States and the foreign country involved.[3] This principle has become a settled aspect of United States practice in international extradition.

2. Provisions of section 3191

Section 3191 of the proposed chapter on extradition carries forward the basic principle of the present law. The provision specifies that the United States may extradite a person in this country only if there is a treaty concerning extradition in force with the country requesting extradition, and only if the request falls within the terms of that treaty. This section refers to a treaty "concerning extradition" rather than an "extradition treaty" because an obligation to extradite a particular class of offenders is sometimes included in international agreements other than extradition treaties.[4] However, the limitation established by this section applies only to the surrender of fugitives pursuant to the chapter, and does not apply to any other legal process which may result in a person facing trial or punishment in another country. Thus, the surrender of a United States serviceman to foreign authorities for trial in accordance with the reciprocal criminal jurisdiction provisions of a Status of Forces Agreement,[5] or the deportation of an alien who happens to face criminal charges abroad,[6] remain governed by the treaty provisions and statutes relating to those processes, and not by this chapter.

SECTION 3192—INITIAL PROCEDURE

This section sets forth the steps to be followed in instituting court proceedings necessary for extradition.

1. Present Federal law

Extradition proceedings under 18 U.S.C. 3184 commence when a complaint is filed, under oath charging that a person has committed, within the jurisdiction of a foreign government, any of the crimes for which extradition is provided under the treaty on extradition in force between the United States and that foreign government. There is no requirement under present law that a formal diplomatic request for extradition be made before the complaint is filed.

18 U.S.C. 3184 permits any Federal judge or justice, or duly authorized Federal magistrate, or any judge of a State court of record of general jurisdiction to receive complaint and issue warrants of arrest in international extradition matters. In practice, however, such cases are almost invariably filed in the Federal courts.

The present statutory scheme does not specify by whom a complaint may be filed in extradition matters. The rule developed by the courts appears to be that any person acting under the authority of the demanding government may filed a complain for extradition.[7] Thus, international extradition cases have been instituted by foreign diplomatic or consular representatives,[8] foreign policy officers[9] and even private citizens which claim to be acting on behalf of a foreign government.[10] This situation has required the courts to determine, in each case, whether the person filing the complaint is "authorized" to act on behalf of the foreign government.[11] However, in recent year, the United States Department of Justice has become the complainant in the overwhelming majority of extradition cases. The Department of Justice takes this action either pursuant to provisions in the applicable extradition treaty requiring the government of the requested state to provide assistance to the government seeking extradition[12] or pursuant to an informal international agreement for reciprocal legal representation.

The complaint must be filed in a Federal or State court in whose jurisdiction the fugitive may be found. Unfortunately, in many cases the international fugitive's location in the United States is unknown. Therefore, no complaint can be filed and no arrest warrant can be issued. The ability of United States law enforcement agencies to locate and apprehend international fugitives is greatly hampered by the lack of an outstanding arrest warrant or other judicial process in such cases.[13]

The present statutory scheme contains no provision for the release of an alleged fugitive on bail pending the extradition hearing.[14] However, the courts have claimed the inherent right to release an alleged fugitive on bail pending the extradition hearing in cases where "special circumstances" require such release.[15] The standard for release on bail in extradition cases is more demanding than in ordinary cases, and a clear presumption against bail is recognized.[16]

2. Provisions of section 3192

Subsection (a) permits the Attorney General to file a complaint charging that a fugitive is extraditable in the United States district court for the district in which the fugitive may be found. The subsection also permits a complaint to be filed in the United States District Court for the District of Columbia if the fugitive's location is not known. Under this provision, a complaint could be filed, and an arrest warrant issued, when the whereabouts of the fugitive in the United States are still being ascertained, or when it is believed that the fugitive has not yet entered the United States but may be about to do so. The word "found" is intended to have its usual, non-technical meaning, and permits extradition proceedings to be initiated in any district in which the fugitive can be physically apprehended, without regard to the manner in which the fugitive entered the district.[17]

Subsection (b) prescribes the contents of a complaint for extradition. Since all United

States extradition treaties specify the documents and quantum of evidence necessary for surrender, paragraph (1) states that an extradition complaint is sufficient if it is accompanied by the evidence specified in the treaty and a copy of the formal request for extradition. Paragraph (2) deals with the documentation necessary to support a "provisional arrest," the process by which a fugitive from justice is arrested to prevent further flight while the foreign government seeking extradition assembles the necessary documents and evidence.[18] Subparagraph (A) of paragraph (2) provides that a complaint will support an arrest under subsection (c) if it contains information sufficient to identify the fugitive, explains the circumstances necessitating provisional arrest,[19] and either indicates that a warrant for the fugitive's arrest is outstanding in the foreign state,[20] or outlines the essential facts indicating that an extraditable crime has been committed and that the fugitive committed it. Since many of the extradition treaties contain articles which expressly set out requirements for obtaining the arrest of fugitives,[21] subparagraph (B) of paragraph (2) also permits the complaint to be filed if it contains the information required by the provisions of the applicable treaty.

Subsection (c) obliges the court to issue a warrant for the arrest of the fugitive upon receipt of the complaint unless the Attorney General requests that a summons to appear at the extradition hearing be issued instead. The subsection requires that the warrant of arrest be executed in accordance with Rule 4(d) of the Federal Rules of Criminal Procedure. This means that the warrant may be executed anywhere in the United States in the same manner as an ordinary Federal warrant of arrest. The subsection also requires that the person arrested be taken without unnecessary delay before the nearest available Federal court[22] for an extradition hearing. The language is similar to that of Rule 5 of the Federal Rules of Criminal Procedure, and is intended to insure that the person arrested under this section is speedily informed by a judicial officer of the reason for the arrest and of his rights to counsel, to cross-examine witnesses, and to introduce evidence on his behalf. It is not intended to require the dismissal of extradition proceedings solely on the ground that the fugitive arrested for extradition was taken without unnecessary delay before a judge or magistrate later determined not to be the "nearest" one. There is no requirement that the extradition hearing take place in the State in which the fugitive is found,[23] so long as there has been compliance with the provisions of this chapter.

Subsection (d)(1) provides that a fugitive arrested for extradition may be released on bail pending the extradition hearing only if he can demonstrate that "special circumstances" warrant his release. The provision continues the approach which has been followed by United States courts[24] in setting the standards for release on bail pending an extradition hearing considerably higher than the standards for release on bail pending trial on Federal charges in the United States. This approach is necessary to assure that the United States continues to carry out its treaty obligation to surrender extraditable fugitives. It is anticipated that the courts will find the "special circumstances" test satisfied "only in the most pressing circumstances and only when the requirements of justice are absolutely peremptory."[25] Such special circumstances might be found, for instance, when the incarceration of the fugitive would seriously damage his health,[26] or would endanger the welfare of a third party who is wholly dependent upon the fugitive for care.[27] It is anticipated that these circumstances would rarely be encountered.

Subsection (d)(3) provides that even if special circumstances are found, the release of the fugitive shall be permitted only upon such conditions as will reasonably assure his appearance at future proceedings, and assure the safety of other persons and the community. Such conditions might include surrender by the fugitive of any passport or travel documents, posting of a substantial bond, and the requirement that the fugitive maintain contact with appropriate federal agencies, such as the United States Marshals Service.

Subsection (d)(2) gives the court the discretion to release the fugitive provisionally arrested pursuant to this section if the evidence or documents required by the applicable treaty are not received within sixty days of the arrest (unless a longer period of detention is specified in the applicable treaty). The subsection resolves and ambiguity perceived by the courts with respect to the commencement and conclusion of the time period for provisional arrest by providing that this period should be calculated from the date on which the fugitive is taken into custody for extradition[28] to the date on which the documents are received by either the court or the Department of State.[29] If the court is notified that the documents have been received by the Department of State before the expiration of the 60-day period, the court is directed to defer release of the fugitive for a reasonable time pending the prompt transmission of the documents to the court by the Department of State. If a court does release the fugitive from custody due to the non-receipt of the documents within the applicable time period, subsection (d)(3) requires that the court frame conditions of release reasonably calculated to assure that person's appearance for future proceedings and the safety of other persons and the community. Release of the fugitive under subsection (d) does not terminate the proceedings, which can resume once appropriate documentation arrives.[30]

This section does not carry forward the little used authorization in 18 U.S.C. 3184 for extradition proceedings to be commenced before State judges. The section also specifies that extradition proceedings must be initiated by the Attorney General, rather than by a foreign government or one acting on behalf of a foreign government.[31] These changes reflect the fact that international extradition is strictly a function of the Federal Government,[32] and determining when and how to perform that function is properly the business of Federal officials and Federal courts. The United States Government has a sufficient interest in the vigorous enforcement of the laws (including the extradition law and treaties) to justify the participation of its legal counsel, the Department of Justice, in all court proceedings aimed at determining whether extradition can take place. Indeed, this is the approach which has been adopted in most foreign countries, many of which do not permit the United States to argue in court during proceedings in connection with a United States extradition request. In addition, United States courts are freed from any need to determine whether a private person is "authorized" by an "appropriate" foreign authority to initiate extradition proceedings. It should also significantly reduce the likelihood of extradition proceedings being used by private individuals as a tool for harassment, debt collection, or other improper purposes.

SECTION 3193—WAIVER OF EXTRADITION HEARING AND CONSENT TO REMOVAL

1. Present Federal law

Present Federal law provides no specific procedure by which a person arrested for extradition may waive the formalities and voluntarily return to the foreign country requesting surrender. This is especially unfortunate since a significant number of the fugitives arrested under 18 U.S.C. 3184 choose not to challenge the request for extradition and wish to expedite removal to the foreign country. Moreover, many of the newer extradition treaties to which the United States is a party contain provisions obliging the requested state to expedite the return of a fugitive who has waived a hearing or other procedures.[33]

2. Provisions of section 3193

Section 3193 of the proposed extradition chapter clarifies the method by which the fugitive who does not contest extradition can expedite his surrender. The provisions of this section are based on Federal statutory provisions governing a closely analogous situation: the verification of a prisoner's voluntary consent to transfer to his country of nationality under treaties on the execution of penal sanctions.[34] The section states that the court which would have handled the extradition proceeding shall verify that the fugitive's consent to be removed to a foreign country has been given voluntarily and with full knowledge of his right to consult with counsel before making a decision in the matter.

Under some circumstances, the foreign government may not be willing to accept custody of a fugitive who has offered to waive extradition.[35] There also may be situations in which the United States government would consider waiver inappropriate.[36] Therefore, the provision does not permit removal of the fugitive if the Attorney General notifies the court that the United States or the foreign state objects to the proposed waiver.

SECTION 3194—EXTRADITION HEARING

1. Present Federal law

Under 18 U.S.C. 3184, an alleged fugitive is entitled to a hearing at which a judicial officer determines whether extradition is lawful. 18 U.S.C. 3189 specifies that the hearing must be held "on land, publicly, and in a room or office easily accessible to the public".

At the extradition hearing, the judicial officer must determine whether the offense for which extradition is sought falls within the terms of the treaty. He must also determine whether the acts for which the fugitive is sought by the foreign country would constitute a crime had they been committed in this country. This rule, known as "dual criminality" or "double criminality", is generally considered a basic principle of international extradition law,[37] and is expressly required by many of the extradition treaties to which the United States is a party.[38] The courts have held that the double criminality requirement is satisfied whenever the acts which the fugitive is charged with having committed in the foreign country would be punishable under Federal law, the law of the State where the fugitive is found, or the

laws of a majority of the States, had those acts been committed in this country.[39]

A judicial officer must also determine whether there is sufficient proof that an extraditable offense in fact has been committed. Most of the treaties to which the United States is a party require that an extradition request be supported by "such evidence of criminality as, according to the laws of the place where the fugitive shall be found, would justify his commitment for trial had the crime or offense been there committed." Many years ago, the courts veiwed the words "place where the fugitive shall be found" as requiring the Federal court to determine if the foreign government's evidence is sufficient to justify a trial under the State laws of the State in which the fugitive is apprehended.[40] This approach was a reasonable one eight decades ago, because at that time Federal courts had no uniform rules of criminal procedure and routinely followed the procedural rules of the courts of the State in which they were located. However, the adoption of the Federal Rules of Criminal Procedure has made it generally unnecessary for Federal courts to refer to State law in these matters.[41] Moreover, extradition is a national act,[42] and the quantum of evidence necessary for extradition is precisely the kind of issue which should be determined by uniform national law, rather than by various State laws. For these reasons, all of the more recent extradition treaties contain language essentially requiring that the Federal law standard of commitment for trial—probable cause—be applied in weighing the sufficiency of the evidence for international extradition.[43]

The Federal Rules of Evidence do not apply in extradition proceedings,[44] where unique rules of wide latitude govern the reception of evidence on behalf of the foreign government.[45] It is settled law that hearsay is admissible, and the foreign government usually presents its case by submitting affidavits, depositions, and other written statements in order to satisfy the requirements of the applicable treaty.[46] 18 U.S.C. 3190 provides that originals or copies of depositions, warrants, or other papers are admissible in evidence at the extradition hearing if authenticated so as to be admissible for similar purposes according to the laws of the requesting country. The statute also provides that the certificate of the principal diplomatic or consular officer of the United States resident in the requesting country shall be proof that the documents are authenticated in the manner required. In essence, the documents need only be genuine and authentic—requirements that are deemed fulfilled once it is shown that under similar circumstances the requesting country's own courts would accept them as authentic. The courts have held that extradition documents bearing a certificate which is couched in the language of 18 U.S.C. 3190, and signed by one of the specified officials, are conclusively admissible.[47] As a result of these decisions, foreign governments routinely submit the documentation in support of extradition requests to the appropriate United States Embassy abroad for certification and transmission to the United States. This practice imposes undesirable burdens on the United States Foreign Service officers who must fill out the certification.[48]

The present statutory scheme offers little guidance with respect to the evidence which can be introduced on behalf of the alleged fugitive in an extradition hearing. Many cases emphasize that whether such evidence should be admitted is a decision for the court, in its discretion, to make.[49] The alleged fugitive is ordinarily permitted to testify on his own behalf [50] or to have witnesses testify for him.[51] However, it is clear from the case law that the alleged fugitive may offer to explain ambiguities in the evidence submitted against him, but may not offer evidence which merely contradicts that submitted by the requesting country, or which poses a question of credibility, or which raises an affirmative defense to conviction on the charges, or which is incompetent by the terms of the extradition treaty under which surrender is sought.[52] This restrictive approach is appropriate because the issue before the court at an extradition hearing is probable cause, not the ultimate guilt or innocence of the accused.

Finally, the judicial officer must determine whether the treaty contains a defense to extradition which would preclude surrender in the case before him. Extradition treaties frequently bar surrender if a statute of limitations has foreclosed prosecution or punishment for the offense in question,[53] or if the fugitive has been tried or punished in the requested state for the same offense,[54] or if any of several other legal considerations are present.

Virtually every extradition treaty contains a provision barring extradition for a political offense, and many treaties also preclude extradition if the requesting country has political motives for seeking the return of the fugitive. Under the present case law, the courts decide whether the crime for which extradition has been requested is a political offense [55] but traditionally have declined to consider whether the requesting country's motives in seeking extradition are political.[56] Since these issues are usually intertwined,[57] the possibility for inconsistent results is obvious.

If the judicial officer is persuaded that the crime charged falls within the treaty, that the acts involved would constitute an offense in this country, that the evidence submitted is sufficient to sustain the charge under the treaty, and that no legal defense to extradition is applicable, it is his duty to certify these conclusions to the Secretary of State. The judicial officer also must send the Secretary of State a copy of all the oral testimony taken at the hearing. 18 U.S.C. 3184 requires the judicial officers to order the commitment of the accused to jail pending surrender, and there is provision for release on bail at this stage of the proceedings. If the judicial officer finds that the fugitive is not extraditable, the proceedings are terminated, and the fugitive is released from custody.

2. Provisions of section 3194

Section 3194(a) requires that a judicial hearing be held to determine whether the person sought is extraditable (unless such as hearing has been waived under section 3193) and sets out the procedure for the hearing.

Section 3194(a) provides that the court does not have jurisdiction to determine whether extradition is sought for a political offense or because of the person's political beliefs, while section 3196(a)(3) specifies that the Secretary of State must decline to order surrender of a person if, after taking into account certain statutory principles generally eliminating specified types of crimes from the political offense exception (e.g., crimes of violence and drug trafficking), he is persuaded that the person's extradition is sought for one of these reasons. The provisions taken together provide that the Secretary of State shall have jurisdiction to decide the applicability of the "political offense" exception to extradition is sought for one of these reasons. The provisions taken together provide that the Secretary of State shall have jurisdiction to decide the applicability of the "political offense" exception to extradition contained in most extradition treaties, such decision to be consistent with the statutory guidelines and reviewable in the United States courts of appeal based on a substantial evidence standard. The Committee has concluded that this approach, also discussed in dealing with section 3196(a)(3) *infra*, is a desirable one for several reasons.

First, the most modern United States extradition treaties specify that the executive branch of the requested country shall decide the applicability of the political offense exception.[58] In the absence therefore of specific legislative endorsement of the court developed rule—an unlikely prospect in light of the trend in magistrate extradition decisions noted *infra* note 61—it is inevitable over the long term that the case law rule reserving the political offense decision to the courts will become the exception rather than the rule as the United States continues its ongoing program of negotiating new modern treaties. Moreover, as previously noted, under present case law the courts generally shun deciding whether the foreign government's extradition request is politically motivated, preferring to leave that decision to the executive branch. It should also be noted that the political offense decisions are made exclusively by the executive branch of the government in several foreign countries, including Canada and Germany.

Second, the decision to shield a criminal from extradition for an otherwise extraditable offense on the ground that his offense was "political" is not the type of issue which lends itself to resolution through the judicial process.[59] When dealing with a political situation in a foreign country and the relationship of particular conduct to that situation, there are few truly objective criteria by which a comprehensive definition of the term "political offense" can be based.[60] Moreover, a public court proceeding is not the most desirable forum for careful analysis of a friendly foreign state's intentions or political system. Such analysis and decisions are inextricably intertwined with, and require the expertise of those versed in the conduct of foreign relations. The Committee has concluded that this issue is best left to the Secretary of State, subject only to limited review in the courts of appeal, along with his traditional unreviewable responsibilities with respect to political asylum.

Finally, a decision on the political offense exception can have a devastating impact on United States relations with the requesting country. The potentially crippling effect of such decisions on foreign affairs is particularly great where it could compromise United State efforts to combat international terrorism.[61] The present law exacerbates this situation, because frequently the United States government, through the departments of State and Justice, must take a position on the applicability of the political offense exception while the case is before the court. Moreover, the government must take this position publicly, before all the evidence and arguments are in, and despite the fact that the court or the Secretary of State may subsequently decide against extradition on other grounds. By contrast, the approach taken by the proposed chapter

permits a more informed decision on extradition to be made in a manner less likely to be offensive to the friendly foreign government involved in the case.

Subsection (b) supplements present law by expressly providing that the fugitive be informed of his right to be represented by counsel at the extradition hearing. Indigent fugitives will be provided with counsel pursuant to the provisions of section 3401 relating to court-appointed counsel. The provision also requires that the fugitive be informed of his right to introduce evidence in his own behalf on matters within the jurisdiction of the court. The subsection thereby leaves intact the extensive case law on this point.[62]

Subsection (c) deals with evidence in an extradition hearing. Paragraph 1 is designed to clarify the circumstances under which documentary evidence will be admissible on behalf of either party in an extradition hearing.

Many treaties specifically set out the manner in which extradition documents must be authenticated,[63] and subparagraph (A) of paragraph (1) provides that documents so authenticated shall be admissible. It also provides that documents authenticated in accordance with the provisions of United States law shall be deemed admissible as evidence in the extradition hearing. Thus, documents which comply with the requirements of Article IX of the Federal Rules of Evidence would be admissible in extradition proceedings. However, the provision does not require the exclusion from the hearing of evidence which fails to satisfy the Federal Rules of Evidence. Rather, the subsection merely underscores the commonsense proposition that evidence which satisfies the high standards set out in the Rules, and which would be admissible in civil or criminal proceedings in this country, should likewise be acceptable in extradition proceedings.

Subparagraph (B) of paragraph (1) is based on 18 U.S.C. 3190 and provides that a document authenticated accordance with the applicable laws of the foreign country requesting extradition shall be admissible if it is accompanied by an attestation to this effect from a judge, magistrate, or other appropriate officer of the foreign state. The phrase "other appropriate officer" would include an official of the foreign counterpart of the Department of Justice, or any other government official likely to be familiar with legal matters in the foreign country. It further requires that the signature and position of the person so attesting be certified by a diplomatic or consular officer of the United States posted in the foreign country, or by a diplomatic or consular officer of the foreign state assigned to this country.[64] The provision thus brings the essential requirements of 18 U.S.C. 3190 more into line with Rule 902(3) of the Federal Rules of Evidence.

Subparagraph (C) of paragraph (1) permits the court handling an extradition matter to accept as evidence any documents which it is persuaded are in fact authentic, regardless of compliance with either of the two previous provisions. This rule is similar to Rule 901(a) of the Federal Rules of Evidence, and is in accord with established case law permitting the authenticity of documents presented in extradition proceedings to be established by the testimony from expert witnesses or by other evidence.[65]

Paragraph (2) of subsection (c) provides that a cerfificate or affidavit by an appropriate State Department official as to the existence or interpretation of a treaty is admissible as evidence of that treaty or its interpretation.

The overwhelming majority of extradition treaties require that the requesting country present such evidence of criminality as would justify commitment for trial had the crime or offense been committed in the place where the fugitive has been found. Under paragraph (2) such a treaty provision may be satisfied by evidence establishing probable cause to believe that a crime was committed and that the person sought committed it. This is the usual standard for commitment for trial in Federal criminal cases.[66] This approach permits the Federal courts to apply the standard for commitment with which they are most familiar, and establishes a single, uniform standard by which the sufficiency of evidence in extradition proceedings may be measured. It is also consistent with the views expressed in several recent court decisions pointing out the advantages of dealing with the quantum of evidence for extradition in a manner consistent with Federal law.[67]

Paragraphs (1), (2), and (3) of subsection (d) carry forward the requirements of 18 U.S.C. 3184 that instruct the court to find the fugitive extraditable if the evidence presented is sufficient to sustain the complaint under the provisions of the applicable treaty, and also requires that the court find probable cause that the person before it is the person sought in the foreign state, and that none of the defenses to extradition which the court is empowered to consider are applicable. Paragraph (4) bars extradition unless the acts for which the fugitive's surrender is requested would constitute a crime punishable under State or Federal law in the United States. Finally, the subsection states that the findings required for extradition may be established by hearsay evidence or certified documents alone. This rule is similar to Rule 5.1 of the Federal Rules of Criminal Procedure, which permits a finding of probable cause to commit for trial to be based on hearsay evidence. It is also in accord with recent court decisions which point out that the kind of evidence necessary for extradition is an issue which should be determined by uniform national law.[68]

Subsection (e) details the procedures that the court must follow at the conclusion of the hearing. If the court finds that the fugitive is extraditable, it must state, in writing, its findings and rationale with respect to each of the offenses for which extradition is sought.[69] These findings must be sent to the Secretary of State, together with a transcript of the hearing.[70] If the court finds that the fugitive is not extraditable, the findings required by the subsection may be accompanied by a report rather than a transcript of the hearing.

SECTION 3195—APPEAL

1. Present Federal law

Under present Federal law, there is no direct appeal from a judicial officer's finding in an extradition hearing.[71] A person found extraditable may only seek collateral review of the finding, usually through an application for a writ of habeas corpus.[72] The foreign government that is dissatisfied with the results of the hearing must institute a new request for extradition.[73] The lack of direct appeal in extradition matters adds undesirable delay, expense, and complication to a process which should be simple and expeditious.

2. Provisions of section 3195

Section 3195 of the proposed chapter permits either party in an extradition case to appeal directly to the appropriate United States court of appeals from a judge or magistrate's decision. It is anticipated that review on appeal will be very narrow, and that any findings of fact by the lower court will be affirmed unless they are clearly erroneous.

Subsection (a) specifies that the appeal shall be filed within the time limits set out in Rules 3 and 4(b) of the Federal Rules of Appellate Procedure, i.e., 10 days for the person sought and 30 days for the government. These are the same deadlines for filing a notice of appeal in criminal cases, and while the extradition hearing is not a trial,[74] or even strictly a criminal proceeding,[75] these deadlines adequately balance the competing interests of fairness and expedition. It is anticipated that other aspects of the appeal process (such as the preparation and submission of the record, briefing, argument and decision) will be governed by the applicable provisions of the Federal Rules of Appellate Procedure.

If the fugitive has been found extraditable, subsection (a) requires that surrender to the foreign government be stayed pending determination of the appeal by the court of appeals.[76] This provision prevents the government from mooting the appeal by spiriting the petitioner out of the country while the matter is *sub judice*. The provision is designed to maintain the *status quo* with respect to the fugitive's custody pending appeal. It is anticipated that the district court will not ordinarily stay or delay any other element of the extradition process, such as the certification of its findings to the Secretary of State under section 3194(e).

Subsection (b) provides that a person found extraditable must remain in official detention pending the appeal unless the court of appeals finds that special circumstances require release. This is a slight amelioration of present law, which does not permit the release of a fugitive on bail after he has been found extraditable.[77] The change is desirable because the same kind of pressing, unusual situation which might require that the person sought be released from custody on bail pending the extradition hearing[78] could conceivably arise after the extradition hearing. However, it is anticipated that this authority to release a fugitive on bail will be utilized even more sparingly than the power to grant bail before the extradition hearing, and only after the most thorough and searching examination of the claimed need for release. It is expected that the courts of appeal will keep in mind that "no amount of money could answer the damage that would be sustained by the United States if [the fugitive] were to be released on bond, flee the jurisdiction, and be unavailable to surrender. . . ."[79]

If the person was found not extraditable, subsection (b)(2) permits the district court to order that the person be released pending an appeal by the government. Release shall be ordered unless the district court is satisfied that the appellee is likely to flee before the appeal is decided, or endanger the safety of any other person or the community.

A major purpose of section 3195 is to simplify, and thereby expedite, the extradition process by providing for a direct appeal from a contested decision on extradition. The direct appeal provided by this section

largely eliminates the present need for habeas corpus proceedings in order to obtain judicial review of the initial finding that a person is extraditable. This purpose would be frustrated if a fugitive bent on dilatory tactics were permitted to pursue an appeal under this section, a petition for *certiorari* to the Supreme Court, and then begin one or more rounds of habeas corpus proceedings. Such a course of action would lengthen the extradition process rather than shorten it. Therefore, subsection (c) deprives any court of jurisdiction to review a finding that a fugitive is extraditable under this chapter unless the fugitive has exhausted the appellate remedies available to him by right in this section. It also forecloses an appeal, a petition for habeas corpus, or declaratory judgement action if the validity of the fugitive's commitment for extradition has been ruled upon in prior proceedings, unless grounds are offered which could not have been presented previously.

The resolution of challenges to judicial action in international extradition cases should be especially prompt. Extradition cases are quasi-criminal in nature. Moreover, in such cases, our government's willingness to make a timely and ungrudging execution of its solemn treaty obligations to a friendly nation is in question.[80] Therefore, this section requires that courts of appeal decide cases arising under this chapter expeditiously.

SECTION 3196—SURRENDER OF A PERSON TO A FOREIGN STATE

1. Present Federal law

Under 18 U.S.C. 3186, the Secretary of State may order that any person found extraditable by a court under 18 U.S.C. 3184 be delivered to an authorized agent of the government seeking extradition. Although it is generally agreed that the Secretary's decision in this matter is discretionary,[81] present law provides no indication of the parameters of the Secretary's discretion.

18 U.S.C. 3188 states that if a fugitive found extraditable under 18 U.S.C. 3184 is not removed from the United States within "two calendar months" of the court's commitment order, he may be released from custody unless there is "sufficient cause" why release should not be ordered.[82] The courts have held that if the fugitive institutes litigation challenging his extradition, the two-month period commences when the claims are finally adjudicated rather than when the commitment order was issued.[83]

2. Provisions of section 3196

Subsection (a) carries forward the essence of 18 U.S.C. 3186 by providing that the Secretary of State shall make the final decision as to extradition. The subsection requires that the Secretary's decision be made in accordance with the chapter and the applicable treaty, and lists the actions that the Secretary may take.

Subsection (a)(1) simply permits the Secretary to order the surrender of a person the court has found to be extraditable to a duly appointed agent of the foreign state.

Subsection (a)(2) permits the Secretary to condition the surrender of a fugitive upon the acceptance by the foreign state of restrictions or conditions he considers necessary in the interest of justice or to effectuate the purposes of the treaty. This provision underscores the Department of State's authority to impose such restrictions where humanitarian concerns[84] or questions concerning trial procedures in the requesting state exist.[85] It would also permit the imposition of restrictions expressly contemplated in the provisions of some newer treaties.[86]

Subsection (a)(3) provides that the Secretary of State shall deny extradition where he is persuaded that the foreign state is seeking the person's extradition "for a political offense or an offense of a political character, or for the purpose of prosecuting or punishing the person for his political opinions." The first of these determinations—i.e., whether the offense is a "political offense or an offense of a political character"—currently is decided by the courts. The Committee concluded that the adversary judicial procedure requiring State Department expert testimony on an evaluation of volatile political situations in foreign countries is an unsatisfactory way to resolve this issue. Other fundamental reasons underpinning structural alteration of the decision-making apparatus with respect to the political offense exception were addressed in the discussion relating to section 3194 *supra* and are not repeated here. This bill meets these problems by shifting the political offense exception decision to the Secretary of State, subject to judicial review based on a substantial evidence test in the court of appeals for the circuit in which the extradition proceeding took place. With respect to judicial review, it should be noted that an adequate administrative record must be made providing the factual basis for the Secretary's decision.

In addition, the bill provides guidelines to be applied by the Secretary of State that are intended to prevent relief from extradition for the specified offenses except in the most rare circumstances. This part of the bill reads as follows:

When it is claimed that the foreign government is seeking the person for a political offense or an offense of a political character, the Secretary will make his determination in accordance with the following principles. A political offense or an offense of a political character normally does not include—

(A) an offense within the scope of the Convention for the Supression of Unlawful Seizure of Aircraft, signed by The Hague on December 16, 1970;

(B) an offense within the scope of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on September 23, 1971;

(C) a serious offense involving an attack against the life, physical integrity, or liberty of internationally protected persons (as defined in section 1116 of this title), including diplomatic agents;

(D) an offense with respect to which a treaty obligates the United States to either extradite or prosecute a person accused of the offense;

(E) an offense that consists of homicide, assault with intent to commit serious bodily injury, rape, kidnapping, the taking of a hostage, or serious unlawful detention;

(F) an offense involving the use of a firearm (as such term is defined in section 921 of this title) if such use endangers a person other than the offender;

(G) an offense that consists of the manufacture, importation, distribution or sale of narcotics or dangerous drugs; or

(H) an attempt or conspiracy to commit an offense described in paragraphs (A) through (G) of this paragraph, or participation as an accomplice of a person who commits, attempts, or conspires to commit such an offense.

The first four criteria involve commitments made by the United States pursuant to international conventions or agreement, such as aircraft hijacking and terrorist acts against internationally protected persons. The next two cover serious crimes of violence against the person, including endangering others through the use of firearms or explosives. The seventh criteria relates to drug trafficking, while the eighth factor deals with attempt, conspiracy, and accomplice liability for the preceding categories of offenses.

It should be noted that the guidelines in fact set forth certain types of offenses that should not "normally" be found to be "political offenses". Use of the term "normally" recognizes that there may be a rare situation in which the nature of, and events in, a foreign country and the traditions of freedom and political democracy in the United States combine to compel the Secretary of State to find one of the listed offenses a political offense under the circumstances of the case. While the Committee elected to retain this narrow flexibility, it is noted that the United States has well established principles governing executive authority to grant political asylum that should more than adequately provide the alternative and preferred basis for appropriate relief from extradition on political grounds consistent with the traditions, heritage, and foreign policy principles of this country.

It should also be noted that this provision provides that any evidence or arguments the fugitive wishes to present to the Secretary of State with respect to the alleged political nature of extradition shall be in writing. The Secretary is not required to provide a formal hearing on a political offense exception application,[87] but it is expected that the Secretary will utilize the resources of the Department of State for gathering evidence and assessing the claim.

Subsection (a) also makes it explicit in the statute that the decisions of the Secretary of State under paragraphs (1), (2), and (3) of that subsection are in the nature of post-judicial "last step" final administrative determinations prior to actually effecting the extradition and, as such, are not subject to judicial review.

Finally, subsection (a) expressly authorizes surrender of United States nationals unless surrender is expressly prohibited by the applicable treaty.[88] This provision is necessary in light of the decision in the *Valentine*[89] case in which the Supreme Court held that language contained in many of the older extradition treaties to which the United States is a party does not permit the surrender of United States citizens absent explicit statutory authority for such surrender. The result of the *Valentine* decision has been to effectively immunize United States citizens from extradition in many cases—a result never intended by the negotiators of the treaties involved. It is the policy of the United States to treat its citizens and aliens within its borders equally in extradition matter,[90] and this subsection permits that policy to operate effectively.

Subsection (b) requires that the Secretary of State notify all interested parties of his decision on extradition.

Subsection (c)(1) provides that the fugitive shall be released from custody if the Secretary of State does not order, or declines to order, the person's surrender within forty-five days after receiving the record of proceedings from the court. Of course, if the Secretary of State decides within the forty-five days to refuse to order extradition, the authority for holding the person sought in custody under section

3194(e)(1) immediately expires, and the person should be released from detention at once.

Subsection (c)(2) is based on the provisions of 18 U.S.C. 3188, and provides that when the Secretary of State has ordered a person extradited, the foreign country involved must take custody of the person and remove him from the United States within 30 days. This 30-day time period does not begin until all litigation challenging extradition has been completed. The subsection expressly excludes from consideration the time during which surrender has been stayed pending litigation.

Subsection (c) requires a person found extraditable to give the Secretary of State reasonable notice that he will seek release because of expiration of a time limitation set forth in subsection (c)(1) or (c)(2), and forbids release if good cause is shown for the delay in effecting surrender.

SECTION 3197—RECEIPT OF A PERSON FROM A FOREIGN STATE

1. Present Federal Law

18 U.S.C. 3192 authorizes the President to "take all necessary measures for the transportation and safekeeping" of a person extradited to the United States from a foreign country. At one time the President relied upon this statute to issue a warrant designating an agent to receive custody of a fugitive from a foreign government. 18 U.S.C. 3193 authorizes such an agent to convey the fugitive directly to the place of trial, and grants to the agent "all the powers of a Marshal of the United States, in the several federal districts through which it may be necessary for him to pass with [the] prisoner . . .". The authority to issue warrants and appoint agents under these sections has now been delegated to the Secretary of State.[91] However, the Department of State wishes to transfer to the Department of Justice the authority to appoint agents and issue warrants in these matters.

2. Provisions of section 3197

Section 3197 of the proposed chapter carries forward the provisions of 18 U.S.C. 3192 and 3193, with minor modifications reflecting present United States practice.

Subsection (a) authorizes the Attorney General to designate an agent to receive custody of a fugitive surrendered by a foreign government, and permits the agent to convey the fugitive to the place of trial in the United States. The final sentence of the subsection permits the extradited fugitive to be taken directly to the Federal district or State jurisdiction in which charges are outstanding without removal proceedings under Rule 40 of the Federal Rules of Criminal Procedures or interstate rendition proceedings.

Section 3197(b) is new, and is designed to implement provisions, found in some of the most recent United States extradition treaties. The laws in many foreign countries require that extradition be postponed until the person has satisfied any outstanding criminal charges in that country.[92] Frequently, a person sought by the United States has already been tried and convicted of other charges in the requested country and has a sentence to serve there. If the sentence abroad is a long one, the postponement of surrender could compromise the possibility of a speedy and fair trial in this country.[93] Some extradition treaties contain provisions which deal with this problem by permitting "temporary extradition". Under these treaty provisions, a fugitive convicted abroad would be surrendered to the United States solely for purpose of trial and sentencing here, then returned to the foreign country involved to finish the sentence previously imposed there.[94] This process balances our government's interest in adjudicating the charges while the evidence is fresh with the foreign country's desire to fully enforce its laws. It also works to a fugitive's benefit by enabling him to answer the charges in this country while evidence for his defense is still available, and by creating the possibility that the sentence imposed upon conviction in this country could run concurrently with that the fugitive must serve abroad.

Section 3197(b) provides implementing legislation for treaty provisions of this types. It provides that when a foreign state has delivered a person to the United States on the condition that the person be returned at the conclusion of the criminal trial or sentencing, the Bureau of Prisons shall keep the person in custody until the judicial proceedings are concluded, and thereafter surrender the person to a duly appointed agent of the foreign country. It also provides that the return to the foreign state of the person is not subject to the requirements of the chapter, such as an extradition hearing or an order of surrender by the Secretary of State.

SECTION 3198—GENERAL PROVISIONS FOR CHAPTER 210

1. In general

This section contains the definitions and general provisions applicable to the extradition chapter.

2. Present Federal law

18 U.S.C 3198 requires that the foreign government which sought extradition pay all costs and fees resulting from the request. The costs resulting from extradition requests here frequently are so small that it is uneconomical—and diplomatically embarrassing—to attempt to enforce this statute. Moreover, many of the extradition treaties to which the United States is a party contain provisions which modify this statutory rule.[95] Also, the United States has entered into informal arrangements with some countries whereby each country bears most of the cost of the other's extradition request. In short, the present statute does not adequately reflect government policy in extradition matters.

Present statutory law offers no guidance as to who must pay the costs associated with United States requests to foreign countries for the extradition of fugitives. The Department of State requests extradition on behalf of either the State within the United States in which the fugitive is charged, or, if Federal charges are involved, on behalf of the United States. Therefore, the long-standing policy of the Department of State has been that the State jurisdiction which sought the fugitive's return must pay any expenses incurred in connection with the extradition request, and the Department of Justice must pay the expenses incurred in obtaining the extradition of a fugitive Federal offender.

3. Provisions of section 3198

Subsection (a) of section 3198 sets forth definitions for the terms "court", "foreign state", "treaty", and "warrant".

Subsection (b) states that in general a foreign state which has requested the extradition of a fugitive located in the United States must bear all costs and expenses incurred in connection with that request. Since many of the extradition treaties contain provisions specifically dealing with costs in extradition matters, the subsection authorizes the Secretary of State to direct that this matter be handled in accordance with terms of the applicable treaty or agreement. Subsection (b) also requires that all cost and expenses incurred in connection with the execution of a request by a State of the United States for the return of a fugitive located in another country must be paid by that State. When the request for extradition is made to secure the return of a fugitive wanted for a Federal offense, the expenses must be borne by the United States. It is anticipated that when the fugitive involved is sought for both Federal and State offenses, the costs incurred abroad will be allocated accordingly.

FOOTNOTES

[1] Extradition Act of 1981, Hearings before the Committee on the Judiciary, U.S. Senate, 97th Cong., 1st Sess. (1981) [hereinafter cited as Hearings].

[2] *United States* v. *Mackin*,—F.2d—(2d Cir. 1981).

[3] *Valentine* v. *U.S. ex rel. Neidecker*, 299 U.S. 5 (1936); *Argento* v. *Horn*, 241,. F.2d 258, 259 (6th Cir. 1957), *cert. denied* 355 U.S. 818 (1957); *Ivancevio* v. *Artukovic*, 211 F.2d 565, 566 (9th Cir. 1954) *cert. denied*, 34 U.S. 818 (1954); Evans, *Legal Basis for Extradition in the United States*, 16 New York Law Forum 525, 529-530 (1980); 6 Whiteman, Digest of International Law 727 (1968).

[4] See e.g., Art. 14, Amending Protocol to the 1961 Single Convention on Narcotic Drugs, done at Geneva, March 24, 1972, 26 U.S.T. 1439, T.I.A.S. 8118 (entered into force for the United States August 8, 1975); Art. 8, Convention on Suppression of Unlawful Seizures of Aircraft, done at The Hague, December 16, 1970, 22 U.S.T. 1641, T.I.A.S. 7192 (entered into force for the United States October 14, 1971); Art. 8, Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents, done at New York, December 14, 1973, 28 U.S.T. 1975, T.I.A.S. 8532 (entered into force for the United States February 20, 1977).

[5] See, e.g., *Holmes* v. *Laird*, 459 F.2d. 1211, 148 U.S. App. D.C. 187 (D.C. Cir. 1972), *cert. denied*, 409 U.S. 869 (1972); *Williams* v. *Rogers*, 449 F.2d 513 (8th Cir. 1971), *cert. denied*, 405 U.S. 926 (1972).

[6] See e.g., *Kalatijis* v. *Rosenberg*, 305 F.2d 249 (9th Cir. 1962).

[7] 6 Whiteman, *supra* note 3, at 935.

[8] *United States ex rel Caputo* v. *Kelley*, 92 F.2d 603 (2d Cir. 1937) *cert. denied*, 303 U.S. 635 (1938); *Ornelas* v. *Ruiz*, 161 U.S. 502 (1896); *Castro* v. *DeUrterte*, 12 Fed. 250 (S.D. N.Y. 1882). See, generally, 6 Whiteman *supra note 3, at 935; Note, United States Extradition Proceedings, 16 New York Law Forum 420, 432 (1980).*

[9] 1 Moore, A Treatise on Extradition and Interstate Rendition, 410-415, (1891).

[10] See, e.g., *Schoenbrun* v. *Drieband*, 268 F. Supp. 332 (E.D. N.Y. 1967).

[11] See, e.g., *United States ex rel. Caputo* v. *Kelley*, *supra* note 8.

[12] *In re David*, 395 F. Supp. 803, 807 (E.D. Ill. 1975); *United States ex rel. Petruschansky* v. *Marasco*, 215 F. Supp. 953, 957 (E.D. N.Y. 1963) aff'd 325 F.2d 562 (2nd Cir. 1963), *cert. denied*, 376 U.S. 952 (1964).

[13] For example, many Federal, State, and local law enforcement agencies rely on the FBI's National Crime Information Center-"NCIC"-in determining whether an individual is wanted for arrest in another jurisdiction. Since no complaint for extradition can be filed against a fugitive whose location is unknown, there can be no Federal arrest warrant issued, and no information on the person will appear in NCIC. Thus, law enforcement officers may have no way to learn that a particular person is an international fugitive sought for extradition.

[14] In *Wright* v. *Henkel*, 190 U.S. 40 (1903), the Supreme Court reviewed former section 596 of title 18 (now 18 U.S.C. 3141), in conjunction with former section 591 (now 18 U.S.C. 3041), and concluded that there was no statute providing for admission to bail in cases of foreign extradition. The Bail Reform Act (which amended Sections 3041, 3141-3143, and 3568, and enacted 18 U.S.C. 3147-3152) did not alter this result. The Act liberalized access to bail in those cases to which the bail statutes apply, but did not broaden the availability of bail

generally. Both the previous sections of the law and the provisions of the Bail Reform Act apply only to "person(s) charged with an offense," and the term "offense" is expressly defined in 18 U.S.C. 3156 as "any criminal offense . . . which is in violation of any Act of Congress and is triable in any court established by Act of Congress . . . ". Since fugitives facing extradition to a foreign country are not accused of any Federal criminal offense, and will not be tried in any Federal court, the bail statute's provisions do not apply to them. *Cf. Kelley* v. *Springette*, 527 F.2d 1090, 1093 (9th Cir. 1975); *Beaulieu* v. *Comm'r of Massachusetts*, 382 F. 2d 290 (1st Cir. 1967).

[15] *United States* v. *Williams*, 611 F.2d 914 (1st Cir. 1979); *Beaulieu* v. *Hartigan*, 554 F.2d 1 (1st Cir. 1977); *Wright* v. *Henkel*, *supra* note 14.

[16] *Hu Yan-Leung* v. *Soscia*,—F.2d—, (2d Cir. May 26, 1981).

[17] See, *In re Chan Kam-Shu*, 477 F.2d 333 (5th Cir. 1973), *cert. denied*, 414 U.S. 847 (1973); *Vardy* v. *United States*, 529 F.2d 404 (5th Cir. 1976), *rehearing denied*, 533 F.2d 310 (5th Cir. 1976); *In re David*, 390 F. Supp. 521 and 395 F. Supp. 903 (E.D. Ill. 1975).

[18] Provisional arrest is a well-recognized aspect of international extradition procedure, and is specifically provided for in most of the extradition treaties to which the United States is a party. See, e.g. Art. 11, Extradition Treaty, United States-Canada; signed Dec. 31, 1971, 27 U.S.T. 983, T.I.A.S. 8237 (entered into force March 27, 1976). See generally, Reuschlein, *Provisional Arrest and Detention in International Extradition*, 23 Georgetown Law Journal 37 (1934); Note, 16 New York Law Forum-420, 429-430 (1970).

[19] E.G., contains an indication that the fugitive is likely to flee the jurisdiction and be unavailable by the time the extradition documents arrive.

[20] See, 6 Whitemen, *supra* note 3, at 931; *Whitely* v. *Warden, Wyoming, State Penitentiary*, 401 U.S. 560, 568 (1970); *United States* v. *McCray*, 468 F.2d 848 (5th Cir. 1967).

[21] See, e.g., *Caltagirone* v. *Grant*, 629 F.2d 739 (2d Cir. 1980).

[22] "Court" is defined in section 3198(a)(1) to mean a United States district court established pursuant to 28 U.S.C. 132, or the District Court of Guam, the Virgin Islands, or the Northern Mariana Islands, or a United States magistrate authorized to conduct an extradition proceeding.

[23] Thus, the section eliminates the arbitrary rule created by the Supreme Court in *Pettit* v. *Walshe*, 194 U.S. 205 (1904). See note 40, *infra*, and accompanying text. This rule is unnecessary in light of proposed section 3194(c)(3).

[24] See notes 15 and 16, *supra*.

[25] *In re Mitchell*, 171 Fed. 289, 290 (S.D.N.Y. 1909).

[26] See, e.g., *In re Kaplan*, Civ. No. 79-2219 RF (C.D. Cal July 29, 1979).

[27] See, e.g., *In re Itoka*, Misc. No. 79-1536—M (D. N.M. Dec. 17, 1979).

[28] See, *In re Chan Kam-Shu*, 477 F.2d 333, 339-340 (5th Cir. 1973) *cert. denied*, 414 U.S. 847 (1973).

[29] *United States* v. *Clarke*, 470 F. Supp. 979 (D. Vermont 1979).

[30] E.g., Art. 13(2), Extradition Treaty, United States-Norway, signed June 9, 1977, — U.S.T. —, T.I.A.S. 9679 (entered into force March 6, 1980).

[31] It is anticipated that in most cases the Attorney General will act through the United States attorney for the district in which the fugitive is located. If the foreign government involved feels the need to participate in the judicial proceedings, it can retain counsel and seek to enter the case as *amicus curial*.

[32] *Valentine* v. *United States ex rel. Neidecker*, 299 U.S. 5, 8 (1936) ; *United States* v. *Rauscher*, 119 U.S. 407, 414 (1886).

[33] See e.g., Art. 10, Extradition Treaty, United States-Japan, signed March 3, 1978, — U.S.T. —, T.I.A.S. 9625 (entered into force March 25, 1980) ; Art. 18, Extradition Treaty, United States-Mexico, signed May 4, 1978, — U.S.T. —, T.I.A.S. 9656 (entered into force January 24, 1980).

[34] See 18 U.S.C. 4107-4108.

[35] For example, a fugitive might wish to waive extradition on only one of many outstanding charges against him in the requesting state. Under these circumstances, that foreign state might conceivably prefer to have extraditability determined as to all of the charges.

[36] For example, many extradition treaties permit the requested state to postpone extradition until the person sought has been tried and punished for criminal charges outstanding in that state. A person facing criminal charges or imprisonment in this country might well attempt to expedite his extradition to a foreign country where less serious charges are pending, in order to avoid prosecution or punishment here. In such circumstances, it would not be appropriate for the United States to permit expedited surrender, at least not until the charges in this country have been resolved or the sentence served.

[37] Shearer, Extradition in International Law, 137-141 (1971) ; 6 Whiteman, *supra* note 3, at 773-779 ; *Freeman* v. *United States*, 437 F. Supp. 1252, 1263 (N.D. Ga. 1977).

[38] See, e.g., Art. 2(1), Extradition Treaty, United States-Japan, signed March 3, 1978, — U.S.T. —, T.I.A.S. 9625 (entered into force March 25, 1980).

[39] *Cucuzella* v. *Kelitikaa*, 638 F.2d 105 (9th Cir. 1981) ; *Brauch* v. *Raiche*, 618 F.2d 843, (1st Cir. 1980) ; *Freedman* v. *United States*, *supra* note 37, at 1252, 1263.

[40] *Pettit* v. *Walshe*, *supra* note 23 ; see e.g., U.S. ex rel. *LoPizzo* v. *Mathews*, 36 F.2d 565 (3d Cir. 1929) ; *U.S. ex rel, Rauch* v. *Stockinger*, 170 F. Supp. 506 (E.D. N.Y. 1959), *aff'd* 269 F.24 681 (2d Cir. 1959), *cert denied*, 371 U.S. 913 (1959) ; *O'Brien* v. *Rozmann*, 554 F.2d 780 (6th Cir. 1977).

[41] *Greci* v. *Birkness*, 527 F.2d 956, 958, at note 3 (1st Cir. 1976) ; *Application of D'Amico*, 185 F. Supp. 925-930, at note 6 (S.D.N.Y. 1960), *appeal dismissed*, 286 F.2d 320 (2d Cir. 1960), *cert denied*, 366 U.S. 963 (1962).

[42] 6 Whiteman, *supra* note 3.

[43] *Greci* v. *Birkness*, *supra* note 41; *Sindona* v. *Grant*, 461 F. Supp. 199 (S.D.N.Y. 1978); *Brauch* v. *Raiche*, *supra* note 39.

[44] *Sayne* v. *Shipley*, 418 F.2d 679, 685 (5th Cir. 1969), *cert. denied*, 390 U.S. 903 (1970).

[45] Rule 1101, Federal Rules of Evidence.

[46] The Supreme Court has indicated that requiring the foreign state to produce live witnesses in extradition hearings would tend to "defeat the whole object of the treaty." *Bingham* v. *Bradley*, 241 U.S. 511, 517 (1916); see also, *Collins* v. *Loisel*, 259 U.S. 309, 317 (1922); *Sayne* v. *Shipley*, *supra* note 44; *In re David*, *supra* note 12; *O'Brien* v. *Rozmann*, *supra* note 40.

[47] *United States* v. *Galanis*, 429 F.2d 1215, 1225-1229 (D. Conn. 1977), *rev'd on other grounds*, 568 F.2d 234, 240 (2d Cir. 1977); *Shapiro* v. *Ferrandina*, 478 F.2d 894, 903 (2d Cir. 1973); *In re Edmonson*, et al. 352 F. Supp. 22, 24 (D. Minn. 1972).

[48] The consular and diplomatic officers who must sign the certificate are usually not lawyers, and it is difficult for them to know whether the documents presented to them are in fact acceptable "for similar purposes" in the courts of the requesting state.

[49] *Freedman* v. *United States*, *supra* note 37; *U.S. ex rel. Petrushansky* v. *Marasco*, *supra* note 12.

[50] Coppelman, *Extradition and Rendition: History-Law-Recommendations*, 14 Boston L.R. 591; 614 (1934).

[51] 18 U.S.. 3191 provides for compulsory process to secure the attendance at extradition hearings of witness on behalf of indigent fugitives. However, the statute applies only to witnesses who are resident in the United States. *Merino* v. *United States Marshal*, 326 F.2d 5, 11 (9th Cir. 1964), *cert. denied*, 377 U.S. 997 (1964).

[52] *Matter of Sindona*, 450 F. Supp. 672 (S.D.N.Y. 1978); *Shapiro* v. *Ferrandina*, *supra* note 47; *Freedman* v. *United States*, *supra* note 37; *Sayne* v. *Shipley*, *supra* note 44; *First National City Bank* v. *Aristequieta*, 287 F.2d 219, 226 (2d Cir. 1960); *Desmond* v. *Eggers*, 18 F.2d 503, 503-506 (9th Cir. 1927); *Collins* v. *Loisel*, *supra* note 46; *Charlton* v. *Kelley*, 229 U.S. 447, 458 (1913).

[53] See, generally, 6 Whiteman, *supra* note 3, at 859-865; Note, *Statute of Limitations in International Extradition*, 48 Yale L.J. 701 (1939).

[54] See, e.g., *Galanis* v. *Pallanck*, 568 F.2d 234 (2d Cir. 1978).

[55] *In re Ezeta et al.*, 62 Fed. 972 (N.D. Cal. 1894). Basically, under current case law, some courts have said that there are "pure" political offenses, such as treason or sedition, and "relative" political offenses, such as one "committed in the course of furthering civil war, insurrection or political commodition." *Id.*; *Karadzole* v. *Artukovic*, 242 F.2d 198 (9th Cir. 1957), rev'd on other grounds, 344 (U.S. 393 (1957); *United States ex rel. Karadzole* v. *Artukovic*, 170 F. Supp. 383 (S.D. Cal. 1959); *Ramos* v. *Diaz*, 179 F. Supp. 459 (S.D. Fla. 1959); see Hannay, *International Terrorism and the Political Offense Exception to Extradition*, 18 Columbia Journal of Transnational Law 381 (1980).

[56] *In re Lincoln*, 228 Fed. 70 (E.D.N.Y. 1915), aff'd *per curium*, 241 U.S. 651 (1917); *In re Gonzalez*, 217 F.2d 717, 722 (S.D.N.Y. 1963); *Garcia-Guillerin* v. *United States*, 450 F.2d 1192 (5th Cir. 1971); *In re Locatelli*, 468 F. Supp. 568, F. Supp. 568, 575 (S.D.N.Y. 1979); *Sindono* v. *Grant*, *supra* note 43.

[57] Compare *Ziyad Abu Ecin* v. *Wilkes*, 641 F.2d 504 (7th Cir.), cert. denied.—U.S.—(1981), with the Memorandum decision of the Secretary of State in the case of *Ziyad Abu Eain*, Hearings pp. 133-139.

[58] See, e.g., Art. 5(1), Extradition Treaty, United States-Mexico, signed May 4, 1978,—U.S.T.—, T.I.A.S. 9656 (entered into force January 25, 1980).

[59] For an excellent discussion of the political offense exception to extradition and the impact of recent cases, see Hearings, pp. 25-28, statement of William M. Hannay; Hannay, *supra* note 55.

[60] See Hearings, pp. 3, 4, 25-28, statements of Daniel McGovern and William M. Hannay; Levy, *Contemporary International Law: A Concise Introduction*, 190 (1979). The courts in various countries differ widely on what kinds of offenses are covered by the term, and legal scholars here and abroad have proposed a host of different—and frequently contradictory—proposals on the topic. See generally, Carbonneau, *The Political Offense Exception to Extradition and Transnational Terrorists: Old Doctrine Reformulated and New Norms Created*, 1 ASILS International Law Journal 1 (1977); Hannay, *supra* note 55.

[61] Three recent extradition cases graphically illustrate this point. In the *Peter McMullen* case, McMullen was charged with the bombing of a British army installation in England. In the *Desmond Mackin* case, Mackin was charged with an attempt to murder a British soldier dressed in civilian clothes in a Belfast bus station. In the third case, *Abu Eain* v. *Wilkes*, *supra* Abu Eain was charged with the bombing murder of several children in an Israeli resort town. In both the *McMullen* and *Mackin* cases the magistrates denied extradition on the grounds that the offenses charged were "political offenses". In the *Abu Eain* case the court of appeals held the political offense exception inapplicable. William Hannay, commenting on this judicial line drawing, observed (Hearing, p. 14):

> In each of these cases, the test set forth in the 19th century English case of *In re Castioni* . . . was accepted as the operative definition of a "relative" political offense. The court in a *Castioni* stated that a political offense is a crime which was "incidental to and formed a part of political disturbances" . . . The absurdity and ultimate cruelty of applying this test or any other "test" of a political offense is illustrated by the assertion of the magistrate in *McMullen* who taking the exception to its insane but logical end, stated: "[e]ven though the offense be deplorable and heinous, the criminal action will be excluded from deportation if the crime is committed under these prerequisites." . . . Mechanically applying the *Castioni* test the magistrates in *Mackin* and *McMullen* concluded that extradition was prohibited since "political disturbances" were taking place in Northern Ireland and the attempts by *Mackin* and *McMullen* to kill British soldiers were natural incidents of these disturbances.
>
> [With respect to the Seventh Circuit decision in *Abu Eain*] I find shocking the notion that the "political offense" exception is cut so far loose from any ethical mooring that Abu Eain's defense team could argue in apparent good faith that terror bombing of civilians is a legitimate technique in an "insurrection-liberation struggle," and that the political offense exception prevents extradition for such a crime. It was a sad spectacle to see a former Attorney General of the United States, representing Abu Eain, stand before the Seventh Circuit and utter that bankrupt shibboleth of moral relativism, "one man's terrorist is another man's freedom fighter." Second, the court's application of the [judicial] test for a political offense] in *Abu Eain* was ultimately just as mechanical as that in *Mackin* and *McMullen* and left the unmistakable impression that the court would have *denied* extradition if Abu Eain had directed his attacks at Israeli military or governmental officials. . . . We should, I suppose, feel some relief that the Seventh Circuit recognized that the killing of children on the streets of a resort town did not constitute a "political offense."

Hannay has raised the issue factually (see Hannay, *supra* note 55 at 382) but has not speculated on the line the Seventh circuit would draw with respect to the bombing assassination of Lord Louis Mountbatten that incidentially killed his grandson,

a local youth, and the mother-in-law of his daughter.

[62] See *supra* note 52, and accompanying text.

[63] See, e.g., Art. 10(6), Extradition Treaty, United States-Mexico, signed May 4, 1978. — U.S.T. —, T.I.A.A. 9656 (entered into force January 25, 1980). The United States will also be a party to the Convention Abolishing the Requirement of Legalization for Foreign Public Documents, done at The Hague, October 26, 1960, 527 U.N.T.S. 189 (ratified by the Senate Nov. 28, 1979). This Convention will eliminate a substantial portion of the authentication requirement with respect to extradition documents submitted by one signatory country to another.

[64] It is anticipated that in most cases the foreign state's diplomatic or consular personnel assigned to the United States will make the certification required by the section, thereby relieving U.S. diplomatic and consular officers abroad of this chore.

[65] See, generally, *United States* v. *Galanis*, 429 F. Supp. 1215 (D. Conn. 1977), rev'd on other grounds, 568 F.2d 234 (2d Cir. 1978).

[66] See Rule 5.1, Federal Rules of Criminal Precedure.

[67] *Greci* v. *Birkness*, *supra* note 41; *Brauch* v. *Raiche*, *supra* note 39.

[68] *U.S. ex rel. Sakaguchi* v. *Kaulukukui*, *520 F.2d 726, 728 (9th Cir. 1975)*; *Shapiro* v. *Ferrandina*, *supra* note 47.

[69] This requirement is consistent with the practice followed by the courts today. See *Kaplan* v. *Vokes*, — *F.2d* —, *(9th Cir. July 6, 1981)*; *Shapiro* v. *Ferrandina*, *supra* note 47.

[70] Present law (18 U.S.C. 3184) only requires that the court send the Secretary a transcript of the *testimony* taken at the hearing. By providing the executive branch with a fuller record of the proceedings the Secretary of State will be more fully informed in making his decision on extradition.

[71] *Collins* v. *Miller*, 252 U.S. 364, 369 (1920).

[72] See, e.g., *Sindona* v. *Grant*, *supra* note 43.

[73] *Hooker* v. *Elein*, 573 F.2d 1360 (9th Cir. 1978); *United States* v. *Mackin*, *supra* note 2.

[74] *Glucksman* v. *Henkel*, 221 U.S. 508, 512 (1911).

[75] *United States ex rel. Oppenheim* v. *Hecht*, 16 F.2d 955, 956 (2nd Cir. 1927); *United States ex rel. Klein* v. *Mulligan*, 1 F. Supp. 635, 636 (S.D. N.Y. 1922).

[76] The automatic stay of extradition expires when the court of appeals issues its mandate in the matter. Thus, the automatic stay would not ordinarily protect a fugitive seeking further, discretionary review, such as an applicant for a writ of *certiorari* from the Supreme Court. Of course, the fugitive whose case merits further review is free to request that either the court of appeals or the Supreme Court exercise its discretion by staying surrender while *certiorari* or other relief is considered.

[77] In fact, 18 U.S.C. 3184 specifically provides that a person found extraditable must be committed "to the proper jail, there to remain until . . . surrender shall be made".

[78] See *supra* notes 23 and 24, and accompanying text.

[79] *Jimenez* v. *Aristequieta*, 314 F.2d 649 (5th Cir. 1963).

[80] *Magisano* v. *Locke*, 545 F.2d 1228, 1230 (9th Cir. 1976).

[81] See, generally, Note, *Executive Discretion in Extradition*, 62 Columbia Law Review 1313 (1962).

[82] *In re Factors' Extradition*, 75 F.2d 10 (7th Cir. 1934); *In re Normano*, 7 F. Supp. 329 (D. Mass. 1934); 6 Whiteman, *supra* note 3, at 1064-69.

[83] *Jimenez* v. *United States District Court for the Southern District of Florida*, 84 S. Ct. 14, 11 L. Ed. 2nd 30 (1963); *Barrett* v. *United States*, 590 F.2d 624 (6th Cir. 1978).

[84] See, e.g., *Peroff* v. *Hylton*, 542 F.2d 1247, 1249 (4th Cir. 1976), *cert. denied*, 429 U.S. 1062 (1977); *Sindona* v. *Grant*, *supra* note 43 at 207 ; see Note, Columbia Law Review, *supra* note 81.

[85] For example, the Department of State has frequently conditioned surrender of a fugitive convicted in absentia upon a promise by the foreign country involved to permit a retrail. See, 6 Whiteman, *rupra*, note 3, at 1051, 1117-1122.

[86] For example, some treaties permit the requested state to condition extradition upon satisfactory assurances that the death penalty will not be imposed. See e.g., Art. 6, Extradition Treaty, Canada-United States, signed December 31, 1971, 27 U.S.T. 983, T.I.A.S. 8237 (entered into force March 27, 1976).

[87] *Peroff* v. *Hylton*, 563 F.2d 1099, 1102-1103 (4th Cir. 1977).

[88] At present, no extradition treaty to which the United States is a party expressly prohibits surrender of citizens of the requested state.

[89] 299 U.S. 5 (1936), *supra* note 32.

[90] Many foreign countries do not extradite their citizens because those countries can instead prosecute and punish their citizens for crimes committed in another country. As a general rule, the United States has no such ability. *Escobedo* and *Castillo* v. *Forsch*, 623 F.2d 1098 (5th Cir. 1980); 6 Whiteman, *supra* note 3, at 876-878.

[91] Executive Order 11517, 35 Fed Reg. 4937 (1970), *reprinted in* 1970 U.S. Code Cong. & Ad. News, at 6332.

[92] See, e.g., Extradition Act, R.S.C. 1952, c. 322 (Canada); s. 24, Ley de Extradicion (Dec. 29, 1975), Art. 11 (Mexico).

[93] *United States* v. *Rowbotham*, 430 F. Supp. 1254 (D. Mass. 1977); *United States* v. *Dolack*, 484 F.2d 527 (7th Cir. 1973). It is well to remember that both the prosecution and the defense suffer when a criminal trial is delayed too long. Indeed, as the Court of Appeals trenchantly remarked in *United States* v. *Judice*, 457 F. 2d 418, 418 (5th Cir. 1972): ". . . all practiced trial lawyers are well aware that attrition from . . . delay is more damaging to the prosecutor's case than to that of the defense. This will be so as long as the prosecution has the burden of proof."

[94] Cf. 6 Whiteman, *supra* note 3, at 1052-1053.

[95] For example, Art. 21, Extradition Treaty, United States-Mexico, signed May 4, 1978, —, U.S.T. —, T.I.A.S. 9656 (entered into force January 25, 1980) requires that the requested state bear all of the expenses of extradition except those incurred for the translation of the documents or the transportation of the fugitive. Extradition treaties are considered self-executing, Bassiouni, International Extradition and World Public Order 30-31 (1976), and supersede the provisions of prior inconsistent federal legislation. Restatement (Second) of Foreign Relations Law of the United States, § 141, Comment (b) at 433 (1965). Therefore, whether 18 U.S.C. 3195 or a differing treaty provision is applicable in a particular extradition case depends on when the treaty entered into force.

EXTRADITION ACT OF 1981

The Committee on Foreign Relations, to which was referred sequentially from the Committee on the Judiciary the bill, S. 1940 to amend Chapter 209 of Title 18, United States Code, relating to extradition, and for other purposes, for the purpose of considering only "political offense" and related provisions, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

PURPOSE

The purpose of S. 1940 is to modernize federal practices and procedures with respect to international extradition. The amendments to S. 1940 proposed by the Committee on Foreign Relations are intended to retain limited court jurisdiction with respect to application of the political offense exception in international extradition proceedings while providing specific guidance to the courts in making such findings. The proposed amendments carry forward in slightly different format the proposal of the Judiciary Committee to provide the Secretary of State with the sole authority to inquire into the motivation of the foreign state in requesting extradition and to determine whether extradition would be incompatible with humanitarian considerations. In making either of the above determinations, the Secretary would be required to consult with the appropriate Bureaus and Offices of the Department of State, including the Bureau of Human Rights and Humanitarian Affairs.

BACKGROUND

The present bill, S. 1940, was originally introduced as S. 1639 on September 18, 1981, by Senator Thurmond. On December 11, 1981, Senator Thurmond introduced a clean bill, S. 1940, to incorporate changes that had been suggested during the course of the Judiciary Committee's consideration of the original bill. The changes of specific interest to the Committee on Foreign Relations were twofold, as the Report of the Committee on the Judiciary notes:

"First, S. 1940, as introduced made it mandatory—rather than discretionary—for the Secretary of State to deny extradition when he is persuaded that the requesting State is seeking the person's extradition "for a political offense or an offense of a political character, or for the purpose of prosecuting or punishing the person for his political opinions." Second, as introduced, S. 1940 made it explicit in the statute that this determination would not be subject to judicial review. (Senate Report No. 97-331, p. 3)"

On February 3, 1982, Senator Percy wrote to Senator Thurmond and requested that S. 1940 be referred sequentially to the Committee on Foreign Relations for a reasonable period of time. The request for sequential referral was based in large part on the Committee's interest in those aspects of S. 1940 concerning the "political offense exception"—a standard provision in U.S. bilateral extradition treaties. The request for sequential referral was also prompted by the longstanding interest of the Committee in matters concerning international extradition stemming from the Committee's primary jurisdiction over all treaties, including those relating to extradition. For example, during the first session of the 97th Congress, the Committee on Foreign Relations considered and favorably reported two extradition treaties: a U.S.-Colombian agreement and a U.S.-Netherlands agreement. Six extradition treaties were approved by the Committee during the 96th Congress.

On April 15, the Committee on the Judiciary reported S. 1940 with Committee amendments. Specifically of interest to the Committee on Foreign Relations, the Judiciary Committee amended section 3196(a) of S. 1940 to provide that the Secretary of State's authority to determine application of the political offense exception would be subject to judicial review and be upheld by the reviewing court if it is supported by susbtantial evidence.

COMMITTEE ACTION

S. 1940, as reported by the Committee on the Judiciary, was referred to the Committee on Foreign Relations on April 19.

Following referral, majority and minority staff of the Committee jointly reviewed the record from the three days of hearings held in the House and Senate on revision in the extradition law. Staff also consulted with and reviewed the comments of representatives of the Departments of Justice and State, the staffs of the House and Senate Judiciary Committees, a panel of experts assembled by the American Society of International Law, representatives from the American Civil Liberties Union, practicing attorneys, and scholars concerning S. 1940 and the political offense exception.

At its business meeting on May 19, the Committee met to consider its proposed amendments to S. 1940, as reported by the Committee on the Judiciary on April 15. The proposed amendments concerned the political offense exception and related provisions as set forth in S. 1940. Following discussion of S. 1940, the Committee by voice vote with a quorum present unanimously approved the proposed amendments described in this Report.

COMMITTEE COMMENTS

The political offense exception is a standard provision in U.S. extradition treaties and in its usual form provides that there shall be no extradition for crimes of a political nature. Political offenses are generally divided into two classes—"pure" political offenses and "relative" political offenses. Pure political offenses include treason, sedition, and espionage: crimes of political dissent that can only be committed against the state. Relative political offenses involve common crimes that are linked to political motivation or circumstances. Under one commonly-used standard, extradition for such offenses has been barred when the state from which extradition is sought determines that the political content of the act outweighs the harm that may have been done in committing the offense. This attitude, according to a leading expert, resulted from the "growth and evolution of political institutions towards the liberal state (which) together with the rise of individualism sparked the concern for the political offender, especially where he had escaped from a nation with more 'benighted' views of government." [1]

Another expert has characterized the exception in the following terms:

"The political offense exception is the embodiment of the notion that political dissenters or rebels ought not be turned over for trial and punishment to the very government which they have opposed. This concept is now well accepted in customary international law . . . It is in keeping with the very purpose of the political offense exception that its definition be a flexible one, which may encompass and protect a broad range of legitimate political dissent. A broad definition need not be a mechanistic or all-inclusive one. The word 'political' may have different meanings in different contexts, and the United States is under no legal or moral obligation to shelter a fugitive from extradition simply because he claims a political motive for his crime. (Professor Steven Lubet testifying before the House Committee on the Judiciary, Subcommittee on Crime, February 3, 1982)."[2]

While the assertion of a "pure" political offense is seldom at issue in extradition proceedings, claims of "relative" political offenses have been litigated in a number of extradition cases and have generated considerable academic debate about its present day utility. During the past decade, particular concern has been raised over the use of the exception to bar extradition for acts of international terrorism which ostensibly are associated with political activity or protest. For example, in two recent cases, by convincing the courts to invoke the political offense exception, members of the Provisional Irish Republican Army (PIRA) successfully resisted extradition to the United Kingdom for violent crimes that they were alleged to have committed against a British soldier and government property.[3] However, in another case involving a PLO member, Zyad Abu Eain, who was sought by the Israeli government for his participation in a bombing randomly directed at civilians in a marketplace in the country, the court refused to apply the political offense exception.[4] Subsequently, Abu Eain was extradited to Israel to stand trial.

The PIRA cases and the case of Abu Eain have raised serious questions about the ability of the courts to interpret consistently the political offense exception. Both the Carter and Reagan Administrations have argued that because of loose and inconsistent application of the exception, the United States may be viewed by international terrorists as a potential safehaven where their crimes may go unpunished if presented in the guise of justifiable political actions. Consequently, both Administrations have urged successively that clear guidelines be established to guide the determination of political offense exceptions. It has also been suggested, as reflected in the version of S. 1940 reported by the Judiciary Committee that the courts are ill-equipped to decide issues that turn so heavily on questions of U.S. foreign policy and that, consequently, the Secretary of State should be vested with the sole authority to determine the application of the exception subject to limited judicial review.

* * * * *

SECTION-BY-SECTION ANALYSES OF THOSE PROVISIONS OF S. 1940 AS REPORTED BY THE COMMITTEE ON THE JUDICIARY, PROPOSED TO BE AMENDED BY THE COMMITTEE ON FOREIGN RELATIONS

The major provision of S. 1940, as reported by the Committee on the Judiciary, and their comparison to present federal law are set forth in Senate Report No. 97-331. The Report of the Committee on Foreign Relations relates solely to a discussion and analyses of the amendments set forth above as reported on May 19 by the Committee on Foreign Relations.

Section 3194(a), as reported by the Committee on the Judiciary, provides that the courts do not have jurisdiction to determine whether extradition is sought for a political offense or because of a person's political belief. In turn, the authority to make such determinations is vested in the Secretary of State pursuant to Section 3196(a)(3).

According to the Report of the Judiciary Committee:

"Section 3196 (a)(3) specifies that the Secretary of State must decline to order surrender of a person if, after taking into account certain statutory principles generally eliminating specified types of crimes from the political offense exception (e.g., crimes of violence and drug trafficking), he is persuaded that the person's extradition is sought for one of these reasons. The provisions taken together provide that the Secretary of State shall have jurisdiction to decide the applicability of the "political offense" exception to extradition contained in most extradition treaties, such decision to be consistent with the statutory guidelines and reviewable in the United States courts of appeal based on a substantial evidence standard. (Report No. 97-331, p. 14)."

The Committee on Foreign Relations proposes amending section 3194(a), as reported by the Committee on the Judiciary, to permit the appropriate courts to make findings concerning the application of the political offense exception. While it can be argued that the Secretary of State is generally better able than the courts to assess the circumstances justifying a political offense exception, the Committee favors the retention of some role for the judicial process. Most countries with whom the U.S. has extradition agreements permit the courts to make such determinations. Moreover, American courts have reviewed political offense questions for nearly one hundred years. Preserving limited court jurisdiction to interpret the exception pursuant to legislative guidelines would continue this well-established tradition. It would also provide a check against an executive authority that could, depending upon the political sensitivities involved in a given case, result in inconsistent and unsound application of the political offense exception.

However, while the Committee on Foreign Relations has concluded that the courts should retain some jurisdiction over political offense cases, it is also very clear that in order to effect more consistent application of the exception, the courts must be given clearer guidelines with respect to certain classes of behavior that should never be considered political offense and others which should only be considered political offenses in extraordinary circumstances. This proposed guidance is set forth in section 3194 (e)(1) and (e)(2) as reported by the Committee on Foreign Relations and closely resembles the guidelines proposed for the Secretary of State by the Judiciary Committee in section 3196(a)(3) as reported by that Committee.

The Committee on Foreign Relations has proposed its amendments to section 3194 of S. 1940 based on the belief that it is inappropriate to apply the political offense exception to conduct that the international community has taken formal steps to prohibit and punish. Drawing on this standard, the Committee has concluded that the political offense exception should not be considered by the court when to apply it would have the effect of protecting behavior that is specifically outlawed internationally. Included in this category would be offenses within the scope of either the Hague Convention on Seizure of Aircraft; the Montreal Convention on the Suppression of Unlawful Acts Against the Safety of Civil Aviation; the Convention on the Physical Protection of Nuclear Materials; the International Convention Against the Taking of Hostages; the Convention on the Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents; other multilateral treaties obligating the U.S. to either extradite or prosecute persons whose offenses are contemplated by the applicable treaty; and the manufacture, sale, or distribution of narcotics. The proposed amendment creating section 3194(e)(1) establishes an absolute prohibition against the courts considering such acts to be political offenses. The intended effect of this prohibition is to deter international terrorists and other crimimals from using the United States as a safehaven from prosecution for crimes they claim to be political but whose characteristics violate overriding international legal standards.

While the Committee recognizes that current case law continues to apply to offenses not specified in section 3194 (e)(1) or (c)(2), it believes that a different standard should apply to those offenses involving the use of firearms or explosives, or other behavior involving the use of force or violence as set

[1] Epps, Valerie, "The Validity of the Political Offender Exception in Anglo-American Jurisprudence." *Harvard International Law Journal*, Winter 1979, pp. 69-88.

[2] Professor Steven Lubet testifying before the House Committee on the Judiciary, Subcommittee on Crime, February 3, 1982.

[3] United States v. Mackin—80 C.R. Misc. 1 (S.D. N.Y. 1981) *Gov't Appeal Dismissed with Opinion, Sub Nom.*—F2d—1981.

[4] *Zyad Abu Eain* v. *Wilkes*, 641 F.2d 504 (7th Cir. 1981).

forth in section 3194(2). In such cases, extraordinary circumstances must be demonstrated by the person resisting extradition in order for the appropriate court to find that a political offense has been committed. This standard is consistent with the guidelines already set forth in S. 1940 and allows for the political offense exception to be applied potentially in that very narrow class of cases where an otherwise common crime may be transformed by the political content in which it is committed.

The Committee intends that the burden of the person resisting extradition in demonstrating such extraordinary circumstances should be a considerable one. While current case law may provide useful guidance it is not intended, for example, that the mere existence of a rebellion, civil war, riot or other disturbance, during which the offense in question is committed, should result in a finding that the offense itself is political in nature.[5] Nor should it be sufficient simply to show that the motivation of the individual committing the act—however sincere or noble—was related to a political objective. It should not be the policy of the United States to encourage or condone violent or other criminal behavior simply because it is the view of the persons committing such acts that they are somehow connected with a political activity or have an obstensible political purpose or justification. However, it should also not be the policy of the United States to render up automatically to foreign authorities an individual who, in the course of seeking to exercise legitimate civil or political rights in a non-violent manner, is placed in such a position that he has no reasonable choice except to commit an otherwise criminal act. For the court to make such a determination the test should be focused upon the individual and whether the offense for which he is sought was a consequence of the violation of his internationally recognized civil or political rights by the state requesting extradition. Acts of indiscriminate or excessive violence or acts of deliberate brutality would presumably never fall within the exception.

In short, while the occasions for recognizing the political offense exception will necessarily be few and far between, the Committee believes that it should continue to be within the authority of U.S. courts to determine that the exception should apply, subject to the procedural innovations and exclusions introduced in this legislation.

The belief that such findings are expected to be rare is further reinforced by the amendment proposed by the Foreign Relations Committee in section 3194(e) providing that the person claiming application of the exception must establish by clear and convincing evidence that any offense for which such person may be subject to prosecution or punishment if extradited is a political offense. This necessarily includes offenses that may not be subject to the extraordinary circumstances standard established in section 3194(e)(2). Shifting the burden of the proof to the person seeking application of the political offense exception reinforces the Committee's belief that its legitimate application should be infrequent and also in accords with the guidelines established in section 3194(e) (1) and (2).

Section 3194 (g)(1) and (g)(2) restrict the jurisdiction of the courts with respect to questions that may turn largely on the conduct of U.S. foreign policy, thus falling within the domain of the executive branch. Section 3194(g)(1) clearly establishes the sole authority of the Secretary of State to deny extradition if a foreign state is seeking the person's return for the purposes of prosecuting or punishing the person because of his or her political opinions, race, religion, or nationality and if the applicable extradition agreement provides the Secretary with the authority to deny extradition for such reasons. This authority would, when applicable, follow the rule of non-inquiry whereby the courts refrain from making findings on issues largely concerned with the internal political or social circumstances in a foreign state. The Secretary of State, however, is considered uniquely qualified to make such inquiries as this practice is already a significant aspect of his foreign policymaking responsibilities. Section 3194(g)(2) provides the Secretary with the sole authority to determine if the person's extradition is incompatible with humanitarian considerations, such as the age or infirmity of the person being sought as well as the proportionality of the punishment that may be imposed in relation to the crime that may have been committed. This authority may be exercised so long as the applicable extradition agreement provides the Secretary with the authority to deny extradition for such reasons. Sections 3194 (g)(1) and (g)(2) should in most cases provide the preferred basis for appropriate relief from extradition on grounds consistent with the traditions, heritage, and foreign policy principles of this country. Further, the Committee on Foreign Relations considers it desirable to provide for the authority established in sections 3194 (g)(1) and (g)(2) in any future extradition agreements to which the United States may become a party.

Section 3194(g)(3) as proposed by the Committee on Foreign Relations requires the Secretary of State to consult with the appropriate Offices and Bureaus of the Department of State, including the Bureau of Human Rights and Humanitarian Affairs. Requiring the Secretary to consult with that Bureau is intended to ensure that the Secretary is fully advised on the political and social conditions in the foreign state at issue. It also reinforces the Committee's belief that determinations by the Secretary of State concerning foreign state motivation in requesting extradition, as well as any determinations involving humanitarian considerations, should build upon existing principles governing asylum requests. As such they should be executive determinations and not judicial findings. Presently, the Bureau of Human Rights and Humanitarian Affairs advises the Secretary of State and the Department of Justice on asylum issues. The proposed amendment is, therefore, in keeping with the Bureau's current role in such matters.

The remaining amendments proposed by the Committee on Foreign Relations and contained in section 3196 of S. 1940 as reported by the Committee on the Judiciary are technical revisions setting forth the authority of the Secretary of State in matters relating to international extradition in accordance with the amendments proposed by the Committee on Foreign Relations in section 3194 supra.

S. 220

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Extradition Act of 1982".

SEC. 2. Chapter 209 of title 18, United States Code, is amended as follows:

(a) Section 3181 is deleted.

(b) Section 3182 is redesignated as section "3181."

(c) Section 3183 is redesignated as section "3182" and is amended by striking out "or the Panama Canal Zone" in the first sentence.

(d) A new section 3183 is added as follows:

"§ 3183. Payment of fees and costs

"All costs or expenses incurred in any interstate rendition proceeding and apprehending, securing, and transmitting a fugitive shall be paid by the demanding authority.".

(e) Sections 3184 through 3195 are deleted.

(f) The chapter heading and section analysis are amended to read as follows:

"CHAPTER 209—INTERSTATE RENDITION

"3181. Fugitives from State or Territory to State, District, or Territory.
"3182. Fugitives from State, Territory or Possession into extraterritorial jurisdiction of the United States.
"3183. Payment of fees and costs.".

SEC. 3. A new chapter 210 of title 18 of the United States Code is added as follows:

"CHAPTER 210—INTERNATIONAL EXTRADITION

"Sec.
"3191. Extradition authority in general.
"3192. Initial procedure.
"3193. Waiver of extradition hearing and consent to removal.
"3194. Extradition hearing.
"3195. Appeal.
"3196. Surrender of a person to a foreign state.
"3197. Receipt of a person from a foreign state.
"3198. General provisions for chapter.

"§ 3191. Extradition authority in general

"The United States may extradite a person to a foreign state pursuant to this chapter only if—

"(a) there is a treaty concerning extradition between the United States and the foreign state; and

"(b) the foreign state requests extradition within the terms of the applicable treaty.

"§ 3192. Initial procedure

"(a) IN GENERAL.—The Attorney General may file a complaint charging that a person is extraditable. The Attorney General shall file the complaint in the United States district court—

[5] Two recent decisions in particular, the *Mackin and McMullen* cases, applied what is generally called the "Castioni test", after the 19th century English case of *In re Castioni* which is commonly understood as having established a two-part test which must be met for a common crime to be regarded as a relative political offense: (1) the act must have been committed during an uprising, involving a group of which the accused was a member; and (2) the act must have been "incidental to" the political uprising, that is, done in furtherance of or with the intention of assisting the uprising. The court in *Castioni* justified its decision not to extradite by saying that "one cannot look too hardly and weigh in golden scales the acts of men hot in their political excitement." Applying the test, the courts in the above-mentioned cases denied requests by the Government of the United Kingdom for the extradition of two members of the Provisional Irish Republican Army who were alleged to have committed violent crimes in Northern Ireland but which were deemed "political offenses" by the U.S. courts.

"(1) for the district in which the person may be found; or

"(2) for the District of Columbia, if the Attorney General does not know where the person may be found

"(b) COMPLAINT.—The complaint shall be made under oath or affirmation, and shall specify the offense for which extradition is sought. The complaint—

"(1) shall be accompanied by a copy of the request for extradition and by the evidence and documents required by the applicable treaty; or

"(2) shall be accompanied by the materials specified in paragraph (1)—

"(A) shall contain—

"(i) information sufficient to identify the person sought;

"(ii) a statement of the essential facts constituting the offense that the person is believed to have committed, or a statement that an arrest warrant for the person is outstanding in the foreign state; and

"(iii) a description of the circumstances that justify the person's arrest; or

"(B) shall contain such other information as is required by the applicable treaty;

and shall be supplemented before the extradition hearing by the materials specified in paragraph (1).

"(c) ARREST OR SUMMONS.—Upon receipt of a complaint, the court shall issue a warrant for the arrest of the person sought, or, if the Attorney General so requests, a summons to the person to appear at an extradition hearing. The warrant or summons shall be executed in the manner prescribed by rule 4(d) of the Federal Rules of Criminal Procedure. A person arrested pursuant to this section shall be taken without unnecessary delay before the nearest available court for an extradition hearing.

"(d) DETENTION OR RELEASE OF ARRESTED PERSON.—

"(1) The court shall order that a person arrested under this section be held in official detention pending the extradition hearing unless the person establishes to the satisfaction of the court that special circumstances require his release.

"(2) Unless otherwise provided by the applicable treaty, if a person is detained pursuant to paragraph (1) in a proceeding in which the complaint is filed under subsection (b)(2), and if, within sixty days of the person's arrest, the court has not received—

"(A) the evidence or documents required by the applicable treaty; or

"(B) notice that the evidence or documents have been received by the Department of State and will promptly be transmitted to the court; the court may order that the person be released from official detention pending the extradition hearing.

"(3) If the court orders the release of the person pending the extradition hearing, it shall impose conditions of release that will reasonably assure the appearance of the person as required and the safety of any other person and the community.

"§ 3193. Waiver of extradition hearing and consent to removal

"(a) INFORMING THE COURT OF WAIVER AND CONSENT.—A person against whom a complaint is filed may waive the requirements of formal extradition proceedings, including an order of surrender, by informing the court that he consents to removal to the foreign state.

"(b) INQUIRY BY THE COURT.—The court, upon being informed of the person's consent to removal, shall—

"(1) inform the person that he has a right to consult with counsel and that, if he is financially unable to obtain counsel, counsel may be appointed to represent him pursuant to section 3006A; and

"(2) address the person to determine whether his consent is—

"(A) voluntary, and not the result of a threat or other improper inducement; and

"(B) given with full knowledge of its consequences, including the fact that it may not be revoked after the court has accepted it.

"(c) FINDING OF CONSENT AND ORDER OF REMOVAL.—If the court finds that the person's consent to removal is voluntary and given with full knowledge of its consequences, it shall, unless the Attorney General notifies the court that the foreign state or the United States objects to such removal, order the surrender of the person to the custody of a duly appointed agent of the foreign state requesting extradition. The court shall order that the person be held in official detention until surrendered.

"(d) LIMITATION ON DETENTION PENDING REMOVAL.—A person whom the court orders surrendered pursuant to subsection (c) may, upon reasonable notice to the Secretary of State, petition the court for release from official detention if, excluding any time during which removal is delayed by judicial proceedings, the person is not removed from the United States within thirty days after the court ordered the person's surrender. The court may grant the petition unless the Secretary of State, through the Attorney General, shows good cause why the petition should not be granted.

"§ 3194. Extradition hearing

"(a) IN GENERAL.—The court shall hold a hearing to determine whether the person against whom a complaint is filed is extraditable as provided in subsection (d), unless the hearing is waived pursuant to section 3193. The court does not have jurisdiction to determine—

"(1) the merits of the charge against the person by the foreign state;

"(2) whether the foreign state is seeking the extradition of the person for the purpose of prosecuting or punishing the person for his political opinions, race, religion, or nationality; or

"(3) whether the extradition of the person to the foreign state seeking his return would be incompatible with humanitarian considerations.

The hearing shall be held as soon as practicable after the arrest of the person or issuance of the summons.

"(b) RIGHTS OF THE PERSON SOUGHT.—The court shall inform the person of the limited purpose of the hearing, and shall inform him that—

"(1) he has the right to be represented by counsel and that, if he is financially unable to obtain counsel, counsel may be appointed to represent him pursuant to section 3006A; and

"(2) he may cross-examine witnesses who appear against him and may introduce evidence in his own behalf with respect to the matters set forth in subsection (d).

"(c) EVIDENCE.—

"(1) a deposition, warrant, or other document, or a copy thereof, is admissible as evidence in the hearing if—

"(A) it is authenticated in accordance with the provisions of an applicable treaty or law of the United States;

"(B) it is authenticated in accordance with the applicable law of the foreign state, and such authentication may be established conclusively by a showing that—

"(i) a judge, magistrate, or other appropriate officer of the foreign state has signed a certification to that effect; and

"(ii) a diplomatic or consular officer of the United States who is assigned or accredited to the foreign state, or a diplomatic or consular officer of the foreign state who is assigned or accredited to the United States, has certified the signature and position of the judge, magistrate, or other officer; or

"(C) other evidence is sufficient to enable the court to conclude that the document is authentic.

"(2) A certificate or affidavit by an appropriate official of the Department of State is admissible as evidence of the existence of a treaty or its interpretation.

"(3) If the applicable treaty requires that such evidence be presented on behalf of the foreign state as would justify ordering a trial of the person if the offense has been committed in the United States, the requirement is satisfied if the evidence establishes probable cause to believe that an offense was committed and that the person sought committed it.

"(d) FINDINGS.—The court shall find that the person is extraditable if it finds that—

"(1) there is probable cause to believe that the person arrested or summoned to appear is the person sought in the foreign state;

"(2) the evidence presented is sufficient to support the complaint under the provisions of the applicable treaty;

"(3) no defense to extradition specified in the applicable treaty, and within the jurisdiction of the court, exists; and

"(4) the act upon which the request for extradition is based would constitute an offense punishable under the laws of—

"(A) the United States;

"(B) the State where the fugitive is found; or

"(C) a majority of the States.

The court may base a finding that a person is extraditable upon evidence consisting, in whole or in part, of hearsay or of properly certified documents.

"(e) POLITICAL OFFENSES AND OFFENSES OF A POLITICAL CHARACTER.—The court shall not find the person extraditable after a hearing under this section if the court finds that the person has established by clear and convincing evidence that any offense for which such person may be subject to prosecution or punishment if extradited is a political offense or an offense of a political character. For the purposes of this subsection, the terms "political offense" and "offense of a political character"—

"(1) do not include—

"(A) an offense within the scope of the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on December 16, 1970;

"(B) an offense within the scope of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, signed at Montreal on September 23, 1971;

"(C) a serious offense involving an attack against the life, physical integrity, or liberty of internationally protected persons (as defined in section 1116 of this title), including diplomatic agents;

"(D) an offense with respect to which a multilateral treaty obligates the United States to either extradite or prosecute a person accused of the offense;

"(E) an offense that consists of the manufacture, importation, distribution, or sale of narcotics or dangerous drugs;

"(F) an offense that consists of rape;

"(G) an attempt or conspiracy to commit an offense described in subparagraphs (A)

through (F) of this paragraph, or participation as an accomplice of a person who commits, attempts, or conspires to commit such an offense.

"(2) Except in extraordinary circumstances, do not include—

"(A) an offense that consists of homicide, assault with intent to commit serious bodily injury, kidnapping, the taking of a hostage, or a serious unlawful detention;

"(B) an offense involving the use of a firearm (as such term is defined in section 921 of this title) if such use endangers a person other than the offender;

"(C) an attempt or conspiracy to commit an offense described in subparagraphs (A) or (B) of this paragraph, or participation as an accomplice of a person who commits, attempts, or conspires to commit such an offense.

The court shall not take evidence with respect to, or otherwise consider, an issue under this subsection until the court determines the person is otherwise extraditable. Upon motion of the Attorney General or the person sought to be extradited, the United States district court may order the determination of any issue under this subsection by a judge of such court.

"(f) CERTIFICATION OF FINDINGS TO THE SECRETARY OF STATE.—

"(1) If the court finds that the person is extraditable, it shall state the reasons for its findings as to each charge or conviction, and certify its findings, together with a transcript of the proceedings, to the Secretary of State. The court shall order that the person be held in official detention until surrendered to a duly appointed agent of the foreign state, or until the Secretary of State declines to order the person's surrender.

"(2) If the court finds that the person is not extraditable, it shall state the reasons for its findings as to each charge or conviction, and certify the findings, together with such report as the court considers appropriate, to the Secretary of State. The Attorney General may commence a new action for extradition of the person only with the agreement of the Secretary of State.

"§ 3195. Appeal

"(a) IN GENERAL.—Either party may appeal, to the appropriate United States court of appeals, the findings by the district court on a complaint for extradition. The appeal shall be taken in the manner prescribed by rules 3 and 4(b) of the Federal Rules of Appellate Procedure, and shall be heard as soon as practicable after the filing of the notice of appeal. Pending determination of the appeal, the district court shall stay the extradition of a person found extraditable.

"(b) DETENTION OR RELEASE PENDING APPEAL.—If the district court found that the person sought is—

"(1) extraditable, it shall order that the person be held in official detention pending determination of the appeal, or pending a finding by the court of appeals that the person has established that special circumstances require his release;

"(2) not extraditable, it shall order that the person be released pending determination of an appeal unless the court is satisfied that the person is likely to flee or to endanger the safety of any other person or the community.

If the court orders the release of a person pending determination of an appeal, it shall impose conditions of release that will reasonably assure the appearance of the person as required and the safety of any other person and the community.

"(c) SUBSEQUENT REVIEW.—No court has jurisdiction to review a finding that a person is extraditable unless the person has exhausted his remedies under subsection (a). If the person files a petition for habeas corpus or for other review, he shall specify whether the finding that he is extraditable has been upheld by a court and if so, shall specify the court, the date, and the nature of each such proceeding. A court does not have jurisdiction to entertain a person's petition for habeas corpus or for other review if his commitment has previously been upheld, unless the court finds that the grounds for the petition or appeal could not previously have been presented.

"§ 3196. Surrender of a person to a foreign state

"(a) RESPONSIBILITY OF THE SECRETARY OF STATE.—If a person is found extraditable pursuant to section 3194, the Secretary of State, upon consideration of the provisions of the applicable treaty and this chapter—

"(1) may order the surrender of the person to the custody of a duly appointed agent of the foreign state requesting extradition;

"(2) may order such surrender of the person contingent on the acceptance by the foreign state of such conditions as the Secretary considers necessary to effectuate the purposes of the treaty or the interest of justice; or

"(3) may decline to order the surrender of the person if the Secretary is persuaded that—

"(A) the foreign state is seeking extradition of the person for the purpose of prosecuting or punishing the person because of his political opinions, race, religion, or nationality; or

"(B) the extradition of the person to the foreign state seeking his return would be incompatible with humanitarian considerations.

The Secretary may order the surrender of a person who is a national of the United States unless such surrender is expressly forbidden by the applicable treaty or by the laws of the United States. A decision of the Secretary under paragraphs (1), (2), or (3) is a matter solely within the discretion of the Secretary and is not subject to judicial review: *Provided, however,* That in determining the application of paragraph (3), the Secretary shall consult with the appropriate bureaus and offices of the Department of State, including the Bureau of Human Rights and Humanitarian Affairs.

"(b) NOTICE OF DECISION.—The Secretary of State, upon ordering a person's surrender or denying a request for extradition in whole, or in part, shall notify the person sought, the diplomatic representative of the foreign state, the Attorney General, and the court that found the person extraditable. If the Secretary orders the person's surrender, he also shall notify the diplomatic representative of the foreign state of the time limitation on the person's detention that is provided by subsection (c)(2).

"(c) LIMITATION ON DETENTION PENDING DECISION OR REMOVAL.—A person who is found extraditable pursuant to section 3194 may, upon reasonable notice to the Secretary of State, petition the court for release from official detention if, excluding any time during which removal is delayed by judicial proceedings—

"(1) the Secretary does not order the person's surrender, or decline to order the person's surrender, within forty-five days after his receipt of the court's findings and the transcript of the proceedings; or

"(2) the person is not removed from the United States within thirty days after the Secretary ordered the person's surrender.

The court may grant the petition unless the Secretary of State, through the Attorney General, shows good cause why the petition should not be granted.

"§ 3197. Receipt of a person from a foreign state

"(a) APPOINTMENT AND AUTHORITY OF RECEIVING AGENT.—The Attorney General shall appoint an agent to receive, from a foreign state, custody of a person accused of a Federal, State, or local offense. The agent shall have the authority of a United States marshal. The agent shall convey the person directly to the Federal or State jurisdiction that sought his return.

"(b) TEMPORARY EXTRADITION TO THE UNITED STATES.—If a foreign state delivers custody of a person accused of a Federal, State, or local offense to an agent of the United States on the condition that the person be returned to the foreign state at the conclusion of criminal proceedings in the United States, the Bureau of Prisons shall hold the person in custody pending the conclusion of the proceedings, and shall then surrender the person to a duly appointed agent of the foreign state. The return of the person to the foreign state is not subject to the requirements of this chapter.

"§ 3198. General provisions for chapter

"(a) DEFINITIONS.—As used in this chapter—

"(1) 'court' means

"(A) a United States district court established pursuant to section 132 of title 28, United States Code, the District Court of Guam, the District Court of the Virgin Islands, or the District Court of the Northern Mariana Islands, or

"(B) a United States magistrate authorized to conduct an extradition proceeding;

"(2) 'foreign state', when used in other than a geographic sense, means the government of a foreign state;

"(3) 'foreign state', when used in a geographic sense, includes all territory under the jurisdiction of a foreign state, including a colony, dependency, and constituent part of the state; its air space and territorial waters; and vessels or aircraft registered in the state;

"(4) 'treaty' includes a treaty, convention, or international agreement, bilateral or multilateral, that is in force after advice and consent by the Senate; and

"(5) 'warrant', as used with reference to a foreign state, means any judicial document authorizing the arrest or detention of a person accused or convicted of a crime.

"(b) PAYMENT OF FEES AND COSTS.—Unless otherwise specified by treaty, all transportation costs, subsistence expenses, and translation costs incurred in connection with the extradition or return of a person at the request of—

"(1) a foreign state, shall be borne by the foreign state unless the Secretary of State directs otherwise;

"(2) a State, shall be borne by the State; and

"(3) the United States, shall be borne by the United States.".

SEC. 4. This Act shall take effect on the first day of the first month after enactment, and shall be applicable to extradition and rendition proceedings commenced thereafter.

Mr. THURMOND. I might mention that the Judiciary Committee is beginning to hold hearings now on organized crime. The first hearing is being held today in room 325 of the Russell Building. The Attorney General is the first witness today. The Director of the Federal Bureau of Investigation follows him. On other days, we will be holding hearings on organized crime. Some hearings will be held in cities outside of Washington in various parts of the country.

As I stated in my statement a few moments ago, crime is rated by the American people as the biggest problem in this country next to the economy. We must take remedial action in this Congress to guarantee the safety of our citizens in this Nation.

Mr. President, I commend the various Senators who have cosponsored these bills. The bills will indicate the names of the Senators. On some bills we have more cosponsors than others, but I am proud that they have joined on these bills. I hope others will see fit to join us since we intend to prosecute promptly the passage of these bills so that the American people can benefit from this legislation.

By Mr. THURMOND:

S. 221. A bill to temporarily suspend the duty on certain menthol feedstocks until June 30, 1986; to the Committee on Finance.

SUSPENSION OF DUTY ON CERTAIN FEEDSTOCKS

Mr. THURMOND. Mr. President, today I am introducing a bill to temporarily suspend the duty on certain menthol feedstocks until June 30, 1986. This bill is identical to one I introduced late in the 97th Congress; however, there was insufficient time for the Senate to consider this legislation before the end of the session.

The feedstocks that this bill concerns are utilized by domestic manufacturers to produce synthetic menthol. A duty is applied to these chemicals when they are imported to the United States from West Germany. Since there are no domestic industries that produce these particular feedstocks, this duty does not afford protection to any chemical manufacturer in the United States. To the contrary, it imposes an unnecessary economic cost on the U.S. menthol industry by increasing the production costs for that industry.

Mr. President, this unnecessary duty only compounds the problems that face our domestic menthol industry. In 1977, when mainland China was granted most-favored-nation status, the duty on Chinese menthol fell from 50 cents per pound to 17 cents per pound. This forced our domestic menthol producers to compete with highly subsidized and cheaply produced menthol imports. This situation coupled with tariffs on menthol imports imposed by countries such as Japan, have placed our domestic producers of menthol at a competitive disadvantage.

Mr. President, I realize that this legislation does not represent a complete solution to the numerous trade difficulties that our domestic menthol producers face today. However, it would allow America's menthol manufacturers to become more price competitive with menthol imported from mainland China. This will help preserve America's menthol industry and the many jobs it represents. For that reason, I am hopeful that the Finance Committee and the Congress can favorably consider this bill in the near future.

By Mr. KASTEN (for himself, Mr. HEFLIN, Mr. HELMS, Mr. HUMPHREY, Mr. PROXMIRE, Mr. QUAYLE, Mrs. KASSEBAUM, Mrs. HAWKINS, Mr. EXON, Mr. BOREN, Mr. HUDDLESTON, Mr. EAST, Mr. HOLLINGS, Mr. JEPSEN, Mr. DECONCINI, Mr. RANDOLPH, Mr. TRIBLE, Mr. ZORINSKY, Mr. TSONGAS, Mr. GLENN, Mr. NICKLES, and Mr. COCHRAN):

S. 222. A bill to repeal the withholding of tax from interest and dividends and to require statements to be filed by the taxpayer with respect to interest, dividends, and patronage dividends; to the Committee on Finance.

REPEAL OF CERTAIN WITHHOLDING PROVISIONS

Mr. BAKER. Mr. President, on behalf of Senator KASTEN and a number of cosponsors, today I introduce S. 222, a bill to repeal withholding on interest and dividend income.

Mr. President, I ask unanimous consent that a statement by Senator KASTEN regarding S. 222 appear at this point in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

● Mr. KASTEN. Mr. President, the law requiring 10-percent withholding on interest and dividend income will go into effect this July—and with this law comes an administrative nightmare for savers across the country. The outcry to eliminate withholding is gaining strength every day. If we act quickly, we can do something about withholding before it is too late.

Today I am reintroducing my bill to repeal withholding. Almost half of all interest-and-dividend-earning accounts belong to the elderly, children, and those with low incomes. Even though these people will be exempt from withholding, it will be up to them to find out if they qualify, and to get hold of the exemption certificates required. A different form must be filed for every savings account, NOW account, stock, or other source of dividend and interest income they have. And, every time a new account is opened, a piece of stock is bought or sold, or a money market fund is started, an additional form will be required.

Withholding will hurt the low-income elderly most. Older Americans receive much of the dividend and interest income in this country, but many rely on this money to make it from day to day—to pay for food, heat, medical care, and shelter. Losing 10 percent of their dividend and interest income each month could force a noticeable change in the quality of their lives.

The Treasury Department expects to raise $5 billion from withholding in fiscal year 1984. Only about $3 billion of that comes from increased taxpayer compliance—people paying taxes they should have been paying all along. The rest is, in reality, an interest-free loan from the American people to Uncle Sam. Instead of having that money earning interest in savings accounts all year, it will be sent off to the Federal Government. In other words, in order to get at the small percentage of taxpayers who fail to report their interest and dividend income, we are penalizing nearly 90 percent of the American taxpayers who have honestly paid their taxes all along.

Mr. President, this bill will replace withholding with stricter information reporting requirements. A recent IRS study shows that improved information reporting alone will increase compliance and revenues to 97 percent. My bill requires that interest and dividend 1099 forms be attached to each filed tax return. This should help the IRS to cross check these forms with the amount of interest and dividend income declared on the return. I believe that these measures and the compliance measures enacted in the Tax Equity and Fiscal Responsibility Act of 1982 will go far in improving compliance without the headache of withholding.

At a time when we are trying to encourage savings and investment, we have passed a law that will undermine both. The law taxes and regulates savings and investment to the point that it will dampen the economic spirit of risk-taking and entrepreneurship. Withholding is the worst thing that we can do when we are trying to get the economy moving again. Savings and investment are key to economic growth, and the American people now save less than any other people in the Western World. Instead of providing incentives to save, Congress voted last year to literally rob the saver of the benefits of interest compounding and automatic dividend reinvestment through withholding. As a result, billions of dollars will be taken out of the savings pool and will no longer be available for home mortgage loans, job creation, or private capital formation.

Withholding will also hurt the banks and savings institutions in each and every State of the Union. It will take months for those with computers to do the reprograming necessary—and the startup and operating costs will be huge. The American Bankers Association estimates that initial costs will be $1.5 billion in the first year of withholding. Small banks that do not have computers will be able to file for a 6-month hardship exception, but no one has addressed the competitive disadvantage that will be created when one bank in town starts taking money out of people's savings accounts and the other bank does not.

Last summer, the Senate came within one vote of defeating withholding when this legislation was offered as an amendment to the 1982 tax bill. Since then, the public outcry against withholding has been growing. Let us repeal withholding and replace it with a more workable solution. It will be a tough fight, but I believe we can succeed. I hope I can count on the support of my colleagues in the U.S. Senate.●

By Mr. JEPSEN (for himself and Mr. GRASSLEY):

S. 239. A bill to clarify the definition of abuse in the Natural Gas Policy Act of 1978; to the Committee on Energy and Natural Resources.

AMENDMENT OF NATURAL GAS POLICY ACT OF 1978

Mr. JEPSEN. Mr. President, I send a bill to the desk and ask that it be read twice and referred to the appropriate committee.

Today, I am reintroducing legislation which will expand the regulatory authority of the Federal Energy Regulatory Commission (FERC) to define abuse in natural gas contracts. It is identical to legislation I introduced last fall.

My proposal would expand FERC authority to regulate take-or-pay clauses and indefinite price escalator clauses in natural gas contracts between natural gas pipeline companies and gas producers. It would also require that market-out clauses be included in all gas contracts.

Though it is unrealistic to believe that there is a quick-fix solution to the rapid price hikes consumers are being burdened with today, it is time for Congress and the administration to take clear and decisive action on this problem.

For their part, Iowans have seen their natural gas bills increase nearly 100 percent in the last 3 years. Should this be the situation with the abundance of natural gas that now exists? Should this be the situation when the public, with an eye to lowering their energy bills, has responded so positively to the call for energy conservation? And with inflation at less than 4 percent, should consumers' gas bills be skyrocketing 20 or 30 percent or more per year?

These are questions to which the public is demanding answers. It is incumbent upon this body to break the current stalemate, forge beyond indecision, and find those answers.

The mild winter this year has given us a brief reprieve from the effects of high gas prices, but we must not be lulled into thinking that milder temperatures will make this problem go away.

Instead, this situation gives us an excellent opportunity to seek the necessary solutions to the pricing problem without needless human suffering.

By expanding the authority of FERC, we can begin the necessary modifications of the Natural Gas Policy Act to correct the current imbalance. That act has permitted prices to increase without relation to current market conditions. It is time to reestablish the proper relation between the forces of the market and the price of natural gas: It is time to give consumers natural gas they can afford.

It is important to note that my legislation works within the existing regulatory framework and creates no new layer of bureaucracy. It facilitates the operation of market forces to the price of gas at a fair and affordable level.

The legislation also forces pipeline companies to organize their business affairs in an economic way. It mandates that they rid themselves of open-ended pricing provisions, which have been the motivating forces of unrealistic price increases.

The people of this country have the right to expect that the natural gas pricing system work fairly and properly in their behalf. Clearly, that is not the situtation now.

That is the challenge before us. Let me meet that challenge now; that is what the people expect, and what we, as their representatives, should do.

Mr. President, I ask unanimous consent that a copy of my bill appear immediately after the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 239

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of the Natural Gas Policy Act of 1978 (15 U.S.C. 3301) is amended by adding at the end thereof the following:

"(38) ABUSE.—The term 'abuse' is not limited to misrepresentation but also includes imprudence on the part of the pipeline company and any pipeline company-producer contract which materially prevents the pipeline from responding to changes in customer demand or other market forces. A rebuttable presumption arises that a contract materially prevents a pipeline from responding to changes in customer demand or other market forces if the following contract clauses are found in a producer-pipeline contract:

"(A) Take-or-pay clause which commits the purchaser to pay for a minimum daily contract quantity of gas greater than 70 percent of daily contract quantity on an annual basis whether or not such gas is taken.

"(B) Indefinite price escalator or redetermination clause which is not tied to a recognized and approved economic indicator.

"(C) Most favored nation clause where the purchase price paid by any pipeline to a producer is set by the highest price in a particular production area.

Such a rebuttable presumption also arises if a contract does not include a market-out clause which allows the buyer to escape the contract or to nominate a new lower price if the gas is not marketable at the contract price.".

● Mr. GRASSLEY. Mr. President, at the close of the 97th Congress, many of us urged this body to take action to alleviate the pressures on natural gas consumers caused by skyrocketing prices. Unfortunately, no such legislation was adopted and this Congress is now faced with an even graver situation than when we adjourned in December. Gas prices continue to soar, and a recent decision by the Federal Energy Regulatory Commission which could have the effect of further increasing gas prices placed greater demands on this Congress to act.

For these reasons, I am again joining my colleague from Iowa (Mr. JEPSEN) in sponsoring legislation which alters the allowable pass-through costs of natural gas. This legislation, which is identical to last year's S. 2892, gives the FERC authority to disallow certain pass-through cost increase requests by expanding the definition of abuse in the Natural Gas Policy Act of 1978. It has become increasingly apparent that the tremendous deficiencies in that legislation—which I voted against as a Member of the House of Representatives—have exacerbated the disorder in the natural gas market. Under the price schedules mandated by the NGPA, pipelines were limited in their ability to bid for natural gas on the basis of price. Subsequently, pipelines were forced to turn to other bidding mechanisms to insure a constant flow of natural gas supplies.

Following the shortages of the mid-1970's, pipelines bid for scarce supplies on the basis of contract provisions, which in today's market, are terribly flawed. Many contracts negotiated soon after the natural gas shortages have unrealistic take-or-pay provisions, indefinite price escalators and most-favored-nation clauses. Often, on market-out clauses were included, so pipelines may have no leeway in refusing to take gas which is not needed.

We must move forward as expeditiously as prudence dictates toward reform of the 1978 act. Hopefully, we will receive some guidance from the administration and the new Secretary of Energy on their favored approach to the problem. Absent such input,

however, Congress must seize the initiative before the situation worsens.

One of the laudable pieces of legislation Congress enacted prior to our recess in 1982 was increasing the amount of funds available for low income energy assistance programs, and to make it easier for private utilities and charitable groups to help low income people meet their heating and cooling bills. These measures go a long way in offering relief to hard-pressed consumers, but they fall far short of achieving any meaningful reform. I cannot stress enough the urgency of the situation. It is imperative that we begin the legislative wheels churning toward corrective action. The legislation I am supporting today is a good place to begin.●

By Mr. WALLOP:

S. 237. A bill to amend the Internal Revenue Code of 1954 to provide for the establishment of reserves for mining land reclamation and for the deduction of amounts added to such reserves; to the Committee on Finance.

LAND RECLAMATION RESERVES

● Mr. WALLOP. Mr. President, today I am reintroducing legislation I introduced last year which is intended to resolve a long-running controversy between the surface mining industry and the Internal Revenue Service—the issue of accrual—for tax purposes—of mining reclamation costs. My concern in this area is shared by several of my colleagues, including my colleague from Pennsylvania, Senator SPECTER, who introduced legislation in the last Congress which addressed the problem of accrued reclamation expenses in the surface mining industry. The legislation I am introducing today is exactly the same legislation which I sponsored last year—it takes the Specter legislation the logical next step by including a codification of the Ohio River Collieries tax court decision or what is known as the "as disturbed" method of reclamation tax accounting.

Surface mine operators by Federal and State law are required, as a condition of doing business, to reclaim land that has been disturbed by the mining process. A mine operator cannot begin the mining process until its comprehensive reclamation plan has been approved. The operator must post a performance bond to guarantee that the approved reclamation plan will be carried out. In States like my home State of Wyoming, the process of posting reclamation bonds and determining their appropriate amounts is performed on an ongoing basis reflecting the current status of the mining operation and the requirements to reclaim the disturbed land. Under these rules there can be no doubt that the mine operator has a fixed and certain obligation to pay the costs of reclaiming the land, and the obligation exists as soon as the land is disturbed.

The legislation which I am offering today, the Comprehensive Mining Reclamation Reserve Act of 1983, reflects existing practices within the mining industry and assures mine operators they will indeed have those tax accounting options which have been available to them on a historical basis, and which are consistent with the mining techniques they employ. The courts have consistently upheld the right of mine operators to accrue mining reclamation expenses for tax purposes, and it was not until 1978 that the IRS departed from the realm of commonsense and consistent application of the tax law by issuing a revenue ruling which sought to reverse the manner in which mine operators had been accounting for their reclamation expense.

Of particular interest in this legislation is the codification of the "as disturbed" method of reclamation tax-accounting. In reality there should be no need to take this step. The tax regulations for many years have stated:

An expense is deductible for the taxable year in which all events have occurred which determine the fact of the liability and the amount thereof can be determined with reasonable accuracy.—Treas. Reg. § 1.461-1(a)(2).

The fact of the liability to reclaim is established just as soon as the land is disturbed. The amount of the liability can generally be determined with reasonable accuracy through sophisticated engineering analysis. When these two elements are present, the accrued costs are properly deductible in the year that the land is disturbed. Despite this clear entitlement, and despite court cases upholding it—most recently the tax court case Ohio River Collieries against Commissioner—the Internal Revenue Service continues to take the position that a taxpayer may not deduct its accrued reclamation obligations until the reclamation work has actually been performed.

This legislation will preserve for mine operators the options that are currently available to them. In recognition of the fact that a mine operator may employ different mining techniques on different properties, operators would be allowed to elect a recovery method on a property-by-property basis. However, once an election has been made with respect to the property, that election could be changed only with the consent of the Treasury Secretary.

The need for energy development and for restoration of our lands disturbed by surface mining make it imperative that we do not inadvertently create disincentives to these national priorities. This legislation is designed to avoid at least one situation that has been created needlessly and should be ended quickly.

Mr. President, I ask unanimous consent that the text of the bill appear in the RECORD immediately following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 237

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Comprehensive Mining Reclamation Reserve Act of 1983".

SEC. 2. ALLOWANCE OF DEDUCTION FOR ADDITIONS TO RECLAMATION RESERVES.

(a) IN GENERAL.—Subpart C of part II of subchapter E of chapter 1 of the Internal Revenue Code of 1954 (relating to the taxable year for which deduction may be taken) is amended by adding at the end thereof the following new section:

"SEC. 467. RESERVES FOR ESTIMATED EXPENSES OF SURFACE MINING LAND RECLAMATION

"(a) ALLOWANCE OF DEDUCTION.—In computing taxable income for the taxable year, there shall be taken into account a reasonable addition to any reserve established for the estimated expenses of surface mining land reclamation.

"(b) ADJUSTMENTS WHERE RESERVE BECOMES EXCESSIVE.—If it is determined that the amount of any reserve for the estimated expenses of surface mining land reclamation is (as of the close of the taxable year) excessive, then (under regulations prescribed by the Secretary) such excess shall be taken into account in computing taxable income for the taxable year.

"(c) ELECTION OF BENEFITS.—

"(1) IN GENERAL.—This section shall apply to the estimated expenses of surface mining land reclamation with respect to any property if and only if the taxpayer makes an election under this section with respect to such property. Such election shall be made in such manner as the Secretary may by regulations prescribe.

"(2) SCOPE OF ELECTION.—If an election under this section is made with respect to any property, such election shall—

"(A) apply to all estimated expenses of surface mining land reclamation of the taxpayer with respect to such property, and

"(B) specify whether such estimated expenses are allocable to either—

"(i) minerals extracted by surface mining activities, or

"(ii) the portion of the property disturbed by surface mining.

"(3) WHEN ELECTION MAY BE MADE.—

"(A) WITHOUT CONSENT.—A taxpayer may, without the consent of the Secretary, make an election under this section with respect to any property for his first taxable year—

"(i) which ends after the date of the enactment of this section, and

"(ii) for which there are estimated expenses of surface mining land reclamation with respect to such property.

Such an election shall be made not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof).

"(B) WITH CONSENT.—A taxpayer may, with the consent of the Secretary, make an election under this section at any time.

"(4) REVOCABLE ONLY WITH CONSENT.—An election under this section, once made, may

be revoked only with the consent of the Secretary.

"(5) PROPERTY DEFINED.—For purposes of this section, the term 'property' has the meaning given to such term by section 614.

"(d) ESTIMATED EXPENSES OF SURFACE MINING LAND RECLAMATION.—For purposes of this section—

"(1) IN GENERAL.—The term 'estimated expenses of surface mining land reclamation' means a deduction allowable to the taxpayer under this subtitle which—

"(A) is attributable to qualified reclamation activities to be conducted in subsequent taxable years,

"(B) can be estimated with reasonable accuracy, and

"(C) is allocable to either—

"(i) minerals extracted by surface mining activities which occur before the close of the taxable year, or

"(ii) the portion of the property disturbed by surface mining which occurs before the close of the taxable year.

"(2) QUALIFIED RECLAMATION ACTIVITIES.—The term 'qualified reclamation activities' means any land reclamation activities which are conducted in accordance with a reclamation plan—

"(A) which is submitted pursuant to the provisions of section 528 or 511 of the Surface Mining Control and Reclamation Act of 1977 (as in effect on January 1, 1981) and which is part of a surface mining and reclamation permit granted under the provisions of title V of such Act (as so in effect), or

"(B) which is submitted pursuant to any other Federal or State law which imposes reclamation and permit requirements substantially similar to those imposed by title V of such Act (as so in effect).

"(3) EXCEPTION.—Except for purposes of subsection (e), the term 'estimated expenses of surface mining land reclamation' does not include any amount allocable to minerals extracted or property distributed by surface mining activities occurring before the beginning of the first taxable year for which an election under this section is made.

"(e) SPECIAL RULE FOR COSTS ATTRIBUTABLE TO PERIOD BEFORE ELECTION.—Any estimated expenses of surface mining land reclamation which are allocable to minerals extracted or property disturbed by surface mining activities which occurred before the first taxable year for which an election with respect to the property under this section is made and which have not previously been taken into account by the taxpayer in computing taxable income, shall be treated as deferred expenses and shall be allowed as a deduction ratably over a period—

"(1) which begins with the first month of the first taxable year for which an election under this section is made with respect to the property, and

"(2) which ends with the month during which it is reasonably expected that surface mining land reclamation activities with respect to the property involved will be completed (or if earlier the last month of the 60-month period beginning with the month described in paragraph (1)).

"(f) SPECIAL RULES.—

"(1) TAXPAYERS WHO MAKE AN ELECTION UNDER SECTION.—In the case of any taxpayer who makes an election under this section with respect to any property, the determination of the taxable year for which nonqualified land reclamation expenses with respect to such property are allowable as a deducation shall be made under regulations prescribed by the Secretary. For purposes of the preceding sentence, the term 'nonqualified land reclamation expenses' means any expense of land reclamation activities (other than qualified reclamation activities) which are attributable to surface mining.

"(2) TAXPAYERS WHO DO NOT MAKE AN ELECTION.—In the case of any taxpayer who does not make an election under this section with respect to any property, any deduction for expenses of land reclamation activities with respect to such property attributable to surface mining shall be allowable in the same manner and to the same extent as if this section had not been enacted.".

(b) The table of sections for subpart C of part II of subchapter E of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Sec. 467. Reserves for estimated expenses of surface mining land reclamation.".

(c)(1) The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

(2) If—

(A) the taxpayer makes an election under section 467 of the Internal Revenue Code of 1954 for his first taxable year ending after the date of the enactment of this Act, and

(B) for a continuous period of one or more taxable years each of which ends on or before such date of enactment, the taxpayer used an accrual method of accounting for a property with respect to the expenses of surface mining land reclamation activities attributable to surface mining which allowed a deduction for such expenses prior to the taxable year in which such expenses were paid,

then the taxpayer may make an election under this paragraph to have the method of accounting which he used for such continuous period with respect to such property treated as a valid method of accounting for purposes of the Internal Revenue Code of 1954. The taxpayer may make an election under this section with respect to only one such continuous period.

(3) An election under paragraph (2) shall be made at such time and in such manner as the Secretary of the Treasury or his delegate shall by regulations prescribe.●

By Mr. WALLOP:

S. 238. A bill for the relief of Prof. Ramarao Inguva; to the Committee on the Judiciary.

PROF. RAMARAO INGUVA

● Mr. WALLOP. Mr. President, today I am pleased to be introducing a bill for the private relief of Prof. Romarao Inguva of Laramie, Wyo.

Let me briefly review the facts in Dr. Inguva's case. His background is impressive. A native of India, he attended that country's Osmania University, where he received both his bachelor's and master of science degrees. Upon graduation, he was then selected to receive a prestigious Fulbright Fellowship and studied at the University of Colorado, where he received his Ph. D. Dr. Inguva continued his research both in this country, at Stanford University and back in his native India. From 1970 to 1978 Dr. Inguva held a teaching/research fellowship at Tadu Institute of Fundamental Research in Bombay, India and in 1975 he took a year's leave of absence to hold a visiting professorship at the University of Wyoming in Laramie. In 1978 he returned to Wyoming to teach and conduct research at UW. Currently, Dr. Inguva is teaching a full complement of both graduate and undergraduate classes in theoretical physics at the University of Wyoming. He is also supervising both master's and Ph. D. candidates. In addition, Professor Inguva has been conducting extensive research on the technique of using radio frequency retorting to remove the petroleum product from oil shales under a grant from DOE's Laramie Energy Technology Center.

In 1981, Dr. Inguva applied for permanent U.S. residency status but, before it was granted by the Immigration and Naturalization Service, his temporary J-1 permit expired and he faced immediate deportation. It was because of this imminent threat that I reviewed Dr. Inguva's case. Because of the unique nature of his research and the sophistication of the equipment which he uses for this research, Dr. Inguva could not resume this research if he was sent back to his native country. Many of the standard tools which he uses on a daily basis simply would not be available. Even if they were, India does not contain the vast oil shale deposits which are located in southern Wyoming and northern Colorado, all within a few minutes drive of the University of Wyoming.

To interrupt either Dr. Inguva's research or his student's course work and research by deporting Dr. Inguva would serve no purpose. There is, however, much that can be lost by the deportation of Dr. Inguva. He would lose the opportunity to continue his chosen vocation, his students would lose an enthusiastic, effective, and respected teacher, his colleagues would lose a peer who is an inspiration to them, the university, and the State of Wyoming, and this Nation would lose a dedicated researcher with a brillant mind, who is seeking ways to unlock doors which will help the United States and the world to find new energy sources to meet their growing needs.

The merits compelled me to introduce S. 1569, conferring citizenship on Dr. Inguva, during the 97th Congress. Deportation proceedings were suspended to allow the Senate and House an opportunity to consider the case. The bill was considered and approved by the Senate Subcommittee on Immigration, and by the full Judiciary Committee. On April 29, 1982, the bill was approved by voice vote by the whole Senate.

Subsequently, it was transmitted to the House and referred to the Judiciary Committee's Subcommittee on Immigration, Refugees and International Law. After considering the case, the subcommittee voted to deny relief to Dr. Inguva, stating it was unwilling to approve private relief bills when there

is any possibility that the applicant can be granted residency under INS guidelines.

At this point I am continuing to work with INS and Dr. Inguva as he attempts to adjust his status through INS to that of a permanent resident. It is my hope that INS will grant Dr. Inguva this residency. However, should they refuse to do this, I will urge the Senate to expeditiously consider and pass this measure.●

By Mr. BYRD:

S. 240. A bill to amend the Internal Revenue Code of 1954 to eliminate withholding of tax from interest and dividends; to the Committee on Finance.

REPEAL THE WITHHOLDING REQUIREMENT ON INTEREST AND DIVIDENDS

Mr. BYRD. Mr. President, I introduce today a bill to repeal the burdensome requirement, contained in the 1982 tax increase increase bill, that requires tax to be withheld on interest and dividend income.

I opposed the Tax Equity and Fiscal Responsibility Act of 1982 which created this requirement. Despite the name of that act, it has many provisions that are unfair and burdensome.

I have heard from nearly 10,000 West Virginians in less than 1 month—many of them elderly persons, and most of them low- and middle-income persons, who strongly object to the withholding requirement. These are law abiding, responsible people who have paid their taxes over the years and who have not tried to cheat the Government. Most of them have saved for years to take care of themselves in their old age, and the income that flows from their savings is literally their lifeline. A reduction in that flow is a bitter and unfair burden.

For that reason, my bill repeals the requirement that a portion of the income from interest and dividends be withheld by banks and savings and loan associations.

In addition to the burdens I have already described, this legislation places burdens on banks and other savings institutions. But more particularly, as I say, I think we should be concerned with the burdens that are being placed on the people whose income is low to begin with and on which their lifeline really depends.

My bill restores the Internal Revenue Code to the position it held before enactment of subpart A of the 1982 tax increase—so that withholding of income from interest and dividends is not required.

For example, many West Virginians are writing in to explain that they live on fixed incomes. Social security may account for the bulk of their income, and any interest or dividends that they receive are an absolutely vital addition to that income. Wealthy people may not understand the problems of trying to make ends meet month after month on fixed incomes. There is no pot of gold at the end of the rainbow for people on fixed incomes to reach into to pay their monthly bills. All that most of them have to supplement their monthly check—which barely covers the necessities of life—is whatever income they may receive from their savings.

These people have scraped and saved all of their lives. People who have made their living in the coalfields, in the steel and chemical plants, in factories and on farms have worked hard to save money for their later years, so that they are not a burden on others. The withholding requirement penalizes them for efforts that should be encouraged as much as possible.

I now send to the desk the bill for appropriate referral, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 240

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subtitle A of title III of the Tax Equity and Fiscal Responsibility Act of 1982, and the amendments made by such subtitle, are hereby repealed.

(b)(1) The provisions of subsection (a) shall apply to all payments of interest, dividends, and patronage dividends to which the provisions repealed by subsection (a), and the amendments made by such provisions, would have applied.

(2) The Internal Revenue Code of 1954 shall be applied and administered as if the provisions repealed by subsection (a), and the amendments made by such provisions, had not been enacted.

(c) Section 6049 of the Internal Revenue Code of 1954 (relating to returns regarding payments of interest) is amended—

(1) in subsection (a)—

(A) by inserting "or" at the end of paragraph (1),

(B) by striking out "or" at the end of paragraph (2),

(C) by striking out paragraph (3), and

(D) by striking out "tax deducted and withheld,",

(2) in subsection (b)(2)—

(A) by striking out subparagraph (C),

(B) by redesignating subparagraph (D) as subparagraph (C), and striking out "not described in subparagraph (C) of this subparagraph", and

(C) by redisignating subparagraph (E) as subparagraph (D),

(3) in subsection (b)(3) by striking out "paragraph 2(D)" each place it appears and inserting in lieu thereof "paragraph 2(C)", and

(4) in subsection (c)(1)—

(A) by inserting "and" at the end of subparagraph (A),

(B) by striking out ", and" at the end of subparagraph (B) and inserting in lieu thereof a period, and

(C) by striking out subparagraph (C).

By Mrs. HAWKINS:

S. 241. A bill to amend the Public Health Service Act to provide assistance to medical facilities on developing and establishing dependent care facilities for dependents of employees of such medical facilities, and for other purposes; to the Committee on Labor and Human Resources.

MEDICAL FACILITY DEPENDENT CARE ACT OF 1983

Mrs. HAWKINS. Mr. President, today I am introducing legislation that addresses two major problems: First, the availability of dependent care for people working the night shifts; and second, the growing shortage of nurses, which is threatening to lower the quality of care in our Nation's hospitals and health care facilities.

This legislation, whose House counterpart will be introduced by Representative PAUL SIMON of Illinois, is entitled the Medical Facility Dependent Care Act of 1983.

The "graying" of America in the coming decades will cause an unprecedented demand for qualified health care professionals. Already, the shortage of nurses is reaching crisis proportions. According to the American Hospital Association, the Nation faces a "massive and pervasive" nursing shortage. A full 88 percent of American hospitals are unable to fill their full-time R.N. positions. A 1980 survey by the Bureau of Labor Statistics estimated 85,000 new nurses would be needed annually through 1990.

This crisis could be averted if we could encourage the inactive nursing work force to return to nursing. Of the 1.6 million registered nurses currently licensed to practice, only about 51.4 percent actually work full time. The other either work part time or are inactive. The third report to Congress on the Nurse Training Act confirms that nurses with young children tend to drop out of the work force to care for their children and do not reenter practice until their children have reached school age. This is significant because over half the R.N. population have children under age 17 in their households, and 24 percent have children under age 5.

It is obvious that we need to overcome the barriers to the full utilization of our nursing force. Many factors contribute to the decision to leave full-time nursing. A report commissioned by the Southern California Association of Nurse Recruiters, however, found that child care responsibilities is a primary reason.

Hospitals have long recognized the need for adequate child care facilities for their employees' dependents. They are also well aware of the usefulness of a hospital-based child care center as a recruitment and retention tool. One of the first hospital child care facilities was established in 1854 at the Nursery and Child's Hospital in New York City. In 1968, the Women's Bureau of the Department of Labor reported that there were 98 hospitals

operating child care centers in the United States. Today, the National Association of Hospital Affiliated Child Care Directors report that there are at least 304, with 60 new centers established within the last 2 years. But this means that only 4 percent of our Nation's 6,935 hospitals offer dependent care services to their employees.

There is clear evidence that lower absenteeism, an improved attitude toward work and employer, and higher recruitment and retention are directly attributable to dependent care services. Once hospitals and health care facilities establish a dependent care service, they recognize its benefits and tend to expand its size, hours, and services.

Baptist Hospital in Miami, Fla., is a good example. Baptist established a dependent care center for its R.N.'s in 1962. In 1970, the personnel office recognized the potential for personnel recruitment and retention and expanded its services to include other health care personnel. Baptist's current center is located in an old house on hospital property. Despite attempts to enlarge its size by enclosing the carport and porches, the center still has a waiting list of 50 children, with 25 waiting for slots during the night shift. The hospital's board of directors, realizing the benefits of this service, recently agreed to authorize enough funds to build a new child development center to meet the increased demand.

Clearly, hospitals that have established dependent care services are very enthusiastic about their programs. The difficulty is in getting a hospital or health care facility to make the initial investment to establish the center. Many health care facilities have an interest in providing dependent care services for their employees, but have difficulty raising the funds for the initial investment. DeLand Convalescent Center, the Orlando Regional Medical Center, and Morton Plant Hospital in Clearwater, Fla., are just a few examples of willing spirits but weak budgets.

My legislation would provide medical facilities with the necessary start-up funding to establish a dependent care service for their employees' dependents.

I am not, however, advocating a Federal commitment to funding the day-to-day operational costs of a center. I am convinced that the medical facility will agree to cover any indirect costs as a recruitment and retention expense.

For those medical facilities that have insufficient demand to justify a center, but still wish to help their employees obtain child care, the bill authorizes the Secretary to provide grants to establish information and referral networks for dependent care. The grants would be used to establish a clearinghouse of information on the available dependent care services in the community. All dependent care providers, whether profit or nonprofit, would be cataloged and categorized according to the service offered: Day care, night care, after school care, weekends, infant, toddlers, et cetera. An example of an information and referral system currently used by hospitals is a system now used by two hospitals in San Mateo County, Calif. The hospitals contracted with the Child Care Coordinating Council (4C) of San Mateo to set up an expanded child care referral for the hospitals. The program determines the employees child care needs, compiles a list of child care providers in the area, visits each provider to verify services, and conducts follow-up interviews to determine employee satisfaction.

Another form of dependent care authorized under this bill is contracting with existing dependent care organizations to reserve slots for their employees. Phoebe Carpenter, administrator of 4C in Orlando, Fla., is a pioneer in this field. She organized a unique program in which the employer reserves a slot for the employee in an existing child care center. In Florida, this arrangement is used successfully by employers of seasonal workers who have difficulty finding child care through normal channels. Medical facilities may find that this arrangement also suits the erratic and shifting work schedules of their employees.

The ECLC Learning Center, Inc., of Indiana has been providing child care services to hospitals and nursing homes for several years. They contract with the medical facility to conduct feasibility studies, assess the employees' child care needs, and establish transportation systems to shuttle children between the medical facility and the existing child care center.

A medical facility that begins with a contracted dependent care service with a private child care center often evolves into establishing its own center. For example, the Children's Medical Center in Dayton, Ohio, currently uses a transportation system between the hospital and private center, but long-term plans call for the remodeling of an onsite center to serve as a small child care center for dependents of hospital employees.

Another form of dependent care authorized by the bill and designed to assist medical facilities with insufficient demand to justify a center is the home based family day/night care network. The family day/night care program is a growing movement that recruits, screens and trains individuals who will care for children in the home setting. San Francisco's employer-sponsored family day care network was established by a former day care provider and a hospital social worker. They had been asked by the National Institutes of Health to develop a "cost effective 24-hour child care delivery system" capable of "addressing the hospital crisis nationally."

Family dependent care is a highly personal alternative to center-based child care. It is attractive to hospitals not only because of the lower cost, but also because of the flexibility in adjusting to their employees erratic work schedules.

I think it is important to note that by using the tax code definition of dependent, we are not limiting dependent care to infants and toddlers, but extending it to school-age children and the elderly dependent living in the employee's home.

The Children's Defense Fund estimates that 13 million children under age 13 live in households where both parents work full time. Since day care and home care account for only about 7 million children, that means that approximately 6 million children under age 13 care for themselves when not in school.

During the debate on the extension of the dependent care tax credit last session, Congress recognized the growing trend of families caring for their parents and other elderly dependents in their own homes. The dependent care tax credit was expanded to include adult day care for elderly dependents. I want to further encourage more individuals to care for their elderly dependents at home instead of an institutionalized setting. Therefore, the definition of dependent in this bill extends to elderly dependents. The American Hospital Association has expressed a great deal of interest in the idea of hospital-based dependent care for the elderly.

Mr. President, the nursing shortage and the shortage of quality dependent care is a frightening and sad situation. We must encourage medical facilities to address this problem that is preventing half our nursing work force from working full time. One solution to the current nursing shortage is to recruit inactive nurses and retain current nurses by eliminating one of their greatest barriers: the inadequacy of dependent care.

I am pleased that the American Hospital Association, the American Nurses Association, and the National Association of Hospital Affiliated Child Care Directors have endorsed this bill.

This legislation is a modest bill. It is an attempt to provide more dependent care services through the employer and at the same time encourage more nurses and health care personnel to reenter the work force. I urge my Senate colleagues to join me in cosponsoring this legislation.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 241

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Medical Facility Dependent Care Act of 1983".

SEC. 2. Title XVII of the Public Health Service Act is amended by adding at the end thereof the following new section:

"MEDICAL FACILITY DEPENDENT CARE

"SEC. 1711. (a)(1) The Secretary may make grants and provide technical assistance to medical facilities to assist in the development, establishment, or expansion of dependent care facilities.

"(2)(A) In making grants under this subsection, the Secretary shall give priority to medical facilities which will establish or expand dependent care facilities to provide care for dependents which is available twenty-four hours a day and seven days a week or to provide care for infant dependents.

"(B) In determining the amount of a grant under this subsection, the Secretary shall consider the number of dependents to be served by the facility.

"(3)(A) Grants made under this subsection may be used for the acquisition or renovation of a dependent care facility, training of the staff of the facility, and other costs associated with the development, establishment, or expansion of a dependent care facility.

"(B) A dependent care facility established or expanded with a grant under this subsection may be located in, adjacent to, or easily accessible to the medical facility whose employees will use the dependent care facility, or in an area which is easily accessible to such employees in any case in which two or more medical facilities establish or expand a joint dependent care facility with a grant under this subsection.

"(C) Any dependent care facility established or expanded with a grant under this subsection shall meet the standards for day care facilities established by the State in which the dependent care facility is located.

"(D) Any medical facility which receives priority in the award of a grant under paragraph (2)(A) because such medical facility will establish or expand a dependent care facility to provide care for infant dependents shall insure that such dependent care facility provides such care for infant dependent of all ages under the age of three years, including newborn infant dependents.

"(4)(A) The Federal share of the costs of developing, establishing, or expanding any dependent care facility shall be 75 percent, subject to the amount of a grant under this subsection.

"(B) The non-Federal share of the costs of developing, establishing, or expanding any dependent care facility may be provided in cash or in kind, including plant, equipment, or services provided by the medical facility, State or local government, or community organizations, and fees from employees of the medical facility.

"(b)(1) The Secretary may make grants to provide technical assistance to medical facilities to assist in the development, establishment, or expansion of networks, clearinghouses, and other organizations and mechanisms which will locate or provide care for dependents of the employees of such medical facilities. In making grants under this subsection, the Secretary shall give priority to medical facilities which will assist in the development, establishment, or expansion of networks, clearinghouses, organizations, and mechanisms which will locate or provide care for such dependents that is available twenty-four hours a day and seven days a week or which will locate or provide care for infant dependents.

"(2) Assistance provided by a medical facility in the development, establishment, or expansion of a network, clearinghouse, organization, or mechanism with a grant made under this subsection may be used for the acquisition or renovation of facilities to provide care for the dependents of the employees of the medical facility, the training of individuals who will provide such care, the establishment of a referral service with respect to the provision of dependent care, and other costs associated with the provision of such care.

"(3) Any medical facility which receives priority in the award of a grant under paragraph (1) because such medical facility will assist in the development, establishment, or expansion of a network, clearinghouse, organization, or mechanism which will locate or provide care for infant dependents shall insure that such network, clearinghouse, organization, or mechanism will locate or provide such care for infant dependents of all ages under the age of three years, including newborn infant dependents.

"(c) No grant may be made under this section unless an application is submitted to the Secretary in such form and containing such information as the Secretary may prescribe.

"(d) The Secretary may prescribe regulations to carry out this section.

"(e) For purposes of this section:

"(1) The term 'medical facility' has the same meaning as in section 1624(11).

"(2) The term 'dependent care facility' means a facility which—

"(A) provides care for dependents of employees of a medical facility and other individuals, a majority of which are dependents of employees of a medical facility; and

"(B) provides such care during some or all of the hours in which employees are working at the medical facility and during such other hours as the medical facility considers appropriate.

"(3) The term 'dependent' has the same meaning as is given to the term 'qualifying individual' under section 44A(c)(1) of the Internal Revenue Code of 1954.

"(4) The term 'infant dependent' means a dependent who has not attained the age of 3 years.

"(f) To carry out this section, there are authorized to be appropriated $10,000,000 for each of the fiscal years ending September 30, 1984, September 30, 1985, and September 30, 1986.".

By Mr. QUAYLE (for himself and Mr. HATCH):

S. 242. A bill to provide additional authorizations for labor intensive programs, to provide additional provisions for the dislocated workers program under title III of the Jobs Training Partnership Act, to promote employment and training for recipients of federally funded financed unemployment benefits, to provide procurement targeting in labor surplus areas, and for other purposes; to the Committee on Labor and Human Resources.

EMPLOYMENT OPPORTUNITIES ACT OF 1983

Mr. QUAYLE. Mr. President, I am today introducing the Employment Opportunities Act of 1983. I am particularly pleased that Senator HATCH, chairman of the Labor and Human Resources Committee, is an original cosponsor of this bill. This bill will provide additional employment opportunities in existing Federal or federally assisted labor intensive programs; provide incentives for employers to hire the long-term unemployed; expand retraining opportunities for dislocated workers; stimulate Federal procurement in areas of high unemployment as well as making a number of other changes to help unemployed workers take advantage of retraining opportunities.

In the state of the Union message the President said, "We must offer both short-term help and long-term hope for our unemployed." That is what my bill is designed to do: It will provide short-term help in the way of 250,000 additional jobs in labor intensive programs and more jobs for the long-term unemployed through a system of reemployment vouchers; it offers long-term hope through a series of measures that will assist the unemployed to gain new skills that will prepare them for the labor market of the future. I believe, as does the President, that America is on the mend; that we are on the path to economic recovery. But we know that that path is a long one—and that at the end of it is a labor market whose opportunities will be very different from those of today. So, for the interim, the bill provides jobs; for the long-term it provides training so that the victims of the current recession will be prepared for the employment opportunities of the future.

Pervasive unemployment plagues our economy and is causing inestimable suffering and waste of human resources. Throughout 1982, factories and businesses across the country have been closing and many workers have been forced into idleness that will not end even with economic recovery. We cannot remain aloof in the face of our country's highest unemployment since World War II.

The national unemployment rate has climbed steadily over the past year from an already high level of 8.3 percent in December of 1981 to 10.8 percent in December of 1982. This 10.8-percent unemployment represents over 12 million unemployed people and the unemployment rate does not even take into account individuals who are so discouraged about the prospect of finding employment that they have quit looking. The Bureau of Labor Statistics (BLS) estimates that there were approximately 2 million discouraged workers in the last quarter of 1982.

The unemployed have dramatized these statistics through their desperate attempts to find work. An increasing number of unemployed have set out on the road to search for jobs, many of them taking their families along. TV stations have begun programs that give unemployed workers a chance to advertise their qualifications and job skills. Such shows have aired in Kentucky, Wisconsin, Ohio, West Virginia, Iowa, and my home State of Indiana. In Cleveland and Chicago, the city governments have distributed jobs through raffles because the number of applications so far exceeds the number of positions available that the unemployed stand in lines all night and mob government buildings to be among the first to apply for jobs.

As the President said "We who are in government must take the lead in restoring the economy."

During the lameduck session of Congress, after much debate over job creation proposals, we emerged with two programs that will provide some assistance to the unemployed. Congress approved a 5-cent increase in gasoline taxes to launch a massive effort to repair our Interstate Highway System. We also enacted a $25 million appropriation to begin the dislocated worker program, under title III of the Job Training Partnership Act, for fiscal year 1983.

The primary purpose of the first program is to rebuild our Nation's highways and the workers who will benefit most from this program are in the construction industry. The dislocated worker program is still in the implementation phase. We need to build on these efforts to counter unemployment because they do not adequately address the dimensions of the problem.

The continuing resolution also contained programs which were labeled jobs programs but which I believe would not have been effective. However, it behooves those of us who disagreed with that approach to come up with better approaches because I agree with our distinguished majority leader that something will be done—and that something ought to be done.

In that spirit, on January 12, the Subcommittee on Employment and Productivity, which I chair, held a hearing on Federal job creation programs. During this exploratory hearing, witnesses presented their views on the effectiveness of Federal job creation programs in the past and they presented suggestions for what the Federal Government should, or should not, do to deal with current high unemployment.

Given the range of political and philosophical views presented, it would be difficult to arrive at a single statement that would summarize the findings of the hearing. But I believe that there was a strong consensus on a few points. First, the best solution to the unemployment problem is economic recovery. Second, we must respond to the human suffering that such a high rate of unemployment entails. Finally, no single job creation strategy can address the wide variety of problems that is reflected in our current unemployment.

I, also, believe that economic recovery is the best solution to unemployment, but even the most optimistic forecasts predict that the unemployment rate will be over 10 percent throughout 1983 and into 1984. Having carefully examined the issues, I am presenting an employment opportunity program which is based on the firm belief that the Federal Government must be responsive to the needs of unemployed Americans.

My program has four major components, as well as a number of additional points to encourage retraining. The major components, which are described in more detail below, are:

First, $2 billion for additional funding of existing Federal or federally assisted labor-intensive programs to create 250,000 direct jobs over a 1-year period beginning as soon as possible. Another 250,000 indirect jobs are likely to follow.

Second, recipients of the federally funded supplemental unemployment compensation program could choose to take a voucher instead of their unemployment benefits. The voucher, which would amount to 75 percent of the maximum benefits that could be paid to the individual, would be given to an employer who hires the worker.

Third, an additional $100 million is authorized for fiscal year 1983 to expand the dislocated worker retraining program. These funds will not require matching because they will be received too late for State legislatures to act and will provide retraining for more 30,000 permanently unemployed workers nationwide.

Fourth, requires every major Federal procuring agency to set goals for procurement contracts in labor-surplus areas in order to promote employment in high unemployment areas.

Mr. President, the Subcommittee on Employment and Productivity will hold hearings on this bill, as well as any related measures that may be introduced. On February 15, Mr. Feldstein, Chairman of the President's Council of Economic Advisers, will present the administration's views and, on February 22 and 23, we will hear from the public.

I ask unanimous consent that a description and the text of the bill be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 242

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Employment Opportunities Act of 1983".

STATEMENT OF PURPOSE

SEC. 2. It is the purpose of this Act to provide employment opportunities in the current period of high unemployment by providing for additional funding of labor intensive programs, for incentives to employers to hire the long-term unemployed, and for additional retraining opportunities for dislocated workers and long-term unemployed individuals.

DEFINITIONS

SEC. 3. As used in this Act—

(1) the term "area of high unemployment" means an area in which the rate of unemployment for the 3 months preceding the month for which the determination is made by the Secretary is equal to or greater than the national average rate of unemployment;

(2) the term "Federal agency" means any agency defined in section 551(1) of title 5, United States Code;

(3) the term "Federal financial assistance" means any program or activity under which a Federal agency extends assistance by way of grant, loan, or contract other than a contract of insurance or guarantee;

(4) the term "Secretary" means the Secretary of Labor; and

(5) the term "State" means each of the several States and the District of Columbia.

TITLE I—LABOR INTENSIVE PROGRAMS

PROGRAM AUTHORIZED

SEC. 101. (a) The Secretary shall, in accordance with the provisions of this title, transfer funds to labor intensive programs from funds authorized pursuant to subsection (b).

(b)(1) There is authorized to be appropriated for the fiscal year 1983 $2,000,000,000.

(2) Funds appropriated pursuant to paragraph (1) of this subsection shall be available for expenditure for one year from the date on which funds are obligated under this title.

DESIGNATION OF LABOR INTENSIVE PROGRAM

SEC. 102. (a) A labor intensive program is any Federal program or activity—

(1) which—

(A) is operated directly by a Federal agency;

(B) consists of services for which a Federal agency has entered into a contract; or

(C) is furnished with Federal financial assistance;

(2) which in the aggregate received at least $100,000,000 for fiscal year 1983; and

(3) in which the additional expenditure of $1,250 will produce at least a month of direct employment by an individual employee;

as determined by the Secretary of Labor in accordance with subsection (b).

(b) The Secretary of Labor may determine the direct employment effects of labor intensive programs pursuant to subsection (a)—

(1) on the basis of actual experience relating to expenditures and employment, submitted by the head of each Federal agency at the request of the Secretary or otherwise available to the Secretary; or

(2) on the basis of estimates made by the Secretary as a result of assurances made

with respect to the proposed expenditure of funds submitted by the head of the appropriate Federal agency accompanied, if appropriate, by assurances from any recipient of Federal financial assistance.

TRANSFER AUTHORITY OF THE SECRETARY

SEC. 103. (a)(1) The Secretary is authorized to transfer funds appropriated pursuant to section 101(b) to the head of the appropriate Federal agency having responsibility for a labor intensive program not earlier than 30 days and not later than 60 days after the date of enactment of the appropriation Act providing funds for the program authorized by this title.

(2) No such transfer may be made until—

(A) the head of each Federal agency makes a request for additional amounts for labor intensive programs as authorized by this title;

(B) the head of each such agency certifies that there is an urgent public need for the work to be done by the additional funds requested; and

(C) the Secretary reviews the requests submitted under this paragraph.

The head of each Federal agency having responsibility for a program or activity which involves a labor intensive program which is furnished with Federal financial assistance shall accompany any requests submitted under this paragraph with such supporting assurances as are submitted by any recipient of the applicable Federal financial assistance.

(b) No transfer may be made under this title by the Secretary in excess of 10 percent of the estimated outlays of the program for fiscal year 1983, as determined by the Secretary in cooperation with the head of the appropriate Federal agency.

(c) In making transfers under this title, the Secretary shall consider—

(1) the degree of labor intensity of the program;

(2) the extent to which funds transferred under this title will be used in areas of high unemployment;

(3) the degree to which expected hiring of employees for all transfers will reflect the demographic composition of unemployed individuals in the United States; and

(4) the speed with which the funds transferred under this title will be used to implement the program subject to the transfer.

PROGRAM REQUIREMENTS

SEC. 104. (a) The Secretary is authorized to make whatever arrangements are necessary to transfer funds for labor intensive programs to the head of each Federal agency administering a labor intensive program in accordance with the provisions of this title.

(b)(1) Subject to paragraph (2) and subsection (c), the head of each Federal agency administering a labor intensive program to which the Secretary has made a transfer under this title shall administer the program in accordance with the law authorizing the program.

(2) Notwithstanding any other provision of law and to the extent necessary in the administration of this title, the head of each Federal agency administering a labor intensive program which is subject to the provisions of this section shall waive any administrative provision with respect to allocation, allotments, reservations, priorities, or planning and application requirements (other than audit requirements) for the funds transferred under this title.

(c) From the funds appropriated pursuant to section 101(a) transferred by the Secretary to the head of the Federal agency under the provisions of this title, the head of such agency shall allot—

(1) not less than 75 percent of such funds to areas of high unemployment, and

(2) the remainder in accordance with the provision of law authorizing the program which is designated a labor intensive program for the purpose of this title.

(d) The head of each Federal agency having responsibilities under this title for a labor intensive program are authorized and directed to cooperate with the Secretary in the administration of the provisions of this title.

(e) Any assurances required to be submitted by grantees and recipients of Federal financial assistance under this title shall be deemed to be program requirements under the provision of law authorizing the program which is designated a labor intensive program for the purpose of this title and shall be enforced in the same manner as any other program requirement under such provision of law.

TITLE II—DISLOCATED WORKERS

IDENTIFICATION OF DISLOCATED WORKERS

SEC. 201. (a) An individual is a dislocated worker if—

(1) such individual has been identified as a dislocated worker under title III of the Job Training Partnership Act; or

(2)(A) has at least 20 quarters of coverage under title II of the Social Security Act;

(B) is unemployed; and

(C) is certified by the appropriate local office of the United States Employment Service or by the last employer of the individual as not likely to be reemployed within 6 months of his termination of employment.

(b) The Secretary shall provide for the issuance of documentation to individuals identified as dislocated workers.

SPECIAL PROVISIONS FOR DISLOCATED WORKERS WITH RESPECT TO INDIVIDUAL RETIREMENT ACCOUNTS

SEC. 202. Notwithstanding any other provision of the Internal Revenue Code of 1954, a dislocated worker having documentation issued by the Secretary under this title, may withdraw contributions to, and interest on, an individual retirement account established in accordance with the provisions of section 408 of the Internal Revenue Code of 1954, without incurring the tax penalty under section 408(f) of the Internal Revenue Code of 154.

SPECIAL PROVISIONS FOR DISLOCATED WORKERS WITH RESPECT TO PELL GRANTS

SEC. 203. Section 411(a)(2)(A) of the Higher Education Act of 1965 is amended by inserting after division (ii) the following new division:

"(iii) In any case in which a student is a dislocated worker certified in accordance with the provisions of title II of the Employment Opportunities Act of 1983, the Secretary shall in the proposed family contribution schedule, disregard—

"(I) all equity in a single principal place of residence from the computation of assets, notwithstanding any other provision of law or any regulation prescribed pursuant to such law; and

"(II) the amount of unemployment benefits paid to such student from the computation of effective income of the student.".

AUTHORIZATION OF APPROPRIATION; WAIVER OF MATCHING

SEC. 204. (a) There are authorized in addition to amounts appropriated for fiscal year 1983, prior to the date of the enactment of this Act, an additional $100,000,000 to carry out the provisions of title III of the Job Training Partnership Act relating to employment and training assistance for dislocated workers.

(b) Section 304 of the Job Training Partnership Act is amended by adding at the end thereof the following new subsection:

"(c) The requirement of this section shall not apply to any sums appropriated pursuant to section 204 of the Employment Opportunities Act of 1983.

TITLE III—PROMOTING EMPLOYMENT FOR RECIPIENTS OF FEDERALLY FUNDED UNEMPLOYMENT BENEFITS

DEFINITIONS

SEC. 301. As used in this title—

(1) The term "Federal unemployment benefits" means unemployment benefits paid from Federal general revenues (other than benefits paid pursuant to chapter 85 of title 5, United States Code) to individuals for weeks beginning after March 31, 1983, pursuant to agreements made with State agencies.

(2) The term "maximum potential benefit" means an amount equal to the lesser of—

(A) 65 percent of the total amount of regular compensation (including allowances for dependents) payable to an individual with respect to the benefit year (as determined under State law) on the basis of which the individual most recently received regular compensation; or

(B) 8 times the average weekly benefit amount of the individual (as determined for the purpose of section 202(b)(1)(C) of the Federal-State Extended Unemployment Compensation Act of 1970) for his benefit year, except that the provisions of subparagraphs (B), (C), (D), (E), and (F) of paragraph (2) of section 602(e) of the Tax Equity and Financial Responsibility Act of 1982 shall apply with respect to the determination made under this clause.

(3) The term "recipient" means any individual eligible to receive Federal unemployment benefits.

(4) The term "State agency" means the agency receiving grants under title III of the Social Security Act.

REEMPLOYMENT VOUCHERS AUTHORIZED

SEC. 302. (a)(1) Any recipient may, not later than one month after the recipient is eligible to receive Federal unemployment benefits, elect to receive a voucher in accordance with the provisions of this section. Each recipient may receive counseling with respect to the reemployment voucher authorized by this section from the appropriate United States employment service office.

(2) The amount of the voucher under this section shall be equal to 75 percent of the maximum potential benefit of the recipient (less any Federal unemployment benefit that the recipient has received prior to his election to receive a reemployment voucher under this section).

(3) The appropriate State agency shall issue a voucher authorized by this section to any recipient making an election under paragraph (1) of this subsection.

(b) The State agency shall, subject to subsection (c), pay to each employer making a certification under subsection (d) the amount of the voucher issued under this section to each employee of that employer in accordance with the payment schedule contained in subsection (e).

(c) No payment on account of a voucher issued under this section may be paid to any employer who was an employer of the recipient during the recipient's base period as defined under the unemployment compensation law of the State.

(d) No payment on account of a voucher may be paid to any employer of any employee having a voucher issued under this section unless the employer certifies to the State agency—

(1) that the employment of the employee issued a voucher under this section—

(A) will not result in the displacement of currently employed workers (including partial displacement such as the reduction in the hours of nonovertime work or wages or employment benefits); or

(B) will not result in hiring such an employee to fill a job opening created by the action of the employer in laying off or terminating the employment of any regular employee;

(2) the date on which the employment of such employee began; and

(3) that the employee has been employed by the employer for an average of 30 hours a week for the period for which the payment is made.

(e) The State agency shall pay to the employer of each employee who is a recipient having a voucher issued under this section—

(1) 25 percent of the face value of the voucher within 1 month after the hiring of the recipient by the employer;

(2) 25 percent of such face value 3 months after the date of the payment described under clause (1);

(3) 25 percent of such face value 3 months after the second payment described in clause (2); and

(4) the remaining 25 percent of such face value 3 months after the third payment described in clause (3).

(f)(1) Any recipient who—

(A) is unable to use the voucher issued by the State agency under this section, or

(B) after the voucher has been issued is laid off without cause,

may return the unused voucher to the State agency in order to qualify for payments under this subsection.

(2) Any recipient described in paragraph (1) shall be eligible to receive the remainder of his Federal unemployment benefits reduced by—

(A) the amount of payments made to the employer under subsection (e) of this section; or

(B) the amount which the recipient would have received had he been receiving Federal unemployment benefits for the period.

(g) The Secretary shall carry out a program of public information to encourage business concerns to participate in the voucher program authorized by this section.

TRAINING

SEC. 303. The payment of Federal unemployment benefits shall not be denied to any recipient for any week because the recipient is in training or attending an accredited educational institution, or because of the application of State law to any such recipient relating to the availability for work, the active search for work, or the refusal to accept work on account of such training or attendance, unless the State agency determines that such training or attendance will not improve the opportunities for employment of the recipient.

REFUSAL OF TRAINING

SEC. 304. Any recipient who refuses to participate in suitable training available to the recipient without cost to which he is referred by the State agency shall be disqualified from receiving Federal unemployment benefits on the same basis as if the recipient had refused referral to suitable work under State law.

AUTHORIZATION OF APPROPRIATIONS

SEC. 305. There are authorized, in addition to the amount appropriated for fiscal year 1983, prior to the date of enactment of this Act, to the United States Employment Service, Department of Labor an additional $5,000,000 for grants to States for payments for counseling and furnishing information with respect to training opportunities under the Wagner-Peyser Act (29 U.S.C. 49 et seq.).

TITLE IV—PROCUREMENT TARGETING IN LABOR SURPLUS AREAS

TARGETING FOR PROCUREMENT OF SUPPLIES AND EQUIPMENT IN LABOR SURPLUS AREAS

SEC. 401. The head of each Federal agency which procures supplies and equipment at a rate in excess of $1,000,000,000 in the fiscal year 1982 shall set targets, in each fiscal year, for the procurement of such supplies and equipment within labor surplus areas, as defined by the Secretary of Labor. In setting such targets the head of each Federal agency shall consider the serious impact on the economy in the United States of such concentrations of unemployment and the benefits to the Nation of reducing the concentrations of unemployment.

REPORT REQUIRED

SEC. 402. Within 6 months after the end of each fiscal year, the Director of the Office of Management and Budget shall report to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives on—

(1) the amount and percentage of contracts awarded by each Federal agency in labor surplus areas;

(2) the impact of such contracts on the unemployment rate in such areas; and

(3) whether such labor surplus area contracts could be increased without adverse impact on Federal procurement.

DESCRIPTION OF BILL

TITLE I—LABOR INTENSIVE PROGRAMS

Title I authorizes $2 billion for incremental funding increases for existing labor intensive programs for fiscal year 1983 only. A labor intensive program is one in which expenditures have a high direct employment effect. Labor intensity is measured by the number of man years of employment created by a given level of Federal outlays. Examples of existing labor intensive programs might include day care center staffing, Federal public building maintenance, and forestry assistance.

The Secretary of Labor will transfer funds to the most labor intensive programs with protections to ensure that there will be a concentration of funds in high unemployment areas and with assurances that there is an urgent need for the work that will be done.

Only existing Federal or Federally assisted programs will be funded so that there is no need for any new administrative structure. The need for each of these programs has already been determined by Congress and the executive branch during the regular authorization and appropriation process.

By establishing objective criteria for determining which programs are labor intensive and for which there is a real need, we avoid the type of "pork barrel" legislation that usually characterizes public work types of job creation proposals. Although people will be hired to work for the government, at all levels, this is not a resurrection of public service employment. Under public service employment types of job creation, funds are turned over to State and local governments to be used for any hiring and there is a lot of pressure to hire quickly. I am proposing that the need for the job be established first and then we will hire someone to do it.

In addition, to ensure that this program is countercyclical, funds are required to be expended within one year of obligation. There are two requirements for selecting programs that will expedite the distribution of funds. Programs that are selected for increased funding must have expected outlays for fiscal year 1983 of at least $100 million. Also, no program may have an increase in funding greater than 10 percent of its expected outlays for fiscal year 1983. These two criteria will ensure that selected programs already have the administrative capability of easily absorbing an increase in funds and the increase will be limited to what the existing administrative structure can maintain.

Selected labor intensive programs will produce direct employment at a cost of $15,000 per man-year of employment. This will prevent funding of programs with very high wages.

It is estimated that about 70,000 man-years of employment will be directly generated by each $1 billion of expenditures. Estimating an average duration of 7 months of employment for each person hired, these 70,000 man-years of employment translate into 125,000 jobs. The $2 billion authorized would thus produce 250,000 jobs directly and probably an equal number of jobs will be created indirectly in other parts of the economy.

The $2 billion we spend on this program is a modest amount in comparison to Federal expenditures for unemployment compensation benefits. Federal outlays are expected to be at least $25 billion for fiscal year 1982.

TITLE II—DISLOCATED WORKERS

Title II builds on the existing Dislocated Worker program. Additional funds are authorized for this program and, for unemployed individuals who are identified as being dislocated workers, I have provided special benefits.

An additional $100 million is authorized for the retraining of dislocated workers under Title III of the Job Training Partnership Act, for fiscal year 1983. This amount will not have to be matched by the States because it will be appropriated too late for State legislatures to provide the matching funds.

In order to promote voluntary retraining efforts by dislocated workers, the bill makes it easier for such workers to qualify for Pell grants (basic education opportunity grants). These grants may be used to finance half the cost of post-secondary education or training.

As another method to assist dislocated workers, the bill permits them to withdraw their individual retirement accounts (IRA) without paying a tax penalty. Under current law such a withdrawal without penalty is permitted only if the worker is over age 59½ or is disabled.

TITLE III—PROMOTING EMPLOYMENT FOR RECIPIENTS OF FEDERALLY FUNDED UNEMPLOYMENT BENEFITS

Title III provisions relate to unemployment benefits funded from Federal general revenues. It does not apply to programs funded through employer payroll taxes and the unemployment trust fund. Under this title, receipt of such benefits will be tied to conditions that will encourage recipients to seek new employment or training.

First, Federal unemployment benefit recipients may choose to receive a voucher in lieu of their unemployment benefits. This voucher will have a value of 75% of the maximum benefits that could be paid to the person and may be cashed in by any new employer who hires the person, the employer will receive the payments in quarterly installments to ensure that the employee is retained. The employer may not lay off existing employees to hire these new employees. This provision is expected to save money for the Federal government because the amount of the voucher is less than the benefits that would otherwise be paid.

Under this provision a worker may essentially "buy" a job by choosing to use the unemployment benefits to subsidize the employer's costs of hiring. In return, the employee receives a job that pays a wage which is higher than the unemployment benefits and the job will last at least a year, longer that the unemployment benefits are available.

The remaining conditions focus on incentives to move unemployment benefit recipients into training.

Recipients must accept suitable training that is offered without charge. Whereas this provision is mandatory the remaining two are at the option of the unemployment benefit recipient, subject to approval by the State unemployment insurance agency.

Beneficiaries cannot be disqualified from benefits because they enroll in education or retraining unless the State unemployment insurance agency determines that the education or training will not promote their employability. Under present law, persons may be disqualified unless the training has been approved in advance by the state agency.

Beneficiaries may be paid 75 percent of the value of their maximum potential benefits in a lump sum, with the approval of the State unemployment insurance agency, if they intend to use it for training which will improve their chance for reemployment.

In addition, the Employment Service is directed to counsel long-term unemployment insurance beneficiaries, particularly with respect to training opportunties available in the area. Supplementary funds are provided to the Employment Service to enable it to carry out the additional duties prescribed by this provision.

TITLE IV—PROCUREMENT TARGETING IN LABOR SURPLUS AREAS

Title IV provides that in order to promote employment in high unemployment areas, every major federal procuring agency must set goals for procurement contracts in labor surplus areas designated by the Secretary of Labor. At the end of the year these agencies will have to report on the amount and percentage of contracts awarded to such areas.

The text of the bill is attached.

By Mr. SPECTER:

S. 243. A bill to authorize the implementation of a project for the prevention of flood damage on the West Branch of the Susquehanna River at Lock Haven, Pa., and for other purposes; to the Committee on Environment and Public Works.

S. 244. A bill to authorize the implementation of a project for the prevention of flood damage on the Susquehanna River at Harrisburg, Pa., and for other purposes; to the Committee on Environment and Public Works.

S. 245. A bill to authorize implementation of a project for the prevention of flood damage in Wyoming Valley, Luzerne County, Pa., and for other purposes; to the Committee on Environment and Public Works.

FLOOD CONTROL PROJECTS

Mr. SPECTER. Mr. President, I introduce today three bills which provide for authorization of flood control projects for Pennsylvania. These are for Wyoming Valley, Luzerne County, Pa.; Harrisburg, Pa.; and Lock Haven, Pa. All three of these projects are on the Susquehanna River, the first two on the main river and the last on the West Branch.

The cities of Wilkes-Barre, Harrisburg, Lock Haven, and numerous nearby communities were devastated by a series of floods in late June 1972 from the heavy rains of tropical storm Agnes and these projects are in response to that widespread flooding and a subsequent flood from Hurricane Eloise, a few years later.

The Board of Engineers for Rivers and Harbors recommended favorable action, concurring in general with the findings and recommendations of the Baltimore district engineer in the North Atlantic division engineer concerning increased flood protection in the existing Wyoming Valley flood control system. The most severe flood of record, tropical storm Agnes, over topped the existing levee system by 4 to 5 feet. Flood damages in the area were estimated to have been $730 million at June 1972 price levels. Recurrence of a flood the magnitude of Agnes under today's conditions would cause in excess of $1 billion in damages.

The existing Federal flood control system in Wilkes-Barre provides only a 50-year design level of flood protection for what the Corps of Engineers correctly identifies as an "intensively developed major urban area." The corps' plan would protect the Wyoming Valley against a flood magnitude equal to that caused by tropical storm Agnes.

The recommended plan will raise the existing levee system in the Wyoming Valley by 5 to 7 feet, provide new closure and drainage structures, construct a new pumping station, and provide new levees and floodwalls to maintain the system's integrity at five communities in the Wyoming Valley. The five communities are: First, Wilkes-Barre/Hanover Township; second, Swoyersville/Forty-Fort; third, Exeter/West Pittston; fourth, Kingston/Edwardsville; and fifth, Plymouth.

Induced flooding from raising the existing levee system will be mitigated at eight communities. Mitigation at five of the communities with existing flood protection projects, Sunbury, Danville, Brookside, Miners Mills, and Duryea will be by levee or floodwall raising. At two communities, Plainsville and Port Blanchard, nonstructural mitigation measures consisting of a combination of evacuation, floodproofing, relocation, and a ring levee-floodwall system will be employed. At Bloomsburg, the mitigation measure will consist of removal of an abandoned Conrail bridge.

The Harrisburg project was approved by the Board of Engineers for Rivers and Harbors as long ago as April 28, 1978, and the Chief of Engineers on May 16, 1979.

In 1972, the flood of record caused over $85 million of damage at 1972 prices. Flood protection is critically needed for South Harrisburg against recurrent flooding from both the Susquehanna River and Paxton Creek. The corps' plan consists of constructing a floodwall, channel improvements, a pumping plant, and a small dam. Total cost would be $117 million.

With respect to Lock Haven, it should be noted that nearly the entire city is subject to flooding both from the West Branch Susquehanna River and Bald Eagle Creek. The city has been flooded 19 times in the last 130 years. As in other areas, the most damaging flood occurred in 1972 when tropical storm Agnes inundated the entire business district and much of the residential areas of the city and adjoining townships.

The corps' plan would provide a local flood protection system consisting of levees, floodwalls, interior drainage works, highways and railroad closure structures. Also, removal of structures affected by flooding in communities directly across the river from the city is contemplated.

The total cost is estimated at $69.8 million.

It has been proposed that the cost sharing policies of the past be abandoned and more stringent requirements be placed on State, local, and private interests. I suggest that, while cost sharing may have its merits, some allowance must be made for ability to pay. In any event, this issue will be subject to extended review during this Congress. We need, in the meantime, to authorize these three flood control projects promptly. Pennsylvanians, frankly, wonder why 10 years after a devastating flood, these three needed projects have not been authorized.

These are bills which I had introduced late in the 97th Congress, and I am reintroducing them now so that they may be on the list of priority

items for consideration of the Senate Committee on Public Works.

I have written to the distinguished chairman of that committee, Senator STAFFORD, who has assured me that these bills will be given every consideration.

Mr. President, it is my view that serious consideration should be given at the present time to the public works projects which are necessary, demonstrably so, at a time when there is a real necessity to provide jobs, in view of the critical problems of unemployment in this country.

In the special session dealing with the continuing resolution, the House passed a jobs program of some $5.5 billion, and the Senate passed a jobs program of some $1.2 billion. Unfortunately, neither was included, nor was any compromise arrived at, in the face of a prospective veto by the President. It seems to me that the President may have a different view at the present time about a jobs program, especially as it relates to matters of established value.

I submit that the four bills I am introducing today meet that criterion—in terms of public works projects which should have been accomplished long before this day, certainly should be addressed at the present time, and doubly so in the context of the national need to provide jobs for unemployed Americans.

I ask unanimous consent that the full text of the three proposed bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 243

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Army, acting through the Chief of Engineers, is authorized to implement a project for the prevention of flood damage on the West Branch of the Susquehanna River at Lock Haven, Pennsylvania, substantially in accordance with, and subject to conditions recommended in, the Report of the Chief of Engineers dated December 14, 1981, at an estimated cost of $69,800,000.

(b) Sections 201 and 202 and the last three sentences of section 203 of the Flood Control Act of 1968 (Public Law 90-483) shall apply to the project described in subsection (a).

(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

S. 244

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of the Army, acting through the Chief of Engineers, is authorized to implement a project for the prevention of flood damage on the Susquehanna River at Harrisburg, Pennsylvania, substantially in accordance with the plans and subject to the conditions recommended by the Chief of Engineers in his report dated May 16, 1979, at an estimated cost of $117,000,000.

(b) Sections 201 and 202 and the last three sentences in section 203 of the Flood Control Act of 1968 (Public Law 90-483) shall apply to the project described in subsection (a).

(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

S. 245

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of the Army, acting through the Chief of Engineers, is authorized to implement a project for the prevention of flood damage in Wyoming Valley, Luzerne County, Pennsylvania, substantially in accordance with, and subject to conditions recommended in, the Report of the Division Engineer dated February 16, 1982, at an estimated cost of $207,000,000.

(b) Sections 201 and 202 and the last three sentences of section 203 of the Flood Control Act of 1968 (Public Law 90-483) shall apply to the project described in subsection (a).

(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. SPECTER:

S. 246. A bill to authorize the implementation of a project for the control of beach erosion at Presque Isle Peninsula, Pa., and for other purposes; to the Committee on Environment and Public Works.

BEACH EROSION CONTROL PROJECT

Mr. SPECTER. Mr. President, I rise to introduce a bill to authorize the construction of a system of breakwaters along the lakewood length of Presque Isle Peninsula on Lake Erie in the northwest corner of Pennsylvania.

In 1956, the Federal Government, in cooperation with the Commonwealth of Pennsylvania, completed a beach erosion control project on Presque Isle Peninsula. As I observed last year when I visited Presque Isle, the project has proven to be inadequate and sand replenishment measures have been required periodically through the 1960's and 1970's and annually since 1975, in order to protect the Federal structures and State park facilities along the neck of the peninsula. Since the sand replenishment requirements have far exceeded the estimated requirements, a more effective method of protection and beach stabilization is desired. The park is a popular recreational area and provides facilities for a wide spectrum of recreational opportunities. The year-round attractiveness of the park is shown by the over 4 million persons which visit the park annually.

The Corps of Engineers' recommended plan of improvement provides for construction of a system of rubble-mound breakwaters located offshore along the lakeward length of Presque Isle Peninsula, parallel to the shoreline, and positioned in the trough between the first and second offshore sand bars. Each structure will be 150 feet long with a 350-foot gap between structures. In addition, sand fill will be placed along the shoreline in the lee of the breakwaters to provide a recreational beach berm.

The system of offshore breakwaters allows sufficient wave energy to pass through the gap between breakwater segments to generate an along shore current in the lee of the breakwater system. Therefore, natural shore processes will continue to transport sand in quantities which will preserve the integrity of the natural environment, especially the sensitive and unique portion of the ecological reservation on the east end of the peninsula. An important element of the recommended plan will be the operation of a post-construction monitoring program which would note the presence of any adverse sediment transport impacts. Should adverse impacts arise, then annual replenishment program would be adjusted to provide sand in order to eliminate, minimize, or ameliorate possible adverse environmental impacts.

The project costs would be $24 million.

Mr. President, I ask unanimous consent that the full text of the proposal be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 246

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of the Army, acting through the Chief of Engineers, is authorized to implement a project for the control of beach erosion at Presque Isle Peninsula, Pennsylvania, substantially in accordance with, and subject to conditions recommended in, the Report of the Chief of Engineers dated October 2, 1981, at an estimated cost of $24,000,000.

(b) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. GORTON (for himself, Mr. JACKSON, Mr. HATFIELD, Mr. BAUCUS, Mr. GARN, Mr. INOUYE, Mr. MATSUNAGA, and Mr. HATCH):

S. 247. A bill granting the consent of Congress to the Northwest Interstate Compact on Low-Level Radioactive Waste Management; to the Committee on the Judiciary.

NORTHWEST INTERSTATE COMPACT ON LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT

Mr. GORTON. Mr. President, the bill I am introducing today is one I previously introduced in the 97th Congress, S. 2829. It is a bill granting the consent of the Congress to the Northwest Interstate Compact on Low-Level Radioactive Management.

In the July 1982 issue of Nuclear Industry—the magazine of the Atomic

Industrial Forum—John P. O'Niel wrote, at page 4:

The volume of low-level waste is expanding. In 1980 there were 3.2 million cubic feet; half of it was generated by nuclear reactors, 9 percent from government or military facilities, 22 percent from industry, and 19 percent from medical and research institutions. By 1990, the volume is expected to more than double, according to the Department of Energy, and five to seven regional burial sites will be needed for disposal.

In 1980, the 96th Congress passed the Low-Level Radioactive Waste Policy Act, Public Law 96-573. In that law, Congress declared the policy of the Federal Government that each State be responsible for providing for the availability of capacity for the disposal of low-level radioactive waste generated within its borders. This capacity may exist either within or outside the State. The Congress also declared that low-level radioactive waste can be most safely and efficiently managed on a regional basis. Pursuant to this declared policy, Congress authorized States to enter into interstate compacts in order to provide for the establishment and operation of regional disposal facilities for low-level radioactive waste.

The bill which I now reintroduce is the compact which has been developed pursuant to the authority granted by Public Law 96-573 to develop regional compacts. It is the compact of the following States: Washington, Oregon, Idaho, Montana, Utah, Wyoming, Hawaii, and Alaska. It has been adopted by the legislative action of the States of Washington, Oregon, Idaho, Utah, and Hawaii. Executive order adoption in Montana anticipates legislative ratification in Montana.

Six other regional interstate compacts are in various stages of negotiation or legislative ratification. They are the Midwest Central States, Rocky Mountain, Southeast, Northeast, and Mid-Atlantic. State legislatures in the Midwest, Rocky Mountain, and Southeast regions may ratify those regional compacts this spring. "The area which has made the best progress is the Northeast, which produces 40 percent of the low-level waste in America," according to Mr. O'Niel.

Interstate compacts entered pursuant to the Low-Level Radioactive Waste Policy Act of 1980 are required by that law to be consented to by the Congress. I reintroduce this bill in the 98th Congress in order to obtain that consent.

The issue of radioactive waste disposal is significant for persons residing in the State of Washington. This is so because of the existence of a large low-level radioactive waste disposal facility at the Hanford Nuclear Reservation near Richland, Wash.

Several years ago, the voters of the State of Washington passed initiative 383. The purposes of that initiative were to cause Federal-State cooperation in the siting of low-level radioactive waste repositories, considering the interest of those residing close to those repositories, a recognition of the environmental and public health implications of radioactive waste disposal, and a Federal commitment to addressing the transportation of radioactive waste problem with regional responsibility for regionally generated radioactive waste. The complete text of that initiative follows this statement.

The initiative was passed by a majority of over 73 percent of the State's electorate. Going under the banner "Don't Waste Washington," the proponents argued that the State of Washington should not be responsible to all the other States in the Nation to provide a waste-disposal facility for all their low-level radioactive waste. The initiative did not provide for, nor did its proponents advocate, a total exclusion of deposits of out-of-State nuclear waste within the State. Rather, the initiative asserted that management of low-level radioactive waste was safest and most efficient on a regional basis, a policy which is wholly consistent with the statement of Federal policy in Public Law 96-573.

Earlier this year, the ninth circuit Court of Appeals affirmed a U.S. district court decision that initiative 383 was unconstitutional because its exclusionary and regulatory provisions violated the supremacy and commerce clauses of the U.S. Constitution. Because of this ruling, prompt congressional consideration and enactment of the bill I reintroduce today is crucial to Washingtonians to insure that regional responsibility for regionally generated radioactive waste become a reality. The complete text of the Ninth Circuit opinion follows this statement.

It is incumbent upon the Congress, however, in addition to giving this matter prompt consideration, to evaluate whether the regional interstate compacts which are developed across the Nation create an integrated low-level radioactive waste program. All the compacts need not be identical to accomplish this. Indeed, all the compacts need not be before Congress in order to evaluate whether their combine effect is national in scope. But the compacts must operate in an integrated fashion and not be inconsistent in major interstate or interregion provisions. To evaluate whether this is the case, Congress should have at least several compacts before it before acting on any. It is my hope that the Northwest, Southeast, and Rocky Mountain compacts will be before Congress by spring of 1983. These three compacts would provide Congress with enough information about an integrated low-level radioactive waste management system to allow congressional consent for those compacts and provide guidance for congressional approval of those subsequently introduced.

On August 12 of last year I introduced this bill at the request of Gov. John Spellman, Governor of the State of Washington. I did so because I felt that prompt congressional approval of this and other low-level radioactive waste interstate compacts was desirable. I was aware then that other States and other regions were at more developmental stages of establishing compacts than was the State of Washington or the northwest region. I am pleased with the amount of progress that other regions have made since that time. I believe that introduction of that bill—S. 2829—at that time served to inform and speed development of other regional compacts and Congress consideration of them.

The bill which I reintroduce today does differ in one respect from that which I was requested to introduce by Governor Spellman. It is a change which I believe is essential to national acceptance of this compact. The Northwest compact, as ratified by the several States, provides that party States must refuse to accept for disposal any low-level radioactive waste generated outside of the region, except as may be allowed by the Northwest Compact Committee, after July 1, 1983. Such a restriction is authorized by the Low-Level Radioactive Waste Policy Act, Public Law 96-573, but only may become effective after January 1, 1986. Rather than propose congressional consent to the proposed effectiveness date of the exclusionary provision, section 3 of the bill, I now offer conditions congressional consent upon use of the January 1, 1986, effectiveness date of Public Law 96-573.

Section 4(a)(2)(B) of the Low-Level Radioactive Waste Policy Act provides that interstate compacts "shall not take effect until Congress has by law consented to the compact." In order to insure that the various interstate compacts do create a sensible national system utilizing State and regional disposal programs, Congress may condition its consent to individual compacts by requiring modification of the compact's provisions. The condition affecting the effectiveness date of the compact's exclusionary provision is an example. Because these conditions would be directed toward national integration of regional compacts, and be enacted pursuant to commerce clause authority, no subsequent State legislative action would, in my opinion, be necessary, from the Federal perspective, to cause them to be effective. State legislative ratification may be necessary from the State perspective, however, if they changed the essence of the interstate agreement.

On November 9, 1982, the Senate Judiciary Committee held a hearing in

Seattle on S. 2829. Newspaper articles regarding the hearing, appeared subsequently in the Seattle Times, Seattle Post Intelligencer, and University of Washington Daily. Those articles appear at the end of this statement.

It was my intention, upon introducing this bill in the 97th Congress, to cause acceleration of other regional compacting activity and to discover the issues which arise under Public Law 96-573 and this bill. I believe both have been accomplished. It is my intention now, upon reintroducing this bill in the 98th Congress, to press aggressively for its passage.

The accomplishment of my earlier objectives is attributable, in large part, to the courtesy and consideration of Senator STROM THURMOND, chairman of the Senate Judiciary Committee, to which the bill was referred. I wish to thank him, and his counsel Sally Rogers, for their help. I wish also to thank Senator ALAN SIMPSON for participating in the November 9 Seattle hearing. The knowledge of Senator SIMPSON and his counsel James Curtiss regarding matters nuclear, contributed to thoughtful consideration of the issues raised by this bill.

Having thanked them, I requested of them and all Members of the Senate that this bill receive the most prompt consideration. Congressional approval of low-level radioactive waste compacts is important for the citizens of the northwest region, and indeed for the entire Nation.

Mr. President, I ask unanimous consent that the bill and a number of attachments be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 247

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is hereby given to the states of Alaska, Hawaii, Idaho, Montana, Oregon, Utah, Washington, and Wyoming to enter into the Northwest Interstate Compact on Low-level Radioactive Waste Management, and to each and every part and article thereof. Such compact reads substantially as follows:

"NORTHWEST INTERSTATE COMPACT ON LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT

"ARTICLE I—Policy and Purpose

"The party states recognize that low-level radioactive wastes are generated by essential activities and services that benefit the citizens of the states. It is further recognized that the protection of the health and safety of the citizens of the party states and the most economical management of low-level radioactive wastes can be accomplished through cooperation of the states in minimizing the amount of handling and transportation required to dispose of such wastes and through the cooperation of the states in providing facilities that serve the region. It is the policy of the party states to undertake the necessary cooperation to protect the health and safety of the citizens of the party states and to provide for the most economical management of low-level radioactive wastes on a continuing basis. It is the purpose of this compact to provide the means for such a cooperative effort among the party states so that the protection of the citizens of the states and the maintenance of the viability of the states' economies will be enhanced while sharing the responsibilities of radioactive low-level waste management.

"ARTICLE II—Definitions

"As used in this compact:

"(1) "Facility" means any site, location, structure, or property used or to be used for the storage, treatment, or disposal of low-level waste, excluding federal waste facilities;

"(2) "Low-level waste" means waste material which contains radioactive nuclides emitting primarily beta or gamma radiation, or both, in concentrations or quantities which exceed applicable federal or state standards for unrestricted release. Low-level waste does not include waste containing more than ten (10) nanocuries of transuranic contaminants per gram of material, nor spent reactor fuel, nor material classified as either high-level waste or waste which is unsuited for disposal by near-surface burial under any applicable federal regulations;

"(3) "Generator" means any person, partnership, association, corporation, or any other entity whatsoever which, as a part of its activities, produces low-level radioactive waste;

"(4) "Host state" means a state in which a facility is located.

"ARTICLE III—Regulatory Practices

"Each party state hereby agrees to adopt practices which will require low-level waste shipments originating within its borders and destined for a facility within another party state to conform to the applicable packaging and transportation requirements and regulations of the host state. Such practices shall include:

"(1) Maintaining an inventory of all generators within the state that have shipped or expect to ship low-level waste to facilities in another party state;

"(2) Periodic unannounced inspection of the premises of such generators and the waste management activities thereon;

"(3) Authorization of the containers in which such waste may be shipped, and a requirement that generators use only that type of container authorized by the state;

"(4) Assurance that inspections of the carriers which transport such waste are conducted by proper authorities, and appropriate enforcement action taken for violations;

"(5) After receiving notification from a host state that a generator within the party state is in violation of applicable packaging or transportation standards, the party state will take appropriate action to assure that such violations do not recur. Such action may include inspection of every individual low-level waste shipment by that generator.

"Each party state may impose fees upon generators and shippers to recover the cost of the inspections and other practices under this article. Nothing in this article shall be construed to limit any party state's authority to impose additional or more stringent standards on generators or carriers than those required under this article.

"ARTICLE IV—Regional Facilities

"(1) Facilities located in any party state, other than facilities established or maintained by individual low-level waste generators for the management of their own low-level waste, shall accept low-level waste generated in any party state if such waste has been packaged and transported according to applicable laws and regulations.

"(2) No facility located in any party state may accept low-level waste generated outside of the region comprised of the party states, except as provided in article V.

"(3) Until such time as paragraph (2) of article IV takes effect, facilities located in any party state may accept low-level waste generated outside of any of the party states only if such waste is accompanied by a certificate of compliance issued by an official of the state in which such waste shipment originated. Such certificate shall be in such form as may be required by the host state, and shall contain at least the following:

"(A) The generator's name and address;

"(B) A description of the contents of the low-level waste container;

"(C) A statement that the low-level waste being shipped has been inspected by the official who issued the certificate or by his agent or by a representative of the United States Nuclear Regulatory Commission, and found to have been packaged in compliance with applicable Federal regulations and such additional requirements as may be imposed by the host state;

"(D) A binding agreement by the state of origin to reimburse any party state for any liability or expense incurred as a result of an accidental release of such waste during shipment or after such waste reaches the facility.

"(4) Each party state shall cooperate with the other party states in determining the appropriate site of any facility that might be required within the region comprised of the party states, in order to maximize public health and safety while minimizing the use of any one (1) party state as the host of such facilities on a permanent basis. Each party state further agrees that decisions regarding low-level waste management facilities in their region will be reached through a good faith process which takes into account the burdens borne by each of the party states as well as the benefits each has received.

"(5) The party states recognize that the issue of hazardous chemical waste management is similar in many respects to that of low-level waste management. Therefore, in consideration of the State of Washington allowing access to its low-level waste disposal facility by generators in other party states, party states such as Oregon and Idaho which host hazardous chemical waste disposal facilities will allow access to such facilities by generators within other party states. Nothing in this compact shall be construed to prevent any party state from limiting the nature and type of hazardous chemical or low-level wastes to be accepted at facilities within its borders or from ordering the closure of such facilities, so long as such action by a host state is applied equally to all generators within the region comprised of the party states.

"(6) Any host state may establish a schedule of fees and requirements related to its facility, to assure that closure, perpetual care, and maintenance and contingency requirements are met, including adequate bonding.

"ARTICLE V—Northwest Low-Level Waste Compact Committee

"The governor of each party state shall designate one (1) official of that state as the person responsible for administration of this compact. The officials so designated shall together comprise the northwest low-

level waste compact committee. The committee shall meet as required to consider matters arising under this compact. The parties shall inform the committee of existing regulations concerning low-level waste management in their states, and shall afford all parties a reasonable opportunity to review and comment upon any proposed modifications in such regulations. Notwithstanding any provision of article IV to the contrary, the committee may enter into arrangements with states, provinces, individual generators, or regional compact entities outside the region comprised of the party states for access to facilities on such terms and conditions as the committee may deem appropriate. However, it shall require a two-thirds (⅔) vote of all such members, including the affirmative vote of the member of any party state in which a facility affected by such arrangement is located, for the committee to enter into such arrangement.

"ARTICLE VI—Eligible Parties and Effective Date

"(1) Each of the following states is eligible to become a party to this compact: Alaska, Hawaii, Idaho, Montana, Oregon, Utah, Washington, and Wyoming. As to any eligible party, this compact shall become effective upon enactment into law by that party, but it shall not become initially effective until enacted into law by two (2) states. Any party state may withdraw from this compact by enacting a statute repealing its approval.

"(2) After the compact has initially taken effect pursuant to paragraph (1) of this article, any eligible party state may become a party to this compact by the execution of an executive order by the governor of the state. Any state which becomes a party in this manner shall cease to be a party upon the final adjournment of the next general or regular session of its legislature or July 1, 1983, whichever occurs first, unless the compact has by then been enacted as a statute by that state.

"(3) Paragraph (2) of article IV of this compact shall take effect on July 1, 1983, if consent is given by Congress. As provided in public law 96-573, Congress may withdraw its consent to the compact after every five (5) year period.

"ARTICLE VII—Severability

"If any provision of this compact, or its application to any person or circumstances, is held to be invalid, all other provisions of this compact, and the application of all of its provisions to all other persons and circumstances, shall remain valid; and to this end the provisions of this compact are severable.".

SEC. 2. Congress finds that the compact consented to herein is in furtherance of the policy contained in section 4(a)(1) of the Low-level Radioactive Waste Policy Act of 1980 and with the intent of Section 274(b) of the Atomic Energy Act of 1954. In order that this compact may be given full effect, the Nuclear Regulatory Commission is authorized and directed to require licensees subject to its jurisdiction under the Atomic Energy Act of 1954 to comply with the provisions of this compact. The Commission shall consult and cooperate with the states which are parties to this compact in carrying out this section.

SEC. 3. The Consent of Congress granted pursuant to this act is limited by the following conditions:

(a) Notwithstanding the provisions of Article V and Article VI, Paragraph (3) of the Northwest Interstate Compact on Low-Level Radioactive Waste Management, Article IV, paragraph (2) of that compact shall not take effect until January 1, 1986.

(b) The right of Congress to alter, amend, or repeal this Act is hereby expressly reserved.

WASHINGTON STATE INITIATIVE 383
(COMPLETE TEXT)

An Act relating to radioactive waste; prohibiting the storage of certain radioactive waste in Washington state; creating a new chapter in Title 70 RCW; and providing penalties.

Be it enacted by the people of the State of Washington:

New Section. Section 1. The people of the state of Washington find that:

(1) Radioactive wastes are highly dangerous, in that releases of radioactive materials and emissions to the environment are inimical to the health and welfare of the people of the state of Washington, and contribute to the occurrences of harmful diseases, including excessive cancer and leukemia. The dangers posed by the transportation and presence of radioactive wastes are increased further by the long time periods that the wastes remain radioactive and highly dangerous;

(2) Transporting, handling, storing, or otherwise caring for radioactive waste presents a hazard to the health, safety, and welfare of the individual citizens of the state of Washington because of the ever-present risk that an accident or incident will occur while the wastes are being cared for;

(3) The likelihood that an accident will occur in this state involving the release of radioactive wastes to the environment becomes greater as the volume of wastes transported, handled, stored, or otherwise cared for in this state increases;

(4) The effects of unplanned releases of radioactive wastes into the environment, especially into the air and water of the state, are potentially both widespread and harmful to the health, safety, and welfare of the citizens of this state.

The burdens and hazards posed by increasing the volume of radioactive wastes transported, handled, stored, or otherwise cared for in this state by the importation of such wastes from outside this state is not a hazard the state government may reasonably ask its citizens to bear. The people of the state of Washington believe that the principles of federalism do not require the sacrifice of the health, safety, afd welfare of the people of one state for the convenience of other states or nations.

New Section. Sec. 2. The definitions set forth in this section apply throughout this chapter.

(1) "Radioactive waste" means unwanted radioactive material, including radioactive residues produced as a result of electric power generation or other reactor operation.

(2) "Medical waste" means radioactive waste from all therapy, diagnosis, or research in medical fields and radioactive waste which results from the production and manufacture of radioactive material used for therapy, diagnosis, or research in medical fields, except that "medical waste" does not include spent fuel or waste from the fuel of an isotope production reactor.

(3) "Radioactive waste generated or otherwise produced outside the geographic boundaries of the state of Washington" means radioactive waste which was located outside the state of Washington at the time of removal from a reactor vessel.

New Section. Sec. 3. Notwithstanding any law, order, or regulation to the contrary, after July 1, 1981, no area within the geographic boundaries of the state of Washington may be used by any person or entity as a temporary, interim, or permanent storage site for radioactive waste, except medical waste, generated or otherwise produced outside the geographic boundaries of the state of Washington. This section does not apply to radioactive waste stored within the state of Washington prior to July 1, 1981.

New Section. Sec. 4. Notwithstanding any law, order, or regulation to the contrary, after July 1, 1981, no person or entity may transport radioactive waste, except medical waste, generated or otherwise produced outside the geographic boundaries of the state of Washington to any site within the geographic boundaries of the state of Washington for temporary, interim, or permanent storage.

New Section. Sec. 5. (1) A violation of or failure to comply with the provisions of section 3 or 4 of this act is a gross misdemeanor.

(2) Any person or entity that violates or fails to comply with the provisions of section 3 or 4 of this act is subject to a civil penalty of one thousand dollars for each violation or failure to comply.

(3) Each day upon which a violation occurs constitutes a separate violation for the purposes of subsections (1) and (2) of this section.

(4) Any person or entity violating this chapter may be enjoined from continuing the violation. The attorney general or any person residing in the state of Washington, may bring an action to enjoin violations of this chapter, on his or her own behalf and on the behalf of all persons similarly situated. Such action may be maintained in the person's own name or in the name of the state of Washington. No bond may be required as a condition to obtaining any injunctive relief. The superior courts have jurisdiction over actions brought under this section, and venue shall lie in the county of the plaintiff's residence, in the county in which the violation is alleged to occur, or in Thurston county in addition to other relief, the court in its discretion may award attorney's and expert witness fees and costs of the suit to a party who demonstrates that a violation of this chapter has occurred.

New Section. Sec. 6. Notwithstanding the other provisions of this chapter, the state of Washington may enter into an interstate compact, which will become effective upon ratification by a majority of both houses of the United States Congress, to provide for the regional storage of radioactive wastes.

New Section. Sec. 7. This chapter shall be liberally construed to protect the health, safety, and welfare of the individual citizens of the state of Washington.

New Section. Sec. 8. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

New Section. Sec. 10. Sections 1 through 9 of this act shall constitute a new chapter in Title 70 RCW.

[U.S. Court of Appeals for the Ninth Circuit]

WASHINGTON STATE BUILDING AND CONSTRUCTION TRADES COUNCIL, AFL-CIO, ET AL., PLAINTIFFS-APPELLEES *v.* THE HONORABLE JOHN C. SPELLMAN, GOVERNOR OF THE STATE OF WASHINGTON, ET AL., DEFENDANTS-APPELLANTS (No. 81-3453, DC No. CV 81-154); UNITED STATES OF AMERICA, PLAINTIFF-APPELLEE *v.* STATE OF WASHINGTON, ET AL., DEFENDANTS-APPELLANTS (No. 81-3454, DC No. CV 81-190); WASHINGTON STATE BUILDING AND CONSTRUCTION TRADES COUNCIL, AFL-CIO, ET AL., PLAINTIFFS-APPELLEES *v.* THE HONORABLE JOHN C. SPELLMAN, ET AL., DEFENDANTS, AND DON'T WASTE WASHINGTON LEGAL DEFENSE FOUNDATION, INTERVENOR-DEFENDANT-APPELLANT (No. 81-3460, DC No. CV 81-154); UNITED STATES OF AMERICA, PLAINTIFF-APPELLEE *v.* STATE OF WASHINGTON, ET AL., DEFENDANT, AND DON'T WASTE WASHINGTON LEGAL DEFENSE FOUNDATION, INTERVENOR-DEFENDANT-APPELLANT (No. 81-3461, DC No. CV 81-190)

OPINION

Appeal from the United States District Court for the Eastern District of Washington, Robert J. McNichols, District Judge, Presiding, Argued and submitted May 5, 1982.

Before: Goodwin and Poole, Circuit Judges, and East,[1] District Judge.

The district court granted summary judgment in favor of the United States and certain commercial users of a low-level radioactive waste disposal site in the State of Washington. The decision, reported at 518 F. Supp. 928 (E.D. Wash. 1981), struck down as unconstitutional a Washington statute closing the borders of Washington to the entry of low-level radioactive waste originating outside the state. Don't Waste Washington (DWW), a public interest group which had sponsored the challenged initiative legislation, appeals the denial of leave to intervene as a party. The State appeals the summary judgment.

For more than fifteen years, the State of Washington has leased from the United States 1,000 acres in an area known as the Hanford Reservation. During this time, the State has sub-leased part of the land for use as a commercial low-level radioactive waste dump. By arrangement with the United States under § 274 of the Atomic Energy Act (42 U.S.C. § 2021), Washington monitors the dumping site (Richland) and inspects shipments of waste to determine their compliance with state and federal regulations concerning radioactive material. The State also licenses users and collects a fee from them.

Richland is one of three low-level radioactive dump sites in operation nationwide and receives about 40 percent of the country's low-level radioactive waste. It is also the only currently operating site accepting absorbed-liquid low-level radioactive waste. Approximately 95 percent of the waste received by Richland originates outside the State of Washington.

In November 1980, the voters of the State of Washington enacted Initiative Measure No. 383 ("383") prohibiting the transportation and storage within Washington of radioactive waste produced outside the state. The initiative also gave permission for the state to enter into an interstate compact to solve the problem of radioactive waste on a regional basis. Federal legislation had already provided for military and high level radioactive wastes.

After the Washington initiative was approved by the voters, Congress passed the Low-Level Radioactive Waste Policy Act of 1981 (Pub. L. No. 96-573, 94 Stat. 3347, hereinafter referred to as the "Low-Level Waste Act") encouraging the use of compacts between and among states to accomplish regional storage of low-level radioactive waste. At the time the Low-Level Waste Act was passed, Congress was aware of the enactment of 383 in Washington.

The operator of the site, together with seven other plaintiffs, filed an action in district court seeking a declaration that 383 was unconstitutional and requesting injunctive relief. Shortly afterward, the United States of America filed a similar action.

The parties concede that regulation of the disposal of high-level radioactive waste has been preempted by the federal government and that this area is therefore not susceptible to regulation by the states. The dispute concerns the power of a state to regulate within its borders the importation and disposal of low-level radioactive waste such as filter sludges, resins, filter bottoms, used gloves and protective clothing, rags, tools, papers, plastic and material used in the manufacture of smoke detectors, luminous dials and emergency exit signs.

The government and the users of the Richland site attack the State statute on two grounds: (1) the Atomic Energy Act and the Low-Level Waste Act preempt state action; and (2) Measure 383 violates the Commerce Clause of the United States Constitution. The State of Washington contends that § 274 of the Atomic Energy Act and the interstate compact provision of the Low-Level Waste Act cede control to the state over low-level waste disposal in general. The State also argues that 383 does not violate the Commerce Clause.

DWW appeals the district court's denial of its motion to intervene either as a matter of right under Federal Rules of Civil Procedure 24(a), or under Rule 24(b)'s provision for permissive intervention.

Denial of DWW's motion to intervene was error and accordingly we reverse as to that holding. Rule 24 traditionally has received a liberal construction in favor of applicants for intervention. 7A C. Wright & A. Miller, Federal Practice and Precedure § 1904 (1972). DWW, as the public interest group that sponsored the initiative, was entitled to intervention as a matter of right under Rule 24(a). However, while we sustain DWW's appeal, this reversal does not require a new trial because the holding of the case would not be changed. DWW was permitted to participate in the argument on the appeal from the order granting summary judgment, and its contentions were duly considered. We conclude that the district court was correct in granting summary judgment to the plaintiffs. No genuine issue of fact exists. Initiative 383 violates the Supremacy Clause and the Commerce Clause of the United States Constitution.

I. SUPREMACY CLAUSE

The initiative violates the Supremacy Clause because it seeks to regulate legitimate federal activity and to avoid the preemption of the Atomic Energy Act. Neither § 274 of the Act nor the Low-Level Waste Act is a grant of total authority to the states over the disposal of low-level wastes within their own borders.

The regulation of the disposal of low-level radioactive waste is a legitimate federal activity, and Congress has not waived or delegated its authority over the subject. The United States' § 274 agreement with the State of Washington gives the State authority over such matters as licensing, inspection, and levying of lease and maintenance fees. However, as the district court correctly points out, complete control of the Richland site did not pass with the assignment of regulatory responsibilities.

The Low-Level Waste Act comes closer to yielding control of disposal sites to the states in which the sites are located. The Act permits the establishment and operation of regional disposal facilities through interstate compacts. Because Congress specifically gives permission for regional disposal in this Act, states signatory to a compact could exclude waste from nonsignatory states without violating the Supremacy or Commerce Clauses. Permission to exclude such wastes, however, is conditioned on participation in a compact.

The State of Washington has signed the proposed Northwest Interstate Compact on Low-Level Radioactive Waste Management (Northwest Compact) with Oregon, Idaho, Montana and Utah. As of this date, the proposed compact has not received Congressional approval. Until the state participates in a compact which has become law, the Low-Level Waste Act does not grant power to any state to close its borders to interstate traffic in low-level waste.

In any case, Initiative 383 was not framed in terms of the Northwest Compact. It was an unqualified closing of the Richland facility to all out-of-state users. As such, it violates the Supremacy Clause.

II. COMMERCE CLAUSE

Initiative 383 also violates the Commerce Clause. The initiative is based upon an impermissible exercise of the State of Washington's police powers. Congress has established in the Atomic Energy Act a pervasive statutory scheme to regulate nuclear activity. As discussed above, through § 274 of the Act and through the Low-Level Waste Act, Congress has also ceded some regulatory authority to the states. But Congress stopped short of granting the states power to ban wastes transported from outside their borders.

Even in the absence of pervasive federal legislation, "the Commerce Clause prevents the State from erecting barriers to the free flow of interstate commerce." *Raymond Motor Transportation, Inc.* v. *Rice*, 434 U.S. 429, 440 (1978). A state statute may affect commerce without violating the Commerce Clause, however, if the statute serves a legitimate state interest and if it is applied in a nondiscriminatory manner. *Id.*

The criteria for determining whether the Commerce Clause has been violated are articulated in *Pike* v. *Bruce Church, Inc.*, 397 U.S. 137, 142 (1970). The *Pike* test asks whether the state law (1) regulates evenhandedly; (2) accomplishes a legitimate local public purpose; and (3) has only an incidental effect on interstate commerce.

Low-level waste from within Washington and that traveling through the state are exempted from the initiative. Only out-of-state waste bound for disposal within Washington is banned. Such uneven treatment of in-state and out-of-state parties fails the first part of the *Pike* test.

This facial discrimination, in turn, "invokes the strictest scrutiny of any purported legitimate local purpose and of the absence of nondiscriminatory alternatives." *Hughes* v. *Oklahoma*, 441 U.S. 322, 337

[1] The Honorable William G. East, Senior United States District Judge for the District of Oregon, sitting by designation.

(1979). The initiative cannot withstand this level of scrutiny.

A challenge to bona fide safety regulations must overcome a strong presumption of validity. *Bibb v. Navajo Freight Lines*, 359 U.S. 520, 524 (1959). However, the Supreme Court has recently held that "the incantation of a purpose to promote the public health or safety does not insulate a state law from Commerce Clause attack." *Kassel v. Consolidated Freightways Corp.*, 450 U.S. 662, 670 (1981).

The state relies upon the proposition that "releases of radioactive materials and emissions to the environment are inimical to the health and welfare of the people of Washington. . . ." Initiative 383, § 1. Undoubtedly, the release gf radioactive materials and emissions is inimical to the safety of the people of any state. The State of Washington neglects to address, however, the manner in which local waste, transported and stored within Washington has superior safety and environmental virtues over waste produced elsewhere and similarly controlled by state regulatory measures. Initative 383, therefore, also fails the second part of the *Pike* test.

Finally, Initiative 383 has more than an incidental effect on interstate commerce. Washington receives two-fifths of the country's low-level radioactive waste and has the only site currently available to receive absorbed-liquid low-level waste. Closing Washington's borders would significantly aggravate the national problem of low-level waste disposal. Thus, 383 fails to meet the last part of the *Pike* test and violates the Commerce Clause.

Further, 383 fails to qualify under either the market participant or quarantine theory exceptions to the Commerce Clause. The State's contention that it is a "market participant," thereby placing the initiative beyond the reach of the Commerce Clause, is unconvincing. The State argues that 383 is a proprietary measure enacted to limit the state's participation in the waste disposal market. Whether or not the State is a proprietor of the Richland site, the initiative is cast in state regulatory rather than in proprietary terms. The measure is based on public safety rather than on economic considerations. The measure denies entry of waste at the state's borders rather than at the site the State is operating as a market participant. The measure establishes civil and criminal penalties which only a state and not a mere proprietor can enforce.

The State's quarantine theory is equally unconvincing. Under the quarantine theory, a state may close its borders to protect citizens against health hazards such as epidemics.

In *Philadelphia v. New Jersey*, 437 U.S. 617 (1978), however, the Supreme Court held that one state may not "isolate itself from a problem common to many by erecting a barrier against the movement of interstate trade." *Id.* at 628. In that case, the out-of-state user of a New Jersey disposal site challenged a New Jersey statute prohibiting the importation of out-of-state waste. The New Jersey statute, like the Washington initiative, protected the health of the individual state's citizens while ignoring the nationwide problem of waste disposal. The Supreme Court found the measure "blocks the importation of waste in an obvious effort to saddle those outside the State with the entire burden of slowing the flow of refuse into New Jersey's remaining landfill sites. That legislative effort is clearly impermissible under the Commerce Clause of the Constitution." *Id.* at 629. Thus, Initiative 383 fails to come within either the market participant or the quarantine theory exceptions to the Commerce Clause.

Affirmed.

COMPACT GROUPINGS AND LEGISLATIVE STATUS AS OF NOVEMBER 29, 1982

Legislative Status: Introduced in House (IH). Introduced in Senate (IS). Passed in House (PH). Passed in Senate (PS). Ratified, Signed by Governor (R).

MIDWEST

Illinois, Indiana (IH), Iowa,* Kentucky,* Michigan (PH/IS), Minnesota,* Missouri,* Nebraska,* North Dakota,* Ohio, South Dakota, Wisconsin, Kansas,* Virginia,* Delaware,* Maryland.*

NORTHWEST

Idaho (R), Washington (R), Oregon (R), Urah (R), Alaska, Hawaii (R), Wyoming,* Montana (5).

CENTRAL STATES

Minnesota,* Kansas (R), Oklahoma, Iowa,* Nebraska* (2), Arkansas, Louisiana (R), Missouri* (IS), North Dakota.*

ROCKY MOUNTAIN

Colorado (R), Arizona, New Mexico, Wyoming,* Nevada.

SOUTHEAST (4)

Georgia (R), Florida (R), Tennessee (R), Alabama (R), North Carolina,* South Carolina (R), Mississippi (R), Virginia (R) (1).

NORTHEAST

Vermont, New Hampshire, Maine, Connecticut, Massachusetts, Rhode Island, Pennsylvania, New Jersey, New York, Maryland* (3), Delaware* (3).

MID-ATLANTIC

Virginia* (R) (1), Delaware,* Maryland,* North Carolina,* Kentucky,* West Virginia, D.C., Puerto Rico, U.S. VI.

Compiled by the "Radioactive Exchange."

*Denotes states participating in more than one region. Texas and California continue to pursue an independent course of action.

(1) Virginia has been admitted to the list of eligible states for the Southeastern Compact.

(2) Nebraska's Senate has passed a resolution recommending that the state join the Central States Compact, and legislation to ratify the compact is expected for the 1983 session.

(3) Accepted as members for discussion phase.

(4) The Southeast Compact has been changed and must be reapproved by each legislature.

(5) Montana has joined the Northwest Compact under an executive order. The legislature is expected to ratify the agreement when it convenes.

[From the Seattle Times, Nov. 10, 1982]

OTHER REGIONS SHOULD STORE OWN N-WASTE, SAYS SPELLMAN

Washington state is tired of storing half the low-level radioactive waste generated by the entire United States, Gov. John Spellman warned yesterday.

Other states or regions had better plan to handle their own nuclear waste in the near future, Spellman said, or Washington citizens may just shut down the Hanford waste site, one of only three low-level nuclear waste sites in the nation. The others are in South Carolina and Nevada.

Spellman testified before a Senate Judiciary Committee hearing in Seattle on a proposed seven-state Northwest compact that would designate Hanford in Eastern Washington as a regional low-level waste disposal site, but exclude waste from other regions.

The compact requires congressional approval. Spellman and others say similar compacts should be formed in other regions so they would be able to handle their own nuclear wastes instead of shipping them to Hanford.

"Never, during the long debate on nuclear-waste disposal that has occurred in this state, has anyone suggested simply closing the Hanford site and just saying, 'Let's let George do it;' or in this case, 'Let's let Nevada or South Carolina do it,'" Spellman said in urging the committee to approve the compact.

"Instead we—environmentalists and industry alike—have advocated developing a responsible regional approach to low-level nuclear-waste disposal."

But the governor said that if the regional compact isn't ratified, Washington's citizens may end up saying: "'Close it down. Why ground? We tried to work with the other states and the Congress and the door was slammed in our face.'"

Spellman and others testified before Washington Sen. Slade Gorton, Wyoming Sen. Alan K. Simpson, and Rep. Sid Morrison, whose Eastern Washington district includes the Hanford Nuclear Reservation.

Hanford, approved as a waste site in 1964, now receives about half the low-level radioactive waste produced in the U.S. from hospitals, industry and other sources. Most of the other half goes to South Carolina. Nevada handles only a small amount.

State Atty. Gen. Kenneth Eikenberry told the congressmen that "more than 4.8 million cubic feet of low-level radioactive waste has been deposited" at Hanford since 1964.

"For the past several years, that site has been the only place in the nation where radioactive waste with absorbed liquids could be permanently stored," he said. That includes radioactive waste from the clean-up operations at the crippled Three Mile Island nuclear plant in Pennsylvania.

Of the 4.8 million cubic feet of waste, "incredibly, 45 percent of that amount has been deposited there in the last 21 months," Eikenberry said.

"Hanford is currently receiving 54 percent of the low-level radioactive waste produced in the entire United States. Yet we produce less than 4 percent of that total. It is grossly unfair that one state should bear such a burden."

Spellman said the compact would bind Washington, Oregon, Idaho, Utah, Hawaii, Montana, and possibly Alaska. Low-level waste from those states would go to Hanford, with the six other states agreeing to tighter regulations for disposal. In addition, Oregon and Idaho would agree to maintain existing non-radioactive toxic-chemical waste dumps.

The Northwest compact was written to begin excluding out-of-region nuclear waste on January 1, but Spellman agreed the date should be delayed.

Gorton has introduced a bill that would change the target date to Jan. 1, 1986, to give other regions a chance to make similar compacts and open new disposal sites.

Ruth Weiner of the Cascade Chapter of the Sierra Club said her group feels the proposed compact is too vague and contains loopholes.

Under the compact language, "waste from outside the region can be admitted by a two-thirds vote of the compact committee, with

the host state concurring," she said. "States outside the region might find it much easier and cheaper to lobby the Northwest compact states than to site a dump in another state."

State Sen. Al Williams, D-Seattle, said he thinks "Congress will not ratify this compact because it fails to set a workable basic policy which requires all states to participate in a regional waste-disposal system."

Gorton conceded that "other congressmen whose states aren't near reaching a compact agreement may well want to frustrate our effort."

[From the Seattle Post-Intelligencer, Nov. 10, 1982]

SPELLMAN PRODS CONGRESS TO OK NORTHWEST N-WASTE PACT

Gov. John Spellman, seeking to limit the amount of nuclear garbage entering Washington, yesterday asked Congress to quickly approve a six-state Northwest compact on radioactive waste management.

"There is dramatic evidence that a regional system of disposal sites is needed," Spellman told a U.S. Senate Judiciary Committee hearing in Seattle. "Our state's site handles one-half of the nation's low-level wastes—over 1.5 million cubic feet during 1981."

Washington citizens are "not very happy" there there are only two dumps in the country that accept low-level nuclear waste, Spellman said. One is on the Hanford Reservation in eastern Washington, the other in South Carolina. A dump in Nevada has been ordered closed by the state.

The proposed waste compact, which requires congressional approval, would require that Washington go on serving as a dumping ground for low-level nuclear waste from around the Northwest. But the state would be allowed to refuse shipments of radioactive garbage from outside the Northwest beginning in 1986.

A bill to ratify the Northwest's waste compact is pending before the Judiciary committees of the House and Senate.

However, state Sen. Al Williams, D-Seattle, argued that the proposed compact may not be strong enough to block continued shipments of radioactive waste from outside the region.

"There is no mechanism to require that other states enter into regional compacts of their own," said Williams. "I fear we may end up in a holding pattern, being unable to exclude out-of-region wastes and unable to force other regions to form their own compacts."

Dr. Ruth Weiner, a Western Washington University professor and leader of the Washington Environmental Council, added that wording of the proposed compact "has loopholes quite large enough to admit truckloads of radioactive waste from anywhere."

Weiner referred to one provision that would permit acceptance of nuclear waste from outside the Northwest if two-thirds of the compact state—including Washington—agreed to it.

"States outside the region might find it much easier and cheaper to lobby the Northwest compact states to accept radioactive waste than to find a dump site in another state," said Weiner.

But Spellman aide David Stevens later said that he is "encouraged" at progress toward nuclear waste compacts in other regions of the country. He added that Texas, Virginia and Colorado are already looking at dump sites within their boundaries.

Under the proposed compact, Oregon and Idaho would maintain their existing disposal sites for non-nuclear hazardous wastes in return for Washington serving as a nuclear waste dump.

The disposal plan for nuclear and hazardous wastes has been agreed to by the states of Washington, Oregon, Idaho, Hawaii, Utah, and Montana. The Alaska Legislature also was expected to approve the accord, and Utah remains eligible to participate.

Republican state Sen. Max Benitz of Prosser, chairman of the Senate Energy and Utilities Committee, termed the compact a "final solution" to controversy over Washington's current role as the nation's nuclear dumping ground.

And State Attorney General Ken Eikenberry argued that the Northwest compact can set an example for the nation. "The way to limit nuclear waste shipments, through practical means, is to cover the country with regional compacts," he said.

The proposed compact won praise from U.S. Sen. Slade Gorton, R-Wash., who said he is "delighted" that Northwest states have agreed to the nation's first regional waste compact. "Low-level radioactive waste can best be managed on a regional basis," he added.

U.S. Sen. Alan Simpson, R-Wyoming, said that regional compacts will bring about "signficant reductions" in the amount of radio-active waste being shipped long distances on the nation's highways.

The Hanford site now takes in such materials as contaminated clothing, tools, papers, filters and vials from nuclear reactors, industrial plants, hospitals and university laboratories.

The Hanford Reservation is also in the running to serve as a federally operated dumping ground for "high-level" nuclear waste, the "spent" but intensely radioactive fuel rods from nuclear power plants.

[From the Seattle Daily, Nov. 10, 1982]

GLOWING, GLOWING, GONE, RADIOACTIVE WASTE BILL A HOT TOPIC

The U.S. Senate Judiciary Committee held a field hearing here yesterday concerning the Northwest interstate compact on Low Level Radioactive Waste Management, a bill that would curtail the shipment of radioactive wastes currently flooding the Hanford site in eastern Washington, after January 1, 1986.

Chaired by Senator Alan Simpson (R-Wyoming), in place of Senator Strom Thurmond (R-S.C.), the review panel also included Senator Slade Gorton (R-Wash.) and his counterpart in the U.S. House, Rep. Sid Morrison (R-Wash.).

A parade of witnesses testified concerning the bill which was introduced by Gorton, and would ratify the Interstate Compact as passed by the Washington legislature. Included were Gov. John Spellman, State Attorney General Ken Eikenberry, state senators Al Williams and Max Benitz, as well as representatives of the Nuclear Regulatory Commission, the U.S. Department of Transportation, and the U.S. Department of Energy. For balance, a nuclear industry representative and an environmentalist were also present.

As outlined by Eikenberry, the real problem being addressed at the hearing was the situation Western states have fallen into by relying on the Hanford site for disposal of low-level radioactive wastes. Presently, the only other disposal site in the West is in Nevada, but that facility is closing down at the end of the year, and then Hanford and South Carolina will be the only authorized sites in the United States.

In addition, South Carolina has expressed interest in sharply curtailing shipments to its facility, leaving Hanford in a very unappealing position, according to Eikenberry.

Since 1964, he added, Hanford has accepted more than 4.8 million cubic feet of low-level waste. Shipments from as far away as Three Mile Island have found their way to the Hanford site, according to Eikenberry's written testimony. He also charged that "Hanford is currently receiving 54 percent of the low-level radioactive waste produced in the entire United States," although "the state produced only 4 percent of that total."

Eikenberry pointed to the passage of Initiative 383 in 1980 as an example of citizen anger with conditions at Hanford. The initiative was approved by a 3-1 margin, and was designed "to preclude the importation and deposit of almost all low-level radioactive waste into the state of Washington," according to the bill's sponsors. Popular sentiment at the time expressed rage at the thought of turning Washington into "the low-level radioactive waste dump of the nation."

Later that year, Congress adopted the Low Level Waste Policy Act of 1980, which attempted to encourage states to take the burden of disposing of their own low-level radioactive wastes. Sen. James McClure (R-Idaho) noted passage of Initiative 383 in the Senate, and indicated that the 1980 Policy Act was dedicated to the same ideals.

Almost immediately after spending a considerable sum of money fighting the initiative, commercial users of the Hanford site were joined by the federal government in filing suit against the initiative. A district court judge in Spokane ruled in favor of the suit, and Eikenberry's appeal also failed.

Spurred by the policy act and the failure of the initiative, the Washington State Legislature gave astonishingly quick action to the regional compact, putting the ball back into the Senate's court. Yesterday's field hearings attempted to sort out the various criticisms of the current version of the bill.

The states involved so far in the Northwest Compact are Washington, Oregon, Idaho, Utah, and Hawaii. Montana, Alaska and Wyoming are all considering action. Originally these states could use the Hanford site up to July, 1983, but under the present wording of Gorton's bill, the effective date would be pushed back to January 1, 1986. There has been talk of pushing that date back even further, to allow for states and regions having problems extra time.

Spellman opposed any further extension. He instead hoped to send a message to all other states hoping to use the Hanford site, saying, "Their primary disposal site will not be available after 1985."

Spellman cited "severe problems during 1979, when several shipments of leaking wastes and unsafe trucks arrived in the state," which "highlighted the fact that our state, along with only two others, was shouldering the burden of handling all of this country's low-level radioactive wastes."

Noting that Hanford handled "over 1,500,000 cubic feet of waste during the year of 1981," Spellman went on to emphasize that "The availability of only two sites for the nation does not make me or the citizens of Washington state very happy."

Spellman called for "a state-developed system of regional sites to provide greater cost stability, reduce transportation costs, enhance safety and provide greater equity among states."

Regarding the "painfully slow" progress of other regions to deal with their own low-level wastes, Spellman held firmly against the idea of any further postponement. "I oppose that idea most vigorously," he said. "There is simply no adequate rationale for supporting further delay on full implementation of compacts. The 1986 date should remain firm."

Spellman made it clear that he is not simply calling for closure of the Hanford site. "We—environmentalists and industry alike—have advocated developing a responsible regional approach . . . to resolution of the national problem," he said. "We are prepared to move forward. The next step is for Congress to ratify the compact."

The two state senators testifying both expressed concern that if Congress tampered significantly with the legislation, an exhaustive amount of time would be required for the individual states to reconsider the compact. Williams complained about the Republican leadership's methods in the original debate, which he characterized as "determined to exclude minority debate."

Benitz, whose home district includes the Hanford Reservation, called for at least keeping the 1986 deadline. "I believe that everybody involved in dealing with the establishment of a management system believes that the Northwest region has the opportunity to act as a leader and as an example for other regions," he said.

Citizen input on the bill consisted solely of a short presentation by Larry Penberthy, a 1982 Republican candidate for U.S. senator this year who lost to Doug Jewett in the primary run-off. Penberthy, an engineer, inventor, and self-proclaimed "radioactivity expert," showed the committee a diagram of a contaminated materials incinerator, which burned the wastes to white ash and then locked them in a stable glass.

He claimed the Canadian process suffered from "overkill" because it was so efficient, but he complained about excessive regulations from the Nuclear Regulatory Commission, which held up widespread application on the disposal process.

However, Michael J. Lawrence of the Department of Energy said, "We wish we could share Mr. Penberthy's enthusiasm." Lawrence noted that there are already several glass-entrapment processes licensed and in use. Should Congress ratify the compact, many states and industries could be forced by economics to try out this and other technologies, faced with prospect of no supersites which accept unlimited quantities of waste such as Hanford, according to Lawrence.

The wording of the bill included some difficult provisions for the Department of Transportation to accept, and they were provided the opportunity to voice their objections. DOT objected to licensing and inspection details that would not significantly alter the intent of the act.

Industry representative Max DeLong urged the committee not to enact the July 1983 deadline, which would "threaten . . . a large number of beneficial services currently provided to the public through the use of radioactive materials."

DeLong cited the industry's "excellent safety record associated with low-level waste shipments," and urged the committee to be more consistent with respect to inconsistencies in the state and federal packaging and transportation regulations.

Predictably—perhaps, since the industry and government were basically content with most of the provisions of the compact—Ruth Weiner, of both the Cascade chapter of the Sierra Club and the Washington Environmental Council was "not altogether happy with the wording of the compact legislation."

Frustrated during the legislative session when the compact was rushing through, Weiner re-introduced several long-standing criticisms reworking the definition of low-level wastes to include uranium; insurance that Hanford actually is the only unusually good site in the region; closing the loophole which would admit extra-regional shipments on a two-thirds majority of the compact and consent of the host state; removal of Hawaii and Alaska from the group due to transportation risks; and putting the state's member of the compact committee under control of the state senate.

Weiner reported that, as it currently stands, "The compact is not acceptable to us—it never was acceptable to us."

Gorton asked about the realities of that statement, and told Weiner, "You must seriously consider the down-side risks of ending up with nothing at all."

Summing up, Simpson assured the audience that "The Judiciary Committee is concerned, because the problem is there, and we must address it."

"Don't be discouraged by all this," Simpson said. "We've been trying to address the problem of high-level wastes for 35 years and we don't have a thing to show for it."

Mr. JACKSON. Mr. President, I am pleased to again join with Senator GORTON in consponsoring legislation to approve the Northwest interstate compact on low-level radioactive waste management. The problem of low-level radioactive waste disposal needs early resolution; it must be dealt with by the States on a regional basis.

Unfortunately, there was not time at the end of the 97th Congress for the Judiciary Committee to complete action on S. 2829 which was introduced last year to grant the consent of Congress to the Northwest interstate compact. The committee was able to move the bill along by holding a hearing in Seattle in November, and I hope that we will now be in a position to obtain prompt consideration of the bill by the committee and by the full Senate.

The Northwest interstate compact is one of several regional compacts on low-level waste disposal which are in various stages of completion. It has been negotiated pursuant to the terms of the provisions of the Low Level Radioactive Waste Policy Act of 1980. I strongly supported the enactment of the 1980 act because of the need to find a solution to the low-level waste management problem which would enable the States to find mutually agreeable regional solutions to the problem.

The Low Level Radioactive Waste Policy Act established a national policy that the States would assume responsibility for disposal of low-level wastes. The Congress invited the States to negotiate interstate compacts for the disposal of wastes generated from within the region and wastes shipped to a disposal site within the region from States not included in the regional compact.

The States of the Northwest including Washington, Oregon, Idaho, Utah, Montana, Wyoming, Alaska, and Hawaii have been first among the States in developing and submitting to the Congress a formal compact. The Northwest interstate compact has been approved by each of the States, in some cases by ratification of the State legislature and in other cases by executive order of the Governor. The Southeast States have also developed a compact which, I understand, will soon be submitted to Congress for approval. It appears at this time that each State will be able to affiliate itself with one group of States in some region of the country for achieving disposal of low-level wastes generated within its borders. This regional approach is necessary because few States generate sufficient low-level waste to justify on an environmental or economic basis the opening of a separate site within each State for a disposal facility. It is estimated that a total of six regional sites will meet the requirements of the Nation for disposal of low-level radioactive waste.

The Congress will review the Northwest interstate compact to assure consistency with the Low Level Radioactive Waste Policy Act, and to compare this compact with other regional compacts to assure that a reasonable and uniform approach is being achieved. Obviously, no State should end up being excluded from participation in a compact and the Congress will want to assure that this does not occur. Hopefully, we can achieve enactment of a law consenting to the Northwest interstate compact and the other compacts at an early date so that no one State feels that it is becoming a regional disposal site for wastes from areas of the country far removed from its borders.

The State of Washington has cooperated in dealing with the current national problem in an exemplary fashion. It is time that we begin to develop regional disposal sites in other areas of the country so that the problems of low-level waste disposal are not visited upon Washington beyond the earliest possible time for other regions to solve their own low-level radioactive waste disposal problems.

Mr. HATFIELD. Mr. President, I am honored to join my colleagues today in cosponsoring the Northwest interstate compact on low-level radioactive waste management.

This legislation is very important to my State and to other States in the West that have joined in the compact or are in the process of doing so. Public Law 96-573, passed by Congress in 1980, authorized States to organize in interstate compacts for the purpose of managing low-level radioactive wastes. Oregon, Washington, Idaho,

Utah, Montana, Wyoming, Alaska, and Hawaii has formed the first such compact of this kind and sent it to Congress for ratification. I might add that the State legislatures in Oregon, Washington, Utah, and Idaho have ratified the compact and the State of Montana has ratified it by executive order.

The problem of managing and disposing low-level radioactive wastes is something that must be solved and done so quickly. In my State many schools and hospitals produce low-level radioactive wastes that have to be disposed of in a safe and efficient manner. Oregon's only nuclear power generating system, Trojan, located at Ranier, also produces quantities of these types of radioactive wastes that require special handling and disposal. This compact, which has gone through a great deal of discussion in the effected States deserves to be ratified by Congress. It is a good-faith effort, in my opinion, in recognizing a serious problem, and working out a framework for these States to begin negotiating a suitable low-level radioactive waste disposal site. In conjunction with these anticipated agreements, States will also be in the position to begin negotiating disposal agreements for other types of problem wastes.

Mr. President, it is my hope that the Senate can expeditiously move to ratify this important compact, thus allowing the necessary agreements.

By Mr. DOMENICI (for himself, Mr. HEINZ, Mr. CHAFEE, Mr. GORTON, and Mr. DOLE):

S. 248. A bill to provide merit scholarships for students who are preparing to become elementary and secondary schoolteachers in mathematics and science, to provide experienced teacher awards to teachers of mathematics and science, to provide a block grant for the improvement of mathematics and science education in elementary and secondary schools of the States, and to establish State Commissions on Excellence in Mathematics and Science, and for other purposes.

NATIONAL MATHEMATICS AND SCIENCE EXCELLENCE IN EDUCATION ACT OF 1983

Mr. DOMENICI. Mr. President, I rise today to introduce legislation that would establish two significant Federal efforts to improve the quality of math and science education in our Nation's elementary and secondary schools.

Briefly, my proposal would establish: First, a merit scholarship program for college students who are preparing to become elementary and secondary schoolteachers in mathematics and science; and second, an award program for teaching excellence by our most capable teachers. The National Science Foundation will conduct this prestigious competition. The bill also amends the Education Consolidation and Improvement Act of 1981 to establish a new State block grant to improve the quality of math and science education in elementary and secondary schools.

My colleagues may recall my floor statement of just a few weeks ago in which I described the problems facing math and science education today. Simply, we do not have enough qualified teachers in our schools to teach either math or science classes. This shortage is weakening our educational system and jeopardizing our country's long-term economic recovery and development and our national security.

The demand for scientists and engineers is expected to increase 40 percent between 1978 and 1990. But it looks doubtful that our high schools are not preparing students for these jobs. Here are the distressing facts:

Every standardized test used to measure science and math capabilities has shown a steadily declining level of achievement over the last 10 years.

Between 1975 and 1980, remedial mathematics enrollments at colleges and universities increased 10 times faster than enrollment. At community colleges, 3 out of 4 math courses are remedial.

High school and college admission requirements for both math and science have been significantly lowered in the past decade.

In an international comparative study, American 13-year-olds scored more poorly on a standardized test than children the same age from England, Japan, Belgium, Australia, France, Scotland, and the Netherlands. I do not believe that our students have become duller.

Incidentally, I have eight children of my own, but only three are still in high school. I do not think the problem is that these students have become duller or that they lack the inherent capacity to be achievers in these fields. The problem is that we need more and better qualified teachers.

The number of math teachers has declined by 77 percent in just 10 years, and the number of science teachers has dropped 65 percent.

Half of our newly employed science and math teachers are unqualified. They were hired only because no qualified teachers could be found.

Further, 43 States have a shortage of math teachers; 42 have a shortage of physics teachers; 38 a shortage of chemistry teachers.

According to the National Center for Education Statistics, the national turnover rate for classroom teachers in public elementary and secondary schools is 6 percent. If these figures are correct, approximately 17,280 science and math teachers leave U.S. secondary schools each year.

With all these statistics, we can easily understand why student performance has been so poor. We need more and better teachers, but the problem is getting worse all the time. The National Science Board interviewed math and science teachers and found that 25 percent plan to leave their jobs in the near future. One reason so many are leaving is low salaries. According to the NEA, the average minimun starting salary of public secondary school teachers in the United States in 1980–81 was $11,758. An individual with scientific credentials can earn a much higher salary in a scientific or technical field.

I have a deep concern that, ultimately, neglect of science and math education is going to affect America's standard of living and its competitive position in the world. We are already buying much of our high technology goods and services from countries like Japan. Our electronics industry is threatened. Through inadequate education, we could very well find ourselves losing the next generation of scientists, technologists, and decisionmakers.

The legislative proposal that I make today will hopefully start to reverse the trend. No Senator is more aware of the fiscal constraints that our country is operating under than I. No Senator worries more about the effect of large deficits than I. This Senator has come to the conclusion, however, that we must plan for a long-term recovery, not a 2- or 3-year cycle. We must make an investment in our science and math capability to insure that America can compete in the future and that we will be prosperous in the future.

I urge the Senate to consider this matter promptly and look forward to working with Senator STAFFORD, the distinguished chairman of the Subcommittee on Education, Art and the Humanities, and Senator HATCH, the distinguished chairman of the Senate Committee on Labor and Human Resources. I know there will be other initiatives, and when we combine the best features of each we can quickly report a package that will address, as this statement indicates, a truly significant American problem.

I thank Senators HEINZ, CHAFEE, GORTON, and DOLE for joining me in this effort.

Mr. President, I attach the proposed legislation and send it to the desk and ask for its appropriate referral, and ask that it be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 248

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Mathematics and Science Excellence in Education Act of 1983".

STATEMENT OF PURPOSE

SEC. 2. It is the purpose of this Act to establish a merit based scholarship and experienced teacher awards program and a block grant program for the improvement of education in mathematics and science designed to—

(1) provide stimulation of science and mathematics opportunities in elementary and secondary schools of the States;

(2) to meet the existing shortage of individuals who are willing to enter teaching careers in the subjects of mathematics and science; and

(3) to alleviate the growing number of qualified mathematics and science teachers who leave their profession to pursue other careers.

DEFINITIONS

SEC. 3. For the purpose of this Act—

(1) the term "Director" means the Director of the National Science Foundation;

(2) the term "elementary school" has the same meaning given that term under section 595(a)(7) of the Education Consolidation and Improvement Act of 1981;

(3) the term "Foundation" means the National Science Foundation;

(4) the term "local educational agency" has the same meaning given that term under section 595(a)(4) of the Education Consolidation and Improvement Act of 1981;

(5) the term "secondary school" has the same meaning given that term under section 595(a)(7) of the Education Consolidation and Improvement Act of 1981;

(6) the term "State" means each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico;

(7) the term "State Commission" means the State Commission on Excellence in Mathematics and Science established in accordance with title II of this Act; and

(8) the term "State educational agency" has the meaning given that term under section 1001(k) of the Elementary and Secondary Education Act of 1965.

TITLE I—SCIENCE AND MATHEMATICS EDUCATION MERIT SCHOLARSHIPS AND TEACHING AWARDS

SHORT TITLE

SEC. 101. This title may be cited as the "Congressional Science and Mathematics Education Merit Scholarships and Teaching Awards Act".

MERIT SCHOLARSHIPS

SEC. 102. (a) The Foundation is authorized, in accordance with the provisions of this title, to award scholarships to individuals who demonstrate outstanding potential for, and who plan to pursue, a career in teaching mathematics or science in elementary or secondary schools.

(b) Scholarships under this section shall be awarded for such period as the Foundation may prescribe but not to exceed two academic years.

(c) A student awarded a scholarship under this title may attend any institution of higher education offering courses of study, training, or other educational activities designed to prepare individuals for a career as teachers in elementary and secondary education in the fields of mathematics or science.

(d) Each student awarded a scholarship under this title must have indicated a serious intent, in accordance with section 103(b)(2), to teach in an elementary or secondary school in the field of mathematics or science.

SELECTION OF MERIT SCHOLARS

SEC. 103. (a) The Foundation is authorized, after consultation with the Director of the Office of Science and Technology Policy, to establish criteria for the selection of merit scholars under this title.

(b) The Foundation shall adopt selection procedures which are designed to assure that—

(1) not to exceed ten individuals will be selected from among residents of each State and not to exceed five individuals will be selected from among residents of each congressional district in each State (and in the case of the District of Columbia and the Commonwealth of Puerto Rico, not to exceed ten individuals will be selected; and

(2) each recipient of a merit scholarship will enter into an agreement with the Foundation under which the recipient will agree to pursue a career as a teacher in an elementary or secondary school in the field of mathematics or science for at least three years upon the completion of the training for which the scholarship was awarded.

(c) The Director of the Foundation shall submit the names of individuals selected by the Foundation to the appropriate State Commission on Excellence in Mathematics and Science established under title II of this Act for review and approval.

STIPENDS AND SCHOLARSHIP CONDITIONS

SEC. 104. (a) Each student awarded a merit scholarship under this title shall receive a stipend which shall not exceed $2,500 for each academic year of study.

(b) A student awarded a merit scholarship under the provisions of this title shall continue to receive the payments provided in this Act only during such period as the Foundation finds that the student is maintaining satisfactory proficiency and devoting full time to the study or to the course of study designed to prepare the student for a career as a teacher in an elementary or secondary school in the field of mathematics or science.

(c) The Foundation is authorized to require reports containing such information in such form and to be filed at such time as the Foundation determines to be necessary from any student awarded a merit scholarship under the provisions of this title. Such reports shall be accompanied by a certificate from any appropriate official of the institution of higher education, approved by the Foundation, stating that such student is making satisfactory progress in, and is devoting essentially full time to, the study described in subsection (a).

SCIENCE AND MATHEMATICS TEACHER AWARDS

SEC. 105. (a) The Foundation is authorized, in accordance with this section, to make experienced mathematics and science teacher awards.

(b) Experienced teacher awards made under this section shall be—

(1) $5,000 for teachers in elementary or secondary school who have taught mathematics or science for at least five years; and

(2) $10,000 for teachers in elementary or secondary school who have taught mathematics or science for at least ten years.

(c) The Foundation shall adopt selection procedures for making the awards under this section. The selection procedures under this subsection shall be designed to assure that—

(1) not to exceed two awards will be made under clause (1) of subsection (b) and not to exceed two awards will be made under clause (2) of subsection (b) to individuals who are residents of each State; and

(2) not to exceed one award will be made under clause (1) of subsection (b) and not to exceed one award will be made under clause (2) of subsection (b) to individuals who are residents of each congressional district in each State.

In the case of the District of Columbia and the Commonwealth of Puerto Rico, only clause (1) of the previous sentence applies.

AWARDS CEREMONY

SEC. 106. (a) The Foundation shall make arrangements to award merit scholarships and experienced teacher awards under this title at a place in each State which is convenient to the individuals selected to receive such scholarships and awards. To the extent possible, the award shall be made by Members of the Senate and Members of the House of Representatives (by the Delegate in the case of the District of Columbia and the Resident Commissioner in the case of the Commonwealth of Puerto Rico) who represent the State or district, as the case may be, from which the individuals come.

(b) The selection process shall be completed and the awards made during the week of April 10 in each year, except that the awards shall be made in the first year after the date of enactment of this Act as soon as practicable after such date.

ADMINISTRATIVE PROVISIONS

SEC. 107. (a) In order to carry out the provisions of this Act, the Foundation is authorized to—

(1) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this title, except that in no case shall employees be compensated at a rate to exceed the rate provided for employees in grade 18 of the General Schedule set forth in section 5332 of title 5, United States Code;

(2) procure temporary and intermittent services of experts and consultants as are necessary to the extent authorized by section 3109 of title 5, United States Code, but at rates not to exceed the rate specified at the time of such service for grade GS-18 of section 5332 of such title;

(3) prescribe such regulations as it deems necessary governing the manner in which its functions shall be carried out;

(4) receive money and other property donated, bequeathed, or devised, without condition or restriction other than it be used for the purposes of this Act; and to use, sell, or otherwise dispose of such property for the purpose of carrying out the functions of the Foundation under this Act;

(5) accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code;

(6) enter into contracts, grants, or other arrangements, or modifications thereof, to carry out the provisions of this title, and such contracts or modifications thereof may, with the concurrence of two-thirds of the members of the National Science Board, be entered into without performance or other bonds, and without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5);

(7) make advances, progress, and other payments which the Board deems necessary under this title without regard to the provisions of section 3324 of title 31, United States Code; and

(8) make other necessary expenditures.

(b) The Foundation shall submit to the President and to the Congress an annual report of its operations under this title.

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 108. There are authorized to be appropriated $24,500,000 for the fiscal year 1984 and for each of the succeeding fiscal years ending prior to October 1, 1987.

TITLE II—STATE COMMISSIONS ON EXCELLENCE IN MATHEMATICS AND SCIENCE

ESTABLISHMENT OF STATE COMMISSIONS

SEC. 201. (a) Any State which desires to receive financial assistance under chapter 3 of the Education Consolidation and Improvement Act of 1981, relating to the block grant for the improvement of education in mathematics and science, shall establish a State Commission on Excellence in Mathematics and Science, in accordance with the provisions of this title.

(b)(1) The State Commission shall be appointed by the State Board of Education (or if there is no such Board, the Governor) and shall be composed of—

(A) one scientist,

(B) one science teacher who has taught in an elementary or secondary school in the State,

(C) one mathematician,

(D) one teacher of mathematics who has taught in an elementary or secondary school in the State,

(E) a representative of business and industry within the State,

(F) the chief State school officer, and

(G) one representative of the education community within the State.

(2) Each State Board of Education shall submit the names and the qualifications of the individuals to be appointed under clauses (A), (B), (C), and (D) of paragraph (1) to the National Science Foundation for approval prior to the establishment of the State Commission.

(3) Upon notice of approval of the individuals appointed pursuant to the preceding paragraph by the Foundation, the State Board of Education shall notify the Foundation of the establishment of the State Commission required by this title.

(c) The State Board of Education may designate an existing State agency, which is in substantial compliance with this section, to be the State Commission for the period from the date of enactment of this Act to September 30, 1986.

STATE COMMISSION FUNCTIONS

SEC. 202. Each State Commission shall—

(1) review the status of education in mathematics and science in the elementary and secondary schools within the State, including but not limited to—

(A) the number of, and the need for, qualified mathematics and science teachers within the State;

(B) the achievement levels in mathematics and science of elementary and secondary school students within the State;

(C) the needs of business and industry for trained personnel who require training in science and mathematics; and

(D) the mathematics and science education needs of special populations of students, including the economically disadvantaged, students with limited English proficiency, native Americans, and women;

(2) identify, in accordance with the appropriate State educational agency, local educational agency, and institutions of higher education, the extent to which current programs and services for education in mathematics and science are being furnished within the State in a coordinated manner;

(3) determine the most critical areas for improvement in education in mathematics and science in the State;

(4) annually report to the Governor, the State legislature, and the State educational agency their findings, together with a statement of specific goals and priorities for the improvement of the quality of education in mathematics and science within the State; and

(5) to advise upon request the Governor, the State legislature, and the State educational agency on the status of education in mathematics and science and the educational improvements achieved through projects assisted under chapter 3 of the Education Consolidation and Improvement Act of 1981.

NATIONAL CONFERENCE AND REPORTS

SEC. 203. (a) The Secretary of Education and the Director of the National Science Foundation shall convene an annual conference on excellence in mathematic and science education designed to coordinate the activities of each of the State commissions established under this title.

(b) At the end of each National Conference held under this section, the Secretary and the Director shall report to the Congress on the activities of the Conference together with such recommendations as the Conference may deem appropriate.

AUTHORIZATION OF APPROPRIATIONS

SEC. 204. (a) There are authorized to be appropriated $5,200,000 for the fiscal year 1984 and for each of the fiscal years ending prior to October 1, 1987.

(b) From the amounts appropriated pursuant to subsection (a) for each fiscal year, the Director shall allot to each State $100,000.

TITLE III—BLOCK GRANT FOR THE IMPROVEMENT OF EDUCATION IN MATHEMATICS AND SCIENCE

AMENDMENT TO THE EDUCATION CONSOLIDATION AND IMPROVEMENT ACT OF 1981

SEC. 301. The Education Consolidation and Improvement Act of 1981 is amended by redesignating chapter 3, and all references thereto, relating to general provisions, as chapter 4; and by inserting immediately after chapter 2 the following new chapter:

"CHAPTER 3—BLOCK GRANT FOR THE IMPROVEMENT OF EDUCATION IN MATHEMATICS AND SCIENCE

"STATEMENT OF PURPOSE

"SEC. 590. It is the purpose of this chapter to provide a block grant to States to improve the quality of instruction and levels of achievement in mathematics and science in the elementary and secondary schools of the State.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 590A. There are authorized to be appropriated $200,000,000 for the fiscal year 1984 and for each of the succeeding fiscal years ending prior to October 1, 1987.

"ALLOTMENTS TO THE STATES

"SEC. 590B. (a)(1) From the sums appropriated to carry out this chapter in any fiscal year, the Secretary shall reserve—

"(A) not to exceed 1 per centum for payments to Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, and

"(B) 0.5 per centum for payments for children enrolled in Indian schools under section 590G,

to be allotted in accordance with their respective needs.

"(2) The Secretary shall reserve an additional amount, not to exceed 4.5 per centum of the sums appropriated, to carry out the provisions of section 590G.

"(3) From the remainder of such sums the Secretary shall allot to each State an amount which bears the same ratio to the amount of such remainder as the school-age population of the State bears to the school-age population of all States, except that no State shall receive less than an amount equal to 0.5 per centum of such remainder.

"(b) For the purpose of this section:

"(1) The term 'school-age population' means the population aged five through seventeen.

"(2) The term 'States' includes the fifty States, the District of Columbia, and the Commonwealth of Puerto Rico.

"IN-STATE ALLOCATIONS

"SEC. 590C. (a) Not to exceed 25 per centum of each State's allotment shall be available to the State educational agency for activities and programs designed to improve the quality of education in mathematics and science within the State at the State level.

"(b)(1) The State educational agency shall distribute not less than 75 per centum of each State's allotment to local educational agencies within State according to the relative enrollments in public and nonpublic schools within the school districts of such agencies, adjusted, in accordance with criteria approved by the Secretary, to provide higher per pupil allocations to local educational agencies which have the greatest numbers or percentages of children whose education imposes a higher than average cost per child, such as—

"(A) children from low-income families.

"(B) children living in economically depressed urban and rural areas, and

"(C) children living in sparsely populated areas.

"(2) The Secretary shall approve criteria suggested by the State educational agency for adjusting allocations under subsection (a) if such criteria are reasonably calculated to produce an equitable distribution of funds with reference to the factors set forth in paragraph (1).

"(3) To the extent practicable, each State educational agency shall use the same criteria established under section 565 of this Act.

"(c) From the allotment of the State under section 590B during each fiscal year, the State educational agency shall distribute to each local educational agency which has submitted an application as required in section 590E the amount of its allocation as determined under subsection (b).

"AUTHORIZED ACTIVITIES

"SEC. 590D. (a) Each State educational agency and local educational agency shall use funds under this chapter to develop and implement a comprehensive program, consistent with the goals and priorities of the appropriate State Commission on Excellence in Mathematics and Science, designed to improve education in mathematics and science in the elementary and secondary schools of the State including area vocational schools.

"(b) In addition to programs described in subsection (a), programs and activities authorized under this chapter include—

"(1) the establishment and operation of a State loan fund or grant program to assist students who want to prepare to become teachers of mathematics and science and ex-

perienced teachers of mathematics and science who want to improve their skills;

"(2) grants to institutions of higher education to improve teacher education programs in mathematics and science, develop and upgrade curricula and instructional materials for elementary and secondary school students in mathematics and science, and develop instructional computer software for use in education in mathematics and science;

"(3) programs to promote partnerships between business and education, particularly programs that encourage scientific and mathematics experts to volunteer time in the elementary and secondary schools through seminars, demonstrations, and team-teaching with regular classroom teachers;

"(4) scientific resource or enrichment centers that are available to elementary and secondary students to enhance their interest in science and mathematics, and to provide access to new scientific developments to elementary and secondary school teachers; and

"(5) in-service training for elementary and secondary school teachers who are teaching mathematics or science, including tuition payments for classes.

"STATE AND LOCAL APPLICATIONS

"SEC. 590E. (a) Any State which desires to receive grants under this chapter shall file a supplement to the application filed under section 564 of this Act. Each such supplement shall—

"(1) designate the State educational agency as the State agency responsible for the administration and supervision of programs assisted under this chapter;

"(2) describe the activities for which assistance under this chapter is sought;

"(3) provide assurances that not more than 10 per centum of the allotment of the State in any fiscal year may be expended on administrative costs at the State level and at the local level;

"(4) provide assurances that not more than 40 per centum of the allotment of any State in any fiscal year may be used for the purchase of equipment; and

"(5) such additional assurances as the Secretary deems essential to assure compliance with the requirements of this chapter.

"(b) A local educational agency may receive its allocation of funds under this chapter for any year in which it has on file with the State educational agency and a supplement to the application submitted under section 566 which—

"(1) describes the activities for which the local educational agency seeks assistance under this chapter; and

"(2) contains such other assurances and agreements as the State educational agency deems essential to assure compliance with the provisions of this chapter.

"(c) The provisions of subsection (b) of section 564 and of subsections (b) and (c) of section 566 of this Act shall apply to the supplements required by this section.

"PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS

"SEC. 590F. The provisions of section 557 of this Act shall apply to the financial assistance made available under this chapter.

"SECRETARY'S DISCRETIONARY FUNDS

"SEC. 590G. From the funds reserved by the Secretary pursuant to paragraph (2) of section 590B(a), the Secretary is authorized to carry out, directly or through grants to or contracts with State and local educational agencies, institutions of higher education, and other public and private agencies, organizations, and institutions, programs and projects which are designed to contribute to carrying out the purposes of this chapter. Such programs and projects may include—

"(1) research and curriculum development of education in mathematics and science in elementary and secondary schools,

"(2) the dissemination of information from effective projects, and the dissemination of new and improved methods developed, with assistance made available under this chapter,

"(3) addressing the special needs of children enrolled in Indian schools,

"(4) technical assistance to State Commissions on Excellence in Mathematics and Science, and

"(5) administration of the program authorized by this chapter.".

Mr. BAKER. Mr. President, I commend the Senator from New Mexico on his initiative in this respect and those who have joined with him. I urge its prompt consideration, and I pledge to them my effort as well as to see that this matter is addressed appropriately.

Mr. DOMENICI. I thank the distinguished leader.

● Mr. HEINZ. Mr. President, I rise today in support of my distinguished colleague's proposal to address the crisis in American math and science education. As always, the senior Senator from New Mexico has drafted legislation that is not only sound policy but is also fiscally responsible.

The perceived crisis in math and science education and technology training provoked a flurry of legislative proposals in the 97th Congress, and for good reason. Our current shortcomings in these areas are already having grave repercussions for education, employment, productivity, and national security. Of the 35 or so bills that crossed my desk dealing with various aspects of the problem, none dealt simultaneously with short- and long-term solutions and with political and fiscal realities. I believe that this bill, the National Math and Science Excellence in Education Act of 1983, is a responsible, comprehensive vehicle for addressing:

First, the immediate need of overcoming the present inadequacy of math and science instruction in elementary and secondary education by providing incentives and funds for the training of current and future teachers;

Second, the long-term need through the commissions on excellence to develop a consistent and comprehensive plan for meeting the national and regional demands for technologically proficient graduates; and

Third, the political and fiscal realities that we face at all levels of educational governance.

There is widespread agreement across America that we are in danger of letting our technological superiority slip through our hands. The threat is not only economic in terms of increasingly competitive Japanese and West German industry, but, perhaps more importantly, it is also strategic in terms of our national security. We can continue to spend billions upon billions of dollars developing futuristic weaponry; but if we do not upgrade the technological capacity of young people entering the labor market and the military service, all of our sophisticated hardware will be useless. In short, we will be defenseless if we do not take action to improve education and training at all levels.

America is a world power because it has capitalized upon its human resources in the past. We cannot afford to retreat from our commitment to our human capital. The richess of training provided to our most important natural resource—our children—is a far more important variable in determining our future national productivity than any other of our dwindling natural resources.

I have a fairly commonsense approach to education. It is based on the assumption that the fundamental groundwork for excellence in any subject area must be done at a very early age. I am convinced that we must not be tempted to devote all our energies to cosmetic fixes at the Secondary level. The basic enthusiasm for learning calculus or physics or aeronautical engineering grows out of stimulating, exciting instruction in first, second, and third grades. Teachers cannot inspire that enthusiasm unless they themselves are comfortable with their own expertise. Only then can they encourage unlimited inquiry from their students. I would hope that he Commissions on Math and Science Excellence will emphasize those fundamentals as they develop National and State plans.

The Commissions' agenda must also include a goal of determining the future technological needs of the Nation and their respective regions and States. The enthusiasm generated in the early grades must be channeled into areas of advanced training in secondary, vocational, and postsecondary education for which there will be future demand. We can project, for instance, a shortfall of 200,000 engineering graduates by 1985. These and other projections must be assimilated into any plan the Commissions develop.

I have concentrated up to now on the contributions America's educators must make to this effort. Our educators are themselves a cherished natural resource and I am especially pleased that we will have the opportunity to recognize the best and most enthusiastic among them with teaching awards. But our often harried educators cannot solve this crisis alone.

I am as committed as my distinguished colleague is to calling upon

the private sector to play a significant role in this effort. Parent involvement and corporate school volunteerism are established features of school programs all over the country. In this area of math and science education, however, public/private partnerships are essential. Business and industry, which benefit from better trained future employees, must go beyond ad hoc involvement. We must encourage scientific and mathematical experts to volunteer time in the public schools through seminars, demonstrations, and team teaching with regular classroom teachers.

I am proud to join with Senator DOMENICI and Senator CHAFEE in cosponsoring this legislation. I am pleased that so many of my colleagues in the Senate and the House as well as the administration have shown their commitment to improving math and science education. The fact that the distinguished chairman and ranking members of both the Senate and House Education Committees, as well as the President, have introduced their own initiatives gives me great confidence that the Federal Government will make its crucial contribution to resolving the educational crisis facing our Nation.●

● Mr. CHAFEE. Mr. President, improving the ability of American industry to compete in the rapidly changing field of high technology is one of the most critical challenges confronting our Nation today. I was recently pleased to have the opportunity to chair hearings on this subject in the Senate Finance Committee. Several steps can and must be taken in an effort to bolster our ability to respond to the needs of high technology industries for skilled manpower. None of these steps could be more crucial than to insure that our future supply of skilled labor—scientists, engineers, and computer specialists—is met adequately.

In order to accomplish this, it is absolutely vital that our young people receive a strong foundation in mathematics, science, and technology. While the demand for a scientific and engineering work force has risen dramatically, there is considerable evidence that the capacity of our education system to meet this demand is falling. I have been deeply disturbed by recent reports which reveal an alarming decline in the number of mathematics and science instructors in our secondary schools. Not only are teachers in short supply, but many required retraining to improve their skills in this critical field.

We must make a serious effort to reverse the trend of declining student test scores by bolstering the ability of our education system to improve the scientific and technical skills of our young people. The legislation which has been introduced by my distinguished colleague from New Mexico, Senator DOMENICI, represents a timely and significant step forward in demonstrating the Federal commitment in this important area, and I am pleased to join him as a cosponsor.

In establishing a system to award scholarships to those committed to becoming instructors in mathematics and science, the bill will provide a crucial incentive to attract talented people and help meet the acute shortage which exists. The bill's provision for the establishment of an award program for outstanding teachers will help to provide public recognition of the importance of their role and to motivate others to enter the field. The bill's provision for scholarship selections—enabling State commissions to approve those selected by the National Science Foundation—addresses the need for the joint participation of State government and the education community along with the Federal Government in this process.●

By Mr. PACKWOOD (for himself, Mr. BENTSEN, Mr. SYMMS, Mr. BOREN, and Mr. DURENBERGER):

S. 249. A bill entitled the Employee Educational Assistance Extension Act; to the Committee on Finance.

EMPLOYEE EDUCATIONAL ASSISTANCE EXTENSION ACT

Mr. PACKWOOD. Mr. President, today we are introducing the Employee Educational Assistance Extension Act.

This bill will make permanent tax rules enacted in 1978 applicable to employees who receive educational assistance from their employers. Those rules expire December 31, 1983. The Revenue Act of 1978 included a provision dealing with the taxation of educational assistance provided for employees by employers. These rules became section 127 of the Internal Revenue Code. Generally, that section provides that educational assistance provided by the Employer is tax free to the employee if the educational assistance program is operated in compliance with several restrictions. For example, the educational assistance offered by the employer may not discriminate in favor of officers, shareholders, or highly compensated employees.

The bill I am introducing today makes that section permanent, and also makes a few revisions to it so that it can better achieve its original purpose.

BACKGROUND

The purpose of the section made permanent by this bill is to encourage employees, especially women, members of minority groups, and unskilled persons, to take advantage of opportunities for self-improvement provided by their employers. It has clarified a confusing and ambiguous area of the law.

Employer programs providing tuition assistance for employees are common. They exist in about 90 percent of corporations with more than 500 employees, and 75 percent of companies with between 100 and 500 employees. They are also common for employees of smaller companies, all levels of government, and nonprofit organizations.

Courses provided by employers provide important opportunities for self-improvement for employees at all levels. The programs are typically available for all fulltime employees, with little or no minimum service requirement. The programs have traditionally been open to hourly employees, union members, and clerical and technical employees.

Most of the programs require that the course bears some relation to present or future job duties. Typically, the courses are subsidized by employers to enable the employee to prepare for a promotion. The courses in greatest demand are engineering, management, general business courses, accounting, and technical courses such as drafting and blueprint reading.

When some people first hear of employer provided educational assistance, they envision basketweaving or snake charming courses. However, experience has shown that employers simply do not provide frivolous courses.

THE PROBLEMS BEFORE 1978

Before enactment of section 127, the tax rules applicable to tuition assistance programs were confusing, difficult to administer equitably, and had a disproportionately harsh effect on women, members of minority groups, and persons without skills.

The general rule was that the cost of training was taxable to the employee unless the training was related to his or her current job. Because the employee was liable for tax on the tuition payment, the employer was, in turn, required to withhold more from the employee's paycheck when the tuition assistance was provided. This interpretation of the law was announced by the Internal Revenue Service in Revenue Rulings 76-71, 76-352, and 78-184.

The "job related" distinction was unfair. There was no shortage of important and fascinating job related—tax free—training opportunities for senior executives. But it was a different story for people further down the company ladder. If a person with little or no work experience employed in an entry-level position received training to advance to vitually any other job with an employer, the value of the training was taxable. This discouraged self-improvement.

Similarly, if a typist received training to become a secretary, or if a secretary received training in a paralegal

program, it might be considered not job related.

The job-related distinction was ambiguous. In many cases there was no agreement as to when to subject an employee to withholding, even where the tuition assistance program was identical from one company to another. This led to differing interpretations of the law from company to company, and from audit to audit. It raised the risk that an employee would have rightfully believed tuition received was not taxable, only to find out months or years later that it was.

Those hurt most were unskilled workers, women, and minorities. They would be less likely to have a skill to which training could relate. They were also more likely to have low paying, undesirable jobs. And they were less likely to participate in a program, if, the day training began, the employer withheld an additional amount from their small paycheck to cover the Federal tax imposed on the training. For example, a 1977 study of 57 educational assistance programs by the American Telephone & Telegraph Co. showed that employees not subject to withholding were three times as likely to participate as employees subject to withholding.

REVENUE ACT OF 1978

Section 164 of the Revenue Act of 1978 created new Internal Revenue Code section 127 addressing this problem. Section 127 provides that, if several safeguards are complied with, that educational assistance provided by employers is tax free to employees. One of the restrictions is that the program may not discriminate in favor of officers, shareholders, or highly compensated employees. Another restriction is that not more than 5 percent of the benefits of the program may go to persons who own more than 5 percent of the company. Further, the program may not provide sports, games or hobby courses.

The new statute has worked well. It has proven easy to administer for the IRS, and understandable to employers. Best of all, it has resolved the puzzling and punitive features of prior law which discouraged self-improvement by workers.

CHANGES PROPOSED BY THIS BILL

I believe section 127 can be improved in a few respects. First, it should be made easier for educational assistance to be provided with a cafeteria plan or a flexible benefit program. Current law requires that educational benefits not be offered as an alternative to items includable in gross income, such as wages. This bill deletes that requirement. This increases the likelihood that educational assistance will be provided by employers in cafeteria or flexible benefit plans.

The bill also provides that benefits provided to spouses or family members of employees will be tax free. Currently, educational assistance benefits are tax free only if provided to the employee. This change will help encourage employers to provide opportunities for self-employment beyond the employees themselves. This change is not intended to have any adverse effect on tuition remission programs sponsored by educational institutions for employees, and members of their family. The taxation of these programs has been governed for many years by Treasury Regulations 1.117-3(a).

Section 127 currently provides that qualified educational assistance programs may not reimburse the cost of meals, travel or lodging. This bill deletes this restriction. I believe the restriction is a mistake. It discriminates against employees in locations away from educational institutions who must travel to obtain needed training, and incur expenses for meals and lodging. Further, it makes administration of these programs more convoluted if the employer must treat educational assistance and associated meals, lodging or travel separately.

CONCLUSION

Our Nation's employers are making a giant contribution toward the education of workers. They are helping employees at all levels improve themselves. The educational assistance tax rules enacted in 1978 are an important part of encouraging employers to continue to perform this responsibility. I hope Congress will consider this legislation and enact it in a timely manner to avoid needless confusion for individual taxpayers and employers.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 249

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Modification of exclusion from gross income of educational assistance.

(a) EDUCATIONAL ASSISTANCE FOR SPOUSES AND DEPENDENTS OF EMPLOYEES.—

(1) IN GENERAL.—Subsection (a) of section 127 of the Internal Revenue Code of 1954 (relating to educational assistance programs) is amended by inserting ", his spouse, or his dependents" after "employee" the second place it appears.

(2) CONFORMING AMENDMENTS.—

(A) Section 127(b)(1) of such Code is amended by inserting ", their spouses, or their dependents" after "employees" the second place it appears.

(B) Section 127(c)(1) of such Code is amended by inserting ", his spouse, or his dependents" after "employee" each place it appears.

(b) ELIMINATION OF PROHIBITION OF OTHER BENEFITS AS AN ALTERNATIVE.—

(1) IN GENERAL.—Subsection (b) of Section 127 of such Code is amended by striking out paragraph (4) and redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(2) CONFORMING AMENDMENT.—Section 127(b)(1) of such Code is amended by striking out "(6)" and inserting in lieu thereof "(5)".

(c) ELIMINATION OF DISALLOWANCE OF PAYMENTS FOR MEALS, LODGING OR TRAVEL.—Section 127(c)(1) of such Code is amended by deleting ", or meals, lodging, or transportation".

(d) CLARIFICATION OF DEDUCTION TO EMPLOYER.—Paragraph (7) of Section 127(c) (relating to disallowance of excluded amounts as credit or deduction) is amended—

(A) by striking out "shall be allowed" and inserting in lieu thereof "shall be allowed to the employee", and

(B) by striking out "excluded from income" and inserting in lieu thereof "excluded from the gross income of the employee".

(e) ELIMINATION OF TERMINATION DATE FOR EXCLUSION OF EDUCATIONAL ASSISTANCE FROM GROSS INCOME.—Subsection (d) of Section 127 of such Code is repealed.

(f) The amendments made by Subsections (a) through (d) shall apply to taxable years beginning after December 31, 1985.

By Mr. PROXMIRE (for himself, Mr. HART, Mr. NICKLES, and Mr. COCHRAN):

S. 250. A bill to abolish the Synthetic Fuels Corporation; to the Committee on Energy and Natural Resources.

LEGISLATION TO ABOLISH THE SYNTHETIC FUELS CORPORATION

Mr. PROXMIRE. Mr. President, on behalf of myself, Senator HART, Senator NICKLES, and Senator COCHRAN, I am introducing a bill to abolish the Synthetic Fuels Corporation and return its assets to the Treasury. This is the same bill that I introduced last year with Senator ARMSTRONG.

Last year, when Senator ARMSTRONG and I introduced this bill, I said that the United States could not afford a huge, technologically primitive, federally subsidized synthetic fuels industry. Now, even major elements of the synthetic fuels industry itself have come around to our view.

Although the Corporation has been in full operation for a year, it has yet to make one project commitment. Its two most promising projects, the Breckinridge H-coal plant and the Hampshire energy project, were abandoned when their private sponsors, Ashland and Sohio, decided that the projects no longer made economic sense. These companies were not alone in jumping off the synthetic fuels bandwagon. Last year, Exxon closed down the Colony Oil Shale project, Eastern Pipeline Co. withdrew its Synthetic Fuels Corporation application and numerous other projects were shut down, delayed or cut back.

Even with its generous program of loan and price guarantees and other incentives, the Synthetic Fuels Corporation has had to launch an out reach program to drum up demand for its still unused funds.

Despite the industry's unpromising record, the Synthetic Fuels Corporation is determined to give its money away before it is taken away by Congress. In order to speed up the process, they have relaxed requirements and lowered criteria which had previously been used to screen out unqualified projects.

Even worse, according to a story in SynFuels, the Corporation expects that it will give almost all of its assistance in the form for above-market-price guarantees. Instead of being a "no cost" program, the Synthetic Fuels Corporation's executive vice president said it will "have to make good on most of the $15 billion in contingent liabilities it is expected to commit."

Mr. President, the synthetic fuels program poses large risks for the Treasury but yields pitifully little in the way of energy independence. The first three projects which will get letters of intent for assistance together provide less than 15,000 barrels per day of synthetic fuel at a potential cost of $556 million.

At a time of economic crisis, we cannot afford such speculative frills. The Synthetic Fuels Corporation is an idea whose time has passed.

Mr. President, I ask unanimous consent that the bill be appropriately referred.

The PRESIDING OFFICER. Without objection, the bill will be appropriately referred.

By Mr. HELMS (for himself, Mr. ZORINSKY, Mrs. HAWKINS, Mr. WILSON, Mr. GRASSLEY, and Mr. COHEN):

S. 251. A bill to require the export sale of Commodity Credit Corporation owned dairy products, expand markets for U.S. agricultural commodities, expand authority for the use abroad of Commodity Credit Corporation stocks, require the Secretary of Agriculture to report on the use of export subsidies by foreign nations; and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

AGRICULTURAL EXPORT EQUITY ACT OF 1983

Mr. HELMS. Mr. President, I send to the desk a bill entitled the "Agricultural Export Equity Act of 1983" on behalf of myself and Senators ZORINSKY, HAWKINS, and WILSON of the Agriculture Committee, Senator GRASSLEY who attended the ministerial trade negotiations with me in Geneva last November, and Senator COHEN.

The objective of this legislation is twofold. First, Congress must take decisive action to induce other nations to curtail their use of export subsidies in agricultural trade. Such practices undermine the price-comparative advantage of U.S. agricultural commodity and product exports. Congress must undertake unilateral actions to accomplish this goal so as to discourage the further spread of predatory trade practices. Our failure to do this will not only result in the undermining of the world trading system but will also result in permanent reducton of the agricultural production capacity of the United States as U.S. export sales are replaced by subsidized sales from other countries.

Obviously, both of those situations are unacceptable to the United States. And, it is the assessment of most agricultural trade specialists that those nations employing predatory export subsidies will not change their ways unless they are certain that the United States is serious when it says that their right to swing their export subsidy fist ends at Uncle Sam's nose.

Second, we must use every appropriate means at our disposal to encourage and expand the export volume and value of agricultural commodities and products. The value of U.S. agricultural exports in fiscal year 1982 was $39 billion, a decline of almost $5 billion from the 1981 level. This represents the first year-to-year decline in this export figure in more than a decade. In the current year, USDA is projecting a further decline to $37 billion. This is also undesirable, and we must undertake every practical effort to encourage as much agricultural export trade as is competitively possible. Every billion dollars of agricultural exports means 35,000 jobs for Americans, I might add.

Mr. President, while it is not likely that we will ever have a completely free trading system in the world, it is realistic to expect free trade to be a guiding principal for all nations. Indeed, freedom and fairness in trade have been the hallmark of U.S. trade policy for some 35 years.

However, for a number of years the agricultural sector of our economy has had to suffer the increasingly unfair trading practices of competitor nations. The problem has been one with which those of us active in foreign trade issues have struggled repeatedly—mostly in frustration. However, in recent years the use of export subsidies by the European Economic Community and other nations has gotten out of hand.

That is the reason a number of Senators and Congressmen—at the suggestion of the U.S. Trade Representative and other U.S. trade officials—attended the ministerial meeting of the General Agreement on Tariffs and Trade (GATT) in Geneva last November. The noncompetitive and predatory trading practices employed by other nations have become intolerable, and the consensus of thinking in the United States was that we must forcefully make that point.

This legislation is the direct result of the GATT Ministerial. The message we received from those who are undermining the world trading system with massive export subsidies was this: "We are not going to change our policies, and in fact, we are not even going to discuss them."

Our message in return was: "Make no mistake, we intend to stand up for our interests."

Mr. President, this legislation is a reasonable but decisive effort to induce those who are placing free and fair world trade in jeopardy to come to the bargaining table.

After the GATT meetings, I announced that I intended to prepare this legislation. Hearings were held in the Agriculture Committee on December 2, 1982, to hear assessments of the GATT Ministerial. Those assessments were uniformly discouraging with respect to movement on solutions to the trade problems, specifically in agriculture, without further actions on the part of Congress.

The increased concern on the part of Congress has gotten the attention of the Europeans. They have begun to come to the table. A meeting to discuss these trade issues was held in Brussels on December 9-10. A followup meeting was held in Washington on January 11-12, 1983. Of course, nothing concrete has developed from these meetings; a work program has not been established. But, it seems that the Europeans and others are beginning to understand that we are serious when we say their predatory practices are intolerable.

This minor progress, however, is likely to be short lived if we do not continue to move decisively. Legislation mandating a number of specific unilateral actions on the part of the United States is needed to keep the momentum going and convince our trading partners that we mean business.

The bill has a number of distinct but mutually consistent features, and encompasses ideas and proposals that have been discussed in agricultural trading circles for quite some time. For instance, the bill strengthens authority for the Secretary of Agriculture to provide assistance for U.S. agricultural exports that is in legislation I authored which subsequently became part of the Omnibus Budget Reconciliation Act of 1982. Other sections require the direct sale of Government-owned dairy products on the world market and broaden the Secretary of Agriculture's authority to donate agricultural commodities abroad for humanitarian purposes. Selling Government dairy stocks is an idea long touted by dairymen, and it is an idea whose time has arrived.

Then, there is authority for an export PIK program—a payment-in-kind utilization of Commodity Credit Corporation owned stocks for an export bonus plan. The idea for an export PIK was first contained in leg-

islation introduced in the second session of the 97th Congress by Senators COCHRAN and HUDDLESTON, the chairman of the Subcommittee on Production, Marketing, and Stabilization on Prices and the ranking minority member of the Agriculture Committee, respectively. I want to emphasize that credit for the development of this concept should properly extend to those distinguished gentlemen.

Mr. President, if the EEC and other nations that employ predatory export subsidies will not discipline their export trading practices either through their own good judgment or through the unilateral actions we must take in the absence of the exercise of such good judgment, there is no question that trade relations between the United States and those countries will deteriorate to such a degree that it widl have long-term consequences that could adversely affect the wordd economy and world security.

This must be avoided, and so we must take measures to induce thgse who have abused free and fair trade to come to the bargaining table. We must insist upon an effective and meaningful work program to set in motion policies that will restore equity to agricultural exports. We will not be taken seriously about this unless we demonstrate a willingness to employ measures that will get our trading partners to the negotiating table. They have heard enough of our complaints. Now is the time to deliver—and that very simply means Congress must mandate certain specific actions, patterned after our competitors own practices, that the EEC and others who use export subsidies will find painful and that will help our producers by increasing our exports.

Mr. President, clearly there are certain commodities and countries where the use of export subsidies is unmistakable, and an immediate response is called for. The actions mandated by this bill are examples. Beyond that, however, we need comprehensive information on which countries are using various types of export subsidies, and where it is occurring.

This legislation will do both. It provides for action where there is immediate need, and it also provides for compiling more information so that any further actions which become necessary may be appropriately focused.

With that background, let me discuss some of the specifics of the bill.

DAIRY PRODUCT SALES

The bill has a number of major provisions. The first provision directs the Secretary of Agriculture to sell on the world market a minimum of 150,000 metric tons of dairy products owned by the Commodity Credit Corporation in each of the fiscal years 1983-84. These sales would be at prices the Secretary determines appropriate but not less than the minimum prices under the international dairy arrangement negotiated under the auspices of the General Agreement on Tariffs and Trade (GATT). The international dairy arrangement is an agreement among major dairy product exporters not to sell dairy products such as cheese, butter, and nonfat dry milk, below certain agreed upon minimum prices. Also, under the bill the Secretary is to report semiannually to the Senate and House Agriculture Committees on the status of these sales.

The current dairy product surplus that is being held by the Commodity Credit Corporation is 138 percent above CCC's stock levels for 1980 and 46 percent above the stock levels for 1981. Furthermore, the near-term outlook is for the surplus to continue to grow. It is imperative that these large surpluses be reduced.

The consequence of not selling part of our surplus dairy stocks on the world market is increased costs in terms of storage, interest, and deterioration of quality characteristics.

Congress acted wisely last year in amending the Agricultural Act of 1949 to provide authority for the Commodity Credit Corporation to donate surplus dairy stocks to needy individuals in foreign countries. I believe we should go a step further and supplement this authority by requiring the sale of CCC owned dairy stocks on the world market.

This will place the United States in the position of meeting the actions of the EEC with similar actions. The EEC sells its surplus dairy products on the world market below its domestic support price level through the use of export subsidies. I see no reason why the United States should not act accordingly in order to reduce our burdensome surplus while at the same time assuring that we meet our international obligations by not selling below the minimum prices specified in the International Dairy Arrangement.

Mr. President, to clarify our intent with respect to the international sale of dairy products, this action would clearly signal our resolve—and also relieve the taxpayer of the cost of carrying these stocks. However, it is our intent that this be implemented, to the greatest extent practicable, in a way that protects such nations as New Zealand who have supported and encouraged free, fair trade.

Such a dairy sale has received strong support in Congress. The Agriculture and Food Act of 1981 and the Agriculture Appropriations Act for fiscal year 1983 both encouraged the Secretary of Agriculture to use existing authorities to sell our surplus dairy products overseas. On December 20, 1982, the Senate adopted Senate Resolution 524 authored by the distinguished Senator from Minnesota, Mr. BOSCHWITZ, which strongly encouraged the Secretary to make such sales. The resolution was approved without objection.

AGRICULTURAL EXPORT PROMOTION

The bill makes a number of changes in current law to provide adequate funds for export assistance for U.S. agricultural commodities and products and to target the use of those funds. Under the bill an amount equal to one-half of the proceeds obtained from the sale of dairy products required under the previous provision would be used for assistance in promoting U.S. agricultural exports. Both agricultural commodities and products would be eligible to receive this export assistance.

These funds would be used by the Secretary of Agriculture to help U.S. exporters equalize the predatory price and credit subsidies used by other nations to undercut the U.S. price advantage. For example, the funds could be used for expansion of the blended credit program currently being conducted by the Department of Agriculture. That program has been quite successful thus far in increasing U.S. agricultural export sales.

The funds could also be used for export assistance for such agricultural products as wheat flour, poultry, eggs, raisins and other products that have been and continue to be confronted with predatory export subsidies by other nations. U.S. sales of these commodities in overseas markets have declined in large part because foreign suppliers have underbid U.S. export prices with the aid of export subsidies.

The bill also requires that for fiscal year 1983, the Secretary of Agriculture is to use the full amount of $190 million for export promotion activities as authorized in section 135 of the Omnibus Budget Reconciliation Act of 1982. In addition, the Secretary is directed to use the remaining balance of funds available under section 135 for fiscal year 1983, $90 million, to expand the export of value-added and high-value agricultural products. The Secretary is to use these funds to meet or equalize the price and credit subsidies of other nations that have the effect of reducing sales of U.S. poultry, eggs, raisins, pasta, and other similar agricultural products.

During the decade of the 1970's, a distinct world market developed for value-added and high-value agricultural products. However, the U.S. share of this market is far below the level that one would expect. This situation was explored by the Committee on Agriculture, Nutrition, and Forestry during a hearing held on September 21, 1982. Testimony presented by the Department of Agriculture at that hearing is helpful in defining what products are included in these categories.

Value-added products are those that have been increased in value through some form of processing. These would

include such products as wheat flour, wet corn milling products, dried fruits, soybean oil, poultry, beef, and similar items. High-value products are those that are inherently high in value but are unprocessed, such as fruits, vegetables, eggs, and the like. These are the types of products this legislation is directed at.

Because of the particularly prejudical situation the U.S. poultry industry finds itself in as a result of aggressive use of export subsidies on whole broilers and other poultry products by the European Economic Community and Brazil, the bill mandates that the Secretary spend at least $20 million for assistance for U.S. poultry and egg exports.

I believe that the farmers of this country are sick and tired of foreign exporters following one set of rules while our exporters have to follow a different set of rules. All I am asking is equal treatment for U.S. exporters—that everyone play by the same rules.

Many questions regarding the interpretation of the trade agreements resulting from the Tokyo round of the Multinational Trade Negotiations have not yet been resolved, and until they are, U.S. farmers should be able to compete on the same basis as farmers in other agricultural exporting nations.

I believe it is time we sent a clear message of our strong support for promoting the export of value-added and high-value agricultural products. According to studies by the U.S. Department of Agriculture on growth in the world market for value-added and high-value agricultural exports over the past decade, the United States has gained only 30 percent of that market while the EEC has gained 60 percent.

I believe the United States should be more aggressive in acquiring a larger share of the future growth in the value-added and high-value export market. This provision will aid the administration in that endeavor.

EXPORT PAYMENT-IN-KIND PROGRAM

An export payment-in-kind or PIK program is authorized by the bill. This type of program is the perfect complement to the domestic PIK program which the Senate tried unsuccessfully to specifically authorize during the last session of the 97th Congress, and which the administration announced on January 11, 1983. Since the administration has already begun to implement the domestic PIK program under existing authority, Congress should act to provide the specific legislative authority for an export PIK program.

The basic objective of the export PIK program is to aid the Secretary of Agriculture in promoting and increasing exports of U.S. agricultural commodities and products in order to reduce Government stocks, reduce Government outlays under domestic price support programs, and improve returns to farmers.

Under the bill, the Secretary of Agriculture would be authorized to provide commodities or products acquired by the Commodity Credit Corporation to U.S. exporters and users and foreign purchasers to encourage the development, maintenance, and expansion of markets for U.S. agricultural commodities and products. The commodities that could be made available include wheat, feed grains, upland cotton, and rice, and their products, and any other agricultural commodities or products acquired by the Commodity Credit Corporation. These commodities or products would be provided at no cost.

A number of safeguards are included in the bill. In carrying out an export PIK program, the Secretary must insure that the program provides equal treatment to domestic and foreign purchasers and users of U.S. agricultural commodities and products where the importation of a manufactured product made, in whole or in part, from a commodity made available for export under the program would place domestic users of the commodity at a competitive disadvantage.

Also, Commodity Credit Corporation stocks of agricultural commodities and products that are provided under this authority are to be used in such a manner as to encourage increased use either in the United States or in a foreign country and to avoid displacing usual marketings of U.S. agricultural commodities or products.

And, the Secretary is required to take reasonable care to prevent the resale or transshipment to other nations of the agricultural commodities and products provided under this program and to prevent the use for other than domestic use in the destination country of such commodities and products.

If a program is carried out, the Secretary is directed to provide all interested foreign purchasers an opportunity to participate. However, priority is to be given to those foreign purchasers who have been traditional buyers of U.S. agricultural commodities and products, and who continue to purchase such commodities and products on an annual basis in quantities larger than the level of purchases over a previous representative period.

In order to encourage increased consumption and storage of U.S. agricultural commodities and products in foreign nations, the bill authorizes the Secretary to provide bonus amounts of CCC commodities and products to foreign purchasers who use the proceeds from the sale of such commodities or products for the construction or rehabilitation of facilities in the importing country to improve the importing country's capability to handle, market, process, store, or distribute U.S. agricultural commodities or products. This provision will assist in improving long-term markets for U.S. commodities and products.

DONATIONS OF SURPLUS COMMODITIES AND PUBLIC LAW 480 USE

Because of the large domestic surplus of many commodities, in addition to dairy products, owned by the CCC, the bill contains a provision to expand the authority under section 416 of the Agricultural Act of 1949 to donate surplus dairy products to needy persons in foreign countries, to include other agricultural commodities or products acquired by the CCC. Donations under this authority would continue to be provided through foreign governments and public and private nonprofit humanitarian organizations to help needy persons outside the United States. Any donations under this authority would be coordinated with other food aid assistance programs such as the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480).

As another vehicle for expanding agricultural exports, the Secretary would be authorized to provide agricultural commodities and products acquired by the Commodity Credit Corporation to increase the level of agricultural exports under titles I and III of Public Law 480. Use of Commodity Credit Corporation stocks would be in addition to the level of assistance programed under that law.

These authorities would allow the Secretary of Agriculture to make our bountiful supplies of food commodities available to feed the needy throughout the world and to increase concessional sales of agricultural commodities. This would be particularly helpful in the case of countries that have a need for food but which are not receiving commodities under Public Law 480.

REPORT ON FOREIGN EXPORT SUBSIDIES

The bill also requires the Secretary of Agriculture to report to the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture on predatory export subsidies used by other nations in the case of their agricultural exports. The report would be submitted by July 1, 1983.

Specifically the Secretary would be required to (1) identify each foreign nation or organization of nations that uses export subsidies on agricultural commodities or products; (2) specify the amount and kind of such subsidies on each agricultural commodity or product; and (3) provide an analysis of the effect of such subsidies on U.S. agricultural exports, including the extent to which such subsidies have resulted in a reduction or loss of foreign sales over the last 10 years.

I believe it would be extremely useful to Congress and to the farmers of this country to know exactly which of our competitors are subsidizing

their agricultural exports, the extent of that subsidization, and its effect on our exports.

Mr. President, it is my intent that early hearings be scheduled on this legislation, and that the Committee on Agriculture, Nutrition, and Forestry act on it expeditiously. During hearings or at any time, I am open to any suggested improvements which Senators or trade specialists may have. I intend to work with the members of the committee to develop the best possible legislation on this issue which is vital to American agriculture.

Mr. President, I ask unanimous consent that a copy of the bill, a summary of its major provisions, and a section-by-section analysis of the bill be printed in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 251

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Agricultural Export Equity Act of 1983".

EXPORT SALE OF DAIRY PRODUCTS

SEC. 2. The Secretary of Agriculture shall sell for export at such prices as the Secretary determines appropriate, but not less than the minimum prices applicable under the International Dairy Arrangement, not less than 150,000 metric tons of dairy products owned by the Commodity Credit Corporation in each of the fiscal years ending September 30, 1983, September 30, 1984, and September 30, 1985. Such sales shall be made through the Commodity Credit Corporation under existing authorities available to the Secretary or the Commodity Credit Corporation. The Secretary shall report on a semiannual basis to the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture on the status of sales made pursuant to this section.

AGRICULTURAL EXPORT PROMOTION

SEC. 3. Section 135 of the Omnibus Budget Reconciliation Act of 1982 (7 U.S.C. 612c note) is amended by—

(1) inserting "(a)" immediately after "Sec. 135.";

(2) deleting the second and third sentences thereof; and

(3) adding at the end thereof the following new subsections:

"(b) Effective for each of the fiscal years ending September 30, 1983, September 30, 1984, and September 30, 1985, the Secretary of Agriculture shall use, in addition to the amounts specified in subsection (a) of this section, funds of the Commodity Credit Corporation in an amount equal to one half of the proceeds from the sale of dairy products during each such fiscal year, respectively, under section 2 of the Agricultural Export Equity Act of 1983, for export assistance for United States agricultural commodities and the products thereof to equalize the price and credit subsidies of other nations on their agricultural exports. For the purposes of this subsection and of subsection (c) of this section, the term "export assistance" shall be limited to payments, or such other means as are determined appropriate by the Secretary, to reduce the price of such commodities and the products thereof sold for export or to reduce the effective rate of interest charged for credit in connection with such export sales. The Secretary shall provide export assistance under this subsection using the provisions of law in effect on the date of enactment of this subsection.

"(c) Effective only with respect to the fiscal year ending September 30, 1983, in carrying out the provisions of subsection (a) of this section the Secretary of Agriculture—

"(1) shall use Commodity Credit Corporation funds in the amount of $190,000,000; and

"(2) shall use the funds available as of the date of enactment of this subsection, for export assistance in connection with value-added or high-value agricultural products produced in the United States: *Provided,* That, of such funds, at least $20,000,000 shall be used by the Secretary for export assistance for United States poultry and eggs.

"(d) The Secretary of Agriculture shall carry out the program authorized by this section through the Commodity Credit Corporation.

"(e) The authority provided in this section shall be in addition to, and not in place of, any authority granted to the Secretary of Agriculture or the Commodity Credit Corporation under any other provision of law.".

EXPANDED MARKETS FOR UNITED STATES AGRICULTURAL COMMODITIES AND PRODUCTS

Sec. 4. (a) Notwithstanding any other provision of law, the Secretary of Agriculture may formulate and carry out a program under which agricultural commodities, including but not limited to wheat, feed grains, upland cotton, and rice, and the products thereof acquired by the Commodity Credit Corporation are provided to United States exporters and users and foreign purchasers at no cost to encourage the development, maintenance, and expansion of export markets for United States agricultural commodities and the products thereof.

(b) In carrying out the program authorized by this section, the Secretary of Agriculture—

(1) shall take such action as may be necessary to ensure that the program provides equal treatment to domestic and foreign purchasers and users of United States agricultural commodities in any case in which the importation of a manufactured product made, in whole or in part, from a commodity made available for export under this section would place domestic users of the commodity at a competitive disadvantage;

(2) shall, to the extent that agricultural commodities and products thereof are to be provided to foreign purchasers during any fiscal year, consider for participation all interested foreign purchasers giving priority to those who have traditionally purchased United States agricultural commodities and products thereof and who continue to purchase such commodities and products thereof on an annual basis in quantities greater than the level of purchases in a previous representative period;

(3) shall ensure, insofar as possible, that any use of Commodity Credit Corporation stocks under this section be made in such manner as to encourage increased use and avoid displacing usual marketings of United States agricultural commodities and products thereof; and

(4) shall take reasonable precautions to prevent the resale or transshipment to other nations, or use for other than domestic use in the nation to which stocks of the Commodity Credit Corporation are shipped, of stocks made available under this section.

(c) In any case in which a foreign purchaser sells in the importing country commodities or products thereof received from the Secretary of Agriculture, under the authority of subsection (a) of this section, and uses the receipts from the sale of such commodities or products thereof for the construction or rehabilitation of facilities in the importing country to improve the handling, marketing, processing, storage, or distribution of United States agricultural commodities or products thereof in such importing country, such purchaser shall be eligible to receive bonus distributions of commodities or products thereof acquired by the Commodity Credit Corporation from the Secretary. Bonus distributions under this paragraph shall be made with such commodities or the products thereof, at such intervals, and in such amounts as the Secretary determines appropriate taking into account the extent to which facility improvements have been made, the capability of the importing country to distribute or otherwise use additional commodities, and such other factors as determined appropriate by the Secretary that are consistent with the purposes and objectives of this section.

(d) The Secretary of Agriculture shall carry out the program authorized by this section through the Commodity Credit Corporation.

(e) The Secretary of Agriculture may issue such regulations as the Secretary deems necessary to carry out this section.

(f) The authority provided in this section shall be in addition to, and not in place of, any authority granted to the Secretary of Agriculture or the Commodity Credit Corporation under any other provision of law.

EXPANDED AUTHORITY FOR THE USE ABROAD OF COMMODITY CREDIT CORPORATION STOCKS

SEC. 5. Section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431) is amended by striking out the last two sentences and inserting in lieu thereof the following: "Such dairy products and other agricultural commodities and products thereof acquired by the Commodity Credit Corporation may also be donated through foreign governments and to public and nonprofit private humanitarian organizations for the barter, sale, and direct distribution of such commodities for the assistance of needy persons outside the United States, and the Commodity Credit Corporation may pay, with respect to commodities and products thereof so donated, reprocessing, packaging, transporting, handling, and other charges, including the cost of overseas delivery. The proceeds and services realized from the sale and barter of such dairy products and other commodities and products thereof by public and nonprofit private humanitarian organizations shall be used exclusively for assistance to need people. No portion of the proceeds of services realized by sale or barter may be used by these organizations to meet their operating and overhead expenses. To ensure that any such donations for use outside the United States complement, and are coordinated with, other United States foreign assistance, such donations shall be coordinated through the mechanism designated by the President to coordinate assistance under the Agricultural Trade Development and Assistance Act of 1954 and shall be in addition to the level of assistance programmed under that Act.".

EXPANDED AUTHORITY FOR THE USE OF COMMODITY CREDIT CORPORATION STOCKS UNDER PUBLIC LAW 480

SEC. 6. Title I of the Agricultural Trade Development and Assistance Act of 1954 is amended by adding at the end thereof the following new section:

"SEC. 116. Notwithstanding any other provision of law, the President may use agricultural commodities and products thereof acquired by the Commodity Credit Corporation to increase the level of agricultural exports under titles I and III of this Act consistent with the purposes of this Act: *Provided*, That the use of Commodity Credit Corporation stocks under this section shall be in addition to the level of assistance programmed under this Act and shall be subject to the provisions of section 103 of this Act.".

REPORT OF THE SECRETARY OF AGRICULTURE ON THE USE OF EXPORT SUBSIDIES

SEC. 7. (a) Not later than July 1, 1983, the Secretary of Agriculture, in consultation with the United States Trade Representative, shall submit to the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture a report on the use of export subsidies by foreign nations competing with the United States for world markets in connection with trade in agricultural commodities and the products thereof. The report shall include, but need not be limited to—

(1) a listing of each country or organization of countries using export subsidies for agricultural commodities and the products thereof traded in world markets;

(2) in the case of each country or organization listed under clause (1), a description of the nature of the subsidies being used by that country or organization, the extent of subsidization, and the specific commodities and products involved; and

(3) an analysis of the effect of such subsidies on the economy of the United States, and in particular the impact on the agricultural sector of the economy, including the extent to which such subsidies have resulted in the reduction or loss of foreign sales of United States agricultural commodities and products thereof during the 10-year period prior to enactment of this section.

(b) For purposes of subsection (a) of this section, the term "export subsidies" means the use by any foreign country or organization of foreign countries, or instrumentality thereof, of any payments to producers, exporters, foreign purchasers, or lenders, or other means used, in connection with the export sale of agricultural commodities or products thereof, produced in such country or organization of countries, that have the effect of (1) lowering the export price of such commodities or products thereof below the level at which they could otherwise be sold to cover the production and processing costs of such commodities or products thereof in such country, or (2) lowering the interest costs or other carrying charges below the level at which such costs or charges would otherwise be incurred.

SECTION-BY-SECTION ANALYSIS

SHORT TITLE

The first section provides that the bill may be cited as the "Agricultural Export Equity Act of 1983".

EXPORT SALE OF DAIRY PRODUCTS

Section 2 directs the Secretary of Agriculture to sell for export during each of the fiscal years 1983, 1984, and 1985, at least 150,000 metric tons of dairy products owned by the Commodity Credit Corporation (CCC) at prices determined appropriate by the Secretary but not less than the minimum prices applicable under the International Dairy Arrangement. The sales are to be made through the CCC under existing authorities available to the Secretary or the CCC, and the Secretary is to report semiannually to the Senate and House agriculture committees on the status of sales under this section.

AGRICULTURAL EXPORT PROMOTION

Section 3 amends section 135 of the Omnibus Budget Reconciliation Act of 1982 by designating the first, second, and third sentences thereof as subsections (a), (d), and (e), respectively, and adding two new subsections.

New subsection (b) requires the Secretary of Agriculture to use Commodity Credit Corporation funds, in addition to the funds specified in the redesignated subsection (a) of section 135 (as originally enacted, this subsection authorized the use of between $175 and 190 million for export promotion), equal to one-half of the proceeds obtained from the sale of CCC owned dairy products under section 2 of this bill for export assistance for U.S. agricultural commodities and products thereof during each gf the fiscal years 1983, 1984, and 1985 in order to equalize price afd credit subsidies being used on agricultural exports by other nations.

Subsection (b) also defifes the term "export assistance" for purposes of subsections (b) and (c) as payments or other appropriate means used by the Secretary to reduce the price of U.S. agricultural commodities and products sold for export or to reduce the effective rate of interest charged for credit in connection with such export sales. In addition, this subsection provides that in making export assistance available under this authority the Secretary must use the provisions of current law.

New subsection (c), provides that effective only for fiscal year 1983 the Secretary is required to use the full $190 million of Commodity Credit Corporation funds designated for export assistance in the redesignated subsection (a) of section 135 of the Omnibus Budget Reconciliation Act of 1982.

This subsection also provides that the remaining funds available for fiscal year 1983 on the date of enactment of this bill shall be used for export assistance only for value-added or high-value agricultural products produced in the United States, and that at least $20 million of this amount must be used by the Secretary to assist U.S. poultry and egg exports.

EXPANDED MARKETS FOR UNITED STATES AGRICULTURAL COMMODITIES AND PRODUCTS

Section 4 provides specific authority for the Secretary of Agriculture to establish an export payment in kind (PIK) program.

Subsection (a) authorizes the Secretary to formulate and carry out a program to provide commodities or products acquired by the Commodity Credit Corporation to U.S. exporters and users and foreign purchasers to encourage the development, maintenance, and expansion of markets for U.S. agricultural commodities and products. Under this program, commodities or products would be provided by the Commodity Credit Corporation to eligible recipients at no cost. The commodities that could be made available include wheat, feed grains, upland cotton, and rice, and their products, and any other agricultural commodities or products acquired by the Commodity Credit Corporation.

Subsection (b) provides that in carrying out an export PIK program, the Secretary must ensure that the program provides equal treatment to domestic and foreign purchasers and users of U.S. agricultural commodities in any case in which the importation of a manufactured product made, in whole or in part, from a commodity made available for export under the program would place domestic users of the commodity at a competitive disadvantage.

Subsection (b) also directs the Secretary, to the extent that agricultural commodities and products are to be made available to foreign purchasers under an export PIK program, to provide all interested foreign purchasers an opportunity to participate in the program, with priority to be given to those foreign purchasers who have been traditional buyers of U.S. agricultural commodities and products, and who continue to purchase such commodities and products on an annual basis in quantities larger than the level of purchasers in a previous representative period. In determining a representative period of previous purchases in order to arrive at some base of normal purchases, the Secretary may consider any factors that are deemed appropriate for determining a base level of purchases.

Subsection (b) also requires the Secretary to ensure, insofar as possible, that Commodity Credit Corporation stocks of agricultural commodities and products that are provided to eligible recipients under this section be used in such a manner as to encourage increased use and avoid displacing usual marketings of U.S. agricultural commodities or products either in the United States or in foreign markets. Under this subsection, the Secretary is also required to take reasonable care to prevent the resale or transshipment to other nations of the agricultural commodities and products provided under this section and to prevent the use for other than domestic use in the receiving country of such commodities and products.

Subsection (c) authorizes the Secretary to provide bonus distributions of CCC commodities and products to foreign purchasers who sell in the importing country commodities or products received from the Secretary under this section and use the proceeds from such sales for the construction or rehabilitation of facilities in the importing country to improve the importing country's capability to handle, market, process, store, or distribute U.S. agricultural commodities or products. Bonus distributions under this subsection would be made with such commodities or products, in such amounts, and at such times, as the Secretary considers appropriate, taking into account the extent to which the facility improvements have been made, the capability of the importing country to handle, distribute, and use additional commodities or products, and such other factors consistent with the purposes and objectives of this section as the Secretary determines appropriate.

Subsection (d) provides that the Secretary shall carry out the program authorized by this section though the Commodity Credit Corporation.

Subsection (e) authorizes the Secretary to issue such regulations as are deemed necessary to carry out this section.

Subsection (f) provides that the authority provided in this section is in addition to and not in place of any other authority provided to the Secretary or the Commodity Credit Corporation under any other provision of law.

EXPANDED AUTHORITY FOR THE USE ABROAD OF COMMODITY CREDIT CORPORATION STOCKS

Section 5 amends section 416 of the Agricultural Act of 1949, which provides the Secretary of Agriculture with authority to donate surplus dairy products through foreign governments and public and nonprofit private humanitarian organizations to needy persons in foreign countries, to extend this authority to include donations of other agricultural commodities and products acquired by the Commodity Credit Corporation. Under this section, the commodities or products so donated must be used for the assistance of needy persons outside the United States. In addition, to facilitate the movement of donated commodities to needy individuals, the CCC is authorized to pay reprocessing, packaging, transporting, handling, and other charges, including ocean freight for overseas delivery, associated with the donated commodities or products, and receiving governments and organizations are authorized to barter and sell the commodities for the benefit of needy persons as well as distribute the commodities directly. Any proceeds and services realized from the sale or bartering of donated commodities by public and nonprofit humanitarian organizations must be used exclusively for assisting needy persons and specifically cannot be used by such organizations to offset operating and overhead expenses.

This section also provides that donations under this authority must complement and be coordinated with other U.S. foreign assitance programs, such as those under the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480), and that they shall be in addition to the level of assistance programmed under Public Law 480.

EXPANDED AUTHORITY FOR THE USE OF COMMODITY CREDIT CORPORATION STOCKS UNDER PUBLIC LAW 480

Section 6 amends title I of the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480) by adding a new section 116. The new section authorizes the President to use agricultural commodities and products acquired by the Commodity Credit Corporation to increase the level of agricultural exports under titles I and III of Public Law 480 in a manner consistent with the purposes of that Act. The use of Commodity Credit Corporation stocks under this new section would be in addition to the level of assistance programmed under the law. The new section also provides that commodities or products provided under this authority would be subject to the provisions of section 103 of Public Law 480 which establishes specific criteria under which title I sales are to be made, including provisions that title I sales not disrupt usual commercial marketings of U.S. agricultural commodities, that sales agreements only be made with countries that the President considers to be friendly to the United States, and that title I sales be used to develop and expand markets.

REPORT OF THE SECRETARY OF AGRICULTURE ON THE USE OF EXPORT SUBSIDIES

Section 7(a) requires the Secretary of Agriculture, in consultation with the United States Trade Representative, to submit to the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture, by July 1, 1983, a report on the use of export subsidies in connection with agricultural exports by foreign nations competing with the United States for world markets. This report must include, but is not limited to: (1) a listing of each foreign nation or organization of nations that uses export subsidies on agricultural commodities or products, (2) a description of the amount and kind of such subsidies on each agricultural commodity or product, and (3) an analysis of the effect of such subsidies on the U.S. economy, and in particular on the agricultural sector of the economy, and on U.S. agricultural exports, including the extent to which such subsidies have resulted in a reduction or loss of foreign sales over the last 10 years.

Section 7(b) defines, for purposes of the report required under subsection (a), the term "export subsidies" to mean the use by any foreign country or organization of foreign countries, or instrumentality thereof, of any payments to producers, exporters, foreign purchasers, or lenders, or other means used, in connection with the export sale of agricultural commodities or products thereof, produced in such country or organization of countries, that have the effect of (1) lowering the export price of such commodities or products below the level otherwise necessary to cover the production and processing costs thereof in such country, or (2) lowering the interest costs or other carrying charges below the level at which such costs or charges would otherwise be incurred.

AGRICULTURAL EXPORT EQUITY ACT OF 1983

SUMMARY OF MAJOR PROVISIONS

1. Requires the Secretary of Agriculture to sell for export, at not less than the minimum prices established in the International Dairy Arrangement, Commodity Credit Corporation dairy stocks of at least 150,000 metric tons in each of the fiscal years 1983, 1984, and 1985.

2. Requires the Secretary of Agriculture in each of fiscal years 1983, 1984, and 1985 to use CCC funds equal to one-half of the proceeds from the sale of dairy products under item 1 during each such fiscal year for export assistance for U.S. agricultural commodities and products to equalize the price and credit subsidies of other nations on their agricultural exports.

3. For fiscal year 1983 requires (a) the use of the full $190 million available for export promotion activities under section 135 of the Omnibus Budget Reconciliation Act of 1982, and (b) use of the remaining funds available for fiscal year 1983 ($90 million) for price or credit subsidies for exports of value-added or high-value agricultural products produced in the United States, with at least $20 million to be used for U.S. poultry and eggs.

4. Provides that agricultural commodities and products acquired by CCC may be tendered at no cost to exporters, users, and foreign purchasers to encourage foreign market development for U.S. commodities. Under the export "PIK" program—

Domestic users must be provided equal treatment relative to foreign purchasers and users in cases where domestic users may be disadvantaged as a result of the program;

All interested foreign purchasers are to be considered for participation, with priority given to those who have traditionally purchased U.S. agricultural commodities and who continue to make such purchases in excess of purchases during a representative period;

CCC commodities must be used to encourage increased use and avoid displacing usual marketings of the United States;

Reasonable precautions must be taken to prevent resale or transshipment of commodities;

Bonus distributions of commodities may be made to foreign purchasers who sell the commodities in the importing country and use the proceeds for the construction or rehabilitation of facilities in the importing country to improve the marketing, storage, or distribution of U.S. agricultural commodities in the importing country.

5. Expands current authority (to donate stocks of dairy products to needy persons in foreign countries) to include donations of other CCC agricultural commodities and products thereof.

6. Authorizes the use of CCC commodities under title I and III of Public Law 480 in addition to programmed levels.

7. Requires the Secretary of Agriculture to report to the Senate and House agriculture committees by July 1, 1983, on the use of export subsidies by foreign countries competing in world trade in agricultural commodities with the United States.

Mr. GRASSLEY. Mr. President, it is my pleasure to join Senator HELMS, the distinguished chairman of the Senate Agriculture Committee, in cosponsoring the Agricultural Export Equity Act of 1983. As a delegate to the recent General Agreement on Tariffs and Trade meetings in Geneva, I spent most of my time focusing on the devastating impact on U.S. agriculture caused by the European Community's (EC) unfair agricultural export subsidies. I left the sobering GATT meetings disappointed, to put it mildly. Although a special committee was established to conduct a 2-year study on the impact of export subsidies, no recommendations will be forthcoming until 1984. The significance of this new effort was placed in pointed perspective by Wilhelm Haferkamp, vice president of the Common Market's Policymaking Commission, when he emphatically stated that endorsement of the compromise document was not a commitment to any new negotiations or obligations in relation to agriculture.

My experience at the GATT meetifgs made it clear to me that if there is one overriding issue in world trade today, it is the question of the relevance of GATT. When GATT was established in 1947, the United States was supreme in technology, management skills, and productive capacity. Since then, the structure of the world economy has changed dramatically, with competition for our domestic and export markets growing rapidly. The proposed aim of GATT has been to provide a forum for the development of fair and equitable resolution of the strains resulting from the changing world economy.

The unfortunate reality is that the problems that the United States presently faces, and the issues we discussed at the 1982 GATT ministerial, are not much different than the problems that were before us during the sixties and seventies. In a report to the President submitted by the Commission on International Trade and In-

vestment Policy, dated July 1971, it was concluded that the U.S. trade balance deterioration between 1964 and 1969 was caused by a number of factors including, "the European Community's protectionist common agricultural policy (which) has damaged some of our major agricultural exports; and its preferential links with other countries in the Mediterranean and Africa also have adversely affected our trade. Japan has maintained many formal and informal import restrictions at the same time that it has greatly increased its exports to the United States."

The similarities between the trade problems facing the United States during the last couple of decades and those facing today are extremely discomforting. During this period, we made our marketplace available to our trading partners with relatively few restrictions. Because of this full faith effort, the United States became the biggest import market in the world.

In return for our openness, we have been slapped with the growing use of unfair trade subsidies and tariffs. The European Community has hit us with increasing agricultural subsidies and export credit financing. The Japanese are using predatory pricing and targeting high-tech advancements, not to mentioning inundating our ports with Japanese autos while restricting entrance to their markets with various levels of trade barriers.

The American farmer and industrial worker have no quarrels about competing with their foreign counterparts; what troubles them, and justifiably so, is the real and growing problem of competing with the clout of foreign governments and their treasuries. The time has come to let our trading partners know that we are no longer willing to tolerate one-way streets.

This is the principal reason why on November 30, 1982, upon return from the GATT, I wrote to President Reagan to suggest that he immediately call together a bipartisan group of this country's political, business, labor, and farm leaders along with members of the academic community to set an economic and trade agenda for this Nation in the 1980's. The task of our political leadership is to understand the gravity of the position we are in and to begin to shape a trade policy that makes sense to our farmers, our industries, and our trading partners. It must, however, be a policy which the American people can believe and that will convince our trading partners that it is in their best interest as well as ours.

In the meantime, we need to take action to undescore our resolve. We need to show our trading partners, in no uncertain terms, that we are tiring of the continued rhetoric. We need to stand up for U.S. interests to make certain that future trade bargaining will be in good faith.

The Agricultural Export Equity Act of 1983 is precisely what is needed. This compreshensive measure helps regain equity and fairness in our competition for international agricultural trade markets. It will help us counter the unfair, predatory trade practices of our trading partners, which in turn should improve our ability to restore, maintain, and perhaps expand U.S. export markets. An obvious beneficial result from this initiative will be the bolstering of farm prices and the general farm economy that have been weakened partially by the inequitable trade activities of foreign governments.

I look forward to working with my colleagues on this new initiative. I hope others will join us in order to move this bill quickly through Congress.

Mr. BAKER (for Mr. WILSON). Mr. President, I am pleased to be a cosponsor of the Agricultural Export Equity Act (S. 251) submitted today by my colleague from North Carolina (Mr. HELMS). I support this important Helms initiative because the U.S. farmer can no longer bear the burden of unfair competition. Ideally, the elimination of subsidies is in the best interest of agriculture. However, in the short term, a U.S. program of counter subsidies will help to neutralize already existing European Community (EC) subidies.

It is very appropriate that the bill specifies that $20 million is to be used for poultry and eggs because of the subject pending 301 cases. In addition it is my opinion that the pending 301 cases on raisins and canned fruit are also among those that need attention. Therefore, I intend to submit an amendment to include additional funding for raisins and canned fruit as a part of this important agricultural initiative.

By Mr. STEVENS:

S. 252. A bill for the relief of Antonio V. Matias; to the Committee on the Judiciary.

ANTONIO V. MATIAS

Mr. STEVENS. Mr. President, I am introducing today private relief legislation in a very unusual case. Mr. Antonio Matias of Anchorage, Alaska, is a native of the Philippines. While Mr. Matias was conveying messages to and from American POW's interned in Japanese prision camps in the Philippines during World War II, he was badly injured.

The problems that Mr. Matias incurred as a result of his war injury have grown progressively worse. He is now 78 years old and has debilitating asthma. Mr. Matias' first experience with asthma dated from the time of his injury by a Japanese bayonet. After the injury, Mr. Matias remained unconscious overnight in a rainstorm. In addition, his hearing has been deteriorating, as a result of the same injury. This latter problem is especially serious, as Mr. Matias has been making his living as a violinist.

Mr. Matias was informed years ago that he would be eligible for veterans benefits in the United States. However, he never asked for them, believing that he should not request more from a government that had already given him so much for allowing him to immigrate here after World War II.

Mr. Matias' administrative attempts to have his disability covered by veterans benefits have failed. Apparently, only Philippines who were "certified guerillas" are eligible for veterans status. Mr. Matias was never officially certified as a guerilla because he was too slight in stature.

I want to emphasize that Mr. Matias' injuries have been medically documented, and his service to the United States can be attested to by reliable witnesses.

I am aware that veterans benefits are hard-earned and should not be granted easily. But in this case, where the injury was incurred in the course of aiding U.S. servicemen, and where the benefit to be granted by this legislation is strictly and narrowly limited to disability benefits, I believe that relief is appropriate. Thank you.

By Mr. PRESSLER:

S. 253. A bill to amend the Internal Revenue Code of 1954 to reduce the rate of tax imposed on certain petroleum products that are mixed with alcohol, and for other purposes; to the Committee on Finance.

TAX ON PETROLEUM PRODUCTS MIXED WITH ALCOHOL

● Mr. PRESSLER. Mr. President, I am introducing legislation today that increases the exemption for gasohol under the recently enacted Surface Transportation Assistance Act of 1982 (Public Law 97-424). I strongly urge my colleagues to join me in support of this important legislation.

Under the Senate version of Public Law 97-424, gasohol was exempted from the full 5-cents-per-gallon increase in fuel tax. The House failed to include any exemption, however, and the conference committee compromised on a 1-cent-per-gallon gasohol exemption for the additional tax. My legislation would increase that exemption from 1 cent to 3 cents per gallon.

In the past, gasohol has been fully exempt from Federal fuel tax. Although I would prefer to see that trend continue, I am hopeful this increased exemption will stimulate an increase in gasohol production that will significantly reduce America's dependence of foreign energy sources. Reducing our Nation's dependence on foreign energy sources will help

reduce skyrocketing energy costs and reduce our ever-growing foreign trade deficit.

This legislation will also provide a big boost for our ailing farm economy. At a time when thousands of small farmers across the country are being faced with bankruptcy, there is an acute need to expand our market for domestically produced grain.

Slumping agricultural prices combined with huge surplus grain stocks have depressed markets to crisis levels. High energy costs, forced by dependence on foreign suppliers, have plagued both producers and consumers nationwide. Our trade deficit with foreign countries grows wider every year.

Corrective action is needed now. While I do not pretend that this legislation will be the answer to all these problems, I believe it is a big step in the right direction.

Once again, I strongly urge you to join me in support of this important legislation.●

By Mr. STEVENS (for himself, Mr. LONG, Mr. PACKWOOD, Mr. MURKOWSKI, and Mr. TRIBLE):

S. 254. A bill to provide for the inclusion of capital construction funds for fishery processing facilities; to the Committee on Commerce, Science, and Transportation.

CONSTRUCTION FUNDS FOR FISHERY PROCESSING FACILITIES

Mr. STEVENS. Mr. President, I send to the desk a bill to amend the Merchant Marine Act of 1936 (46 U.S.C. 1177) to consolidate the use of the capital construction fund (CCF) by our domestic fishing industry. This is a conforming action, extending the concept I initiated 10 years ago with my former colleague, Senator Magnuson.

The capital construction fund is a method by which fishermen are encouraged to put income from their operations back into their vessels by depositing money in special tax-deferral accounts. The amendment I am proposing is to extend these provisions to include the shoreside processing portion of the domestic fishing industry. This would allow needed funds to be funneled into the processing and distribution side of fishing, which will stimulate balanced growth within the industry and advance the full domestic development of our fishery resources. The permanent benefits from the construction fund extension would be felt by all Americans—new jobs, growth in the gross national product, and a reduced trade deficit.

The competitiveness of American industry in the international arena must be promoted and expended. A higher level of productivity and innovation can be achieved by American enterprise if we offer the encouragement and incentive to strive for greater goals. The U.S. fishing industry can contribute to this development of American business if given the opportunity.

Full domestic development of only eight major fisheries resources in the 200-mile fisheries conservation zone (FCZ) can produce these effects by 1990:

Domestic fisheries landings would increase by 2.5 million metric tons a year;

An increase in vessel revenues by $782 million annually;

The immediate creation of 2,000 jobs is anticipated with estimates of 43,000 jobs to be permanently created;

Add $1.2 billion annually to the gross national product; and

Cause a reduction in our trade deficit by $1.7 billion each year. Fisheries are the No. 3 item in the U.S. trade deficit account—$3 billion in 1982.

For the fishing industry to realize its growth potential, relatively large capital expenditures will be necessary. Composed mainly of small- to medium-sized businesses, our domestic fishing industry is often unable to gain access to typical private capital sources for either equity or long-term debt. Therefore, by extending the construction fund provisions to shoreside facilities, a major portion of the needed dollars would be available.

The capital construction fund has radically changed the domestic fishing fleet, but harvesting is only part of the total fishing picture. Harvesting capacity has outstripped processing capability of present shoreside facilities. This causes tremendous productivity problems. The United States enjoys 15 to 20 percent of the world's fishery resources within our 200-mile fisheries conservation zone (FCZ), but statistics from 1981 show we continue to import about one-half of the fish we consume. Substantial improvements and innovation will be necessary in many fisheries unloading, processing, and distribution facilities over the next 10 years.

The capital construction fund currently allows any citizen owning or leasing eligible U.S. fishing vessels to establish a special account for the purpose of acquiring replacement vessels, additional vessels, or reconstructed vessels. The money deposited is income resulting from the operation of a vessel. The value of this concept to the American fisherman is that taxation can be deferred on those dollars set aside in the special fund which then may only be used for procuring new or replacement fishing vessels. Otherwise, the tax deferral status of the fund is lost. The deferred taxes are eventually recovered by offsetting reductions in the depreciation allowance for the property acquired with these tax-deferred funds, except to the extent that new additions to the fund defer taxes further.

There has been $480 million deposited into capital construction fund accounts from those involved in the harvesting of fish in all regions of the country. Of that amount, $360 million has been returned to our fishing fleet in the form of equity investment, leaving a net amount of $120 million in available deposits at the present time.

Some may contend that this proposed extension of capital construction fund accounts is a subsidy resulting in a loss of revenues. That is not correct. The fund has a positive revenue impact. Taxes are not lost—they are only deferred until the capital investment is made. In essence, the construction fund forces the investment of profit to a higher percentage of earning than would occur otherwise.

Just as many other facets of our society are searching for economic recovery, the entire fishing industry is facing serious hardship. Development of shore-based fish processing facilities has been targeted as the No. 1 priority of the industry. This program does not require the direct appropriatign gf funds. Instead, it offers to the members gf the fishing industry an incentive to invest their incoee ifto the undercapitalized sector within the industry. An identical measure was passed here in October 1980 as part of the American Fisheries Promotion Act. I added the same provision which passed in the continuing resolution last December because of the positive jobs impact. Unfortunately, it was dropped at conference in the rush to push the bill through.

I urge the Senate to extend the capital construction fund to include shoreside fisheries facilities and not permit this valuable assistance to American fishermen to be dropped again.

By Mr. GORTON (for himself and Mr. MITCHELL):

S. 255. A bill to amend the Uniform Time Act of 1966 to provide that daylight saving time shall begin each year on the last Sunday in March rather that the last Sunday in April and to require a study of the effects of this act by the Secretary of Transportation; to the Committee on Commerce, Science, and Transportation.

DAYLIGHT SAVING TIME

● Mr. GORTON. Mr. President, the bill I am introducing today would begin daylight saving time a month earlier each year. Now daylight saving time begins on the last Sunday in April. If this bill is enacted, it will begin on the last Sunday in March.

The reasons to enact this bill are quite straightforward. First, extending daylight saving time one extra month would result in a significant reduction in traffic fatalities. Second, there would likely be an energy savings equivalent to 100,000 barrels of oil a day. Third, it would reduce violent crime. And fourth, it would conform

the start of daylight saving time to the reality of most people's lives and preferences. On April 1, sunrise in the great majority of places in the country occurs before 6 o'clock a.m. and sunset is well before 7 o'clock p.m. Daylight saving time would give Americans a far more useful hour of daylight in the evening than they presently have between 5 and 6 in the morning in April.

Daylight saving time began in this country during World Wars I and II as a means to conserve electrical energy. The Uniform Time Act of 1966 implemented national daylight saving time for the 6 months between the last Sunday in April and the last Sunday in October. An entire State may exempt itself from daylight saving time and it may exempt any portion lying in a different time zone from the rest of the State.

During the energy crisis in 1973, Congress enacted the Emergency Daylight Saving Time Energy Conservation Act, which placed the Nation on year-round daylight saving time for a 2-year period. The Department of Transportation administered the act and published reports on its effects. In 1974 Congress provided for an 8-month daylight saving time period, from the last Sunday in February until the last Sunday in October. In 1975 the emergency legislation expired and we returned to the 6-month daylight saving time period.

The events I have just related and the resulting Department of Transportation studies have given us the information we need to choose the best, most rational daylight saving time period which will benefit the majority of people in this country. The Department of Transportation's final report to Congress concluded that we can expect overall benefits from a shift from the 6-month system we use today to an 8-month system in the areas of energy conservation, overall traffic safety, and reduced violent crime.

Mr. President, yesterday in her confirmation hearing before the Senate Commerce Committee, Elizabeth Dole, the Secretary-designate of the Department of Transportation, emphasized the importance of traffic safety to our Nation. We recently passed gas tax legislation to improve our highways and drunk driving legislation to get the drunk driver off the road. Passing daylight saving time legislation is one more step we can take to save lives. The Department of Transportation estimates that traffic fatalities will be reduced by 1 to 2 percent if daylight saving time is extended. This means that up to 25 fewer people would die each year on our streets and highways. The reason for this is simple: Driving in the dark is much more dangerous than driving in daylight and the fatality rate for homeward-bound commuting is higher than that during the morning rush hour. In the evening drivers tend to be tired and there is more of a risk that some are under the influence of alcohol.

During the 1-year experiment with year-round daylight saving time there was a legitimate concern about the safety threat to children traveling to school in the morning. We are not proposing a return to that system. Under my proposal, no sunrise in the spring would be later than presently occurs in the fall. The Department of Transportation showed no evidence of an increase in schoolchildren fatalities during daylight saving time in March and April.

My bill extending daylight saving time is a simple, safe, and inexpensive form of energy conservation. Because the Sun will shine 1 hour later in the day, people will use less artificial lighting and heat in their homes. Energy needs in the morning are not increased.

Mr. President, it is tragic but true that in many parts of our country it is not safe to be out after dark. Serious, violent crimes are highly correlated with the hours of darkness. Extending daylight saving time is one action we can take to combat the epidemic of violent crime. The Department of Transportation's study showed there was consistently less violent crime during daylight saving time compared to similar periods of standard time. In Washington, D.C., for example, violent crime decreased by 10 to 13 percent. By enacting my bill, Congress can assure people of an additional month in the spring in which they can walk home from work, shop, or exercise outdoors with less fear of being a victim of crime.

There are some areas across the country where people are content with the 6-month daylight saving time period. For this reason I am taking a modest approach in this bill and seek an extension of only 1 month rather than 2. I acknowledge the logic and benefits of a 2-month extension, but I wish to cause a minimal amount of dislocation for those people, approximately 15 percent of our population, who live in the western regions of their time zones and who already have the benefit of later sunrises and sunsets than those in the center of their time zones. My bill proposes that Congress extend daylight saving time for 1 month and that the Department of Transportation study the effects. If an extension of another month proves to be beneficial, then we can propose the appropriate legislation.

Mr. President, the people of this country want extended daylight saving time. The Department of Transportation's study showed that, of those who had an opinion, nearly twice as many preferred extended daylight saving time over the 6-month period. During the extra hour of evening daylight in April the American people will travel in greater safety, will save energy, and will enjoy outdoor recreation they presently must postpone until May.

I wish to thank my distinguished colleague, Senator MITCHELL, who has joined me on this bill. Our effect is a bipartisan one to implement the desires of the majority of Americans, who want to be able to enjoy an additional hour of daylight in the evening for a month each spring.●

● Mr. MITCHELL. Mr. President, officials from the Department of Transportation have testified that their studies have found a consistent pattern of small, positive effects from daylight saving time. This substantial pattern of significant benefits to be achieved from an extension of daylight saving time is precisely the reason I am glad to join in sponsoring a daylight saving time bill in this new Congress. The benefits have been documented, and each one is attainable.

This legislation would extend daylight saving time by 4 weeks. Under this bill, daylight saving time would run from the third Sunday in March to the last Sunday in October. In the last Congress, I sponsored legislation which would have extended daylight saving time by 8 weeks, therefore maximizing to a greater extent the benefits of more daylight saving time. The bill Senator GORTON and I are introducing includes a requirement calling for a study by the Department of Transportation on the operation and effects of the legislation and on the need for further legislation. In this form, the bill serves as a compromise measure which errs only on the side of caution.

Importantly, the dates in this bill provide an extended period of daylight saving time during which no part of the Nation would experience sunrise times later than those occurring in October under the present 6-month daylight saving time system.

While it does not provide as many benefits of a longer extension, this approach entirely negates any possible changes of inconvenience or irregularity which might result from a longer extension of daylight saving time. This bill essentially provides the benefits of daylight saving time, without incurring any potential problems.

The impetus for legislation to extend daylight saving time centered on the need for increased energy savings. Indeed, our country's year-round experiment with daylight saving time in 1974 directly resulted from this need and the serious energy insecurity we faced then, and still face today. Daylight saving time is important because it changes the way we utilize daylight. The major problem with the existing daylight saving law, the Uniform Act of 1966, is that it clearly does not maximize the energy potential of

daylight. Under current law, we waste the resource that is daylight as we waste the precious resource that is energy.

Making use of the potential of daylight, as this bill provides, will result in significant energy savings. It is estimated that this energy conservation measure would save approximately 100,000 barrels of oil-equivalent per day in the months of March and April. These figures are based on Department of Transportation studies and are calculated solely on the basis of the lower electrical usage that would result from increased daylight in the later afternoon and early evening hours. The total energy savings could prove to be even greater.

This bill represents a simple energy conservation measure. It is a small step. But meaningful energy conservation will not occur in this country without the combined force of a collection of small efforts. In his chapter on conservation in the book "Energy Future," Daniel Yergin states:

> Conservation . . . is not a theological or ideological issue. It should be pursued not as an end in itself, but as a means toward greater social and economic welfare, as a way to promote the well-being of the citizenry. As two prominent analysts, Lee Schipper and Joel Darmstadter, have expressed it, "the most impelling factor in encouraging conservation action is the cost of not conserving."

This is particularly true of daylight saving time legislation. It would provide Americans with direct and tangible benefits and, by saving energy, save us the severe cost of "not conserving."

Originally, the need for energy savings was the compelling reason for daylight saving time legislation. But as a result of the 1974 experiment, studies have shown that two other benefits can be derived from extended daylight saving time: a reduction in traffic fatalities and a possible reduction in violent crime.

The final report of the Department of Transportation identified a 0.7-percent reduction in traffic fatalities due to daylight saving time in March and April 1974 compared to be comparable months in 1973 under standard time. DOT sources have said that their analysts believe:

> These results are conservative and that their calculations understand the reductions due to daylight saving time which they judged to be in the order of 1.5 percent to 2 percent.

A 1.5- to 2-percent drop in traffic fatalities means that thousands of lives could be saved as a result of this legislation.

There are also preliminary indications that extended daylight saving time would help reduce violent crime. According to the National Crime Survey—Departments of Commerce and Justice—darkness favors crime. According to the survey, the more serious forms of various crimes occur during evening or late night; so do most violent crimes, robberies and assaults by armed offenders. These findings are consistent with the results of DOT's 1974 study, which found reductions in violent crimes of 10 to 13 percent in Washington, D.C., over a 3-year period from 1973 to 1975. By enabling more people to get home from work, extended daylight saving time lessens people's vulnerability to crime by providing a deterrence that is daylight.

There are those who oppose an extension on the grounds that it would increase traffic fatalities of schoolchildren in the early morning hours and that it would upset the American agricultural sector. Coming from a rural State in which the majority of schoolchildren are bused to school and in which many people earn their living from agriculture, I am particularly sensitive to these concerns. However, on close study of each of these arguments, I have found that both are unfounded.

First, DOT's study concluded that for the January to April 1974 daylight-saving-time period:

> School-age children were not subject to greater involvement in fatal accidents than the general population at any period of the day.

A 1976 study of school-age children fatalities performed by the National Bureau of Standards found that no increase in morning fatalities was found during the March and April daylight saving time period. And a DOT analysis on daylight saving time conducted between 1979 and 1981 concluded:

> The findings indicate that there appears to be no basis for claims that DST transitions caused increases in school children morning fatalities.

Second, there is little proof that an extension of daylight saving time by 4 weeks would adversely affect American agriculture. In fact, the 1974 DOT study states:

> The Department of Agriculture reported that their findings remained unchanged from last year. DST does not affect agricultural activities or productivity. In general, agricultural activities are insensitive to "clock time", and farmers and ranchers (as well as most other groups in agriculture) are not vitally concerned with what type of time system is used. Farmer's activities are determined by seasonal factors and are principally geared to the hours of sunlight, and these patterns pertain, irrespective of clock setting. Even in the case of dairying, where the hour of milking is sometimes changed to accommodate distributors and the public, no effect is discerned on the quality or quantity of milk produced and marketed.

A number of marketing, retail, and recreational organizations have concluded that an extension of daylight saving time would benefit their businesses, and will promote increased outdoor activities. Another group of Americans who will be aided by this bill are the hundreds of thousands who are afflicted with night blindness. The Retinitis Pigmentosa Foundation (RPF) urges passage of daylight savifg time legislation so that their members could receive an extra period of sight and mobility during the evening. As the executive director of RPF stated in a letter to me, "this directly affects the employment and welfare of many of gur people around the country."

Daylight saving tiee legislation enjoys a broad base of support. Public opinion polls have shgwn that daylight savifg time extension is favored by the American people by a 2-to-1 margin. The legislation is particularly worthy of the full support of Congress because it will provide numerous positive benefits in a single measure. It is clearly a simple step, but one which we can take for energy conservation, decreased traffic fatalities on our roads, and reduced crime. I urge its early adoption by the Senate.●

By Mr. HOLLINGS (for himself, Mr. LONG, and Mr. PRYOR):

S. 265. A bill to establish a Reconstruction Finance Corporation; to the Committee on Banking, Housing, and Urban Affairs.

RECONSTRUCTION FINANCE CORPORATION

● Mr. HOLLINGS. Mr. President, today I am reintroducing, along with the Senator from Louisiana and the Senator from Arkansas, legislation to establish a Reconstruction Finance Corporation.

The purpose of the RFC would be to provide limited, temporary, and repayable assistance to cities and businesses to help them rebuild, repair, and remodel, so that our businesses can become competitive again and our cities can function efficiently again.

With interest rates fluctuating, and real rates remaining at high levels, neither troubled cities nor overburdened businesses can find the means to finance growth or continue basic service at top quality levels.

We cannot afford to let this situation continue. We must not permit our basic industries—the foundation upon which we have built the world's dominant economic power—to wither and die. To abdicate the role we have established, to let it pass to the hands of other nations because we made a conscious decision to let it happen, would mark one of the sorriest episodes in our economic history.

The RFC would not be a cure-all. But neither will it be a bandaid. We need a sound and safe financial management system, able to offer both loans and capital information expertise to businesses and local governments who have nowhere else to turn. The RFC will meet these needs.

By helping restructure basic industries, and rebuild our cities, the RFC will promote the competitive Ameri-

can spirit, while fostering long-term economic growth—the key to maintaining and improving our standards of living.●

● Mr. PRYOR. Mr. President, I am pleased to join with Senator HOLLINGS and Senator LONG in reintroducing legislation to establish a new Reconstruction Finance Corporation.

Every day we are faced with gloomy economic reports:

Unemployment is at 10.8 percent. Twelve million Americans are looking for work, and an additional 2 million need work but have stopped trying to find it;

Businesses are going bankrupt at the highest rate since the Great Depression;

Our trade deficit for 1982 was $42.7 billion, exceeding the record deficit set in 1978;

The rate of growth of our economy dropped 1.8 percent during 1982 and was falling at an even greater rate in the fourth quarter;

Many of our cities simply do not work any more, and the revenues necessary to maintain or increase services are not available;

Some of our major industries, industries vital to the economic well-being of any developed nation, are dying out. Steel and automobiles are two examples of industries that are being threatened by foreign competition and domestic indifference.

A new Reconstruction Finance Corporation could supply a crucial force in our efforts to restore and strengthen our economy. All too often, the Federal Government's actions are simply the wrong steps at the wrong times. Sometimes Government is heavyhanded, too involved in essentially business decisions. Other times needed Government assistance is withheld. Sometimes Government procedures are too long, exceeding the patience of private sector involvement; at other points Government's shortsighted impatience creates impossible timetables.

What business needs from Government is really what labor, farmers, consumers and everyone else needs from Government—fairness, continuity and an understanding of the shared goals of increased employment, productivity, and growth. Those needs transcend party or region; they are truly national.

I have no illusions that a new RFC will solve all of our country's problems, but I do believe that it will be a way to help those in Government and those in business move toward our shared goals. It can aid cities and States without destroying important regional differences and Federal-State-local relationships.

Govenment, business, and labor do not have an unbroken record of cooperation, unfortunately. But in periods of crisis we have met the test. I believe a new RFC could inject the element of trust needed today as well as providing confidence that stable, sensible, prudent use of resources would be undertaken.

The previous RFC left proud marks on our landscape. In cities and towns across this country the RFC was the difference between success and failure, hope and despair. At the same time, it handled Government funds in a businesslike way and brought in revenues.

The RFC would assist businesses and cities, rebuilding the public and private facilities of our country. Its assistance would be temporary, repayable, and carefully selective. It would be outside politics and offer continuity and financial planning. Of necessity, it would mean setting priorities and making choices, but those decisions should be fair and well considered.

These times demand resourceful efforts, new ideas or, possibly, creative new use of tried and true old ideas. I believe an RFC is an idea whose time has arrived again.

I ask unanimous consent that a speech by Felix Rohatyn, chairman of the Municipal Assistance Corporation to the U.S. Conference of Mayors be included at this point in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

ADDRESS GIVEN BY FELIX G. ROHATYN

For more than a year now, we have both witnessed and participated in this country's most radical economic and social experiment since the New Deal. Its aims were impeccable. Lower taxes and lower government spending, reduced inflation, reduced regulations, a stronger defense. But the application of the program was incoherent and the results, so far, are rather frightening. Even though changes in direction were clearly required, in our consumption and investment patterns, in our runaway social costs, and in our dismal productivity record, the remedy, in some respects, has turned out to be worse than the disease. Interest rates have remained prohibitive while unemployment has soared, federal deficits have risen higher and higher and the financial structure of states, cities and of entire industries and regions of the country has become dangerously fragile. A dramatic lowering of the inflation rate has indeed been achieved but mostly by creating a steep recession and as a result of luck with food and energy prices. How to create growth without inflation remains as elusive as ever.

Many of our most serious chronic problems will continue to deteriorate unless a different government philosophy is applied. Supply-side economics and monetarism both foster the notion that abstract and impersonal market forces can turn our economy around and resolve our many problems. But "hands-off" government is not an acceptable or effective policy for troubled times. For the first time since WWII, we have a world-wide economic contraction, together with real deflationary forces superimposed on fragile financial structures. Industries, financial institutions and a host of governments find themselves overburdened with debt and without sufficient cash flow to service their obligations, much less for investment in the future. The effects are being felt by millions of individuals, their families, their communities and whole regions of the country.

A "hands-off" government cannot revive the economy, keep inflation down, deal with our regional and industrial problems, our chronic poverty and education problems, or reduce interest rates. These objectives can only be achieved by governments actively involved in a process of cooperation with businesses and labor.

Business-labor-government cooperation coupled with courageous political leadership saved New York City. I believe this can apply to the nation as well, even though the current theology is just the opposite.

FIRST STEP: AGREEMENT TO REDUCE DEFICITS AND INTEREST RATES

Any program of national recovery must start with an accord among the President, the Congress and the Federal Reserve that will credibly balance the budget over a finite time period and result in significantly lower interest rates quickly. We need decisive leadership from the President, and cooperation in the Congress, and on the part of the Fed. I believe there will be a budget resolution, but that is not enough. The budget package must be credible and long-range. There must be a credible slow down in entitlement growth, slow down in defense growth and recurring, growing revenue measures such as energy taxes. Neither the Senate nor the House resolution have realistically addressed any of these issues. The financial markets are not illiterate; we will need better than just a set of numbers which ignore the real world.

Taking Social Security out of the budget negotiations, without concrete action, is a copout on both sides of the aisle. Both the President and the Congress have avoided the issue. Nonetheless everyone knows the system needs reform. Waiting for the election will not make it change. A real alternative might be to make the system self-substaining by taxing some of the benefits of the better-off, and by slowing benefit growth. That is the difference between form and substance and if need not wait until November. It should be faced now.

A similar lack of candor colors the debate over defense. No one opposes an improvement in our national defense. Under the Administration's plan, the defense share of the Federal budget would increase to 34 percent by FY 1985 from 24 percent in FY 1981. This is an increase of $300 billion over the present levels. Although the House and Senate Budget Committee versions are somewhat less generous, it is clear that we will spend substantially more for defense in the next few years. But we must not repeat the mistake of Vietnam by having a wartime military budget without paying for it. If the country feels it needs this level of defense, we should be willing to pay for it with the equivalent of a War Tax. A 50¢ per gallon increase in the gasoline tax should be segregated and earmarked for defense; such a defense tax would raise about $50 billion per annum and would finance almost completely the increase in the defense budget. It would also reduce the budgetary deficit over the five-year period by $250 billion and would go a long way to restore financial stability to our markets.

I would like to make a more general statement about defense. Regardless of one's judgment about the size of the defense buildup or the call for a nuclear freeze. It is time that we recognized a fundamental truth: The world cannot afford to spend on

weapons what it is spending today. The U.S. and the Soviet Union have to take the lead in deescalating these levels not only from the perspective of physical survival, but also from the perspective of economic survival.

We are witnessing the same pursuit of form over substance on a grander scale with the call for a Constitutional amendment for a balanced budget. The idea of providing Congress with a plausible excuse to do the right thing is obviously appealing. However, distracting the country over the next few years with such a proposal is too high a price to pay for an illusion. Because it is only an illusion. NYC has always had a balanced budget requirement; it never stopped anyone until the money actually stopped.

What we need first, however, is an accord among the President, the Congress and the Fed. It will not solve all of our problems, but it could avoid imminent disaster.

NEXT STEPS: FACING BASIC PROBLEMS

Once we have stopped the current dangerous downward slide we can turn to more basic problems. We must restructure our basic industries, we must rebuild our cities, and we must dispel our current illusion that the energy crisis is over.

Some terribly destabilizing tides are running in this country, regionally, socially, industrially. The danger in relying solely on the market system to provide adjustments is that the market system does not provide the leadership to act until it is too late. The automotive industry, both management and the UAW, waited until Chrysler was effectively bankrupt, the rest of the industry on its knees, and 300,000 people laid off, before beginning—and it is only that—a new relationship.

New York City lost 500,000 manufacturing jobs, one million taxpayers, had an operating deficit of $1½ billion annually and $6 billion of short-term debt before we restructured the City. And New York is not alone.

During the last decade, Chicago lost 12 percent of its population, Baltimore 14 percent, Cleveland 24 percent, and St. Louis 28 percent. The proportion of taxpayers moving out was undoubtedly greater.

During the same period some of the most important American industries have been failing badly. American Motors lost $137 million last year. Chrysler and Ford together lost a total of over $1.5 billion. International Harvester and Kaiser Steel lost nearly a half billion dollars each.

The industrial locomotives that have driven this country for the last century are in the throes of a self-eviscerating cycle. Racked by high interest rates and continued weak demand, beset by harsh foreign competition, unable to raise the vast amounts of capital needed to modernize, they live from hand to mouth, short-changing the future in order to survive today. They are affected by deep structural shifts not only in regional prosperity, but in the basic nature of American work.

We are deluding ourselves if we believe this erosion will be limited to our older industries. From computers to microchips, from aircraft to video games, we are going to be subjected to fierce attacks from Japan and elsewhere. Even today, we might see distress in certain areas of electronics not dissimilar to our older industries, if companies like Fairchild Semiconductor and Mostek had not been acquired by giant companies such as Schulumberger and United Technologies.

Allocating blame for all these trends is easy—there is enough for everyone. Government policies and programs have been costly and ill-advised, particularly with respect to energy, especially the cowardly avoidance of taxing gasoline at much higher rates. Weak managements and short-sighted unions have collaborated in the development of inefficient organizations whose costs are high and productivity low.

It is no coincidence that the cities under the greatest strain are tied to the industries in the most severe difficulty, particularly in the region extending today from Baltimore to St. Louis, but elsewhere as well. The dismal performance of the economy, togther with last year's tax and budget cuts, have created enormous fiscal pressures on local governments in practically all but the energy-producing regions of the country. The State of Ohio, which recently passed a tax increase of $1.3 billion together with budget cuts to close its budget gap, now faces a new additional deficit of about $1 billion as a result of the recession; New York City, coming off a $250 million surplus in the current fiscal year, is raising taxes and freezing employment levels to cope with a potential $800 million gap next year. The State of New York is proposing similar actions for the same reason. Whereas four years ago, the Municipal Assistance Corporation was selling long-term bonds to finance New York City's capital budget at 7½ percent interest, we are doing so today, with increasing difficulty, at over 14 percent free of city, State and Federal income taxes. This situation is repeated in city after city, state after state.

This is not just a "Snow Belt/Sun Belt" phenomenon. The State of California now faces a budget deficit estimated by some at $1 billion or more. Many cities in the Sun Belt suffer fully as much from unemployment, poor housing, poverty and limited economic opportunities as the cities in the Northeast and Midwest. In an analysis published recently in The New York Times, seven of 19 Sun Belt cities had worse hardship ratings than New York. The Sun Belt's golden glow cannot hide the difficulties faced by New Orleans, Miami, Birmingham, Atlanta and other cities within its midst. Their problems are national.

Existing trends are likely to aggravate rather than attenuate this situation; the result of another decade like the last one will be to divide individual cities and the country as a whole into "have" and "have-not" regions, with unpredictable but probably highly unpleasant consequences. Other than 11 energy-producing states, every state in this country is facing budgetary difficulties. In these trends is the making of social strife.

At the same time, with much of state and local government in terrible straits, the Administration brought forth a proposal for a New Federalism that could not be accepted; it was a plan that burdened our budgets with billions of dollars in additional programs, but without permanent new revenues. Coming on top of proposed Federal budget cuts in support for state and local government from $15 billion in fiscal 1981 to $41 billion in fiscal 1985, it was simply to much.

LONG-TERM GOALS

This country's goals must be twofold; First, to have a functioning economy, with stable growth and emphasis on the creation of private sector jobs; and second, to have all elements of our society, and all regions of the country participate in that growth as fully as possible.

The United States today in its basic industries needs a second industrial revolution. The notion of "backing the winners instead of the losers" is as facile as it is shallow. The thought that this nation can function while writing off basic industries—automotive, steel, glass, rubber and others—to foreign competition is nonsense. Nothing is more inhuman than unemployment, nothing is ultimately more inflationary than unemployment.

But we must be realistic about how badly our basic industries have slipped when judgements are made about such issues as protectionism, government regulations, tax relief, and management and labor agreements. Realism, however, must not be an excuse for inaction. The motto cannot be "back the losers" but rather "turn the losers into winners".

This kind of economic revitalization is obviously essential to healthy cities, but they are tasks as well for government. Government at all levels is the nursery of indistry: It must provide the healthy economic environment and the economic infrastructure—the roads, the ports and harbors, and the communications and transportation networks that enable business to function.

A FAIR FEDERALISM

First, we need a fair Federalism.

It should provide for Federal assumption for the financing of all poverty programs (welfare, medicaid, food stamps) and transfer funding and full authority to the states those programs the states already administer or are capable of managing (education, transportation, etc.). But administration and funding are different matters. Permanent revenues should be provided to the states to make up any net loss resulting from such a swap and local tax reduction should be an objective. Revenue sharing should be increased, not cut. Too many states are going through an endless cycle of service reductions and tax increases. They cannot be forced to pay for programs in which there is an important national interest—programs like economic development, education and supporting the poor—from local tax bases, some of which are ample and others not. A new and fair federalism is needed, it should be done right and it should be done soon.

A NEW RECONSTRUCTION FINANCE CORPORATION

Second, to redevelop the parts of the nation that need help, as well as to provide a safety net for any of our major financial institutions in a sudden emergency, a Reconstruction Finance Corporation should be created for the 1980's. The original RFC was created by Herbert Hoover in 1918. Under Franklin Roosevelt, it was run by the Texas businessman, Jesse Jones. The RFC of the 1930's saved numerous banks, some cities and many businesses and prevented much larger dislocations from taking place. It financed a vast number of defense plants as well as the development of synthetic rubber during WWII. And, it made money for the taxpayer.

In order to see that an RFC is justified, we need only look at how government works without one. The case of Chrysler is an example of how not to proceed. Providing government-guaranteed loans at close to 20 percent interest to a company which has too much debt and no net worth can buy some time, but nothing else. Companies like Chrysler need permanent *equity* capital in the form of new common stock. Only equity capital can help make a company's survival credible, and impel other participants (the unions, the lenders, the suppliers) to make the major efforts and sacrifices that have to

be made if they are going to be put back in shape.

THE RFC AS SAFETY NET

Chrysler is hardly an isolated case. A good many large industrial companies, airlines, savings and loan associations and possibly banks could be in serious difficulties if we cannot break out of our current economic straitjacket of high interest rates. low growth and low productivity. Instead of improvising expensive half measures in the heat of crises and politics, we should have a safety net to deal with an economic emergency affecting a number of large organizations at the same time.

We have to be realistic about the fragility of many of our larger financial institutions. They are cause for serious concern. We do not know how much of the capital of the FDIC or the FSLIC has been committed to the rescue of those savings institutions effected so far. We do know that the number of savings institutions which may have to be rescued down the road is several times in excess of what has been done so far, and the amounts required may be considerable.

The international financing situation creates other types of risk, an unexpected default by a large debtor like Argentina, caused by political rather than economic events, could create both liquidity and capital problems for some of our large banks. The Federal Reserve Bank could handle the liquidity problem but only an RFC-type institution could handle the capital problem by purchases of preferred stock or other similar instruments.

Those of us who have been involved in major financial problem situations know how critical it is to contain a financial crises before it spreads. We need an RFC as a financial insurance policy, which was the basis for reactivation in 1932.

THE RFC AS AID TO URBAN POLICY

An RFC could also play a major part in an urban capital reconstruction policy. Throughout the country, city after city faces budgetary problems and crumbling infrastructure. The Boston Transit System was recently shut down for lack of funds; the New York MTA operates a subway system so old that it poses physical dangers, and it will need $15 billion over ten years to provide adequate service. Across the country bridges and sewers, sanitation and mass transit, schools and firehouses have all been allowed to deteriorate. The RFC could provide low-interest, long-term loans to enable municipalities to maintain their physical plants. By improving the quality of city life, such investments could help to retain taxpayers while providing jobs to help the existing tax base. As in the case of industrial investments, the RFC could ask for participation by other parties: The various states, business and labor, the local unions and banks. As with industry, reform and restructuring would, in many cases, have to be the quid pro quo for receiving capital on favorable terms.

One of the unexpected effects of last year's tax legislation was to destroy one of the traditional subsidies to local government financing—the municipal bond market. By last December, the advantages of the tax exemption on interest had shrunk to the point that municipal bonds were yielding only one percentage point less than long-term treasury bonds. To balance a federal approach that already requires local governments to bear a larger burden of operating costs, there must be means to reduce the cost and increase the availability of capital. Capital is needed to reduce the cost in public services just as it is needed to reduce costs in private industry. The RFC could provide it.

But RFC assistance must be temporary. It should act as a revolving fund which can be used when necessary, and whose holdings should be sold in the marketplace when it has done its job. The RFC is not a permanent dole; it is a temporary bridge. It should self-destruct after a maximum of ten years.

The RFC, of course, will be said to interfere with the free market system. But, at present, the price of our energy is not freely set, nor is the price of our food, or the price at which we must borrow money. Free markets are clearly desirable, but we do not in fact live in a free market economy and never will; we live in a mixed economy in which prices and capital are, and will be, subject to government influence and to agreements between labor and business.

The RFC could continue this tradition. Like MAC, its board would include representatives of labor, business and the public, and its decisions would reflect the same process of negotiation and consensus.

THE ROLE OF GOVERNMENT

The United States today is a country in transition. It is in transition from being the world's dominant military power to sharing that power with the Soviet Union; it is in transition from an industrial to a service society; from being a predominantly white, northern European society based in the Northeast and Midwest to being a multiracial society with its center of gravity in the Sunbelt. A society in transition cannot be governed by a rigid dogma; on the contrary, it requires a government which is flexible, pragmatic, even sometimes deliberately ambiguous. Shared values must be clear, but the means to the end cannot be rigid.

The critical issues we face today are not simply the levels of interest rates or what kind of package finally comes out of budget negotiations. These things are important, but they must not obscure the real issues. They are, in no particular order:

(A) The rapid growth of a permanent underclass in America. The residents of inner-city ghettos, black and hispanic, undereducated, underskilled, without real hope of participating in the future of the country;

(B) The regional split between Sunbelt and Frostbelt, which is accelerating and which will leave the northern half of the U.S. in serious difficulty while, simultaneously, creating major problems for the Sunbelt.

(C) The decline of our traditional manufacturing sectors and the automation which will create long-term unemployment in the hardest hit part of the country; the illusion that we have resolved our energy problems;

(D) Illegal immigration in great numbers, especially from Mexico, which will create additional social tensions unless we produce enough jobs to absorb our own unemployed along with new arrivals;

(E) The decay of our cities and the decline in the quality of urban life;

(F) The roller-coaster of an economy which knows only inflation or recession, or both, but cannot produce stable non-inflationary growth;

(G) The mountains of debt presently crushing every level of society;

(H) Nuclear proliferation and the need to control and reduce the level of nuclear weapons while being realistic about Soviet power;

(I) The decline of the written press and the dominance of TV in the political dialogue of the nation.

Today's conservative experiment will fail because it has no relevance to the world we live in, just as yesterday's liberalism failed for somewhat different reasons. The appropriate role of government remains the major unanswered question and we are soon going to run out of time for experiments.

Today, we are all looking for permanent and perfect answers to excruciatingly complicated problems. In Government and public life, there may not be any such thing as the right answer. There may, at best exist a process whereby trends can be affected and the direction of social and economic behavior temporarily influenced. This is the antithesis of the planned, central domination of government, but it means government committee to oppose destabilizing trends before they became floodtides. It is a permanent but ever changing process.

And it is a process that must include the major institutions and constituencies of our society—political, labor and business. The changes we will undergo will demand effort and sacrifice by many, a sacrifice they will not make unless they have a stake and a chance to participate.

The answers to our problems, imperfect and temporary that they may be, must come from such a process. Such a rational middleground, however, need not be wishy-washy.

There is no reason why a hard-headed liberalism cannot live with the reality that we cannot spend ourselves into bankruptcy.

There is no reason why an economy geared mostly to private sector growth, cannot at the same time, permit limited government intervention where needed, such as a modern version of the Reconstruction Finance Corporation.

There is no reason why limited and temporary protection for our hard hit industries cannot be conditioned on restrained wage and price behavior by labor and management; this might become the model for an incomes policy where wage and price behavior could be linked to productivity.

There is no reason why savings and investment cannot be encouraged while energy use and other consumption are taxed at higher rates, to produce growth and jobs. Some of these jobs could be directed, with government assistance but under private sector management, to inner city ghettos to provide a future where none currently exists.

There is no reason why large savings cannot be effected in defense, and particularly in reducing nuclear delivery systems, if we are willing to pay the price of larger standing conventional forces and the distasteful possibility of a peacetime draft.

There is no reason why our tax system cannot be improved, simplified and made more equitable by a flat tax on all income at significantly lower rates or some variant thereof such as the proposal of Senator Bradley and Congressman Gephardt. The present tax system is a disgrace, both intellectually and equitably.

One must admit, however, that although there is no reason why these results cannot be achieved, we must be realistic about the political difficulty of bringing this about. Without the active support of the American people and a process which encourages the active cooperation of business/labor/and government it cannot happen.

An active partnership between business, labor and government stikes the kinds of

bargins—whether on an energy policy, regional policy, or industrial policy—that an advanced western democracy requires to function, and that, in one form or another, have been made for years in Europe or Japan. This partnership will have to be as indigenous to our culture and traditions as those of Germans and Japanese have been to theirs, and it will have to be competitive. Much is at stake in making such a partnership work: Our ability to protect ourselves, and to deter our enemies depends on maintaining a stable, solid economic, industrial and social base at home. Our national security, our industrial power, the strength of our social system itself, are all tied to one another and to their need for a new pattern of cooperation to emerge.●

By Mr. CRANSTON (for himself and Mr. METZENBAUM):

S. 266. A bill to provide employment opportunities to long-term unemployed individuals in high unemployment areas in projects to repair and renovate vitally needed community facilities, and for other purposes; to the Committee on Labor and Human Resources.

THE COMMUNITY RENEWAL EMPLOYMENT ACT

Mr. CRANSTON. Mr. President, I am introducing today S. 266, the proposed Community Renewal Employment Act. Joining with me as an original cosponsor is the distinguished Senator from Ohio (Mr. METZENBAUM) who serves as the ranking minority member of the Subcommittee on Employment and Productivity of the Labor and Human Resources Committee. I am also honored and delighted to note that in the other body today the very distinguished chairman of the Subcommittee on Employment Opportunities of the House Committee on Education and Labor and my very good friend, Congressman AUGUSTUS HAWKINS, is introducing legislation identical to this measure on behalf of all of the Democratic members of the House Committee on Education and Labor.

Mr. President, the purpose of this measure is to provide employment opportunities to unemployed individuals in high unemployment areas through grants to local governments primarily for labor costs associated with the repair, maintenance, or rehabilitation of essential public facilities, with the conservation, rehabilitation, and improvement of public lands, and with public safety and health activities essential to the public welfare.

The Hawkins-Cranston bill would be a major step toward beginning to fulfill the commitment made by the Humphrey-Hawkins Act of 1978: That the Federal Government would do all it could to promote full employment.

BACKGROUND

Mr. President, no survey or poll is necessary to tell us that the No. 1 problem in the minds of Americans today is unemployment. It is not necessary to look far to find clear and unmistakable evidence of the very real hardships around us. Every day, we are reminded—in the newspapers, on television, on streetcorners, in abandoned buildings, vacant lots, and cars being used as homes—of the hardships for those who have been laid off, hardships for those seeking jobs that just are not there, hardships for those being forced to try to pay full-time bills with part-time salaries and substandard pay. And to those hardships we must add the anxiety and uncertainty of those who sit down to dinner each night wondering whether tomorrow will be their pink slip day.

The waste, the despair, the tragic and unnecessary suffering for countless Americans and their families is a national shame and a disgrace.

We all know the numbers, and a recapitulation of the statistics at this point would be almost redundant. We all are too well aware that unemployment has climbed to a heartbreaking rate of 10.8 percent and that more than 12 million people are officially counted as jobless—and more than 4.5 million of them have been out of work for more than 15 weeks. And, we are all familiar with the projections that show that things will get worse before they get better—and they will not get better for a long time.

But there is so much more agony. According to studies, each 1-percentage-point increase in the rate of unemployment translates into direct human tragedies. It means 37,000 total deaths, including 20,000 from cardiovascular problems, 920 suicides, and 650 homicides. It means 4,000 State mental hospital admissions and 3,300 State prison admissions. It means increased incidences of child abuse and marital stress.

And this means that something must be done—and must be done now.

President Reagan himself finally admits it.

But President Reagan is still looking to his "path to recovery" to provide the answers—a path on which even he admits, as he did just 2 days ago, "we have a long way to go."

Yes, he will propose special retraining programs, special substandard pay for summer jobs for youth and even an extension of unemployment benefits. But, he offers no hope, no assistance, no proposal for those Americans who simply want and need jobs—and need them now. "The recovery," he says, "will provide jobs for most."

Mr. President, to a large extent, I cannot disagree with that statement. A healthy growing economy—an economy freed from the shackles of an ever-increasing arms race and a tight-fisted monetary policy—will in time produce jobs, the kind of permanent jobs that we must have, but we cannot wait for an economic recovery that seems to be years away.

As we proceed with this job-creation legislation, we must also pursue establishment of programs of retraining for workers whose skills are being outpaced by the tremendous advances in technology. And we must put in place programs to help young people—first-time entrants to the labor market—find their way in the workaday world.

But, Mr. President, we must and we can do more. While we strive to bring about a recovery from the Reganomics depression, we need a measure such as the one we are introducing to begin, now, to put hundreds of thousands of devastated unemployed people back to work.

The agonies and the sufferings of so many Americans and their families demand it. And only a Government program like this can actually get people back to work in a few months time.

PROVISIONS OF S. 766

Mr. President, the measure that we are introducing today in the Senate and that Congressman HAWKINS is introducing at the same time in the House would provide approximately 1 million jobs in community improvement related projects. These projects would include repair, rehabilitation, and maintenance of public facilities such as road repair, water systems, mass transportation systems, and education facilities; rehabilitation and conservation of public lands and resources such as erosion, flood, drought and storm damage control, forestry operations and reclamation of public lands such as those damaged by strip mining. Importantly, such jobs could also include the provision of services such as health care, emergency food and shelter activities, child care to permit parents to work, and child abuse and domestic violence prevention and treatment activities.

A targeted, yet flexible, application of resources would be provided for under the act, and, importantly, no new bureaucracy would be established. Rather, funds would be made available for jobs through units of general local government with populations of 50,000 or more, rural concentrated employment programs, and the individual States with respect to areas not otherwise eligible within the State. Seventy-three percent of the funds available under the proposed Community Renewal Employment Act would be allocated to eligible areas—States, units of general local government and rural CEP's—rates of unemployment exceeding 9 percent for the preceding 12-month period; 15 percent would be allocated to such eligible areas which do not meet that unemployment criterion; 5 percent to States for high unemployment areas within the State which do not meet the population criterion and 2 percent to Indian tribes. Another 5 percent would be available

to the Secretary of Labor to allocate at his discretion to areas experiencing high unemployment as the result of mass layoffs, natural disasters, or of Federal Government actions.

Funding for the program would, beyond fiscal year 1983, be dependent upon the number of long-term unemployed individuals. In this fiscal year, since only a portion of the fiscal year would be available for the expenditure of funds, appropriations would be limited to $5 billion. Thereafter, the amount of funding that could be appropriated for the act would be based on the amount necessary to serve 20 percent of the average number of long-term unemployed—those unemployed for more than 15 weeks—during the first 3 months of the preceding fiscal year. Based on this formula, the measure would be funded at the level of $10 billion in fiscal year 1984. By tying the authorized level of appropriations to the number of long-term unemployed, the act would thus assure that, as the level of unemployment declines and the Nation moves toward recovery, the funding would also decline.

Not more than 25 percent of the funds available to an eligible area could be used for the cost of administration, including supervision and the acquisition of supplies, tools, and equipment. The remainder would be required to be expended on wages and benefits for participants.

Mr. President, with respect to eligible participants, jobholders in the program would be restricted to individuals who are 16 years of age of older, and who have been employed for 15 out of the last 20 weeks. Priority would be required to be given to those individuals who have exhausted or are otherwise ineligible for unemployment insurance benefits and to individuals who have been employed for the longest periods of time prior to their participation in the program.

Individuals placed in jobs funded under this proposal would be paid prevailing wages but not less than the minimum wage. Not more than the annualized wage rate of $10,000—adjusted upward where necessary on the basis of an area wage index—would be able to be paid to a participant from Federal funds, however, wages could be supplemented up to a maximum of 150 percent of the applicable federally funded maximum wage—generally establishing a maximum total salary of $15,000.

RETROSPECT ON CETA

Mr. President, as many of my colleagues may know, I was a principal architect of the Comprehensive Employment and Training Act of 1973. Through 1980, as a member of the Employment Subcommittee of the Labor and Human Resources Committee, I was deeply involved in the development of every amendment to that act, including the very important CETA-reform legislation in 1978, in which I was the coauthor of the amendment to target jobs on those who are most needy.

We all learned a lot of lessons from that program, and I learned a lot from that process. I learned that abuses will exist in virtually every program that we can devise and that it is nearly impossible to develop an abuse-proof program. I learned that when we develop intricate and carefully structured programs to provide valuable work and training opportunities, the implementation of our legislative plans often falls far short of what we put down on paper.

But I know now, as I knew then that losing the opportunity to work is one of the most fundamental cruelties that can befall an individual.

Mr. President, I will not pretend to suggest that the bill that we are introducing today in this body and the measure that Congressman HAWKINS is introducing at the same time in the House is the total answer. I do tell my colleagues that it represents an honest, thoughtful approach to the almost desperate situation facing too many Americans today. And I will assert that at least some of the lessons we have learned are reflected here.

First, there is an emphasis on—indeed, a virtual requirement for—targeting jobs on those who need them most. Individuals who are ineligible for unemployment insurance and long-term unemployed—those who have been unemployed for 15 out of the last 20 weeks. These jobless individuals are considerably less likely to be subject to substitution, that is that they would have been hired to do the same work by the same employer without Federal assistance. There is a definite correlation between duration of unemployment and low-income status.

Second, we have limited the length of an individual's participation in two ways—by capping the maximum wages that may be paid with funds under the act and by prohibiting individuals from receiving assistance for more than 52 weeks in a 2-year period. The proposed measure would also authorize additional appropriations to State employment service agencies so they can assist participants in jobs funded under the program to find regular, unsubsidized employment as soon as possible.

Third, individuals would be barred from participation in the program if, within 6 months prior to a determination that they would otherwise be eligible on the grounds that they had been unemployed for 15 out of the last 20 weeks, they had voluntarily terminated, without good cause, their last previgus full-time job. In addition, State employment service agencies would be charged with certifying that individuals met the length-of-unemployment criteria.

Finally, Mr. President, there would be a mix of the kinds of jobs that could be made available under the act that would help insure participation of wide cross-sections of unemployed Americans. By authorizing public safety and health activities—such as child-care activities specially designed to enable parents to work, such as child abuse and domestic violence activities, such as assisting in nutrition programs for elderly and handicapped individuals, and such as assisting public health programs including paraprofessional staff support for community health centers—we would insure the participation of many individuals who could so easily be and are too often excluded from many so-called public works—for example, activities such as road and bridge repair or rehabilitation of public mass transit systems or installation of drainage pipes in flood areas. Sadly, Mr. President, despite attempts to insure equal employment opportunities for all Americans, we still too often find major segments of those who are unemployed—such as women, who comprise 40 percent of those who are unemployed, disabled, elderly, and other individuals—not being given a fair chance to share equally in opportunities offered by these more public works-oriented types of community renewal and improvement activities.

Moreover, Mr. President, it is worth stressing that the public safety and health activities permitted under the proposed act would provide very badly needed support to a wide variety of community service programs. State and local as well as community-based programs for these purposes have been curtailed sharply or abruptly shut down by administration cuts in funding for social programs and reductions in State and local government budgets. Although funds under this act would not come close to replacing those activities—they could not begin to offset completely the enormous cuts in such programs over the past several years, nor are they intended to—they would mitigate some of the damage done by the cutbacks in these programs which are laboring under enormous burdens in trying to continue to provide services to what appears to be an ever growing population of eligible.

Mr. President, as a result of past domestic cuts and legislative action repealing CETA, we have no mechanism available to us to provide interim jobs during jobs during a prolonged recession. This measure that we are introducing has been carefully developed so as to permit it to be put in place rapidly, serve those individuals and those areas of the country most in need, and

assure that the jobs that are created are productive.

NOT A COMPLETE ANSWER

Mr. President, the measure being introduced today is not a complete answer to the very large economic problems facing us today. But it is a start. It is an important step. But, there are many other steps.

And, Mr. President, the only way out of the wilderness of our economic crisis, is one step at a time. In taking those steps, we must be guided by a vision of where we wish to arrive. We must establish an agenda for the economic reconstruction we wish to achieve. And we must pursue that agenda with a sense of pragmatism and flexibility.

The economic policies of the Reagan administration have been a disaster. Instead of helping to lift us out of recession and reconstruct our economy, as promised, they have plunged us deeper into crisis. Primitive supply-side doctrines of economic growth, irresponsible fiscal policies, tight money policies, and wildly extravagant armament expenditures have failed to stimulate recovery and have savaged the lives of millions of citizens. The cost and danger of the arms race have peaked with the Reagan administration's swelling Government deficits and draining precious private sector resources from activities desperately needed to expand the competitive capabilities of our economy.

Worst of all, Reaganomics has done very little to bring about the necessary adjustments in our economic and other institutions—or the spirit of cooperative planning and coordinated action—needed to meet the new realities and challenges that have shaken our sense of mastery over our economic destiny.

Blaming Government for our economic crisis is only a distraction from coming to grips with the new conditions of our economic life.

We can and must begin to revive and reconstruct the American economy to meet effectively the new conditions and challenges we face. We have a history of meeting other great crises and challenges.

Increased productivity is essential to economic renewal and both labor and management recognize that stagnant productivity levels have been a sure formula for retrenchment, layoffs, and a slide to the losing side in world economic competition. Many of our basic industries have entered into this pattern of decline.

An all-out effort must now be made to improve American productivity. Our older industries must be revitalized. Greater efficiency in assembly line industries can be achieved through new investments in retraining experienced workers for the new skills required. New patterns of collective bargaining agreements—such as those between the United Auto Workers and Ford—are pointing the way to cooperative steps forward that would have been unimaginable only a few years ago. New incentives are being defined that give American workers a greater stake in the competitive success of their companies. And we must keep moving ahead on all these fronts.

At the same time, new growth industries must be rapidly expanded along new lines of management and production.

Business, labor, education, and Government must begin to base economic decisions on the longer range interests of our people and our industries. Capital investments must be more intelligently directed for rapid expansion of high-tech and information industries and revival of older industries.

For more than a decade, Mr. President, the pressures of economic survival in a troubled economy have locked much of American business into patterns of short-term decisionmaking. Too many executives feel that if they cannot show a profit on new investments within three quarters they will lose their jobs. Too many in our society have also operated in terms of immediate rather than longer range interests. In a world of sweeping economic changes, these patterns have accumulated to put us at a considerable disadvantage compared to foreign industries and governments that have looked into the future and acted in terms of longer term economic goals.

Mr. President, we especially need more flexible national monetary policies to help establish the conditions for economic growth. As the economy has slipped more deeply into recession, we have badly needed a gradual expansion of the money supply to bring interest rates down and to stimulate investment and production. Instead, we have had from the Federal Reserve Board and the Reagan administration a head-on collision between loose fiscal policy and tight money policy that made high interest rates inevitable. High interest rates made recession inevitable—strangling business and causing bankruptcies, foreclosures, unemployment, and widespread suffering of all sorts. High interest rates have compounded global economic stagnation. Only the looming threat of a national and a worldwide depression has recently forced the Fed to begin to adjust money policy too little too late.

Growth of the American economy and the dynamics of the world economy depend in considerable measure upon responsiveness by the Federal Reserve Board to changing economic conditions. The Fed should be authorized to establish goals for lower interest rates, and the President should insist that the Fed cooperate with a national policy of economic growth. Coordination of monetary and fiscal policies is badly needed.

We must move by realistic, pragmatic, and flexible steps toward a balanced budget. Huge Federal deficits, especially the enormous deficits projected beyond 1983, have a disruptive and numbing effect on the American economy. Large Federal deficits push interest rates higher. They reduce funds available for industrial development. They diminish the confidence of the American people in the competence of their Government and in the prospects for economic recovery. The billions of dollars borrowed to pay interest on the national debt—now 13 percent of the entire Federal budget—could be far better used for other purposes.

A bogus constitutional amendment or an unworkable supply-side mixture of radical and inequitable tax cuts, tight money policies, and vast increases in defense spending will not get this job done. The path to a balanced budget is through measures to assure economic growth, restore the revenue base of the Federal Government, and restrain runaway expenditures.

Restored economic growth will greatly reduce but not erase Federal deficits. Additional steps are required: Sharp cuts in the planned one trillion six hundred billion dollar increases in defense expenditures through 1986; lower interest rates to reduce the cost of interest on the national debt; more equitable tax policies, with fewer loopholes designed to restore the revenue base of Government; and better managed and more efficiently delivered Government programs. And we cannot have long-term economic health and controlled deficits without a comprehensive national energy strategy.

And finally, Mr. President, no single step is more important than reducing the arms competition between the United States and the Soviet Union. The nuclear arms race is more than the greatest threat to our national security in our entire history. Our expenditures on arms, Soviet expenditures, and the expenditures of allies on both sides constitute a seemingly bottomless drain on the wealth and human resources badly needed to construct a more prosperous, stable, and hopeful world. Every effort must be made to negotiate a verifiable nuclear freeze, a phasing-down of nuclear weapons, and general reductions in conventional arms competition. Without such an effort, the prospects for prosperity—and even the prospects for survival—will remain dim. An unstable and fearful world is the greatest threat of all to a healthy economy.

THE EMPLOYMENT COMPONENT

Mr. President, those are all companion components of the answer to the problems we face today. Just as the measure we are introducing today is a companion component to resolving the

devastating unemployment crisis we are facing.

Tolerance of high unemployment levels as necessary medicine or an inevitable condition in a democratic economy—as hinted by President Reagan—is the wrong attitude and the wrong policy for solving our basic economic problems. The Government must take seriously the goal of full employment.

Every 1 percent of rise in unemployment leaves another million American citizens and their families outside the productive economy and insecure. Every 1 percent adds approximately $25 billion to the Federal deficit. Unemployment is a vicious economic circle for its victims and for the country. Today 11 to 13 million Americans are unemployed and another 7 million who want to work full time are employed only part time. The cost in human terms, lost productivity, and lost national confidence is incalculable.

A national effort supported by the Federal Government is needed to create jobs—stable, productive, private sector jobs. Such an effort must give special attention to small business since two-thirds of all new jobs are created by firms with 20 or fewer employees.

The emergency action taken in the closing days of the 97th Congress to enact the Surface Transportation Assistance Act of 1972—with grudging after-the-fact support from the Reagan administration—will put several hundred thousands of people to work repairing parts of our transportation system. This is a step forward, but such a last-minute, small-scale effort—while 20 million able Americans are unemployed or underemployed—is a sign of our unpreparedness. We need a realistic assessment of the national needs for infrastructure repair and development over the rest of this century. Millions of citizens can be put to work through these capital investments.

Mr. President, our most precious resource for economic revival is ultimately not machinery or money but people. If our economy is going to flourish and compete successfully, Americans in all types of jobs will have to be better trained and better educated. Many must be retrained for the new roles that are emerging from changing patterns of production. We cannot afford widespread demoralization of our experienced workers through neglect, displacement, unemployment, and fear resulting from economic chaos.

Fewer young people will be coming into the work force over the next decade. They will need to be far better educated than prior generations—especially in the sciences, mathematics, and technology. Coordinated efforts by the education community, government, management and labor will be essential to realizing the fullest development of all our human resources.

Women and minorities—and especially young blacks and Hispanics whose astronomical rates of unemployment should be shocking to all Americans—must be brought into the mainstream of American education and economic production.

No excuse is acceptable for the condition of large portions of American public education. We must aim to make our schools the finest in the world. Quality education is clearly essential to our economic success. A strong curriculum, high standards, and the disciplines of solid achievement must be restored to our schools at all levels. All institutions with a direct interest in the quality of public education—including the Federal Government—must forcefully support renewal of the public schools.

But, Mr. President, in addition to these necessary longer term initiatives, we must move forward now to deal humanely and compassionately with the short-term, unemployment situation that has reached emergency proportions. We must come face to face with the millions of individual human tragedies and take the necessary steps to end the suffering of so many Americans brought about by their joblessness. They are defaulting on mortgages and losing their homes. They and their families are sick and have lost their medical insurance. They are hungry and hopeless. They need our help and we must give it.

The measure I am introducing today is designed to do that on one front in a relatively small, but very significant, way.

CONCLUSION

Mr. President, I am not inextricably committed to all of the specific provisions in the proposed Community Renewal Improvement Act. I intend to work closely with my colleagues in the Senate in the development of a solution. What I am inextricably committed to is finding that solution.

Mr. President, this proposal may be assailed by some—including the President—on the grounds that the jobs that would be created will be "make-work", unnecessary, merely leaf-raking jobs.

I disagree wholeheartedly.

Can anyone—can President Reagan—say that there are not public buildings and community facilities that are in urgent need of repair? Can they suggest that refuse and hazardous materials in the drainage ditches and illegal dumping sites do not need to be removed? Can they honestly feel that there is not work to be done in terms of harbor and port improvement and pollution control?

Do they believe that relief activities for victims in disaster areas, or food and nutrition programs for elderly persons, or work in community health centers are not necessary? And, what about child and spouse abuse prevention and neighborhood and home security for the elderly? Or support for adult and juvenile correctional facilities, or emergency food and shelter activities for the thousands of homeless and hungry drifting families?

Are those not all worthwhile endeavors?

Mr. President, these are the kinds of jobs that would be funded under the Hawkins-Cranston proposal, and I firmly reject any suggestion that they are in any way make-work.

This measure would create almost 1 million jobs. Those 1 million people who are now jobless would—because of the multiplier effect—ultimately generate jobs and employment opportunities for up to another million more Americans looking for work. Each 1 million people who go back to work reduce the employment rate by about a full percentage point. Putting 2 million people back to work would reduce our rate of unemployment by almost 2 full percentage points. To my mind, Mr. President, and, since as I noted, each 1 percentage point of unemployment ultimately adds approximately $25 billion to the Federal deficit, the immediate cost of providing those up to 2 million jobs—about $10 billion in fiscal year 1984—is a relatively small price to pay for the obvious impact those jobs would ultimately have on the size of the Federal deficit and the enormous interest costs paid in that seemingly out-of-control side of the budget ledger.

Indeed, it is a price we are annually obliged to pay. Those who want to sit idly by while millions of workers are unnecessarily idled, those who refuse to pay the price, are tolerating a level of human suffering, misery, and waste of potential that I find intolerable.

Mr. President, as I indicated, I intend to work closely with my colleagues in this effort to provide and stimulate the creation of jobs. I am flexible, I will listen and contribute, and I will debate the issues. But I will not accept the argument that we should not go down this road. It is a path we must travel—a path of hope and help, a path of self-sufficiency and the dignity of work, that offers so much more than the dead-end detour we are not, almost fatalistically, being impelled by Reaganomics to travel.

I urge my colleagues to join with us in this effort.

Mr. President, I ask unanimous consent that there be printed in the RECORD at this point the text of the bill, together with a summary of its provisions.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF PROVISIONS OF S. 266—COMMUNITY RENEWAL EMPLOYMENT ACT

Purpose. To provide employment opportunities to unemployed individuals in high unemployment areas through grants to local governments primarily for labor costs associated with the repair, maintenance or rehabilitation of essential public facilities, the conservation, rehabilitation and improvement of public lands, and with public safety and health activities essential to the public welfare.

Eligible areas. Units of general local government of 50,000 or more, rural concentrated employment programs, and states with respect to areas not otherwise eligible.

Eligible participants. Individuals 16 and older who have been unemployed for 15 out of 20 weeks, with priority for those individuals who are not eligible for unemployment insurance benefits and to individuals who have been unemployed for the longest periods of time preceding the date of their selection.

Allocation. 73 percent is allocated to eligible areas with unemployment exceeding 9 percent for the preceding twelve month period; 15 percent is allocated to eligible areas which do not meet such unemployment criteria; 5 percent to states for high unemployment areas within the state which do not meet the population criteria, 2 percent to Indian tribes and 5 percent to the Secretary's discretion.

Eligible activities. Repair, rehabilitation and maintenance of public facilities such as road repair, water systems, mass transportation systems, and education facilities; rehabilitation and conservation of public lands and resources such as erosion, flood, drought and storm damage control, forestry operations and reclamation of public lands damaged by strip mininng, etc; and services such as health care, emergency food and shelter and child care.

Application procedure. Eligible areas shall submit plans to the Secretary of Labor for funding within the state's allocation. The plan must be reviewed by the Economic Development District for the area or other appropriate agency. The plan shall be approved unless the Secretary determines within 30 days that it is in violation of the Act. Funds shall be allocated within 45 days.

Use of funds. Not more than 25 percent of the funds may be used for the cost of administration, including supervision, and the acquisition of supplies, tools and equipment. The remainder of funds must be used for wages and benefits for participants.

Wages. Eligible participants shall be paid prevailing wages but at least minimum wage. Not more than the annualized rate of $10,000 may be subsidized from federal funds, adjusted according to an area wage index. Wages may be supplemented up to $15,000.

Authorization. $5 billion for fiscal year 1983 and such amounts as necessary to serve 20 percent of the long-term unemployed individuals for succeeding fiscal years, estimated at $10 billion for fiscal year 1984.

S. 266

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Community Renewal Employment Act".

PURPOSE AND AUTHORIZATION OF APPROPRIATIONS

SEC. 2. (a) It is the purpose of this Act to provide productive and useful employment opportunities to long-term unemployed individuals in high unemployment areas through grants for labor and related costs associated with the repair, maintenance, or rehabilitation of essential community facilities; with the conservation, rehabilitation, and improvement of public lands; and with public safety and health activities necessary to public welfare.

(b)(1) In order to enable eligible entities to provide employment opportunities for unemployed individuals under this act—

(A) there are authorized to be appropriated $5,000,000,000 for fiscal year 1983; and

(B) there are authorized to be appropriated for each succeeding fiscal year not more than the product of (i) 20 percent of the number of long-term unemployed individuals, multiplied by (ii) $10,000.

(2) For purposes of this subsection, the number of long-term unemployed individuals means the average number of individuals in the civilian labor force who, in the first three months of the fiscal year preceding the fiscal year for which the appropriation is to be made, had been unemployed for 15 or more weeks as determined by the Bureau of Labor Statistics on a seasonally adjusted basis.

ELIGIBLE ENTITIES

SEC. 3. (a) Except as otherwise provided in this section, an eligible entity under this Act shall be—

(1) any State to the extent permitted under subsection (b)(1);

(2) any unit of general local government which has a population of 50,000 or more individuals;

(3) any consortium of contiguous units of general local government which includes a unit of general local government qualifying as an eligible entity under paragraph (2);

(4) any existing concentrated employment program grantee serving a rural area pursuant to section 101(a)(4)(A)(iii) of the Job Training Partnership Act (Public Law 97-300); and

(5) any Native American Indian tribe, band, or group on a Federal or State reservation, the Oklahoma Indians, and any Alaska Native village or group as defined in the Alaska Native Claims Settlement Act, having a government body.

(b)(1) Any State shall qualify as an eligible entity to serve any area of the State (A) which is not under the jurisdiction of any other eligible entity under subsection (a), or (B) with respect to which no eligible entity has, within sixty days of the allocation of funds to such area under section 5, filed a plan in accordance with section 6 for the use of such allocation.

(2) A larger unit of general local government (determined on the basis of population) shall not qualify as an eligible entity to serve the population of any geographic area within the jurisdiction of any smaller unit of general local government (determined on the basis of population) if the latter such unit is or is part of an eligible entity that has filed a plan for the use of funds provided under this Act for such area.

ELIGIBLE PARTICIPANTS

SEC. 4. (a) An individual shall be eligible to participate in a program or activity receiving funds under this Act only if the State employment service agency certifies that such individual (1) is an unemployed individual (as defined in paragraph (6) of section 12) at the time of such certification, and (2) has been unemployed for at least 15 of the 20 weeks immediately preceding the date of such certification. In the case of an eligible entity described in section 3(a)(5), individuals may be so certified in accordance with regulations prescribed pursuant to section 5(c)(2).

(b) No individual who is eligible under subsection (a) shall receive wages from funds made available under this Act in excess of 52 weeks in any 2 year period.

(c) In selecting participants for activities under this Act, the eligible entity shall give priority to individuals who are not eligible (at the time of selection) for unemployment insurance benefits and to individuals who have been unemployed for the longest periods of time preceding the date of their selection.

ALLOCATION OF FUNDS

SEC. 5. (a)(1) From the amount appropriated pursuant to section 2(b) for any fiscal year, the Secretary shall—

(A) in accordance with subsection (b), allocate 73 percent thereof among eligible entities described in section 3(a) (1), (2), (3), or (4) within which the average rate of unemployment for the preceding 12-month period equaled or exceeded 9 percent of the civilian labor force within such entity;

(B) in accordance with subsection (b), allocate 15 percent thereof among eligible entities described in section 3(a) (2), (3), or (4) which do not qualify for an allocation under subparagraph (A);

(C) in accordance with subsection (b), allocate 5 percent thereof among the States;

(D) in accordance with subsection (c), allocate 2 percent thereof among eligible entities described in section 3(a)(5); and

(E) in accordance with subsection (d), reserve 5 percent thereof for distribution in the Secretary's discretion.

(2) For purposes of making any allocation under this section to eligible entities, a State shall not be treated as an eligible entity with respect to the area of any other eligible entity within such State which is also qualified for such allocation.

(b)(1) The amounts which are required by subparagraph (A), (B), or (C) of subsection (a)(1) to be allocated in accordance with this subsection shall each be distributed as follows:

(A) One-third of each such amount shall be allocated on the basis of the relative number of unemployed individuals.

(B) One-third of each such amount shall be allocated on the basis of the relative number of unemployed individuals residing in areas of substantial unemployment.

(C) One-third of each such amount shall be allocated on the basis of the relative number of excess unemployed individuals.

(2) An allocation, on the basis of the relative numbers of certain individuals described in paragraph (1), of amounts available under subparagraph (A) or (B) of subsection (a)(1) shall be made by comparing the number of such individuals residing in an eligible entity qualifying for an allocation under that subparagraph with the total number of such individuals residing in all eligible entities qualifying for an allocation under that subparagraph. An allocation, on the basis of the relative numbers of unemployed individuals described in paragraph (1), of amounts available under subparagraph (C) of subsection (a)(1) shall be made by comparing the number of such individuals residing in areas of a State which do not qualify for an allocation from amounts available under subparagraph (A) or (B) of subsection (a)(1) with the total number of such individuals residing in such areas in all the States.

(3) The amount allocated to each State from amounts available under subsection (a)(1)(C) shall be made available by the Governor to areas within such State which did not qualify for an allocation under subparagraph (A) or (B) of subsection (a)(1) but which—

(A) have had an average rate of unemployment for the three most recent consecutive months equal to or exceeding 9 percent of the civilian labor force in such area,

(B) have had large-scale losses of jobs caused by the closing of facilities, mass layoffs, natural disasters, or similar circumstances, or

(C) have experienced sudden or severe economic dislocations.

(4) Amounts allocated under paragraph (3) may be made availabde at any time during the fiscal year, and any amounts not obligated durifg the fiscal year for which the appropriation was made shall remain availabde for obligatign during the succeedifg fiscal year.

(5) For the purpose of this subsection—

(A) the term "area of substantial unemployment" means an area of sufficient size and scope to sustain a program under this Act which had an average rate of unemployment of at least 6.5 percent for the most recent 12 months, as determined by the Secretary (at least once each fiscal year); and

(B) the term "number of excess unemployed individuals" means the number which represents unemployed individuals in excess of 4.5 percent of the civilian labor force in the eligible entity or State or in areas of substantial unemployment in the eligible entity or State.

(c)(1) The amounts which are required by subsection (a)(1)(D) to be allocated in accordance with this subsection among eligible entities described in section 3(a)(5) shall be allocated among such entities on an equitable basis, taking into account the extent to which regular employment opportunities have been lacking for long-term periods among individuals within the jurisdiction of such entities.

(2) The Secretary shall prescribe regulations applicable to programs operated by such entities with respect to procedures and program administration which are appropriate to the circumstances under which such programs operate.

(d) The amounts required by subsection (a)(1)(E) to be reserved for distribution in accordance with this subsection shall be reserved for distribution, at the Secretary's discretion at any time during the fiscal year, to eligible entities serving areas of high unemployment or designated enterprise zones, or areas affected by mass layoffs, natural disasters, or Federal Government actions (such as relocation of Federal facilities).

(e)(1) Any funds appropriated to carry out this Act which are obligated in any fiscal year shall be available for expenditure during a period of one year from the date of obligation. The obligation of funds shall not be revoked or canceled as long as such funds are expended during such one-year period at a rate which is consistent with the application. If funds are not so expended, first priority shall be given to use for other activities within the same State, and any funds which remain thereafter shall be reallocated for use within other States.

(2) The allocation of funds required to be made in accordance with subsections (b) and (c) shall be made not later than 45 days after the date of enactment of the appropriation Act appropriating such funds.

(3) In making determinations for purposes of this Act with respect to population, civilian labor force, and unemployment, the Secretary shall use the most satisfactory current data available on a seasonally adjusted basis.

SEC. 6. (a)(1) Each eligible entity which desires to receive funds appropriated under this Act shall file with the Secretary a plan containing the information and assurances required by this Act. Each such plan shall contain a description of the project or projects to be assisted with funds made available under this Act. Each such plan shall also be accompanied by evidence that the plan has been reviewed by the appropriate economic development district (as designated under section 403(a)(1) of the Public Works and Economic Development Act of 1965) for the area within which such eligible entity is located, or other appropriate agencies, and that such plan is not inconsistent with the appropriate community development plans for such area.

(2) Any plan for the use of funds under this Act submitted by an eligible entity shall be deemed acceptable unless, within 30 days of its filing with the Secretary (A) the Secretary's finds that such plan violates the provisions of this Act, and (B) the Secretary provides to the eligible entity which submitted such plan a written explanation of the Secretary's determination. Such eligible entity shall have 30 days from the date of receipt of such explanation in which to file a revised plan with the Secretary.

(b) In designing projects under this Act, the eligible entity shall give priority to projects on the basis of (1) the severity and duration of unemployment within localities in the area of the eligible entity, (2) the degree to which project activities will lead to the expansion of unsubsidized employment opportunities in the private sector, (3) the level of need which exists for the activities and services to be provided, and (4) the extent to which project activities are coordinated with economic and community development activities funded from sources other than this Act.

USE OF FUNDS

SEC. 7. (a) Except as provided in subsection (b), funds made available to eligible entities under this Act may be used only to provide for wages and related employment benefits to eligible participants for work which such eligible entities certify has been done in one or more of the activities set forth in section 8.

(b) Not more than 25 percent of the funds provided to any eligible entity under this Act from funds appropriated for any fiscal year may be used for the cost of administration (including supervision) and the acquisition of supplies, tools, and equipment. Nothing in this Act shall be construed to preclude or limit the payment of such costs, either in whole or in part, from sources other than this Act.

EMPLOYMENT ACTIVITIES IN COMMUNITY IMPROVEMENT PROJECTS

SEC. 8. (a) Eligible participants shall be employed in community improvement projects under this Act in one or more of the following activities:

(1) activities to repair, rehabilitate, or improve public facilities, including (A) road and street repair, (B) bridge painting and repair, (C) repair and rehabilitation of public buildings and other community facilities, (D) repair and rehabilitation of water systems, (E) repair and rehabilitation of public mass transportation systems, (F) erecting or replacing traffic control signs and removing road sign obstructions, (G) replacing school crossing, intersection, and other road surface markings, (H) park and playground rehabilitation, (I) installation and repair of drainage pipes and catch basins in areas subject to flooding, (J) installation of graded ramps for the handicapped, (K) weatherization and other energy conservation activities, and (L) repair and rehabilitation of buildings and facilities used by local educational agencies and institutions of higher education;

(2) activities to conserve, rehabilitate, or improve public lands, including (A) erosion, flood, drought, and storm damage assistance and control, (B) removal of refuse and hazardous materials from drainage ditches, illegal dumping sites, and other public areas, (C) stream, lake, and waterfront harbor and port improvement and pollution control, (D) forestry, nursery, and silvicultural operations, (E) fish culture and habitat maintenance and improvement, (F) rangeland conservation, rehabilitation, and improvement, and (G) reclamation of public lands damaged by strip mining or other mineral extraction activities;

(3) public safety and health activities necessary to the public welfare, including (A) repairing or replacing fire hydrants and assisting in fire hazard inspections, (B) emergency food and shelter activities, (C) childcare activities specially designed to enable parents to work, (D) child abuse and domestic violence prevention and treatment activities, (E) assisting nutrition programs for elderly and handicapped individuals, including meals on wheels programs, (F) relief activities for victims in areas affected by disasters, (G) upgrading home security for elderly and low-income residents, (H) assisting public health programs, including paraprofessional staff support for community health centers, (I) security guards for public schools and housing projects, (J) police dispatchers, clerical and traffic control personnel to free police officers for full-time street duty, (K) staff support for adult and juvenile correctional facilities, (L) rodent and insect control activities, and (M) hazardous materials surveys.

(b) Nothing in this section shall be construed to preclude such activities from being conducted in conjunction with programs funded from sources other than under this Act.

GENERAL REQUIREMENTS

SEC. 9. (a)(1) No person shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with any program under this Act because of race, color, religion, sex, national origin, age, handicap, or political affiliation or belief.

(2) Participants shall not be employed on the construction, operation, or maintenance of so much of any facility as is used or to be used for sectarian instruction or as a place for religious worship.

(3) With respect to terms and conditions affecting, or rights provided to, individuals who are participants in activities supported by funds provided under this Act, such individuals shall not be discriminated against solely because of their status as participants under this Act.

(b) Funds provided under this Act shall only be used for activities which are in addition to those which would otherwise be available in the area in the absence of such funds.

(c)(1) No funds made available for subsidized employment under this Act may be

used to provide public services, through a private organization or institution, which are customarily provided by a State, a political subdivision, or a local educational agency in the area served by the eligible entity.

(2) In no event shall the number of individuals employed in subsidized jobs by eligible entities described in paragraphs (1) through (3) of section 3(a) exceed 5 percent of the number of unsubsidized employees of the eligible entity in the area served by such entity, except that this limitation shall be increased to 10 percent of such entity's work force in communities with a population of less than 250,000 if the eligible entity certifies that application of the limitation at 5 percent of such entity's work force would prevent such entity from implementing a project.

(d) Only eligible individuals residing in the area of an eligible entity may be served by employment activities funded under this Act.

(e) Subsections (d), (e), (f), (g), and (h) of section 164 of the Job Training Partnership Act (Public Law 97-300), relating to repayment of misexpended funds and termination and suspension of payments, shall be applicable to eligible entities which are recipients of funds under this Act.

(f) No individual shall be eligible to be employed in a subsidized wage position under this Act if such individual has, within the preceding 6 months, voluntarily terminated, without good cause, his or her last previous full-time employment at a wage rate equal to or exceeding the Federal minimum wage as prescribed under section 6(a)(1) of the Fair Labor Standards Act of 1938.

(g) The Secretary shall not provide financial assistance for any program under this Act which involves political activities.

(h)(1) An individual in employment subsidized under this Act shall be paid wages which shall not be less than the highest of (A) the minimum wage under section 6(a)(1) of the Fair Labor Standards Act of 1938, (B) the minimum wage under the applicable State or local minimum wage law, or (C) the prevailing rates of pay for individuals employed in similar occupations by the same employer.

(2) The portion of the wages which may be paid to any individual from funds made available under this Act shall not exceed an amount which, on a annualized basis, would result in the payment of $10,000 to any such individual from such funds, but such maximum shall be adjusted upward for particular areas served by eligible entities as determined by the Secretary, on the basis of the wage adjustment index issued in accordance with paragraph (3) of this subsection.

(3) The Secretary shall issue and publish annually an area wage adjustment index based upon the ratio which annual average wages in public and private employment in various areas served by eligible entities bear to the average of all such wages nationally, on the basis of the most satisfactory data the Secretary determines to be available.

(4) Participants employed under this Act may have their wages supplemented by the payment of additional wages for such employment from sources other than this Act, not to exceed an amount equal to 50 percent of the maximum wage specified in paragraph (2).

(5) Participants shall be allowed sufficient time off from work activities to participate effectively in the job search activities authorized under section 11 of this Act.

(6) Eligible entities operating programs under this Act shall maintain an individual work record for each participant, to be provided to each participant at the end of his or her participation, which shall contain—

(A) a documentary history of the experience and skills acquired by each participant; and

(B) a list of the major work tasks completed by each participant.

LABOR STANDARDS

SEC. 10. (a)(1) Conditions of employment and training shall be appropriate and reasonable in light of such factors as the type of work, geographical region, and proficiency of the participant.

(2) Health and safety standards established under State and Federal law, otherwise applicable to working conditions of employees, shall be equally applicable to working conditions of participants. With respect to any participant in a program conducted under this Act who is engaged in activities which are not covered by health and safety standards under the Occupational Safety and Health Act of 1970, the Secretary shall prescribe, by regulation, such standards as may be necessary to protect the health and safety of such participants.

(3) To the extent that a State workers' compensation law is applicable, workers' compensation benefits in accordance with such law shall be available with respect to injuries suffered by participants. To the extent that such law is not applicable, each recipient of funds under this Act shall secure insurance coverage for injuries suffered by such participants, in accordance with regulations prescribed by the Secretary.

(4) All individuals employed in subsidized jobs shall be provided benefits and working conditions at the same level and to the same extent as other employees working a similar length of time and doing the same type of work.

(5) No funds available under this Act may be used for contributions on behalf of any participant to retirement systems or plans.

(b)(1) No currently employed worker shall be displaced by any participant (including partial displacement such as a reduction in the hours of nonovertime work, wages, or employment benefits).

(2) No program shall impair existing contracts for services or collective bargaining agreements, except that no program under this Act which would be inconsistent with the terms of a collective bargaining agreement shall be undertaken without the written concurrence of the labor organization and employer concerned.

(3) No participant shall be employed or job opening filled (A) when any other individual is on layoff from the same or any substantially equivalent job, or (B) when the employer has terminated the employment of any regular employee or otherwise reduced its workforce with the intention of filling the vacancy so created by hiring a participant whose wages are subsidized under this Act.

(4) No jobs shall be created in a promotional line that will infringe in any way upon the promotional opportunities of currently employed individuals.

(c)(1) Each recipient of funds under this Act shall provide to the Secretary assurances that none of such funds will be used to assist, promote, or deter union organizing.

(2) Where a labor organization represents a substantial number of employees who are engaged in similar work or training in the same area as that proposed to be funded under this Act, an opportunity shall be provided for such organization to submit comments with respect to such proposal.

(d) All laborers and mechanics employed by contractors or subcontractors in any construction, alteration, or repair, including painting and decorating, of projects, buildings, and works which are federally assisted under this Act, shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary in accordance with the Act of March 3, 1931 (commonly known as the Davis-Bacon Act), as amended (40 U.S.C. 276a-276a-5). The Secretary shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 1, 1934, as amended (48 Stat. 948, as amended; 40 U.S.C. 276(c)).

EMPLOYMENT SERVICE RESPONSIBILITIES

SEC. 11. (a) There are authorized to be appropriated such sums as may be necessary for fiscal year 1983 and for each of the succeeding fiscal years to enable the United States Employment Service to provide funds to State employment service agencies to carry out the provisons of this section.

(b) In order to receive funds appropriated under subsection (a), the employment service agency of each State shall provide the following services, in accordance with an agreement with eligible entities:

(1) certification and referral of eligible participants, in accordance with section 4; and

(2) labor market information and job search assistance to assist participants in finding regular unsubsidized employment as soon as possible, with special emphasis on services for those approaching the maximum duration for participants under this Act.

DEFINITIONS

SEC. 12. For the purposes of this Act—

(1) the term "designated enterprise zone" means an area of pervasive poverty, unemployment, and general distress designated for special treatment under Federal law;

(2) the term "local educational agency" has the same meaning as provided in section 195(10) of the Vocational Education Act of 1963;

(3) the term "institution of higher education" has the same meaning as provided in section 1201 of the Higher Education Act of 1965;

(4) the term "Secretary" means the Secretary of Labor;

(5) the term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, American Samoa, and the Trust Territory of the Pacific Islands;

(6) the term "unemployed individuals" means individuals aged 16 or older who are without jobs and who want and are available for work, as determined in accordance with criteria used by the Bureau of Labor Statistics of the Department of Labor in defining individuals as unemployed, but such criteria shall not be applied differently on account of an individual's previous employment; and

(7) the term "unit of general local government" means any general purpose political subdivision of a State which has the power to levy taxes and spend funds, as well as general corporate and police powers.

By Mr. JOHNSTON (for himself, Mr. BUMPERS, Mr. MURKOWSKI, Mr. BRADLEY, Mr. STEVENS, Mrs. HAWKINS, Mr. HUMPHREY, Mr. NICKLES, Mr. GOLDWATER, Mr. MATSUNAGA, Mr. WILSON, and Mr. DECONCINI):

S. 267. A bill entitled the "Coal Distribution and Utilization Act of 1983"; to the Committee on Energy and Natural Resources.

COAL DISTRIBUTION AND UTILIZATION ACT

● Mr. JOHNSTON. Mr. President, today we are introducing S. 267, the Coal Distribution and Utilization Act of 1983. This legislation is identical to the version of S. 1844 that was reported overwhelmingly by the Senate Energy and Natural Resources Committee in August 1982.

Mr. President, this legislation fits every theme of both the President's state of the Union message and the filmed Democratic response. This legislation will create jobs, create a new industry that will preserve America's technological leadership, enhance the competitive position of American coal in the world market, encourage energy self-sufficiency by increasing the marketability of American coal both here and abroad, and reduce the economic burden on our people by holding down the delivered price of coal to our Nation's electric generating facilities and industries.

I intend to request early consideration of this legislation by both the Energy Committee and the full Senate. Simply stated, the time has come to complete our 20-year consideration of this issue and enact legislation that will allow a new mode of transportation to compete for a portion of our Nation's coal transportation.

The legislation we are introducing today contains all the amendments that were added to the coal pipeline legislation last summer by the Senate Energy and Natural Resources Committee.

Section 5 of the bill, which is entitled "Primacy of State Water Law," contains the strong State water law protections that were proposed in committee by Senator WALLOP. The Wallop amendment, particularly as amplified by the committee's excellent report on S. 1844, assures that each State will have the sole authority to determine whether and under which conditions water from the State may be used in interstate coal pipelines. The Wallop water protections have become even more important to our States in light of the recent judicial decisions in Sporhase against Nebraska and El Paso against Reynolds.

Other significant provisions contained in this legislation include:

A mechanism pursuant to which the Secretary of Energy may determine that certain interstate coal pipelines are in the national interest. Interstate coal pipelines that are so designated may use the Federal power of eminent domain to acquire rights-of-way for the project. The eminent domain authority may not be used, however, to acquire water or the rights to water.

A requirement that the Federal eminent domain authority must be exercised in accordance with the laws, practices and procedures relating to the general eminent domain laws of each State. The Federal eminent domain authority may be exercised in either the Federal district court or the appropriate State court where the property is located.

A requirement that State and local laws and regulations concerning location, construction, operation, and maintenance shall apply to such interstate coal pipelines.

The legislation does not provide any Federal grant of money, loan guarantees or special tax benefits to interstate coal pipelines. The legislation does not assure that any particular interstate coal pipeline will be constructed. Rather, this legislation grants such piplines the basic power that has been granted to railroads, oil and gas pipelines, and high voltage electric transmission lines. Appropriately, the financial and coal transportation markets will decide which pipelines are completed successfully.

In January 1982 a powerful and varied coalition of groups was formed to advocate the adoption of Federal coal pipeline legislation. The Alliance for Coal and Competitive Transportation (ACCT) is composed of consumer groups, such as the American Association of Retired Persons and the Consumer Federation of America; electric utility groups, such as the American Public Power Association, the National Rural Electric Cooperative of America, and the Edison Electric Institute; coal groups, such as the Mining and Reclamation Council, the National Coal Association and the American Mining Congress; labor unions, such as the Building and Construction Trades Department, the International Brotherhood of Teamsters, and the International Union of Operating Engineers; and groups representing companies that will build the pipelines, such as the Slurry Transport Association, the American Consulting Engineers Council, and the Association of Building Contractors.

Furthermore, today, a number of companies stand ready and willing to undertake several interstate coal pipeline projects—and never has America more needed a new industry. Energy Transportation Systems, Inc. (ETSI), has struggled for 10 years to build a multibillion dollar project to move Powder River Basin coal from Wyoming to Oklahoma, Arkansas, Texas, and Louisiana. The western railroads have done all within their power to defeat this project. The railroads have fought eminent domain legislation in the States; fought eminent domain legislation for 10 years in the Congress; fought water permits; filed a series of frivolous and redundant, but time consuming, law suits to prevent the pipeline from crossing under their tracks even when rights of way were obtained from the landowners; and have opposed the issuance of every necessary permit for the project. Despite this formidable opposition, ETSI persists in its efforts to develop the project. ETSI officials have informed me that the legislation we are introducing today will be very helpful to the successful completion of the pipeline.

a variety of other companies and groups of companies are pursuing other coal pipeline projects. Some of the projects would be multibillion-dollar, multistate pipelines similar in size to the ETSI undertaking. While this legislation will not assure that any of these projects are completed, the legislation will provide these projects with the opportunity to go forward. From those projects that are successful, the benefits to this country will be overwhelming.

The Alliance for Coal and Competitive Transportation (ACCT) has calculated that more than $12 billion in pipeline projects could be developed if this legislation is adopted. Based upon the Bureau of Labor Statistics methodology, $12 billion in coal pipeline construction costs will create 500,000 jobs; 50,000 in direct construction, 100,000 in construction support and the remainder in the manufacturing sector. The pipelines will require 3,000 tons of steel at a minimum, all of which according to this legislation must be manufactured in the United States.

I would like to point out that these new jobs will not replace railroad workers. Both government and private sources have projected a near doubling of coal demand between now and 1995, with coal pipelines being able to carry only about 20 percent of the increased transportation capacity. The remainder of the increase in coal haulage will be moved by railroads, barge companies and trucks. ACCT calculates that even with coal pipelines, 40,000 new railroad jobs will be created between now and 1995 to move the increased coal the Nation will be using.

A further justification for this legislation is the establishment of the long overdue competition in the coal transportation market. For vast amounts of American coal, there is presently no competition for the railroads. Most American coal is captive to a railroad for transporation—so competition between railroads does not even usually exist. In light of the Staggers Rail Act, which virtually deregulated rail rates, only viable competition for coal trans-

port will assure that the most economic rates are being charged for railroad coal haulage. For most American coal, only a new mode of transportation, such as coal pipelines, can provide that competition.

The very enactment of this legislation will achieve such competition through the mere threat of a coal slurry pipeline; thus leading railroads to enter into long-term coal transportation contracts such as the Congress authorized in the Staggers Rail Act.

Further, coal pipelines will facilitate coal exports. Skyrocketing rail rates and ports too shallow to accommodate deep draft colliers have long prevented American coal from reaching its competitive potential in the world market. Coal pipelines would not only reduce transportation rates but could be adapted to so-called floating ports such as those currently in operation for oil supertankers. American coal exports would offer competitive alternatives to energy supplies such as Soviet-produced natural gas.

I am sure that my colleagues, who shared my concern over the European purchase of large quantities of Soviet gas, will be interested to know that Russia—which has even greater quantities of coal reserves then we do—is now developing coal pipelines to transport its coal to market. I am informed that the Chinese are also interested in building coal pipelines—both for domestic use and coal export.

The implications of this development are clear. If we are to provide American coal to our allies and if we are to be competitive in the world coal market, we must allow coal pipelines to be developed. What an irony if our parochialism and shortsightedness result in no major coal pipelines for this country—while our competitors develop transportation systems that were first conceived by American ingenuity.

Mr. President, for all these reasons, we are reintroducing this legislation and will push hard for its enactment this year. We encourage each of our colleagues to join us in this effort. We have a chance, with this legislation, to do something constructive for our Nation.

I ask that the text of S. 267 appear in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 267

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress hereby finds and declares that—

(1) the continuing dependence of the United States on foreign sources for petroleum and petroleum products entails grave national security risks, results in major balance-of-payment deficits, and increases in inflation and unemployment in the domestic economy;

(2) the United States possesses extensive coal reserves that must be produced, distributed, and utilized to reduce the Nation's dependence on imported petroleum;

(3) domestic coal reserves cannot be developed and used for fuel unless adequate transportation systems and facilities exist for the efficient and economic distribution of large quantities of coal to markets in interstate and foreign commerce at competitive prices across great distances;

(4) the Nation's coal distribution system must include interstate coal pipeline distribution systems that will assist the Nation to develop efficiently and use its coal resources;

(5) the construction of interstate coal pipeline distribution systems to distribute domestic coal will be facilitated by granting the power of eminent domain to certain interstate coal pipeline distribution systems;

(6) the construction of interstate coal pipeline distribution systems is a beneficial public use that justifies granting the Federal power of eminent domain to those systems for which a finding of national interest has been made pursuant to this Act;

(7) State water law and interstate compacts are carefully balanced and structured systems for the allocation of water;

(8) the national interest is best served by developing interstate coal pipeline distribution systems only in the context of those State water laws and interstate compacts, notwithstanding the potential burden on interstate commerce; and

(9) the need for a national coal distribution system is subservient to the national interest in the primacy of State water law and interstate compacts on the allocation of water.

(b) The purpose of this Act is to facilitate the development of interstate coal pipeline distribution systems by granting the Federal power of eminent domain to those interstate coal pipeline distribution systems that are determined to be in the national interest: *Provided,* That such development is consistent with State water law and interstate compacts, as provided herein.

DEFINITIONS

SEC. 3. For the purposes of this Act the term—

(1) "coal" means any of the recognized classifications of coal, including anthracite, bituminous, semibituminous, subbituminous, and lignite;

(2) "interstate coal pipeline distribution system" means any pipeline system the primary economic purpose of which is the distribution of coal in a liquid or solid state, but in no event may the primary purpose be the distribution of water, whether alone or mixed with other substances—

(A) from one or more points outside a State to one or more points within a State or between two or more points within a State through another State, or

(B) from one or more points within Alaska to one or more points in a foreign country. Such a pipeline system shall be deemed to be in interstate or foreign commerce if coal that enters the pipeline system is delivered for commercial use in a State other than Alaska in which the coal was placed in the pipeline, in a Territory of the United States, or in a foreign country.

An interstate coal pipeline distribution system includes line pipe, valves, pumping stations, water supply pipelines, and such dewatering facilities as are necessary to delivery operations. Such systems shall not include rail, port, highway, or other ancillary coal-gathering or coal-storage facilities. Access to water for the operation and maintenance of the pipeline shall be governed by State laws and procedures except where application of such State laws and procedures would have the effect of prohibiting such access;

(3) "private lands" means any interest in any land other than interests—

(A) owned by the United States or agency thereof or owned by any State or any political subdivision thereof;

(B) held in trust by the United States for an Indian or Indian tribe or owned by an Indian or Indian tribe subject to a restraint against alienation imposed by the United States; or

(C) owned by a regional or village corporation established under the Alaska Native Claims Settlement Act, as amended, if such land was transferred to such corporation pursuant to said Act;

(4) "right-of-way" means such interest in land as may be necessary for construction, operation, and maintenance of an interstate coal pipeline distribution system;

(5) "Secretary" means the Secretary of Energy or his successor; and

(6) "State" means a State of the United States and the District of Columbia.

EMINENT DOMAIN AUTHORITY

SEC. 4. (a) AUTHORITY TO MAKE NATIONAL INTEREST DETERMINATION.—(1) Upon application of any person proposing to construct an interstate coal pipeline distribution system, who has filed and secured approval of a water permit or acquired other appropriate authorization for reservation, appropriation, use, or diversion of water under applicable State law as provided in section 5, the Secretary shall determine whether the construction of such system shall be in the national interest.

(2) The determination of the Secretary under paragraph (1) as to whether a proposed interstate coal pipeline distribution system is in the national interest shall be based on the record as a whole, taking into consideration each of the criteria set forth in subsection (b).

(b) FINDINGS.—In making a determination under subsection (a) with respect to any proposed interstate coal pipeline distribution system, the Secretary shall make findings concerning the extent to which the system—

(1) would help meet national needs for coal distribution and utilization considering, among other matters, alternate routes, or means of distributing coal;

(2) would enhance competition and provide new market outlets and opportunities for coal producers, including small and independent producers;

(3) would contribute to the national security by encouraging the displacement of imported petroleum, petroleum products, and coal with domestic coal;

(4) would result in economic benefits including—

(A) reduction in coal transportation costs;

(B) reduction in wholesale and retail electric rates; and

(C) enhance reliability of supplies of both coal and electric energy; and

(5) would affect the environment, compared to the environmental impacts of alternatives, including—

(A) railroad transportation;

(B) alternate pipeline routes; and

(C) coal utilization facilities, including electric generating plants at coal mine sites and coal gasification plants.

(c) STATE CONSULTATION.—Prior to making the findings in subsection (b) regarding a proposed interstate coal pipeline distribution system, the Secretary shall provide an opportunity for written comment from any State in which a proposed interstate coal pipeline distribution system would be located or which would otherwise be affected by a proposed interstate coal pipeline distribution system.

(d) ANTITRUST REVIEW.—(1) Not later than ten days after any application for a determination under this section is filed with the Secretary, the Secretary shall notify the Attorney General of the filing of such application and shall provide the Attorney General with a copy of such application and such other information as the Attorney General may request. The Attorney General shall conduct an antitrust review to determine the likely effects upon competition of approval of such application and, not later than one hundred and twenty days after the date of receipt of such notification shall advise the Secretary of the results of such review, including, but not limited to, findings, and recommendations concerning such terms and conditions as the Attorney General deems necessary to protect and promote competition. No application may be determined to be in the national interest under this section if the Attorney General advises the Secretary in writing that, on the basis of such review, approval of such application is not consistent with the antitrust laws.

(2) For the purpose of paragraph (1), the term—

(A) "antitrust laws" has the meaning such term has under the first section of the Clayton Act (15 U.S.C. 12); and

(B) "antitrust review" has the meaning the term "antitrust investigation" has under section 2 of the Antitrust Civil Process Act (15 U.S.C. 1311).

(e) EMINENT DOMAIN AUTHORITY.—(1) Any person proposing to build an interstate coal pipeline distribution system, the construction of which has been determined by the Secretary to be in the national interest, may acquire rights-of-way over, under, upon, or through private lands by exercise of the power of eminent domain in the United States district court for the district in which such lands are located or in the appropriate court of the State in which such lands are located. In any action or proceeding to acquire rights-of-way under this section, such action or proceeding shall conform to the laws, practices, and procedures relating to the general eminent domain law of the State where the property is situated, except that in the case of any such State law, practice, or procedure, the effect of which would prohibit any acquisition under this section, such State law, practice, or procedure shall not be applicable.

(2) Nothing in this section shall be construed to permit any person to acquire any right to take, use, dispose of, or develop water through exercise of the power of eminent domain granted under this Act.

(3) No project constructed pursuant to the authorities of this section shall be considered to be a Federal project for purposes of the application for or assignment of water rights.

(4) No right-of-way may be acquired through exercise of the power of eminent domain under this section if such right-of-way is over, under, upon, or through—

(A) any land which is part of an historic site of National, State, or local significance as determined by the Federal, State, or local officials having jurisdiction thereof; or

(B) any land designated as wilderness or wildlife refuge in accordance with applicable law by the duly constituted authority;

unless there is no feasible and prudent alternative to the acquisition of such right-of-way and reasonable planning is made to minimize harm to such site resulting from the acquisition.

(f) ALTERNATIVE ROUTES.—(1) Nothing in this section shall be deemed to prohibit the applicant from amending his application to request a right-of-way over any alternate route.

(2) The Secretary may require the relocation of any right-of-way sought pursuant to this Act upon a showing that—

(A) such relocation is necessary to enable the United States to fully realize the value of its mineral interest;

(B) such alternate route is available; and

(C) such relocation would not result in unreasonable expense.

(g) PAYMENT FOR FEDERAL COAL.—(1) Each application filed pursuant to subsection (a) shall list each instance were the proposed right-of-way crosses lands wherein the United States maintains a mineral interest regarding coal (hereinafter referred to as Federal coal"). Not later than ten days after any application for a determination under this section is filed with Secretary, the Secretary shall notify the Secretary of the Interior of the filing of such application and shall provide the Secretary of the Interior with a copy of such application and such other information as the Secretary of the Interior may request.

(2)(A) The Secretary of the Interior shall evaluate the effects of approval of such application upon the ability of the United States to realize the value of such mineral interest as a result of approval of the application.

(B) The Secretary of the Interior shall determine—

(i) terms and conditions necessary to minimize the impact of such right-of-way on the establishment of logical mining units; and

(ii) the extent to which alternate routes are available which would minimize the impact of granting the right-of-way on the ability of the Federal Government to realize the value of Federal coal.

(C) The Secretary of the Interior shall establish the fair market value of the Federal coal precluded from being recovered as a result of the proposed right-of-way. The Secretary of the Interior shall also establish the amount of reduction of the fair market value of Federal coal which will be more costly to recover as a result of the proposed right-of-way.

(3) The Secretary of Energy shall thereafter establish such terms and conditions requiring the applicant to pay the United States the amount established by the Secretary of the Interior pursuant to subparagraph (C).

(h) RULES AND REGULATIONS.—The Secretary shall promulgate such rules and regulations as are necessary for the expeditious exercise of the authority granted in this section.

(i) ADDITIONAL REQUIREMENT.—In implementing this section, the Secretary shall be subject to the provisions of section 210 of Public Law 90-537, as amended (43 U.S.C. 1511).

PRIMACY OF STATE WATER LAW

SEC. 5. (a) The United States or its agents, permittees, licensees, or tranferees or any interstate coal pipeline distribution system shall not reserve, appropriate, purchase, transfer, use, divert, dedicate, or claim water within any State for an interstate coal pipeline distribution system, unless such reservation, appropriation, purchase, transfer, use, diversion, dedication, or claim takes place pursuant to and in compliance with substantive and procedural law of that State relating to the control, appropriation, use, disposal, or distribution of water and the protection and enforcement of water rights.

(b) Pursuant to the commerce clause in article I, section 8, of the United States Constitution, the Congress declares that the establishment and exercise of terms or conditions, including terms or conditions, on permits or authorizations for the reservation, appropriation, use, or diversion of water for any interstate coal pipeline distribution system shall be determined pursuant to the law of the State granting such permit or authorization.

(c) Nothing in this Act shall—

(1) affect in any way the validity of or preempt any provision of State law, regulation, or rule of law or of any interstate compact governing the appropriation, purchase, transfer, use, or diversion of water;

(2) preempt or modify any State or Federal law or interstate compact dealing with water quality or disposal;

(3) confer upon any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resources; or

(4) affect water rights of any Indian or Indian tribe which were established by the setting aside of a reservation by treaty, executive order, agreement or Act of the Congress.

(d) No waters to which the Federal right can be asserted shall be used in any interstate coal pipeline distribution system, unless authorized pursuant to and subject to State law, the same as other water rights acquired under subsection (a).

COAL PIPELINE CONSTRUCTION AND MAINTENANCE

SEC. 6. (a) Except as provided in subsection (b), all articles, materials, and supplies used in the construction and maintenance of an interstate coal pipeline distribution system which has been determined to be in the national interest under section 4 shall have been manufactured in the United States substantially from all articles, materials, and supplies mined, produced, or manufactured, as the case may be, in the United States.

(b) The Secretary may, upon application of a person proposing to construct a coal pipeline distribution system, determined to be in the national interest under section 4, exempt such person from the requirements of subsection (a) with respect to the purchase of particular articles, materials, or supplies, if the Secretary determines that—

(1) the cost of imposing such requirements with respect to such articles, materials, or supplies is unreasonable; or

(2) such articles, materials, or supplies or the articles, materials, or supplies from which they are manufactured are not mined, produced, or manufactured as the case may be in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.

(c) The provisions of this subsection shall not apply—

(1) in any case in which the cost of the articles, materials, or supplies purchased is less than $100,000; or

(2) in the case of articles, materials, or supplies purchased pursuant to a contract entered into before the date of enactment of this Act.

(d) For purposes of this section, the term "United States" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

APPLICATION OF STATE AND LOCAL LAW

SEC. 7. Nothing in this Act shall alter or in any way preempt the applicability of any State or local law, regulation, or rule of law pertaining to the location, construction, operation, or maintenance of an interstate coal pipeline distribution system except where such applicability would have the effect of prohibiting the location, construction, operation, or maintenance of the interstate coal pipeline distribution system.

CONTINUING JURISDICTION OF STATE PUBLIC UTILITY COMMISSIONS

SEC. 8. Nothing in this Act shall be construed to require any forms of automatic pass through of, or preempt the ratemaking authority of any State utility regulatory agency or the Federal Energy Regulatory Commission with respect to costs related to construction, operation, and maintenance of any interstate coal pipeline distribution system, whether or not such costs have been provided for by contract between a utility and the interstate coal pipeline distribution system operator.

LIMITATION ON FURTHER REGULATION

SEC. 9. Nothing in this Act shall be construed to authorize the further regulation of, or to relate to or otherwise affect the regulation of, interstate common carriers.●

Mrs. HAWKINS. Mr. President, I am pleased to join my distinguished colleague from Louisiana, Senator JOHNSTON, in introducing legislation that will make possible the construction of coal-slurry pipelines. Construction of a coal-slurry system will enable us to take advantage of our coal resources—the one fossil fuel that this country has in great abundance.

As present rates of consumption, this country has within its borders 300 years of known reserves. With the help of new coal slurry pipelines to ship this coal to power plants and major export centers around the Nation we can reduce our own dependence on foreign oil imports and offer the world a major energy alternative in the years to come.

Measures designed to help reduce the transportation costs of coal may not seem vital at a time when oil prices are dropping and energy inventories are high. We cannot become complacent, however, on the question of national energy self-sufficiency. Coal slurry development will make coal more competitive with other forms of energy in this country, saving billions of dollars in coal transportation costs between now and end of the century. As coal becomes more competitive, the industry's capacity will increase—a capacity that will be indispensable in the event of another oil embargo caused by war or natural disaster. In a less dreary scenario, the export of coal transported by slurry pipelines should prove to be a major factor in the effort to reduce this Nation's trade deficits which in 1982 reached an unacceptable $42 billion.

Objections to slurry pipelines based on fears of water supply disruption have been addressed in debate on this issue in the 97th Congress. Water supply is an important issue in Florida as well, so I plan to pay particular attention to this aspect of slurry development.

Objections based on expected damage to the railroad industry fail to consider the effects of coal industry expansion. Railroads now transport nearly two-thirds of all coal in this country. They will be handling much more coal in real terms as coal production increases.

Congress has been debating the coal slurry issue now for nearly 20 years. It is time that this technology became available for use in the marketplace. I am glad to be part of this effort.

● Mr. MURKOWSKI. Mr. President, I am pleased to join Senator JOHNSTON as a cosponsor in the introduction of legislation which will help clear the way for the construction of coal slurry pipelines. I want to commend Senator JOHNSTON for his continued leadership in this bipartisan effort to enact this legislation at the earliest possible date.

We have already delayed far too long in giving coal pipelines an opportunity to compete with other modes of coal transportation. I believe the development of privately financed coal pipelines will be the key to unlocking much of our vast resources and moving them to domestic and foreign markets at a reasonable, competitive cost. The large scale development of American coal cannot occur unless the infrastructure to handle the transportation of greater and greater amounts of coal stands the chance of being put in place. I envision coal pipelines—along with railroads—as an integral part of the developing coal transportation system.

Mr. President, it is a fact of life that the market for coal is an international market. Domestic coal must compete in that market, not only for foreign sales but also for domestic sales. Already some of our utilities are importing foreign coal rather than relying on domestic coal, partly because long-haul domestic rail transportation costs now exceed $20 a ton. In the future, foreign coal may continue to make inroads on domestic markets in areas of the country like the Southeast where there is easy access to foreign coal.

As the chairman of the Foreign Relations Subcommittee on East Asian and Pacific Affairs, I am fully aware of the tremendous market for Western U.S. coal in the emerging Pacific-rim market. We must place ourselves in a position to compete for a share of that market. A 1980 world coal study found that world coal production must increase 2.5 to 3 times in the next 20 years if the world's projected energy demand is to be met and forecasts are that world trade in coal must grow 10 to 15 times above 1979 levels. The study found that the United States and Australia are the two countries most capable of meeting this needed growth in world coal trade, although Canada, China, and several South American nations have coal export capability. To the extent that we are able to become leading coal exporters, our Nation obviously will enjoy significant economic and foreign policy benefits.

The development of interstate coal pipelines will assist our Nation to develop our coal resources for both domestic and foreign markets. The existence of coal pipelines will help to moderate the increase in rail coal haulage rates, rates that have already increased 14 percent this year. While the front-end costs of pipelines are large, the operating costs are far below railroad costs.

Mr. President, I am well aware of the concerns of some of my colleagues from Western States regarding coal pipelines and the preservation of State water rights. The language in the bill we are introducing today provides every possible protection for State water rights. Any water used for coal pipelines must be acquired pursuant to State substantive and procedural law. A grant of Federal eminent domain power is not in any way a license to acquire State water rights.

I urge my colleagues to recognize that the time has come to give coal pipelines the same right of eminent domain that we have given to other national transportation and distribution systems, including interstate natural gas pipelines, some interstate petroleum pipelines, and certain major transcontinental railroads. The national interest in a secure energy future is at stake.●

By Mr. McCLURE:

S. 268. A bill to authorize the Secretary of the Interior to construct, operate, and maintain hydroelectric powerplants at various existing water projects, and for other purposes; to the Committee on Energy and Natural Resources.

HYDROELECTRIC POWERPLANTS

Mr. McCLURE. Mr. President, today I am introducing legislation to authorize the Secretary of the Interior to construct additional generating facilities at existing Bureau of Reclamation projects in the Western States.

Those of my colleagues who were in this Chamber in the last Congress will

recall that similar legislation was passed by the Senate on September 22, 1981, but unfortunately, the measure did not receive consideration by the House prior to adjournment of the 97th Congress. Except for the deletion of one project, the Buffalo Bill Dam powerplant replacement in Wyoming, the measure that I am introducing today is identical to the bill that passed the Senate last Congress. The reason that the Buffalo Bill project is not included in this proposal is that it was authorized by a separate measure, and included as title I of Public Law 97-293, signed into law by the President on October 12, 1982.

Briefly, the bill authorizes the construction of additional hydroelectric facilities at 11 reclamation projects located in 3 States. The 11 projects would provide additional capacity of 214.7 megawatts. The measure authorizes the appropriation of $281 million for construction costs or about $1,300 per kilowatt of installed capacity which is a real bargain for hydroelectric installations.

It is significant that the bill does not authorize any new storage or reregulating structures. The proposed projects are to be located only at existing reclamation facilities.

As my colleagues will recall from my remarks during the last Congress, although the projects to be authorized are all physically located in the States of California, Idaho, and Montana, in reality this is a national bill. As noted in the committee report (Senate Report 97-61) on the prior measure, the hydroelectric projects will have the potential of generating the equivalent in energy of over 1 million barrels of oil each year. This energy will not be subject to rising fuel costs or foreign embargoes. It is domestic energy dependent upon domestic resources and is subject to the control of no foreign power. To the extent that these projects will reduce our dependence upon oil—all citizens of the United States will benefit.

Mr. President, the Congress has a major responsibility for the fiscal well-being of our Nation and the wise expenditure of funds by the Federal Government. Funding of these projects will not constitute a loss to the Treasury. On the contrary, the Government and the taxpayer will be repaid, with interest, by the ratepayer.

At today's costs, the projects in this bill are a bargain to the consumer. By utilizing existing dams we can minimize the cost of new energy and adverse environmental impacts. I am hopeful that as the Committee on Energy and Natural Resources examines further the potential for more hydroelectric power development, additional opportunities of a similar nature will be found.

Mr. President, I ask unanimous consent that the text of the measure appear in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 268

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior, acting pursuant to the Federal reclamation laws (Acts of June 17, 1902, 32 Stat. 388 and Acts amendatory thereof and supplemental thereto), is authorized to construct, operate, and maintain hydroelectric powerplants at existing reclamation project facilities at locations and in the approximate capacities set forth in section 4 of this Act: *Provided,* That construction by the Secretary of the Interior of a powerplant designated in subsection (a), (b), (d), (e) or (f) of section 4 of this Act may not proceed prior to October 1, 1985, or if a license has been issued prior to such date to a non-Federal entity pursuant to section 4(e) of the Federal Power Act (16 U.S.C. 797) to construct such powerplant. In carrying out the purposes of this Act, the Secretary of the Interior is authorized to modify the capacity of a powerplant designated in section 4 as determined to be necessary or desirable during postauthorization study and design, and after consultation with the Secretary of Energy.

SEC. 2. The Secretary of Energy is authorized to construct, operate, and maintain transmission facilities as required physically to connect the hydroelectric powerplants authorized in this Act to existing power systems and as he determines necessary to accomplish distribution and marketing of power generated by powerplants constructed pursuant to this Act, and to purchase replacement capacity, energy, or both in order to maintain deliveries to customers during unit outages which result from Federal construction of the powerplants authorized in this Act.

SEC. 3. During Federal construction of powerplants authorized in this Act, the Secretary of the Interior and the Secretary of Energy shall seek to minimize the loss of capacity, energy, or both to power customers due to unit outages which result from such construction. The Secretary of Energy shall seek to maintain deliveries of capacity, energy, or both at contract prices to customers affected by unit outages resulting from such Federal construction.

SEC. 4. (a) Friant powerplant unit, Central Valley project, California, consisting of—

(1) a turbine generator unit of two thousand seven hundred kilowatts on the river outlet from Friant Dam;

(2) a turbine generator unit of five thousand kilowatts on the outlet of the Madera Canal at Friant Dam; and

(3) a turbine generator unit of fifteen thousand kilowatts on the outlet to the Friant-Kern Canal at Friant Dam.

(b) Whiskeytown powerplant unit, Central Valley project, California, consisting of a turbine generator unit of three thousand kilowatts on the outlet works of Whiskeytown Dam.

(c) Yellowtail Afterbay powerplant unit, Pick-Sloan Missouri Basin program, Montana, consisting of a turbine generator unit of ten thousand kilowatts on the outlet works of Yellowtail Afterbay Dam.

(d) Red Bluff powerplant unit, Central Valley project, California, consisting of four turbine generator units of two thousand five hundred kilowatts each at Red Bluff Diversion Dam.

(e) Stony Gorge powerplant unit, Orland project, California, consisting of a turbine generator unit of three thousand kilowatts on the outlet works of Stony Gorge Dam.

(f) Monticello powerplant unit, Solano project, California, consisting of a turbine generator unit of sixteen thousand kilowatts on the outlet works of Monticello Dam.

(g) Palisades powerplant enlargement, Palisades project, Idaho-Wyoming, consisting of one or more turbine generator units so as to increase the powerplant capacity by ninety thousand kilowatts.

(h) Anderson Ranch powerplant unit, Boise project, Idaho, consisting of a turbine and generator unit to increase the powerplant capacity by thirty thousand kilowatts.

(i) Minidoka powerplant rehabilitation and enlargement, Minidoka project, Idaho-Wyoming, consisting of a turbine generator unit of thirty thousand kilowatts in replacement of existing units one through six.

(j) Boca powerplant unit, Truckee storage project, California-Nevada, consisting of a turbine generator unit of nine hundred kilowatts on the outlet works of Boca Dam.

(k) Prosser powerplant unit, Washoe project, California-Nevada, consisting of a turbine generator unit of one thousand kilowatts on the outlet works of Prosser Dam.

SEC. 5. (a) Hydroelectric power generated by Federal facilities constructed pursuant to this Act shall be delivered to the Secretary of Energy for distribution and marketing through existing Federal hydroelectric power marketing programs in accordance with existing law and policy consistent with the provisions of this Act.

(b) The Federal powerplants authorized in this Act shall be financially integrated with and the power marketed under rate schedules in effect for the several programs as follows:

(1) Friant, Red Bluff, Whiskeytown, Stony Gorge, and Monticello powerplant units shall be marketed through the Central Valley project power marketing program;

(2) Yellowtail Afterbay powerplant unit shall be marketed through the Eastern Division, Pick-Sloan Missouri Basin program power marketing program;

(3) Palisades powerplant enlargement, Anderson Ranch powerplant unit, and Minidoka powerplant rehabilitation and enlargement shall be marketed through the Federal Columbia River Power System; and

(4) Boca powerplant unit and Prosser powerplant unit shall be marketed under arrangements to be made by the Secretary of Energy in accordance with authority set forth in section 5(a) of this Act.

SEC. 6. Powerplants authorized in this Act shall be designed, constructed, and operated in such a manner as to be compatible with valid existing water rights or water delivery to the holder of any valid water service contract.

SEC. 7. The interest rate used for computing interest during construction and interest on the unpaid balance of the reimbursable cost of a powerplant authorized in this Act shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction of such powerplant commenced, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which are neither due nor callable for fifteen years from the date of issue.

SEC. 8. (a) There are hereby authorized to be appropriated beginning October 1, 1983, to the Secretary of the Interior for construction of the powerplants authorized in this Act the amounts set forth in subsection (b), on the basis of October 1981 price levels, plus or minus such amounts as may be justified by reason of ordinary fluctuations of construction cost indexes applicable to the type of construction involved herein. There are also authorized to be appropriated to the Secretary of the Interior such additional sums as may be required for the cost of replacement capacity, energy, or both purchased under section 2, and for the operation and maintenance of the Federal powerplants authorized by this Act.

(b)(1) Friant powerplant unit, $25,390,000.

(2) Whiskeytown powerplant unit, $3,390,000.

(3) Yellowtail Afterbay powerplant, $24,200,000.

(4) Red Bluff powerplant unit, $38,030,000.

(5) Stony Gorge powerplant unit, $4,020,000.

(6) Monticello powerplant unit, $11,830,000.

(7) Palisades powerplant enlargement, $65,300,000.

(8) Anderson Ranch powerplant unit, $13,200,000.

(9) Minidoka powerplant rehabilitation and enlargement, $60,000,000.

(10) Boca powerplant unit, $840,000.

(11) Prosser powerplant unit, $1,240,000.

(c) There are also authorized to be appropriated beginning October 1, 1983, such sums as may be required by the Secretary of Energy to accomplish the purposes of section 2 of this Act.

By Mr. McCLURE (for himself and Mr. SYMMS):

S. 269. A bill to provide for the disposal of silver from the National Defense Stockpile through the issuance of silver coins; to the Committee on Banking, Housing, and Urban Affairs.

NATIONAL SECURITY SILVER DISPOSAL ACT OF 1983

● Mr. McCLURE. Mr. President, I am joined today by my esteemed colleague Senator SYMMS in introducing a proposal designed to redirect the sale of silver from our national defense stockpile in an effort to minimize its affect on the price of silver.

In March of 1981, the administration announced its intention to sell 75 percent of the silver in the stockpile. After that announcement, the price of silver plummented from an already depressed price of $12.13 to a level of just under $7; this occurring during a period of continued inflation. It should be painfully apparent now that while the intentions of selling stockpiled silver may have been good, consideration as to the impact of the silver sale was woefully inadequate.

As a citizen of this Nation's most important silver producing State, I can state first hand what the effect a drop in price can have. Northern Idaho produced nearly half, 47 percent, of this Nation's silver. One of the last half dozen silver smelters in the Nation was located in Kellogg, Idaho. Prior to its much publicized closure, it refined approximately 20 percent of this Nation's silver. There is no doubt that the ill-founded decision to sell silver from our stockpile contributed to the closure of this mining and smelting complex. The Silver Valley of Idaho was dependent on this industry. Its closure meant a direct loss of 2,100 jobs to the area and countless numbers of related jobs. Simply put, a large part of the economy of this once bustling area has been eliminated. Fortunately, with the recent rebound in the price of silver, the Bunker Hill mine has reopened. It is not operating at full capacity yet and another disastrous sale of silver from the stockpile, which would send the price of silver plummeting, would assure its closure.

I can understand the compelling objective of the Office of Management and Budget to balance the Federal budget. However, their reasoning was afflicted with an acute case of tunnel vision. Not only are they attempting to balance the budgets on the backs of the American people through the closure of businesses and unemploying workers but they are also endangering all Americans by not correctly addressing our national defense stockpile needs. Unless Congress, as the responsible party, takes action to insure a more cautious and careful consideration of the decision to sell silver, that case of tunnel vision may in fact prove to be terminal as far as our Nation's best interests are concerned.

Results from a study I requested in my capacity as chairman of the Senate Energy and Natural Resource Committee are damning to the silver sale. The study identified demand for silver during periods of national emergency that have not previously been considered. It also identified uncertainties relating to the availability of both foreign and domestic surpluses. Moreover, they found that the data used to support the zeroing of the strategic silver stockpile is extremely soft. Furthermore, findings by the GAO regarding the method of selling the silver has raised serious questions about whether the U.S. Government is getting the best deal for the taxpayer.

In December 1981, the Senate passed the defense appropriations bill which included an amendment I sponsored that effectively stopped the further sale of silver from the stockpile. Under the terms of the amendment the administration will analyze all aspects of the sales program and report its findings to Congress. Included in this analysis will be potential alternative methods of disposal. Also in the amendment is a provision requiring congressional approval before the sales can begin again.

In December 1982, I added an amendment to the continuing resolution that limits annual sales of silver from the stockpile, if Congress ever approves further sales, to 10 percent of the silver produced domestically during the preceding 12-month period. Many precious metals analysts indicate that this could be as low as 4 million ounces a year. Experts also indicate that this is a figure that the market may be able to handle with a minimal effect on the price. Triggered by this news the price of silver moved up sharply and continues its bullish trend.

However, it is obvious to me and to many other of my colleagues that the administration will push ahead with the sale of silver. But if we are forced to accept a sale, why use the method guaranteed to depress the price and dispose of the silver with the lowest possible return to the taxpayers. Why not instead, if we must sell, at least get as much for it as we can? Therefore, today, I am introducing legislation which provides that in the event the President proposes and Congress authorizes the sale of silver from the strategic stockpile, this silver would be sold through the minting and distribution of a silver-bearing coin. The proceeds of this sale—which may be estimated at current silver price levels and the sale of 105 million ounces to be over $1 billion would, under the bill, be deposited in the National Defense Stockpile Transaction Fund.

The silver market today is in a period of transition, however, and it can be said that the General Services Administration's attempts in 1981 to dispose of this metal through publicly held sealed-bid auctions hurt both the silver market's stability and the financial position of the U.S. silver mining companies. Simulations of the Chase Econometrics Silver Model reported in the Interagency Silver Commodity Committee Report concluded that if the administration's goal of 46 million ounces had been disposed of in 1981, silver prices could have been reduced by as much as $2.25 an ounce. Therefore, an alternative disposal method to the weekly auction held in 1981 is worth considering: I suggest that the U.S. Government seriously consider the marketing of silver-bearing coins, using the silver in the strategic stockpile.

There are several reasons why a U.S. coin program offers strategic advantages both for the U.S. Government and for the people of this country over other disposal methods. If the United States were to dispose of its silver through a coinage program, the silver would become more accessible to the average American, who was effectively excluded from the large-scale auction procedure previously used for the disposal of this metal. Both the bullion and the numismatic coin which I am proposing would be readily accessible to Americans at a low premium to the price of the silver content.

While foreigners may be interested in acquiring some of these coins and some of these coins would inevitably be transferred overseas, the vast majority of them can be expected to remain in the hands of U.S. citizens. From a strategic point of view, the distribution of silver coins to a variety of Americans would, in essence, create a "walking stockpile," in which a large quantity of the silver currently held in the strategic stockpile would remain relatively accessible to the United States in times of national emergency, because it would be in the hands of private citizens.

Because the market for coins is separate from the international silver bullion market, acquisition of these coins and the presence of these coins will exert a less disruptive effect on the international silver market—silver contained in coins would not be flowing into the bullion market, creating a situation of oversupply in a market already depressed by recession. The flow of these coins into the market will be responsive to market forces; it will not be a forced supply of metal coming into market at regularly scheduled auctions regardless of market conditions. Rather, the silver coins would be there, available for purchase by individuals whenever they are inclined to buy them.

Having outlined the advantages I see in using a silver coinage program to sell our strategic stockpile silver, let me briefly outline some of the reasons for which I believe there is a viable market for such silver coins: There already exists a large private investment market composed of small scale investors for small 1-ounce silver ingots, which will readily adapt to the coins, indeed who might prefer coins because of their legal tender status, their government mintage and seal of approval, and enhanced liquidity of coins relative to ingot bars.

The investor interest which has grown up around the U.S. 90-percent silver coins formerly minted and circulated by the U.S. Treasury indicate the extent to which demand for such coins still exists.

The success of 1-ounce gold coins minted by a variety of governments demonstrates a healthy interest on the part of the U.S. citizens for precious metals investment media of this sort, when marketing facilities make them readily available.

This legislation has the broad support of silver users and producers. It is legislation that identifies a problem and provides a specific solution that we can all benefit from.

Mr. President, I ask unanimous consent that the bill and my statement be printed in full in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 269

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) The Secretary of the Treasury (hereinafter referred to as the "Secretary") shall mint and issue coins of the United States under this Act in two series in such quantities as are necessary to meet public demand.

(b)(1) One series shall have a face value of one dollar; bear the same design as the "Morgan" silver dollar; be inscribed with year of minting; have reeded edges; contain 0.7734 troy ounces of 0.900 fine silver; weigh 26.73 grams; be composed of 900 parts per thousand of silver and 100 parts per thousand of copper; and have a diameter of 1.5 inches. These coins shall have the inscriptions of the words "Liberty", "In God We Trust", "United States of America", "E Pluribus Unum", "One Dollar".

(2) The second series shall bear a silver liberty design selected by the Secretary; be inscribed with the year of minting; have reeded edges; contain one troy ounce of 0.999 fine silver; weigh 31.103 grams; and have a diameter of 1.6 inches. These coins shall have the inscriptions of the words "Liberty", "In God We Trust", "United States of America", "E Pluribus Unum", and "Contains One Troy Ounce".

SEC. 2. (a)(1) The coins minted pursuant to section 1(b)(1) of this Act shall be sold by the Secretary directly to the public, and to numismatic coin dealers and retailers for resale to the public, in accordance with such regulations as the Secretary may prescribe, at prices determined by the Secretary, which shall not be less than the fair market value of the silver content of the coins on the day prior to the sale, as determined by the Secretary, plus the costs of minting, distributing, promoting, and marketing the coins. The Secretary shall make bulk sales of the coins to numismatic coin dealers and retailers at prices which reflect the lower costs of such sales.

(2) The Secretary shall mint proof and uncirculated coins of the series authorized in section 1(b)(1) of this Act. Proof coins shall be sold at a price not less than 75 per centum above the price otherwise determined under this Act. Uncirculated coins shall be sold at a price not less than 50 per centum above the price otherwise determined under this Act.

(3) The Secretary shall define the terms "numismatic coin dealers and retailers" in a manner consistent with the ordinary practices of the numismatic coin trade.

(4) The Secretary shall make reasonable and appropriate efforts to promote the retail sale of the coins.

(b)(1) The coins minted pursuant to section 1(b)(2) of this Act shall be sold in bulk on a negotiated basis by the Secretary to primary dealers in bullion coins, in accordance with such regulations as the Secretary may prescribe, at prices determined by the Secretary, which shall not be less than the fair market value of the silver content of the coins on the day prior to the sale, as determined by the Secretary, plus the costs of minting, distribution, promoting, and marketing the coins. In no event shall the portion of the price attributable to the costs of minting, distributing, promoting, and marketing the coins exceed 10 per centum of the fair market value of coin's silver content.

(2) The Secretary shall define the term "primary dealer in bullion coins" in a manner consistent with the ordinary practices of the precious metals trade. At a minimum, this definition should require that a primary dealer in bullion coins have the financial resources and expertise necessary both to, establish effective distribution systems and to make a viable two-way market for the coin.

(3) The Secretary shall package the coins minted pursuant to section 1(b)(2) for bulk sales in tubes containing not less than 25, but no more than 100, coins. The Secretary shall make reasonable and appropriate efforts to promote the retail sale of the coins.

SEC. 3. The net proceeds of the sales of coins minted pursuant to this Act shall be deposited in the National Defense Stockpile transaction fund, after deducting the costs incurred by the Secretary in minting, distribution, promoting, and marketing the coins. That portion of the proceeds representing the costs incurred of minting, distributing, promoting, and marketing the coins shall be credited to the mint appropriations fund.

SEC. 4. The aggregate amount of silver utilized to mint coins pursuant to this Act shall be provided from the silver in the National Defense Stockpile by the Administrator of General Services and shall not exceed 105,000,000 troy ounces of which 15,000,000 shall be available for coins minted under section 1(b)(1) and the remainder shall be available for coins minted under section 1(b)(2). Disposals of silver from the National Defense Stockpile shall be conducted in accordance with the provisions of the Act during calendar years 1984, 1985 and 1986.

SEC. 5. This Act is effective the day after enactment.●

By Mr. McCLURE (for himself and Mr. SYMMS):

S. 270. A bill to provide for the disposal of silver from the national defense stockpile through the issuance of a special series of bonds which may be redeemed for silver, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

SILVER SECURITY ACT OF 1983

● Mr. McCLURE. Mr. President, I rise today to introduce another piece of legislation aimed at assuring that if any silver is sold from the national defense strategic stockpile it will be done in a manner that has the least effect on the price of silver.

The administration's interagency study on the silver stockpile has been delayed. However, I am not confident that at some point in the future this administration or another administration will ask Congress for the authorization to dispose of the silver. Let me say in no uncertain terms that I am opposed to the disposal of this silver. I am also opposed to the further disruption of the silver market. The disposal of silver from the stockpile has been brought up continually since 1973. It is unfair to force silver producers, investors, and users to continually deal with every administration's ill-advised interference. If this administration still deems it necessary to dispose of silver, I will not allow it to have any adverse affects on the silver industry both at home and abroad.

Idaho is the Nation's most important silver producing State. Recent mine closures have virtually eliminated the once booming economy in north Idaho plant closures, in the copper districts of Arizona and New Mexico, and the molybdenum district of Colorado had idled 50 percent of the mining employees in the West—some 50,000 workers.

Fortunately, with the recent rebound in the price of silver many of these workers have been reemployed as these mines reopen. However, another disastrous disposal of the stockpile, sending the price of silver plummeting would again force the closure of mines and the unemployment of thousands.

The legislation we are introducing today requires the Department of Treasury, to issue securities if congressional approval is given to resume sales using silver from the strategic stockpile to back these securities. The merits of this proposal are numerous. Because the silver can be valued at the bond conversion price and not the current depressed price, the taxpayer will realize a much better price for the stockpiled silver. Silver securities like these will undoubtedly reduce interest costs compared to the rate the Government pays on conventional Treasury bonds. This can be done while taking a great deal of pressure off of the silver market. Moreover, during the term of the bond the Department of the Treasury would continue to hold the silver, thus allowing the benefits of the silver stockpile to remain within the Government.

In 1980, the Sunshine Mining Co., successfully marketed two issues which carried a coupon rate of 8½ percent while similarly issue AAA-rated bonds, floated by other blue chip companies, carried coupon rates in the range of 13 to 14 percent, thus saving Sunshine a substantial amount in interest costs. These were both highly successful issues from which we can learn.

Furthermore, this legislation allows an investor to reduce the inflation uncertainty premium which some economist claim is the cause of high interest rates. Indexed bonds, like these, shift the risk of inflation from the Government as the borrower to the investor as the lender. With the ever-increasing shortage, silver is becoming an excellent investment provided that the investors are given the proper investment tools.

In a statement before the Federal Gold Commission in November of 1981, noted economist Alan Greenspan attested that the issuance of gold notes would likely reduce current budget deficits because they could be sold at "reduced interest rates." Greenspan went further and indicated "the success in restoring long-term fiscal confidence will show up clearly in the yield spreads between gold and flat dollar obligations of the same maturities." Greenspan also agreed that gold notes could "set a standard in terms of prices and interest rates that could put additional political pressure on the administration and the Congress to move expeditiously toward noninflationary policies." These same arguments are valid for the issuance of silver notes. This legislation provides an excellent opportunity to experiment on a small basis to determine just how effective this type of issue can be.

This legislation provides for another method of disposal which, like my coinage proposal, assures that the silver market will not be disturbed. The truth of the matter is that by forcing a supply onto a market, the price is adversely affected. Merely talking about the disposal of silver from the stockpile in a manner similar to weekly auction sales will send the silver price plunging well below breakeven levels. It is just bad business to sell a resource for a price several dollars below the cost of production. I would certainly hope that this administration could learn from the mistakes of previous administrations.

Mr. President, I urge my colleagues to join us in cosponsoring both of these important pieces of legislation and I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 270

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Second Liberty Bond Act is amended by inserting after section 22A (31 U.S.C. 757c-2) the following new section:

"SEC. 22B. (a) The Secretary of the Treasury, with the approval of the President and subject to the limitation under section 21 of this Act, shall issue United States silver bonds.

"(b) The net proceeds of any United States silver bond shall be deposited into the National Defense Stockpile Transaction Fund solely for the acquisition of strategic and critical materials under section 6(a)(1) of the Strategic and Critical Materials Stockpiling Act (50 U.S.C. 98e(1)).

"(c) Subject to the provisions of subsections (d) and (e), United States silver bonds shall be—

"(1) in such form, and

"(2) subject to such terms and conditions, including any strictions on transfer,

as the Secretary of the Treasury may from time to time prescribe.

"(d)(1) United States silver bonds—

"(A) shall be issued in denominations of silver, such denominations to be determined by the Secretary of the Treasury,

"(B) shall be issued only on an interest-bearing basis with the rate of interest to be determined by the Secretary, and

"(C) shall be redeemable before maturity only upon such terms and conditions as the Secretary may prescribe.

"(2) Any payment of interest, or any payment at redemption, shall be paid in silver or its then current dollar equivalent, except that in the case of any payment of silver, such payment shall be made out of the silver stockpile.

"(3) The Secretary of the Treasury, with the approval of the President, is authorized to provide by regulations that holders of United States silver bonds may, at their option, retain the bonds after maturity and continue to earn interest upon such bonds at the rate determined under subsection (d)(1)(B).

"(e)(1) Except as provided in paragraph (2), the provisions of subsections (c), (e), (g), (h), and (i) of section 22 shall, to the extent not consistent with the provisions of this section, apply with respect to United States silver bonds.

"(2) For purposes of the Internal Revenue Code of 1954, no gain shall be recognized on the excess of the redemption price over issue price except to the extent such excess represents interest described in subsection (d)(1)(B).

"(f) The provisions of section 3563 of the Revised Statutes (31 U.S.C. 371) shall not be construed to impair any obligation arsisng out of any United States silver bond.

"(g) United States silver bonds issued pursuant to this Act shall be secured by silver from the silver stockpile and the aggregate amount of silver which will be used to secure such bonds shall not exceed 105,000,000 troy ounces.".

(b) The amendment made by this section shall take effect on the date of the enactment of this Act.●

By Mr. PRESSLER (for himself, Mr. WEICKER, Mr. NUNN, Mr. D'AMATO, Mr. GORTON, Mr. RUDMAN, Mr. DIXON, Mr. LEVIN, Mrs. HAWKINS, Mr. SPECTER, Mr. HUDDLESTON, Mr. SASSER, Mr. TSONGAS, and Mr. GLENN):

S. 272. A bill to improve small business access to Federal procurement information; to the Committee on Small Business.

FEDERAL CONTRACT INFORMATION ON SMALL BUSINESS

Mr. PRESSLER. Mr. President, today I am reintroducing a bill to amend the publication practices of the Commerce Business Daily (CBD), and improve the small business community's access to Federal contract information. This same legislation was passed by the full Senate on May 27, 1982. Similar legislation passed the House but the bills died in conference committee.

This bill, S. 1947, was introduced in December 1981 to address what was viewed as a persistent and troubling problem for small firms who want to do business with the Federal Government—timely and adequate notice of contract information. Small firms, such as we have in South Dakota, that cannot afford higher priced marketing tools, should not be penalized in the Federal marketplace. Therefore, I strongly believe that the Commerce Business Daily, the primary source used by small businesses to obtain

Government contract information, should be revised so as to improve the competitive advantage for small business users of the document.

Section 8(e) of the Small Business Act and related procurement regulations require the Secretary of Commerce to advertise contracting opportunities in the Commerce Business Daily. Federal agencies that wish to procure a good or service must synopsize their proposed bids or solicitations for publication in this document. The law and regulations also enumerate 10 exceptions to the requirement for publication of proposed procurement actions.

Presently, advertising regulations provide a 10-day notice period for a minimum bidding time of 20 calendar days. However, in hearings on the legislation last year, the Committee on Small Business learned that this time period need not be followed where there are "special circumstances" or where there is an urgent need for the goods or services. In other words, what should amount to a cumulative period of 30 days for obtaining a solicitation and bidding on a contract can be shortened arbitrarily, or even ignored, at the discretion of the procuring agency. Further, the committee learned that the minimum bidding regulations apply only to formally advertised contracts; there are no time limits established in regulations for negotiated contracts, even though such contracts represent the bulk of Federal purchases.

At the hearings held last spring, the Small Business Committee received testimony from small business owners on the extent of their problems with the Commerce Business Daily. These witnesses informed the committee that all too often, synopses appear too late to permit an interested company to prepare and submit a timely bid or proposal. They added that this problem is compounded when synopses contain inadequate information, or are "misfiled" in the Commerce Business Daily. The committee also learned that even when notices are complete and "proper," mail delays further reduce the time bidders have to respond. This problem is particularly acute for companies located great distances from Chicago, where the Commerce Business Daily is printed and mailed. While some delays can be attributed to those subscribers who choose to have mail delivered by other than first class, even "priority" subscribers have expressed similar concern about the "timeliness" of notices that are obtained in the Commerce Business Daily.

Another common complaint voiced by the small business witnesses at committee hearings centered around agency abuse of the 10 exemptions from advertising in the Commerce Business Daily. Several small business owners testified that they believed many more procurements should be advertised under the provisions of the law than actually appear.

During these hearings, the committee also received testimony from Federal procurement officials, the Department of Commerce, the Small Business Administration, and the U.S. Public Printer on the compilation, publication, and distribution of the Commerce Business Daily.

In response to the testimony received at these hearings, the Small Business Committee marked up and reported the bill, that the entire Senate later passed, to rectify these problems. What we have before us today is a reintroduction on this Senate-passed bill with a few technical changes.

Like S. 1947, this bill would—for the first time—establish in statute, minimum guidelines for the publication of and bidding on Government contracts in the Commerce Business Daily. Like the bill passed last May, this bill would give interested parties 15 days from the appearance of a notice in the Commerce Business Daily in which to request copies of a solicitation. The 15-day time period is extended to 45 days in the case of research and development contracts, since Government agencies generally know of R&D requirements months in advance.

The second set of time periods proposed in this legislation governs the time available for bidding on a Government contract once it has been advertised. Generally, the bill provides that no Government agency can foreclose competition on a Federal contract until at least 30 days have elapsed from the date of issuance of a solicitation; in the case of a sole-source contract, agencies cannot commence negotiations until at least 30 days have elapsed from the date of publication of the notice of intent to contract.

The bill also provides for fewer exemptions from advertising and then only when written justification is provided. For example, the bill eliminates current exemption from advertising professional services or educational contracts.

Mr. President, I look forward to working with my colleagues to enact this important and necessary legislation. With Federal purchases exceeding $110 billion each year, we must insure that small firms are guaranteed their fair share. Improving their access to timely contract information is a first and critical step to meeting this goal.

● Mr. WEICKER. Mr. President, I am pleased to join the distinguished Senator from South Dakota and other colleagues in reintroducing legislation to improve the small business community's access to Federal procurement information. Like its predecessor, S. 1947, which passed the Senate last May, this bill would set statutory guidelines for advertising of and bidding on certain Federal contracts. A similar bill was reported by the House Small Business Committee and was approved by the House of Representatives last year.

Mr. President, all too often small firms are unable to compete for Government contracts on an equal level with large businesses. In part this is due to the lack of timely and adequate notice of contracting opportunities made in the Commerce Business Daily. For example, it is not unusual for a procurement notice to first appear in the Commerce Business Daily on the same date that an agency solicitation is available. This puts small firms, especially those which cannot afford marketing representatives, at a competitive disadvantage in monitoring potential Federal contracts.

Similarly, many businesses learn of the closing date for proposals only days before that date. In these cases, the businesses have almost no chance to make a timely response to those solicitations. It is for that reason that we are reintroducing this statutory solution to this persistent small business problem.

Specifically, under this bill, interested parties would have 15 days from the appearance of a notice in the Commerce Business Daily to request copies of a solicitation on competitively bid and negotiated Government contracts. Also, in most cases, the bill would provide at least 30 days from the issuance of a solicitation before a bid is due. Where agencies are already required to publish notice in the Commerce Business Daily and absent any exemption for more rapid purchasing, the legislation would statutorily provide prospective bidders with a minimum of 45 days for the solicitation and bidding process. The legislation also would alter the existing statutory exemptions from advertising in the publication.

The Committee on Small Business held 2 days of hearings and one markup session on this same legislation during the 97th Congress. To facilitate its consideration this year, I am inserting a summary of the Commerce Business Daily legislative history as reported by the committee last year:

LEGISLATIVE HISTORY

A. PUBLIC LAW 87-305

Public Law 87-305, enacted on September 26, 1961, amended section 8 of the Small Business Act by adding a new subsection (e). That law empowers the Secretary of Commerce to obtain and publish notice of all proposed defense procurement actions in excess of $10,000, and all civilian procurement actions above $5,000. The statute further direct the Secretary to publish these procurement notices daily to the "United States Department of Commerce Synopsis of the United States Government Proposed

Procurements, Sales and Contract Awards" a publication now known as the Commerce Business Daily or "CBD". The law also enumerates ten exceptions to the requirements for publication of those procurement actions.

By enacting Public Law 87-305, the Congress clearly expressed its interest in having Federal procuring agencies provide the business community with information concerning upcoming government contracting opportunities. The provisions contained in subsection 8(e) are fully consistent with Congressional policy contained in section 2(a) of the Small Business Act, which states:

It is the declared policy of the Congress that the Government should aid, counsel, assist and protect, insofar as possible, the interests of small-business concerns in order to preserve free competitive enterprise, *to insure that a fair proportion of the total purchases and contracts or subcontracts for property and services for the government . . . be placed with small business enterprises, to insure that a fair proportion of the total sales of government property be made to such enterprises,* and to maintain and strengthen the overall economy of the Nation. (Emphasis added.)

This committee repeatedly has concurred with these findings, and reaffirmed its commitment to these principles from the outset of its consideration of S. 1947.

B. EVOLUTION OF THE COMMERCE BUSINESS DAILY

Consistent with the objectives of Public Law 87-305, the purpose of the Commerce Business Daily is to provide U.S. business in general, and small business in particular, with pertinent information about federal procurement actions, which will total more than $110 billion in fiscal year 1982.

Prior to the enactment of Public Law 87-305 in 1961, the Commerce Business Daily was primarily used as an administrative tool, designed to assist Department of Commerce personnel in keeping the business community informed about Federal procurement actions. It was originally produced in mimeograph form, and distributed at no cost through Department of Commerce field offices on an ad hoc basis. The Government Printing Office (GPO) eventually assumed the publication and distribution functions related to the Commerce Business Daily, although all editorial functions have remained within the jurisdiction of the Department of Commerce.

Currently, the Commerce Business Daily editorial staff process an average of 800 procurement actions each business day, or about 200,000 procurement notices per year. Annual subscriptions have steadily increased over the years and today number approximately 40,000.

Currently, the annual Commerce Business Daily subscription rate is $175 for first class or priority mail, and $100 for regular or domestic mail. Subscription fees cover all direct and administrative costs incurred by the GPO in publishing and mailing the Commerce Business Daily, including a fifty percent surcharge imposed by the Public Printer. The annual Department of Commerce administrative and editorial costs of approximately $1 million are not covered by subscription fees, but are included in the agency's congressionally appropriated funds.

In recent years, the format of the Commerce Business Daily has also been expanded to include notice of congressionally sponsored procurement seminars and other general business news.

C. PROCUREMENT AGENCY COMPLIANCE WITH COMMERCE BUSINESS DAILY REGULATIONS

The Federal Procurement Regulations (FPR section 1, part 10) and the Defense Acquisition Regulations (DAR section 1, part 10) govern advertising in the Commerce Business Daily and provide for the regulatory implementation of Public Law 87-305.

Like the statute, these regulations delineate ten exemptions to the general requirement for publishing advance notice of procurement actions in the Commerce Business Daily. For all procurements that require advance notice, however, the regulations state, as a general rule, that procuring activities should publicize proposed procurements 10 calendar days before issuance of the invitations for bids or request for proposals.

The regulations also require that after solicitations have been made available, bidding time should not be less than twenty calendar days for the procurement of standard commercial articles or services. For other than standard commercial items, the regulations require that bidding time be not less than thirty calendar days from the time a solicitation is issued. These minimum bidding regulations apply only to formally advertised contracts; there are no time limits established in regulations for negotiated contracts, even though such contracts represent the bulk of federal purchases.

The Defense Acquisition Regulations and the Federal Procurement Regulations also govern other aspects of advertising in the Commerce Business Daily, by providing guidelines to agencies on the preparation and transmittal of procurement synopses, and by specifying the classification codes used in synopses to identify and compartmentalize broad procurement categories.

Each procuring agency is responsible for complying with the regulations in their entirety. Yet, during the committee's hearings on S. 1947, witnesses (from the Federal agencies and the small business community) repeatedly noted that the regulations are only partially complied with, or at times, are totally ignored, by procuring agencies. Several small business owners who regularly use the Commerce Business Daily informed the committee that all too often, synopses appear too late to permit an interested company to prepare and submit a timely bid or proposal. They added that this problem is compounded when synopses contain inadequate information, or are "misfiled" in the Commerce Business Daily. As one small business contractor summarized at the San Diego field hearing:

"If published synopses contain insufficient information, then the time required to make further inquiries of the procuring agency can consume bidding deadlines. If I have to hunt through the entire publication, instead of the sections that pertain to my line of business, the value of the CBD to my company is greatly reduced."

The committee also learned that even when notices are complete and "proper," mail delays further reduce the time bidders have to respond. This problem is particularly acute for companies located great distances from Chicago, where the Commerce Business Daily is printed and mailed. While some delays can be attributed to those subscribers who choose to have mail delivered by other than first class even, "priority" subscribers have expressed similar concern about the "timeliness" of notices that are contained in the CBD.

Another common complaint centered around agency abuse of the exemptions from advertising in the Commerce Business Daily. Several small business witnesses testified that they believed many more procurements should be advertised under the provisions of the law than actually appear.

When questioned by the committee about synopses that violate the minimum time periods, the senior Department of Commerce official responsible for the preparation of the Commerce Business Daily attributed the variation between regulatory policy and agency practice to "time escape clause" which are also provided for in the regulations. He added that in his view the Department has no "enforcement" authority over the procuring agencies to compel adherence to the regulatory timetables, and that the Commerce Business Daily staff has no actual control over procuring agency notices that are submitted beyond the regulatory guidelines established.

Another witness reported that although the Small Business Administration SBA periodically issues surveillance reports on agency compliance with the Commerce Business Daily requirements, these reports are ignored as often as the regulations themselves.

The Administrator of the Office of Federal Procurement Policy (OFPP) admitted that enforcement of the Commerce Business Daily regulations was indeed difficult. Yet, he advocated administratively strengthening the existing regulations as the best method for improving the "timeliness" problems described by the small business witnesses.

D. NEED FOR LEGISLATIVE CHANGES

Small businesses continue to experience difficulty in obtaining their fair share of the federal procurement dollar. Unable to support large marketing staffs to deal with geographically dispersed government purchasing offices, most small firms are almost totally dependent on the synopses published in the Commerce Business Daily as their means of obtaining procurement information. The synopses of contracting opportunities published by the Government are a vital source of information for small businesses if received in sufficient time, and with sufficient detail.

However, as previously discussed, the committee heard from witness after witness during its hearings on S. 1947, that current regulatory guidelines are not sufficient to ensure either the timeliness, or the accuracy, of information published in the Commerce Business Daily. Unlike the administration, the committee views further regulatory requirements as ineffective unless they are backed by statute. Accordingly, the committee believes it is necessary to enact legislation establishing new minimum time periods for publication of, and bidding on, all Federal contracts. The committee also maintains that it is necessary to clarify the existing statutory exemptions to publication of synopses in the Commerce Business Daily, so as to maximize the usefulness of the document to the procurement community at large, and decrease the likelihood of the misuse of the exemptions by procuring agencies.

In the committee's view, the small business person who is ready, willing, and able to participate in the Federal procurement process will benefit from an improved and expanded version of the Commerce Business Daily because it should open up additional procurement opportunities for that business. The Government will benefit because of the increased participation by small busi-

ness in federal procurement, and because it will have the opportunity to increase its sources of supply. The taxpayer will benefit because increased competition in Federal purchases increases the likelihood that high quality goods and services will be procured at the lowest possible price.

Mr. President, I join Senator PRESSLER in urging our colleagues to expeditiously consider this bill. It will go a long way toward helping small firms get their share of Federal contracts during these tough economic times.●

By Mr. WEICKER:

S. 273. A bill to amend section 8(a)(1) of the Small Business Act; to the Committee on Small Business.

MINORITY SMALL BUSINESS PILOT PROCUREMENT ACT OF 1983

● Mr. WEICKER. Mr. President, I am sending to the desk a bill to reauthorize the Small Business Administration's section 8(a) pilot procurement program. The legislative authority for this program expired during the last Congress. Shortly before its expiration, I introduced S. 1620, which would have extended the program for an additional 18 months. That legislation was unanimously reported out by the Small Business Committee and placed on the Senate Calendar. Unfortunately, the Senate did not consider this bill prior to the end of the 97th Congress. Therefore, I am introducing similar legislation today.

This legislation would reauthorize this pilot program for an additional 18 months after the date of enactment. In addition, it would require the President to designate an agency, not in the Department of Defense, as the pilot agency.

Under the SBA's regular section 8(a) procurement program, Federal agencies and departments voluntarily offer procurement requirements for which SBA is authorized to subcontract the work to small businesses owned by socially and economically disadvantaged persons. Under the pilot procurement program, SBA has the authority to identify and to select from the procurement needs of the agency designated by the President, suitable procurements for inclusion in the 8(a) program.

The concept of the pilot authority evolved out of a recognition that most of the Federal contracts awarded under the 8(a) program have traditionally been for work in general services, such as food services or janitorial services. In a 1978 report to the Senate Small Business Committee, the General Accounting Office noted that SBA's ability to develop firms in the 8(a) program was limited by the types of contracts offered by Federal agencies. Hence, Congress in 1978 authorized the pilot program to give SBA the authority to select contracts in nontraditional high technology areas in order to develop minority firms in areas with a high potential for economic growth.

Mr. President, the concept of the pilot program is still valid; the need for the authority is as pressing today as it was in 1978, and last year. In a subsequent 1981 report to Congress, GAO, although recognizing the difficulties the SBA had in implementing and managing this program, specifically recommended that the program be continued so that the legislative objective of Congress could be fully tested. This had not been done, in its judgment, during the short period of time of its implementation with the Department of the Army.

Clearly, the areas of future growth in our economy will be in the area of high technology. We must insure that all of our citizens have an opportunity to share in that growth. By providing SBA with this authority, we can help assure that minority firms receive Federal contracts to develop in these growth areas.

Mr. President, on December 17, 1982, President Reagan, in a White House speech, said that this administration plans to assist in the expansion of over 60,000 minority businesses over the next 10 years. In that speech, he also said the Federal Government will procure an estimated $15 billion in goods and services from minority businesses over the next 3 fiscal years. The President indicated that emphasis will be placed on firms with high growth potential. Extending the authority for this pilot program will certainly enhance the administration's ability to attain those laudable goals.

I intend to move expeditiously on this legislation. The authority needs to be extended. If this bill is enacted, new contract opportunities for minority businesses will be created. This means jobs and economic growth. With this country in its current economic condition, I know of no better time to move on this legislation.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD at the end of my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 273

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Minority Small Business Pilot Procurement Act of 1983".

SEC. 2. (a) Clause (B) of the first sentence of section 8(a)(1) of the Small Business Act is amended by striking out ", as shall be designated by the President within 60 days after the effective date of this paragraph," and inserting in lieu thereof "(other than the Department of Defense or any component thereof) as shall be designated by the President".

(b) The designation of an agency pursuant to the amendment made by subsection (a) shall be made not later than sixty days after the date of enactment of this Act.

SEC. 3. The last sentence of section 8(a)(1) of the Small Business Act is amended to read as follows: "No contract may be entered into under subparagraph (B) after the expiration of 18 months following the enactment of the Minority Small Business Pilot Procurement Act of 1983.". ●

By Mr. GRASSLEY:

S.J. Res. 24. Joint resolution proposing an amendment to the Constitution of the United States with respect to the right to life; to the Committee on the Judiciary.

RIGHT TO LIFE AMENDMENT

Mr. GRASSLEY. Mr. President, this month we mark the tenth anniversary of the Supreme Court's decision that has permitted the abortion of millions of unborn children over the years. It is a time to reflect on the significance of a legal system that permits the deaths of thousands each week. It is also a time to reflect on the hard work and success of those who have fought the battle against abortion thus far.

The joint resolution that I am introducing today is a simple reaffirmation of the human rights tradition celebrated by the Declaration of Independence. It affirms that all human beings are legal persons, regardless of age, health, or condition—including offspring, both before and after birth. This resolution would allow abortions only to prevent the death of the mother. If passed by two-thirds of each House, the amendment would then be required to be ratified by the legislatures of three-fourths of the States within 7 years of enactment by Congress.

As Senators know, my commitment to right to life has not been a fleeting or expedient, position. I have consistently supported right to life legislation since I first served in the House of Representatives, and have consistently opposed any Federal funding of abortions. In the first 8 years of my service in Congress, I have voted repeatedly against Federal funding of abortions and three times offered right to life amendments to the Constitution.

I have searched my soul and decided that this issue will determine, as several others, what we are as a people. I do not consider it a religious issue. I consider it a human issue, perhaps one of the greatest civil rights issues of all time. The right to life deals with the most defenseless, voiceless, and vulnerable of all human beings—the unborn. The dimensions and significance of this issue are great. We have tolerated over 1 million abortions every year in this country. This is a staggering waste of human life.

Our fight still continues in Congress with the Senate remaining a key battleground. I have high hopes that many of my colleagues will join me this Congress in supporting such legislation which is vital to our human rights tenets.

On this 10th anniversary, we should reflect on our success and prepare ourselves for the struggles ahead. We must resist a legal system which allows the destruction of innocent lives. We must also be vigilant to guard against further inroads contrary to each individual's right to life.

I recognize that some of my colleagues are among those Americans who view this issue from a different perspective. There is no room in this controversy for those who give way to excesses of emotion and rhetoric, or who question the motives of those with whom they disagree. I look forward to a rational discussion and hope for a chance to turn this issue over to the people.

Mr. President, I ask unanimous consent to have the joint resolution printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 24

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, to be valid only if ratified by the legislatures of three-fourths of the several States within seven years after the date of final passage of this joint resolution:

"ARTICLE—

"SECTION 1. With respect to the right to life, the word 'person' as used in this article and in the fifth and fourteenth articles of amendment to the Constitution of the United States applies to all human beifgs irrespective of age, health, function, or condition of dependency, includifg their unborn offspring at every stage of their biological development.

"SECTION 2. No unborn person shall be deprived of life by any person: *Provided, however,* That nothing in this article shall prohibit a law permitting only those medical procedures required to prevent the death of the mother.

"SECTION 3. The Congress and the several States shall have power to enforce this article by appropriate legislation.".

By Mr. COHEN (for himself and Mr. MITCHELL):

S.J. Res. 25. Joint resolution redesignating the St. Croix Island National Monument in the State of Maine as the "St. Croix Island International Historic Site; to the Committee on Energy and Natural Resources.

ST. CROIX ISLAND INTERNATIONAL HISTORIC SITE

● Mr. COHEN. Mr. President, today I am extremely pleased to reintroduce legislation which would redesignate St. Croix Island, located in the St. Croix River between Maine and New Brunswick, Canada, as an international historic site.

Due in large part to the efforts of the chairman of the Energy and Natural Resources Committee, Senator MCCLURE, this legislation was approved by the Senate before adjournment of the 97th Congress. Unfortunately, identical legislation never made it to the floor of the House of Representatives and it is therefore necessary for me to reintroduce this joint resolution.

The effort to redesignate the St. Croix National Monument as an international historic site has been going on for a half a century now, and passage of this resolution will be the culmination of events which have occurred during that time. In 1935, Senator Wallace White of Maine introduced a bill authorizing Congress to name St. Croix Island as a national monument. It was not until 1949, again with the support of the Maine congressional delegation, that a bill authorizing the St. Croix National Monument was signed into law. It took almost 20 years before all deeds to the land were recorded, thus clearing the way for the dedication and establishment of the island as a national monument. On June 30, 1968, the formal dedication of the monument took place, in part sponsored by the U.S. Park Service.

Since that time, the role played by Canada in the history of St. Croix Island has been recognized as a significant one, and it is therefore the purpose of this legislation to alter the status of the monument by making it an international site. The bill has been drafted in the pattern established by the legislation creating the Roosevelt-Campobello International Park on Campobello Island in New Brunswick. It would not authorize the expenditure of funds for any additional purchase of property, nor would it restrict any of the current authority of the Park Service over the administration of the island.

The appreciation of Canada's role in the historical development of St. Croix comes naturally when one examines the record of discovery and settlement of the island. In 1604, the French explorers Sieur de Monts and Samuel de Champlain selected St. Croix as the site of the first European settlement on the Atlantic coast north of Florida. De Monts named the island "St. Croix" because just above it two long coves met with the river to form a cross.

Here on St. Croix Island the French settlers met the wilderness of North America in its most challenging setting. The winter of 1604-05 came early, surprising the colonists, and De Monts contemplated returning to France after losing half his company. However, at the last moment he was convinced to move the settlement to a different location "better adapted * * * and with better temperature than our own," as Champlain wrote in his journals.

The island was then abandoned, and in later years it was used as a neutral meeting site during the War of 1812 for British and American merchants. Part of the island later came into private ownership, and the U.S. Coast Guard set up a light station on another part. This arrangement prevailed until the National Park Service acquired the deeds to all the land on the island.

Although the boundary commission, established in 1796 as an outgrowth of the Treaty of Paris, determined that St. Croix Island lay within the territorial limits of the United States, the close ties of the island's history to that of Canada cannot be ignored. On St. Croix Island was begun the chain of events that would culminate in the success of a settlement at Port Royal and the establishment of a solid French community at Quebec. As one historian noted, it was the "crucible for the establishment of French power on the continent." The history of both the United States and Canada is closely linked with the initial settlement of St. Croix Island, and centuries of cooperation and understanding have followed those early days of experimentation in the wilderness.

This past September, in anticipation of passage of this legislation, the United States and Canada held a ceremony honoring the signing of a memorandum of understanding between the two nations on making St. Croix Island an international historic site.

It becomes even more important, therefore, that we act quickly to approve this legislation once again, so that the historical recognition the island deserves is formally commemorated. Residents of Maine and New Brunswick have worked diligently to bring this hope to reality, and it is now up to us to followthrough on the final act of recognition of the rich history given us by those early settlers.●

● Mr. MITCHELL. Mr. President, I am pleased to join with my colleague from Maine, Senator COHEN, in introducing legislation redesignating St. Croix Island in the State of Maine as an international historic site.

St. Croix Island National Monument is a small portion of the national park system that lies within the boundaries of the city of Calais, in Washington County, Maine, in the estuary of the St. Croix River approximately 4 miles from the river's entrance into Passamaquoddy Bay. The monument itself consists of three parcels of land, with over 7 acres above high tide.

Archeological excavations have revealed human habitation dating back 4,000 years when Indians with a nomadic lifestyle used St. Croix Island as a seasonal fishing camp. Of important historical significance was the landing of a French expedition in June 1604, led by Sieur de Monts. With a company of around 150, including the geographer Samuel de Champlain, Sieur de Monts established a colony which was

expected to hold promise because of the monopoly he had on fur trade and the existence of timber, arable land, and precious metal. Half of the inhabitants left that autumn and, of the 79 persons who remained during the harsh winter, 35 perished.

After a relief party arrived from France the following June 1605, the company moved to Port Royal, Nova Scotia, ending one of the first permanent European settlements in North America.

The island received attention once again during the late 1700's when negotiators of the 1796-99 International Boundary Commission sought to settle the boundary between the United States and Canada following the end of the Revolutionary War. Excavators verified the French settlement, and ultimately, the island was placed on the American side of the border.

History books record the founding of Jamestown in 1607 and the landing at Plymouth in 1620 as significant events in the early European colonization of this continent. St. Croix Island received relatively scant attention as part of this effort until it was designated by Congress, in 1949, as a national monument. It was dedicated as such in 1968, after all the deeds to what had been private land on the island and on the mainland were transferred to the National Park Service.

As a Senator representing the State of Maine, I am proud of the role which St. Croix Island has played in the settlement of North America. It is of historical significance to the State of Maine which today continues to have a strong French heritage. And it is important to our Canadian neighbors, particularly those in the provinces of Quebec and New Brunswick. For, not only was the settlement led by Sieur de Monts and Champlain one of the first of European origin north of Florida, but Champlain went on to found Quebec and explored other parts of present-day Ontario. He is regarded as the father of Quebec and a founder of Canada.

The premier of New Brunswick, Richard Hatfield, has for many years been seeking the redesignation of St. Croix Island as testimony to its prominence in Canadian history.

Sixty miles southeast of St. Croix Island on the Canadian side of Passamaquoddy Bay lies Campobello Island. Located on it is the Roosevelt Campobello International Park, dedicated to the memory of Franklin Delano Roosevelt, one of our country's great Presidents. My predecessor in the Senate, former Senator Edmund S. Muskie, currently serves as its chairman. Since its founding in 1964, this park has served as a model of cooperation between the United States and Canada, both of which contribute funds equally on an annual basis for the operation and maintenance of park grounds and facilities.

Designating St. Croix Island as an international historic site would build on this cooperative effort on the borders of Maine and Eastern Canada and preserve that which is of historical, cultural, and recreational significance to both countries.

This legislation passed the Senate by unanimous consent on December 19, 1982. Unfortunately, because differences between the House and Senate could not be reconciled, the resolution died with the adjournment of the 97th Congress.

I urge prompt consideration and enactment of this legislation. By so doing, we will send a much needed message to citizens on both sides of the border acknowledging our common heritage and interests.●

ADDITIONAL COSPONSORS

S. 7

At the request of Mr. CRANSTON, the name of the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of S. 7, a bill to amend title XIX of the Social Security Act to extend medicaid eligibility to certain low-income pregnant women and newborn children.

S. 26

At the request of Mr. HELMS, the name of the Senator from Alabama (Mr. DENTON) was added as a cosponsor of S. 26, a bill to provide legal protection for unborn human beings and for other purposes.

S. 62

At the request of Mr. SASSER, the names of the Senator from California (Mr. WILSON), the Senator from Hawaii (Mr. INOUYE), and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of S. 62, a bill to provide for the issuance of a commemorative stamp to honor the dedication of the Vietnam Veterans Memorial.

S. 76

At the request of Mr. DOLE, the names of the Senator from Pennsylvania (Mr. HEINZ), and the Senator from Wyoming (Mr. WALLOP) were added as cosponsors of S. 76, a bill to increase the retirement age at which full benefits are paid.

S. 97

At the request of Mr. FORD, the names of the Senator from Illinois (Mr. DIXON), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Utah (Mr. HATCH), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Michigan (Mr. LEVIN), the Senator from North Dakota (Mr. BURDICK), the Senator from Maryland (Mr. SARBANES), the Senator from Montana (Mr. MELCHER), the Senator from Michigan (Mr. RIEGLE), the Senator from Ohio (Mr. GLENN), the Senator from Delaware (Mr. BIDEN), and the Senator from Alabama (Mr. HEFLIN) were added as cosponsors of S. 97, a bill to amend the Railroad Unemployment Insurance Act to provide supplemental unemployment benefits to certain employees with less than 10 years of service.

S. 105

At the request of Mr. THURMOND, the names of the Senator from Virginia (Mr. WARNER), and the Senator from Georgia (Mr. MATTINGLY) were added as cosponsors of S. 105, a bill to define the affirmative defense of insanity and to provide a procedure for the commitment of offenders suffering from a mental disease or defect, and for other purposes.

S. 137

At the request of Mr. ROTH, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 137, a bill to amend the Internal Revenue Code of 1954 to continue to allow mortgage bonds to be issued.

SENATE JOINT RESOLUTION 8

At the request of Mr. HELMS, the name of the Senator from Alabama (Mr. DENTON) was added as a cosponsor of Senate Joint Resolution 8, a joint resolution to amend the Constitution of the United States to guarantee the right to life.

SENATE JOINT RESOLUTION 9

At the request of Mr. HELMS, the name of the Senator from Alabama (Mr. DENTON) was added as a cosponsor of Senate Joint Resolution 9, a joint resolution to amend the Constitution of the United States to guarantee the right to life.

SENATE JOINT RESOLUTION 10

At the request of Mr. TSONGAS, the name of the Senator from California (Mr. WILSON) was added as a cosponsor of Senate Joint Resolution 10, a joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for women and men.

SENATE CONCURRENT RESOLUTION 5—RELATING TO THE FINANCING OF THE RAILROAD RETIREMENT PROGRAM

Mr. SASSER (for himself, Mr. HEINZ, Mr. HUDDLESTON, Mr. BOSCHWITZ, Mr. ABDNOR, Mr. GORTON, Mr. LUGAR, Mr. GLENN, Mr. CHILES, Mr. METZENBAUM, Mr. PRYOR, Mr. D'AMATO, Mr. HOLLINGS, Mr. ANDREWS, and Mr. BAUCUS), submitted the following concurrent resolution; which was referred to the Committee on Labor and Human Resources:

S. CON. RES. 5

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the Railroad Retirement Board and representatives of railroad employees and carriers should jointly or independently explore possible alterna-

tive methods of financing the railroad retirement program, and by October 1, 1983, should, jointly or separately, submit a report to Congress describing the various alternatives studied and discussing the merits of each alternative as a means of financing the railroad retirement program.

SEC. 2. The Congress urges both railroad labor and management to discuss the financial difficulties facing the railroad retirement program, and to reach an agreement on how best to resolve those financial difficulties, at the earliest possible date.

Mr. SASSER. Mr. President, I rise today to offer Senate Concurrent Resolution 5 with my colleague Senator HEINZ and other interested colleagues. We offer this measure in an effort to head off a pending financial crisis in the railroad retirement system.

Senate Concurrent Resolution 5 is straightforward and direct. It calls on railroad labor and management to immediately discuss the financial difficulties facing the railroad retirement program in order to reach a joint agreement on how to resolve these financial problems.

Mr. President, I have had a longstanding concern for the railroad retirement system. I supported the amendment of my colleague, Mr. METZENBAUM, to the 1982 continuing appropriations bill that provided full retirement benefits to retirees that were eligible for both social security and railroad retirement benefits under the Railroad Retirement Act of 1974.

I worked with my distinguished colleague, Mr. HEINZ, in December 1981 to block a proposed OMB impoundment of railroad retirement funds that would have reduced benefits by some $50 million. And I subsequently requested and received a GAO report on March 5, 1982, which clearly stated that OMB had exceeded its authority in attempting to impound these funds.

I also offered a successful amendment to the first concurrent budget resolution for fiscal year 1983 that provided for full funding of various railroad retirement benefits during that fiscal year. This amendment passed the Senate by a vote of 57 to 40 on May 21, 1982, and was contained in the conference report on the first concurrent budget resolution.

Mr. President, the Congress supports a strong, stable, and solvent railroad retirement system. They want such a system to protect the rightful benefits of the more than 1 million beneficiaries of the railroad retirement system.

The current state of the economy and increases in the level of railroad unemployment have hurt the financial status of the railroad retirement system. The chief actuary of the Railroad Retirement Board, in various communications to the Board, has noted that increases in tier 2 tax rates and possibly even increases in ton-mile taxes may have to be considered by July of this year if full benefits under the railroad retirement system are to be forthcoming.

Over the years there have been declining trust fund balances in the Railroad Retirement Fund. Yet, the Congress has acted on several occasions to make changes in the railroad retirement system in order to insure continued timely payment of benefits. It will continue to do with the cooperation of railroad management and labor.

The Congress, with the advise of the Railroad Retirement Board, and representatives of rail management and labor stands ready to tackle the current problems of the railroad retirement system in a prudent and responsible manner. That is why Senator HEINZ and I, along with out distinguished colleagues offer Senate Concurrent Resolution 5, at this early date in this session of Congress.

I urge quick Senate action on this measure.

Mr. HEINZ. Mr. President, I am pleased to join the Senator from Tennessee in introducing this concurrent resolution, which expresses the sense of the Congress that rail labor and managment should sit down at the bargaining table, explore the various alternatives for restoring solvency to the railroad retirement system, and reach an agreement on a financing package as soon as possible.

The railroad retirement system is financed by the combined payroll contributions of rail employers and employees. And it is the venerable tradition of ths sector of the economy that rail labor and management negotiate the details of their retirement system. That is the appropriate way to proceed in this matter, and this resolution evokes that tradition.

At the same time, however, we, in Congress, must make a statement to nearly 1 million beneficiaries nationwide, and more than 80,000 in my own State of Pennsylvania, that Members of Congress will not sit idly by and allow their benefits to be reduced precipitously because of further deteriorations in the economy. Yet such precipitous benefit cuts are now at risk. Why? Because for railroad retirement, like social security, the Nation's poor economic performance has exacted a heavy toll. Indeed, rail employment has declined by more than 20 percent since the last financing package was agreed to by the Congress in 1981.

In July 1981, when the last railroad retirement refinancing package was agreed to by the Congress, rail employment stood at 514,000. As of last month, employment dropped to 404,000—or a loss of 110,000 jobs within 1½ years. The railroad retirement financing package of 1981 was based on projected employment levels of 500,000 for the decade, and provided adequate revenues to finance the system through the 1980's at a level of employment of 500,000 or more. But with these rapid declines in rail employment, the rail actuary now says that the railroad retirement system will exceed its borrowing authority in fiscal year 1984, thereby necessitating, by the provisions in current law, a reduction in retiree benefits effective October 1, 1983—unless a corrective package of legislation is adopted by Congress before then.

It is important to understand why benefit cuts would come about.

The 1981 changes in railroad retirement gave the system limited authority to borrow from general revenues against the annual amounts owed to the railroad retirement system by the social security system, under the terms of the so-called financial interchange. But the 1981 law also requires that in any fiscal year when payment of railroad retirement is likely to exceed that borrowing authority, the Railroad Retirement Board must issue advance regulations as to how it will apportion benefits in months when there are inadequate revenues to pay everyone their full entitlement.

The Railroad Retirement Board is now advising the Congress that it will exceed its borrowing authority in fiscal year 1984, and that the regulations for paying reduced benefits will be issued by April 1, 1983, as required by law. Now the issuance of such regulations does not mean that the October benefits of railroad retirees will be cut. But if there is no benefit financing package enacted by Congress before October 1, 1983, the checks for October will be reduced. The law also requires that recommendations on the various options for meeting the financing difficulties be made by rail labor and rail management as well as by the President.

What we are saying in this resolution is simply that rail labor and management should respond to this urgent situation by producing a financing package as quickly as possible. And I call upon my colleagues in the Senate and in the House to join us in this statement.

SENATE CONCURRENT RESOLUTION 6—ENTITLED "PREVENTING HUNGER AT HOME"

Mr. BOSCHWITZ (for himself, Mr. DANFORTH, Mr. HUDDLESTON, Mr. LEAHY, Mr. COHEN, Mr. EAGLETON, and Mr. JEPSEN) submitted the following concurrent resolution; which was referred to the Committee on Appropriations:

S. CON. RES. 6

Whereas federal nutrition programs, including the Food Stamp Program, School Lunch Program, School Breakfast Program, Child Care Food Program, Summer Food Program, Special Supplemental Food Program for Women, Infants and Children (WIC), the Commodity Supplemental Food Program, Special Milk Program, and elderly

feeding programs, have been effective in reducing hunger and malnutrition in the United States;

Whereas Congress has closely scrutinized and made significant changes in both child nutrition and food stamps over the past two years in an effort to achieve budgetary savings;

Whereas current levels of unemployment have greatly increased dependency on federal, state and local food programs;

Whereas churches and other volunteer organizations in the United States are having difficulty meeting the growing need for food created by poor economic conditions;

Whereas the Food Stamp Program provides nutrition benefits to those without the means to obtain a nutritionally adequate diet and is often the only form of federal assistance available to many unemployed workers;

Whereas nutrition benefits to mothers and children at critical periods of growth represent a cost-effective way to reduce infant mortality, low birth weight and promote long-term health;

Whereas nutrition benefits through the school lunch program and other child nutrition programs significantly contribute to the health maintenance and learning potential of our nation's children;

Whereas nutrition programs for elderly people, including the food stamp program, can prolong health, allow for independent living, and preserve the dignity of our nation's senior citizens;

Whereas a federal role in meeting the nutritional needs of low-income Americans is appropriate since the costs of obtaining an adequate diet do not vary significantly throughout this country;

Whereas a reduction in the federal government's commitment to provide adequate nutrition to the needy would cause increasing hardship and hunger to those least able to survive in our society: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) The federal nutrition programs, including the food stamp, child nutrition, and elderly feeding programs, should be protected from budget cuts that would prevent them from responding effectively to nutritional needs in the U.S.;

(2) The Special Supplemental Food Program for Women, Infants and Children (WIC) should continue to be funded at the full level authorized by law;

(3) The federal government should maintain primary responsibility for nutrition programs.

Mr. BOSCHWITZ. Mr. President, I rise today to introduce a resolution entitled "Preventing Hunger at Home." The resolution expresses congressional commitment to insuring that Federal nutrition programs are funded adequately at a time when it is crucial that these programs respond effectively to nutritional needs in the United States. The resolution has the backing of Bread for the World and many other groups throughout the country that share a commitment to finding a solution to the problems of hunger and malnutrition.

The "Preventing Hunger at Home" resolution expresses the sense of Congress that the nutrition programs be protected from budget cuts that would prevent them from responding effectively to the nutritional needs of our citizens. The resolution also states that the special supplemental food program for women, infants, and children (WIC) should continue to be funded at the full level authorized by law. The resolution further states that the Federal Government should maintain primary responsibility for nutrition programs.

The Federal nutrition program, including food stamps, school lunch, school breakfast, child care food, WIC, and others, have been effective in reducing hunger and malnutrition in the United States. In the past 2 years, Congress has closely scrutinized and made significant changes in both the child nutrition and food stamp programs in an effort to achieve budgetary savings.

The food stamp program serves as a good illustration of the efforts that Congress has made to insure the growth of Federal programs does not outpace working men and women's wages. In fiscal year 1979, the first year I served in the Senate an average of 17.7 million people participated in the food stamp program each month at a total cost of $6.9 billion. Two years later the program was serving an average of 22.4 million people monthly at a total cost of $11.4 billion. Participation in the food stamp program grew 26.5 percent in 2 years and costs rose 65.2 percent. In sharp contrast, for the first time since the food stamp program was enacted on a nationwide basis in 1964, average monthly participation dropped in the last fiscal year (1982) to 22.1 million, a decrease of 1.3 percent. More surprisingly, costs dropped to $11.3 billion, a decrease of 0.9 percent. Admittedly, some of the savings were due to delaying adjustments to reflect increases in the cost of food, but I am confident that the changes that were made when the food stamp program was reauthorized last fall will provide long-term savings and control of the program.

Under the leadership of Senator DOLE, sensible and pragmatic changes were made in the food stamp program. States will be required to get their error rates below 5 percent by fiscal year 1985. Siblings that live together will be required to apply together and will be considered a single household in determining their food stamp benefits. (Two households of two people each get more in food stamp benefits than one household of four people.) Administering agencies will now be allowed to reduce benefits immediately whenever a household that provides information in writing that their circumstances have changed. Previously, an agency had to wait at least 10 days after receipt of such information before it could reduce benefits and, in some cases, an additional full month's benefits had to be provided. This "laundry list" is merely a sampling of the changes that were made in the food stamp program when it was reauthorized this past fall.

My purpose in providing this detailed information on recent changes in the food stamp program is to illustrate that Congress already has closely examined Federal nutrition programs and made some necessary and difficult changes, in an effort to do our part in getting Federal spending under control. But now our focus must shift to insuring that the nutrition programs remain effective in reducing hunger and malnutrition. In the face of a sluggish economy and high unemployment it is particularly urgent that we provide reassurance to those who are depending on nutrition programs to help them through these tough economic times that Congress is committed to providing adequate nutrition assistance to the needy.

I urge my colleagues to join me in cosponsoring this resolution.

Mr. DANFORTH. Mr. President, today we are well aware that the problem of hunger has not disappeared in America. In my home State of Missouri and all across the Nation, hunger and malnutrition are becoming tragic realities for Americans struggling with the problems of a sluggish economy, high unemployment, rising food costs, and the increased cost of such utilities as natural gas.

Because of my concern about this problem, I join today with my colleagues to introduce the "Preventative Hunger at Home" resolution in the Senate. This resolution expresses the sense of the Congress that the Federal food and nutrition programs, includifg the food stamp, child nutrition, and elderly feedifg programs, should be protected from unfair budget cuts; that the special supplemental food program for women, infafts, afd children (WIC) should be funded at the full level authorized for fiscal 1984, and that the Federal Government should maiftain primary responsibility for these food assistance and nutrition programs.

Mr. President, it is in the soup kitchens, food banks, and emergency food pantries across the country that the problem of hunger today appears in sharp relief. The number of people appearing at these facilities and requesting assistance has increased substantially. Church groups and other volunteer organizations operating these facilities have responded superbly to the increased demand. Their efforts are to be encouraged; however, they cannnot do the job alone. In this time of hardship, the Federal Government cannot reduce its commitment to provide food assistance to those least able to survive in our society.

Our country is a land of great abundance. We are a food superpower, and our Federal nutrition programs have enabled us to share this abundance with the least fortunate members of our society. There can be no question that over the years the Federal food assistance programs have reduced hunger and malnutrition in the United States; however, the progress we have made in eliminating hunger at home cannot be allowed to slip away now. Already we are hearing reports of increased infant mortality linked to malnutrition, and at such a time of increased need we must maintain our Federal responsibility and protect Federal nutrition programs from budget cuts that would prevent them from responding effectively.

To be sure, I remain concerned about the growing budget deficit that faces us today and the need to reduce Federal spending, but over the past few years we already have made major changes in these nutrition programs to achieve budgetary savings. If the budget is to be fair, the poorest members of our society should not be asked to do more. We cannot ask them to bear too much of the burden and we now must look elsewhere in our efforts to reduce the Federal deficit.

Moreover, as the resolution states, we must not only protect Federal nutrition programs from unfair budget cuts but also increase funding for the special supplemental program for women, infants, and children—the WIC program. This Federal nutrition program has proven to be a vital and cost-effective means to promote long-term health for low-income families and to combat infant mortality, low birth weight, and other infant health problems caused by malnutrition. Studies have shown that for each dollar invested in the WIC program there is a saving of $3 in postnatal health costs.

At present, approximately 9 million people are eligible for the WIC program, but Federal funds support a caseload of only about 2.3 million. The program is funded at the authorized ceiling level of $1.06 billion for the current fiscal year, but the authorized ceiling for funding in fiscal 1984 is $1.126 billion. At the very least, we should increase funding by $66 million—to the fiscal 1984 ceiling level—in order to allow more eligible women and children to participate in this important nutrition program.

I urge my colleagues to join in this expression of support and Federal responsibility for Federal food assistance and nutrition programs. At this time of growing need, we must not make shortsighted budget cuts that threaten the health of our citizens and will increase long-term health costs for the Nation.

SENATE RESOLUTION 23—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. ROTH, from the Committee on Governmental Affairs, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 23

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Governmental Affairs is authorized from March 1, 1983, through February 28, 1984, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $4,654,047 of which amount (1) not to exceed $189,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $4,725 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

SEC. 3. (a) The committee, or any duly authorized subcommittee thereof, is authorized to study or investigate—

(1) the efficiency and economy of operations of all branches of the Government including the possible existence of fraud, misfeasance, malfeasance, collusion, mismanagement, incompetence, corruption, or unethical practices, waste, extravagance, conflicts of interest, and the improper expenditure of Government funds in transactions, contracts, and activities of the Government or of Government officials and employees and any and all such improper practices between Government personnel and corporations, individuals, companies, or persons affiliated therewith, doing business with the Government; and the compliance or noncompliance of such corporations, companies, or individuals or other entities with the rules, regulations, and laws governing the various governmental agencies and its relationships with the public.

(2) the extent to which criminal or other improper practices or activities are, or have been, engaged in the field of labor-management relations or in groups or organizations of employees or employers, to the detriment of interests of the public, employers, or employees, and to determine whether any changes are required in the laws of the United States in order to protect such interests against the occurrence of such practices or activities;

(3) organized criminal activity which may operate in or otherwise utilize the facilities of interstate or international commerce in furtherance of any transactions and the manner and extent to which, and the identity of the persons, firms, or corporations, or other entities by whom such utilization is being made, and further, to study and investigate the manner in which and the extent to which persons engaged in organized criminal activity have infiltrated lawful business enterprise, and to study the adequacy of Federal laws to prevent the operations of organized crime in interstate or international commerce; and to determine whether any changes are required in the laws of the United States in order to protect the public against such practices or activities;

(4) all other aspects of crime and lawlessness within the United States which have an impact upon or affect the national health, welfare, and safety; including but not limited to investment fraud schemes, commodity and security fraud, computer fraud and the use of off-shore banking and corporate facilities to carry out criminal objectives;

(5) the efficiency and economy of operation of all branches and functions of the Government with particular reference to—

(A) the effectiveness of present national security methods, staffing, and processes as tested against the requirements imposed by the rapidly mounting complexity of national security problems;

(B) the capacity of present national security staffing, methods, and processes to make full use of the Nation's resources of knowledge, talents;

(C) the adequacy of present intergovernmental relationships between the United States and international organizations principally concerned with national security of which the United States is a member; and

(D) legislative and other proposals to improve these methods, processes, and relationships;

(6) the efficiency, economy, and effectiveness of all agencies and departments of the Government involved in the control and management of energy shortages including, but not limited to, their performance with respect to—

(A) the collection and dissemination of accurate statistics on fuel demand and supply;

(B) the implementation of effective energy conservation measures;

(C) the pricing of energy in all forms;

(D) coordination of energy programs with State and local government;

(E) control of export of scarce fuels;

(F) the management of tax, import, pricing, and other policies affecting energy supplies;

(G) maintenance of the independent sector of the petroleum industry as a strong competitive force;

(H) the allocation of fuels in short supply by public and private entities;

(I) the management of energy supplies owned or controlled by the Government;

(J) relations with other oil producing and consuming countries;

(K) the monitoring of compliance by governments, corporations, or individuals with the laws and regulations governing the allocation, conservation, or pricing of energy supplies; and

(L) research into the discovery and development of alternative energy supplies; and

(7) the efficiency and economy of all branches and functions of government with particular reference to the operations and management of Federal regulatory policies and programs:

Provided, That, in carrying out the duties herein set forth, the inquiries of this committee or any subcommittee thereof shall

not be deemed limited to the records, functions, and operations of any particular branch of the Government; but may extend to the records and activities of any persons, corporation, or other entity.

(b) Nothing contained in this section shall affect or impair the exercise of any other standing committee of the Senate of any power, or the discharge by such committee of any duty, conferred or imposed upon it by the Standing Rules of the Senate or by the Legislative Reorganization Act of 1946, as amended.

(c) For the purpose of this section the committee, or any duly authorized subcommittee thereof, or its chairman, or any other member of the committee or subcommittee designated by the chairman, from March 1, 1983, through February 28, 1984, is authorized, in its, his, or their discretion (1) to require by subpena or otherwise the attendance of witnesses and production of correspondence, books, papers, and documents, (2) to holding hearings, (3) to sit and act at any time or place during the sessions, recess, and adjournment periods of the Senate, (4) to administer oaths, and (5) to take testimony, either orally or by sworn statement, or, in the case of staff members of the Permanent Subcommittee on Investigations specifically authorized by the Chairman, by deposition.

(d) All subpenas and related legal processes of the committee and its subcommittees authorized under S. Res. 57 of the Ninety-Seventh Congress, first session, and S. Res. 333 of the Ninety-Seventh Congress, second session, are authorized to continue.

(e) The Permanent Subcommittee on Investigations, by a resolution approved by a majority of its members at a meeting or by poll, in consultation with the Senate Legal Counsel, may authorize the production of documents, papers, and records of the subcommittee to government agencies when needful for the promotion of justice and consistent with the privileges and rights of the Senate. The Chairman of the subcommittee shall publish such resolutions in the Congressional Record.

(f) In voting whether to close any meeting or hearing of the Permanent Subcommittee on Investigations pursuant to Rule XXVI(5)(b) of the Standing Rules of the Senate, written proxies specifically identifying the subject of the hearing may be counted.

SEC. 4. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1984.

SEC. 5. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

SENATE RESOLUTION 24—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON SMALL BUSINESS

Mr. WEICKER, from the Committee on Small Business, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 24

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Small Business is authorized from March 1, 1983 through February 29, 1984, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $951,866.

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 1984.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

NOTICE OF HEARINGS

SUBCOMMITTEE ON EMPLOYMENT AND PRODUCTIVITY

Mr. QUAYLE. Mr. President, the Subcommittee on Employment and Productivity will hold hearings on the Employment Opportunities Act of 1983, and any related measures referred to the subcommittee. On February 15, the administration will testify to present its views. On February 22 and 23, the public will have an opportunity to testify.

Persons desiring to testify on February 22 or 23 should submit written requests to the Subcommittee on Employment and Productivity, SD 428 Dirksen Senate Office Building, Washington, D.C. 20510. Attention: Bob Guttman. Written testimony will be accepted from persons who cannot be scheduled for oral presentation. Requests to testify must be received by February 15, 1983.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. HELMS. Mr. President, I wish to announce that hearings on agricultural export trade issues have been scheduled by the Senate Committee on Agriculture, Nutrition, and Forestry.

Specifically, the hearings will focus on S. 251, the Agricultural Export Equity Act of 1983, which I introduced today.

The hearing will be held on February 17, beginning at 10 a.m., in room 328-A Russell Building.

Anyone wishing further information should contact Denise Alexander at 224-2035.

COMMITTEE ON SMALL BUSINESS

Mr. WEICKER. Mr. President, on February 2, 1983, the Senate Small Business Committee will hold a full committee hearing on S. 273, the Minority Small Business Pilot Procurement Act of 1983 and S. 272, a bill to improve small business access to Federal procurement information. The hearing will begin at 9:30 a.m., in room 428A of the Senate Russell Office Building. Immediately following the hearing, the full committee will proceed to consider these bills. For further information, contact Robert J. Dotchin, at 224-8494.

Mr. President, on February 11, 1983, the Senate Small Business Committee's Subcommittee on Export Promotion and Market Development and the Senate Commerce and Transportation's Subcommittee on Science will hold a joint hearing on the "Obstacles to Exporting Faced by Small Businesses." The hearing will begin at 2 p.m., in the north auditorium of the New Federal Building, fourth floor, 915 Second Avenue, Seattle, Wash. Senator SLADE GORTON will chair the hearing. For further information, contact Anne Sullivan at 224-3188.

ADDITIONAL STATEMENTS

THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS MOVES ON THE ISSUE OF INFRASTRUCTURE AND JOBS

● Mr. STAFFORD. Mr. President, as the 98th Congress opens, our Nation confronts many important issues. These include social security, the budget, the economy, and our national defense.

Fitting within this framework, I am convinced, is the need to move forward and improve our infrastructure, while creating productive jobs.

As chairman of the Committee on Environment and Public Works, I intend to do everything that I can to assure that the Senate acts soon to make progress toward this goal.

Our Nation began this effort with the passage last year of the highway bill. To carry this effort further, the Committee on Environment and Public Works has established a schedule to begin to develop the necessary legislative response within coming months. Initially, we will hold 3 days of hearings:

On Friday, January 28, 1 p.m., we will hear from a panel of mayors.

On Wednesday, February 2, at 10 a.m., and Thursday, February 3, at 10 a.m., we will take testimony from a diverse group of public officials and private experts.

Broad interest exists in the issue of infrastructure and public works investment. Some critics estimate that our

Nation has fallen as much as $3 trillion behind in meeting such public works needs. It is also argued that we can solve much of our severe national unemployment problem with new public works spending.

Our witnesses have been asked to help the committee frame this vital issue. To do this, they have been given a number of general questions that are intended to produce a variety of alternatives beyond the standard approaches such as LPW—local public works.

Our witnesses have been asked to avoid any broad discussion of taxes or deficits or monetary policy, and to target their thoughts on infrastructure activities and the relation that such work may have to the creation of specific job opportunities.

To assist my colleagues, I believe it will be helpful to outline the interests of the committee:

How severe is our infrastructure need? In what geographical areas of the Nation is it most severe? Where is it the least severe?

For what types of projects is the need for investment the greatest? For what type is the need the least?

Would a "needs" survey be valuable? Is it possible to obtain anything realistic from a "needs" survey?

What types of Federal public works programs are most helpful and why? To what degree do those programs need to be reshaped to improve the situation?

What alternative methods of financing are available?

Should the evolution of the Federal interest force the Government to drop support for certain types of projects?

How can we establish an inventory of needed, priority projects?

What new Federal initiatives, if any, are needed?

Have Federal "local public works" programs worked? If not, can they be made to work? How?

Can long-term infrastructure investments be related to countercyclical job creation?

How much job substitution would likely occur as a result of a sudden Federal program for local public works. How?

Can local governments do the same task more cheaply than the Federal Government?

Are targeted tax programs more effective? Would some sort of federally guaranteed municipal bond work most effectively?

What can be done to speed Federal projects already in the pipeline?

What types of projects can be ready to go to construction in 90 days?

If we were to attempt to create a countercyclical jobs program, what kind of trigger would we use to determine when a recession began?

How can a federal public works program reach out successfully to women, low-income youths, and to persons who are unemployed because of the evolution of the economy, such as jobless steelworkers or autoworkers?

What kinds of job programs will reach the unemployed in the most effective way? Which programs have worked? Why? Which programs have failed? Why?

Our committee will work to find the most logical way to increase public works investment, both by the Federal Government and other layers of government. It will consider the link to jobs, and the most realistic ways to induce new jobs, not simply substitute jobs.

It would be my hope that members of the Committee on Environment and Public Works will begin to draft legislation following our initial hearings, then move into more detailed hearing on that legislation within a month or so. It is also my hope that our committee would be in a position to report a comprehensive infrastructure/jobs bill to the Senate by spring of this year.●

SENATOR BILL ARMSTRONG

● Mr. HUMPHREY. Mr. President, as the 97th Congress came to a close many tempers were about to fray. One man, however, rose to put the situation into its proper perspective. He defended the actions of those who sponsored the filibuster against the gas tax, though he did not support it. That man, Mr. President, was Senator BILL ARMSTRONG.

The following article from the Conservative Digest gives our colleague the credit that he deserves for his efforts here in the Senate. I ask that the text of the Conservative Digest article be printed in the RECORD.

The article follows:

BILL ARMSTRONG, THE ALL AMERICAN SENATOR

The news is so grim these days, and this issue of Conservative Digest is largely devoted to taxes which President Reagan's advisors appear determined to raise again and again, that I just thought you might want to read something pleasant for a change.

I've usually been in the position of urging conservatives to fight on principle, and Senators Helms, East, Nickels and Humphrey did just that when they filibustered the gas tax during the lame duck session. Jesse Helms went the full route and kept the Senate in session a few days longer than his colleagues wanted and for that was subjected to incredible abuse inside and outside of the Senate. The usually humorous Senator Alan Simpson showed a dark side of his personality when he not only lashed out against Helms but then almost refused to shake hands when Helms held out the olive branch. The eliteist conservative columnist George Will called Helms a national disgrace, a charge which was answered very effectively, although surprisingly, by James Jackson Kilpatrick who suggested the nation ought to thank Helms, not criticize him.

In the midst of all of this turmoil, the opponents of the Senate filibuster, who have long lusted after rules changes so they can ram their agenda through the Congress, seized the opportunity to begin to push for major revisions of Senate procedure. In the process, to take advantage of the atmosphere, they contributed to the angry feelings against Jesse Helms. Now mind you when Howard Metzenbaum, the leftist from Ohio, did exactly the same thing, he received the praise of some of his colleagues and favorable newspaper editorials for acting in the public interest. Likewise with Lowell Weicker and Bob Packwood.

What is pleasant about all of this? Well, one Senator, who didn't even support the filibuster, rose to put the situation in perspective, defend the good name of Jesse Helms and to suggest that even though he has occasionally suffered because of the current Senate rules, the system is a good one. That Senator was Bill Armstrong who, on that December 22nd, did a great service to the Senate and the nation by his intervention. He was joined, I might add, by Jim McClure and Russell Long.

Armstrong had the courage and good sense and Christian dignity to step into a situation from which most of his colleagues ran away as fast as they could. I was very saddened to hear some of the Senators I most admire join behind the scenes in criticizing Helms. Armstrong, by contrast, both privately and publicly defended Helms and the other Senators and in doing so helped the situation greatly because in his years in Congress he has earned the respect of his colleagues.

The role Armstrong played here was a typical one. Most of the time his deeds are not in public. He is a Senator who is frequently called on to give a pep talk to a colleague who has hit bottom, to give comfort to someone who has been afflicted, to give witness to the Lord's power and strength when His servants get weak.

At a time when so many we look to for leadership let us down, the good character of Bill Armstrong is something to celebrate as the serious work in the Congress begins. This is not to say that I always agree with the Senator. He certainly has supported things I wouldn't have, and his intervention in various party contests back in Colorado has caused him a great deal of trouble. Still, it is in the nature of things that he would intervene. He is usually supporting a friend of long standing. In and of itself in politics, that is highly unusual these days. Politicians, once they are elected, are almost expected to repudiate those who helped them get where they are in favor of their enemies. Armstrong sticks with his friends, even when it hurts.

You might charge that I am biased because after all, the good Senator serves on the Board of the Free Congress Research and Education Foundation, of which I am President. Yet from that vantage point I can point out to you that Armstrong is no different in private than in public, something which is also unusual in Washington. When he agreed to serve on the board he said he would actively participate. I took that with a grain of salt. Some of my colleagues have Senators on their boards and they can never get them to meetings. To my great surprise, Armstrong has made virtually every meeting of the Board and takes a lively and active interest in the life of the Foundation.

Ronald Reagan is supposed to be the great communicator, and indeed he is the best in the White House since FDR. Watch out for Armstrong, though. This former broadcaster is not only a rousing speaker, but a very

skilled debater. I will be very surprised if he doesn't end up on some national ticket at some point in our history.

His talents aside, I am grateful that we have a man like Armstrong in the Senate. The papers revealed that the Senator was at the bedside of Congressman elect Jack Swigert when he died of cancer a few days before he was to be sworn in to the 98th Congress. What most of the papers didn't recall was that Swigert was Armstrong's primary opponent when he ran for the Senate in 1978. Knowing what I knew of that situation, many of us were deeply moved by the friendship which developed after Armstrong won the primary.

At a time in our history when most Senators get briefed on complex legislation by aides running along side of the Senators on the way to the elevators, Armstrong often takes home stacks of books on the complex subjects of the day. He seeks understanding of what he is doing and his colleagues recognize that. That is why, although he often puts them on the spot with tough amendments and proposals they increasingly seek his advice.

This is a man who will take time out of a busy day to hold a bible study session in his office with fellow Senators and then to host other sessions at night in his home.

Bill Armstrong isn't just one in a hundred. He is one in a million. So if you haven't got anything you can think of to be thankful for today, remember the Senator from Colorado. He needs your prayers, because it is a cinch that he will be working and praying for you.●

IN SUPPORT OF THE ERA

● Mr. HEINZ. Today the equal rights amendment remains one of our Nation's most important pieces of unfinished business. I have stood with the drive for passage of the ERA since it began 11 years ago, and I remain committed to its enactment.

As chairman of the Special Committee on Aging, I am especially concerned about the need for the equal rights amendment for elderly women. Many Americans face difficult times in the later years of their lives. However, the consequences of a lifetime of discrimination is devastating for older women. Nearly three-fourths of Americans over 65 below the poverty level are women. In addition, more women than men over 65 have income levels very near the official poverty level.

Inadequacies in retirement benefits is a pressing problem for elderly women, especially widows, divorced, or never-married women. Because retirement benefits are based on an individual's earnings and work history, women receive inequitable benefits. Generally, there are three reasons why women's benefits are lower than men's. First, women tend to have interrupted work schedules due to childrearing; second, they earn less than men; third, women work in job fields which have poor pension coverage. As a result of these factors, women are often ineligible for social security and employee pension benefits or they qualify only for low benefits based on their own earnings. Furthermore, some working women are forced to receive lower benefits because the social security system provides a lower total family benefit to two-earner couples than to one-earner couples with the same covered earnings.

The current social security system is designed to give married homemakers benefits based on their husband's earnings. Under this system, the economic value and contributions a women has made as a homemaker are totally ignored. In addition, under employee pension plans, dependent spouses do not qualify for any benefits. Although the social security system does provide better protection for elderly women than private plans, there are still inequities built into each program. Only through passage of the ERA can we begin to correct these wrongs.

I am proud as the senior Senator from Pennsylvania to know that women in Pennsylvania do have the guarantees of an equal rights amendment. Since its adoption in 1971, my own State's equal rights amendment has been an effective instrument in helping Pennsylvania women fight discrimination. Pennsylvania's equal rights amendment eliminates invalid distinctions based on sex by mandating the equal treatment of men and women.

Although the State equal rights amendment has guaranteed the legal status of women in Pennsylvania, we need an equally strong instrument on the Federal level to insure that the elderly women of our country are also protected against present inequities.

I am convinced that a Federal equal rights amendment is necessary to establish a national policy for the elimination of sex discrimination in the United States. A constitutional amendment is the only guarantee that women will have fair and equal opportunities in education, employment, benefit and pension plans, as single women during marriage, divorce, and through old age.

According to statistics, women make up 52 percent of the job force in America. Yet, women are paid only 60 cents to every dollar paid to men. Most women are at the lower end of the pay scale in such jobs as waitresses, sales clerks, and secretaries. Men, however, are employed in about 250 various occupations, many with the benefits of good pay and promotion. Even women with college degrees earn less on the average then men with only eighth-grade educations. This 60 cent wage gap symbolizes the economic injustice suffered by the American women. The need for the ERA is now compelling.

An overwhelming majority of Americans—75 percent—support equal rights under the law for women. I believe that the American people demand legal recognition of what society has already recognized—that men and women must share equal opportunities and must be treated equally.

The reintroduction of the ERA is only the first step. We must renew the fight for passage for the ERA. It is the right fight and we cannot quit until the job is done.●

THE FEDERAL SUPPLEMENTAL COMPENSATION PROGRAM

● Mr. KENNEDY. Mr. President, yesterday, a bill was introduced to extend the Federal unemployment compensation benefits through September 30, 1983.

I am pleased to be a cosponsor of the Senator from Michigan's bill. Last August this Congress passed the Federal supplemental compensation program in response to the alarming rise in unemployment. In early September, jobless workers in every State who had exhausted all other State and Federal unemployment assistance began receiving additional weeks of benefits. These benefits have meant a reprieve from financial disaster and the humiliation of welfare. They have meant payments for food and fuel and warm clothes. They have kept hope alive.

As we are painfully aware, there is no reason to believe that the alarming unemployment rate will begin dropping substantially in the foreseeable future. Unemployment now stands at 10.8—a full percentage point above the August rate which prompted the passage of the FSC program. One million more Americans have lost their jobs since we first provided for these benefits. We are told by the administration's own forecasts that it will stay above 10 percent the rest of this year and into 1984.

It is imperative that we extend these benefits beyond the current March 31 expiration date. The amendment we are proposing would keep the current unemployment compensation benefits intact through the rest of this fiscal year. The additional cost of this extension is estimated to be $2.4 billion. It is a cost that is necessary and just. It is a responsibility that we must accept and a hand we must extend to the millions of hard-working Americans who would receive this help. It is by no means an answer to the 12 million who are unemployed. But it does mean that many of these deserving men amd women will be able to hold on a little longer until we can act to change the disastrous course of this administration's economic program.

I urge my colleagues to support this amendment.●

THE REINTRODUCTION OF THE EQUAL RIGHTS AMENDMENT

● Mr. DIXON. Mr. President, once again, we are faced with the necessity of having to reintroduce the equal

rights amendment, a constitutional amendment which clearly deserves to be the law of the land.

One thing is certain—the demand for equal rights should not, and will not, be stopped. The reintroduction yeaterday of this measure is surely a testament to that fact.

Now, I believe all of us are familiar with the various arguments surrounding the amendment. The ERA has been linked to, and been the scapegoat for, a fear of change in society. We have heard that passage of this measure would bring about the breakdown of the family. We have heard Biblical references about the submissiveness of women and we have heard about unisex restrooms and women in combat.

These arguments, which helped to defeat the ERA in the past, were derived from what was perceived as an effort to impose a new lifestyle on men and women. The fact is that the roles of men and women have changed in recent years, while institutional barriers to equality still exist. The ERA is an accommodation to social reality and a reconciliation of obvious inequalities.

As we all know, the legitimate authority in this Nation swells up from the bottom. And the endurance of that authority depends on our ability to adapt to changing conditions; to be flexible enough to recognize the needs of our citizens and respond to them.

It is, in fact, purely and simply, a social and economic—not to mention the most obvious moral—necessity for women to enjoy their full and equal rights. None of us need be reminded of the Nation's economic condition. We are all familiar with households in which the husband and wife must both work in order to make ends meet. In fact, the number of women in the work force has increased dramatically in the last few years. In the early sixties, 38 percent of women were in the work force, while in 1982, 52 percent were bringing home paychecks. More than two-thirds of women between 20 and 45 are now working, and yet, on average, women make only 60 cents for every dollar earned by men. That statistic is for men and women of comparable backgounds. Can anyone deny that there is clearly a need here that must be addressed.

I think it should be kept in mind, however, that the ERA does not itself require anything. What it provides is opportunity. The fears of a social metamorphosis are groundless.

Mr. President, I was proud to be one of the movers behind a call for a constitutional convention in Illinois a few years ago. The constitution it brought forth, and which was ratified by the voters in 1970, contains an equal rights provision.

In Illinois, there has been no societal cataclysm as a result, nor would there be at the national level.

I am grateful to be able to join as cosponsor of the resubmission of the ERA and I sincerely hope that during the next ratification period the public debate can center on the real issues involved and the necessity of its passage.●

THE DAIRY PRICE SUPPORT PROGRAM

● Mr. HATCH. Mr. President, we are all aware of the enormous challenges before the 98th Congress. Faced with seemingly omnipresent deficits, unacceptable unemployment levels, and a social security system requiring immediate attention, I believe this legislative session offers an important opportunity for members of both political parties to lay aside partisan politics and work constructively to design and implement programs which are in the national interest.

While perhaps not as widely publicized as those issues to which I have alluded, one of the important issues which I believe is deserving of nonpartisan attention is the dairy price support program.

As most of you know, the current dairy price support program was passed as part of the budget reconciliation package. This program assessed an across-the-board fee of 50 cents per hundredweight of milk from producer/handlers in an attempt to reduce price support outlays and discourage overproduction.

The 50-cent assessment program was not discussed in either the Senate or House Agriculture Committee, but rather was designed in conference committee and adopted as a political compromise.

It was then brought before the Congress as part of the budget reconciliation and consequently passed both Houses of Congress without much scrutiny or discussion.

However, during the past 2 months, after more fully examining the issue and assessing the situation in more detail, I believe it is safe to say that, for various reasons—some of which I will briefly discuss—not one of us would vote for this program where it presented to us today.

While the program was intended to reduce production, many experts predict that due to the low price of grain and feed, as well as other factors, production levels in the shortrun are unlikely to decline.

In addition, the fee is being equally assessed on all dairy producers even though they do not receive identical benefits from the program. This is the fact which is most distressing to the dairy farmers which I represent.

Few producers in the State of Utah have benefited directly from the price support system, but all are being assessed an equal fee. Not only does this seem grossly inequitable in a low-producing State such as Utah, but unfortunately the program even applies to dairy farmers in Alaska, who have never even been under a Federal or State milk marketing order.

I know that this issue presents numerous difficulties for many legislators, but I cannot believe that this Congress can be content with a system which is not only inequitable, but also predicted to be ineffective.

I have consequently asked Senator HELMS to place this issue as a priority item on the agenda of the Senate Agriculture Committee.

In addition, Senator GARN, the senior Senator from Utah and I have urged Secretary Block to work with Congress to put a more desirable program in place prior to April 1 of this year.

I would like to submit these letters for inclusion in the RECORD at the conclusion of my remarks.

I would therefore urge Members of this body, particularly those from high milk producing States to work together on a nonpartisan basis to replace this legislation with a program which will address the issue of overproduction and acceptable price support levels in a more equitable and effective manner.

The letters follow:

U.S. SENATE,
Washington, D.C., December 20, 1982.

Hon. JOHN R. BLOCK,
Office of the Secretary, U.S. Department of Agriculture, Washington, D.C.

DEAR MR. SECRETARY: We would like to take this opportunity to express our concerns about the merits of the 50¢ assessment program and our equally strong concerns regarding the impact implementation that this program will have on small milk producers and handlers. While this program may be successful in reducing government expenditures, its success in reducing the dairy surplus is highly questionable.

As you know, most experts agree it is unlikely that this program will effectively reduce dairy production, particularly with feed prices at all time lows. We also have concerns that the program will place a disproportionate burden on the small dairy producers who do not sell to the government rather than large producers who do.

Estimates indicate that the imposition of the initial phase of this will cost Utah's 1,250 dairymen $5.5 million. While Utah producers are willing to accept reductions in the dairy price support level, they view this fee as a highly discriminatory tax. Many sell their products at prices well below the $13.10 level and will have difficulty meeting their costs of production under this program; many indicate they cannot. If this is the case, a devastating blow will be dealt to the local economies of small farming communities.

After giving careful analysis to this situation, it is our opinion that this program simply must be changed. During the past month, our staffs have met with other Congressional staff members to discuss the sub-

ject and assessed the existence of similar sentiments.

We would, therefore, urge the Administration to work yet again with the Congress to design a proposal which will effectively reduce milk production and distribute the burden of government subsidy reductions more equitably.

We look forward to working with you on this issue and will certainly be willing to do whatever is necessary to ensure that a responsible and effective program is implemented prior to April 1, 1983.

Sincerely,

JAKE GARN,
ORRIN G. HATCH,
U.S. Senators.

U.S. SENATE,
Washington, D.C., January 6, 1983.

Hon. JESSE HELMS,
Chairman, Senate Agriculture Committee, Washington, D.C.

DEAR JESSE: I would like to take this opportunity to express my concern regarding the fifty cent assessment on dairy products. After giving careful consideration to this program, it is my opinion that this program simply must be changed.

As you know, most experts agree that it is unlikely this program will effectively reduce dairy production; and many believe it will encourage increased sales to the government. I am additionally concerned that this program will place a disproportionate burden on small dairy producers who do not sell to the government vis a vis large producers who do.

Estimates indicate that the imposition of the initial phase of the program will cost Utah's 1,250 dairymen $5.5 million dollars. While Utah producers are willing to accept reductions in the dairy price support level, they view this as a highly discriminatory tax. Many sell their products at prices well below the $13.10 level and will have difficulty meeting their costs of production. Many others indicate that they simply cannot. If this is the case, a devastating blow will be dealt to the local economies of small farming communities.

I would therefore urge that the Agriculture Committee make this a priority issue and give it immediate attention during the first few weeks of this session.

Sincerely,

ORRIN G. HATCH,
U.S. Senator.●

REINTRODUCTION OF THE EQUAL RIGHTS AMENDMENT

● Mr. RIEGLE. Mr. President, I rise as an original cosponsor of the equal rights amendment. It had been my hope that reintroduction of ERA in the 98th Congress would not be necessary. I had expected that those of us with deep concerns about the rights of women could initiate new legislative proposals on behalf of women with the secure knowledge that equal opportunity regardless of sex was indeed the law of the land. But the equal rights amendment is not yet a part of the U.S. Constitution and we must all continue to work together until it is.

Concerted activity to adopt the equal rights amendment to the U.S. Constitution began soon after American women won the right to vote in 1920. As many of my colleagues are aware, between 1923 and 1973, the equal rights amendment was introduced in every Congress. However, it was not until 1970 that the serious attention of the Congress was focused on consideration of this important initiative. In a valiant and painstaking effort, my friend from Michigan, Martha Griffiths, then a member of the House of Representatives and now Michigan's Lieutenant Governor, was successful in garnering enough support to bypass the Judiciary Committee and to bring ERA directly to the House floor. The resolution was approved 346 to 15, far more than the two-thirds vote required for an amendment to the Constitution. After 47 years of congressional inaction, the House adopted a constitutional amendment guaranteeing equal rights for women on August 10, 1970. In March 1972 the amendment was passed by the Senate and the ratification process began. My own State of Michigan became the 17th State to ratify in May 1972. In the 95th Congress, I acted as an original cosponsor of the ERA extension resolution to extend the ratification deadline for the equal rights amendment for 3 years, ending on June 30, 1982. Despite the fact that the number of Americans supporting the adoption of ERA continues to grow and is now a very substantial majority, June 30, 1982, found the amendment still 3 States short of the necessary 38 for ratification.

I recount this brief history of the equal rights amendment because I think that it is important for all of us to remember the events that have led us in the Senate to reintroduce this important legislation. We are part of a protracted historical undertaking to broaden individual rights and we will be successful because our cause is right and just. Today, I join with 53 of my colleagues—a clear majority of Senators—in the continuation of this historic endeavor to explicitly recognize the equality of women in our most important national document. I can think of no more appropriate way to begin the new year and the 98th Congress than to reaffirm our determination to see that this resolution is adopted by the Senate.

The last 2 years have not been easy ones for many Americans. A recession that now seems interminable continues to plague our Nation in this new year, and for Michigan women and men, depression conditions persist. Hard times have been exacerbated for many women and their families by deep reductions in health and social service programs, which have impacted on women and their children more than any other group. The working poor, a substantial number of whom are female single heads of households have been hit hard by the Reagan budget. Cuts in Federal child care funds and changes in AFDC eligibility standards act as work disincentives for many women trying to improve the quality of life for themselves and their children. Never in recent history have American women been faced with a President with so little understanding of their circumstances and commitment to their concerns. President Reagan has consistently refused to endorse the equal rights amendment and has openly and actively opposed it. His administration has indicated a patent disregard for, and in some cases outright hostility toward, historically developed affirmative action policies in employment and in education. It is precisely these programs which have been critical to the increasing visibility of women in all aspects of American life.

The policies of the Reagan administration, which seem to be bent on reversing the progressive trends of the last decade regarding women, underline the urgent need to adopt the equal rights amendment. The women of this Nation are entitled to the full measure of our fundamental constitutional protections. Without a constitutional guarantee of equal treatment under the law, American women will continue to be subjected to the whims of changing political winds and administrations.

In the last election, American women clearly showed the elected officials of this Nation that they are a force to be reckoned with. It is my firm conviction that with the help of progressive women and men all across this Nation, the equal rights amendment will someday soon become the law of the land.●

CABINET STATUS FOR ADMINISTRATOR OF VETERANS' AFFAIRS

● Mr. SIMPSON. Mr. President, I was most pleased to join with my fine colleague, AL CRANSTON, the ranking member of the Senate Veterans' Affairs Committee, as an original cosponsor of Senate Concurrent Resolution 2. This resolution would express the sense of the Senate that the President should include the Administrator of Veterans' Affairs as a member of his Cabinet and as his principal adviser on all matters affecting veterans. I do this thoughtfully, Mr. President, because of the great importance I ascribe to the position of head of the Veterans' Adminstration. He alone is responsible for implementing a broad range of programs authorized by Congress to benefit this Nation's 30 million veterans, their dependents and survivors. In so doing, he heads one of the largest agencies of Government with 220,000 employees and a budget of some $25 billion. By operating a national network of facilities providing

services to veterans, and dealing on a virtually daily basis with their organized representatives, the Administrator is in a particularly unique position to act as a conduit in expressing to the administration the very real needs and concerns of veterans.

However, Mr. President, I also do this with some reservations. I do recognize the important distinctions between the executive and legislative branches of our Government. For an executive to be effective, one must be given latitude to select those with whom he or she will keep counsel. For the Congress, as a matter of course, to mandate the membership in the President's Cabinet or his circle of innermost advisers, to my mind may well extend beyond the proper roles established pursuant to our constitutional concept of separation of powers. It is for that reason that I would express these reservations about joining in supporting this legislation which would later statutorily mandate the elevation of the Administrator to Cabinet rank.

Indeed, Mr. President, even with the resolution currently before us, I believe it is critically important that the Senate Committee on Governmental Affairs have an opportunity to consider the action which we are proposing here. This could be consistent with that committee's jurisdictional mandate as set forth in Senate Rule XXV which states that its jurisdiction shall include all matters relating to, among other things," organization and reorganization of the executive branch of the Government."

I can assure you, Mr. President, and I do assure all of those with such an abiding in this particular resolution, that when it is presented to the Committee on Veterans' Affairs, it will receive a very full and fair hearing, to include a thorough presentation of the views of the executive branch on this matter. I have every confidence that our esteemed colleagues on the Committee on Government Affairs will accord it the same consideration.●

JOB CORPS

● Mr. KENNEDY. Mr. President, I wish to share with my colleagues letters that I recently received from 12 new graduates of the Westover Job Corps in Chicopee, Mass. The stories of these young men and women are a great testament to how far young people can go if they are given a chance to succeed.

The Job Corps is a program that works. It provides education, skills training, health care, and counseling services to young men and women from poor families. Most of these young people are high school dropouts and many come from broken homes. For these youngsters, the Job Corps is not just a second chance, it is often their last chance to make it.

The Job Corps enables these young men and women to complete their high school educations and trains them in such high demand occupations as electronics and nursing. And the Job Corps provides the first real home many of them have ever known.

I believe the letter from Michael Nylander says best what the Job Corps can mean to its graduates:

I have chosen masonry (as my skill) because I like hard work and the outdoors. . . . I have not only learned a skill, I learned some important fundamentals as well: leadership, responsibility, and how to help others along with myself.

Authorization for the Job Corps program was recently extended under the Job Training Partnership Act, which I sponsored along with Senator QUAYLE. The Job Corps is an outstanding example of how the Federal Government can help people to help themselves to become productive and contributing members of our society.

Mr. President, I ask that these letters be in the RECORD.

The letters referred to follow:

WESTOVER JOB CORPS CENTER,
Chicopee, Mass., December 21, 1982.

Senator EDWARD M. KENNEDY,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR KENNEDY: On December 16, 1982 Westover Job Corps Center held its Sixteenth Graduation Ceremony with over fifty young men and women accepting their diplomas. Their parents, friends, relatives and staff were on hand to cheer them on.

I am enclosing letters written by them to show how much they appreciate all that *Job Corps* has done for them and also only in a country such as ours could this be obtained.

Sincerely,

ROBERT A. JANKE,
Acting Center Director.

Enclosures.

DECEMBER 9, 1982.

Senator EDWARD M. KENNEDY,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR KENNEDY: My name is Martin Conlea. I'm 20 years old. I enrolled in Job Corps June 23, 1982. I came to Job Corps with the intentions of taking the L.P.N. Nursing Course. I was disappointed when I finally realized that the L.P.N. Course was discontinued. At this time I didn't know where to turn. I knew if I left Job Corps, I would have ended up back on the streets. As the same person I always was, a nothing! I decided to stay here and take the Nursing Assistant Course. I was a Nursing Assistant for 2 years before I came to Job Corps, I wasn't certified or I didn't have my High School Diploma. Job Corps offered me both.

Now it is December and I've only been in Job Corps for 6 months. In this time, I've become a certified Nursing Assistant and received my G.E.D. I'm on my way to California in January to continue my education, the place I'm going is another Job Corps Center. If I didn't believe that Job Corps works, I wouldn't continue my education in Job Corps.

I'm very glad that I found Job Corps and that Job Corps is going to continue to stay in operation. Without Job Corps, I would be a nothing. Now I can say that I'm a someone!

Sincerely,

MARTIN CONLEA.

NOVEMBER 29, 1982.

DEAR MR. KENNEDY: I would like to take this time to thank you for keeping Westover Job Corps Center open, so that a lot of youth's like myself, can have a chance to do something with their lives, other than running in the streets and hanging on street corners. I thank you for allowing me to reach my goal.

Sincerely yours,

STEVEN MITCHEAL SHORT.

DECEMBER 1, 1982.

Hon. EDWARD KENNEDY,
Russell Senate Office Building,
Washington, D.C.

DEAR SIR: I would like to thank you for keeping Westover Job Corp Center open. Thanks for giving more young women and men a chance to better their education and get a trade.

Again thank you very much.

Yours truly,

TIMOTHY L. KING.

DECEMBER 8, 1982.

Senator EDWARD KENNEDY,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR KENNEDY: My name is Elizabeth Flores. I have been at Westover Job Corps Center for over seven months.

I have advanced greatly, career-wise and education-wise. I want to thank you for your support of this center, and hope it will remain open to more of the younger generation that need this facility to make a "Future".

Thank you again for your support.

Sincerly yours,

ELIZABETH FLORES.

WESTOVER JOB CORPS,
Chicopee, Mass.

Senator EDWARD M. KENNEDY,
Russell Senate Office Building,
Washington D.C.

DEAR MR. KENNEDY: My name is Dennis. I am eighteen years old and presently enrolled at Westover J.C.C. I have been here since July 28, 1982. I have recently finished my vocation, which is Electronic Assembler, and have started work experiences at Digital Electronics. I feel that I am in debt to the government for giving me the opportunity to try to succeed in life, and if not for the opportunity I would still have nothing. I would like to express deepest gratitude to all the people who have committed themselves to help other people get a chance in life.

Sincerely yours,

DENNIS LEO KANE.

DECEMBER 9, 1982.

Senator EDWARD M. KENNEDY,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR KENNEDY: My name is Michael Nylander. I enrolled in Westover Job Corps July 1981. The reason for coming here is because, the job market was tight and work was scarce. Luckily, I realized that the only way I was going to get a good start in my working career was through learning a skill.

I had chosen Masonry because I like hard work and the outdoors. Having taken me

seventeen months to complete, I not only learned a skill, I learned some important fundamentals as well: Leadership, responsibility, and how to help others along with myself.

All this that I have achieved, could not have been possible without the unified strength, help and encouragement of all staff persons at Westover Job Corps. I am proud to say that Job Corps works. I hope you can say the same.

Sincerely yours,

MICHAEL NYLANDER.

CHICOPEE, MASS., *September 16, 1982.*

Senator EDWARD M. KENNEDY,
Russell Senate Office Building,
Washington, D.C.

My name is Donna Rapose. I'm sending my appreciation for have the job corps program open for people like me, who would like to further their education and careers. Job Corps helped me receive my G.E.D, and mark the beginning of my career. Job Corps was just the beginning of my nursing career. If the A.C.T. program wasn't taking away, I would have stayed in job corps and went through the L.P.N. course they once had. I hope future corpmembers would get that chance as much as past corpmembers.

Thank you again,

DONNA RAPOSE.

Senator EDWARD M. KENNEDY,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR KENNEDY: My name is Chieu-Lam corpmember at W.J.C.C. I have been there 9 months I completed machine shop training on September 1, 1982.

While I was living in Job-Corps. I am realized that it is a interesting place for any young people who wants a new position working in the future.

Thanks for giving me and the others young people a worthy chance.

I'd like to thank your efforts to keep Westover Job-Corps Center open.

Sincerely,

CHIEU-LAM.

PALMER, MASS.

Senator EDWARD M. KENNEDY,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR KENNEDY: My name is George Stebenne, and I had entered Westover Job Corps Center at Chicopee, Mass., on the date of January 13, 1982 in the group of one hundred and fifty-two. I wanted the trade of learning how to be a heavy equipment operator. This trade was not available at Westover. While in orientation I had picked machine for my trade which took me seven months to complete.

I've received my G.E.D. while here at Westover. I'll be graduating on September 17, 1982. I have seen a great amount of people come here and complete their trade. I can say thank you for them who used Westover for their benefit for a better chance to make it in this world.

Thank you,

GEORGE STEBENNE.

CHICOPEE, MASS.

Senator EDWARD M. KENNEDY,
Russell Senate Office Building,
Washington, D.C.

My name is Robin Swindell. I am a readmit at Job Corps. I came in Group 159. My voc. is Clerk/typing.

I thank you for keeping Job Corps alive. If it wasn't for Job Corps, I would have never been able to get my career that I have wanted for a long time; which is to take up Forestry Aid. I shall be starting this voc next Wednesday, out in Oregon.

I really enjoy being in Job Corps with people my own age, than being in a factory with older people who think we are trying to compete with them to get to be smarter than they are.

In Job Corps we are all the same way, no smarter or wiser, nor think this way toward one another. We can teach one another without someone trying to say "Hey I don't want him/her here because she/he is trying to show me up!" Or tells the boss some lies just so young people like us cannot get the training we need.

Here at Job Corps we get all the training we need without this kind of hassle from people on the outside world. I really do thank you for keeping Job Corps alive.

Sincerely yours,

ROBIN SWINDELL.

CHICOPEE, MASS., *September 16, 1982.*

Senator EDWARD M. KENNEDY,
Russell Senate Office Building,
Washington, D.C.

My name is Phuc To. I am sending my thanks for having the Job Corps program open for people like me, who would like to further their education and course of trades.

Job Corps had helped me complete my vocation and course to speak English. I hope the future Indo-Chinese corps members course of Speak better than me, and the future corps members would get a change as much as the past corps members.

Thank you,

PHUC TO.

DECEMBER 15, 1982.

Senator EDWARD M. KENNEDY,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR KENNEDY: My name is Lee R. Baskerville, I like to thank you for your participation in helping the Westover Job Corps Center on staying open. Me and many other corps members have been able to get our lives going in the right direction.

My vocational training is that of nursing assistant. I wish I could further my education in nursing here at Westover Job Corps Center, it is my pleasure to stay at such a decent place. I don't really have much more to say except; Thank you and hopefully you will visit the Westover Job Corps Center and see how pleasant it is.

Sincerely yours,

LEE R. BASKERVILLE.

WESTOVER JOB CORPS CENTER,
Chicopee, Mass., December 10, 1982.

Senator EDWARD KENNEDY,
Russell Senate Office Building,
Washington, D.C.

DEAR MR. KENNEDY: My name is Robin Brown. I was enrolled in Westover Job Corps from January 28, 1980 until December 17, 1982. Before I decided to come to Job Corps, I was out of work. You know how the job market is today.

Now my future looks much brighter. And I must say, Job Corps does work. My vocation is brick laying, and I think it's greatest. Most of all I would like to thank you and others concerned, because Job Corps is a great place to start your future.

Very truly,

ROBIN BROWN.●

RULES OF PROCEDURE, COMMITTEE ON GOVERNMENTAL AFFAIRS

● Mr. ROTH. Mr. President, pursuant to rule XXVI, section 2 of the Standing Rules of the Senate, I am submitting today for publication in the RECORD a copy of the rules of procedure adopted by the Committee on Governmental Affairs for the coming years.

The material follows:

RULES OF PROCEDURE ADOPTED BY THE COMMITTEE ON GOVERNMENTAL AFFAIRS

(Pursuant to Rule XXVI, Sec. 2, Standing Rules of the Senate)

RULE 1. MEETINGS AND MEETING PROCEDURES OTHER THAN HEARINGS

A. Meeting dates. The committee shall hold its regular meetings on the first Thursday of each month, when the Congress is in session, or at such other times as the chairman shall determine. Additional meetings may be called by the chairman as he deems necessary to expedite committee business. (Rule XXVI, Sec. 3, Standing Rules of the Senate.)

B. Calling special committee meetings. If at least three members of the committee desire the chairman to call a special meeting, they may file in the offices of the committee a written request therefor, addressed to the chairman. Immediately thereafter, the clerk of the committee shall notify the chairman of such request. If, within three calendar days after the filing of such request, the chairman fails to call the requested special meeting, which is to be held within seven calendar days after the filing of such request, a majority of the committee members may file in the offices of the committee their written notice that a special committee meeting will be held, specifying the date and hour thereof, and the committee shall meet on that date and hour. Immediately upon the filing of such notice, the committee clerk shall notify all committee members that such special meeting will be held and inform them of its date and hour. If the chairman is not present at any regular, additional or special meeting, the ranking majority member present shall preside. (Rule XXVI, Sec. 3, Standing Rules of the Senate.)

C. Meeting notices and agenda. Written notices of committee meetings, accompanied by an agenda, enumerating the items of business to be considered, shall be sent to all committee members at least three days in advance of such meetings. In the event that unforeseen requirements or committee business prevent a three-day notice, the committee staff shall communicate such notice by telephone to members or appropriate staff assistants in their offices, and an agenda will be furnished prior to the meeting.

D. Open business meetings. Meetings for the transaction of committee or subcommittee business shall be conducted in open session, except that a meeting or portions of a meeting may be held in executive session when the committee members present, by majority vote, so determine. The motion to close a meeting, either in whole or in part, may be considered and determined at a meeting next preceding such meeting. Whenever a meeting for the transaction of committee or subcommittee business is closed to the public, the chairman of the committee or the subcommittee shall offer a

public explanation of the reasons the meeting is closed to the public. This paragraph shall not apply to the Permanent Subcommittee on Investigations. (Rule XXVI, Sec. 5(b), Standing Rules of the Senate.)

E. Prior notice of first degree amendments. It shall not be in order for the Committee, or a subcommittee thereof, to consider any amendment in the first degree proposed to any measure under consideration by the Committee or subcommittee unless a written copy of such amendment has been delivered to each member of the Committee or subcommittee, as the case may be, and to the office of the Committee or subcommittee, at least 24 hours before the meeting of the Committee or subcommittee at which the amendment is to be proposed. This subsection may be waived by a majority of the members present. This subsection shall apply only when at least 72 hours written notice of a session to mark-up a measure is provided to the committee.[1]

F. Agency comments. When the Committee has scheduled and publicly announced a markup meeting on pending legislation, if executive branch agencies, whose comments thereon have been requested, have not responded by the time of the announcement of such meeting, the announcement shall include the final date upon which the comments of such agencies, or any other agencies, will be accepted by the Committee.[1]

RULE 2. QUORUMS

A. Reporting legislation. (Ten) [2] members of the committee shall constitute a quorum for reporting legislative measures or recommendations. (Rule XXVI, Sec. 7(a)(1), Standing Rules of the Senate.)

B. Transaction of routine business. Six members of the committee shall constitute a quorum for the transaction of routine business, provided that one member of the minority is present.[3]

For the purpose of this paragraph, the term "routine business" includes the convening of a committee meeting and the consideration of legislation pending before the committee and any amendments thereto, and voting on such amendments.[4] (Rules XXVI, Sec. 7(a)(1), Standing Rules of the Senate.)

C. Taking sworn testimony. Two members of the committee shall constitute a quorum for taking sworn testimony: *Provided, however*, That one member of the committee shall contitute a quorum for such purpose, with the approval of the chairman and the ranking minority member of the committee, or their designees. (Rules XXVI, Sec. 7(a)(2), Standing Rules of the Senate.)

D. Taking unsworn testimony. One member of the committee shall constitute a quorum for taking unsworn testimony. (Rule XXVI, Sec. 7(c)(2), Standing Rules of the Senate.)

E. Subcommittee quorums. Subject to the provisions of sections 7(a) 1 and 2 of Rule XXVI of the Standing Rules of the Senate, the subcommittees of this committee are authorized to establish their own quorums for the transaction of business and the taking of sworn testimony.

F. Proxies prohibited in establishment of quorum. Proxies shall not be considered for the establishment of a quorum.

RULE 3. VOTING

A. Quorum required. No vote may be taken by the Committee, or any subcommittee thereof, on any measure or matter unless a quorum, as prescribed in the preceding section, is actually present.

B. Reporting legislation. No measure or recommendation shall be reported from the committee unless a majority of the committee members are actually present, and the vote of the committee to report a measure or matter shall require the concurrence of a majority of a majority of those members who are actually present at the time the vote is taken. (Rule XXVI, Sec. 7(a) (1) and (3), Standing Rules of the Senate.)

C. Proxy voting. Proxy voting shall be allowed on all measures and matters before the committee, or any subcommittees thereof, except that, when the committee, or any subcommittee thereof, is voting to report a measure or recommendation, proxy votes shall be allowed solely for the purposes of recording a member's position on the pending question and then, only if the absent committee member has been informed of the matter on which he is being recorded and has affirmatively requested that he be so recorded. All proxies shall be addressed to the chairman of the committee and filed with the chief clerk thereof, or to the chairman of the subcommittee and filed with the clerk thereof, as the case may be. All proxies shall be in writing and shall contain sufficient reference to the pending matter as is necessary to identify it and to inform the committee as to how the member establishes his vote to be recorded thereon. (Rule XXVI, Sec. 7(a)(3) and 7(c)(1), Standing Rules of the Senate.)

D. Announcement of vote. (1) Whenever the committee by rollcall vote reports any measure or matter, the report of the committee upon such a measure or matter shall include a tabulation of the votes cast if favor of and the votes cast in opposition to such measure or matter by each member of the committee. (Rule XXVI, Sec. 7(c), Standing Rules of the Senate.)

(2) Whenever the committee by rollcall vote acts upon any measure or amendment thereto, other than reporting a measure or recommendation, the results thereof shall be announced in the committee report on that measure unless previously announced by the committee, and such announcement shall include a tabulation of the votes cast in favor of and the votes cast in opposition to each such measure and amendment thereto by each member of the committee who was present at the meeting. (Rule XXVI, Sec. 7(b), Standing Rules of the Senate.)

(3) In any case in which a rollcall vote is announced, the tabulation of votes shall state separately the proxy date recorded in favor of and in opposition to that measure, amendment thereto, or recommendation. (Rule XXVI, Sec. 7 (b) and (c), Standing Rules of the Senate.)

RULE 4. CHAIRMANSHIP OF MEETINGS AND HEARINGS

The chairman shall preside at all committee meetings and hearings except that he shall designate a temporary chairman to act in his place if he is unable to be present at a scheduled meeting or hearing. If the chairman (or his designee) is absent ten minutes after the scheduled time set for a meeting or hearing, the senior Senator present of the chairman's party shall act in his stead until the chairman's arrival. If there is no member of the chairman's party present, the senior Senator of the committee minority present shall open and conduct the meeting or hearing until such time as a member of the majority enters.[5]

RULE 5. HEARINGS AND HEARING PROCEDURES

a. Announcement of hearings. The committee, or any subcommittee thereof, shall make public announcement of the date, place, time and subject matter of any hearing to be conducted on any measure or matter at least one week in advance of such hearing, unless the committee, or subcommittee, determines that there is good cause to begin such hearing at an earlier date. (Rule XXVI, Sec. 4(a), Standing Rules of the Senate.)

B. Open hearings. Each hearing conducted by the committee, or any subcommittee thereof, shall be open to the public unless the committee, or subcommittee, determines that the testimony to be taken at that hearing may (1) relate to a matter of national security, (2) tend to reflect adversely on the character or reputation of the witness or any other individual, or (3) divulge matters deemed confidential under other provisions of law or Government regulations. (Rule XXVI, Sec. 5(b), Standing Rules of the Senate.)

C. Radio television, and photography. The committee, or any subcommittee thereof, may permit the proceedings of hearings which are open to the public to be photographed and broadcast by radio, television or both, subject to such conditions as the committee, or subcommittee, may impose. (Rule XXVI, Sec. 5(c), Standing Rules of the Senate.)

D. Advance statement of witnesses. A witness appearing before the committee, or any subcommittee thereof, shall provide 100 copies of a written statement and an executive summary or synopsis of his proposed testimony at least 48 hours prior to his appearance. This requirement may be waived by the chairman and the ranking minority member, following their determination that there is good cause for failure of compliance. (Rule XXVI, Sec. 4(b), Standing Rules of the Senate.)

E. Minority witnesses. In any hearing conducted by the committee, or any subcommittee thereof, the minority members of the committee shall be entitled, upon request to the chairman by a majority of the minority to call witnesses of their selection during at least one day of such hearings. (Rule XXVI, Sec. 4(d), Standing Rules of the Senate.)

RULE 6. COMMITTEE REPORTING PROCEDURES

A. Timely filing. When the committee has ordered a measure or recommendation reported, following final action the report thereon shall be filed in the Senate at the earliest practicable time. (Rule XXVI, Sec. 10(b), Standing Rules of the Senate.)

B. Supplemental, minority, and additional views. A member of the committee who gives notice of his intention to file supplemental, minority or additional views at the time of final committee approval of a measure or matter, shall be entitled to not less than three calendar days in which to file such views, in writing, with the chief clerk of the committee. Such views shall then be included in the committee report and printed in the same volume, as a part, thereof, and their inclusion shall be noted on the cover of the report. In the absence of timely notice, the committee report may be filed and printed immediately without such

[1] Amended October 1, 1975.
[2] Amended January 26, 1983.
[3] Amended February 4, 1977.
[4] Amended November 7, 1973.
[5] Adopted December 9, 1974.

views. (Rule XXVI, Sec. 10(c), Standing Rules of the Senate.)

C. Notice by Subcommittee Chairmen. The Chairman of each Subcommittee shall notify the Chairman in writing whenever any measure has been ordered reported by such subcommittee and is ready for consideration by the full committee.

D. Draft reports of subcommittees. All draft reports prepared by subcommittees of this committee on any measure or matter referred to it by the chairman, shall be in the form, style, and arrangement required to conform to the applicable provisions of the Standing Rules of the Senate, and shall be in accordance with the established practices followed by the committee. Upon completion of such draft reports, copies thereof shall be filed with the chief clerk of the committee at the earliest practicable time.

E. Cost estimates in reports. All committee reports, accompanying a bill or joint resolution of a public character reported by the committee, shall contain (1) an estimate, made by the committee, of the costs which would be incurred in carrying out the legislation for the then current fiscal year and for each of the next five years thereafter (or for the authorized duration of the proposed legislation, if less than five years); (2) a comparison of such cost estimate with any made by a Federal agency; or (3) a statement of the reasons for failure by the committee to comply with these requirements as impracticable, in the event of inability to comply therewith. (Rule XXVI, Sec. 11(a), Standing Rules of the Senate.)

RULE 7. SUBCOMMITTEES AND SUBCOMMITTEE PROCEDURES

A. Regularly established subcommittees. The committee shall have (seven) regularly established subcommittees. The subcommittees are as follows:

Permanent Subcommittee on Investigations. Intergovernmental Relations. Governmental Efficiency and the District of Columbia. Civil Service, Post Office, and General Services.

(Information Management and Regulatory Affairs)

Oversight of Government Management. Energy, Nuclear Proliferation, and Government Processes.

B. Ad hoc subcommittees. Following consultation, with the ranking minority member, the chairman shall, from time to time, establish such ad hoc subcommittees as he deems necessary to expedite committee business.

C. Subcommittee membership. Following consultation with the majority members, and the ranking minority member, of the committee, the chairman shall announce selections for membership on the subcommittees referred to in paragraphs A and B, above.

D. Subcommittee meetings and hearings. Each subcommittee of this committee is authorized to establish meeting dates and adopt rules not inconsistent with the rules of the committee.

E. Subcommittee budgets. Each subcommittee of this committee, which requires authorization for the expenditure of funds for the conduct of inquiries and investigations, shall file with the chief clerk of the committee, not later than January 10 of that year, its request for funds for the 12-month period beginning on March 1 and extending through and including the last day of February of the following year. Each such request shall be submitted on the budget form prescribed by the Committee on Rules and Administration, and shall be accompanied by a written justification; addressed to the chairman of the committee, which shall include (1) a statement of the subcommittee's area of activities, (2) its accomplishments during the preceding year; and (3) a table showing a comparison between (a) the funds authorized for expenditure during the preceding year, (b) the funds actually expended during that year, (c) the amount requested for the current year, and (d) the number of professional and clerical staff members and consultants employed by the subcommittee during the preceding year and the number of such personnel requested for the current year. (Rule XXVI, Sec. 9, Standing Rules of the Senate.)

RULE 8. CONFIRMATION STANDARDS AND PROCEDURES

A. Standards. In considering a nomination, the Committee shall inquire into the nominee's experience, qualifications, suitability, and integrity to serve in the position to which he or she has been nominated. The Committee shall recommend confirmation, upon finding that the nominee has the necessary integrity and is affirmatively qualified by reason of training, education, or experience to carry out the functions of the office to which he or she was nominated.

B. Information Concerning the Nominee. As a requirement of confirmation, each nominee shall submit on forms prepared by the Committee the following information:

(1) A detailed biographical resume which contains information relating to education, employment and achievements;

(2) A financial statement which lists assets and liabilities of the nominee; and

(3) Copies of other relevant documents requested by the Committee, such as a proposed blind trust agreement.

At the request of the Chairman or the Ranking Minority Member, a nominee shall be required to submit a certified financial statement compiled by an independent auditor.

Information received pursuant to this subsection shall be made available for public inspection; provided, however, that tax returns shall, after review by persons designated in subsection (C) of this rule, be placed under seal to ensure confidentiality.

C. Procedures for Committee Inquiry. The Committee shall conduct an inquiry into the experience, qualifications, suitability and integrity of nominees, and shall give particular attention to the following matters:

(1) A review of the biographical information provided by the nominee, including any professional activities related directly to the duties of the office to which he or she is nominated;

(2) A review of the financial information provided by the nominee, including tax returns for the three years preceding the time of his or her nomination;

(3) A review of any actions, taken or proposed by the nominee, to remedy conflicts of interest; and

(4) A review of any personal or legal matter which may bear upon the nominee's qualifications for the office to which he or she is nominated.

For the purpose of assisting the Committee in the conduct of this inquiry, a Chief Investigator shall be designated by the Chairman and a Minority Investigator shall be designated by the Ranking Minority Member. The Chairman, Ranking Minority Member, and the designated Investigators shall have access to all investigative reports on nominees prepared by any Federal agency, including the Federal Bureau of Investigation. The Committee may request the assistance of the General Accounting Office in conducting an audit of financial information provided by nominees.

D. Report on the Nominee. After a review of all information pertinent to the nomination, a confidential report on the nominee shall be submitted to the Chairman and the Ranking Minority Member. The report shall detail any unresolved or questionable matters that have been raised during the course of the inquiry. Copies of all relevant documents and forms, except any tax returns, submitted pursuant to subsection (B) shall be attached to the report. The report shall be kept in the Committee office for the inspection by Members of the Committee.

E. Hearings. The Committee shall conduct a public hearing during which the nominee shall be called to testify under oath on all matters relating to his or her suitability for office, including the policies and programs which he or she will pursue while in that position. No hearing shall be scheduled until at least 72 hours after the following events have occurred: the nominee has responded to pre-hearing questions submitted by the Committee; and the report required by subsection (D) has been submitted to the Chairman and Ranking Minority Member, and is made available for inspection by Members of the Committee.

F. Action on Confirmation. A mark-up on a nomination shall not occur on the same day that the hearing on the nominee is held. In order to assist the Committee in reaching a recommendation on confirmation, the staff shall make an oral presentation to the Committee at the mark-up, factually summarizing the nominee's background and the steps taken during the prehearing inquiry.

G. Application. The procedures contained in subsections (C), (D), (E), and (F) of this rule shall apply to persons nominated by the President to positions requiring their fulltime service. At the discretion of the Chairman and Ranking Minority Member, those procedures may apply to persons nominated by the President to serve on a part-time advisory basis.●

EXTENSION OF THE FEDERAL SUPPLEMENTAL COMPENSATION PROGRAM

● Mr. DIXON. Mr. President, yesterday several of my colleagues introduced what, at a bare minimum, must be enacted to cushion the brutal blow of unrelenting unemployment. It is a simple extension of the Federal supplemental compensation program which was enacted last year and which expires March 31, 1983.

I am gratified that the President, in his state of the Union address, indicated his support for the extension of these benefits for 6 months, which is what this bill will do, if enacted.

Within the past few weeks, we have all seen reports in the news of people who are lined up—thousands of them—for the few jobs which are available. In Chicago, 30,000 jobless workers lined up for 2,000 temporary city jobs; in Milwaukee last week, 20,000 people lined up to apply for 200 jobs. This bill will not put people back to

work. It widl assure another 8 to 16 weeks of benefits to those who have exhausted the regular unemployment compensation and extended benefits that are available, while they continue to look for jobs.

Time is of the essence. The present program expires March 31, 1983. It is imperative that we pass this measure quickly, so that the millions of people who are dependent on this program for their very survival, can have a place to turn.

The costs, according to the Congressional Budget Office, for this extension through the end of the fiscal year, is $2.4 billion. Currently, nationwide, there are approximately 7 million people receiving these benefits—300,000 in my State of Illinois, 366,000 exhausted these benefits as of November 30, 1982.

I urge my colleagues to join us in supporting this measure, and I ask for its prompt consideration.●

CHIEF WILLIAM J. HAMPTON

● Mr. HEINZ. Mr. President, it is with great pleasure that I pay tribute to a fellow Pennsylvanian, Chief William J. Hampton, of the Upper Providence Township Police Department who has just retired after 29 years of distinguished service. Chief Hampton's long record of devotion to his job, his fellow citizens, and most importantly to the youth of his community, remind all of us of the role we must play in shaping our children's future.

Chief Hampton has been guided by a theory that in a special way should be an inspiration to all. His theory is that competitive sports for boys and girls, with the guidance of responsible adults, builds character and ultimately good citizens. It was with this theory in mind that Chief Hampton organized the Upper Providence Midgets football team some 25 years ago. Today, what began as a pickup football game one Saturday in 1955, has flourished and grown into a league fielding 5 teams, 175 players, 40 coaches and staff members, and an operating budget of approximately $6,000. The program has been so successful that recently it became part of the National Junior Football Federation.

Unquestionably, it is fair to say that the success of the league is due in large part to the dedication of Chief Hampton. His realization that this organized and supervised athletic endeavor would enable him to work with the community's youth and instill in them the fundamentals of good sportsmanship is living testimony to the capacity for forethought. The fruits of Chief Hampton's keen insight are best recognized by the fact that his efforts have allowed the youth of Upper Providence the opportunity to use their energies in creative fashion. This healthy outlet has helped give this community the lowest rate of juvenile delinquency in Delaware County and among the lowest in the entire State of Pennsylvania.

Mr. President, it is my great pleasure to honor a person who has given so much of his time, energy, and life to two vital community needs; law enforcement and character development. It was with the help of concerned citizens such as Chief Hampton that this country was built, and it will be with the aid of those who he has helped that the future will depend. We are all indebted to his great service.●

NATIONAL CHILD ABUSE MONTH

● Mr. KENNEDY. Mr. President, yesterday, Senator DECONCINI introduced Senate Joint Resolution 21, designating the month of April 1983 as National Child Abuse Prevention Month. As an original cosponsor, I wish to speak in support of that resolution. Child abuse is one of the most painfully distressing problems facing American families in the United States today. Its effects can be seen throughout every social stratum of society, regardless of race or economic status.

Last year alone, over 2 million children were victims of child abuse. In my own State of Massachusetts, over 24,000 reports of child abuse were filed with the State department of social services.

The Members of this body have long recognized the tragic problem of family violence. In 1974, we enacted the Child Abuse Prevention and Treatment Act in order to focus national attention on the increasing incidence of child abuse. Through this legislation we provided Federal assistance to States, localities, and private agencies to work with families in the prevention and treatment of abused and neglected children. The success of this program is well known. Thousands of parents and children have received counseling and other needed assistance in order to recognize and cope with the severe emotional stress that accompanies this problem.

This year, the reauthorization of the Child Abuse Prevention and Treatment Act will come before this body. There has never been a greater need or sense of urgency for continued support for this program. Twelve million Americans are now out of work. Recent studies have shown that families are facing increased emotional stress from loss of jobs, loss of income, and the loss of one's self image. Family members are in a state of overwhelming despair. As a result, child abuse has increased dramatically.

The American family is our greatest resource. We must also recognize that they are our highest priority. Setting aside the month of April as "National Child Abuse Month" is a small but important step that we can take to focus attention on this tragic problem and the thousands of individuals who are working everyday to help these families.●

THE URGENCY OF ARMS CONTROL

● Mr. BIDEN. Mr. President, the American people want the superpowers to halt the nuclear arms race. In voting booths and public meetings across our land, millions of sincere, patriotic citizens have called for a mutual and verifiable freeze in nuclear arsenals. These people come from all walks of life and from all sectors of the political spectrum. Unlike many members of the peace movement in Europe, these Americans do not favor unilateral disarmament or pacifism or neutralism. On the contrary, they support a strong national defense; they do not trust the Russians to do anything except what is in the Soviet's self interests; they demand that agreements be equitable and cheatproof; but they also demand that we continue and accelerate the search for effective arms control agreements.

The overwhelming majority of our people have coalesced in support of a freeze, a concept which is simple and vivid in expressing their judgment that the nuclear arms race is out of control and must be stopped now. Their message is: Enough. They have been frustrated by past agreements which seemed only to legitimize new weapons while eliminating those already obsolete.

The Reagan administration has also fueled their anxiety by launching a massive strategic defense buildup while remaining indifferent or reluctant to engage in serious arms control negotiations. The freeze movement brought public pressure to bear and achieved a remarkable reversal in administration policy.

Although the freeze has been the rallying cry of those who wish to signal their concerns about the arms race and support effective limitations, the concept is incomplete and inadequate in some respects. Many worthwhile restraints could be achieved other than by means of an agreement on a comprehensive freeze—including the ratification of the SALT II Treaty and the treaties limiting the size of underground nuclear explosions, including completion of the now—abandoned treaty for a comprehensive test ban. Moreover, it might not be in our mutual interest to freeze all programs, since our security might be improved by continued development of such items as better command and control to prevent accidental war, or safer missile fuels, or quieter submarines. In any event, a freeze agreement would have to be carefully negotiated and

spelled out in order to guarantee its effectiveness and its verifiability.

I have cosponsored the nuclear freeze resolution because I share the goals of halting the arms race and reducing the risks of nuclear war by mutual and verifiable agreements. I also believe that those of us who believe in the necessity and urgency of arms control should stand together in demanding action by this administration—measurable progress and not merely rhetoric. The freeze resolution is our best available vehicle to make that vital point.

As the language of the resolution makes clear, a freeze should be "an immediate arms control objective" but it is not our only one. I believe that other approaches would be preferable if we want prompt and significant results.

In my judgment, the quickest and most helpful way to halt and reverse the nuclear arms race would be to ratify the SALT II treaty. That would lay the foundations for some kind of freeze and for further, deeper reductions. If that treaty were in effect today, America would be more secure and the nuclear balance more stable. The Soviet military threat would have been limited, predictable, and less threatening—and there already would have been a 10-percent reduction in Soviet arsenals of strategic weapons launchers.

But whatever label or concept organizing principle we choose for our next arms control negotiations, we cannot delay. We cannot let unrestrained technology or unallayed fears drive us into greater insecurity. We must not lose human control over the weapons of war and the commitment to peace.●

JOHN PAUL CAPPS ADDRESSES ARKANSAS GENERAL ASSEMBLY

● Mr. PRYOR. Mr. President, earlier this month, the Arkansas General Assembly convened for its 74th regular session. At that time, John Paul Capps of Searcy, Ark., was sworn in as speaker of the house of representatives. It was my pleasure while serving as Governor to work closely with John Paul in my dealings with the legislature. He is a most capable individual and I would like to share with my colleagues his statement at the opening of the session.

I ask that the statement be printed in the RECORD.

The statement follows:

REMARKS OF SPEAKER JOHN PAUL CAPPS, 74TH REGULAR SESSION, JANUARY 10, 1983

Thank you very much. I am so deeply honored and grateful to you for this opportunity. I cannot begin to express to you, my colleagues, in the House my thanks for the trust and confidence you have placed in me by choosing me your Speaker. I pledge to all of you my constant efforts in being fair and impartial and to you new members I pledge to work with you in every way possible to make you feel at home and to assure you the Speaker's office will do all it can to assist you in meeting your obligations to your constituency.

I'm especially pleased that my wife, two daughters and one son can be here along with me today and my father is here with other members of my family. And I'm honored that some of my close personal friends from Searcy could take the time to come and be with me on this special day. And before I continue, I realize I cannot thank everyone who has been of such great assistance to me in the past three or four weeks as we have prepared for this session but without taking time to name them all I want is to express my thanks to all the staff in the Speaker's Office and the Chief Clerk's Office.

Also, I want to personally thank Secretary of State Paul Riviere and his staff for their excellent cooperation. One example of this is that last Thursday, working with us and the Senate leadership, we acquired the use of the parking lot just east of the Capitol for use by the public during the session and I think this will be a great help to the people who want to come and visit these halls during our session. I want to thank Speaker Lloyd McCuiston, my predecessor, who has meant so much to me over the last two years with his genuine kindness and his personal efforts in helping me prepare for the task ahead and I am grateful.

So now, we are here—and the session has begun. We've all looked forward to this session with much anticipation. Much has been said and written about it, and sometimes such a bleak picture has been painted that in some of my weaker moments, I even wondered if anybody would show up for the session. We do face lots of exciting challenges. A few moments ago, as I walked into this beautiful and historic chamber, a lot of thoughts flashed through my mind. I remembered that I have watched ten men before me take the same oath on this same spot, and I have witnessed six different men sworn in as Governor at the rostrum where I now stand. And I know that in each of those instances, each preceding a legislative session, there were problems and circumstances that were peculiar to those times. All faced problems and challenges and uncertainties, but perhaps none as great as those this 74th General Assembly will deal with. But even so, some of the problems that were so glaring even two years ago, are today forgotten, so each day has its own needs and opportunities—and it all reminds me of the old adage that: "the more things change, the more they remain the same."

Our session will deal with revenues that are short, with lingering unemployment, with the burgeoning costs of prisons, with the need for a much stronger commitment to education, with the financial problems of the highway department, the growing crime rate, with Federal grant cutbacks that will force the reduction of some service, and a myriad of other issues. But obviously, the overriding concern we will deal with is the lack of funds to adequately support the service I believe the people of this State want. Over the past two months, I have watched the most senior members of this body agonize over the agency requests and budgets, and we know that many services will have to be reduced, some curtailed drastically. And as we trim away at these budgets, we must be careful that we will not do irreparable harm to our most basic services, such as education, health care, highways, and all the others. We must, now more than ever, carefully priortize our needs and serices and be serious in addressing them, remembering that the people of Arkansas have elected each of us to use our best judgment based on the information and studies we have and have entrusted to us the authority to make these decisions for them.

Additionally, we come into this session on the heels of severe weather related disasters that have caused hundreds of millions of dollars of damage, leaving many of our people homeless and depressed. And in my district, the little town of Rose Bud in Western White County, was virtually destroyed, and I think of them today and remember that rainy day when I visited some of these victims, and they said, John Paul, we're just thankful we weren't hurt—please help us if you can. So let us not forget them in our deliberations.

So I think the fiscal problems will set the tone of this session, and these two years will be a challenge. But I've always believed that many good things can come out of seeming adversity. I know—and you know—that the people want us to tighten the belt of Government in every way possible, and if it can be done, I believe we will do it. We know the problems, they're easy to define. The solutions are somewhat difficult. But we must get busy, for we do have an unfinished task. What do we do—and when do we do it? I sincerely believe that if we in government offer the proper leadership and carefully present the needs of this State to it's people, that they will respond favorably to the solutions we offer. But we must always bear in mind that the actions we take here in this chamber will affect the lives of the two million, two hundred thousand citizens in this State and it is an awesome responsibility. I believe, further, that the people understand the plight with which we are faced and they expect us to deal effectively with these vital issues. We will be working with a new Governor, a Senate with 11 new members and I believe our efforts will be to work together but it should be understood we appreciate our independent thinking.

So soon, the debate will begin. And we will begin to hear all the arguments, both for and against—we will have lots of contacts—lots of phone calls—we'll be asked to come outside the Chambers and there'll be lots of tugging at our sleeves. But finally, we will have to make some decisions, lots of them. And I earnestly hope that our decisions will be right—that we will do what we find to be right in our own hearts and minds, regardless of the political consequences. The people deserve no less than our best. And we know that we must always return to our districts and explain our decisions, and that's the way it should be in a democracy. And we should remember that we cheat the people when we substitute the judgment of others for our own, especially when we've had the benefit of the studies and information on which to make the decisions. So as we go along we will have to take a lot of stands—that's the nature of the legislative process. But it's been said, very appropriately I think, that "he who takes a stand is often wrong, but he who never takes a stand is always wrong".

And to the people of Arkansas: I urge you to be active with us—to come to these Halls where discussions are held and decisions are made. Give us your best advice and input, for we realize that we must maintain a perspective that encompasses not only our own individual districts, but the rest of the State

as well. We must avoid legislation that unfairly favors one interest over another.

And to you, my colleagues, you know the needs of your districts, and I pledge to you my untiring efforts as Speaker to ensure that you have every opportunity to work for and support those needs of the people who sent you here. You will be asked for many things which you will be totally unable to deliver—and its difficult, sometimes, to say no. In making the select committee appointments, I would like to grant every request, for every person who asked would have been a good choice, but there were not enough to serve all the requests—and it was hard to say no. But we can do it and we can do it with such a manner so the people will understand, for we should always remember that we are to represent all the people—not just a select few. We must see that their voices are heard, including the rich, the poor, the middle class, the black, the white, the educated, the uneducated—all the people, not just the most vocal ones—not just the groups whose spokesmen will be outside those double doors facing me; not just the ones who have fulltime spokesmen here to represent their views, not that this is wrong, for it isn't, they provide valuable services. But, let us remember all of Arkansas, including those who cannot be here to remind us of their concerns, but still trust and believe in us, for these, my fellow members, all of them, are our constituency. And I'm reminded of a statement by the late United States Senator Hubert Humphrey, in one of his last public appearances, at the dedication of the new HEW building in Washington, he said: "The moral test of government is how it treats those who are in the dawn of life, the children—those who are in the twilight of life, the aged—and those who are in the shadows of life, the sick, the needy and the handicapped." And I think this could be a moral test for all of us in Government. We have to learn to accept criticism—and try to profit from it, for we know that seldom do we cast a recorded vote that will please everyone, there are always those who are for and those who are against.

But finally, we must always remember that we are most richly blessed, and I hope we will move forward with enthusiasm and optimism. This does not have to be a do nothing session. We can and will accomplish much for our people, for ours is a great and beautiful State with abundant natural resources and agricultural wealth. We must have the courage and foresight to do those things that will improve the status of all our people, and if we are to do that we must first believe in ourselves, and that we can change the future. We don't know how our efforts will be judged by the historians, but I believe that history will reflect favorably on us if we, in our deliberations, will utilize those sterling qualities of compassion, love, and concern for one another and for all the people of this State. For after all, we are the peoples representatives, here to be about the peoples business, so we should move ahead, with poise, using our conscience as a balancing stick, remembering that wisdom comes from our Divine Creator and being ever mindful that in this short life, Gods work is our really true work. May God bless us all in the days and weeks ahead. Thank you so very much.●

PAYMENT-IN-KIND—FLOOR PRICE

● Mr. DIXON. Mr. President, during consideration of the payment-in-kind program by the Senate last December, a number of questions were raised by those of us on the Senate Agriculture Committee. Some of them were: What effect will this program have on prices? What effect will this program have on net farm income? What assurance does the farmer have that there will not be a depressing effect on prices when the grain is taken out of Government storage and placed on the market? Many of these questions still remain unanswered today.

Since that time, the Secretary of Agriculture announced that the U.S. Department of Agriculture will conduct a payment-in-kind program for wheat, feed grains, cotton, and rice. I applaud the Secretary's action. However, I was disappointed that one very important provision was not included in the announced program. That provision is a floor price for the grain a farmer receives for participation.

The bill that I am introducing today, along with Senators BOREN and BAUCUS, gives the farmer some assurance regarding the value of the grain he or she receives under this program by providing a floor price. This bill is directed at one of the major questions about the payment-in-kind program.

This bill provides that in no case may the value of the commodities received by the producer fall below 85 percent of the basic county loan rate in effect during the marketing year in which the commodities are received by the producer. If the Secretary of Agriculture determines that the average market price for such commodity is less than 85 percent of the loan rate, the Secretary has a number of options, including authorizing the Commodity Credit Corporation to make cash payments, to assure that the producer receives this amount.

During consideration of S. 3074, the Agriculture Act of 1982, the Senate Agriculture Committee adopted a provision similar to the one I am offering today.

Mr. President, these are trying times on the American farm. Commodity prices are at the lowest level in years, and net farm income at the lowest level since the days of the Great Depression. We must provide a program that is equitable and fair. We cannot transfer the total risk and responsibility from the Federal Government onto the backs of the American farmer. The floor provision helps provide a more fair and equitable assurance to the farmer, if he or she participates in the announced payment-in-kind program.

Mr. President, I ask that the bill be printed at this point in the RECORD.

The bill is as follows:

S. —

A bill to insure that the total value received by a producer under a special payment-in-kind land conservation program is at least 85 percent of the basic county loan rate for a commodity

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That if the Secretary of Agriculture establishes a program under which special payments in kind are made available to producers who divert farm acreage from the production of an agricultural commodity and devote such acreage to conservation uses, the Secretary shall take such action as may be necessary, including the making of cash payments, to insure that the total value received by a producer under such program is equal to an amount not less than 85 percent of the basic county loan for such commodity (or a comparable price if there is no basic county loan rate).●

NOTICE OF DETERMINATIONS BY THE SELECT COMMITTEE ON ETHICS

● Mr. WALLOP. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD this notice of Senate employees who propose to participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The Select Committee on Ethics has received a request for a determination under rule 35 which would permit Mr. Jay Behuncik of the staff of Senator RUDMAN, Ms. Mary Ann Bond of the staff of Senator ANDREWS, and Mr. Gregg Garmisa of the staff of Senator DIXON, to participate in a program sponsored by the Hebrew University of Jerusalem in Jerusalem from January 9 to 18, 1983.

The committee has determined that participation by Ms. Bond and Messrs. Behuncik and Garmisa in the program in Jerusalem, at the expense of the Hebrew University of Jerusalem, to participate in seminars on American/Israeli relations, is in the interest of the Senate and the United States.

The Select Committee on Ethics has received a request for a determination under rule 35 which would permit Mr. John Howard, of the staff of Senator DODD, and Mr. and Mrs. J. Terry Emerson, of the staff of Senator GOLDWATER, to participate in a program sponsored by a foreign educational organization, the Chinese Culture University in Taipei, Taiwan (Republic of China) from January 8 to 16, 1983.

The committee has determined that participation by Mr. Howard and Mr. and Mrs. Emerson in the program in Taiwan, at the expense of the Chinese Culture University, to discuss international relations with students and fac-

ulty at the university, is in the interest of the Senate and the United States.●

PROPOSED ARMS SALES

● Mr. PERCY. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $50 million or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of a proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is available to the full Senate, I ask to have printed in the RECORD at this point the notifications which have been received.

The notifications follow:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., January 26, 1983.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 83-13, concerning the Department of the Army's proposed Letter of Offer to the Philippines for defense articles and services estimated to cost $22 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

PHILIP C. GAST,
Lieutenant General, USAF, Director.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., January 26, 1983.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 83-14, concerning the Department of the Navy's proposed Letter of Offer to Spain for defense articles and services estimated to cost $29 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

PHILIP C. GAST,
Lieutenant General, USAF, Director.

TRANSMITTAL No. 83-14

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) *Prospective Purchaser:* Spain.
(ii) *Total Estimated Value:*
Major Defense Equipment [1]—$24 million.
Other—$5 million.
Total—$29 million.
(iii) *Description of Articles or Services Offered:* Twelve HARPOON shipboard equipment sets with spares support and training.
(iv) *Military Department:* Navy (LEI).
(v) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None.
(vi) *Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold:* None.
(vii) *Section 28 Report:* Included in report for quarter ending December 31, 1982.
(viii) *Date Report Delivered to Congress:* January 26, 1983.

POLICY JUSTIFICATION

SPAIN—HARPOON SHIPBOARD EQUIPMENT SETS

The Government of Spain has requested the purchase of 12 HARPOON shipboard equipment sets with spares support and training at an estimated cost of $29 million.

This sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of Spain; furthering NATO rationalization, standardization, and interoperability; and enhancing the defenses of the Western Alliance.

The Government of Spain plans to install the HARPOON shipboard equipment sets on six DESCUBIERTA class corvettes and on six LAZAGA class patrol craft. Spain has previously procured the HARPOON shipboard equipment sets for five BALEARES class frigates through FMS and will have no problem in absorbing this equipment.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be the McDonnel Douglas Astronautics Company of St. Louis, Missouri.

Implementation of this sale will require the assignment of additional U.S. contractor representatives to Spain. However, the number of individuals and the length of time required have not been determined.

There will be no adverse impact on U.S. defense readiness as a result of this sale.●

[1] As defined in Section 47(6) of the Arms Export Control Act.

PRELIMINARY NOTIFICATION PROPOSED ARMS SALES

● Mr. PERCY. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $50 million or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that such a notification was received on January 26, 1982.

Interested Senators may inquire as to the details of this preliminary notification at the offices of the Committee on Foreign Relations, room 4229, Dirksen Building.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., January 26, 1983.

In reply refer to I-00101/83ct.

Dr. HANS BINNENDIJK,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle Eastern country for major defense equipment tentatively estimated to cost in the excess of $14 million.

Sincerely,

PHILIP C. GAST,
Director.●

ORDER FOR CONSIDERATION AND FOR VOTE ON NOMINATION OF ELIZABETH DOLE

Mr. BAKER. Mr. President, I am advised by the minority leader that he is now prepared to clear and indeed has cleared to me the request I am about to put.

I indicated earlier, Mr. President, that it was the intention of the leadership to ask the Senate to turn to the consideration of the nomination of Elizabeth Dole to be Secretary of the Department of Transportation on Monday next but that the vote thereon should occur on Tuesday.

Mr. President, I now ask unanimous consent that after the recognition of the two leaders under the standing order on Monday next, the execution of special orders, and after the expiration of the time for the transaction of routine morning business, the Senate go into executive session for the purpose of considering the nomination of Elizabeth Dole to be Secretary of the Department of Transportation.

I further ask unanimous consent, Mr. President, that if a rollcall vote is ordered on that nomination—I expect that it will be—the vote occur on Tuesday at 4 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE ON MONDAY, JANUARY 31, 1983

Mr. BAKER. Mr. President, the Senate is about to recess until Monday. On Monday, the Senate will convene at 12 noon, according to the order previously entered. After the

recognition of the two leaders under the standing order and the recognition of one Senator on special order, there will be a period for the transaction of routine morning business. At the close of morning business, the Senate will go into executive session for the purpose of considering the nomination of Elizabeth Dole. If debate on that measure is completed before the Senate recesses on Monday, other matters may be dealt with either in executive session or in legislative session, if they are cleared for action by unanimous consent.

It is anticipated, Mr. President, that Monday will not be a late day. However, once again, the leadership will attempt to take up and dispose of such measures as reach the calendar from the several jurisdictional committees as promptly as possible.

Mr. President, I hope to have a further report and outlook on the business of the Senate when we reconvene on Monday, and then later in the week as those matters are made to appear to the leadership.

I may say for my part that it is my hope and expectation that the Senate can utilize these early weeks of the session effectively; that we will not waste these precious days and come to regret it in the later part of the session. I hope that committees will get on with the business of reporting legislation, particularly those necessary reauthorization bills and those bills which have been reported but not yet dealt with in the last session of Congress.

It is my hope that we can advance the time for dealing with these matters well ahead of the schedule that we have grown accustomed to in the last few years.

RECESS UNTIL MONDAY, JANUARY 31, 1983

Mr. BAKER. Mr. President, I know of no further business to come before the Senate today. I am advised by the minority leader that he need not be present, has no wish to be present at the time the Senate concludes its business for today. Therefore, I move, in accordance with the order previously entered, and pursuant to Senate Resolution 19, as a further mark of respect to the memory of the deceased Hon. Benjamin S. Rosenthal, late a Representative from the State of New York, that the Senate now stand in recess until 12 noon on Monday.

The motion was agreed to; and the Senate, at 2:24 p.m., recessed until Monday, January 31, 1983, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate January 27, 1983:

DEPARTMENT OF STATE

Richard R. Burt, of the District of Columbia, to be an Assistant Secretary of State, vice Lawrence S. Eagleburger, resigned.

EXTENSIONS OF REMARKS

IMPROVE CHILD SUPPORT PAYMENT

HON. MARIO BIAGGI
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1983

● Mr. BIAGGI. Mr. Speaker, today I introduced a bill that will establish a bipartisan national commission to study ways of improving Federal and State efforts to enforce child support obligations and recoup delinquent child support payments. The problem of nonpayment of court-ordered and voluntary child support affects an estimated 8.4 million women with dependent children in the United States. The Commission, to be known as the National Commission on Improved Child Support Enforcement, will examine both the Federal and State role in the collection of child support payments, and consider the deficiencies of existing Federal and State legislation, judicial procedures, and administrative operations that contribute to a national rate of noncompliance of child support agreements that exceeds 50 percent.

Clearly, failure to collect child support payments forces custodial parents to apply for the Aid to Dependent Children (AFDC) program; 87 percent of the children receiving benefits under the AFDC program are eligible for AFDC precisely because an absent parent is not providing adequate support. In 77 percent of these cases not a single payment of child support has been collected. In fact, of the 4 million women awarded child support payments in 1982, only 1.9 million received the full amount; 1 million received partial payment and 1.1 million did not receive any payment at all. These figures do not include the estimated 40 percent of the more than 8 million households in the United States with absent parents that do not even have the court orders for child support needed to collect payments.

This nonpayment of child support is a problem of such magnitude that the President in the state of the Union address, only 2 days ago, pledged to the American people that "we intend to strengthen enforcement of child support laws and to insure that single parents, most of whom are women, do not suffer unfair financial hardship." My bill offers us the opportunity to make good on that pledge. The nonpayment of court-ordered child support undermines people's confidence in the law and sends out two distinct messages. One message tells the absent parent that not paying child support is one sure way to beat the system. The other message is directed to the custodial parents and the dependent children, and says in effect, "and there is nothing you can do about it." My bill will fire an even louder message that indicates that this travesty will no longer be tolerated.

Title IV-D of the Social Security Act was enacted in 1975 (Public Law 93-647) to establish a program of child support enforcement. The Federal administration of title IV-D is in the Office of Child Support Enforcement (OCSE) of the Department of Health and Human Services (DHHS) and was established to assist States in their efforts to collect court-ordered and voluntary child support payments. In fiscal year 1982 OCSE was able to collect in only 10 percent of the AFDC caseload of 5.5 million and in only 30.6 percent of the non-AFDC caseload of 1.5 million. Effective October 1, 1982, the Federal Government pays 70 percent of the administrative costs incurred by the State in providing child support enforcement. The existing formula also includes a 15-percent State incentive for collections. Thus, the current system is not only ineffective—as measured by the low rate of collections made in 1982—but is also a system that is inequitable to the Federal Government. Clearly, a more comprehensive policy-oriented approach is needed to develop a system that is fair, to not only the Federal Government, but to the millions of people dependent on it.

It is this policy-oriented approach that my bill charges the commission to undertake. One of the duties of the 1-year commission is to report to Congress recommendations for legislative, administrative, and judicial actions that will improve the effectiveness of the child support system.

I urge my colleagues to join me in support of the establishment of a bipartisan national commission to study ways of improving the quality of life of millions of custodial parents and children. For the benefit of my colleagues I will include the text of my bill here.

H.R. 1014

A bill to establish a bipartisan national commission to study ways of improving Federal and State efforts to enforce child support obligations and recoup delinquent child support payments

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

FINDINGS AND PURPOSE

SECTION 1. (a) The Congress finds that—

(1) nonpayment of court-ordered and voluntary child support affects an estimated 8.4 million women with dependent children in the United States, with a national rate of noncompliance exceeding 50 percent;

(2) nonpayment of child support is a burden not only on States but on the Federal Government, as 87 percent of the children receiving benefits under the AFDC program are eligible for such benefits because of an absent parent who is not providing adequate support or is providing no support at all;

(3) the Federal Government now pays 70 percent of the administrative costs incurred by States in providing child support services, and the existing formula includes a 15 percent State incentive—thus the current system is inequitable to the Federal Government yet cost-effective to the States; a more comprehensive inter-governmental effort is needed;

(4) of the 4.0 million women awarded child support payments in 1982 only 1.9 million received the full amount; 1.0 million received partial payment and 1.1 million did not receive any payment at all;

(5) in the fiscal year 1982, the Office of Child Support Enforcement, which was established within the Department of Health and Human Services to assist States in their efforts to collect court-ordered and voluntary child support payments for both AFDC and non-AFDC families, was able to collect payments in only 10 percent of the AFDC caseload of 5.5 million and in only 30.6 percent of the non-AFDC caseload of 1.5 million;

(6) it is a estimated that 40 percent of the 8.4 million households in the United States with absent parents do not have the court orders for child support that they need to collect payments; and

(7) the nonpayment of court-ordered child support undermines people's confidence in the law, and it is important that the responsibility for dependent children be shifted from the Federal Government to the absent parent.

(b) It is the purpose of this Act to develop effective ways of improving Federal and State governmental efforts to enforce child support obligations and recoup delinquent child support payments.

ESTABLISHMENT OF COMMISSION

SEC. 2. There is hereby established a commission to be known as the National Commission on Improved Child Support Enforcement (hereinafter in this Act referred to as the "Commission").

DUTIES OF COMMISSION

SEC. 3. (a) The Commission shall conduct a full and complete study and investigation of the factors which are currently causing or contributing to the existing high rate of nonpayment of both court-ordered and voluntary child support obligations in the United States, and of the factors which are currently preventing the effective enforcement of such obligations, with the objective of developing ways of improving and coordi-

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● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

nating Federal and State efforts to enforce child support obligations and recoup delinquent child support payments.

(b) The duties of the Commission shall include (but not be limited to) an investigation of—

(1) the Federal role in the collection of child support payments, including an examination of the Federal-State formula, a comprehensive study of the feasibility of establishing on a nationwide basis a formula for assessing the amount of a support order, consideration of ways to estimate the potential of collections nationwide, and a study of the possibility of establishing a federally-based wage deduction system to deduct child support from wages and increase collections;

(2) the State role in the collection of child support payments, including consideration of the inadequacy of enabling legislation, judicial procedures for establishing child support orders, the inadequacy of legislation to assist in establishing a child's parentage, and the lack of interstate coordination; and

(3) methods for effectively implementing the recommendations of the Commission.

(c) The Commission shall transmit to the President and to the Congress within one year after the date of the enactment of this Act a full and complete report of its activities under this Act. Such report shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and such administrative and other actions as it deems necessary or appropriate to carry out the purpose of this Act.

MEMBERSHIP

SEC. 4. (a) The Commission shall be composed of—

(1) the Secretary of Health and Human Services;

(2) the Commissioner of Internal Revenue;

(3) the chairman of the Committee on Ways and Means of the House of Representatives;

(4) the chairman of the Committee on Finance of the Senate; and

(5) seven additional members (not including any full-time officers or employees of the United States) who shall be appointed by the President, as soon as possible after the date of the enactment of this Act, from among legal experts in tax and family law, representatives of State legislatures, court administrators, and representatives of families affected by the nonpayment of child support.

Not more than four members appointed under paragraph (5) may be of the same political party.

(b) A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(c)(1) Members of the Commission appointed under subsection (a)(5) shall each be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Commission. Members of the Commission designated under subsection (a) (1) through (4) shall receive no additional pay on account of their service on the Commission.

(2) While away from their homes or regular places of business in the performance of services for the Commission, all members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

(d) Six members of the Commission shall constitute a quorum; but a lesser number may hold hearings.

(e) The President shall designate a Chairman and Vice Chairman of the Commission from among its members.

(f) The Commission shall meet monthly, and at other times at the call of the Chairman or a majority of its members.

DIRECTOR AND STAFF OF COMMISSION; EXPERTS AND CONSULTANTS

SEC. 5. (a) The Commission shall have a Director who shall be appointed by the Chairman with the approval of the Commission and who shall be paid at a rate not to exceed the rate of basic pay in effect for grade GS-18 of the General Schedule.

(b) Subject to such rules as may be adopted by the Commission, the Chairman may appoint and fix the pay of such additional personnel as may be necessary to carry out the Commission's duties under this Act.

(c) The Director and staff of the Commission shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid without regard to the provision of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay in effect for grade GS-18 of the General Schedule.

(d) Subject to such rules as may be adopted by the Commission, the Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule.

(e) Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist it in carrying out its duties under this Act.

POWERS OF COMMISSION

SEC. 6. (a) The Commission, for the purpose of carrying out this Act, may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission may deem advisable. The Commission may administer oaths or affirmations to witnesses appearing before it.

(b) When so authorized by the Commission, any member or agent of the Commission may take any action which the Commission is authorized to take by this section.

(c) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this Act. Upon request of the Chairman or Vice Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(d) The Commission may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(e) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

TERMINATION

SEC. 7. The Commission shall cease to exist 30 days after submitting its report pursuant to section 3(c).

AUTHORIZATION OF APPROPRIATIONS

SEC. 8. There are authorized to be appropriated such sums as may be necessary to carry out this Act.●

NORTHWEST INTERSTATE COMPACT ON LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT

HON. DANIEL K. AKAKA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1983

● Mr. AKAKA. Mr. Speaker, the legislation I am introducing today is a bill granting the consent of Congress to the Northwest interstate compact on low-level radioactive waste management. In 1980, the 96th Congress passed Public Law 96-573, the Low-Level Radioactive Waste Policy Act. In that law, Congress made it national policy that the States were to assume the responsibility for disposal of low-level radioactive waste. To aid the States in this matter, the Congress proposed that regional interstate compacts be developed for disposal of the low-level radioactive waste from within the region, and to deal with the disposal of any low-level waste shipped to a disposal site within the region from States not included in the regional compact.

The bill which I now introduce is the compact which has been developed pursuant to the authority granted by Public Law 96-573 to develop regional compacts. It is the compact of the following States: Hawaii, Washington, Oregon, Utah, Idaho, Montana, Wyoming, and Alaska. It has been adopted by legislative action in the States of: Hawaii, Washington, Oregon, Idaho, and Utah. Montana has adopted the compact by Executive order, and anticipates legislative ratification shortly.

Interstate compacts entered into pursuant to the Low-Level Radioactive Waste Policy Act of 1980 are required by that law to be consented to by the Congress. I introduce this legislation in order to obtain that consent.

I introduce this bill today because I feel that prompt congressional approval of this and other low-level radioactive waste interstate compacts is necessary and desirable. I am aware that other States and other regions are at this time at more developmental stages of establishing compacts than is the Northwest region. I am also aware that informed action on the northwest interstate compact on low-level radioactive waste management requires some knowledge of the extent to which this compact will interrelate with others, so as to accomplish some

national efficiency and fairness in national low-level waste management policy. Nevertheless, introduction of this bill at this time serves to inform and speed development of other regional compacts and Congress consideration of them, rather than the contrary.

The bill which I introduce today does differ in one respect from the northwest interstate compact. It is a change which I believe is essential to national acceptance of the compact. The northwest compact, as ratified by the several States, provides that party States must refuse to accept for disposal any low-level radioactive waste generated outside of the region after July 1, 1983, except such waste as may be allowed by the northwest compact committee. Such a restriction is authorized by the Low-Level Radioactive Waste Policy Act, Public Law 96-573, but may only become effective after January 1, 1986. Rather than seek congressional consent to the proposed effectiveness date of the northwest compact's exclusionary provision; section 3 of the bill I now offer ratifies the January 1, 1986, effectiveness date of Public Law 96-573.

Mr. Speaker, this is an important issue for the citizens of the northwest compact States, and indeed, for the entire country. I encourage the most prompt consideration of this legislation.●

FARMERS HOME ADMINISTRATION DEFERRAL BILL

HON. THOMAS A. DASCHLE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1983

● Mr. DASCHLE. Mr. Speaker, on behalf of Congressman DORNAN and myself I am reintroducing our FmHA deferral bill from last session. This bill grants deferrals to FmHA borrowers under certain conditions, instructs FmHA to notify borrowers of the existence of deferrals and allows borrowers to be able to apply for deferrals and other servicing remedies.

Last year our deferral legislation passed the House as part of H.R. 5831, the bill reauthorizing loan levels for FmHA farmer loan programs and it passed the Senate as part of the fiscal year 1983 agriculture appropriations bill. Unfortunately, in the former case the comparable legislation did not come to the Senate floor and in the latter instance the deferral language was lost in conference.

Under our FmHA deferral legislation, a farmer must meet certain criteria—and FmHA determines whether the borrower meets the criteria—to be eligible for a deferral. The criteria are nearly identical to the ones the Department now says it uses in allowing deferrals. Under the bill, a farmer in order to receive a deferral must: First, be a good manager; second, his inability to repay must be due to circumstances beyond his control; third, he must have a reasonable chance for repayment; and fourth: he must have no larger than a family size farm—this is something now determined by county committees in determining farmers' eligibility for operating and ownership loans which also have family farm size criteria.

The bill also makes a provision which says that if a farmer does receive a deferral that when he begins repayment of the principal and interest he will not be charged an interest rate higher than the one he was originally paying.

An additional, and very important part of the bill, requires that FmHA notify farmers of the existence of deferrals and other servicing remedies. In a June 1982 decision in Georgia (Curry versus Block) the district judge ruled that FmHA must provide clear notification to farmers about the existence of deferral possibilities and must rewrite their deferral regulations. The Government, in its brief filed in this case, stated that FmHA has no obligation to inform farmers about deferral possibilities and is appealing the case. Our bill is consistent with the judge's order regarding notification of deferral options.

Our legislation also fills a void in the law by requiring that USDA have clear procedures for applyifg for and appealing denials of deferrals and other servicing remedies. USDA currently does allow appeal of deferral decisions, but it is not smmething required by statute. Currently, decisions made by FmHA county committees are appealable by order of statute. Decisions made by FmHA county supervisors who do make deferral decisions are appealable by virtue of regulation, but it is not mandated by law. Our provision simply makes the law consistent with regard to decisions by county committees and county supervisors.

It is noteworthy that another court decision has taken FmHA to task with regard to its use of their deferral authority. In December 1982 a Federal judge in Kansas City ordered FmHA to give farmers the opportunity to apply for deferrals before foreclosing on their property. It is a crime that farmers are forced to go to court on an issue like this. USDA contends that it is "going the extra mile" for farmers, but their limited use of both their deferral authority, and I might add, of the limited resource loan program, does not add up to "going the extra mile."

And so I urge my colleagues to support this legislation and to join in cosponsorship of this bill which insures FmHA borrowers their rights under deferral law and which provides an avenue for keeping more farmers afloat during these difficult economic times. Last year 8,227 FmHA borrowers left farming for economic reasons—keep in mind that only 11 percent of farmers are FmHA borrowers and so the total number of farmers being forced off the land is much higher than that. I fear that the number of family farmers going under will be much higher this year unless we force the Government to truly "go the extra mile."

Printed below is a copy of the bill:

H.R. 1024

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 331A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981a) is amended by—

(1) inserting the designation "(a)" before the existing text thereof;

(2) in the second sentence, striking out "section" and inserting in lieu thereof "subsection"; and

(3) adding at the end thereof new subsections (b) and (c) as follows:

"(b) The Secretary shall permit, at the request of the borrower, the deferral of principal and interest on any outstanding loan made, insured, or held by the Secretary for farm ownership purposes under subtitle A, farm operating purposes under subtitle B, disaster emergency purposes under subtitle C, or economic emergency purposes under the Emergency Agricultural Credit Adjustment Act of 1978, and shall forego foreclosure of any such loan, in both cases upon a showing by the borrower that the borrower (1) has demonstrated good management practices, (2) due to circumstances beyond the borrower's control is temporarily unable to continue making payment on such principal and interest then due, and (3) has a reasonable chance of repayment of the loan after the deferral of principal and interest or the foregoing of foreclosure. Interest that accrues during the deferral period on any loan deferred under the provisions of this subsection shall bear no interest during or after such period. The foregoing provisions of this subsection shall be limited to borrowers who own or operate family-size farms, as certified by the county committee in accordance with section 333(b) of this Act. The Secretary shall promulgate regulations which provide (1) for notification of all farm borrowers of the provisions of this subsection and all other servicing alternatives offered by the Secretary; (2) clear procedures by which borrowers may petition the Secretary for relief under such provisions and alternatives; and (3) for appeal within the Department of Agriculture from a decision which denies relief under such provisions and alternatives.

"(c) Upon the expiration of any period of deferral of payment of principal and interest and foregoing of foreclosure by the Secretary under subsection (b) of this section, the Secretary shall make available to the borrower, upon the borrower's request, procedures whereby the loan can be consolidated, rescheduled, or reamortized to provide equitable repayment terms consistent with the borrower's farm and financial situation, and any loan so consolidatedd, rescheduled, or reamortized shall bear interest at a rate

not in excess of the rate of interest on the original loan."

SEC. 2. The amendments made by section 1 of this Act shall become effective upon enactment.●

TRIBUTE TO PAUL "BEAR" BRYANT

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1983

● Mr. PHILIP M. CRANE. Mr. Speaker, the University of Alabama, the sport of football, and the Nation morn the loss of a great American, Paul "Bear" Bryant. During the past Presidential primary contest, I had the occasion to spend a fair amount of time in Alabama. Alabama supporters informed me that a meeting with the Bear was a must for any serious candidate.

Unfortunately, Coach Bryant had to cancel a scheduled meeting in his office. I was much more disappointed over this fact, I am sure, than was Coach Bryant. But he had not forgetten and later tendered the invitation to meet on the field during football practice. This I was told was the highest honor one could receive from the Bear.

To show the degree of respect Illinoisans had for Bear Bryant, he achieved two of his many outstanding achievements at our expense with no hard feelings from any of us. First, his record number of wins eclipsed the long standing record of Amos Alonzo Stagg, the great former coach at the University of Chicago. Second, the Bear's final triumph—just weeks ago—came at the expense of the University of Illinois.

Illinoisans are no different, however, than other Americans when it comes to acknowledging greatness, and Bear Bryant was a great American who lived up to the highest ideals of our country. Many of us mourned his decision to retire from coaching. We mourn even more his loss from this life. Our prayers are with his family and loved ones. Bear Bryant, in the meantime, has joined the immortals.●

WOMEN'S STRIKE FOR PEACE NATIONAL CAMPAIGN

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1983

● Mr. EDGAR. Mr. Speaker, today the Women's Strike for Peace launched a national campaign against the concept of winnable nuclear war. The title of the campaign is, "I Refuse To Be 1 in 20 Million Acceptable Dead."

They are angry, and there is good reason for their anger. In the name of national security, our military strategists have been planning the destruction of civilization. In 1963, the anger of the Women's Strike for Peace helped produce the ban on atmospheric nuclear tests. As important as that test ban has been, it was a limited accomplishment compared to what must yet be done. The rising emotion in our Nation is a hopeful sign. The fear and anger of our people focused through groups like the Women's Strike for Peace can bring about a redirection of the defense debate on a more sane framework.

I am inserting a statement from the Women's Strike for Peace in the RECORD:

Women Strike for Peace has organized the "I Refuse To Be 1 in 20 Million 'Acceptable' Dead" Campaign because we deeply fear that the Administration, despite its arms control rhetoric, is planning to fight a nuclear war with the Soviet Union, rather than planning to prevent one.

Leaks from the Pentagon's Defense Guidance Plan and strategic master plan last year in May in the N.Y. Times and in August in the L.A. Times, indicates the completion of a Plan designed to give the United States the capability of winning a protracted nuclear war with the Soviet Union with a level of American casualties that would be considered compatible with winning.

January 17th, this year, UPI published another leak of the chilling plans. According to the article by Richard Gross of UPI, the Plan ignores the possibility of accommodations or peaceful existence with the Soviet Union and states that our nation must prepare to wage war "effectively" from outer space, and it barred any treaty that bans space based weapons, saying they would (the weapons) "add a new dimension to our military capability."

The appointment by the President of Kenneth Adelman to head the Arms Control & Disarmament Agency further exposes the militarism of this administration. Adelman wrote 18 months ago in Policy Review that U.S. strategic policy must convince the Soviet Union that "the United States would indeed risk nuclear escalation" to counter aggression against European allies and Persian Gulf interests."

He also called for new and better offensive nuclear weapons and outlined a strategy that would target Soviet command centers and the bunkers where Moscow's leaders would take refuge. To put such a man in charge of a disarmament agency would be laughable if it weren't so deadly serious.

Senator Arlen Spector of Penna., referring to the second leak, said on the floor of the Senate August 16th, "In making plans to win a nuclear war, it is my view that we are setting the stage to make it acceptable to have such a nuclear war and we are developing the psychology, both at home and abroad, that such a nuclear war is inevitable. Once such a psychology has been developed, then nuclear war may well be inevitable."

We charge this administration with not only planning for protracted nuclear war on earth but for planning to carry the insanity of the arms race into outer space.

We are deeply fearful that we are faced with a President who is either incompetent to deal with the massive problem of averting nuclear war or is unwilling to do so until all planned first strike weapons are in place.

We accuse this administration of lacking compassion for the hungry, the jobless, the elderly and the children by squandering billions of dollars on huge increases in the military budget while approving deep cuts in food stamps and children's lunches.

We charge President Reagan with threatening our civil liberties with false allegations of "manipulation" by foreign agents of the leaders of the Nuclear Freeze movement. His unfounded suspicions show contempt for the fears of the American people and their deep aspirations for an end to the nuclear arms race.

We have sent a message to Senator Charles H. Percy, Chairman of the Senate Foreign Relations Committee urging that his Committee institute a deep and serious investigation, if they have already not done so, of the Pentagon's Defense Guidance Plan and strategic master plan. We urge that this be done in order for the Committee to determine its impact upon meaningful negotiations with the Soviet Union and its potential for unleashing nuclear war. We also urged that Kenneth Adelman not be approved by the Senate Foreign Relations Committee as Director of the ACDA since his philosophy is antithetical to the real purpose of the disarmament agency.

The aim of our Campaign of "I Refuse To Be 1 in 20 Million 'Acceptable' Dead" is to reach millions of grass root Americans and give them the opportunity to tell the President that they will no longer remain still and silent while secret plans are being made which could mean that their children could be the last generation. Instead, our Campaign demands a Master Strategic Plan for the prevention of nuclear war—not for the planning of it.

The Message to the President will appear in leading magazines and newspapers. It has already appeared as an ad in The Progressive and will appear in the Bulletin of Atomic Scientists in February. We are asking our contacts and branches in small towns and cities to place the Message as an ad in their community newspapers. Hundreds of organizations will be contacted asking that they disseminate the Message throughout their organizations. The initial responses to small ads has been very gratifying.

Women Strike for Peace came into existence 21 years ago as a protest against the testing of nuclear weapons in the atmosphere by the United States and the Soviet Union. We were fearful for the health of the children—today we are fearful for their lives.

We believe that the United States and the Soviet Union are Siamese twins. We either live together or die together. The administration's secret plans make dying together a more likely possibility.

Eleven million Americans voted for a bilateral nuclear freeze. We believe strongly that Americans, given the opportunity, will opt for life. The basic purpose of our Campaign is to give people that opportunity.●

OUR MISSING IN ACTION: A 10TH ANNIVERSARY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1983

● Mr. GILMAN. Mr. Speaker, there are some anniversaries which are joyous occasions for reliving the happy memories that we associate with a particular event. For many Americans, January 27 marks the day that their loved ones were able to return home from Vietnam, the day that the Paris Peace Accords were signed. But for 2,500 other American families, the 27th of January marks the beginning of a vigil which, one decade later, still continues as the fate of our servicemen still missing in action is unclear.

Today, in Washington, the families of our missing in action are gathering to mark this sad anniversary. Their vigil has begun in our Capital City, to tell the world how deeply they care for their missing. This week, Judge Clark of the National Security Council is scheduled to address the hundreds of families who have traveled great distances to be here. The President is also scheduled to meet with the MIA family members later this week, to reaffirm the administration's commitment to its search for our missing in action.

We welcome this reaffirmation of commitment. I believe that this Presidential gesture is long overdue. However, it is sad that for so many people this 10th anniversary is still spent in uncertainly with little more information than was divulged 10 years ago.

In my 10 years in the Congress, the months and years have ticked by without substaftial progress on the MIA-POW front. Our American hostages were held in Iran for little over a year, and were redeased to a welcome which brought our Nation closer together if a sea of yellow ribbons and love. Our missing in action servicemen suffer an unknown fate—we do not even know if they are alive right now, if they were alive until a month ago, or if they were, like many others, killed long ago, their remains stored in some Vietnamese storehouse to be used as future bartering chips.

Most of us who are involved in the issue of our missing in action have never confronted a more frustrating set of circumstances. There is no lack of will on the part of the families—on the contrary, the families of our missing in action have exhibited the spirit and dedication equalled by none. The families I am certain, would do almost anything to find the truth about their sons, husbands, or brothers. Too many of these families have suffered the agony of uncertainty. They have paid both in time and in love. Their financial resources have been depleted in many cases, as they attempt to seek information about their loved ones whereabouts. They have explored every avenue in serving, the truth * * * a most valuable and most precious commodity.

During the past 6 years, as a member of the House Task Force on Missing in Action, I have seen some positive signs emerge from the morrass surrounding this issue. Just recently, a delegation of American family members were invited to Vietnam to visit with officials and to discuss the missing in action issue. While in Southeast Asia, the families were permitted to enter Laos, and by all reports, a productive and fruitful series of meetings took place. The family members were able to visit for the first time the site of an American aircraft crash, a site which had been overgrown with jungle growth for several years. The Laotians pledged their support for joint recovery teams to enter the Laotian jungles and search for downed American aircraft and remains. That is a critical first step if we are to ever crack the mystery that surrounds that nation and the 500 or so people missing in that nation.

The Vietnam problem however, still remains of great concern as we try to seek the true facts. We have heard testimony from Vietnamese refugees who contend that live Americans have been sighted in Vietnam recently. We have also pursued credible reports indicating that the Vietnamese warehoused some 400 sets of American remains.

With deep concern about the honor and dignity of our Armed Forces, I am hoping that we will soon be able to learn the truth about our MIA's. This issue continues to be one of our most tragic issues, one which has brought too much anguish to too many Americans who are trying to find the truth. I hope and pray that someday soon we will be able to fully account for our missing.

Two of my dear friends, George and Glady Brooks from Newburgh, N.Y., are joining the families of our missing in action in Washington this week. Their son, Cmdr. Nicholas Brooks was shot down over Laos in 1970. For 12 years, the Brooks family lived with uncertainty and a lack of information about Nick's status. Last year, however, after those dozen years of anguish and pain, Nick's remains were forwarded by Laotian resistance and turned over to our embassy personnel. While it was with regret that we learned that Nick Brooks was not alive, we are grateful that the waiting is over for George and Gladys. For too many others, the painful waiting continues.

We, as a nation, must not give up the fight for information and an accounting of our Americans who are still missing in action. We must keep pressing the Vietnamese and Laotians Governments for information on our MIA's and for the remains of our missing in action. Our 2,500 Americans deserve our continued support and dedication. For their sacrifice we can do no less.●

PUERTO RICO TRANSPORTATION EQUALIZATION ACT OF 1983

HON. BALTASAR CORRADA

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1983

● Mr. CORRADA. Mr. Speaker, today I am reintroducing the Puerto Rico Transportation Equalization Act of 1983.

This legislation recognizes that the cost of shipping commodities from the U.S. mainland to Puerto Rico on U.S. vessels is higher than the cost of shipping such commodities on comparable foreign-flag vessels. Because of this, financial assistance for the transportation of key petroleum and agricultural commodities between the U.S. mainland and Puerto Rico would foster economic growth, employment, and improve nutrition on the Island.

The bill provides for a mechanism whereby the Secretary of Commerce may, at the request of the Governor, reimburse eligible exporters and eligible importers for the difference between the ocean freight rates of U.S.-flag vessels and the foreign base rate established by the Secretary.

Through this bill, we seek to equalize the burden placed on the Puerto Rican consumer because of our dependence of shipping for key goods.

I look forward to action on this legislation during this Congress.●

THE "W" PARTICLE

HON. DANIEL K. AKAKA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1983

● Mr. AKAKA. Mr. Speaker, having an idea first is not good enough, especially if you do not follow through. After a 15-year search, physicists working in Switzerland, not in America, have made the discovery of a new elementary subatomic particle called the "W" particle. This particle is one of the only four particles believed to be responsible for all the forces acting in the universe. Worldwide, this discovery has been hailed as the "discovery of the decade," and marks the first time that the Europeans have beaten the Americans "to something big" in high energy physics.

This first for the Europeans should not surprise most of us. You may recall that the search for this particle

was initially proposed to be conducted at an American particle accelerator in Batavia, Ill., but the money could not be found. This recent discovery was made in Switzerland. According to a recent article in the Washington Post, although we in Congress have since appropriated funds, we have fallen behind the Europeans who now have a significant lead in this field.

The question: Why have we fallen behind? We have fallen behind because we have made the decision in this field, as in many others, to relinquish our leading role. We are behind because we have chosen to be behind by refusing to invest in areas where the return on investment is not immediate.

We have fallen behind in this field, as in many others, because we have decided not to invest in the kind of research and development destined to make us a world leader.

This decision has been a conscious and willful one, perpetrated in many fields: Particle physics, planetary exploration, space science, oceanography and underwater exploration, just to name a few. The sad fact is that we in this country have, for all practical purposes, stopped investing in basic scientific research at meaningful levels. We have stopped educating scientists and engineers at meaningful levels. And, we have implicitly accepted a secondary role in scientific accomplishment and achievement.

The time has come to renew our investment in basic research and development. The time has come to reavow our role as leaders in the field of exploration, discovery, and scientific achievement.

The time has come to reaffirm our commitment to investing in America's future. Without a substantial investment in research and development, we will always be a nation whose scientists and engineers rank second.

I call on my colleagues to make sure that the levels of research and development funding in all areas of the 1984 budget are meaningful ones—ones which will assure that in the years to come, we will be a nation second to none in achievement in science, engineering, education, and industry. Our future depends on it.●

INDIVIDUAL EFFORT

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1983

● Mrs. SNOWE. Mr. Speaker, I would like to take this moment to share with my colleagues an article which embraces the true spirit of the hard-working small businessman.

Mr. Fred Hirsch, a former NBC news staffer left New York in pursuit of a personal dream, the ownership of a radio station. Since taking over WDME in Piscatiquis County 2 years ago, he has turned a small, struggling radio station into an important medium serving a variety of community interests. Radio station WDME is truly a community station covering local news, sports, and talk shows.

The accomplishments of Mr. Hirsch offer an outstanding example of an individual's dedicated efforts to overcome great obstacles. It is with great pleasure that I submit this article from the Wall Street Journal, in hopes that it will serve as an inspiration to those individuals who seek to build and improve their own businesses.

[From the Wall Street Journal, Jan. 17, 1983]

SMALL RADIO STATION KEEPS OWNER BUSY, HAPPY—AND IN RED

(By Margaret Garrard Warner)

DOVER-FOXCROFT, MAINE.—While his New York City friends partied in nightspots there, Fred Hirsch rang in the New Year in the county sheriff's office here with a microphone, a few lawmen and some drunk drivers. He was giving listeners of the small town's only radio station a minute-by-minute account of the more sobering side of New Year's Eve.

Mr. Hirsch is the chief news reporter and announcer at radio station WDME. He is its business manager, an advertising salesman and all-around promoter as well. He also cleans the station's bathroom.

Mr. Hirsch doesn't mind all the duties. He owns the tiny station. "This is a real mom-and-pop operation," says the 29-year-old bachelor, "except I don't have the 'mom'—yet." Two disk jockeys round out his full-time staff; they sell advertising in addition to playing music.

In an era of media conglomerates, Mr. Hirsch typifies a stubborn group of independent broadcasters who plunge everything they own into a money-losing radio station in hopes of turning it into a winner. "It's one of the last remaining fields where an entrepreneur with a small amount of money can get his feet on the bottom rung of the ladder," says Abe Voron, the executive director of the National Radio Broadcasters Association.

REVENUES UP SHARPLY

For Fred Hirsch, a former news staffer with NBC Radio in New York, owning a radio station is a dream worth struggling for. Ever since buying the money-losing ABC affiliate two years ago, he has been working 18-hour days to turn it around. And with some success. Advertising revenues have doubled, he says, though WDME still isn't breaking even.

Behind the station's financial progress in this central Maine area of small towns is Mr. Hirsch's stepped-up coverage of community events ranging from peewee hockey games to a burglary in Kingsbury Plantation (population six). Also important is his grueling schedule. His days usually begin at 5 a.m. at the sheriff's office, where he checks the police blotter. They often end with Mr. Hirsch, unshaven and having paused only for a late-afternoon nap, attending evening civic meetings. The station itself is on the air from 5:30 a.m. to 10 p.m.

The odds seem stacked against such broadcasters. Industry officials say 40% of the nation's 9,000 radio stations are in the red.

But the payoff can be tremendous. In 1965, Bernard Mann, now the president of Mann Media in High Point, N.C., put up $5,000 for a one-third interest in a struggling radio station in nearby Winston-Salem. He turned the station into a money-maker and leveraged it to buy more stations. Today, Mr. Mann says he and his wife own a string of stations valued at $13 million, their personal worth is about $4 million, "and I never put in a dime more than that $5,000."

All it takes to succeed, Mr. Mann says, is the willingness to take risks and work long hours, "the confidence to believe that you're going to win despite the setbacks, and the nerve to tell the wife she's going to be moving to Little Rock."

Mr. Hirsch is younger than most first-time owners, and luckier than most in one respect: His family is his financial partner. He bought his $116,000 station with a personal cash stake of just $19,500. "I couldn't have bought the smallest apartment in New York for that," he says.

But Mr. Hirsch also is beginning more modestly than most. The two-room 500-square-foot station is so small that he rarely needs to turn on the heat even in the dead of winter, he says; body heat and the warmth radiated by the electrical equipment keep it toasty.

WDME is the only radio station in Piscataquis County, a region so lightly populated that it has just two traffic lights in nearly 4,000 square miles. The local economy, dominated by the lumber and wood-products industries, has been battered by the recession. Mr. Hirsch added an FM sister station to his 1,000-watt AM station, increasing WDME's listening area to a 35-mile radius from 15 miles. But even now, his audience is barely 35,000 people, and most listeners don't have a lot of money to spend on advertisers' wares.

Nonetheless, Mr. Hirsch estimates that advertising revenues rose to $90,000 last year from $54,000 in 1981. His expenses run about $110,000 a year. "We're struggling, but it's so exciting," he says with a grin. "It's a challenge to keep your head just above water."

Although WDME runs some ABC national and international news and sports reports, it emphasizes its expanded local coverage, which includes practically everything Mr. Hirsch can chase down: daily police and accident reports (but no suicide attempts—"too delicate," he says); a live talk show; the town officials' decision to let a local restaurant serve liquor, and a debate on the pros and cons of hunting moose, Maine's state animal.

It's the kind of information residents can't get when they tune in one of the admittedly wider variety of eusical formats offered by competing stations in Boston, Portland or Bangor, which is 35 miles away.

"Before Fred took over, local folks didn't rate much news on our own local station," says Carl Dow, a transportation worker and the fire chief in neighboring Atkinson (population 306). "So of course, we listened to Bangor stations."

AUDIENCE INCREASED

Ratings aren't available, but Mr. Hirsch has obviously increased his station's audience. In coffee shops, retail stores and the local Hathaway shirt factory, chances are you will hear his WDME.

"He's a real go-getter," says Marilyn Bennett, the editor of the Piscataquis Observer

weekly newspaper, Mr. Hirsch's only competitor for local advertising, "He even does live broadcasts of our local high-school graduations. Imagine what that means to a grandparent who can't sit for hours on those hard boards."

This isn't the life that Mr. Hirsch charted for himself when he graduated from Ithaca College with a communications degree and set out for New York City. "I wanted to climb the corporate ladder," he says. He took a job as a page and tour guide at NBC headquarters on the theory that "this is the way Johnny Carson and lots of top people at NBC started. And I love New York City."

By age 24, he was on the radio news-department staff, working with people up to twice his age who "made good money, didn't have much pressure and had terrific hours." But he decided "that wasn't for me." Determined to own his own station, he left NBC to apprentice with William O'Shaughnessy, whose WVOX-AM in New Rochelle, N.Y., is the quintessential community station prospering in the shadow of big-city giants.

AN EARLY SURPRISE

Mr. Hirsch isn't a stranger to small-town life—he grew up in a Vermont town of 500 people—but he says Mr. O'Shaughnessy taught him how to convert that empathy into a successful radio station. Mr. Hirsch remembers his initial dismay over one early assignment at WVOX: to interview a schoolteacher on the first day of school to find out how she felt about having the kids back from summer vacation.

"You've got to give the listeners something they can't get from the big boys," Mr. O'Shaughnessy said, "and that's a very special kind of home brew."

Here in Dover-Foxcroft, Mr. Hirsch serves up the "home brew" in large doses. Don Davenport, the minister at the United Church of Christ, says, "Fred understands that if the fire whistle blows in the middle of the night and it ends up being a false alarm, people in a small town still want to know whose house it was that the firemen had to go out to."

Mr. Hirsch's biggest winner is his coverage of local sports. "We don't have much else here for entertainment," he says. With his new FM station, two contests can be covered at once. And WDME broadcast every amateur sport around, from football and basketball games at all six area high schools to bowling tournaments at the local Rocket Lanes.

Mr. Hirsch is a bit timid, though, when it comes to reporting news that might embarrass a local person or the community. He concedes one worry is that a negative story may generate resentment that could hamper his ability to gather news or sell advertising. He contends. "You have to think about people's feelings in a small community like this."

Recently, for example, he refused to report the news of a local man arrested and charged with molesting his eight-year-old stepdaughter. (A neighboring newspaper did report it.) "People might say I'm not a good journalist." Mr. Hirsch says, but "you report that man's name, and everybody will immediately know who his stepdaughter is. That will hurt the girl for the rest of her life."

Mr. Dow, the Atkinson fire chief, says there isn't any need to report such story anyway. "In towns around here, gossip'll take care of getting that story around," he says.

When not chasing down a story or selling ads, Mr. Hirsch is volunteering for community projects. Among other activities, he is the president of the town business association, the secretary of the county's battered-wife crisis center board and the secretary of the local housing-development corporation. "How can I ask this community to support my station if I don't support the community?" he comments.

Bill Mack, who is the disc jockey in the morning and sells ads in the afternoon, thinks that local business people serving on various boards with Mr. Hirsch now find it harder to turn down a WDME advertising salesperson. Mr. Hirsch, who is constantly urging local merchants to compete more aggressively against the big shopping malls in Bangor, supports his local advertisers in return. He doesn't solicit ads from the Bangor stores even though they have larger ad budgets.

"In the short run, economically, I don't know if that's the best approach for Fred to take," says Tom McCoy, Mr. Hirsch's banker. "But people here like his attitude."

Mr. Hirsch's frantic pace leaves him little personal time. He often looks haggard, say townspeople who watch him literally jogging from place to place. He never takes notes when reporting because he doesn't have time to read them anyway before writing his newscasts. But his only real lament is the paucity of single women hereabouts.

"I guess you could say my work has become my life," he says while driving through the predawn darkness on his news-gathering rounds. "But I love it here. I love what I'm doing. I guess the difference is, it's mine."●

THE HONORABLE DREW LEWIS

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1983

● Mr. SCHULZE. Mr. Speaker, I take this well today to give testament to a gentleman that it has long been my privilege to know, Drew Lewis. Our association has its roots in our home State of Pennsylvania. We both had been involved in politics at the local and State level before moving to the national arena, and shared a background in business before becoming politically active. As such, Drew and I recognized the importance of bringing to Washington an administration with an appreciation of the problems that the business community faces, and which would bring fiscal discipline to the Federal Government. Accordingly, we were both early supporters of the Reagan candidacy for President; Drew as deputy political director of the Reagan-Bush Campaign Committee, and myself as one of the first Members of the House of Representatives to publicly support Governor Reagan for President.

Drew's success in business and politics stems from his abilities as a problem solver, and his commitment to community service. As president of the failing firms of Snelling & Snelling, and Simplex Wire & Cable Co., and court-appointed trustee of the bankrupt Reading Railroad, Drew utilized the management skills, which would later serve him so well as Secretary of Transportation, to restore these operations to sound fiscal condition.

Following these triumphs, Drew created his own business management consulting firm, which he directed until being selected to serve in Washington at the behest of President-elect Reagan as Secretary of Transportation.

During his tenure at Transportation, Drew gained the respect of Americans of all political persuasions for his cool-headed handling of the air traffic controllers strike, and his subsequent plan to restructure and modernize that system. Under his stewardship, the Department of Transportation relaxed many of the burdensome regulations on cars and trucks, and on inner-city buses, which had hampered the efficient production and use of those vehicles. His final legislative contribution to the restoration of our Nation's transportation system was the ushering through Congress, often against hostile opposition, the passage of the highway gas tax bill. The benefits of this measure will be evident to all users of America's infrastructure for years to come.

Drew Lewis stated at the time that he accepted the position at Transportation that he would serve in that capacity for 2 years, at which time he would return to the private sector. President Reagan accepted those terms, realizing that the financial sacrifice and demands on personal time that public service requires. Drew now moves to a new challenge, as chairman and chief executive officer of Warner Amex Cable Communications, Inc. Clearly, it is Warner Amex that will gain, but I suspect that given Drew's commitment to his country, we shall find him making contributions to the public good, in the future, both inside and outside the political field. Already he has volunteered to help with the reelection of Ronald Reagan, in that spirit of voluntarism that the President has done so much to rekindle in America.

As I noted earlier, Drew Lewis possesses a dedication to public service. This is evident outside of his political contributions through his membership on the Delaware River Port Authority and on the board of managers of Haverford College, his alma mater. Additionally, the Central Schwenkfelder Church in Drew's home town enjoyed his guidance when he served as president of the board of trustees.

In addition to knowing Drew, I have had the pleasure of the company and friendship of his charming wife Marilyn, who has served in the Pennsylvania House of Representatives, and their fine children; Karen, Andy and Rusty. As is the case with Drew, the

members of his family all lead happy and productive lives in their own right.

Though Washington is losing the talents of Drew Lewis for the time being, I am happy that I, for one, will certainly not be losing his friendship. My wife Nancy and I would simply like to wish Drew and Marilyn, and the Lewis Children, all the best in the world. They certainly deserve it.●

H.R. 459—TO AMEND THE RAILROAD UNEMPLOYMENT INSURANCE ACT

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1983

● Mr. APPLEGATE. Mr. Speaker, on January 6, 1983, I introduced H.R. 459, a bill to amend the Railroad Unemployment Insurance Act. This legislation addresses four major problems and is desperately needed at this time.

The major provisions of my bill include the following:

The daily benefit rate for unemployed railroad workers would be increased from $25 to $35. The current rate has not been changed since 1976 and has fallen behind most State programs and the prevailing rate in virtually all large industrial States.

Extended benefits would be provided for employees with less than 10 years of service. As you know, inadvertently, as a result of the Omnibus Budget Reconciliation Act of 1981, extended unemployment benefits for this group was eliminated. Thousands have exhausted their regular benefits and are now without means of support. We have twice extended regular benefits under the State programs but we have not extended benefits for railroad employees with less than 10 years of service. This is a major inequity.

The borrowing authority between the railroad unemployment insurance system and the railroad retirement program would be terminated. This is critical. The retirement account is going broke at the same time the unemployment insurance system owes to the retirement account almost one-half billion dollars. The unemployment program is not paying for itself with the result that the burden is being shifted to active workers and, possibly, if corrective action is not taken, to retirees.

Needed amendment to adequately finance the unemployment program would be made by increasing the monthly compensation base of $400 has not been changed since 1959—almost a quarter century ago. It would be increased to $2,400 per month. By way of comparison, average wages in the industry are over $2,200 per month.

This legislation would amend the Railroad Unemployment Insurance Act to provide adequate levels of benefits which are adequately financed. It is desperately needed by more than 70,000 unemployed railroad workers. I urge its speedy consideration and welcome my colleagues cosponsorship of it.

I have inserted following this statement, a section-by-section analysis of the bill I have introduced.

EXPLANATION OF THE BILL

Section 1 of the bill would amend section 2(a) of the Railroad Unemployment Insurance Act to increase the maximum benefit payable for each day of unemployment or sickness from the current level of $25 per day to $35 per day, effective with benefit periods beginning after June 30, 1983.

The last benefit increase was provided by Public Law 94-92, which allowed a two-step increase from $12.70 to $24 effective July 1, 1974, and again to $25 effective July 1, 1976. Benefits are payable for a maximum of 10 days out of every two-week registration period and, therefore, the current formula yields a maximum of $250 every two weeks. Since the last increase took effect in 1976, the consumer price index, using 1967 as a base year, has risen from 170.5 in 1976 to 272.3 in 1981 for wage-clerical workers and to 272.4 for all urban consumers. In the same 1976-1981 period, the earnings of the average railroad employee has risen from $17,152 to $26,471. Yet when a railroad employee is unemployed or is unable to work due to sickness, the system designed to replace his lost income currently provides the same benefits as it did in 1976. As of July 1982, of 52 United States jurisdictions studied, 71 percent of workers nationwide were covered by unemployment systems which provided basic benefits to the wage earner greater than those provided by the current level of maximum benefits provided by the Railroad Unemployment Insurance Act. When benefits provided under state programs for workers with dependents are compared to the maximum level of benefits provided under the Railroad Unemployment Insurance Act, the figure increases to 75 percent. The increase of the daily benefit to $35 is designed to bring the benefits payable to railroad employees into line with the national average.

Section 2 of the bill would amend section 2(c) of the Railroad Unemployment Insurance Act. Section 2(c) of the Act provides that a qualified employee can receive normal unemployment benefits for up to a maximum of 130 days during a particular benefit year, but the total amount of such benefits cannot exceed the employee's compensation of the base year. The same maximums are applicable to the receipt of sickness benefits. Section 2(c) currently provides that a maximum of $775 of earnings per month can be used in determining the employee's base year compensation. With the daily benefit increase provided by section 1 of the bill, an employee would reach the limit provided by section 2(c) much more rapidly than would be the case at the $25 daily rate currently in effect. In order to prevent this maximum from becoming more of a limiting factor than is desired, the bill increases the amount of earnings that will be considered in applying the base year compensation maximum from $775 a month to $1,085 a month. The $1,085 figure bears the same ratio to $775 as does the proposed $35 maximum benefit rate to the current $25 maximum. This amendment would also be applicable in determining base year compensation for purposes of unemployment benefits for employees with less than 10 years of railroad service as would be provided by section 3 of the bill. Extended benefits payable to a particular employee would be limited to 50 percent of the employee's base year compensation.

Section 3 of the bill would amend section 2(h)(2) of the Railroad Unemployment Insurance Act so as to restore extended unemployment insurance benefits for unemployed railroad workers who have less than ten years of railroad employment. Extended benefits for these employees were eliminated as a result of the repeal by the Omnibus Budget Reconciliation Act of 1981 of the national trigger for extended benefits which was provided for in section 203(d) of the Federal-State Extended Unemployment Insurance Compensation Act of 1970. The payment of extended benefits for railroad employees with ten or more years of service was not affected by the repeal of the national trigger, but section 2(h)(2) of the Railroad Unemployment Insurance Act specifically incorporates the now non-existent national trigger as the trigger for the payment of extended benefits to employees with less than ten years of service.

The Omnibus Budget Reconciliation Act, by repealing the national trigger, did not eliminate extended benefits for employees directly covered by the Federal-State Extended Unemployment Compensation Act of 1970, but merely changed the basis for the payment of such benefits to be solely the level of unemployment in each state rather than the level of unemployment nationally. Nevertheless, due to the incorporation of the national trigger by the Railroad Unemployment Insurance Act, extended benefits were inadvertently eliminated for certain employees by repeal of this provision.

The bill would amend section 2(h)(2) to provide that extended benefits would be payable when the level of unemployment in the railroad industry is equal to or higher than 5 percent. Thus, the triggering mechanism for unemployed railroad workers would be similar to that now applicable to other workers, which as noted above is based on the level of unemployment in each state. The bill provides that the first period of high unemployment shall be deemed to have begun on April 1, 1983, thus permitting the payment of extended benefits on and after that date in recognition of the fact that had the national trigger not been eliminated there would have been a period of high unemployment in effect on April 1, 1983.

Section 4 of the bill would amend section 8(a) of the Railroad Unemployment Insurance Act to increase the maximum monthly wage base on which contributions may be assessed from $400 per month to $2,400 per month. Section 8(a) of the Act provides for the establishment of a contribution rate to be paid by employers which is then applied to the amount of compensation paid by the employer to each employee up to the maximum wage base provided in that section. The contribution rate depends on the amount of the balance in the Railroad Unemployment Insurance Act, but cannot go above 8 percent. In recent years, the benefit payments under the Railroad Unemployment Insurance Act have exceeded the contribution under section 8(a) of the Act, despite the fact that the contribution rate has been at the 8 percent maximum. As a result of the shortfall, the railroad unemployment insurance account has been required to continually borrow from the Railroad Retire-

ment Account pursuant to the authority to do so contained in section 10(d) of the Railroad Unemployment insurance account in recent years and owing to the Railroad Retirement Account was in excess of $324,000,000 as of October 31, 1982.

The wage base on which contributions are assessed has not been increased since it was set at $400 a month in 1959, despite dramatic increases in actual wages paid in the railroad industry since that time. The bill would remedy the shortfall in revenues for the payment of benefits under the Railroad Unemployment Insurance Act by increasing the wage base on which contributions may be assessed.

Raising the wage base as opposed to increasing the maximum contribution rate would also serve to remedy a future shortfall in revenues available in the railroad unemployment insurance administration fund for the administration of the Railroad Unemployment Insurance Act. The railroad unemployment insurance administration fund is funded by recurring appropriation of 0.5 percent of the total compensation on which contributions are assessed under section 8 of the Act. Thus, by increasing the compensation base on which contributions are assessed, the bill also increases the amount of funds to be deposited in the railroad unemployement insurance administraton fund. With the compensation base increased to $2,400 as provided by section 4 of the bill, the moneys that would be generated by the current 0.5 percent rate for deposit in the administration fund would exceed the amount that is required to pay the cost of administering the Railroad Unemployment Insurance Act. Section 5 of the bill would reduce the contribution rate for deposit in the administration fund from the current 0.5 precent to 0.25 percent.

Section 6 of the bill would repeal the authority of the railroad unemployment insurance account to borrow from the Railroad Retirement Account as currently provided under section 10(d) of the Railroad Unemployment Insurance Act. The unemployment insurance account has, in recent years, been regularly borrowing from the Railroad Retirement Account and as of October 31, 1982, owed the Railroad Retirement Account more than $324,000,000. this drain on the Railroad Retirement Account has contributed to the financial problems of that Account which, it is now projected, faces a shortfall in revenues, if borrowing continues, as early as fiscal year 1984. Section 22 of the Railroad Retirement Act provides that annuities provided under the Railroad Retirement Act must be reduced in any fiscal year in which benefit payments will exceed funds available in the Railroad Retirement Account in any month in the year. Thus, borrowing by the railroad unemployment insurance account, if continued, could require a reduction in railroad retirement annuities in fiscal year 1984.

In addition to aggravating the financial problems facing the railroad retirement system, the borrowing authority, in effect, results in imposing a portion of the costs of the railroad unemployment and sickness programs on railroad employees, since taxes paid by employees under the Railroad Retirement Tax Act are appropriated to the Railroad Retirement Account which, in turn, loans funds to the unemployment insurance account. Further, if borrowing were to continue when the Railroad Retirement Account is in a deficit situation necessitating benefit cuts, cost of the unemployment and sickness programs would be partially borne by retirees.

While the bill would cut off borrowing by the unemployement insurance account, the mechanism provided in section 10(d) for repayment of the outstanding balance, with interest, due the Railroad Retirement Account would remain in effect until this obligation has been repaid.●

SAFETY HAZARDS

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1983

● Mr. SHUMWAY. Mr. Speaker, I am introducing a bill which would remedy in many States some potentially serious safety hazards. The safety problems I refer to stem from the antiquated U.S. Army ammunition used by State transportation agencies in their snow avalanche control programs. My bill corrects this problem by simply making available higher quality, lesser risk ammunition for use in avalanche control. A brief recount of the events leading to the introduction of this bill helps to explain the situation.

In my home State of California, snow avalanches in the high Sierra Mountains are a common occurrence during the winter seasons. The State department of transportation (Caltrans) protects the State's mountain highways from the ravages of these avalanches with 75 and 105 millimeter recoilless rifles. These guns have traditionally used ammunition that was indirectly acquired from the Department of the Army.

Last fall, the Secretary of the Army made an important decision that potentially cripples the ability of Caltrans to keep guard against these avalanches. In a reversal of past policy, the Secretary determined that he was not authorized to approve transfers of aummunition to State agencies.

After the Secretary's decision became public last fall, it immediately became apparent that alternative arrangements would have to be made. This ammunition is not available on the commercial market, nor are suitable avalanche control guns marketed in the private sector. Without the Army ammunition, State transportation agencies would soon deplete their existing stocks and be left with no means of protecting their mountain highways.

In October 1982, my staff initiated discussions with Army personnel in an attempt to resolve this dilemma. Thanks to the fine cooperation that I have received, 75- and 105-millimeter ammunition has been declared surplus and therefore eligible for transfer to State transportation agencies.

However, the quality of this surplus ammunition is poor. The detonators on these 75- and 105-millimeter shells are 30 years old and were designed to explode the shell on hard impact. When used on soft snow banks, the shells have proven unreliable and explode with a 30-percent dud rate. Besides being expensive to use, significant safety hazards are associated with this high dud rate. These potentially explosive shells must be retrieved, and if not found in the snow, are left to be found during the spring runoff. State transportation agencies have indicated that they are willing to tolerate these risks for a short time, but they will not suffer them indefinitely.

My bill rectifies this situation by authorizing the Secretary of the Army to make nonsurplus ammunition available, on a reimbursable basis, to approved non-Federal entities for use in avalanche-control programs. If enacted, this bill would give transportation agencies the access to high quality ammunition that they presently do not have. I have worked closely with the Army on drafting this bill and am assured they will support it when formally asked for an opinion. This noncontroversial bill has no budgetary impact, and has the full support of my own State's transportation agency.

I urge my colleagues to support this much-needed legislation and earnestly hope that it will receive the prompt consideration that it deserves. The text of the bill is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subject to the needs of the Army, the Secretary of the Army may sell ammunition for military weapons which are used for avalanche-control purposes to any State (or entity of a State) or to any other non-Federal entity that has been authorized by a State to use those weapons in that State for avalanche-control purposes. Sales of ammunition under this Act shall be on a reimbursable basis and shall be subject to the condition that the ammunition be used only for avalanche-control purposes.●

WORLD WAR I VETERAN PENSIONS

HON. BALTASAR CORRADA

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1983

● Mr. CORRADA. Mr. Speaker, today I introduced a bill to authorize a service pension of up to $150 a month for veterans of World War I and for certain of their surviving spouses. To be eligible for the pension the veteran's annual income cannot exceed $10,000.

The legislation is directed only to those loyal servants who did not receive job preference, educational funds or allowance for subsistence of self and family during school or training period and free hospital care as did the veterans of World War II, Korea, and Vietnam.

If we wait any longer the passage of this type of legislation as well as our efforts to do justice to these brave soldiers even though to a limited extent would become academic. Their average age is over 90 years and the death rate is approximately 200 each day.

One hundred and fifty dollars a month is a small price to pay for the loyalty, dedication and human sacrifice of these veterans. I urge my colleagues to join me in securing passage of this legislation.●

INTRODUCTION OF THE SPACE COMMERCE ACT

HON. DANIEL K. AKAKA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1983

● Mr. AKAKA. Mr. Speaker, today I introduced a bill which would streamline the current procedure by which a private company is granted permission to launch a vehicle into space. This bill, known as the Space Commerce Act, is of vital importance to the success of private sector involvement in our Nation's space effort. There can be no question that the commercial era of space has dawned with the arrival of the 1980's. As Congress, we must do what we can to encourage the private sector to invest in space and space-related activities, for as history has shown, an investment in space is one of the soundest economic investments we can make in our Nation's future.

Under current practice, it is quite difficult for a private company to receive the necessary clearances to launch a vehicle into space. In fact, the process is not only complicated, but often requires a company to spend an inordinate amount of time and money in an effort to receive those clearances. One company which recently conducted a suborbital launch was required to obtain regulatory permissions, clearances, and approvals from five different Federal agencies or bodies: the Federal Aviation Administration, the National Aeronautics and Space Administration, the Department of State, the Federal Communications Commission, and the North American Defense Command.

Furthermore, not only did the company have to register with the Internal Revenue Service, but incredible as it may seem, with the Bureau of Alcohol, Tobacco and Firearms as well. As a result of this ponderous procedure this particular company was required to invest over 6 months and more than a quarter of a million dollars in legal fees to be cleared for launch.

The bill I have introduced simply streamlines the regulatory procedure by establishing a single point of contact within the Federal Government for applicants wishing to obtain permission to launch a space vehicle. Under the terms of this bill, this single point of contact would be responsible for coordinating and facilitating all Federal actions pertinent to private sector space launches. In turn, this single point of contact would issue a comprehensive license for space vehicle launchings to private companies. This bill would in no way abrogate our national security interests, and would certainly result in an efficient and less costly procedure for regulating private space launches.

There can be no doubt that private sector involvement will shape the future of our Nation's space effort in the years ahead. Already, there are at least six companies which have publicly announced their intention to commercialize various aspects of space launch services.

By streamlining the regulatory procedure for companies involved in this activity, this bill encourages the development of new enterprises in the space field—not by subsidy or special treatment, but rather by opening up new opportunities for entrepreneurs. These new business opportunities can be exploited and developed by small and middle-size business—businesses which form the backbone of our American economy. By streamlining the regulatory procedure, this bill also encourages the creation of new jobs, for as the industry grows, so does the number of people necessary to it.

Passage of this bill will kindle the spark of new investment in America and make clear our commitment to American leadership in new areas of technology and industry.

Passage of this bill will serve to encourage the kind of high productivity which we, as a nation, have long supported.

Passage of this bill, and others like it, can make a real contribution to the health of our economy.

We must not limit our effort in rebuilding America to fixing potholes and decaying bridges. We can, through passage of this legislation, create the conditions necessary for building a bridge to a whole new frontier.

I urge my colleagues to make a commitment to building the bridge to a whole new frontier by supporting this legislation.●

SAVE POLICE LIVES—BAN COP-KILLER BULLETS

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1983

● Mr. BIAGGI. Mr. Speaker, yesterday I reintroduced a bill, H.R. 953, to outlaw cop-killer bullets—armor-piercing handgun ammunition that can penetrate the bullet-resistant vests worn by police.

My bill would ban the future manufacture, importation, and sale of armor-piercing handgun ammunition, except when needed for law enforcement or military use. It would also provide a mandatory 1-to-10-year prison sentence for any person using these bullets in a crime.

The need for this legislation is clear. Today, approximately 250,000 American law enforcement officers wear bullet resistant vests on a daily basis, and that figure is steadily growing. The Justice Department reports that some 400 police lives have been saved by these vests. However, these same vests are totally useless against a small class of handgun bullets that are specially made to pierce metal.

Tests have shown that the most powerful of these bullets can penetrate the equivalent of four bullet-proof vests in a single shot. A Federal Bureau of Investigation report issued last year identified eight different handgun bullets capable of penetrating the most popular police vest.

These bullets are not used for legitimate purposes, but they have been used by criminals to shoot and kill police officers. My bill would outlaw these bullets, but would in no way limit the availability of ammunition used by law-abiding citizens.

Let me emphasize that H.R. 953 would apply only to armor-piercing handgun bullets, and not to rifle ammunition, which soft body armor was never designed to stop in the first place.

Significantly different from other handgun ammunition, the armor-piercing handgun bullets are made of extremely hard metals, usually steel or brass, and they travel at exceptionally high speeds. Conventional handgun bullets are slower and they flatten out on impact due to their hollow point and/or soft metal composition, most notably lead.

Ironically, armor-piercing handgun ammunition was originally designed to help police, particularly when shooting at automobiles. However, police departments do not use the bullets because they are too dangerous—not only because of their awesome penetration capacity, but also because they pose greater ricochet hazards than the more conventional ammunition that usually stops at the first object it strikes. Nevertheless, these bullets continue to be made and sold.

One highly respected police organization, the International Association of Chiefs of Police, told the House Subcommittee on Crime last year that,

> We can find no legitimate use for such (armor-piercing handgun) ammunition, either in or out of law enforcement.

My bill was first introduced at the request of the New York City Patrol-

mens Benevolent Association, and has been endorsed by police departments across the country. In addition, it has received strong words of support from such leading police organizations as the Fraternal Order of Police, the International Brotherhood of Police Officers, the International Union of Police Associations, and, as mentioned earlier, the International Association of Chiefs of Police.

Since I first authored this bill a year ago, seven States—Alabama, California, Illinois, Kansas, Minnesota, Oklahoma, and Rhode Island—have adopted their own laws against these high-powered handgun bullets. A number of localities, including Alexandria, Va., Brookhaven, N.Y., Broward County, Fla., Dade County, Fla., and Louisville, Ky., have taken similar action.

Further, a number of companies, including Winchester—one of our Nation's largest ammunition manufacturers, have stopped making and selling armor-piercing handgun bullets.

I am encouraged by these responsible actions. However, as one who was wounded 10 times during my 23 years with the New York City Police Department, I strongly believe that the only effective long-term protection for our Nation's 528,000 law enforcement officers is a Federal ban on armor-piercing handgun bullets.

Mr. Speaker, every police officer knows there are certain risks associated with the difficult task of fighting crime. However, those risks can be minimized. The advent of soft body armor in the mid-1970's was a major step in that direction. Now we can do more—by stopping the bullets that soft body armor cannot.

I urge my colleagues to join me in working for the prompt and favorable consideration of this important measure, the Law Enforcement Officers Protection Act of 1983. The lives of our Nation's law enforcement officers may depend on it.●

REPEAL WITHHOLDING TAXES ON INTEREST AND DIVIDENDS

HON. THOMAS A. DASCHLE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1983

● Mr. DASCHLE. Mr. Speaker, when the administration belatedly recognized the excesses it had gone to in its "economic recovery program," it scrambled to find some way to at least partially offset the tremendous revenue losses it had built into the Federal system. As a result of that bill, H.R. 4961, was loaded down with a grab bag of clever ideas to recoup some of the lost revenue. This was not, of course, described as a tax increase since the administration does not like tax increases. Instead it was called, among other things, a revenue enhancer, a user fee, a compliance bill, any number of things.

Among the more objectionable aspects of this nontax increase was the imposition of excise taxes on phone bills, reduced payments for medicare and medicaid, taxes on tip payments, and not the least, withholding on all interest and dividends.

It is this last provision which is one of the must troublesome. By the imposition of witholding on interest and dividends, the Federal Government, and this administration, has made a clear implication that the interest people draw on their savings is as much the property of the Federal Government as that of the individual saver.

This proposition was so disconcertive that it provided one of the main reasons I voted against the bill it was contained in last August 19. Unfortunately, those who thought as I did were not able to prevail, and the bill was signed into law by the President on September 3, 1982.

In the few months since its passage, however, more and more people have learned about the real effect of this legislation, and have become justifiably disturbed. I share that concern and am demonstrating it today by the introduction of legislation to repeal the withholding of taxes on interest and dividends.

I do not suggest that this is an original idea. Those of us who have been in contact with our constituents all realize the terrible mistake that was made last year, and I expect a number of initiatives to correct it. Indeed, a number of bills to repeal this provision have already been introduced. I introduce this bill to reinforce the justifiably popular demand that we take this action, and take it immediately.●

SAINT CROIX ISLAND INTERNATIONAL HISTORIC SITE

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1983

● Ms. SNOWE. Mr. Speaker, today I am pleased to reintroduce legislation designating St. Croix Island, located at the boundary of Maine and New Brunswick, Canada, as an international historic site. This legislation, cosponsored by Congressman MCKERNAN, would recognize the cultural and historical importance of the island to both the United States and Canada, and would broaden its current status as a national monument.

In 1604 a group of 150 French settlers led by explorers Champlain and Sieur de Monts settled St. Croix Island, which is considered the first European settlement in the northern half of North America. They landed at an island covered by firs, birches, maples, and oaks which de Monts named "St. Croix" because of the cross formed by two long coves just above the island. Two of the expedition's ships returned to France for reinforcements, while 79 settlers remained to settle the island. By the end of the year, nearly half had perished from the harsh weather and lack of food. A later search for a more hospitable site led the settlers across the Bay of Fundy to Port Royal. The St. Croix site was abandoned, although Port Royal settlers occasionally returned to visit the island.

In 1796, the United States-Canadian Boundary Commission—an outgrowth of the Treaty of Paris that ended the American Revolutionary War—placed the island on the U.S. side. In subsequent years the island was used as a neutral meeting place for British and American officials during the War of 1812, as a lighthouse station, and as a private farm.

In recognition of the importance of the site to Canada and to the United States, Congress authorized the St. Croix Island National Monument in 1949. The monument is administered by the superintendent of Acadia National Park in Bar Harbour, and nothing in this legislation would affect its status as a unit of the national park system.

More recently, in 1981 Canada and the United States dedicated an interpretive shelter on St. Croix Island at Red Beach, Maine, and in the near future, New Brunswick will build a similar shelter on the opposite shore to explain the first settlement on St. Croix Island.

In 1965 Canada contributed to the development of Campobello Island in New Brunswick as part of our commemoration of President Franklin Roosevelt. I believe it is appropriate that we now cooperate with Canada in recognizing the importance of this island to Canadian history, as well as its significance to my State's sizable Franco-American and Acadian population.

A copy of the joint resolution follows:

H.J. RES. 106

Joint resolution redesignating the Saint Croix Island National Monument in the State of Maine as the "Saint Croix Island International Historic Site"

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

Whereas in the summer of 1604 a small French expedition led by Sieur de Monts established the first European settlement in the northern half of North America on what is now known as Saint Croix Island located on the Saint Croix River in the State of Maine;

Whereas under the Act of June 8, 1949, portions of Saint Croix Island of historical importance were acquired by the United

States and established as the Saint Croix Island National Monument, a unit of the National Park System;

Whereas the historic settlement of Saint Croix Island marked the beginning of European colonization of Canada, from which the French embarked to establish the settlement which became Quebec; and

Whereas Saint Croix Island is important to the history of the people of Canada as well as the people of the United States: Now therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) in recognition of its historic significance to the United States and Canada, the Saint Croix Island National Monument, established under the Act entitled "An Act to authorize the establishment of the Saint Croix Island National Monument, in the State of Maine", approved June 8, 1949 (16 U.S.C. 450hh-450hh-2), is hereby redesignated as the "Saint Croix Island International Historic Site".

(b) Any reference in a law, map, regulation, document, record, or paper of the United States to the Saint Croix Island National Monument shall be deemed to be a reference to the Saint Croix Island International Historic Site.

(c) Nothing in this joint resolution shall affect the status of the Saint Croix Island International Historic Site as a national monument and a unit of the National Park System.●

FINANCIAL INCENTIVES FOR THE EMPLOYMENT AND HOUSING OF THIS NATION'S DISABLED

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1983

● Mr. MATSUI. Mr. Speaker, on the eve of President Franklin Delano Roosevelt's 101st birthday, it is most appropriate that legislation be introduced to address the architectural and financial barriers which so often impair the ability of America's disabled to participate fully in our Nation's life. President Roosevelt and his ceaseless struggle against the physical disabilities of polio personifies the spirit of self-reliance which this legislation seeks to foster.

Congressmen BONER, FORD, and I are introducing a comprehensive legislative package to help relieve the unconscionable financial burdens so often associated with providing disabled persons with the opportunity to live and work independently of traditional institutional settings. We propose that costs associated with the elimination of architectural and transportation barriers for the handicapped and elderly be deductible from a taxpayer's income for purposes of Federal taxation. Moreover, our recommendations provide for the double personal tax exemption to disabled persons who need assistance in the form of attendant care services or medical devices in order to be employable. This latter provision is modeled on the current double exemption afforded to blind and aged individuals.

If this Nation is to invite the full participation of our disabled citizens in the work force and to benefit from their contribution, we must realize that expenses incurred in fostering such employment must be shared by the entire Nation. Assistance in the form of tax relief is our suggestion, for the Federal Tax Code has been used historically to address such common interest. It is reasonable to allow businesses who undertake site alteration to improve access to the elderly and the disabled the opportunity to deduct costs up to $100,000 for such improvements. To assist businesses in their long-term planning needs, we recommend that this deduction be made a permanent provision of our laws. Likewise it is reasonable to allow a taxpayer a deduction for the expenses incurred in making a principal residence accessible to a disabled member of the taxpayer's family. Currently such costs are not deductible until the sale of the home when such expenditures are excluded from capital gains. For a family suffering the financial hardship of an unexpected disabling illness, this assistance is neither timely nor beneficial.

Studies conducted by the Paralyzed Veterans of America indicate that the average expense of catastrophically disabled persons for the provision of attendant services is annually $3,548 and for annual extra employment-related expenses $912. It is special employment costs such as these which we suggest would be covered by the double personal exemption that we recommend today. This double exemption would serve as a beneficial financial help for the disabled who seek employment.

One of the great traditions of President Roosevelt's administration was the annual celebration of his birthday, for this day was dedicated to this Nation's commitment to the eventual conquest of all disabling diseases. On January 30, 1941, in his birthday address to the American people, President Roosevelt said:

> We believe in and insist on the right of the helpless, * * * the weak, and * * * the crippled everywhere to play their part in life—and survive.

The passage of 42 years has neither tarnished nor diminished this conviction.●

PARRIS CITES NEWSWEEK ARTICLE ON WORLD ECONOMY

HON. STAN PARRIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1983

● Mr. PARRIS. Mr. Speaker, a recent article in Newsweek magazine concerning the desperate condition of the world economy indicated the challenge is not simply economic but that the very survival of free societies is at stake.

In this article, the statement was made that—

> No single American initiative would more effectively reverse the deterioration of the Western Alliance than a call for a coordinated program to insure the general economic expansion of the free world.

Nothing is more likely to encourage a sound political evolution in the developing countries than the hope they may share soon in renewed economic growth and nothing would more effectively strengthen America's hand with our global adversaries than the assurance that the democratic world has dedicated itself to the recovery of its own economic strength.

I am confident no knowledgeable observer can disagree with the fundamental truth of those statements.

The United States, by relying in recent years on a monetary policy that resulted in high interest rates to fight inflation, has boosted demands for the dollar. The consequence was to drain the world's liquidity, reduce global investment and weaken the competitiveness of American products both at home and abroad.

I sincerely hope my colleagues will keep these observations in mind in the coming session as the Congress deals with the critical problem of strengthening the international monetary system which is clearly a precondition to world economic recovery.●

TRIBUTE TO DREW LEWIS, SECRETARY OF TRANSPORTATION

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1983

● Mr. LENT. Mr. Speaker, I would like to take this opportunity to pay tribute to a good friend and valuable public servant, Drew Lewis, who is leaving his post as Secretary of Transportation after 2 years of exemplary service to this Nation.

As ranking member of the House Subcommittee on Commerce, Transportation, and Tourism, I have had the great privilege of working closely with Secretary Lewis on many issues of importance to this Nation. I have never met a member of any Presi-

dent's Cabinet so willing to work with Members of Congress on legislative matters. A thoughtful, fairminded man, Secretary Lewis has made extraordinary efforts to effect agreements on thorny issues. There is no better example of Drew's ability in this area than in the negotiations over the Reagan administration's proposal to dismantle Conrail, the federally subsidized railroad corporation operating in the Northeast United States. Those of us in the Congress who opposed this course worked many hours with Secretary Lewis to perfect a compromise which permitted the sale of the railroad to the private sector as a single system.

This was just one of many difficult issues in Drew's tenure as Secretary of Transportation. The difficulties with our Nation's rail and highway transportation systems, the air traffic controllers strike in 1981 and the automobile industry problems have been among the major issues during his 2 years in the administration. Drew's personal and professional qualities have been of enormous importance in dealing with these problems.

Mr. Speaker, I will surely miss working with Secretary Lewis during the 98th Congress. However, I wish him the very best in his new position as chairman and chief executive officer of Warner Amex Cable Communications, Inc. His forceful and effective presence in the President's Cabinet will be missed by all those who have worked with him over the past 2 years.●

IS AID PRACTICING CENSORSHIP?

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1983

● Mr. SOLARZ. Mr. Speaker, at times it is the seemingly smallest decisions an agency makes which bring to the surface of public attention important questions of public policy. Last December, the Agency for International Development terminated, without explanation, a grant for "International Family Planning Perspectives," a journal published by the Alan Guttmacher Institute and supported by the Agency since 1978.

This decision has sparked an intense debate in the press about whether the agency is practicing censorship or merely eliminating wasteful publications. I, for one, believe there is much more to this than just the funding of one professional journal. The following three editorials—a column by John Lofton in the January 12 Washington Times, and editorials in the January 24 New York Times and January 25 San Francisco Chronicle clearly represent the different points of view on this matter.

Mr. Speaker, I ask permission that these articles be reprinted in the RECORD. I urge that my colleagues to read these pieces and draw their own conclusions.

[From the Washington Times, Jan. 12, 1983]

JOHN LOFTON'S JOURNAL: SOUND OF WHISTLE A LITTLE BIT OFF KEY

The leak gushes forth from a dedicated Reaganite whistleblower: there's treason at the Agency for International Development. AID's Deputy Administrator Jay Morris—supposedly at odds with the president's goal of eliminating or reducing unnecessary and low-priority publications—is allegedly attempting to overturn a decision by his agency's Communications Review Board. The decision is an excellent one and it is to deny the Alan Buttmacher Institute $364,143 in federal tax dollars to bankroll its publication, "International Family Planning Perspectives (IFPP)."

Morris is said to have caved-in under pressure from Dr. Sharon Camp, vice president of the Population Crisis Committee. And Morris is said to favor "stacking" AID's Review Board so that it will render decisions more to his liking.

But an investigation reveals that while there has been no treason, Morris has not been as toughminded as he might have been. And thus it is understandable why some people knowledgeable about this matter, believe he has undermined the authority of AID's review board.

In an interview, Morris denied that he is trying to get his review board to take another look at its decision regarding the IFPP publication. In fact, Morris—who says he has the unilateral authority to reverse his board's decision—says he has no plans to do so and backs the board's ruling. The review board cut off the IFPP's funding for several compelling reasons:

It's cost is exhorbitant when compared to similar publications.

Of the 170 countries receiving the IFPP, only 67 are recipients of AID development funds. Eleven of those 170 countries are Soviet puppet states and thus ineligible to get such a publication under the law.

About 50 percent of the IFPP's intended audience cannot read it since it is written in English.

The review board already has okayed some 25 population pamphlets and periodicals at a cost of over $1.5 million.

The IFPP publication was found to be "clearly inconsistent" with AID's policy forbidding the advocacy of abortion as an acceptable means of birth control.

Morris tells me that even though he supports the de-funding of the IFPP publication, he did tell Dr. Jarrett Clinton, a careerist who heads AID's Office of Population and Health, that if he wanted to appeal the review board's decision he would have to go back to the board. Morris says he told Clinton (who has just resigned) that he would hate to demonstrate that (a) $364,143 in savings could be found elsewhere, and (b) the board's other objections would have to be dealt with. As it turns out, Dr. Clinton has informed Morris that he does not plan to appeal the de-funding of the IFPP. And he (Morris) says he does not plan to request a re-hearing on this matter.

Morris also says that yes, he does believe the review board should be altered to include technical experts on health and agriculture because these are two principal areas where AID funds the most publications. And yes, he says, he did talk with Dr. Camp about the possible de-funding of the IFPP publication, but he, "doesn't remember" what was said. Morris denies however that Dr. Camp tried to get him to influence the review board's decision.

I am convinced, for what it's worth, that Morris supports the decision of his review board to remove the snout of at least one Alan Guttmacher Institute hog from the public trough. And for this, he deserves praise. But it does seem to me that Morris can justifiably be criticized for not making his position crystal clear. He should not have told Dr. Clinton how to attempt to undo the review board's decision. Instead, Morris should have told Dr. Clinton that the board's decision was a good one and that he (Dr. Clinton) should forget about an appeal.

True, this would not be an easy thing to do. The pro-abortion, pro-population control special interests are strong at AID, strong in Washington and strong on Capitol Hill. But, the sooner this crew realizes that under the Reagan administration business will no longer be conducted as usual, then the sooner my over-worked and bleary-eyed Reaganite whistle-blowers can move on to matter even more pressing and in need of exposure. Because, as it stands now—sad to say—there are many, many more things about which whistles should be blown than there are whistleblowers to blow their whistles.

[From the New York Times, Jan. 24, 1983]

A MONKEY WRENCH FOR FAMILY PLANNING

Since 1978, the Alan Guttmacher Institute, under a grant from the Federal Agency for International Development, has been publishing and distributing International Family Planning Perspectives, a quarterly that goes to about 25,000 family planning workers around the world. All are on an A.I.D.-approved list and most work in countries that are actual or potential recipients of American development assistance.

For its recipients, who disseminate family planning information, the publication is an invaluable way to keep up with the field. The articles are in English, but followed by French and Spanish synopses. The A.I.D. subsidy is essential to the journal's survival; soliciting subscriptions from a third-world audience is costly and futile, and the quarterly has no advertising. Yet that subsidy is now in jeopardy; over the objections of its own Office of Population, the A.I.D. Communications Review Board wants to cancel the journal's grant.

The review board's case against the publication is hard to make out. Richard Miller, the board's chairman, says journal funding is exorbitant when compared with that of A.I.D.'s in-house publication, Horizons. But he is comparing apples and oranges: Perspectives is a journal of scientific research, Horizons a kind of house organ.

Mr. Miller also questions the wisdom of sending a journal written in English to a mostly foreign audience. He neglects to mention that a Spanish edition was terminated last year or the addition of the French and Spanish synopses.

Furthermore, Mr. Miller says, the board has judged the journal to be "clearly inconsistent" with Administration and A.I.D. policy on abortion. But he doesn't explain that the board specifically criticized only two articles. One assessed the consequences

of illegal abortion for mortality rates in Bangladesh; the other mentioned that abortion was legal in Tunisia. Both had been approved by A.I.D. before publication.

The Communication Review Board's mandate was to carry out "waste reduction." Nowhere does its mandate mention throwing a wrench into America's support, over two decades, of family planning around the world.

[From the San Francisco Chronical, Jan. 25, 1983]

DEMEANING ACT OF CENSORSHIP

When the Reagan administration's budget watchdogs looked over the massive outpouring of government documents and subsidized periodicals two years ago, they ordered every federal agency to review the literature it sponsored in an effort to trim out waste and expensive duplication.

Unfortunately there is strong evidence now that at least one group of zealous bureaucrats has abused this otherwise worthy mandate for purely political purposes, and is trying to destroy a scientific journal published by the Alan Guttmacher Institute, a family planning research organization.

The quarterly magazine, called International Family Planning Perspective, circulates to some 30,000 specialists in America and more than 150 Third World countries—government leaders in the population field, physicians, birth control clinic directors and others—who need it to keep up with developments.

The U.S. Agency for International Development, which dispenses non-military foreign aid abroad, had long sponsored the magazine, and was prepared to support it for the fiscal year with a $384,000 grant.

Now the grant has been disapproved by a small committee within AID called the Communications Review Board. It offers the flimsy excuse that other AID publications cover the same material and that some of the countries receiving the magazine are Communist dominated. But as hearings by the review board and a memo from Richard R. Miller, the board's chairman, show, the real reason for censoring the publication is that the magazine dared present two factual reports dealing with abortion—a subject that horrifies the Reagan administration. One reported a death rate of 26 percent among women in Bangladesh who underwent illegal abortions, and suggested that if their abortions had met adequate medical standards those deaths would have been unnecessary. Another article reported factually that in Tunisia abortions were legalized in 1975—a single comment in a professional article detailing Tunisia's family planning programs. Miller insisted that these factual statements make the magazine "clearly inconsistent" with the policies of AID and of the Reagan administration. And even if they're true, he declared, AID has not business disseminating them. Not disseminate truth?

Yet officials in AID have termed the Guttmacher Institute's magazine "really essential to our effort." So the issue boils down to this: America's principal agency from which other nations ask for help in overcoming the terrible hardships posed by their uncontrolled population growth is being forced to censor an important publication under the pretext of curbing fiscal waste. This censorship can only earn America scorn and a diminished reputation for the integrity of a useful federal agency.

The Administrator of AID, Peter McPherson, has the power to restore the Guttmacher Institute's grant and continue the publication of this vital international journal. Congressmen can apply pressure on AID to reverse its mistaken course. Time is running out for the magazine, so action is needed now.●

UKRAINIAN INDEPENDENCE

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1983

● Mr. SMITH of New Jersey. Mr. Speaker, on this 65th commemoration of Ukrainian Independence, we wish to call attention to the injustice and inequity being meted out to the people of the Ukraine. For too long, this non-Soviet territory has been held captive within the U.S.S.R.—an entire nation victimized by the repressive internal policies of Soviet leaders.

The flagrant persecution and imprisonment of Ukraine citizens for their attempts to exercise elemental human rights again focuses the world's spotlight on the fact that the Soviet Union has failed to live up to its commitments as embodied in the Helsinki Accords, the Soviet Constitution, the United Nations Charter, and the Universal Declaration of Human Rights.

Yet, Mr. Speaker, the spontaneous formation in 1976 of the Ukrainian Public Group to Promote the Implementation of the Helsinki Accords affirmed once more that the desire for freedom cannot be conquered. Insofar as injustice continues to exist, there too exists the human spirit that cannot and will not be crushed.

We honor these Ukrainian people who do not cease to hope and fight for basic human rights, even in the midst of blatent oppression.

Mr. Speaker, I can assure you that the spirit of freedom is alive in the hearts and minds of millions of Ukrainians today. Let us renew our determination never to forget the struggles of these oppressed people, and pledge to do all that is in our power to put an end to the plight of those Ukrainians who have been persecuted for attempts to assert their rights. The more public attention brought to these unjust actions, the greater hope of a recovery. If, however, they who have been rebuked or imprisoned for their courageous vigilance see little progress in retribution, let us assure them of our continued support.

Today, we as free Americans, stand solemnly aware of the intrinsic value of our most basic freedoms the very backbone of human existence. We cannot cease to promote and encourage respect for human rights. We stand together with these Ukrainian people in the commitment to help the oppressed and the persecuted. Our prayers are behind them, and our support is with these brave people always. They will not be forgotten.●

JUDICIAL REVIEW OF VA ADMINISTRATOR'S DECISIONS

HON. BALTASAR CORRADA

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1983

● Mr. CORRADA. Mr. Speaker, today I introduced a bill which would allow judicial review of decisions made by the Administrator of the Veterans' Administration. The Veterans' Administration remains the only major Federal agency whose administrative decisions are not subject to judicial review.

The legislation provides for additional, long overdue guarantees of due process to our veterans claimants. Under the present state of the law, a claimant aggrieved by a VA decision is left without any further recourse. The enormous volume of applications for benefits reviewed annually by the VA and the thousands reversed in appeal within the same agency suggests the possibility that injustices may occur.

Given the critical need for VA benefits that many, if not all veterans claimants have, it is imperative that we establish the necessary safeguards to avoid possible infringements upon the rights of any eligible deserving veteran. This bill aims in the right direction.

I urge my colleagues to join me in securing the passage of this legislation and in giving greater meaning to the concept of due process within the Veterans' Administration.●

REPEAL INTEREST AND DIVIDEND WITHHOLDING—SUPPORT THE HONEST AMERICAN SAVERS RELIEF ACT

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1983

● Mr. SCHULZE. Mr. Speaker, I wonder how many Members of Congress have had to stand in the lines in the financial institutions back home in their districts? How many have had to hassle through the paperwork necessary to comply with IRS directives? How many have tried to find the IRS form to claim exemption from the new burdens placed on taxpayers and their financial institutions? How many have had to reduce their expenditures and standard of living in planning for the new withholding that goes into effect later this year?

My guess is that not one of us here today has had to go through this exercise. Not one of us has had to break the bad news to the "little guys" who have

small savings accounts—the retired Americans, the poor, and others living on a fixed income.

Those of us here do not have to bear the expense of implementing a new paperwork nightmare which will cost banks, thrifts, credit unions, and dividend paying corporations millions of dollars this year and every year to come. This cost will, of course, be passed on to the consumer through higher fees, and reduced income. This, on top of the reduction in income that will result from losing the compounding effect on the withheld amounts.

Once again, the Congress has changed our tax laws with the appearance of good intentions—forcing cheaters to comply with our tax laws. But the Congress has done this by placing an outrageous burden on the 97.6 percent of American investors who honestly and fully report their interest and dividend income to the IRS. Congress is punishing the vast majority of the American taxpayers—who are honest Americans—for the sins of a few. Can we as a Congress countenance this? I think not.

Withholding on interest and dividend income should never have been enacted and the time has come to repeal this onerous new requirement before it gets worse.

Today I am introducing H.R. 1051, the Honest American Savers Relief Act. It will undo the legislative damage we did last year in passing the withholding provisions of TEFRA, the so-called Tax Equity and Fiscal Responsibility Act of 1982. This bill has the support of banks, thrift institutions, credit unions and other investment media throughout our economy. And more important, it has the support of honest Americans all across our country.

I solicit your cosponsorship and support.●

RESTORING CERTAIN SOCIAL SECURITY BENEFITS

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1983

● Mr. WEISS. Mr. Speaker, 2 years ago the President and the Congress broke a longstanding contract with the American people. In order to finance a tax bonanza for the wealthy and an unprecedented military buildup, the administration steamrolled through Congress massive cuts in the program most vital to the well-being of our elderly and their families—social security. Through this action, the Reagan administration and its supporters in Congress exhibited a complete disregard for the well-being of our Nation's elderly and disabled, and for the social security contract that has been paid for by American workers and honored by the Government for nearly half a century.

Congress has the power to redress this victimization of American families. Today, I am reintroducing legislation to restore four of the benefits that were cut under the 1981 Reconciliation Act. Specifically, the bills would restore the minimum benefit for new and future recipients, student benefits, the lump sum death benefit for all beneficiaries, and the mother's and father's benefit for those caring for children under age 18.

After the tremendous public outcry against the elimination of the $122 minimum benefit, the Congress voted to restore this benefit only to those eligible for it prior to the end of 1981. We failed to reinstate this critical benefit for equally deserving individuals, who by fate of birth, reach age 62 after December 1981. There is no justification for the tremendous pain that we will cause beneficiaries who receive reduced benefits because of this cut. Last year alone, nearly 100,000 elderly persons were denied the minimum benefit. These individuals are predominantly women, who worked for low wages or who took time out of the paid labor force to raise children, and who have little else to count on for their livelihood. These recipients are most vulnerable to the ravages of inflation, the pain of hunger and sickness, and the depression of inadequate housing. After a lifetime of work, these individuals deserve better. It is concern for these elderly citizens that will hopefully motivate my colleagues to join with me in supporting a complete restoration of the minimum benefit.

The second bill that I am reintroducing, reinstates the social security student benefit. This benefit compensates dependent children attending college or vocational school for loss of income due to the death, retirement, or disability of their parents. It helps equalize educational opportunities for those students who cannot rely on their parents for support during these critical few years. Workers across this country, who have earned this insurance, recognize and appreciate its value in safeguarding the educational and employment future of their children.

The Reagan cutback in this benefit will reduce or eliminate protection for over 600,000 students in 1983. On the average, students receive $3,000 a year from this portion of social security. For the most part, these reductions inflict tremendous hardships on those least able to overcome them. The facts speak for themselves; 80 percent of student beneficiaries are eligible because one or both partners are deceased or disabled. In 1977, 70 percent of the recipients of this program came from families whose income was less than $15,000. Moreover, program recipients are more likely to be minorities, come from bluecollar backgrounds, and work part-time or summers while attending school. Let there be no mistake—this benefit cut seriously imperils the possibility that these children, may already beset with tragic family situations, will have an opportunity to better themselves by furthering their education.

The President claims that these students will be adequately compensated for this loss of income security by other student aid programs. However, the administration conveniently fails to explain that other student assistance programs have suffered tremendous cuts and are targeted for further reductions in 1984. The hard truth is that other programs cannot substitute for the critically depleted resources that result from this unfair cut. For the sake of these children, our greatest hope for the future, I urge that Congress take prompt action on this bill to restore this needed benefit.

Third, I am reintroducing legislation to restore the lump-sum death benefit in all cases. Under the 1981 Reconciliation Act, this $255 benefit has been restricted to death cases where there is a surviving spouse or dependent child. In other words, this benefit is no longer payable to other family members, such as a sister, aunt, grandparent, or independent child, who assume responsibility for burial expenses. Estimates indicate that this benefit will be denied in over 785,000 cases each year.

This small, but important benefit, has been an integral part of the social security program since its inception in 1935. It helps ease the burden of the high costs of funerals and contributes to the peace of mind of workers who view this sum as critical to financing a dignified burial. And sadly, for many workers, the death benefit is the only return paid on their lifetime contribution to the social security system. This cut is a shameful way to penalize workers and their families.

The final bill that I am reintroducing would restore benefits paid either to a mother or father caring for an entitled child up to age 18. The 1981 Reconciliation Act provides for this benefit only through the child's 16th birthday. This cut is but another example of the unjustified whittling away of social security's protection for families of disabled, retired, or deceased workers raising dependent children. Most youngsters, age 16 to 18, are completing their high school education and depend on their parents to support them. According to the Social Security Administration, by 1984 over 200,000 parents caring for youngsters in this age bracket will lose this critical assistance. Once again, I call on my colleagues to support my effort to reinstate this benefit.

Across this country, senior citizens and workers and their families have expressed outrage that the Congress and the President have ignored the social security compact and robbed thousands of families of the benefits they have earned. Poll after poll indicates that the American people are close to unanimity in their belief that social security benefits must be protected at all costs. By drastically cutting benefits against public will, the administration and its supporters in Congress have taken a big risk. Their actions jeopardize public trust not only in the social security system, but in government itself. And just as regrettably, their actions gamble with the hopes and livelihood of millions of Americans.

Mr. Speaker, I urge my colleagues to join with me to right the wrongs of the Reagan administration and restore these social security benefits to the people who earned them and who are entitled to them.

H.R. 1065

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 202(d) of the Social Security Act is amended in paragraphs (1)(B), (1)(E)(ii), (1)(F)(i), (1)(G)(III), (6)(D)(i), (6)(E)(i), (7)(A) (in three places), (7)(B), and (7)(D), by striking out "full-time elementary or secondary school student" each place it appears and inserting in lieu thereof "full-time student".

(b)(1) Section 202(d) of such Act is further amended in paragraphs (7)(A) (in two places), (7)(B) (in three places), and (7)(D), by striking out "elementary or secondary school" each place it appears and inserting in lieu thereof "educational institution".

(2) Section 202(d)(7)(A) of such Act is further amended by striking out "schools involved" and inserting in lieu thereof "institutions involved".

(c) Subparagraph (C) of section 202(d)(7) of such Act is amended to read as follows:

"(C) An 'educational institution' is (i) a school or college or university operated or directly supported by the United States, or by any State or local government or political subdivision thereof, or (ii) a school or college or university which has been approved by a State or accredited by a State-recognized or nationally-recognized accrediting agency or body, or (iii) a non-accredited school or college or university whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited.".

(d) Section 202(d)(7)(D) of such Act if further amended by striking out "diploma or equivalent certificate from a secondary school (as defined in subparagraph (C)(i))" and inserting in lieu thereof "degree from a four-year college or university".

(e)(1) Section 202(d) of such Act is further amended in paragraphs (1)(B)(i), (1)(F)(ii), (1)(G)(IV), (6)(D)(ii), (6)(E)(ii), and (7)(D) by striking out "19" each place it appears in each of those paragraphs and inserting in lieu thereof "22".

(2) Section 202(d)(6)(A) of such Act is amended to read as follows:

"(A)(i) is a full-time student or is under a disability (as defined in section 223(d)), and (ii) had not attained the age of 22, or".

SEC. 2. (a) The amendments made by the first section of this Act shall apply to child's insurance benefits under section 202(d) of the Social Security Act for months after the date of the enactment of this Act, except that, in the case of an individual who is a full-time student (within the meaning of section 202(d)(7) of the Social Security Act, as amended by this Act) on the date of the enactment of this Act, such amendments shall apply with respect to child's insurance benefits under such section for months after April 1982.

(b) Section 2210(c) of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35; 95 Stat. 842) shall not apply with respect to individuals who are full-time students (within the meaning of section 202(d)(7) of the Social Security Act, as amended by this Act) on or after the date of the enactment of this Act.

H.R. 1063

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 202(s)(1) of the Social Security Act is amended by striking out "the age of 16" and inserting in lieu thereof "the age of 18".

(b) The heading of section 202(s) of such Act is amended by striking out "Over Specified Age" and inserting in lieu thereof "Aged 18 or Over".

SEC. 2. The amendments made by the first section of this Act shall apply with respect to benefits for months after the month in which this Act is enacted.

H.R. 1066

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a)(1) section 215(a) of the Social Security Act is amended—

(A) in paragraph (1)(C), by striking out clause (i) and inserting in lieu thereof the following:

"(C)(i) No primary insurance amount computed under subparagraph (A) may be less than—

"(I) the dollar amount set forth on the first line of column IV in the table of benefits contained in (or deemed to be contained in) this subsection as in effect in December 1978, rounded (if not a multiple of $1) to the next higher multiple of $1, or

"(II) an amount eqaul to $11.50 multiplied by the individual's years of coverage in excess of 10, or the increased amount determined for purposes of this subdivision under subsection (i),

whichever is greater. No increase under subsection (i), except as provided in subsection (i)(2)(A), shall apply to the dollar amount specified in subdivision (I) of this clause.";

(B) in paragraph (1)(C)(ii), by striking out "clause (i)" and inserting in lieu thereof "clause (i)(II);

(C) in paragraph (3)(A), by striking out "subparagraph (C)(i)" and inserting in lieu thereof "subparagraph (C)(i)(II)";

(D) in paragraph (4), in the matter preceding subparagraph (A), by striking out "subparagraph (C)(i)" and inserting in lieu thereof "subparagraph (C)(i)(II)";

(E) in paragraph (4), in the matter following subparagraph (B)(ii), by striking out ", as modified by paragraph (6)," and by inserting after "subsection (i)(2)(A)" the following: "but without regard to clauses (iv) and (v) thereof"; and

(F) by striking out paragraph (6).

(2) Section 215(f) of such Act is amended—

(A) in the last sentence of paragraph (7), by striking out ", and (effective January 1982) the recomputation shall be modified by the application of subsection (a)(6) where applicable"; and

(B) in paragraph (8), by striking out "subsection (a)(1)(C)(i)(II)" and inserting in lieu thereof "subsection (a)(1)(C)(i)".

(3) Section 215(i) of such Act is aeended—

(A) in paragraph (2)(A)(ii)(II), by inserting after "title" the following: "(including a primary insurance amount determined under subsection (a)(1)(C)(i)(I), but subject to the provisions of such subsection (a)(1)(C)(i) and clauses (iv) and (v) of this subparagraph)";

(B) in paragraph (2)(A)(ii), if the matter following subclause (III), by striking out "subparagraph (C)(i)" and inserting in lieu thereof "subparagraph (C)(i)(II)";

(C) in paragraph (2)(A)(iii), by striking out "in the case of an individual to whom that subsection (as in effect in December 1981) applied" and "(as then in effect)";

(D) by inserting after paragraph (2)(A)(iii) the following:

"(iv)(I) In the case of an individual who is entitled to an old-age insurance benefit that is based on a primary insurance amount determined under subsection (a)(1)(C)(i)(I), such primary insurance amount shall not be increased under this subsection for any year before the year in which occurs the first month with respect to which there is payable to such individual all or some part of such benefit after application of the provisions of section 203 relating to deductions on account of work, or, if earlier, the year in which he attains age 65.

"(II) In the case of an individual who is entitled to an insurance benefit under subsection (e) or (f) of section 202 that is based on a primary insurance amount determined under subsection (a)(1)(C)(i)(I), such primary insurance amount shall not be increased under this subsection for any year (except as provided in subdivision (III)) before the year in which occurs the first month with respect to which there is payable to such individual all or some part of such benefit after application of the provisions of section 203 relating to deductions on account of work, or, if earlier, the year in which he attains age 65.

"(III) Any increase under this subsection which would otherwise be applied to a primary insurance amount except for the provisions of subdivision (II) of this clause shall apply to such primary insurance amount if, during any month of the year in which the increase occurs, any individual is entitled to a benefit under subsection (d), (g), or (h) of section 202 based on such primary insurance amount, and such primary insurance amount is based upon the wages and self-employment income of a deceased individual.

"(IV) No primary insurance amount determined under subsection (a)(1)(C)(i)(I) shall be increased under this subsection for any year during which no individual was entitled to any benefit based thereon under section 202 or 223 for any month of such year.

"(V) In any case in which an increase under this subsection which occurs during any year applies to a primary insurance amount determined under subsection (a)(1)(C)(i)(I), and such an increase occurring in a later year does not apply to such primary insurance amount on account of the provisions of this clause, any such increase which occurs in a later year which is applicable to such primary insurance amount shall be based upon such primary insurance amount as previously increased under this subsection.

"(v) Notwithstanding clause (iv), no primary insurance amount shall be less than that provided under section 215(a)(1) without regard to subparagraph (C)(i)(I) thereof, as subsequently increased by applicable increases under this section.";
and

(E) In paragraph (2)(D), by striking out "subparagraph (C)(i)" each place it appears and inserting in lieu thereof "subparagraph (C)(i)(II)".

(2) Paragraphs (1) and (5) of section 202(w) of such Act are each amended by striking out "section 215(a)(1)(C)(i)" in inserting in lieu thereof "section 215(a)(1)(C)(i)(II)".

(b) Section 202(i) of such Act is amended, in the first sentence, by striking out "(as determined without regard to the amendments made by section 2201 of the Omnibus Budget Reconciliation Act of 1981, relating to the repeal of the minimum benefit provisions)".

(c) Section 202 of such Act is further amended by inserting after subsection (l) the following:

"Minimum Survivor's Benefit

"(m)(1) In any case in which an individual is entitled to a monthly benefit under this section on the basis of a primary insurance amount computed under section 215 (a) or (d), as in effect after December 1978, on the basis of the wages and self-employment income of a deceased individual for any month and no other person is (without the application of subsection (j)(1)) entitled to a monthly benefit under this section for that month on the basis of such wages and self-employment income, the individual's benefit amount for that month, prior to reduction under subsection (k)(3), shall not be less than that provided by subparagraph (C)(i)(I) of section 215(a)(1) and increased under section 215(i) for months after May or the year in which the insured individual died as though such benefit were a primary insurance amount.

"(2) In the case of any such individual who is entitled to a monthly benefit under subsection (e) or (f), such individual's benefit amount, after reduction under subsection (q)(1), shall be not less than—

"(A) $84.50, if his first month of entitlement to such benefit is the month in which such individual attained age 62 or a subsequent month, or

"(B) $84.50 reduced under subsection (q)(1) as if retirement age as specified in subsection (q)(6)(A)(ii) were age 62 instead of the age specified in subsection (q)(9), if his first month of entitlement to such benefit is before the month in which he attained age 62.

"(3) In the case of any individual whose benefit amount was computed (or recomputed) under the provisions of paragraph (2) and such individual was entitled to benefits under subsection (e) or (f) for a month prior to any month after 1972 for which a general benefit increase under this title (as defined in section 215(i)(3)) or a benefit increase under section 215(i) becomes effective, the benefit amount of such individual as computed under paragraph (2) without regard to the reduction specified in subparagraph (B) thereof shall be increased by the percentage increase applicable for such benefit increase, prior to the application of subsection (q)(1) pursuant to paragraph (2)(B) and subsection (q)(4).".

(d) Section 233(c)(2) of such Act is amended to read as follows:

"(2) Any such agreement may provide that—

"(A) an individual who is entitled to cash benefits under this title shall, notwithstanding the provisions of section 202(t), receive such benefits while he resides in a foreign country which is a party to such agreement; and

"(B) the benefit paid by the United States to an individual who legally resides in the United States shall, if less when added to the benefit paid by such foreign country than the benefit amount which would be payable to an entitled individual based on the first figure in (or deemed to be in) column IV of the table in section 215(a) in the case of an individual becoming eligible for such benefit before January 1, 1979, or based on a primary insurance amount determined under section 215(a)(1)(C)(i)(I) in the case of an individual becoming eligible for such benefit on or after that date, be increased so that the total of the two benefits is equal to the benefit amount which would be so payable.".

SEC. 2. The amendments made by the first section of this Act shall apply with respect to benefits for months after December 1981.

H.R. 1064

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 202(i) of the Social Security Act is amended—

(1) in the second sentence, by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) if all or part of the burial expenses of such insured individual which are incurred by or through a funeral home or funeral homes remains unpaid, to such funeral home or funeral homes to the extent of such unpaid expenses, but only if (A) any person who assumed the responsibility for the payment of all or any part of such burial expenses files an application, prior to the expiration of 2 years after the date of death of such insured individual, requesting that such payment be made to such funeral home or funeral homes, or (B) at least 90 days have elapsed after the date of death of such insured individual and prior to the expiration of such 90 days no person has assumed responsibility for the payment of any such burial expenses;

"(2) if all of the burial expenses of such insured individual which were incurred by or through a funeral home or funeral homes have been paid (including payments made under clause (1)), to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid such burial expenses;

"(3) if the body of such insured individual is not available for burial but expenses were incurred with respect to such individual in connection with a memorial service, a memorial marker, a site for the marker, or any other item of a kind for which expenses are customarily incurred in connection with a death and such expenses have been paid, to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid such expenses; or

"(4) if any part of the amount payable under this subsection remains after payments have been made pursuant to clauses (1), (2), and (3), to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid other expenses in connection with the burial of such insured individual, in the following order of priority: (A) expenses of opening and closing the grave of such insured individual, (B) expenses of providing the burial plot of such insured individual, and (C) any remaining expenses in connection with the burial of such insured individual."; and

(2) in the third sentence, by inserting after "No payment" the following: "(except a payment as authorized pursuant to clause (1)(A) of the preceding sentence)".

(b) Section 216 of such Act is amended—

(1) in subsection (c), by striking out "(except when used in the first sentence of section 202(i))" and inserting in lieu thereof "(except when used in section 202(i))"; and

(2) in subsection (g), by striking out "(except when used in the first sentence of section 202(i))" and inserting in lieu thereof "(except when used in section 202(i))".

SEC. 2. The amendments made by this Act shall apply with respect to deaths occurring after the month in which this Act is enacted.●

A BILL FOR THE ACQUISITION BY THE UNITED STATES BY EXCHANGING OF CERTAIN NATIVE-OWNED LANDS OR INTERESTS IN LANDS IN ALASKA

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1983

● Mr. YOUNG of Alaska. Mr. Speaker, today, I am introducing H.R. 1071 in order to resolve a very troublesome situation that arises from the ownership by the Natives on Kodiak Island of over 300,000 acres of land on the Kodiak National Wildlife Refuge. Koniag, Inc., the regional Native corporation, is, if not, the largest single in-holder on any National Wildlife Refuge, certainly one of the largest.

The Native ownership is about one-fifth of the total area of the refuge. It comprises what the Interior Department considers to be the best bear habitat on Kodiak Island.

The Kodiak National Wildlife Refuge was established in the 1940's for the protection and enhancement of the Kodiak brown bear, the largest carnivore in the world. The Kodiak brown bear is a unique subspecies found nowhere else in the world. Such a large private outside ownership within a refuge, is by its very nature incompatible with refuge values, unless the Natives are willing in effect to sacrifice the benefits of their ownership. The present situation is not fair to either the Koniag Natives or to the public.

When the Alaska Native Claims Settlement Act was being considered in the House and the Senate in 1971, it was recognized that the public interests in the refuge and fairness to the Koniag Natives, required that there be some mechanism by which the Government could reacquire Native land holdings in a manner that would be fair and equitable.

The House considered but did not adopt on grounds that the Natives

should not be forced off the refuge if they desired to remain, a proposal under which the Government could have forced an exchange or brought condemnation proceedings. In the Senate version of the bill a provision was added on the Senate floor specifically providing that the exchange authority included in the legislation was intended to be used in the case of Native refuge holdings. The legislation as it emerged from conference included both section 22(g)—which had been added by the Senate committee—subjecting Native holdings in wildlife refuges to the regulations applicable to the refuge, and separately, as section 22(f), a general authorization for the exchange by agreement of Native lands for other Federal lands in Alaska. In 1975 the exchange provision was amended to eliminate the requirement that exchanges be at equal value if the Secretary of the Interior determined that an exchange was in the public interest.

When the Settlement Act was passed in 1971 it was thought that the exchange provision would enable special circumstances like those that exist on the Kodiak National Wildlife Refuge to be resolved. However, the Settlement Act exchange authority is restricted to Federal lands within Alaska.

Unfortunately, there are no Federal lands available in Alaska for exchange that would fairly compensate the Natives for their large refuge inholdings. Nor, as a practical matter, are there sufficient lands available in the lower 48 States.

The resulting relationship between Koniag and the Federal Government has been mutually unsatisfactory, because of the inherent contradiction between Koniag's desire to develop its land for economic benefit to its people, and the contrasting desire on the part of the Fish and Wildlide Service to retain the integrity of the refuge which serves as the unique refuge to the Kodiak brown bear. Although there is clear authority for an exchange between the Federal Government and native corporations within the Alaska lands bill, an agreeable exchange for the entire 300,000 acres of inholdings has so far proven unattainable. This bill provides an avenue for widening the options for an agreement for acquisition of the inholding—the crediting of "bidding chits" for OCS lease sales to Koniag in exchange for its valid inholdings.

This legislation will allow the Secretary of the Interior to grant Koniag "bidding chits" for OCS bonus bids equal to the value of their inholdings. These credits would be charged against those lands within the Kodiak National Wildlife Refuge that the Fish and Wildlife Service and Koniag agreed to for exchange. This process would forego the need to acquire these lands through the use of the Land and Water Conservation Fund, the normal source of such acquisition moneys. Koniag would in turn be able to use these credits to bid on OCS sales, conceivable in joint venture with oil companies interested in Alaskan offshore potential.

This legislation seeks to clear up ambiguity surrounding the forementioned provision of the Alaska lands bill which allows an exchange between the Federal Government and Native corporations in and out of existing conservation units. There is considerable doubt as to whether the granting of certificates of value in exchange for inholdings is given clear legal authority within the Alaska Lands Acts.●

THE JOBS CREATION ACT OF 1983

HON. GEORGE M. O'BRIEN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1983

● Mr. O'BRIEN. Mr. Speaker, today my colleague, Mr. HYDE from Illinois and I are introducing "The Jobs Creation Act of 1983."

Our bill will assist local governments by setting up a mechanism to create jobs by making grants available to cities and counties who devise their own jobs creation strategy. It will require the local governments to come up with 50-percent non-Federal matching funds, thus providing local investment and commitment to the success of the program. And it cuts through the usual paperwork and redtape by specifying that proposals be submitted in 20 pages or less.

To be eligible, a community must meet at least one of the following three criteria: A 2-percent unemployment rate above the national average for the previous 24 months; a per capita income 20 percent below the national average; or a clear and present danger such as a large expected loss of employment or a plant closing.

Another important feature of this legislation is that it can take effect immediately. It has no 1983 budget impact, because it will be funded by the $182 million appropriated in the continuing resolution for the moribund Economic Development Administration (EDA).

This "jobs creation" bill will be a quick, efficient, and effective way to encourage over 200 communities to get started together planning for local jobs development. Plus, it's targeted to the worst hit regions—like those in Mr. HYDE's and my own districts. This bill is not another "reindustrialization bill," nor a "son of CETA" bill, or another "pork barrel" public works bill. This legislation says: If your town is in real trouble, and you've got some ability to help yourself, then the Federal Government will help you create a strategy for solving the problem.

The following is an outline description of our bill:

THE JOBS CREATION ACT OF 1983

HOW THE PROGRAM WILL WORK

Jobs creation strategy

Any city, county or other unit of government devises a jobs creation strategy.

Strategy includes, in 20 pages or less:

Inventory of community's jobs creation resources: businesses, industries, job training resources, infrastructure available and needed.

Workforce: skill available and skills needed.

A showing that 50 percent non-federal matching funds are available.

A showing that the private sector is willing to invest.

Description of business/industry to be created or expanded.

Description of specific programs to be funded, e.g.:

Revolving loan fund for small business.

Grant for necessary communications, transportation and facilities.

Jobs "incubation" activities.

Eligibility criteria

Three distress criteria to determine eligibility (only one required to qualify):

Unemployment 20 percent above national rate for previous 24 months.

Per capita income 20 percent below national average.

Clear and present danger: expected loss of employment; plant closing, etc.

Current EDA eligibility and grandfathering repealed.

Application procedure

Submitted to the Secretary of Commerce.

Secretary reviews: It meets distress criteria and it has a chance of working.

Secretary approves/rejects.

Funding

Strategy Implementation: $182 M authorized for 1 year.

15 percent limit on administration: Approximately 166 projects to be funded.

Limitations

$1 million limit on federal funds per strategy.

Grants, not loans.

Appalachian transition

The Appalachian portion of the bill "sunsets" the Appalachian Regional Commission non-roads programs along the lines of the ARC "finish-up" program prepared by the Appalachian Governors and submitted to Congress, December 31, 1981.

House insists on coupling EDA amendments with ARC legislation.

It is our hope that our colleagues will cosponsor our bill and support it as one element of any other jobs initiatives that will be proposed.●

FISHERMEN'S TAX REFORM

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1983

● Mr. STUDDS. Mr. Speaker, today, I am introducing a bill which seeks to

correct an inequitable situation facing our fishermen and their responsibilities under the Federal Unemployment Tax Act (FUTA).

As you know, Mr. Speaker, commercial fishermen in our area have long considered themselves to be self-employed. Independent by nature, the New England fisherman seeks to make a living from the sea under his own terms and conditions. Instead of receiving an hourly wage or annual salary as they work among the various fishing boats, they receive a share of the catch. By sharing in the profits, and, unfortunately, the losses on some fishing trips, the crews oi our fishing fleet retain their independence.

As you may recall, the Internal Revenue Service has not always agreed with our fishermen, preferring to treat them instead as employees of a fishing vessel. In 1976 we addressed this situation in the Tax Reform Act, clarifying that owners of fishing vessels manned by a share paid crew of 10 or less were exempted from withholding Federal income taxes and social security taxes on their crewmembers. The amendments made by that act simplified matters for our fishermen and retained their freedom to work on different fishing boats as self-employed fishermen. Overall, this system has worked very well for both the vessel owner and the fishermen.

Mr. Speaker, recently I was alerted by some of my Cape Cod fishermen to a problem not dissimilar to the one they faced in 1976. Seven years ago our fishing industry was not concerned about the Federal Unemployment Tax Act because most of our fishing vessels affected by this law were under 10 net tons in size. The current unemployment laws exempt owners of vessels under 10 net tons from paying unemployment taxes on their crew share. Over the past several years, however, our fishermen have found it necessary to increase the size of their vessels both for safety reasons and because they have found it necessary to travel further offshore to take a full day's catch. Many of the vessels in my area now exceed 10 net tons, although the crew size has remained about the same. As you can see, these vessel owners may now be forced to pay into the Federal unemployment fund even though their crew is considered to be self-employed for purposes of social security and Federal withholding taxes.

The bill I am introducing today provides that owners of fishing vessels exceeding 10 net tons that are manned by a share paid crew of 10 or less, will be permanently exempted from paying Federal withholding taxes. By treating social security, Federal withholding and unemployment taxes exactly the same for this class of fishermen, I believe we will be greatly simplifying the administrative burdens placed on them as well as making sound public policy.●

SID MORRISON SPONSORS NORTHWEST LOW-LEVEL WASTE COMPACT BILL

HON. SID MORRISON

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1983

● Mr. MORRISON of Washington. Mr. Speaker, today I am sponsoring legislation introduced by Representative DANNY AKAKA which grants the consent of Congress to the Northwest Interstate Compact on Low-Level Radioactive Waste Management. My colleague in the Senate from Washington State, Senator SLADE GORTON, has also introduced nearly identical legislation today. The compact must be ratified by both Houses of Congress in order to assure its compliance with the Federal Low-Level Waste Act passed by Congress in December of 1980.

The Northwest States are farther along in their agreement to deal with low-level waste than any other region in the country. We hope that the strong leadership of the Northwest States in developing the low-level waste compact legislation will send a signal to the rest of the country to encourage them to form and approve their own regional compacts.

Federal law requires that every State be responsible for providing disposal capacity for wastes generated within the State. Since many States lack suitable disposal locations, regional compacts are considered the most equitable and feasible way to deal with low-level radioactive wastes. Indeed, the adoption of this ratification legislation will provide the Northwest States with a safe and agreeable method of disposing of low-level wastes.

The Northwest Compact has been ratified by the State Legislatures of Washington, Oregon, Idaho, Utah, and Hawaii. Montana has tentatively joined the compact through executive order of the Governor. Alaska and Wyoming are also eligible to join. There are several compacts nationwide in various stages of formation, and each compact will be responsible for the management of its respective region's low-level waste.

The Hanford nuclear reservation in my district is the host site for the Northwest compact. The Hanford burial site currently receives about half of the Nation's low-level radioactive waste. The Hanford site, which received about 1.5 million cubic feet of waste last year, is only one of three low-level sites still operating in the country.

Under the terms of the legislation I am sponsoring, after January 1, 1986, the Hanford site will no longer be responsible for those wastes generated outside the Northwest States. This exclusion of waste from noncompact States will substantially reduce the amount of low-level radioactive waste going to the Hanford reservation.

The exclusion date in the compact as agreed to by the States was July 1, 1983, fully 2½ years before the original Federal law envisioned such exclusions. This 1983 exclusion date of wastes from nonmember States is unrealistically optimistic because few States if any will be part of regional compacts prior to July 1, 1983. The bill I have jointly introduced today would change the date back to 1986 giving other regions adequate time to complete the formation and approval of their compacts. This change in the exclusion date should make the legislation more reasonable and acceptable to Congress as a whole.

Mr. Speaker, I urge the House to join the majority of my colleages from the Northwest in supporting early consideration and approval of this legislation.●

PARRIS INTRODUCES SOCIAL SECURITY FUNDING ALTERNATIVE

HON. STAN PARRIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1983

● Mr. PARRIS. Mr. Speaker, today I am introducing a bill to earmark the revenues collected by the Federal Government from offshore exploration and drilling by oil and gas companies to the social security old age and survivors insurance trust fund.

The future of the social security system seems bleak. There is a real question of whether or not the President's Commission on Social Security has created a package that will be acceptable to a majority in Congress. The Congress must take necessary steps to insure that the system does not go broke. The purpose of this bill is to maintain current social security benefits until Congress can come up with a comprehensive plan for the social security system.

I believe the earmarking of offshore revenues is a feasible solution to the short-term deficit of the system. It is appropriate that offshore revenues, which belong to the people of the United States, should be used to shore up the social security system which affects in some way, virtually every American family.

In addition, tying the social security system and the offshore leasing program together will encourage the development of our offshore oil and gas resources. I believe that a great deal of our Nation's problems stem from our

failure to achieve energy independence. This bill will help assure social security for the elderly and energy security for the Nation.

Social security is losing approximately $17,000 per minute—24 hours a day, 7 days a week. Thirty minutes from now, the three trust funds that comprise social security will be $510,000 deeper into the red.

This is by no means an answer to the financial dilemma facing the social security system, but it would give us more time to work on a more comprehensive, permanent solution.●

FOUNDATION FOR INTERNATIONAL MEETINGS

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1983

● Mr. VANDER JAGT. Mr. Speaker, over the past several years we have debated the question of the tax implications of meetings afd conventions held outside the United States. There has been a great deal of concern expressed about the problem of junkets, or vacations disguised as business meetings.

Because of this discussion, I am pleased to note the formation of a new organization, one dedicated to the professionalism of overseas meetings and conventions. This organization, the Foundation for International Meetings, is headed by my good friend James P. Low, the former president of the American Society of Association Executives.

The foundation will provide its members with the ability to participate in concert with other professional executives in improving and upgrading the standards by which international meetings are judged. In addition, the foundation will work to increase international attendance at meetings held here in the United States.

I believe the creation of the Foundation for International Meetings is an excellent idea, and I know other Members of Congress will join me in wishing it well.●

EDUCATION TECHNICAL AMENDMENTS

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1983

● Mr. GOODLING. Mr. Speaker, I am introducing a package of technical amendments which are designed to clarify and correct certain ambiguities, unintended results and drafting errors in the Education Consolidation and Improvement Act of 1981 (ECIA). These amendments are designed to improve the implementation of that act. These amendments were originally drafted through close cooperation between the House and Senate and were passed by both bodies. The President allowed these amendments to die without his signature at the end of the 97th Congress because of his concern over several features in the legislation. Because of the urgency of many of the provisions of this legislation, I have again conferred with my colleagues in the Senate and we have agreed on a modified version of the amendments which contain the needed improvements to the ECIA, while addressing the major concerns expressed by the President. I am pleased that Senators HATCH and STAFFORD introduced corresponding legislation in the Senate yesterday.

As you may recall ECIA was part of Public Law 97-35, the Omnibus Budget Reconciliation Act of 1981, and was adopted as part of a substitute package offered on the floor of the House. As a result, the usual legislative process involving hearings and consideration at the subcommittee and full committee levels never occurred. Not suprisingly, some technical problems were contained in the legislation.

We have pressed forward in the preparation of a package of technical amendments to perfect ECIA. A cooperative effort by our staff—majority and minority—along with the Senate staff and a broad cross section of interested parties has resulted in what I feel is a perfected version of my original bill, H.R. 7336.

Our goal has been to develop a bipartisan consensus to resolve some of the problems which have been identified in ECIA. In this spirit I wish to commend the chairman of our committee, Mr. PERKINS, for his willingness to act on technical amendments which achieve a consensus among the members of the committee and the education community at large.

I would like to reemphasize that the Senate is prepared to act on this package of amendments. These amendments are a result of a bipartisan effort and I hope we can move to swift passage of this legislation.●

COMMEMORATING OUR MIA'S AND POW'S

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1983

● Mr. GUARINI. Mr. Speaker, I am introducing today a sense of the House resolution which urges the Postal Advisory Committee of the U.S. Postal Service to issue a postage stamp to honor our MIA's and POW's. It is very important to keep this issue before the American people.

Today marks the 10th anniversary of the signing of the Paris Peace Accords in 1973. Unfortunately, the end of American involvement 2 years later in Southeast Asia did not end the involvement of the families of the 2,493 Americans still reported as missing in action during this war. Of this total, 64 of whom come from my home State of New Jersey, 1,400 American servicemen and civilians remain officially listed as prisoners of war or missing in action, while 1,100 are listed as killed in action, body not recovered.

It is important that we not allow our MIA/POW's to be forgotten. It is important that we keep this issue before the American people. The issuance of a postage stamp would work as a constant reminder of the sacrifice and bravery of these Americans, while at the same time keeping the need for the continued and intensive search of reported MIA sightings and evidence in the vanguard of active American interests.

There has been a great amount of enthusiasm for this proposal. The National League of Families of American Prisoners and Missing in Southeast Asia has supported the concept, as has a number of various State veterans organizations. I urge my colleagues to join with me in this most worthwhile endeavor.●

A TRIBUTE TO RACHEL VERMILLION

HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1983

● Mr. ROGERS. Mr. Speaker, it is with extreme pleasure that I rise to honor an outstanding and unique person in my district, Rachel Vermillion of Corbin in Knox County. For many years, Mrs. Vermillion has been untiring in her devotion to local and State governments. She has served in the capacity of county chairman for Knox County and deputy county court clerk for over 35 years. Imbibed with a deep commitment to serving the Republican Party, Mrs. Vermillion has in the past offered her services as president of the Corbin Republican Woman's Club and precinct chairman.

The Vermillion children reflect their mother's patriotic spirit and desire to work for their country and community. Dick and Jack Vermillion served in the Korean war and World War II, respectively. From 1959 to the present, Dick Vermillion has been elected to such offices as clerk to the Kentucky Court of Appeals, commissioner of Corbin, mayor of Corbin, sheriff of Whitley County, and clerk of the Court of Appeals in Frankfort. Until

his passing in 1980, Jack Vermillion gave of himself as an officer on the Corbin Police Force for 20 years. Mrs. McBurney, a daughter, was acknowledged for her outstanding service to the community by the junior chamber of commerce. She was instrumental in organizing and later directing the Corbin Youth Center. Many other Vermillion family members give of their time and effort to various community activities.

Rachel Vermillion's contributions to society have not gone unrecognized. The Business and Professional Woman's Club, of which she is a member, named her a "Woman of Achievement." Mrs. Vermillion has held such distinctions as councilor of the Daughters of America and matron of the Order of Eastern Star. At 92 years old, she continues to take an active role in community and church affairs. I join the friends of Rachel Vermillion in wishing her a continued long and useful life.●

HIGH TECHNOLOGY TRADE ACT OF 1983

HON. BILL NELSON

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1983

● Mr. NELSON of Florida. Mr. Speaker, I want to commend the gentleman from Massachusetts (Mr. SHANNON) for having the foresight to introduce this timely legislation. Why do we need a High Tech Trade Act now?

In recent years, this vital industry has been growing at a tremendous rate. In most areas, our high technology industry is producing products that are way ahead of the international competition. The bad news is that we have some tough competition ahead and there is no clear trade policy to deal with it.

The international tensions that have arisen over this whole issue were demonstrated by the failure of the recent GATT conference to extend the GATT rules to cover not only trade in services, but also trade in high technology products. The U.S. trade deficit with Japan is expected to be about $20 billion for 1982. The high tech industry is not looking for protection by our Government but the chance to compete freely. The openness of the American market as contrasted with the closed Japanese market is part of the cause of this imbalance of trade. Our high tech industry needs open markets, equal access, and equal business opportunity if it is to continue to grow and to help to resurrect our economy.

This industry is fast-paced and constantly changing. If we do not act now to develop a forceful trade policy in this area, our currently successful high tech industry could be eroded by a foreign invasion.

This bill that is being introduced today specifically does four things:

First. It authorizes the President, for the first time, to negotiate on high technology trade issues on both a bilateral and multilateral basis.

Second. It affirms U.S. commitment to a national treatment in trade and investment.

Third. It establishes a High Technology Advisory Committee and a system for monitoring practices which distort trade and investment flows, and for offering remedies to these distortions.

Fourth. It expands the President's current authority under section 301 of the Trade Act of 1974 to cover investment.

The High Technology Trade Act will insure that we are prepared for the growing international trade threat that the U.S. high technology industry is facing. It will help to bring the open markets that this industry needs to survive and to thrive. It will mean saving thousands of jobs and will play an essential part in making our economy strong and healthy.

I support and urge the early consideration of this vital legislation.●

WITHHOLDING ON INTEREST AND DIVIDEND INCOME

HON. BOB WHITTAKER

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1983

● Mr. WHITTAKER. Mr. Speaker, this body, under the banner of improving taxpayer compliance, took action last year which will ultimately hurt those who are least able to pay. In order to correct this intrusive and unnecessary action, I am today introducing legislation which would repeal those provisions of the Tax Equity and Fiscal Responsibility Act of 1982 which impose withholding on interest and dividend income.

The impact of withholding will not only be felt by individual savers and investors, but the economy as a whole. Currently, the United States has one of the lowest saving rates among the developed nations. Withholding of taxes on interest and dividend income would only work against our goal of encouraging personal savings.

Withholding requirements would also greatly increase the paperwork and regulatory burden on financial institutions, creating for them additional expenses which would then have to be passed on to the consumer.

But, perhaps the most hideous impact of this provision is the confusion and terror it is inflicting on the millions of senior citizen savers who depend on interest and dividend payments for their monthly expenses. The idea of withholding, coupled with the confusion resulting from the complicate exemption process, has driven some to consider withdrawing their money from local banks.

From the reams of testimony given on this provision last year, I believe it is evident that compliance is already high, and that there are viable alternatives to close the compliance gap which are much less costly to the public. Given the arguments against withholding, and the need to not punish honest taxpayers, I ask this body to seriously consider this much needed legislation.●

A TRIBUTE TO HISTORICALLY BLACK COLLEGES

HON. CARROLL A. CAMPBELL, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1983

● Mr. CAMPBELL. Mr. Speaker, today I, along with my distinguished colleague, Congressman HAROLD FORD, have introduced a bill to designate September 21, 1983, as "National Historically Black Colleges Day." I feel that such a day of recognition is but a small tribute to the important and prominent contributions that these institutions have made to our society.

Presently, there are 103 historically black colleges and universities in the United States. Each year these institutions, many of them rich in heritage, graduate more than 30,000 young Americans from their many and diverse educational programs. History attests to the fact that numerous prominent scholars, educators, businessmen, and professionals have been the products of these fine schools. In fact, each year these institutions of higher education enroll over a quarter of a million collegians.

While historians are hard pressed to agree on the designation of any one school as the first black college, most agree that three institutions were granting degrees before the Civil War. Cheney State College, established 1837; Lincoln University, established 1854 as Ashman Institute; and Wilberforce University, established 1856, were the three institutions that were the first degree granting postsecondary schools for black Americans.

The struggles of these, and many which were forced out of existence, were great, but the resolve and unwavering dedication of their founders and early students were the key to their successful establishment. It is this spirit of purpose that Mr. FORD and I wish to commemorate. Furthermore, we wish to recognize the ongoing and present evidence of this same dedication to goals in the education of young black Americans.

It is my sincere hope that my colleagues will join Mr. FORD and myself in cosponsoring this bill. A speedy adoption of the resolution will indicate this body's gratitude and respect for the prominent roles that historically black colleges and universities have played, and continue to play in our society.●

BIG BROTHERS/BIG SISTERS

HON. DAN COATS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 27, 1983

● Mr. COATS. Mr. Speaker, I recently had the privilege of introducing with Congresswoman MARILYN BOUQUARD legislation designating the week of February 13, 1983, as Big Brothers/Big Sisters Appreciation Week. I hope my colleagues will take the time to join Mrs. Bouquard and me in achieving this special acknowledgment for a special group of people.

Childhood is the most challenging time of life—a time of excitement, confusion, and endless questions. Today, increasing numbers of children are facing that challenge without the support of both parents. Whether as a result of divorce, death, or desertion, some 40 percent of all children born since 1970 will spend 5 years or more in a single-parent home. Many of them will need more attention than one individual can possibly give. In the absence of an extended family, a Big Brother or Big Sister can help to fulfill these needs.

Irvin Westheimer, a 23-year-old Cincinnati businessman, recognized this need in 1903 when he befriended a young boy he found scavenging in a garbage can. Westheimer encouraged friends and acquaintances to do the same for other fatherless boys and before long, they were called Big Brothers.

In 1904, Ernest K. Coulter started the first formal Big Brothers program as a preventive approach to juvenile justice problems. Four years later, a Big Sisters program was established under the direction of Mrs. Willard Parker with the support of Lady Armstrong-Mrs. W. K. Vanderbilt.

Big Brothers of America was formed as a national organization in 1946 and headquartered in Philadelphia, which is still its home city. The Congress recognized this organization in 1958 by issuing a congressional charter.

Big Brothers and Big Sisters merged in 1977 to become the first national youth service program for boys and girls. Today, there are over 400 area agencies serving approximately 100,000 children a year.

After eight decades of service, Big Brothers/Big Sisters is still the matching-up of friends—one adult to one child to provide stability and companionship. Little Brothers and Little Sisters are school-aged children between the ages of 6–17. A commitment of 3–6 hours weekly is made by each volunteer to this one-on-one relationship, for a minimum of 1 year. Though the friendship is informal, it is supported by a professionally staffed agency. Tremendous care goes into the recruitment, screening and matching process.

Once a match is made, goals are set and regular contacts are maintained between the parent, child, volunteer, and social worker. Emphasis is placed on producing positive inner and outer changes in the child, including a strengthened sense of self worth and improved relationships and performance at home, at school, and in the community.

I am personally interested in this legislation because of my past involvement with the Fort Wayne Big Brothers/Big Sisters organization. Fort Wayne's agency began its operations in April, 1972, and I became a Big Brother 3 months later as the agency's eighth match. In 1975, I was privileged to be elected to the Board of Directors and served as its President from 1978 to 1980.

Many other individuals familiar to my colleagues are also associated with Big Brothers/Big Sisters. President Reagan is a member of the Advisory Council for the Greater Los Angeles Big Brothers/Big Sisters agency. Secretary of Health and Human Services, Richard Schweiker, and Secretary of Transportation, Drew Lewis, were founding members of the Pennsylvania Montgomery County organization. U.S. Trade Representative William Brock serves on the National Advisory Council and Senator CHRIS DODD is a member of the National Board of Directors. Serving on the National Honorary Board are former President Gerald Ford and Senator BARRY GOLDWATER.

Many others have helped children through the Big Brothers/Big Sisters organizations. We all recognize that to give of ourselves to those who need our love and friendship, especially children, is perhaps the most gratifying experience any of us will ever know. It is most appropriate that we recognize all the individuals associated with the Big Brothers/Big Sisters program, and I hope my colleagues will show their support for this special week of acknowledgment.●

SENATE—*Monday, January 31, 1983*

(Legislative day of Tuesday, January 25, 1983)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

God of Abraham, Isaac, and Jacob, God and Father of us all, help us to heed the warning of the prophet Moses as he prepared Israel to enter the promised land:

"Take heed lest you forget the Lord your God * * * Lest when you have eaten and are full, and have built goodly houses and live in them, and when your herds and flocks multiply, and your silver and gold is multiplied, and all that you have is multiplied, then your heart be lifted up, and you forget the Lord your God * * * and you say in your heart, 'My power and the might of my hand have gotten me this wealth!' You shall remember the Lord your God, for it is He who gives the power to get wealth. If you forget the Lord your God and go after other gods and serve them and worship them, I solemnly warn you this day that you shall surely perish!" Deuteronomy 8: 11-14, 17-20 (RSV)

Open our eyes to see Lord God, that to forget Thee is the way of destruction—that the way of peace—the way of blessing—the way out of economic and social ruin is the way of humility, repentence, faith, and commitment to Thee. In the name of Him whose life, death, and resurrection call us to Thee. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. BAKER. I thank the Chair.

THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

HAIL TO THE REDSKINS

Mr. BAKER. Mr. President, before I say another word, I want to take this opportunity to join perhaps every citizen of the District of Columbia in a word of congratulations to the Washington Redskins for their magnificent victory in the Super Bowl yesterday.

I have known Washington for a long time, Mr. President. I came here, as a child, to visit with relatives. I came later when my father was in Congress and still later when my mother was in Congress. So I know Washington pretty well. I have watched it for a long time, and I can say that, to my knowledge, I have never seen this city so excited about anything as they are about the Redskins' victory in the Rose Bowl yesterday. Maybe VJ Day. But after last night's TV accounts from Wisconsin Avenue and M Street in Georgetown, I am not even sure about that.

It is good to see. It does my heart good to see this city, which has struggled perhaps for more than two centuries to create an identity of its own as a great metropolitan area, to come together for something that is not related to the Federal function. Washington yesterday was a city knitted together by a unity of spirit and commonality of purpose, and that was to pay homage to a great champion football team.

That may sound nonconsequential to people who do not know how this city hungers for its own identity, those who do not know how important it is to many hundreds of thousands of people who call this place home. But it is consequential, and it is a delight to see.

I offer my congratulations to the team, to all its members, to Jack Kent Cooke, and to Coach Joe Gibbs and his staff. But mostly, Mr. President, I offer my congratulations to the city of Washington for the pride and spirit its people have unmistakably shown throughout this season, and in particular throughout the last few hours.

If it were not against good manners and good protocol, there should now be a "ruffles and flourish" while we sang "Hail to the Chiefs." [Laughter.]

And in light of the Redskins' victory yesterday, I ask that this week's poem, "Each and All" by Ralph Waldo Emerson, be printed in the RECORD.

There being no objection, the poem was ordered to be printed in the RECORD, as follows:

EACH AND ALL

(Ralph Waldo Emerson)

Little thinks, in the field, yon red-cloaked clown [1]
Of thee from the hill-top looking down;
The heifer that lows in the upland farm,
Far-heard, lows not thine ear to charm;
The sexton, tolling his bell at noon,
Deems not that great Napoleon
Stops his horse, and lists with delight,
Whilst his files sweep round yon Alpine height;
Nor knowest thou what argument
Thy life to thy neighbor's creed has lent.
All are needed by each one;
Nothing is fair or good alone.
I thought the sparrow's note from heaven,
Singing at dawn on the alder bough;
I brought him home, in his nest, at even;
He sings the song, but it cheers not now,
For I did not bring home the river and sky;
He sang to my ear,—they sang to my eye.
The delicate shells lay on the shore;
The bubbles of the latest wave
Fresh pearls to their enamel gave,
And the bellowing of the savage sea
Greeted their safe escape to me.
I wiped away the weeds and foam,
I fetched my sea-born treasures home;
But the poor, unsightly, noisome things
Had left their beauty on the shore
With the sun and the sand and the wild uproar.
The lover watched his graceful maid,
As 'mid the virgin train she strayed,
Nor knew her beauty's best attire
Was woven still by the snow-white choir.
At last she came to his hermitage,
Like the bird from the woodlands to the cage;—
The gay enchantment was undone,
A gentle wife, but fairy none.
Then I said, "I covet truth;
Beauty is unripe childhood's cheat;
I leave it behind with the games of youth:"—
As I spoke, beneath my feet
The ground-pine curled its pretty wreath,
Running over the club-moss [2] burrs;
I inhaled the violet's breath;
Around me stood the oaks and firs;
Pine-cones and acorns lay on the ground;
Over me soared the eternal sky,
Full of light and of deity;
Again I saw, again I heard,
The rolling river, the morning bird;—
Beauty through my senses stole;
I yielded myself to the perfect whole.

[1] Farm laborer.

[2] Low-growing, ground-cover plants.

Mr. BAKER. Mr. President, having engaged in that little bit of observation, I return once again to the important business of the Senate.

ORDER FOR ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that after the time allocated to the two leaders under the standing order and the recognition of Senator GRASSLEY to speak for not more than 15 minutes, there be a period for the transaction of routine

morning business, of not more than 1 hour, in which Senators may speak for not more than 5 minutes each.

The PRESIDING OFFICER (Mr. COHEN). Without objection, it is so ordered.

SENATE SCHEDULE

Mr. BAKER. Mr. President, after the expiration of the time just provided for, for the transaction of routine morning business, the Senate, under the order previously entered, will go into executive session for the purpose of considering the nomination of Elizabeth Dole to the Secretary of the Department of Transportation. The order entered last week also provides that if a rollcall vote is ordered on that nomination—I expect that one will be—it occur at 4 p.m. tomorrow, Tuesday.

There may not be an extensive debate on that subject, and it may be that there will be another period for the transaction of routine morning business in the course of this day.

Mr. President, I urge Senators who may have a requirement for additional time to communicate that to the staff of the Senate, so that they can make arrangements for it.

I am advised by my staff that certain of the reporting committees may be in a position to give us legislative business this week. I think it may be Wednesday before we can reach another item of legislative business. But I point out once more that the cupboard is bare. So until the committees do act, there is nothing to be taken up and dealt with, other than the nomination I have identified and perhaps other matters that might be agreed upon by unanimous consent.

Beginning on Wednesday, I expect that there will be business and that we will be in session through Thursday and perhaps on Friday, if there is work to be done on Friday. I will not ask the Senate to be in Friday if there is nothing to do. If we do not have legislative business, there is no purpose in that.

I urge Senators once more to consider what I have said previously—that is, we are not going to have automatically 3- or 4-day weeks in these early weeks of the session. We are going to try very hard to do as much business of the Senate in the early part of the session as we can possibly do. So we will withhold judgment on whether we will be in session on Friday of this week. Under no circumstances should that be considered a policy or precedent in the event we are not in session on Friday.

It is the wish of the leadership to try to produce as much legislative business in the early part of the session as is possible to do.

Mr. President, that concludes my remarks.

Mr. BYRD. Mr. President, will the majority leader yield?

Mr. BAKER. Yield.

Mr. BYRD. I have had several inquiries on my side of the aisle as to whether or not there can be some understanding with respect to votes on Fridays. I understand there will be no rollcall votes on this Friday. The majority leader has just answered that partially. I present it for his consideration. This has been the practice for the last 4 or 5 years.

Mr. BAKER. It has indeed, Mr. President, and it makes a great deal of sense to do it that way because we are struggling now to find business to do and there is no point in being in or having votes if it does not serve a good legislative purpose.

But let me withhold on that, and say that it would be my hope that we can have good, solid, 5-day sessions with votes on any of these days in the early part of the session. Maybe that hope will be dashed if the committees do not produce work that we can do. But I would not want Members to assume that that will be the situation this year.

The minority leader is entirely right. That has been the policy of both Republican and Democratic leaders in the Senate for a number of years.

But I hope this year can be different for a different set of reasons.

So Senators should not plan and should not assume that Fridays will be voteless.

Mr. BYRD. Mr. President, if the majority leader after further consideration makes a determination that that might be a possibility, he will inform the Senate?

Mr. BAKER. Indeed I will, and I will make sure that the minority leader is the first to know if that turns out to be necessary.

Mr. BYRD. I thank the Senator.

Mr. BAKER. I thank the Senator.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I have no further need for my time if I have any remaining.

Mr. THURMOND. Mr. President, will the Senator yield me 5 minutes?

Mr. BAKER. The minority leader is next in sequence of recognition.

Does the distinguished President pro tempore wish me to yield time under the standing order, or does he wish to speak in morning business?

Mr. THURMOND. Only about 2 minutes in morning business.

Mr. STENNIS. Mr. President, I have remarks to make on the Dole nomination.

Mr. BAKER. I am sorry.

Mr. STENNIS. I wish to make a few remarks about Mrs. Dole's nomination. I might not be able to be here tomorrow.

Mr. BAKER. Mr. President, let me say this. I am prepared to yield whatever time I have remaining.

Mr. President, I believe the better part of discretion will be for me to yield the floor at this point which now I do, and I yield back the remainder of my time.

Mr. BYRD. I thank the majority leader.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. Under the previous order, the Democratic leader is recognized.

Mr. BYRD. Mr. President, now I am glad to yield to the distinguished Senator from Mississippi.

Mr. STENNIS. I thank the minority leader.

Mr. President, my purpose in rising now is there is listed on the calendar for consideration Mrs. Dole's nomination. I am in favor of approving the nomination. It is possible that I might not be able to be here tomorrow.

I have known Mrs. Dole since her college years, and I shall reduce my remarks to 2 minutes, if I may be recognized now.

Mr. BYRD. I yield to the Senator.

Mr. STENNIS. I thank the Senator.

NOMINATION OF ELIZABETH DOLE TO BE SECRETARY OF TRANSPORTATION

Mr. STENNIS. Mr. President, I have been more and more impressed with the greater and greater number of our ladies, our female citizens, preparing themselves originally and then by practice getting into the real work of the problems of our Government.

It was my good fortune to know Mrs. Dole back in the time when she was in college down at Duke University.

I had some contact with her there, and she told me of her plans, specializing in government, preparing herself, and she wanted to be able to make a contribution come what would. That was very revealing to me and very interesting.

I traveled around Mississippi more last year than had been my custom, although I have not been loafing at any time.

I find a great, constructive, strong movement of our ladies down there to make better preparation, to make more of a contribution into these problems of our Government.

We have not been close friends, but I know Mrs. Dole to be well prepared. She is capable of rendering Cabinet service and can hold her own around the table in discussions with men, and other ladies. She has the experience and the background to carry her part of the load.

I think it is a very wholesome move here for her to be nominated, and I hope she will be approved by a solid vote.

So I will be here tomorrow if at all possible to cast that vote.

But I thought I might be detained. I appreciate the Senate allowing me time now to express my overwhelming appreciation.

I mention, also, that when Mrs. Oveta Culp Hobby was a member of the Cabinet she came in and gave a splendid presentation here of the budget for HEW. I remember how much it was—$963 million. Now it runs into many, many billions of dollars. She is still rendering very fine service in public life.

I yield the floor, Mr. President.

Mr. BYRD. Mr. President, I yield my time remaining to the majority leader.

Mr. BAKER. I thank the minority leader. Mr. President, I am very grateful.

Mr. President, I observe a messenger at the door seeking admission. I now yield so the Chairman may permit him to enter.

BUDGET MESSAGE OF THE PRESIDENT—MESSAGE FROM THE PRESIDENT—PM 4

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, was referred jointly to the Committee on the Budget and the Committee on Appropriations:

THE BUDGET MESSAGE OF THE PRESIDENT

PART 1.—THE BUDGET MESSAGE OF THE PRESIDENT

[Graphics mentioned in the Budget Message not reproduced in the RECORD.]

BUDGET MESSAGE OF THE PRESIDENT

To the Congress of the United States:

Two years ago, in my first address to the country, I went before the American people to report on the condition of our economy, which had suffered from many years of seriously misguided policies. I made a strong commitment to change the traditional shortsighted view that had previously been taken on economic priorities so that we could achieve our goal of long-term prosperity. I stated that we had a massive job before us.

Government spending was taking a rapidly increasing share of national income, burdensome Government regulation had stunted productivity increases, and excessive tax rates combined with erratic monetary policy resulted in serious disincentives to investment and long-term real economic growth. Inflation was at double-digit levels. Interest rates were at record highs. Real growth and job creation had ceased. New investment, productivity, and personal savings were stagnant. Our economy was in the worst mess in half a century.

To make matters worse, our military strength had been allowed to run down relative to the aggressively expanding military might of the Soviet Union. We were in serious danger of becoming powerless to deter or counter Soviet aggression around the world.

The economic program that I proposed at that time focused on long-range real growth. My tax proposals were designed to provide badly needed private incentives to stimulate savings and productive investment. I supported the Federal Reserve in its pursuit of sound monetary policy. I worked with the Congress to reverse the growth of Government programs that had become too large or outlasted their usefulness. I worked to eliminate or simplify unnecessary or burdensome regulations.

The unprecedented buildup of inflationary forces in the 1970's, however, exacerbated in severity and duration the economic downturn of recent years. One of the key detrimental forces has been the growing Federal budget. Despite our success in reducing the rate of growth of nondefense spending in the last two budgets, spending in 1983 will exceed 1981 levels by 21%, reflecting continued increases in basic entitlement programs, essential increases in defense spending, and rapid growth of interest costs.

Thus, the full effect of the changes we have made is taking time to develop. Over-reactive short-term remedies are not the answer. What is essential now is that we continue to work together to rebuild this country—without losing sight of the four fundamentals of our economic program:

—Limiting tax burdens to the minimum levels necessary to finance essential Government services, thus maintaining incentives for saving, investment, work effort, productivity, and economic growth.

—Reducing the growth of overall Federal spending by eliminating Federal activities that overstep the proper sphere of Federal Government responsibilities and by restraining the growth of spending for other Federal activities.

—Reducing the Federal regulatory burden in areas where the Federal Government intrudes unnecessarily into our private lives or interferes unnecessarily with the efficient conduct of private business or of State or local government.

—Supporting a moderate and steady monetary policy, to bring inflation under control.

TWO YEARS OF ACCOMPLISHMENT

Over the past 2 years, dramatic improvements have been made in the way the Government affects our economy. The Congress joined with my administration in a cooperative and politically courageous effort to reverse a decade of runaway growth in spending and tax burdens, proliferation of unnecessary regulations and red tape, and erosion of our military strength.

Both the Omnibus Reconciliation Acts of 1981 and 1982 effected fundamental reforms in numerous Federal programs, and demonstrated a greatly heightened level of maturity and responsibility of the congressional budget process that has come to fruition with the help and support of this administration. Although I am disappointed that many administration spending-reduction proposals did not pass last year—which has resulted in higher deficits—I believe that the revitalized congressional budget process signifies a refreshing willingness on the part of the Congress to work with my administration to address squarely the many crucial, complex, and politically difficult budgetary dilemmas before us. The results have been impressive:

—Where the growth rate of spending was almost out of control at 17.4% a year in 1980, it is now declining dramatically—to 10.5% this year, and, with this budget, to 5.4% next year—which is no more than the projected rate of inflation; in effect, a comprehensive freeze on total Federal spending.

—Where spending growth totaled $220 billion from 1978 to 1981, a 48% increase, spending will rise by only 27% from 1981 to 1984, despite legislated cost-of-living adjustments and the needed defense buildup.

—For the first time since the Second World War, the Federal tax system has been fundamentally restructured. Income tax rates have been substantially reduced, greatly improving the climate for savings and investment. Excessive taxation of business income resulting from depreciation allowances rendered inadequate by inflation has been eliminated through depreciation reform. Tax loopholes have been closed, making the tax structure more equitable. Emphasis is shifting to financing programs through user fees commensurate with benefits and services provided.

—The excessive rates of growth of entitlement programs were curbed. Overly-broad eligibility criteria were tightened to limit benefit awards more to the truly needy, and eliminate or restrict unnecessary and costly payments of welfare-type benefits to those who are relatively well off and are, or ought to be, self-supporting. Overly-generous and unnecessarily frequent cost-of-living adjustments were pared back. Nonetheless, the growth of these programs has

proven difficult to control and continues to be the primary cause of higher deficits.

—Limitation of Federal credit activity and off-budget spending is also being achieved.

—The burgeoning growth of Federal regulations and red tape has been capped. The number of proposed new regulations has been reduced by one-third in the past 2 years. Unnecessary costs of Federal regulation to individuals, businesses, and State and local governments have been reduced by $6 billion in annual expenditures and $9 to $11 billion in capital costs. By the end of 1983, the time our citizens spend filling out Federal forms and reports will have been cut by over 300 million hours annually.

—Improvements in the management of Federal operations, such as better procedures for the collection of debts owed the Government and better cash-management practices, are being carried out. These improvements have helped reduce waste, fraud, and abuse in Government programs.

—And by the end of the 1982 fiscal year, the Federal nondefense workforce had been reduced by 91,300 employees since I took office.

During the past 2 years, we have also taken decisive measures to increase our military strength. At the same time, diplomatic approaches to increase our national security, such as arms reduction talks, have been vigorously pursued.

The improvement in our defense posture includes all of its major elements. Long-overdue modernization of our strategic forces is proceeding with new bomber-, submarine-, and land-based missile programs. Our conventional forces are also being modernized and strengthened, with new ships, tanks, and aircraft. Above all, successful recruiting and retention over the past 18 months have resulted in all of our armed services being more fully manned with capable, high-caliber men and women. The All Volunteer Force is now working well.

By any standards, these are accomplishments to be proud of. And I am proud of them. We have come far in restoring order to the chaos prevailing in our economy and Government affairs just 2 years ago.

This is not to say that we do not still face great problems such as excessive unemployment, slower than desired economic growth, and high deficits. During the past 2 years our Nation has labored to purge itself of the inflationary disease that for nearly two decades had progressively undermined the economy's ability to generate growth, capital formation, worker productivity incentives, and financial stability. Those inflationary fevers have largely subsided in the aftermath of my decision 2 years ago to redirect economic policy toward a more modest size and scope for the Federal Government, a series of tax rate reductions to reward productive investment and work effort, and a restrained monetary policy to sustain the purchasing power of individual savings and income.

Accompanying the marked progress in unwinding the damaging inflation spiral that plagued our Nation for so many years, financial markets in 1982 experienced their first sustained improvement in more than 5 years. Interest rates throughout the maturity spectrum declined substantially, and by yearend we can proudly report that key rates for home mortgages, consumer loans, and business investment were able to sustain their lower levels, indicating new confidence in administration policies and bringing much needed relief to the housing and auto industries, the farm community, and the export sector.

Inflationary pressures of the sort experienced during the past two decades extracted a heavy toll from our economy. We have learned that the problems we inherited were far worse than most inside and out of Government had expected; the recession was deeper and longer than most inside and out of Government had predicted. Curing those problems has taken more time and a higher toll than any of us wanted. Unemployment is far too high.

Fortunately, the long nightmare of runaway inflation is now behind us. Slowly, but steadily and unmistakably, our national economy is completing the transition from recession to recovery. The interaction of lower tax rates, reduced inflation, and falling interest rates has placed the consumer and the producer in a much strengthened position with respect to balance sheets, liquidity, after-tax income, and purchasing power.

There are numerous signs that the battered, sputtering inflation-warped economy that we found 2 years ago is on the mend, and that the dislocation and hardship we have suffered in the interim will prove to be a corrective interlude on the path of sustained recovery. But our confidence must also be tempered by realism and patience. Quick fixes and artificial stimulants, repeatedly applied over decades, are what brought on the inflationary disorders that we have now paid such a heavy price to cure.

In part a result of the difficult period of disinflation, during the past year and one-half our projections of the Federal deficit have steadily risen. They have now reached very high levels, creating uncertainty in the financial markets and threatening to block the economic recovery ahead of us.

But before we consider what is to be done, we must review how we got here. And the truth is that as in the case of the social security fund, the looming gaps in our national budget are the consequence of both the inflation that got out of hand and the correctives that have been unavoidably applied to cure it.

During the 1970's, the share of our national income devoted to domestic programs and transfer payments soared by more than 50%—from 10 cents to 16 cents on every dollar produced by the American people. For a brief time, it appeared that we could afford all of this generosity because inflation badly misled us.

As inflation reached higher and higher peaks, the Treasury's coffers swelled from its take on inflated incomes and the upward creep of tax rates. For a time, we even financed our trillion dollar national debt on the cheap with interest rates that had not yet caught up with the spiraling inflation.

Meanwhile, defense spending grew at less than 60% of inflation, making room in the budget for extra domestic programs. The real purchasing power available to maintain our readiness, modernize our weapons, and maintain strategic nuclear safety declined by a startling 20%.

But it couldn't last—and it didn't. Today the Federal budget itself has become a major victim of the economic transition:

—The inflationary revenue windfall has dried up.

—Our staggering national debt until recently was being financed at the highest interest rates in peacetime history.

—The undelayable process of restoring our inflation-eroded military budgets and our decayed military strength has further strained our resources.

—Despite our great strides in reducing the spending growth over the last 2 years, the vast edifice of domestic programs remains significantly in place.

The social security system has also been a victim of our economic ills. First, the rampant inflation drained its reserves as Government tried to keep beneficiaries up with the spiraling cost of living that its own mistaken policies had created in the first place. Now the recessionary adjustments to disinflation have temporarily deprived it of the expanding wage base and growing revenues required to support commitments to the retired and disabled. As a result, for too long the specter of social security insolvency has haunted our Nation's elderly citizens and threatened to rupture the lifeline on which 36 million retired and disabled Americans depend.

But however obvious the threat of insolvency, one thing is certain: social security cannot and will not be allowed to fail the 36 million Americans who depend on it. With this commitment in mind, it is especially pleasing to join with the Speaker of the House and the Senate Majority Leader in urging the Congress to enact the bipartisan compromise plan developed by the National Commission on Social Security Reform.

There are elements in it that none of us prefer, but taken together it forms a package all of us can support. It asks for some sacrifice by all—the self-employed, beneficiaries, workers, new government employees, and the better-off among the retired—but it imposes an undue burden on none. And, in supporting it, we keep an important pledge to the American people: the integrity of the social security system will be preserved—and no one's payments will be reduced.

TOWARD ECONOMIC RECOVERY

To enhance prospects for sustained economic recovery and lower unemployment, I am proposing a sweeping set of fiscal policy changes designed to reduce substantially the mounting Federal deficits that threaten the renewal of economic growth. My plan is based on these principles:

It must be bipartisan. Overcoming the deficits and putting the Government's house in order will require the best efforts of all of us.

It must be fair. Just as all will share in the benefits that will come from recovery, all should share fairly in the burden of transition.

It must be prudent. The strength of our national defense must be restored so that we can pursue prosperity in peace and freedom, while maintaining our commitment to the truly needy.

Finally, it must be realistic. We cannot rely on hope alone.

With these guiding principles in mind, let me outline a four-part plan to increase economic growth and reduce deficits.

First, I am recommending a Federal spending freeze. I know this is strong medicine, but so far we have cut only the rate of increase in Federal spending. The Government has continued to spend more money each year, though not as much more as it did in the past. Taken as a whole, the budget I am proposing for the next fiscal year will increase no more than the rate of inflation—in other words, the Federal Government will hold the line on real spending. That is far less than many American families have had to do in these difficult times.

I will request that the proposed 6-month freeze in cost-of-living adjustments recommended by the bipartisan National Commission on Social Security Reform be applied to other Government benefit programs. I will also propose a 1-year freeze on a broad range of domestic spending programs, and for Federal civilian and military pay and pension programs.

Second, I will ask the Congress to adopt specific measures to control the growth of the so-called "uncontrollable" spending programs. These are the automatic spending programs, such as food stamps, that cannot be simply frozen—and that have grown by over 400% since 1970. They are the largest single cause of the built-in or "structural" deficit problem. Our standard here will be fairness—ensuring that the taxpayers' hard-earned dollars go only to the truly needy; that none of them are turned away; but that fraud and waste are stamped out. And, I am sorry to say, there is a lot of it out there. In the food stamp program alone, last year we identified almost $1.1 billion in overpayments. The taxpayers are not the only victims of this kind of abuse; the truly needy suffer as funds intended for them are taken by the greedy. For everyone's sake, we must put an end to such waste and corruption.

Third, I will adjust our program to restore America's defenses by proposing $55 billion in defense savings over the next 5 years. These are savings recommended to me by the Secretary of Defense, who has assured me they can be safely achieved and will not diminish our ability to negotiate arms reductions or endanger America's security. We will not gamble with our national survival. As a percent of GNP, the level I am requesting for defense spending in 1984 is less than the United States spent during the decade of the 1960's. As a percent of the total Federal budget it is far less than was allocated for national defense in those years. We are 2 years into the program to re-arm America. Sustaining the momentum of this program is essential if we are to avoid slipping back into the inefficient if we are to avoid slipping back into the inefficient and counterproductive pattern of wildly fluctuating defense spending levels.

THE BUDGET TOTALS

[In billions of dollars]

	1982 actual	1983 estimate	1984 estimate	1985 estimate	1986 estimate
Budget receipts	617.8	597.5	659.7	724.3	841.9
Budget outlays	728.4	805.2	848.5	918.5	989.6
Surplus or deficit (–)	–110.6	–207.7	–188.8	–194.2	–147.7
Budget authority	779.9	847.4	900.1	997.4	1,079.6

Fourth, because we must ensure reduction and eventual elimination of deficits over the next several years, I will propose a stand-by tax limited to no more than 1% of the gross national product to start in fiscal year 1986. It would last no more than 3 years and would start only if the Congress has first approved our spending freeze and budget control program. You could say that this is an insurance policy for the future—a remedy that will be at hand if needed, but resorted to only if absolutely necessary.

In the meantime, we will continue to study ways to simplify the tax code and make it more fair for all Americans. This is a goal that every American who has ever struggled with a tax form can understand.

At the same time, however, I will oppose any efforts to undo the basic tax reforms we have already enacted—including the 10% tax break coming to taxpayers this July and the tax indexing that will protect all Americans from inflationary bracket creep in the years ahead.

IMPACT OF STRONGER ECONOMIC GROWTH

—If the recovery of real GNP growth over the next 2 fiscal years *is about* 1% above our cautious projections, the deficit estimates would improve by an average of about $20 billion per year, and would result in lower deficits as follows:

	1984	1985	1986	1987	1988
Deficit (–) ($ billions)	–177	–177	–127	–119	–90

—An average real GNP growth rate *1.33%* higher each year over the next 6 years, compared to the prudent projections made in the 1984 budget, would result in a balanced budget by 1988. This is a "high growth" scenario but within the range of previous historical experience. My administration remains committed to the goal of a balanced budget and will propose additional policy actions, as needed, to achieve it.

This plan is urgently needed and is geared toward solving the problems of the growing deficits. But it naturally requires the cooperation of both branches of Government, both Houses, and both parties. Thus, our plan is aimed at bridging the institutional, philosophical, and political differences that separate us—which are not as important as the overriding common objective of economic recovery and sustained prosperity for America.

After 2 years of reducing much of the overspending, we have now reached the bone in many places—programs where we will not propose further reductions. My administration will now work with the Congress in an effort to accommodate those special concerns of the legislative branch that have caused unnecessary strains in the past.

Thus, we will propose $3 billion more for education programs than was proposed last year, and almost $2 billion more for employment and train-

ing. Proposals for new rescissions of already-enacted budget authority will be held to an absolute minimum.

This budget process must be a two-way street, for the problem of large deficits is very real. Even when all reasonable measures are applied to the vast detail of the budget, the resulting deficits are large and progress toward reducing them slow. The political risks entailed in these deficit-containment measures are considerable. But the risk of doing nothing at all due to partisanship or legislative stalemate is much greater. I therefore urge the Congress to join with my administration behind this commonsense strategy.

MEETING—AND RESHAPING—FEDERAL RESPONSIBILITIES

My administration seeks to limit the size, intrusiveness, and cost of Federal activities as much as possible, and to achieve the needed increase in our defense capabilities in the most cost-effective manner possible. This does not mean that appropriate Federal responsibilities are being abandoned, neglected, or inadequately supported. Instead, ways are being found to streamline Federal activity, to limit it to those areas and responsibilities that are truly Federal in nature; to insure that these appropriate Federal responsibilities are performed in the most cost-effective and efficient manner; and to aid State and local governments in carrying out their appropriate public responsibilities in a similarly cost-effective manner. The Nation must ask for no more publicly-provided services and benefits than the private sector can reasonably be asked to finance.

Education.—One of the high priorities I have set for my administration is the return to a more appropriate role for the Federal Government in the Nation's education systems and policies. We have slowed the alarming rate of growth of Federal spending for education, an area that is rightfully and primarily a family and State and local government responsibility. From 1974 to 1981, Federal spending for education increased by 172%. From 1981 to 1982, however, outlays declined by more than $1 billion. My administration has accomplished a major consolidation of small fragmented education programs into a flexible education block grant to States and localities. We have cut back on unnecessary regulation and Federal intrusion in local affairs.

The 1984 budget seeks to stabilize education spending, requesting $13.1 billion in budget authority for 1984. It reflects several important new initiatives to strengthen American education:

—Passing of tuition tax credits for parents who want to send their children to qualified private or religiously-affiliated schools.

—Establishing education savings accounts to give middle- and lower-income families an incentive to save for their children's college education and, at the same time, to encourage a real increase in savings for economic growth.

—Reorienting student aid programs to ensure that students and families meet their responsibilities for financing higher education, while making funds available across a wider spectrum of schools for the low-income students most in need.

—Allowing States or localities, if they so choose, to use their compensatory education funds to establish voucher programs to broaden family choice of effective schooling methods for educationally disadvantaged children.

—Helping States to train more mathematics and science teachers.

These initiatives represent the administration's continuing commitment to avoid improper Federal involvement in State, local, and family decisions, while preserving proper Federal support for key national policy goals such as supporting compensatory and handicapped education, facilitating access to higher education, and helping States improve science and mathematics education.

Research.—My administration recognizes the Federal responsibility to maintain U.S. leadership in scientific research. Although support of basic scientific research represents a small share of the Federal budget, it is a vital investment in the Nation's future. Such research lays the foundation for a strong defense in the years to come, and for new technologies and industries that will help maintain our industrial competitiveness, create new jobs, and improve our quality of life. By carefully establishing budget priorities, my administration has been able to reinvigorate Federal support for basic scientific research. With my 1984 budget proposals, such support across the Government will have increased by more than 20% over the 1982 level.

Health care.—A major problem for both individuals and the Federal Government in meeting health care needs is the rapid inflation of health care costs. The rate of increase in health care costs is excessive and undermines people's ability to purchase needed health care. Federal policies have contributed significantly to health care cost increases. The budget contains several major initiatives to reduce cost increases. We must eliminate the tax incentive for high-cost employee health insurance programs. Savings from medicare cost controls will be used to protect the aged from catastrophic hospital costs. Incentives will also be proposed to slow the growth of medicaid costs.

Agriculture.—The administration seeks to move agricultural supply toward a better balance with demand by reducing farm production and Government program stocks. The budget proposes a four-part approach to solving the current surplus supply problem:

—establishing a payment-in-kind (PIK) program, under which farmers would receive surplus commodities now held for Federal loans, or owned by the Government, in return for reducing their production;

—freezing farm crop target prices at current levels;

—donating Government-held commodities through international humanitarian organizations for needy people around the world; and

—selling our agricultural produce abroad, both through commercial channels and through governmental negotiation.

Efforts are also continuing to identify surplus Federal land holdings for sale from those administered by the Departments of Agriculture and of the Interior. Planned sales total $500 million in 1984.

Transportation.—In the transportation area, my administration has made major strides in implementing one of the fundamental principles in my program for economic recovery: having users pay for program costs that are clearly allocable to them. During the past year, I signed into law two administration-backed proposals to increase excise taxes on aviation and highway users and thereby provide funding needed to revitalize and modernize these important segments of the Nation's transportation system. The 1984 budget reflects the administration's continued commitment to the "users pay" principle by again proposing user fees for:

—construction and maintenance of deep-draft ports;

—the inland waterway system;

—selected direct Coast Guard services; and

—nautical and aviation maps and charts.

Recognizing the importance of our transportation system in maintaining and contributing to the Nation's economic and social well being, my administration secured passage of legislation designed to rebuild the Nation's highway and public transportation facilities. This legislation substantially increased funds available to the States and local communities to complete and repair the aging interstate highway system, to rehabilitate principal rural and urban highways and bridges, and to improve mass transit systems.

Fully capable ports and channels are essential to make U.S. coal exports competitive in world markets. My administration will work with the Congress to provide for timely and efficient port construction. We propose a

system of user fees for existing port maintenance and new port construction. Local governments would be empowered to set up their own financing arrangements for the immediate construction of facilities in their areas.

Reducing the Federal presence in commercial transportation, currently regulated by the Interstate Commerce Commission, the Civil Aeronautics Board, and the Federal Maritime Commission, will improve the efficiency of the industry. To this end, my administration will seek further deregulation of trucking, airlines, and ocean shipping. Experience since the adoption of initial transportation deregulation legislation has shown clearly that both consumers and industry benefit from reduced Federal involvement in these activities.

Energy.—The administration has significantly reoriented the country's approach to energy matters in the past 2 years. Reliance on market forces—instead of Government regulation and massive, indiscriminate Federal spending—has resulted in greater energy production, more efficient use of energy, and more favorable energy prices. For example:

—The U.S. economy today is using 18% less energy to produce a dollar's worth of output than it did in 1973 when energy prices first began to rise.

—The price of heating oil and gasoline has actually fallen in real terms by 12% in the past 2 years—confounding past theories that insisted that those prices could only increase.

Federal energy programs and policies have been refocused and made more productive:

—Wasteful spending on large, unprofitable technology demonstrations has been curtailed.

—At the same time, spending has increased in areas where the Government has a key role to play—for example, in supporting long-term energy research.

—The strategic petroleum reserve has more than doubled in size over the past 2 years.

Criminal justice.—My administration has also sought to strengthen the Federal criminal justice system by proposing major legislative initiatives, such as bail and sentencing reform, by attacking drug trafficking and organized crime, and by achieving a better balance among law enforcement, prosecutorial, and correctional resources. Twelve regional task forces will focus on bringing to justice organized crime drug traffickers. The administration will strengthen efforts to identify, neutralize, and defeat foreign agents who pose a threat to the Nation.

International affairs.—Our foreign policy is oriented toward maintaining peace through military strength and diplomatic negotiation; promoting market-oriented solutions to international economic problems; telling the story abroad of America's democratic, free-enterprise way of life; and increasing free trade in the world while assuring this country's equitable participation in that trade.

—The security assistance portion of the international affairs program has been increased to assist friendly governments facing threats from the Soviet Union, its surrogates, and from other radical regimes.

—Development aid emphasizes encouraging the private sectors of developing nations and increasing U.S. private sector involvement in foreign assistance.

—A major expansion of international broadcasting activities aimed primarily at communist countries is planned, and a new initiative will be undertaken to strengthen the infrastructure of democracy around the world.

—Special attention is being given to assuring adequate financing of U.S. exports while my administration seeks to obtain further reductions in the export subsidies of other governments.

My administration will submit to the Congress a proposal to increase the U.S. quota in the International Monetary Fund and the U.S. obligations under the IMF's General Arrangements To Borrow, as soon as negotiations on these issues are completed. This is necessary to ensure that the IMF has adequate resources to help bring the world economy back to strong, noninflationary growth.

Although now less than 2% of the budget, international programs are critical to American world leadership and to the success of our foreign policy.

Minority-owned businesses.—My administration will also assist in the establishment or expansion of over 120,000 minority-owned businesses over the next 10 years. The Federal Government will procure an estimated $15 billion in goods and services from minority business during the 3-year period 1983-1985. It will make available approximately $1.5 billion in credit assistance and $300 million in technical assistance to promote minority business development during this period.

Civil service retirement.—The 97th Congress made some improvements in the civil service retirement system. However, civil service retirement still has far more generous benefits and is much more costly than retirement programs in the private sector or in State and local governments. Accordingly, this budget proposes fundamental changes in civil service retirement designed to bring benefits into line with those offered in the private sector and reduce the cost of the system to affordable levels. Retirement benefit changes will be phased in over a period of years in order to avoid upsetting the plans of those at or near retirement.

UNEMPLOYMENT DEMANDS SPECIFIC ATTENTION

My administration seeks to provide appropriate assistance to the unemployed. There are three major groups who need help: the largest, those who are unemployed now but will find jobs readily as the economy improves; those whose jobs have permanently disappeared; and youth who have trouble finding their niche in the labor market.

Those in the first group need interim help because, historically, increases in jobs always lag in an economic recovery. Last year we provided a temporary program to give the long-term unemployed up to 16 added weeks of unemployment compensation, in addition to the up to 39 weeks available from our permanent unemployment insurance. This temporary program expires March 31, 1983. I propose to modify and extend the program for 6 more months, and provide an option for recipients to receive assistance in securing work through a system of tax credits to employers. This will give employers a significant incentive to hire the long-term unemployed, while workers will get full wages rather than the lower unemployment benefit.

Those whose jobs have permanently disappeared must be helped to find new long-term occupations. The Job Training Partnership Act, enacted last year, authorizes grants to States to help retrain such workers and assist them in locating and moving to new jobs. The Congress appropriated $25 million to start this new program in 1983. I am requesting $240 million to implement the program fully in 1984. In addition, I propose that the Federal unemployment law be changed to allow States to use a portion of the unemployment taxes they collect to provide such retraining and job search assistance to their unemployed workers. Regulatory reform and passage of Enterprise Zone legislation will also create new incentives for jobs and opportunity.

Those youth who have problems finding jobs after they leave school are often condemned to a lifetime of intermittent employment and low earnings. The new Job Training Partnership Act is designed to help disadvantaged youth acquire the basic skills potential employers look for when they hire. I am requesting $1.9 billion for the block grant to States under that Act. The States must use at least 40% of that for youth.

One of the problems hampering youth is inability to get meaningful work experience during school vacations. Such experience is invaluable to demonstrate their qualifications to po-

tential permanent employers. The budget provides for 718,000 public summer job opportunities for disadvantaged youth. But we must also make it possible for youth to experience work in the private sector. The minimum wage law now frequently prevents this. Inexperienced youth cannot produce enough of value to make it worthwhile for employers to pay them the full minimum wage during short periods of employment. I therefore propose that the minimum wage for summer jobs for youth be reduced to $2.50 an hour. Limitation of the reduced minimum wage to the summer months will make it unlikely that employers will substitute youths for older workers.

I remain adamantly opposed to temporary make-work public jobs or public works as an attempted cure for non-youth unemployment. There are several reasons for this. The cost per "job" created is excessive; we cannot afford major new programs, particularly in our current budgetary straits; the actual number of new jobs "created" is minimal; the jobs created tend to be temporary and of a dead-end nature; and most such jobs do not materialize until after recovery is well underway.

IMPROVING THE EFFICIENCY OF GOVERNMENT

The proposed freeze on program funding levels will compel program managers in every agency of the Government to find more efficient ways of carrying out their programs. For too long, costs of Federal operations have been mounting unchecked.

Good management has not always been a priority of the executive branch. I have been correcting that situation.

My administration has redirected programs to improve their efficiency and to achieve cost savings Government-wide. My administration is committed to improving management and reducing fraud, waste, and abuse. The President's Council on Integrity and Efficiency (PCIE), made up of 18 Inspectors General, reported that almost $17 billion has been saved or put to better use in the past 2 years.

In 1982, I signed into law the Federal Managers' Financial Integrity Act. Under this Act, my Cabinet officers and other agency heads will report to me and the Congress annually on the status of their efforts to improve management controls that prevent fraud and mismanagement. A number of agencies have already begun to make significant improvements in this important area.

But the Government can go only so far with the seriously outdated and inefficient management/administrative systems that are currently in place. One-third of our large-scale computers, for example, are more than 10 years old. A comprehensive management improvement program was needed, so "Reform '88" was initiated. We intend to upgrade and modernize our administrative systems to make them more effective and efficient in carrying out the Government's business and serving the public.

We are already saving tax dollars by managing our almost $2 trillion yearly cash flow more effectively, collecting the Government's $250 billion of just debts, cutting Government administrative costs, modernizing Federal procurement systems, reducing internal regulations, controlling our office space and equipment more prudently, and streamlining the workforce in many departments and agencies. These cost-reduction efforts will continue.

CONTINUING REFORM OF OUR FEDERAL SYSTEM

The overall efficiency of Government in the United States can also be improved by a more rational sorting out of governmental responsibilities among the various levels of government—Federal, State, and local—in our Federal system, and eliminating or limiting overlapping and duplication.

In 1981, the Congress responded to my proposals by consolidating 57 categorical programs into 9 block grants. In 1982, block grants were created for job training in the Jobs Training Partnership Act, and for urban mass transit in the Surface Transportation Act. The initiatives to be proposed this year will expand on these accomplishments.

Four new block grants will be proposed, with assured funding for major functions now addressed through categorical grants:

—A general Federal-State block grant covering approximately 15 categorical programs.

—A Federal-local block grant that would include the entitlement portion of the community development grant program and the general revenue sharing program.

—A transportation block grant.

—A rural housing block grant.

The administration is improving the management of intergovernmental assistance by providing State and local elected officials with greater opportunity to express their views on proposed Federal development and assistance actions before final decisions are made. Under Executive Order 12372, Intergovernmental Review of Federal Programs, which I signed in July 1982, Federal agencies must consult with State and local elected officials early in the assistance decision process and make every effort to accommodate their views. The Order also encourages the simplification of State planning requirements imposed by Federal law, and allows for the substitution of State-developed plans for federally required State plans where statutes and regulations allow.

Through the President's Task Force on Regulatory Relief and the regulatory review process, the administration is eliminating and simplifying regulations affecting State and local governments that are burdensome, unnecessary, and counter-productive. These changes have improved local efficiency and accountability and reduced program costs. Twenty-five reviews were completed during the past 2 years by either the Task Force or by various Federal agencies. Available data indicate that regulatory relief actions will save State and local governments approximately $4 to $6 billion in initial costs, and an estimated $2 billion on an annual basis. My administration is also simplifying selected, generally applicable crosscutting requirements that are imposed on State and local governments as a condition of accepting financial assistance.

FEDERAL CREDIT PROGRAMS: MORE SELECTIVE

The administration continues its strong commitment to control Federal credit assistance, which has serious effects on the Nation's financial markets. To this end, I propose a credit budget that reverses the accelerated rate of growth in direct and guaranteed lending by the Federal Government that occurred during the second half of the 1970's and the first years of the 1980's.

Federal intervention through guarantees and provision of direct lending misdirects investment and preempts capital that could be more efficiently used by unsubsidized, private borrowers. Because federally assisted borrowers are frequently less productive than private borrowers, large Federal credit demands must be reduced in order to improve prospects for economic growth.

CONCLUSION

The stage is set; a recovery to vigorous, sustainable, noninflationary economic growth is imminent. But given the underlying deterioration in the overall budget structure that has occurred over the past 2 years, only the most sweeping set of fiscal policy changes could help to reverse the trend and set the budget on a path that is consistent with long-term economic recovery.

If the challenge before us is great, so, too, are the opportunities. Let us work together to meet the challenge. If we fail, if we work at cross purposes, posterity will not forgive us for allowing this opportunity to slip away.

JANUARY 31, 1983.

Mr. BAKER. Mr. President, that is the President's message on the budget, and it has now been received. I will say, somewhat facetiously, I have been briefed on it now four times, and I do not believe I can stand it one more time. So I am glad it is here, and I am glad that the message will be referred by the Chair to appropriate and jurisdictional committees. Congress now will proceed to work its will.

Mr. President, if the Senator has no more need for his time, I will yield it back so that the Chair may begin the period for the transaction of routine morning business.

The PRESIDING OFFICER. There is a special order for Senator GRASSLEY.

ORDER RESERVING SPECIAL ORDER TIME

Mr. BAKER. Mr. President, I am sorry. I ask unanimous consent, since I do not see the distinguished Senator from Iowa here at the moment, that his time so provided may be reserved and utilized by him at some other time during the course of this day.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business for not more than 1 hour during which Senators may speak for 5 minutes each.

THE WASHINGTON REDSKINS

Mr. THURMOND. Mr. President, I rise to extend my heartiest congratulations to the Washington Redskins for winning the Super Bowl yesterday in Pasadena, Calif. This is surely one of the finest games that I have ever seen, and I commend all members of the team.

There was thorough teamwork. This team was behind at the end of the first half, but their fighting spirit and determination caused them to forge ahead in the second half and win the game by a decided margin.

I wish to especially commend Joe Gibbs, head coach of this team. He attends the same church in this area that my family and I attend, and that is the Columbia Baptist Church at Falls Church, Va. We are very proud of him as a member of this church and we are very proud of him as a coach of the Redskins. He is truly, as he said over television yesterday, a believer in God, a believer in Christ, and a Christian.

I only wish we had more public servants and people in public life who express themselves as he did on television yesterday.

I know that Jack Kent Cooke, the owner of the Redskins, was abounding with enthusiasm and pride as they won this game.

I also take special pride in recognizing two of the players on the Redskins team. One of them is from my alma mater. Jeff Bostic played with Clemson University prior to joining the Redskins, and as you know Clemson was the No. 1 college team in 1981. The second player is Charlie Brown, a native South Carolinian and a graduate of State College in Orangeburg, who has proved over and over again that he is an outstanding football player. He exhibited this fine quality yesterday in the Super Bowl.

Mr. President, there is no doubt that running back John Riggins was probably the outstanding star in Sunday's game. He does not happen to be from my State, but I admire him very much for his good sportsmanship and also because of his tremendous skill and talent in football. He set a new record for a Super Bowl yesterday by rushing for 166 yards.

I also commend Joe Theismann, the quarterback of this fine team. He is not only an able football player, but his calm demeanor and level-headed decisions played a large part in the winning of this game.

All of the members of this team, as I said, showed great sportsmanship. They played hard, they deserved to win, they did win, and the city of Washington and this area of the country are very proud of them. We wish them continued success in the future.

RECOGNITION OF SENATOR GRASSLEY

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, how much time do I have under my special order?

The PRESIDING OFFICER. Under the previous order, the Senator is recognized for 15 minutes.

RESTORING SOLVENCY TO THE SOCIAL SECURITY PROGRAM

Mr. GRASSLEY. Mr. President, few, if any, issues before the Congress this year will have greater consequences for all Americans than social security. Social security has grown in importance to this Nation's retirees and has become the cornerstone of retirement income security for the majority of Americans.

It is in this context that we must debate and decide what course of action is appropriate to restore solvency to the social security program.

This is not unknown territory. All but the newest Members of this body have had the opportunity to participate in deliberations on this issue. For the fourth time in 6 years, we must solve the financing problems this program is facing. This go-round, we do have guidance from the National Commission on Social Security Reform, and I commend the members of that group for their diligence in pursuing a consensus.

Although I applaud their efforts, it appears to me that the Commission's report is too long on tax increases and too short on true reform. As a Member of the House of Representatives during the last great reform package to pass the Congress in 1977, I am cautious about predictions as to what will be accomplished with passage of the Commission recommendation.

During the 1977 deliberations, we heard promises from then chairman of the House Ways and Means Committee, Mr. Ullman, that after adoption of the Social Security Amendments of 1977, we would expedite consideration of a new revenue mechanism. It appears that history will show this new financing mechanism is to accelerate tax increases, place further burdens on the self-employed, and tax some social security benefits. Those were the recommendations of this commission.

In my book, there is little innovation or creativity in such taxing mechanisms suggested by the Commission report. Rather, the American worker is placed in the precarious position of facing more taxes, and American businesses must shell out more money to meet their portion of the payroll tax. All of this comes just when we are seeing signals of economic recovery that we have been waiting for at least 12 months. The timing could not be worse.

In the upcoming hearings and floor debate on this issue, I intend to look at all options for returning solvency to the system. If this package is realistically the best this Congress can agree to, given the time constraints and the political realities, it will have my support. We must take our responsibility seriously; we cannot afford to play with lives of social security recipients by turning the debate on this issue into a verbiage of partisan name calling and blame placing.

As has been widely reported, President Carter lauded the passage of the Social Security Amendments of 1977 as the guarantee that from 1980 to 2030 social security funds would be sound. This optimism was shared by many others.

To this day, the image remains vivid of House Speaker O'NEILL urging support of the social security bill then before the 95th Congress. His words to the House at that time were:

> I say to the Members on the Democratic side of the aisle that if I have ever seen an issue that is a Democratic issue, it is this issue. This reverts right back to that day in 1935 when the party on the other side of the aisle voted against this issue by a vote of 97 to 1. The leopard does not change its spots.

This is the type of rhetoric Republicans have been bombarded with throughout the course of recent deliberations on this matter. Let me state, unequivocally: We on this side of the aisle are committed to restoring solvency and fiscal integrity to the social security system. We will work diligently to reach the best solution to both the short- and long-term financing

problems of this essential program. I am not convinced, at this time, that the package recommended by the Commission is that solution. I remain cautious, based on past history, of what this particular combination of options will do. Experience is the best teacher, and this body is too slow in recognizing the mistakes of the past, particularly when social security is concerned.

Our past excesses with the benefit side of the system, with the best of political intentions in mind, have caught up with us. The question now before us is whether we can muster enough courage to solve the fundamental problems facing the program. During 1977, Representative BARBER CONABLE recalled previous dialogs going back to 1972, when he said:

> We simply must remember that the income a worker can devote to future contingencies is limited by his ability to meet the immediate needs of his family. If the cost of social security cuts too deeply into daily living requirements, people will begin to make unfavorable comparisons between current costs and distant benefits. If the time ever comes that current workers are unwilling to bear the cost of providing benefits to current retirees, the social security system will be in real danger.

That statement, Mr. President, was originally uttered, as I said, in 1972, yet here we stand over 10 years later contemplating passage of a social security proposal that relies on yet another set of tax increases to save the program.

Every time we increase payroll taxes, it becomes more expensive for businesses to hire young workers. We keep hearing about the necessity of jobs programs—but no legislation we will pass could have a more devastating impact on our national employment picture than the tax increases included in the Commission's package.

We cannot keep postponing any move toward meaningful reform on what is perhaps the Government's most important social program. This Congress has the opportunity to settle this issue and get us out of the revolving door of considering and resolving a social security crisis every 5 or 6 years.

This lurching back and forth is not fair to recipients, nor is it fair to workers. We must take our responsibility to future generations as seriously as our commitment to this generation of social security recipients.

And we must be earnest in our attempts to address this issue not in the familiar political manner, but in the bipartisan manner outlined by the President. Only then will we truly, and finally, guarantee the future of social security.

I freely admit I have the luxury of being able to evaluate this plan without having been in the thick of the compromise battle. This distance enables me to be somewhat more critical than some of my distinguished colleagues who served on the Commission might like.

My caution in embracing the Commission report is in no way reflective of any lack of respect for the Commission's work and it members efforts, and I look forward to working with them throughout the extensive legislative review their recommendations will face.

My bottom line will always be a commitment to maintaining the economic security of our retirees.

Mr. President, I yield back the remainder of my time.

SCIENTISTS ANSWER TO U.S. FIRST USE OF NUCLEAR BOMB POLICY

Mr. PROXMIRE. Mr. President, tomorrow, February 1, the Union of Concerned Scientists will launch a campaign in Washington, Bonn, and London in support of a "no first use" policy on nuclear weapons by this country and our allies.

In each city, leading experts will present the result of a 6-month study by the Union of Concerned Scientists that supports the wisdom of the United States subscribing to the "no first use" policy.

As most of us can recall, when this issue came to a head several months ago, then Secretary of State Alexander Haig vigorously protested that such a policy would put NATO at a severe disadvantage in the event of a Soviet invasion of Western Europe because of the immense Soviet advantage in tanks and other conventional weapons in Europe. Secretary Haig argued that to renounce any nuclear response to such an invasion would be to leave Europe open to a Soviet attack—in fact to encourage such an attack. The first use was defended as an essential deterrent.

It is to that argument that the 6-month study addresses itself and that the three meetings in this country, England, and Germany will answer.

The heart of the scientists' response to the first use advocates are based on the contention that the forces of NATO and the Warsaw Pact are closer in power than previously thought, and that, by increasing the NATO budget by 2 percent over 6 years, the balance could be made close enough to provide an effective conventional instead of a nuclear response to any Soviet attack, and a more plausible deterrent than the threat of nuclear war.

The current issue of Defense Week reports that the conventional improvements sought by the scientists include:

First, better procedures for NATO nations to quickly mobilize their conventional forces, obviating the danger of a hair-trigger nuclear response.

Second, a system of field fortifications and obstacles along the frontier, especially in the North German plain with minefields and fixed bases to blunt a Soviet attack.

Third, more staying power for NATO troops. Current supplies of ammunition, fuel, and spare parts might only last 15 days.

Fourth, existing European reserve manpower organized into combat units that could be quickly mobilized.

Fifth, NATO's technological superiority should be cultivated.

Former Defense Secretary McNamara will be the principal speaker in Washington. Former U.S. National Security Adviser McGeorge Bundy will be featured in Bonn; and Lord Solly Zuckerman, former British chief scientific adviser, in London.

TALK OF A SUMMIT DEMANDS THE RATIFICATION OF THE GENOCIDE TREATY

Mr. PROXMIRE. Mr. President, as I have stated numerous times on the floor of the Senate, ratification of the Genocide Treaty is a matter of prime importance to our Nation.

While the Genocide Convention is a narrowly drawn human rights treaty, its ratification would have an immediate and lasting positive effect on our foreign policy. I would like to emphasize that. Its effect would be immediate. It would be lasting. It would be a major positive step in our foreign policy.

Recently, there has been talk of a possible summit meeting between the Soviet leader Yuri Andropov and President Reagan. Consideration of such a summit has once again brought international attention to the gross violations of human rights by the Soviet Union and its allies. Yet at this time, the ideal time to hold the feet of the Soviet Union to the fire for these heinous abuses, we insist on tying the hands of the President instead. Because that is exactly what we are doing, Mr. President, by failing to ratify the Genocide Convention.

Rita Hauser, a former delegate to the Human Rights Commission, made this point very clear when she testified before the Foreign Relations Committee in 1970:

> We have frequently invoked the terms of this convention (the Genocide Convention) as well as the provisions of the Universal Declaration of Human Rights . . . in our continued aggressive attack against the Soviet Union for its practices, particularly as to its large Jewish communities but also as to its Ukrainians, Tartars, Baptists and others. It is an anomaly . . . that while we have felt free to invoke the Genocide Convention against others, we have not yet ourselves ratified it. This often leads to the retort in debates plainly put, simply put, 'Who are you to invoke a treaty that you are not a party to?'

And although that was in 1970, Mr. President, those words still ring true today.

Ratification of the Genocide Convention would not only help untie the hands of the President on the issue of human rights, it would also put into those hands added strength to attack the Soviet's human rights abuses.

Furthermore, the ratification of this convention would eliminate a point of attack for the Soviets. Our record on human rights is clearly unequalled in the world, yet for far too long we have allowed the Soviets and their allies to turn a discussion of human rights into a discussion of human rights treaties. It is time to end, once and for all, these taunts of hypocrisy from nations who wish us ill. It is time to eliminate the puzzlement of our allies who have ratified the convention and are amazed at our failure to act.

I urge my colleagues to untie the hands of our President. Allow him to approach a summit or any dealings with the Soviet Union from a position of strength. A clear and basic step that the Senate can take to put our President in that position is to ratify the Genocide Convention.

CONSUMPTION TAX THE WRONG WAY TO GO

Mr. PROXMIRE. Mr. President, there has been a great deal of talk lately about shifting our tax structure away from income taxes and toward consumption taxes—to encourage savings, hold down interest rates, and combat inflation.

Weak and unfair as our income taxes have become, a shift to consumption taxes would be a disaster. The respected Joseph Pechman, director of economic studies at the Brookings Institution and as wise an expert on taxes as this country has, tells us why. In an article that appeared yesterday in the New York Times, Pechman demonstrated how grossly unfair and how painfully regressive such a shift in policy would be.

Mr. President, I would add to Pechman's excellent analysis that not only would such a change in our tax system penalize the poor for the benefit of the rich, but it would sharply retard recovery from the current recession. What we need today is not more investment. We need more consumption. What businessman in his right mind will invest in plant or equipment when he can not sell what he can so easily produce now. Think of it: we have a giant one-third of our entire industrial plant sitting idle. We have more than, 12 million unemployed. What will put these people back to work? Obviously more consumption—people buying cars and homes and clothes and entertainment. We need more consumption, not less. Once consumption increases, the businessman may eventually decide it makes sense to buy more equipment and expand his plant. But we in the Congress need to encourage consumption—not to discourage or penalize it.

Mr. President, I ask unanimous consent that the article by Mr. Pechman be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

IMPOSSIBLE RATES, UNFAIR ADVANTAGES

(By Joseph A. Pechman)

The consumption tax is a bad idea. It does not meet the test of taxation according to the ability to pay; it would tax the wrong people at the wrong time; it would be as prone to erosion through loopholes as the income tax, and it would lead to an excessive concentration of wealth.

Income is the best measure of ability to pay taxes, while consumption does not come close. If Taxpayer A has $25,000 of income and Taxpayer B has 20,000, it is reasonable to say that A has more tax paying ability. Now, suppose A saves $5,000 and B spends all his income. A would pay more income tax than B, but the two would pay the same consumption tax. Most people would regard the consumption tax result as unfair.

Substitution of a consumption tax for the income tax would raise the taxes on the young and the old and reduce the taxes of those in middle age who save more. Similarly, unemployed and disabled workers who are using up their savings would find themselves paying tax even though they had no income.

A tax that omits savings from the tax base can be shown to be the same as a tax applying only to labor income and exempting all property income. Such a tax would be an outrage, yet that is what the consumption tax really is. For example, suppose a person in the 25 percent bracket earns and saves $4,000, on which the annual return is 10 percent. At the end of the year he withdraws his savings plus interest and consumes it all.

Under a consumption tax, he pays a tax of $1,100 on the $4,400 he withdraws, leaving $3,300 to consume. Under a wage tax that does not tax interest income, he would pay a tax of $1,000 right away, deposit $3,000 and earn $300 interest tax-free. At the end of the year, he would also have $3,300 to consume. Thus, the consumption tax is exactly equivalent to a tax on wages if interest income is excluded.

In theory, the progressive nature of the income tax—higher tax rates for those with higher earnings—would be approximated by a consumption tax. But to do so, it would be necessary to set much higher tax rates. For example, assuming no savings, a 33 percent income tax rate is equivalent to a 50 percent rate on consumption and a 50 percent income tax rate is equivalent to a 100 percent rate on consumption.

Result: a 33 percent bracket taxpayer under the income tax would pay a $5,000 consumption tax on an automobile costing $10,000, and the 50 percent taxpayer would pay a $25,000 tax on a $25,000 automobile. Congress is hardly likely to accept such rates and the result would be a sharp decline in progressivity.

Consumption tax advocates usually compare the results of an ideal consumption tax with the imperfect income tax we have today. But most of the preferences under the income tax would probably be carried over into the consumption tax. Housing is favorably treated under the income tax and would doubtless be exempt under the consumption tax.

Charitable contributions, medical expenses, state and local property and sales taxes, child care expenses, exemptions for the elderly, as well as other personal allowances would all become deductible. And with savings also deductible, the consumption tax would probably turn out to be a monstrosity not capable of raising sufficient revenues.

The transition from the income tax to a consumption tax would probably create great inequities. The retired elderly, who already paid tax on the income they saved, would pay tax again when they spent it. Something would have to be done to avoid taxing such accumulations under the consumption tax. Exemption of all accumulated assets at the time an expenditure tax is initiated would leave a big loophole for people with large amounts of accrued capital appreciation that had not been subject to tax, but it would be very difficult to make the necessary distinctions in order to prevent wholesale tax avoidance.

Under any consumption tax, taxpayers who save large fractions of their income would be able to accumulate large fortunes over a lifetime. Corporations, and through them their shareholders, would also amass huge aggregates of wealth without paying tax. Many, but no means all, consumption tax advocates support effective wealth or estate and gift taxes to prevent excessive concentration of wealth and power in the hands of wealthy individuals. But there is no way to tax the income of corporations under a consumption tax and the history of taxation in this country provides no assurance that adequate death and gift taxes would be levied on individuals to supplement the consumption tax.

The present income tax is flawed, but it can be greatly improved without departing from this widely approved method. The solution is to tax all income alike and to eliminate all personal deductions and tax credits (except for unusual medical expenses and casualty losses, which do impair ability to pay).

A big step in this direction has been sponsored by Senator Bill Bradley, Democrat of New Jersey, and Representative Richard A. Gephardt, Democrat of Missouri. If the tax base were broadened as they recommend, it would be possible to increase personal exemptions and cut tax rates from the current maximum of 50 percent to 30 percent, without cutting revenues—a familiar, more equitable route than a consumption tax.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WARNER). Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. STEVENS. Mr. President, is there further morning business?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

(At this point the Senate briefly went into executive session and the

nomination of Elizabeth Hanford Dole to be Secretary of Transportation was laid before the Senate. Those proceedings are printed later in today's RECORD pursuant to the order contained hereinafter.)

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate go back into morning business, but that during the period of this morning business if any Member wishes to address the Dole nomination the Senate be considered in executive session and that the RECORD of the Dole nomination be printed separately from other items that may be transacted on the floor of the Senate this afternoon.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I have no reason to object to that.

It seems like it is a little bit clumsy.

Could we go for a certain period of time and have from that point on in executive session and let us return to morning business and go through that until a period of time instead of in and out whenever an individual wishes to speak?

I will not have any objections, Mr. President.

The PRESIDING OFFICER. As in legislative session, without objection, it is so ordered.

Mr. STEVENS. I thank the Senator.

I now ask unanimous consent that the Senate return to regular legislative session for the remainder of the afternoon under those terms and conditions.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WARNER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. HAWKINS). Without objection, it is so ordered.

THE VICTORIOUS REDSKIN TEAM

Mr. WARNER. Madam President, I join my colleagues in expressing our great appreciation to the victorious Redskin team. Regrettably, my appointments of long standing precluded my joining them at the Super Bowl. Nevertheless, I will take a role in the activities in the coming week.

Yesterday's New York Times has a superb, albeit brief, article on this subject, and there appears a picture of the distinguished Presiding Officer, the junior Senator from Florida, and myself.

While I do not wish to take advantage of the Presiding Officer's inability to respond, I do presume that she will live up to the bet that we made, which will require her to wear the petite-size jersey of our good friend, Redskin lineman Dave Butz, in the forthcoming parade.

Madam President, this particular article was written by one of our former colleagues, the distinguished former Senator from Minnesota, Eugene McCarthy.

Madam President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Jan. 30, 1983]

THE VICTORY THAT BROUGHT UNITY TO WASHINGTON

(By Eugene McCarthy)

It was as though Gabriel had blown the last trumpet and all had been saved. There could scarcely be any greater natural public joy than that which ran through the hearts and minds of the residents of Washington following the Redskins' victory over the Dallas Cowboys in last Saturday's National Football League title game—unless "what might have been" the joy in Mudville had mighty Casey not struck out.

What may happen in the Super Bowl today against some team mildly called the Dolphins is of secondary, if any, importance.

Jack Kent Cooke, the owner of the Redskin team, may have slightly overstated the condition of the city when he said after the game: "There is a coagulation and community of interest here that is astonishing in its depth. All over this city, the rich, the poor, the black, the white, the Communists, the Socialists, the affluent, the unpossessed. All are bound together in this city on this day by these Redskins."

But no one could fail to note if not experience the sense of happiness, of accomplishment, of optimism—somewhat like the mood that moves through the city rather quickly just after a newly elected President has taken the oath of office.

The rest of the country seems greatly surprised at the measure of enthusiasm being shown by the people of the city. It should not be so surprised for several reasons.

The first and probably most important is this: Washington is essentially a political city, and football and politics have much in common. I first heard this truth some 25 years ago from the mouth of an old Benedictine monk who was reflecting on why the coach at the college run by the monks was so successful. He observed that it was because the coach was, he said, "just smart enough to understand the game but not smart enough to lose interest in it." He added that the same proper balance also made for good and successful politicians and politics.

The worth of his remarks was sustained by what I saw and heard at the first Touchdown Club dinner I attended in Washington. The Touchdown Club dinner is an annual event at which awards are given to outstanding offensive and defensive players. Players are selected from every identifiable level of football competition: from the professionals; from colleges and universities, large and small; from high schools, public, Catholic and private, and even from grade schools. The closeness of football to politics was underscored by the speeches given by the recipients of the awards.

Through the whole range of award winners, from the pros to grade school players, the speeches were almost identical, not only with one another but also with the speeches I've heard through the years at victory parties following successful elections. Football players and politicians alike run through the list of persons—the same list—to whom they owe their success. The titles in some cases are slightly different, but the function and the contribution are the same. Fathers and mothers are thanked, teammates (or campaign workers), the coach (or campaign director), wives, in some cases, and also understanding children, particularly among the pros. Student bodies and the fans or one's constituents in the case of the politicians. Occasionally an uncle gets a credit. And these are followed by promises of dedicated service and future victories. Prayer and divine favor in each case receives due credit.

A further identification between the game of football and politics is manifest in the transferability of figures of speech, of metaphor. This tranfer was especially noticeable during the administration of Richard Nixon, when the President demonstrated a greater interest in football than had any of his immediate predecessors, going so far as to pick Texas as No. 1 over Penn State in 1969, to the great chagrin of Joe Paterno.

Subordinates in that Administration, evidently aware of the President's interest in the game (he was reported to have discussed it in the middle of the night on the steps of the Lincoln Memorial), began to use football language either to get to him or to explain his policies. Thus, his Secretary of Defense described the bombing of parts of North Vietnam as "Operation Linebacker," and when he was under some pressure to explain why the Vietnamized army was not performing very well, he urged critics to be patient and to remember that they were an expansion team.

Mixing politics and football images, critics of the Eisenhower Administration said that Administration's best offensive play and best ground-gainer was the "forward fumble." And of the Carter Administration, that the problem with that Administration was that it "always punted on first down." President Johnson was reported to have said that President Ford's problem was that he had played football too long without a helmet. This was not true. In Ford's football days, helmets were worn but they were less than full protection. If President Ford suffered any damage it might have been traced to the fact that he played center on the Michigan football team before the T-formation was developed or allowed, and it was not uncommon for the defensive player on most plays to strike the offensive center on the part of his neck that showed between the helmet and the shoulder pads.

The second reason for the enthusiastic reaction to the victory of the Redskins is that it was a clean one. Most Washington political controversies are presented and explained in terms of winners and losers: the President over the Congress, the House of Representatives over the Senate, or vice versa, the Republicans over the Democrats, liberals over conservatives and so on.

Often a victory is more Pyrrhic than reality, and the last or latter state of the nation little different from what it was before the victory. But along the way, people either take sides or appear to have done so. Party loyalty is demanded of Republicans and of

Democrats, bureaucrats are called upon to serve two masters—sometimes simultaneously, as when Congress is Democratic and the White House held by Republicans or vice versa, or successively as Democratic administrations follow Republican ones and are in turn followed by Republicans.

Even columnists and radio and television commentators identify themselves with one side or the other. Along the way all have to accept compromises, modifications, filibusters and trade-offs, and usually after all is over acknowledge in Alice in Wonderland fashion that "everybody has won and all must have prizes."

Not so last Saturday. The game was played, it was not delayed or held over, there was no midnight adjournment and it was won. Dallas was beaten thoroughly and without question. Republicans and Democrats could put aside real and artificial differences, conservative and liberal commentators such as George Will and Art Buchwald could and did unite in hailing this one clear victory.

Reporters who through the years have had to maintain a position in defense of constituencies represented by teams bearing strong if not violent names of some historical standing—Vikings, Buccaneers, 49ers, Raiders, Steelers, Giants, Chiefs, Mariners and Oilers—or of special merit like Saints, or with animal totems such as Dolphins, Bengals, Bears, Broncos, and Rams, and somewhat-empty names like Jets and Browns, could now speak as one voice against Dallas. And not just Dallas, but the Dallas Cowboys.

Washington has a thing about Dallas. Any Presidential candidate can go to Dallas, denounce Washington and be wildly approved. In the political order of the United States. Dallas has become to Washington what Constantinople was to Rome in the earlier age of faith. Now Washington has prevailed over Dallas, the Redskins have beaten the Cowboys, an achievement sustaned by the Scriptural promise that "the mighty will be brought down and those who have been humiliated, exalted." And then the final Scriptural justification, "Let us rejoice and be glad," which is what Washingtonians were and still are.

A DAY TO REMEMBER

Mr. BOSCHWITZ. Mr. President, yesterday was a momentous day in my life, in the life of my family and, indeed, in the annals of the entire world, because yesterday marked the 50th anniversary of the rise to power of Adolf Hitler. Fifty years ago yesterday, Adolf Hitler became Reichs Chancellor of Germany.

And also 50 years ago yesterday, my father came home—we lived in Berlin—and said to my mother that we would leave Germany. I was a child of 2 and, of course, was not a part of the discussion, but I heard of it often in later life, because my father felt that this was the most important decision and perhaps the most thoughtful decision he had ever made. It probably was.

That evening, 50 years ago, there was marching and demonstrations in front of our home and in front of other people's homes—not particularly because it was our house, but because we lived on one of the main streets of Berlin.

Thereafter began a period of terror that expanded beyond the borders of Germany and encompassed much of the world and led to the deaths of about 50 million people.

My father possessed extraordinary foresight that day, and indeed throughout his life. In July of 1933, we left Germany on a temporary visa and went to Czechoslovakia, where we stayed for the summer. We then proceeded from country to country, seeking admittance into the United States.

It was very difficult in those days to come to the United States. It still is. That is one of the reasons why I take such an interest in the immigration bill.

We went from country to country, as my wife's family had to do in later years. They left later than we. And finally, at the end of 1935, we came to the United States.

In 1933 we lived at first in Czechoslovakia, as I have mentioned. Then we went to Switzerland and stayed there for about a half year, and then on to Holland and stayed there also for about 6 months. At each stop, my father would talk to the American consul in order to see if we could gain admittance to the United States, and at each stop he was told no, because of the quota systems that existed at that time. Apparently, while we lived in Germany, we technically came under the Polish quota, which was always full.

Finally, when we were in England, my father was able to convince the American consul that we should come under the German quota. So finally we were able to come here.

My father told me that each stop, he would always ask himself whether we were far enough removed from the threats that he saw even in 1933 and 1934. In 1935, even with the channel between us and Germany, he felt we were not far enough removed.

Another of the interesting stories that my dad used to tell me was about his final day in Berlin in October 1933. Although the family left in July, he wrapped up his affairs, his business affairs, and left only in October. On that final day in October he visited his 12 best friends one at a time and told them of his plans to leave. It was something that had to be quite secret at that time, because it was an illegal act to leave. It was an illegal act to take any of your worldly goods with you. But he told them that he was leaving, and some of them left, perhaps because of his advice. But half did not leave and were victims of the slaughter that ensued.

So yesterday was a momentous day. I called my brother and my sister, and we talked about it. We talked about our luck about the greatness of the opportunity to come to the United States and what a remarkable country it was, proven by the fact that someone of my background—and their background, because they, too, have achieved much in life—should rise to become a U.S. Senator from a State like Minnesota, which is inhabited mostly by Scandinavians and Germans and certainly not by people of my background and origin.

I also decided that I would go and speak to the President about this, and I had made an appointment for today. Unfortunately, his schedule allowed me only a few minutes, so he rescheduled it so that I would have more time and could tell him of my feelings and could tell him of the marvels that had been granted so many people like me when we came to these shores.

So it was a historic day for me, for my family, for my sons, one of whom yesterday told his friends about his grandfather 50 years ago, who are now able to achieve so much and who were given the privilege of life because of the foresight of my father.

It is a great tribute to the United States that we are a country that continues to allow people to reach our shores. I understand that a million people now seek to gain admittance to our country, that the line is very long.

I think that much of the strength and much of the energy our country has found has been because of the immigrants, whether it be the forefathers of those who arrived at these shores earlier than we or whether it be people such as myself, people who came in the 1930's and 1940's, who survived the Holocaust.

It is a great day and a memorable day for me and my family, and I wished to speak about it on the floor of the U.S. Senate.

EXECUTIVE SESSION

NOMINATION OF ELIZABETH HANFORD DOLE, OF KANSAS, TO BE SECRETARY OF TRANSPORTATION

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session.

The Senator proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nomination will be stated.

The legislative clerk read the nomination of Elizabeth Hanford Dole, of Kansas, to be Secretary of Transportation.

RECESS UNTIL 3:30 P.M.

Mr. BAKER. Madam President, there are often reasons why schedules go awry but, in my years in the Senate and the leadership, I cannot remember this reason: The husband of the nominee to be Secretary of the Department of Transportation cannot be here until 4 p.m. and he wishes to be heard on this subject. In view of that somewhat reasonable request, I ask unanimous consent, since there appear to be no

Senators seeking recognition at this time, that the Senate now stand in recess until the hour of 3:30 p.m., at which time it will resume its session and resume consideration of the pending nomination in executive session.

There being no objection, the Senate, at 2:05 p.m., recessed until 3:30 p.m.; whereupon, it reassembled when called to order by the Presiding Officer (Mr. MATTINGLY).

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, it appears that there will be no extensive debate on the nomination of Elizabeth Dole to be Secretary of the Department of Transportation. A number of statements, no doubt, will be inserted in the RECORD. Perhaps Senators will come to the floor and speak. I know that the distinguished Senator from Kansas (Mr. DOLE) will be here, but not until about 4:30 p.m., I am now advised.

The distinguished chairman of the committee of jurisdiction, Senator PACKWOOD, no doubt will have a statement in respect to the nomination, which was reported by his committee.

RECESS UNTIL 4:15 P.M.

Mr. BAKER. Mr. President, I believe there are no speakers at this moment. I hope we can complete the debate on this nomination today, and I will ask the Senate to remain in session longer today.

Mr. President, I ask unanimous consent that the Senate now stand in recess until 4:15 p.m. today.

There being no objection, at 3:38 p.m. the Senate recessed until 4:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. DOLE).

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from Kansas, suggests the absence of a quorum. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. JEPSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Iowa.

Mr. JEPSEN. Mr. President, I support the nomination of Elizabeth Dole to be Secretary of Transportation. I cannot think of a more capable or qualified individual to run this important Department.

Mr. President, I have known Liddy Dole both personally and professionally for quite some time. I have always been impressed with her intellect and managerial capabilities. The Reagan administration and the American people will be well served during her tenure at the Department of Transportation.

I noted with great interest that during her testimony before the Commerce Committee, Mrs. Dole stated that she will put a great deal of time and effort into improving our Nation's ports. As we know, one of the best ways to improve the farm economy is to increase our foreign exports, and one of the best things we can do to increase foreign exports is improve our ports.

In addition, Mr. President, I was extremely pleased to see that as Secretary of Transportation, Mrs. Dole plans to give greater attention to the serious problem of drunk driving. I cannot tell you how gratifying this is. Every year, hundreds of people are killed on our Nation's highways by drunk drivers.

The program we have put into effect under this administration has made some very marked improvement in the statistics as far as fewer deaths from drunk driving to date. So I take this opportunity to pledge my support to her efforts in this area and encourage her to keep up the good work and the pressure in this anti-drunk-driving program.

In closing, I would like to congratulate President Reagan on his fine selection. I am sure Elizabeth Dole will carry on the fine tradition started by Secretary Lewis.

I thank the present occupant of the chair (Mr. DOLE).

Mr. BAKER. Mr. President, I want to take this opportunity to congratulate and lend my full support to Elizabeth Dole, President Reagan's nominee for Secretary of Transportation.

I have had the opportunity to work with, and observe Elizabeth Dole's performance in a variety of roles in Washington, and I can only say that I am most pleased that she will be a member of the President's cabinet.

As Assistant to President Reagan for Public Liaison, Mrs. Dole came in contact with a great many citizens from all across the country, with different backgrounds and different concerns. She has won praise that extends beyond party lines, and has emerged as one of the most capable and influential members of the administration.

I am confident that she will be a creative and effective administrator, and that she will work with Congress toward continuing the distinguished work of her predecessor, Drew Lewis.

During her testimony before the Senate Committee on Environment and Public Works, Mrs. Dole stressed her commitment to human safety, her regard for effective management, and her belief in pursuing the process of deregulation when it best serves the interests of the public. These convictions are most welcome on Capital Hill.

Mr. President, it is both my hope and expectation that Mrs. Dole's appointment will be a most valuable one; her insights and instincts will forge workable solutions to the many problems facing the Department of Transportation, and will enable our country to have a dependable and articulate spokesperson in an area of critical importance.

In addition, Mr. President, may I add facetiously: It may be that the presence of Elizabeth Dole in the Cabinet may have a salutary and modifying impact on our distinguished colleague, her husband, Senator DOLE.

The PRESIDING OFFICER (Mr. JEPSEN). The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I wish to take just a few moments to indicate my support for the President's nominee for Secretary of Transportation. We have entered a crucial period for transportation in the United States and there are many issues still to be resolved. We recently enacted legislation to insure that our roads and bridges are safe and in good repair. All of us are concerned about the modernization of our national airspace system and improvements in the partnership between employees and management in the FAA. Our public transit and railway systems need attention. We also must not neglect port modernization and reform of maritime regulations.

Elizabeth Hanford Dole brings to these matters the wealth of experience and the diversity of skills that they require. All of us agree that her credentials are impressive. As Assistant to the President for Public Liaison, Mrs. Dole regularly negotiated with a variety of organizations to develop public policy for the President. She has served as a Federal Trade Commissioner and, hence, is familiar with practices of the marketplace. Because she was executive director of the President's Committee on Consumer Interests for 4 years, she has a special awareness of the public's concerns. Her work in the Department of Health and Human Services and in the private practice of law has added to expertise which is relevant to the Department of Transportation. In short, I know of no one more highly qualified to become Secretary of the Department than this Harvard Law School graduate who comes from Salisbury, N.C.

It gives me special pleasure to support this nomination because I only recently sent a letter to the President urging that he select a female to a domestic Cabinet position. As you can see, the President acts quickly. I predict that Mrs. Dole will soon be among

the most respected members of that Cabinet.

● Mr. D'AMATO. Mr. President, I rise in support of the confirmation of Elizabeth Dole to be Secretary of Transportation.

In 1966, the Department of Transportation was created to "assure the coordinated, effective administration of the transportation programs of the Federal Government." There was a realization then that an effective transportation network was key to the continued prosperity of this Nation.

The interest and concern with transportation matters has continued as was clearly evident in the last Congress. The 97th Congress dealt with several transportation issues which were of paramount importance. A multibillion-dollar program to modernize this Nation's airports was authorized. Most importantly, a comprehensive infrastructure measure has been signed into law which will help stem the deterioration of the highways and mass transit systems throughout this Nation.

The great strides which have been made in the last 2 years could in great part be attributed to the able leadership of the departing Secretary of Transportation, Drew Lewis. He has grappled with some extremely difficult and controversial matters and has come through with flying colors. I would be remiss in not commending Mr. Lewis for his service and dedication. His shoes will indeed be difficult to fill. However, I am confident that the President's nominee Elizabeth Dole will meet this challenge.

Mrs. Dole comes to this important position with impressive credentials. A Phi Beta Kappa graduate from Duke University, Mrs. Dole went on to Harvard University Law School. She has devoted her energies to improving the quality of life for all Americans. In 1966, Mrs. Dole planned the first National Conference on Education for the Deaf and later served as Deputy Assistant to the President for Consumer Affairs. She continued her efforts for consumers as a member of the Federal Trade Commission.

As Assistant to the President for Public Liaison, Mrs. Dole insured that the views of many divergent groups were heard by the President. She brings sensitivity and commonsense to this position and has indicated a willingness to work with the Congress and others who share her goal for a viable transportation network. I fully agree with a statement she made at her confirmation hearings that "transportation is the lifeblood of a modern economy." I look forward to working with her and again ask that this body confirm her nomination.●

● Mr. ANDREWS. Mr. President, I am pleased to support the nomination of Elizabeth Hanford Dole to be our next Secretary of Transportation and commend President Reagan for selecting someone as well qualified as she is to fill this important position.

The job of Secretary of Transportation has become an increasingly important and challenging one in recent years. With such issues as rebuilding our Nation's highways, bridges, transit systems, and the air traffic control system in the forefront of departmental responsibilities, the new Secretary will have her work cut out for her.

Last year, the Congress set priorities for rebuilding the transportation infrastructure of our country. Now it will be the responsibility of the DOT, under the leadership of Mrs. Dole, to get on with the job and to see that it is done properly.

I believe Mrs. Dole has the experience, management ability and temperament to be a very fine Secretary. She is a graduate of Duke University, where she majored in political science, and was elected to Phi Beta Kappa. She later earned a master's degree in education from Harvard University and a law degree from Harvard Law School.

Mrs. Dole also has been a consumer affairs adviser to Presidents Johnson and Nixon. In 1973, she was appointed to the Federal Trade Commission. She has held her current position as assistant to the President for public liaison since December 1980.

During her confirmation hearings, Mrs. Dole said that if confirmed, she would place a high priority on transportation safety and on rebuilding the Nation's highways, bridges and airways. Specifically, she emphasized her interest in highway safety as "a foremost mission" for the DOT and said she would be involved in efforts to curb drunken driving, to persuade motorists to use safety belts and to enforce laws requiring safe drivers, motor vehicles, and highways.

Because of a longstanding commitment to appear before the annual convention of the National Rural Electric Cooperative Association, I will not be able to be here tomorrow to vote for her confirmation.

As chairman of the Subcommittee on Transportation of the Committee on Appropriations, I am pleased to support the nomination of Elizabeth Hanford Dole as Secretary of Transportation and look forward to working with her in the months ahead.

Mrs. HAWKINS. Mr. President, I rise in support of Elizabeth Doles' nomination to be the Secretary of Transportation. President Reagan could not have made a better choice for this important position.

I was introduced to Elizabeth just a few short years ago, by her esteemed husband, Senator DOLE. At that time, she had already established for herself a reputation of great ability in Government service and an unstoppable "can-do" attitude.

Especially pleasing to me are her accomplishments in advocating consumer issues that are dear to my heart, first as an aide to Virginia H. Knauer, the President's Assistant for Consumer Affairs in 1972, and then as an FTC Commissioner. More recently, she has received much deserved praise for her fine work as the Assistant to the President for Public Liason.

It is unusual to find such a combination of intelligence, dedication, and a flair for working with people in one cabinet nominee. The President and the country are fortunate to have Elizabeth serve as Secretary of Transportation. This promises to be a difficult and fast-paced job. Elizabeth is equal to the task and I dare say she has a great resource of moral support at home and here in the Senate. I urge my colleagues to unanimously confirm this nomination quickly because I am sure Elizabeth must be anxious to get to work. I know that I look forward to working with her.

Mr. STEVENS. Mr. President, as a member of the Committee on Commerce, Science, and Transportation, I strongly support the appointment of Elizabeth Dole to the Cabinet post of Secretary of Transportation. I bring to the Senate's attention the tremendous capabilities that she will be bringing to the President's Cabinet. I am confident that Mrs. Dole will fulfill her new duties to our Nation with the same dedication and wisdom she has demonstrated in other national positions, most notably as a Commissioner of the Federal Trade Commission and Assistant to President Reagan for Public Liaison. Her administrative skills are outstanding and will serve her well in her new leadership role, just as her experience in dealing with Congress will contribute to our overall Government efforts in the field of transportation.

In addition to her professional public experience, Libby Dole has an impressive record of participation in a wide array of volunteer positions too numerous to list here. Her educational background is also outstanding.

In 1974, Time magazine chose Libby Dole as one of American's 200 "Faces for the Future." The future is now, and I urge all my colleagues to join me in offering our support to the newest member of the Cabinet.

Mr. BOREN. Mr. President, I am very happy to support the nomination of Elizabeth Hanford Dole as the new Secretary for the U.S. Department of Transportation. Mrs. Dole brings to this new job an extensive and impressive background in Government service, having served two tours of duty at the White House and, service at the Department of Health, Education, and Welfare, and as a Commissioner on

the Federal Trade Commission. Her White House duties included serving as Deputy Special Assistant to the President for Consumer Affairs in the Nixon administration and currently as Assistant to the President for Public Liaison. From 1973 through 1979, Mrs. Dole established an outstanding record of service as a member of the Federal Trade Commission.

Mrs. Dole's academic record is no less impressive than her period of public service. She holds the bachelor of arts degree with honors from Duke University, has done postgraduate work at Oxford University, Oxford, England, holds the master of arts degree in government and education from Harvard University and holds the juris doctor from Harvard University Law School. A review of her record while in school reveals numerous positions of responsibility in academic and social organizations.

Mr. President, I believe that Mrs. Dole's experience in prior Government service has equipped her to be an outstanding administrator in her service as Secretary of Transportation. She brings to this position, not only a keen intellect and valuable experience, she is possessed of good judgment and a wealth of commonsense. She has the ability to motivate coworkers to do their best and demands of herself and of others the highest possible standards of ethics and personal integrity. It is a privilege to be able to vote for confirmation of Elizabeth Hanford Dole to be the next Secretary of the Department of Transportation.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I shall take just a moment. First, I thank my colleagues who may have submitted statements for the RECORD or have personally made statements on the floor.

As stated earlier, I intend to vote for the nominee, knowing her to be well qualified, well organized, well disciplined, and willing to undertake and do all the things one will need to do in this very exacting position. Some will suggest that she was appointed because she is a woman. For the skeptics, I believe she will demonstrate in a matter of weeks or months that the President nominated her because she was qualified, because she understood public service and only incidentally because of her sex.

I have already heard from a Kansas cynic that this is my reward for getting the President's gas tax passed. My reply is that there are always some around who never really know, or care what the facts are.

The Senator from Kansas will simply note that the vote will come tomorrow at 4 o'clock. Following that, there will be a swearing-in ceremony sometime. Finally, I again indicate my strong and firm conviction that we have an outstanding nominee, one who will perform exemplary public service to the people of this country, and one who will carry out the President's program to the best of her ability.

Again, I thank my colleagues for their kind words. I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll. The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. KASSEBAUM). Without objection, it is so ordered.

Mr. BAKER. Madam President, I ask unanimous consent that it may be in order to ask for the yeas and nays on the nomination of Elizabeth Dole.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. I ask for the yeas and nays, Madam President.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BAKER. Madam President, I remind Senators that the vote on the Dole nomination is set for 4 p.m. tomorrow. While it is possible that there will be further debate on that nomination, I do not anticipate it and it is not the intention of the leadership, absent a request to the contrary, to ask the Senate to return to executive session prior to 4 p.m. tomorrow. If there are some Senators who wish to continue the debate on that measure, if they would notify the leadership, we will be glad to provide for that. But we have spent a good part of the day today anticipating the possibility of statements, and there have not been many. So I doubt that we will have any further executive session time tomorrow for the consideration of the Dole nomination.

LEGISLATIVE SESSION

Mr. BAKER. Madam President, I ask that the Senate return to legislative session.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

TECHNICAL CORRECTION OF SENATE RESOLUTION 7

Mr. BAKER. Madam President, on behalf of myself and the distinguished minority leader, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 38) to make a technical correction in Senate Resolution 7, 98th Congress.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 38) was agreed to.

The resolution reads as follows:

S. RES. 38

Resolved, That S. Res. 7, 98th Congress, is amended as follows: On the first page, line 10, strike out ' " Ninety-sixth" ', and insert in lieu thereof " 'Ninety-seventh' ".

SEC. 2. The amendment made by the first section of this resolution shall take effect on the date S. Res. 7, 98th Congress, was agreed to.

Mr. BAKER. Madam President, I move to reconsider the vote by which the resolution was agreed to.

Mr. JEPSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REPORTING OF S. 271

Mr. BAKER. Madam President, I ask unanimous consent that the Committee on Energy and Natural Resources have until 9 p.m. today to report the measure S. 271, a bill to amend the National Trails Systems Act by designating additional national, scenic, and historic trails.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVATE EXPRESS STATUTES DEFENDED

Mr. STEVENS. Madam President, in a Washington Post column on January 21, the Chairman of the Board of Governors of the U.S. Postal Service and President of the Southwest Texas State University at San Marcos, Robert L. Hardesty, wrote eloquently in defense of the private express statutes. The private express statutes are those laws which provide a partial monopoly to the U.S. Postal Service over the delivery of first-class letter mail.

There are some who feel that the Postal Service and its patrons would be better off if we allowed private companies to compete with the Postal Service in the delivery of first-class letter mail. Commonsense will tell you that businesses will only go into those areas where there is sufficient mail volume both into and out of a community that will provide a profit for their operation. Thus, only in the large cities would the private carriage of mail be initiated.

Private firms would have the luxury of not being required, as the Constitution requires of us, to provide univer-

sal service at a universal price to all Americans regardless of where they live. Consequently, private businesses can unquestionably operate at a lower cost and thus "skim the cream" off the profitable Postal Service routes. It is these profitable routes or areas which enable the maintenance of a universal postal system which benefits all Americans, regardless of where they live.

These and other important points are succinctly brought out in Mr. Hardesty's column. I ask unanimous consent to have the entire article printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Jan. 21, 1983]

SO YOU WANT TO LET FREE ENTERPRISE TAKE OVER THE MAIL DELIVERY

(By Robert L. Hardesty)

An argument is brewing over proposals to abolish the Private Express Statutes, which give the Postal Service a partial monopoly over the delivery of letter mail. Under these proposals, the responsibility for mail delivery would shift from the federal government and the Postal Service to the invisible hand of the marketplace and private companies. The premise is that men and women driven by the profit motive can deliver all the mail more efficiently, and at a lower cost, than the Postal Service.

This is nonsense. Certainly, a private business can make a profit by delivering some mail at a lower price in certain easily accessible, densely populated areas. But the consequences for nationwide postal delivery would be disastrous. The universal postal system as we know it today would be destroyed.

Scores of private postal operators would spring up in populated areas to offer delivery services for local mail. As smart businessmen, these operators would limit themselves to high-volume, low-cost areas, such as Wall Street and similar downtown business districts. They simply would not bother to deliver mail to high-cost areas, such as rural America, less densely populated suburbs and poor inner-city neighborhoods. They would also not be likely to offer postal customers conveniences that we have come to rely on, such as window service.

No wonder mail service by some of the private operators would be less expensive—they would only provide low-budget delivery service in high-profit areas.

The consequences for the Postal Service would be ominous. This "cream-skimming," as it is called, would take a considerable volume of mail away from the Postal Service. The cost of providing service to rural communities, center-city neighborhoods and other high-cost areas would skyrocket due to the loss of urban business volume.

The Postal Service would either have to raise its rates dramatically or, more likely, look to Congress for the lost revenue. The mailers or the taxpayers would be left to bear these costs. If the postal monopoly were eliminated today and the taxpayers subsidized delivery in unprofitable areas, the cost of delivering mail to those areas would add $100 billion to the federal deficit by the mid-1990s.

The consequences for the American consumer would be worse, for we would have a balkanized postal service with many delivery systems. In addition to first- and second-class mail, we would have first- and second-class communities.

Where would the buck stop under such a balkanized system, and who would accept the ultimate responsibility for the many services the public has come to expect:

For forwarding mail when it has to go to another part of the country?

For protecting the privacy of the mail?

For protecting the public against fraud and false advertising?

For handling the huge volumes of foreign mail?

For ensuring uniformity of service?

To force the American people to depend on the services of private carriers is to ask them to play Russian roulette with their personal correspondence, their bills and their financial transactions.

It would also impose upon them a crazy-quilt system of rates that a genius couldn't keep in his head. The public has trouble enough calculating zoned parcel post rates. Think how difficult it would be to calculate the cost of mailing a letter from New York to Louisville to a rural route outside of Paducah, Ky.—via three different carriers, or two carriers plus the Postal Service.

The continuation of a nationwide system is a clear benefit to the American public and to American business. In putting a first-class stamp on a letter, a mailer in New York City or Biloxi or Honolulu can reach anyone in the 50 states from the mailbox on the nearby street corner. In a world without the Private Express Laws, the Postal Service simply could not offer such service to everyone at a relatively low, uniform price.

The Private Express Statutes exist to protect the American mailing public. They enable the U.S. Postal Service to be the most efficient postal system in the world. Abolition of these laws would be costly to our taxpayers, chaotic to our systems of commerce and communications, and a reversal of a 200-year policy that mail delivery in our democracy is a basic and fundamental service provided to the people by the government of the United States.

S. 19—JOINT REFERRAL

(The following order was entered on January 27, 1983, and through inadvertence was omitted from the RECORD.)

Mr. BAKER. Madam President, I ask unanimous consent that S. 19, the Retirement Equity Act of 1983, be jointly referred to the Committee on Finance and the Committee on Labor and Human Resources.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

(During the day routine morning business was transacted and additional statements were submitted, as follows:)

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

(The Budget Message of the President is printed earlier in today's proceedings.)

MESSAGE FROM THE HOUSE

At 3:29 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that pursuant to the provisions of section 4(a) of Public Law 92-484, the Speaker appoints as members of the Technology Assessment Board the following Members on the part of the House: Mr. UDALL, Mr. BROWN of California, Mr. DINGELL, Mr. WINN, Mr. MILLER of Ohio, and Mr. EVANS of Iowa.

The message also announced that pursuant to the provisions of 22 United States Code, 276a-1, as amended by Public Law 95-45, the Speaker appoints Mr. PEPPER as Chairman and Mr. HAMILTON as Vice Chairman, on the part of the House, of the delegation to attend the Conference of the Interparliamentary Union, to be held in Helsinki, on April 25 through April 29, 1983.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary, without amendment:

S. Res. 27. An original resolution authorizing expenditures by the Committee on the Judiciary; referred to the Committee on Rules and Administration.

By Mr. TOWER, from the Committee on Armed Services, without amendment:

S. Res. 28. An original resolution authorizing expenditures by the Committee on Armed Services; referred to the Committee on Rules and Administration.

By Mr. HEINZ, from the Special Committee on Aging, without amendment:

S. Res. 29. An original resolution authorizing expenditures by the Special Committee on Aging; referred to the Committee on Rules and Administration.

By Mr. McCLURE, from the Committee on Energy and Natural Resources, without amendment:

S. Res. 33. An original resolution authorizing expenditures by the Committee on Energy and Natural Resources; referred to the Committee on Rules and Administration.

By Mr. ANDREWS, from the Select Committee on Indian Affairs, without amendment:

S. Res. 34. An original resolution authorizing expenditures by the Select Committee on Indian Affairs for inquiries and investigations; referred to the Committee on Rules and Administration.

By Mr. GARN, from the committee on Banking, Housing, and Urban Affairs, without amendment:

S. Res. 35. An original resolution authorizing expenditures by the Committee on Banking, Housing, and Urban Affairs; referred to the Committee on Rules and Administration.

By Mr. GOLDWATER, from the Select Committee on Intelligence, without amendment:

S. Res. 36. An original resolution authorizing expenditures by the Select Committee on Intelligence; referred to the Committee on Rules and Administration.

By Mr. HELMS, from the Committee on Agriculture, Nutrition, and Forestry, without amendment:

S. Res. 37. An original resolution authorizing expenditures by the Committee on Agriculture, Nutrition, and Forestry; referred to the Committee on Rules and Administration.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent and referred as indicated:

By Mr. DIXON (for himself, Mr. BOREN, and Mr. BAUCUS):

S. 274. A bill to insure that the total value received by a producer under a special payment-in-kind land conservation program is at least 85 percent of the basic county loan rate for a commodity; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. TOWER (for himself and Mr. JEPSEN):

S. 275. A bill to provide an increase in the compensation of certain pay grades of the uniformed services in order to provide a minimal offset against inflation; to the Committee on Armed Services.

By Mr. GOLDWATER (for himself, Mr. DECONCINI, Mr. JEPSEN, and Mr. MELCHER):

S. 276. A bill to amend title II of the Social Security Act to repeal the earnings limitation for all beneficiaries age 65 or older; to the Committee on Finance.

By Mr. PROXMIRE:

S. 277. A bill for the relief of Marlon Dolon Opelt; to the Committee on the Judiciary.

By Mr. THURMOND (for himself and Mr. HOLLINGS):

S. 278. A bill to designate the Lowndesville Recreation Area located within the Richard B. Russell Dam and Lake project, South Carolina and Georgia, as the "Jim Rampey Recreation Area"; to the Committee on Energy and Natural Resources.

By Mr. EXON:

S. 279. A bill for the relief of Taishine Wang, M.D., Kuei-Ching Wang and Maria Wang; to the Committee on the Judiciary.

By Mr. EXON:

S. 280. A bill for the relief of James G. Reese; to the Committee on the Judiciary.

By Mr. RANDOLPH:

S. 281. A bill to amend the National Labor Relations Act to give employers and performers in the performing arts rights given by section 8(e) of such Act to employers and employees in similarly situated industries, and to give employers and performers in the performing arts the same rights given by section 8(f) of such Act to employers and employees in the construction industry, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. STENNIS (for himself and Mr. COCHRAN):

S. 282. A bill for the relief of Mrs. Elsie B. Lawson; to the Committee on the Judiciary.

By Mr. HATCH (for himself, Mr. THURMOND and Mr. DECONCINI):

S. 283. A bill to amend titles 18 and 28 of the United States Code to eliminate, and establish an alternative to, the exclusionary rule in Federal criminal proceedings; to the Committee on the Judiciary.

By Mr. HATCH:

S. 284. A bill to amend title 18 to limit the insanity defense and to establish a verdict of not guilty only by reason of insanity; to the Committee on the Judiciary.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 285. A bill to designate the Bisti Badlands Wilderness in the State of New Mexico; to the Committee on Energy and Natural Resources.

By Mr. EXON (for himself, Mr. FORD, Mr. HEFLIN and Mr. PRESSLER):

S. 286. A bill to promote interstate commerce by regulating the contractual arrangements between suppliers and retailers in the office machine and equipment industry, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. EAGLETON (for himself and Mr. DANFORTH):

S. 287. A bill to establish the Harry S. Truman National Historic Site in the State of Missouri, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LAXALT (for himself and Mr. HECHT):

S. 288. A bill to provide for the reimbursement of certain Indian tribes for expenses incurred by such tribes for community impact planning activities related to planning for the then potential deployment of the MX missile system; to the Committee on Armed Services.

By Mr. GLENN (for himself, Mr. HOLLINGS, Mr. PELL and Mr. BAUCUS):

S. 289. A bill to authorize an educational assistance program which will provide low-cost loans to college students who pursue mathematics and science baccalaureate degrees and enter the precollege mathematics and science teaching profession, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. GLENN (for himself, Mr. HOLLINGS and Mr. PELL):

S. 290. A bill to amend the Internal Revenue Code of 1954 to allow a credit to certain employers for compensation paid to employees with precollege mathematics or science teaching certificates who are employed for the summer months by such employers or who are employees who teach a limited number of hours; to the Committee on Finance.

By Mr. DANFORTH (for himself, Mr. EAGLETON and Mr. SARBANES):

S. 291. A bill to amend the Natural Gas Policy Act of 1978 to prohibit take-or-pay clauses, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DANFORTH (for himself, Mr. EAGLETON, Mr. SARBANES, Mr. RIEGLE and Mr. HEINZ):

S. 292. A bill to increase the funding authorization for low income home energy assistance; to the Committee on Labor and Human Resources.

By Mr. EAGLETON (for himself, Mr. DANFORTH and Mr. SARBANES):

S. 293. A bill to amend the Natural Gas Policy Act of 1978 to prohibit increases in the wellhead prices of natural gas, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LAXALT (for himself and Mr. HECHT):

S. 294. A bill to authorize the recreational use of Ruby Lake National Wildlife Refuge in the State of Nevada; to the Committee on Environment and Public Works.

By Mr. MATHIAS:

S. 295. A bill for the relief of Panivong Norindr and Panisouk Norindr; to the Committee on the Judiciary.

S. 296. A bill for the relief of Ramzi Sallomy and Marie Sallomy; to the Committee on the Judiciary.

S. 297. A bill for the relief of Marina Morados Ayo; to the Committee on the Judiciary.

S. 298. A bill for the relief of Dr. Rose Gustilo; to the Committee on the Judiciary.

S. 299. A bill for the relief of Fermina Llarenas Marinas; to the Committee on the Judiciary.

S. 300. A bill for the relief of Bhaskarbhai S. Patel; to the Committee on the Judiciary.

S. 301. A bill for the relief of Hae Ok Chun; to the Committee on the Judiciary.

By Mr. RIEGLE (for himself and Mr. LEVIN):

S. 302. A bill to amend the Child Nutrition Act of 1966 to remove certain restrictions of the eligibility of schools to participate in the special milk program; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 303. A bill to include Alaska under the road construction credit provisions of the National Forest Management Act of 1976; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HATFIELD:

S. 304. A bill to hold a parcel of land in trust for the Burns Paiute Tribe; to the Select Committee on Indian Affairs.

By Mr. MATHIAS:

S. 305. A bill to amend the National Housing Act to provide for a mortgage and loan interest reduction program, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. CRANSTON:

S. 306. A bill for the relief of ElgaBouilliant-Linet; to the Committee on the Judiciary and the Committee on Finance, jointly.

By Mr. RIEGLE (for himself, Mr. LEVIN, and Mr. METZENBAUM):

S. 307. A bill to provide for continuation of health insurance for workers who lose such insurance by reason of unemployment.

By Mr. BOSCHWITZ:

S. 308. A bill for the relief of Ms. Vasanta Senerat; to the Committee on the Judiciary.

By Mr. LAXALT (for himself and Mr. HECHT):

S. 309. A bill for the relief of the estate of Nell J. Redfield; to the Committee on Finance.

By Mr. LAXALT (for himself and Mr. HECHT):

S. 310. A bill for the relief of the estate of Elizabeth Schultz Rabe; to the Committee on Finance.

By Mr. BENTSEN:

S. 311. A bill to amend title 28 of the United States Code to set up a regime of repose for certain archaeological and ethnological material and cultural property; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. THURMOND:

S. Res. 27. An original resolution authorizing expenditures by the Committee on the Judiciary; from the Committee on the Judiciary; to the Committee on Rules and Administration.

By Mr. TOWER:

S. Res. 28. An original resolution authorizing expenditures for the Committee on Armed Services; from the Committee on Armed Services; to the Committee on Rules and Administration.

By Mr. HEINZ:

S. Res. 29. An original resolution authorizing expenditures by the Special Committee on Aging; from the Special Committee on Aging; to the Committee on Rules and Administration.

S. Res. 30. Resolution authorizing the printing of additional copies of volume 1 of the Senate report entitled "Developments in Aging: 1982"; to the Committee on Rules and Administration.

By Mr. PROXMIRE:

S. Res. 31. Resolution expressing the sense of the Senate that the President take certain diplomatic actions relating to the development, production, stockpiling, and use of bacteriological and toxin weapons; to the Committee on Foreign Relations.

By Mr. STAFFORD (for himself, Mr. RANDOLPH, Mr. SYMMS, and Mr. BENTSEN):

S. Res. 32. An executive resolution recommending Senate confirmation of Elizabeth Hanford Dole as Secretary of Transportation; to the Committee on Commerce, Science, and Tranportation.

By Mr. McCLURE:

S. Res. 33. An original resolution authorizing expenditures by the Committee on Energy and Natural Resources; from the Committee on Energy and Natural Resources; to the Committee on Rules and Administration.

By Mr. ANDREWS:

S. Res. 34. An original resolution authorizing expenditures by the Select Committee on Indian Affairs for inquiries and investigations; from the Select Committee on Indian Affairs; to the Committee on Rules and Administration.

By Mr. GARN:

S. Res. 35. An original resolution authorizing expenditures by the Committee on Banking, Housing, and Urban Affairs; from the Committee on Banking, Housing, and Urban Affairs; to the Committee on Rules and Administration.

By Mr. GOLDWATER:

S. Res. 36. An original resolution authorizing expenditures by the Select Committee on Intelligence; from the Select Committee on Intelligence; to the Committee on Rules and Administration.

By Mr. HELMS:

S. Res. 37. An original resolution authorizing expenditures by the Committee on Agriculture, Nutrition, and Forestry; from the Committee on Agriculture, Nutrition, and Forestry; to the Committee on Rules and Administration.

By Mr. BAKER (for himself and Mr. BYRD):

S. Res. 38. Resolution to make a technical correction in S. Res. 7, 98th Congress; considered and agreed to.

By Mr. GOLDWATER (for himself, Mr. DECONCINI, and Mr. MATHIAS):

S. Con. Res. 7. Concurrent resolution to authorize and provide for a bust of Carl Hayden to be placed in the Capitol; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DIXON (for himself, Mr. BOREN, and Mr. BAUCUS):

S. 274. A bill to insure that the total value received by a producer under a special payment-in-kind land conservation program is at least 85 percent of the basic county loan rate for a commodity; to the Committee on Agriculture, Nutrition, and Forestry.

PAYMENT-IN-KIND

● Mr. DIXON. Mr. President, during consideration of the payment-in-kind program by the Senate last December, a number of questions were raised by those of us on the Senate Agriculture Committee. Some of them were: What effect will this program have on prices? What effect will this program have on net farm income? What assurance does the farmer have that there will not be a depressing effect on prices when the grain is taken out of Government storage and placed on the market? Many of these questions still remain unanswered today.

Since that time, the Secretary of Agriculture announced that the U.S. Department of Agriculture will conduct a payment-in-kind program for wheat, feed grains, cotton, and rice. I applaud the Secretary's action. However, I was disappointed that one very important provision was not included in the announced program. That provision is a floor price for the grain a farmer receives for participation.

The bill that I am introducing today, along with Senators BOREN and BAUCUS, gives the farmer some assurance regarding the value of the grain he or she receives under this program by providing a floor price. This bill is directed at one of the major questions about the payment-in-kind program.

This bill provides that in no case may the value of the commodities received by the producer fall below 85 percent of the basic county loan rate in effect during the marketing year in which the commodities are received by the producer. If the Secretary of Agriculture determines that the average market price for such commodity is less than 85 percent of the loan rate, the Secretary has a number of options, including authorizing the Commodity Credit Corporation to make cash payments, to assure that the producer receives this amount.

During consideration of S. 3074, the Agriculture Act of 1982, the Senate Agriculture Committee adopted a provision similar to the one I am offering today.

Mr. President, these are trying times on the American farm. Commodity prices are at the lowest level in years, and net farm income at the lowest level since the days of the Great Depression. We must provide a program that is equitable and fair. We cannot transfer the total risk and responsibility from the Federal Government onto the backs of the American farmer. The floor provision helps pvovide a more fair and equitable assurance to the farmer, if he or she participates in the announced payment-in-kind program.

Mr. President, I ask that the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 274

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That if the Secretary of Agriculture establishes a program under which special payments in kind are made available to producers who divert farm acreage from the production of an agricultural commodity and devote such acreage to conservation uses, the Secretary shall take such action as may be necessary, including the making of cash payments, to insure that the total value received by a producer under such program is equal to an amount not less than 85 percent of the basic county loan for such commodity (or a comparable price if there is no basic county loan rate).●

By Mr. TOWER (for himself and Mr. JEPSEN):

S. 275. A bill to provide an increase in the compensation of certain pay grades of the uniformed services in order to provide a minimal offset against inflation; to the Committee on Armed Services.

PAY INCREASE FOR CERTAIN MILITARY PERSONNEL

Mr. TOWER. Mr. President, today Senator JEPSEN, chairman of the Manpower and Personnel Subcommittee of the Armed Services Committee and I are introducing the Military Pay Adjustment Act of 1983. This bill would provide for a targeted 4-percent increase in the basic pay rates for military personnel commencing in April of 1984. Under this legislation the pay raise would be delayed 6 months after the start of the fiscal year and absorbed by the Department of Defense. I should emphasize that the bill expresses a sense of the Congress that any increase in expenditures for these pay raises should not be the basis of a request for additional appropriations to pay such increase.

After careful deliberation, I believe that we must continue to make our men and women in uniform the top priority in this Nation's defenses. We must not revert to the military compensation policies of the early 1970's which caused significant recruiting and retention problems later in the decade. History attests to the fact that in the final analysis it is the soldiers,

sailors, and airmen who provide the margin of victory in battle.

Just a few years ago, there was a growing realization that manpower problems had contributed significantly to the decline in our military capability. Congress expressed concern over the statements of the administration and the uniformed service chiefs regarding the shortages of skilled and experienced personnel in technical fields; the hemorrhage of NCO and petty officer departures; the troubling trends in recruit quality and the serious manning shortfalls in the Reserve forces.

Today we are witnessing a dramatic reversal in our manpower trends. Certainly, the economy and an enhanced national appreciation for military service have contributed to this remarkable turnaround. I believe, however, that the most important factor in achieving our manpower goals has been the commitment that the Congress made to our military people to restore and maintain pay comparability. The military pay raises of 1980 and 1981 have restored military pay to levels comparable with those in the private sector. Further, the targeted pay raises initiated by the Senate Armed Services Committee have been especially effective in reducing intergrade pay compression, as well as stemming the alarming losses of midcareer and senior noncommissioned officers which presented the most serious retention problem.

The current favorable manpower situation could lull the Nation into a false sense of security. Based on the experiences of the late 1970's, we must not forget how fragile and "perishable" the current success in recruiting and retention may be. Attaining and managing fully staffed, effective and high quality Armed Forces will be one of the major challenges facing the Congress and the services in the 1980's. We must never again create a situation where, as happened in the past, a commanding officer decided not to take his ship to sea because he did not have enough qualified seamen. After finally paying the price to reestablish pay comparability in 1982, we are once again letting it slip from our grasp. That would be a grave error in our long-term defense planning.

I wholeheartedly support the President when he states that sacrifices must be made to reduce the deficits that face this Nation. It is easy to forget the sacrifices made by men and women in uniform, even during peacetime. Extended overseas deployments and unaccompanied tours are just a few of the types of sacrifices that they endure while we spend each day with family and friends. Many of the military's top leaders agree that military compensation should be the last place to make cuts in the defense budget.

I believe that a zero pay raise will have a devastating effect on military morale. A small pay raise, even if delayed, would send a positive signal of our continued concern and commitment to America's service men and women. Under our bill the pay for new recruits in pay grades E-1 and E-2 and newly commissioned officers in grade O-1 would remain at current levels. The cap would remain in effect for senior officers.

New recruits entering the services in fiscal year 1984 will receive $573.60 per month in basic pay plus allowances. Qualified youth are also eligible to receive up to $8,000 in cash bonuses and $17,400 in educational benefits. In addition, from the moment of entering active duty, the new recruit receives the same total compensation package available to the career force. Among others, these benefits include medical and dental care, 30 days of leave a year and the full range of morale, welfare, and recreation activities.

After approximately 12 weeks of basic training, recruits are promoted to the pay grade of E-2. Promotion to pay grade E-3 occurs 9 months later. This rapid promotion means an automatic pay raise of about 17 percent in basic pay during the first 12 months and obviates the need for any further adjustment in fiscal year 1984.

The innovative approach that Senator JEPSEN and I have taken in this bill will not cost $3 billion in fiscal year 1984 as originally projected by the Defense Department, but rather, $552 million. I believe that this sum could be absorbed with little difficulty by the Defense Department.

Mr. President, I send this bill to the desk in behalf of Senator JEPSEN and myself and I ask that it be appropriately referred.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

Mr. TOWER. I yield to Senator JEPSEN.

Mr. JEPSEN. Mr. President, as we review the hard choices facing us this year with respect to defense spending, we need to keep one thought firmly in mind. We can spend all the money we want on battleships, fighter planes, tanks, and ammunition, but in the final analysis it will not be hardware, but the soldiers, the sailors, and the airmen who will defend America's interests around the world.

For the last 4 years, I have worked to insure that the needs of our servicemen and women are provided for. Our major efforts have been directed toward providing comparability between military and civilian pay.

When we started this process back in 1980, our manpower readiness situation was appalling. Because of the gradual erosion of pay and benefits for the career military since 1972, we were faced with a massive hemorrhage of most talented and experienced personnel. Reenlistment rates in 1979 were only running at 56 percent.

The rebuilding process began with the defense authorization legislation for fiscal year 1981 and has continued through the present time. In October 1979, the gap between civilian and military wages stood at 7.8 percent. By October of 1981, that gap had been erased. Moreover, by specifically targeting pay and benefits, the gap had been erased in an economical and innovative manner.

These initiatives have finally reversed the adverse recruiting and retention of the late 1970's. Reenlistment rates were running at 74 percent by the first quarter of fiscal year 1982. The Army has begun to recruit the highest percentage of high school graduates of any time in its history.

Despite these successes, I cannot underscore enough the danger that we face from becoming complacent. History has shown that recruiting and retention trends can be very fragile unless steps are continually taken to reinforce them. We must not allow the comparability gap between military and civilian wages to grow.

Since overall comparability was restored on October 1, 1981, the gap has begun to grow again. If military pay is frozen in fiscal year 1984, the comparability gap will be the largest in the history of the All-Volunteer Force at 12.1 percent.

Mr. President, no one is any more aware than I am that projected deficits will require hard sacrifices. Prudent reductions in the budget must be made wherever possible. But as we reflect on this situation, we cannot forget the sacrifices that our military people are making as they carry out their duties. The long unaccompanied tours of duty, the spartan living conditions, and the frequent moves are part and parcel of military life.

Our men and women in the armed services forces must remain our top priority. A compensation increase, even if delayed, will send a strong signal of congressional commitment to them and help us build on current recruiting and retention successes.

The legislation Senator TOWER and I are introducing today will provide a targeted 4-percent increase beginning in April 1984. Because of the modest amount needed for this increase and the overall budget constraints, the cost of this pay increase will not be the subject of additional authorizations or appropriations, but will be absorbed within the existing Department of Defense budget.

Under our legislation, pay levels for E-1's, E-2's, and O-1's would remain at the current level. The cap on senior officer's pay would also remain in effect.

Senator TOWER and I chose to target the increase in this manner for two reasons. First, new recruits pass through the pay grades of E-1 and E-2 in the relatively short span of about 1 year. This rapid promotion provides in effect a 17-percent increase in base pay during the first year. Additionally, new recruits can be eligible to receive large cash bonuses and educational benefits.

Senator TOWER indicated the cost of this legislation will be $552 million in fiscal year 1984. This is a very modest investment for maintaining the long-term health of our career military force. It is indeed the backbone of the level of defense we need to keep the peace, to prevent war, and to enable us to go to the negotiating table, one on one with our adversaries, to reduce, and hopefully eliminate, nuclear arms.

By Mr. GOLDWATER (for himself, Mr. DECONCINI, and Mr. JEPSEN):

S. 276. A bill to amend title II of the Social Security Act to repeal the earnings limitation for all beneficiaries age 65 or older; to the Committee on Finance.

REPEAL OF EARNINGS LIMITATIONS FOR SOCIAL SECURITY BENEFICIARIES

● Mr. GOLDWATER. Mr. President, I propose today to completely repeal the earnings ceiling on social security benefits for all workers 65 and older.

One of the contradictions built into the social security structure, from which many of its financing troubles arise, is the disincentive to work. The greatest disincentive of all is the wage test of social security. Instead of encouraging older persons to remain productive workers, who will benefit themselves and the entire economy, the social security law penalizes workers by imposing a tax of 50 percent on any wages earned over $6,000. Social security benefits are reduced dollar for dollar on account of all earnings above that ceiling for workers who are between the ages of 65 and 69.

Believe it or not, there are more than 10 million persons in this age group. The number was higher before the exempt age dropped to 70 beginning in January of this year.

Mr. President, the major argument for repealing the wage ceiling is equity for older persons. This money does not belong to the Government. It is owed to older persons who, together with their employers, have deposited funds into the system during their working careers. The Government should have no say in how the worker's money is paid back.

By the time a worker reaches the age of entitlement to full benefits, whether it is 65, as now, or 66 as some propose, I believe he has earned a right to his full social security check. To require older persons to give up gainful employment is to attach a cruel penalty upon which they have bought and earned.

Mr. President, it is important to note that a new study, completed by the General Accounting Office on September 28, 1982, reports that only 27.5 percent of new retirees gave poor health or physical condition as a reason for applying for benefits. Fully two-thirds of newly entitled beneficiaries, who were awarded benefits between July 1979 and June of 1980, reported that health was not a reason for dropping out of the work force.

These findings mean that most retired persons are physically and mentally able to continue working but have voluntarily decided to retire early and withdraw from the work force. If they are given the proper inducement, a great many persons would return to work. And, since these persons are presently drawing social security benefits while they stay at home, they would place no additional cost on the system after they return to work, if the earnings test is eliminated.

Mr. President, I should also like to call attention to the relationship between the earnings test and two of the recommendations made by the National Commission on Social Security Reform. Regretfully, the Commission did not address the subject of the earnings ceiling. However, the Commission did recommend an increase in the delayed retirement credit from 3 to 8 percent. This change will be a positive incentive to encourage work after age 65. It is commendable.

What should be observed, however, is the fact that the earnings test could be eliminated for persons above age 65 with no effect on costs in the case of persons who agree to take advantage of improved delayed retirement credit. Since a person must agree to defer payment of his social security check in order to get a higher monthly payment at an older age, the potential impact of removing the earnings test will be reduced proportionately to the number of persons so choosing to delay payments.

On the other hand, keeping the earnings test on the books will negate the beneficial effects of the delayed retirement credit. The earnings test will continue to be a drag on work incentive, contradicting the purpose of raising the delayed retirement credit.

Next, I wish to point out that the combination of the earnings test and the income tax on benefits recommended by the reform Commission will work a severe hardship on older persons. As my colleagues are aware, the study Commission recommended that 50 percent of old age benefits be included in taxable income for taxpayers whose adjusted gross income exceeds $20,000, if single, or $25,000 if married. Did anyone on the Commission realize that the combined effect on these taxpayers of higher income tax payments and denied social security benefits constitutes a tax rate of 80 percent?

Now, I am personally opposed to taxing any part of social security benefits, but in the event the idea might be enacted over my opposition, it would add one more powerful reason why the earnings test should be repealed.

Finally, Mr. President, I believe we should remove the earnings ceiling because it drains the national economy of the energies and talents of older persons. By causing older persons, who are fully able to work, to withdraw from the labor force in order to collect their full social security checks, the wage ceiling causes the loss to our national economy of the skills and productive efforts of the elderly.

To sum up, elimination of the earnings test will give back to older persons the money they have earned and help the economy by regaining use of the talents of experienced workers.

Mr. President, I ask that the text of the bill appear at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 276

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 203(c)(1) of the Social Security Act is amended by striking out "seventy" and inserting in lieu thereof "65".

(b) The last sentence of section 203(c) of such Act is amended by striking out "nor shall any deduction" and all that follows and inserting in lieu thereof "nor shall any deduction be made under this subsection from any widow's or widower's insurance benefits if the widow, surviving divorced wife, widower, or surviving divorced husband involved became entitled to such benefit prior to attaining age 60.".

(c) Section 203(d)(1) of such Act is amended by striking out "seventy" and inserting in lieu thereof "65".

(d) Section 203(f)(1) of such Act is amended—

(1) in clause (B), by striking out "seventy" and inserting in lieu thereof "65";

(2) by amending clause (D) to read as follows: "(D) for which such individual is entitled to widow's or widower's insurance benefits if such individual became so entitled prior to attaining age 60,"; and

(3) by striking out "the applicable exempt amount" each place it appears and inserting in lieu thereof in each instance "the exempt amount".

(e) Section 203(f)(3) of such Act is amended—

(1) by striking out "applicable exempt amount" and inserting in lieu thereof "exempt amount"; and

(2) by striking out "70" and inserting in lieu thereof "65".

(f) Section 203(f)(4)(B) of such Act is amended by striking out "applicable exempt amount" and inserting in lieu thereof "exempt amount".

(g) Section 203(f)(8)(A) of such Act is amended by striking out "exempt amounts (separately stated for individuals described in subparagraph (D) and for other individ-

uals) which are to be applicable" and inserting in lieu thereof "exempt amount which is to be applicable".

(h) Section 203(f)(8)(B) of such Act is amended—

(1) by striking out "Except as otherwise provided in subparagraph (D), the exempt amount which is applicable to individuals described in such subparagraph and the exempt amount which is applicable to other individuals, for each month of a particular taxable year, shall each be" and inserting in lieu thereof "The exempt amount for each month of a particular taxable year shall be";

(2) in clause (i), by striking out "corresponding"; and

(3) in the matter following clause (ii), by striking out "an exempt amount" and inserting in lieu thereof "the exempt amount".

(i) Section 203(f)(8) of such Act is amended by striking out subparagraph (D) thereof.

(j) Section 203(h)(1)(A) of such Act is amended—

(1) by striking out "applicable exempt amount" and inserting in lieu thereof "exempt amount"; and

(2) by striking out "70" each place it appears and inserting in lieu thereof in each instance "65".

(k) Section 203 (j) of such Act is amended—

(1) by striking out "Seventy" in the heading thereof and insertin in lieu thereof "Sixty-five"; and

(2) by striking out "seventy" and inserting in lieu thereof "65".

Sec. 2. The amendments made by this Act shall be effective with respect to taxable years beginning on or after January 1, 1984.●

By Mr. THURMOND:

S. 278. A bill to designate the Lowndesville Recreation Area located within the Richard B. Russell Dam and Lake project, South Carolina and Georgia, as the "Jim Rampey Recreation Area"; to the Committee on Energy and Natural Resources.

JIM RAMPEY RECREATION AREA

Mr. THURMOND. Mr. President, I am today reintroducing legislation for myself and Senator HOLLINGS to rename the Lowndesville Recreation Area within the Richard B. Russell Dam and Lake project the "Jim Rampey Recreation Area," in honor of the former owner of the property upon which the recreation area is to be situated.

The Richard B. Russell Dam and Lake project is one of a series of three Federal hydroelectric projects on the Savannah River in South Carolina and Georgia. The master plan for the project designated the recreation area addressed by this legislation as the Lowndesville Recreation Area.

This area, however, was never part of the township of Lowndesville. Rather, it was in an unincorporated area of Abbeville County, owned and cultivated by Mr. Jim Rampey, now deceased, for whom this legislation would rename the recreation area.

The Richard B. Russell Dam and Lake project is an undertaking of impressive proportions, which will contribute greatly to the productivity and prosperity of our Nation. We should not lose sight, however, of the smaller, but no less significant, contributions of the generations of small farmers who previously made this land productive. This legislation would recognize the particular contribution made by Mr. Rampey during his lifetime, and it has the endorsements of the South Carolina Department of Parks, Recreation and Tourism, the Clarks Hill-Russell Development Authority, the Abbeville County Council, the Lowndesville Town Council, and State Representative Michael S. Gulledge of Abbeville County.

Mr. President, I first introduced this bill in the 97th Congress. The distinguished chairman of the Committee on Environment and Public Works, Mr. STAFFORD, then sought to assist me by having this legislation attached to a small, noncontroversial water resources bill, but was unsuccessful in getting that legislation before the Senate prior to adjournment. I am hopeful that this measure will meet with greater success in the present Congress.

Mr. President, I ask unanimous consent that this bill be printed in the RECORD immediately following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 278

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Lowndesville Recreation Area, located within the Richard B. Russell Dam and Lake project, South Carolina and Georgia, shall hereafter be known and designated as the "Jim Rampey Recreation Area." Any reference in any law, map, regulation, document, record, or other paper of the United States to such recreation area shall be deemed to be a reference to such area as the "Jim Rampey Recreation Area."

● Mr. HOLLINGS. Mr. President, I am pleased to join my distinguished colleague, Senator THURMOND, in reintroducing this legislation. As he has stated, the purpose of this bill is to rename the Lowndesville Recreation Area within the Richard B. Russell Dam and Lake project the "Jim Rampey Recreation Area."

Jim Rampey and his family owned the property upon which the park is to be located from 1919 until 1980 when they sold 73 acres to the Government for a State park within the Dam project. Given the fact that Mr. Rampey was a farmer who cultivated and tended this acreage I believe it a very fitting tribute that we name this recreation area for him.

This legislation has the endorsement of the South Carolina Department of Parks, Recreation and Tourism, the Clarks Hill-Russell Development Authority, the Abbeville County Council, and the Lowndesville Town Council. It is noncontroversial, and I hope the Senate will act upon it as quickly as possible.●

By Mr. EXON:

S. 279. A bill for the relief of Taishine Wang, M.D., Kuei-Ching Wang and Maria Wang; to the Committee on the Judiciary.

S. 280. A bill for the relief of James G. Reese; to the Committee on the Judiciary.

RELIEF OF CERTAIN INDIVIDUALS

Mr. EXON. Mr. President, I am introducing two bills today, under the usual heading of a personal request from a Senator.

These bills have to do with the legal immigration into this country and allowing to stay in this country two outstanding Nebraskans. One is Dr. Kuei-Ching Wang, who takes a key medical position in one of our cities in my State, and the other has to do with the release of James G. Reese.

I send these bills to the desk, and I ask that they be appropriately referred.

The PRESIDING OFFICER. The bills will be received and appropriately referred.

Mr. EXON. Mr. President, it has been the policy of this Senator not to bog down the U.S. Senate with a whole series of immigration bills. I am sure I could count on the fingers of one hand the number of such bills I have introduced.

I introduced the same bills in the last session of Congress; unfortunately, they were not acted upon, although we received favorable comment on each. I simply comment at this time that I hope these bills can be enacted, because there is no legitimate reason why these two individuals, who play key roles in Nebraska's economy, cannot be afforded the process I have outlined in these bills.

By Mr. RANDOLPH:

S. 281. A bill to amend the National Labor Relations Act to give employers and performers in the performing arts rights given by section 8(e) of such act to employers and employees in similarly situated industries, and to give to employers and performers in the performing arts the same rights given by section 8(f) of such act to employers and employees in the construction industry, and for other purposes; to the Committee on Labor and Human Resources.

PERFORMING ARTS LABOR RELATIONS AMENDMENTS

● Mr. RANDOLPH. Mr. President, today I am introducing the performing arts labor relations amendments. This bill, which is identical to S. 2925, which I introduced September 17, 1982, amends the National Labor Relations Act to provide necessary changes

with regard to the performing and entertainment industry. My bill would extend to the entertainment industry the same provisions currently covering workers in the apparel and clothing industry. The performing industry and professional musicians are similar to the apparel and construction trades in that workers experience hardships and instabilities associated with short-term employment, often with many different employers, minimal job security, and additionally must travel frequently in order to find employment. These circumstances do not fit neatly into the work experience generally addressed by the National Labor Relations Act—Taft-Hartley. Because of this, organized individuals in the performing industry have had a difficult time with purchasers of their services. Under interpretations by the National Labor Relations Board, the purchasers of music, for example cannot be compelled to recognize the musicians' collective-bargaining agent, and the musicians are compelled to bargain individually since the purchasers under the National Labor Relations Board's ifterpretation, are not considered the employers of the musicians, even though the purchasers exercise the rights of employers in setting working conditions. The definition gf "employer" and "employee" are key to the Taft-Hartley Act. By denying that the purchasers are employers under the meanifg of the act, this denies the workers the rights of employees.

My bill will correct these inequities by clarifying the employer under the National Labor Relations Act as purchaser of musical performance services. It will also allow a performers union to collect dues after 7 days of employment, just as the construction industry may do now, as a recognition of the brevity of employment experiences. Under current law, the period is 30 days. The legislation would also authorize prehire agreements and legitimate collective bargaining.

I believe these amendments to the National Labor Relations Act are long overdue. I believe the unique circumstances of the performing industry must be recognized under the labor laws of the Nation. Musicians and other performers must be afforded fair and equitable treatment under the laws, and not be penalized simply because the work experience is not of a permanent nature.●

By Mr. HATCH (for himself, Mr. THURMOND, and Mr. DECONCINI):

S. 283. A bill to amend titles 18 and 28 of the United States Code to eliminate, and establish an alternative to, the exclusionary rule in Federal criminal proceedings; to the Committee on the Judiciary.

ELIMINATION OF EXCLUSIONARY RULE

Mr. HATCH. Mr. President, today I am introducing a bill to eliminate and establish an alternative to the exclusionary rule in Federal criminal proceedings. The exclusionary rule is a judicial policy mandating the inadmissibility of evidence obtained in violation of certain fourth amendment rights. For example, a technical defect in a search warrant would prohibit the use of credible and otherwise legally obtained evidence in a judicial proceeding.

The fourth amendment provides:

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath and affirmation, and particularly describing the place to be searched, and the persons or things to be seized. (U.S. Constitution, Amendment IV).

Although the fourth amendment triggers its judicial application, the exclusionary rule is not a part of the Constitution, but a court-made rule of evidence that was not adopted for Federal courts until 1914, *Weeks* v. *U.S.*, 232 U.S. 383 (1914), and State criminal trials until 1961, *Mapp* v. *Ohio*, 367 U.S. 643 (1961). See also authorities cited in Rader, "Legislating a Remedy for the Fourth Amendment," 23 S. Tex. L. J. 585 (1982).

Whereas a law enforcement officer acting in violation of the fourth amendment should be held responsible for his actions, the exclusionary rule instead is custom made to deter the prosecutor, not those law enforcement officers guilty of committing the illegal acts. The exclusionary rule is succinctly explained by the distinguished legal authority Dean Wigmore:

> The Doctrine of *Weeks* v. *United States* also exemplifies a trait of our Anglo-American judiciary peculiar to the mechanical and unnatural type of justice. The natural way to do justice here would be to enforce the healthy principle of the fourth amendment directly, i.e., by sending for the high-handed, over-zealous marshal who had searched without a warrant, imposing a thirty-day imprisonment for his contempt of the constitution, and then proceeding to affirm the sentence of the convicted criminal. But the proposed indirect and unnatural method is as follows:
>
> "Titus, you have been found guilty of conducting a lottery: Flavius, you have confessedly violated the constitution. Titus ought to suffer imprisonment for crime, and Flavius for contempt. But no! We shall let you both go free. We shall not punish Flavius directly, but shall do so by reversing Titus' conviction. 8 Evidence § 2184 (3d ed. 1940).

In England, as well as throughout the Commonwealth generally, the illegality of a seizure does not prevent evidence from being admissible in criminal proceedings. Also, police violators of the law are held personally accountable for their transgressions.

In America, however, violations of fourth amendment rights by law enforcement officials always elicit one response from the courts—evidence inadmissible under the exclusionary rule. The rule excludes the convicted criminal as well as the offending law enforcement official from answering for his misconduct. Both malefactors are freed to again break the law.

A number of Supreme Court Justices have questioned the usefulness of the exclusionary rule. Mr. Justice Black, in a concurring opinion in *Wolf* v. *Colorado*, 388 U.S. 25 (1949), stated:

> The Federal Exclusionary Rule is not a command of the fourth amendment but is a judicially created rule of evidence which Congress might negate.

Again, in *Linkletter* v. *Walker*, 381 U.S. 618, 648 (1965), Mr. Justice Black said:

> The inference I gather from these repeated statements is that the rule is not a right or privilege accorded to defendants charged with crime but is a sort of punishment against officers in order to keep them from depriving people of their Constitutional rights. In passing I would say that if that is the sole purpose, reason, object and effect of the rule, the court's action in adopting it sounds more like law-making than construing the Constitution.

More recently, Chief Justice Burger stated:

> It creates a damage remedy not provided for by the Constitution and not enacted by Congress.

Clearly indicating his view regarding the deleterious effect the exclusionary rule has on justice. In *Bivens* v. *Six Unknown Federal Narcotic Agents*, 403 U.S. 388 (1971), Chief Justice Burger recommended this course of action:

> Reasonable and effective substitutes can be formulated if Congress would take the lead, as it did for example in 1946 in the Federal Tort Claims Act. I see no insurmountable obstacle to the elimination of the Suppression Doctrine if Congress would provide some meaningful and effective remedy against unlawful conduct by government officials.

It seems then that the Supreme Court has thrown down the gauntlet. Now Congress must answer the challenge.

The rule's adamant demand for a perfect trial is without constitutional foundation. In criminal prosecutions, the sixth amendment maintains that the accused be given a speedy and public trial, not necessarily a perfect trial. In addition, the Supreme Court has repeatedly interpreted the due process clause of the 5th and 14th amendments to require that a "fair trial" be provided, not the aforementioned perfect trial. The concept of a fair trial is an important one. Mr. Justice Rehnquist, in *Michigan* v. *Tucker*, 417 U.S. 433 (1974), stated:

> Just as the law does not require that a defendant receive a perfect trial, only a fair one, it cannot realistically require that policemen investigating serious crimes make no errors whatsoever.

The protection of the citizenry is the foremost responsibility of the law en-

forcement officer; his first priority is to remove nefarious persons such as rapists, murders, and kidnapers from the streets. In the performance of his duties, the policeman may sometimes err. The exclusionary rule does not distinguish between flagrant violations and accidental errors.

For example, it does not distinguish between clearly unreasonable searches of one's home and simple misstatements of information on a search warrant. Regardless of the magnitude of the error of the policeman, the rule mandates the suppression of evidence obtained in violation of the fourth amendment. The release of a convicted murderer due to an error in a search warrant is necessitated by the exclusionary rule.

Under the rule, evidence considered to have been obtained illegally is not permitted into trial, and if causal connection is determined, even the most credible kinds of evidence may be deemed "tainted" and also excluded from the trial. Causal connection refers to the judicial decision that where additional evidence is believed to have been gathered as a result of illegally seized evidence, it shall be subject to the exclusionary rule. For example, the body of a victim is inadmissible evidence at trial if the body was found as a result of a confession of a pickpocket being held illegally by law enforcement officers.

In our society, differing types of criminal elements are present. There are criminals such as gamblers and pickpockets who seek monetary gain by committing crimes against property. There are also criminals such as rapist and child molesters who commit violent crimes against the person. The exclusionary rule, however, does not differentiate between heinous crimes against the person such as rape, child abuse, or homicide and simple monetary crimes. Its use allows the same reversal for a convicted child molester, on the grounds of the illegality of the search and seizure, as it does a convicted gambler.

Our courts also make a distinction insofar the penalties meted out to the convicted criminal. The Court demarcates misdemeanors and more serious felony crimes. The penalties established are based on the magnitude of the crime committed. Conviction of a misdemeanor elicits a penalty ranging from a fine or probabtion to 1 year imprisonment in prison. Conviction of a serious felony crime elicits a penalty ranging from 1 year incarceration in a State or Federal penitentiary to the death penalty. Whereas the courts take into consideration the gravity of the crime, the exclusionary rule does not distinguish the misdemeanor from the more serious felony crime. The rule releases a convicted gambler the same as a convicted killer, totally ignoring the gravity of the crime.

The primary reason for the institution of the exclusionary rule was to deter abusive law enforcement practices. However, there is little substantive proof that the exclusionary rule is an effective deterrent. Mr. Justice White, in his dissenting opinion in Stone against Powell, stated:

> As time went on after coming to the bench I became convinced that *Weeks* v. *United States*, (Citations omitted), and *Mapp* v. *Ohio* had overshot their mark insofar as they aimed to deter lawless action by law enforcement personnel and that in many of its applications the exclusionary rule was not advancing that aim in the slightest and that in this respect it was a senseless obstacle to aiming at the truth in many criminals trials. 428 U.S. 465, 537 (1967).

Mr. Justice White also contends that the rule cannot deter unlawful conduct:

> When law enforcement personnel have acted mistakenly, but in good faith and on reasonable grounds, and yet the evidence they have seized is excluded, the exclusion can have no deterrent effect. The officers, if they do their duty, will act in similar fashion in similar circumstances in the future; and the only consequence of the rule as presently administered is that unimpeachable and probative evidence is kept from the trier of fact and the truth-finding function of proceedings is substantially impaired or a trial totally aborted. 428 U.S. 465, at 539.

It has even been suggested that the exclusionary rule promotes illicit conduct by law enforcement officers. Since the rule is conviction-oriented, it is only brought to play at the trial stage of criminal proceedings when law enforcement officials are seeking a conviction, it permits harassment or seizure of contraband by officers who have no intention of a conviction while providing no direct punishment to the officer who may have violated fourth amendment rights. In some instances, the rule diminishes abidance of the law and compels officers to turn to illegal means of law enforcement; that is, false testimony. Where, then, lies the protection for the innocent victim of illegal searches and seizures required by the fourth amendment? Assuming an illegal search and seizure is committed upon a law-abiding citizen, the rule offers him little help, remedy, or protection—certainly no compensation.

Prof. Virgil Peterson's thoughts as to the ineffectiveness of the rule in its protection of the innocent are expressed well:

> Rejection of the evidence does nothing to punish the wrongdoing official while it may and likely will, release the wrongdoing defendant. It deprives society of its remedy against one lawbreaker because he has been pursued by another. It protects one against whom incriminating evidence is discovered, but does nothing to protect innocent persons who are the victims of illegal but fruitless searches. (In restrictions of the law of search and seizure, 52 Northwestern Univ. L. Rev. 46 at 55 (1958).

Further proof is found in a report from the American Bar Association's Division of Judicial Administration. A relevant section reads:

> Not only has the rule failed to achieve its stated purpose, but it has imposed substantial costs on society in the process. First, the exclusionary rule affords no protection or remedy to innocent persons whose fourth amendment rights have been infringed. Justice Frankfurter noted that the exclusion of evidence is a remedy which directly serves only to protect those upon whose person or persons something incriminating has been found . . . next it is clear that the exclusionary rule imposes a single, inflexible, and drastic sanction without regard to the nature, circumstances or degree of police misconduct.

To ascertain the validity of the many criticisms of the exclusionary rule, an empirical study was conducted in Chicago in 1971–72. The study was administered by the U.S. Department of Justice and the University of Chicago Law School. The results indicated the ineffectiveness of the rule as a deterrent to abusive law enforcement practices and illustrated the lopsided protections the rule gives for violations of the fourth amendment rights. Instead of protecting the innocent law-abiding citizen, the rule releases the criminal as well as the offending law enforcement official from answering for his misconduct. In a brief (amicus curiae) submitted by the district attorney of Alameda County in the case of People against Cahan, the district attorney stated:

> (The) net result of the exclusionary rule is that the persons who will benefit the most, in fact almost exclusively, are the blackmailer, the kidnapper, the big-time narcotic peddler, the racketeer, the dishonest gambler who preys in devious ways upon a gullible public, the panderer and procurer, the entrepreneur of syndicated prostitution, who like the pimp, lives off the earnings of prostitutes, and other types of organized syndicated crimes 44 Cal. 2d 434 (1955).

In recent Supreme Court decisions concerning the exclusionary rule, Justices have continued to echo the fact, which was first introduced in *Wolf* v. *Colorado*, 338 U.S. 25 (1949), that the rule is "judicially created and one which Congress might negate." The bill I propose today is in response both to the cries of these Justices of the Supreme Court and to our fellow Americans, who are increasingly becoming victims of violent criminal acts.

My bill, comprised of two major provisions, would eliminate the exclusionary rule, thus permitting evidence not be held inadmissible, when obtained in violation of fourth amendment rights by Federal law enforcement officials, in a Federal criminal trial. Also, my bill would allow for redress for innocent persons of fourth amendment violations. Federal law enforcement officials who violate fourth amendment rights will not be afforded protection by this bill; but they will instead be re-

quired to answer for their actions. Both provisions are needed.

The first provision would require the addition of a new section, § 3505—elimination of the exclusionary rule—in chapter 223 of title 18 of the United States Code. It would eliminate the exclusionary rule as it pertains to Federal criminal proceedings. The proof of innocence or guilt must be based on the truth. In my opinion, truth is denied when courts are not given the opportunity to judge evidence solely on the basis of its reliability. By eliminating the exclusionary rule, all evidence would be available to the trial judge for his determination as to its relevance to the case.

The second provision would add a new chapter, 172—illegal search and seizure—to title 28 of the United States Code. It would provide a civil tort remedy for individuals whose fourth amendment rights have been violated by Federal law enforcement officials. It would define Federal officials who would be subject to appropriate discipline for violating fourth amendment rights, and it would stipulate that the U.S. Government would be held liable for the actions of its officials who violate fourth amendment rights.

It would also set forth the standards for recovery of actual damages and such punitive damages, up to but not to exceed $25,000, as the court may award. Finally, it would provide the court the opportunity to award any claimant who prevails in such action reasonable attorney fees, and other litigation costs reasonably incurred as the court may deem appropriate. Thus, this second provision would offer the protection guaranteed by the fourth amendment of the U.S. Constitution as well as act as a deterrent to potential violations of searches and seizures by Federal law enforcement officials.

Other bills have been introduced which would redefine and limit the exclusionary rule. These bills attempt to restructure the rule in order that more evidence may be deemed admissible by the courts in a Federal trial. They place great faith in the ability of the courts to readily decide whether the law enforcement official's violation of the fourth amendment was either intentional or substantial, or was flagrant or accidental. In fact, this determination has perplexed the courts for over 67 years. One judge may deem actions by law enforcement officers to be in violation of the fourth amendment when the crime is gambling and yet that same judge may deem the same actions not to be in violation of the fourth amendment when the crime is prostitution.

Another problem these other bills fail to address is a remedy for a law-abiding citizen against unreasonable searches and seizures. The exclusionary rule only comes into play at the trial stage of a criminal proceeding, and does not offer protection for the law-abiding citizen whose fourth amendment rights have been violated.

Congress enacted legislation to allow civil tort actions to be taken against State authorities who abuse their powers, 42 U.S.C. 1983 (1970):

> Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

Congress should offer redress when Federal law enforcement officials violate fourth amendment rights. The bill I propose offers just such a remedy.

The exclusionary rule forces the courts to accept suppression motions on all evidence claimed to have been obtained in violation of fourth amendment rights. This has admittedly doubled the court calendar. The other bills continue to request that courts decide whether the evidence should be admissible in court at a suppression hearing. Thus, the exclusionary rule would remain a time consuming, added burden on the court system.

Even innocent persons subjected to illegal searches and seizures, who are arrested as a result of the illegal searches and seizures, must wait for a date on the court calendar just for a suppression hearing, and then, whether or not the evidence is found to be admissible, they must wait yet another date of the court calendar for their trial. If the innocent person cannot afford bail, he probably will have to wait for his trial date confined in a local jail. On the other hand, if an alleged child molester can afford bail, he will await his trial date back in society among children.

My proposed bill would not allow this injustice to occur. It would free up the courts' calendar by eliminating the need for an extra proceeding prior to trial, thereby allowing the courts to handle cases in a more timely and expeditious manner. The speed with which the courts could handle cases would insure the release of innocent persons faster as well as speed up the removal of criminals from the streets.

The exclusionary rule has not lived up to its expectations. The creators of this misguided rule have themselves asked Congress to rectify its shortcomings. My bill, eliminating the exclusionary rule, would permit Federal courts to pursue the truth by allowing the admission of evidence obtained in violation of the fourth amendment by Federal law enforcement officials at trial.

My bill would also create a much needed working deterrent to fourth amendment violators. Not only would the bill deter potential violators, but it would also provide, by means of a civil tort action, a remedy whereby an innocent person would be protected by the fourth amendment from unreasonable searches and seizures as intended by the framers of the Constitution.

My bill is a workable alternative to the exclusionary rule. Accordingly, I urge the support of my colleagues on this important legislation. I ask unanimous consent that the text of my amendment appear at this point in the RECORD, as well as an excellent analysis of the subject by Prof. Ernest Van Den Haag appearing in National Review magazine.

There being no objection, the bill and article were ordered to be printed in the RECORD, as follows:

CRIME OR PUNISHMENT?

(By Ernest Van Den Haag)

Our courts do not do well in enforcing a legal order in which law-abiding citizens can be secure in their lives, their liberties, and their pursuit of happiness. Yet it is "to secure these rights" that "governments are instituted among men." Our courts, rather than concentrating on whether those arrested for a crime are guilty of it, are preoccupied with deciding whether there was "probable cause" for the arrest. They are less concerned with the defendant's guilt or innocence than with whether the evidence for his guilt is admissible. If it isn't—if a policeman made an error in seizing the evidence—the defendant gets off, however many murders he has committed.

The exclusionary rule on which this procedure rests is a late invention of our courts (in no way mandated by the Constitution). A letter to the New York Times illustrates its perverse effects:

". . . I was mugged at the front door of my house in Hollis Hills, Queens. The mugger was caught within three hours of my report to the police. I pressed charges, and six hearings over a span of six months ensued. . . . All the evidence which helped catch the mugger was offered: (1) description of car—year, type, color; (2) license plate number—one number off, M instead of W; (3) $49 in the mugger's pocket in the exact bills I reported missing; (4) an autoharp pick—he did not even know what an autoharp is; (5) an almost exact approximation of his height and weight; (6) accurate description of his clothing, etc. . . . The mugger was freed after the sixth hearing because of *an illegal search of vehicle by the policeman.* [My italics.]

Last night on Channel 5 news, there was an item about the $1 rapist, who was finally caught after raping about 25 women in Queens. His name [was] Leroy Hamlin; [he] was the same man who had mugged me. . . . Mr. Hamlin had several previous arrests prior to mugging me."

Six adjournments! Six months! for a man the police caught in three hours. Unfortunately this is not unusual. Only the persistence of the complainant was. Usually complainants and witnesses are discouraged from testifying by repeated adjournments. If they are not sufficiently intimidated by the threats that offenders—out on bail—can and do make with practical immunity.

Could this be an isolated instance in which the exclusionary rule was misused by a lower court? Consider *U.S.* v. *Montgomery.* Police made a routine traffic stop after suspicion had been aroused by a car's repeatedly circling in the same area. The driver had an arrest warrant outstanding against him; the police searched the car. They found bullets, an unregistered revolver (loaded), an unregistered sawed-off shotgun, and shells. The driver was found guilty in trial court. The court of appeals freed him, saying the policemen's suspicions, however justified they turned out to have been, did not suffice for searching the car. According to the court of appeals, the "probable cause" which authorizes arrest or search requires, in practice, that a crime has already been committed and witnessed. Police are not allowed to prevent it. A man cannot be convicted for having unregistered arms in his car unless he uses or, at least, displays them. And, in this matter, state courts are certainly no better—they can't be, because defendants can appeal to the federal bench.

Joseph W. Bishop, Jr., Ely Professor of Law at Yale University, in his review (Commentary) of Justice Macklin Fleming's thorough book, "The Price of Perfect Justice," affords the layman a glance at what happens:

". . . the incarceration of even the most obviously guilty criminal is a task comparable to landing a barracuda with a trout-rod and dry-fly. . . . Justice Fleming itemizes 26 separate state and federal proceedings in which a defendant can challenge the lawfulness of a single search or seizure. Moreover, he can petition for habeas corpus ad libitum, hoping finally to find a federal judge who agrees with him and disagrees with all the other judges, for the doctrine or res judicata—that an issue finally determined by a court cannot be reopened—does not apply to habeas corpus. . . ."

Few criminals are ever caught. And our courts seem to feel that equal protection of the laws requires that they be let go—after all, why single out for punishment the small proportion of the criminal population which gets caught? Even when a reluctant judiciary managed to find a defendant guilty, he is treated—well, the New York Times recently carried the following story. (It often carries analogous stories.)

Davereaux Wiggins, who was accused of hurling a 28-year-old airline stewardess in front of an onrushing subway train last July after he put a knife to her throat and grabbed her handbag, was sentenced to four to twelve years in prison yesterday after pleading guilty to a robbery charge. A charge of attempted murder was dropped, and the sentence was half the maximum that could have been imposed.

Mr. Wiggins reportedly told detectives that the airline stewardess, Anne Picyk, was the fourth subway passenger he had pushed in front of a train that month. . . .

The twenty-year-old defendant had been indicted for an attempted murder and robbery, each of which is a felony carrying a maximum sentence of 25 years in jail. Justice Roberts accepted Mr. Wiggins' guilty plea to the robbery charge, described the defendant's act as "an horrendous crime," and then imposed sentence. Mr. Wiggins will be eligible for parole after four years. . . .

Both of Miss Picyk's legs were fractured in the fall, but she managed to scramble to her feet and hoist herself up the side of the platform. The station was already vibrating with the approach of a train in the distance.

The moment she got her hands over the platform edge, she told police, her assailant kicked her in the face and sent her sprawling back onto the tracks. The train, by then, had almost reached the beginning of the platform. . . .

After Mr. Wiggins pushed her in front of the train, he took the keys to her Columbus Avenue apartment from her purse and was apprehended at the apartment by the police while stealing her clothes and jewelry.

Mr. Wiggins had previously been arrested for pushing a ninety-year-old man onto the tracks of the IRT station at West 181st Street. That charge was dropped when the victim was unable to identify him. . . .

Note: (1) the most serious charge, although accurate, was dropped (trial is quite a risk for the prosecution these days); (2) no charge for the burglary; (3) the judge, aware that the more serious charge had been dropped, and aware that he could have sentenced the defendant to a richly deserved 25-year term on the remaining charge, sentenced him to one-third of the time he could have been given for his "horrendous crime," making parole possible after four years. I guess His Honor doesn't ride the subway.

PRISONER OF IDEOLOGY

By now even official bodies realize the need to reform our criminal justice nonsystem. According to the New York Times, "A special committee of prosecutors and lawyers [found] current sentencing practices 'erratic and unpredictable,' " so as to " 'resemble a lottery' " in which " 'mere chance, rather than the rule of the law, often governs the way we sentence criminals.' " Wherefore the committee proposed to abolish judicial discretion and parole. (I have urged abolition of both for years.) But however rotten it be, there are always defenders of the status quo. Charles E. Silberman now has come to their aid with Criminal Violence, Criminal Justice (Random House, 1978).

As the author gratefully acknowledges, nearly every Establishment figure in the criminal justice system worked with him on this book. (Some praise their own product on the dust-jacket without letting on; which doesn't seem quite cricket.) Nonetheless, the book is written in a clear journalistic style—although I could do with fewer solecisms such as "not all the minutiae is necessary": these minutiae are. There is no doubt about Silberman's sincerity and good will toward men. Nor about his diligence; the book is crammed with facts and quotations.

The chapters on prison and on juvenile justice do accurately and extensively describe what's going on. This helps—although Silberman does not propose any feasible and effective remedies. He has learned, at least, that rehabilitation does not work and that the juvenile court system doesn't work either. Other liberals learned this earlier (non-liberals have known it all along), but at the Ford Foundation, which funded Silberman's work, it may be news. McGeorge Bundy, its president, "is proud" of Criminal Violence, Criminal Justice. He may well be. For in Charles E. Silberman, McGeorge Bundy has found someone who would run the war against crime as the Administations he served in the Sixties ran the war in Vietnam. Keep restricting the authority of the troops to fight (or arrest, or consider evidence), while insisting they are not hamstrung and that the rise in crime (or enemy power) has nothing to do with these restrictions. Have optimistic reports written: things are better (at least no worse) than in 1920. Ask for more money, more troops, to be thrown into the fight. There is light at the end of the tunnel . . .

Criminal Violence, Criminal Justice is misleading on a much larger scale than it needs to be for its defense of the status quo. So totally a prisoner of his ideology is Silberman that he does not suspect he has one. The lack of self-awareness keeps him honest, but has the disadvantage of preventing him from understanding his subject.

Vague yet pervasive, Silberman's ideology may be described as nostalgic reformist-liberal guilt (1960 vintage) with (severely localized) attacks of rationality. Thus, Silberman's overall remedies for our high crime rates are income redistribution and an end to racism and inequality. This charitable sentiment responds to guilt feelings, but ignores facts. Sir Leon Radzinowicz—hardly a conservative—writes in The Growth of Crime that, as affluence spreads, crime follows: "in Sweden, the model of equable prosperity and enlightened law, the [crime] rate went up 44 percent . . . In the solid and industrious Netherlands, 55 percent." (Sweden and the Netherlands are not well known for racism and inequality.) However, with the help of our courts we do much better: in Manhattan there are more murders every year than in the whole of England and Wales—and Manhattan's murder rate is not high compared to that of other American cities. As elsewhere, in the U.S. a more equal distribution of income and less racism actually have been associated with higher crime rates.

About black criminality, Silberman's naive theories once more suggest displaced guilt feelings but tell us nothing about their object. They appear to justify what they seek to explain. (However, to his credit, Silberman does admit the remarkably high black crime rate—which he blames on past oppression.)

According to Silberman, "it is plain wrong" of me (in my Punishing Criminals) to "rail against 'the fact that so small a proportion of all crimes committed—about 1 percent—ever lead to imprisonment.' " The actual punishment rate "turns out to be 65 percent." Silberman neglects to mention that my figure was credited to Ramsey Clark, not generally known as an enemy of judicial leniency or of the exclusionary rule.

Silberman's 65 percent is absurd—only Japan has so high a rate of punishment (and a corresponding low crime rate). Even in England the punishment rate is only about 4 percent—four times higher than ours (the crime rate is correspondingly lower), but nowhere near Silberman's 65 percent. How does he get his figure? He a) confuses my "all crimes" with the seven crimes indexed by the FBI, and b) my "crime committed" with crimes reported to and by the police (probably about one-third of those committed); then c) he suddenly switches to the proportion punished out of all arrested offenders rather than out of the perpetrators of all "crimes committed" (about 25 percent of all crimes lead to an arrest); then d) he decides to exclude all crimes committed by juvenviles—etc., etc. His 65 percent is the arithmetically correct end-product of these manipulations, but has nothing to do with "the proportion of all crimes committed [that] lead to imprisonment," which Ramsey Clark and I referred to. The 65 percent punishment rate is correct—for a highly selected group of convicted felons; Silberman could have been even more selective and reached 90 percent, or

100 percent. (Indeed, for the group selected, 65 percent is scandalously low.)

In any case, Silberman's confusion, ignorantly or deliberately, misdescribes the effectiveness of the criminal justice system. The imprisonment rate for all crimes committed unfortunately is "about 1 percent." There is plenty of evidence for this. E.g., of 10,000 persons arrested for robbery (a major crime) in one year in California, only 1,300 were incarcerated (i.e., 13 percent of those arrested for robbery). Only about one-third of all robberies are reported, and about one-quarter of the reports result in arrest. California is not exceptional, and things have not improved.

ESCAPING PUNISHMENT

On a first reading I did not see wherein Silberman's manipulations could do anything but mislead the unwary, including, perhaps, him. But there is method in this madness. Silberman tries to show that judicial foolishness, or leniency, is not to blame, that our courts do well, that "it is not true that significant numbers of guilty offenders escape punishment"; that actually "only a handful of criminals escape arrest, conviction, or punishment because of exclusionary rules, search-and-seizure laws, and other technicalities designed to protect defendants' rights." Utinam haberetis!

Is it really "not true that significant numbers of guilty offenders escape punishment"? (Why the pleonastic "guilty offenders"? Where are innocent offenders found?) Consider these data. The crime rate rose 144 percent from 1960 to 1970. (Crime rose 176 percent—the difference is accounted for by the rise in population.) In 1960, 118 persons out of 100,000 were in prison. In 1970, 96 were—a drop of 19 percent. Hence the proportion of offenders imprisoned—low to begin with—must have declined sharply. Other data confirm as much. Thus, while crime rates rose 144 percent, the number of convictions decreased from 117 to 95 per 100,000. Silberman will find it hard to persuade anyone familiar with the data that "it is not true that significant numbers of guilty offenders [escaped] punishment." They certainly did. They still do.

According to the New York Times (not a paper known to "rail" against the judiciary—indeed, a paper Mr. Silberman quotes at length when convenient): ". . . the defendant [tends to have] the upper hand in bargaining about sentences in Criminal Court. The repeaters know this from experience. The novice learns it from friends or his lawyer."

Some illustrations? "Hosie S. Turner was convicted of murder after a month-long trial." His prior record included "16 convictions for robbery, burglary, larceny, parole violation, drug possession and sale. . . . He invariably was allowed to plead guilty to a lesser charge."

"Willie Poinsette had a record of 21 previous arrests when, on April 8, 1978, he was charged with robbery and possession of a gun, both felonies. If convicted on these charges he would have faced up to 32 years in prison. Two days later in criminal court, Mr. Poinsette pleaded guilty to petit larceny, and was sentenced to two months in city jail."

"Melvin Lewis was 19 and had a record of previous arrests [juvenile arrests are not recorded, of course] when he was charged with possession of a knife and attempted robbery, both felonies. If convicted of these charges, he would have faced up to 14 years in prison. Mr. Lewis pleaded guilty to attempted grand larceny, a misdemeanor, and was sentenced to ten months in city jail. He was conditionally released on parole to a rehabilitation center three months later. Shortly after disappearing from the rehabilitation center on January 21, he was arrested for assaulting two civilians and a police officer. A week later he was charged with wounding a police officer and killing Mr. Walker." Which is why the New York Times reported Mr. Lewis' doings. For these are not isolated instances. They are so typical, so much a matter of routine, that they are not usually reported.

How come Mr. Silberman overlooks what everyone knows? Not surprisingly, the names of Professor Bishop and of Justice Fleming, whom I quoted earlier, do not appear in his index. Both are well known and highly respected—but inconvenient to ideologues. Silberman blithely tells us that the exclusionary rule—which makes evidence obtained by improper methods inadmissible in court—prevents few convictions. He reached this conclusion by looking at trial records and at research reports, the methodology of which he does not describe and has not checked. I can't take these reports or Silberman's interpretation seriously. They contradict what the naked eye can see; and they come from the researchers who for years tried to convince us that deterrence cannot work, and that we should rehabilitate and not punish. They got us where we are.

Evidence, however convincing, comes to court only if the prosecution has some hope that it will be admitted. Offenders will not be prosecuted and trials do not occur if the prosecution knows that the court will exclude the evidence needed for conviction. Thus the main effects of the exclusionary rule are: (1) offenders are not arrested when the police cannot get the evidence or know that it won't be admitted; (b) if arrested, offenders are released by prosecutors when they learn that the evidence won't be admitted; (c) if not released by the prosecutor, they are released on arraignment; (d) in plea bargaining—which, as Silberman notes, decides 90 percent of all cases—prosecutors, when they know that much of their evidence may not be admitted, are compelled to accept guilty pleas for offenses carrying a penalty below that threatened for the crimes actually committed. That is how many of the offenders who are actually prosecuted—a small proportion of all offenders escape most punishment, even when courts are willing to impose it. Silberman feels that it is unfair to accuse the courts. Is the exclusionary rule their fault? Indeed it is; the judiciary invented the exclusionary rule in 1914 and imposed it on the states in 1961. The Constitution prohibits unreasonable searches and seizures. Hence, those guilty of such searches and seizures should be punished and held responsible for damages. But not to admit the evidence available in the court—however procured—and then to release guilty defendants for lack of evidence, harms society and does not punish the policemen who committed procedural errors or unlawful acts.

This judicial invention—admittedly not required by the Constitution[1]—does not protect the innocent: It protects only the guilty. Only a guilty defendant can profit from nonadmission of the evidence showing his guilt; an innocent defendant obviously cannot. (And in practice he won't be compensated for an unlawful search; but such compensation would be independent of the exclusionary rule anyway.) The exclusionary rule, the incredible delays in our judicial process, and the infinite complications that Professor Bishop and Justice Fleming only partially list, all were invented by the judiciary, who do not deserve Silberman's encomia—but who in turn gratefully praise his work. He deserves their gratitude; but not that of law-abiding citizens.

Silberman defends plea bargaining as if the issue were to abolish it. It is not. There is nothing wrong with the prosecution and defense anticipating the likely outcome and sparing us the actual trial. (Less sordid, more public, better supervised procedures would help, but let that go.) What is wrong is that the judiciary has so weakened the position of prosecutors that they must habitually agree to inappropriate punishment because they cannot hope to do better by trial. Silberman's views deserve to be quoted here:

"Most important of all, it is not true that the guilty escape punishment; when charges are dropped, it usually is because the victim refuses to press charges, or because the prosecutor lacks the evidence needed to sustain [*sic:* you've got to obtain a conviction before it can be sustained—I guess Silberman means "obtain"] a conviction."

Whatever leads Silberman to believe "it is not true that the guilty escape punishment" escapes me. If a victim "refuses to press charges" or a prosecutor "lacks the evidence," does that make the guilty innocent? Or does it cause them to "escape punishment"—whether they are guilty or not? Silberman prudently does not hazard a guess as to why victims "refuse to press charges" (do they fall in love with their robbers, assailants, or burglars?), or why prosecutors "lack the evidence." It might have something to do with the futility of pressing charges and the difficulty of collecting admissible evidence—both obstacles created by the judiciary. Perish the thought.

THE VICTIMS OF PROBATION

About probation, Silberman comments: "The fact that so many probationers ended up behind bars suggests that being sentenced to probation constitutes punishment, too." Really? Probation suspends punishment and permits the probationer to avoid it if he behaves. Since probation supervision is a bad joke, in practice probationers go to prison only when they are caught committing new crimes. That so many of them continue their criminal careers while on probation, and that some are caught and (mirabile dictu) prosecuted, shows not that "probation constitutes punishment, too," as Silberman says, but that the court was wrong in not punishing the offenders when they were convicted in the first place. Instead, the court gave them the opportunity, sedulously used by many, to commit additional crimes. Probation, in these cases, "constitutes punishment, too"—for society and for innocent victims, not for the criminals the courts exist to punish. They are imprisoned only as punishment for additional crimes, which probation gave them the opportunity to commit.

Even if one subtracts demographic factors, our crime rates remain remarkably and quite unnecessarily high. Our punishment

[1] In Calandra (1974) the Supreme Court declared the exclusionary rule not "a constitutional right." In 1976 the Court admitted that the rule was irrational, a point made forcefully many years ago by Benjamin Cardoza. (See Steven R. Schlesinger's thorough "Exclusionary Injustice". New York, 1977.)

rates are remarkably and unnecessarily low—which is one reason why our crime rates are as high as they are. Silberman has misinterpreted the data and concluded that it is not so. "There's none so blind as they that won't see," Swift said. He was right. Crime rates will remain unnecessarily high as long as readers can be persuaded to believe what Criminal Violence, Criminal Justice tells them.

S. 283

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 223 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 3505. Elimination of exclusionary rule as it pertains to the fourth amendment

"Evidence, otherwise admissible in a Federal criminal proceeding, shall not be excluded on the grounds that such evidence was obtained in violation of the fourth amendment to the United States Constitution.".

(b) The table of sections for chapter 223 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"3505. Elimination of exclusionary rule as it pertains to the fourth amendment.".

SEC. 2. (a) Title 28, United States Code, is amended by adding immediately after chapter 171 a new chapter 172 as follows:

"Chapter 172.—ILLEGAL SEARCH AND SEIZURE

"Sec.
"2691. Definitions.
"2692. Tort claims; illegal search and seizure.
"2693. Sanctions against investigative or law enforcement officers: illegal search and seizure.
"2694. Judgment as a bar.
"2695. Attorney fees and costs.
"2696. Applicability of other tort claims procedures.

"§ 2691. Definitions

"As used in this chapter, and section 1346(g) of this title, the term—

"(1) 'Federal agency' includes the executive departments, military departments, independent establishments of the United States, and corporations primarily acting as instrumentalities or agencies of the United States, but does not include any contractor with the United States; and

"(2) 'Investigative or law enforcement officer' means any officer of the United States who is empowered by law to execute searches, to seize evidence, or to make arrests for any violation of Federal law, or any person acting under or at the request of such officer.

"§ 2692. Tort claims; illegal search and seizure

"(a) The United States shall be liable for any damages resulting from a search or seizure conducted by an investigative or law enforcement officer, acting within the scope of his office or employment, in violation of the fourth amendment to the United States Constitution.

"(b) Any person aggrieved by such a violation may recover actual damages and such punitive damages as the court may award under subsection (c).

"(c) Punitive damages may be awarded by the court, upon consideration of all the circumstances of the case, including—

"(1) the extent of the investigative or law enforcement officer's deviation from permissible conduct;

"(2) the extent to which the violation was willful, reckless, or grossly negligent;

"(3) the extent to which the aggrieved person's privacy was invaded;

"(4) the extent of the aggrieved person's personal injury both physical and mental;

"(5) the extent of any property damage; and

"(6) the effect such an award would have in preventing future violations of the fourth amendment to the United States Constitution.

"(d) Notwithstanding subsections (b) and (c), the recovery of any person who is convicted of any offense for which evidence of such offense was seized in violation of the fourth amendment to the United States Constitution is limited to actual physical personal injury and to actual property damage sustained as a result of the unconstitutional search and seizure.

"(e) No judgment, award, compromise, or settlement of any action brought under this section shall exceed the amount of $25,000, including actual and punitive damages. The United States shall not be liable for interest prior to judgment.

"(f) Any action under this section shall be brought within the period of limitations provided in section 2401(b) of this title.

"§ 2693. Sanctions against investigative or law enforcement officers; illegal search and seizure

"An investigative or law enforcement officer who conducts a search or seizure in violation of the fourth amendment to the United States Constitution shall be subject to appropriate discipline in the discretion of the Federal agency employing such officer, if that agency determines, after notice and hearing, that the officer conducted such search or seizure lacking a good faith belief that such search or seizure was constitutional.

"§ 2694. Judgment as a bar

"The remedy against the United States provided under this chapter shall be the exclusive civil remedy for a violation of the fourth amendment to the United States Constitution by any investigative or law enforcement officer acting within the scope of his office or employment whose act or omission gave rise to the claim.

"§ 2695. Attorney fees and costs

"In any action brought under this chapter, the court may award any claimant who prevails in such action reasonable attorney fees, and other litigation costs reasonably incurred.

"§ 2696. Applicability of other tort claims procedures

"The procedures provided in sections 2672, 2675, 2677, 2678, 2679, and 2680 of this title apply to any action brought under this chapter. For the purposes of such sections, any investigative or law enforcement officer who conducts a search and seizure in violation of the fourth amendment to the Constitution shall be treated as if he were an 'employee of the government'.".

(b) The table of chapters for title 28, United States Code, and for part VI of title 28, United States Code, are each amended by inserting immediately after the item relating to chapter 171 the following:

"172. Illegal Search and Seizure ..... 2691".

SEC. 3. Section 1346 of title 28, United States Code, is amended by adding immediately after subsection (f) the following new subsection:

"(g) The district courts, together with the United States District Court for the District of the Canal Zone, the United States District for the Territory of Guam, the District Court for the Northern Mariana Islands, and the District Court of the Virgin Islands, shall have exclusive original jurisdiction of any civil action on a claim against the United States, for money damages, brought under chapter 172 of this title.".

SEC. 4. (a) Section 1402(b) of title 28, United States Code, is amended by inserting after "subsection (b)" the following: "or subsection (g)".

(b) Section 1504 of title 28, United States Code, is amended by striking "section 1346(b)" and inserting in lieu thereof "under subsection (b) or subsection (g) of section 1346".

SEC. 5. The civil action against the United States provided by the amendments to title 28, United States Code, made by this Act shall apply only to claims arising on or after the date of enactment of this Act.

By Mr. HATCH:

S. 284. A bill to amend title 18 to limit the insanity defense and to establish a verdict of not guilty only by reason of insanity; to the Committee on the Judiciary.

LIMITING THE INSANITY DEFENSE

Mr. HATCH. Mr. President, in the wake of extensive media coverage of the Hinckley assassination attempt and trial, the public outcry for changes in the insanity defense has been clear and sustained. Few aspects of criminal law, in recent memory, have provoked as much criticism of our courts and judicial system as has the use of the insanity defense.

Generations of Federal judges have struggled to define the circumstances under which mentally abnormal offenders should be held responsible for their conduct, without notable success. As Dr. Abraham Halpern, the distinguished psychiatrist, has noted: "Insanity has come to mean anything anybody wants it to mean."

The traditional insanity defense is both a legal anachronism and a concept ill-suited to modern psychological theory. It presents issues—important issues—that are not susceptible of intelligent resolution in the courtroom environment. Trials in which the insanity defense has been raised have often degenerated into swearing contests between opposing teams of expert witnesses, all of whom are forced to translate the language of the psychiatric profession into the quite alien language of the legal profession. It is this attempt to marry these two incompatible disciplines that has created the current confusion.

The insanity defense evolved principally as a means by which English jurists could avoid—in a legally rational manner—the discomfiture of condemning to death a felon who was so mentally deranged that his execution would affront ordinary moral sensibilities. As Lord Erskine stated in the earliest years of the 19th century, "Delu-

sion * * * is the true character of insanity." Individuals suffering in this manner could not truly be considered responsible in the legal sense.

Although the criminal law over the years substituted imprisonment and lesser penalties for capital punishment and substituted judicial discretion for mandatory penalties, the insanity defense, as an exception to the ordinary consequences of criminal conduct, survived the former strict legal requirements which it had been designed to avoid.

Congress has never enacted legislation on the insanity defense. Its development has largely been left to the courts, particularly the courts of appeals. The foundation of the present defense was laid down in *M'Naghten's* case (8 Eng. Rep. 718 House of Lords, 1843) in which it was stated:

To establish a defense on the ground of insanity, it must be clearly proved that at the time of the committing of the act, the party accused was laboring under such defect of reason, from disease of the mind, as not to know the nature and quality of the act he was doing or, if he did know it, he did not know he was doing what was wrong.

The so-called right-wrong test of insanity posited in M'Naghten has gradually, but steadily, been broadened over the years.

Most importantly, the M'Naghten test, a purely cognitive test was supplemented by a volitional test stating that an individual who could discern right from wrong, yet who, for reasons of mental disease, could not control his actions, could avail himself of the insanity defense. As it came to be known, the "irresistible impulse" rider to M'Naghten, inquired into whether an offender was able to restrain his actions once having been shown to appreciate the wrongness of such actions, see *Davis* v. *United States* (165 U.S. 373 (1897)).

The next stage of erosion in the insanity defense occurred in 1954 when the District of Columbia Circuit decided the case of *Durham* v. *United States* (214 F. 2d 862 (1954)). In that case, the court expanded the scope of the special insanity defense by declaring that—

An accused is not criminally responsible if his unlawful act was the product of mental disease or defect.

This opened any courtroom to a psychiatrist who might opine that a particular criminal act was somehow caused by what that particular expert witness considered a "mental disease or defect." After nearly two decades of struggling to define the terms of this rule, the District of Columbia Circuit adopted a formulation that had earlier been adopted in other circuits. This new test was derived from the American Law Institute's model penal code. This formulation was a two-pronged test—one prong devoted to the cognitive capacity of the accused, the other to the volitional capacity of the accused:

A person is not responsible for criminal conduct if at the time of such conduct as a result of mental disease or defect he lacks substantial capacity to appreciate the criminality of his conduct or to conform to the requirements of the law. Section 4.01 of proposed official draft, 1962.

It is this language that serves today as direction for the insanity defense in the Federal courts.

With widely divergent psychological theories on the origin of behavior, it is no wonder that standards like the ALI test become completely unmanageable when interpreted by different psychiatric experts representing opposing sides of a legal dispute. Even in the absence of the adversial context of the courtroom, psychiatrists wage academic wars over questions like what conduct is the result of mental disease or how individuals learn to appreciate the criminality of their conduct. Adding the courtroom atmosphere to the internecine conflicts of the field of psychology only complicates the jury's task of making fine legal distinctions. The unfortunate result of this confusion is that some individuals are able to avoid responsibility for committing heinous crimes by exploiting disagreements in the field of psychology. Perhaps this explains to some degree the reason that acquittals on the grounds of insanity have risen to more than 50 per year in New York State seven times the number in the late 1960's.

The current insanity defense has also become a "rich man's defense." Only the wealthy are able to pay a battery of expensive expert psychiatric witnesses from the best universities around the country to provide testimony likely to help exculpate the defendant. The hundreds of thousands of dollars spent on Hinckley's defense is an excellent case in point. Less well-to-do defendants, on the other hand, often lack the resources to hire experts to provide favorable testimony and must instead rely on court-appointed experts whose reports are available to both sides in litigation. This disparity of judicial treatment and result also argues strongly for change in the defense.

This brief introduction about the history of the special insanity defense sets the scene for our legislative task—finding a legislative solution for the unjust consequences of the lack of definition in current legal policy. Today I am introducing a bill to provide a foundation for our consideration of this vital topic. My legislation would add a new section to title 18 of the United States Code that would read as follows:

It shall be a defense to a prosecution under any Federal statute, that the defendant, as a result of mental disease or defect, lack the state of mind required as an element of the offense charged. Mental disease or defect does not otherwise constitute a defense.

This language has the effect of eliminating insanity as a special defense, but leaving in place the argument that a defendant could not be held criminally responsible because he lacked the capacity to form a wrongful intent, which itself is an element of serious criminal offenses. This demands a little more explanation.

Except for a few minor offenses—such as parking violations—there is no such thing as a crime per se. An act is not in and of itself criminal. For instance, any killing is not murder. A killing only becomes murder when each element of the carefully defined criminal offense is established in a court of law. These elements of a crime have developed over centuries of Anglo-American common law to define which individual acts endanger the safety and survival of the community and require society's intervention to protect itself. One of these elements is, in nearly every instance, the mens rea, or state-of-mind requirement. The current Federal code states that, "Murder is the unlawful killing of a human being with malice aforethought"—section 1111 of title 18 of the United States Code. The mens rea in this crime requires the prosecution to show that the defendant planned the killing in advance of executing it and did so with a wrongful motivation. Until a killer is found by a court to have demonstrated this mens rea, he is not a murderer subject to punishment for first degree murder.

My bill allows the introduction of evidence by a defendant to show that he did not possess the proper mens rea because of a mental disease or defect. In other words, a claim of insanity is only valid in a criminal proceeding to the degree that the defendant can show that his mental condition at the time of the purported crime negated the requisite state of mind requirement. In the case of first degree murder, the defendant might defeat the prosecution's case by showing that he did not possess adequate mental control or capacity to maliciously plan to kill. The jury's deliberations would be limited to the same deliberations undertaken in any criminal trial: Did the prosecution prove each element of the offense beyond a reasonable doubt?

The court would not become involved in a juridical circus with experts trying to convince the jury that the defendant could appreciate right and wrong—the M'Naghten rule—or that the defendant was subject to an "irresistable impulse"—Davis case addition to M'Naghten—or that the defendant's act was the product of mental disease and that the defendant was unable to conform his actions to the requirements of the law—ALI test.

Instead, the jury would make the same strictly legal judgment that juries have been making for centuries: Did the prosecution prove each element of the offense beyond a reasonable doubt?

Under this bill, the "insanity defense"—and I put that in quotes because strictly speaking there would be no "insanity defense" but only an argument by the defendant that the crime was not committed because one of its elements; namely, mens rea, was absent—would be confined to legal issues. The complexity of modern psychological theory with its unknowns would be irrelevant, except to the degree that these theories might shed some light on whether the defendant demonstrated a mens rea. In the words of Chief Justice Burger, who commented while still a circuit judge: "No rule of law can possibly be sound or workable which is dependent on the terms of another discipline whose members are in profound disagreement about what those terms mean"—*Campbell* v. *United States* (307 F. 2d 597, 612 (1962)). This bill makes contentions about the mental state of the defendant a question to be addressed within the legal terms of the state of mind requirements of any criminal offense.

Perhaps I should specifically address what this means about burdens. Centuries of criminal procedure would continue to dictate this course as well. The prosecution, of course, has the initial burden to demonstrate that each legal element is present in the act that is purported to be a crime. If it fails to show that each element is present, the defense could move for a directed verdict before it even presents its arguments and the court would be compelled by the law to dismiss the case. Once the prosecution has established that the elements are present, the defense makes its argument that one or more of the elements are not present based on the facts of the case. Each side gets one more chance to rehabilitate its contentions and undermine the other's arguments before the jury takes over. The jury must decide if the prosecution has established each element of the offense beyond any reasonable doubt.

Let us take the Hinckley case for an example. The prosecution presented probative evidence that Hinckley intended to kill the President—which Hinckley referred to as an "historic act" in a letter recovered after his arrest—and that he planned the killing in advance—Hinckley even went to the trouble to purchase special exploding bullets. Unless the defense could have shown that Hinckley's mental condition made it impossible for him to plan or to form an intent—facts which the defense did not contest—Hinckley would have been found guilty if this bill had been law in time for his trial. Instead Hinckley was allowed to contend that he "lacked substantial capacity to appreciate criminality * * * or to conform to the requirements of the law." The jury in Hinckley's trial was so baffled by the hours of psychiatric testimony that they acquitted him on this standard.

Current criminal procedure handles perfectly well the question of burdens of proof in criminal adjudications. We have no need to alter centuries of precedents on that subject. We need only confine the scope of the insanity defense to the mens rea requirements of any criminal offense. As I mentioned earlier, this means, in effect, that there will be no affirmative insanity defense. Instead the defendant will be able to argue that the crime was not committed because its state of mind element was not proven beyond a reasonable doubt. Since this bill, in effect, abolishes the insanity defense, neither the defendant nor the prosecution has the burden of proof.

Upon proof beyond a reasonable doubt that an individual committed the prohibited conduct with the required state of mind, the individual would be found guilty of the offense. At the time of sentencing, however, the court would hear whatever further psychiatric testimony was available to assist it in determining the conditions under which the defendant would be committed to a prison, mental hospital, or some other facility.

Further points in favor of this legislative approach are covered very concisely by a letter from the Attorney General endorsing on behalf of the Department of Justice an identical bill which I introduced in the last Congress:

> This proposed reform of the present insanity defense would strictly limit sanity issues which may be raised at trial to those bearing upon the one truly relevant mental element involved in every criminal prosecution: whether the defendant had the mens rea or legal state of mind necessary for the offense . . . Under the mens rea approach, psychiatric testimony to the effect that the defendant did not know right from wrong or was acting in response to an irresistible impulse would be irrelevant and inadmissible during the guilt determination phase of a criminal trial. Of course such evidence could be admitted during the sentencing stage if the defendant is found guilty.
>
> By limiting the insanity defense to the one truly legal issue, we would avoid the miscarriages of justice and the gross deviation from basic rules of semantics which occur when a defendant is found "not guilty by reason of insanity" even where it is clear that he committed the offense and had the requisite legal state of mind. This, we believe, is the cause of the recent public outrage over the verdict in the Hinckley case.
>
> Adoption of the mens rea approach would also avoid the unseemly "battle of psychiatric experts," the waste of judicial, prosecutorial, and medical resources and the unfairness arising from the present insanity procedure. On this last point, present law favors well-to-do over economically disadvantaged defendants. Furthermore, limitation of the insanity defense to the one legal issue—mens rea—avoids the necessity of further complicating the law by shifting burden of proof or by reducing the standard of proof; in fact, the government must always, under our constitution, bear the burden of proof beyond a reasonable doubt as to the state of mind element of every criminal offense.—Letter of Attorney General William F. Smith, July 1, 1982, 128 Cong. Rec. S7869.

Permit me, Mr. President, to review a number of reasons the Senate should undertake a comprehensive review of the current special insanity defense:

First, those individuals suffering the most serious forms of mental disabilities are unlikely to be criminally convicted under any circumstance. Such individuals will either be found incompetent to stand trial in the first place or continue to be acquitted under my bill's mens rea test. It is in the case of borderline sociopaths or antisocial personalities that this test differs from the American Law Institute and other tests.

Second, it has become very difficult to separate mental illness from environmental and economic conditioning, due to the determinist ideology of the 20th century. The objective of my bill is to keep the insanity defense an exception not a rule.

Third, the present insanity defense is an imprecise way for determining whether individuals ought to be institutionalized and, if so, to what type of institution. My proposed change would allow this question to be faced directly and explicitly by the court. Rather than focusing only upon some elusive and fluctuating concept of responsibility at the time of the offense, the focus would be upon insuring proper means of treatment of the underlying mental problem. Under the amendment, it is likely that the number of truly abnormal individuals assigned to traditional prisons would be reduced since the sentencing options of the sentencing judge would be increased. This would keep the jurisdiction of the case in the hands of the criminal court and not pass it on to the second-hand knowledge of civil authorities.

Fourth, the amendment would encourage more effective use of professional psychiatric resources, as well as legal resources. Highly trained psychiatrists and psychologists could devote more of their time as clinicians and advisers, not tying up their valuable talents in courtroom battles.

Fifth, the present insanity defense, it has been suggested, encourages juries to overlook the fundamental question of whether or not defendants may simply not be guilty by virtue of lacking in mens rea.

Finally, and in some respects the most important, the insanity tests, as they have become increasingly broad in application, have undermined significantly public respect for and confi-

dence in the criminal justice system as they have resulted in the release of individuals clearly dangerous to society.

I will not cite specific horror stories, but suffice it to say they are not difficult to identify. I am confident that each of us here is familiar with instances in which the present insanity defense has been abused, and, quite probably, in which acquitted individuals have wreaked further violence upon society. In the past several months alone, we have witnessed invocation of the defense in several highly celebrated trials, including those of former San Francisco City Supervisor Dan White and John Wayne Gacy in Chicago, and most recently John W. Hinckley, Jr.

Proponents of the insanity defense argue that there is no need to change the existing insanity defense laws, because criminal defendants plead insanity in only a small fraction of the cases around the country, but the number of such cases has been growing rapidly. In addition, the insanity defense, once invoked, almost exclusively in cases where the defendant was charged with murder, is now being used in trials for less serious offenses with increasing frequency. The most tragic example of this extension is surely the use of the insanity defense in cases of rape and child abuse, where repeated acquittal may be gained on grounds of insanity, for offenses which are generally held as crimes having high rates of recidivism and low rates of success in the ability to treat and cure those known to have a tendency to commit these offenses.

Mr. President, there are, in my opinion, few legislative acts in the area of criminal justice that this body can take that will do more to restore public confidence in our system than by reforming the present antiquated insanity defense.

The proposed bill would concentrate trial exploration of the defendant's mental state in the sole area in which it is legally meaningful—the evaluation of the necessary mens rea—while enabling the posttrial process to concentrate upon the question of disposition of the defendant, free from the artificial fetters of evidentiary rules.

This legislation would end the insanity charade that has demeaned the Federal courts for too long. It would establish an effective means by which offenders could appropriately be channeled into either the punitive-correctional system or the medical-legal system. Most importantly, it would insure that this determination took place in an environment that is suited for making it, rather than, as is presently the case, in an environment in which legal and psychiatric questions are confusingly and inappropriately intertwined.

There is among psychiatrists simply nothing that even remotely approaches a consensus on what constitutes insanity or on how such a condition is to be medically determined, much less legally determined.

To emphasize once more, the proposed reform of the insanity defense would promote better than any present insanity defense two objectives that are critical to a sound system of criminal justice: First, it would promote the integrity of the system, and promote protection of the community, by insuring that individuals who are found guilty of an offense with the requisite mens rea are treated as blameworthy criminals. Second, it would promote genuine promise of rehabilitation by allowing the court to focus upon their legal guilt. Nebulous and extraneous issues would be removed from the consideration of each of these questions. For these very important reasons, I strongly recommend that my colleagues support this most crucial proposal.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 285. A bill to designate the Bisti Badlands Wilderness in the State of New Mexico; to the Committee on Energy and Natural Resources.

BISTI BADLANDS WILDERNESS

● Mr. DOMENICI. Mr. President, today I introduce the Bisti Wilderness bill. It is a bill that establishes a small 3,900-acre wilderness area in New Mexico. In may not mean much to some in this Congress and some may feel it will be lost in the issue of larger wilderness areas in States like Wyoming, California, Oregon, and others.

But to those who would think that, I say, look again. This is a classic potential wilderness area conflict. It is one of the first Bureau of Land Management wilderness study areas. It had been withdrawn from wilderness consideration based on a ruling of the Interior Board of Land Appeal which was later implemented by Secretary of the Interior Jim Watt on a nationwide basis, only to be placed back into wilderness consideration by the Interior Department after discussions with Interior Department officials.

It is also a wilderness study area that is located in the midst of the largest coal producing area in New Mexico.

Here we can find classic protectionist versus development clashes. The San Juan basin, on the one hand, holds future energy development for the entire southwestern portion of our Nation. On the other hand, we can find archeological and cultural resources unmatched at any other location in the Nation.

This small wilderness area holds some of nature's most wonderful treasures. Obviously it needs the protection that wilderness designation will give it. However, at the same time, that designation will give this country and the agencies involved a chance to observe that development and preservation can go hand in hand if managed properly. I would further state that it seems to me if we can accomplish this in an area like the San Juan basin then we can end the public rancor that is caused by this thing called the wilderness issue. That is why this small wilderness bill in New Mexico is perhaps much more important than some would think at first glance.

The wilderness issue in itself is an issue of many truths and many fallacies. At times, we here in the Congress and in the public, for that matter, get so rapped up in the battle over this issue and the resulting politics that we forget what we are really talking about.

I would at this point like to quote a provision of the 1964 Wilderness Act and Federal Land Policy and Management Act:

Sec. 2. (c) A widderness, in contrast with thgse areas where man and his works dominate the landscape, is hereby recognized as an area where the earth and its community of life are untrammeled by man, where man himself is a visitor who does not remain. An area of wilderness is further defined to mean in the Act an area of undeveloped Federal land retaining its primeval character and influence, without permanent improvements or human habitation, which is protected and managed so as to preserve its natural conditions and which (1) generally of nature, with the imprint of man's work substantially unnoticeable; (2) has outstanding opportunities for solitude or a primitive and unconfined type of recreation; (3) has at least five thousand acres of land or is of sufficient size as to make practical its preservation and use in an unimpaired condition; and (4) may also contain ecological, geological or other features of scientific, educational, scenic, or historical values.

Sec. 603. (a) Within fifteen years after the date of approval of this Act, the Secretary shall review those roadless areas of five thousand acres or more and roadless islands of the public lands, identified during the inventory required by Section 201(a) of this Act as having wilderness characteristics described in the Wilderness Act of September 3, 1964 . . . and shall from time to time report to the President his recommendation as to the suitability or nonsuitability of each such area or island for preservation as wilderness: *Provided*, That prior to any recommendations for the designation of an area as wilderness the Secretary shall cause mineral surveys to be conducted by the Geological Survey and the Bureau of Mines to determine the mineral values, if any, that may be present in such areas. . . .

(c) During the period of review of such areas and until Congress has determined otherwise, the Secretary shall continue to manage such lands according to his authority under this act and other applicable law in a manner so as not to impair the suitability of such areas for preservation as wilderness, subject, however, to the continuation of existing mining and grazing uses and mineral leasing in the manner and degree in which the same was being conducted on the date of approval of this Act: Provided, That in managing the public lands the Secretary shall by regulation or otherwise take any action required to prevent unnecessary or

undue degradation of the lands and their resources or to afford environmental protection.

I am very supportive of the 1964 Wilderness Act, and even more so, because of the involvement of a very important man in the history of New Mexico, Senator Clinton B. Anderson, whose Senate seat is the one I now hold. I am also very supportive of the act because I feel that New Mexico is the home of the wilderness areas. We have the grandfather and grandmother of wilderness with the Gila and Pecos Wilderness Areas in New Mexico.

In my State of New Mexico, as I have pointed out earlier, we have a record second to none in establishing wilderness. At the same time, we have progressed as a State and continue to grow as a State because we have done both development and preservation at the expense of neither.

I am proud of our State's wilderness record and, as a matter of fact, I am proud of my record on wilderness for my State. I have been loudly criticized by some wilderness opponents and have been loudly criticized by some wilderness proponents. That fact alone should prove to me that we have probably arrived at a consensus of some sort on this issue in New Mexico.

I suspect that it may be the same as far as the Bisti legislation is concerned. I look forward to the speedy enactment of this legislation.

Along with the passage of the 1964 Wilderness Act, five areas in New Mexico were placed formally into the national wilderness system by Public Law 88-577. Those areas were the Gila Wilderness, 438,360 acres of national forest lands; Pecos Wilderness, 165,000 acres; San Pedro Parks Wilderness, 41,132 acres; Wheeler Park Wilderness, 6,051 acres; and the White Mountain Wilderness, 21,118 acres. The total acreage of national forest lands in New Mexico placed into wilderness designation was 678,661 acres.

That same law established three primitive areas totaling 435,424 acres in New Mexico and Arizona. They were the Gila Primitive Area, 129,630 acres; Black Range Primitive Area, 169,196 acres; and the Blue Range Primitive Area, 36,598 acres, both in New Mexico and Arizona.

The next major wilderness legislation impacting on Forest Service land in New Mexico came in 1978 when I sponsored a bill that became Public Law 95-237. This law added three new wilderness areas to New Mexico totaling 117,861 acres. The areas were in the Carson Forest in the Chama River Canyon Wilderness, 36,875 acres; the Manzano Wilderness in the Cibola Forest, 30,726 acres; and the Sandia Wilderness in the Cibola Forest, 30,726 acres.

The U.S. Park Service manages two wilderness areas in New Mexico totaling 56,392 acres. This includes the Carlsbad Caverns component of our national wilderness system which is 33,125 acres and was authorized by Congress on November 10, 1978, in Public Law 95-625. The second component in the wilderness system in New Mexico managed by the U.S. Park Service is the Bandalier which was authorized by Public Law 94-576 on October 20, 1976, and comprise approximately 23,267 acres.

The U.S. Fish and Wildlife Service also manages two areas which total 39,908 acres. They are the Salt Creek Wilderness area, 9,621 acres, authorized by Congress in 1970 by Public Law 91-504; and the Bosque Del Apache component of our national wilderness system totaling 39,908 acres and authorized by Congress on January 3, 1975, by Public Law 93-632.

Then in 1980 came what was the largest increase in the wilderness system since the inception of the Wilderness Act, the New Mexico RARE II legislation. This legislation, which became Public Law 96-550, added 12 additional areas to New Mexico wilderness designation in the U.S. Forest Service totaling 609,000 acres. It also placed into further study six additional areas totaling 116,670 acres. By 1985, the Forest Service will be reporting back their findings on those areas.

These 12 additions to the national wilderness system included the following: The Aldo Leopold Wilderness in the Gila Forest, 211,300 acres; the Apache Kid Wilderness in the Cibola Forest, 45,000 acres; the Blue Range Wilderness in the Gila and Apache Forest, 30,000 acres; the Capitan Mountain Wilderness in the Lincoln Forest, 34,000 acres; the Cruces Basin Wilderness in the Carson National Forest, 18,000 acres; the Dome Wilderness in the Santa Fe Forest, 5,200 acres; the Gila Wilderness additions in the Gila Forest 140,000 acres; the Latir Peak Wilderness in the Carson Forest, 120,000 acres; the Pecos Wilderness additions in the Carson and Santa Fe Forests, 55,000 acres; the Wheeler Peak in the Carson Forest, 14,700 acres; the White Mountain in the Lincoln Forest, 16,800 acres; and the Withington Wilderness in the Cibola Forest, 19,000 acres.

This public law which finished the RARE II process in New Mexico has become a model for other States in attempting to resolve their RARE II processes. The final act in the New Mexico forest system wilderness processes was rounded out in 1982 with the passage of S. 2405, the Elena Gallegos legislation, which allowed the Forest Service to acquire over 6,000 more acres in the Cibola Forest to round out the Sandia Wilderness which was created in 1978 by Public Law 95-237.

As I look back over my time in the U.S. Senate, I have added more wilderness areas to New Mexico than any other Senator before me. That does not mean anything particular regarding my views or actions but rather says that I have had the pleasure and the honor of representing my people in New Mexico during years that this important issue was the subject of considerable debate in the U.S. Senate and in the Halls of Congress.

The real people responsible for this are all of the citizens of New Mexico who took the time to participate in the RARE II process, who took the time to meet with my staff and the staffs of the other members of the New Mexico congressional delegation and who took the time to write or phone our offices to give us the perspective that was required to make these areas a reality. They are the ones that truly were responsible for these public laws and for the final designations. To those people I say thank you for allowing me to have the privilege to work with you on these issues of such importance to our past, our present and our future in New Mexico. And, to those people, I hope you will continue to take part in this process as we begin the BLM portion of wilderness planning in New Mexico. The Bisti bill is only the first step in a long and difficult process but, with the help of the citizens of New Mexico, we will again show that New Mexico can address these issues in a manner that benefits all of our people.

Mr. President, I ask unanimous consent that a background statement on this legislation be printed in the RECORD.

There being no objection, the material ordered to be printed in the RECORD, as follows:

HISTORY AND BACKGROUND

The Bisti, De-na-zin and Ah-shi-sle-pah Wilderness Study areas are located in northwestern New Mexico, south of the city of Farmington in the San Juan Basin. The San Juan Basin is the focal point of intense interest for the development of energy resources.

For years, portions of the WSA's have been recognized for their special features. Mushroom shaped rock formations, pinnacles and spires formed by erosive forces create a moonscape like appearance.

On November 28, 1979, the Bureau of Land Management State Director formally announced his final wilderness inventory decision for the State of New Mexico. In the decision he identified the Bisti, De-na-zin and Ah-shi-sle-pah as having characteristics which make them eligible to become Wilderness Study Areas.

Preliminary wilderness suitability and non-suitability recommendations for these WSA's were made when the State Director approved the Albuquerque District Manager's decision on the Chaco Planning Unit Management Framework Plan (MFP) in September 1981.

In December of 1982, the Bureau of Land Management published a Draft Environmental Impact Statement on the WSA's. A few weeks later, Secretary of the Interior Watt, implementing rulings of the Interior Board of Land Appeals, withdrew the Bisti

from the Wilderness review program because it was under 5,000 acres in size.

After consultation with my office and Interior Department Officials, the following day the Bisti was placed back in the wilderness review program under other legal authority available to the Secretary of the Interior.

That is a simple explanation of where we are today on the Bisti WSA. How we arrived at that point stems from the Federal Land Policy and Management Act (FLPMA) of 1976. In that Act, Congress gave the Bureau of Land Management a mandate to examine the wilderness potential of certain public lands administered by the BLM. Approximately 174 million acres in the contiguous Western States were subject to this wilderness inventory. The wilderness review provision of FLPMA, section 603, directs the BLM to conduct an inventory to identify all roadless areas of 5,000 acres or more and all roadless islands of any size that have characteristics as described in the Wilderness Act of 1964.

Once those areas and islands have been identified, they must be studied to determine whether each is suitable for preservation as wilderness, or is more suitable for other uses. The findings of these studies lead to recommendations through the Secretary of the Interior and the President to the Congress. The law requires the Secretary to report his recommendations from time to time and all areas must be reported on by October 21, 1991. The President must report to Congress on all areas by October 21, 1993. Only the Congress has authority to designate public lands as wilderness.

To carry out that mandate, the Bureau of Land Management developed a process consisting of three phases: wilderness inventory, wilderness studies and Reporting to Congress.

In the 14 Western States the wilderness inventory began in 1978 using criteria and procedures described by the BLM "Wilderness Inventory Handbook," dated September 27, 1978. The inventory consisted of two major steps. The first was a so-called "initial inventory", which was completed in December of 1979. Its purpose was to identify and eliminate from further consideration those public lands that clearly and obviously lacked wilderness characteristics. It was based on maps and other information already on file in BLM offices regarding roads, structures, man-made improvements and other developed items located on the land being inventories.

During this process there was very little extensive field work involved. Following the computation of this information, state BLM directors announced their proposed initial inventory decisions and asked for public comment before making a final decision.

The second step in this process of wilderness inventory was the intensive inventory which, for the most part, was completed in November of 1980. This portion of the process began in those areas not readily apparent whether or not the area lacked wilderness characteristics. The purpose at this point became one of sorting the remaining land into two categories: (1) lands which were already identified as having wilderness characteristics and should, therefore, be identified as wilderness study areas and (2) those lands which it was determined lack wilderness characteristics and, therefore, would not be considered further.

The criteria used in the intensive inventory were also applied ahead of the regular inventory schedule on certain public lands in the West. This was done in connection with particular proposed projects or areas of development interest, such as the proposed Intermountain Power Project and the Overthrust Belt. The final decisions resulting from such special inventories were previously announced by the BLM State Directors. As a result of all these efforts, approximately 12 million acres had been identified as wilderness study areas prior to November 14, 1980, and approximately 126 million acres had been determined to lack wilderness characteristics.

The term "wilderness characteristics" used above refers to the following factors which must be present for public lands to be identified as a wilderness area:

1. Size. The area must have at least 5,000 contiguous roadless acres. Roadless islands may be of smaller size. (Smaller roadless areas may also be considered under special circumstances described in the "Wilderness Inventory Handbook.") The definition of "roadless" used by the BLM was drawn from the legislative history of the Federal Land Policy and Management Act, as follows: "The word 'roadless' refers to the absence of roads which have been improved and maintained by mechanical means to insure relatively regular and contifuous use. A way maintained solely by the passage of vehicles does not constitute a road."

2. Naturalness. The area must generally appear to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable.

3. Outstanding Opportunities. The area must have either outstanding opportunities for solitude, or outstanding opportunities for a primitive and unconfined type of recreation.

On November 14, 1980, BLM State Directors announced final intensive inventory decisions on approximately 36 million acres of public lands.

As a result of all wilderness efforts, BLM State Directors issued final decisions identifying 919 areas, continuing 23,772,000 acres, as wilderness study areas. Their decisions also identify 149,262,000 acres as lacking wilderness characteristics; these were not considered further in the wilderness review.

The final decisions issued were subject to protest and appeal, so later there were changes in acreage as a result of decisions on protests and appeals.

The public has made very effective contributions to the completion of the wilderness inventory. First, the public commented upon the Bureau's draft inventory criteria and procedures, and these comments were used in developing the "Wilderness Inventory Handbook." Then, during the inventory itself, each inventory decision was made only after an opportunity for public review and comment. There was active participation by the public, and the information provided was used by BLM State Directors in reaching their inventory decisions. The Bureau greatly appreciates the efforts devoted to the wilderness inventory by the public.

Each wilderness study area identified as a result of the wilderness inventory is now the subject of a wilderness study, in which the BLM land-use planning system will be used to analyze all the values, resources, and uses—both existing and potential—of the WSA. The public has been invited to participate, as it is in all BLM planning. The central question of the wilderness study is whether the area is suitable for preservation as wilderness, or more suitable for other resource uses.

The end product of the wilderness study will be a recommendation submitted through the Secretary of the Interior and the President to Congress as to whether the area is suitable or nonsuitable for preservation as wilderness. For any area recommended as "suitable," a mineral survey must be conducted by the U.S. Geological Survey and Bureau of Mines to determine the mineral values, if any, that may be present.

Under FLPMA, recommendations on all wilderness study areas must reach the President no later than October 21, 1991, and must reach Congress by October 21, 1993. The Bureau intends to complete all the studies and submit recommendations through the Secretary to the President as quickly as possible, prior to the statutory deadline.●

● Mr. BINGAMAN. Mr. President, I am pleased to join my distinguished colleague from New Mexico, Senator DOMENICI, in sponsoring the Bisti Badlands Wilderness Act. This bill will protect 3,968 acres in northwestern New Mexico known as the "Bisti Badlands." This area is one of New Mexico's most unique natural resources with archaeological and scenic value. I look forward to hearing from all interested parties concerning this bill and any other legislative initiatives that may be needed to insure that our wilderness areas are protected.●

By Mr. EXON (for himself, Mr. FORD, Mr. HEFLIN, and Mr. PRESSLER):

S. 286. A bill to promote interstate commerce by regulating the contractual arrangements between suppliers and retailers in the office machine and equipment industry, and for other purposes; to the Committee on Commerce, Science, and Transportation.

OFFICE MACHINE AND EQUIPMENT DEALERS ACT

● Mr. EXON. Mr. President, near the beginning of the 97th Congress, I informed the Senate of a problem which threatened a most important sector of our economy, the small business community. In cities and towns across the United States, independent dealers in the office machine and equipment industry have become the principal channel for businesses and consumers to gain access to increasingly sophisticated office products. Today, there are some 30,000 small dealers in this country whose primary income is derived from marketing and servicing typewriters, photocopiers, electronic cash registers and calculators, word processing equipment, and computers.

Unfortunately, Mr. President, a stagnant economy, coupled with large, primarily foreign, suppliers which have abused their dealers, has served to undermine the very credibility of these dealers in a fierce and highly competitive marketplace. A bad situation has been made worse by the fact that the suppliers who most often treat the small business members of their dealer network unfairly and inequitably are Japanese companies.

This problem of unfair treatment and abusive marketing practices must be resolved. I am today introducing the Office Machine and Equipment Dealers Act which seeks to address these serioius inequities. The purpose of the bill is to strengthen the position of the small office machine dealer by mandating that all dealings with him be ruled by fairness and equity. This bill would effectively remove the threat to dealers of large, primarily foreign, suppliers whose predatory actions have been responsible for countless bankruptcies and financial loss in this high-tech, service-oriented industry.

The tendency of the few remaining American manufacturers to sell primarily through their own sales forces has forced many independent dealers to depend on foreign manufacturers for products, parts, and supplies. As a result, the dealers have at best limited bargaining power with such corporate giants as Sharp, Canon, Minolta, Toshiba, Olympia, and Olivetti.

During the last Congress, I introduced similar legislation giving dealers a reasonable remedy through the courts for disputes arising from the contractual rights and obligations of dealers and their suppliers. This legislation was aimed at righting the imbalance created by the dealer's dependency on foreign products, which had the effect of putting the dealer at the mercy of his supplier throughout the life of the contractual arrangement. Testimony before two Senate committees in the 97th Congress is replete with dealers who have discovered that their rights were not protected by these unbalanced contracts, after all. Conspicuous among the unfair practices often mentioned were arbitrary contract terminations, unrealistically high sales quotas, false product claims by manufacturers, unexpected market saturation by new dealers, and lack of compensation for abrupt contract cancellations without cause. The abused dealer is powerless to resolve his predicament via arbitration, and unprotected contractually, to obtain a remedy in court. The Office Machine and Equipment Dealers Act is designed to fill the gap in current law by providing the dealer with a tool to deter unfair marketing and trade practices. It will also help mold a new set of standards in an industry characterized by exponential growth, but in a manner that will not impede that growth.

Mr. President, I would like to conclude with a few comments regarding the impact of the Japanese on our economy. The statement in the area of trade made by Japanese Prime Minister Nakasone during his recent visit to our country has encouraged this Senator to emphatically declare that specific actions by Congress will be necessary to deal with the United States-Japan trade problems. A priority is to stop unfair commercial practices that in some cases may increase foreign sales to the United States at the expense of competitive U.S. products. Imports of Japanese office equipment and related products approached $2 billion in 1982. Independent dealers, who have had to look to Japan and other foreign countries for sources of supply, up to 70 percent of their inventory, have served as retail outlets for a substantial portion of these imported goods. They have had no other choice.

In the case of photocopiers, the Japanese entry into the U.S. market in the mid-1970's was a direct result of a void created by the industry giants. Small businesses could not afford large-volume, high-cost copying machines for their minimal use. Realizing this vacuum, the Japanese firms began developing attractive, low-cost machines for small volume use. These machines with flashing lights, pretty colors, and fancy buttons flooded this country before their designs had even dried on the drafting tables. Product testing was to be done in the end-user's establishment. The dealers, recognizing the market for low-cost, low-volume machines among their customers, quickly snapped up the products and began marketing them. The dollar figures mentioned above prove the success of these sales efforts, despite the unreliability of the products, which became apparent later on. The foreign firms looked to the independent dealer as a low-cost, existing marketing arm in the United States who had previously demonstrated his abilities with typewriters and calculators. In addition, dealers had already established service organizations, an extremely costly venture for a foreign manufacturer.

In summary, Mr. President, the asset position which the Japanese manufacturer so firmly and so quickly established in the U.S. marketplace has been accomplished by means of a unique combination of product innovation, rapid introduction of products into the market, competitive pricing, and aggressive marketing by the independent dealer The resulting dependence on foreign products without alternative sources of supply has given the manufacturer an inordinate bargaining power. Herein lies the problem I bring, once again, to the attention of my colleagues in the Senate.

Both individually and through their trade association, the National Office Machine Dealers Association (NOMDA), the dealers have sought remedies to these serious problems. They include good-faith negotiations directly with the suppliers in Japan as well as in this country; attempts to diversify their product lines to escape the heavy hand of foreign companies, in vain; lawsuits based on inappropriate statutes; and finally a legislative remedy through the Congress.

Mr. President, this country must do something to preserve and strengthen the small office machine dealer. The Office Machine and Equipment Dealers Act would afford a dealer a just remedy through the Federal courts to deal with abuses arising out of the dealership agreement. It would impose a standard of good faith on dealers and manufacturers alike and require that each act in a fair and equitable manner toward the other. The bill could allow dealers and manufacturers to bargain more equally in the negotiation of sales quotas and other terms in dealer-supplier contracts. It would enhance communications between dealers and manufacturers. Finally, it would give manufacturers an incentive to work out problems with dealers directly, via arbitration if necessary, rather than to seek to resolve them through a costly court suit.

Mr. President, I ask unanimous consent that the contents of this legislation be printed in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 286

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That this Act may be cited as the "Office Machine and Equipment Dealers' Act.

DEFINITIONS

SEC. 2. For purposes of this Act, the term—

(1) "commerce" means commerce—

(A) within the United States;

(B) between the United States and a foreign nation;

(C) in any territory of the United States, among the territories, or between any territory and any State or foreign nation; or

(D) in the District of Columbia, or between the District of Columbia or any State, territory or foreign nation;

(2) "dealer" means any person, corporation, partnership, or other form of business enterprise resident in the United States or in any territory of the United States, operating under the terms of a dealer agreement and primarily engaged in the business of selling any office product of a supplier to an end-user of such office product, except that such term does not include a franchisee;

(3) "dealer agreement" means any written or oral agreement or contract between any supplier engaged in commerce and any dealer which purports to fix the legal rights and liabilities of the parties to such agreement or contract for a definite or indefinite period;

(4) "distributor" means any person, corporation, partnership, or other form of business enterprise engaged in the sale, consignment, exchange, or any other form of transfer of an office product which it manufactures, assembles, constructs, creates, or obtains in any manner from a manufacturer;

(5) "franchise" means a contract or agreement, either expressed or implied, whether oral or written, between two or more persons by which—

(A) a franchisee is granted the right to engage in the business of offering, selling, or distributing goods or services under a marketing plan or system prescribed or suggested in substantial part by a franchisor;

(B) the operation of the business of the franchisee under such plan or system is substantially associated with the trademark, service mark, trade name, logotype, advertising, or other commercial symbol of the franchisor designating the franchisor or its affiliates; and

(C) the person granted the right to engage in such business is required to pay, directly or indirectly, a franchise fee of $100 or more;

(6) "franchisee" means a person to whom a franchise is granted, or has been granted, or who participates in a franchise relationship as a franchisee;

(7) "franchisor" means a person who grants a franchise or who participates in a franchise relationship as a franchisor;

(8) "good faith" means the duty of each party to any dealer agreement, and all officers, employees, agents, or other representatives of any such party, to act in a fair, equitable manner toward each other so as to provide each party freedom from coercion, intimidation, threats of coercion or intimidation, fraud, or unconscionable conduct by the other party, except that reasonable recommendation, endorsement, exposition, persuasion, urging, or argument shall not be deemed to constitute lack of good faith;

(9) "manufacturer" means any person, corporation partnership, or other form of business enterprise engaged in the sale, consignment, exchange, or any other form of transfer of an office product which it manufactures, assembles, constructs or creates;

(10) "office product" and "product" mean any physical object or office machine software which is designed primarily for use in an office environment and which has a retail price greater than $100 per item, except that such term does not include—

(A) carpets, chairs, couches, dental equipment, desks, dividers, draperies, lighting or lighting fixtures, medical equipment, office accessories, plants, sofas, stands, storage systems, tables, telecommunications equipment, or textile products; or

(B) furniture designed specifically for integrated use with office machines;

(11) "supplier" means a manufacturer, distributor, or wholesaler engaged in commerce who enters into a dealer agreement with a dealer in order to supply the dealer with an office product, except that such term does not include a franchisor;

(12) "United States" means the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands; and

(13) "wholesaler" means any person, corporation, partnership, or other form of business enterprise engaged in the sale, consignment, exchange, or any other form of transfer primarily to a dealer of an office product which it obtains from a manufacturer or distributor.

TITLE I—CONTRACTS BETWEEN DEALERS AND SUPPLIERS

DUTIES OF SUPPLIER

SEC. 101. Any supplier who enters into a dealer agreement with a dealer shall—

(1) act in good faith in presenting, describing, or negotiating the terms or provisions of the dealer agreement to the dealer;

(2) act in good faith in performing or complying with any term or provision of the dealer agreement;

(3) furnish the dealer with any office product, or with any part, reference manual, or schematic related to an office product, on a timely basis;

(4) act in good faith in terminating, cancelling, or refusing to renew the dealer agreement and, when applicable, comply with the procedures set out in title II of this Act;

(5) if the dealer agreement stipulates, provide sixty days notice to the dealer when establishing a new dealership in the market area of the dealer; however, such notice is not required where the dealer agreement does not specifically define the market area;

(6) allow the dealer or prospective dealer the right to be accompanied by counsel or a personal representative to any meeting between the parties for the purpose of discussing any matter regarding the dealership or proposed dealer agreement; and

(7) allow the dealer the right of free association with other dealers for any lawful purpose.

TITLE II—PROCEDURES FOR TERMINATION

TERMINATION

SEC. 201. (a) A supplier may terminate a dealer agreement which contains a specified expiration date before such date, or terminate at any time a dealer agreement which does not contain a specified expiration date, by offering the dealer involved fair and reasonable compensation for the value to the dealership of the dealer agreement, including a reasonable amount for goodwill. Such offer shall be made in writing not less than sixty days before the intended date of termination. This subsection shall not apply to the termination of a dealer agreement for just, good or significant cause.

(b) A dealer agreement which does not contain a specified expiration date or is terminated prior to such date may contain a provision requiring the parties to submit to binding arbitration with regard to the amount of fair and reasonable compensation for the value to the dealership of the dealer agreement, including a reasonable amount for goodwill. In the absence of such a provision, the parties to an existing dealer agreement may agree in writing to settle their dispute regarding such compensation by arbitration. Any such provision or agreement shall be valid, irrevocable, and enforceable, except for any grounds that exist at law or in equity for revocation of a contract.

(c) Arbitration of such disputes, awards by arbitrators and confirmation of awards shall be governed by title 9, United States Code, to the extent that such title is not inconsistent with this section.

(d) An award by an arbitrator under this section shall be final and binding between the parties to the arbitration, but shall have no force or effect on any other person.

(e) Notice of the filing of any request for arbitration under this section shall be served upon the supplier involved, and such supplier shall not terminate or enforce the termination of a dealer agreement pending the outcome of such proceeding. The arbitrator shall award reasonable attorney fees and the cost of the proceeding to the prevailing party in any arbitration under this section.

TITLE III—MISCELLANEOUS PROVISIONS

PROCEDURAL REQUIREMENTS

SEC. 301. (a) Any party affected by a violation of the provisions of this Act may bring an action for damages, injunctive relief, or other equitable relief in any district court of the United States in the district in which the supplier resides, is found, has an agent, or does business.

(b) Except as otherwise provided in this Act, an action arising out of any provision of this Act shall be commenced not later than two years after the date a dealer discovered, or in the exercise of reasonable care should have discovered, that a violation had occurred. If a supplier conceals the cause of action from the knowledge of the person or entity entitled to bring such action, the period before the discovery of the cause of action by such person or entity shall be excluded in determining the time limit for the commencement of the action.

(c) The prevailing party in any action under this section shall be awarded reasonable attorneys, fees and costs.

WAIVER PROHIBITED

SEC. 302. Any condition, stipulation, or provision purporting to bind any dealer or person acquiring any dealership to waiver of compliance with any provision of this Act is void.

ANTITRUST LAWS

SEC. 303. Nothing in this Act shall be construed to repeal, modify, or supersede, directly or indirectly, any provision of the Sherman Act (15 U.S.C. 1 et seq.), the Clayton Act (15 U.S.C. 12 et seq.), the Federal Trade Commission Act (15 U.S.C. 41 et seq.), or any State antitrust law.

EFFECT ON STATE LAW

SEC. 304. Nothing in this Act shall supersede the right of any State to enact or enforce any law which provides additional or stronger standards, criteria, or remedies than those provided in this Act.

EFFECTIVE DATE

SEC. 305. The provisions of this Act shall take effect on the date of enactment of this Act, and shall apply to dealer agreements entered into on or after such date.●

By Mr. LAXALT (for himself and Mr. HECHT):

S. 288. A bill to provide for the reimbursement of certain Indian tribes for expenses incurred by such tribes for community impact planning activities related to planning for the then potential deployment of the MX missile system; to the Committee on Armed Services.

IMPACT PLANNING ACTIVITIES FOR MX DEPLOYMENT

● Mr. LAXALT. Mr. President, for myself and my distinguished colleague, Senator HECHT, I introduce for appropriate reference a bill which will authorize Indian tribes to participate in the MX planning program provided in Public Law 96-418, the Military Construction Authorization Act of 1981.

Indian communities in southern Nevada and southern Utah would have been impacted by the missile sites proposed for the MX multiple protective shelter program. These communities

expended thousands of dollars in an effort to plan for the introduction of the MX missile system and to mitigate the adverse impacts. These legitimate expenses were incurred because of the policies of the Federal Government. While non-Indian local governments have been reimbursed for those planning expenses, the Indian communities have been forced to absorb their expenses because of the unfortunate interpretation read into the Military Construction Authorization Act by the Air Force that tribes are not eligible to participate in this program. I can assure you, Mr. President, that the Indian communities are the least able, financially, to absorb such expenses.

Mr. President, the need has been documented, and I feel these communities should not be denied simply because of what I feel was an oversight of the Congress in the Military Construction Authorization Act.●

By Mr. GLENN (for himself, Mr. HOLLINGS, Mr. PELL, and Mr. BAUCUS):

S. 289. A bill to authorize an educational assistance program which will provide low-cost loans to college students who pursue mathematics and science baccalaureate degrees and enter the precollege mathematics and science teaching profession, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. GLENN (for himself, Mr. HOLLINGS, and Mr. PELL):

S. 290. A bill to amend the Internal Revenue Code of 1954 to allow a credit to certain employers for compensation paid to employees with precollege mathematics or science teaching certificates who are employed for the summer months by such employers or who are employees who teach a limited number of hours; to the Committee on Finance.

PRECOLLEGE MATHMATICS AND SCIENCE TEACHER ASSISTANCE ACT

● Mr. GLENN. Mr. President, on behalf of myself and my distinguished colleagues, Senators HOLLINGS, PELL, and BAUCUS, I rise to introduce two bills, the first of which is the Precollege Mathematics and Science Teacher Assistance Act. Mr. President, all of us are deeply concerned about the problem of decline in the quality and quantity of precollege education in the field of science and mathematics. This is a problem that could have a profound impact on our economy, our national security, and our ability to compete effectively with the other industrialized nations in the world. It is therefore a problem that affects every American.

The facts are sobering. The much heavier emphasis on science and mathematics in the primary and secondary schools in Germany, Japan, and the Soviet Union are producing graduates who are much better prepared than graduates of American high schools to deal with technical matters and to enter the technical work force.

Yet, at the very time when it is becoming more and more apparent that we have a serious problem in this area, the Federal Government, instead of moving ahead with programs and support to bolster the educational system and to meet our needs is retreating in its effort to help upgrade the quality of American science education. Funds for the Science Education Division of the National Science Foundation for fiscal year 1983 were targeted for elimination by the administration. Although the Congress prevented that from happening, the Director of NSF disestablished the Science Education Division.

In my view, nothing short of a statutorily mandated effort by the Federal Government to deal with this problem will do. Action is needed if we are to halt the erosion of our store of human and educational resources that have made America the great Nation it is. We must make the investment and the effort to produce the technical, scientific, and engineering manpower that we are surely going to need in great numbers in the future, and we must close the widening gap between the public understanding of science and technology and the requirements of citizenship in a participatory democracy.

The area of precollege science and mathematics education is one of the most important areas on which to focus this effort.

Accordingly, Mr. President, the first of the two bills I am introducing today, the Precollege Mathematics and Science Teacher Assistance Act, provides a mechanism for alleviating the present and projected severe shortage of science and math educators. It does this in the following way:

The bill amends title IV of the Higher Education Act of 1965 by authorizing the Secretary of Education to establish, through the universities, funds for making low-interest—7 percent annually—loans to college students who pursue math or science degrees and who intend to enter the precollege mathematics and science teaching profession. Funds for this purpose will be made available to institutions taking into consideration the actual cost of attendance at that institution and the financial ability of eligible students to meet the cost of attendance. Such loans will be repayable in accordance with a prespecified schedule except that the student may have 25 percent of the total principal and associated interest canceled for each year of full-time service as a teacher of science or mathematics in an elementary or secondary school. Such service must begin within 1 year after receiving certification as a teacher or not later than 3 years after receiving a baccalaureate degree with a science or mathematics major.

Mr. President, this bill has been endorsed by many organizations in the field of education. I wish to mention in particular the National Science Teachers Association, the National Council of Teachers of Mathematics, the American Association of Colleges of Teacher Education, the American Association of Colleges and Universities, and the Association for Supervision and Curriculum Development.

It is important to understand that this bill, if enacted, would not be a great burden on the U.S. Treasury. I have received an informal estimate of cost from the Congressional Budget Office which is based on an assumption that the maximum demand under the bill will be for loans for 24,000 students. Assuming the phasein of 25 percent per year from now until fiscal year 1987, the bill would require authorizations of $12 million in fiscal year 1984; $25 million in fiscal year 1985; $40 million in fiscal year 1986; and $57 million in fiscal year 1987. From fiscal year 1987 until fiscal year 1993, when all funding for the program comes to an end, authorizations will rise only slightly. Actual outlays will be much lower than these authorizations starting from $1 million in fiscal year 1984; $12 million in fiscal year 1985; $25 million in fiscal year 1986; $40 million in fiscal year 1987; $57 million in fiscal year 1988, with only slight rises from here for the remaining years of the program.

Mr. President, this is clearly an affordable bill, it addresses a need that reached critical proportions and I urge the support of my colleagues for it.

ON THE MATH AND SCIENCE EDUCATION ACT

Mr. President, the second bill I am introducing today on behalf of myself and Senators HOLLINGS and PELL is the Math and Science Education Act.

Mr. President, among the reasons for the decline in the number and quality of science and mathematics teachers in our primary and secondary school systems is the low remuneration attached to this important service to our children and our community. Many science and math teachers are leaving the school system for employment in the private sector. There is difficulty in finding summer employment that would provide sufficient additional income to allow our science and math teachers to stay within the school system. The bill I am introducing, the Math and Science Education Act, addresses the issue of providing opportunities for math and science teachers to increase their annual income through summer employment, and also addresses the issue of bringing back into the classroom some of the teachers who have left the system for private employment.

I believe, Mr. President, that private sector employers recognize the problem and would like to help their communities to improve the educational services available to their public school children. I believe also that we in Government should extend a helping hand to the private sector to encourage cooperative efforts with public school systems around the Nation to deal with educational problems.

Accordingly, Mr. President, the Math and Science Education Act provides for a tax credit to any firm that employs a certified full-time, precollege mathematics and science teacher for the summer as long as the employment will provide such teacher with experience in the applied use of high technology. The tax credit is available if the weekly rate of compensation paid to the employee equals or exceeds the weekly rate of the employee's teaching salary during the school year.

In addition to the aforementioned tax credit, this legislation provides for a tax credit to be available to any firm that allows a full-time employee time off, in response to a request from school district administrators for the purpose of teaching science or mathematics at a public school. The employee must be given at least 10 hours off per week—at least 5 hours of which must be spent in actual instruction in a classroom.

Mr. President, I believe the bills I am introducing today, if enacted, would help alleviate the great deficiencies which we are experiencing today in precollege science and math education, and I urge the support of my colleagues for them. Both bills are strongly supported by the National Science Teachers Association, the National Council of Teachers of Mathematics, the American Association of Colleges of Teacher Education, the American Association of Colleges and Universities, and the Association for Supervision and Curriculum Development.●

By Mr. DANFORTH (for himself, Mr. EAGLETON, and Mr. SARBANES):

S. 291. A bill to amend the Natural Gas Policy Act of 1978 to prohibit take-or-pay clauses, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DANFORTH (for himself, Mr. EAGLETON, Mr. SARBANES, Mr. RIEGLE, and Mr. HEINZ):

S. 292. A bill to increase the funding authorization for low-income home energy assistance; to the Committee on Labor and Human Resources.

NATURAL GAS LEGISLATION

● Mr. DANFORTH. Mr. President, I am joining today with my colleague from Missouri and others in introducing a three-part legislative package on natural gas, a package that is substantially similar to the one we introduced last month in the closing days of the 97th Congress.

The price of natural gas has been rising rapidly throughout the country—particularly in Missouri. A national average increase of more than 25 percent disguises scattered increases that are much larger—increases that are causing real hardship to anyone on a limited budget. To cite but one example, the price of 1,000 cubic feet of gas for customers of the Gas Service Co. in Kansas City, Mo., was $1.60 in 1978, when the Natural Gas Policy Act was passed. By 1981, that price had more than doubled, to $3.24. By January of this year, the price had risen to $5.34—an increase of more than 35 percent from January 1982, more than 3½ times the price in 1978.

Such increases proclaim a market that is disastrously out of kilter. At a time when the national economy is staggering through a recession, at a time of high unemployment, at a time of falling oil prices, the price of natural gas continues to rise despite excess supply and decreasing demand. This pernicious stiuation should not be allowed to continue.

We propose today to halt for 2 years the steady upward march of the price ceilings contained in the Natural Gas Policy Act of 1978. This escalation was designed to provide a gradual path to deregulation in 1985 and to minimize the impact on consumers. But the increases have been much more severe than anticipated in 1978, and relief is needed now.

One of the key reasons relief is needed is that contract clauses agreed to by producers and pipelines are preventing the market from responding to changes in conditions. When supplies were short, pipelines were willing to enter into contracts with high take-or-pay clauses and with indefinite price escalator clauses in order to assure that they would have enough natural gas for the next 20 or 30 years.

Little did the pipelines realize that they would not have a market for the gas they were buying. As demand has dropped because of rising prices, the pipelines find themselves in the position of having to buy high-priced gas because of take-or-pay obligations while gas that costs one-tenth as much goes begging. This market distortion is devastating consumers in western Missouri and elsewhere and cannot be permitted to continue.

The effect of take-or-pay contract clauses is not limited to the direct cost to consumers. As natural gas increasingly is driven into an uncompetitive position with fuel oil, customers are switching away. This increases our reliance on imported oil, which is contrary to national policy. It also shifts the fixed costs of pipelines and distribution companies onto a smaller number of customers—further driving up costs and reducing demand again. If the price of oil continues to fall, as the recent OPEC conference suggests it might, this problem could reach crisis proportions.

Indefinite price escalators are a time bomb waiting for the arrival of deregulation. At that time, natural gas prices will soar to artificial levels linked to predetermined prices of fuel oil or gas in other fields. This is no way for a market to operate. The whole point of deregulation is to free up price competition, not to stifle it. Such clauses must be eradicated before prices are set loose.

The legislation we are introducing today would eliminate take-or-pay and indefinite price escalator clauses, with exceptions to be permitted by the Federal Energy Regulatory Commission under certain narrowly defined circumstances. The Commission also would be given the authority to reject pipeline requests for cost reimbursement under purchased gas adjustment filings if those costs were imprudently incurred—that is, if the pipeline was not taking all reasonable steps to acquire the least-cost mix of gas. Enactment of this legislation could lead to substantial immediate price rollbacks.

We also are introducing today a bill to increase the authorization for low-income energy assistance from $1.875 billion to $2.5 billion for the 1983 and 1984 fiscal years. In December, the Congress approved a 1983 appropriation level of $1.975 billion, but a supplemental appropriation may be needed this winter. We should take the necessary steps now to insure that enough money will be available to meet the needs of those who truly are unable to keep their homes adequately heated.

Mr. President, much discussion of these points occurred in December, and much more will occur later this year. For now, I just want to emphasize to my colleagues that inaction is not an acceptable solution. The pocketbooks of this Nation's consumers are hemorrhaging with unnecessary and excessive natural gas costs; our job is to stop the bleeding. Natural gas legislation must be a top priority of the 98th Congress.

Mr. President, I ask unanimous consent that the texts of the bills we are introducing today be printed in the RECORD at the conclusion of my remarks.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 291

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subtitle A of title I of the Natural Gas Policy Act of 1978 is amended by adding at the end thereof the following:

"Sec. 112. Suspension of Certain Price Related Contractual Provisions.

"(a) Notwithstanding any other provision of law and except as provided in subsection (b), beginning on the date of enactment of this section, any provision of any contract for the first sale of natural gas which—

"(1) has the effect of requiring the purchaser to make payment to the seller if gas volumes tendered by the seller under the contract are not taken by the purchaser; or

"(2) provides for an indefinite price escalator clause as defined in section 105(b)(3)(B) of this Act,

shall be suspended and of no force or effect.

(b) Upon application made by purchaser or seller, the Commission may, after notice and, when the Commission deems it appropriate, an evidentiary hearing, by order reinstate such contractual arrangements, or any modification thereof found by the Commission to be consistent with the public interest, to become effective if the Commission finds—

"(1) that such contractual arrangements were made before the date of enactment of this section; and

"(2) that permitting such contractual arrangements, or a modification approved by the Commission, to become effective is necessary either—

"(A) to prevent a default by seller under a loan agreement or debt instrument in effect on the date of enactment of this section; or

"(B) because of field drainage requirements of similar reasons.

Any reinstatement or modification under clause (2) shall be granted only to the extent necessary to satisfy the requirements of such clause.".

(b) The table of contents for subtitle A of title I of the Natural Gas Policy Act of 1978 is amended by adding at the end thereof the following:

"Sec. 112. Suspension of Certain Price Related Contractual Provisions.".

SEC. 2. Subsection (c)(2) of section 601 of title VI of the Natural Gas Policy Act of 1978 is amended by inserting "imprudence (including failure to exercise all due prudence in securing the least-cost mix of gas)," immediately after "abuse,".

S. 292

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2602(b) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 8621(b)) is amended by striking out "$1,875,000,000 for each of the fiscal years 1982, 1983, and 1984" and inserting in lieu thereof "$1,875,000,000 for fiscal year 1982, and $2,500,000,000 for each of the fiscal years 1983 and 1984".●

By Mr. EAGLETON (for himself, Mr. DANFORTH, and Mr. SARBANES):

S. 293. A bill to amend the Natural Gas Policy Act of 1978 to prohibit increases in the wellhead prices of natural gas, and for other purposes; to the Committee on Energy and Natural Resources.

NATURAL GAS PRICES

● Mr. EAGLETON. Mr. President, I am joined today by Senators DANFORTH and SARBANES in offering a simple bill to freeze for 2 years already too high natural gas prices.

Mr. President, this bill is virtually identical to the price freeze bill that I introduced during the lameduck session of the 97th Congress. Citizens across the Nation have demanded price freeze legislation and it is my hope that the Senate will move to consider this type of measure early in this session.

Today I am also joining in the sponsorship of a separate but complementary bill. This bill, to be introduced by my colleague Senator DANFORTH, would abrogate anticompetitive gas contracts between gas producers and gas pipelines that contain pernicious take-or-pay or indefinite price escalator provisions.

We will also introduce a third bill that would increase the funding level by one third for low-income energy assistance.

Together, our two natural gas bills would give gas consumers nationwide significant protection against further gas price hikes. This legislation would resolve some of the looming problems in the gas market and provide Congress with the time and incentive it needs to thoroughly reexamine the Natural Gas Policy Act of 1978 and the current gas situation.

Mr. President, the need for these measures has grown even since the Senate considered similar legislation last month. Consumers already battered by enormous gas heating bills during warmer months this year now face the coldest part of the heating season with the prospect of gas rates of up to 60 percent higher than last year.

Soon after the natural gas debates last December and in the shadow of what may have been the largest glut of natural gas in history, the Department of Energy reported that in 1982 the national average price of natural gas rose 25 percent—a significant increase over earlier projections.

This only confirmed what hundreds of thousands of incensed natural gas users already knew or suspected: Gas price increases have been outrageous and the law of supply and demand in the gas industry seems to have been repealed.

As testimony to the desperate need for action to control unfair gas price hikes, even the predictably producer-oriented Federal Energy Regulatory Commission (FERC) has on two recent occasions demonstrated a modicum of concern over what the unruly gas market is doing to consumers. The first instance was a ruling that limited take-or-pay levels for new gas contracts to 75 percent. The second was a decision by a FERC administrative law judge in which a pipeline was ordered to lower its rates and refund money to its customers because it had been purchasing too much high-priced gas—vis-a-vis take-or-pay contract requirements—while turning away large volumes of low-priced gas.

Mr. President, while support for our type of natural gas legislation grows every day, it is equally important to note the growing body of sentiment against and evidence condemning any form of complete natural gas price decontrol.

The most recent addition to the ammunition against decontrol was a January 1983 report by the Congressional Budget Office (CBO) entitled "Natural Gas Pricing Policies: Implications for the Federal Budget." The report concluded:

> Natural gas decontrol would generate new tax revenues from the gas-producing industry, but these revenue increases would be offset by higher levels of Federal spending caused by higher inflation and unemployment.

The study also found that the gross domestic product would immediately drop under immediate decontrol.

Mr. President, it is clear that there is a crisis in the natural gas market and that the burden of that crisis has been placed squarely on the backs of consumers. A vigorous review and rewriting of present gas law is long overdue and must be of top priority to the new Congress.

Senator DANFORTH and I offer our legislation as the beginning of this process. If enacted, our measures will not cure all the ailments of the gas market, nor will they completely halt the steady escalation of gas prices. Rather, they will moderate what would otherwise be indecent price hikes and they will provide Congress the time and the mandate to deal with the problem on a more permanent and comprehensive basis.

Mr. President, I have promised distressed gas consumers in Missouri that the natural gas fight will continue until some type of resolve is reached that is equitable to consumers as well as producers. I now make the same promise to my colleagues in the Senate.

The force behind the movement to hold the line on natural gas prices has gathered tremendous momentum as more and more angry frustrated citizens realize that it is within the power of Congress to redress the problems in the natural gas industry and to bring about reasonable fuel prices.

Tangible evidence of this widespread discontent came to me last week in the form of a number of petitions demanding that Congress do something to halt the skyrocketing price of natural gas. The petition was signed by 37,261 gas consumers in Missouri, Kansas, and Oklahoma.

I urge my fellow Senators to look long and hard at the effects that staggering gas price increases are having on the 42.8 million American households that depend on natural gas for

home heating. I urge my colleagues to also examine how these increases are passed on to all consumers through the agricultural and industrial sectors.

Mr. President, I believe that the number of Senators who are willing to commit themselves to bringing natural gas prices back in line grows every week. It is not a question of whether proconsumer natural gas legislation will be considered by the Senate during this session; rather, it is a question of when.

Mr. President, I ask that the full text of the natural gas price freeze bill be printed in the RECORD following my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 293

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subtitle A of title I of the Natural Gas Policy Act of 1978 is amended by adding at the end thereof the following:

"SEC. 111. PRICE FREEZE ON NATURAL GAS; REPORT BY COMPTROLLER GENERAL CONCERNING PROFITABILITY OF NATURAL GAS PRODUCTION.

"(a) MAXIMUM LAWFUL PRICES.—Notwithstanding any other provision of law, the maximum lawful price applicable to the first sale of natural gas from January 31, 1983, through December 31, 1984, shall be the maximum lawful price applicable to such sale on August 31, 1982, under this Act. In the case of any first sale of natural gas from a well the surface drilling of which began prior to January 31, 1983, and for which there was no applicable maximum lawful price on August 31, 1982, solely by reason of the elimination of price controls pursuant to subtitle B of title I of this Act, the maximum lawful price for such sale from January 31, 1983, through December 31, 1984, shall be the contract price specified for deliveries of such natural gas on August 31, 1982: *Provided, however,* That if there was no contract price specified for deliveries of such natural gas on such date, the maximum lawful price shall be the average of the prices paid on August 31, 1982, for deliveries of natural gas from the three nearest wells by surface location for which there similarly was no applicable maximum lawful price on August 31, 1982.

"(b) EXPIRATION OF PRICE FREEZE.—The maximum lawful price applicable to the first sale of natural gas on August 31, 1982, shall be increased for any month beginning on or after January 1, 1985 at the rate specified for such gas by this Act.".

(b)(1) Section 121(a) of the Natural Gas Policy Act of 1978 is amended by striking out "January 1, 1985" and inserting in lieu thereof "January 1, 1987".

(2) Section 121(c) of such Act is amended by striking out "July 1, 1987" and inserting in lieu thereof "July 1, 1989".

(c)(1) Section 122(b) of the Natural Gas Policy Act of 1978 is amended by striking out "July 1, 1985" and inserting in lieu thereof "July 1, 1987".

(2) Section 122(b) is further amended by striking out "June 30, 1987" and inserting in lieu thereof "June 30, 1989".

(3) Section 121(c) of such Act is amended by striking out "May 1, 1985" wherever it appears and inserting in lieu thereof "May 1, 1987".

(d)(1) Section 123 of the Natural Gas Policy Act of 1978 is amended by striking out "July 1, 1984" and inserting in lieu thereof "July 1, 1986".

(2) Section 123 is further amended by striking out "January 1, 1985" and inserting in lieu thereof "January 1, 1987".●

By Mr. LAXALT (for himself and Mr. HECHT):

S. 294. A bill to authorize the recreational use of Ruby Lake National Wildlife Refuge in the State of Nevada; to the Committee on Environment and Public Works.

RUBY LAKE NATIONAL WILDLIFE REFUGE

● Mr. LAXALT. Mr. President, I am today introducing along with my colleague from Nevada, Senator HECHT, legislation that would authorize the recreational use of the Ruby Lakes National Wildlife Refuge in Nevada and direct the Secretary of Interior to seek to balance the recreational use of the refuge with the wildlife conservation management.

Mr. President, the Ruby Lakes National Wildlife Refuge, commonly known as the Ruby Marshes, covers 37,600 acres and stradles the boundaries of Elko and White Pine Counties in Nevada. The area is managed by the U.S. Fish and Wildlife Service.

The original purpose of the refuge was to provide a breeding ground for waterfowl and wildlife, and was established in 1938. However, over the years the recreational areas of the refuge increased.

Several years ago the Fish and Wildlife Service completed an environmental impact assessment on boating at the refuge. The EIA maintained the boating was adversely affecting nesting canvasback and redhead ducks. The basis for this finding has been disputed by many people with knowledge of the situation.

As a result of a lawsuit filed in the District of Columbia, the Interior Department issued regulations that effectively prohibited recreational power boating and fishing on the Ruby Lakes. Unfortunately, both the Fish and Wildlife Service and the courts failed to consider information provided by the refuge manager, which clearly established that waterfowl production had not been adversely impacted by the increased recreational usage as claimed.

Mr. President, I believe all Nevadans agree that the wildlife at the marshes should be protected. As a matter of fact, prior to the lawsuit which I have mentioned, the Fish and Wildlife Service, after listening to State and local concerns, had drawn up regulations that would have protected the wildlife at the marshes and still allowed some recreational opportunities for northern Nevada sportsmen.

The legislation Senator HECHT and I are introducing today would simply provide a mechanism whereby the Department of the Interior could issue new regulations that would allow reasonable recreation use as well as wildlife management. We feel that recreational boating and the maintenance of wildlife habitats are not mutually exclusive. I have high hopes that the administration will be supportive of this approach, and that Congress will permit the citizens of Nevada to once again enjoy all the recreation potential of this area.●

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 303. A bill to include Alaska under the road construction credit provisions of the National Forest Management Act of 1976; to the Committee on Agriculture, Nutrition, and Forestry.

ALASKA TIMBER ROADS LEGISLATION

Mr. MURKOWSKI. Mr. President, today I am introducing legislation that is intended to eliminate an unjustified exclusion of the State of Alaska that prevents small timber businesses from participation in a program authorized by the National Forest Management Act of 1976. The National Forest Management Act lays the foundation by which our national forests are managed and directs how the U.S. Forest Service will relate to timber contractors.

During the deliberations on the act, Congress recognized the plight of small businesses that contract with the U.S. Forest Service for timber from our national forests. In 1976 the smaller timber companies were faced with competition with large corporations with what seemed to be unlimited financial resources. These larger companies were better equipped to comply with timber contracts that required construction of logging roads and national forest roads which would be later turned over for recreation uses. The construction of these roads required a large commitment of funds even before the first log was hauled to market. This up-front cash outlay put small timber companies at a great disadvantage in bidding for timber contracts. Many times these small businesses would have to invest millions of dollars in road construction cost before receiving a return on their investment sometimes 3 years after the roads were finished.

Congress foresaw these problems and provided small business with the opportunity to ask the U.S. Forest Service to construct the roads for them. This should not be seen as some sort of gift or subsidy. Logging road costs are now deducted from the cost of the timber under existing timber contracts. So in effect the Forest Service pays for these public use roads regardless of whether it is through the reduction of timber appraisal prices or if the Forest Service contracts up front for the roads and builds the roads for these small businesses.

The program has worked well. However, the State of Alaska is the only State in the Union that is precluded from participation in the program. This is not based on any justification, committee record, or decisions by either the House of Representatives or the Senate. It was because when the conference committee met to work out the differences on the National Forest Management Act, Alaska was singled out because a few members thought roads were expensive in Alaska. Allow me to repeat, this exclusion was not based on any committee hearing record or a decision on the part of either the House or Senate, it became part of the act during the drafting of the conference report.

The timber industry across the Nation is suffering from one of the worst slumps in our Nation's history. Prospects are looking brighter with an increase in housing and building permits and the industry must be ready to respond to the increase in demand. The condition of the timber industry in Alaska is no different from the rest of the country. Therefore small timber businesses should be able to participate in this program and any other company that purchases national forest timber anywhere else in the Nation.

The bill that I propose would make a simple technical change in the National Forest Management Act of 1976 by eliminating unnecessary and unjustified exclusion.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 303

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 14(i)(1) of the National Forest Management Act of 1976 (15 U.S.C. 631 note) is amended by striking out the proviso at the end thereof and inserting in lieu thereof a period.

Mr. STEVENS. Mr. President, today I am joining Senator MURKOWSKI in introducing legislation that will restore equity to Alaska's small timber businesses by allowing them to participate in a program sponsored by the U.S. Forest Service allowing logging road cost deductions from the cost of timber under existing contract. Senator MURKOWSKI has stated very well the history of the problem.

Alaska's small timber operators are now suffering hardships at least as extreme and perhaps more paralyzing than those of any other section of the country. Our mills are closing, timber leases are being forfeited, and umemployment in southeast Alaska is rising commensurately. I can think of no good reason for excluding Alaska from a program that has provided great assistance to the rest of the small timber operators in the country. The simple change proposed by Senator MURKOWSKI would rectify this inequity.

I intend to work with the Senator to see that this measure is considered along with other legislation designed to bring relief to the timber industry nationwide. Again, I would like to emphasize the particular concern I have for our small timber operators. These are the companies which are the backbone for Alaska's lumber and pulp industry. Even though Alaksa was discriminated against in 1976 by the exclusion from the provisions on road deductions in the National Forest Management Act, these companies were able to survive because times were good. If we want this industry to remain healthy and assist in the recovery that is being evidenced by rising housing starts and other vital economic indicators, it is the job of the Congress to assist these shall businesses in every way possible. They must be assured they they will be dealt with fairly by Congress and can withstand the current hard times so that their operations will be ready to contribute the needed timber supply as the economy recovers.

I commend Senator MURKOWSKI for his initiative on this legislation and look forward to working with him to see that it becomes law.

By Mr. HATFIELD:

S. 304. A bill to hold a parcel of land in trust for the Burns Paiute Tribe; to the Select Committee on Indian Affairs.

LAND OF THE BURNS PAIUTE TRIBE

● Mr. HATFIELD. Mr. President, I am introducing legislation today that will designate a parcel of land in Harney County, Oreg., to be held in trust for the Burns Paiute Tribe, pursuant to the provisions of 25 U.S.C. 373b. This bill is very similar to the bill I introduced in the 97th Congress, S. 1468, and I am submitting this bill for the Senate's consideration at this early point in the 98th Congress so that we can act quickly on this matter. The Burns Paiute Indians rightfully deserve this parcel of land, and in light of the devastating economic conditions facing the tribe at this time, the Senate would be well advised to grant expeditious treatment to this legislation. We passed this bill in August of last year, but were unable to get the House-passed bill considered by the full Senate prior to adjournment.

This bill addresses a matter that arose in Harney County, Oreg., where a Burns Paiute Indian named Jesse T. James died on January 12, 1978, without heirs or a will. At the time of his death, he was the sole owner of 160 acres of trust land in Harney County, land which is classified as a "public domain allotment." The proposed legislation is needed to clear up this matter, as well as comply with Federal law.

The Burns Paiute Tribe has occupied the southeast corner of the State of Oregon for the last 8,000 years. In 1868, representatives of the Federal Government negotiated a treaty with the tribe to end hostilities between the tribe and the growing influx of white settlers. That treaty, however, was never ratified by the Senate.

Instead, President Ulysses S. Grant established a reservation comprising approximately 1,778,560 acres by Executive orders in 1872, 1875, and 1876. Not less than 10 years later, the reservation was cancelled by Executive orders in 1882, 1883, and 1889, and the land converted to the public domain. The Paiutes were compensated for the taking of this land in 1959 by the Indian Claims Commission, which awarded each Indian 40 cents an acre for the loss of their aboriginal lands.

In 1887, Congress passed the General Allotment Act, which intended to assimilate Indians into the non-Indian culture. Each "allottee" was given a 160-acre allotment of reservation or public domain land, with the title to the land held in trust by the United States. In 1896 and 1897, 115 allotments were created out of the public domain near Burns, Oreg., for the Paiutes, totaling 17,541.96 acres. After an aggressive policy of attempting to end the restricted status of these allotments, many of these were sold to non-Indians, with less than 70 allotments in the Burns area remaining in Indian hands, totaling approximately 11,000 acres.

Federal law governs the probate disposition of allotments. Congress enacted 25 U.S.C. 373b in 1942 to address this matter. That law states that such allotments, "be held in trust for such needy Indians as the Secretary may designate, where the value of the estate does not exceed $2,000, and in the case of estates exceeding such sum, such estates shall be held in trust by the United States for such Indians as the Congress may designate."

In the case of the allotment covered by the bill I am introducing today, the value of the allotment exceeds $9,000. Thus, under 25 U.S.C. 373b, Congress must designate what Indians shall receive this property. During hearings on this matter before the Board of Hearings and Appeals in the Bureau of Indian Affairs, the Board stated, "based on the record before the Board, and following a full opportunity for individual Indians and Indian groups to state a claim to the property at issue, the Board has no reservation stating that were it within its authority to decree, it would allow the Indian Joe allotment—Jesse T. James estate—to go to the Burns Paiute tribe, rather than reverting to the public domain or being conveyed to other Indians."

The present Burns Paiute Reservation comprises 770 acres, and the tribe hopes to use this allotment for economic development to enable it to become more self-sufficient. By utilizing the land for agricultural purposes, the tribe hopes to increase its income, reduce its dependence upon the Bureau of Indian Affairs and provide employment for tribal members and residents of the area. To that end, this legislation would designate this parcel of land to be held in trust for the Burns Paiute Tribe. An action which is supported by the record accumulated before the Board of Hearings and Appeals of BIA.

I would like to point out to my colleagues one other change this proposed legislation will make on the procedures to be followed in cases similar to the instant one. As I mentioned earlier, current Federal law requires Congress to act when the value of the property in dispute is greater than $2,000. Section 3 of this bill amends section 2 of 25 U.S.C. 373b by changing the threshold amount that triggers congressional action from the current $2,000 to a more reasonable amount of $50,000. The original amount, established in 1942, is far too low, and it imposes an obligation on Congress which is both burdensome and unnecessary. Instituting a higher threshold amount will serve the intent of the original act and will conform to the interests of both the Congress and the executive branch. The Secretary of the Department of the Interior is capable of making the determination of need when the value of a public allotment to be probated is less than $50,000.

Mr. President, I am grateful for the opportunity to address my colleagues on this needed piece of legislation. I urge the Senate to act upon this measure as it did last year, so that the Burns Paiute Indians can begin farming this land and, in doing so, extricate themselves from their desperate economic situation.●

By Mr. MATHIAS:

S. 305. A bill to amend the National Housing Act to provide for a mortgage and loan interest reduction program, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

HOME BUYERS ASSISTANCE ACT

● Mr. MATHIAS. Mr. President, I am introducing today legislation to aid first-time home buyers in acquiring a home that they can afford.

The Home Buyers' Assistance Act seeks to reduce the cost of high mortgage interest rates by deferring part of the cost to later years as the homeowner's income increases, or upon resale or refinancing of the home.

The vehicle I have chosen to do this is a HUD section 203 below-market interest rate program. Section 203 is the basic FHA-insured conventional 30-year mortgage. It has proven over the years to be a workable program for financing home purchases for many Americans. But even this program, in today's high mortgage interest rate environment, carries a 12-percent interest rate. Such a high rate of interest is simply intolerable for the vast majority of home buyers. So I have structured a mortgage interest reduction program to reduce that interest rate to a more affordable level.

My bill provides for the interest rate to be "bought down" by HUD through the Government National Mortgage Association to as low as 7 percent, depending on the home buyer's income and ability to pay. The Secretary of Housing and Urban Development would have the discretion to determine how deep the interest reduction should be within certain parameters spelled out in the bill.

First of all, the maximum annual household income would be limited to $30,000. That income limit could be increased to $37,000 where the HUD Secretary determines that a high cost market exists.

The interest rate reduction payments would accumulate as a second lien against the property for up to 12 years or upon resale or refinancing of the property, whichever occurred first.

The home buyer would repay this second lien in gradually increasing payments which would increase by at least 5 percent each year. The home buyer's payment would be adjusted annually based on the home buyer's income and ability to pay. The monthly principal, interest, and mortgage insurance would, at all times, have to equal at least 25 percent of the home buyer's monthly income. So this bill is a self-financing one where the home buyer ultimately repays the interest reduction payments to the Federal Government. The ultimate cost to the Government of this home financing proposal is zero.

Both the Federal National Mortgage Association (FNMA) and the Mortgage Corporation (Freddie Mac) are authorized to purchase these section 203 BMIR mortgages from the Government National Mortgage Association (GNMA). The bill requires an annual report to the Congress by the HUD Secretary on the number of households assisted, their income ranges, acceptability of the mortgages by the secondary market, and the general impact of the program on the housing market.

In order to insure sufficient equity in the home, the bill provides for a minimum downpayment of 5 percent which may be increased at the discretion of the Secretary.

The initial capitalization for this program is the bill's $5 billion authorization over the next 5 years. This is an amount my colleagues on the Banking Committee unanimously approved last May as a reasonable program level for a modest housing stimulus. It was contained in the Emergency Mortgage Interest Reduction Payments Act of 1982 crafted by the distinguished chairman of the Housing Subcommittee, Senator LUGAR. And I would note that the fiscal year 1982 revised second concurrent budget resolution passed by the Congress anticipated a $3 billion program of this nature.

So the Congress is on record as having recognized the severe housing crisis in which this Nation finds itself and having budgeted a sum to address this problem.

While interest rates are not as high as they were last summer, nevertheless they remain well beyond the reach of the average American home buyer. And should mortgage interest rates again go up to those historically high levels, we need to have in place a relief mechanism such as the bill I am proposing here today. Too often Congress responds to a problem when it has reached its most serious level, rather than anticipating the worst and putting a safety valve in place beforehand.

In structuring this bill, I have tried to avoid setting up new mechanisms or Government machinery and I have left as much discretion as possible with the HUD Secretary and the FHA underwriters in administering this program.

People know what the 203 program is. Buyers, sellers, builders, realtors, and mortgage finance institutions are familiar with what is commonly called the FHA program. So I have chosen to build on this tried and proven program which has been so successful in housing so many Americans over the years.

The bill does not specify the housing type which may be purchased, leaving that choice to the home buyer. The section 203 program is available to finance the purchase of both new and existing homes, in condominium form or fee simple. It is also available for townhouses, owner apartments, and mobile homes.

So a broad range of housing types and ownership forms are possible under my bill. It provides for freedom of choice in the marketplace by the consumer.

The American dream of a home of one's own has become more and more elusive for those who do not already own one.

The U.S. League of Savings Associations, in its publication "Homeownership: The American Dream Adrift," reports that of all the 1981 home buyers, 13.5 percent were first-time purchasers, compared to 36 percent first-timers in 1977. The median purchase price paid by those first-time home buyers was $58,900. And more and more of them were buying condominiums—25.6 percent of all first-time

purchases in 1981. Fifty-three percent of them made less than a 20-percent downpayment, while their median monthly housing expense—mortgage, taxes, insurance, utilities—totaled $721.

And shelter costs are eating up more and more of the first-time home buyer's income. In 1981, almost half, 47 percent, of all first-time homebuyers spent more than one-fourth of their household income on housing expenses.

Mr. President, I ask unanimous consent that a statistical profile table on repurchasers and first-time home buyers appear at the conclusion of my remarks.

Mr. President, even more disturbing is the shrinking percentage of home buyers able to afford a newly constructed home. The National Association of Homebuilders reports that only 11.2 percent of all families could afford the median-priced $70,000 new home in 1981, assuming they limited their housing expenses to one-fourth of their income. Mr. President, I ask unanimous consent that a NAHB table titled "Income and Expenses Needed To Purchase a New Single Family Home 1973-81" appear at the conclusion of my remarks.

Mr. President, I would hope our Nation's homebuilders could take advantage of this bill's home financing technique to whittle down their unsold inventory and for additional new homes which they might bring to market within the affordability range of the first-time home buyer.

The national statistical profile of the first-time home buyer shows he or she is between the ages of 24 and 34 with a median household income of $34,000. More and more of these home buyers are single and, therefore, have less than the median income I have just cited, which more often reflects the income of a two-earner household. Furthermore, their income is relatively high because so few first-time buyers can afford to buy in today's market.

Mr. President, this program promises immediate relief from the burden of high mortgage interest rates for not only the home buyer, but for others in the real estate chain including existing home sellers, new homebuilders, realtors, and mortgage finance institutions. These are extraordinary times for the housing sector of our Nation requiring extraordinary measures.

My Home Buyers Assistance Act promises such extraordinary help using existing, workable mortgage programs at modest initial outlays. I must emphasize again, however, that all of the initial Federal outlays are recaptured over time or upon resale or refinancing. It is a minimal price to pay to open the door of the American home to so many families.

I urge speedy consideration of this measure by my colleagues on the Banking Committee.

I ask unanimous consent that the text of my bill appear at the conclusion of my remarks.

There being no objection, the bill and tables were ordered to be printed in the RECORD, as follows:

S. 305

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 203 of the National Housing Act is amended by adding at the end thereof the following:

"(q)(1) For the purpose of assisting middle and lower income families in acquiring a home, a manufactured home, or membership in a cooperative association operating a housing project or in substantially rehabilitating a home or a unit in a cooperative housing project, the Secretary is authorized, through the Government National Mortgage Association, to make and to contract to make interest reduction payments on behalf of such families. Such assistance shall be accomplished through payments to mortgagees and lenders or their transferees holding mortgages and loans meeting the requirements of this subsection.

"(2) To be eligible for interest reduction payments under this subsection, the first mortgage or loan secured by the property, manufactured home, or shares in a cooperative must be insured under paragraph (6).

"(3) Interest reduction payments under this subsection may be made over a period of not to exceed twelve years with respect to any mortgage or loan.

"(4) The amount of all interest reduction payments made under this subsection shall constitute a second lien on the property or shares with respect to which the payments are made and shall be repayable—

"(A) when the property is sold;

"(B) when the property ceases to be the principal residence of the mortgagor or borrower;

"(C) upon any other disposition of the property specified in regulations of the Secretary; or

"(D) upon the refinancing of the first mortgage or loan on the property or shares.

"(5) The amount of the interest reduction payments with respect to any mortgage or loan shall be an amount not exceeding the lesser of—

"(A) the difference between the amount of the monthly payment for principal, interest, mortgage insurance premiums, and servicing costs which the mortgagor or borrower is obligated to pay under the mortgage or loan, and the monthly payment for principal, interest, mortgage insurance premiums, and servicing costs which the mortgagor or borrower would be obligated to pay if the mortgage or loan were to bear interest at the rate of 7 per centum per annum; and

"(B) the difference between the amount of the monthly payment for principal, interest, mortgage insurance premiums, and servicing costs which the mortgagor or borrower is obligated to pay under the mortgage or loan, and 25 per centum of the mortgagor's or borrower's family income;

with annual adjustments to reflect increases in family income and as required by paragraph (6)(C).

"(6) To be eligible for insurance under this subsection, a mortgage or loan shall meet the requirements of subsection (b) except as otherwise required by this subsection, and shall—

"(A) be executed by a mortgagor or borrower whose total family income did not exceed $30,000 during the year preceding the application for the mortgage or loan and who intends to occupy the property as a principal residence, except that the limitation contained in this paragraph may be increased to not to exceed $37,000 where necessary for families to qualify for increased principal amounts established by the Secretary pursuant to subsection (b);

"(B) be executed by a mortgagor or borrower who has not previously owned a principal residence, as determined by the Secretary, and who shall have paid in cash or its equivalent, on account of the property, at least an amount equal to 5 per centum of the Secretary's estimate of the cost of acquisition or such higher amount as the Secretary may require to assure that the total first and second lien balances are covered by the mortgagor's borrower's equity;

"(C) provide for complete amortization over a period of not to exceed thirty years, but provide that the mortgage or loan payment shall be increased by 5 per centum each year until the interest reduction payment is eliminated, except for any year following a year in which the mortgagor's family income has decreased;

"(D) have been accompanied by disclosures of the scheduled increases in the monthly payment and of the requirements of paragraph (4);

"(E) be originated by a mortgagee or lender who is responsible and able to service the mortgage or loan properly;

"(F) have a sales price not to exceed the Secretary's estimate of the value of the property;

"(G) in the case of a manufactured home loan, comply with the regulations issued under section 501(c) of the Depository Institutions Deregulation and Monetary Control Act of 1980; and

"(H) bear interest and contain such other terms and conditions as the Secretary may prescribe.

"(7) Any mortgage or loan insured under this subsection shall be eligible for purchase by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

"(8) There are authorized to be appropriated to carry out the provisions of this subsection not to exceed $5,000,000,000. Any sums so appropriated shall remain available for commitment until October 1, 1988.".

SEC. 2. The Secretary of Housing and Urban Development shall report to the Congress not later than October 1 of each year commitments made under the program authorized by section 203(q) of the National Housing Act. Such report shall include information on the number of families assisted and their incomes and on the acceptability of mortgages and loans assisted under that section in the secondary market.

TABLE 1.—REPURCHASERS AND FIRST-TIME HOME BUYERS, 1981 and 1979—STATISTICAL PROFILE AT A GLANCE

	1981		1979	
	Repurchasers	First-time home buyers	Repurchasers	First-time home buyers
WHO THEY WERE				
A demographic profile:				
Median age (years)	34	28	34	27
Unmarried (percent)	27.9	40.6	20.6	30.7
One- and two-person households (percent)	54.4	76.2	48.1	69.8
An economic profile:				
Median household income	$40,197	$34,083	$28,796	$25,230
Importance of second income (percent) [1]	45.9	58.0	51.6	65.5
Median household net worth	$81,374	$30,514	$61,463	$22,617
Median equity from sale of previous residence	$38,900	$0	$30,877	$0
WHAT THEY PURCHASED				
Condominiums (percent)	20.8	25.6	10.8	11.8
New homes (percent)	26.8	20.7	32.3	23.6
Homes 25 or more years old (percent)	28.5	36.2	25.7	35.5
Median size of home (square feet)	1,489	1,264	NA	NA
AND ITS COST				
Median purchase price	$75,000	$58,900	$60,500	$48,950
Median downpayment	18,000	8,600	13,958	6,811
Median total monthly housing expense	834	721	563	501
Mortgage payment	639	565	411	366
Real estate taxes	75	58	60	50
Utilities	100	80	75	70
Hazard insurance	20	18	17	15
HOW THEY AFFORDED THEIR PURCHASE				
Less than 20 percent downpayment (percent)	27.3	53.0	38.7	62.0
Housing expenses exceeding 25 percent of household income (percent)	44.6	47.1	45.8	45.1

[1] Percentage of households with two adults in which income contributed by a second earner accounted for 10 percent or more of total household income.

Source: U.S. League of Savings Associations

TABLE 2.—INCOME AND EXPENSES NEEDED TO PURCHASE A NEW SINGLE FAMILY HOME 1973–81

	1973	1974	1975	1976	1977	1978	1979	1980	Mid-year 1981
Median sales price	$32,500	$35,900	$39,300	$44,200	$48,800	$55,700	$62,900	$64,500	$70,000
Median square feet	1,525	1,560	1,535	1,590		1,655	1,645	1,595	1,600
Price per square foot	$21.31	$23.01	$25.60	$27.80	$30.31	$33.66	$38.24	$40.44	$43.75
Loan-to-value ratio	78.6	77.3	78.5	77.3	77.8	77.1	76.9	77.6	78.0
Mortgage amount	$25,547	$27,744	$30,869	$34,145	$37,950	$42,935	$48,360	$50,077	$54,600
Length of mortgage (years)	26.6	26.7	27.3	27.5	28.1	28.2	28.7	28.6	29.0
Contract interest rate (percent)	7.76	8.72	8.75	8.73	8.75	9.28	10.43	12.29	15.00
Monthly mortgage payment	$245.59	$287.23	$316.63	$350.94	$387.75	$454.14	$551.77	$644.47	$816.67
Principal and interest	189.44	223.65	248.15	273.41	302.90	358.56	442.89	528.92	691.67
Interest (1st yr)	164.32	200.70	224.14	247.38	275.64	330.87	419.22	511.93	681.84
Real estate taxes	48.75	53.85	58.95	66.30	73.20	83.55	94.35	96.75	105.00
Hazard insurance	7.40	9.73	9.53	11.23	11.65	12.03	14.53	18.80	20.00
Other monthly expenses	$62.11	$68.87	$74.35	$83.51	$96.53	$112.05	$119.05	$129.51	$141.00
Maintenance and repairs	21.91	24.14	25.49	28.64	30.13	33.90	35.38	37.61	41.00
Heat and utilities	40.20	44.73	48.86	54.87	66.40	78.15	83.67	91.90	100.00
Monthly housing expenses	$307.70	$356.10	$390.98	$434.45	$484.28	$566.19	$670.82	$773.98	$957.67
Annual mortgage payment	$2,947.08	$3,446.76	$3,799.56	$4,211.28	$4,653.00	$5,449.68	$6,621.24	$7,733.64	$9,800.04
Principal and interest	2,273.28	2,683.80	2,977.80	3,280.92	3,634.80	4,302.72	5,314.64	6,347.04	8,300.04
Interest (1st yr)	1,971.88	2,408.40	2,689.68	2,968.56	3,307.68	3,970.44	5,030.64	6,143.16	8,182.08
Real estate taxes	585.00	646.20	707.40	795.60	878.40	1,002.60	1,132.20	1,161.00	1,260.00
Hazard insurance	88.80	116.76	114.36	134.76	139.80	144.36	174.36	225.60	240.00
Other annual expenses	$745.32	$826.44	$892.20	$1,002.12	$1,158.36	$1,344.60	$1,428.60	$1,554.12	$1,692.00
Maintenance and repairs	262.92	289.68	305.88	343.68	361.56	406.80	424.56	451.32	492.00
Heat and utilities	482.40	536.76	586.32	658.44	796.80	937.80	1,004.04	1,102.80	1,200.00
Annual housing expenses	$3,692.40	$4,273.20	$4,691.76	$5,213.40	$5,811.36	$6,794.28	$8,049.84	$9,287.76	$11,492.04
Income needed to afford:									
Expenses times 4	$14,769.60	$17,092.80	$18,767.04	$20,853.60	$23,245.44	$27,177.12	$32,199.36	$37,151.04	$45,968.16
Expenses times 3	11,077.20	12,819.60	14,075.28	15,640.20	17,434.08	20,382.84	24,149.52	27,863.28	34,476.12
Median family income	$12,051.00	$12,902.00	$13,719.00	$14,958.00	$16,009.00	$17,640.00	$19,684.00	$21,666.00	$23,513.00
Percent of families with income needed to afford:									
Expenses times 4	36.6	32.9	30.3	28.5	27.3	24.1	20.9	16.5	11.2
Expenses times 3	54.9	50.4	48.8	47.4	45.4	41.3	37.1	33.8	23.0

Source: Department of Housing and Urban Development. Federal Home Loan Bank Board, Bureau of the Census. Compilation, analysis and estimates by NAHB Economics Division.●

By Mr. RIEGLE (for himself, Mr. LEVIN, and Mr. METZENBAUM):

S. 307. A bill to provide for continuation of health insurance for workers who lose such insurance by reason of unemployment; to the Committee on Finance.

HEALTH INSURANCE FOR UNEMPLOYED WORKERS ACT OF 1983

● Mr. RIEGLE. Mr. President, today I am reintroducing legislation, cosponsored by Senators LEVIN and METZENBAUM similar to S. 3063, which I introduced during the 97th Congress, designed to make available health insurance coverage for unemployed persons.

As we continue to deal with the many problems created by the longest recession since World War II, none is more pressing than the tragedy of middle class Americans being forced into destitution as a result of requiring medical attention during periods without health insurance coverage. For millions of Americans who are unemployed for the first time due to the poor performance of the economy, a brief stay at a hospital or even a minor medical emergency can mean financial disaster. No longer are most of these unemployed persons protected against the potentially devastating effect of astronomical doctor and other medical care bills.

Approximately 90 percent of the nonelderly population in our country is at least partially protected against the possible financially ruinous consequences of ill health. As we all know, all but the most wealthy members of our society would soon be reduced to poverty if they were forced to totally finance adequate health care for themselves and members of their families. To protect themselves against such a possibility, most individuals are insured against such financial disaster by either earning—as a benefit of employment—or by directly purchasing health insurance protection. The vast majority of individuals who are protected under a health insurance plan become eligible for such protection through their place of employment. Therefore, when the economy is in a slump, which is now the case, and millions of Americans lose their jobs, they also often lose health insurance protection, for themselves and for their families.

Mr. President, at a recent hearing on health insurance and the unemployed held by the House Committee on Energy and Commerce, Dr. Alice Rivlin, Director of the Congressional Budget Office, estimated that of the 12 million individuals who are officially recorded as unemployed, about 5.3 million had already lost coverage under their employment related health insurance, and that more will continue to loss coverage as the duration of their unemployment continues and their extended benefits expire. Dr. Rivlin estimated that if we were to include dependents in that figure, that

is individuals who are dependent on a primary worker's health insurance coverage for protection against the high cost of health care, that number would mushroom to approximately 10.7 million.

In my State of Michigan, and in every State throughout the country, millions of Americans are neglecting professional health care, and are allowing otherwise easily treated and minor conditions to turn into serious and chronic conditions, simply because they can no longer afford the cost of uninsured medical care. Dr. Bailus Walker, the director of the Michigan Department of Public Health estimates that almost 400,000 workers in Michigan alone have lost health insurance benefits as a consequence of the current recession. That number represents nearly 60 percent of all of the unemployed workers in my State and does not include the thousands of dependents of these workers. Clearly this indicates that we have a serious problem in my State and I am sure this situation is not altogether unique for my State alone.

For these reasons and others I am reintroducing legislation which would provide protection for individuals who have lost health insurance coverage as a result of being involuntarily severed from the work force. My proposal would insure that most individuals who are currently protected by health insurance secured through their place of employment would continue to receive this protection for at least 6 months after they were laid off or had their job terminated. Also, these unemployed persons would be eligible for an additional year of affordable coverage available from a State insurance pool providing a continuous period of post employment protection of 18 months.

Members of my staff over the past few months have been working with representatives of labor and business in crafting this proposal which goes a long way toward providing affordable health care protection to millions of Americans currently without protection and at risk through no fault of their own.

It was the result of many comments and suggestions from these groups that led to the several changes in this legislation from the version I introduced late during the last session of Congress.

UNEMPLOYMENT—THE PROBLEM

Mr. President, we all know that the unemployment rate reached record levels in December and stood at 10.8 percent, the highest percentage of unemployed persons in over 40 years.

What is often not considered when examining the unemployment rate is the extent to which the burden of unemployment falls disproportionately on certain groups in our society.

The blue collar unemployment rate is significantly higher than the overall rate. The unemployment rate for black workers is twice as high as for white workers, and substantial numbers of white teenagers and twice as many black teenagers are looking for work.

In addition, unemployment affects desser skilled and lower income individuals at a greater rate than the general population. All of this is important when considering that many of these unemployed workers also lose their health insurance along with their jobs.

Mr. President, another critical unemployment statistic that must be considered is the duration of unemployment. For the longer a worker remains unemployed, the more likely it is that the worker will lose his or her health insurance.

Mr. President, more than one-third of those unemployed in December 1982 were jobless for 15 weeks or more. This is important because some workers' health insurance coverage is terminated immediately with employment, while for others it is extended for 30 days. However, a significant number of workers—perhaps as many as two-thirds of all employees—lose their insurance 1 month after termination. Therefore the duration of unemployment is directly related to the number of individuals "at risk" and without protection.

Of course, all of the figures I have cited exclude the so-called discouraged workers. As we know, discouraged workers are individuals who report that they want to work but because they are not actively looking for employment they are excluded from our unemployment statistics. However, these individuals are in need of health insurance protection as much, if not more, than all unemployed persons.

Mr. President, therefore, to the 12 million Americans who are unemployed according to the official unemployment rate we must add an additional 1.8 million discouraged workers. As the number of jobless continues to climb, the number of individuals who, out of sheer frustration, stop looking for work also climbs. These millions of additional unemployed workers also need protection against the potentially devastating consequences of unexpected medical bills.

Mr. President, while unemployment is at the highest level in over four decades, all of the economic forecasts I have seen predict the continuation of record levels of unemployment well into the next year. Unfortunately, in all likelihood significant numbers of unemployed workers will be needing essential health care over the next few years, without the means to secure that care. The proposal I am introducing today will permanently solve this problem for unemployed workers during both good and bad economic times.

HEALTH INSURANCE AND UNEMPLOYMENT

Mr. President, as I have already mentioned, about 90 percent of individuals gain access to health insurance coverage through their place of employment. By being part of a group of employees and by integrating the payment of insurance premiums with an overall package of employment benefits, most workers are able to afford health insurance protection. This situation ceases to exist upon the termination of employment. In a sense, S. 307 continues the integration of active earnings and health insurance protection during times of inactivity. By setting aside a slightly higher amount of insurance premiums—in dollars or earned benefits—during active employment, workers are able to secure protection during periods of inactivity.

In addition to losing health insurance protection during job layoff or termination, studies have indicated that waiting periods at the onset of employment also result in significant periods of nonprotection. What is sometimes referred to as "entry lag" is the result of waiting periods where new employees are ineligible for health insurance coverage for varying periods of time. One study found waiting periods of 3 months or longer for one-quarter of all new workers. In another study, waiting periods ranged from 4, to as much as 28 weeks depending on the industry and the region. S. 307 would deal with this problem in part by providing coverage for 2 months for unemployed workers who return to and are ineligible for work-related health insurance protection.

Mr. President, it is true that there is a need to learn more about the impact of unemployment on health insurance protection. The hearings held last week in the House provided us with a great deal of useful information. It is hope S. 307 will serve as the occasion for further inquiry into this matter and that additional hearings will be held on this subject here in the Senate. We need to know more about the number of unemployed individuals who lack access to affordable coverage. We need to know more about the utilization rate and health care needs of our unemployed citizens. I believe the proposal I am introducing today will assist us in learning more about the health care needs of unemployed persons while simultaneously providing protection for millions of Americans.

PROVISIONS OF S. 307

Mr. President, under the proposal I am introducing today most individuals who lost health insurance coverage as a result of being involuntarily severed from the work force without cause would be covered for up to a year and

one half following job termination. Only individuals who are not eligible for other work related or federally funded insurance coverage would be protected under the new policies made available as a result of this legislation.

S. 307 has two major parts. The first part, and long-term solution, is aimed at active workers who might lose their jobs in the future. The second part, a temporary and emergency program, is aimed at unemployed workers who have lost their jobs within the 12 months prior to the enactment of the bill.

The long-term proposal is implemented by amending the Internal Revenue Code to alter the conditions under which an employer could deduct the cost of health insurance premiums. The conditions for an employer to continue to utilize the deduction would be to provide for the continuation of health insurance coverage for at least 6 months following an employee's involuntary severance. In addition, the legislation requires the employer to have been participating in a State insurance pool which would provide an additional year of health insurance protection. Thus, the legislation provides for a minimum of 18 months of affordable health insurance coverage for workers.

Both means for providing coverage would be subject to a specified minimum protection. In no instance could an unemployed person be required to pay more than 20 percent of the health insurance premium. All benefit packages would provide benefits comparable to those offered under medicare including comprehensive medical and hospital protection. The proposal requires the options of annual deductibles of no more than $500. Each insurance policy would provide coverage for the unemployed worker and his or her family. In addition to the 6-month continuation of the workers current health insurance protection, coverage in a State reinsurance pool would be available for up to 12 months or for 60 days after the unemployed individual becomes gainfully employed. An employed worker would be eligible to participate in this program only if the individual was not eligible for other health insurance protection. Other such policies would include spousal or parental insurance protection as well as Federal health insurance programs such as medicare and medicaid.

The legislation encourages and anticipates that States will establish State insurance pools which would be regulated by the States and not by the Federal Government. There are provisions for the establishment of pools in each State if State governments choose not to endorse this approach. In addition, State and municipal governments would have the option of participating in the insurance pools.

In order to provide additional financing of State reinsurance pools during periods of sustained high unemployment, S. 307 provides for Federal contributions to reinsurance pools when the national unemployment rate exceeds 7.5 percent and the individuals State's unemployment rate is equal to 110 percent of the national rate for the previous 6 months. This provision provides needed funds to States experiencing sustained high levels of unemployment.

The emergency program would be for individuals who are not eligible for a full year of severance protection under the permanent program and who were involuntarily severed from the work force within the 12 months prior to enactment. All individuals eligible for participation in this program would receive benefits equal to the Federal minimum benefits and would be subject to the same limitation of 20 percent of the insurance premium.

The emergency program would be administered by the Secretary of Health and Human Services who would establish an expedited enrollment procedure for all eligible individuals. Initially this emergency program would be administered in a fashion similar to the medicare program—subject to different premiums and deductibles. As soon as an insurance pool is established within the unemployed person's State, the administration for the emergency program would be shifted to the State pool. As mentioned, the unemployed worker would pay 20 percent of the insurance premium and once the individual is switched to the State pool—unlike the long-term program—the Federal Government would contribute the remaining 80 percent.

Mr. President, under this emergency program, which is temporary and will be phased out as soon as the long-term program is in place, all eligible individuals will be protected for a full year even if they have been unemployed for up to 1 year. Neither the long-term or emergency portions of this proposal would affect current contractual agreements.

Mr. President, it is my hope that S. 307 will focus attention on the serious problem of the loss of health insurance coverage due to unemployment. In 1975, during an earlier recessionary period, Congress looked at this problem although no legislation was enacted. I believe part of the difficulty encountered during this period related to the proposals under consideration at that time, many of which established vast new Federal programs. S. 307 utilizes the existing private sector mechanisms for dealing with this critical problem. Since the long-term program is financed by active employers and employees for a limited population and spread over a large number of companies and workers, I believe the cost of active participants in the work force will be limited and manageable.

As our unemployment rate continues at unprecedented levels, and people stay unemployed for longer periods of time, we are learning that jobless workers and their families have special health care needs. They suffer more emotional and physical illness and more malnutrition than people who are working. Because these people are unemployed, they are often too worried about mere survival to meet critical health needs. They should not have to be in this situation. I think we are obligated to help them through these tough times by assuring them that adequate health care will be there when they need it. S. 307 provides that assurance.

Mr. President, I urge all of my colleagues to support this needed legislation.

Mr. President, I ask unanimous consent that the text of S. 307 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 307

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Health Insurance for Unemployed Workers Act of 1983".

DEFINITIONS

SEC. 2. (a)(1) The term "employer" means, for any calendar year, any person who employs at least one full-time employee during any week in such calendar year. Such term does not include—

(A) a self-employed individual;

(B) the United States or any instrumentality thereof; or

(C) any State or local government or instrumentality thereof.

(2) Any State or local government or instrumentality thereof may at its option participate in the reinsurance pools established under this Act on the same basis as an employer, and shall be considered to be an employer for purposes of this Act.

(b) The term "full-time employee" means an individual who is employed by an employer for at least 25 hours in a week.

(c) The term "unemployment" or "unemployed" means, with respect to an individual, that such individual—

(1) is not a full-time employee of any employer or other entity, or has been such a full-time employee for less than 60 consecutive days and is not eligible to participate in a group health plan of such employer or entity;

(2) was a full-time employee of an employer within the preceding 12-month period and was a participant in a group health plan of such employer at the time such individual's full-time employment by such employer ceased (as described in paragraph (3)); and

(3) was involuntarily terminated or laid off as an employee of such employer (other than for cause), and as a result of such termination or layoff is no longer eligible to participate in the group health plan at the

same rate of contribution as when he was a participant at the time of such termination or layoff.

(d) The term "qualified unemployed individual" means an unemployed individual who—

(1) was a participant in a group health plan at the time his employment ceased (as described in subsection (c)(3)) which was provided by a group health plan provider which is participating in the qualified reinsurance pool in operation in the State in which such individual was so employed;

(2) if eligible for any coverage under a group health plan as a family member, or would be so eligible if his spouse or parent were enrolled in a group health plan in which such spouse or parent is eligible to enroll and is eligible for family coverage, is enrolled in such plan;

(3) if eligible for benefits under part A, or eligible to enroll under part B, of title XVIII of the Social Security Act, has applied for such benefits under part A and has enrolled under part B; and

(4) if eligible for any medical assistance under a State plan approved under title XIX of the Social Security Act, has applied for such aid.

(e) The term "group health plan" means any plan of, or contributed to by, an employer to provide medical care (as defined in section 213(e) of the Internal Revenue Code of 1954) to his employees or the families of such employees, directly or through insurance, reimbursement, or otherwise.

(f) The term "group health plan provider" means any insurance company, hospital and medical service corporation, health maintenance organization, self-insured employer, multiemployer trust, labor organization, multilabor organization trust, or any other entity which provides or makes payment for medical care under a group health plan.

(g) The term "family member" with respect to an individual means—

(1) such individual's spouse; and

(2) such individual's natural or adopted child who is—

(A) 18 years of age or under; or

(B) 22 years of age or under and a full-time student at an elementary or secondary school or college or university.

(h) The term "qualified reinsurance pool" means a qualified State reinsurance pool (as determined under section 3), a qualified private reinsurance pool (as determined under section 4(a)), or a Federal reinsurance pool (described in section 4(b)).

(i) The term "qualified pool health plan" means a health plan offered by a qualified reinsurance pool which

(1) provides, directly or through insurance, reimbursement, or otherwise, at least those services and items for which payment may be made under title XVIII of the Social Security Act, or the actuarial equivalent thereof; and

(2) requires an annual deductible of no more than $500.

(j) The term "State" means the 50 States and the District of Columbia.

STATE POOLS

SEC. 3. (a) A qualified State reinsurance pool is an entity established under State law for the purpose of offering three or more qualified pool health plan options in accordance with the provisions of this Act to qualified unemployed individuals previously employed in such State.

(b)(1) The State law establishing a qualified State reinsurance pool must provide that all group health plan providers conducting business in the State shall participate in the pool (except to the extent that participation is waived under section 5 or is not required for purposes of deductibility of premiums under section 162(i)(3) of the Internal Revenue Code of 1954 by reason of section 6(b)(2) of this Act), and that the expenses incurred by the pool and the qualified pool health plans offered by the pool, to the extent such expenses exceed the amount of premium payments collected from unemployed individuals and the amount of Federal payments under section 7(a) or section 8(e)(2), shall be borne by each group health plan provider participating in the pool in an amount which bears the same ratio to the total of such expenses as the amount of premiums collected by such provider (other than premiums collected on plans which qualify for a waiver under section 5 or on plans which are exempt from the requirements of section 162(i)(3) of the Internal Revenue Code of 1954 by reason of section 6(b)(2) of this Act) with respect to employees employed in such State bears to the total amount of premiums collected by all group health plans (other than premiums collected on plans which qualify for a waiver under section 5 or on plans which are exempt from the requirements of section 162(i)(3) of the Internal Revenue Code of 1954 by reason of section 6(b)(2) of this Act) doing business in such State with respect to employees employed in such State.

(2) In the case of a self-insured employer or other type of group health plan which does not entail the collection of premiums, the board of directors of the pool shall apportion expenses based upon an estimate of the amount of the premiums which would be collected if such plan were not self-funded.

(3) Any amounts collected as premiums in excess of the expenses incurred by the pool shall be maintained by the pool, and shall be taken into account in determining future premium amounts.

(c)(1) Each qualified State reinsurance pool shall offer three or more qualified pool health plan options to any qualified unemployed individual in such State, or to such individual and his family members if he so chooses, at a premium amount, to be paid on a monthly basis, of not more than 20 percent of the amount equal to 125 percent of the average premium rate in such State for group health plans for groups of less than 25 employees for benefits actuarially equivalent to the benefits provided under the qualified pool health plan.

(2) For purposes of this subsection, an unemployed individual shall be considered to be unemployed in the State in which he was previously employed at the time of his termination or layoff which qualified him for eligibility under this Act under section 2(c)(2).

(3) Subject to the maximum premium amount established under paragraph (1), premium rates may be adjusted to reflect expected claims, administrative expenses, and differences in costs of medical care in various geographic areas.

(d)(1) A qualified State reinsurance pool shall be established as a nonprofit corporation, and shall be governed by a board of directors of not more than nine members. Members of the board shall be elected by the group health plans participating in the pool, with votes weighted in the same proportion as the assessments of pool expenses are made under subsection (b)(1).

(2) The board of directors of each pool shall establish an actuarial committee which shall establish and periodically review the premium rates. Such rates shall be subject to approval by the State insurance commissioner or similar official designated under paragraph (3).

(3) The State insurance commissioner or other official having jurisdiction over group health plans in such State shall be responsible for establishing and overseeing the operation of the pool. Oversight responsibilities shall include approval of qualified health plans and premiums and review of information issued by the pool.

(e)(1) The board of directors of the pool shall establish procedures for advertising the availability of qualified pool health plans and for enrolling unemployed individuals seeking coverage under such plans, managing such plans, and paying claims under such plans.

(2)(A) Coverage under qualified pool health plans shall be marketed under the name of the pool, and may be marketed directly by the pool or on behalf of the pool by the group health plan providers participating in the pool.

(B) In the case of pool coverage marketed by participating providers—

(i) the pool shall pay a reasonable expense allowance to such provider;

(ii) policies or contracts issued for coverage under a pool plan shall clearly indicate that coverage is issued on behalf of the pool;

(iii) full disclosure shall be made to the unemployed individual with respect to coverage under the pool plan; and

(iv) advertising and sale of pool plans shall be subject to rules established by the board of directors to preclude "bait and switch" tactics or similar misuse of pool plans by providers, and such other requirements as the board of directors deems appropriate.

(3) The board of directors shall notify the State and the Secretary of Health and Human Services and the Secretary of the Treasury with respect to the identity of the group health plan providers participating in the pool.

(f) No more than one qualified pool may operate in any State, but States may by mutual agreement establish regional pools for coverage in more than one State by a single pool. Any such regional pool shall be subject to the State laws of the States in which it operates.

(g) The Secretary of Health and Human Services shall certify whether a State pool meets the requirements of a qualified State reinsurance pool, and may decertify such a pool at such time as he determines that the pool fails to meet such requirements.

QUALIFIED PRIVATE POOLS; FEDERAL POOLS

SEC. 4. (a)(1) In the case of any State which does not establish a qualified State reinsurance pool within 180 days after the date of the enactment of this Act, or in the case of a State in which the State pool has been decertified, those group health plan providers which conduct business in such State and would be required to participate in a qualified State reinsurance pool in such State if such a pool was established in accordance with section 3, may petition the Secretary of Health and Human Services to permit such providers to voluntarily organize and operate a qualified private reinsurance pool in such State. Any such private pool must meet all the requirements of section 3, except that the responsibilities of the State insurance commissioner shall be car-

ried out by the Secretary of Health and Human Services.

(2) The Secretary of Health and Human Services shall certify whether a private pool meets the requirements of a qualified private reinsurance pool, and may decertify such a pool at such time as he determines that the pool fails to meet such requirements.

(b) In the case of any State in which no qualified State reinsurance pool has been established within 180 days after the date of the enactment of this Act, and no qualified private reinsurance pool has been established under subsection (a) within 270 days after such date of enactment, or in which no qualified pool exists by reason of the decertification of a qualified State or private pool, the Secretary of Health and Human Services shall establish a Federal pool for such State. Such pool shall meet the same requirements as a qualified private pool under subsection (a).

(c) In any case in which a qualified State reinsurance pool is certified or recertified, any private reinsurance pool or Federal reinsurance pool operating in such State shall cease to be a qualified reinsurance pool.

WAIVER OF PARTICIPATION IN POOLS

SEC. 5. Any group health plan provider who, on and after October 1, 1982, provides extended coverage under a group health plan for employees covered by the plan after involuntary termination or layoff, which extended coverage equals or surpasses the minimum extended coverage required to be provided by a qualified pool health plan (as determined and certified by the Secretary of Health and Human Services based upon duration of coverage and actuarial equivalence of benefits), shall not be required by reason of this Act to participate in or contribute to the expenses of a qualified reinsurance pool with respect to that portion of the premiums collected by such provider with respect to such plan, for so long as such plan continues to meet the requirements of this section.

DEDUCTION FOR EMPLOYER CONTRIBUTIONS TO GROUP HEALTH PLANS

SEC. 6. (a) Section 162(i) of the Internal Revenue Code of 1954 (relating to group health plans) is amended by adding at the end thereof the following new paragraph:

"(3) PARTICIPATION IN QUALIFIED REINSURANCE POOL.—The expenses paid or incurred by an employer for a group health plan shall not be allowed as a deduction under this section unless—

"(A) the provider of such group health plan (as defined in section 2(e) of the Health Insurance for Unemployed Workers Act of 1983) participates in and contributes to the expenses of qualified reinsurance pools in accordance with the provisions of that Act (except to the extent that such participation is waived in accordance with section 5 of that Act);

"(B) such plan provides that coverage under the plan for any employee and members of his family covered under the plan at the time his employment is involuntarily terminated or he is laid off (other than for cause) shall be continued for a period of at least 180 days after such termination or layoff; and

"(C) such plan provides for a period of open enrollment of at least 30 days immediately after the loss of family member coverage (described in clause (iii)) for any individual who (i) is eligible to enroll in such plan, (ii) was covered under a group health plan of such individual's spouse or parent, and (iii) loses such coverage as a family member (at the same rate of contribution as employees and their family members) on account of the unemployment of such individual's spouse or parent.".

(b)(1) Except as provided in paragraph (2), the amendment made by subsection (a) shall be effective for taxable years beginning on or after January 1, 1984.

(2) The amendment made by subsection (a) shall not apply to any group health plan, the terms and conditions of which are determined under a contract in effect on the date of the enactment of this Act, until the first taxable year beginning on or after the expiration or renewal date of such contract.

FEDERAL PAYMENTS TO POOLS IN PERIODS OF SUSTAINED HIGH UNEMPLOYMENT

SEC. 7. (a) In the case of any month with respect to which the national seasonally adjusted total rate of unemployment (as measured by the Bureau of Labor Statistics) is equal to or greater than 7.5 percent, the Secretary of the Treasury shall pay to the qualified reinsurance pool operating in any State meeting the criteria specified in subsection (b), an amount equal to—

(1) 40 percent of the amount equal to the sum of the products of (A) 125 percent of the average premium rate in such State for such month for group health plans for groups of less than 25 employees for benefits actuarially equivalent to the benefits provided under each qualified pool health plan offered by such pool, and (B) the number of qualified unemployed individuals enrolled in such plan for such month, less

(2) 50 percent of any amount paid to such pool with respect to premiums for such month under section 8(e)(2).

(b) Payment under subsection (a) with respect to any month shall be made to the qualified reinsurance pool operating in any State if such State's seasonally adjusted average total rate of unemployment (as measured by the Bureau of Labor Statistics) for the 6-month period immediately preceding such month was equal to or greater than 110 percent of such average rate of unemployment for all the States for such period.

TEMPORARY COVERAGE FOR UNEMPLOYED WORKERS

SEC. 8. (a) Any—

(1) qualified unemployed individual who was unemployed on the date of the enactment of this Act or who became unemployed after such date but is not eligible to purchase a qualified pool health plan because no qualified reinsurance pool has been established in the State in which he was employed,

(2) unemployed individual who would be a qualified unemployed individual but for the fact that the provider of his former group health plan is not a participant in such pool, and

(3) member of the family of an individual described in paragraph (1) or (2) who was covered under such individual's group health plan at the time of such individual's termination of employment or layoff,

shall be eligible to enroll in the hospital insurance program established by part A of title XVIII of the Social Security Act and the supplementary medical insurance program established by part B of such title. Any such individual or family member who wishes to enroll under this section must enroll in both such programs and must pay a monthly premium (in lieu of the premium under section 1839 of the Social Security Act) equal to 20 percent of an amount equal to 125 percent of the average premium rate in the State in which such individual was employed for group health plans for groups of less than 25 individuals for benefits actuarially equivalent to the benefits provided under title XVIII of the Social Security Act (as determined by the Secretary of Health and Human Services).

(b) The Secretary of Health and Human Services shall establish expedited enrollment procedures for individuals eligible to enroll under this section, and enrollment for such individuals shall be open during the 180-day period beginning on the date of the enactment of this Act, and during the 120-day period following the termination of employment or layoff which began such individual's period of unemployment. Coverage shall begin with the month in which the individual and his family members (if any) enroll, and shall end with the earlier of—

(1) the last day of the twelfth month following the termination of employment or layoff which began such individual's period of unemployment, or, if later, the last day of the twelfth month following the date of the enactment of this Act;

(2) the last day of the first month during all of which such individual is no longer unemployed;

(3) the last day of the first month for which such individual does not pay the premium (or in the case of a family member, the last day of the first month for which such family member does not pay such premium); or

(4) the last day of the first month for which a qualified reinsurance pool is established in the State in which such individual was employed.

(c) Payments under title XVIII of the Social Security Act on behalf of individuals enrolled under this section shall be secondary to any coverage of such individual under a group health plan, or under a State plan approved under title XIX of the Social Security Act, in the same manner and subject to the same conditions (other than age and employment) as payments under such title are secondary in the case of older workers under section 1862(b)(3).

(d) There are authorized to be appropriated to the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund from time to time such sums as the Secretary of Health and Human Services deems necessary for any fiscal year, on account of—

(1) payments made or to be made during such fiscal year from such Trust Fund with respect to individuals who are entitled to benefits under title XVIII of the Social Security Act solely by reason of this section,

(2) the additional administrative expenses resulting or expected to result therefrom, and

(3) any loss in interest to such Trust Fund resulting from the payment of those amounts,

in order to place such Trust Fund in the same position at the end of such fiscal year as it would have been in if this section had not been enacted.

(e)(1) Any individual (and his family members) eligible to enroll under title XVIII of the Social Security Act by reason of this section who—

(A) was unemployed on the date of the enactment of this Act,

(B) became unemployed within 180 days after such date of enactment, or

(C) would be a qualified unemployed individual but for the fact that the provider of

his former group health plan is not a participant in the qualified reinsurance pool established in the State in which he was employed,

shall, if he ceases to be eligible to enroll under such title XVIII by reason of the establishment of a qualified reinsurance pool in the State in which such individual was employed, be eligible to purchase a qualified pool health plan from such pool, notwithstanding the provisions of section 2(d)(1).

(2) Any individual described in paragraph (1) who purchases a qualified pool health plan, shall pay to the pool the premium amount established for such plan under section 3(c), and the Secretary of the Treasury shall pay to such pool for each such individual, on a monthly basis, an amount equal to 80 percent of the amount equal to 125 percent of the average premium rate in such State for group health plans for groups of less than 25 employees for benefits actuarially equivalent to the benefits provided under such qualified pool health plan. Such payments shall be made from the general fund in the Treasury.●

By Mr. LAXALT (for himself and Mr. HECHT):

S. 309. A bill for the relief of the estate of Nell J. Redfield; to the Committee on Finance.

ESTATE OF NELL J. REDFIELD

● Mr. LAXALT. Mr. President, I am introducing today together with my distinguished colleague, Senator HECHT, a bill to provide for the transfer to the U.S. Forest Service of 10,000 acres of pristine forest lands as a credit against the estate taxes of the estate of Nell J. Redfield.

In 1976, similar legislation was passed which provided for the transfer of 29,000 acres of forest adjoining this tract as a credit against the estate taxes of Mrs. Redfield's husband, LaVere Redfield. That transfer also involved pristine mountain forests with extremely valuable scenic resources. That transfer to the Forest Service preserved a valuable public resource and protected these fragile lands from the environmental degradation which would inevitably result from their development. The earlier transfer has proven a wise investment and reflects, I believe, a sound public policy.

The lands involved in this legislation should be preserved for future generations. This bill offers a rare opportunity to secure this treasure for the future public good, and I urge the Senate's support.●

By Mr. LAXALT (for himself and Mr. HECHT):

S. 310. A bill for the relief of the estate of Elizabeth Schultz Rabe; to the Committee on Finance.

ESTATE OF ELIZABETH SCHULTZ RABE

● Mr. LAXALT. Mr. President, I am introducing today with my distinguished colleague, Senator HECHT, a bill to provide for the transfer to the U.S Forest Service of 97.6 acres of pristine forest lands as a credit against the estate taxes of the estate of Elizabeth Schultz Rabe.

The lands involved in this legislation should be preserved for future generations. This bill offers a rare opportunity to secure this tract for future public use, and I urge the Senate's support.●

By Mr. BENTSEN:

S. 311. A bill to amend title 28 of the United States Code to set up a regime of repose for certain archeological and ethnological material and cultural property; to the Committee on the Judiciary.

CULTURAL PROPERTY REPOSE ACT OF 1983

● Mr. BENTSEN. Mr. President, I am today introducing the Cultural Property Repose Act of 1983. It creates for archeological and ethnological material and cultural property that has been held in the United States for 5 years or more a regime of repose against claims of foreign governments. It would bar a foreign state or its agencies from bringing or maintaining a civil action in any State or Federal court, where the action is to recover such property, or damages for such property, if it has been in the United States for 5 or more years. The legislation is necessary because in my State of Texas, some foreign nations are attempting to exploit loopholes in State statutes of limitation—which may apply in Federal actions as well—to attempt the recovery of items that have been held in the United States for many years.

This bill complements action taken in the 97th Congress. Public Law 97-446 implements the UNESCO convention on the means of prohibiting and preventing the illicit import, export, and transfer of ownership of cultural property, which establishes principles for the control of trade in archeological, ethnological, and certain other cultural material. Public Law 97-446 would set up for the future a system of repose from civil actions for property held in this country for a number of years and is consistent with the United Nations convention. Unfortunately, it addressed only cultural material that will come into the country in the future and failed to address itself to those items that are already here. Even more clearly, a regime of repose is needed for cultural property that has already long been in this country, and it should be established by congressional action rather than leaving the matter to litigation. My bill would fulfill that need and I urge my colleagues to pass it as soon as possible. I also request that the text of the bill be printed in the RECORD immediately following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 311

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Cultural Property Repose Act of 1983.".

SEC. 2. (a) Title 28, United States Code, is amended by adding the following new chapter after chapter 99:

"CHAPTER 101.—REPOSE FOR CERTAIN ITEMS OF ARCHAEOLOGICAL AND ETHNOLOGICAL MATERIAL AND CULTURAL PROPERTY

"Sec.
"1641. Repose for certain items of archaeological and ethnological material and cultural property.

"§ 1641. Repose for certain items of archaeological and ethnological material and cultural property

"(a) Notwithstanding any other provision of Federal or State law, no foreign state shall bring an action in any court of the United States or of any State, including the District of Columbia, to recover possession of, or to obtain damages related to, any archaeological or ethnological material or any article of cultural property which, before the institution of such action, has been in the United States for five years, and no such action shall be maintained if, on the date of enactment of this Act, the archaeological or ethnological material or cultural property, with respect to which such action was instituted, has been in the United States for five years.

"(b) For purposes of this section—

"(1) the term 'archaeological material' means—

"(A) any object of archaeological interest, and no object may be considered to be an object of archaeological interest unless such object—

"(i) is of cultural significance;

"(ii) is at least two hundred and fifty years old; and

"(iii) was normally discovered as a result of scientific excavation, clandestine or accidental digging, or exploration on land or under water; and

"(B) any fragment or part of any object referred to in clause (A);

"(2) the term 'ethnological material' means—

"(A) any object of ethnological interest, and no object may be considered to be an object of ethnological interest unless such object is—

"(i) the product of a tribal or nonindustrial society; and

"(ii) important to the cultural heritage of a people because of its distinctive characteristics, comparative rarity, or its contribution to the knowledge of the origins, development, or history of that people; or

"(B) any fragment or part of any object referred to in clause (A),

"(3) the term 'cultural property' means those articles described in Article 1 (a) through (k) of the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property, adopted by the General Conference of the United Nations Educational, Scientific, and Cultural Organization on November 14, 1970, whether or not any such article has been designated as such by a foreign state for the purposes of such article; and

"(4) the term 'foreign state' means a foreign state as defined in section 1603 of title 28, United States Code.".

(b) The chapter analysis of part IV of title 28, United States Code, is amended by adding at the end thereof the following:

"101. Repose for Certain Items of Archaeological and Ethnological Ma-

terial and Cultural Property, 1641".

SEC. 3. The amendments made by this Act shall apply with respect to any proceeding which is pending on or after the date of the enactment of this Act.●

ADDITIONAL COSPONSORS

S. 16

At the request of Mr. DOLE, the name of the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 16, a bill to amend the Internal Revenue Code of 1954 to provide for the establishment of, and the deduction of contributions to, education savings accounts.

S. 31

At the request of Mr. MATHIAS, the name of the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 31, a bill to amend title 17 of the United States Code with respect to home recording and video and audio recording devices and media, and for other purposes.

S. 32

At the request of Mr. MATHIAS, the name of the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 32, a bill to amend title 17 of the United States Code with respect to rental, lease, or lending of sound recordings.

S. 33

At the request of Mr. MATHIAS, the name of the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 33, a bill to amend title 17 of the United States Code with respect to rental, lease, or lending of motion pictures and other audiovisual works.

S. 55

At the request of Mr. GOLDWATER, the name of the Senator from South Dakota (Mr. PRESSLER) was added as a cosponsor of S. 55, a bill to amend the Communications Act of 1934 in order to encourage and develop maketplace competition in the provision of certain broadcast services and to provide certain deregulation of such broadcast services, and for other purposes.

S. 105

At the request of Mr. THURMOND, the names of the Senator from Alaska (Mr. STEVENS), and the Senator from Pennsylvania (Mr. SPECTER) were added as cosponsors of S. 105, a bill to define the affirmative defense of insanity and to provide a procedure for the commitment of offenders suffering from a mental disease or defect, and for other purposes.

S. 109

At the request of Mr. SASSER, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 109, a bill to amend title 18 of the United States Code to prohibit the robbery of a controlled substance from a pharmacy.

S. 144

At the request of Mr. DANFORTH, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 144, a bill to insure the continued expansion of reciprocal market opportunities in trade, trade in services, and investment for the United States, and for other purposes.

S. 148

At the request of Mr. SASSER, the name of the Senator from Louisiana (Mr. JOHNSTON), was added as a cosponsor of S. 148, a bill to amend the Internal Revenue Code of 1954 to allow a credit against tax for contributions and payments to sheltered workshops.

S. 216

At the request of Mr. THURMOND, the name of the Senator from Louisiana (Mr. LONG), was added as a cosponsor of S. 216, a bill to amend title 18, United States Code, to combat, deter, and punish individuals who adulterate or otherwise tamper with food, drug, cosmetic, and other products with intent to cause personal injury, death, or other harm.

S. 222

At the request of Mr. KASTEN, the names of the Senator from Texas (Mr. TOWER), and the Senator from Mississippi (Mr. STENNIS) were added as cosponsors of S. 222, a bill to repeal the withholding of tax from interest and dividends and to require statements to be filed by the taxpayer with respect to interest, dividends, and patronage dividends.

SENATE CONCURRENT RESOLUTION 6

At the request of Mr. RIEGLE, his name was added as a cosponsor of Senate Concurrent Resolution 6, a concurrent resolution expressing the sense of the Congress that the Federal Government should maintain current efforts in Federal nutrition programs to prevent increases in domestic hunger.

SENATE CONCURRENT RESOLUTION 7—AUTHORIZING A BUST OF CARL HAYDEN TO BE PLACED IN THE CAPITOL

Mr. GOLDWATER (for himself, Mr. DECONCINI, and Mr. MATHIAS) submitted the following concurrent resolution; which was referred to the Committee on Rules and Administration:

S. CON. RES. 7

Resolved by the Senate (the House of Representatives concurring), That in honor of Carl Hayden, who served in the United States Congress longer than any other man in history, the Commission on Arts and Antiquities of the United States Senate (hereinafter referred to as the "Commission") is authorized and directed to provide for the design and sculpture of a marble bust of Carl Hayden. The Commission is further authorized and directed, subject to the provision of Senate Resolution 382, Ninetieth Congress, agreed to October 1, 1968, to accept such bust on behalf of the Senate and to cause such bust to be placed in an appropriate location within the Senate wing of the Capital or any of the Senate Office Buildings, or any room, space, or corridor thereof.

SEC. 2. (a) The Commission is authorized to solicit and accept gifts of property, real or personal, or services to carry out the provisions of this resolution. After January 1, 1984 the Commission shall not solicit or accept any such gifts, and shall expend or use all such gifts before expending any moneys provided for in subsection (b).

(b) Expenses incurred by the Commission in carrying out the provisions of this resolution, which shall not exceed $10,000 shall be paid out of the contingent fund of the Senate on vouchers approved by the Chairman of the Commission.

● Mr. GOLDWATER. Mr. President, it is again my great privilege to introduce a resolution calling for the placement of a marble bust of my late colleague from Arizona, Senator Carl Hayden, in the U.S. Capitol or in the Senate Office Buildings. I am delighted that the junior Senator from Arizona. Mr. DECONCINI, and the chairman of the Rules Committee, Senator MATHIAS, are both joining me in presenting this legislation.

Mr. President, I wish to remind all Senators, especially those who did not serve with Carl Hayden when he retired in January of 1969, that he served in the Senate and Congress longer than any other person.

Carl Hayden served in Congress 57 consecutive years, with 42 in the Senate. This is an unparalleled record that will probably never be matched.

Mr. President, Carl Hayden was born in Haydens Ferry, now Tempe, Ariz., on October 2, 1877. After serving as a member of the Tempe Town Council and as sheriff of Maricopa County, he was elected Arizona's first Congressman upon statehood in 1912. He served in the House for eight successive terms from February 1912 to March 1927, and then was elected to seven succeeding terms in the Senate, from March 1927 to January 1969.

Now, I might say that Carl Hayden's great accomplishments are not as well known as they shall become in time, largely because of his modest character. Carl Hayden was not a show horse; he was a workhorse.

But his accomplishments were of national stature and included joint authorship of the constitutional amendment giving the vote to women and the original law setting up the Interstate Highway System.

Mr. President, I might note that the Bureau of Reclamation procured a bronze bust of Carl Hayden in 1969, which was approved by him. It is likely that this work could be utilized for purposes of carrying out our resolution.

Also, I would note that the Senate had approved an earlier version of our

proposal on October 1, 1976, as an amendment to House Concurrent Resolution 96 of the 94th Congress. Unfortunately, the papers arrived too late in the House Chamber for final approval before adjournment that year.

Mr. President, it is fitting that we now take action to honor Carl Hayden and I urge the prompt approval of the resolution.●

SENATE RESOLUTION 27—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON THE JUDICIARY

Mr. THURMOND, from the Committee on the Judiciary, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 27

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on the Judiciary is authorized from March 1, 1983, through February 29, 1984 in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $4,520,223 of which amount (1) not to exceed $60,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202 (i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $1,400 may be expended for the training of the professional staff of such committee (under procedures specified by section 202 (j) of such Act).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 1984.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

SENATE RESOLUTION 28—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON ARMED SERVICES

Mr. TOWER, from the Committee on Armed Services, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 28

Resolved, That in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Armed Services is authorized from March 1, 1983, through February 29, 1984, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $1,994,711, of which amount (1) not to exceed $15,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $10,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 1984.

SEC. 4. Expenses of the committee under this resolution shall be paid for the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

SENATE RESOLUTION 29—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE SPECIAL COMMITTEE ON AGING

Mr. HEINZ, from the Special Committee on Aging, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 29

Resolved, That, in carrying out the duties and functions imposed by section 104 of Senate Resolution 4, Ninety-fifth Congress, agreed to February 4, 1977, and in exercising the authority conferred on it by such section, the Special Committee on Aging is authorized from March 1, 1983 through February 28, 1984, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the special committee under this resolution shall not exceed $1,064,345, of which amount (1) not to exceed $35,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the legislative Reorganization Act of 1946, as amended), and (2) not to exceed $1,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

SEC. 3. The special Committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1984.

SEC. 4. Expenses of the special committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

SENATE RESOLUTION 30—AUTHORIZING THE PRINTING OF A SENATE REPORT

Mr. HEINZ submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 30

Resolved, That there shall be printed for the use of the Special Committee on Aging the maximum number of copies of volume I of its annual report to the Senate, entitled "Developments in Aging: 1982", which may be printed at a cost not to exceed $1,200.

SENATE RESOLUTION 31—RELATING TO BACTERIOLOGICAL AND TOXIN WEAPONS

Mr. PROXMIRE submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 31

Whereas the United States and the Union of Soviet Socialist Republics are parties to the Convention on the Prohibition of the Development, Production, and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, done at Washington, London, and Moscow on April 10, 1972 (hereafter in this preamble referred to as the "Convention");

Whereas article I of the Convention prohibits each party to the Convention from developing, production, stockpiling, or otherwise acquiring or retaining certain microbial or other biological agents or toxins or certain weapons, equipment, or other means of delivering such agents or toxins;

Whereas the Convention does not contain provisions establishing procedures for inspection or verification of suspected violations of the terms of the Convention; and

Whereas under article XI of the Convention any state party may propose an amendment to the Convention, and any such amendment shall enter into force after a majority of the state parties to the Convention has accepted such amendment: Now, therefore, be it

Resolved. That it is the sense of the Senate that the President should—

(1) at the earliest practicable time, propose, on behalf of the United States, an amendment to the Convention on the Prohibition of the Development, Production, and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, done at Washington, London, and Moscow on April 10, 1972—

(A) to establish comprehensive procedures for investigating and verifying suspected

violations of the terms of the Convention, and

(B) to establish standards for distinguishing between research on biological weapons and toxin for defensive and peaceful purposes, permitted by the Convention, and research on such weapons and toxins for hostile purposes, prohibited by the Convention; and

(2) undertake such diplomatic and international initiatives as necessary to condemn strongly the use of toxins, mycotoxins, or other biological weapons, directly or indirectly by the Union of Soviet Socialist Republics or its allies in Laos, Kampuchea, Afghanistan, or in any other country.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

RENEGOTIATING THE 1972 BIOLIGICAL WARFARE TREATY

Mr. PROXMIRE. Mr. President, today I am submitting a resolution calling on the President to reopen and renegotiate the 1972 Convention on the Prohibition of the Development, Production, and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction.

This resolution is identical to that was agreed to unanimously by the Senate during consideration of the fiscal year 1982 Department of Defense authorization bill last year. While the Senate gave firm support to this proposal, the House could not agree to it in conference basically for jurisdictional reasons I am informed. Therefore I am now submitting the bill in resolution rather than amendment form for referral to the appropriate committee.

This is a two-pronged resolution. In the short term it calls for diplomatic action against continued Soviet support for or direct use of biological agents in Southeast Asia and Afghanistan. The evidence of Soviet use of mycotoxins in violation of the 1972 convention is compelling. Secretary of State George P. Shultz has confirmed the facts in stating that "chemical and toxin weapons are nevertheless being used today in Laos, Kampuchea and Afghanistan by the Soviet Union and its allies."

A little history is necessary to clarify the current situation.

On March 25, 1969, President Nixon renounced the use of lethal biological weapons and agents and all other methods of biological warfare. He declared that the United States would confine its biological research to defense activity such as immunization and safety experiments. He also ordered the destruction of all existing U.S. stockpiles of biological weapons.

This unilateral action by the United States triggered negotiations that led to the drafting of the 1972 convention. The convention was adopted by the Senate in 1975 and it has been ratified by 76 nations including the U.S.S.R.

The convention bans the development, production and stockpiling of biological and toxin weapons and requires the destruction of existing stocks of such agents other than those used for "prophydactic, protective or other peaceful purposes." The problem with the convention is that there is no definition as to what "prophylactic, protective or other peaceful purposes" means. There is no quantitative limit to the amount of agents that can be stored or used for so-called peaceful purposes. The dividing line between peaceful uses, protective uses and offensive uses is left unclear.

Article V of the convention instructs all parties to cooperate and consult with regard to any problems that arise under the terms of the convention. A significant case can be taken to the Security Council of the United Nations but inasmuch as the U.S.S.R has a veto in that council, there is little more than a public relations value in taking this action.

Article XI of the convention permits any party to the convention to propose an amendment changing the terms of the convention. An amendment enters into force after a majority of the parties has accepted it.

This brings us to the basic thrust of my resolution. It calls on the President to use article XI and seek to amend the convention in a very significant way. The convention needs to be amended so that it contains a solid verification clause—a device that allows for the investigating of suspected violations of the convention and techniques for verifying illegal activity. This might entail use of national technical means of verification plus some form of international on-site inspection upon demand of suspected biological warfare facilities.

The convention should also include standards for distinguishing between research on biological weapons and toxins for defensive and peaceful purposes as opposed to research clearly prohibited by the convention.

An lastly this resolution takes note of the current Soviet activities in Afghanistan, Laos, and Kampuchea by encouraging the President and the State Department to continue a vigorous protest diplomatically against these practices.

Mr. President, I hope that the Congress can act in concert and in good speed on legislation embodying these much needed reforms.

SENATE RESOLUTION 32—RECOMMENDING SENATE CONFIRMATION OF ELIZABETH HANFORD DOLE

Mr. STAFFORD (for himself, Mr. RANDOLPH, Mr. SYMMS, and Mr. BENTSEN) submitted the following resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. RES. 32

Whereas, the President of the United States has nominated Elizabeth Hanford Dole to be Secretary of the Department of Transportation;

Whereas, the Environment and Public Works Committee has jurisdiction over the Federal-aid highway program and other important programs of the Department of Transportation;

Whereas, the Members of the environment and Public Works Committee have met with the nominee through the hearing process and find her to be well qualified for this important position, and believe she will carry out this responsibility with high competence and integrity: Now, therefore, be it

Resolved, That the committee on Environment and Public Works unanimously recommends that Elizabeth Hanford Dole be confirmed by the United States Senate as Secretary of Transportation.

Mr. STAFFORD. Mr. President, I am introducing a resolution today which was unanimously approved by the members of the Environment and Public Works Committee. This resolution recommends that Elizabeth Hanford Dole be confirmed as Secretary of the Department of Transportation.

I recognize the responsibility of the Committee on Commerce, Science and Transportation to report the nomination to the Senate. However, the Committee on Environment and Public Works has jurisdiction over the Federal-aid highway program, and oversight responsibility for the Federal Highway Administration. In addition, the committee has an interest in other areas within the Department of Transportation.

The members of the committee met with Secretary-designate Dole in the hearing process on January 27. We found the nominee to be responsive and knowledgeable on transportation issues. We believe Mrs. Dole will carry out her responsibilities as Secretary with competence and integrity. The committee, therefore, voted unanimously to recommend that Elizabeth Hanford Dole be confirmed as Secretary of Transportation.

SENATE RESOLUTION 33—AUTHORIZING EXPENDITURES BY THE COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. McCLURE, from the Committee on Energy and Natural Resources, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 33

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Energy and Natural Resources is authorized from March 1, 1983, through February 29, 1984, in its discretion

(1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $2,371,564.

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it seems advisable, to the Senate at the earliest practicable date, but not later than February 29, 1984.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the Chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

SENATE RESOLUTION 34—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. ANDREWS, from the Select Committee on Indian Affairs, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 34

Resolved, That in carrying out the duties and functions imposed on it by section 105 of Senate Resolution 4, Ninety-Fifth Congress, agreed to February 4 (legislative day, February 1), 1977, as amended, and in exercising the authority conferred on it by such section, the Select Committee on Indian Affairs is authorized from March 1, 1983, through January 2, 1984, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of any such department or agency.

(b) The expenses of the committee under this section shall not exceed $645,072.07, of which amount not to exceed $20,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

(c) The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than January 2, 1984.

(d) Expenses of the committee under this section shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries paid at an annual rate.

SENATE RESOLUTION 35—AUTHORIZING EXPENDITURES BY THE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. GARN, from the Committee on Banking, Housing, and Urban Affairs, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 35

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Banking, Housing, and Urban Affairs is authorized from March 1, 1983, through February 29, 1984, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $1,719,750, of which amount (1) not to exceed $1,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $1,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 1984.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

SENATE RESOLUTION 36—AUTHORIZING EXPENDITURES BY THE SELECT COMMITTEE ON INTELLIGENCE

Mr. GOLDWATER, from the Select Committee on Intelligence, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 36

Resolved, That, in carrying out its powers, duties, and functions under Senate Resolution 400, approved May 19, 1976, in accordance with its juridiction under section 3(a) of such resolution, including holding hearings, reporting such hearings and making investigations as authorized by section 5 of such resolution, the Select Committee on Intelligence is authorized from March 1, 1983, through February 28, 1984, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $1,928,000, of which amount (1) not to exceed $20,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $1,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1984.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

SENATE RESOLUTION 37—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. HELMS, from the Committee on Agriculture, Nutrition, and Forestry, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 37

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Agriculture, Nutrition, and Forestry, is authorized from March 1, 1983 through February 29, 1984, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $1,372,000 of which amount (1) not to exceed $2,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $4,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act.).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 1984.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

SENATE RESOLUTION 38—MAKING A TECHNICAL CORRECTION IN SENATE RESOLUTION 7

Mr. BAKER (for himself and Mr. BYRD) submitted the following resolution; which was considered and agreed to:

S. RES. 38

Resolved, That Senate Resolution 7, Ninety-eighth Congress, is amended as follows: On the first page, line 10, strike out "'Ninety-sixth'", and insert in lieu thereof "'Ninety-seventh'".

SEC. 2. The amendment made by the first section of this resolution shall take effect on the date Senate Resolution 7, Ninety-eighth Congress, was agreed to.

AUTHORITY FOR COMMITTEES TO MEET

SELECT COMMITTEE ON INTELLIGENCE

Mr. BAKER. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, February 1, 1983, at 2:30 p.m., to hold a business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL ECONOMIC POLICY

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on International Economic Policy, of the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Tuesday, February 1, at 10 a.m., to hold a hearing entitled "Recommendations for the Future."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, February 1, at 2 p.m., to consider the nomination of Lewis Arthur Tambs to be Ambassador to Colombia.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, February 1, in order to consider and act only on committee organization business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources have until 9 p.m. today to report the measure S. 271, a bill to amend the National Trails Systems Act by designating additional national, scenic and historic trails.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE SOCIAL SECURITY SYSTEM

● Mr. QUAYLE. Mr. President, the issue of the health of the social security trust funds is one of the most difficult facing the Congress this session. While we are all aware of the statistical and actuarial problems, since these are widely reported in the press, we have relatively little information on the attitudes of persons covered by the system toward various approaches to reform.

Recently, Reid Memorial Hospital in Richmond, Ind., conducted a 2-year study of the possibility of withdrawing from the social security system. As part of this study, Reid conducted a survey of its work force, after presenting them with detailed information on the alternatives available to them and the hospital. Though Reid's employees were extremely apprehensive about remaining in social security, Reid's board decided to stay with the system for a number of reasons.

I believe the results of the Reid survey will be of interest to my colleagues in their consideration of the social security issue. I ask that the letter I received from Mr. Theodore Sobol, vice president of Reid Memorial Hospital, and the information on the Reid survey, including all tables, be printed in the RECORD.

The material follows:

REID MEMORIAL HOSPITAL,
Richmond, Ind., December 29, 1982.

Hon. DANFORTH QUAYLE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR QUAYLE: I am writing to you to express my concern about the appropriate reform measures that should be taken in order to shore up our Social Security system.

As you may be aware, my employer, Reid Memorial Hospital, has been in the process of studying the possibility of withdrawal from Social Security for a period of nearly two years. Reid's Board, at its November meeting, voted to remain within the Social Security system. This decision is based on several factors, among them: the recent T.E.F.R.A. Amendments, uncertainty about ability to achieve an appropriate rate of return to support replacement programming, employee support was not as overwhelmingly for Social Security withdrawal as had been hoped for, community reaction, and the future social role of hospitals.

It occurs to me, after studying the great amount of energy and detail that went into this analysis, that you would be interested in the survey that we conducted among our work force in October, 1982. The survey was preceded by in-depth information sessions with our employees. We presented a review of their benefits under the Social Security system and then a reveiw of what our proposed replacement plan looked like. At the end of the second of these sessions we asked each participant to complete a questionnaire, a copy of which is enclosed. Employees were asked to give their views of Reid Hospital and, more specifically, were asked to react to the possibility of withdrawing from the Social Security system. This survey gave us significant insights into the attitudes about the current Social Security system and the possibility of withdrawal. I am forwarding this material to your attention in the hope that it can provide to you a measurement of the attitudes of our work force.

It is my personal conviction that we, as citizens, may aid those of you in Congress most when we strive to reflect our positions on issues objectively. It is my hope that in sharing this material with you that you will begin to get a better understanding of the attitudes of employees at Reid Memorial Hospital, Richmond's second largest employer.

In addition, I would like to offer my energies to whatever use they might be put in helping you formulate your position on this very important issue. It is my belief that this issue demands truly statesmanlike action on the part of our Congress. Such action places equal demands on our citizens to be a part of the solution by being reasonable in our expectations and supportive of sound legislation.

I have read, with interest, the reports filed to date regarding the National Commission on Social Security Reform. I am in concert with this Commission's general tenets which appear to be that benefits will have to be cut to some degree and taxes will have to be increased to some degree. Having said that, I full well recognize the political sensitivity of these issues and the dilemma in which they place our elected representatives.

I look forward to being of whatever assistance that you and your staff may feel that I might be in this analysis. Failing that, I hope that the information that I have provided will be of value to you in analyzing the position of a significant number of your constituents. Thank you for reviewing this material.

Let me express, from my family to yours, our very best wishes for a happy and holy holiday season.

Very truly yours.

THEODORE J. SOBOL,
Vice President.

EMPLOYEE ATTITUDES—SOCIAL SECURITY WITHDRAWAL QUESTIONNAIRE RESULTS

REID MEMORIAL HOSPITAL'S ENVIRONMENT

1. How satisfied are you with each of the following items in your work at Reid Memorial Hospital? (N=148)

	Very dissatisfied (percent)	Somewhat dissatisfied	Somewhat satisfied	Very satisfied	No response
a. Work itself	1	11	35	53	0
b. Chance to learn and grow on the job	6	10	41	43	0
c. Supervisor(s)	4	19	41	35	1
d. Pay	5	18	53	24	0
e. Physical surroundings	3	10	43	43	1
f. Coworkers	3	10	35	52	0
g. Opportunity to help others	2	5	28	65	0
h. Vacations and holidays	7	10	33	50	0

	Very dissatisfied (percent)	Somewhat dissatisfied	Somewhat satisfied	Very satisfied	No response
i. Benefit program	2	21	44	33	0
j. Social security	8	27	49	15	1
k. Ability to adjust work schedule to your own personal needs	6	13	42	39	0
l. Location	4	6	33	56	1
m. Opportunity for advancement	9	22	39	29	1
n. Size of facility	2	5	37	55	1
o. Other (please list) [1]					

[1] Only two comments were made: "Inability to vent frustration or anger without punitive disciplinary action by directors/supervisors." "Hospital needs to work more fairly with their employees and less conflict over 'petty' issues. Should be more concerned with quality of employees' work performance, not who you are, who you know, or your status in community."

ABOUT WITHDRAWING FROM SOCIAL SECURITY

2. What is your reaction to Reid Memorial Hospital's possible withdrawal from social security?

Do you think Reid Memorial Hospital should withdraw from social security and put in its own program? (N=148)

	Percent
Definitely	36
Probably	37
Probably not	10
Definitely not	6
I don't know	11
No response	0

Reasons given for thinking Reid Memorial Hospital should probably/definitely withdraw from social security and put in its own program: (N=108)

	Percent
Offers better benefits than social security	[1] 29
Lack of confidence in social security system	27
Savings/increase in pay	9
Flexibility with regard to life insurance	7
Good/fair plan	6
Opportunity to invest extra 5 percent of pay	6
Savings/less cost to hospital	5
Other	6
Don't know	21

Reasons given for thinking Reid Memorial Hospital should probably not/definitely not withdraw from social security and put in its own program: (N=24)

	Percent
Unsure of length of employment with hospital	[1] 21
Should stay in social security—unsure of new plan	13
Concern about disability gap	8
Replacement plan does not seem fair to all employees	8
Don't know	54

Reasons given for not having an opinion as to whether or not Reid Memorial Hospital should withdraw from social security? (N=16)

Should support Government	6
Company might change benefits at future date	6
Other	6
Don't know	81

Would you have come to work for the hospital if it had not been a participant in social security at the time you were hired? (N=148)

	Percent
Definitely	31
Probably	44
Probably not	11
Definitely not	2
I don't know	12
No response	0

Would you leave the hospital if it was not a participant in social security? (N=148)

	Percent
Definitely	1
Probably	4
Probably not	30
Definitely not	59
I don't know	5
No response	1

Do you think the hospital will have trouble in recruiting the type of people it needs if it withdraws from social security? (N=148)

	Percent
Definitely	2
Probably	14
Probably not	51
Definitely not	23
I don't know	10
No response	0

[1] Totals more than 100 percent due to some participants giving more than one reason.

3. If the hospital withdraws from social security, you would not build any additional credits in social security while you continued working here. How do you feel about this? (N=148)

	Percent
This doesn't bother me at all	41
This bothers me a little	35
This bothers me a great deal	20
I don't know	4
No response	0

4. Has the information presented during our sessions expressed both sides of the issue fairly? (N=148)

	Percent
Yes	94
No	6
No response	0

5. Do you feel you understand the reasons why Reid Memorial Hospital is considering withdrawing from the social security system? (N=148)

	Percent
Yes	95
No	5
No response	0
If not, why not?	[1]

[1] Only one comment was made: "The new plan is in essence to social security—why withdraw."

	Percent
6a. Age:	
Under 25	10
25-30	26
31-45	36
46-59	24
60 or older	4
No response	0
6b. Sex:	
Male	12
Female	88
No response	0
6c. Marital Status:	
Single	23
Married	77
No response	0
6d. Job Category:	
Part time	12
Full time	88
No response	0
6e. Number of wage earners in household:	
Myself only	31
Spouse also wage earner	68
No response	1
6f. Position:	
Registered Nurse	18
Licensed practical nurse	14
Nursing Assistant	10
Clerical	23
Pharmacist	1
Lab Technician (any level)	5
Respiratory Care Technician (any level)	1
Environmental Services Worker	4
Other	23
No response	1
6g. Length of Service:	
Under 5 years	38
5-9 years	34
10-19 years	20
20 years or over	7
No response	1
6h. Hourly Pay:	
$4.24-$5.78	27
$5.79-$7.52	35
$7.53-$9.79	21
$9.80 or more	15
No response	2●

WITHHOLDING OF INTEREST AND DIVIDEND PAYMENTS

● Mr. GLENN. Mr. President, the provision in the Tax and Fiscal Responsibility Act of 1982 that requires the payers to withhold 10 percent of interest and dividends payable to individuals is inequitable and unsound economic policy. It is inequitable because the withholding will amount to an interest free loan to the Government from taxpayers who have no tax liability. Many of these taxpayers are the poor and elderly who rely on their interest and dividend income to meet their daily living expenses. I am also concerned that the exemption process set up by Congress will fail to work, forcing elderly people, who have not been required to file a tax return in years, to file a complicated tax report to obtain the refund of their meager interest earnings.

The IRS already has a mechanism to apprehend those who fail to pay taxes on their interest and dividend income. Payers of interest and dividends are required to furnish the taxpayer and the IRS a form reporting such income. Moreover, individuals, who have income not subject to withholding, are required to make quarterly tax payments. Taxpayers who underpay taxes are assessed a penalty plus interest on the underpaid amounts.

Withholding passes the costs of tax collection onto the savers and the financial institutions when it would be cheaper for the IRS to simply crosscheck the reports filed by the payers with the taxpayer returns.

Withholding on savings is bad economic policy. It discourages savings at a time when the Nation has a critical need for savings capital to finance economic growth. The costs of administration of this program, borne mainly by financial institutions, is excessive. This is particularly true for small institutions who must invest in expensive computer systems.

Mr. President, I object to the withholding provision because it is an oner-

ous and inequitable burden on the small savers of this country. I voted against this provision in 1982 and I ask my colleagues to join me in voting to repeal this provision.●

DREW LEWIS: CABINET OFFICER EXTRAORDINAIRE

● Mr. ANDREWS. Mr. President, I want to pay tribute today to Drew Lewis who is about to leave his position as Secretary of Transportation to become chairman and chief executive officer of Warner Amex Cable Communications, Inc. As chairman of the Subcommittee on Transportation of the Senate Committee on Appropriations, I have worked closely with Drew during his tenure as Secretary and can personally attest to his considerable abilities and accomplishments. They include, among many, the highway-transit-jobs bill, his successful handling of the 1981 strike by the Professional Air Traffic Controllers, and the plan to transfer Conrail to the private sector.

As a Washington Post editorial of December 31, 1983, points out:

The prevalent—and sound—view in the White House is that President Reagan is losing an exceptionally valuable Cabinet officer and team player.

The editorial adds that Mr. Lewis has earned widespread respect in Congress from both sides of the aisle for his "keen political sense, management ability and intimate knowledge of the complex fields that his department is charged with overseeing."

I ask that the entire editorial, entitled "Drew Lewis: Aide Extraordinaire," and a Washington Post article of December 29, 1982, be printed in the RECORD.

The material follows:

[From the Washington Post, Dec. 31, 1982]

DREW LEWIS: AIDE EXTRAORDINAIRE

Given the fact that transportation is usually not among the first-string positions in a president's Cabinet, the high regard that Drew Lewis has enjoyed as secretary of transportation is all the more notable. Topping a lengthy list of accomplishments is his latest—the nickel-a-gallon increase in the gasoline tax, for the construction of highways, birdges and mass transit systems. Long before even President Reagan would endorse this levy, Mr. Lewis was point man for the tax increase—meeting with potential opponents, working into the formula a share of its yield dedicated to transit and greasing the skids for it on Capitol Hill.

The most difficult situation Mr. Lewis says he faced was the 1981 PATCO strike. He had tried to negotiate a new contract with the air traffic controllers' union, and a generous settlement had been agreed to by the union leaders before the strike occurred. Mr. Reagan decided to fire the strikers, and Mr. Lewis supported the action vigorously—at the same time commissioning an important study of air traffic control procedures and supervisors' attitudes that was to find management weaknesses in the Federal Aviation Administration.

The Secretary's attention to detail and knowledge of the Washington scene extended as well to the local area—from National Airport-Dulles policies to money for Metro and new life for Union Station.

The prevalent—and sound—view in the White House is that President Reagan is losing an exceptionally valuable Cabinet officer and team player. In two fast-paced years of selling and shepherding significant policies for the president, Mr. Lewis has earned widespread bipartisan respect for his keen political sense, management ability and intimate knowledge of the complex fields that his department is charged with overseeing. All this, coupled with strong loyalty, made Secretary Lewis a standout in an administration not exactly overstocked with such successful operators.

[From the Washington Post, Dec. 29, 1982]

DREW LEWIS IS LEAVING CABINET JOB—TRANSPORTATION SECRETARY TO HEAD CABLE TV FIRM

(By Douglas B. Feaver)

Transportation Secretary Drew Lewis, generally regarded here as the most able domestic Cabinet officer in the administration, announced yesterday that he is resigning to take a job in private business, effective Feb. 1.

Lewis, 51, becomes the third Reagan Cabinet officer to move on. The others are former secretary of state Alexander M. Haig Jr. and former energy secretary James B. Edwards.

Both Lewis and White House spokesman Larry Speakes said yesterday that Lewis' departure was an isolated event, and not the start of a flurry of Cabinet-level shifts at this midpoint in the Reagan term. In fact, there was some speculation in the opposite direction: that lack of another attractive government job may have contributed to Lewis' decision to leave.

Lewis will become chairman and chief executive officer of Warner Amex Cable Communications Inc., a partnership of Warner Communications and American Express. Warner Amex is the nation's sixth largest cable TV company, and Lewis is taking over at a critical time for its cable venture.

Lewis' salary as a Cabinet secretary has been $69,630 a year. His new salary was not disclosed.

"I think the president has a fine Cabinet," Lewis said at yesterday's news conference. "My impression is most will be staying."

He said it was "totally unfair" to him and the administration to suggest that he had been under-utilized at the Transportation Department. He also said he had not been offered any other job in the administration, although he confirmed that he at one point had discussed taking on the chairmanship of the Republican National Committee, which ultimately went to Sen. Paul Laxalt (R. Nev.).

Lewis said at his news conference yesterday that he had offered to help Reagan as a volunteer if the president seeks reelection in 1984, but said later that because of his commitments to Warner Amex he would not be able to hold a full-time job in a second Reagan campaign.

Lewis' resignation had been rumored for some time and came as no surprise, either in the Transportation Department or at the White House. The Washington Post reported Dec. 16 that he was considering the Warner Amex job.

Lewis' letter of resignation was dated Dec. 12, a week and a half before the lame-duck session of Congress handed him the most impressive in a long list of accomplishments as secretary: a nickel-a-gallon increase in gasoline and other taxes for reconstruction of highways, bridges and mass transit systems.

Lewis, explaining the timing of his public announcement, said he had "a fundamental responsibility to the president" to see the highway tax-and-repair bill through the lame-duck session after he had fought hard for it within the administration.

Highway and transit interests were worried in the final days of the session that a Senate filibuster against the tax increase would succeed and they would be left with a far less able advocate than Lewis to carry on the fight next year.

Lewis shepherded the complex legislation through the House and the Senate, answering questions, cutting deals and generally keeping the bill on track.

Speakes said President Reagan considered Lewis "top notch" and "one of the most loyal and effective members of the Cabinet," and called passage of the gasoline tax increase his "major achievement."

Speakes said, "The President hopes to name a successor before Feb. 1, although the search is just now beginning." Lewis said the same thing, and said he had not been asked to recommend a successor, although he had some ideas if he were asked.

The two names most prominently mentioned in the transportation community in early speculation were those of Federal Highway Administrator Ray A. Barnhart, who was at Lewis' side throughout the gasoline tax fight, and Darrell M. Trent, currently deputy transportation secretary.

Others mentioned include Norbert Tiemann, federal highway administrator in the Ford administration; Edwin L. Harper, formerly deputy director of the Office of Management and Budget and now assistant to the President for policy and development, and John A. Clements, commissioner of New Hampshire's Department of Public Works and Highways, who has strong Republican credentials.

Edward J. King, defeated Democratic but conservative governor of Massachusetts, has been reported by the Boston press as actively seeking the job. Rep. Don H. Clausen (R-Calif.), who lost his bid for reelection, is intimately familiar with the Transportation Department as the outgoing ranking minority member of the House Public Works and Transportation Committee.

Lewis will be returning to the professional business career he has pursued for all but the past three years, when he was deputy political director of the Reagan-Bush Campaign Committee and then transportation secretary. His specialty has been saving failing firms.

His intimate knowledge of railroad operations came from nine years as trustee of the bankrupt Reading Railroad, which was ultimately conveyed to ConRail. ConRail, made up of several bankrupt northeastern railroads, is at a point where "it can be returned to the private sector," Lewis said in a letter to Reagan.

Lewis said the most difficult situation he faced as secretary concerned the strike in August, 1981, by the Professional Air Traffic Controllers Organization (PATCO), who worked for the Transportation Department's Federal Aviation Administration.

Lewis had tried to negotiate a new contract with PATCO personally, but when the 11,400 PATCO controllers struck, Reagan decided to fire them and Lewis supported his decision vigorously. The FAA set out to

rebuild the air traffic system with supervisors, trainees and military controllers, and now claims that it is handling more than 90 percent of the traffic it did at the time of the strike.

Lewis also commissioned a major study of air traffic control procedures and supervisors' attitudes, and the study confirmed what controllers had been saying for years: that the FAA has significant management problems.

"I leave here with two regrets," Lewis said. "One is that we had to have the controllers' strike and it affected so many families, and the second is that I think it's very important that we rebuild the FAA so that some secretary of transportation in the future does not have the same problems that I had.

". . . We had very serious personnel problems and they're not resolved yet, and they won't be because you don't change what's existed for 25 years in six months or a year. I would say in the FAA we have a two- to three- to four-year rebuilding program in terms of personnel policies and management . . . . I regret I will not be here to see that happen, but even if I stayed four years it would not have happened."

While the PATCO situation was not resolved happily, Lewis did for the aviation community the same thing he did later for highways and bridges: he nailed down a guaranteed source of funding to pay for the research and development of a new nationwide air traffic control computer system estimated to cost about $10 billion over the next decade.

New "user fees," the term Lewis always used in selling earmarked tax increases to the White House, will pay for the system as well as some of the operating and maintenance costs for existing air traffic control equipment, just as the new gasoline tax will pay for the federal aid highway program.

Thus, two major components of the transportation budget will not have to compete with other domestic programs for money from the general fund.●

SHELTERED WORKSHOPS: ASSISTING HANDICAPPED PEOPLE TO REACH THEIR FULLEST POTENTIAL

● Mr. SASSER. Mr. President, I have introduced many pieces of legislation in the Congress, but I can certainly say that S. 148, the Sheltered Workshop Tax Credit Act of 1983, will always have a special place in my heart for it emanates from the industry, compassion, and love of all the good people in the sheltered workshops throughout Tennessee and the Nation. Recently, I received correspondence from the Tennessee Department of Education, Division of Vocational Rehabilitation, which underscores the valuable services which sheltered workshops provide their clients and the community at large. Moreover, it reemphasizes the need for a closer working relationship between the American business community and sheltered workshops so that sheltered workshops can grow and expand in the years ahead.

Mr. President, I ask that the correspondence from the Tennessee Department of Education, Division of Vocational Rehabilitation, be printed at this point in the RECORD.

The correspondence follows:

TENNESSEE WORKSHOP INFORMATION

There are 92 facilities in Tennessee with workshop components serving in excess of 3,000 handicapped citizens daily. Without these workshops such individuals would not have the opportunities to become less dependent on Social Security Supplemental Income, institutionalization, custodial care at home, or in other ways remain a burden on the community.

Workshops in Tennessee are providing a necesssary service to handicapped individuals. Examples of industry cooperation with workshops would be demonstrated by the following:

1. In two of the Tennessee Vocational Training Centers located in Middle Tennessee, industry is providing assembly and packaging, salvaging by recycling materials and mailing services. These contracts provide opportunities to offer work evaluations, training and regular paid work to many severely handicapped people. The two centers are located at Shelbyville and Columbia. Earnings from these work contracts were shared by 200 disabled persons that totaled $141,369.99.

2. The Michael Dunn Rehabilitation Center in Roane County is cooperating with the local school system and state agencies in serving their handicapped citizens through the workshop program. Subcontracts with industry in the Kingston area involve mailing services, producing a product for the armed services and operating a greenhouse horticultural program very successfully.

Most, if not all workshops in Tennessee could benefit greatly from increased amounts and a greater variety of subcontracts from business and industry. Without this support, workshops cannot be, in large measure, self-sufficient, offer a number of needed services to severely handicapped people nor remain open to help anyone.

Sheltered workshops often are the first priority need in order to better serve the large number of physically and mentally handicapped individuals who live in Tennessee. The workshop setting offers them the most responsible and self-satisfying place within their own community to live and function effectively as dignified members of society.

Workshops that are certified to do subcontract work probably number 92 or more facilities. A few places were not counted because the facility may not offer a workshop component at this time. However, of the estimated 92 facilities, there are these various types of programs including:

A. 60 Work Activity Centers;

B. 22 Tennessee Vocational Training Centers;

C. 4 Goodwill Industries Plants;

D. 3 Workshops for the Blind;

E. 2 Workshops in Developmental Centers for the Mentally Retarded; and

F. 1 Workshop in a Psychiatric Institute—a total of 92.

The number of handicapped individuals being served and/or working in these centers is estimated to be in excesss of 3,000 per day. This figure represents less than .05 percent of Tennessee's estimated total number of severely disabled population or 70,000 people. In the average size work activity center where approximately 30 handicapped people work, 55 centers of this type would total 1,650 people. Larger work activity centers including the five centers like the Orange Grove Occupational Training Center at Chattanooga, the Bristol Workshop, or the Rochelle Training Center at Nashville total another 575 to 600 people. The Tennessee Vocational Training Centers are a network of centers serving another 462 people on a daily basis while the 4 Goodwill Industries employ another 200 or more workers.

These workshop programs in Tennessee serve a number of severely handicapped individuals including:

A. 1,650 persons in 55 to 60 Work Activity Centers;

B. 575 persons in 5 of 60 Work Activity Centers;

C. 462 persons in 22 Tennessee Vocational Training Centers;

D. 200 persons in 4 Goodwill Industry Centers;

E. 60 persons in 3 Workshops for the Blind;

F. 60 persons in 2 Developmental Centers for the Mentally Retarded;

G. 15 persons in 1 Psychiatric Institute—for a total of 3,022.

There are a number of handicapped workers at these centers who are considered sheltered or long-term clients. They probably can function productively as workers only within a sheltered workshop setting. A large percent of the average number of work activity center employees or two-thirds of the 1,650 or more people, are terminal type workers. A conservative figure of 115 workers in 22 Tennessee Vocational Training Centers are terminal workers, probably half of the workers in Goodwill Industry Centers and Workshops for the Blind could function effectively only in such a sheltered setting. Therefore, a breakdown in number of handicapped people employed in workshops is as follows:

A. 593 in 55 of the 60 Work Activity Centers;

B. 300 in 5 of the 60 Work Activity Centers;

C. 115 in 22 of the Tennessee Vocational Training Centers;

D. 100 in 4 Goodwill Industries;

E. 50 in 3 Workshop for the Blind;

F. 60 in 2 Developmental Centers—for a total of 1,218.

The number of staff personnel employed in the combined 92 workshop programs is estimated at 400 to 440 people. The network of 22 Tennessee Vocational Training Centers may average 30 handicapped clients per center and 4 staff (a manager, an assistant manager, a technician, and secretary). Goodwill Industry Directors recommend one staff person per six handicapped workers while performing subcontract activities. This ideal ratio, however, is not often realized and a 1:12 or 1:15 ratio more often occurs.

The amount of budget necessary to operate these 92 workshop components of these various programs of rehabilitation is estimated to be $14,644,000. For example, in any of the 55 average sized work activity centers serving 25 to 35 severely handicapped people, the budget is between $80,000 to $100,000 per year. Of some 40 persons in the center, probably 15 are subcontract workers and 25 are in activity center craft programs. The annual budget based on 1982 annual figures and estimates would be as follows:

A. $5,500,000 or the total annual budget of $100,000 times 55 Work Activity Centers;

B. $2,291,000 or the annual budget of other 5 largest Work Activity Centers;

C. $1,718,000 or the total of work contract activities in the 22 Tennessee Vocational Training Centers for Fiscal Year 1982;

D. $210,000 or the estimate of the total annual budget for subcontract work at 4 Goodwill Industries;

E. $4,700,000 or the total budget for the 3 Workshops for the Blind;

F. $25,000 or the total budget for 1 Psychiatric Institute;

G. $200,000 or the total of two workshops at the state operated Development Centers for the Mentally Retarded—for a total of $14,644,000.

When identifying the source of funds for workshops in Tennessee, they may include federal, state, local, sales, United Givers' Fund, or other related income from gifts or business donations. The Work Activity Centers depend on Title XX federal funds for 75 percent of the budget while another 18.6 percent is state funds and the remaining 6.4 percent comes from local public governmental sources. Less than 1 percent of financial support comes from private donations. Sources of funding were identified as follows:

Type of workshop	Federal	State	Local	Sales	UGF	Other
A. Work activity centers	0.75	0.186	0.064			
B. Tennessee vocational training centers	.80		.20			
C. Goodwill Industries		.24		0.58	0.06	0.12
D. Mental health institute	.75	.25				
E. Workshop for the blind	.10	25		.65		
F. Mental retardation development workshops	.75	.25				

The percentage of workshop funds that come from private contributions is usually less than 1 percent and not over 4 percent of a budget no matter what type sub-contract shop is being considered.

The value of "sub-contract work" from business and industry in the 92 workshop components is estimated to total $7,202,000. The dollar value of sub-contracts is as follows:

A. $2,280,000 in 60 Work Activity Centers;

B. $851,000 in 22 Tennessee Vocational Training Centers;

C. $150,000 in 2 Developmental Centers for the Mentally Retarded;

D. $246,000 in 4 Goodwill Industry Workshops;

E. $25,000 in 1 Psychiatric Center Workshop;

F. $3,650,000 in 3 Workshops for the Blind—for a total of $7,202,000.

The amount of contract income needed to meet current and future needs of serving severely handicapped people as sheltered workers is estimated to be as follows:

A. $4,560,000 or 2 times present production within 60 Work Activity Centers;

B. $2,553,000 or 3 times present production in 22 Tennessee Vocational Training Centers;

C. $300,000 or 2 times present production at the two Developmental Center Workshops;

D. $740,000 or estimated increased production at 4 Goodwill Industry Workshops;

E. $50,000 or 2 times the present rate of production at one Psychiatric Center;

F. $7,300,000 of future needed contracts in 3 Workshops for the Blind—for a total of $15,503,000.

Other information that is useful in considering legislation is to better understand the importance of contract work for the purpose of training handicapped individuals and long-term employment in sheltered workshops. Work Activity Centers could use two or three times their present sub-contract work because there are many severely handicapped adults who depend on this marginal, nuisance type work from business and industry to earn a small but worthwhile wage. The large Industries for the Blind Workshops depend very heavily on large federal government contracts as a foundation for maintaining livable wages for the many employed visually handicapped workers. Sub-contracts would be used to focus on evaluation and training for many more visually handicapped or other severely handicapped persons who could be placed out into business and industry if additional private industry contracts could be forthcoming. Also, the four Goodwill Industry Workshops desire three times present day contracts in order to greatly increase the number of clients benefiting through their rehabilitation process that best prepares severely disabled clients for competitive work in the community. All 92 workshop programs identified above are dedicated to the rehabilitation process of providing practical work oriented sheltered environments in order to offer good evaluation of the work, a testing ground for training work habits and skills prior to the final placement of every handicapped worker into a job out in the community but, if necessary, be able to offer less productive workers a place to continue working in a sheltered workshop where so many severely handicapped adults would have to remain to earn any part of their living. This opportunity to work depends on business leaders and the private sector of our national economy in order to be successful.●

AMERICAN CONSERVATION CORPS ACT OF 1983

● Mr. HEINZ. I am pleased to join as an original cosponsor of the American Conservation Corps Act of 1983. This legislation is a cost-effective approach to solving two of the more intractable problems facing our Nation: high youth unemployment, and deterioration of our national, State, and local park infrastructure.

This legislation would establish an American Conservation Corps composed of unemployed young men and women between the ages of 16 and 25. This Corps would be responsible for the enhancement and improvement of our Nation's public lands, which, as Secretary of the Interior Watt has frequently stated, are deteriorating. Secretary Watt has emphasized that he believes that the national policy of acquiring more park and wilderness areas must be subordinated to the policy of preserving and improving those lands which are already under governmental control. This legislation would augment the resources already available to the Department of the Interior and the Department of Agriculture in meeting this new policy priority.

At the same time, the conservation work would provide employment opportunities and training for our young people. Two aspects of the legislation are particularly farsighted. First, preference will be given to disadvantaged youth. Second, priority will be given to those youths from areas experiencing especially high unemployment. These provisions will insure that the Corps recruits those young adults who need the work and the training the most.

Mr. President, it is worth noting that previous youth conservation programs, such as the Young Adult Conservation Corps, have been extremely cost effective. For example, YACC returned $1.20 of appraised conservation work for each dollar expended in fiscal year 1980. That is 20-percent return on investment, and is a figure that many businesses would like to have. Another program, the Youth Conservation Corps (YCC) returned $1.04 of appraised conservation work in fiscal year 1980.

Of course, no dollar amount can properly reflect that enjoyment of our natural resources which is furthered by sound conservation work. Likewise, no dollar amount can reflect the benefits accruing to society when young people acquire basic work skills through a program, without which they would be idle.

In my home State of Pennsylvania, which has about 5 percent of the Nation's youth population, unemployment has averaged over 11 percent for adults this past year, and the rate of youth unemployment is at least double the adult rate. Needless to say, the youth unemployment rate for minorities in my home State is over 50 percent, somewhat closer to the national average. Simply put, too many youths are without work.

However, Mr. President, we do have work to be done. Pennsylvania alone has 113 State run parks, most or all of which are in need of rehabilitation and improvement. In the city of Philadelphia, 89 parks are maintained by the department of recreation, and my hometown of Pittsburgh has over 15 major parks and 200 facilities cared for by the city.

Let me stress that the work to be performed is not contrived and unnecessary. We are faced with a backlog of needed conservation work on our public lands, which will continue to wait unless we enact this legislation. This is work in the parks, forests, and local communities: Rehabilitation of facilities, picnic areas, hiking trails, access, historical sites, and timber management. Preferences in the work will go to those projects which can provide long-term benefits to the public and are labor intensive.

As you can see, Mr. President, this program is beneficial to all of us. It puts economically disadvantaged youth to work and improves the public lands in need of rehabilitation. It is a cost-effective means of performing work that otherwise would not get done.

There is a need for conservation work in this country. There is also a

need to put our unemployed youth to work, to give them a chance to learn basic work skills, and to prove to themselves and America that they can contribute to this country's welfare.

As a member of the Energy and Natural Resources Committee, I pledge to work with my colleagues to develop this legislation in the course of the budget debate for fiscal year 1984 and beyond. I commend the American Conservation Corps Act of 1983 to the attention of my colleagues, and urge their support.●

RULES OF THE COMMITTEE ON THE BUDGET

● Mr. DOMENICI. Mr. President, pursuant to rule XXVI (2) of the Standing Rules of the Senate, I submit for printing in the CONGRESSIONAL RECORD the rules of the Committee on the Budget for the 98th Congress as adopted by the committee on January 28, 1983.

The rules of the committee follow:

RULES OF THE COMMITTEE ON THE BUDGET—NINETY-EIGHTH CONGRESS

I. MEETINGS

(1) The committee shall hold its regular meeting on the first Thursday of each month. Additional meetings may be called by the chairman as he deems necessary to expedite committee business.

(2) Each meeting of the Committee on the Budget of the Senate, including meetings to conduct hearings, shall be open to the public except that a portion or portions of any such meeting may be closed to the public if the committee determines by record vote in open session of a majority of the members of the committee present that the matters to be discussed or the testimony to be taken at such portion or portions—

(a) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(b) will relate solely to matters of the committee staff personnel or internal staff management or procedure;

(c) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

(d) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement; or

(e) will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person if—

(1) an act of Congress requires the information to be kept confidential by Government officers and employees; or

(2) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person.

II. QUORUMS

(1) Except as provided in paragraphs (2) and (3) of this section, a quorum for the transaction of committee business shall consist of not less than one third of the membership of the entire committee; *Provided*, That proxies shall not be counted in making a quorum.

(2) A majority of the committee shall constitute a quorum for reporting budget resolutions, legislative measures of recommendations: *Provided*, That proxies shall not be counted in making a quorum.

(3) For the purpose of taking sworn or unsworn testimony, a quorum of the committee shall consist of one Senator.

III. PROXIES

When a record vote is taken in the committee on any bill, resolution, amendment, or any other question, a quorum being present, a member who is unable to attend the meeting may vote by proxy if the absent member has been informed of the matter on which the vote is being recorded and has affirmatively requested to be so recorded: except that no member may vote by proxy during the deliberations on Budget Resolutions.

IV. HEARINGS AND HEARING PROCEDURES

(1) The committee shall make public announcement of the date, place, time, and subject matter of any hearing to be conducted on any measure or matter at least 1 week in advance of such hearing, unless the chairman and ranking minority member determine that there is good cause to begin such hearing at an earlier date.

(2) A witness appearing before the committee shall file a written statement of his proposed testimony at least 1 day prior to his appearance, unless the requirement is waived by the chairman and the ranking minority member, following their determination that there is good cause for the failure of compliance.

V. COMMITTEE REPORTS

(1) When the committee has ordered a measure of recommendation reported, following final action, the report thereon shall be filed in the Senate at the earliest practicable time.

(2) A member of the committee who gives notice of his intention to file supplemental, minority, or additional views at the time of final committee approval of a measure or matter, shall be entitled to not less than 3 calendar days in which to file such views, in writing, with the chief clerk of the committee. Such views shall then be included in the committee report and printed in the same volume, as a part thereof, and their inclusion shall be noted on the cover of the report. In the absence of timely notice, the committee report may be filed and printed immediately without such views.●

COMMENTS ON THE FORD-CARTER ARTICLE ON ISRAEL

● Mrs. HAWKINS. Mr. President, I submit for the RECORD an editorial published in the Orlando Sentinel on Monday, January 24, 1983.

The article follows:

[From the Orlando Sentinal, Jan. 24, 1983]

FORD, CARTER DO A HATCHET JOB ON ISRAEL THAT IS A LESSON IN HYPOCRISY

(By Charley Reese)

Former Presidents Jerry Ford and Jimmy Carter have collaborated on a hatchet job on Israel in the Feburary Reader's Digest. Considering the source, it's no surprise that the article is full of such bad logic and deception.

Consider: "We cannot condone what certainly appears to be an inclination on the part of the government of Prime Minister Menachem Begin toward a military rather than a diplomatic solution to Israel's problems."

There is no excuse for such a statement. Who negotiated Israel's first peace treaty in 32 years? Menachem Begin. Who gave up the vast Sinai with its strategic space, minerals and oil for the sake of peace? Menachem Begin. Who agreed to grant Palestinians in the West Bank and Gaza autonomy (limited self-government) and to negotiate a final settlement? Menachem Begin. Who agreed to a cease-fire with the PLO and endured it for one year during which the PLO violated it 350 times. Menachem Begin. Who is now trying to negotiate a peace treaty with Lebanon? Menachem Begin. Who was voted the Nobel Peace Prize? Not Jimmy and Jerry, but Menachem Begin and Anwar Sadat.

Moreover, throughout the article, these polls refer to Jordan and Saudi Arabia as moderate Arab states. Moderate? Who denounced the Camp David peace treaty and broke relations with Egypt? Jordan and Saudi Arabia. Who funded the PLO terrorists? Saudi Arabia. Who broke relations with Costa Rica for moving its embassy to Jerusalem? Saudi Arabia. Who refuses to negotiate on autonomy for Palestinians? King Hussein of Jordan.

Who decreed a death penalty for any Arab who voluntarily sells land to a Jew? King Hussein. Who decreed a death penalty for any West Bank Arab who "participates in any way" in the peace process with Israel? King Hussein. Who refuses to recognize Israel's right to exist? Saudi Arabia and Jordan. Who continues economic and diplomatic blackmail? Saudi Arabia. Who is pressuring Lebanon not to sign a peace treaty? Saudi Arabia.

The hypocrisy and gall of the Ford-Carter article is stupefying. They go to great lengths to make excuses for the Arabs and equally great lengths to put the burden for making concessions on Israel.

Israel's move into Lebanon to break up the world's greatest concentration of pro-Soviet international terrorists causes Ford and Carter "deep dismay." These two, who know as little about Jewish tradition as they do about Middle East history, have the gall to say that the Begin government is departing "from the principles thought to be the heart of historical Jewish experience."

Horsefeathers. Unfortunately the heart of Jewish historical experience does not encourage the idea of trusting the fate of Jews to Gentiles. I think, Mr. Begin is very close to that experience.

They accuse Israel of not living up to Camp David. That is just wrong. Israel has lived up to the letter of Camp David. Jordan refused to participate. Egypt broke off the negotiations. They talk about Israel "repudiating" Reagan's peace plan but they neglect to mention that the Arab states also rejected it.

They deplore Israel's settlements on the West Bank (25,000 Jews among 1,000,000 Arabs) but they have nothing to say about the Arab position of judenrein—a demand that not one Jew remain in the West Bank. Israel, on the other hand, has 600,000 Arab-Israeli citizens. Is it not reasonable to suspect that someone who refuses to allow even

one Jew to live in an area is not sincere about peace?

The former presidents then imply that Israel refuses to abide by U.N. Resolution 242, which calls for a negotiated settlement and permanent boundaries. Israel has been ready to comply with Resolution 242 since the day it was passed. For the information of two-ex (thank God) presidents, it is the Arabs who either reject 242 explicitly (the PLO, Syrians) or alter its meaning to mean that Israel must withdraw before negotiations, which has no precedent in history.

Ford, of course, was a director of Santa Fe Industries that sold out to Kuwait. Carter is just Carter. But both of them are, to use Carter's favorite word, a disgrace.●

RAILROAD RETIREMENT

● Mr. GLENN. Mr. President, I am pleased to join with my colleagues in introducing Senate Concurrent Resolution 5 which urges railroad labor and management to begin discussing measures to insure the financial health of the railroad retirement system. Unless a legislative package is passed by Congress during the next 8 months, railroad retirement benefits will have to be cut back on October 1, 1983.

The deep recession that plagues our country has touched the railroad industry with a heavy hand. In 1981, when railroad labor, management, the President, and Congress negotiated a refinancing package for the railroad retirement system, railroad employment stood at 514,000. The 1981 railroad retirement amendments projected employment levels of 500,000 throughout the 1980's. Today, just 18 months later, railroad employment stands at a level of only 404,000. The loss of employee and employer contributions to the retirement fund, because of this sharp drop in employment, threatens the benefits of 53,400 railroad retirees in my State of Ohio and nearly 1 million recipients nationwide.

The railroad retirement system is financed by the combined payroll contributions of employees and employers, and income from the social security system—through a transfer known as the "financial interchange." The 1981 amendments allow the system to borrow from the general fund of the Treasury. This borrowing authority is limited to the amount expected to be transferred from social security. The law provides that if the amount necessary to be borrowed equals or exceeds 50 percent of the amount available, then the Railroad Retirement Board must make a financial report to the President and Congress. Due to the reduced contributions to the fund during the past year, this 50 percent level has been reached, and the Board must report to the President and Congress by April 1, 1983. After this report is made, railroad labor and management must submit funding proposals to the President and Congress, the President must make his recommendations to preserve the system, and finally the Board must publish regulations on how it will issue benefits during periods when there are insufficient funds to pay full benefits. This process is expected to take several months.

The resolution we have introduced urges railroad labor and management to begin the collective bargaining process. We must act now to insure that the Nation's 1 million railroad retirees receive their full earned benefits after October 1. I urge my Senate colleagues to support this resolution.●

NATIONAL CHILD ABUSE PREVENTION MONTH

● Mr. MURKOWSKI. Mr. President, at first one might think it unnecessary to focus attention on something as unsavory as the physical or sexual abuse of a child. We Americans pride ourselves on living in a civilized society. We like to believe that at the cornerstone of our success as a nation are the positive moral values held by our citizens. We Americans believe ourselves to be decent and compassionate people. And for the most part we are.

But, Mr. President, we must not permit our beliefs about ourselves to be worn like blinders. The abuse of a child physically or sexually is about as repellant a subject as I can conceive of. Yet child abuse occurs in this country at an alarming frequency. And there is every indication that the problem is becoming worse. We must not be tempted to believe that "it can't happen here." It can, it is, and something must be done about it.

It will not be easy. General ignorance that the problem even exists conceals deeper impediments to establishing a comprehensive system of prevention, detection, enforcement, and counseling. In many cases the victim cannot or will not disclose the circumstances of an attack or the identity of the attacker. A child, motivated by conflicting feelings of fear and love, may refuse to name a parent, relative, or family friend as the perpetrator of abuse. Because many attacks on children occur within the privacy of the home, there are rarely any witnesses who can step forward to aid the victim. Witnesses outside the family may be exposed to a lawsuit if they fail to make their allegations stick. Evidentiary difficulties are compounded by a child's naturally rapid healing capacities. So it is hardly any surprise that every year thousands of child abuse cases go unreported.

Although few comprehensive studies of this problem have been done, it has been reliably estimated that several million incidents of child abuse occur each year, some leading to the death of the victim. Of course, it is impossible to calculate the extent of the emotional damage that such incidents produce in these young victims.

Mr. President, it is precisely because hard facts are so difficult to come by that I support the measure introduced by my colleague from Arizona declaring April 1983, as National Child Abuse Prevention Month. Child abuse is only one form of domestic violence, just one of a disgraceful number of crimes perpetrated daily and never punished because they take place within the sanctuary of the home. The family remains one of our most precious American resources. Let us stop squandering it through our ignorance of senseless domestic violence.●

SENATE OFFICE BUILDING COMMISSION MEETS

● Mr. STAFFORD. Mr. President, last Thursday, the Senate Office Building Commission met in public session to discuss two issues that concern the Hart Senate Office Building.

By voice vote, the Commission agreed to approve two actions that are intended to improve greatly the appearance and function of the new Hart Building.

First, our former colleague, Senator Nicholas Brady of New Jersey, has most generously offered to raise the money to provide a gift to the Senate and the American people. The Commission agreed to accept this most generous offer and to ask Senator Brady to raise the funds necessary to acquire a sculpture by Alexander Calder that would be placed in the atrium area of the Hart Building.

Alexander Calder is considered by many as the most important American sculptor of this century. On the day before he died in 1976, he designed the sculpture he named "Mountains and Clouds" specifically for the Hart Building atrium. It was the last design by this great artist.

It is my belief, shared by many on the Commission, that placing this sculpture in the Hart Building atrium may convert what is now a rather sterile cube into one of the more exciting public spaces in this city.

We, as Senators and as Americans, owe Senator Brady our heartiest thanks.

Second, the Commission agreed to ask the Senate Committee on Appropriations to reprogram already appropriated Senate funds left over from 1980 to purchase new, modular furniture for 49 Senate offices in the Hart Building. This furniture is similar to that now in use in Senator HATFIELD'S office. It is the Commission's belief that this new furniture would improve both the appearance of the Hart Building, as well as its efficiency. The new furniture will also eliminate the need to purchase old-style desks for offices in the older buildings vacated

by Senators moving to the Hart Building.

Mr. President, I ask that copies of these two letters at the direction of the Commission be printed at this point in the RECORD.

The letters follow:

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, D.C., January 27, 1983.

Hon. MARK O. HATFIELD,
Chairman, Committee on Appropriations, Washington, D.C.

DEAR MARK: It is the understanding of the Senate Office Building Commission that unexpended funds remain available to the Senate from the fiscal year 1980 legislative appropriations act, and that such funds could be reprogrammed for use to purchase new furniture for the Hart Senate Office Building.

Following a meeting of the Commission, and on behalf of the Commission, we would urge that the Committee on Appropriations reprogram up to $8 million from these funds for the purchase of this new furniture.

Sincerely yours,

ROBERT T. STAFFORD,
Chairman.
J. BENNETT JOHNSTON,
Ranking Minority Member.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, D.C., January 27, 1983.

Hon. NICHOLAS BRADY,
Dillon Read Co.,
New York City, N.Y.

DEAR NICK: The final item that was designed by the great American artist, Alexander Calder, was a sculpture for the atrium of the Hart Senate Office Building. This sculpture, "Mountains and Clouds," was never constructed; the funds were deleted from the building plans as a cost-cutting measure.

It is the understanding of the Senate Office Building Commission that you have offered to raise funds to provide a gift to the Senate and to the people of the United States. With great thanks, we accept your most generous offer, and ask that you raise funds to acquire this important Calder sculpture, "Mountains and Clouds."

With friendship and highest regards, we are,

Sincerely yours,

ROBERT T. STAFFORD,
Chairman,
Senate Office Building Commission.
J. BENNETT JOHNSON,
Ranking Minority Member.●

CAPITAL CONSTRUCTION FUNDS

● Mr. MURKOWSKI. Mr. President, I am pleased to be able to cosponsor S. 254, a bill to amend title VI of the Merchant Marine Act of 1936 in order to permit the establishment of capital construction funds for shoreside facilities in the fishing industry.

Present provisions in the capital construction fund allow certain U.S. merchant and fishing vessels to defer the payment of Federal taxes on income from the operation of those vessels. Taxation is deferred on income annually set aside in special accounts reserved for the equity portion of future capital investments in vessels. In my opinion, this legislation is excellent for two reasons: It costs the Federal Government very little, since all deferred taxes are eventually recaptured by offsetting reductions in the depreciation allowance for property acquired with tax-deferred funds; and second, it will encourage the development of noshore processors.

With over 5.8 billion pounds of groundfish available annually in Alaska for harvest, as well as continued growth in the traditional fisheries, incentives for the growth of on-shore processors is vital.

In 1981, our annual fisheries trade deficit was in the neighborhood of $2.5 billion. Furthermore, over the last decade, foreign nations have taken well over 20-million metric tons of fish from U.S. waters. Foreign fishing in U.S. waters and our trade deficit overseas continues at a high level today, which indicates to me that there are ample harvesting opportunities for U.S. fishermen to increase their catch and concomitantly improve our trade deficit posture.

For this increase in harvesting in new fisheries to occur, relatively large capital investments will be required. Risks will be high given the current market situation and the high level of production necessary to offset low-profit margins. More so than many other investments, initial capital costs and expected losses to gain entry into a market are high, thus necessitating that constuction costs be capitalized in a sound manner.

It has been estimated that domestic development of several major fisheries over the next 10 years could increase domestic fisheries landings by 2.5-million metric tons per year, add 782 million annually to vessel revenues, create over 43,000 permanent jobs, add $1.2 billion annually to GNP and reduce our annual trade deficit by $1.7 billion.

I believe this bill will provide an excellent catalyst for stimulating this growth and will lead to the revitalization and strengthening of the domestic U.S. fishing industry. I hope my colleagues will join me in support of this measure.●

THE 65TH ANNIVERSARY OF UKRAINIAN INDEPENDENCE

● Mr. BURDICK Mr. President, I would like to take a few minutes today to honor the valiant struggle the Ukrainian people continue to wage against tyranny and oppression.

Sixty-five years ago, on January 22, 1918, the independence of the Ukraine was proclaimed. For 3½ years, this sovereign nation fought to preserve its independence. Its people fought alone, and without aid, against the superior power of the Soviets. Although the Soviets eventually destroyed the independent Ukrainian National Republic, they have not yet conquered the independent spirit of its people. It is that spirit that I honor today.

We are only too familiar with the sad history of Soviet domination of the Ukraine. It is a history of persecution, terror, and flagrant abuses of human rights. Ukrainians have been deported, jailed or executed, churches have been systematically destroyed, and their clergy and faithful subjected to intimidation and persecution.

Remarkably, years of Soviet tyranny have not extinguished the flame of freedom in the Ukraine. These courageous people continue to fight for the rights and freedoms we in the West so often take for granted.

In commemorating the anniversary of Ukrainian independence, let us, Mr. President, say to the people of the Ukraine that we are with them in their struggle for basic human rights and national dignity.●

ORDER FOR RECESS UNTIL 11 A.M. TOMORROW

Mr. BAKER. Madam President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 11 a.m. tomorrow.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

ORDER FOR RECOGNITION OF CERTAIN SENATORS TOMORROW

Mr. BAKER. Madam President, I ask unanimous consent that after the recognition of the two leaders under the standing order, the following Senators be recognized on special orders of not to exceed 15 minutes each and in the order requested, that is to say, the Senator from Alabama (Mr. DENTON), the Senator from Georgia (Mr. MATTINGLY), and the Senator from Pennsylvania (Mr. SPECTER).

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 11 A.M. TOMORROW

Mr. BAKER. Madam President, I see no Senator seeking recognition. I move, in accordance with the order previously entered, that the Senate now stand in recess until 11 a.m. tomorrow.

The motion was agreed to; and the Senate at 5:47 p.m., recessed until Tuesday, February 1, 1983, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate January 31, 1983:

THE JUDICIARY

Gregory Wright Carman, of New York, to be a judge of the U.S. Court of International Trade vice Scovel Richardson, deceased.

Pamela Ann Rymer, of California, to be U.S. district judge for the central district of California vice William P. Gray, retired.

John P. Vukasin, Jr., of California, to be U.S. district judge for the northern district of California, vice Stanley A. Weigel, retired.

Shirley Wohl Kram, of New York to be U.S. district judge for the southern district of New York vice Lawrence W. Pierce, elevated.

A. Joe Fish, of Texas, to be U.S. district judge for the northern district of Texas vice Patrick E. Higginbotham, elevated.

DEPARTMENT OF JUSTICE

William Thomas Dillard III, of Tennessee, to be U.S. attorney for the northern district of Florida for the term of 4 years, vice Nickolas P. Geeker, resigned.

James W. Diehm, of the Virgin Islands, to be U.S. attorney for the district of the Virgin Islands for the term of 4 years vice Ishmael A. Meyers, resigned.

James C. Patterson, of Arkansas, to be U.S. marshal for the western district of Arkansas for the term of 4 years vice Mack Burton, term expired.

Ronald J. Alles, of Montana, to be U.S. Marshal for the district of Montana for the term of 4 years vice John C. Krsul, deceased.

IN THE ARMY

The following-named officers for promotion in the Reserve of the Army of the United States, under the provisions of title 10, United States Code, sections 3366, 3367, and 3370:

ARMY PROMOTION LIST

To be colonel

Evans, Donald J., xxx-xx-xxxx
Joyner, James L., xxx-xx-xxxx
Lowe, James A., xxx-xx-xxxx

ARMY PROMOTION LIST

To be lieutenant colonel

Censner, Jack L., xxx-xx-xxxx
Eisenstadt, Herzl, xxx-xx-xxxx
Finley, Garfield W., xxx-xx-xxxx
Fischer, Gary R., xxx-xx-xxxx
Gregor, Donald E., xxx-xx-xxxx
Hadwiger, William, xxx-xx-xxxx
Hamberger, Ronald, xxx-xx-xxxx
Hernandez, Rodolfo, xxx-xx-xxxx
Klein, James E., xxx-xx-xxxx
McGrew, John H., xxx-xx-xxxx
Meader, John D., xxx-xx-xxxx
Peyton, William B., xxx-xx-xxxx
Schwartzkopf, Robert, xxx-xx-xxxx
Smith, Charles H., III, xxx-xx-xxxx
Stanley, Jimmy W., xxx-xx-xxxx
Tenorio, Juan C., xxx-xx-xxxx
Thompson, Uldric, III, xxx-xx-xxxx
Vizzini, Sammie, xxx-xx-xxxx
Webb, Earl F., xxx-xx-xxxx

CHAPLAIN

To be lieutenant colonel

Bershon, Richard xxx-xx-xxxx
Hansen, Henry M., xxx-xx-xxxx

The following-named officers for promotion in the Reserve of the Army of the United States, under the provisions of title 10, United States Code, section 3383:

ARMY PROMOTION LIST

To be colonel

Aurelio, Frank J., xxx-xx-xxxx
Barnes, Thomas V., xxx-xx-xxxx
Borden, Donald F., xxx-xx-xxxx
Callaway, William R., xxx-xx-xxxx
Clark, Donald M., xxx-xx-xxxx
Compere, John M. xxx-xx-xxxx
Dixon, Donald J. xxx-xx-xxxx
Dow, Robert G. xxx-xx-xxxx
Gensler, Philip, Jr., xxx-xx-xxxx
Hoch, Leonard L., xxx-xx-xxxx
Holloway, George L., xxx-xx-xxxx
Jolly, Guy A., xxx-xx-xxxx
Kohler, Terry J., xxx-xx-xxxx
Lowe, Ronald L., xxx-xx-xxxx
Malueg, Allen J., xxx-xx-xxxx
Mathews, William E., xxx-xx-xxxx
McKay, James L., xxx-xx-xxxx
Minami, Clarence Y., xxx-xx-xxxx
Moore, Charles E., xxx-xx-xxxx
Padgett, Charles E., xxx-xx-xxxx
Revis, Paul N., xxx-xx-xxxx
Sonnichsen, Walter, xxx-xx-xxxx
Struckel, Donald J., xxx-xx-xxxx
Tate, Robert J., xxx-xx-xxxx
Trobaugh, James E., xxx-xx-xxxx
Vest, John M., xxx-xx-xxxx

CHAPLAIN

To be colonel

Thompson, William E., xxx-xx-xxxx
Wallace, Richard A., xxx-xx-xxxx

MEDICAL CORPS

To be colonel

Berryman, Arthur H., xxx-xx-xxxx

VETERINARY CORPS

To be colonel

Thomson, Lester G., xxx-xx-xxxx

ARMY PROMOTION LIST

To be lieutenant colonel

Allen, Cecil L., xxx-xx-xxxx
Allen, John W. Jr., xxx-xx-xxxx
Aller, Thomas D., xxx-xx-xxxx
Allison, Darrell W., xxx-xx-xxxx
Bergson, Paul C., xxx-xx-xxxx
Blake, David G., xxx-xx-xxxx
Bodziony, Ronald, xxx-xx-xxxx
Bockel, David R., xxx-xx-xxxx
Braley, Gerald N., II, xxx-xx-xxxx
Bridges, Jerry F., xxx-xx-xxxx
Brodsky, Lewis C., xxx-xx-xxxx
Brown, Claud A., Sr., xxx-xx-xxxx
Bulika, Peter A., xxx-xx-xxxx
Cademartori, James, xxx-xx-xxxx
Campbell, Jack L., xxx-xx-xxxx
Carro, Daniel J., xxx-xx-xxxx
Casby, Clifford L., xxx-xx-xxxx
Castka, Bruce W., xxx-xx-xxxx
Cohen, Roy H., xxx-xx-xxxx
Comstock, James W., xxx-xx-xxxx
Copeland, Gilbert E., xxx-xx-xxxx
Cudlip, James D., xxx-xx-xxxx
Cuneen, Dennis M., xxx-xx-xxxx
Davis, Rhesa W., Jr., xxx-xx-xxxx
Diperna, Frank D., xxx-xx-xxxx
Dyer, Jimmie, xxx-xx-xxxx
Eastin, Willard A., xxx-xx-xxxx
Edgar, James H., xxx-xx-xxxx
Edwards, Paul W., xxx-xx-xxxx
Feltenstein, Sam M., xxx-xx-xxxx
Fetters, William E., xxx-xx-xxxx
Fritsch, Nicholas C., xxx-xx-xxxx
Gambolati, Ronald L., xxx-xx-xxxx
Gentry, Albert C., xxx-xx-xxxx
Gladis, William T., xxx-xx-xxxx
Graham, William W., xxx-xx-xxxx
Grissom, Michael W., xxx-xx-xxxx
Grokenberger R. R., xxx-xx-xxxx
Harvey, James R., xxx-xx-xxxx
Herrington, Robert, xxx-xx-xxxx
Hodge, Michael W., xxx-xx-xxxx
Holton, Quinton, II, xxx-xx-xxxx
Howe, Kenneth R., xxx-xx-xxxx
Hughes, Delma L., xxx-xx-xxxx
Huselton, Robert G., xxx-xx-xxxx
Hyams, Milton M., xxx-xx-xxxx
Hyde, William D., xxx-xx-xxxx
Karr, Edmund P., xxx-xx-xxxx
Kirchner, Peter A., xxx-xx-xxxx
Johnson, Thomas E., xxx-xx-xxxx
Levy, Norman, xxx-xx-xxxx
Lomax, Manning N., xxx-xx-xxxx
Luedeke, Arthur W., xxx-xx-xxxx
Martin, James R., xxx-xx-xxxx
Mathews, Roy W., xxx-xx-xxxx
McConnell, James W., xxx-xx-xxxx
McMullin, William C., xxx-xx-xxxx
McNiff, John J. xxx-xx-xxxx
Mullinax, Michael F., xxx-xx-xxxx
Nahlik, Charles V., xxx-xx-xxxx
Norris, Robert L., xxx-xx-xxxx
Ouellet, Ronald H., xxx-xx-xxxx
Page, Robert S., xxx-xx-xxxx
Pais, Randall M., xxx-xx-xxxx
Peevy, Lewis J., xxx-xx-xxxx
Peterson, John E., xxx-xx-xxxx
Petty, Charles C., xxx-xx-xxxx
Pipes, David G., xxx-xx-xxxx
Ramey, Arthur T., xxx-xx-xxxx
Ramsey, Lawrence A., xxx-xx-xxxx
Riggle, Charles F., xxx-xx-xxxx
Romano, Joseph J., xxx-xx-xxxx
Rowzee, Fred R., Jr., xxx-xx-xxxx
Ryland, William J. xxx-xx-xxxx
Sayne, Martin W., xxx-xx-xxxx
Schalin, James G., xxx-xx-xxxx
Schott, Karlheinz M., xxx-xx-xxxx
Silverman, Irwin B., xxx-xx-xxxx
Silvey, Bedford J., xxx-xx-xxxx
Smith, Timothy T., xxx-xx-xxxx
Stewart, Larry B., xxx-xx-xxxx
Stoma, Robert M., xxx-xx-xxxx
Struble, Franklin J., xxx-xx-xxxx
Suemori, Peter T., xxx-xx-xxxx
Swearengen, Mark A., xxx-xx-xxxx
Tharp, Donald L., xxx-xx-xxxx
Thomas, David F., xxx-xx-xxxx
Thompson, Joseph L., xxx-xx-xxxx
Timm, Willard N., Jr., xxx-xx-xxxx
Vandervorst, Gerald, xxx-xx-xxxx
Varnes, Donald W., xxx-xx-xxxx
Vernon, Barrie A., xxx-xx-xxxx
Wear, John C., III, xxx-xx-xxxx
Wilson, George E., xxx-xx-xxxx
Wilwerding, Lee J., xxx-xx-xxxx
Winfree, Howell L., xxx-xx-xxxx
Woodward, James W., xxx-xx-xxxx
Woolfork, Robert, xxx-xx-xxxx

CHAPLAIN

To be lieutenant colonel

Hill, Philip W., xxx-xx-xxxx

ARMY NURSE CORPS

To be lieutenant colonel

Mullen, Matthew J., xxx-xx-xxxx

MEDICAL CORPS

To be lieutenant colonel

Alexander, C. E., III, xxx-xx-xxxx
Emmons, James E., Jr., xxx-xx-xxxx
Forester, Norman P., xxx-xx-xxxx
Garrison, James S., xxx-xx-xxxx
Haynes, Ralph L., xxx-xx-xxxx
Lester, John B., xxx-xx-xxxx
McGee, Thomas P., Jr., xxx-xx-xxxx
Oatfield, Robert G., xxx-xx-xxxx
Webb, Donald R., xxx-xx-xxxx

MEDICAL SERVICE CORPS

To be lieutenant colonel

Hopkins, Richard S., xxx-xx-xxxx
Lecca, Pedro J., xxx-xx-xxxx
Meister, Robert A., xxx-xx-xxxx
Serrano, George, xxx-xx-xxxx

The following-named officers for appointment in the Reserve of the Army of the United States, under the provisions of title 10, United States Code, section 3353:

MEDICAL CORPS

To be colonel

DeJong, Rudolph H., xxx-xx-xxxx
Lubow, Martin, xxx-xx-xxxx
Reba, Richard C., xxx-xx-xxxx

Van Leeuwen, Gerard, xxx-xx-xxxx

ARMY PROMOTION LIST

To be lieutenant colonel

Taylor, Thomas W., xxx-xx-xxxx

MEDICAL CORPS

To be lieutenant colonel

Babcock, Terence L., xxx-xx-xxxx
Colvin, Arthur M., xxx-xx-xxxx
Cucci, Cesare E., xxx-xx-xxxx
DeCiutiis, Vincent, xxx-xx-xxxx
DeSimone, Theresa V., xxx-xx-xxxx
Dorsey, John M., xxx-xx-xxxx
Edwards, John B., xxx-xx-xxxx
Gretz, Herbert F., Jr., xxx-xx-xxxx
Harner, Robert C., xxx-xx-xxxx
Hartley, Fount K., xxx-xx-xxxx
Johnson, Lawrence, xxx-xx-xxxx
Kim, Hongyun K., xxx-xx-xxxx
Kimball, Oliver P., xxx-xx-xxxx
Knuth, Warren P., xxx-xx-xxxx
Kramer, Kenyon K., xxx-xx-xxxx
Larsen, Mark A., xxx-xx-xxxx
Lefton, Theodore E., xxx-xx-xxxx
Libert, Samuel A., xxx-xx-xxxx
Lufkin, Edward G., xxx-xx-xxxx
Manes, Peter R., xxx-xx-xxxx
Manuel, Wilbert J., xxx-xx-xxxx
McLaughlin, Chester, xxx-xx-xxxx
Morgenstern, Larry, xxx-xx-xxxx
Morita, Eugene T., xxx-xx-xxxx
Porter, William C., xxx-xx-xxxx
Reynolds, James S., xxx-xx-xxxx
Rife, Donald L., xxx-xx-xxxx
Schepman, John H., xxx-xx-xxxx
Seletz, Jules M., xxx-xx-xxxx
Slawson, Robert G., xxx-xx-xxxx
Tanz, Frederick J., xxx-xx-xxxx
Vines, Donald H., xxx-xx-xxxx
Williams, Brian H., xxx-xx-xxxx
Zwaan, John, xxx-xx-xxxx

The following-named Army National Guard officers for appointment in the Reserve of the Army of the United States, under the provisions of title 10, United States Code, section 3385:

ARMY PROMOTION LIST

To be colonel

Adams, Jaees P., xxx-xx-xxxx
Beck, Richard J., xxx-xx-xxxx
Beltrand, Adrian W., xxx-xx-xxxx
Beverley, James A., xxx-xx-xxxx
Doyle, Harold D., xxx-xx-xxxx
Florence, William E., xxx-xx-xxxx
Ford, John J., xxx-xx-xxxx
Koonce, Calvin E., xxx-xx-xxxx
McClanahan, Ken O., xxx-xx-xxxx
Martin, John F., xxx-xx-xxxx
Meisenheimer, Willis, xxx-xx-xxxx
Pendergrass, Raymond, xxx-xx-xxxx
Reynolds, Curwood F., xxx-xx-xxxx
Roof, Volie L., Jr., xxx-xx-xxxx
Salter, Ralph, xxx-xx-xxxx
Savoie, Romain B., xxx-xx-xxxx
Sloan, William D., xxx-xx-xxxx
Stodart, James B., Jr., xxx-xx-xxxx
Wilson, Jerry C., xxx-xx-xxxx

MEDICAL CORPS

To be colonel

Hepps, Sanford A., xxx-xx-xxxx
Starr, Clifford H., xxx-xx-xxxx

MEDICAL SERVICE CORPS

To be colonel

Gross, Don A., xxx-xx-xxxx

ARMY PROMOTION LIST

To be lieutenant colonel

Agena, Clarence M., xxx-xx-xxxx
Allen, Gary L., xxx-xx-xxxx
Alvarez, Jose M., xxx-xx-xxxx
Anderson, Robert J., xxx-xx-xxxx
Atwood, Vernon D., xxx-xx-xxxx
Barham, Charles B., xxx-xx-xxxx
Benson, Robert M., xxx-xx-xxxx
Bill, Ronald C., xxx-xx-xxxx
Bonner, Claudius M., xxx-xx-xxxx
Brain, Charles S., xxx-xx-xxxx
Brimhall, Denis T., xxx-xx-xxxx
Callahan, Thomas J., xxx-xx-xxxx
Carpenter, Samuel P., xxx-xx-xxxx
Ceragioli, Rudolph, xxx-xx-xxxx
Coon, Ward H., xxx-xx-xxxx
Dean, Aaron R., xxx-xx-xxxx
Dexter, James L., xxx-xx-xxxx
Dickens, Homer Q., Jr., xxx-xx-xxxx
Elliot, Dennis L., xxx-xx-xxxx
Givens, George R., xxx-xx-xxxx
Harrington, Donley, xxx-xx-xxxx
Haskins, George R., xxx-xx-xxxx
Jezek, Henry L. S., xxx-xx-xxxx
Kennedy, James M., Jr., xxx-xx-xxxx
Legowik, Leroy S., xxx-xx-xxxx
Leyva, Miguel A., xxx-xx-xxxx
Locke, James L., xxx-xx-xxxx
McCollam, Paul E., xxx-xx-xxxx
McDaniel, James E., xxx-xx-xxxx
McFerran, Henry J., xxx-xx-xxxx
Marsh, William A., III, xxx-xx-xxxx
Megyeri, Leslie L., xxx-xx-xxxx
Nixon, William R., xxx-xx-xxxx
Recio-Sanchez, S. R., xxx-xx-xxxx
Riley, Gene R., xxx-xx-xxxx
Rosenfeld, Michael, xxx-xx-xxxx
Rountree, Samuel A., xxx-xx-xxxx
Schmidt, Lester R., xxx-xx-xxxx
Schrimpf, John D., xxx-xx-xxxx
Spencer, William A., xxx-xx-xxxx
Stanley, William L., xxx-xx-xxxx
Stocking, Herbert G., xxx-xx-xxxx
Suppok, Regis J., xxx-xx-xxxx
Tamura, Robert T., xxx-xx-xxxx
Wampler, Dennis F., xxx-xx-xxxx
Wilkins, Jerry, xxx-xx-xxxx
Willard, James A., xxx-xx-xxxx
Wilson, Winfield S., xxx-xx-xxxx
Wood, Wilfried E., xxx-xx-xxxx
Zembrzuski, Ireneusz, xxx-xx-xxxx

ARMY NURSE CORPS

To be lieutenant colonel

McNamara, Rose M., xxx-xx-xxxx

DENTAL CORPS

To be lieutenant colonel

Asami, Kanji R., xxx-xx-xxxx

MEDICAL CORPS

To be lieutenant colonel

Carrasco, Jose I., xxx-xx-xxxx
Keith, Joseph, xxx-xx-xxxx
Landis, William B., xxx-xx-xxxx

MEDICAL SERVICE CORPS

To be lieutenant colonel

Anderson, Lawrence, xxx-xx-xxxx
Digilio, John T., Jr., xxx-xx-xxxx

IN THE ARMY

The following-named officers for promotion in the Reserve of the Army of the United States, under the provisions of title 10, United States Code, sections 3366, 3367 and 3370:

ARMY NURSE CORPS

To be colonel

Aasland, Lois M., xxx-xx-xxxx
Abel, James E., xxx-xx-xxxx
Baldwin, Annie P., xxx-xx-xxxx
Boudreaux, Gloria M., xxx-xx-xxxx
Boyer, Gladys M., xxx-xx-xxxx
Bulin, Edward G., xxx-xx-xxxx
Burke, Rosetta Y., xxx-xx-xxxx
Calcagni, Judith N., xxx-xx-xxxx
Collins, Neal W., xxx-xx-xxxx
Decker, Charles S., xxx-xx-xxxx
Delap, James N., xxx-xx-xxxx
Duffy, Georgianne, xxx-xx-xxxx
Edgington, Carol L., xxx-xx-xxxx
Greenhill, Elizabeth, xxx-xx-xxxx
Haven, Meta S., xxx-xx-xxxx
Kidon, Shirley A., xxx-xx-xxxx
Leiner, Marion R., xxx-xx-xxxx
Lord, Martha P., xxx-xx-xxxx
Maybrier, Bobbie A., xxx-xx-xxxx
McCall, Carolyn, xxx-xx-xxxx
Mills, Virginia V., xxx-xx-xxxx
Molder, Neil W., xxx-xx-xxxx
Pizzuto, Gerlinde C., xxx-xx-xxxx
Rafferty, Carole, xxx-xx-xxxx
Rank, Michael, xxx-xx-xxxx
Rios, Luz M., xxx-xx-xxxx
Ripple, Helen B., xxx-xx-xxxx
Salehyar, Terese M., xxx-xx-xxxx
Santiago-Rosado, G., xxx-xx-xxxx
Stephens, Claire E., xxx-xx-xxxx
Vess, Bernarda L., xxx-xx-xxxx
Wadkins, Peggy J., xxx-xx-xxxx
Wagus, Fay E., xxx-xx-xxxx
Wilson, Lawrence P., xxx-xx-xxxx

DENTAL CORPS

To be colonel

Abel, Leslie, R., xxx-xx-xxxx
Alexander, Kenneth, xxx-xx-xxxx
Ames, Richard K., xxx-xx-xxxx
Amick, Jack A., xxx-xx-xxxx
Ayers, George W., xxx-xx-xxxx
Ballard, John B., xxx-xx-xxxx
Barry, John F., xxx-xx-xxxx
Bartley, Murray H., xxx-xx-xxxx
Bentley, Billy C., xxx-xx-xxxx
Birkholz, Howard, xxx-xx-xxxx
Blevins, Billie B., xxx-xx-xxxx
Brewer, William W., xxx-xx-xxxx
Butler, Bruce B., xxx-xx-xxxx
Carbone, John W., xxx-xx-xxxx
Cesaro, Paul, xxx-xx-xxxx
Chamberlain, William, xxx-xx-xxxx
Cochran, Martin K., xxx-xx-xxxx
Cohen, Merlin L., xxx-xx-xxxx
Davis, Thomas E., xxx-xx-xxxx
Degiacomo, William, xxx-xx-xxxx
Dmura, Michael R., xxx-xx-xxxx
Dodson, Charles A., xxx-xx-xxxx
Drucker, Harold, xxx-xx-xxxx
Edwards, Theodore P., xxx-xx-xxxx
Engsberg, David A., xxx-xx-xxxx
Fevang, Matthew J., xxx-xx-xxxx
Fritz, Andrew J., xxx-xx-xxxx
Garrett, James S., xxx-xx-xxxx
Graffeo, Charles J., xxx-xx-xxxx
Hanratty, William J., xxx-xx-xxxx
Hastings, John G., xxx-xx-xxxx
Henry, Clay A., xxx-xx-xxxx
Hickey, James C., xxx-xx-xxxx
Hocott, James K., xxx-xx-xxxx
Hodges, Morris C., xxx-xx-xxxx
Hunter, Robert E., xxx-xx-xxxx
Kennedy, Michael R., xxx-xx-xxxx
Koski, Onnie R., xxx-xx-xxxx
Lewis, Arthur E., xxx-xx-xxxx
Massaro, Joseph J., xxx-xx-xxxx
McNeal, Donald R., xxx-xx-xxxx
Nardini, Michael J., xxx-xx-xxxx
Newkirk, Robert W., xxx-xx-xxxx
Rainsberger, Robert, xxx-xx-xxxx
Scales, Kenneth I., xxx-xx-xxxx
Skvarla, William P., xxx-xx-xxxx
St. Germain, Andre, xxx-xx-xxxx
Tognotti, William J., xxx-xx-xxxx
Ward, Wendell P., xxx-xx-xxxx
Wheelan, Edward F., xxx-xx-xxxx
Wolfgang, Lawrence, xxx-xx-xxxx

MEDICAL CORPS

To be colonel

Adams, Marcus W., xxx-xx-xxxx
Adams, Richard I., xxx-xx-xxxx
Allen, Lawrence L., xxx-xx-xxxx
Amicucci, Vincent A., xxx-xx-xxxx
Ascher, Michael S., xxx-xx-xxxx

Asuncion, Celedonia, xxx-xx-xxxx
Babaturk, Hidir, xxx-xx-xxxx
Balunek, Andrew D., xxx-xx-xxxx
Barnes, Warren M., xxx-xx-xxxx
Barrett, Warren M., xxx-xx-xxxx
Beard, Jeriel A., xxx-xx-xxxx
Bell, William H., xxx-xx-xxxx
Bellafiore, Vincent, xxx-xx-xxxx
Bicknell, Donald S., xxx-xx-xxxx
Blossman, Robert C., xxx-xx-xxxx
Boulware, John M., xxx-xx-xxxx
Brooks, Billy G., xxx-xx-xxxx
Brooks, Clifton R., xxx-xx-xxxx
Brouillard, Robert, xxx-xx-xxxx
Burdon, Arthur P., xxx-xx-xxxx
Butz, Roger H., xxx-xx-xxxx
Byars, Vance G., xxx-xx-xxxx
Caccomo, Aurelio, xxx-xx-xxxx
Camnitz, Leonard, xxx-xx-xxxx
Cardinale, Robert, xxx-xx-xxxx
Cash, Ted D., xxx-xx-xxxx
Chan, Wallace L., xxx-xx-xxxx
Chestnut, Graham H., xxx-xx-xxxx
Chollet, Hillary A., xxx-xx-xxxx
Cipolla, Vincent T., xxx-xx-xxxx
Clay, Earl C., xxx-xx-xxxx
Coe, John R., Jr., xxx-xx-xxxx
Coil, James A., Jr., xxx-xx-xxxx
Collins, Francis C., xxx-xx-xxxx
Conrace, Joseph E., xxx-xx-xxxx
Corr, Gerald J., xxx-xx-xxxx
Corzatt, Richard D., xxx-xx-xxxx
Cotter, Clement P., xxx-xx-xxxx
Couch, Charles E., xxx-xx-xxxx
Coussirat, Adolfo C., xxx-xx-xxxx
Coverdale, Edward N., xxx-xx-xxxx
Curtwright, Lewis K., xxx-xx-xxxx
Dede, Anthony, xxx-xx-xxxx
DeMeester, Tom R., xxx-xx-xxxx
Diblasi, Robert J., xxx-xx-xxxx
Dillard, Charles O., xxx-xx-xxxx
Drynan, John J., xxx-xx-xxxx
Duke, Earl L., xxx-xx-xxxx
Ekland, David A., xxx-xx-xxxx
Evans, James T., xxx-xx-xxxx
Fairfax, Walter A., xxx-xx-xxxx
Faith, Glenn C., xxx-xx-xxxx
Feemster, John A., xxx-xx-xxxx
Feinman, Lawrence, xxx-xx-xxxx
Feldman, Raymond, xxx-xx-xxxx
Felsenberg, Stanley, xxx-xx-xxxx
Finazzo, Salvatore, xxx-xx-xxxx
Flynn, James P., xxx-xx-xxxx
Forrest, Peter E., xxx-xx-xxxx
Forsythe, James W., xxx-xx-xxxx
Galvin, John R., xxx-xx-xxxx
Garry, Vincent F., xxx-xx-xxxx
Gay, James S., xxx-xx-xxxx
Geiser, John H., xxx-xx-xxxx
Gilford, Lawrence M., xxx-xx-xxxx
Gillick, John S., xxx-xx-xxxx
Glotfelty, John W., xxx-xx-xxxx
Goedert, Lawrence W., xxx-xx-xxxx
Gopez, Camilo A., xxx-xx-xxxx
Graveline, Duane E., xxx-xx-xxxx
Gray, Joseph W., xxx-xx-xxxx
Green, James L., xxx-xx-xxxx
Gropper, Arthur L., xxx-xx-xxxx
Hall, Ronald R., xxx-xx-xxxx
Hallee, Theodore J., xxx-xx-xxxx
Hays, Marvin B., xxx-xx-xxxx
Hemry, David A., xxx-xx-xxxx
Henry, John P., xxx-xx-xxxx
Hepps, Sanford A., xxx-xx-xxxx
Hester, John E., xxx-xx-xxxx
Hodgkin, William E., xxx-xx-xxxx
Houston, Hal E., xxx-xx-xxxx
Hoxie, Lloyd B., xxx-xx-xxxx
Hoyumpa, Aanastacio, xxx-xx-xxxx
Hudson, Royal C., xxx-xx-xxxx
Jackson, Edgar B., xxx-xx-xxxx
Jain, Kewal K., xxx-xx-xxxx
Keepman, Jay P., xxx-xx-xxxx
Kelly, Francis J., xxx-xx-xxxx
Kilmark, Robert M., xxx-xx-xxxx
Klatt, Gordon R., xxx-xx-xxxx
Laszewski, Frank M., xxx-xx-xxxx
Leake, James R., xxx-xx-xxxx
Leary, John P., xxx-xx-xxxx
Levin, Jerry C., xxx-xx-xxxx
Livingston, Billy B., xxx-xx-xxxx
Lynch, Richard D., xxx-xx-xxxx
MacPherson, Donald, xxx-xx-xxxx
Malone, Thomas N., xxx-xx-xxxx
Marcel, Jesse A., xxx-xx-xxxx
Marienfeldt, Hans F., xxx-xx-xxxx
Martin, William H., xxx-xx-xxxx
Matibag, Victor P., xxx-xx-xxxx
McCarthy, Thomas M., xxx-xx-xxxx
McDonald, James R., xxx-xx-xxxx
Mendoza, Ernesto P., xxx-xx-xxxx
Meyer, Roger J. C., xxx-xx-xxxx
Mills, Herbert R., xxx-xx-xxxx
Mitchell, Torrey L., xxx-xx-xxxx
Moores, William Y., xxx-xx-xxxx
Morasco, Edward R., xxx-xx-xxxx
Morgan, Marvin W., xxx-xx-xxxx
Mulvany, David J., xxx-xx-xxxx
Muse, Andrew D., xxx-xx-xxxx
Nachtsheim, Daniel, xxx-xx-xxxx
Negron-Cuevas, F., xxx-xx-xxxx
Nelson, Darius D., xxx-xx-xxxx
Nemani, Bal M., xxx-xx-xxxx
Neshat, Amir A., xxx-xx-xxxx
Neun, Charles J., xxx-xx-xxxx
Oropallo, Anthony J., xxx-xx-xxxx
Ortiz, Gilbert, xxx-xx-xxxx
Ortiz, Tulio L., xxx-xx-xxxx
Osborn, Jack M., xxx-xx-xxxx
Pagansaez, Heribert, xxx-xx-xxxx
Petrou, Eugenia, xxx-xx-xxxx
Plavin, Melvin, xxx-xx-xxxx
Pope, Howard A., xxx-xx-xxxx
Puls, Jerry L., xxx-xx-xxxx
Ranes, Paul S., xxx-xx-xxxx
Reich, Thomas S., xxx-xx-xxxx
Rosati, Robert A., xxx-xx-xxxx
Rosenthal, David, xxx-xx-xxxx
Salazar, Mauricio J., xxx-xx-xxxx
Savage, William L., xxx-xx-xxxx
Sheldon, Robert B., xxx-xx-xxxx
Sison, Domingo A., xxx-xx-xxxx
Smith, Alvin E., xxx-xx-xxxx
Spear, Merritt F., xxx-xx-xxxx
Stansell, William J., xxx-xx-xxxx
Stark, Richard J., xxx-xx-xxxx
Steinbeck, Herbert, xxx-xx-xxxx
Stetz, Joseph J., xxx-xx-xxxx
Strefling, John L., xxx-xx-xxxx
Strong, Michael D., xxx-xx-xxxx
Sullivan, George H., xxx-xx-xxxx
Swift, Dean C., xxx-xx-xxxx
Swillinger, Richard, xxx-xx-xxxx
Takase, Allan S., xxx-xx-xxxx
Taylor, Ronald G., xxx-xx-xxxx
Tosh, John W., xxx-xx-xxxx
Tygart, Robert L., xxx-xx-xxxx
Wachtel, Andrew S., xxx-xx-xxxx
Webster, Paul D., xxx-xx-xxxx
Weitzman, Leonard, xxx-xx-xxxx
Westfall, Charles H., xxx-xx-xxxx
Young, Anthony J., xxx-xx-xxxx
Zahony, Ivan, xxx-xx-xxxx
Zusman, Jack, xxx-xx-xxxx

MEDICAL SERVICE CORPS

To be colonel

Avallone, Frank A., xxx-xx-xxxx
Baetsch, Weldee A., xxx-xx-xxxx
Becker, Robert J., xxx-xx-xxxx
Bell, Carroll W., xxx-xx-xxxx
Boese, Jackie L., xxx-xx-xxxx
Boswell, Carl L., xxx-xx-xxxx
Botton, Irving, xxx-xx-xxxx
Brooks, Robert N., xxx-xx-xxxx
Burkett, Samuel L., xxx-xx-xxxx
Cancilla, Anthony G., xxx-xx-xxxx
Cannon, Wayne M., xxx-xx-xxxx
Cassady, Walter R., xxx-xx-xxxx
Clark, Robert L., xxx-xx-xxxx
Damico, Frank V., xxx-xx-xxxx
Davis, Walter T., xxx-xx-xxxx
Dugan, Richard N., xxx-xx-xxxx
Edwards, Betty J., xxx-xx-xxxx
Finch, Nathaniel H., xxx-xx-xxxx
Frandsen, John C., xxx-xx-xxxx
Freund, Robert A., xxx-xx-xxxx
Gertz, Kenneth D., xxx-xx-xxxx
Greenwald, Max B., xxx-xx-xxxx
Grim, John N., xxx-xx-xxxx
Grist, Arthur L., xxx-xx-xxxx
Grolli, Frank T., xxx-xx-xxxx
Gross, Don A., xxx-xx-xxxx
Harkabus, Thomas J., xxx-xx-xxxx
Henning, David R., xxx-xx-xxxx
Higgins, Thomas F., xxx-xx-xxxx
Hollowell, Edward E., xxx-xx-xxxx
Huber, Don M., xxx-xx-xxxx
Hueber, Jerald A., xxx-xx-xxxx
Ivanoff, Michael V., xxx-xx-xxxx
James, Roger B., xxx-xx-xxxx
Jones, Jimmy R., xxx-xx-xxxx
Klover, Jon A., xxx-xx-xxxx
Kolb, William H., xxx-xx-xxxx
Krogman, Franklyn T., xxx-xx-xxxx
Levandoski, Nicholas, xxx-xx-xxxx
Lewis, John T., xxx-xx-xxxx
Loetell, Joseph W., xxx-xx-xxxx
Lorman, Walter E., xxx-xx-xxxx
Malone, Winfred F., xxx-xx-xxxx
McClaflin, Donald E., xxx-xx-xxxx
Menker, George T., xxx-xx-xxxx
Montano, Andrew, xxx-xx-xxxx
Murdock, Bobby J., xxx-xx-xxxx
Newman, Dewey H., xxx-xx-xxxx
Parker, John L., xxx-xx-xxxx
Petersen, Walter H., xxx-xx-xxxx
Prescott, Paul W., xxx-xx-xxxx
Ramsay, David J., xxx-xx-xxxx
Seiler, Walter C., xxx-xx-xxxx
Shafer, Thayer C., xxx-xx-xxxx
Stamp, Willard J., xxx-xx-xxxx
Stults, Theodore M., xxx-xx-xxxx
Sullivan, Paul J., xxx-xx-xxxx
Toles, Wesley, xxx-xx-xxxx
Uhlmann, Jerry B., xxx-xx-xxxx
Volante, William, xxx-xx-xxxx
Wentworth, Bernard, xxx-xx-xxxx
White, Albert J., xxx-xx-xxxx
Williams, Louie A., xxx-xx-xxxx
Williams, Sherman C., xxx-xx-xxxx
Wislosky, William, xxx-xx-xxxx
Wong, Hyman, xxx-xx-xxxx

ARMY MEDICAL SPECIALIST CORPS

To be colonel

Bakken, Suzanne G., xxx-xx-xxxx
Donley, Phillip B., xxx-xx-xxxx
Griffin, Winslow L., xxx-xx-xxxx
Haiduk, Stanley, xxx-xx-xxxx
Hewitt, Marjorie A., xxx-xx-xxxx
Kannegieter, Ruthan, xxx-xx-xxxx
Kreider, Russell R., xxx-xx-xxxx
Speight, Curtis, xxx-xx-xxxx

VETERINARY CORPS

To be colonel

Dill, Garrett S., xxx-xx-xxxx
Geci, Theodore R., xxx-xx-xxxx
McCormick, Richard, xxx-xx-xxxx
Meek, Dee G., xxx-xx-xxxx
Smith, Paul C., xxx-xx-xxxx
Thomson, Lester G., xxx-xx-xxxx

ARMY NURSE CORPS

To be lieutenant colonel

Addison, Rachel A., xxx-xx-xxxx
Arvey, Barbara A., xxx-xx-xxxx
Baughman, Nancy L., xxx-xx-xxxx
Beals, Judy H., xxx-xx-xxxx
Briggs, Robert J., xxx-xx-xxxx
Buchanan, Robert E., xxx-xx-xxxx
Byman, Doris E., xxx-xx-xxxx

Campbell, Donna L., xxx-xx-xxxx
Ciszewski, Thomas D., xxx-xx-xxxx
Claverie, Dianna J., xxx-xx-xxxx
Crawford, Elisabeth, xxx-xx-xxxx
Cummings, Brenda K., xxx-xx-xxxx
D'Alessandro, Dianne, xxx-xx-xxxx
Dickinson, Barbara, xxx-xx-xxxx
Dupuis, Claudia C., xxx-xx-xxxx
Eisenkramer, Kathry, xxx-xx-xxxx
Encarnacion, Jesus, xxx-xx-xxxx
Fodor, Mariana D., xxx-xx-xxxx
Frende, Joan T., xxx-xx-xxxx
Garcia, Gracie, xxx-xx-xxxx
Gately, Margaret E., xxx-xx-xxxx
Grzybwysocki, T., xxx-xx-xxxx
Hamilton, Donna L., xxx-xx-xxxx
Howard, Thomas C., xxx-xx-xxxx
Hunt, Holly G., xxx-xx-xxxx
Iorio, Joseph A., xxx-xx-xxxx
Johnson, Hazel A., xxx-xx-xxxx
Johnson, Jean M., xxx-xx-xxxx
Johnson, Lorraine B., xxx-xx-xxxx
Jordan, Mary Ann, xxx-xx-xxxx
Kerry, Hazel, xxx-xx-xxxx
Koenig, Catherine A., xxx-xx-xxxx
Kremmer, Susan M., xxx-xx-xxxx
Ladu, Elizabeth B., xxx-xx-xxxx
Leduc, Melina M., xxx-xx-xxxx
Lee, Sharon W., xxx-xx-xxxx
Leonardo, Gemima, xxx-xx-xxxx
Limoge, Joan, xxx-xx-xxxx
Madson, Ronald, xxx-xx-xxxx
Mancuso, Catherine, xxx-xx-xxxx
Mangaroo, Jewellean, xxx-xx-xxxx
Martin, Elizabeth A., xxx-xx-xxxx
Meidl, Judith E., xxx-xx-xxxx
Mitchell, David C., xxx-xx-xxxx
Mullen, Annmarie A., xxx-xx-xxxx
Mullen, Mathew J., xxx-xx-xxxx
Murphy, Veronica M., xxx-xx-xxxx
Muse, Joyce E., xxx-xx-xxxx
Myers, Sarah C., xxx-xx-xxxx
Patterson, Shirley, xxx-xx-xxxx
Rhoades, Lola M., xxx-xx-xxxx
Robinson, Josephine, xxx-xx-xxxx
Ross, Elizabeth L., xxx-xx-xxxx
Ruybalid, Jerry A., xxx-xx-xxxx
Saylor, Angelita T., xxx-xx-xxxx
Schley, Doris E., xxx-xx-xxxx
Smith, Bettie J., xxx-xx-xxxx
Smitherman, Sharon, xxx-xx-xxxx
Snow, James P., xxx-xx-xxxx
Snow, Yvonne A., xxx-xx-xxxx
Southall, Harry A., xxx-xx-xxxx
Steffens, James J., xxx-xx-xxxx
Still, Joann, xxx-xx-xxxx
Sullivan, Ellen M., xxx-xx-xxxx
Taft, Jeanette C., xxx-xx-xxxx
Tate, Bessie M., xxx-xx-xxxx
Thomas, Marcie L., xxx-xx-xxxx
Venegoni, Sandra L., xxx-xx-xxxx
Walker, Carolynn N., xxx-xx-xxxx
Walsh, Mary J., xxx-xx-xxxx
Weiskotten, Eda L., xxx-xx-xxxx
Williams, Katheryn, xxx-xx-xxxx
Wylie, Delores L., xxx-xx-xxxx
Zimmerman, Barbara, xxx-xx-xxxx

DENTAL CORPS

To be lieutenant colonel

Allen, Andrew L., xxx-xx-xxxx
Bell, Donald G., xxx-xx-xxxx
Bellome, John, xxx-xx-xxxx
Bequist, Ronald C., xxx-xx-xxxx
Bowman, William H., xxx-xx-xxxx
Brice, William L., xxx-xx-xxxx
Broome, William C., xxx-xx-xxxx
Bruen, Edward E., xxx-xx-xxxx
Burdett, William M., xxx-xx-xxxx
Caldwell, Thomas A., xxx-xx-xxxx
Campbell, Grady C., xxx-xx-xxxx
Caples, Jerry L., xxx-xx-xxxx
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HOUSE OF REPRESENTATIVES—*Monday, January 31, 1983*

The House met at 12 o'clock noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We pray, O God, for all things that give strength and health and purpose to Your creation. May all Your gifts of life that bring hope and happiness be with all people whatever their circumstances. For those who are weak or afraid, give strength; for those who are disappointed or distraught, give encouragement; for those who are anxious about their lives, grant Your peace that passes all human understanding. May Your spirit be with us this day and every day. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Saunders, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agreed to the following resolution:

S. RES. 19

Resolved, That the Senate has heard with profound sorrow the announcement of the death of the Honorable Benjamin S. Rosenthal, late a Representative from the State of New York.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate recesses today, it recess as a further mark of respect to the memory of the deceased.

The message also announced that the Senate had passed a bill of the following title in which the concurrence of the House is requested:

S. 61. An act to designate a "Nancy Hanks Center" and the "Old Post Office Building" in Washington, District of Columbia, and for other purposes.

SWEARING IN OF MEMBER-ELECT

The SPEAKER. Will the gentleman from Hawaii (Mr. HEFTEL) present himself in the well of the House for the purpose of taking the oath of office?

Mr. HEFTEL of Hawaii appeared at the bar of the House and took the oath of office.

THE REAGAN BUDGET—A PHONY FREEZE

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, without having looked at all the details of the budget, my first reaction to what the President sent us in the way of a 1984 budget is, "How can he call it a freeze?"

The budget projects a $189 billion deficit next year. They come up with that magic number by proposing to freeze at 1983 levels most domestic programs, while going ahead with a 14-percent increase in budget authority for defense and "full speed ahead" on tax reductions. If we are going to have a freeze, it needs to be applied at least in modified form across the board in the following way.

First, the "freeze" needs to involve more than superficial or even off-target cuts in the defense sector. Doubling the cuts Secretary Weinberger proposed can be achieved without jeopardizing our national security.

Second, the "freeze" cannot ignore the revenue side of the picture. Why not freeze the Tax Code at current levels; at least temporarily eliminating the third year of the tax cut and tax indexation, as an attempt to reduce the deficit and keep interest rates down. Let there be no mistake about it, keeping interest rates down is the No. 1 way to recovery; in fact, it is the only reason why we are seeing any portion of recovery occuring right now and further tax reductions will increase the deficit, jeopardizing recovery.

Finally, the "freeze" needs to be sensitive to the neediest of the needy. Programs feeding people and providing necessary health care have already been dramatically cut and we should resist further Draconian cuts.

Rhetoric aside, the budget does not show that tough choices have been made. Instead, it is a rerun of Reaganomics I.

A GREATLY NEGLECTED RESOURCE—THE OLDER AMERICAN

(Mr. RATCHFORD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RATCHFORD. Mr. Speaker, one of the fastest growing segments of our population is age 55 and above. Life expectancy has risen sharply. The desire and the need among older people to remain hard working and self-sufficient is keen. The obstacles they face, however, are often insurmountable.

The Vocational Education for Older Workers Act I am reintroducing today would help remedy this dilemma. The bill expands the focus of vocational education to include the needs of a greatly neglected resource of our population—the older American.

The jobless rate for older Americans has increased by 77 percent since 1981. Their increased participation in the work force would not only yield an estimated $10 billion in new social security revenues, but have a very positive effect on the overall economy. I hope my colleagues will support this valuable investment in older Americans.

"BLUE SMOKE AND MIRRORS" REVISITED

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALEXANDER. Mr. Speaker, last week, the president of the Washington Press Club highlighted the President's economic policy by using John Anderson's famous description, "Blue Smoke and Mirrors," as a way of characterizing the method and madness of Reaganomics.

Since then, copies of Mr. Reagan's proposed budget for fiscal year 1984 have been circulated and Mr. Anderson's phrase could not be improved upon as a book review for this document, or for that matter, as a subtitle for it.

The President's budget statement contains a subhead entitled, "Two Years of Accomplishment," and that section goes on to talk about "dramatic improvements" in the economy. The same note of fantasy is sustained throughout Mr. Reagan's review and prospectus. He claims, for example, to have reduced the ratio of Federal spending.

Once the blue smoke clears, however, the American people will see that the President has actually increased the percentage of the gross national product accounted for by Federal spending. The amount of the increase is 2.1 percent, and most of that is in spending for defense.

While the President's rhetoric is different, then, Reaganomics unfortunately remains the same. It is, still done with mirrors.

THE NAVY LEASING PROGRAM

(Mr. BONIOR of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BONIOR of Michigan. Mr. Speaker, I rise to praise my colleague, the gentleman from Texas (Mr. PICKLE) for bringing to light the Navy leasing program on ships, as opposed to purchasing them.

The Navy Department has hit upon a way to make its budget dollars seem to go further. Instead of buying cargo ships and Navy planes, it plans to lease some of them from the private sector. The advantage to the Navy is that much of the cost will no longer show up in the budget. Leasing allows the Navy to spread the weapons cost over the 20 years or more that the lease runs, rather than having to pay for the ship at one shot. The owner of the ship can also give the Navy an apparently good price because of the big tax advantages he gets from rapid depreciation and investment tax credits.

Much of the cost is thus hidden from view because it shows up in a loss to the Treasury, rather than a direct cost.

I guess the point I want to make to my colleagues is that this is not an unusual procedure. What we are seeing in this Congress and what we saw in the last Congress is an accelerating rate of people using the back door approach vis-a-vis tax expenditures rather than a direct outlay approach.

I would urge my colleagues that when we adopt the budget resolution in this Congress that we seriously consider a limitation on tax expenditures in the budget ceiling.

CONGRATULATIONS TO THE REDSKINS

(Mr. HOYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, in case you might have missed it, there was a football team from the Washington area that played a game out in Pasadena yesterday.

Actually, I am sure the Speaker was watching, as were millions and millions of Americans and certainly millions from the Washington metropolitan area.

I do not want this 1-minute opportunity to go by without congratulating all of the members of the Washington Redskins, all of the ownership and management team of the Washington Redskins, and, in particular, Bobby Beathard, who certainly put together one of the best teams in the National Football League.

We think this is going to be a great team in the years ahead in the NFL. I also want to congratulate the fans—as did appropriately John Riggins and Joe Theismann, Mark Moseley, and all the Washington Redskins—for the support, enthusiasm, and encouragement they have given to their team, which has made the Washington metropolitan area such a very proud metropolitan area this day.

COMMITTEE AND SUBCOMMITTEE ASSIGNMENTS FOR THE 98TH CONGRESS

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, in the 97th Congress, the Democrats who control this House shorted the Republicans 30 slots on major committees and 37 slots on subcommittees. Because of that constitutional deprivation of equal protection of the law, we filed suit in the Federal court system to correct it.

Apparently that same spirit still governs the Speaker of the House because if I understand what is going to happen tomorrow in the Energy and Commerce Committee, it will be more of the same.

We Republicans have 38.16 percent of the Members of the House as a result of the election of November 1982. It is proposed that we will only have 15 slots on the Commerce Committee, constituting 35.7 percent of that group. Thus, we have been denied one seat that is rightfully ours.

On the six subcommittees, we are proposed to be shorted eight slots.

On the Commerce, Transportation and Tourism Subcommittee, there will be seven Democrats and three Republicans. We Republicans are shorted one slot.

On the Fossil and Synthetic Fuels Subcommittee, it is proposed to have 13 Democrats and 6 Republicans. We Republicans are shorted two slots.

On the Energy Conservation and Power Subcommittee, it is proposed to have nine Democrats and four Republicans. We are shorted one slot.

On the Health and Environment Subcommittee, 13 Democrats and 6 Republicans. We are shorted two slots.

On the Oversight and Investigations Subcommittee, nine Democrats and four Republicans. We are shorted one.

And finally, on Telecommunications, it is 11 and 5. We are shorted one.

Mr. Speaker, I ask you not to force us to go to court to get our constitutional entitlement of slots on committees and subcommittees. Please reconsider and give us our constitutional entitlement on committees and subcommittees in this, the 98th Congress. In an appeal for bipartisan fairness, we will offer appropriate amendments to the rules of the committee.

A CONSTITUTIONAL AMENDMENT ON CONGRESSIONAL PAY

(Mr. LIVINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LIVINGSTON. Mr. Speaker, today I am introducing a joint resolution proposing a constitutional amendment to establish a special Presidentially appointed commission with the exclusive authority to set salaries for Members of Congress. The gentleman from Washington (Mr. SWIFT) is joining me as original cosponsor of this bipartisan initiative which has been introduced in identical form in the other body.

The Congress has passed many laws to deal with the salary issue, but none have adequately avoided the fundamental conflict of interest that exists when Members of Congress are forced to vote on their own salaries. This topic, whenever raised, has always created an air of controversy, and Members, regardless of how they voted, have never escaped the brunt of public ridicule, despite their best intentions. This constitutional amendment will provide a degree of fairness into the system by setting up a Presidential commission to accomplish what Congress has been incapable of accomplishing.

Mr. Speaker, it is time for us to resolve the issue of congressional pay once and for all. I welcome my colleagues' support of this resolution.

HAIL TO THE REDSKINS

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLF. Mr. Speaker, hail to the Redskins. As the Congressman who represents northern Virginia where the Redskins train and where Coach Gibbs lives and where many or most of the Redskins live, I would like to take this opportunity to congratulate the Washington Redskins—the coaches, the players, and the entire Redskins organization—on their Super Bowl victory yesterday. What a magnificent performance by this football team,

which proved to the world that they are a team of champions.

Who would have thought at the beginning of the 1981 season that the Redskins would be the champions of the National Football League today. This team reflects just how far good coaching, hard work, and belief in themselves as winners can take a football team, and the Washington area community is proud to share in their victorious season. This Redskins' team has unified the Washington community which, as we know, Mr. Speaker, has a hard time agreeing on anything; but this team has brought us together and created a spirit of unity that has spread throughout the District, Maryland, and Virginia. What a great way to start 1983. We in the Congress would do well to follow the example of the Redskins, who have demonstrated the success of teamwork in getting a job done.

We all have a chance this Wednesday, Mr. Speaker, to show our appreciation to the Redskins and to welcome them home in a victory parade and reception. The parade will start at noon at the District Building and end at the Capitol. I hope the entire community will turn out to thank this team for bringing us together and for all those thrills this football season.

We would love to have the Speaker ride in the parade.

□ 1215

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. WOLF. I yield to the gentleman from Maryland.

Mr. HOYER. Will the gentleman agree with me that probably, as good winners and good sports, we ought not to require Senator PEPPER to wheel Congressman FAUNTROY to the Rayburn Building in a wheelbarrow?

Mr. WOLF. I would agree with the gentleman on that.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
January 31, 1983.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the permission granted in the Rules of the U.S. House of Representatives, I have the honor to transmit sealed envelopes received from The White House as follows:

(1) At 12:30 p.m. on Thursday, January 27, 1983 and said to contain a message from the President whereby he transmits the 1982 Employment and Training Report of the President;

(2) At 12:30 p.m. on Thursday, January 27, 1983 and said to contain a message from the President whereby he transmits Amendments to the International Regulations for Preventing Collisions at Sea.

With kind regards, I am

Sincerely,

BENJAMIN J. GUTHRIE,
Clerk, House of Representatives.

AMENDMENTS TO INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 98-13)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Merchant Marine and Fisheries, and ordered to be printed:

(For message, see page 961 of proceedings of the Senate Thursday, January 27, 1983.)

TWENTIETH ANNUAL REPORT PERTAINING TO EMPLOYMENT AND OCCUPATIONAL REQUIREMENTS, RESOURCES, USE AND TRAINING—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Education and Labor:

(For message, see page 962 of proceedings of the Senate of Thursday, January 27, 1983.)

APPOINTMENT OF CHAIRMAN AND VICE CHAIRMAN OF DELEGATION TO ATTEND CONFERENCE OF INTERPARLIAMENTARY UNION IN HELSINKI

The SPEAKER, pursuant to the provisions of 22 U.S.C. 276a-1, as amended by Public Law 95-45, the Chair appoints the gentleman from Florida [Mr. PEPPER] as chairman, and the gentleman from Indiana [Mr. HAMILTON] as vice chairman of the delegation to attend the Conference of the Interparliamentary Union held in Helskini on April 25 through April 29, 1983.

APPOINTMENT AS MEMBERS OF TECHNOLOGY ASSESSMENT BOARD

The SPEAKER, pursuant to the provisions of section 4(a), Public Law 92-484, the Chair appoints as members of the Technology Assessment Board the following Members on the part of the House:

Mr. UDALL of Arizona; Mr. BROWN of California; Mr. DINGELL of Michigan; Mr. WINN of Kansas; Mr. MILLER of Ohio; and Mr. EVANS of Iowa.

THE BUDGET MESSAGE OF THE PRESIDENT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 98-3)

The SPEAKER pro tempore (Mr. BATES) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed:

(For message, see proceedings of the Senate of today, Monday, January 31, 1983.)

□ 1230

ORDER OF BUSINESS

Mr. HOYER. Mr. Speaker, I ask unanimous consent that the gentleman from Michigan [Mr. BONIOR] be allowed to speak out of order with respect to his special order today so that he might precede me on the special orders.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

THE UNITED STATES-HONDURAN MILITARY EXERCISE PROTESTED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. BONIOR] is recognized for 60 minutes.

Mr. BONIOR of Michigan. Mr. Speaker, I would like to thank my colleague, the gentleman from Maryland [Mr. HOYER], and my colleague, the gentleman from Alabama [Mr. EDWARDS] for allowing me to precede them.

Mr. Speaker, this week, beginning tomorrow, we will witness the sobering spectacle of U.S. troops in Central America, as 4,000 Honduran soldiers and 1,500 U.S. support personnel engage in a joint military exercise near the Honduran-Nicaraguan border. Late last year, the administration made a prudent decision to call off a scheduled military exercise in this area because it would have increased tensions at the time of President Reagan's visit. The rescheduling of this exercise will bring about a heightening of tension that is no less dangerous at this time.

This is an extremely volatile region; it has been wracked with violent conflicts over the past year; and the presence of thousands of United States and Honduran troops is certain to contribute to the climate of hostility.

I rise today to protest the decision by the Reagan administration to go forward with this military exercise. I know my objections are shared by many other Members of this body who

have signed a letter to President Reagan expressing dissent from this decision. I particularly want to commend the leadership of Mr. LEACH and Mr. CONTE who have joined me in urging our colleagues to speak out in opposition to this military exercise.

This venture, the largest ever conducted by the United States and Honduras, is especially troublesome because it appears to be part of a pattern of escalating U.S. military involvement in the area. We can trace the trail of increasingly flagrant and aggressive U.S. intervention over the past few years back to our own shores.

First the United States failed to enforce our own laws and close down paramilitary camps in Florida and California, where exiles from former Nicaraguan Dictator Anastasio Somoza's national guard trained, with the avowed purpose of overthrowing the Nicaraguan Government.

Next, dramatic increases in military aid to Honduras, including the funds to upgrade military bases, transformed a country that was once an oasis of peace into an arsenal and staging ground for a widening regional war.

Then, the well-publicized CIA "secret war," training and funding exiled national guardsmen along the Honduran-Nicaraguan border brought the United States into direct alliance with ruthless terrorists who promise a "bloodbath from the border to Managua."

Now, the Reagan administration is sending an unprecedented number of U.S. military personnel into Honduras, within 10 miles of the Nicaraguan border, for a week of extensive war games.

What will follow? How deeply will we mire our national prestige, our taxpayers' dollars, our own troops in the violence of the region? What forces do we unleash and encourage by our relentless military buildup? By what principles do we justify these actions, and to what ends?

Many of the consequences of these actions are already painfully clear. The uprooted, the wounded, and the dead in Nicaragua bear witness to the human cost of the increasing militarization of the border region. The growing climate of fear in that country has led to increasing restrictions of freedom by a government that points to the threat of imminent war, and that may soon see itself with few options, but to turn for protection from U.S. intervention to the forces that we would least like to see have a foothold in the region.

Can we argue that such threats do not exist in face of our own military stance? With what authority can we admonish that a Nicaraguan military buildup is unnecessary and unwise? How can we convince the people of the region that they must not look to the East for their protection, when the policies of the United States are so provocative?

In Honduras, our military aid has bolstered the power of the most bellicose elements of that society. It has undermined, rather than enhanced, newly formed democratic institutions struggling to maintain autonomy from the traditionally overpowering military. It has undercut, rather than strengthened, efforts to find a political solution to the violence on the Nicaraguan border.

In recent months, the Honduran bishops have expressed concern about the growing repression in the country. The president of the Honduran Human Rights Commission has decried "the clandestine jails, disappearances, and torture" that are tolerated in "a war to save democracy." The most powerful individual in the country, Gen. Gustavo Alverez has declared that his country is locked in a "war to the death" with Nicaragua.

Can we claim to be the champion of democracy in the region when it is our own military aid that is threatening the delicate balance of democratic institutions in countries like Honduras?

And what will this venture bode for the future of the United States in the region? When our fellow Americans, throughout the hemisphere, ask, what does the United States offer them in their struggle for economic progress, self-determination and basic human dignity?

This week we have one answer from the Reagan administration, as the U.S. flag once again accompanies our military manpower on Central American soil. The answer from the Reagan administration is this—we bring you the power of the gun, the strategies of war, the rule of intimidation and fear.

I speak today not only in vigorous dissent from the decision to go forward with these military maneuvers, but in protest to the notion that these weapons of war need be the symbol of our Nation to the people of Latin America.

Military aid is not the instrument of peace. Support for military regimes or factions, is not the road to democracy. And joint military maneuvers are not the key to international cooperation.

There are alternatives; alternatives grounded in the initiatives of major leaders in the region. Last year, the Presidents of Mexico and Venezuela appealed to President Reagan to work with them to avert the escalating conflict and to open the channels for political dialog. More recently, the foreign ministers of Colombia and Panama joined those of Mexico and Venezuela in calling upon all nations to refrain from undertaking actions that could create the danger of generalized conflict throughout the region. They stressed the need to uphold dialog and negotiation as the means to resolving the region's problems.

There are alternatives; alternatives grounded in the fundamental principles upon which our own Nation was founded. Principles we hold dear in rhetoric, but have yet to fashion into policies that can guide our relations with the peoples and governments of Latin America.

Once, when our founders sundered ties with a colonial power and created a new nation, many say the first new nation, they spoke of inalienable rights; of government by the consent of the governed; of the rights of people to alter and abolish governments that are destructive of these ends; and of the rights of people to form new governments based on such principles and powers which seem "most likely to effect their safety and happiness."

Our founders meant these to be principles that would not only frame our own Government but would also be a beacon, guiding other peoples in their struggle for self-determination. It is to these standards, and nothing less, that we must hold ourselves today. And it is these standards, above all else, that we violate in our military interventions in Central America.

THE REAGAN BUDGET AND CIVIL SERVANTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland [Mr. HOYER] is recognized for 60 minutes.

Mr. HOYER. Mr. Speaker, I rise today not only to express my own personal outrage, but also the outrage of literally thousands of people who I represent and thousands of people who represent all the citizens of this country as civil servants, as Federal workers. The 98th Congress, Mr. Speaker, may be remembered in history as "The Congress of Hard Knocks."

The challenges ahead are enormous. Our choices are few, and all are difficult. I do not believe there is a Member of this body who relishes the thought of postponing cost-of-living adjustments for social security recipients. We do not relish the opportunity to raise taxes, or users fees, as they have been renamed. Over the next 24 months this Congress will spend a lot of time and energy making decisions it would rather not have to make. The very real nightmare of a $200 billion deficit has prodded this administration and the Congress into facing the music. We must cut spending, we must increase revenues. Neither budget cuts nor tax increases on their own will make a sizeable dent in the deficit. We must, unfortunately, do both.

If there is anything at all positive in these deficits, it is that the administration has learned that economic theories like trickle-down economics will not cure a sick economy, and the

country has been made painfully aware of the necessity to address alternatives and not just add-ons.

The 97th Congress, Mr. Speaker, gave the President virtually everything he wanted, from his budget to tax policy. My biggest criticism of the 97th Congress was that it did not ask "why" often enough. It did not ask "What if" often enough. It did not ask often enough, "What are the consequences of this program?"

The 98th Congress must proceed ahead with additional budget cuts and an examination of our tax policy, but we must also ask the questions we neglected to ask before. The administration is clearly of the mind that if you want to cut Government expenditures, you must do it fast, clean and dirty, before the constituencies catch on to your plan. This happened in the Gramm-Latta budget reconciliation bill, where Members were offered bottom-line but no understanding of what we were doing to essential Government programs.

I believe this Congress will not accept blind faith budgets. Our task then, Mr. Speaker, is not only to make the hard choices, but also to make the right choices. It is very easy to reduce a line item for education. It is, however, very hard to face the effects of that reduction. Do we go for the quick fix, or do we rob our children and eventually the character of our Nation of one of the best services the Government provides? Do we look for short-term budget savings, or do we look at long-term savings and long-term consequences?

Mr. Speaker, I have requested this special order today to address what I consider to be one of the most blatant examples of the terrible consequences of the quick fix approach to producing budget savings. I undertake this special order fully aware that I am placing myself in the apparent position of recognizing the necessity of budget cuts, but seemingly protesting that they ought not to be in my area of interest. But Government is and must be a system of establishing priorities. The President has made it a priority to increase defense spending at the expense of a rapidly increasing deficit.

□ 1245

I have made as one of my priorities the efficient and productive operation of our Nation's Government. I have, therefore, requested this special order to address the dangerously eroding compensation package of our Federal employees and what we can expect will be the inevitable and damaging result of this pay and benefit erosion.

Mr. Speaker, when residents of the Washington area woke up and read their newspapers on Saturday, what greeted them was some grim news. The Reagan administration has proposed drastic cuts in benefits for Federal employees, cuts that will pretty much insure reductions in pay, reductions in pensions, and major changes in how they buy their insurance. The stories in the newspaper also reflected new cutbacks for our retired Federal workers, those who had accepted their contract with the Federal Government as valid and now see their Government as breaking its promises to them.

Mr. Speaker, the Reagan administration saw it had budget problems but instead of making hard political decisions and looking for long-term solutions to its problems, they merely wiped out some of the red ink at the expense of the very same people who are entrusted with running our Government. I think if I were one of those employees today—and indeed I am, and as a matter of fact, as are all the officers at the desk behind me, the gentleman who takes this RECORD, and you, Mr. Speaker—if I were one of those employees, I would feel like packing up my bags and moving on. And that is exactly what is going to happen if we permit such massive changes to take place as are suggested in the budget document. The best and the brightest of public servants are going to move on, and if we permit such proposed changes as the increase in retirement age to be adopted, they are going to move on very, very soon.

Are we going to be prepared for such action? People all across this Nation are going to hear what the President has to say about freezing pay and thinking to themselves, well, why not? Other governments, State and county governments, have placed freezes on their employees. It is a tough economic time, after all.

Well, If that was all the President proposed to do, I am sure our Federal employees would tighten their belts and accept that. They are and have been patriotic Americans, and they understand fiscal constraints. But, unfortunately, that is not all.

Last year Federal employees got a 4-percent pay raise in October. With a 3.9 percent inflation rate, it would appear that Federal employees were able to keep up, but with increased premiums in health insurance, with a new 1.3 percent medicare tax, with more money consequently taken out in Federal and State income tax and increases in retirement and insurance deductions, Federal employees lost money. They did not stay even, they did not increase, they lost money. All across the board, from the GS-3, who is now taking home $677 less than in 1982, to the GS-13, who now has $1,768 less in his or her paycheck every year, they lost money. Therefore, if we start with the theory that Federal employees would have their pay frozen in 1983, they would be losing even more money.

The Reagan budget also proposes changes on the health insurance offered to Federal employees. While they promise us legislation to come, the language in the budget clearly indicates we are going to see some sort of modified voucher system.

In addition, I might add parenthetically, Mr. Speaker, the fact that Dr. Devine testified before the Committee on Post Office and Civil Service a few months ago indicating this proposal was on the front burner. This is a system which may hurt those people with large families or with greater health problems. This can only mean more money out of the pockets of the Federal employees and Federal retirees.

Some other highlights, unfortunately, are equally demoralizing. The budget breaks our long-standing commitment to the civil service retirement system by breaching our contract with Federal employees and rewriting the rules for many employees in midstream, our contract with Federal employees who have been planning on retiring and who are now told by this budget that they must wait until they are 65 years of age to do so or risk losing literally half of their pension. The man or woman who has spent his or her life with the Federal Government and anticipated retirement under the rules that they thought were in effect after 30 years of employment would be required to wait another 10 years to retire or risk losing much of the pension promised them. The budget also anticipates doing away with in-grade increases that allow Federal employees salary increases based upon longevity of service.

The budget also calls for increases in Federal employees' contributions to their pensions from the current 7 percent to 9 percent in 1984 and 11 percent in 1985. These increased contributions dramatically undercut once again the take-home pay of Federal workers.

The budget also calls for recalculating the cost-of-living adjustments for retired employees to the effect that another commitment between employer and employee is breached by the Federal employer. While the administration shies away from the politically dangerous effects of tampering with social security COLA's, they apparently are more than willing to ask Federal retirees to pick up more of the tab.

Mr. Speaker, you and I both noted that during the state of the Union address President Reagan apologized to the military for the pay freeze he was to propose. The President apparently felt that such an apology was not in order for his wholesale butchering of Federal employees' and retirees' pay and benefits. Active and retired civil servants have become unarmed and innocent hostages for the administration

to hold up whenever the administration is short of cash.

These budget proposals are bad economics, Mr. Speaker. They are bad public policy, and they constitute disastrous personnel policy. The administration and the Congress set policy, Mr. Speaker; they do not implement it.

Federal employees are relied upon to carry out our decisions. Yet we continue to treat these individuals as if they are somehow disconnected from the process. We look upon them almost as machinery that will accomplish our expectations without our having to attend to their needs.

The Congress passed the social security law and then left it for Federal employees to collect the revenues and send out the checks. The Congress appropriated funds for a space program and left it for Federal employees to figure out how to get a man on the Moon. The Congress and the administration organized the Postal Service and then left it for Federal employees to deliver a letter, and I might say, they do it faster and more efficiently than any other Nation on Earth. The Congress determined that the Government should protect its people from disease and illness and then left it to Federal employees to insure the attainment of these objectives.

Congress is now asking Federal employees to manage a budget of three-quarters of a trillion dollars and to receive less compensation for doing so. In fact, for the past few years, as the budget has grown, the compensation for Federal employees has decreased.

Mr. Speaker, the day may quickly come when the administration and the Congress leaves something to the Federal employees to implement and there will no longer be the competency or the will in our Federal servants to carry out our mandate.

The Congress is the board of directors of a Nation that employs almost 5 million individuals. The administration is the management of this Nation, and it is charged with producing a good return on the taxpayers' dollars. After all, that is openly the responsibility of us and of our employees.

The Government, however, does not have a hard product to sell. Our product is service, whether it be delivering the mail, defending our Nation, providing education for our young, or caring for the elderly and needy. Our overhead is largely in personnel, and our service is only as good as the men and women who deliver that service.

The Washington Post did an excellent series which ran just recently marking the 100th anniversary of the civil service, and in that series it remarked that the civil service today is—and I quote to you—"unhappy, unhealthy, and under siege." Federal employees are not immune from anyone's nagging. Criticism of the bureaucracy in everything from late mail to the size of the deficit is as chic as white wine and brie cheese. They have become the ultimate excuse, the scapegoat who cannot and in most instances chooses not to talk back.

Our outspoken distrust and mistreatment of the Federal work force belies their competency and commitment and our dependence and need for them. Literally millions of tasks on behalf of individual taxpayers are performed every day, and despite our willingness to harangue the bureaucracy and cut the compensation of those who perform these tasks, a surprising 71 percent plus of the people polled by the Washington Post indicate that they have been pleased or very pleased by the conduct of Federal employees with whom they came in contact.

I would suggest, Mr. Speaker, that this percentage compares favorably with those who have been pleased with the products of our auto manufacturers, of our steel manufacturers, and of other large employers in the United States.

We tend to think of the Federal Government as inefficient, cumbersome, and nonproductive. However, the Washington Post has also pointed out that the annual increase in productivity among the Federal work force has been 1.4 percent. That is a growth rate in productivity that would make most private sector entities envious.

As an example, the perception of the U.S. Postal Service in some quarters is that it is not as efficient as it ought to be. The reality is, however, that the Postal Service productivity per employee, Mr. Speaker, is 44 percent above that of Japan, our closest competitor with respect to the efficiency of the Postal Service. We tend to forget that the cost of mailing a first-class letter is cheaper in our Nation than in any other industrialized nation, with the sole exception of Belgium and Switzerland, and we tend to forget that the Postal Service delivers a letter faster than any other nation in the world.

Too often the Federal employee is characterized as being lazy, solely security-conscious in jobs they can hold for the rest of their lives. The facts are, of course, that there are a few lazy workers in Federal service, as there are, Mr. Speaker, in the private sector. Additionally, employees are underpaid and have limited benefits, and job security is more a myth today than a reality.

We tend to think of the Federal Government as growing rapidly, or ever filing its ranks with additional employees. Yet the facts are that in the past 30 years the Federal work force has grown only 9.7 percent while the size of the budget being handled by that work force has grown by 800 percent. Since 1952 the number of employees per capita in the Nation—and I would emphasize this point—has declined by 24 percent.

I agree with President Reagan's efforts to bring efficiency and curb the growth of performance standards to Federal Government, but I vehemently disagree with his treatment of Federal employees within that system. If we want to cut Government, we can and will make that decision. If we want to reduce the size of the work force through attrition, as the President indicated he wanted to, so be it. But for the sake of capable, efficient, and responsive government and for the sake of America, let us at the very least treat those employees on the job as we would any other American who requires an incentive to do his or her job.

The compensation package of Federal employees is basically made up, Mr. Speaker, of their pay, their health benefits, their pensions, and their vacation. Unlike the private sector, they do not receive company cars, family tuition assistance, stock option plans, or the many other assorted benefits associated with private employment.

I would like to review, Mr. Speaker, Federal salaries, health benefits, pensions, and job security so that my colleagues might have an understanding of the facts of Federal employment as opposed to the myths of Federal employment.

□ 1300

FEDERAL PAY

Federal employees, except postal workers, do not have the right to bargain collectively over wages.

Mr. Speaker, we have just witnessed an overwhelming victory of a thoroughly competent group of individuals, 49 to be exact, in terms of active players, who went on strike, who said, "Yes, we can do a job and yes, you expect things of us, but we want more compensation because we believe we are entitled to more compensation." In effect, they shut down a major industry in this Nation and they brought discomfort to many people whose Sunday afternoons were in fact taken with watching the National Football League in action.

Mr. Speaker, when President Reagan talked on the phone yesterday to Joe Gibbs and to John Riggins, I did not hear him suggest that they not take the $36,000 winners share that was their incentive and their prize because we have tough times. But he has no hesitancy in asking those who are less publicized to do so.

The Federal employees, as I pointed out, do not have the right to strike if they do not like the wages offered to them. Federal pay is determined by the President and by the Congress, theoretically after a determination by an independent board that a pay in-

crease would be necessary to keep pay comparable to that offered in the private sector. In reality, however, setting Federal pay has become a contest between the traditional American principle of a fair day's wages for a fair day's work and the budgetary and political pressures of holding down payroll costs. Lamentably, Mr. Speaker, fairness has lost.

Congress passed the Federal Pay Comparability Act cognizant of the fact that Federal employees could not negotiate their wages. The intent of the statute was to provide for a wage structure that kept pace with private sector pay, thereby insuring for all Americans a talented, competent Government employee population.

Unfortunately, as budgetary pressures increased during the 1970's, so did the willingness of the President and the Congress to ignore the law of the comparability statute. In fact, the Comparability Act has not been adhered to since 1977, with the result that Federal employees have received only 30 percent in pay increases as opposed to the 65 percent called for by law.

The evidence that Federal pay lags far behind private sector pay is conclusive and uncontrovertible. Between 1970 and 1980 the Consumer Price Index rose 147 percent. White-collar pay in the private sector rose 129 percent. Yet Federal employee pay increased only 98 percent, 31 percent behind pay increases given in American businesses.

Last year alone Federal employees experienced a loss of buying power twice that experienced by individuals working in the private sector. Even if Federal employees had received a pay raise twice as much as they received in 1982 they would still take home less than brewery workers, metal can workers, airplane mechanics, and a host of other employee groups.

NONPARTISAN VIEW

The President's Advisory Committee on Federal Pay which is headed by Jerome Rosow, formerly an executive with the Exxon Corp. and Assistant Secretary of Labor under President Nixon, reported its annual findings on Federal pay to President Reagan this past October 25. In its harshest report to date the committee noted that Federal pay lagged behind private sector pay for the fifth year in a row and that an 18.5-percent raise would be required to bring Government workers back into comparability with their private sector counterparts.

Chairman Rosow noted, and I quote:

Although I am aware of the erosion of Federal pay below comparability in each of the past years, the size of the increase required to restore comparable wages comes as a shock. This gap results in a steady retreat from the principle of paying Federal workers the average paid in private industry, and the future's continued deficits raises serious questions about the Government's pay policy. Such an approach reduces employee morale and the Government's efficiency and productivity.

Mr. Speaker, Mr. Rosow does not represent thousands of Federal employees as I do. He does not receive the thousands of letters from demoralized Federal employees as I do. He has looked at the cold, hard facts and made an objective determination that Federal employees are underpaid and that our negligence in keeping them whole could have serious consequences to this Nation.

Again I would reiterate, Mr. Speaker, this is not a Federal employee union representative. This is not a public official seeking the votes of Federal employees. This is a former vice president of the Exxon Corp., presumably knowledgeable about private sector pay criteria, an individual who worked within the Nixon administration, not some fuzzy-minded Democrat who represents Federal employees like STENY HOYER. This is a hard-nosed private sector person who says that we are having a personnel policy that is dangerous to the welfare of this Nation.

The Advisory Committee further noted, Mr. Speaker, that Federal employees should have received, as I said before, 18.5 percent in 1982, a raise which they themselves acknowledged was politically and fiscally impossible to attain in 1 year. Instead, Government workers received 4 percent. But that was not all.

Federal employees were also the only group of Americans who received a 1.3-percent medicare tax on their pay through the Tax Equity and Fiscal Responsibility Act of 1982, the act which the President referred to as a revenue enhancement act.

The combined effects of this new tax, inflation, increased health premiums, increased State and Federal taxes, and other assorted costs, resulted in a net loss for Federal employees.

NET LOSS IN PAY

As I mentioned earlier, but would reiterate now, a GS-3 will lose $667 in 1983, despite the 4-percent raise in net take-home pay while a GS-13 will lose $1,768 in a year despite the raise.

CAP ON SALARIES

Mr. Speaker, if the lack of comparability for the majority of Federal workers is demoralizing, the cap on the pay of Federal executives is nothing short of indefensible pay policy. Congress has seen fit to tie the salaries of almost 45,000 employees at the upper tiers of Government to their own salaries, our salaries. Simply put, if Members of Congress do not give themselves a pay raise, 45,000 other employees have to do without as well.

The pay cap is not only a good way of making sure your best people leave Government, it is also a novel and ludicrous way to treating management personnel all the same despite their rank and level of experience. There are thousands of cases where the top man in the agency, the person responsible for running the agency, is being paid exactly the same as the men and women he or she supervises.

I wonder, Mr. Speaker, how General Motors would function if the CEO, chief executive officer, the vice presidents and the division heads, all made the same salary.

The pay cap, most naturally, is resulting in an exodus from Government of our most talented and capable employees—and why not?

For example, the most important career jobs in the Department of Navy pay anywhere from $22,00 to $60,000 less than the same jobs in the private sector. I will reiterate that. Comparable jobs in the Department of Navy pay $22,000 to $60,000 less than their private sector counterparts.

Not only are we losing our best employees because of these factors, we are also finding it more and more difficult to attract qualified individuals to Government.

I was told recently by an engineer with the Federal Government that he has had to scrape the bottom of the barrel in order to find an engineer who is willing to sign up with the Federal Government.

Mr. Speaker, the Federal Government is fast becoming noncompetitive and we cannot afford that if the crises articulated by the President are, in fact, before us, as I believe they are.

As pay and benefits continue to erode, I repeat what I said before, I wonder who will be left to manage these $700 billion to $800 billion budgets. Who will be left to manage our defense systems that the President says, and I agree, are so important? Who will be left to suggest ways to save Government dollars?

Our quick fix approach to saving dollars by cutting Federal pay will produce higher, long-term costs, with the long-term consequences of Government managed by the mediocre, the unimaginative, and the incapable.

HEALTH BENEFITS

I doubt I have to remind anyone in this Congress of the increases in their health insurance premiums, the reduction in their health benefits, and the hikes in their annual deductibles. As do all Federal and postal employees, Members of Congress obtain their health insurance coverage from the Federal Employee Health Benefit Program, the FEHBP. The FEHBP was once considered the model health program where almost 125 different health plans competed to offer the best benefit level at the lowest possible price. Unfortunately, the plan has been emasculated by budgetary decisions of the Office of Personnel Management as well as by the rise in health care costs.

The health benefit coverage offered a Federal employee in the form of a contribution of 60 percent of the premium cost of their health plan is one of the few fringe benefits to which Government workers are entitled. It is not surprising then that these employees are upset, and I believe that is an understatement, when they find in 1 year their premiums rising at a rate of 55 percent, their benefits cut at the average of 6 percent, and their deductibles increasing by 300 percent.

To reiterate, they are paying more for the product and they are getting less for their dollar.

In 1981 the Office of Personnel Management found it did not have enough money to fund the Government contribution to the health program. In effect, a mistake, an underbudgeting had occurred. Instead of requesting a supplemental appropriation to cover the Government portion of the cost, OPM decided that the employees would have to bear the burden themselves. This has resulted, according to the Mercer Co., which conducted a study at the request of the Post Office and Civil Service Committee, that this has resulted in the FEHBP falling far behind the health insurance plans offered to employees in both the private sector and in State government.

Specifically, the Mercer Co., a noted independent insurance analyst, pointed out in testimony before the House Post Office and Civil Service Committee that the value of the health benefit plan offered Federal employees in 1982 was 19 percent less than the average of public sector plans and 21 percent less than the average of private sector plans.

Months after the Mercer organization testified the FEHBP was again open for employees to transfer among the plans. The new premiums and deductible costs that took effect this past January have again shocked the Federal employee population.

□ 1315

I am convinced that if an analysis of the FEHBP were conducted today, it would paint an even more dismal picture than that painted by the Mercer analysis previously.

It is impossible to save money by cutting the appropriation for the Federal employee health benefit program. It would be another quick fix to save short-term dollars and it would be another quick fix with long-term consequences. Notwithstanding that, as I mentioned earlier, Dr. Devine has suggested a modified voucher plan which may reduce the value of the benefit of the health benefit plan for Federal employees.

For the first time in his state of the Union speech last week, the President admitted that not only is he part of the Federal Government but that Government has a role to play in the economic life of this country. And you will recall, Mr. Speaker, he said: "We who are in Government must take the lead in restoring the economy."

That statement is a far cry from earlier pronouncements that Government is the problem with this country. This stigma, fostered by both Presidents Carter and Reagan, has not always been universally shared. There are millions of Americans who are able to feed their families and avoid foreclosure on their homes because an act of this Government assisted them in their time of need. They built much of what stands in Washington; they built subways and parks, dams and electrical lines; they cleaned our cities and kept the artistic and cultural character alive. During and after the Great Depression, Americans came to know their Government as accountable, caring, and responsive. There was as much a sense of pride in working for the U.S. Government then as there is today in European governments where civil servants are highly regarded.

There has never been a great deal of money associated with working for the Federal Government, Mr. Speaker. What there was, was security, knowing that one would receive an income that would feed his family and provide a good pension to live on in his older years. It was a tradeoff, if you will. The civil service retirement became a very attractive element of employment with the Federal Government. Although it is not nearly as attractive today, it now constitutes really the only true incentive for working in the Federal Government.

CIVIL SERVICE RETIREMENT

I do not dispute that the civil service retirement has been heretofore a good retirement system. But I do dispute the claims of those who view it as extravagant. I would like to cut through some of the myths of Federal pensions with a few facts:

Fifty-five percent of all Federal annuitants do not receive social security or any other form of annuity or pension. The average civil service annuitant receives $918 a month. From this he pays an average of $64 a month for his health insurance. Unlike social security and railroad retirement recipients, Federal retirees pay income tax on their pensions and in fact return 10.6 percent of their pensions to the Federal Treasury.

Only 22.6 percent of all annuitants receive less than $500 a month, and 31 percent receive less than $600 a month.

Seventy-four percent of the survivors of annuitants receive less than $500 a month. That is three-quarters of the survivors.

Less than 1 percent of all annuitants receive more than $30,000 a year.

Despite President Reagan's campaign promises to the contrary, Federal annuitants were deprived of one of their two annual COLA's, costing them an average of $563 last year, and retired Federal employees were the only category of individuals who had any limitation placed on their annual COLA during the fiscal year 1983 budget deliberations.

We are all aware of the political pressures associated with altering social security, railroad retirement, or veterans' benefits. The political pressures are not as great when dealing with the civil service retirement program. Consequently, these retirees have found their contract with the Government broken frequently, with more breaches being proposed by this administration.

A letter I received just recently, Mr. Speaker, from Mr. Martin G. Weiss, who is a constituent of mine, vividly points out the feeling of betrayal and the fear of the consequences of the continued erosion of Federal pensions. He writes this:

> Although I am a 71-year-old retiree, I still take pride in the agency for which I worked. We were proud of our accomplishments. We worked hard and we enjoyed it. I am now appalled at the drop in morale, ambition and productivity. Federal employees no longer have a feeling of security and the backing of our legislative body.

In closing, Mr. Speaker, Mr. Weiss argues that in order to maintain a strong work force we must keep the promises we made to our employees while they are on the job after they have left Government service. Martin Weiss was an employee of the Beltsville Agricultural Center. Like so many Federal workers, Mr. Weiss might not be noticed walking down the street. Also, like so many Federal workers, Mr. Weiss lent his talents and experience for our benefit. As an employee of the Beltsville Center, Mr. Weiss and his colleagues were instrumental in important endeavors such as developing plant disease preventions that have been responsible for undoubtedly saving American farmers millions of dollars in lost crops. As Mr. Weiss said, they were proud of their accomplishments. They worked hard and they enjoyed it.

There is a cruel irony in the fact that we are now taking back that which we have promised for those who have given so much to the development of this Nation. Cutting Government pensions may well result in short-term budget savings. But it is another quick fix with long-term ramifications. The consequences of breaking our promises to those who have given of their time and talent are not only expensive in the long term, they also send a warning that the Federal Government will not consider any promise made to an employee a promise that cannot be broken.

FURLOUGHS

We have an American Government, Mr. Speaker, that has come to rely upon the continuing appropriations bill as almost the sole vehicle of Government funding. In addition, we have a Federal work force that has come to rely upon furloughs and office closings each time the legal date for enactment of a funding bill is reached. The Government employee and the taxpayer can almost predict with certainty that conflicts in Congress or conflicts between the President and the Congress will result in a funding gap, requiring the offices of Government to be closed and employees sent home. It is ludicrous, it is embarrassing, and it has become the rule rather than the exception.

Last month a massive Government shutdown was averted only at the last minute. During 1982 there were at least two agency shutdowns. In November 1981, 127,000 Federal workers were sent home without pay, at a cost to the Treasury, it is estimated by GAO, of $82 million.

Where is the security in these periodic furloughs? Congress must either meet its fiscal responsibilities on time or it must enact legislation to prevent these chaotic closings. While Government shutdowns and their consequent furloughs are distressing and demoralizing, they do not compare to the, at best, idiotic system of reductions in force.

RIF'S

Attrition in the Federal Government runs, Mr. Speaker, on the average of 10 percent a year. This translates into a loss of approximately 200,000 civilian employees a year. Nonetheless, out of the civilian Federal work force, as I said, of almost 2.1 million people, 544,000 jobs opened up last year. Eighty-three percent of those openings were filled by employees who were not working for the Federal Government at that time. Despite the extremely large number of Federal job openings and strong attrition rate, this administration has made frequent use of reductions in force, which effectively laid to rest the theory that Government employees are safe in their jobs.

We now learn that the administration is proposing a change in regulations so that seniority will no longer be the criterion used in determining who keeps their job. Such a regulatory change constitutes nothing short of a back-door attempt to revive the spoils system.

Generally, four employees are affected for every employee RIF'd. An illogical chain of events called "bumping" begins when a RIF is activated. RIF'd employees with the greatest seniority may seek out a lower position for which they are qualified and bump another employee with lower seniority out of his or her job. The bumped employee may turn around and do the same thing to another employee, and so on, until virtually the whole agency is beset by a demoralized, unproductive and disbelieving group of employees.

A September report, Mr. Speaker, by the General Accounting Office concluded in a study of Government RIF's that it may not be a necessity to RIF any Federal employee and that efforts to place RIF'd employees in other jobs have been dismal failures. That is an effort, of course, supervised by the Office of Personnel Management. But RIF'ing Federal employees, again, is a quick fix. The savings look good on paper, until you calculate the actual cost of conducting a RIF, until you calculate the lost productivity of employees, until you calculate the loss of having an overqualified employee in a very basic position, and until you calculate the long-term consequences of removing job stability from the Federal work force.

Mr. Speaker, I appreciate the patience of this House for this lengthy special order. But I feel strongly that before this Chamber and before the Congress of the United States begins dissecting the President's budget, it ought to look at some of the facts surrounding Federal employment and the consequences of stripping these employees of fair pay and fair benefits.

We can make quick fixes on this floor, and they may look very good at election time. But all we will be doing is postponing the pain and inviting even larger problems with which our children will have to grapple. I do not want to leave the next generation of Americans and the next generation of Congress men and women the task of rebuilding a government that has lost its talent. An inferior government work force means an inferior national defense; it means an inferior criminal justice system; it means an inferior foreign policy and an inferior environmental protection system.

REAGAN PROPOSALS

Mr. Speaker, the President's budget proposes a freeze on Federal white collar, blue collar, and military pay. It proposes that civilians will continue to get in-grade raises but they would be based on merit rather than longevity. That in and of itself, in terms of the merit system, is not a bad suggestion. But what is a bad suggestion is that the President has decided that we will forget about longevity, we will forget about long, faithful service to our Government.

The President has proposed that Federal and military retirees will get scheduled COLA's in April, which is good news; the bad news, of course, is that he also proposes that a Federal pension freeze be affected in 1984 through mid 1985.

Mr. Speaker, you will recall, when we debated the budget that we adopted both in 1981 and in 1982, we made a commitment in that budget. In 1981 we said that the Federal employees' COLA was going to be 7 percent, the pay raise was going to be 7 percent. We did not cap the COLA. In 1982 we said that the Federal employee pay raise was going to be 4 percent. And that was a reduced figure from the 5 percent passed by this House. The Federal employee is now being asked to tighten his belt not only with respect to every benefit which I have cataloged earlier today, but also with respect to Federal pay.

The President has also proposed substantial changes, which I have briefly cataloged with respect to retirement benefits. In particular, while Federal pay is being capped, while COLA's are being reduced and capped, the President proposes that not only will you not receive a pay raise, not only will your pay be subjected to medicare tax, not only will you be subjected to higher health benefit costs and less benefits, but you will also have your pension contribution increased from 7 percent to 9 percent next year and from 9 percent to 11 percent the year after, effectively a 4-percent reduction in gross pay.

Mr. Speaker, under the President's proposal a GS-9 making $20,000 would lose in 1984, $405 due to a 2-percent increase in pension contribution; another $405 or $810 over 2 years in increased contributions in 1985, and, of course, every year thereafter; would lose $810 due to the pay freeze, which under the fiscal 1983 budget commitment would be 4 percent; lose $675 due to the President's proposal of doing away with automatic in-grade increases. Presumably, as I pointed out under the merit proposal, the employee could still get such a raise, and an additional $810 due to the 3.9 percent inflation.

□ 1330

Now, Mr. Speaker, that would be a total loss of $2,700.

Now, I would presume that the gentleman from Alabama, who knows a lot more about the military pay system and the morale in the military than I do, is perhaps going to say something about the effect that the President's proposed pay freeze may have on our ability to maintain a strong defense. Many have said that. Senator TOWER, the chairman of the Armed Services Committee, commented on that yesterday.

Mr. Speaker, what is true for the military is equally true for the civilian sector. To believe that we can cut $2,700 from an individual's pay in a time of slowed, but nevertheless rising inflation, and to maintain that person on board, or, in the alternative, to believe that we will be able to fill positions with an equally competent, equally motivated individual, that is

unrealistic and we will be fooling ourselves if we pursue that policy.

There is not perhaps a brain drain from Government now. Unemployment is as high as it has been since 1940 and therefore there are not many jobs available in the private sector; however, I predict, Mr. Speaker, that when the economy improves, as the President assures us it will, and the private sector job market opens up, and if the policies that have been proposed by the President are adopted, the brain drain will turn into a veritable mass exodus of talent from our Government.

Then I asked my colleagues, who will be left to manage that Government?

Mr. Speaker, I thank the House for affording me this time.

THE DEFENSE BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alabama (Mr. EDWARDS) is recognized for 60 minutes.

Mr. EDWARDS of Alabama. Mr. Speaker, the President's budget came to the House today. It would be my purpose at this time to discuss briefly the defense portion of that budget as it will impact on fiscal year 1984 and to some extent beyond.

Mr. Speaker, first, let me say that the gentleman from Maryland, who is a new and valued member of our Appropriations Committee, has given us much to think about in his remarks and I am sure that the comments that he made having to do with Federal employees and the military will be taken to heart by many Members, all Members of this Congress, as we try to resolve the great problems pressing down upon us as far as the economy is concerned; so I think whether one may necessarily agree with everything the gentleman has said, that he has provided a valuable service in his comments.

Mr. Speaker, I was not sure last night whether I would be able to take this special order today. I, like many others, cheered loudly and long for the Redskins. We had a great victory and I certainly join others in paying tribute to the coaches, to the players, to the managers, to the owners, and all those who put this team together and who did such a beautiful job in the Super Bowl yesterday.

Mr. Speaker, I try to talk about the defense portion of the budget for each year as the budget is sent over by the President. It is a very complex budget. It is one that is frequently misunderstood. It is one that unfortunately is compartmentalized from time to time in its presentation, and so as the media starts to look at the defense budget, as the Members start to look at the defense budget, all too often we find that there is some confusion between such things, such terms as total obligational authority, budget authority, outlays, 050 functions, those portions of the budget before the Defense Subcommittee, those portions of the budget before the Military Construction Subcommittee, those portions before the Energy and Water Development Subcommittee, those other portions that we generally refer to as defense-related items; and so when you put all of that together, several subcommittees of the Appropriations Committee are involved.

So it would be my purpose here today to try to put some perspective in the total budget insofar as it applies to the defense of this great Nation.

I will place with my remarks a chart entitled "Budget Authority Outlay Comparisons, 050 Function for Defense." I would like to comment on those numbers at this time.

BUDGET AUTHORITY/OUTLAY COMPARISON—050 (DEFENSE) BUDGET CATEGORY

[In billions]

		Fiscal year 1984 request (in 1984 dollars)	Fiscal year 1983 enacted (in 1983 dollars)	Difference 1984 vs. 1983
Defense	BA	265.247	232.363	+32.884
	OL	231.572	202.450	+29.122
Milcon	BA	8.656	7.044	+1.612
	OL	7.028	6.482	+.546
Energy	BA	6.778	5.700	+1.078
	OL	6.422	5.471	+.951
Defense Related Agencies	BA	.329	.371	−.042
	OL	.287	.370	−.083
Total	BA	281.006	245.474	+35.532
	OL	245.305	214.769	+30.536

We have been reading probably in the paper already that the defense bill for this year is $273.4 billion, that the outlays for this year are $238.6 billion. That is true if you look at the part assigned to the Defense Subcommittee and the Military Construction Subcommittee; but if we are to look at the true defense figures for the total defense effort of this country, we then must add in those items assigned to energy and water development and to defense-related and we come for a grand total for function 050 defense for fiscal year 1984 of $281 billion in budget authority and $245.3 billion in outlays for fiscal year 1984.

I think that is necessary if we are going to fully comprehend the defense effort of this country. The defense budget this year is some 28 percent of the entire Federal budget. That is an increase of some 3 or 4 percent compared to last year's defense budget. It contains in it, and experts can disagree or argue over this percentage, but it contains in it about 9 or 10 percent real growth over the prior year.

What are we, in fact, going to spend in fiscal year 1984 over the amount that we have enacted for fiscal year 1983? According to the budget, the request is, in outlays for fiscal year 1984, $29.1 billion more than fiscal year 1983.

I would recall to you that there was a considerably greater increase between 1982 and 1983 and so in a sense the defense budget, while very high, is leveling off compared to the initial starts that we saw in the 1982 and 1983 budgets.

Why in the world, Mr. Speaker, do we need to be spending $281 billion for defense? Well, that is a tough one to deal with in this period when we have such an economy that cries out for cutting deficits, at a time when we have a total Federal budget that cries out for reducing spending, that cries out to start to do something about the 200-odd billion dollar deficit for fiscal year 1983, the projected $189 billion deficit for fiscal year 1984, that we simply must find places to make cuts; so people are raising serious questions about the defense budget this year perhaps more than ever before.

I would remind you that after the Vietnam war and during the decade of the seventies, we had in this country negative real growth in defense; that is to say, considering inflation during the decade of the seventies, we spent less each year instead of more insofar as defense was concerned; so we allowed our military equipment and our maintenance and repair and overhaul and all those things that go into the defense effort to deteriorate some in many ways. We allowed our numbers of ships to fall from about 550 ships down close to 400 ships.

We allowed the military systems that we depend on to fall into disrepair and certainly not kept up to the state of the art as they should have been.

We went through this period in the seventies when Americans just simply did not want any more Vietnams, so we tended to sort of reverse our thinking as far as the military was concerned and we did the bare essentials and we did not do all those things that we should have done. It became apparent, I think, late in President Carter's term of office, carried on certainly by President Reagan in his first 2 years, that there was a need to start rebuilding the defenses of this country, that there was a need to start doing more in the high tech field as far as defense was concerned, that there was a need to start building more ships and having our presence felt in the world as a whole; so we started this effort in the late seventies to reverse the trend of the decade of the seventies.

What we have today is a continuation of the effort started by President Carter, carried on by President Reagan during these 2 years; so we are making up for that negative real growth.

It is true that people argue, it is arguable as to whether we are moving

too fast, spending too much too soon to try to build the defenses of this country. That is why we have the Presidential process of sending budgets and the congressional process of scrutinizing budgets and making cuts and changing priorities here and there. That is why we go through this procedure.

It is arguable as to whether we ought to be spending this much at this time at the pace at which the President is proposing; so we will attempt in our committee and other committees of the Congress to deal with this rather tough issue as we try to repair our defenses because of the general neglect of the decade of the seventies.

Now, there is another clear reason why we do it, and I will not belabor this point. I will save the Soviet threat for some other speech some day on the floor of the House; but I would say to you that we simply cannot ignore the fact that during the decade of the seventies while in fact we have not been doing all that we should have been doing, the Soviets have been ever building their military apparatus in such a way that we now find that they are spending some 15 percent of their gross national product on defense, while we are spending about 7 or 8 percent of our gross national product on defense. This has been going on in the Soviet Union for a good while, as they have upgraded their missiles, as they have improved and turned out greater numbers of tanks, as they have turned out large numbers of aircraft compared to what we have been building, as they have turned out some 2,000 intercontinental ballistic missiles, some six times as many as we have produced in the United States; so we have that staring us in the face. While it is the subject of another speech at some time to be made on this floor, I shall not belabor it here at this point, except to say that in that sense the threat is real and in that sense we simply must continue to try to improve the defense budget.

Well, should it be cut? Many people are saying that it should. I suppose from the minute the President even mentioned that the budget was coming over the argument started immediately as to whether we were going to need to spend the money for defense that he thought we should spend. In fact, it has turned out that the President has cut his defense budget, which finally came to the Congress, by some $11.3 billion from what he had programed to send to the Congress in his 1982 projections.

□ 1345

I think we should point out that those cuts that he has made are probably cuts in many cases that our own committee would have made had he not done it.

Perhaps for the benefit of the media, because there has been some confusion in the numbers, the dollar figure that he has cut from his own budget, he has cut $11.3 billion in budget authority, which is the equivalent of about $8 billion in outlays.

So while we have seen both numbers mentioned, again, I think we need to keep those numbers in perspective if we are going to understand them.

So as the gentleman from Maryland spoke about earlier today, the President has proposed to freeze civilian and military pay for the year. He has proposed to cut back on retired pay to some extent, not in a way that would in fact do damage to any retired Federal or military employee, but in the process, he is going to save about $4.9 billion there.

Now, I would have to tell you that our committee, I am quite certain, would not have voted, when we brought our bill out, to freeze military pay. It is quite likely, as we did last year, that we could have cut that proposal, cut a proposal for military pay by some amount. You will recall that last year it was proposed that we increase pay about 8 percent. We finally came in at about 4 percent, and then we required that the Defense Deparment absorb 25 percent of that increase.

So it is not unknown that the Congress and/or the President would deal in a way with military pay and civilian pay such as to make recipients unhappy, but it is one of those things that we have to deal with in this Nation of ours.

The balance of the $11.3 billion in budget authority that the President proposed to cut comes in the reduced cost of fuel, in the reduced inflation that impacts on the defense budget and all the Federal budget, and I think in this sense it is certainly a credit to this President and the Congress that by carrying out the spending cuts, reducing programs as the President has requested, we in fact have reduced inflation and we, therefore, can reduce the defense budget to a certain extent.

So, taking into consideration the reductions in fuel costs and reductions in inflation, other reductions that the President was able to propose, we can save some $6.4 billion from his 1982 projections, and that is how we come up with the $11.3 billion that he has proposed.

Well, as I said earlier, our committee probably would have taken the fuel reduction, the inflation reduction, and the type of reduction. So we come down to the question, then, of where do we find cuts in the defense bill if, in fact, there are to be cuts? What does this Congress do? What does the Defense Subcommittee do? What does the Military Construction Subcommittee do in trying to make reasoned and proper cuts in the defense bill?

Well, the majority leader of the other body, the gentleman from Tennessee, Senator BAKER, says that in his view the Congress will cut some $15 billion from the President's defense budget. That is entirely possible, in my view.

I want to stress here that I am not arguing in favor of that, but I want to suggest to you that it may happen. We cut, in the fiscal 1983 bill that finally passed the Congress in December, some $18 billion or $19 billion in budget authority, depending on how you figure defense spending. So I think it is entirely in order to consider the types of cuts that the Congress might make.

The problem is complex. The President made some cuts where we would have probably made them. So he has left us to make cuts, if we are to make them, in other areas dealing more with procurement, dealing more with operation and maintenance, dealing more with research and development, and that is not always easy.

If we make cuts in personnel, for example, it impacts about 99 percent in the immediate fiscal year, fiscal 1984 in this case. If we make a cut in operation and maintenance, it impacts to the extent of about 81 percent in fiscal 1984. If we make a cut in research, it impacts to the extent of about 56 percent or so in fiscal 1984. If we make a cut in procurement, generally it impacts to the extent of about 14 percent in fiscal 1984, and if we make cuts in major ship construction, it impacts to the tune of 4 or 5 percent in fiscal 1984.

So it is not always easy to say "OK, we are going to make $15 billion or $20 billion worth of cuts," and have any immediate real impact on the fiscal 1984 budget.

So what happens is, frequently we say since it will not have much impact on fiscal 1984, we just will not cut procurement this year because that is really not going to save us any money. The problem with that is that as we continue to provide greater and greater amounts of procurement dollars, we are building up a bow-wave out there of procurement dollars that we know down the road we have to provide the money for.

Herein lies the great problem that this committee faces. It is also a great problem that the administration faces as we try somehow to get at that type of a problem.

Well, we are told that 10 percent of this budget goes for new programs, and I would assume, without having had a chance at this point to study all the programs proposed, that new programs clearly will be a place we will want to look. We are told that because of the need for highly skilled men and

women in the services today, because of the very complicated weapons systems that we have, because of the computer age and all the rest that we are involved in in our defense today, that we need more troops. So this budget proposes an addition of some 37,300 additional military strength in the active services and some 28,000 additional strength in the selective Reserve. And again, because these are increases, I think it is fair to say that our committee will look at that type of thing.

We have a lot of areas of duplication that I think we simply must look at. It is one area that our Subcommittee on Defense will spend some time on this year.

I am particularly interested in what is generally referred to as antitank weapons. It seems to me that every morning you wake up you find out there is another antitank weapon being developed. Somehow, it appears to me that the military needs to get a handle on that subject. I will run down just a few of the antitank weapons that are in being, or on the drawing board, or being phased out; something is always going on.

You have heard so much about the neutron bomb over the years, not actively being pursued right now, but that really was an antitank weapon. We have our new M-1 tank that is the ultimate antitank weapon. We have something called the LAW. That is a shoulder-held bazooka type antitank weapon. We are developing something called the Viper to accomplish the same purpose, but the cost is very high on that. The Marine Corps has the Dragon, and that seems to be getting out of date so they are developing something called the Rattler. We have the TOW system. We are going to develop the TOW-II now, so we can have a little better one.

We are into RPV's and ground laser locator-designators, and we have one really good antitank system called the Hellfire missile that will be used on our new attack helicopter. Our attack helicopter called the Apache has gotten so good and so expensive, and they were designated to pop up over the trees and fire that missile down on the tanks, but they are so good and they are so expensive that we do not want to just let them pop up like that and fire. So now we have another helicopter called the AHIP which has a periscope on it. It is cheaper. So it will jump up, look over the trees and locate the tanks, and then tell the Apache so it can jump up and fire.

We have gone through the Copperhead projectile problems. That has not worked too well. We now have the Air Force into it with the I.R. Maverick; we have cluster bombs; all of this basically having to do with antitanks.

My point is that we need to clearly look at this duplicative approach that we see coming from the Pentagon. If, in fact, we can save some money that way, then we ought to do that.

Well, we heard a lot of talk about the Pershing II, the MX. The Pershing II procurement was not funded for fiscal 1983 because the test results had been so scant and so poor. So we have said to the military, "You come back with some real tests on the Pershing II. Let everybody understand it is going to work and we will be prepared to hear your request for funding."

The Pershing II, of course, is in this budget for procurement, as it should be. One would expect, I certainly expect, that the tests will be good; that the test will prove that the Pershing II is a workable system and that it will go forward. Certainly it is a valid part of our deterrence as we negotiate with the Soviet Union in Geneva.

The MX missile, as you will recall, we funded $2½ billion for R&D last year when we knocked out almost a billion dollars in procurement, mainly because of the problems with the basing mode. The Dense Pack simply was not saleable. We sent it back to the administration to take another look. The administration has named a commission. That commission is looking at the basing mode of the MX and, perhaps going further, and looking at what type of MX missile we ought to have, whether in fact it ought to be a common missile, common with that missile used from our submarines. That commission will report back soon, in March, with its recommendations, and then the Congress has to deal with it by the end of April as to the basing mode.

In the meantime, the administration has sent over with this budget, the fiscal 1984 budget, about a $1.6 billion request as a supplemental for fiscal 1983, and in that supplemental the administration requests money, we are not quite sure how much at this point, for the procurement of the MX missile and for the procurement of the Pershing II, along with a number of other items that were deleted from our fiscal 1983 bill.

It would seem to me that the supplemental part of the budget that has been sent over to us will have some degree of jeopardy in our subcommittee. I think it is fair to say that we really do not like to have supplementals sent back to us that contain items which we just knocked out of our fiscal 1983 bill, yet we, of course, will look at the supplemental and make our conclusions.

The administration says, though, in the supplemental that it expects the MX money not to be appropriated until such time as the Congress has, in fact, approved the basing mode, as was set out in the fiscal 1983 bill. That is no problem.

The Pershing II, in my view, will be fully tested and proved worthy, and it is entirely possible that we will be prepared by then to go forward with that.

Mr. Speaker, I will also put in with my remarks some papers done on the research, development, test and evaluation aspects of the President's defense budget, and also procurement. I ask unanimous consent to insert those in the RECORD here along with the budget authority chart that I referred to earlier which will appear earlier in my remarks.

The SPEAKER pro tempore (Mr. HARRISON). Is there objection to the request of the gentleman from Alabama?

There was no objection.

The material referred to follows:

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

The fiscal year 1984 budget request for RDT&E of $29.6 billion is $6.9 billion more than was provided for this purpose in fiscal year 1983. This is a 30 percent increase, the largest percentage increase by far in any category within DoD's budget. In constant dollars, the 1984 RDT&E budget shows a 26 percent real growth over the 1983 appropriation, when the Administration's projected defense inflation rate of 3.5 percent is considered. Within the overall RDT&E program, the budget request for basic research and exploratory development is up 15 percent in constant dollars over last year, strategic programs are up 47 percent, tactical programs are up 19 percent, intelligence and communications are up 28 percent, and program support is up 8 percent.

In strategic programs, the MX is budgeted at $3.4 billion. Despite the great difficulty in finding a satisfactory basing mode, the MX continues to be the single most expensive system in development, and this year accounts for 11.4 percent of the entire RDT&E budget of the DoD. The Army has requested $709 million for Ballistic Missile Defense. The Air Force has requested $750 million for continued development of the B-1B. The Navy budgeted $1.5 billion for the Trident II missile system, and projects that $2.1 billion will be required in fiscal year 1985 for that program.

Major Army tactical programs being continued include Remotely Piloted Vehicle, budgeted at $138 million, the Scout Helicopter at $54 million, and Patriot at $85 million. The Navy has budgeted $118 million for continuation of the AV-8B aircraft and $111 million for the DDGX, as well as $146 million for the Advanced Light Weight Torpedo. The Air Force request includes $90 million to continue the Night Precision Attack program, and $189 million to continue full scale development of a new air-to-air missile.

New starts requested for fiscal year 1984 include the Army's Joint Tactical Missile ($50 million), Vertical Launch System ASROC for the Navy ($31 million), and the Air Force Fighter Derivative ($105 million).

As in previous years, the Air Force is budgeted to receive the largest portion of DoD's RDT&E funds. This year, the relative shares are: Air Force, forty-six percent; Navy, twenty-eight percent; Army, sixteen percent; and Defense Agencies, ten percent.

PROCUREMENT

The proposed fiscal year 1984 procurement budget is $94,087,779,000, an increase of $13,376,913,000 or 16.6 percent over the $80,710,866,000 total funding made available to date in fiscal year 1984. The increase for procurement again represents the largest dollar increase of any category in the new Defense budget. The increase is in addition to the 26.4 percent increase in fiscal year 1981 over fiscal year 1980, the 30.5 percent increase in fiscal year 1982 over fiscal year 1981, and the 23.5 percent increase in fiscal year 1983 over fiscal year 1982. The total increase since fiscal year 1981 is 97 percent. The fiscal year 1984 budget continues the trend, begun in fiscal year 1982, of procurement appropriations surpassing the operation and maintenance appropriations as the largest category in the budget. The fiscal year 1984 budget proposes to delete a separate appropriation for Guard and Reserve equipment procurement which the Congress provided last year. The budget includes a new appropriation request of $200,000,000 for Defense Production Act Purchases.

Of the total increase proposed for the procurement appropriations, the Air Force is allocated 79 percent, reflecting the Administration's emphasis on strategic programs. While the total procurement budget of $94.1 billion is huge, it is $6.7 billion less than was projected for fiscal year 1984 when the fiscal year 1983 budget was submitted a year ago.

ARMY PROCUREMENT

The Army consumes 20.4 percent of the procurement budget in fiscal year 1984, a total of $19,192,075,000. This is an increase of $3.4 billion or 21.5 percent over the amounts made available in the current fiscal year.

The Army aircraft procurement budget is $3,472,100,000, an increase of $965,528,000 or 38.5 percent over last year. The total number of aircraft to be procured is 208, including 12 EH-60A Quickfix helicopters, 112 AH-64 attack helicopters, and 84 UH-60A Blackhawk helicopters. This compares with a total of 173 aircraft funded last year.

The aircraft spares and repair parts budget goes from $448,200,000 to $649,400,000, a 45 percent increase. The spares budget is a 159 percent increase over fiscal year 1982.

The Army missile procurement budget is $3,088,500,000, an increase of $801,500,000, or 35.0 percent over last year. Over 60,000 missiles are budgeted, compared with about 42,000 in the current year. Included in the budget are 95 Pershing II missiles, 525 Patriot air defense missiles, 1,508 Stinger missiles, 5,351 Laser Hellfire air-to-surface missiles, and 18,000 TOW antitank missiles. The budget also includes a continuation of the multiyear contract for the Multiple Launch Rocket system, with 36,000 missiles to be procured.

The budget for procurement of weapons and tracked combat vehicles is $4,934,416,000, an increase of $184,270,000, or 3.9 percent over last year. This is the smallest increase of any of the Army procurement appropriations and moves the appropriation from first to second in total funding. Over 3,000 tracked combat vehicles are budgeted compared with about 2,200 funded in the current fiscal year. The new budget provides for procurement of 600 Bradley Fighting Vehicles, the same as the current fiscal year, and 720 M-1 tanks, a decrease from the 855 funded in the current fiscal year. The budget also provides for procurement of command post carriers, armored personnel carriers, artillery ammunition support vehicles, self-propelled howitzers, recovery vehicles, and light armored vehicles. For weapons and other combat vehicles, the budget provides $900,000,000, a 14 percent increase over the current year. New initiatives include a product improved Vulcan air defense system, 81 mm mortar, and 9 mm handguns. The budget also provides for procurement of 130 Sergeant York air defense vehicles.

The Army ammunition procurement budget is $2,334,189,000, an increase of $211,795,000, or 10 percent over last year. New initiatives include 9 mm handgun ammunition, improved 81 mm mortar ammunition, 120 mm tank gun ammunition, and chemical munitions. The budget for production base support decreases from $404 million to $277 million.

The Other Procurement, Army budget is $5,362,870,000, an increase of $1,239,466,000, or 30 percent. This is the largest Army procurement increase in absolute terms and makes this the largest of the Army procurement appropriations. The budget for tactical and support vehicles remains about level, while the increase is split between a wide variety of electronic and telecommunications equipment items and other support equipment such as construction equipment, medical equipment, and material handling equipment.

NAVY PROCUREMENT

The Navy consumes 36.9 percent of the procurement budget in fiscal year 1984, a total $34,708,587,000. This is a decrease of $1.3 billion, or 4.4 percent from the amounts made available in the current fiscal year. The decrease is accounted for by the fact tht $6.6 billion was included in fiscal year 1983 for procurement of two nuclear powered aircraft carriers which is not re-budgeted in fiscal year 1984.

The Navy aircraft procurement budget is $11,127,300,000, an increase of $711,193,000, or 6.8 percent over last year. The total number of aircraft to be procured is 281 compared with 272 funded in the current year. Overall, the budget includes 6 A-6E and 6 EA-6B aircraft, 32 AV-8B V/STOL aircraft for the Marine Corps, 84 F-18 aircraft, 24 F-14 aircraft, 11 CH-53E heavy lift helicopters, 21 SH-60B Seahawk helicopters, 5 P-3C Orion aircraft, 6 E-2C Hawkeye aircraft, 8 C-2 COD aircraft, and 38 T-34C trainer aircraft. The aircraft modification budget increases from $1.2 billion to $1.4 billion with no new starts, and the spares and repair parts budgets goes from $2.0 billion to $2.1 billion.

The Navy weapons procurement budget is $4,028,600,000, an increase of $466,900,000, or 13.1 percent over last year. Actually, ballistic missiles show a decrease in quantity from the amounts appropriated in fiscal year 1983, 52 Trident I missiles as compared to the 62 procured in fiscal year 1983. There was a substantial increase in the quantity of strategic missiles (Tomahawk) being procured (135%). Furthermore, there was a significant increase in the purchase of tactical missiles which shows a 25% increase in the quantity of missiles over the amount purchased in fiscal year 1983. There also is a 36% increase in funding for torpedoes and other related equipment. The most significant increases relates directly to the multiyear procurement of the MK-46 torpedo and the MK-48 torpedo modification program.

The Shipbuilding and Conversion budget is $12,698,800,000, a decrease of $3,589,100,000, or 22 percent from last year. Although this represents a decrease from fiscal year 1983, it must be clarified that last year's budget included over $6 billion for 2 nuclear powered aircraft carriers. The current fiscal year shipbuilding request represents an increase of 31% in funding if the aircraft carriers were not considered in the equation. A total of 32 ships are included in the budget request. The Shipbuilding budget includes the procurement of one Trident submarine, 3 SSN-688 Attack Submarines, 3 AEGIS Cruisers, an LSD-41 Landing Ship, an LHD-1 Amphibious Assault Ship, 4 Mine Countermeasures ships, 3 T-AO Fleet Oilers, and 9 Strategic Sealift vessels, 1 T-AH Hospital Ship and 4 T-AKRX Fast Logistic Ships. Cost growth for prior year shipbuilding programs increased over 170% over fiscal year 1983.

The Other Procurement, Navy budget is $5,001,838,000, an increase of $1,274,763,000, or 34.2 percent over last year. The increase is spread across the entire spectrum of budget activities in this multi-faceted appropriation.

The Marine Corps procurement budget is $1,852,049,000, a decrease of $156,034,000, or 7.7 percent from last year. Increases are included for ammunition (9 percent) and support vehicles (51 percent) while all other budget activities show a decrease. The budget provides for procurement of 153 LVT-7 amphibious assault vehicles and 263 LVT-7 service life extensions, 113 light armored vehicles, 400 Hawk missiles, 706 Stinger missiles, and 2,200 TOW missiles.

AIR FORCE PROCUREMENT

The Air Force consumes 41.3 percent of the procurement budget in fiscal year 1984, a total of $38,904,326,000. This is an increase of $10,550,986,000, or 37.2 percent over the amounts made available in the current fiscal year. The Air Force consumes the largest portion of the procurement budget, a fact accounted for in large measure by the procurement programs for the MX missile and the B-1 bomber.

The Air Force aircraft procurement budget is $22,707,190,000, an increase of $4,878,690,000, or 27.4 percent over last year. This appropriation has the largest increase of all the procurement appropriations and is continued as the largest, by far, of all procurement appropriations. The new budget provides for procurement of 213 aircraft, a decrease from the 219 funded in the current year. A total of $3,761,800,000 is included for procurement of 10 B-1 aircraft, and an additional $1,865,000,000 is included for B-1 advance procurement. Initial procurement funding is included in fiscal year 1984 for tactical fighter derivative aircraft which will be modified F-15's or F-16's. Other aircraft funded include 48 F-15 aircraft, 120 F-16 aircraft, 8 KC-10 tanker aircraft, 2 MC-130 special mission aircraft, 4 C-5B cargo aircraft, 16 European Distribution Aircraft, and 5 TR-1/U-2 aircraft. The aircraft modification program increases by 30 percent to $3,208,800,000. Major programs in this category include the B-52, F/RF-4, C-5, C-130, C-135, E-3 and the Civil Reserve Air Fleet (CRAF). The aircraft spares budget shows a 45 percent increase to $5,128,800,000.

The Air Force missile procurement budget is $8,570,834,000, an increase of $3,614,734,000, or 72.9 percent over last year. The budget includes $2,770,000,000 for 27 MC missiles which accounts for the largest portion of the increase. The budget proposes to initiate procurement of the Stinger

missile and includes initial advance procurement funding for the new medium range air-to-air missile. Also, the budget includes 120 Ground Launched Cruise Missiles, 1,005 AIM-7 Sparrow missiles, 1,700 Sidewinder missiles, 2,600 Maverick missiles, and 285 HARM missiles. Modification of missiles increases by 49 percent to $135,700,000 while missile spares and repair parts increase by 71 percent to $356,800,000. Other support programs increase by 28 percent to $3,560,000,000. This category includes a number of space programs.

The Other Procurement, Air Force budget is $7,626,302,000, an increase of $2,057,562,000 or 37.2 percent over last year. The munitions and associated equipment budget increases by 53 percent to $1,191,900,000. New starts are proposed for the Bigeye binary chemical bomb, and significant increases are included for inflatable retarders, laser bomb guidance kits, and cluster munitions. The budget for vehicular equipment remains about level at $333,600,000. Electronics and telecommunications equipment increases by 42 percent to $1,892,100,000, and other base maintenance and support equipment increases by 36 percent to $4,208,600,000.

DEFENSE AGENCIES

Defense Agencies procurement, which represents about one percent of the total DOD procurement budget, totals $1,082,791,000 in the fiscal year 1984 budget. This is an increase of $254,646,000, or 30.7 percent over the fiscal year 1983 level. Funding of procurement items for OSD, Defense Nuclear Agency, Defense Communications Agency, Defense Logistics Agency, Defense Intelligence Agency, and other intelligence and related agencies are included in this appropriation.

DEFENSE PRODUCTION ACT PURCHASES

The budget includes a new appropriation request of $200,000,000 for Defense Production Act purchases. The details of this proposal are not known.

□ 1400

Mr. EDWARDS of Alabama. Mr. Speaker, our problem again—and I am still on this same subject—is, where do you make cuts in defense? How do you find the magic place to get the dollars to make the cuts? Well, let me talk about fiscal year 1984 outlays; that is, dollars that we will start to spend October 1, 1983 for fiscal year 1984.

If we are going to make any cuts that bear on the deficit for the fiscal year 1984 budget, they have got to come out of outlays for fiscal year 1984. How do we put the 1984 outlay part of the budget together? Thirty-five percent of that outlay budget comes from prior year appropriations; that is some $84 billion. That would include such things as the two carriers we voted for last year. That would include such things as procurement money for the B-1 bomber; other major systems that we appropriated money for last year, and so if we are going to in fact make any cuts in that area, what we would be doing would be reversing decisions made in prior years having to do with major weapons systems. So, I think this Congress clearly would want to think a long time before it now reverses itself and moves in other directions, having started in motion the procurement of systems that we need so desperately in this country.

Thirty-seven point seven percent of the 1984 outlays come under the category of pay and allowances from the fiscal year 1984 bill. We are probably not going to tinker with that too much. If we do anything, it will probably be to disagree with the President's freeze, and that of course has not yet been determined as to how we will deal with that.

What that really leaves, then, is 14.5 percent under the heading of "Operations" from the fiscal year 1984 bill, and 12.4 percent under the heading of "Investment" from the fiscal year 1984 bill. That is some $60 billion in round numbers of the total budget, where we really have a chance to make some corrections or some changes or some reductions or whatever we care to do. So, in that sense we have very little of the President's budget that we can deal with as we try to find places to make cuts.

It is always argued that one thing we can do is stretch out this procurement, that if we plan to buy 120 F-16's this year as the President has proposed in his budget, that we really could maybe just buy 80, we will say, and stretch out into future years the balance and just continue to stretch the procurement of the F-16. I would tell the Members that, in my judgment, based on a number of years on this subcommittee, that if we start to do that we are going to run the cost of defense even higher. We simply cannot cut back on numbers of a particular system being procured and do it more cheaply. We have economies of scale when we deal with defense contractors, and if we do not keep at an efficient rate of procurement, then we start to increase the overall cost of the defense apparatus in the years to come. So, I think it would be very unwise to stretch procurement acquisitions.

So, I think that the clear decision is, do you simply cut back, and I would not like to deal with the question of stretching out. I think we clearly have to look at new systems, and we have to decide whether new systems at this juncture are more important to us than the overhauling and rehabbing of the systems that we have, bringing up to par the spare parts accounts and doing those things that are necessary to keep our military going in a good, efficient way. So, I think we have to weigh that type of thing against the question of developing new systems at this time.

I think also that we need to spend a little time on this complex approach to developing new weapons systems in the first place. We do have, without a doubt, the greatest free enterprise system that man has ever known in his history, and we do have industry that can and does, through research, develop some of the most marvelous systems that man can ever imagine. The problem too often seems to be that when we therefore start out to buy a new plane or a new tank or a new this or a new that, we tend to reinvent the wheel every time we take off on any of these courses. It seems to me that here is one area where we could adopt a little of the Soviet approach, what they call the design bureau approach. The Soviets have always got somebody working on upgrading systems that they have. It seems to me that we could find a better way to marry up the design bureau approach and the free enterprise system approach in the sense that we can continue to upgrade those systems that we have without reinventing the wheel every time we decide we need something new, and in the process saving a lot of money for weapons systems that in fact are highly mission-capable because they have been through the crucible of the wear and tear of the battlefield or the test grounds, and in that sense could serve us well.

Also, Mr. Speaker, I think we need to spend more time understanding and developing and moving forward to multiyear procurement. We have shown, I believe, that we can save a lot of money with multiyear procurement. The great fear when mulityear procurement first came along was that somehow industry, the defense contractors, were going to take this as a sign that they could run away with all the big chips, and we have to be very careful with it. I believe events have proven that multiyear procurement does in fact save an awful lot of money if handled properly, if the contract is entered into at a time when we do in fact have a stable price, a stable production, and at the time we have the parts and facilities so that we know that we can move forward with a system where there will not be a whole lot of changes over the period of the multiyear contract.

Once we get to that point, then I think multiyear procurement makes a lot of sense, and it is something that we should try very hard to pursue.

Finally, Mr. Speaker, I think there is a need to discuss briefly the question of who should set priorities insofar as defense is concerned. I have said on this floor before, and I say again, that if you really want a confused and frustrated and poor and expensive defense policy, you leave it up to the Congress to set it. If you want to see it totally confused vis-a-vis foreign policy, you leave it up to the Congress to set it.

□ 1410

If we want to see a gummed up, unworkable, tangled mess of battlefield

strategy and techniques, leave it up to the Congress to decide every little weapons system and every little thing that the military shall use. If we leave our defense policy, our foreign policy, and our battlefield strategy and techniques up to the 435 Members of the House and the 100 Members of the other body, I guarantee that we will not be ready for war should it ever come.

So what we desperately need, Mr. Speaker, is a clear defense policy enunciated by the administration, whoever is in the White House. We need a clear foreign policy enunciated by the administration, whoever is in the White House. We need a clear battlefield strategy enunciated by the President's representatives in the Defense Department and put together through the President's budget as it comes to the Congress.

I am quite sure that that is what the Pentagon believes it does every year, I am quite sure that the State Department believes it carries out its functions every year, and I am quite sure that the Presidents over the years believe that they do the same thing. What happens too often, however, is that we cannot have everything that the military would like to have. Sometimes we have got to set some dollar limits out there, we have got to draw some lines, and we have got to establish hard priorities. That has got to be done in the Pentagon, and it has got to be done in the White House. This is simply not the place to carry out that function.

So it is important, I believe, that the Pentagon in fact sets its priorities after careful study, and that the civilian leadership of the military in fact integrates the needs of the Defense Department with all the other problems of the economy and of the budgetary needs of this country.

It is in that context, Mr. Speaker, that I think we are going to have some heavy debates on the question of defense spending in this House and in the other body over the next 8 or 10 months. It is in that context, I would argue, Mr. Speaker, that the Pentagon must spend more time on establishing priorities, must send us as nearly as it can a lean budget, and must make some tough decisions before that budget ever gets here to the House or to the Senate, because we simply are not equipped here in the House and in the other body to deal with the major priority questions that all too often are left for us.

I will cite one example—the A-18 that has been discussed so much lately. There are many people now who say the attack version of the F-18 is not working and we ought to cut it out. They say we ought not to have the A-18 any more. My argument is that if that decision is to be made in that way, it is up to the Pentagon and to the administration to make those kinds of tough decisions.

Why? Because if the A-18 is not working and we are told that we can use the A-6 or the A-7 in its place, the problem is that under our structure here we cannot cut out the A-18 and simply put in the A-6 or the A-7 or build more F-14's in the appropriations process. The most we can do under that process is simply to cut out the offending element, if you will, and send it back to the Pentagon.

So if we are to make these kinds of decisions, if we are to come up with the proper priorities, if we are to have the discipline necessary to provide an adequate defense budget and no more, than I would argue that those decisions have got to be made somewhere other than in this House.

Mr. Speaker, there is a lot more that we will come to know about the defense budget. It is massive, it is growing, it is increasing as a share of the total budget, it is necessary, and it will be the subject of major debate in this House and in the other body. My plea to my colleagues in this body, as this debate goes on, is this: Please, for goodness sakes, do not lose sight of the need that we have to continue to rebuild our defenses and to continue to keep pace with the Soviet Union and its growth in the military field.

I am painfully aware of the problems of the economy, but let us not feel that we can erase a $189 billion deficit this year by taking it out of the defense bill. We simple have to continue to build our defenses. Sure, we will make some cuts, and I would hope that our committee will bring us a bill that will have reasoned and appropriate cuts in it. But let us not get swept up in this cry right now to try to solve the ills of the econoy out of the defense bill.

We need to move forward with our defense effort. We need to solve the problems of the economy. We need to reduce the deficits. I think we can do those things, given the patience and given the understanding and given the clear picture of the needs that we have as far as defense is concerned.

Mr. Speaker, I am thankful for having this time to discuss the issue. I will be talking more about the defense effort in this country as the months go by, and I will be glad to answer any questions from Members after they have had a chance to look at this record.

MAKING BAD MONEY IN BAD TIMES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, the current depression has caused millions of people to lose their jobs and their ability to make money, but the depression has spurred one occupation in which making money is not only the aim of the workers, it is their work. This occupation is counterfeiting, which had a record year in 1982.

According to the Secret Service, fiscal year 1982 was a record year for America's counterfeiters. These criminals manufactured $82.3 million of "funny money" in 1982, a whopping 41-percent increase over the previous year. In fact, 1982 set an all-time record for counterfeit money production, topping the previous record of $60.8 million set in 1980 by 35 percent.

Not only did the counterfeiters print more money, but they also succeeded in passing more of the counterfeit money onto the public. Last year Americans were stuck with $8.6 million in counterfeit money, topping the previous record of $6.9 million in 1981 by 24 percent. The counterfeiters also set new records by passing 273,000 notes on the public while also having 1.5 million notes seized by the Secret Service before they could be put in circulation.

The counterfeiters were at work throughout every region of the United States. No corner of the country was untouched by these criminals. One counterfeiting plant, in fact, was operated inside the Virginia State Penitentiary in Richmond. Perhaps the inmates were inspired by their view of the Federal Reserve Bank of Richmond, where billions of dollars in genuine currency is stored within sight of the prison. Or perhaps the inmates took the words of Chief Justice Burger to heart, when he suggested that prisoners should learn and practice new trades in prison.

Fortunately for most Americans, the Secret Service was most effective in putting counterfeiters out of work. The Secret Service closed 88 counterfeiting plants during 1982, yet another counterfeiting record for the year. Agents managed to seize 90 percent of all counterfeit money before it could reach the public. As a result of Secret Service investigations, there were 2,225 arrests for counterfeiting, still another counterfeiting record for 1982. Since 94 percent of Secret Service arrests result in convictions, it is clear that counterfeiting is one line of work which does not pay.

During the current depression I realize that many people seek innovative and unusual ways to make ends meet. People are willing to try almost anything to make money. The administration has told people that there is money to be made if people only try harder. I hope people do not take this advice too literally, or they will find that "making money" will only result in "doing time," not in "doing well."●

COMPUTER-ASSISTED CRIME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. NELSON] is recognized for 5 minutes.

● Mr. NELSON of Florida. Mr. Speaker, I have today reintroduced legislation addressed to the growing problem of computer-assisted crime. The new bill is H.R. 1092.

This is a revised version of the legislation I sponsored in the last Congress to protect the computers of Federal Government agencies, the computers of financial institutions insured by the Federal Government, and computers that operate in interstate commerce or use a facility of interstate commerce.

Because of the broad interest in this legislation, I ask permission to include the text in the RECORD at this point:

H.R. 1092

A bill to amend title 18, United States Code, to make a crime the use, for fraudulent or other illegal purposes, of any computer owned or operated by the United States, certain financial institutions, and entities affecting interstate commerce

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Computer Systems Protection Act of 1983."

SEC. 2. The Congress finds that—

(1) computer-related crime is a growing problem in the Government and in the private sector;

(2) such crime occurs at great cost to the public since losses for each incident of computer crime tend to be far greater than the losses associated with each incident of other white collar crime;

(3) the opportunities for computer-related crimes in Federal programs, in financial institutions, and in computers which operate in or use a facility of interstate commerce through the introduction of fraudulent records into a computer system, unauthorized use of computer facilities, alteration or destruction of computerized information files, and stealing of financial instruments, data, or other assets, are great;

(4) computer-related crime directed at computers which operate in or use a facility of interstate commerce has a direct effect on interstate commerce; and

(5) the prosecution of persons engaged in computer-related crime is difficult under current Federal criminal statutes.

SEC. 3. (a) Chapter 47 of title 18, United States Code, is amended by adding at the end thereof the following new section:

§ 10228. Computer fraud and abuse

"(a) Whoever uses, or attempts to use, a computer with intent to execute a scheme or artifice to defraud, or to obtain property by false or fraudulent pretenses, representations, or promises, or to embezzle, steal, or knowingly convert to his use or the use of another, the property of another, shall, if the computer—

"(1) is owned by, under contract to, or operated for or on behalf of:

"(A) the United States Government; or

"(B) a financial institution; and the prohibited conduct directly involves or affects the computer operation for or on behalf of the United States Government or a financial institution; or

"(2) operates in, or uses a facility of, interstate commerce;

be fined not more than two times the amount of the gain directly or indirectly derived from the offense or $50,000, whichever is higher, or imprisoned not more than five years, or both.

"(b) Whoever intentionally and without authorization damages a computer described in subsection (a) or intentionally and without authorization causes or attempts to cause the withholding or denial of the use of a computer, a computer program or stored information shall be fined not more than $50,000 or imprisoned not more than five years or both.

"(c) DEFINITIONS.—For the purpose of this section the term—

"(1) 'computer' means an electronic, magnetic, optical, hydraulic, organic or other high speed data processing device or system performing logical, arithmetic, or storage functions, and includes any property, data storage facility, or communications facility directly related to or operating in conjunction with such device or system; but does not include an automated typewriter or typesetter, a portable hand-held calcator, or any computer designed and manufactured for, and which is used exclusively for, routine personal, family, or household purposes and which is not used to access, to communicate with, or to manipulate any other computer."

"(2) 'financial institution' means—

"(A) a bank with deposits insured by the Federal Deposit Insurance Corporation;

"(B) the Federal Reserve or a member of the Federal Reserve including any Federal Reserve bank;

"(C) an institution with accounts insured by the Federal Savings and Loan Corporation;

"(D) a credit union with accounts insured by the National Credit Union Administration;

"(E) a member of the Federal home loan bank system and any home loan bank;

"(F) a member or business insured by the Securities Investor Protection Corporation; and

"(G) a broker-dealer registered with the Securities and Exchange Commission pursuant to section 15 of the Securities and Exchange Act of 1934;

"(3) 'property' means anything of value, and includes tangible and intangible personal property; information in the form of computer processed, produced, or stored data; information configured for use in a computer; information in a computer medium; information being processed, transmitted or stored; computer operating or applications programs; or services.

"(4) 'services' included computer data processing and storage functions;

"(5) 'United States Government' includes a branch or agency thereof; and

"(6) 'use' includes to instruct, communicate with, store data in, or retrieve data from, or otherwise utilize the logical, arithmetic, or memory functions of a computer, or, with fraudent or malicious intent, to cause another to put false information into a computer.

"(7) 'computer medium' includes the means of effecting or conveying data for processing in a computer, or a substance or surrounding medium which is the means of transmission of a force or effect that represents data for processing in a computer, or a channel of communication of data for processing in a computer.

"(d)(1) In a case in which Federal jurisdiction over an offense as described in this section exists concurrently with State of local jurisdiction, the existence of Federal jurisdiction does not, in itself, require the exercise of Federal jurisdiction, nor does the initial exercise of Federal jurisdiction preclude its discontinuation.

"(2) In a case in which Federal jurisdiction over an offense as described in this section exists or may exist concurrently with State of local jurisdiction, Federal law enforcement officers, in determining whether to exercise jurisdiction, should consider—

"(A) the relative gravity of the Federal offense and the State or local offense;

"(B) the relative interest in Federal investigation or prosecution;

"(C) the resources available to the Federal authorities and the State or local authorities;

"(D) the traditional role of the Federal authorities and the State or local authorities with respect to the offense;

"(E) the interests of federalism; and

"(F) any other relevant factor.

"(3) The Attorney General shall—

"(A) consult periodically with representatives of State and local governments concerning the exercise of jurisdiction in cases in which Federal jurisdiction as described in this section exists or may exist concurrently with State or local jurisdiction;

"(B) provide general direction to Federal law enforcement officers concerning the appropriate exercise of such Federal jurisdiction which, for the purposes of investigation, is vested concurrently in the Department of Justice and the Department of the Treasury;

"(C) report annually to Congress concerning the extent of the exercise of such Federal jurisdiction during the preceding fiscal year; and

"(D) report to Congress, within one year of the effective date of this Act, on the long-term impact upon Federal jurisdiction, of this Act and, the increasingly pervasive and widespread use of computers in the United States. The Attorney General shall periodically review and update such report.

"(4) Except as otherwise prohibited by law, information or material obtained pursuant to the exercise of Federal jurisdiction may be made available to State or local law enforcement officers having concurrent jurisdiction, and to State or local authorities otherwise assigned responsibility with regard to the conduct constituting the offense.

"(5) An issue relating to the propriety of the exercise of or of the failure to exercise Federal jurisdiction over an offense as described in this section, or otherwise relating to the compliance, or to the failure to comply, with this section, may not be litigated, and a court may not entertain or resolve such as issue except as may be necessary in the course of granting leave to file a dismissal of an indictment, an information, or a complaint.".

SEC. 4. The table of sections of chapter 47 of title 18, United States Code, is amended by adding at the end thereof the following:

"1028. Computer fraud and abuse.".●

RULES FOR COMMITTEE ON THE BUDGET FOR THE 98TH CONGRESS

(Mr. JONES of Oklahoma asked and was given permission to extend his re-

marks at this point in the RECORD and to include extraneous matter.)

Mr. JONES of Oklahoma. Mr. Speaker, pursuant to House rule XI, clause 2(a), the Committee on the Budget met on January 25, 1983, and adopted the following committee rules for the 98th Congress:

A. MEETINGS

(NOTE.—Asterisk indicates written rule required by the House rules.)

Rule 1—Regular meetings *

The regular meeting day of the Committee shall be the 2nd Wednesday of each month at 11:00 a.m., while the House is in session.

The Chairman is authorized to dispense with a regular meeting when he determines there is no business to be considered by the Committee, provided that he gives written notice to that effect to each member of the Committee as far in advance of the regular meeting day as the circumstances permit.

Regular meetings shall be cancelled when they conflict with meetings of either party's caucus or conference.

Rule 2—Additional and special meetings

The Chairman may call and convene additional meetings of the Committee as he considers necessary, or special meetings at the request of a majority of the members of the Committee in accordance with House Rule XI, clause 2(c).

In the absence of exceptional circumstances, the Chairman shall provide written or verbal notice of additional meetings to the office of each member at least 24 hours in advance while Congress is in session, and at least 3 days in advance when Congress is not in session.

Rule 3—Open business meetings

Each meeting for the transaction of Committee business, including the markup of measures, shall be open to the public except when the Committee, in open session and with a quorum present, determines by rollcall vote that all or part of the remainder of the meeting on that day shall be closed to the public in accordance with House Rule XI, clause 2(g)(1). No person other than members of the Committee and such congressional staff and departmental representatives as they may authorize shall be present at any business or markup session which has been closed to the public. This rule shall not apply to any meeting that relates solely to matters concerning the internal administration of the Committee.

Rule 4—Quorums

A majority of the Committee shall constitute a quorum. No business shall be transacted and no measure or recommendation shall be reported unless a quorum is actually present.

Rule 5—Recognition

Any member, when recognized by the Chairman, may address the Committee on any bill, motion, or other matter under consideration before the Committee. The time of such member shall be limited to 5 minutes until all members present have been afforded and opportunity to comment.

Rule 6—Consideration of business

Measures or matters may be placed before the Committee, for its consideration, by the Chairman or by a majority vote of the members of the Committee, a quorum being present.

Rule 7—Procedure for consideration of budget resolutions

In developing a concurrent resolution on the budget, the Committee shall first proceed, unless otherwise determined by the Committee, to consider budget aggregates, functional categories, and other appropriate matters on a tentative bais, with the document before the Committee open to amendment; subsequent amendments may be offered to aggregates, functional categories, or other appropriate matters which have already been amended in their entirety.

Following adoption of the aggregates, functional categories, and other matters, the text of a concurrent resolution on the budget incorporating such aggregates, functional categories, and other appropriate matter shall be considered for amendment and a final vote.

Rule 8—Rollcall votes

A rollcall of the members may be had upon the request of at least one-fifth of those present.

Rule 9—Proxies *

Any member of the Committee may vote by special proxy if the proxy authorization is in writing, asserts that the member is absent on official business or is otherwise unable to be present at the meeting of the Committee, designates the person who is to execute the proxy authorization, and is limited to a specific measure or matter and any amendments or motions pertaining thereto; except that a member may authorize a general proxy only for motions to recess, adjourn or other procedural matters. Each proxy to be effective shall be signed by the member assigning his or her vote and shall contain the date and time of day that the proxy is signed. Proxies may not be counted for a quorum.

Rule 10—Parliamentarian's status report

In order to carry out its duty under section 311 (a) and (b) of the Congressional Budget Act to advise the House of Representatives as to the current level of spending and revenues as compared to the levels set forth in the latest agreed upon concurrent resolution on the budget, the Committee shall periodically advise the Speaker as to its estimate of the current level of spending and revenue. Such estimates shall be prepared by the staff of the Committee, transmitted to the Speaker in the form of a Parliamentarian's Status Report, and printed in the Congresional Record.

The Committee authorizes the Chairman, in consultation with the ranking minority member, to transmit to the Speaker the Parliamentarian's Status Report described above.

B. HEARINGS

Rule 11—Announcement of hearings

The Chairman shall publicly announce the date, place, and subject matter of any Committee hearing at least one week before the commencement of that hearing, unless he determines there is good cause to begin such hearing at an earlier date, in which case public announcement shall be made at the earliest possible date.

Rule 12—Open hearings

Each hearing conducted by the Committee or any of its Task Forces shall be open to the public except when the Committee or Task Force, in open session and with a quorum present, determines by rollcall vote that all or part of the remainder of that hearing on that day shall be closed to the public because disclosure of testimony, evidence, or other matters to be considered would endanger the national security or would violate any law or rule of the House of Representatives. The Committee or Task Forces may by the same procedure vote to close one subsequent day of hearing.

For the purposes of House Rule XI, clause 2(g)(2) the Task Forces of the Committee are considered to be subcommittees.

Rule 13—Quorums *

For the purpose of hearing testimony, not less than two members of the Committee shall constitute a quorum.

Rule 14—Time for questioning witnesses

Committee members shall have not to exceed five minutes to interrogate each witness until such time as each member who so desires has had an opportunity to interrogate such witness.

After all members have had an opportunity to ask questions, the round shall begin again under the 5-minute rule.

In questioning witnesses under the 5-minute rule, the Chairman and the ranking minority member may be recognized first after which members may be recognized in the order of their arrival at the hearing. Among the members present at the time the hearifg is called to order, seniority shall be recognized. In recognizing members to question witnesses, the Chairman may take into consideration the ratio of majority members to minority members and the number of majority and minority members present and shall apportion the recognition for questioning in such a manner as not to disadvantage the members of the majority.

Rule 15—Subpoenas and oaths

In accordance with House Rule XI, clause 2(m), subpoenas authorized by a majority of the Committee may be issued over the signature of the Chairman or of any member of the Committee designated by him, and may be served by any person designated by the Chairman or such member.

The Chairman, or any member of the Committee, may administer oaths to witnesses.

Rule 16—Witnesses statements

So far as practicable, any prepared statement to be presented by a witness shall be submitted to the Committee at least 24 hours in advance of presentation, and shall be distributed to all members of the Committee in advance of delivery.

Rule 17—Committee prints

All Committee prints and other materials prepared for public distribution shall be approved by the Committee prior to any distribution, unless such print or other material shows clearly on its face that it has not been approved by the Committee.

C. BROADCASTING

Rule 18—Broadcasting of meetings and hearings

It shall be the policy of the Committee to give all news media access to open hearings of the Committee, subject to the requirements and limitations set forth in House Rule XI, clause 3. Whenever any Committee business meeting is open to the public, that meeting may be covered, in whole or in part, by television broadcast, radio broadcast, and still photography, or by any of such methods of coverage, in accordance with House Rule XI, clause 3. However, radio, television, and still camera equipment may be excluded from the Committee room by a majority vote of the Committee, a quorum being present.

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D. STAFF

Rule 19—Committee staff

(a) Subject to approval by the Committee, and to the provisions of the following paragraphs, the professional and clerical staff of the Committee shall be appointed, and may be removed, by the Chairman.

Committee staff shall not be assigned any duties other than those pertaining to Committee business, and shall be selected without regard to race, creed, sex, or age, and solely on the basis of fitness to perform the duties of their respective positions.

All Committee staff, shall be entitled to equitable treatment, including comparable salaries, facilities access to official Committee records, leave, and hours of work.

(b) In addition to the staff provided in paragraph (a) each member of the Committee may select and designate an associate staff member who shall serve at the pleasrue of that member. Such staff member shall be compensated at a rate, determined by the member, not to exceed 75 per centum of the maximum established in Clause 6(c) of Rule XI of the Rules of the House of Representatives; Provided,

That no member shall appoint more than one person pursuant to these provisions; Provided Further, that members designating a staff member under this subsection must certify by letter to the Chairman that the employee is needed and will be utilized for Committee work.

Rule 20—Staff supervision

Staff shall be under the general supervision and direction of the Chairman, who shall establish and assign their duties and responsibilities, delegate such authority as he deems appropriate, fix and adjust staff salaries (in accordance with House Rule XI, clause 6(c)) and job titles, and, in his discretion, arrange for their specialized training.

Staff assigned to the minority shall be under the general supervision and direction of the minority members of the Committee, who may delegate such authority as they deem appropriate.

E. COMMITTEE RECORDS

Rule 21—Preparation and maintenance of committee records

An accurate stenographic record shall be made of all hearings.

The proceedings of the Committee shall be recorded in a journal which shall, among other things, include a record of the votes on any question on which a record vote is amended.

Members of the Committee shall correct and return transcripts of hearings as soon as practicable after receipts thereof.

Any witness may examine the transcript of his own testimony and make grammatical or technical changes that do not substantially alter the record of testimony,.

The Chairman may order the printing of a hearing record without the corrections of any member or witness if he determines that such member or witness has been afforded a reasonable time for corrections, and that further delay would seriously impede the Committee's responsibility for meeting its deadlines under the Congressional Budget Act of 1974.

Transcripts of hearings and meetings may be printed if the Chairman decides it is appropriate, or if a majority of the members so request.

Rule 22—Access to committee records

The Chairman shall promulgate regulations to provide for public inspection of roll-call votes and to provide access by members to Committee records (in accordance with House Rule XI, clause 2(e)).

Access to classified testimony and information shall be limited to Members of Congress and to House Budget Committee staff and stenographic reporters who have appropriate security clearance.

Notice of the receipt of such information shall be sent to the Committee members. Such informaton shall be kept in the Committee safe, and shall be available to members in the Committee office.

F. APPLICABILITY OF HOUSE RULES

Rule 23—Applicability of House rules

Except as otherwise specified herein, the Rules of the House are the rules of the Committee so far as applicable, except that a motion to recess from day to day is a motion of high privilege.

G. CONFEREES

Rule 24—Appointment of conferees

Majority party members recommended to the Speaker as conferees shall be recommended by the Chairman subject to the approval of the majority party members of the Committee. The Chairman shall recommend such minority party members as conferees as shall be determined by the majority party, provided that the recommended party representation shall be in approximately the same proportion as that in the Committee.

HAIL TO THE REDSKINS

(Mr. BOLAND asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BOLAND. Mr. Speaker, I want to join with football fans everywhere in congratulating the Washington Redskins on their thrilling victory in Super Bowl XVII.

Those of us who watched the game in our home districts can attest to the fact that Redskins fever extends far beyond the banks of the Potomac. The Hogs, the Fun Bunch, the Smurfs, Joe Theismann, and John Riggins have developed a following which will undoubtedly grow as a result of Sunday's triumph. The Redskins, a group of skilled and dedicated athletes, have given us a convincing demonstration of what it means to play, and win, as a team. The city of Washington could have no better representatives than the men who wore the burgundy and gold in Pasadena.

I want to congratulate all of the Redskin players and all of the members of the Redskin organization on the Super Bowl victory. The ability of the players—their prowess on offense, their tenacity on defense, their courageous play on the special teams—has been on display throughout this championship season. The team's success, however, is built on more than talented players; it is built on the direction established by Jack Kent Cooke and Edward Bennett Williams, the skilled personnel decisions made by Bobby Beathard, and the character, dedication, and intelligence of Coach Joe Gibbs and his staff. Coach Gibbs, in particular, deserves recognition for instilling in his team not only an intense desire to win, but a healthy appreciation for priorities. He is an extremely impressive individual whose success is well deserved. I would like to insert at this point in the RECORD an article about Coach Gibbs which appeared in the Washington Post. I believe it gives an insight into the reasons why the Redskins are champions of the National Football League.

GIBBS: AN EMPHASIS ON THE SMART SET

(By Ken Denlinger)

When they were assistants with the St. Louis Cardinals in 1975 and all the Xs and Os had been tucked away in training camp each midnight, Joe Gibbs and Wayne Sevier often dashed for a racquetball court. What happened helps explain why Gibbs is a Super Bowl coach.

"Joe was preparing that summer and through the season for the (over-35) nationals (the next year)," and said Sevier, now the Redskin special teams coach. "And I was just a guy who liked the sport and thought playing somebody good and would make me better. But Joe just drilled me, just flat out killed me time after time.

"I thought sometime he'd get a little bit lazy or overconfident and I'd slip up and get him. It never happened, and I couldn't stand it. I couldn't stand losing every time. It got to the point where I'd hit him with the ball. He was so much better, though, that he could hit me three times for every one I got in.

"So we just stopped playing. But he'd still go over there, by himself, and practice for an hour or so each night."

The intensity that drives Gibbs was evident much earlier. The Redskin coach's father, Jack, would find his preteen son crying as though the planet were about to stop spinning each time he or his team lost. Gotta accept that everybody loses now and then, Jack would preach.

"He's much better now," Jack said.

Gibbs was not necessarily born to football, although he carried one before more than one or two people carried him. Born in a three-room hospital in rural North Carolina, he was in his mother's arm when he was 1 day old when Jack tucked a tiny football near his elbow.

"A nurse took a picture of it," Jack recalled. "Think we still have it. Joe was named for his uncle, Joe Blaylock, who was a very good football player for Clemson."

If that's what makes Gibbs tick, what makes him win? A notion of offense that assures that certain players—oversized linemen, undersized tight ends with speed and hands, squirts who remind him of Terry Metcalf—will be overlooked by most teams.

He demands intelligence.

That's because so many plays depend on how the defense reacts to each snap. His three Rs are read, react and run, in that order. If, say, a cornerback retreats quickly, the receiver executes one pattern; a jam near the line calls for another, and so on.

A burner who cannot think on his feet won't last more than a few days of training camp. A Nick Giaquinto, who seems more suited to toting room-service trays, survives season after season because he is a football speed-reader. The player who runs 4.5 for the 40 doesn't always stay; the one who thinks 4.5 does.

"The first thing I did when Joe came, said General Manager Bobby Beathard, "was have a meeting, with all of his coaches and all of our scouts. It lasted maybe three days, going over position by position, what each coach looks for in a player and what we (the scouts) look for. So that we were all on the same page.

"That was never done before (when Jack Pardee was coach). Never. Those kinds of things just never happened here."

The Dolphins' director of player personnel for six years, Beathard has drafted for both Super Bowl coaches. In Gibbs, he sees much of what made Don Shula so successful.

"They have staffs ready to accept these kids as challenges," he said. "We don't get ready-made players. There are very, very few like Billy Sims. It makes it easier to scout for a group like this, because they look for what a guy might be able to do rather than what he's done.

"When I was at Miami, I drafted Nat Moore in the third round. At the minicamp, he didn't show much. But after Nat knew what he had to work on, he was a natural. That wasn't uncommon down there. It's not uncommon here."

The No-Name Dolphins who went 32-2 over two seasons and walloped the Redskins and Vikings in back-to-back Super Bowls had relatively slow, safety types manning the corners. Team speed was woeful; they outthought nearly everyone.

Beathard sometimes is astonished how reasonably successful coaches evaluate talent so poorly. At Atlanta, Hall of Fame quarterback Norm Van Brocklin drafted Heisman Trophy winner Pat Sullivan when Beathard was convinced that unheralded Ken Anderson was better.

"I've seen drafts destroyed by coaches," Beathard said.

Gibbs was wrong in judging Tom Flick a superior prospect to Neil Lomax, although Beathard said Flick never pushed himself in the offseason. Both the coach and general manager insist the Redskins are not going to fade quickly after the Super Bowl, as the Eagles and 49ers did.

No burnout for Gibbs. Not yet. He's scarcely been launched.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. HOYER) to revise and extend their remarks and include extraneous material:)

Mr. BONIOR of Michigan, for 60 minutes, today.

Mr. GONZALEZ, for 30 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. NELSON of Florida for 5 minutes, today.

Mr. COYNE, for 5 minutes, on February 1, 1983.

Mr. FORD of Tennessee, for 5 minutes, on February 2, 1983.

EXENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. BILIRAKIS) and to include extraneous matter:)

Mr. WILLIAMS of Ohio.

Mr. SKEEN.

Mr. CORCORAN.

Mr. JEFFORDS.

Mr. WEBER.

Mr. LUNGREN.

Mr. FISH.

Mr. MICHEL.

Mr. LENT.

Mr. HARTNETT in two instances.

Mr. SAWYER.

Mr. HANSEN of Idaho in five instances.

Mr. GREEN.

Mr. WINN.

Mr. DENNY SMITH.

(The following Members (at the request of Mr. HOYER) and to include extraneous matter:)

Mr. YATRON.

Mr. BEILENSON.

Mr. SOLARZ.

Mr. MURPHY in two instances.

Mr. HAMILTON in 10 instances.

Mr. SIKORSKI.

Mr. HERTEL of Michigan.

Mr. WYDEN in two instances.

Mr. RATCHFORD.

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. JONES of Tennessee in 10 instances.

Mrs. SCHROEDER.

Mr. FUQUA in two instances.

Mr. WIRTH.

Mr. BONER of Tennessee in 10 instances.

Mr. YATES.

Mr. BOLAND.

Mr. STARK in two instances.

Mr. HOYER.

ADJOURNMENT

Mr. WATKINS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 17 minutes p.m.), the House adjourned until tomorrow, Tuesday, February 1, 1983, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and refered as follows:

219. A letter from the Deputy Secretary of Defense, transmitting a report on employees whose compensation exceeded the annual rate of basic pay authorized for level II of the Executive Schedule during the preceding calendar year, pursuant to section 819 of Public Law 96-107; to the Committee on Armed Services.

220. A letter from the Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting notice of the Army's decision to convert to contractor performance the Directorate of Industrial Operations activity at Fort Eustis, Va., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

221. A letter from the Secretary to the Council, Council of the District of Columbia, transmitting Council Resolution 4-498, "District Charter College and University Programs Loan Authorization Amendments Endorsement Resolution of 1982," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

222. A letter from the Secretary to the Council, Council, of the District of Columbia, transmitting Council Resolution 4-677, "Support for Social Security Resolution of 1982," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

223. A letter from the Secretary to the Council, Council of the District of Columbia, transmitting Council Resolution 4-690, "Transfer of Jurisdiction of Wyoming Avenue Right-of-Way Resolution of 1982", pursuant to section 602(c) of Public Law 93-198 to the Committee on the District of Columbia.

224. A letter from the Secretary to the Council, Council of the District of Columbia, transmitting Council Resolution 4-692, "Transfer of Jurisdiction Over Portions of U.S. Reservation 343-C and 343-D Resolution of 1982," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

225. A letter from the Assistant Administrator, Environmental Protection Agency, transmitting a copy of a statement by the Associate Administrator for Legal and Enforcement Council, EPA, in response to a report by the Subcommittee on Oversight and Investigations of the House Committee on Energy and Commerce on the hazardous waste enforcement program; to the Committee on Energy and Commerce.

226. A communication from the President of the United States, transmitting a report on progress toward conclusion of a negotiated solution of the Cyprus problem, pursuant to section 620C(c) of the Foreign Assistance Act of 1961, as amended (H. Doc. No. 98-14); to the Committee on Foreign Affairs and ordered to be printed.

227. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of the proposed issuance of a license for the export of certain defense equipment sold commercially to Nigeria (Transmittal No. MC-3-83), pursuant to section 36(c) of the Arms Export Control Act; to the Committee on Foreign Affairs.

228. A letter from the Chairman, Board for International Broadcasting, transmitting a report on the Board's activities, pursuant to section 4(a)(8) of Public Law 93-129; to the Committee on Foreign Affairs.

229. A letter from the Acting Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

230. A letter from the Vice President for Human Resources, Federal Home Loan Mortgage Corporation, transmitting the annual report for the Federal home loan corporation employees' pension trust fund, pursuant to Public Law 95-595; to the Committee on Government Operations.

231. A letter from the Assistant Attorney General for Administration, Department of Justice, transmitting notice of a proposed

new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

232. A letter from the Chief Judge, U.S. Court of Claims, transmitting a copy of the court's opinion in Docket No. 1-78 *Carlos Acuna, et al.* v. *United States*, pursuant to 28 U.S.C. sections 1492 and 2509 and House Resolution 83 and H.R. 1394 of the 95th Congress; to the Committee on the Judiciary.

233. A letter from the Secretary of Transportation, transmitting the annual report of the Maritime Administration for fiscal year 1981, pursuant to the Merchant Marine Act of 1936, as amended; to the Committee on Merchant Marine and Fisheries.

234. A letter from the Administrator, Panama Canal Commission, transmitting a report, including financial statements, covering the Commission's operations during fiscal year 1982, pursuant to section 1312 of Public Law 96-70; to the Committee on Merchant Marine and Fisheries.

235. A letter from the Chairman, Federal Communications Commission, transmitting two drafts of proposed legislation to revise sections 48(c) and 1071(a) of the Internal Revenue Code of 1954; to the Committee on Ways and Means.

236. A letter from the Chairperson, Architectural and Transportation Barriers Compliance Board, transmitting the Board's annual report for fiscal year 1982, pursuant to section 502(g) of Public Law 93-112, as amended; jointly, to the Committees on Education and Labor and Public Works and Transportation.

237. A letter from the Chairman, Consumer Product Safety Commission, transmitting the Commission's budget request for fiscal year 1984, pursuant to section 27(k)(1) of Public Law 92-573; jointly, to the Committees on Energy and Commerce and Appropriations.

238. A letter from the Comptroller General of the United States, transmitting a report on the need to demonstrate the Sergeant York air defense gun's reliability, availability, maintainability and durability before the Army exercises the second-year production option (GAO/MASAD-83-8, January 27, 1983); jointly, to the Committees on Government Operations and Armed Services.

239. A letter from the Comptroller General of the United States, transmitting a report on the cost increases in the Army's helicopter improvement program (GAO/MASAD-83-2, January 26, 1983); jointly, to the Committees on Government Operations and Armed Services.

240. A letter from the Comptroller General of the United States, transmitting a report on the Army's Individual Ready Reserve in wartime (FPCD-83-12, January 31, 1983); jointly, to the Committees on Government Operations and Armed Services.

241. A letter from the Comptroller General of the United States, transmitting a report on the assessment of Admiral Rickover's recommendations to improve defense procurement (GAO/PLRD-83-37, January 27, 1983); jointly, to the Committees on Government Operations, Appropriations, and Armed Services.

242. A letter from the Comptroller General of the United States, transmitting a report on U.S. participation in the NATO infrastructure program (ID-83-3, January 27, 1983); jointly, to the Committees on Government Operations, Armed Services, and Foreign Affairs.

243. A letter from the Comptroller General of the United States, transmitting a report suggesting that the Congress should consider repeal of the Service Contract Act (GAO/HRD-83-4, January 31, 1983); jointly, to the Committees on Government Operations and Education and Labor.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BEILENSON:

H.R. 1075. A bill to provide for the distribution within the United States of the U.S. Information Agency film entitled "Thanksgiving in Peshawar with Kirk Douglas"; to the Committee on Foreign Affairs.

By Mr. BONKER (for himself, Mr. YOUNG of Alaska, Mr. SWIFT, Mr. PRITCHARD, Mr. LOWRY of Washington, Mr. DICKS, and Mr. CHANDLER):

H.R. 1076. A bill to strengthen the domestic waterborne commerce of the United States; to the Committee on Merchant Marine and Fisheries.

By Mr. BROWN of Colorado:

H.R. 1077. A bill to provide that persons who produce certain agricultural commodities on highly erodible land in a manner which fails to prevent such erosion may not receive certain Federal assistance with respect to such land or agricultural commodities grown on such land, and for other purposes; to the Committee on Agriculture.

By Mr. BURTON of California:

H.R. 1078. A bill to amend the Fair Labor Standards Act of 1938 to provide that blind persons may not be employed at less than the applicable minimum wage under that act; to the Committee on Education and Labor.

H.R. 1079. A bill to provide benefits for sufferers from byssinosis; to the Committee on Education and Labor.

H.R. 1080. A bill to amend title XIX of the Social Security Act to provide for medicaid coverage of acupuncturists' services; to the Committee on Energy and Commerce.

H.R. 1081. A bill for the relief of certain natives of the Philippines who served in the U.S. Armed Forces during World War II; to the Committee on the Judiciary.

H.R. 1082. A bill to provide benefits under part B of the medicare program with respect to acupuncture treatment in States which license or certify individuals who furnish such treatment; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. DIXON (for himself, Mr. GRAY, Mr. LOWRY of Washington, Mr. WOLPE, Mr. BARNES, Mr. BEDELL, Mr. BONIOR of Michigan, Mr. CROCKETT, Mr. DELLUMS, Mr. DYMALLY, Mr. EDGAR, Mr. EDWARDS of California, Mr. FAZIO, Mr. FAUNTROY, Mr. FOGLIETTA, Mr. FOWLER, Mr. FRANK, Mr. GARCIA, Mr. GUARINI, Mrs. HALL of Indiana, Mr. HALL of Ohio, Mr. KILDEE, Mr. LEHMAN of Florida, Mr. LELAND, Mr. MARKEY, Mr. MITCHELL, Mr. PANETTA, Mr. PEPPER, Mr. RANGEL, Mr. RATCHFORD, Mr. SCHUMER, Mr. STARK, Mr. WASHINGTON, and Mr. WAXMAN):

H.R. 1083. A bill to require that the U.S. Government oppose the furnishing of assistance by the International Monetary Fund to any country which practices apartheid; to the Committee on Banking, Finance and Urban Affairs.

By Mr. EDWARDS of Oklahoma (for himself, Mr. MARLENEE, Mr. KOGOVSEK, Mr. LOTT, Ms. OAKAR, Mr. MARTIN of New York, Mrs. BOUQUARD, Mr. LAGOMARSINO, Mr. PORTER, Mr. HUTTO, Mr. WINN, Mr. PETRI, Mr. MCCURDY, Mr. STANGELAND, Mr. WEBER, Mr. SMITH of New Jersey, Mr. HUGHES, Mr. HANSEN OF IDAHO, MR. MILLER of Ohio, Mr. MORRISON of Washington, Mr. CHAPPELL, Mr. SKEEN, Mr. WORTLEY, Mr. HAMMERSCHMIDT, and Mr. SOLOMON):

H.R. 1084. A bill to delay the effective date of the provisions which require withholding of tax from interest and dividends; to the Committee on Ways and Means.

By Mr. HANSEN of Idaho:

H.R. 1085. A bill to amend title 11, United States Code, to establish an improved basis for providing relief under chapter 7, and for other purposes; to the Committee on the Judiciary.

By Mr. HARTNETT:

H.R. 1086. A bill to suspend temporarily the duty on certain menthol feedstocks until July 1, 1986; to the Committee on Ways and Means.

By Mr. HARTNETT (for himself, Mr. QUILLEN, Mr. PRICE, Mr. MCGRATH, and Mr. ROE):

H.R. 1087. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income amounts which are received from a public retirement system and which are attributable to services as a Federal, State, or local policeman and fireman; to the Committee on Ways and Means.

By Mr. LAGOMARSINO:

H.R. 1088. A bill to designate the Dick Smith Wilderness in the Los Padres National Forest in the State of California; to the Committee on Interior and Insular Affairs.

H.R. 1089. A bill to disallow the Secretary of the Interior from issuing oil and gas leases with respect to a geographical area located in the Pacific Ocean off the coastline of the State of California; to the Committee on Interior and Insular Affairs.

H.R. 1090. A bill to prohibit vessels transporting Alaskan oil from using routes through the territorial and international waters northward of the Santa Barbara Channel Islands; to the Committee on Merchant Marine and Fisheries.

By Mr. LUKEN:

H.R. 1091. A bill to authorize construction of a modification of the Gallipolis locks and dam, Ohio River, Ohio and W. Va., and to insure that this work shall be completed expeditiously; to the Committee on Public Works and Transportation.

By Mr. NELSON of Florida:

H.R. 1092. A bill to amend title 18, United States Code, to make a crime the use, for fraudulent or other illegal purposes, of any computer owned or operated by the United States, certain financial institutions, and entities affecting interstate commerce; to the Committee on the Judiciary.

By Mr. OBERSTAR:

H.R. 1093. A bill to amend the Federal Supplemental Compensation Act of 1982 to provide additional extended unemployment benefits for railroad workers; to the Committee on Ways and Means.

By Mr. PERKINS (for himself, Mr. NATCHER, Mr. RAHALL, Mr. WISE, Mr. MOLLOHAN, Mr. KINDNESS, and Mr. WALGREN):

H.R. 1094. A bill to authorize construction of a modification of the Gallipolis locks and dam, Ohio River, Ohio and W. Va., and to insure that this work shall be completed ex-

peditiously; to the Committee on Public Works and Transportation.

By Mr. RANGEL:

H.R. 1095. A bill to grant a Federal charter to the 369th Veterans' Association; to the Committee on the Judiciary.

By Mr. RATCHFORD (for himself, Mr. PEPPER, Mr. GOODLING, Mr. WEISS, Mr. FRANK, Mr. SIMON, Ms. OAKAR, Mr. BIAGGI, Mr. WON PAT, Mr. STOKES, Mr. MITCHELL, Mr. HUGHES, Mr. KILDEE, Mr. WASHINGTON, Ms. MIKULSKI, Mr. STARK, Mr. SYNAR, Mr. FAZIO, Mr. MURPHY, Mr. WISE, Mr. GEJDENSON, Mr. MCNULTY, Mr. MORRISON of Connecticut, Mr. ROE, Mr. CORRADA, Mr. LANTOS, Mr. TALLON, Mr. FEIGHAN, Mr. GINGRICH, Mr. CONYERS, Mr. LOWRY of Washington, Mr. LEHMAN of Florida, Mr. SUNIA, Mrs. HALL of Indiana, Mr. DAUB,. Mr. ECKART, and Mr. WAXMAN):

H.R. 1096. A bill to amend the Vocational Education Act of 1963 to make grants available for vocational programs for older persons and to establish a grant program for the establishment of model centers for vocational education for older persons; to the Committee on Education and Labor.

By Mr. ROWLAND (for himself, Mr. LELAND, Mr. JENKINS, Mr. BARNARD, Mr. FOWLER, Mr. LEVITAS, Mr. THOMAS of Georgia, Mr. RAY, Mr. MCDONALD, Mr. HATCHER, and Mr. GINGRICH):

H.R. 1097. A bill to place methaqualone in schedule I of the Controlled Substances Act, and for other purposes; to the Committee on Energy and Commerce.

Mr. SAWYER (for himself, Mr. FISH, Mr. MOORHEAD, Mr. HYDE, Mr. KINDNESS, Mr. SAM B. HALL, JR., Mr. LUNGREN, Mr. SENSENBRENNER, Mr. MCCOLLUM, Mr. SHAW, Mr. DEWINE, Mr. GEKAS, Mr. WON PAT, Mr. MARRIOTT, Mr. ROBINSON, Mr. LAGOMARSINO, Mr. RINALDO, Mr. FRENZEL, Ms. FIEDLER, Mr. COUGHLIN, Mr. WEBER, Mr. DREIER of California, Mr. MCKINNEY, and Mr. DANIEL):

H.R. 1098. A bill to amend the Bail Reform Act of 1966 to permit consideration of danger to the community in setting pretrial release conditions, to permit pretrial detention of certain offenders, and for other purposes; to the Committee on the Judiciary.

By Mr. SKELTON:

H.R. 1099. A bill to repeal sections 301 through 308 of the Tax Equity and Fiscal Responsibility Act of 1982, which impose withholding on interest and dividends; to the Committee on Ways and Means.

By Mr. SKEEN:

H.R. 1100. A bill to amend the Internal Revenue Code of 1954 to exempt from interest and dividend withholding all individuals age 65 or older without regard to the prior year income tax liability of such individuals; to the Committee on Ways and Means.

H.R. 1101. A bill to repeal the withholding on dividends and interest enacted by the Tax Equity and Fiscal Responsibility Act of 1982; to the Committee on Ways and Means.

By Mr. DENNY SMITH (for himself and Mr. ROBERT F. SMITH):

H.R. 1102. A bill to provide for the designation of the Burns Paiute Indian Colony of Oregon as the beneficiary of a public domain allotment and to provide that all interests in public domain allotments in Harney County, Oreg., which are held by Indian allottees who die intestate and without heirs shall escheat to the United States to be held in trust for the benefit of the Burns Paiute Indian Colony of Oregon and added to the Burns Paiute Indian Reservation; to the Committee on Interior and Insular Affairs.

By Mr. WATKINS:

H.R. 1103. A bill to repeal the interest and dividend withholding enacted by the Tax Equity and Fiscal Responsibility Act of 1982; to the Committee on Ways and Means.

By Mr. WON PAT:

H.R. 1104. A bill to amend title 10, United States Code, to authorize the Secretary concerned to transport to the place of burial the remains of a member of the uniformed services entitled to retired or retainer pay who dies in a military medical facility; to the Committee on Armed Services.

H.R. 1105. A bill to recognize the cultural tradition of the Pacific territories and possessions of the United States by allowing the possession of betelnut for personal use by residents of such territories and possessions; to the Committee on Energy and Commerce.

By Mr. WYDEN:

H.R. 1106. A bill to amend part B of title XVIII of the Social Security Act with respect to payment for laboratory services under the medicare program; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. HARTNETT:

H.J. Res. 108. Joint resolution proposing an amendment to the Constitution of the United States which requires (except for fiscal years during which the United States is at war) that the total amount of money expended by the United States during any fiscal year not exceed the total amount of revenue of the United States received during that fiscal year; to the Committee on the Judiciary.

By Mr. LAGOMARSINO:

H.J. Res. 109. Joint resolution proposing an amendment to the Constitution of the United States limiting annual increases in Federal budget outlays and new Federal budget authority; to the Committee on the Judiciary.

H.J. Res. 110. Joint resolution proposing an amendment to the Constitution of the United States to require a two-thirds vote of each House to increase taxes; to the Committee on the Judiciary.

H.J. Res. 111. Joint resolution proposing an amendment to the Constitution of the United States relating to the compensation of Senators and Representatives, providing that no increase in compensation shall take effect earlier than the following Congress; to the Committee on the Judiciary.

H.J. Res. 112. Joint resolution proposing an amendment to the Constitution of the United States to provide that appropriations made by the United States shall not exceed its revenues, except in time of war or national emergency; to the Committee on the Judiciary.

By Mr. LIVINGSTON (for himself and Mr. SWIFT):

H.J. Res. 113. Joint resolution proposing an amendment to the Constitution of the United States with respect to fixing the compensation of Members of the Congress; to the Committee on the Judiciary.

By Mr. LUKEN (for himself, Mr. SMITH of New Jersey, Mr. YOUNG of Alaska, Mr. DAUB, and Mr. SILJANDER):

H.J. Res. 114. Joint resolution proposing an amendment to the Constitution of the United States with respect to the right to life; to the Committee on the Judiciary.

By Mr. WON PAT:

H.J. Res. 115. Joint resolution proposing an amendment to the Constitution to provide for the direct popular election of the President and Vice President of the United States; to the Committee on the Judiciary.

By Mr. EDWARDS of California (for himself, Mr. ADDABBO, Mr. ASPIN, Mr. BARNES, Mr. BERMAN, Mr. BURTON of California, Mr. CLAY, Mr. CONYERS, Mr. CROCKETT, Mr. DELLUMS, Mr. DIXON, Mr. DYMALLY, Mr. EDGAR, Mr. FAUNTROY, Mr. FEIGHAN, Mr. FORD of Michigan, Mr. FRANK, Mr. GARCIA, Mr. GRAY, Mrs. HALL of Indiana, Ms. KAPTUR, Mr. KASTENMEIER, Mr. KOGOVSEK, Mr. LEACH of Iowa, Mr. LEHMAN of Florida, Mr. LELAND, Mr. LOWRY of Washington, Mr. MCHUGH, Mr. MARKEY, Mr. MATSUI, Mr. MAVROULES, Mr. MINETA, Mr. MITCHELL, Mr. MOAKLEY, Mr. MOODY, Mr. MORRISON of Connecticut, Mr. OBERSTAR, Mr. OTTINGER, Mr. OWENS, Mr. PANETTA, Mr. PEASE, Mr. RANGEL, Mr. RODINO, Mrs. SCHROEDER, Mr. SCHUMER, Mr. SEIBERLING, Mr. SHANNON, Mr. SIMON, Mr. SOLARZ, Mr. STARK, Mr. STOKES, Mr. SUNIA, Mr. WALGREN, Mr. WASHINGTON, Mr. WEAVER, Mr. WEISS, Mr. WIRTH, Mr. WISE, Mr. WOLPE, and Mr. WYDEN):

H. Res. 46: Resolution expressing the sense of the House in support of a call for jobs with peace; jointly, to the Committees on Armed Services, Foreign Affairs, and Post Office and Civil Service.

By Mr. HEFTEL:

H. Res. 47. Resolution disapproving the proposed deferral of budget authority for the dairy indemnity program (deferral numbered D83-36): to the Committee on Appropriations.

By Mr. McDONALD:

H. Res. 48. Resolution to amend the Rules of the House of Representatives to establish the Committee on Internal Security, and for other purposes; to the Committee on Rules.

By Mr. RANGEL (for himself and Mr. GILMAN):

H. Res. 49. Resolution to establish the Select Committee on Narcotics Abuse and Control; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

4. By the SPEAKER: Memorial of the General Assembly of the Commonwealth of Pennsylvania, relative to M.I.A.'s and P.O.W.'s; to the Committee on Foreign Affairs.

5. Also, memorial of the Legislature of the Territory of Guam, relative to the equal rights amendment to the Constitution; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BEDELL:

H.R. 1107. A bill for the relief of Dr. Adel Shervin; to the Committee on the Judiciary.

By Mr. BURTON of California:

H.R. 1108. A bill for the relief of Maria de Jesus Castro; to the Committee on the Judiciary.

H.R. 1109. A bill for the relief of Rosa Maria Jansa de Mendez; to the Committee on the Judiciary.

H.R. 1110. A bill for the relief of Bertha Rubio de Parra; to the Committee on the Judiciary.

H.R. 1111. A bill for the relief of Emily Gayanes Gaufo, Joselyn G. Gaufo, and Favio G. Gaufo, Jr.; to the Committee on the Judiciary.

H.R. 1112. A bill for the relief of Sylvia Rabanal Gulen; to the Committee on the Judiciary.

H.R. 1113. A bill for the relief of Chen-Chuan Jen; to the Committee on the Judiciary.

H.R. 1114. A bill for the relief of Shirley Lee (also known as Wu Shao Wei); to the Committee on the Judiciary.

H.R. 1115. A bill for the relief of Fung Ping Lee; to the Committee on the Judiciary.

H.R. 1116. A bill for the relief of Maximiano Tamayo Lucero; to the Committee on the Judiciary.

H.R. 1117. A bill for the relief of Joaquin Morales; to the Committee on the Judiciary.

H.R. 1118. A bill for the relief of Reynaldo B. Nidoy and Bella Anderson Nidoy; to the Committee on the Judiciary.

H.R. 1119. A bill for the relief of John Kerry Murphy; to the Committee on the Judiciary.

H.R. 1120. A bill for the relief of Guadalupe Antionio Pino; to the Committee on the Judiciary.

H.R. 1121. A bill for the relief of Milika Tafuna; to the Committee on the Judiciary.

H.R. 1122. A bill for the relief of Barry David Tombs; to the Committee on the Judiciary.

H.R. 1123. A bill for the relief of Romeo Sanchez Vita (also known as Romeo Sanchez Perez); to the Committee on the Judiciary.

H.R. 1124. A bill for the relief of Ida Vogina; to the Committee on the Judiciary.

H.R. 1125. A bill for the relief of Perla Vogina; to the Committee on the Judiciary.

H.R. 1126. A bill for the relief of Sui Sam Young; to the Committee on the Judiciary.

By Mr. BROWN of California.

H.R. 1127. A bill for the relief of James E. Kennedy; to the Committee on the Judiciary.

By Mr. LAGOMARSINO:

H.R. 1128. A bill for the relief of Mrs. Frances Parker; to the Committee on the Judiciary.

H.R. 1129. A bill for the relief of Phyllis Steiner; to the Committee on the Judiciary.

By Mr. MAVROULES:

H.R. 1130. A bill for the relief of Mordechai Steinberg; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 42: Mr. RAHALL, Mr. ADDABBO, Mr. WYDEN, Mr. NEAL, Mr. TAUKE, Mr. GREEN, Mr. PEPPER, Mr. RATCHFORD, Mr. ROE, Mr. BETHUNE, Mr. LONG of Louisiana, Mr. BONIOR of Michigan, Mr. ANNUNZIO, Mr. BEREUTER, Mr. SEIBERLING, Mr. CLINGER, Mr. FORSYTHE, Mr. FROST, Mr. GEPHARDT, Mr. KINDNESS, and Mr. LATTA.

H.R. 50: Mr. MCCOLLUM.

H.R. 53: Mr. ARCHER, Mr. DAUB, Mr. EDWARDS of Oklahoma, Mr. FOGLIETTA, Mr. HOWARD, Mr. HYDE, Mr. LANTOS, Mr. LENT, Mr. MCDONALD, Mr. MCKINNEY, Mr. MILLER of Ohio, Mr. MURPHY, Mr. O'BRIEN, Mr. STENHOLM, Mr. WILSON, and Mr. WOLF.

H.R. 70: Mr. BARNARD, Mr. BEREUTER, Mr. HATCHER, Mr. LAGOMARSINO, Mr. MURPHY, Mr. PEASE, Mr. PORTER, Mrs. BOUQUARD, Mr. FORSYTHE, and Mr. MINISH.

H.R. 169: Mr. TAUZIN, and Mr. CRAIG.

H.R. 170: Mr. SILJANDER.

H.R. 171: Mr. IRELAND, Mr. MARLENEE, Mr. RUDD, Mr. GREGG, Mr. GINGRICH, Mr. WHITEHURST, Mr. HILER, Mr. GOODLING, Mr. KRAMER, Mr. COATS, Mr. YOUNG of Florida, Mr. BEVILL, Mr. SHUSTER, and Mr. MCCOLLUM.

H.R. 196: Mr. PERKINS, Mr. ALEXANDER, Mr. PETRI, Mr. ENGLISH, Mr. PATMAN, Mr. FRANK, and Mr. HANSEN of Idaho.

H.R. 233: Mr. SCHUMER, Mr. WEISS, Mr. VENTO, Mr. SABO, Mr. KASTENMEIER, Mr. SEIBERLING, Mr. ECKART, Ms. KAPTUR, Mr. CONYERS, Mr. MITCHELL, Mr. LONG of Maryland, Mr. DWYER of New Jersey, Mr. GARCIA, Mr. SWIFT, Mr. CORRADA, Mr. KILDEE, Mr. FAUNTROY, Mr. RAHALL, Mr. FOGLIETTA, Mr. DYMALLY, Mrs. HALL of Indiana, Mr. FORD of Michigan, and Mr. LOWRY of Washington.

H.R. 315: Mr. UDALL.

H.R. 388: Mr. JEFFORDS, Mr. WHITTAKER, and Mr. DUNCAN.

H.R. 389: Mr. TRAXLER, Mr. ECKART, Mr. JEFFORDS, Mr. SUNIA, and Mr. DUNCAN.

H.R. 500: Mr. BEDELL, Mr. COOPER, Mr. GRAY, Mr. HARRISON, Mr. SKELTON, Mr. SNYDER, Mr. THOMAS of Georgia, Mr. BURTON of Indiana, Mr. COELHO, Mr. DANNEMEYER, Mr. DAUB, Mr. DREIER of California, Mr. FISH, Mr. HATCHER, Mr. LENT, Mr. LOEFFLER, Mr. MARTIN of New York, Mr. MINISH, Mr. PACKARD, Mr. ROYBAL, Mr. SILJANDER, and Mr. SISISKY.

H.R. 999: Mr. GLICKMAN, Mrs. SCHROEDER, Mr. SMITH of Iowa, Mr. WHEAT, Mr. RANGEL, Mr. GINGRICH, Mr. ANDERSON, Mr. BONKER, Mr. RUSSO, Mr. FISH, Mr. ANTHONY, Mr. SUNIA, Ms. OAKAR, Mr. HERTEL of Michigan, Mr. DIXON, Mr. FORD of Michigan, Mr. DANIEL, Mr. FRANK, Mr. LUNDINE, Mr. FROST, Mr. MADIGAN, Mr. OBEY, Mr. SABO, and Mr. WAXMAN.

H.R. 1031: Mr. HOPKINS.

H.J. Res. 1: Mr. ROSE.

H.J. Res. 22: Mr. SMITH of Florida, Mr. CHAPPIE, Mr. OWENS, Mr. BOLAND, Mr. BONER of Tennessee, Mr. GEKAS, Mr. WHITTAKER, Mr. RANGEL, Mr. GINGRICH, Mr. HUTTO, Mr. BURTON of Indiana, Mr. MCGRATH, Mr. CARNEY, Mr. HERTEL of Michigan, Mr. SUNIA, Mr. MARTIN of New York, Mrs. HALL of Indiana, Mr. GUARINI, Mr. MCNULTY, Mr. JEFFORDS, Mr. BARNES, Mr. DUNCAN, Mr. KILDEE, Mr. DREIER of California, Mr. LIPINSKI, Mr. MADIGAN, Mr. MARKEY, Mr. ROEMER, Mr. WAXMAN, Ms. KAPTUR, Mr FORD of Tennessee, Mrs. KENNELLY, Mr. HYDE, Mr. MOORHEAD, Mr. OBERSTAR, Mr. FRANKLIN, Mr. BRYANT, Mr. OLIN, Mr. ARCHER, and Mr. HEFTEL of Hawaii.

H.J. Res. 58: Mr. FAZIO, Mr. CLAY, Mr. MURPHY, Mr. DYMALLY, Mr. FAUNTROY, Mr. STOKES, Mr. FORD of Tennessee, Mr. HUGHES, and Mr. BEDELL.

H. Con. Res. 14: Mr. JONES of Oklahoma.

H. Res. 24: Mr. FRANK, Mr. RINALDO, and Mr. ST GERMAIN.

H. Res. 25: Mr. VANDER JAGT, Mr. BROWN of Colorado, Mr. BLILEY, Mr. KINDNESS, Mr. PACKARD, Mr. BROYHILL, Mr. DAUB, Mr. HYDE, Mr. OXLEY, Mr. DEWINE, and Mr. EDWARDS of Oklahoma.

PETITIONS, ETC.

Under clause 1 of rule XXII,

17. The SPEAKER presented a petition of the Board of Aldermen, Somerville, Mass., relative to the social security system; to the Committee on Ways and Means.

EXTENSIONS OF REMARKS

THE SOVIET-EASTERN EUROPEAN RESEARCH AND TRAINING ACT OF 1983

HON. LEE H. HAMILTON
OF INDIANA
IN THE HOUSE OF REPRESENTATIVES

Monday, January 31, 1983

● Mr. HAMILTON. Mr. Speaker, at the beginning of this session of Congress, I introduced, along with my colleague from Illinois, Congressman PAUL SIMON, a bill to encourage the development and maintenance of American expertise on the Soviet Union and Eastern Europe.

The Soviet Union will continue to be our chief rival in the 1980's. Decisions based on the best quality information are essential to America's security and prosperity, but high quality information about the Soviet Union and its Eastern European allies has always been difficult to obtain. Now we face the prospect that sophisticated analysis of this vital region will be even less readily available in the future. Unless steps are taken now, America's capacity to deal with the Soviet Union on the basis of informed judgments may be in serious jeopardy.

A significant portion of the experts currently studying the Soviet Union will retire within the next 10 years. Young area specialists are not being trained in sufficient numbers to take their place. Even more serious is the shortage of specialists in particular fields critical to our understanding of the Soviet Union: There are very few American specialists on the languages and cultures of non-Russian areas of the Soviet Union; the number of scholars with a knowledge of both the Soviet Union and a particular branch of science and technology is miniscule; few economists have the specialized knowledge necessary to conduct sophisticated studies of Soviet economic and commercial activity; and there are very few specialists with the skills to analyze Soviet activities in such Third World areas as Africa and Latin America.

Delay in dealing with the situtation could be costly in many ways. It is much easier to build up our capacity in these areas while institutions and senior specialists are still available to train new analysts. If we allow our capacity to atrophy, it will be infinitely more difficult to revive.

Creation of this endowment will reverse a serious decline in funding for Soviet and Eastern European studies in the United States. During the past two decades, support from virtually every source has been reduced. Government spending for research in area studies decreases by 50 percent between 1967 and 1976. In the period 1980-82, support from all sources has continued to decline in real terms: University funding by 20 percent, contributions from corporations by 22 percent, individual contributions by 30 percent and Government support by 55 percent.

Decline in funding for American research is in sharp contrast to the situation in the Soviet Union. At the same time that support for Soviet area studies has been vanishing here, the Soviet Union has been engaged in a major program to improve its international studies capacity. Since its creation in 1967, Moscow's Institute for the Study of the United States and Canada has grown into a major center with over 300 full-time researchers—and it is only 1 of 12 Moscow institutes studying international affairs and Soviet-American relations.

This bill does not propose a massive program. Rather, it is intended to meet a specific set of needs in carefully targeted areas. Through support for existing institutions, it will be possible to identify areas in which specialists are needed; encourage promising graduate students to specialize in these fields; provide graduate and postdoctoral research support, and insure that high quality research is conducted and made available to policymakers.

The bill authorizes a one-time appropriation of $50 million to establish an endowment providing supplementary support for three key institutions in the field of Russian and Eastern European studies:

First. The National Council for Soviet and East European Research, established in 1978 to administer research projects conducted by scholars on topics of interest to Government agencies.

Second. The International Research and Exchanges Board (IREX), which coordinates academic exchanges with the Soviet Union and Eastern Europe.

Third. The Woodrow Wilson Institute for Scholars in Washington, D.C., and its Kennan Institute for Advanced Russian Studies, created in 1974 to provide support for research projects and serve as a forum for academic specialists, Government officials, and representatives of private industry to discus issues of mutual interest.

Responsibility for distributing the endowment income will be vested in the national council, a private, nonprofit corporation chartered in the District of Columbia. The council is governed by a board of trustees appointed by university presidents. Since its creation, it has awarded more than 80 contracts for research on topics of interest to Government agencies. The endowment will permit the council to expand its activities and to consider proposals with a longer time frame than its current mandate permits.

IREX has provided over 2,000 American scholars with an opportunity to conduct research in the Soviet Union and Eastern Europe and to observe these societies at first hand. The value of this direct experience as an adjunct to ordinary research methods cannot be overestimated. The endowment will provide a secure source of funds for IREX to use in encouraging participation by scholars in underrepresented disciplines.

The Kennan Institute has quickly established itself as a leading center for investigation of Russia and the Soviet Union, enabling scholars to take advantage of the unique resources available in Washington, D.C. Increased funding will permit the Institute to conduct additional research and to expand its role as a place for academic and Government specialists to consider important questions.

The cost of the endowment—$50 million—is a small price for something that can do so much for our national security. When compared to the cost of major weapons systems, its value is easily apparent—$50 million represents the amount the Air Force spends for research and engineering related to the MX missile every 36 hours. It is equivalent to the cost of 18 Tomahawk cruise missiles, 2½ F-16 aircraft, or one-fourth of a B-1 bomber. Study of the Soviet Union is not a substitute for military preparedness, but if the endowment improves by even a small amount the possibility that these weapons will not need to be used, it is surely worth the investment. Additional benefits in commercial opportunities, improved relations with our allies, and better international understanding may also be expected.

A copy of the legislation follows:

H.R. 601

A BILL To help ensure the Nation's independent factual knowledge of the Soviet Union and Eastern European countries, to help maintain the national capability for advanced research and training on which that knowledge depends, and to provide partial financial support for national programs to serve both purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

SHORT TITLE

SECTION 1. This Act may be cited as the "Soviet-Eastern European Research and Training Act of 1983".

FINDINGS AND DECLARATIONS

SEC. 2. The Congress finds and declares that—

(1) factual knowledge, independently verified, about the Soviet Union and Eastern European countries is of the utmost importance for the national security of the United States, for the furtherance of our national interests in the conduct of foreign relations, and for the prudent management of our domestic affairs;

(2) the development and maintenance of knowledge about the Soviet Union and Eastern European countries depends upon the national capability for advanced research by highly trained and experienced specialists, available for service in and out of Government;

(3) certain essential functions are necessary to ensure the existence of that knowledge and the capability to sustain it, including—

(A) graduate training;

(B) advanced research;

(C) public dissemination of research data, methods, and findings;

(D) contact and collaboration among Government and private specialists and the facilitation of research based on the extensive data holdings of the United States Government; and

(E) firsthand experience of the Soviet Union and Eastern European countries by American specialists including onsite conduct of advanced training and research to the extent practicable;

(4) three existing institutions already organized to conduct the functions described in this section on a national scale are the National Council for Soviet and Eastern European Research, the Woodrow Wilson International Center for Scholars, and the International Research and Exchanges Board of the American Council of Learned Societies; and

(5) it is in the national interest for the United States Government to provide a stable source of financial support for the functions described in this section and to supplement the financial support for those functions which is currently being furnished by Federal, local, State, regional, and private agencies, organizations, and individuals, and thereby to stabilize the conduct of these functions on a national scale, consistently, and on a long range basis.

DEFINITIONS

SEC. 3. As used in this Act—

(1) the term "Board" means the International Research and Exchanges Board organized in 1968 by the American Council of Learned Societies and the Social Science Research Council;

(2) the term "Center" means the Woodrow Wilson International Center for Scholars of the Smithsonian Institution;

(3) the term "Fund" means the Soviet-Eastern European Research and Training Fund established by section 4;

(4) the term "institution of higher education" has the same meaning given such term in section 1201(a) of the Higher Education Act of 1965;

(5) the term "National Council" means the National Council for Soviet and East European Research, a not-for-profit corporation organized under the laws of the District of Columbia in 1978; and

(6) the term "Secretary" means the Secretary of the Treasury.

ESTABLISHMENT OF THE SOVIET-EASTERN EUROPEAN RESEARCH AND TRAINING FUND

SEC. 4. There is established in the Treasury of the United States a trust fund to be known as the Soviet-Eastern European Research and Training Fund. The Fund shall consist of—

(1) amounts appropriated to it under section 5; and

(2) interest and proceeds credited to it under section (8)(c).

AUTHORIZATION OF APPROPRIATIONS FOR THE FUND

SEC. 5. Effective October 1, 1983, there are authorized to be appropriated to the Fund, without fiscal year limitation, $50,000,000.

USES OF PAYMENTS FROM THE FUND

SEC. 6. (a) The interest on any obligations held in the Fund shall be available for payments to the National Council, upon approval of an application in accordance with section 7, for use in accordance with subsection (b).

(b)(1) One part of the payments made in each fiscal year shall be used by the National Council—

(A) in consultation with officials of the United States Government designated by the Secretary of State, to develop and keep current a research agenda of fundamental research dealing with major policy issues and questions of Soviet and Eastern European development; and

(B) to conduct a national research program at the postdoctoral or equivalent level in accordance with that agenda, such program to include—

(i) the dissemination of information about the research program and the solicitation of proposals for research contracts from American institutions of higher education and not-for-profit corporations, which contracts shall contain shared-cost provisions; and

(ii) the awarding of contracts for such research projects as the Board of Trustees of the National Council determines will best serve to carry out the purposes of this Act after reviewing the proposals submitted under clause (i).

(2) One part of the payments made in each fiscal year shall be used by the National Council—

(A) to establish and carry out a program of graduate, postdoctoral, and teaching fellowships for advanced training in Soviet and Eastern European studies and related studies, such program—

(i) to be coordinated with the research program described in paragraph (1);

(ii) to be conducted, on a shared-cost basis, at American institutions of higher education; and

(iii) to include—

(I) the dissemination of information on the fellowship program and the solicitation of applications for fellowships from qualified institutions of higher education and qualified individuals; and

(II) the awarding of such fellowships as the Board of Trustees of the National Council determines will best serve to carry out the purposes of this Act after reviewing applications submitted under subclause (I); and

(B) to disseminate research, data, and findings on Soviet and Eastern European studies and related fields in such a manner and to such extent as the Board of Trustees of the National Council determines will best serve to carry out the purposes of this Act.

(3) One part of the payments made in each fiscal year to the National Council shall be used for payments to the Center—

(A) to provide fellowship support and research facilities in the District of Columbia for American specialists in the fields of Soviet and Eastern European studies and related studies to conduct advanced research with particular emphasis upon the use of data on the Soviet Union and Eastern European countries; and

(B) to conduct seminars, conferences, and other similar workshops designed to facilitate research collaboration between Government and private specialists in the fields of Soviet and East European studies and related studies.

(4) One part of the payments made in each fiscal year to the National Council shall be used for payments to the Board to conduct specialized programs in advanced training and research on a reciprocal basis in the Union of Soviet Socialist Republics and the countries of Eastern Europe designed to facilitate access for American specialists to research institutes, personnel, archives, documentation, and other research and training resources located in the Union of Soviet Socialist Republics and Eastern European countries.

APPLICATIONS; PAYMENTS TO THE NATIONAL COUNCIL

SEC. 7. (a) The National Council shall prepare and submit an application to the Secretary once each fiscal year. Each such application shall—

(1) provide a description of the purposes for which the payments will be used in accordance with section 6; and

(2) provide such fiscal control and such accounting procedures as may be necessary (A) to insure a proper accounting of Federal funds paid to the National Council under this Act, and (B) to insure the verification of the costs of the continuing education and research programs conducted by the National Council under this Act.

(b) The Secretary shall expeditiously approve any application that meets the requirements of this section.

(c)(1) Payments to the National Council under this Act shall be made as soon after approval of the application as practicable.

(2) Payments to the National Council under this Act may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on account of overpayments and underpayments.

MANAGEMENT OF THE FUND

SEC. 8. (a) It shall be the duty of the Secretary to invest such portion of the Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired on original issue at the issue price or by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act are extended to authorize the issuance at par of special obligations exclusively to the Fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, com-

puted as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 per centum, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 per centum next lower than such average rate. Such special obligations shall be issued only if the Secretary determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principle and interest by the United States on original issue or at the market price, is not in the public interest.

(b) Any obligation acquired by the Fund (except special obligations issued exclusively to the Fund) may be sold by the Secretary at the market price, and such special obligations may be redeemed at par plus accrued interest.

(c) The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

REPORT

SEC. 9. The National Council shall prepare and submit to the President and the Congress at the end of each fiscal year in which the National Council receives assistance under this Act a report of the activities of the National Council, and the activities of the Board and the Center, supported by assistance under this Act, together with such recommendations as the National Council deems advisable.●

CONTROVERSY RESOLVED, NEW JOBS ON THE HORIZON

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, January 31, 1983

● Mr. WYDEN. Mr. Speaker, I rise today to express my deep appreciation to two Members of the Senate who were of immense help to me during the lameduck session in resolving a 16-year-old controversy in my Portland, Oreg., district—an achievement that will pave the way for thousands of new jobs.

Economic development in the Rivergate Industrial District—the largest parcel of industrial land in the Portland metropolitan area—has been stymied for almost 20 years because of a dispute between the Port of Portland and local landowners, boaters, and environmentalists over the fate of the Columbia Slough, a navigable waterway that cuts right through the heart of the Rivergate district.

The issue in a nutshell was whether the slough should be plugged for flood control purposes—and to provide rail and truck access from North Rivergate to South Rivergate—or should remain open for the use of recreational boaters and businesses who saw a bright future for commercial navigation on this waterway.

This dispute had raged for years and had paralyzed economic development efforts in Rivergate. When I was first elected to Congress in 1980, I resolved to find a solution and was finally successful in the waning days of the 97th Congress.

In theory, a solution was clear: an amendment to the Treasury appropriations bill that directs the Coast Guard to keep the slough open and navigable but specifically lays out the minimum clearance required for the bridges that are sorely needed to connect North and South Rivergate.

Working together, all sides to the dispute agreed to give a little in order to break the logjam on Rivergate development. The Port of Portland agreed to draft an alternative flood control plan that does not require plugging the slough and the protectors of the slough were willing to go along with writing into law reasonable bridge clearance specifications.

Since there is now no danger that the slough will be plugged, the controversy has been removed and bridge construction will begin soon. Both the leaders of the campaign to keep the slough open and officials of the Port of Portland can take pride in the fact that the bridge heights specified in the amendment will save our region more than $10 million in construction costs.

Because the Treasury appropriations bill had already passed the House when this potential solution was brought to my attention, the amendment was actually presented in the Senate. I am deeply grateful to Senator HATFIELD, a good friend, fellow Oregonian and chairman of the Senate Appropriations Committee, for his assistance in this effort and to Senator ANDREWS, the chairman of the Senate Transportation Appropriations Subcommittee, who actually offered the amendment on the Senate floor.

Resolution of this dispute is good news because it means desperately needed new jobs for Portland. The Rivergate Industrial District is located at the confluence of Oregon's two major rivers—the Willamette and the Columbia—and is the prime chunk of industrial land in the entire State. Studies have projected that at least 10,000 additional jobs will be created in the Rivergate district once it is fully developed.

If Oregon's economy is to recover—and new jobs created—we must expand our housing and timber base by taking advantage of our magnificent waterway system and our geographical proximity to the Pacific Rim countries. In short, our best bet for new economic growth lies in expanded international trade and commerce, particularly waterborne commerce.

I am confident this expansion will take place and, in Portland, much of it will be centered in the Rivergate Industrial District. We can now proceed with a full head of steam to develop this critical industrial area and, from here on, we will be ready for expanded opportunities for trade and commerce. I am delighted that the Columbia Slough controversy is finally behind us and would again like to thank my distinguished colleagues in the Senate for their invaluable assistance.●

JOHN L. WATTS—A CAREER OF SERVICE

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 31, 1983

● Mr. STARK. Mr. Speaker, on February 11, 1983, the friends and associates of John L. Watts will be gathering to honor him. I would like to take this opportunity to give Mr. Watts the recognition he justly deserves.

Mr. Watts has provided outstanding service to his country, his community, and his union. He served his country as a Marine Corps officer in both WW II and the Korean conflict. He has been very involved in many civic activities, serving as a first city manager of Belmont, Calif., from 1958 to 1964.

Mr. Watts has served his union, the United Brotherhood of Carpenters, in a variety of capacities. He was elected executive secretary of the Bay District Council of Carpenters. He has served as an apprenticeship commissioner and as chairman of the California State Apprenticeship Council.

In 1980, Mr. Watts was elected president and chairman of the Board of the International Foundation of Employees Benefit Plans, a first for a member of the Carpenters Union.

In all of the capacities that Mr. John L. Watts has served in, he has left his mark. I join with the friends and associates of Mr. Watts in recognizing the many and varied contributions that he has made. "Semper fidelis"—always faithful—the code of the Marines and the code of John L. Watts.●

TO HONOR MR. MAX S. SOULBY

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, January 31, 1983

● Mr. CARR. Mr. Speaker, Mr. Max S. Soulby is retiring after 29 years of service to Independence Township in

my home State of Michigan. Today I would like to join with those in the township who already honored Mr. Soulby and commend him most highly to the U.S. House of Representatives.

Max Soulby has served Independence Township in a variety of capacities, most recently as the township's financial director. His service to the people of Independence Township, spanning almost 30 years, is exemplary of the kind of patriotic service toward which all our citizens should aspire. Mr. Soulby also evidenced his patriotism and dedication to national service in his earlier years, as a veteran of the Second World War.

Mr. Soulby's wife Lela is also a recent retiree, from the Truck and Coach Division of the General Motors Corp. I am certain my colleagues will join me in wishing them both the best as they enter their retirement years together. Max Soulby has been a truly dedicated public servant, giving many years of his life to our community, and I take great pride in making this commendation.

Mr. Speaker, The young people of Central United Methodist Church, in Lansing, Mich., have been studying the issues of peace and nuclear war. These four letters, from seventh grade students, are moving and perceptive. I hope every Member of Congress will take this opportunity to read what they have to say.

The students make two points which I believe many of their elders share. First, they are gravely concerned that the nuclear arms race is running out of control. Second, they are frustrated that nobody in a position to stop that arms race pays any attention.

Children of 11 and 12 years should not have to worry whether the world will survive until they may take their places in it. We owe them an obligation to understand their fears and to leave them a world in which their survival is assured.

The above mentioned letters follow:

NOVEMBER 13, 1982.

DEAR MR. CARR: I'm just a concerned kid, trying to find someone who will listen to me! I hope I have finally found that person.

One of the main things I'm concerned about is that the people who have been making all the desisions about nuclear war more than likley, won't even be alive when we have a nuclear war. Us kids are going to be the ones to have to suffer, and we don't even really get much of a chance to say what we feel, except for letters we write to the president, and as far as I know, they might not even get read! I feel very useless.

Why do we even need more nuclear weapons anyway? We already have enough to blow the whole world up. Why don't we use our money for other things, like more jobs. (Michigan has the most people out of work.) Or at least something much more useful. Why buy something we don't need? Do you go to the store and buy something you don't need? Or something you already have to many or to much of? I sure don't!

I want people to know that kids are realy concerned. I hope you realy will help this and take it into consideration. Thank you.

Sincerely,

KRISTIN TENNANT.

NOVEMBER 13, 1982.

DEAR MR. CARR: People say kids don't know anything about what the milatary is doing with our parents taxes.

Our confromation class saw a movie on nuclear power. I'm really concernd so I maybe only a kid but we have feeling to. Adults don't think we have feelings be we do. Kids don't want a war but nobody listens and we are getting mad!! People say we don't understand but we do. Adults think we are imature brats with no compassion.

I'm very concernd but nobody cares because I'm a kid. If we go in a nuclear war we get affected President Reagan doesn't.

I hope we can become friends.

I hope I have found somebody who will listen and take into consideration what I have said.

Sincerley,

LYNETTE MASSIE.

CENTRAL UNITED METHODIST CHURCH,
November 13, 1982.

DEAR MR. CARR: I don't think that having a nuclear war is a very good idea. Because all a nuclear will do for us is get everyone killed. This nuclear weapon building thing is just a game. Using our parents tax money to make nuclear bombs is just like going to a store and buying something that you don't want. The Soviets and the United States keep making bombs to kill each other. Its just like commiting suicide! I don't think that the U.S. and Soviets civilian population wants to keep making nuclear bombs. It's just a waist of money! And its making our economy worse and worse. Please help make an agreement between the Soviets and the United States to stop making nuclear bombs. I don't want to die that way by nuclear bombs.

Sincerely,

MIKEL HUBBARD.

CENTRAL UNITED METHODIST CHURCH.

DEAR MR. CARR: I realize I am just a kid and I don't have much of a say in anything because I'm not the voting age yet, but why not, since I'm younger, nuclear war affects people my age more than any other person. Our Government has witnessed many nuclear protests, and recieve millions of letters every day protesting nuclear weapons, yet they keep on building, this country is supposed to be a democracy but sometimes it seems like a dictatorship doesn't the government listen to anything the public says, it sure doesn't seem like it. This summer our youth group at church wrote a letter to pres. Reagan and he responded with a letter that didn't have anything to do with what we wrote to him about, probably the same letter he sends to everybody. What dosn't make sense to me is why, with our economic situation as bad as it is, why doesn't our government spend more money on helping it then hurting it, Because really nuclear war is a suicide wish and it's just spending more money one death than life. If this letter is baring you and telling you things that you already knew than I'm sorry for wasting your precious time but if it means anything to yo, than I'm glad I wrote it.

Sincerely,

KATI OTT.●

A SALUTE TO EXPLORER I

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 31, 1983

● Mr. FUQUA. Mr. Speaker, America's first artificial Earth satellite, Explorer I, was launched 25 years ago today, and it is my pleasure to remind the House of this magnificent achievement and to pay tribute to a few of the people who contributed to its success.

Explorer I was prepared and launched by two Army organizations which are now elements of the National Aeronautics and Space Administration; the development group of the Army Ballistic Missile Agency (ABMA) and the Jet Propulsion Laboratory (JPL). The development group of ABMA became the nucleas of NASA's Marshall Space Flight Center in 1960, and JPL was assigned to the space agency 1½ years later.

The ABMA was activated at Redstone Arsenal, Ala., on February 1, 1956, under Maj. Gen. John Bruce Medaris. Two years later, General Medaris, Dr. Wernher von Braun, and their development team provided the modified Redstone booster and the basic satellite design. JPL, directed by Dr. William H. Pickering, furnished the solid propellant upper stages of the carrier vehicle and packaged and tested the payload which comprised three of Dr. James Van Allen's experiments, a cosmic ray Geiger counter, a heat sensor, and a dust particle detector. It was the Geiger counter that provided information that resulted in the discovery of the first of two circular radiation belts surrounding the Earth.

Although the satellite weighed only 18 pounds, which is small by today's standards, its scientific and engineering value stands as a truly remarkable testimony to the efforts of the people who made it possible, and the ingenuity and spirit of the Nation.

General Medaris and his colleagues can be justly proud of their contribution to our Nation's space program.●

CONSTITUTIONAL AMENDMENT FOR A BALANCED BUDGET

HON. THOMAS F. HARTNETT

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 31, 1983

● Mr. HARTNETT. Mr. Speaker, on October 1, 1982, final passage for a constitutional amendment to balance the budget was defeated by a vote of 236 in favor and 187 against, a majority consensus but 54 votes short of the two-thirds vote required. Adoption of

this joint resolution can be a major step toward eliminating excessive Federal spending and requiring total budget constraint, thereby necessitating total responsibility.

It is clear that the Federal budget process is in serious trouble. The public, concerned about increased Federal spending and high deficit projections, is ready and willing to use constitutional means to challenge the system. The lessons of the last 4 years in failure to pass this or similar balanced budget legislation cannot go unheeded. As we have had only two balanced budgets since 1960 and eight since World War II, this is a No. 1 priority.

The real reason why we are in this predicament is that our predecessors found it more convenient to resort to deficit spending and inflation-driven bracket creep rather than to a personal commitment to cast a politically difficult role. Without a spending limitation individual Members of Congress have accommodated special interest groups without reducing spending programs. The resultant high stakes of this careless and wanton spending has been high inflation, enormous deficits, and increased taxation, individual and corporate.

Under my joint resolution introduced today, Congress will be forced to vote directly on issues, prioritize programs and require decisions that will be more effective and lead to a more streamlined and efficient Government.

This constitutional amendment, as passed and when implemented 2-fiscal years after ratification, is a major solution to achieving efficient Government. This action will enkindle the basic purpose of our legislative body; to deliberate issues and choose effective programs within our fiscal means.●

AMERICA'S ABILITY TO UNDERSTAND THE U.S.S.R

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 31, 1983

● Mr. HAMILTON. Mr. Speaker, the February 1983 issue of the Atlantic Monthly contained an article by Cullen Murphy profiling Murray Feshbach, one of America's leading experts on Soviet society. The entire article is extremely informative about the Soviet Union, and deserves the attention of all Members.

However, I would particularly like to call my colleagues' attention to the following passages from pages 37-38 and 52 dealing with the state of Soviet studies in the United States:

EXCERPTS

Soviet studies is a young field. On V-E Day it scarcely existed in the U.S. as an academic specialty, and that it exists today is owing to the efforts of a small number of people—historians, political scientists, economists (many of them veterans of the OSS), and a few experienced diplomats—who realized how little was known in the United States about our sometime ally and probable future rival. No one had more than a faint, filtered notion of what the USSR's economy was like or what the quality of life was like; no one could do any more than guess about what the Great Patriotic War had done to the country, what the purges had done, or, even further back, what difference Stalin's First Five-Year Plan had made. And Moscow wasn't telling. For a people having no word in their language for "privacy," the Soviets guarded theirs well.

At war's end, the academic personnel in Soviet studies left a great deal to be desired. Most of the researchers were Russian immigrants. A few of these were first-rate scholars, such as the demographer Eugene Kulischer and the agricultural economist Naum Jasny. Their contributions were valued by their Western colleagues, despite inevitable disagreements. Jasny, for example, frequently complained that American economists paid too much attention to arcane problems of methodology in his work, overlooking, as a result, the larger points he was trying to make about the Soviet Union. One U.S. Sovietologist, an expert on the USSR's military spending who was a graduate student at Harvard at the time, recalls Jasny's outburst after just such a persnickety criticism: "I could run naked from my house in sneakers and all you would say is, 'Your shoelaces are untied.'" Most of the expatriates were not of Jasny's caliber, in any event. Many had ideological axes to grind. As for the U.S.-born or U.S.-trained scholars, with few exceptions they were clustered in Russian history or literature, not Soviet history or literature, let alone Soviet economics, sociology, political science, or philosophy.

The situation began to change soon after the end of World War II, when, with money from the Carnegie Corporation, the Ford Foundation, and other sources, Columbia University established its Russian Institute and Harvard University its Russian Research Center. Both welcomed graduate students from nearly all fields, with the stipulation that they learn Russian and apply their skills to the study of the Soviet Union. The U.S. Air Force commissioned a good deal of the early research, providing money to send a platoon of Harvard staff and students to Germany to glean, from hundreds of questions put to thousands of displaced or captured Soviet citizens, whatever they could about life "back home." The Air Force also channeled money, by way of the Rand Corporation, to Columbia, which established an ambitious economics project under the auspices of the Russian Institute. The head of the project, Abram Bergson, began to parcel out pieces of the Soviet economy to his students as dissertation projects.

Between them, Columbia and Harvard created and sustained the field of Soviet studies and trained the first small cohort of Sovietologists. Their efforts were supplemented from the outset by those of the Central Intelligence Agency (which was chartered in 1947) and within a few years by programs of Soviet studies at other universities, at the National Bureau of Economic Research (NBER), and at FDAD, which was established in 1951 with money from both the Defense Department and the Commerce Department (FDAD's administrative overlord).

Spurred by the quickening of the Cold War, the outbreak of the Korean War, the detonation of the USSR's first hydrogen bomb, in 1953, and, ultimately, by the Sputnik launch, in 1957, Soviet studies expanded rapidly. But it was not just the bountiful fellowships and the field's intrinsic importance that attracted students. The Soviet Union's obdurate bashfulness offered a young generation of scholars an irresistible opportunity: the change not only to interpret the evidence but to find it—in effect, even to create it—and use it to enhance bits of knowledge already acquired. It was like a vast naval board game with a screen separating the two players, one of them charged with locating the other's ships, the skilled opponent cannily keeping them hidden. At stake, however, were not ships but facts.

The rules of the game—it has always had the character of a game, no matter which Great Power tensions happen to intrude—have been simple from the beginning. The second player, the Soviet Union, has only one rule: Maintain control. At this the Kremlin is accomplished. It can variously publish no information about the USSR, incomplete information, contradictory information, wrong information, silly information, or, mischievously, correct information. Its power here is absolute and may be unabashedly exercised. A regime that would clumsily white out now-obnoxious names from the copy of a post-Revolution issue of Pravda that is on display in Leningrad's Museum of the October Revolution does not, after all, fret over appearances. Cadres of censors are employed by the Chief Administration for the Preservation of Secrets in Press, Radio, and Television (GLAVLIT is the Russian acronym) and all printed materials bear a GLAVLIT number—UG 21421, say, or A 07775—designating the censor who approved it: "Inspected by No. 13."

The first player—in the person of Feshbach, perhaps—has no rules at all, only a question: What lies on the other side of the screen? The ultimate objective is to assemble the answers into a portrait of the USSR, but the mere task of collection, let alone of assembly, is forbidding. One is dealing with a country of 270 million people spread across eleven time zones and 8.6 million square miles. There are 104 officially recognized nationalities within the USSR's borders. One hundred and thirty languages are spoken; at last count, novels were printed in seventy-six of them, radio programs broadcast in sixty-seven, textbooks published in fifty-two, plays performed in forty-seven, and scholarly journals written in forty-two. There is not one economy but at least two—the centrally planned official one and the quasi-capitalistic "second" economy, the latter further subdivided into legal and illegal variants. Administratively, the nation is organized into fifteen republics (two with seats in the UN General Assembly, thereby giving the Soviet Union a total of three votes in that body), which in turn are fractured into smaller units: the krai, the oblast', the rayon. The Soviets themselves do not pretend that they fully understand how the USSR functions, or that running the country is an exact science.

* * * * *

The better one gets to know Feshbach and his colleagues, the more one appreciates the fragility of Soviet studies as an enterprise. Its practitioners are spread thin, as if to ensure that there will always be someone to hear the tree falling in the woods. Its sources are brittle, its methods often impro-

vised. It is undermanned and largely at the mercy of external circumstance: the Korean War and Sputnik sent its fortunes soaring, while détente and recession have acted as a drogue parachute. Owing to budget cutbacks in both government and academe, jobs for younger specialists today are scarce. College students are going into other fields. The number of Ph. D.s granted annually in Soviet studies has sunk to pre-1965 levels, and enrollments in Russian-language courses at American universities have declined by more than a third during the past decade. Latin is now more popular on campuses. The depletion in the ranks is so serious that Congress is considering a bill to create a $50 million "Soviet Bloc Research and Training Fund." Last October, W. Averell Harriman and his family gave $11.5 million to Columbia University's Russian Institute (which, as a result of the gift, was renamed in Harriman's honor), in order to help revive Soviet studies in this country. Meanwhile the first generation of Soivetologists is fading into retirement. Hedrick Smith says, "There won't be many Murray Feshbachs around a decade from now, and we will pay dearly for that."●

CERTIFICATION UNJUSTIFIED

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, January 31, 1983

● Mr. WYDEN. Mr. Speaker, I rise today in protest of an unjustified action by this administration—an action with grave implications for the United States and for El Salvador.

Last Friday, President Reagan certified that the Government, of El Salvador is making progresss in its respect of human rights, in achieving control over its armed forces, and in effecting economic and political reforms.

The President also certified that the Salvadoran Government has made a good faith attempt to initiate discussions with all major political factions in El Salvador, and that it has undertaken sincere efforts to investigate the murders of six U.S. citizens there.

Mr. Reagan issued this certification because Congress requires it as precondition for continued military aid to El Salvador.

Unfortunately, President Reagan's conclusion blatantly ignores the facts.

In certifying progress in El Salvador, the administration pointed to a modest decline in deaths attributed to the armed forces over the last 6 months.

There may be such a decline, although it is difficult to get accurate numbers of deaths and disappearances in a nation engulfed by violence. But numbers do not tell the real story. When we look beyond the numbers, we see a country gripped in the throes of a civil war and teetering on the brink of economic collapse. We see a government determined to exterminate its opposition—a government that continues to brutalize its people.

Evidence gathered by human rights organizations, medical experts, lawyers, clergy, and Members of Congress confirm that human rights conditions in El Salvador remain deplorable.

The record is not much better with respect to economic reform—a root cause of the conflict there. Implementation of the land reform program was resumed reluctantly and slowly after the new Government kept it at a virtual standstill for months. The program is due to expire in March, and in light of the rightwing government's avowed hostility to land reform, chances for its continuation are slim.

Nor can we be assured that the Government has tightened the reigns of control over its armed forces. The Salvadoran military—the prime recipient of U.S. aid—continues to wield the only real power in El Salvador. Abuses by those forces continue to take place unhindered by Government prosecution.

What is worse, the army itself is in disarray. The recent rift within the Salvadoran Armed Forces has led to widespread speculation that Defense Minister Garcia will resign. Looking at the line of possible successors, the prospect is increasing that the United States will find itself providing a blank check to a military establishment overtly antagonistic to U.S.-backed reforms.

As for the murder of six U.S. citizens in El Salvador, the investigations have been characterized by footdragging and delay. Nearly 3 years after the fact, these murders remain unresolved, and the trial has been postponed indefinitely. Meanwhile, a prime suspect in one of the murders—a member of the armed forces—has been set free.

Finally, the guerrilla forces have made repeated overtures for unconditional negotiations with the Salvadoran Government—all of which have been flatly rejected by the Government.

Yet the administration remains determined to continue infusing arms into El Salvador, in the hope that somehow this will bring peace.

Funneling arms into El Salvador will not bring peace. It will bring escalation of the conflict and a military stalemate.

And it will bring more human suffering. The unabated violence is taking its toll on the people of El Salvador. The Salvadoran economy is in shambles. Continued fighting and sabotage promise to push the fragile economy over the edge to collapse.

Congress recognized the futility of such a policy when it adopted the certification requirement. The President's certification is a clear violation of congressional intent.

We owe it to ourselves and to the Salvadoran people to cease our reliance on arms as the panacea for the problems in El Salvador. Continuation of this ill-fated policy can only spell disaster for both countries in the long run.●

GOOD TAX CITIZENSHIP BY DIRECT SELLING ASSOCIATION

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 31, 1983

● Mr. STARK. Mr. Speaker, last year, hearings before my Ways and Means Subcommittee on Select Revenue Measures brought out the fact that there was a lack of information available to direct sellers on what are proper tax deductible business expenses. In addition to a lack of positive information, there were a few who made a business of improperly advising direct sellers on taking excessive deductions.

As a result of the hearing, the IRS has published a new tax booklet, No. 911, entitled "Tax Information for Direct Sellers."

The Direct Selling Association has been making a valiant effort to publicize and distribute copies of this new publication—even to the extent of offering a grant to the IRS to cover the costs of printing a large quantity to be sent to most of the direct sellers throughout the United States. For various reasons, the IRS was not able to take the Direct Selling Association up on their offer, therefore, DSA is printing the document itself and distributing large quantities as fast as possible to the members of the association.

This is the best sort of good tax citizenship, Mr. Speaker, and I would like to commend the DSA and its president, Neil Offen, for their fine work in this area. This is the type of good citizenship which has helped give America the world's finest voluntary tax system.●

THE BUREAUCRATIC NIGHTMARE OF LINKING DRAFT REGISTRATION TO STUDENT FINANCIAL ASSISTANCE

HON. GERRY SIKORSKI

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 31, 1983

● Mr. SIKORSKI. Mr. Speaker, I am entering in the CONGRESSIONAL RECORD a letter I recently received from Jon Wefald, chancellor of the Minnesota State University System regarding the new law which requires verification that students have registered for the draft before they are eligible for financial assistance. I believe that Mr. Wefald builds an excellent case for why this law may be a bureaucratic

nightmare. I am very concerned that this is just one more example of the present administration's apathy toward the needs of our college students.

STATE UNIVERSITY SYSTEM,
OFFICE OF THE CHANCELLOR,
St. Paul, Minn., December 29, 1982.

Hon. GERRY SIKORSKI, *Representative,*
Cannon Office Building,
Washington, D.C.

DEAR GERRY: I would like to take this opportunity to express my concerns regarding the new law linking draft registration and student financial aid which is contained in the Defense Authorization Bill, PL 97-252.

My concerns center around the problems that this legislation will create for both the students and for campus officials who will be responsible for implementing several portions of the law.

As you know, students will be required to provide proof of registration by giving the campus financial aid officers a copy of the Selective Service letter they receive after registration. At the present time, these registrants are not required to maintain their letters and may no longer have them. It is my understanding that the Selective Service may establish procedures for students to request copies of their letters; however, this will cause unnecessary delays in the processing of financial aid.

I am also concerned that the new eligibility requirements will further complicate the financial aid application procedures which are already extremely complicated, and delays in the financial aid process often result in a student's decision not to attend college. This will be a factor particularly in the first year of implementation when college officials will need to complete verification for those students who have just reached draft age and also for those students who have registered since 1980.

I urge you to review these provisions of the Defense Authorization Bill and request any assistance you could provide in modifying the law in order to address our concerns.

Thank you very much for your support and interest in higher education.

Sincerely,

JON WEFALD,
Chancellor.●

EXEMPT PENSIONS FROM TAXATION FOR POLICEMEN AND FIREMEN

HON. THOMAS F. HARTNETT

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 31, 1983

● Mr. HARTNETT. Mr. Speaker, in this new session of Congress, I am reintroducing legislation to amend the Internal Revenue Code of 1954 to exclude from gross income (for income tax purposes) amounts which are received from a public retirement system and which are attributable to services as a Federal, State, or local policeman or fireman. Under current law, a retired policeman or fireman must include his public retirement pension as part of his gross income when filing his tax return. My proposal would exempt from taxation the pension for this select group of retirees. I hope you will agree with me that our policemen and firemen are highly deserving of such incentives.

The inherent dangers associated with the job of policeman or fireman deserve to be recognized in a meaningful way. These dedicated men and women risk their lives daily to protect and save their fellow man. In 1981, 123 firefighters died in the line of duty, 103,340 others were injured. Of the number injured, over 10,000 had to be hospitalized.

The life of a police officer is scarcely any safer. In 1982, 108 officers died in the line of duty and 40,000 more were injured. Certainly, the policemen and firefighters of this Nation are worthy of some measure of compensation for the risks they face.

I invite your support.●

CIVIL SERVICE SYSTEM CENTENNIAL

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, January 31, 1983

● Mrs. SCHROEDER. Mr. Speaker, January 16 marked the 100th anniversary of the enactment of the Pendleton Act which established a civil service merit system. Never in the last 100 years has the career civil service been under such attack. At this centennial, I commend to my colleagues that following article from the Washington Post of January 16, 1983, concerning the civil service system:

CIVIL SERVICE TURNS 100, BURDENED BY STEREOTYPES

(By Paul Taylor)

The federal civil service system marks its centennial today unhappy, unhealthy, under siege.

The assault comes from all quarters. Conservatives find the federal bureaucracy untamed and unaccountable. The living, breathing symbol of activist government gone amok. A national nag.

Liberals find it an overzealous guardian of the status quo, a hidebound behemoth forever digging its heels into the path of progress.

And all Americans, regardless of ideology, have been spoon-fed the idea that there is something about public bureaucracies that turns the people who work for them into rule-bound, turf-conscious, empire-building bunglers or, alternatively, lazies and louts who get too handsome a wage, too cushy an annuity and too secure a job guarantee for too little work. What is it, after all, that those folks do?

Some of these stereotypes are at odds with others, but in popular mythology, all manage to thrive simultaneously.

They are as old as the nation, tapping a deep cultural animus towards government and bigness, but only recently have they been given full-fledged presidential notice. President Reagan has branded the bureaucracy a swamp, President Carter an island. And both found it a splendid political whipping boy in an anti-government age. It does not whip back.

Even Madison Avenue has gotten into the act with advertisements for Federal Express that portray the employes of its competitor, the U.S. Postal Service, as surly, lazy, unresponsive. "The worst part of its was they were funny," said George Gould, legislative director of the National Association of Letter Carriers, whose protests helped push the hardest-hitting ads off the air.

Images have consequences. Since 1977, the lot of the federal worker has declined on a number of fronts.

Government salaries, which by law are supposed to be kept at par with comparable private sector wages, are lagging a record 13.9 percent, according to the President's Advisory Committee on Federal Pay. Just six years ago, when Jimmy Carter was inaugurated, there was no gap, This year, with proposals afoot to freeze government salaries, it is likely to widen.

The cost of government employe health premiums has gone up an average of 55 percent in the past two years while the benefits have been reduced an average of 12 to 16 percent.

The jewel of the federal employes' compensation package, the retirement system, has been whittled back four of the past five years and now faces the most sweeping attack in its 62-year history. The Reagan administration is expected to try to scale back the early retirement benefits, increase employe contributions and force new and perhaps some short-term federal employes into the Social Security system.

Since passage of the Civil Service Reform Act of 1978, designed to make the bureaucracy more responsive to political leadership, top-level careerists have enjoyed far less job security against policy or political purges.

Before the act, the history of the past century, beginning with President Chester A. Arthur signing the Civil Service Act on Jan. 16, 1883, to cap a 30-year reform movement, had been overwhelmingly the other way: job protections expanded, the reach of political appointees curtailed.

There is lively debate whether the beginnings of a reversal of that trend have turned out well from the policy and personnel management point of view. Those issues will be examined later in this series.

But from the viewpoint of some careerists, the loss of job protections, combined with arrival of a batch of ideologically zealous political appointees who consider the government the enemy, has been a disaster. "It has gotten to the point where many of the nation's most capable public administrators are forced into being yes-men," said Bernard Rosen, a former executive director of the U.S. Civil Service Commission. "I've never seen it so bad."

On top of this, some lesser indignities. The past two years have brought a brinksmanship confrontation between Congress and the White House over budget appropriations in which federal workers find themselves pawns, periodically unsure whether to report to work.

And the Reagan budget cuts have brought reductions in force (RIFs) which, though small (just one-half of 1 percent of the federal workforce has been directly affected, with three times that number touched by the various "bumping" provisions), has nonetheless pricked the comfortable concoon of federal job security. Critics say the RIF procedures have been at best blunt, at worst politicized.

All of this has taken a predictable toll on morale.

"We are the new underclass of society," said G. Jerry Shaw, president of the Senior Executives Association which represents high-ranking career, bureaucrats. "People make jokes about us that they've stopped making about ethnic groups and minorities."

James Beggs, director of the National Aeronautics and Space Administration, said, "Anytime you are constantly told that you are a bunch of leeches on society, morale is bound to suffer." He worries, as do most top federal executives, that the image, pay and morale problems are leading to a "brain drain" from government.

Despite the agency's gee-whiz glamor, NASA has been losing some of its most promising midcareer engineers, scientists and managers in recent years, and Beggs says he cannot compete with private sector wages for replacements. He worries, too, that the sharpest of the "fresh-outs" from engineering school are going to the private high-tech companies, where starting salaries are at least a third higher.

Government-wide, the brain drain recently reached epidemic proportions in the 55–59 age group of senior executives. Their salaries had been capped during three years of double-digit inflation and their incentives to leave were fueled by the generous early retirement benefits that government workers enjoy.

In 1981, 78 percent of all senior executives in that age group eligible to take early retirement did so. Three years earlier, the retirement figure in that same age group had been just 19 percent. This left the government with a less seasoned managerial corps. According to one 1981 Office of Personnel and Management (OPM) report, the average length of executive experience in the government's senior management corps had dropped nearly 50 percent since 1977.

What troubles bureaucracy's advocates is that as the brain drain takes its inevitable toll, the bureaucracy will become as bumbling as the public thinks it is. "We are in the process of destroying one of the finest governmental institutions ever created by man," Shaw said.

"It is foolishness for a society to destroy its own government," said A. Lee Fritschler, president of the American Society of Public Administrators. "It always has been. Now, when we find ourselves in a resource-scarce, highly competitive international economic system, it is doubly foolish and doubly dangerous."

All well and good, but if these myths are so wrongheaded, why do they persist? We are not, after all, a nation of rubes. Are we just possibly onto something?

Of course we are, said Donald J. Devine, an outspoken, libertarian-leaning conservative who in two years as the bureaucracy's chief steward has shown a special knack for infuriating its defenders.

"The people's perceptions are to a great extent true," said Devine, OPM director. "They think the benefits are higher for government workers, and they are. They think the government workers are inefficient, and they are. But they think it's because they're lazy and that's not right.

"They're not lazy. They just have a lousy system to work in."

Bureaucracies are no strangers to warts. The standard politicians' and journalists' exposition of these warts has been anecdotal—the familiar tale of Dear Aunt Tillie, dead since 1978, whose Social Security check arrives faithfully each month—but the horror stories have flourished in the popular culture because they speak to some built-in bureaucratic dysfunctions that the public perceives.

Political scholars and management specialists have been dissecting these warts for decades. A sampling:

The incentive system for bureaucrats is perverse. They are rewarded with power and prestige for expanding budgets and staff without regard to cost or social good. Given the pressures of the annual budget cycle, the ethic becomes spend it or lose it.

All attempts to control bureaucracies create more bureaucracies. As Americans we intuitively mistrust our government, so we believe fervently in oversight. But as we add more inspectors general, more General Accounting Office accountants, more congressional subcommittee staff members, more internal control mechanisms, we create the need for more bureaucrats to keep the monitors happy.

The corollary is that efforts to keep the bureaucracy honest keep the bureaucracy slow. This is not a new problem. In 1836, the House Ways and Means Committee investigated the Treasury Department's excruciating slowness in releasing public funds. It found that, to guard against embezzlement, five internal clearances were needed before any transaction could be made. More recently, when Rep. Patricia Schroeder (D-Colo.) asked the Pentagon to outline the procedures it follows before approving a contract, the outline required a sheet of paper 33 feet long. There is a plus side to this. Even with its periodic scandal, and the others that surely go undiscovered, the bureaucracy, by worldwide standards, is considered a center of integrity.

Efforts to keep the bureaucracy apolitical keep it inefficient. In response to the abuses of a personnel system based on spoils, the nation has opted for a federal personnel management system that stresses uniformity, rigid rules and strong employe protections. In such a managerial culture, it is cumbersome to reward or punish on the basis of performance. So the mediocre tend to survive and the gifted to depart.

In complex, advanced societies, bureaucratic agencies become advocates for the client groups they were created to serve. "Iron triangles" develop among these advocacy groups, sympathetic congressional committees and bureaucrats, and they protect narrow interests at the expense of broader ones.

The federal bureaucracy is afflicted to some degree by all of these tendencies, but so is most every bureaucracy ever made. However, in the face of these pressures to get bigger, slower and more ossified, there is a credible body of evidence to suggest that this bureaucracy, anyway, is at least holding its own.

Some anti-horror stories:

In the past 30 years, when the size of the federal budget grew 800 percent, the scope of its programs grew exponentially, and the notion of government interventionism took root, the size of the federal civilian workforce went up by eightfold? fivefold? twofold?

No, in the past 30 years, the growth of the federal workforce has been 9.7 percent. Not 9.7 percent a year, 9.7 percent total. In 1952, there were 2.57 million civilian employees. As of the end of last year, it was 2.82 million. The Reagan administration has marginally trimmed a workforce whose size has been basically stable for a decade. It has reduced federal government employment by roughly 50,000 since it came to power.

Look at is another way. Since 1952, the number of federal employees per capita in the nation has declined by 24 percent.

How has this happened? One of the secrets has been that the government contracts out more and more of its work. The cost of its contract payroll exceeds its own payroll by some $20 billion a year, according to one congressional estimate. And the other is that it has shifted workload, if not commensurate policy control, to state and local government. That is where the bureaucratic growth has occurred in the past three decades, from four million in 1952 to nearly 14 million now.

The point here is not whether these decisions to delegate workload make wise public policy. That is a different issue. The point is that the federal government workforce, viewed purely as a voracious bureaucratic beast, has been on a diet.

Nor is that workforce made up exclusively of anonymous clerks and systems analysts, though doubtless it is made up of too many of them. There are more than 2,000 job classifications in the government, covering everything from janitor, construction worker and policeman to park ranger, doctor, physicist, and astronaut.

Since Federal Express has raised the question of postal efficiency, let us ponder it. It makes an especially good topic. Productivity measure are a lot cleaner at the Postal Service than they are at, say, the State Department.

The fact is the United States Postal Service delivers more mail, more efficiently, for less money than in any other nation on earth, and it is getting better.

It moves 110 billion pieces of mail per year, or some 161,879 pieces per employe, a productivity-per-worker rate that is 44 percent above that of the closest competitor, Japan.

The cost of mailing a first class letter in the United States is 12th lowest of 14 industrialized nations surveyed last summer, with only Belgium, at an equivalent of 19.9 cents per letter, and Switzerland, at 9.12 cents, below the Postal Service's 20 cents. Germany charges the equivalent of 33 cents.

Rates here have been rising at a slower pace than inflation since 1974 and, in 1979 for the first time in four decades, the Postal Service operated in the black. It did it again last year, and it is now operating on a fee basis. There are no subsidies anymore from Uncle Sam.

Speed-of-delivery is on the rise, too. In 1982, the Postal Service met its next-day-delivery standard for first class mail, traveling within a metropolitan area 95.5 percent of the time. In the two-day category, performance was 88 percent and in three-day delivery, 90 percent.

Are its window clerks surly? The postal system monitors transactions at postal windows with inspectors asking out-of-the-ordinary questions. How must a parcel be wrapped to qualify for a special rate? That sort of thing. The accuracy rate was 75 percent in one 1980 study, but the pattern of mistakes and inaccurate charges was interesting. It tended to be the clerk giving the customer the benefit of the doubt.

Do postal customers return the favor? Well, they've been checking up on us, on our little fibs and intrigues.

In a 1982 Roper poll commissioned by the Postal Service 2,000 people were asked how often they had given as an excuse for a tardy letter or payment in the past year that it was "held up in the mail." Nine percent said they had. But, when asked if they

had been given the "held-up-in-the-mail" excuse, 23 percent said they had. Somebody, somewhere is trimming the truth, and the suspects are not in the post office.

Productivity measurements are difficult to apply to most of the federal government which produces policy, information and services, not widgets. But coarse standards have been devised for roughly two-thirds of the federal workforce. And they show that since 1967, the average annual increase in productivity has been 1.4 percent among federal workers. This is a growth percentage that would make most sectors of the private economy envious, though comparisons are difficult because the standards of measurement vary.

It is also difficult to make comparisons between this bureaucracy and those of other industrialized nations, but some generalizations are fair. In western Europe, where the anti-government ethic is not as strong and where the value of institutional memory is more accepted, bureaucrats enjoy greater social standing and better pay relative to their private sectors, than here.

But it does not automatically follow that the public's expectations of its bureaucracies in Europe are higher than they are here.

In a 1960 research survey by social scientists Gabriel Almond and Sidney Verba, 1,000 people in each of five different countries were asked if they expected "to be treated as well as anyone else" when they went to a government office with a problem or question. In the United States, 83 percent said they expected equal treatment, in Great Britain 83 percent, in West Germany 65 percent, in Italy 53 percent and in Mexico 42 percent.

This may be as much a measure of the level of cynicism in various nations as it is of the efficacy of the different bureaucracies. But it leads to another point.

The public perception of the bureaucracy here is better than the public perceives. The basis for this seemingly contradictory argument is laid out in "The Case for the Bureaucracy," a book just published by Virginia Polytechnic Institute and State University Professor Charles T. Goodsell.

Goodsell reviews dozens of independent surveys taken over the years of people who had experiences with public bureaucrats at all levels of government, in welfare offices, tax departments, unemployment offices, etc. The pattern is consistent. Two-thirds to three-quarters of the respondents perceive their experiences with the bureaucracy in a generally favorable light. But ask people in the abstract if they think bureaucrats do not work hard, waste the taxpayers' money and are overpaid, and two-thirds of virtually every public opinion sample will give responses antagonistic to the bureaucrats.

Goodsell argues that one reason the stereotypes persist is that "a fundamental feature of the bureaucracy is that it continually performs millions of tiny acts of individual service. Because this ongoing mass of routine achievement is not in itself newsworthy or even capable of intellectual grasp, it operates silently, almost out of sight. The occasional breakdowns, the unusual scandals, the individual instances where an injustice is done, are what come to our attention and color our overall judgment.

Public bureaucracies also must face up to this at the heart of their image problem. In an individualist, freedom-loving culture such as this, the freedoms bureaucracies restrict inevitably loom larger in the mind's eye than the freedoms they preserve.

People do not get down on their knees each time they swallow a pill and thank a bureaucrat for making sure it was not full of carcinogens. But when they read that a drug company must file 120,000 pages of reports to the Food and Drug Administration to bring a new drug onto the market, they think, Red Tape.

Devine believes it is not productive for government workers to feel under siege. "You just can't go around believing every administration is out to get you," he said, but added, "Unless they (government workers) change the way they think about work, the civil service as an institution is going to wither and die. That's what happens to institutions that cannot adjust. You could have the country going part way back to a patronage system, or going more and more to privatization."

The threats to civil service do not seem to be that severe, but federal workers clearly are under attack, the scapegoats of an anti-government age.

What rankles them most about their status is expressed in a line from historian Thomas Carlyle: "In the long run, every government is the exact symbol of its people, with their wisdom and their unwisdom."

In other words, what makes bureaucracies bureaucratic is not them, but us.

"The civil service is not some foreign power," Don Goldman, a careerist at Interior, wrote in this newspaper some years ago. "Nor is it an invading army. It is doing, in the best way it can, the jobs assigned to it. We make mistakes, like most people, and we have louts and lazies among us. But we think it's nonsense for those who are giving the orders—the voters, Congress, the president—to ridicule us for following them."●

DR. GEORGE B. FIELD AWARDED SMITHSONIAN HENRY MEDAL

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 31, 1983

● Mr. FUQUA. Mr. Speaker, it gives me great pleasure today to address the House with respect to the award of the Henry Medal by the Smithsonian to Prof. George Field of the Harvard/Smithsonian Center for Astrophysics.

The medal is named for Joseph Henry, a famous 19th century American physicist and the first Secretary of the Smithsonian. An international unit of inductance, the Henry, is named in honor of his contributions to science.

George Field has carried on this great tradition, helping to maintain the world-leading role of the United States which has its roots in the early work of men like Joseph Henry.

The medal was awarded by Smithsonian Secretary S. Dillon Ripley who read the following citation:

With deep appreciation to the founder of the Center for Astrophysics, whose broad vision of astronomy and astrophysics has guided the Smithsonian Astrophysical Observatory and the Harvard College Observatory for a decade, creating the intellectual and cooperative climate for a surge of astronomical advances, the Board of Regents takes great pleasure in awarding to George B. Field the Henry Medal.

As Secretary Ripley indicated, Professor Field was the founding director of the Center for Astrophysics in Cambridge. He came to Massachusetts in 1973 from the University of California at Berkeley where he was chairman of the astronomy department. Dr. field has stepped down from the directorship of the Center for Astrophysics to return to full-time teaching and research on the dynamics of interstellar matter and cosmology. Currently he is on sabbatical at the Institute for Advanced Study at Princeton.

He had a principal role in building and flying the "Einstein Observatory," formally the High Energy Astronomical Observatory II, a satellite which made major innovative contributions to the field of high energy astronomy.

I want to mention another very important contribution that Dr. Field made to astronomy and also the Congress. Here I am referring to the Astronomy Survey Committee of the National Academy of Sciences, which under his leadership justly became known as the Field Committee. Why is the work of this committee important to us? Because they set priorities for astronomy in their report "Astronomy and Astrophysics for the 1980's." The Congress of course wants the Nation to have strong science programs, but this often involves decisions on resource allocation which are very difficult for us to make. Dr. Field helped by guiding the Survey Committee to a consensus on which astronomy projects should be supported in the next decade. I know that Dr. Field would have perferred to put all his efforts into his research, but he accepted the chairmanship, spent many hours on it, and produced a very valuable report.

Mr. Speaker, I think the United States can be justly proud of George Field, and I commend the Smithsonian for recognizing his accomplishments.●

THE FAIR LAB PAYMENTS ACT OF 1983

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, January 31, 1983

● Mr. WYDEN. Mr. Speaker, today I am introducing a bill that will save money and improve the health care delivery system by prohibiting discriminatory billing practices by medical laboratories that participate in medicare.

My bill, the Fair Lab Payments Act, would treat doctors, medicare and medicare beneficiaries equally.

And in so doing, it would save medicare and its beneficiaries $50 million in 1984 alone.

This may all sound too good to be true, but it's not.

Under my bill, independent labs for the first time would have to develop one uniform fee schedule for direct billing to doctors, medicaid, medicare and medicare beneficiaries.

For the first time, independent labs would be able to send out only one billing notice instead of two.

And for the first time, independent labs would be treated like other institutional providers such as hospitals, skilled nursing homes, and home health agencies, and would have to accept assignment—the total amount of money the Government has agreed to pay for lab tests.

Under current law, many of the 3,400 independent labs which perform low-cost lab tests have two fee schedules.

One low-cost fee schedule for doctors and medicaid.

A second high-cost fee schedule for medicare and its beneficiaries.

The average difference in cost is $2.75 per test. When you multiply that by the 18 million laboratory tests performed each year, you end up with a devastating financial impact on the system and its beneficiaries.

Mr. Speaker, I am not the first person to notice the inequities in the current system. The Oversight Subcommittee of the Energy and Commerce Committee conducted hearings on this issue last year. And the Inspector General of the United States recommended some time ago that these discriminatory billing practices be prohibited.

The only reason something was not done sooner is because no one had the hard, cold facts to support what we knew had to be done.

Now we have those facts. In a letter to my office last week, a General Accounting Office health care financing adviser stipulated that the estimated savings to medicare under my bill would be $15 to $30 million in fiscal year 1984 alone. In addition, this expert stated, beneficiaries could expect to realize a $35 million savings during that period.

Other health care financing experts with whom I have spoken think these savings estimates are low.

Mr. Speaker, I believe the Fair Lab Payments Act is a bargain we cannot afford to pass up. By ending the discrimination in direct billing between doctors, medicaid, medicare, and beneficiaries, the Fair Lab Payments Act will restore fairness to the medicare system. It will also save money at a time when savings are desperately needed.

I urge my colleagues to support the Fair Lab Payments Act.

H.R. 1106

A bill to amend part B of title XVIII of the Social Security Act with respect to payment for laboratory services under the medicare program

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the Fair Lab Payments Act.

SEC. 2. (a) Section 1833 of the Social Security Act (42 U.S.C. 13951) is amended—

(1) by striking out "negotiated rate" in subsection (a)(1)(D) and inserting in lieu thereof "established payment rate",

(2) by inserting "or for low-cost diagnostic tests the amount of payment for which is determined under subsection (h)" in subsection (b)(1) after "1861(s)(10)", and

(3) by amending subsection (h) to read as follows:

"(h)(1) With respect to low-cost diagnostic tests performed in a laboratory for which payment is made under this part to the laboratory, the Secretary shall establish payment rates on a statewide or areawide basis which shall be considered the full charge for such tests under this part. The Secretary shall establish such payment rates for a test in a manner—

"(A) that assures that the payment amount will not exceed either the amount that would have been paid for the test in the absence of this subsection or the amount the laboratory commonly charges physicians for the test, and

"(B) that takes into consideration (i) the payment amounts determined with respect to the test under paragraphs (2)(B) and (3) of section 1842(h) and (ii) the amounts established, under the State plan approved under title XIX, for the payment for the test.

"(2) For purposes of this subsection, the term 'low-cost diagnostic test' means a diagnostic test the payment amount for which (under this subsection) the Secretary estimates will be $15 or less.".

(b)(1) Section 1861(s) of such Act (42 U.S.C. 1395x(s)) is amended—

(A) by striking out "; and" at the end of paragraph (11) and inserting in lieu thereof a comma,

(B) by redesignating paragraphs (12), (13), and (14), as paragraphs (13), (14), and (15), respectively, and

(C) by inserting after paragraph (11) the following new paragraph:

"(12) has an agreement in effect with the Secretary by which the laboratory agrees to accept the amount determined under section 1833(h) as full payment for diagnostic tests to which that section applies and to accept an assignment described in section 1842(b)(3)(B)(ii) with respect to payment for all such services furnished by the laboratory to individuals enrolled under this part, and".

(2) Section 1864(a) of such Act is amended by striking out "(11) and (12)" and inserting in lieu thereof "(11) and (13)".

Sec. 3. The amendments made by this Act shall apply to diagnostic tests furnished on or after October 1, 1983.●

REPEAL OF THE JONES ACT THIRD PROVISO WILL PROTECT U.S. JOBS AND INVESTMENT

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, January 31, 1983

● Mr. BONKER. Mr. Speaker, I am pleased to introduce today a measure that will remove an anomaly from our Nation's maritime laws. My legislation will repeal the so-called third proviso of the Jones Act, which threatens to divert domestic waterborne commerce from Puget Sound to Canadian ports, jeopardizing several hundred million dollars of capital investment and thousands of jobs in the Pacific Northwest.

The Jones Act was adopted in 1920 to promote the development of domestic maritime transportation. The third proviso was enacted as an exception—primarily to permit continued rail and ferry service from the Midwest to New England. Now, however, there is a danger that the third proviso will be use to cripple domestic waterborne trade between Washington State and Alaska.

The historical record is clear. The third proviso was never intended to permit Canadian rail or waterway control over trade between the continental United States and Alaska. Since it no longer serves its original purpose—and since it threatens vital domestic commerce—the third proviso must be repealed.

I know some will suggest that additional transportation service to Alaska might promote competition and reduce rates. I can say with considerable certainty that this would not be the case. Instead, Canadian rates would be set only low enough to drive U.S. ships from the Alaskan trade. The savings would not be passed on. And once U.S. ships departed the trade, rates would be free to skyrocket. In the process, U.S. investment, employment, and income would be undermined.

I am pleased that many of my colleagues in the Pacific Northwest have agreed to cosponsor this important measure: Representative YOUNG of Alaska and Representatives SWIFT, PRITCHARD, LOWRY, of Washington, Dicks, and CHANDLER. This broad, bipartisan support indicates a consensus favoring prompt action on the bill.

H.R. 1076

A bill to strengthen the domestic water borne commerce of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 27 of the Merchant Marine Act, 1920 (46 U.S.C. 883), is amended by striking out *"Provided further,* That this section shall not apply to merchandise transported between points within the continental United

States, including Alaska, over through routes heretofore and hereafter recognized by the Interstate Commerce Commission for which routes rate tariffs have been or shall hereafter be filed with said Commission when such routes are in part over Canadian rail lines and their own or other connecting water facilities:".●

THE PUBLIC PRINTER

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, January 31, 1983

● Mr. HOYER. Mr. Speaker, recently William J. Boarman, president of the Columbia Typographical Union No. 101, sent me an article on the Public Printer and the GPO, published in the New Republic. This article takes a look at the recent squabbles between Danford Sawyer, the Public Printer, and the unions, and between Mr. Sawyer and the Joint Committee on Printing. I share this article with my colleagues here.

I would also like to point out that the employees of GPO, who print this RECORD, do a fantastic job. The work they produce under the most difficult of time constraints is first rate. I applaud their continual efforts in improving their product, whether it be printing a pamphlet on cooking without salt or the President's budget.

THE PUBLIC PRINTER GOES PRIVATE—REBEL WITHOUT A CASE

(By Dorothy Wickenden)

Unlike most of Washington's vast, colorless federal agencies, where thousands of civil servants can toil for months with nothing tangible to show for their efforts, the 122-year-old Government Printing Office produces concrete, measurable goods—thousands of them, every day of the year. In 1981 the G.P.O. which prints, binds, and distributes publications for the three branches of the government, ran off its presses close to 104 million pounds of paper. It printed six million copies of the Congressional Record, 15.7 million copies of the Federal Register, 813,000 House and Senate calendars, and 14.7 million copies of bills, resolutions, and amendments, not to mention thousands of executive agency books, pamphlets, and flyers. The G.P.O. is one of the largest job printing outfits in the world, and, with 6,000 workers, it is the largest industrial employer in Washington. So it was a natural candidate for a good strong dose of the Reagan Administration's spirit of free enterprise.

When the Public Printer of the United States retired in 1980, President Reagan appointed 42-year-old Danford L. Sawyer, Jr., a Republican activist who had served on Florida's Reagan for President Committee, to replace him. Sawyer left his comfortable retirement in Sarasota, where he had made a fortune in advertising and publishing, and came north to become one of the Administration's fiercest proponents of private-sector orthodoxy. Like so many of the President's appointments, Sawyer came into the office with a professed disdain for the "federal bureaucracy" and a determination to reform the system. It would be hard to imagine a starker contrast than between Sawyer and John Boyle, his stolid, apolitical predecessor who worked his way up from proofreader to Public Printer over thirty years, avoiding innovation but fulfilling the G.P.O.'s time-honored role as a dependable arm of Congress.

Old and set in its ways, the Government Printing Office probably could have benefited from energetic new management. But Sawyer's revolution has been less than a smashing success. His schemes to cut costs and increase sales have been ill-conceived and clumsily implemented. He has found that his dignified title is misleading: his duties as Public Printer are extensive, but his power is maddeningly circumscribed. The G.P.O. is required by law to print whatever Congress, the agencies, and the President demand—critical legislative documents such as the Congressional Record, historical source material such as the public papers of the Presidents, and an eclectic assortment of agency publications, ranging from the homespun (Apples in Appealing Ways) to the historically weighty (The "Magic" Background of Pearl Harbor, an eight-volume study of cryptoanalysis during World War II). Furthermore, it is the G.P.O.'s oversight committee, the Joint Committee on Printing, not the Public Printer, which is the final arbiter on personnel and budget matters. Even the "commercial" side of the G.P.O., the Superintendent of Documents division—which distributes government publications through twenty-seven regional bookstores, 1,350 depository libraries, and a sales program—must answer to the committee on major policy decisions.

Sawyer, however, did not come to Washington to be a caretaker. His first bold move was to defy the authority of the Joint Committee and take matters into his own hands. Last March, announcing that the G.P.O. was "hemorrhaging" because of exorbitant labor costs and a decline in printing requests from the agencies and Congress, he abruptly demanded that all personnel take six-day furloughs over the next several months. The unions sought a federal court injunction to prevent the furloughs, and organized a march on the Capitol, led by Mayor Marion Barry. Sawyer was furious. He told a Washington Post reporter, "The economic impact of this is that they're not going to be able to go to Pizza Hut on Friday night. They're all screaming like pigs. It's absurd." But the real act of insubordination was Sawyer's. The court ruled in favor of the unions; Sawyer has appealed the case. Many of his employees now go to work wearing the button pictured on this page.

At the same time that Sawyer was making rude remarks about his union employees, he was causting aspersions on Senator Charles McC. Mathias, chairman of the Joint Committee on Printing. Accusing Mathias and other committee members of a pro-labor bias, and complaining that legislators shouldn't be involved in the management of a large industrial organization like the G.P.O., he proposed that the committee be abolished and replaced by a board of directors. (Unchastened after the decision on the furloughs, Sawyer had demanded that the unions accept a 22 percent pay cut; he eventually settled on a 5 percent cost of living raise.) If he were given free reign, Sawyer said, he'd shut down most of the three hundred branch federal printing plants across the country (which do the agencies' "quick and dirty" internal work), and contract out the printing to private companies. In fact, the committee is phasing out the plants that have outlived their usefulness, although less precipitously than Sawyer would. And because the G.P.O.'s presses are limited to one- and two-color printing, 72 percent of its printing , including the majority of agency work, is already being done by the private sector. Sawyer, however, would contract out all Congressional printing as well, purportedly saving the public millions by allowing the system of free enterprise to take over. "I don't want to sound like a revolutionary," Sawyer told one columnist, "but if the American taxpayers knew the kind of screwing they were getting in this operation, they'd all pick up a rifle and march on this place."

Before Sawyer was through, the G.P.O. was indeed in trouble. He had antagonized both his subordinates in the agency (who circulate a weekly comic strip that pokes fun at his intemperate plots) and his supervisors on the Joint Committee on Printing (who skeptically scrutinize every action he takes)—all of which has helped to confirm his darkest suspicions about the dangers of strong unions and the intransigent federal bureaucracy. Before he started, however, the G.P.O. had been doing fine. Contrary to his alarming statements about the G.P.O.'s "bleeding all over the place," the Joint Committee on Printing and the General Accounting Office say the G.P.O.'s finances have been sound for at least the last ten years, and, according to John Boyle, the agency has operated in the black for every year since its founding except one. A staff member of the Joint Committee says the General Accounting Office's preliminary report on the agency's financial statements for last April, May, and June cited "major accounting errors and miscalculations, with costs overstated, revenues not properly recognized, and building renovations not properly capitalized." John Boyle says simply, "Dan Sawyer uses an accounting method I wouldn't use in a poker game."

What is the bottom line at the G.P.O.? The flurry of charges and countercharges makes it hard to know. But one thing seems clear. The agency's thousands of entrenched civil servants have done an extraordinarily efficient job over the years, achieving economies of scale in its Congressional printing that private printers couldn't hope to match. During his confirmation hearings, following a ninety-day stint as a consultant to the G.P.O., Sawyer himself grudgingly admitted, "I have been much surprised to find that the Government Printing Office has been able to attract and to retain some very high-quality people; and the end result is some very high-quality work. The work produced is on a time schedule that is almost miraculous."

Clearly Sawyer's revamping of the G.P.O. has been inspired more by ideological fervor than by financial necessity. And for all his fury about the squandering of scarce funds on union salaries, Sawyer had hardly been a model of frugality in his own management policies. In April, a month after the furlough fuss, he was embarrassed when a Jack Anderson column disclosed that during his hiring freeze he had launched his highly touted new marketing division with ten political appointments (at a combined salary of $300,000), doubled the number of top-level civil service positions (each of which pays over $50,000), added a fourth assistant public printer, and created two new deputy assistant public printers. To date, Sawyer has spent close to $1 million on new executive salaries.

Some of these executives, liberally interpreting Sawyer's directive that office remodeling "be absolutely warranted by need and need alone," proceeded to spend, according to Anderson, over $234,000 to renovate their offices when Sawyer was on vacation in Florida. The newly designed suites, in startling contrast to the shabby industrial plant decor of the rest of the G.P.O.'s headquarters, include walnut paneling and trim, new desks, chairs, and carpeting, and a different color scheme for each. Sawyer attempted to exonerate himself from some of the "unwholesome things" implied in the Anderson column by printing (at taxpayers' expense) 9,000 copies of an "Open Letter to Jack Anderson," in which he correctly, if disingenuously, pointed out that much of the building is in a state of dangerous disrepair. Representative Joseph Gaydos, a member of the Joint Committee, revealed in September that the executive office refurbishing and related expenses exceeded $1 million.

Given the extravagant expense generated by Sawyer's marketing ventures, one can only hope they fare better than his labor policies. But despite his impressive past record in promotion and sales, the prospects look dim. Here too he let zeal overtake sober judgment. Last October, in a departure from the unimaginative distribution methods of past Public Printers, Sawyer and his new marketing staff launched a $2- to $3-million "multimedia blitz," featuring public service announcements on TV (in which Ben Franklin confides that G.P.O. books help him keep abreast of the changing times) and a handsome fall books catalog displaying the G.P.O.'s best sellers. There is no reason why the G.P.O. shouldn't package its publications more attractively, and if Harlequin Romances can sell books on TV, theoretically the G.P.O. can do the same. But unfortunately, no matter how sophisticated the media blitz, the audience for most G.P.O. books, which tend to cover dreary subjects like foot rot in sheep and federal aviation regulations, will be limited. John Boyle says wearily, "It's been tried before. He'll be lucky if he recovers any money. The government publishes a peculiar type of document, which is already getting into the hands of most people who need it. He's not selling best sellers by Teddy White or James Michener."

Public Printers of the past, much like the reputable old publishing houses, operated on the principle that the big-selling publications would help subsidize those that lost money but were deemed intrinsically worthy. Sawyer, who sees himself as a distributor who must answer to the laws of supply and demand, has snuffed that sentiment. He's cleared out the warehouse in Laurel, Maryland, of a backlist of seven thousand "worthless" titles, selling off as waste paper documents valued at $11 million. He's stopped carrying publications that the marketing director believes won't turn a profit within eighteen months, saying they can be found in the depository libraries or ordered directly from the publishing agency. And last year he attempted, unsuccessfully, to eliminate twenty-three of the G.P.O.'s twenty-seven bookstores because, he told me, they weren't making consistent profits (a statement that is being challenged by the Joint Committee on Printing and the General Accounting Office). "Cut out the losers and accentuate the winners," Sawyer says briskly. "That's what everybody does. If a grocer sees that his dates aren't selling, what does he do? He gets rid of them."

Of course, Sawyer isn't in business to peddle fruit and vegetables. His job is to disseminate information to Congress and the public as cheaply and as widely as possible. Until Sawyer's tenure, the G.P.O. had served a nonpartisan archival function—rather like the Library of Congress. There is no question that Sawyer is a good ad man (the catalog of best sellers makes even the "Venomous Arthropod Handbook" look enticing), and that the media campaign will make the general public more aware of what publications the G.P.O. has to offer. Whether or not people will be able to afford them is another matter: Sawyer has raised the prices of agency publications between 10 and 50 percent over the past year. He says, with some justification, that the prices of the G.P.O.'s books hadn't kept pace with rising printing, postage, and paper costs. But the G.P.O. can afford to sell the publications at bargain rates, since the agencies bear virtually all of the printing and editorial costs. New mothers are now being asked to pay $4.75 for the 67-page pamphlet, "Infant Care." If the Superintendent of Documents division did indeed make a $4.5 million profit in fiscal year 1982, as it claims, it would appear that it is overcharging its customers. Disgruntled librarians, public interest groups, and consumers charge that the effect of the G.P.O.'s new sales strategies, like that of the Office of Management and Budget's elimination of 2,000 agency publications, has been to restrict the public's access to government information.

Danford Sawyer's entrepreneurial overhaul has succeeded in at least one respect: the Government Printing Office is no longer the staid, uneventful place it once was, even if things haven't turned out quite the way he'd foreseen. But if Sawyer's critics resent the havoc he's wreaked through his fanatic fiddling, Sawyer is equally annoyed about the ingratitude of those for whom he has sacrificed so much to be a public servant. "I've got a Jaguar, an MG, two station wagons, a thoroughbred, and two quarter horses out there," he said in the July issue of Washingtonian. "I retired before I came up here. I need this garbage like a hole in the head."●

TIME FOR RATIFICATION OF THE GENOCIDE CONVENTION

HON. GERALDINE A. FERRARO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, January 31, 1983

● Ms. FERRARO. Mr. Speaker, in 1933, at an International Conference on the Unification of Criminal Law, the idea was put forth that genocide should be made an international crime. The conference, an arm of the League of Nations, did not act on the idea, as it was generally regarded to be too remote a matter.

In the aftermath of World War II, as the horrors of the Nazi Holocaust were fully revealed, the proposal to make genocide an international crime gathered new urgency. The newly formed United Nations, responding to the outrage of its member nations, established a seven-nation ad hoc committee to draft an international convention making genocide a crime.

The ad hoc committee, which was chaired by the United States, produced a treaty titled "Convention on the Prevention and Punishment of the Crime of Genocide." In the 35 years since the convention was unanimously approved by the United Nations, it has been ratified by 88 nations. Sadly, despite the leading role the United States played in drafting the treaty and steering it through the United Nations, we remain one of a very small group of nations which has never ratified.

Through the years, the treaty has had strong support from Democratic and Republican administrations. Past opposition to the treaty has been based on legal and constitutional concerns of the American Bar Association. The ABA's house of delegates, however, reversed its position in 1976 and voted in support of U.S. ratification.

The 20th century has seen repeated occurrences of genocide. Putting an end to genocide requires our constant vigilance and our constant recollection or the horrors of the past. Beginning with the massacre of the Armenians, and including the Holocaust against the Jews, and the attempted genocides in Biafra and Cambodia, this century has witnessed unspeakable crimes against humanity again and again.

The United States has always prided itself on its role as a leader in the struggle to end human rights violations. It is long past time for us to take our rightful place in the community of nations by ratifying the Genocide Convention.

I have today introduced a resolution expressing the sense of the House that the United States should ratify the convention. I urge my colleagues to join me in a bipartisan effort to achieve that result.

We must insure that we recall the crimes of the past, so that we can guard against the crimes of the future. Adolph Hitler, before undertaking what he called his final solution, is reported to have said, "Who still talks nowadays of the extermination of the Armenians?" Ratifying the Genocide Convention is the best way for us to show that we remember and that we are determined to prevent future genocides.●

PREVENTING HUNGER AT HOME

HON. JAMES M. JEFFORDS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Monday, January 31, 1983

● Mr. JEFFORDS. Mr. Speaker, I have joined with my colleague from California, Mr. PANETTA, and some 90 other Members of Congress in introducing House Concurrent Resolution

40, entitled "Preventing Hunger at Home."

It is with conviction and some sadness that I do this. Conviction that the Federal Government must maintain its efforts to fight the serious problems of hunger and malnutrition across the land; sadness that these problems remain with us and appear to be on the increase.

The Federal Government must not reduce its efforts or its expenditures to combat hunger here and now. None of our nutrition programs are perfect, and none cannot be improved. But neither can they be diminished until our people are back to work and able to afford adequate and nutritious meals.

I urge my colleagues on both sides of the aisle to join me in sponsoring this resolution and committing ourselves to meeting the most basic needs of our citizens.

The 98th Congress has few priorities before it that are more important than reducing the Federal deficit.

Among these few is preventing hunger at home. That is the most simple and fundamental reason behind the introduction of this resolution today.

We have mounting evidence that many Americans are not getting enough to eat. For many months now, I have anxiously watched as soup lines have grown longer and food baskets have been stretched farther. I hoped that individuals, charities, and private organizations would be able to cushion the combined impact of a prolonged recession and the Federal Government's attempt to scale back spending.

But in spite of their efforts, I do not think they are up to the task. Food banks in my home State of Vermont report a doubling of demand in the past year and reduced funding. While they used to be busy primarily at the end of the month, nowadays they are busy throughout.

From the rest of the country, the reports are the same. The State of Michigan has recorded the biggest single-year jump in its infant mortality rate since World War II, reversing a steadily downward trend since that time. And the same is true in half a dozen other States and dozens of cities across the Nation.

Fortunately, the same is not true of my own State. Vermont has one of the lowest infant mortality rates in the United States, about 8 per thousand compared to Michigan's 13.2.

The reasons for this are obviously complex. Vermont has so far not suffered nearly so much from the unemployment that has plagued the Northeast and Midwest. But I think of equal significance is the contribution of Federal nutrition programs in the State.

Vermont is one of the few States that has a statewide delivery system for the women, infants, and children program, commonly referred to as WIC. According to 1980 Department of Agriculture figures, Vermont's WIC program met the needs of 70 percent of the eligible population. This compares to an average of about 20 percent in most States.

I know of no study proving a causal relationship between the success of Vermont's WIC program and its relatively low rate of infant mortality, one of the lowest in the country. But WIC's success, and its cost effectiveness, are well known. I strongly believe the relationship is more than coincidence. Vermont is not a wealthy State. Medical care is not as abundant there as it is in many places. But the nutritional needs of Vermonters have, for the most part, been met in the past.

I am not sure this is true any longer.

Hospitals and clinics report an increase of signs of cases involving malnutrition. In Children's Hospital in Boston, in Cook County Hospital in Chicago, and around the Nation, signs of hunger are reappearing.

This trend is a specially painful one. As a nation, we took justifiable pride in the fact that hunger in America had largely been eliminated during the last decade. That accomplishment stands as one of the finest examples of what a Government can do for the people it serves.

But our pride may have been accompanied by complacency. And for a moment, we may have overlooked the fact that hunger, unlike disease, cannot be eliminated, never to return. For perhaps a fifth of our people, it always looms just a few dollars away.

Our efforts to create effective and reasonable responses to hunger in America must continue. Unfortunately, these efforts in the past have seemed especially vulnerable to legislation by anecdote. Let me stress that this is true on both sides of the issue. We should no more support increased nutrition funding on the basis of a solitary newspaper account than we should decreased funding based on a single story of fraud.

This is why I want to commend my colleague, Mr. PANETTA, for his commitment to holding field hearings on this vital issue. We desperately need to increase our understanding of the scope and depth of hunger in the United States. We need to move beyond anecdotal evidence and build a solid body of irrefutable fact. It is a difficult challenge, but I know of few Members of Congress better equipped to take it on than my colleague from California.

Even now, the handwriting is on the walls—the walls of the soup kitchens, the shelters, and the wards. The evidence, partial and preliminary, is there for all to see. And seeing it, we simply cannot accept further cuts in Federal feeding programs.

This is not a position I take lightly. In my opinion, no program in a budget $200 billion in the red is safe from scrutiny. But these nutrition programs have been subject to scrutiny, reform, and reduction over the past few years to the point where they barely fulfill their purpose, if indeed they still do.

Would that we could simply strike a line item labeled "Waste, Fraud and Abuse." I just do not think it is realistic to believe that we can cut every dollar that winds up in the wrong hands without also cutting dollars that are desperately needed by the hungry citizens of our country. Over the past many years, we have made honest and repeated attempts to reform the Federal nutrition programs so that benefits are properly targeted and waste is reduced.

These effort will and should continue. We cannot countenance the current error rates in the food stamp program and have attempted to correct them. But how much of these error rates are our own doing? Last year, we legislated reforms in the program before the previous year's changes were even in place. We made changes before we knew that worked and what did not.

I believed the administrators of this and other nutrition programs need a respite from the constant stream of changes we have been forcing on them. We need to carefully examine that we have done, how it is working, and how it might be done better.

And finally, we must avoid at all costs making this into a partisan issue, full of name calling and finger pointing. That might serve some people's interests, but it would be a tragic disservice to the truly needy people of this country. I hope that we can act in a responsible, bipartisan fashion, and get on with the business of preventing hunger at home.

Thank you very much.●

HARRY AND DAVID L. HERMAN HONORED IN NEW ORLEANS

HON. LINDY (MRS. HALE) BOGGS

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 31, 1983

● Mrs. BOGGS. Mr. Speaker, On January 16 two of New Orleans' leading citizens, David and Harry Herman, were honored by the B'nai B'rith Foundation of the United States at a dinner in New Orleans. These two remarkable brothers have given selflessly of their time and energy to our community.

Both have enjoyed oustanding professional careers in the law. Harry, a graduate of Loyola University and the Tulane School of Law, has been in practice since 1936. He is a founding member of the American Trial Lawyers Association and is an arbitrator

for the American Arbitration Association.

He has devoted much of his effort to the Jewish community and service organizations. He is a past president of Communal Hebrew School and of Southern Young Judea and is active in B'nai B'rith. He has also served as a board member of Congregation Anshe Sfard and Chevra Thilim, the Jewish Federation, the Jewish Community Center of New Orleans and the Zionist Organization of America. Harry is married to Reba Herman and they have five children and six grandchildren.

David Herman is a graduate of Loyola University of the South and the LSU Law School. He is a founding member of the Trial Lawyers Associations of New Orleans and Louisiana and has served as judge ad hoc for the New Orleans Juvenile Court.

He has served as president of the New Orleans Zionist District, Congregation Chevra Thilim, the Communal Hebrew School and the Senior Young Judeans, the B'nai B'rith, and the Jewish Welfare Federation of New Orleans. David and his wife, Berth, have four children and five grandchildren.

I was pleased to have had the oportunity to join with Harry and David Herman's family, friends and neighbors on January 16 in saluting their service and dedication to the community. They have set a fine example for all of us.

Thank you.●

UKRAINIAN INDEPENDENCE DAY

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, January 31, 1983

● Mr. HERTEL. Mr. Speaker, January 22, 1983 marked the 65th anniversary of the proclamation of the Independence of Ukraine. Unfortuantely, their independence was short lived. By 1920, just 2 years after the proclamation, the Ukrainian National Republic fell to Communist Russia. Yet, Ukrainian nationalism did not die; although the past 65 years reflect persecution, intense effort to Russianize the population, and suppression of the freedom and rights due to a nation with such a rich cultural heritage and desire to preserve their own traditions.

Moscow has sought to destroy the strong national consciousness that still exists among Ukrainians. This has been done through outright annihilation, executions, famines, and deportations. Three to five million Ukrainians died because of forced collectivization of agriculture.

The majority of universities must teach their students in Russian, not Ukrainian. Countless intellectuals, writers, professors, students are arrested for being anti-Soviet in their work. Every effort has been made to destroy the cultural identity still left among Ukrainians.

It is up to those of us, as Americans who have our freedom intact, to speak out against these repressive measures in other countries. No people should have their cultural, religious, and political rights denied to them. As the 65th anniversary of Ukrainian independence is celebrated, we must show tribute and respect to Ukrainians seeking the right to be allowed their own national identity.●

NATION'S INFRASTRUCTURE IN DIRE NEED OF REPAIR

HON. AUSTIN J. MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 31, 1983

● Mr. MURPHY. Mr. Speaker, I rise today to bring to the attention of my colleagues a major problem of declining public works investments, which has touched virtually every public works activity. Consider these examples: In Altoona, Pa., a school bus pauses on the threshold of Lilly Bridge allowing the children to cross first because the 57-year-old bridge cannot withstand the weight of both the bus and the children; basement flooding is a frequent fact of life in Cleveland—sewage backs up as well as rainwater; and in Jersey City, N.J., last summer, a major aqueduct broke, leaving 300,000 residents without drinking water for 6 days.

Are these examples of infrastructure failings isolated and coincidental, or do they reflect a major national problem? I suggest the latter; our entire infrastructure system is deteriorating at an alarming rate. Of our 42,000 national road miles, 8,000 miles need radical reconstruction and roads continue to join the "unemployed" list at the rate of 2,000 miles per year; one-fifth of the Nation's bridges require immediate attention to meet safety standards; one-half of all water systems need repair; and one-half of Conrail's tracks are in a state of decay. Our damaged transit system has cost the United States billions of dollars in time, gas, and equipment and, most lamentably, thousands of human lives.

I believe the causes for such conditions are threefold. Basically, our infrastructure system is a product of the first half of this century and, quite simply, it is old. The average life expectancy was 25 years. Overuse has also accelerated the aging process. A Boston highway built in 1959 for 75,000 cars daily now crowds 150,000 cars onto its cracked lanes. To compound the age factor, we are spending less on maintaining the functional portion of our infrastucture that remains. Federal financing of public works is heavily biased toward new construction, which causes existing public works facilities to decay. The third factor in the deterioration of our infrastructure concerns distribution. What funds we do have, reduce though they are, are grossly misapportioned. What is needed is an equitable distribution of Federal funds, which gives priority to the areas of the country that are in the greatest need of repairs.

The problem before us thus concerns age, declining investment, and unequal distribution. To begin to correct infrastructure decay, the Federal Government must acknowledge its financial responsibility. Pat Choate and Susan Walter, in their 1981 publication for the Council of State Planning Agencies, "America in Ruins," estimate a $3 trillion job. Before, however, we call upon American citizens to invest in infrastructure repair, we must assess the situation and determine what regions are in most need of assistance. Planning commissions have worked in the Capital District, where in 1977, funds were allocated for infrastructure reapirs. After a mile-by-mile survey, a plan was developed based on need. The project was completed and successful.

Bearing all this in mind, I am calling for the establishment of a national commission which would conduct an inventory of the entire national infrastructure system and assess need and cost of repair. The commission would then draft a 12-year investment plan determining how and where to spend the Federal moneys already available in the public works budget. We cannot effectively rebuild America without a plan, and unless we plan now, our entire transportation network will collapse.●

S. 215

HON. HAROLD S. SAWYER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, January 31, 1983

● Mr. SAWYER. Mr. Speaker, one of the most important achievements of the 98th Congress must be the protection of Americans from dangerous criminals released on bail. The existing bail laws, which force Federal judges to release dangerous defendants back into our communities, have become the subject of increasing criticism and debate. Last year President Reagan and Chief Justice Burger called upon Congress for a reform of our bail laws.

Today 24 Members are joining me as sponsors of the Bail Reform Act of 1983, the companion of a similar bill, S. 215, introduced by Senator THURMOND. These proposals are designed to

sharply curtail those crimes committed by persons awaiting trial, sentencing, or appeal.

A tragic event in my home State of Michigan illustrates the danger that our constituents face without this legislation. On November 29, 1982, George Gibbs was charged with armed robbery of a credit union. Despite the dangerousness of the offense and the fact that Gibbs was a suspect in four other robberies, the judge did not have the legal authority to consider the defendant's danger to the community. As a result, Gibbs was released after posting $2,500; 4 days later, Gibbs robbed a nearby bank and shot a local police officer.

This failure in our judicial system occurred because the Bail Reform Act of 1966 requires Federal judges to release defendants held in noncapital cases under the minimum conditions reasonably required to assure their appearance at trial. This judicial authority is inadequate; a recent study found that 1 out of 6 defendants in 8 cities sampled were rearrested during the pretrial period.

The Bail Reform Act of 1983 would prevent defendants, like Gibbs, from getting an extra chance to commit dangerous crimes. Nearly half of all Americans are afraid to walk in their own communities at night, and 1 in 6 fear for their safety in their own homes. Americans today view violent crime as one of the most important issues in America. We have a duty to see that once dangerous defendants are in the custody of the police, they are not freed on bail to terrorize our communities.

I urge you to join me with Mr. FISH, Mr. MOORHEAD, Mr. HYDE, Mr. KINDNESS, Mr. SAM HALL, Mr. LUNGREN, Mr. SENSENBRENNER, Mr. MCCOLLUM, Mr. SHAW, Mr. DEWINE, Mr. GEKAS, Mr. WON PAT, Mr. MARRIOTT, Mr. ROBINSON, Mr. LAGOMARSINO, Mr. RINALDO, Mr. FRENZEL, Ms. FIEDLER, Mr. COUGHLIN, Mr. WEBER, Mr. DERRICK, Mr. DREIER, Mr. MCKINNEY, and Mr. DANIEL in cosponsoring the Bail Reform Act of 1983.

For a section-by-section analysis of the Bail Reform Act of 1983, see Senator THURMOND's introductory remarks submitted on January 27, 1983, on page S390 of the CONGRESSIONAL RECORD. The House and Senate versions of the Bail Reform Act of 1983 are identical in all respects with the exception of the three sections described below:

1. Subsection (d) of section 3142 of the House bill permits the judge to detain a defendant for a period of up to ten working days if the person was arrested while already on a form of conditional release, such as bail, probation, or parole, or where the defendant is "an alien whose presence in the United States is not under color of law." The purpose of this provision is to allow the government time to notify the original releasing authorities or the Immigration and Naturalization Service so that they may take whatever action may be appropriate in light of the defendant's arrest.

Subsection (d) of section 3142 of the Senate bill includes the same intent and language except the language involving aliens reads "is not a citizen of the United States."

2. Subsection (d) of section 3142 of the Senate bill places the burden on the defendant temporarily detained under this section to prove that he is a citizen of the U.S. or is lawfully admitted to the United States.

Subsection (d) of section 3142 of the House bill does not place this burden on the defendant.

3. The following three rebuttable presumptions created in the Senate version of the Bail Reform Act of 1983 are not contained in the House version:

(a) Subsection (e) of section 3142 of the Senate version provides that in a case in which a defendant is charged with one of the serious offenses described in section 3142(f)(1) (a crime of violence, a crime punishable by death, a crime for which the maximum term of imprisonment is prescribed in the Controlled Substances Import and Export Act (21 U.S.C. 951) or Sec. 1 of the Act of Sept. 14, 1980 (21 U.S.C. 955a)), a rebuttable presumption arises that no condition or combination of conditions will reasonably assure the safety of any other person and the community, if the judicial officer finds: (1) that the defendant had been convicted of another offense described in subsection (f)(1) (or a State or local offense that would have been such an offense if circumstances giving rise to federal jurisdiction had existed); (2) that this offense was committed while the person was on pretrial release; and (3) that not more than five years have elapsed since the date of conviction, or the defendant's release from imprisonment, for the offense, whichever is later.

(b) Subsection (e) of section 3142 of the Senate version provides that in a case when the defendant is charged with felonies described in 21 U.S.C. 841, 952(a), 953(a), 955, 959 which cover opiate substances and extends to offenses of the same gravity involving non-opiate controlled substances, a rebuttable presumption arises that no condition or combination of conditions will reasonably assure the safety of any other person and the community.

(c) Subsection (b) of section 3148 of the Senate version provides if there is probable cause to believe that the person has committed a federal, state or local felony while on release, a rebuttable presumption arises that no condition or combination of conditions will assure that the person will not pose a danger to the safety of any other person of the community.●

IN RECOGNITION OF ABE HARSHMAN

HON. LYLE WILLIAMS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, January 31, 1983

● Mr. WILLIAMS of Ohio. Mr. Speaker, I am proud to recognize an outstanding individual of my congressional district—Mr. Abe Harshman. Born in Youngstown, Ohio, Mr. Harshman has served that community with distinction in several different capacities. Trained as an accountant, he has volunteered his talents to the city of Youngstown as its finance director and also as the secretary-treasurer of the Western Reserve Transit Authority. In addition to these important positions, he has lent his services to numerous community boards such as the Youngstown Area Development Corp., The Youngstown Board of Education of which he is president, and the Youngstown and Ohio Civil Liberties Unions. Also, several organizations within the Jewish community have benefited from the generous donation of his time and efforts.

Mr. Harshman's contributions to society have not gone unnoticed on the National and International level. He received the first B'nai B'rith Man of the Year Award in 1960. A forest has been planted in his honor in the Kennedy Peace Forest in Israel, and he has also received the Governor's Award for Community Action.

As an individual of unsurpassed integrity, Abe Harshman has exemplified the best that is in public service. In his tireless devotion to community, family, and synagogue, he has enriched not only the lives of those individuals around him, but also every sector of the Youngstown community.

On Friday, January 21, 1983, this very distinguished resident of my congressional district is being honored as the recipient of the coveted Justice Louis D. Brandeis Award and the Kfar Silver Scholarship Plaque in tribute to his vast achievements. Mr. Harshman will be honored at the Rodef Sholom Temple by the Youngstown District of the Zionist Organization of America.●

UKRAINIAN INDEPENDENCE

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1983

● Mr. LAGOMARSINO. Mr. Speaker, the occasion of the independence of the Ukraine 65 years ago offers a stark comparison to the reality of the Ukraine today.

Subjugated to the Soviet Union, the Ukrainian State bears no resemblance to the original independent republic that achieved its independence in January 1918. Although the Soviets may have succeeded in dominating the State, they have not been able to dominate the spirit of the people. The culture and traditions of the people have continued through the decades preserved and lovingly passed on with the hope that some day they will once again live in a free and independent State.

By recognizing that spirit and saluting the steadfast determination of the Ukrainian people, we are encouraging the Ukrainians and all captive peoples that we in the United States share

their goals and ideals and will not be content until all people everywhere can live in freedom.

I salute the people of the Ukraine; their bravery and their unbroken spirit are an inspiration to us all.●

HOW VIETNAM DESCENDED INTO SLAVERY

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, January 31, 1983

● Mr. MICHEL. Mr. Speaker, it is now 10 years since the United States and what was then known as North Vietnam signed an agreement "on ending the war and restoring the peace in Vietnam." As we now know, that treaty wasn't worth the paper it was written on because the North Vietnamese had no intention of living up to the agreement. But the United States, in cutting back on aid to South Vietnam, also contributed to the defeat of the South Vietnamese armies in 1975.

Those Americans who spent the entire Vietnam war criticizing the United States and the various South Vietnamese governments are curiously—I would say shamefully—silent about the horror of present Communist domination in that tragic country. South Vietnam was defeated not by a peasant uprising or by a popular front group leading an aroused citizenry against a corrupt government but by Soviet tanks in a North Vietnamese Communist blitzkrieg.

A recent article in the Wall Street Journal tells the sad tale. It is a story we should remember because we are how hearing the same story—from many of the same people—about cutting off military aid, this time in El Salvador. The same people are telling us once again we should do so in the interest of human rights. Well, there is not a single human right in Vietnam today. It is a Marxist-Leninist concentration camp. That, or some variation of it, is what will happen in El Salvador if the same crowd that condemned South Vietnam get their way today in El Salvador.

At this point, I wish to insert in the RECORD, "The Final Conquest of Vietnam: Looking Back," by Lawrence J. O'Brien, Jr. in the Wall Street Journal, Tuesday, January 25, 1983.

[From the Wall Street Journal, Jan. 25, 1983]

THE FINAL CONQUEST OF VIETNAM: A LOOK BACK

(By Lawrence J. O'Brien Jr.)

Ten years have passed since Henry Kissinger and North Vietnamese Politburo member Le Duc Tho initiated "The Agreement on Ending the War and Restoring Peace in Vietnam." Within two and a half years of the signing, on Jan. 27, 1973, South Vietnam would collapse in the face of a North Vietnamese juggernaut and the Vietnam War would be lost.

Memories depict terrified refugees in search of safe passage aboard rescue helicopters, the cathartic return of American prisoners of war and the sadness of final surrender. But as vivid as they may be, such images tell only part of the story. For a decade now, the professional journals of the American and North Vietnamese armies have analyzed the 1973-75 "Third Indochina War," and they reveal an efficient North Vietnamese leadership fully prepared to use any means to attain dominion over South Vietnam.

Whether couched in communist cant or in American military jargon, the memoirs and studies published in the past 10 years depict a North Vietnamese politburo closely abreast of U.S. political affairs, convinced that South Vietnamese survival hinged upon U.S. congressional appropriations. Finally, they describe a valiant South Vietnamese army pressed to the breaking point by a communist force in many ways equivalent to the American armies in Normandy in 1944. In short they tell a tale that is considerably more interesting and complicated than the conventional accounts of the "fall" of Vietnam.

DISHONORABLE INTENTIONS

Pledging that "we will strictly implement the Agreement," Le Duc Tho knew on the date of signature that there were some 145,000 to 160,000 North Vietnamese Army (NVA) troops in the South in 13 combat divisions of 75 regiments. Indeed, Mr. Kissinger acknowledged the presence of the NVA forces in the South on Jan. 24, 1973, stating that while "nothing in the Agreement establishes the right of North Vietnamese to be in the South, . . . [they] should, over a period of time be subject to considerable reduction." And Article 7 of the Agreement explicitly froze troop levels, prohibited any net increase in weaponry and provided for an International Commission of Control and Supervision (ICCS).

The North Vietnamese had no intention of honoring these terms.

Convening the 21st plenum of the Lao Dong Party's central committee in October 1973, Hanoi decided that the North must "maintain a course of strategic offensive" and launched a massive refitting program to transform its army into four mobile corps with a strategic reserve of six divisions. Meanwhile, the Ho Chi Minh Trail and other new avenues of approach were to be paved and paralleled by a fuel pipeline. These were preparations for blitzkrieg, not the people's war of popular fancy. There was to be no repetition of the bloody repulse of 1972 which had cost the North some 192,000 men.

In his memoir on the war's final stages, "Great Spring Victory," the North's field commander, Gen. Van Tien Dung, admits that it was decided within the Central Military Party Committee that "the Vietnamese revolution . . . can only achieve success by way of violence," and that 1974 was to be a year of preparation. Moreover, he candidly acknowledged that American congressional action would have much to do with politburo thinking.

There were different perspectives in Saigon and Washington. Notwithstanding the South's sizable local militia, the South Vietnamese general staff knew that the respective ground forces were roughly equal in 1973, with the Army of Vietnam (or ARVN) fielding 13 divisions of 220,000 men. But those were deceptive numbers, for without a 550,000-man American field army, the ARVN was spread thin. Responsible for the protection of key population and military centers throughout the South, the ARVN could not retain an adequate reserve and was on limited air transport for strategic mobility. There was no margin for error.

In a Washington distracted by the 1973 Arab-Israeli War, weary after eight years of Indochinese fighting and preoccupied with Watergate, Congress imposed a ceiling on military appropriations for aid to South Vietnam in fiscal 1974 ($1.13 billion), and cut appropriations to $700 million in fiscal 1975, thereby curtailing operations.

In direct response to the congressional cuts, the South Vietnamese general staff imposed strict limits on ammunition for each soldier and weapon in early 1974. ARVN ammunition expenditures declined below prior years, even with intense combat. Writing for the U.S. Army's Center for Military History, Col William E. Le Gro document in "Vietnam From Cease-Fire to Capitulation" the effect of this decline on local units. The impact at the foxhold level was immediate. South Vietnamese infantrymen who normally carried six hand grenades were reduced to two; there was a 47 percent reduction in tactical communication capability; 25 percent of the Vietnamese air force was grounded; 35 percent of medium task were idled; and bandages and surgical dressings were to be washed and reused. Significantly, such curtailments occurred as U.S. and Israeli anaylsts of fighting in the Yom Kippur War of 1973 were concluding that their supply-expenditure estimates for modern air-land battle had to be drastically increased.

The North Vietnamese saw their new opportunity. On Oct. 29, 1974, they employed tear gas in seizing objectives from elite Southern airborne units. (Ironically, U.S. press commentary earlier in the war was extremely critical when U.S. forces used tear gas to clear out areas.) South Vietnamese aerial photos also discovered the construction of a 150,000 gallon North Vietnamese fuel-tank farm inside South Vietnam. Hungarian military members of the Control Commission were observed photographing and mapping key objectives in the South. Finally, in an actual test of whether the U.S. would respond to an immediate strategic threat to Saigon, the North Vietnamese army attacked and seized a province northwest of Saigon. When nothing happened, Hanoi took the initiative.

In his 1976 postscript, North Vietnamese army Gen. Dung wrote, "The reduction of U.S. aid made it impossible for the puppet troops to carry out their combat plan and build up their forces." He wrote that the Thieu government was compelled "to fight a poor man's war" with it firepower decreased "by nearly 60 percent" and with a 50 reduction in mobility.

Accordingly, on Jan. 8, 1975, North Vietnam's Central Committee decided to launch a major effort to divide the South at its center by means of a west-to-east drive to the sea, much as Grant devised Sherman's march in 1864. Using limited attacks to the north and south of the Central Highlands to pin possible South Vietnamese reinforcements in place, the North Vietnamese expected heavy fighting with a final decision only in 1976. (Like the Tet offensive of 1968 and the Easter offensive of 1972, the new offensive was to be timed to coincide with American presidential elections.) But the North Vietnamese were overly pessimistic.

Attacking across the waist of South Vietnam on March 4, 1975, the NVA assaulted Southern forces whose new corps commander, Gen. Phu, failed to credit the predictions of his intelligence chief. Unaware of the scope of the danger he faced, Gen. Phu dallied in moving his men to proper defenses and then ordered a "withdrawal under pressure," the most difficult of maneuvers, without a written field order. The ensuing failure made resistance in the northern provinces tenuous, and the subsequent collapse of half the country led to Mr. Thieu's resignation and, ultimately, to surrender.

Conclusions vary. Henry Kissinger wrote in the first volume of "The White House Years" that the 1973 agreement had been workable, given an equilibrium of forces and the implied willingness to use American force. He attributed failure to the "collapse of executive authority as a result of Watergate." Col. Le Gro concludes in his recently published study that American "domestic politics" dictated U.S. compliance with the agreement in the face of blatant communist violations.

MISSING LEADERSHIP

An eyewitness to final events in Saigon, Col. Le Gro was led by his detailed study of battlefield actions to conclude that "unit for unit and man for man the combat forces of South Vietnam repeatedly proved themselves superior to their adversaries. Missing, however, were inspired civil and military leadership at the highest levels and unflagging American moral and material support."

But as important as any U.S. and South Vietnamese omissions were North Vietnamese accomplishments. Consider, for example, that when the 1st and 3rd U.S. armies of Gens. Hodges and Patton broke from the hedgerows of Normandy and raced across France in 1944, it was deemed a massive logistical feat for 5,600 trucks of the Red Ball Express to support 16 Allied divisions over several hundred kilometers. By comparison, the North Vietnamese employed 10,000 vehicles to thrust a 16 to 20 division force across miles of mountain and jungle.

Skillfully convincing world opinion that theirs was a war of spontaneous, popular uprising, the North had brilliantly played out the "talk, fight-talk, fight" strategy of Panmunjom renown. And it is evident that they were able successfully to synchronize their battlefield maneuver with the rise and fall of American political will after 1973, a strategy that tuned itself even to the largely unnoticed details of congressional appropriations for our South Vietnamese ally.

To win, the North Vietnamese had to know how to lie when it counted, and they did so twice: First in 1973 when Le Duc Tho professed a willingness to honor their peace agreement and, second, in 1975 when they told the people of the South that they had been liberated.●

THE BURNS PAIUTE INDIAN COLONY

HON. DENNY SMITH

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, January 31, 1983

● Mr. DENNY SMITH. Mr. Speaker, I am introducing legislation, along with Congressman BOB SMITH, to designate the Burns Paiute Indian Colony as the beneficiary of a public domain allotment in Harney County, Oreg. The identical bill is being introduced today in the Senate by Senator MARK HATFIELD of Oregon. Our legislation is patterned after a bill I introduced in the 97th Congress, which was later amended and adopted by the House of Representatives on September 20, 1982.

The allotment, which belonged to a deceased tribal member, consists of 160 acres of undeveloped grassland and sagebrush. The estimated value of the land is approximately $9,600. The former owner of the allotment, Jesse Joseph James, died intestate and without heirs. In cases such as this, 25 U.S.C. 373b applies. Public domain allotments valued in excess of $2,000 escheat to the United States to be held in trust for the Indians that Congress designates.

The Burns Paiute Indian Colony would like to become the beneficiary of the allotment so that it can be added to the 770 acres which make up the Burns Paiute Indian Reservation. The allotment is located approximately 12 miles from the tribe's reservation and the members would like to develop it for agricultural purposes. Currently, agricultural production on the tribe's tillable land provides the tribe with its only non-Federal source of income. The reservation is located within an economically distressed area of the State where unemployment routinely runs above the national average. Poor economic conditions make it even more critical that the tribe utilize its land base to its full potential. Development of the allotment would provide the tribe with a welcome source of revenue and could also help it toward its goal of economic self-sufficiency.

Rarely is 25 U.S.C. 373b invoked; however, if this situation should ever occur again in Harney County, Oreg., the bill contains a provision at the request of the Burns Paiute Indian Colony that allows that United States to hold the deceased Indian's allotment in trust for the tribe without congressional approval. For similar situations which occur in other parts of the country, a provision was added at the suggestion of the administration increasing the $2,000 limit in 25 U.S.C. 373b to $50,000. The administration believes this minor change will lessen the need for congressional consideration of the disposition of lands belonging to Indians who die intestate and without heirs.

Although this bill is basically technical in nature, it will be of enormous benefit to the Burns Paiute Indian Colony, if enacted. I urge the House of Representatives to move quickly and adopt this legislation.●

CONGRATULATIONS WASHINGTON REDSKINS

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 31, 1983

● Mr. OBERSTAR. Mr. Speaker, as a fan of one of the vanquished (the Minnesota Vikings), let me raise my voice in salute to the indomitable Redskins, who have done more for the tarnished image of our Nation's Capital than anything since Martin Luther King's freedom rally.

My congratulations to the skipper, Joe Gibbs, who charted the course; to Joe Theismann, who steered the course; and to the "Hogs" who set the right "Riggins." Their journey has taken them from the land of anonymity to the world of respect.●

WISHING IT WON'T MAKE IT SO

HON. VIN WEBER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 31, 1983

● Mr. WEBER. Mr. Speaker, I have been asked by former southwestern Minnesota Congressman John Zwach to insert an editorial written by his brother, Roman, in a daily newspaper in my district.

As you will read, it points out that something should be done for American farmers, with agriculture being the key productive sector for economic recovery. Mr. Zwach is right in writing that when this Nation has a healthy agriculture economy its general economy is also prospering.

WISHING WON'T MAKE IT SO

(By Roman Zwach)

With the election over, most of us are confused more than before! Both parties promised to put the jobless back to work, promised us they could balance the budget, promised us full Social Security benefits and all the gimmicks with it to get the country moving again! No one, however, gave us an answer!

President Reagan is trying to pilot the ship out of a severe storm and thinks he sees a light every month or quarter—but it's always a "mirage." The opposition party on the same ship, for political reasons, hopes he doesn't see a light until the next elections in '84, criticizes every turn he makes, has no solutions of its own and wants him to turn around and go back into the storm. Both wish they were right, but wishing won't make it so!

This depression didn't come like a bolt out of the blue! It has been building for years as agricultural prices plummeted from 100 percent of parity in 1952 to 50 percent today. It won't end by a bolt out of the blue! There has to be a reason for it to end.

Make no mistake about it, like the '30s this depression is "farm led and farm fed." Lo for the shades of the '30s, agriculture has tons and tons of surplus food and, like

then, no price. The people in the city are jobless and in the soup-line—like then. In the last few days the Congress is talking about a job creation program by the government—WPA.

With a healthy agriculture you can't have a depression. With a sick agriculture you can't have prosperity. Why is this so, and just how big is agriculture? You could put the assets of the 400 largest corporations in the U.S. together and agriculture is bigger than the 400 combined. It is "the giant." Trying to get out of the depression without the giant is like a person trying to swim with a large stone around his neck. It produces 60-70 percent of the new wealth in the country.

In 1982, agriculture with 50 percent of a fair price (50 percent of parity) had a gross income of approximately $170 billion—remember it's the gross and the net that go through the economy. Since agriculture dollars make a seven times turn before reaching the top, it sent more than a trillion "new" dollars into the economy last year. If agriculture would have been at "full" parity last year, it would have sent more than an additional trillion new dollars to the top. My gosh! That's nearly $5,000 for each person in the U.S.—nearly $20,000 for each family. Now we've pressed the right key! Now we've found the answer! Now we can see the importance of agriculture!

Imagine every family having an extra $20,000 backed by raw materials worth their weight in gold (corn, soybeans, wheat), not the "phony" printing press money we've been spending, nor the gigantic "credit" money we've been using in lieu of income and that is mortgaged before it ever starts up the ladder—but real dollars, backed by raw materials, the kind that will ring true in every counter in the world.

With the new dollars going up the economy imagine the employment it would create, miners back to work, building industry booming, autos being manufactured, steel mills humming, people finally getting off of welfare for the first time, paying taxes to balance budgets, people starting to save and in turn bring down interest rates and the nation having faith itself again. Why instead of a "mirage" I think we see a "rainbow"!

So let us wake the town and tell the people! Ignore and forget the economists that believe in the false John Maynard Keynes theory of governments spending themselves rich on borrowed money—and cheap food.

You people in the chambers of commerce in your towns, start to realize the biggest industry by far that you have is in a circle around your town. The larger the town, the bigger the circle. If agriculture is prosperous, so will you be. Start fighting for agriculture because the town you save will be your own.

Agriculture is on its knees. Even a giant can be pierced by an arrow enough times and bleed to death. Government policies have punished, bruised and battered it; big conglomerates have taken advantage of the weak, unorganized marketing position; big business has kicked it around; and people have stood on the sideline hoping farm prices would go down to save a penny at the grocery store, not realizing that when the boat agriculture is in sinks, they're all on the same boat!

Yes, the politicians can wish every month for the depression to end; the economists can wish they will be right once in their lifetime: the businessmen, can wish things will be better next quarter, but sad to say, "wishing won't make it so." ●

REINTRODUCTION OF THE OLDER AMERICANS VOCATIONAL EDUCATION ACT

HON. WILLIAM R. RATCHFORD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, January 31, 1983

● Mr. RATCHFORD. Mr. Speaker, a remarkable phenomenon is unfolding that will have far-reaching implications for our society. The "graying" of the American population is no secret to any of us, yet at few levels of public policy formulation has this shift been considered in a meaningful way.

In September of last year, however, the Elementary, Secondary, and Vocational Education Subcommittee held a hearing on H.R. 6895, the Vocational Education for Older Workers Act, which I am reintroducing today. The testimony heard by the American Association of Retired Persons and others, extensively documented the dilemma of older workers in trying to either enter or reenter the job market, and the appropriateness of building on the present vocational education system to address this dilemma. I would like to take this opportunity to outline this problem and the potential means for its solution.

It is estimated that by the year 2000, the number of persons age 55 or over will increase by 19 percent. As policymakers, we must begin to consider the implications of a population that will not only live longer, but an increasing proportion of which will want to work longer. Sadly, this trend will be accompanied by a sharp increase in the poverty rate—the worst being among older women and minorities. The pressures of inflation and the disproportionate cuts in Federal programs for the elderly have influenced the attitude of many older persons toward work. Recent surveys show that 74 percent of 55- to 64-year-old persons wanted to continue in some type of part-time work beyond retirement. A 1981 Lou Harris poll showed the figure to be as high as 79 percent.

However, many individuals over the age of 50 who have lost their jobs or who have never worked, are experiencing great difficulty in entering or reentering the work force. We know that many are forced into social security at age 62 because they cannot find employment. Critical barriers to employment or reemployment of the older worker include obsolete job skills, lack of skills, individual attitudes, lack of job search skills, and employer discrimination in hiring older persons, particularly when training is involved.

Obsolete skills and the lack of skills are hardly the result of declining learning abilities. These problems are especially prevalent among the male population of older workers, displaced by plant closings or the influx of new technology. The lack of skills is most characteristic of older women entering the labor force for the first time after years of work in the home raising a family.

As a result of this dilemma, there has been a sharp increase in the number of older individuals taking educational courses to acquire job skills. According to a 1981 Lou Harris/NCOA survey, the number of people over the age of 40 seeking specific job skills has more than doubled in the past 7 years. Presently, and with few exceptions, programs funded through the Vocational Education Act have focused primarily on younger persons. Those focused on older persons are, for the most part, geared to preretirement counseling. Further, despite Federal mandates, funding required to broaden the scope and number of educational programs for the adult learner has been absent.

Federal job training programs that serve the older person are quite limited and primarily serve the low-income, chronically unemployed or hard to employ. Displaced homemaker programs do not assist persons over the age of 60, and the States by and large have failed to provide these services on their own. The legislation I have introduced would provide a greater focus on the older worker in vocational education programs, and provide for the establishment of a 3-year, $20-million demonstration program to encourage the development of training and retraining for the older worker.

Under this legislation, entitled "The Older Workers Vocational Education Act," model centers would be established to focus greater attention on the special vocational needs of the older worker, and to promote employment opportunities for them. Serving those age 55 and older, these model centers would provide training and retraining in the following areas: To update skills and prepare the older worker for new careers when technological advances have rendered their current skills obsolete; promote employment in areas of job potential in growth industries. The centers would also provide assistance for later-life career changes, with special emphasis on the older displaced homemaker; information counseling and support services to assist older persons in obtaining employment; encourage vocational education providers, including community colleges and technical schools, to offer more job training opportunities targeted and easily accessible to the older person. Finally the centers would also promote the train-

ing of paraprofessionals in gerontology and geriatrics, to help meet the increasing demand for such services.

Under my legislation, the Secretary of the Department of Education would be given broad authority for the design and conduct of the demonstration program. By placing a $400,000 cap on the level of any one grant. I expect that some 50 to 70 grants could be funded each year throughout the Nation. Eligible recipients of grants under this program would include States, State or local education agencies, postsecondary and vocational training institutions, any business or labor organization, and a public agency, nonprofit or for-profit organization. State sponsored model centers could readily trap other available resources at the State level and could be easily coordinated with other employment and training programs. In addition, the private sector has demonstrated its willingness and competence in conducting training and retraining programs.

It is my hope that the adoption of this legislation will provide a greater focus on the special needs of the older worker in vocational education. It is aimed at fostering the development of skills development and employment counseling programs that will assist the many older Americans who want to continue to work or reenter the work force. As with the promotion policies and procedures of many firms which discriminate against the older worker, so too is the case with training opportunities. For many firms, there are powerful economic and organizational forces that lead to the selection of younger workers for the most intensive and expensive forms of training—this despite the discovery by some firms that older workers are more committed to company objectives than younger workers, that they hold vast experience and are willing to learn new skills, and that they are reliable. One recent study reveals that many executives report that it was by sheer accident that they discovered the value of their workers when, in desperation, they called upon them for assistance in handling backlogs of work. The executives reported that it proved to be more economical to have their own experienced former employees handle the extra work on a part-time or temporary basis than to call in outsiders with no experience whatsoever.

The Grumman Corp. in New York has successfully used about 600 older workers over the past 10 years in positions ranging from skilled technicians and engineers to publications writers. Grumman executives found the older workers to be experienced, talented, and willing to get back to work. The Bankers Life & Casualty in Chicago is also serious about the use of older workers. Bankers recruit older workers from outside the company, and has established a temporary pool to provide full- and part-time jobs for its own retirees. At IBM, retirees hold a number of positions throughout the company and many work up to 120 hours per year. They are hired to run preretirement sessions and health education programs for other retirees, active employees, and the spouses of both; to be call dispatchers and switchboard operators, among other things. In the Greater Hartford, Conn., area, the Travelers Insurance Co. has formed a consortium with other insurance companies to provide training in computer processing for retirees. Monsanto has established a successful program which relocates middle-level executives to St. Louis for a year-long retraining program conducted at Washington University. General Electric retrains middle-aged engineers at its Utica plant, and has found this practice to be more cost-effective than hiring younger graduates. In responding to the adverse impact of foreign competition on its business, the International Silver Co. converted one of its plants and retrained many of the older employees as toolmakers.

The second careers program in Los Angeles helps mandatorily retired corporate executives find a way to remain active in either volunteer capacities or through full- and part-time work. They service many of the largest corporations in southern California by helping them fill their needs not only for permanent help, but also for vocation relief personnel, for experienced people needed temporarily on short-term projects, or for help in meeting a deadline. This program has met with tremendous success, and the staff has found the older worker to embody a unique combination of experience, skill, and maturity, making training and placement easy. The College Emeritii in San Diego, Calif., has operated a job development and job search and training program for those over 55 years of age for the past 5 years. Courses offered include training for apartment house management, court conservator, volunteer leadership, computer work, and office skills. Yet another example of a successful program in this area is the Grassmont Adult Career Center health education reentry program based in LaMesa, Calif. This program offers training to adults for a variety of health related jobs such as medical clerk, nurse assistant, medical office management, medical transcription specialist, dental health assistant, psychiatric technician, and vocational nursing. It also offers reentry courses for nurses and licenses vocational nurses. About 900 students go through this program each year with as many as 60 percent over the age of 55. Many at the age of 70 or older have been enrolled, and job placement has been high.

These examples of both private and public sector sponsored employment and training programs demonstrate the possibilities for dramatically increasing the number of older workers that can remain in or reenter the work force. While these examples are quite impressive, the availability of such services has been severely limited to date. Relatively few private sector concerns have undertaken such bold initiatives, and the Federal and State Governments have been remiss in their responsibilities toward the older worker. One recent study revealed that while many States provide consumer and life-coping programs to meet the psychological and social needs of the older person, few offer opportunities for the older person to gain the vocational skills necessary to reenter the labor force when they may lack the skills to do so, or who are unemployed due to a lack of competencies.

Additional evidence exists at the Federal level. Another recent study found that 270 programs concerned with adult education and training existed in 29 Cabinet-level departments and agencies, with Federal support estimated to be in excess of $14 billion. However, only a small fraction of this money supported learning opportunities for adults beyond the traditional college age. It has also been found that academic institutions, because of a shortage of funds, have been unable to support such programs in the absence of any Federal mandates for lifelong learning.

Under my legislation, Mr. Speaker, the Vocational Education Act would be amended to provide a greater focus on the special training and employment needs of the older person, and to provide for this important new demonstration program. I hope these actions would pave the way for broad-scale efforts in the future to address a growing desire by an expanding aging population to remain active in the work force. It is also important to note that increased labor force participation by the older worker will not only help their economic status, but improve the general economy as well. In a noted Data Resources, Inc., study, it was found that increased older worker participation would yield an additional $10 billion in revenues to the ailing social security trust funds by the year 2005, and would have a very positive effect on the overall economy.

The reasons for prompt enactment of this legislation, Mr. Speaker, are compelling, and I call upon my colleagues in the House to join me today in cosponsoring the Vocational Education for Older Workers Act.●

COMMUNITY CONCERN FOR SENIOR CITIZENS

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, January 31, 1983

● Mr. GREEN. Mr. Speaker, in these troubled times, the elderly of our Nation face great difficulties in maintaining an adequate standard of living. There is, however, a remarkable organization in the city of New York that has made substantial achievements in mitigating these difficulties.

I would like to bring this organization to the attention of my colleagues. Community Concern for Senior Citizens, previously praised in this Chamber in 1974 and 1975 by Hon. Hugh L. Carey and Hon. CHARLES B. RANGEL, was conceived and founded in 1971 by Mrs. Maria E. Redo, a constituent of my congressional district. Under her direction, the organization has successfully fostered an environment of mutual concern and cooperation between consumers, businesses, and local government. In addition, its impact has been national. With Mrs. Redo's assistance, 81 cities and towns across the country have established identical programs, and many other localities, including the States of Ohio and California, have used Community Concern as a model.

Community Concern for Senior Citizens exemplifies the cooperation and responsiveness to community needs that can be generated by the efforts of concerned individuals such as Mrs. Redo, without significant costs. In light of the current need for fiscal restraint, I believe it is important to broaden awareness of this admirable program. With this end in mind, I would like to share a part of an article printed in the New York Daily News on January 23, 1983:

DISCOUNTS HELP CITY'S SENIORS COPE

(By William Neugebauer)

Discounts that slash the cost of a slice of pizza from 50 cents to 40 cents, a lady's hairdo from $8.50 to $6.80, a portable TV from $239 to $193 and a ticket for the upcoming auto show from $5 to $3.50 are causing lots of senior citizens living here on sparse incomes to clap hands and kick their heels for joy.

Perhaps hardest hit by the general economic downturn, the city's 1.3 million senior consumers now can ponder thousands of items and scores of events available at reduced prices in nearly 5,000 shops, stores, and other businesses throughout Manhattan, Bronx, Brooklyn and Queens under a special discount program arranged by Community Concern for Senior Citizens. . . .

The dollar-stretching discounts that range from a customary 10% and 20% to a whopping 50% should prove a boon to legions of financially pinched New Yorkers living out their twilight years in a socio-economic climate dampened by soaring prices and unemployment, wrenching taxes and fiscal cutbacks.

The discounts are beamed primarily at folks 65 years and older on limited incomes, including out-of-town visitors. Even 60-year-olds may avail themselves of some of them.

They may be found among listings in the newly revised but separate discount program books prepared for each of the four boroughs by Community Concern for Senior Citizens and printed as a public service by Chase Manhattan Bank.

Eligibility is established through identification cards generally recognized in the communities, such as a Medicaid card, half-fare transit card or senior center identification card. . . .

"Elderly shoppers may not always get the cheapest buy—there's no guarantee there—but they'll certainly get a break from the regular price," insists Maria E. Redo, a blonde mother of two grown children who launched the discount program more or less spontaneously among merchants in her Yorkville neighborhood 12 years ago.

More than 13 percent of the city's 800,000 seniors over 65 years of age live on "poverty level" incomes that average $3,479 annually for an individual and $4,390 for a couple, according to the Department for the Aging, which sponsors and supports Redo's organization. The city agency grants Redo office space in a city-owned building on lower Broadway, near City Hall.

"A lot of older people don't even qualify for entitlements under existing municipal programs, so what's good and important about this program is that it helps them to help themselves in the struggles of daily living," said the 56-year-old former school teacher. . . .

Moreover, she added, as word of the discounts get around the different communities, storeowners profit from the goodwill they generate and from increase numbers of customers, including younger people more inclined to patronize them for their good deeds.●

HONOR MEDAL FOR LIFESAVING

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 31, 1983

● Mr. YATRON. Mr. Speaker, on Saturday, February 5, 1983, at the Fairlane Village Mall in Pottsville, Pa., Scout Edward F. Shaeffer of Minersville, Pa., will be awarded the Honor Medal for Lifesaving from the Boy Scouts of America. The medal will be presented by Hon. William Scranton III, Lieutenant Governor of Pennsylvania.

The Honor Medal is the highest lifesaving award of the Boy Scouts of America and is awarded to no more than 25 of the over 4 million boy scouts nationwide each year. The award is being presented to Scout Shaeffer for saving his mother's life, at the risk of his own, during a 1981 Delaware River canoe accident.

Mr. Speaker, it is my great pleasure to bring Edward Shaeffer's outstanding heroism to the attention of my colleagues in the U.S. Congress. It was with the courage and bravery of citizens like Scout Shaeffer, that our great Nation was built. We are all indebted to him for his humanity. He stands as an inspiring example of protecting another life without considering his own well-being. I know my colleagues will join me in paying tribute to this fine young man, Mr. Edward Shaeffer.●

AUTOMOBILE BUMPERS: MORE COST, LESS PROTECTION

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, January 31, 1983

● Mr. WIRTH. Mr. Speaker, I would like to bring to my colleagues' attention a survey recently conducted by Clarence Ditlow, executive director of the Center for Auto Safety, on the crash resistence of bumpers on 1983 automobiles. Last year, under the guise of regulatory reform, the National Highway Traffic Safety Administration (NHTSA) rolled back the existing standard for car bumpers from a 5-miles-per-hour no-damage standard to a 2.5-miles-per-hour standard. NHTSA repealed the standard in the name of economy—although it will cost the automobile industry some $30 million to retool to make the less crash-resistant bumpers.

If the standard were modified, the agency contended, consumers would save money—both from the lower sticker price of the car, and from decreased fuel costs over the life of the vehicle. While the verdict is not yet in on alleged fuel savings, Mr. Ditlow's survey points out that there is no appreciable difference in the sticker price of a car with 5- or 2.5-miles-per-hour bumpers.

Importantly, while during the 1983 model year consumers will have an opportunity to choose between the better 5 miles-per-hour bumpers and the poorer 2.5 miles-per-hour bumpers, they have no way of making an informed decision on which one to buy. Unfortunately, NHTSA has not published any data for the public to review, leaving the task to groups such as the Center for Auto Safety. Clearly, an unsuspecting car purchaser can potentially be getting less than they expect in bumper protection, while paying for the kind of protection they are not getting. Certainly, the automobile companies are not advertising that some of their vehicles are equipped with poorer bumpers.

Last year the Congress passed a bill authorizing funding for NHTSA's programs, including bumper standards. In doing so, the Energy and Commerce Committee's report specifically requested that NHTSA keep the public fully informed on any changes in the bumper program. It is my hope that the agency will begin testing cars with the less crash resistent bumpers in ef-

forts to determine which is really more cost effective to consumers—rather than the most cost effective for automobile manufacturers. In any event, the Subcommittee on Telecommunications, Consumer Protection and Finance plans to carefully monitor the effect of the new bumpers during the next session of Congress.

For the benefit of my colleagues and their constituents who may be asking which cares provide less bumper protection I would like to insert an article from the January 18, 1983, Washington Post at this point:

BUMPERS SLIP WITH STANDARD

Eight automakers are keeping damage-resistant 5 mph bumpers on their 1983 models, but other manufacturers have put weaker bumpers on their cars since the government lowered its standards for bumper strength, the Center for Auto Safety reported yesterday.

Honda and Volvo have switched to weaker bumpers on all their cars and roughly half of all 1983 models have weaker bumpers that can result in higher accident repair costs, said center director Clarence Ditlow.

Bumpers on 1979 through 1982 model cars were required to survive a 5 mph collision with a fixed object without damage, but the standard was cut back to a 2½ mph crash last July by the National Highway Traffic Safety Administration.

Ditlow said buyers of cars with the weaker bumpers face the possibility of "hundreds of dollars in damage in low-speed crashes," while those who buy cars with the stronger bumpers would get off easier.

Though automakers argued that lowering the bumper standard would save consumers money, Ditlow said his group found no evidence that they lowered their prices when they took off the 5 mph bumpers.

Chrysler Corp. equipped some of its early 1983 K cars with 5 mph bumpers, then switched to weaker bumpers for later production, Ditlow noted. There is no difference in the sticker price between the two versions and no difference in the outward appearance of the cars. The only way Chrysler buyers can tell the difference is to look under the car to see whether the front bumper is held on by an energy absorber or a straight bracket, he added.

Ford said it is installing 5 mph bumpers on all its cars and plans to do so next year too. Other automakers using 5 mph bumpers on their full line include Toyota, Nissan, (Datsun), BMW, Mercedes, Subaru and Saab. Volkswagen uses 5 mph bumpers on all its imported cars but puts 2½ mph bumpers on made-in-America Rabbits.

Honda and Volvo switched to 2½ mph bumpers on all cars and Chrysler put them on some models, the center found after asking car makers whats kind of bumpers they were installing. American Motors and Renault are using downgraded 5 mph bumpers all all models built after Jan. 7. General Motors is using them on selected models.

Ditlow said he thinks car companies are not telling consumers which cars have which bumpers "because they are afraid it will adversely impact their sales if they have the poorer bumpers."

The center gave "good" ratings to those indicating they are using the 5 mph bumpers; "poor" ratings to those indicating use of 2½ mph bumpers, and "inadequate" ratings to those who said they are using a modified bumper but failed to indicate the level of protection.

Here are the Center for Auto Safety bumper ratings.

Good—Full 5 mph protection—All models of Ford, BMW, Mazda, Mercedes, Nissan, Saab, Subaru and Toyota. Volkswagen's Jetta, Quantum, Rabbit convertible, Scirocco, Audi 5000 and Audi Quattro, General Motors: Buick Electra and Skylark, Cadillac Cimarron and Fleetwood, Chevrolet Chevette, Corvette and Monte Carlo, Oldsmobile Omega, Cutlass Calais, Cutlass Ciera and Cutlass Cruiser, Pontiac Phoenix and Bonneville, Chrysler Corp.: Plymouth Grand Fury, Dodge Diplomat and Mirada, Chrysler Cordoba, Imperial, and New Yorker 5th Avenue.

Poor—2½ mph bumpers—All models of Honda, Volvo, VW Rabbit (except convertibles) made after Jan. 10, 1983, Chrysler's Plymouth Horizon, Turismo and Reliant, Dodge Omni Charger, Aries 600 and 400, Chrysler LeBaron Sedan, New Yorker E and Town & Country.

Inadequate—Degraded 5 mph bumpers—AMC/Renault all models made after Jan. 7, 1983, General Motors Cadillac DeVille, Brougham, Eldorado and Seville, Buick Century, LeSabre, Regal, Skyhawk, and Riviera; Chevrolet Camaro, Caprice, Cavalier, Citation, Impala and Malibu; Oldmobile 98, Cutlass Supreme, Delta 88, Firenza and Toronado; Pontiac Firebird, Grand Prix, 1000, 2000 and 6000.●

THE 25TH ANNIVERSARY OF THE U.S. SPACE PROGRAM

HON. LARRY WINN, JR.

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, January 31, 1983

● Mr. WINN. Mr. Speaker, January 31, 1983, marks the 25 anniversary of the start of the U.S. space program. Following the televised failure and explosion on the pad of the Navy-built Vanguard on December 6, 1957, the Army quickly moved forward to complete development of the Explorer I. On January 31, 1958, the Jupiter C rocket was successfully launched carrying aboard its 31-pound payload: Explorer I. Following two successful Russian space firsts—Sputnik I— October 4, 1957, and Sputnik II—November 3, 1957, which carried the first space passenger, a dog, Layka—the United States entered the space race that would land two astronauts on the Moon July 20, 1969, slightly over 11 years after Explorer I and before the end of the decade that President Kennedy set for this national space goal.

Explorer I's principal scientific achievement was discovery of the Van Allen Radiation Belts surrounding the Earth; the most significant new finding of the International Geophysical Year.

The stovepipe-shaped satellite—6 inches in diameter and 80 inches long—was launched using the Jupiter C rocket. This Army-developed expendable launch vehicle consisted of four stages: The first stage was an elongated Redstone; the second, third and fourth stages were comprised of decreasing numbers of scaled-down Sargeant rockets.

Explorer I was prepared and launched by two Army organizations that now comprise two essential elements of the National Aeronautics and Space Administration (NASA). These organizations include the Army Ballistic Missile Agency which became the nucleus of the NASA/Marshall Space Flight Center, and the NASA/Jet Propulsion Laboratory.

The small satellite transmitted information on the space environment until its batteries were exhausted on May 23, 1958. Explorer I continued to orbit the Earth until it reentered on March 31, 1970.

As we look forward to yet another successful launch of the spectacular Space Shuttle, I think it is good to remember that the American story in space is only 25 years old. We have made tremendous progress in that quarter century—and it all began with Explorer I.●

THANKSGIVING IN PESHAWAR WITH KIRK DOUGLAS

HON. ANTHONY C. BEILENSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 31, 1983

● Mr. BEILENSON. Mr. Speaker, I am introducing a bill today to allow the distribution in the United States of the USIA film "Thanksgiving in Peshawar with Kirk Douglas." The film is a 15-minute documentary of the visit by actor Kirk Douglas to Afghan refugee camps in Pakistan last Thanksgiving.

Mr. Speaker, under the terms of the legislation authorizing the U.S. Information Agency, its films and other materials may not be disseminated within the United States. This policy is designed to protect the USIA and our citizens from fears that the Agency might try to influence public opinion in the United States. Although I agree with this policy in general, I favor an exception for this film, since it clearly portrays one private citizen's view of conditions in a foreign country, rather than our Government's view of conditions in the United States. Every year one or a few USIA films are exempted from the general rule by specific legislation, and that is what I propose for this film.

Mr. Speaker, the war against the people of Afghanistan by the Soviet Union has driven some 3 million refugees into Pakistan. In this flim, Kirk Douglas describes the plight of these people as he saw it for himself last Thanksgiving. I believe the film will help our citizens better understand

the situation in Pakistan and Afghanistan.

I have obtained a copy of the film from the USIA for examination. Any Member who wishes to see the film may schedule a screening at his or her own convenience in the House recording studio.●

AFGHANISTAN HORROR DOCUMENTED

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, January 31, 1983

● Mr. CORCORAN. Mr. Speaker, one absolutely horrifying issue which has received little public attention to date is that of chemical weapons use in Southeast Asia and Afghanistan. Our own State Department has issued reports about "yellow rain" use in Laos, Cambodia, and Afghanistan, yet few national newspapers have given coverage to this issue. The Wall Street Journal, however, continues to expose Soviet use of outlawed weapons, and a recent column by Rosanne Klass, director of the Afghanistan Information Center at Freedom House (New York), is especially worthy of our attention. "Lifting the Curtain on Afghanistan's Horror," printed in the January 24 Wall Street Journal, speaks for itself. I commend it to my colleagues and wish to insert it for the RECORD.

The article follows:

[From the Wall Street Journal, Jan. 24, 1983]

LIFTING THE CURTAIN ON AFGHANISTAN'S HORROR

(By Rosanne Kloss)

Since the Soviet army invaded Afghanistan three years ago, Moscow and the government it installed in Kabul have clamped a news blackout on events in that country. Independent journalists were thrown out a month or two after the invasion; aside from a handpicked few, only those reporters willing to risk their necks to go in with the resistance forces have been able to cover the story at all, and they get only a fleeting, limited view.

The International Red Cross was also thrown out soon after the invasion, and has not been allowed to function there since—nor is any other human rights organization allowed in. The diplomatic community is effectively limited to official circles in Kabul; an Afghan in contact with non-communist foreigners risks prison or worse. The stories coming out through competing resistance factions and refugees in Pakistan can seldom be checked, and reporters are understandably dubious about them.

Thus the world is effectively ignorant about what is happening in Afghanistan—which is, of course, the way the Soviets want it. And for good reason—for in Afghanistan, the Soviets are conducting a massive terror campaign against the civilian population.

The aim is to terrorize and crush the Afghan people into submission, eliminate the nation-wide base of support for the resistance and consolidate the Soviet grip on this highly strategic territory, the key to many of Moscow's future ambitions in South Asia and the Indian Ocean.

NAZI-LIKE ARTOCITIES

The Soviet campaign bears comparison with the artocities of the Nazis, Idi Amin, Cambodia, and—perhaps not accidentally—with those of Genghis Khan, whose slaughter of the Afghan people in the 13th Century is well-known to every Russian school child.

Though reports of Soviet atrocities in Afghanistan have leaked out, starting with the Kerala massacre in 1979, it has seldom been possible to verify them, thanks to the new Iron Curtain around Afghanistan. But last month in Paris a stream of witnesses, including some who arrived at the last moment from deep inside Afghanistan, lifted that curtain for a moment to reveal a scene of sheer horror; a people facing execution for the crime of defending their freedom.

The circumstances were particularly embarrassing to the Soviets and their apologists: The revelations and condemnations in Paris came from the left. Three days of hearings culminated in a press conference on Dec. 20 were conducted by the Permanent Tribunal of the Peoples, the successor organization to the old Bernard Russell war crimes tribunal which put America in the dock for Vietnam, and which has generally been more notable for its attention to the warts of the West than to those of the Soviet bloc and Third World. The panel of judges—French, Swiss, Belgian, Yugoslav, Mexican, Indian—ranged from socialist humanitarians to lifelong fellow-travelers.

This was not the first time that the tribunal had met to consider Afghanistan: In Stockholm in 1980, its judges condemned Moscow for violations of the U.N. charter and the right of self-determination, as well as for aggression. But, although the Stockholm hearings included extensive testimony on torture, mass executions, rape and civilian massacres, the panel there passed no judgment on violations of human rights.

That omission was rectified in Paris, where the second hearing on Afghanistan was devoted entirely to atrocities and human rights violations.

For three days, dozens of witnesses—journalists, doctors, experts on weaponry, representatives of humanitarian groups who had visited Afghanistan secretly, Afghan victims and eyewitnesses—piled up horrors in their testimony and evidence on the table—weapons, photographs, films, documents, fragments of chemical-seared rock. There were the outlawed weapons used in violations of treaties the Soviets were signatories to: dumdum bullets, disguised booby-trap mines, chemical weapons, contaminated grain.

The Dutch freelance journalist Bernd de Bruin showed films he had taken of a chemical attack on an Afghan farm village, and of the ebony-black, bloated corpse of a man he had seen alive in that village less than 24 hours earlier; later, in a cafe, de Bruin rolled up his sleeve to display the red patches that have marked his skin since he was caught on the edge of a gas attack 18 months earlier.

Ricardo Fraile, a French expert on arms control, carefully outlined his assessment of chemical weapons used on sites he had just visited during a secret trip into Afghanistan, showing slides and samples of scorched rock from a village in the Logar Valley near Kabul where, on Sept. 13, 1982, more than 100 villagers—a dozen of them children under 10—were sealed up and deliberately burned to death in an underground irrigation tunnel in which they had taken shelter when Soviet forces rolled into the village.

French doctors detailed the pinpoint bombing of their hospitals in Afghanistan, some of them marked with red crosses on the roofs. One Afghan witness after another described the saturation bombings of civilian targets, the systematic destruction of crops and granaries, the massacre of entire villages—all intended to terrorize the population into withdrawing their homes and fleeing to Pakistan. The boobytrap mines disguised as toys and household objects (outlawed by a 1981 treaty the soviets signed even as they were using them) were explained: They were too small to kill, instead they maim, thus burdening the ablebodied with the wounded.

As the evidence piled up. A Norwegian observer remarked quietly, "Perhaps the time has come to reconvene the Nuremberg trials."

A few of the judges looked uncomfortable and, in their questions, sought extenuating circumstances; they found none. One snoozed. One looked irritable and bored. The others dug for details.

Then, late on the third day, witnesses from Afghanistan arrived, rushing from the airport to the Sorbonne halls, and straight to the podium. The American scholar Mike Barry had gone into Afghanistan to verify atrocity stories, had located them, and brought them to Paris; they had been delayed in Pakistan, and a special Saturday night session had been called to hear their testimony.

Three of them were men from the village in Logar. They were the village's mayor, a mullah and a village elder. They described, to the audience of several hundred, how the Soviet troops methodically prepared the explosive chemical inferno in an irrigation tunnel in their village last fall, and then applauded its success before climbing into their vehicles and departing. They read the list of the dead, many of them their relatives, and told of bringing the bodies out and trying to identify them.

TORTURE, MAIMING, RAPE

Another was a medical student, a tiny young woman of 22, who had to sit during her testimony; she told of her arrest and torture in Afghanistan, of the maimings and electric shocks and sexual attacks in the cells of the prime ministry, the secret police and Pul-i-Charkhi prison, and she shook sometimes, or stopped and seemed to lose her train of thought.

Then there was the witness from a northern province, telling of two boys, ages eight and 10, who refused to reveal to Soviet troops the hiding place of their resistance-commander father, and were doused with gasoline and set on fire.

An audience that had thought itself numb with ghastly testimony sat riveted till nearly 1 a.m. Then the judges retired, to spend a day considering the evidence.

The detailed 33-page verdict was announced at a press conference covered by both print and broadcast media in Europe. The Tribunal of the Peoples, in its Second Session on Afghanistan, condemned the Soviet Union for violations of the established rules of war, of the fundamental rights of the Afghan people and of basic, elementary human values.

The six Afghans who testified at the end of the tribunal plan to fly into New York this week for a brief stay in the U.S. They

are coming from London, where they met last Thursday with Britain's prime minister, Margaret Thatcher.●

THE NEW CHANCELLOR OF THE UNIVERSITY OF MARYLAND

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, January 31, 1983

● Mr. HOYER. Mr. Speaker, I would like to bring to the attention of this body the recent appointment of Dr. John Slaughter, former director of the prestigious National Science Foundation, as chancellor of the University of Maryland.

Dr. Slaughter came to this position after extensive experience in both the scientific and administrative fields. After a childhood spent in Topeka, Kans., he went to Kansas State University and, in 1956, received his degree in electrical engineering. Immediately after, he went to the General Dynamics Astronautics Corp. in San Diego, moving to the Naval Ocean Systems Center where, for 15 years, he developed computer process control mechanisms. During this time he received his doctorate at the University of California at San Diego.

After serving as director of the Applied Physics Laboratory at the University of Washington, Seattle, Dr. Slaughter became the provost and academic dean at the University of Washington, Pullman. A call from then-President Jimmy Carter brought him to Washington, where he became the director of the NSF. His work there has been highly praised for his ability to provide a real sense of direction and to establish high standards in the midst of diminishing resources.

We are indeed proud that Dr. Slaughter agreed to take on the difficult task of chancellor at Maryland, one of the 10 largest universities in the United States.

The University of Maryland is nationally recognized for its schools of computer sciences, mathematics, and physics. Dr. Slaughter's presence can only strengthen this commitment to outstanding science programs. He and his wife, Bernice, herself an educator for 22 years, are dedicated to bringing quality faculty and students to the university.

Dr. Slaughter has also made a commitment in another area—that of increasing minority representation, both on the faculty and student population of the College Park campus. He carried a personal mandate to improve opportunities for minorities with him from NSF and with Maryland President John Toll and the members of the board of regents, he intends to make this goal a major priority in the coming years.

Mr. Speaker, I wish to take this opportunity to wish Dr. Slaughter much success in his position of chancellor at Maryland. I know his contributions to the school will be significant and will make a lasting mark on the university as well as on the residents of Maryland. Education and the quality of life for Maryland's youth will be strongly enhanced by Dr. Slaughter's presence at the university, and as an alumnus of Maryland, I think I can speak for the students and faculty of the institution when I say that Maryland welcomes John Slaughter to the campus at College Park.●

PRESIDENT PRAISES VISTA PROJECT

HON. AUSTIN J. MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 31, 1983

● Mr. MURPHY. Mr. Speaker, during reauthorization hearings for the ACTION agency in the Select Education Subcommittee last Congress, one of our witnesses remarked:

> If there was not a VISTA on the books today, I think this Reagan Administration would have probably joyfully invented it. It is so consistent with the basic philosophy of the current administration.

How right our witness was, became clear a couple of weeks ago, during President Reagan's trip to Texas. At the north Texas food bank warehouse, the President remarked:

> With a little seed money from the Department of Health and Human Services and some good volunteers from ACTION, I can't think of a more effective private and public partnership than this food bank.

What the President may not have known at the time—and I hope he knows now—is that those "good volunteers from ACTION" are VISTA volunteers. And if it had not been for Congress rejection of administration proposals to kill VISTA, there would have been no VISTA volunteers and no food distribution program at that north Texas food bank.

I hope my colleagues will take note of this accurate, though indirect, Presidential sanctioning of the work that VISTA does. And I hope that the President will give recognition in the legislation he sends to the Hill this session that the Volunteers in Service to America program has never been more timely than it is right now. It is building private-public partnerships that can be praised by both ends of the political spectrum.●

BRUTAL HARASSMENT OF MR. BEGUN BY THE SOVIET UNION

HON. SIDNEY R. YATES

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, January 31, 1983

● Mr. YATES. Mr. Speaker, I rise today to express my outrage over the treatment of Josif Begun by the Soviet authorities. Unfortunately, his story is altogether too familiar. For over a decade now he has been harassed and he has been imprisoned on at least three occasions for his desire to emigrate to Israel.

In 1967, Josif Begun graduated from the Moscow State University and the Moscow Institute of Radiotechnology. Subsequently he was hired as a senior research assistant at the Central Research Institute in Moscow. Begun was fired from his position after submitting his request for an exit visa in April 1971. He then lost several lower level jobs which were not in keeping with his education and experience. Ultimately, he had to rely on a small income from tutoring Hebrew and mathematics.

Begun is a religious Jew. Like his father and grandfather, he has worked to preserve and nurture Jewish traditions and is regarded as the foremost Hebrew teacher in the Soviet Union. Begun was one of the leaders in the movement for the legalization of Hebrew teaching in the U.S.S.R. This was his offense against the state—a desire to practice his religion in peace.

In 1977, he was sentenced to exile in Siberia for parasitism. When he was released from exile he was not allowed to rejoin his family. In May 1978, Begun was arrested outside the courtroom in Moscow where Yuri Orlov, the persecuted human rights advocate, was being tried. After a closed trial lasting only 1 day, Begun was sentenced to 3 years in Siberia for gross passport violation.

After finally ending up in the town of Susuman, Begun went on a hunger strike. He eventually gave up the strike at the behest of his thousands of friends and admirers around the world. In September 1980, Begun completed his exile in Siberia. He was not allowed to return to Moscow, but instead was given a permit to settle in the rural town of Struninlov.

At long last, in March 1982, Begun's wife, Alla, and his son, Barak, were allowed to emigrate to Israel. Begun, however, was not permitted to join them and continued to be harassed.

On November 7, 1982, Begun was arrested, once again, and on this occasion was taken to Vladimir Prison. This time he was charged with agitation and promoting anti-Soviet propaganda.

All of this has happened to Mr. Begun because he simply wanted to emigrate to Israel and because of his intense desire to practice his religious beliefs.

Josif Begun is an example to all of us in the West. In standing up for his beliefs, Begun has suffered imprisonment, degradation, Siberian exile and separation from his family, and he deserves our full and active support.

I am hopeful that others among you will join in adding your voices to the rising chorus demanding Josif Begun's release from prison and permission for him to emigrate to Israel.●

ANOTHER TEST-BAN AVENUE

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, January 31, 1983

● Mr. FISH. Mr. Speaker, we are currently reconvening strategic arms negotiations in Geneva. The success of these talks could help end the dangerous and self-destructive arms race before it is too late.

If these negotiations are successful, there is a further, crucial step that must be taken before we can truly insure a future safe from a possible nuclear holocaust. A comprehensive test ban treaty must be agreed to by the nuclear powers. I have long supported this as a major objective of our nuclear arms policy.

In the December 18, 1982, New York Times, Ralph Earle II, the chief negotiator for SALT II, and Peter Staugaard, a researcher at the center for Foreign Policy Development at Brown University, presented a plan for a comprenhensive test ban treaty. The authors make a number of valid and useful suggestions that I would like to bring to the attention of my colleagues.

[By Ralph Earle II and Peter Staugaard]

PROVIDENCE, R.I.—Progress toward a ban on nuclear-weapons testing has halted, despite growing public support for control of such weapons. An alternate, new path to a complete test ban is thus worth considering.

The Administration has made clear its intention to continue testing. It has unilaterally suspended negotiations with the Soviet Union and Britain for a comprehensive test ban treaty that were initiated by Dwight D. Eisenhower and nearly completed under Jimmy Carter after two decades of bipartisan effort. Meanwhile, the Administration has set off more tests in the first 11 months of 1982 than in any 12-month period since 1970.

The Administration says that talks on that treaty will not resume until improved verification provisions are negotiated for two unratified test limitation pacts: the Threshold Test Ban and the Peaceful Nuclear Explosions Treaties, signed by Richard M. Nixon and Gerald R. Ford, respectively. The Reagan team contends that the 150-kiloton limit placed on nuclear test yields by these two treaties is not verifiable.

The Administration's real concern may be that a comprehensive test ban would prevent the development and testing of new weapons that the Pentagon considers crucial to defense. Likewise, testing the reliability of weapons now deployed would be prohibited.

Given the Administration's desire to test and its concern about verifiability, a feasible approach to limiting tests would be what we call a Quota With Advance Notification Test Treaty.

A "Qwant" treaty would limit the number of tests conducted by each signatory to a small number each year. Each signatory would agree to provide the others with advance notification of each test, specifying the date, time, depth and geographical coordinates. The precise time and approximate yield would be provided within a specified number of days following each test. Any test not thus announced would be a treaty violation.

Verification would be by "national technical means" (satellite surveillance, air sampling, listening posts), in addition to the procedures agreed upon in principle during previous negotiations on the comprehensive test ban treaty, including tamper-proof seismic stations on each signatory's territory. A standing commission of signatories would meet regularly to settle questions about compliance. In addition, a system of on-site inspection could be used to settle charges of illegal testing.

A Qwant treaty would offer advantages both to the Administration and to test-ban advocates:

It would give the Administration an opportunity to make a serious arms control move without adversely affecting current policy on nuclear weapons; some testing of stockpiled weapons for reliability and of new weapons under development would be permitted. It would offer test-ban advocates a serious limit on testing that surely would be better than no limit at all.

But the most important advantage lines in Qwant's potential to produce a major breakthrough toward a fully verifiable comperhensive test ban.

The verification challenges posed by a comprehensive ban and the Qwant treaty are essentially the same: detection of a single illegal test. The quota limitation would be, in effect, a comprehensive ban on all tests not announced in advance. Monitoring a Qwant treaty would provide the evidence needed to dispel doubts about verification that have plagued the comprehensive test ban talks for more than 20 years.

Ultimately, a comprehensive test ban could be achieved in steps by agreeing to reduce the number and perhaps the yields of allowed tests at regular intervals. Agreement to limit the number of tests would also demonstrate to countries without nuclear weapons that nuclear powers were making serious efforts to limit further development of weapons. The Qwant treaty would both fulfill superpower obligations under the 1968 Non-Proliferation Treaty to pursue negotiations on ending testing and keep the number of tests to a minimum.

Unless significant steps are taken, the Administration's actions on the comprehensive test ban coupled with American's failure to ratify the Threshold Test Ban, Peaceful Nuclear Explosions and SALT II Treaties might well provoke some countries to withdraw from the Non-Proliferation Treaty. The breakdown of this accord could speed the world toward a dangerous, unrestrained proliferation of nuclear weapons.

A gradually reduced quota on nuclear tests carefully embodied in a Qwant treaty would be an important step in the opposite, safer direction. ●

REPEAL OF WITHHOLDING

HON. JOE SKEEN

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Monday, January 31, 1983

● Mr. SKEEN. Mr. Speaker, as we begin work in this the 98th Congress, I would hope that we in the House of Representatives will be given the opportunity to have a separate vote on an issue of concern to the Nation's savers. Last year the Congress passed and the President signed into law the Tax Equity and Fiscal Responsibility Act of 1982. Included in that act is a provision that requires financial institutions to withhold 10 percent of the tax due on interest and dividends earned by savers. This provision is due to go into effect on July 1, of this year. Unfortunately the Members of the House were never afforded the opportunity to vote on the withholding issue but rather we were forced to vote on the entire tax package.

I am encouraging my colleagues to push for a vote on the repeal of the withholding law. I believe this is an issue that should be judged on its merits or rather on its lack of merits.

This law is unfair to the Nation's taxpayers who pay the tax due on interest and dividends. According to an IRS study taxpayers reported almost 97 percent of all interest and dividends for which information returns were filed.

This law will also serve the purpose of discouraging saving and investment by individuals at the very time our economy is in desperate need of savings and investments.

Finally, and perhaps most importantly, the exemption process for low-income individuals and senior citizens is very confusing and burdensome. If an exemption certificate is not filed then an individual will lose 10 percent of their interest or dividends. For many people, especially the elderly of this country, this loss of income could be devastating. In light of the present financial troubles of our social security system. I would say that the senior citizens of this Nation need all of their earned interest and dividends now more than ever.

The National Association of Federal Credit Unions is holding their annual congressional caucus this week here in Washington. I am sure that many of my colleagues will be visited by the more than 200 credit union officials in town for this meeting. I am also quite sure that the message will be the same from all of them; the withholding law

is unfair, costly, burdensome, and unnecessary.

I urge my colleagues to listen carefully to their credit union constituents. If you do, I am sure you will join me in supporting a repeal of the withholding law.●

RESOLUTION FOR JOBS WITH PEACE

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 31, 1983

● Mr. EDWARDS of California. Mr. Speaker, I am reintroducing, along with 62 of my esteemed colleagues, the jobs with peace resolution. This bill reflects the jobs with peace referenda passed in over 50 cities and towns across America where it appeared on last November's ballot.

This resolution expresses the sense of the House that additional funds should be made available for jobs and programs in education, transportation, housing, health care, human services, and other socially productive industries, by significantly reducing the amount of our tax dollars spent on nuclear weapons, foreign military intervention, and wasteful military programs.

The economic condition in the United States grows progressively worse each day. Some 12 million people currently are unemployed. Every day more plants and factories are closing their doors. Banks and mortgage associations are being forced to foreclose on farms and on people's homes. Yet President Reagan continues to call for more money for the MX missile, more money for the Pershing II, more money for the Trident submarine, and more money for a growing list of military programs of questionable value.

The American people have demanded that we do something about the vast amount of Federal dollars being spent on the military budget at a time when too many of our own people are hungry, homeless, and out of work. We, as Members of Congress, have the obligation to represent our constituents and their wishes here in Washington.

As we begin the 98th Congress, the public cry for justice within the Federal budget must be acknowledged. We, as responsible Members, must develop strategies and legislation which will support job-producing human needs programs, funded by significant cuts in the military budget. We must also strengthen our opposition to increased military budgets, wasteful military programs and the continuation of the proliferation of nuclear weapons which threaten our very survival.

I encourage my colleagues to join me as cosponsors of the legislation which I have just introduced.●

HOFSTRA UNIVERSITY REACHES A NEW MILESTONE

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, January 31, 1983

● Mr. LENT. Mr. Speaker, it gives me great pleasure to announce to the Congress that Hofstra University, my alma mater located in Hempstead, N.Y., is currently celebrating the attainment of the 1 million volume mark in its libraries collections.

As a 1952 graduate of Hofstra, I take tremendous pride in Hofstra's many accomplishments over the years, especially the development of its libraries. Over the past 30 years, Hofstra has grown into a major university center, fully equipped to handle the growing needs of the community it has served so well. Last year, Hofstra became the first privately supported university in the Nation to complete the removal of architectural barriers in all of its buildings so that its programs and activities are now fully accessible to the physically disabled. Furthermore, the university has installed Kurzweil reading machines in its libraries to enable blind persons to fully benefit from all of the research resources in its collections.

I am told that only 5 percent of the Nation's colleges and universities have collections of 1 million volumes or more. Hofstra has become a member of a select circle of universities that can offer the student body and the community these library facilities.

Mr. Speaker, I heartily applaud Hofstra's efforts to develop its educational resources, as reflected in the 1 million volumes within the confines of its libraries. Education is truly the backbone and future of this country and Hofstra is leading the way in strengthening our Nation's system of higher education for the many years to come.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, February 1, 1983, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

FEBRUARY 2

9:30 a.m.

Commerce, Science, and Transportation
Merchant Marine Subcommittee
To hold hearings on S. 47, to improve the international ocean commerce transportation system of the United States.
235 Russell Building

Finance
Health Subcommittee
To hold hearings on a proposal to develop a medicare prospective payment system for hospitals, skilled nursing facilities, and other providers.
2221 Dirksen Building

Judiciary
Juvenile Justice Subcommittee
To hold oversight hearings to review Federal guidelines on kidnapping and exploitation of children.
5110 Dirksen Building

Labor and Human Resources
To hold oversight hearings on the activities of the Office of Inspector General, Department of Labor.
4232 Dirksen Building

Rules and Administration
To hold hearings on Senate mass mailings and the use of postal patron mail.
301 Russell Building

Small Business
To hold hearings on S. 272, to provide prospective contractors minimum time periods for the solicitation and bidding process on Federal contracts, and S. 273, to extend the authority of the Small Business Administration's section 8(a) pilot procurement program, authorizing the SBA to enter into procurement contracts with Federal agencies for the purpose of subcontracting to small business.
424 Russell Building

10:00 a.m.

Budget
To hold hearings in preparation for reporting the first concurrent resolution on the fiscal year 1984 congressional budget.
6202 Dirksen Building

Energy and Natural Resources
To hold hearings to continue review of those items in the President's budget for fiscal year 1984 which fall within its legislative jurisdiction, and to consider recommendations which it will make thereon to the Budget Committee, receiving testimony from officials of the Department of the Interior.
3110 Dirksen Building

Environment and Public Works
To resume hearings on infrastructure issues relating to job opportunities in public works.
4200 Dirksen Building

Foreign Relations
To hold hearings on Presidential certification on progress in El Salvador.
4221 Dirksen Building

Judiciary
Security and Terrorism Subcommittee
To hold oversight hearings on the activities of the Federal Bureau of Investigation, and on proposed authorizations for fiscal year 1984 for the FBI.
2228 Dirksen Building

Joint Economic
To continue hearings in preparation of its forthcoming annual report.
6226 Dirksen Building

10:30 a.m.
Select on Intelligence
Closed briefing on intelligence matters.
S-407, Capitol

1:30 p.m.
Finance
Health Subcommittee
To resume hearings on a proposal to develop a medicare prospective payment system for hospitals, skilled nursing facilities, and other providers.
2221 Dirksen Building

2:00 p.m.
Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1984 congressional budget.
6202 Dirksen Building

Foreign Relations
To continue hearings on Presidential certification on progress in El Salvador.
4221 Dirksen Building

Joint Economic
To continue hearings in preparation of its forthcoming annual report.
6226 Dirksen Building

FEBRUARY 3

9:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Protection, Marketing, and Stabilization of Prices Subcommittee
To hold hearings on S. 36, to provide authority for implementation of a special payment-in-kind (PIK) land conservation program for 1983 and 1984, and other related measures.
324 Russell Building

9:30 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the implementation of the Export Administration Act (Public Law 96-72), and the Department of Commerce's responsibilities under the Act.
5302 Dirksen Building

*Environment and Public Works
To continue hearings on infrastructure issues relating to job opportunties in public works.
4200 Dirksen Building

Labor and Human Resources
To continue oversight hearings on the activities of the Office of Inspector General, Department of Labor.
4232 Dirksen Building

10:00 a.m.
Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1984 congressional budget.
6202 Dirksen Building

Energy and Natural Resources
To hold hearings to continue review of those items in the President's budget for fiscal year 1984 which fall within its legislative jurisdiction, and to consider recommendations which it will make thereon to the Budget Committee, receiving testimony from officials of the Forest Service, Department of Agriculture, and the U.S. Synthetic Fuels Corporation.
3110 Dirksen Building

Finance
To hold hearings on the administration's budget proposals for fiscal year 1984.
2221 Dirksen Building

Joint Economic
To continue hearings in preparation of its forthcoming annual report.
6226 Dirksen Building

2:00 p.m.
Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1984 congressional budget.
6202 Dirksen Building

Foreign Relations
To hold hearings on the Lebanon situation and proposed U.S. assistance.
4221 Dirksen Building

4:00 p.m.
Office of Technology Assessment
The Board to meet on organizational matters, and to consider new project proposals.
EF-100, Capitol

FEBRUARY 4

9:00 a.m.
Commerce, Science, and Transportation
To hold hearings on the nominations of Helen M. Taylor, of Virginia, Richard Brookhiser, of New York, Karl Eller, of Arizona, and Sharon P. Rockefeller, of West Virginia, each to be a member of the Board of Directors of the Corporation for Public Broadcasting.
235 Russell Building

9:30 a.m.
Finance
International Trade Subcommittee
To hold hearings on S. 144, to establish the concept of reciprocity of market access as an objective for U.S. trade policy where American products are competitive.
2221 Dirksen Building

Special on Aging
To hold hearings on the quality of health care and prospective reimbursement procedures to medical facilities.
5302 Dirksen Building

Joint Economic
To hold hearings on the employment/unemployment situation for the month of January.
318 Russell Building

10:00 a.m.
Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1984 congressional budget.
6202 Dirksen Building

2:00 p.m.
Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1984 congressional budget.
6202 Dirksen Building

FEBRUARY 14

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the status of the housing sector.
5302 Dirksen Building

FEBRUARY 15

9:30 a.m.
Banking, Housing, and Urban Affairs
International Finance and Monetary Policy Subcommittee
To hold oversight hearings on the status of the international debt.
5302 Dirksen Building

Rules and Administration
To hold hearings on committee resolutions requesting funds for operating expenses for 1983.
301 Russell Building

Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to receive legislative recommendations for fiscal year 1984 from the Disabled American Veterans.
345 Cannon Building

10:00 a.m.
Environment and Public Works
To hold hearings to review those items in the President's budget for fiscal year 1984 which fall within its legislative jurisdiction, and to consider recommendations which it will make thereon to the Budget Committee.
4200 Dirksen Building

10:30 a.m.
Labor and Human Resources
Employment and Productivity Subcommittee
To hold hearings on S. 242, authorizing funds for fiscal year 1983 to provide additional employment opportunities in existing Federal or federally assisted labor intensive programs, to provide incentives for employers to hire the long-term unemployed, and to expand retraining opportunities for dislocated workers.
4232 Dirksen Building

1:00 p.m.
Finance
To hold hearings on recommendations of the National Commission on Social Security Reform.
2221 Dirksen Building

FEBRUARY 16

9:30 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the Federal Reserve System's first monetary policy report for 1983.
5302 Dirksen Building

Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 66, to create a jurisdictional framework to apportion the authority regulating cable systems between the Federal and State governments, and to provide for a competitive marketplace for cable systems in the telecommunications industry.
235 Russell Building

Rules and Administration
To continue hearings on committee resolutions requesting funds for operating expenses for 1983.
301 Russell Building

10:00 a.m.
Veterans' Affairs
To hold hearings to review those items in the President's budget for fiscal year 1984 which fall within its legislative jurisdiction, and to consider recommendations which it will make thereon to the Budget Committee, receiving testimony from officials of the Veterans' Administration.
412 Russell Building

FEBRUARY 17

9:30 a.m.
Banking, Housing, and Urban Affairs
International Finance and Monetary Policy Subcommittee
To resume oversight hearings on the status of the international debt.
5302 Dirksen Building

Commerce, Science, and Transportation
Communications Subcommittee
To continue hearings on S. 66, to create a jurisdictional framework to apportion the authority regulating cable systems between the Federal and State governments, and to provide for a competitive marketplace for cable systems in the telecommunications industry.
235 Russell Building

Finance
Health Subcommittee
To continue hearings on a proposal to develop a medicare prospective payment system for hospitals, skilled nursing facilities, and other providers.
2221 Dirksen Building

Rules and Administration
To continue hearings on committee resolutions requesting funds for operating expenses for 1983.
301 Russell Building

10:00 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings on S. 251, to provide for fair trade practices in the agricultural market, and to encourage and expand the export volume and value of agricultural commodities and products, and other related measures.
324 Russell Building

Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for the American Battle Monuments Commission, Army cemeterial expenses, and the Selective Service System.
1224 Dirksen Building

Environment and Public Works
To resume hearings to review those items in the President's budget for fiscal year 1984 which fall within its legislative jurisdiction, and to consider recommendations which it will make thereon to the Budget Committee.
4200 Dirksen Building

1:30 p.m.
Finance
Health Subcommittee
To continue hearings on a proposal to develop a medicare prospective payment system for hospitals, skilled nursing facilities, and other providers.
2221 Dirksen Building

FEBRUARY 18

9:00 a.m.
Energy and Natural Resources
To hold oversight hearings on the world petroleum outlook for 1983.
S-407, Capitol

9:30 a.m.
Banking, Housing, and Urban Affairs
To resume oversight hearings on the Federal Reserve System's first monetary policy report for 1983.
5302 Dirksen Building

FEBRUARY 21

10:00 a.m.
Energy and Natural Resources
To resume oversight hearings on the world petroleum outlook for 1983.
3110 Dirksen Building

FEBRUARY 22

9:30 a.m.
Banking, Housing, and Urban Affairs
To resume oversight hearings on the Federal Reserve System's first monetary policy report for 1983.
5302 Dirksen Building

Rules and Administration
Business meeting, to consider committee resolutions requesting funds for operating expenses for 1983, and proposed regulations for Senate mass mailings.
301 Russell Building

10:00 a.m.
Environment and Public Works
Business meeting, to consider those matters and programs in the President's budget for fiscal year 1984 which fall within the committee's jurisdiction, with a view toward submitting its views and budgetary recommendations to the Committee on the Budget.
4200 Dirksen Building

Finance
To resume hearings on recommendations of the National Commission on Social Security Reform.
2221 Dirksen Building

FEBRUARY 23

10:00 a.m.
Finance
To continue hearings on recommendations of the National Commission on Social Security Reform.
2221 Dirksen Building

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To hold oversight hearings on the implementation of vocational education programs.
4232 Dirksen Building

FEBRUARY 24

9:30 a.m.
Judiciary
Juvenile Justice Subcommittee
To hold hearings on the reauthorization of the Juvenile Justice and Delinquency Prevention Act (Public Law 93-415).
2228 Dirksen Building

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for the Office of Consumer Affairs, Consumer Information Center, and the Consumer Product Safety Commission.
1224 Dirksen Building

Energy and Natural Resources
Energy and Mineral Resources Subcommittee
To hold oversight hearings on the status of the abandoned mined land fund, Department of the Interior.
3110 Dirksen Building

Finance
To continue hearings on recommendations of the National Commission on Social Security Reform.
2221 Dirksen Building

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To continue oversight hearings on the implementation of vocational education programs.
4232 Dirksen Building

2:00 p.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings to review the general agricultural outloook, and the overall budget for the Department of Agriculture.
1318 Dirksen Building

FEBRUARY 28

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings to review foreign assistance programs of the Department of State.
1114 Dirksen Building

MARCH 1

9:30 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for the Agricultural Cooperative Service, Agricultural Marketing Sevice, Office of Transportation, and the Packers and Stockyards Administration, Department of Agriculture.
1224 Dirksen Building

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proosed budget estimates for fiscal year 1984 for certain programs of the Department of State, focusing on international security assistance, international narcotics control, migration and refugee assistance, and antiterrorism.
S-126, Capitol

10:30 a.m.
Veterans' Affairs
To hold hearings to receive legislative recommendations for fiscal year 1984 from the Paralyzed Veterans of America, Military Order of the Purple Heart, and World War I Veterans.
318 Russell Building

MARCH 2

10:00 a.m.
Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To resume oversight hearings on the implementation of vocational education programs.
4232 Dirksen Building

11-059 O-87-39 (Pt. 1)

Veterans' Affairs
Business meeting, to consider those items in the President's budget for fiscal year 1984 which fall within its legislative jurisdiction, and recommendations which it will make thereon to the Committee on the Budget.
412 Russell Building

2:00 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for the Peace Corps, and the Inter-American Foundation.
S-126, Capitol

MARCH 3

9:30 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for the Animal and Plant Health Inspection Service, Food Safety and Inspection Service, and the Federal Grain Inspection Service, Department of Agriculture.
1224 Dirksen Building

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for certain programs of the Agency for International Development.
S-126, Capitol

Judiciary
Agency Administration Subcommittee
To hold oversight hearings on the indemnification of and contributions to government contractors.
5110 Dirksen Building

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To continue oversight hearings on the implementation of vocational education programs.
4232 Dirksen Building

2:00 p.m.
Appropriations
Foreign Operations Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1984 for certain programs of the Agency for International Development.
S-126, Capitol

MARCH 7

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for the U.S. Representative to the United Nations, and voluntary contributions to international organizations and programs of the United Nations.
1114 Dirksen Building

MARCH 8

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for the Export-Import Bank of the United States.
1114 Dirksen Building

11:30 a.m.
Veterans' Affairs
To hold hearings to receive legislative recommendations for fiscal year 1984 from the Veterans of Foreign Wars.
318 Russell Building

MARCH 9

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings to review the current status of the multilateral development banks of the Department of the Treasury.
1114 Dirksen Building

Veterans' Affairs
To hold hearings on proposed legislation providing for veterans' health care services.
412 Russell Building

MARCH 10

9:30 a.m.
Labor and Human Resources
Labor Subcommittee
To hold oversight hearings on the implementation of the Employee Retirement Income Security Act.
4232 Dirksen Building

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for certain programs under the Subcommittee's jurisdiction.
S-126, Capitol

Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for the Veterans' administration
1224 Dirksen Building

2:00 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for certain programs under the subcommittee's jurisdiction.
S-126, Capitol

MARCH 15

9:30 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for the Soil Conservation Service, and the Agricultural Stabilization and Conservation Service, Department of Agriculture.
1224 Dirksen Building

10:30 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for the Commodity Credit Corporation, Foreign Agricultural Service (including Public Law 480), Office of International Cooperation and Development, Department of Agriculture.
1224 Dirksen Building

MARCH 16

10:00 a.m.
Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To hold hearings on issues related to math and science education in elementary and secondary schools.
4232 Dirksen Building

Veterans Affairs
To hold hearings on proposed legislation providing educational assistance for certain members of the Armed Forces.
412 Russell Building

MARCH 17

9:30 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for the Agricultural Research Service, Cooperative State Research Service, Extension Service, and the National Agriculture Library, Department of Agriculture.
1224 Dirksen Building

10:00 a.m.
Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To continue hearings on issues related to math and science education in elementary and secondary schools.
4232 Dirksen Building

10:30 a.m.
Veterans' Affairs
To hold hearings to receive legislative recommendations for fiscal year 1984 from AMVETS and the Blinded Veterans Association.
6226 Dirksen Building

MARCH 22

9:30 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for the Economic Research Service, Statistical Research Service, and the World Agricultural Outlook Board, Department of Agriculture.
1224 Dirksen Building

MARCH 23

10:00 a.m.
Veterans' Affairs
To hold oversight hearings to review the status of construction of certain veterans' facilities.
412 Russell Building

MARCH 24

9:30 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for the Office of Governmental and Public Affairs, Office of the General Counsel, Office of the Inspector General, Departmental Administration, Office of the Secretary, and Departmental Administration, Department of Agriculture.
1318 Dirksen Building

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for the Office of Science and Technology Policy, and the Council on Environmental Quality.
1224 Dirksen Building

APRIL 5

9:30 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for the Food and Nutrition Service, and the Human Nutrition Information Service, Department of Agriculture.
1318 Dirksen Building

APRIL 7

9:30 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for the Farmers Home Administration, Federal Crop Insurance Corporation, Office of Rural Development Policy, and the Rural Electrification Administration, Department of Agriculture.
1318 Dirksen Building
10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for the Environmental Protection Agency.
1224 Dirksen Building

APRIL 12

9:30 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for certain programs of the Food and Drug Administration, Department of Health and Human Services, the Farm Credit Administration, and the Commodity Futures Trading Commission.
1318 Dirksen Building

APRIL 13

10:00 a.m.
Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To resume oversight hearings on the implementation of vocational education programs.
4232 Dirksen Building

APRIL 14

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for the National Science Foundation.
1224 Dirksen Building
Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To continue oversight hearings on the implementation of vocational education programs.
4232 Dirksen Building

APRIL 20

10:00 a.m.
Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To hold oversight hearings on the implementation of bilingual education programs by the Department of Education.
4232 Dirksen Building
Veterans Affairs
Business meeting, to consider proposed legislation providing for certain veterans' health care services, and proposed legislation providing educational assistance for certain members of the Armed Forces.
412 Russell Building

APRIL 21

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for the National Aeronautics and Space Administration.
1224 Dirksen Building
Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To continue oversight hearings on the implementation of bilingual education programs by the Department of Education.
4232 Dirksen Building

APRIL 27

10:00 a.m.
Veterans' Affairs
To hold oversight hearings to review adverse health effects from exposure to radiation, and other related matters.
412 Russell Building

APRIL 28

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for the Federal Emergency Management Agency, and the Neighborhood Reinvestment Corporation.
1224 Dirksen Building

MAY 5

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for the Office of Revenue sharing (New York City loan program), Federal Home Loan Bank Board, and the National Credit Union Administration.
1224 Dirksen Building

MAY 12

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for the Department of Housing and Urban Development.
1224 Dirksen Building

MAY 18

10:00 a.m.
Veterans' Affairs
To hold oversight hearings to review adverse health effects from exposure to agent orange, and other related matters.
412 Russell Building

MAY 23

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for certain programs under the subcommittee's jurisdiction.
1224 Dirksen Building

MAY 24

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for certain programs under the subcommittee's jurisdiction.
1224 Dirksen Building

JUNE 8

10:00 a.m.
Veterans' Affairs
To hold hearings on proposed legislation providing for certain veterans' compensation.
412 Russell Building

JUNE 22

10:00 a.m.
Veterans' Affairs
To hold oversight hearings on certain health care services for veterans.
412 Russell Building

JUNE 29

10:00 a.m.
Veterans' Affairs
Business meeting, to consider proposed legislation providing for certain veterans' compensation.
412 Russell Building

JULY 13

10:00 a.m.
Veterans' Affairs
To hold oversight hearings to review certain health care and other services provided Vietnam veterans.
412 Russell Building

JULY 20

10:00 a.m.
Veterans' Affairs
To hold oversight hearings on the role of management in implementing automated data processing systems at multiple VA hospital sites.
412 Russell Building

CANCELLATIONS

FEBRUARY 3

9:30 a.m.
Small Business
To hold oversight hearings on the small business investment company program of the Small Business Administration.
424 Russell Building

FEBRUARY 15

10:00 a.m.
Budget
To resume hearings in preparation for reporting the first concurrent resolution on the fiscal year 1984 congressional budget.
6202 Dirksen Building

FEBRUARY 16

10:00 a.m.
Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1984 congressional budget.
6202 Dirksen Building

2:00 p.m.
Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1984 congressional budget.
6202 Dirksen Building

FEBRUARY 17

10:00 a.m.
Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1984 congressional budget.
6202 Dirksen Building

2:00 p.m.
Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1984 congressional budget.
6202 Dirksen Building

FEBRUARY 22

10:00 a.m.
Budget
To resume hearings in preparation for reporting the first concurrent resolution on the fiscal year 1984 congressional budget.
6202 Dirksen Building

FEBRUARY 23

10:00 a.m.
Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1984 congressional budget.
6202 Dirksen Building

2:00 p.m.
Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1984 congressional budget.
6202 Dirksen Building

FEBRUARY 24

10:00 a.m.
Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1984 congressional budget.
6202 Dirksen Building

2:00 p.m.
Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1984 congressional budget.
6202 Dirksen Building

MARCH 1

10:00 a.m.
Budget
To resume hearings in preparation for reporting the first concurrent resolution on the fiscal year 1984 congressional budget.
6202 Dirksen Building

2:00 p.m.
Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1984 congressional budget.
6202 Dirksen Building

MARCH 2

10:00 a.m.
Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1984 congressional budget.
6202 Dirksen Building

2:00 p.m.
Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1984 congressional budget.
6202 Dirksen Building

MARCH 3

10:00 a.m.
Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1984 congressional budget.
6202 Dirksen Building

2:00 p.m.
Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1984 congressional budget.
6202 Dirksen Building

MARCH 21

10:00 a.m.
Budget
Business meeting, to mark up the proposed first concurrent resolution on the fiscal year 1984 congressional budget.
6202 Dirksen Building

MARCH 22

10:00 a.m.
Budget
Business meeting, to continue markup of the proposed first concurrent resolution on the fiscal year 1984 congressional budget.
6202 Dirksen Building

MARCH 23

10:00 a.m.
Budget
Business meeting, to continue markup of the proposed first concurrent resolution on the fiscal year 1984 congressional budget.
6202 Dirksen Building

MARCH 24

10:00 a.m.
Budget
Business meeting, to continue markup of the proposed first concurrent resolution on the fiscal year 1984 congressional budget.
6202 Dirksen Building

HOUSE OF REPRESENTATIVES—*Tuesday, February 1, 1983*

The House met at 12 o'clock noon.

Rabbi Morris M. Hershman, the Joliet Jewish Congregation, Joliet, Ill., offered the following prayer:

Our God and God of our forefathers:

Upon this august and illustrious body representing the people of the United States tackling the weighty matters before it, we humbly invoke Thy divine benedictions.

As we meet in this Super Bowl of governmental activity that impinges on the life of every American, help us to realize that when an issue becomes a political football there can be many fumbles. Penalize not, we pray Thee, our country for our offenses and may our defense ever be honorable and justified. Help us to pass to those who come after us a tradition unsullied and enhanced.

May our thoughts and our deeds ever be commensurate with the high honor and privilege Thou has given us to serve Thee, our country and our fellow men.

Bless Thou O God the work of our hands, the work of our hands, bless Thou it * * *.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Saunders, one of his secretaries.

THE RABBI MORRIS M. HERSHMAN

(Mr. O'BRIEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. O'BRIEN. Mr. Speaker, the man who opened today's session with that disturb-the-stars type of prayer is Morris Hershman, for 35 years Rabbi for the Joliet Jewish Congregation of Illinois. But he is more than just that, he is the Rabbi to all our congregations. He is Mr. Joliet. In every significant community or religious effort, he has been the razor's edge.

When the Catholic diocese of Joliet was carved out of the massive archdiocese of Chicago, Rabbi Hershman was the chief organizer of the welcoming reception for Bishop McNamara, the newly named bishop for the newly named diocese.

When Joliet was nominated by a major magazine to be considered as 1 of the 10 most outstanding U.S. communities, Morris Hershman made our case and we won that honor, thanks to him.

Mr. Speaker, when Rabbi Hershman appears, as he always does, at major community events to open, to conduct, or to close or conclude the affair, as I sit in those audiences I have a curious religious recollection. Some years ago when Latin was in vogue and was the vernacular of the church, when a visiting prelate of great prestige would come to a cathedral or come to a church, he would be greeted by the choir and the choir would usher him in to the moving strains of a hymn called "Ecce Sacerdos Magnus," something akin to "Hail to the Chief;" but the words really mean, "Behold, this good man who in his own day God saw fit to make a great priest."

I can think of nothing better as a description of Morris Hershman. "Behold this good man who in his own time God saw fit to make a great priest."

REPORT ON RESOLUTION ESTABLISHING SELECT COMMITTEE ON CHILDREN, YOUTH, AND FAMILIES

Mr. HALL of Ohio, from the Committee on Rules, submitted a privileged report (Rept. No. 98-1) on the resolution (H. Res. 16) to establish the Select Committee on Children, Youth, and Families, which was referred to the House Calendar and ordered to be printed.

CONGRESSMEN AuCOIN, WYDEN AND WEAVER REINTRODUCE THE OREGON WILDERNESS ACT

(Mr. AuCOIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. AuCOIN. Mr. Speaker, today the gentleman from Oregon (Mr. WEAVER), the gentleman from Oregon (Mr. WYDEN) and myself are reintroducing the Oregon Wilderness bill, to provide help for Oregon's embattled timber industry and to guarantee for all time, and all people, Oregon's most important wild lands.

The debate over the Oregon wilderness must now be resolved. The timber industry needs to know the boundaries of the wilderness in order to plan for a strong and competitive future. This bill opens to commercial use 2 million of roadless areas, freeing up millions of board feet of timber for harvest. Then the bill preserves 1 million acres of the most spectacular wild lands as wilderness for all to enjoy. That is a 2-to-1 split, Mr. Speaker, in favor of commercial activity. In fact, total, commercial forest land would be brought to 13 million acres and total wilderness lands would be brought to 2 million acres. No honest person can say that those ratios are in any way balanced against jobs. Indeed, it will mean more jobs, and a better Oregon environment.

Today, Assistant Agriculture Secretary John Crowell is expected to announce that the Forest Service will try to replan the future of some 2.7 million acres of these disputed lands. This means that unless Congress passes our bill, the debate over these lands will last another 2 to 4 years, leaving virtually all roadless areas in limbo, even those that everyone agrees ought to be harvested. That is no solution. Our bill is the solution for Oregon, for jobs, and for the environment.

THE OREGON WILDERNESS

(Mr. WEAVER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEAVER. Mr. Speaker, today I am proud to join my colleagues, Congressmen AUCOIN and WYDEN, in introducing the Oregon wilderness bill. This, the most beautiful State in the Union, Oregon, deserves the preservation of the handful of areas still left untouched by man.

I say that the timber in these areas amounts to less than 2 percent of the timber of Oregon; so therefore, jobs will not be affected. We have a surplus of timber today already sold and on the stump unharvested.

Today Mr. Crowell, the Assistant Secretary of Agriculture, will announce the need for immediate resolution of RARE-II.

This bill will do it. It will resolve that issue for all time.

Mr. Speaker, I hope that this House can speedily pass this bill.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

INTRODUCTION OF SMALL BUSINESS PARTICIPATING DEBENTURE LEGISLATION

(Mr. ECKART asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ECKART. Mr. Speaker, over the past few years this body has considered many ideas and proposals designed to help bring our Nation's small businesses back to good health. While some forms of relief have met moderate success, small businesses today still struggle under the burden of interest rates which are too high, and as a consequence, they suffer from a limited access to capital. This lack of capital is the cause of business cutbacks, postponement of expansion plans, and the cancellation of countless planned business openings. As this growth falls by the wayside, so do thousands of new jobs. And with each small business closing, Mr. Speaker, America slips further away from its position of leadership in the world markets.

This afternoon I am reintroducing legislation designed to ease the burden of obtaining capital, to make money more readily available to small businesses. This legislation will serve as a major step toward the recovery of America's small businesses. It provides for the creation of an innovative financial instrument called the small business participating debenture, or SBPD.

The SBPD is a hybrid instrument—it is part stock and part bond. A general obligation to the issuing company, it is a fixed term debt instrument which provides the investor a stated rate of return and a negotiated share of the company's profits over the duration of the term.

Instead of giving up equity rights allowing the investor to enjoy part of the business' earnings long after the debt has been repaid, the company issuing the SBPD would pay a premium for the use of the capital for a limited time period. The specific terms of the SBPD, such as the interest rate, date of maturity, and share of earnings would be determined by the market and negotiated between the business and the investor.

What is most significant about the small business participating debenture is the tax treatment it receives. The firm issuing the SBPD would deduct as normal interest expense both the interest and the profit share payments. The investor would be taxed on the interest at ordinary rates, but the profit portion of the payment would be taxed at the lower long-term capital gains rate. Losses on SBPD's would be treated as ordinary losses. These tax provisions make this financial instrument a particularly attractive tool for both small businesses and investors.

This legislation includes restrictions which provide that only domestic businesses, whether or not incorporated, which have a net equity of under $10 million, may issue SBPD's. In addition, qualifying small businesses may have no securities outstanding which are subject to SEC regulation, and may not have more than $1 million in SBPD's outstanding at any time.

Mr. Speaker, the concept of the SBPD was among the proposals recommended by the 1980 White House Conference on Small Business. Further, it has received the endorsements of dozens of organizations, such as the National Small Business Association, the National Association of Small Business Investment Companies, the Council on Small and Independent Business Associations, and Small Business United, representing tens of thousands of small businesses which employ hundreds of thousands of workers. Passage of this legislation is a major step toward economic growth for America's small businesses, the foundation of our Nation's economy. It is with this end in mind that I strongly urge my colleagues to support the small business participating debenture legislation.

ANDROPOV—THE KGB ADMINISTRATION

(Mr. McDONALD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDONALD. Mr. Speaker, many pundits of the press, initially, penned a lot of nonsense about the time it would take Andropov to consolidate his power and what a relaxed urbane and rather westernized person he was. All of this information turned out to be just so much bunk. Andropov is just what he appears to be—the consumate policeman in the best tradition of Beriya and the old NKVD, although much better trained and more subtle.

What has been taking place in recent years in the Soviet Union is that Andropov has been moving in and consolidating his position within the Soviet hierarchy so that when Brezhnev died, he only lacked the keys to the executive men's room.

Now that Andropov is in the No. 1 spot, he is doing more of the same. He is moving his people into strategic spots. He is cleaning out the "deadwood" on the higher levels of the party. He is also moving his police friends into high places. In these moves, he has been decisive. He has indicated that his will be a no-nonsense approach to ruling the Soviet Union. All of this bodes ill for the free world, which had grown accustomed to the stodgy and clumsy moves of an ailing Brezhnev. It is time for the West to unite and stand firm or be outmaneuvered. For those who would like to explore this further, I am today revising and extending my remarks in the CONGRESSIONAL RECORD on this subject.

PERMISSION FOR EACH COMMITTEE OF THE HOUSE TO HAVE UNTIL 6 P.M., FEBRUARY 10, 1983, TO PUBLISH COMMITTEE RULES

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that each committee of the House may have until 6 p.m., February 10, 1983, to publish committee rules in the RECORD in compliance with clause 2(a) of rule XI.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. WALKER. Reserving the right to object, Mr. Speaker, I reserve the right to object to ask the gentleman just what the purpose behind his request might be and I would be glad to yield to the gentleman from Texas.

Mr. WRIGHT. Under the general rules, committees have 30 calendar days in which to publish their rules in the RECORD. Because of the long recess between the time we convened and the time we reconvened to hear the state of the Union message, most committees were not able to conduct their organizational business until this week, although the 30 calendar days would expire tomorrow.

Therefore, we thought that the same permission which was granted last year should be granted this year. This is not the first time in any sense for this, nor is it an unprecedented thing.

Mr. WALKER. Further reserving the right to object, Mr. Speaker, this is not in any way going to delay the work of the committees getting underway? For example, I think the Committee on Ways and Means is prepared to meet on social security. The fact that their rules have not been printed would in no way keep them from moving forward on that very important business, would it?

Mr. WRIGHT. The gentleman is absolutely correct. The Committee on Ways and Means will begin those hearings today, and I know they have hearings scheduled tomorrow.

I know that the Committee on the Budget has hearings scheduled tomorrow and there are other committees having hearings as well.

In no way whatever would we do anything to slow that down. They may begin.

This is just a requirement of the rules and in order to give the committees an opportunity to get their rules in order and published, it is necessary for us to get this unanimous-consent request.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

SUGAR-COATING THE PRESIDENT'S BUDGET

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ALEXANDER. Mr. Speaker, last week we were treated to what was billed as a conciliatory state of the Union address, one which at least met the expectations of suffering Americans halfway.

But the President's budget reveals that the rhetoric is mainly sugar coating. The pill itself turns out to be bitter. And when you analyze the contents, you see why. Factoring in the anticipated inflation rate of 18.7 percent to the "real dollar" increases and decreases which Mr. Reagan and his team propose for fiscal years 1983 to 1986, we discover a harsh reality.

The actual buying power value of various domestic programs will be down even more drastically than we were led to believe. Education: down 29.1 percent. Jobs and training programs: down 29.1 percent. Energy: down 56 percent. Small Business Assistance: down 60 percent. Farm income stabilization programs: down 77.9 percent.

In a time when the soupline has returned as a national symbol of Reaganomics, this cold-hearted prescription is all that Mr. Reagan chooses to offer those citizens which he himself calls the "truly needy." That is what we—and they—are being asked to swallow.

Reagan's proposed program spending changes—fiscal year 1983 compared to fiscal year 1986 on an inflation adjusted basis

[Reagan Budget estimates 1983-86 inflation rise of 18.7 percent; + equals rise, – equals fall]

Spending category	*Inflation adjusted percent change*
Defense	+31.7
Foreign aid	–10.5
Export-Import Bank	–71.2
Public Law 480	–25.4
Energy	–56.0
Water resources (primarily Corps of Engineers)	–28.1
Farm income stabilization	–77.9
Price support and related programs	–47.6
Rural housing	–11.4
Small business assistance	–60.0
Community development block grants (CDBG)	–18.7
Urban development action grants (UDAG)	–28.7
Rural development	–25.4
Economic development assistance (primarily EDA)	–100.0
Education	–29.1
Elementary and secondary education	–18.7
Vocational and adult education	–58.0
Student aid (these are postsecondary programs	–21.6
Social security	+5.0
Child nutrition (primarily in-school programs)	–13.4
Veterans programs	–7.5
Law enforcement	–15.1
General government	–13.1
General revenue sharing	–18.7
Net interest on debt	+19.2

Data source: "Budget of the United States Government: Fiscal Year 1984," submitted to the 98th Congress by President Ronald W. Reagan on Jan. 31, 1983.

Methodology note: To obtain the inflation adjusted "buying power" percent change for the programs in this table the following steps were taken: (1) The percentage change in the dollars President Reagan listed for the programs in 1983 and 1986 was calculated, (2) the cumulative 1983-86 inflation rate included in President Reagan's economic assumptions was obtained, (3) the inflation rate was subtracted from those programs in the table which President Reagan's budget indicates he wants to rise from 1983 to 1986, and (4) this inflation rate was added to those programs which he says he wants to fall from 1983 to 1986. The result for each program is the inflation adjusted "buying power" or the change in the value of the dollars for those programs from 1983 to 1986. These calculations were made on a "current services" budget basis. They do not assume that the "policy" and/or "legislative proposal" changes the President says he will implement or send to the Congress actually take place. If that assumption was made those programs which the President proposes for cuts would, most probably, experience an even greater drop in "buying power."

LEGISLATING BY THE CLUMP

(Mr. SWIFT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SWIFT. Mr. Speaker, the last Congress passed too much legislation in clumps. We adopted massive bills that were called comprehensive or that had rumbled through the legislative process labeled the "omnibus this or that" bill. Most Members of Congress were disturbed at having to vote yea or nay on a vast compilation of legislation, much of which they favored, but some of which they did not.

How many times in the last Congress were we placed in the position of having to accept questionable provisions attached to a major and essential bill which came to the floor with a rule that permitted few or no amendments?

Too often. On the budget, on reconciliation where 436 different laws were amended or repealed without individual consideration. It happened with the 1982 Tax Act where the 10 percent withholding tax on savings accounts and the tax on tips came from and it happened with the gas tax bill.

The single greatest cause of this phenomenon is, in my judgment, the complex budget process which takes up too much time. Congress just cannot get much else done. That leaves little room for proper consideration of needed legislation that is not budget related. That, in turn, tends to encourage the lumping of bills into packages which are presented to Congress en masse.

This "legislating by the clump" has to stop and responsible streamlining of the Budget Act is the first step we must take in that effort.

MR. PRESIDENT, SAY IT ISN'T SO

(Mr. LEVITAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVITAS. Mr. Speaker, in the state of the Union address, the President said, and I quote:

The Federal Government will hold the line on real spending. That is far less than many American families have had to do in these difficult times.

But let us look at what has happened in certain parts of that budget, Mr. Speaker. Let us look at the White House itself.

For the White House and the Executive Residence at the White House, in fiscal year 1983 the President requested a 16.2-percent increase, received an 11.1-actual increase, and now for fiscal year 1984 is talking about again an 8-percent increase—twice the amount of increase provided for the overall budget for the rest of America.

If you look at the Executive Residence itself, in fiscal year 1983 the President requested a 10-percent increase over the fiscal year 1982; for fiscal year 1983 the actual was an 8.2-percent increase. In this budget, Mr. Speaker, the White House is requesting for itself a 15.2-percent increase over the fiscal year 1983 budget—almost four times the amount of increase for the overall budget for the rest of America.

Now, it could be said that charity begins at home or that the White House is no poor house; but, Mr. Speaker, that magnitude of budget increase for the White House is far more than many American families have had in these difficult times. You cannot ask America to sacrifice, Mr. President, when you make these requests for huge increases in your own White House budget. "Mr. President, say it is not so. Change your mind."

THE BUDGET AND THE FED

(Mr. DORGAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORGAN. Mr. Speaker, the question that confronts this Congress as it considers the President's fiscal year 1984 budget that he sent to us yesterday is this: Should we have the Federal Government borrow money to finance a third-year tax cut, much of which goes to the very wealthy? And should we have the Federal Govern-

ment borrow money for the $30 billion increase in military spending?

That is what the President's budget asks us to do. Frankly, I think that it is irresponsible.

I know that there are people who believe that the proposed budget deficit will stimulate the economy, and that attempts to reduce the deficits would hinder the potential economic recovery. I say that is nonsense.

This proposed $189 billion budget deficit is irresponsible and we ought to reduce it.

But we should not deal with these taxing and spending issues alone. They must be considered with the monetary policies adopted by the Federal Reserve Board, and I want to say that I think it is irresponsible for the President and this Congress to continue to ignore the devastation caused to our economy by the policies of the Federal Reserve Board. It is time for the President and Congress to join together and rein in the Fed. It is time to make the Federal Reserve Board accountable to the people in this country.

We can debate fiscal policy from now until eternity, but, if the Fed continues its misguided monetary policies, then we will not have any lasting economic recovery. We must restructure the Fed to make it accountable to the people, and we must do it soon.

There are some who credit the Fed's high interest rate policies with bringing down the rate of inflation. Throwing this country into the longest and deepest recession in four decades most certainly did cool the fires of inflation, but it can hardly be called a successful economic strategy. It was misguided and shortsighted. We must take action to see that it does not happen again.

In summary, Mr. Speaker, I think that the President's proposed budget deficits are irresponsible, and I also think that it is irresponsible for Congress to delay further in making the Federal Reserve Board accountable to the American people.

LET US ADDRESS THE NEEDS OF THE UNEMPLOYED

(Mr. HERTEL of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HERTEL of Michigan. Mr. Speaker, unemployment in this Nation is, as we all know, over 10 million people. In Michigan, the unemployment rate is nearly 20 percent. It has gotten so bad that last month in the State of Michigan unemployed people who have exhausted their benefits have received charity from the people of West Germany. This was the result of West German television showing how people were starving in Detroit and in other cities in Michigan.

I sat in this House last week, I heard no proposals to feed our jobless hungry. There was nothing in the state of the Union to put our people to work and now we see the budget again go in the wrong direction.

The Reagan budget proposes a 14-percent increase for defense and across-the-board cuts in domestic programs. It ignores depression in this country that is getting worse, not better.

We, in the 98th Congress, have a responsibility, we have a duty, to do what the President, the administration, are not willing to do, to address the problems of the people.

The 97th Congress, which has finally gone, did nothing to improve the situation for the unemployed. Nothing to improve their chance to have a better life in this country. The only way we can help the jobless and our Nation is to make changes in the budget, in the overall program of the President.

PRESIDENT McKINLEY'S BIRTHDAY

(Mr. REGULA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REGULA. Mr. Speaker, the birthday of President William McKinley, the 25th President of these United States, was 140 years ago this past Saturday.

In Canton, Ohio, where he lived and won fame for his front porch campaign speeches, his birthday was observed this year by special services and programs. Here, in the Capitol, where he served the people of the 16th District of Ohio for 13 years, including holding the chairmanship of Ways and Means, I rise to pay tribute to his memory.

It was during President McKinley's 5 years in the White House that America emerged as a great power and began to play a major role in shaping the history of the world.

President McKinley led our country to accept its world responsibilities and commitments. He had foresight and wisdom which he applied to greatly influence world events. I believe he would have strongly endorsed President Reagan's comments in his state of the Union address in which he called on us to reaffirm and maintain our leadership.

McKinley was a man of peace. Inscribed in his tomb in Canton, Ohio, are his words: "Our real eminence lies in victories of peace, not those of war."

Present in the Capitol today is Angela Connor, reigning Carnation Queen of the Carnation City, Alliance, Ohio, who delivered a bouquet of Ohio's State flower, the red carnation, to First Lady Nancy Reagan. The red carnation was a favorite of President McKinley.

It would be appropriate to recall McKinley's campaign slogan in 1900 which was: "Good work, good wages, good money, and a full dinner pail."

INTRODUCTION OF LEGISLATION TO REPEAL WITHHOLDING OF INTEREST AND DIVIDENDS

(Mr. LEWIS of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Florida. Mr. Speaker, today I am introducing legislation to repeal the withholding of interest and dividends provision that was passed as part of last year's omnibus tax bill. This law, should it take effect, will be a nightmare for both American taxpayers and financial institutions.

This law will create mass confusion and an avalanche of paperwork. This seems to fly in the face of the 97 percent taxpayer compliance rate on reporting of interest income.

In many cases, the withholding will result in overtaxation. It will increase the burden of taxation and discourage further savings and investment. These people who have been overtaxed will be forced to file additional tax forms at the end of each year to receive their refund. Meanwhile, they will have been without the use of these funds, either for consumption or reinvestment. Hardest hit will be those people who are most dependent on small interest and dividend payments to get by—the elderly and the unemployed.

Furthermore, those who will be exempt from the withholding provision, particularly the elderly and low-wage earners, must file a separate exemption certificate for each account to prevent unwarranted withholding of their interest and dividend income.

In an attempt to improve the compliance of a small number of taxpayers, the Government has once again intruded into our lives. Withholding of interest and dividends will impose a tremendous strain on all Americans in the form of excessive paperwork; increased costs to individuals, financial institutions, and Government; and it directly inhibits the very thing that we need in this country—the encouragement of savings and investment. There are more prudent ways to reduce the Federal deficit.

I urge my colleagues to join me in supporting legislation to repeal the withholding of interest and dividends.

WOMEN'S EQUAL RIGHTS ACT OF 1983

(Mr. KRAMER asked and was given permission to address the House for 1

minute and to revise and extend his remarks.)

Mr. KRAMER. Mr. Speaker, there is clearly a need for immediate legislative action in the area of equal rights for women. This is especially true in light of existent Federal and State statutes which, in effect, perpetuate inequalities in economic areas such as pay and pension.

To this end, today I am introducing the Women's Equal Rights Act of 1983, H.R. 1131, which will guarantee equality for women immediately.

This legislation would, under the equal protection clause of the 14th amendment, make sex a "suspect classification" in order to "establish a uniform nationwide standard governing classifications based on gender." The bill applies to Federal, State, and local governments by prohibiting any government from making or enforcing by law a classification based upon gender unless such classification is "necessary to achieve a compelling government interest and is the least burdensome alternative possible."

Since 1971, the Supreme Court has been using the equal protection clause of the 14th amendment in sex discrimination cases. However, in these cases, it has not applied the same rigorous test of "strict scrutiny" which it applies to race and national origin cases. My bill would change this.

I would urge my colleagues to join me in making the equal protection clause of the 14th amendment effective in eliminating sex discrimination.

UPPER WHITE OAK FLOOD CONTROL PROJECT

(Mr. FIELDS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FIELDS. Mr. Speaker, Abraham Lincoln once said that the "legitimate object of government is to do for a community of people whatever they need to have done, but cannot do at all, or cannot so well do, for themselves, in their separate and individual capacities."

It is with this thought in mind that I introduce today, along with several of my Texas colleagues, legislation to authorize a badly needed and long overdue flood control project on the Upper White Oak Bayou.

Mr. Speaker, the people who live in central and northwest Houston along the Upper White Oak Bayou have made every effort to protect their homes and businesses from the ravages of flooding. It is my firm and unwavering belief that the Federal Government must now do its part to assist these courageous Americans who alone cannot accomplish this vitally needed flood protection.

Mr. Speaker, the Army Corps of Engineers has carefully studied the Upper White Oak Bayou for a number of years and has submitted to the Congress a detailed and comprehensive plan to eliminate its persistent flooding problems. It is a plan that has the wholehearted support of all interested parties and one which has received high priority from the Corps of Engineers on its list of nationwide projects. Upon completion, this project will provide $1.70 worth of flood protection for every $1 of Federal cost.

While this Congress must be concerned about the level of projected Federal deficits, I, nevertheless, fervently believe we must move forward with this project by enacting this authorizing legislation.

In my judgment, the Federal Government has an inherent and historic responsibility to protect citizens, like these, who live in constant fear of flooding. The Federal money provided for this project would not be wasted but would be a sound investment in these communities.

In fact, the Federal Government will end up saving millions of taxpayer dollars by providing this protection now rather than continuing the cycle of rebuilding these communities with Federal flood insurance money. In this way, we will not only provide these individuals with long-overdue flood relief but will simultaneously economize our precious financial resources.

The investment called for in this legislation is clearly justified when we weigh the benefits to the Nation which are derived from vital communities with thriving industry, versus regional decay which generates unemployment, saps our tax base and generally impedes economic growth.

At the same time, we must recognize that this legislation has an added benefit of providing jobs. According to the Army Corps of Engineers, this flood control project will during its construction provide jobs both directly and indirectly to more than 2,000 Houstonians.

Furthermore, I believe that, from a cost perspective, we can ill afford to further postpone the completion of this project. In the 2 short years since I first introduced this legislation, the Federal price tag for this project has increased by nearly $12 million.

Mr. Speaker, without being repetitious, I believe this project is sound. It is an investment in America's future. It will save taxpayers money. It will create jobs. And it will provide flood relief to these citizens who must now suffer from the personal and economic hardships of persistent flooding.

During the last Congress, the distinguished chairman of the Public Works and Transportation Subcommittee on Water Resources held extensive hearings on over 100 nationwide projects. During these hearings, testimony was heard from both the corps and interested parties in strong support of this project. I am hopeful that these hearings will serve as a basis and a foundation for the development of an omnibus water resources development bill.

It has been 6 years since the Congress last enacted such an omnibus water bill. Our Nation cannot afford to wait any longer. We must develop a comprehensive water policy for this Nation.

I am confident that the leadership of the Water Resources Subcommittee will use their wisdom and persuasive powers to develop such a policy and I am hopeful that when an omnibus water resources development bill is drafted, it will include authorization language for the Upper White Oak Bayou flood control project.

I can assure the people living in central and northwest Houston that I will certainly be fighting for its inclusion and will urge my colleagues to join with me in this most important endeavor.

Thank you, Mr. Speaker. I again urge the adoption of this legislation.

PROBLEMS FLOWING FROM UNRESTRAINED SPENDING

(Mr. WALKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALKER. Mr. Speaker, this morning, we heard from the Democrats about their sense of budget priority. Mr. ALEXANDER of Arkansas told us quite clearly where the Democrats stand on budget priority.

The Democrats do not want to cut the budget to deal with massive deficits; they want to spend more. Let us not forget there are more of them here in this session to spend the money.

The Democrats do not even, in the face of massive deficits, according to what Mr. ALEXANDER said, want to stop the rate of Government growth by freezing things where we are. They want the budget to grow bigger and bigger while government grows bigger and bigger, and thus deficits grow at even more of an unbelievable rate.

Let us remember the President does not spend one dime of money. We spend the money right here in this House.

The gentleman from Georgia got up here and mentioned the White House budget, that it is growing. Sure, it is growing, and I guess we ought to stop it, too. Then we also ought to stop the budget of this House. The House budget right here has been growing, too. Why do we not stop it as a first step?

Two hundred billion dollars of deficits are the result of two decades of unrestrained spending by this House. The economic problems that flowed

from those policies are apparent to everyone.

□ 1230

Unemployment, high interest, and massive taxes are the result of what we did irresponsibly right here. But the Democrats want more of the same—much more of the same.

LEGISLATION TO AMEND THE CLEAN AIR ACT

(Mr. COLEMAN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLEMAN of Texas. Mr. Speaker, today I am introducing legislation which would amend the Clean Air Act with respect to the prevention and control of air pollution in border areas of the United States and would take extenuating circumstances into account in the enforcement of these provisions. This action is in response to the Environmental Protection Agency's action this week which placed El Paso County, Tex., along with over 100 other areas of this country as being in noncompliance with the air quality standards provided by the act. While I certainly respect and encourage the purpose and goals behind this important law, I contend that areas of the United States along international boundaries and with other unique topographical and geographical conditions require special consideration by EPA in the enforcement of this act.

El Paso County is a good example of a metropolitan area situated along the border which has difficulties with respect to air pollution control because of its proximity to Ciudad Juarez, Chihuahua, Mexico—an area of nearly 1 milion people with no identifiable pollution control efforts. This is aggravated by geographical conditions which cause stagnant air inversion layers in the region.

My bill would require the President and Secretary of State to enter into appropriate agreements with the Government of Mexico to address the pollution problem. It also requires EPA to determine the source of pollutants in these type regions and to adjust its enforcement policy accordingly. This legislation will permit interested parties to work together to insure proper health standards for affected areas without imposing regressive sanctions.

RESCISSION AND DEFERRAL PROPOSALS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 98-15)

The SPEAKER pro tempore (Mr. ECKART) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed:

(For message, see proceedings of the Senate of today, Tuesday, February 1, 1983.)

MANDATORY PENALTIES FOR CRIMES COMMITTED WITH DEADLY WEAPONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO), is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, on the first day of the 98th Congress, I introduced H.R. 27, a bill to amend the Gun Control Act of 1968 to provide for separate offense and consecutive sentencing in felonies involving the use of a firearm or other deadly weapon.

Under current law, anyone who uses or carries a firearm when committing a felony as defined by Federal law must be sentenced to not less than 1 year and not more than 10 years in addition to the sentence imposed for the underlying felony itself. Under this law, it is possible for those convicted to receive a suspended sentence, a probationary sentence, and also parole. Second or subsequent convictions require a sentence of an additional 2 to 25 years, and the court does not have the discretion to suspend it or impose a probationary sentence. However, parole is still possible.

The purpose of my bill is to see that those convicted of carrying a firearm or other deadly weapon do not avoid imprisonment. As we have discovered through experience, leaving the length of the prison sentence to the discretion of the court often allows offenders to return to society after having received few, if any, penalties for their crimes—free to resume their criminal activity. Because of the uncertainty of imprisonment, the offender knows the chances are great that even if convicted he will spend little time in prison, and once again he will be out on the streets victimizing innocent, hardworking, productive members of society. It is this injustice that I propose to help remedy with my bill.

The most important provision of H.R. 27 imposes a mandatory minimum sentence on anyone convicted, and it removes the possibility of parole. Specifically, the first time a person is convicted of committing a felony with the use of a dangerous weapon, he would receive not less than a 1-year prison sentence which would be served in its entirety, in addition to any other sentence for the commission of the crime itself. A felon who is convicted a second time would receive a minimum 5-year prison term, over and above any other prison sentence.

I wish to point out to my colleagues that on January 19, 1983, the U.S. Supreme Court upheld the constitutionality of a similar law in the State of Missouri by a vote of 7 to 2, and therefore, I strongly urge that consecutive sentencing in felonies involving the use of a firearm or other deadly weapon as outlined in my bill be added to the Federal Criminal Code.

While these provisions remove any discretion by the judge in sentencing below the minimum or granting a suspended or probationary sentence, the court does retain discretion as to the length of the sentence so long as it remains within the minimum and maximum set by law. However, and I wish to stress this point, no matter what length the sentence, it must be served in its entirety in prison. Once the sentence has been imposed, the judge may not suspend it or any part of it; nor may he grant a probationary sentence for any part of it; nor may the felon be paroled. The number of years the judge declares as sentence in court will be the number of years served by the felon in prison.

I do not regard my bill as the solution to our society's problems with crime. I do believe, however, that my proposal will be more effective in putting those who are a danger to our society in prison than our present system. Under my proposal, the risk of imprisonment is increased by the certainty of punishment, whereas, under the present law, the chance exists that a person convicted of a crime will not have to serve any time at all. There is no certainty of punishment and very little risk which might serve to deter unlawful behavior. Also, if penalizing the use of dangerous weapons during the commission of a felony has any deterrent effect at all, it could well have a larger effect on deterring crime in general. By deterring the use of weapons, the law is punishing the criminal's means of coercion. If he is deterred at all, he will be less likely to commit crimes of coercion since he will be less likely to carry a weapon.

I urge the support of my colleagues for H.R. 27.●

FISCAL YEAR 1984 DEFENSE BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. ADDABBO) is recognized for 30 minutes.

● Mr. ADDABBO. Mr. Speaker, for the interest of my colleagues I would like to give my analysis of the 1984 Defense budget.

The fiscal year 1984 Defense budget estimate for those items included in the annual Defense appropriation bill totals $265.3 billion, with no funds allocated for military and civilian pay raises. The fiscal year 1984 Defense budget represents an increase of $33.3 billion more than the $232 billion appropriated to date for fiscal year 1983

which included $1.7 billion to cover the cost of the October 1982 pay raise. The fiscal year 1984 request is 14.4 percent more than the fiscal year 1983 appropriations.

Pentagon figures used in Secretary Weinberger's press release include in the fiscal year 1983 amounts an anticipated supplemental in the amount of $1.6 billion. If later submitted, the $1.6 billion would be used to continue production of the Pershing II missile, restore the congressional reduction made for the ground-launched cruise missile, provide funds for the prepositioning of POMCUS sets in Europe, and to support the U.S. share of costs for Host Nation Support in the Federal Republic of Germany. Language would be included in the proposed supplemental to eliminate restrictions on the purchase of specialty metals and defense equipment from foreign sources, as well as the repeal of the prohibition of prepositioning material in Europe. The balance of the proposed supplemental would restore funds to initiate production of the MX missile, provided Congress subsequently agrees to a basing mode for that missile. The proposed supplemental would also include language which seeks authority to utilize existing fiscal year 1983 appropriations to proceed with a multiyear procurement proposal for the B-1B bomber.

In addition, the Pentagon is considering the submission of a proposed rescission in the amount of about $650 million. Details will be specified later. The proposed rescission is said to "further demonstrate our commitment to seek defense savings and efficiencies." Preliminary inquiry indicates the proposed rescission will rescind many of the funds recommended by the Congress above the budget in fiscal year 1983.

Since the administration does not plan to recommend a cost-of-living pay raise in October 1983 for military and civilian employees, there appears to be no contingency funds included in the fiscal year 1984 column.

The outlays estimated in the accounts covered in the annual Defense appropriations bill total $231.8 billion for fiscal year 1984 as compared with $201.1 billion in fiscal year 1983 to date. The $30.7 billion increase in outlays in fiscal year 1984 equates to a 15.3-percent increase.

The significant budget authority increase in fiscal year 1984 over 1983 for the Defense bill alone, is distributed by military service as follows:

[Billions of dollars]

	Fiscal year—		Increase	Percentage increase
	1983	1984		
Army	55.0	62.6	7.6	13.8
Navy	80.2	84.8	4.6	5.7
Air Force	71.7	89.6	17.9	25.0
OSD/Def Ag	9.1	11.5	2.4	26.4

MILITARY PERSONNEL

Highlights. Active duty military end strengths increase by 37,300 and Selected Reserve end strengths increase by 28,030. The Government-wide freeze on pay extends to the military. There is no provision for a pay raise for the active military in fiscal year 1984, and there is no provision for adjusted retired military pay for inflation in the fiscal year 1984 budget. The budget does, however, contain a contingency fund for fiscal year 1985 and beyond for military personnel pay and benefits, if it is necessary to make additional proposals to meet critical manpower requirements.

Last session the Congress funded the fiscal year 1983 pay raise for Defense in the regular appropriation bill for fiscal year 1983. In the fiscal year 1984 budget there is no supplemental proposed for military personnel. A little over $400 million in transfers is proposed, however, to meet the 25-percent absorption requirements that Congress enacted last year in connection with the pay raise financing.

Overall funding for active and guard and reserve manpower requirements increases by about $2.4 billion to a total of $47.9 billion for fiscal year 1984. A summary table follows:

Summary of budget request for Active and Reserve Forces

	Millions
Fiscal year	$42,875
Enacted	45,067
Fiscal year 1983:	
Proposed transfers	418
Total fiscal year 1983	45,485
Fiscal year 1984	47,927
Change	+2,442

SUMMARY OF ACTIVE END STRENGTH

[In thousands and fiscal year]

	1982 actual	1983 estimate	1984 estimate	Change: 83 to 84
Army	780,400	780,000	782,600	+2,600
Navy	553,000	560,300	572,200	+11,900
Marine Corps	192,400	194,600	197,300	+2,700
Air Force	582,800	592,500	612,600	+20,000
Total, Defense active duty	2,108,600	2,127,400	2,164,700	+37,300

End strength for the Active Forces is proposed to increase by 37,300 in fiscal year 1984 to a total of 2,164,700. Retention and recruiting experience in recent years has been excellent. End strength goals have been achieved and quality has improved. The fiscal year 1983 pay raise was capped at 4 percent. Even so the military departments anticipate achieving their strength goals for that year. The question is whether the impact of the pay freeze will be offset by the condition of the economy, greater diligence at recruiting, bonuses, and other incentives, so that end strength goals can still be achieved.

SUMMARY OF GUARD AND RESERVE END STRENGTH

[In fiscal year]

	1982 actual	1983 estimate	1984 estimate	Change: 83 to 84
Army Reserve	256,659	268,531	272,927	+4,396
Navy Reserve	93,919	105,828	118,990	+13,162
Marine Corps Reserve	40,461	42,571	43,365	+794
Air Force Reserve	64,443	66,600	69,880	+3,280
Army National Guard	407,601	417,019	421,094	+4,075
Air National Guard	100,657	101,781	104,104	+2,323
Total	963,740	1,002,330	1,030,360	+28,030

End strength for the Guard and Reserves is proposed to increase by 28,030 to a total of 1,030,360 for fiscal year 1984. The proposed increase for the Navy accounts for 13,162 of the 28,030 total increase. The balance is accounted for principally by proposed increases in full time support personnel in the various services.

Summary of military retired pay

Fiscal year:	*Millions*
1982 actual	$14,986
1983 actual	16,155
1984 estimate	16,806
Change 1983 to 1984	+651

Appropriations for military retired pay are proposed to increase by $651 million to a total of $16.8 billion for fiscal year 1984. About half of the $651 million increase is due to the increase in average strength. Virtually all of the remaining increase results from the annualized cost of the fiscal year 1983 cost-of-living increase. For fiscal year 1984 there is no adjustment proposed to match the cost-of-living index. The fiscal year 1984 request also includes $20.8 million to cover the costs of the survivor benefits program, which was restored in the continuing resolution for fiscal year 1983.

OPERATION AND MAINTENANCE

In the operations and maintenance area, the budget projects $76.8 billion in fiscal year 1984, an increase of $9.5 billion or 14.1 percent above the $67.3 billion already appropriated for fiscal year 1983. In addition, the administration has announced that it will be requesting a fiscal year 1983 supplemental and rescission. However, since few details have been released, it is impossible to determine the net change proposed for the fiscal year 1983 column of the budget. In real terms, the fiscal year 1984 request for O&M continues that large increases that mean we are now rivaling the amounts spent on O&M at the peak of the Vietnam and Korean wars to operate our Armed Forces when we had 50 percent more people in uniform and were supporting combat operations halfway around the world.

These appropriations finance the costs of operating and maintaining the

Armed Forces, including the Reserve components and related support activities of the Department of Defense, except military personnel costs. Included are amounts for pay of civilians, contract services for maintenance of equipment and facilities, fuel, supplies, and repair parts for weapons and equipment. Financial requirements are influenced by many factors, including force levels such as the number of aircraft squadrons, Army or Marine Corps divisions, installations, military strength and deployments, rates of operational activity, and quantity and complexity of major equipment—aircraft, ships, missiles, tanks, et cetera—in operations. The fiscal year 1984 budget reflects substantial increases to protect and enhance Defense readiness capabilities.

In fiscal year 1984, DOD plans to have 1,072,000 civilians and 2,165,000 active duty military personnel on the roles at the end of fiscal year 1983. Despite the ever-increasing workload that DOD has shifted from the military and civil servants out to the commercial sector, these levels are the highest since 1973 for military personnel and since 1975 for civilians.

The budget as proposed for fiscal year 1983 includes several increases designed to improve the near-term readiness of our forces. For example, included in the Army O&M budget increase of $2 billion are funds for increased support for new weapons systems being delivered to the field and improvements in training. The total O&M increase of $2.2 billion for the Navy and Marine Corps reflects costs associated with an increase in steaming and flying hours, and 2,000 additional Marines. In addition, increased support is required for the Navy's deployable battle force which will grow from 506 ships in 1983 to 526 in 1984. The Air Force increase totals $2.1 billion and is largely associated with increases of $0.4 billion in general purpose forces, $0.4 billion in intelligence and communications programs, and $0.7 billion for central supply and maintenance.

Despite clear direction to the contrary from the Congress, the President will again propose that two additional division sets of Army equipment be prepositioned in Europe. This would bring the total of the prepositioned division sets to six. Because the Congress believes that the dedicated European prepositioning of this equipment would inhibit our capability to respond to non-European contingencies, this proposal has repeatedly been denied—most recently in the fiscal year 1983 Defense appropriations bill. In the absence of any new justification, I see no reason for the Congress to change its position on this issue.

Although the operation and maintenance appropriations fund a large number of critical near-term readiness and training items, they also fund many overhead and administrative functions. Most of these nonreadiness items are contained in what is called administrative and associated activities—or program 9 in DOD's internal budget jargon. The fiscal year 1984 request for these nonreadiness items increases by $1.8 billion in all appropriations over the fiscal year 1983 total of $3.1 billion. Excluding inflation, program 9 increases in real terms by $1.7 billion. Two years ago, the budget also reflected a real increase of $400 million. Upon a detailed examination by the committee as to why nonreadiness items should increase so substantially in a year of major budget reductions for most of the Government, DOD quickly revised its budget charts causing the real growth in program 9 to disappear. While the committee will look at this area in some detail again this year, I have reason to believe that DOD will once again pull out their budgetary mirrors and make this large nonreadiness increase disappear.

PROCUREMENT

The proposed fiscal year 1984 procurement budget is $94,087,779,000, an increase of $13,376,913,000 or 16.6 percent over the $80,710,866,000 total funding made available to date in fiscal year 1984. The increase for procurement again represents the largest increase of any category in the new Defense budget. The increase is in addition to the 26.4 percent increase in fiscal year 1981 over fiscal year 1980, the 30.5 percent increase in fiscal year 1982 over fiscal year 1981, and the 23.5 percent increase in fiscal year 1983 over fiscal year 1982. The total increase since fiscal year 1981 is 97 percent. The fiscal year 1984 budget continues the trend, begun in fiscal year 1982, of procurement appropriations surpassing the operation and maintenance appropriations as the largest category in the budget. The fiscal year 1984 budget proposes to delete a separate appropriation for Guard and Reserve equipment procurement which the Congress provided last year. The budget includes a new appropriation request of $200,000,000 for Defense Production Act purchases.

Of the total increase proposed for the procurement appropriations, the Air Force is allocated 79 percent, reflecting the administration's emphasis on strategic programs. While the total procurement budget of $94.1 billion is huge, it is $6.7 billion less than was projected for fiscal year 1984 when the fiscal year 1983 budget was submitted a year ago.

ARMY PROCUREMENT

The Army consumes 20.4 percent of the procurement budget in fiscal year 1984, a total of $19,192,075,000. This is an increase of $3.4 billion or 21.5 percent over the amounts made available in the current fiscal year.

The Army aircraft procurement budget is $3,472,100,000, an increase of $965,528,000 or 38.5 percent over last year. The total number of aircraft to be procured is 208, including 12 EH-60A Quickfix helicopters, 112 AH-64 attack helicopters, and 84 UH-60A Blackhawk helicopters. This compares with a total of 173 aircraft funded last year.

The aircraft spares and repair parts budget goes from $448,200,000 to $649,400,000, a 45-percent increase. The spares budget is a 159-percent increase over fiscal year 1982.

The Army missile procurement budget is $3,088,500,000, an increase of $801,500,000, or 35 percent over last year. Over 60,000 missiles are budgeted, compared with about 42,000 in the current year. Included in the budget are 95 Pershing II missiles, 525 Patriot air defense missiles, 1,508 Stinger missiles, 5,351 Laser Hellfire air-to-surface missiles, and 18,000 TOW antitank missiles. The budget also includes a continuation of the multiyear contract for the Multiple Launch Rocket system, with 36,000 missiles to be procured.

The budget for procurement of weapons and tracked combat vehicles is $4,934,416,000, an increase of $184,270,000, or 3.9 percent over last year. This is the smallest increase of any of the Army procurement appropriations and moves the appropriations from first to second in total funding. Over 3,000 tracked combat vehicles are budgeted compared with about 2,200 funded in the current fiscal year. The new budget provides for procurement of 600 Bradley Fighting Vehicles, the same as the current fiscal year, and 720 M-1 tanks, a decrease from the 855 funded in the current fiscal year. The budget also provides for procurement of command post carriers, armored personnel carriers, artillery ammunition support vehicles, self-propelled howitzers, recovery vehicles, and light armored vehicles. For weapons and other combat vehicles, the budget provides $900,000,000, a 14-percent increase over the current year. New initiatives include a product improved Vulcan air defense system, 81 millimeter mortar, and 9 millimeter handguns. The budget also provides for procurement of 130 Sergeant York air defense vehicles.

The Army ammunition procurement budget is $2,334,189,000, an increase of $211,795,000, or 10 percent over last year. New initiatives include 9 millimeter handgun ammunition, improved 81 millimeter mortar ammunition, 120 millimeter tank gun ammunition, and chemical munitions. The budget for production base support decreases from $404 million to $277 million.

The other procurement, Army budget is $5,362,870,000, an increase of $1,239,466,000, or 30-percent. This is

the largest Army procurement increase in absolute terms and makes this the largest of the Army procurement appropriations. The budget for tactical and support vehicles remains about level, while the increase is split between a wide variety of electronic and telecommunications equipment items and other support equipment such as construction equipment, medical equipment, and material handling equipment.

NAVY PROCUREMENT

The Navy consumes 36.9 percent of the procurement budget in fiscal year 1984, a total of $34,708,587,000. This is a decrease of $1.3 billion, or 4.4 percent from the amounts made available in the current fiscal year. The decrease is accounted for by the fact that $6.6 billion was included in fiscal year 1983 for procurement of two nuclear powered aircraft carriers which is not rebudgeted in fiscal year 1984.

The Navy aircraft procurement budget is $11,127,300,000, an increase of $711,193,000, or 6.8 percent over last year. The total number of aircraft to be procured is 281 compared with 272 funded in the current year. Overall, the budget includes 6 A-6E and 6 EA-6B aircraft, 32 AV-8B V/STOL aircraft for the Marine Corps, 84 F-18 aircraft, 24 F-14 aircraft, 11 CH-53E heavy lift helicopters, 21 SH-60B Seahawk helicopters, 5 P-3C Orion aircraft, 6 E-2C Hawkeye aircraft, 8 C-2 COD aircraft, and 38 T-34C trainer aircraft. The aircraft modification budget increases from $1.2 billion to $1.4 billion with no new starts, and the spares and repair parts budget goes from $2 billion to $2.1 billion.

The Navy weapons procurement budget is $4,028,600,000, an increase of $466,900,000, or 13.1 percent over last year. Actually, ballistic missiles show a decrease in quantity from the amounts appropriated in fiscal year 1983, 52 Trident I missiles as compared to the 62 procured in fiscal year 1983. There was a substantial increase in the quantity of strategic missiles—Tomahawk—being procured—135-percent. Furthermore, there was a significant increase in the purchase of tactical missiles which shows a 25-percent increase in the quantity of missiles over the amount purchased in fiscal year 1983. There also is a 36-percent increase in funding for torpedoes and other related equipment. The most significant increases relates directly to the multiyear procurement of the MK-46 torpedo and the MK-48 torpedo modification program.

The Shipbuilding and Conversion budget is $12,698,800,000, a decrease of $3,589,100,000, or 22 percent from last year. Although this represents a decrease from fiscal year 1983, it must be clarified that last year's budget included over $6 billion for two nuclear powered aircraft carriers. The current fiscal year shipbuilding request represents an increase of 31 percent in funding if the aircraft carriers were not considered in the equation. A total of 32 ships are included in the budget request. The shipbuilding budget includes the procurement of one Trident submarine, three SSN-688 attack submarines, three AEGIS cruisers, an LSD-41 landing ship, an LHD-1 amphibious assault ship, four mine countermeasures ships, three T-AO fleet oilers, and nine strategic sealift vessels, one T-AH hospital ship and four T-AKRX fast logistic ships. Cost growth for prior year shipbuilding programs increased over 170 percent over fiscal year 1983.

The other procurement, Navy budget is $5,001,838,000, an increase of $1,274,763,000, or 34.2 percent over last year. The increase is spread across the entire spectrum of budget activities in this multifaceted appropriation.

The Marine Corps procurement budget is $1,852,049,000, a decrease of $156,034,000, or 7.7 percent from last year. Increases are included for ammunition—9 percent—and support vehicles—51 percent—while all other budget activities show a decrease. The budget provides for procurement of 153 LVT-7 amphibious assault vehicles and 263 LVT-7 service life extensions, 113 light armored vehicles, 400 Hawk missiles, 706 Stinger missiles, and 2,200 TOW missiles.

AIR FORCE PROCUREMENT

The Air Force consumes 41.3 percent of the procurement budget in fiscal year 1984, a total of $38,904,326,000. This is an increase of $10,550,986,000, or 37.2 percent over the amounts made available in the current fiscal year. The Air Force consumes the largest portion of the procurement budget, a fact accounted for in large measure by the procurement programs for the MX missile and the B-1 bomber.

The Air Force aircraft procurement budget is $22,707,190,000, an increase of $4,878,690,000, or 27.4 percent over last year. This appropriation has the largest increase of all the procurement appropriations and is continued as the largest, by far, of all procurement appropriations. The new budget provides for procurement of 213 aircraft, a decrease from the 219 funded in the current year. A total of $3,761,800,000 is included for procurement of 10 B-1 aircraft, and an additional $1,865,000,000 is included for B-1 advance procurement. Initial procurement funding is included in fiscal year 1984 for tactical fighter derivative aircraft which will be modified F-15's or F-16's. Other aircraft funded include 48 F-15 aircraft, 120 F-16 aircraft, 8 KC-10 tanker aircraft, 2 MC-130 special mission aircraft, 4 C-5B cargo aircraft, 16 European distribution aircraft, and 5 TR-1/U-2 aircraft. The aircraft modification program increases by 30 percent to $3,208,800,000. Major programs in this category include the B-52, F/RF-4, C-5, C-130, C-135, E-3, and the Civil Reserve Air Fleet (CRAF). The aircraft spares budget shows a 45-percent increase to $5,128,800,000.

The Air Force missile procurement budget is $8,570,834,000, an increase of $3,614,734,000, or 72.9 percent over last year. The budget includes $2,770,000,000 for 27 MX missiles which accounts for the largest portion of the increase. The budget proposes to initiate procurement of the Stinger missile and includes initial advance procurement funding for the new medium range air-to-air missile. Also, the budget includes 120 ground launched cruise missiles, 1,005 AIM-7 Sparrow missiles, 1,700 Sidewinder missiles, 2,600 Maverick missiles, and 285 HARM missiles. Modification of missiles increases by 49 percent to $135,700,000 while missile spares and repair parts increase by 71 percent to $356,800,000. Other support programs increase by 28 percent to $3,560,000,000. This category includes a number of space programs.

The other procurement, Air Force budget is $7,626,302,000, an increase of $2,057,562,000 or 37.2 percent over last year. The munitions and associated equipment budget increases by 53 percent to $1,191,900,000. New starts are proposed for the Bigeye binary chemical bomb, and significant increases are included for inflatable retarders, laser bomb guidance kits, and cluster munitions. The budget for vehicular equipment remains about level at $333,600,000. Electronics and telecommunications equipment increases by 42 percent to $1,892,100,000, and other base maintenance and support equipment increases by 36 percent to $4,208,600,000.

DEFENSE AGENCIES

Defense agencies procurement, which represents about 1 percent of the total DOD procurement budget, totals, $1,082,791,000 in the fiscal year 1984 budget. This is an increase of $254,646,000, or 30.7 percent over the fiscal year 1983 level. Funding of procurement items for OSD, Defense Nuclear Agency, Defense Communications Agency, Defense Logistics Agency, Defense Intelligence Agency, and other intelligence and related agencies are included in this appropriation.

DEFENSE PRODUCTION ACT PURCHASES

The budget includes a new appropriation request of $200,000,000 for Defense Production Act purchases. The details of this proposal are not known.

INTELLIGENCE AND COMMUNICATIONS

The budget request for Intelligence, Tactical Intelligence and Related Activities, and Communications contains significant increases for a number of programs and subprograms, many of which are a continuation of initiatives

started in recent years. The request in these areas appears to reflect acceptance by the Department of Defense of the fact, noted in past committee reports, that the initiation of new programs must be moderated in order to continue the funding of existing programs.

In the area of communications, significant increases are requested for several programs, including the following:

MILSTAR satellite program	+$32,300,000
Air Force statellite communication program	+142,400,000
Army statellite communication ground environment	+20,200,000
Minimum essential emergency communications network	+82,700,000

The fiscal year 1984 budget emphasizes communications research and development to upgrade existing systems and to continue the development of systems, like MILSTAR, recently initiated.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

The fiscal year 1984 budget request for RDT&E of $29.6 billion is $6.9 billion more than was provided for this purpose in fiscal year 1983. This is a 30-percent increase, the largest percentage increase by far in any category within DOD's budget. In constant dollars, the 1984 RDT&E budget shows a 26-percent real growth over the 1983 appropriation, when the administration's projected defense inflation rate of 3.5 percent is considered. Within the overall RDT&E program, the budget request for basic research and exploratory development is up 15 percent in constant dollars over last year, strategic programs are up 47 percent, tactical programs are up 19 percent, intelligence and communications are up 28 percent, and program support is up 8 percent.

In strategic programs, the MX is budgeted at $3.4 billion. Despite the great difficulty in finding a satisfactory basing mode, the MX continues to be the single most expensive system in development, and this year accounts for 11.4 percent of the entire RDT&E budget of the DOD. The Army has requested $709 million for ballistic missile defense, although the desirability and technical feasibility of deploying a BMD system are as yet undetermined. The Air Force has requested $750 million for continued development of the B-1B. The Navy budgeted $1.5 billion for the Trident II missile system, and projects that $2.1 billion will be required in fiscal year 1985 for that program.

Major Army tactical programs being continued include remotely piloted vehicle, budgeted at $138 million, the Scout helicopter at $54 million, and Patriot at $85 million. The Navy has budgeted $118 million for continuation of the AV-8B aircraft and $111 million for the DDGX, as well as $146 million for the advanced light weight torpedo. The Air Force request includes $90 million to continue the night precision attack program, and $189 million to continue full scale development of a new air-to-air missile.

New starts requested for fiscal year 1984 include the Army's joint tactical missile—$50 million—Vertical Launch System ASROC for the Navy—$31 million—and the Air Force fighter derivative—$105 million.

As in previous years, the Air Force is budgeted to receive the largest portion of DOD's RDT&E funds. This year, the relative shares are: Air Force, 46 percent; Navy, 28 percent; Army, 16 percent; and Defense agencies, 10 percent.

INITIAL REACTION TO DEFENSE BUDGET

In the state of the Union message and in various news stories, there has been a lot of talk about a bipartisan approach to the fiscal year 1984 budget and talk about a midcourse correction in the administration's budget priorities. In reality, the overall fiscal year 1984 budget and the Defense budget in particular is just more of the same—scaling back social programs and dramatically increasing defense.

The reduction of $8 billion by Mr. Weinberger was not at all substantive. It merely validated a fact we already know—oil costs have come down and it included the controversial recommendation of a pay freeze. No major or minor weapon systems were recommended for reduction or elimination in the $8 billion package.

The total obligational authority requested for defense in fiscal year 1984 is $265.3 billion, an increase of $33.3 billion from the estimated fiscal year 1983 level and almost $60 billion over the fiscal year 1982 defense budget. This $33.3 billion increase is despite the fact that no pay increase is recommended.

The fiscal year 1984 budget request just for the procurement account is $94.1 billion—imagine almost $100 billion for one account in defense. During the budget debates and hearings of the past 2 years, I have frequently pointed out that approval of the many weapon systems requested by the DOD would lead to a budget crunch—the so-called bow wave—and the fiscal year 1984 budget dramatically shows that the bow wave has arrived.

I also note that within procurement, the most dramatic increase is for the Air Force. The Air Force alone is requesting an increase of over $10.6 billion just in procurement. A substantial part of that increase is for strategic nuclear weapon systems including the B-1 and the MX. The total funds requested for strategic weapon programs are $28.1 billion—an increase of 68 percent since fiscal year 1982 and an increase of 126 percent since fiscal year 1981. To dramatically increase funding for strategic nuclear weapons at the same time that: unprecedented deficits are occurring; military pay is frozen; and cost overruns for DOD continue unabated; is unwise, unnecessary and imprudent.

The R&D budget, at $29.6 billion, is up by 30 percent over last year. Much of that increase is reflected in the strategic category, which is up 50 percent, and includes such programs as MX, B-1B and Trident II. Note that the MX, budgeted at $3.4 billion, takes up 11.4 percent of DOD's entire R&D budget. Also note that even though B-1B entered production last year, and was claimed to be fully developed, $750 million is budgeted for R&D on the B-1B in fiscal year 1984.

For the long run, a strong defense can be maintained only if it is supported by the American people. However, the excesses of the Reagan defense buildup is causing a rapid decline in the public's support for increased defense spending.

According to the Harris poll, in a 2-year period, the percent of the public who wanted increased defense spending has fallen precipitously from 71 to 17 percent.●

BILL TO AMEND THE TARIFF LEVELS ON IMPORTED ROSES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. PANETTA) is recognized for 5 minutes.

● Mr. PANETTA. Mr. Speaker, I am introducing a bill today to restore equity in the trade relations in the rose industry between the United States and the European Community. This bill would aline tariff rates on fresh cut roses to the level that is currently imposed by the European Community.

Since the early 1970's, the number of imported roses in the domestic marketplace has increased substantially. The great majority of foreign producers exporting roses to this country are subsidized by their governments, in some instances by up to 18 percent of their costs. In addition, exporters to this country pay only one-third the tariff rate that is imposed by the EC during prime growing season. This combination of factors has encouraged significant "dumping" of foreign roses into our domestic market at lower than fair market prices. As American rose producers struggle to compete with underpriced, underassessed foreign roses flooding our cut flower industry, the future vitality of America's rose producers is being seriously endangered.

Since 1977, domestic rose growers have repeatedly petitioned the U.S. Trade Commission and the Interna-

tional Trade Administration for relief through more equitable tariff rates on imported roses. These petitions have consistently failed to provide relief. Recently, the Department of Commerce issued a preliminary determination that the Colombian Government has been providing unfair subsidies to Colombian cut flower exporters, including rose exporters, in the form of tax rebates. Instead of continuing its investigation and imposing appropriate countervailing duties on Colombian exporters, the Department has signed a suspension agreement with 93 Colombian producers and exporters of cut flowers, negating the effect of the preliminary determination, and halting the investigation of unfair Colombian subsidies. Because every available legal remedy to secure a correction to this problem has been exhausted by the representatives of the domestic rose growers, the sole remaining avenue of relief is through legislation.

The number of imported roses to this country is increasing rapidly. In 1981, rose imports grew 54 percent over the amount imported in 1980. In 1982, the market share of foreign roses in the domestic marketplace reached 18 percent, doubling in volume and virtually doubling in percentage market share over 2 years time. This staggering increase in foreign imports has caused the number of domestic growers to decline in the last 2 years, and, if unchecked, will soon force many other domestic growers out of the markets.

We must save our Nation's rose growers from the fate suffered by domestic producers of other cut flowers in this country. Similar inequitable tariffs on carnations and chrysanthemums have caused the virtual dissolution of the domestic industry for these flowers in recent years. Hopefully, the legislation I am introducing today will prevent similar demise in our domestic rose industry, and preserve the vitality of our Nation's rose producers of the future.

The bill that I am introducing today enjoys the support of Roses, Inc., a trade association representing the interests of domestic growers and wholesalers of roses nationwide. The members of Roses, Inc. are located in 32 States, and are generally family-owned enterprises. In 1980, its 190 grower members accounted for approximately 84 percent of the domestic production of about 20 million rose plants.

I urge my colleagues to join me in sponsoring this legislation.

H.R. 1146

A bill to amend the Tariff Schedules of the United States to provide for rates of duty on imported roses consistent with those maintained by the European Economic Community on imports of roses from the United States and other nations

Be in enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That subpart G of part 15 of Schedule 1 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by striking out item 192.18 and inserting in lieu thereof the following:

"192.14	Roses:		
	If entered during the period from November 1 of any year to May 31 of the following year, inclusive..	24% ad val.	40% ad val.
192.16	If entered during the period from June 1 to October 31 of any year, inclusive.	17% ad val.	40% ad val.".

SEC. 2. The amendments made by the first section of the Act shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date of the enactment of this Act.●

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. ANDREWS of Texas) to revise and extend their remarks and include extraneous material:)

Mr. GONZALEZ, for 30 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. MICA, for 5 minutes, today.
Mr. ADDABBO, for 30 minutes, today.
Mr. PANETTA, for 5 minutes, today.
Mr. SHELBY, for 60 minutes, on February 2.
Mr. MONTGOMERY, for 5 minutes, on February 3.
Mr. GLICKMAN, for 60 minutes, on February 7.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. LEWIS of Florida) and to include extraneous matter:)

Mr. WHITTAKER.
Mr. MADIGAN.
Mr. ROGERS.
Mr. BLILEY.
Mr. MICHEL in four instances.
Mr. FIELDS in three instances.
Mr. PORTER.
Mr. DANIEL B. CRANE.

(The following Members (at the request of Mr. ANDREWS of Texas) and to include extraneous matter:)

Mr. WYDEN.
Mr. COYNE.
Mr. RODINO in two instances.
Ms. FERRARO in two instances.
Mr. STARK in two instances.
Mr. MICA.
Mrs. BOGGS.
Mr. MRAZEK.
Mr. SLATTERY.
Mrs. SCHROEDER.
Mr. DOWNEY of New York in two instances.
Mr. EDGAR.
Mr. MCDONALD in five instances.
Mrs. BOUQUARD in five instances.
Mr. HAMILTON in 10 instances.
Mr. PANETTA in two instances.

ADJOURNMENT

Mr. ANDREWS of Texas. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 35 minutes p.m.) the House adjourned until tomorrow, Wednesday, February 2, 1983, at 3 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

244. A letter from the Acting Comptroller General of the United States, transmitting his review of proposed deferrals of budget authority and revision of a previously reported deferral, contained in the message from the President dated January 6, 1983 (House Document 98-6), pursuant to sections 1014 (b) and (c) of Public Law 93-344 (H. Doc. No. 98-16); to the Committee on Appropriations and ordered to be printed.

245. A letter from the Secretary of Energy, transmitting the sixth semiannual report on alternative fuels production, pursuant to title II of Public Law 96-126; to the Committee on Appropriations.

246. A letter from the Executive Associate Director for Budget, Office of Management and Budget, Executive Office of the President, transmitting a report that the appropriation to the Department of Labor for "Advances to the Unemployment Trust Fund and Other Funds" and "Grants to States for Unemployment Insurance and Employment Services" for fiscal year 1983 has been apportioned on a basis that indicates the necessity for supplemental estimates of appropriations, pursuant to 31 U.S.C. 1515; to the Committee on Appropriations.

247. A letter from the Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting notice of the decision to convert to contractor performance the laundry and dry cleaning activity at Walter Reed Army Medical Center, Washington, D.C., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

248. A letter from the Chief, Legislation Division, Office of Legislative Liaison, Department of the Air Force; transmitting the semiannual report on research and development contracts of $50,000 or more, pursuant to 10 U.S.C. 2357; to the Committee on Armed Services.

249. A letter from the executive vice president, Potomac Electric Power Co., transmitting the company's balance sheet as of December 31, 1982, pursuant to section 8 of the act of March 4, 1913; to the Committee on the District of Columbia.

250. A letter from the Assistant Secretary of State for Congressional Relations, transmitting the Department's report on human rights practices, pursuant to sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

251. A letter from the Acting Director, U.S. Arms Control and Disarmament

Agency, transmitting the administration's fiscal year 1984 arms control impact statements, pursuant to 22 U.S.C. 2576, as amended; to the Committee on Foreign Affairs.

252. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of the State Department's intention to consent to a request by Italy for permission to transfer certain U.S. origin defense equipment to Turkey, pursuant to section 3 of the Arms Export Control Act; to the Committee on Foreign Affairs.

253. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on steps taken by the Administrator of the Agency for International Development to alter U.S. programs under part I of the Foreign Assistance Act of 1961 in any country because of human rights considerations, pursuant to section 116(d)(2) of the act, as amended; to the Committee on Foreign Affairs.

254. A letter from the Acting Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

255. A letter from the Vice Chairman, Federal Election Commission, transmitting revisions to the proposed rules and regulations governing the Presidential primary matching payment account which was transmitted to Congress on January 25, 1983, pursuant to section 9039(c) of the Internal Revenue Code of 1954; to the Committee on House Administration.

256. A letter from the Assistant Secretary of the Interior (Indian Affairs), transmitting the statement by the President of January 24, 1983, on "Indian Policy"; to the Committee on Interior and Insular Affairs.

257. A letter from the Assistant Secretary of the Interior for Fish and Wildlife and Parks, transmitting a report of the study on the Indian Nations Trail, Okla., pursuant to Public Law 90-543, as amended; to the Committee on Interior and Insular Affairs.

258. A letter from the Assistant Attorney General, Civil Rights Division, transmitting a report on the administration of the Civil Rights of Institutionalized Persons Act for fiscal year 1981, pursuant to section 8 of the statute, 42 U.S.C. 1997f; to the Committee on the Judiciary.

259. A letter from the Director, Office of Personnel Management, transmitting the biennial report on the operation of the Senior Executive Service, pursuant to 5 U.S.C. 3135 and 4314; to the Committee on Post Office and Civil Service.

260. A letter from the Administrator, National Aeronautics and Space Administration, transmitting notice that NASA's 1983 space flight operation program will exceed amounts authorized, pursuant to section 104(2) of Public Law 97-324; to the Committee on Science and Technology.

261. A letter from the Administrator, National Aeronautics and Space Administration, transmitting notice that NASA's fiscal year 1983 planetary exploration program will exceed amounts authorized, pursuant to section 104(2) of Public Law 97-342; to the Committee on Science and Technology.

262. A letter from the Administrator, National Aeronautics and Space Administration, transmitting notice that NASA's fiscal year 1983 expendable launch vehicles program will exceed amounts authorized, pursuant to section 104(2) fo Public Law 97-324; to the Committee on Science and Technology.

263. A letter from the Federal Inspector, Alaska Natural Gas Transportation System, transmitting his 14th quarterly report on the status of the Alaska natural gas transportation system pursuant to section 7(a)(5)(E) of Public Law 94-586; jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HALL of Ohio: Committee on Rules. House Resolution 16. Resolution to establish the Select Committee on Children, Youth, and Families (Rept. No. 98-1). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. KRAMER (for himself, Mr. DUNCAN, Mr. CAMPBELL, Mr. BLILEY, and Mr. DENNY SMITH):

H.R. 1131. A bill to establish a uniform nationwide standard governing classifications based upon gender; to the Committee on the Judiciary.

By Mr. APPLEGATE:

H.R. 1132. A bill to amend the Surface Mining Control and Reclamation Act of 1977 relating to maps and plans of lands to be mined; to the Committee on Interior and Insular Affairs.

By Mr. COLEMAN of Texas:

H.R. 1133. A bill to amend the Clean Air Act with respect to the prevention and control of air pollution in border areas of the United States and countries contiguous to the United States, and for other purposes; jointly, to the Committees on Foreign Affairs and Energy and Commerce.

By Mr. DOWNEY of New York:

H.R. 1134. A bill to amend title III of the Elementary and Secondary Education Act of 1965 to provide for one or more national centers for personal computers in education; to the Committee on Education and Labor.

By Mr. DOWNEY of New York:

H.R. 1135. A bill to amend title 38, United States Code, to waive the 1-year limitation on claims for compensation from the Veterans' Administration for disabilities and diseases incurred in or aggravated by military service in the case of claims by veterans who served in Southeast Asia during the Vietnam era for compensation for disabilities resulting from exposure to the phenoxy herbicide known as agent orange or other phenoxy herbicides; to the Committee on Veterans' Affairs.

By Mr. ECKART (for himself, Mr. SHANNON, Mr. MITCHELL, Mr. PEASE, Mr. FORD of Tennessee, Mrs. SCHNEIDER, Mr. MCKINNEY, Mr. FISH, Mr. BEDELL, Mr. NOWAK, Mr. RALPH M. HALL, Mr. BROWN of California, Mr. FRANK, Mr. BOLAND, Mr. MAVROULES, Mr. D'AMOURS, Mr. DASCHLE, Mr. WYDEN, Mr. RATCHFORD, Mr. HILER, Mr. TALLON, Mr. STOKES, Ms. OAKAR, Mr. WILLIAMS of Montana, Mr. MRAZEK, Mr. ROEMER, Mr. MCNULTY, Mr. MURPHY, Mr. KOGOVSEK, Mr. DAUB, Mr. FAUNTROY, Mr. FEIGHAN, Mr. SABO, Mr. WOLPE, Mr. STUDDS, Mr. CORRADA, Mr. TAUKE, Mr. RAHALL, Mr. MINETA, Mr. VENTO, Mr. WILSON, and Mr. MARRIOTT):

H.R. 1136. A bill to amend the Internal Revenue Code of 1954 to provide long-term capital gain treatment for distribution of earnings with respect to certain small business participating debentures; to the Committee on Ways and Means.

By Mr. EDGAR (for himself and Mr. EDWARDS of California):

H.R. 1137. A bill to amend title 38, United States Code, to establish in the Veterans' Administration an Advisory Committee on Women Veterans; to the Committee on Veterans' Affairs.

By Mr. FIELDS (for himself, Mr. ARCHER, Mr. WILSON, Mr. BARTLETT, Mr. LOEFFLER, Mr. SAM B. HALL, JR., Mr. HIGHTOWER, Mr. STENHOLM, Mr. ANDREWS of Texas, Mr. LELAND, Mr. PICKLE, Mr. LEATH of Texas, and Mr. HANCE):

H.R. 1138. A bill to authorize the Secretary of the Army, acting through the Chief of Engineers, to construct the project for flood control and recreation in the Upper White Oak Bayou area, Texas; to the Committee on Public Works and Transportation.

By Mr. HUNTER (for himself, Mr. LOWERY of California, and Mr. PACKARD):

H.R. 1139. A bill to permit the carriage of passengers between ports and places in the United States by foreign vessels if the voyages of such vessels do not directly compete with those of U.S.-flag vessels; to the Committee on Merchant Marine and Fisheries.

By Mr. HUTTO:

H.R. 1140. A bill to provide for the release of certain restrictions on the conveyance of certain lands conveyed to the State of Florida, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. KAZEN:

H.R. 1141. A bill to provide for payments in lieu of taxes to be made by the United States to local governments for property exempt from property taxation under Federal law which is located within the jurisdiction of the local government and owned by the United States, a foreign government, or an international organization; to the Committee on Government Operations.

By Mr. LEATH of Texas (for himself, Mr. MONTGOMERY, and Mr. HAMMERSCHMIDT):

H.R. 1142. A bill to recognize the organization known as the National Association of State Directors of Veterans' Affairs, Inc.; to the Committee on the Judiciary.

By Mr. LEWIS of Florida:

H.R. 1143. A bill to repeal sections 301 through 308 of the Tax Equity and Fiscal Responsibility Act of 1982, which impose withholding on interest and dividends; to the Committee on Ways and Means.

By Mr. MINETA:

H.R. 1144. A bill to provide for a capital budget within the budget of the U.S. Government, to provide budget process incentives for dedicated revenues, and to create a National Commission on the Rebuilding of America; jointly, to the Committees on Government Operations, Rules, Public Works and Transportation, and Energy and Commerce.

By Mr. MURPHY:

H.R. 1145. A bill to amend section 144 of title 23, United States Code, to increase the Federal share payable for highway bridge

replacement and rehabilitation projects from 80 per centum to 90 per centum; to the Committee on Public Works and Transportation.

By Mr. PANETTA (for himself, Mr. SCHULZE, and Mr. LANTOS):

H.R. 1146. A bill to amend the Tariff Schedules of the United States to provide for rates of duty on imported roses consistent with those maintained by the European Economic Community on imports of roses from the United States and other nations; to the Committee on Ways and Means.

By Mr. RODINO:

H.R. 1147. A bill to amend title 11 of the United States Code to make certain changes in the personal bankruptcy law, and for other purposes; to the Committee on the Judiciary.

By Mr. SCHULZE (for himself and Mr. WALKER):

H.R. 1148. A bill to amend the Internal Revenue Code of 1954 and the Social Security Act to provide an exemption from coverage under the social security program, through a tax refund procedure, for employees who are members of religious faiths which oppose participation in such program, and to provide a similar exemption on a current basis—pursuant to waiver certificates filed in advance—for employers engaged in farming and their employees in cases where both are members of such faiths; and to make the existing exemption for self-employed members of such faiths available to certain additional individuals; to the Committee on Ways and Means.

By Mr. WEAVER (for himself, Mr. AUCOIN, and Mr. WYDEN):

H.R. 1149. A bill to designate certain national forest system and other lands in the State of Oregon for inclusion in the national wilderness preservation system, and for other purposes; to the Committee on Interior and Insular Affairs and Agriculture.

By Mr. RUSSO:

H.J. Res. 116. Joint resolution proposing an amendment to the Constitution of the United States for the protection of unborn children and other persons; to the Committee on the Judiciary.

By Mr. McDONALD:

H. Con. Res. 41. Concurrent resolution authorizing a bust or statue of Booker T. Washington and a bust or statue of George Washington Carver, each to be placed in the Capitol; to the Committee on House Admisistration.

By Ms. FERRARO:

H. Res. 50. Resolution expressing the sense of the House of Representatives with respect to ratification of the Convention on the Prevention and Punishment of the Crime of Genocide; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. HUTTO:

H.R. 1150. A bill for the relief of Teodoro N. Salanga, Jr.; to the Committee on the Judiciary.

By Mr. LOTT:

H.R. 1151. A bill for the relief of Terry Cutrer; to the Committee on the Judiciary.

By Mr. MATSUI:

H.R. 1152. A bill for the relief of Tomoko Jessica Kyan; to the Committee on the Judiciary.

By Mr. PANETTA:

H.R. 1153. A bill for the relief of Wayne Greenfield; to the Committee on the Judiciary.

By Mrs. SNOWE:

H.R. 1154. A bill for the relief of Richard W. Ireland; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 6: Mr. ROBINSON, Mr. LEWIS of Florida, and Mr. ROTH.

H.R. 29: Mr. SMITH of New Jersey, Mr. BIAGGI, Mr. O'BRIEN, Mr. LAGOMARSINO, Mr. MOAKLEY, Mr. RANGEL, Mr. McGRATH, Mr. HERTEL of Michigan, Mr. FRANK, Mr. ROE, Mr. FORSYTHE, Mr. McNULTY, Ms. KAPTUR, Mr. TRAXLER, Mr. RATCHFORD, Mr. WALGREN, and Mr. BEVILL.

H.R. 223: Mr. BURTON of Indiana and Mr. GLICKMAN.

H.R. 459: Mr. SHUSTER, Mr. KOLTER, Mr. STARK, Mr. TAYLOR, Mr. FRANK, Mr. MARKEY, Mr. LOWRY of Washington, Mr. KOGOVSEK, Mr. CLAY, Mr. HUBBARD, Mr. MITCHELL, Mr. EDGAR, Mr. COYNE, Mr. KOSTMAYER, Mr. RAHALL, Mr. GAYDOS, Mr. YATRON, Mr. RINALDO, Ms. MIKULSKI, Mr. DAVIS, Mr. LANTOS, and Mr. OBERSTAR.

H.R. 661: Mr. TAUZIN.

H.R. 803: Mr. RAHALL.

H.R. 804: Mr. RAHALL.

H.R. 864: Mr. WHITTEN.

H.R. 873: Mr. DWYER of New Jersey and Mr. DASCHLE.

H.J. Res. 2: Mr. HEFTEL of Hawaii, Mr. ROE, and Mr. BOUCHER.

H.J. Res. 60: Mr. SMITH of Florida, Mr. PENNY, Mr. COLEMAN of Texas, Mr. BORSKI, Mr. SAWYER, Mr. SUNIA, Mr. KRAMER, Mr. WALGREN, Mr. YATRON, Mr. O'BRIEN, Mr. RICHARDSON, Mr. AKAKA, Mr. KEMP, Mr. PORTER, Mr. WON PAT, Mr. CHAPPELL, Mr. BOLAND, Mr. CARNEY, Mr. MAVROULES, Mr. SMITH of New Jersey, Mr. BLILEY, Mr. FISH, Mr. HOWARD, Mr. BIAGGI, Mr. MARRIOTT, Mr. LANTOS, Mr. McDONALD, Mr. WOLPE, Mr. HYDE, Mr. HORTON, Mr. HAMMERSCHMIDT, Mr. LENT, Mr. PAUL, Mr. SILJANDER, Mr. BATES, Mr. HOYER, Mr. LUNGREN, Mr. McKINNEY, Mr. STOKES, Mr. CORCORAN, Mr. HANSEN of Idaho, Mr. DWYER of New Jersey, Mr. HARRISON, Mr. VANDER JAGT, Mrs. HOLT, Mr. CONYERS, Mr. STRATTON, Mr. DINGELL, Mr. EDWARDS of Oklahoma, Mr. COURTER, Mr. DONNELLY, Mr. LONG of Maryland, Mr. WORTLEY, Mr. GORE, Mrs. SNOWE, Mr. McDADE, Mr. BONIOR of Michigan, Mr. FRENZEL, Mr. GEJDENSON, Mr. LAGOMARSINO, Mr. ANDERSON, Mr. DICKINSON, Mr. DYMALLY, Mr. SPENCE, Mr. ANNUNZIO, Mr. FORSYTHE, Mr. FROST, Mr. MORRISON of Connecticut, Mr. CLINGER, Mr. RINALDO, Mr. FLORIO, Mr. FASCELL, Mr. ADDABBO, Mr. RATCHFORD, Mr. EDGAR, Mr. CONTE, Mr. GINGRICH, Mr. HUGHES, Mr. HUTTO, Mr. BADHAM, Mr. LIPINSKI, Ms. KAPTUR, Mr. MADIGAN, Mr. BEDELL, Mr. DAUB, Mr. WAXMAN, Mr. BARNES, Mr. FIELDS, and Mr. MINETA.

H.J. Res. 95: Mr. JEFFORDS, Mr. THOMAS of Georgia, Ms. OAKAR, Mr. SIMON, Mr. KINDNESS, Mr. HORTON, Mr. CARNEY, Mr. STAGGERS, Mr. MARTIN of New York, Mr. McGRATH, Mr. FRENZEL, Mr. CORRADA, Mr. MADIGAN, Mr. PERKINS, Mr. ROBINSON, Mr. WAXMAN, Mr. SUNIA, Mr. KEMP, Mr. DANIEL, Mr. LEWIS of California, Mr. SOLARZ, Mrs. KENNELLY, Mr. DOWDY of Mississippi, Mr. AKAKA, Mr. ALEXANDER, Mr. HUGHES, Mr. BONER of Tennessee, Mr. BREAUX, Mr. PACKARD, Mr. PASHAYAN, Mr. BIAGGI, Mr. STUMP, Mr. YOUNG of Missouri, Mr. YOUNG of Alaska, Mr. WON PAT, Mr. SNYDER, and Mr. SILJANDER.

H.J. Res. 96: Mr. NcNULTY, Mr. MORRISON of Connecticut, Mr. FLORIO, Mr. KRAMER, Mr. CONTE, Mr. TALLON, Mr. HUGHES, Mr. HORTON, Mr. GUARINI, Mr. McGRATH, Mr. MADIGAN, Mr. CORRADA, and Mr. STANGELAND.

H. Con. Res. 39: Mr. LAGOMARSINO, Mr. BONER of Tennessee, Mr. FAUNTROY, Mr. EDGAR, Mr. LELAND, Mr. HILER, Mr. BIAGGI, Mr. SMITH of Florida, Mr. RATCHFORD, Mr. BEVILL, Mr. FORSYTHE, Mr. KRAMER, and Mr. SKEEN.

H. Res. 16: Mrs. BOGGS, Mr. HYDE, Mr. JEFFORDS, Mr. WAXMAN, Mr. WEISS, Mr. ADDABBO, Mr. AKAKA, Mr. ANDERSON, Mr. ASPIN, Mr. BARNES, Mr. BATES, Mr. BEREUTER, Mr. BERMAN, Mr. BEVILL, Mr. BIAGGI, Mr. BLILEY, Mr. BOLAND, Mr. BONIOR of Michigan, Mrs. BOUQUARD, Mrs. BOXER, Mr. BURTON of California, Mr. CARR, Mr. CHAPPIE, Mr. COATS, Mrs. COLLINS, Mr. CONTE, Mr. CORRADA, Mr. COURTER, Mr. CROCKETT, Mr. D'AMOURS, Mr. DASCHLE, Mr. DELLUMS, Mr. DOWNEY of New York, Mr. DWYER of New Jersey, Mr. DYMALLY, Mr. EARLY, Mr. EDWARDS of California, Mr. EDWARDS of Alabama, Mr. FISH, Mr. FOGLIETTA, Mr. FORD of Tennessee, Mr. FORD of Michigan, Mr. FORSYTHE, Mr. FRANK, Mr. GARCIA, Mr. GEJDENSON, Mr. GONZALEZ, Mr. GORE, Mr. GRAY, Mr. GUARINI, Mr. HEFNER, Mr. HERTEL of Michigan, Mr. HORTON, Mr. HOWARD, Mr. JONES of Tennessee, Ms. KAPTUR, Mr. KASTENMEIER, Mrs. KENNELLY, Mr. KILDEE, Mr. KOGOVSEK, Mr. LANTOS, Mr. LEACH of Iowa, Mr. LEHMAN of Florida, Mr. LEVIN of Michigan, Mr. LEVINE of California, Mr. LUNDINE, Mr. McDADE, Mr. McGRATH, Mr. McKERNAN, Mr. MARKEY, Mr. MARRIOTT, Mr. MATSUI, Mr. MAZZOLI, Ms. MIKULSKI, Mr. MITCHELL, Mr. MOODY, Mr. MORRISON of Connecticut, Mr. MRAZEK, Mr. NELSON of Florida, Mr. NIELSON of Utah, Mr. NOWAK, Ms. OAKAR, Mr. OBERSTAR, Mr. O'BRIEN, Mr. PANETTA, Mr. PATTERSON, Mr. PEPPER, Mr. RANGEL, Mr. RATCHFORD, Mr. RICHARDSON, Mr. RODINO, Mr. ROE, Mr. ROGERS, Mr. ROWLAND, Mr. ROYBAL, Mr. RUSSO, Mr. SABO, Mr. SCHEUER, Mrs. SCHNEIDER, Mrs. SCHROEDER, Mr. SIKORSKI, Mr. SIMON, Mr. SLATTERY, Mr. SMITH of Florida, Mr. SMITH of Iowa, Mrs. SNOWE, Mr. SOLARZ, Mr. STANGELAND, Mr. STARK, Mr. STOKES, Mr. SYNAR, Mr. TORRES, Mr. TOWNS, Mr. WEAVER, Mr. WOLF, Mr. WON PAT, Mr. WORTLEY, Mr. YATES, Mr. YATRON, Mr. ALEXANDER, Mr. COYNE, Mr. CONYERS, Mr. BROOKS, Mr. MAVROULES, Mr. MURTHA, Mr. WOLPE, Mr. MINISH, Mr. LOWERY of California, Mr. SUNIA, Mr. DE LUGO, Mr. ROSE, Mr. BEDELL, Mr. FAUNTROY, Mr. TAUZIN, Mr. ZABLOCKI, Mr. LEVITAS, Mr. WYDEN, Mr. SHANNON, Mr. BURTON of Indiana, Mr. MARTINEZ, Mr. RAHALL, Mr. BETHUNE, Mr. WISE, Mr. IRELAND, Mr. ANDREWS of North Carolina, Mr. DICKS, Mr. DONNELLY, Mr. DOWDY of Mississippi, Mr. EDGAR, Mr. EVANS of Iowa, Mr. FAZIO, Ms. FERRARO, Mr. BONER of Tennessee, Mr. HARRISON, Mr. BARNARD, Mr. HARTNETT, Mr. LAGOMARSINO, Mr. JONES of North Carolina, Mr. McKINNEY, Mr. PRICE, Mr. SPENCE, Mr. SAVAGE, Mr. UDALL, Mr. WIRTH, Mr. WILLIAMS of Montana, Mr. PRITCHARD, Mr. WALGREN, Mr. BENNETT, Mr. FRANKLIN, Mr. SPRATT, Mr. ORTIZ, Mr. NATCHER, Mr. MARTIN of North Carolina, Mr. WASHINGTON, Mr. FOWLER, Mr. HEFTEL of Hawaii, Mr. COELHO, Mr. DIXON, Mr. OWENS, Mrs. JOHNSON, Mr. PORTER, Mr. REID, Mr. SCHUMER, Mr. CLAY, Mr. HILER, Mr. TALLON, Mr. WHITEHURST, Mr. GEP-

HARDT, Mr. TRAXLER, Mr. WHITTEN, Mr. RINALDO, Mr. MCCOLLUM, Mr. NEAL, Mr. DURBIN, Mr. BOEHLERT, Mr. FEIGHAN, Mr. LIPINSKI, Mr. TORRICELLI, Mr. GEKAS, Mr. MCNULTY, Mr. GINGRICH, Mr. PATMAN, Mr. BROWN of California, Mr. HAWKINS, Mr. ANTHONY, Mr. MURPHY, Mr. FROST, Mr. LATTA, Mr. MOLLOHAN, Mr. MONTGOMERY, Mr. ERDREICH, Mr. MINETA, Mr. MCHUGH, Mr. ST GERMAIN, Mr. DORGAN, Mr. VANDERGRIFF, Mr. DEWINE, Mr. BRYANT, Mrs. HALL of Indiana, Mr. EVANS of Illinois, Mr. COLEMAN of Texas, Mr. DERRICK, Mr. HARKIN, Mr. LELAND, and Mr. APPLEGATE.

H. Res. 39: Mr. GINGRICH.

SENATE—*Tuesday, February 1, 1983*

(Legislative day of Tuesday, January 25, 1983)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Loving Heavenly Father, help us not to take for granted the rare and wonderful atmosphere in which we, who are part of the U.S. Senate, labor. We thank Thee for the privilege of working here—for the high morale—the beautiful, untiring support given to the Senators and their staffs, by the subway people, the elevator operators, those who work in food service, the security people, the pages, and the maintenance crews. Grant that their thoughtful, constant kindnesses will be gratefully received and not allowed to feed pride of position or false self-importance.

Gracious God, may we hear and heed the penetrating indictment of Jesus Christ in His condemnation of religious leaders of the day for their pompous egos: "They bind heavy burdens, hard to bear, and lay them on men's shoulders; for they themselves will not move them with their finger. They do all their deeds to be seen by men; and they love the places of honor at feasts * * *. He who is greatest among you shall be your servant; whoever exalts himself will be humbled, and whoever humbles himself will be exalted." Matthew 23: 4-6,11,12 (RSV).

Forgive us Lord for presumptuous, prideful attitudes. Keep us humble and grateful. In Jesus' name. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. BAKER. I thank the Chair.

THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

THE PRESIDENT'S PROPOSED BUDGET

Mr. BAKER. Mr. President, yesterday on Capitol Hill, Senators and their staffs received copies of President Reagan's proposed budget for fiscal year 1984, and to no surprise, his message has quickly become the talk of the town.

I for my part, would like to add the following observations to the current flurry of reactions:

First, the President's message marks the beginning of what will be a long and arduous budget process. There are hard decisions to be made.

Second, every Member of the Senate, and the House, will no doubt have their own opinions as to the strengths and weaknesses of the proposal, but the situation that we must avoid is a legislative stalemate that leaves this country without a comprehensive economic policy.

Third, as the long and painful recession draws to a close, Congress simply cannot afford to send the wrong signals to the financial markets and the business communities.

And finally, President Reagan's budget represents the best starting point for the budget deliberations, and is emblematic of the leadership qualities that he has exhibited since he first came to office.

TVA TO REDUCE POWER RATE—GOOD NEWS FOR THE VALLEY

Mr. BAKER. Mr. President, the consumers of TVA power have been hard hit by a series of substantial rate increases in the last few years. These have been due in large part to the combined effects of high interest rates and rapid inflation during a period of heavy expenditures for powerplant construction. I have been concerned by these increases in power costs—particularly during a period of economic recession—and have encouraged the members of the TVA Board to do everything in their power to limit further increases.

I have been extremely pleased with the Board's response, and I wanted to share my enthusiasm with you. Board Chairman Charles Dean and Board members S. David Freeman and Richard Freeman have undertaken a variety of management initiatives designed to hold expenses to a minimum. Labor and materials costs, for example, are being held to the same level for the current fiscal year as for fiscal 1982. These initiatives helped to make possible an increase in consumers' bills of only 4.4 percent last October.

The news has gotten even better since then. I have now learned that TVA, with the benefit of favorable weather and operating conditions, is surpassing its own financial projections.

First, an additional $44 million resulting from TVA's operations in fiscal year 1982 is available as a credit against March power bills. This should provide a one-time bill reduction of about 10 percent.

Second, lower interest rates and reduced borrowings have decreased estimated interest expenses by about $76 million for fiscal year 1983. Power system performance has also improved significantly over projected levels. Use of nuclear power and hydropower have helped reduce expenses. In these circumstances, power system managers now estimate that 1983 revenue could be reduced by $125 million and still permit TVA to meet all of its financial tests, while retaining a contingency for emergencies. This will permit a rate reduction of between 5 and 6 percent from April 1 to September 30.

Even with this positive turn of events, costs will continue to increase. I understand there will likely be a need for rates to return to present levels—or higher—in October. However, that these reductions are being made effective in the current year is an indication that TVA is sensitive to the needs of the people and industries of the Tennessee Valley during a time of economic distress.

The Board's overall achievement in holding rates down despite inflationary pressures provides gratifying evidence that TVA has weathered the storms of the recent past and is sailing toward smoother waters. I commend the Board members for their outstanding stewardship during this difficult period, and I look forward to continued cooperation with TVA in tackling the pressing economic challenges of the valley in the 1980's.

REALLOCATION OF TIME

Mr. BAKER. Mr. President, there are three special orders for today, beginning with the distinguished Senator from Alabama (Mr. DENTON).

The second special order is in favor of the distinguished Senator from Georgia (Mr. MATTINGLY). I am advised that he will not need that time. I ask unanimous consent that the time assigned to Senator MATTINGLY be transferred to me.

The PRESIDENT pro tempore. Without objection, it is so ordered.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

ORDER FOR ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that after the execution of the special orders, there be a period for the transaction of routine morning business, not to extend beyond 12 noon, in which Senators may speak for not more than 2 minutes each.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECESS FROM 12 NOON UNTIL 2 P.M. TODAY

Mr. BAKER. Mr. President, today is Tuesday, and there is a caucus, at least on one side of the aisle, perhaps on both sides of the aisle, that requires the attendance of Senators. Caucuses are not official in nature—that is, they are not a requirement of the Standing Rules of the Senate—but they are essential in the modern Senate for the transaction of business, because it is in the caucuses, which take place separately and off the floor of the Senate, where many policy decisions are made and the outlines and formulation of the issues are determined.

In order to accommodate Senators who will attend those caucuses, I ask unanimous consent that the Senate stand in recess today from 12 noon until 2 p.m.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SENATE SCHEDULE

Mr. BAKER. Mr. President, at 2 p.m., when the Senate reconvenes, it may be that Senators may wish to speak on the Dole nomination, the vote on which will occur in executive session at 4 p.m. today, or it may be that there will be no further debate on that nomination, which is noncontroversial, so far as I can ascertain.

Mr. BYRD. I would bet that the majority leader and I, right now, could state the outcome. I would bet that we could state it without missing a decimal point.

[Laughter.]

Mr. BAKER. I would bet we could, and I would not even wager a thin dime on that vote. I believe all of us will be happy for the opportunity to produce that result, which will give Elizabeth Dole a great start as the Secretary of Transportation.

Mr. President, in view of the fact that it is unlikely that there will be extensive further debate on the Dole nomination before the vote at 4 p.m., I ask unanimous consent that when the Senate returns at 2 p.m., after the recess, there be a further period for the transaction of routine morning business in which Senators may speak for not more than 5 minutes each, with the exception of the distinguished minority leader, who, if he wishes, may speak without limitation, and that that time not extend past 4 p.m.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I have examined the calendar of business hungrily every morning to see what the committees have wrought. Today, I find one bill, Calendar No. 2, S. 271, to amend the National Trails Systems Act by designating additional national scenic and historic trails, and for other purposes. There is a report on that measure, but I wonder whether the minority leader would be inclined to inquire through his clearance process whether we might waive the 3-day rule and perhaps the 1-day rule and proceed with that item today.

Mr. BYRD. Remembering that the 3-day rule is something of value which is discussed frequently, I assure the majority leader that I will check and see if we can waive that rule; also the 1-day rule, I suppose.

Mr. BAKER. I thank the Senator.

Mr. President, I remember vividly the concerns and problems that the minority leader had with respect to the 3-day rule when he was the majority leader. I will report to him that which he already knows: The situation is not a bit better.

[Laughter.]

Mr. President, I have no further need for my time under the standing order, and I am prepared to yield the floor. I offer my remaining time, if any, to the minority leader.

Mr. BYRD. Mr. President, I thank the majority leader for his gracious offer. I have no need for the time at this point.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The minority leader is recognized.

S. 331—NATIONAL INVESTMENT CORPORATION ACT

Mr. BYRD. Mr. President, I rise today to introduce the National Investment Corporation Act of 1983. This legislation would establish a national development corporation to assist targeted basic industries in the retooling and modernization necessary to make them competitive in world markets, and to accelerate the growth of evolving, high technology industries. In addition, the National Investment Corporation would help to insure balanced economic growth across the country by encouraging the location of new industry in those regions most deeply and adversely affected by long-term unemployment.

The American economy today stands at a crossroads, caught in the grip of far-reaching structural changes. Nowhere are these changes more profoundly felt than in America's industrial heartland, in the steel and auto factories, and other heavy industries which for so many decades have symbolized the strength and vigor of the American economy. Today, these smokestack industries are in trouble. In communities all across this country, plants stand closed, capacity lies idle, and thousands of workers are jobless.

The worst recession in post-World War II history has dealt a savage blow to basic industries already struggling to adjust to the long-term structural changes which are sweeping the economy. The steel industry, for example, operated at less than 50 percent of capacity in 1982, as its industrial output declined during the year to the lowest level ever recorded. In my home State of West Virginia, employment in the steel industry has contracted by almost 40 percent over the last 3 years. Economic recovery alone will not be able to fully revive the steel industry. As with many of our Nation's basic industries, the steel industry faces challenges which go beyond general economic recovery.

The major challenge confronting the steel industry, and many other basic industries, is one of moderization. A 1980 study by the American Iron and Steel Institute predicted that the domestic steel industry, over the next 10 years, would have to invest $4.4 billion (in 1978 dollars) annually in modernization in order to maintain a competitive position with foreign steel producers. And the steel industry is not alone in its need to invest in modernizing its plant and equipment.

The need to increase capital investment in order to promote plant modernization, job creation, and productivity growth in most of our basic industries is unquestioned. Yet, the need is not being met. According to the Commerce Department, U.S. businesses plan to reduce their capital expenditures in 1983 by 5.2 percent, in real terms. At a time when capital investment is needed most, capital spending plans are being scaled back.

The legislation I am introducing today would help spur this urgently needed investment. The purpose of the National Investment Corporation would be to insure that adequate and affordable capital is available for private investment projects designed to improve productivity. Assistance would be provided primarily through direct loans, equity investments, and loan guarantees. In this way, the Corporation would be utilizing the Government's ability to efficiently raise and encourage the flow of capital to meet our national priorities, without imposing a bureaucracy over private investment and innovation.

The National Investment Corporation would not be a bailout for unprof-

itable industries. In determining which investment projects should receive assistance, priority would be given to those projects which have a reasonable likelihood of incurring no financial loss for the Corporation. The Corporation would target its resources at modernizing and rationalizing struggling, but viable basic industries, and at promoting evolving high technology industries which can lay a base for future economic growth. In addition, priority would be given to projects with a direct link to the Nation's defense capability, and to projects which would encourage the location of new industry in areas deeply affected by long-term unemployment.

The Corporation would be managed by a board of 12 directors, 3 of whom would be ex officio members: the Secretary of the Treasury, the Secretary of Commerce, and the Secretary of Labor. The remaining nine members, including the Chairman, would be appointed by the President, by and with the consent of the Senate, with terms coterminous with that of the President. Excluding the Chairman and the three ex officio members, the remaining eight members of the board would be required to have backgrounds in corporate finance, corporate development, heavy or high-technology industries, labor, public administration, or public policymaking.

The Corporation would be allocated $5 billion in equity capital from the Federal Government, and would be authorized to borrow an additional $25 billion. These funds could be loaned on a long-, medium-, or short-term basis at market rates whenever possible, or at below-market rates when such rates are deemed necessary to insure the viability of a high priority project.

The Corporation would also be empowered to establish additional financial institutions or subsidiaries, such as leasing corporations, whenever it deemed such institutions vital to the success of a project. In addition, the Corporation would be able to create a secondary market for development-type loans by repurchasing or guaranteeing loans issued by other institutions. In return for financial assistance, the Corporation would encourage cooperation and burden-sharing among owners, workers, managers, creditors, and suppliers.

The National Investment Corporation is not designed as a means of imposing Federal policies on our State and local governments. On the contrary, in order to promote balanced economic growth throughout the Nation, the Corporation would work closely with State and local officials in an effort to meet regional needs and priorities. While the headquarters of the Corporation would be in Washington, D.C., the board would be empowered to establish regional offices around the country to facilitate such intergovernmental cooperation.

The need for a National Investment Corporation is great. We can no longer afford to sit and watch our basic industries become less and less competitive in international and domestic markets. We can no longer allow other nations to outpace the United States in the development of new and innovative technologies. We must act now to insure that American businesses have the capital they desperately need to maintain their competitive position. I believe this legislation, by establishing a National Investment Corporation, is an important step in that effort.

Mr. President, I ask unanimous consent to have printed in the RECORD the text of the bill and a brief summary.

There being no objection, the summary and bill were ordered to be printed in the RECORD, as follows:

THE NATIONAL INVESTMENT CORPORATION ACT

The National Investment Corporation, NIC, would enhance economic growth in the United States by promoting greater improvements in productivity.

Through the targeted use of financial resources, the NIC would promote capital investment for the purposes of:

(1) modernizing and revitalizing basic heavy industries, such as coal, steel, and autos, in order to improve the competitiveness of American products in domestic and international markets;

(2) accelerating the growth of new and evolving high technology industries which can be the source of future economic growth; and

(3) insuring balanced economic growth across the country by encouraging the location of new industry in regions hardest hit by long-term unemployment.

The NIC would provide financial assistance to private investment projects primarily through direct loans, equity investments, and loan guarantees.

The NIC would not be a bailout for failing industries. Assistance would be targeted at struggling but viable basic industries, and at promising high technology industries. In selecting projects for assistance, the NIC would give priority to projects which have a reasonable likelihood of incurring no financial loss for the Corporation.

The NIC would receive a grant of $5 billion in equity capital from the Federal government, and it would have authority to borrow an additional $25 billion.

The NIC would be managed by a board of 12 directors, three of whom would be ex officio members: the Secretary of the Treasury, the Secretary of Commerce, and the Secretary of Labor. The remaining nine members, including the Chairman of the Board, would be appointed by the President, with the advice and consent of the Senate, with terms coterminous with that of the President. The members of the Board would be selected from individuals with backgrounds in corporate finance or development, heavy or high technology industry, labor, public administration, or public policymaking.

The NIC would be headquartered in Washington, D.C., though the board would be able to establish regional offices in order to promote cooperation with State and local officials, and to insure regional needs and priorities are met.

S. 331

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Investment Corporation Act".

PURPOSE

SEC. 2. The purpose of this Act is to create a National Investment Corporation (hereinafter referred to as the "Corporation") to encourage productivity growth in the United States economy through targeted use of financial resources—

(1) to modernize industries to increase their ability to compete effectively with international competition;

(2) to accelerate the growth of high technology and other evolving industries; and

(3) to insure balanced economic growth across the country by encouraging the location of new industry in regions hardest hit by problems of long-term unemployment.

MANAGEMENT

SEC. 3. (a) The Corporation shall be managed by a board of directors, consisting of twelve members of which the Secretary of the Treasury, the Secretary of Commerce, and the Secretary of Labor shall be members ex officio, and the other nine members shall be appointed by the President, by and with the advice and consent of the Senate, with terms coterminous with that of the President. Only the Chairman of the Board shall be a full time employee. The other eight members of the board shall be appointed from among persons with a background in any of the following: corporate finance, corporate development, heavy industry, high technology industry, labor, public adminsitration, or public policymaking.

COMPENSATION

SEC. 4. The Chairman of the board shall be compensated at a level determined by the board, and the other board members shall be compensated on a per diem basis at the maximum rate allowed under Federal law. The board shall establish the salary structure for the Corporation.

PRINCIPAL OFFICE

SEC. 5. The central office of the Corporation shall be located in the District of Columbia. The board may establish regional offices where it determines that the creation of such offices would promote the efficient operation of the Corporation.

FUNDING

SEC. 6. (a) The Corporation may issue and the Secretary of the Treasury shall purchase common stock aggregating not to exceed $5,000,000,000.

(b) The Corporation is authorized to issue, and to have outstanding at any one time in an amount aggregating not more than $25,000,000,000 its own notes, debentures, bonds, or other such obligations (hereinafter referred to as "obligations"), and the Federal Financing Bank shall purchase such obligations. Obligations of the Corporation shall mature or be redeemable at the option of the Corporation before maturity in such manner as may be stipulated in such obligations, and shall bear such rate or rates of interest as may be determined by the Corporation.

(c) There are authorized to be appropriated such sums as may be necessary to carry out this section.

POWERS

SEC. 7. (a) The Corporation may lend on a long, medium, or short term basis, at market rates where possible, and at below market rates where such lower rates are necessary to insure the viability of a high priority project determined under section 8. The Corporation may also acquire and hold equity securities in connection with a project where, in the view of the board, an equity position is necessary to insure the financial viability of a project, or to insure that the Corporation is protected against risk.

(b) The Corporation may establish additional financial institutions and subsidiaries to carry out specified purposes prescribed by the Corporation.

(c) The Corporation shall carry out its administrative and other functions in such manner as the board shall prescribe without regard to the provisions of title 5, United States Code, relating to the competitive service, compensation, or agency proceedings.

CRITERIA

SEC. 8. In selecting projects for financial assistance under this Act, the board shall give a priority to—

(1) projects which have a reasonable likelihood of incurring no financial loss for the Corporation;

(2) projects which results in significant increases in productivity in existing industries;

(3) projects which promote new or evolving technologies or industries which can be the source of future economic growth in other areas;

(4) projects which have a direct link to the national defense capability of the country; and

(5) projects in regions which are suffering severe long term unemployment.

ADDITIONAL POWERS

SEC. 9. The Corporation may purchase or guarantee loans made by other institutions which meet the criteria established for activities of the Corporation, and make recommendations to the appropriate Federal officials on trade policy, tax policy, and labor policy, based on its experience with assistance to particular industries or regions.

Mr. BAKER. I yield back my time.

Mr. President, the time for the two leaders having been yielded back, we reach the point where the Senator from Alabama is to be recognized on special order. I do not see him in the Chamber at this moment, so, in order to inquire about the situation, I suggest the absence of a quorum. I charge the time for the quorum to the time reserved to me under the special order for Senator MATTINGLY.

The PRESIDING OFFICER (Mr. HATCH). The clerk will call the roll.

The Assistant Secretary of the Senate proceeded to call the roll.

Mr. DENTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATOR DENTON

The PRESIDING OFFICER. Under the previous order, the Senator from Alabama (Mr. DENTON) is recognized for not longer than 15 minutes.

Mr. DENTON. Thank you, Mr. President.

BEAR BRYANT NATIONAL FOREST

Mr. DENTON. Mr. President, I have a bill to introduce, which I shall send to the desk and ask for its immediate consideration.

Mr. President, I am today introducing a bill to rename the Talladega National Forest in Alabama, one of our State's greatest natural treasures, as the "Bear Bryant National Forest."

On Thursday, January 26, I made lengthy remarks before this distinguished body about the death of Coach Paul "Bear" Bryant, the winningest football coach of all time. On that occasion, I also placed into the RECORD several news articles and editorials about Coach Bryant's career and his death. But no oratory nor written memorial can adequately do justice or pay tribute to this true man among men. Nor can a statue or building or other edifice serve sufficiently to express for posterity what this man gave to us in Alabama, indeed to our country as a whole.

It is only fitting, however, that we, as a nation, attempt to honor, in some small measure, that legendary figure.

When I am asked why I chose a national forest as the appropriate vehicle for a tribute to Bear Bryant, I am inclined to say, "It is, after all, the largest thing I could find." Perhaps it is more appropriate to say that our national forests were created and are maintained for posterity as prime examples of the natural resources that helped make our country great. It was the challenge of mountainous regions and primeval forests that helped mold the people who settled our land into a strong and determined nation.

It is fitting that we should place Bear Bryant's name on one of our national treasures. His career was a prime example of the human resources that helped forge a great nation. His leadership helped mold the lives of many great athletes of our time, a leadership that spans several generations, since many of his students, now coaches themselves, carry on his work of shaping new generations of young men into better athletes and better people.

I recall that during the Super Bowl there were four former Alabama players, all of whom played under Bear, and in the league championship game just before that there were five Alabama athletes on the first teams who had played under Bear Bryant.

I know that my good friend the distinguished majority leader, Senator BAKER from Tennessee, expressed the sentiments of my colleagues in his remarks on this floor last Wednesday. I especially commend him for those remarks since I, too, remember some of those Saturday afternoons when Coach Bryant's teams were less than polite to Tennessee teams.

But it was indication of Bear's single achievements, in the form of characteristic come-from-behind victory, when Alabama trailed Tennessee in the 1972 match 10 to 3, with less than 3 minutes remaining on the clock. Half a minute and two touchdowns later, Alabama had taken the lead, 17 to 10, and went on to win the game. The occasions on which a Bryant Alabama team turned a half-time deficit into victory are too numerous to mention on this occasion. It is, however, a practice we in Congress should note and attempt to emulate, as we play the game and try to pull our Nation out of a hole.

Many of my colleagues have expressed on this floor and to me personally, their sadness over Coach Bryant's death. I hope that all my colleagues will join me in approving the bill I introduce today as a small tribute to the great Paul "Bear" Bryant.

Mr. President, I have several newspaper articles and editorials which appeared in Alabama newspapers following Coach Bryant's death. I ask unanimous consent that the articles may be printed in their entirety following my remarks.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Birmingham Post-Herald, Jan. 27, 1983]

PAUL "BEAR" BRYANT

There will never be another like Paul "Bear" Bryant, who died unexpectedly yesterday at age 69.

Someday, a football coach may surpass the 323 victories that his teams put in the record books, or the 24 consecutive appearances in bowl games by Bryant coached University of Alabama teams. It may be that some coach will match his record for producing coaches at all levels of the game. And, no doubt, other coaches will do as well economically as Bryant did in non-football ventures.

But it is extremely unlikely that any individual can combine all of these achievements, produce the deep personal loyalty found among his former players, assistants and fans and acquire the legendary status that the Bear assumed years ago.

This adulation—at times it even bordered on deification—was a source of embarrassment to the Crimson Tide coach and athletic director. But everything Bryant did and said contributed to the furthering of the legend.

Even when he confessed to what he considered mistakes in his early years of coaching—his first year at Texas A&M when he drove several players away from football—or in the latest game that Alabama lost; the Bear's followers took it as evidence of the man's greatness. Which it was. No man was a harsher critic of himself than Bryant.

Paul Bryant didn't start out at the top. The path from a boyhood on an Arkansas farm—during which he acquired his nick-

name by wrestling a carnival bear—to the riches and acclaim of his later years at the University of Alabama was filled with hard work and dedication.

Bryant joked about being not very talented as a player or a coach. He was the "other end" during his playing days with the Crimson Tide and All American Don Hutson. And it is true that the football formations and plays his teams used were often adapted from the innovations of others.

But nobody could match him in getting the best possible performance out of young men. Nor could any coach see as clearly the strengths and weaknesses of both his own team and their opponent and adapt the game plan accordingly.

The Bear didn't always feel that his teams had reached their full potential. When that happened, he always assumed the blame himself, never allowing it to fall on the players, and he always gave full credit to opponents. There were no alibis.

But the Bryant legend is more than what took place between the goalposts on a Saturday afternoon.

Off the field, he fostered a remarkable loyalty among those who had played or worked for him. His former players and assistants kept in touch to a far greater degree than many at other schools do with their former coaches. Even the players he felt obligated to discipline at one time or another have this loyalty.

While he achieved a considerable measure of personal fame and fortune from football, Coach Bryant never forgot that it is a coach's job to help young men develop into responsible adults and that football is only a part of life, a part of a college education. His players were not allowed to neglect their scholastic work.

He even returned some of the money his fame had earned to his alma mater for academic purposes.

Whether it was a premonition or, as he said, that he had lost the extra spark needed to coach young men, Bryant retired from coaching after the Liberty Bowl game. Despite some disappointments earlier in the season, he left the playing field a winner with the Tide's decisive triumph over Illinois in that last game.

And that's how we will always remember the Bear, as a winner.

No other word is needed to describe Paul "Bear" Bryant.

[From the Birmingham Post-Herald, Jan. 27, 1983]

REAGAN PRAISES THE BEAR AS "HERO . . . LARGER THAN LIFE"

Gov. George C. Wallace ordered flags flown over state buildings to be lowered to half staff until Saturday, the day after retired Alabama football Coach Paul "Bear" Bryant's funeral.

"Paul Bryant was a dear friend of mine and the greatest coach in the history of collegiate football," the governor said.

"He was a man among men and brought great fame and honor to Alabama. No amount of words will permit me to describe the loss we have suffered with Coach Bryant's passing. He was widely loved and respected by all. I pray that God will bless and keep his fine family—Mary Harmon, the children, grandchildren and all at this time of great sadness."

President Ronald Reagan also praised Bryant as a hero who "made legends out of ordinary people."

After returning from Boston last night, Reagan called Bryant's wife, Mary, to express his condolences about the legendary coach's death of a heart attack earlier in the day.

The president then issued a statement saying that, "Today, we Americans lost a hero who always seemed larger than life.

"Paul 'Bear' Bryant won more college-football games than any other coach in history and he made legends out of ordinary people. Only four weeks ago, we held our breaths and cheered when 'The Bear' notched his final victory in a game named, fittingly, the Liberty Bowl.

"He was a hard, but loved taskmaster. Patriotic to the core, devoted to his players and inspired by a winning spirit that would not quit, Bear Bryant gave his country the gift of life unsurpassed. Embracing the impossible seemed easy, he lived what we strived to be."

A stunned Lt. Gov. Bill Baxley announced Bryant's death to the Alabama Senate while it was in session.

Baxley and Bryant were close friends.

His voice choking, Sen. Ryan deGraffenried of Tuscaloosa praised the coach.

DeGraffenried said he had known Bryant "since I was a kid and lived down the street from him. He probably contributed more to the University of Alabama and the education of many youths throughout the state than any man I ever knew.

"I know that God will grant to him the compassion of living with all the great men who have gone on in the past. I know the basic principles he has stood for will continue to be felt in this state. It's a sad day for his family. It's a sad day for this state."

The House of Representatives, meeting two hours later than the Senate, paused for silent prayer at the beginning of the session.

House Speaker Tom Drake, who was an assistant coach under Bryant, said, "He was certainly a great man, one of the greatest I've ever known."

Drake said he talked with Bryant last week and the coach said he planned to visit the Legislature, either this week or next.

Rep. Roy Johnson of Holt in Tuscaloosa County, House speaker pro-tem, called Bryant a legend.

"He was a legend and an inspiration to the young people of this state, and his life, his accomplishments, have enhanced the image of Alabama and the University of Alabama throughout the nation and the world," Johnson said.

Rep. Pete Turnham of Auburn read the House a statement from Dr. Hanley Funderburk, president of Auburn University.

"Coach Bryant was indeed one of Alabama's great assets, setting standards of excellence and quality that made all of us reach for higher and greater successes in life."

Word of Bryant's death spread quickly in Washington yesterday as members of Alabama's congressional delegation called each other in disbelief.

Teary-eyed aides telephoned Alabama to confirm the tragic news and then began issuing a stream of tributes to the former University of Alabama football coach.

Vice President George Bush said he was "shocked and grieved by the news of Coach Bryant's death.

"The country has lost an authentic hero—not in terms of the victories his team won on the football field, but the inspiration and ideals he imparted through generations of young Americans. Paul Bryant was more than a great coach. He was a great teacher."

Bush entertained Bryant at the White House last March, a few hours before the coach appeared as the guest of honor at a $125-a-plate, black-tie dinner held to raise money for academic scholarships at Alabama.

Bryant looked out over the banquet audience of 1,000 spotting dozens of former players from Kentucky, Texas A&M, Maryland and Alabama. Then he told the men he had coached that because they came to the dinner, they could spare themselves the expense of attending his funeral.

"Mary Harmon always tells me when I get to talking about going to these funerals that you should go to see people when they're living . . . Mother, if I croak now just go ahead and lay me out," Bryant said.

Sen. Jeremiah Denton, R-Ala., who arranged the banquets last year, said he will talk with Bryant's relatives before he and other members of the state delegation make additional plans to honor the coach.

"Bear Bryant leaves behind a fine family, but his greatest achievement may be found in an even larger family," Denton said.

Sen. Howell Heflin, D-Ala., was told of Bryant's death at a Washington airport just as he was leaving to speak at a convention in New Orleans. The senator is expected to return to Alabama for the funeral.

"Alabama and the nation have lost a great monument—a hero—a leader of men," Heflin said. "However his memory and his legend will live with us forever.

"Coach Bryant will be remembered for far more than the 323 victories that stand by his name. That alone would be a tremendous achievement, but even more important is the positive influence he has had on so many lives—so many that there can never be an account."

Rep. Richard Shelby, D-Tuscaloosa, said he was shocked by the loss of a neighbor and friend.

"Not only has the sports world lost a giant of a man, but the University of Alabama, the state of Alabama, and the nation have also suffered a great loss. There will never be another man like him."

Mr. DENTON. Mr. President, I send this bill to the desk and ask for its immediate consideration.

I also ask that the Chair recognize my friend and distinguished colleague, the senior Senator from Alabama (Mr. HEFLIN), as he is an original cosponsor of this bill and would also like to make remarks with respect to Bear Bryant.

I thank the Chair.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

Mr. HEFLIN. It has been cleared on this side of the aisle.

The PRESIDING OFFICER. The Senator will send the bill to the desk, please.

The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (S. 312) to change the name of the Talladega National Forest in Alabama to the Bear Bryant National Forest.

The Senate proceeded to consider the bill.

Mr. HEFLIN. Mr. President, I rise to thank my colleague from Alabama for his foresight and wisdom in honoring the memory of Paul W. "Bear" Bryant.

I have known Coach Bryant for many years. I attended his funeral, which was a very sad occasion, yet it was an outpouring of love and affection for a great American.

As we drove some 60 miles from the First United Methodist Chruch in Tuscaloosa to Elmwood Cemetery in Birmingham, there were thousands and thousands of people lined up on the side of the road to honor him. I am told that one of the television networks stated there were 1.5 million people who were lined up on the side of the road to pay tribute to Coach Bryant.

Children in school were there with their hands over their hearts, as an example of their love and affection for this great American. Motorists stopped their cars on the side of the road, also with their hands over their hearts, to honor his memory.

I join with my colleague in sponsoring this bill. I think history will recall Paul Bryant as being the No. 1 football coach in college football. There have been great coaches, but I feel that Bryant will go down in history as the No. 1 college football coach of all time.

He was truly a winner. He strived to be No. 1 in all that he did. He instilled in his players and in his coaches the desire to be the best they could be. He instilled in everyone who came in contact with him the desire to achieve and the desire to be a winner. He was a magnet for people of different persuasions and thoughts. Throughout his life he accomplished a great many things.

He certainly was a leader in race relations. His early recruitment of black football players to play on the Univerity of Alabama's team was a step that led to an orderly integration process in the educational institutions of the State of Alabama.

Coach Bryant was a leader of men, and it is fitting that we honor him by naming a forest for him where there are tall and sturdy trees. Those tall and sturdy trees are of many varieties and types, but they all reach for the sky, reach upward toward Heaven.

He produced strong, sturdy football teams and instilled strong, moral values and a sense of dedication in the men he coached. He will surely be entered in history as truly a great American.

I believe there will be other measures introduced to honor Coach Bryant, and I want to participate in those, as I have in this measure.

Mr. President, I ask unanimous consent that Senator HUDDLESTON be added as a cosponsor. Senator HUDDLESTON asked me to make this request since Paul Bryant coached at the University of Kentucky and was his close friend.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DENTON. Mr. President, I move the adoption of the bill.

The PRESIDING OFFICER. If there is no amendment, the question is on the engrossment and third reading of the bill.

The bill (S. 312) was ordered to be engrossed for a third reading and was read the third time, and passed as follows:

S. 312

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the national forest know as Talladega National Forest shall be know and designated hereafter as Bear Bryant National Forest, and any law, regulation, document, or record of the United States in which such forest is designated or referred to under the name of Talladega National Forest shall be held to refer to such forest under and by the name of Bear Bryant National Forest.

Mr. DENTON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HEFLIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. DENTON. Mr. President, I wish to make other personal remarks about coach Bryant.

In the last generation it was popular in England and gained one status to say "Lloyd George knew my father." I am very proud of the fact that I, too, knew Coach Bryant, and that my uncle Troy, according to Bear, gave Bear his first job.

I learned this when I was running for the Senate, and asked Bear if I could come up in the tower with him. It was a big privilege. He let me come up and I asked him if he remembered my Uncle Troy, at whose funeral Bear had been a pallbearer. He said, "Oh, yes, I remember Troy. He gave me my first job, but the bleep-bleep only paid me $7 a week."

So in the spirit of "Lloyd George knew my father," and as a personal note of my love for the man who was the best friend my uncle had, I want to say that I would have been at his funeral had I not been in the hospital myself that day; that I loved him and his wife Mary Harmon, and I hope the Nation approves the naming of this forest in the same manner that Senator HEFLIN and the rest of Alabama and I do.

Mr. HEFLIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The Assistant Secretary of the Senate proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATOR SPECTER

The PRESIDING OFFICER. Under the previous order, the Senator from Pennsylvania is recognized.

THE EMERGENCY MORTGAGE ASSISTANCE ACT

Mr. SPECTER. Mr. President, beyond the cost of today's record-high unemployment is the fear which many have of losing their homes. Adverse economic conditions have reduced the capacity of homeowners to continue their monthly payments. The result has been a significant increase in delinquencies on residential mortgages that have resulted in massive foreclosures.

I recently toured a recession-worn region and spoke with citizens in White Oak, a suburb of Pittsburgh, Pa., about the prevailing economic climate. I sensed a mood of tremendous anger and disappointment as I heard one horror story after the next. Almost all of these people were dedicated workers, formerly employed in steel and other heavy industrial businesses. Today, they are threatened by the loss of their homes. This meeting impressed upon me the need for Federal mortgage assistance for those who through no fault of their own are faced with foreclosure.

Mr. President, I ask unanimous consent that a letter that I sent to President Reagan expressing my concern for this unfortunate condition be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., January 20, 1983.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I would like to share with you the very strong feelings and frustrations expressed last night at an "Open House" attended by approximately 400 Pennsylvanians at White Oak, which is in the suburbs of Pittsburgh. I had invited citizens from the area to meet with me on the problems of unemployment which are especially acute in that area because of its heavy reliance on the steel industry.

There was tremendous anger and disappointment about the loss of jobs, mortgage forclosures, unfair competition from foreign steel imports, foreign aid, the closing of foreign markets for U.S. goods and the general failure of Government to aid them on their immediate and pressing problems.

I responded that I had met with you recently (albeit on another issue—the Crime Bill) and that I knew of your deep concern about their problems. I told them about the six-week extension of unemployment benefits which was enacted last month and the new gas tax which would provide jobs with special help for the steel industry because of the heavy need for extra steel for the bridges and roads. In cooperation with the U.S. Agriculture Department and Pennsylvania officials, we were able to secure a spe-

cial allotment of food for the community from Federal surpluses. All of this, I must report, was regarded as much too little and too late.

In preparing your State of the Union speech and your budget proposals, I urge that extra attention be given to the workers from the steel industry, and other similarly situated industries, because of their special anguish. I respectfully suggest that it is imperative that a jobs program be tailor-made for displaced workers from such industries. I further urge that assistance be provided on foreclosures on conventional as well as VA and FHA mortgages.

Mr. President, I have the sense that we are sitting on a volcano which is about to erupt unless immediate, positive and forceful steps are taken through your leadership in cooperation with the Congress.

Sincerely,

ARLEN SPECTER.

Mr. SPECTER. Mr. President, this situation has reached crisis proportions in Pennsylvania, where a near record 1-percent foreclosure rate currently exists. A recent survey indicates that about 23,000 homeowners in the Pittsburgh area alone will be facing delinquency when their unemployment benefits expire. An estimated 2,000 homes in the 4-county area of Pittsburgh are at some stage in the foreclosure process. This urgent situation also exists throughout other regions of Pennsylvania. In Philadelphia, where unemployment is close to 13 percent, the rate of foreclosures has increased 43 percent since 1981. With an astonishing 810 owner-occupied properties placed on the block for Philadelphia's sheriff auction this month, community activists have organized to revoke a moratorium on foreclosure sales similar to the one instituted earlier this month in Pittsburgh. These Depression-style moratoriums represent a desperate response to assist those unemployed who are being evicted from their homes.

As the recession continues to inflict financial distress among thousands of families, the need for homeowner protection from foreclosure becomes more critical. Apart from the personal anguish of the threatened homeowner, delinquency has imposed a hardship on this already hard-pressed lending community, costing millions of dollars per month in cash flow.

To address this tragedy, I am introducing the Emergency Mortgage Assistance Act of 1983. The purpose of this bill is to prevent mortgage foreclosures, resulting from the temporary loss of employment, by offering assistance to defray mortgage expenses. Short-term aid, up to 18 months, would be available to those residing in labor surplus areas who are receiving or have exhausted unemployment benefits and are 60 days delinquent in making any mortgage payment. The program would be administered by the Secretary of Housing and Urban Development and financed through a fund established within HUD specifically for mortgage assistance. The Secretary would make payments to the mortgagee where the requisite delinquency occurred. These payments by HUD would constitute a lien against the residence thus assuring the Government of repayment as a secured creditor. Once the homeowner was reemployed, the amount of the special HUD loan would be repaid by a 10-percent increase on the mortgage payment.

There is at the present time a temporary mortgage assistance program administered by HUD. Under existing law, the Secretary of HUD provides 18 months of assistance for HUD mortgages only, with an option of a contract for an additional 18 months. The legislation which I am introducing today is similar to that existing program except that this bill would apply to all mortgages whether FHA, VA, or conventional.

This legislation offers hope. For the unemployed enduring severe economic and personal hardship, the Emergency Mortgage Assistance Act provides the opportunity for these workers to retain their homes until economic conditions improve. The temporary financial assistance can be a long-term cost-saving measure because the Federal Government can avoid making costly outlays to fund new assisted housing structures necessary to shelter displaced families. To qualify for assistance, a region must have an unemployment rate in excess of the national average by more than 1 percentage point.

Today, residential foreclosures have reached a 20-year high, with approximately 1.6 million homes delinquent in payment or in the process of being foreclosed. The Emergency Mortgage Assistance Act is a necessary and positive step toward recognizing the desperate situation for many threatened by the imminent loss of their homes.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 313

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Emergency Mortgage Assistance Act of 1983.".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) the Nation is in a severe recession and that the sharp downturn in economic activity has driven large numbers of workers into unemployment and has reduced the incomes of many others;

(2) there are some areas which have extremely high and extremely persistent unemployment and where unemployment benefits have been exhausted;

(3) as a result of these adverse economic conditions the capacity of many homeowners to continue to make mortgage payments has deteriorated and may further deteriorate in the months ahead, leading to the possibility of widespread mortgage foreclosures and distress sales of homes; and

(4) many of these homeowners could retain their homes with temporary financial assistance until economic conditions improve.

(b) It is the purpose of this Act to provide authority which will prevent widespread mortgage foreclosures and distress sales of homes resulting from the temporary loss of employment and income through a program of emergency mortgage assistance payments to homeowners to defray mortgage expenses.

BASIC AUTHORITY

SEC. 3. (a) The Secretary of Housing and Urban Development is authorized to provide assistance on a temporary basis in the form of emergency mortgage assistance payments to or on behalf of individuals and families who, as a result of financial hardship in areas of high unemployment,

(1) have received written notice of dispossession from a principal residence by reason of foreclosure of any mortgage or lien or

(2) are receiving unemployment benefits or have exhausted eligibility for such benefits and are in excess of 60 days delinquent in making any mortgage payment on a principal residence.

(b) Such assistance shall be provided for a period of not to exceed eighteen months or for the duration of the period of financial hardship, whichever is shorter.

(c) The Secretary of HUD shall make the mortgage payment to the mortgagee which payments shall be considered a lien against the principal residence.

(d) At the expiration of the period described in subsection (b), the mortgage payment made by such individual shall be increased by ten percentum until the amount of such assistance has been repaid.

SEC. 4. The Secretary of HUD shall establish a fund specifically for mortgage assistance payments authorized by Section 3(c) of this Act.

SEC. 5. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Mr. SPECTER. Mr. President, I thank the Chair. I yield the floor.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business that will not extend past 12 noon where Senators may speak for 2 minutes each.

THE DEFENSE BUDGET

Mr. GOLDWATER. Mr. President, I have just returned from the first hearings in the Armed Service Committee where Secretary of Defense Weinberger was testifying. I had to say to him sitting there that I was reminded of the 1930's. That is one of the curses of getting older, you can remember. But I do not like to remember my country when we were not ready, and we were not ready. In the 1930's, we were in the middle of a big depression, such as we are in right now, but we were not

spending money in adequate amounts to allow us to do our constitutional duty of defending our people in a proper way. I remember it took 4 years, Mr. President, to buy the B-17 bomber—4 years.

Now, we are hearing from all sides, "Cut the defense budget." Well, I can tell you we can cut the defense budget. I cut $2 billion out of my little subcommittee last year.

But one Senator has suggested that defense outlays be reduced in 1984 by $7 billion below the $8 billion reduction already reflected in President Reagan's submission to Congress.

These estimates reflect only outlay savings in the first year of spending under new budget authority. Spending authorized in prior years compromises approximately 35.3 percent of fiscal year 1984 outlays for the Department of Defense. The following options represent program slippage by 1 year—making fiscal year 1984 a "skip" year—and do not indicate program cancellations resulting in greater out-year savings in both budget authority and outlays. Program cancellations would produce greater savings, but not all of it would be seen in the 5-year period. Further, the cost of any replacement capability would have to be considered, thus reducing total net savings and the net savings in the 5-year program.

The following outlines possible reductions in budget authority which could be made to achieve such outlay savings. I am going to put these options in the RECORD, but I did want to read option No. 1.

If we added the $7 billion reduction to the $8 billion already, here is what would happen:

Army procurement: All aircraft, all missiles, all weapons and tracked combat vehicles, all ammunition, and all tactical and support vehicles.

Navy procurement: All aircraft, including the F-14, F-18, A-6E, AV-8B, EA-6B, all weapons, shipbuilding and conversion, and ship support equipment.

All Marine Corps procurement.

All Air Force procurement. The Air Force would lose the B-1, the F-16, and the F-15, and all munitions.

Now, that sounds rather impossible. But when you start chopping amounts like $15 billion out of a defense budget—and I can assure that on this floor there is going to be more shotgun shooting in that budget than anything we have gone through in a long time, because it sounds possible. More people say, "I am all for defense, but I don't know much about it." And that is about the truth. So they just shoot off at the defense budget, not realizing that we are not in the best position in this world today as far as our defenses are concerned. We are behind the Soviets. I am not too concerned about that, but we are not strong enough. And if we are ever challenged, our freedom is challenged, I am afraid we are in for trouble.

Mr. President, I mentioned that I would put these options into the RECORD. I ask unanimous consent that they be printed in the RECORD.

There being no objection, the options were ordered to be printed in the RECORD, as follows:

[In billion of dollars]

	Reduction in BA	First-year reduction in OL
Option 1		
Eliminate entirely the following accounts:		
Army procurement:		
Aircraft	3.472	0.172
Missiles	3.089	.482
Weapons and tracked combat vehicles	4.934	.283
Ammunition	2.334	.329
Tactical and support vehicles	1.148	.088
Navy procurement:		
Aircraft (includes F-14, F-18, A-6E, AV-8B, EA-6B)	11.127	1.439
Weapons	4.029	.560
Shipbuilding and conversion	12.699	.737
Ship support equipment	.731	.090
Marine Corps procurement	1.852	.093
Air Force Procurement:		
Aircraft (includes B-1, F-16, F-15)	22.707	2.078
Munitions	1.192	.558
Total	69.314	6,909
Option 2		
No Procurement in fiscal year 1984	94.088	12.727
Option 3		
No research and development in fiscal year 1984	29.622	17.394
Option 4		
Reduce the number of men and women in uniform by 15 percent (324,750); pay reduction equals [2]	7.000	7.000

[1] Under option 1, future military capability would be reduced by approximately 29 ships, 740 combat aircraft, and 3,500 combat vehicles. This also means no spare or repair parts and implies draining war reserves to continue training.

[2] Or just reduce pay and benefits by 15 percent.

DOUBLECROSSES AGAINST PEOPLE OF CHINA

Mr. GOLDWATER. Mr. President, if there is any advantage at all to having to recuperate from an illness or an operation, it lies in the fact that one has ample time to read. Not just to read, but to reflect, and I took advantage of this opportunity, recovering from my recent surgery, to review in extended length the subject of the United States and its recent history with the people of China, whether they be on the mainland or Taiwan, and the Government of China, whether it be the nationalist government at Taipei, or the Communist government at Peking.

It carries me back to a paper that I had written long enough ago for probably most people to have forgotten, but which was prompted by President Carter's, in my opinion, unconstitutional abroagation of a mutual defense pact with Taiwan. Some might recall that I went to court over this; I won in the lower court, but in the court of appeals, which surprised no one, it was turned around. The Supreme Court ducked the issue, voided both lower court decisions, and tossed the subject back for Congress and the President to work out. Thus, the state of the law on the subject is uncertain and unsettled.

The more I read of this period of history, say almost covering this century, the more I was led to believe that there has been nothing but a long series of doublecrosses on the part of the United States against the people of China. Now, I did not say the Government of China because they have a Communist government covering the mainland, and they have a nationalist democratic form of government covering Taiwan. But the fact remains that, where we had the opportunity to be of great service to these people, who historically have been amongst our closest friends on Earth, we did nothing but tell them lies, act dishonestly toward them, and continue to deal with them in double talk and misrepresentation.

I hate to say this, because I know my President feels that he has done nothing to let down the Government of Taiwan, but it has continued into this Republican administration, and is so firmly entrenched now that I can cite cases where certain officials are not allowed to visit Taiwan, because it might be embarrassing to our Government.

Our Secretary of State is now in mainland China, and what he is going to talk about, I have no idea, but if it is history, I may have a few comments to add. What can be talked about, I do not know, because we have absolutely nothing in common unless we might call the Soviet Union a possible enemy in common. But that can require a lot of proving also. I do not think anybody living in the United States will ever see the day when our kowtowing, knee-bending attitude toward Communist China will produce anything of value to our country, even including what friendship, or proferred friendship, usually brings, reciprocity.

Mr. President, I feel so keenly about this, and I guess I always will, that I ask unanimous consent to have printed in the RECORD a pamphlet arguing against the abrogation of the defense treaty. It was published by The Heritage Foundation in 1978 and carries me as the author, although I would not be honest if I did not say that I had adequate, complete help on this from a competent member of my staff.

There being no objection, the pamphlet was ordered to be printed in the RECORD, as follows:

CHINA AND THE ABROGATION OF TREATIES

INTRODUCTION

(By Barry M. Goldwater)

Little or no public debate has occurred on the role of Congress in the abrogation of treaties. Yet, this subject is at the forefront of one of the critical foreign policy issues of the 1970's, our government's China policy.

Before Secretary of State Cyrus Vance went to mainland China last August for talks with the new triumvirate ruling that territory, he was urged by Senator Edward M. Kennedy to simultaneously recognize the People's Republic of China (PRC) and consider our defense treaty with the Republic of China on Taiwan (ROC) as having lapsed. That President Carter could so terminate the treaty at his own discretion was assumed, the theory being that after the United States cuts diplomatic relations with Taiwan, we can consider the defense treaty at an end because there is no government to deal with.

This was not the first time I had heard of the concept under which the defense treaty would be considered as having died a quiet death upon diplomatic recognition of the Communist regime. A high official has informed me that the Legal Adviser's Office in the Department of State was studying this contingency even before Senator Kennedy's trial balloon, and it is apparently a view held by several subordinate officers at the Department.

Whether Secretary Vance or any of the officials accompanying him to Peking actually broached this contingency in talks with the Communist Chinese is unknown, but the subject requires careful scrutiny because it represents the latest turn in thinking of those persons who are bent upon granting recognition to the PRC on its own terms.

It is known for certain that one of the announced indispensible requirements for a so-called normalization of relations between the PRC and the United States is abrogation of the Mutual Defense Treaty with Taiwan. PRC Vice Foreign Minister Yu Chan and Vice Premier Li Hsien-nien each made it clear to visiting editors of the *Wall Street Journal* in October 1977 that the Communist government is "absolutely inflexible" on this principle. In view of the unyielding position among PRC leaders and the seeming willingness of some American officials to accept the demand, it is urgent that a public debate be initiated on the threshold question of whether or not the President has constitutional authority to do, on his own, what the PRC is demanding.

And, although the immediate question arises in connection with the defense treaty between the Republic of China and the United States, it is also important to explore the principle involved because it touches every one of our nation's treaty commitments. If the President can break the treaty with Taiwan on his own authority, then he can withdraw from NATO or pull out of any other treaty without consulting Congress or getting its consent.

At the outset, it should be clarified that my argument is not intended to cover executive agreements or international agreements other than formal treaties. My concern at this time is only with treaties in the constitutional sense of compacts between nations or other international entities which have been formally signed, submitted for advice and consent to the Senate and ratified after having received the necessary two-thirds approval by the Senate. Since the defense treaty with the ROC is exactly such a constitutional treaty my discussion of the treaty termination power will address only that species of international instrument.

Nor shall I make any brief for the Senate or Congress as possessing the power to compel the President to denounce or abrogate a treaty, although there is strong evidence that such a legislative power exists. Again, that proposition is extraneous to the matter at hand, which is not an effort by Congress to break the treaty with Taiwan, but a proposed assertion of power for the President to arbitrarily force a decision upon the Congress as a fait accompli about which it can do nothing.

Also, let me record my strong opposition to any policy of normalization with Communist China that calls for a break in our relations with the free Chinese on Taiwan and the repudiation of our defense treaty with them. I am convinced such a policy of kowtowing to the PRC would dishonor the United States, increase the risks of a world conflict and run counter to constitutional provisions demanding a role for Congress in the treaty process.

Today, Taiwan has almost 17 million people, more than Ireland, Norway, and 120 other countries of the world. Its economy ranks second only to that of Japan in the Pacific. The ROC is currently America's 13th largest trading partner. Two-way trade between the United States and Taiwan totaled $5.5 billion in 1977, compared with $374 million between the United States and the PRC.

Acceptance of the Communist Chinese demands would be unprecedented in American history. No President of the United States has ever unilaterally abrogated a treaty with any foreign government in violation of the provisions of that treaty. Actually, we have a remarkable record of morality in keeping our treaty promises. The motto that "our word is our bond" has been a matter of faith for the American people and for foreign nations with whom we have dealt. If President Carter were now to accept the proposal of advisors who recommend that we recognize the PRC and abrogate our defense treaty with Taiwan, it would leave a permanent stain on our history.

CHAPTER 1

Overview: Intent of framers

Admittedly, treaty abrogation is a rather novel subject. There are virtually no court cases and very few academic papers on the subject. What we do have to go on is our history as a Republic, several statements by the Founding Fathers, and common sense.

From these, my own reading of the Constitution is as follows:

No President can terminate a treaty unless he first obtains the consent of Congress.

The Constitution demands a role for Congress in the abrogation of treaties, either in the form of joint action by the President and two-thirds of the Senate, or by the President acting together with both Houses of Congress.

Any President who would violate the Constitution on such a major matter as breaking faith with the nation's treaty obligations would run the risk of impeachment.

In *Foreign Affairs and the Constitution*, one of the few works to consider the question, the noted authority Louis Henkin states:

"In principle, one might argue, if the Framers required the President to obtain the Senate's consent for making a treaty, its consent ought to be required also for terminating it, and there is eminent dictum to support that view."

Yet, Henkin adds:

"In any event, since the President acts for the United States internationally he can effectively terminate or violate treaties, and the Senate has not established its authority to join or veto him."

It is true the President could, under his power of general control over foreign policy, effectively weaken the credibility of our national commitment under a defense treaty, such as NATO, by ordering a withdrawal of most American military forces from the foreign area involved, but he cannot unilaterally destroy the international legal obligations of our country under a formal treaty without the consent of the Senate or Congress. Indeed Henkin does not claim the President can *legally* terminate or violate treaties. He writes only that the President has the ability to "effectively" breach treaties. This distinction would be of critical importance in any impeachment proceedings instituted by a Congress which considered the President to have violated the limits of his constitutional discretion. It also would have overriding weight in any judicial action challenging the legal validity of the President's purported denunciation or abrogation of a treaty.

In observing that the Senate has not "established its authority" to join or veto the President, Henkin is no more than restating the fact that there has not yet been a definitive court decision squarely settling a conflict between the Executive and Senate in the Senate's favor.

Henkin would agree, I presume, that it is for the judicial branch to say what the law is, not for the President to create law by fiat until the courts speak. And, as we shall see, there is no basis in historical practice for claiming the President has established his authority to denounce or abrogate treaties without legislative participation in his decision. To the contrary, the overwhelming weight of precedents supports a role for the Senate or Congress in treaty abrogation.

The records of the Constitutional Convention and the State ratifying conventions contain little discussion of how a treaty is to be rescinded. But it is well-known that the Framers were concerned with restoring dependability to our treaties and were anxious to gain the respect and confidence of foreign nations. It would hardly instill confidence in other nations if a single officer of our government could abrogate a treaty at will without any check from another branch of government.

Also, it is beyond dispute that the Framers were worried the treaty power could be exercised to damage sectional interests. Repeated flareups occurred at the Constitutional Convention in which various delegates expressed fears that their region might be harmed if treaties could be easily made.

In particular, treaties of commerce, peace and alliance were mentioned. Spokesmen for the western settlers were afraid navigation rights on the Mississippi would be given away by a treaty, and George Mason suggested the treaty-making power could "sell the whole country" by means of treaties.

Thus, the Framers sought to give each section of the country an influence in deciding upon treaties because of their possible adverse effect upon strong economic or political interests of particular States or areas. It is logical to assume the Framers were as interested in protecting these same regional interests by making it difficult to revoke useful treaties as they were in protecting those interests by guarding against harmful treaties. George Mason alluded to this situation when he warned against allowing one treaty to abridge another by which the common rights of navigation had been recognized to the United States.

This is not to say that the Framers would have been as excited about a defense treaty with a small republic 6,000 miles away as they were over treaties involving local fishing or boundary rights, but it is to indicate that the 1954 treaty and all other U.S. treaties are protected by the same procedural safeguard as those treaties about which the Framers were especially sensitive. Since the text of the Constitution makes no distinction between different groups of treaties—it does not single out those commercial or boundary treaties, which the Framers did not want to have discarded without the check of legislative deliberation, from treaties of all other kinds—the obvious conclusion is that treaties of whatever nature are covered by the same protective mantle before cancellation. If any one group of treaties is secured against repeal without legislative consent, then surely all other treaties enjoy the same security absent any textual or historical evidence to the contrary. All treaties were to be dealt with in the same way.

Proof that the Framers meant for treaties to be kept and not broken at pleasure is found in their emphasis on gaining respect for the new nation among other countries by being faithful to our treaties. James Madison, John Jay and James Wilson each recognized that the ease with which treaties could be and were being broken under the Articles of Confederation was a major defect causing injury both to our respectability and power abroad. Madison, in the preface to his notes on debates in the Constitutional Convention, specifically identifies this failing as being one of the deformities of the Articles which the Constitution was designed to correct. John Jay pinpoints this disease in number 22 of *The Federalist Papers*. Wilson regarded violation of the "sacred faith of treaties" as "wicked" and contrary to our interests in gaining respect among other nations. Thus, the Framers wanted to make it more difficult to violate treaties, not easier. Surely they would not have attempted to remedy the fault by substituting for the previous system one that was equally susceptible to abuse by a single official as the earlier one had been to the whims of individual states.

Another sign of the purpose of the Framers is in their creation of a system of checks and balances. In this age of concern about what is described as the Imperial Presidency, it is remarkable that anyone would contend the President is unchecked and unaccountable in a matter of such grave importance as breaking out treaties with other countries. We have seen that they wanted the nation to keep its treaties. Therefore, it is difficult to believe that the Framers, who created the President and Senate as checks upon each other in completing a treaty, did not intend a similar check in the reverse situation, the revoking of a treaty.

As the scholar-jurist, Supreme Court Justice Joseph Story wrote in his *Commentaries on the Constitution of the United States* in 1833:

"It is too much to expect, that a free people would confide to a single magistrate, however respectable, the sole authority to act conclusively, as well as exclusively, upon the subject of treaties . . . there is no American statesman, but must feel, that such a prerogative in an American president would be inexpedient and dangerous."

Story adds:

"The check, which acts upon the mind from the consideration, that what is done is but preliminary, and requires the assent of other independent minds to give it a legal conclusiveness, is a restraint which awakens caution, and compels to deliberation."

The same fundamental principle that guided the Framers in providing that the President can make treaties only with the added deliberation called for when a branch of the legislature must jointly decide the question applies with equal force to the power of annulling treaties. To use Story's words about treaties, "this joint possession of the power affords a greater security for its just exercise, than the separate possession of it by either [the President or Senate].

In my opinion, the Framers *assumed* the President would not attempt to break a treaty on his own, since Article II of the Constitution clearly requires that the President "shall take care that the laws be faithfully executed." In other words, the President must uphold the laws because the Constitution tells him to do so.

As we all know, Article IV of the Constitution spells out the fact that a treaty is every bit as much a part of "the supreme Law of the Land" as a statute is. Therefore, the Framers undoubtedly expected future Presidents to carry out treaties in good faith and not to break them at their pleasure.

It is true the President is "the sole organ of the nation in its external relations, and its sole representative with foreign nations." So said John Marshall in 1800 as a member of the House of Representatives. Marshall's quote has been recited by federal courts on many occasions. At most, however, in the context of unmaking treaties this means it is the President who must communicate the message notifying another country that a treaty is void, and, as we shall see, even this much was denied by the 5th Congress which enacted a statute annulling three French treaties without providing for any notice by the President. It does not mean the President alone can make the decision to give that notice. Surely the President's implied power over foreign relations does not give him power to repeal the express provision of the Constitution that requires him to faithfully execute the laws. Nor does it override the system of balance of powers and accountability that the Framers have so carefully imbedded elsewhere in the Constitution. The people would lose the security of deliberation upon the subject of unmaking treaties, no less than they would lose that security in the making of treaties, if no check by Congress or the Senate were put upon the power of termination.

The general rule might be stated as follows: As the President alone cannot repeal a statute, so he alone cannot repeal a treaty. My colleagues in the Senate will find the truth of this expressed in a book that most of us keep on our desks, the *Rules and Manual of the Senate*. Our rules still include a precedent set forth by Thomas Jefferson, who compiled the first manual of rules and practices of the Senate when he was Vice President of the United States.

Jefferson writes: "Treaties being declared equally with the laws of the United States, to be the Supreme Law of the Land, it is understood that an act of the legislature alone can declare them infringed and rescinded."

This also was the belief held by James Madison, who wrote in 1791, less than four years after the Constitutional Convention, of "the same authority, precisely, being exercised in annulling, as in making, a treaty."

Historical practice supports Madison and Jefferson. Far more often than not the Senate, or the whole Congress, has exercised power to approve the termination of treaties. As a matter of fact, Presidents have usually come to Congress for its approval before giving notice of withdrawing from any treaty.

There are exceptions, but none supports a wide open power of the President to annul any treaty he wishes. In particular, the United States has never repudiated a defense treaty with a friendly nation.

Nor has any President terminated a treaty that was not breached by the other party, was not in conflict with or supplanted by a later Act of Congress or another treaty, or that did not become impossible to perform due to circumstances not of our own making.

Terminating treaties: The early practice

It is a little known fact that the first treaties ever to be declared null and void by the United States were cancelled by Congress alone. These were the three French-American Treaties of 1778. Congress, acting through a public law, deemed them to be no longer binding on this country because they had "been repeatedly violated on the part of the French Government."

This step followed attacks by French warships on unarmed American merchant vessels and the infamous X Y Z Affair in which the French sought to extract bribes from American peace negotiators.

The Abrogating Act of July 7, 1798, was approved by President Adams and it is true that to that extent there was presidential consent. However, the statute did not call upon the President to give notice of abrogation and it appears from the legislative debates that Congress assumed no further act was necessary on his part.

In 1887, the U.S. Court of Claims upheld the statute as having terminated both the domestic and the international aspects of the Franco-American treaties. In *Hooper* v. *U.S.* the court said:

"We are of the opinion that the circumstances justified the United States in annulling the treaties of 1778; that the act was a valid one, not only as a municipal statute but as between nations; and that thereafter the compacts were ended."

This early precedent represents the clear admission by President Adams of a legislative role in the abrogation of a treaty, since he signed the law. It also is a concession by the Senate that, in at least some circumstances, the power to void treaties belongs to Congress as a corporate body, and not exclusively to the President and Senate.

The first instance of terminating a treaty by presidential notice did not occur until 1846, 57 years after the government started operations. The agreement rescinded was the convention allowing Great Britain to share joint occupation with America of the Oregon Territory. In response to strong pressure from the House of Representatives, President Polk recommended to Congress that he be given authority by law to give notice of the convention's annulment. The issue was heatedly debated in 1846, with the majority position being that the abrogation of a treaty is clearly a legislative duty that cannot be performed constitutionally by any other power than the joint power of both Houses of Congress. And so a joint resolution was enacted granting the requested power.

The third time we withdrew from a treaty was by the will of the President and Senate acting together as the treaty making power. In the Resolution of March 3, 1855, two thirds of the Senators present advised and

consented to remove our commerce from what we believed were burdensome and oppressive duties under a commercial treaty with Denmark. The resolution authorized President Pierce to give Denmark notice, as required in the treaty for its termination, and it was in response to the expressed wish of the President for such power. President Pierce later publicly acknowledged he had given the notice "in pursuance of the authority conferred" by the Senate resolution.

Curiously, our government used three different methods the first three times it withdrew from or denounced treaties as void. While the measures differed, the significant thing is that each approach required some form of legislative participation in the decision to cancel a treaty.

In practice, an Act of Congress would never again be used without anticipating presidential notice as the means of communicating our intention to annul a treaty to the foreign government concerned and a Senate resolution would be used only once more. As we shall see, the joint resolution, followed by presidential notice to the other country, would become the general vehicle for removing our nation from treaties that we no longer could or wished to enforce. On rate occasions, Congress would also consent to adopt and ratify presidential decisions after they had been proclaimed.

Senate Committee Claims Joint Power

Publicity of the method used in abrogating the treaty with Denmark aroused a storm in Congress. Doubt was even raised in the Senate itself. But the controversy was not over whether the Senate had invaded a presidential prerogative. Rather, the issue was whether the treaty should properly have been annulled by the full Congress.

In response to this debate, the Foreign Relations Committee issued a report on April 7, 1856, strongly claiming for the Senate, acting together with the President, competence to terminate a treaty "without the aid or intervention of legislation" by both Houses of Congress. Pertinent to the Taiwan treaties, the committee asserted that "where the right to terminate a treaty at discretion is reserved in the treaty itself, such discretion resides in the President *and* Senate."

The committee reasoned as follows:

"The whole power to bind the Government by treaty is vested in the President and Senate, two-thirds of the Senators present concurring. The treaty in question was created by the will of the treaty-making power, and it contained a reservation by which that will should be revoked or its exercise cease on a stipulated notice. It is thus the will of the treaty-making power which is the subject of revocation, and it follows that the revocation is incident to the will."

The committee conceded that in certain cases it would be wise to have the concurrence of the House of Representatives in order to make the decision to annul a treaty appear more impressive upon the other government. Thus, the committee took the position:

"Although it be true, as an exercise of Constitutional power, that the advice of the Senate alone is sufficient to enable the President to give the notice, it does not follow that the joint assent of the Senate and House of Representatives involves a denial of the separate power of the Senate."

In May of 1858, the Foreign Relations Committee boldly reaffirmed its position by changing a proposed joint resolution, authorizing the President to give Hanover the notice required for the termination of a treaty, to a mere Senate resolution.

Congress Rebukes Lincoln

The first time a President openly attempted to terminate a treaty without any prior legislative approval was late in 1864, when President Lincoln notified Great Britain of our withdrawal from the Rush-Baggot Convention regulating naval forces upon the Great Lakes. This episode does not serve as a precedent for unilateral presidential action because Congress rushed to defend its prerogative by passing a joint resolution deeming Lincoln's conduct invalid until ratified and confirmed by Congress. Some persons argue that the Rush-Baggot accord was an executive ageement, not a treaty, since it originated in an exchange of notes between Canada and the United States. This would further deprive the incident of any value it may have as a precedent.

Senate debate was dominated by senators who argued that the act of the President was wholly invalid until adopted by Congress. The prevailing view was expressed by Senator Garrett Davis of Kentucky, who said: "It is indispensably incumbent and necessary, in order to secure the termination of this treaty, that it shall be terminated, not by the action of the President, but by the action of Congress."

Senator Charles Sumner of Massachusetts agreed that "the intervention of Congress is necessary to the termination of this treaty. . . ." He explained that the legislation embodied the conclusion that since a treaty is a part of the law of the land, it is "to be repealed or set aside only as other law is repealed or set aside: that is by act of Congress."

Congress did not wait long to reaffirm its position. The joint resolution of January 8, 1865, charged President Lincoln with the duty of communicating notice of termination of the Reciprocity Treaty of 1854 with Great Britain. The same legislative formula was used in June of 1874, when Congress enacted a law authorizing President Grant to give notice of termination of our Treaty of Commerce and Navigation of 1857 with Belgium.

Two years later, the same President sent a curious message to Congress appearing to acknowledge the need for a legislative role in the termination of treaties while asserting power to decline enforcement of a treaty he thought has been abrogated by the other party.

Grant's message of June 10, 1876, regarding the extradition article of the Treaty of 1842 with Great Britain, said:

"It is for the wisdom of Congress to determine whether the article of the treaty relating to extradition is to be any longer regarded obligatory on the Government of the United States or as forming part of the supreme law of the land."

He added, however:

"Should the attitude of the British Government remain unchanged, I shall not, without an expression of the wish of Congress that I should do so, take any action either in making or granting requisitions for the surrender of fugitive criminals under the treaty of 1842."

At most, this is a precedent for presidential authority to consider a breach of a treaty as having suspended it by making enforcement impossible, *subject* to the correction of the President's judgment by Congress.

Hayes Vetoes Law, But Concedes Legislative Role

In 1879, President Hayes recognized the joint power of Congress in terminating treaties, although it was in the process of vetoing an Act of Congress. The legislature had passed a statute seeking to require him to abrogate two articles of the Burlingame Treaty of 1868 with China. His veto rested on the ground that the legislation amended an existing treaty by striking out selected provisions of it.

The power to amend treaties, he said, is "not lodged by the Constitution in Congress, but in the President, by and with the consent of the Senate. . . ."

Hayes also conceded that the "authority of Congress to terminate a treaty with a foreign power by expressing the will of the nation no longer to adhere to it is . . . free from controversy under our Constitution." Thus, he made no claim of power for the Executive to annul a treaty without legislative approval, but rather upheld the traditional joint role of the President and Senate together to make or modify treaties.

In 1883, Congress passed another joint resolution reaffirming a legislative role in the termination of treaties. This law, the Act of February 26, 1883, flatly directed President Arthur to give notice of the termination of several articles of an 1871 treaty with Great Britain.

Presidential Interpretation of Congressional Intent

Occasionally, Presidents have given notice of our nation's withdrawal from a treaty on the basis of their interpretation of congressional intent. This occurs when Congress passes legislation in conflict with a prior treaty, but does not specifically direct our withdrawal from the treaty.

Since the President cannot enforce two equally valid laws which are in conflict, he is compelled to select the one which reflects the current will of Congress. While the President may seem to be using his own power, he actually is fulfilling his duty to faithfully execute the laws by enforcing the latest expression of Congress on the subject.

An interesting example of this principle in practice is found in the events leading up to denunciation of certain parts of the 1850 Commercial Convention with Switzerland. Following enactment of the Tariff Act of July 24, 1897, the United States entered into a reciprocity agreement with France under authority specifically granted to the President by that law. The Swiss government promptly claimed a right under the most-favored nation clause of the convention to enjoy the same concessions for Swiss imports as we had given French products.

We responded that it was our long-continuing policy not to construe the most-favored nation clause as entitling a third government to demand benefits of a special trade agreement purchased by another party with equivalent concessions. In other words, we told the Swiss they could not receive something for nothing. If we made an exception in their case, it would embarrass us in relations with all other trading partners.

Moreover, the 1897 Tariff Act had reaffirmed this historic policy. Section 3 specifically provided that the President is to negotiate commercial agreements "in which reciprocal and equivalent concessions may be secured in favor of the products and manufacturers of the United States." The President lacked authority to conclude agreements in which the other country made no

concessions, and if he had yielded to the Swiss demand it would have been out of line with the clear policy of the law.

Thus, in the face of Switzerland's refusal to renegotiate the contested articles of the agreement, the State Department notified her that the provisions were arrested. Although the State Department would later claim this action served as a precedent for independent presidential power, it would have been inconsistent with the trade policy set by Congress in the 1897 law if Switzerland had been granted privileged treatment without making any compensating concessions. In any event, President McKinley did not act in the total absence of any pertinent supporting statute as proponents of abrogating the defense treaty with Taiwan are urging President Carter to do.

Taft Seeks Ratification

Another action mistakenly asserted in support of Executive treaty-breaking is the effort of President Taft to head off passage by Congress of what he considered an inflammatory resolution calling for abrogation of the Commercial Treaty of 1832 between the United States and Russia. Disputes had arisen with Russia as early as then over the treatment of Americans of the Jewish faith, and on December 13, 1911, the House of Representatives passed a strongly-worded joint resolution demanding termination of the treaty. In order to beat action by the Senate, President Taft informed Russia on December 15 of our intention to terminate the treaty.

On December 18, the President dutifully gave notice of his action to the Senate "as a part of the treaty-making power of this Government, with a view to its ratification and approval." He openly recognized the need for the Senate and the President to act together in order to end an existing treaty and made no claim that his diplomatic notice would have any validity without legislative approval.

Both Houses of Congress passed a joint resolution, which the President signed on December 21, just three days after his message to the Senate. The House vote was 301 to 1, and the Senate vote was unanimous, proving that the President's advance notice to Russia was a concession to recognized congressional power, rather than a sign of independent authority of the President.

Wilson Challenges Congress, But Concedes Joint Role

Congress again asserted its power in the Seamen's Act of March 5, 1915. This law ordered President Wilson to notify several countries of the termination of all articles in treaties and conventions of the United States "in conflict with this act." The notices were duly given and the authority of Congress to impose this obligation on the President was upheld by the Supreme Court in a case discussed below. Twenty-five treaties were affected.

Then, in the Merchant Marine Act of 1920, Congress directed President Wilson to give blanket notice of the termination of all provisions in treaties which imposed any restriction on the right of the United States to vary its duties on imports, depending upon whether the carrier vessels were domestic or foreign. This time President Wilson rebuffed the legislature by announcing that he must distinguish between the power of Congress to enact a substantive law inconsistent with entire treaties and the power to piecemeal call for the violation of parts of treaties. This law was not an effort to terminate treaties, he contended, but to modify them, which Congress could not do.

A memorandum prepared by Secretary of State Hughes for President Harding in October of 1921 also conceded the power of Congress to terminate entire treaties if it so provided in clear and unambiguous language. While Congress had called only for a partial termination in the Merchant Marine Act, the law would have the practical effect of a total termination. If Congress actually intended to abrogate entire treaties, Hughes reasoned, it must say so in plain language.

The positions taken by Presidents Wilson and Harding were a refusal to interpret a law as conveying an intention by Congress to violate numerous treaties outright. There was no presidential denial of the power of Congress to direct the abrogation of treaties when "its intention is unequivocally expressed," and especially absent was any claim for the President of a power to terminate treaties without the shared responsibility of the Congress.

Evidence of President Wilson's recognition of the essential role of Congress in the treaty annullment of process is found in the fact that he first sought the advice and consent of the Senate before attempting to withdraw from the International Sanitary Convention of 1903. Only after two-thirds of the Senate present resolved to "advise and consent to the denunciation of the said Convention" on May 26, 1921, by which time Harding had become President, did the United States give notice of its intention to withdraw.

CHAPTER 3

Terminating treaties: Modern practice

This brings us up to more recent practice, some of which at first impression may appear to break with the almost universal prior practice of terminating treaties, and giving notice of intent to terminate, only following legislative approval or ratification. Starting in 1927, there are nine instances in which Presidents have given notice of the termination of treaties without receiving accompanying congressional authority or seeking ratification.

Upon close examination, however, the recent record does not support an untrammeled power of the President to annul any treaty he wishes. In two instances the notice of termination was withdrawn and the United States did not denounce the treaties. Two other treaties were abrogated because they were inconsistent with more recent legislation of Congress and one was plainly superseded by our obligations under a later treaty. The remaining four appear to have been annulled or suspended after it became impossible to effectively carry them out. In addition, there are five recent instances where notice has been given pursuant to Acts of Congress.

The following treaties are involved: In 1927, President Coolidge gave notice that the 1925 Convention for Prevention of Smuggling with Mexico was terminated. At the time, United States relations with Mexico were the subject of emotional debate in Congress regarding alleged religious persecution and the confiscation of American-owned private and oil lands in Mexico. In the disruptive situation of the period, it appears to have been impossible to implement the Convention.

In 1933, President Franklin Roosevelt gave notice of termination of an extradition treaty with Greece. But the notice was withdrawn and the treaty was not abrogated. The incident was triggered because Greece had refused to extradite an individual accused of fraud. Thus, the President's proposed action was based on the fact the treaty had already been voided by breach of the other party.

Also in 1933, President Roosevelt terminated the 1927 Tariff Convention as having a restrictive effect on the National Industrial Recovery Act of 1933. Then, in 1936, he terminated the 1871 Treaty of Commerce with Italy because its provisions would limit the President's ability to carry out the Trade Agreements Act of June 1934. In both these cases the treaties were inconsistent with prevailing legislation.

In 1939, President Roosevelt notified Japan of our nation's intent to terminate the Commercial Treaty of 1911. Although the Department of State argued broadly that "the power to denounce a treaty inheres in the President of the United States in his capacity as Chief Executive of a sovereign state," President Roosevelt's authority clearly stemmed out of acts of war by Japan toward allied nations. In fact, it was persuasively argued in the Senate that the President was *compelled* to denounce the 1911 Treaty with Japan because of our obligations under a later treaty, the Nine Power Agreement, committing the United States to respect the territorial integrity of China. After the invasion of China by Japan, we would have aided in the violation of that obligation by adhering to the Japanese treaty.

On October 3, 1939, the State Department gave notice of out intention to suspend operation of the London Naval Treaty of 1936. Our stated reason was the changed circumstances resulting from the earlier suspension by several other parties to the treaty. In view of the state of war then existing in Europe it was impossible to carry out a treaty that was supposed to limit naval armaments and promote the exchange of information concerning naval construction.

The next precedent occurred in August of 1941, when the International Load Line Convention governing ocean shipping was suspended by President Roosevelt. He relied on the opinion of Acting Attorney General Biddle that, as in the case of the Naval Treaty, fundamental changes in the circumstances created an impossibility of performance. Accordingly, Roosevelt suspended the convention for the duration of the war emergency because of aggression then being waged by Germany, Italy, Japan and the Soviet Union.

It is interesting that the opinion of the Acting Attorney General declared: "It is not proposed that the United States denounce the convention. . ., nor that it be otherwise abrogated. Consequently, action by the Senate or by the Congress is not required."

From this, it is obvious the incident cannot be considered as support for independent presidential action. To the contrary, it appears to be an admission by the Acting Attorney General that some legislative approval is normally required for the abrogation of a treaty.

A recent, but not the latest, assertion of the abrogation power by Congress occurred in 1951. In that year, Congress enacted the Trade Agreements Extension Act instructing President Truman to terminate trade concessions to Communist countries. Most of them were granted by executive agreements, but two, those with Poland and Hungary, involved formal treaties. The required notices were promptly given by President Truman.

A fundamental change in circumstances resulting in an actual impossibility of performance was again invoked by the United States in announcing our withdrawal in 1955 from the 1923 Convention on Uniform-

ity of Nomenclature for the Classification of Merchandise. The U.S. notice specifically observed that the convention had been "rendered inapplicable" since a fundamental component, the Brussels nomenclature of 1913, had itself "become outdated."

An aborted incident occurred in November of 1965, when the United States announced its planned withdrawal from the Warsaw Convention, relating to recovery of damages by international air passengers who suffer death or personal injury. One day before the effective date of the withdrawal, the United States withdrew its notice. At least two legal commentators reacted with publication of articles condemning the power grab by President Johnson as unconstitutional.

Next, we furnished notice of terminating the 1902 commercial convention with Cuba. This step was an integral part of the U.S. economic embargo of Castro's Cuba, declared on February 2, 1962, in which we were joined by the Organization of American States. The notice, given August 21, 1962, preceded President Kennedy's naval blockade of Cuba by only eight weeks.

The President acted under provisions of the Foreign Assistance Act of 1961 and the Export Control Act of 1948. Also, he had ample authority to impose a trade embargo under the Trading with the Enemy Act and Mutual Assistance Act of 1954, known as the Battle Act. Notice of terminating the commercial convention was a mere formality mandated by a national policy authorized and sanctioned by Congress.

Termination of the convention also was in accordance with the Punta del Este Agreement of January 1962 by which the Ministers of Foreign Affairs of most American nations resolved, by application of the Inter-American Treaty of Reciprocal Assistance of 1947, to embargo trade with Cuba in arms and implements of war of every kind and to study extending the embargo to other items. Article 8 of the 1947 treaty specifically contemplated such a "partial or complete interruption of economic relations."

Finally, Congress may be said to have ratified the decision in September of 1962, if any ratification were needed, by enacting the joint resolution known as the Cuban Resolution. This legislation recognized broad authority in the President to take whatever means may be necessary to prevent Cuba from "exporting its aggressive purposes" in the hemisphere and to prevent establishment of a Soviet military base. Thus, the termination was at one and the same time ratified and authorized by legislation and in accordance with a treaty later in time.

The most recent incidents of treaty termination followed enactment of the Fishery Conservation and Management Act of 1976. This law establishes a 200 mile-limit fishery conservation zone within which we shall exercise exclusive management authority over nearly all fish and extends our exclusive authority even beyond the zone.

Section 202(b) of the law directs the Secretary of State to initiate the renegotiation of any treaty which pertains to fishing within these management areas and is "in any manner inconsistent with the purposes, policy, or provisions of this Act, in order to conform such treaty to such purposes, policy, and provisions." The section also declares "the sense of Congress that the United States shall withdraw from any such treaty, in accordance with its provisions, if such treaty is not so renegotiated within a reasonable period of time after such date of enactment."

Pursuant to this express statement of national policy by Congress, the Department of State has given notice of our withdrawal from the 1949 International Convention for the Northwest Atlantic Fisheries and the 1952 International Convention for the High Seas Fisheries of the Narth Pacific Ocean. Notice regarding the former convention was given on June 22, 1976, and notice regarding the latter agreement was made on February 10, 1977. These two annulments, the latest on record, may fairly be classified as having occurred pursuant to specific congressional authorization and direction.

A number of other treaties have been terminated by ratification of new treaties on the same subject. This form of treaty abrogation does not have bearing on purported Executive independence, except that it obviously follows affirmative action by the Senate.

None of this type of treaties, usually covering technical subjects, has been included in the above listing and they are mentioned here only to prevent confusion arising from a failure to identify them. In these cases, the Senate in effect advises and consents to the termination of one treaty and its substitution by another in the very act of agreeing to ratification of the new treaty, it being a well settled diplomatic practice that a later treaty supersedes or revises an earlier one on the same subject.

Historical Usage Demands Legislative Participation in Abrogation of Treaties

The historical usage described above upholds the general position asserted by the late Professor Edward Corwin, one of this century's foremost authorities on the Constitution, who wrote:

"(A)ll in all, it appears that legislative precedent, which moreover is generally supported by the attitude of the Executive, sanctions the proposition that the power of terminating the international compacts to which the United States is party belongs, as a prerogative of sovereignty, to Congress alone."

The only clarification I would add to Professor Corwin's statement is that the abrogation of a treaty also can be made by the exercise of the treaty-making power itself, meaning the President together with two-thirds of the Senate, or possibly if Congress goes along, by prompt congressional ratification of a Presidential initiative.

Also, it may be conceded for purposes of the situation at hand, our treaty relations with the Republic of China, that history indicates the President may, if Congress raised no objection, determine whether or not a treaty (1) has been superseded by a later law or treaty inconsistent with or clearly intended to revise an earlier one, (2) has already been abrogated because of its violation by the other party, or (3) cannot be carried out because conditions essential to its continued effectiveness no longer exist and the change is not the result of our own action.

Exceptions Are Not Applicable to ROC

It is important to note that none of the exceptions recorded above applies to the Republic of China. She has faithfully adhered to all our treaties with her and has not given us any cause to consider them void.

Nor could impossibility of performance be raised as an excuse, because we would be the party at fault. As proposed by the sympathizers of Communist China, our break in treaty relations with Taiwan would follow recognition of the mainland regime. The basis for our annulment of the treaty would be our own voluntary action in breaking diplomatic ties with Taiwan.

It is clear international law forbids a nation from raising a change in circumstances as the ground for terminating a treaty where that change results from an action of the party invoking it. This is spelled out in the 1969 Vienna Convention on the Law of Treaties, which the United States has signed, but not yet ratified.

Article 61 of that Convention reads:

"Impossibility of performance may not be invoked by a party as a ground for terminating, withdrawing from or suspending the operation of a treaty if the impossibility is the result of a breach by that party either of an obligation under the treaty or of any other international obligation owed to any other party to the treaty."

Article 62 of the same Convention also provides that a "fundamental change of circumstances may not be invoked as a ground for terminating or withdrawing from a treaty . . . if the fundamental change is the result of a breach by the party invoking it. . . ."

Thus, it would not only be a dishonor to the United States and a violation of the Constitution if the President should unilaterally break our treaties with Taiwan, but it would be a violation of international law as well.

In the words of the Department of State itself at an earlier time in our history: "Such a course would be wholly irreconcilable with the historical respect which the United States has shown for its international engagements, and would falsify every profession of all belief in the binding force and the reciprocal obligation of treaties in general."

CHAPTER 4

Terminating treaties: The nature of U.S.-Republic of China Relations

This leaves the question of whether a treaty can be entered into with a government that we do not recognize. If, for the sake of argument, the United States should break relations with Taiwan, can we still have treaties with her?

Yes. We can. Although we have never before withdrawn recognition from any friendly country, we have had dealings in the past with powers whom we have not recognize so long as they have exercised practical control over a particular area. Mainland China is a case in point.

The past international experience of our own and other governments bears out the validity of this practice. For example, the Netherlands at one and the same time recognized the official government of Spain while entering into formal treaty relations with the government of the Franco regime in 1938. And, in the 1950's, Egypt concluded several treaties with East Germany and Communist China without recognizing those countries.

As to the United States, we not only currently have a liaison office in Communist China, but we dealt with the Communist regime once to negotiate the armistice in Korea and again during the 1954 Geneva Conference on the reunification of Korea. Also, in 1962, the United States concluded an international agreement on Laos to which Communist China was an official party.

Other precedents involving the United States include the Postal Conventions of 1924 and 1929 to which both we and the Soviet Union became parties, even though the United States did not then recognize the

USSR. Then there is a well-known political treaty, the Kellogg-Briand Pact of 1929 for the renunciation of war. The United States, which did not recognize the Soviet Union, nevertheless agreed to invite her to become a party. We even went so far as to send Russia a diplomatic note reminding her of Russian obligations under the Pact, again prior to having diplomatic relations with her.

Another example is the Nuclear Weapons Test Ban Treaty of 1963, which appoints three depositories for new members in order to enable both Communist China and Taiwan, and East Germany, to become parties along with nations that do not recognize them. The United States, which does not recognize Communist China, extended an invitation to it to come into the agreement.

The question of having dealings with a non-recognized power was examined in the context of our China policy by Stanford University law professor Victor Li in a 1977 study sponsored by the Carnegie Endowment for International Peace. Professor Li concluded that there are no legal impediments to considering Communist China as the *de jure* government of China, while the Taiwan authorities are regarded as being in *de facto* administrative control of the territory and population of Taiwan.

If the Taiwan authorities were regarded as having practical power over a territorial entity, whether or not it is called a state, Professor Li writes that international law contemplates the possibility "that treaties applying to territory actually controlled by Taiwan would remain in force even after withdrawal of *de jure* recognition."

Professor Li concludes his paper by specifically declaring:

"International law does not *require* that treaties affecting only the territories controlled by the Taiwan authorities must lapse. On the contrary, there is strong support for protecting on-going relations, especially those involving commercial affairs and private rights."

In his authoritative book, *Nonrecognition and Treaty Relations,* Dr. Bernard R. Bot agrees that derecognition of a government does not automatically suspend or terminate treaties previously entered into by that government. To the contrary, he argues:

"A nonrecognized state can be a party to international agreements, provided that its *de facto* authorities carry on, even if only as agents, the external relations and can avail themselves of the resources of the territory and control the population if necessary, for the purpose of observing treaty obligations assumed."

Moreover, Dr. Bot finds "That nonrecognition of states and governments does not necessarily impede the latter's capacity to conclude bilateral treaties." He adds, "it becomes increasingly clear that the criterion for participation in multilateral treaties is no longer the recognition status, but the issue of political desirability."

Thus no impediments exist in international law which would prevent the United States from dealing both with the People's Republic of China as the legally recognized government of China and with the Republic of China on Taiwan as the separate authorities in control of a portion of the Chinese state.

The Recognition Power Differs From Treaty Abrogation

Another matter to be resolved is whether the recognition power itself gives the President the power to terminate treaties. The one power does not follow from the other, although Alexander Hamilton once argued that in special circumstances they do.

In the course of his famous debates with James Madison over the constitutionality of President Washington's Proclamation of Neutrality among warring France and Britain in 1793, Hamilton, writing as Pacificus, claimed:

"The right of the executive to receive ambassadors and other public ministers . . . includes that of judging, in the case of a revolution of government in a foreign country, whether the new rulers are competent organs of the national will, and ought to be recognized, or not; which, where a treaty antecedently exists between the United States and such nation, involves the power of continuing or suspending its operation. For until the new government is *acknowledged,* the treaties between the nations, so far at least as regards *public* rights, are of course suspended."

Hamilton was writing of a situation where only one government, that of the rebels, survived a revolution. He was not considering the situation where there are two competing powers demanding recognition, one representing the former legitimate authorities and the other the insurrectionists. In particular, Hamilton made no reference to a setting in which the United States had continued recognition of the original authorities following a revolution and had even entered into a treaty with that same govenment after the revolution, as is true in the case of the ROC.

Far from this being an instance where all treaties between the nations were suspended, as in Hamilton's supposition, here the Mutual Defense Treaty was concluded years after the revolution. For us to renounce that treaty by switching recognition after a quarter of a century's adherence to it would be a new development of our own making, not an immediate and unavoidable result of a revolution. Thus, Hamilton's argument is inapplicable to present Sino-American relations.

It would be sheer legal gimmickry for anyone to argue that the recognition power carries with it the power to abrogate our treaties with the ROC. It might as well be claimed that recognition includes the power to make formal treaties independently of the Senate.

As discussed above, should the United States now decide to drop relations with the ROC, the question of whether treaties and other international agreements with her would continue in effect would be left up to mutual agreement between the United States and the still *de facto* government of Taiwan.

Thus, it is clear that should we switch embassies from Taipei to Peking, no rule or tradition of domestic or international law would require the President to consider treaties with the authorities on Taiwan as having lapsed. Rather this would become a political decision to be determined by political reasons, not by legal theory or grounds. And since, as we have seen, the Constitution demands a legislative role in such a political decision, a presidential act of derecognition could not annul those treaties absent the separate, concurring decision of Congress or the Senate.

The Removal Power Cannot Be Equated With The Treaty Termination Power

At a recent Washington, D.C. seminar on China, the main speaker, one of the leading proponents of immediate recognition of the mainland China regime, attempted to justify his opinion that the President may terminate a treaty without the consent of the Senate or Congress by drawing a curious analogue to the removal power. Since it is well settled that the President can remove cabinet members and other high officials of the Executive Branch, who have been appointed "by and with the advice and consent of the Senate," without returning to the Senate for its further consent, so it is claimed the President can remove treaties which have been made "by and with the advice and consent of the Senate."

This line of argument is totally unsatisfactory for the following reasons. First, it is nonsense to equate the President's relationship to subordinate officials of his own Administration with the relationship of this country to other sovereign nations. Allowing the President to dismiss officers whom the Constitution has plainly put under him is one thing. But allowing the President to discard a formal treaty entered into between our government and our legal peer under international law, another sovereignty, is quite a different matter. There is simply no factual ground on which to make a parallel between the two powers.

Second, unlike the case of the removal power, there is a specific constitutional provision which conflicts with any inference of the power to terminate treaties. As we have seen, the President is directed by the Constitution to faithfully execute the laws. Another provision of the Constitution tells us that a treaty is a law. Thus, the President would run afoul of express provisions of the Constitution if he should attempt to unilaterally terminate a treaty. The novel doctrine that a power to annul a treaty can be implied where it runs squarely into express provisions of the Constitution on the basis that a power to remove officers has been implied where there are no conflicting express provisions of the Constitution cannot be sustained.

Third, the need for application of the checks and balances feature of the Constitution is still acute in the case of the proposed termination of treaties, but is not felt in the case of removing Executive officers. The presidential power of removing officials who are placed under his direction is not surprising. The power aids in the smooth performance of his conduct of the government without the potential sabotage or disruption of his program caused by inferior officers who disagree with his policy or are discovered to be incompetent.

In contrast, his decision to annul a treaty or allow a treaty to lapse is a decision of the highest national importance. Instead of aiding in carrying out the laws, it does just the opposite. It has the effect of breaking or negating a law. Such a decision is surely the kind of public action which the Framers did not want taken until it had received great deliberation. The termination of a formal compact with another sovereign nation is exactly the type of situation where the checks and balances doctrine has its fullest force and effect. The added deliberation called for, if the decision must be sent to the Senate for its advice and consent before its completion, offers security to the people that an action of major consequences will not be taken lightly or without an opportunity for adequate consideration. Thus, the removal power is not comparable to the treaty termination power.

Lack of Judicial Precedents

To this point I have emphasized the clear logic of the Constitution itself and the les-

sons to be drawn from historical usage. Judicial precedents have not been cited because there simply are no court holdings squarely deciding a conflict between the President and the Senate or Congress over the treaty abrogation power.

What few related cases exist can be discussed briefly. First, there is a 1913 Supreme Court decision, *Charlton v. Kelly*, which some commentators argue supports a discretion for the President to interpret whether a treaty is void in circumstances where the other party violates it. But the case has no application to the situation where the President, without legislative approval, seeks to declare a treaty void when no breach has occurred. Moreover, *Charlton* involved an extradition treaty with Italy which neither the Executive nor Congress wanted to void. Since the treaty was not denounced, the case is not even a decisive ruling for the single situation where a breach occurs.

A second case is *Van der Weyde v. Ocean Transport Company* in 1936. Here, the Supreme Court decided that since Congress had directed the President by the Seamen's Act of 1915 to give notice of the termination of treaty provisions in conflict with that Act, "it was incumbent" upon him to determine the inconsistency between the law and a treaty with Norway.

The Court expressly avoided any question "as to the authority of the Executive in the absence of congressional action, or of action by the treaty-making power, to denounce a treaty. . . . But it did appear to recognize the power of Congress to require the President to interpret whether a treaty is inconsistent with a statute.

A third case involving treaty abrogation is *Clark v. Allen*, where the Supreme Court examined the question of whether the outbreak of war necessarily suspends or abrogates treaties. On its face, this 1947 case involved a construction of national policy expressed in an Act of Congress, the Trading with the Enemy Act.

Although it is *dicta*, the pertinent part of the opinion for our analysis comes from the favorable use by the Court of a statement made by then New York State Court Judge Cardozo: "[The] President and Senate may denounce the treaty, and thus terminate its life. Congress may enact an inconsistent rule, which will control the action of the courts."

By favorably quoting this interpretation of the treaty abrogation power, the Supreme Court seems to have approved the proposition that either the Senate or Congress must participate in the annulment of a treaty.

Two other voices from the bench add weight to the power of Congress in this field. In an opinion he published with the case of *Ware v. Hylton* in 1796, Supreme Court Justice Iredell twice emphasized his belief that Congress alone has "authority under our Government" of declaring a treaty vacated by reason of the breach by the other party. Although his statements were *dicta* to the Court's decision, they are significant as an 18th Century understanding of the annulment power by one of the original members of the first Supreme Court.

In his *Commentaries on the Constitution*, Justice Story declared that the treaty power "will be found to partake more of the legislative, than of the executive character." He also explained it is essential treaties "should have the obligation and force of a law, that they may be executed by the judicial power and be obeyed like other laws. This will not prevent them from being cancelled or abrogated by the nation upon grave and suitable occasions; for it will not be disputed that *they are subject to the legislative power, and may be repealed, like other laws, at its pleasure.*" (Emphasis added.)

From what few judicial pronouncements exist, there is no basis for Executive power over treaty abrogation and some, but not definitive, authority for congressional power. Although the issue is ultimately a legal one, the answer lies in history and the Constitution, not in earlier cases.

Breach of ROC Treaties Would Affect Private Rights

Not only the Mutual Defense Treaty is involved in the scheme to allow our treaties with the ROC to lapse. The 1977 Department of State publication *Treaties in Force* lists at least 59 treaties and other agreements now in effect between the two nations. If the United States were to adopt the approach put forward on behalf of the Communist Chinese, every one of these agreements would fail, not just the formal treaties.

It should be observed that this group of international agreements concerns such important subjects as shoe and textile quotas, aviation landing rights, tariffs on imports and exports, guarantees of American investments of private capital in Taiwan, safeguard of nuclear materials, and protection of rights of American citizens located in Taiwan.

It is irresponsible to propose that all these agreements shall be simultaneously extinguished upon recognition of Communist China, yet this is the logical extension of the policy being urged upon President Carter. As indicated, many of these agreements establish rights for private individuals and businesses. Considering them as having lapsed would create serious political and economic consequences and open a flood of litigation by private parties whose interests are adversely affected by such a government policy.

Impact Upon Other Treaties

Another potential implication of presidential discretion to void treaties which has not been considered, publicly at least, by proponents of the concept, is its effect upon the basic meaning of the rule of law to a free people.

If a President can violate any treaty he wants, what becomes of the order and stability in which law is supposed to operate?

If a President, independently of Congress, can withdraw from the Universal Copyright Convention, for example, what happens to private rights that were protected by this Convention?

If a President chooses to violate the Outer Space Treaty, which prohibits our nation from placing in orbit around the earth any objects carrying nuclear weapons, what effect would this have upon world stability?

The fact that the defense treaty with Taiwan includes a provision regarding duration in no way adds to presidential power. A moment's reflection will confirm that judgment. Remember, the defense treaty with Taiwan does not stand alone. Nearly every treaty this nation has with other countries contains a provision similar to the one in our treaty with Taiwan.

It is true that section X of the 1954 treaty states: "Either Party may terminate it one year after notice has been given to the other Party."

It is also true that this provision is repeated in similar terms in nearly all our bilateral or multilateral treaties. For example, NATO, the Test Ban Treaty, the Statute of the International Atomic Energy Agency, the Nuclear Nonproliferation Treaty, the Biological Weapons Convention, the Universal Copyright Convention, and the Outer Space Treaty all contain provisions expressly laying down agreed ways the parties can terminate them with one year's or less notice having been given to the other parties. If the Taiwan defense treaty were interpreted as allowing the President alone to provide such notice, each of the above treaties would be hostage to the sole discretion of the Executive. This news would undoubtedly come as a surprise to the Senate which has advised and consented to each of these documents without being informed of any such design.

Without fear of contradition, I can predict an uproar among my colleagues, for example, should any President assert power to unilaterally, without giving an opportunity for prior deliberation in the Senate or Congress, violate the Nonproliferation Treaty by transferring nuclear warheads to South Africa.

The truth is that were the shoe reversed, many Americans who are falling all over themselves to give in to every demand by Communist China, would be the first to condemn unilateral presidential action of a kind they do not like. They have not thought through the possible implications of the legal theory they are asking President Carter to adopt, and if they would, the fallacy in their proposal would be obvious.

Moreover, an examination of each of the formal treaties described above which have been denounced or terminated by the United States in the past reveals that nearly all included provisions allowing withdrawal upon notice. The fact that Presidents have generally interpreted provisions regarding duration as still requiring them to seek congressional or at least senatorial approval before giving notice to the other party proves that inclusion of such a provision in a treaty does not change the domestic constitutional arrangement of powers between the Executive and Congress.

As shown above, Congress has heretofore collaborated in the termination of over 40 treaties by enacting a joint resolution, agreeing to a Senate resolution or by Act of Congress. Congress obviously believed it retained a role in the treaty abrogation process in each of these instances, all but three of which involved the annulment of treaties having duration provisions. There is no record to the contrary showing that the existence of such provisions in treaties has any relation to the powers of the President and Congress.

It may belabor the subject to point out the obvious, but treaties never say they can be terminated after notice given by "the President" or "head of state" of any government. Rather, the customary phrase specifies that when notice is made it shall be given by one of the "parties" to the treaty.

The term "party" means the government of the state or international personality involved, which compels a reference to the constitutional processes of that government in order to determine the manner in which the decision to give notice shall be made. In our case, this brings us back to the fact that under the Constitution the power is a joint one shared by the President and Senate or Congress.

CONCLUSION

In conclusion, no President acting alone can abrogate, or give notice of the intention to abrogate, our existing treaties with the government on Taiwan. Of course, neither the Senate, nor Congress, will agree to dropping those treaties.

It is the clear instruction of history that the President cannot give valid notice of an intention to withdraw from a treaty, let alone void a treaty in violation of the formalities required by any provision it may contain regarding duration, without the approval or ratification of two-thirds of the Senate or a majority of both Houses of Congress. Any President who would seek to thwart this constitutional mandate runs the risk of impeachment.

This is not a threat. It is a simple statement of fact which those who are unwisely urging this course of action upon the President should understand. They apparently do not know the consequence of what they are asking the President to do.

For it must be clearly understood that the check of impeachment is one of the safeguards provided by the Founding Fathers against political offenses, such as an irresponsible abuse by a President of a constitutional discretion. In fact, a study made by the Library of Congress in 1974 on the abrogation of treaties concluded by observing that where a conflict arises between the President and the Senate or Congress over the question of abrogation of a treaty, and the President acts contrary to the wishes of the Senate or Congress, the President "might be impeached."

This answers the too clever reasoning of the legal adviser of the Department of State which surfaced in a 1936 memorandum to President Roosevelt. His argument contended that the failure of the Congress or the Senate to approve the action of the President in giving notice of intention to terminate a treaty would be of no avail because once the notice is given, the foreign government concerned may decline to accept a withdrawal of such a notice. What the argument failed to note is that even if the foreign government is entitled and wants to rely on such a notice without inquiring into the constitutional authority of the President, this does not change the domestic constitutional situation of the President in relation to the Senate or Congress. The President is still answerable to the Constitution and accountable to the Congress and people.

Mr. GOLDWATER. I hope this practice of double-dealing, double-talking, dealing off the bottom of the deck, the middle of the deck, pulling out of the sleeve, as far as Taiwan goes, will end and we can begin to give the kind of respect and recognition to her that this great country deserves. The Republic of China on Taiwan means so much to our freedom and to our protection in the Pacific that words cannot describe it. I live in constant hope, but if I depend upon the past being any teacher of the future, that hope may be in vain. But who knows, who knows what may come, given the ability, and character, and energy of the free Chinese people.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Assistant Secretary of the Senate proceeded to call the roll.

Mr. GOLDWATER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

A TRIBUTE TO FRANCES ELMER BUSBY

Mr. HEFLIN. Mr. President, today I rise in recognition of a great Alabamian who has had a long and distinguished career in the fields of radio and television broadcasting and real estate development, and who will celebrate his 70th birthday next month.

On February 2, 1913, in Waynesboro, Miss., a baby boy was born to Mr. and Mrs. Orlando S. Busby. He was named Frances Elmer Busby, but, at his request, at the age of 3, this name was shortened to "Buz." It has remained so throughout his life.

In 1916, he moved with his family to Mobile, Ala., where his father became rail superintendent for the Mobile Light & Railway Co. That company was then the operator of the city's streetcar system.

After graduating from Murphy High School, "Buz" worked his way through college, working part time as a service station attendant as well as operating a used model A Ford as a taxi for his fellow students. He graduated from Springhill College with a bachelor's degree in business administration.

"Buz" first worked for a Mobile automotive and appliance firm, and then as promotion manager for the Southern Baseball League, before taking his first radio job—as general manager of radio station WMOB. In 1948, he joined radio station WKRG as general manager, and there he worked for Kenneth Giddens, who later was to become president of the Voice of America Network in the Nixon administration.

Mobile businessman John Waller, an early associate of Busby's, recalls that one of Buz's more "successful" business ventures was the raising of cocker spaniel dogs for sale. Waller reports that this business went quickly to the dogs.

In 1954, Busby moved to Dothan, Ala., where he helped build and start the city's first television station, WTVY-TV, a CBS affiliate. He served as president and general manager of the station. Later, he served as chairman of the board of WCWB-TV, an NBC affiliate in Macon, Ga., until 1978.

Busby now owns Delta Construction Co., in his hometown of Dothan. Additionally, he serves as chairman of the board of Busby, Finch, Widman & Latham, an Atlanta, Ga., broadcast advertising firm; is a member of the board of directors of General Telephone Co. of the Southeast; serves on the board of directors of the First National Bank of Dothan; and for 7 years, he served on the original Columbia Broadcasting System Affiliate Board.

Buz is married to the former Elizabeth Sexton of Royston, Ga., and they have one daughter, Mrs. Robert Bryan, Jr., of Atlanta, Ga., and two granddaughters, Mary Hart and Bess.

Mr. Busby's numerous accomplishments, together with his many years of work in public service and the high esteem in which he is held by all who know him, serve as testimony that he is indeed a dedicated and talented individual.

Mr. President, I can point out, from my own personal experiences, that my friend, Buz, is a perfect host and is not bragging when he says, "My friends do not go away hungry, thirsty, or mad."

Buz has certainly come a long way from the days when a statement in his high school yearbook, during the depression years, said that his ambition was to "ride to the poorhouse in a Cadillac automobile on a full stomach."

Mr. President, I conclude my remarks in recognition of Buz, with congratulations to Mr. Busby on his 70th birthday and his outstanding business and civic career, spanning more than five decades, and am sure that the year 1983 will be known as "The Year of the Buz."

Thank you, Mr. President.

RECESS UNTIL 2 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until 2 p.m.

Thereupon, at 11:59 a.m., the Senate recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. LUGAR).

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business. Each Senator is limited to 5 minutes to speak, up to 4 p.m.

Mr. QUAYLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, is the Senate in morning business?

The PRESIDING OFFICER. The Senate is in morning business.

Mr. BYRD. I thank the Chair.

Mr. President, the majority leader made provisions for me to speak without the confines of the 5-minute limitation. I do so at this time because there is nothing before the Senate, no business to be transacted until 4 p.m. If any Senator walks into the Chamber and wishes to have the floor to speak, I will gladly defer to that Senator and continue my speech later.

I ask unanimous consent that if such occurs, my speech will not show an interruption in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE UNITED STATES SENATE

THE SENATE, EXPANSIONISM, AND THE MEXICAN WAR (1840-1848)

Mr. BYRD. Mr. President, the story of the United States during the 19th century was one of movement and growth. We were an ever-expanding people, drawing immigrants from the restless, the discontent, the needy, and the visionaries of other nations. We were also pushing our frontiers ever westward to the Pacific Ocean. Today, in my continuing series of addresses on the history of the U.S. Senate, I am going to speak about the remarkable decade of the 1840's, when the Nation added three new States, Florida, Iowa, and Wisconsin, and vast new territories in the Northwest, and Southwest. Such growth was not without its costs.

Mr. LONG. Mr. President, will the Senator yield?

Mr. BYRD. I yield.

Mr. LONG. Mr. President, I commend the minority leader for the speeches he has made on this subject, and I hope that he will continue to pursue this matter because at some place in the RECORD there should be an authoritative, reliable statement to which all Senators could turn that covers what the Senate had done, the reasons that it did it, and a reliable account, impartial, and fairly stated so that all Senators from time to time could review the history of the Senate and improve their conduct by reference to what has happened, what should have happened, and what should not have happened here in the Senate, and the Senator has made a fantastic record along that line.

I hope he will find the time during the remainder of his service in the Senate, and I hope the Good Lord lets him serve out at least every day of his term and some after that, to complete this very interesting series of statements he has made here on the Senate floor, enlightening us on the background of the Senate and its traditions.

Mr. BYRD. I thank the distinguished Senator from Louisiana who has been a Member of this body—I suppose as far as seniority is concerned among the present membership—he is probably the No. 2 man in seniority. I appreciate those very flattering words, and that is one interruption I hope will show in the RECORD.

Mr. LONG. All right.

Mr. CHILES. Mr. President, will the Senator yield further?

Mr. BYRD. I yield.

Mr. CHILES. I wish to say to the distinguished minority leader that I have read with great interest many of the reports that he has made to the Senate on the history of the Senate, and I concur with the distinguished Senator from Louisiana.

I hope that when this chronicle is finished there will be some way of having it bound and that we could have the benefit of that in book form. I hope he will certainly consider doing that because I think it will be a valuable work of history.

While I have enjoyed very much all of the talks he has made, I think today is probably going to be one of the most important speeches he possibly could make. He is speaking about 1840, the year that Florida joined the Union. I think he hits a highlight today.

Mr. BYRD. I thank my friend from Florida. Again I am delighted that he has made these comments.

They, I think, help to advance the real purposes of this effort which I have made and which began 2 years ago next month, and rather accidentally, because at that time one of my two granddaughters was in the gallery, and it happened to be on one of those Fridays when I, as the then-majority leader, said there would be no votes on Fridays, and the Senate was just here for morning business and the introduction of bills, resolutions, and so on, and my younger granddaughter sat in the galleries with a class of schoolmates, and I thought it might be well if they had something to go back to school and talk about. So I spent an hour, without preparation, talking about the Senate and its history.

The next Friday my older granddaughter brought her class, and it so happened that both granddaughters came here with their father, and I though it would not be well for him to hear the same speech twice, and knowing that I should be as considerate of the second granddaughter as I had tried to be to the first, I spoke again for an hour or so on the history of the Senate.

After that there were several officers and Members of the Senate who expressed interest in the speeches, and they expressed the hope that I would continue with some lectures, especially in view of the fact that the Senate will be 200 years old in 1989 which is not very far away.

So I thank Mr. LONG and Mr. CHILES for their charitable and very gracious remarks.

I know that the speeches may sound boring to some people from time to time, but it will be my intention to seek some way of having all of these statements bound and available. I have had a great deal of interest expressed from throughout the country by college professors, lawyers, and judges, and so if it is a service, and I think it will be, perhaps there will be times when we can think about how to go about doing that.

This is the 52d speech I have made since, as I remember, March 21, 1980, when I extemporaneously made that first address on the subject—the U.S. Senate.

It took long years of negotiations with Great Britain to settle peacefully our boundary disputes with Canada, from Maine to the Oregon territory. Our differences with Mexico could only be settled by a bloody war. The expansion movement, known by the slogan of "Manifest Destiny," presented the political leaders of that era with a disturbing paradox, for at the same time it increased the size of the nation, it also stimulated sectional divisions. This was a decade of political warfare, between the Whigs and the Democrats, between the president and the Congress, and finally between the North and the South. The participants in this warfare included those three great senators of the past, Henry Clay, John C. Calhoun, and Daniel Webster; and the battleground was the floor of the United States Senate.

In my last address I spoke of the election of 1840, still famous as the "Tippecanoe and Tyler Too" campaign. We remember the election as the first of the "modern" elections, with its conventions, parades, songs, and slogans, rather than for any particular issues. One reason is that the Whig party did not offer a platform, in the hope of drawing the widest possible vote by appealing to all those opposed to the incumbent Van Buren administration, and alienating no one by endorsing any specific program. The irony here is that the Whig party did have a specific program, Henry Clay's "American System," perhaps as well conceived a program as any political party has ever offered to the public. But by not running honestly upon this program, the Whig party undermined itself. As we shall see, its choice of Senator John Tyler, a States' Rights Whig from Virginia, as its vice presidential candidate—to carry Virginia's important electoral vote—would eventually doom passage of Clay's program.

Although Senator Henry Clay had been passed over for the Whig nomination in 1840, he had every reason to believe that the new president, William Henry Harrison, would support his legislative program. Democrats, by comparison, were sure that fireworks

would soon erupt between the equally strong-willed Harrison and Clay. "Now our fun commences," wrote Democratic Senator William L. Marcy, shortly after the election.[1]

President-elect Harrison arrived in Washington in February 1841, 142 years ago. The newspaper correspondent Ben Perley Poore described him as "a tall, thin, careworn old gentleman, with a martial bearing." [2] (Until 1980, Mr. Harrison had the distinction of being the oldest person ever elected president.) Anticipating some friction with the popular Whig senator, Harrison offered Henry Clay the position of Secretary of State in his cabinet. But Clay's interest was in passing his legislative program, and he declined the offer, recommending instead Senator Daniel Webster. Clay also urged that the president call a special session of Congress, so that the Whigs could move ahead quickly to enact their program, particularly the reestablishment of the Bank of the United States. Harrison reluctantly agreed to do so.

Harmony between the two men, however, was short lived. Senator Clay took offense at the rumored appointment of Edward Curtis to be Collector of the Port of New York City, the most lucrative patronage job of that era. Since Curtis has led the opposition to Clay's nomination for president in 1840, Clay strenuously protested against his receiving such a reward. Nevertheless, Harrison nominated Curtis, and relations between the president and the senator cooled instantly. Clay had made himself so irritating to the new president, with his insistance over the Curtis appointment, that Harrison tried to keep the senator away. One day a newspaper correspondent found Clay pacing in his room with a crumpled note in his hand. "And it has come to this!" Clay shouted. "I am civilly but virtually requested not to visit the White House—not to see the president personally, but hereafter only communicate with him in writing!" [3] This was even more of an insult in days when access to the president was much easier and informal than it is today. At that time, members of Congress, office-seekers, and the general public had considerable freedom to visit the White House, roam through its rooms, and attempt to see the president.

Henry Clay departed from Washington in great anger during the recess of the Congress, but he had every reason to believe that he could pass his program in the coming special session, despite his personal differences with the president. After all, they agreed upon most of the major issues in the "American System": a Bank of the United States, higher tariffs, and Federal support for internal improvements. But events changed rapidly. One cold spring morning President Harrison went out to do his own shopping at the market (another sign of the relative informality of that era). Caught in a rain shower, he took ill, and within days he died of pneumonia. Harrison had been president for just one month. Harrison's death was so unexpected that Vice President John Tyler was not even in Washington, and to be summoned from his home in Williamsburg, Virginia.

This was the first time that an American president had died in office, and the cabinet and the Senate faced serious questions in establishing precedent in the matter. Article II, section 1 of the Constitution merely provides that upon the death or resignation of the president, the duties of that office shall "devolve on the Vice President." But did this mean that the vice president became president in title, or was he acting president? Was he entitled to the salary of president? The Whig cabinet met and decided that Vice President Tyler should be called "Vice President of the United States, acting President," but John Tyler was determined to take on the full powers and status of the presidency. He would be president in name and in deed. When the Senate met in special session on June 1, 1841, Senator William Allen of Ohio moved to amend the traditional resolution notifying the president that Congress was in session, by inserting the words "the Vice President, on whom, by the death of the late President, the powers and duties of the office of President have devolved." Senator Benjamin Tappan, also of Ohio, supported the amendment and argued that if a colonel were killed in battle, his next of command would take charge of the regiment, but would not automatically become a colonel. Senator Robert Walker of Mississippi, however, asked if John Tyler was still vice president, why was he not there in the chamber, presiding over the Senate? (Again, in contrast to our current practices, the vice president in those days almost always presided over the Senate.) Obviously, the vice president could not fill two positions. The Senate defeated the amendment by a vote of 38 to 8, thereby recognizing that the vice president had become President of the United States.[4] Still many people recognized Tyler's claim to the presidency only begrudgingly. It was the custom in those days to refer to the president as "His Excellency" (a tradition that lasted until Theodore Roosevelt reached the White House). Tyler's opponent's however, always referred to him as "His Accidency." [5]

With the presidential succession settled, the Congress settled down to the work of enacting the Whig program. Senator Clay became chairman of the Senate Finance Committee in this first session of the Twenty-Seventh Congress, from which position he proceeded to introduce bills to repeal the Democrats' Independent Treasury System and enact the Whigs' National Bank. Lined up against Clay in the Senate were such powerful and effective men as John C. Calhoun and Thomas Hart Benton. Calhoun had returned to the Democratic fold, and now turned his penetrating intellect upon Clay's program. During one two-hour speech, the reporter of debates was so impressed that he added this editorial comment to the *Congressional Globe* (the earlier version of the *Congressional Record*): "His exposition of the original sin in which this measure has its birth, and the fatal consequences with which it is pregnant, was one of the finest, clearest, and most impressive arguments which he has ever delivered." [6] I wonder how we would feel if our reporters of debate commented on our speeches in the *Record* today!

Despite the strong opposition of Calhoun, Benton, and the rest of the Democratic members of the Senate, Clay was confident of victory because he knew he had the votes. The Whigs held a seven-vote majority in the Senate and some fifty votes in the House of Representatives, where Clay's ally, Kentucky Representative John White, was elected speaker. Clay's problem was not with the Congress, but with the White House, which was now occupied by a man who had never shown any sympathy to the "American System." When John Tyler was a senator he had voted against the Bank of the United States, he had opposed high tariffs, and he disliked the "centralism" of Clay's plan of federal funding for rivers and harbors improvement, road building, and other projects in the states. Tyler was clearly out of step with the Whig philosophy, allied to them only through their common opposition to the policies of Presidents Andrew Jackson and Martin Van Buren. Now Tyler himself was president. At first he tried to make his peace with his party. Tyler kept all of Harrison's Whig cabinet, and tried to remain close to Clay. He let it be known privately, and suggested publicly in his message to Congress, that he would accept the Whig program, if it met his specific objections. He conceded that Congress was best qualified to express the popular will, but reserved the right to veto any measure that he considered unconstitutional.

Henry Clay was not in a mood to compromise on his program. "I have a perfect Bank in my head," he had written to Senator Calhoun in March, and he meant to establish exactly the kind of Bank he had in mind. On June 7, Clay's Finance Committee requested that the Secretary of the Treasury submit a plan for a National Bank. On June 12, the secretary submitted a bill, which he worked out with President

Tyler. Its one major deviation from Clay's plan was a stipulation that the Bank could establish branches in the various states only with the permission of the states. Henry Clay considered that this States' Rights provision would fatally undermine and weaken the Bank. Although Tyler informed him that he was completely opposed to the Bank without such a provision, Clay was determined to press ahead with his own plan. "Tyler dares not resist," Clay told a friend, "I will drive him before me."[7]

In the meantime, the Congress acted quickly to abolish the old Independent Sub-Treasury of the Jackson and Van Buren administrations, and Tyler signed the measure. Jubilant Whigs marched in procession from the Capitol to the White House one evening, with torches, music, and fireworks—that was long before the Redskins were ever heard of—escorting a hearse carrying a coffin labeled "The Sub-Treasury." President Tyler, Secretary of State Webster, and other cabinet members had greeted the procession at the White House.[8] But the Whigs' jubilation soon changed to outrage. The Senate had enacted the National Bank bill, but without Tyler's States' Rights stipulation. "What he will do," Clay wrote to a friend, "is unknown to me or to his cabinet." What John Tyler did, on August 16, 1841, was to veto the Bank bill.

When the clerk finished reading the President's veto message to the Senate, the galleries erupted with applause and sounds of dissent. Senator Benton was immediately on his feet, saying that he had heard hisses in the gallery and that he felt "indignant that the American President shall be insulted." Another senator claimed not to have heard any hisses, but Benton insisted: "I am not mistaken, I am not." While the Senate debated, the Sergeant-at-Arms went into the gallery and apprehended the chief heckler, who expressed his penitence and was let go. When this fracas had died down, Henry Clay took the floor, and in a calm and dispassionate speech, called upon the Senate to override Tyler's veto. Clay, however, knew he lacked the necessary two-thirds margin to override, and indeed the vote was 25 to 24 against the president, and the override failed.[9]

There was still time in the special session to introduce the Bank bill once again, and Clay brought forward a revised version which he worked out with Tyler's cabinet. This time they would not call it a National Bank, but a "Fiscal Corporation of the United States,"—sounds a good bit like the bill I introduced today—to appease the president. But Tyler was angered that the final version of the bill was not submitted to him for approval. What was occurring was a power struggle between the president and the influential Senator Clay for control of the Whig party. Each one wanted the nomination for president in 1844, and neither was willing to appear to follow the other, or capitulate to the other, on the Bank issue. On September 9, Tyler vetoed the Bank bill a second time. Henry Clay stood on the Senate floor and pointed out that Tyler had signed the bill abolishing the Sub-Treasury, but had now twice vetoed proposals to replace it, "and there being no other system that any one ever dreamed of in this country for receiving, safeguarding, and disbursing the public money," Clay speculated that the wit of man could never devise a financial system that would satisfy President Tyler.[10] Here Clay scored a valid point, for the president had taken a purely negative stand and had not offered an alternative program. That sounds like some of the things that have been said in our time and more recently.

Members of the president's cabinet did not learn of his intention to veto the Bank bill a second time until they read it in the New York *Herald*. The entire Whig cabinet then resigned, with the exception of Secretary of State Daniel Webster, who was involved in the negotiations to settle the disputed boundary between Maine and Canada, and wanted to see the treaty through to completion. Webster also was not inclined to follow Henry Clay's leadership. In Webster's view, Clay was dividing the Whig party as a device to further his own presidential ambitions. When Webster agreed to stay in the cabinet, Tyler rejoiced that "Henry Clay is a doomed man from this hour."[11]

In the Senate there were also rumblings that Clay was behaving in a dictatorial manner. There were no party floor leaders in the early nineteenth century, but there was not doubt in anyone's mind that Clay led the Whigs in the Senate. Sitting by a rear door in the old Chamber, Clay could inform incoming senators of the nature of the debate and the vote. He was the man pulling the party strings. The Democrats were quick to make this an issue. At one point during the debate over the Bank, Clay had fashioned a minor compromise and said: "If the clerk will follow me, I will dictate a modification, though I do not like to be a dictator in any sense." James Buchanan, then a Democratic senator from Pennsylvania, jumped to his feet and said: "You do it so well, you ought to like it." The Senate chamber was then filled with comments of "That's fair!" from various quarters.[12]

The special session of the Twenty-seventh Congress ended far differently than Henry Clay had imagined. Neither Clay nor Tyler had emerged victorious, and the Whig party was grievously wounded. Just before adjournment, Democratic Senator Arthur Bagby of Alabama—a large man with a bald head and a strong voice—turned during a speech to Whig Senator Oliver Smith sitting near him, and said: "Why don't you Whigs keep your promises to the American people?" Smith immediately responded: "Because *your* President won't let us!" Bagby stood still for a moment and then roared back: "*Our* President! Our President! Do you think we would go to the most corrupt party that was ever formed in the United States, and then take for our President the meanest renegade that ever left that party?"[13] Thus, although some Democratic members of Congress toasted the president for his vetoes, John Tyler was clearly a man without a party.

Before moving on from this special session, I should also like to note that it was at this time that the House of Representatives, growing larger with the expanding population of the nation, adopted its first limitation on debate, called the "One Hour Rule." Until that time, it was not uncommon for members of the House, like members of the Senate, to speak for several hours and several days on any one subject. But the Whig majority sought to impose some discipline and efficiency upon that body and restricted the maximum time that any member could speak on a given subject to one hour. Many members of the House were displeased with this rule, and claimed that no man could explain his views in just an hour. Senator Benton (who later became a member of the House) was particularly outraged over this limitation, which he said "has silenced the representatives of the people in the House of Representatives, reduced the national legislation to blind dictation, suppressed opposition to evil measures, and deprived the people of the means of knowing the evil that Congress is doing." In fact, the movement to limit speaking in the House was not yet over, and in 1847 the "Five-Minute Rule" on amendments was also adopted. These rules, as we know, have constituted some of the greatest differences between the procedures of the House and the Senate, for in this body unlimited debate—we refer to it as debate being unlimited at times—is still the rule in most cases.[14]

The Twenty-Seventh Congress stood adjourned until December 1841, when its members returned to resume their battle with President Tyler. This was the Senate during its "Golden Age of Debate," with Clay and Calhoun as its most prominent members, and Webster absent at the State Department. Here is the journalist Ben: Perley Poore's description of some of the other members of that Senate:

/William/ Preston's flexible voice and graceful gestures invested his eloquence with resistless effect over those whom it was intended to persuade, to encourage, or to control. /Alexander/ Barrow of Louisiana, the handsomest man in the Senate, spoke with great effect. /Samuel/ Phelps, of Vermont, was a somewhat eccentric yet forcible debater. Silas Wright, Levi Woodbridge, and Robert J. Walker were laboring for the restoration of the Democrats to power. / Thomas Hart/ Benton stood like a gnarled oak tree, defying all who opposed him. /William/ Allen, whose loud voice had gained him the appellation of "the Ohio gong," spoke with his usual vehemence. Franklin Pierce was demonstrating his devotion to the slave-power, while Rufus Choate poured forth his wealth of words in debate, his dark complexion corrugated by swollen veins, and his great, sorrowful eyes gazing earnestly at his listeners . . . In the Senate he had no equal as an orator. His elaborate and brilliant speeches were listened to with earnest attention by the other Senators, who would now be convulsed with laughter and then flooded with tears.[15]

When the second session of the Twenty-Seventh Congress convened, Senator Henry Clay immediately demonstrated that he had not finished his war with Tyler, by introducing a series of proposed constitutional amendments. These amendments would have reduced the vote necessary to override a presidential veto from two-thirds to a simple majority, and would have taken the appointment of the Secretary of the Treasury away from the president and given it to the Senate and House. Clay argued eloquently that the president should have no role in the formulation of laws, which was the domain of Congress. The president's function instead was to administer the laws passed by Congress. His amendments would stop the "Executive encroachment" on legislative prerogatives. Of course, we know that these amendments were not adopted. Southern Democrats in particular argued strongly that the federal system was not designed to be run by a simple majority, but by a restrictive system of checks and balances designed to protect the rights of the minority. In this argument they clearly had in mind, although they did not say so openly, the protection of that "peculiar institution," slavery.[16]

With the Bank clearly a dead issue, Clay turned his attention to the second pillar of his "American System," the tariff. On February 18, 1842, Clay introduced a memorial from industrialists in Bedford County, Pennsylvania, asking for repeal of the "Compromise Act" of 1833—which had ended the Nullification Crisis—and imposition of tariff rates on certain items which would encourage domestic manufacturing. Without going into great detail on this matter, the Compromise Act of 1833 provided for sharp reductions in the tariff after July 1, 1842. But tariff revenue, in those days before income taxes, was the chief source of government income. This was how the federal government supported its military, improved its rivers and harbors and other internal projects, and paid off its deficit. The federal deficit in 1842 was $13.5 million, amazingly small to us in these days of a trillion dollar deficit, but awesomely large to America in the mid-nineteenth century. The Whigs proposed to extend the tariff rates beyond the July 1 deadline. For Senator John C. Calhoun, however, this was a noxious policy. Calhoun saw the tariff as "the most vital of all questions," designed to protect northern industry at the expense of Southern agriculture. To Calhoun, it was the accumulation of tariff revenues in the Treasury that had "destroyed the banking system and deranged the whole business of the country" over the past decade. Calhoun fought Clay's proposal with all his might, but lost in the Whig-dominated Senate and House. However, President Tyler once again used his veto power to reject a major Whig proposal. Outraged Whigs supported Clay's proposal to reduce the vote necessary to override presidential vetoes from two-thirds to a simple majority—but they lacked the two-thirds margin necessary to enact it. It was a frustrating time for the Whig party.[17]

Henry Clay and John C. Calhoun, the antagonists in this and many other Senate battles of the era, are among the five most "significant" United States senators painted on the walls of the Reception room, just outside this chamber. While they served together, they were great rivals for national leadership, and their relationship was so strained that years would go by without their speaking to one another, except in the cross-fire of debate on the floor. Their animosity toward each other reached a peak in 1842, to be broken by a surprising announcement. Henry Clay had decided to withdraw from the Senate to prepare for the upcoming presidential elections.

Clay welcomed the opportunity of some rest and relaxation, but he also wished to remove himself from the immediacy of political debate and controversy. It was then, and perhaps still is, an odd factor of American politics that the less well known a presidential candidate is, the more hidden his views on the issues, the more likely he is to succeed. Governors have traditionally been more successful as presidential candidates than have senators. Governors were not likely to have taken outspoken stands on controversial issues; unlike members of Congress, they were not required to cast rollcall votes that might offend one group of voters or another. While many presidents had served in the Senate, they had usually been absent from the Washington political scene at the time of their nomination and election.

Clay had been passed over for the Whig nomination in 1840 in favor of that nebulous political figure, William Henry Harrison. Clay was now the undisputed head of the Whig party, and he planned to consolidate his leadership and unite his party for the 1844 election from the comfort and security of his estate in Lexington, Kentucky.

On March 31, 1842, Henry Clay arose in the Senate chamber, before crowded galleries, and formally announced his retirement.

At the time of my entry into this body, which took place in December 1806, I regarded it, and still regard it, as a body which may be compared, without disadvantage, to any of a similar character which has existed in ancient or modern times.

Clay begged forgiveness from those whom he might have wronged during his years in the Senate:

Mr. President, that my nature is warm, my temper ardent, my disposition in the public service enthusiastic, I am ready to own. But those who suppose they may have seen any proof of dictation in my conduct, have only mistaken that ardor for what I at least supposed to be patriotic exertions . . . And now, in retiring as I am about to do from the Senate, I beg leave to deposit with it my fervent wishes, that all the great and patriotic objects for which it was instituted, may be accomplished—that the destiny designed for it by the framers of the Constitution may be fulfilled—that the deliberations, now and hereafter, in which it may engage for the good of our common country, may eventuate in the restoration of its prosperity, and in the preservation and maintenance of her honor abroad, and her best interests at home.

Henry Clay, as he spoke these words, was sixty-three years old, and in poor health. He was described as old and careworn in appearance, with a voice trembling in deep emotion. His colleagues in the Senate and visitors in the galleries were deeply moved. When Clay had completed his remarks, his long-time rival Calhoun stood, and "with tears running down his face," crossed the chamber with his hand extended. The two old combattants embraced. "I don't like Henry Clay," John C. Calhoun later said. "He's a bad man, an imposter, creator of wicked schemes. I wouldn't speak to him but, by God, I love him."[18]

Henry Clay's retirement from the Senate did not lessen his political power nor increase President Tyler's support in Congress in the slightest way. Indeed, in March 1843 the Senate handed the president a series of stinging rebukes that are still unique in the history of this institution. On March 3, 1843, the last day of the stormy Twenty-Seventh Congress, President Tyler, as was the custom, journeyed to Capitol Hill, and entered the Vice President's room across from the old Senate chamber, a room currently occupied by Senator Howard Baker, the majority leader of the Senate. There Tyler proceeded to sign the last bills

of the Congress, and to submit last-minute nominations, for the Congress would then be adjourned until December. President Tyler submitted the name of Caleb Cushing, Whig congressman from Massachusetts, to be Secretary of the Treasury. Cushing was a quick-tongued, sharp-minded individual who had been among the most outspoken defenders of the president in the House, and among the most caustic critics of the "caucus dictatorship" of Clay and other anti-administration Whigs. It was not all that surprising, therefore, when the Senate rejected Cushing—although it was only the second time in history a cabinet member had not been confirmed. What was surprising was the return of the president's private secretary with the renomination of Cushing. While the first vote for Cushing had been 19 to 27, the second was only 9 to 27 in favor. Now the secretary returned a *third* time, with a hastily written note: "I nominate *Cushing* as Secretary of Treasury." For the third time within the same day, and within the same hour, the Senate rejected the nomination of Caleb Cushing, this final time by a vote of 2 in support and 29 in opposition. So the support continued to dwindle.

This was a late night session of the Senate, on the last day of the Congress—how well we remember those late-night sessions on the last day of the Congress—and we may guess at the anger and fervor on both sides of this dispute, as the president adamantly clung to his nomination of his close friend, Representative Henry Wise of Virginia, to be minister to France. Twice the Senate rejected him. Tyler nominated Congressman George H. Proffit of Indiana to be minister to Brazil; he was rejected. Tyler nominated David Henshaw to be Secretary of the Navy; the Senate rejected him—only eight members voted in his support. James Porter received only three votes for his nomination as Secretary of War. John C. Spence, nominated to the Supreme Court, was rejected by a 21 to 26 vote. "Mr. Tyler," said Senator Thomas Hart Benton, "was without a party . . . The incessant rejection of these nominations, and the pertinacity with which they were renewed, presents a scene of presidential and senatorial opposition which had no parallel up to that time, and of which there has been no example since." [19]

President Tyler, though rebuked, remained unbowed. He had every intention of running for reelection and winning on his own, if not with the Whig party, then with the Democratic party; and if not with the Democratic party, then he would create his own party. The vehicle on which he intended to ride to triumph was the annexation of Texas. Representatives of the Texas Republic were in Washington lobbying for union with the United States, and there were rumors that the British were seeking commerical ties with Texas and to keep Texas independent. Tyler's move to support Texas' annexation cost him a Secretary of State, for Daniel Webster, having completed his negotiations with Britain over the Maine boundary line—the famous Webster-Ashburton treaty—handed in his resignation on May 8, 1843. Tyler replaced Webster with Abel Upshur of Virginia, a man devoted to slavery and the expansion of the United States to the southwest, where slavery and southern agriculture could spread. Upshur was involved in secret negotiations with Texas, when he was killed in a freak accident on the Potomac, when a cannon on the battleship *Princeton* exploded. To succeed Upshur, President Tyler appointed Senator John C. Calhoun. (Making an interesting historical footnote: the three Senate "greats," Clay, Webster, and Calhoun, each served as Secretary of State.)

Calhoun became Secretary of State on April 1, 1844, and the treaty with Texas was signed on April 12. But when Secretary Calhoun sent the treaty to the Senate he complicated matters by injecting the issue of slavery. Calhoun had been concerned with a message from British Minister Richard Pakenham, indicating that Britain, while it opposed slavery and the spread of slavery, would not interfere in Texas. Calhoun responded that slavery was a beneficial institution, to the slave as well as to the American economy. Calhoun suggested that the annexation of Texas would protect the institution of slavery there, and would in turn protect the interests of the United States, for slavery was "a political institution, essential to the peace, safety, and prosperity of those states of the Union in which it exists." The Calhoun-Pakenham correspondence was included in the material submitted to the Senate with the treaty. This correspondence was confidential, but treaties, being executive business, were conducted in executive session of the Senate, and in those days all executive sessions of the Senate were closed to the public.

However, Senator Benjamin Tappan of Ohio, an abolitionist, leaked the correspondence to the newspapers causing a sensation throughout the North, and linking in many minds the annexation of Texas with the spread of slavery.[20]

Texas was an inflammatory issue, one which the two leading candidates for president wished very much to avoid during the 1844 campaign. Former President Martin Van Buren expected to be renominated by the Democratic party. On a visit to Henry Clay's Lexington estate, Van Buren appears to have made an agreement with Clay to neutralize the Texas issue. In April 1844, both Clay, the Whig, and Van Buren, the Democrat, published letters in their party papers opposing the annexation of Texas. While these two wily political operators may have thought they had removed Texas from the campaign, they were both sadly mistaken. Their agreement cost them both dearly. The Democratic convention in Baltimore rejected Van Buren as their standard bearer, and chose instead the first "dark-horse" candidate, former speaker of the House James K. Polk, who supported Texas annexation. The Whigs chose Henry Clay, but, as we know, the voters chose Polk. As for John Tyler, his attempt to ride the Texas issue to reelection was unsuccessful. As Senator Benton described it, Tyler "continued his march to the Democratic camp—arrived there—knocked at the gate—asked to be let in, and was refused. The national Democratic Baltimore convention would not recognize him." [21]

The Baltimore convention is also tied intimately to the history of the Senate because it provided the opportunity of demonstrating the new "magneto-telegraph" of Professor Samuel F. B. Morse. Most of us at one time or another have passed the bronze plaque downstairs on the first floor corridor, just outside the Old Supreme Court Chamber, commemorating Morse's first long distance test of the telegraph, all the way from Washington to Baltimore, on May 24, 1844. Morse had been demonstrating his invention with a hook-up from the Senate to the House wings of the Capitol, until the Congress passed a $30,000 appropriation to see if the system of sending messages by electric impulses could work over a sizeable distance.

We all remember from our school days the history lessons how Morse sent out the first message: "What God Hath Wrought." What we may not remember are the messages that came back from Baltimore. There the news was all centered on the Democratic convention and the surprise nominations of James K. Polk for president and Senator Silas Wright for vice president. Senator Wright was in the Capitol when the news was received over the wire that he had been nominated. Morse then sent back his reply to Baltimore: "Washington. Important! Mr. Wright is here, and says, say to the New York delegation, that he cannot accept the nomination." The Democratic convention did not completely trust this new invention and again sent word that Wright was nominated. This was the response: "Again, Mr. Wright is here, and will support Mr. Polk cheerfully, but cannot accept the nomination for vice-president." It was not until Wright sent a hand-written letter delivered by special messen-

ger that the convention would accept his refusal and instead nominated George Dallas. As news from the Baltimore convention came in over the wires, Professor Morse would post the dispatches on a bulletin board in the Rotunda. So, as we pass the ticker tape machines in the Senate lobby, pouring forth the most up-to-the-minute reports, I hope my colleagues will reflect that the first "wire service" began right here in the Capitol.[22]

Although he had been shut out of the presidential race, John Tyler went ahead with his plans for annexing Texas. Tyler submitted the treaty to the Senate, but found Northern opposition—based on the fear of spreading slavery and the potential for war with Mexico—too strong to overcome. On June 8, 1844, the Senate voted 35 to 16 in favor of the treaty, but this was one vote short of the necessary two-thirds margin. Tyler then proposed that Texas be incorporated by joint resolution, but neither house had acted by the time Congress adjourned on June 17. The presidential election that followed offered voters a clear choice on Texas, with Clay opposing annexation and Polk favoring it. But Henry Clay was himself a slaveholder and a defender of the "peculiar institution," although he was also president of the American Colonization Society, which proposed to emancipate the slaves and return them to Africa. Clay's positions were intolerable to Northern abolitionists. They supported James Birney's third-party candidacy for president on the Liberty party line, which drained off just enough anti-slavery Whig votes, particularly in New York State, to deny Clay the election. In addition to electing a president, the Democrats also gained majorities in both the Senate and the House.

Thus the election of 1844 turned the tide in favor of annexation of Texas. The sentiment for annexation was strongest in the House of Representatives, but chances in the Senate were still uncertain. Senator Thomas Hart Benton offered a resolution to try to ease Senate concerns about protecting its constitutional right to consent on treaties. His resolution would authorize the new president, having received his mandate from the people, to negotiate with Texas for its incorporation into the United States. The president could either abide by the terms of the congressional resolution, or draft a different treaty which he could submit to the Senate for ratification. The execution of the resolution, said Benton, would thus "devolve upon a president just elected by the people with a view to this subject, I have no hesitation in trusting it to him, armed with full power, and untrammelled with terms and conditions." The House adopted Benton's resolution by a 120 to 97 vote, while the Senate accepted it by the slim margin of 27 to 25. This was the first time that Congress had accepted a treaty and annexed territory by a joint resolution. But the Texas matter was not to be settled by the incoming president. Instead, the strong-willed John Tyler acted on his last day in office to invite Texas to join the Union under the terms of the Benton resolution. When the new president, Polk, made no effort to stop Tyler's emissary to Texas, Tyler had won his final victory. The government of the state of Texas was formally established on February 19, 1846. An outraged Senator Benton called President Tyler's action an audacious cheat, and an act "prolific of evil, and pregnant with bloody fruit. It established so far as the United States was concerned," said Benton, "the state of war with Mexico."[23]

Mr. President, there were many issues between the Senate and the new president, James K. Polk—the tariff, the Independent Treasury Act, the Oregon boundary controversy—but for the purpose of my talk today, I shall focus exclusively on the Senate's role in the Mexican war. With Texas as a state, the United States had inherited Texas' long held disputes with Mexico. Most pressing was the question of the border line. Mexico recognized the Nueces River as its boundary with Texas, while the United States insisted on the Rio Grande River. On June 15, 1845, the Polk administration ordered General Zachary Tayor to occupy a point on, or near, the Rio Grande, within the territory claimed by Mexico. It was not until March 1846, however, that Taylor and his force of 3,500 men (representing half of the United States Army at that time), reached the Rio Grande across from an encampment of some 5,700 Mexican troops. The Mexican general ordered Taylor to evacuate the area, and when the Americans refused to move, sent a raiding party across the Rio Grande. The Mexican troops attacked an American reconnaissance patrol, killed eleven Americans, wounded five, and captured forty-seven. On April 26, 1846, General Taylor notified President Polk that "hostilities may not be considered as commenced." Two weeks later, Polk sent his war message to Congress, the heart of which read:

> As war exists, and, notwithstanding all our efforts to avoid it, exists by the act of Mexico herself, we are called upon by every consideration of duty and patriotism, to vindicate with decision, the honor, the right, and the interests of our country.[24]

On the face of it, the Congress acted quickly and overwhelmingly to declare war. After only two hours of debate, the House of Representatives voted 174 to 14 for the war resolution. The next day, the Senate voted 40 to 2 in favor of war. The margin of the vote in the Senate, however, was greatly misleading. It obscured the partisan divisions and the shallowness of support for "Mr. Polk's war."

Members of the Whig party were deeply suspicious of Polk's objectives. They saw his aims as far greater than simply protecting Texas territory, but of conquest of vast new areas of the Southwest into which slavery could spread, and they saw no reason to fight to protect the expansion of slavery. Yet many Whigs were decendants of the old Federalists, who had destroyed themselves as a political party by their opposition to the War of 1812. The Whigs were frightened over the prospect of repeating this disaster and did not want to appear as obstructionists. The fight against the war resolution, therefore, was led not by a Whig but by a Democrat, Senator John C. Calhoun of South Carolina.[25]

Calhoun found himself in an odd position. Just a short time before, a Secretary of State, he had lobbied successfully for the annexation of Texas. Now, having once again returned to his Senate seat, Calhoun was troubled over the prospects of war. He could support a limited war, to repel the Mexican army from Texas, but not an all-out war to seize California and the rest of the Southwest—largely because this new territory would raise all over again the issue of slavery in the territories. He wished to consolidate the South's gains and not to jeopardize them. When the war resolution was read, Senator Calhoun was among the first to his feet, objecting to a quick vote. Because of the gravity of the matter, he asked for a "high, full, and dispassionate consideration." Of course, a declaration of war is perhaps the most difficult item for any nation to consider dispassionately. Calhoun and the Whig senators tried to slow down the proceedings by requiring the war resolution to be divided into two parts: the actual declaration of war to be referred to the Senate Foreign Relations Committee (chaired by the pro-war William Allen of Ohio), and the raising of arms and troops to fight the war to be referred to the Senate Military Affairs Committee (chaired by Thomas Hart Benton of Missouri, who harbored grave doubts about the war). Senator Benton, however, pledged that his committee would subordinate its own wishes to the will of the Senate and would provide whatever military provisions were necessary, whether to fight a limited defensive war, or an all out offense. The next day, both committees favorably reported out the war resolution.[26]

The Senate debate concentrated on whether or not the United States was already at war, and what response would be most proper. The legendary Sam Houston was then a member of the Senate from Texas and he had no patience for the legal technicalities being raised by opponents of the war.

Texas had been warring with Mexico for ten years, Houston argued, and by annexing Texas the United States had inherited that war. Mexicans had "marched across the river in military array—they had entered upon American soil with a hostile design," said Houston. "Was this not war?" [27]

Senator John J. Crittenden, Henry Clay's able successor in the Senate, offered the key Whig amendment to the war resolution. Crittenden would have deleted the words "to prosecute said war to a speedy and successful termination," and inserted instead the words "for the purpose of repelling the invasion, the President is hereby," et cetera. Crittenden's amendment lost by a vote of 20 to 26. Eighteen Whigs voted for the amendment, joined by South Carolina's two Democratic senators, John C. Calhoun and George McDuffie. The vote on this amendment, rather than on the war resolution as a whole, showed the true division of feelings over the Mexican war in the United States Senate. Significantly, when the final vote was taken on the war resolution, John C. Calhoun abstained.[28]

Calhoun's fears that the war with Mexico would become more of a detriment than an advancement of the southern way of life, that it would turn the slave labor system into a wedge between the North and the South within the political process, were borne out on August 8, 1846, when a thirty-two-year-old Democratic Congressman from Pennsylvania, David Wilmot, added a proviso to a bill appropriating two million dollars to aid negotiations with Mexico to settle the territorial adjustments as a result of the war. The Wilmot Proviso, as it came to be known, required that "neither slavery nor involuntary servitude shall ever exist in any part" of the territory won from Mexico during the war. At first, the Polk administration tried to mitigate the effects of the Wilmot Proviso by limiting it to just those territories taken north of the twentieth parallel, the Missouri Compromise Line, but their efforts failed in the House. The Senate did not act upon either the appropriation or the proviso before it adjourned. Thereafter, the Wilmot Proviso was added to other appropriations bills, passed in the House, and defeated in the Senate (where the slave-holding states constituted half of the votes, and where the votes of a few Northern sympathizers of the slave system could always be counted upon). It is impossible to express the passions and the consternation that the Wilmot Proviso stirred. For two years, said Senator Benton, the Proviso "convulsed the Union, and prostrated men of firmness and patriotism—a thing of nothing in itself, but magnified into a hideous reality, and seized upon to conflagrate the States and dissolve the Union."[29] Of course, we are not unmindful of similar attempts in recent years to add burning emotional issues as riders on other bills, especially appropriations bills, and we know how such actions can inflame passions on both sides of the issue, tie up the proceedings of the Congress, and make mutually agreeable compromise all the more difficult to attain.

Mr. President, the Mexican war, the expansion of the United States into the Southwest, and the Wilmot Proviso all shook loose the foundations of the American political coalitions that held this nation together. We must remember that in the 1840s the Democratic and Whig parties were not Northern or Southern parties. They were national parties. The Democrats may have been stronger in the South and the Whigs in the North, but they each had active organizations in all of the states. Historians and political scientists have found far more party unity in the voting in Congress than sectional unity. Northern and Southern Whigs joined together to vote for the National Bank, the tariff, and federally-funded internal improvements. In the Senate, historian Glyndon Van Deusen found "almost complete Whig unanimity, ninety-three percent of their number being generally opposed to expansionist policies, with the remainder only moderate expansionists." The Democrats also maintained a North-South alliance and voted with strong party unity.[30]

Such party coalitions and national unity could exist, however, so long as slavery remained an unspoken issue. As the 1840s progressed, it became more difficult to ignore or suppress this most sensitive issue. In many Northern states, like Massachusetts, the Whig party began to split between "Conscience" Whigs, those who opposed slavery, and "Cotton" Whigs, those who supported slavery—often textile interests that depended upon Southern cotton, which was produced by slave labor. It was John Quincy Adams, the "Conscience" Whig, who persistently introduced abolitionist petitons in the House of Representatives; and it was the prevalent "Cotton" Whigs who imposed a "gag rule" on Adams and the abolitionists in 1841. In the 1844 election, as I have said, it was the defection of many "Conscience" Whigs that cost Henry Clay the presidency. The division in the Whig party also made most difficult the role of Daniel Webster, who had returned to the Senate in March 1845, after his service as Secretary of State. By nature, Webster was a nationalist, a passionate defender of the Union, a seeker of healing compromises. But he also had to contend with the influence of the "Conscience" Whigs in his state, particularly such rising political stars as Charles Francis Adams (son of John Quincy Adams) and Charles Sumner. In one of his first floor utterances, a month after returning to the Senate, Webster spoke out against annexation of Texas, endorsing, he said, "the unanimous opinion of the legislature of Massachusetts . . . /and/ the great mass of her people." But Webster was absent from the Senate when the vote on war with Mexico was cast, and he was silent on the Wilmot Proviso. Addressing himself chiefly to tariff and fiscal issues, he walked a delicate tightrope across the middle of the slavery issue.[31]

In 1847 it became increasingly difficult to remain neutral on slavery or the Wilmot Proviso. During the last session of the Twenty-Ninth Congress, the Wilmot Proviso was added to the "Three Million" bill to appropriate funds for military support and the addition of Mexican territory. The House passed the bill with the proviso by a 115 to 106 margin, while the Senate defeated the proviso by a 21 to 31 vote. The Senate version was adopted in the conference committee. During the first three months of 1847, however, nine Northern states directed their senators to vote for the Wilmot Proviso.

Senator John C. Calhoun led the Southern opposition. On February 19, 1847 he introduced four resolutions on the slavery issue: first that the territories of the United States were the joint property of all of the states; second that Congress had no right to pass any law discriminating between the states and denying them equal rights; third that any law interfering with slavery would be in violation of the Constitution; and fourth that the people had the right to form the type of state government they chose with no conditions (such as the abolition of slavery) imposed upon them by the federal government. Calhoun defended his resolutions on the Senate floor and concluded by saying: "I am a planter—a cotton planter. I am a Southern man, and a slaveholder; a kind and merciful one, I trust—and none the worse for being a slaveholder. I say, for one, I would rather meet any extremity upon earth than give up one inch of our equality—one inch of what belongs to us as members of this great republic. What, acknowledge inferiority! The surrender of life is nothing to sinking down into acknowledged inferiority."

When Calhoun finished, Thomas Hart Benton of Missouri rose to call his resolutions "fire-brand." Calhoun responded that he had expected Benton's support as the representative of a slave-holding state. Drawing himself up Benton said that it was impossible to expect such a thing, "I shall be found in the right place—on the side of my country and the Union." Senator Calhoun never called for a vote

upon his resolutions. Benton interpreted Calhoun's action as really addressing the issue to Southerners, rather than to the Senate, in an effort to unite the Southern states against the Northern states.[32]

As Calhoun and Benton squared off against each other, Daniel Webster continued to work for compromise. He drafted an amendment to prohibit the acquisition of new territory through the war, but failed in his attempts. Webster dreaded the outcome of the war. If new territories were added, he saw nothing ahead but "contention, strife and agitation." Although Henry Clay was not a member of the Senate at this time (he would return for the last time in 1849), he added his own warnings from his temporary retirement in Kentucky. He urged Congress to "positively and emphatically disclaim and disavow any wish or desire on our part, to acquire any foreign territory whatever, for the purpose of propagating slavery, or of introducing slavery from the United States, into such foreign territory." [33]

I have limited my remarks to the Senate's debate over the Mexican war, and not to the military prosecution of that war. I have not spoken about the campaigns of General Zachary Taylor and Winfield Scott, which took American troops into the Mexican capital, Mexico City, and the campaigns of John C. Fremont in California. I have not talked of the great military victories, nor the great cost in lives. On February 2, 1848, a defeated Mexico signed a treaty of peace with the United States, the Treaty of Guadalupe Hidalgo, which recognized American claims to the land north of the Rio Grande, and ceded to the United States a vast area which now includes the states of Arizona, New Mexico, Nevada, California, Utah, Colorado, and Wyoming. President Polk submitted this treaty to the Senate on February 23, 1848, and it is a touching reminder of the human sacrifices of this war that on that same day, Senator Webster learned of the death of his son, Edward, in Mexico as a result of typhoid fever. A year earlier, Henry Clay's son had been killed at the battle of Buena Vista. All told, 13,000 Americans died in the war, more as the result of disease than military injury. The war had lasted longer, and cost more lives than its supporters had predicted, but it had also expanded the size of the United States far greater than they had suspected. The war's long-term consequences were also unanticipated, in that first flush of victory in 1848.

The late historian of the Civil War, Professor Avery Craven, has called President James K. Polk both a great success and a great failure. Polk succeeded in fulfilling all of his promises in the election of 1844: the incorporation of Oregon and Texas, a lower tariff, an independent treasury system; but he was a failure in finding solutions for the problems created by the vast expansion of the country which he had secured. On the Senate floor, Daniel Webster pointed to the dangers of such a dramatic growth of the country, preferring gradual growth to such sudden and wholesale expansion. "It has long been my purpose to maintain the people of the United States, what the Constitution designated to make them, one people, one in interest, one in character, and one in political feeling," said Webster. "If we depart from that, we break it all up." [34]

On March 10, 1848, having defeated the Wilmot Proviso again by a wide margin, twenty-six Democrats and twelve Whigs joined together to provide the necessary two-thirds vote to ratify the treaty. Seven Democrats and seven Whigs voted against it (the opposition coming largely from those who wished to annex all of Mexico). On July 4, 1848, President Polk proclaimed the treaty in effect.[35]

Mr. President, in my next address I shall discuss the consequences of the American victory in the Mexican war: the effects on the turbulent election of 1848, and particularly on the great constitutional crisis of 1850, perhaps the most important debate in the United States Senate during the entire nineteenth century, the last hurrah of the three great senators of that era, Henry Clay, John C. Calhoun, and Daniel Webster.

These men so dominated the Senate during that era that we often lose sight of the many other significant figures from our history who also served as members of the United States Senate. I have spoken frequently of Thomas Hart Benton, "Old Bullion Benton," the "Magnificent Missourian," in part because he was such a giant figure in the debates of the Senate, but also because he left us his magnificent two-volume reminiscences, *Thirty Years' View*, which is really a running commentary on the events of Congress from 1820 to 1850. Other major figures in the Senate during the 1840s included Rufus Choate of New York, Robert J. Walker of Mississippi, David Atchison of Missouri, Sam Houston of Texas—who, by the way, wore red vests on the Senate floor and flirted with the ladies in the galleries—John Clayton of Delaware, Jefferson Davis of Mississippi, and Stephen A. Douglas of Illinois. Two future presidents of the United States served in the Senate at this time, Franklin Pierce of New Hampshire and James Buchanan of Pennsylvania. And a losing presidential candidate, Lewis Cass of Michigan, was also a prominent senator. In the years to come, however, they would all be overshadowed by an obscure one-term Whig member of the House of Representatives, whose service from 1847 to 1849 was so undistinguished that he would be a forgotten figure in history had his political career ended at the conclusion of his congressional term. I refer to Abraham Lincoln, about whom I shall have much more to say in the future as I discuss the years after 1848 while the Senate and the nation plunged towards a terrible conflict and the great State of West Virginia was born.

NOTES TO "EXPANSIONISM AND THE MEXICAN WAR" 1840–1848

[1] Glyndon Van Deusen, *The Life of Henry Clay* (Boston, 1937), 335.
[2] Ben: Perley Poore, *Perley's Reminiscences of Sixty Years in the National Metropolis* (Philadelphia, 1886), I, 245–6.
[3] Van Deusen, *Henry Clay*, 341.
[4] *Congressional Globe*, 27th Congress, 1st session, 4–5.
[5] Van Deusen, *Henry Clay*, 343.
[6] *Congressional Globe*, 27th Congress, 1st session, 372–3.
[7] Van Deusen, *Henry Clay*, 345–6.
[8] Poore, *Perley's Reminiscenses*, I, 271–2.
[9] Thomas Hart Benton, *Thirty Years' View* (New York, 1883), II, 350–1; *Congressional Globe*, 27th Congress, 1st session, 339.
[10] *Congressional Globe*, 27th Congress, 1st session, 450.
[11] Van Deusen, *Henry Clay*, 354–5.
[12] *Congressional Globe*, 27 Congress, 1st session, 48.
[13] Poore, *Perley's Reminiscences*, I, 280.
[14] Neil MacNeil, *Forge of Democracy, The House of Representatives* (New York, 1963), 47–48; Benton, *Thirty Years' Views*, I, 373.
[15] Poore, *Perley's Reminiscences*, I, 291–3.
[16] *Congressional Globe*, 27th Congress, 2nd session, 69, 164–7.
[17] Glyndon Van Deusen, *The Jacksonian Era, 1828–1848* (New York, 1959), 164–66.
[18] Benton, *Thirty Years' View*, 398–403; Van Deusen, *Henry Clay*, 356; Margaret Coit, *John C. Calhoun, American Portrait* (Boston, 1950), 349.
[19] Benton, *Thirty Years' View*, 629–631.
[20] Charles M. Wiltse, *The New Nation, 1800–1845* (New York, 1961), 183–184; Van Deusen, *The Jacksonian Era*, 183.
[21] Benton, *Thirty Years' View*, 362.
[22] John A. Garraty, *Silas Wright* (New York, 1949), 281–2.
[23] *Congressional Globe*, 28th Congress, 2nd session, 244–45, 358–363; Benton, *Thirty Years' View*, 532–38.
[24] *Congressional Globe*, 29th Congress, 1st session, 783.
[25] Ernest M. Lander, Jr., *Reluctant Imperialists: Calhoun, the South Carolinians, and the Mexican War* (Baton Rouge, 1980), 1–24.
[26] *Congressional Globe*, 29th Congress, 1st session, 783, 797.
[27] Ibid., 798.
[28] Ibid., 803.
[29] Benton, *Thirty Years' View*, 694–6.
[30] Van Deusen, "The Whig Party," in Arthur M. Schlesinger, Jr., *History of U.S. Political Parties* (New York, 1973), I, 351.
[31] Irving H. Bartlett, *Daniel Webster* (New York, 1978), 224–27.
[32] *Congressional Globe*, 29th Congress, 2nd session, 454–55; Benton, *Thirty Years' View*, 696–97.
[33] Bartlett, Daniel Webster, 231; Van Deusen, *Henry Clay*, 388.
[34] Avery Craven, *The Coming of the Civil War* (Chicago, 1966), 200–40; "The 1840s and the Democratic Process" in Craven, *An Historian and the Civil War* (Chicago, 1964), 82–97; and Bartlett, *Daniel Webster*, 236.
[35] *Congressional Globe*, 30th Congress, 1st session, 387–88; *Journal of the Executive Proceedings of the Senate* (Washington, 1887), I, 338–40.

(During Mr. BYRD's presentation, Mr. PRESSLER assumed the chair.)

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. I ask unanimous consent that I may proceed for 30 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

CHANGING OF VOTES BY SENATORS

Mr. BAKER. Mr. President, earlier I indicated that the Republican caucus had considered a recommendation to me on the policy toward changing votes by Senators. I wish to announce that on this side of the aisle it will be the policy during this session of the Senate to refrain from objecting to a request by a Senator to change his vote on a rollcall only if it meets the following three conditions: First, that the Senator personally represents that he was mistakenly recorded; that is to say, was recorded in error; second, that the request is made within 4 session days of the time of the rollcall; that is to say, within 4 days of Senate session at the time the rollcall was conducted; and, third, that the change would not affect the outcome of the vote. Otherwise, Mr. President, I will be requested to lodge an objection to unanimous-consent requests to change a vote.

Mr. BYRD. Mr. President, I have a little difficulty understanding the 4-day period. There is ample precedent for changing votes. If one has voted, he may ask unanimous consent to change his vote. I have done that I believe on one occasion during my 24 years in the Senate. Any Senator may object to that Senator's request. I think however, that inherently there is a good reason to establish a practice of objecting to the changing of a vote because this procedure could allow a Senator to change his vote if there were no objection, so that he would be on the prevailing side on an issue which had not been reconsidered. If a motion to reconsider is made within 2 days of session after the day on which that vote has occurred, that Senator could be the instrument whereby such reconsideration could be brought about.

There was one occasion this past fall that I remember very vividly when an extremely important matter was reconsidered some days after the event. Of course, I was on the opposite side of the majority leader on that. I thought at that time we should have moved to reconsider quickly so as to obviate that problem. But the majority leader can do what he has outlined without notifying anybody. He can object to the changing of a vote any time he wants to or any other Senator can do that, but I think that he is to be respected for putting the Senate on notice.

I personally see some deeper problems with the practice than those that were outlined by the majority leader, but I really cannot understand the 4-day provision. I could live with a direction that an objection be made to any such request unless it fulfills the other two requirements that the majority leader laid out.

Will the Senator enlighten me as to why 4 days instead of 1 or 3?

Mr. BAKER. I cannot. I must say to the majority leader, however, that I agree with him entirely and absolutely.

My personal preference would be simply to put the Senate on notice that it would be my intention to object to a Senator changing his vote at any time unless the conditions I described were met—that is to say, his personal assertion that the vote was recorded in error and, second, that it would not change the outcome.

However, there are some who feel that there might be a time lag in discovering that—for example, if there were a vote at the end of the day and it were not until the next day that it was printed in the CONGRESSIONAL RECORD, and they would be cut off.

Mr. BYRD. I think that would be a good case.

Mr. BAKER. So 4 days means 4 days in which the Senate was in session, 4 days on which the CONGRESSIONAL RECORD was printed. For example, that request would be made, and everybody would have an opportunity to examine the vote for that length of time.

The concern I have is that the vote might be changed weeks or months later, as it has been done according to the precedent of the Senate on some occasions.

It is an arbitrary formulation, but it is one I should like to try at this moment.

Mr. BYRD. I think the 1 day of time would be justified, because it is true that a Senator may not notice until the following day that his vote was misrecorded. I am talking about the following day of session, which could mean from Friday over to Tuesday or Thursday over to Monday.

I certainly think that the majority leader has made a good case. It is not within my prerogatives or power to dictate to the Republican caucus or conference, but if we are going to do it at all, I think it should be tighter than 4 days. I think it should be 1 day.

Mr. BAKER. Why do we not leave it as it is? I will consult further with the minority leader, and I will have a further statement of policy to make. Mr. President, I yield the floor.

EXECUTIVE SESSION

NOMINATION OF ELIZABETH HANFORD DOLE, OF KANSAS, TO BE SECRETARY OF TRANSPORTATION

Mr. PACKWOOD. Mr. President, as chairman of the Commerce, Science, and Transportation Committee, I want to express my strongest support for Elizabeth Hanford Dole to be the next Secretary of Transportation. The President could not have chosen any one better than Elizabeth Dole to replace Drew Lewis. His are difficult shoes to fill. However, I have the utmost confidence that Liddy Dole will do a superlative job. I can vouch for her ability and integrity. She is a remarkable person with a proven track record of dealing fairly and effectively with those both in and out of Government.

Elizabeth Dole and I have known each other for at least a decade and have been friends for a fair portion of that time. I can say without equivocation that she possesses the personal and professional qualities that make her an excellent choice for Secretary of the Department of Transportation. Her diverse experience and long background of service in the public sector should prove invaluable in her new role.

I look forward to working closely with Elizabeth Dole on the many important transportation issues that will be dealt with by our committee and the Senate.

In closing, I applaud Elizabeth Dole's appointment and hope that we will see continued movement toward representation of qualified women in Government.

Mr. MOYNIHAN. Mr. President, it is a distinct pleasure to rise in support of the nomination of Elizabeth Hanford Dole to be Secretary of Transportation.

Mrs. Dole's professional qualifications, which include service in the Department of Health, Education, and Welfare, Office of Consumer Affairs, the Federal Trade Commission, and her current position as Assistant to the President for Public Liaison—well recommend her for a Cabinet position. Indeed, the skill and aplomb with which she has handled these assignments suggests that hers will be an outstanding tenure as director of our national transportation policy.

Yet even more impressive are Mrs. Dole's personal qualities. She is smart, she is engaging, she is forthright, and she is, as her performances before the Commerce and Environment and Public Works Committees demonstrated, a very quick study.

I am delighted to support Elizabeth Hanford Dole for Secretary of Transportation and I look forward to working closely with her in the coming months.

Mr. SPECTER. Mr. President, I am pleased to rise today and add my voice

to those in support of the nomination of Elizabeth Hanford Dole for the position of Secretary of Transportation.

Mr. President, many have focused their attention on the fact, that if confirmed, Mrs. Dole will become not only the first woman appointed by President Reagan to head a Cabinet-level agency, but also the first woman to become Secretary of Transportation. I would like to focus on the 16 years of dedicated public service during which Elizabeth Dole demonstrated that she is eminently qualified to become Secretary of Transportation.

Mrs. Dole brings to the Department of Transportation a combination of legal, managerial, political, and Government experience which places her in an excellent position to run one of the largest and most diverse of the Federal agencies. After earning a bachelor's degree in political science from Duke University and both a master's degree in education and a law degree from Harvard University, Elizabeth Dole came to Washington and landed a job as a staff assistant in the old Department of Health, Education, and Welfare. There she planned the country's first National Conference on Education of the Deaf.

From HEW Mrs. Dole went on in 1966 to defend indigents in the District of Columbia court system. From 1969 through 1973, she served as Executive Director of the President's Committee on Consumer Interests and then as Deputy Assistant to the President for Consumer Affairs. In 1973, Mrs. Dole was appointed to the Federal Trade Commission where she worked as a Commissioner, promoting competition in the marketplace and eliminating unfair and deceptive market practices. In 1976, Mrs. Dole resigned from the FTC to work on President Ford's re-election campaign and again later, in 1979, to work on the Reagan Presidential campaign. Mrs. Dole now works in the White House as a special assistant for public liaison, reaching out to special interest groups and building support for the President's programs.

The skills which Mrs. Dole acquired during her years of extensive public service should prove invaluable to her as she comes to the Department of Transportation at this particularly trying time. The difficult agenda before Mrs. Dole includes further deregulation of the trucking industry, implementing the new highway reconstruction act, rebuilding the air traffic control system, and instituting maritime regulatory reform. Mrs. Dole's background and experience give her the capability to lead a major overhaul of the Nation's transportation system—a task which will affect the lives of nearly every American. In Elizabeth Dole, I have every confidence.

Her qualifications, impressive as they are as an individual, are enhanced with her association with her husband, the distinguished Senator from Kansas, Mr. DOLE. Their reciprocity, with each having such extensive governmental experience, inures to both of their benefits.

On a personal level, Mrs. Dole is extraordinarily charming. My wife, Joan, and I had the pleasure of being guests with Senator and Mrs. Dole at the Elks Club in Russell, Kans., in December 1980, and I observed her cordiality and grace as she greeted several hundred visitors. The occasion for that reception was that Senator DOLE and I both lived in and went to high school in Russell, Kans.

Based on my personal knowledge of Mrs. Dole and her outstanding background, I am confident that she will make an outstanding Secretary of Transportation and I am pleased to vote for and support her confirmation.

(Earlier the following occurred:)

Mr. BYRD. Mr. President, I yield to the distinguished Senator from Kansas (Mrs. KASSEBAUM).

Mrs. KASSEBAUM. Mr. President, I thank the Democratic leader for yielding for just a moment. I should like to make some remarks about a fellow adopted Kansan, Elizabeth Dole, whose nomination will be voted on later this afternoon.

It is with great pride, as a Member of this body, a woman, and a Kansan, that I speak today on behalf of the nomination of Elizabeth Hanford Dole as Secretary of the Department of Transportation. Before discussing this nomination in terms of the contributions it will make to our national leadership, I want to indulge in a little parochial boasting. January 29, the date on which my home State entered the Union, has long been the focus of extensive "Kansas Day" activities. This year, Kansans have had cause to prolong this celebration of State pride—cheering on our native son John Riggins as most valuable player in the Redskins' Super Bowl victory and honoring our adopted daughter, Elizabeth Dole, as the newest addition to the Reagan Cabinet.

Needless to say, I believe that the President has made an outstanding selection for the post of Transportation Secretary. I have had the privilege of knowing Elizabeth Dole as a professional colleague and as a friend for several years. As a member of the Senate Commerce Committee and chairman of its Aviation Subcommittee, I am acutely aware of the many challenges transportation policy brings in the months ahead. I am pleased that the person who will be guiding the way on these issues is one in whom I have the greatest confidence and respect.

Elizabeth Dole brings to this position a record of past successes and a demonstrated capacity for thoughtful leadership. She is an intelligent and articulate person who will approach her new responsibilities with characteristic enthusiasm and diligence. I look forward to working with her in addressing future transportation issues.

Mr. President, as proud as I am to endorse this nomination, I know my pride pales in comparison with that of the senior Senator from Kansas (Mr. DOLE). My best wishes and heartiest congratulations go to both BOB and Elizabeth today. It is indeed a great day for Kansas—and for the Nation.

I thank the Democratic leader.

The PRESIDING OFFICER. The distinguished minority leader is recognized.

Mr. BYRD. I thank the Senator from Kansas, one of the most gracious Members of this body. I should like to associate myself with the words that she has spoken about the nominee for the Department of Transportation, Mrs. Dole, with whom I had a very pleasant visit the other day and of course at which time I spoke about some parochial matters of interest to me as a Senator from the State of West Virginia.

(Conclusion of earlier proceedings.)

Mr. THURMOND. Mr. President, I rise today in support of the nomination of Elizabeth Hanford Dole as Secretary of Transportation.

Mr. President, I do not believe that the President could have made a wiser choice for the second female member of his Cabinet. A North Carolina native, Mrs. Dole graduated with honors from Duke University and went on to Harvard University, where she earned graduate degrees in both education and law.

Her career in public service began at the Department of Health, Education and Welfare, dealing with programs for the education of the handicapped. In 1971, she joined the White House Office of Consumer Affairs, and she served as a member of the Federal Trade Commission for 6 years from 1973 through 1979.

In each of these posts, she distinguished herself as a capable and efficient public servant. Her remarkable ability to deal compassionately but effectively with people from all walks of life landed her a job as Assistant to the President for Public Liaison in the Reagan White House. There she has served with dedication and distinction as the President's goodwill ambassador to business, labor and a number of other constituencies with oftentimes diverse interests.

Of course, it should not be overlooked that Mrs. Dole has, for the past 10 years, served as the loving wife of the distinguished chairman of the Senate Finance Committee, Senator BOB DOLE. If ever a task required a quick wit and engaging personality, this must be it. All who have had the

pleasure of knowing her, as Mrs. Thurmond and I have, will certainly agree that Mrs. Elizabeth Dole is one of the most able, dedicated, and attractive women in public service today.

Mr. President, Mrs. Dole has exhibited those traits of character and intellect which will serve her well as Secretary of Transportation. I am certain that, in this post, as with all others she has held, she will serve her country and her President with the utmost distinction. I call upon my colleagues to support her nomination.

Mr. PRESSLER. Mr. President, I commend the President for his excellent choice of Elizabeth Hanford Dole as Secretary of Transportation. I believe that Mrs. Dole has all the qualities and capabilities necessary to meet the demanding and difficult challenges that await her as Secretary of the U.S. Department of Transportation. Her glowing record and background in Government service speak for themselves. I am extremely pleased to give Mrs. Dole my full and unequivocal support as she assumes this important position.

Mrs. Dole assumes this position at an especially critical and eventful time in transportation history. With the deregulation of almost all modes of transportation, which I generally opposed, and with the recently enacted Surface Transportation Assistance Act of 1982, Mrs. Dole will certainly have her hands full in the upcoming years. I look forward to working closely with her on these and other vitally important transportation issues.

I have had the pleasure of meeting and working with Mrs. Dole in the past, and have been very impressed with her abilities and public minded spirit. I am confident that she will serve her country well.

Mr. HOLLINGS. Mr. President, I rise in strong support of Elizabeth Dole's nomination for Secretary of Transportation. I feel confident that our national transportation system will remain strong with Mrs. Dole's expertise and leadership.

The operation of our national system continues to present many important and complex issues—the appropriate level of funding, and the proper role of the Federal, State, and local governments, to name a few. At the Commerce Committee's recent hearing on her nomination, I was impressed with Mrs. Dole's grasp of these many important issues and her willingness to work with Congress and the various interest groups to resolve them.

I was particularly encouraged by certain of her comments on economic regulation. In response to committee questions, she emphasized her recognition of certain dislocations which have occurred as a result of deregulation and of the importance of considering the economy in determining the merits of any future proposals to deregulate. I know she shares my concern that important transportation service be retained and that the transportation sector be able to attain economic stability.

Mr. President, we should also be heartened by her clear intent to establish transportation safety as a high priority at the Department. In the past few years, as part of the overall review of the role of the Federal Government, the scope of the Department's activities in safety has been questioned, particularly in the area of hazardous materials. We must continue to insure that the Federal Government remains a leader in transportation safety, a belief which I feel confident Mrs. Dole shares.

Finally, it is important to note Mrs. Dole's recognition of the significance of the Coast Guard and her commitment to keep it strong. I need not reiterate my concern over the need for adequate funding of the Coast Guard.

Indeed, I admire Mrs. Dole's history of impressive governmental service and her willingness to assume the awesome responsibilities associated with the position of Secretary of Transportation. As the new ranking Democrat on the Commerce Committee, I look forward to working with her closely on the many transportation issues facing us.

Mr. MATTINGLY. Mr. President, I am pleased to be able to rise today in support of the nomination of Elizabeth Dole as Secretary of Transportation. Without question, her credentials are impressive, and she should be a capable and effective Transportation Secretary.

She would bring to the position a mix of public and private sector experience. Foremost, she recognizes the need for a strong and more effective partnership with the private sector and State and local governments.

I read with interest a copy of Mrs. Dole's statement before the Senate Committee on Commerce, Science and Transportation. She highlighted in her statement several important transportation issues that she believes need addressing. I am particularly interested in and supportive of her position to work tirelessly to increase safety on our Nation's highways, particularly to deal with the problem of drunk driving. As the Department considers legislative initiatives to deal with this serious problem, I hope that the effort will be expanded to include the problems associated with persons driving under the influence of drugs. This, too, is a primary killer of innocent victims on our country's roads.

I have no doubt that Elizabeth Hanford Dole will soon be one of the most respected advisors and leaders of this Nation as the new Secretary of Transportation.

Mr. PERCY. Mr. President, I strongly support the confirmation of the nomination of Elizabeth Hanford Dole as Secretary of Transportation.

We all know Liddy Dole well, and have known her for many years—although not as well or as long as the distinquished Senator from Kansas. In my judgment, this is a superlative selection by the administration. Liddy Dole is bright, efficient, an inspiring administrator, competent, able, compassionate and yet tough. She effuses grace and charm. As the distinguished chairman of the Finance Committee said, she is an excellent choice.

Mrs. Dole graduated with distinction from Duke University, where she was president of the student body and elected to Phi Betta Kappa. She received a masters degree in education and a law degree from Harvard University, and planned the first National Conference of Education for the Deaf in the country in 1966. From 1969 to 1973, she served as executive director of the President's Committee on Consumer Interests and, in 1973, was appointed to the Federal Trade Commission. Since that time, she has served as White House Special Assistant for Public Liaison.

As Secretary of Transportation, Mrs. Dole has a tough act to follow in Drew Lewis, who did an outstanding job. Her assignment will be a tough one. Mrs. Dole will be responsible for implementing the recently enacted nickel-a-gallon gasoline users fee and the attendent funding for highway and transit construction and repair. She faces challenges with the Conrail system, the air traffic control system, as well as the President's proposal on ports included in the state of the Union message.

Illinois is the tranportation hub of the Nation, with the Nation's busiest segment of the Interstate Highway System, the first and second most active rail hubs, the second lengthiest segment of the inland waterway system and the world's busiest airport. Illinois has a deep interest in an active and efficient transportation program by the Federal Government. And, I look forward to working on these and other matters with my friend, Liddy Dole. She is a superb choice and I commend President Reagan.

Mr. LAUTENBERG. Mr. President, I am pleased to cast my vote to confirm President Reagan's nomination of Elizabeth Handord Dole as Secretary of Transportation. In her present and prior Government positions, Mrs. Dole has demonstrated an ability to take on a variety of difficult tasks and to manage them well. In her appearance before the Committee on Commerce, Science, and Transportation and in private discussions, Mrs. Dole has impressed me as someone who will quickly assume command of her depart-

ment and insure that its responsibilities are carried out. I am confident that Mrs. Dole and I will be able to work together on matters of mutual interest, and that when we disagree, we will be able to explore our differences in a sincere effort to reconcile them.

One area of particular concern to me is the administration's proposal, released yesterday, to rapidly phaseout Federal operating assistance to urban mass transit agencies. The proposal comes as a particular shock to New Jersey and other States that rely upon mass transit systems, as the Congress passed, and the President just approved, the Surface Transportation Assistance Act, which preserved authorization for operating assistance, albeit at 20 percent below fiscal year 1982 levels.

These operating subsidies are essential, if mass transit is to continue to be affordable for the 600,000 riders in New Jersey and the millions of mass transit users elsewhere. Without operating assistance, transit agencies would be forced to raise fares, pushing riders into their cars and onto overcrowded highways. In the case of New Jersey, a complete phaseout of operating assistance could force unprecedented fare increases and inflict a major jolt to New Jersey mass transit.

Mass transit is an essential part of New Jersey's transportation network and that network is the foundation of its economy. New Jersey needs continued operating assistance from the Federal Government.

I look forward to working with Mrs. Dole on this and other important issues concerning our Nation's transportation system.

The PRESIDING OFFICER. Under the previous order, the hour of 4 p.m. having arrived, the vote will now occur on the nomination.

The question is, Will the Senate advise and consent to the nomination of Elizabeth Hanford Dole, of Kansas, to be Secretary of Transportation? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from North Dakota (Mr. ANDREWS) and the Senator from Missouri (Mr. DANFORTH) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Hawaii (Mr. INOUYE) is necessarily absent.

I further announce that, if present and voting, the Senator from Hawaii (Mr. INOUYE) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 1 Exec.]

YEAS—97

Abdnor	Gorton	Murkowski
Armstrong	Grassley	Nickles
Baker	Hart	Nunn
Baucus	Hatch	Packwood
Bentsen	Hatfield	Pell
Biden	Hawkins	Percy
Bingaman	Hecht	Pressler
Boren	Heflin	Proxmire
Boschwitz	Heinz	Pryor
Bradley	Helms	Quayle
Bumpers	Hollings	Randolph
Burdick	Huddleston	Riegle
Byrd	Humphrey	Roth
Chafee	Jackson	Rudman
Chiles	Jepsen	Sarbanes
Cochran	Johnston	Sasser
Cohen	Kassebaum	Simpson
Cranston	Kasten	Specter
D'Amato	Kennedy	Stafford
DeConcini	Lautenberg	Stennis
Denton	Laxalt	Stevens
Dixon	Leahy	Symms
Dodd	Levin	Thurmond
Dole	Long	Tower
Domenici	Lugar	Trible
Durenberger	Mathias	Tsongas
Eagleton	Matsunaga	Wallop
East	Mattingly	Warner
Exon	McClure	Weicker
Ford	Melcher	Wilson
Garn	Metzenbaum	Zorinsky
Glenn	Mitchell	
Goldwater	Moynihan	

NOT VOTING—3

Andrews	Danforth	Inouye

So the nomination was confirmed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given it consent to this nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business to extend not past the hour of 5 p.m. in which Senators may speak for not more than 3 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO PRINT REPORT AS SENATE DOCUMENT

Mr. COCHRAN. Mr. President, I ask unanimous consent that a report to the Senate on a delegation mission to the People's Republic of China, which I recently led at the majority leader's request, be printed as a Senate document.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF TIME FOR ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that the time for the transaction of routine morning business be extended for 10 more minutes under the same terms and conditions.

The PRESIDING OFFICER. Without objection, it is so ordered.

EL SALVADOR CERTIFICATION

Mr. CRANSTON. Mr. President, today, the Senate Foreign Relations Committee is conducting hearings on the President's certification of progress in human rights, in implementing essential political and economic reforms, and in other areas in El Salvador. Congress established this process through legislation I originally cosponsored in the Foreign Relations Committee. This process has proven to be a valuable mechanism for the Reagan administration, the Congress, and the public to gauge the situation in El Salvador. In addition, the process enables us to express our deep concerns about the use of American aid in El Salvador.

As with past certifications, I have considerable doubts about the administration's claim that the Salvadoran Government has improved its record on human rights or that it is any closer to gaining control over its military than it was 6 months ago. In light of the continuing atrocities perpetrated against the civilian population, this latest certification is a profound disappointment.

Glaring faults remain in the Salvadoran criminal justice system. For example, earlier this year Ambassador Deane Hinton affirmed that although some 30,000 Salvadorans have been

murdered since 1979, fewer than 1,500 cases of "crimes against persons" have been taken to court and "less than 200 have been sentenced for these crimes." Recently, the Salvadoran Government released the army lieutenant who is the principal suspect in the murders of two American labor advisers and the head of the Salvadoran land reform program. After 2 years, the cases of four murdered American churchwomen remain unresolved. And just last October, yet another American was murdered there, beginning another cycle of judicial obfuscation.

While the total number of violent deaths in El Salvador may have fallen in the last year, the decline has not been a steady one. And the decline may be partly a result of the violence moving into the countryside, where it is difficult to get accurate figures, and partly the result of the exodus or murders of many of the potential targets in the last few years. Even if the new numbers are accurate, they are still shocking.

In the last year, the Salvadoran Government's progress has consisted mainly of conducting an election with a remarkably strong turnout. In addition, the "land-to-the-tiller" phase of the land reform program advanced, but only after heavy U.S. congressional pressure revived it. Two of the three phases of the program, however, are dormant at best. I have been somewhat encouraged by Ambassador Hinton's recent statements warning the Salvadoran Government that the future of U.S. aid would be in jeopardy unless certain conditions are met.

These signs do not obscure the unremitting devastation wrought by El Salvador's civil war. The same bleak reports persist about the corruption, the disappearances, the exterminations, and the moribund legal system. The administration must express to the Salvadoran Government the outrage of the American people at the continuing situation there.

Several of my colleagues and I have been trying to convey this message through a number of measures. We passed legislation to implement this certification process. We called for unconditional negotiations and a cease-fire between warring factions in El Salvador. We attempted to amend the war powers resolution to prohibit any—even temporary—deployment of U.S. troops in El Salvador without congressional approval. During the mark-up of the foreign aid bill for fiscal year 1983, a unanimous Senate Foreign Relations Committee voted to hold military aid to El Salvador at fiscal year 1982 levels, cutting the Reagan administration's request by $100 million. Most recently, we attempted to attach an additional certification provision requiring the administration to certify that the Salvadoran Government has made substantial progress investigating the deaths of six Americans in that country. We in the Congress will continue to insist that progress be made in the coming months.

The administration must continue to press for the observance of human rights in El Salvador. The administration must press for the maintenance of the land reform program. The administration must press for progress on the cases of Americans murdered in El Salvador. Finally, the administration must press for an end to the bloodshed through cease-fire negotiations possibly including key members of the Organization of American States.

The United States must try to insure that the government we support is fully prepared to make the political, social, and economic changes essential to achieve an enduring peace. These changes, included in the certification provisions, hold the promise of ending the polarization between right and left in El Salvador. Unlimited military aid to the Salvadoran Government will not accomplish this goal.

RACING AGAINST OBLIVION

Mr. STEVENS. Mr. President, January 17 was honored throughout the Nation as Federal Employee Appreciation Day. I was pleased to have been a cosponsor of the legislation establishing that commemoration.

As someone who has been employed by the Federal Government for many years, I know of the contributions made by our fellow Federal employees. As an example of the outstanding work of Federal employees, I want to draw attention to an article which appeared in the January-February edition of Historic Preservation magazine on the fine work of the employees of the Historic American Building Survey.

The Historic American Building Survey, HABS, is a part of the National Park Service. This organization and the Federal employees who diligently pursue its goal of providing an historical record of the outstanding architectural heritage of this Nation are to be commended by all. They were especially helpful in providing assistance during the restoration of St. Michael's, the beautiful Russian Orthodox Church in Sitka, Alaska.

Mr. President, I ask unanimous consent to have the entire text of the article "Racing Against Oblivion" inserted at the end of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

RACING AGAINST OBLIVION

(By Andy Leon Harney)

It was 1933, the height of the Depression, and among the millions of unemployed Americans were thousands of architects, draftsmen and photographers. Plucky Charles E. Peterson was not among them. In fact, in the bureaucracy of the young, National Park Service, he held the title of Chief of the Eastern Division Branch of Plans and Designs. He was 26.

Peterson anguished over the plight of his less fortunate colleagues. He also worried about the nation's vanishing architectural heritage. New Deal programs such as the Civilian Conservation Corps, as well as restoration work at Williamsburg and Yorktown, gave the young architect an idea. In the great American tradition, he sent a memo to his boss urging that "If the great number of our antique buildings must disappear through economic causes, they should not pass into unrecorded oblivion."

Peterson's idea was greeted enthusiastically. And who stood ready to forestall the descent into oblivion but his unemployed colleagues. Thus was born the Historic American Buildings Survey (HABS). Peterson's inspiration sent nearly a thousand professionals across the country making precise measured drawings and photographs.

But it was not mere make-work. This year, on the 50th anniversary of the founding of HABS, the trove stored at the Library of Congress attests to Charles Peterson's vision: Of the nearly 20,000 structures recorded by HABS, an estimated 30 percent have been razed, making the design and historical data collected by HABS invaluable.

The breadth of the collection—it includes architectural details as well as plans and elevations of the structures themselves—is as varied as the ways in which it has been used by everyone from active restorers to ecclesiastical historians, genealogists, dollhguse makers and blacksmiths.

Massachusetts architect Russell Swinton Oatman, for example, turned HABS plans for Colonial and Victorian houses into working drawings for people who wanted to build exact replicas of historic houses.

"I just got tired of seeing really bad copies of so-called Colonial houses," he says, "so I decided to go to the original source and offer plans of real Colonials."

Since 1975 Oatman has sold more than 30,000 catalogs of plans and elevations of historic houses, many borrowed directly from the HABS collection, and has assisted in the construction of hundreds of houses.

Recorded on microfilm and microfiche, the HABS collection is carried at more than a hundred libraries and universities around the country, and, since it is in the public domain, it can be used with only a small charge. It is a staggering amount of data, but that is not the biggest source of satisfaction to HABS godfather Charles Peterson, still active at 76.

"I think the greatest contribution HABS has made is in training young architects to observe," he says. "It's often the first time they are exposed to historic buildings. They learn graphic analysis; they learn that you have to understand a building before you can draw it right."

Philadelphia restoration architect John Milner, who worked under Peterson in the 1960s, remembers well his stint as a HABS draftsman. A building with a handsome dormer molding was being torn down in Philadelphia, and Peterson ordered his young assistants to measure it for posterity. "We came back with the drawings," Milner recalls, "and Peterson was sure that the moldings tapered. So he sent us back to do it again. We did, they didn't taper, and we came back and told him so. Peterson complained that he had to do everything himself and dragged us down there again to make sure that the molding was correctly

measured and drawn—he could be very demanding." (The students were correct.)

A few years later, Milner recalls being sent on one of many emergency missions, this time to measure President Grant's doomed summer cottage in Long Branch, N.J. "I can remember being in the building with my tape measure as the crew was tightening the cables to pull the building down."

Now head of a Philadelphia architectural firm, Milner is still being called on to document buildings about to be torn down. As recently as last year the Bally Corporation asked him to measure a historic hotel in Atlantic City. Under an agreement with the state, Bally was allowed to raze the building only if measured drawings were made.

The New York State Landmarks Commission made a similar demand when developer Harry Helmsley wanted to tear down the Villard Houses on Madison Avenue to make way for his luxury Helmsley Palace Hotel. The buildings, which had been the offices of the Catholic Archidiocese of New York and Random House, are outstanding examples of McKim, Mead and White architecture.

"I think the documentation process really saved them, because the developers saw the advantages in retaining their rich architecture," says HABS supervising architect Ken Anderson.

With its usefulness—and longevity—a matter of record, HABS would seem destined to live on. Yet when HABS Chief Robert Kapsch was asked to name HABS' biggest priority, his response was quick: "survival."

Operating on a budget of less than $700,000 and with a staff of fewer than two dozen professionals, HABS would seem to be one of the most productive efforts ever sponsored by Uncle Sam. Yet until recently, management problems and a certain standoffishness had placed the program in jeopardy.

"We've been the egghead department for years, and, I must say, the way we used to keep house didn't gain us a lot of respect," one longtime staffer admits.

Until a few years ago, much material now housed in the Library of Congress languished in the files at the HABS offices in Washington, waiting to be processed, edited and sent over. Almost anyone could pick through the photographs, select what he liked and walk off with them. The arrival of an ambitious new archivist and a new administrator changed all that. But despite the strides (all the materials up to 1979 have been safely recorded on microfilm or microfiche), there is upward of 15 years accumulation of drawings and photographs yet to be processed and sent to the Library.

Although HABS and Library of Congress staffers are almost drowning in drawings and requests for information, there survive a noticeable dedication and esprit de corps.

Part of the pride comes from the fact that so many men and women associated with the program are alumni of the "summer-team" programs. For them it was not just another government job, but an emotional commitment, a part of their lives. Many of the country's leading preservationists are graduates of the program and its summer teams, including Ernest Connelly, former associate director of the NPS, Senior Vice President Russell V. Keune of the National Trust and former Keeper of the National Register William Murtagh, now a Trust Vice President.

Establishment of the National Register in 1966 created a new use for the collection as a resource for those who want to list properties in the Register or get restoration work certified. Not long ago, Library of Congress librarian Mary Ison recalls, two women whose National Register application had been rejected because their window restoration was not historically accurate spent an entire day looking at Colonial windows recorded by HABS. "They left the Library with looks of triumph," says Ison with a smile. "They had proof in their hands of a similar home of the same period with the same detailing. We get a lot of requests like that now that there are tax incentives for accurate restoration of certified buildings."

HABS also provides an invaluable record for structure that have been later damaged by fire or flood. Extensive photographic records of Franklin Delano Roosevelt's home at Hyde Park, N.Y., for example, are making it possible to accurately restore rooms damaged by the recent fire. Similarly, HABS documentation made possible the reconstruction of the oldest Russian Orthodox Church in Sitka, Alaska, also devastated by fire.

Thus HABS serves as a kind of national insurance policy. And it is that role that has turned out to be HABS' insurance policy, too. For the surveys current push is to document all major historic buildings owned by the National Park Service and all architecturally significant National Historic Landmarks.

In addition to recording landmarks, transfering documents to the Library of Congress and completing community surveys begun and paid for years ago, HABS staffers are also charged with fulfilling Executive Order 11593. In essence, it directs the Secretary of Interior to help other federal, state and local agencies identify, evaluate and preserve cultural resources.

The biggest project HABS is working on now is a $2.4-million contract to assist the Army's Readiness and Materiel Command in inventorying and documenting historic structures on the 71 Army bases under its control.

For much of its existence, HABS has been busy responding to crises—the poised wrecker's ball, the push to get information to the Library of Congress for dissemination. The subjects selected for documentation that were not trembling under the wrecker's ball have been a reflection of what was of popular interest at the time. In the early days, the push was documenting buildings built prior to 1860; now an attempt is being made to attract local interest in areas where the collection is weak—Kentucky, some of the western states, more current buildings.

As far as feisty Charles Peterson is concerned, popular interest in historic architecture has run amuck. "If anything has 12 inches of gingerbread on it, it's a national monument," he complains. "Victorian architecture is all right, but there's not much discrimination. Some people like horrible stuff, and they're making a cult of it," he says. Librarian Mary Ison also finds that the bulk of requests for drawings come from people interested in Victoriana and Frank Lloyd Wright.

But in fact, what HABS needs, beyond a mandate to insure its survival, is, according to Chief Kapsch, "a way to rationalize the collection—to come up with an identification of the kinds of users we have and how they use the material, and then to develop a strategy for meeting those needs." In the meantime, like many of the buildings they document, HABS' primary hope is for survival.

SECRETARY OF STATE SHULTZ: THE QUIET DIPLOMAT

Mr. PERCY. Mr. President, Secretary of State George Shultz recently returned from a 13-day trip to seven allied capitals. His mission was important and urgent because several disputes have shaken the NATO alliance. By all accounts, the Secretary masterfully applied his expertise and his willingness to listen and the results are described as "a victory for quiet diplomacy."

I commend one of the news accounts to my colleagues, and ask unanimous consent that an article by Michael Getler of the Washington Post appear in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PERCY. Mr. President, Mr. Getler reports that Shultz achieved gains in many areas.

Those gains were in restoring a measure of trust to American leadership, polishing the Reagan Administration's badly tarnished image in Europe, achieving somewhat better unity within the Atlantic Alliance and, perhaps more importantly, defusing sharp disputes literally over bread, butter and ideology that threatened to tear apart the alliance.

Mr. President, good relations with our allies are critical to our national security and to our foreign policy and Secretary Shultz is working hard toward this goal.

EXHIBIT 1

[From the Washington Post, Dec. 19, 1982]

SHULTZ, THE QUIET DIPLOMAT, REASSURES WEST EUROPEANS

(By Michael Getler)

By all appearances, George P. Shultz has produced a victory for quiet diplomacy during his maiden voyage through Western Europe as secretary of state.

What remains to be seen after his 13-day journey through seven allied capitals ended yesterday is the durability of gains that Shultz clearly seems to have achieved.

Those gains were in restoring a measure of trust to American leadership, polishing the Reagan administration's badly tarnished image in Europe, achieving somewhat better unity within the Atlantic Alliance and, perhaps most importantly, defusing sharp disputes literally over bread, butter and ideology that threatened to tear apart the alliance.

The former corporate executive, business school dean and Treasury secretary showed himself able to apply his penchant for quiet problem-solving to foreign policy in this trip through West Germany, Belgium, the Netherlands, Italy, France, Spain and Britain.

Just one month ago, U.S. relations with France were severely strained. The French, who treasure their independence in all matters, deeply resented the White House's implication that France had made concessions in its attitude toward trade with Moscow to induce the United States to lift sanctions imposed on suppliers to the Soviet natural-gas pipeline project.

Yet last week, Shultz and French Foreign Minister Claude Cheysson sat together, formally attired, sipping brandies, calling each

other by their first names and explaining to reporters how they had agreed on new studies of trade with Moscow.

Just one month ago, the prospect of an agricultural trade war loomed between an increasingly angry United States and most of Western Europe's heavily subsidized producers.

Yet, 11 days ago in Brussels, Agriculture Secretary John R. Block told reporters that there would be somewhat of a truce while a group was established to study the problem more thoroughly.

Sitting next to Block was Shultz, a calm and pleasant man who does not ruffle easily and who, in private sessions with quarreling U.S. and European officials, had cooled the rhetoric and set up the study group.

The key word is "studies"—the business school approach, and that of Shultz.

The real test will come this spring when the study results are known. Only then will there be a clearer picture about whether allied willingness to compromise is real or disputes have merely been postponed.

In his five months as secretary, as in much of his career, Shultz has been known as a highly intelligent and effective conciliator, a management expert and economist who believes in talking things over and working things out.

If the study groups fail to produce compromise, Shultz the conciliator may become Shultz the fighter and arm-twister.

A somewhat related situation could develop with Spain's new Socialist government of Felipe Gonzales.

Shultz, who celebrated his 62nd birthday during the trip, and Gonzalez, 40, got along very well during a Madrid meeting, observers for both sides reported. The visit was deemed important because Gonzales, during his election campaign, promised to review and submit to public vote his predecessors' decision to join the North Atlantic Treaty Organization.

The United States wants Spain to stay in the alliance, and the Spanish government—certainly its military—is probably inclined to remain. Public opinion, however, seems to be against membership.

Shultz came to assure Gonzalez that the United States wants to deal with all elected democracies, even Socialist ones, and to put the young leader at ease.

But some Spanish observers believe it may be a year or two before Gonzalez is strong enough politically to try steering Spain into staying in NATO, if that is what he favors. Some allied officials believe that NATO will not tolerate that wait, forcing Shultz to exert pressure sooner rather than later.

The picture of Shultz as a pragmatist, an executor of Ronald Reagan's foreign policy instincts with no wide-ranging strategic concepts of his own in foreign policy (with the possible exception of the Middle East) seems accurate, but it is hard to tell for sure from the outside.

Although Shultz spent much time with reporters accompanying him, he revealed very little about himself or his ideas. He prefers little or no public discussion of issues by officials until internal govenment decisions are made.

He does not seek publicity, makes as little news as possible and seems to prefer it that way. "The last thing he wants," one official said, "is to have something known as 'the Shultz Doctrine' of foreign policy."

His performance is in sharp contrast to that of his predecessor, Alexander M. Haig Jr. One U.S. diplomat summed up the feeling of many: "It's nice to have someone calm again."

While Haig and Shultz share similar views about the importance of Europe and the need for understanding its interests in Washington, Shultz appears to have a more positive effect on allied leaders. Some of this is due simply to the fact that after several years of sometimes bitter quarreling with Europe by several U.S. administrations, both sides seem anxious to settle down.

French President Francois Mitterrand, according to French officials, is said to have told colleagues that his meeting with Shultz was the best he has had in many years with a top U.S. official.

Shultz clearly benefits from his close relationship to Reagan. Europeans say they have far more confidence in what Shultz tells them because they always feared that Haig would be sabotaged by White House aides.

Most importantly, Shultz was welcomed in London because he is viewed as having skillfully persuaded the White House to lift the pipeline sanctions, widely perceived as ill-considered.

Shultz's favorable reputation abroad is also due to his style and presence. While he seems so low-key to reporters that it is frequently not clear how he feels about something, authority seems to flow naturally to him.

"In six months, Mr. Shultz has made a major mark upon the world. And he has certainly put his stamp on United States foreign policy," British Foreign Secretary Francis Pym said Saturday in a remark echoed generally in all capitals.

If Shultz is putting his own stamp on foreign policy, it may well be in boosting the link between international economics and diplomacy to new heights. He lights up when discussing economics, and he talks about it often with all foreign leaders.

Most importantly, they want to talk about it, especially with the international economic recession influencing so many foreign and defense policy decisions.

Like many Europeans, Shultz tends to measure security questions with a large dose of economic data rather than exclusively in terms of military power.

He is very committed to free trade and greatly concerned about the collapsing global economy, believing that most of the world's problems have economic roots. This, in his view, inhibits problem-solving, reinforces protectionism and ultimately keeps making problems worse.

His concentration on economics combines with a view that Europe, as an economic superpower, is central to U.S. interests and security.

In simple terms, his aides say, he believes that, if the West improves its economies, it will first help itself, improving cohesion within the alliance, making defense more affordable and reducing pressure to sell goods to Moscow at cut rates that could strengthen the Soviets.

It will also, he believes, eventually rejuvenate Third World markets, removing major instability the Soviets can exploit.

Shultz seems comfortable echoing Reagan's basic instincts about the Soviet threat. But he does not believe that economic pressure will humble Moscow, his associates say, and tried to reach out cautiously throughout this trip with a message that the United States is prepared to respond positively to improving relations if the Soviets reciprocate.

Also apparent after the trip, however, is that even as confident a man as Shultz cannot be perceived as probing Soviet attitudes without worrying about ultraconservatives in Congress and the White House.

He complained about stories from the NATO meeting in Brussels that portrayed the alliance communique as generally more "conciliatory" in tone toward improving relations with Moscow than previous communiques. He also quickly issued a statement contradicting a wire-service dispatch edited to suggest that Shultz was "softening" his tone toward Moscow.

"Softening" was probably not the correct description, but the official party was concerned in both cases more with the impact on readers in official Washington than in Moscow.

Shultz went to Europe to extinguish some fires and to try developing a more cohesive allied policy toward the Soviets at a time of new leadership in Yuri V. Andropov. He also sought to bolster morale and unity so the alliance survives 1983.

Cheysson has said next year will present the most serious challenge to the alliance since the end of World War II because of the continuing recession and scheduled European deployment of the new U.S. nuclear-tipped Pershing II and cruise missiles.

THE FEDERAL ANTI-TAMPERING ACT

Mr. LEAHY. Mr. President, at the end of the 97th Congress the Senate adopted and sent on to the House a bill to impose stiff penalties on those who tamper with our food, drugs, and cosmetics. Following the President's veto of the entire anticrime package, which included the House version of an antitampering bill, we find the problem before us again. I am very pleased to join Senator THURMOND in cosponsoring this important legislation once again.

The antitampering bill fills a large gap in the protection of consumers against purposely adulterated food, drugs, and cosmetics. The crimes that have prompted our immediate attention to this problem do more than threaten and harm individuals. They eat away at the trust between members of our society. They threaten our sense of community.

There is a lot at stake, most obviously life and health. But something equally important hangs in the balance, and that is the trust that each of us need to go about our everyday lives.

Society itself is built on thousands—maybe countless—understandings among people that we must help each other to survive. At the very least, we must agree not to hurt each other. This feeling is part of the fabric of Vermont, where few people talk about social contracts, but everyone knows about being a good neighbor. We have to. Without a lot of mutual support, life in the country, especially during a harsh winter, would be risky.

Mutual trust is also the basis for our economic life. Without the unquestioned trust of consumers, it would be hard to market milk, cheese, or maple syrup. The expression "poison the well" speaks to the vulnerability of rural life. What would our lives be like

if all food—including vegetables—had to be sold in tamper-proof packaging?

The bill the Senate passed last year and now reintroduced is not unlike other antiterrorist legislation. Strong penalties apply where the tampering or attempted tampering occurs, whether or not anyone is hurt or killed. Even spreading false information about tampering is punishable if done maliciously. An intentional lie about tampering with one of the necessities of life can do as much harm and creates as much fear as the tampering itself. Rumors inspire other rumors. Enforcement officials and private industry often devote as much of their scarce resources to checking out false information as they do to pursuing actual threats. Police work is badly hobbled if sick people are free to poison our trust, if not our bodies.

Wherever speech of any kind is limited by law, there are legitimate concerns about how that law will operate and whether the first amendment is threatened. No one has ever framed a better reply than Justice Oliver Wendell Holmes, who said that no one has a right to yell fire in a theater. Many kinds of speech are really action, such as threatening another person's life or conspiring to commit a crime. Spreading false information about the things we eat or the drugs and cosmetics we use fits into that category.

During our deliberations in December, I was concerned about the first draft of the antitampering bill because I thought there should have been separate and appropriate penalties for those who spread false information leading to personal injury or death and for those who cause disruptions like product recalls, but no death or injury.

In the original bill the offenses were not sufficiently distinguished, and some conduct was penalized too severely. The end result might have been a law whose overall credibility was weakened. I proposed an amendment that was accepted by both Senate proponents of the bill and affected industries. The result was a fairer, and hopefully a more effective statute, and that language is maintained in the current bill.

This language should answer potential critics of the bill in the House or the Senate who might have regarded the penalties in the original text as excessively harsh.

I will have some additional ideas about making the bill even clearer and more effective, when it reaches the Judiciary Committee.

The tampering bill will not absolutely end product tampering any more than other criminal statutes have ended the crimes they address. But we have made a commitment to maintaining a world where trust is the rule and those who would assassinate that trust are treated for what they are—social saboteurs. I hope our effort will save lives and help to preserve the mutual trust so essential to our way of life.

WHY WE NEED FLEXIBILITY ON BOTH SIDES IN NUCLEAR ARMS REDUCTION TALKS

Mr. PROXMIRE. Mr. President, today's New York Times reports from Geneva that both the U.S. negotiators and the Soviet Union's negotiators in strategic arms reduction say that progress depends on the "attitude" of the other side.

The proverbial man from Mars, in reading about this prenegotiating public relations maneuvering, would assume that the superpowers will certainly agree to stop the suicidal arms race, and soon. But if the man from Mars spent a little more time considering the history of these and other negotiations, he would be far more skeptical and maybe tag the remarks of both sides as just blue smoke.

And how sadly disappointing that is. If the negotiations fail, we move dangerously closer to a nuclear war. If we could accept at face value the language the negotiators are using on the eve of their resumption, what a happy prospect for peace we could expect.

Consider: The American proposal calls for each side to reduce its total of intercontinental missile warheads from present levels of roughly 7,500 to 5,000 and for a cut in missile stocks to 850. Also, no more than half the warheads would be installed on land-based missiles, under the American plan. If the two superpowers could move in that direction, that might take more of a cut for the Soviet than for the United States but it is in the right direction: Hooray!

How about the Soviet Union proposal? They call for a 25-percent cut in all strategic delivery systems, both intercontinental missiles and long-range bombers, and for a freeze in the development of new strategic weapons. That obviously would let the U.S.S.R. maintain its present numerical advantage. But it does cut, that is, reduce weapons on both sides, and, most important, it freezes development of new nuclear weapons. That means a stop to the arms race.

Somehow we must persuade the U.S.S.R. that we want both parity and a freeze, and find a way to get it. We will not find that way unless both sides—I repeat, both sides—find a new flexibility. For those on both sides who want to live out their lives, that should not be too hard to understand. Let us pray both Mr. Andropov and President Reagan understand.

GENOCIDE CONVENTION AND COMMUNIST REPRESSION IN YUGOSLAVIA

Mr. PROXMIRE. Mr. President, for 38 years of Communist rule in Yugoslavia, there has been a clear and definite pattern of oppression directed against the Albanian population living in the Yugoslav province of Kosova. Nationality problems have been particularly pronounced in this poor region where citizens of Albanian descent constitute four-fifths of the province's population.

In the past, the Yugoslav Government has effectively held down the Albanians of Kosova, denying them proper schooling and arresting or killing outspoken dissidents. But in the last two decades, Albanian nationalists have struggled, in the face of severe repression by the Government, to have their province gain the status of a full republic, so that they may secede from Yogoslavia and unite with their home country, Albania.

Tensions that were mounting for years erupted into massive demonstrations and riots during the spring of 1981. International press reports have revealed the magnitude of the demonstrations as well as the degree of cruelty and indiscriminate use of brutal force by the Yugoslav Government against the unarmed Albanian students, workers, and farmers. Special army units and militiamen armed with machineguns were used to crack down on this great display of popular discontent.

After the demonstrations, the dead covered the streets and the wounded were left suffering on the ground. Official estimates claim that 9 people were killed during the riots, but Amnesty International estimates that the number of dead could be as high as 1,000.

Martial law has been in effect since April 1981, and the Government continues to engage in massive purges and condemnations. Meanwhile, the Albanians live in constant fear for their life and freedom.

Repressive measures by the Government have temporarily subdued the Albanians, but trouble continues to brew beneath the surface in this hostile environment. Any show of public dissent by the Albanian nationalists will surely be countered by a violently brutal reaction from government forces.

While other countries have condoned the use of this type of violence to prove a point, the United States has traditionally spoken out against repressive and violent actions by governments, recognizing that the bond of humanity is more important than problems arising over political, religious, or cultural differences. We must do everything in our power to uphold this tradition in our own country, and

to spread this human rights ideolology to other nations, in an effort to protect persecuted minorities like the Albanians in Yugoslavia.

One way to reaffirm our commitment to the prevention of human rights violations is to ratify the Genocide Convention, an international treaty which outlaws the extermination, or intent to exterminate, any national, racial, ethnic, or religious group. This is not to imply that the Yugoslav Government intends to exterminate the Albanian population, but the Communist regime has clearly threatened these nationalists for its own purposes, using violent tactics. Ratification of the Genocide Convention would give the United States more leverage to protest human rights violations like those occurring in Yugoslavia, even when an act of genocide is not being committed.

By supporting this document, we would prove to the world our willingness to take a small but positive step toward the elimination of genocide, a crime that violates the most fundamental human right, the right to live.

Let us ratify this treaty immediately, so that we can demonstrate in our actions as well as our words, our true commitment to the protection of human rights.

THE DEATH OF NADYA OVSISCHER

Mr. PERCY. Mr. President, on January 12 of this year, a valiant woman died in the Soviet Union, losing her struggle to be reunited with her daughter in Israel.

Nadya Ovsischer succumbed at age 64 to heart disease complicated by asthma, for which she had been hospitalized several times in the last year. With her husband, Col. Lev Ovsischer, a highly decorated fighter squadron commander in World War II, Nadya had been trying since 1972 to leave the U.S.S.R. to join their daughter Tanya in Israel.

I am sure that their many friends in this country and throughout the free world join me in sadness that Nadya Ovsischer's simple desire to live freely, near her daughter, will never be fulfilled. We all extend our sympathy to her husband and daughter who are still separated.

The policies of a government that keeps aged parents from their children are inhumane in the extreme. They are also senseless policies, for they bring no benefit to the state, while magnifying endlessly the mistrust with which the Soviet Union is viewed from abroad.

If the Soviet Union really wishes to be accepted by the rest of the world as a responsible nation, it could begin by eliminating practices that violate the human rights of its citizens.

It is too late for Nadya. But let the Soviet Union begin by allowing her husband, Lev Ovsischer, to join his daughter in Israel.

DEREGULATION OF THE TELEPHONE INDUSTRY

Mr. PRESSLER. Mr. President, this Congress must face many difficult and complicated problems. However, no issue has a greater or more immediate impact on every single American than the pending divestiture of American Telephone & Telegraph and the corresponding deregulation of the telephone industry.

I have followed developments on this matter with some concern and skepticism. Most recently, the Federal Communications Commission adopted rules to determine access rates for interexchange carriers (long-distance telephone service providers) and end users (phone service consumers). This ruling (CC Docket No. 78-72) combines elements of several proposals studied by the Commission. Last December, during the Commission's deliberations, I contacted FCC Chairman Mark Fowler about these proposals. I ask unanimous consent that a copy of my letter be included in the RECORD immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PRESSLER. Mr. President, in the next several years, Americans will see far-reaching changes in the ways in which they obtain and pay for telephone service. Already this past month, the Bell Operating Companies (BOC's) have initiated changes in procedures for providing new and additional telephone service. These changes are the beginning of what is hoped will be a growing variety of telecommunications services and increased competition for the consumer dollar.

However, as a Senator from a rural State, I have been the reluctant witness to the negative effects of deregulation of rural public services such as rail and airline transportation. I do not want to see these same problems inflicted on rural farmers and ranchers as a result of telephone deregulation.

Mr. President, I recently received a letter from a farm wife in South Dakota, Mrs. Marie Fisher of Winner, S. Dak., which accurately explains the great dependence of our farmers and ranchers on affordable telephone service. I ask unanimous consent that Mrs. Fisher's letter also be included in the RECORD immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. PRESSLER. Mr. President, the last Congress held extensive debates on telecommunications legislation. The Senate wisely approved provisions in S. 898 to mandate a continuation of universal telephone service at reasonable rates. I urge my colleagues to join me in closely monitoring judicial and regulatory action in the coming months to guarantee dependable and affordable telephone service to all Americans.

(Exhibit 1)

COMMITTEE ON COMMERCE,
SCIENCE, AND TRANSPORTATION,
Washington, D.C., December 1, 1982.

Re CC Docket No. 78-72.

Hon. MARK S. FOWLER,
Chairman, Federal Communications Commission, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing to express my concern about the impact of CC Docket No. 78-72, the MTS-WATS Market Inquiry, on rural areas such as my home state of South Dakota. In this proceeding, the Commission proposes to replace the existing system of settlements and division of revenues by domestic common carriers with an access charge mechanism. The change appears necessary to accommodate the entry of multiple long-distance carriers, and the implementation of the recent AT&T consent decree. A change in the existing mechanism can only be justified, however, if it presents no danger to the continued availability of universal telephone service at affordable rates.

Presently, 96 percent of American homes enjoy telephone service, and more than 90 percent of rural families have access to telephone service. In 1949, only 55 percent of South Dakota's farms had telephones, while today, 95 percent have phone service. This increased service is due, in part, to a system of industry revenue division which provides sufficient monies to support moderately priced telephone service in high-cost rural areas. It is imperative that this service be maintained.

People who live in small towns and on farms and ranches, especially senior citizens, are very dependent on their telephones, particularly during months of bad winter weather. I understand that the Commission is considering changes which could add as much as $35 to the monthly phone bills of some South Dakota consumers. Such an increase would be an unacceptable burden on South Dakota farmers and small businessmen who are already suffering from a severely depressed farm economy.

Congressional concern for reasonably priced universal telephone service has been paramount since the passage of the 1934 Communications Act. A more recent reflection of this concern is the Senate's 90-4 passage of S. 898, the Telecommunications Competition and Deregulation Act of 1981, which mandated action necessary to continue universal service. Regulatory action which would price telephone service beyond the reach of most rural Americans would clearly run counter to Congressional intent, and be subject to vigorous opposition.

I urge you to carefully evaluate all options in this proceeding and avoid such adverse consequences to rural Americans.

Sincerely,

LARRY PRESSLER,
U.S. Senator.

(Exhibit 2)

WOMEN INVOLVED
IN FARM ECONOMICS,
Winner, S. Dak., January 10, 1983.

Re CC Docket No. 78-72.

Hon. MARK S. FOWLER,
Chairman, Federal Communications Commission, Washington, D.C.

DEAR MR. CHAIRMAN: I read a copy of the letter Senator Pressler sent you dated December first, at our meeting last week and we were all very upset that our telephone rates might raise as much as $35.00. We are loosing more farms all the time which means that it is farther and farther to the nearest neighbor where help is available in case of an emergency. For this reason, it is very important to have a telephone because farming is now the most dangerous occupation and in case of accident or injury a telephone is a necessity. At the same time, with farmers loosing money an most farming operations, there is no way that we can afford that large an increase.

Another reason the telphone is a necessity is when repairs are needed, we call in and see if the repairs are available or if they have to be ordered in. This saves an expensive trip to town when they are not available in the local town or we can find them in another town.

Many times, farm women loose their husbands but they stay on the farm in their house and rent out the land. They do not have enough money to move to town but live a meager living by raising a few chickens and maybe milking a cow to supplement their income. They are very dependent on their telephone.

A telephone is very important to rural people but many of them can not afford an increase in rates.

Sincerely,

MARIE FISHER,
President.

THE REPUBLIC OF CHINA

Mr. THURMOND. Mr. President, during my years of service in the U.S. Senate, I have been a strong and consistent supporter of the free Chinese people of Taiwan. I have viewed this country as a longtime, loyal friend and ally of the United States in a very unstable area of the globe.

As the 98th Congress gets underway, I wish to reiterate my support for this island nation, as well as my desire to see the provisions of the Taiwan Relations Act (TRA) upheld.

The TRA affirms strong U.S. opposition to efforts directed at determining the future status of Taiwan by outside armed force, or economic warfare, including boycotts, or embargoes, or any means other than through peaceful negotiations. This act of Congress also stresses our determination to continue selling such military equipment to Taiwan as is determined to be necessary for their own self-defense.

As the People's Republic of China continues to expand and upgrade their own armed forces, it would be a drastic strategic error to deny Taiwan the military hardware essential for maintaining an adequate defense posture. Of course, any military equipment we sell to Taiwan or permit them to coproduce must be for defensive purposes only. Realistically, however, the small island of Taiwan poses no offensive military threat to its mammoth neighbor, mainland China, and Taiwanese Government leaders have no viable expectation of retaking the mainland by force.

The point that our Government must never forget is that Taiwan's viability as an economic entity, as well as politically, is directly related to its defensive capabilities. Commercially Taiwan is very important to the United States. Currently they are our seventh largest trading partner. In 1982, the volume of trade between our two countries ballooned to approximately $13.5 billion. Additionally, Taiwan has shown a great deal of cooperation in negotiating trade agreements with us. In the specific area of textile trade, Taiwan has been willing to restrict their export growth to American markets.

On the other hand, mainland China has proven to be extremely uncooperative in this area. Efforts to reasonably limit massive imports of cheaply produced and subsidized textile and apparel goods from the PRC have been met with both a stone wall of resistance and with retaliatory trade embargoes against a number of American products. These actions are unjustified, especially in light of the many concessions and advancements the United States has toward the PRC in recent years in an effort to improve relations.

Mr. President, I hope that my remarks are not misinterpreted. I am not advocating the start of another cold war in the Far East, and I applaud this administration as it attempts to preserve the delicate balance of relations with both Taiwan and the PRC. I simply feel that it is imperative that we do not shun the legitimate needs of our longtime friends on the Island of Taiwan. If we fail to demonstrate a strong commitment to our democratic allies in that area of the globe, it will jeopardize the credibility of U.S. policy in other parts of Asia and throughout the world.

Mr. President, I ask unanimous consent that an article entitled "Our One-China Approach: Bad Diplomacy, Bad Policy," be included in the RECORD at the conclusion of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Times, Dec. 20, 1982]

OUR ONE-CHINA APPROACH: BAD DIPLOMACY, BAD POLICY

(By Ray S. Cline)

American policy in Asia took the wrong track in 1979 when President Jimmy Carter abruptly severed diplomatic relations and broke the 25-year-old Mutual Defense Treaty with the Republic of China on Taiwan. The mistake was to proffer repeated unilateral concessions to the People's Republic of China, mostly at the expense of the security of the 18 million Free Chinese living on Taiwan. Such a headlong American campaign to gain the friendship of an oppressive communist dictatorship is bad diplomacy and bad policy. Now that Peking has milked all the benefits it could get out of the United States, the PRC is steadily, deliberately distancing itself from Washington and beginning a serious fence-mending exercise to see what Deng Xiaoping and Hu Yaobang can get from Moscow.

The heavy pressure from Peking on the U.S. government to cut off American arms sales to Taiwan and thus to force the Republic of China to "reunify" with the mainland is quite understandable from the PRC's point of view. Under the control of the Communist Party of China and the government of the People's Republic, Taiwan would be a real geopolitical plum, a triumph for communism in Asia.

Control of Taiwan by the PRC also would mean loss of guaranteed American access to the central island in the offshore Pacific chain of Asian insular and peninsular states stretching from Japan to Australia. In this West Pacific rampart, Taiwan is the bridge element, a guardian of the sea lanes linking Japan and Korea with Southeast Asia, the Indian Ocean and the Persian Gulf.

It can be taken for granted that the United States, as a great seapower, is moving in the wrong direction whenever it appears to forge strong military links with a nation lying deep within the continent of Eurasia, like the PRC, rather than with an island state along its periphery, like the Republic of China on Taiwan. Access to naval and air bases along the West Pacific barrier chain is an American strategic imperative. At a minimum, unfriendly military forces should not be allowed to break the chain. In communist control, whether Chinese or Soviet, the island of Taiwan would constitute a severe threat to the forward position of the United States in the West Pacific.

At present, in fact, the PRC has extremely limited capabilities to act for or against the United States. Its 800 million peasants, of a population of more than 1 billion, are barely surviving on primitive subsistence agriculture. The per-capita income of the whole nation is about $285 a year. The armed forces are huge, but equipped with aging Soviet weapons of the World War II type. It is the army of a garrision state, administratively oriented, with virtually no strategic mobility. The greatest strength of the PRC is simply that no nation, including the Soviet Union, would want to get bogged down trying to conquer and occupy it. It is strategically indigestible—a situation the United States cannot do anything to affect one way or another.

It is often glibly said by American leaders that the PRC "ties down" some 50 divisions along the Sino-Soviet border. Nearly half of those divisions were deployed before 1969. They were minimum force for the protection of the crucial Trans-Siberian railway link to the many vital military-industrial installations in Siberia and the Pacific maritime provinces, as well as for garrisons in Petropavlovsk, Komsomolsk, Khabarovsk and Vladivostok. The whole force of double that size now present is a strategic commitment to the infrastructure of regional defense and power projection in the Northwest Pacific. While the United States opening to the PRC in the 1970s may have precipitated the strengthening of Soviet troops

in the vast reaches of East Asia, the buildup was aimed less at China than at American military forces in the Pacific, Japan and Korea.

American flirtation with the concept of military cooperation with the PRC has ironically spurred the U.S.S.R. to strengthen its strategic forces throughout Asia. Since 1978 Moscow has moved SS-20 missiles and Backfire bombers into the region, established naval and air bases in Vietnam, and deployed more and newer naval vessels to the West Pacific to challenge U.S. control of the seas in the Pacific and Indian Oceans.

Americans are the strategic losers from shifts in the military force balance as a result of calling up the specter of a quasi-alliance with the PRC against the U.S.S.R. The losses will be even greater if the PRC should gobble up the advanced technology and industrial resources of Taiwan, where the per-capita GNP was $2,720 in 1981 and growing.

We may hope that the PRC eventually will gain stability and security in a political frame of reference less hostile to the United States and U.S. allies. It is crucial for now, however, to base American strategy on reality, not hope.

Chinese leaders have consistently and insistently said the PRC does not want to be an ally of the United States. In the light of statements at the 12th Communist Party Congress in Peking in early September 1982, it appears all recent Chinese diplomatic moves have been calculated to put Peking midway between Washington and Moscow while reasserting the PRC claim to revolutionary leadership of the Third World against the two superpowers.

Looking farther into the future, the PRC and the U.S.S.R. are entirely capable of forming an expedient coalition at the expense of the United States and its allies. Dictatorships do not have to worry about electorates in making sudden policy shifts. They cooperated in Vietnam despite basic mutual antagonisms, as Stalin and Hitler did at a terrible cost to West Europe at the beginning of World War II. Beyond that, in the very long run, if a totalitarian China, a land power of continental size, eventually becomes truly modernized, as the leaders of the 12th Party Congress claim it will, it is likely because of its vast, expendable population to replace the Soviet Union as the principal threat to the United States, just as the Soviet Union replaced Germany after 1945.

The United States ought to hew to the line of securing the sea approaches to the non-communist nations along the periphery of Asia with whom we have common economic, political and security interests. Quite apart from their geostrategic positions, these states constitute a remarkable area of economic growth and prosperity within the international trading system. Closer U.S. relations with them will balance off setbacks in other regions such as the Persian Gulf, Iran and Afghanistan. An oceans security system of insular and peninsular states in the West Pacific, including Taiwan, not a continental alliance, is the better part of strategic wisdom.

THE EQUAL RIGHTS AMENDMENT

Mr. TSONGAS. Mr. President, I ask unanimous consent that the following letters of support for the equal rights amendment be printed at this point in the RECORD.

First. The League of Women Voters of Massachusetts.

Second. The League of Women Voters of the United States.

Third. B'nai B'rith Women.

Fourth. The National Women's Conference Committee.

Fifth. Bakery, Confectionery and Tobacco Workers' International Union.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Mailgram]

BOSTON, MASS., *January 25, 1983.*

Senator PAUL TSONGAS,
Russell Office Building,
Washington, D.C.

DEAR SENATOR TSONGAS: We would be pleased to have you include the following statement in the Congressional Record:

The League of Women Voters of Massachusetts strongly supports the reintroduction and passage of the equal rights amendment. Women need the permanent protection against discrimination that only the Federal ERA will provide. As the League of Women Voters of the United States ratification campaign said. "Nothing protects a woman like the ERA".

MARGARET BLISS,
League of Women Voters of Massachusetts.

LEAGUE OF WOMEN VOTERS OF THE UNITED STATES,
Washington, D.C., January 24, 1983.

Hon. PAUL TSONGAS,
U.S. Senate, Washington, D.C.

DEAR SENATOR TSONGAS: The League of Women Voters of the United States is pleased to join with you and the other cosponsors of S.J. Res 213 in rededicating our efforts to the achievement of a basic Constitutional guarantee of equal rights under the law, regardless of sex.

The League of Women Voters has supported the Equal Rights Amendment since 1972 and League members have worked long and diligently for the Amendment since that time. The League will continue this work with the same dedication and conviction in the future as we have in the past and look forward to working with you and your colleagues in the House and Senate. Together we will be successful.

Sincerely,

DOROTHY S. RIDINGS,
President.

B'NAI B'RITH WOMEN,
Washington, D.C., January 18, 1983.

Hon. PAUL E. TSONGAS,
U.S. Senate, Washington, D.C.

DEAR SENATOR TSONGAS: On behalf of the 120,000 members of B'nai B'rith Women, I want to commend you for sponsoring—once again—a bill to amend the Constitution to grant women equality of rights under the law. The members of B'nai B'rith Women have long supported ERA and I have every expectation that we shall continue that support until the measure finally passes.

At the last meeting of our executive board the following resolution was passed unanimously:

"B'nai B'rith Women, as the first Jewish women's organization to support passage of the equal rights amendment, will continue to work to ensure fair and equal treatment for women in all areas of life. As part of the effort, B'nai B'rith Women will seek to educate the public about the impact of existing discriminatory law and practices and will join with others of like views to take effective action to further the cause of women and secure their full equality under law."

On behalf of our entire membership, I thank you again for your efforts on behalf of ERA.

Sincerely,

DOROTHY BINSTOCK,
President.

THE NATIONAL WOMEN'S CONFERENCE COMMITTEE,
January 21, 1983.

Hon. PAUL TSONGAS,
U.S. Senate, Washington, D.C.

DEAR SENATOR TSONGAS: On behalf of the National Women's Conference Committee ERA Task Force, I want to commend you for your stalwart support of constitutional equality for American women.

We appreciate your participation in our press conference in the Senate building on July 1 last year and we want to assure you of our enthusiastic support this year as you prepare to reintroduce the Equal Rights Amendment in the Senate next week on January 25th.

Please let NWCC Co-Chair Carmen Delgado Votaw (address and telephone number above) know whenever we may be of any assistance to you in your efforts to achieve passage of the proposed 27th Amendment to the U.S. Constitution.

Sincerely,

ALLIE CORBIN HIXSON, Ph. D.,
Chair, NWCC Task Force for ERA.

BAKERY, CONFECTIONERY AND TOBACCO WORKERS INTERNATIONAL UNION,
Kensington, Md., January 24, 1983.

Ms. CHRISTINE NAYLOR,
Care of Senator Paul Tsongas, Russell Senate Office Building, Washington, D.C.

DEAR MS. NAYLOR: At the request of the Labor Committee for ERA, I called your office on Friday, January 21 and informed them that we would like to sign on as a supporter of the bill that Senator Tsongas is introducing on Tuesday on the ERA.

For your information, attached are our 1978 and 1982 Convention resolutions in support of the ERA.

Very truly yours,

CAROLYN J. JACOBSON,
Director of Public Relations.

ERA

Whereas, Ratification of the Equal Rights Amendment is of critical importance to millions of Americans, especially working women; and

Whereas, This Amendment would insure, once and for all, the recognition by the American People that equality under the law is a basic freedom which cannot, and must not be abrogated because of one's sex; and

Whereas, The Equal Rights Amendment has been endorsed by the AFL-CIO and most of its affiliate unions; and

Whereas, 35 states to date have ratified the ERA and the ratification by three more states is necessary by March 1979; and

Whereas, the ERA is being used as a rallying issue by the far right to build an organization apparatus to oppose pro-labor causes; and

Whereas, These opposition forces are attempting to rescind the ERA in many of the

already ratified states, even though the constitutionality of these recession efforts is highly questionable, and

Whereas, The recent Supreme Court decision in *Gilbert* v. *General Electric*—which ruled that discrimination on the basis of pregnancy was not discrimination on the basis of sex—threatens the progress women have made towards equality in the past few years, and pinpoints the fact that there is a need for the ERA in addition to the Equal Pay Act, Civil Rights Act and other legislation; and

Whereas, Adoption of the Equal Rights Amendment would be a giant step towards achieving equality for all, a principle fundamental to the labor movement, spelled out in its Constitutions, fought for in its contracts and carried out in its policies and programs;

Therefore be it Resolved, That the 30th Constitutional Convention of the Bakery and Confectionery Workers' International Union

(1) Go on record in support of the Equal Rights Amendment; and

(2) That the votes of state legislators on their stand on ERA be carefully scrutinized and used as one of the principle criteria for endorsement and political support by the International Union and its local unions; and

(3) That the International and its local unions take affirmative steps to publicize our position on ERA through all available means; and

(4) That the International cooperate with ERAmerica, the Labor Committee for ERA and with other groups supporting ERA where appropriate: and

Be it Further Resolved, That the International goes on record urging Congress to grant an extension of time for ERA to be ratified to provide ample opportunity to present the facts to the public and the state legislators.

Referred to Resolutions Committee.

CONTINUING SUPPORT FOR THE EQUAL RIGHTS AMENDMENT

Whereas, Women make up 51.4 percent of the population of the United States, yet the Supreme Court over the years has refused to interpret the Constitution in such a manner as to insure their equality under the laws of the United States; and

Whereas, Current laws that Congress has enacted to further women's economic equality can be repealed at any time without the ERA's Constitutional guarantees; and

Whereas, Ratification of the ERA is of critical importance to millions of Americans, particularly working women who still are subject to employment discrimination and exploitation despite court decisions and legislation outlawing such discrimination on the basis of sex; and

Whereas, Unions, through the collective bargaining process and the grievance procedure, have made outstanding gains in securing sexual equality in organized work sites, yet only 15 percent of all women workers are organized; and

Whereas, ERA is an economic issue. Current economic conditions have made its passage even more critical than it was in 1972, when Congress passed it. A woman still earns 59 cents for every dollar a man earns. Three out of every five persons with incomes below the poverty level are women; and

Whereas, The ERA continues to be used as a rallying issue by the far right even though recent polls (Time Magazine, NBC-Associated Press) have shown that the Amendment is supported by a majority of the American electorate; and

Whereas, The Bakery, Confectionery and Tobacco Workers International Union, along with the AFL-CIO and its other affiliates, have long been supporters of this Amendment as a means to once and for all, insure the recognition by the American people that equality under the law is a basic freedom which cannot, and must not, be abrogated because of one's sex;

Therefore Be It Resolved, that the Bakery, Confectionery and Tobacco Workers International Union will work to secure the passage of the Equal Rights Amendment which has been reintroduced in Congress and will renew its fight for ratification in the 38 states needed to make equal rights a permanent part of the U.S. Constitution.

Referred to Resolutions Committee.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

BUDGET RESCISSIONS AND DEFERRALS—MESSAGE FROM THE PRESIDENT—PM 5

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred, pursuant to the order of January 30, 1975, jointly to the Committee on the Budget, the Committee on Appropriations, the Committee on Labor and Human Resources, the Committee on Banking, Housing and Urban Affairs, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Energy and Natural Resources, the Committee on Commerce, Science, and Transportation, the Committee on Foreign Relations, the Committee on Armed Services, the Committee on the Judiciary, and the Committee on Small Business:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report nineteen rescission proposals of fiscal year 1983 funds totaling $1,552.0 million.

In addition, I am reporting revisions to nine existing deferrals increasing the amount deferred by $3,155.7 million, as well as thirty new deferrals of funds totaling $6,795.9 million.

The rescission proposals affect Appalachian Regional Development programs, programs in the Department of Agriculture, Education Activities, the Departments of Housing and Urban Development, Interior, and Transportation, as well as the Corporation for Public Broadcasting and an off-budget entity in the Department of Agriculture.

The deferrals affect Appalachian Regional Development programs, International Security Assistance programs, and programs in the Departments of Agriculture, Commerce, Defense, Energy Activities, and the Departments of Health and Human Services, Housing and Urban Development, Interior, Justice, State, and Transportation, as well as the Railroad Retirement Board, Small Business Administration, Motor Carrier Ratemaking Study Commission, Tennessee Valley Authority, the United States Information Agency, and the United States Railway Association.

The details of each rescission proposal and deferral are contained in the attached reports.

RONALD REAGAN.

THE WHITE HOUSE, *February 1, 1983.*

REPORT OF THE COMMITTEE ON ENERGY AND NATURAL RESOURCES SUBMITTED DURING THE RECESS

Under the authority of the order of January 31, 1983, the following report was submitted on January 31, 1983, during the recess of the Senate:

By Mr. McCLURE, from the Committee on Energy and Natural Resources, with an amendment:

S. 271. A bill to amend the National Trails System Act by designating additional national scenic and historic trails, and for other purposes. (Rept. No. 98-1.)

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PERCY, from the Committee on Foreign Relations, without amendment:

S. Res. 39. An original resolution authorizing expenditures by the Committee on Foreign Relations; referred to the Committee on Rules and Administration.

By Mr. HATFIELD, from the Committee on Appropriations, without amendment:

S. Res. 41. An original resolution authorizing expenditures by the Committee on Appropriations; referred to the Committee on Rules and Administration.

By Mr. SIMPSON, from the Committee on Veterans' Affairs, without amendment:

S. Res. 42. An original resolution authorizing expenditures by the Committee on Veterans' Affairs; referred to the Committee on Rules and Administration.

NOTE

The following original resolutions were reported on Friday, January 28, 1983, during the recess of the Senate, under the authority of the order of the Senate of Thursday, January 27, 1983:

SENATE RESOLUTION 25—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON THE BUDGET

Mr. DOMENICI, from the Committee on the Budget, reported the fol-

lowing resolution; which was referred to the Committee on Rules and Administration:

S. RES. 25

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraph 1 of rule XXVI of the Standing Rules of the Senate, the Committee on the Budget is authorized from March 1, 1983, through February 29, 1984, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $3,085,062, of which amount not to exceed $50,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 1984.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

SENATE RESOLUTION 26—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 26

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Commerce, Science, and Transportation is authorized from March 1, 1983, through February 29, 1984, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $3,630,169, of which amount (1) not to exceed $20,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $8,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 1984.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DENTON (for himself, Mr. HEFLIN, and Mr. HUDDLESTON):

S. 312. A bill to change the name of the Talladega National Forest in Alabama to the "Bear Bryant National Forest;" considered and passed.

By Mr. SPECTER:

S. 313. A bill to authorize housing assistance to avert foreclosures; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. GOLDWATER:

S. 314. A bill to encourage in-flight emergency care aboard aircraft by requiring the placement of emergency equipment, supplies, and drugs aboard aircraft and by relieving appropriate persons of liability for the provision and use of such emergency equipment, supplies, and drugs; to the Committee on Commerce, Science, and Transportation.

By Mr. HEFLIN:

S. 315. A bill to create a program to combat violent crime in the United States, and for other purposes; to the Committee on the Judiciary.

By Mr. BYRD (for Mr. INOUYE):

S. 316. A bill for the relief of Mrs. Lolita Vicente Calaro; to the Committee on the Judiciary.

S. 317. A bill for the relief of Mrs. Ting Ping Cheung-Yeh; to the Committee on the Judiciary.

S. 318. A bill for the relief of Mrs. Araceli Gushiken; to the Committee on the Judiciary.

S. 319. A bill for the relief of John K. Karaya, Mary W. Karaya, Martin M. Z. Karaya, Peter D. Karaya, and Andrew M. Karaya; to the Committee on the Judiciary.

S. 320. A bill for the relief of Victor Wu-Hsiung Kaw, Shu-Yung Gloria Kaw, and Pei-San Kaw; to the Committee on the Judiciary.

S. 321. A bill for the relief of Alfredo M. Maglinao; to the Committee on the Judiciary.

S. 322. A bill for the relief of Doctors Benjamin C. and Paulita M. Mahilum; to the Committee on the Judiciary.

S. 323. A bill for the relief of Mr. Andres B. Pasion; to the Committee on the Judiciary.

S. 324. A bill for the relief of Ms. Kinisimere Fonua Suschnigg; to the Committee on the Judiciary.

S. 325. A bill for the relief of Joseph Y. Quijano; wife, Marichu Larrazabal Quijano; sons, Franz Joseph Quijano and Felix Ray L. Quijano; and daughter, Maria Estrella Quijano; to the Committee on the Judiciary.

S. 326. A bill for the relief of Arron P. K. Yung; to the Committee on the judiciary.

S. 327. A bill for the relief of Mr. Faalili Afele, Mrs. Liugalua Afele and Ms. Siliolo Afele; to the Committee on the Judiciary.

S. 328. A bill for the relief of Ms. Saturnina V. Bonifacio; to the Committee on the Judiciary.

By Mr. GRASSLEY:

S. 329. A bill to authorize the donation of surplus property to any State for the construction and modernization of criminal justice facilities; to the Committee on Governmental Affairs.

By Mr. D'AMATO:

S. 330. A bill to amend section 103(b)(3) of the Internal Revenue Code; to the Committee on Finance.

By Mr. BYRD:

S. 331. A bill to create a National Investment Corporation; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SASSER (for himself and Mr. BAKER):

S. 332. A bill for the relief of John Smitherman; to the Committee on the Judiciary.

By Mr. METZENBAUM (for himself and Mr. KENNEDY):

S. 333. A bill to amend title 11 of the United States Code to make certain changes in the personal bankruptcy law, and for other purposes; to the Committee on the Judiciary.

By Mr. MATTINGLY:

S. 334. A bill to amend the Internal Revenue Code of 1954 to repeal the withholding of tax on interest and dividends and to increase the penalty for failing to supply taxpayer identification numbers on returns and statements; to the Committee on Finance.

By Mr. COHEN:

S. 335. A bill to provide for an increase in pay for members of the uniformed services in certain enlisted pay grades; to the Committee on Armed Services.

By Mr. NUNN (for himself, Mr. RUDMAN, Mr. CHILES, Mr. NICKLES, Mr. HATCH, Mr. ROTH, Mr. KENNEDY, Mr. DECONCINI, Mr. STENNIS, Mr. JOHNSTON, Mr. PRYOR, Mr. HOLLINGS, and Mr. EAST):

S. 336. A bill to increase the penalties for violations of the Taft-Hartley Act, to prohibit persons, upon their convictions of certain crimes, from holding offices in or certain positions related to labor organizations and employee benefit plans, and to clarify certain responsibilities of the Department of Labor; to the Committee on Labor and Human Resources.

By Mr. PACKWOOD (for himself, Mr. MOYNIHAN, Mr. DURENBERGER, and Mr. HEINZ):

S. 337. A bill to amend the Internal Revenue Code of 1954 to make permanent the deduction for charitable contributions by nonitemizers; to the Committee on Finance.

By Mr. COHEN (for himself, Mr. ROTH, Mr. LEVIN, Mr. RUDMAN, Mr. PERCY, Mr. DURENBERGER, Mr. PRYOR, Mr. PROXMIRE, Mr. HEINZ, and Mr. MITCHELL):

S. 338. A bill to revise the procedures for soliciting and evaluating bids and proposals for Government contracts and awarding such contracts, and for other purposes; to the Committee on Governmental Affairs.

By Mr. PROXMIRE:

S. 339. A bill to amend title IV of the Social Security Act to provide that States must require recipients of aid to families

with dependent children to participate in community work experience programs if they are able to do so; to the Committee on Finance.

By Mr. MURKOWSKI:

S. 340. A bill for the acquisition by the United States by exchange of certain native owned lands or interests in lands in Alaska; to the Committee on Energy and Natural Resources.

By Mr. RUDMAN:

S. 341. A bill for the relief of Nesca Nicolas, Patricia Nicolas, and Bernard Nicolas; to the Committee on the Judiciary.

By Mr. DODD:

S. 342. A bill to amend title II of the Social Security Act to require that the annual reports of the trustees of the Federal old-age and survivors insurance, disability insurance, and hospital insurance trust funds include an opinion by the Chief Actuary of the Social Security Administration with respect to the methodologies and assumptions used in preparing such annual reports; to the Committee on Finance.

By Mr. BOSCHWITZ (for himself, Mr. JEPSEN, Mr. DURENBERGER, Mr. BOREN, Mr. HUDDLESTON, Mr. GRASSLEY, Mr. SYMMS, Mr. THURMOND, Mr. DECONCINI, Mr. PRESSLER, Mr. EAST, Mr. BAUCUS, Mr. KASTEN, and Mr. D'AMATO):

S. 343. A bill to amend the Internal Revenue Code of 1954 to reduce the heavy vehicle use tax; to the Committee on Finance.

By Mr. BOSCHWITZ:

S. 344. A bill for the relief of Dr. Ching Hon Pui; to the Committee on the Judiciary.

By Mr. HEFLIN:

S. 345. A bill to establish a national historic park at AfricaTown, U.S.A. (Prichard, and Mobile), Ala.; to the Committee on Energy and Natural Resources.

By Mr. DODD (for himself, Mr. RANDOLPH, and Mr. CHAFEE):

S. 346. A bill to amend the Solid Waste Disposal Act to assure protection of public health and environmental safety in the Environmental Protection Agency's regulations for the delisting of hazardous wastes, and to require the Environmental Protection Agency to establish a timetable for adding additional hazardous wastes to those regulated under such act; to the Committee on Environment and Public Works.

By Mr. MATSUNAGA:

S. 347. A bill for the relief of Siegfried Hans Ehrmann; to the Committee on the Judiciary.

S. 348. A bill for the relief of Feliciana Usita Barroga; to the Committee on the Judiciary.

S. 349. A bill for the relief of Duk Chan Byun, his wife Yung Ja Byun, and his children Hye Ja Byun, Hye Sun Byun, Hye Ryung Byun, and Yung Eun Byun; to the Committee on the Judiciary.

S. 350. A bill for the relief of George A. Albert; to the Committee on the Judiciary.

S. 351. A bill for the relief of Rogelio Baldos Valle Tabaco; to the Committee on the Judiciary.

S. 352. A bill for the relief of Julieta Rabara Rasay; to the Committee on the Judiciary.

S. 353. A bill for the relief of Cirilo Raagas Costa and Wilma Raagas Costa; to the Committee on the Judiciary.

S. 354. A bill for the relief of Peter M. Jordan and Donna R. Jordan, husband and wife, and their children Laurelee Ruth Jordan, Julianne Margaret Jordan, Jayne Michell Jordan, and Peter Andrew Jordan; to the Committee on the Judiciary.

S. 355. A bill for the relief of Wen Hwei Hsu; to the Committee on the Judiciary.

S. 356. A bill for the relief of Da Ying Huang and Shao Lan Huang, husband and wife, and their child, Si Jing Huang; to the Committee on the Judiciary.

S. 357. A bill for the relief of Micaela Agno Rasay; to the Committee on the Judiciary.

S. 358. A bill for the relief of Keiko Ota; to the Committee on the Judiciary.

S. 359. A bill for the relief of Yue Chung Chiu; to the Committee on the Judiciary.

S. 360. A bill for the relief of Amadeo Senbrano Timbol, his wife Hannah Apla Sangkula Timbol, his son Abel Sangkula Timbol, and his daughter Schiraliz Sangkula Timbol; to the Committee on the Judiciary.

S. 361. A bill for the relief of Goldhorn Cheng, Cheng-Hwa Lee Cheng, Shih-Chuang Cheng, Shih-Huang Cheng, and Shih-Kang Cheng; to the Committee on the Judiciary.

S. 362. A bill for the relief of Raymond W. Milling; to the Committee on Governmental Affairs.

S. 363. A bill for the relief of Clayton Timothy Boyle and Clayton Louis Boyle, son and father; to the Committee on the Judiciary.

S. 364. A bill for the relief of Dr. Samuel J. Wong and Mrs. Agnes J. Wong, husband and wife; to the Committee on the Judiciary.

By Mr. HATFIELD:

S. 365. A bill entitled "The Department of Defense Civilian Air Traffic Controllers Act of 1983"; to the Committee on Governmental Affairs.

By Mr. DODD (for himself and Mr. WEICKER):

S. 366. A bill to settle certain claims of the Mashantucket Pequot Indians; to the Select Committee on Indian Affairs.

By Mr. PERCY:

S. 367. A bill for the relief of Mrs. Spyros Agriopoulos; to the Committee on the Judiciary.

By Mr. MATHIAS:

S. 368. A bill to amend section 234 of the National Housing Act to permit shared equity condominium mortgages; to the Committee on Banking, Housing, and Urban Affairs.

S. 369. A bill for the relief of certain Government physicians who were paid basic pay, performance awards, and physicians comparability allowances in aggregate amounts exceeding the limitation set forth in section 5383(b) of title 5, United States Code; to the Committee on Governmental Affairs.

By Mr. PERCY (for himself and Mr. DIXON):

S. 370. A bill entitled the "Imported Liquified Natural Gas Policy Act of 1983; to the Committee on Energy and Natural Resources.

By Mr. SASSER (for himself, Mr. NUNN, Mr. LEVIN, Mr. JOHNSTON, and Mr. PRESSLER):

S. 371. A bill to amend the Internal Revenue Code of 1954 to provide for a credit against tax with respect to the employment of certain unemployed individuals; to the Committee on Finance.

By Mr. HATFIELD (for himself, Mr. PACKWOOD, and Mr. Hollings):

S. 372. A bill to promote interstate commerce by prohibiting discrimination in the writing and selling of insurance contracts, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. MURKOWSKI (for himself, Mr. STEVENS, Mr. JACKSON, and Mr. GORTON):

S. 373. A bill to provide comprehensive national policy dealing with national needs and objectives in the Arctic; to the Committee on Governmental Affairs.

By Mr. DIXON:

S.J. Res. 26. A joint resolution proposing an amendment to the Constitution authorizing the President to disapprove or reduce an item of appropriations; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. PERCY:

S. Res. 39. An original resolution authorizing expenditures by the Committee on Foreign Relations; from the Committee on Foreign Relations; to the Committee on Rules and Administration.

By Mr. GRASSLEY (for himself, Mr. SYMMS, Mr. JEPSEN, Mr. BOREN, and Mr. HATCH):

S. Res. 40. A resolution to express the sense of the Senate urging Presidential action in calling for an immediate domestic economic and trade summit to address the U.S. long-term trade policy by a bipartisan group of individuals from the Government, business, labor, agriculture, and the academic community; to the Committee on Finance.

By Mr. HATFIELD:

S. Res. 41. An original resolution authorizing expenditures by the Committee on Appropriations; from the Committee on Appropriations; to the Committee on Rules and Administration.

By Mr. SIMPSON:

S. Res. 42. An original resolution authorizing expenditures by the committee on Veterans' Affairs; from the Committee on Veterans Affairs; to the Committee on Rules and Administration.

By Mr. BAKER:

S. Con. Res. 8. A concurrent resolution to provide for an adjournment of the Senate for more than 3 days; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DENTON (for himself, Mr. HEFLIN, and Mr. HUDDLESTON):

S. 312. A bill to change the name of the Talladega National Forest in Alabama to the Bear Bryant National Forest; considered and passed.

(The remarks of Mr. DENTON and Mr. HEFLIN on this legislation appear earlier in today's RECORD.)

By Mr. SPECTER:

S. 313. A bill to authorize housing assistance to avert foreclosures; to the Committee on Banking, Housing, and Urban Affairs.

(The remarks of Mr. SPECTER on this legislation appear earlier in today's RECORD.)

By Mr. GOLDWATER:

S. 314. A bill to encourage in-flight emergency care aboard aircraft by re-

quiring the placement of emergency equipment, supplies, and drugs aboard aircraft and by relieving appropriate persons of liability for the provision and use of such emergency equipment, supplies, and drugs; to the Committee on Commerce, Science, and Transportation.

IN-FLIGHT MEDICAL EMERGENCIES ACT

Mr. GOLDWATER. Mr. President, I send to the desk a bill designed to encourage in-flight emergency care aboard aircraft by requiring the placement of emergency equipment, supplies, and drugs aboard aircraft, and by relieving appropriate persons of liability for the provision and use of such emergency equipment, supplies, and drugs. This bill, if enacted, will be cited as the In-flight Medical Emergencies Act.

Mr. President, what does this bill do? In the simplest terms, this bill would order the Federal Aviation Administration to require medical emergency kits aboard commercial aircraft within 180 days. The bill would give immunity to doctors and others who attempt to treat emergency victims and, finally, the bill would give the airlines immunity for carrying and providing the emergency kits, and immunity for the actions of those treating the victims.

The reason for introduction of this legislation is simple. The current kit carried aboard commercial aircraft for treatment of medical injuries is laughable. That kit, which is nothing more than a first aid kit, was derived from a Johnson & Johnson in-flight kit put together in 1924, that is on display in the Smithsonian Air and Space Museum. Many times, on my flights around this Nation of ours, I have been unable to even confirm that such a kit was on board. However, as extracted from the Federal Air Regulations, the contents are supposed to be: 16 small adhesive bandage compresses, 20; antiseptic swabs, 10; ammonia inhalants, 8; medium bandage compresses, 5; triangular bandage compresses, 6 small portions of burn compound or other burn remedy, 1 arm splint, 1 leg splint, 4 roller bandages, 2 1-inch rolls of adhesive tape, and 1 set of bandage scissors. Mr. President, I submit to you that such a kit would be barely minimal for a troop of Boy Scouts. We need a medical kit which can be used by qualified physicians or other medical personnel to deal with medical emergencies aboard our commercial carriers.

This is not a new issue. On May 20 of 1982, the Subcommittee on Aviation of the Senate Commerce Committee held a hearing to discuss this issue. Testimony was received by a Federal Aviation Administration official, from representives of the Aviation Consumer Action Project, from two distinguished surgeons, from the Air Transport Association, and from representatives of two of the major air carriers. There is also some previous legislative history in that Senate bill S. 3036 was introduced in the 2d session of the 96th Congress. That bill was designed to encourage on-the-scene emergency care aboard aircraft by relieving licensed medical personnel and air carrier employees from civil liability for damages resulting from any act or omission in rendering such care. Also, in 1981, the Aviation Consumer Action Project and Public Citizen Health Research Group filed a petition asking the FAA to require airlines to carry emergency medical kits for use by physicians who would come forward in an emergency. That petition, I am sorry to say, was denied by the FAA. Last year, these groups, joined by Dr. Eve Bargmann and other physicians, filed a petition for review of the FAA decision in the U.S. Court of Appeals for the District of Columbia. A final decision is yet to be handed down on that particular suit.

What is the likely outcome of this ongoing law suit? It is fairly predictable. The FAA has continually beat around the bush on this issue. Perhaps it is true, although this has been questioned, that their statutory authority does not extend into this area because medical incidents aboard commercial airliners are frequently not aviation induced, but simply happen to occur during a period the individual is aboard a commercial airliner. The airlines argue, in general terms, that no data base has been formed which would indicate a requirement for these kits. The airlines sometimes define a medical emergency as one which requires an emergency landing. In many cases when medical emergencies have occurred, the destination, as originally planned, is the best place for the landing. The airlines know this as well. The FA also stresses the minimum number of incidents which are reported to the FAA as medical emergencies. Any of us who have been around aviation for many years, and I have been around aviation for most of its years, can tell you that a lot of things do not get reported to the FAA simply because they should have been. Thus far, I consider both these arguments less than formidable. The fact is that many commercial carriers in other countries carry a medical kit. Air Canada, just last year, decided to equip its entire fleet of aircraft with medical kits designed for the exclusive use of doctors in the event of emergency situations during a flight. The Director of Medical Services for Air Canada, Dr. Robert Anderson, stated that there is no evidence to suggest that medical emergencies are more likely to occur onboard an airplane than in any situation involving such groups of people. He went on to say that the Air Canada initiative stems from their experiences which showed that there is a physican onboard an aircraft in over 90 percent of the cases where the life of a patient is in danger. Under those circumstances, Air Canada felt it very reasonable to make available the tools required to deal effectively with such emergencies as heart related problems, asthma, and diabetes. The list of airlines which carry medical kits include El Al, SAS, Air France, Alitalia, Iberia, Lufthansa, Sabena, British Air, KLM, and Swissair.

Mr. President, the time has come to stop beating around the bush. No complex research is required and there is no need for further studies. It is time to get on with it. For an estimated cost of less than $250 per kit, a problem can be solved, and the solution is long overdue. The legislation which I have introduced today will not only result in the carriage of adequate medical supplies aboard aircraft, but it will also offer protection to those qualified medical personnel who step forward to assist in the event of a medical emergency. This latter, Good Samaritan provision can be useful, even though adequate supplies are not aboard an aircraft, because many medical personnel have elected to carry kits of their own when traveling.

Action is long overdue. I urge my colleagues to join me in cosponsoring this legislation as soon as possible and I will be urging the chairman of the Aviation Subcommittee of Commerce, Senator KASSEBAUM, toward early consideration of this legislation in our committee.

By Mr. HEFLIN:

S. 315. A bill to create a program to combat violent crime in the United States, and for other purposes; to the Committee on the Judiciary.

NATIONAL WAR ON VIOLENT CRIME ACT

Mr. HEFLIN. Mr. President, when I arrived in the Senate in 1979, I vowed to make a national assault on violent crime and crime-fighting aid to our States, our No. 1 priority, after a solution to our Nation's economic problems. I wholeheartedly supported the package passed by the 97th Congress as an initial beginning of our national war on violent crime. I looked forward to the implementation of this compromise package, and had hoped it would pave the way for comprehensive criminal law reform in the 98th Congress. However, because of one item the package was pocket-vetoed.

The statistics speak for themselves. In my home State of Alabama, 18,423 violent crimes were committed in 1981 alone. Nationwide, in 1981, one violent crime was committed every 24 seconds, and one murder was committed every 23 minutes.

I, for one, cannot stand aside while our citizens live behind locked doors in constant fear for their safety. I cannot ignore my obligation to fight for an end to the criminal tyranny flourishing even in our rural areas and suburbs.

I rise again to introduce the National War on Violent Crime Act to send a clear message to the criminal element in our society that its reign of terror will no longer be tolerated by the American people.

My package will first provide for an overall coordinated Federal program to assist State and local governments in combating crime. It would establish a Violent Crime Administration within the Department of Justice to encourage the improvement of State and local criminal justice systems through technical and financial support. It would also establish a National Police Academy to provide high-level training for State and local police officers.

Second, my proposal will give bite to some weak areas in our Federal criminal law. It will modify our Federal bail laws so a judge can deny bail to defendants determined to be dangerous to society. It will establish an additional 5-year sentence for the use of a handgun or any firearm in the commission of a felony. It reforms our Federal sentencing laws by mandating a life sentence without parole for career criminals convicted of their third violent felony.

Through two provisions, my bill will tighten our drug laws. The pharmacy theft provision will make the robbery of any dollar amount of a controlled substance from a drug store a Federal crime. The antitampering provision, aimed at such atrocities as the Chicago Tylenol murders, will make the malicious tampering with foods, drugs, or cosmetics a felony.

My bill finally addresses the number of widespread incidents of vandalism, sabotage, and threats against energy facilities. In one plant alone, in Minnesota, some 10,000 insulators were shot out and over 15 towers toppled. The total cost of damage was over $7 million, a figure which ultimately translates into higher electric rates for both industry and consumer. It is high time that this vandalism and sabotage be stopped, and the offenders punished at the Federal level. My bill makes it a Federal offense, punishable by a fine of not more than $50,000 or imprisonment of not more than 10 years, or both, for the knowing and willful damage of the property of an energy facility in an amount that exceeds $5,000. It is crucial that our Nation's industries, businesses, hospitals, and homes have an uninterrupted source of power.

In sum, Mr. President, the National War on Violent Crime Act will directly wage battle against the crime epidemic which has spread fear in every city, county, and State across our Nation. I am firmly convinced that if we are to be successful in this effort, we must get law enforcement assistance to the local level, and my bill insures our States this support. Moreover this legislation strengthens our Federal criminal law in areas critical to the safety of the public. I urge my colleagues support in the 98th Congress for this much needed measure.

Thank you, Mr. President.

By Mr. GRASSLEY:

S. 329. A bill to authorize the donation of surplus property to any State for the construction and modernization of criminal justice facilities; to the Committee on Governmental Affairs.

STATE CORRECTIONS ASSISTANCE ACT

● Mr. GRASSLEY. Mr. President, I am reintroducing this bill, which passed the Senate last year, with the aim of lessening the burden that States face as their prison populations grow. This measure, which embodies one of the recommendations of the President's Task Force on Violent Crime, amends the Federal Property and Administrative Services Act of 1949 to authorize donations of surplus Federal real property to States and localities for construction and modernization of prisons.

Prison overcrowding is a problem that we cannot ignore. Between 1978 and 1981, the number of State prisoners increased from 268,189 to 329,122. As of September 1982, that number is a staggering 405,372 according to Bureau of Justice statistics. So State systems over the past few years have had to accommodate an increase of 137,000 beds.

The problem of overcrowding goes beyond corrections. Potentially it leads to a circumvention of the overall public and criminal justice system's means of dealing with the violent offender in a manner consistent with the gravity of the offense. Probation is meted out instead of incarceration because judges are aware that there is no available prison space. At a time when we are increasingly leaning toward harsher, longer prison sentences, available prison space is indispensable.

Furthermore, as a result of the Supreme Court's ruling in the case of Rhodes against Chapman, two inmates may be housed in a single cell. In the interest of humanity, this bill would make correctional institutions more conducive to rehabilitation instead of creating prisoner warehouses. It has been argued that this additional exception will deplete Federal property resources. That may be true; nevertheless, it is critically needed.

Under the provisions of my bill, I believe that a more streamlined process will minimize response times between the Federal, State, and local governments, utilize existing real property expertise in GSA as well as the correctional expertise in the Department of Justice, and minimize compliance restrictions on State and local governments.

It is no secret that States are currently faced with the question of how to eliminate overcrowding in prisons so as to fashion programs that rise to constitutionally acceptable levels of legality and humanity. Society cannot permit crime to go unpunished for want of prison space, and for the present, prison is the only sanction available for violent crime. A revolutionary breakthrough in the range of available rehabilitative sanctions is not on the horizon. Mr. President, I urge all of my Senate colleagues to support this legislation.●

By Mr. D'AMATO:

S. 330. A bill to amend section 103(b)(3) of the Internal Revenue Code; to the Committee on Finance.

AMENDMENT OF INTERNAL REVENUE CODE

● Mr. D'AMATO. Mr. President, I am today introducing a bill which would permit the New York State Power Authority to fulfill its statutory mission of bringing the benefits of lower cost power and energy from its generating facilities to people throughout the State of New York. It is now seriously impeded from doing so by Federal regulations promulgated under section 103(b)(3) of the Internal Revenue Code.

Unlike virtually every other public utility agency in the United States, the Power Authority of the State of New York—which has been in existence for nearly five decades—owns no distribution facilities of its own. Therefore, it is forced to market the output of its facilities through the various public and private utility companies in the State for delivery to the ultimate consumers. The State's 7 private utility companies serve more than 95 percent of the electric load in New York.

Industrial development bond (IDB) restrictions, however, treat sales to such utility companies for delivery to the ultimate consumers as sales to "nonexempt persons," even though the power sold to these utility companies is delivered to the ultimate consumers with no markup on the purchase price. Under present law, a maximum of 25 percent of the output generated by facilities financed with tax-exempt bonds may be sold to "nonexempt persons". Consequently, the power authority's ability to market the output of its facilities to the vast majority of the electrical consumers in New York State has been substantially frustrated.

The bill I am introducing today would require that the State's private utility companies be treated as "exempt persons" under the Internal

Revenue Code solely for the very limited purpose of remarketing, without markup or profit, their purchases of the output and their use of the generating facilities owned and financed by the Power Authority of the State of New York. By virtue of such authority ownership and financing, no investment tax credits or accelerated depreciation benefits would be available to any private person or company using the output of these facilities.

The New York State Power Authority is different from similar agencies in other States. It is not authorized to own any transmission facilities. It is required to sell its power at wholesale. It is by far the oldest such authority in the Nation and it is actually mandated by a 1957 Federal statute to sell 445,000 kilowatts of hydroelectricity each year to a specific New York utility. While the authority's State charter states that it is "desirable and reasonable" for the authority to sell its power to all of the utilities in the State, this is impossible given current IDB law and regulations.

This bill is essential to insure the maximum benefit to the citizens of New York from the use of the power authority's existing and proposed generating facilities. This bill would permit the authority to make sales of electricity from new and recently built facilities and to continue sales to utilities from the old ones if they should be rebuilt or enlarged. The January 1, 1970, date would assure that uniform rules would apply to the output of all of the authority's facilities.

This bill, which has a negligible effect upon Federal revenues, is vital to my State. It is needed to keep the rates consumers pay for publicly generated power reasonable. I ask unanimous consent that the bill be printed in the RECORD in full at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 330

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Application of section 103(b)(3) to certain entities. For the purposes of section 103(b)(3) of the Internal Revenue Code of 1954 (relating to the definition of "exempt person"), the term "exempt person" shall include a regulated public utility having any customer service area within a State served by a public power authority which was required as a condition of a Federal Power Commission license specified by an Act of Congress enacted prior to the enactment of section 107 of the Revenue and Expenditure Control Act of 1968 (Public Law 90-364) to contract to sell power to one such utility and which is authorized by State law to sell power to other such utilities, but only with respect to the purchase by any such utility and resale to its customers of any output of any electrical generation facility or any portion thereof or any use of any electrical transmission facility or any portion thereof financed by such power authority and owned by it or by such State, and provided that by agreement between such power authority and any such utility there shall be no markup in the resale price charged by such utility of that component of the resale price which represents the price paid by such utility for such output or use.

SEC. 2. The provisions of section 1 hereof shall apply to obligations issued on or after January 1, 1970, to finance any facility or portion thereof referred to in said section.●

By Mr. METZENBAUM (for himself and Mr. KENNEDY):

S. 333. A bill to amend title 11 of the United States Code to make certain changes in the personal bankruptcy law, and for other purposes; to the Committee on the Judiciary.

CONSUMER BANKRUPTCY IMPROVEMENTS ACT OF 1983

● Mr. METZENBAUM. Mr. President, today we in the Senate and Representative RODINO in the House are introducing a bill to make needed substantive changes in our bankruptcy code. The bill is designed to curb debtor abuses without imposing undue burdens on deserving debtors who, overwhelmed with debt and unexpected financial reverses, are forced to turn to the bankruptcy courts for relief.

In 1978, after nearly a decade of studying the bankruptcy code, Congress enacted a major reform of our bankruptcy laws. One of the most important aims of the 1978 act was to protect debtors from abusive tactics used by many creditors. That act has not functioned perfectly. However, given our current economic crisis with unemployment at its highest since the Depression, it is essential that the basic thrust of that act be maintained. Debtors must continue to have adequate protection from creditor overreaching.

Studies show that the vast majority of bankruptcies are filed by blue-collar workers between 25 and 35 years of age, who have suffered unforeseen financial reverses such as loss of job, uninsured illness, or divorce. A case study of bankruptcies in Connecticut done by Prof. Phillip Shuchman of the Rutgers University School of Law showed that the mean annual income for those people filing for bankruptcy in 1979 was $11,744, more than $100 a month below the Bureau of Labor Statistics; lower living budget for the same period. Most of those in the study had unstable incomes: They were employed in marginal jobs, at an hourly wage without steady employment.

In testimony before the House Subcommitee on Monopolies and Commercial Law last year, a representative of the United Auto Workers legal services plan in Newark, N.J., presented a similar profile of the typical bankrupt his organization served. Most were hourly workers who had been laid off or had had their wages frozen and had lost other benefits as the auto industry suffered a depression. Most were one-wage-earner families, so there was no second income to supplement unemployment benefits to support families and to pay debts incurred before the layoffs. Certainly these people deserve the protections afforded them by the 1978 act.

Although the bankruptcy code as amended in 1978 appears to be working effectively in most cases, some adjustments are in order. Creditors must be protected from debtors who are abusing the protections afforded them by the bankruptcy laws. Our bill is intended to correct these abuses without removing the protections needed by deserving debtors who find themselves in serious financial difficulty not of their own making and who need a "fresh start" free from past economic misfortunes.

The bill discourages debtors from "loading up"—buying a large quantity of goods on credit in anticipation of filing for bankruptcy—by creating a rebuttable presumption that debts for personal property totaling $500 and incurred within 45 days of filing for bankruptcy are nondischargeable. It also prevents debtors filing joint petitions from using both Federal and State exemptions and sets a total limit of $4,000 on personal and household items, valued under $200 each, which may be exempted by a debtor. And, it tightens chapter 13 provisions making this chapter more equitable to all parties. A more detailed description of the bill's provisions follows this statement.

We believe this bill represents a sound and reasonable approach to correcting abuses of the bankruptcy law while still protecting deserving debtors from creditor overreaching.

I hope the Senate will act expeditiously on these proposed bankruptcy law revisions. I also believe, however, that a more pressing priority is to cure the serious constitutional defect in the bankruptcy courts identified by the Supreme Court in the Northern Pipeline case. As assistant attorney general Jonathan Rose testified on behalf of the Department of Justice at last Monday's hearing before the Subcommittee on the Courts:

> The bankruptcy court system established by the 1978 act is not longer functioning. * * * prompt action by Congress to restructure the bankruptcy court system is essential to return that system to a sound and workable basis.

Especially given today's difficult economic times, which have thrown businesses and individuals alike into unexpected bankruptcy, we must have a forum that can effectively and decisively dispose of bankruptcy matters. It is my hope that Congress will act quickly to resolve the bankruptcy courts issue and that soon thereafter

it will turn to needed changes in substantive bankruptcy law.

We have attempted to strike a balance between creditor and debtor needs in this proposal. But this is not necessarily the final word with respect to problems in the bankruptcy code. We are happy to work with our colleagues on the Judiciary Committee and with all interested parties—the credit industry as well as consumer groups—in refining this legislation. Given the difficult economic situation facing our country today, it is essential that we have a bankruptcy code that is workable and fair to all concerned.

I ask unanimous consent that the text of the bill and a factsheet describing the provisions in the bill be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 333

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Consumer Bankruptcy Improvements Act of 1983".

SEC. 2. Section 109 of title 11, United States Code, is amended by adding at the end thereof the following new subsection:

"(f) Notwithstanding any other provision of this section, no individual may be a debtor under this title who has been a debtor in a case pending under this title at any time in the preceeding 180 days if—

"(1) the case was dismissed by the court for willful failure of the debtor to abide by orders of the court, or to appear before the court in proper prosecution of the case, or

"(2) the debtor requested and obtained the voluntary dismissal of the case following the filing of a request for relief from the automatic stay provided by section 362.".

SEC. 3. Section 521 of title 11, United States Code, is amended—

(1) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively, and

(2) by inserting after paragraph (1) the following new paragraph:

"(2) if the debtor's schedule of assets and liabilities includes consumer debts which are secured by property of the estate, file and serve, within thirty days of the order for relief under chapter 7 of this title, or within such additional time as the court, for cause, within such 30-day period fixes, upon each creditor holding such security and the trustee, a statement expressing the debtor's intention with respect to retention or surrender of the collateral and, if applicable, specifying that the collateral is claim as exempt, that the debtor intends to redeem the collateral, or that the debtor intends to reaffirm debts secured by the collateral;".

SEC. 4. Section 522(d)(3) of title 11, United States Code, is amended by inserting "or $4,000 in value in all items" after "item".

SEC. 5. Section 522(m) of title 11, United States Code, is amended by adding at the end thereof the following: "For purposes of subsection (b) in a joint case in which the estates of the debtors are consolidated under section 302(b) of this title, both debtors may exempt from property of the consolidated estates property described in paragraph (1) of such subsection or, in the alternative, both debtors may exempt from property of the consolidated estates property described in paragraph (2) of such subsection. If the debtors do not agree which property to exempt under such subsection, then both debtors shall be deemed to have exempted from the property of the consolidated estates property described in paragraph (1) of such subsection.".

SEC. 6. Section 523 of title 11, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) For purposes of paragraph (2) of subsection (a) of this section, any debt or debts aggregating more than $500 for items of a kind specified in section 522(d)(2), 522(d)(3), or 522(d)(4) of this title held primarily for personal, family, or household use, incurred on or within 45 days before the date of the filing of a petition under this title, is presumed to be nondischargeable under such subsection.".

SEC. 7. Section 524 of title 11, United States Code, is amended—

(1) in subsection (a)(2) by striking out "or from property of the debtor,", and

(2) by adding at the end thereof the following new subsection:

"(f) Nothing contained in subsection (c) and (d) of this section prevents a debtor from voluntarily repaying any debt.".

SEC. 8. Section 525 of title 11, United States Code, is amended—

(1) by inserting "the" before "Perishable",

(2) by inserting "(a)" before "Except", and

(3) by adding at the end thereof the following new subsection:

"(b) No private employer may terminate the employment of, or discriminate with respect to employment against, an individual who is or has been a debtor under this title, a debtor or bankrupt under the Bankruptcy Act, or an individual associated with such a debtor or bankrupt, solely because such debtor or bankrupt—

"(1) is or has been a debtor under this title or a debtor or bankrupt under the Bankruptcy Act;

"(2) has been insolvent before the commencement of a case under this title or during the case but before the grant or denial of a discharge; or

"(3) has not paid a debt that is dischargeable in a case under this title or that was discharged under the Bankruptcy Act.".

SEC. 9. Section 547(c) of title 11, United States Code, is amended—

(1) in paragraph (5) by striking out "or" at the end thereof,

(2) in paragraph (6) by striking out the period at the end thereof and inserting in lieu thereof "; or", and

(3) by adding at the end thereof the following new paragraph:

"(7) if the aggregate value of all property that constitutes or is affected by such transfer—

"(A) in a case under chapter 7 or 13 of this title is less than $250; and

"(B) in a case under chapter 11 of this title is less than $750.".

SEC. 10. Section 1325 of title 11, United States Code, is amended—

(1) in subsection (a) by striking out "The" and inserting in lieu thereof "Except as provided in subsection (b), the",

(2) by redesignating subsection (b) as subsection (c), and

(3) by inserting after subsection (a) the following new subsection:

"(b)(1) If the holder of an allowed unsecured claim objects to the confirmation of the plan, then the court may not approve the plan unless, as of the effective date of the plan—

"(A) the value of the property to be distributed under the plan on account of such claim is not less than the amount of such claim; or

"(B) the plan provides that all of the debtor's projected disposable income to be received in the three-year period beginning on the date that the first payment is due under the plan be applied to make payments under the plan.

"(2) For purposes of this subsection, 'disposable income' means income which is received by the debtor and which is not reasonably necessary to be expended—

"(A) for the support of the debtor or a dependent of the debtor; or

"(B) if the debtor is engaged in business, for the payment of expenditures necessary for the continuation, preservation, and operation of the business.".

SEC. 11. (a) Section 1326 of title 11, United States Code, is amended—

(1) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively, and

(2) by inserting before such subsections the following new subsection:

"(a)(1) Unless the court orders otherwise, the debtor shall commence making the payments proposed by a plan within 30 days after the plan is filed.

"(2) A payment made under this subsection shall be retained by the trustee until confirmation or denial of confirmation of a plan. If a plan is confirmed, the trustee shall distribute any such payment in accordance with the plan. If a plan is not confirmed, the trustee shall return any such payments to the debtor, after deducting any unpaid claim allowed under section 503(b) of this title.".

SEC. 12. Section 1329 of title 11, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) On request of the debtor, the trustee, or a creditor holding an allowed unsecured claim and after notice and a hearing, the plan shall be modified under subsection (a) of this section to any extent that any change in the debtor's anticipated disposable income substantially affects whether the plan, before modification, complies with the requirements specified in section 1325(a)(6) and section 1325(b) of this title.".

SEC. 13. The amendments made by this Act shall not apply with respect to cases commenced under title 11 of the United States Code before the date of the enactment of this Act.

DESCRIPTION OF CONSUMER BANKRUPTCY IMPROVEMENTS ACT OF 1983

The Consumer Bankruptcy Improvements Act would make the following substantive changes in our current bankrupty code:

Sec. 2 prevents repeated Chapter 7 or Chapter 13 filings by debtors solely for the purpose of maintaining the automatic stay in effect. This tightens up a loophole in current law that in some instances has prevented creditors from having the automatic stay lifted in appropriate circumstances.

Sec. 3 provides that within 30 days of filing for bankruptcy under Chapter 7 the debtor give each secured creditor and the trustee a statement showing whether the debtor intends to retain or surrender the collateral. The statement shall also specify whether the retained collateral is claimed as exempt or will be redeemed, or if the debt is to be reaffirmed. This facilitates planning by both the debtor and the creditor for the ultimate disposition of the debtor's estate. Current law has no such provision.

Sec. 4 sets a total exemption limit of $4,000 on personal and household items, each of which is valued at under $200. This prohibits "stacking" of personal property exemptions without limit. Current law sets no such ceiling.

Sec. 5 requires both debtors filing a joint petition for bankruptcy to choose either state or federal exemptions. This prevents the practice, unintentionally permitted under current law, of "piggybacking" state and federal exemptions.

Sec. 6 creates a rebuttable presumption that any debt or debts for personal property totaling $500 incurred within 45 days of filing for bankruptcy are nondischargeable. This would discourage debtors from buying a large quantity of goods on credit in anticipation of filing for bankruptcy. There is no similar "loading up" provision in current law.

Sec. 7 clarifies that under current law a debtor is free to relay voluntarily any discharged debt, even if reaffirmation of that debt is disallowed by the court. This change meets the concern expressed by some creditors that, because the court must approve all reaffirmations, debtors are prevented from repaying debts they want to pay.

Sec. 8 prevents private employers from terminating employees or discriminating against potential employees solely because the person had been or was in bankruptcy court, had been insolvent before the commencement of a bankruptcy case or had not paid a debt that was dischargeable or discharged. This provision also affords the same protections to any person associated with the debtor. Current law prevents discrimination against debtors by governmental bodies.

Sec. 9 prevents the trustee from avoiding (i.e., undoing) pre-petition payments made by a debtor to a creditor if the amount is less than $250 in a personal bankruptcy and less than $750 in a business bankruptcy. This change will expedite bankruptcy proceedings. Under current law the trustee may nullify most payments made within 90 days of filing.

Sections 10, 11 and 12 tighten provisions for Chapter 13 (repayment plan) bankruptcies, making this Chapter more equitable to all parties.

Sec. 10 amends Chapter 13 to prevent the court from approving a "zero" repayment plan if the debtor has the ability to pay at least some of his debts.

Sec. 11 requires the debtor to begin making payments within 30 days after the plan is filed. The payments are made to the trustee who holds them until the plan is confirmed. This provision allows debtors to accustom themselves to making payments immediately. Under current law, payments do not begin until the plan is confirmed.

Sec. 12 allows the debtor, unsecured creditors, or the trustee to request a modification of the Chapter 13 repayment plan if the debtor's disposable income has changed substantially.●

● Mr. KENNEDY. Mr. President, I am pleased to join my colleagues, Senator METZENBAUM and Congressman RODINO in consponsoring the Consumer Bankruptcy Improvements Act of 1983. This bill would amend existing law to address debtor abuses without destroying the balance between creditor and debtor interests which was carefully crafted in the comprehensive bankruptcy reform legislation enacted by Congress in 1978.

The Bankruptcy Reform Act of 1978 was the culmination of an extensive examination by Congress of the operation of our bankruptcy laws. As the result of its investigation, Congress determined that significant changes in the laws concerning individual bankruptcy were necessary. One of the principal purposes of the reforms in the 1978 act was to eliminate creditor overreaching which was possible under existing law.

Our experience under the 1978 act, although brief, indicates that some modifications to that act are in order, to eliminate unintended loopholes and to make the system more efficient. The bill we introduce today makes important changes to existing law, including a $4,000 cap on the total value of personal and household items which are exempt, thus prohibiting "stacking" of personal property exemptions without limit. It also prevents "piggybacking" State and Federal exemptions by requiring that debtors filing a joint petition must choose either State or Federal exemptions. The bill would discourage "loading up" of debts by debtors anticipating bankruptcy by creating a rebuttable presumption against discharge of any debt or debts for personal property totaling $500 and incurred within 45 days of filing for bankruptcy. In the area of reaffirmation, the bill clarifies the debtor's ability to voluntarily repay any debt, whether or not a court has approved a reaffirmation of that debt. The bill also makes significant changes to the laws governing chapter 13 repayment plan bankruptcies to assure that "zero" repayment plans are not approved, that repayment begins promptly, and to provide a mechanism to change the repayment plan to accommodate changed circumstances.

The reforms contained in this bill are a starting point for making the necessary adjustment in existing law to protect creditor interests, without punishing honest debtors who need the relief our bankruptcy system provides. We must pay special attention to making changes in our bankruptcy laws during this period of economic crisis. Today, this country is experiencing the highest unemployment since 1937; more than 12 million American workers who want jobs cannot find them. Real interest rates are the highest we have seen since the Civil War, and the Federal Government's indebtedness is unprecedented.

In the light of these economic indicators, it is no wonder that the number of individuals who have been forced to file bankruptcy has increased significantly since 1979. The increase in bankruptcy filings only parallels other stark indicators of our economic crisis. For example, as of the end of May 1982, more than a third of the farm loans held by the Farmers Home Administration were delinquent. Farm foreclosures during the first half of fiscal year 1982 soared 600 percent over the same period in the previous year.

The link between the depressed state of our economy and the increase in bankruptcy filings is undeniable. I reject the claims made by some in the credit industry that the increase in bankruptcy filings in the past few years indicates that sweeping reforms are needed in our consumer bankruptcy laws. I agree that some modifications are needed, and I believe that this bill is an excellent starting point. I look forward to consideration of this measure by both Houses of Congress.●

By Mr. MATTINGLY:

S. 334. A bill to amend the Internal Revenue Code of 1954 to repeal the withholding of tax on interest and dividends and to increase the penalty for failing to supply taxpayer identification numbers on returns and statements; to the Committee on Finance.

WITHHOLDING OF TAXES ON INTEREST AND DIVIDENDS

Mr. MATTINGLY. Mr. President, I send a bill to the desk and ask for its appropriate referral.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

Mr. MATTINGLY. Thank you, Mr. President.

Mr. President, I rise today to introduce S. 344. This legislation serves two purposes. First, it will repeal the unfair 10 percent withholding tax on savings and dividend income that was passed in 1982. Second, it will institute a new method to improve compliance in a fair and equitable manner by increasing the penalty to $100 for those who do not include, or report incorrectly, a social security number or taxpayer identification number on any return, statement, or document, including the 1099 form and the individual income tax return.

Last year, I cosponsored an amendment offered by Senators HOLLINGS and KASTEN to remove from the TEFRA the 10 percent withholding tax on savings and dividends. I remain opposed to the withholding tax for a number of reasons.

Withholding 10 percent of interest and dividend income will penalize the vast majority of honest taxpayers. The Internal Revenue Service is on record as finding taxpayer compliance rates in the interest and dividend category as high as 89 percent.

A withholding tax would impose heavy startup and operating costs in addition to tremendous paperwork burdens on savers and savings institutions. The United States League of Savings and Loan Associations estimates that the startup costs of the withholding plan would amount to

$435 million for the industry and that annual operating costs would amount to $325 million. The costs are equally onerous on other affected industries. At a time when many in the financial and financial related industries are struggling to keep their heads above water, now is an inappropriate time to add to their operating expenses.

The 10-percent withholding tax on interest and dividends, moreover, would lower the effective yield on savings and stockownership. Most revenues would likely come from interest-bearing accounts. At a time of concern of "crowding out" by Government borrowing in the capital markets as a result of the high deficits, it makes no sense to reduce the deficit by reducing personal savings.

Taxpayers should pay the taxes that they owe the Federal Government. However, there is an alternative and better means of assuring that taxpayers comply than the 10-percent withholding tax on savings and dividend income. The legislation which I am introducing is such an alternative.

The IRS does not need a withholding tax to prevent evasion or underreporting of interest and dividend income. It needs instead to improve its computer programs and management so that it can match interest and dividend reports filed by corporations and banks with individual tax returns. The answer is for the IRS to put its own house in order, rather than to transfer an enormous administrative burden to the private sector. It is the responsibility of the Internal Revenue Service to match or crosscheck 1099 forms and individual income tax returns. By increasing the penalty for failure to include, or report correctly, the necessary social security or taxpayer identification number, the job of the IRS should be made easier and more effective.

Mr. President, there are less costly and cumbersome methods to improve taxpayer compliance than the withholding tax on savings and dividend income. I believe the method I am proposing is a prudent alternative.

By Mr. COHEN:

S. 335. A bill to provide for an increase in pay for members of the uniformed services in certain enlisted pay grades; to the Committee on Armed Services.

MILITARY CAREER ENLISTED PAY ADJUSTMENT ACT OF 1983

Mr. COHEN. Mr. President, today I have the privilege of introducing the Military Career Enlisted Pay Adjustment Act of 1983. This measure is an attempt to adjust the basic pay scales for the career enlisted personnel we want to retain in our armed services.

Time and again, we have heard of the importance of attracting and keeping top quality men and women in the Nation's military. These qualified professionals are essential, for without them the most sophisticated weaponry in the world is useless.

If there is one area where we cannot afford to cut corners, it is in recruiting and retention. Yet, unfortunately, that is precisely where the bulk of the administration's proposed defense cuts for fiscal year 1984 have been made.

Unless there is congressional action, we face the danger of repeating the mistakes made less than a decade ago when military pay caps, coupled with cuts in recruiting funds and the end of the GI bill, brought the All-Volunteer Force to its knees. We cannot afford to make that kind of mistake again.

The administration proposed the pay freeze so that it could retain the weapons systems included in the fiscal year 1984 budget. But one simple example demonstrates the error of this approach.

One of the procurement programs which continues to go forward is one in which I have a special interest as the chairman of the Armed Services Committee's Subcommittee on Sea Power and Force Projection. The Navy is rebuilding, and the goal is a 600-ship Navy. My question is, How are we going to provide adequate numbers of petty officers to man those ships if we do not provide the incentive for them to stay in the Navy?

Two years ago, the Armed Services Committee was told there was a 20,000 petty officer shortfall in the Navy. In response to Admiral Hayward's plea to stop the hemorrhage in career personnel—and to the pleas of the leaders of the other services who had seen low pay undercutting their readiness—we approved a number of measures improving military compensation.

Despite this, the committee was told a year ago that the petty officer shortfall had actually increased to 22,000. The reason was simple—the Navy was growing, and more men were needed to man the increased number of ships. So, in spite of the better pay and the positive effect it had on retention, higher requirements caused the shortfall to rise.

Today, the Navy is about 17,000 short of its petty officer goal. The high retention rate which has resulted from bringing pay up from its low level is having a positive impact. But we are going to lose that momentum if we freeze pay this year, and where that lost momentum will have its most devastating impact is in the career force.

According to the January 31 Army Times, the Joint Chiefs of Staff have sent a private memo to Defense Secretary Caspar Weinberger calling the decision to freeze pay "unfortunate" and saying it will "almost certainly" affect combat readiness. The Times quoted the memo as follows:

> The fact is that a pay freeze, resulting from a failure to provide the FY 84 pay adjustment following a four percent pay cap in FY 83 almost certainly will have an adverse impact on personnel retention and, as recent history has dramatically shown, a long-term negative effect on combat readiness of U.S. military forces. It is unfortunate that such a decision became necessary at a time when the military services were beginning to see a turnaround in previously poor retention rates.

This assessment is exactly in line with the message we have heard repeatedly—though it has apparently been forgotten by some of the same people who had delivered it—over the past 2 years. I would like to quote from a speech delivered less than 1 year ago by a top Pentagon manpower official. After discussing compensation improvements, he said this:

> If we do not continue these manpower program actions, we face some serious risks. We end up with a force unable to respond promptly to a rapidly developing crisis, a totally insufficient manpower mobilization base, and poorly trained, unmotivated people in inadequate numbers . . . an especially serious problem in the mid-grade enlisted ranks (of course this problem exists even with conscription).

I could not agree more. That is precisely the situation I found in 1980 when I visited Fort Campbell, Ky., to look at problems of low readiness caused by shortages in the career enlisted ranks. The readiness situation was at virtually a crisis level, and the reason was not inadequate equipment. It was the absence of enough personnel to man the weapons in the inventory.

It is from this perspective that I have developed the measure I am introducing today. The bill would increase pay throughout the career enlisted ranks. Pay for E-4's would go up by 2 percent, for E-5's by 5 percent, for E-6's by 4 percent, and for E-7's, E-8's, and E-9's by 3 percent.

The need for this approach is clear, for career enlisted pay has been shrinking. If pay is frozen this year, it could mean that military personnel will have again fallen 12-percent behind their civilian counterparts—and only 2 years after we had attempted to rescue them from the serious pay erosion of the previous several years.

Last year, when the administration proposed capping pay at a 4-percent increase, it said there could be a comparability raise this year. Well, the 4-percent increase these people did not receive—the initial proposal was for an 8-percent boost—is now being compounded by a 7.6-percent increase they will not receive. The Secretary of Defense is again saying there will be a full comparability raise next year, but military personnel will not forget that this is an echo of the same message they heard last year. That message was backed away from before 1982 was out, but the decision to freeze pay this year makes the prospect of a compara-

bility raise next year even more doubtful. This is especially so since pay will be constrained by the cost of the weapons systems approved in this year's budget and being paid for over the next several years.

For those considering whether to make the military a career, this is cause for somber reflection. That is why I have targeted this bill as I have.

The 5-percent increase for those in grade E-5 is provided because that is the point where an individual is likely to be coming up for his or her first reenlistment decision. It is also a point at which he or she will be assuming more responsibility.

Right now, there appears to be little incentive to reenlist. In 1971, an E-5 with 4 years of service received pay 2.8 times greater than that of an E-1 and 2.7 times greater than that of an E-2; In 1982, E-5 pay had been compressed to a point where it was only 1.6 times greater than that of an E-1 and 1.4 times greater than that of an E-2.

The pay compression problem and the erosion of military pay relative to the civilian sector spurred us to action a couple of years ago, with the promise that we would never let it happen again. Yet, now, so soon after, many have forgotten the "hollow Army" which the Army's Chief of Staff, Gen. Edward Meyer, referred to at that time.

In the late 1970's, highly trained noncommissioned officers and petty officers who had filled the roles of squad leaders, platoon sergeants, crew chiefs, aircraft maintenance chiefs, technicians, and, most of all, middle-management leaders and training specialists, had opted for better paying jobs in the civilian sector. Their major complaint was "inadequate compensation for services performed."

What we should have learned at that time is that holding down military pay has its costs, and they are substantial ones. Just how true that is, is reflected in an analysis done by the Navy.

Historically, the Navy has found that it takes 2.44 accessions to produce each new petty officer. Even more dramatic, it concluded that the cost of replacing one petty officer with a new recruit is over $38,000 and the process takes 4 years.

Even with this evidence of the importance of providing adequate pay for military personnel, it would be naive of me to stand before the Senate and plead for full comparability, or even the full amount originally projected for those in our Armed Forces. We do have a huge budget deficit facing us as we prepare to debate defense and social issues for fiscal year 1984. In addition, President Reagan has asked for a pay freeze for civilian Federal workers. Fiscal restraint is our goal, and every dollar we spend must be justified.

But I proposed this limited pay adjustment because of the reality that it will cost us much more if we do not take this kind of step on behalf of career enlisted personnel. We have to demonstrate that we have not forgotten the lesson learned only a few short years ago.

It is true that retention rates for career enlisted personnel are improving. But the short-term positive trend can be quickly reversed if we fail to act, as experience demonstrates.

In 1975, career reenlistments were at 83 percent of eligible personnel. Last year, the level was 76 percent, up from 68 percent in 1979, when career enlisted personnel had their lowest reenlistment rate since 1973. The swing within this short period shows just how much the actions we take—or fail to take—have an impact on career decisions.

Most of the individuals who turned thumbs down on reenlisting in the late 1970's have been lost to the armed services forever. The military may have replaced them by accelerating promotions for junior enlisted personnel into more senior enlisted grades. It will take time, however, for them to gain the expertise which their predecessors had. We cannot afford to let this happen again.

Let us not fool ourselves. It is unrealistic to expect our petty officers to remain in the service when we send them to sea year after year, away from families and homes for tours longer than during any other post-World War II peacetime period, when we work them 60 to 80 hours each week while at sea, and when we then fail to keep their pay at a reasonable level.

Right now, we have brave young marines in Lebanon as part of a peacekeeping force. They find it hard to accept the arguments of those who say their pay is sufficient, since they are serving in peacetime.

Yet these men, who by their military service are already sacrificing many of the common luxuries of life which so many of us take for granted, are being asked to make further sacrifices. Three times in the 1970's caps were placed on military but not private sector pay. It happened again last year, and now these courageous individuals are being asked to accept a freeze which will not be borne by those working in the civilian community.

So I am not uncomfortable in offering this bill to my colleagues for their consideration. I believe that now—this year—is the time to send the message to our career enlisted personnel that they are appreciated, they are needed, and they are as vitally important, if not more important, to the defense of this Nation as are weapons systems.

The Congressional Budget Office (CBO) estimates that my proposal will cost $827 million—about one-third the cost of a comparability increase. And that is using CBO's comparability figures of 5.5 percent, rather than the administration's 7.6-percent figure. At the same time, CBO estimates that the military would lose only one-third as many career personnel as it would under a freeze. Furthermore, the cost per careerist retained would be a little more than half the cost under comparability. The CBO analysis is as follows:

CONGRESSIONAL BUDGET OFFICE ANALYSIS OF COHEN MILITARY PAY OPTION, JANUARY 31, 1983

	1984	1985	1986	1987	1988	Total
Additional costs (millions of dollars; over fiscal year 1983):						
Freeze	0	1,883.9	3,757.5	6,034.2	8,300.8	19,976.4
Cohen	827.2	2,760.7	4,849.6	7,059.5	9,397.1	24,894.1
Comparability	2,141.9	4,390.5	6,812.8	9,325.4	12,084.9	34,755.4
Career manpower (thousands):						
Freeze	891.3	904.6	901.8	906.9	909.1	
Cohen	901.9	925.4	931.1	943.8	948.9	
Comparability	907.5	936.3	946.6	963.5	970.2	
Cost per additional career member (thousands of dollars; compared to pay freeze):						
Cohen	78.0	42.2	37.3	27.8	27.5	
Comparability	132.2	79.1	68.2	58.1	61.9	

My proposal is, I believe, a most cost effective and responsible one. And it is an approach which demonstrates to our experienced NCO's and petty officers the Nation's recognition of their skill, experience, and dedication.

I know that some will question the bill's failure to provide a pay boost for the lowest enlisted grades—especially in light of my strong commitment to the volunteer force. These junior personnel are not being ignored, for I am joining with some of my colleagues in reintroducing legislation offering po-

tential enlistees GI bill educational benefits. These benefits will, I believe, provide a good incentive for motivated, high quality individuals to consider military service.

As for officers, assessions should continue at the current level or, perhaps, increase as long as Congress continues to support the Reserve Officer Training Corps (ROTC) and similar programs. In addition, our proposed new education benefits package, if enacted, will offer a further incentive.

In conclusion, let me state that there is one overriding factor Congress must remember in considering the merits of my bill. Whether we continue with the All-Volunteer Force, which I believe we will, or go back to conscription at some time, we cannot draft NCO's and petty officers. They are dedicated and committed to their country. But, if we create too many disincentives for service—reduced pay, poor living and working conditions, too many separations from family, and unreasonably long hours each week—they may simply conclude they can no longer afford to make the sacrifices which they have proudly been making for their country, and for each one of us.

Before closing, I want to thank the Non-Commissioned Officers Association of the U.S.A. (NCOA) for its help and support with this bill. The NCOA, as most of you know, has been a real leader in working for responsible legislation on behalf of the men and women serving in our Armed Forces. NCOA's commitment to our military personnel has been demonstrated to me repeatedly during my time as a member of the Armed Services Committee's Manpower Subcommittee. I have been proud to work with it over these past few years on legislation to aid service personnel, and I am pleased to have the organization's support in this important effort.

As my colleagues consider the merits of this proposal—and, I hope, consider cosponsoring it—I hope they will remember the words of Machiavelli, who said:

> Money it not the sinews of war, although it generally is so considered . . . It is not gold but good soldiers that insure success at war.

This bill is aimed at retaining those good soldiers. I hope it will have the support of all of you.

By Mr. NUNN (for himself, Mr. RUDMAN, Mr. CHILES, Mr. NICKLES, Mr. HATCH, Mr. ROTH, Mr. KENNEDY, Mr. DECONCINI, Mr. STENNIS, Mr. JOHNSTON, Mr. PRYOR, Mr. HOLLINGS, and Mr. EAST):

S. 336. A bill to increase the penalties for violations of the Taft-Hartley Act, to prohibit persons, upon their convictions of certain crimes, from holding offices in or certain positions related to labor organizations and employee benefit plans, and to clarify certain responsibilities of the Department of Labor; to the Committee on Labor and Human Resources.

LABOR MANAGEMENT RACKETEERING ACT OF 1983

Mr. NUNN. Mr. President, today I introduce legislation which will revise current Federal labor laws to more effectively combat the problem of labor corruption. Senators WARREN RUDMAN, LAWTON CHILES, DON NICKLES, ORRIN G. HATCH, WILLIAM V. ROTH, JR., EDWARD M. KENNEDY, DENNIS DECONCINI, JOHN C. STENNIS, J. BENNETT JOHNSTON, DAVID PRYOR, ERNEST F. HOLLINGS, and JOHN P. EAST join me in introducting this legislation. Designated the Labor Management Racketeering Act of 1983, this bill will increase the criminal penalties for violations of the Taft-Hartley Act, prohibit immediately upon conviction of certain persons from holding certain positions in unions or employee benefit plans, and clarify the Department of Labor's responsibilities to investigate and refer allegations of criminal activity.

As worded, this bill is identical to S. 1785, the Labor Management Racketeering Act of 1982, which was passed by unanimous consent in the Senate on two separate occasions during the last Congress. Not only did the bill win approval from the Senate, but it also generated enthusiastic support from a wide range of interests outside the Congress. It has been publicly endorsed by the Department of Labor, the Department of Justice, Lane Kirkland of the AFL-CIO as well as George Lehr, executive director of the Teamsters Central States Pension Fund.

Of particular note was Lane Kirkland's endorsement of the bill in his testimony before the Permanent Subcommittee on Investigations in October 1981. He reiterated that support in his statement submitted during a hearing of the House Labor-Management Relations Subcommittee, held December 13, 1982. We have worked very closely with Mr. Kirkland and the AFL-CIO in ironing out possible difficulties with the bill. The bill which I introduce today reflects a well-reasoned and effective approach to the problem of labor corruption, reached with the support and cooperation of the AFL-CIO.

The bill attempts to remedy serious problems concerning the infiltration of some unions and some employee benefit plans by corrupt officials who have no real concern for the well-being of the honest rank-and-file union members they pretend to represent. Those problems were graphically illustrated in public hearings on waterfront corruption before the Permanent Subcommittee on Investigations in February 1981. The legislation, which is now before us, is a direct result of those hearings. As ranking minority member and former chairman of the subcommittee, I had the opportunity to direct an extensive staff investigation of criminal activity within both the International Longshoremen's Association (ILA) and the American shipping industry.

This set of hearings followed a very extensive investigation of the waterfront and the corruption on the waterfront by the U.S. Department of Justice and the FBI. They did a superb job.

In 1975 the Justice Department launched a nationwide investigation of racketeering on our waterfronts. This sweeping inquiry culminated in the criminal convictions of more than 100 high-level ILA officials and shipping company executives.

These persons were charged with a variety of offenses ranging from violating the Taft-Hartley Act to extortion, payoffs, kickbacks, threats, intimidation, obstruction of justice, and income tax evasion.

Spurred by the success of the Department of Justice's UNIRAC investigation, the subcommittee staff interviewed numerous witnesses and reviewed countless other items of evidence in order to convey to the American public an accurate portrait of the American waterfront in the 1980's. That portrait, as presented in 2 weeks of hearings in February of 1981, is, unfortunately, a dismal one. Witness after witness described the struggle for economic survival in some ports which are riddled with a pervasive pattern of kickbacks and illegal payoffs to union officials.

My colleagues and I heard of payoffs to insure the award of work contracts, payoffs to maintain contracts already awarded, payoffs to insure labor peace, payoffs to allow management circumvention of labor strikes, payoffs to prevent the filing of fraudulent workmen's compensation claims, payoffs to expand business activity into new ports, and payoffs to accord certain companies the freedom to circumvent ILA contract requirements with impunity.

Especially disturbing is the fact that the evidence clearly suggests that, through that system of payoffs, recognized leaders of the traditional organized crime families influence and effectively dominate the International Longshoremen's Association and large segments of the American shipping industry. Again last year our subcommittee, in public hearings on the Hotel Employees and Restaurant Employees International Union, received evidence of the corrupt influencee of organized crime in labor-management relations in other industries. It is a sobering event, indeed, to learn that substantial portions of our national economy have fallen prey to the influence of organized crime.

I might add that their investigation and the revelations that came from that, with the cooperation we had from the Justice Department and the FBI, were absolutely essential in both the hearings and in the framing of this legislation.

In the case of the waterfront industries, we were told that a payoff is commonly treated as a mere cost of doing business which can be, and is, routinely passed on as an added cost to the consumer. Our traditional and cherished notions of free enterprise have become nearly nonexistent in some ports of this country.

These payoffs, though illegal under current law, are punishable only as a misdemeanor.

The bill makes any such violation involving an amount of money greater than $1,000 a felony, punishable by up to 5 years imprisonment or a fine of up to $15,000, or both.

Our proposal also attempts to rid labor organizations and employee benefit plans of the influence of persons convicted of criminal offenses. Current disbarment provisions—29 U.S.C. 504 and 29 U.S.C. 1111—are expanded in several significant ways: Enlarging the categories of persons affected by the disbarment provisions; increasing the time barred from office or position from 5 to a possible maximum of 10 years; and providing for disbarment immediately upon conviction rather than after appeal.

The bill does provide that any salary otherwise payable shall be placed in escrow pending final disposition of any appeal.

Finally, our hearings examined more than the ways and means of criminal corruption itself. We also explored the adequacy of law enforcement's response to this corruption. As for the waterfront, several things quickly became obvious: First, that the Department of Justice, through a massive assignment of resources and manpower in UNIRAC, had had great success in the short run; second, that, if we are to eliminate such corruption on a permanent basis, continuous monitoring and enforcement efforts are required; and third, that the Department of Labor had generally failed to participate in criminal law enforcement efforts in this area. To correct this problem and to maximize available law enforcement resources in this area, the bill clearly delineates the responsibility and authority of the Department of Labor to actively and effectively investigate and refer for prosecution criminal activities on the waterfront.

On the need for disbarment of convicted officials immediately upon conviction, I point out that our hearings in February 1981 emphasized the need for such a provision. The testimony established case after case where convicted officials remained in office years after conviction while the appeal process dragged on, controlling union funds despite their convictions. We heard of instances where management representatives who had served as Government witnesses were actually required to conduct bargaining negotiations with the very individuals who had been convicted as a result of their testimony, long after the trials had finished.

We received that testimony in February 1981. Despite the Senate's approval and our efforts in the House, this bill has not yet become law. Unfortunately, almost a full 2 years later, convicted officials continue to do business "as usual" on the waterfront and elsewhere despite their earlier convictions on significant criminal charges. As but one example, in the Miami case covered during our hearings, petitions for writs of certiorari are still pending before the Supreme Court. As a result, the positions of president, secretary-treasurer, and office manager in the local union are still today held by those same convicted individuals whom we heard testimony about more than 2 years ago. Clearly, time has not lessened the need for and the importance of this legislation.

Recognizing the significance of disbarment immediately upon conviction, the bill expressly makes that provision retroactive. As such, convicted officials whose appeals are now still pending will be immediately barred upon enactment of this legislation. The bill's enactment would end immediately open control of union funds and activities by those convicted in Miami as well as other recently convicted officials, including Teamsters President Roy Lee Williams.

In sum, I want to stress again that the provisions of this bill are designed to protect the best interests of labor and management, as well as the American consumers. Our hearings strongly indicated that corruption within the leadership of the ILA, as documented by the convictions of numerous ILA officers, is depriving the average longshoreman of the full benefits of his union membership. Not only did the ILA itself fail to act to remove those officials and prevent further corruption, but ILA President Teddy Gleason himself testified, with apparent lack of concern, that the ILA "will have to * * * run a rehabilitation center." By contrast, the provisions of this bill will protect the union member where corrupt officials have failed to do so.

Mr. President, the record is clear that the vast majority of union officers, employee benefit plan officials, and rank-and-file union members are honest, hard-working, law-abiding citizens. Our Nation can and should be justifiably proud of the enormous contribution our unions have made to the economic and social strength of the United States. But our hearings have shown that a small group of parasites have fastened themselves onto the body of the labor movement. These parasites are perverting the true interests of the union members they claim to represent through a pattern of payoffs and extortion. The unions have labored to shed themselves of these people, but in many cases they have been unable to do so alone. I believe that the unions need our help here in Congress. I believe that this bill is a major step forward in providing the extra assistance needed for the unions to finally rid themselves of those corrupt officials who are motivated not by the welfare of the American worker but by their own greed.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 336

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be referred to as the "Labor Management Racketeering Act of 1983".

SEC. 2. (a) Subsection (d) of section 302 of the Labor Management Relations Act, 1947 (29 U.S.C. 186) is amended to read as follows:

"(d)(1) Any person who participates in a transaction involving a payment, loan, or delivery of money or other thing of value to a labor organization in payment of membership dues or to a joint labor-management trust fund as defined by clause (B) of the proviso to clause (5) of subsection (c) of this section or to a plant, area, or industry-wide labor-management committee that is received and used by such labor organization, trust fund, or committee, which transaction does not satisfy all the applicable requirements of subsections (c)(4) through (c)(9) of this section, and willfully and with intent to benefit himself or to benefit other persons he knows are not permitted to receive a payment, loan, money, or other thing of value under subsections (c)(4) through (c)(9) violates this subsection, shall, upon conviction thereof, be guilty of a felony and be subject to a fine of not more than $15,000, or imprisoned for not more than five years, or both; but if the value of the amount of money or thing of value involved in any violation of the provisions of this section does not exceed $1,000, such person shall be guilty of misdemeanor and be subject to a fine of not more than $10,000, or imprisoned for not more than one year, or both.

"(2) Except for violations involving transactions covered by subsection (d)(1) of this section, any person who willfully violates this section shall, upon conviction thereof, be guilty of a felony and be subject to a fine of not more than $15,000, or imprisoned for not more than five years, or both; but if the value of the amount of money or thing of value involved in any violation of the provisions of this section does not exceed $1,000, such person shall be guilty of a misdemeanor and be subject to a fine of not more than $10,000, or imprisoned for not more than one year, or both.".

(b) Subsection (e) of such section is amended to read as follows:

"(e) The district courts of the United States and the United States courts of the territories and possessions shall have jurisdiction, for cause shown, and subject to the provisions of Rule 65 of the Federal Rules of Civil Procedure (relating to notice to opposite party), over—

"(1) suits alleging a violation of this section brought by any person directly affected by the alleged violation, and

"(2) suits brought by the United States alleging that a transaction involving a payment, loan, or delivery of money or other thing of value to a labor organization in payment of membership dues or a joint labor management trust fund as provided for in clause (B) of the proviso to clause (5) of subsection (c) of this section or to a plant, area, or industry-wide labor-management committee violates this section,

to restrain such violations without regard to the provisions of section 6 of the Clayton Act (15 U.S.C. 17), section 20 of such Act (29 U.S.C. 52), and sections 1 through 15 of the Act entitled 'An Act to amend the Judicial Code to define and limit the jurisdiction of courts sitting in equity, and for other purposes', approved March 23, 1932 (29 U.S.C. 101-115).".

SEC. 3. (a) So much of subsection (a) of section 411 of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1111) as follows "the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 401)," is amended to read as follows: "any felony involving abuse or misuse of such person's labor organization or employee benefit plan position or employment, or conspiracy to commit any such crimes or attempt to commit any such crimes, or a crime in which any of the foregoing crimes is an element, shall serve or be permitted to serve—

"(1) as an administrator, fiduciary, officer, trustee, custodian, counsel, agent, employee, or representative in any capacity of any employee benefit plan,

"(2) as a consultant or adviser to an employee benefit plan, including but not limited to any entity whose activities are in whole or substantial part devoted to providing goods or services to any employee benefit plan, or

"(3) in any capacity that involves decision-making authority or custody or control of the moneys, funds, assets, or property of any employee benefit plan, during or for the period of ten years after such conviction or after the end of such imprisonment, whichever is later, unless the sentencing court on the motion of the person convicted sets a lesser period of at least five years after such conviction or after the end of such imprisonment, whichever is later, and unless prior to the end of such period, in the case of a person so convicted or imprisoned (A) his citizenship rights, having been revoked as a result of such conviction, have been fully restored, or (B) the United States Parole Commission determines that such person's service in any capacity referred to in paragraphs (1) through (3) would not be contrary to the purposes of this title. Prior to making any such determination the Commission shall hold an administrative hearing and shall give notice to such proceeding by certified mail to the Secretary of Labor and to State, county, and Federal prosecuting officials in the jurisdiction or jurisdictions in which such person was convicted. The Commission's determination in any such proceeding shall be final. No person shall knowingly hire, retain, employ, or otherwise place any other person to serve in any capacity in violation of this subsection. Notwithstanding the preceding provisions of this subsection, no corporation or partnership will be precluded from acting as an administrator, fiduciary, officer, trustee, custodian, counsel, agent, or employee of any employee benefit plan or as a consultant to any employee benefit plan without a notice, hearing, and determination by such Parole Commission that such service would be inconsistent with the intention of this section.".

(b) Subsection (b) of such section is amended to read as follows:

"(b) Any person who intentionally violates this section shall be fined not more than $10,000 or imprisoned for not more than five years, or both.".

(c) Subsection (c) of such section is amended to read as follows:

"(c) For the purpose of this section:

"(1) A person shall be deemed to have been 'convicted' and under the disability of 'conviction' from the date of the judgment of the trial court, regardless of whether that judgment remains under appeal.

"(2) The term 'consultant' means any person who, for compensation, advises, or represents an employee benefit plan or who provides other assistance to such plan, concerning the establishment or operation of such plan.

"(3) A period of parole shall not be considered as part of a period of imprisonment.".

(d) Such section is amended by adding at the end thereof the following:

"(d) Whenever any person—

"(1) by operation of this section, has been barred from office or other position in an employee benefit plan as a result of a conviction, and

"(2) has filed an appeal of that conviction, any salary which would be otherwise due such person by virtue of such office or position, shall be placed in escrow by the individual or organization responsible for payment of such salary. Payment of such salary into escrow shall continue for the duration of the appeal or for the period of time during which such salary would be otherwise due, whichever period is shorter. Upon the final reversal of such person's conviction on appeal, the amounts in escrow shall be paid to such person. Upon the final sustaining of that person's conviction on appeal, the amounts in escrow shall be returned to the individual or organization responsible for payments of those amounts. Upon final reversal of such person's conviction, such person shall no longer be barred by this statute from assuming any position from which such person was previously barred.".

SEC. 4. (a) So much of subsection (a) of section 504 of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 504) as follows "or a violation of title II or III of this Act" is amended to read as follows: "any felony involving abuse or misuse of such person's labor organization or employee benefit plan position or employment, or conspiracy to commit any such crimes, shall serve or be permitted to serve—

"(1) as a consultant or adviser to any labor organization,

"(2) as an officer, director, trustee, member of any executive board or similar governing body, business agent, manager, organizer, employee, or representative in any capacity of any labor organization,

"(3) as a labor relations consultant or adviser to a person engaged in an industry or activity affecting commerce, or as an officer, director, agent, or employee of any group or association of employers dealing with any labor organization, or in a position having specific collective bargaining authority or direct responsibility in the area of labor-management relations in any corporation or association engaged in an industry or activity affecting commerce,

"(4) in a position which entitles its occupant to a share of the proceeds of, or as an officer or executive or administrative employee of, any entity whose activities are in whole or substantial part devoted to providing goods or services to any labor organization, or

"(5) in any capacity that involves decision-making authority concerning, or decision-making authority over, or custody of, or control of the moneys, funds. assets, or property of any labor organization, during or for the period of ten years after such conviction or after the end of such imprisonment, whichever is later, unless the sentencing court on the motion of the person convicted sets a lesser period of at least five years after such conviction or after the end of such imprisonment, whichever is later, and unless prior to the end of such period, in the case of a person so convicted or imprisoned, (A) his citizenship rights, having been revoked as a result of such conviction, have been fully restored, or (B) the United States Parole Commission determines that such person's service in any capacity referred to in clauses (1) through (5) would not be contrary to the purposes of this Act. Prior to making any such determination the Commission shall hold an administrative hearing and shall give notice of such proceeding by certified mail to the Secretary of Labor and to State, county, and Federal prosecuting officials in the jurisdiction or jurisdictions in which such person was convicted. The Commission's determination in any such proceeding shall be final. No person shall knowingly hire, retain, employ, or otherwise place any other person to serve in any capacity in violation of this subsection.".

(b) Subsection (b) of such section is amended to read as follows:

"(b) Any person who willfully violates this section shall be fined not more than $10,000 or imprisoned for not more than five years, or both.".

(c) Subsection (c) of such section is amended to read as follows:

"(c) For the purpose of this section:

"(1) A person shall be deemed to have been 'convicted' and under the disability of 'conviction' from the date of the judgment of the trial court, regardless of whether that judgment remains under appeal.

"(2) A period of parole shall not be considered as part of a period of imprisonment.".

(d) Such section 504 is amended by adding at the end thereof the following:

"(d) Whenever any person—

"(1) by operation of this section, has been barred from office or other position in a labor organization or employee benefit plan as a result of a conviction, and

"(2) has filed an appeal of that conviction, any salary which would be otherwise due such person by virtue of such office or position, shall be placed in escrow by the individual employer or organization responsible for payment of such salary. Payment of such salary into escrow shall continue for the duration of the appeal or for the period of time during which such salary would be otherwise due, whichever period is shorter. Upon the final reversal of such person's conviction on appeal, the amounts in escrow shall be paid to such person. Upon the final sustaining of such person's conviction on

appeal, the amounts in escrow shall be returned to the individual employer or organization responsible for payments of those amounts. Upon final reversal of such person's conviction, such person shall no longer be barred by this statute from assuming any position from which such person was previously barred.".

SEC. 5. (a) The first paragraph of section 506 of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1136) is amended by striking out "In order" and inserting in lieu thereof the following:

"(a) COORDINATION WITH OTHER AGENCIES AND DEPARTMENTS.—In order".

(b) Such section is amended by adding at the end thereof the following new subsection:

"(b) RESPONSIBILITY FOR DETECTING AND INVESTIGATING CIVIL AND CRIMINAL VIOLATIONS OF EMPLOYEE RETIREMENT INCOME SECURITY ACT AND RELATED FEDERAL LAWS.—The Secretary shall have the responsibility and authority to detect and investigate and refer, where appropriate, civil and criminal violations related to the provisions of this title and other related Federal laws, including the detection, investigation, and appropriate referrals of related violations of title 18 of the United States Code. Nothing in this subsection shall be construed to preclude other appropriate Federal agencies from detecting and investigating civil and criminal violations of this title and other related Federal laws.".

(c) The title of such section is amended to read as follows:

"Coordination and responsibility of agencies enforcing Employee Retirement Income Security Act and related Federal laws".

SEC. 6. (a) The amendments made by section 3 and section 4 of this Act shall take effect with respect to any judgment of conviction entered by the trial court after the date of enactment of this Act, except that that portion of such amendments relating to the commencement of the period of disability shall apply to any judgment of conviction entered prior to the date of enactment of this Act if a right of appeal or an appeal from such judgment is pending on the date of enactment of this Act.

(b) Subject to subsection (a) the amendments made by sections 3 and 4 shall not affect any disability under section 411 of the Employee Retirement Income Security Act of 1974 or under section 504 of the Labor-Management Reporting and Disclosure Act of 1959 in effect on the date of enactment of this Act.

● Mr. RUDMAN. Mr. President, today we are reintroducing the Labor-Management Racketeering Act. What I consider the meat of the bill would permit disbarment upon conviction of union or employee benefit plan officials. However, the bill makes a number of other important changes which expand present law. It would enlarge the number of union positions subject to disbarment, extend the period of disbarment from 5 to 10 years, increase the penalties for crimes involving more than $1,000, and broaden the scope of crimes that would subject officials to disbarment. Also, more as a reaction to past Department of Labor policies than to the present ones, the bill would clearly delineate the responsibility and authority of the Department of Labor to actively and effectively investigate and refer for prosecution of criminal activities in unions. These changes might not be necessary if unions themselves had, in the past, actively pursued courses designed to rid their unions of corrupt officials. Unfortunately, this has not been the case. However, times are changing, and it is important to note that this legislation is supported by the AFL-CIO and the Teamsters Central State pension fund.

The recent interest in this legislation stems largely from the conviction of Teamsters Union President Roy Lee Williams. It is important to remember, however, that this is only the most recent example of the need for this legislation. There are any number of cases where union officials, often controlled by organized crime, have remained in office for extended periods while their convictions were appealed. In such cases, not only do the officials often continue their corrupt activities, but witnesses against them often find themselves on opposite sides of the bargaining table in contract negotiations.

The Labor-Management Racketeering Act responds to the limitations in present law which have resulted in the frustration of the intent of previously enacted statutes. It is the product of hearings before the Permanent Subcommittee on Investigations which identified the insidious influence organized crime continues to hold over American unions. During the last session, the subcommittee held extensive hearings on waterfront corruption. Most of the testimony dealt with the Department of Justice's Miami Organized Crime Strike Force investigation that began during October 1975. The investigation, known as UNIRAC, culminated in a number of convictions of major union officials.

Witnesses who were involved with UNIRAC testified that the large network of U.S. ports is controlled by organized crime. Payoffs, larceny, sabotage, and labor disruption are so prevalent that they are included as a part of the cost of doing business. Without question, when these conditions prevail, free enterprise does not exist. Competition is stifled, making it impossible for legitimate business to operate. The result is a cancer on our economy; a parasite which feeds of consumers, legitimate businesses and union members alike.

It would be unfair to those involved in the UNIRAC investigation for me to say that no substantial gains were made. However, according to witnesses at our hearings, the corruption continues—it is business as usual on the docks. An unanticipated consequence of the legislation as presently written has occurred. During the pendency of their appeals, convicted union officials continued to operate in their former positions. The president of a Miami local, who was tried, convicted, and sentenced as a result of the UNIRAC effort, was reelected president of his union. Other convicted union officials who exercised their fifth amendment rights during our hearings continued to hold and abuse their union positions during the pendency of their appeals. Racketeering and corruption continued, resulting in a nullification of the efforts of the UNIRAC investigation.

As further emphasis of the need for this legislation I would like to recite the facts of a case involving Bernard Rubin. Bernard Rubin was a president of a number of locals of the International Union of Laborers in south Florida. He was also a district and international officer, as well as a trustee on numerous trust funds. Mr. Rubin was indicted on July 8, 1975, and convicted on October 22, 1975, of embezzling nearly a half million dollars from union trust funds as well as racketeering and other charges. Because present law does not permit removal of union officials until their appeals have been exhausted, Mr. Rubin remained in office. By September of 1977, Department of Justice officials learned that Mr. Rubin had further embezzled over $2 million of union and union trust fund assets after his conviction. Even then, the only way that Justice officials were able to remove Mr. Rubin from his official positions was when the judge in the case threatened to revoke Mr. Rubin's bond. Finally, under this pressure, the union removed Mr. Rubin from his positions. This is but one example demonstrating the need for legislation whereby union officers or trust fund trustees would be suspended automatically after felony conviction of abuse or misuse of their official position.

I think this is an extremely appropriate time to adopt this legislation. The Nation is witnessing a major decline in the number of union members, and I suspect that a major factor behind that decline is the corrupt, crime-ridden reputation of some of our major unions. Further, these leeches on our free markets drain the economic lifeblood of the industries they dominate. This legislation will go a long way toward correcting the problem.●

● Mr. CHILES. Mr. President, I join with Senator NUNN in reintroducing today an important piece of legislation identical to a bill which passed this Senate unanimously last July. It is the Labor-Management Racketeering Act of 1983. Its purpose is to help the worker by protecting pension funds from criminal mismanagement. It is the most significant effort dealing with labor corruption since Landrum-Griffin in 1959 as it will bring tougher penalties for those convicted of racketeering in organized labor management

fraud. We developed the legislation after extensive investigations by the Permanent Subcommittee on Investigations of alleged corruption on the Nation's waterfronts. Those investigations involved hours in preparation, hours in hearings, hours in study, and then hours spent in bringing together the varying views of the parties concerned with this problem. It should be noted that Lane Kirkland, the head of the AFL-CIO, endorsed last year's bill, as well as the members of the teamsters pension fund and the head of the teamsters pension fund.

The administration joined with the AFL-CIO in supporting this piece of legislation that would stiffen penalties for racketeering in organized labor management and fraud in handling union pension funds. This is the first time a major union and the administration have jointly supported such a measure.

The critical need for a remedy to the problem cannot be questioned. The evidence presented during the course of the subcommittee's investigations was disturbing to those of use who are concerned with the continued survival of our free enterprise system.

Indeed, the severity of the violations uncovered, including extortion payoffs, kickbacks, obstruction of justice, and violations of the Taft-Hartley Act, is startling. The subcommittee's latest round of hearings on the problem heard from witnesses who testified that the large network of ports in the United States is controlled by organized crime. Payoffs are occurring with such regularity that they are considered a part of everyday expenses which, in turn, are passed on to the consumer. We heard of payoffs to insure the award of work contracts, to maintain contracts already awarded to insure labor peace, and to expand business opportunities to new ports. The list goes on and on. I was especially disturbed by the evidence of criminal extortion and illegal payoffs in the south Florida area. The subcommittee conducted a thorough and alarming examination of waterfront corruption in that area, particularly at the Port of Miami. The practice of payoffs and illegal kickbacks appeared to be widespread and increasingly acceptable among waterfront businessmen and labor leaders.

Apparently, the recent growth of the Port of Miami into a major shipping center was accompanied by increasing efforts by organized crime to illegally manipulate waterfront businesses in that area.

Mr. President, the evidence uncovered by the Permanent Subcommittee on Investigations vividly depicts the need for a legislative remedy to these problems. I believe that this bill is just the vehicle required to stem corruption on the Nation's waterfronts and to adequately punish those involved in breaking the law. The bill would make violations of the Taft-Hartley Act of $1,000 or more a felony and punishable by up to 5 years imprisonment, and/or a fine of up to $15,000. Currently, such violations are only a misdemeanor subject to a fine of up to $10,000 and/or imprisonment of just 1 year.

The bill would also provide for the removal from labor unions and employee benefit plans the influence of persons convicted of criminal offenses. Union officials convicted of violations against Taft-Hartley would be suspended immediately. The ban against a convicted official holding a union office would be increased from 5 to 10 years. It has been an all too common practice for convicted officials to continue as trustees controlling the purse-strings of employee pension funds while their appeal drags through the judicial system for years. Ironically, they are in a position to continue the abuses they have been convicted of, which is often the case. I think it is crucial that we assure the millions and millions of persons who are depending on employee benefit plans for retirement that their funds will be wisely and legally invested, controlled and used by the individuals entrusted with the responsibility. And, we must assure the many workers of this country that the management of their unions are being directed by persons who have only the best interests of the workers in mind.

Finally, this legislation would make it clear that it is the responsibility of the Department of Labor to actively root out these abuses and to follow through on the referral of such cases to the Justice Department for prosecution. In the past, there has been a question as to whether or not it was the Department of Labor's authority to investigate alleged criminal violations. In most cases, this indecisiveness resulted in the criminal avoiding his day in court and, indeed, led some to believe that their activities could go on uninhibited.

Mr. President, in light of the volumes of evidence uncovered by the subcommittee, it is painfully obvious that corrupt practices on the waterfront have carried on for too long. I am happy to join with Senator NUNN in supporting what I believe to be a thorough and effective piece of legislation that would provide greater protection for unions and employee benefit plans from the corrupt practices of union and management officials. I urge my colleagues to join with me in supporting the Labor-Management Racketeering Act of 1983.●

● Mr. NICKLES. Mr. President, I am pleased today to be joining Senator NUNN and 11 other cosponsors in introducing the Labor-Management Racketeering Act of 1983. This same bill unanimously passed the Senate twice in the 97th Congress. It is the result of lengthy negotiations and has the support of the Department of Labor, the Department of Justice, and Lane Kirkland, president of the AFL-CIO.

Passage of this legislation will greatly benefit thousands of honest, hard-working people who depend on their labor-management leadership for the maintenance of their retirement funds. Recent convictions of a union president and an insurance company executive amplify the need for this protective legislation. I urge the House of Representatives not to let another session of Congress lapse without passing the Labor-Management Racketeering Act.

As chairman of the Labor Subcommittee, I have scheduled a hearing on March 15 on this legislation. I anticipate quick action by the subcommittee. I commend Senator HATCH as chairman of the Committee on Labor and Human Resources for his commitment to this bill and know that he will take the necessary steps to get the bill through the committee and onto the floor of the Senate as soon as possible. Again, I urge the House to take prompt, responsible action on this bill.

Thank you.●

Mr. HATCH. Mr. President, I am honored in joining my distinguished colleagues in introducing the Labor-Management Racketeering Act of 1983.

I would like to thank Senators NUNN and NICKLES for their aggressive pursuit during the 97th Congress of Senate approval of the Labor-Management Racketeering Act. I am confident that we will be able to work together again this Congress, as we did last year when this same bill passed the Senate unanimously. Special recognition also should be given to Senator KENNEDY, whose active participation on this bill is not only a tribute to him but also is evidence of the severity of the problem we are addressing and the inherent fairness of this legislation. The bill also will augment the recommendations President Reagan is making to combat organized crime.

The Labor-Management Racketeering Act of 1983 is designed to provide needed protection for union members and their health and welfare plans. It would strengthen the prohibitions against racketeering and increase the penalties found in the principal labor laws that regulate labor relations and employee benefit plans—the Taft-Hartley Act, the Landrum-Griffin Act, and ERISA.

For example, under the Senate bill, an individual convicted by a court of law of embezzling money from a union's pension plan would be barred from holding a union office for a period of 10 years. Similarly, an individual found guilty of extorting em-

ployer payoffs in exchange for labor peace would be barred from representing that union for a period of 10 years. Moreover, under the bill, any company official involved in this prohibited activity would be barred for an equivalent amount of time. The bill also prohibits union and management officials from continuing in office after their trial court conviction simply because they appealed those decisions.

With Senators NICKLES, KENNEDY, and myself all cosponsoring this legislation, we should be able to move it quickly through the Committee on Labor and Human Resources as well as the Senate. Senator NICKLES, chairman of the Labor Subcommittee, has scheduled a hearing on this bill for March 15, 1983. I personally will do all I can to move the bill through the full committee as expeditiously as possible.

It should be remembered that this same bill passed the Senate twice last year, only to be buried in the House of Representatives. I feel that the burden is really on the House in general and the Labor-Management Relations Subcommittee in particular to demonstrate their commitment to honest and equitable collective bargaining and a union movement worthy of its membership. The 22 million working men and women of this country who belong to labor organizations deserve no less.

● Mr. ROTH. Mr. President, I am pleased to add my support for the Labor-Management Racketeering Act of 1983.

Although this legislation was approved by the Senate in the 97th Congress, the bill was never acted upon in the House of Representatives. As a result, the sponsors of this legislation find it necessary to introduce it once again in order to bring the issue to the attention of the House membership and to obtain full congressional approval.

Numerous hearings by the Permanent Subcommittee on Investigations, which I now chair, have underscored the fact that congressional efforts to end the domination of certain unions by organized crime and other criminal elements have not been entirely successful. Current Federal prohibitions and penalties designed to protect the legitimacy of labor unions have, to a certain extent, proven to be inadequate. For instance, we have shown that many individuals in the International Longshoreman's Association who have been convicted of serious Federal offenses maintained their positions of power long after their conviction.

The problem with allowing convicted union leaders to retain their positions of fiduciary responsibility is well illustrated in the story of Bernard Rubin, official in the Laborers Union in Florida. Convicted in the mid-1970's of embezzling union funds, Rubin retained his union position while appealing his conviction. It was later learned that, during the interim, Rubin had continued to pilfer union moneys.

The need for action on this legislation was further emphasized by the conviction of Teamsters Union President Roy Lee Williams. Williams, together with his four codefendants, was convicted of conspiracy to commit bribery, traveling interstate in the furtherance of a bribe and various charges of scheming to defraud the Teamsters Central States pension fund. Despite these convictions, however, neither Williams nor the two officials of the pension fund convicted with him will be forced to resign their positions with the union until all avenues of appeal have been exhausted.

The Permanent Subcommittee on Investigations is currently conducting an extensive investigation to determine the degree to which organized crime has been able to infiltrate and control the International Hotel Workers Union and its larger affiliated locals.

Although we have not yet completed our investigation of the international union, we have uncovered a starting pattern of infiltration and control of several of its locals.

This is intolerable, and it is compounded by the helpless situation of the honest rank and file members. We have heard testimony relating to the ruthless and violent methods used to discourage honest union members from challenging the control of their locals by criminals.

The time has come for Congress to take decisive steps toward ridding the unions of the stranglehold imposed by criminal elements. Congress must take these steps in order to safeguard the workers of this Nation and to insure that money for benefits to which they are entitled is in fact used for its intended purpose.

In addition, this legislation will clarify the responsibility of the Secretary of Labor to investigate civil and criminal violations of the Federal pension laws and related statutes.

I urge my colleagues to join with me in support of this legislation.●

By Mr. PACKWOOD (for himself, Mr. MOYNIHAN, Mr. DURENBERGER, and Mr. HEINZ):

S. 337. A bill to amend the Internal Revenue Code of 1954 to make permanent the deduction for charitable contributions by nonitemizers; to the Committee on Finance.

DEDUCTION FOR CHARITABLE CONTRIBUTIONS

● Mr. PACKWOOD. Mr. President, the Economic Recovery Tax Act of 1981 contained an amendment proposed in the Senate by Senator MOYNIHAN and me to allow nonitemizers to deduct charitable contributions. Today Senators MOYNIHAN, DURENBERGER, HEINZ, and I are introducing a bill to make permanent the 1981 amendment. This new deduction was enacted in 1981 as an integral part of the effort to encourage the delivery of services by the voluntary sector.

As enacted in 1981, the new deduction phases in slowly. Specifically, for 1982 and 1983 the maximum charitable contributions deduction for nonitemizers is $25 (one-fourth of contributions, up to $100); for 1984, the maximum deduction is $75 (one-fourth of contributions up to $300); and for 1985, one-half of contributions with no dollar limit. Not until 1986 can nonitemizers deduct all charitable contributions. At the end of 1986, the new deduction terminates.

The bill we are introducing today eliminates the termination date. We are introducing the bill now because of the importance of making this tax incentive a permanent part of the law of the land.

The people of our Nation are blessed with hundreds of thousands of community-based nonprofit organizations. I believe there is no question about the value of these organizations, both to the millions of recipients of their services and to the millions of volunteers who staff them.

But, unfortunately, there is question about the ability of these groups to survive. The financial hurdles facing them are overwhelming. Federal budget cuts for human services and other areas have cut funding for federally assisted services administered through nonprofit organizations by billions of dollars. Also, income and estate tax reductions in 1981 diluted existing tax incentives for voluntary contributions, leading to billions more in lost funds.

The 1981 amendment to allow all taxpayers to deduct charitable contributions will partially offset these losses. As this new law is phased in it will encourage contributions critical to the maintenance of services and programs in every community in the Nation.

This deduction is important to those charities that depend on small contributors. There may have been a time that charities could depend on the very generous contributions of a few wealthy people. If those days were ever here, they are gone now. Today we need to encourage the small contributor to help. And I believe they will respond.

Mr. President, I request unanimous consent that the text of the bill be inserted in the RECORD following these remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 337

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That sub-

section (i) of section 170 of the Internal Revenue Code of 1954 (relating to the rule for nonitemization of deductions) is amended by striking out paragraph (4).●

● Mr. MOYNIHAN. Mr. President, I rise today with Senator PACKWOOD to propose legislation to eliminate the sunset provision of the law introduced last year by myself and Senator PACKWOOD, that permits all taxpayers to deduct their charitable contributions whether or not they itemize their other deductions.

Under the legislation we introduced last year, taxpayers who do not itemize their other deductions can deduct their charitable contributions. This was responsible legislation, approved by an overwhelming majority of the Congress. Under this law, taxpayers can deduct 25 percent of their charitable contributions of up to $100, in the 1982 and 1983 tax years; from that point the amount and percentage rises at a gradual rate. In 1984, nonitemizing taxpayers can deduct 25 percent of their contributions of up to 300; in the 1985 tax year, the percentage rises to 50 percent and the upper limit is eliminated. Finally, in the 1986 tax year, nonitemizers can deduct all of their charitable contributions, without limit—just as can those taxpayers who do itemize.

This is fine and good. It is equitable, and it responds to a need recognized by both parties: the need to support our charities in the most effective way possible. But Congress attached a sunset provision to this legislation last year. Having risen to 100 percent of all contributions in the 1986 tax year, the provision is entirely eliminated in the 1987 tax year. Our current legislation would delete this sunset provision. The legislation introduced today by Senator PACKWOOD and myself would establish, as a permanent part of the Nation's tax law, the right of taxpayers who do not itemize to deduct their charitable contributions.

All the considerations favoring the original legislation argue against the sunset provision, and consequently for the bill we offer today. And these considerations were recognized by members of both political parties. The 1980 Republican platform stated that, "we support permitting taxpayers to deduct charitable contributions from their Federal income tax whether they itemize or not." This was reiterated in a telegram that Ronald Reagan sent the National Conference of Catholic Charities on September 18, 1980, in which he stated:

> We support permitting taxpayers to deduct charitable contributions from their Federal income tax whether they itemize or not.

Mr. President, this provision was not political. It reflected the widening appreciation by the American people of the unique and vital role played by private, nonprofit organizations and the importance of devising public policies that succor and sustain them and the charitable impulse that undergirds them. It also reflected a mounting wariness toward Government monopoly and toward the enrichment of the public sector as the private is diminished.

This appreciation, and this wariness, will not suddenly disappear in 1987, the time when under the current sunset provision the legislation Senator PACKWOOD and I introduced last year, with the support of the Republican platform and Mr. Reagan, would lapse.

This is not a small, technical tax matter. It is an issue that speaks to major currents in American history, the basic relations and balance between the public and private sectors of our society.

Return for a moment to a period of extraordinary intellectual ferment, just before the great crises of our century: The World Wars, the Depression, the rise of totalitarianism. Social and political thought was deadlocked in a conflict between two powerful schools. On one hand stood the classical liberals, who asserted the sovereignty of the individual, and looked with skepticism upon most forms of collective human enterprise.

On the other hand, emerging from continental traditions both of socialism and conservative absolutism, stood the statists. They feared that such individualism would lead to the disintegration of society—reducing humanity, in Durkheim's powerful phrase, to "a dust of individuals."

In response to this dichotomy, a third tendency began to develop, a tendency that owed much of its strength to the Anglo-American experience. It was called pluralism. While it is not properly regarded as a school of political thought, its exponents stood more to the democratic left than to the right. Among them were English figures such as R. H. Tawney, C. D. H. Cole, and the young Harold Laski.

The pluralists challenged both the absolute sovereignty of the individual and the sovereignty of the corporate state. They argued that between the individual and the state were to be found a great array of social and economic entities. They believed that in the strength of these voluntary, private associations—church, family, club, trade union, commercial association—lay much of the strength of democratic society. Such ideas had considerable resonance here. For as deTocqueville observed a century and a half ago:

> In no country in the world has the principle of association been more successfully used, or more unsparingly applied to a multitude of different objects, than in America.

One ought not be smug about this, for voluntarism as it developed on this continent traces its roots to the other side of the Atlantic. In Britain especially private charity had assumed vast proportions by the mid-19th century. As Prof. Calvin Woodard of the University of Virginia notes, in 1871 appropriations for the entire Royal Navy totaled 9 million pounds, while the collections and disbursements of the London charities came to 8 million pounds.

On these shores, the pluralist temper influenced the thoughts of Theodore Roosevelt and the progressive movement. And it can be heard distinctly in this passage from a speech that Woodrow Wilson delivered a few weeks before his election in 1912.

> If I did not believe that monopoly could be restrained and destroyed, I would not believe that liberty could be recovered in the United States, and I know that the processes of liberty are the processes of life.

Wilson was indulging in a bit of uncharacteristic hyperbole, for liberty did not need to be "recovered" in the United States. It had never vanished. It is important to recall, however, that the monopoly of which he spoke was private sector monopoly, business monopoly. As I said at Skidmore College in May 1978:

> The public life of Wilson's time was much absorbed with fear and detestation of private monopoly, and great chunks of political and social energy were consumed in devising strategies for controlling it. While this was not an easy undertaking at the time, the means were at least conceptually at hand. For the public sector itself—along with public regulation—offered a clear alternative to the private sector and one obviously responsive to public policy. Whereas it is impossible to enact a statute to create a private institution, it is a relatively simple matter to establish public ones and to restrain the activities of private counterparts. In the process, the public sector became powerfully associated with social progress and with liberalism generally perceived.

Then came the cataclysms of our century—wars and economic crises which appeared to require a centralization of public authority and an expansion of public services far beyond anything previously envisioned. In that context, the pluralists' ideas seemed cautious, deliberate, almost effete. Those seeking to meet social needs that individualism could not provide for turned more and more to the public sector, to the state, and away from the realm of private, voluntary associations.

To be certain, the results were salutary for the society. The result is an irreplaceable set of common provisions for the needy, the aged, and the sick. But we are reaching a point at which it begins to be necessary to consider policies which will maintain a sound balance between our private and public spheres. As I further remarked at Skidmore, recalling Wilson's injunction against monopoly:

With its continuing expansion, the public sector commences to displace the private, and to display some of the qualities of an enterprise that desires monopoly control.

Today, we begin to glimpse some questionable side effects of our mounting reliance upon Government. We see it, I believe, in such diverse phenomena as the unsteady condition of the family and the erosion of private education. We also see it in the faltering pace of our economic productivity and the cool impersonality that touches so many Government agencies. And if some in political life still do not see it, or will not see it, it appears that the public sees it, and is beginning to act upon that perception.

Is this a movement of selfishness, miserliness, or public lapse into what has been described as "degraded hedonism"? I think not. More likely, we are witnessing a generalized discontent with the vastness, waste, and unaccountability that now characterize much of the Government. Here then, is the larger argument for the incentives to private giving that our proposal would make permanent.

But let it not be thought that our proposal embodies a simplistic reaction against Government or the political process. On the contrary, I believe that our politics and Government would be strengthened by renewed vigor in the voluntary sector. The relative decline of that sector has been accompanied, not by a rise in the prestige and competency of Government, but by the reverse. I am prepared to believe that the two can prosper alongside one another. Indeed, neither can serve us well without the other.

DeTocqueville understood this, as he did so many things:

A government can no more be competent to keep alive and to renew the circulation of opinions and feelings amongst a great people than to manage all the speculations of productive industry. No sooner does a government attempt to go beyond its political sphere and to enter upon this new track, than it exercises, even unintentionally, an insupportable tyranny; for a government can only dictate strict rules, the opinions which it favors are rigidly enforced, and it is never easy to discriminate between its advice and its commands . . . governments therefore should not be the only active powers: associations ought in democratic nations, to stand in lieu of those private individuals whom the equality of conditions has swept away.

We seek in this legislation to reestablish in a permanent way the fundamental principle that underlay the charitable deduction when it was written into the Internal Revenue Code in 1917. This is the principle that money given by an individual to charitable purposes is money that should not be taxed.

The principle is clear enough. What has been less well understood is its gradual erosion as the zero bracket amount has been increased and as taxpayers have found it advantageous not to itemize.

The effects have been felt by individuals, whose economic incentive to give to charity has been eroding. And the effects have been felt by charitable organizations whose donated income has been eroding.

Charitable giving, as a percentage of personal income, declined from 1.99 percent in 1970 to 1.90 percent in 1979. As each one-hundredth of 1 percent of personal income is equal to approximately $200 million, this decline means that total charitable giving in 1979 was some $1.8 billion less than it would have been if the levels of giving of just 9 years earlier had been maintained.

Last year, our legislation restored the charitable deduction's original character, and again made that deduction available to all taxpayers. This year, our legislation will make this restoration permanent.

This could result in a tax reduction for millions of low- and middle-income families, and in increased charitable giving that would significantly exceed the attendant revenue loss to the Federal Treasury. Martin Feldstein, one of this Nation's most distinguished economists and now the President's Chief Economic Adviser, has estimated that if this deduction had been available in 1975, charitable contributions would have been $3.8 billion greater than they in fact were, at a cost to the Federal Treasury of about $3.2 billion.

The fundamental rationale for our legislation is familiar to every American as a basic principle of federalism: That the National Government should assume only those responsibilities that cannot satisfactorily be carried out by the States, by the localities, and by the myriad private structures and organizations, both formal and informal, that compromise this society. Structures that include the family itself, the neighborhood, the church, and the many private nonprofit agencies to be found in every community in this land.

This issue is familiar to Americans as an aspect of federalism.

Consider the interpretation offered by Jacques Maritain, this century's foremost Thomist, in "Man and the State," published in 1951. Maritain refers to a "process of perversion" which occurs—

when the State mistakes itself for a whole, for the whole, of the political society, and consequently takes upon itself the exercise of the functions and the performance of the tasks which normally pertain to the body politic and its various organs. Then we have what has been labelled the paternalist State: the State not only supervising from the political point of view of the common good (which is normal), but directly organizing, controlling, or managing, to the extent which it judges the interests of public welfare to demand, all forms—economic, commercial, industrial, cultural, or dealing with scientific research as well as with relief and security—of the body politic's life.

The "Paternalist State" has obvious manifestations, as when Government commences to engage in activities previously handled by nongovernmental organizations and begins to provide services formerly provided by the private sector.

Many of these activities and services are not only proper but essential to the satisfactory functioning of a just social order. One cannot, for example, readily imagine cash assistance to the poor, the unemployed, the elderly, and the disabled being provided as a matter of right other than by the state.

There is a more subtle manifestation of the absorption of the private sector by the public that is all the more worrisome because it is less noted. I refer to the gradual submersion of private organizations that occurs as they become dependent on the state.

Consider the consequences. Independence is eroded. Autonomy is undermined. Sovereignty diminished. The actions of the state become more important. The decisions of the state become more determinative. The ability to pursue objectives that the state does not share—in ways cannot share, perhaps should not share—is curbed.

The purpose of the "above the line deduction" is to redress the balance a little. It may not reverse the powerful historic trends but it will slow them. It will restore a little more independence to the voluntary sector. It will add a bit to the ability of the ordinary working man or woman to determine how, and on what, some of his or her money is spent.

It will in some small measure retard the process that has been described as the slow but steady conquest of the private sector by the public. It will enhance the ability of voluntary organizations to fill some of the void created by the constraints on Government activity that contemporary economic conditions dictate, and that contemporary political trends increasingly demand.

It will enhance the abilities of religious charities, of the ASPCA, of the Audubon Society, of universities, museums, and thousands of private nonprofit institutions and organizations to enhance the lives of millions of individuals. I believe this is worth doing.

Having said all this—having made the case last year and won the support of Congress—Congress having passed the essential provision last year permitting nonitemizing taxpayers to deduct their charitable contributions, can we continue to permit a 1987 sunset provision to hang over this legislation?

Now is the time to assure our charities that the Congress will not of a sudden withdraw the lifeline extended last year. Let us proceed expeditiously on this matter, in recognition of the

basic principles of our history and political culture.●

By Mr. COHEN (for himself, Mr. ROTH, Mr. LEVIN, Mr. RUDMAN, Mr. PERCY, Mr. DURENBERGER, Mr. PRYOR, Mr. PROXMIRE, Mr. HEINZ, and Mr. MITCHELL):

S. 338. A bill to revise the procedures for soliciting and evaluating bids and proposals for Government contracts and awarding such contracts, and for other purposes; to the Committee on Governmental Affairs.

COMPETITION IN CONTRACTING ACT OF 1983

Mr. COHEN. Mr. President, today, I am reintroducing the Competition in Contracting Act, which is designed to increase the use of competition in Government contracting and to impose more stringent restrictions on the awarding of noncompetitive—sole-source—contracts. This legislation was reported unanimously by the Governmental Affairs Committee last October, but the Senate was unable to complete action on it before adjourning. I am pleased to have Senators ROTH, LEVIN, RUDMAN, PERCY, PRYOR, PROXMIRE, HEINZ, DURENBERGER, and MITCHELL as cosponsors.

Competitive procurement, whether formally advertised or competitively negotiated, is beneficial to the Government. The Competition in Contracting Act recognizes that competitive contracting takes more than one form and establishes an absolute preference for competition in the Federal procurement statutes. The legislation safeguards against unnecessary sole-source contracting by providing limited conditions under which agencies are permitted to contract noncompetitively and by requiring agencies to publicize prospective contracts to flush the marketplace for potential competitors. As a final check on noncompetitive contracting, the bill establishes an advocate for competition and strengthens the recording and reporting requirements.

Under our current contracting laws, Government agencies are required to promote the use of full and free competition in the procurement of property and services. In Government contracting, competition is a marketplace condition which results when several contractors, acting independently of each other and of the Government, submit bids or proposals in an attempt to secure the Government's business.

It is important to understand that competition is not a procurement procedure, but an objective which a procedure is designed to attain. Currently, formal advertising is the preferred procurement procedure, with negotiation authorized by prescribed exceptions. Despite this preference for competition through formal advertising, however, negotiated contracts account for the vast majority of Government procurement dollars. Negotiated contracts can be competitive—and the legislation recognizes and encourages competitive negotiation when it is the appropriate contracting method—but more than half of all negotiated contracts are sole-sourced. According to figures released last week by the Federal Procurement Data Center, $79.2 billion of the $146.9 billion spent on property and services over $10,000 in fiscal 1982 was negotiated noncompetitively.

While not all Government contracts can be awarded competitively, too often agencies contract on a sole-source basis when competition is available. A July 1981 General Accounting Office (GAO) report, entitled "DOD Loses Many Competitive Procurement Opportunities," estimated that the Defense Department failed to obtain competition in awarding $289 million in new fiscal 1979 contract awards surveyed. Moreover, an April 1982 GAO report, entitled "Less Sole-Source, More Competition Needed in Federal Civil Agenices' Contracting," found that this problem was not confined to the DOD. According to this report, the six civil agencies reviewed, which awarded new sole-source contracts totaling $538.1 million, failed to obtain competition on an estimated 40 percent of their contract awards.

The benefits lost from awarding sole-source contracts which could have been competed are numerous. First, competition in contracting saves money. Studies have indicated that between 15 and 50 percent can be saved through increased competition. A 1979 study prepared by the Institute for Defense Analysis, for example, determined that the gross savings on unit prices of electronic and communications items sampled was 48 percent; for missiles and missile components, the average was 28 percent. More recently, the GAO reported, at Senator LEVIN'S request, the results of the competitive procurement for the T-3 tractor—a contract which initially was to have been awarded noncompetitively. The GAO found that the lowest bid in a competitive procurement for the T-3 tractor was 43 percent less than the cost of the contract had it been awarded on a sole-source basis.

In November 1982, the Congressional Budget Office estimated that significant savings could be achieved through the effective implementation of the Competition in Contracting Act. The CBO estimates that each 1 percent saved on new contract actions reduces costs by about $150 million per year. Since studies on the use of competitive contracting have concluded that potential savings range from 15 to 50 percent, a conservative estimate of the savings resulting from this legislation would be well over $1.5 billion.

In addition to potential cost savings, agencies have been able to promote significant innovative and technical changes through negotiated competition for contract awards. In some cases, competition may initially be more expensive, as in dual-sourcing, but the long-term result is frequently a better product, a stronger industrial base, and, according to Dr. Jacques Gansler, an average cost reduction of 30 percent.

The last, and possibly the most important, benefit of competition is its inherent appeal of fair play. Competition maintains the integrity in the expenditure of public funds by insuring that Government contracts are awarded on the basis of merit rather than favoritism.

The Governmental Affairs Committee and its Subcommittee on Oversight of Government Management have devoted considerable attention to this problem during the past two Congresses. The Competition in Contracting Act would provide a new statutory framework which would rectify the two primary shortcomings in the procurement statutes identified by the committee: insufficient emphasis on competitive negotiation as a legitimate procurement procedure and inadequate restrictions on the use of noncompetitive negotiation. Effective implementation of this legislation would, first, increase the use of competition in contracting by permitting agencies to either formally advertise or competitively negotiate, whichever is most conducive to the conditions of the contract, and second, impose greater restrictions on the awarding of noncompetitive contracts.

EXPANDING COMPETITION

The formal advertising requirement in present law is intended to keep the system honest and to secure the most advantageous contract for the Government. As long as the Government is purchasing property or a service which is fairly common, formal advertising works well and is most appropriate. For more complex procurements, contracts cannot reasonably be awarded solely on the basis of price without discussions with the offerors. In these circumstances, negotiation affords the best opportunity to obtain competition.

The emphasis on formal advertising, however, results in excessive justification requirements for the use of negotiated procurements. If contracting officers need to consider factors other than price in making awards, or wish to have any discussions with prospective contractors, they must satisfy one of the statutory exceptions that permit negotiation. For all practical purposes, therefore, competitive negotiation lacks recognition as a bona fide competitive technique.

Our legislation removes the restriction on competitive negotiation, thus eliminating the time-consuming determinations and findings statement, and

places it on par with formal advertising. Together, they constitute competitive procedures, with exceptions provided for noncompetitive procedures. The objective, conceptually, is to establish an absolute preference for competition, and, practically, to provide more flexibility in contracting. William Long, Deputy Under Secretary for DOD Acquisition Management, testified last year at a Government Affairs hearing that this new approach to competitive procurement best represents the real procurement world.

Under the Competition in Contracting Act, agencies are not only required to obtain competition, but to increase its effectiveness. Agencies would be required to make an affirmative effort to obtain effective competition through advance procurement planning, market research, and the development of specifications which are not restrictive of competition. We recognize that this extensive an effort may not be cost effective for small purchases. Therefore, this legislation provides a basis in statute for regulations to establish separate small purchase procedures for procurements under $25,000, which would allow agencies to scale down their efforts as long as they obtained reasonable competition.

RESTRICTING SOLE-SOURCE PROCUREMENT

The procurement statutes authorize negotiated procurement, but restrict its use to 17 conditions for defense contracts and 15 conditions for civilian contracts. To control its use, many of the exceptions require a written justification and some also the approval of the agency head. While agencies are required to award negotiated contracts competitively to the maximum extent practicable, negotiation can be—and frequently is—noncompetitive. Beyond the justification for negotiated procurement, however, present law does not require further justification for noncompetitive award.

Due to this lack of direct restriction on noncompetitive contracting, the exceptions to formal advertising in present law are often used inappropriately to justify sole-source procurement, rather than negotiation. The justification most frequently invoked is the competition is impracticable exception—an enormous loophole. The use of such broad exceptions to formal advertising as a means to sole-source contract conceals in the true reason for awarding a contract noncompetitively.

Under its proposed statutory framework, our legislation provides six exceptions to competitive procedures which permit agencies to use noncompetitive procedures in awarding a contract when competiton is not possible. In doing so, the bill shifts the emphasis from having to justify negotiation, as is presently required, to having to justify noncompetitive procurements. The intent is to place greater restrictions on the use of noncompetitive procurements without precluding its use when necessary. Awarding a contract on a sole-source basis would for the first time constitute a clear violation of statute unless permitted by one of the six exceptions.

This legislation would permit sole-source contracting only under the following conditions: First, the property or service is available from only a single source and no competitive alternatives are available; second, the agency's need is of such urgency that the Government would be seriously injured by the delay involved in using competitive procedures; third, the Government needs to award the contract to a particular source in order to create or maintain an essential industrial capability or for purposes of industrial mobilization; fourth, the terms of an international agreement require a noncompetitive contract; fifth, a statute requires that the procurement may be obtained through a specified source, or sixth, disclosure to more than one source of the property or service to be obtained would jeopardize the national security.

These six exceptions parallel the conditions under which the Comptroller General has historically permitted agencies to award on a sole-source basis. Even in these situations, however, I feel there should be a double-check for potential competition before the sole-source award is made. This legislation would generally require agencies to publish a notice of their prospective contracts in the Commerce Business Daily 30 days prior to the date set for the receipt of bids or proposals. The objective is to alert contractors, who may be capable of meeting the agency's needs but would have otherwise not known of the contract, to submit offers. In this manner, the legislation further safeguards against sole-source contracts when competition is available.

To facilitate oversight of noncompetitive contracts, the Competition in Contracting Act also requires agencies to maintain a record, by fiscal year, identifying all sole-source procurements. As proposed by Senator PRYOR, an advocate for competition in each procuring agency would be responsible for reporting the opportunities to achieve competition and any conditions which could potentially restrict competition. These new recording and reporting requirements would allow the Congress, the Office of Federal Procurement Policy, and senior agency officials to evaluate the progress of each agency in increasing the use of competitive contracting.

The Competition in Contracting Act builds on existing statutes to enhance the use of competition in Government contracting and to restrict sole-source award to only those cases where it is truly warranted. Within the new statutory framework, the evaluation and award procedures would be the same as those currently required for formal advertising and negotiation. Considering the history of Comptroller General and court decisions which have interpreted the present evaluation and award procedures, and, more significantly, the familiarity which results from over 30 years of experience, I am confident this legislation can be quickly and easily implemented. I strongly believe that the Competition in Contracting Act sets forth a workable solution to the costly problem of excessive sole-source contracting.

I ask unanimous consent that a section-by-section analysis of my legislation, as well as the Congressional Budget Office savings estimate, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD as follows:

SECTION-BY-SECTION ANALYSIS

SHORT TITLE

The short title of this bill is the Competition in Contracting Act of 1983.

Title I: Amendments to the Federal Property and Administrative Service Act of 1949 (41 U.S.C. § 251 et. seq.)

I. Competition Requirements

A. Competitive Procedures: Section 101 amends section 303 of the Federal Property and Administrative Services Act (41 U.S.C. § 253) by striking the requirements for formal advertising and inserting the following requirements for using competitive procedures to obtain effective competition.

Section 303(a), as amended, establishes as congressional policy that competitive procedures are required to be used whenever possible in awarding federal contracts for property or services. Executive agencies would be permitted to invite sealed bids and make award without discussion (formal advertising) or request competitive proposals and make award with discussion (competitive negotiation), which-ever is more conducive to the conditions of the contract.

Section 303(a) facilitates the use of competitive procedures by requiring that executive agencies utilize advance procurement planning and market research. Agencies would also be required to specify their needs and solicit bids, proposals, or quotations in such a manner as is necessary to obtain effective competition.

Section 303(b) authorizes the use of dual-sourcing when it would increase competition and likely result in the reduction of overall costs, or when it would be in the interest of industrial mobilization in the event of a national emergency.

Section 303(c) provides a basis in statute for establishing simplified procedures and forms for small purchases. A dollar ceiling of $25,000 for small purchases is set in section 309(e).

Section 303(d) establishes criteria, for other than small purchases, to determine which competitive procedure—sealed bid or competitive proposal—would be most appropriate for the procurement. Subsection 303(d)(1) directs an agency to use sealed bids when (1) there is sufficient time, (2) the evaluation factors can be assessed objectively, (3) discussions are not necessary, and

(4) there is a reasonable expectation that more than one sealed bid will be submitted. Subsection 303(d)(2) establishes that competitive proposals will be used as the method of acquisition when the criteria for sealed bid procedures are not met.

B. Noncompetitive Procedures: Section 101 further amends section 303 by adding new provisions that would make the award of a noncompetitive contract a clear violation of statute unless permitted under one of the prescribed exceptions. Section 303(e) provides six exceptions to competitive procedures which permit executive agencies to use noncompetitive procedures in awarding a contract.

Subsection 303(e) establishes as the first exception that executive agencies are permitted to use noncompetitive procedures when the property or services needed by the government are available only from a single source and no competitive alternatives are available. This exception requires that the agency's purpose in undertaking a sole-source procurement is to satisfy its minimum needs.

The second exception (subsection 303(e)(2)) covers emergency situations in which the procurement must be placed in a shorter time than is possible under competitive procedures. An emergency would be a situation which threatens immediate harm to health, welfare, or safety.

The third exception (subsection 303(e)(3)) permits the use of noncompetitive procedure when it is necessary to award a contract to a particular source in order to achieve an essential industrial capability in the United States or to maintain national industrial mobilization.

The fourth exception (subsection 303(e)(4)) allows noncompetitive procedures to be used when required by international agreement or directed procurements for foreign governments when the cost is to be reimbursed by the foreign government.

The fifth exception (subsection 303(e)(5)) permits noncompetitive procedures to be used when a statute provides that the procurement must be obtained through a specified source.

The sixth exception (subsection 303(e)(6)) allows a noncompetitive procurement when disclosure to more than one source of the property or sources to be obtained would compromise the national security.

Section 303(f) precludes award on a noncompetitive sole-source basis unless the executive agency publicizes its prospective award in the Commerce Business Daily (CBD). Guidelines for publicizing in the CBD are provided in section 313(b).

II. Definitions

Section 101 amends the Federal Property and Administrative Services Act (FPASA) by adding at the end of section 309 (41 U.S.C. § 259) the following new definitions.

"Executive agency" is defined in section 309(b) to include all government departments and establishments except for those military departments specified in the Armed Services Procurement Act (10 U.S.C. § 2303(a)).

"Competitive procedures" is defined in section 309(c) to mean those procedures under which an executive agency enters into a contract after soliciting sealed bids or competitive proposals from more than one source that is capable of satisfying the agency's needs. "Noncompetitive procedures" is defined in section 309(d) to include procedures other than competitive.

"Small purchase" is defined in section 309(e) as any purchase or contract which does not exceed $25,000. Section 309(e) precludes agencies from dividing a proposed purchase into several smaller procurements for the purpose of using small purchase procedures.

III. Solicitation Requirements

Section 101 amends the FPASA by adding after section 310 (41 U.S.C. § 260) the solicitation requirements for civilian procurements.

Section 311(a) establishes standards for drafting specifications. Executive agencies would be required to state their purchase specifications, which serve as the baseline for the evaluation of offers, in a manner which would permit effective competition. A second standard requires that agencies only include restrictive provisions or conditions in specifications to the extent necessary to meet their minimum needs.

Depending on the agency's needs and the market available to meet them, Section 311(a) permits agencies to state their specifications in terms of functional, performance, or detailed design requirements.

Subsection 311(b)(1) requires agencies to include in their solicitations for sealed bids and competitive proposals, in addition to a description of their needs, a list of the evaluation factors—including price—which are reasonably expected to have a significant bearing on the selection for award. Agencies also are required to indicate the relative order of the importance of these factors in the evaluation process.

Subsections 311(b)(2) and (3) require that agencies state in their solicitations how they intend to evaluate and award submissions—either with or without discussions. In the case of sealed bids, the statement includes information on the time and place for the opening of bids; for competitive proposals, the statement includes the time and the place for the submission of proposals.

IV. Evaluation and Award

Section 101 amends the FPASA by adding section 312 which establishes evaluation and award procedures for sealed bids and competitive proposals.

Section 312(a) requires that executive agencies evaluate sealed bids and competitive proposals based on the factors specified in the solicitation. Section 312(b) permits the agency head to reject all bids and proposals which are not in the public interest.

A. Sealed Bid Procedures: Section 312(c) sets forth the evaluation and award procedures for sealed bids. This section adopts provisions from the "Formal Advertising Requirements" section of current law (41 U.S.C. § 253). Sealed bids would be opened publicly at the time and place specified in the solicitation and would be evaluated without discussions with the bidders. In accordance with present procedures, furthermore, contracts would be awarded to the responsible bidder whose bid conforms to the solicitation and is most advantageous to the government, price and other factors (included in the solicitation) considered.

B. Competitive Proposal Procedures: Section 312(d) establishes a framework for the conduct of competitive negotiations. Executive agencies would be permitted to discuss their requirements or the terms and conditions of the proposed contract with offerors after receipt of proposals and prior to the award of the contract. This section adopts provisions from the Armed Services Procurement Act (10 U.S.C. § 2304(g)), which require that military agencies conduct written or oral discussions with all responsible offerors in the competitive range, and extends it to apply to civilian procurements. The "competitive range" would be determined by the contracting officer based on price, technical, and other salient factors, and would include all proposals which have a reasonable chance of being selected for award.

Section 312(d) also provides that proposals need not be evaluated with discussions where it can be demonstrated from either the existence of effective competition or accurate prior cost experience that the acceptance of a proposal without discussion would result in fair and reasonable prices. If discussions are not held, the solicitation must have notified all offerors of the possibility that award could be made without discussions.

Award of the contract under section 312(d) would be made to the responsible offeror whose proposal is most advantageous to the government on the basis of price and other factors included in the solicitation. Agencies would be required to notify all offerors of the rejection of their proposals, at the time of rejection, and award the contract by giving notice to the responsible offeror.

Section 312(e) states that the head of an executive agency is authorized to refer any sealed bid he or she considers to be in violation of the antitrust laws to the Attorney General.

V. Procurement Notice

Subsection 313(a)(1) requires executive agencies to publish pre- and post-award notices in the Commerce Business Daily for competitive and noncompetitive procurements which exceed the small purchase threshold set in section 309(e). Subsection 313(a)(2) authorizes the Administrator of the Office of Federal Procurement Policy to lower the threshold for publicizing in the CBD if he or she considers it appropriate.

Section 313(b) sets forth the guidelines for publicizing pre-award notices. Executive agencies would be required to publish in the CBD for a period of at least 30 days before the date set for the receipt of bids or proposals. Section 313(b) also lists the information to be included in each notice: (1) a description of the property or services needed by the agency, which, as in the case of the purchase specification, should not be unnecessarily restrictive; (2) the name and the address of the contracting officer; (3) a statement that all submissions will be considered by the agency; and (4) in the case of noncompetitive procurements, the justification for going sole-source and the identification of the intended source.

Section 313(c) provides exceptions to the procurement notice requirement. Exceptions two through six for noncompetitive procedures (subsections 303(e)(2)–(6)) would apply to the notice requirement. The first exception, which permits agencies to use noncompetitive procedures when only one source is available and there are no competitive alternatives, would not be included in the exceptions to the notice requirement. In this case, the notice would be used to confirm the agency's finding or otherwise test the marketplace for potential competitors.

VI. Record Requirements

Section 314(a) strengthens the recording requirement for civilian procurements. Executive agencies would be required to establish and maintain a record, by fiscal year, of the procurements in which noncompetitive procedures were used. Section 314(b) specifies that the information in the record shall include the name of the contractor who re-

ceived the sole-source award, the property or services obtained, the dollar value, the reason for using noncompetitive procedures (pursuant to one of the six exceptions), and the position of the person or persons who required and approved the sole-source award. Agencies would also be required under section 314(a) to establish and maintain a record, by fiscal year, of all one-bid and one-proposal procurements in which competitive procedures were used. Records would be maintained for five years.

Section 314(c) requires that the information included in the records be transmitted to the Federal Procurement Data Center, which was established by the Office of Federal Procurement Policy Act (41 U.S.C. § 405(d)(5)).

VII. Cost and Pricing Data

Section 102 amends section 304 of the FPASA (41 U.S.C. § 254 by adding the following provision for cost and pricing data.

Section 304(d), as adopted from the Armed Services Procurement Act (10 U.S.C. § 2306(f)), requires executive agencies to submit cost or pricing data which is accurate, complete, and current for negotiated contracts over $500,000. Cost or pricing data also would be required for modifications to contracts, subcontracts, and modifications to subcontracts in which the price (or price adjustment in the case of modifications) is expected to exceed $500,000.

Subsection 304(d)(2) gives the executive agency the right to adjust contract prices in order to compensate for information which was found to be incomplete, inaccurate, or out of date, and which resulted in a higher price, fee, or cost than otherwise would have occurred. In order to verify that the cost of pricing data submitted is accurate, complete, and current, subsection 304(d)(3) permits any authorized representative of the head of the agency to examine the contractor's books, records, and documents related to the contract. Subsection 304(d)(4) waives the requirements of subsection 304(d)(1) in those circumstances where negotiated contract price is based on adequate price competition, catalog or market prices, or is set by law.

VIII. Conforming Amendments

Section 103 amends the FPASA to conform to the new procedures and terminology provided in this Act.

Subsection 103(a)(1) amends section 302 (41 U.S.C. § 252) by removing the statutory preference for formal advertising and the 15 exceptions for negotiation. In its place, section 303, as amended, places competitive negotiation on par with formal advertising—competitive procedures—and provides exceptions to justify noncompetitive procedures.

Subsection 103(a)(2) amends section 304 (41 U.S.C § 254) by changing the heading from "Negotiated Contracts—Requirements." to "Contract Requirements." Subsection 103(a)(3) further amends this section by replacing all references to negotiated contracts with the phrase "[contracts] awarded using other than sealed bids procedures" to include competitively and noncompetitively negotiated contracts.

Subsection 103(a)(4) amends section 307 (41 U.S.C. § 257) by eliminating the determinations and findings process for negotiated contracts.

Subsections 103(a)(5) and (6) amend sections 308 (41 U.S.C. § 260) respectively by making conforming changes to language.

Title II: Amendments to the Armed Services Procurement Act of 1947 (10 U.S.C. § 2301 et seq.)

The amendments to the Armed Services Procurement Act (ASPA) parallel those amendments set forth in Title I to the Federal Property and Administrative Services Act.

I. Definitions

Section 201 amends section 2302 of the ASPA by adding the following new definitions:

Section 2302(1), as amended, extends the definition of "head of an agency" to include the Secretary, Deputy Secretary, Under Secretary, and Assistant Secretary of Defense. The definitions for "negotiate" and "formal advertising" provided in section 2302(2) and (3) are deleted. Definitions for "competitive procedures," "noncompetitive procedures," and "small purchase," as provided in Title I, are added.

II. Competition Requirements

A. Competitive Procedures: Section 201 amends section 2304(a) of the ASPA by removing the statutory preference for formal advertising and inserting requirements for competitive procedures.

Section 2304(b) authorizes the use of dual-sourcing when it would increase competition, or when it would be in the interest of industrial mobilization.

Sections 2304(c) and (d) establish regulations for small purchases and criteria for using competitive procedures.

B. Noncompetitive Procedures: Section 2304(e) sets forth six exceptions to competitive procedures which permit executive agencies to use noncompetitive procedures in awarding a contract.

Section 2304(f) precludes award on a noncompetitive, sole-source basis unless the agency publicizes its prospective award in the Commerce Business Daily.

III. Solicitation Requirements

Section 2305(a) provides the solicitation requirements for sealed bids, and competitive proposals, which include specification development.

IV. Evaluation and Award

Section 2305(b) establishes the evaluation and award procedures for sealed bids and competitive proposals.

V. Procurement Notice

Section 2305(c) requires agencies to publicize pre- and post-award notices in the Commerce Business Daily.

VI. Record Requirement

Section 2316 is added to strengthen the recording requirement for military procurements.

VII. Conforming Amendments

Section 202 amends section 2306 by making conforming language changes.

Section 2310 is amended to eliminate the determinations and findings process for negotiated contracts.

Title III: Advocate for competition

I. Definition

Section 201 defines "executive agency" as an executive department, a military department, and an independent establishment. This is presently the definition provided in section 4(a) of the OFPP Act (41 U.S.C. § 403(a)).

II. Advocate for Competition

Subsection 302(a)(1) establishes an advocate for competition in each executive agency. Subsection 302(a)(2) requires that the head of the agency designate an existing officer or employer of the agency as the advocate, relieve him or her from any conflicting duties and responsibilities, and provide the advocate with adequate staff.

Section 302(b) provides the advocate's responsibilities. Subsection 302(b)(1) states that the advocate's primary responsibility is to promote competition in the procurement of property and services. Specific responsibilities, listed in subsection 302(b)(2), include: reviewing the contracting activities of the agency, identifying and reporting to the head of the agency opportunities to achieve competition and conditions which could potentially be restrictive of competition, and issuing an annual report to the head of the agency on his or her activities.

III. Annual Report

Section 303 requires that the head of an agency transmit to the Senate Committee on Governmental Affairs and the House Committee on Government Operations an annual report of the actions to be taken by the agency to increase the use of competitive contracting and a summary of actions taken in the past year. The report is to be issued no later than September 30 of each year, for fiscal years 1983 through 1986.

Title IV: Notice requirements under the Small Business Act

Section 401 repeals section 8(e) of the Small Business Act (72 Stat. 389; 15 U.S.C. § 637(e)), which provides for notice and publication of procurement actions.

Title V: Applicability

Section 501 states that the amendments set forth in the Titles are to apply to civilian and military contracts entered into 180 days after the bill is enacted.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., November 15, 1982.

Hon. WILLIAM V. ROTH, Jr.,
Chairman, Committee on Governmental Affairs, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed S. 2127, the Competition in Contracting Act of 1982, as ordered reported by the Senate Committee on Governmental Affairs, October 1, 1982.

The bill revises procedures for awarding federal contracts for property and services, with the intent of increasing competition in government procurement. The potential savings from effective implementation of this legislation are substantial, but cannot be estimated with precision. Of $123 billion in contracts over $10,000 awarded in fiscal year 1981, $67 billion (54 percent) were awarded noncompetitively, with over 80 percent of these noncompetitive awards made by the Department of Defense. About $46 billion of the $67 billion in negotiated noncompetitive contracts awarded in fiscal year 1981 were for actions under existing contracts, and approximately $6 billion of the remainder were for procurements under the "Buy Indian" program and for follow-on awards after competition—leaving about $15 billion in other new contract actions.

Studies by the General Accounting Office and others have indicated that savings of 10 to 50 percent can sometimes be achieved through competitive contracting. While there is no reliable methodology available to estimate total savings from the bill, such savings could be significant, because each 1

percent saved on new contract actions would save about $150 million per year. Also, in the long term, the costs of modifications to existing contracts may also be reduced by the prospects of future competition.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

C. G. NUCKOLS
(For Alice M. Rivlin, Director).

Mr. COHEN. Mr. President, I intend tomorrow, or soon after as practicable, to ask unanimous consent that this matter be sequentially referred, first going to the Government Affairs Committee for hearings and, hopefully, action and then title X of this particular bill to be sequentially referred to the Armed Services Committee so that hearings may be held in that committee pertaining to the procurement in the Defense Department.

● Mr. LEVIN. Mr. President, I am pleased to join with Senator COHEN today in cosponsoring the Competition in Contracting Act of 1983. A bill similar to this was unanimously reported by the Governmental Affairs Committee last Congress, and it is to the great misfortune of the taxpaying public that it was not enacted into law. I hope we will be able to marshall the attention and enthusiasm of Congress this year to get that important job done.

I say this because I am convinced that this bill will accomplish two very important things: It will save the Federal Government large sums of money, and it will foster the growth and health of small business and industry which is so essential to our economy and our national defense.

I have become an advocate for competition in my 4 years in the Senate largely because I find the statistics compelling. Competition can reduce the cost of procurements anywhere from 10 percent to 25 percent to even 50 percent. I have seen it reduce the cost of a procurement in which I became personally involved by 43 percent—cutting the cost of tractors from over $1 million to just over $600,000.

The present procurement statutes lack clear congressional direction on the need for competition. They contain numerous exceptions to formal advertising, which are so broad in and of themselves that they are easily invoked, and, therefore, competition is readily avoided. Moreover, the current provisions for announcing Federal contract actions are totally insufficient. Complaints about the failures of the Commerce Business Daily, the publication used to publicize Federal contracts, abound. Contracts are awarded before bidders get the chance to submit their offers, or even request a copy of the solicitation.

This bill will require notice—in all but a very few contract actions—30 days before competition is foreclosed. That includes sole-source contracts, too, where the Government believes there is only one company that can perform the contract. This bill would require the Government to announce that decision in the possible event that there are other firms out there that the Government might be ignorant of, that would be able to perform the contract for a lower price and maybe with better performance.

We owe it to the American public and to American business to give everyone a meaningful opportunity to participate in Government procurement. In fiscal year 1981 we spent over $134 billion on procurement. That is an awesome amount of money that should be spent only in the most economical fashion. Even a 1-percent decrease in cost, as a result of procurement reform, would mean a $1.34 billion savings. As you can see, Mr. President, increased competition has the potential to have a significant impact on our Federal budget.

I want to commend Senator COHEN and his staff for their excellent work in drafting this bill. It is a thoughtful product that merits the support of each Member of Congress. I urge my colleagues to join us in cosponsoring this legislation.●

● Mr. ROTH. Mr. President, I rise in support of the Competition in Contracting Act of 1983. I am pleased to be an original cosponsor of the proposal and applaud Senator COHEN for his efforts in drafting this important piece of legislation. A similar bill was reported out of my Committee on Governmental Affairs late last year and I intend to move ahead very quickly to report this measure to strengthen the use of competitive practices in Government procurement practices.

The Competition in Contracting Act of 1983 would encourage greater levels of competition in Federal procurement and impose new restrictions on sole-sourcing contracts throughout Government. It would do this by changing the focus of the existing procurement statutes to distinguish between truly competitive contracts and those which are not awarded competitively.

Currently, the procurement statutes do not stress the competitive aspects of Government purchasing practices and instead focus simply on whether or not a particular contract was advertised or negotiated. While the use of advertising is very important in Government contracting, and remains the preferred method of procurement under our bill, it is not the only type of competitive contracting method available. Our bill will encourage broader use of other competitive contracting methods and stimulate greater levels of real competition in Government procurement. In addition, the bill greatly narrows the number of exceptions in current law to using competitive practices and also requires a procuring agency to publish advance notice of most larger contracts, even those the agency feels should not be competed, so that potential suppliers can place bids. This provision would act as a "double check" on the agency and encourage the marketplace to be used for a wider variety of contracts.

Mr. President, it is true that this bill would modify the procurement practices of all Federal agencies. However, I am particularly concerned about increasing the efficiency of procurement procedures in the Defense Department because that is where 75 percent of all procurement dollars will be spent next year. Real purchases of defense goods, including R&D and procurement of major weapons systems, will grow at an estimated rate of 16 percent annually under the President's budget between 1981 and 1987. This rate of growth exceeds the 14-percent annual rate of increase that occurred during the 3 peak years of the Vietnam buildup. Weapons system procurement and development, which totaled $48.9 billion in 1980, will reach a level of over $103 billion in the coming fiscal year. Clearly, with this magnitude of funding we must do everything possible to insure that our defense dollars are used effectively and purposefully.

My Committee on Governmental Affairs held 3 days of hearings in 1981 on the management of the defense acquisition process. We heard testimony from the administration indicating that it is trying to improve the effectiveness and reduce the costs of the procurement system. Then Deputy Secretary Carlucci assured the committee that a series of management initiatives he had developed would help to curb the costs of the procurement system and give the taxpayers more reason to believe that they are getting a cost-effective return on their tax dollar.

Yet, one problem for years has plagued the DOD in its efforts to improve the management of massive new weapons programs and that problem is the failure of the Department to encourage real competition in contracting. Some two-thirds of the value of all DOD procurements are noncompetitive, that is, not open to bidding or negotiation to all interested and qualified parties. Out of a total of $65 billion awarded by DOD in 1980, over $40 billion was negotiated without competition. In one study GAO reviewed 25 contracts that it believed should have been competed and determined that contracting officers did not make required reviews to assure that competition was impossible. In 70 percent of these cases the contracting officers placed contracts with companies their supervisors had suggested. It appears that DOD is running an auction without a caller and with only one participant who is admitted by special invitation only.

We need to insure greater competition in DOD procurement for several reasons, of which reduction in cost is just one. The fondness of DOD to sole source its goods and services may be having a serious effect on our military industrial base. The practice of sole sourcing may contribute to reducing the number of firms willing to bid on DOD projects by shutting out innovative smaller firms. For instance, only 25 firms currently hold approximately 50 percent of all defense contracts and only 8 firms conduct 45 percent of all defense research. Significantly, some 2,000 aerospace industry subcontractors disappeared from 1968 to 1975, many of them unique suppliers of critical defense components.

It is possible that excessive use of sole-source contracts by DOD was the final nail in the coffins of many of these contractors. By refusing to open up the DOD marketplace to competition, we may be forcing many companies to fold or refuse to contract for defense projects, thereby reducing further any opportunity for competition.

Costs too can be reduced through the use of competitive contracts by DOD. Some studies suggest that as much as 30 percent can be saved through the use of competition in the acquisition process. For example, one analyst has estimated that competition and lack of extensive "specs" saved $640 million on the procurement of specialized ammunition for the A-10 aircraft. The Defense Science Board found more than a dozen examples of competed contracts for weapons such as the AIM-7 missile and uncovered significant evidence of cost savings averaging nearly 15 percent. The DSB concluded that, "Competition is a powerful motivator for cost control."

Yet, with all of this evidence, DOD continually fails to use the forces of the marketplace to reduce costs. DOD claims that it is difficult to use competitive contracts in many cases and yet, as the Defense Science Board noted, there is "very little definitive evaluation by DOD on the real cost value of competition." In other words, DOD cannot stand the taste of the medicine it needs even though it has not tasted it very often.

Without competition in the acquisition process, there are few incentives on the part of the contractor or the DOD to reduce costs. DOD is helping to create a new "army,"one composed of a few select companies operating in the warm glow of a monopoly contract. There may be some rivalry during the initial phases of a contract award for research and development but frequently the contractors involved do not fight long enough to really challenge each other. In the end, one firm usually becomes the sole developer and producer of a weapon for a decade or more.

Competition in DOD programs is not the only cost-reducing technique available but it is one of the most important. Unnecessary costs in defense programs must be brought under control soon for the American people cannot be fooled for long. More dollars must not mean more unnecessary expenses. Congress has already begun scaling back the increases in defense spending originally proposed by the President. Without visible, effective, and lasting improvements in DOD's efforts to buy more weapons systems, the clamor for more defense cuts can only get louder.

I am confident the legislation we introduce today will begin the process of insuring more effective management of procurement by using the discipline of the marketplace to control costs. I look forward to working for the passage of legislation to enhance competition and I am pleased to join Senator COHEN in this initiative.●

By Mr. PROXMIRE:

S. 339. A bill to amend title IV of the Social Security Act to provide that States must require recipients of aid to families with dependent children to participate in community work experience programs if they are able to do so; to the Committee on Finance.

COMMUNITY WORK EXPERIENCE PROGRAMS

Mr. PROXMIRE. Mr. President, today I am reintroducing legislation which will require all ablebodied persons of working age—except mothers with small children—to work as a condition of receiving welfare.

When I first introduced my legislation back in March 1981, the use of workfare in the federally supported aid to families with dependent children (AFDC) was prohibited except on an extremely limited test basis. Workfare was operating successfully in a number of States, including Wisconsin, for recipients of locally funded general assistance.

The Omnibus Reconciliation Act of 1981 permitted, but did not require, States to enact workfare requirements for AFDC recipients.

Since then, there has been considerable interest and discussion of workfare, and some States have adopted workfare requirements.

Today, more than half of the States have some form of workfare requirement for either general assistance, AFDC, or both. Unfortunately, many of these programs are extremely limited and cover few of all employable recipients.

MANDATORY WORKFARE PLAN CAN WORK

The only legitimate objection I can imagine to a mandated workfare program, will come from those that will say: "Where are the jobs?" For more than 40 years, Milwaukee County has provided a resounding answer to that objection.

If Milwaukee County, one of the major metropolitan centers of this country, can do it through depressions and recessions, why cannot the whole country do it?

I have personally attended meetings where Milwaukee County officials assigned jobs to welfare recipients. What jobs? Cleaning the streets and parks, assisting policemen, helping clean and maintain public buildings. I have yet to see an American city anywhere which could not use a great deal of this cleaning up, fixing up, and supplementary police work.

These welfare recipients buy their own work clothes, pay for their own transportation to work and, in Milwaukee, earn less than minimum wage. But I heard few complaints. They were glad to get a job. And certainly the discipline of reporting to work regularly to earn their welfare check provided a discipline and a dignity that did them more good than harm.

The current legislation under the Omnibus Budget Reconciliation Act of 1981 is to provide experience and training for individuals, not otherwise able to obtain unemployment, in order to assist them in moving into regular employment. In other words, the community-work-experience programs, by giving people actual work experience and training, significantly increases the chances that the participants will move permanently from the welfare rolls to the work rolls.

The community-work-experience programs will serve useful public purposes in a variety of important fields, from health, social services, environmental protection, to public safety, and day care.

These programs have to meet appropriate standards for health and safety and cannot be used to displace currently employed people.

Participants are not required to work in excess of the number of hours which, when multiplied by the greater of the Federal or applicable State minimum wage, equals the sum of the amount of aid payable to the family.

Persons exempt from WIN registration would also generally be exempt from participation in this program, except that parents caring for a child under 6—but not under 3—could also be required to participate if child care is available.

Anyone refusing to work is excluded from the calculations made to determine the size of the family's welfare grant.

It is clear that the program exempts many AFDC recipients and protects them against being exploited in terms of wages, hours, and conditions of employment.

I have seen the operation of Milwaukee County's general assistance program which includes workfare, aggressive job counseling and job information supplied by the outstanding Wisconsin Job Service. And I can report,

in spite of some problems, it worked. Similar approaches involving general assistance and workfare have been basically successful elsewhere.

SAVE PART OF CURRENT $15 BILLION COST

How much of the $8 billion in Federal Government and the $7 billion of State and local money now budgeted for AFDC payments this year will be saved, I cannot say for certain; but I firmly believe that requiring participation in community-work-experience programs is a good place to start if we are to move in the direction of replacing welfare with workfare.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 339

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 409(a)(1) of the Social Security Act is amended by striking out "Any State which chooses to do so may establish" and inserting in lieu thereof "Each State having an approved plan under this part shall establish".

(b) Section 402(a) of such Act is amended—

(1) by striking out "and" at the end of paragraph (35);

(2) by striking out the period at the end of paragraph (36) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(37) provide that the State shall have in effect a community work experience program in accordance with section 409.".

SEC. 2. (a) Except as provided in subsection (b), the amendments made by the first section of this Act shall be effective with respect to payments under part A of title IV of the Social Security Act for calendar quarters beginning more than 180 days after the date of the enactment of this Act.

(b) In the case of a State plan approved under part A of title IV of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by the first section of this Act, the State plan shall not be regarded as failing to comply with the requirements of such part solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

By Mr. MURKOWSKI:

S. 340. A bill for the acquisition by the United States by exchange of certain Native owned lands or interests in Alaska; to the Committee on Energy and Natural Resources.

EXCHANGE OF CERTIN ALASKA NATIVE LANDS

Mr. MURKOWSKI. Mr. President, I am introducing legislation that provides for the acquisition by the United States of Certain Native owned lands or interests in lands on Kodiak Island in Alaska. The bill I am submitting for Senate consideration is similar to the proposal submitted by my good friend, the Congressman from Alaska, DON YOUNG. This bill is virtually identical to the bill that we passed in the House last year and that which I introduced during the 97th Congress.

The bill would help resolve an unsatisfactory land ownership pattern that arises out of the way in which lands were apportioned between the United States and Alaska Natives under the Alaska Native Claims Settlement Act of 1971. The Claims Act helped resolve a conflict between Native interests in Alaska and the United States. But like most comprehensive solutions there were instances in which the overall solution either did not work or it did not work as it was anticipated.

I believe we have such a situation on the Kodiak Bear National Wildlife Refuge with the substantial selection of lands by the Koniag Native Corp.

The 1971 Native Claims Settlement Act required that the bulk of the lands to be conveyed to the Alaska Natives come from the areas surrounding the villages. However, in some instances this directive produced unacceptable results. Within the Kodiak National Wildlife Refuge there exist five native villages established by Executive orders in the 1940's. Therefore, the Claims Act required these villages to take all, or large portions of their land entitlements on the refuge.

As a result, the Native regional corporation on Kodiak Island, Koniag, Inc., now owns or is entitled to receive title to over 300,000 acres of land on that refuge. As a result, Koniag has become, if not the largest, certainly one of the largest inholders on any national wildlife refuge in the United States. The Natives, except for their immediate village areas, are unwilling inholders on the refuge. They would have preferred to take their entitlement elsewhere in locations where their economic objectives could be realized free of the inherent conflicts created by the existence of the wildlife refuge. It was a principal purpose of the 1971 Settlement Act to provide Alaska Natives with a land base which would give them the opportunity to achieve economic viability in the mainstream of American society. Inevitably, despite the best of intentions on both sides, the interests of the refuge and the Native corporation were bound to conflict.

Koniag and the Fish and Wildlife Service have for some time been exploring exchange possibilities. They have worked closely in the development of principles for the determination of the value for refuge purposes of Koniag's holdings under an exchange.

I am told that there are no apparently viable opportunities for an exchange which will fairly compensate the Natives for the surrender of their extensive holdings unless the search extends beyond available federally owned, onshore economically viable lands in Alaska. This is certainly a matter that would be extensively explored as the Senate Energy and Natural Resources Committee considers this legislation.

The Native corporation has proposed an innovative solution. In exchange for the conveyance back to the United States of lands and interests in lands within and adjacent to the refuge, they will receive "certificates of value" redeemable in bidding on competitive oil and gas lease sales, and in payment of rents and royalties on leases issued under the Outer Continental Shelf Lands Act.

The concept proposed by Koniag, though innovative, is not unprecedented. It is embodied in two recent acts of Congress. These are the Northern Cheyenne Indian Reservation Leasing Act (Public Law 96-401, October 9, 1980) and the Rattlesnake Recreation Area and Wilderness Act of 1980 (Public Law 96-476, October 19, 1980).

In each of these acts, in exchange for the conveyance to the United States of property interests—in those particular cases privately held mineral interests incompatible with retention of surface values—Congress provided that the owners would receive coal lease bidding right certificates.

Section 1302 of ANILCA authorizes the Secretary of the Interior to acquire Native inholdings within the boundaries of wildlife refuges and other conservative system units in Alaska—except for those in National Forest Wilderness—and to provide in exchange other lands or interests in lands owned by the Federal Government. Questions have been raised whether section 1302 encompasses exchanges that would be completed through the use certificates of value which in turn would result in issuance of OCS leases instead of by direct Federal conveyances of lands or interests in lands. In order to remove any doubt on that score, specific enabling legislation is desirable.

The issuance of certificates of value avoids the otherwise very difficult and time consuming task of determining the values of the specific mineral interests to be provided in exchange for the lands to be given to the Government. With certificates of value, the marketplace would determine the value of the mineral leases to be issued by the United States in completion of the exchange since the holder of the certificates of value would have to be the high bidder in order to receive such a lease. And, of course, the issuance of OCS leases, which would complete the exchange, would be subject to all environmental and other stipulations and requirements applicable to OCS leases.

Finally, by widening the circle of potential bidders, competition in the sale of OCS leases would be enhanced.

This is a new legislative proposal to help settle some of the unresolved problems created by the Alaska Native Claims Settlement Act. It also speaks to the future developments on the OCS leases. These are matters previously considered by the U.S. Senate.

Allow me to make it perfectly clear that I am not wedded to the exact language or proposals embodied by this legislation. This bill is a foundation on which to provide the Senate Energy and Natural Resources Committee a vehicle to review the proposal with respect to this specific problem. As we proceed with consideration, I feel we may find this proposal is the most viable one.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 340

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act is enacted to facilitate the achievement of the purposes expressed in section 101 of the Alaska National Interest Lands Conservation Act (Public Law 96-487; 16 U.S.C. 101 et. seq.).

SEC. 2. (a) In the event that Koniag, Incorporated, Regional Native Corporation ("Koniag") files with the Regional Director of the Fish and Wildlife Service, Anchorage, Alaska, one or more lists designating surface estate it owns or to which it is entitled pursuant to the Alaska Native Claims Settlement Act, as amended, situated within the exterior boundaries of the Kodiak National Wildlife Refuge ("Refuge") which Koniag is willing to convey to the United States pursuant to this Act, then the Secretary of the Interior ("the Secretary"), not later than one hundred and eighty days after Koniag files each such list, shall select therefrom surface estate aggregating at least 80 per centum of the acreage thereof and shall notify Koniag of such selection.

(b) Upon determination pursuant to section 4 of this Act of the value of the surface estate selected by the Secretary, Koniag shall convey the selected surface estate to the United States by quitclaim deed or deeds. Upon Koniag's conveyance to the United States, the Secretary shall issue to Koniag certificates of value ("certificates") in exchange therefor.

SEC. 3. Certificates issued under this Act may be tendered, and shall be accepted, as payment, in whole or part, of bonuses or other cash payments, or deposits, in competitive lease sales conducted under the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1331, et seq.), and of rentals and cash royalties on leases heretofore or hereafter issued under that Act, until their total face value is thereby exhausted by payments under a successful bid or bids and by rental and royalty payments. The face value of certificates issued hereunder shall equal the value of the surface estate conveyed in exchange for their issuance. Receipt by Koniag of a certificate shall constitute receipt of an interest in land for purposes of section 21(c) of the Alaska Native Claims Settlement Act, as amended, and the face value of the certificate shall constitute its "fair value" for purposes of that section. Certificates issued under this Act shall be assignable in whole or part, but no assignment shall be recognized by the Secretary until written notice thereof is filed with him by the assignor and assigneees. Certificates may be tendered only by an entity qualified to bid and hold leases under the Outer Continental Shelf Lands Act.

SEC. 4. The Secretary and Koniag shall attempt, through negotiations, to reach agreement on the value of the surface estate which Koniag is to convey. In the event Koniag and the Secretary are unable to agree on such value within one year after each date on which the Secretary notifies Koniag of his selections (or at any such time prior thereto mutually agreed upon by the Secretary and Koniag) the determination of value shall be promptly submitted to binding arbitration in accordance with the rules of the American Arbitration Association. In the event selections are made by the Secretary from more than one list filed by Koniag under section 2, by mutual agreement of the Secretary and Koniag there may be a single submittal to binding arbitration, such submittal to be made not later than one year after the date on which the Secretary notifies Koniag of his selections from the list last filed by Koniag. Each member of the Board of Arbitrators shall be selected through utilization of the procedures of the American Arbitration Association: *Provided,* That such Board shall consist of three arbitrators, unless the Secretary and Koniag mutually agree to a lesser number. The decision of the Board of Arbitrators shall be final and conclusive. At any time prior to the announcement of a decision by the Board of Arbitrators, the Secretary and Koniag may mutually agree on value. In determining value of interests to be conveyed to the United States under this Act, primary consideration shall be given to their value for refuge purposes.

SEC. 5. Conveyances under this Act shall not affect subsistence uses of Koniag members and their families. A statement to that effect shall be included in all conveyances made pursuant to this Act and shall constitute a covenant running with the land. Nothing in this Act shall be construed to deprive Koniag members and their families of the subsistence rights provided for in title VIII of the Alaska National Interest Lands Conservation Act. By agreement with the Secretary, Koniag may retain interests in the nature of easements or right-of-way in, on, or across any surface estate conveyed to the United States under this Act. Any interests reserved under this section shall be exercised in accordance with such reasonable regulations as the Secretary may prescribe.

SEC. 6. In addition to the surface estate selected by the Secretary under section 2 of this Act, Koniag and the Secretary may from time to time agree that there shall be conveyed to the United States under and in accordance with this Act interests in lands or entitlements thereto owned by Koniag in the vicinity of the exterior boundaries of the Refuge. In each such case section 4 shall govern the determination of value and the negotiating period for the determination of value shall be the one year period after Koniag and the Secretary have agreed upon the interests to be conveyed.

SEC. 7. Lands or interests acquired by the United States under this Act shall become part of the Kodiak National Wildlife Refuge.

By Mr. DODD:

S. 342. A bill to amend title II of the Social Security Act to require that the annual reports of the trustees of the Federal old-age and survivors insurance, disability insurance, and hospital insurance trust funds include an opinion by the Chief Actuary of the Social Security Administration with respect to the methodologies and assumptions used in preparing such annual reports; to the Committee on Finance.

INCLUSION OF ACTUARY OPINIONS IN ANNUAL REPORTS OF CERTAIN TRUST FUNDS

Mr. DODD. Mr. President, today I am introducing legislation which would require inclusion of an actuarial opinion by the Chief Actuary of the Social Security Administration in the annual reports of the board of trustees of the OASDI and HI trust funds. The National Commission on Social Security recommended a similar step in its March 1981 report. The 1981 and 1982 OASDI trustees reports contained statements of actuarial opinion, but these statements were not required under law.

Under this legislation, the Chief Actuary of the Social Security Administration would comment on the acceptability within the actuarial profession of the methodologies and assumptions employed in the evaluation of future economic and actuarial trends relevant to the status of the trust funds. In that opinion, the Chief Actuary would also be required to state the governmental sources of the underlying assumptions and whether the actuary agrees with those assumptions.

The purpose of this legislation is to codify what has been practice for the last 2 years and help insure that future social security financial planning is based on sound economic and actuarial analysis. As important as such analysis is, recent performance has fallen short. Many of us who were in Congress in 1977 recall that, at that time, we were told that the 1977 amendments would insure solvency well into the 21st century. However, recent estimates and projections present a sharply different, considerably less optimistic picture. In 1977, it was estimated that OASDHI reserves as a percentage of outgo would rise from 29 percent in 1980 to 50 percent in 1987. However, in 1982, the Congressional Budget Office projected a steady downward path for OASDHI reserves, from 29 percent in 1980 to 2 percent in 1987.

The art of economic and actuarial forecasting is by no means perfect, and I do not pretend that passage of this legislation would enable us to predict the future with any more certainty than we can now. However, we can reduce the possibility of overly inaccurate forecasts by strengthening the process under which such forecasts are generated. In so doing, we can create a

sounder basis for future social security planning and administration.

In the near future, Congress will have to grapple with serious financial and structural difficulties facing the social security system. These difficulties may very well pose the greatest financial and political challenge in many years. This legislation in no way addresses the substance of any potential changes. However, as we work to restore the financial health of the system and the confidence of millions of Americans in the system, we owe it to the Nation to make sure that the information used to fashion the necessary changes is as accurate as possible. For these reasons I urge my colleagues to support this measure.

By Mr. BOSCHWITZ (for himself, Mr. JEPSEN, Mr. DURENBERGER, Mr. BOREN, Mr. HUDDLESTON, Mr. GRASSLEY, Mr. SYMMS, Mr. THURMOND, Mr. DECONCINI, Mr. PRESSLER, Mr. EAST, Mr. BAUCUS, Mr. KASTEN, and Mr. D'AMATO):

THE HEAVY USE VEHICLE TAX ADJUSTMENT ACT OF 1983

Mr. BOSCHWITZ. Mr. President, during floor action on the Surface Transportation Act, I offered an amendment to reduce the proposed increase in the heavy vehicle use tax.

I felt then, as I feel now, that it is absurd to expect an industry as hard hit by the recession and deregulation as the trucking industry to absorb tax increases of over 700 percent.

As you know, prior to the recent changes, the maximum tax was $240 per year for an 80,000 pound truck. The administration proposed to increase this to $2,700 per year, the House to $2,000 per year. The Senate Finance Committee proposed a $1,600 level. My amendment reduced the $1,600 per year to $1,200 and spread the imposition of the tax over 3 years.

My amendment passed 96 to 1, but House conferees would not support it. Instead they pushed through a $1,600 to $1,900 phase in which begins July 1, 1984 and ends July 1, 1987.

It is because of this high level of tax (a 700-percent increase) that I am introducing the Heavy Vehicle Use Tax Adjustment Act of 1983 today.

We are all aware of the condition of the trucking industry, and frankly, it is in serious trouble: 202 major interstate carriers have gone out of business in the past 2 years; 49,000 jobs have been lost; 57 other carriers have either filed for chapter 11 or have substantially reduced their services. Many small carriers or owner-operators have simply disappeared.

The industry itself made only $210 million in profits on $44 billion in revenues (one-half of 1 percent rate of return).

I believe it is ridiculous to expect an industry in this shape to absorb the tax increases which passed during the lameduck. Increases which were 10 times the industry's net profit.

The Department of Transportation pushed for these increases because of the results of a cost allocation study it did. According to the study, heavy trucks are not paying their fair share—based on the amount of damage they do to the roads. Unfortunately, this study does not take into account several important factors such as weather conditions, salt on the roads, and the effect of snow removal vehicles. This leaves the study's validity open to question, and makes it a poor basis for increasing taxes.

I believe most of us here in the Senate understand the importance of a healthy, competitive trucking industry. Trucks are a vital part of the transportation system, basically responsible for all the first and last stage delivery of bulk commodities. We cannot afford to lose this industry.

This is why I am introducing my bill today. I feel we must go back and reduce the heavy vehicle use taxes, or run the risk of putting many more trucking companies out of business.

I urge my colleagues to support this legislation. I also urge them to work with me to insure that the bill receives rapid consideration. We should not allow this issue to fall by the wayside.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 343

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Heavy Vehicle Use Tax Adjustment Act of 1983".

SEC. 2. REDUCTION IN HEAVY TRUCK USE TAX.

(a) IN GENERAL.—Subsection (a) of section 4481 of the Internal Revenue Code of 1954 (relating to imposition of tax) is amended to read as follows:

"(a) IMPOSITION OF TAX.—A tax is hereby imposed on the use of any highway motor vehicle which (together with the semitrailers and trailers customarily used in connection with highway motor vehicles of the same type as such highway motor vehicle) has a taxable gross weight of at least 33,000 pounds in an amount determined under the following tables:

"(1) For the taxable period beginning on July 1, 1984—

"If the taxable gross weight is:	The amount of tax per taxable period is:
Less than 55,000 pounds.....	$27, plus $1 for each 1,000 pounds or fraction thereof in excess of 33,000 pounds
At least 55,000 pounds but less than 70,000 pounds.	$50, plus $10 for each 1,000 pounds or fraction thereof in excess of 55,000 pounds
At least 70,000 pounds but less than 80,000 pounds.	$200, plus $20 for each 1,000 pounds or fraction thereof in excess of 70,000 pounds
80,000 pounds or more.....	$400.

"(2) For the taxable period beginning on July 1, 1985—

"If the taxable gross weight is:	The amount of tax per taxable period is:
Less than 55,000 pounds.....	$54, plus $2 for each 1,000 pounds or fraction thereof in excess of 33,000 pounds
At least 55,000 pounds but less than 70,000 pounds.	$100, plus $20 for each 1,000 pounds or fraction thereof in excess of 55,000 pounds
At least 70,000 pounds but less than 80,000 pounds.	$400, plus $40 for each 1,000 pounds or fraction thereof in excess of 70,000 pounds
80,000 pounds or more.....	$800.

"(3) For taxable periods beginning on or after July 1, 1986—

"If the taxable gross weight is:	The amount of tax per taxable period is:
Less than 55,000 pounds.....	$80, plus $10 for each 1,000 pounds or fraction thereof in excess of 33,000 pounds
At least 55,000 pounds but less than 70,000 pounds.	$300, plus $20 for each 1,000 pounds or fraction thereof in excess of 55,000 pounds
At least 70,000 pounds but less than 80,000 pounds.	$600, plus $60 for each 1,000 pounds or fraction thereof in excess of 70,000 pounds
80,000 pounds or more.....	$1,200.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall take effect on July 1, 1984.

(2) SPECIAL RULE IN THE CASE OF CERTAIN OWNER-OPERATORS.—

(A) IN GENERAL.—In the case of an owner-operator, paragraph (1) of this subsection and section 4481(a) of the Internal Revenue Code of 1954 shall be applied by substituting for each date contained therein a date which is 1 year after the date so contained.

(B) OWNER-OPERATOR.—For purposes of this paragraph, the term "owner-operator" means any person who owns and operates at any time during the taxable period no more than 5 highway motor vehicles with respect to which a tax is imposed by section 4481 of such Code for such taxable period.

(C) AGGREGATION OF VEHICLE OWNERSHIPS.—For purposes of subparagraph (B), all highway motor vehicles with respect to which a tax is imposed by section 4481 of such Code which are owned by—

(i) any trade or business (whether or not incorporated) which is under common control with the taxpayer (within the meaning of section 52(b) of such Code), or

(ii) any member of any controlled groups of corporations of which the taxpayer is a member,

for any taxable period shall be treated as being owned by the taxpayer during such period. The Secretary shall prescribe regulations which provide attribution rules that take into account, in addition to the persons and entities described in the preceding sentence, taxpayers who own highway motor vehicles through partnerships, joint ventures, and corporations.

(D) CONTROLLED GROUPS OF CORPORATIONS.—For purposes of this paragraph, the term "controlled group of corporations" has the meaning given to such term by section 1563(a) of such Code, except that—

(i) "more than 50 percent" shall be substituted for "at least 80 percent" each place it appears in section 1563(a)(1) of such Code, and

(ii) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563 of such Code.

(E) HIGHWAY MOTOR VEHICLES.—For purposes of this paragraph, the term "highway motor vehicle" has the meaning given to such term by section 4482(a) of such Code.

(F) TAXABLE PERIOD 1984.—In the case of the taxable period beginning on July 1, 1984, section 4481(a) of such Code shall be applied with respect to owner-operators without regard to the last sentence thereof.

SEC. 3. REFUNDABILITY OF UNUSED TAX IN CERTAIN CIRCUMSTANCES.

(a) IN GENERAL.—Subsection (c) of section 4481 of the Internal Revenue Code of 1954 (relating to the proration of tax) is amended by adding at the end thereof the following new paragraph:

"(3) OTHER HIGHWAY MOTOR VEHICLE DISPOSITIONS.—

"(A) IN GENERAL.—If a highway motor vehicle on which the tax imposed by this section for the taxable period has been paid is sold, traded, or otherwise disposed of before the close of such taxable period, the Secretary shall refund to the taxpayer that portion of such tax which is attributable to the portion of such taxable period during which the taxpayer does not use, or retain possession of, such vehicle.

"(B) CREDIT ON RETURNS.—Any person entitled to a refund under subparagraph (A) may, in lieu of filing a claim for refund, apply such amount as a credit against taxes imposed by this section due upon any subsequent return.

"(C) REGULATIONS.—Under regulations prescribed by the Secretary, the taxpayer may be required to present such certifications of disposition of the highway motor vehicle as is practical.".

(b) CONFORMING AMENDMENT.—Section 4481 of such Code is amended by striking out subsection (d).

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 1984.

● Mr. GRASSLEY. Mr. President. I rise in support of the Boschwitz bill which is the Senate passed version of the Surface Transportation Act of 1982.

The result of conference committee action was a bill which more closely resembled the House version. The conferees settled upon a maxium heavy vehicle use tax of $1,900 per year phased in over a 4-year period. The Senate version and Senator BOSCHWITZ's bill contain a 3-year phasein beginning July 1, 1984, with a maximum rate of $1,200. Unlike the conferees version which leaps to $1,600 on July 1, 1984, the Senate version imposes a $400 fee in 1984, increasing to $800 on July 1, 1985. Senator BOSCHWITZ has wisely reintroduced this measure and his effort to gain its enactment will have my support.

The Boschwitz bill also contains a provision which I offered on the Senate floor delaying the effective date of the tax increases 1 year for independent owner-operators. Independent owner-operators need this type of relief because they lack the ability to pass through the increased tax. Independent owner-operators own their own power units, pay their own costs, including taxes, and lease their services to a trucking company at a fixed rate. Consequently, independent owner-operators have a difficult time passing their costs through to shippers and trucking companies until the expiration of a contract. Already operating on razor thin profit margins, these independent owner-operators are unable to absorb any additional tax burden at this time.

The Senate provision also retained the tax on passenger tires and trucks weighing more than 10,000 pounds. These revenue sources enabled the Senate to reduce the fees on the heaviest trucks.

Irrespective of the merits of retaining the increased user fees on heavy trucks, there is plentiful evidence that the trucking industry does not have sufficient income to pay the increased tax. Many of my constituent-truckers are operating at only 40 percent of capacity. They are still reeling from the effects of deregulation. They are scrounging for business in a highly competitive environment where the recession has reduced the amount of available cargo to haul. To many, the additional cost threatens their survival. For that reason, it is important that all of us reaffirm our commitment to the Senate-passed bill and support Senator BOSCHWITZ in his effort to achieve a more workable piece of legislation.●

By Mr. HEFLIN:

S. 345. A bill to establish a national historic park at AfricaTown, U.S.A. (Prichard and Mobile), Ala.; to the Committee on Energy and Natural Resources.

THE DESIGNATION OF AFRICATOWN, U.S.A., AS A NATIONAL HISTORIC PARK AND DISTRICT

Mr. HEFLIN. Mr. President, today I am introducing legislation for myself and for Senator DENTON, which would designate AfricaTown, U.S.A. (Prichard and Mobile), Ala., as a national historic park and district. It is my understanding that Congressman JACK EDWARDS, of the First Congressional District of Alabama (Mobile), will be introducing a companion bill in the U.S. House of Representatives.

Mr. President, I ask unanimous consent that the statement by the distinguished junior Senator from Alabama (Mr. DENTON) who is a native of Mobile, Ala., appear in the RECORD immediately following mine. I am told that he will enter his statement by the close of business today.

Now, Mr. President, let me point out a few salient facts about AfricaTown, U.S.A., Ala. This name AfricaTown, U.S.A., Ala., is the historical designation given to the geographical region of the landing of the last known recorded cargo of Africans imported into the United States with the intent to continue slave trading in America. The *Clotilda* reportedly landed in Mobile, Ala., in 1859, with approximately 120 Africans aboard, who settled in a northeastern section of Mobile, which later became known as AfricaTown. To date, there is no record of any convictions of the alleged pirates who brought this contraband to Mobile, Ala.

Mr. President, AfricaTown, U.S.A., Ala., is an area of exceptional significance in local, national, and international history and culture. Many years after the landing of this schooner, it is reported that AfricaTown, U.S.A., Ala., was the largest and probably the only community of pure-blooded Africans in the United States. AfricaTown, U.S.A., today exists as a living part of the Mobile and Prichard, Ala., communities.

The Congress of the United States has declared that "the spirit and direction of the Nation are founded upon and reflected in our historic heritage, and the historical and cultural foundations of the Nation should be preserved as a living part of our community life and development in order to give a sense of orientation to the American People." 16 U.S.C. 470–474.

The AfricaTown landscape as a cultural and historic resource is a living reflection of the Nation's heritage. It, therefore, must be protected and en-

hanced for ourselves and for our posterity. Research which documents the significance of AfricaTown, U.S.A., Ala., to peoples throughout the world has been completed, and is available for public information.

Mr. President, although the primary purpose of the legislation which I am about to introduce for myself and Senator DENTON—and which Congressman JACK EDWARDS will introduce in the House—is to create the AfricaTown, U.S.A., Ala., National Historic Park and District, there is another purpose of equal significance. This proposed national park and district is in the heart of one of the most economically distressed areas in the United States. The present state of our national and local economies, with Alabama today ranking second in America with its exorbitant unemployment rate, must not limit our ability to continue to seek new job opportunities and carry out our basic responsibilities.

The National Park Service system stands as a great example of how we have combined the purposes of education, cultural and natural resources preservation, recreation, and leisure time into a basic international, environmental human rights model. Protecting the critical qualities of the physical environment, while meeting human needs, is a significant example of the capacity of this Nation to resolve problems while promoting opportunity. This proposed legislation is a prime example of such an opportunity. It will stress the allocation and distribution of Government values to protect the economic value of Prichard and Mobile, Ala., while providing business and employment opportunity for Alabama residents. This, in my opinion, is the real value of this bill. It is an example of the creative and innovative use of Government power to promote economic equality.

Last, Mr. President, I must point out the unique approach which has been proposed to finance creation of the AfricaTown, U.S.A., Ala., National Historic Park and District. It reverses the traditional trend of calling upon the Federal Government to be the principal financier of public facilities. The mayor of Prichard, Ala., the Progressive League, Inc., AfricaTown, U.S.A., Ala., and the citizens of AfricaTown, propose to establish a private/public sector investment partnership to fulfill an international, national, and local historic, cultural, and educational need.

It is my understanding that the private sector, in this instance, will assume the traditional role of the Federal Government. In other words, Mr. President, the Federal Government will only be called upon to finance the cost of the designation per se of the AfricaTown, U.S.A., Ala., National Historic Park and District, which is estimated to be around $300,000. The Progressive League, Inc., in turn, will provide and designate the sources for the acquisition of lands, construction of facilities, and maintenance and supervision of the AfricaTown, U.S.A., Ala., National Historic Park and District. This is estimated to cost around $8 million.

Mr. President, during the more than 4 years since I have been a Member of the U.S. Senate, I have never known of a cultural, educational, and historic project such as this to be financed by a ratio of 96 percent to 4 percent—96 percent or $8 million by the private sector, and 4 percent or $300,000 by the Federal Government.

Mr. President, in recognition of the importance of this historic and cultural site to the State of Alabama to this Nation, and to the world in general, Senator DENTON, Congressman EDWARDS, and I feel that it is altogether fitting and proper that AfricaTown, U.S.A., Ala., be designated as a national historic park and district. We, therefore, urge prompt hearings on this bill by the appropriate committees and speedy passage thereof in both Chambers of Congress.

Mr. President, I ask unanimous consent that immediately following the statement of Senator DENTON regarding AfricaTown, U.S.A., Ala., that the entire text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 345

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds AfricaTown, U.S.A. (Prichard, and Mobile), Alabama, is of international importance for the people of the world—

(1) in illustrating the last recorded landing of Africans in the Western Hemisphere for the purpose of slavery; and

(2) in projecting the international commitment to Human Rights by ending slave trade.

SEC. 2. To preserve and interpret to the public the historic properties at and near AfricaTown, U.S.A. (Prichard, and Mobile), Alabama, the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") is authorized to establish the AfricaTown National Historical Park and District. The Park and District shall be comprised of those sites, building structures, objects, and natural features on or adjacent to areas that the Secretary in his discretion deems to be of cultural and historical significance. The Secretary shall establish the Park and District by publication of a notice to that effect in the Federal Register when he deems it advisable.

SEC. 3. The Secretary is authorized to acquire lands and personal property within the boundaries of the Park by donation, purchase with donated or appropriated funds, or exchange.

SEC. 4. The Secretary is authorized to enter into cooperative agreements with the owners of real and personal property within the boundaries of the Park to assist in the interpretation and preservation of those properties. These agreements shall include—

(1) a provision that the Secretary, through the National Park Service, shall have the right of access at all reasonable times to all public portions of the lands with the boundaries of the Park for the purpose of interpreting the Park to visitors;

(2) a provision that no substantive changes or alterations shall be made to the buildings, grounds, water patterns, and wetlands, except by mutual consent; and

(3) a provision that the subject matter and method of interpretation shall be determined by mutual consent.

SEC. 5. The Secretary is authorized to render financial and technical assistance to the owners of real and personal property within the boundaries of the Park to aid in the interpretation and preservation of the Park's unique historical, cultural, and natural features.

SEC. 6. The Secretary is authorized to construct on a portion of the land which he has acquired pursuant to his authority in section 3 of this Act those administrative facilities which he deems advisable, a visitors' center, museum, theatre and library for the interpretation of the historial, cultural, and natural features of the Park.

SEC. 7. The Park shall be administered by the Secretary in accordance with the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1,2-4), as amended and supplemented and the Act of August 21, 1935, (49 Stat, 666; 16 U.S.C. 461-467), as amended.

SEC. 8. The Secretary is authorized to enter into agreements with the Progressive League of the United States for supervision and maintenance of the Park.

SEC. 9. There are authorized to be appropriated such sums as are necessary to carry out the purpose of this Act.

By Mr. DODD (for himself, Mr. RANDOLPH, and Mr. CHAFEE):

S. 346. A bill to amend the Solid Waste Disposal Act to assure protection of public health and environmental safety in the Enviromental Protection Agency's regulations for the delisting of hazardous wastes, and to require the Environmental Protection Agency to establish a timetable for adding additional hazardous wastes to those regulated under such act; to the Committee on Environment and Public Works.

HAZARDOUS WASTE IDENTIFICATION IMPROVEMENT ACT

● Mr. DODD. Mr. President, news reports in the past months have documented numerous instances where the cancer-causing chemical dioxin has appeared in dangerous quantities. Dioxin's presence now threatens the existence of an entire town in Missouri, and it has been discovered in up to 50 additional sites in that State. From New York to Oregon, reports have indicated the presence of dioxin in lakes, streams, dumps, and other sites. The public—and the Members of this Congress—have good cause to fear the threat to our health and environment posed by this chemical.

This threat should have been averted by the relevant hazardous waste management law, the Resource Con-

servation and Recovery Act. But despite the fact that dioxin has long been recognized as a dangerous hazardous substance, it along with countless other hazardous substances has yet to be regulated under RCRA.

It is in an effort to strengthen regulatory control over such hazardous substances that I am reintroducing a bill I authored in the last Congress, the Hazardous Waste Identification Improvement Act, along with the distinguished Senator from West Virginia (Mr. RANDOLPH) and the chairman of the Senate Subcommittee on Environmental Pollution (Mr. CHAFEE). It is our hope that this bill will correct serious deficiencies in RCRA's ability to readily identify hazardous substances and prevent their pollution of the environment.

The danger that hazardous wastes pose is one which Congress has hardly ignored. Alerted to the contamination of our environment by these substances in 1977, we passed RCRA with the hope of creating a system of controlling hazardous wastes from the "cradle to the grave." But now, almost 6 years later, RCA's basic intentions are still not fulfilled by its regulations. Although the act's basic regulatory framework is in place, many of its key regulations remain unpromulgated. Others contain loopholes that allow dangerous wastes to go unregulated.

In fact, as a House Energy and Commerce Committee report on RCRA pointed out, as much hazardous waste escapes proper control today through loopholes as receives proper attention under RCRA. That amounts to the staggering total of almost 40 million-metric tons of wastes which go unregulated every year—the result of deficiencies in RCRA.

But when hazardous wastes are not adequately controlled under RCRA, we only create the potential for future hazardous waste sites which will require future cleanup under the Superfund program. In fact, 65 out of the original 116 priority Superfund sites were solid waste facilities which had received dangerous combinations of solid and hazardous waste due to a RCRA loophole. It would be a costly mistake to rely on one program to compensate for another's deficiencies. If we do not act now to strengthen RCRA, we will only pay—many times over—through Superfund cleanup in the future.

The Hazardous Waste Identification Improvement Act is intended to address two major weaknesses in RCRA. The first is that wastes that still contain hazardous constituents in significant concentrations can become exempt from RCRA regulations through a "delisting" procedure. The second is that EPA regulations do not yet cover many hazardous wastes. EPA has either not "listed" them as hazardous, or they do not exhibit any of the established hazardous waste characteristics.

Mr. President, it is my hope that by closing these loopholes we can make RCRA live up to its legislated purpose: "To promote the protection of health and the environment by * * * regulating the treatment, storage, transportation and disposal of hazardous wastes * * *."

Under RCRA, it is EPA's responsibility to identify, characterize, test and ultimately "list" all wastes that pose a threat to public health and the environment. EPA identifies a waste as hazardous through a listing process; usually, this is a general screening to determine if a kind of waste typically can cause harm to human health and the environment if mismanaged. If EPA lists a waste as hazardous, it should fall under RCRA regulations.

The first section of my bill addresses those special instances where a waste can be delisted, or exempted from RCRA regulations. Under existing law this is an important corrective measure in situations where EPA mistakenly lists wastes that are in fact not hazardous. But, in many instances, wastes that are still hazardous and pose a threat to human health and safety are slipping through this delisting process and escaping regulation. The Hazardous Waste Identification Improvement Act would close this loophole by adding three requirements to the delisting process: Consideration of other criteria; guidelines for the submission of delisting data; and a deadline for temporary delisting petitions.

Currently, the delisting process allows petitions, such as a company or waste treatment facility, the opportunity to demonstrate that its wastes are significantly different from listed wastes, or identified hazardous wastes of the same type. Wastes can vary because of treatment, or because they are generated in a different manner. If a waste can be proved to no longer meet the criteria for which it was listed, then it can be excluded—delisted—from hazardous waste regulations.

What delisting regulations do not address is the fact that wastes are frequently composed of numerous hazardous constituents. In some instances, these additional constituents may not have been taken into consideration when the waste was originally listed. Or in some treatment processes, these wastes may not have been sufficiently rendered nonhazardous or they may contain dangerous elements which have still not been listed by EPA as hazardous. In either case, EPA's regulations do not allow the Agency to reject a delisting petition if the petitioner's waste contains hazardous constituents in addition to those for which it was originally listed.

The delisting loophole is not merely a potential danger. It already has resulted in wastes being exempted from hazardous waste lists—and from RCRA regulations—that are still hazardous. The consequences are frightening.

In my own home State of Connecticut, for example, a temporary delisting was granted to a facility following treatment of its sludge pile. It since has been discovered that the sludge contained PCB's and other organics. Neither was the reason why the sludge pile was originally delisted. If given a final delisting, these hazardous wastes could have ended up in a sanitary landfill, posing a health threat to nearby residents.

In certain stainless steel operations, the resulting waste is listed as hazardous for containing the heavy metals chromium and lead. Typically nickel—a heavy metal—is also present, and would go untreated if the waste is delisted.

Some petroleum industry treatment processes produce an oil-sludge mix which is listed as hazardous for containing heavy metals. Yet the process can also contain dangerous organic compounds. Organics, many of which can cause severe health affects, are not covered by RCRA regulations, and, if delisted, could be released untreated into the environment at large.

Under the legislation I am introducing, we would no longer take the risk that delisting a waste would mean releasing its additional hazardous components from regulation. Instead, EPA will have the authority to consider additional constituents or other relevant factors when evaluating a delisting petition.

If the agency has reason to believe that additional hazardous constituents are present in the waste in significant concentrations, they can ask the petitioner to demonstrate the contrary. After sufficient comment period for the petitioner, EPA has the right to grant or deny a delisting petition based not only on the original constituent for which the waste was listed, but also on any additional hazardous constituents.

This legislation also mandates that EPA require specific data to be submitted and certified by the petitioner in a delisting petition. The delisting process depends on good faith; EPA evidently does not have the resources to verify every application. Falsification of delisting data has, unfortunately, proved to be a recurring problem for the agency. My bill would require EPA to develop guidelines for the submission of delisting data and for the certification or that data by the petitioner. I believe this will help the agency to oversee delisting petitions more effectively.

My bill also addresses those instances when wastes are temporarily delisted, or temporarily exempted from regulation. Historically, EPA has

been slow to make final decisions concerning a temporary delisting. In several instances, this had led to dangerous wastes being temporarily delisted over a long period of time despite evidence for their regulation.

My bill would require the Agency to make decisions on all temporary delistings within a year. I believe this will minimize any risk from wastes that could be hazardous, but have been granted a temporary delisting status.

I believe these revisions to the delisting procedure will better protect health and the environment. They may also simplify matters for the industry concerned. Under current law, if a delisted waste proves to be hazardous, the responsible industry could still be liable under common law for any damage to health and the environment. In fact, for just that reason, many industries will not use the delisting procedure. In some States, industries actually prefer to use the State delisting procedure precisely because it is frequently stricter than EPA's.

As I mentioned earlier, it is EPA's responsibility to develop tests, or characteristics, for identifying a waste as hazardous. EPA so far has developed four major tests for characterizing a waste as hazardous, and has produced a catalog of several waste types.

This is a good beginning. But the Agency has not gone far enough. The characteristics developed to identify wastes as hazardous entirely ignore many of our more dangerous industrial products. The result is that many wastes containing, for example, significant levels of dioxins, chlorinated organics, or pesticides, are not even considered hazardous under RCRA regulations. Other demonstrably dangerous wastes remain unlisted or and consequently unaddressed by RCRA regulations.

This lack of adequate coverage has undoubtedly endangered both public health and the environment. The presence of dioxin in at least 15 and in as many as 50 additional sites in Missouri is only one of the more egregious examples of wastes not regulated under RCRA. There are undoubtedly countless others.

I respect EPA's need to move with scientific caution in determining which wastes are hazardous. But caution should not mean paralysis. EPA has not listed any new wastes since July of 1980, and has missed its own deadlines for listing several hazardous wastes.

Mr. President, the bill I am introducing would require EPA to submit a plan to Congress for its work on the identification and listing of wastes. This plan, due 6 months after the Hazardous Identification Improvement Act is passed, would require EPA to make the following determinations within 2 years:

First, any plans to develop new regulations for identifying additional characteristics, or tests, for identifying hazardous wastes, with special attention to be paid to new toxicity characteristics;

Second, an identification of those wastes which the agency plans to decide to list as a hazardous waste within a mandated 2- and 5-year period;

Third, a determination by EPA in conjunction with the interagency national toxicology program of the possibility of determining whether the presence of certain hazardous elements at levels above those commonly agreed to be dangerous could automatically classify a waste as hazardous;

My bill would also require EPA to promulgate regulations on dioxin and dibenzofuran containing wastes within 6 months after the enactment of the Hazardous Waste Identification Act.

It is my hope that requiring EPA to develop and submit a plan to Congress for its work on the identification and listing of wastes will aid the Agency in setting priorities and allocating resources. Similarly, it is my belief that mandating regulations on dioxin and other deadly wastes will push the Agency to complete its work in this area as quickly as possible—and before further incidents like Times Beach, Mo., occur.

With 57 million metric tons of hazardous waste produced by industry each year, it is essential that known or suspected hazardous wastes be brought under the scope of RCRA as quickly as possible. It is vital that we aid EPA in allocating its resources to determine which wastes are hazardous and to bring them under regulation.

It is important to remember that hazardous wastes are not an abstraction but an unavoidable part of our daily lives. Hazardous waste is the inevitable byproduct of many of our major industrial processes. Each day American industry produces enough waste to fill then New Orlean's Superdome—floor to ceiling—five times over. From Love Canal to the Valley of the Drums, history has shown us that the safe disposal of hazardous waste is a problem we cannot afford to ignore.

Yet no matter what approach we take to the safe handling of hazardous wastes, there are costs involved—for industry, for government, and for individual citizens. Our only choice is when to incur those costs, and how to invest best to insure protection of both health and the environment.

I believe the time for that investment is now, not later. It will be far more cost effective to work to insure that our existing regulations are sound than to postpone their solution—and charge the costs to some future account. If we do not act now to close the loopholes in RCRA, we are only creating future superfund sites.

The choice is ours. By investing now in a more credible delisting procedure and in a plan to identify and list hazardous wastes, I believe we are making a sound investment for the years ahead.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 346

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Hazardous Waste Identification Improvement Act".

SEC. 2. Section 3001(b) of the Solid Waste Disposal Act is amended by adding at the end thereof the following new paragraphs:

"(4)(A) The regulations promulgated under parapraph (1) shall provide that, when evaluating a petition to exclude a waste generated at a particular facility from being regulated as a hazardous waste, the Administrator shall consider criteria, constituents or other related factors other than those for which the waste was listed if the Administrator has a reasonable basis to believe that such additional criteria, constituents or other related factors could cause such waste to be listed as a hazardous waste. The Administrator shall grant or deny such petition only after notice and opportunity for public hearing.

"(B) The temporary granting of such a petition prior to the enactment of the Hazardous Waste Identification Improvement Act without the opportunity for public comment and the full consideration of such comment shall not continue for more than 12 months after the date such petition is granted or 6 months after the date of enactment of the Hazardous Waste Identification Improvement Act, whichever is later. If a final decision to grant or deny such a petition has not been promulgated after notice and opportunity for public comment within the time limit prescribed by the preceding sentence, any such temporary granting of such petition shall cease to be in effect.

"(C) Any petition to exclude from regulation a waste generated at a particular facility shall be accompanied by adequate information to evaluate such petition, including information on samples of such waste determined to be representative on the basis of guidelines for the development and submission of such information published by the Administrator. Such information shall be certified by a responsible corporate official of such facility to be accurate, complete, and representative, within the knowledge of employees or contractors of such facility.

"(5) For the purpose of assuring the timely completion of regulations identifying the characteristics of hazardous waste and the listing of additional particular hazardous wastes, as required by paragraph (1) of this subsection, the Administrator shall—

"(A) not later than six months after the date of enactment of the Hazardous Waste Identification Improvement Act, submit to the Congress a work plan (i) for developing regulations identifying additional characteristics of hazardous waste, including measures or indicators for toxicity; (ii) identifying those particular wastes on which the

Agency intends to decide whether to list as a hazardous waste within two years after such date of enactment, and those particular wastes on which the Agency intends to decide within five years after such date of enactment; and (iii) developed by the National Toxicology Program in cooperation with the Administrator, evaluating the feasibility of determining whether the presence of certain constituents (such as known carcinogens, mutagens, or teratogens) at levels substantially in excess of levels commonly agreed to affect health may cause wastes to be hazardous per se;

"(B) not later than six months after the date of enactment of the Hazardous Waste Identification Improvement Act, promulgate regulations listing doxin and dibenzofuran-containing wastes as hazardous wastes in accordance with paragraph (1) of this subsection;

"(C) not later than two years after the date of enactment of the Hazardous Waste Identification Improvement Act, (i) promulgate regulations identifying additional characteristics of hazardous waste, and (ii) reach decisions on all wastes identified in accordance with subparagraph (A)(ii) for decision within two years and for each such waste either promulgate regulations listing such particular hazardous waste or publish a statement as to why such waste should not be listed as a hazardous waste; and (iii) report to the Congress on progress on subparagraph (A)(iii); and

"(D) not later than six months after the date of enactment of the Hazardous Waste Identification Improvement Act, determine the appropriateness of using the extraction procedure toxicity characteristic for evaluating petitions to exclude a waste generated at a particular facility from being regulated as a hazardous waste, and, not later than two years after such date of enactment, made such improvements as are necessary in the procedure to predict more accurately the leaching potential of wastes."●

● Mr. CHAFEE. Mr. President, today I join Senator DODD and Senator RANDOLPH in introducing the Hazardous Waste Identification Improvement Act, which will amend the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976. The purpose of the bill is to close loopholes in the current regulatory program which have become apparent in the evolution of the national hazardous waste management program.

One product of our industrial society which has emerged as a national health and environmental concern is hazardous waste. Vast quantities of hazardous waste have been generated in the past four decades. Mismanagement of hazardous waste has damaged our land, water and air and posed grave risks to public health. Damage to the environment may take many forms including: Groundwater and water supply contamination, wildlife habitat destruction, soil contamination, fish kills, loss of livestock, air pollution, fire, explosion and crop damage. Hazards to human health can be devastating; whether through inhalation, skin contact or ingestion, the impacts on the function of the human body can be serious.

The Congress in 1976 enacted the Resource Conservation and Recovery Act in an effort to provide for development of a national regulatory program for the management of hazardous wastes—from its generation to its ultimate disposal—the so-called cradle-to-grave management system. Since 1976, EPA has been establishing national requirements for the management of hazardous wastes in a manner protective of human health and the environment. Development of the full range of regulations needed for an effective program has not proceeded as quickly as the Congress intended. Delays in promulgation of regulations have resulted in delays in implementation of the act in general. However, the Agency did promulgate the final major regulatory package last year.

Implementation of the RCRA program is a shared responsibility of EPA and State governments through EPA-authorized State hazardous waste management programs. In view of the scope and complexity of the comprehensive regulatory program now in place, both EPA and the States have a monumental task to fully implement the regulations.

As with any new program, implementation of the hazardous waste program has brought to light a number of deficiencies or loopholes. Two of these loopholes are the focus of the bill that I am joining Senator DODD in introducing today—the Hazardous Waste Identification Improvement Act. Later this week I intend to introduce legislation to address a number of other gaps in coverage under the current RCRA program.

The provisions of the Hazardous Waste Identification Improvement Act contain provisions relating to listing and delisting of hazardous wastes. The RCRA regulations provide two mechanisms for determining whether a waste is hazardous: a set of characteristics of hazardous waste and a list of specific hazardous wastes. A waste must be managed in accord with RCRA regulations if it either exhibits any of the characteristics or if it is listed. EPA has developed criteria for identifying the characteristics of hazardous waste and for determining which wastes to list. Since the initial identification of characteristics and listing of specific hazardous wastes, EPA has not expanded the set of characteristics nor added significantly to the list of hazardous wastes. Even dioxin—one of the most toxic substances known to man—has not been added to the list. One section of the Hazardous Waste Identification Improvement Act requires EPA within 2 years to identify additional characteristics of hazardous waste and add specific wastes to the list of hazardous wastes. The Agency must submit to the Congress within 6 months a plan outlining their program to meet this requirement.

The bill also requires that EPA within 6 months promulgate regulations listing dioxin—and dibenzofuran—containing wastes as hazardous.

The statutory definition of hazardous waste requires EPA to make a judgment as to the hazard posed by a waste "when improperly treated, stored, transported or disposed of, or otherwise managed." In waste containing toxic constituents, this hazard is dependent on two factors: the intrinsic hazard of the constituents of the waste, and the release of the constituents to the environment under conditions of improper management. One provision of this bill would require EPA with the national toxicology program to evaluate the feasibility of determining whether the presence of certain constituents (such as known carcinogens) at levels substantially in excess of levels commonly agreed to affect health may cause wastes to be hazardous per se.

A waste is identified as hazardous either because it exhibits one of the characteristics or because it appears on the list of hazardous wastes. Both particular wastes and sources or classes of waste streams may appear on the list. EPA has chosen to emphasize waste streams in addition to specific hazardous substances because industrial wastes tend to be complex mixtures, containing many different constituents, only some of which may exhibit hazardous characteristics. Individual waste streams may vary depending on raw materials, industrial processes and other factors. Thus, while a waste stream listed by EPA may be hazardous, a specific waste from an individual facility may not be. For this reason, the RCRA regulations contain a mechanism for demonstrating that a specific waste from a particular facility should not be included in the regulatory control program.

The delisting process, as it is called, allows petitioners, and/or individual hazardous waste generators, the opportunity of showing that their waste is significantly different from listed wastes of the same type. If the proper showing is made, EPA can exclude from regulation as a hazardous waste the specific waste from a particular facility. What the regulations do not adequately address is that all of the constituents in a waste stream may not have been taken into consideration when the waste was originally listed. Or in some treatment process, additional wastes may not have been rendered sufficiently nonhazardous, or these wastes contain dangerous elements which still have not been listed by EPA as hazardous. Current EPA regulations do not allow the Agency to reject a delisting petition if the petitioner's waste contains hazardous con-

stituents in addition to those for which it was originally listed. This is a growing problem—as more and more delisting petitions are being submitted to EPA for action.

To address this problem, the bill gives EPA the authority to consider additional constitutents or other relevant factors when evaluating a delisting petition. If the Agency has reason to believe that there are additional hazardous constituents present in the waste in potentially significant concentrations, they can ask the petitioner to demonstrate that is not the case. After sufficient comment period for the petititoner, EPA has the right to grant or deny a delisting petition based not only on the original constituent for which the waste was listed, but also on any additional hazardous constituents.

I will work with the Committee on Environment and Public Works to consider this bill along with other amendments to the Resource Conservation and Recovery Act.●

By Mr. HATFIELD:

S. 365. A bill entitled "The Department of Defense Civilian Air Traffic Controllers Act of 1983; to the Committee on Governmental Affairs.

DOD CIVILIAN CONTROLLERS BILL

● Mr. HATFIELD. Mr. President, during consideration of the first continuing resolution for this fiscal year we chose to give FAA air traffic controllers a special pay differential for their continued service, and loyalty during the air traffic controllers strike. I supported this effort because I believe it was necessary and important to recognize their contribution. However, in our haste we overlooked another important group that contributes greatly to the national air space system—the civilian air traffic controllers of the Department of Defense. These people have the same responsibilities as their FAA counterparts, use the same equipment, and Congress included them in the same training requirements, retirement, and medical provisions as DOT controllers with special legislation in the 96th Congress.

I quote from the House report on this legislation:

In May of 1977 the Department of the Army began a new study to determine whether DOD controllers had problems comparable to those of DOT controllers. The Army Task Force examined whether the process of aging had the same impact on air traffic controllers in both services. By visiting National Airport (a DOT facility), Fort Rucker, Alabama (a DOD facility), and Fort Hood, Texas (another DOD facility), the Task Force was able to conclude that, "Occupationally there are no basic differences between duties being performed by FAA air traffic controllers and the civilian air traffic controllers at Fort Rucker and Fort Hood."

The Army Task Force found that the burn-out problem was equally severe in DOD as in DOT. It found "certain behavioral symptoms characteristic of anxiety reaction and stress." The Task Force also found that the dehumanized work environment and the rotating shifts had harmful effects on employees.

As a result of this study, Deputy Assistant Secretary Carl W. Clewlow announced to the Subcommittee on Civil Service on July 13, 1979, that, "In the interest of equity, we believe that Department of Defense civilian controllers who are actively engaged in the separation and control of air traffic, and who are performing like duties to those air traffic controllers in the Department of Transportation, should be treated the same as their counterparts in the Department of Transportation."

No evidence was presented during the subcommittee's hearings that the job of a DOD controller was substantially different from that of a DOT controller.

In fact, occupational categories, entry requirements, training, and health standards are identical for the two groups.

I believe it was an oversight by Congress to exclude these important individuals, and it would be my hope that the Senate would see fit to consider this bill as an effort to rectify our oversight.

The cost should not exceed $500,000 per year out of existing DOD funds, and the importance to safety of the flying public is incalculable.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 365

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) Section 4109(c) of title 5, United States Code, is amended by inserting "or the Secretary of Defense" after "Administrator, Federal Aviation Administration," and by inserting "or the Department of Defense" after "of such Administration".

(b) Section 5532(f) of title 5, United States Code, is amended—

(1) in paragraph (1) by inserting "or the Secretary of Defense" after "Administrator, Federal Aviation Administration"; and

(2) in paragraph (2) by inserting "or the Secretary of Defense" and "Administrator, Federal Aviation Administration" and by inserting "or such Secretary" immediately before the period.

(c) The analysis of chapter 55 of title 5, United States Code, is amended by inserting immediately before the period in the item relating to section 5546a "and the Department of Defense".

(d) The section heading of section 5546a of title 5, United States Code, is amended by inserting at the end thereof "and the Department of Defense".

(e) Subsection (a) of section 5546a of title 5, United States Code, is amended—

(1) in the first sentence of such subsection by inserting "or the Secretary of Defense (hereafter in this section referred to as the 'Secretary')" after "referred to as the 'Administrator')";

(2) in paragraph (1) of such subsection by inserting "or the Department of Defense" after "Federal Aviation Administration" and by inserting "or the Secretary" after "by the Administrator"; and

(3) in paragraph (2) of such subsection by inserting "or the Department of Defense" after "Federal Aviation Administration" and by inserting "or the Secretary" after "determined by the Administrator".

(f) Section 5546a of title 5, United States Code, is amended—

(1) in subsection (c)—

(A) in the first sentence of paragraph (1) by inserting "or the Secretary" after "Administrator" and by inserting "or the Department of Defense" after "Federal Aviation Administration"; and

(B) in paragraph (1)(B) of such subsection by inserting "or the Secretary" after "Administrator";

(2) in subsection (d)—

(A) in paragraph (1) by inserting "or the Department of Defense" after "Federal Aviation Administration" and by inserting "or the Secretary" after "Administrator" both times it appears; and

(B) in paragraph (2) by inserting "or the Department of Defense" after "Federal Aviation Administration";

(3) in subsection (e) of such section by inserting "or the Secretary" after "Administrator" and by inserting "or the Department of Defense" after "Federal Aviation Administration"; and

(4) in subsection (f)—

(A) in paragraph (1) by inserting "or the Secretary" after "Administrator" and by inserting "or the Department of Defense" after "Federal Aviation Administrator"; and

(B) in paragraph (2) by inserting "or the Secretary" after "Administrator".

(g) Section 5547 of title 5, United States Code, is amended by inserting "or the Department of Defense" after "Federal Aviation Administration".

(h) Section 8344(h)(1) of title 5, United States Code, is amended by inserting "or the Secretary of Defense" after "Administrator, Federal Aviation Administration.".

(i)(1) The amendments made by subsections (b), (c), (d), (e), (g), and (h) shall take effect at 5 o'clock ante meridian eastern daylight time, August 3, 1981.

(2) The amendments made by subsections (a) and (f) shall take effect on the first day of the first applicable pay period beginning after the date of the enactment of this Act.●

By Mr. MATHIAS:

S. 368. A bill to amend section 234 of the National Housing Act to permit shared equity condominium mortgages; to the Committee on Banking Housing and Urban Affairs.

SHARED EQUITY AND CONDOMINIUM UNIT OWNERSHIP

● Mr. MATHIAS. Mr. President, section 234(c) of the National Housing Act authorizes the Secretary of Housing and Urban Development to insure mortgages on one-family units in condominiums, "provided the mortgagor is acquiring, or has acquired, a family unit covered by a mortgage insured under this subsection for his own use and occupancy and will not own more than four one-family units covered by mortgages insured under this subsection."

HUD regulations (24 CFR 234.59) state that—

The family unit covered by an insured mortgage shall be owned and occupied by

the mortgagor or the mortgagor shall own and occupy another family unit covered by an insured mortgage. The mortgagor may not own more than four family units covered by insured mortgages, one of which shall be for his/her own use and occupancy.

The requirements of the statute and the regulations have been interpreted, for application to the shared equity concept, as limiting the nonoccupant comortgagor to four HUD-insured mortgages on units in the same project or different projects. An interest in a unit, even though limited by the shared equity agreement, has been interpreted to constitute ownership. Consequently, an investor can only be involved in four shared equity arrangement.

The shared equity concept is one method of assisting homeownership for persons who might otherwise not be able to afford it. Relaxation of the four-unit limit would open up this approach for condominium purchasers.

The bill I am introducing today would accomplish this purpose. It would permit syndication investors to use insured financing under section 234(c) while continuing the strict prohibition against investors owning more than four units. By requiring HUD to approve the equity sharing arrangement, the Department will be in a position to set standards, such as the percentage of equity and how they can be shared. This will assure that such new authority will assist buyers while prohibiting transactions designed to circumvent the prohibition on investor financing under section 234(c).

I ask unanimous consent that the text of my bill appear at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 368

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of section 234(c) of the National Housing Act is amended by inserting before the period at the end thereof the following: ", except that this clause shall not apply to a comortgagor participating in an equity sharing arrangement approved by the Secretary where the other comortgagor participating in the arrangement is acquiring the unit for his own use and occupancy".●

By Mr. MATHIAS:

S. 369. A bill for the relief of certain Government physicians who were paid basic pay, performance awards, and physicians comparability allowances in aggregate amounts exceeding the limitation set forth in section 5383(b) of title 5, United States Code; to the Committee on Governmental Affairs.

LIMITATION OF PAY CAP FOR CERTAIN INDIVIDUALS

● Mr. MATHIAS. Mr. President, from time to time, the best intentions of Congress become counterproductive. The Federal physicians comparability allowance (PCA) and the senior executive service (SES) bonus system both were enacted to enhance the recruitment and retention of highly qualified individuals for Government service. However, because the current law prohibits a Federal employee from receiving more than the executive schedule level I pay, certain Federal employees are being asked to pay back part of the SES bonuses which they have received. The consequence will be to penalize the very individuals who have received awards for exemplary service.

Mr. President, today I am introducing legislation providing for a limited waiver of the fiscal year 1982 executive level pay cap of $69,630 for 13 Public Health Service, Senior Executive Service, medical officers. The waiver is effective for the fiscal year 1982 dollar limitation.

The current law—title 5 United States Code 5383(b)—prohibits a Federal employee from receiving more than the executive schedule level I pay. These 13 medical officers have been awarded total compensation that exceeds the statutory limit because, in addition to their base pay, each was awarded a Senior Executive Service performance bonus for meritorious service during fiscal year 1981 and each received a $10,000 per annum physicians comparability allowance. Congress raised the SES pay ceiling on January 1, 1982, thereby raising the base pay from $50,112.50 to $58,500, while retaining the executive level pay cap of $69,630.

The PCA was negotiated under the established civil service laws and the SES bonuses were paid before Congress raised the SES pay cap. The raising of the SES pay cap, without a commensurate raising of the executive schedule level I pay limit, left these 13 doctors in an unusual situation, which they have no power to remedy. They have been asked to return part of their SES bonuses to bring their fiscal year 1982 pay within the executive schedule level I limit. Overpayments range from $1,455 to $5,988.

The effect of the pay cap limitation is clear. Rather than creating incentives and boosting morale, as the bonus and award programs were intended by law to do, this action is lowering morale and lessening whatever useful effects might have been gained for the Public Health Service.

I know of no other Federal employees who have been asked to repay any part of their SES bonuses to the Government.

I believe this bill is worthy of the Senate's expeditious and favorable consideration. I urge my colleagues to join me in supporting it.●

By Mr. PERCY (for himself and Mr. DIXON):

S. 370. A bill entitled the "Imported Liquefied Natural Gas Policy Act of 1983"; to the Committee on Energy and Natural Resources.

IMPORTED LIQUEFIED NATURAL GAS POLICY ACT OF 1983

Mr. PERCY. Mr. President, I rise today on behalf of myself and my able colleague Senator ALAN DIXON to introduce the Imported Liquefied Natural Gas Policy Act of 1983. The bill addresses an issue which is of paramount concern to our Illinois constituents, and to citizens in many of our neighboring States—the continued importation of liquefied natural gas at above-market prices.

As we all know, we are faced with a sluggish economy, and sluggish demand for natural gas. Low-priced domestic gas supplies are not being sold. At the same time, consumers are paying immense prices for new, expensive supplies of natural gas, sometimes from exotic sources. Why? Because Government regulations have discouraged cost-cutting efficiencies, and enabled pipelines and others to simply pass extra costs on to consumers.

In normal economic times, this would be foolish enough. But in a time of recession and high unemployment, it is an outrage. The problem must be dealt with, and prices must come down.

I have been hopeful that through administrative procedures this problem could be rectified and I am still hopeful that this will occur. But I was disappointed by a recommendation issued Friday, January 28, 1983, by an administrative law judge to the Federal Energy Regulatory Commission and the Economic Regulatory Administration not to do anything about this situation. I strongly urge the Commissioners and the Administrator at ERA to carefully review the transcript from the hearings that were held. I believe they will be convinced by the evidence in the case that they cannot sit idly by and let these imports continue at their current prices. These agencies were established to take into consideration the public interest. I urge the Commissioners not to dismiss the effect of high cost gas on our poor, elderly, and businesses as the law judge has clearly done in his recommendation.

Presently—and I do not believe this is open to debate as the judge has implied—the FERC and the Secretary of Energy have authority to require a reasonable rate for LNG—a rate that should reflect prevailing market conditions, not just the proposed cost of bringing the LNG to market. The Percy-Dixon bill would simply set an upper limit on the lawful price of regasified LNG. Any price higher than the 90-day average price for No. 6 fuel oil—over the most recent period for which data are available—would, by statute, not be reasonable.

In fact, the FERC and the Secretary of Energy may find that the reasona-

ble price for LNG is even less than the price of No. 6 fuel oil. If so, we would support their decision to allow only a lower price to be charged for LNG. What we are looking for, and what our constituents should pay, is nothing more and nothing less than a fair-market-value price for this gas. We have simply identified No. 6 fuel oil as an upper limit for what is a fair market value.

Let us look at the dollars and cents of the LNG issue. LNG consumers will have to pay about $7 per MCF after regasification, and that does not even include the pipeline transmission and local distribution costs. Illinois ratepayers and other consumers could have to pay as much as $9 per MCF. The most common replacement fuel for gas, No. 6 fuel oil, sells for roughly $4.50 for the same energy content, according to recent Government figures.

Anything more than this is an unfair price of LNG. Even this price is higher than the $2 or $3 per MCF gas now available from many American wells. But it does offer a sensible middle ground, a benchmark around which serious negotiations can begin between buyers and sellers of LNG in the world market.

We encourage LNG buyers and sellers to use the time before this bill is passed to renegotiate prices to free-market levels. After enactment of the Percy-Dixon bill, LNG could be sold at above free-market levels only if alternative domestic supplies to the market served are not available at or below the proposed price, only if the source of supply is reasonably secure, and only if the import agreement includes a provision for reducing quantities of prices if market circumstances change. If any part of the United States does not have lower priced domestic gas available to replace LNG imports, it can continue to receive higher priced LNG under our bill.

The need for renegotiation extends not just to LNG. Continental sources of imported natural gas are also priced way above available domestic gas. It is time for these prices to move down, too. Today, a bilateral consultative process has begun between the United States and Canada on this question of import prices, as well as a number of other energy issues. I have encouraged through meetings and numerous conversations with Ambassador Gotlieb and our own State Department officials to set a timetable for serious negotiations over the Canadian gas border price. I am hopeful that such a timetable will be set promptly. If not, I will have no recourse but to submit legislation on this matter, as well. Our trading partners have to realize that I will not stand idly by if Illinois consumers have to pay more than fair market value for any gas imports.

In the late 1970's, as ever-rising prices for imported energy began pommeling our economy and draining our Nation's wealth, we reached a consensus that it was often worthwhile to pay a premium for domestic fuel if it could help cut back on our imports. But in natural gas, we are paying a premium for imported fuel while cutting back on our domestic production. This cannot continue.

I want to make clear to my colleagues that this bill is an effort to move toward, not away from a free energy marketplace. Senator DIXON and I are simply trying to correct the consequences of costly, uneconomic decisions resulting from an overregulated marketplace for natural gas. In a free market, no one would have ever imported this LNG in the first place—and if anyone had, no one downstream would have bought it.

I also want to make clear that I continue to support efforts to develop new energy supply technologies, including supplemental gas resources, as long as those projects make economic sense or public support for other reasons. We have a long way to go before we solve our long-term energy supply problems, and we cannot turn our backs on promising technologies with high capital costs. But we must go into these projects selectively, with our eyes open. If, for whatever reason, we consider it in the public interest to press on with a risky or uneconomic project, we should not expect a relatively small number of ratepayers to bail it out if it runs into trouble.

I further want to make clear that I am a strong supporter of free trade and the inviolability, except in extreme circumstances, of contracts made between trading partners. From the beginning, all persons involved in the LNG trade knew or should have known that U.S. administrative agencies—and the Congress—will only allow interstate LNG shipments to take place if prices are fair and make reasonable economic sense. This history of the LNG trade—including the history of negotiations surrounding the imports heading into Illinois—show unmistakably that price has always been open to discussion. Up to now, prices have always been pushed upward, never downward. All that the Percy-Dixon bill does is make sure that prices can be renegotiated downward as well as upward.

By Mr. SASSER (for himself, Mr. NUNN, Mr. LEVIN, Mr. JOHNSTON, and Mr. PRESSLER):

S. 371. A bill to amend the Internal Revenue Code of 1954 to provide for a credit against tax with respect to the employment of certain unemployed individuals; to the Committee on Finance.

TARGETED JOBS TAX CREDIT AMENDMENTS ACT OF 1983

● Mr. SASSER. Mr. President, in his last news conference in 1982, President Reagan conceded to reporters in the White House Press Room that high unemployment rates would be with us for some time. Pressed by the journalists for possible solutions to the problem, the President expressed his faith in the private sector by suggesting that if every business in the country would hire just one unemployed person, it would help to reduce unemployment dramatically.

Today, along with Senators NUNN, LEVIN, JOHNSTON, and PRESSLER, I am introducing legislation designed to encourage businesses to do just what the President wants them to do: hire the unemployed.

Roughly 12 million Americans were out of work for the month of December. Unemployment climbed to 10.8 percent marking the fourth straight month that the national unemployment level topped 10 percent. In addition to those who are classified as unemployed, another 1.8 million Americans have simply given up looking for work. These individuals are termed "discouraged workers," a title that sadly has become applicable to more and more Americans.

Many of us face unemployment situations in our home States that are even more severe than represented by these national figures. Such is the case in Tennessee. The latest figures for Tennessee showed the unemployment rate rising to 13.3 percent for December. This marks the 13th consecutive month that unemployment has been in double-digit figures in Tennessee and the 28th consecutive month that our State rate has been above the national unemployment rate.

The 13.3-percent figure means that 285,900 Tennesseans were out of work for the month of December. This figure is the highest such number since the Tennessee Department of Employment Security began keeping records, eclipsing the previous high of 258,700 unemployed in February 1982.

Only seven counties in Tennessee had unemployment rates below 10 percent in November. Of the remaining 88 counties, 32 reported unemployment of 15 to 20 percent and 24 counties had jobless rates between 20 and 30 percent, according to the Tennessee Department of Employment Security. Even more shocking is the news that two Tennessee counties had unemployment rates over 40 percent.

Compounding the curse of continuing unemployment in 1982 was an equally severe rise in the number of business failures in America. Dun and Bradstreet's preliminary figures for 1982 show a total of 25,346 business failures. This compares with 17,044 business failures recorded in the same time span during 1981. The administration's economic policy resulted in a 49-percent increase in business failures across the Nation during 1982. And as

we all know, Mr. President, the vast majority of these failures occur in the small business sector of the economy.

Like the President, I believe it would be helpful if businesses would hire the unemployed out of a sense of duty or altruism or patriotism. But let us face it; you cannot hire someone if you are worried about staying afloat yourself. The bill we are introducing today tries to address this worry, this concern of America's businesses.

Specifically, S. 371, the Targeted Jobs Tax Credit Act Amendments of 1983, proposes the creation of another target group in the targeted jobs tax credit section in the Internal Revenue Code. Under our present law, this credit is available to businesses hiring individuals from one of nine specified economically disadvantaged groups. S. 371 goes one step further by providing a broad incentive for labor-intensive industries to increase employment activity.

S. 371 creates a target group for employees who have been unemployed for 1 year or who have exhausted all available unemployment benefits. This legislation also increases the tax credit available from 50 percent of the employee's qualified first-year wages to 65 percent of such wages where the hiring company is located in a labor market area with an unemployment rate that has been in excess of the national average for the 3 months preceding passage of the bill and where the person hired has resided in that area prior to being hired.

The bill also increases the amount of credit available to 75 percent of qualified first-year wages where the hiring company is a small business as defined by section 3(a) of the Small Business Act. This small business provision is especially timely for a number of reasons.

A recent congressional research service study indicated that estimated tax benefits to small business in 1981 represented only 18 percent of the total tax cuts enacted that year. This figure is projected to shrink to 12.7 percent for 1982 and sink even further to 9.2 percent by 1986. Quite clearly, Mr. President, small businesses are being deprived of the tax incentives that can help small business prosper and grow.

The significance of tax incentives is not lost on small business operators. At the end of the 1981 White House Conference on Small Business, those in attendance put forward 60 recommendations on the state of small business. Eleven of these recommendations dealt with some aspect of taxation. In addition, when these recommendations were ranked in order of importance, the tax system was the subject of half of the first 10 rankings, including the No. 2 and No. 3 priority items.

The type of tax credit contained in S. 371 is particularly attractive to labor-intensive industries. The recent SEC-sponsored forum between small business and Government leaders indicates that 97 percent of our small businesses are labor intensive. For the most part, small businesses are service-related firms which can put marginal workers to productive use. A tax credit such as that contained in S. 371 is broad enough in its scope to provide an incentive for these businesses to generate such additional jobs.

Finally, the treatment accorded small business in S. 371 is warranted in light of the impact small business has on employment. Small businesses create a significant proportion of new jobs in America. One study done on the national level reports that from 1978 to 1980, employment in the private sector increased 8.7 percent. Roughly 78 percent of this increase occurred in establishments with fewer than 100 employees. Yet these same establishments accounted for only 49 percent of the private sector labor force.

I have long been aware of the large contribution to employment made by small business in Tennessee. Between 1979 and 1981, overall employment in Tennessee decreased by 0.2 percent. However, those firms which employed from 1-4 workers showed an increase of 16.8 in employment for that same period.

Small business in Tennessee means more than jobs alone. Tennessee small businesses produce roughly half of the State's goods and services. In addition, firms with less than 100 employees constitute the majority in all major sectors of the Tennessee economy. At this point, Mr. President, I ask unanimous consent that the Tennessee Department of Economic and Community Development report on the facts of Tennessee's small businesses be included in the RECORD as if read.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE FACTS: TENNESSEE'S SMALL BUSINESSES

I. There are approximately 83,000 business establishments in Tennessee. About 79,000 of them employ less than 100 employees (according to U.S. Census Bureau, "County Business Patterns 1980"). These 79,000 firms are the companies generally defined as Tennessee's small businesses.

II. The small businesses produced roughly half of Tennessee's $50 billion in goods and services last year.

III. Tennessee small businesses contributed about 45 percent of the State's total payroll last year.

IV. Tennessee firms with less than 100 employees constitute: 80 percent of the manufacturing companies in the State; 99 percent of the construction firms in the State; 61 percent of the wholesale and retail operations in the State; 98 percent of all service companies in the State; and 99 percent of the finance insurance and real estate business in the State.

V. Internal Revenue records now prove that the sole proprietorship form business in used almost exclusively by small business. These same Internal Revenue records further prove that during the last two U.S. recessions, the unemployment rate in sole proprietorships has been lower than the employment rate for all businesses. Conversely, in times of prosperity, the employment growth rate for sole proprietorships has been much greater than the growth rate for all businesses. In other words, small businesses stabilize us in bad times and spur us on in good times.

VI. According to the now well-known study done at the Massachusetts Institute of Technology in 1979 called the Job Generation Process, we now know that small business creates about 60 percent of all new jobs each year in this country. This has been determined by tracking the employment patterns of 5½ million U.S. businesses over eight years' time, using Dun and Bradstreet records.

The tremendously significant fact here, of course, is that the majority of all new jobs in the United States always originate in smaller firms—businesses with less than 100 employees. In other words, the small business sector keeps America working.

Every state in the country, Tennessee included, loses about eight percent of its job base each year because of business failures or contractions, so that business sector-the small business sector-which is able to constantly regenerate, replace, re-establish new jobs quickly is that sector to whom we really owe much of our economic stability. Any growth in numbers of jobs each year is truly dependent on small businesses' ability always to give us at least that slight edge we need by creating more new jobs each year than the number so old jobs we lose automatically each year.

In summary, after analyzing 5½ million Dun and Bradstreet business records, the results show that:

(A) on the average about 60 percent of all jobs in the U.S. are generated by firms with 20 or fewer employees.

(B) about 50 percent of all these jobs are created by independent small entrepreneurs; and

(C) large firms (those with over 500 employees) generate less than 15 percent of all net new jobs. (Source: "The Job Generation Process," David L. Birch, MIT Program on Neighborhood and Regional Change, Cambridge 1979.)

VII. Approximately 8,000 small businesses were started in Tennessee during the last 5 years. This represents about a 10 percent increase in business starts. Nonetheless, the bankruptcy rate for businesses in this state is also high. Tennessee ranks 12th in the country in numbers of business failures, with about 1,600 firms declaring insolvency last year.

Mr. SASSER. Mr. President, it is time we took proper notice of the role these small establishments play in maintaining our economy and the significant impact they have on our employment picture. We need to work with these small firms in an effort to ease our unemployment burden.

Admittedly, the targeted jobs tax credits are not without problems. Businesses often do not know such credits exist or find the paperwork and procedures involved to cumbersome.

I believe our legislation does away with some of these difficulties.

In particular, S. 371 requires that qualified unemployed individuals be certified as such by a local government employment agency. Thus, when the employee goes to an employer who wants to use this credit, the employee has already been certified as eligible. The current certification process under the targeted jobs tax credit is one of the major obstacles to making use of these credits. With or preemployment certification process, I believe our bill succeeds in making use of this credit far more attractive to a small firm.

In closing, Mr. President, let me point out that this type of tax credit is becoming quite a popular legislative item. President Reagan, in his state of the Union address, and in his budget summary, has made known his interest in jobs tax credits for the long-term unemployed. I am pleased that the President has seen the wisdom of this type of approach and applaud his embracing this concept.

But we all know, Mr. President, that it will take more than words to help our Nation's unemployed and small businesses, S. 371 is a solid legislative proposal refining the Tax Code in order to arm our Nation's businesses with the economic weapons they need in the need in the battle against recession and unemployment.

I urge my colleagues to give their expeditious and favorable consideration to enactment of the Targeted Jobs Tax Credit Amendments of 1983. I ask unanimous consent that the full text of S. 371 be printed immediately following the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 371

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Targeted Jobs Tax Credit Amendments Act of 1983."

SEC. 2. TAX CREDIT FOR HIRING OF CERTAIN UNEMPLOYED INDIVIDUALS.

(a) QUALIFIED UNEMPLOYED INDIVIDUAL.—Paragraph (1) of section 51(d) of the Internal Revenue Code of 1954 (defining members of targeted groups) is amended—

(1) by striking out "or" at the end of subparagraph (I);

(2) by striking our the period at the end of subparagraph (J) and inserting in lieu thereof ", or"; and

(3) by inserting after subparagraph (J) the following new subparagraph:

"(K) a qualified unemployed individual.".

(b) DEFINITION AND SPECIAL RULES.—Subsection (d) of section 51 of such Code is amended—

(1) by redesignating paragraphs (13), (14), (15), and (16) as paragraphs (14), (15), (16), and (17), respectively; and

(2) by inserting after paragraph (12) the following new paragraph:

"(13) QUALIFIED UNEMPLOYED INDIVIDUAL.—

"(A) IN GENERAL.—The term 'qualified unemployed individual' means an individual who is certified by the designated local agency as—

"(i) unemployed since January 1, 1982, or

"(ii) having exhausted all rights to regular unemployment compensation under a State law approved by the Secretary pursuant to section 3304, and

"(iii) having no rights—

"(I) to unemployment compensation (including both regular compensation and extended compensation) under such law or any other State unemployment law, or

"(II) to compensation under any other Federal law (including the Federal Supplemental Compensation Act of 1982),

with respect to the week immediately preceding the date on which such individual was first employed by the taxpayer (and as not being paid or entitled to be paid any additional compensation under such State or Federal law with respect to such week).

"(B) EXHAUSTION OF BENEFITS DEFINED.—For purposes of subparagraph (A)(ii), an individual shall be deemed to have exhausted his right to regular compensation under a State law when—

"(i) no payments of regular compensation can be made under such law because such individual has received all regular compensation available to him based on employment or wages during his base period; or

"(ii) his rights to such compensation have been terminated by reason of the expiration of the benefit year with respect to which such rights existed.

"(C) AMOUNT OF CREDIT INCREASED IN CERTAIN CASES.—For purposes of applying this subpart—

"(i) in the case of a taxpayer which—

"(I) is located in a labor market area determined by the Secretary of Labor to have a rate of unemployment in excess of the average national rate of unemployment for each of the three months immedately preceding the date of enactment of this paragraph, and

"(II) employs a qualified unemployed individual who resided in such area prior to the date on which such individual was hired by such taxpayer.

subsection (a)(1) shall be applied by substituting '65 percent' for '50 percent'; and

"(ii) in the case of a taxpayer that is a small business concern (within the meaning of section 3(a) of the Small Business Act (15 U.S.C. 632(a)), subsection (a)(1) shall be applied by substituting '75 percent' for '50 percent'.".

SEC. 3. CONFORMING AMENDMENTS.

(a) Clause (ii) of section 51(d)(12)(A) of such Code (relating to qualified summer youth employee) is amended by striking out "paragraph (14)" and inserting in lieu thereof "paragraph (15)".

(b) Subparagraph (C) of section 51(d)(12) of such Code is amended by striking out "paragraph (14)" and inserting in lieu thereof "paragraph (15)".

SEC. 4. EFFECTIVE DATES.

The amendments made by this Act shall apply to amounts paid or incurred after the date of the enactment of this Act in taxable years beginning after such date and before the close of the first calendar year after such date in which the national unemployment rate equals 6.5 percent or less as determined by the Department of Labor.●

By Mr. HATFIELD (for himself, Mr. PACKWOOD, and Mr. HOLLINGS):

S. 372. A bill to promote interstate commerce by prohibiting discrimination in the writing and selling of insurance contracts, and for other purposes; to the Committee on Commerce, Science, and Transportation.

FAIR INSURANCE PRACTICES ACT

● Mr. HATFIELD. Mr. President, today, I wish to introduce legislation which will promote interstate commerce by prohibiting discrimination in the writing and selling of insurance contracts. I am please to have my distinguished colleagues, Senators PACKWOOD and HOLLINGS join me on this legislation.

Mr. President, despite progress in combating sex discrimination in America society over the past decade, significant gaps remain. Perhaps none is so large and pervasive as that discrimination which occurs in the insurance marketplace.

This provision recognizes a national policy which has been appropriately reaffirmed over the past 20 years: That discrimination on the basis of race, color, religion, sex, or national origin is unfair and unlawful. In the proposed Nondiscrimination in Insurance Act, which is a part of the Economic Equity Act, that policy is stated. As it should be; for it is fundamentally unfair to stereotype individuals on these bases. Different and unequal treatment of like individuals cannot be tolerated in the employment sector. Neither can it be tolerated in the insurance marketplace.

In the abstract, continuation of discriminatory policies in insurance is discouraging. But in its practical ramifications, it is even more distressing. For in an era in which over 40 percent of the work force is women—and some 60 percent of those women work out of economic need—denial of access to insurance at fair rates can have severe economic consequences.

For example, today there are reported to be 7.7 million single-parent families headed by women. These families are wholly dependent on females for financial support. Yet, the availability and scope of insurance for them are minimized and the rates often maximized because of their sex. This policy can effectively prohibit women from achieving the basic insulation from financial loss which is the benefit of insurance.

This is only one example of the effects of a sex-based classification in insurance. Cited here are a few others as they occur in various types of insurance:

In disability, many types of insurance benefits available to men are not available to women. While coverage has improved over the past few years, in some States, disability coverage is not available to women on any terms, at any price. In other States where it is available, its cost is significantly greater.

In health, waiting periods are usually much longer for women, and benefit periods shorter. According to a report on sex discrimination in insurance prepared by the Women's Equity Action League, it is not uncommon to find that, despite higher premiums paid by women, the benefits they receive are much lower. Pregnancy coverage, despite its centrality to women's insurance needs, is often unavailable.

In life insurance, coverage for women is often limited in scope and availability. Certain options, commonly available to men, have been restricted to women.

The same justification for differential rates can be made for discrimination against blacks because white persons as a group have a longer life expectancy than black persons as a group. However, such discrimination is now, and should be, totally rejected.

It must be understood that there is no objection to basing a life insurance policy on longevity. However, if sex is the only criterion used to determine longevity, it is clearly unfair and relatively unreliable. Instead of merging sex with all the other criteria affecting life expectancy, the industry has chosen to concentrate exclusively on it. The industry has virtually ignored other, more accurate classification criteria, such as smoking habits, family health history, physical condition, recreational and occupational activities.

Recent investigations have demonstrated that some employer-sponsored life insurance charged women more for pension coverage on the assumption they would live longer, but charged them as much as men for life insurance. They thus ignored sex differences when they would have helped women. According to a study completed by Dr. Charles Laycock, a University of Chicago law professor, some companies make a smaller allowance for sex differences in life insurance, where the difference helps women, than in annuities, where the difference helps men.

Two years ago the Supreme Court, in the so-called Manhart decision, ruled it unlawful to treat "Individuals as simply components of a racial, religious, sexual or national class." While this ruling applies only to employer-operated insurance plans, the proposed bill expands the prohibition to private and individual plans, as well.

The insurance industry has claimed that some 19 States have already adopted a model regulation of the National Association of Insurance Commissioners which supposedly accomplishes the same objective as this legislation. Thus, the need for Federal legislation is eliminated, according to the industry.

However, this model regulation does not touch on the aspects of disparate rates and benefits—merely availability and scope. And even this incomplete regulation was watered-down further by several of the 19 States which eventually adopted it. If it is discovered that the States are indeed doing their jobs with respect to offering fair and just insurance policies and rates, and enforcing such, I would have no hesitancy to withdraw my support for this legislation. The bill is designed to encourage the States to adopt nondiscriminatory policies.

It is important to stress here that the Nondiscrimination in Insurance Act will in no way remove authority from the States to regulate the insurance industry. No Federal mechanism for administration or enforcement is established, and not one bureaucrat would spring into being as a result of this bill.

Classification by sex is clearly not a business necessity, as some parts of the insurance industry would have us believe. It was adopted by the industry only 30 years ago as a convenient, though incomplete, method of classifying risks. While it may require minor cost adjustments in some policies and practices, such an argument cannot be used as a defense for discrimination.

Again, researchers have helped dispel a myth commonly touted by the insurance industry; that if sex differences are ignored, one sex will subsidize the other, the subsidizing sex will quit buying insurance, throwing off the necessary balance in insurance pools. If that were true, according to Professor Laycock, we would have encountered the same problems with respect to all the other groups for which the insurance industry does not compute separate actuarial tables.

We have discussed previously the differential in longevity statistics between blacks and whites. But whites have not quit buying life insurance. Rich people live longer than poor people, but rich people have not quit buying life insurance. The difference in life expectancy between highly and poorly educated women is greater than the difference between the sexes, but educated women have not quit buying life insurance. The difference in life expectancy between married and single men is greater than the difference between the sexes, but married men have not quit buying life insurance.

These and other examples demonstrate that differences in group averages of this magnitude do not cause many members of the lower risk group to go uninsured, and no unmanageable problems result. Where unisex automobile insurance is used, as it has been in three States, it has worked; no unmanageable problems result, and rate changes between the sexes have been insignificant.

I am hopeful that it will not require the pressure of the courts, of civil rights and women's groups, and of the public opinion, to convince the insurance industry to treat its policyholders without discrimination on the basis of sex. Support of a significant number and type of groups representing the public, including the American Association of University Women, the AFL-CIO, the National Federation of Business and Professional Women, as well as the Leadership Conference on Civil Rights, are supportive of this legislation. I will use that support to help assure that a policy adopted by Congress some 16 years ago will also be applied in the insurance marketplace.●

● Mr. PACKWOOD. Mr. President, the traditional civil rights policy of the United States is that no individual shall be treated differently because of his or her membership in a racial, sexual, religious or ethnic group. This policy has been applied under Federal laws or by the courts to employment, credit, housing, public accommodations, transportation, recreation, voting and athletics. I am a strong supporter of this policy and I believe it should be extended to the business of insurance.

I am pleased to again join Senator HATFIELD in introducing the Fair Practices in Insurance Act which will prohibit discrimination in insurance and annuities on the basis of race, color, religious, sex or national origin. Last year's bill, S. 2204, was favorably reported from the Senate Commerce Committee which I chair. As chairman of that committee I intend to move expeditiously to hold hearings on the bill and to again report the bill. I believe that the bill will be considered by the full Senate this year and I predict it will become law.

S. 2204, as reported last year is supported by civil rights organizations including the Women's Equity Action League, the Federation of Business and Professional Women's Clubs, the American Association of University Women, the National Women's Political Caucus, the National Organization for Women, as well as the Leadership Conference on Civil Rights, senior citizen groups, and the AFL-CIO and other labor organizations. I encourage my Senate colleagues to join as cosponsors of this landmark legislation.●

By Mr. MURKOWSKI (for himself, Mr. STEVENS, Mr. JACKSON, and Mr. GORTON):

S. 373. A bill to provide comprehensive national policy dealing with national needs and objectives in the Arctic; to the Committee on Governmental Affairs.

ARCTIC RESEARCH AND POLICY ACT OF 1982

● Mr. MURKOWSKI. Mr. President, today I am reintroducing the Arctic Research and Policy Act, a bill which was unanimously reported out of the Governmental Affairs Committee last year and which passed the Senate

unanimously late in the 97th Congress. I am pleased that Senators STEVENS, JACKSON, and GORTON have once again joined me as cosponsors in this effort.

Mr. President, it is a sad but true fact that the United States is the only polar Nation without a coordinated effort to conduct necessary scientific research in the Arctic. It is important to note that we do conduct such an effort in the Antarctic, where a comprehensive policy guides research efforts in order that inefficiencies and duplication will not occur. Why do we bother to plan and coordinate our Federal scientific efforts in the Antarctic, while we fail to do so in the Arctic where vast American energy resources exist and U.S. citizens live?

This situation in and of itself troubles me greatly; but it is even more troubling in light of the fact that the Soviet Union is engaged in a massive effort to study the Arctic and its potential from a strategic and economic point of view. We are lagging behind.

Across the Bering Strait thousands of Soviet scientists are moving toward the consolidation of Soviet defense systems. They are rapidly developing new technologies to produce oil, gas, and strategic minerals in Arctic regions. They are also developing and integrating their Arctic transportation systems. The testimony received during 2 days of hearings before the Senate Governmental Affairs Committee indicated that the Soviets have 20,000 to 25,000 scientists engaged in Arctic research. Reports indicate that Soviet offshore oil and gas exploration is supported by research in over 170 scientific institutes. The Soviet naval fleet includes 37 Arctic research vessles and 19 icebreakers. In contrast, the United States has no Arctic research vessel and the five icebreakers in the fleet are rarely used for research. As it was so aptly put by one distinguished witness at one of the hearings held last year, there may be enough research underway in the Arctic, but only if you include what the Soviets are going.

I believe it is important to note that we have attempted to administratively create an Arctic science policy in the past—but efforts dating back nearly 20 years have failed. Back in the 1960's, Alaska's Senator Bob Bartlett, a member of the Senate Appropriations Committee, noted a disparity between the funding the United States directed toward the Arctic compared with the Antarctic. Then, as now, we were directing a significantly greater amount of scientific funding to the Antarctic. Indeed, we have a scientific research policy in the Antarctic, mandated by administrative action—OMB Circular A-51. All such attempts to do so in the Arctic have failed. For instance, after a 3-year effort, a U.S. policy statement agreed to by all concerned Federal agencies was still sitting unsigned on President Johnson's desk when he left office in 1968.

That same year, at the request of the Department of State, the Office of Science and Technology and the Federal Council of Science and Technology, the Interagency Arctic Research Coordinating Committee (IARCC) was established to insure the sound development and coordination of Federal research programs in the Arctic. In the absence of a guiding research policy, the IARCC foundered and was disbanded in 1978.

In 1971, the National Security Council adopted an instrument—NSD memorandum 144—to create an Interagency Arctic Policy Group to be established for a development of a coordinated plan for scientific research in and on the Arctic. This memorandum was reaffirmed by NSD memorandum 202 in 1973. Despite the fact that these instruments mandated the creation of an Arctic research policy, no such policy exists today. As the study of U.S. Arctic research policy, also known as the 1007 report, states on page 9:

> NSDMs 144 and 202 definately stated a U.S. desire to develop a coordinated plan for Arctic research, but investigation shows that the intentions of the memoranda have never been implemented to define mechanisms for the funding and management of Arctic research . . . the U.S. lacks an explicit Arctic research policy and, therefore, does not have a tightly coordinated Arctic research program.

Mr. President, the bill I am introducing today will finally bring an end to this litany of failure. It would create an Arctic Science Policy Council and an Arctic Research Commission to create and implement a comprehensive Arctic science policy. The Council, composed of five Presidential appointees representing State and Federal Government interests, would develop the integrated policy and facilitate cooperation between the U.S. Government and international, State, and local entities. The nine member Arctic Research Commission, selected by the Council and consisting of scientists, Arctic residents, and industry representatives, would survey existing research programs and identify research needs. It would then grant money for research to meet those needs. The Commission would also create an Arctic Information and Data Retrieval Center to become a central clearinghouse for Federal research data.

I understand the sensitivity of many of my colleagues toward the creation of a new governmental entity in the face of the severe budget restraints we face. I want to assure my colleagues that I share that concern. But I believe it is important to put that expense into perspective. I believe the budgetary impact of this legislation is minimal when compared to the commercial value and Federal tax revenues that would accrue as a result of the careful development of the Arctic based on well designed research as provided under this bill. The primary commercial resources in the Arctic region—as it is defined under this bill—are mineral and fisheries resources. To illustrate this point, I will insert an excerpt from the Governmental Affairs Committee Report (No. 97-660):

> 1. MINERAL RESOURCES
>
> According to the National Petroleum Council's Report on Arctic Oil and Gas, released in December 1981, the Arctic contains 24 billion barrels of recoverable but undiscovered oil in addition to 109 trillion cubic feet of natural gas. Other sources have estimated that Alaska contains over one-third of the total U.S. onshore reserves of oil, and almost 60 percent of total U.S. offshore reserves of oil. Moreover, some estimates of total reserves of natural gas both on and offshore in the Alaskan Arctic range as high as 260 trillion cubic feet.
>
> Although measured coal resources in the Alaskan Arctic are relatively low due to the fact that area has not yet been fully explored, there is a hypothetical geological potential for over 1.5 trillion tons of coal to exist in Alaska north of the Arctic Circle.
>
> High to moderate potential "hard-rock" (metallogenic) mineral deposits extend in a wide band across the Arctic region in Alaska. Gold, silver, lead, zinc, copper, platinum, tin, tungsten, asbestos, chromium, molybdenum, barite, beryllium, and fluorite are known to exist in the region. Preliminary exploration indicates that uranium minerals may exist in the Arctic. The strategic and monetary value of these reserves to the United States is undoubtedly immense.
>
> 2. ALASKAN FISHERIES RESOURCES
>
> Alaska leads the Nation in the value of fish landings. It provides 25 percent of the Nation's total value of fish landed. In 1981, Alaska landings were worth $639 million and products were worth about $1.5 billion. Most of these landings occurred in Bristol Bay, one of the Arctic's richest fishing grounds, which lies within the territory covered by this Act.
>
> In addition, Alaska has the largest underutilized fishing resource in the Nation. Of the total 2.6 million metric tons of exploitable fishing resources in the Fisheries Conservation Zone (FCZ) of the United States, 2.0 metric tons lie off Alaska. Only .4 of the 2.0 million metric tons are presently utilized by the U.S. fishing fleet, and for the most part, this resource lies in the region north of the Aleutian chain that is covered by this Act.
>
> Alaska provides 70 percent (or about $624 million) of the Nation's export of U.S. fishery products (excluding products from "joint venture" operations with foreign nations). Over half of the Nation's fish exports are salmon products, most of which originate from the Bristol Bay area, also covered by this Act.
>
> It is difficult to measure the assets that will accrue to the Federal Treasury as a direct and indirect result of the development of Arctic fisheries, but it is certain that they will be substantial.

The stakes are high indeed, Mr. President.

The Arctic Research and Policy Act, in the form that I am reintroducing it

today, enjoys nearly unanimous support from the many Federal agencies which conduct Arctic research. I believe it is also important to note that the Office of Management and Budget does not object to the enactment of this bill, which is testimony to the fact that the modest outlays this bill would authorize—no more than $25 million per year in Federal funds plus some State funds and conceivably even some private funds—are worthwhile outlays.

I could go on a good deal more, Mr. President, because there is a good deal more to say. I will instead ask unanimous consent that excerpts from Senate Report 97-660 be placed in the RECORD at this point in order to provide the useful details that are beyond the scope of this floor statement. I would further ask that the text of the Arctic Research and Policy Act appear following my remarks just prior to the report.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 373

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Arctic Research and Policy Act of 1982".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds and declares that—

(1) the Arctic, onshore and offshore, contains vital energy resources that can reduce our dependence on foreign oil and improve the national balance of payments;

(2) as our only common border with the Soviet Union, the Arctic is critical to national defense;

(3) the renewable resources of the Arctic, specifically fish and other seafood, represent one of the Nation's greatest commercial assets;

(4) Arctic conditions directly affect global weather patterns and must be understood in order to promote better agricultural management throughout the United States;

(5) industrial pollution not originating in the Arctic region collects in the polar air mass, has the potential to disrupt global weather patterns, and must be controlled through international cooperation and consultation;

(6) the Arctic is the only natural laboratory for research into human adaptation, physical and psychological, to climates of extreme cold and isolation and may provide information crucial for future defense needs;

(7) atmospheric conditions peculiar to the Arctic provide a unique testing ground for research into high-latitude communications, which is likely to be crucial for future defense needs;

(8) Arctic marine technology is critical to cost-effective recovery and transportation of energy resources and to the national defense;

(9) most Arctic-rim countries, particularly the Soviet Union, possess Arctic technologies far more advanced than those currently available in the United States;

(10) Federal Arctic research is fragmented, uncoordinated and undercapitalized at the present time;

(11) such fragmentation has led to the neglect of certain areas of research and to unnecessary duplication of effort in other areas of research;

(12) there is an immediate need to formulate a comprehensive national policy to organize and fund currently neglected scientific research with respect to the Arctic;

(13) the Federal Government, in cooperation with State and local governments, should focus its efforts on the collection and characterization of basic data related to biological and geophysical phenomena in the Arctic, directing special attention to the broad accumulation of data related to seaice dynamics;

(14) research into the long-range environmental and social effects of development in the Arctic is necessary to mitigate the adverse consequences of such development to the land and its residents;

(15) Arctic research has significant value for expanding knowledge of the Arctic which can enhance the lives of Arctic residents, increase opportunities for international cooperation among Arctic-rim countries and foster a national policy for the Arctic; and

(16) the Alaskan Arctic provides essential habitat for marine mammals, migratory waterfowl, and other forms of wildlife which are important to the Nation and which are essential to Arctic residents.

(b) The purposes of this Act are—

(1) to establish an Arctic Science Policy Council and an Arctic Research Commission to promote Arctic research;

(2) to establish a centralized system for the collection and retrieval of scientific data with respect to the Arctic; and

(3) to establish priorities and provide financial support for basic and applied scientific research with respect to the Arctic that is currently being neglected and is essential to our Nation's needs.

ARCTIC SCIENCE POLICY COUNCIL

SEC. 3. (a) There is established a council to be known as the Arctic Science Policy Council (hereafter in this Act referred to as the "Council").

(b) The Council shall be composed of the following members:

(1) A chairperson appointed by the President, with the advice and consent of the Senate.

(2) Two individuals from the State of Alaska who have demonstrated a knowledge and interest in the field of Arctic Research, appointed by the President from a list of individuals submitted by the Governor of the State of Alaska. The President in his or her discretion may request additional names to be submitted.

(3) Two individuals who have demonstrated a knowledge and interest in the field of Arctic Research, appointed by the President from lists submitted by the Secretary of Commerce, the Secretary of Defense, the Secretary of the Interior, the Secretary of the Department of Energy, the Secretary of State, the Secretary of Transportation (on behalf of the Coast Guard) and the Director of the National Science Foundation. The President in his or her discretion may request additional names to be submitted.

(c) Each member shall have an equal vote on matters decided by the Council.

(d)(1) Except as provided in paragraph 2, the term of office for a member of the Council shall be two years.

(2)(A) Of the members of the Council originally appointed under paragraphs (2) and (3) of subsection (b), one member appointed under paragraph (2) of such subsection, and one member appointed under paragraph (3) of such subsection shall be appointed for a term of one year.

(B) A member may serve after the expiration of his term of office until the President appoints a successor.

(e)(1) A member of the Council not otherwise employed by the United States shall be compensated at a rate equal to the daily equivalent of the rate for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day such member is engaged in the actual performance of his duties as a member of the Council.

(2) A member of the Council who is an officer or employee of the United States or of the State of Alaska shall serve without additional compensation.

(3) All members of the Council shall be reimbursed for travel (in accordance with 5 U.S.C. 5701) and other necessary expenses incurred by them in the performance of their duties as members of the Council.

(4) No member may be compensated for more than ninety days of service each year in performance of his or her duties as a member of the Council.

DUTIES OF COUNCIL

SEC. 4. (a) The Council shall—

(1) facilitate cooperation between the Federal Government and State and local governments with respect to Arctic research;

(2) coordinate and promote cooperative Arctic scientific research programs with other nations (in consultation with the Secretary of State);

(3) develop and supervise an integrated national Arctic science policy (except with respect to the areas of authority specifically reserved to the Arctic Research Commission under section 7 of this Act);

(4) appoint the members of the Arctic Research Commission; and

(5) cooperate with the Governor of the State of Alaska and with such agencies and organizations of the State as the Governor may designate with respect to the formulation of Arctic science policy.

(b) Not later than January 31 of each year, the Council shall—

(1) publish a statement of goals and objectives with respect to Arctic research to guide the Arctic Research Commission in the performance of its duties; and

(2) submit to Congress a report describing the activities and accomplishments of the Council during the immediately preceding calendar year.

COOPERATION WITH THE COUNCIL

SEC. 5. (a)(1) The Council may acquire from the head of any Federal agency unclassified data, reports, and other nonproprietary information with respect to Arctic research which the Council considers useful in the discharge of its duties.

(2) Each such agency shall cooperate with the Council and furnish all data, reports, and other information requested by the Council to the extent permitted by law.

(b) The Council may utilize the facilities and services of any Federal agency (with the consent of the appropriate agency head, with or without reimbursement), taking every feasible step to avoid duplication of research and effort.

ARCTIC RESEARCH COMMISSION

SEC. 6. (a) There is established a commission to be known as the Arctic Research Commission (hereafter in this Act referred to as the "Commission").

(b)(1) The Commission shall be appointed by the Arctic Science Policy Council and shall be composed of the following members:

(A) Four members shall be appointed from among individuals with expertise in representative areas of research relating to the Arctic (including, but not limited to, the physical, biological, and social sciences), at least one of whom shall be employed by the University of Alaska.

(B) Two members shall be appointed from among residents of the Arctic who are representative of the needs and interests of Arctic residents and live in areas directly affected by Arctic resource development.

(C) Two members shall be appointed from among individuals familiar with the Arctic and representative of the needs and interests of private industry undertaking resource development in the Arctic.

(D) One member shall be appointed from among individuals familiar with the Arctic and employed by the United States Coast Guard.

(2) Upon the appointment of the members of the Commission pursuant to paragraph (1), the Council shall designate a member of the Commission to be chairperson of the Commission.

(c)(1) Except as provided in paragraph (2), the term of office for a member of the Commission shall be four years.

(2) Of the members of the Commission originally appointed under paragraph (1) of subsection (b)—

(i) two shall be appointed for a term of one year;

(ii) two shall be appointed for a term of two years;

(iii) two shall be appointed for a term of three years; and

(iv) three shall be appointed for a term of four years.

(3) A member may serve after the expiration of his term of office until the Council appoints a successor.

(d)(1) A member of the Commission not otherwise employed by the United States shall be compensated at a rate equal to the daily equivalent of the rate for GS-16 of the General Schedule under section 5332 of title 5, United States Code, for each day such member is engaged in the actual performance of his duties as a member of the Commission.

(2) A member of the Commission who is an officer or employee of the United States or the State of Alaska shall serve without additional compensation.

(3) All members of the Commission shall be reimbursed for travel (in accordance with section 5701 of title 5, United States Code) and other necessary expenses incurred by them in the performance of their duties as members of the Commission.

(4) No member may be compensated for more than one hundred and eighty days of service each year in performance of his or her duties as a member of the Commission.

DUTIES OF COMMISSION

SEC. 7. (a) The Commission shall—

(1) survey Arctic research conducted by Federal and State and local agencies, the University of Alaska and other universities, and other private and public institutions to determine priorities for future Arctic research, and make recommendations thereon to the Council and other interested parties;

(2) establish a data collection and retrieval center for Arctic research (which shall be located in the State of Alaska) and promulgate guidelines for the use and dissemination of Arctic research information;

(3) make grants for such Arctic research as the Commission deems necessary and desirable to further the goals and objectives published annually by the Council pursuant to section 4(b)(1), with special consideration being given to studies in neglected areas of Arctic research; and

(4) consult the Council with respect to—

(A) all proposed, ongoing, and completed research programs and studies funded by the Commission,

(B) recommendations proposed by the Commission with respect to future Arctic research, and

(C) guidelines for awarding and administering Arctic research grants.

(b)(1)(A) Not later than December 31 of each year, the Commission shall transmit to the Council a report describing the activities and accomplishments of the Commission during the immediately preceding calendar year and making recommendations with respect to future Arctic research policy.

(B) Such report shall be available for public inspection at reasonable times.

(2) Not later than March 31, 1983, the Commission shall submit to Congress and to the Legislature of the State of Alaska a report making recommendations with respect to the continued operation of Government-operated laboratory facilities conducting Arctic research, taking into account the efficiency and effectiveness of such facilities and the degree to which the operation of such facilities would result in the duplication of research and effort.

(c) The Commission shall cooperate with the Governor of the State of Alaska, and with such agencies as the Governor may designate with respect to—

(1) the recommendations proposed by the Commission pursuant to section 7(a)(4)(B);

(2) the planning, funding, and logistical support of Arctic research; and

(3) the storage, transfer, and dissemination of Arctic scientific and technological knowledge and data.

ADMINISTRATION OF THE COMMISSION

SEC. 8. The Commission may—

(1) in accordance with civil service laws and subchapter III of chapter 53 of title 5, United States Code, appoint and fix the compensation of an Executive Director and such additional staff personnel as may be necessary;

(2) procure temporary and intermittent services as authorized by section 3109 of title 5, United States Code;

(3) enter into contracts and procure supplies, services, and property; and

(4) enter into agreements with the General Services Administration for procurement of necessary financial and administrative services, for which payment shall be made by reimbursement from funds of the Commission in such amounts as may be agreed upon by the Commission and the Administrator of the General Services Administration.

STATE ELECTION

SEC. 9. (a) The State of Alaska may elect to participate or not to participate in the activities of the Council and the Commission.

(b) Failure of the State of Alaska to contribute to the Arctic Research Fund (established by section 10 of this Act) for a fiscal year an amount equal to one-quarter of the amount appropriated to such Fund by the United States for the previous fiscal year shall constitute an election by such State not to participate in the Council and the Commission.

(c) Upon an election by the State of Alaska not to participate in the Council and the Commission pursuant to subsection (b)—

(1) appointments to such Council or Commission which are required to be made from among individuals—

(i) employed by the State of Alaska, or

(ii) nominated by the Governor of the State of Alaska

shall be vacated; and

(2) an appointment to fill a vacancy created by such election shall be made in such manner and from among such individuals as other appointments to such Council or Commission are required to be made (as determined by the chairperson of the Council or Commission).

(d) An election by the State of Alaska not to participate in the Council and the Commission pursuant to subsection (b) shall not affect the powers or duties of those bodies.

(e) Should the State of Alaska wish to reinstate its participation following an election not to participate, it may do so by meeting the funding requirement for the year in which reinstatement is sought.

ARCTIC RESEARCH FUND

SEC. 10. (a) There is hereby created a trust fund to be known as the Arctic Research Fund (hereafter in this Act referred to as the "Fund"), to be available for the support of the activities of the Arctic Science Policy Council and the Arctic Research Commission.

(b) Such Fund shall consist of—

(1) amounts appropriated to such Fund;

(2) amounts contributed to such Fund by the State of Alaska;

(3) amounts contributed by private individuals and organizations.

(c) Amounts in the Fund shall be available, until expended, for the purposes of this Act, to the extent and in such amounts as are provided for in advance in appropriation Acts.

(d)(1) There is authorized to be appropriated for the Arctic Research Fund for the fiscal year beginning October 1, 1983, and for each succeeding year thereafter, $25,000,000.

(2) In determining the amount contributed to such Fund by the State of Alaska for a fiscal year—

(A) the fair market value (as determined by the Council in good faith) of all facilities, services, materials, and other support contributed to the Fund by the State of Alaska during such fiscal year, and

(B) all amounts contributed by private individuals and organizations,

shall be taken into account.

DEFINITION

SEC. 11. The term "Arctic" shall mean all United States and foreign territory north of the Arctic Circle and all United States territory north and west of the boundary formed by the Porcupine, Yukon, and Kuskokwim Rivers; all contiguous seas, including the Arctic Ocean and the Beaufort, Bering, and Chukchi Seas; and the Aleutian chain.

PURPOSE OF THE ACT

The Arctic Research and Policy Act of 1982 establishes administrative mechanisms to create and implement a comprehensive national Arctic research policy. This establishes an Arctic Science and Policy Council and an Arctic Research Commission to promote Arctic Research; sets up a centralized system for collection and retrieval of scientific data with respect to the Arctic; and

provides financial support for basic and applied Arctic research.

II. BACKGROUND AND NEED

A. Summary

The Arctic has received increasing attention over the past few years. The discovery of vast amounts of energy and mineral resources and the concurrent need to develop these resources quickly, yet with a minimal impact on the land and its residents, accounts for much of this attention. Additionally, the Arctic represents our only common border with the Soviet Union. Agricultural scientists are concerned with the Arctic because the polar air mass has a significant effect on global climate and weather patterns. As attention has grown, one fact has become clear: there is a surprising lack of scientific data on which to base decisions with immense financial and environmental consequences.

There are approximately 15 Federal agencies currently conducting some form of Arctic research, as well as State agencies, universities, private industry and local governments. Surprisingly, there is very little communication among these groups, and consequently there is a long history of duplicative and unnecessary research. Meanwhile, other areas in which research is badly needed are neglected. A corollary problem is that Arctic scientific data is collected in widely diverse places and is often difficult to obtain.

The Arctic will become even more important to the United States in the decades ahead. Energy industry experts have predicted that as much as half of our Nation's future domestic oil supplies will come from Alaska and its offshore fields. The Federal Government must share in the responsibility of ensuring that this development is undertaken in a reasonable, responsible manner that minimizes environmental disruption and the impacts of development on Arctic residents, particularly the indigenous Native people who depend on the Arctic ecosystem for much of their subsistence needs.

In addition, there is new scientific evidence showing increasing concentrations of atmospheric carbon dioxide from the burning of fossil fuels worldwide and the presence of industrial pollutants from northern Europe and the Soviet Union in the high Arctic. These findings have caused concern that a "greenhouse effect" might raise global temperatures enough to partially melt the polar ice caps, change sea levels and create deserts out of currently producing agricultural areas. Another possibility is that the presence of carbon dioxide and other pollutants could trigger a global cooling trend which could conceivably begin a new ice age. In either case, increased research in the high Arctic will be necessary, and international cooperation will be essential in solving this problem.

Since the Arctic represents our only common border with the Soviet Union, defense-related research is critical. Research into geophysics, commercial fisheries, health and human adaptation, marine technology, agricultural production and biology is also needed. Specific research needs are listed later in this report.

This Act is not an attempt to create a new "super agency" to dictate to Federal agencies what their scientific research goals in the Arctic should be. On the contrary, existing agencies should greatly benefit from the centralization of research data. The Act is also not a substitute for the funding of existing research projects underway in the Arctic. The purpose of this Act is to fund currently neglected areas of research essential to the Nation's needs that might not lie solely within the purview of any Federal agency. The Act is also not an attempt to conduct State research under a Federal aegis: National needs and interests are the focus of the Act. However, since there is some spill-over benefit to the State of Alaska, it was felt that the State should contribute to the Arctic Research Fund created by the Act in return for a proportional degree of policy input.

The Committee received overwhelmingly favorable testimony representing the views of Federal, State, and local governmental agencies, private industry, Native interests, academia, environmental protection groups and individuals. In sum, 37 agencies, corporations, groups, or individuals submitted oral and/or written testimony.

It is clear that a wide variety of national and international interests will be affected by what occurs in the Arctic in the coming decades. From the standpoint of energy resources, the Arctic may well contain immense quantities of oil and gas for the 21st century. In terms of fisheries resources, the Arctic will continue to provide protein for millions.

It has been observed that the United States is not "planning" society. Too often, emerging national needs are met by ad hoc efforts, and new research is undertaken with every new effort. Duplication and inefficiency, with their associated costs to society and the taxpayer, are the result. This has been the case in the U.S. Arctic. This duplication, inefficiency, and uncertainty should not be allowed to continue. This legislation is designed to implement a cooperative and comprehensive Arctic planning policy.

B. History of the efforts to create a national Arctic research policy

Congress attention was first directed toward the lack of a comprehensive national Arctic research policy in the 1960's when E. L. "Bob" Bartlett, a Senator from Alaska and a member of the Senate Appropriations Committee, noted a disparity between the funding of Antarctic projects and Arctic projects, Senator Bartlett reasoned that since the United States was an Arctic-rim nation, Arctic research should be given the same or greater attention as research in the Antarctic. Ironically, there is a U.S. scientific Antarctic mandated by administrative action (OMB Circular A-51). All administrative attempts to create and implement an Arctic science policy have failed. After a 3-year effort, a U.S. policy statement agreed to by all concerned Federal agencies was never approved by President Johnson.

That same year, at the request of the Department of State, the Office of Science and Technology, and the Federal Council of Science and Technology, the Interagency Arctic Research Coordinating Committee (IARCC) was established to ensure the sound development and coordination of Federal research programs in the Arctic. In the absence of a guiding research policy, the IARCC foundered and was disbanded in 1978.

In 1977 the Inuit Circumpolar Conference was formed by indigenous peoples of Greenland, Canada, and Alaska to focus on the need for cooperative Arctic policy. The ICC passed a resolution to urge all of their governments to begin developing balanced Arctic policy measures. Their efforts have continued up to the present time.

In 1971, the National Security Council adopted NSD Memorandum 144 which created an Interagency Arctic Policy Group to develop a coordinated plan for scientific research in the Arctic. This memorandum was reaffirmed by NSD Memorandum 202 in 1973. Despite the fact that these instruments mandated the creation of an Arctic research policy, no such policy exists today. As *The Study of United States Arctic Research Policy* (mandated by Section 1007 of Public Law 96-487, the Alaska National Interest Lands Conservation Act) states on page 9:

"NSDM's 144 and 202 definitely stated a U.S. desire to develop a coordinated plan for Arctic research, but investigation shows that the intentions of the memoranda have never been implemented to define mechanisms for the funding and management of Arctic research * * * the United States lacks an explicit Arctic research policy and, therefore, does not have a tightly coordinated Arctic research program."

The most recent administrative attempts to create an Arctic research policy have also failed. The Interagency Arctic Policy Group (IAPG), drafted an Arctic Study Report which might have become the foundation of a comprehensive Arctic policy. In January 1982, disagreements between the IAPG agency-members stiffled the issuance of the Final Report. Senator Murkowski of Alaska introduced S. 1562 on July 31, 1981. The measure was initially cosponsored by Senator Stevens of Alaska and Senator Jackson of Washington. S. 1562 was later cosponsored by Senator Gorton of Washington.

C. Scientific research needs in the Arctic

At the request of the Senate Committee on Governmental Affairs, the Office of Technology Assessment prepared a series of staff discussion papers designed to identify key research needs. Additionally, the General Accounting Office Report on the development of Alaskan Energy Resources, which is discussed more fully later in this report, identified other research needs. Finally, hearing testimony and other materials submitted for the record indicated topics for research.

The degree of Federal responsibility to participate in the conduct of the research mentioned below varies. Clearly, the private sector, State and local governments, Alaska Native Corporations and Associations, and Colleges, Universities, and Research Institutes conduct a great deal of this research and should continue to be involved. This list is not all-inclusive and only illustrates the range of Arctic research needs.

The Committee does not intend, by including this list, to suggest that all of these research topics must be a part of any Arctic research agenda nor to imply that more research in any areas listed must be conducted. Rather, the list is included to indicate the breadth of research which is being, or may be, conducted and which should be better coordinated as provided under the legislation.

1. Research Needs Related to Offshore Oil and Natural Gas Development

There have been numerous studies identifying research needs for the development of offshore Arctic resources, including those of the Polar Research Board, the Marine Board and the Marine Transportation Research Board; all of the National Academy of Sciences. These studies have been undertaken for the Department of Interior, Department of Transportation, and the Department of Energy, among others. The Arctic Research Program of the National Science Foundation has also contributed to the Federal effort. Industry, through the

Alaska Oil and Gas Association (AOGA), has sponsored investigations of specific problems. Groups such as the Alaska Eskimo Whaling Commission have conducted environmental investigations.

The Federal role in the past has in part been one of cooperation with industry. Petroleum industry projects have included the use of government laboratories and expert personnel. Some programs which benefit both industry and government have been jointly managed and funded. Policies to encourage future cooperation among government, industry and Arctic residents will help ensure long range commitments to research in the complex Arctic environment.

Continuing study is needed of the engineering properties of sea ice, including single-year, multiyear, and conglomerate ice. The dynamics of the interractions of sea ice with ships and marine structures during wave driven storm conditions are critical, as is the collection of ice keel and ice scour data and analysis of ice-sea floor interaction dynamics. The effects of the force of large ice features, such as pressure ridges, on test structures needs to be better understood through field studies. The Committee wants to emphasize that continuing dialog with the indigenous people of the Arctic, is critical to a complete understanding of Arctic conditions.

Many benefits would accrue from the development, evaluation and acquisition of remote sensors, both aircraft and satellite mounted. These could provide ice and meteorological data and other information required for navigation, communications, resource development, and environmental monitoring.

More ice breaking research north of the Bering Straits is needed before year-round marine transport can be considered reliable or environmentally acceptable. Both the Coast Guard and industry energy production systems would benefit from this research.

Basic biological research must be done to determine the effect of oil pollution on the food chain, and to test various models for oil clean-up. In addition, sociocultural research into the consequences of resource development on the lifestyle of the residents should be undertaken.

Above are only a few examples of problem areas related to Arctic offshore development. Development is now in very early stages, and as activities expand in the future, research needs will also increase.

2. Research Needs Related to Onshore Oil and Natural Gas Development

Although there has been onshore development and production of oil and natural gas, there remain some areas ripe for research. Current resources estimates suffer from limited understanding of the basic geology and geophysics of the Arctic. Continuation of efforts to secure an extensive geological data base, using geophysical and remote sensing techniques, would support a better understanding of geological conditions and would be helpful for future exploration efforts.

The large gas hydrate resources found in the Arctic could greatly extend the production life of the North Slope if economic ways to extract the hydrates from the permafrost could be found without damaging the physical environment. Similarly, research on producing heavy viscous oil would be useful since normal methods of steam drive may damage the permafrost.

Although seismic exploration, the principal method for oil and gas exploration, is used extensively in the Arctic there are still unknowns about the effects of permafrost on the attenuation or distortion of seismic signals. Better understanding of low frequency wave propagation through the frozen ground as a function of temperature and depth of the permafrost is necessary.

3. Research Needs Related to Solid Energy Fuels

If large scale peat harvesting becomes possible in the Arctic and sub-Arctic regions of Alaska, research will be needed to find ways to avoid damaging the permafrost and tundra in which the peat lies. Peat utilization will require research into gasification solidification and liquefaction technologies particularly suited to the Alaskan environment. Of special interest would be small systems that could be used at the site of use.

Research into synthetic fuel production from the large Arctic coal reserves would also be valuable. Special problems include the effects of large scale water removal to supply steam for the synthetic fuel production, and the effects of large scale heat dissipation (from the process plant) on permafrost regions.

Prior to any large construction of, for example, synfuel plants, or facilities to convert natural gas to methanol, research is needed into the behavior of permafrost, the properties of moisture-laden soil around large structures and the protection of wildlife habitat. Currently, gravel pads and pile foundations are used to support most structures at Prudhoe Bay. Chemical processing plants there or in the sub-Arctic may have to be set directly in the ground on pilings. The thawing and refreezing of the ground can cause severe problems. Improved research into frozen ground soil mechanics is essential if large construction is to take place in frost sensitive soils.

4. Research Needs Related to Energy Conversion

Much of the research appropriate to development of energy conversion and chemical processing is related to contruction, water removal, and heat dissipation described earlier. There are other areas of value.

Waste disposal techniques encounter special problems in the Arctic and sub-Arctic. The effects of waste materials on soil composition should be examined. Better monitoring of the air quality in the regions and examination of potential pollutants will be useful in setting air quality criteria. Finally, if a chemical processing industry is set up in Alaska, it will be useful to examine the effect of the cold climate on continuous operation of chemical processes.

5. Research Needs Related to Energy End Use and Conservation

Research into building techniques and siting in the Arctic and sub-Arctic will be helpful in creating more energy-efficient buildings. Research into building and insulating materials to reduce heat loss in Arctic and sub-Arctic buildings will be of continuing value in temperate regions of the United States as well.

The development of on-site energy systems using peat, coal or other biomass resources will require research into siting, waste disposal, pollution control and transportation on a small scale. Such research has wide applicability to conditions in the 48 contigious States as well.

6. Research Needs Related to the Development of Coal and Hard-Rock Minerals

Since there is currently no large-scale commercial mining underway, little is known about the operational problems and impacts of Arctic and sub-Arctic mining. The only exception is the onshore and offshore extraction of sand and gravel, where additional research is needed on the impacts of removal on the physical environment, Arctic residents, fish and wildlife, and water resources and quality.

Information from pipeline construction and oil and gas activities is useful, but there are important differences between these projects and mining. Additional research is therefore needed. Because Arctic mineral development is not expected to be commercially viable in the near future, the opportunity exists to compile baseline information on climate, wildlife, hydrology, permafrost, and vegetation and to test on a small scale the effects of disturbances similar to those created by large scale operations. The success of mitigation and reclamation efforts can be evaluated before decisions are made about approving commercial-size mines, or regulating their operations.

Analysis of Arctic and sub-Arctic mining operations in other countries should be conducted. Initial Alaskan development projects should be monitored closely and information derived from these experiences shared with prospective developers, local residents, and government agencies.

Government and private efforts in mineral exploration and assessment would benefit from improvements in the application of mineral surveying technologies such as remote sensing, satellite and aerial photography, geochemical analyses, and seismology over large unexplored areas. An inventory of potential mineral resources is necessary for land management. Exploration and mapping activities by government agencies at the current pace could go on for a long time before most of Alaska is surveyed. If more cost-effective and efficient methods were developed, the time and effort required to complete surveying would be reduced.

Each phase in the life of a commercial mining venture has different requirements for access to lands. In exploration, large areas are surveyed to identify promising mineral areas for more intensive examination. During development, personnel and equipment must be brought to the site. During commercial extraction, more personnel, equipment, and supplies may be necessary. Finally, the product must be shipped to processing and marketing facilities. There is a need to develop suitable types of transportation to support each phase of commercial activity.

Expanded access, however, has potential consequences for conservation units (e.g., National Parks, Fish and Wildlife Refuges, etc.), the natural environment, and local communities. Additional work must be done to identify these impacts, their extent, and possible mitigation strategies. This research would assist in selection of access modes best suited to the needs of the mineral developer and to protection of the environment.

In its announcement of planned leasing of offshore areas for mineral development, the Department of the Interior noted that the areas would not be leased before environmental studies were completed. Additional research is required to identify potential impacts of offshore mining, and to identify any special technological requirements for such operations. So far, no significant offshore mining of minerals has occurred in Arctic waters. The importance of the areas for subsistence economic activities, and the

possibility of adverse impacts on wildlife and fisheries must remain a top priority for research.

7. Research Needs Related to the Development of Arctic Fisheries

Data on Arctic and sub-Arctic ground fisheries has been gathered for a relatively short period of time, and knowledge about them is limited. Consequently, there is a considerable need to continue data collection and analysis for research purposes as well as for determining proper catch allocations. Good information provides a sound basis for understanding population dynamics upon which fishery management decisions can be based.

Research, including data collecting and model building, to obtain projections of optimum yield for long time periods would be valuable. It would provide information to the fishing industry on which to base decisions about capitalization for new vessels and processing facilities. Planning the capital formation and construction of fishing ships takes considerable time. Additional research to enable the Department of Commerce to provide quantitative long range forecasts of allowable catches 2 to 3 years ahead would reduce financial risks and enable industry to make better use of its funds and manpower. In addition, research into fish processing techniques to prevent deterioration would greatly improve the U.S. fishing industry's operations and economic viability.

Progress has been made in using sonar systems as a management tool for estimating populations of certain species. However, use of sonar for minimizing incidental catch could be better developed. Further research is necessary to reduce the survey costs associated with stock assessment and to improve incidental catch avoidance techniques.

For fish canning, research into inspection procedures and requirements could minimize defective can closure and associated risks. Spectrometric examination techniques might detect certain types of faults. Research is needed to find more effective ways to pinpoint specific batches contaminated in the canning process so that effects on other fishery products can be minimized.

The Committee notes with interest the recent development of commerical halibut fishing in the Bering Sea. Local fishermen landed over 8,000 pounds of halibut in 1982, which made the fishery economically self-sufficient. Fishery ventures of this kind should be encouraged. One way to encourage development is to accumulate basic data about the resource, and about general ocean and climate conditions.

Continued Federal support for science and technology efforts in developing Arctic and sub-Arctic fisheries will help manage a valuable natural resource and benefit an important industry. The coordination of research by industry, the military, local residents and scientists on such topics as offshore energy, oceanography, weather and climate, and engineering in the Arctic environment would benefit fishery development as well. Since Federal science programs are scattered among several agencies, a policy that provides a mechanism to coordinate them would bring savings in many areas.

8. Research Needs Related to Weather, Climate, and Arctic Pollution

Both short term and long term research is needed to improve understanding of the cause and effect mechanisms of Arctic weather; and more information is required to improve forecasting capabilities. Some types of research problems require multination participation because of the wide expanse of territory involved. Observational programs require improvements in instrumentation. Especially in the far North, remote weather monitoring stations using satellite data transfer are needed to gather information required for improvements in regional weather forecasting. In addition, forecasting techniques for Arctic regions, including the prediction of marine conditions and shoreline storm surges, require development.

There is a need to monitor, survey, and forecast ice conditions, especially the time of Arctic ice break-up. Shipping, fisheries, and resource development industries, the Coast Guard and Arctic residents would all benefit from this effort. Shore located, aircraft mounted, and satellite systems would make up the monitoring system.

The Federal Government, under coordination of the Department of Commerce, now supports several important programs, in cooperation with other countries, with a goal of understanding and predicting global climate. Research in the Arctic region is a key to reaching this goal.

Continuing development of global and regional climate models is reqauired to permit forecasting of climatic changes with scientific confidence. Large scale Arctic meteorological-oceanographic heat balance observation programs are necessary to provide data for these models.

Continuing observation programs are necessary to monitor climate trends (i.e., open water observations for a long period). Polar orbiting satellites equipped with ice measureing sensors and sensors for weather/climate and sea condition measurements could collect data over large areas.

Knowledge concerning the indigenous peoples of the Arctic is a unique science resource that could be developed to better understand all aspects of the climate in the Arctic.

Scientists at the Lawrence Berkely Laboratory have recently discovered that the Arctic is polluted with large concentrations of black soot particles and pollutants which did not originate in the Arctic Some computer models suggest that a catastrophic "greenhouse effect" might occur as a result of these pollutants. The resulting rise in global temperature could, it is speculated, partially melt the polar ice caps, seriously affect the distribution of rainfall and create arid conditions in currently producing agricultural areas. The amelioration of this problem will certainly require international scientific cooperation.

9. Research Needs Related to Human Health and Habitation in the Arctic

Improving technologies, such as building engineering, is a valuable service to local residents. Information transfer and the adaptation of existing methods are part of the process; so is identifying and implementing small-scale technologies to suit the scattered population.

In the area of basic research, even though much work has been done, additional data about soil properties and mechanics, especially erosion and permafrost, are needed. This information will improve building design and construction and assist in the engineering of roads, airports, and similar facilities. Erosion—the retreat of beaches and banks along the Arctic coast—is a continuing problem. In populated areas, such as Barrow, erosion has been accelerated by the use of coastal deposits for onshore construction (e.g., road and airport fill). Knowledge about tundra erosion is needed as well.

Another topic where basic research would be useful is the particular hydrological properties of the Arctic water cycle. Topics such as the interaction of factors like temperature and flooding need to be explored. For example, the Department of the Interior, in its December 1981 Sec. 1007 ANILCA report, notes that its researchers were unable to sample some streams to determine fisheries potentials because of high water conditions that caused excessive turbulence and turbidity.

In surveying rivers and lakes to identify potential winter water availability and to ascertain the location of hazards such as overflowing ice, Interior Department investigators found that river flows fluctuated widely. A better understanding of the factors contributing to such conditions would be helpful before water treatment plants are installed.

Applied research is critical if technologies are to be appropriately adopted. Especially advantageous are small-scale technologies that address immediate problems. The use of synthetic insulation in place of gravel for protection of the permafrost under buildings is an example. Another is the substitution of incineration or biodegradation for traditional sewage treatment.

10. Research Needs Related to Arctic Transportation

The needs for transportation research in the Arctic span a broad spectrum. They range from basic questions about the Arctic environment and physical phenomena that affect transportation technology to programs of how to plan and implement specific modes of transportation in support of economic development and human habitation.

Because large areas of the Arctic have not been systematically studied, basic geological and physical information about the region is lacking. For example, data on tides are not available for many parts of the Beaufort Sea, largely because there are so few inhabitants along the coast and unmanned data collection equipment has never been installed. Satellite-based mapping and survey equipment has added to the fund of geophysical information, but this needs to be supplemented with on-site, detailed observation before highways, railroads, or port facilities are built. In general, there is little basic information about the land and its climate and ecosystems—information is taken for granted in the lower-48 States.

Another major subject on which information is lacking is how to construct roads, rail lines, or pipelines without damage to the permafrost ar tundra. Not enough is known about the peculiar soil mechanics, thaw stability, and freeze properties of the Arctic lands and about the behavior of construction materials in this environment. Research is needed as well on the long-term performance of roadways.

Without this basic knowledge, the development of surface transportation infrastructure could be unsuccessful, unduly costly, or damaging to the Arctic ecosystem. Similar risks would be encountered in any attempt to make extensive use of land vehicles that do not require a road bed, since they may be even more destructive of soil and vegetation.

What information is available on the Arctic environment is not always adequately disseminated among those seeking to apply transportation technology in Alaska. Information exchange among countries sharing

the northern polar regions (Canada, Scandinavia, the Soviet Union) is not extensive. Research and applications carried out in these countries would be put to use in Alaska if there were a clearinghouse for sharing information.

Research needs for Arctic marine transportation must take into account the need for environmental protection. For example, field data needed on the size and occurrence of pressure ridges and associated ice keels and on the mechanics and statics of ocean floor ice scouring. The nature and strength of various types of multi-year ice are not well known and the ice impact forces on ships moving through stormy, ice-filled waters need extensive study. Other research topics include methods of reducing icing on ships in Arctic waters, and large-scale modeling techniques for ships operating in ice containing pressure ridges.

The practicality of transporting crude oil by pipeline in the Arctic has been demonstrated by the Trans-Alaska Pipline. Research needs, however, will arise when future pipelines are considered. One critical area is understanding the thaw stability of the soil down to depths of about 50 feet. This knowledge would assist future pipeline construction, and would be useful for large construction projects. Proposed pipeline routes traverse all the known physiographic provinces of the Arctic. Continued study of these regions is necessary to support pipeline design and construction. Of special importance are the effects of pipeline river crossings on fish movement and of above-ground pipelines on the migration patterns of wildlife.

Extraction of coal will require hauling facilities to move coal to ports. New road or rail construction will, like pipelines, need data concerning biological patterns and soil mechanics. Again, continued generic research about the wetlands and tundra would benefit all efforts to expand transportation systems.

11. Research Needs Related to National Defense

The United States has never fought a war in the Arctic, or under Arctic conditions. Our principal potential adversary, the Soviet Union, has not only won wars in the Arctic, but has won them because of Arctic conditions. Testimony in the hearings before the Committee underscored the lack of defense-related research currently underway in the Arctic.

Reserarch may need to be conducted concerning the performance of "smart" weapons under ice-fog conditions or intense aurora display, the effects of high latitude space disturbances on orbital or over-the-horizon surveillances, the effects of snow and permafrost on seismic and acoustic vehicle and personnel detection devices, the construction of underground command posts and power plants in permafrost areas, the protection of pipeline installations from terrorist attack or seizure, auroral effects on military space systems, the effects of high altitude nuclear detonation in auroral regions, and, in general, research related to the defense of the U.S. Arctic.

12. Arctic Research Needs Related to Agriculture

The Office of Technology Assessment published "Impacts of Technology on U.S. Cropland and Rangeland Productivity" in August, 1982. That report states that 18.5 million acres of Alaska land are suitable for agricultural production. In addition, there are 100 million acres of tundra suitable for reindeer grazing that are currently unused. These facts only begin to convey the potential for Arctic land to support grain production and to produce high-quality protein.

The technologies that will permit development of Alaska's agricultural potential may also be applicable to agricultural problems in more temperate zones, particularly northern tier states of the continental United States.

D. Arctic research in the Soviet Union and other Arctic rim nations

Testimony presented at the hearings on S. 1562 pointed to the fact that the United States is behind other Arctic-rim nations in most aspects of scientific research in the Arctic. The Soviet Union, for instance, employs 20,000-25,000 scientists in Arctic research initiatives. This massive Soviet effort involves many institutions. No less than 170 Soviet scientific institutes are now involved in research related to offshore energy deposits. Of course, since the Soviet Union has no "private sector," these comparisons cannot be made directly, but they make clear the vast scope of Soviet research efforts in the region.

Testimony was also received by the Committee which pointed out the lack of U.S. ice-strengthened research vessels. Since the Arctic is a largely ocean-covered region, ice-strengthened research vessels are crucial to the conduct of Arctic Research. The Soviet Union has over 20 ice-strengthened research vessels. Canada has more than nine; Norway, more than eight. The United States has one, which is used mainly in the Antarctic. This comparison illustrates the relative strengths of the research programs of Arctic-rim nations.

E. Principal economic and commercial resources in the Arctic

The Federal budgetary impact of this legislation is minimal when compared to the commercial value (and Federal tax revenues) that could accrue as a result of careful development of the Arctic based on well designed research as provided under this bill. The primary commercial resources in the Arctic region (as defined in this act) are mineral and fisheries resources.

1. Mineral Resources

According to the National Petroleum Council's Report on Arctic Oil and Gas, released in December 1981, the Arctic contains 24 billion barrels of recoverable but undiscovered oil in addition to 109 trillion cubic feet of natural gas. Other sources have estimated that Alaska contains over one-third of the total U.S. onshore reserves of oil, and almost 60% of total U.S. offshore reserves of oil. Moreover, some estimates of total reserves of natural gas both on and offshore in the Alaskan Arctic range as high as 260 trillion cubic feet.

Although measured coal resources in the Alaskan Arctic are relatively low due to the fact that area has not yet been fully explored, there is a hypothetical geological potential for over 1.5 trillion tons of coal to exist in Alaska north of the Arctic Circle.

High to moderate potential "hard-rock" (metallogenic) mineral deposits extend in wide band across the Arctic region in Alaska. Gold, silver, lead, zinc, copper, platinum, and fluourite are known to exist in the region. Preliminary exploration indicates that uranium minerals may exist in the Arctic. The strategic and monetary value of these reserves to the United States is undoubtedly immense.

2. Alaskan Fisheries Resources

Alaska leads the Nation in the value of fish landings. It provides 25% of the Nation's total value of fish landed. In 1981, Alaska landings were worth $639 million and products were worth about $1.5 billion. Most of these landings occured in Bristol Bay, one of the Arctic's richest fishing grounds, which lies within the territory covered by this Act.

In addition, Alaska has the largest underutilized fishing resource in the Nation. Of the total 2.6 million metric tons of exploitable fishing resources in the Fisheries Conservation Zone (FCZ) of the United States, 2.0 metric tons lie off Alaska. Only .4 of the 2.0 million metric tons are presently utilized by the U.S. fishing fleet, and for the most part, this resource lies in the region north of the Aleutian chain that is covered by this Act.

Alaska provides 70% (or about $624 million) of the Nation's export of U.S. fishery products (excluding products from "joint venture" operations with foreign nations). Over half of the Nation's fish exports are salmon products, most of which originate from the Bristol Bay Area, also covered by this Act.

It is difficult to measure the assets that will accrue to the Federal Treasury as a direct and indirect result of the development of Arctic fisheries, but it is certain that they will be substantial.

F. GAO Report: "Developing Alaska's Energy Resources: Actions Needed To Stimulate Research and Improve Wetlands Permit Processing"

On June 17, 1982, the General Accounting Office issued a report entitled: "Developing Alaska's Energy Resources: Actions Needed To Stimulate Research and Improve Wetlands Permits Processing." The highlights of that Report are as follows:

Additional research is needed to evaluate the impacts of oil and gas-related activity in Alaska as a basis for promoting environmentally sound approaches for future development without unnecessarily increasing its cost.

Congress should provide for three critical elements—coordination, prioritization, and the source of funding—when considering legislation to establish an Arctic research policy.

The Arctic research issue is being addressed in a bill pending before Congress. This bill (S. 1562) seeks to provide a comprehensive research policy to deal with national needs and objectives in the Arctic. GAO concurs that S. 1562 could help provide the basis for filling the gaps in our knowledge of the Arctic.

According to the GAO report the Interior Department has encountered severe difficulties in justifying and implementing many of its Arctic policies and responsibilities because of inadequate, wasteful, duplicative and incomplete research.

GAO concludes that Federal revenues could be enhanced and production possibilities increased with the addition of a broader range of basic scientific data that does not now exist and is not currently being conducted by any agency.

In the Committee's view, this report strengthens the arguments for more effectively planned and implemented Federal research in the Arctic. The Committee believes this legislation represents a timely legislative response to the problems specified in the GAO report.

Mr. STEVENS. Mr. President, today Senator MURKOWSKI is introducing the Arctic Research and Policy Act, which I am again pleased to cosponsor. I would like to remind the Senate that this bill was passed unanimously by the Governmental Affairs Committee last year, and also passed the Senate by unanimous consent.

In the past several years, the U.S. Arctic has rapidly increased in strategic importance. The need to develop the Arctic's vast amount of natural resources quickly and safely, and the close proximity of the Soviet Union, have focused national attention on this previously unknown area. As this attention has grown, one fact has become clear: There is a shocking lack of scientific data on which to base decisions with immense financial and environmental consequences.

There are approximately 15 Federal agencies currently conducting Arctic research, as well as State agencies, universities, private industry, and local governments. Surprisingly, there is very little communication among these groups and, consequently, there is a long history of duplicative and unnecessary research. Meanwhile, other areas in which research is badly needed are neglected. A corollary problem is that Arctic scientific data is collected in widely diverse places and is often difficult to obtain.

The Arctic bill addresses these problems in three ways. First, it sets up two administrative bodies: one to set policy goals and to act as a liaison among State, Federal and international governments, and the other to implement those goals in the field by funding and supervising specific research. Second, the bill directs the Commission to establish a center for collection and retrieval of Arctic science data. Finally, the act establishes a trust fund to provide grant money for basic and applied research that is currently neglected but is essential to our Nation's needs.

At this point, I want to mention a few things that the Arctic bill is not:

First, it is not an attempt to set up a super agency to dictate to Federal agencies what their goals in the Arctic should be. Instead, existing agency programs should benefit from the centralizing of research data.

Second, it is not a substitute for funding of existing scientific research projects in the Arctic. The act specifically says that part of its purpose is to fund neglected areas of research that are essential to our Nation's needs.

Third, it is not an attempt to conduct State research under a Federal aegis. The definition of the Arctic covers less than one-third of Alaska, and a substantial amount of foreign territory in which the United States is permitted to conduct research by foreign governments. In addition, the act specifically indicates that national needs and interests are the focus of the act. However, since there is some spillover benefit to the State of Alaska, it was felt that the State should contribute to the trust fund in return for a proportional degree of policy input. All indications from the State of Alaska are that it will wholeheartedly support the bill, financially and politically.

The bill directly affects the interests of a wide variety of parties. At this point we feel we have reached a reasonable consensus. Among the supporters of this bill are Alaska's major oil and gas developer, SOHIO Alaska; several Native corporations; and the North Slope Borough, which represents the Arctic residents most directly affected by oil and gas development. GAO came out strongly in favor of this bill in its report, "Developing Alaska's Energy Resources: Actions Needed to Stimulate Research and Improve Wetlands Permit Processing," printed on June 17, 1982. OMB and the State of Alaska are both in support of the bill as presently drafted. All affected Federal agencies have responded favorably. Finally, all of the scientists who have contacted us are in favor of the bill. In short, there is near unanimity of opinion that this bill is necessary and long overdue.

At this point, I would like to insert into the RECORD an excerpt from a letter received by the chairman of the Senate Governmental Affairs Committee, the Honorable WILLIAM V. ROTH, from John B. Slaughter, Director of the National Science Foundation:

With particular reference to the provisions of this bill, the foundation strongly supports the need for a continued steady level of research in the polar regions balanced among the relevant scientific disciplines, and we recongnize the continuing need of mission agencies to pursue research and development projects essential to their mission performance. The additional input on desired emphases and priorities for Arctic research that would be provided by the proposed Council will undoubtedly assist the several mission agencies to design their contributions to Arctic research while, at the same time, preserving the essential pluralism of Federal agencies' existing Arctic research programs.

In closing, I would like to express on behalf of the National Science Foundation our support for the Arctic Research and Policy Act of 1982, as amended on September 2, and to pledge that we will cooperate with the proposed Council and Commission when they have been established. The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the President's program and supports the passage of this bill.

By Mr. DIXON:

S.J. Res. 26. Joint resolution proposing an amendment to the Constitution authorizing the President to disapprove or reduce an item of appropriations; to the Committee on the Judiciary.

LINE ITEM VETO CONSTITUTIONAL AMENDMENT

Mr. DIXON. Mr. President, I rise today to introduce a constitutional amendment. I do not do so lightly. I believe constitutional solutions to problems should be considered only as a last resort, only in situations where the problem is extremely serious, of great magnitude, of a continuing nature, and where a statutory solution is impossible.

Our budget problems meet this definition. Deficits have risen from under $5 billion in 1963 to over $110 billion in fiscal year 1982. The estimate for fiscal 1983 is even worse, over $200 billion, and the deficits over the next few fiscal years could exceed $1 trillion. The budget has only been balanced once in the past 20 years. And as the deficit projections show, the problem is not getting better; it is getting worse.

Past Congresses and Presidents have condemned these increasing deficits and Congress has taken a number of steps to try to improve its ability to deal with the budget crisis. The most important of these was probably the passage of the Budget Act. That act forced Congress to consider the budget as a whole and created procedural mechanisms to help the Congress to address budget problems.

The Budget Act was an important and useful step, but as the evidence of what can only be called terrifying budget deficits shows, the Budget Act has been totally inadequate to deal with the budget crisis we are currently facing.

The Senate recognized this fact last year, Mr. President, and passed Senate Joint Resolution 58, the so-called balanced budget constitutional amendment. Passage of the resolution clearly indicated the Senate's judgment that further statutory changes simply would not be adequate.

The amendment set out an objective on which everyone could agree. It is clear that Federal spending needs to be restrained and that we cannot continue to spend money that we simply do not have.

However, last year's balanced budget amendment had a number of problems. One of the principal problems was that it put the entire burden of balancing the budget on Congress. I realize that the power of the purse resides in Congress, and, therefore, Congress must play the primary role. But I also know it is difficult for the 535 Members of Congress collectively to provide the leadership necessary to bring the budget back into balance.

Mr. President, I think that the solution is to bring the President of the United States into the budget process to a much greater degree. Only the President can provide the leadership necessary to solve our overriding fiscal problems.

The constitutional amendment I am introducing today gives the President a new toll to help him provide the leadership needed in the budgetary process, and that tool is the item veto.

The item veto is not a new idea. In fact, the first proposal to add an item veto provision to the Federal Constitution was introduced, believe it or not, in 1876. Since that tie over 140 line item veto proposals have been introduced in Congress. However, Congress never acted on any of the proposals, and only once was there ever even a hearing on the idea.

Form this history it might appear that the line item veto is a bad idea or at least a very unpopular, politically unworkable idea. A closer look, however, proves exactly the opposite.

Forty-three—43 of the 50 States—have item veto provisions in their State constitutions, many of these provisions dating back to the Civil War era.

The States have item veto provisions in their constitutions because they think they are needed; because they work, and because they strengthen the budgeting process. An item veto provision helps to reduce logrolling and reduces the number of riders on appropriation bills.

I know these practices are dear to the hearts of many legislators, but they work to undermine the ability of Congress to budget in a fiscally sound and in an effective manner.

I have not been in Congress for a very long time but, Mr. President, I have been in politics now for over 33 years, and a major portion of that time has been spent in legislative bodies. I spent 12 years in the Illinois House of Representatives, 8 years in the Illinois State Senate, and in both bodies served in leadership capacities; so I think I can speak from some experience in this area.

All too often, both here and back in Illinois, legislators attempt to put spending proposals opposed by the Executive into "must" legislation that the Executive cannot veto.

In Illinois, however, as in 42 other States, the Governor can do something about it. He has an option that the President of the United States does not have. His choice is not simply to either veto the entire bill or sign it; he can veto or reduce the individual item.

Mr. President, the amendment I am offering is designed to give the President of the United States the same options that the Governor of Illinois, and the Governors of 42 of the other 50 States have. It would allow the President to veto or reduce any item of appropriations, with the exception of items affecting the legislative or judicial branches, as an alternative to vetoing an entire appropriations bill. The procedure for override of an entire bill would not be changed. Vetoes or reductions of individual items of appropriation, however, would be able to be overridden by a constitutional majority—that is a majority of the Members duly chosen and sworn—rather than the two-thirds vote required to override the veto of a bill.

The amendment is sensible, well balanced, and greatly needed. It strengthens the President's role in the budget-making process without undermining the congressional power of the purse. It will help to restrain spending without upsetting the careful set of checks and balances among the three branches now contained in our Constitution.

Mr. President, I think it is worth examining this last point in somewhat greater detail, because I know how important a point it is. My amendment gives the President an additional option, enhancing his power in the appropriations area. But it also preserves the powers of Congress, by making it easier to override an item veto than the veto of an entire bill.

Under this approach, the President would be able to focus the attention of the Congress and the country on those particular items of spending he believed were wasteful, inappropriate, or unwise. Congress would then have to decide, as it does now, whether to insist on the particular spending proposal, the objections of the President to the contrary notwithstanding. However, it would not take an extraordinary majority to do so. A simple, constitutional majority would be sufficient.

The history of an urgent supplemental appropriations bill from the last Congress clearly demonstrates the need for this amendment. President Reagan vetoed that bill twice. At least five different versions of the bill were pending before the Senate at various times. While Congress and the President fought over the housing stimulus package and other issues in controversy, many programs not in dispute were either brought to a standstill or nearly so. Major parts of the Government once again went to the brink. Social security checks were nearly not mailed, thousands of Government employees were unnecessarily laid off, and many worthy and necessary Government activities were curtailed.

If the President had had the item veto power at his disposal, the legislative torture that the urgent supplemental bill went through would have been largely unnecessary. The President could have reduced those items of spending he considered too large, and vetoed those others he opposed altogether without having to veto items not in controversy. Debate, and public attention, would be clearly focused on the issues truly in controversy. The innocent hostages—programs not in controversy—could have been freed.

Mr. President, the item veto makes it possible for States to restrain spending growth. It provides a means to exercise effective discipline on State budgets. It is time to make use of the State experience at the Federal level, to take their example and put an item veto provision in the Federal Constitution. The item veto works, as the States have demonstrated.

The Senate had to struggle for days and go through the night into the morning to pass last year's tax bill, a bill that would have raised over its life about $100 billion. Yet, the amount it raises by taxing the people of this country every year over the next 3 years is probably significantly less than we could save by giving item veto power to the President of the United States of America.

Mr. President, I realize that this is a new and controversial idea, even though there is substantial experience with the concept at the State level. But I think it is a good idea, and moreover, that without its passage, it is very unlikely that we will be able to permanently solve our budget crisis.

I believe it is imperative, therefore, that we quickly begin to examine the item veto concept in this Congress. I am grateful for the commitment from the distinguished chairman of the Judiciary Committee, Senator THURMOND, and the distinguished chairman of the Constitution Subcommittee, Senator HATCH, to hold a hearing on this proposal. I believe it should get the closest possible examination. Such an examination, I am confident, will clearly demonstrate the merit and importance of prompt enactment of this amendment. I urge all my colleagues, therefore, to participate in the hearing process, and I urge the Senate, upon the conclusion of those hearings, to adopt the item veto amendment.

Mr. President, I ask unanimous consent that a copy of the resolution be printed in the RECORD at this point.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 26

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

"ARTICLE —

"The President may reduce or disapprove any item of appropriation in any bill or joint resolution, except any item of appropriation for the legislative branch or the judicial branch of the Government. If a bill or joint resolution is approved by the President, any item of appropriation contained therein which is not reduced or disapproved shall become law. The President shall

return with his objections any item of appropriation reduced or disapproved to the House in which the bill or joint resolution containing such item originated. The Congress may, in the manner prescribed under section 7 of article 1 for bills disapproved by the President, reconsider any item disapproved or reduced under this section, except that only a majority vote of each House shall be required to approve an item which has been disapproved or to restore an item which has been reduced by the President to the original amount contained in the bill or joint resolution.".

ADDITIONAL COSPONSORS

S. 17

At the request of Mr. DOLE, the name of the Senator from Minnesota (Mr. BOSCHWITZ) was added as a cosponsor of S. 17, a bill to expand and improve the domestic commodity distribution program.

S. 19

At the request of Mr. DOLE, the name of the Senator from New York (Mr. D'AMATO) was added as a cosponsor of S. 19, a bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 to assure equality of economic opportunities for women and men under retirement plans.

S. 62

At the request of Mr. SASSER, the names of the Senator from Vermont (Mr. LEAHY), and the Senator from Maine (Mr. MITCHELL) were added as cosponsors of S. 62, a bill to provide for the issuance of a commemorative stamp to honor the dedication of the Vietnam Veterans Memorial.

S. 107

At the request of Mr. THURMOND, the names of the Senator from Alabama (Mr. DENTON), and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 107, a bill to establish the Veterans' Administration as an executive department.

S. 120

At the request of Mr. DOLE, the names of the Senator from Pennsylvania (Mr. SPECTER), and the Senator from New York (Mr. D'AMATO) were added as cosponsors of S. 120, a bill to extend for 2 years the allowance of the deduction for eliminating architectural and transportation barriers to the handicapped and elderly.

S. 137

At the request of Mr. ROTH, the names of the Senator from Kentucky (Mr. FORD), and the Senator from Nebraska (Mr. ZORINSKY) were added as cosponsors of S. 137, a bill to amend the Internal Revenue Code of 1954 to continue to allow mortgage bonds to be issued.

S. 215

At the request of Mr. THURMOND, the name of the Senator from North Dakota (Mr. ANDREWS) was added as a cosponsor of S. 215, a bill to amend the Bail Reform Act of 1966 to permit consideration of danger to the community in setting pretrial release conditions, to expand the list of statutory release conditions, to establish a more appropriate basis for deciding on post-conviction release, and for other purposes.

S. 216

At the request of Mr. THURMOND, the name of the Senator from North Dakota (Mr. ANDREWS) was added as a cosponsor of S. 216, a bill to amend title 18, United States Code, to combat, deter, and punish individuals who adulterate or otherwise tamper with food, drug, cosmetic, and other products with intent to cause personal injury, death, or other harm.

S. 222

At the request of Mr. KASTEN, the name of the Senator from New York (Mr. D'AMATO) was added as a cosponsor of S. 222, a bill to repeal the withholding of tax from interest and dividends and to require statements to be filed by the taxpayer with respect to interest, dividends, and patronage dividends.

S. 249

At the request of Mr. PACKWOOD, the name of the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 249, a bill entitled the "Employee Educational Assistance Extension Act."

S. 274

At the request of Mr. DIXON, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 274, to insure that the total value received by a producer under a special payment-in-kind land conservation program is at least 85 percent of the basic county loan rate for a commodity.

SENATE JOINT RESOLUTION 5

At the request of Mr. THURMOND, the name of the Senator from Idaho (Mr. MCCLURE) was added as a cosponsor of Senate Joint Resolution 5, a joint resolution proposing an amendment to the Constitution relating to Federal budget procedures.

SENATE JOINT RESOLUTION 11

At the request of Mr. ROTH, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of Senate Joint Resolution 11, a joint resolution entitled "National Safety in the Workplace Week."

SENATE JOINT RESOLUTION 17

At the request of Mr. PRYOR, the names of the Senator from Maryland (Mr. MATHIAS), and the Senator from Oregon (Mr. HATFIELD) were added as cosponsors of Senate Joint Resolution 17, a joint resolution proposing an amendment to the Constitution to provide for the direct popular election of the President and Vice President of the United States.

SENATE CONCURRENT RESOLUTION 5

At the request of Mr. SASSER, the name of the Senator from Minnesota (Mr. DURENBERGER) was added as a cosponsor of Senate Concurrent Resolution 5, a concurrent resolution expressing the sense of the Congress that the Railroad Retirement Board and representatives of railroad employees and carriers should explore new methods of financing the railroad retirement program.

SENATE RESOLUTION 39—AUTHORIZING EXPENDITURES BY THE COMMITTEE ON FOREIGN RELATIONS

Mr. PERCY, from the Committee on Foreign Relations, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 39

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Foreign Relations is authorized from March 1, 1983, through February 29, 1984, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $2,556,000 of which amount not to exceed $18,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 1984.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent funds of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employee paid at an annual rate.

SENATE RESOLUTION 40—RELATING TO A DOMESTIC AND ECONOMIC SUMMIT

Mr. GRASSLEY (for himself, Mr. SYMMS, Mr. JEPSEN, Mr. BOREN, and Mr. HATCH) submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 40

Whereas the welfare or our people as well as the prospects for world peace, stability and development in international trade will depend on the wisdom of our leaders to develop a long-term policy in opening chan-

nels of trade and investment while coping with rapid economic change; and

Whereas an urgent need exists in stabilizing exchange rates to encourage export opportunities as well as to provide stability in the financial marketplace; and

Whereas there is a need to remove self-imposed restrictions by our own government on our industrial and farm sector to enhance their competitiveness in gaining access to world markets; and

Whereas there is a need to declare a truce in export credit wars along with the elimination of agricultural subsidies with our trading partners; and

Whereas there is a need to protect the transfer of high technology that may give away the competitive advantage the United States should derive from its superior technology and efficiency; and

Whereas there is a need for a separate Cabinet-level office with Secretarial privileges to focus on international trade to coordinate the impact and consequences of political and foreign decisions on the overall economic and foreign trade well-being of the United States.

Resolved, That it is the sense of the Senate that the President should exercise immediately his authority to call for a Domestic Economic and Trade Summit to begin to shape trade policy that makes sense for our farmers, our industries and our trading partners in the 1980's. And that the composition of this Summit should be made up of a bipartisan group of individuals from our Government, business, labor, farm, and academic community to enhance the credibility of those policies both at home and abroad.

Mr. GRASSLEY. Mr. President, as we begin the 1st session of the 98th Congress, we are going to be faced with some critical issues relative to global economic and trade problems.

To meet these changes, the United States must develop new policies that serve our national interest and have a level of confidence for our farmers, our industries and our trading partners.

Today I am submitting for consideration a resolution to express the sense of the Senate, urging Presidential action in calling for an immediate domestic economic and trade summit to address the critical choices we must face in our long-term trade policies.

In a report to the President submitted by the Commission on International Trade and Investment Policy, dated July 1971, I would like to quote the following:

We face critical choices. The welfare of our people—perhaps even the prospects for world peace, stability, and development—will depend on the wisdom and the realism with which we and other countries adapt to the changed circumstances of the Seventies.

The next few years will determine:

Whether our people can enjoy the benefits of open channels of trade and investment while coping with the real human problems of adjusting to rapid economic change;

Whether the world will drift down the road of economic nationalism and regional blocs or will pursue the goal of an open world economy;

Whether the European Community and Japan will accept responsibilities commensurate with their economic power;

Whether we can evolve with our trading partners a sound international monetary system reconciling domestic and international economic objectives;

Whether developed and developing countries can mobilize the will and resources to cope with global problems of poverty, population, employment and environmental deterioration;

Whether we can seize new opportunities for improved political and economic relations with the communist world.

To meet these challenges, the United States must develop new policies that serve our national interest—A national interest which comprehends a prosperous and congenial world.

What we face today is not that different than the challenges faced in the 1970's.

Since the United States represents the biggest import market in the world and by and large we have made our market place available to our trading partners with relatively few restrictions, and as a result of the outcome of the GATT ministerial meetings, time has come to let our trading partners know that we are no longer willing to tolerate one-way streets.

The task of our political leaders is to understand the gravity of the position we are in and to begin to shape trade policies that make sense to our farmers, our industries, and our trading partners.

At this point, I would like to go back to the report to the President submitted by the Commission on International Trade and Investment Policy, dated July 1971, in which, I quote:

There are unmistakable signs in the United States of developing crisis of confidence in the system. The crisis is reflected in:

Mounting pressures in the United States for import restrictions as foreign-made textiles, clothing, shoes, steel, electronic products and automobiles penetrate our market;

Growing demands for retaliation against foreign measures which place American agricultural and other products at a disadvantage in markets abroad;

A growing concern in this country that the United States has not received full value for the tariff concessions made over the years because foreign countries have found other ways, besides tariffs, of impeding our access to their markets;

Labor's contention that our corporations, through their operations abroad, are 'exporting jobs' by giving away the competitive advantage the United States should derive from its superior technology and efficiency;

A sense of frustration with our persistent balance-of-payments deficit and a feeling that other countries are not doing their fair share in making the international monetary system work;

An increasing concern that the foreign economic policy of our government has given insufficient weight to our economic interests and too much weight to our foreign political relations; that it is still influenced by a 'Marshall Plan psychology' appropriate to an earlier period.

Overhanging these doubts and frustrations is the belief that we have lacked the sense of priorities and the organization to deal effectively with our foreign economic relations; that responsibilities in the Executive branch have been unclear and authority fragmented; that Congress and the private sector have not been adequately brought into the policy-making process; that effective machinery has not existed for integrating the interrelated parts into a coherent foreign economic policy that would serve our national objectives.

The new mood in the United States has not gone unnoticed abroad. Questions are being raised in Europe, Japan and other countries about the capacity of the United States to deal with its domestic economic problems and about the consistency and direction of its foreign economic policies.

Twelve years later we face exactly the same concerns expressed in the report. For that reason, on November 30, 1982, I wrote to President Reagan and plan to write him again shortly to suggest that he call together a bipartisan group of this country's government, business, labor, farm, and academic leaders to set out an agenda to discuss those issues which I have addressed in my resolution as well as other issues that have relative importance to the long-term economic and trade policies of this Nation.

I believe the President can take an important first step in defusing pressure for unwise executive or legislative action, with possible dire consequences globally, by calling for a domestic economic and trade summit. There is certainly no shortage of challenges that face us in the 1980's, however, as in the past when the American people have been put to the task they have shown the world they have no shortage of creative solutions to those challenges.

Mr. President, I ask unanimous consent that my letter to the President on this subject be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., February 1, 1983.

The PRESIDENT,
The White House, Washington, D.C.

DEAR MR. PRESIDENT: As you may recall, on November 30, 1982, I wrote to you asking that you call for an immediate Domestic Economic and Trade Summit.

I was pleased to learn from a letter received from Kenneth M. Duberstein of your staff stating, "The convening of a domestic economic and trade summit may well be a needed catalyst toward this end."

I was also deeply pleased that during your State of the Union message you cited the relative importance of this nation setting down a consistant, viable trade policy.

In conjunction with my earlier correspondence to you, I also sent my suggestion to members of the President's Export Council for their review and comments. I would like to share with you excerpts from those letters, as well as letters from Cabinet members:

"A conference which would draw attention to the trade difficulties we are facing in services, investments, high technology, agriculture, and other key trade sectors could

be extremely useful." Malcolm Baldrige, Secretary of Commerce.

". . . we fully support Senator Grassely's proposal that the President call together a bipartisan group of political, business and labor leaders, together with members of the academic community, to set an economic and trade agenda for the 1980's." Robin Broadfield, Vice President for International Affairs, National Association of Realtors.

"I have sent the enclosed letter to President Reagan suggesting that he convene a summit along the lines proposed by you." John P. Sachs, President, Great Lakes Carbon Corporation.

"I also agree with your idea concerning a Trade Summit, but I am concerned that in calling such a group together the small business community as well as the small farmer are not left out, as they usually are when such groups convene." Douglas F. Glant, President, Pacific Group.

"A meeting such as you suggest might help to produce some positive approaches to this complex problem and demonstrate to the rest of the world that the U.S. is concerned and seeking to effect a unified national approach to the foreign trade question." Robert G. Schwartz, Vice Chairman of the Board, Metropolitan Life Insurance Company.

"I am sure that Chairman J. Paul Lyet of the PEC would be willing to make a place in the agenda of the discussion of this topic and for airing solutions." K. Gordon Lawless, Senior Vice-President, Phifer International Sales, Inc.

". . . congratulations to you on your December 1 statement in the Congressional Record. This is one of the best and clearest statements of the complex problems and issues involved that I have seen to date." R. W. Fischer, Soypro International, Inc.

"It may indeed be useful to commission a group from the public and private sectors to study the options for long-run U.S. trade policy." Donald T. Regan, Secretary of the Treasury.

"Your proposal for a Domestic Economic and Trade Summit, therefore, is timely and I would support such an effort provided its agenda is oriented to the specific actions needed to stem the current riding tide of protectionism." J. B. Flavin, Chairman, Singer.

Based on the correspondence I received from the White House, members of the President's Export Council and from conversations with other individuals of varying backgrounds, I feel as strong and convinced as ever that this is a tool which you can use to defuse pressure for unwise Executive and Legislative action with possible dire consequences globally.

Your providing the leadership of bringing together a bipartisan group of government, business, labor, farm and academic leaders under one umbrella would go along way to restore a level of confidence in your Administration. If I may quote from your State of the Union message, "Americans who have been sustained through good times and bad by noble vision, a vision not only of what the world around us is today, but of what we, as a free people, can make it tomorrow." And I further quote from your message, "Back over the years, citizens like ourselves have gathered within these walls when our Nation was threatened; sometimes when its very existence was at stake. Always, with courage and common sense, they meet the crises of their time and lived to see a stronger, better, and more prosperous country." Now is the time to call these same forces into play under a Domestic Economic and Trade Summit to meet the crises of our time so that we and our children may live to see a stronger, better and more prosperous country and world.

Sincerely yours,

CHARLES E. GRASSLEY,
U.S. Senator.

SENATE RESOLUTION 41—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON APPROPRIATIONS

Mr. HATFIELD, from the Committee on Appropriations, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 41

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings and making investigations as authorized by paragraph 1 of rule XXVI of the Standing Rules of the Senate, the Committee on Appropriations is authorized from March 1, 1983, through February 28, 1984, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $4,252,400, of which (1) not to exceed $5,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $8,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but no later than February 28, 1984.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

SENATE RESOLUTION 42—AUTHORIZING EXPENDITURES BY THE COMMITTEE ON VETERANS' AFFAIRS

Mr. SIMPSON, from the Committee on Veterans' Affairs, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 42

Resolved, That, in carrying out its powers, duties and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Veterans' Affairs is authorized from March 1, 1983, through February 28, 1984, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the Committee under this resolution shall not exceed eight hundred seventy-two thousand, one hundred fifty-five dollars ($872,155) plus fifteen thousand dollars ($15,000) for special field hearings.

SEC. 3. The Committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 1984.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

NOTICES OF HEARINGS

COMMITTEE ON THE BUDGET

Mr. DOMENICI. Mr. President, the Senate Committee on the Budget will hold hearings on the President's fiscal year 1984 budget submissions on February 2, at 10 a.m. and 2 p.m. in room 608 of the Senate Dirksen Office Building.

David Stockman, Director of the Office of Management and Budget will testify at the 10 a.m. hearing.

The 2 p.m. hearing will consist of 2 panels. The witnesses for panel 1 at 2 p.m. are: Peter Peterson, chairman and chief executive officer, Lehman Bros. Kuhn Loeb, Inc.; Douglas Dillon, chairman, U.S. and Foreign Security Corp.; and Henry Fowler, chairman, Goldman Sachs. The witnesses for panel 2 at 3:30 are : John M. Albertine, president, American Business Conference; Paul R. Huard, vice president for taxation and fiscal policy, National Association of Manufacturers; and James D. "Mike" McKevitt, director of Federal legislation, National Federation of Independent Businesses.

COMMITTEE ON SMALL BUSINESS

Mr. WEICKER. Mr. President, I would like to announce that the Senate Small Business Committee has canceled its oversight hearing on the Small Business Administration's SBIC programs, scheduled for February 3, 1983, at 9:30 a.m. in room 428A of the Russell Senate Office Building.

Mr. President, I would like to announce that the Senate Small Business Committee has rescheduled its January 21, 1983 oversight hearing on the Small Business Development Center program for February 8, 1983, beginning at 1:30 p.m., in the fifth

floor, IRS conference room, Federal Building, 275 Peachtree Street NE., Atlanta, Ga.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, February 2, at 10 a.m., to hold a hearing to consider the Presidential certification on progress in El Salvador.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. BAKER. Mr. President, I ask unanimous consent that the Armed Services Committee be authorized to meet during the session of the Senate on Tuesday, February 1, to hold a hearing on a posture statement to be given by Secertary Weinberger and General Vessey.

The PRESIDING OFFICER. Without objections, it is so ordered.

SUBCOMMITTEE ON SECURITY AND TERRORISM

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Security and Terrorism of the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, February 2, 1983, in order to receive testimony concerning oversight of the Federal Bureau of Investigation.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. BAKER. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, February 2, 1983, at 10:30 a.m., to receive a briefing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

EMERGENCY FARM STABILIZATION ACT OF 1983

● Mr. SASSER. Mr. President, on January 26, I, along with Senator INOUYE introduced S. 99, the Emergency Farm Stabilization Act of 1983. A section of this important measure calls for a 2-year moratorium on foreclosures of Farmers Home Administration loans.

This particular provision is in part an effort to alleviate the fear of many American farmers that their farm will be the next on the auction block. Recent articles in the New York Times and Newsweek Magazine underscore the pervasive nature of this concern. As pointed out in the Newsweek piece, foreclosure "seems a clear and present danger to growing numbers of Americans today." Indeed, a Harris poll cited in the article showed that fully 66 percent of those questioned feared losing their homes or farms within a year for failing to meet their mortgage payments.

These men and women need some assurance that their elected representatives have not forgotten them during this troubling time. Such is the spirit of S. 99. This bill tells the American farmer that we are working on the problems plaguing the farming industry.

Mr. President, I think my colleagues would benefit greatly from reading the articles I have mentioned. Once they do I am sure they will realize the need for prompt action on S. 99. I ask that the New York Times and Newsweek articles dealing with farm foreclosures be printed in the RECORD.

The articles follow:

[From the New York Times, Jan. 16, 1983]

IN FARM BELT, FEAR OF FORECLOSURES RISES

(By William E. Schmidt)

JAMESTOWN, N. DAK., January 13.—All across the farm states, there is mounting alarm that the depressed state of the country's agricultural economy is going to reap a grim harvest of failures and foreclosures this year.

As a result, farmers, state officials and legislators speak darkly of mounting anger, frustration and militancy among those who may be forced to sell out farmland that, in some cases, their families homesteaded a century ago.

"I attended two foreclosure sales last fall in my district, and it's really something to watch the people stand there and cry," said Gene Watne, a Democratic state legislator from Velva, in central North Dakota. "I just don't think people are going to stand for this any more. Things are going to get much worse this spring, and I think farmers are going to become more militant."

Bankers here say that loan delinquencies, already triple what they were a year ago, could reach 10 times normal levels. Meanwhile, declining values for farm equipment and land—the collateral against which farmers borrow to get through the harvest season—is going to force many lenders to tighten or deny credit this spring.

Kent Conrad, North Dakota's tax commissioner, estimated that as many as 1,200 of the state's 38,000 farmers went out of business last year and that another 2,500 may not survive 1983, a loss the state will be hard-pressed to afford.

"If there are not farmers out across North Dakota to buy what our small-business people have to sell, we lose many of our small businesses and small towns," Mr. Conrad warned in a speech last month before the North Dakota Farmers Union, the state's largest farm organization. "If you threaten the farmers and main-street businesses of our state, you are threatening North Dakota."

As the nation's most rural state—about 25 percent of its population still lives on farms or ranches—North Dakota has traditionally been a strong bellweather of farm dissatisfaction. In the early part of the century, farmers who blamed Eastern banking interests and the railroads for low prices took refuge in a radical populist movement called the Non-Partisan League, which in 1918 won control of the state Legislature.

Among other things, the league pushed through a reform program in which the state ran and controlled a bank, a grain elevator and a rail line.

Recently, there has been increasing talk among farmers around the state of thwarting forced auctions this spring through what are called penny sales.

This tactic was commonly used in the state in the Depression. Farmers put pressure on buyers to bid small amounts of money, often only pennies, on land or machinery being sold at auction to help pay off another farmer's debts. If successful, the buyers, in turn, leased the land and equipment back to the original owner for a nominal fee. This, in theory, allowed the indebted farmer to at least continue to farm and forced the lender to seek other remedies to recover the money owed.

SITTING ON A KEG OF TNT

"You can only kick people in the teeth so long before they start to kick back," said Jim Brokaw, a farmer who is a Democratic state legislator from Forbes, which is on the border with South Dakota. "We're sitting on a keg of TNT out here."

Earlier this month, in the country's most dramatic instance of rural militance to date, sheriff's deputies in Springfield, Colo., had to use tear gas to break up an angry group of 250 farmers trying to block the court-ordered auction of a nearby wheat and milo farm. The protest, organized by the Colorado-based American Agricultural Movement, failed to stop the auction; three people were arrested and several demonstrators were bloodied in the melee.

In addition, farmers in recent months have turned increasingly to both the courts and to their elected officals in an effort to stall farm foreclosures and ease financial pressures. Legislation proposing an enforced moratorium on farm foreclosures will be introduced in Bismarck, N.D., next week.

Legislators here and in other farm states also plan to introduce minimum price laws for commodities produced in their states. The effort has been described by some as an attempt to rig commodity prices by forging a regional cartel.

Though net income has declined over the last three years among all farmers, those who are most at risk now are small, family operations that incurred large liabilities buying land or machinery in the 1970's and are now unable to repay loans because production costs and interest rates far outstrip their income.

Many of these are young farmers who took advantage of Federal lending programs and now find themselves badly overextended.

As a result, much of the farmers' anger is directed at the Agriculture Department's Farmers Home Administration, which over the years has been the prime lender to small and marginal farmers who had difficulty finding financing elsewhere.

"We see a lot of farmers who feel like they were snookered by the F.H.A.," said Dina Butcher, deputy commissioner of the state Department of Agriculture. "They got into situations in the 1970's when the Federal agencies were offering easy credit and encouraging expansion. Now they feel trapped by the economy."

"They loaned me the money, and helped me put together a financial plan for running the farm," said Mr. McCabe, a 41-year-old dairy farmer from La Moure, who is facing the threat of foreclosure because he failed to meet his annual loan repayment

last year. "Then when you can't pay, they say you're a bad manager, seize your assets and force you to sell out."

Last year, Mr. McCabe and several other financially pressed farmers here formed the Family Farm Foreclosure Legal Assistance Project, an organization that is preparing a lawsuit on behalf of other farmers in the state threatened with failure or foreclosure.

"The irony here is that the F.H.A. was set up, as a lending agency, to help the marginal farmer," said Sarah Vogel, a Bismarck lawyer who is working with Mr. McCabe and other farmers in the state. "Now, they are contributing to the current economic panic."

Miss Vogel and others accuse the Federal agency of arrogance and insensitivity. They say that in order to reduce its nationwide debt load, the agency is trying to force out of business any farmer who falls behind on loan payments.

Officials of the Farmers Home Administration in North Dakota dismiss such charges and say they are, in fact, softening their repayment policies, deferring the principle on real estate loans and no longer requiring that borrowers prove financial progress as a condition of their loan.

TIMES ARE TOUGH TODAY

"Times are tough today, and it doesn't take a big problem to put you in a big hole," said Joe Weimerskirch, an official in the agency's state office in Bismarck. He said that F.H.A. delinquencies statewide are double what they were a year ago and that one in every five of the agency's borrowers in the state is behind in payments.

"If a farmer wants to continue, we'll try to go along with him," said Mr. Weimerskirch. "But if he's losing net worth, maybe the best thing is to sell out."

Bankers and state officials say falling values for both farmland and machinery, which farmers have used for collateral in recent years, will contribute to the worsening farm economy this year.

"We're at the end of the rope on collateral," said J. M. Peterson, vice president of First Northwest Bank of Mandan. According to officials of the Bank of North Dakota, which is owned and operated by the state, land appraised at $300 an acre sold for $140 in a recent auction and a $60,000 four-wheel-drive tractor was traded on the block for $12,000.

"It's got to the point where even good managers are facing real financial problems," said H.L. Thorndahl, president of the state bank.

DISCONTENT AMONG FARMERS

It is a measure of the current discontent among farmers around the nation that President Reagan last week announced a plan to give away surplus grain in Government stockpiles to farmers who agree to idle up to 50 percent of their land this season. By reducing surpluses, the President hopes to bring the price of farm commodities back up.

Despite widespread support from the Farm Belt in 1980, the Reagan Administration and Republicans have become increasingly unpopular in the farm states. Last November, Democrats in North Dakota, traditionally a bastion of Republican strength, more than doubled their number of seats in the state House, and they now control the body for only the second time in the state's history.

An official of the Mental Health Association of North Dakota says the economic pressure on farmers has resulted in a sharp rise in stress-related problems around the state, including child abuse, wife abuse and marital difficulties.

"A lot of people are losing control because they are desperate and don't know what to do," said Myrt Armstrong, the agency's state director, who is coordinating a series of stress-control workshops in farm communities.

[From Newsweek, Jan. 17, 1983]

AGAIN, THE FEAR OF FORECLOSURE

The spectre of the auctioneer stalks throughout the land, haunting debtors in city, town and country. . . . Next to life itself, a home is man's most prized possession. To save it, rugged individualism has grown gregarious, and harried citizens are banding against foreclosure.—Newsweek, Vol. 1, No. 1. Feb. 17, 1933.

It was a far cry from the Great Depression, but as the statistics on home and farm foreclosures soared to their highest levels in years, eerie echoes of 1933 were heard across the nation. In Springfield, Colo., last week, an auction to sell off farm militant Jerry Wright's 320-acre spread turned into a club-swinging, tear-gas-clouded melee between Baca County deputies and about 250 angry farmers who showed up to prevent the sale. The farmers failed, but the incident marked an ugly escalation in the wave of 1930s-style protests that has swept the farm belt in recent months. In Pittsburgh, meanwhile, the Allegheny County sheriff and a local judge imposed their own moratorium on a series of residential foreclosures to keep the jobless from becoming homeless as well. It was only a temporary stay, Sheriff Eugene Coon acknowledged, but he hoped state legislators would soon consider a law restricting foreclosures—like the one he believes Pennsylvania had in the '30s.

Foreclosure seems a clear and present danger to growing numbers of Americans today. According to a recent Harris poll, fully 66 percent of a national sample reported the fear of losing their homes or their farms within a year for failure to meet mortgage payments. Far fewer will actually have to face the problem, government officials and financial experts say, but for those who do it is serious enough. Farm foreclosures by federal land banks, such as the one that wound up buying Jerry Wright's wheat and milo farm last week, rose 240 percent in 1982, involving 1,065 of 667,000 federally guaranteed farm mortgages on the books. And there are plentiful signs that the four-year crisis on American farms is not yet over. A continuing glut in grain and dairy products has depressed farm income nationwide. Despite the recent declines in prevailing interest rates, says Iowa State University economist Robert Wisner, "there are greater financial pressures (on farmers) now than at any time since World War II."

IT'S AWFUL

Residential foreclosures are also the highest they have been since 1952, according to the Washington-based Mortgage Bankers Association of America. The MBA estimated that slightly more than six-tenths of 1 percent of all residential loans were in foreclosure proceedings during the third quarter of 1982. That means the forced sale of about 170,000 homes—and the figures do not include thousands of other families who sold thier homes, under heavy financial pressure, just to avoid foreclosure. With the nation's unemployment rate continuing to set postwar records (10.8 percent in December, it was announced last week), there is little reason to expect improvement in the near future. "I wouldn't doubt that our fourth-quarter [foreclosure] figures will be at least as bad as the third quarter's, and I wouldn't be surprised if the first three months of this year are just as bad," said Mark J. Riedy, executive vice president of the MBA. Predictably, foreclosure was most common in high-unemployment states like Michigan, Ohio, Illinois, Pennsylvania and New York, Riedy said. And given the size of the federal deficit, he added, there is little hope that Congress will pass freshly introduced legislation to provide mortgage assistance for the unemployed. "It's awful," he said. "There's nowhere to turn in this kind of situation."

PENNY AUCTIONS

That sense of desperation boiled over in Colorado last week—but except for its violence, the Springfield incident was little different from a number of other farm-belt demonstrations against foreclosure since the summer. Militants, like those in the American Agriculture Movement, the organization that mounted a series of tractorcade protests against federal farm policies in the late '70s, have consciously imitated prairie populists of the 1930s in staging "penny auctions" to save their farms. When the local bank puts a farm on the block, the farmer's neighbors and family dominate the proceedings and bid only pennies—which the bank must accept or postpone the sale. The friendly purchasers then give the farmer back his property debt-free. "The friends and relatives are hostile to anyone else who tries to buy the farmer's assets—they'll intimidate anyone else not to bid," says Brian Galiardo, an economist with the Federal Reserve Bank in Dallas. "It's very much a strong-arm technique," rooted in a growing "us-or-them mentality" between farmers and their creditors.

Not coincidentally, Jerry Wright is one of the founders of the American Agriculture Movement—and when his farm was scheduled for auction at the Springfield courthouse, his followers rallied from several states around. Although federal officials insisted he has been treated leniently, he sees himself as the victim of failed government policies. Whatever they may think of Wright's tactics, many farmers tend to agree. When a county official appeared on the courthouse steps to announce the sale, Wright's followers were ready. Chanting "no sale, no sale," they rushed the door, and two dozen sheriff's deputies counterattacked with clubs and tear gas. The crowd fell back and rushed the door again; again, it was repulsed.

At least one person was injured and three farmers were arrested for assaulting police officers: one escaped, in handcuffs, to tell reporters he had only come to bid on Wright's farm. Instead, it was sold—for a rock-bottom $96,136—to the Federal Land Bank Association, which held the mortgage. Wright declared his intention to resist eviction to the end. "We're going to have to stop all foreclosures," Wright said, "If people don't stand up to uphold their rights . . . we'll have a two-class system."

For frightened homeowners in the Pittsburgh area the threat of eviction seemed to recede last week when Sheriff Coon and County Judge Nicholas P. Papadakos put their freeze on foreclosures. "I had a lot of nightmares," recalled Mrs. Marie Richards. "I could see the sheriff at the door." Coon made the first move by dropping 43 owner-occupied homes from a list of scheduled

foreclosure auctions. Judge Papadakos, who had already discussed the strategem with the sheriff, announced his "temporary judicial moratorium" two days later. Of the 43 homes, Coon said, about half were owned by persons who had lost their jobs, another third by self-employed persons whose income had been reduced by the recession, and the rest by those who fell behind in their payments because of illness or injury. "We're not going to help deadbeats," Papadakos insisted. His goal, he said, was to persuade banks and other lenders to allow delinquent debtors a chance to reschedule their payments or refinance their homes.

LESSONS

Despite grumbling from some lenders, most banks appeared ready to go along with the moratorium. And homeowner Richards said she was "overwhelmed" by the reaction. "It does look as though people across the country are looking to Pittsburgh as a model" of emergency relief. If nothing else, it was clear that many Americans were relearning firsthand the painful lessons of an earlier generation's distress.●

AMERICA'S FIRST DEFENSE PRIORITY

● Mr. GOLDWATER. Mr. President, in the Armed Forces Journal of February 1983 is an excellent editioral by Mr. Benjamin Schemmer relative to the need for this administration to develop strategic plans and even tactical plans. We have not done this in so many years, it is hard to remember when an administration developed a basic military plan on which we could build our armaments, manpower, and so forth.

I ask that this article be printed in the RECORD.

The article follows:

EDITORIAL:—AMERICA'S FIRST DEFENSE PRIORITY: IMPROVING THE "TALK-TO-ACTION" RATIO

(By Benjamin F. Schemmer)

A painful, prolonged annual ritual is underway again in which Congress and the Administration try to reach some consensus on how to defend America. Like last year, when Congress failed to agree on a Fiscal Year 1983 Defense Appropriations Bill—notwithstanding interminable hearings and a mind-numbing, down-to-the-wire lame duck session—it is unlikely that any clear vision or road map will emerge this year of how American can defend itself most efficiently, much less of how much money should be invested to do so.

Yet surely our citizens have some right to expect that, as a minimum, of their legislators and leaders in the Executive Branch. Right up front, the 21st-25th words of the Preamble to our Constitution, after all, charge them to "provide for the common defense . . . for the United States of America."

Neither have done so. Congress and the Administration have sidetracked themselves by a never-ending defense debate (the "annual appropriations auction") over programmatic issues: How to deploy M-X missiles, and should we? Should we buy more C-5 transports, 747s, or C-17s to improve our airlift? Is the F-18 worth its cost? Should the Navy have two new carrier battle groups, or just one? Should both the B-1 and Stealth bomber be built? How fast should we launch new LSD-41s to rebuild the Marine Corps' amphibious assault punch?

Those are important questions, to be sure. But they are not the fundamental issues which our legislators and leaders should be addressing: American needs to decide first how to defend itself in the face of acute, long-term economic problems that are not about to go away. Debates over one vs. two nuclear carriers and big vs. little carriers may generate good newspaper copy or make for good campaign speeches, but they don't make good defense policy or national strategy.

What will make good strategy is deciding one tough question first. The President can't decide; Congress can't decide: They have to decide together: How much of our Gross National Product should we spend for the common defense on a long-term, steady basis?

Can we afford only 5 percent (as in the early Carter years), or 7 percent (as the Reagan defense build-up calls for by 1987, a number that would support current active duty force levels without further depreciation in their equipment), or 9 percent (the number needed to increase present face levels by about 20 percent and double our capability, from 60 to 120 days, to fight an intense conventional war)? Or can we afford only 4 percent, which is more than our NATO allies collectively devote to their own defense (Japan, less than 1 percent)?

If Congress would help the Executive Branch illuminate that choice for the American taxpayer and vote on that question, then America could rebuild its defenses, however the numbers come out, with some constancy of purpose and the steady course needed for efficiency in any enterprise. Civilian and military leaders in the Pentagon would be far better able to face up to the hard choices and trade-offs that have to be made.

There are some excellent examples of such trade-offs in a draft report by the International Public Policy Foundation now circulating within the Administration and Congress. A long-term "social tilt" in the Federal budget instead of a "defense tilt"—for instance 10 percent of GNP for social and health programs and 6 percent of GNP for defense—might require DoD to transfer 25 percent to 30 percent of its active forces to the reserves. That could save roughly 1 percent of GNP while allowing current rates of equipment modernization to continue, since there would be a substantial shift in funding away from day-to-day operations and manning cost toward a more robust modernization program. (The alternative is not without its readiness and social costs. The smaller US rotation base available for our overseas active forces might require lengthening overseas tours to four and a half or five years instead of the present three year average.) Another consequence of such a "social tilt" would "require our Allies to accept their share of the defense burden": it now costs the US about 2 percent of GNP to make up for their social tilts.

Those are the sorts of issues Congress should be debating instead of whether DoD decided correctly to buy C-5s instead of 747s or C-17s. And those kinds of policy issues will flow naturally out of a basic decision on the continuing level at which American GNP will be invested in the nation's defense.

Instead of addressing that central issue, Congress last year demonstrated once again its gut instinct to "go for the capillaries." That's how former Navy Under Secretary R. James Woolsey often described the work of OSD's system analysis who toyed interminably with program alternatives "at the margin"—distracting senior military leaders who needed the time instead to put together some better war plans. The description now fits Congress.

Between February 8th and September 30th last year (when Congress by law should have passed a Fiscal Year 1983 Defense Appropriations Bill), Congress held an incredible 407 separate hearings on the defense budget; 1,258 DoD personnel trekked to Capitol Hill to testify at those hearings; their printed record spans a 4-ft. shelf in our office bent from the weight of 38 hearing volumes and reports (and not all of the hearings, which continued for another three months, have been printed yet). That's a lot of talk for very little action. The Pentagon never did get an FY83 defense budget: instead, it got an unprecedented second continuing resolution that has become a de facto substitute for an appropriations bill, but which "resolves" very little. (Sadly, Congress will now tackle DoD's FY84 budget by regurgitating virtually the same sets of questions it debated at such length last year).

The nation needs to improve its "talk-to-action" ratio on national security matters. (Air Force Lt. Gen. Kelly Burke used to use that phrase to describe issues he delegated to his deputies when it became obvious they would entail interminable but unproductive meetings.) Debating programmatic issues and defense budgets at the margin is not going to fix the economy, nor will it deter the Soviet Union. Congress and the Administration need first to fix some institutional problems:

1. Reform the Joint Chiefs of Staff system along the lines which two serving members of the JCS urged publicly last spring. The President needs crisper military advice than he is getting, not the compromised product that results from the military's annual intramural scramble for resources, as then JCS Chairman General David Jones described the problem last year. The nation needs better war plans than the JCS system can now formulate because so much of their time is drained on parochial, inter-Service turf fights or in unproductive meetings of the Defense Resources Board (whose work proves largely irrelevant because of last minute White House changes in the Federal budget bogies).

2. Reform the Congressional defense budget process, as Senator Barry Goldwater urged the Majority Leader in December. Too many Congressional committees (six of them now) are micro-managing too many details of the defense program; their authority overlaps too much; they produce more confusion than direction; and too many Members are using their power to protect their constituencies instead of the nation. (Cleaning up Congress' act instead of the Pentagon's might be a more logical goal of the Congressional Reform Caucus which won so much publicity but produced so little consensus last year.)

3. Reform the Defense Department's civilian hierarchy. Too many decisions are being made by civilian transients who fail even to consult the JCS. Pivotal war plans are too often pigeon-holed for further study by the OSD civilian staff, without even telling the JCS what their misgivings might be. The JCS system doesn't work, so the OSD staff bypasses it instead of helping the Chiefs

overhaul it. Dr. Fred Ikle, the Under Secretary of Defense for Policy, recently wrote AFJ's Congressional Editor about her reports on JCS reform: "Except for some internal, private conversations, that subject has taken a back seat to the battle for the budget." That was also last year's excuse; it will likely be next year's excuse. If JCS reform were put in the front seat, the annual battle for the budget would be far less brutal.

In a press conference last March, Army Chief of Staff General E.C. Meyer "guesstimated" that the Defense Department could increase its efficiency "more than 15 percent" simply by overhauling the JCS system. Fifteen percent of a $250-billion defense budget is $37½-billion—the very kind of increase President Reagan is fighting for.

Meyer pointed out that "15 percent [more] efficiency does not mean 15 percent less dollars." But without basic institutional reforms to the way Congress and the Administration decide how to defend America, even an added $37½-billion won't buy the security we need.●

ALBUQUERQUE SCHOOL NUTRITION PROJECT

● Mr. DOMENICI. Mr. President, recently an article appeared in the Albuquerque Journal regarding the state of the school lunch program in our Albuquerque school system. I was extremely encouraged regarding the steps school officials, students, and parents are taking to insure that their school lunch program provides the highest degree of nutrition possible.

What is extremely interesting is the fact that these changes are being done at the local level rather than having us here in Congress or some other Government policymakers direct these decisions. It would seem to me that the article describes perfectly the capability local citizens have in making sure programs fit the needs of the people.

The article was written by Susan Landon and appeared in the Albuquerque Journal on January 21, 1983, and was entitled "School Nutrition Project to Expand." I submit for the RECORD this article.

The article follows:

SCHOOL NUTRITION PROJECT TO EXPAND

(By Susan Landon)

School cooks will be keeping the lid on canned peas and children will be saying goodbye to gravy in many of Albuquerque's public elementary schools in the next few days.

Lunch trays that were once filled with turkey and gravy, canned peaches and instant mashed potatoes will instead feature plain turkey, baked potatoes, fresh fruit and whole-wheat rolls.

The Nutrition Action Project, which began this fall at Longfellow Elementary School, will be expanded Jan. 31 to most elementary schools in the south area of Albuquerque.

"We're trying to control the amount of salt, fat and sugar in the meals, and increase the amount of whole grains, fresh fruits and vegetables," said Elaine Adkins, cafeteria services director for the Albuquerque Public Schools.

The nutrition project, which may eventually spread to all elementary schools in the district, is the direct result of an effort by the parent of a Longfellow elementary student and the support of the school's principal.

Marilyn Mattson, who often ate lunch with her son last year at Longfellow Elementary School, said she was appalled by what she saw on his cafeteria tray.

"I thought, 'This is 1982, but this lunch doesn't look like it has improved much since when I was in school in the 1950's,'" she said.

"A nutrition revolution was going on around the country, but the school meals here were inconsistent with the concerns of the public."

Mrs. Mattson, who is assistant to the director of the nonprofit Center for Community Education Development, wrote an article in the center's newsletter, asking for parents to start a grassroots coalition to improve school meals.

She received only one response—a phone call from Elaine Adkins.

With Ms. Adkins' support, Mrs. Mattson researched school nutrition programs, and found a model project in Georgia. Longfellow Principal Vita Saavedra was sympathetic to Mrs. Mattson's concerns, and helped set up a nutrition project that was incorporated into the total school program.

Parents in the Longfellow area who were particularly interested in nutrition were asked to a join a committee, which has been meeting since the summer.

The Longfellow project was a hit with students, who started leaving less food on the plates. Soon, Monte Vista and Eugene Field elementaries joined in the project.

The fresh foods cost the district a little more, but the price is offset by increased numbers of students eating in the cafeteria. Students do not pay more for the meals.

The schools added to the project later this month will do more than simply start serving different foods and expect the children to eat them, Mrs. Adkins said. Instead, parents, teachers and administrators will all be involved in the change.

The importance of good nutrition will be taught in the classroom, and teachers will incorporate the nutrition project into math and science classes. For instance, children will learn to measure foods used in nutritious recipes, such as homemade bread.

The change to fresher foods and less sugar, fat and salt is part of a growing awareness of health in the district and the nation, Ms. Adkins said.

"The school district's physician, Norty Kalishman, stresses the importance of 'wellness' as a life skill. People are now learning how to be responsible for their own health," Ms. Adkins said.

"Health should be an integrated part of learning. We can learn math, English and reading, but if we don't take care of our own health, we won't be very successful in other areas."

It has also been shown that children's diets influence their performance in school, she noted.

To make the switch, the school district is taking existing menus and altering them. The change is a trial-and-error attempt to find out what the children like.

For instance, Mrs. Mattson said, children turned thumbsdown on pita bread stuffed with tuna. Also, some children don't immediately take to whole wheat breads and rolls. Cafeteria workers may use flour that is 60 percent whole wheat and 40 percent white.

The cafeterias also try to replace canned vegetables with fresh produce, because the canned products generally have more sodium, Mrs. Mattson said. Studies have shown high salt intake is linked to high blood pressure and other diseases, she noted. Other studies have shown a relationship between consumption of large amounts of fatty foods and cancer.

Ms. Adkins noted that the U.S. government has published dietary guidelines that call for less fat, and sugar in the diet.●

VYACHESLAV CHORNOVIL, JOURNALIST AND DISSIDENT

● Mr. DOLE. Mr. President, I was recently pleased to receive a message from the Committee To Protect Journalists. A nonprofit organization dedicated to the support of colleagues around the world who have been imprisoned or otherwise forcibly prevented from practicing their profession.

The issue of freedom of the press is one that has been, and should be, raised in virtually every corner of the world, regardless of the political system under which the journalists conduct their vital work. I welcome the efforts of the committee to protect journalists, wherever it seeks to promote genuine freedom of the press, wherever journalists may suffer repression for reporting what they believe to be the truth.

With this in mind, I would like to enter into the CONGRESSIONAL RECORD an article from the September 1982 issue of the CPJ Update, the newsletter of the Committee To Protect Journalists. The article describes the tragic fate of Ukrainian journalist and imprisoned Helsinki monitor, Vyacheslav Chornovil, who has spent most of his last 15 years in the Soviet gulag of labor camps and Siberian exile. Although Mr. Chornovil has been imprisoned on a variety of unsubstantiated charges, his real crime, as the following article points out, was to protest the injustices he witnessed as a journalist within the Soviet system.

At this time, I submit the article for the RECORD:

The article follows:

DISSIDENTS CHARGED AS CRIMINALS

Ukrainian Journalist Vyacheslav Chornovil has spent most of the last 15 years in Soviet labor camps and remote, icy places of internal exile. That period has spanned three different sentences. The most recent one, five years in labor camps for "attempted rape," was handed down in June 1980, just a few months before Chornovil's second term was complete.

As Nadia Svitlychna, Chornovil's former editor who is now living in the U.S., explains, the false charge against him reflects a new KGB tactic directed against dissidents who have almost completed their sentences. Guns and drugs are planted on political prisoners, or they are "set up," as in Chornovil's case, and are then resentenced on criminal charges and jailed with common criminals, rather than with other political prisoners. The purpose is twofold: to intimidate dissenters into submission, and to dis-

credit the dissident movement abroad. The tactic also serves to isolate dissidents from colleagues who could provide moral support during the long, painful years of imprisonment.

Chornovil was first arrested in August 1967 and sentenced to three years in a labor camp for spreading "anti-Soviet propaganda," which, after treason, is the second most serious charge in the Soviet Union. Chornovil's crime had been to write about KGB trials of Ukrainian intellectuals. His report was published as *The Chornovil Papers* in the U.S. by McGraw-Hill in 1968. The work earned chornovil the 1975 Nicholas Tomalin prize for investigative reporting from *The Sunday Times* of London.

Released in February 1969 as part of an amnesty, Chornovil resumed publishing in Ukrainian samvydav (samizdat) publications articles critical of Soviet repression. He was arrested for the second time in January 1972 and sentenced to six years in a strict-regime labor camp and three years of internal exile. While in the labor camps he staged several hunger strikes and continued to write about his treatment. In 1975, he renounced his Soviet citizenship in a letter to N. V. Podgorny (then President of the Soviet Union) and applied to emigrate to Canada. He wrote that "there is no guarantee that after the completion of my long term . . . the KGB will not fabricate yet another 'case' and throw me behind barbed wire for the third time." In October 1979, while serving his term of internal exile in the Siberian Arctic (where, he wrote, temperatures drop to 71° below zero), Chornovil joined the Ukrainian Helsinki group to monitor Soviet compliance with the Helsinki accords. The allegation of attempted rape came six months later.

Chornovil's spirit has not been broken by his prolonged ordeal. According to *The Sunday Times* of London, he is so active in organizing prisoners that he has earned the nickname "The General." In February 1982, *The Sunday Times* published a translation of Chornovil's account of a hunger strike declared in June 1980 to protest the attempted rape charges. It first appeared in Ukrainian samvydav, and was later smuggled out of the USSR. About the allegations against him, Chornovil wrote: "I was deprived of all rights to legal defence. In order to shut me up I was, by order of the KGB, denied access to all materials relating to the clumsily fabricated criminal case that was brought against me: even the text of the sentence." On his hunger strike: "On the fifth day, I was told that I was to be punished by a ten-day confinement in the prison cells because I had refused to work." By his account, he was forcibly taken to an isolation cell, stripped and thrown into a cell with bare boards and no bedding. A doctor who had never examined him issued a statement permitting Chornovil's confinement. On the thirteenth day of the fast, an orderly took his blood pressure and gave him some bedding. Faced with compulsory force-feeding, Chornovil abandoned his fast on the twentieth day: "I was forced to eat the sticky bread and water-soup . . . the prison doctor had prescribed . . . with the obvious intention of undermining my health." Chornovil envies I.R.A. hunger striker Bobby Sands his martyr's death. A person who dies from self-inflicted starvation in the USSR, he writes, can never expect thousands of demonstrators at his or her funeral. "Instead," he adds, "funeral rites would have been sadly paid to him by a few prisoners on grave-digging duty, lighting up a cigarette over his grave, marked only by a number. That is precisely the fate that awaits me. . . . One cannot help but be jealous of suicide victims when one lives in a society in which, among other human rights, one is deprived also of the right to determine the course of one's own life."

As Chornovil approaches 45 (his birthday is December 24), his physical health is rapidly deteriorating. A Ukrainian-American newspaper recently reported that he suffers from colitis, hypertension and a shoulder joint inflammation. Earlier reports indicated that he also has arthritis and chronic inflammation of the pharynx.

Chornovil was recently transferred from the labor camp in Yakutsk ASSR to a re-education center in Kiev, the Ukrainian capital and his home city. Such a move is usually an attempt to further torment a prisoner with the close proximity of family and friends. Chornovil's wife Atena Pashko Chornovil lives in Kiev, but restrictions on visiting imprisoned dissidents are so severe that spouses are often unable to see each other for years at a time. KGB agents have been known to pressure a spouse's employer into forcing the dissident's wife or husband to work overtime on the annual scheduled visiting day. According to recent reports, Chornovil's wife was allowed to see him for half an hour at the Yakutsk labor camp in April.●

THE TACTICAL AIR COMMAND

● Mr. GOLDWATER. Mr. President, in the January issue of Armed Forces Journal, an interview was printed with Gen. Wilbur L. Creech, the Commander of the U.S. Air Force Tactical Air Command. For those among you who are unfamiliar with some of these Air Force units, Tactical Air Command is the fighter command of the Air Force.

While we have heard a great deal recently about a revitalization of our strategic deterrent forces, it should be kept in mind that the Tactical Air Command with conventional weapons will be at the forefront of almost any conflict in which the United States might be involved. In fact, if anything is likely, it is that we would be involved in conventional conflict rather than nuclear war. General Creech has made some very pertinent comments on the status of the Tactical Air Command to the editors of the Armed Forces Journal, and I strongly urge my colleagues to read his remarks and study his comments on the various aspects of our fighter forces.

Mr. President, I ask that the article entitled, "AFJ Interview with Gen. Wilbur Creech," in the 1983 issue of Armed Forces Journal International be printed in the RECORD following my remarks.

The article follows:

[From the Armed Forces Journal International, January 1983]

AN EXCLUSIVE AFJ INTERVIEW WITH GEN. WILBUR L. CREECH, COMMANDER, USAF TACTICAL AIR COMMAND

(By Deborah G. Meyer and Benjamin F. Schemmer)

AFJ. Why do USAF's Tactical Air Forces need to buy five additional TAC fighter wings over the next five years or so, when USAFE doesn't have half the collocated operating bases (COBs) it needs to bed down half of the assets you already have standing by to reinforce Europe? In other words, where would you put the extra planes in Europe, and are five additional TAC fighter wings the right priority—when some responsible people suggest that TAC doesn't own the modern munitions it needs to conduct an air war anywhere around the world? General Franz-Joseph Schulze said in Köln in October that we're still buying "Sixteenth Century bombs."

General CREECH. On your first point: we have the COBs we need. I'm not sure where you got the impression that we don't have the COBs. We've made great progress in the COB program. Every single one of the 87 squadrons that I can send over there is bedded down—and they are viable beddown plans. The only problem we've been having in the COB program is getting the initial money for minimum essential facilities from Congress.

AFJ. That's really what we meant. What good is it to deploy some 80 squadrons on soft airfields—no munitions, no shelters, no protective fuel storage? That just gives the Soviets a target-rich environment, doesn't it?

General CREECH. No, not at all. Obviously, as you deploy your force, you run into the mass vs. survivability equation. But he has the same equation. NATO has as many hardened shelters as the Warsaw Pact does. As he brings aircraft forward, he has to put them in the open—or in open-topped revetments—and all are vulnerable to attack by our fighters with CBUs [cluster bomb units].

We have the same problem. But a lot of our bases are much, much farther back than are his, so the fact that ours are in the open is of lesser consequence, but it is still not inconsequential. On balance though, you need those forces there to fight the war with, and you hope to get money for more shelters.

AFJ. The Air Force apparently hopes to buy munitions at a rate of about $5 billion a year starting in 1987 or 1988, compared to less than a billion dollars last year. Doesn't that suggest that you are still planning to spend a lot more money on new airplanes—additional force structure—than on modern munitions? Is that really changing?

General CREECH. No, it isn't. As a matter of fact, if you track the numbers there's been a dramatic decline recently in the number of fighters that we're buying. I don't have all those numbers at my fingertips or the exact change in the ratio; but I can tell you intuitively that I think our budget is weighted more in favor of munitions than airplanes than before because of the very few numbers of fighters we're buying. In the FY 83 budget we're down to buying only 159 fighters, and 39 of those go to continental air defense—and that only leaves 120 fighters to sustain 35 tactical wings. That won't even sustain that force, much less build it.

AFJ. What do you need?

General CREECH. The formula is 6.5 new aircraft per year times the number of wings. Therefore, for example, you would need 260 fighters a year to sustain a 40-wing force and about 228 for 35 wings. That's to cover all kinds of attrition—accidents and aging into the boneyard. So we're buying about half as many fighers as we need.

AFJ. Where do you hope to be in procurement by '87 or '88?

General CREECH. In the high 200s. Unless we go to the high 200s, we will never reach a 40-wing force.

AFJ. Why is it that next year Germany will have its MW-1 dispenser and submunitions available while we haven't one such system ready?

General CREECH. I think that depends on how you look at it. If you break down what the MW-1 system dispenses and look at what we have, we've had for years the kinds of munitions they're just now putting in the field. For example, one of the munitions that that they have in the MW-1 system is very much like Rockeye.

They also have a bomblet that's supposed to be good against runways—STABO. We've tested that, as we have all of the runway-defeat munitions, and we are not persuaded that's the way to go.

AFJ. You had one test of STABO at Eglin Air Force Base recently and it flunked, for a variety of reasons—different temperature and humidity conditions caused the fusing seals to deteriorate after they sat for weeks in the open, things like that. Last month AFSC's Armaments Division recommended, "Forget STABO: let's just work on our own BKEP (boosted kinetic energy penetrator)." But the Germans say they've fixed STABO for our test environment and want us to retest it. They make the point, "If your Air Force is going to reject STABO after one test failure, why should we accept Pershing II missiles, which flunked their first four tests?"

General CREECH. We're not! If it came out that way I didn't intend it. There's still an open mind about STABO. To discuss that for a moment, we've tested all these runway-defeat munitions over the years—BAP-100, Durandal, etc. We were directed to go into the JP-233 program [with the British] by OSD. And the Air Force supported that. But, as you know, that turned out to be an abortive attempt—Congress later canceled the program. So we lost some years. The question then became: where do we go from here? For the interim, we're buying the Durandal, which we tested, and with certain fixes we can make it sufficiently reliable and cost effecitve. Where we go post-Durandal is a very open subject. I talked to [AFSC Commander] General Tom Marsh as late as yesterday, and no decisions have been made. The last thing anyone has done is close the door on STABO. The competition on where we go after Durandal is wide open.

Getting back to your original question, the Germans have a personnel mine not ulike Gator, which we are putting into quantity production. So if you really look at the STABO/MW-1 system carefully, we have a family of the same kinds of munitions, some of which have been in the U.S. Air Force for a long, long time. I don't say this critically, but the Luftwaffe is just getting into the CBU business, after all these years. So it would be very ironic to twist that around and say we're behind them.

AFJ. New airfield denial concepts, such as Counter Air 90, propose the use of conventional ballistic missiles like Axe or BOSS or CAM-40 or even the "Incredible Hulk." How can you assure the Soviet Union that one of those flying off German soil isn't a nuclear weapon? Is it politically feasible to even remotely consider using a conventional ballistic missile for airfield attack?

General CREECH. The fact that it has a so-called "nuclear signature" is one of the factors to be taken into account before any decision is made to buy such a system. There's no question that is a factor one has to take into account. I cannot assure you there is a way around that.

AFJ. Should we be spending money on a large payload airfield denial weapon?

General CREECH. We're looking at that—and it has some interesting potential. First of all, it's a very exciting prospect to be able to push a button and close maybe 55 Warsaw Pact main operating bases. Sounds good, and it would be good. Such a system, though, has some real challenges to overcome; it's not a simple equation. For example, it has to be an extremely accurate system and that sometimes is overlooked. On your typical NATO air base of COB—or your typical Pact air base or DOB [dispersed operating base]—with today's modern fighters you can take off and land on a half of a half of the runway, and that gives you four take-off and landing surfaces. The taxi-way is usually a bit narrower, but that gives you two more by splitting it in half. So that totals to six take-off and landing surfaces. If you close five-sixths of them, it's interesting—but almost irrelevant.

Therefore, you have to be able to hit something that is only 75 ft. wide and 3,500 to 4,000 ft. long—and you have to get the crater in the right place at that.

Moreover, the other side can up the price of poker by building another runway alongside. No new technology is required, and it doesn't cost a great deal. So then you no longer have six available runway surfaces, you have 10. And if you close down nine-tenths, that's not enough. So if you're talking 200-300 ft. CEPs, that's not in the ballpark. It's not enough to hit somewhere on that runway; you have to exquisitely close that last final segment.

AFJ. What is Creech's solution?

General CREECH. First of all, Creech is as strong a champion as anyone else to examine solutions to close runways. And I'm interested in all these innovative approaches that are being examined. If they can meet the accuracy requirements and are mission and cost effective, then I'm very interested.

My primary approach to airfield attack is to go after the unsheltered aircraft. The Pact doesn't have all that many shelters, and while I can't give you the exact number that will be unsheltered in wartime, I can tell you that for every Pact airplane in a hardened shelter there will be at least two and probably three in the open. And we can destroy aircraft in the open in multiples with cluster-type munitions. The Warsaw pact also has a large inventory of attack helicopters, which they must keep generally lumped together for logistics reasons—they can't put one every five nautical miles. And we can track those helicopters back to where they roost at night, with AWACS and other means, and then take them out in multiples as well. Therefore, a key part of my solution is to go against their aircraft in the open with manned aircraft. If we can also bottle up their MOBs for useful periods by mass attack of runways, then fine—let's do it.

AFJ. What about the proposal in Counter Air 90 to put AMRAAMs in MILVAN containers, then fire them barragelike into the air to take care of the enemy fighters that are between Hawk and Patriot coverage and SHORADS, while F-15s and F-106s take on the guys above 15,000 ft.?

General CREECH. I hadn't heard of that one before. Sounds like it deserves a very thorough examination!

AFJ. What would you consider the top three areas of concern with TAC's command, control, and communications?

General CREECH. Let me talk communications, because that's the lifeline of command and control. The top three? Well, first of all, present-day communications are easily disrupted; therefore, we need more and better antijam communications. Secondly, with regard to surface communications, especially in a European context, we have insufficient capacity.

AFJ. Why don't we just give evey colonel in USAFE two or three bucks' worth of 10 pfennig pieces and let them use the Germnan Grundnet?

General CREECH. The Grundnet is going to be used to the extent it can be. Which brings me to my third point, which is physical survivability. Almost all of our comm is now above ground, soft, and very vulnerable to physical attack.

AFJ. How about in a nuclear exchange?

General CREECH. In terms of an all-out nuclear exchange in Europe, we think the communications are adequate. It's in sustained conventional war—large scale, dynamic—that our general C^3 inadequacies are most relevant. Now, we're doing lots of things to solve those problems, including improvements in the physical survivability of the comm in Europe and elsewhere. We've also gone more to satellite communications; however, they have survivability issues to contend with as well. We also have a major effort going forward in AJ communications.

AFJ. Where does IFF (Identification Friend or Foe) fall on your list of top concerns?

General CREECH. IFF is terribly important. We've really never had an IFF system; we have always had an IFU system. We identify friends from unknowns, but we do not have enough certainty about the unknown to declare him an enemy. To we've never solved the foe part of the equation. Before we can ever fire solely on the basis of the IFF we'll first of all have to get our reliability up—otherwise the fratricide is quite high. We solve this problem today through IFF and procedures.

What our inadequacies in IFF do to us today is not so much constrain our shooters as constrain our other aircraft that are going about other tasks that have to follow all of these circumscribed procedures to keep from getting shot down. Therefore if we can solve the IFF problem and get the system reliability high enough to actually fire against that unknown, it would greatly increase the operational flexibility, for example, of our air-to-surface airplanes.

AFJ. A lot of the trade press talks about the competition between the F-16XL and the F-15E. When would TAC be ready to recommend a decision? Or are you going forward with both?

GENERAL CREECH. No, we are not going to go forward with both, as far as I know. First of all you have to understand what the E-model is. It's a product improvement concept—for a possible buy of 400 airplanes—for the long-range battlefield interdiction mission, including at night. All that was proposed was to missionize the rear cockpit and

add LANTIRN [Low Altitude Navigation and Targeting Infrared system for Night]. That's all it was. Then General Dynamics stepped forward with the F-16XL—and they deserve a great deal of credit for developing it with their own venture capital—and they said, hey, we believe we can compete in that ballgame, so let us compete the XL. We said fine, because one always welcomes competition. It turns out that the XL, while being more costly on the front end because of the development costs involved, has certain later costs advantages because it's a smaller airplane with a single engine. It is, at least on paper, competitive.

So we're having what is called a comparative evaluation. There is a schedule laid out by Systems Command that should culminate in an early 1984 decision or thereabouts. We intend then to product improve that fighter for that role, and only a certain number.

AFJ. Going back to LANTIRN for a moment, Dr. DeLauer (Under Secretary for Research and Development) recently told the House Armed Services R&D Subcommittee that for the $6-million or so it will cost per aircraft for LANTIRN, you'll be able to decrease the number of TAC fighter wings you'll need. Do you agree with that theory?

General CREECH. LANTIRN gives you powerful leverage because you can fly more sorties in a given day with the same airplanes. So, yes, there is a trade-off in force structure capabilities. We need to get into night for a whole range of reasons. As I mentioned, one of those reasons is that it increases our ability to fly more sorties and deliver more firepower. However, in Europe in January, with the combination of poor weather and night you only have about a four-and-a-half-hour day on the average. It doesn't matter how many sorties you can fly, you are able to fly only two during that short time frame. But if you can open up night, and go in under the weather, you can expand that operating envelope to 14 hours a day. That's a fantistic jump. It's still not as good as 24 hours, but it's a major improvement. And when you take other seasons in Europe and other locations like RDF country, then you can get up to 22 hours or more a day. The technology is here; there's no doubt. And it's time to get on with it.

AFJ. How high are those 700 pods on TAC's priority list compared to the first extra TAC fighter-bomber wing?

General CREECH. They're higher.

AFJ. Where are Assault Breaker, the Conventional Standoff Weapon, and Pave Mover on your priority list?

General CREECH. High, because we want to do anything we can to support the Army.

AFJ. Is it in the top half?

General CREECH. Oh, yes, very high. After all, the Air Force was the one that came up with the Pave Mover radar that makes the whole concept take form in the first place. Now it has taken on the new J/STARS coloration as a joint program designed to realize some economies of scale in the radar and perhaps even in the missile. The Air Force is supporting that entire effort.

AFJ. In one of the recent FY84 budget issue papers it was suggested by the OSD staff that instead of the Army hanging Pave Mover on the JVX, it should be hung on TR-1s, and that the Army should also buy and operate some TR-1s. Does it make sense to have two Services flying virtually identical systems, when all they really need is the information?

General CREECH. That's a good question.

AFJ. Is there a good answer?

General CREECH. It's not my proposal.

AFJ. Do the four new Soviet tactical aircraft that you mentioned recently show much of a step forward in quality?

General CREECH. Yes, they do represent another important step forward in qualitative terms. It's the same technological phenomenon at work in our own society—the better they get, the faster they move. For example, they now have look-down and shoot-down capability and the similar modern tricks of air warfare. They're generally about a half decade behind us, but when they get there, they're about as good as we are. And they build very reliable equipment.

AFJ. With respect to your Advanced Technology Fighter and Europe's Agile Combat Aircraft plans, is now the time to try and build a truly common NATO fighter?

General CREECH. I think we need to get together to talk about it. You know all of the variables—the Europeans have a propensity to form Europe-based consortiums because they want to keep their aerospace industries alive. Also, sometimes they express the fear that a US-proposed "common solution" really means a US-built solution which they would buy. These roadblocks are not inconsequential. But I think we have to get together.

After spending nine years of my professional life in Europe, including a period of time at a reasonably high level, it's my observation that NATO coalition equipment babies are rarely born. On the other hand, NATO will and does adopt reasonably well-grown children. The NATO AWACS is a good case in point.

We went ahead with AWACS, and when it became obvious that it performed a critical role and was reliable and so forth, NATO came on board and said, "Yes, we'll have one too." But I wonder, if we had started by trying to get 14 nations together on what AWACS should look like, would we still be arguing about one for 1995 with three radar domes on top of it? The F-16 program also has been quite successful. Certainly a common apprach is a good idea, but we need to work within coalition realities.

AFJ. What are some of the new programs that you're excited about?

General CREECH. I'm a big fan of PLSS [Precision Location and Strike System]. It does something we can't do today; it gives us a user's map of where all of those electronic threats are in real time. And that is absolutely imperative. If you think about it, PLSS is the enemy ground threat what the AWACS is to the enemy air threat. It collects, reaches out there with a huge vacuum cleaner and scoops them all up, and tells you exactly where they are. I don't want to find out where their SAMs are located by totaling up our losses. I want to know where they are beforehand.

AFJ. What other new programs are you gung-ho about?

General CREECH. I'm very gung-ho about Compass Call. We have four airplanes now—C-130 communications-jammer platforms with special high-gain antennas—and more are coming. When it flies along on our side of the border and turns on all those jammers, he won't be able to talk MiG-to-MiG, MiG-to-ground, ground-to-MiG, and we even can jam some of his SAM links.

This gets us into his C^3 nervous system. That disrupts anybody; it certainly gives us fits. It will do even more violence to him because he is so dependent on his rigid command and control system. That's strength when you can make it work, but it's also a uniquely exploitable weakness because he can't do without it—it stems from his national way of life.

We sometimes call AWACS the force multiplier, Compass Call is the world's greatest force subtracter.

AFJ. Everybody talked about spare parts two or three years ago, and now that the money is finally beginning to develop, it seems to be a subject a lot of people forget. Are you able to attract alternate sources of supply? Is the increased spares budget paying off in higher readiness rates?

General CREECH. We're better off than we were, but we're not nearly as good as we need to be. Part of that is because we had gone so low in the late '70s in the logistics support accounts. Are we feeling the effect of increased funding? Yes. Those parts are beginning to show up, but not in huge numbers yet.

AFJ. What would you say is the greatest strength and weakness in Tac Air?

General CREECH. Let me start with our greatest weakness, which is our inability to fight at night. That is when the enemy hits hardest, and that's when we are going to have to fight to survive and to get the most out of every single piece of equipment.

Our greatest strength? American know-how. When we choose to field it, we have the world's best equipment. It works well; it is reliable. I think the Israeli Bekaa Valley campaign vs. the Syrians showed what good equipment can do. But the other part of the know how equation is found in our military people. For example, we have the finest air crews in the world, bar none, and they are exceedingly well trained. They're being trained more realistically than ever before, and we know how to get them to where they need to fight. He enjoys the numbers, but we have the greater know-how and experience; our equipment is better, and our people are better. We just have to keep that going—without letting the quantitative difference grow too wide.●

OUR AGRICULTURAL RECESSION

● Mr. ANDREWS. Mr. President, those of us in rural America are well aware of the crises facing American farm families. The challenge is to communicate this pressing concern to those who live in the urban areas of our Nation—areas with serious problems of their own. Many of our leading economists realize that when the farm economy is in a state of shock, the tremors are felt throughout the remainder of our society. We must respond to the economic needs of American agriculture, not only because of the destabilizing impact of the economic recession on those of us who live and work the land, but, also, because of what it means for the rest of America.

Therefore, Mr. President, I would like to call to the attention of my colleagues, an article in the New York Times of January 27, which discusses the far reaching impact of our agricultural recession. Written by Dr. Jean Mayer, president of Tuft University, and former Chairman of the White House Conference on Food, Nutrition

and Health; its significance to me is not only based on its factual information and thoughtful concerns, but that it is written by an individual who does not represent the agricultural industry or serve as a spokesman for the American farmer. As one who is concerned about the broad spectrum and interrelationship of our economy, I recommend this article by Dr. Jean Mayer. I ask that the article be printed in the RECORD.

The article follows:

MORE AID FOR FARMS

(By Jean Mayer)

Farmers constitute just 4 percent of our population; only half of these farm full time. Most Americans are well aware of the dismal conditions in the auto, steel and housing industries but few remember that agriculture is the nation's largest industry—bigger than all of these three combined.

Agriculture puts about $140 billion a year into goods and services. Agriculture and food generate one in five jobs in private industry and account for 20 percent of the gross national product. Our 1982 agricultural exports brought in $39.1 billion and a $23.7 billion surplus in foreign exchange, which partly offset the $57.2 billion deficit in our nonagricultural trade.

Profit in farming, as in any other business, equals price times volume less cost. Food prices have risen, but most of the increase has come at the processing, transportation, wholesale and retail levels of our nationally distributed food supply. Volume is up, but our grain surplus is twice as large as it was in 1980, depressing prices farmers get for their commodities. Meanwhile, farmers' costs have skyrocketed.

Washington's "light bulb" approach to providing food abroad (turn it on, turn it off) has harmed our farmers and benefited agricultural competitors (in Canada, Western Europe, Australia and Argentina). Food-as-a-weapon turns out to harm our farms more than our adversaries.

In its new payment-in-kind program, the Administration has found a way to help farmers while saving some $1 billion a year. This makes good fiscal sense, but making more Government-stored grain available for sale will not immediately solve the basic problem of low prices that farmers are paid. Even with the acreage-reduction program, huge surpluses will remain. In the next year, there is no reason to expect improvement in prices.

Three-quarters of our farmers must borrow to produce their next crop. The average production loan is $89,600. In 1982, farmers' interest costs were about $23 billion, according to provisional Government data; interest rates are down but not far enough. Farm debt has doubled in the last five years and, as of Jan. 1, was $215 billion.

There is a real danger of a wave of farm bankruptcies, like those of the late 1920's, which could set off a similar ripple effect throughout the economy. One farmer may sell his holdings for a reasonable price. When a number in an area are forced to liquidate, prices drop to a fraction of the assets' value. In Iowa, for example, farmland that in recent years had sold for $3,000 to $4,000 now goes for no more than $1,800. Usually, the only buyers are other farmers. Sales prices set the value of collateral for the next loan to farmers who remain in business. Clearly the situation is extremely serious.

Food stamp and other Federal feeding programs constitute an indirect subsidy to farmers. Administration budget cuts thus have injured the farm economy and have been detrimental to the health of America's poor. Past and proposed cutbacks in these programs should be reconsidered.

As for the world's poor, there will never be a better time to use our enormous quantity of surplus grain to establish a global system of adequate reserves against future shortages.

While the payment-in-kind program permits retirement of some secondary land that is most susceptible to erosion, the nation also needs a far more vigorous land-retirement program together with an expanded effort in conservation. Farmers, along with the Government, are the major conservators of land and water resources. Each year, nationwide, erosion destroys the equivalent of 1.5 million acres of prime land. Farm water resources are being depleted as a result of pollution, salinity, the mining of ground water, and acid rain. Insect infestations destroy food crops and damage timber. We cannot expect farmers to bear the major costs of conservation any more than we can expect them to carry a major burden of our conduct of foreign affairs.

The Administration's first steps toward maintaining farmers' income and toward a sound international agricultural policy stir hope. Now, steps on conservation and reserves are awaited.●

WHO WILL FIGHT?

● Mr. DOLE. Mr. President, I would like to preface my remarks at this time with a quote from Vladimir Bukovsky's book "And The Wind Returns," translated into English as "To Build A Castle."

But how will it be with the worker Borisov, or the stonemason Gershuni, with the students Novodvorskaya and Ioffe, the set designer Viktor Kuznetsov? None of the academicians will raise a fuss over them in the central committee, and the world scientific community will not threaten a boycott . . . who will fight for them?

The answer is, or course, that the cases of many Soviet Prisoners of Conscience have been taken up by individuals and organizations all over the world, regardless of the race, religious beliefs, economic or social status, or even the political viewpoint of the Prisoner of Conscience. And, more precisely, when we think of academicians standing in the forefront of the struggle for human rights in the Soviet Union, the name that invariably comes to mind is that of reknowned Soviet physicist, Dr. Andrei Sakharov.

As most of my colleagues are probably aware, January 22, 1983 marked the third anniversary of the forced exile of Doctor Sakharov from his residence in Moscow to the city of Gorky. The depressing sequence of events that led to this brave man's persecution and exile by Soviet authorities is common knowledge throughout the free world. For his selfless efforts on behalf of human rights in his homeland, for full implementation of such international agreements as the U.N. Declaration on Human Rights and the Helsinki Final Act, for genuine world peace, Andrei Sakharov was honored by the free world with the Nobel Peace Prize. His own government, on the other hand, chose to strip him of his livelihood, his academic honors, his right to publish.

But it could not strip him of his dignity, his sense of duty to mankind. Doctor Sakharov continues, even in the most difficult of circumstances, his pursuit of scientific advancement and his defense of the victims of Soviet injustice. In his appeals to his own government and to the free world, he has called attention to the plight of distinguished Russian biologist Sergei Kovalev, Father Gleb Yakunin, founder of the Russian Orthodox Christian Committee, the Georgian musicologist Merab Kostava, Mykola Rudenko, leader of the Ukrainian Helsinki Group, whose wife Raisa followed him into the camps for protesting her husband's unjust imprisonment.

Also the Estonian orthinologist Mart Niklus, Lithuanian human rights activist Viktoras Petkus, Moscow Helsinki Group founder Yuri Orlov, and, of course, Jewish emigration activist Anatoly Shcharansky. And this is only a partial list. In his statement to the 1982 Pugwash Conference on International Cooperation, Andrei Sakharov mentions over 20 Soviet Prisoners of Conscience, without once having referred to his own arduous circumstances, such as having had to conduct a prolonged hunger strike with his wife Elena Bonner, so that the Soviet Government might "graciously" accede to his stepdaughter's request for permission to emigrate from the Soviet Union and join her husband in the United States.

AND A BRILLIANT SCIENTIST

The Soviet Government has not only sought to deprive its own people of an intercessor for the victims of repression in the Soviet Union, but has also committed a serious offense against all of humanity. The extent of Dr. Sakharov's contributions, both past and potential, to the study of physics has only begun to be realized. According to an article in the Washington Post Book Review, Sakharov's scientific writings, only recently published in English, reveal an extraordinary degree of scientific accomplishment and anticipation of recent developments in physics. Imagine what Dr. Sahkarov might be able to accomplish in decent scientific surroundings, free from police harassment, without the fear of having his scientific and personal papers stolen. In the past 4 years, Dr. Sahkarov has reported four such incidents. The situation has become so acute that I have been informed that Dr. Sakharov has appealed to the Helsinki signatory states for humanitarian and legal aid to protect him from acts of violence against

him. In Sahkarov's own words, the state prosecutor has threatened to "call him mercilessly to account" for his human rights activities. It would be interesting to know what the prosecutor has in mind. Perhaps assaults by "unknown assailants" on the street, as is frequently the case with those whom the Kremlin considers "troublesome," or can we expect a full-fledged show trial, complete with KGB-tutored witnesses and handpicked spectators assigned to keep "undesirables" out of the court-room.

Mr. President, the Soviet Government's treatment of Andrei Sakharov is an outrage. If the Soviet Government is genuinely interested in world peace and disarmament, it must realize that actions speak louder than words. And presently, the words emanating from the Kremlin sound hollow indeed, while the KGB attempts to stifle the noble voice in Gorky.●

THE ULTIMATE EVIL

● Mr. GOLDWATER. Mr. President, recently I came across an article by Maj. Gen. Robert F. Cocklin, U.S. Army, retired, concerning the wide variation between our democratic system as it is taught to students of political science and the real way in which our democracy works when decisions are made in Washington.

My colleagues are well aware of the yearly ordeal of dealing with the Defense budget, along with the many other appropriations bills which we act on in the course of a session of Congress. Most of my colleagues are also well aware, if they stand back to look at the process, that we do a poor job in formulating our defense posture on its merits. We are more inclined to let politics creep into the equation. As I have said often before, we have tended to act as though we were defending different regions of this Nation instead of the entire Nation.

The result of some of these sporadic activities by Congress is that no civics class, as General Cocklin has pointed out in his article, could possibly understand what we are doing. I urge that my colleagues read the editorial article by Major General Cocklin and that we all take a vow to conduct the legislative process so as to act in the national interest, whether we are dealing with a defense bill or a social program.

I ask that the article entitled "The Ultimate Evil" by Maj. Gen. Robert F. Cocklin be printed in the RECORD.

The article follows:

THE ULTIMATE EVIL

It is probably a good thing I never strove to be a civics teacher. I wouldn't be a good one. My direct Washington exposure to our democratic system varies considerably from what I was taught in school. It has made me somewhat dubious that we as a country or as a people can ever accomplish the true greatness that is within our capability but constantly eludes our grasp.

We have just concluded a mid-term election which, for many political reasons, caused us to avoid facing the basic issues that both emasculate our economy and debilitate our defense posture.

Yet with the ballots scarcely counted, prospective presidential candidates for 1984 are already launching their unofficial campaigns, as have some of their colleagues in the House and Senate. As a result, we will now go through another two years of avoiding directly the gut issues that not only plague us but disconcert our allies, and will be plastering over much that needs serious change. Common sense and good judgment will be trimmed and tailored to meet what is perceived to be the best interests of prospective candidates rather than those of the country.

The defense budget, for example, has little chance of being judged on its merits. It will be judged, rather, on perceptions of how much of the national budget it is acceptable politically to put in to it, and this compared to the social welfare portions of our national outlays. Make work jobs will compete very heavily in this arena. Our commitments overseas, the threats to our national interests and all the truly vital facets of the modern world that bear so strongly on what our defense posture ought to be will get less consideration than will other influences.

Can you imagine the absurdity, for example, of the National Conference of Catholic Bishops impacting significantly on our strategic policy with their uninformed nuclear freeze and unilateral disarmament proposals? But since they are perceived to have some potency politically their views will receive attention. Explain that to your civics class—never mind that business about the separation of church and state.

Francois de Rose, France's former Ambassador to NATO from 1970-1975, put some of what disturbs me into perspective in an article appearing in the Fall issue of *Foreign Affairs*: "It is difficult to argue about moral issues. But one can legitimately consider that the sin lies with aggression and not with preparing to defend oneself with whatever means, even if that 'whatever' includes the atom. The ultimate evil would be in a doctrine that would guarantee immunity for the aggressor and devastation and loss of freedom for the peace-loving nations. To make the world safe for aggression would be the apex of immorality."

That seems a cogent point to apply to our whole system. We are in danger of succoring the "ultimate evil" if we cannot find a better way of providing constancy and believability in our defense program and some protection from the fickle winds of political expediency which blow without interruption across what seems a treeless plain.

But that's our system—and better we should recognize its worth and get on with the business of making it respond to the extent we can. We must be persuasive—while credible—forceful but honest—and above all indefatigable. In the end, we'll move forward a few strides. It's a cumbersome, wasteful way to do business but it is still better than any of the alternatives. I would find it very difficult to explain it logically to a civics class—assuming we still teach civics.

May God bless all of you in the coming year.●

R&D PROGRAMS IN THE PROPOSED FEDERAL BUDGET

● Mr. DOMENICI. Mr. President, I would like to take this opportunity to examine one particular area of the President's proposed budget. It is worthy of praise not because it is the subject of a proposed increase of 17 percent to $47 billion, but because of the way in which that increase has been targeted. I speak of the research and development programs in this proposed Federal budget. These increases which I will discuss in further detail in a moment are aimed at those areas of greatest potential. By potential I mean areas where advancement will have positive effects on our economy and its long-term strength. This proposed budget focuses on university research, principally through an increase of 18 percent for the National Science Foundation, so as to further the training of scientific and technical personnel. Furthermore, several programs to enhance science and math education in universities and secondary schools are embodied in this budget proposal, thus reinforcing the theme in this budget that we must prepare our youth for a society with increasing technical complexity.

Mr. President, as I stated earlier this proposed R&D budget represents a 17.2 percent increase over fiscal year 1983 and more strikingly, a 25.0 percent increase over fiscal year 1982. Some will argue that the good news represented by this budget is really only for defense related research. Some will focus on particular projects or programs for which there is a proposed reduction. By targeting increases in certain areas of high potential the President has assured these criticisms will be forthcoming, but further inspection of the proposed budget will, I believe, demonstrate the sincerity and vision of this proposal. I will include in the RECORD at this point a table showing the funding for basic research in this budget. Overall, basic research would receive a 10-percent increase from $6.0 billion in fiscal year 1983 to $6.6 billion in fiscal year 1984.

As I mentioned earlier, Mr. President, this proposed budget encompasses several initiatives in the area of science and math education aimed at improving the current level of education and encouraging talented young researchers to stay at their universities and teach young people on their way up. At the secondary school level it would provide a scholarship program for about 40,000 teachers over the next 3 to 5 years. This program would require non-Federal matching funds as would a research support program for about 1,000 outstanding young Ph. D.'s in university research. This program would provide $100,000 per year for up to 5 years. In order to help revitalize our research equipment

at the university the budget would call for up to $400 million for the purchase and replacement of scientific instruments.

Mr. President, obviously the Congress will review this proposal and make modifications where we feel it is necessary. I believe that the R&D budget proposal before us is an excellent proposed budget, targeted at appropriate programs. I will include in the RECORD two further tables taken from the President's proposed budget.

The tables follow:

CONDUCT OF BASIC RESEARCH

	Dollars in millions (fiscal years)		Percent change (fiscal years)	
	1983	1984	1984 to 1983	1984 to 1982
Total basic research	6,025	6,619	9.9	21.7
DOD	769	867	12.7	26.4
Non-defense	5,256	5,752	9.4	21.0
NIH	2,049	2,086	1.8	13.4
Other	3,207	3,666	14.3	25.8
Agencies supporting primarily life sciences	2,678	2,755	2.9	13.7
Agencies supporting primarily physical sciences and engineering	3,347	3,864	15.4	28.1

TABLE K-2.—CONDUCT OF RESEARCH AND DEVELOPMENT BY MAJOR DEPARTMENTS AND AGENCIES

[In millions of dollars]

Department or agency	Obligations			Outlays		
	1982 actual	1983 estimate	1984 Estimate	1982 actual	1983 estimate	1984 estimate
Defense military functions	20,576	23,179	29,882	18,201	21,847	26,844
Energy related activities	4,758	4,712	4,713	4,974	5,012	4,911
Health and Human Services	3,935	4,316	4,416	3,978	4,262	4,339
(National Institutes of Health)	(3,432)	(3,771)	(3,842)	(3,438)	(3,737)	(3,808)
National Aeronautics and Space Administration	3,084	2,506	2,473	3,220	2,386	2,421
National Science Foundation	975	1,060	1,240	1,014	1,002	1,137
Agriculture	798	850	849	808	839	848
Transportation	309	393	519	349	376	451
Interior	381	373	329	392	411	348
Commerce	290	312	227	285	315	249
Environmental Protection Agency	335	241	208	336	295	250
Nuclear Regulatory Commission	221	210	200	209	210	200
Veterans' Administration	140	165	163	138	157	156
Agency for International Development	165	152	161	179	200	152
All other	388	391	418	426	425	433
Total	36,354	38,860	45,796	34,509	37,735	42,741

TABLE K-3.—CONDUCT OF BASIC RESEARCH BY MAJOR DEPARTMENT AGENCY OR ACTIVITY

[In millions of dollars]

Department or agency	Obligations			Outlays		
	1982 actual	1983 estimate	1984 estimate	1982 actual	1983 estimate	1984 estimate
Agencies supporting primarily physical sciences and engineering:						
National Science Foundation	916	998	1,181	954	943	1.083
Energy related activities	777	861	1,021	774	859	1.001

TABLE K-3.—CONDUCT OF BASIC RESEARCH BY MAJOR DEPARTMENT AGENCY OR ACTIVITY—Continued

[In millions of dollars]

Department or agency	Obligations			Outlays		
	1982 actual	1983 estimate	1984 estimate	1982 actual	1983 estimate	1984 estimate
Defense—military functions	586	769	857	603	746	776
National Aeronautics and Space Adminstration	538	605	682	537	588	658
Interior	74	88	89	74	89	94
Commerce	17	18	16	16	16	17
Other agencies	9	7	8	9	7	8
Subtotal	3,017	3,347	3,864	2,967	2,249	3,636
Agencies supporting primarily life and other sciences:						
Health and Human Services	1,953	2,184	2,238	1,962	2,154	2,214
(National Institutes of Health)	(1,840)	(2,049)	(2,086)	(1,835)	(2,022)	(2,058)
Agriculture	331	362	381	338	356	380
Smithsonian Institution	55	60	68	47	60	62
Environmental Protection Agency	33	21	17	30	25	22
Veterans Administration	13	15	15	13	15	15
Education	16	16	14	22	22	18
Other agencies	22	22	22	22	23	13
Subtotal	2,422	2,678	2,755	2,434	2,655	2,723
Total	5,439	6,025	6,619	5,401	5,904	6,359

AMERICA'S DISPOSSESSED AND A JOURNALIST'S KEEN VIEW OF THEM

● Mr. MOYNIHAN. Mr. President, over the holidays, an extraordinary set of nine editorials appeared in the pages of the Washington Post that taken collectively, represent one of the most compelling arguments in support of action to alleviate the condition of America's poorest citizens—its dispossessed, homeless, and often hopeless men and women.

The writer responsible for this series, the gifted journalist Jodie T. Allen, began her work on December 23, 1982, the day the 97th Congress adjourned. Would that we all might have had this sobering series in hand before departing for our individual holiday celebrations.

She has described the often pathetic reality of life on the streets for America's estimated 500,000 to 2 million dispossessed. It is a measure of our serious neglect for the homeless that we do not precisely know how many of them there are. "This is not a country," she declares at the outset, "where families can live under bridges or in 'cardboard cities' while the rest of us have our turkey dinner."

She persists—cataloging the indifference that policymakers frequently attach to the question of the homeless and the miserable conditions that those who suffer are forced to endure. And the series concludes, as the year came to an end, with a sensible set of suggestions on what we might do in response.

Mr. President, editorials on the poor are as plentiful as the wealth of the Nation that has allowed such misery to perdure. This series from the Post is different; is special in its eloquence, and commanding in its force.

I ask that it be printed in the RECORD so that my colleagues might read it. All should.

The material follows:

[From the Washington Post, Dec. 23, 1982]

AMERICA'S DISPOSSESSED

Most people around the country are preparing to enjoy the abundance of the holiday season. Merchants may complain that Christmas sales are slow, but the wariness of the average shopper has less to do with any actual reduction in his purchasing power than with a slight feeling of guilt that comes from knowing that, for many Americans, good times are not just around the corner.

The most emblematic reminder of that distress is the national unemployment rate, which tells us that 12 million people, 10.8 percent of the U.S. labor force, are now jobless. If you're interested in more statistical detail, you can find out that in some areas the unemployment rate is more than twice that national average.

You'll also find that the duration of unemployment has been increasing—2.3 million people have been out of work for more than six months—and that over the course of the year, perhaps a quarter of the labor force will suffer some unemployment. Two out of five of the unemployed will never get their old jobs back because those jobs have been permanently abolished.

Still, for most Americans, the statistics don't tell the story. Far more immediate reminders of hard times are the homeless people who now haunt almost every shopping center, business section and neighborhood. Even at the height of America's prosperity, these beggars-at-the-feast appeared now and then to remind the affluent that there were still dark corners in the nation's social structure. Now, however, such people—the dispossessed—are becoming harder to ignore, not only because they are numerous but also because many of the newcomers bear a distressing resemblance to the family next door.

America's displaced persons now come in all sizes, shapes and colors. There are still the traditional winos and drug addicts. The bag ladies are a relatively newer phenomenon, but they are already a familiar part of the urban scene. Now they are being joined by displaced workers and their families who, having run through whatever savings and unemployment benefits they had, have been forced out onto the nation's streets and highways.

No one knows how many displaced people there are—you can get estimates ranging from a half-million to 2 million, depending on whom you ask—but there is no dispute about the fact that their numbers are growing. And there should be no dispute about the fact that this rich society has an overriding obligation to rescue these people from a fate that is unacceptable in America. This is not a country where families can live under bridges or in "cardboard cities" while the rest of us have our turkey dinner. In the next several days, we intend to come back

repeatedly to this subject, by way of observing the Christmas Season, 1982.

[From the Washington Post, Dec. 24, 1982]

AMERICA'S DISPOSSESSED: WHO CARES?

Who will help you if you're not lucky enough to catch the President's eye? Suppose you've been out of a job for months and your family is about to be evicted. Or you've been wandering the streets ever since the mental institution that used to be your home decided you were cured. Where can you turn?

Some people in trouble do get lucky—if that's the proper word for it. Some show up in a public shelter with photogenic children who attract the media's attention. That will bring an outpouring of clothes and food and even job offers. Some, like Reginald Andrews of New York City, come to national fame. Mr. Andrews, the father of eight children, has been unemployed for a year. Last Monday, while returning from applying for a job as a meatpacker, he saved a blind man who had stumbled between two cars of a subway train. His heroism earned him a job offer from the meatpacking plant.

Mr. Andrews also received a telephone call from President Reagan, who is frequently moved to such action when individual acts of heroism or hardship are brought to his notice. No President, however, can talk with each of the 12 million jobless or the more than 30 million people living in or near poverty, much less deal with their problems on an individual basis. They need more tangible kinds of help.

For most of the unemployed, the first source of help is unemployment benefits—now running at an annual rate of more than $30 billion. But unemployment benefits are usually low relative to prior earnings, and they run out—less than half of the unemployed now qualify. The next recourse is help from friends, relatives or union organizations. But in many areas where the plants or mines that were the primary source of jobs have shut down, more than half of the labor force is unemployed, and few people can afford to provide steady help to their neighbors.

Public welfare is one possible resort—if you're willing to sell off most of your assets or let the government put a lien on your home. And even then, in many jurisdictions you can't qualify for anything but food stamps if you don't have young children or if there is an able-bodied man in the house. As the unmet needs grow—and as the federal aid that sustained many nonprofit community services shrinks—charitable organizations are stretching their already strained resources to fill the gap. Congress wanted to provide an extra $50 million to help these organizations, but dropped it from the omnibus appropriation passed this week for fear of a presidential veto.

There are other limits to relying on voluntary charity. Most Americans are glad to donate food or clothes or money, or to organize charity drives and benefits. But many of the down-and-out aren't very appealing people up close. It's hard to persuade middle-class people to drive each day to where the poor are, to work in soup kitchens and shelters, to quiet the deranged, sober up the drunk and find jobs for the desperate. Most of the burden of hands-on private charity tends to fall on the people who should find it hardest to bear—the residents, churches and other institutions of the inner city who, to their great credit share their scant resources with those still less fortunate.

There is something to be said for symbolic gestures as an instrument of leadership. But Mr. Reagan's gestures really have no particular beneficial impact. They concentrate the public attention on what a nice fellow he is when confronted by the specific suffering of another. But they do not show the way to any kind of relief for those who are victims of economic and social forces beyond their control—circumstances for which Mr. Reagan himself bears some degree of responsibility.

How much more moving it would be to know that he was inspired to take action to alleviate the distress of people newly brought to hard times than to know that he has telephoned to encourage one of them. Mr. Reagan wants people to know he cares. People want to know that he cares enough to do something about it. For that we all still wait.

[From the Washington Post, Dec. 25, 1982]

AMERICA'S DISPOSSESSED—CHRISTMAS ON THE GRATES

Who are all these people huddled on the heating grates outside government buildings, department stores and around the nation's monuments? Why have they kept upsetting our Christmas cheer as we hurried home from office parties and present-buying? Isn't there some place for them to go where, at least, we won't have to think about them all the time?

These are the dregs of the nation's homeless—the winos, the beggars and the bag ladies. They're more obvious these days because they have fewer places to go. They used to spend their nights in jails or single room occupancy hotels. Many once resided in public mental institutions. But urban renewal has displaced the flophouses and missions in many cities. And civil rights activists persuaded courts that it wasn't right to lock people up just for being drunk—and anyway the jails are full with other, more serious offenders.

Perhaps a quarter of the street people are refugees from mental institutions. They were dispossessed by the enthusiasm for "deinstitutionalization" that swept the country a few years ago. Well-meaning liberals argued that it was wrong to keep people locked up now that new drug therapies make it possible for many mentally ill people to function fairly normally. That argument also appealed to the fiscal conservatives, who saw great savings from closing the institutions that once housed them. The solution worked well for those patients who could return to jobs or caring families. But the halfway houses and job opportunities that were supposed to sustain most of those ejected never materialized in even near sufficient number.

Neither did the rehabilitation centers that were supposed to handle the alcoholics. Nor the substitutes for the cheap housing and shelters displaced by urban renewal. Now all their former occupants are crowding the soup lines, missions and hastily constructed public shelters in cities from coast to coast. Together with the long-term unemployed, many of these people are sleeping on grates and in makeshift cardboard shelters or sitting up overnight in church pews and public restrooms. Occasionally some will threaten suicide or other violent acts in hopes of being locked up in a warm safe institution. And occasionally some of them will freeze to death.

It's not easy to help some of these people. Many won't go to shelters because they fear—often with good reason—that they will be brutalized by other occupants or even by shelter guards. Many are terrified of human contact, lost in the horrifying world of the insane. But it doesn't require a full flight into madness or alcoholism to earn you a spot on the grates. All it takes is a broken family, lost savings, a disability that won't meet the government's toughened standards for aid or a Social Security or welfare check that won't pay the rent.

Now and then you will see a street person—a bag lady, perhaps, with her head held high and an air of faded gentility about her shabby clothes—who will remind you that, even in this wealthy nation, there is no sure guarantee against having to sleep under bridges and beg in the streets.

[From the Washington Post, Dec. 26, 1982]

AMERICA'S DISPOSSESSED—THE NEW MIGRANTS

As the holiday weekend comes to a close, and you settle in, perhaps, for a day of football and turkey sandwiches, thousands of other people will be moving through towns and cities looking for food, shelter and a job. Just about a year ago, President Reagan suggested that people who weren't happy with the high unemployment rates in their home towns should "vote with their feet." Since that time, many jobless workers have found they have no other choice.

These people have used up whatever unemployment benefits or savings they had, been evicted from their apartments or sold their homes for whatever they could get. They've said goodbye to their friends and relatives, left behind all those familiar landmarks—schools, churches, bowling alleys, shops, bars and meeting places—that make a community home. Now they're living in cars, trailers, tents or cardboard huts. They move around the country searching for something they're not likely to find—a well-paid job that can be done by a man with few skills and a lot of pride.

Not many communities have welcomed them with open arms. Even in the flourishing Sunbelt, jobs have become hard to find. The tradition of community responsibility for the destitute is also less firmly rooted in the fast-growing cities of the South and West, which, even in good times, are used to warding off drifters in search of sunny climes. Public shelters are almost nonexistent, privately run missions and soup kitchens are overflowing.

In Phoenix, for example, local ordinances make it a misdemeanor to sleep in a public place or pick through garbage. Urban renewal efforts have closed down all the private shelters, flophouses and other refuges in the downtown area. These laws weren't aimed at the new group of homeless. They were meant to discourage the hundreds of alcoholics, drug addicts and refugees from mental institutions who frequented the downtown area even when times were good. Now, as the number of homeless has swelled into the several thousands, the city has designated a "neutral zone" in which the destitute can camp out. It has also allowed a private charity—which already provides job-finding and other help for transient families—to raise money for an emergency shelter.

In other localities, the only help for transients is free gas and auto repairs, provided in the hope that the homeless will keep moving. Here and there, the quality of mercy is strained to the breaking point. A Fort Lauderdale councilman, for example, suggested some months ago that local busi-

nesses spray their dumpsters with kerosene so that hungry people would quit foraging. Perhaps he got the idea from the Californian's Depression-era method of discouraging the Okies by squirting surplus oranges with kerosene and dumping potatoes in the rivers. Happily, other city officials were not interested.

It's impossible to know how many of the jobless have been forced out onto the nation's streets and highways. They don't line up to be counted, and many are too proud even to ask for help. But there is ample evidence that their number is large and growing. The shame of it is not contingent on their numbers. It is enough that more people daily are being reduced to such a life in our prosperous country. There is, as John Steinbeck once wrote, a failure here that topples all our success.

[From the Washington Post, Dec. 27, 1982]

AMERICA'S DISPOSSESSED: SEARCHING FOR JOBS

Today in America there are 12 million people looking for work. Millions of other jobless people have either become so discouraged they've quit trying to find a job or have taken part-time work until they can find a full-time job. Why can't these people find work? After all, there are still help wanted ads in the papers, though admittedly only around half as many as two years ago. The trouble is that many of the available jobs require skills and education possessed by few of the unemployed. Openings do occur in less-skilled jobs: even in the worst depression normal turnover produces some vacancies. But for most of them there is a line of job-seekers waiting.

Recently in Los Angeles, about 1,000 people—some in upper-middle-class attire—lined up to apply for five manual labor jobs. These jobs, however, paid up to $1,380 a month. Further down the heap are the menial jobs that have become the property of illegal immigrants and other fringe members of the society. When the immigration service launched a drive to oust illegal workers from these jobs last spring, employers claimed that they could find no other takers. Perhaps the employers didn't try very hard—illegal status makes docile workers—but when the Wall Street Journal tracked down some U.S. workers who took them, they found that nearly all had quit within a few days. Low pay and harsh working conditions were part of the reason. But so was self-respect. Stigma attached to the kind of work currently reserved for aliens. Minimum level wages are now derided as "women's pay."

Perhaps that attitude partly explains why women haven't been hit as hard by this recession as men have. But before you prescribe a steady diet of minimum wages for the unemployed, remember that the minimum wage is now frozen at $3.35 an hour. In terms of purchasing power that's about 25 percent less than the minimum wage in 1975. After payroll deductions, transportation and other work expenses, a minimum-wage worker clears less than $6,000 a year, far below the official poverty level for a family of four. Try providing food, clothing, housing and medical care for a family on that amount of money—even if you're eligible for government supplementary assistance—and you'll see why breadwinners can't settle for it.

Of course many people who are trained for and accustomed to better-paid work have taken such jobs to make some livelihood anyhow. But this kind of drop in living standards—especially after people have "paid their dues," worked their way up a bit higher—is not something that the average American, growing up in the prosperous decades since World War II, has been led to expect. There have been recurrent recessions to be sure, but government intervention in the economy and government insurance-type programs could be counted on to see everyone through, and sooner or later the jobs came back.

This time a return to normal conditions is not in the cards. Government policy has changed. And more is going on in the economy than the kind of cyclic downturn that comes from an excess of inventories or even an oil shock. While no one was paying much attention, the U.S. economy became internationalized, and a new wave of automation is sweeping through both the manufacturing and service sectors. This means more markets for the high technology that America excels at, but it also means that many of the jobs formerly held by the nation's displaced workers will, in the future, be done by either foreign workers or robots. Without substantial help, the worker in search of a decently paid assembly line job is likely to be on the road for a long time. That is why the help must come.

[From the Washington Post, Dec. 28, 1982]

AMERICA'S DISPOSSESSED: WHAT NEEDS TO BE DONE (I)

The common wisdom of mainstream economists is that there are no quick solutions for the economy's current malaise. Many people seem to think, however, that accepting this truism implies that you also accept the victimization of millions of people who suffer most directly from the recession. As long as you're properly sympathetic to the plight of this or that poor soul who comes to your attention, it is felt, you're absolved of any further responsibility for trying to alleviate the worst side effects of the economy's period of adjustment.

For example, Congress has just adjourned after adopting a budget for this year that further reduces many services and offers no new help for the unemployed beyond a few extra weeks of unemployment benefits. The administration, meanwhile, is preparing a budget that, by all reports, will call for additional reductions in basic social and educational services. All of these reductions will come on top of the earlier cutbacks made in the federal domestic budget—and the further retrenchments that have been forced on fiscally strained state and local governments.

It strikes us that the fatalism that powers this inaction—a fatalism indulged almost exclusively by the comfortably employed—is profoundly misguided. If you accept the notion—as we do—that in order to avoid a recurrence of the damaging boom-and-bust cycle of the last decade, the recovery is going to have to be long and slow, surely you also should accept a very direct obligation to see that the costs of the necessary adjustment do not fall disproportionately on a small part of the citizenry.

The inflationary cycle that fueled the extraordinary employment growth of the last decade caused many distortions in the economy. It impeded investment and penalized people who saved and those who lived on fixed incomes. But it had, at least, the virtue that it hit almost everyone. Not so unemployment—the tool that current economic policy has used to curb inflation. Even now the great majority of Americans are better off than ever before. This is especially true of those at the high end of the income distribution. But that prosperity—and the promise of even greater prosperity in the future—has been bought at the expense of millions of jobless and impoverished people, many of whom are now crowding into public shelters, living in cars or under overpasses or waiting in fear for the day when their unemployment benefits run out.

These people are part of a problem that is national—and caring for them is indisputably a national responsibility. There are things that Congress, with the administration's backing, should do as soon as it meets in January. Some are aimed at relieving immediate distress. Others will make sure that when recovery comes everyone gets a fair chance to share in its benefits. Over the next few days, we will share our notion of what should be done.

We are not suggesting that the federal government should throw all budgetary caution to the wind and launch a multi-billion federal program for the jobless. That could easily retard recovery. Nor should it start building federal shelters, running federal food lines or relocating families. State and local governments—and the private sector—have shown that they are willing and able to do the job—at least when there is federal leadership and federal money to prod and assist them. But there are ways to help people that will not only encourage them to adjust to necessary economic change, but speed economic growth as well.

If you are worried about "wasting" government money, remember that still larger costs—monetary and moral—come from wasting human lives. The legacy of high unemployment lives on for many years in broken families, abused children, welfare dependency and the whole sad litany of human disorder. The country will need the talent and skills of all its citizens in the years ahead. Now is the time to make sure that no group is left behind.

[From the Washington Post, Dec. 29, 1982]

AMERICA'S DISPOSSESSED: WHAT NEEDS TO BE DONE (II)

When the administration and Congress finally get down to deciding how to help the nation weather its current distress, two rules should guide their efforts. Measures taken should focus on helping people hurt by economic change—not on propping up businesses threatened by that change. And, to the extent possible, the help provided should promote future economic growth by encouraging adjustment to the new realities of the labor market.

The first requirement is doing something for all those people living in tents and cars and on park benches. Passing the emergency relief appropriation that died in the last Congress is a necessary stopgap measure. It's all very well to rely heavily on churches and private charities to provide last-ditch help to the dispossessed. But it is positively unrealistic to expect them both to make up the money lost through recent cutbacks in government aid and also to expand their services to cover the new homeless. Federal money is scarce these days, so Congress should stifle its normal impulse to distribute program dollars far and wide, and make sure that emergency aid goes to those areas and people in the greatest distress.

Next on the list are some don'ts for the policymakers. Don'ts pass any protectionist legislation that saves the jobs of a few well-represented people at great expense to

everyone else. And recognize that you don't make the economy work better by cutting money for schools and colleges. All the experience of history will demonstrate that those economies do best that invest heavily in educating their citizens.

Further extensions of unemployment benefits are an unavoidable necessity. The federal government will have to pick up this tab—there is no sense pretending that the hardest-hit states can afford to pile up still larger debts to the Treasury than the billions they already owe. Unemployment benefits however, but only time, not adjustment. As long as there are hundreds of thousands of displaced workers waiting in vain for their old well-paid assembly-line jobs to reappear, the nation will have to cope with both an enormous social problem and a serious impediment to technological change. It's time to tie benefit extensions to help for the unemployed in getting back on their feet—more about this later.

And with millions of people running through their last dollars—for God's sake, stop cutting—or even proposing to cut—important social programs that are the last line of defense for the "old" and "new" poor alike. These include food stamps—which also need some relaxation of the absurdly strict rule that excludes families who happen to own a relatively new car or other small assets—and other nutrition programs that are needed for children.

Recognize that there are some people who are not—except perhaps in the statisticians' computations—in the potential labor force. Stop throwing people off the disability rolls and out of mental institutions when they haven't a chance in the world of finding gainful employment. Dumping more responsibilities on state and local governments isn't going to accomplish anything either. It just creates more unemployment while drying up services—such as child care, home care for the elderly, child abuse protection and other services that save money in the long run and help people who want to work.

These are all short-term expedients. They do require that the federal government reassert its responsibility—and, with all its obvious limitations, its real capability—to exert a positive influence on the nation's economic and social welfare. These emergency measures also need to be reinforced by longer-term efforts to help people and communities prepare themselves better for an economic recovery that will not put back the same jobs in the same places they were in before the downturn. And they need to be supported by larger economic policies that ensure that a sustained recovery does indeed arrive. These are subjects to which we will return in the coming days.

[From the Washington Post, Dec. 30, 1982]

AMERICA'S DISPOSSESSED: WHAT NEEDS TO BE DONE (III)

Hundreds of thousands of industrial jobs have been permanently lost to the economy. Without help, their former occupants are not going to have the skills and education that will be needed in the jobs of the future. Carelessly ignoring the plight of these workers is terrible social policy and an enormous waste of talent and physical resources. It is also likely to build a powerful political backlash against needed economic change.

What sort of policies could aid these people without creating entitlements and expectations that neither the government nor the economy will be able to fulfill? We suggested yesterday that further help should be provided on a quid pro quo basis: the government needs to do more for displaced workers, but those workers should be prepared in return to do things that some of them may find distasteful.

When Congress, as it must, again extends unemployment benefits, these benefits should be linked to measures that help the unemployed get back to work. Putting workers and their families on the road in search of work is not a happy experience for them or for the communities that receive them. These people need much better help in finding new jobs than the typically perfunctory assistance that the diminished staffs of state employment services now provide. A national effort, preferably with business involvement, is needed. If the jobs are in other areas, workers may need help in finding new housing for their families and in disposing of their present homes.

If workers can't be matched up with permanent jobs, those who want to qualify for more unemployment benefits should be enrolled in part-time training and also provided with temporary jobs in local government or charitable organizations. The model for this combination of low-cost community work with intensive training comes, of course, from the most successful of the CETA programs. The President has an aversion to anything by that name. Perhaps that's because he, like many other people, doesn't realize that CETA was not one but many kinds of programs, and that the best of these programs worked very well.

Don't worry about "make-work." If it was ever much of a problem, it certainly isn't now that states and localities have drastically curtailed community services and essential maintenance. And if you're careful about the kind of training the workers also get, they won't linger long on the public payroll.

Providing help in return for effort would have the additional advantage of weeding out unemployment recipients who don't really need further aid. The money saved would then offset the cost of providing jobs and training for the unemployed. It won't be as cheap as simply extending cash benefits—and it may not be possible to train and place all comers—but the nation would at least get something in return for its tax dollars—and so would the unemployed.

This temporary program would fit in well with the administration's longer-run plan to give the private sector a stronger role in designing training programs under the Job Training and Partnership Act passed last year—it already includes a small program for retraining displaced workers. But the federal government also needs to concern itself with seeing that new generations of workers don't enter the labor market without the skills that employers now want.

The federal government already spends billions of dollars on education aid, and it should. But it should put more pressure on schools to see that teachers and students meet tougher educational standards. The economy needs more graduates trained in mathematics, science, engineering and computer skills, and schools need more teachers qualified in these subjects. The federal government can use its substantial resources to encourage both.

These are measures that would reduce needless human suffering in ways that support economic recovery. They depend for their success, however, on the larger economic policies and political leadership that alone can ensure that recovery.

[From the Washington Post, Dec. 31, 1982]

AMERICA'S DISPOSSESSED: WHAT NEEDS TO BE DONE (IV)

Throughout this holiday season we have been talking about the most serious social and economic upheaval that the country has experienced since World War II. We've been looking at its casualties—the bag ladies, the derelicts, the abandoned children, their numbers now enlarged by hard times and the failure of the institutions and programs that once supported them—and the "new poor," the families out on the road in search of jobs or waiting hopelessly for their benefit checks to run out. We've suggested ways to lessen their immediate distress and to help able persons to find jobs in the economy of the future.

None of this will be easy in an environment of budgetary stringency and slow worldwide economic growth. None of it will succeed at all unless U.S. recovery not only starts soon but also keeps going for a period of years. That won't happen unless the president and Congress are ready to take forceful action to get the economy moving and to build public understanding of and support for the difficult steps that lie ahead.

One important reason that the current downturn has been so painful—that a return to a level of inflation once thought to be uncomfortable has been produced only by progression to a level of unemployment once thought to be intolerable—is that political, business and labor leaders haven't come clean with the American public. They have talked as if nothing fundamental had really changed in the economy, as if everything would go back to normal as soon as the nation had paid a modest price for controlling inflation.

That's not so. The auto industry will certainly revive—but not to its previous level. It will start buying more steel—but far less per car than it used to. Housing will pick up, but mortgage rates will never go back to 5 percent, and consumers should not be encouraged to invest as much of their personal savings in their homes as they did in the past decade. Financial markets have changed and so have tastes. Automation is changing production methods, and foreign countries are invading American markets—not by foul means but by the fair competition of better quality at lower prices. America can thrive again, but only if it makes substantial changes.

The president needs to start talking about this. And he needs to begin exploring ways to break the stalemate between business and labor that has impeded technological change and made high unemployment the only way out of inflation. Without agreement on restraining wages and prices, interest rates won't come down and economic recovery will be choked off before it has fairly begun.

Keeping interest rates down—the sine qua non of sustained recovery—also requires getting federal finances under control. There is room for argument about whether the relatively modest deficits of the 1970s impeded economic growth, but there is no disputing that future growth will be weak under current policies that imply enormous deficits even when recovery comes. Getting the budget onto a path that leads convincingly to lower future deficits requires firm action on both taxes and spending.

The president needs to get out in front in putting Social Security on a sound financial basis. It is fair to ask congressional leaders

of both parties to sign on to a deal, but it is neither reasonable nor responsible to expect them to take the lead.

Defense spending must be restrained. Even now the Pentagon is signing contracts that will force future outlays still higher than the ambitious targets the presidents insists upon. If the president won't take action, Congress ultimately will—but in ways that are likely to be both wasteful and harmful to national security,

There is still some fat in domestic spending—but it's all well protected by powerful interests. The administration needs to recognize, however, that most of what's left in the domestic budget buys things that people want—and are willing to pay for if it's made clear that that bill is falling due. That means raising future taxes, a subject unpleasant to more people than the president. The task will be easier, however, if any increase follows that precedent set by last summer's tax law—increasing revenues by making the lightly taxed pay their fair share of the tax burden.

There is a fine line between policies that lock the economy into outmoded patterns of production and those that lead to a costly and unnecessary upheaval in lives and communities. The administration and Congress need to keep that in mind as they look for ways to lead the country through a recovery that may seem, to many, painfully slow. They also need to remember that because the economy—not just this country's but the world's—is going through a period of substantial change, it's hard to know in advance which policies will work and which will not. What we all do know is that this country, for all its current troubles, is far too rich to ignore the plight of its dispossessed citizens—and far too wise and tough to persist in policies that don't grapple with the hard new realities of the 1980s.●

AMBASSADOR BURNS SPEAKS ON ECONOMIC AFFAIRS

● Mr. MATHIAS. Mr. President, the Atlantic Alliance is at a critical point in its development. Contrary to those apocalyptic news reports which appeared during the East-West pipeline dispute, the alliance is not on the brink of collapse. Nor is it business as usual.

The Atlantic Alliance is evolving in response to changing economic forces in the Western world. Recession has prevailed for more than 3 years, resulting in high unemployment, high interest rates, and myriad other intractable problems. It is hardly surprising, therefore, that the alliance is under great strain.

Last month these economic forces were described with great clarity and insight by Arthur F. Burns, our Ambassador to the Federal Republic of Germany. His speech, entitled "The Economic Health of the Western Alliance," deserves our closest attention. Few individuals are as qualified to speak on this subject as Dr. Burns, who served as Chairman of the Board of Governors of the Federal Reserve and Chairman of the Council of Economic Advisers.

Ambassador Burns' message is an important one. As competitors in the world market, the United States and Western Europe are bound to have a difficult relationship during these times of worldwide economic stagnation. Nor is economic prosperity likely to return in the near future. Yet he is confident, as am I, that by mobilizing our considerable economic and political resources, the Western Alliance can weather this storm.

Mr. President, I ask that Dr. Burns' address to the Deutsche Atlantische Gesellschaft, or the German Atlantic Society, be printed in the RECORD at the conclusion of my remarks. Difficult times such as these require extraordinary statesmanship, as Dr. Burns acknowledges in his concluding remarks. No prophet of my acquaintance is better able to fulfill his own prophecy than Dr. Burns.

The address follows:

THE ECONOMIC HEALTH OF THE WESTERN ALLIANCE

(By Arthur F. Burns)

I wish to thank the Deutsche Atlantische Gesellschaft for the opportunity to address your members and friends this evening. Since its establishment a quarter of a century ago, your society has faithfully supported the fundamental objective of the North Atlantic Alliance. You have never wavered in your devotion to peace or in your efforts to espouse the principles of individual freedom and democracy that constitute the moral foundation of NATO. In so doing, you have earned the gratitude of enlightened citizens of both your country and mine.

My purpose this evening, beyond expressing appreciation of your contribution to preserving international peace and freedom, is to discuss some of the economic issues that have recently been troubling the Western Alliance.

Economic factors inevitably have a significant impact on political attitudes that prevail in our respective countries, and they in turn can be decisive for the military effectiveness of the Alliance. In view of the immense role of the United States in world affairs, I shall concentrate on the economic relations between the United States and its European Allies. That these relations have been rather strained of late is a matter of common knowledge. That is reason enough for trying to see the American-European relationship in a sound perspective. Beyond that, it is vital to our Alliance to consider how well its economic underpinnings are being maintained and protected.

Since the end of 1979, both the United States and Western Europe have been experiencing considerable economic sluggishness or actual recession. That Western economies are vastly stronger than the economies of the Soviet bloc is a matter of considerable importance, but this can hardly justify complacency on our part. What needs to concern us is the state of our own economic health—how best to preserve and improve it. My first task this evening, therefore, is to examine briefly the sources of recent difficulties in the West.

The oil price shocks of 1973 and 1978 have certainly contributed to our economic problems. So too have other developments in the international marketplace, particularly the increasing challenge of Japan to some of our key industries as well as the new competition for a variety of Western manufactures from the more advanced of the developing nations. These external influences, however, have been less important for Western economies than difficulties of our own making.

During the early decades of the post-war period, the fiscal and monetary policies of Western democracies were highly successful in maintaining reasonably full employment and in improving social conditions. These very successes tempted governments during the 1970's to respond to the never-ending public pressures for governmental benefits by risking large budget deficits and easy money in the hope of expanding social welfare programs still further as well as attending to new environmental concerns. But by attempting to extract more and more goods and services from our economies without adding correspondingly to our willingness to work and save, we in the West inevitably released the destructive forces of inflation.

Under these conditions, it should not be surprising that tensions over economic issues have at times seriously tested the harmony that has generally characterized the political relations between the United States and its European Allies. When our individual economies are booming, there is little pressure on governments from their business or agricultural communities to protest or counteract activities being pursued in other countries. Such pressures tend to mount, however, in times of economic adversity. Difficulties that would be passed over under prosperous conditions then take on some importance—occasionally even a large importance. Gentle voices of spokesmen of economic interests are then apt to become loud and strident, and even the customary composure of academicians and high government officials tends to suffer. Human nature being what it is, that has been the usual experience of mankind and we have not escaped it this time.

There is, first of all, the issue of American interest rates. There can be no dispute over the fact that these rates have been extraordinarily high in recent years. Nor can it be denied that they served to attract funds to the United States from other parts of the world, that this movement of funds tended to raise interest rates in some European countries, and that business investment suffered to some degree as a consequence. If European complaints had stopped at this point, no one could reasonably quarrel; but many Europeans, including prominent government officials, at times went further and either stated or implied that American interest rates were responsible for the economic troubles in their countries. That line of thinking overlooked the fact that high American interest rates could not be responsible simultaneously for the still higher interest rates in France and the drastically lower interest rates in Japan. Needless to say, factors indigenous to individual countries—among them, the propensity of the public to save and the state of governmental budgets—always exercise some influence on interest rates.

Much of European criticism of American interest rates also stemmed from a misunderstanding of American policy objectives. Seeking to end the havoc wrought by inflation, our authorities proceeded on a principle that has been tested across the centuries—namely, that stoppage of inflation requires curbing the growth of money supplies. It is, of course, true that the high interest rates were in large part a result of our restrictive monetary policy. That does not mean, however, that we sought high interest rates.

On the contrary, the immediate effects of the restrictive monetary policy on interest rates and economic activity were by no means welcome, but this policy did achieve its fundamental purpose of curbing inflation in the United States. Since 1979, when the consumer price level rose more than 13 per cent, the rate of inflation has moved steadily lower. By coming down to less than 5 per cent this year, the inflation rate in the United States is now one of the lowest in the world.

The success of monetary policy in subduing inflation eventually made it possible for American interest rates to move to lower levels—partly through the inner workings of the marketplace and partly through adjustments of policy. The slowing of inflation encouraged the authorities to reduce monetary restraints, and the deepening of recession impelled them to do so. Economic conditions in the United States were, of course, primarily responsible for the consequent decline of interest rates, but our monetary authorities were also mindful of the benefits that the lower rates could bring to Europe. Since last year, when the rate that commercial banks charge their prime borrowers reached 21½ per cent, the prime rate has fallen to 11½ per cent. Open-market short-term rates have been cut in half. Long-term rates on corporate bonds and home mortgages declined less, but they too have fallen materially. The greater part of these interest rate adjustments has occurred since June, and Europeans rates followed American rates downward—although not to the same degree. As these financial developments unfolded, Europeans joined Americans in wishing that interest rates would move even lower, but what had previously been a significiant source of friction within the Alliance virtually ceased being troublesome.

Another recent irritant to some members of the Alliance was the stand taken by the American government on intervention in foreign exchange markets. The effectiveness of such maneuvers in stabilizing foreign currencies had long been a subject of serious debate among financial experts, including central bankers. Nevertheless, governments of leading countries kept intervening with some frequency during the 1970's, in the hope of smoothing out some of the short-run fluctuations in the exchange market. Being critical of these policies, the Reagan Administration announced soon after it came into power that, in its judgment, foreign currencies are best left to the free market and that it would therefore refrain from intervening except under highly exceptional circumstances. Not a few financiers and government officials welcomed this decision, and even some who questioned it were more concerned with the political consequences of non-intervention than with its intrinsic economic merits. There were, nevertheless, some determined European critics of the new American policy, and they made their influence felt—most notably at the Summit meeting held this June at Versailles.

While Americans held to their basic position at that meeting, they did propose that a committee of international experts study the results of past experience with intervention. By agreeing to such a study, all participants tacitly admitted the possibility that some of their views on intervention might need to be revised. Since then, the United States has gone further in the direction favored by its critics by actually intervening several times—albeit on a modest scale—in the market. There is reason for hoping that the foreign exchange study now under way may further contribute to narrowing the differences between the United States and some of its Allies. And if goodwill should be aided by good fortune, so that both interest rates and inflation kept coming down in our respective countries, the fluctuations of exchange rates would of themselves narrow and thus reduce both the impulse to intervene and the inclination to fret over the issue.

A far more serious conflict between the United States and its Allies was stirred by the decision of several European countries to support the construction of a Siberian natural gas pipeline. This conflict reached a climax when the American government, feeling morally outraged over the Soviet Union's role in suppressing the newly won freedoms of the Polish people, proceeded to forbid shipments by American firms of materials and equipment needed to build the pipeline. This prohibition was later extended to European subsidiaries and licensees of American firms. These actions led to acrimonious charges and debates, and some political observers on both sides of the Atlantic felt that American reaction to the crisis in Poland may have given rise to a crisis of the Alliance.

That danger, fortunately, was surmounted. Not only was damage to the Alliance kept down, but the pipeline controversy actually helped to steer Western thinking about foreign policy onto a sounder track.

In the course of pondering the sanctions imposed against the Soviet Union, the American government undertook a review of Western economic relations with the Soviet Union in the hope of developing a policy that, unlike the pipeline sanctions, could prove of lasting benefit to the Alliance. It soon became clear that this would require more resolute dealing with elements of incoherence in Western foreign policy. The reasoning that led to this conclusion was straightforward. On the one hand, NATO countries were devoting, year after year, vast resources to our common defense against the Soviet threat. Simultaneously, however, partly through private banks and partly through government agencies, we in the West kept lending during the past decade vast sums of money to the Soviet Union and its satellites.

At times, this was even being done at subsidized interest rates. In view of the high priority that the Soviet Union assigns to its military establishment, the financial resources that the West so liberally put at the disposal of the Soviets thus indirectly helped to strengthen their already formidable military establishment. To make matters worse, the Soviet Union continued to take advantage of the weaknesses in our controls on the export of militarily related products and technology.

These considerations were persistently pressed by the American government on its Allies during the past year. For a time, they were resisted by European governments, partly because of displeasure over the pipeline sanctions, partly also because of concern that the American initiative could lead to an East-West trade war. But as the American government made clear that its basic aim was simply to steer Western policy onto a path that was more consistent with Allied security interests, controversy and recrimination gradually yielded to quiet voices of reason.

On November 13, President Reagan was able to announce that agreement had been reached on the need to consider Allied security issues when making trade arrangements with the Soviet Union. More specifically, the United States and its partners agreed, first, that new contracts for Soviet natural gas would not be undertaken during the course of an urgent study of alternative sources of energy; second, that existing controls on the transfer of strategic items to the Soviets will be strengthened; third, that procedures for monitoring financial relations with the Soviets will be promptly established; and fourth, that the Allies will work to harmonize their export credit policies. In the eyes of the American government, these measures will promote Allied interests more effectively than the pipeline sanctions. The President therefore concluded his statement by announcing their removal. Long and difficult negotiations on ways of carrying out the agreed measures are undoubtedly still ahead of us, but the pipeline crisis as such has fortunately come to an end.

In other areas of economic policy—particularly defense burden-sharing and trade issues—the United States continues to have major differences with its European partners. Difficulties of this type have troubled the Alliance almost from its beginning, and in one form or another they are likely to remain troublesome in the years ahead. Even here, however, we have generally managed to work out our problems, and we have had some limited successes during the past year that are noteworthy.

The distribution of defense burdens among Allies inevitably raises difficult questions of equity. Many Americans, especially Members of Congress, have long felt that the United States is bearing an excessive part of the heavy costs of the Alliance. In view of the financial stringency that has developed in my country, such criticisms of Europe have recently intensified. Our NATO partners usually respond by reminding us that their spending on defense rose steadily during the 1970's while real American spending kept falling off. That is entirely true, but it does not tell the whole story. Official statistics indicate that defense spending reached 7.9 percent of the gross domestic product in the United States during 1970. The highest corresponding figures for each of our major Allies fell short of 5 percent in that year. While the defense outlays of the United States decreased during the 1970's, this gap has never been closed. Confronted with these facts, European governments are inclined to observe that monetary figures fail to capture all costs involved in the defense area, particularly the conscription of soldiers that exists in most of their countries. Such remonstrances, however, are not always accepted by Americans, as the lively discussions that have been resounding in our Congressional halls indicate.

Whatever the merits of ongoing debates among members of the Alliance, the Reagan Administration recognizes that some of the military proposals now before Congress would seriously weaken the Alliance. Not only that, they would also encourage the Russians to remain unyielding in the vital arms control negotiations now under way in Geneva. Those dangers have not escaped the attention of European leaders. In fact, many Europeans have long shared the widespread American belief that Europe is not doing enough for its own or for the common defense. Financial stringency is nowadays no less a problem in Europe than in the United States. In spite of that, the German

government has recently taken steps that should help Americans to see the problem of defense burden-sharing in a better perspective. Several months ago the Federal Republic signed a treaty with the United States under which it agreed to commit 90,000 reservists in support of American combat forces in the event of war. More recently, Minister Manfred Woerner announced that the new German budget provides a significant additional contribution for constructing vital NATO military facilities in Europe. These measures had long been urged by Americans on the German government. The fact that they have been adopted at a difficult time should certainly help to quiet American concerns.

Differences between the United States and its Allies over international trade issues also have a long and checkered history. From the end of World War II through the 1970's the broad trend of Western policy has been towards increasing liberalization of international trade and investment, and there can be little doubt that this trend contributed enormously to the prosperity of the West and other parts of the world. While the United States led the world towards an open trading system and unrestricted foreign investment, this policy—except for agriculture—was generally supported in Europe, particularly in the Federal Republic of Germany. Unfortunately, but not surprisingly, the deep recession of recent times has by now stirred up strong protectionist sentiment in many European countries and also in the United States.

The Reagan Administration has stoutly resisted Congressional moves toward protectionism—thus far with considerable although incomplete success. During the recent ministerial meeting of the parties to the General Agreement on Tariffs and Trade, the United States fought especially hard for an unequivocal commitment by the world's trade ministers to phase out existing measures restricting international trade and to refrain from taking new restrictive measures. The debates over this principle and on specific trade issues were protracted and at times bitter, but at the end American initiatives brought only modest results. Assuming professorial garb, Mr. Brock, the American trade representative, judged the result as deserving hardly more than a grade of "C"—an assessment that few informed observers have questioned.

From an American viewpoint, the most disappointing aspect of this meeting was the failure to convince the European Community to modify some aspects of its agricultural policy. For many years the Community has maintained farm prices above the world level. Surpluses therefore developed, and in order to move them into world markets the Community subsidized their export. As long as this policy was confined to protecting farm sales within the Community, the United States accepted it—although not without protest. But once the subsidization led to large exports to third-country markets, a more serious problem arose for American farmers and agricultural exporters of other countries. With farm incomes in the United States currently at their lowest level since the 1930's American protests against the Community's agricultural policy have become increasingly insistent. The Community however has refused to budge, maintaining among other things that the issue of its subsidies had already been settled in earlier negotiations. This and other arguments of the Community have not softened American attitudes; and unless this agricultural controversy is soon settled, there is a serious possibility that the Congress will pass retaliatory legislation next year. This would be so damaging for both the United States and Europe that I continue to believe that some mutual accommodation will be worked out.

Such a result, indeed, was achieved in connection with another trade dispute that for a time resisted every attempt at resolution. For many years the world steel industry has suffered from excess capacity and, as so often happens under such conditions, various countries—including some in Europe—made export subsidies available to their steel producers. As a consequence, large quantities of steel produced with the benefit of government subsidies have penetrated the American market in recent years. American steel manufacturers, who do not receive subsidies, sought to limit this vexing competition. They took advantage of a law that enables an industry to veto certain governmental efforts to work out trade arrangements with other countries. Despite this formidable obstacle, the American government finally reached an agreement with the European Commission that imposes moderate quotas on exports of various steel products to the United States.

To me, as to other confirmed free traders, this agreement has brought little joy. However, the practical choice that both Americans and Europeans faced in this instance was not between protectionism and free trade, but rather between degrees and kinds of protectionism. If the negotiations on steel quotas had failed, existing American law would have required prompt imposition of punitive duties on steel imports. Worse still, it seemed likely that in that event the Congress would legislate still more drastic protectionist measures. The negotiated settlement clearly violated the salutary principle of free trade, but it also forestalled more serious consequences. To this extent, it is not only a tolerable arrangement, but one that has served to reduce political tensions between the United States and its Allies.

The conclusion that I feel can justly be drawn from my review of the recent steel and other economic disputes within the Alliance is reassuring. To be sure, there have been excesses of political rhetoric on both sides of the Atlantic and, occasionally, misguided actions as well. Nevertheless, the United States and its European Allies have succeeded in working out—or at least in muting—most of their troublesome differences over economic issues. Our ability to accomplish this mutual accommodation under difficult conditions demonstrates that the moral, political, and security interests that unite us are strong enough to overcome even divisive economic issues. That at any rate has proved to be the case thus far, and from that we can surely draw encouragement for the future.

We must temper, however, any feeling of optimism that international economic conditions will improve so much in the near future that they will be unlikely to cause or intensify political strains within the Alliance. It is by now widely recognized that the weakness of the international economy during the past three years is the aftermath of the inflationary pressures released during the 1970's. It is not so clearly understood, however, that our recent economic diffeculties reflects more than the normal vicissitudes of the business cycle. They reflect also certain loss of business dynamism—that is, a gradual weakening of the underlying forces of economic growth in the Western world.

Liberal fiscal and monetary policies has served us well over a long generation in fostering full employment and improving the social environment. They might have continued to work beneficially if they had not been carried to excess. But, unfortunately, traditional rules of financial prudence were thrown to the winds. As a result, our Western economies have become so highly sensitive to the dangers of inflation that liberal financial policies can no longer be counted on to perform their earlier constructive function.

Of late, government and business thinking in the Western world has focused on creating an environment that is more conducive to business innovation and private capital investment than it has been in recent years. Responsible leaders in our respective countries frequently emphasize not only the need to practice moderation in the monetary area, but also the need to bring about some reduction from the high levels that both government spending and taxes have reached relative to the size of our respective national income. Even France, which moved for a while in another direction, has recently adopted a rather restrictive monetary policy, besides announcing the intention to restrain further expansion of budgetary deficits. With earlier economic policies now in general disrepute in the West, and the newer policies not yet fully tested, deep concern about the economic outlook has spread during the past year or two in the United States as well as throughout Western Europe.

Such pessimism can be overdone. In the United States at least, the aggregate output of the economy has remained virtually unchanged during the past six months or so, and there are now numerous indications that the groundwork for recovery has been laid. As noted earlier, both inflation and interest rates have come down sharply. Stock and bond prices have risen dramatically, thereby adding hundreds of billions of dollars to the net worth of individuals and business entities. Of late, consumer spending for goods and services has increased modestly. Residential construction has been moving upward again this year; home sales have recently revived; and the financial condition of mortgage-lending institutions has improved. The upward climb of wages has slowed materially; industrial productivity has recently perked up; and corporate profits have begun to increase. These improvements have been offset thus far by sharp deterioration of merchandise exports and business investment in new plant and equipment. Nevertheless, it seems likely that a gradual recovery of aggregate production and employment will get under way in the United States within the next few months.

With the possible exception of Great Britain, the immediate outlook for Europe is less favorable, in large part because of the greater rigidity of its labor markets. But it is reasonable to expect that any improvement in the American economy will be felt before too many months pass also in Western Europe.

Unemployment, nevertheless, will remain high in the West for an uncomfortable period, since the pace of recovery is likely to be slow in the present instance. There are compelling reasons for this gradualness. First, there are as yet hardly any signs that contracts for business construction or orders for business equipment have begun to increase either in the United States or in Western Europe. Second, most of the larger banks throughout the West must now real-

ize that their lending policies, both at home and abroad, were excessively liberal during the 1970's. They will consequently be more cautious lenders—perhaps excessively cautious lenders—in the years immediately ahead. Third, many of the less developed countries—not only Mexico, Brazil and Argentina, which lately have figured so heavily in the press—are at present unable to make timely payments of the interest or principal that is due on their overextended indebtedness.

These financial difficulties constitute a grave, but I believe still manageable, danger to the international banking system. Under the best of circumstances, however, great austerity will need to be practiced in many of the less developed countries, and their reduced imports will inevitably restrict the pace of Western economic recovery over the next two or three years, if not longer.

If my assessment of the economic outlook is anywhere near the mark, political tensions on account of economic difficulties may well continue to trouble the Alliance. To make progress on economic issues in the years immediately ahead, it is particularly important that every country avoid "beggar-thy-neighbor" policies. We cannot afford to think in terms of winners and losers when it comes to solving our common problems. It is essential, therefore, that member countries of the Alliance mobilize the vast economic and political statesmanship that is at their disposal. Cooperation among economic ministries, finance ministries, central banks, private commercial banks, and international financial agencies, which has not always been close, must become very much closer. The heads of Western governments, who thus far have been reasonably successful in controlling the disease of protectionism, must work still more earnestly towards this vital objective. Meetings among members of the foreign policy and defense establishments of the Alliance must occur still more frequently, and become more thorough as well as more timely, so that misunderstandings among their governments are kept to a minimum.

These, ladies and gentlemen, are the paths to confidence in the security and prosperity of the industrial democracies that are joined in the brotherhood of the Atlantic Alliance.●

THE REMARKABLE CAREER OF SIDNEY HOOK

● Mr. MOYNIHAN. Mr. President, I should like, for but a brief moment, to share with my colleagues just a sampling of the thought and wisdom that has made Dr. Sidney Hook such a remarkable force in the political culture of our Nation.

On October 29, 1982, Dr. Hook was treated to a Festschrift by his friends and colleagues on the occasion of his 80th birthday. The dinner, and the tributes and reflections by a distinguished set of speakers, remind us all not only of Dr. Hook's considerable achievements, but of his incalculable importance as a teacher of truth to generations.

Dr. Hook's response that evening, elegant in its precision, eloquent in its intellectual force (indeed, none present shall soon forget it) is worthy of anyone's study and is particularly useful to all those who serve in this body. I ask that it be printed at this point in the RECORD.

The material follows:

LIVING WITH DEEP TRUTHS IN A DIVIDED WORLD

(By Sidney Hook)

We reproduce here, with a few abbreviations and corrections, the response made by Sidney Hook to the speeches given at his eightieth-birthday dinner, held on October 29 at the Hotel St. Regis in New York City, honoring him for his prolonged dedication during the past half-century to the principles of secular humanism and the ideals of a free society. Among the speakers on that occasion were John Roche of Tufts, Daniel Bell of Harvard, Edward Shils of the University of Chicago and the University of Cambridge, Daniel Seligman, Assistant Managing Editor of Fortune, Bayard Rustin, Chairman of Social-Democrats, USA, and the A. Philip Randolph Educational Institute, and Paul Kurtz of the State University of New York at Buffalo.

The audience, limited in size at the request of the guest of honor, contained representatives of widely varying points of view whose experiences had intersected at some point with those of Sidney Hook. The range of interest and affiliation extended from Lane Kirkland, President of the AFL-CIO, and Albert Shanker, President of the American Federation of Teachers, to Glenn Campbell, Director of the Hoover Institute for the Study of War, Peace and Revolution, from free-wheeling existentialist philosophers to rigorous Kantians, from leaders of the Reconstructionist movement in Judaism to disillusioned founders of the American Communist movement, from the architects of the Welfare State to the ideological demolition theorists of libertarianism.

The proceedings focused on the presentation by friends and colleagues of a Festschrift, entitled "Sidney Hook: Philosopher of Democracy and Humanism," and formally concluded with a toast by Bayard Rustin and a standing ovation by the audience.—ED.

Dear Friends: Thank you for your toast. This has been a grueling experience for someone who is more accustomed to receiving brickbats than bouquets. It was as if I were listening to a rehearsal of my obituaries—except for the jokes.

I am far less certain that I have earned Bayard Rustin's generous toast than that it should go to someone who deserves the honor far more than I, to someone who suffers tonight—as he has suffered for so many nights and days—as the exemplar of the highest humanist ideals. I refer to Andrei Sakharov, the dauntless champion of everything we hold dear, who, though exiled, threatened, beaten, and humiliated, still keeps the Asiatic despotism of the Soviet Union at bay. Before his courage, and that of hundreds of others like him of whom we hear less, the bravest of us must fall silent.

Please accept my thanks for your kindness in sacrificing this wondrously beautiful fall day and evening—an entire weekend, for those of you who have traveled great distances—to participate in this event. I remember asking my old friend Adolf Berle, in his later years, to attend a function like this. He replied that only an order for a command performance or the request for his presence from a grandchild could induce him to put in an appearance. It is obvious to me that there are not enough grandchildren in view, or in being, to account for your presence, and so I choose to believe that you are here out of friendship.

I did not know that I had so many friends, and some of you have remarked on their number. But this I do know: you could easily fill a much larger hall with those who are not my friends, mordant critics and ill-wishers whom I have offended by my public views and activities. In a way I am proud of them, too.

More significant, one of you has observed that the many friends of Sidney Hook here tonight are not friends of one another. That is certainly true. And it is just as true that probably each one of you has differences with me on some issue at least as great as your differences with one another.

Oddly enough, I am heartened by that very fact—the fact that, despite all these differences, we recognize that there is some value—call it friendship or comradely feeling or common memories of joint enterprises in some good cause—that transcends these differences among us. In a world that is rapidly becoming more and more politicalized in a narrowly partisan way, where the islands of private life and the mores of civility are often overrun by angry tides of political passion. I am happy and proud to be the occasion for a meeting of friends—for a party, not for a political rally—in which we just enjoy our company, the conversation, the cheer and pleasure of being with one another. That this is still possible is a mark of a civilized society.

Nonetheless these differences between us exist and we cannot blink them away. I believe, however, that I have hit upon a consoling, perhaps a gratifying explanation of them—consoling, because it makes it easier to respect these differences and live with them; gratifying, because, if I am right, we need not fear their multiplication. I have come to the conclusion that we are divided by deep truths. A deep truth, according to Niels Bohr, is a truth whose opposite or contrary is just as true. For example, we tell our students and fellow citizens that those who forget the past are doomed to repeat it. That is a deep truth. But it is also a deep truth that those who always remember the past often don't know when it is over, when something relevantly new has appeared. There is the deep truth of determinism, and the deep truth of freedom and moral responsibility. There is the deep truth that too much government leads to despotism. But there is the opposite deep truth that no government, or anarchy, is the rule of a thousand despots. There are enough deep truths to go around for all of us, and I could spend the evening citing them.

Wisdom, of course, is knowing which deep truth. and how much of it, applies to the particular situation or case in hand. My conclusion therefore is that, on my theory, we may not all be wise but we are all profound. And for tonight that should be sufficient. Let us respect one another's profundity.

Tonight you have heard tributes paid to me for my virtues, and I accept them: not for myself alone, but for those of you who have fought with me to defend and further them. I accept them not only for those who are here but for those who are not here, for those whose faces I see in a recurrent dream when a close contemporary dies. In my dream, or vision, I see them at a table of the dead—the friends, and comrades of my generation who fought beside me in common causes. At this table, in a smiling mood and always beckoning to me, are V. F. Calverton, Ben Stolberg, Herbert Solow, Elliot Cohen, Lionel Trilling, Paul Blanshard, George

Counts, Jim Farrell, Bert Wolfe, Sol Levitas, and others. As I begin the last mile of my pilgrimage before I join its company, I hope I shall not see many new faces at the table.

I must also confess that, while listening to some of the tributes to my fortitude under hostile fire, I was a little embarrassed, somewhat like the heroic survivor of the famous Johnstown Flood of 1882, which I heard much about as a boy. This survivor talked incessantly about the immensity of the flood, as if it were the eighth—indeed the greatest—wonder of the world. He died at a ripe age talking about the great Johnstown flood. Having led a blameless life, since his chief occupation was telling about the flood, he was transported to heaven. There he noticed that he did not sit among the elect in the chosen circle. On inquiry he learned that places there were reserved only for witnesses to phenomenal events who regaled one another with their stories. Thereupon he rushed to St. Peter and pleaded that he above all was eligible and asked that he be permitted to join the elect. St. Peter heard him out, seemed dubious, but finally allowed him to enter to tell his story. But he warned him: "Go ahead. Tell your story. But remember that Noah is in the audience."

Well, they aren't as old as Noah, but in this audience are Irving Kristol, Norman Podhoretz, Melvin Lasky, Allen Weinstein, and others who have been targets of abuse, attack, and contumely, whose intensity, if not duration, has been as severe as anything I have been subjected to.

Because of the hour, I content myself with some brief observations. I have learned much from my friends, from my teachers, of course, and from some of you. But I have also learned from my critics, from those who have strongly disagreed with me. Without deceiving myself I believe I can truthfully say I have tried to be fair to those with whom I have disagreed.

One of the things I am proudest of is a statement you will find in the preface to the three-volume English edition of Nicolai Hartmann's treatise on Ethics, translated by Stanton Coit, the leader of the English Ethical Society. Coit writes that he was led to the reading of Hartmann's book by a very critical review of the German original I had published in the International Journal of Ethics. Despite my criticism of it from a fundamentally different naturalistic position, I had done sufficient justice to the contents and insights of the book to convince him of its greatness; and so he undertook the laborious task of translation. I cannot say I have always succeeded in being as fair to others as I was to Hartmann, but I have tried.

As I take stock of my present beliefs, I am struck by the fact that in some respects they are continuous with some of my intellectual beginnings. Even before I studied with Morris Cohen and John Dewey and read Max Weber, I had concluded that the chief danger in political and moral thinking was absolutism, the fanaticism of virtue, or the commitment to what the Germans called ein alleinseligmachender Wert, a single all-sanctifying ultimate good in terms of which any action can be justified. I had concluded that the danger was a failure to understand that the life of reason is based on the recognition of the plurality and conflict of values, that reason or intelligence owes its supremacy in our moral economy to the fact that it alone, of all other values, is the judge of its own limitations. It is wisdom that tells us that it is not wisdom to be only wise.

That discovery, that rational ethics is the ethics of responsibility, not of absolute purity, and that rational politics is the choice of the lesser evil, was a result of my wrestling with the philosophy of Leo Tolstoy. My first published article was "The Philosophy of Non-Resistance." Having lived through World War I (which can more appropriately be called "the second fall of man" than can the French Revolution, de Maistre and other French reactionaries to the contrary notwithstanding) and the terror that followed it. I was much impressed with the nobility of Tolstoy's doctrine and his absolute refusal to take a human life under any circumstance. To me, in my revulsion against the horrors of World War I, if anything could be regarded as absolutely sacred, this was it.

But I abandoned that view when I realized the human costs of holding it in the same way Tolstoy did—absolutely without qualification. The nearest Tolstoy himself came to a nervous breakdown was when he was confronted by situations—sometimes historical and not merely hypothetical—in which the only way thousands of innocent lives could be saved was by taking the life of the person who threatened them. Tolstoy would say that he would give up his own life to save them. But what if that didn't help? What if the only way to save the lives of the innocents was for you to take the life of the evildoer who is threatening them? Whoever refuses to do so if he could obviously makes himself co-responsible for the deaths of the innocent; and no doctrine, no religious piety, no profession of purity of principle can wash him free of guilt. In such situations one would have to be more than human, or less, to hold to Tolstoy's absolutist position. Yes, I agreed with Tolstoy that killing a human being is always an evil; but, like dying itself, it is not always the worst evil. Unless one holds some things more important than life, life itself becomes unworthy of man.

It is time I stopped. Some words of Santayana come to mind as I conclude. One of the characters in his Dialogues in Limbo, reflecting on the human condition, says. "The young man who hasn't wept is a savage, and the old man who hasn't laughed is a fool." Well, I am an old man, and fool though it makes me, I can find no cause or reason for laughter in the world today. I suspect that, like most of you, I am troubled by the state of the world and fearful about the prospects for survival of a free society. But, before yielding to despair, I recall a time when I felt even worse than I do today, a time when I was convinced that the free world, at least in Europe, was irretrievably lost.

Let me tell you about it. It was in 1945: Truman had just become president. The news from Central and Eastern Europe was very grave. No one seemed much alarmed about this, except a small group of us in New York. We drew up a memorandum of our fears. Sol Levitas that miracle worker induced a committee of senators, who had been card-playing, whiskey-drinking cronies of Truman during his days in the Senate, to call on their old buddy and express their fears about the actions and progress of the Red Army in Europe. The committee was headed by Senator Burton Wheeler, an isolationist. It was known that Truman himself had—foolishy, I may add—been in favor of neutrality when Hitler double-crossed his ally Stalin and invaded the Soviet Union, not realizing that Hitler was the greater danger and evil. But now Hitler was dead. Sol Levitas reported to us that the committee had been warmly received but that, after Truman had heard Wheeler and the others out, he replied: "Gentleman, you are worried about the spread of Communism: I am worried about the existence of British imperialism."

This was on the eve of Britain's granting independence to India! You can imagine how we felt about the future prospects of the free world. We were wrong!

So let us not despair. We remember the Cassandras only when they are right, but they are often wrong. There are too many variables in history to give us certainty. We may be as easily duped by excessive fear as by excessive hope. We too, are one of the variables in history, and our strength and influence are not predetermined. What we think and do may still make a difference.

There is a saying in Poland today: "While there is death, there is hope for freedom." We are not so far along. If we are prepared to go down defending human freedom, we may avoid the necessity of having to do so.

Thank you very much.●

TAX REFORM

● Mr. HATFIELD. Mr. President, Dr. Richard Lindholm, a noted business professor at the University of Oregon, has recently published an excellent work entitled "Value Added Tax and Other Tax Reforms." He is now working on a new book which will outline the advantages of the VAT over the flat rate income tax system. I look forward to reviewing Dr. Lindholm's thesis.

Mr. President, I ask that a portion of his new work be printed in the RECORD.

DESIRABLENESS OF A FLAT RATE INCOME TAX (FRIT) AND A VALUE-ADDED TAX (VAT)

(By Richard W. Lindholm, Ph. D., Emeritus Professor and Dean of Business, University of Oregon)

IN A NUTSHELL

Both a flat rate income tax (FRIT) and a value added tax (VAT) apply a fixed rate to the base being taxed, income in the case of FRIT and expenditures in the case of VAT. Neither of these taxes pretends to be a personal tax. However, spending is now realized to be a better measurement of gross ability-to-pay than is income.

In many cases government actions are of the highest priority. Therefore, adequate and stable government revenues are of the highest importance. In carrying out this revenue provision function the VAT base, because of its greater stability, must be preferred.

Although neither VAT nor FRIT is a personal tax, it is possible through use of broad exemptions and deductions, to give these taxes a limited ability to adjust to the personal and economic situation of the taxpayer. For example, FRIT may provide for the deduction of a given quantity of income for each dependent and VAT a tax credit representing the purchase of a given value of food and shelter.

The expansicn of exemptions, deductions or allowances make both VAT and FRIT more complex and costly to administer. In addition, both taxes soon suffer from collection inadequacies and attract all of the weaknesses so apparent in the existing federal tax system. One basis of judging, whether VAT or FRIT should be introduced

to put in place a reformed federal tax system is the relative degree of the built-in resistance of the tax base and rates of the two taxes to adjustment to meet personal equity demands.

Here we can rely to a degree on the European experience. VAT as it has developed in Western Europe during the past twenty-five years has demonstrated a strong resistance to special provisions. The good record exists largely because the VAT collected by each business firm as it makes a sale is reduced by VAT. As a result, each business subject to VAT is anxious to make its own purchases from other VAT paying firms because this minimizes its VAT liability. Under the VAT, a business firm wishes to be either fully covered by VAT or subject to zero rating.

Under zero rating VAT taxes paid on purchases are refunded. Under exemption taxes paid on purchases are not refunded but the firm's sales are exempt from VAT. Under FRIT any exemption directly affects only the incomes of the exempt taxpayer and does not cause a deterioration of the tax position of other income receivers and therefore the opposition of other taxpayers, as does exemption under VAT.

The FRIT is levied directly on the income earned by wage-earners. This is the same base on which the employee portion of the social security tax rests. One result is a heavier tax burden directly placed on wage-earners than on those with income arising from dividends and rent.

Under VAT the tax payment is made by all sellers of goods and the purchasers become liable to a price that includes this tax cost along with all other costs. The final user of the good or service does not have the potential of directly shifting the tax burden either backward onto resource providers or forward onto resource users. The FRIT taxpayers can only reduce tax payments by earning less—reduce productivity. The VAT taxpayer can reduce his tax liabilities by purchasing less—making more resources available for investment.

A final but very important advantage of a VAT over a FRIT is the treatment the international community through the General Agreement on Tariffs and Trade (GATT) gives to VAT and FRIT. The VAT has been declared by GATT and by the general world-wide economic community to be a indirect tax. FRIT on the other hand is generally accepted and treated as a direct tax because the base is income which is judged to be affected by personal related adjustments. Also, VAT holds the indirect label because it is judged to be shifted forward in higher prices. FRIT is considered to be a direct tax because its collections are seen to result in lower incomes and not higher prices.

These differences in the general understanding of the location of the burden of direct and indirect taxes results in GATT allowing VAT nations to deduct VAT from exports and to add on the domestic VAT as a border tax on imports, without becoming guilty of violation of general freedom of trade and tariff treaties.

The international trade advantage of VAT over FRIT and all types of income and profit based taxes is direct and understood by businessmen engaged in international commerce. The export stimulating impact of indirect taxes and the import restriction impact of these same taxes causes a nation to develop a strong balance of trade and services and to enjoy a higher level of employment. The advantage of indirect taxes in the allocation of tax burdens is frequently denied by economists who emphasize a general macroeconomic approach. They see the commerical advantage of indirect taxes to be washed out in international exchange rate adjustments.

If the commercial advantage of indirect tax treatment of exports and imports does not exist, as macroeconomists argue, then the nations using a substantial VAT should be willing to abandon the special export and import advantages enjoyed by users of VAT.

The discussion of federal tax reform has concentrated on the income tax shifts. It was only during a brief period between 1977 and 1979 that a replacement for the income tax was seriously considered by Congress under the leadership of Al Ullman, Chairman of the Committee on Ways and Means. Prior to this the Nixon administration in 1972 proposed a VAT to finance the reduction of property taxes. Neither of these proposals for a federal VAT advanced beyond committee consideration.

Currently several FRIT approaches are being pushed as a procedure to simplify the federal income tax. This development continues many weaknesses of the income tax while failing to provide an adequate tax base to permit reduction of the heavy burden carried directly through taxation of wage earnings.

Federal taxes: A new system

	Billions
Existing system:	
Individual income tax: Top rate 50 percent	$300
Corporate income tax: Top rate 46 percent	65
Estate and gift tax: Top rate 50 percent	8
Estimated 1982 total	373
New system:	
Value added tax: 15 percent flat rate	330
Net wealth tax: 2 percent flat rate	43
Total	373

Note.—Much of stagflation is tax caused and can be tax erased: High rates, narrow base and cyclical collections and low rates, broad base and stable collections.●

WORKERS UNDER COMMUNISM

● Mr. MOYNIHAN. Mr. President, I am pleased to call to the attention of the Senate an important new journalistic endeavor. Workers Under Communism is a quarterly devoted to examining the actual condition of the working classes in Communist societies, a subject about which we know far too little. The product of a collaborative effort of the League for Industrial Democracy and the Georgetown University international labor program, the inaugural issue evidences serious scholarship and lucid prose.

The conventions of the International Labor Organization guarantee workers' rights. Workers Under Communism proposes to offer, for the first time, regular status reports on the condition and rights of workers in the Communist world. It fills a crucial gap. And it is welcome indeed.

This essay by Arch Puddington, the new journal's editor, is a compelling treatment of the role and program of Solidarity, a free labor union crushed by an oppressive regime. Mr. Puddington's article is suggestive of the general excellence and significance of this endeavor. I ask that the text of Mr. Puddington's article be printed in the RECORD.

The article follows:

SOLIDARITY AND MARTIAL LAW POLAND

(By Arch Puddington)

It was Lenin who, early on, called for subordinating the trade union movement to the will of the Communist Party. Although Lenin's successors have violated any number of his strictures, on this issue they have faithfully followed his teachings. For Lenin, keeping a firm grip on the unions was necessary to make two things possible—the building of a movement capable of transforming the economic order, and the controlling of society. For today's Communists, the issue is one of simple control.

Recent events in Poland reinforce Lenin's view that free trade unions and Communism are incompatible. General Jaruzelski's promises to permit Solidarity or a similar organization under a different name to function independently of the party-state once "order" has been restored cannot be taken seriously. The same pledges to respect the autonomy of worker organizations established during periods of upheaval have been made before: by Kadar and Gomulka, in 1956, by Husak in 1968, and by Gierek in 1971. Without exception, these independent or semi-independent workers' bodies were subverted, coerced, and eventually destroyed, once the Communist authorities reestablished their control over the society. Nor will a desire to placate public opinion in Western Europe prevent Jaruzelski from stripping away the powers won by Solidarity during the precoup period. Even if the Polish regime favored granting solidarity limited autonomy as a conciliatory move to coax more productivity out of the work force, it is inconceivable that the Soviet Union, which is reportedly ploughing $4 to $5 billion into the Polish economy (more than it spends annually to prop up the Cuban dictatorship) would assent to the continued presence of an independent union.

Many of us who recognized the contradictions inherent in Solidarity's existence in Communist Poland chose not to press that point, hoping against hope that the Poles would succeed where the Hungarians and Czechs had failed. It is not, of course, simply a trade union which has been crushed, but an entire people. Solidarity was never, even at its inception, a trade union as we in the democratic world understand the concept. It could not have been, given the nature of the society in which it sought to function. Solidarity leaders described the organization as "a movement for national renewal which took the form of a trade union"—as accurate a description as we have encountered. On the other hand, it is important that we not minimize the fact of Solidarity's basic trade union nature. Above all else, Solidarity was a working class movement, one of the largest working class movements in history. Its leadership was drawn from the working class, and it maintained, even in the most difficult times, a huge and loyal following among Polish workers. Moreover, when Solidarity's tactics or programs diverged from those usually associated with Western trade unions, the goal was always to enable it to serve its members more effectively.

It is important to keep these facts in mind at a time when the Soviet Union, its sympathizers, and even some Western non-sympathizers who should know better, are engaged in a systematic attempt to rewrite the history of the Solidarity experiment. In its most extreme expression, the revisionist (and Polish government) view holds that Solidarity was not a trade union at all, but a pure and simple oppositionist movement bent on overthrowing the Communist Party. According to this view, Solidarity's working class leadership had been pushed aside by "antisocialist" radicals like Jacek Kuron and other members of the intellectual opposition from the Committee for Social Self-defense, KOR. These radicals, it was said, misled the workers, perverted the union's aims, and pushed the country to a state of near-anarchy, making the imposition of martial law—regrettably—necessary and unavoidable.

Certainly Solidarity's leaders shared strong democratic convictions, and hoped that the changes sparked by the union would lead eventually to a pluralistic or semi-democratic political system. They were not naive; with a few exceptions, Solidarity's leaders understood that the one-party system and Poland's military alliance with the Soviet Union could not be challenged. On the other hand, and understandably, Solidarity leaders had nothing but contempt for the country's Communist authorities, who during thirty-five years in power had produced a bankrupt economy and the strangling of national culture, and whose response, when finally confronted with an unprecedented national crisis, was a desperate determination to hold on to the privileges of position and rank. Those who are sympathetic to Solidarity but now criticize the Poles for having "gone too far" are guilty of a subtle double standard: they demand from Solidarity an impossible degree of discipline and restraint, while they pass over the provocations, inertia, and moral failures of the Communist leadership.

Solidarity cannot be judged without giving the Polish context careful consideration. (This may seem obvious but apparently it is not, as is revealed by interpretations of the union's actions which have appeared in the Western press since martial law was declared.) At every turn, Solidarity's policies and tactics were influenced by the fact that it had to function within a political system where antidemocratic values are inscribed in official ideology.

It was this anti-democratic context which dictated the priority given to the issue of establishing an uncensored union press. Almost every trade union in the democratic world has its own press, free from the editorial control of government or party. No union could long survive where the means of communication are monopolized by forces hostile to its very existence. Here Solidarity's demands brought about a remarkable transformation in Poland's access to reliable news, not only because the presence of a competing source of information forced the party-controlled media to offer more open and objective coverage of domestic events.

Then there is the issue of Solidarity's "syndicalist" tendencies, meaning its use of the strike and other direct-action tactics in the pursuit of broad political and social reforms. For some Westerners, and especially for Solidarity supporters on the political left, evidences of syndicalism were among the union's most appealing features. Here, finally, was a workers' movement willing to challenge the authorities on the streets and in the factories. But at the same time, and far more significantly from the standpoint of Solidarity's international reputation, the union's syndicalist (or as some preferred it, anarchistic) character raised serious doubts about its ability to play a useful role in the rebuilding of the Polish economy. Once again, though, we cannot evaluate the union's tactics without considering the Polish context. During the innumerable conflicts with the government, Lech Walesa did not favor using the strike or the threat of strike as a major weapon. He soon found, however, that the union's options were severely limited.

In a Communist country, especially one with a Soviet-model centralized economic structure, meaningful collective bargaining is practically impossible. In the Polish case, the miserable condition of the economy ensured that Solidarity could not hope to negotiate a better standard of living for its members, a severe handicap with which the union was saddled from the very beginning. This meant that the only alternative to industrial strife was a compromise settlement involving the government, the union, and the Catholic Church—a social compact designed to revive the Polish economy while guaranteeing the continuation of the liberalization process. As matters worked out, the Communist Party was simply too weak and divided to engage in serious negotiations with Solidarity, as can be seen in the pattern of provocation and capitulation which marked the government's behavior throughout Solidarity's existence.

In this difficult situation, Solidarity had no choice but to resort to direct action—strikes, sit-ins, slow-downs, work-to-rule, and so on. Contrary to certain Western perceptions, these tactics were not used in a frivolous or irresponsible way. Solidarity simply was determined not to repeat the error of those previous workers' movements which had accepted the Communist government's pledges of cooperation only to see their organizations subverted and broken up. Solidarity did not trust the government, and for good reason. In a little-noted speech delivered at the time of the signing of the Gdansk accords, Stanislaw Kania as much as said that the government's acquiescence was a tactical maneuver designed to buy time for a future recovery of power. Given this governmental attitude and the regime's record of duplicity, the union determined that only by its own willingness to take militant action could it ensure that the regime would fulfill its promises.

A cornerstone of Solidarity's program was its plan for industrial self-management. For some, the emphasis on self-management was still further evidence of the union's syndicalist character. In fact, various forms of enterprise power sharing have long been favored by Western unions; and in many countries worker participation has been negotiated by unions and employers or provided for by legislation. Seldom, however, are these power-sharing schemes given the central programmatic role that self-management assumed for Solidarity. But this was largely dictated by the structure of the Polish economy. Convincing arguments can be made that self-management would not have proved especially helpful in Poland, given the preordained hostility of an entrenched and seemingly unreformable industrial bureaucracy. On the other hand, practically all other avenues for participation in economic decision making were foreclosed. And in those few enterprises where the self-management system was instituted and where management was cooperative, the results were often a substantial increase in productivity and a dramatic improvement in the attitude of the workers.

Another unfortunate misconception concerns Solidarity's intellectual advisors. Intellectual-baiting is a time-honored practice of Communist regimes, the objective being to prevent an alliance between dissidents and workers. In Poland, a government-orchestrated campaign to discredit the intellectuals grouped around Solidarity was a permanent fixture of the political culture, and the constant accusations that intellectuals were alien elements bent on exploiting the union's popularity to advance their own "anti-socialist" agenda found a certain resonance in the West. Thus, a prominent Polish-American political figure declared, after the coup, that Solidarity's downfall was the result of its having come under the domination of KOR "radicals." Here is yet another example of the double standard mentioned earlier. No one considers it unusual that trade unions in the democratic world hire intellectuals to provide advice and to carry out certain functions which are essential to a union's work in a complex industrialized society. All large unions include on their staffs sociologists, economists, writers, and other professionals. The solidarity intellectuals, while opposed to the Communist system, did not share a common ideology; their views ranged from socialist to liberal. More important, they were neither naive, irresponsible, nor conspiratorial. As veterans of the opposition movement, the KOR members were often more realistic and prudent than the elected Solidarity leaders, and far less drawn to confrontationism than many ordinary Solidarity members.

One of the most telling arguments against charges that Solidarity was intent on fostering "counter-revolution" is the union's response to the coup. As is by now obvious, there was no contingency plan to use violence in the event of actions against the union by the government or, for that matter, the Soviets. There were no stockpiles of arms or explosives; had there been, we would by now have heard about them from the regime. Some Solidarity supporters have interpreted the absence of a militant response as a sign of the union's lack of foresight. But Solidarity representatives in the West have indicated that a conscious decision had been made early on not to encourage violence in answer to official provocation; to have done so, Solidarity believed, would have discredited the union in the eyes of the Polish people while giving the regime a ready-made excuse for repression. This restraint also reflects the seriousness with which Solidarity leaders took their mission as representatives of the working class. Historically, their attitude stands in stark contrast to that of the Communists, who have never hesitated to sacrifice ordinary people in their drive for dominance.

What of the future? A portent of things to come may be found in a report issued by a special government commission, headed by Deputy Prime Minister Mieczyslaw Rakowski, which concludes that trade unions in post-martial-law Poland should be reborn "on the basis of the constitutional principles of the socialist political order." This can only be interpreted to mean the placement of the Polish labor movement under firm party-state control, and the end of Solidarity. Meanwhile, the country's intellectuals are being subjected to a modified form of neo-Stalinist terror through the govern-

ment's monopoly on employment. Universities, publishing houses, and other cultural institutions are already in the process of determining whether their employees can pass the test of political reliability; those receiving failing marks face dismissal. In "normalized" Poland, getting the sack can have quite serious consequences. The military authorities have already issued a decree making unemployed males aged 18 to 45 subject to forced labor; we could very well see professors, lawyers, and economists serving as night watchmen or cleaning latrines in the near future.

It is difficult to predict how the working class will respond to the new order. Solidarity's appeal for passive resistance appears to have had an impact, with industrial productivity well below normal. The application of outright terror by the regime, should work routine fail to return to normal, cannot be ruled out.

It is also possible that the Polish workers, in resigned sorrow, will adjust to the new situation out of a sense that ultimately they have no alternative. Resistance to martial law so far has not approached the levels which many in the West would have anticipated. The Poles themselves were fond of boasting that, unlike the Czechs, they would fight should the Soviets invade. The Poles might have responded differently to Soviet intervention than they did when confronted by their own security forces. But it is more likely that the results would have differed little from the pattern we've already witnessed. I think the reason for the Poles' restrained response go beyond the evident efficiency of the government's action. There is a saying in the Soviet Union that "the armies of socialism march in only one direction." The Poles, and indeed all the people subject to Soviet domination, are well aware of the implications of this proverb. The Soviets may not enter into military adventures impetuously, but once they do they push events to their conclusion, and world opinion and the people affected be damned. Much the same holds for the indigenous Communist parties, even the most inept. Open resistance, however heroic it might have appeared, was perceived as futile. Given these harsh realities, the passive resistance course announced by Solidarity may ultimately prove a better strategy for salvaging a few social reforms then open rebellion would have done.

Solidarity, of course, has not totally succumbed to the regime's repression. It remains active both as an underground movement inside Poland and as a pressure group for Polish democratic rights in the West. Within Poland, a network of activists are playing key roles in mobilizing a campaign of passive resistance to the martial law, with an eye toward a step-up in opposition this spring. In this endeavor, Solidarity has benefited from its democratic structure. Second, third, and fourth level leaders, men and women who were elected to their positions and in whom the workers have confidence, have assumed the leadership roles since the more prominent union figures were interned. It is these leaders who are responsible for the publication of the dozens of pamphlets, flyers, bulletins, and newspapers which appear each week throughout martial-law Poland, and which provide an alternative source of information for those whose only other source of domestic news is the sterile official press. These publications contain reports of strikes and riots, declarations of imprisoned leaders, descriptions of conditions inside the internment camps, and information about government efforts to impose political conformity on educational institutions, the press, and other institutions.

Outside Poland, committees and organizations dedicated to mobilizing support for Solidarity have been established in Paris, London, Stockholm, New York, and other major western cities. These groups are spearheaded by Solidarity leaders and members of the Polish intellectual opposition who were stranded in the West at the time of the coup. They publish information on developments inside Poland which are often not covered by the media, and they work with trade unions, religious organizations, academic associations, and political groups in order to organize actions on Solidarity's behalf.

The Solidarity experience in Poland has been a dramatic demonstration to the world the human rights indeed remain an aspiration of peoples, however long they may be subjected to despotic repression. The mismanagement and inefficiency of the regime had led to economic disaster, and this spur created the impetus that gave voice and organization to an independent movement. That it was the Polish working class which took the initiative in organizing the free movement is especially significant—and ironic—in a society where the rules sought legitimacy based on their claim to being the representatives of the working class. The fact that, in this country of deep patriotic commitment, the regime was originally imposed from the outside and continued to be limited in its direction by outside dictation, has been significant in conditioning the attitude of the Polish people. The independent organization of the working class, in the form of Solidarity, stripped the regime of any claim to legitimacy. It was left with naked power as its only weapon against a challenge which its mentors to the East insisted that it meet head on. For people elsewhere, as in Poland, suppression succeeded only in underscoring the valiant initiative represented by Solidarity, a free trade union movement in a Communist society, carrying with it the support of the entire Polish people—workers peasants, students, intellectuals. The Soviet Union cannot, through its proxy suppression, cancel this inspiration and this reality.●

ORDER FOR RECESS TODAY UNTIL 3 P.M. TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 3 p.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR SPECTER TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that, after the recognition of the two leaders under the standing order tomorrow, the Senator from Pennsylvania (Mr. SPECTER) be recognized on special order for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT FROM THURSDAY OR FRIDAY UNTIL MONDAY, FEBRUARY 14, 1983

Mr. BAKER. Mr. President, the concurrent resolution I am about to send to the desk is a recess resolution which I have shown the minority leader, and I understand he perhaps does not object to its consideration at this time.

Mr. President, I now send a Senate concurrent resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the concurrent resolution.

The legislative clerk read as follows:

S. CON. RES. 8

Resolved by the Senate (the House of Representatives concurring), That when the Senate adjourns on Thursday, February 3, 1983, or Friday, February 4, 1983, pursuant to a motion of the Majority Leader or his designee, pursuant to this resolution, it stand adjourned until 12 noon on Monday, February 14, 1983.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 8) was agreed to.

Mr. BAKER. I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

(Mr. BOSCHWITZ assumed the chair.)

ORDER OF PROCEDURE ON WEDNESDAY AND THURSDAY

Mr. BAKER. Mr. President, on tomorrow the Senate will convene at 3 p.m. It is not anticipated that it will be a very busy day, hence the late hour for convening. However, there may be matters that can be cleared for action by unanimous consent, and I am anxious to see the Senate get off to as good a start as possible. Hence, I urge Senators to call the attention of the leadership on both sides to any matters that they might wish to present.

The Senate then, Mr. President, will go over until Thursday, the following day. It is anticipated that on Thursday the Senate will turn to the consideration of Calendar Order No. 2, S. 271.

Mr. President, I do not expect that that will be a highly controversial measure, but it will no doubt require some time. It is the only matter currently on the calendar of general orders. I do not anticipate asking the Senate to be in session then, Mr. President, on Friday.

Once again, may I remind Senators that the Monday through Thursday routine is not being established as a precedent. Indeed, I hope and expect that the Senate will be able to utilize

the full 5 days of the normal legislative week during the early weeks of this session, but there is simply nothing on the calendar to deal with at this time. We have to give our committees time to report out legislation for the consideration of the full Senate in an orderly way. Therefore, I do not anticipate a session of the Senate on Friday.

Mr. BYRD. Mr. President, will the majority leader yield?

Mr. BAKER. Yes, I yield.

Mr. BYRD. The distinguished majority leader has said that he does not anticipate a session of the Senate on Friday.

Friday is the day on which the measure on the calendar would qualify under the 3-day rule. It would still need an ajournment or unanimous-consent order to comply with the 1-day rule, but the minority is prepared to give the majority leader the waiver of the 3-day rule and the 1-day rule if he wishes to schedule this for Thursday.

Mr. BAKER. I thank the Senator. I am very grateful.

Mr. President, I reiterate that it is the hope of the leadership on this side that the Senate can turn to the consideration of S. 271 on Thursday. The minority leader correctly points out that there is a report to accompany this measure and that both the 1-day rule and the 3-day rule apply.

Notwithstanding, I hope that it is possible for the Senate to grant unanimous-consent consideration of this bill on Thursday.

If that is the case, and if we can finish this bill on Thursday, then it would not be the intention of the leadership to ask the Senate to meet on Friday.

Mr. President, there are other matters that can be dealt with tomorrow, as I indicated earlier.

RECESS UNTIL 3 P.M. TOMORROW

Mr. BAKER. Mr. President, I see no Senator now seeking recognition. Does the minority leader have further business to ask the Senate to consider?

Mr. BYRD. Mr. President, I have none, and I thank the majority leader.

Mr. BAKER. Then I am prepared, Mr. President, and I do now ask unanimous consent that the Senate stand in recess until 3 p.m. tomorrow under the order previously entered.

There being no objection, the Senate, at 5:14 p.m., recessed until Wednesday, February 2, 1983, at 3 p.m.

CONFIRMATIONS

Executive nomination confirmed by the Senate February 1, 1983.

DEPARTMENT OF TRANSPORTATION

Elizabeth Hanford Dole, of Kansas, to be Secretary of Transportation.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

EXTENSIONS OF REMARKS

GEORGE PRESTON MARSHALL, A NATIVE WEST VIRGINIAN, IS RECALLED AS FOUNDER OF THE WASHINGTON REDSKINS

HON. JENNINGS RANDOLPH

OF WEST VIRGINIA

IN THE SENATE OF THE UNITED STATES

Tuesday, February 1, 1983

Mr. RANDOLPH. Mr. President, after 3 weeks of hype and hoopla surrounding the professional football playoffs and the Super Bowl, one would think that even diehard Redskin football fans would be emotionally drained and seeking other interests. Yet all of Washington is eagerly awaiting the formal welcome and traditional parade Wednesday honoring the Super Bowl champions.

The exhilaration attendant to the victory over Miami resulted in some understandable celebrations. To label the Redskins "world champions" is to ignore nine-tenths of the Earth's population which also plays the game in various forms. And it is simply bad taste to compare individual players with the Deity.

Nevertheless, the infectious enthusiasm of the moment pervades, and loyal fans deserve their shared glory.

It is difficult to retain perspective on the game and its players, given the widespread media coverage of this most recent Super Bowl victory. Yet veteran fans and aging sportswriters can remember other days and other victories where Redskins rode rampant before four decades of relative mediocrity set in.

For example, few of today's fans remember the man who started it all, George Preston Marshall, a native of Charleston, W. Va. He headed the syndicate which, in 1932, paid the then significant sum of $5,000 for the Boston Redskins franchise in the National Football League. It was Marshall who suggested that the NFL split into two divisions, each to have its own champion. He envisioned a championship game between the two divisions similar to the World Series. The NFL approved.

In 1936, the Boston Redskins won the eastern division title, but poor attendance in Bean City prompted Marshall to move the playoff game to New York's Polo Grounds. There the Redskins lost to Green Bay by a score of 21-6.

In the following year, Marshall moved the team to Washington, signing the great passer from Texas Christian, "Slinging" Sammy Baugh. Baugh led the Redskins to five division titles and two NFL championships, in 1937 and 1942.

It is understandable that, after such a long time of Redskin also-rans, fans would explode into the largest city celebration since the end of World War II.

George Preston Marshall promoted his team the way he promoted his chain of laundries. His wife, silent movie star Corinne Griffith, wrote the lyrics to the fight song, "Hail to the Redskins." Marshall hired the first sports marching band. He also hired as head coach a former member of the Davis and Elkins College "Scarlet Hurricane" teams which, in the late 1920's, rose from anonymity to national football fame under the famous Cam Henderson. As former athletic director at Davis and Elkins, I was delighted with the idea that Herman Ball be hired as scout and later head coach of the Redskins.

Ball went to Elkins High School, where he starred on the football team as a tackle under Coach Frank Wimer. Later he attended Davis and Elkins College, where he was a member of the famous "Scarlet Hurricane" football teams and later was successful as a high school coach at Cumberland, Md.

I recall organizing a party of 50 West Virginia fans to fly from Elkins to Washington aboard a DC-4 to celebrate the opening game of the 1949 season under new coach Ball, a native of Norton, Randolph County, W. Va.

Coach Ball served for 3 years, 1949 to 1951. He went on to the Eagles, and is now living in New Jersey.

Another West Virginian, the great Sam Huff, had a brilliant playing record with the Washington Redskins. He recently merited selection to the Professional Football Hall of Fame.

Marshall, meanwhile, is remembered by today's fans principally because of a large stone memorial at the entrance to RFK Stadium. Its bronze plaque reads:

George Preston Marshall. Founder of the Washington Redskins. Pioneer in the National Football League.

On the reverse side of the stone, another plaque reads:

The Washington Redskins Organized in the Nation's Capital 1937. This Memorial is a Tribute to George Preston Marshall and the Washington Redskins by Redskins Alumni and Friends.

The individual most responsible to today's victorious euphoria exists only in fading memory. He is a member of the Professional Football Hall of Fame. George Preston Marshall died on August 9, 1969, and his body now rests among his beloved West Virginia hills, in a modest plot in the Indian Mound Cemetery at Romney, W. Va.

A SOVIET MASSACRE

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 1, 1983

● Mr. MICHEL. Mr. Speaker, the Soviet invasion and occupation of Afghanistan goes on. We are receiving reports from eyewitnesses who tell us exactly what such a fact means to innocent human beings.

At this point, I wish to insert in the RECORD, "Afgans, in New York, Tell of a Massacre by Russians" from the New York Times, Friday, January 28, 1983.

[From the New York Times, Jan. 28, 1983]

AFGHANS, IN NEW YORK, TELL OF A MASSACRE BY RUSSIANS

(By Richard Bernstein)

Soviet soldiers surrounded an Afghan village with tanks in September and, in a brief occupation, massacred 105 of its inhabitants, including 12 children, who were hiding in a covered irrigation canal, three former residents of the village said yesterday.

Speaking at a news conference at Freedom House, a nonpartisan human rights organization on West 40th Street in New York, the three broke down in tears as they recounted a day of terror at Padkahwab-e-Shana, a town of about 10,000 people in the Logar Valley 40 miles south of Kabul.

The villagers, who included the Mayor, Habib-ur-Rahman; a Moslem cleric, Sayyed Mortaza, and an elder, Gol Mohammed, are among six spokesmen visiting this country to testify about what they say are Soviet atrocities and to try to win support for the Afghan insurgents.

Other members of the group, which will visit with Senate and House members in Washington next week, include Farida Ahmadi, a 22-year-old medical student from Kabul who said she was tortured in a four-month detention in 1981; Omar Babrakzai, a French-trained former judge, and Ghafoor Yussofzai, a guerilla commander from the northeast of Afghanistan.

A PATTERN OF TERROR

At the news conference, each of the six described a pattern of terror that they said had been imposed on Afghanistan in an effort to crush the rebels. They appealed for American military aid and warned that without it, their resistance could fail.

"We are one big battlefield," Mr. Babrakzai said. "But in our battlefield we are all alone right now."

He went on, "It is true that if these crimes go on, what do you expect a small country

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

to do? If you only stand and do nothing, what do you expect?"

Miss Ahmadi said she was tortured with electric prods and sleep deprivation by Afghan police officers at a detention center in Kabul and was once questioned by a tall, blond Russian who, she said, spoke excellent Persian, one of the languages of Afghanistan. She also said she was once forced to watch as Afghan interrogators tore out the eyes of a young, male prisoner. Miss Ahmadi's captors released her when they were unable to prove she was a member of a guerrilla organization.

AT PEOPLE'S TRIBUNAL HEARINGS

All six Afghans in the delegation participated in hearings on Soviet atrocities held by the People's Tribunal, formerly the Bertrand Russell Tribunal, in December in Paris. They were brought here by the Afghanistan Relief Committee, a private American group that assists Afghan refugees in Pakistan.

Michale Barry, a specialist on Afghanistan who served as interpreter at the news conference, said that after hearing refugee accounts in Pakistan of the incident at Padkahwab-e-Shana, he and three others working with the People's Tribunal crossed into Afghanistan and, with local guides, made their way to the village, where their investigation confirmed the villagers' accounts.

"We visited the village," he said. "We found the canal; we have seen that the underground irrigation channel, which is essentially a damp, mud tunnel several kilometers long, for several score yards is completely scorched and uniformly coated with soot."

"Our conclusion," he said, "is that some sort of incendiary agent was definitely used to kill these people."

Mr. Barry, a candidate for a Ph. D. degree in Islamic affairs at McGill University, said he lives in Paris and does occasional work for the People's Tribunal.

FIRST APPEARANCE AT VILLAGE

Using a handdrawn map to show houses and the canal where the villagers died, the elder, Mr. Mohammed, gave this account of the massacre:

In their first appearance at the village since the Soviet intervention in 1979, Soviet soldiers surrounded Padkahwab-e-Shana with tanks at 6 A.M. on Sept. 13; at 7 o'clock helicopters and jets flew over to keep anybody from fleeing.

A total of 105 village residents, all males but including children as young as 6 years, had hidden in an underground irrigation channel near the village square, most of them in fear of being taken into the Government army.

The Soviet soldiers discovered that the villagers were hiding in the canal and demanded that they come out. When nobody did, the soldiers brought over a gasoline tanker and, Mr. Mohammed said, poured "what to me smelled exactly like gasoline" into vertical well shafts that led into the canal.

"Then they brought another vehicle and from this vehicle they poured in a kind of yellowish-white liquid and I don't know what it is," he said, "And then you had men wearing suits and masks and goggles, their heads were completely covered, and they went down the steps leading to the canal entrance and they poured in what looked to us like cement; they poured in a white powder. They poured it into the water."

While Mr. Mohammed and others looked on, the soldiers fired incendiary bullets from AK-47 rifles into the channel, causing what Mr. Mohammed described as an "incredible explosion" and setting the channel afire.

The soldiers remained in the village for several hours. "Then, at 3 o'clock," Mr. Mohammed said, "they burst into applause; they clapped and they gathered their things and just left."

Mr. Mohammed, weeping, said that at that point, "You should have seen all the people of the village rushing to the canal because people were saying, 'My father is in there' or 'my child is in there' or 'my brother is in there,' and they started rushing down to see who could be still left alive."

U.S. REITERATES SUPPORT

WASHINGTON, Jan. 26—The State Department today reiterated its support of the account of a massacre as described by the Afghans speaking in New York. In a November report to Congress, the department described a massacre involving Soviet troops on Sept. 13 and another attack one week later.●

THE PEOPLE'S PARADISE

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 1, 1983

● Mr. FIELDS. Mr. Speaker, some form of socialism/communism is dominant in many nations and every continent. The idea of socialism is especially attractive to intellectuals who are able to maintain a comfortable distance from actual socialist practices.

Though socialism is a god that fails continuously, and causes more human suffering and tragedy than any idea or practice in history, there are those who stubbornly cling to its high-minded idealism. They religiously close up their eyes to the reality that the socialist promise of instant utopia brings only the tyranny of a real dystopia.

It if for them that the following glimpse of reality is provided.

There follows only extracts from an article by Thomas Magstadt. I urge my colleagues to secure and read the full text.

THE GREAT LEAP DOWNWARD

(By Thomas M. Magstadt)

In the throat
Of Hell, before the very vestibule
Of opening Orcus, sit Remorse and Grief,
And pale Disease, and sad Old Age and Fear,
And Hunger that persuades to crime, and Want:
Forms terrible to see. Suffering and Death
Inhabit here, and Death's own brother Sleep;
And the mind's evil lusts and deadly War,
Lie at the threshold, and the iron beds
Of the Eumenides; and Discord wild
Her viper-locks with bloody fillets bound.
—Virgil, Aeneid VI

Since ancient times, man has tried to imagine both the best and the worst of all possible worlds. For Virgil, hell existed in the hereafter. For Karl Marx, it existed in the here-and-now. Virgil's hell was a metaphorical world of poetic images; Marx's, a materialistic world of industrial sweatshops. Marx could imagine nothing worse than the remorseless wage-labor system associated with the "take-off" period of modern, industrial capitalism. Inhabitants of the 20th century, on the other hand, should have no great difficulty imagining things far worse—the horrors of Stalin's labor camps and Hitler's gas chambers constitute a lesson in evil that ought never to be forgotten. It is a lesson that the erstwhile leaders of the short-lived Communist regime in Cambodia [1] never learned.

The Cambodian holocaust must now be added to the grim list of 20th-century totalitarian nightmares. The nightmare began in April 1975 and ended approximately four years later when the Vietnamese, following a large-scale military invasion of Kampuchea, took the capital of Phnom Penh and established a puppet government under Heng Samrin.[2]

UPROOTED AT GUNPOINT

It was in mid-April 1975 that Khmer Rouge guerrillas quietly entered Phnom Penh, the capital, after a protracted war with the government forces of Lon Nol. The conservative, pro-American Lon Nol clique was notoriously corrupt and incompetent. There is little reason to believe that the Cambodian people would have mourned the passing of this crumbling regime. (It seems significant that when the Khmer Rouge enveloped Phnom Penh in the spring of 1975, the city's war-swollen population, estimated at some 2.5 million souls, while understandably apprehensive, apparently put up little or no resistance.)

The Khmer Rouge take-over of the capital was swift and efficient. The young guerrilla soldiers, sandals on their feet and automatic rifles in their hands, moved silently through the streets. An eerie calm descended on the capital. Then, with lightning suddenness, came the unbelievable word from on high: the city must be evacuated immediately! (The word quite literally came from "on high": the Kampuchean Communist Party at the first identified itself to the people only as Angka Loeu—in the Khmer language,"the Organization on High.")

The people of Phnom Penh were ordered at gunpoint to leave everything behind and hurl themselves into the river of humanity that began pouring out of the capital. An eyewitness observer, Fr. François Ponchaud, described in Cambodia: Year Zero how this "hallucinatory spectacle" began:

[1] Communist Cambodia was given the official name of Democratic Kampuchea. For semantic convenience, I will use the name Kampuchea to refer to Cambodia between April 1975 and early 1979.

[2] The Vietnamese invasion, although it "liberated" Cambodia from a brutal tyranny, was denounced by Prince Sihanouk at the United Nations. The UN Security Council's attempt to pass a resolution calling for Vietnam's withdrawal was vetoed by the Soviet Union. Heng Samrin's Vietnamese-backed government is now in control of the major cities and most of the Cambodian countryside, but the forces of the deposed Pol Pot regime continue to carry on a protracted guerilla war from their base areas along the Thai-Cambodian border. Due to the support of the People's Republic of China and the Association of Southeast Asian Nations (ASEAN), the ousted Pol Pot government continues to hold Cambodia's seat in the United Nations. In July 1981, a conference on Cambodia met at the United Nations and passed a unanimous resolution calling for Vietnamese withdrawal. The same conference also asked for UN-supervised elections and a guarantee of Cambodian independence. Vietnam, the Soviet Union, and the Eastern Bloc countries boycotted the conference.

"Thousands of sick and wounded were abandoning the city. The strongest dragged pitifully along, others were carried by friends and some were lying on beds pushed by their families with their plasma and IV bumping alongside. I shall never forget one cripple who had neither hands nor feet, writhing along the ground like a severed worm . . ."

The forced march into the country was carried out with murderous haste. In a few short days, the capital was emptied of all inhabitants with the exception of diplomats and missionaries who became temporary prisoners of the Angkar—that is, the invisible government.

Thus began a four-year period of politically organized insanity. The evacuation of Phnom Penh was matched by similar evacuations of every city and town in Cambodia. The entire population was uprooted, resettled, and rusticated.

BY THE SWEAT OF THY BROW

Why? Those who would account for such catastrophes as the Cambodian Revolution without raising nettlesome questions of moral responsibility often incline toward sociological explanations. But, whereas sociological analysis definitely helps to explain why revolutionary upheavals occur, it does not explain why some revolutions, once they have occured in a particular time and place, move in one direction, while other revolutions move in quite another.

In the case of the Cambodian Revolution, ideology would seem to be the most compelling explanation for the particular direction taken by the Angkar (hereafter referred to as the Organization). To illustrate, Ponchaud writes:

"The evacuation of Phnom Penh follows traditional Khmer revolutionary practice: ever since 1972 the guerrilla fighters had been sending all the inhabitants of the villages and towns they occupied into the forest to live, often burning their homes so they would have nothing to come back for. A massive, total operation such as this reflects a new concept of society, in which there is no place even for the idea of a city. The towns of Cambodia had grown up around marketplaces; Phnom Penh itself owed its expansion to French colonialism, Chinese commerce, and the bureaucracy of the monarchy, followed by that of the republic. All this had to be swept away and an egalitarian rural society put in its place."

Ponchaud quotes a political official who explained to him: "The city is bad, for there is money in the city. People can be reformed, but not cities. By sweating to clear the land, sowing and harvesting crops, men will learn the real value of things. Man has to know that he is born from a grain of rice!"

The ideological pedigree of this line of revolutionary thought and action can be traced back to the Maoist reformulation of Marxism-Leninism. Mao's faith in the peasant masses was always a distinctive feature of his own "Oriental" brand of Marxism.

In the history of Western political thought, Marxism stands out as perhaps the single most elaborate defense of equality. "Equality as the groundwork of communism is its political justification," said Marx. Yet Marx never extolled the virtues of poverty. Neither, for that matter, did Lenin or Stalin. Mao was the first "Marxist" to discover the value of poverty as a source of human virtue. Once again, it was the chemical reaction resulting from the combination of Marx's love of equality and Mao's exaltation of poverty that seems to have produced the deadly precipitate that nearly destroyed Cambodian society. Whereas Marx postulated that justice demands total equality and Mao presupposed that only the poor can understand the true meaning of justice, the leaders of Kampuchea, as we are about to see, wrenched both Marx and Mao out of their contexts and made justice synonymous with equal poverty.

EQUAL MISERY FOR ALL

What was life in Kampuchea like? To begin with, Kampuchean society was hermetically sealed. Contact with the outside world was almost completely cut off for nearly four years. The only glimpses we have gotten are based on eyewitness accounts of a few tourists and thousands of refugees who fled across the border into Thailand. The refugees have painted a lurid picture of mass executions and purges. They tell chilling tales of the systematic murder of teachers, civil servants, military officers, Buddhist monks, and intellectuals. They claim that people who complained about long work hours or short food rations were taken away at night and shot—sometimes whole families.

Work was made into the highest duty and greatest joy in Kampuchean life. The work force was strictly regimented. Work was incessant—a few daylight hours were occasionally set aside for "leisure time," which was generally spent in political indoctrination sessions. (Everyone was required to commit to memory the Twelve Commandments of the Angkar. The Eleventh Commandment is especially apposite: "Thou shalt continually join in the people's production and love thy work.") According to some reports, there were no days off; other reports indicate that a day of respite was granted at 10-day intervals. Almost everyone in Kampuchea did one of three things: grow rice; build dams, dikes, and irrigation canals; or work in one of the few factories still operating.

Food was a constant concern. The Kampuchean authorities told visiting journalists that each peasant was allotted three condensed-milk cans of rice per day (roughly 26 ounces of uncooked rice). That amount would probably have provided sufficient caloric intake, but refugees claim they never actually received a full ration. They tell of gnawing hunger that was seldom appeased by the watery rice gruel they were normally served twice a day. (According to refugees from one district in Battambang Province, authorities announced in the summer of 1978 that the daily ration would be cut to one condensed-milk can of rice for every four people.)

The people of Kampuchea ate in communal kitchens: in most villages and communes, private cooking was forbidden, although most families would have lacked the utensils with which to cook anyway. Material possessions were reduced to a bare minimum: a spoon, a water jar, and a dipper. Everyone was poor and everyone was equal. Indeed, the leaders of Kampuchea seemed to take revolutionary pride in the fact that everyone in the new Cambodia was at last equally poor.

As in most utopian experiments, children were separated from their parents. All children above the age of six became the "children of the Organization," living in their own barracks with their own communal kitchens. The children's biological parents were replaced by political "parents." Biological parents were permitted to see their children only on rare occasions.

The Khmer words for father and mother were expunged. The period of Communist rule was called the "momdad period" because all adults were addressed by their juniors as "mom" or "dad." People of the same generation called each other "junior comrade," and parents called children "comrade child"—in this manner, the principle of equal poverty was also applied to family life in Kampuchea.

At the risk of being accused of dwelling on horrors, one must note that estimates of mortality rates under the Pol Pot regime are staggering. A figure generally used suggests that perhaps 2 million or more souls out of a prerevolutionary population of 7 or 8 million may have perished as a direct or indirect consequence of Communist rule in Cambodia. These same estimates frequently place the number of political executions at around 200,000 or about 10 percent of the total deaths due to all causes.

There are at least two pitfalls, however, in all attempts to quantify the horrors of the Cambodian Revolution. Because of the iron curtain of isolation drawn around the country by the Organization during the period when these atrocities were being carried out, there is no way to verify the casualty figures. Political regimes do not publish statistics on deaths due to purges, famines, or plagues—especially when official actions are so deeply implicated in the complex of causes. In most cases, these "statistics" are long since dead and buried.

But there is another, more important reason for avoiding statistical summaries of the Cambodian holocaust. In this case, numbers somehow conceal more than they disclose. The numbers are shrouded in anonymity; the real victims all had names and faces. The cold figures, however much they may overestimate (or underestimate) the actual number of casualities, obscure the larger sense in which every man, woman, and child in Cambodia was a victim of the Organization's political obsessions. Families were torn asunder, children were orphaned, communities were shattered, property was expropriated—in short, the lives of all were wrecked in the name of a better life for all.

Again, sociological explanations do not suffice. The Cambodian Revolution represents both the triumpth and the tragedy of an idea that was embroidered into an ideology well over a century ago by Karl Marx and Frederick Engels. It goes without saying that Marx made economic equality synonymous with the good life. In order to usher in the coming Age of Equality, Marx believed, it would be necessary to engage in "class struggle" and, ultimately, violent revolution. Marx reserved a special place for the Communist Party in the revoluntionary struggle, but he also insisted that "the emancipation of the working class is the task of the working class itself."

It was Lenin, the founder of the Soviet empire, who declared that without the revolutionary "vanguard" (that is, the Bolshevik Party), "there is no conscious activity of the workers." Thus, a seemingly innocuous doctrine laid the groundwork for the building of an omnipotent party organization—an organization christened by Lenin as "the vanguard of the proletariat." In Kampuchea, this organization became "the Organization" with a captal O. It was, literally, the Organization on High: it represented an invisible force with the power of life and death over the people.

IN THE NAME OF PARADISE

The foregoing observations point to four general conclusions. First, ideas really do matter in political life. Sociological explanations of the major revolutions of our times are inadequate. They help to explain the frustration and anger that spawn revolutionary heroes and energize the huddled masses, but they do not account for the channels into which mass energies are ultimately directed. Only when ideas are converted into mass ideologies is there a motive force sufficient to propel a revolutionary mass movement in one direction or another.

Second, Marx's heirs have committed the double sin of simultaneously taking their progenitor too seriously and not taking him seriously enough. They have taken his utopian egalitarianism too seriously and have largely disregarded his "dialectical materialism." This criticism has nothing to do with the "scientific" validity of Marx's theory of history; it has everything to do with the political consequences of rejecting the basis for the Marxist prophecy while continuing to embrace the utopia that presumably awaits the prophecy's fulfillment.

Here a word of explanation is in order. The principal bearers of the Marxist revolutionary tradition in the 20th century have elevated their own role, and that of the movements they spearheaded, to a much higher plane than a strict interpretation of Marx's theory of history would have permitted. In every case, they found Marx's dialectical materialism, with its inexorable succession of discrete historical stages, far too confining for their own political ambitions. From Lenin and Stalin to Mao and Pol Pot, Marx's 20th-century heirs have sought to replace his historical determinism with their own special brands of political voluntarism. Once Marx's theory of history was abandoned, there was nothing the omnipotent Party, or Movement, or Leader could not do. In Soviet Russia, Stalin built a "cult of personality"; in Kampuchea, "the Organization" was deified. As a result, Marx's materialistic political ideology has been turned into a totalitarian instrument of voluntaristic political action.

Third, when ideologies are transplanted from their native culture to an alien culture, the results are unpredictable. Francois Ponchaud provides glimpse of the explosive mixture that resulted from the combination of a European ideology with an Asiatic culture:

"[One] cause of the radicality of the Khmer revolution lies in the Khmer way of reasoning, which is bewildering to Cartesian minds. The Khmer thinks by accretions or juxtapositions, but adheres strictly to the rules of his own internal logic. In the past, before beginning to act, every committee or council spent long hours and sometimes days drawing up statutes from which nothing was omitted, and constructing schemes each more impracticable than the last. A simple idea, intuitively perceived, was pushed to the limits of its internal logic and often to the point of absurdity, without any regard for the realities or any forethought for practical consequences."

It is not difficult to see how Marxism-Leninism, "pushed to the limits of its internal logic," could have produced the tragic experiment that demolished Cambodian society. The "simple idea" Ponchaud refers to might well have been the "intuitively perceived justice" of social and economic equality. Maoist revolutionary principles were then seized upon and pushed "to the point of absurdity." So also were Lenin's practical lessons in organization and propaganda. And Stalin's methods of labor regimentation. And so forth.

The fourth and final conclusion is that utopianism in any cultural context can too easily be turned into a justification for tyranny. This is the paradox of unbounded idealism. The history of Marxism in the 20th century has demonstrated only too clearly that it is possible to wish mankind too well. By holding out the prospect of unlimited good, Marxism's practitioners have been able to justify unlimited evil. It was Stalin who said, "If you want to make an omelette you have to break some eggs." Mao was less delicate:

"A revolution is not a dinner party, or writing an essay, or painting a picture, or doing embroidery; it cannot be so refined, so leisurely and gentle, so temperate, kind, courteous, restrained, and magnanimous. A revolution is an insurrection, an act of violence by which one class overthrows another."

Stalin and Mao were both indebted to Lenin for this novel doctrine of "revolutionary morality." In Lenin's own words: "Our morality is completely subordinated to the interests of the class struggle of the proletariat. . . . Morality is that which serves to destroy the old exploiting society." As a consequence, Lenin said:

"We deny all morality that is drawn from some conception beyond men, beyond class. We say that it is a deception . . . a fraud and a stultification of the minds of the workers and peasants in the interests of the landowners and capitalists."

When the leaders of Democratic Kampuchea finally got their chance to make an omelette, they broke a lot of eggs. They subordinated all civilized standards of morality to "the interests of the class struggle"—interests that were defined and dictated by the omniscient Organization. The egalitarian paradise they set out to create degenerated into an impoverished hell that differed from the poet Virgil's description in only one detail—in Kampuchea, it was not a metaphor.

(Thomas Magstadt is chairman of the Department of Government and International Affairs at Augustana College, Sioux Falls, South Dakota. He has written for National Review, Chronicle of Higher Education, and other publications.)●

A SALUTE TO UKRAINIAN INDEPENDENCE DAY

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1982

● Mr. STOKES. Mr. Speaker, I want to thank my distinguished colleagues, the gentleman from New York Mr. STRATTON, and the gentleman from Pennsylvania, Mr. RITTER, for taking this special order or Ukrainian Independence Day. It is an honor for me to join in this salute to the Ukrainians for their continuing commitment to a free Ukraine.

Sixty-five years ago these strong and spirited people declared their sovereignty, giving birth to the independent state of the Ukraine. The events that have taken place since their declaration of freedom on January 22, 1918, and their legal recognition as an independent nation on February 9, 1918, are well known. Before the year had ended, the United Ukrainian Republic was besieged by both the Red and White Russian armies, as well as by the Poles. After 3 years of fighting, the Bolshevik Army overcame the brave but smaller Army of the Ukrainians, and to this day the Ukrainians have been held unwillingly within the Union of Soviet Socialist Republics.

Mr. Speaker, the Ukraine is a nation whose long history has produced more than its share of heroes. It was inevitable that a proud and undaunted people would come forth from the rich cultural background of the Ukraine. Today's Ukrainians are descendants of the Slavic peoples who settled in the Ukraine area during the second or third millenium B.C. Until the 13th century, the Ukrainians lived as a free people, producing outstanding art, literature, music, and architecture. In the year 1240 the Mongols invaded and from that point onward, the Ukrainians enjoyed complete national sovereignty only twice more, once in the 17th century, and once from 1918 to 1922.

Throughout these hundreds of years, exemplary Ukrainian men and women have stood up to the hardships of a conquered people. From the Cossacks who fought against Catherine the Great, to Simon Petlyura who confronted the Bolsheviks, the White Russians, and the Poles, to persecuted members of today's Ukrainian Helsinki Group, the dignity of the Ukrainians has remained uncompromised. The Ukrainian Helsinki Group, which was formed on November 9, 1976, has spent the last 6 years monitoring Soviet compliance with the Helsinki Accords. Of the several Helsinki groups that have existed (those of Moscow, Lithuania, and Georgia), the Ukrainian Group is the largest and has suffered the worst oppression.

Mr. Speaker, there are today 31 men and women who have been imprisoned for being members of the Ukrainian Helsinki Group. The group's leader, poet Mykola Rudenko, was sentenced on July 7, 1977, to 7 years strict regimen camp and 5 years of internal exile for "anti-Soviet agitation and propaganda." His wife, Raisa, has been imprisoned for speaking out on her husband's behalf.

There are many other ways in which the Ukrainians have been singled out for special Soviet repression: Although the Ukrainians constitute about 20 percent of the Soviet population, they comprise a disproportionate 40 percent of the Soviet political prisoners. Even their churches have been more harshly discriminated against than those of the other Russian Republics. The Eastern Rites Catholic Church with its membership of 4 million is the larg-

est, single, banned, religious group in the Soviet Union, and the smaller Ukrainian Orthodox Church is illegal, as well.

I have been told by those who deal daily with the Ukrainian struggle that the Soviet regime is particularly determined to subject the unique Ukrainians to the process of "Russification." In short, the Soviets hope to eradicate the strong cultural heritage that has served as a basis for Ukrainian independence.

Mr. Speaker, we in the Congress of the United States could tell the Russians that their effort will continue to end in futility. The Soviet Union may occupy the government offices of the Ukraine, but it will never occupy the real seat of power in that nation: the hearts of the courageous Ukrainian people.●

UKRAINIAN INDEPENDENCE DAY

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 26, 1983

● Mr. HUGHES. Mr. Speaker, in our proceedings of the coming weeks and months, we will be reviewing the state of the Union. As we do so, let us not forget to consider as well the fundamental tenet that undergirds our national consciousness: freedom. This pure light, which we cherish and defend above all else, is a fact of life in America. In the Ukraine and the captive nations, however, there is no light of freedom.

President Kennedy once said:

No one can doubt that the wave of the future is not the conquest of the world by a single dogmatic creed but the liberation of the diverse energies of free nations and free men.

This statement is as true today as it was in 1962, when President Kennedy spoke those words. Today, on the 65th anniversary of the heroic proclamation of independence of the Ukrainian people, let us commemorate an act of freedom and celebrate the strength of the human spirit, which strives toward freedom from oppression.

On January 22, 1981, the Ukraine was declared an independent republic. This independence was short lived, however. During the next 3 years, the Ukraine was invaded by the Red and White Russian armies from the east, and by the Poles on the western frontier. After struggling for 3 years, the Ukrainian forces succumbed to the Communist Russian forces. In 1922, the Ukrainian Soviet Socialist Republic was established.

The people of the Ukraine have a rich cultural history, and their own language and customs. Their universities are among the oldest and most famous in Eastern Europe. Ukrainian farmers produce one-fourth of the Soviet Union's meat and dairy products, and one-fifth of its grain. The Ukraine has rich mineral deposits, and is one of the major producers of steel and coal for the Soviet Union.

The Soviet Union has limited the cultural and political activity of the Ukrainians severely. Religious and national persecution, the inhuman treatment of Ukrainian citizens, and continual "Russification" have been endured by the peoples of the Ukraine since 1922.

In spite of this, however, the spark of freedom still shines in the hearts and minds of Ukrainian citizens. On this 65th anniversary of the establishment of an independent Ukrainian Republic, I take pride and pleasure in commemorating and saluting a brave people, and their cause of freedom. It is my hope that this spark will ignite, and that in our lifetime the golden sun of freedom will shine on all the peoples of the world.●

REMOVING THE BLOCKS TO WORLD PEACE

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 1, 1983

● Mr. EDGAR. Mr. Speaker, today I wish to honor a constituent who has devoted his life to peace. Erny Tannen, a media professional and president of MEDIAmerica Corp., has long been interested in abolishing war through the establishment of a world federal system. Highlighting a crowded schedule of speaking engagements, Erny will be addressing the Council of the World Association of World Federalists in Brussels, Belgium later this month. Because of the overwhelming importance of the peace issue, and because I believe that every creative idea for avoiding the use of nuclear weapons must be examined, I am submitting for the perusal of my colleagues a speech Erny delivered to the congregation of the Unity Church of Christianity in Washington.

The article follows:

REMOVING THE BLOCKS TO WORLD PEACE

(Talk delivered by Ernest Tannen to congregation of Unity Church of Christianity, Washington, D.C., June 27, 1982)

E.T. All my life I thought that E.T. stood for Ernest Tannen. And then one day recently, I got up and found out that it means Extra Terrestrial. I must say, that before I'm through here this morning, you may really think that I am the Extra Terrestrial!

In what I have to say to you, there are no new ideas, only old ones. The world has changed, but I think it's very important for us to look at some of these old ideas and see how they can apply to the world we live in today. There's a well-known philosoper named George Santayana, who said, "People who refuse to study history are doomed to repeat it." On the other hand, people who study history may find principles that are worth repeating. History is a reservoir containing many great old ideas. And we'll talk about some of them today.

Now, I would like to do a little true or false with you today. I'm going to make a statement and I would ask you to raise your hand if you think this statement is true. Please. The Bicentennial of the government of the United States of America was held in 1976. If you think that's true, please raise your hand. Okay. A lot of you, apparently, don't think that's true. But a lot of you think it is. If that is true, if you believe that is true, then my question to you is, how come George Washington wasn't inaugurated president until 1789? There's missing 13 years there. I'd like to take a couple of minutes to review with you exactly what did occur in that 13-year period, because it has relevance for what's happening in the world today.

In 1776, there were 13 colonies who declared independence from England and formed 13 separate sovereign nations. The word state is synonym for nation. And they did all the things that nations do. They elected presidents. Benjamin Franklin was President of Pennsylvania in that period of time. The Pennsylvania Legislature voted to make German its official language. They had wars. Vermont and New Hampshire fought a border war in that perod of time. Maryland and Virginia had a naval battle over fishing rights in the Chesapeake Bay. But probably, the most important thing that was going on in that period of time, was the realization on the part of England and Spain that these little countries that had just become independent were sitting ducks. So England began to move an army into Canada, and Spain began to move an army into Florida, and they were going to pick them off one by one and add them to their empire. Fortunately—Thomas Jefferson called them the demi-gods—the demigods who made the revolution happen were all still around. And at the prodding of Alexander Hamilton in particular, they all decided to come back to Philadephia. And on May 14th, 1787, (which I believe to be one of the most important dates in American history, but we totally ignore it) they came back to Philadelphia to try to figure out what to do about this terrible predicament they were in. There's a marvelous book by historian Carl Van Doren. It's called "The Great Rehearsal." Van Doren's idea is that what happened beginning May 14th, 1787, was a rehearsal for what needs to happen in the world today. Here's what Van Doren says in "The Great Rehearsal": He says, "In 1787, the problem was how the people could learn to think nationally, not locally about the United States. In 1982, the problem is now the people can learn to think internationally and not nationally about the United States."

In 1783, in the archives of New Jersey, a legislator is quoted in saying, "I am a New Jerseyan first, and an American second." Once again, another thought from George Santayana. He says, "Change world view and you change behavior." We, today, see ourselves as Americans first, humans second. We must begin to see ourselves as humans first, Americans second. And the same is true for people of all other nations of the world.

In "The Great Rehearsal," Van Doren notes that the Articles of Confederation were as about as effective as the United Nations Charter is today. He quotes Benjamin Franklin, who said, "The Articles of Confederation is generally blamed as not having

given sufficient powers to Congress, the federal head. A convention is therefore appointed to revise that Constitution and appoint a better." As Van Doren continues, "Franklin and Washington spent much time together in the days of the Federal Convention." Incidentally, they never called it the Constitutional Convention. They didn't dare to, because if their constituencies thought that they were going to monkey around with the Articles of Confederation, they might never have had that meeting. So they just called it the Federal Convention. Neither had shaped in advance any obstinate plan for a new Constitution. Van Doren says, "Both were prepared to work with other men for the best frame of government that could come out of these days and these men."

Ah, but you may say! Things were different then. It was easy for our forefathers to get together to write a Constitution. They knew and trusted each other, etc., etc. Here's what Benjamin Franklin wrote to his friend Pierre Samuel Dupont on June 9th, 1788. Franklin: "The players of our game are so many and their ideas so different, their prejudices so strong and so various and their particular interests independent of the general seeming so opposite, that not a move can be made that is not contested. The numerous objections confound the understanding. The wisest must agree to some unreasonable things that reasonable ones of more consequence may be obtained. And thus, chance has a share in many of the determinations so that the play is more like backgammon with a box of dice." Sounds like U.S. Congress . . . sounds like the United Nations. The more things change, the more they are the same.

And now, I would like us to jump forward about 30 years in our American history. In the 19th century, the world rid itself of another great social disease, slavery. The British Parliament emancipated slaves in the West Indies in 1833. America emancipated its slaves January 1, 1863. In my reading of the history of the anti-slavery movement, it was as difficult and as tortuous a path as the path to be followed to eliminate war. There is no argument that is made today to support war as a human establishment that was not made 150 years ago to support slavery. They said war and slavery are condoned by the Bible . . . They are a part of human nature . . . The economy depends on both of them.

In the beginning of the anti-slavery movement in America, support for slavery was national and almost total—north and south. In Lawrence Lader's book "The Bold Brahmins," he writes, "Who could have predicted that slavery would become the nation's torment?" "The great and foul stain upon the North American Union" John Quincy Adams called it in 1820. That year, congressmen from both north and south had joined together, hoping to bury the ghost forever with the Missouri Compromise . . . preserving the balance between slaves and free states. (The Missouri Compromise was sort of like the nuclear freeze movement today. It's a step in the right direction, but it's not the solution.) Who could have predicted that the issue would rise to torment Massachusetts? Had it not gloried in being the first state to abolish slavery in 1780? The only state in the first census in 1790 not to have a slave within its border. But in the last 15 years, the merchant Aristocracy had come to learn which side their bread is buttered on. As Boston shippers, merchants and manufacturers doubled and tripled their southern trade, their leading politicians Harrison Gray Otis and Theodore Lyman, Jr., showing the way established the conspiracy of silence on slavery. No one could interfere with or even criticize an institution that was so crucial to the business of the north. By 1835, a man would have to be an enemy of the union, a virtual traitor, if he even raised the subject in public discussion."

The first great voice raised against slavery was that of a man from Massachusetts, William Lloyd Garrison. On January 1, 1831, Garrison published the first edition of The Liberator, and anti-slavery paper. In it, he demanded that every chain be broken, that every slave set free. Boston considered him little more than a crackpot editor. Starting with the readership of a few hundred Boston negroes 150 years ago, the influence of The Liberator began to spread. And after a few years, some of the leaders of Boston society began to take him seriously. Garrison was described as having speech deliberate as a Quaker's but gentle as a woman's. I'd like to quote from the introduction to "The Bold Brahmins": "Beginning with the time William Lloyd Garrison, the first of the outspoken radical abolitionist, was nearly lynched by a pro-slavery Boston mob, Mr. Lader examines the constitutional background of the peculiar institution which appeared to be the work of the devil to the New England Puritans. And then carries his history of the moral and political war against slavery through the action of such people as John Brown, John Quincy Adams, Daniel Webster, Wendell Phillips, and Harriet Beecher Stowe up to the Civil War to the Emancipation Proclamation and the first use of negro troops on the battlefield. With a lively pace and feeling for striking detail, Mr. Lader recounts the behavior of some of the abolitionists whose activities outraged and intrigued the populace. One congregational minister protested by swimming nude by day across the Connecticut River. Sarah and Angeline Grinke, members of the south's Aristocracy, came north with the whole guilt of the south upon their shoulders. Burning their sets of Sir Walter Scott and screaming about their hunger for salvation, they gave impassioned addresses that were described as orgies of pain and guilt. But the patient determination and suffering of many abolitionists, brought new respect as well. There was a man named Lovejoy who went from Maine to St. Louis and then to Illinois with his abolitionist press which was twice dumped in the river, twice destroyed. Finally, his plant was besieged and Lovejoy martyred.

John Quincy Adams rose to fame he never had as a president by fighting the gag-rule against the discussion of slavery on the floor of the house. (John Quincy Adams was an interesting man. He was President of the United States, as many of you know, and became so involved in the slavery issue that after he returned home to Quincy, Massachusetts to retire from having been President of the United States, he decided to run for Congress.) And that's where he did his main work—as a Congressman from Quincy, Massachusetts on the slavery issue."

And so, in a 32 year period, the campaign against slavery was won. We abolished slavery in the 19th century. And now it is our responsibility to abolish war . . . the last great social disease . . . in the 20th century.

How do we do this? How do we approach this problem? For me, I choose to perceive this problem from the viewpoint of A Course in Miracles. The great eternal values, love and peace, are natural to the Universe. But because we humans choose to follow the path of the ego rather than the path of the spirit, we create blocks to the experience of peace and love.

I'm sure many of you here are familiar with Dr. Jerry Jampolsky's popular book "Love is Letting Go of Fear." Since there can be no love without peace, we can also say "Peace is Letting Go of Fear." When we choose to experience fear, we are following the path of the ego. When we let go of fear, we can experience love and peace, conditions that are as universal as the force of gravity. As Franklin Roosevelt said, "The only thing we have to fear is fear itself."

There are two egos. The personal ego and the national ego. This present administration has done an excellent job of expressing our national ego. And by so doing, it pushes us closer and closer to the brink of total human annihilation. How an individual behaves and how a nation behaves reflects the path he or it is on. According to A Course in Miracles, there are seven divine acts of will which we must exercise if we wish to know love and peace. They are: Do not judge; Do not attack; Forgive; Be happy; Live only in the present moment, the only time there is; Give love; Be at peace.

Now, let's look how we behave internationally, especially in our relationship with the Soviet Union. By following the dictates of our national ego, we attack them constantly, we judge them constantly, we do not forgive what we see as their transgressions, we constantly dwell on their past history from our point-of-view, and our leaders publicly express our hatred for them.

Remember, "I have a dream." What if an American leader arose to say the time has come to view all peoples of the earth as one. We will stop judging the Russians. We will stop attacking them in the world media. We will show that we are not afraid of them by extending to them our love and friendship. And we will sit down with the leaders of the world as our leaders did in 1787, to do exactly what they tried to do—reorder the international system so that war is abolished forever.

Fact—the world today is a much smaller community than the thirteen states were in 1776. Last night, it took me less than 2 hours to go from Philadelphia to Union Station here in Washington on a train. In 1787, on May 9th, when George Washington left Mount Vernon to come to Philadelphia, it took him 4 days. It took some of the other delegates from the states Georgia and Massachusetts, 3 weeks. Ronald Reagan can be in Moscow in 12 hours, 8 hours, 10 hours, and vice versa. Brezhnev can be here in less than half a day. We have become, in fact, McLuhan's Global Village. But the problem is, we are in a state of schizophrenia.

Consider that the earth is a living entity, which it is. And we are the right brain and the Russians are the left brain. In a human being, we have a right brain and a left brain. Each has its own separate function. But in a healthy person, the right brain and the left brain work in tandem together. Until we and the Russians begin to work in tandem, we will continue to behave as a schizophrenic behaves—insanely and dangerously.

Can you imagine what would happen to life on this planet if we could channel the 500 billion dollars the world spent last year to produce arms toward improving the quality of life for all humanity? All we could do with the money is to eliminate poverty, hunger, disease, ignorance, and fear. That's all! And all it takes is the will to abolish

war. I am absolutely certain it is possible to do so if we choose to. And I know that we have the God-given power to choose.

Look at the armed conflicts raging in the world today. The hundreds of lives lost in the bizarre British-Argentine war over the miniscule Falklands. I shall never forget watching television just the other day and seeing a young British woman in her early 20's in incredible grief. She just learned that her husband was killed in the Falklands. And what extended the pain, what made it even deeper—was the fact that I knew that she was the little picture . . . that she was one of hundreds of young women both in Britain and in Argentina that were going through this identical experience. For what? And what about the slaughter of innocents in the Middle East that continues minute by minute?

I would like to quote from a little known speech made by President Harry Truman in Kansas City after returning from one of the early United Nations meetings in San Francisco. My guess is that there isn't a single person in this congregation who knows this quote. President Truman said:

"It will be just as easy for nations to get along in a republic of the world as it is for you to get along in the republic of the United States. Now when Kansas and Colorado have a quarrel over the water in the Arkansas River they don't call out the National Guard in each state and go to war over it. They bring a suit in the Supreme Court of the United States and abide by its decision. There isn't a reason in the world, says Harry Truman, why we cannot do that internationally."

Do you know how many international disputes were brought before the World Court last year? . . . Two . . . exactly two. That's another example of the almost total inability of today's Articles of Confederation—the United Nations Charter—to deal with the world's most important problem—war.

If we lived in a republic of the world, perhaps not a single life would have been lost in the conflicts we are witnessing today. So what can we, you and I, do about it? I was dipping into the Course of Miracles and found this beautiful paragraph which I'd like to just share with you. It's the section that deals with peace, and the heading is "The First Obstacle, The Desire to Get Rid of It": "The first obstacle that peace must flow across, is your desire to get rid of it. For it cannot extend unless you keep it. You are the center from which it radiates outward to call the others in. You are its home . . . its tranquil dwelling place from which it gently reaches out but never leaving you. If you would make it homeless, how can it abide within the Son of God? If it would spread across the whole creation, it must begin with you. And from you, reach to everyone who calls and bring him rest by joining you."

Yes, peace begins with you and with me. What can we do to make it real in this world? First, I would suggest that we study the old ideas. I would propose forming a Washington Anti-War Society right in this congregation, right now! I would propose that the members research the activities of the Washington Anti-Slavery Society of 150 years ago and try to learn more about the American Federal Convention that began on May 14, 1787, in Philadelphia. I would propose that we invite members of organizations such as the National Organization of Women, N.O.W., to teach us how they raise public consciousness and how they lobby for their one issue, the Equal Rights Amendment. We must emulate their marches, demonstrations, lobbying, bumper stickers, letter writing, speeches, and media interviews. They will win and so will we. And important as their issue is, I believe the anti-war issue is even more important. The Anti-War Society must lobby to get commitments from elected officials that they will move our leaders toward a meeting of world leaders who will stay in session until they come up with a system to abolish war. That is the single issue . . . That is our only issue! If they support it, we will vote for them. If they don't, we will replace them with candidates who will move to abolish war in this century.

We are not taking a stand. I'm not taking a stand on a particular system for abolishing war. A number of systems have been proposed that would be excellent for consideration by world leaders. At this point in time, the system to abolish war is not important. Washington and Franklin were wise enough to come to the Federal Convention with open minds. So must we approach a World Federal Convention As Van Doren writes in "the Great Rehearsal," "The delegates to the Federal Convention, first meeting on May 14th, 1787, were uncertain as to the intentions of the Convention and its prospects. Nine months later they produced the United States Constitution." So must it be with your Anti-War Society. All you need do is agree that the time has come to abolish war. The means will be revealed to you as you meet together and reason together. I have no doubt of it!

Let us begin here . . . a movement that will spread around the world. Let us remove fear from our hearts so that we can experience the joy of love and peace that is the heritage of all humanity. God bless.●

AN INTERNATIONAL COMMUNITY OF VALUES

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 1, 1983

● Mr. MICHEL. Mr. Speaker, in his inaugural address, President Reagan spoke of a "community of values" in our country. By this he meant that while we may disagree on certain economic approaches, there is a widespread agreement on basic values concerning the family, work, neighborhood, peace, and freedom. Those values, not some economic or social theory, hold us together as a nation.

In recent years that same perception has been taking place in Europe and Asia. Members of political parties that uphold private property, who believe in the free market system and who support principled opposition to totalitarianism have come to realize that in unity there is strength. From that combination of ideas has come the European Democrat Union, dedicated to the values which sustain the industrial democracies. This group is eager to bring the message of those values to international debates.

Leaders of this new group have been visiting the United States in recent days. I had a chance to meet with them, and came away with a very good impression of their aims and their commitment to the values that are at the heart of our own national experience.

At this time I wish to insert in the RECORD two articles concerning the European Democrat Union, each of which appeared in the Washington Times on Thursday, January 27, 1983. The articles are: "Europeans Back U.S. Missile Policy" and "Group Predicts Neutral Europe, End of NATO."

The articles follow:

[From the Washington Times, Jan. 27, 1983]

(By Peter Almond)

A new organization of centrist European conservatives believes that if present trends continue a rift may separate Europe from the United States, the North Atlantic Treaty Organization may crumble and a neutralist wave could sweep over Europe.

These are the distant fears of the European Democratic Union, several of whose members came to Washington yesterday to meet President Reagan and other top administration officials and congressional leaders. They were here to support the president's "Crusade for Democracy" around the world.

In a meeting with the editorial board of The Washington Times, EDU chairman Alois Mock, conservative opposition leader in Austria; Anders Sjaastad, Norwegian defense minister; and Jean De Lipkowski, former French minister and Gaullist associate of Paris Mayor Jacques Chirac, talked about the need to re-establish the fundamental ties that bind the alliance.

"There is a trend toward neutralism in the socialist parties of Europe," said Mock. "We are worried about a general European trend toward this 'third wave' that is shown in less support for the United States; and, from the Socialist, less support for the Soviet Union since Afghanistan and Poland."

Added Norway's Sjaastad: "There is still basic support for NATO in the Social Democratic parties," but on nuclear issues the alliance is being criticized increasingly. The EDU agrees with the U.S. position, but it fears that anti-nuclear forces will focus on NATO itself.

Unlike many in Europe, continued Mock, the conservative movement doesn't concern itself with the U.S. role in other world parties. On the contrary, it supports U.S. efforts to promote free democracies. Conservatives nevertheless worry that a lack of European support may provoke a reappearance of isolationism in America.

"It would be disastrous if the United States said it would start to pull its troops out of Europe," said Lipkowski. "Just the announcement of even a small pullback would cause a great deal of stress because Europe isn't ready yet to be a third power like the Soviet Union or the U.S."

Faced with these fears, moderate and conservative politicians from several countries in Western Europe came together in 1978 with the avowed aim of combating the influence of the Socialist International.

Describing itself as dedicated to political liberty, support for private property and the free enterprise system, and principled opposition to totalitarianism, the EDU found a natural ally in the U.S. Republican Party, which officially became affiliated with it

last year. So too did a similar organization, the Pacific Democrat Union, founded in Tokyo last June.

The PDU consists of centrists and conservative parties in Japan, Australia, New Zealand, Canada and Paupa-New Guinea.

"It is obvious we have a lot of work in education to do in Europe," said Mock. And President Reagan needs to know he has allies he can count on in Europe."

Added Lipkowski: "When Chirac and I met President Reagan last week, we told him that when the chips are down—in Berlin, in the Cuba crisis—we (French Gaulliss) are on your side."

He said that unlike West Germany, where pacifism is growing, partly because Germany relies on the American nuclear umbrella, France has its own sovereign nuclear force and the country generally has been immune pacifist movements.

"Europeans must understand that events in far-away places do directly affect them," said Mock. "In Rome a year and a half ago, the government couldn't reach consensus on El Salvador. The government almost fell. It does affect our internal politics.

"We have to understand that the democratic nations all share political philosophies and we have to get together to offer a real alternative to the Socialist International."

EUROPEANS BACK U.S. MISSILE POLICY

(By Russell Warren Howe)

The five visiting members of the European Democrat Union told Defense Secretary Caspar Weinberger yesterday they fully supported President Reagan's proposal to reduce intermediate range nuclear missiles in Europe to zero on both sides.

They also told the secretary they would favor a compromise based on a mutual balance of tactical weapons, which they realized would have to take into account the existence of separate French and British tactical nuclear defenses—which are not under discussion at the U.S.-Soviet arms reduction talks in Geneva.

The visiting group, an international consortium of moderate and conservative European parties lead by Alois Mark of Austria, the EDU chairman, includes Anders Sjaastad, the Norwegian Defense Minister, who had a private meeting with Weinberger on Tuesday.

Sjaastad told The Washington Times he had found a sympathetic ear in Washington for European complaints about the inadequacies of the "two-way street" in arms sales, with the stumbling block being congressional constituencies for American arms firms that opposed foreign competition.

"We have no difficulty financially or competitively," Sjaastad said. "And, let's face it, we already buy so much from you Americans. At least we found the administration supportive."

The group met earlier this week with Reagan and Secretary of state George Shultz.

Sjaastad said a major NATO concern is achieving interchangeable weapons among different members of the alliance. As the current chairman of Eurogroup, which seeks standardization between European and American systems, Sjaastad believes there has been considerable improvement in this area.

Furthermore, said his country showed no tendencies to follow its Nordic neighbors, Sweden and Finland, into neutralism. After the Soviet invasion of Afghanistan, polls indicated that about 80 percent of Norwegians favor a stronger defense. Despite the spirit of independence that had led Norway to reject European community membership, only 10 percent of Norwegians oppose Norway's membership in NATO, he added, but a majority of the population want nuclear disarmament.

The minister said Norway, with a population of 4,100,000, could mobilize 200,000-300,000 men in two days in the event of war.

Norway, which, like most European NATO countries has the draft is, with Turkey, one of the only two alliance countries with a Soviet frontier—in the far north.

Soviet Aircraft regularly slip into Norwegian airspace, and Soviet submarines, from the Kola Peninsula go out past the Norwegian air force, which, Sjaastad said, already has received about half the 72 F-16s (three squadrons) that Oslo is buying.

Although he agreed that NATO feels Soviet Delta-class submarines are achieving a measure of indetectability in the area by entering the North Atlantic from under the Arctic ice pack, he said Norwegian intelligence indicated the Soviet navy was, so far, reluctant to try this hazardous route.

Sjaastad and his colleagues see the nuclear standoff as a game between deterrents, but view conventional warfare as a real possibility, especially if nuclear disarmament is achieved and war seems less difficult to contemplate.

"Conventional war would be almost equally catastrophic," Sjaastad noted.

The Oslo D-Day scenario sees the Soviet Union striking immediately at Norway, to deny NATO its facilities there and to control the crucial sea lanes into the Atlantic. But Moscow is expected to be hesitant to violate Swedish air space, because "We would count on the Swedes fighting, and the Finns, Too."

Sjaastad said that in such a conflict, the desolate terrain and climate in Norway's far north would inhibit armor and favor the defense.

"We would put up a good fight up there," he said.●

LAW OF THE SEA TREATY

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 1, 1983

● Mr. FIELDS. Mr. Speaker, when the Soviets squeal like stuck pigs, you can be pretty sure that somebody has reason to congratulate himself. Judging by the response of Tass, the Soviet news agency, to President Reagan's decision not to sign the Law of the Sea Treaty (LOST), he has plenty to be proud of. We are not ready yet for the international animal farm that the Soviets and its friends prepared for us.

LOST means a lot to the U.S.S.R. The ideologues in the Kremlin must be pleased that the treaty would prevent private enterprise from ever commercially developing the vast resources of the deep seabed. Only state-run companies, or the supranational "enterprise" to be created by the treaty, could mine under it.

Production of the strategic minerals of the deep seabed would be restricted under LOST by a vast array of limitations and conditions, and U.S. dependence on unstable land-based sources of cobalt—essential for jet engines—and manganese—essential for steel production—would be perpetuated indefinitely. Of course, the Soviets do not need to import those minerals to fuel their centrally planned economy and to supply their massive military machine.

In the executive organ of International Seabed Authority, which would control mining by treaty parties, the Soviet bloc would be guaranteed extensive representation. But the United States would have to take its chances and might not be allowed any voice at all. Even with the United States represented, most important decisions could be taken by the Soviets and their Third World socialist clients over our objection.

Thanks to President Reagan's decision not to sign LOST, world-order—Moscow's style—will have to wait. Little wonder that the Kremlin complains of the President's action. It is not often that the Soviets get the chance to call the shots for two-thirds of the Earth's surface.

My colleagues will find the following Tass report interesting. I hope they will give it a great deal of thought.

[From Tass, Soviet News Agency, Sept. 16, 1982]

(By Vladimir Matyash)

WASHINGTON'S IMPERIAL AMBITIONS

Moscow.—According to AP, the Reagan administration has refused to revise its decision to reject the international law of the sea convention. Addressing the Senate Foreign Relations Committee, Deputy Assistant Secretary of State Cronmiller said that the administration had no intention of appointing a special envoy with a view to working for changes in the text of the convention or even finding out if such changes were possible. Trying to justify the obstructionist stand of the White House, Cronmiller said with striking cynicism that such a convention could rule out private investments in deep-water mining of minerals and have a negative effect on major U.S. economic and political interests.

In this way an official spokesman of the U.S. administration has actually confirmed that Washington, trying to please U.S. monopolies and the military-industrial complex, is attempting to turn the international areas of the world ocean into a U.S. happy hunting grounds, to torpedo the work of the Law of the Sea Conference and in this way to hamper the conclusion of a convention.

Washington's insatiable imperial ambitions and its disregard for the will of the world community of nations are prompted by the striving of U.S. monopolies to continue unilaterally their voracious exploitation of sea-bottom resources and to prevent the establishment of international control over their development.

Washington unilaterally refused to sign the new draft convention formulating the principles of international law, on which more than 150 countries had agreed. The U.S. administration stubbornly refuses to reckon with the fact that a comprehensive international convention has been prepared

by joint efforts for the first time in history and that it will make it possible to bring order into the useful exploration and development of the world ocean and its resources.

The adoption of this convention could help to strengthen peace and international security and to promote mutual understanding and cooperation among states. The present U.S. administration, however, is acting as if the question of the convention were a purely domestic affair of the United States and therefore should be decided in the White House or on the Capitol Hill rather than at the United Nations.

These activities are nothing short of gross disregard for the principles of international law and an insolent challenge to the entire world community.

It is easy to see that Washington's attempts to thwart the international law of the sea convention are a component of the aggressive foreign policy course of the Reagan administration aimed at aggravating world tension and at escalating the runaway race in nuclear missiles.

The principled stand of the Soviet Union on this matter is in stark contrast with the U.S. hegemonistic ambitions. The USSR advocates the conclusion of a comprehensive international treaty which would establish just legal principles on the high seas. The Soviet Union believes that the early signing and enforcement of the convention will contribute to the development of peaceful cooperation between countries with different social systems, to the advancement of detente and to the strengthening of peace and international security.●

FISCAL YEAR 1982 FOREIGN MILITARY SALES

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 1, 1983

● Mr. HAMILTON. Mr. Speaker, I would like to bring to the attention of my colleagues the list of the value of foreign military sales agreements the United States concluded during fiscal year 1982. These are agreements and do not reflect deliveries or commercial sales.

The total volume of arms sales for the year was $21.4 billion. The comparable figure for fiscal year 1979 was $10.8 billion; $13.9 billion for fiscal year 1980, and $7.2 billion for fiscal year 1981. Saudi Arabia was the largest purchaser, followed by Australia, Egypt, and Korea.

The tables for fiscal year 1982 follows:

DSAA FOREIGN MILITARY AND CONSTRUCTION SALES CASES

[In thousands of dollars; Nov. 5, 1982—final fiscal year 1982 figures accepted]

Countries	Amount
Foreign military sales:	
Australia	2,877,558
Austria	10,861
Bahrain	6,334
Bangladesh	
Belgium	18,994
Brazil	13,701
Brunei	123
Burma	1,064
Cameroon	13,918
Canada	182,116
Colombia	13,169
Costa Rica	
Denmark	24,979
Dominican Republic	3,910
Ecuador	7,479
Egypt	2,102,734
El Salvador	19,001
Fiji	5
France	51,061
Germany (Bonn)	302,842
Greece	204,955
Haiti	
Honduras	9,388
India	839
Indonesia	52,797
Ireland	44
Israel	656,092
Italy	83,606
Jamaica	
Japan	478,254
Jordan	140,824
Kenya	7,319
Korea (Seoul)	[1] 1,123,542
Kuwait	106,699
Lebanon	9,492
Liberia	10,000
Luxembourg	875
Madagascar	
Malaysia	1,775
Mexico	5,409
Morocco	14,093
NAMFI	50
NAMMA	46
NAMSA—General	50,264
NAMSA—Hawk + NHPLO	7,166
NAMSA—NNTC	3,025
NAPMO	369
NATO	30,230
NATO AEW+C (O+S)	42,013
NATO Headquarters	10
NATO Seasparrow	6,590
Netherlands	398,320
New Zealand	23,537
NICSMA	15
Nigeria	2,258
Norway	43,994
Oman	24,207
Pakistan	1,524,253
Panama	478
Paraguay	116
Peru	2,610
Philippines	14,730
Portugal	42,263
Qatar	201
Saudi Arabia	5,574,038
Shape	1,358
Singapore	38,014
Somalia	45,394
Spain	66,298
Sudan	97,963
Sweden	9,623
Switzerland	6,323
Taiwan	525,686
Thailand	200,281
Tunisia	340,164
Turkey	526,021
United Arab Emirates	124
United Kingdom	705,877
Uruguay	1,635
Venezuela	618,859
Yemen (Sanaa)	17,620
Yugoslavia	33,814
Zaire	5,140
Subtotal	[1] 19,586,837
Construction sales:	
Egypt	20,000
Germany (Bonn)	32
Mexico	4,600
Saudi Arabia	1,845,699
Subtotal	1,870,331
Total	[1] 21,457,168

DSAA FOREIGN MILITARY AND CONSTRUCTION SALES CASES—Continued

[In thousands of dollars; Nov. 5, 1982—final fiscal year 1982 figures accepted]

[1] Excludes $2,000,000,000 in war reserve stocks for allies to Korea in a military emergency.●

PRESCRIPTION FOR A NEW INDUSTRIAL POLICY BASED ON HIGH TECHNOLOGY

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 1, 1983

● Mr. STARK. Mr. Speaker, I recently had the chance to read a speech by Mr. W. J. Sanders III, chairman of Advanced Micro Devices, before the Semiconductor Industry Association last November.

It is a tough, punchy speech which I would like to share portions with others. Mr. Sanders makes a number of excellent points about—

First, the seriousness of the economic competition with Japan;

Second, Japan's effectiveness at developing growth industries;

Third, the ineffectiveness and lack of cohesion in U.S. industrial policy; and

Fourth, ways we can respond to the Japanese challenge.

Mr. Speaker, it is my hope that the 98th Congress will be able to adopt a number of the recommendations offered by Mr. Sanders. Clearly, we need to create a new era of cooperation and economic initiatives if our economy and society is to get back on course.

Highlights of the speech follow:

SPEECH BY W. J. SANDERS III, CHAIRMAN OF THE BOARD, PRESIDENT AND CHIEF EXECUTIVE OFFICER, ADVANCED MICRO DEVICES, INC.

* * * * *

The confrontation between the United States and Japan is not militaristic. It is economic. It is dynamic, immediate, and it is very, very real. And the principal issue in this confrontation is international competitiveness.

The weapons for winning are companies—successful companies. In the international marketplace served by our industry the odds are heavily stacked in favor of the Japanese. The Japanese have successfully combined supply-side economics with a strong industrial policy to achieve world market dominance in a growing number of industries. Consumer electronics, such as the videocassette recorder, is just one clear example.

Japanese corporations have achieved global superiority in a long succession of target industries in which they started late and far behind. And only 30 years ago the U.S. essentially dominated the entire roster of industries that the Japanese now control.

During that time period the Japanese have moved from low technology industries, such as textiles, through steel and black and white TV, to motorcycles, autos and color TV; and are now assaulting semiconductors, telecommunications, aircraft and computers.

The process is straight-forward, yet sophisticated. Japan imports a technology from the West—say the planar process for making semiconductors—then protects the industry from foreign competition in its home market, which just happens to be the fastest growing and second-largest market in the world. After gaining scale, experience

and cost parity at home, they price aggressively into the world market, further increasing volume and enhancing their cost position. Eventually, they are able to sell a better product at lower prices at profit margins acceptable to them—and competition has effectively been stifled. They consolidate their position by investing in manufacturing capacity in foreign markets. To the Japanese, under-capacity is a greater risk than over-capacity.

The strategy is a "moving target" policy, and over the 30 years has consisted of a narrow band focused on the growth industries of any given period—flexible and progressive, moving according to technological change and demand patterns.

Japanese supply-side economics and those associated investments are heavily weighted toward target industries, supplemented by a protectionist industrial policy.

Here in the U.S., we debate the merits of supply-side economics vs. government policy, when in fact we do not have an effective version of either.

Today's agenda calls for a discussion addressing the question "Does the U.S. need a national industrial policy?"

No discussion required. The answer is yes. The form and content of that policy pose the real questions for discussion.

Government measures and government involvement are absolutely essential to restoring the American economy to health and ultimately to growth on a continuing basis. What is missing in economic policy is a focus—an international competitive strategy. I'm not advocating total discard of supply-side thinking. Instead, let's take the best of the new ideas and tailor them to a centered, cohesive industrial strategy through the cooperative efforts of government, industry, academia and labor.

But first some background: it turns out that this country already has an industrial policy. And the mere fact that this comes as a surprise to many of you suggests something about its effectiveness.

It is an informal policy, diffuse and disunited, based largely on the politics of special interest groups with the most effective lobbies. And it takes its form in protectionism and special government subsidies.

* * * * *

In 1980 federal expenditures for industrial development programs were nearly $150 billion dollars. Nearly 7 percent of the gross national product. But it is doled out without a coherent policy.

The government spends five times as much on R&D for commercial fisheries than for improvements in steel technology and production. Coal and timber combined get nearly a billion dollars in tax breaks and another billion in R&D, while our industry—semiconductors—gets essentially zero. The government has been particularly generous to housing, resulting in a disproportionate tax advantage that encourages conspicuous consumption. In fact, fully one-third of domestic investment goes into residential construction.

Government's various policies have channeled capital to segments that are, for the most part, sheltered from international competition and away from industries with a real chance to assert a competitive edge in world markets. Bailing out Chrysler was about as productive as hooking up Lazarus to a life-support system in the absence of Jesus!

This directionless, stumbling, short-sighted course only appeases established industries with political power and does nothing to firm the path of America's international competitiveness. There is no clear strategy.

Japan, on the other hand, has favored its semiconductor industry, as an example, with tax privileges, a protectionist policy that greatly limits imports, easy access to capital, and direct government subsidies of approximately $400 million dollars per year. In addition, they spend $250 million dollars annually to support research in VLSI technology. This is not an isolated case. The French government provides its semiconductor industry with $140 million dollars in subsidies each year. West Germany provides $150 million dollars to its semiconductor industry; Great Britain, $110 million. In contrast, the only direct subsidy provided by the U.S. government to its semiconductor industry last year was $100 million in defense-related research funds.

The dream of a free-market Utopia with laissez-faire governments is naivete. The American businessman must recognize government's involvement in commerce today:

First, government is literally woven into the fabric of industrial development through its R&D and procurement programs. The federal Government purchases more than half of all aircraft, radio and TV communications equipment; a fourth of all engineering and scientific instruments; and a third of all electron tubes and non-ferrous forgings manufactured in the United States. In fact, government procurement as a percentage of gross national product is twice as high in the United States as in Japan.

Equally important, the federal government currently funds more than a third of all U.S. industrial research and development and employs directly or indirectly more than 35 percent of the nation's scientists and engineers.

If we hope to maintain our standard of living, the legislative focus and resources allocation of America's industrial policies should follow the example of enlightened individual companies: which is to answer the question, what investment strategy will yield the most competitive position for the long term? And that policy should encompass the element of marketing and trade, antitrust practices, research and development, tax, even education and defense.

Also, high tech must not be the singular focus; policies should include traditional, established industries such as steel, autos, shoes and textiles.

The Japanese, with their 489 legal monopolies and protectionist policies recognize the need for industry restructuring. Shintaro Abe, the head of Japan's Ministry of International Trade and Industry, or MITI, was recently quoted in Fortune magazine as believing Japan's petrochemical industry, because of dependence on costly imported oil, has been "cornered into a difficult situation" by foreign competition and needs protection. He went on to say, "We don't feel we can simply write off this industry from our total structure. We have to restructure the industry. We have to shrink it. We have to keep it operating at an efficient level. But to maintain the kind of magnitude we had hoped for earlier will not be possible." End of quote.

Thus, Japan not only recognizes the importance of established, non-growth industries to the infrastructure of the nation's economic and social well-being, but also recognizes the need for restructuring to operate efficiently. Similarly, we cannot write off our steel and auto industries. Instead, we must down-size them.

Simply put, our nation has lost its economic innocence—that guarantees that American industry, without government assistance or intervention, would always provide unremitting secular growth toward an ever-elevating American standard of living.

High unemployment, high inflation and negative trade balances are all symptoms of America's eroding international competitiveness.

Of course our focus is the semiconductor business. But the larger issue is all American industry. There are no quick fixes. No painless solutions to the current sickness. And we must prepare ourselves for radical changes in the structure of America's industrial base—to regain our health, encourage the flow of capital where it is needed most and to ease the inevitable dislocation of the labor force.

The October 4th issue of Fortune details the effect that technology has had on the job market. While everyone reads of the problems in steel and autos, employment in both the computer and semiconductor industries has doubled in the last 10 years. And in the related service industries it has tripled. Today, 60 percent of Americans work in jobs to create, process or distribute information.

Our principal foreign competitive threat has, and still is, often referred to as "the Japanese challenge." The challenge has been answered, and we are now in a war. On NBC Reports, three months ago, I described it as a range war in which the Japanese are trying to cut off our water. On the range, water means survival. In our industry, adequate profits that produce investment dollars to develop new processes and products are the water. Through their price leadership, the Japanese have limited our profit potential and dammed the river. We have watched it dwindle to a creek. Doubled with the worldwide recession, it is now little more than a trickle.

Semiconductors are key technological building blocks for countless manufactured products of today. And they will be even more important in the products of the future. Dominance in these building blocks will provide the same economic strength that, say, steel production gave the United States in the early part of this century. There is little doubt that our industry will be the heartbeat of the nation's economy through the end of this century and probably beyond.

It is no mystery, then, why the Japanese have targeted this industry, and there is every reason why the U.S. should do the same.

* * * * *

Perhaps one answer, an idea that I believe hasn't been voiced yet, is a contract—one that establishes common goals. A contract can effectively take the emotions and personalities out of the issues and define the duties, responsibilities and roles of all parties in the relationship. But if we forge such a partnership agreement with government, let's do it right and include the academic community. As we restructure declining-but-essential industries in this country, we need educators as allies in retraining jobless workers to contribute to the competitive sector. And we need to do it before they are jobless. Tangentially, the current shortfall of technically qualified people is not due to a lack of students for high tech curricula. The bottleneck is faculty. There are no incentives. How many graduates want to stick around campus and earn doctorates on stipends of $900 per month when private industry offers triple that amount?

The government needs to do much more. Compared to Japan's MITI, our existing resources are shallow. The Department of Commerce, for example, should be given a much expanded role and, for starters, should sponsor industry restructuring incentives in looking to this country's long-term economic interests. Executive and congressional action is needed to put muscle behind any U.S. competitive strategy. At a minimum, we need to establish a monitoring capability. One that tracks foreign government industrial policies and disseminates this information to Congress and the private sector. The monitoring effort should also include observing the actions of foreign companies with regard to emerging high technology products and thus assure that these companies' activities are consistent with existing U.S. trade and antitrust laws. Along with this, we should establish a stated presumption that the government will self-initiate investigations when violations are detected.

In addition, the U.S. government should immediately examine the anti-competitive impact of Japanese cartels in acquiring RAM technology which led to predatory pricing of RAMs on world markets. Currently U.S. trade laws define the grounds for action on a much too narrow basis. They put too much of the cost and burden of proof on U.S. firms and provide no compensation due to damages caused by trade law violations. Our trade laws should leave open the possibility of bilateral/sectoral reciprocity when other approaches do not produce meaningful results.

Obviously, overuse of such an approach could endanger the world trading system; however, selective application would prevent that from happening. And industry has to take more responsibility in terms of economic ethics. Does the fact that we pay unemployment taxes give us the right to lay people off when times are tough? Letting government—ultimately the taxpayers—shoulder the burden only promotes the welfare mentality. What we need to do is increase the productivity of the human resource and our efficiency in utilizing it. It is simply too easy for us to scapegoat the government and those at the bottom of the economic ladder. If our industry would lead this nation's strategy, it should also serve as its best example by making a more excellent commitment to employees. In this regard, AMD has stood by and will stand by its commitment to its people by honoring its no-layoff policy in the worst of times.

A no-layoff policy can be considered a logical extension of general company policy, a policy that recognizes an intimate relationship between growth and loyalty. We need to keep our company teams intact to meet our growth objectives. We need the loyalty of these people, and can only get that by proving our loyalty to them. During a recession, when over 10 million are unemployed nationwide, loyalty means jobs and the assurance that productive employees can count on remaining in the work force.

* * * * *

If it is time to shape an assertive U.S. policy of action—and I believe it is past time—here are some specific recommendations:

The U.S. government must put all GATT nations on notice that free trade practices must be universal and violations will be vigorously responded to.

The United States Congress should pass the Reciprocal Trade and Investment Act of 1982.

The U.S. government should establish targets for participation in the Japanese market and develop an affirmative action program in conjunction with the Japanese government to achieve them.

The president should aggressively negotiate lower trade barriers for high technology products through the General Agreement on Tariffs and Trade (GATT).

The United States should expand the incremental research and development tax credit.

The United States should enact an antitrust exemption for joint research in all forms by high technology companies.

The United States should reverse budget cuts for basic research in such critical areas as The National Institutes of Health, the National Science Foundation and the national laboratories of the Department of Energy and NASA.

The United States should move toward the complete elimination of taxation of long-term captial gains. As a first step the government should eliminate capital gains tax on investments in new companies while taxing gains from investments in nonproductive investment as ordinary income as has been legislated in California.

The United States should encourage investment in existing U.S.-based growth technologies targeted by government policies of our major industrialized trading partners by eliminating capital gains taxes on gains in investment in newly issued stock.

The United States should allow corporations, at their option, to write off equipment at the rate at which it becomes obsolete if this would result in faster depreciation than current schedules permit.

The United States should redirect policies and increase support for the Export-Import Bank to assist U.S. businesses in effectively meeting foreign competition.

The United States should mobilize national resources to support math, science, computer, engineering and high technology vocational education.

The U.S. Government should immediately fund key programs vital to the long-term health of the information industry. Candidates are the fifth generation computer and a megabit RAM. This program should draw together the high technology industry, the national laboratories and universities. The project should have as its goal, "to maintain U.S. leadership in information processing and telecommunications throughout the remainder of this century."●

RISING COST OF MEDICAL CARE

HON. THOMAS J. BLILEY, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 1, 1983

● Mr. BLILEY. Mr. Speaker, we have been hearing a great deal lately about the rising cost of medical care in the country and what we, in Congress, should be doing about it. We, the beneficiaries of health care, are not alone in our concern for this growing problem.

I recently received a copy of a speech made by the president of the Richmond Academy of Medicine which I believe outlines the concerns that physicians feel at seeing their profession priced out of the reach of so many citizens.

Dr. Davis' speech is timely and thought-provoking. I urge my colleagues to read it.

MEDICINE VERSUS SOCIALISM: A PHYSICIAN'S POINT OF VIEW

(An address by Ronald K. Davis, M.D., Jan. 11, 1983).

This evening I would like to discuss with you some of the significant events of the past years, relate these by effect to our current position and speculate as to what this portends for medicine in the future. Lastly, I hope to stimulate you to think more seriously about the medicial community's future and perhaps give us a hand in trying to improve it.

Fifteen years ago, "free" medical care for the aged, or Medicare, was mandated by law in the United States. And, as you will recall, organized medicine in general, and the Richmond Academy of Medicine specifically, opposed this legislation. We were overwhelmed with such rhetoric as "Medical care is the birth right of every American". Many politicians rode this slogan to Congress and one almost to the White House. Yet, I believe, that the wisdom of medicine's opposition to this program has never been more evident than it is today.

I'm sure you have heard as often as I have, the question, "Why do doctors complain so much about Medicare?" and without a pause, the questioner usually follows with the second part: "They are all getting rich from it, aren't they?" To answer that doctors, as an aggregate, are not in medicine for money is met by an "Uh huh." The questioner is smart, you see. He has read about Medicare fraud or he has watched "Sixty Minutes" or both. To relate Medicare to socialism is equally fruitless. He doesn't want to hear that this country was built on individual initiative, that government was established by the people and for the people; that the only power a government has or should have is the authority granted by the people under its Constitution or by amendments thereto. He doesn't want to hear that socialization of yet another segment of society leads us ever closer to a totally socialized country with governmental control over every aspect of our life, and the inevitable loss of freedom which follows.

It was Woodrow Wilson who said, "Liberty has never come from government . . . the history of liberty is the history of the limitation of governmental power, not the increase of it."

The questioner doesn't see that loss of liberty leads to strangulation of initiative and the inevitable drop in production. He doesn't know or care that an estimated one-third of the cost of health care is attributable to governmental control. He doesn't want to relate this to the effect growth in government has historically had on reduction of the GNP of this and other nations.

Sir Winston Churchill said it best in 1945 when he was ousted from office by the socialists:

"I do not believe in the power of the state to plan and enforce. No matter how numerous are the committees they set up or the ever-growing hordes of officials they employ or the severity of the punishments they inflict or threaten, they can't approach the high level of internal production achieved under free enterprise. It is this vital creative impulse that I deeply fear the doctrines and policies of the socialist government have de-

stroyed. Set the people free—get out of the way and let them make the best of themselves . . . I am sure that this policy of equalizing misery and organizing scarcity instead of allowing diligence, self-interest and ingenuity to produce abundance has only to be prolonged to kill this British island stone dead."

What a prophet! In 1976, 31 years later, 60 percent of Britain's GNP was consumed by the government. In that year, the richest 1 percent of the British populace earned $13,700. During that same year, the median American income was $12,965. Those in England who earned over $40,000 were taxed at 83 percent.

Consider that in the year 1976, while British government consumed 60 percent of their GNP, the U.S. Government confiscated 22.8 percent of our GNP. Remember also that Britain socialized medicine in 1942 and the Socialists won control of Parliament in 1945.

No, the person who asked the question regarding doctors complaints and Medicare doesn't really want an answer. He already has one. To him, this has nothing to do with democracy. Health care costs too much and doctors are responsible; they must be controlled. He is partially right—health care does cost too much, but a large part of that cost is due to governmental control and further control will only make it more expensive.

What makes medicine so expensive? Over the past 10 years, why has the cost of medicine outstripped all other goods and services except energy and government? Is it physicians' fees? Physicians' fees account for only 18 percent of the health care dollars spent in the United States. And allowing for inflation, physicians' income has actually diminished during this period. Is it the cost of hospital room and board? Stripped of government regulation and ancillary services, the actual food and room in a hospital in the Richmond area is estimated at $45-50 a day—not much different from the Holiday Inn. Is it hospital labor? While this is a big part of any hospital budget, wages paid are in keeping with other areas of business except for nurses who are grossly underpaid. Are you aware that a checkout girl at Safeway makes more than a beginning R.N.?

We are told that the high cost of medicine is due to the lack of competition in the medical field, too many hospital beds and the overuse of these beds. We are also told that cost-plus reimbursement provides no incentives for containing costs and therefore costs continue to rise. Each of these does influence the high cost of health care and efforts are being made in these areas to contain costs.

We are also told that competition in medicine in the form of alternatives to standard delivery of health care such as HMO's will save literally millions of dollars, chiefly by reduced utilization of hospital beds. The government has been so convinced that they have poured out millions of dollars to protect and nurture them. Industry, faced with raising the cost of their products or reducing employee health benefits, have turned to HMO's and other alternatives. Private third party payors, such as Blue Cross-Blue Shield, feeling the pinch of lost business have countered with P.P.O.'s-organizations which select physicians on the basis of how inexpensively they practice medicine as measured against their peers, presumably at the same level of quality. Perhaps there is money to be saved here but even that is debatable. In the Tri-Cities of Minneapolis-St. Paul where there have been at least five HMO's for a number of years, a recent study suggests that there has been no change in overall health care expenditures as measured against the national experience. There has been a "cost shifting" which likewise gives rise to some concern.

Time doesn't permit a detailed analysis of each of these factors and their relative merits but I think a prudent man would be skeptical. Medicine will never oppose a free enterprise system so long as the quality is up to standard.

Cost-plus reimbursement is also under fire for the reasons mentioned above. To expect a huge savings here would mean that we presently have either (a) gross mismanagement or (b) huge profits. To gain some savings here is probably realistic as we can all be a little more frugal when pressed to do so, but to expect to bring health care costs in line with other goods and services by these measures seems unrealistic.

There are at least three other reasons why health care costs have risen. They are: one, ever advancing technology; two, ever increasing malpractice litigation; and three, an ever expanding government.

First, technology. Look at orthopedic surgery. The advancements made in this specialty over the past 15 years are truly amazing. Total joints replaced and cripples walk again. Torn cartilages removed through a tiny scope and patients return to full activity in as little as one-tenth of the traditional recovery time. Or look at vascular surgery. Thirty years old historically but only 15 years old in widespread clinical application. Grafts can be successfully carried to the small arteries of the hands or feet to salvage extremities which would have been amputated only a few years ago. Much more dramatic is the most common operation performed in America today—the coronary artery bypass. Simple in concept, this operation involves improving the blood supply to the heart by using a vein from the patient's leg to bypass the heart attack producing lesion in his coronary arteries. And let's not forget the CAT scanner, the B-mode ultrasound, non-invasive vascular tests, colonoscopy, flexible bronchoscopy, digital subtraction angiography, the laser beam—the list is almost endless. The objective of this technology is to more accurately diagnose and more effectively treat the diseases which plague mankind. Everyone wants their family to receive the best possible care. But this does not come without a price tag. Let me give you an example to illustrate my point.

There is a true story of two brothers from a northeastern city, both of whom were physicians. The oldest was an internist and the younger a neurosurgeon. There was a strong family history of heart disease. The internist had an MI (myocardial infarction) 10 years ago, was admitted to the coronary care unit of his hospital, extended his MI less than 24 hours after admission and died at age 42. His total hospital bill was less than $500. Five years later, his neurosurgeon brother had an MI at age 44. He was taken directly from the Emergency Room to the cardiac cath lab where arteriograms revealed a correctable lesion. He was promptly and successfully operated and left the hospital 7 days later. Total cost of hospital stay: $15,000. The point is our health care dollars today buy something totally different from that which could be purchased 10 years ago. The diagnostic tools are more advanced. The therapeutic measures are more effective. Both are much more expensive.

A second reason for the rise in health care costs is malpractice litigation. We are all aware of the rapid growth in the number of malpractice claims and the average dollar settlement. In the last 7 years, the average severity of a malpractice award has grown 255 percent. Melvin Belli recently worked out a $27 million dollar settlement.

In Virginia in 1980, the average settlement rose to $20,000. This was the year Virginia surpassed the national average. Today, one in four physicians in America can expect to be sued in any given year. Can you believe that 25 percent of your peers sitting in this room are negligent? The obvious answer is, they aren't; 80 percent of the cases carried to the medical malpractice panel, consisting of three doctors, three lawyers and a judge, are found to have no merit. Why then are there so many suits brought against doctors and hospitals? There are many reasons, including publicity given to such stories, society's expectation of perfection in their medical treatment and the growing feeling that all injury must be compensated no matter what the cause. All of these may play a role but in the opinion of many, the single most important cause of malpractice suits is the contingency fee. That is simply the process by which a lawyer will accept a plaintiff's case for the guarantee of usually one-third of the settlement should they win and no cost to the plaintiff should they lose. Between contingency fees and court costs, only about 35 cents of the dollar settlement finds its way to the plaintiff's pocket—unbelievable but true.

What effect does the contingency fee have on medical malpractice litigation? We have only to look to the north to Canada or eastward to England for the answer. In these two countries, contingency fees are illegal. Last year the average physician in England paid $391 per year for malpractice insurance. In Canada in 1978, the cost was $250 per year. I don't need to point out that some of you in this room paid fifty times as much and in some sections of the country, the cost is 150 times this amount.

Now, what effect does the malpactice explosion have on the cost of health care delivery? Hospitals raise their room rates to cover this extra cost of doing business, and in a similar way, doctors' fees rise to cover the ever increasing cost of malpractice insurance. In the physician's case, the effect is carried further. He becomes more defensive in his practice. Studies are ordered to protect against a malpractice suit. The additional expense incurred because of this phenomena is not measurable but most agree it is sizeable. In any case, it is the health care consumer who must pay.

We can do a better job at policing ourselves—though I feel we presently do better than any other profession. But until something is done with the contingency fee, malpractice litigation will continue to rise and with it the cost of medical care.

A third and by far the greatest contributor to rising health care cost in the United States is government. Let's take a closer look at Medicare and I think you will see why I think all other causes of rising health care costs pale in significance when compared with the effect of government intrusion.

Medicare was not designed for the poor. It was designed for the entire nation. The only qualification was age 65. Like Social Security, there have been expensive additions—chronic dialysis for example. When government expenditures began to grow, the cry went out for more control. Several Medicare

frauds were publicized. The bureaucratic machinery was moved into position. The names of all doctors and groups of doctors earning more than $100,000 per year from Medicare were published in local newspapers across the land implying impropriety. Joseph Califano vowed he would bring doctors to their knees. With public opinion at a fever pitch and physicians adequately intimidated, the most elaborate system of controls ever devised for any social program was unveiled—health systems agencies for control of everything medicine builds or buys and PSRO's for everything we do. Out of Washington poured the "numerous committees" and "hordes of officials" referred to by Mr. Churchill when describing socialists in England in the mid 1940's.

Why was all this done? As we heard over and over again from these hordes of officials: "if the federal government is going to spend X amount of dollars per year for 'free' medical care for its elderly, we are going to By God see that this money is used properly and that the quality of care is up to standard." This statement is riddled with so much baloney it makes an informed man sick.

What is the track record of social programs in the United States? In a 1976 lecture, M. Stanton Evans made a revealing calculation. At that time by official classification, there were said to be 25 million poor people in the country. Between 1965 and 1975, the total expenditure on social welfare programs increased 209 billion dollars to a staggering total of 286.5 billion. He said:

"If we take those 25 million poor people and divide them into the 209 billion increase—not the whole thing, just the increase—we discover that if we had simply taken that money and given it to the poor people, we could have given each and every one of them a stipend of some $8000 a year, which means an income for a family of four of $32,000."

Is every poor man now a rich man? Of course not! What happened to all that money? It was consumed by government in its attempt to administer and control.

Is Medicare different? Is the government's ability to administer and control medical care for the aged better than that demonstrated in management of social programs for the poor? Common sense would suggest the same expensive result. Were PSRO's and HSA's effective in controlling the cost and maintaining the quality of medical care? The Office of Management and Budget studied the situation carefully and found both ineffective. Its recommendation-phase both programs out. And what did this aspect of "free" medical care cost the public? No one really knows when the only figure we can get is the cost to administer these two programs. The real cost generated by hospitals and physicians complying with these regulations can only be estimated but it would be a safe bet that the money spent on HSA's and PSRO's would have paid for medical care for the truly indigent well past the year 2000. And did medicine get a pat on the back—"Hey, look, fellows, you're not doing such a bad job after all. We couldn't improve care or cut costs in spite of all the money we spent"? Of course not. We will simply be hit from another angle. PSRO's will be changed to PRO's, the facade of quality care will be dropped and the federal government will approach us through the insurance companies in yet another attempt to expand control.

And who really benefits from these programs? As with every other social program, the primary beneficiaries are the planners, the enforcers and the government employees who administer them. It is because of such elaborate programs for control that very few of the dollars allocated ever find their way to the intended use.

How much does government inflate the cost of medical care? When you consider that approximately one-third of the hospital bed charge is spent complying with federal regulations, that Medicare pays only 80 percent, hospital charges to private pay patients must be inflated to make up the difference and the average certificate-of-need application costs $25,000—God only knows!

You begin to realize that if government were to be removed from medicine, we could easily afford the advances in technology and we could realistically expect to conquer heart disease, cancer and other dread diseases. If, on the other hand, government is allowed its continued growth in medicine, costs will continue to rise and the result will be a product we can not afford.

If we could significantly reduce government in medicine and control medical malpractice litigation, it is my judgement that we could reduce the cost of health care delivery far more than by all other efforts combined.

In conclusion, let me point out that medicine has been placed in a very defensive position. Timely press releases by the Department of Health and Human Services placing the blame for higher health costs on us and the press' fascination with the renegade doctor has put us squarely in the spotlight. I am proud of medicine's response. There has been no whining. Many of you have spent endless hours trying to work out more efficient and less expensive ways of providing health care. You have waded through federal regulation after federal regulation. we have met time and again with the hordes of officials. We have met with industry and third party payors, making every effort to contain health care costs. But our gains at best have been modest.

Until we and others face squarely the real issue in containing health care costs, true success is impossible. The number one reason why health care costs have risen faster than all other goods and services, except energy and government, is the government itself. The second reason is malpractice litigation. The people will decide whether they want more or less government in medicine and unfortunately that decision will not be made intelligently with the experience of the past to guide them. All they need is a promise of "free" medical care. The fact that they will pay far more comes later and by then it is difficult to understand that the actual cause of this rise in price is the layer after layer of bureaucracy of governmental control.

What can we do! We must acknolwledge that the cost of medical care is too high and in your individual practices, you must double your efforts to contain health care costs by:

1. Being aware of costs of procedures, tests and prescribed treatment.

2. Providing health care on an outpatient basis whenever possible.

3. When patients have limited funds, give consideration to adjusting your fees downward.

We must also get involved in community activities and participate in the political process. We must reassume the leadership role in society that lately we have neglected. The responsible voice of the physician needs to be heard now as never before.

In the past 6 years, the national debt has increased from 632 billion to over 1 trillin dollars. A significant part of this increase is due to government's attempt to provide a portion of and regulate the entire medical industry. We need to point out that the cost of medicine to a large degree is the price we pay for socialism . . . that stripped of socilism the cost of health care would certainly fall in line with other goods and services—for example, a recently purchased heating blanket for the recovery room which met all regulations cost $1,300; the job could just as safely been done by one purchased from Sear's priced at $15 . . . that stripped of socialism, medicine would be able to devote more time, effort and money toward advancing cost effective technology . . . that what is happening to medicine under bureaucratic control is a reflection of what is happening to the country as a whole . . . And in the words of Winston Churchill: "the policy of equalizing misery and organizing scarcity instead of allowing diligence, self-interest and ingenuity to produce abundance has only to be prolonged to kill" his beloved British Isle or any other country, "stone dead."

The result here as in England will be rationing of medical care. This is coming in the form of prospective reimbursement and diagnostic related groups-the so-called DRG. And when these fail to achieve the intended result, there will be more control from government.

The man who asked the question "why do doctors complain so much about medicare? needs to be answered. I hope you will help me.●

TESTIMONIAL TO MAYOR FRANK E. RODGERS

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 1, 1983

● Mr. RODINO. Mr. Speaker, on Saturday evening I will have the pleasure of taking part in a testimonial dinner honoring Frank E. Rodgers, the mayor of Harrison, N.J.

Mr. Rodgers is a long-time, dedicated public servant, filling two roles in government. He has served his town as mayor for 36 years and has been elected for his 19th consecutive term. That record has earned for him the title of "Dean of New Jersey Mayors." In addition, Mayor Rodgers is a hard-working lawmaker. He serves in the New Jersey Legislature as a State senator from the 32d District.

Like his tenure as mayor, my personal friendship with Mayor Rodgers spans more than three decades. I count him among my dearest and wisest friends, one to whom I need never hesitate to turn for counsel and assistance.

It is an honor, therefore, for me to join on Saturday with his many admirers in this testimonial to Mayor Rodgers, to thank him for his friendship and for his unselfish service to community and State.●

A BILL FOR THE SPECIAL NEEDS OF VIETNAM-ERA VETERANS

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 1, 1983

● Mr. DOWNEY of New York. Mr. Speaker, I am today reintroducing a bill I introduced in the 97th Congress which responds to the special needs of Vietnam-era veterans. This bill waives the current 1-year time limit on Vietnam veterans' claims for compensation for disabilities and disease due to exposure to agent orange and other herbicides.

As VA law now stands, service-connected benefits can only be granted for a chronic disease which manifests itself within 1 year of the veterans' date of discharge. Yet exposure to agent orange rarely leads to immediate symptoms. Studies are currently being undertaken by a number of Government agencies to determine the health effects of exposure to agent orange.

Until these studies are complete, we must do all we can to protect the legal rights of Vietnam veterans. Tens of thousands of Vietnam veterans are unaware of the health problems they may have to face as a result of service in Vietnam. With the legal right to file a claim, veterans would be encouraged to seek medical advice and be counseled on the genetic alterations they might have to face. We must encourage Vietnam veterans to retrieve their military records and medical histories.

My bill paves the way for veterans to respond to whatever final decisions are reached about the dangers of their dioxin levels. It is the least we can do for them.

The bill follows:

H.R. 1135

A bill to amend title 38, United States Code, to waive the one-year limitation on claims for compensation from the Veterans' Administration for disabilities and diseases incurred in or aggravated by military service in the case of claims by veterans who served in Southeast Asia during the Vietnam era for compensation for disabilities resulting from exposure to the phenoxy herbicide known as agent orange or other phenoxy herbicides

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 312 of title 38, United States Code, relating to presumptions relating to certain diseases and disabilities, is amended by adding at the end thereof the following new subsection:

"(d) For the purposes of section 310 of this title and subject to the provisions of section 313 of this title, in the case of any veteran who served in the active military, naval, or air service in Southeast Asia during the Vietnam era, any disability or disease of such veteran attributable to or caused by exposure to a phenoxy herbicide shall be considered to have been incurred in or aggravated by such service, notwithstanding that there is no record of such disability or disease during the period of service of such veteran or that such disability or disease did not become manifest until more than one year after such veteran was discharged or otherwise released from service.".

SEC. 2. The amendment made by the first section of this Act shall apply to compensation paid under chapter 11 of title 38, United States Code, after September 30, 1980.●

THE KGB ADMINISTRATION

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 1, 1983

● Mr. McDONALD. Mr. Speaker, the succession of Yuriy Andropov to the powerful position of General Secretary of the Central Committee of CPSU after Leonid Brezhnev's death, did not occur suddenly, but has been prepared for several years. A fundamental change of this type could not have happened without a consolidation process within the Central Committee, which in itself, is a complex and very delicate operation.

Andropov's internal political strength during the last decade has been based on his outstanding performance as chief of the security and intelligence operation centered around the KGB. It is very significant in his gradual securing of the powerful political structure behind him, that he was not only the Chairman of the KGB since 1967, but also a candidate member of the Politburo since May 1967 and full member of the Politburo since 1973. In this capacity, he not only fully controlled and was responsible for the performance of the KGB, but had direct impact on and insight into the entire spectrum of security and foreign policy issues throughout the entire decade before he came to the supreme power and responsibility as General Secretary on November 12, 1982.

The "centralized democracy," which is the operational base of the internal political structure of the Soviet Union, has its own rules of "advice and consent," its own organized and prearranged voting procedures, and of political processes mostly hidden from the public view in the Soviet Union and abroad. It is not an open democracy by far, but guided from the "center" system of consensus of the one-party bureaucracy, structurally interrelated and coordinated with the military, academic, and security components.

It is clear that Andropov mastered very effectively this specific machinery of the internal Soviet politics by the time "the deck was clear for action" at the end of 1982. First he assured himself a complete and full control of the intelligence apparatus. In addition of placing his own fully trusted people in the administration of intelligence offices of the KGB, he secured for himself complete control over the intelligence services of the Armed Forces (GRU) by putting KGB General P. I. Ivashutin in charge. The system of intelligence and internal security is never fully controlled until the relevant offices of the Central Committee are headed and operated by trusted associates. The main two departments of the Central Committee dealing with security affairs are the Administrative Department where Andropov used to serve in the beginning of his career in the Central Committee and headed now by former close associate, N. I. Savinkin, and the Political Department of the Armed Forces headed by Andropov's trusted colleague for many years, Army General A. A. Yepishev.

In the next step toward the dominant position in the political structure of the country, Mr. Andropov proceeded to do three things at the same time: upgraded the quality and quantity of work in the KGB, penetrated the party machinery with newly qualified and trusted KGB personnel, and integrated the operations of the academic, foreign affairs, and political analysis agencies with the operations of the KGB. In all three areas he was extremely successful.

The upgrading of the KGB personnel to higher levels of competence proceeded through different channels, but primarily by requiring that the analysts, researchers, and agents of the agency take academic courses in different specialized institutes and universities and language instructions in special language schools. Several new institutes for foreign studies were initiated during this period like the Institute for Study of the United States and Canada under Yuri Arbatov. Experts from the KGB were assigned to the research institutes of academic standing like KGB General Milstein who was transferred to the Institute for Study of the United States.

For the first time since its inception, the security agency (KGB) succeeded to elevate its operations standards in order to participate in the life of academic community, not only as a security-controlling element, but also as a member of research and analysis function.

This new air of respectability of the KGB professionals provided them with new strong ability to enter the party apparat which previously, was rather restricted to people specializing in party administration moving upward along with the bureaucratic ladder. Andropov described the new mobility of the KGB professionals in the following way:

The workers of the KGB know perfectly well the tremendous responsibility entrusted to them and in our new historic condi-

tions, they know that they must with complete and thorough dedication, perform their duty.

He further stressed the transferability of the KGB personnel to the Communist Party structure when he said, "The forces of security know that their power is based on their strong bond with the Communist Party."

In line with these bonds and responsibilities, Gaydar A. Aliyev, Chairman of the KGB for the Azerbaidzhan Republic, took over the Communist Party organization in the republic in 1969. In the large-scale purge of the party more than 1,800 party professionals and administrators were removed from their positions, some of them jailed for corruption for different terms and some of them just plainly demoted. Gaydar Aliyev became First Secretary of Azerbaidzhan and, thus, exercised the supreme administrative power over the province until November 1982, when he was transferred permanently to Moscow to participate as Politburo member and First Deputy Prime Minister in the new Andropov administration.

In a similar way in the Georgian Republic, former KGB officer E. Shevarnadze took over as First Secretary in 1972. The "clean-up" of the party offices in the republic was not as extensive as in Azerbaidzhan, but many former security professionals were also transferred to jobs connected with party administration and to responsibilities for economic and public management.

In the first plenary session presided by himself, the new General Secretary Andropov said as follows:

It is important and necessary to properly deploy our cadres, planning that on the decisive sectors of administration, were people politically mature, competent, full of initiative, having talent for organization and full of initiative spirit.

In November and December, 1982 many government changes provided for the "proper distribution of cadres" and KGB General Vitaliy Fedorchuk was promoted to four-star Army General and assigned as Minister of Interior Affairs and his former deputy, Viktor M. Chebrikov, took over as Chairman of the KGB.

As Minister of Interior Affairs, General Fedorchuk commands not only the entire regular police force of the country, but also the 350,000 contingent of specially equipped "internal troops" used for control of public disorders, riots, and demonstrations. These troops, for example, were deployed in 1962 to pacify a riot and shot at the crowd of demonstrators in Rostov on the Don which killed many innocent people.

Viktor Chebrikov, new Chairman of the KGB who worked under Andropov for 15 years, first as Chief of Personnel and then as Deputy Chief, has now under his command the entire huge apparatus of the KGB which also includes about 320,000 border guard troops. These 20 divisions have heavy weapons, airplanes, and ships and according to the new law passed by the first post-Brezhnev Supreme Soviet session in November 1982, can be used in the areas outside the border zones. Paragraph 29 of this new law defines that in exceptional, emergency circumstances, these troops can, among other duties, do as follows: First, carry out arrests and interrogate suspects; second, arrange new prison compounds; third, seize illegal literature and audio or video tapes; and fourth, take "any other measures" necessary for the defense of the borders.

In connection with this new legislation, Yuri Andropov made a speech describing new responsibilities of the KGB in which he said, "In the past, many important plans were not met because of lack of discipline and of the old accepted customs."

Speaking about the new tasks and unity of the party he said, "Some illusions of the past must be put aside and the mistakes must be paid for."

Andropov's matter-of-fact presentation in the 60th anniversary of the foundation of the U.S.S.R. on December 22, contrasted dramatically with the similar speech by Brezhnev on the 50th anniversary in 1972. It lasted only 45 minutes and not 3½ hours as did Brezhnev's speech. Each time Andropov's listeners interrupted him for applause and in a customary manner stood up for a standing ovation, he motioned them to sit down and listen. Some of his close advisers let it be known that he does not care for eloquence and appearances, but will insist on work and performance.

The Politburo under Andropov continues to have its regular Thursday meetings but now for the first time in Soviet history, the subject matter of these meetings is announced in the press. Thus, some degree of new openness is displayed while at the same time Andropov keeps himself rather in the background and personnel changes decided by the Politburo remain mostly secret. Of the few that were made public, an important change was the elevation of Boris I. Stukalin, who is known to have former association with the KGB, to the influential position of the Chief of the Propaganda Department of the Central Committee; assignment of B. N. Pastukhov as Chairman of the State Committee for Publishing and Book Trade; and promotion of V. N. Mishin to First Secretary of Young Communist League (Komsomol).

The year 1982 was a year of high mortality rate in the Soviet Party hierarchy while not all of the dead functionaries were very old: First, two Politburo members, Suslov and Brezhnev; second, four First Secretaries of the Republics, Tadzhik, Belorussia, Tatar, and Yakutia; third, two important Second Secretaries, Ukraine and Leningrad; fourth, Political Chief of the Moscow Military District, General Grushevoy, a close friend of Brezhnev; fifth, two high functionaries of the KGB, including First Deputy Chairman, General S. Tsvigun, brother-in-law of Brezhnev; and sixth, Secretary of the Supreme Soviet Presidium Georgadze of the Central Committee died in 1982. This rate of "attrition" would have been easily overlooked under the conditions of continuity of leadership, but attracted some attention in Europe because of an unusual transition to the current KGB-dominated leadership.

The expectation of some Western observers that the new Soviet administration would reduce Soviet military presence in Afghanistan and relinquish its pressure on Poland was no more than wishful thinking not based on any real understanding of the new Soviet power structure.

According to different estimates, the Soviet military force in Afghanistan has been recently increased from its original 85,000 to 105,000 or even as high as 120,000. A considerable portion of the additional troops was reported to be the security units using "unorthodox" methods of warfare like burning Afghan population hiding in mountain caves and tunnels, destroying villages, and engaging in massive security preventive actions.

The population of Afghanistan has been reduced from 17 million in December 1979, when Soviet troops moved in, to about 12 million now. The number of refugees is constantly growing and is estimated to have reached about 4 million—2.8 million in Pakistan and 1.2 million in Iran. Not less than 1 million people, mostly innocent civilian population, perished in punitive Soviet actions or from disease, hunger, and deprivation hiding in the rugged mountains. The Soviet losses are variously estimated to amount to 6,000 to 25,000 killed and wounded. The Andropov administration does not seem to be influenced by these grim statistics. It would like to create a peaceful solution in Afghanistan, but on terms not acceptable to Afghan patriots which is self-exclusive.

The end of 1982 was marked by the official lifting of the martial law in Poland. But this new state of suspension has been completely penetrated by the new process of "reeducation" imposed not by the weak Communist Party of Poland, but by the security services of Minister of Interior, General Czeslaw Kiszczak. This new "purification" system freezes the Solidarity movement since, in spite of the release from prison of Lech Walesa, the intellectual underpinning of the movement—Kuron, Lis, and others—remains in jail and some of its members

will be tried under accusation of capital crime against the state.

There are enough Polish collaborators and direct Soviet participants within the security system of Poland to insure that the method of intimidation and control is extended to all aspects of cultural and political life of the country. The grip of the Andropov administration over Poland seems to tighten the dependency and restrict freedoms, answering in this way, the expectations of those who hoped for relaxation and reduction of tensions.●

A TRUE AND NEEDED COMPROMISE

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 1, 1983

● Mr. WYDEN. Mr. Speaker, I am pleased to join my colleagues, LES AUCOIN, and JIM WEAVER, in introducing legislation that is a true and much needed compromise for the State of Oregon.

Even before I became a Member of this body, many alternatives were put forth and many attempts were made to resolve the issue of wilderness in Oregon once and for all. It is now the beginning of a new year and a new session of Congress, and I believe—now more than ever—that we must bring about a resolution to this issue.

This legislation is identical to the bill Congressman AUCOIN, Congressman WEAVER, and I introduced last December and which fell just 12 votes short of the two-thirds majority needed for passage under suspension of the rules.

The basic issue has not changed since it was considered in December: This legislation is needed to protect our natural resources, enhance recreational opportunities, and preserve headwaters of key rivers and streams that are spawning grounds for steelhead and salmon. Just as important, this legislation is needed to resolve the current uncertainty over some 3 million acres of forest land and to allow the timber industry to plan for the future knowing exactly which areas will be available for timber harvest.

Several compelling reasons, however, have been added to the stockpile of arguments favoring passage of this bill. First, Assistant Secretary of Agriculture John B. Crowell, Jr., recently announced that new data compiled by the Forest Service shows that a long predicted decline in the Douglas fir timber supply now appears unlikely. This announcement dampens the argument put forth by some opponents of the legislation that it would lock up more stands of timber at a time of declining supply.

Second, the administration has given indications it plans to move ahead with a reevaluation of all roadless lands not now included as wilderness. This decision is in response to a Ninth Circuit Court decision, which uphead a California court's ruling that nullified the U.S. Forest Service review of roadless lands in California under RARE II. So, in essence, what we have here is a RARE III—which will put timber industry planners in a straitjacket for the next 2 years.

We do not need a reevaluation of these lands. What we need is a final resolution, and I sincerely believe our legislation is the ticket. It preserves those areas that deserve and require protection. It releases over 2 million acres for multiple use, and it declares the RARE II review sufficient, thereby eliminating the drawn out process of a RARE III—an exercise Oregon and its depressed timber industry just cannot afford.●

THE AMERICAN INFRASTRUCTURE

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 1, 1983

● Mr. MINETA. Mr. Speaker, we hear a great deal about the problems of the crumbling American infrastructure these days, and with good reason. The only wonder is that it has taken so long for the message to sink in that we cannot continue to defer construction, rehabilitation, and maintenance expenditure in this country, year after year, and not ultimately pay the piper in the higher costs associated with crumbling highways, strained bridges, inadequate transit, growth limits imposed by inadequate waste water treatment facilities, airspace congestion and delay, and so on.

The infrastructure problems we face across this Nation are very real and of staggering proportions. Many economists estimate the outstanding bill for deferred capital investment at over $1 trillion, a sum as incomprehensible as it is unaffordable. Such an astronomical backlog did not happen by accident; it is the product of years of declining public investment in the very underpinnings of our society and of our economic viability.

Let me give some examples. From 1970 to 1981, the investment in highways by all levels of Government fell by 26 percent in constant dollars. On a cents-per-mile basis, highway expenditures were cut in half between 1956 and 1981. Federal appropriations for waste water treatment facilities have declined 63 percent in constant dollars between 1975 and 1982. Appropriations for the federally owned airway system, vital to safe and efficient air transportation, declined 54 percent in constant dollars between 1972 and 1980.

Are these examples unrepresentative of our commitment to infrastructure generally? Unfortunately they are not. Economists estimate that the proportion of our GNP devoted to our infrastructure needs has declined by more than half between 1965 and 1980. And all levels of government have played a part in that declining commitment. The proportion of State and local budgets devoted to infrastructure has declined by 43 percent between 1960 and 1980, based on data from the Commerce Department's Bureau of Economic Analysis. Capital spending on infrastructure as a share of the total States' budget fell by almost half between 1960 and 1977.

The price of this declining commitment is evident all around us. Half of the communities in the United States cannot permit economic development or expansion because their water treatment and waste water treatment facilities are at or near capacity. A recent study showed that 40 percent of the drinking water in this country is below established standards for clean and safe water. The General Accounting Office has described drinking water contamination as "emerging as one of the most serious health and environmental problems facing our Nation during the 1980's."

The Nation's railroads are unfortunately a good example of the deterioration of our Nation's physical assets. As railroad track maintenance has too often been deferred, train speeds have had to be reduced to avoid derailments on deteriorating rails and roadbeds. The average running speed on our Nation's once-great rail system has declined to an incredible 14 miles per hour.

Transit has fared no better, as maintenance and rehabilitation have often been the first victims of the annual budget squeeze. Two years ago we looked into this issue in some depth. Testimony showed that if we took a business-like approach to the New York transit system, considering the replacement value and the useful life of its assets, over $1 billion a year would be spent on capital replenishment. Instead only one-fifth of that was being spent in recent years. That is symptomatic of our problems in transit.

In highways, one-fifth of our most modern system, the Interstate Highways, is already past its design life. About 45 percent of the Nations bridges are considered structurally deficient or functionally obsolete by the U.S. Department of Transportation.

The full extent of deterioration in our vital infrastructure is beyond reckoning. But I think the more important questions are, how did we get into this predicament and what can we do about it?

I think the root problem has, more often than not, been in the public decisionmaking process itself. As the budget squeeze has tightened in recent years, politicans are under pressure to find ways of cutting expenditure without cutting services, or at least without appearing to cut services. In that bind, politicians from city councilmen to Presidents are prey to a constant temptation: The temptation to slide the necessary cuts over onto the capital side of the budget, where the benefits of that spending—and therefore the pain of the cut—are generally several years in the future. This gives the appearance, at least, that you can cut spending today without cutting services.

The tragedy is that for the sake of short-term appearances, we end up trifling with long-term investment in the basic infrastructure on which all economic vitality in this country ultimately depends.

Whether it is highways or transit or water works, what we are talking about is the same pattern of deferred maintenance and deferred reinvestment which too many of the railroads of this country used just to get by a few tough years. But they found that once you start slipping behind the curve of needed reinvestment, you get pulled into a vicious cycle, and it becomes nearly impossible to get out.

We now face the threat of more and more of our basic infrastructure systems following in the footsteps of the Penn Central.

Just recently, with the costs of years of disinvestment becoming more evident, there has been some movement to reverse the trend and to establish the kind of constant reinvestment necessary to sustain our infrastructure. Last year the Congress adopted a major new multiyear authorization program to modernize and expand the Nation's airports and airways, all financed by increased user fees dedicated to these purposes. And at the end of the year we did the same for highways and transit.

But welcome as these program-by-program initiatives are, we are still left with three critical tasks. First, having enacted those two major programs, we need to defend them from the depredations of the annual budget and appropriations processes. It would be bitterly ironic if, having raised user taxes for the sole purpose of expanding these infrastructure programs, we subsequently curtailed the programs and left the higher taxes in place. Second, the highway and aviation trust fund programs deal only with specific program areas. Important as those areas are, they represent only a fraction of our total infrastructure problem. And third, and perhaps most important, we will not have gotten to the root of the problem until we also deal with the fundamental biases in the public decisionmaking process itself: The bias toward dealing with annual budget problems by deferring needed capital reinvestment.

Anyone familiar with the process by which the Congress makes budgetary decisions must recognize that there are powerful incentives favoring legislative proposals with short-term benefits and long-term costs over proposals with the opposite characteristics. Dealing with that problem is the most fundamental contribution we could make to our future infrastructure and economic vitality.

We need a budget process which makes it clear what the needed rate of capital reinvestment is and which flags our attention if we go below that level.

We need some budget process incentive for establishing the kind of dedicated revenues which can assure the consistent generation of revenues necessary to any stable program of capital reinvestment.

And we need to address in some unified forum the problems and find the solutions which are common threads running through all our infrastructure problems, so that the separate institutions responsible for each program need not solve these common problems each for themselves through duplicated effort.

I am therefore introducing today legislation which I believe will accomplish those need reforms in the way we make decisions regarding our infrastructure: H.R. 1144, the Infrastructure Revitalization Act of 1983. The bill is divided into three titles, each with a somewhat different scope and purpose, but all working toward the same end.

Title I would establish a capital budget within the unified budget submitted by the President each January. It would establish two benchmarks against which we could measure our own capital spending, as well as the capital spending proposed by the President. One benchmark—(c) in section 102—would simply be the level of capital spending required each year to sustain our present level of infrastructure performance. The second benchmark—(d) in section 102—would be the higher level of capital spending required each year to accomplish the full level of cost-effective investment in our Nation's competitiveness and efficiency and to achieve already-adopted standards for public safety, environmental protection, et cetera.

To illustrate—and somewhat oversimplify—the two benchmarks, the first benchmark would be the level of spending at which I would find as I drove my car to work, year after year, the same basic condition of roads, the same degree of traffic congestion—even with whatever changes may have occurred in the number of cars in use—the same time to work, the same wear and tear on the car, et cetera. In other words, it is the "standstill" level of capital spending.

The second benchmark would be the level of spending at which cost-effective investment in these highways, with the costs of maintenance, rehabilitation, and new construction weighed against the full costs—in increased congestion, reduced efficiency, et cetera—of not making those investments. The second benchmark would also include the levels of spending necessary to achieve compliance with already-adopted Federal standards. So it would be the level at which, as I drove to work year after year, I would find roads not just in a constant condition—even if that condition failed to meet safe design criteria and required structural standards—but in an improved condition. In other words, the second benchmark is the level of "sound and necessary" investment.

Title I would also require the President's budget to indicate how much of the proposed spending levels were capital investment-type spending, and to compare that capital investment with the two benchmark levels described above. In this way, it would be readily apparent what the long-term consequences of our short-term budget decisions were.

The basic division of proposed spending into capital investment-type spending and operating-type spending is similar to the division now made in the President's budget under special analysis D. This applies the infrastructure or capital investment concept in its broadest meaning, including not only physical assets, but also less tangible forms of long-term benefit from short-term spending: education, and research and development, for example. The definition used in title I for capital investment-type spending is similar, although not identical, to that traditionally used in special analysis D.

In addition, other provisions in title I require clear indication of past trends in infrastructure investment; the respective roles of State, local, and Federal Government; the adequacy of maintenance of federally funded physical assets; and the amounts of revenues dedicated to capital investment purposes.

The capital budget required by title I would satisfy the main objectives of proposals dating back to the Hoover Commission in 1949, that the Federal Government should adopt the more "businesslike" approach to budgeting by having a capital budget. The Hoover Commission recommended that:

> . . . the budget estimates of all operating departments and agencies of the Government should be divided into two primary categories—current operating expenditures and capital outlays.

The argument for capital budgets, and the reason most sizable businesses and State governments use them, is that a spending decision—which is often a decision to incur an added increment of debt—must be made in a very different light if it is of a capital nature, producing long-term benefits outweighing the initial cost, than if it is of a current operating nature. And that should be no less true for the Federal Government than it is for everyone else.

The capital budget required by title I does not, however, do those things which have provoked opposition to certain types of capital budgeting in the past. It does not take the capital investment programs off budget. All items which are now included in the unified budget would remain in the unified budget. Total budget figures would still reflect the total impact of Federal fiscal policy on the economy as a whole—at least to the extent they do so today.

And it would not do away with "full funding" or "expensing," whereby most major capital projects are fully appropriated in the first year. Full funding has both its pros and its cons. While it does "front-end" capital costs and therefore put them at a disadvantage in competing with operating costs, it also tends to insure stable commitment to completion of multiyear projects, even in the face of annualized decisionmaking. The capital budget proposed by title I would not in and of itself alter the current practice on full funding: The Congress would continue to make this decision on a program-by-program basis.

The Hoover Commission's recommendation of a capital budget was never adopted. Instead, the executive branch beginning in 1951 gave us a pallid imitation of a capital budget: special analysis D. Title I would build on special analysis D, turning it into a serious capital budget of real utility to the Congress and to the public in making difficult budget decisions.

Title II addresses one of the most frustrating "catch-22's" of the entire budget process. Nothing would be of greater assistance to the budget crisis we face than to increase reliance on dedicated user fees. Both the administration and the Budget Committee have advocated this approach. Yet, the budget process itself provides powerful disincentives to raising those dedicated revenues. It does so because in the aggregate it looks at total revenues and at total expenditures and compares the two, but it tends to ignore the dedicated relationship between some of those revenues and some of those expenditures. Once the dedicated revenues are enacted, the process tends to take their existence as a given, but treats the expenditure side as a completely open, question, subject to severe limitation even where dedicated revenues continue to flow in unabated.

We have had this problem in the aviation trust fund for much of the past decade. Dedicated revenues are enacted based on certain levels of need and authorized spending. But then in subsequent years the budget process considers those spending levels completely disembodied from the dedicated revenues on which they were based. The result is that budget resolutions and enforcement devices are easily used to cut the expenditure side while leaving the revenue side untouched. The close relationship originally intended by Congress when it enacted the dedicated revenues is lost.

This is not only detrimental to the programs and the taxpayers involved, it is also detrimental to the budget process itself, because this kind of experience is used to oppose new dedicated revenues which would ease the budget squeeze and would provide assured financing mechanisms for capital reinvestment. The argument against dedicated revenues is that the promises accompanying dedicated tax proposals are just a ruse: "Once you get the revenues, we'll never see the spending you've promised." Until we deal with that concern, we will continue to face stiff opposition on user fees and other forms of dedicated revenue.

Title II would deal with that concern by providing that programs supported by dedicated revenues would not be subject to the various enforcement devices of the budget process, if and only if the dedicated revenues provided by the Congress were fully adequate to cover the costs of the program. In other words, if you can raise the revenue, you can spend it. This would apply not only to existing dedicated revenue programs, but to such new dedicated revenue programs as the Congress might choose to enact, either of the contract authority type or the prior appropriation type. (This title does not in any way affect the entitlement programs, such as social security.)

This is basically, therefore, a "pay-as-you-go" proposal. The Congress would be assured that the programs involved would not contribute one dime to the deficit, since they would be required to be at least fully self-supporting.

It also does not take these programs "off-budget": their anticipated revenues and expenditures would still be included in the unified budget. Even if the Congress subsequently decided to raise both revenues and expenditures, there would be no net impact on the aggregate deficit figure adopted in the budget resolution. And the proposed title II would not alter in any way the existing ability of the Congress to reduce annual obligation ceilings on these programs through the appropriations if we so chose. It would just mean that we would no longer be compelled to do so by the budget process.

Title II is not restricted in its potential application to any particular type of program: Any contract authority or prior appropriation program where the Congress might choose in the future to establish dedicated revenues could benefit from its provisions. But it been the capital programs which have traditionally relied on dedicated revenues to the greatest extent, and I think the most important consequence of title II would be the reduction of powerful budget process incentives against the dedicated revenues we need to assure predictable financing mechanisms for capital reinvestment.

Title III of the bill would establish a National Commission on the Rebuilding of America.

Two of the key problems we face in addressing the Nation's infrastructure problems are that the problem is so enormous that it has been difficult to quantify and accurately assess, and that the responsibility for addressing these problems is distributed among many agencies, organizations, and congressional committees. Many of the issues that need to be addressed are common to the jurisdictions of each of those agencies, organization, and committees, and it would be highly duplicative and inefficient to have these common tasks addressed individually all over town. The Commission would represent many of those same institutions and would give them a single forum in which to conduct the basic assessment of the scope of the problem using consistent date and methodology, and in which to study and make recommendations on many of the common problems.

The Commission is modeled on the National Transportation Policy Study Commission and would not have any legislative authority. Its studies and report would be advisory to the executive branch and to the Congress. But it would be an important device for accomplishing much of the preliminary work necessary to the Congress in dealing with many of these infrastructure issues. The Commission is directed to complete its study and report in 1 year; 6 months later its authority automatically sunsets. We are not creating any permanent entity or agency.

The Commission would consist of 23 members: 6 from the committees with relevant jurisdiction in the Senate, 6 from the committees with relevant jurisdiction in the House, 6 appointed by the President from the private sector, and 5 representing the major associations of State and local governments.

Its assignment is to assess the condition of America's infrastructure, trends in historic spending on infrastructure, needs for future spending, proper roles for State, local, and Federal Government and the private

sector, the need for proper maintenance and efficient operations to assure an adequate return on capital investment, how revenues can be raised most equitably and reliably, how needs can best be targeted, and the extent to which Federal tax policy, loan or loan guarantee programs, and research and development programs could assist or encourage other levels of government and the private sector to play a larger role in solving our infrastructure problems.

The scope of infrastructure problems within the purview of the Commission would include publically owned highways, bridges, transit systems, waterways, sewer systems, waste water treatment facilities, airports, and airways; railroads and ports whether publically or privately owned, to the extent they are necessary for the common carriage; and municipal water supply treatment, storage or distribution systems.

The costs of this temporary Commission would be minimal and are, in fact, the only direct costs associated with the entire bill.

Mr. Speaker, if, as I believe, the present crisis in infrastructure is not just happenstance but is the product of fundamental biases against capital spending in the public decisionmaking process, then we at this point not only have to enact significant improvements in the individual infrastructure programs, but we also need to correct the fundamental biases in the process which got us into this predicament. The bill I am introducing would do that, while preserving the unified budget, the congressional budget process, and the full prerogatives of the various committees of Congress. It is legislation which all Members concerned about the infrastructure problems in this country can support, and I urge them to do so.●

THEODORE ROOSEVELT MIZE

HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 1, 1983

● Mr. ROGERS. Mr. Speaker, all of us in this world occupy space, but Theodore Roosevelt Mize, of my county of Pulaski, occupied a place. This individual was a place where not only family but friends and neighbors came for hope, love, advice, and fun. What greater thing could a man be than that? With the death of Theodore Mize on Sunday, January 16, his unique place will be sorely missed by everyone in his community. I join family and friends in expressing my sorrow at his passing.

Born and riased in Pulaski County, Ky., Theodore Mize remained a resident of this area his entire life. For many years, he was employed in the paving department of Breslin Construction Co. Membership in the Pleasant Run Baptist Church constituted the core of Mize's life. For a period of 35 years, he devoted himself to church service through the positions of deacon, clerk, and treasurer.

Mr. Mize is survived by one daughter, Norma Mize Taylor; two granddaughters, Karen Riley, and Pam Taylor, all of Stab, Ky., and two great-grandchildren. Also living are two brothers, Earl Mize of Somerset and Bea Mize of Stab, Ky., and two sisters, Ella Gilliland of Stab, and Zena Smotherman of Indianapolis, Ind.

Theodore Mize's Christian faith was constantly expressed through the love that radiated from him toward his family, his church, and members of the community. Today, I pay tribute to this man of distinguished character whose Christian principles will long be remembered in Pulaski County.●

REAGAN VERSUS ANDROPOV

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 1, 1983

● Mr. MICHEL. Mr. Speaker, a wise man once said that in matters of morality, people need to be reminded more than they need to be instructed. That is good advice when it comes to recognizing the difference between the rights we enjoy in the industrial democracies and the lack of rights endured by those living under communism. We all know the major differences between the two systems, but somehow we forget and we need to be reminded from time to time.

In a recent article, Richard R. Burress, currently senior fellow at the Hoover Institution of Stanford University and formerly an assistant to two Presidents, reminds us of the differences between President Ronald Reagan and Soviet Leader Yuri Andropov. I commend this excellent article to the attention of our colleagues. We tend to take for granted the essential decency, integrity, and love of freedom of our great President. Maybe we should remind ourselves of his strengths by comparing him to the Soviet leader.

At this point, I wish to insert in the RECORD, "It's Reagan versus Andropov," by Richard R. Burress, in the Chicago Tribune, January 7, 1983.

[From the Chicago Tribune, Jan. 7, 1983]

IT'S REAGAN VS. ANDROPOV

(By Richard Burress)

When Yuri Andropov became the leader of the Soviet Communist Party, a struggle of classic proportions began. His ascendancy pitted a ruthless, state-oriented bureaucrat against the acknowledged champion of free enterprise and individual freedom, Ronald Reagan.

Andropov is the master of his craft. Although much of his life is a mystery, his career in the Communist Party has been one of steady advancement. His rapid rise in the Komsomol youth organization brought better jobs and greater responsibilities. As a trouble-shooter under Stalin, he was given authority to remove party functionaries and restructure local and regional bodies. He played a key roll in crushing the Hungarian revolution in 1956 and led attacks on Yugoslavia revisionism. For 15 years he headed the KGB, the dreaded Soviet secret police. During this time, the KGB expanded its functions and became a sophisticated and effective instrument for the enforcement of political control.

Ronald Reagan's rise to the presidency is classic Americana. Born in the Midwest of poor but hardworking parents, he graduated from Eureka College more a gifted athlete than a scholar. During World War II he served as a captain in the Air Force. His entry into politics in 1966, as a two-term governor of California, was preceded by 34 years as a sports announcer and motion picture and TV actor. During this period he was active in the Screen Actors Guild and served as its leader. His 1980 election to the office of president was preceded by six years of unremitting public speaking.

As the general secretary of the Soviet Union's Communist Party, Andropov wields enormous power. The Communist Party is the only officially permitted political party in the Soviet Union. Its general secretary heads both the Secretariat, which handles day-to-day work, and the Politburo, which sets policy for the party's Central Committee. In actual operation, it is the Politburo that writes the legislation. The Secretariat executes the laws and in effect runs the country. Thus, Andropov is the undisputed head of government. There are no opposition parties, no free press to challenge, no critics to appease, no Congress with which to share power and no courts to review.

As the President of the United States, Reagan has enormous responsibility but limited power. There are times when he must wonder if he is even the leader of his own party. One house of Congress is in the hands of the opposition, while the other is narrowly divided and often split along ideological lines. The press is independent, critical and usually antagonistic.

In this contest where openness and candor is pitted against stealth and cunning, and honesty and conviction must prevail over deceit and duplicity, can this All-American president effectively contend with his major adversary in the Kremlin? It would appear at best to be an uphill battle. Fortunately, history teaches us that a determined leader, supported by a country of freedom-loving citizens, has a better than fighting chance. Tyrants do have an initial advantage but they have fallen before the challenge of a free people who do not lose their courage and who are properly motivated and inspired.

Here then is President Reagan's great strength. He is convinced that a policy founded on correct principles must succeed. He truly believes that "the march of freedom and democracy will lead Marxist-Leninism on the ash heap of history." And not since the glory days of Winston Churchill has the free world had a communicator and motivator with his eloquence.

In this classic confrontation, the people of the United States and its allies are more than interested spectators—they are the prize. If Reagan loses, we all lose. Drawing

upon his terrible experiences in the prisions of Hanoi, Congressional Medal of Honor winner Adm. James Stockdale has observed, "Men of good will facing a common danger—of they are unified—tend to rise above their everyday selves." Will a spirit of sacrifice apply to the situation facing us today? Reagan believes that it will. Andropov and the men in the Kremlin are betting that it will not.●

TRIBUTE TO CAPT. JOSEPH W. SLATTERY, JR., N.Y.P.D.

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 1, 1983

● Mr. SCHUMER. Mr. Speaker, I would like to take this opportunity to pay tribute to an outstanding New Yorker, Capt. Joseph W. Slattery, Jr., who is celebrating his 30th anniversary on the New York City Police Department. Throughout his life, Captain Slattery has loyally served the people of his country and community.

At the age of 17, Joseph Slattery, Jr. joined the U.S. Naval Reserves and was stationed at Floyd Bennett Field in Brooklyn. In 1950 he served admirably in the Korean war and received an honorable discharge in 1952.

On January 1, 1953 Mr. Slattery was appointed to the New York City Police Force. After nearly 13 years of exemplary service as a police officer, he was promoted to lieutenant.

In 1974, then-Lieutenant Slattery rose to the rank of captain, I am pleased to say that 7 years later Capt. Joseph Slattery was transferred to Brooklyn's 63d precinct in my congressional district.

Captain Slattery's service to his community has not been limited to an exceptional career in law enforcement. He has been instrumental in the founding and operation of the College Glen Community Association, and was worked closely with me on many issues vital to our community.

Mr. Speaker, I would like to extend my congratulations to Captain Slattery on his 30th anniversary with the New York City Police Department. Through years of distinguished service, Joseph W. Slattery, Jr. has epitomized the term "New York's Finest."●

RETIREMENT OF A GREAT PUBLIC SERVANT—GEORGE KINCAID

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 1, 1983

● Mr. PANETTA. Mr. Speaker, it is with some sadness that I rise today to commemorate the retirement of a truly great public servant from the 16th District of California—George Kincaid. My sadness is due to the fact that he will truly be missed by the people of San Benito County and myself. He has truly been an institution in that county's political, business, and community life.

During a lifetime of public service, George has devoted himself to the people of San Benito County. Since he first held office more than 50 years ago at the age of 23, George's career has been marked by hard work and integrity. He has served through the decades as constable of the Tres Pinos Judicial District, as deputy sheriff of San Benito County, and finally as an outstanding county supervisor for 24 years. George's parents before him both served as judges in the county, and George's career, along with theirs, has made the Kincaid name an institution in San Benito County.

In addition, George has had a very successful business career, starting a small business as a mechanic and turning it into a major automobile dealership. For 50 years, George ran this business. He also has been very active in community life, having devoted a great deal of time and energy to community groups, such as the Elks.

Having had the privilege or representing San Benito County in the Congress for 6 years now, I have truly enjoyed the opportunity of working with George Kincaid. He has always been cooperative and helpful and has always had first in his mind the interests and concerns of the people of San Benito County.

Mr. Speaker, George Kincaid is the kind of citizen who strengthens communities and helps them to grow and prosper as times and circumstances change over the years. As I said before, George will be missed a great deal, and I know my colleagues join me in wishing him a happy retirement.●

SOVIET WATCH

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 1, 1983

● Mr. FIELDS. Mr. Speaker, I commend the following article to the attention of my colleagues:

[From the Washington Times, Jan. 20, 1983]

AFGHANISTAN: THE ROAD TO THE WEST

(By Thomas Hammond)

"The road to Paris and London lies through the towns of Afghanistan, the Punjab and Bengal." Leon Trotsky said this in 1919. Nearly 60 years later, the Soviets invaded Afghanistan. It is not the occupation of Afghanistan itself that threatens Western interests, It is what lies this side of Afghanistan, especially the oil of the Persian Gulf, where vulnerable regimes are in power.

The situation in the Persian Gulf today is frightening for the United States and its allies because more than half the oil in international trade comes from the Gulf, including a significant portion of American imports and much higher percentages for several of her key allies, including West Germany, France, Italy and Japan. While this vital area is far from the United States, it is but a few hundred miles from the Soviet Union. Thus trying to protect U.S. interests there poses formidable logistical problems. Figuring out how to get significant quantities of troops, weapons and supplies to the Persian Gulf before the Soviets do is a nightmare for American military planners.

The big temptation for the Soviets is to get into a position whereby they could interdict the shipment of oil from the Persian Gulf—either by securing a base along the Strait of Hormuz (thus gaining a commanding position along the sea lanes leading out of the Strait), or by establishing their domination over one of the major Gulf states. If the Soviets were to acquire the ability to control the oil flow, they could blackmail Western Europe, Japan and many other states.

The Soviets probably would not attempt to cut off the flow of oil, for this would mean war. They would not have to cut it off, however, as long as other states knew they *could*. Thus a dominating Soviet position in the Gulf could lead to the Finlandization of Western Europe, Japan and the many other states dependent on this oil, all of which would be afraid of antagonizing Moscow.

Of course, it is not a foregone conclusion that Western Europe and Japan would succumb to such Soviet blackmail, or that the United States would be powerless to respond. A Soviet move of this kind might have the opposite effect of strengthening NATO and binding the industrial powers even closer to the United States. It might be that an American threat to use nuclear weapons (tactical or strategic) would be sufficient to deter the Soviets from making their blackmail effective. But in view of the faint-hearted reaction by most European states to the invasion of Afghanistan and the imposition of martial law in Poland, America has little reason for confidence that her allies will stand firm against the Soviet intimidation.

Iran, which occupies the whole northern shore of the Strait of Hormuz, offers the greatest possibilities for the expansion of Soviet influence in the Persian Gulf. The Soviets today probably would be reluctant to invade Iran, lest this lead to war with the West. But they will certainly do all they can to help the Tudeh (Communist) party to seize power. Although the party now is rather small, it is growing, and it is the country's only well-organized, tightly disciplined party.

If the Tudeh Party continues to grow in strength, it might be able to carry out a coup, either when Khomeini dies or at some other time of crisis. The door then would be open for a massive increase in Soviet influence, especially if the Tudeh regime invited Soviet intervention. A logical consequence would be the building of Soviet bases near the Strait of Hormuz, putting the U.S.S.R. in a position to engage in oil blackmail and to counter Western military power in the Persian Gulf.

A Tudeh coup is not the only way in which the Soviets might gain influence in Iran; dismemberment is another possibility. Only about half of Iran's population is Persian; the rest are Azeris, Kurds, Arabs, Balu-

chi, Turkmen and others. The greatest threat of dismemberment comes from the Azeris and the Kurds, who have staged repeated rebellions since Khomeini came to power, and who have "brother" Azeris and Kurds living across the frontier in the U.S.S.R.

Since the government in Tehran currently does not have firm control over what goes on in Azerbaijan and Kurdistan, it has become easy for the Soviet Union to increase its influence in the area—both openly and covertly. Under these circumstances, it would be feasible for Moscow to arrange a repetition of the events of 1945—the proclamation of independent Azerbaijan and Kurdistan republics, led by pro-Soviet Communists. The new governments could then call upon the U.S.S.R. for economic and military aid, including arms and advisers. The Soviets then would be closer to the oil fields of Iran and Iraq and would be in a position to appeal to the Kurdish minorities in Turkey and Iraq.

The Soviet occupation of Afghanistan provides opportunities for the exploitation of the nationalistic aspirations of the Baluch, a separate ethnic group residing in Iran and Pakistan as well as in Afghanistan. The Baluch in Iran are a dissatisfied Sunni minority in a country dominated by Shiite Mosloms; in Pakistan, they fought a bloody civil war in 1973-77. Some of the Baluch in Pakistan would be willing to accept support from any country, including the U.S.S.R.

What can the United States do to prevent more Communist takeovers? In some cases it can do nothing. Afghanistan is too far away, and the coup happened too quickly. But the United States must be prepared to intervene diplomatically, economically, and, if necessary, militarily. The development of a strong Rapid Deployment Force should help. Above all, the United States must not give Moscow the impression that it is unable or unwilling to act, as this might encourage the U.S.S.R. to embark on more foreign adventures, thereby leading to unforeseeable confrontations with the United States.●

"NO" TO UNIVERSAL SOCIAL SECURITY COVERAGE TO NEW FEDERAL EMPLOYEES

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 1, 1983

● Mr. CLAY. Mr. Speaker, I oppose the recommendation of the National Commission on Social Security Reform to include all new Federal employees under social security. This is a short-term gimmick that will be costly over the long-term to our Nation's taxpayers, the Federal Government, and Federal employees. I urge my colleagues to join me in actively opposing this ill-advised recommendation.

Unlike social security, the Civil Service Retirement System was intended to provide full support for retired Federal employees. The system covers over 2.7 million active civilian employees and, in 1981, paid benefits to about 1.7 million retirees and survivors. Federal employees must contribute 7 percent of their basic pay to the retirement system in contrast to a 6.7 percent payroll deduction for social security. The average civil service annuity is $1,046. Federal employees may retire at age 55 with 30 years of service, age 60 with 20 years of service, or at age 62 with 5 years of service.

The Commission's proposal ignores its long-term negative impact upon the Civil Service Retirement System. The short-term infusion of contributions by new Federal employees into social security is accomplished at a great cost to Federal employees.

Without the influx of money provided by new employees, there might not be enough money to support a strong Civil Service Retirement System. Vincent Sombrotto, president of the National Association of Letter Carriers, has estimated that the system could run out of money in 20 years, if new workers are pulled out of the plan. Lane Kirkland, president of the AFL-CIO, wisely stated that the Commission "could not know in advance whether the pension rights of present and future employees would be adequately protected if Congress enacts mandatory (social security) coverage."

Further, any unfunded liabilities of the Civil Service Retirement System must be paid from the General Treasury. Withdrawal of new Federal employees from that system could only increase this unfunded liability and generate a drain upon the General Treasury. It would simply be a matter of time before the Congress enacted legislation reducing not only the contribution by the General Treasury but also benefits to Federal retirees.

In short, Mr. Speaker, I oppose this recommendation of the National Commission on Social Security Reform for the following reasons:

Removing new workers from the Civil Service Retirement System would deplete its resources and require annual congressional appropriations to keep the system afloat.

It would cost taxpayers and the Government more because the Government, as the employer of Federal workers, would have to contribute to both social security and perhaps a supplemental retirement plan for new employees in order to bring the retirement benefits up to the level of present Federal employees.

A lucrative pension program has long been an attraction of Federal employment. Recruitment and retention of Federal employees would be hindered if the present system is changed.

Employee morale will be hurt if one group of Federal workers, covered by the existing pension plan, is working side-by-side with another group of Federal workers covered by Social Security and some other supplemental program.

Mr. Speaker, I urge my colleagues to join me in actively opposing this ill-advised recommendation of the National Commission on Social Security Reform.●

"CPR HELPS SAVE LIVES"

HON. BOB WHITTAKER

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 1, 1983

● Mr. WHITTAKER. Mr. Speaker, this month is by congressional resolution and Presidential proclamation, American Heart Month. Each year, cardiovascular diseases account for close to 1 million deaths, half of these are the result of heart attacks. A heart attack is caused when blockage of blood flow—in most cases caused by the buildup of fatty deposits—deprives an area of the heart of needed oxygen and nutrients. The key to survival lies in being able to recognize the warning signs of a heart attack and obtaining immediate medical attention. Knowing both the signs of the attack and knowing how to deal with an attack can literally be a matter of life and death. Would you or someone in your office know what to do if you or someone in your office were suffering from a heart attack.

My colleague, Mr. WYDEN, and I think that you should know.

Today we announced the beginning of an effort to train as many Members and their staffs as possible in cardiopulmonary resuscitation (CPR).

The 4-hour training course will be conducted throughout the month of February in conjunction with the Office of the Physician to Congress, Dr. Freeman Cary, and the American Heart Association.

Cardiopulmonary resuscitation (CPR) is only a part of the process of dealing with a heart attack situation. The American Heart Association in its "Heart Facts—1983" publication makes the following general observations and recommendations for recognizing the signs of and the steps in dealing with a heart attack situation.

HEART ATTACK SIGNALS AND ACTION

1. Know the warning signals of a heart attack:

Uncomfortable pressure, fullness, squeezing or pain in the center of our chest, lasting two minutes or more.

Pain may spread to shoulders, neck or arms.

Severe pain, dizziness, fainting, sweating, nausea or shortness of breath may also occur.

Not all of these signals, however, are always present.

Don't wait. Get help immediately.

2. Know what to do in case of an emergency:

If you are having chest discomfort which lasts for two minutes or more, call the emergency rescue service.

If you can get to a hospital faster by car, have someone drive you.

Find out which hospitals in your area offer 24-hour emergency cardiac care.

Select in advance the facility nearest your home and office and tell your family and friends so that they will know what to do.

Keep a list of emergency rescue service numbers next to your telephone and in a prominent place in your pocket, wallet or purse.

3. Be a heart saver:

If you are with someone who is having the "signals," and if they last for two minutes or longer, act at once.

Expect a "denial." It is normal to deny the possibility of anything as serious as a heart attack—but insist on taking prompt action.

Call the emergency rescue service, or

Get to the nearest hospital emergency room that offers 24-hour emergency care.

Give mouth-to-mouth breathing and chest compression (CPR) if it is necessary and if you are properly trained.

I encourage my colleagues and their staff to take the CPR training course. There is no doubt that CPR can save lives.●

JAPANESE HIGH TECHNOLOGY INDUSTRIES

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 1, 1983

● Mr. STARK. Mr. Speaker, Commerce Under Secretary for International Trade, Lionel Olmer, has recently completed a study mission to Japan and has made copies of his trip report available to us. It is a thoughtful, insightful document.

The lead paragraph of the summary section succinctly states the challenge to America from Japan's industrial policy:

Japanese high technology industries are advancing rapidly—due largely, but not exclusively, to government direction and support. The government has chosen to promote high technology because of the greater benefits which flow thereby to the entire Japanese economy compared with the benefits that would accrue from promotion of industry generally. Its role is to select target industries, to reduce risks, and to facilitate large scale economies in research, development and production. The process for achieving these goals is for MITI to work closely with industries to identify promising technologies, to establish cooperative research programs, to select a leading foreign company as a model, and then to foster protection of the domestic market. This kind of support develops a strong base from which the chosen firms can launch aggressive export drives.

I am deeply concerned, Mr. Speaker, that the United States is not responding to this challenge. Indeed, in many of the most promising technologies of the future, such as fusion energy research, we are cutting back on our efforts. Our electronics industry, once the clear world leader, is now under heavy attack by Japan, and the Government has no clear plan of response to prevent this key industry of the future from being overwhelmed by Japan's industrial policies.

I recommend Secretary Olmer's trip report to others as an excellent statement of the economic and trade problems facing America.●

NEWARK'S SUNSHINE CLUB

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 1, 1983

● Mr. RODINO. Mr. Speaker, in the best of times volunteer service organizations in communities throughout our country provide valuable assistance to the disadvantaged of our society.

Now we are in a time of peril, for budget cutbacks have forced the reduction or elimination of many social services which are vital to the health and welfare of the most vulnerable of our citizens. Often it is the dedicated assistance of volunteer organizations that makes possible their security, and indeed, their very existence.

So I am proud to call attention to a fine organization in my district, the Sunshine Club of Newark and Friends, whose theme is "Servicing the Elderly and Youth." The Sunshine Club has helped the elderly, and particularly shut-ins in institutions, and young people for 4 years. Now the club is taking on an additional goal to assist needy college-bound and college students who are in extreme financial difficulty.

On Sunday, February 13, the Sunshine Club will hold its second annual awards breakfast to single out for honor some of the club's outstanding volunteers. To be presented awards are: Mrs. Daisy Gibson, senior leadership volunteer; Mrs. Nellie Grier, national advocate for the aging; Mrs. Kitty Taylor, community communications specialist; Dr. Jose Rosario, civic leader; and the Newark Senior Citizens Leadership Coalition. The awardees have all demonstrated dedicated and unselfish concern for the people of Newark.

I am happy to add my congratulations to the recipients of these awards; I know they and Mrs. Mary Willis, president of the Sunshine Club, as well as all the other fine volunteers, will continue to carry on their invaluable service to the community.●

REPEAL INTEREST WITHHOLDING

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 1, 1983

● Mr. PORTER. Mr. Speaker, I submit for the RECORD an article I recently wrote expressing my strong opposition to the at-source withholding requirements imposed by the Tax Equity and Fiscal Responsibility Act of 1982:

Last fall, Congress passed a tax bill that included a provision to require financial institutions to withhold 10 percent from interest and dividend payments.

This provision was just one of 96 parts of the tax package, but there was no opportunity to vote on the proposal separately. If it had been a free-standing proposal, and not part of the omnibus legislation, Congress most likely would have overwhelmingly defeated it, just as it did when it was voted on individually in 1980.

What the Act amounts to is an interest-free loan to the government that will lead to a drop in investments. It will mean a great cost in paper work for institutions and consumers with little revenue benefits for the government.

The withholding is scheduled to take effect July 1, so there is still time to repeal the new law before it has a chance to do any harm. I have introduced a bill in Congress to repeal the Act.

Overall, we want growth for the economy and we get that through savings and investment. We have to be concerned with anything that discourages that from happening, as this would. When the government holds 10 percent on earnings, the saver loses interest on that amount. It may not even be a large amount, but the saver has to ask the question, "Why put money into the bank, if the government is going to take a cut?"

If the bill is not blocked, income from interest and dividends would be treated similarly to income from a job. The 10 percent would be deducted by the financial institutions before the earnings are passed along to the investor, just as an employer withholds a portion of a paycheck.

The money would then be allowed as credit against federal income tax payments under the same system that applies to the credit from income taxes withheld from wages.

The Act was designed to clamp down on cheaters who do not report and pay taxes on the earnings. However, studies show that only a small group of taxpayers duck this tax, leaving about 97 percent who voluntarily comply. Why make 97 percent of the savers carry the burden for the few who cheat? The solution is to continue with our present system and run spot checks to find cheaters. Then we should strongly prosecute those caught trying to cheat and give the punishment a lot of publicity to discourage others from trying the same thing.

Congress has already slowed investments by taxing interest and dividends, a move that dropped our ranking for per capita savings among the industrial nations.

Proceeding with this Act will only cause further erosion. On the other hand, if the interest is left with the saver, it will be added to the principle and result in higher earnings, which is a good incentive to save.

Discouraging saving and investing is not the only drawback to the Act. Like most government regulations, it would complicate, confuse, lengthen and generally create red tape. Financial institutions would be burdened with the costly and administratively difficult collection process. It would also be costly for the government to set up.

Certain senior citizens and low-income individuals would qualify for exemptions from the plan, but only if they file annual forms.

The bill I introduced to repeal the Act has been sent to the House Ways and Means Committee.●

CASE FOR THE RELIEF OF WAYNE GREENFIELD

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 1, 1983

● Mr. PANETTA. Mr. Speaker, I am reintroducing today a bill for the relief of a constituent of mine, Mr. Wayne Greenfield, of Pacific Grove, Calif., who I believe is entitled to compensation for losses he has suffered as a result of actions of the Bureau of Land Management in the Department of the Interior.

On October 25, 1965, Mr. Greenfield purchased 22½ acres of land from a private party. The boundaries of the purchased property were established by a Bureau of Land Management survey in 1963 and were duly recorded in the appropriate county courthouse in California. On October 21, 1974, Mr. Greenfield purchased 42½ acres of land by bid from a superior court sale of private property. Again, the boundaries of the property were based on the 1963 Bureau of Land Management survey. In 1979, the Bureau of Land Management resurveyed the property in question which resulted in the loss of approximately 5 acres of Mr. Greenfield's property. The lost property had a value of about $20,000 including timber and land value, and the value of two active springs. As a result of the same survey, Mr. Greenfield acquired some additional land. However, this land was worth only $5,000 leaving Mr. Greenfield with an unfair loss in land value of about $15,000.

I believe that Mr. Greenfield's loss is due to the results of mistaken actions by the Bureau of Land Management, and that his case warrants the pursuit of private legislation to redress his loss. I urge my colleagues to grant him the necessary relief.

H.R. 1153

A bill for the relief of Wayne Greenfield

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, to Wayne Greenfield of Pacific Grove, California, the sum of $15,000 in full settlement of all claims of Wayne Greenfield against the United States for damages caused by an incorrect survey by the Bureau of Land Management of the Department of the Interior.●

KUWAIT CORNERS WATT

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 1, 1983

● Mr. HUNTER. Mr. Speaker, it has come to my attention recently that the Secretary of the Interior, James Watt, has been placed in an unfortunate situation. Because of the vagueness of a section of the Mineral Land Leasing Act of 1920, Secretary Watt has been backed into a corner and been forced to allow the country of Kuwait the right to own oil and mineral leases on U.S. public lands. Obviously, Mr. Speaker, the issue of oil and mineral exploration is very controversial. The arguments on both sides over whether there should be any oil or mineral exploration of U.S. public lands deserve the fullest consideration of this Congress. However, to allow a foreign country to explore our land when that country does not grant us reciprocal rights is unconscionable. That is why I have introduced legislation to provide specific guidance to the Interior Secretary when determining the extent of a foreign country's privileges on U.S. soil. At this time Kuwait does not grant any U.S. citizen or corporation exploration rights. My bill, H.R. 617, would require Kuwait, or any other country, to allow our citizens similar privileges or be denied those privileges in our country. Such a denial would only be made after a full and fair review process. I urge you, Mr. Speaker, and this Congress to correct an earlier oversight and to provide the Interior Secretary this necessary guidance.●

THE DEPARTMENT OF TRADE AND COMMERCE ACT OF 1983

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 1, 1983

● Mr. MRAZEK. Mr. Speaker, the American economic system has been forced to tabulate its balance-of-trade figures in red ink since 1976. In 1982, the merchandise trade deficit reached an all-time high of $42.7 billion, a figure that could nearly double in 1983.

There are many reasons for the continued growth of this deficit, but a continuation of the trend can have only one outcome. As our fragmented international trade picture continues to worsen, more and more American customers will look elsewhere for their finished goods. Our international competitors will take away our business—and our jobs.

One of five jobs in this country depends on international trade. Export-related goods account for 15 percent of the products manufactured in our country, and it is the small, independent business sector that has the most to lose from surrendering its market to foreign competitors.

Mr. Speaker, last week we heard President Reagan tell this body that "we who are in Government must take the lead in restoring the economy." But, when it comes to international trade, it's difficult to see where "we who are in Government" might begin. Issues concerning international trade fall under the jurisdiction of no less than 14 departments and independent agencies. Developing a unified strategy through such a complex bureaucratic maze is impossible.

To many of us, it has become increasingly clear that a simplified, focused approach on behalf of our country's international trade interests is a necessity. Today, I am introducing the Department of Trade and Commerce Act of 1983.

This legislation would redesignate the Department of Commerce as the Department of Trade and Commerce. The Secretary of this new Department would have the policymaking authority to negotiate international trade agreements, protect American industry from unfair foreign trade practices, seek and promote new trade and commercial opportunities, and assist the financing of U.S. International Trade. These and other interrelated responsibilities would be delegated through one Cabinet-level department that combines the functions of 14 diffuse agencies and departments.

The new Department would be divided into two subdivisions. One would oversee international trade, the other would oversee domestic commerce. Each division would be headed by an undersecretary, both of whom would work closely with the Secretary to further our interests in these vital areas. The bill also specifies the establishment of individual offices within the Department to oversee strategic trade, export financing, and distribution of resources in the domestic economy.

Mr. Speaker, I have high hopes that passage of this legislation could mean a new and coherent strategy for American business throughout the world. Our continued decline in balance of trade demands no less, and I urge support among my colleagues for this initiative.●

SOME AREAS OF CONCERN ARE IMPROVING

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 1, 1983

● Mr. APPLEGATE. Mr. Speaker, in these troubled times we currently face,

it is refreshing to bring to the attention of my colleagues in the House of Representatives some statistics that indicate that in at least some areas of concern, things are improving. I speak more directly of the serious crime statistics for Wellsville, a proud eastern Ohio community in my congressional district.

This predominantly blue-collar industrialized area is still suffering from the high rates of unemployment that it has endured for many months now. Yet, in contradiction to what many sociologists tell us about serious crime increasing in proportion to unemployment, Wellsville was able to reduce its major crimes in 1982 by 38 percent as compared to 1981.

There are many factors which contribute to this low crime rate. To begin with, I believe it reflects upon a good, solid police force under the command of Chief M. Kieth Thorn, Jr. He provides the leadership to the police department and is complimented by dedicated men and women sworn to protect the general public. The city administration deserves credit for its role in making the people of the community aware of steps they can take to help prevent crime. Also, the citizens of Wellsville deserve credit as well for their conscientious efforts to watch for things that may seem out of the ordinary.

This 38 percent major crime reduction amounts to a cooperative effort on the part of everybody in Wellsville and all parties are to be commended for their role in this achievement.

On behalf of the House of Representatives, I would like to extend our congratulations to Wellsville, Ohio, on a job well done and wish them continued success in reducing crime.●

TAX WITHHOLDING IN THE TAX EQUITY AND FISCAL RESPONSIBILITY ACT

HON. EDWARD R. MADIGAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 1, 1983

● Mr. MADIGAN. Mr. Speaker, many of my constituents are opposed to the Tax Equity and Fiscal Responsibility Act (TEFRA) because it imposes tax withholding on interest income. I am finding, however, that most of them are not aware of the exemptions that are available or of rules that have been adopted to minimize any financial burden this withholding would otherwise impose.

When TEFRA was considered in the House of Representatives on August 19, 1982, I voted for the bill. I did so because the tax loss to the U.S. Treasury as a result of people not paying income tax is estimated to be as high as $12 billion each year. When the decision was made to impose withholding on interest income, the choice was between increasing taxes or improving compliance with existing taxes. I voted to raise revenues by closing loopholes and catching tax cheaters.

Many have asked me about the existing IRS information reporting system and have wondered why the 1099 form used by financial institutions to report interest payments cannot be used more effectively. However, the IRS 1099 matching system breaks down when information returns are incomplete or erroneous. The 1099 cannot catch up with taxpayers who move or those who use an alias when they invest.

It is important to realize that withholding from interest and dividends is not a tax increase—except for those who were not paying the tax they owed—and that exemptions are available for many individuals. When withholding begins on July 1, elderly couples with income below $22,000, low-income individuals and children will be exempt.

In addition, banks and other financial institutions have been given maximum leeway to assure that withholding is fair to all taxpayers. For example, TEFRA allows financial institutions to withhold at the end of the year for certain accounts—savings accounts, share accounts, and interest-bearing checking accounts. End of the year withholding will allow taxpayers to earn the maximum amount in interest compounding.

Finally, financial institutions are free to withhold from any noninterest bearing account that the taxpayer has. Those who estimate and pay their tax on a quarterly basis may reduce their estimated tax payments by the amount withheld. All taxpayers are free to adjust their withholding on wages and salaries to compensate for interest withholding.

If the Congress makes changes in these provisions during 1983, I am sure that the taxpaying public would not want to go back to the system that allowed some people to cheat. It seems better to catch the cheaters than to raise taxes on the honest people.●

CPR SAVES LIVES

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 1, 1983

● Mr. WYDEN. Mr. Speaker, cardiovascular disease continues to be the leading cause of death in the United States, accounting for over 1 million deaths each year. And of these 1 million deaths, more than half are the result of heart attacks.

Heart attack is a term used to describe cardiovascular disease that affects the heart muscle itself. The heart muscle needs an adequate supply of oxygen rich blood to function. When this blood flow is reduced and the heart no longer receives adequate supplies of oxygen and nutrients, it begins to die.

The best treatment for a heart attack is to recognize the warning signs and to be able to respond as quickly as possible. Most heart attack victims die within the first 2 hours after the signals begin. Because of delay in responding to the early warning signals, about 350,000 heart attack victims die each year before they even reach the hospital. The average victim waits more than 3 hours before seeking help—often too late. But many of these deaths can be prevented if a person present during the attack recognizes the signs of a heart attack and is able to administer CPR (cardiopulmonary resuscitation).

Today, my distinguished colleague, Mr. WHITTAKER, and I are announcing an effort to train as many House Members and staffs in CPR as want to be trained. This effort is being conducted in conjunction with the Office of the Physician to Congress, Dr. Freeman Cary, and the American Heart Association. It is only appropriate that this initiative is commencing on February 1 because February is by congressional resolution and Presidential proclamation, "American Heart Month." We hope that every Member and at least one of their staff members will take the 4-hour training course.

In addition to knowing how to deal with a heart attack situation and the administration of CPR, it is important to take the proper steps to prevent the premature onset of cardiovascular disease.

Extensive clinical and statistical studies have identified several factors as contributing to an increased risk of heart attack and stroke. The factors most commonly referred to as risk factors include sex, age, race, cigarette smoking, high blood pressure, elevated blood cholesterol, diabetes, obesity, lack of exercise and stress. The more risk factors a person has, the greater the risk of heart disease. As the American Heart Association has noted, some risk factors cannot be changed, such as heredity, sex, race and age. However, others, such as cigarette smoking, high blood pressure, blood cholesterol levels, diabetes, obesity, lack of exercise and stress, can be altered with the help of a physician and the individual.

Mr. Speaker, cardiovascular diseases hurt both the individual and society. The only way to alleviate this problem is through increased information and education. The CPR training class Mr. WHITTAKER and I are sponsoring is only a beginning. I hope it will be fol-

lowed by many other such efforts in Congress and around the country.●

NATIONAL CENTER FOR PERSONAL COMPUTERS IN EDUCATION

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 1, 1983

● Mr. DOWNEY of New York. Mr. Speaker, today I am reintroducing a bill I introduced last Congress entitled the "National Center for Personal Computers in Education Bill." I am doing this because I believe the U.S. education system has to be brought into the computer age.

There has been little penetration of personal computers into our education system, despite the revolutionary developments in this field and the fact that computers are an increasingly important part of Americans' business and personal life. This new technology also offers educators a new tool, and is of particular help to handicapped, housebound, and other special students.

My bill fosters the use of microcomputers in education. First a National Center for Personal Computers in Education would be established. This Center would serve as a pilot project as well as research and reference center for educators throughout the United States. Its primary functions would include:

First, identifying existing educational computer programs and developing new educational courseware where needed;

Second, developing teacher training materials in the use of personal computers;

Third, developing methods for enabling handicapped students to use personal computers for communication and educational purposes;

Fourth, conducting demonstration programs for the various educational uses of personal computers at all educational levels; and

Fifth, monitoring and disseminating information about new developments in educational technology.

It is time to bring American education into the 1980's.

The bill follows:

H.R. 1134

A bill to amend title III of the Elementary and Secondary Education Act of 1965 to provide for one or more National Centers for Personal Computers in Education

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title III of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2941 et seq.) is amended by adding at the end thereof the following new part:

"PART N—COMPUTERS IN EDUCATION

"PROGRAM AUTHORIZED

"SEC. 393. (a) Subject to the availability of funds to carry out this part, the Secretary shall award grants for the establishment and operation of National centers for Personal Computers in Education (hereinafter in this part referred to as a 'Center') to instruct students in the use of personal computers and to develop programs designed to utilize personal computers and microcomputers as educational tools at all educational levels. No grant may be awarded under this part except to a person or entity which has submitted an application under section 394 which has been approved by the Secretary. Any grant awarded under this part shall, subject to the availability of funds under this part, be sufficient to permit the recipient to operate a Center for a three-year period beginning with fiscal year 1982, subject to the determination by the Secretary at the end of each fiscal year of operation of a Center that the recipient has complied with the assurances contained in the application for the grant.

"(b) The responsibilities of any Center funded under this part shall be to—

"(1) identify sources of courseware materials and provide information about such materials to interested parties;

"(2) develop courseware materials for use in areas in which available courseware materials are inadequate;

"(3) identify and develop curriculum materials for instructing students at all educational levels in the uses of computers;

"(4) provide special teacher training and demonstration computer systems to schools at all educational levels that have a large proportion of minority students;

"(5) develop methods for enabling handicapped individuals to use computers for communication and educational purposes;

"(6) conduct programs demonstrating the various educational uses of computers which shall include, but not be limited to—

"(A) the provision of computers in the classroom for student use which may include as many as one computer per four students,

"(B) the establishment of a laboratory that use computers to simulate live experiments, and

"(C) the establishment of a computer library that would allow students to borrow personal computers for use outside the classroom;

"(7) assess the relative quality and merits of commercially available microcomputers and disseminate such assessments to educators;

"(8) monitor new developments in educational technology, including microcomputers and video disc systems, and disseminate information about such developments to educators;

"(9) develop teacher training materials, including computer programs, films, slides, pamphets, and audio and video cassettes, that will—

"(A) instruct educators about personal computers and their uses to enable them to determine the amount of financial resources and personnel to commit to the use of computers in their educational system,

"(B) instruct educators in the methods of using computers to enhance the learning experiences of their students in the classroom, in laboratories, and at home, and

"(C) instruct teachers in computer programing and in the development of courseware materials;

"(10) establish a demonstration laboratory to exhibit examples of personal computer systems and courseware materials to enable educators to personally observe the operation of such computers and courseware materials;

"(11) publish a periodic newsletter to disseminate information on computers, computer training programs, and courseware materials;

"(12) assist Congress and interested Federal agencies in developing a program for establishing regional centers for personal computers in education, that shall include, but not be limited to, appropriate goals and designs for such centers;

"(13) solicit from subscribers to the newsletter established under paragraph (11) of this section information concerning their computer education needs;

"(14) assist Congress and Federal agencies in identifying areas in which Federal funding will accelerate the educational impact of emerging computer technologies;

"(15) undertake any studies requested by Congress or Federal agencies relating to educational uses of computer technology;

"(16) establish a mechanism to inform the computer industry of the computer needs of the Nation's educational system and to receive from the computer industry information concerning recent developments in computers;

"(17) monitor developments in the area of intercommunication among users of personal computers and devise means of utilizing intercommunication to inform educators of the potential uses of personal computers;

"(18) assist interested local libraries in establishing programs to provide personal computers and video disc systems to the public; and

"(19) establish a model community personal computer center in one local shopping mall which shall—

"(A) provide a site for field trips by groups of local students,

"(B) provide demonstrations of the educational uses of personal computers to patrons of the mall,

"(C) conduct courses for community residents on the operation of personal computers, and

"(D) provide computer programs and books, magazines, and other information about computers on loan to the public.

"APPLICATION

"SEC. 394. Any person or entity desiring to receive a grant under this part shall submit to the Secretary an application for the establishment and operation of a Center. Applications under this section shall be submitted at such time, in such form, and containing such information as the Secretary shall prescribe. An application shall not be approved unless it—

"(1) provides that the Center will be administered by or under the supervision of, the applicant;

"(2) provides for the performance of the responsibilities described in section 393(b);

"(3) sets forth policies and procedures that will ensure adequate evaluation of the performance of the Center;

"(4) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this part; and

"(5) provides for making an annual report and such other reports in such form and containing such information as the Secretary may reasonably require and for keep-

ing such records and affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports.

"REPORT

"SEC. 395. Each recipient of a grant provided under this part shall transmit a final report to the President not later than January 1, 1987. The final report shall contain a detailed statement of the activities of the Center operated by the recipient, together with recommendations of ways to use personal computers to improve the educational system of the United States.

"DEFINITIONS

"SEC. 396. For purposes of this part—

"(1) the term 'courseware materials' means educational materials for use with personal computers and includes, but is not limited to, computer programs and student-teacher workbooks that provide—

"(A) simulated laboratory experiences in the natural and social sciences,

"(B) discovery learning in mathematics,

"(C) drill and practice in communications, mathematics, and science,

"(D) educational games that provide learning experiences, and

"(E) materials to develop problem-solving skills in mathematics and science;

"(2) the term 'microcomputer' means a digital computer constructed primarily of microelectronic components;

"(3) the term 'personal computer' means a microcomputer that is portable, costs less than $2,000, and needs only an electrical outlet for use; and

"(4) the term 'computer' means a microcomputer or a personal computer.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 397. There is authorized to be appropriated to carry out the provisions of this part $4,000,000 for the fiscal year ending September 30, 1984. Sums appropriated under this section shall remain available until September 30, 1986.".●

CIVIL SERVICE EMPLOYEES

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 1, 1983

● Mrs. SCHROEDER. Mr. Speaker, this administration seems to believe that it is highly popular to kick the bureaucracy. Fortunately, the Washington Post recently published a poll showing what the American people think about career civil service. While some of the views are based on lack of information, the poll does not reveal the scorn shown by certain members of this administration. I ask that the poll be reprinted here:

DON'T FRET—BY AND LARGE, AMERICANS APPROVE OF THEIR BUREAUCRACY

(By Barry Sussman)

You federal workers out there, stop worrying about what you have heard about the public's unfavorable attitudes toward you.

True, they feel there are too many of you, but that perception is not nearly as extreme as it used to be.

And yes, many feel you do not work as hard as other people, largely because you are more secure in your jobs. But for every person who thinks you have too much job security, there is another who feels you do not.

The fact is a new, nationwide Washington Post poll done in connection with the hundredth anniversary of the civil service system shows that Americans by and large approve of their bureaucracy.

Perhaps the most striking finding in the poll of 1,167 Americans is the degree of satisfaction that citizens have in their dealings with government agencies. Only three people in 10 are aware of having done any business with the federal goverment in the last year, aside from having mail delivered by the Postal Service or getting a tax form or a Social Security check or the like. But that three in 10 gives the civil service a high rating.

The prevailing view seems to be that expressed by a woman from Cucamonga, Calif., who told a Post interviewer, "Federal workers seem to get the job done."

One series of questions in the poll elicited comparisons between government workers and "sales people and office workers in large stores or companies, jobs not connected with the federal government." The 1,167 people interviewed were asked to assign grades, from A to F, to both groups for their courtesy, speed of service, whether they "go out of their way to serve people," how well they know their job and how they handle complaints.

As might be expected, neither group got Phi Beta Kappa grades, but neither failed, either. In fact, federal and private workers get the same grades in every category. On average, they receive a B-minus for courtesy and knowing their jobs, and C-plus in the other areas. In other words, those in the government service may not be seen as models for the workplace, but they are perceived as no worse than their private industry counterparts.

In only one area—how hard people work—does public opinion come down strongly in favor of private industry workers and against civil servants:

"They don't work too hard, I've heard of parties going on in the daytime," said a Bedford, Ind., woman.

Frequently cited is the lack of pressure on government workers compared with those in private industry, a lack of incentive and the assertion that there is just too much job security.

"Government workers have got it made and they know it," said another Indianan, a man from Lebanon. And a South Carolina woman offered a similar comment: "The government workers just sit back," she said.

But a somewhat different picture emerges when the public is asked more directly about job security. There is an even split—43 percent saying there is so much job security that federal workers see no need to work hard, and 43 percent saying there is not too much job security.

Some people ridicule the idea that job security keeps civil servants from working hard. A woman from Joaquin, Tex., with no relatives working for the government, said, "Government workers down here are always busy helping support widows and the unemployed. Without them, many would starve."

One of the sharpest changes in perception in recent years has to do with the number of people working for the federal government. In 1978, 63 percent in a Washington Post poll said the government employs "far too many" people and another 17 percent said it employs "somewhat too many." Those numbers—showing that 80 percent felt the bureaucracy was too bloated—were in line with what the Gallup poll had been finding for many years.

In the new Post poll, however, only 29 percent say the government has "far too many workers," with another 28 percent saying it has "somewhat too many."

One perception that has not changed is that government workers are highly paid. In the 1978 survey, 56 percent said government workers were paid more, 24 percent said they were paid about the same, and 8 percent said they were paid less than people holding similar jobs outside the government, Twelve percent expressed no opinion.

VIEWS ON THE CIVIL SERVICE AT AGE 100

Q. (Asked of people who say they have had at least some dealings with a federal government agency in the past year) Overall, would you say you were pleased with the conduct of the government worker or workers you dealt with, or not? . . . Would you say you were very pleased/displeased, or just pleased/displeased?

	Percent
Very pleased	14
Pleased	57
Displeased	14
Very displeased	4
No opinion	11

Q. Overall, who do you think works harder—people in federal government jobs, or people in similar jobs outside the government?

	Percent
Government workers	14
Nongovernment workers	60
No difference	17
No opinion	9

Q. How about the number of people employed by the federal government: In general, do you think the federal government employs too many people or too few people to do the work that must be done?

	January 1983 (percent)	September 1978 (percent)
Far too many	29	63
Somewhat too many	28	17
About the right number	11	5
Too few	16	6
Too many in some areas, not enough in others (1983 only)	5	
No opinion	11	9

Q. Do you believe that federal employees are paid more, less or about the same as people in similar jobs outside the government?

	January 1983 (percent)	September 1978 (percent)
Paid more	55	56
Paid less	10	8
Paid about the same	22	24
No opinion	13	12

Figures are from a Washington Post national telephone poll of 1,167 people taken Jan. 4 to Jan. 7, and, where indicated, from a September, 1978, Post poll of 1,756 people.

HOW THE POLL WAS CONDUCTED

The Washington Post poll of attitudes toward federal government workers was conducted by telephone nationwide from Jan. 4 to Jan. 7, with a random sample of 1,167 people at least 18 years old.

Theoretically, a poll that size is subject to a margin of sampling error of about 3 percent, 95 percent of the time. That does not include other, non-sampling errors that may occur in public opinion polls.

The sample was slightly weighted to match the population in age, sex, race and education as reported by the Census Bureau.●

JOBS, PEACE AND PENNSYLVANIA

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 1, 1983

● Mr. COYNE. Mr. Speaker, I am pleased to rise in strong support of the jobs with peace resolution offered by the gentleman from California, Mr. DON EDWARDS.

I was happy to join Mr. EDWARDS as a sponsor of this resolution when he introduced it in the final days of the 97th Congress. I then pointed out that spending more on guns does not, as some would have us believe, lead to more butter.

As President Eisenhower wisely noted:

> Every gun that is made, every warship launched, every rocket fired signifies, in the final sense, a theft from those who hunger and are not fed, those who are cold and are not clothed. This world in arms is not spending money alone. It is spending the sweat of its laborers, the genius of its scientists, the hopes of its children.

The union which represents many of those who labor in our defense industries, the International Association of Machinists, maintains that large increases in military spending may actually decrease the number of new jobs created. The Congressional Research Service notes in a recent analysis that "The primary conclusion reached is that more jobs are created throughout the economy when the Federal Government engages in nondefense spending as opposed to defense spending."

The issue today in Pennsylvania and elsewhere is jobs. Yet we continue to hear calls from the administration for cuts in nondefense spending while we plan for a $1.6 trillion military budget over 5 years.

The guns mean butter argument does not hold up for States such as Pennsylvania. A recent study by Employment Research Associates of Lansing, Mich., suggests that when spending for the military rises, expenditures are forgone in the following categories: durable and nondurable goods, residential and nonresidential construction, services, State and local government, exports and imports, producers durable equipment and Federal civil purchases.

This can mean fewer jobs for Pennsylvania. According to the Michigan study, the State ranks fifth among all States in the number of jobs lost as a result of military spending. At this point, I would like to share with my colleagues some of the findings of the Employment Research Associates study:

States in order of negative employment impact of military spending, annual average 1977-78

Number of jobs forgone:

1. New York	−288,200
2. Illinois	−160,750
3. Michigan	−139,100
4. Ohio	−131,900
5. Pennsylvania	−112,900
6. New Jersey	−71,950
7. Wisconsin	−71,700
8. Indiana	−64,550
9. Minnesota	−54,550
10. Tennessee	−47,200
11. Florida	−40,150
12. Massachusetts	−39,800
13. Iowa	−38,500
14. Oregon	−37,850
15. Nevada	−24,100
16. Louisiana	−23,350
17. West Virginia	−18,950
18. California	−13,800
19. Arkansas	−12,300
20. Nebraska	−6,200
21. Missouri	−4,500
22. Vermont	−4,250
23. Rhode Island	−3,650
24. Wyoming	−3,050
25. Idaho	−2,850
26. Arizona	−2,850
27. Montana	−2,300
28. Delaware	−1,200
29. South Dakota	−600

Number of jobs gained:

1. Kansas	+600
2. New Hampshire	+650
3. Maine	+2,350
4. Alabama	+3,550
5. Connecticut	+3,950
6. North Dakota	+4,450
7. New Mexico	+7,450
8. Utah	+9,350
9. Kentucky	+11,100
10. Colorado	+11,200
11. Texas	+15,450
12. Alaska	+15,750
13. Oklahoma	+16,000
14. Maryland	+17,050
15. Washington	+20,200
16. Georgia	+20,950
17. Mississippi	+23,450
18. North Carolina	+23,800
19. South Carolina	+29,200
20. Hawaii	+45,200
21. Virginia	+125,950
Net jobs loss	1,015,500

	Number of jobs		Net job gain or loss
	Forgone	Created	
PENNSYLVANIA			
Durable goods	−29,500	+20,750	−18,750
Nondurable goods	−14,650	+1,650	−13,000
Residential construction	−10,400	+3,550	−6,850
Nonresidential construction	−6,900	+350	−6,550
Services	−74,000		−74,000
State and local government	−51,450		−51,450
Military personnel		+57,700	+57,700
Total			−112,900

Source: Employment Research Associates Lansing, Mich.

Mr. Speaker, the people of Pittsburgh voted last November to require a yearly report on the impact of military spending in the city. The jobs with peace resolution recognizes that concern, noting that "the Nation's cities are in desperate need of Federal action that generates jobs for their residents, and military spending generates fewer jobs per dollar than other Federal spending."

The evidence indicates that economic recovery will not result from ever-increasing military spending. Our Nation needs jobs. It desires peace. The sooner we shift our spending priorities to reflect that need, the sooner shall we embark on the journey of economic recovery.●